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PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Tuesday, August 1, 1989*

The House met at 9 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We acknowledge all Your gifts, gracious God, but above all else we treasure the gift of life—in all fullness, in all joy, in all grace. We rejoice when life is celebrated and we sorrow when it is harmed or threatened. Our hearts and thoughts are with all who know fear and anxiety and we pray that every person will sense their own responsibility to protect and nurture life and so fulfill Your law of love. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Kentucky [Mr. MAZZOLI] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. MAZZOLI led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PERMISSION FOR SUBCOMMITTEE ON WATER RESOURCES OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. NOWAK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Water Resources of the Committee on Public Works and Transportation be permitted to sit on Tuesday, August 1, 1989, during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT DURING 5-MINUTE RULE ON THURSDAY, AUGUST 3, 1989

Mr. NOWAK. Mr. Speaker, I ask unanimous consent that the Committee on Public Works be permitted to sit on Thursday, August 3, 1989, during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

SYMPATHY EXPRESSED TO THE FAMILY OF LT. COL. WILLIAM HIGGINS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, on the floor last night I expressed my sympathy to the wife, daughter, and sister of Lt. Col. William Higgins, who is presumed dead at the hands of pro-Iranian terrorist groups.

Colonel Higgins was born in Kentucky, grew up in my district, and completed high school. His sister, Mrs. Mary Fisher, continues to live in Louisville.

Mr. Speaker, the family's agony and grief over the fate of their loved one is our agony and grief. Those who have taken credit for this heinous murder deserve the condemnation of the entire world for their barbaric, cold-blooded, and merciless act upon an innocent man. Those guilty deserve to pay with their own lives.

Mr. Speaker, I am also constrained to criticize Israel's leaders who ordered their troops to carry out this abduction which triggered this event. It was an action taken without notice to the United States, whose captives are always the most visible and the most vulnerable to retaliation, and it was an action conducted with an inappropriate bravado and public show which tended to exacerbate the situation.

Mr. Speaker, in the future I hope the Israelis act with the same restraint and concern for all likely consequences including the effect upon the lives of all hostages which is being exhibited today by President Bush.

AMENDMENT ON CENSUS DATA COLLECTION TO THE COMMERCE, JUSTICE, STATE, AND JUDICIARY APPROPRIATIONS BILL

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, later today, I understand there will be an effort to amend the Commerce, Justice, State, and judiciary appropriations bill to provide that no funds be used to count illegal aliens in the 1990 census. Evidently, before the amendment can be debated or voted on, there will be a motion to rise and report the bill to the House. All Members should be aware that that will be the key vote on this amendment, which will play an important role in determining how congressional seats will be allocated after the 1990 census. The issue is clear:

It is wrong to apportion congressional seats by counting people who would be deported if our immigration laws were enforced.

To do so violates the basic right of equal representation. Moreover, there are strong grounds for believing it is constitutional to exclude illegal aliens from the census for purposes of reapportionment. Therefore, I urge all of my colleagues to vote against the motion to rise and report so that we may consider this vital issue.

AMERICA NO. 1 IN MURDERS

(Mr. TRAFICANT asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, as thousands of people in Middletown, CT, strolled through a street fair, a mental patient who had "walked away" from a mental hospital attacked a 9-year-old girl, and stabbed her to death. This murder occurred right in the presence of the girl's mother, who was horrified and was helpless and not able to help her daugther.

The name of Jessica Short is now added to a long list of senseless American murders.

The murderer, David Peterson, had a violent past. He has been sentenced to 15 years in a mental hospital in a past assault when he had pled insanity.

Officials said that Peterson was on an 8-hour pass; police officials, that is. Hospital officials said he simply walked away.

The bottom line is, Mr. Speaker: What is Congress doing about America being the No. 1 nation in the world, leading the world for murder? We are not No. 1 in trade. We are not No. 1 in education. We are not No. 1 in health. We are No. 1 in murder.

Shame on Congress for failing to do something about these types of murders.

TO RESTORE THE FINANCIAL INTEGRITY OF THE FEDERAL GOVERNMENT

(Mr. CRAIG asked and was given permission to address the House for 1 minutes and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, the Federal Government is the world's largest financial operation. Its annual outlays amount to almost a quarter of the country's gross national product. It employs approximately 5 million people and runs hundreds of programs, many of them individually larger than our largest corporations and State governments. However, the financial management concepts and practices followed by the Federal Government are weak, outdated, and inefficient. Poor management, weak reporting, and antiquated accounting systems have cost the American people billions of dollars annually and, among other things, have prevented them from having a clear understanding of how their tax dollars are being spent.

That is why I am introducing the Truth in Government Efficiency Reform Act. Specifically, this legislation will enhance financial control to better address the staggering deficit; will deter fraud, abuse, and waste; and will give more timely and accurate information to Congress so it can better appropriate and authorize public funds.

But, most important, it will make the Federal Government more accountable to the American people.

CONDEMNATION FOR THE KILLING OF LT. COL. WILLIAM HIGGINS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, I rise, as does nearly everyone else in this body, to condemn the killing of Lt. Col. William Higgins. This bazaar and disgusting incident is another in a series of events that has exhausted the patience of this country.

We have all watched these killings and hostage events happen year after year. Top national leaders are routinely called before the TV to express their outrage, extend their condolence to the families, listen to more advice from Henry Kissinger, then it appears we return to business as usual. Mr. Speaker, I believe it time we took some overt action. Surely we have a number of alternatives available. At minimum we could boycott the involved countries, quarantine there goods and trade, cut off relations and eliminate their activities in our country and of course use some kind of surgical military strike force.

I am fed up with our trying to pamper every nation regardless of their behavior so that we will not make them mad. If nations and people expect to participate in a civilized world community, they should be expected to behave in a civilized way.

The first and perhaps principle responsibility of this country is to protect its citizens. We need to do that.

KILLING OF LT. COL. WILLIAM HIGGINS

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, the killing of Col. William Higgins is certainly something that ought to be condemned by all people all across the world. But it ought not to be used as an attempt to drive a wedge between the Government of the United States and the Government of the State of Israel.

It should be recalled that hostages have been in captivity, Western hostages for a long, long time now, and despite all of the diplomacy and the diplomatic channels and the niceties, hostages were not released.

I am not convinced, Mr. Speaker, that Colonel Higgins was killed just yesterday. He clearly could have been killed many, many months ago, and the video tapes just released to try to prove a point.

We ought to understand what we are dealing with. We are dealing with terrorists, we are dealing with people that have no concern for human life. We are dealing with people whose minds we cannot even begin to understand.

It is about time that the world, particularly the Western World, took a very firm stand against Hizballah and all of the terrorist groups that purport to represent anything. Mr. Speaker, we in the U.S. Congress will no longer stand idly by and allow such terrorism to continue.

AMENDMENT OPPOSING INCLUSION OF ILLEGAL ALIENS IN 1990 CENSUS FOR PURPOSES FOR REAPPORTIONMENT

Mr. GOODLING asked and was given permission to address the House for 1 minute.)

Mr. GOODLING. Mr. Speaker, Mr. RIDGE and I plan to offer an amendment to H.R. 2991, the Commerce, Justice, State, and the Judiciary appropriations bill. This amendment would put the House on record opposing the inclusion of illegal aliens in the 1990 census for purposes of congressional reapportionment.

It would not prevent the Census Bureau from counting undocumented aliens, as is the current practice, but would merely prohibit the Bureau from making special efforts to include these individuals in the count.

This amendment can only be offered, however, if a procedural motion is first defeated. A motion to "rise and report" H.R. 2991 back to the House from the Committee of the Whole will limit the opportunity for our amendment to be considered. We hope we can count on Members to vote to defeat the motion to rise and report, so our amendment can be brought before the House.

If the motion is defeated, Members will have the opportunity to fully debate the merits of this proposal. If our amendment is adopted, the Census Bureau would still be able to count undocumented aliens, but the House will have expressed its displeasure with the current situation, and the unfair and inequitable effect it has on the reapportionment process. This is especially important in light of the Senate's recent action, in which an amendment prohibiting the inclusion of illegal aliens in the census for purposes of reapportionment was added to S. 358, the immigration reform bill.

The House deserves the same opportunity to vote on this important issue. Again, when the Commerce, State, Justice appropriations bill comes to the floor this morning, we are urging Members to vote "nay" on the motion

to rise and report, and "yea" on the Ridge/Goodling amendment.

CONGRATULATIONS TO HILTOP BASEBALL TEAM OF HAVERTOWN—PENNSYLVANIA STATE CHAMPIONS

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, I rise today to pay tribute to the Hiltop baseball team of Havertown, PA, and their manager Fred Steigerwalt. Their team won the Pennsylvania State Championship Babe Ruth Bambino Division on July 21, by the score of 1 to 0, completing their season with a record of 14-1. The fact that in this State tournament the championship game was played between a team from Havertown, PA, and Drexel Hill, PA, both of which I represent, is a tribute to the talent and love for the game of baseball in my district. The past 2 years the Hiltop team placed second in the tournament. The dedication and hard work of these fifteen 12-year-old boys has made them champions. I would like to add that because of the inspiration of the Hiltop team I plan to make a strong contribution to a Republican romp over the Democrats in tonight's 28th congressional baseball game.

THE DRUG WAR MAZE: DAY 11

(Mr. SMITH of Mississippi asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Mississippi. Mr. Speaker, I call attention today to the House Judiciary Committee, as it relates to the War on Drugs. It certainly is no surprise that the Judiciary Committee has a great deal of oversight over Federal antidrug efforts. But is this where we can lay the credit, or the blame, for the success or failure of national drug-control policy? Is this where the American people can expect to see the lead role taken in legislative efforts to combat the No. 1 problem in this country?

The answer is, "No." There is not a single committee in the Congress, with legislative authority, where fighting drugs is clearly the No. 1 priority. Instead there is a maze of more than 80 panels where the drug issue is often overshadowed.

There is not a single committee that we can hold accountable for antidrug efforts. Instead there are more than 80 panels where 435 Members get public relations mileage from the War on Drugs, but where any Member can point a finger of blame at the other committees for the lack of results.

The answer is simple. Put one committee in charge.

UNITED STATES SHOULD RETALIATE FOR MURDER OF LT. COL. HIGGINS

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, I share the anger and frustration of my people in the First Congressional District of South Carolina at the wanton murder of Colonel Higgins. So long as we wail, and whine, and beat our breasts at these outrages, but do nothing more, then these attacks upon America and Americans will continue.

Enough is enough. Certainly we possess the capability to retaliate militarily and we should do so as soon as feasible. This apparent murder of our countryman by these fanatics provides us with the opportunity to make the planet safe for our citizens. The terrorists of the world must learn that attacks upon Americans means death and nothing less for them and their sponsors. If we are not going to use our strength to defend our people then America needs new leadership.

SUPPORT FOR NORTHWEST FISHERIES PROGRAMS IN COMMERCE, JUSTICE, STATE, AND JUDICIARY APPROPRIATIONS

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, I rise today in support of our important Northwest fisheries programs.

The rapid domestic growth of our North Pacific fisheries, compounded by new laws and regulations needed to manage the resources, has vastly increased the need for Federal data collection, research, management, and enforcement programs. This is why the President's budget—a 41-percent reduction in fisheries programs—is totally inadequate; and this is why Congress must restore a more responsible budget for our fisheries programs.

I am concerned that many of our fisheries programs have not received funding under the Appropriations Committee's bill that is before us today. I understand, however, that the committee has reserved funds within its 302 budget allocation to support those programs not currently authorized for 1990.

At this time, I urge the committee to provide the necessary full funding for our fisheries program from reserved amounts within its 302 budget allocation.

HOW SHOULD THE UNITED STATES RESPOND TO HOSTAGE TAKERS?

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, is it an Old Testament response that is required in the Middle East, or are we trying to reach out to people who use terror as an extension of diplomacy and try to reach their hearts? Most of the people who have held our hostages for over 5 years, and one man is still there and has been there, Terry Anderson, for 4 years and 4 months, claim they do it in the name of God, Allah.

Here is what Mohammed the Prophet said in his short life of 62 years. This is from the Hadith, his writings. The prophet said, "The captive is your brother. It is by the grace of Allah that he is in your hands and working for you. Since he is at your mercy, ensure that he is fed and clothed as well as you are."

It does not say anything about lynching him, or beating him to death as they did Bill Buckley, or shooting him like a dog in an alley and leaving him to die as they did a 62-year-old librarian, Peter Kilburn.

We have to make a decision in the next few days, and I recommend we all pray for our President that he makes the right decision, to treat these people as criminals, as terrorists, or treat them as diplomats using terror simply as a means at their disposal to get us to listen to their cries.

□ 0920

This is a very difficult situation and I think President Reagan set the standard when he bombed Libya. It stopped Qadhafi's fooling around and terrorism for at least 4 years.

Maybe the same must be applied to Iran.

DEBT CEILING SHOULD NOT BE INCREASED UNTIL CONGRESS PROPOSES A CONSTITUTIONAL AMENDMENT ON BALANCED BUDGET

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, today the House is scheduled to take up a modest measure to permit the Federal Government to function for yet a short period of time, a bill to raise the debt ceiling by another $70 billion. This will carry us for yet another 2½ months, hopefully.

The existing debt ceiling is close to $2.8 trillion. We saw the necessity for a constitutional amendment to balance the Federal budget in order to

bring some fiscal discipline to this institution which is totally lacking only yesterday when we passed yet another appropriation bill for the Congress that had an increase of 10.6 percent over what was spent in the last fiscal year.

Truly, there is no sense of discipline in terms of spending in the House of Representatives today. I will seek to defeat the previous question on the rule whereby the House will consider this temporary raising of the debt ceiling, and if I am successful in defeating the previous question I will then offer an open rule which will authorize an amendment, whereby the effectiveness of the increase in the debt ceiling will not take place until the Congress has proposed to the States a constitutional amendment on a balanced budget that is in the form that is now coauthored by 243 of our colleagues, 160 Republicans and 83 Democrats; House Joint Resolution 268.

CONGRESS SHOULD EXPRESS ITS DISPLEASURE OVER CENSUS BUREAU PLANS

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, time is running out for the Congress to express its displeasure over Census Bureau plans to distort the apportionment of congressional seats by counting illegal aliens.

Bills offered by three of my colleagues and myself, some with 50 or more cosponsors, have been bottled up in the House Post Office and Civil Service Committee. While the committee has held hearings, there is no expectation of a markup or even a vehicle for amendment. Now is our last chance for change.

The House should be heard on this issue before an administrative decision by the Census Bureau allows a distortion of the apportionment of congressional seats between and within all 50 States.

The House has one last opportunity on the Commerce, State, Judiciary appropriations bill this morning. The rules prohibit limiting amendments on the floor. But, if the Members would join in defeating a motion for the committee to rise and report—one limiting amendment would be in order.

Our amendment is reasonable and not designed to prevent the counting of illegal aliens for purposes such as the distribution of Federal funds. The amendment stands on constitutional principle: If our Government is by "consent of the governed," it makes no sense to give illegal aliens—who are here without the consent of the governed—political representation in Congress at the expense of those who are legitimately part of our political community.

My colleagues, your constituents, legal citizens of the United States, should not have their vote diluted by those who are here against our laws. Please consider voting against the motion to rise and report and then vote for the Ridge/Goodling amendment.

FOOD FOR DEMOCRACY

(Mr. COLEMAN of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN of Missouri. Mr. Speaker, today in Brussels, Belgium, as a followup to the Paris Summit, 23 Western nations will meet to decide on a coordinated strategy toward economic reform in Eastern Europe. This could not come at a better time.

President Bush took the lead on this issue during his recent trip to Eastern Europe, when he announced his intention to provide $100 million in assistance for private sector development in Poland, and another $25 million to Hungary. Legislation to fund this proposal will arrive from the White House today.

Through President Bush's efforts, the issue of economic reform in Eastern Europe has been brought to the attention of the West. The changes in Poland and Hungary have been dramatic, however, the process of replacing decay with political and economic freedoms will be difficult.

In Poland, chronic food shortages have the potential of undermining progress on economic and political reforms. Food riots have brought down Polish governments in 1956, 1970, and 1980. According to a recent New York Times article, the search for food in Poland is approaching panic. Today, as the Polish Government removes a temporary freeze on food prices, an enormous price increase is expected. A failure by the West to respond to this crisis could lead to a major setback in Poland.

At a ministerial level meeting last week, the European Community pledged to provide Poland with $120 million of surplus agricultural goods. It is my understanding that today's meeting in Brussels will further pursue this course. I believe it is vital that the United States, under Public Law 480, the Surplus Commodity Program, or other appropriate legislation, match the European Community Pledge and join our efforts to establish a Food for Democracy program. Now is the time to show the people of Poland that the American people stand with them at this critical time in their struggle for freedom.

I am encouraged by the President's leadership on this issue, and the prompt, coordinated response of our allies. By following through on these pledges of assistance we will not only ease the suffering of the Polish people, we will ensure the success of political and economic reform in Eastern Europe.

PRESIDENT SHOULD INITIATE IMMEDIATE EXTRADITION OF TERROR BOSS OBEID

(Mr. ACKERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ACKERMAN. Mr. Speaker, I rise today to call upon my colleagues in this Chamber to unite as a force for freedom against the cowards commonly known as terrorists.

Yesterday, I stood in this well and called upon President Bush to seek the immediate extradition of the killer in cleric's clothes: Shiek Abdul Obeid.

So far, the administration has been prudently studying the situation.

Another deadline of death against an American is drawing near. The life of Joseph Cicippio is being threatened.

Mr. Speaker, for many years we have tried to talk to the gangsters of Hezbollah and the other terrorists who have infested the Middle East. Talk has resulted in torture, blood, and death.

We have demanded, we have asked, we have entreated, we have begged, we have even tried to buy them off. All of the talk has resulted in nothing but torture and blood and death.

Mr. Speaker, it is time for justice.

Today, I am introducing a resolution that calls upon the President and his administration to take whatever action is necessary to demonstrate to the terror gangs that America is resolved to fight them.

And, the resolution calls on the President to initiate the immediate extradition of the terror boss Obeid to the United States so that he may stand trial in this country for the kidnaping, torture, and possible murder of Lt. Col. William Higgins.

Ladies and gentlemen of this House, I hope you will give this resolution your full support. The causes of freedom and democracy require it. The cause of justice demands it.

SWISS NATIONAL DAY

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, I rise today to join the Nation of Switzerland in celebrating this national holiday. That holiday was born in 1291 as the three forest cantons of Schwyz, Uri, and Unterwalder emerged victorious over the Austrians.

The title Switzerland came from those three cantons and the Swiss national flag was derived from the banner they carried that fine summer day.

Mr. Speaker, throughout these centuries Switzerland has evolved into a nation that is similar to our present United States. In Switzerland they are committed to peace and have been for centuries, the same as we. In Switzerland they speak many different languages ranging from German to French to Italian. And yet in that diverse nation they maintain one of the world's most stable governments as we do here in this diverse Nation.

In terms of the pursuit of free will and the well-being of mankind one has a hard time discerning the United States from Switzerland.

Mr. Speaker, while I have this opportunity to wish the Swiss people a joyous national holiday, I would also ask them a favor. I ask the Swiss to continue their unglorified and at times completely unnoticed work at greater world tranquility. Hopefully, the people of Switzerland can teach the rest of the world what they have practiced for the last 450 years: peace.

THREATS AGAINST JOSEPH CICIPPIO COWARDLY AND REPREHENSIBLE

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, as the Member of this body who represents the hostage Joe Cicippio and his family, I want to take the floor today to condemn unequivocally the latest threats made by the Hezbollah. Doing their so-called business as the Revolutionary Justice Organization, elements of the Hezbollah have callously threatened the life of an innocent man.

Joe Cicippio was the acting comptroller of the American University of Beirut when he was kidnaped on September 12, 1986. This kind man was doing what he could to shine a small ray of light through the dust clouds raised by a decade of civil war in Lebanon when he was abducted.

What purpose could be served by threatening him? Joe Cicippio the professional has worked to hold together one of the few vestiges of normalcy, the American University of Beirut, in a nation nearly gone insane with violence; he has worked to offer some hope for a future to a whole generation of Lebanese.

What purpose could be served by endangering him? Joe Cicippio the humanitarian has sought only to improve the situation of all Lebanese, regardless of their religion or background.

What purpose could be served by harming him? Joe Cicippio the family man has sought only a tranquil life with his wife, a Lebanese Moslem.

Those who now threaten Joe Cicippio proclaim that they act in the name of God. They assert that they act to establish a divine order in Lebanon. They state that they are men seeking to create an Islamic Republic based on the law and principles of the Koran.

But God does not condone the acts of those who do violence to the innocent. No divine order can ever be established on a foundation of bones.

I know that all Americans join me today in praying for the safe return of the hostages in Lebanon. I know they join me too in sending to the Cicippio family and to the families of the other hostages our heartfelt wishes.

NEW DEBT OF $323 BILLION FOR FISCAL YEAR 1990

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, today we will approve an additional $70 billion in Federal debt, and before the end of the year we will most likely up the limit to $3.123 trillion, which will allow the United States to meet its obligations through fiscal year 1990.

At the same time, OMB's midseason budget review budgets the Gramm-Rudman for fiscal year 1990 at just over $110 billion.

Mr. Speaker, simple number crunches show there is a major contradiction between the rate the national debt is growing and the annual Gramm-Rudman deficit projections.

Partly this is because when calculating our compliance with Gramm-Rudman, we count what we want to and exclude the rest. For instance, in fiscal year 1990, the Social Security System will collect $68 billion in net additions to the reserve that will be used to mask a large part of the true deficit. Apparently, the huge costs of the S&L bailout will simply be omitted from Gramm-Rudman calculations.

So do not be fooled by the Gramm-Rudman numbers. The real deficit, the additional amount on which the taxpayer will pay interest, is the $323 billion in new debt authority we will approve.

CRISIS REQUIRES MEASURED RESPONSE

(Mr. DREIER OF California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, yesterday and today have been very difficult for the United States of America and for lovers of freedom around the world. Many of our colleagues have taken this well and stood up and demanded that we use our full military force to respond to this kidnaping murderous international terrorism crisis we are facing.

I, Mr. Speaker, would simply like to let the President of the United States know that I believe, as Terry Waite's cousin said on one of the morning programs today, that George Bush is taking a very measured and balanced response to this crisis, and he is truly acting like the leader of the free world.

It is going to be very difficult for Members, but I, Mr. Speaker, want the President to know that my prayers are with him as he deals with this very challenging and difficult problem.

COMMUNICATION FROM THE HONORABLE TOMMY F. ROBINSON, MEMBER OF CONGRESS

The Speaker pro tempore laid before the House the following communication from the Honorable TOMMY F. ROBINSON:

WASHINGTON, DC,
July 28, 1989.

Honorable THOMAS FOLEY,
Speaker of the House, Washington, DC.

DEAR MR. SPEAKER: It is with deep regret that I inform you of my decision to change my party affiliation. Although this has been a difficult, personal decision, I must be true to myself.

Please accept this letter as my official resignation from the Democratic party. As a Republican, I hereby resign from all caucus-appointed positions and committee assignments.

Sincerely,

TOMMY F. ROBINSON,
Member of Congress.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, 1990

Mr. SMITH of Iowa. I ask unanimous consent that the Committee on Appropriations may have until midnight tonight Tuesday, August 1, 1989, to file a privileged report on a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes.

Mr. ROGERS reserved all points of order on the bill.

The SPEAKER pro tempore (Mr. STENHOLM). Is there objection to the request of the gentleman from Iowa?

There was no objection.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 2991, and that I may include tables, charts, and other extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

Mr. SMITH of Iowa. Mr Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Kentucky [Mr. ROGERS] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

□ 0925

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2991, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, first I want to thank the members of the subcommittee. This is a subcommittee bill. We had an adequate 302(b) budget allocation, but we did the best we could.

I want to thank the gentleman from Kentucky [Mr. ROGERS], and all the members on both sides, and the staff. We have done the best we could, and I will explain the framework within which we worked.

Including the amounts we have reserved, we have used up the full 302(b) allocation for outlays, but we are not in excess of 302(b) allocation, either on outlays or budget authority. There is no legislation in this bill. There are no unauthorized programs. For international programs, we funded the authorized programs at the budget request, and reserved the balance of the amount of money that was allocated to international programs. Under the summit agreement, we are not to move money from the international programs over to the domestic programs. For authorized domestic executive branch programs, in general, we have funded them at the CBO baseline, minus 2 percent. That is all we could do within our allocation, except for four exceptions. Where the budget request was less than 98 percent of the CBO baseline, the amount recommended is the budget request. Where funds were reduced in fiscal year 1989 due to the availability of carryover amounts, we did put in money because the carryover amounts are not available for fiscal year 1990. The Federal Maritime Commission was given $1 million extra for their new automated filing system that cannot be delayed. The International Trade Administration is funded at the full baseline. The Federal courts have been funded at the budget request minus 2 percent overall. For unauthorized domestic programs, we have reserved the CBO baseline minus 2 percent. For international programs, the funding was at the authorization level.

All I can say, Mr. Chairman, we have done our best. It is not adequate, but it is all we can do at this time.

I will insert at this point in the RECORD, a table which details the situation with respect to the bill including the budget requests, the amounts in the bill, and the programs that are not authorized.

H.R. 2991—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

	FY 1989 Enacted	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Enacted	Bill vs FY 1990 Request
TITLE I - DEPARTMENT OF COMMERCE					
General Administration					
Salaries and expenses	$26,396,000	$29,009,000	$28,429,000	+$2,033,000	-$580,000
Office of the Inspector General	14,008,000	14,341,000	14,045,000	+37,000	-296,000
Total, general administration	40,404,000	43,350,000	42,474,000	+2,070,000	-876,000
Bureau of the Census					
Salaries and expenses	96,035,000	116,635,000	101,314,000	+5,279,000	-15,321,000
Periodic censuses and programs	517,304,000	1,380,579,000	1,322,967,000	+805,663,000	-57,612,000
Total, Bureau of the Census	613,339,000	1,497,214,000	1,424,281,000	+810,942,000	-72,933,000
Economic and Statistical Analysis					
Salaries and expenses	32,899,000	32,861,000	32,861,000	-38,000	.....
Economic Development Administration					
Economic development assistance programs	(182,028,000)	.....	(Unauthorized)	(-182,028,000)	.....
(Limitation on loan guarantees)	*(150,000,000)*	.....	*(Unauthorized)*	*(-150,000,000)*	.....
Salaries and expenses	24,742,000	20,000,000	26,061,000	+1,319,000	+6,061,000
Total, Economic Development Administration	24,742,000	20,000,000	26,061,000	+1,319,000	+6,061,000
(Unauthorized)	(182,028,000)	.....	(Unauthorized)	(-182,028,000)	.....
International Trade Administration					
Operations and administration	167,502,000	174,591,000	179,579,000	+12,077,000	+4,988,000
Export Administration					
Operations and administration	(40,106,000)	(42,284,000)	(Unauthorized)	(-40,106,000)	(-42,284,000)
Minority Business Development Agency					
Minority business development	(39,705,000)	(39,741,000)	(Unauthorized)	(-39,705,000)	(-39,741,000)
United States Travel and Tourism Administration					
Salaries and expenses	(13,800,000)	.....	(Unauthorized)	(-13,800,000)	.....
National Oceanic and Atmospheric Administration					
Operations, research, and facilities	1,091,746,000	849,298,000	966,932,000	-124,814,000	+117,634,000
(Unauthorized)	(148,306,000)	(130,150,000)	(Unauthorized)	(-148,306,000)	(-130,150,000)
Aviation weather services program (Airport and Airways Trust Fund)	(28,717,000)	(30,000,000)	(Unauthorized)	(-28,717,000)	(-30,000,000)
(By transfer from Promote and Develop Fund)	*(45,600,000)*	*(53,700,000)*	*(Unauthorized)*	*(-45,600,000)*	*(-53,700,000)*
(By transfer from Coastal Energy Impact Fund)	*(6,500,000)*	*(8,500,000)*	*(Unauthorized)*	*(-6,500,000)*	*(-8,500,000)*
Fisheries promotional fund (availability of funds)	*(3,000,000)*	.....	.....	*(-3,000,000)*	.....
Fishing vessel and gear damage fund	.....	1,000,000	1,000,000	+1,000,000	.....
Fishermen's contingency fund	719,000	750,000	736,000	+17,000	-14,000
Foreign fishing observer fund	1,919,000	2,000,000	1,986,000	+67,000	-14,000
Total, National Oceanic and Atmospheric Administration	1,094,384,000	853,048,000	970,654,000	-123,730,000	+117,606,000
(Unauthorized)	(177,023,000)	(160,150,000)	(Unauthorized)	(-177,023,000)	(-160,150,000)
Patent and Trademark Office					
Salaries and expenses	109,000,000	101,912,000	101,912,000	-7,088,000	.....
Technology Administration					
Salaries and expenses	.....	(4,100,000)	(Unauthorized)	.....	(-4,100,000)
National Institute of Standards and Technology					
Scientific and technical research and services	(159,000,000)	(155,609,000)	(Unauthorized)	(-159,000,000)	(-155,609,000)
National Telecommunications and Information Administration					
Salaries and expenses	(13,630,000)	(14,554,000)	(Unauthorized)	(-13,630,000)	(-14,554,000)
Public telecommunications facilities, planning and construction	20,000,000	.....	20,449,000	+449,000	+20,449,000
Total, title I, Department of Commerce:					
New budget (obligational) authority	2,102,270,000	2,722,976,000	2,798,271,000	+696,001,000	+75,295,000
(Unauthorized)	(625,292,000)	(416,438,000)	(Unauthorized)	(-625,292,000)	(-416,438,000)
(By transfer)	*(52,100,000)*	*(62,200,000)*	*(Unauthorized)*	*(-52,100,000)*	*(-62,200,000)*
(Limitation on loan guarantees)	*(150,000,000)*	.....	*(Unauthorized)*	*(-150,000,000)*	.....
(Availability of funds)	*(3,000,000)*	.....	.....	*(-3,000,000)*	.....
TITLE II - DEPARTMENT OF JUSTICE					
General Administration					
Salaries and expenses	(69,459,000)	(100,925,000)	(Unauthorized)	(-69,459,000)	(-100,925,000)
Office of the Inspector General	(18,901,000)	(19,433,000)	(Unauthorized)	(-18,901,000)	(-19,433,000)
Total, general administration	(88,360,000)	(120,358,000)	(Unauthorized)	(-88,360,000)	(-120,358,000)
United States Parole Commission					
Salaries and expenses	(10,893,000)	(10,335,000)	(Unauthorized)	(-10,893,000)	(-10,335,000)

(Italics indicate non-add items.)

H.R. 2991—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

	FY 1989 Enacted	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Enacted	Bill vs FY 1990 Request
Legal Activities					
Salaries and expenses, general legal activities	(246,594,000)	(303,967,000)	(Unauthorized)	(-246,594,000)	(-303,967,000)
Independent counsel (permanent, indefinite)	6,000,000	6,000,000	6,000,000	.....	.....
Civil liberties public education fund	.....	20,000,000	50,000,000	+50,000,000	+30,000,000
Salaries and expenses, Antitrust Division	(44,937,000)	(47,222,000)	(Unauthorized)	(-44,937,000)	(-47,222,000)
Salaries and expenses, United States Attorneys	(460,212,000)	(525,561,000)	(Unauthorized)	(-460,212,000)	(-525,561,000)
United States Trustees System Fund	(47,370,000)	(62,777,000)	(Unauthorized)	(-47,370,000)	(-62,777,000)
Salaries and expenses, Foreign Claims Settlement Commission	(472,000)	(440,000)	(Unauthorized)	(-472,000)	(-440,000)
Salaries and expenses, United States Marshals Service	(206,400,000)	(240,846,000)	(Unauthorized)	(-206,400,000)	(-240,846,000)
Support of United States prisoners	(110,100,000)	(160,034,000)	(Unauthorized)	(-110,100,000)	(-160,034,000)
Fees and expenses of witnesses	(52,203,000)	(56,784,000)	(Unauthorized)	(-52,203,000)	(-56,784,000)
Salaries and expenses, Community Relations Service	(27,858,000)	(29,609,000)	(Unauthorized)	(-27,858,000)	(-29,609,000)
Assets forfeiture fund	75,000,000	100,000,000	76,513,000	+1,513,000	-23,487,000
Rescission	-2,232,000	.....	.....	+2,232,000	.....
Total, legal activities	78,768,000	126,000,000	132,513,000	+53,745,000	+6,513,000
(Unauthorized)	(1,196,146,000)	(1,427,240,000)	(Unauthorized)	(-1,196,146,000)	(-1,427,240,000)
Interagency Law Enforcement					
Organized crime drug enforcement	.....	(214,921,000)	(Unauthorized)	.....	(-214,921,000)
Federal Bureau of Investigation					
Salaries and expenses	(1,439,100,000)	(1,550,385,000)	(Unauthorized)	(-1,439,100,000)	(-1,550,385,000)
Drug Enforcement Administration					
Salaries and expenses	(535,000,000)	(551,181,000)	(Unauthorized)	(-535,000,000)	(-551,181,000)
Immigration and Naturalization Service					
Salaries and expenses	(826,200,000)	(878,959,000)	(Unauthorized)	(-826,200,000)	(-878,959,000)
Federal Prison System					
Salaries and expenses	(953,012,000)	(1,152,554,000)	(Unauthorized)	(-953,012,000)	(-1,152,554,000)
National Institute of Corrections	(9,590,000)	(10,112,000)	(Unauthorized)	(-9,590,000)	(-10,112,000)
Buildings and facilities	(299,293,000)	(1,401,332,000)	(Unauthorized)	(-299,293,000)	(-1,401,332,000)
Federal Prison Industries, Incorporated:					
Borrowing authority	(20,000,000)	.....	(Unauthorized)	(-20,000,000)	.....
(Limitation on administrative and vocational training expenses)	*(7,051,000)*	*(2,857,000)*	*(Unauthorized)*	*(-7,051,000)*	*(-2,857,000)*
Total, Federal prison system	(1,281,895,000)	(2,563,998,000)	(Unauthorized)	(-1,281,895,000)	(-2,563,998,000)
Office of Justice Programs					
Justice Assistance	299,075,000	227,253,000	305,843,000	+6,768,000	+78,590,000
Rescission	-2,053,000	.....	.....	+2,053,000	.....
Public safety officers' benefits program	24,000,000	25,000,000	25,000,000	+1,000,000	.....
Total, Office of Justice Programs	321,022,000	252,253,000	330,843,000	+9,821,000	+78,590,000
Drug Law Enforcement					
Appropriations	(71,000,000)	.....	(Unauthorized)	(-71,000,000)	.....
Total, title II, Department of Justice:					
New budget (obligational) authority	399,790,000	378,253,000	463,356,000	+63,566,000	+85,103,000
(Unauthorized)	(5,448,594,000)	(7,317,377,000)	(Unauthorized)	(-5,448,594,000)	(-7,317,377,000)
(Limitation on expenses)	*(7,051,000)*	*(2,857,000)*	*(Unauthorized)*	*(-7,051,000)*	*(-2,857,000)*
TITLE III - DEPARTMENT OF STATE					
Administration of Foreign Affairs					
Salaries and expenses	(1,789,250,000)	(1,880,760,000)	(Unauthorized)	(-1,789,250,000)	(-1,880,760,000)
Office of the Inspector General	.....	(18,672,000)	(Unauthorized)	.....	(-18,672,000)
Representation allowances	(4,590,000)	(4,600,000)	(Unauthorized)	(-4,590,000)	(-4,600,000)
Protection of foreign missions and officials	(9,100,000)	(9,100,000)	(Unauthorized)	(-9,100,000)	(-9,100,000)
Acquisition and maintenance of buildings abroad	240,021,000	129,200,000	129,200,000	-110,821,000	.....
(Unauthorized)	.....	(218,900,000)	(Unauthorized)	.....	(-218,900,000)
Emergencies in the diplomatic and consular service	(4,500,000)	(4,700,000)	(Unauthorized)	(-4,500,000)	(-4,700,000)
Payment to the American Institute in Taiwan	(10,890,000)	(11,300,000)	(Unauthorized)	(-10,890,000)	(-11,300,000)
Payment to the Foreign Service Retirement and Disability Fund	107,684,000	106,034,000	106,034,000	-1,650,000	.....
Total, administration of foreign affairs	347,705,000	235,234,000	235,234,000	-112,471,000	.....
(Unauthorized)	(1,818,330,000)	(2,148,032,000)	(Unauthorized)	(-1,818,330,000)	(-2,148,032,000)
International Organizations and Conferences					
Contributions to international organizations	(485,940,000)	(714,927,000)	(Unauthorized)	(-485,940,000)	(-714,927,000)
Contributions for international peacekeeping activities	(29,000,000)	(111,184,000)	(Unauthorized)	(-29,000,000)	(-111,184,000)
(By transfer from Defense and Foreign Operations)	*(125,000,000)*	.....	.....	*(-125,000,000)*	.....
International conferences and contingencies	(6,000,000)	(6,340,000)	(Unauthorized)	(-6,000,000)	(-6,340,000)
Total, international organizations and conferences	(520,940,000)	(832,451,000)	(Unauthorized)	(-520,940,000)	(-832,451,000)
International Commissions					
International Boundary and Water Commission, United States and Mexico:					
Salaries and expenses	(10,261,000)	(10,460,000)	(Unauthorized)	(-10,261,000)	(-10,460,000)
Construction	(3,166,000)	(11,500,000)	(Unauthorized)	(-3,166,000)	(-11,500,000)
American sections, international commissions	(4,316,000)	(4,500,000)	(Unauthorized)	(-4,316,000)	(-4,500,000)
International fisheries commissions	(10,548,000)	(11,000,000)	(Unauthorized)	(-10,548,000)	(-11,000,000)
Total, international commissions	(28,291,000)	(37,460,000)	(Unauthorized)	(-28,291,000)	(-37,460,000)

(Italics indicate non-add items.)

H.R. 2991—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

	FY 1989 Enacted	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Enacted	Bill vs FY 1990 Request
Other					
United States Bilateral Science and Technology Agreements	(2,000,000)	(4,000,000)	(Unauthorized)	(-2,000,000)	(-4,000,000)
Payment to the Asia Foundation	(13,700,000)	(8,300,000)	(Unauthorized)	(-13,700,000)	(-8,300,000)
Soviet-East European research and training	(4,600,000)	(4,600,000)	(Unauthorized)	(-4,600,000)	(-4,600,000)
Fishermen's guaranty fund	(1,725,000)	(900,000)	(Unauthorized)	(-1,725,000)	(-900,000)
Fishermen's protective fund	.....	1,000,000	1,000,000	+1,000,000	.....
Total, Other	.....	1,000,000	1,000,000	+1,000,000	.....
(Unauthorized)	(22,025,000)	(17,800,000)	(Unauthorized)	(-22,025,000)	(-17,800,000)
General Provisions					
Expenses of participation in U.S. - E.C. Interparliamentary Group	50,000	.....	.....	-50,000	.....
Total, title III, Department of State:					
New budget (obligational) authority	347,755,000	236,234,000	236,234,000	-111,521,000	.....
(Unauthorized)	(2,389,586,000)	(3,035,743,000)	(Unauthorized)	(-2,389,586,000)	(-3,035,743,000)
TITLE IV - THE JUDICIARY					
Supreme Court of the United States					
Salaries and expenses:					
Salaries of justices	1,116,000	1,154,000	1,154,000	+38,000	.....
Other salaries and expenses	14,785,000	16,159,000	16,159,000	+1,374,000	.....
Total, salaries and expenses	15,901,000	17,313,000	17,313,000	+1,412,000	.....
Care of the building and grounds	2,131,000	5,714,000	3,300,000	+1,169,000	-2,414,000
Total, Supreme Court of the United States	18,032,000	23,027,000	20,613,000	+2,581,000	-2,414,000
United States Court of Appeals for the Federal Circuit					
Salaries and expenses:					
Salaries of judges	1,287,000	1,210,000	1,210,000	-77,000	.....
Other salaries and expenses	7,013,000	7,775,000	7,620,000	+607,000	-155,000
Total, salaries and expenses	8,300,000	8,985,000	8,830,000	+530,000	-155,000
United States Court of International Trade					
Salaries and expenses:					
Salaries of judges	909,000	860,000	860,000	-49,000	.....
Other salaries and expenses	7,091,000	7,563,000	7,412,000	+321,000	-151,000
Total, salaries and expenses	8,000,000	8,423,000	8,272,000	+272,000	-151,000
Courts of Appeals, District Courts, and Other Judicial Services					
Salaries and expenses:					
Salaries of judges	105,235,000	102,607,000	102,607,000	-2,628,000	.....
Other salaries and expenses	1,064,765,000	1,286,867,000	1,247,196,000	+182,431,000	-39,671,000
Total, salaries and expenses	1,170,000,000	1,389,474,000	1,349,803,000	+179,803,000	-39,671,000
Defender services	110,100,000	167,260,000	133,260,000	+23,160,000	-34,000,000
Fees of jurors and commissioners	48,135,000	55,000,000	58,700,000	+10,565,000	+3,700,000
Court security	(41,423,000)	(58,490,000)	(Unauthorized)	(-41,423,000)	(-58,490,000)
Total, courts of appeals, district courts, and other judicial services	1,328,235,000	1,611,734,000	1,541,763,000	+213,528,000	-69,971,000
(Unauthorized)	(41,423,000)	(58,490,000)	(Unauthorized)	(-41,423,000)	(-58,490,000)
Administrative Office of the United States Courts					
Salaries and expenses	33,600,000	34,670,000	32,670,000	-930,000	-2,000,000
Federal Judicial Center					
Salaries and expenses	11,200,000	14,188,000	12,648,000	+1,448,000	-1,540,000
Judicial Retirement Funds					
Payment to judicial officers' retirement fund	2,300,000	4,000,000	4,000,000	+1,700,000	.....
United States Sentencing Commission					
Salaries and expenses	5,183,000	6,920,000	6,520,000	+1,337,000	-400,000
Total, title IV, the Judiciary:					
New budget (obligational) authority	1,414,850,000	1,711,947,000	1,635,316,000	+220,466,000	-76,631,000
(Unauthorized)	(41,423,000)	(58,490,000)	(Unauthorized)	(-41,423,000)	(-58,490,000)
TITLE V - RELATED AGENCIES					
DEPARTMENT OF TRANSPORTATION					
Maritime Administration					
Operating-differential subsidies (liquidation of contract authority)	*(248,900,000)*	*(225,870,000)*	*(Unauthorized)*	*(-248,900,000)*	*(-225,870,000)*
Operations and training	(66,250,000)	(66,300,000)	(Unauthorized)	(-66,250,000)	(-66,300,000)
Ready reserve force	(110,751,000)	(239,030,000)	(Unauthorized)	(-110,751,000)	(-239,030,000)
Total, Department of Transportation	(177,001,000)	(305,330,000)	(Unauthorized)	(-177,001,000)	(-305,330,000)
Advisory Commission on Conference in Ocean Shipping					
Salaries and expenses	.....	500,000	300,000	+300,000	-200,000

(Italics indicate non-add items.)

H.R. 2991—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

	FY 1989 Enacted	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Enacted	Bill vs FY 1990 Request
Arms Control and Disarmament Agency					
Arms control and disarmament activities	(31,030,000)	(33,876,000)	(Unauthorized)	(-31,030,000)	(-33,876,000)
Board for International Broadcasting					
Grants and expenses	(194,900,000)	(218,175,000)	(Unauthorized)	(-194,900,000)	(-218,175,000)
Israel Relay Station	(33,000,000)	(207,000,000)	(Unauthorized)	(-33,000,000)	(-207,000,000)
Total, Board for International Broadcasting	(227,900,000)	(425,175,000)	(Unauthorized)	(-227,900,000)	(-425,175,000)
Christopher Columbus Quincentenary Jubilee Commission					
Salaries and expenses	212,000	220,000	220,000	+8,000	.....
Commission on Agricultural Workers					
Salaries and expenses	500,000	500,000	500,000	.....	.....
Commission on the Bicentennial of the United States Constitution					
Salaries and expenses	6,936,000	14,589,000	14,300,000	+7,364,000	-289,000
Commission on Civil Rights					
Salaries and expenses	(5,707,000)	(7,857,000)	(Unauthorized)	(-5,707,000)	(-7,857,000)
Commission for the Preservation of America's Heritage Abroad					
Salaries and expenses	.....	200,000	200,000	+200,000	.....
Commission on Security and Cooperation in Europe					
Salaries and expenses	741,000	912,000	850,000	+109,000	-62,000
Commission for the Study of International Migration and Cooperative Economic Development					
Salaries and expenses	1,290,000	1,290,000	1,290,000	.....	.....
Equal Employment Opportunity Commission					
Salaries and expenses	180,712,000	188,700,000	184,926,000	+4,214,000	-3,774,000
Federal Communications Commission					
Salaries and expenses	(99,613,000)	(109,831,000)	(Unauthorized)	(-99,613,000)	(-109,831,000)
Federal Maritime Commission					
Salaries and expenses	13,585,000	16,350,000	15,650,000	+2,065,000	-700,000
Federal Trade Commission					
Salaries and expenses	(66,243,000)	(69,580,000)	(Unauthorized)	(-66,243,000)	(-69,580,000)
International Trade Commission					
Salaries and expenses	(35,958,000)	(39,943,000)	(Unauthorized)	(-35,958,000)	(-39,943,000)
Japan - United States Friendship Commission					
Japan - United States Friendship Trust Fund	1,415,000	1,350,000	1,350,000	-65,000	.....
(Foreign currency appropriation)	*(1,700,000)*	*(1,610,000)*	*(1,610,000)*	*(-90,000)*	.....
Legal Services Corporation					
Payment to the Legal Services Corporation	(308,555,000)	(295,314,000)	(Unauthorized)	(-308,555,000)	(-295,314,000)
Marine Mammal Commission					
Salaries and expenses	953,000	960,000	960,000	+7,000	.....
Office of the United States Trade Representative					
Salaries and expenses	(15,229,000)	(16,830,000)	(Unauthorized)	(-15,229,000)	(-16,830,000)
Securities and Exchange Commission					
Salaries and expenses	(142,640,000)	(168,707,000)	(Unauthorized)	(-142,640,000)	(-168,707,000)
Small Business Administration					
Salaries and expenses	228,490,000	259,267,000	240,545,000	+12,055,000	-18,722,000
(By transfer, indefinite)	*(88,669,000)*	.....	*(96,160,000)*	*(+7,491,000)*	*(+96,160,000)*
Office of the Inspector General	.....	7,552,000	7,400,000	+7,400,000	-152,000
Business loan and investment fund	167,500,000	.....	164,500,000	-3,000,000	+164,500,000
(Limitation on guaranteed loans)	.....	*(3,535,000,000)*	.....	.....	*(-3,535,000,000)*
Surety bond guarantees revolving fund	9,497,000	11,000,000	11,000,000	+1,503,000	.....
Pollution control equipment contract guarantee revolving fund	13,656,000	13,000,000	13,000,000	-656,000	.....
Total, Small Business Administration	419,143,000	290,819,000	436,445,000	+17,302,000	+145,626,000

(Italics indicate non-add items.)

H.R. 2991—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

	FY 1989 Enacted	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Enacted	Bill vs FY 1990 Request
State Justice Institute					
Salaries and expenses	10,980,000	15,000,000	11,233,000	+253,000	-3,767,000
United States Information Agency					
Salaries and expenses	(620,347,000)	(655,068,000)	(Unauthorized)	(-620,347,000)	(-655,068,000)
Office of the Inspector General	.....	(3,677,000)	(Unauthorized)	.....	(-3,677,000)
Educational and cultural exchange programs	(150,040,000)	(153,000,000)	(Unauthorized)	(-150,040,000)	(-153,000,000)
Radio construction	(65,000,000)	(89,000,000)	(Unauthorized)	(-65,000,000)	(-89,000,000)
Radio broadcasting to Cuba	(11,175,000)	(12,700,000)	(Unauthorized)	(-11,175,000)	(-12,700,000)
East-West Center	(20,000,000)	(20,000,000)	(Unauthorized)	(-20,000,000)	(-20,000,000)
National endowment for democracy	(15,800,000)	(15,800,000)	(Unauthorized)	(-15,800,000)	(-15,800,000)
Total, United States Information Agency	(882,362,000)	(949,245,000)	(Unauthorized)	(-882,362,000)	(-949,245,000)
Total, title V, Related agencies:					
New budget (obligational) authority	636,467,000	531,390,000	668,224,000	+31,757,000	+136,834,000
(Unauthorized)	(1,992,238,000)	(2,421,688,000)	(Unauthorized)	(-1,992,238,000)	(-2,421,688,000)
(By transfer)	*(88,669,000)*	.....	*(96,160,000)*	*(+7,491,000)*	*(+96,160,000)*
(Liquidation of contract authority)	*(248,900,000)*	*(225,870,000)*	*(Unauthorized)*	*(-248,900,000)*	*(-225,870,000)*
(Foreign currency appropriation)	*(1,700,000)*	*(1,610,000)*	*(1,610,000)*	*(-90,000)*	.....
Grand total:					
New budget (obligational) authority	4,901,132,000	5,580,800,000	5,801,401,000	+900,269,000	+220,601,000
(Unauthorized)	(10,497,133,000)	(13,249,736,000)	(Unauthorized)	(-10,497,133,000)	(-13,249,736,000)
(By transfer)	*(213,669,000)*	.....	*(96,160,000)*	*(-117,509,000)*	*(+96,160,000)*
(Foreign currency appropriation)	*(1,700,000)*	*(1,610,000)*	*(1,610,000)*	*(-90,000)*	.....

(Italics indicate non-add items.)

Mr. Chairman, I reserve the balance of my time.

Mr. ROGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me begin my short remarks by commending our chairman, the gentleman from Iowa [Mr. SMITH], who has labored, I think, under the most stringent of budget allocations.

All of the members of the subcommittee share the same frustrations he has expressed to Members, and that of our other subcommittee members, with the impossible constraints of the budget resolution and the budget summit.

The members of this subcommittee have wrestled with an inadequate 302(b) allocation from the very beginning, and we knew all along that we were not going to meet the needs that our subcommittee responsibilities thrust upon the members, with the inadequate funding that was given to members essentially by the budget summit.

□ 0940

But we have hung in there, and I think we have presented the very best face on an ugly situation that we possibly could.

This bill contains an unusually diversified array of programs and agencies. It is the bill which underwrites most of our international trade programs and many related competitiveness efforts. It provides for the vital economic and business statistics upon which the Government, industry, and in fact the world's economic decisionmakers depend. It will ensure an improved and more accurate 1990 census next spring.

In this budget we fund the operations of our State Department as well as the invaluable mediums and programs of the U.S. Information Agency. The bill contains the vital ocean and atmospheric research and protection. Last but by no means least, this is the bill that should be providing the lion's share of our Federal law enforcement efforts—DEA, SBI, the marshals service, and the U.S. attorneys, not to mention the system of justice in the judiciary.

But the challenge of this subcommittee's jurisdiction has presented us with enormous funding conflicts. To provide increases for all those deserving of increases, given the allocations that we had, is more the task of a magician than it is of a legislator, and the bill we bring to the Members reflects this rather dramatically.

Quite simply, as the gentleman from Iowa [Mr. SMITH] has described it, the bill contains funds for only those agencies with enacted authorizations for 1990. We recommend $5.8 billion in new budget authority, representing a deferral basically or roughly two-thirds of the bill, pending authorization action by the authorizing committees.

For the authorized items, the bill is $900 million above enacted levels and about $220 million over the requested amounts. Within our 302(b) allocation, $11.4 billion is reserved for the unauthorized programs, which we will address later in the year. Those will include, as the subcommittee chairman has outlined to us, nearly all of the Justice Department and State Department, the USIA and the Board for International Broadcasting, EDA grants, the Export Administration, the National Institute for Standards and Technology, formerly called the Bureau of Standards, and various regulatory agencies normally funded as part of our appropriations process.

As a general rule, the bill provides 98 percent of the CBO baseline amount for most accounts in the bill. That is 2 percent less than most baseline numbers. Important exceptions, of course, exist, as the subcommittee chairman said, such as the funds provided for the judiciary. Judiciary, for example, is downstream from roughly 32 new criminal and civil statutes enacted over the last 7 years, and this, combined with the impact of new sentencing guidelines, has created relatively uncontrollable workload increases for the courts, and yet we do not adequately fund them.

So we have attempted to respond reasonably by putting extraordinary funds into the judiciary.

In all, including funded accounts and the reserve, the bill is within the 302 allocation, Mr. Chairman, and it complies with the budget summit, for which there is no love lost at this table.

Among the programs funded, Mr. Chairman, let me briefly mention a couple of important items. First there is the census, which has a total increase of $810 million, with $800 million just for the decennial census. It is hopefully adequate to carry out next year's all-important population count, upon which we depend for apportionment data, allocating funds, and formulating policy.

Then we have the International Trade Administration, which is getting a 7-percent increase from the 1989 level. This will support a number of important increases in the area of

trade development and trade administration. It only partially funds the amount requested for overseas commercial operations, but we just did not have room for a full increase.

Within NOAA, the National Oceanic and Atmospheric Administration, the bill provides adequate funds to keep NOAA weather stations open. It provides about half of the increases sought for climate and global change research and for the coastal ocean initiative.

Here are a few things the bill is unlikely to provide: The President's recent crime initiative, a $1-billion increase over and above the originally requested increases for law enforcement and the war on drugs. Our austere situation will preclude us from seriously considering these items.

In summary, few of us are enamored of the product we bring to the Members, Mr. Chairman, but the subcommittee chairman and the subcommittee in my view did the very best possible job, given the cards they were dealt.

Among the bill's most endearing qualities are these: It is absolutely clean. There is not a line of legislatively authorized language in the bill. There is no unauthorized funding, consistent with our rules, if not our normal practice.

The chairman of the subcommittee and the subcommittee have been diligent in our collective efforts to bring a good bill to the floor, in spite of the difficulties we operated under, and what we have here is a reflection of the times we are facing. But it is a good start in what I hope will not be too protracted a session, considering the responsibilities our subcommittee has.

Mr. Chairman, I urge our colleagues to support the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I rise in support of H.R. 2991, the bill to provide funding for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies.

First, I would like to express my appreciation for the work on this bill that has been done by our subcommittee chairman, Mr. SMITH, and the ranking Republican member, Mr. ROGERS, and the staff, John Osthaus, George Schafer, Bettilou Taylor, and Jim Fairchild.

Even in the best of times this is a difficult bill to manage because available resources rarely match the wide range of requirements to which it needs to respond.

This year's task has been further complicated by the severe budget constraints under which we have labored and the lack of authorization for programs and activities of a wide range of executive branch departments, agencies, and commissions normally funded under this bill. Almost 55 percent of the funding which should be recommended for specific programs and activities in this bill is having to be held in reserve because work on the needed authorizations has not been completed.

None of us is thrilled with what we have crafted. Many of us would have liked to have more funding for the war against drugs, for economic development, for promoting exports of U.S. goods and services, for protecting American interests in the international trade, and for strengthening U.S. standing in the advanced technology competition. But, given the complex set of circumstances which have influenced our decisionmaking, I believe we have put together a good bill.

The totals recommended in the bill, including the reservation for the mandatory and discretionary activities for which authorizations are not complete, are within the subcommittee's section 302(b) allocation of budget authority and outlays. Total new budget authority recommended is $5.8 billion, $246.9 million of which is mandatory. Of the $7.09 billion in reserved budget authority, $58 million is mandatory.

In general, the discretionary funding recommended, and reserved, in H.R. 2991 is 2-percent less than the amount the Congressional Budget Office has estimated would be required to maintain activities at a current services level in the coming year.

For the future, I would hope the Nation's budget situation will improve and the economy will expand to permit increased investment in programs which generate private sector jobs, which support U.S. interests in international trade, which speed up the war against drugs and which will promote and maintain U.S. leadership in advanced technology.

But, today we must play the hand the current circumstances have dealt us. With this bill and within the limits imposed on the committee, I believe that we have made the best recommendations available to us for responding to current needs. I urge a vote for passage of the bill.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. EARLY].

Mr. EARLY. Mr. Chairman, I want to thank the subcommittee chairman for yielding time to me.

Mr. Chairman, I just want to take this opportunity to thank the subcommittee chairman, the gentleman from Iowa [Mr. SMITH], and the ranking member, the gentleman from Kentucky [Mr. ROGERS], for their approach on the appropriation bill for Commerce, Justice, and State, and the Judiciary.

Mr. Chairman, as mentioned by both the ranking member and the subcommittee chairman, we are not proud of the bill because we only fund the authorized program, and over 70 percent of the bill is unauthorized. I urge the authorizing committee to come out and authorize the programs.

My most favorable comment about this bill is the approach that the gentleman from Iowa [Mr. SMITH] and the gentleman from Kentucky [Mr. ROGERS] took. They looked at the testimony before the committee, and they made long-range suggestions. I think we can see the long-range suggestions when we talk about the war on drugs. It was the gentleman from Iowa [Mr. SMITH] and the gentleman from Kentucky [Mr. ROGERS] who put the money in the supplemental budget to pay for it, and they got no support. It was the gentleman from Iowa [Mr. SMITH] and the gentleman from Kentucky [Mr. ROGERS] who looked at the Japanese Repatriation Program and put $250 million into the supplemental program, and they got no support for it.

In this particular bill, on the war against drugs, this committee has approached the problems on the border, the problems with immigration, the State Department, Customs, DEA, and the others, and we have said that we cannot constantly fight it by putting more personnel on. They have funded every request to computerize all the agencies together. They have asked the agencies to get together to find a unified system which we can computerize and, therefore, come into the electronic age.

This committee has put as much money as it possibly could into this particular bill for the Japanese Repatriation Program. The President requested $20 million, and the program could use $250 million. But the committee was able to find only another $30 million, but this shows that the committee intends to fund the entire bill.

Mr. Chairman, in conclusion, I just want to thank this committee, because all the suggestions in this bill before the committee are for long-range solutions.

□ 0950

Mr. SMITH of Iowa. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Chairman, I thank the gentleman from Iowa [Mr. SMITH].

Mr. Chairman, I rise here to join in with other members of this subcommittee in paying tribute to the chairman, the gentleman from Iowa [Mr. SMITH], and the ranking member, the gentleman from Kentucky [Mr. ROGERS].

Mr. Chairman, may I say that we need to give consideration to how serious this drug situation is. It saturates just about everywhere one looks. It is not safe to be on the streets in much of our major cities, and it is spreading out to rural areas, too. It enters into babies. it enters into car wrecks, it enters into everything one can think about.

Mr. Chairman, I notice in the paper we have had 250 murders here in Washington, DC, and are being called the murder capital of the world. Perhaps my colleagues read last week where 50 prisoners were carried around in a bus for 2 hours because they did not have anywhere to put them even right here in Washington. Not only that, but we have judges serving people out of jail because they do not have conditions to take care of them. We have folks that are not arresting people throughout the country because there is nowhere to put them if the judges want to convict them. It has broken down, it is breaking down our country.

Now may I say at this time that the gentleman from Iowa [Mr. SMITH] and the gentleman from Kentucky [Mr. ROGERS] have joined members of their subcommittee in being out front on this. I call attention to the fact that there are 41 Government agencies and departments that claim a share of the jurisdiction, and they have it. I do not mean to belittle the efforts that they are making in education and all the rest of it, but, sooner or later, we are going to have to grip the matter and take the matter in hand.

This committee has even persisted on having a czar; so have I. We have a man who has the name and is given that title, but he cannot do anything except make speeches and issue new releases. He is under the sufferance of the Justice Department.

Something has got to give, but I want to pay tribute now to two of the finest members we have on our Committee on Appropriations who have done a great job, and they are out in front. We got 50 States that want to get in on the act, and, as I read the paper, what the executive branch is, says that we got all the money we need for what we are doing now, but what we are doing now is not enough. Somebody is going to have to grip this.

Now this was all gone into in the supplemental, and I am proud that the supplemental, with the approval of this subcommittee and at their instance, is not a concrete start. We provide in there that they start the funds to start three new prisons that are most desirable and necessary places. It provides in there that there are other military bases that may be vacated, shall be available for CC type of operations for those who have drug problems. We provide further that $75 million be made available at the local level so that we can pay jurors, and have court and have somebody to prosecute the cases.

Mr. Chairman, I am just telling my colleagues that I urge the Legislative Subcommittee on the Committee on the Judiciary to give up authority so that this committee can act without restrictions that they have now.

On June 30, the day after Congress recessed for the week of July 4, the President signed H.R. 2402, the dire emergency supplemental, which we had passed by a vote of 318 to 6 and the Senate passed by voice vote.

The President made no comment, but earlier he was quoted as being ready to veto any bill which increased funds for drug control. In addition, the local press has had little to say about the bill being signed.

Mr. Chairman, this action was monumental, for among other provisions, it makes a concrete start to support law enforcement officials at the local level and to regain some control over the terrible drug situation which, if not corrected, will wreck this country. In some parts of most cities, it is unsafe to be on the streets at night, or even in the daytime and in many rural sections as well.

According to reports, in many areas some arrests are not made for there is no place to put prisoners. According to the press, Washington, DC, has sent prisoners as far as the west coast for confinement. Some judges are dismissing charges, and are actually releasing prisoners because of a shortage of prisons and jails.

The bill, now the law, Public Law 101-45, provides $75 million—

To strengthen Federal domestic drug law enforcement at the local level for additional assistant United States attorneys, deputy United States marshals and other agents, including necessary equipment and supplies; initiate plans to acquire available military facilities for use as prisons or Civilian Conservation Corps type use for drug offenders; speed up planning for not less than three prisons in areas where most needed; and to expedite the purchase of automatic data processing equipment to improve the exchange of information . . . for "fees of jurors and commissioners" to strengthen drug law enforcement at the local level.

As chairman of the House conferees, it was my proposal which the conferees accepted by unanimous vote. Mr. Chairman, I am indeed glad that we made this start, for despite our many efforts, the use of drugs threatens our Nation.

The administration is committed to producing a plan by September 1. It is to be hoped that it will include authority to cut across jurisdictions now divided between 41 departments and agencies. All we do is helpful, but to gain control of the drug problem we must have this authority.

I want to say again I am proud of the Committee on Appropriations, and since 1945 we have held appropriations bills down $187 billion below the recommendations of the President. Under President Reagan we held it to $16 billion, but it is time to spend money, and I say they may have all the money they need for what they are doing now. But what they are doing now, as helpful as it may be, is not reaching the crux of the problem.

Again may I say I appreciate all the efforts that the members of this subcommittee are doing.

Mr. ROGERS. Mr. Chairman, I yield 6 minutes to the gentleman from Arizona [Mr. KOLBE], a member of the subcommittee.

Mr. KOLBE. Mr. Chairman, I want to begin by commending both the chairman of the subcommittee, the gentleman from Iowa [Mr. SMITH], and my ranking member, the gentleman from Kentucky [Mr. ROGERS], for the outstanding work that they have done under very difficult circumstances.

Mr. Chairman, I say "under very difficult circumstances," because I agree with the other members of the subcommittee that this bill represents a disappointment, a disappointment because we really are covering so little of what our subcommittee is required to cover in the appropriations bill.

Despite all the hard work, the months of hearings and the agencies that we have talked to, we have very little to show for it in this bill, and that is not because of any fault of the chairman, or the ranking member, or the other members of the subcommittee or the staff, all of whom have done an outstanding job with this legislation and with the problems that we have. It is the fault of the fact that our 302(b) allocation is not sufficient to cover all the tasks that have been given us and that many of the programs that we are responsible for appropriating are unauthorized.

In fact, Mr. Chairman, nearly two-thirds of it is unauthorized, and so this bill is like a giant blank with only a very small part of the puzzle filled in. Only that part where we have authorizations amounting to about $5 billion out of $13 billion has been appropriated because those are the only parts that are authorized.

Now, as we heard already this morning, and we will probably hear from others who will discuss this bill this morning, we have been under very strict 302(b) constraints. I understand my chairman's reasoning in saying that we really cannot get into appropriating for unauthorized areas when we do not know how we are going to fit all of this in.

Mr. Chairman, since 1980 our committee has had to appropriate for the Justice Department without authorization, an agency of the Federal Government that for the last 8 or 9 years has not had an authorization. This

year, perhaps more than any other year in our past, we are faced with very special responsibilities and special tasks. All of us here know where that comes from. It comes from the war on drugs. It comes from the problems that we have had with securities fraud. It comes from the very special effort that we are making with U.S. trade policy today. It comes from some very complicated issues in communications policies, and finally it comes from the growing problems that we have seen with our Embassy security and our consular security. Yet none of these agencies, none of these issues that I have just mentioned, are funded in this bill.

As I already mentioned, only about $5 billion of the $13 billion reserved in the 302(b) allocation is appropriated in this bill. Those agencies that were not funded include portions of the Economic Development Administration, minority business development, the U.S. Trade Administration, portions of NOAA, the National Institute of Standards, virtually all of the Department of Justice, most of the Department of State, the Federal Communications Commission, the Legal Services Corporation, the Securities and Exchange Commission, and the U.S. Trade Representative. I guess we can say that leaves marine mammal protection as one of our big-ticket items that is in the bill here.

Mr. Chairman, I also want to mention one other thing that we are going to have some discussion on this morning. Very shortly we will be hearing from Members of this body who will urge their colleagues to defeat the motion to rise so that an amendment can be offered dealing with the census. It is going to be suggested that the census should be blocked or prevented in this legislation from spending any funds to count those who are not citizens of the United States, who are aliens.

Mr. Chairman, this is a vexing question, and it is one that has troubled this body for a long time. Legislation has been introduced, but has not reached the floor of the House. I would hope that my colleagues would go along with the motion to rise at the appropriate time and defeat those who suggest that we should add language that blocks the Census Bureau from spending money for a counting of illegal aliens during the course of the decennial census. I say this because I think a very clear reading of the Constitution says that we shall count all those who are present. It does not say anything about counting citizens. It talks about counting people.

□ 1000

It is very clear that the census is supposed to count all those who are in the United States. It does not refer to those who are citizens or noncitizens. There is a very good reason for that, Mr. Chairman. Those of us who live along the border understand the special problems we have because of the number of aliens who live along the border, and the special strain that puts on jails, the strain it puts on our education system, on our hospitals.

Mr. Chairman, there is no one here this morning suggesting that special compensation be given to our counties or our States or our communities that have these special problems, and yet many of the funding programs are based on numbers. At the very least, those people should be counted as numbers for the funding programs that relate to health and to education and to justice.

I think it would be a very serious mistake for this body to accept the notion that we ought to change the way the census has traditionally been done and not count aliens.

I hope that this body will defeat that provision when it comes to the floor.

Mr. SMITH of Iowa. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I thank the distinguished committee chairman, the gentleman from Iowa [Mr. SMITH] for yielding time to me.

I rise in support of the appropriation funding for our very important Northwest fisheries programs.

Nowhere else in the United States has such an explosive growth in fisheries occurred as in the Northwest since the passage of the Magnuson Conservation and Management Act of 1976. The vast bottomfish resources in the North Pacific which were largely exploited by foreign vessels at the time are now almost exclusively "Americanized." Our Northwest fishermen today are producing over 5 billion pounds of edible seafood with a wholesale value close to $3.5 billion dollars and, at the same time, employing over 30,000 fishermen and 16,000 processing workers from Washington, Alaska, and Oregon.

This rapid domestic growth of our North Pacific fisheries, compounded by new laws and regulations needed to manage the resources, has vastly increased the need for data collection, research, management, and enforcement programs. This is why the President's budget—a 41-percent reduction in fisheries spending—is totally inadequate; this is why Congress must restore a more responsible budget for our fisheries programs.

Mr. Chairman, I am concerned that many of our fisheries programs have not received funding under the Appropriation Committee's bill that is before us today. I understand, however, that the committee has reserved funds within its 302 budget allocation to support those programs not currently authorized for 1990.

At this time, I want to emphasize the importance of several fisheries programs that are not in the committee's mark and urge the committee to provide the necessary full funding.

High seas salmon interception: There is growing evidence that large quantities of United States salmon are being illegally caught by the driftnet fleets of Japan, Taiwan, and Korea. In 1988 alone, the loss is projected to have been at least 10,000 metric tons of salmon, representing a loss to the U.S. fishermen of nearly $21 million. These foreign countries are taking our fish, taking away U.S. jobs associated with the fishery, and then selling the fish back to the United States.

These foreign fishing activities are illegal under both domestic and international law. In order for the United States to take enforcement action, however, we must have reliable evidence that the fish on board foreign vessels or the stocks in the area in which they are fishing are primarily of U.S. origin. Our scientists tell us that we have the technology to do so, but that further research is needed to provide for more rapid and effective techniques.

I cannot stress enough the importance of finding a solution to this illegal salmon fishing and developing rapid methods for identifying U.S. salmon is a very important part of the solution. I commend the committee's recognition of this problem by requesting the Commerce Department to submit a proposal to complete NOAA's genetic fingerprint base for Pacific salmon.

Existing data has shown genetic stock identification to be an effective means for determining origin of salmon. What is now needed, however, is to further develop these techniques by sampling the major stock groups which potentially contribute to the high seas fishery in order to develop a baseline data base. The baseline data base is the weakest link in analyzing high seas intercepted salmon at this time, and developing this information would allow accurate and precise determination of salmon taken in the high seas fisheries. I would urge the committee to fully support this initiative.

Mr. Chairman, in addition to funding for expanding our salmon genetic stock data base, full funding is also needed for enforcement and surveillance programs. Enforcement and surveillance are critical to the well being of the industry and to the conservation of the resource. A total of $9.37 million is needed for this program. This is $2 million above the President's request. This additional $2 million will pay for more NOAA fisheries enforcement agents to allow United States observers to be placed aboard Taiwanese and Japanese driftnet vessels pursuant to international agreements, and to investigate violations of the Magnuson Act, the Marine Mammal Protection Act, and all of the other Federal statutes that govern our fisheries. The recent NMFS sting operation in Seattle that uncovered a multimillion dollar salmon smuggling operation of a Taiwanese fish broker is a good example of the kind of work that our Federal enforcement officials can accomplish.

Mr. Chairman, there can be no really effective management of our fisheries resources without adequate, timely information. The Pacfin and West Coast Groundfish Research Programs provide such information—bringing together data from the fisheries off Washington, Alaska, Oregon, and California, into cen-

tral data bases accessible to all. Three million dollars is needed for the Pacfin Program and $1.45 million is needed for West Coast Groundfish Research. Not surprisingly, the administration has requested nothing for either of these programs.

Finally, Mr. Chairman, funding is needed to maintain the Columbia River Hatchery (Mitchell Act) Programs. In its fiscal year 1990 budget request, the administration has proposed to eliminate the entire Mitchell Act hatchery budget and transfer the financing obligations to the region's ratepayers through the Bonneville Power Administration. The administration's justification is that the hatcheries provide localized benefits to the economy of the Pacific Northwest, and therefore the funding should be provided by those who benefit from both the resource and the region's hydroelectric dams.

Mr. Chairman, the administration's argument is severely flawed.

First, the Mitchell Act of 1938 commits the Federal Government to mitigate the impact of Columbia River hydroelectric projects on the fishery resources. This act is still in effect, and it stays in effect as long as the dams affect the fishery resources.

Second, the Federal Government is not shouldering the entire burden of enhancing the Northwest fisheries. The Northwest Power Planning Council's Fish and Wildlife Program, adopted in 1983, commits the region's ratepayers to spend some $700 million over the next 20 years for fisheries enhancement activities.

Third, the benefits of these hatcheries are not limited to a discrete geographical area, as the administration claims. Hatcheries funded under the Mitchell Act annually provide over one-quarter million salmon to sport and commercial fisheries from California to Alaska. Treaty commitments with Indian tribes and Canada also depend on salmon production from these hatcheries. A total of $10.6 million is needed to maintain operations at fiscal year 1988 levels.

Through meetings with leaders of the fishing industry, the academic and scientific communities, and informal consultation with key Federal and State agencies from Washington, Alaska, and Oregon, it is clear to me that the initiatives I have outlined above should be fully funded.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. Chairman, I rise today in support of H.R. 2991, the Commerce, Justice, State, and the Judiciary appropriations bill for fiscal year 1990.

I would like to commend Chairman SMITH for the strong support he has shown for the Civil Liberties Act of 1988. There is no question where Chairman SMITH's heart lies, for he clearly understands the importance of this program.

I fully understand the constraints under which he and his subcommittee had to work to find the funds necessary to begin this program, and I am very thankful for his assistance.

Mr. Chairman, Public Law 100-383 is the most solemn piece of legislation I have ever had the opportunity to consider in my 12 years in Congress. The Civil Liberties Act of 1988 was a compact between the United States Government and those unfortunate individuals who were unjustifiably evacuated, relocated and interned during World War II. By this compact the United States Government apologized for the grave injustice and warrantless deprivation of liberty suffered by United States citizens—and resident aliens—of Japanese ancestry. We vowed that such violations of civil liberties would not reoccur, and obligated ourselves to provide restitution for the hardships and losses they suffered.

The legislation calls for $500 million in fiscal year 1990 and subsequent years to pay redress claims to the estimated 60,000 Japanese-American internees who were alive at the time the bill was signed into law.

Under the administration's budget, only 1,000 eligible individuals would be able to receive redress payments. The grim reality is that two to three as many former internees will die in the coming year than would receive redress under the budget request.

The $50 million appropriated will allow approximately 2,500 Americans of Japanese ancestry who were interned during World War II to receive compensation as directed in Public Law 100-383. In essence, this will allow the Federal Government to provide redress payments in fiscal year 1990 to about the same number of individuals as will die in the coming fiscal year. While many of us wish we could do more than provide the $50 million in this bill, we have at least provided funds sufficient to pay those individuals over 87 years of age.

When Congress passed legislation to provide redress compensation to the thousands of Japanese-Americans who were denied their constitutional rights, we made a commitment to stand by our Constitution and ensure that the rights of all are protected. The funds contained in H.R. 2991 will at least permit us to begin to meet our obligation.

I ask my colleagues to join me in support of H.R. 2991.

Mr. ROGERS. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, it has been said on this floor many times, and it is true, that the American people want to fight a real war on drugs. If we are going to fight a real war on drugs, where we find the money to fight that real fight is in this bill, because this bill has the Department of Justice and the Department of State, two of the lead agencies in fighting the war on drugs.

When we leaf through this bill, guess how much money we find for fighting the war on drugs. We find a total of $150 million in it for fighting the war on drugs, despite the fact that there are billions needed.

Is that the fault of this committee? Probably not. That is not the fault of this committee, because guess what, when we go to find money to fight the war on drugs, we find out none of the programs have been authorized. For the last 10 years, or nearly 10 years, for the last decade, the Committee on the Judiciary here has failed to authorize money for the FBI, for the Drug Enforcement Administration, for all of those lead agencies that fight the war on drugs, and so then when we come to appropriate the money, to actually find the money to fight the war each year, guess what, we cannot appropriate the money because no money has been authorized by the committee.

We talk a good game around here. I watch Members of Congress on television all the time talking about how we have to get tough and fight the war on drugs. It is not going to happen if we cannot appropriate the money. If we cannot do something to help the FBI, if we cannot do something to help the DEA, if we cannot get money to the police, we are not going to fight a war on drugs.

This bill is the perfect example of what is wrong with the system around here. This bill demonstrates that the best this committee can come up with as we come to this floor is $150 million of the billions that are needed.

We have to get on the ball. It seems to me the Committee on the Judiciary has got to come out here and fund the FBI and the DEA, authorize the money so that this committee can appropriate the money. We ought not to be sending our people off to the conference committee with no voice of our own on how we are going to fight the war on drugs, and yet that is going to continue to happen if we do not properly legislate these agencies.

This Congress has absolutely no business talking tough on drugs if we are not willing to fund the FBI, if we are not willing to fund the DEA, if we are not willing to fund the Customs Service, if we are not willing to fund all of these places that we refuse to authorize money for.

Mr. Chairman, I thank the committee for the $150 million that is in here, but they know it is not enough. The American people know it is not enough. The reason why it is not enough, and the reason why we do not have the money, is because our process has failed. We do not have the opportunity on this floor today to appropriate sufficient money, because the Committee on the Judiciary has failed to bring to the floor for the last decade the legislation which is needed

to fund the FBI, the DEA, and the other lead agencies in drugs.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman yielding, and I appreciate the point he is making about our underfunding of our commitment to the drug war.

Mr. WALKER. Reclaiming my time, I know the point that the gentleman was going to make about the supplemental.

Mr. AuCOIN. It had funded in it $800 million for the drug wars, but the President said that was too much.

Mr. WALKER. Reclaiming my time, and I understand, I will say to the gentleman.

Mr. AuCOIN. The President said that was too much.

Mr. WALKER. Reclaiming my time, let me make the point about the supplemental: None of the money was authorized, was it? We were out here appropriating money that was not properly authorized because none of that money was authorized either. We came out to the floor and yelled and screamed about drugs, knowing that not one dime of the money had been authorized either. I would say to the gentleman it is high time we stop playing games with this issue and stop bringing to the floor money bills that are not properly authorized.

Mr. AuCOIN. The drug money was authorized.

Mr. WALKER. Let me say to the gentleman that it would be far better if we get these programs properly authorized and come to the floor and not have the kinds of games that were played with the supplemental appropriation bill. I think that it is extremely important that we get real money out of here and fight this war on drugs the right way.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to make clear what the record is. I appreciate the point the gentleman is making. This bill contains funds only for programs currently authorized for fiscal year 1990. There was money authorized for fiscal year 1989 for the war on drugs. We brought a supplemental appropriations bill out there that had the appropriation in it for that authorization, $821 million. It was objected to by the administration because it violated Gramm-Rudman, but the point of the matter is that this money was authorized. We tried to do it in a timely manner.

All that is authorized now are the Justice Department's Drug Grants. We have appropriated $150 million for this program in this bill. We are waiting anxiously for the authorization for 1990 for the remainder of the drug programs. However, the summit agreement and the 302(b) allocation limit us. We will not be able to appropriate all the money that we expect to be authorized, because our 302(b) allocation is going to limit us, so we are not going to have adequate money for the drug war.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, would the gentleman tell me where the authorization was for that last one?

Mr. SMITH of Iowa. It was in the omnibus drug bill.

Mr. WALKER. What the gentleman is saying is that we need to reauthorize beyond the omnibus drug bill?

Mr. SMITH of Iowa. For 1990.

Mr. WALKER. The gentleman does not have authority for that for this year.

Mr. SMITH of Iowa. No.

Mr. WALKER. And so the point made by the gentleman from Pennsylvania is that the Committee on the Judiciary has failed to give us the authorization authority to allow the gentleman to proceed? Is that right?

Mr. SMITH of Iowa. We do not have the authorization for 1990. We have every dime in here that is authorized for 1990 at this point. What we are trying to do is follow the rules of the House, which I know the gentleman always expects us to do.

Mr. WALKER. Absolutely; absolutely. The gentleman is absolutely correct. He does not have sufficient authorizing authority, and that really is a failure of this process.

□ 1010

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Chairman, I hope the failure of the administration to agree to the full funding of what was authorized under the omnibus drug bill will be corrected as well, and I say that to the gentleman from Pennsylvania, so that we can have full funding of the war on drugs.

Mr. Chairman, I rise in support of the appropriations bill for the Departments of Commerce, Justice, and State in fiscal year 1990. I would like to add a few words about the fisheries programs funded in the Department of Commerce.

I especially want to thank the chairman of the subcommittee, Mr. Smith, for rejecting—once again—the misguided attempt of this administration to slash the Federal budget for fisheries by 40 percent. He understands the economic payoffs we get from investments in fisheries research and management.

Budget restrictions and other considerations mean that there aren't as many specifics for fisheries in the bill as I would like, but Mr. Smith has pledged to take care of those things in conference, and I appreciate that very much.

I especially want to thank him for addressing the piracy of our salmon and other resources by Asian drift net fleets in the Pacific—and his help in making sure that our Federal agents have the enforcement tools they need to nail the violators.

Mr. Chairman, let me remind my colleagues why fisheries are a wise investment. The fishing industry has grown tremendously in recent years in the Pacific as new resources are discovered and new technologies are created to exploit them. The incredibly productive waters of the Pacific Northwest and Alaska now account for 70 percent of the value of fish taken throughout the entire exclusive economic zone of the United States.

The wholesale value of fish caught by American fishermen and women in the Pacific Northwest and Alaska is over $3½ billion. A positive contribution of over $1 billion to our trade balance comes from seafood exports from the region.

Pacific Coast States shoulder a significant responsibility for stewardship of these valuable resources. Each one imposes licenses, landing fees, and other levies on fishermen and processors. Together these States spend $160 million a year for fisheries research and management. That almost equals the entire budget of the National Marine Fisheries Service.

Nevertheless, despite the size and productivity of our industry and the commitment of our States, only one-third of the national fisheries budget goes to the Pacific Northwest and Alaska.

Mr. Chairman, that's why I've asked this Appropriations Subcommittee for the funding to continue the highest priority fisheries programs for the Pacific region—programs like PacFIN, which ensures the timely collection of data needed by the management councils so that the harvest can be maximized and sustainable at the same time.

Once again, I want to thank the chairman of the subcommittee, Mr. Smith, for his understanding of these issues and his help to the fishing industry of the West Coast.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Ridge].

Mr. RIDGE. Mr. Chairman, I would like to thank the distinguished chairman of the Appropriations Subcommittee on Commerce, Justice, State, and the Judiciary, Mr. Smith and my Republican colleague, and the ranking member of that subcommittee, Mr. Rogers, for allowing me this opportunity to express my concern on our

commitment to assisting the business men and women of this Nation in exporting their goods abroad.

You know, 1988 was a banner year for U.S. exporters, providing one of the few bright spots in an otherwise discouraging state of America's international competitive position. Led by a record 26 percent increase in export shipments abroad, this impressive performance helped to narrow our Nation's 1988 trade gap by 19 percent, though the overall deficit remained disturbingly large at more than $137 billion.

We are slowly realizing that the strength of our domestic economy and to reducing our trade deficit depends greatly on our ability to think of exporting, not casually, but as a national necessity and way of life. Indeed, our 1988 export performance was led by the 90,000-plus American firms committed to competing in the international marketplace, with the vast majority of these firms representing small- and medium-size businesses. It is a commitment I believe the Federal Government must share in and nuture.

Yet, regrettably, Mr. Chairman, the bill that comes before us today continues the policy of inadequate funding and woeful indifference to export promotion. In many respects, what the Congress sought to give exporters through the market-opening measures mandated by the 1988 Trade Act we now effectively take away by not providing the necessary resources to our principal export promotion agency, the U.S. and Foreign Commercial Service.

With an extensive network of officers and foreign service nationals in 65 countries, the US&FCS functions as our Nation's main commercial presence abroad. The US&FCS' primary mission is aimed at increasing the number of new-to-exporting firms making a commitment to international trade and in promoting exports of U.S. goods and services by facilitating contacts between U.S. firms and foreign business and government officials. Its efforts represent a major contribution in the work to overcome what former Export-Import Bank President John Bohn termed the "attitude deficit" in this country, referring to the reluctance of many U.S. firms to explore exporting. Important to recognize is that for many of the small U.S. firms who do choose the route of international trade, the US&FCS is often the only source of assistance and guidance that enables those firms to navigate the unfamiliar waters of foreign markets.

Yet today, by failing to provide the full $6 million increase requested by the President for US&FCS operations, further eroding of the Service's ability to carry on its export promotion services abroad is inevitable. Let's be clear Mr. Chairman; the increase sought by the President was not an increase at all but rather reflected only a modest attempt to offset the substantial decline in purchasing power in overseas operations of US&FCS due to the fall in the value of the dollar.

It is not uncommon to hear stories of our overseas commercial officers foregoing opportunities to pick up critical trade contacts and leads because they can't afford the price of admission to trade events. Or the inability to make a long-distance phone call because its simply not in the budget. But one needs only to consider an example noted in a recent GAO report to truly understand the effect the dollar's decline has had on US&FCS' foreign operations. GAO noted that where the dollar cost of a German foreign service national's salary of 50,000 marks was $15,000 in February 1985 to pay that same wage today the dollar cost would be close to $27,000. Together, straight-line budgeting from fiscal year 1985 through fiscal year 1989 and the dollar's decline have combined to decreased US&FCS' purchasing power by close to 20 percent in absolute terms.

Unfortunately, these funding shortfalls are more reflective of the priority we place on export promotion than they are of our current budget problems. I recently had the opportunity to meet with members of the Asian-Pacific Council of American Chambers of Commerce to talk about exports. Their message was that the U.S. is being outmanned and outgunned in the competition for overseas markets. It's little wonder why.

A comparison of the United States' resources commitment to export promotion with those of our major competitor countries makes clear that we as a nation have failed to meet the export challenge. As an unpublished Commerce Department study details and as any U.S. exporter will sadly confirm, the United States ranks last or near-last in comparative indicators of commitment to export promotion—last in export promotion spending per capita, last in spending related to total GNP, sixth of eight in total export promotion staff related to exports and the list goes on. As a recent ad correctly notes, "Japan isn't killing us. We're committing hari-kari."

I do not contend, Mr. Chairman, that Federal programs to encourage or facilitate exports can supplant a national commitment by business to do so. But I do strongly believe that an adequate and stable commitment of resources to export promotion can serve to enhance the ability of business to effectively compete in the world market. The work of the US&FCS is not the sparkle and glitz of international trade, but it is the mainstay of our efforts to encourage exports and develop markets for U.S. businesses overseas. If we are truly committed to making a long-term investment to correct our trade imbalance then the US&FCS is the place to start.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I simply want to express my appreciation to the gentleman from Iowa [Mr. SMITH], chairman of the subcommittee, and the ranking member, the gentleman from Kentucky [Mr. ROGERS], and the members of this committee. Of the 13 Subcommittees on Appropriations, this subcommittee clearly had the most difficult task this year in accommodating all of the needs that we imposed upon it.

To begin with, of course, the State Department was protected from cuts as part of the summit agreement, part of our foreign assistance provision. It was basically fenced off from consideration for cuts as other portions of the bill were exposed to even deeper cuts.

The fight against drugs, the war on drugs has clearly been fought most effectively in this particular subcommittee, and it is indeed regrettable that Chairman SMITH was not successful in passing the supplemental appropriations that came before us earlier this year. On the drug problems of this Nation, the interests of the American people, on one of the most important issues that they perceive as a responsibility of this Congress when he brought that supplemental to the floor.

Included in it was $250 million to really begin the process of repairing the damage we did to ourselves and the members of the Japanese American community who were interred during World War II. The committee now has appropriated $50 million out of an authorization of $500 million for that purpose. All of us realize that that is not an adequate amount. It does not begin to deal with the aging population of Japanese citizens who deserve reparation. But the problem is a short range fiscal crisis and I know the gentleman from Iowa [Mr. SMITH] will do what he can in the future to fulfill our responsibility in this regard.

Most importantly, I hope Members will support the chairman in his motion to rise. Clearly there is a need to leave the Constitution intact and not in any way impede the Census Bureau in its orderly conduct of the count "of all persons" that the Bureau of the Census is required to make on a decennial basis.

There is an impossible burden that would be imposed on the Census if the Goodling-Ridge amendment were allowed to be taken up and enacted. As a result, we would not have a fair count of legal aliens or many citizens of foreign ancestory. I hope the committee

will support the chairman in his motion to rise.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise to again present the budget reflections with regards to this particular bill. The Budget Committee has provided the "Dear Colleague," as we have on the other bills, and there are obviously no budget waivers involved here because it does provide the budget authority and outlays well below the discretionary targets established under the section 302 subdivision assigned to the subcommittee.

This particular subcommittee, as was pointed out by my colleague from California, does face a particular dilemma. I appreciate the dilemma. It is the problem of having to balance priorities between drug enforcement, reparations, the operations of State and Justice, and the limitations of both the summit agreement as well as limited resources generally, and also the lack of authorizations that are provided by the various authorizing committees. So it faces a number of those challenges, and I appreciate the difficult task that faces the chairman of the subcommittee.

Obviously, by virtue of the approach of not funding that which is not authorized, the bill is well below the target that had been set in the 302(b), and for that reason there are obviously no problems with regards to the budget or the budget agreement.

There is one technical point I would make, that we would clarify, which is the point regarding pay raises. The fact is language needs to be included at some point that indicates that pay raises will either be provided for or absorbed. We understand the reasons the language is not particularly included at this point is because of the lack of authorizations that have been provided. My understanding is that the committee will include that ultimately in the final conference report, and that would take care of that problem.

Otherwise, we congratulate the chairman of the subcommittee for the work that he has done, and within the terrible limitations that we provided him.

Mr. Chairman, I rise to discuss the relation of H.R. 2991 to the 1990 budget resolution and to clarify one technical budget point raised by the bill.

The Budget Committee has provided a "Dear Colleague" to all Members on this appropriations bill. There are no budget act waivers required for this bill because it provides budget authority and outlays below the discretionary targets established under the section 302 subdivision assigned to this subcommittee of the Committee on Appropriations.

In total, this bill provides $5,555 million in discretionary budget authority and $8,191 million in discretionary outlays. These amounts are, respectively, $11,746 million below the discretionary budget authority and $8,740 million below the discretionary outlays included in the section 302 subdivision assigned to this subcommittee. According to the committee report, the Appropriations Committee has reserved these unallocated funds for departments and agencies normally funded in this bill, but which are not authorized at the present time.

The bill, therefore, is consistent with both the budget resolution and the bipartisan budget agreement worked out with the administration. For these reasons, there are no budget problems with H.R. 2991.

This subcommittee has done a good job in meeting the spending targets established under the budget resolution. We congratulate Chairman SMITH and the other members of the subcommittee, and we are pleased to bring this information to the attention of all Members.

There is one technical budget point which I wish to clarify with Chairman SMITH. I raise this issue in order to avoid a potential budget problem with the conference report on this bill later in the session.

The bipartisan budget agreement scorekeeping guidelines, which conform to Gramm-Rudman scorekeeping rules, indicate that approprations bills or reports should contain language specifying whether funds to cover pay raises are either provided for or absorbed within the amounts included in the bill or remain to be funded. Such language was contained in the conference reports or the texts of all 1989 appropriations laws. Under the guidelines, if such language is not included in an appropriations bill or report and a part or all of the pay raise remains to be provided, a scorekeeping adjustment is to be made consistent with the Gramm-Rudman baseline estimating rule for pay raises.

Neither H.R. 2991 nor the accompanying report includes such language on pay raise costs. The scorekeeping adjustment for this bill would increase discretionary budget authority by $254 million and discretionary outlays by $213 million. We are informed, however, that the Appropriations Committee intends to include the appropriate language on pay raise costs in the conference version of this bill.

Mr. Chairman, we are confident of the intentions of the Appropriations Committee to ensure that the appropriate language on pay raise costs will be included in the final version of H.R. 2991. That action will avoid any unintended budget problem with this bill later in the session. We appreciate the cooperation of the Appropriations Committee in meeting this technical budget requirement.

COMMITTEE ON THE BUDGET,
Washington, DC, July 31, 1989.

DEAR COLLEAGUE: Attached are fact sheets on H.R. 3014, Legislative Branch Appropriations Bill; H.R. 2991, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill; H.R. 2990, Labor, Health and Human Services, and Education and Related Agencies Appropriations Bill; H.R. 3026, District of Columbia Appropriations Bill; and H.R. 3015, Department of Transportation and Related Agencies Appropriations for Fiscal Year 1990. These bills are scheduled for floor action this week, thus completing 12 of the 13 annual appropriations bills before the August District Work Period.

These bills, as reported, are below the amounts assumed in the 1990 Budget Resolution and the Bipartisan Budget Agreement. I commend the Appropriations Committee for their prompt action on the regular appropriations bills and look forward to working with the Committee on the conference reports.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

[Fact Sheet]

H.R. 2991, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1990 (H. Rept. 101-173)

The House Appropriations Committee reported the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill for Fiscal Year 1990 on Tuesday, July 25, 1989. This bill is scheduled for floor action on Tuesday, August 1.

COMPARISON TO THE 302(b) SUBDIVISION

The bill, as reported, provides $5,555 million of discretionary budget authority, $11,746 million less than the appropriations subdivision for this subcommittee. The Budget Act provides a point of order if the target for discretionary budget authority is breached. Since the bill is $11,746 million under the allocation for discretionary budget authority, there is no such point of order against this bill. The bill also is $8,740 million below the subdivision for estimated discretionary outlays. According to H. Rept. 101-173, the Appropriations Committee has reserved these unallocated funds for Departments and Agencies normally funded in this bill, but which are not authorized at the present time. A detailed comparison of the bill to the spending subdivisions follows:

COMPARISON TO SPENDING ALLOCATION

[In millions of dollars]

	Commerce, Justice, and State, the Judiciary, and Related Agencies appropriations bill		Appropriations Committee 302(b) subdivision		Bill over(+)/ under(−) committee 302(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	5,555	8,191	17,301	16,931	−11,746	−8,740
Mandatory	287	286	287	286		
Total	5,842	8,477	17,588	17,217	−11,746	−8,740

Note: BA—New budget authority; O—Estimated outlays.

The direct loan levels in the bill are $28 million below the discretionary subdivision for this subcommittee, while the guaranteed loan levels are $10 million under the subdivision. A detailed comparison follows:

COMPARISON TO CREDIT ALLOCATION

[In millions of dollars]

	Commerce, Justice, and State, the Judiciary, and Related Agencies appropriations bill		Appropriations Committee 302(b) subdivision		Bill over (+)/ under (−) committee 302(b) subdivision	
	DL	LG	DL	LG	DL	LG
Discretionary	413	3,108	441	3,118	−28	−10
Mandatory						
Total	413	3,108	441	3,118	−28	−10

Note: DL—New direct loan obligations; LG—New loan guarantee commitments.

Mr. SMITH of Iowa. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I rise in support of the legislation.

Mr. Chairman, there is a pressing need for funding for the Office of Special Counsel for education and enforcement of the antidiscrimination provisions of the Immigration Reform and Control Act of 1986 [IRCA].

In its second annual report on the employer sanctions provision of IRCA, the General Accounting Office [GAO] reported that 16 percent of the employers surveyed admit that they are engaging in discriminatory practices. According to GAO, this means that at least 528,000 employers have either adopted citizen only hiring policies or are checking the documents only of individuals who are foreign looking or sounding. Both of these practices are clearly discriminatory under the law.

It is also evident from GAO's report that a lack of employer education has contributed significantly to the discrimination problem. According to GAO, of the employers who knew about IRCA, 20 percent did not understand its major provisions. The less information employers have, the more likely they are to play it safe by not hiring people who look or sound foreign to them.

When Congress passed IRCA, we created the Office for Special Counsel for Immigration Related Unfair Employment Practices [OSC] to conduct education and enforcement activities under law. To date the OSC has not had the resources to do its job fully. The OSC has been charged with providing educational material and holding business group seminars, but because of its small budget it has been unable to do so. The single public service announcement on discrimination was funded separately by the Immigration and Naturalization Service [INS], because it was too expensive for the OSC.

OSC staff have indicated that they may have to cut into the meager $100,000 allotted for educational purposes within their 1990 budget in order to investigate growing discrimination claims. Clearly, additional funding is needed expressly for the purpose of outreach.

When we passed IRCA in 1986, there were numerous concerns that employer sanctions would lead to discrimination. Now that there is significant evidence that employers are engaging in discriminatory behavior, we must act to make sure that IRCA does not have an effect that we never intended. A modest amount of funds can go along way to educate employers about their responsibilities under IRCA, and to educate the potential victims of discrimination about the protections available to them.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I have two points I wish to make regarding this legislation.

First of all, an amendment that I was going to offer will not be offered relating to the Helsinki Commission mandating that Members of Congress be part of the Commission. Under the leadership of the gentleman from Maryland [Mr. HOYER] and the gentleman from New Jersey [Mr. SMITH] this has been a bipartisan Commission, and the language is in the authorizing legislation. But I will not be offering this amendment because it would complicate the procedure.

Second, I urge strong support for the motion to rise. The effect of the Goodling-Ridge amendment would simply mean undercounting legal aliens, and it would also undercount the many minorities who are in this country and who are a part of the American dream, who are a part of the political participation, and it is critically important that this amendment be defeated.

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Mr. ROGERS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the chairman and ranking Member for bringing a clean bill to the House floor. I recognize the constraints under which they are working at this point and commend them on their thoughtful allocation of the funds available.

But I also want to point out a concern I have with the funding pattern in this bill.

I join the gentleman from Pennsylvania in being deeply concerned about the funding level of the United States and foreign commercial services budget. The administration requested $6 million in new money for this function and received a $832,000 increase over last year's outlay.

Yet, more and more American jobs depend on exporting and depend on our success in the international market.

This is the money that gives American business that "leg up" out there in foreign markets. It is this funding on which we depend to expand our position and assure our success in exporting.

To give you some sense of the impact of this funding level on our presence in other markets, let me share with you some of the relevant comparative figures.

The United States is outgunned in third-country markets. For example, in Milan the French have 38 commercial offices, the United States has 3. In Egypt, where the United States provides $3 billion annually in foreign assistance to aid in economic development, the Japanese have 15 offices, the United States has 2. Canada has 112 commercial officers stationed in the United States, the United States has 15 in Canada.

Over and over throughout the world we can see the consequences of the real cut in this budget over the last few years of 20 percent. We have 20 percent less resources today to promote United States exports than we did in 1985.

The domestic field staff of the U.S. and Foreign Commercial Service have been reduced from 365 to 291; overseas officers, those people we rely on to do the market opening efforts that we talk so passionately about here on the floor, have been reduced from 186 to 151, leaving many critical posts open throughout the world.

I urge that the committee, as this bill works its way through the process in the conference committee, in discussion with the Senate, work to move some greater resources to support the United States and Foreign Commercial Services budget because truly to neglect it is to neglect it at our peril.

It is the economic potential of the Nation that rests on this function in the Department of Commerce. I focus on it so that in the course of this legislation's movement through the process, it will receive some more generous attention than the committee has been able to give it under the constraints of its current process.

Mr. ROGERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, for the purpose of echoing the words of the gentlewoman from Connecticut.

Mr. Chairman, the Foreign Commercial Service has historically been underfunded, under-paid-attention-to. We were just simply unable to find those extra funds that we would like to have put into the Foreign Commercial Service beyond what we did.

We did increase the level from last year by $832,000. The administration had requested $6 million more.

We simply could not find the allocation for that. But the gentlewoman is right on target.

I would hope that the other body which has a higher 302(b) allocation than we did would be able to find some extra moneys for the Foreign Commercial Service and that we would be able to go along with that.

So I commend the gentlewoman for her remarks and for the attention she has given to a vitally important part of our bill.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, lest there be any misunderstanding about the priorities of this subcommittee relative to the Foreign Commerical Service and foreign trade, let me point out that the only domestic executive branch agency that got more than 2 percent below the CBO baseline was the International Trade Administration. They got the full CBO baseline. We have provided in this bill every dime the administration asked for except for some extra money for currency losses. Currency losses are an estimate. We did give them $832,000 of the $6 million they asked. But they are always an estimate.

We do not know what the currency losses are going to be, but the priorities for international trade are higher in this bill than for any other domestic purpose, and that is illustrated by the fact that we gave them the full CBO baseline instead of taking 2 percent from the baseline as we had to do for all other domestic agencies.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. ACKERMAN] for the purpose of a colloquy.

Mr. ACKERMAN. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the legislation and thank the distinguished chairman of the subcommittee, the gentleman from Iowa [Mr. SMITH] for engaging in this colloquy.

Mr. Chairman, I had intended to offer an amendment to this legislation that would have added funds to a proven INS antidrug program. But since there is no INS appropriation in this particular instrument, I will not offer the amendment but would like to briefly describe the program and ask the chairman if he would support it in the conference committee.

Mr. Chairman, I conceived of a program and authored an amendment that was included in the 1986 drug bill to assist the Immigration and Naturalization Service in locating and deporting the alien drug criminals.

The amendment establishes a four-city project to ensure that illegal aliens picked up by local authorities on drug suspicion are turned over to Immigration authorities rather than being released pending court action on the drug charges.

What happens as a practical matter, Mr. Chairman, is that the police pick up a suspect they believe is a drug dealer, and they also have questions about the person's status.

What they do, while proceeding, is they call the INS to make a determination. The INS is unable to respond sometimes for days, sometimes for weeks, sometimes not at all.

In the meantime, the police, unable to detain the person indefinitely, release the person pending making charges or pending court proceedings, and the person disappears never to return again.

What happens then is thousands of suspected illegal aliens are caught selling drugs on our streets, are released rather than being deported from our country. This situation would be resolved through a better computer linkup between the INS and local law enforcement officials.

Mr. Chairman, this part of the project was a great success. Programs were established in four cities with large alien populations: New York City, Chicago, Los Angeles, and Miami.

Each office acquired the computer hardware to set up a database on illegal aliens. Immigration and local officials alike agreed that the program was promising. In fact INS recommended that the pilot be expanded to cover more cities.

INS' 1-year evaluation of the project concluded that it "provides a starting point for a new dimension in the war against criminal aliens."

The problem with the four-cities project is an all-too-common problem with many projects these days: It ran out of money.

The program does not have enough money to hire adequate staff, it does not have enough money to get computers for two-way communication with local officials, and it does not have enough money to expand to other cities. In fact, the project is at a total standstill because of lack of funding.

The expanded version of the progam has been approved by the INS but needs $12.5 million for its fiscal year 1990 operations.

I understand the severe constraints on new INS money, but I feel this is a proven program that will contribute to the war on drugs and therefore deserves an infusion of funds, such as this one that would collect and computerize information.

I therefore ask him if he could support this crucial program when the INS is considered in the conference committee.

Mr. SMITH of Iowa. Let me say to the gentleman that this subcommittee has made automation of the various agencies so, that they can talk to one another, one of our highest priorities.

□ 1030

Of the $75 million we were finally able to get in the supplemental, I made the request in the final colloquy on the bill, that sufficient funds out of that be used for automation, so that at least some of the agencies could talk to one another, regarding who they are arresting, and thus have immediately available to them the information they need. We are for automation to the extent that we can afford it. That is clear from our actions in the past.

Mr. ACKERMAN. I thank the chairman for his foresight and his assurance, and hopefully for his funds.

Mr. SMITH of Iowa. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I will be yielding to the gentleman from Iowa [Mr. SMITH] for some colloquy, but first I want to thank the chairman, especially for his long time and continuing support for the programs of NOAA, the National Oceanographic and Atmospheric Administration, and for his leadership and thoughtfulness in the excruciatingly difficult series of choices he has had to make through the length and breadth of this piece of legislation.

Mr. Chairman, it is our understanding that the bill before the Members does not appropriate funds for the Land Remote Sensing Commercialization Act. Since that program has not yet been authorized for fiscal year 1990, we further understand that funds from the committees section 302b allocation have been reserved for the Landsat Program.

Yielding to the gentleman from Iowa, is that correct?

Mr. SMITH of Iowa. Mr. Chairman, the gentleman is correct that there are not funds in the bill for the Landsat Program because it is not authorized, but we have reserved $171 million for unauthorized NOAA programs, of which Landsat is one.

Mr. SCHEUER. If the gentleman will yield further, I advise the chairman that legislation reauthorizing the Landsat Program, H.R. 2427, was unanimously approved last week by the Committee on Science, Space, and Technology. H.R. 2427 authorizes appropriations of $36.9 million for Landsat commercialization and $20 million for Landsat operations in fiscal year 1990. We have been assured that this bill will be taken up by the other body shortly after the August recess.

With these assurances that the committee's concerns will be resolved, will the gentleman agree to support funding for the Land Remote Sensing Commercialization Act?

Mr. SMITH of Iowa. Mr. Chairman, let me say that Congress, in March 1988, approved a revised Landsat 6

construction plan. We have met that commitment to date. I will consult with members of the Science, Space, and Technology Committee at the conference stage of this bill on the status of the reauthorization, and we will make every effort to provide sufficient construction funds for Landsat 6, within the limits of the 302(b) allocations, which we know are not adequate.

The CHAIRMAN. All time has expired.

On request of Mr. SMITH of Iowa and by unanimous consent, Mr. SCHEUER was allowed to proceed for 5 additional minutes.)

Mr. SCHEUER. I yield to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Second, with regard to the operational costs for Landsats 4 and 5, the President did not even submit a budget request for this activity until after the bill was reported to the House. The fact of the matter is that there are other agencies using the data from Landsats 4 and 5. We think those agencies ought to pay their share. We did that this year, and we are expecting them to pay their share of the cost of the providing that data in 1990.

Mr. SCHEUER. Mr. Chairman, I thank the gentleman from Iowa [Mr. SMITH] for the colloquy.

The CHAIRMAN. All time has expired.

Mr. SMITH of Iowa. Mr. Chairman, I asked for a unanimous-consent request of 5 additional minutes.

The CHAIRMAN. The gentleman cannot get additional time for general debate.

Mr. SMITH of Iowa. Mr. Chairman, are we in the 5-minute rule?

I move to strike the last word, and yield to the gentleman.

The CHAIRMAN. The Chair has to inform the gentleman that the gentleman from Kentucky still has time remaining under general debate set by the House.

All time has expired.

Mr. ROGERS. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, for purposes of completing the colloquy, I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, I am happy to yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. If the gentleman will yield, I would like to point out that the administration, under the leadership of Vice President QUAYLE and the National Space Council, have committed to the continued operation of Landsats 4 and 5 and the completion and launch of Landsat 6. We understand the President has submitted that required budget amendment to accomplish these goals.

Mr. SCHEUER. Mr. Chairman, I would like to ask the chairman of the subcommittee, the gentleman from Iowa [Mr. SMITH] some questions about Nexrad. It is our understanding that the administration requested $86.3 million to begin the procurement of the next generation weather radar system known as Nexrad.

However, the bill appropriated only $41.4 million, less than half of what is needed to keep procurement on schedule.

I yield to the gentleman.

Mr. SMITH of Iowa. The gentleman is correct.

Mr. SCHEUER. Mr. Chairman, the Nexrad system is vital to the modernization of the Weather Service. For example, in connection with the tornadoes that are plaguing our country, it would increase our lead time, the notice that we could give to farmers and citizens of all kinds, radio and television stations and so forth, increase that lead time from 3 minutes to 30 minutes, saving hundreds of millions of dollars annually and untold lives and property.

If the procurement does not proceed on schedule, the contract will have to be renegotiated, and as much as a 30-percent higher cost. The Department informs Members it will need at least an additional $30 million over the numbers appropriated in the bill to begin procurement on schedule.

Is this the gentleman's understanding?

Mr. SMITH of Iowa. If the gentleman will yield, again, that is correct. However, we want to work closely with the members of the Committee on Science, Space, and Technology in the appropriations process. We have these caps in spending under the budget resolution and the section 302 allocation, and we cannot do anything about them. We tried to get some relief through the supplemental, but we were unable to get it there, and we will do the best we can. We are working under these circumstances, and we realize that the appropriations are inadequate.

Mr. SCHEUER. Mr. Chairman, I thank the gentleman from Iowa for his cooperation, and I hope that working together we can solve these problems.

The CHAIRMAN. The gentleman from Kentucky [Mr. ROGERS] has 4 minutes remaining.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I am pleased to rise in support of H.R. 2991, making appropriations for the Departments of Commerce, Justice, and Judiciary, and related agencies, and I would like to commend the distinguished gentleman from Iowa [Mr. SMITH] and the ranking minority member, the gentleman from Kentucky [Mr. ROGERS].

I am especially pleased to note the $200,000 appropriated for necessary startup costs for the Commission for the Preservation of America's Heritage Abroad. This worthy Commission was initially created over 2 years ago, by section 1303 of Public Law 99-83 in 1986, and it is fair time that funds be appropriated for the Commission to finally commence work preserving and protecting the cemeteries, monuments, and historic buildings associated with the foreign heritage of U.S. citizens.

Mr. Chairman, throughout my tenure in Congress I have been active in efforts to preserve America's heritage abroad, particularly with respect to preserving cemeteries in Eastern Europe and other areas. Too often the forces of tyranny and oppression have combined to desecrate the heritage which is associated with the foreign ancestry of United States citizens from Eastern and Central Europe. The Commission for the Preservation of America's Heritage Abroad would strengthen the fabric of American society by protecting and preserving these visible reminders of our historical roots. Accordingly, I support the funding for this Commission, and H.R. 2991 in whole, and I urge my colleagues to vote in favor of the measure.

Mr. ROGERS. Mr. Chairman, I yield our remaining 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I do not know how many years ago we began requesting that the committee do something about continuing undocumented aliens when we talk about reapportionment. I know that 15 years ago, and 14 years ago, and 13 years ago, and 12 years ago, and 11 years ago we pleaded with the committee to do something about this issue. Nothing has happened. Here we are again with another census.

I know that the arguments that will be made. We will hear people say, "Oh, but the Constitution does not talk about just citizens." There was not such a thing as any talk about citizens when the Constitution was written.

□ 1040

They will say that the Constitution does not say anything about undocumented aliens. Of course, there was not such a thing as undocumented aliens then. It is a different time now, a different time in our history, but let us keep in mind that those forefathers made very clear who was going to vote, and they controlled everything but who was going to vote, which has also changed for the better.

So all of us, of course, want to do what we can to help with nutrition

programs and with whatever programs there may be that are needed for these people. But certainly we should not be giving representation, more representation, to undocumented aliens than we give to those who are citizens of the United States.

So I hope we will defeat the motion to rise, and I hope we will then move forward with this piece of legislation, which merely says that they should not go out of their way to try to find these people, so that if there are four people in a household at the time the census taker is there, and two are living in that household, two are not, and the two who are not may be undocumented aliens, they certainly should not go out of their way at that time to attempt to count them.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GOODLING] has expired.

Ms. PELOSI. Mr. Chairman, I rise today in favor of H.R. 2991, the Commerce, Justice, State appropriations bill for fiscal year 1990. I commend Chairman NEAL SMITH for his leadership on this appropriations bill. I understand the budget constraints we are operating under, yet Chairman SMITH has been most helpful in obtaining money for the civil liberties public education fund for redress payments to Japanese-Americans who were interned during World War II.

I am pleased to see that the full committee has increased the appropriations for this fund to $50 million. As you know, Mr. Speaker, time is of the essence. Many of the Japanese-Americans who were interned are dying before we can ever repay them for the wrong that was committed during World War II. The Civil Liberties Act of 1988 authorized $500 million for these payments in 1990 and it is truly unfortunate that many of these American citizens will die before they can be compensated.

Many of my constitutents have written to me expressing their disappointment that this administration has not carried out the previous administration's stated commitment to support $500 million for the redress project. The $30 million appropriated will only compensate approximately 1,000 people. At this rate it will take 60 years to compensate each citizen, when we could complete the process in 1 year. I hope we will not continue to disappoint these thousands of American citizens who were denied their constitutional rights during World War II.

I urge my colleagues to support the Commerce, Justice and State appropriations bill, so that we can continue to compensate the Japanese-American citizens.

Mr. RAHALL. Mr. Chairman, I strongly support H.R. 2991, fiscal year 1990 appropriations for Commerce, Justice and State, the Judiciary and related agencies. The bill appropriates a total of $5.8 billion for fiscal year 1990 for only those programs and agencies currently authorized by law. The committee report indicates that it has reserved approximately $11.4 billion to cover programs for which authorizations have yet to be renewed, including the Economic Development Administration.

The EDA is of vital importance to my home State of West Virginia, and I am pleased that the committee has continued to reject efforts to eliminate this program which does so much to help the needy communities of this Nation. The No. 1 goal of the EDA is the creation of jobs, obviously a most pressing issue in West Virginia. Throughout its history, the EDA has provided a much needed extra boost for chronically depressed and historically deprived communities. EDA pinpoints areas in great need and assists them with projects that will spur the economic growth needed to increase jobs and enlarge tax bases.

Of special importance to communities such as those in southern West Virginia is EDA's focus on small business incubators. I am actively exploring the use of the business incubator in my congressional district with local leaders and business people. An incubator provides for the collective use of clerical and accounting personnel, office machinery and warehouse space by fledgling businesses with little capital. By lowering the overhead costs for such businesses, this type of program ensures that many small businesses succeed in these economically difficult times.

Another program administered by the EDA provides for the creation of industrial parks. This innovative concept of sharing resources is similar to the business incubator concept. Small industries share water, sewer, and electrical facilities, thereby reducing costs and increasing their chances of long-term success. The program has been extremely successful in Mercer County in my congressional district, and we in the State continue to push the option for other areas.

The EDA is exactly the kind of program we in the Congress should be strongly supporting. By providing start-up funds and technical expertise, EDA programs provide the impetus to stimulate the formation of small businesses and industries which are vital to the economic growth and stability of depressed and distressed communities throughout the country.

Other funding in this appropriations measure of importance to West Virginia is that included for the National Oceanic and Atmospheric Administration for its aviation weather services program. H.R. 2991 appropriates $14.3 million for maintaining the current level of activities of the National Weather Service. This includes funding to maintain current operating levels for all weather stations for fiscal year 1990, including those at Beckley, Bluefield and Huntington, WV. The up-to-the-minute weather and flight condition information provided by these weather stations is critical to pilots not only in West Virginia but throughout the country.

Finally, I would like to briefly mention how pleased I am that this legislation appropriates $10.8 million for the continuation of the Trade Adjustment Assistance Program. This level provides for the continuation of all trade adjustment assistance centers at current operating levels. The services provided under this program are of great importance to many unemployed workers in West Virginia, especially those who have been involved in coal and steel production, whose jobs have been lost due to unfair trade practices by many of our trade partners. This program has been a tremendous boost for those men and women who desperately want to work to support themselves and their families but who can no longer find employment in the fields of work for which they are trained. The training offered by the TAA Program enables many to master a new trade and start in a new line of worthwhile, fulfilling work to provide for themselves and their families.

To close Mr. Chairman, I strongly support the funding contained in this appropriations measure for the above mentioned programs and many others. I urge my colleagues to support passage of H.R. 2991.

Mr. AuCOIN. Mr. Chairman, last year, after 45 long years, Congress came to grips with one of the greatest abuses of civil liberties in American history: The forcible relocation of 110,000 American citizens and resident aliens on the ground of military necessity.

Their crime? They were of the wrong ancestry. No evidence against them. No trials to protect them. Japanese-Americans were taken from their homes—sometimes at gunpoint; stripped of their prossessions; imprisioned; and branded as potential traitors. Born of wartime panic, injustice prevailed.

The Civil Liberties Act of 1988 was passed to make amends for this past injustice.

One of the internees was Bill Naito, now of Portland OR. When Bill entered Mount Tabor grade school in first grade, he spoke not one word of English. By his sixth grade year, he knew English perfectly and could recite the preamble of the U.S. Constitution word for word by memory.

Then, 4 years later, those words rang hollow and empty to Bill Naito. He and his family were thrown into a camp—no jury trial; no day in court. The message is simple: There is no use in building a democracy if we can't save it—and it is especially in times of crisis when the fundamental tenets of democracy need to be saved.

Mr. Chairman, one of my favorite bumper stickers reads: "If You Want Peace, Work for Justice." During that time of crisis in 1942, we sought peace but we threw justice right out the window.

We've already said sorry. Now it's time to follow through on our commitment.

Today, the House will consider H.R. 2991, the Commerce, Justice, State, Judiciary appropriations bill for fiscal year 1990. This bill provides $50 million for redress payments to the approximately 60,000 surviving Japanese-Americans who were interned during World War II.

This is a good first step, but it's just the tip of the iceberg: It is estimated that a total of $250 to $500 million is needed to complete the task. And time does matter: Over one-fourth of those eligible are over 70 years old, and 200 will probably die each month. Delaying payments will deny actual victims of the relocation payment as Congress intended, and will result in significant additional administrative costs to locate eligible survivors.

While we have a small victory today, I am disappointed that Chairman SMITH's effort in the Appropriations Committee to increase the funding to $100 million did not receive necessary support.

Before this bill finally lands on the President's desk for signature, I hope the House and Senate conference committee will arrive at a figure that is above this $50 million mark—a figure that only begins to fulfill our promise, and pay what's owed, to the American people on this issue.

Mr. MILLER of Washington. Mr. Chairman, I rise in reluctant support of H.R. 2991, the appropriations bill for the Departments of Commerce, Justice and State. The bill before us contains many good provisions and exercises of budgetary restraint. Unfortunately the bill is not as specific as it should be when it deals with allocations.

Since many of the programs of direct interest have the specific appropriations levels reserved for the conference with the Senate, I want to suggest to the House some specific allocations I believe should be made in conference.

First, Mr. Chairman, over the past 5 years, I have spoken to the House about the rapid growth in the North Pacific Fishing industry. That fishing industry now provides jobs for over 36,000 people in Washington State and another 46,000 in Alaska. Yet the committee has unfortunately not provided us with specific funding levels.

Among the critical programs needed within the NOAA budget are $4.1 million for Bering Sea groundfish research, $8.7 million for the regional fishery management councils, $7.5 million for domestic fishery and marine mammal program observers, $9.37 million enforcement and surveillance, $170,000 for Japanese salmon interception monitoring, $3 million for the Pacfic Research Program, and $1.45 million for west coast groundfish research. These figures, Mr. Chairman, have been developed in consultation with Federal and State fishery management and industry leaders from Alaska, California, Hawaii, Oregon and Washington. Many of our colleagues have endorsed these funding levels. They are reasonable, responsible and necessary. I truly hope the conferees on this bill will properly fund these programs.

I note, Mr. Chairman, that supporters of NOAA are not alone in being left to wonder if programs they think are essential are going to be properly funded. For example, the National Endowment for Democracy, an organization supported by many of our colleagues has also been put into budgetary limbo. I hope the conferees will appropriate the authorized level of $25 million. Similarly, I trust that essential programs ranging from the export administration to USIA to the Maritime Administration are properly funded.

Mr. Chairman, I hope that the bill Congressman Smith and Congressman ROGERS bring back from conference is one which I can wholeheartedly support.

Mr. SIKORSKI. Mr. Chairman, I rise today to address the policies of the U.S. Department of State toward the hiring of blind applicants. In February, the Subcommittee on the Civil Service, House Committee on Post Office and Civil Service, held a public briefing that examined the Department's refusal to hire qualified blind people. Mr. Speaker, as chairman of that subcommittee, I am very concerned about the issue and would like to submit my opening statement from the briefing for the RECORD.

In recent years, the Department has provided readers to assist blind applicants for a Foreign Service officer position. Exams were also provided in braille. However, as we will hear later from some of our panelists, blind individuals who successfully passed both the written and oral portions of this very difficult exam were nevertheless denied entry into the Foreign Service for subsequently failing the Department's physical examination. That examination requires visual acuity.

Concerns about these policies date back to at least 1975. In 1982, a complaint was filed against the State Department with the Equal Employment Opportunity Commission [EEOC], and in 1987 the EEOC completed a staff report which highlighted the Department's contradictory hiring and testing policy. Opening the door to opportunity, equality and hope with one hand; closing that door with the other. The EEOC report concluded that—

It would be unwise for the Department of State to conduct a recruitment program that would raise false expectations of handicapped individuals hoping to enter the Foreign Service.

And went on to add:

Recruitment that leads to exclusion based on handicap will increase the possibility of discrimination complaints.

The report recommended that the Department modify its recruitment program to comply with the Foreign Service Act of 1980 as well as the Rehabilitation Act of 1973, as amended, with respect to hiring, placement, and advancement of handicapped individuals.

Now we see that instead of opening doors to the Foreign Service, the Department of State installed a deadbolt lock. Instead of changing the medical requirements or examining the practical application of the Department's so-called "worldwide availability" policy, the Department decided that it would no longer provide the exam in braille, blind applicants would not be permitted to use readers, and any blind people who made it through the test would still be washed out on the physical exam. These practices are reported even though blind people have honorably served our Government and the citizens of the United States in highly sensitive intelligence areas, the Peace Corps, the civil branches of the Armed Forces and even the Foreign Service. Does this practice demonstrate a "kinder, gentler nation?"

Mr. Chairman, I know the State Department is not yet authorized in the Justice-State-Judiciary appropriations bill. However, I would hope that when the bill gets to conference, the esteemed chairman will consider the Department's policies prohibiting the hiring of blind applicants and use his many talents to work with the conferees to solve this problem and change the Department's discriminatory hiring practices.

Mrs. SAIKI. Mr. Chairman, I rise in support of H.R. 2291, the fiscal year 1990 Commerce, Justice, State, and the Judiciary appropriations bill. I appreciate the difficulty my colleagues on the Appropriations Committee had in dividing up limited funds between many worthy programs and projects; and I commend their efforts.

I would like to note that I wholeheartedly endorse the $50 million in funds for the purpose of redress payments to Americans of Japanese ancestry who were interned during World War II. I am glad to see that redress payment funds for fiscal year 1990 have been increased over the administration request in this appropriations measure. However, I am deeply disappointed that, in light of the $500 million authorization level, redress appropriations were not submitted to a higher level.

The sum of $50 million will compensate 2,500 of the estimated 60,000 individuals eligible for this payment. About 2,400 eligible persons are expected to die during this same time; almost the same number as those to be compensated. Since the eldest individuals will be paid first, the fiscal year 1990 funds will only pay those who are 87 years of age and above.

I encourage my colleagues to vote for these appropriations, and I hope we can work for greater redress payment funds next year.

The CHAIRMAN. All time has expired.

The Clerk will read.

The Clerk read as follows:

H.R. 2991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes, namely:

TITLE I—DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, $23,429,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 3 as amended by Public Law 100-504), $14,045,000.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $101,314,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $1,322,967,000.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $32,861,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $26,061,000.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, $179,579,000.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft as authorized by 31 U.S.C. 1343 and 31 U.S.C. 1344; construction of facilities, including initial equipment as authorized by 33 U.S.C. 883i; and alteration, modernization, and relocation of facilities as authorized by 31 U.S.C. 883i; $966,932,000.

FISHING VESSEL AND GEAR DAMAGE FUND

For carrying out the provisions of section 3 of Public Law 95-376, not to exceed $1,000,000, to be derived from receipts collected pursuant to 22 U.S.C. 1980(b) and 1980(f).

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $736,000, to be derived from receipts collected pursuant to that Act.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $1,986,000.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, $101,912,000 and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $20,449,000, to remain available until expended as authorized by section 391 of said Act, as amended: *Provided,* That not to exceed $1,500,000 shall be available for program administration as authorized by section 391 of the Communications Act of 1934, as amended.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act.

SEC. 102. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

This title may be cited as the "Department of Commerce Appropriations Act, 1990".

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa.

There was no objection.

The CHAIRMAN. Are there any points of order against title I?

Are there any amendments to title I?

Mr. WALKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I simply take this time to rise in support of the amendment that will be offered by the gentleman from Pennsylvania [Mr. RIDGE] and the gentleman from Pennsylvania [Mr. GOODLING].

All they are seeking is to be sure that illegal aliens are not counted for the purpose of congressional representation. I think we ought to think a little bit about whether or not that is something we ought not do. Should we really as a nation suggest that illegal aliens should be counted for the purposes of being represented in this House?

Theoretically, if we do not put this limitation in place, we could end up with a congressional district that had absolutely no one in it who could run for Congress and no one in it who could vote for someone running for Congress. Theoretically, that is possible.

At the very least, we could end up with congressional districts where we could have few as 50,000 or 60,000 people eligible to vote for Members of Congress, meaning that many people across the country would be underrepresented and others would be overrepresented. That is precisely what we are trying to get away from with the Baker versus Carr decision of a few years ago, which said we had to have even representation.

The other ludicrous thing that has happened as a result of all this is that while they are suggesting that we ought to count illegal aliens for the purposes of congressional representation, they at the same time suggesting that they are not going to count American servicemen serving overseas for their country. Now, I have a hard time understanding a process that suggests that if someone goes overseas to serve their country and is serving in Europe or Asia or someplace, they cannot be counted for the purposes of representation, but someone who has just walked over the border and is here illegally can be allowed to be counted for the purposes of representation. That does not make much sense.

Mr. DYMALLY. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. DYMALLY. Mr. Chairman, just for the purposes of information, this morning the Department of Defense and the Census Bureau announced at the subcommittee that they will count the overseas personnel.

Mr. WALKER. Mr. Chairman, I thank the gentleman for that information. That is a big step in the right direction. At least now we are going to count real Americans for the purpose of representation. That is a step in the right direction. But do we realize how much hard work has gone into getting that announcement? It has taken almost two years of work to get the Census Bureau to count real Americans for the purposes of being represented in Congress, but on the other hand, we are spending our time trying to figure out a way to start counting illegal aliens for purposes of representation in Congress.

I have heard pleas from all the people in the border States saying, "Oh, but we have these special problems with aliens, and we have got to count them for the purposes of all the Federal programs." I do not have a problem if they are separated out and if we could count them for the purpose of participating in these particular programs. I understand those kinds of hardships, but I have one heck of a time figuring out why it is that anybody thinks we ought to count illegal aliens for the purposes of being represented in the U.S. Congress. That is the problem we are attempting to deal with with this amendment, and I would suggest that the Members of Congress ought to support the two gentlemen from Pennsylvania in that effort.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding.

Excepting this argument for the second and not debating the merits of whatever amendment is going to be proposed, let me ask this question, assuming for a second it is constitutional, although I do not think it is constitutional or workable in any way.

Mr. WALKER. Of course it is constitutional.

Mr. BERMAN. The Constitution is very clear. It says "All persons."

Mr. WALKER. No, the Constitution says we can set the standards for who is to be counted, and that is what we are doing.

Mr. BERMAN. I do not choose at this point to get into a constitutional debate or a debate about workability. I am trying to understand the purpose of the amendment.

The gentleman is suggesting that illegals not be counted for reapportionment purposes?

Mr. WALKER. Yes, for purposes of choosing representatives to serve in this body.

Mr. BERMAN. The gentleman from Pennsylvania who spoke earlier sug-

gested that only U.S. citizens be counted. We would like to understand what the distinction is there.

What about legal permanent resident aliens? Should they be counted?

Mr. WALKER. Obviously if they are legal residents of the country and they have always been counted, I do not think we would have a problem with that. All we are attempting to do is make certain that no illegal aliens are counted, meaning people who should not even be here, under our laws. We do not believe they should be counted for the purposes of deciding who serves in the Congress.

Mr. BERMAN. What if it is a person who has applied for political asylum and whose case is now pending?

Mr. WALKER. They are here legally. We understand they are here legally. We understand they are here legally at that point. All we are saying is that someone who is not here legally ought not be counted for the purposes of being represented in the Congress. That is all we are saying.

Mr. BERMAN. What if they count the 800,000 who have applied for legal status under the seasonal agricultural program whose cases have not yet been adjudicated?

Mr. WALKER. My understanding is if they are not legal residents of this country and if they will be returning as citizens of their own country, that might be an area in question. But the point we are trying to make is that the gentleman is arguing instead that virtually every person who comes across the border ought to be counted for purposes of being represented in Congress. I suggest that we ought to have Americans deciding who should be represented in the Congress, and not illegal aliens.

Mr. GILMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time in order to engage the distinguished subcommittee chairman in a colloquy.

Mr. Chairman, I wanted to inform my colleagues of something in this bill that should be of great concern to all of us. As we all know, in 1990 the Census Bureau is required to take the decennial census. The appropriation comes once every 10 years.

Last week, during a full committee markup, the Appropriations Committee slashed $30 million from the subcommittee's original mark of $1,352,967,000 for funding the work of the Census Bureau.

The Census Bureau is responding to important concerns of America's cities. The Census Bureau has improved methods of counting people who live in public housing and the homeless. They have expanded promotion and outreach among hard-to-enumerate populations. They have developed a new multilingual/multiethnic public education promotion campaign. And they have expanded efforts to ensure that local governments participate in promoting the census and reviewing the census counts.

This kind of a substantial reduction in the 1990 census funding sends the wrong message to the Census Bureau. It undercuts all the improvements.

I urge you, Mr. Chairman, to work to preserve the subcommittee's original recommendation in conference effectively restoring the hastily adopted cut.

Fiscal year 1990 budget request	$1,380,579,000
Commerce, State, Justice, Subcommittee recommendation	1,352,967,000
Full committee recommendation	1,322,967,000

Mr. Chairman, I yield to the chairman of the subcommittee.

Mr. SMITH of Iowa. Mr. Chairman, in reply to the gentleman, I would say there was a majority of the committee that felt that the $30 million could be spared. They need more money. They asked for an additional $850 million for the decennial census this year over what they had this year, and it was the judgment of the committee that $30 million of that could be used for making the required payments to the Japanese-Americans who were interned during World War II or their heirs. That was just the judgment of the committee.

□ 1050

Mr. Chairman, I thank the gentleman from New York [Mr. GILMAN] for his comments.

Mr. GILMAN. Mr. Chairman, I yield to the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. Mr. Chairman, I thank the gentleman from New York [Mr. GILMAN] for yielding.

Mr. Chairman, I am somewhat disturbed by the remarks of the gentleman from Pennsylvania [Mr. WALKER], and I am certain that he did not mean it, but there have been times in my life and others as well that we were considered un-American, I was born an American citizen, and I think the words "real American" smacks of things that this Chamber should not be proud.

Mr. Chairman, all of us have found that our backgrounds place us in a category that there was a time when we were classified as not real Americans, not one of us here, and so I would ask that the words "real American" be stricken; because I think we will find that most of the people who are here, whether they are here legally or illegally in the year 1989, frankly come from the Americas, whether it is Cental America, or South America, or whatever the case might be; so I would appreciate and hope that those words could be somehow stricken, and I am sure that the gentleman from Pennsylvania [Mr. WALKER] did not mean it in that way. However, Mr. Chairman, I would just like to make it clear.

I would also like to add that my other colleague from Pennsylvania [Mr. GOODLING], when he talked about our forefathers and the Constitution, about the purpose of the census, was not to count persons who are noncitizen, but, if I remember correctly, women were not allowed to vote that privilege was for white men only when that Constitution was put together.

Mr. Chairman, I thank my colleague, the gentleman from Iowa [Mr. SMITH] for yielding.

Mr. GILMAN. Mr. Chairman, I yield back the balance of my time.

Mr. BERMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak to the issues raised by the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Pennsylvania [Mr. WALKER] up to this particular point, the whole question of the census and the question of who should and should not be counted. Fundamentally the amendment that is being talked about, and none yet has been proposed, I think, if the body looks at and thinks about it for a moment, there will be a broad consensus that this amendment is unconstitutional, it is totally unworkable, it is unwise, and it is very unfair.

The gentleman from Pennsylvania [Mr. WALKER] asserts:

> Ah, Congress has the right to regulate the standards of the census, and, since the Constitution gives that authority to the Congress, therefore this proposal must be constitutional.

Mr. Chairman, the fact is the Constitution and the system of federalism and separation of powers gives a great deal of authority both to the Congress and to the States to legislate in a number of areas, but it is very clear that when it rubs against and runs counter to constitutional provisions, that legislation must fail. That has been a time-honored and established principle so that States can regulate the conduct of elections, but there is no question at this particular point that no State legislature can impose a poll tax, can prevent minorities from voting, can do a variety of other things which are specifically prohibited under the Constitution.

The Constitution, article I, section 2; article XIV, section 2, both make it clear that the apportionment is based on the number of persons, not the number of U.S. citizens, not the number of U.S. citizens plus permanent resident aliens, not the number of people who can vote, not the number of real Americans, to coin a phrase, but the number of persons. Legislation which contravenes that specific injunction by the Federal Constitution must fail constitutionally.

Mr. Chairman, where the framers meant "citizens," they said so. It did not say "all persons may run for President of the United States," or "all persons may run for Congress or the U.S. Senate." It talked about citizens.

When the Justice Department was asked to speak on this issue under President Carter and under President Reagan, they made it quite clear that this effort is an unconstitutional exclusion, and not only on the questions of workability and sensibility, but on the question of constitutionality they opposed this effort without regard to the political fallout or consequences of whether or not such amendment to this measure, or standing separately, passed or failed.

Second, it is unworkable. The Census Director has made it clear we have not found an acceptable method to exclude undocumented immigrants from the count. I would suggest that the somewhat inconsistent answers of the gentleman from Pennsylvania to some of the questions I suggested during his motion when he had the time indicate that.

Mr. Chairman, what is the particular status that designates that someone is here illegally or not? If they have work authorization? If they do not have work authorization? If they have applied for a stay of deportation? If they have been granted a stay or deportation? If the case is on appeal? The amendments being talked about today do not address any of these very complicated issues that the Committee on Post Office and Civil Service has the authority for.

We have heard the gentleman from Pennsylvania [Mr. WALKER] speak passionately about the idea of dealing with these issues on an appropriations bill and the language of authorization. I would suggest to my colleagues that here is a complicated, sophisticated question raising very serious constitutional concerns that should be dealt with by the appropriate committees and not passing over all kinds of the subtleties that sensible legislation must address in an effort to try and amend this bill.

Mr. RIDGE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all I want to thank the chairman and the vice chairman for permitting us to use this vehicle to engage in this debate on what I consider to be a very important issue, and obviously it has aroused the passions, and the emotions and interests of many of our colleagues. I think it is worthwhile that today we spend a little bit of time reflecting on what the census means, the purpose of the census, what the framers had in mind when they required a census to be taken every 10 years and what the whole question says about our ability as a country to govern ourselves, our ability as a country to define who is to be included within the political community to determine how seats are apportioned, not only in the Congress of the United States, but who is to be included in the political community for the purpose of determining how seats are to be apportioned within the respective States.

Since we are all here as a result of that election cycle every 2 years, I refer us to the thoughts of James Wilson from the Constitutional Convention who states that all elections are equal when a given number of citizens from one part of the State have the same weight as the votes of citizens in another part of the State, and my sense is that, when they went to drafting the Constitution, it was the idea of the drafters to have this census to take into account, hopefully, a growing population and a shifting population so that, when we apportion seats in the House of Representatives every 10 years, the House, which is the people's House, would truly reflect where the people were situated, where the citizens, those Members of our political community, are situated. And they did that. There was no discussion back in those days with the framers of the Constitution and when they passed the 14th amendment of undocumented aliens because the concept was unknown to them at the time. Remember that in a new, fledgling country the doors were wide open inviting, encouraging, beckoning people to our shores, and in a sense we see that today.

We have several million undocumented aliens in this country today. We know that. The figures vary, but we know that during the immigration bill the figures were anywhere from 1 million to 4 or 5 million. We know they are here. We know their political plight. We know their economic plight. We know that to many people in the world the Statue of Liberty still has significance, not just among those students in China, but to our neighbors to the south. So, they are here for economic reasons. They are here for political reasons, to escape economic and political repression. They are here.

Mr. Chairman, the purpose of the author of the amendment is not to do anything other than exclude these people from the population base upon which intrastate apportionment could conceivably be concluded, but in this body to prevent them from being included in the population base for purposes of reapportionment.

□ 1100

That is all we are trying to do. The Supreme Court has already identified them as being a class of people who have certain economic rights, as alluded to by my colleague, the gentleman from Pennsylvania, are protected. They have a right to have access to nutritional programs. They have a right to have access to educational programs. We are not trying to deprive those people of that right, but what we are saying is that we are a community, we are a country with citizens, men and women, eligible to vote, those who have citizenship, and there are probably a million or so other people who are here with our consent. I think the gentleman referred to the farmer program, the migrant worker program, 800,000 people lined up in order to have their cases reviewed and perhaps accepted. They are here with our consent. That is entirely different from undocumented aliens.

Let us address for a few moments this concept, this concern about the constitutional use of the term "person." Constitutionally, it is a very imprecise term. The lawyers among us will know that for many legal purposes corporations can be considered as persons. If that were the case, I suspect that the State of Delaware would probably have more than one Congressman, if corporations were to be considered as persons, so clearly the term persons, although included in the Constitution, is imprecise and clearly when the 14th amendment was passed, the whole concept of undocumented aliens was unknown.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. RIDGE. I am pleased to yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, I would like to know, the gentleman seems to be quite knowledgeable about the Constitution. I seem to have a recollection that during the formation of the Constitution and the debate that ensued thereon that there were a class of people, although some did not consider them as such in this country, who were slaves. They certainly did not have any documents. Many people did not consider them people. Many people considered them as chattel.

It seems to me that the Constitution of the United States, despite their illegal status, despite the fact they were not recognized as human beings by many, yet recognized them for the purpose of counting.

As a matter of fact, Henry Clay in what was called the Great Compromise came up with this enlightened vision that we should count at least three-fifths of these people for the purpose of apportionment; 60 percent was his great compromise, that they were 60 percent human. Certainly chattel that was 60 percent human being counted for the purpose of enumeration in the census, certainly people that we recognize today as full human beings have a right to be counted as whole persons; or perhaps the gentleman would like to see us

count them as three-fifths of people as well.

Now, I am very sorry that our colleague, the gentleman from Pennsylvania, argues in this manner. How would he count the Amish? Are they still Americans who refuse to participate in the process? Are they entitled to support him? Is he entitled to represent them in this body? I am very confused on this.

Mr. RICHARDSON. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Ohio [Mr. SAWYER], the chairman of the Subcommittee on Census and Population of the Committee on Post Office and Civil Service.

Mr. SAWYER. Mr. Chairman, I do not doubt for a moment the sincerity or the beliefs that have prompted our colleagues to bring before us the proposal that we are hearing today. I am not surprised at it, because at this very moment the gentleman from Pennsylvania and I are engaged in a hearing in the Subcommittee on Census and Population addressing in substantial detail the very topics that we are here to debate this afternoon. We are debating them in committee. We are discussing them in committee. We are hearing extended testimony, because they are complex.

We have heard a good deal about the constitutional character of the questions before us today, and those constitutional questions will be heard in greater detail once this matter is put behind us and we resume that hearing, where it properly ought to be heard.

I would like to take just a moment to suggest that the interpretation that we have heard from our colleagues on this side of the aisle, to suggest that that interpretation has been bolstered by some 200 years of census-taking, a fact we should not overlook as we approach the 1990 census. The accurate enumeration of the population of this entire country and the collection of data about each person represents a challenge of surpassing magnitude for the Bureau and the census.

The subcommittee that we chair reviewed in hearing after hearing an enormous number of obstacles that the Bureau must overcome just to promote participation in the census.

The introduction of a new factor, as we propose to do, without substantial debate on the floor here today, that of a respondent's legal status in this country into the census-taking process, will as a practical matter seriously damage and perhaps even destroy the Census Bureau's ability to enumerate the population in an accurate, efficient, and timely manner and may in fact even provoke unintentionally, but with utter certainty, a greater measure of inaccuracy than that which it presumes to cure.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I will yield in a second.

I wish to make several points regarding opposition to this legislation. First of all, if an amendment like this is adopted to change the census, the former chairman of the Subcommittee on the Census says it will cost $30 million.

It is unconstitutional. It is unworkable.

What we would be setting up in this country is a mechanism whereby the census once again would be able to proceed with looking at an individual and defining, as my friend, the gentleman from Pennsylvania, has said, what a real American is. What is a real American? Is it Robert Redford? Is it somebody who speaks perfect English, is blond? What happens to a black man who has a lilt in his accent? He may be Caribbean. What happens if somebody does not look like this perfect American?

This is an unworkable amendment. It is unconstitutional. It is an amendment that is not proper.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. RICHARSON. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I want to associate myself with the remarks of the gentleman from New Mexico and the chairman of the Census Subcommittee.

I am from a State that stands to lose a Member, or possiby two; we hope not, but the fact is we have to transcend all that and get into whether or not people have a right to be counted in this country, and not discriminated against.

I just want to say, Mr. Chairman, that we cannot allow any superficial form of discrimination in the counting. I know that is not the intention of the gentleman from Pennsylvania, but frankly, that kind of thing could be involved in counting. For those of us who are from States that stand to lose a seat or two, still we ought to think of the big picture, and the big picture is to go on with the program the way the bill is written and not support the motion to rise. We should vote against the motion to rise.

Mr. RICHARDSON. Mr. Chairman, the Ridge amendment excludes those who are constitutionally entitled to be accounted for in the census and apportionment base. The Census Bureau is required by the Constitution to count all persons for the census, irrespective of their immigration status. Citizenship has never been the basis on which apportionment is determined.

In addition to explicit provisions in the Constitution, Congress has consistently recognized that all persons residing in the United States must be included in the census and apportionment base. In fact, in considering the apportionment provision of the 14th amendment, Congress specifically rejected a scheme to apportion congressional seats on the basis of citizenship or voters.

Aliens are persons under the Constitution and must, therefore, be included in the census count and apportionment base. This has been affirmed by the Supreme Court. The Supreme Court has also affirmed that reapportionment and redistricting are to be determined by actual population count.

The determination of local residency is a complex process that requires special expertise and careful adjudication. Even persons presumed undocumented may assert a whole range of defenses to halt deportation such as political asylum and adjustment of status.

Under the provisions of the Ridge amendment the Census Bureau would have to rewrite the census questionnaire. This needless expenditure is fiscally irresponsible. Ironically, the Ridge amendment would require greater funds to count fewer people.

According to the Census Bureau there is no acceptable method of excluding the undocumented from the census count and any effort to do so would seriously flaw the census figures. Excluding the undocumented from the census would compel the Bureau to adopt untested techniques to determine every person's citizenship and immigration status.

The Constitution requires the inclusion in the apportionment base of all persons residing in the United States, regardless of their legal status in this country. The 14th amendment provides, in pertinent part, that "Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons. * * *" The language used in the 14th amendment simply is not ambiguous.

Our interpretation of the Constitution is bolstered by 200 years of census taking, an important fact in the debate over apportionment for the 1990 census. The accurate enumeration of the population in 106 million households nationwide presents a challenge of unbelievable magnitude for the Census Bureau. The introduction of a question regarding a respondent's legal status in this country will seriously damage, if not destroy, the Census Bureau's ability to enumerate the population in an accurate, efficient, and timely manner.

In dismissing a recent suit by Members of Congress, a Federal court noted that even expert demographers were not able to predict which States, if any, would be affected by the exclusion of undocumented residents in the apportionment base. We must not let fear of a prospective loss of congres-

sional seats cloud our judgment or interfere with our duty to uphold the Constitution.

The administration strongly oppose the Ridge/Goodling amendment. We urge you to vote yes on the motion to rise, and no on the proposed amendment to exclude undocumented residents from the census for the purpose of apportionment.

Mr. KOLBE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not a constitutional lawyer. I am not a lawyer at all. There are many in this body who could probably defeat my constitutional arguments from a legal standpoint.

While we were having this discussion here a few minutes ago, I took a moment to refresh my memory of the exact words of the Constitution and the 14th amendment to the Constitution. That is the operable amendment that we are dealing with here, since it replaced the earlier language in the Constitution as to how the House of Representatives was to be apportioned.

Let me just read one sentence from section 2:

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.

I think the operative word there is "numbers." Representatives shall be apportioned among the several States according to their respective "numbers." It does not use the word citizens, and I think that is important, because the very next sentence does refer to citizens. It says, if citizens are denied the right to vote, then the apportionment shall be reduced.

Now, this amendment, we need to remember, was adopted at the end of the American Civil War, at a time when we did have citizenship and we did have passports. Congress and the Nation had addressed the question of immigration and citizenship. It is very clear that those who drafted that constitutional amendment and the States that adopted it were talking about apportioning on the basis of numbers. Of course, that is exactly what the census is all about—numbers.

Mr. DYMALLY. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I will yield very briefly to the gentleman from California.

Mr. DYMALLY. Mr. Chairman, let me point out to the gentleman, there never has been a time in the history of the United States when this country was without undocumented residents, never 1 day, and I make that statement without the fear of contradiction. From the day the pilgrims landed here, we have always had undocumented people. Never in the history of this country, not 1 day, have we been without undocumented residents.

Mr. KOLBE. Mr. Chairman, I thank the gentleman, and reclaiming my time, let me lay aside the constitutional argument for a moment, because we can argue all day about the constitutionality of it. I believe my position is right. But the real problem here is a very practical one.

We heard earlier the gentleman from Pennsylvania say that we are just talking about using funds to go out of their way to count undocumented aliens.

□ 1110

They go into a home, and there are four people there, and two of them are undocumented, do not count them. That's what the gentleman said. I think we all see the very practical problem.

What we are suggesting, is we are going to turn the Census Bureau into an Immigration and Naturalization Service. They are going to be the ones to determine whether or not a person is legal, whether or not a person has legal status, and that would damage irreparably the census.

Mr. RIDGE. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I am happy to yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Chairman, I would caution my colleagues not to get too upset with the complaining and the bellyaching we have heard from the Census Bureau. The American taxpayers realize they are going to spend in the aggregate over $4 billion for the 1990 census, $4 billion to count heads and to get other demographic information, and the Census Bureau is saying, "We really do not want to do it, because it might cost us more money."

First, I do not think money is the real problem. They have sufficient dollars to do it. Quite frankly, they just do not have the will to do it.

I remind my colleagues that the Constitution empowers the Congress of the United States to identify those to be enumerated in that decennial census. We are empowered to identify those who are to be counted, not the Census Bureau.

Mr. KOLBE. Reclaiming my time, I would point out that I did not suggest the problem was one of money. Obviously it would take more money. The problem is one of turning the Census Bureau into an Immigration Service, into a law enforcement agency, to do the legal work of taking every person whom they go out and count and determining whether or not that individual is a citizen before deciding to count them. The point is we are supposed to count everybody, black, white, young, old, no matter what their status is. The census is just that. It is a census. It is a count of those who are here, and it is the simplicity of that that makes the census work.

Once we get into interfering with that, we do damage to the whole process of the census.

Mr. MARTINEZ. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I am happy to yield to the gentleman from California.

Mr. MARTINEZ. Mr. Chairman, I want to commend the gentleman for his logic. One of the things that is very important, and in regard to an area I come from, is the fact that there are many undocumented people, and there have been for many years, as long as I can remember. The problem is that we know that the only method of counting anybody in the United States is the census, and if that census does not count accurately the people there, so many local community agencies and State agencies will suffer because of an undercount, and I think it is very important.

We talk about the constitutionality. Let me tell the Members something: One of my colleagues referred to the fact that in the beginning of our Constitution our Founding Fathers were very concerned about who voted and what kind of representation there was. I have news. We have been in an evolving democracy. We did not for the first 13 years have any free elections, and then when there were free elections, there were only people who were property owners who voted, and then it took us a long time to get around to giving the women the vote, and the blacks the vote, and even the Indians, as late as 1956, finally, the last State in the Union ratified the fact that the Indians, the most indigenous people in the country, could vote.

I think that not counting people is a mistake, and I think we should count everybody.

Mr. KOLBE. Reclaiming my time, the one final point that I would make is this question: Are illegal, undocumented aliens supposed to volunteer to the Census Bureau the information that they are undocumented?

Mr. SLATTERY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just point out that what we are talking about today is a zero-sum game. The fact is there are going to be 435 men and women elected across this country to represent the citizens of the United States of America in the 1992 election.

The question is whether these people who are elected are going to represent the U.S. citizens in Kansas or in New York or in Illinois or in Pennsylvania, or are they going to be elected to represent maybe 1 million, 2 million, 3 million, 4 million, who knows how many illegal aliens living within this country. That is the question.

I have to concede that it is going to be immensely complex, perhaps even

impossible, to identify the number, to identify the location of the illegal aliens in this country who are in all probability going to be counted.

Mr. Chairman, it seems to me that when we are talking about such a fundamental right in this country as the right to vote, one person having one vote, that we have to make the extraordinary effort to identify exactly where these people are, and I do not know whether we can do that or not. What I do know is this: that if one is a U.S. citizen in the State of Kansas or in the State of Ohio or in the State of Pennsylvania, they are entitled to representation in this body. That I know. The question is: How are we going to identify those who are here illegally who are not entitled to representation in this body, especially at the expense of those taxpaying U.S. citizens who are going to be denied that representation?

It is a zero-sum game, a zero-sum game, and as far as I am concerned, in light of that, we have to do everything we can to make sure it is the U.S. citizens who are represented here, and the only way that we can do that is to defeat the motion to rise, to support the Ridge amendment, and to try our best to come up with a way to identify these illegal aliens without denying them their rights, and that, folks, is going to be tough to do. I recognize that.

By the same token, I hope that my friends understand that some of my citizens in Kansas are, in all probability, going to lose representation to illegal aliens who may be residing in the State of New York, and I appreciate my friends from New York vociferously defending the opportunity to increase their representation. The same is true of my friends from California or from Arizona perhaps or New Mexico.

We are talking about political power here, and we are talking about whether U.S. citizens should have that power or whether illegal aliens should have that power.

The question is whether we should make an extraordinary effort to identify the people involved, and I suggest to the Members that the least we should do is to make that extraordinary effort. The only way we can do that is to defeat the motion to rise and to support the Ridge amendment.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. SLATTERY. I am happy to yield to my good friend, the gentleman from New York.

Mr. GARCIA. Mr. Chairman, I thank my colleague for yielding.

Mr. Chairman, I would just like to make it clear that is the immigration debate all over again. I remember during the course of that debate we talked about the Immigration and Naturalization Service. We talked about employee sanctions. We went into a whole myriad of problems that new people face when they come into this country.

Mr. SLATTERY. Reclaiming my time, just a second, I would observe, and I want the gentleman to know, that I voted with him on those measures.

Mr. GARCIA. If the gentleman will yield further, the point I would like to make, and I think my colleague, the gentleman from Arizona [Mr. KOLBE] said it better than any one of us, we are now asking the Bureau of the Census to be judge and jury once again in determining who should and who should not be counted.

Mr. SLATTERY. Reclaiming my time again, let me just observe that this gentleman recognizes the complexity of that task, and I do not in any way want to deny those people who are here, those persons who are here, their fundamental rights, but let me just point out that some people would argue that this persons question is an easy constitutional question. It is not. Let me make an observation that if we were invaded, and an invading army was occupying New Mexico or an invading army was occupying California or New York, there would be persons in those States.

Is the gentleman suggesting, or is anyone suggesting, that if we were reapportioning the Congress at that time that we would count those persons in our definition of persons for the purpose of reapportionment? I suggest not.

There is a simple fact, and that is this persons issue is a very imprecise term, and I just want everybody to understand that.

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to support the policy of excluding illegal aliens from the 1990 census. I am concerned as a Representative of the State of Indiana. In 1980 the Census Bureau included over two million illegal aliens in the reapportionment base. As a result, Indiana lost a congressional seat.

Two million illegal aliens were counted, but it is estimated there are actually three to twelve million illegal aliens in the U.S. If this number is counted in the 1990 census, eight States could lose representation to States like California and Texas. Our populations won't decrease, our need for Federal funds is as dire, but our representation and funding will be cut. Why? Because of the flood of illegal aliens into two or three other States.

If I have to represent 600,000 people, all of whom are citizens, and somebody in Texas represents 600,000 people, but 150,000 of them can't vote, then the votes in my district are diluted. Is this fair to the citizens of Indiana in a representative system?

We must preserve and protect the representation of lawful citizens in our States. Our forefathers could never have intended that illegal residents would erode the influence of U.S. citizens on our government. Admittedly, States with an illegal alien problem need funding to deal with it. But their existence in our country does not mandate congressional representation at the expense of lawful citizens.

On behalf of the citizens of Indiana and all those in danger of losing their rightful congressional representation, I urge my colleagues to support this amendment. For the purposes of reapportionment, illegal aliens should not be included in the 1990 census.

□ 1120

The CHAIRMAN. Are there amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II—DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

CIVIL LIBERTIES PUBLIC EDUCATION FUND

For payments to eligible individuals as authorized by sections 105 and 106 of the Civil Liberties Act of 1988, $50,000,000, to remain available until expended as authorized by section 104(e) of said Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1) (A)(ii), (B), (C), (F) and (G), as amended, $76,513,000 to be derived from the Department of Justice Assets Forfeiture Fund.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended by the Anti-Drug Abuse Act of 1988, including salaries and expenses in connection therewith, $81,150,000, to remain available until expended as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340).

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by parts D and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, including salaries and expenses in connection therewith, $150,000,000, to remain available until expended as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340).

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $69,693,000, to remain available until expended as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340), of which $350,000 is for expenses authorized by section 241(f) of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, and of which $2,000,000 is for expenses authorized by part D of title II of said Act.

In addition, $5,000,000 for the purpose of reimbursement to States for costs of incarcerating illegal aliens and certain Cuban Nationals as authorized by section 501 of the Immigration Reform and Control Act of 1986 (Public Law 99-603).

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, $25,000,000, to remain available until expended as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340).

This title may be cited as the "Department of Justice Appropriations Act, 1990".

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $129,200,000, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided,* That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $106,034,000.

OTHER

FISHERMEN'S PROTECTIVE FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $1,000,000.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

This title may be cited as the "Department of State Appropriations Act, 1990".

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, $17,313,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), $3,300,000.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $8,830,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $8,272,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $1,349,803,000: *Provided,* That such sums as may be available in the fund established pursuant to 28 U.S.C. 1931 may be credited to this appropriation as authorized by section 407(c) of the Judiciary Appropriation Act, 1987 (Public Law 99-591; 100 Stat. 3341-64).

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), $133,260,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i).

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $58,700,000.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), $32,670,000.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $12,648,000.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIAL OFFICERS' RETIREMENT FUND

For payment to the Judicial Officers' Retirement Fund, as authorized by Public Law 100-659, $4,000,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $6,520,000.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

This title may be cited as "The Judiciary Appropriations Act, 1990".

TITLE V—RELATED AGENCIES

ADVISORY COMMISSION ON CONFERENCES IN OCEAN SHIPPING

SALARIES AND EXPENSES

For necessary expenses of the Advisory Commission on Conferences in Ocean Shipping, including services as authorized by section 18(d) of Public Law 98-237, $300,000.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission as authorized by Public Law 98-375, $220,000, to remain available until December 31, 1993 as authorized by section 11(b) of said Act, as amended by section 8 of Public Law 100-94.

COMMISSION ON AGRICULTURAL WORKERS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Agricultural Workers as authorized by section 304 of Public Law 99-603 (100 Stat. 3431-3434), $500,000.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution as authorized by Public Law 98-101 (97 Stat. 719-723), $14,300,000 of which $7,500,000 is for carrying out the provisions of Public Law 99-194, including $3,142,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $4,358,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For necessary start-up costs for the Commission for the Preservation of America's Heritage Abroad, $200,000 as authorized by Public Law 99-83, section 1303.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $850,000, to remain available until expended as authorized by section 3 of Public Law 99-7.

COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Commission for the Study of International Migration and Cooperative Economic Development as authorized by title VI of Public Law 99-603, $1,290,000.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as au-

thorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $20,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $184,926,000.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46, App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; $15,650,000.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,350,000; and an amount of Japanese currency not to exceed the equivalent of $1,610,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94-118.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $960,000.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 100-590, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, $240,545,000 of which $50,000,000 is for grants for Small Business Development Centers as authorized by section 21 of the Small Business Act, as amended: *Provided*, That not more than $350,000 of this amount shall be available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: *Provided further*, That none of the funds appropriated or made available by this Act to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648), nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987: *Provided further*, That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased loan guaranty fee or debenture guaranty fee: *Provided further*, That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased user fee or management assistance fee. In addition, $96,160,000 for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund" as authorized by Public Law 100-590.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 3 as amended by Public Law 100-504), $7,400,000.

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $77,500,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $87,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note: *Provided*, That no funds appropriated under this Act may be used to sell direct loans which are held by the Small Business Administration or any loan guaranty or debenture guaranty made by the Small Business Administration under the authority contained in the Small Business Investment Act of 1958, and which was held by the Federal Financing Bank on September 30, 1987.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $11,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $13,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by the State Justice Institute Authorization Act of 1988 (Public Law 100-690 (102 Stat. 4466-4467)), $11,233,000.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point through page 20, line 3.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. Are there any points of order to the remainder of the bill through line 3 on page 20?

Are there any amendments?

For what purpose does the gentleman from Pennsylvania [Mr. RIDGE] rise?

Mr. RIDGE. Mr. Chairman, I offer an amendment.

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

The CHAIRMAN. The Chair would remind the gentleman from Iowa that the Clerk has not read the last three lines of the bill.

Mr. SMITH of Iowa. Mr. Chairman, I ask unanimous consent that the last three lines of the bill——

Mr. RIDGE. Mr. Chairman, I reserve the right to object.

Mr. SMITH of Iowa. Mr. Chairman, I did not make a request.

Mr. FRANK. Mr. Chairman, I object.

Mr. SMITH of Iowa. Mr. Chairman, I did not make a unanimous-consent request.

I ask that the rest of the bill be read.

Mr. RIDGE. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. The Clerk will report the amendment.

PARLIAMENTARY INQUIRY

Mr. SMITH of Iowa. Wait a minute, Mr. Chairman. I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SMITH of Iowa. Mr. Chairman, at what point do I offer the motion that the Committee do now rise?

The CHAIRMAN. At the end of the reading of the bill.

Mr. SMITH of Iowa. Then I ask that the rest of the bill be read.

The CHAIRMAN. The gentleman of Iowa asks that the remainder of the bill be read.

The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990".

PARLIAMENTARY INQUIRY

Mr. RIDGE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. RIDGE. Mr. Chairman, on a previous effort to be recognized the Chair was kind enough to recognize me. At that point in time, I advised the Chair that I had an amendment at the desk.

The parliamentary inquiry is whether upon the completion of the reading of the remainder of the bill, I will have the opportunity of offering that amendment, or if I must object to the completion of the reading of that in order to preserve my right to offer the amendment?

The CHAIRMAN. The Chair will inform the gentleman from Pennsylvania that since his amendment is in the form of a limitation on expenditure, then it must survive the motion of the gentleman from Iowa [Mr. SMITH], chairman of the subcommittee, to rise and report at the end of the reading of the bill.

Mr. RIDGE. If I understand the Chair's decision, Mr. Chairman, if my colleagues want the Census Bureau to count illegal aliens, undocumented aliens in the apportionment base, then they would vote against the motion to rise; if they wanted to exclude illegal aliens, they would vote for the motion to rise?

The CHAIRMAN. The gentleman from Pennsylvania does not pose a parliamentary inquiry.

Mr. RIDGE. I thank the Chair.

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

The CHAIRMAN. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. RIDGE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 227, not voting 7, as follows:

[Roll No. 194]

AYES—197

Ackerman	Combest	Ford (MI)
Akaka	Conte	Ford (TN)
Alexander	Cooper	Frank
Anderson	Coyne	Frost
Andrews	Crockett	Gallegly
Annunzio	de la Garza	Garcia
Anthony	DeLay	Gephardt
Atkins	Dellums	Gibbons
AuCoin	Dicks	Gilman
Bartlett	Dingell	Gonzalez
Barton	Dixon	Gordon
Bates	Dornan (CA)	Grant
Bennett	Downey	Gray
Berman	Dreier	Green
Bilbray	Durbin	Guarini
Boehlert	Dwyer	Hall (OH)
Boggs	Dymally	Hall (TX)
Bonior	Eckart	Hawkins
Boxer	Edwards (CA)	Hayes (IL)
Brooks	Engel	Hoagland
Brown (CA)	Espy	Hochbrueckner
Bruce	Evans	Horton
Bryant	Fascell	Houghton
Bustamante	Fazio	Hutto
Campbell (CA)	Feighan	Johnston
Cardin	Fields	Jones (NC)
Carper	Fish	Jontz
Carr	Flake	Kaptur
Chapman	Florio	Kennedy
Coleman (TX)	Foglietta	Kildee
Kolbe	Molinari	Sawyer
Kostmayer	Moorhead	Scheuer
LaFalce	Morella	Schroeder
Lagomarsino	Morrison (CT)	Schumer
Lantos	Mrazek	Shaw
Laughlin	Murtha	Sikorski
Leath (TX)	Nagle	Skaggs
Lehman (CA)	Natcher	Slaughter (NY)
Lehman (FL)	Neal (MA)	Smith (FL)
Leland	Nelson	Smith (IA)
Lent	Nowak	Smith (TX)
Levin (MI)	Oakar	Solarz
Levine (CA)	Olin	Solomon
Lewis (GA)	Ortiz	Stallings
Lipinski	Owens (NY)	Stark
Lowery (CA)	Owens (UT)	Stearns
Lowey (NY)	Packard	Stenholm
Luken, Thomas	Panetta	Stokes
Manton	Pashayan	Studds
Markey	Paxon	Swift
Martin (NY)	Payne (NJ)	Thomas (CA)
Martinez	Pease	Torres
Matsui	Pelosi	Towns
Mavroules	Pickle	Udall
Mazzoli	Poshard	Unsoeld
McCloskey	Rangel	Vento
McCollum	Rhodes	Visclosky
McDermott	Richardson	Walsh
McGrath	Roe	Waxman
McHugh	Rose	Weiss
McMillen (MD)	Rostenkowski	Whitten
McNulty	Roybal	Wilson
Mfume	Sabo	Wolpe
Miller (CA)	Sangmeister	Wyden
Mineta	Sarpalius	Yates
Moakley	Savage	

NOES—227

Applegate	Flippo	Machtley
Archer	Frenzel	Madigan
Armey	Gallo	Marlenee
Aspin	Gaydos	Martin (IL)
Baker	Gejdenson	McCandless
Ballenger	Gekas	McCrery
Barnard	Gillmor	McCurdy
Bateman	Gingrich	McDade
Beilenson	Glickman	McEwen
Bentley	Goodling	McMillan (NC)
Bereuter	Goss	Meyers
Bevill	Gradison	Michel
Bilirakis	Grandy	Miller (OH)
Bliley	Gunderson	Miller (WA)
Borski	Hamilton	Mollohan
Bosco	Hammerschmidt	Montgomery
Boucher	Hancock	Moody
Brennan	Hansen	Morrison (WA)
Broomfield	Harris	Murphy
Browder	Hastert	Myers
Brown (CO)	Hatcher	Neal (NC)
Buechner	Hayes (LA)	Nielson
Bunning	Hefley	Oberstar
Burton	Hefner	Obey
Byron	Henry	Oxley
Callahan	Herger	Pallone
Campbell (CO)	Hertel	Parker
Chandler	Hiler	Parris
Clarke	Holloway	Patterson
Clay	Hopkins	Payne (VA)
Clement	Hubbard	Penny
Clinger	Huckaby	Perkins
Coble	Hughes	Petri
Coleman (MO)	Hunter	Pickett
Costello	Inhofe	Porter
Coughlin	Jacobs	Price
Cox	James	Pursell
Craig	Jenkins	Quillen
Crane	Johnson (CT)	Rahall
Dannemeyer	Johnson (SD)	Ravenel
Darden	Jones (GA)	Ray
Davis	Kanjorski	Regula
DeFazio	Kasich	Ridge
Derrick	Kastenmeier	Rinaldo
DeWine	Kennelly	Ritter
Dickinson	Kleczka	Roberts
Donnelly	Kolter	Robinson
Dorgan (ND)	Kyl	Rogers
Douglas	Lancaster	Rohrabacher
Duncan	Leach (IA)	Roth
Dyson	Lewis (CA)	Roukema
Early	Lewis (FL)	Rowland (CT)
Edwards (OK)	Lightfoot	Rowland (GA)
Emerson	Livingston	Russo
English	Lloyd	Saiki
Erdreich	Long	Saxton
Fawell	Lukens, Donald	Schaefer
Schiff	Smith, Robert (NH)	Traxler
Schneider	Smith, Robert (OR)	Upton
Schuette	Snowe	Valentine
Schulze	Spence	Volkmer
Sensenbrenner	Spratt	Vucanovich
Sharp	Staggers	Walgren
Shays	Stangeland	Walker
Shumway	Stump	Watkins
Shuster	Sundquist	Weber
Sisisky	Synar	Weldon
Skeen	Tallon	Wheat
Skelton	Tanner	Whittaker
Slattery	Tauke	Williams
Slaughter (VA)	Tauzin	Wise
Smith (MS)	Thomas (GA)	Wolf
Smith (NE)	Thomas (WY)	Wylie
Smith (NJ)	Torricelli	Yatron
Smith (VT)	Traficant	Young (AK)
Smith, Denny (OR)		Young (FL)

NOT VOTING—7

Collins	Hoyer	Vander Jagt
Conyers	Hyde	
Courter	Ireland	

□ 1140

The Clerk announced the following pair:

On this vote:

Mr. Hoyer for, with Mr. Courter against.

Messrs. BLILEY, THOMAS of Wyoming, CALLAHAN, MADIGAN, SPRATT, EDWARDS of Oklahoma, JACOBS, BOUCHER, HUGHES, and PALLONE changed their vote from "aye" to "no."

Messrs. ROSE, McCOLLUM, GRAY, STEARNS, and GRANT changed their vote from "no" to "aye."

So the motion was rejected.

The result of the vote was announced as above recorded.

□ 1150

AMENDMENT OFFERED BY MR. RIDGE

Mr. RIDGE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RIDGE: Page 20, after line 3, insert the following:

SEC. 604. No part of any appropriation contained in title I shall knowingly be used to enumerate any undocumented alien in the 1990 decennial census.

POINT OF ORDER

Mr. SMITH of Iowa. Mr. Chairman, I make a point of order on the amendment.

Mr. CHAIRMAN. The gentleman will state his point of order.

Mr. SMITH of Iowa. Mr. Chairman, my point of order against the amendment is made because it proposes to change existing law and constitutes legislation in an appropriation bill, and therefore, violates clause 2 of rule XXI. It modifies existing powers and duties. It requires the Census Bureau to adopt special or additional rules and give enumerators additional instructions, and, therefore, it is legislation on an appropriation bill.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. RIDGE] desire to be heard on the point of order?

Mr. RIDGE. Yes, Mr. Chairman, I would like to be heard on the point of order.

The CHAIRMAN. The gentleman is recognized.

Mr. RIDGE. I thank the Chair, and I also thank my colleagues for their indulgence.

Mr. Chairman, I would share with the Members the information that the amendment deliberately uses the term, "knowingly," because we anticipated the problem expressed by the chairman of the subcommittee. We used the term, "knowingly," because this does not impose a new duty on census enumerators. It really only defines their duty as it presently exists.

Enumerators, when they conduct a census, many times do not count individuals and do not count persons they find at these individual residences. If visitors are staying overnight or if somebody drops in from next door or from out of town, enumerators within their duty as it exists today do not count these individuals in that household.

Therefore, I suggest to the chairman that there is no new duty or there are no additional duties imposed because this is within the scope of the daily function of the enumerator. There is no new duty to determine if the resident is illegal, no new duty to adjust. We simply ask them to go out and do what they normally do in the course of business, and if there are illegal aliens, they are not to go to extraordinary means to count them. We do not want them knowingly to include them in that population base.

So I encourage a favorable ruling from the Chair.

The CHAIRMAN. Does any other Member desire to be heard on the point of order?

Mr. SAWYER. Mr. Chairman, as chairman of the subcommittee with jurisdiction over this matter, I desire to be heard on the point of order.

The CHAIRMAN. The gentleman is recognized to speak on the point of order.

Mr. SAWYER. Mr. Chairman, section 141(a) of title 13, United States Code, authorizes the Secretary of Commerce to "take a census" in "such form or content as he may determine."

Clearly, the amendment impinges on the Secretary's discretion on how the census should be taken and requires him to make a determination that is not already required under current law as to a respondent's legal status.

In addition, in having to make that determination, the Secretary would be required to make judgments about a person's status which he is neither qualified nor authorized to make. Only the INS is qualified to make that judgment.

The CHAIRMAN. Does any other Member desire to be heard on the point of order?

Mr. MOAKLEY. Mr. Chairman, I wish to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. MOAKLEY. Mr. Chairman, I desire to be heard on the point of order against the amendment for failure to comply with the provisions of clause 2(b) or rule XXI. The rule prohibits amendments to appropriations bills which are legislative in character.

The pending amendment seeks to prohibit the Commerce Department from counting illegal aliens in connection with the decennial census.

Deschler's Procedure (section 11.2, chapter 25), discussing a 1971 ruling by the Chair, describes the general principle, "It is not in order to make the availability of funds in a general appropriation bill contingent upon a substantive determination by an executive official which he is not otherwise required by law to make."

It is an ancient principle of parliamentary law in the House, and consistent precedents go back at least as far as the last century. I would cite the ruling (IV Hinds' 3848) of January 12, 1899.

Clearly the pending amendment imposes new duties, not contemplated in law, on certain officers of Government, by requiring that the Census Bureau make certain determinations about the immigration status of persons being counted.

The amendment is relatively cautious in that it bars "knowingly" counting illegal aliens. However, the Census Bureau is required by law and by the Constitution to count the whole number of persons.

Therefore, an amendment to an appropriation bill, requiring the omission from counting of persons required by the statute to be counted, is a change in existing law, and the amendment is improper under the rule.

Mr. SMITH of Iowa. Mr. Chairman, if I may make this observation, in addition to "knowingly," they must determine also whether a person is documented or undocumented.

The CHAIRMAN. The Chair will hear any other Members who desire to speak on the point of order.

Does the gentleman from Pennsylvania [Mr. RIDGE] desire to be heard again?

Mr. RIDGE. Yes, Mr. Chairman, just for 1 moment.

In response to the gentleman's previous statement with regard to the language in this amendment, we are not asking the enumerators to make a substantive determination of the status. They are asked by the Census Bureau daily to make determinations to include or exclude, so we have not changed that. All we have said to the enumerator is that "you do not knowingly include illegal aliens." It is not a new duty.

The CHAIRMAN. Does the gentleman from California [Mr. BERMAN] desire to be heard on the point of order?

Mr. BERMAN. Yes, Mr. Chairman, I do.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. BERMAN. Mr. Chairman, the Secretary knows there are undocumented persons. To the extent this amendment were adopted or passed, he would be required to affirmatively screen out people who did not have documented status. Therefore, this amendment imposes a new duty, even in the artful fashion drawn by the gentleman from Pennsylvania.

The CHAIRMAN (Mr. BROWN of California). The Chairman is prepared to rule.

The Chair is aware that this question or this issue has come up before. In fact, it came up 10 years ago, and the present occupant was in the chair. Although no amendment was offered at that time, there was a discussion behind the scenes as to the propriety of that amendment. It is a complex issue which is difficult to resolve, but the Chair is forced to make a ruling.

The gentleman from Iowa [Mr. SMITH] makes a point of order that the amendment violates clause 2 of rule XXI by legislating on a general appropriations bill. The amendment offered by the gentleman from Pennsylvania [Mr. RIDGE] is in the form of a limitation on funds in the bill and, by its use of the modifier, "knowingly," refrains from requiring any affirmative investigation or determination on the part of government officials.

However, the amendment requires the exclusion from the census of population persons having a certain known status who under current law are not required to be excluded. Article I, section 2 of the Constitution and the 14th amendment require a decennial census of the whole number of persons in each State, excluding Indians not taxed.

To fulfill the constitutional mandate, section 141(a) of title 13 of the United States Code directs the Secretary of Commerce to make a census of the population. The statute authorizes the Secretary to determine the form and content of the census. Although subject to judicial review, the Secretary's sole discretion under the statute has been described by the court as broad.

The amendment would impinge upon the discretion of the Secretary of Commerce by requiring him to exclude from the census of population persons having a certain status should he know that status. Under the statute, however, the Secretary's discretion is not so bounded. He is not required to exclude persons having that status. An amendment to a general appropriation bill that subjects the discretion of a

government official to a limit not contained in existing law is legislation in violation of clause 2 of rule XXI.

In volume 8 of Deschler's precedents, at section 64, the following test is set forth as one of the fundamental tests of the propriety of a proposed limitation: and I quote:

□ 1200

Does the limitation curtail or extend, modify or alter, existing powers or duties, or terminate old or confirm new ones? If it does, then it must be conceded that legislation is involved, for without legislation these results could not be accomplished.

It is the opinion of the Chair that the amendment in this case must involve legislation, and, accordingly, the Chair sustains the point of order.

Mr. RIDGE. Mr. Chairman, I respectfully appeal the ruling of the Chair and ask for a recorded vote.

PARLIAMENTARY INQUIRIES

Mr. GEPHARDT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GEPHARDT. Would the Chair state for us the effect of the appealing and ruling of the Chair?

The CHAIRMAN. The Chair was about to state the question.

The question is: Shall the decision of the Chair stand as the judgment of the Committee? An aye vote would support the Chair's ruling. A no vote would not.

Mr. GRAY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GRAY. The question that I have, Mr. Chairman, is, if the Chair's ruling is not sustained, what would be the parliamentary situation at that time?

The CHAIRMAN. At that point, if the decision of the Chair is not sustained, the amendment would be debatable on the merits under the 5-minute rule in the normal course of procedure.

The question is, shall the decision of the Chair stand as the judgment of the Committee?

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GEPHARDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 288, noes 134, answered "present" 1, not voting 8, as follows:

[Roll No. 195]

AYES—288

Ackerman	Anthony	Barton
Akaka	Aspin	Bateman
Alexander	Atkins	Bates
Anderson	AuCoin	Beilenson
Andrews	Barnard	Bennett
Annunzio	Bartlett	Berman
Bevill	Hamilton	Ortiz
Bilbray	Harris	Owens (NY)
Boehlert	Hatcher	Owens (UT)
Boggs	Hawkins	Packard
Bonior	Hayes (IL)	Pallone
Borski	Hayes (LA)	Panetta
Bosco	Hertel	Parker
Boucher	Hoagland	Patterson
Boxer	Hochbrueckner	Paxon
Brennan	Horton	Payne (NJ)
Brooks	Houghton	Payne (VA)
Browder	Hubbard	Pease
Bruce	Huckaby	Pelosi
Bryant	Hughes	Penny
Bustamante	Hutto	Perkins
Byron	Jacobs	Pickett
Campbell (CA)	Jenkins	Pickle
Campbell (CO)	Johnson (SD)	Poshard
Cardin	Johnston	Price
Carper	Jones (GA)	Quillen
Carr	Jones (NC)	Rahall
Chapman	Jontz	Rangel
Clarke	Kanjorski	Ray
Clay	Kaptur	Rhodes
Clement	Kastenmeier	Richardson
Coleman (MO)	Kennedy	Roe
Coleman (TX)	Kennelly	Rohrabacher
Combest	Kildee	Rose
Conte	Kleczka	Rostenkowski
Cooper	Kolbe	Rowland (GA)
Costello	Kolter	Roybal
Cox	Kostmayer	Russo
Coyne	LaFalce	Sabo
Crockett	Lagomarsino	Sangmeister
Darden	Lantos	Sarpalius
de la Garza	Laughlin	Savage
DeFazio	Leath (TX)	Sawyer
DeLay	Lehman (CA)	Scheuer
Dellums	Lehman (FL)	Schroeder
Derrick	Leland	Schumer
Dicks	Levin (MI)	Sharp
Dingell	Levine (CA)	Shaw
Dixon	Lewis (FL)	Sikorski
Donnelly	Lewis (GA)	Sisisky
Dorgan (ND)	Lipinski	Skaggs
Dornan (CA)	Lloyd	Skelton
Downey	Long	Slaughter (NY)
Dreier	Lowey (NY)	Smith (FL)
Durbin	Luken, Thomas	Smith (IA)
Dwyer	Manton	Smith (TX)
Dymally	Markey	Solarz
Dyson	Martin (NY)	Solomon
Eckart	Martinez	Spratt
Edwards (CA)	Matsui	Staggers
Edwards (OK)	Mavroules	Stallings
Engel	Mazzoli	Stark
English	McCloskey	Stearns
Erdreich	McCollum	Stenholm
Espy	McCurdy	Stokes
Evans	McDermott	Studds
Fascell	McGrath	Swift
Fazio	McHugh	Synar
Feighan	McMillen (MD)	Tanner
Fields	McNulty	Tauzin
Fish	Mfume	Thomas (CA)
Flake	Michel	Torres
Flippo	Miller (CA)	Towns
Foglietta	Mineta	Traficant
Ford (MI)	Moakley	Traxler
Ford (TN)	Molinari	Udall
Frank	Mollohan	Unsoeld
Frost	Montgomery	Valentine
Gallegly	Moody	Vento
Garcia	Moorhead	Visclosky
Gaydos	Morella	Volkmer
Gejdenson	Morrison (CT)	Walgren
Gephardt	Morrison (WA)	Walsh
Gibbons	Mrazek	Watkins
Gilman	Murtha	Waxman
Gingrich	Myers	Weiss
Glickman	Nagle	Wheat
Gonzalez	Natcher	Whitten
Gordon	Neal (MA)	Williams
Goss	Neal (NC)	Wilson
Grant	Nelson	Wise
Gray	Nowak	Wolf
Green	Oakar	Wolpe
Guarini	Oberstar	Wyden
Hall (OH)	Obey	Yates
Hall (TX)	Olin	Yatron

NOES—134

Applegate	Baker	Bereuter
Archer	Ballenger	Bilirakis
Armey	Bentley	Bliley
Broomfield	Johnson (CT)	Saxton
Brown (CO)	Kasich	Schaefer
Buechner	Kyl	Schiff
Bunning	Lancaster	Schneider
Burton	Leach (IA)	Schuette
Callahan	Lent	Schulze
Chandler	Lewis (CA)	Sensenbrenner
Clinger	Lightfoot	Shays
Coble	Livingston	Shumway
Coughlin	Lowery (CA)	Shuster
Craig	Lukens, Donald	Skeen
Crane	Machtley	Slattery
Dannemeyer	Madigan	Slaughter (VA)
Davis	Marlenée	Smith (MS)
DeWine	Martin (IL)	Smith (NE)
Dickinson	McCandless	Smith (NJ)
Douglas	McCrery	Smith (VT)
Duncan	McDade	Smith, Denny (OR)
Early	McEwen	Smith, Robert (NH)
Emerson	McMillan (NC)	Smith, Robert (OR)
Fawell	Meyers	Snowe
Frenzel	Miller (OH)	Spence
Gallo	Miller (WA)	Stangeland
Gekas	Murphy	Stump
Gillmor	Nielson	Sundquist
Goodling	Oxley	Tallon
Gradison	Parris	Tauke
Grandy	Pashayan	Thomas (GA)
Gunderson	Petri	Thomas (WY)
Hammerschmidt	Porter	Torricelli
Hancock	Pursell	Upton
Hansen	Ravenel	Vucanovich
Hastert	Regula	Walker
Hefley	Ridge	Weber
Hefner	Rinaldo	Weldon
Henry	Ritter	Whittaker
Herger	Roberts	Wylie
Hiler	Robinson	Young (AK)
Holloway	Rogers	Young (FL)
Hopkins	Roth	
Hunter	Roukema	
Inhofe	Rowland (CT)	
James	Saiki	

ANSWERED "PRESENT"—1

Brown (CA)

NOT VOTING—8

Collins	Florio	Ireland
Conyers	Hoyer	Vander Jagt
Courter	Hyde	

□ 1221

Mr. DONNELLY and Mr. FASCELL changed their vote from "no" to "aye."

So the decision of the Chair was sustained.

The result of the vote was announced as above recorded.

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House, with the recommendation that the bill do pass.

The motion was agreed to.

□ 1223

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes, had directed him to report the bill back to the House with the recommendation that the bill do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

MOTION TO RECOMMIT OFFERED BY MR. RIDGE

Mr. RIDGE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. RIDGE. In its present form, I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. RIDGE moves to recommit the bill (H.R. 2991) to the Committee on Appropriations with instructions to report the bill back to the House forthwith with the following amendment:

Page 20, after line 3, insert the following:

SEC. 604. No funds in this act shall be spent for census data where it is made known to the Secretary that such data includes a count of illegal aliens.

POINTS OF ORDER

Mr. SMITH of Iowa. Mr. Speaker, I have a point of order.

The SPEAKER. The gentleman from Iowa will state his point of order.

Mr. SMITH of Iowa. Mr. Speaker, I make a point of order against the amendment, because it proposes to change existing law and constitutes legislation in an appropriation bill and, therefore, violates clause 2, rule XXI, and I point out that this amendment requires the Census Bureau, in order to have data that is reportable to the Governors a year from December, that they must adopt special rules, additional rules, and give the enumerators additional instructions, otherwise the data will not be reportable. It means that if he does not do that, that in the State of Texas, for example, if even one illegal alien is included in the data, he cannot report to the Governor of Texas the data to be used in their reapportionment. He is required to adopt these special rules and to give these enumerators special instructions, and so it is legislation on an appropriation bill.

The SPEAKER. The gentleman from Pennsylvania [Mr. RIDGE] will be recognized.

Mr. RIDGE. Mr. Speaker, I would like to respond to the concerns expressed by the gentleman who has objected and raised the point of order.

I think traditionally we, as a body, are entitled to protect our funding, to ensure that it is spent as we direct. Clearly, with the language that is carefully drawn, we are not creating any new duties. There is no new legislation here. What we have said is that no funds in this act shall be spent for census data where it is made known to the Secretary. There is no affirmative duty placed upon the Secretary or any of the enumerators of the Census Bureau, no new duties, no new legislation. The "made known," I think, clears the procedural hurdle, and I think it is appropriate to offer in any motion to recommit.

The SPEAKER. The gentleman from California [Mr. BERMAN] is recognized.

Mr. BERMAN. Mr. Speaker, on the point of order, I think it is important to note that this amendment does not seek to limit the utilization of funds for purposes only of reapportionment but for all purposes of the census in the apportionment based on any assertion to the Secretary that he knows to be true that any census data collected includes a count of illegal aliens, so that in contrast with earlier discussions relating to apportionment, we heard discussion of child nutrition, we heard discussion of education, we heard discussion of all the appropriate purposes for which census data should be gathered. This is not limited to reapportionment purposes.

Mr. WALKER. Mr. Speaker, regular order. The gentleman is not discussing a point of order.

The SPEAKER. The gentleman will restate the point of order.

Mr. WALKER. Mr. Speaker, the gentleman from California was not discussing the point of order, and I was calling for regular order.

The SPEAKER. Does the gentleman from Ohio [Mr. SAWYER] seek to be heard on the point of order?

Mr. SAWYER. Mr. Speaker, I would like to be heard under the point of order.

The SPEAKER. The gentleman from Ohio [Mr. SAWYER] is recognized.

Mr. SAWYER. Mr. Speaker, under the rules adopted in 1983, even if this were a proper limitation, it is not in order in the motion to recommit, because it was not in order in the Committee of the Whole, because it was not in order before we rose.

The SPEAKER. Does any other Member desire to be heard?

Mr. MICHEL. Mr. Speaker, I would like to be heard on the point of order.

The SPEAKER. The gentleman from Illinois [Mr. MICHEL] is recognized.

Mr. MICHEL. Mr. Speaker, if the gentleman wants to predicate his case upon that rules change, I think it is incumbent upon the minority leader to make a couple of points of his own, and that Members will recall, certainly older Members will recall, that rule change was prompted, I am quite sure, on the committee rising by the fact that we had repetitive motions here on the floor, and abortion was the issue. It was time after time after time, and to get around that consideration of that on a repetitive scale, the majority, in adoption of the rules, then moved us to this procedure where we have to have this vote on whether or not the committee rises or not, and then to go one step further, to deny the minority the right to impose limitations on appropriations bills is what you are attempting to do here, which denies the minority the right we have had for nearly 200 years before adoption of that rule.

□ 1230

And it is wrong. It is, and we have never had it tested on this floor, and now you make it a point, and it seems to me it has got to be argued at this juncture, because if the minority members of the Appropriations Committee have that sense of feel that their only opportunity then, after they get to the floor here, is to have a limitation by way of a motion to recommit, and that is being denied on the strength of how you changed the rule back in 1983, I have to feel, I have to make the point.

Mr. SMITH of Iowa. Motions to recommit have never been wide open, not in the 31 years I have been here.

Mr. MICHEL. The gentleman has to make a distinction there between limitations, and that is the position that this gentleman would have to take here.

Mr. SAWYER. Mr. Speaker, it is clear that the intent of the amendment is the same and it is, therefore, a repetitive amendment.

The SPEAKER. Does the gentleman from Illinois [Mr. MICHEL] desire to be heard further on the point of order?

Mr. MICHEL. No. Mr. Speaker. I just insist on the arguments that I have made, that you are denying to the minority a right which we have had for a long period of time.

Mr. BERMAN. Mr. Speaker, would the gentleman suggest that in a rule which did not waive that particular rule a motion to recommit could legislate on an appropriation bill in a motion to recommit?

Mr. MICHEL. No. No. I am talking only to a limitation on an appropriation bill here, to limit the funds, and that right we have had over time.

Mr. BERMAN. But if this amendment is construed and the motion to recommit is construed as legislation on an appropriation bill, then what?

Mr. MICHEL. If the gentleman makes the argument that it is legislation on an appropriation bill, that is something else.

Mr. SMITH of Iowa. That is all the argument is. That is all it is.

Mr. MICHEL. But when you raise the other argument with respect to denying us the opportunity that we are entitled to, then obviously I have to raise a point.

Mr. WALKER. I do not think we want to get confused. The gentleman from Iowa made the point that this is legislation on an appropriation bill. I think it is fairly clear to those who have looked at it that this is not legis-

lation on an appropriations bill, that in fact it is in order as a funds limitation amendment.

The gentleman from Ohio [Mr. SAWYER] is making an entirely different point. He is saying we cannot offer a funds limitation even though it would otherwise be in order because of a rule adopted in 1983. The gentleman from Illinois is simply saying that we regard that as an outrageous attempt to limit the ability of the minority to deal with the motions to recommit in a manner that we feel is appropriate, so long as it meets all other tests. That is the case with this amendment. This amendment meets all other tests, but it has simply been put in a motion to recommit, and would otherwise be in order had gone to a motion to rise. So this would be a severe limitation.

Mr. SMITH of Iowa. Mr. Speaker, I insist on my point of order.

Mr. WALKER. Mr. Speaker, the gentleman from Illinois yielded to me I believe.

The SPEAKER. The Chair will recognize one Member at a time. The gentleman from Illinois [Mr. MICHEL] is recognized.

Mr. MICHEL. Mr. Speaker, I yield to the distinguished gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I just want to make clear from our standpoint that this would be a very, very severe cut in the rights of the minority dealing with a motion to recommit, and I thank the gentleman for yielding.

Mr. SMITH of Iowa. Mr. Speaker, may I clarify my point of order?

My point of order is simple, that this is legislation on a motion to recommit. There is no attempt in my point of order to deny the minority the right to a motion to recommit. It has never in all of the years that I have been here been permissible to have legislation on a motion to recommit on an appropriations bill. So I am not making any changes at all in the rules, I am not attempting to keep the minority from having a motion to recommit, only that they cannot have a motion to recommit that contains legislation on an appropriations bill.

Mr. ECKART. Mr. Speaker, may I be heard on the point of order?

The SPEAKER. Do other Members desire to be heard on the point of order?

Mr. WALKER. Mr. Speaker, just to clarify.

Mr. SPEAKER. The gentleman from Pennsylvania is recognized.

Mr. WALKER. Mr. Speaker, I think we agree on this, and that is the gentleman's point of order. Our trouble is with the point of order made by the gentleman from Ohio, which is an entirely different kind of problem. There the gentleman from Ohio's point does go to the heart.

Mr. SAWYER. Mr. Speaker, I did not make a point of order. I made a comment on the point of order.

The SPEAKER. The Chair will rule on the point of order offered by the gentleman from Iowa [Mr. SMITH] and the gentleman from Ohio [Mr. SAWYER].

Mr. WALKER. Mr. Speaker, the gentleman from Ohio just said he did not make a point of order.

Mr. SAWYER. Mr. Speaker, I added comment, to make a comment about the point of order made by the gentleman from Iowa.

Mr. WALKER. So the gentleman from Ohio has not made a point of order, is that correct?

Mr. SAWYER. Mr. Speaker, I made a point of order.

Mr. ECKART. Mr. Speaker, I reserve a point of order on the motion to recommit.

Mr. SAWYER. Mr. Speaker, my point of order was made in supplement to the point of order made by the gentleman from Iowa. It is a point of order in its own right.

Mr. WALKER. Mr. Speaker, may I be recognized on the gentleman from Ohio's point of order?

The SPEAKER. The gentleman from Pennsylvania is recognized.

Mr. WALKER. Mr. Speaker, that clarifies it fairly completely. We are not dealing just with the gentleman from Iowa's point of order, we are dealing with the point of order made by the gentleman from Ohio, and the gentleman from Ohio is making a point of order that would fundamentally change the motion to recommit and the rights of the minority in this body. It would drastically undercut the rights of the minority to offer funds limitation amendments as a motion to recommit. That would be a change of historic proportions, and we think that it would be outrageous, in a House which is seeking to be fair to all Members, to now take away this fundamental right of the minority Members, and I thank the Chair.

Mr. ECKART. Mr. Speaker, I desire to be heard on the point of order.

The SPEAKER. The gentleman from Ohio is recognized to be heard on the point of order.

Mr. ECKART. Mr. Speaker, to my colleagues and to the Speaker, we heard in the support of the gentleman from Ohio's point of order that is some way, shape or form this is a limitation on the rights of the minority. The fact of the matter is that the long-stated rules of the House prescribe that limitations on appropriations are in order if the motion to rise is defeated, which was successfully done a few moments earlier in this debate.

However, subsequent to that and the successful sustaining of the ruling of the Chair, a subsequent motion to rise was made and was not defeated.

Now you cannot tell us that you are now being hamstrung by your own refusal to try to defeat the second time a motion to rise. The fact of the matter is that the motion to rise subsequently was passed, and now the preferential motion of the gentleman from Pennsylvania, like any other motion of the House, is subject to all of the other rules and limitations of the House, which means, like any other preferential motion, the motion to recommit is subject to the rules of the House.

So you cannot claim that any rights of yours are being limited when you sat on your hands when the gentleman from Iowa offered the motion to rise, which was passed.

So I would appeal to the Speaker that you cannot assert rights which you have vacated by your own action or inaction, and thus are estopped now from asserting it, so the gentleman's point of order against the motion to recommit I think should be sustained. The rules normally applied to the House apply to this motion as to any others. The gentleman is estopped from offering it at this time, and I think the gentleman's point of order should be sustained.

The SPEAKER. For what purpose does the gentleman from Pennsylvania [Mr. MURPHY] rise?

Mr. MURPHY. Mr. Speaker, to speak on the point of order.

The SPEAKER. The gentleman from Pennsylvania is recognized on the point of order.

Mr. MURPHY. Mr. Speaker, I think the gentleman from Ohio is incorrect in his assumption. I have been listening to the debate. There are successive rights.

A Member has a right to oppose the motion to rise, and if they do not request a rollcall, they have acceded to that, but then they have a successive right to pose a motion to recommit, and that is what the gentleman has done, and I think the gentleman's motion is in order.

The SPEAKER. Does the gentleman from Pennsylvania [Mr. RIDGE] desire to be heard further?

Mr. RIDGE. Just for 30 seconds, Mr. Speaker.

The SPEAKER. The gentleman from Pennsylvania is recognized.

Mr. RIDGE. Mr. Speaker, I would say that it is the right of the minority to employ either device or both devices. It was our decision not to ask for the motion to rise, clearly within our venue. We chose not to exercise that option. We do choose to exercise the motion to recommit, and the failure to exercise the first does not inhibit us or prevent us from offering a motion to recommit.

The SPEAKER (Mr. FOLEY). Is there any other Member who wishes to be heard on the points of order?

If not, the Chair is prepared to rule.

The gentleman from Iowa [Mr. SMITH] and the gentleman from Ohio [Mr. SAWYER] raised points of order against a motion to recommit offered by the gentleman from Pennsylvania [Mr. RIDGE], on the grounds that it contains instructions to amend prohibited by clause 2(c) of rule XXI. Clause 2(c), as amended on January 5, 1983, prohibits amendments during consideration of general appropriation bills proposing limitations, not provided for in existing law, except pursuant to the procedure specified in clause 2(d) of rule XXI.

□ 1240

Clause 2(d) provides that after a general appropriation bill has been read—or considered as read—for amendment in its entirety, and permissible amendments have been considered, a motion that the Committee of the Whole rise and report the bill back to the House takes precedence over further amendments to the bill.

During consideration of the present bill in the Committee of the Whole, the Committee of the Whole adopted the motion to rise and report the bill to the House without amendment. The gentleman from Ohio makes a point of order that any limitation on appropriations contained in a motion to recommit is not in order. And it is the opinion of the Chair, ruling on this matter of first impression, that the clear language of clause 2(c) of rule XXI prohibits limitation amendments from being contained in a motion to recommit, since no limitation amendment was permitted by the Committee of the Whole under clause 2(d) of that rule.

The Chair appreciates the fact that no legislative history was developed on House Resolution 5 of the 98th Congress, adopting the Rules of the House, to specifically indicate the effect the new rule would have on the motion to recommit. However, there still exist a number of precedents to guide the Chair in his interpretation of the language of the rule. As stated in section 788 of the House Rules and Manual, instructions in a motion to recommit may not propose to do that which may not be done by amendment under the rules of the House. For example, a motion to recommit a general appropriation bill with instructions may not propose legislation or unauthorized appropriations by way of amendment. The language of the rule makes no distinction between the prohibition on such amendments and on limitation amendments, except that the Committee of the Whole may allow such limitations to be offered by not adopting the motion to rise and report to the House. The Chair would also cite the ruling of Speaker Rainey, cited in volume 6 of Deschler's Precedents, chapter 21, section 26.12, on January 11, 1934, where a special order reported from the Committee on Rules prohibiting certain amendments during the consideration of a general appropriation bill—without distinguishing between the House and Committee of the Whole—was held to prohibit inclusion of such amendment in a motion to recommit.

The Chair sustains the point of order.

The Chair recognizes the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, this gentleman from Illinois opposed the motion earlier in the day appealing the ruling of the Chair because I have always respected very much the rulings of the Chair. And with no prejudice whatsoever against the current occupant of the chair, the Speaker, having no legislative history to what we have been on this argument and having it never put to a test before, I still have to insist, Mr. Speaker, that it is a real new denial of the right of the minority to offer a motion to, in a reduction expenditure, on an appropriation bill, and would therefore be constrained in a gentlemanly sort of way, just to make the point, to appeal the ruling of the Chair and to have it out.

The SPEAKER. The Chair appreciates the sentiment, the statement of the gentleman from Illinois. The gentleman from Illinois appeals the ruling of the Chair.

The question is, Shall the decision of the Chair be sustained as the judgment of the House?

Mr. GEPHARDT. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER. The gentleman from Missouri [Mr. GEPHARDT] moves to lay the appeal on the table. The question is not debatable.

The question is on the motion of the gentleman from Missouri [Mr. GEPHARDT] to lay on the table the appeal of the ruling of the Chair.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 249, nays 172, not voting 10, as follows:

[Roll No. 196]

YEAS—249

Ackerman	Boucher	Crockett
Akaka	Boxer	Darden
Alexander	Brennan	de la Garza
Anderson	Brooks	DeFazio
Andrews	Browder	Derrick
Annunzio	Brown (CA)	Dicks
Anthony	Bruce	Dingell
Applegate	Bryant	Dixon
Aspin	Bustamante	Donnelly
Atkins	Byron	Dorgan (ND)
AuCoin	Campbell (CO)	Downey
Barnard	Cardin	Durbin
Bates	Carper	Dwyer
Beilenson	Carr	Dymally
Bennett	Chapman	Dyson
Berman	Clarke	Early
Bevill	Clay	Eckart
Bilbray	Clement	Edwards (CA)
Boggs	Coleman (TX)	Engel
Bonior	Cooper	English
Borski	Costello	Erdreich
Bosco	Coyne	Espy
Evans	Levin (MI)	Roe
Fascell	Levine (CA)	Rose
Fazio	Lewis (GA)	Rostenkowski
Feighan	Lipinski	Rowland (GA)
Flake	Long	Roybal
Flippo	Lowey (NY)	Russo
Foglietta	Luken, Thomas	Sabo
Ford (MI)	Manton	Sangmeister
Ford (TN)	Markey	Sarpalius
Frank	Martinez	Savage
Frost	Matsui	Sawyer
Garcia	Mavroules	Scheuer
Gaydos	Mazzoli	Schroeder
Gejdenson	McCloskey	Schumer
Gephardt	McCurdy	Sharp
Gibbons	McDermott	Sikorski
Glickman	McHugh	Sisisky
Gonzalez	McMillen (MD)	Skaggs
Gordon	McNulty	Skelton
Gray	Mfume	Slattery
Guarini	Miller (CA)	Slaughter (NY)
Hall (OH)	Mineta	Smith (FL)
Hall (TX)	Moakley	Smith (IA)
Hamilton	Mollohan	Solarz
Harris	Montgomery	Spratt
Hatcher	Moody	Staggers
Hawkins	Morrison (CT)	Stallings
Hayes (IL)	Mrazek	Stark
Hayes (LA)	Murphy	Stenholm
Hefner	Murtha	Stokes
Hertel	Nagle	Studds
Hoagland	Natcher	Swift
Hochbrueckner	Neal (MA)	Synar
Hubbard	Neal (NC)	Tallon
Huckaby	Nelson	Tanner
Hughes	Nowak	Tauzin
Hutto	Oakar	Thomas (GA)
Jacobs	Oberstar	Torres
Jenkins	Obey	Torricelli
Johnson (SD)	Olin	Towns
Johnston	Ortiz	Traficant
Jones (GA)	Owens (NY)	Traxler
Jones (NC)	Owens (UT)	Udall
Jontz	Pallone	Unsoeld
Kanjorski	Panetta	Valentine
Kaptur	Parker	Vento
Kastenmeier	Patterson	Visclosky
Kennedy	Payne (NJ)	Volkmer
Kennelly	Payne (VA)	Walgren
Kildee	Pease	Watkins
Kleczka	Pelosi	Waxman
Kolter	Penny	Weiss
Kostmayer	Perkins	Wheat
LaFalce	Pickett	Whitten
Lancaster	Pickle	Williams
Lantos	Poshard	Wilson
Laughlin	Price	Wise
Leath (TX)	Rahall	Wolpe
Lehman (CA)	Rangel	Wyden
Lehman (FL)	Ray	Yates
Leland	Richardson	Yatron

NAYS—172

Archer	DeWine	Hiler
Armey	Dickinson	Holloway
Baker	Dornan (CA)	Hopkins
Ballenger	Douglas	Horton
Bartlett	Dreier	Houghton
Barton	Duncan	Hunter
Bateman	Edwards (OK)	Inhofe
Bentley	Emerson	James
Bereuter	Fawell	Johnson (CT)
Bilirakis	Fields	Kasich
Billey	Fish	Kolbe
Boehlert	Frenzel	Kyl
Broomfield	Gallegly	Lagomarsino
Brown (CO)	Gallo	Leach (IA)
Buechner	Gekas	Lent
Bunning	Gillmor	Lewis (CA)
Burton	Gilman	Lewis (FL)
Callahan	Gingrich	Lightfoot
Campbell (CA)	Goodling	Livingston
Chandler	Goss	Lowery (CA)
Clinger	Gradison	Lukens, Donald
Coble	Grandy	Machtley
Coleman (MO)	Grant	Madigan
Combest	Green	Marlenee
Conte	Gunderson	Martin (IL)
Coughlin	Hammerschmidt	Martin (NY)
Cox	Hancock	McCandless
Craig	Hansen	McCollum
Crane	Hastert	McCrery
Dannemeyer	Hefley	McDade
Davis	Henry	McEwen
DeLay	Herger	McGrath

McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Paxon
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schiff
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (MS)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stearns
Stump
Sundquist
Tauke
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Weldon
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—10

Collins
Conyers
Courter
Dellums
Florio
Hoyer
Hyde
Ireland
Lloyd
Vander Jagt

□ 1302

Mr. BUECHNER and Mr. FIELDS changed their vote from "yea" to "nay."

So the motion to lay on the table the appeal of the ruling of the Chair was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. ROGERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

PARLIAMENTARY INQUIRY

Mr. GLICKMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GLICKMAN. Mr. Speaker, it is my understanding that immediately following this vote, there is to be a vote on television violence, a suspension bill. Will that occur, and will it be a 5-minute vote or a 15-minute vote?

The SPEAKER. There will be a vote on the suspension, and it will be a 15-minute vote.

The vote was taken by electronic device, and there were—yeas 258, nays 165, not voting 9, as follows:

[Roll No. 197]

YEAS—258

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barton
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Coleman (TX)
Conte
Cooper
Costello
Coughlin
Coyne
Crockett
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Grant
Gray
Green
Guarini
Hall (OH)
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hughes
Johnson (CT)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parris
Payne (NJ)
Pease
Pelosi
Perkins
Pickle
Porter
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Regula
Richardson
Roe
Rogers
Rose
Rostenkowski
Rowland (CT)
Roybal
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schneider
Schulze
Schumer
Sharp
Shaw
Sikorski
Skaggs
Skeen
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (VT)
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Swift
Synar
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Unsoeld
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (FL)

NAYS—165

Applegate
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Bateman
Bentley
Bereuter
Billirakis
Bliley
Broomfield
Browder
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Clinger
Coble
Coleman (MO)
Combest
Cox
Craig
Crane
Dannemeyer
DeLay
DeWine
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Flippo
Frenzel
Gallegly
Gallo
Gaydos
Gekas
Gillmor
Gingrich
Glickman
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hubbard
Huckaby
Hunter
Hutto
Inhofe
Jacobs
James
Jenkins
Johnson (SD)
Jones (GA)
Kasich
Kolter
Kyl
Lagomarsino
Laughlin
Leach (IA)
Leath (TX)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lukens, Donald
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McEwen
McMillan (NC)
Meyers
Montgomery
Moorhead
Murphy
Nielson
Oxley
Packard
Pallone
Parker
Pashayan
Patterson
Paxon
Payne (VA)
Penny
Petri
Pickett
Pursell
Ray
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rohrabacher
Roth
Roukema
Rowland (GA)
Russo
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Shumway
Shuster
Sisisky
Skelton
Slattery
Slaughter (VA)
Smith (MS)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stallings
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauke
Tauzin
Thomas (CA)
Thomas (WY)
Traficant
Upton
Valentine
Walker
Whittaker
Wylie
Young (AK)

NOT VOTING—8

Collins
Conyers
Courter
Florio
Hoyer
Hyde
Ireland
Vander Jagt

□ 1321

Messrs. SMITH of Texas, PALLONE, and LIVINGSTON, changed their vote from "yea" to "nay."

Mr. WEBER changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 179. Concurrent resolution waiving the requirement of the Legislative Reorganization Act of 1970 for the "August recess" by rollcall by July 31.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2705. An act relating to the method by which Government contributions to the Federal employees health benefits program shall be computed for 1990 or 1991 if no Government-wide indemnity benefit plan participates in that year.

The message also announced that pursuant to Public Law 98-524, the Chair on behalf of the majority leader, appoints Dr. Howard Swearer of Rhode Island, from private life, to the Executive Committee of the National Summit Conference on Education.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 1278, FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 1278) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes.

The SPEAKER pro tempore (Mr. Bosco). Is there objection to the request of the gentleman from Texas?

There was no objection.

TELEVISION VIOLENCE ACT OF 1989

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 1391, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 1391, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 18, not voting 14, as follows:

[Roll No. 198]

YEAS—399

Akaka	Burton	Dreier
Alexander	Bustamante	Duncan
Anderson	Byron	Durbin
Andrews	Callahan	Dwyer
Annunzio	Campbell (CA)	Dymally
Anthony	Campbell (CO)	Dyson
Applegate	Cardin	Early
Archer	Carper	Eckart
Armey	Carr	Edwards (OK)
Aspin	Chandler	Emerson
Atkins	Chapman	Engel
AuCoin	Clarke	English
Baker	Clement	Erdreich
Ballenger	Clinger	Espy
Barnard	Coble	Evans
Bartlett	Coleman (MO)	Fascell
Barton	Coleman (TX)	Fawell
Bateman	Combest	Fazio
Bates	Conte	Feighan
Beilenson	Cooper	Fields
Bennett	Costello	Fish
Bentley	Coughlin	Flake
Bereuter	Cox	Flippo
Bevill	Coyne	Foglietta
Bilbray	Craig	Ford (MI)
Bilirakis	Crane	Ford (TN)
Bliley	Dannemeyer	Frank
Boehlert	Darden	Frenzel
Boggs	Davis	Frost
Bonior	de la Garza	Gallegly
Borski	DeFazio	Gallo
Boucher	DeLay	Garcia
Boxer	Derrick	Gejdenson
Brennan	DeWine	Gekas
Brooks	Dickinson	Gephardt
Broomfield	Dicks	Gibbons
Browder	Dingell	Gillmor
Brown (CA)	Dixon	Gilman
Brown (CO)	Donnelly	Gingrich
Bruce	Dorgan (ND)	Glickman
Bryant	Dornan (CA)	Gonzalez
Buechner	Douglas	Gordon
Bunning	Downey	Goss
Gradison	McDade	Sawyer
Grandy	McDermott	Saxton
Grant	McEwen	Schaefer
Gray	McGrath	Scheuer
Guarini	McHugh	Schiff
Gunderson	McMillan (NC)	Schneider
Hall (OH)	McMillen (MD)	Schroeder
Hall (TX)	McNulty	Schuette
Hamilton	Meyers	Schulze
Hammerschmidt	Mfume	Schumer
Hancock	Michel	Sensenbrenner
Hansen	Miller (CA)	Sharp
Harris	Miller (OH)	Shaw
Hastert	Miller (WA)	Shays
Hatcher	Mineta	Shumway
Hefley	Moakley	Shuster
Hefner	Molinari	Sikorski
Henry	Mollohan	Sisisky
Herger	Montgomery	Skaggs
Hertel	Moody	Skeen
Hiler	Moorhead	Skelton
Hoagland	Morella	Slattery
Hochbrueckner	Morrison (CT)	Slaughter (NY)
Holloway	Morrison (WA)	Slaughter (VA)
Hopkins	Mrazek	Smith (FL)
Horton	Murphy	Smith (IA)
Houghton	Murtha	Smith (MS)
Hubbard	Myers	Smith (NE)
Huckaby	Nagle	Smith (NJ)
Hughes	Natcher	Smith (TX)
Hunter	Neal (MA)	Smith (VT)
Hutto	Neal (NC)	Smith, Denny (OR)
Inhofe	Nelson	
Jacobs	Nielson	Smith, Robert (NH)
James	Nowak	
Jenkins	Oakar	Smith, Robert (OR)
Johnson (SD)	Oberstar	
Johnston	Obey	Snowe
Jones (GA)	Olin	Solarz
Jones (NC)	Ortiz	Solomon
Jontz	Owens (NY)	Spence
Kanjorski	Owens (UT)	Spratt
Kaptur	Oxley	Staggers
Kasich	Packard	Stallings
Kennedy	Pallone	Stangeland
Kennelly	Panetta	Stearns
Kildee	Parker	Stenholm
Kleczka	Parris	Stokes
Kolbe	Pashayan	Studds
Kolter	Patterson	Stump
Kostmayer	Paxon	Sundquist
Kyl	Payne (NJ)	Swift
LaFalce	Payne (VA)	Tallon
Lagomarsino	Pease	Tanner
Lancaster	Pelosi	Tauke
Lantos	Penny	Tauzin
Laughlin	Perkins	Thomas (CA)
Leach (IA)	Petri	Thomas (GA)
Leath (TX)	Pickett	Thomas (WY)
Lehman (CA)	Pickle	Torres
Lehman (FL)	Porter	Torricelli
Leland	Poshard	Towns
Lent	Price	Traficant
Levin (MI)	Quillen	Traxler
Levine (CA)	Rahall	Udall
Lewis (CA)	Ravenel	Unsoeld
Lewis (FL)	Ray	Upton
Lewis (GA)	Regula	Valentine
Lightfoot	Rhodes	Vento
Lipinski	Richardson	Visclosky
Livingston	Ridge	Volkmer
Lloyd	Rinaldo	Vucanovich
Long	Ritter	Walgren
Lowery (CA)	Roberts	Walsh
Lowey (NY)	Robinson	Watkins
Luken, Thomas	Roe	Weber
Lukens, Donald	Rogers	Weldon
Machtley	Rohrabacher	Wheat
Madigan	Rose	Whittaker
Manton	Rostenkowski	Whitten
Markey	Roth	Williams
Martin (IL)	Roukema	Wilson
Martin (NY)	Rowland (CT)	Wise
Martinez	Rowland (GA)	Wolf
Matsui	Roybal	Wolpe
Mavroules	Russo	Wyden
Mazzoli	Sabo	Wylie
McCandless	Saiki	Yates
McCollum	Sangmeister	Yatron
McCrery	Sarpalius	Young (AK)
McCurdy	Savage	Young (FL)

NAYS—18

Ackerman	Bosco	Crockett
Berman	Clay	Dellums
Edwards (CA)	Kastenmeier	Synar
Green	Marlenee	Walker
Hawkins	Rangel	Waxman
Hayes (IL)	Stark	Weiss

NOT VOTING—14

Collins	Goodling	Johnson (CT)
Conyers	Hayes (LA)	McCloskey
Courter	Hoyer	Pursell
Florio	Hyde	Vander Jagt
Gaydos	Ireland	

□ 1341

Mr. RANGEL changed his vote from "yea" to "nay."

Mrs. UNSOELD changed her vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 593) to exempt certain activities from provisions of the antitrust laws, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. Bosco). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 593

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) actions specified in section 2 shall be exempt from the antitrust laws of the United States.

(b) For purposes of this Act—

(1) "antitrust laws" has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12), and shall also include section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(2) "person in the television industry" means a television network, any entity which produces programming for television distribution, including theatrical motion pictures, the National Cable Television Association, the Association of Independent Television Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the networks' affiliate organizations, and shall include any individual acting on behalf of such person; and

(3) "telecast" means any program broadcast by a television broadcast station or transmitted by a cable television system.

SEC. 2. The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to: (1) alleviate the negative impact of violence in telecast material, (2) alleviate the negative impact of illegal drug use in telecast material, and (3) alleviate the negative impact of sexually explicit material in telecast material.

SEC. 3. (a) The exemption provided in section 2 shall not apply to any joint discussion, consideration, review, action, or agreement which results in a boycott of any person.

(b) The exemption provided in section 2 shall apply only to activities conducted within 36 months after the date of enactment of this Act.

SEC. 4. This Act may be cited as the "Television Violence and Indecent Material Act".

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the text of H.R. 1391 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third timed, and passed.

The title of the Senate bill was amended so as to read:

An Act to exempt from the antitrust laws certain activities relating to alleviating the negative impacts of violence in telecast material.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 1391) was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 379 AND HOUSE JOINT RESOLUTION 293

Mr. CAMPBELL of California. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of both House Joint Resolution 379 and House Joint Resolution 293.

Despite my admiration and affection for my cousin CAMPBELL from Colorado, there is a distinction between a CAMPBELL from Colorado and a CAMPBELL from California, and with this correction I ask that the House recognize that distinction.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

STATUTORY PUBLIC DEBT LIMIT DECREASE

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 217 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 217

Resolved, That upon the adoption of this resolution it shall be in order to consider the bill (H.R. 3024) to increase the statutory limit on the public debt, and for other purposes, in the House, and all points of order against the bill and against its consideration are hereby waived. Debate on the bill shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Commitee on Ways and Means, and the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes, for purposes of debate only, to the gentleman from New York [Mr. SOLOMON] and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 217 is the rule providing for consideration of H.R. 3024, to increase the statutory limit on the public debt.

The rule provides that H.R. 3024 shall be considered in the House; under the standing rules of the House, no amendments shall be in order unless the floor manager yields for that purpose. The rule provides for 1 hour of debate to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Ways and Means.

The rule also waives all points of order against the bill and its consideration, which the Rules Committee recommended as a way to ensure that the House would be able to proceed quickly to the consideration of this bill.

Finally, the rule provides one motion to recommit.

Mr. Speaker, H.R. 3024, the bill for which the Rules Committee has recommended this rule, would provide a $70 billion increase in the statutory debt limit, but only for 3 months. On November 1, the debt limit would revert to its current limit of $2.8 trillion. And, as requested by the administration, H.R. 3024 would change the method of accounting for Treasury bonds which are redeemable only upon maturity, to account for those bonds on an accrual basis, rather than at face value.

Mr. Speaker, none of us looks forward to acting on this measure, as we are all troubled by the Government's massive borrowing which has led to the need for it. However, the administration has warned that the Treasury is nearing the current borrowing limit and that we must pass this measure to avoid the possibility of the Government defaulting on its obligations sometime during the next few weeks. I urge adoption of House Resolution 217, so that the House can proceed to consideration of H.R. 3024.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all I want to commend the manager of this rule on that side of the aisle, the gentleman from California [Mr. BEILENSON]. He is a most reasoned man, and we appreciate it on this side of the aisle.

Mr. Speaker, the rule now before us is the type of closed rule that those of us on this side of the aisle would normally oppose. However, there is a reason why a closed rule has been proposed for this bill—and that reason has to do with the politics of the other body.

The budget resolution for fiscal year 1990, which we passed in May, contained a provision raising the debt ceiling by $320 billion and extending it through the end of that fiscal year. Because this provision has to be signed into law, and the budget resolution itself is only a concurrent resolution, the debt ceiling provision was separated out of the budget resolution, pursuant to rule 49 of the House.

So far so good. But once the Senate got hold of it as a freestanding item, they proceeded to celebrate Christmas 6 months early by loading up this debt ceiling with stockings full of pork. Consequently, the bill has languished, and our Government is now faced with the prospect of losing its authority, before the middle of this month, of paying the bills and issuing paychecks.

In order, then, to move this process off dead center again, the administration requested Mr. ROSTENKOWSKI and Mr. ARCHER, as the chairman and ranking Republican, respectively, on the Ways and Means Committee to introduce H.R. 3024. This bill is a temporary stopgap measure which will raise the debt ceiling by $70 billion and extend it through October 31, of this year.

Thus, we can avoid having a cash-flow crisis and a payless payday situation from hitting the Government later this month—after Congress has recessed.

Many Members, including this one, always approach the issue of raising the debt ceiling with a great deal of reluctance and reservation. Having to raise the ceiling on such a regular basis serves to remind us of the continuing failure of this Congress to put the Nation's fiscal house in order. The dilemma is compounded this year by the irresponsibility demonstrated in the other body—something we want no part of.

And so, under the circumstances, we are confronted with a situation which leaves us very little room for maneuver. This is one of those times when a closed rule is supported by the Democrat and Republican leadership in the House.

We, on our side of the aisle, can support the rule because we have no intention of duplicating the follies of

the Senate in trying to load up this bill with amendments.

However, I would call attention to the fact that Mr. DANNEMEYER from California informed the House during 1-minute speeches today that he intends to offer a motion to defeat the previous question at the close of this debate on the rule. If that motion carries, the gentleman will then, as I understand it, try to include language in the rule concerning a balanced budget amendment to the Constitution.

Speaking as a strong supporter, and indeed a sponsor, of a balanced budget amendment, I have no personal objection to the gentleman's procedure. But I would at least ask the gentleman from California, and other Members who may contemplate such procedures from time to time, to give we Republicans on the Rules Committee some kind of notice before the committee meets, that this is what you intend to do.

We go in and negotiate with our majority colleagues on the committee; we try to do so in good faith and in order to protect Members on this side of the aisle. In this particular instance, we were also negotiating on behalf of the Republican administration.

And it makes our job that much easier—and it serves Republican interests in the House that much better—if we at least have an idea of what our colleagues are trying to do.

□ 1350

Mr. Speaker, I yield 10 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, we will shortly have the opportunity of casting the first recorded vote of the 101st Congress on the issue of a balanced budget amendment to the Constitution of the United States. However, the proponents or opponents of this issue will seek to define it, that is in essence what this is all about.

This Member from California would prefer to be standing in the well of the House at this time speaking on behalf of the constitutional amendment for a balanced budget that is supported by 243 of my colleagues, House Joint Resolution 268, under the combined bipartisan leadership of Democrat CHARLES STENHOLM from Texas and my Republican colleague from Idaho, LARRY CRAIG.

I commend each of them for their leadership which they have exhibited with respect to producing a clear majority of the House in support of the constitutional amendment; 243 Members, 160 Republicans and 83 Democrats.

If my counting is correct, that makes it 47 short of the minimum required to pass under the Constitution, two-thirds of the House, or 290.

As I indicated earlier in my comments I would prefer to stand here and speak as if the issue was consideration of House Joint Resolution 268. But unfortunately I cannot do that. The reason is all wrapped up in how this House is governed.

Sometimes people across this country have great difficulty in understanding the simple fact. "Congressman, how can it be that a clear majority of the Members of the House support a constitutional amendment on the balanced budget, specifically 243 out of 435, and yet you tell me that that issue is reposing somewhere in a committee? Doesn't the majority rule in the House of Representatives?"

The answer is, no, it does not. The political force that is determining the destiny of this issue is found in roughly 28 percent of those American people who describe themselves as liberals.

That philosophical group must be admired for their political sagacity because they are a minority in America. Yet this minority in America controls the destiny of the House of Representatives, it controls the destiny of the Democratic Party in America, and since the Democratic Party has continuously controlled this House without interruption since 1954, that party today controls the key to the door of the Committee on the Judiciary where the constitutional amendment on a balanced budget is now gathering dust under the tender hand of the chairman of the committee.

Unless something drastic happens, it will probably stay there for the balance of the 101st Congress, but this Member from California along with a number of my colleagues does not choose to let the 101st Congress continue on much longer before we have an opportunity of voting on this issue; that is, a constitutional amendment on a balanced budget which is supported by roughly two-thirds of the American people, Democratic, Republican and Independent.

The reason that we Americans must understand why liberals who control the Democratic Party are opposed to this constitutional amendment on a balanced budget is that if you have run the country for half a century on the basis of tax, spend and elect, which the Democrats have done, the last thing you want to have happen is a limitation on your ability to place the U.S. Government further in debt. That is what this fight is all about.

It would appear it is over a constitutional amendment on a balanced budget. That is merely the symptom.

The underlying cause is political power in America because when you have the power of what this House of Representatives is all about, the ability to take from one group of people and spend that money on another group, you want to keep that power.

As I say, if you have been able to maintain your political hegemony by promising the group on the left side of the room that they will get the money but place the duty to pay on the right side of the room, you do not want to give that power up.

That is what this fight is all about. But the tragedy is that we have gone beyond taxing the living to pay for the scale of our standard of living today; we have reached the point of cynicism where we are placing a burden of debt on the unborn because politically they are not around to object.

Someday our grandchildren and our great-grandchildren are going to come to our graves and ask those of us who work and control the destiny of this institution today, "Why did you do it? Why did you load this debt on your shoulders? We weren't around to vote."

That is what this fight is all about.

The details of the debt are just awesome. We Americans have never experienced this before in our history.

We began the decade of the 1980's with a debt of $1 trillion and we will end it with a debt of $3 trillion.

The existing debt ceiling of $2.8 trillion was supposed to get us through the end of this fiscal year, September 30, 1989. We did not quite make it. We are supposed to run out of money August 15, 1989. So we are going to raise the ceiling temporarily by another $70 billion.

If you extrapolate that on a monthly basis, we are going into debt at the rate of $28 billion a month. Maybe that is unfair to take 2½ months of this debt extension and extrapolate it across 12 months. But that is what the math works out to.

If you want to know what the true deficit is this fiscal year, just look at the publication produced by OMB earlier this year. We are scheduled to increase the national debt by $261 billion in this current fiscal year.

□ 1400

Members may ask, what about this statement that we read in the press that the deficit is below $100 billion for fiscal year 1989? Well, the truth of the matter is that we are reducing the general fund deficit projected at $241 billion by $148.5 billion of trust fund money.

Now, it is appropriate to ask the question, what happens to a person in the private sector when they take trust fund money for general fund purposes? They put that person in jail. However, here in the Congress of the United States, when we take trust fund money for general fund purposes, most Members get reelected.

I believe the responsible thing for Members to do is to defeat the previous question on this rule. I respect the work of our colleague, the gentleman from New York [Mr. SOLOMON], and I thank the gentleman for his comments about giving some indication to

Members. We do not control the agenda around here. It was fairly short notice that all Members were advised that this issue would come up today, Tuesday. We thought it would come up tomorrow, but it was speeded up to today, which did not give Members an opportunity to come and tell other Members, and I respect what the gentleman is saying, and I thank Mr. SOLOMON for that observation.

The gentleman from California [Mr. BEILENSON], I do not criticize what he is doing. He is doing what he is doing because he is a Member of the majority. I have nothing but respect for the integrity that the gentleman from California brings to this body as a Member of the House. The fact of the matter is, we need to have a vote on a constitutional amendment on the balanced budget. It is not often that we have a train going through the procress whereby a car can be added. That is what this opportunity is.

This closed rule is an abomination, as far as I am concerned. My objection will be to the previous question, which would permit me to offer an amendment, that is a rule, which would be an open rule. Very simply, this would then lay the foundation, if this rule were to be adopted for adding section 3 to the bill which says, very simply, that none of this increase in the debt of $70 billion can take place unless the Congress proposes a constitutional amendment on the balanced budget, to the States for their consideration.

I believe that it is long past time that we do this. This is an opportunity that seldom comes along because the Democratic leadership will do everything they can to keep this issue from coming to a rollcall vote.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I rise in favor of the defeat of the previous question in order to allow the gentleman from California to try to get Members to a constitutional amendment on the balanced budget vote. We have a lot of Members of this body who say over and over again, "Well, I am for a balanced budget, I am for a balanced budget amendment to the Constitution. I will sign onto a bill," and sign up, and nothing ever happens. We never get a vote.

Why is that? Because we have methods of burying legislation around here, and once again in this Congress, it appears as though the balanced budget amendment is going to get buried. If this amendment had been referred to another subcommittee, we will say the subcommittee that handles commemorative bills around here, when Members get 243 signatures, it would be brought to the floor automatically. We have 243 signatures, and it is buried in the Committee on the Judiciary.

Members get very few chances to address this issue in a way which is at least somewhat germane. Here we have a debt limit bill, passing on $70 billion in debt to our children, our grandchildren, and our great-grandchildren with this bill, and all the gentleman from California is saying when we pass along $70 billion, is not that it is a time to perhaps look at what it is we all say, or a large portion of the Members say we want to do? That is get an amendment that balances the budget and assures we do not continue to pass debt on to our children, our grandchildren, and our great-grandchildren. That is all he is saying.

It seems to me there is a very rational kind of step to take. I would urge the House to vote with the gentleman from California [Mr. DANNEMEYER] and defeat the previous question, give him an opportunity to amend this rule, allow Members to consider the debt limit under an open rule which would thereby give him a chance to offer the balanced budget language. That, it seems to me, would be a responsible action for this House to take before we take an action to pass another $70 billion in debt on to the American people.

There are going to be a lot of Members that have to vote "no" on that particular question, if we do not get a chance to get a balanced budget amendment before us.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I stand in support of my colleague from California's effort to defeat the previous question and to begin a process in the 101st Congress, to gain a vote on an issue that well over 70 percent of the American public have supported for the last decade. They have supported the concept of a constitutional amendment that would require the Government to balance the budget on an annual basis.

My colleague from Texas [Mr. STENHOLM] and I, along with 241 Members of this body introduced about 2 months ago House Joint Resolution 268, which is the balanced budget amendment to the Constitution. We believe, as 80 percent of the American people believe, that fiscal responsibility must be restored to this Government. We have lost our will to be fiscally responsible. There is no mechanism in place to work that will. That will, for well over 100 years that, held this Government in a balanced budget mode.

We have long surpassed that, and today, once again, we come begging before the altar of the American taxpayer, asking them to ante up, to say we will extend the budget debt ceiling by another $70 billion.

Now, I would suggest to all Members that we are the board of directors of this great Government of ours, and as a board of directors we collectively have led it into a near $3 trillion debt. A debt that must be financed on an annual basis, a debt that must be renewed regularly. If we were the board of directors of a corporation and we went to the stockholders and say, "Here is our track record," and we asked those stockholders to believe in our performance and support the board once again, I am confident they would vote the board down.

I hope we have an opportunity this year to vote on a balanced budget amendment. My colleague from Texas and I have had conversations with the chairman of the Committee on the Judiciary. We have asked him to hold hearings, to air this issue publicly in this forum and for all Americans to hear. That is currently going on in the other body. The gentleman from Illinois, Senator SIMON, has introduced a balanced budget amendment. The Committee on the Judiciary in the other body is beginning the hearing process. That is the fair and responsible way to hear this important legislation that well over a majority of the American people and 243 Members of this House support.

I stand in support of my colleague from California's efforts today, and I ask all Members to vote to defeat the previous question, to make a rule in order that will at least offer the opportunity to vote on this most important issue. I say to the speaker of the House and the chairman of the Committee on the Judiciary that the 101st session of Congress well ought to be the Congress that answered to the will of the American people and allows a balanced budget amendment to our Constitution to be heard in the normal processes of the Committee on the Judiciary, to be brought to the floor to thorough and open debate, and to be voted on and sent to the States for their consideration and for their ultimate ratification.

If we are to begin the long process in the march that leads Members to a balanced budget, then we can start that there today, by honoring with our vote, the motion to defeat the previous question on this rule that will allow a change in the rule that will allow a consideration of House Joint Resolution 268.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to our distinguished Republican leader, the genteleman from Illinois [Mr. MICHEL.]

Mr. MICHEL. Mr. Speaker, I arrived on the floor a little late, but I have had the privilege of listening to the gentleman from Idaho, the gentleman from Pennsylvania, and the gentleman from New York. All three of these gentlemen probably have the most responsible, fiscally responsible voting records in this House of Representa-

tives, supporting me whenever I was offering an amendment to cut expenditures during my tenure on the Committee on Appropriations, any kind of proposal that has been before the House during their entire life of their tenure, and I have known of no more than three responsible Members on the expenditure side of the equation around here.

□ 1410

Quite frankly, with respect to the arguments these gentlemen make with respect to having an opportunity for a vote on a balanced budget amendment, I have no quarrel with that. I am not saying I would support it. I would like, first of all, to hear the arguments, because to have a balanced budget amendment also suggests that if we cannot cut the expenditures, we have probably got to raise the revenues to make it balance, and we have been subscribing to the view that we did not want to raise taxes around here, that we wanted to do it on the expenditure side.

But let me say that during the course of a period of time around here there are no more than maybe 50 or 100 of us who consistently vote to cut, cut, and cut, as distinguished from the three-fourths of us who would vote the other way and probably opt for revenue, as distinguished from expenditure reduction.

So I am not altogether sure, but I would certainly be willing to give them an opportunity to have the vote and an opportunity to debate it. Earlier this day, I took a step that I have never taken before in my 33 years in the House when I questioned the ruling of the Chair, not on the substance so much as on the procedure again of how we in the minority were denied the right to vote on a motion to recommit, to reduce a level of spending—not to legislate, just to reduce the level of spending. That is a very valid principle.

Mr. Speaker, I have to argue in favor of supporting the rule, however, in this case and voting up the previous question. I will only take another moment or two. I am often accused of being too practical a politician and too much of a legislator, and I plead guilty again to that charge today. My dear colleague, the gentleman from California seeks to offer a choice between practical politics and wishful thinking. It is practical and necessary for us to adopt this debt ceiling resolution and get on with the difficult business we still have before us. The intentions of the gentleman from California are very honorable, but his purpose is somewhat flawed. We do not accomplish good legislation with bad procedure. How many times do we have to make that point around here? We do not consider constitutional amendments as a rider to other legislation. We do not consider constitutional amendments before hearings, before adequate debate, and before plenty of advance warning.

That is true, even in the most recent case in which I testified in support of an issue before the Judiciary Committee on the burning of the flag. I would be the last one to say that there has got to be a rush to judgment, because I want to hear the arguments of constitutional scholars on both sides of that issue. But I do not care who it benefits politically and how badly its proponents want it, this is a bad procedure.

If this temporary increase of $70 billion is not adopted today, the Treasury Secretary, Mr. Brady, says he will not be able to fully invest the Social Security trust funds. And that, as we know, is just the beginning. The Government will default them on its obligations by August 15.

Mr. Speaker, I will, with my remarks, include the entire text of the letter from Secretary Brady under date of July 31, 1989, so that all the Members might know what the Secretary's argument is. The text of the letter is as follows:

THE SECRETARY OF THE TREASURY,
Washington, July 31, 1989.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR MR. LEADER: I am writing to follow up on my letter of June 23 regarding the urgent need for legislation to increase the public debt limit. I urge that H.R. 3024, a bill to increase the debt limit by $70 billion through October 31, 1989, be passed by the House no later than August 1. While Treasury would prefer a permanent increase in the debt limit sufficient at least for the next fiscal year, we are prepared to support a temporary increase under the current pressing circumstances.

If the debt limit is not increased by August 1, the Treasury will almost certainly be unable to fully invest the social security trust funds on August 1 and 2. If Congress were to recess in early August without acting on the debt limit increase, the Government would default on its obligations on August 15, when the Treasury would be unable to make interest payments in excess of $17 billion due on outstanding Treasury notes and bonds.

H.R. 3024 also establishes the use of accrual accounting for all Treasury securities issued at a discount. This change in the way certain Government securities (e.g., zero coupon bonds) are counted for debt limit purposes will make the accounting treatment consistent with that now used for savings bonds and for these same type securities issued by private corporations.

It is important that Congress act on a debt limit increase without delay in order to avert a default with its adverse consequences on domestic and international confidence and trust in the United States.

Sincerely,

NICHOLAS F. BRADY.

Mr. Speaker, let me say to my friends that this is reality. It is a basic fundamental responsibility we have to keep the Government's accounting practices consistent and credible.

I say to my friends that the gentleman from California [Mr. DANNEMEYER] will offer us somewhat of a fantasy, a constitutional amendment to provide for balanced budgets. I do not consider the gentleman from California [Mr. DANNEMEYER] to be a Peter Pan, but he would like to take us all on somewhat of a flight of fantasy for a day or so and spare us the harsh reality of this debt ceiling deadline.

But we have got to do it. We have had to do it any number of times. We have agonized over it any number of times, but the approach to take here today is to vote up this rule and the previous question.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the distinguished gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just want to clarify one point. I do not think the amendment of the gentleman from California [Mr. DANNEMEYER] would in fact have us put the constitutional amendment into this bill. That is not his intent. What his amendment does is, it simply withholds the expenditure of these moneys or the granting of these moneys until we have in fact considered the constitutional amendment. It would force to the floor the constitutional amendment.

The SPEAKER pro tempore (Mr. Bosco). The time of the gentleman from Illinois [Mr. MICHEL] has expired.

Mr. SOLOMON. Mr. Speaker, I yield the balance of my time, which is, I believe, 4 minutes, to the minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I think there is no question but that if the previous question were voted down, we are not just opening up the bill to whatever version of a balanced budget amendment the gentleman might be talking about; we would frankly, be turning the bill into somewhat of a junkyard. Everything, including the kitchen sink, could be added to it. Those of us in the leadership have some difficult choices to make from time to time, and, of course, mine here had to be one of giving us a clean temporary debt ceiling increase for a limited period of time, until October 31, so that we might then go through our normal recess for those Members with families and with children in August, and then we could come back, as we are destined to be here well into November, and do this thing up right.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield again to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I will ask my distinguished minority leader, how would he suggest that any of us proceed to bring a constitutional amendment for a balanced budget to a vote on the floor of the House in order that the American people can establish accountability on where we stand on the issue when our friends on the Democratic side are determined to keep that constitutional amendment buried in the Judiciary Committee so we can never vote on it?

Mr. MICHEL. I would suggest that maybe we might have a renewed effort to get it out of the committee. We have kind of characterized that committee as a graveyard for constitutional amendments, and I am very apprehensive, for example, of the proposal which some of us are supporting with respect to the flag. That judgment call has not been made as yet. But if, for example, we might be successful in that area, it might be just opening the wedge a little bit for that committee under its new chairman to take another look at what the gentleman's request might be. Hope springs eternal around here. I think there is a little bit different attitude now, and I would like to play to it for a moment until being outright rejected.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield further?

Mr. MICHEL. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, let me ask, did we not just witness on the floor of the House, as the gentleman so eloquently stated in his previous statement, the fact that the Republican leader was so concerned about the deprivation of the rights of the minority that he did something he has not done in 33 years, he appealed the ruling of the Chair?

That is the very point I am seeking to make. The Democratic majority has determined that this issue will not come to the floor of the House for a vote, and I am just seeking to use this as an opportunity. The gentleman from Pennsylvania [Mr. WALKER] is absolutely right. My amendment says that before the debt ceiling increase is to be effective, the Congress must propose this constitutional amendment on a balanced budget.

Mr. MICHEL. Mr. Speaker, let me say to the gentleman that I have talked about procedure here and an orderly process by which we bring it up, and as a free-standing proposition, that would obviously be the ultimate, and I will help the gentleman in everyway I possibly can to try to bring that about. There might be some unique methodology that we have not yet known that would be effective in this House.

Mr. DANNEMEYER. Mr. Speaker, I say to my good friend, our respected leader, that maybe we should adopt miners' helmets with lights on the front and begin to look in the catacombs and the cupboards of the Judiciary Committee and see if we can find the constitutional amendment gathering dust, lo as it has gathered that dust for the decades that our Democratic friends have ruled this institution.

Mr. MICHEL. Mr. Speaker, the gentleman makes a valid contribution to the debate today, and we are well acquainted with his desire to reduce Federal spending and get the country back on a safe and sound fiscal policy by balancing the budget. I applaud him for that. As I indicated, I have a little different way in which I think we ought to do that, rather than on this bill.

Mr. BEILENSON. Mr. Speaker, I yield myself the balance of my time.

In closing, Mr. Speaker, let me simply express my appreciation to the gentleman from New York [Mr. SOLOMON] for his comments and to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL] for his comments. I would just remind the Members that the rule simply provides for consideration of the bill, as requested by President Bush, to increase the statutory debt limit for 3 months.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. Bosco). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 228, nays 193, not voting 10, as follows:

[Roll No. 199]

YEAS—228

Ackerman	Browder	Donnelly
Akaka	Brown (CA)	Dorgan (ND)
Alexander	Bruce	Downey
Anderson	Bryant	Durbin
Annunzio	Bustamante	Dwyer
Anthony	Byron	Dymally
Applegate	Cardin	Dyson
Aspin	Carper	Eckart
Atkins	Carr	Edwards (CA)
AuCoin	Clarke	Engel
Barnard	Clement	English
Bates	Coleman (TX)	Evans
Beilenson	Conte	Fascell
Berman	Cooper	Fazio
Bilbray	Costello	Feighan
Boggs	Coyne	Fish
Bonior	Crockett	Flake
Borski	de la Garza	Flippo
Bosco	Dellums	Foglietta
Boucher	Derrick	Ford (MI)
Boxer	Dicks	Ford (TN)
Brennan	Dingell	Frank
Brooks	Dixon	Frenzel
Frost	Manton	Rostenkowski
Garcia	Markey	Roukema
Gaydos	Martinez	Rowland (GA)
Gejdenson	Matsui	Roybal
Gephardt	Mavroules	Russo
Gibbons	Mazzoli	Sabo
Gingrich	McCandless	Saiki
Glickman	McCloskey	Savage
Gonzalez	McCurdy	Sawyer
Gordon	McDermott	Scheuer
Gradison	McGrath	Schroeder
Gray	McHugh	Schumer
Green	McNulty	Sikorski
Guarini	Miume	Sisisky
Hall (OH)	Michel	Skaggs
Hatcher	Miller (CA)	Skelton
Hawkins	Mineta	Slattery
Hayes (IL)	Moakley	Slaughter (NY)
Hertel	Mollohan	Smith (FL)
Hoagland	Montgomery	Smith (IA)
Hochbrueckner	Moody	Solarz
Horton	Morella	Spratt
Houghton	Morrison (CT)	Staggers
Huckaby	Mrazek	Stark
Hughes	Murphy	Stenholm
Jenkins	Murtha	Stokes
Johnson (CT)	Nagle	Studds
Johnson (SD)	Natcher	Swift
Johnston	Neal (MA)	Synar
Jones (GA)	Neal (NC)	Tanner
Jones (NC)	Nelson	Torres
Jontz	Nowak	Torricelli
Kanjorski	Oakar	Towns
Kaptur	Oberstar	Traficant
Kastenmeier	Olin	Traxler
Kennedy	Ortiz	Udall
Kennelly	Owens (NY)	Unsoeld
Kildee	Pallone	Vento
Kleczka	Panetta	Visclosky
Kolter	Pashayan	Volkmer
Kostmayer	Payne (NJ)	Walgren
LaFalce	Payne (VA)	Waxman
Lantos	Pease	Weiss
Lehman (CA)	Pelosi	Wheat
Lehman (FL)	Penny	Whitten
Leland	Perkins	Williams
Levin (MI)	Pickett	Wilson
Levine (CA)	Pickle	Wise
Lewis (GA)	Price	Wolpe
Lipinski	Rahall	Wyden
Long	Rangel	Wylie
Lowey (NY)	Roe	Yates
Luken, Thomas	Rose	Yatron

NAYS—193

Andrews	Douglas	James
Archer	Dreier	Kasich
Armey	Duncan	Kolbe
Baker	Early	Kyl
Ballenger	Edwards (OK)	Lagomarsino
Bartlett	Emerson	Lancaster
Barton	Erdreich	Laughlin
Bateman	Espy	Leach (IA)
Bennett	Fawell	Leath (TX)
Bentley	Fields	Lent
Bereuter	Gallegly	Lewis (CA)
Bevill	Gallo	Lewis (FL)
Bilirakis	Gekas	Lightfoot
Bliley	Gillmor	Livingston
Boehlert	Gilman	Lloyd
Broomfield	Goodling	Lowery (CA)
Brown (CO)	Goss	Lukens, Donald
Buechner	Grandy	Machtley
Bunning	Grant	Madigan
Burton	Gunderson	Marlenee
Callahan	Hall (TX)	Martin (IL)
Campbell (CA)	Hamilton	Martin (NY)
Campbell (CO)	Hammerschmidt	McCollum
Chandler	Hancock	McCrery
Chapman	Hansen	McDade
Clinger	Harris	McEwen
Coble	Hastert	McMillan (NC)
Coleman (MO)	Hayes (LA)	McMillen (MD)
Combest	Hefley	Meyers
Coughlin	Hefner	Miller (OH)
Cox	Henry	Miller (WA)
Craig	Herger	Molinari
Crane	Hiler	Moorhead
Dannemeyer	Holloway	Morrison (WA)
Darden	Hopkins	Myers
DeFazio	Hubbard	Nielson
DeLay	Hunter	Owens (UT)
DeWine	Hutto	Oxley
Dickinson	Inhofe	Packard
Dornan (CA)	Jacobs	Parker

Parris	Schiff	Stallings
Patterson	Schneider	Stangeland
Paxon	Schuette	Stearns
Petri	Schulze	Stump
Porter	Sensenbrenner	Sundquist
Poshard	Sharp	Tallon
Pursell	Shaw	Tauke
Quillen	Shays	Tauzin
Ravenel	Shumway	Thomas (CA)
Ray	Shuster	Thomas (GA)
Regula	Skeen	Thomas (WY)
Rhodes	Slaughter (VA)	Upton
Richardson	Smith (MS)	Valentine
Ridge	Smith (NE)	Vander Jagt
Rinaldo	Smith (NJ)	Vucanovich
Ritter	Smith (TX)	Walker
Roberts	Smith (VT)	Walsh
Robinson	Smith, Denny (OR)	Watkins
Rogers	Smith, Robert (NH)	Weber
Rohrabacher	Smith, Robert (OR)	Weldon
Roth	Snowe	Whittaker
Rowland (CT)	Solomon	Wolf
Sangmeister	Spence	Young (AK)
Sarpalius		Young (FL)
Saxton		
Schaefer		

NOT VOTING—10

Clay	Davis	Ireland
Collins	Florio	Obey
Conyers	Hoyer	
Courter	Hyde	

□ 1440

Messrs. BOEHLERT, HEFNER, THOMAS of California, ANDREWS, McMILLEN of Maryland, BEVILL, and RICHARDSON, changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. Bosco). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 217, I call up the bill (H.R. 3024) to increase the statutory limit on the public debt, and for other purposes, and ask for its immediate consideration.

□ 1441

The SPEAKER pro tempore (Mr. HUBBARD). The Clerk will report the title of the bill.

The Clerk read the title of the bill.

The text of H.R. 3024 is as follows:

H.R. 3024

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.

During the period beginning on the date of the enactment of this Act and ending on October 31, 1989, the public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be temporarily increased by $70,000,000,000.

SEC. 2. CURRENT ACCRUAL VALUE OF CERTAIN OBLIGATIONS ISSUED ON A DISCOUNT BASIS.

Subsection (c) of section 3101 of title 31, United States Code, is amended to read as follows:

"(c) For purposes of this section, the face amount, for any month, of any obligation issued on a discount basis that is not redeemable before maturity at the option of the holder of the obligation is an amount equal to the sum of—

"(1) the original issue price of the obligation, plus

"(2) the portion of the discount on the obligation attributable to periods before the beginning of such month (as determined under the principles of section 1272(a) of the Internal Revenue Code of 1986 without regard to any exceptions contained in paragraph (2) of such section).".

The SPEAKER pro tempore. Pursuant to House Resolution 217, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3024, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering H.R. 3024, a bill to provide a temporary increase in the public debt limit. As you know, Secretary Brady has written to advise the Congress that the Federal Government is rapidly approaching the current limit of $2.8 trillion. During the past several weeks, the Treasury Department has notified us several times that the current debt limit will be exceeded sometime during the August recess.

As we all know, if that happens, the Federal Government will no longer be able to meet its obligations and the country will default on its debt. Social Security checks won't go out; and Medicare obligations won't be met.

But beyond the immediate effects, a default would make foreign investors reluctant to buy U.S. Treasury securities. Borrowing costs would increase significantly. International financial security would be threatened.

The Committee on Ways and Means reported H.R. 3024 to temporarily increase the debt limit by $70 billion through October 31, 1989, in order to prevent this disaster. A long-term increase sufficient to carry the Treasury through all of fiscal year 1990 has passed the House and is pending in the Senate. The administration supports this temporary increase, and is encouraging Congress to pass it in a timely manner.

At the request of the Treasury Department, the bill also modifies the accounting in the public debt limit to provide that bonds issued on a discount basis will be counted in the public debt limit at the original issue price plus periodic accruals of interest. At maturity of such discounted bonds, the public debt limit will carry them at their face value.

Under present law, the debt limit applies to the face amount of the securities issued by the Treasury; that is, the sum that must be paid when the obligation reaches maturity; thus, a $10,000 bond which matures in 20 years is carried as a $10,000 debt from time to issuance, and the semimonthly interest payments are cash outlays and are accounted for in the budget. This method of accounting applies to all Treasury debt except certain short-term debt, such as, bills sold at discount and savings bonds. Savings bonds are counted in the debt limit at their issue price plus periodic additions reflecting the accrual of interest that usually is paid on redemption. Savings bonds, unlike other bonds, are redeemable at the option of the holder, after an initial 6-month holding period.

Treasury proposes that all debt issued at discount be accounted for at the issue price, and periodically interest accruals (on a discounted bond) would be added to the outstanding debt. As a result, a $10,000 zero-interest bond could be issued at $2,000 and accrue interest at 10 percent compounded annually. At the time of issue, the outstanding debt would increase by $2,000, and at the end of the first year after issue, the outstanding debt (and the interest on public debt account in the budget) would be increased by $200 and by $240 at the end of the second year to reflect to accrual of interest. By the time the bond matures, the outstanding debt would have been increased by $10,000, which is the amount borrowed plus the accrued interest which is paid in a lump-sum when the bond matures. Unlike savings bonds, discounted bonds are not redeemable at the option of the holder.

The Treasury Department offers several reasons to score debt at the accrual value:

First, Treasury would have greater flexibility to issue innovative types of obligations such as zero-coupon securities, whose principal amount changes over time.

Second, Treasury could tailor special securities issues to facilitate achieving other policy goals without increasing budget outlays.

Third, it would make uniform the debt limit accounting treatment for all Treasury securities.

Fourth, it would be consistent with the accrual accounting approach of the unified budget for interest on public debt held by the public.

Mr. Speaker, Congress simply cannot adjourn for the August recess next week unless we have protected

the ongoing operations of the Federal Government by temporarily increasing the public debt limit. Therefore, I urge my colleagues to pass H.R. 3024.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3024, the bill to provide a temporary increase in the limit on the public debt.

As our chairman, the gentleman from Illinois, has explained, the measure increases the debt limit by $70 billion through October 31, 1989. That will give the Congress time to complete this year's deficit reduction effort and to enact a longer term debt limit extension in a less frenzied atmosphere.

I support this bill because without it, the Treasury tells us it will be unable to honor its obligations as of August 15. It would in my opinion be irresponsible for us to adjourn without providing Treasury the authority it needs to keep the Government going.

It will allow Treasury to continue to issue checks to retirees, invest the trust fund reserves, implement the FSLIC legislation if it is enacted prior to the recess, and pay the ongoing expenses of the Federal Government which have already been incurred.

The immediate financial needs of our country require that we pass a short-term, clean, debt limit extension before we adjourn. This bill meets those requirements. It's short-term. It's clean.

As distasteful as any increase in the Federal debt may be to me personally, and to many others in this Chamber, we should adopt this measure. We cannot undo, in the few days remaining, the damage that years of deficit-driving fiscal policy have wrought.

Mr. Speaker, I urge the adoption of H.R. 3024 by the House with the commitment to work to adopt a deficit reduction plan to carry us a step nearer to that time when debt limit extensions may no longer be necessary.

□ 1450

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time.

Mr. ARCHER. Mr. Speaker, I yield 2½ minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the bill. I do so hopefully without too much self-righteous posturing, because all of our hands are dirty and all of our hands are bloodied in regard to this bill.

This has been described as a short-term, clean extension of the national debt limit. It may be short term, but it is not clean. It is not clean because, quite frankly, those of us on both sides of the aisle year after year in recent years have failed to address fundamental structural imbalances between revenues and outlays.

Members on my side of the aisle used to attack the other side of the aisle as the party of tax tax, spend spend. Unfortunately, my side of the aisle has too often become the party of spend spend, no tax, no tax. We just cannot keep going this way, Mr. Speaker.

And yes, it is true, it is true that given the exigencies of the moment, somehow, some way, something is going to happen between now and the end of the week to enable us to take our leave. I understand that. I understand we are not going to sit and not allow Social Security checks to be mailed.

But somehow it seems to me we ought to at least raise the political toll or the political price of our actions by some of us just reminding ourselves as to what it is we are doing. By allowing this short-term hike of the debt limit, once again, we are absolving ourselves of our responsibility to face some very fundamental questions that are undermining the economic viability of this Nation, passing debt on once again to the next generation.

Mr. Speaker, I remember 2 years ago when we got in a major impasse on this issue. The result, of course, was the infamous 1987 budget agreement, a budget agreement that was advertised in the press as an agreement that was going to get us back on the path to some more sound relation between revenues and outlays. The net effect, of course, was to increase taxes, increase spending, and yes, continue to increase the debt.

I want to close by saying yes, I am part of the problem. I have to say that because I do not want to get up here as if this is some kind of self-righteous posturing, and I know for those who bear the burden of getting us to the end of the week and not having the Government shut down, they are tempted to view me and Members on this side of the question that way. But the fact of the matter is, Mr. Speaker, a vote to extend and increase the debt deficit limit, as we are doing in this instance, is really, on the part of all of us, an admission of failure, and I think the RECORD ought to indicate that.

Mr. DREIER of California. Mr. Speaker, I rise in opposition to H.R. 3024, to temporarily increase the statutory limit of the public debt. It appears that Congress will once again abdicate responsibility and place further financial burdens on future generations by raising the limit on Federal borrowing.

H.R. 3024 provides for a temporary increase of $70 billion in the permanent public debt limit, which currently stands at $2.8 trillion. I understand funding is necessary for the Federal Government to continue daily operations. However, I disagree with the means and the regularity by which Congress raises the debt limit.

In an effort to increase congressional accountability for its budgetary actions, I have introduced legislation during previous sessions of Congress to require a two-thirds vote on any proposal to raise the debt ceiling. We must make it more difficult for Congress to keep increasing the debt limit, and less difficult to reduce the budget deficit.

Mr. Speaker, I'm a firm believer in fiscal responsibility. The answer to our spending woes can be addressed with a strong commitment on behalf of Congress to financial responsibility. Let's enact a balanced budget amendment. Let's give the President the line-item veto. Finally, let's reverse the current trend to raise the debt ceiling by holding each Member of Congress accountable for their vote by requiring a super majority before any increase in the debt limit is adopted.

Mr. ARCHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 231, nays 185, not voting 15, as follows:

[Roll No. 200]

YEAS—231

Ackerman	Bustamante	Edwards (CA)
Akaka	Byron	Engel
Alexander	Cardin	Espy
Andrews	Carper	Evans
Annunzio	Chandler	Fascell
Anthony	Chapman	Fazio
Archer	Clarke	Feighan
Atkins	Clement	Flake
AuCoin	Coleman (MO)	Flippo
Bateman	Coleman (TX)	Foglietta
Beilenson	Combest	Ford (MI)
Bennett	Conte	Ford (TN)
Berman	Cooper	Frank
Bevill	Coughlin	Frenzel
Bilbray	Coyne	Frost
Bliley	Crockett	Gallo
Boehlert	Davis	Garcia
Boggs	de la Garza	Gaydos
Bonior	Dellums	Gephardt
Borski	Derrick	Gibbons
Bosco	Dickinson	Gillmor
Boucher	Dingell	Gingrich
Boxer	Dixon	Gonzalez
Brennan	Donnelly	Gordon
Brooks	Downey	Gradison
Browder	Durbin	Gray
Brown (CA)	Dwyer	Green
Bruce	Dymally	Guarini

Hall (OH)	McHugh	Saiki
Hamilton	McMillen (MD)	Savage
Hammerschmidt	McNulty	Sawyer
Harris	Mfume	Scheuer
Hatcher	Michel	Schumer
Hawkins	Miller (WA)	Sikorski
Hayes (IL)	Mineta	Sisisky
Hayes (LA)	Moakley	Skaggs
Hochbrueckner	Mollohan	Smith (FL)
Horton	Montgomery	Smith (IA)
Houghton	Moody	Smith (VT)
Huckaby	Morella	Snowe
Jenkins	Morrison (CT)	Solarz
Johnson (CT)	Morrison (WA)	Spratt
Johnson (SD)	Mrazek	Staggers
Jones (NC)	Murtha	Stangeland
Kastenmeier	Nagle	Stark
Kennedy	Natcher	Stenholm
Kennelly	Neal (MA)	Stokes
Kildee	Nelson	Studds
Kleczka	Nowak	Sundquist
Kolbe	Oakar	Swift
Kostmayer	Oberstar	Synar
Lantos	Obey	Tanner
Lehman (CA)	Olin	Thomas (CA)
Lehman (FL)	Ortiz	Torres
Leland	Owens (NY)	Towns
Lent	Owens (UT)	Traxler
Levin (MI)	Panetta	Udall
Levine (CA)	Patterson	Upton
Lewis (GA)	Payne (NJ)	Vander Jagt
Lloyd	Payne (VA)	Vento
Lowery (CA)	Pease	Visclosky
Luken, Thomas	Penny	Volkmer
Madigan	Perkins	Walgren
Manton	Pickle	Walsh
Markey	Porter	Waxman
Martin (IL)	Price	Weber
Martin (NY)	Rahall	Weiss
Martinez	Rangel	Wheat
Matsui	Rhodes	Whitten
Mavroules	Robinson	Williams
Mazzoli	Roe	Wilson
McCloskey	Rose	Wise
McCrery	Rostenkowski	Wolf
McCurdy	Roukema	Wolpe
McDade	Rowland (GA)	Wyden
McDermott	Roybal	Wylie
McGrath	Sabo	Yates

NAYS—185

Anderson	Fish	Lewis (CA)
Applegate	Gallegly	Lewis (FL)
Armey	Gejdenson	Lightfoot
Baker	Gekas	Lipinski
Ballenger	Gilman	Livingston
Bartlett	Glickman	Long
Barton	Goodling	Lowey (NY)
Bates	Goss	Lukens, Donald
Bentley	Grandy	Machtley
Bereuter	Grant	Marlenee
Bilirakis	Gunderson	McCandless
Broomfield	Hancock	McCollum
Brown (CO)	Hansen	McEwen
Buechner	Hastert	McMillan (NC)
Bunning	Hefley	Meyers
Burton	Hefner	Miller (CA)
Callahan	Henry	Miller (OH)
Campbell (CA)	Herger	Molinari
Campbell (CO)	Hertel	Moorhead
Carr	Hiler	Murphy
Clinger	Hoagland	Myers
Coble	Holloway	Neal (NC)
Costello	Hopkins	Nielson
Cox	Hubbard	Oxley
Craig	Hughes	Packard
Crane	Hunter	Pallone
Dannemeyer	Hutto	Parker
Darden	Inhofe	Parris
DeFazio	Jacobs	Pashayan
DeLay	James	Paxon
DeWine	Johnston	Petri
Dorgan (ND)	Jones (GA)	Pickett
Douglas	Jontz	Poshard
Dreier	Kanjorski	Pursell
Duncan	Kaptur	Quillen
Dyson	Kasich	Ravenel
Early	Kolter	Ray
Eckart	Kyl	Regula
Edwards (OK)	LaFalce	Richardson
Emerson	Lagomarsino	Ridge
English	Lancaster	Rinaldo
Erdreich	Laughlin	Ritter
Fawell	Leach (IA)	Roberts
Fields	Leath (TX)	Rogers
Rohrabacher	Skeen	Stump
Roth	Skelton	Tallon
Rowland (CT)	Slattery	Tauke
Russo	Slaughter (NY)	Tauzin
Sangmeister	Slaughter (VA)	Thomas (GA)
Sarpalius	Smith (MS)	Thomas (WY)
Saxton	Smith (NE)	Torricelli
Schaefer	Smith (NJ)	Traficant
Schiff	Smith (TX)	Unsoeld
Schneider	Smith, Denny (OR)	Valentine
Schroeder	Smith, Robert (NH)	Vucanovich
Schuette	Smith, Robert (OR)	Walker
Schulze	Solomon	Watkins
Sensenbrenner	Spence	Weldon
Sharp	Stallings	Whittaker
Shaw	Stearns	Yatron
Shays		Young (AK)
Shumway		Young (FL)
Shuster		

NOT VOTING—15

Aspin	Conyers	Hall (TX)
Barnard	Courter	Hoyer
Bryant	Dicks	Hyde
Clay	Dornan (CA)	Ireland
Collins	Florio	Pelosi

□ 1317

The Clerk announced the following pair:

On this vote:

Mr. Hoyer for, with Mr. Dornan of California against.

Mrs. UNSOELD and Ms. KAPTUR changed their vote from "yea" to "nay."

Mr. HARRIS and Mr. BROWDER changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING AMOUNTS FOR FURTHER EXPENSES OF INVESTIGATIONS AND STUDIES BY THE COMMITTEE ON THE JUDICIARY

Mr. GAYDOS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 201) providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on the Judiciary in the 1st session of the 101st Congress, and ask for its immediate consideration in the House.

The Clerk read the resolution, as follows:

H. RES. 201

Resolved, That for further expenses of investigations and studies by the Committee on the Judiciary (hereinafter in this resolution referred to as the "committee"), there shall be paid out of the contingent fund of the House not more than $275,129 (to be available only with respect to judicial impeachment), any of which may be used for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946.

SEC. 2. Payments under this resolution shall be made on vouchers authorized by the committee, signed by the chairman of the committee, and approved by the Committee on House Administration.

SEC. 3. Amounts shall be available under this resolution for investigations and studies carried out during the period beginning at noon on January 3, 1989, and ending immediately before noon on January 3, 1990.

SEC. 4. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

SEC. 5. The Committee on House Administration shall have authority to make adjustments in amounts for investigations and studies under the first section of this resolution, if necessary to comply with an order of the President issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 or to conform to any reduction in appropriations for the purposes of such first section.

Mr. GAYDOS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. HUBBARD). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 1 hour.

Mr. GAYDOS. Mr. Speaker, I yield the customary 30 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH], for purposes of debate only, pending which I yield myself such time as I may consume, with the understanding that any additional time which I may yield will be subject to the specific limitation for debate purposes only.

Mr. Speaker, the resolution provides $275,129 for further expenses of investigations and studies with respect to judicial impeachment by the Committee on the Judiciary in the 1st session of the 101st Congress. Any of this amount may be used for the procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946.

On July 26, 1989, the Committee on House Administration considered this resolution at its full committee meeting and as a result, by unanimous-voice vote the resolution was favorably reported to the House.

The Judiciary Committee since March 1987 has been involved in impeachment activities concerning U.S. District Judge Alcee L. Hastings. As a result of its independent investigation that committee reported 17 articles of impeachment to the House in July 1988. The impeachment resolution was subsequently adopted by the House on August 3, 1988 and several members of the Judiciary Committee were appointed to act as managers on behalf of the House to prosecute the case in the Senate.

During the 101st Congress, the House impeachment team has been engaged in very detailed and extensive preparatory work for the Hastings trial in the Senate including a consid-

erable amount of the activity on legal and procedural issues. The trial commenced before a specially constituted Senate committee on July 10, 1989. The Senate committee expects to finish the trial phase by August 4, but it should be noted that intervening events could delay this date. The matter will then be considered by the full Senate at some date after the August recess. At this time, Chairman BROOKS anticipates that all activities involving the Hastings matter including the archiving of documents and the concluding of final administrative business will be completed by October 31, 1989.

Additionally, the Judiciary Committee has conducted and completed an impeachment investigation of the U.S. District Judge Walter L. Nixon, Jr. The committee reported an impeachment resolution to the House on April 25, 1989 and it was adopted by the House on May 10, 1989. Members of the Judiciary Committee were, then, appointed to serve as managers on behalf of the House to prosecute the matter in the Senate. The Nixon trial is currently expected to begin in the fall after the conclusion of the Hastings matter. Chairman BROOKS has indicated that his committee anticipates that the Nixon matter will conclude by the end of 1989.

House Resolution 201 should provide the Judiciary Committee with sufficient funds to finish its impeachment work in this session. It should be noted that the total amount of funds provided to that committee for judicial impeachment activities for the first session by section 5 of House Resolution 103, the omnibus primary expense resolution and by House Resolution 201, the pending supplemental is $714,105. By the terms of these resolutions, those funds can only be used for judicial impeachment activities.

□ 1520

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 201, which provides $275,129 from the contingent fund of the House to be used for judicial impeachment activities. These activities include the impeachment of U.S. Judge Alcee L. Hastings and Judge Walter L. Nixon. Extensive research and pretrial activities involved in both cases have resulted in significant delays not previously anticipated, thereby constituting the need for additional moneys in order for the committee to fully complete its responsibilities.

Mr. Speaker, I would like to assure all Members present that this matter was reviewed in a complete and thorough manner by the Committee on House Administration. Furthermore, this supplemental is necessary and fundamental to the effort to maintain the integrity and virtue of the Federal judiciary. I commend Chairman ANNUNZIO and our Accounts Subcommittee chairman, Mr. GAYDOS, for their invaluable guidance in this matter and urge all Members to support this resolution.

Mr. BROOKS. Mr. Chairman, House Resolution 201, agreed to today by the House, will provide supplemental funding from the contingent fund of the House for judicial impeachment activities of the Committee on the Judiciary for the remainder of this year. It authorizes the expenditure of $275,129 for those activities, and is supplemental to the $438,976 that was previously provided for impeachment activities in House Resolution 103 at the beginning of this Congress.

The Committee on the Judiciary has been involved in ongoing activities related to two U.S. district judges, Alcee L. Hastings and Walter L. Nixon, Jr. The Hastings impeachment, which commenced with an investigation that began in March 1987, has progressed to the point of a trial which is currently being conducted before a specially constituted committee of the Senate. That trial is likely to conclude by the end of this week.

The Committee on the Judiciary began a separate investigation into allegations of conduct which might constitute grounds of impeachment against Judge Nixon on March 17, 1988. During this Congress, the Subcommittee on Civil and Constitutional Rights ordered favorably reported to the committee a resolution impeaching Judge Nixon. This resolution was ordered favorably reported to the House on April 25, 1989, and was agreed to by the House on May 10, 1989. If all goes well, the Nixon trial is expected to begin in the Senate in September.

Both of these impeachment investigations and subsequent activities leading up to and including the trials before the Senate have been undertaken by separate impeachment staffs independent of the regular committee staff. These staffs have operated under the direction of an experienced trial lawyer under a consultant contract arrangement.

The supplemental funding provided by this resolution is necessitated by two circumstances. At the beginning of the 101st Congress, the Committee on the Judiciary submitted a request for authorization of $673,420 for the two ongoing judicial impeachment activities. House Resolution 103 authorized $438,976, or approximately 65 percent of the requested amount, for those impeachment activities.

In addition, the committee's original request was based on the assumption that the activities involved in the Hastings impeachment would be concluded by July 31. Due to the delay in beginning Judge Hastings' trial before the Senate, it is now anticipated that these activities will be completed by the end of October. This will include archiving of documents and other administrative details after the trial ends. The committee anticipates that the Nixon impeachment activities will be finished by the end of this calendar year.

I appreciate the strong support of Chairman ANNUNZIO and ranking minority member THOMAS of the Committee on House Administration, and of the chairman and ranking minority member of the Accounts Subcommittee, Mr. GAYDOS and Mrs. VUCANOVICH.

Mrs. VUCANOVICH. Mr. Speaker, I yield back the balance of my time.

Mr. GAYDOS. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING AMOUNTS FOR FURTHER EXPENSES OF INVESTIGATIONS AND STUDIES BY THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. GAYDOS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 208) providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on Standards of Official Conduct in the first session of the One Hundred First Congress, and ask for its immediate consideration in the House.

The Clerk read the resolution, as follows:

H. RES. 208

Resolved, That for further expenses of investigations and studies by the Committee on Standards of Official Conduct (hereinafter in this resolution referred to as the "committee"), there shall be paid out of the contingent fund of the House not more than $500,000, any of which may be used for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946.

SEC. 2. Payments under this resolution shall be made on vouchers authorized by the committee, signed by the chairman of the committee, and approved by the Committee on House Administration.

SEC. 3. Amounts shall be available under this resolution for investigations and studies carried out during the period beginning at noon on January 3, 1989, and ending immediately before noon on January 3, 1990.

SEC. 4. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

SEC. 5. The Committee on House Administration shall have authority to make adjustments in amounts for investigations and studies under the first section of this resolution, if necessary to comply with an order of the President issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 or to conform to any reduction in appropriations for the purposes of such first section.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 1 hour.

Mr. GAYDOS. Mr. Speaker, I yield the customary 30 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH], for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, the resolution provides $500,000 for further expenses of investigations and studies by the Committee on Standards of Official Conduct in the first session of the 101st Congress. Any of this amount may be used for the procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946.

The Committee on Standards of Official Conduct has requested this additional $500,000 for the first session to enable that committee to have adequate funds to discharge its responsibilities during the remainder of the current session. Due to the nature of the Committee on Standards of Official Conduct, its workload is not subject to either predictability or its own control.

On July 26, 1989, the Committee on House Administration considered this resolution at its full committee meeting and as a result, the resolution was favorably reported to the House without change by unanimous voice vote.

Finally, there are strong institutional concerns present in the matter pending before the House today. It is imperative for the House to have the necessary resources to police itself, and, accordingly, the Committee on Standards of Official Conduct should be authorized sufficient funds to enable it to discharge its important institutional responsibilities. Accordingly, I urge that my colleagues vote in favor of the resolution.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

(Mrs. VUCANOVICH asked and was given permission to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, today I rise in support of House Resolution 208 which provides $500,000 in additional moneys in order to fund further investigations and studies by the Committee on Standards of Official Conduct for the remainder of the first session of the 101st Congress. As you know, the various assignments of the committee are not subject to predictability or control of any kind, whereby it is imperative that the committee have the resources necessary to discharge all responsibilities with integrity and expedience.

Mr. Speaker, I am convinced that the Committee on House Administration has completed a thorough and satisfactory review of this request. In addition, I would like to commend Chairman ANNUNZIO and our accounts subcommittee chairman, Mr. GAYDOS, for their fine leadership on this matter and I urge all Members to support this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. GAYDOS. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the two resolutions just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PROVIDING FOR UPGRADING AND ESTABLISHMENT OF VARIOUS POSITIONS ON THE CAPITOL POLICE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the resolution (H. Res. 212) providing for upgrading of one position and establishment of six additional positions on the Capitol Police for duty with respect to the House of Representatives, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, under my reservation I will ask the gentlewoman for an explanation of the resolution and I yield to her for that purpose.

Ms. OAKAR. Mr. Speaker, House Resolution 212 provides for upgrading one position and the establishment of six additional positions on the Capitol Police for duty with respect to the House of Representatives. Mr. Speaker, the House leadership approved several measures to improve security while the overall whip's security plan is being implemented. One interim measure included the establishment of a delivery center off the Capitol Grounds where packages destined for the Capitol can be screened using canine teams and x ray equipment.

The cost for these six new technician positions would be $182,000. Funding for these positions was requested and granted in the Capitol Police budget for fiscal year 1989, pending approval by the Committee on House Administration, and the committee did approve this at its meeting on Wednesday, July 26, 1989.

Mr. Speaker, House Resolution 212 also provides for the supervisor position at the firing range be upgraded to lieutenant. The primary responsibility of this officer is direct, continuous supervision of privates. The incumbent has developed a firearms-related expertise unmatched by any other member of the department. The additional cost of this upgrade would be $1,685 annually.

Mr. Speaker, I want to thank the ranking minority Member, the gentleman from Kansas [Mr. ROBERTS], for his cooperation, and I offer my thanks also to our full committee chairman and the full committee.

□ 1530

Mr. ROBERTS. Mr. Speaker, the minority concurs with the majority, and I associate myself with the remarks of the gentlewoman from Ohio [Ms. OAKAR].

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HUBBARD). Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 212

Resolved, That (a) there are established one additional position of lieutenant and six additional positions of technician on the Capitol Police, each for duty with respect to the House of Representatives.

(b) Each appointment to a position under subsection (a) shall be made—

(1) by the Capitol Police Board, with prior approval of the Committee on House Administration; and

(2) without regard to political affiliation and solely on the basis of fitness to perform the duties of the position.

SEC. 2. One position of sergeant on the Capitol Police for duty with respect to the House of Representatives is abolished.

SEC. 3. Until otherwise provided by law, there shall be paid out of the contingent fund of the House of Representatives such sums as may be necessary to carry out this resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H. Res. 212, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

REQUIRING ARCHITECT OF THE CAPITOL TO ESTABLISH VOLUNTARY PROGRAM FOR RECYCLING PAPER DISPOSED OF BY THE HOUSE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the resolution (H. Res. 104) requiring the Architect of the Capitol to establish and implement a voluntary program for recycling paper disposed of in the operation of the House of Representatives, and ask for

its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, I ask the gentleman from Pennsylvania to explain the purpose of the resolution.

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Speaker, House Resolution 104 requires the Architect of the Capitol to establish and implement a voluntary program for recycling paper disposed of in the operation of the House of Representatives. Such a recycling program will entail separation of paper at its source of generation in individual offices, and that is about the extent of it.

Mr. ROBERTS. Mr. Speaker, further reserving the right to object, does the gentleman from California agree that the Committee on House Administration supports the concept of a phased-in pilot project, beginning with the separation of grade 1 and grade 2 paper, and that pending a successful evaluation of the pilot project, the committee will consider implementing an expanded recycling effort.

Mr. GAYDOS. Yes, the gentleman's understanding is correct.

Mr. ROBERTS. Mr. Speaker, under my reservation of objection, I yield with pleasure to the author of the recycling legislation, the champion of recycling, the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I thank the gentleman from Kansas [Mr. ROBERTS] for yielding to me. I should like to take this time to express my appreciation to the gentleman from California [Mr. BATES], for taking my resolution under his wing upon referral to his subcommittee and for calling prompt hearings. The Architect of the Capitol, who has been doing very substantial work in the recycling field and has been looking thoughtfully at the problems of recycling in the Capitol, has issued a very comprehensive report.

The gentleman from California [Mr. BATES], saw that my resolution received expeditious handling within the Committee on House Administration, and I want to express my appreciation to him and to all members of that committee for their thoughtful consideration.

Mr. ROBERTS. Mr. Speaker, under my reservation of objection, I yield to the gentleman from California [Mr. BATES], my subcommittee chairman.

Mr. BATES. Mr. Speaker, I thank the gentleman from Kansas [Mr. ROBERTS] for yielding to me.

Mr. Speaker, I appreciate the opportunity to say a few words, and I want to commend the gentleman from New York [Mr. GREEN], on this resolution and also his assistance and the Architect's in developing this program.

Mr. Speaker, I think this is just the beginning of a much-needed recycling program here in the House of Representatives, and with that I hope this pilot program can be shortened from at least the 1-year period, but, if not, at least a 1-year period has been allowed.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman from California [Mr. BATES] for his contribution, and under my reservation of objection I would only make one additional observation.

Mr. Speaker, this does have a rather remarkable economic benefit. For example, the House currently receives only $1 per ton for its recycled trash. Separating our waste will generate $80 per ton for grade 1 paper and $40 per ton for grade 2 paper.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 104

Resolved, That, not later than 6 months after this resolution is agreed to, the Architect of the Capitol shall establish and implement a voluntary program for recycling paper that is disposed of in the operation of the House of Representatives. Such program shall be designed to encourage separation of paper by type at the sources of generation (including offices of Members of the House) and to sell such paper for the purpose of recycling.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ORDER OF BUSINESS

Mr. DREIER of California. Mr. Speaker, I ask unanimous consent that the 60-minute special orders of the gentleman from California [Mr. DORNAN] and the gentleman from Oklahoma [Mr. EDWARDS] earlier agreed to for Wednesday, August 2, 1989, be called in reverse order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GOVERNMENT CONTRIBUTIONS TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2705) relating to the method by which Government contributions to the Federal employees health benefits program shall be computed for 1990 or 1991 if no Governmentwide indemnity benefit plan participates in that year, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert: That (a)(1) in the administration of chapter 89 of title 5, United States Code, for contract year 1990 or 1991, in order to compute the average subscription charges under section 8906(a) of such title for such contract years, the subscription charges in effect for the indemnity benefit plan on the beginning date of each such contract year shall be deemed to be the subscription charges which—

(A) were in effect for such plan on the beginning date of the preceding contract year as adjusted under paragraph (2); or

(B) if subparagraph (A) does not apply, were deemed under this Act to have been in effect for such plan with respect to the preceding contract year as adjusted under paragraph (2).

(2) The subscription charges under paragraph (1) shall be increased or decreased (as appropriate) by the average percentage by which the respective subscription charges taken into account under paragraphs (1), (3), and (4) of such section 8906(a) for that contract year increased or decreased from the subscription charges taken into account under such paragraphs (1), (3), and (4) for the preceding contract year.

(b) Separate percentages shall be computed under subsection (a)(2) with respect to enrollments for self alone and enrollments for self and family, respectively.

(c) The provisions of this Act shall not apply to contract year 1991, if comprehensive reform legislation is enacted to amend section 8906 of title 5, United States Code, and such amendment is required to be implemented by the commencement of negotiations pertaining to rates and benefits for such contract year.

(d) Any reference in this Act to a "contract year" shall be considered to be a reference to a contract year under chapter 89 of title 5, United States Code.

(e) No later than 180 days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall transmit recommendations to the Congress for comprehensive reform of the Federal Employee Health Benefits Program.

Mr. FORD of Michigan (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. FORD of Michigan. Mr. Speaker, H.R. 2705 was passed by the House under suspension of the rules on June 27. The provisions of the Senate amendment are substantially the same as those of the House-passed bill with two minor exceptions.

The Senate amendment provides that the so-called proxy premium will not apply to the 1991 contract year if comprehensive Federal Employees Health Benefits reform legislation is enacted and implemented prior to the start of that contract year. The House-passed bill provided that the proxy premium would not apply to the 1991 contract year if the Office of Personnel Management were able to contract with another carrier for a Governmentwide indemnity benefit plan.

In addition, the Senate amendment requires the Director of the Office of Personnel Management to transmit to the Congress recommendations for comprehensive reform of the health benefits program not later than 6 months after the date of enactment of the Act.

Mr. Speaker, the Senate's modifications are acceptable to the committee and I urge the House to concur in the Senate amendment.

Mr. ACKERMAN. Mr. Speaker, I rise in support of H.R. 2705 as amended by the other body.

This legislation provides relief to the Federal Employees Health Benefits Program enrollees from an unanticipated premium increase due to Aetna Life Insurance Co.'s decision to withdraw from the health program.

The House-passed version of the bill provided that the Government contribution toward the health insurance premium be calculated as if Aetna still participated in the FEHBP. The other body's version of the legislation includes one substantive difference from the House bill—it requires the Office of Personnel Management to transmit to Congress recommendations for comprehensive reform of the FEHBP no later than 180 days after enactment.

Mr. Speaker, H.R. 2705 does not authorize the appropriation of any additional amount of funds to the Federal health program. It simply provides protection for Federal employees, annuitants and their dependents against any significant and unanticipated premium increase.

For those reasons, Mr. Speaker, I urge my colleagues to vote in favor of H.R. 2705.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

□ 1540

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the Senate amendment just concurred in.

The SPEAKER pro tempore (Mr. HUBBARD). Is there objection to the request of the gentleman from Michigan?

There was no objection.

ISRAEL AND TERRORISTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. SIKORSKI] is recognized for 5 minutes.

Mr. SIKORSKI. Mr. Speaker, yesterday an American citizen was brutally hanged by a group of barbarians. All of America was rightfully outraged, but not all of America reacted in an appropriate fashion, and in so doing naively played into the hands of the murderers themselves. Allowing the debate to shift away from the heinous series of acts these terrorists have committed only encourages them to strike again. That colleagues of mine would unwittingly participate in this scam is even sadder.

I know all of us have great sympathy for the family of Colonel Higgins. I am not certain what a full-scale, short-term or long-term response from us should be, but I am certain of one thing. Taking to task the single nation with an internationally known and respected reputation for being a stalwart against terrorism is not right. Israel never has given terrorists anything in exchange for hostages. They have never given terrorists cakes or Bibles or traded them arms; yet incredibly, some of my colleagues started in on them recently. Members of Congress chastised Israel for pursuing and capturing a leading figure in the Hezbollah terrorist organization. We are talking about a so-called cleric who was responsible for the very kidnaping of Colonel Higgins in the first place, as well as the abductions of other Americans and three Israeli soldiers. We are not talking about Ghandi or Mother Teresa. Instead, this is a man who champions his organization, Hezbollah, likening its "victories" as acts of God. These victories have been documented in over 40 terrorists incidents, including the 1983 bombing of our American Marine barracks; including the assassination of American University of Beirut President Kerr; including the murder of two U.S. Agency for International Development officials during a 1984 hijacking; including the execution of U.S. Navy diver Robert Stethem in the hijacking of a TWA flight with 39 other Americans aboard; including the kidnaping of a majority of the American hostages in Lebanon. "Cleric" indeed.

Israel is leading the fight against these terrorists. They live in a precarious position of having to balance their survival according to Middle East rules, while still living by Western standards and values. The Hezbollah does not. They feel no remorse. They threaten more bodies will follow, and no amount of American appeasement has or ever will have any effect on how fairly or humanely they play this game.

Besides, America has shown the same kind of resolve and tenacity in combating terrorism that some are now criticizing. In 1985, we intercepted an Egyptian plane in an attempt to capture the PLO mastermind behind the *Achille Lauro* hijacking.

In 1987, we carried out a covert operation to arrest Fawaz Yunis, a terrorist involved in an 1985 hijacking and the blowing up of a Jordanian airliner.

In 1986, President Reagan authorized the abduction of Mahmud al Abed Ahmad in Venezuela.

We should be proud of our past efforts to fight against terrorism, and continue its pursuit, rather than bowing to the outcries from the purveyors of terrorism.

Certainly the past actions of Syria, Libya, Iran, and Iraq, have in no way afforded them any moral high ground. Shifting the debate from the heinous act itself now serves but one purpose, a public relations victory for terrorists worldwide. And in winning that victory, these terrorists organizations hope they can drive a wedge between our historic relationship between Israel and the United States.

To underscore and to preserve our relationship with Israel, that country has taken the unprecedented step of offering to release Sheik Abul Karim Obeid, and all other terrorists in captivity, in return for the release of our hostages. Hezbollah's response—a videotape of a dangling body.

Mr. Speaker, this is not the time for us to turn on our friends and fellow victims. In doing so, we would allow these terrorists a political victory by diverting our fightful anger and disgust away from those truly responsible, including Sheik Abul Karin Obeid and the governments of Iran, Syria, Iraq, and Libya, which support him and his band of barbarians.

SLAIN NEBRASKAN, DANNY HOTZ, LEFT IMPRINT ON MANY LIVES

The SPEAKER pro tempore (Mr. MCNULTY). Under a previous order of the House, the gentleman from Nebraska [Mr. HOAGLAND] is recognized for 5 minutes.

Mr. HOAGLAND. Mr. Speaker, as you may know, Daniel M. Hotz, age 22, of Omaha, NE, was slain by gunshot the weekend before last in Washington, DC, near his home in the 200 block of 11th Street, Northeast, just 11 blocks from where we stand here today.

Dan was 1 of 9 children of Mr. and Mrs. William Hotz, a family that lives in my district in Omaha, NE. I have known Dan's father, I have known his

brother, Ed, for a good many years now, and I have known them well.

The senior Mr. Hotz and Ed have a highly respected law practice in Omaha, representing, among others, the Archdiocese of Nebraska and our Archbishop Daniel Sheehan.

Dan Hotz was one of Nebraska's finest. He was an eager, enterprising young man, deeply loved by his family and friends. His loss, of course, leaves a gap, a hole, a vacuum that his brothers, his sisters, and his friends will suffer with the rest of their lives.

There is no way to express the extraordinary sadness that many of us Omahans feel about the loss of Dan's life. His life was full of love, optimism, and hope, things that I have learned since his death, because I did not have the privilege of knowing him when he was alive.

His death was brutal, random, and senseless.

I have learned since his death that he was an open, humorous, and relaxed person. People loved him. People gathered around him. People loved to be with him and hear him tell stories and joke with him.

His brother said at the funeral, "He had the face of a choir boy and the heart of a little devil." He was unusually adventuresome. He was unusually popular.

He was a brave young man. After the shooting, he said, "Ain't no thief going to stop me." But the gravity of his gunshot wounds overcame him, and he could not survive them.

Mr. Speaker, I will include at the end of these remarks an article from Saturday's Washington Post describing Dan, from which I have taken some of these quotes.

Today, Mr. Speaker, I urge the President and all Members of Congress, with all the force that I can muster, to listen to the message that the death of Dan Hotz and other individuals like him convey for our Nation.

□ 1550

Mrs. Hotz told the Post reporter in this article:

There's something so seriously wrong with our country. How are we going to turn this around? We can't live like this.* * * We're only 200 years old and we're going down the drain.

Mr. President, Members of Congress, fellow Americans, the truth is we are losing the war on drugs. I think we all know that. We have observed the drug trade grow and prosper and flourish in this Nation. We are constantly behind the curve, losing more and more of our youngsters to lives of addiction and despair and, as in Dan Hotz' case, we are losing more and more of their victims.

It is time that we support a real war on drugs and that we bring all of the united and combined resources of government at every level, of corporate America, of academic America, of everything we have in this great Nation of ours to bear on this greatest of all domestic threats.

I call on you, I call on any of us, on all of us that we must get a hold on this problem now before we lose many more young bright lights like Dan Hotz.

Mr. Speaker, I include the article above referred to as follows:

[From the Washington Post, July 29, 1989]

SLAIN NEBRASKAN HAD LEFT IMPRINT ON MANY LIVES—1,000 IN OMAHA MOURN D.C. VICTIM

(By Steve Twomey)

OMAHA.—Mary Elizabeth Hotz, the mother of nine, waved goodbye to her youngest on July 3. Danny Hotz was 22, D.C.-bound and D.C.-eager: fresh from college, first real job, a new city he loved.

She bade him goodbye again on Wednesday, watching in tears as Hotz's casket was closed before his funeral Mass at St. Leo's Catholic Church, just up the hill from where he had grown up and half a continent from where he died so violently.

And on Thursday morning, Mary Hotz said she called President Bush.

She didn't reach Bush, she recalled, but she left a message at the White House that she wanted to talk with the president about the Capitol Hill killing of her son, about violence in America, about guns, drugs, poverty and homelessness.

"I believe I was entitled to two minutes of the president's time," Mrs. Hotz, 64, said Thursday, sitting in her living room with her husband, Bill, 72, a lawyer, and seven of their children, ages 24 to 40. "There's something so seriously wrong with our country.

"How are we going to turn this around? We can't live like this. We can't go on like this . . . We're only 200 years old and we're going down the drain."

Daniel McKim Hotz died early last Saturday, 15 days after he moved to Washington and just hours after he had finished his first week at Barrueta & Associates, a commercial real estate leasing and management firm at 1 Thomas Cir. NW.

Police said Hotz was shot twice after he refused to give money to two teenagers who approached him as he stepped from his car across the street from his house in the 200 block of 11th Street NE. A suspect has been charged with felony murder; one more was still being sought.

Hotz was the 244th homicide victim in Washington this year. He was also, say his classmates, friends, teachers and boss, a man who drew a crowd without trying; who would do anything at least once for the fun and experience of it; who loved to travel and loved to party, and who came from a popular Catholic family that includes a priest, his brother Bob, and a nun, his sister Mary.

He had, said his brother Tom at the funeral, "the face of a choirboy and the heart of a little devil."

So many people enjoyed him and his family that nearly 1,000 people filled St. Leo's for the funeral. Fifty-three priests, including the archbishop of Omaha, concelebrated the Mass with his brother. In the church lobby, dozens of people signed a makeshift sign that said, "You have left an imprint on our lives. We will never forget you."

"He left such an indelible mark on my firm, in one week," said Barbara Gravett, a principal partner of Barrueta & Associates. "This young man was incredible."

He had gone to Washington, said his family and friends, fully aware that it could be a dangerous place. He was no Nebraska rube.

"Dan knew, he knew exactly the situation out there," said Kevin O'Neal, 22, a friend.

Hotz had known District crime firsthand.

Hotz had spent the summer of 1988 on Capitol Hill, living on East Capitol Street with his high school friend, Larry Zier, and brother Tom.

Tom Hotz, 29, had moved to Washington in 1984 to work for a commercial real estate management firm. He had starting buying properties to rehabilitate and invited his brother and Zier to spend their summer break from college helping with the painting, the trash-hauling, the minor repairs.

The day after their arrival, Zier said, Dan's backpack and clothes were stolen from the trunk of their car, which they had left overnight near Catholic University.

"We were both a little stupid," said Zier, 22. "We had to realize that this was a big city. This wasn't Omaha, Nebraska."

Metropolitan Omaha, population 616,000, has its crime. Drug arrests this year totaled 1,045 through June, according to police statistics, and there are problems with gangs that have migrated from Los Angeles.

But there were only nine slayings through June. And in western Omaha, where Hotz captained the basketball team at Creighton Preparatory High School, the streets are leafy, the dwellings single-family, farther out the farmers' fields are deep green.

Hotz, though, was familiar with far more than just Omaha. In 1987 and early 1988, he spent five months in Europe studying German with 34 classmates from St. John's University, a small Catholic school in Collegeville, Minn.

They visited Berlin, Budapest, Stockholm, Helsinki and Leningrad, and Dan was always the quickest to adapt, the most at home with his unfamiliar surroundings, said the Rev. Mark Thamert, 38, the program leader.

"He was just very adventurous and would do all sorts of things people would think were risky," Thamert said.

Like Alaska.

Hotz and Zier spent the summer of 1987 there, going with only minimal funds, no contacts, no promise of work. They found jobs in a salmon fishery in Kenai, lived in tents and made enough money for Hotz to pay for his trip to Europe.

"A lot of our friends had just stuck around Omaha doing normal summer jobs, working for their fathers," said Zier, "and Dan wasn't like that."

Washington's lure for Dan Hotz wasn't power or politics, although they had once run in the Hotz family. His grandfather, Edward D. McKim, was a World War I friend of Harry S. Truman's and briefly served as Truman's chief administrative assistant.

But Hotz, an English major at St. John's, had only a passing interest in politics, said his friends. In fact, he hadn't really settled on a career path until, through Tom, he met Barbara Gravett during the summer of 1988.

Eventually, she gave him a job, offering to keep it for him until he graduated from St. John's last spring.

She hired him to lease office space in Potomac Tower, the 19-story I.M. Pei building in Rosslyn, and in 1 Cambridge Court in Merrifield.

She hired him, even though he had never sold or leased a square foot of real estate,

nor studied to do so. She hired him, she said, because he was "so direct, very articulate. . . . [He] had a smile on his face and was just a great kid."

While his job was the immediate catalyst, friends said Hotz also went to Washington because he loved its excitement and its procession of things to do. And, said Tom, "it has a ratio of 4 to 1 women to men."

He went, too, because of Tom: "Tom was his lifelong idol," said Cathy Jenkins, 22, a friend of Dan's since childhood. "He wanted to do everything with Tom."

None of Dan Hotz's friends said he behaved recklessly by refusing to turn over money to his assailants. They said he probably felt safe standing in front of his own home and probably never saw the gun that killed him.

He was not at fault, some said. Washington was.

"It's a shame that we have a capital with statistics like that, that's out of control like that," said Vince Driessen, 29, who lived in the District with Tom and Dan in 1988, "I've traveled around the world and you don't see that in Paris, you don't see that in London."

The Hotz family has asked that donations be sent to a North Omaha program that helps inner-city children learn basic skills needed to apply for work.

And Mrs. Hotz said she would like to talk to President Bush. As of late yesterday afternoon, the White House press office had not replied to a request for comment about her telephone call.

If she had reached the president, she said, "I was going to say to him, 'I hope this never happens to you.' "

TRIBUTE TO MARTHA JO CAZENAVE, PUBLIC SERVANT TO THE PEOPLE OF CALIFORNIA'S NINTH CONGRESSIONAL DISTRICT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, today I rise to pay tribute to a remarkable woman, Ms. Martha Jo Cazenave. Jo has been my district administrator for 12 years. She recently accepted another job and I am most sorry to see her go.

Jo was born in Kansas, attended the University of Kansas for 2 years, then attended the University of California at Los Angeles. After working in banks for 12 years, she took professional courses at the American Institute of Banking. She then earned her bachelor's degree in human relations and organizational behavior at the University of San Francisco in 1982.

Jo has always been extensively involved in politics, beginning with the election of Congressman RON DELLUMS in 1970. She was a legislative assistant to State Senator Bill Lockyer for 2 years before she came to work for me in 1977. She was also the manager of the Northern California Speaker's Bureau for Jimmy Carter in his 1976 Presidential campaign. Looking back at Jo's work experience it seems that she has always been in a managerial position—she is always running the show. At least that's what she's done effectively for me for 12 years.

Things will not be the same in my office without Jo. She is knowledgeable, organized, and cheerful—in the most professional manner I have ever encountered. She knows everyone in the district and has often represented me better than I could represent myself. It will be impossible to replace her.

I wish Jo the best of luck in her new endeavors, yet I can not help wishing that she would not go.

MORE ACTIVE BANK SUPERVISION NEEDED; LET'S AVERT A REPEAT OF THE THRIFT CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the sheer magnitude of the thrift crisis illustrates the impact that mismanagement and improper supervision can have on the American economy. Many have pointed fingers and allocated blame. Yet the costs of this debacle to the American taxpayer are staggering: $200 to $300 billion.

Yet, in the aftermath of the thrift crisis, we must assure the American public that never again will this country be faced with financial problems of such magnitude. However, such dangers exist. For example, our Nation's national banking system, consisting of 4,326 national banks and holding over $1.8 trillion in assets, is constantly engaged in complex and risky activities. Leveraged buyouts, loans to less developed countries, foreign exchange trading—all involve substantial risk. Billions of dollars exchange hands daily. Although substantial profits are often made, significant losses can, and are, sustained.

It is the responsibility of both the Congress and bank regulators to ensure that such risky activities are kept within limits. Regulators must be on their toes at all times to ensure that the safety and soundness of these institutions is not jeopardized. There is no excuse for regulatory laxity—considering the potential harm involved, no cost is too great. It is our responsibility, as Representatives to the U.S. Congress, to ensure that such vigilance is ever present. Today, I wish to tell you of the current oversight efforts of the Subcommittee on Financial Institutions Supervision, Regulation, and Insurance, which I chair, to investigate the regulation of the national bank system to ensure that the American public is protected.

SUBCOMMITTEE OVERSIGHT: GENERAL REVIEW

As chairman of the subcommittee, I directed my staff to take an indepth look at the current supervisory techniques employed by the Office of the Comptroller of the Currency [OCC], the agency responsible for the oversight of the over 4,000 national banks currently in existence. This involved long hours of review of OCC documents and charter applications, meetings with various OCC officials on OCC examination and supervisory policy, and first-hand on-site investigations of OCC examiners at three of the largest national banks in the country—Citibank, Chase Manhattan, and Marine Midland.

Much has been learned from this investigation. The OCC's examination and supervisory policies, while strong in certain areas, are not without flaws. Serious attrition problems exist within the OCC's supervisory ranks, calling into question the ability of the OCC to supervise its institutions. Further, OCC supervisory philosophy is misplaced—its current emphasis focuses on a more hands-off attitude, believing that it should not manage the bank. In light of the thrift crisis, a more aggressive supervisory policy must be adopted.

These problems are of particular importance given the volatile economic environment that banks are currently operating in. Exposure from such high-risk activities as leveraged buyouts, loans to lesser developed countries, securities trading and foreign exchange operations remain at an all-time high and must be carefully scrutinized. Yet, there may not be enough competent people around to do the job. Bank failures are occurring at record rates. This is not the time for bank supervision to be relaxed, whether intentionally or as the unintentional consequence of high examiner attrition rates.

All of these factors give us reason to pause. The ability of bank regulators to keep up with the complexities of the modern-day financial environment is open to question and should be closely watched.

Let me provide my colleagues with more specific information on my investigation into this matter.

ATTRITION RATES

Currently, the quality of the OCC's supervisory activities is highly dependent upon the number and quality of its examiners. Seasoned examiners, backed by years of experience and supported by expensive computer technology, are given the responsibility to review bank portfolios, speak with bank executives, and uncover problems before they become too big.

However, in recent years the OCC has suffered from a serious attrition problem among senior, mid-level and new examiners. Over the last 5 years, the OCC has lost 25 to 30 percent of its commissioned examiners—generally those with over 12 years of experience. These are the examiners responsible for doing much of the hands-on examination work. They are competent, experienced and trained to spot problems in an institution's loan portfolio. Their loss may lead to problems down the road, that although difficult to quantify, are ones that may prove quite costly. We have created an environment where the foxes are lurking close by but nobody is guarding the chicken coop.

Although the agency has attempted to hire new examiners to fill this void, the lost experience of those examiners cannot readily be replaced, leaving the OCC with a significantly high percentage of inexperienced examiners responsible for ensuring the safety and soundness of our Nation's banking system. Forty-five percent of all OCC examiners are noncommissioned, essentially in training. Compare this to the FDIC, which attempts to maintain a ratio of 1 trainee to 5 experienced examiners during an examination and you have a sense of the seriousness of the problem. In addition, 27 percent of commissioned examiner positions are being filled by noncommissioned examiners—again, this illustrates the scarcity of qualified examiners. To take my

analogy a step further, in this case, the chicken coop is being guarded by youngsters unaware of what a fox looks like.

Not only is this lost experience hard to replace, but the OCC is also having problems retaining new examiners through their required training programs generally lasting between 5 and 7 years. Enticed by high paying jobs in the private sector and subject to salary constraints within the OCC, many of these new recruits are leaving the agency to take jobs in commercial banks. This further complicates the supervisory equation—although the OCC may currently be able to handle its supervisory workload through the dedicated effort of the 2,440 examiners employed, as of December 31, 1988, the continued loss of experienced and new examiners leaves the OCC constantly hiring inexperienced examiners and increases the percentage of untrained examiners in the work force. This can only lead to problems. This turnover to the private sector troubles me—the guards to the chicken coop are transforming into foxes before our very eyes.

The high level of inexperienced examiners leads to another problem. Experienced staff, already burdened with additional supervisory responsibilities caused by the attrition rate, must divert time otherwise spent on supervisory activities toward training these inexperienced examiners. This takes them away from pursuing necessary examination activities, and increases the possibility that important items will be missed during an examination. Under this scenario, there are holes in the wire fence surrounding the chicken coop and the guards do not even have time to find them, let alone mend them.

Obviously, we are not talking about chickens here. These are real problems involving the deposits of millions of Americans. Regardless of whether the existing examination force is adequate to do the job, and I certainly question this fact, is adequate what we want? In light of the thrift crisis, we must be sure that problems are found early and dealt with, and not allowed to balloon into a $200 billion Federal obligation. There is no excuse for inadequate regulation.

CAUSES OF EXAMINER ATTRITION

I have documented the attrition problems faced by the OCC. Now let me elaborate on the causes.

Salary constraints placed upon the OCC by the Department of the Treasury caps the annual salary for senior level examiners at $75,000. Salary levels below that must be adjusted accordingly to reflect differences in experience and responsibilities. Consequently, everybody is underpaid. These amounts are too low—highly experienced individuals are needed to undertake the supervision of some of the largest and most complex financial institutions in the world. The degree of sophistication necessary to successfully complete this task is tremendous. And yet we may be losing some of our most experienced examiners as a result of this penny-wise policy. Not only is this pound-foolish, it is irresponsible and unacceptable.

Offshoots of this salary cap problem also exist, raising serious concerns in areas where the highest risk is involved—our Nation's biggest cities. The OCC faces its most serious attrition problems in large metropolitan areas—particularly Los Angeles and New York—where salary limitations make it difficult for examiners to keep up with the high cost of living of these cities. Add to this situation the fact that salary levels for private sector employees with supervisory experience average approximately 35 to 40 percent higher than their Government-employed counterparts. This certainly creates incentives for examiners, whether experienced or inexperienced, to leave.

The consequences of losing these examiners may be staggering—national banks hold over $1.8 trillion in assets, approximately 1⅓ times the size of the thrift industry. The thrift crisis has already proven that regulatory laxity over an industry of such size can be quite costly. And yet, three of this country's largest multinational banking concerns, holding nearly $100 billion in assets—Citibank, Chase Manhattan, and Marine Midland—operate out of New York, a location where examiner attrition is at its highest. This is an accident waiting to happen—fraud or mismanagement in very large banks can shake the foundation of our economic structure, yet resources needed to ensure that they are adequately regulated are limited by the Treasury Department.

We have made this mistake once. Back in the early 1980's the Reagan administration lived by the creed that too much regulation was no good, that deregulation was the way to improve stability and generate a healthy thrift industry. History has proven this wrong. Regulatory resources were limited and a $200 billion problem was created.

This is the Reagan administration's blind ignorance operating all over again. Never again.

SUPERVISORY PHILOSOPHY

In addition to the high level of attrition experienced by the OCC examiner staff, I have other concerns over the OCC's regulatory activities. These primarily focus on the OCC's supervisory philosophy and its use of agency resources.

I respect the competence of the individual examiners who work in the field and those that supervise them both in the district offices and here in Washington, but I am troubled by the continuing deemphasis the OCC has placed on full-scale onsite examinations. Currently, the OCC uses a combination of onsite and offsite activities to supervise national banks. Increasing focus is being placed on offsite review of call reports and other information provided by the institution, with less actual time being spent onsite wading through the bank's loan portfolio and other records. Further, the Agency is increasing its use of targeted examinations, those focused on particular areas of the institution's operation—that is, credit risk, liquidity, diversification—rather than on full-scale overall reviews of the institution's economic condition.

This deemphasis of broadbased onsite examinations is a serious mistake, particularly after the thrift crisis and at a time when banks are clamoring for expanded powers. The risks to the system have never been greater—we should be increasing regulatory oversight, not lessening it. Regardless of claims that the Agency may be using its resources in an efficient manner, more aggressive hands-on supervision is required.

Much of this scaling back of examination activities is a product of the limited resources that the administration has provided to the OCC, through Department of Treasury policies, which forces the OCC to shift its resources to trouble spots within the industry at the expense of other areas. Some of this scaling back is also a reflection of OCC philosophy—the belief that Federal regulators should not be managing the bank. I take issue with both these concepts. First, there is no excuse for providing inadequate regulatory resources. Treasury's position is clearly unacceptable here. Second, in light of the billions of dollars lost in the thrift debacle, Federal regulators can no longer hide behind the guise of free market rhetoric at the expense of the American taxpayer. They must take an active role in regulating bank activity, regardless of whether at times it borders on managing the bank.

Let me give you some more specific information on OCC supervisory activities to better illustrate my points.

MULTINATIONAL BANK SUPERVISION

Currently, the OCC pursues a varied regulatory approach depending on the size and complexity of the national bank involved. For the largest and most complex institutions, deemed multinationals, the OCC places examiners directly in the bank full time in order to continuously monitor the economic condition of the institution. The 11 institutions currently in this category collectively hold $669.5 billion in assets—representing 36 percent of all national bank assets—and it is appropriate that the OCC direct a large portion of its resources to supervise these entities. Depending on what period in the examination cycle examiners are in, anywhere between 2 and 50 examiners may be present in any one bank reviewing targeted areas of the bank's financial condition.

Yet this comfort in numbers is somewhat misleading, considering the effect that attrition rates have had on the experience levels of OCC examiners. Regardless of the actual number of examiners present, many lack the experience necessary to identify problems at their early stages. The Examination, Audit and Review Task Force, which I appointed to review Federal banking agencies' supervisory activities and which was headed by my esteemed colleague DOUG BARNARD (Democrat-Georgia), has drawn similar conclusions to my findings. It found that low level examiners are performing tasks that should be done by more experienced counterparts. This creates a situation where the examiners lack the experience necessary to recognize problems quickly, leading them to inadequately deal with existing or emerging situations. This creates the potential for disaster, especially when we are dealing with institutions of such size and economic impact that their failures could create serious problems for our Nation's economy.

Another problem exists here. Even though examiners reside in these banks, problems can still occur. This is due to a number of reasons. First, the OCC adopts the supervisory position that it is not its responsibility to manage the bank for fear that it will direct investment into particular categories. The OCC does not want to accept responsibility for bank problems were it to take a more active

role in bank activities. This hands-off policy, while consistent with the prior administration's "laissez-faire" philosophy, is unacceptable in light of the regulatory failures present in the thrift industry. Regulators must maintain a more aggressive supervisory posture, stepping in earlier to curb bank problems and maintaining a much closer watch on bank activities. Certainly this means intruding upon the internal operations of banks—but the cost of not doing so may be astronomical, as the thrift crisis has already shown us.

A second reason for pause in the supervision of multinational banks is the manner in which regulators are apprised of bank activities. Examiners-in-charge [EIC's] obtain information from various sources—call reports, meetings within bank officers, other bank reports, rumors, and other examiners. Under normal circumstances, banks, and Federal regulators work closely together in overseeing the activities of the bank. However, while EIC's are generally not surprised by bank activities, decisions to inform examiners of bank activities generally rest with the bank itself. It is easy to imagine situations where a bank would be inclined to withhold information from Federal regulators, whether inadvertently through erroneous interpretations of Federal law by bank counsel, or under more adverse conditions where the bank seeks to take risky actions without regulatory knowledge. Although this may not be a prevalent problem currently, more active supervision by OCC examiners will reduce the potential for such subterfuge. Again, a repeat of the thrift crisis can be averted.

Third, the presence of OCC examiners in multinational banks does not preclude the possibility of bank failure. OCC supervisory decisions have proven fallible in the past. For example, First RepublicBank Corp., a multinational bank holding company with 31 bank subsidiaries holding approximately $31 billion in assets recently failed despite the presence of examiners in the banks full time. This failure, along with the failure of MCorp, places a substantial drain on the FDIC insurance fund at a time when the fund faces serious challenges. Additional failures of such large institutions would place significant strains on the health of that fund. We, therefore, cannot rely on the presence of full-time examiners alone to preclude serious bank problems.

It is clear that certain problems exist in the OCC's supervisory oversight of its multinational banks. We can ill-afford to experience any additional problems from banks of this size. The OCC must increase its oversight of these institutions to ensure that the potential for problems is minimized, whether through additional onsite examinations or more intrusive supervision. This concern is increasingly important as Congress undertakes to review the issue of expanded bank powers—if permitted to undertake such powers, these multinationals will presumably merge with nonbanking entities, creating corporations of such size and economic power that our economy could ill-afford to permit them to fail. The tools of regulatory oversight must be sharply honed to deal with this potential situation. Now is the time to start.

SUPER-REGIONAL AND REGIONAL BANK SUPERVISION

A primary concern over OCC supervisory activities rests in the supervision of the super-regional and regional banks. These large and financially complex institutions, holding total assets of $648 billion, approximately 35 percent of all national bank assets, are supervised through a combination of offsite and onsite activities aimed at targeting problem areas and focusing OCC resources on such areas. Fourteen of the largest 25 national banks fall into this category, yet no examiners are placed in these institutions full time. The OCC places its confidence in existing bank management and the implementation of adequate "controls" by the bank itself. It is here that the shortfalls of deemphasizing full-scale onsite examinations become evident.

The OCC has adopted an examination policy which emphasizes the use of offsite supervisory activities and certain limited scope onsite "targeted" examinations. This moves away from the traditional regulatory emphasis on full-scale onsite examinations to be conducted at frequent intervals. I question the merits of this approach, particularly in light of the current problems incurred by the thrift industry as a result of regulatory laxity and management incompetence.

In 1988, 76 percent of all national banks received some type of onsite examination by the OCC. At the same time some 24 percent of national banks did not receive any sort of onsite examination by bank regulators. Since the OCC does not conduct full-scale onsite examinations unless it obtains information from other sources—that is public filings, reports from bank—or unless it has not been in an institution in "quite some time"—nor does it keep statistics on the number of such examinations—this 76 percent number primarily represents limited scope examinations targeted at certain areas of the bank's operation. Thus, the number is misleading—it is impossible to tell what areas are not being examined and what problems, if any, are going undetected.

It is difficult to tell what relationship this regulatory philosophy has to the increasing number of bank failures in recent years, but they may be closely related. More importantly, this is no time to experiment. Over the last 5 years, 239 national banks holding over $39 billion in assets, have failed. In 1988 alone, 83 national banks failed, holding over $32 billion in assets. Currently, an additional 62 institutions—making up 9 percent of active national bank charters and holding $2.5 billion in assets—are considered "problem" institutions—rated "4" or "5" on the CAMEL scale—by the OCC. Losses from these institutions will continue to represent a signficant draw on the FDIC insurance fund, and although it is impossible to determine to what extent increased onsite supervision would have limited these losses, such increased oversight could only have helped.

Moreover, the incidence of fraud has been steadily increasing within financial institutions. The GAO recently reported that 64 percent of the bank failures it reviewed involved insider abuse or fraud. It is virtually impossible to discover such fraud through the use of offsite supervisory techniques, yet the OCC proceeds to place reliance on such techniques to effectively supervise these banks. The OCC's overconfidence in management abilities and self-imposed controls is misplaced. There is no justification for the deemphasis of onsite examination activities in light of this fact.

The examination of industry call reports and other financial information can prove useful to the OCC in upholding its regulatory responsibilities. However, considering the increasing complexity of financial transactions and the risks involved in such endeavors, it is imperative that these offsite activities be supplemented by frequent onsite examinations by experienced examiners. Without such examinations, problems which if caught at an early juncture would be quite limited in scope, will be missed and potential liabilities to the Federal insurance funds significantly increased. There is no replacement for independent analysis by competent and experienced examiners. The lack of experienced examiners merely compounds this problem.

RISK EXPOSURE

Coupled with the attrition and supervisory philosophy problems discussed above, the OCC is currently faced with an increasingly complex financial environment within which national banks must operate. Exposure levels in various areas of risky investment are quite substantial. For example, current national bank LDC debt exposure from troubled LDC debtors amounts to $81 billion, down from an incredible $102 billion in 1982. This parallels the thrift crisis in potential liability and raises serious concerns over bank stability at these institutions. Leveraged buyouts—including LBO financing and commitments—an increasingly popular form of debt financing, amount to approximately $60 billion of national bank assets. Commercial real estate lending, an area of increasing concern to bank regulators, represents another potential problem—at year-end 1988, the 24 largest national banks held $72 billion in loans in this area, amounting to 9.4 percent of total assets.

Securities trading by national banks represents another $15 billion of potential liability for these same 24 banks. Finally, foreign exchange operations—at year-end 1988, the 24 largest national banks held $1.01 trillion in foreign exchange contracts. While the OCC claims that many of these positions are "fully hedged," it still raises concern over potential liabilities.

It is clear that significant risks currently exist in the banking community. Some risk will always be present in banking, and some of it is good because it encourages the efficient use of venture capital to explore new areas of investment. Hedging techniques and prudent investment by competent management increases productivity and profit. Communities will be helped. But I am afraid that regardless of how competent management looks today, hindsight may make them look awful foolish and the insurance fund much poorer. Reliance solely on management competence and internal control systems is misplaced. It is time to place a renewed emphasis on increased supervision—the stakes are much too high to do otherwise.

And remember—attrition rates and examiner inexperience only exacerbate the problem.

SUPERVISORY FALLIBILITY

In addition to the above concerns, supervisory determinations can be subject to mistake on both a local and national level. Examiner decisions are subjective in nature—for individual multinational and super-regional bank regulation, mistakes can be quite costly. Further, determiantions made by OCC supervisors on a regional and national level, aimed at dealing with systemic issues, can be much more costly.

I cite two examples of previous OCC supervisory mistakes to illustrate my point that Congress and bank regulators must increase the level of oversight of banking institutions and proceed slowly in loosening restrictions on financial institutions.

In the early 1980's, the OCC made a policy decision to adopt a permissive approach to issuing bank charters, reasoning that additional banking institutions in any particular market area increased competition, thereby benefiting consumers. However, over 10 percent of the institutions chartered during the 2-year period beginning in 1983 failed, holding assets totaling almost $1 billion and initially costing the FDIC insurance fund over $687 million. This is a substantial cost for decisions covering only a 2-year period—such a mistake can be repeated.

Most costly, however, was the OCC's decision to permit significant national bank exposure to LDC debt. In 1982 aggregate exposure to this type of debt reached $102 billion, raising significant concerns over the impact such debt would have on the stability of certain large national banks. These concerns still exist today. Yet, more prudent supervision at an earlier stage may have substantially reduced the potential liabilities involved here and minimized the systemic risks.

I recognize that hindsight is 20–20 vision and that a certain amount of risk is necessary to encourage the creation of innovative financing packages which increase the efficiency of the credit allocation process and result in benefits to borrowers and the economy. Yet the type of concentrated risks inherent to the LDC debt problem and the substantial losses to the thrift industry teach us that bank regulators should become more aggressive in their regulatory oversight and more cautious in permitting new activities without adequate supervisory controls in place.

The OCC, as well as any other bank regulatory agency, represent an important part of our financial system. With the increasing complexity and sophistication of financial instruments, and the continued trend toward the globalization of financial services, the role of bank supervisors becomes more important in maintaining safety and soundness within the financial marketplace. I urge my colleagues to recognize this fact and note the importance of the supervisory aspect of financial institution regulation. The $200 billion price tag from the thrift crisis should be enough to bring home this fact.

In addition, the increasing complexity of financial instruments and hedging techniques created by high paid bank executives place regulators in the position of constantly having to educate themselves on highly complex activities at a time when they are understaffed. This creates an environment ripe for management abuse and supervisory mistake.

ENFORCEMENT ACTIVITIES

In looking at the frequency of OCC formal and informal enforcement actions against national banks, I have become deeply troubled over the significant decrease in such activities over the past 5 years. From a high of 641 enforcement actions in 1985, formal and informal enforcement actions have dropped to 370 in 1988, a drop of 42.3 percent over 3 years. This is a substantial decrease in enforcement activities. During that same period the number of national bank failures has increased from 30 to 83—31 of which occurred as a result of the failure of First RepublicBank Corporation. Although a number of factors contribute to this increase in bank failures, the increasing failure rate clearly signals that this is not the time to be reducing the degree of regulatory oversight, which this significant drop in enforcement activities seems to indicate.

It appears that this problem can be traced back to the problems of attrition that the OCC is experiencing. I have already indicated that 25 percent to 30 percent of the OCC's experienced examiners have been lost over the last 5 years. This problem has hit hardest in the area where the most severe supervisory problems are occurring: the Southwest. In recent years, this region has experienced a 50-percent turnover in its examination work force. This is an incredible rate of turnover at a time when we can least afford to permit regulatory laxity. The drop in enforcement activities may be a reflection of this attrition problem; these trends in enforcement and attrition must be reversed.

Further, the drop in enforcement activities may also reflect the OCC's supervisory philosophy of "Not managing the bank" and its increasing use of offsite examination activities. More problems are escaping detection and being left unattended. We, as Members of Congress, cannot accept this philosophy at a time when we are asking the American taxpayer to potentially provide over $200 billion to rescue the thrift industry. The OCC must adopt a more aggressive supervisory policy and increase its enforcement activities—the high rate of bank failures indicates that problems do exist. The Agency cannot continue its "hands off" policy.

REGULATORY CONFLICT OF INTEREST

During debate over the thrift rescue bill, much debate was focused on the need to separate the chartering and supervisory authority of the Federal Home Loan Bank Board. The administration, as well as many members of the House Banking Committee, strongly believed that the Bank Board was faced with an irreconcilable conflict of interest. On the one hand, as the chartering authority of Federal thrifts, the Bank Board had an interest in increasing the value of the Federal thrift charter; it did so by adopting more permissive regulations, oftentimes at the expense of safety and soundness. On the other hand, as the primary regulator of such thrifts, the Bank Board had a responsibility to protect the thrift's depositors and preserve the safety and soundness of the industry. It is obvious that the Bank Board could not adequately undertake both these responsibilities, at a substantial cost to the taxpayer. As a result, the thrift rescue bill grants the FDIC significantly broad powers to oversee the regulation of the thrift industry as a means of protecting the deposit insurance fund and the safety and soundness of the industry.

This same conflict exists within the OCC. As the chartering authority of national banks, the OCC has an interest in increasing the value of a national bank charter. However, as the primary regulatory of these institutions, the OCC also holds the responsibility to protect the depositor, which ultimately results in protecting the deposit insurance system.

Yet, no such comparable oversight authority has been granted to another agency to ensure against this conflict of interest. I believe that a problem exists here and that such oversight should be granted, either to the FDIC or some other agency, and have advocated this position early in the debate over the thrift bill. The regulatory balance must be changed to reflect a renewed focus on protecting the safety and soundness of the banking system, and a more aggressive supervisory posture adopted. It is no longer sufficient to remain passive and "not manage the bank"—the stakes are too high.

The OCC will argue that it adequately balances the competing interests of chartering and supervising national banks, yet it has repeatedly adopted permissive interpretations of banking statutes to permit national banks to engage in broader bank powers than the statute permits. Such activities encroach upon legislative authority and run contrary to the OCC's responsibility to protect the safety and soundness of the national banking system. It is the prerogative of Congress to determine whether such powers are ultimately granted and with what safeguards. Thus, it is appropriate that the supervisory and chartering authorities be split, as they have been in the thrift industry. This idea should be revisited as we move into the debate on expanded powers.

SOLUTIONS

It is clear that certain problems exist within the national bank regulatory framework. While the system is sound on the whole, it does contain certain weaknesses that may create serious problems in the future. The thrift bill has attempted to deal with certain of these areas, most importantly by removing the pay restrictions currently imposed by the Department of Treasury on the OCC and by increasing the enforcement powers of bank regulators. However, more is needed. Below I outline some suggestions for improvement in the regulatory structure—more as a means for beginning the debate on such issues rather than as an end in themselves. The Financial Institutions Subcommittee will continue to review these issues to develop a regulatory structure that protects the safety and soundness of the national banking system while encouraging the provision of innovative financial service in the future. Only in this way can U.S. banks maintain there competitive place in the global financial structure while at the same time ensuring the safety and soundness of our financial system.

1. Attrition

Remove salary constraints imposed by the Treasury on the OCC. The thrift bill has attempted to do this.

Adopt salary policies which encourage the retention of experienced examiners. Salary caps on senior examiners must be removed; adequate salary levels must be put in place for all examiners.

Provide salary differentiations based on geographic location to encourage examiners to work in large cities where the cost of living is higher.

The OCC must adopt training programs which provide incentives for young examiners to remain with the OCC as career employees. I encourage the OCC to review its examination and training program priorities to promote the most efficient use of OCC resources. For example, the OCC should review legislatively-mandated examination requirements and OCC training policies in light of those requirements. Currently, congressional mandates require biannual reviews of compliance with the Bank Secrecy Act, CRA, HUMDA, insider lending laws, fiduciary rules, regulatory reporting requirements and electronic data processing rules. These reviews take up extensive time and manpower; training of examiners to conduct these reviews also involves substantial time, drives young examiners away to seek more interesting work and diverts attention away from arguably more important items. While I cannot endorse doing away with these legislatively-mandated requirements, I will consider OCC proposals which provide increased flexibility to the Agency so that it may better conduct safety and soundness examinations.

Explore additional ways to retain experienced and new examiners. I encourage the OCC to bring these matters to the subcommittee for consideration.

2. Supervisory philosophy

Increase the use of onsite supervisory techniques. With restraints on examiner resources removed under the thrift bill, there is no excuse for not increasing examiner oversight. Examiners must spend additional time in the bank reviewing first-hand bank financial documents.

Additional attention must be paid to superregional and regional banks. These institutions are sufficiently large enough to cause substantial systemic problems by their failure and warrant additional onsite attention. Again, the removal of restraints on OCC resources has removed impediments to such increased oversight.

Adopt a more aggressive supervisory philosophy and establish procedures to reflect that change. In light of the thrift crisis, the OCC must take a more active role in national bank oversight and remove its emphasis on "not managing the bank". The risks are too great. The subcommittee is currently reviewing the examination activities of bank regulators and encourages each one of these regulators to provide the subcommittee with proposals for increasing regulatory proficiency.

Consider methods for providing bank regulators with additional information on bank activities prior to their implementation, such as providing regulators with prior notice of new activities and/or requiring regulatory preapproval. Currently, regulators may obtain such information after the bank has taken action, potentially raising concerns over bank losses. We should seek to promote disclosure to regulators of as much information as possible so that bank stability is promoted. Coupled with an increase in the number of experienced examiners, this should result in better supervision.

Consider the appropriateness of imposing concentration limitations on national banks. Currently, the OCC does not impose limitations on a national bank's loan activity to one industry or one region, although it does issue "guidelines" suggesting limitations equal to 25 percent of capital. Where regional downturns occur, such as in the Southwest, large concentrations by industry or region may create significant problems for bank activity. This issue is very complex and involves numerous issues. It should be explored further, especially in light of increased involvement by national banks in high risk activities like leveraged buyouts, foreign exchange operations, LDC debt and commercial real estate lending.

Encourage greater cooperation between banking agencies in the supervision of U.S. financial institutions. Currently, numerous agencies oversee the operations of banks and bank holding companies. Increased coordination between these agencies must be encouraged, particularly if banks are permitted to engage in broader powers which increase the risk to the banking system.

3. Enforcement

Increase the use of informal and formal enforcement actions. The thrift recovery bill contains a significant expansion of regulatory enforcement powers, most of which has been asked for by bank regulators. The subcommittee expects the new powers to be aggressively exercised; the reduction in number of enforcement actions over the last few years is untenable in light of the increasing level of bank failures.

FINAL COMMENT

Banking is, and always will be, a risky business. Money will be lost and gained at varying intervals. We must encourage the OCC, as well as all bank regulators, to adopt aggressive regulatory policies which preclude the possibility of a thrift crisis being repeated. The dangers are out there—we must recognize them and move toward increasing the level of regulatory oversight. Only with this understanding in mind can we safely consider the implications of the evolving financial environment and the need for legislative change in this area.

INTRODUCTION OF THE HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT OF 1989

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, for just the first 6 months of this year, American and foreign automakers had to recall 3.5 million cars in 91 recall campaigns ordered by the Federal Government.

In just one of those recalls only, nearly 2 million owners of Ford Escorts, Rangers, and Broncos received a notice in the mail, informing them of potential safety defects that might lead to engine fires in some cars and loosened wheels that might lead to loss of control in others.

Mr. Speaker, these notices are part of an efficient and carefully laid out system of letting Americans know when their flawed vehicles could threaten their lives that comes under the the National Traffic and Motor Vehicle Safety Act of 1966.

This act gives the Department of Transportation's National Highway Traffic Safety Administration [NHTSA] the authority to set motor vehicle safety standards and to require manufacturers to recall vehicles with safety defects.

In fact, from 1974 through the first half of 1989, more than 98 million cars, trucks, buses, and other two- and four-wheeled vehicles as well as 19.8 million tires have been recalled in 2,487 campaigns.

It's reassuring to know that American car owners have such a program to protect them if their cars have a defect that might affect the safety of their passengers.

You may be wondering why I, as chairman of the Subcommittee on Health and Safety, am talking about car safety.

Well, this process set up by the National Traffic and Motor Vehicle Safety Act has the same goals as my high risk occupational disease notification and prevention bill.

What astonishes me, however, is while we have such a comprehensive national program for identifying life-threatening defects in automobiles, for notifying their owners of the defects, and trying to prevent future defects, we have not yet established a comparable program for protecting the 110 million taxpaying American workers from hazards in their workplaces.

I believe it is time that we did something about that, and, Mr. Speaker, that is why I have reintroduced my High Risk Occupational Disease Notification and Prevention Act.

My bill does for workers who are exposed to toxic and hazardous substances and processes in the workplace what the National Traffic and Motor Vehicle Safety Act does for people in automobiles.

My bill has the same three basic purposes. It would identify workers who are at high risk of occupational disease. It would notify them of their risks. And it would aim to prevent future workplace diseases and disabilities.

The fact that it is no big deal to notify hundreds of thousands of car

owners at any single time that something is or might be wrong with their cars that jeopardizes their safety makes me wonder why there has been so much squawking about occupational disease notification.

I do not think that many people know that occupational health hazards lead to twice as many deaths in this country as do auto accidents.

In 1987, for example, 48,700 Americans were killed in auto accidents from all causes. More than twice as many Americans—an estimated 100,000 die each and every year as a result of occupationally related diseases.

Further, the National Institute of Occupational Safety and Health [NIOSH] estimates that one out of every four workers has been exposed to carcinogens.

The American Lung Association says that occupationally related lung disease is the number one preventable cause of workplace illiness and death in the United States.

And it is estimated that as many as 400,000 workers are disabled each and every year as a result of having been exposed to hazardous substances.

Unfortunately, too many of those workers are not even aware that they are at risk of disease from those on-the-job exposures. These are people with families—individuals, not just numbers, and they deserve to know about the possible risks they face on the job.

The National Traffic and Motor Vehicle Safety Act established the National Motor Vehicle Safety Advisory Council, whose 13 members come from industry, State and local governments, and the public. This Council makes recommendations to the Secretary of Transportation for safety standards.

My bill establishes a similar body in the Department of Health and Human Services [HHS]. A nine-member "Risk Assessment Board," chaired by the Director of the NIOSH, would have four Government and four non-Government scientific and medical experts in occupational disease who would review scientific literature and epidemiological and clinical studies on the adverse affects of toxic substances on workers and, from them, identify worker populations at high risk of disease.

The high risk bill's system is similar to how the National Highway Traffic Safety Administration's system works for vehicles. NHTSA's technical staff evaluates consumer questionnaires to determine whether potentially serious defects exist and enters complaints into a computer base.

If it looks like there might be a potential safety defect, the NHTSA conducts a formal investigation and notifies the manufacturer. A consumer advisory with all the details is released to the news media, which alert the public.

If the NHTSA makes a final determination that a safety-related defect does exist, by law, the manufacturer must do more than just notify all registered owners and purchasers of vehicles and give them an evaluation of the defect's risk to their safety.

They must also repair or replace the car at no cost to the owner. Or they can refund the purchase price in full, figuring in a reasonable amount for depreciation.

My bill requires the Secretary of Health and Human Services to make a reasonable effort to notify each individual who is at risk. If it isn't possible to do so, the Secretary can use other ways to reach the general public, such as public service announcements in the media. In some cases, employers may be certified to carry out notification procedures.

Those workers identified as being at risk will receive information about the hazard, possible diseases and their latency periods, and counseling opportunities and will be encouraged to enter medical monitoring program.

The NHTSA even has a toll-free auto safety hotline—a telephone service that collects accurate and timely information on vehicle safety problems. By dialing this phone number, consumers can conveniently file complaints or receive recall information about a vehicle they are thinking of buying or already own.

There's even a Spanish-speaking operator for Americans who aren't fluent in English. The hard of hearing also have their own hotline number that hooks up with teleprinter facilities already in private homes, libraries, or public institutions serving the deaf.

My bill would also establish a similar hotline that workers and their personal physicians could dial for additional medical and scientific information about their risk to occupational disease.

The National Traffic and Motor Vehicle Safety Act protects car manufacturers by not requiring them to reimburse owners who say they have already paid to repair a defect before a recall campaign. Manufacturers only have to pay for repairs after the Agency has made a final determination, and they aren't responsible for cars more than 8 years old.

In the past, we have modified the high risk bill to ease the burden on employers and, we have made additional changes in this version. For example, the bill minimizes the burden of medical monitoring costs for small businesses that have 50 or fewer full-time employees by limiting the cost to $250 per employee per year.

It provides for the establishment of a separate monitoring program for seasonal agricultural workers. And, perhaps most important and reassuring, it prohibits claims related to any aspect of the notification process based on stress, fear of disease, and mental or emotional harm.

Yet, critics of this legislation argue that we already have an adequate system for dealing with and preventing occupational disease. Well, let's take a look at how we are handling occupational disease without the high risk bill.

Yes, there has been a great deal of improvement and progress made in diagnosing and treating occupational disease in the last 20 years. As the chairman of the House subcommittee which oversees occupational health and safety activities, I am both proud and glad to see these improvements.

In May 1986, for example, the Occupational Safety and Health Administration's [OSHA] hazard communication standard went into effect. This standard requires that workers be told by their employers when they are working with materials that are hazardous.

Initially, this standard only covered workers in the manufacturing industries, but now, some 2 years later, we have been able to expand the standard to cover all workers in all workplaces.

The hazard communication standard, however, is not the answer to dealing with occupational disease notification and prevention. It only does half the job. It simply requires that workers be informed about the name, nature, hazards, and consequences associated with exposures to specific toxic substances. What's more, the manufacturers of the substance merely list what they consider to be the acute and chronic health effects, according to current scientific literature.

The hazard communication standard does not provide that workers be given any indication of their probability of incurring any occupationally related disease as a result of their exposures.

It does not provide workers with any form of testing or monitoring so that preliminary signs of occupationally related cancer or other diseases could be detected.

And it does not require employers to notify former employees about the hazardousness of their previous exposures.

It is a step in the right direction, but the hazard communication standard is not a substitute for the high risk bill because the former does absolutely nothing to prevent a worker's exposure to a toxic substance, and it doesn't establish safe exposure limits.

Some say that the Toxic Substances Control Act [TSCA], which requires chemical manufacturers, processors, and distributors to test new substances and chemicals is a substitute for the high risk bill.

The Toxic Substances Control Act, however, does not require that exposed workers be informed of their

risk to disease. Not only that, Toxic Substances Control Act officials say that in only 1 percent of those substances in question do the manufacturers provide any detailed epidemiologic or clinical data with regard to chronic or long-term health effects.

Most of the information is developed from tests on animals. The high risk bill prohibits the Risk Assessment Board from considering animal studies and, instead permits only the use of human studies.

Perhaps we should apply the standards used by the Food and Drug Administration [FDA] in approving new prescription drugs. The average FDA approval process for every drug, including the investigation period, takes about 9 years and requires clinical studies on humans.

Once the studies done by the sponsor of the product are done, the FDA reviews the submitted data and determinies the safety and effectiveness of the drug. Then, the final application for approval is submitted before the board, taking about 2½ years.

For years now, Americans as consumers have had labels to tell them what chemical additives are in their foods and beverages. Yet, Americans as workers have been denied that basic right. Our laws don't require the labeling of the chemical contents of paints, solvents, or other mixtures in the workplace.

It is true that as we have learned more about the harmful effects of hazardous substances, the levels of permissible exposure have been reduced. This does not mean, however,. that unsafe exposures have been eliminated.

Too often, occupational diseases are similar to nonoccupational ones. Sometimes, the latency period between the exposure and the disease confuses physicians.

And, sometimes, doctors aren't aware of the hazards patients have been exposed to in the course of their work and therefore, are unable to make the link between disease and the workplace.

If we are going to prevent those diseases, physicians will need to know more. This is why the high risk bill provides for training in occupational disease research, diagnosis, and treatment. This is why the bill requires the establishment of 10 health centers from among private or governmental organizations in the first year and a total of 50 in the next 5 years.

Modern medicine shows that chances for successful treatment are greatest when that treatment begins at the onset of the disease. The high risk bill could help by notifying workers of possible diseases before their illness became too advanced to treat successfully.

According to the Congressional Research Service, the 5-year survival rate for disease that can be caused by exposure to occupational hazards is much higher if diagnosis and treatment are done in the early localized stage of the disease—before it spreads to other parts of the body.

Colon cancer patients, for example, have a 90-percent 5-year survival rate if diagnosed in the early stage as compared to a survival rate of only 51 percent in cases diagnosed in the later stages of the disease.

In cases of rectal cancer, 80 percent of patients diagnosed early have a 5-year survival rate. In cases detected in the later stages of disease only 38 percent of the patients survive 5 years.

Only 13 percent of all patients with lung cancer, the most preventable occupational disease, have a 5-year survival rate. Yet, if the diagnosis is made before the disease spreads, that number jumps to 41 percent.

With more women entering the workplace in the last 20 years, it's interesting to note that the number of women dying from lung cancer has increased steeply in the 1980's.

We can't be sure exactly how many of those deaths are the result of exposure to asbestos and other health hazards in the workplace, but the total number of lung cancer deaths from occupational exposure to asbestos accounted for about 5,500 lung cancer deaths from 1979 to 1986.

The American Cancer Society estimates that warnings to workers at risk could save 250,000 lives in the next 10 years as well as millions of dollars. It is estimated that the cost to treat a terminally ill cancer patient runs about $21 thousand a year.

There are those who claim that it's just too expensive to do such monitoring for workers, but it's clear that we can no longer afford not to monitor occupational diseases for early detection.

A 1984 Department of Labor study estimates that occupational deaths and disabilities cost American taxpayers $5.4 billion every year in Social Security, Medicaid, and Medicare payments.

The Congressional Research Service estimates that occupational diseases cost the United States somewhere between $7.1 and $9.7 billion in 1985. More than half of the expense—$5.4 billion—is shouldered by the American taxpayer. The other $1.7 to $4.3 billion account for the medical and wage-loss costs from occupational illness fatalities.

Even more, these figures don't come close to reflecting the real price tag of occupational disease. We haven't even added in the lost wages and medical expenses of those workers with occupational diseases who have not yet died, but are partially or totally disabled.

Even HHS admits that my bill is a bargain. It forecasts that implementing this legislation—a program that will save thousands of lives in the near future and countless more later on—will cost only $20 to $36 million per year—less than one-half of 1 percent of our present costs.

Last Congress, the high risk bill passed the House by a significant margin, 225 to 186. Unfortunately, it didn't fare as well in the Senate.

But this issue is not going to go away. Workers have been in the dark for too long about the health hazards they face on the job every day, and they know it. They've made it clear that they have a right to know about these hazards.

But workers make up only a small part of the mountain of support for the high risk bill. Dozens of health, environmental, and business groups have voiced their enthusiasm and support for this legislation.

They know that the High Risk Occupational Disease Notification and Prevention Act is an important addition to the progress we have already made in making the workplace a safer place.

It fills in the important gap of notifying the American worker if he or she is a likely candidate for occupational disease. We're in the neighborhood but not at the right house. What we need is the high risk bill.

Let's give American workers peace of mind. They deserve to know what they've been working with. I applaud the 113 Members who have joined me as original cosponsors of this bill, and I urge the rest of my colleagues to sponsor and support the High Risk Notification and Prevention Act of 1989.

□ 1610

I remember when OSHA was passed. I was here as a Member of the House and I remember the soothsayers and the ne're-do-wells and all the critics saying OSHA was going to sink the industrial might of this country.

I remember them saying that the costs were going to be prohibitive and it was wasted money and all that money should be put into productivity, into mechanical things and better technology, all that money should go there and not be wasted on occupational safety and health.

It all came to pass. Even those severe critics today say OSHA is a good act, it is doing its job. It is saving a lot of money, saving the manufacturers and the employers a lot of money in the sense of reduced insurance premiums, lost work days, production goals, delivery schedules, things of that nature.

Please do not forget about human nature and the mother or father who is involved.

So OSHA is doing its fair share, I think, living up to its proposed obligation.

It could be working better. We continually strive to make it work better, but it is doing its job.

Again going back to those critics, they were wrong, they were wrong then and they are wrong now on this notification bill.

I remember a simple bill, leaving the area of health and safety, simple bill on ERISA, the Employee Retirement and Security Act. We brought that around. That was going to destroy the American economic might, all the big corporations, all the companies, big and small, would be out of business.

Do you know who is taking advantage of ERISA Act now to protect employees and their pension rights? White-collar work forces themselves.

I remember being part of that, we passed it. We told them ERISA was meant to give protection not only for the blue-collar workers but for the white-collar workers.

Well, with the closing of the steel mills, all those pension rights became jeopardized. I have had on more than one occasion white-collar workers come up and say—those who make $75,000, $80,000, up to $100,000—saying to me, "God bless you. Otherwise I would have gone down the drain. My company went belly-up. There is no money in the pension fund. So we are out."

I have received notices from blue-collar workers, where at one time it was fashionable and thousands of blue-collar workers got their pensions cut off. "It was tough, and so be it."

But now when you have the intelligentsia, the man making $100,000-plus per year, the educated portion of our society, when their pensions are cut off so they cannot go down to Florida, then it becomes a catastrophe.

I remember telling individuals who were fighting this bill tooth and nail, I said, "Hey, you will rue the day. There will come a time when you will want protection." Well, they got it.

So I am using those as examples. Even the Mine Safety Act, when we put that into being, the same thing occurred. I am just saying, based upon past experience, based upon what I know is right and what I feel is right in my heart, what most people know is right, this bill I am talking about, the Notification to Workers of Hazardous Materials Act, if they are working with it at the workplace, is essential. It is going to save the employee so much money in the long run with insurance costs, production costs, et cetera. It is only fair, it is the only decent thing to do.

So again I want to thank those 113 Members who had the foresight to join me in the bill, and I ask my colleagues to analyze this bill, study it, then join on the bill with us.

ORDER OF BUSINESS

Mr. DREIER of California. Mr. Speaker, I ask unanimous consent that the gentlewoman from Maryland be able to claim the time for her 60-minute special order at the end of other special orders.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1620

ZERO INFLATION

The SPEAKER pro tempore (Mr. MCNULTY). Under a previous order of the House, the gentleman from North Carolina [Mr. NEAL] is recognized for 15 minutes.

Mr. NEAL of North Carolina. Mr. Speaker, today I am introducing a resolution to make zero inflation the primary and dominant objective of monetary policy. It requires the Federal Reserve to commit itself to attaining, and maintaining, zero inflation.

For several years now we have indulged in self-congratulation and unwarranted complacency over the reduction of inflation accomplished in the early 1980's. Bringing inflation down from its double-digit peak in 1979 to its 4-percent-plus plateau of the past few years was indeed a major achievement of monetary policy. A major—but yet unfinished—achievement.

Mr. Speaker, inflation should not be tolerated indefinitely at any plateau much above zero. Even if it could be stabilized at some such plateau, it would continue to undermine economic prosperity and competitiveness, and would continue to punish most harshly those individuals, families, and businesses of modest means, those least able to anticipate and protect themselves against the ravages of inflation. Stable inflation is better than volatile inflation, but is nonetheless much worse than no inflation.

It is unlikely, however, that stable inflation could be maintained, in practice, even on a modest plateau. It is now around 5 percent, and is widely forecast to move into the 5- to 6-percent range. If 4 percent was deemed acceptable, then no serious argument can be lodged against 5 percent. And if 5 percent, then why not 6 percent? The temptation to accept a slow but persistent upward creep is overwhelming. Accommodation to seemingly modest inflationary pressures will always be rationalized as necessary to protect economic growth.

Mr. Speaker, the case for zero inflation is very simple. Any rate of inflation significantly above zero damages the long-run potential growth and prosperity of the economy. And any such rate is inherently arbitrary. The case for stabilizing inflation at some arbitrary rate will not be compelling, if the cost of stabilization appears to be an economic slowdown, not worth the seemingly minor benefit of keeping inflation wherever it is, instead of 1 percent higher.

Zero inflation, on the other hand, is not just another arbitrary point on a continuum of inflationary rates. It is qualitatively different, because it provides the optimum price environment for economic growth, efficiency, and competitiveness, and provides the only environment in which the trend of the general price level does not itself have socially inequitable consequences. It can, therefore, be defended as the best objective, the best goal for policy, a public good as such. It offers the best point of resistance to the beguiling temptation to accept a little more inflation for a little more temporary growth.

Why is zero inflation best for growth and prosperity? Why is the impact of nonzero inflation socially inequitable? The answer to both questions turns on recognition of the fact that not all people can correctly anticipate coming inflation, and not all can fully protect themselves against the erosion of money's purchasing power. These conclusions are attenuated, but not overturned, when inflation is modest and stable. They hold a fortiori when inflation is high or volatile.

Mr. Speaker, inflation distributes income and wealth away from those less able to ensure that they are satisfactorily indexed, in income and assets, against its corrosive effects toward those more able to anticipate and protect themselves against inflation. Individuals, families, and businesses with more modest resources and earnings, with less sophisticated appreciation of the threat of inflation, will be those with the weakest defenses against its ravages. The "beneficiaries" of inflation will be those with greater resources, greater economic and financial sophistication, greater market power. The net impact of inflation will always be unfair and inequitable, penalizing the poor and "rewarding" the rich. Only when inflation reaches frightening levels does indexation of all earnings and assets become so widespread that the social inequity of inflation diminishes. By that point, however, the overall economic impact is so detrimental that everyone suffers, but still somewhat less equitably.

But, Mr. Speaker, even somewhat equal suffering under near universal indexation with inflation at frightening levels will not be long tolerated in most modern developed economies. Policy will consciously induce recessions to bring inflation under control, once it has exceeded some politically tolerable upper limit.

Aside from their overall economic damage, recessions are anything but socially neutral in their passing impact on economic fortunes. Once again, the poor and modest income earners stand to lose the most—from stable inflation much above zero, and from the economic crunches that follow inescapably upon inflationary upsurges.

The "beneficiaries" of inflation, under any of these scenarios, benefit only relatively, not absolutely. They gain relative to the losers, but this relative gain must be purchased by devoting time and resources to the effort to protect earnings and assets from inflationary corrosion.

The "beneficiaries" also lose, along with everyone, from the slow but inevitable undermining of economic efficiency caused by inflation. Because inflation cannot be predicted with certainty, or even with good reliability by everyone, the threat of inflation exacerbates the risk inherent in all economic activity. The

future value of investments is more uncertain and unpredictable than it would be in the absence of inflation. Unnecessary risk distorts investment decisions, leading to unsound investments that prove, in the wake of inflation, to be unproductive, and deterring sound investments that would have been productive. An inflating economy saves less overall, invests less overall, invests less efficiently and productively, and squanders more resources than an economy with stable prices—zero inflation.

Mr. Speaker, a concrete manifestation of the impact of inflation on the economy can be seen in the behavior of interest rates. High inflation directly causes high interest rates, which will be driven, by market forces, to incorporate some premium for inflationary expectations.

This premium will not necessarily be very accurate. It will often be too high or too low, causing interest rates to send "wrong" price singals. In much of the 1970's interest rates failed to incorporate an adequate inflationary premium, so they proved, after the fact, to have been too low. In the 1980's they may well have been too high, incorporating a premium that, after the fact, proves excessive. In both cases an "incorrect" inflationary premium—a change in interest rates—or lack thereof—that fails to correspond reasonably well to future changes in inflation—will induce "incorrect" investment, savings and spending decisions. Investments that appear attractive and profitable will prove to be inefficient, unproductive and unprofitable. Or investment that appears to be unattractive and unprofitable will be foregone, when in fact it would have been productive and profitable. These kinds of mistakes will always be made. But they will be exacerbated in an economy prone to inflation. Some of the biggest problems bedeviling us today—the S&L crisis, LDC debt problems, sluggish private saving—are attributable, in part, to high and volatile inflation, and to the inability of the economy to anticipate and adjust to inflationary changes, smoothly and efficiently.

Mr. Speaker, the more volatile and uncertain the inflationary outlook, the greater the uncertainty attached to any set of inflationary expectations. Nominal interest rates will rise not just to incorporate an average expected inflationary rate, but also to cover the enhanced risk stemming from the uncertainty with which inflationary expectations are held. They will, therefore, tend to be too high, even when financial markets, on average, correctly anticipate future inflation. This "maladjustment" of interest rates is the manifestation, in the financial markets, of the maladjustment of the economy as a whole to inflation.

Even if nominal interest rates embody an approximately correct inflationary premium, with no additional "risk" premium, the impact of inflation is not entirely neutralized. The social disruption remains, as noted above. High nominal interest rates, incorporating high inflation, burden the users of credit, in particular families seeking mortgages and small businesses seeking capital. Debtors can escape this real burden only if their own earnings rise in pace with inflation. In practice, not all debtors will be so fortunate.

Mr. Speaker, the qualitative difference between an inflating and a stable-price economy may not be apparent to casual observation over short periods of time. It is a medium-to-long run qualitative distinction. If the economy enjoys stable prices on average, approximately zero over years at a time with only a small variance around zero, economic agents will expect stable prices, and the distorting, corroding impact of inflation will melt away. If the price trend is stable but significantly above zero, the distorting, corroding impact of inflation will be attenuated in the short run, but will inevitably undercut economic growth and efficiency over time. That is the brief for zero as the optimum rate of inflation.

But can zero inflation, in fact, be achieved? Many will concur that, in principle, zero inflation is optimal, but will be skeptical that the Fed can actually achieve it and maintain it, without sacrificing real economic growth.

Mr. Speaker, the argument at this point needs some concrete evidence. From 1952 through 1965 consumer price inflation in the United States averaged 1.4 percent, with only small variations around that average—a standard deviation of 1 percent. During this period the average yield of long-term Treasury bonds was 3.5 percent. From 1966 through 1988 inflation averaged 6 percent—with a standard deviation of 3 percent. The average yield on Treasury bonds rose to 8 percent.

To reap the immense benefits that would flow from the lower interest rates we once enjoyed—benefits to the small debtor, to the homebuyer, and to the biggest debtor of all, the U.S. Government—we must reduce inflation once again to ranges close to zero. Stabilizing prices at an average trend close to zero would, without fail, reduce long-term Government interest rates to a range around 3 to 4 percent. Rates on private debt, such as mortgages, would naturally be somewhat higher, reflecting the greater risk the market attaches to nongovernmental debt. But they could fall to something like 6 or 7 percent, and very possibly lower.

Mr. Speaker, we know approximate price stability is possible, since we enjoyed it for a long period in the 1950's and 1960's, before giving way to an equally long period of inflation. What did we gain from accommodating that inflation? Real growth during the inflationary period from 1966 through 1988 has averaged 2.9 percent—the percent change of real GNP each quarter, compared to four quarters prior. But real growth from 1952 through 1965, a period of roughly stable prices, averaged 3.3 percent—with the same variation around the average as in the inflationary period. The record clearly suggests that accommodating inflation has retarded, not fostered real growth.

Mr. Speaker, over the past 6 years inflation in the United States has averaged 3.5 percent. This average is somewhat distorted by the collapse of oil prices in 1986, which caused a sharp but transitory drop in inflation. Excluding the last three quarters of 1986, in which the oil drop artificially depressed the CPI, the average was 3.7 percent. The recent trend has been upward, rising above 5 percent.

Compare this record with the inflation in consumer prices in four other industrial countries, two large and two small, over the last 6 years: Japan, 1.3 percent; The Netherlands, 1.4 percent; Germany, 1.5 percent; and Switzerland, 2.2 percent.

Consider, in addition, the record in France, a country plagued by inflation in the 1970's. In early 1982 French inflation was above 13 percent. Since then it has fallen sharply to a steady average of 3 percent over the past 2 years. For the past seven quarters French consumer price inflation has been lower than American consumer price inflation.

Mr. Speaker, clearly a number of important industrial countries have been able to control inflation at very low levels, albeit not precisely zero. These countries suffered the oil price shocks of the 1970's, just as we did, and experienced sharp jumps in inflation, just as we did. But they were able to absorb those price shocks without accommodating persistent inflation, and were able to return to a path close to price stability. We, too, brought inflation down significantly in the aftermath of the oil price shocks—but we got stuck around 4 percent, and we now face the serious threat of rising inflation.

The major impediment to the effort to reach and preserve price stability is the fear that the cost, in terms of recession and slow growth, would be intolerable. The historical record, however, teaches a very different lesson. Since 1965 we have had three major upswings in inflation, each more virulent than the last. Each major upswing in inflation was followed by a major rise in unemployment. Allowing inflation to accelerate may have appeared necessary, at the time, to forestall a rise in unemployment. Inflationary stimulus may indeed have worked to promote growth and employment—but only temporarily. Inevitably, after a certain lag, a jump in unemployment has followed on the heels of inflation. And that jump has been sharp, much sharper than would have occurred at the outset, had monetary policy acted to restrain, rather than to tolerate or to promote inflation.

It might be argued, Mr. Speaker, that the lagged relationship between rising inflation and rising unemployment is a consequence not of inflation itself, but of subsequent policies to contain inflation. Had monetary policy never tightened sufficiently to reduce inflation, unemployment might never have risen. That argument assumes, however, that accelerating inflation is but a minor irritant, not itself a cause of economic inefficiencies, nor a matter of much public concern. Both assumptions are false. Aside from the reasons advanced above why inflation itself—particularly if high and accelerating—undercuts economic performance, a casual glance around the world reveals a close correlation between high inflation and economic underdevelopment, stagnation, poverty, and unemployment. There is just no persuasive evidence anywhere that promoting or tolerating inflation has benefited any economy, for any reasonable period of time.

There is, however, persuasive evidence that the public in developed economies will sooner or later turn against governments that tolerate rising inflation, and elect leaders willing to rein it in, even at the cost of recession. Clearly the best counsel, in terms of the politics as well as the economics of inflation, is to reduce it to

approximately zero and resolutely nip it in the bud whenever it threatens to break away, by much, from zero. The resolution I am introducing today would direct the Federal Reserve to follow that counsel.

I am pleased to report that the Chairman of the Federal Reserve Board appears to agree with me on this issue. When Chairman Greenspan appeared before the Banking Committee in February to discuss the Fed's monetary policy report to Congress, I urged that we commit ourselves to work toward zero inflation over a reasonable period of time, and noted that it might plausibly take 5 years or more. His response bears quoting:

I just want to say that I agree with you fully. * * * The only minor quibble I would have is the issue of the time frame in which one should view the monetary process of bringing the inflation rate down.

One might expect, at this point, that the Chairman of the Federal Reserve would lobby for a long timeframe. But Chairman Greenspan did just the opposite:

I, too, agree that you don't want to do it abruptly so that it breaks the economy, but if you extend it over too long a period I think you wil find that there are always 20 different reasons why you can extend it further, and I think the commitment that we have to make to reducing inflation and achieving essentially a noninflationary environment has got to be cast in terms of a much shorter period then you contemplate. * * * I think that the best way of defining it is that it should be done in a manner which achieves the goal as quickly as possible in the least disruptive manner, and that can vary, but in no case that I can conceive of can it be as long as five years. It is more likely substantially less than that.

Mr. Speaker, Chairman Greenspan elaborated on this issue in a written response to a question about the acceptable rate of inflation posed by the Senate Banking Committee:

I have emphasized the importance of reducing the rate of inflation to a level at which it no longer has economic significance—that is, one so low that people no longer feel the need to make any allowance for inflation in their decisions about purchasing real or financial assets. I'm not sure what, in terms of our conventional price indexes that translates into quantitatively, but I think we must at this point take as our working assumption that it is a number approximating zero. As to a timetable, it is clear that we can't achieve price stability overnight without undue wrenching of the economy; however, if we do not have at least a rough sense that we want to achieve this objective within several years, it will lose operational significance and have little, if any, of the favorable expectational effect that it might otherwise have.

Mr. Speaker, Chairman Greenspan defined price stability as a rate of inflation so low that expected future inflation plays no role in investment decisions. That rate cannot be pinpointed precisely, but it "approximates" zero. Since all the price indexes by which we measure inflation are, to a degree, arbitrary constructs, we cannot insist that price stability require absolutely no change in any of those indexes, month in and month out. A trend close to zero, over several years, in broad indexes such as the GNP Price Deflator or the Consumer Price Index is a practical working definition of price stability.

Mr. Speaker, my resolution sets a goal of zero inflation, but contains no instructions or directives on how monetary policy should be conducted to achieve that goal. I have long been an ardent defender of Federal Reserve independence in the setting of monetary policy. The Fed should be independent and sovereign in its choice of the means and techniques by which it conducts policy, and in its choice of indicators or short-run targets for policy. Neither the administration nor the Congress should impose interest rate, money supply, exchange rate, or any other such target on the Federal Open Market Committee, or to require it to take any specific monetary action.

Mr. Speaker, we should, however, dictate the final objective, the ultimate goal of monetary policy. The Federal Reserve System was created by simple statutory law. The Congress obviously has the right—and also the duty—to establish the objectives of monetary policy. Having established a proper and attainable objective, it should then permit the Fed to do its best to attain that objective, without interference in the inner workings of monetary policy, an esoteric domain in which the Congress lacks the necessary expertise and experience. Neither the Congress nor the administration, if permitted to dictate short-run monetary policies, targets, or procedures, would consistently respect and nurture a monetary policy committed to stable prices, uncompromised by momentary political objectives. The Congress should, instead, establish stable prices as the ultimate objective, give the Fed the freedom and scope to achieve that objective, and hold the Fed accountable for the final outcome, over a reasonable period of time.

Mr. Speaker, it is pointless to frame goals in terms so broad and general that they fail, even in the long run, to discipline the conduct of policy. It is pointless to set out willy-nilly a wide array of goals and objectives, many of which are in conflict with each other, or are simply beyond the reach of monetary policy. That is the pious approach to policy, little more than an instruction to go forth and do good. It positively invites outside interference in the setting of monetary policy, while weakening the political and psychological defenses against it. If the Fed is presumed to be, to some degree, coresponsible for helping attain virtually all things economic desired by any administration or Congress, how can it hold out, consistently, against political pressures to bend policy this way or that, to provide temporary relief for whatever current problems dominate the political landscape. The best defense against these pressures would be a clear definition of the single objective—zero inflation—which monetary policy can and should achieve, over a reasonable period of time, and which must not be compromised for any other purpose.

Mr. Speaker, I have quoted Chairman Greenspan's own testimony in support of this objective, and I have no doubt about the sincerity of his commitment. I also have no doubt that the Federal Open Market Committee has been pursuing a vigorous anti-inflationary policy. As chairman of the Subcommittee on Domestic Monetary Policy, I issued a report entitled "A Review of the Course of Monetary Policy in 1988." That report makes abundantly clear that the Fed has persistently tightened monetary policy for the past 2 years, with only a brief relaxation in the wake of the stock market crash. That tightening has continued into 1989.

We now are seeing some evidence of a pending economic slowdown, which would be entirely consistent with this pattern of tightening. Some forecasters even predict a recession, this year or next. Whatever economic weakness may lie before us, including a recession, I am convinced that monetary policy for the past 2 years has been moving in the right direction, though hindsight may eventually suggest that the degree of tightening was too severe, or too lax. Inflation has been stuck on too high a plateau, and the risk of its rising has, for some time, outweighed the chance of its falling. Monetary tightening was the only responsible choice, even if it now brings some slackening of growth. Better to have erred by tightening too much—if that proves to be the case—than to accommodate inflation indefinitely.

Mr. Speaker, on the other side of any economic slackening lies the prospect of strong, sustainable growth with real price stability—real zero inflation. I am offering this resolution, Mr. Speaker, at a time when that prospect is plausibly in sight, when the Chairman of the Federal Reserve has publicly embraced it as the ultimate objective of monetary policy, and when the Federal Open Market Committee has demonstrated an impressive commitment to reducing inflation through 2 years of serious monetary tightening. Mr. Speaker, now is the time to make zero inflation the explicit, official and dominant objective of monetary policy.

□ 1620

CENTRAL AMERICAN EXPERIENCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 60 minutes.

Mr. DREIER of California. Mr. Speaker, this afternoon I have taken out this special order to talk about something that is very important. The attention of the American people over the last 2 days has correctly been placed on a horrible tragedy which has taken place in Lebanon. That, of course, being the horrible hanging of Lt. Col. William Higgins. Mr. Speaker, we all feel very strongly about that. In fact, during this special order there will be a comment made by my colleague, the gentleman from California [Mr. DORNAN], about that incident.

Mr. Speaker, something else took place this past weekend, and I think that it is very important for our colleagues to be aware of this development. I am speaking about the developments in Central America. I was very pleased to join a bipartisan delegation which included my colleague from Mississippi, a freshman Member,

who has served here for 7 months, Mr. PARKER, from southern Mississippi. Also my colleague from Phoenix, AZ, Mr. KYL, and they are very well represented by Mr. KYL; another new Member, Mr. Speaker, is our friend from Springfield, MO, my original home State, Mr. HANCOCK, who came here to "give them Mel," and I can assure Members, Mr. Speaker, he has done just that and did just that in Central America.

We had an interesting experience. On Saturday, we had breakfast, lunch, and dinner in different countries. We were in Guatemala City, Guatemala, for breakfast, and had a meeting with the Economic Minister of Guatemala. At lunch, we flew immediately to San Salvador and had a meeting with the newly elected President who just today, in fact, on August 1, completes the second month of his term in office, President Alfredo Cristiani. Next we flew to Managua, Nicaragua, for dinner, and we spent Sunday, all day, in Nicaragua. We had an experience which I would like to have my colleagues share with other Members. I hope we can have an exchange that will go here over the next few minutes, and I would like to begin by calling on my Democratic colleague, my new friend from Mississippi [Mr. PARKER], who has just joined the Congress.

First, Mr. Speaker, I would like to seize this wonderful opportunity to yield a small part of my time to the very distinguished chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY].

WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 3015, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL, 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-206) on the resolution (H. Res. 221) waiving certain points of order against consideration of this bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes, which was referred to the House Calendar and ordered to be printed.

Mr. DREIER of California. Mr. Speaker, I thank the distinguished chairman of the Committee on Rules, and would say that I would have loved to have had the gentleman on this trip that we had this weekend to Nicaragua, Guatemala, and El Salvador, and I hope he will seize the opportunity as his Democratic colleague from Mississippi [Mr. PARKER] did.

Mr. Speaker, I would like to take this chance to yield to my friend, the gentleman from Mississippi [Mr. PARKER].

Mr. PARKER. Mr. Speaker, I thank my friend from California for yielding.

I did enjoy the trip that we had down to Central America simply from the standpoint that it opened my eyes to a lot of different things. The first time I ever heard a speech about Nicaragua was in 1968 when I was in college. We were in Hattiesburg, MS, and a classmate of mine by the name of Igor Pallis talked about the problems of the Somoza regime, and that there would be a revolution in Nicaragua. He was right. It took 11 years for that revolution to occur.

However, over that period of time, a lot of things happened. I was very much interested in going to Central America, not only because of Nicaragua, but because I heard so much about it in the past, but I also was interested in going to Guatemala. Guatemala is a very important part of Central America, and one of the fastest growing economies that we have in Central America now.

It was my pleasure to be able to set an agenda for a trip, an economic development trip, from our State contingent of people that would be coming to Guatemala to do some business.

The odd thing about our trip was the different emotions that I had as I went through. When we went to Guatemala City, when any person gets there, a person will notice there is an extreme amount of poverty. However, there is business going on. Some people are doing well. After a person leaves there, they get an odd sensation, leaving there and going to a place like Salvador. All of a sudden a person is in a situation where in El Salvador everyone has guns and security is extremely tight. They are continuously on the lookout for the FSLM. A person gets a foreboding, a feeling of foreboding, and are never quite at ease. Then we get to Nicaragua, and the first feeling we get when we get there, it does not take very long, we feel a very sad feeling. Something is wrong in the area. All the buildings, the beautiful buildings are all run down, and there is poverty everywhere. No one smiles. It is a situation where the people seem to be burdened everywhere we go. That stuck with me throughout.

I had been told by a lot of my colleagues, although I had never taken a Contra aid vote, never, when all the different votes were taken on Contra aid, I was a private citizen. I had a feeling that something was wrong with the Sandinistas. I did not know what it was, but I had a feeling. However, I continually heard people say, "You need to leave the Sandinistas alone, they are trying to improve this country. They are having to work hard. You do not need to bother them. They are good people."

Well, I wanted to go and see for myself. I went to Nicaragua. I found a much different situation. When I got there, the security there was tight also. The people did not have a lot of guns around on the streets, but the security was very tight. The buses were loaded with people hanging on the fronts of the buses and on the backs of the buses, simply because that was the only transportation. The inflation rate is so high down there that people cannot afford anything. We were told by the Embassy that the teachers now, because the inflation rate is so high, the teachers make around $20 a month. They ration gasoline, but there is no reason to ration it because a person cannot afford it anyway. It is a situation where people's lifestyles are so depressed. It is so poor. It is a sad, sad situation.

We had gotten permission to attend a political rally, and we met with different people. We wanted to meet with government officials, but they never would meet with the Members. I was very interested. I remember my colleagues, a lot of them said we need to go down there so we will understand, that we need to be in a situation where we are not opposed to the Sandinista regime. I went there with an open mind. I went there looking to find some reaffirmation of those words that my colleagues kept giving to me.

Well, I started feeling a little better. I started looking at things from the standpoint that there may be a chance for these free and fair elections, which is the only hope that the people of Nicaragua have.

□ 1630

But we had a situation arise where we went to this small town, Diriamba, which is about 20 or 25 miles outside of Managua. We went there, and we were not there to do anything; we were just there to look. We had already been given permission to go to one political rally, and that political rally was postponed, and on this other one, the Embassy took us there with the State Department people. When we got there, we got out of the vans we were in, the bullet-proof vans. We got out, and all of a sudden the Sandinista officers came up.

I want to say that the average height of an Nicaraguan is somewhat small. They are not very tall people, but whenever they get out of those cars and they have those guns and they are very, very angry, all of a sudden they seem to become much larger than we think they are. It was a situation where these individuals came to us and started explaining to us that we had no business being there.

We should remember that they are always talking about having a free and fair election. But they said we have no business being there, even though we have an Embassy there in Managua. We have no business being there, they said, and we have to picture that. If we

had someone come over here from another country during our political campaigns and they just wanted to go to a simple political rally, what would our reaction be if the military came to that individual and said, "You have no right to be here"? My first reaction is that I have a right to be here because I am a free individual. That is what freedom is. It gives us that right.

But we were turned away, and there is going to be more talk about that, because they could not guarantee our safety. Even though they were the only ones that had guns, they could not guarantee our safety. They escorted us out of town. So we went back to the Embassy.

I was somewhat relieved to get back within the walls of that Embassy. But I learned certain things. I learned that the Sandinistas are terrorists. They use terror, and that is what it is. They use terror on the people. They put people in a situation where they are afraid to express themselves. They are afraid to do anything that is opposed to that regime.

I talked to a lot of people who were Sandinistas. They had supported the Sandinistas in 1979, they had worked for the Sandinistas, they had believed in the Sandinistas, but they no longer believe in them. They have seen the results of what has happened in the last 10 years.

I believe the people of Nicaragua do not want to go back to Samoza's terror. The Sandinistas use the same terror that Samoza did. They would, however, like to go back to Samoza's economy. Ten years ago Nicaragua exported $10 billion per year; last year Nicaragua exported $250 million per year. The economy is falling apart. The Sandinistas need to blame somebody for that. They cannot stand up and say that it is their fault, so what they do is they blame America.

On every wall we see, it says, "Yankee go home" or "Yankee die." It is fascinating. I am an old country boy from south Mississippi, and that was the first time in my life anybody ever called me a Yankee.

But in all seriousness, the saddest part of the trip was getting on the airplane. The reason it was so sad was because I knew I could leave. I knew I could get on that airplane and I could fly back to Washington; I could come back to this country where I was free to do what I wanted to do and say what I wanted to say. But there are millions of people in Nicaragua today who cannot leave. Some of them can afford to. Some of them could leave town tomorrow. They could come here, but if they do, they are going to leave children or brothers and sisters or mothers and fathers, family and friends that they care about, and they feel a responsibility to stay and protect them.

Who knows what might happen? If the election were held, a free and fair election, the people might choose the Sandinistas. If they did, that would be their decision. The point that I feel strongly about, though, is that the people of Nicaragua need to have a free and fair election so they can make their own decision, and the world community needs to make sure that the Sandinistas give the people the opportunity to go to the polls and vote. We do not need another Noriega-type election. The world community will not stand for it.

My position is that I support a free and fair election in Nicaragua. Let the people of Nicaragua decide what they want for their future. I will say this: It is my feeling that they will not choose the Sandinista regime.

Mr. Speaker, I thank my friend, the gentleman from California, for yielding.

Mr. DREIER of California. Mr. Speaker, I thank my friend, the gentleman from Mississippi, for providing certainly a very eloquent statement and for being an important part of this bipartisan delegation. In fact, he is the one who made it a bipartisan delegation. I am pleased that he was able to join us and provide a perspective which we do not often gain in this House, primarily because we do not see a great turnover of Members, and to have someone come from the perspective that the gentleman from Mississippi [Mr. PARKER] has, having been in business and now coming up and having heard about but not having been involved in the decisions which have been made over the past decade, means that this is a very important contribution to this special order, and I thank the gentleman for that contribution.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to my friend, the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I really appreciated the remarks of my colleague, the gentleman from Mississippi, and I appreciate also his use of the word, "terrorists," as applied to the Sandinistas, because they have fit that mode for 7 or 8 years very well.

But I wanted to make an observation to him that I am sure he will find very frustrating. About 3 years ago, when votes for freedom were winnable in this Chamber for the struggle for freedom, the resistance in Nicaragua, we made an observation on a trip that the gentleman from California [Mr. DREIER] and I made going down there, and we ended up calling it the "water factor," and that was that in our party, of the 12 votes—and it finally got down to 10—that we could never turn around to help the freedom fighters, 9 of the 10 were from States that touched the Canadian border, and the 10th was Iowa. There is always a little exception.

Mr. DREIER of California. Mr. Speaker, I know what the gentleman is going to proceed with, and I should tell him that our friend here is from southern Mississippi.

Mr. DORNAN of California. Yes, and that even helps. But his State has the water factor, so that he could sail from Biloxi directly to Nicaragua, and if you went by the Yucatan pass, that might be the only time you would see land, and it even applied on your side with one or two exceptions. But with the Senate, every single Senator in both parties, from Texas all the way around to Florida, and all the way to both Carolinas and Virginia—and this is the water factor again, the proximity—every single Senator voted for assistance to the democratic resistance, and that only changed with the election from this Chamber of the junior member of the Georgia delegation. He is the first one to break that unbroken chain, that bipartisan chain from Virginia all the way around to Brownsville, TX.

There is something about feeling the closeness that you feel in your State, because you are much closer down there than you are from where we stand right now. And it is just such a tragedy that this distance factor is so important, that being on the Canadian border or from old New England, you can say, "I don't care what happens in North America, but go ahead and send a billion dollars to Afghanistan, because I support that strongly."

But with the disparity in money and in the face of our national security, it is a mind-boggling situation that there are some people in this Chamber—and I will close on this—who want to make Nicaragua the only unique country in the world, where there is no American effort to directly try to help the forces of freedom in an election. I do not understand that.

Mr. PARKER. Mr. Speaker, if my friend will yield further to me, there is another point that I think is significant prior to the U.S. Congress voting down Contra aid. At that time the U.S. Embassy in Managua was receiving requests for 30 to 40 visas to come to the United States per week. The U.S. Congress turned its back on the Contras immediately, starting that week. The Embassy started receiving requests for 300 to 400 visas per week to come to this country.

If we as a society do not realize that the future of our country is interdependent with the future of the Central American countries, we are fooling ourselves.

□ 1640

Mr. Speaker, we must help Central America, and we must make sure that

there is a free Central America. We still have a lot of friends in Nicaragua. The Sandinistas do not like us at all, but that does not matter.

One other point that I am going to make because I have got to leave, but one other point: I asked the people down there that I was talking with; I said that the Sandinistas were such a small part of the opposition to Somoza. They were such a small part. There were not a lot of them. I said, "Explain to me how they got the power when Somoza fell."

It was simple, Mr. Speaker. They are the only ones that had the guns. They had Korean, North Korean guns; they had Russian guns, Cuban guns. They are the only ones that had the weapons.

I say to my colleagues, "When you have the weapons, you have the power. It is just that simple."

Mr. Speaker, I thank the gentleman from California [Mr. DREIER], my friend, for yielding to me.

Mr. DREIER of California. Mr. Speaker, I again thank the gentleman from Mississippi [Mr. PARKER], my friend, and I should say he has announced that he has to leave, but I want to say that a number of us are not too pleased about the fact that his pitching arm is leaving the floor of this House to enter that baseball game which a number of people are going to be participating in this evening, but in the spirit of bipartisanship and appreciation for his having attended this mission to Central America I say to him, "Good luck."

Mr. PARKER. Mr. Speaker, let me explain this to my friend. I expect to reach my peak in about an hour and a half.

Mr. DREIER of California. Mr. Speaker, I wish my friend, the gentleman from Mississippi [Mr. PARKER], the very best of luck.

Mr. Speaker, I yield to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I would like to take this opportunity to discuss in just a little bit more detail the precise events that occurred in Nicaragua in Diriamba because I think it will help my colleagues to understand what we are up against in trying to bring public focus, public attention, on the election process in Nicaragua.

Mr. Speaker, my colleague a moment ago mentioned the fact that in Managua there was an election, and I think we all understand that the reason that the world understood what happened in Panama was that through either mistake or miscalculation Noriega permitted observers, objective observers, from around the world, and in particular from the United States, to be present in Nicaragua. Even former President Jimmy Carter was there and, because we had objective observers there, they could not hide anything. Our observers, and the TV cameras and the media people reported what actually happened, and as a result, when it became clear that Noriega had lost the election, he could not cover it up, and he had to resort to force to stay in power.

Unfortunately, Mr. Speaker, I think that is a lesson that has not been lost on Daniel Ortega and his other Sandinista friends, comandantes, in Nicaragua. They understand that, if they are to impress the world with a free and fair election in February, that it is going to have to appear, at least on the surface, to be free, and that means that certain people are going to have to be there to report on what has occurred. But they have a dilemma because, if objective observers are there reporting, the truth will be told, and, as the gentleman from Mississippi [Mr. PARKER], my colleague, pointed out, he does not expect that they could win an election, and neither do I. Neither do most people in Nicaragua.

So, Mr. Speaker, what will they probably do? My guess, Mr. Speaker, based upon what occurred to us is that observers will be allowed to come into the country to report on what is happening, but they will be observers chosen by the Sandinistas. Visas will only be granted to those who will see what the Sandinistas want them to see.

My colleagues and I traveled to this small town of Diriamba. As we entered the town, we noticed a large crowd gathered in the plaza. Our two vehicles pulled to a stop. There were the usual number of police around, but there were also people in the town plaza listening to speakers.

Now this was the opposition party, one of the opposition parties, to the Sandinistas conducting this rally, so my colleague, the gentleman from California [Mr. DREIER], and I departed from the vehicle and immediately walked up to the periphery of this crowd. We stood there for a while listening to the speaker and observing the people around us. They were quite enthusiastic listening to the speaker. There were a few people scattered in the crowd who did not appear to be quite so enthusiastic, and we expected that they were perhaps from the Interior Ministry or the so-called divinas turbas, or the mob——

Mr. DREIER of California. The divine mob is what it is referred to as, and, reclaiming my time, I think the divine mob has a reputation for being a gang of people that is given whiskey and a little money by the Interior Ministry, and they proceed to rough up people if they get that direction from the Interior Ministry.

Mr. KYL. On signal; that is right.

Mr. DREIER of California. Mr. Speaker, I am happy to continue to yield to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, my colleague and I noticed a few of these people. We could not obviously identify them with certainty, but it was fairly evident that they did not fit into the crowd which was primarily campesinos in this small agricultural village.

In any event, after listening to the speaker for 4 or 5 minutes, one of the State Department officials who was accompanying us came rapidly up to us.

Mr. DREIER of California. Actually, if I could reclaim my time for a moment, the gentleman and I said that we wanted to have a little bit of an exchange here, so I do not want to be appearing to be rude and interrupt him, but, if he will recall, when we were standing there I proceeded to tap a woman on the shoulder and ask her a couple of questions, as we do at these rallies. I asked her if she was planning to vote, and she said yes. I asked her if she was hoping to see major changes. She said she hoped so. I asked if she was anticipating and really believing that change would take place following the election. Then she began to turn abruptly, and a large thuggish-looking, reasonably well dressed man not in uniform came and thumped on the shoulder of one of our escorts and proceeded to say, "Why are you asking this woman if she's going to vote? Are you going to vote?," and our escort explained that we were there as Members of the United States Congress simply observing the electoral process as the campaign begins to build for the February 25 election and that we wanted to simply observe this. He proceeded to say that we had no right to ask her about this and that we were tampering with the internal politics of Nicaragua by simply being there and observing this process.

Then he began to swear at us in Spanish, and it was at that moment that we saw the escort from the State Department approach from behind and tell us that we were to leave immediately.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I yield to the gentleman from Arizona, my friend.

Mr. KYL. Mr. Speaker, I am glad my colleague pointed this out because this is one of the reasons that we believe the people, including the one that the gentleman referred to, were not just campesinos there to listen to the speeches, but rather were there either on behalf of the Interior Ministry, or perhaps even part of the police of ministry itself. In any event, our escort came up and said that we must leave immediately.

Mr. Speaker, we asked, "Why?"

He said, "We have been ordered to leave by the Interior Ministry."

Now, Mr. Speaker, as my colleagues know, the Interior Ministry in Nicaragua is the equivalent of the KGB in the Soviet Union.

Mr. DREIER of California. Mr. Speaker, reclaiming my time, it is not as if the Interior Ministry is like our Department of Interior for an American who would see this. They do not handle the land and recreational areas and that sort of thing.

Mr. KYL. Not at all.

Mr. DREIER of California. What would it be?

Mr. KYL. Well, it is not like the FBI or the CIA because those are really investigative and law enforcement activities that work within our law. The Interior Ministry is almost a law unto itself. It is not the army, it is not technically the police force, but it is in charge of internal security of the country, and they act very much like soldiers. Some of them are in uniform, some are not, but, in any event, they have full power to arrest, to detain, and, as a matter of fact; I believe my colleague, the gentleman from California [Mr. DREIER] could correct me if I am wrong, but they were in charge of the prison system.

Mr. DREIER of California. Absolutely. The interior ministry, headed in Nicaragua by Thomas Borge, of course, is responsible for what are today 6,000 political prisoners. We know until recently that it has been as high as 11,000 political prisoners, and the gentleman from Mississippi [Mr. PARKER], my friend who spoke just a few moments ago, talked about life under Somoza.

Mr. Speaker, we know that life under Somoza, as repressive as it was, there were never more than 800 political prisoners, and we know that under Somoza, as horrible as it was, and I am not an apologist of Anastasio Somoza, but, as horrible as it was, there was one political prison at Tipitapa. Today in Nicaragua there are eleven political prisons which house, and I use that term "house" advisedly. They like to call them model political prisons, model prisons, but they do not refer to them as political prisons, of course, but they have in those prisons now 6,000 people, had had as many as 11,000, but the gentleman is absolutely correct when he said that Tomas Borge's interior ministry does have oversight of the activities there.

□ 1650

Mr. KYL. Well, my colleague and I had been to Nicaragua on a prior occasion and were involved in an incident which I think helps to set the background for what we are relating here to convince us that these are people you do not fool around with. We stopped simply to take a photograph of the Interior Ministry, which just like right out of the 1984 George Orwell novel, is identified by a sign that runs across the top of the building, "The Sentinel of the People's Happiness."

Mr. DREIER of California. That seems very ironic in light of the oppression and so-called internal security protection which they provide.

Mr. KYL. "The Sentinel of the People's Happiness," and when we took the picture, we were almost arrested. Had our escort not been very quick on his feet and gotten us on a bus before they could bring their reinforcements, we would have been arrested for simply taking a picture of the sign above the Interior Ministry, which reads, "The Sentinel of the People's Happiness."

Mr. DREIER of California. As I recall, we were grabbed by some 18-, 19- or 20-year-old Interior Ministry officials, who said, "We want to take you inside to talk to you about taking pictures." That was the exact way they put it, which seemed again slightly ironic.

Mr. KYL. In any event, these are the people that we were dealing with. So when our escort in Diriamba said, "We have been ordered by the Interior Ministry, these people, to leave immediately," when Congresman DREIER and I looked at the expression on his face we immediately knew this was an extremely serious proposition.

We followed him back to the vehicles where our other colleagues, the gentleman from Missouri [Mr. HANCOCK] and the gentleman from Mississippi [Mr. PARKER] were, and noticed that there were several officers there, both in uniform and obviously plainclothes officers.

Again we were ordered to leave, and at this point Congressman DREIER was introduced to the person who was obviously in charge, and I think it would be appropriate if he explained directly what transpired next.

Mr. DREIER of California. Basically what happened was that I, like my friend, the gentleman from Arizona, did not feel as if we should immediately buckle under to someone saying, "Get out of here." After all, we had the flight, as was pointed out many times by President Reagan, you know, if you look at the closeness of Los Angeles, Washington, DC, and Central America, it is an interesting, a very interesting triangle. We had flown 4½ hours from Washington, DC, to get to Managua and we had driven 1½ hours that morning through the hills to get to Diriamba. We did not feel after having been there for maybe 7 or 8 minutes that we should all of a sudden get back into our vehicles and travel all the way back to Managua. So we were hesitant at this request to leave. After all, we knew that we were simply observing the process. We were not in any way involved in the process. As one of the 14 political parties which was holding rallies, you know, the parties were all organizing in their own ways; regardless of what political party it would have been, we would have been there to observe it if we possibly could.

So we were reticent. When I was introduced to the man, they introduced me as the Congressita from Nort Americano and indicated that we were here as international observers, and I said that we wanted to stay.

He said to us, "Abandon the zone immediately."

I said, "Well, we really don't want to abandon the zone immediately. We want to observe the political rally."

And he looked at me and then said, "If you stay, I cannot guarantee your safety."

Well, now, Mr. Speaker, one thinks of standing in a small town outside of Managua, Nicaragua, surrounded by Interior Ministry officials and their little white Latta vehicles, in uniform, and armed, and then look and see what we refer to as the Turbas Divinas, the Divine Mob, which at the drop of a hat can surround, harass and beat up individuals, which they have had a reputation for doing, it gives one a little pause when the highest ranking official, or what at that point we thought was the highest ranking official from the Interior Ministry would say, "If you stay, I cannot guarantee your safety."

I then said, "We basically have our own security. We feel safe."

And he immediately said, "Abandon the zone immediately."

So with that, we did proceed to get back into our vehicles and then we drove a kilometer. Maybe my friend, the gentleman from Arizona, can tell us what happened at that point.

Mr. KYL. Yes. As a matter of fact, we were debating on the way out of town whether we might have pressed the issue a little bit further, and our escorts from the Embassy said that we were proper in leaving at the moment we did. Had we stayed about another minute, we would undoubtedly have been arrested.

Mr. DREIER of California. Either arrested or they would have unleashed the Turbas Divinas on us.

Mr. KYL. That was the other alternative.

Mr. Speaker, this is what is so distressing, because if you are going to have free and fair elections, obviously you have to have people there to observe what goes on, or you hide all kinds of things.

In this country, when you have a group of people like the Nazi Brown Shirts who at the drop of a hat, at the command of the Interior Ministry, can beat people up, you know that the people there feel a great deal of intimidation.

This is what our escorts said would have happened. Either we would have

been attacked by those people, and obviously the Interior Ministry, having told us they could not assure our safety, would not have intervened, or we would have been taken by the Interior Ministry to their place and probably been interrogated and left there quite awhile before being released.

Moreover, our escorts were very concerned that their very skeleton staff at the Embassy would probably be reduced even further, because if we had made an incident, they are looking for every excuse they can to denude our Embassy staff of personnel. Every time someone has left our Embassy and we have tried to replace them, their visa has been denied.

As a matter of fact, our Marine Security Guard at the Embassy, which in the past has consisted of a dozen Marines, is down to six young men now, because those who have transferred out have not been able to be replaced.

Mr. Speaker, can you imagine just six Marines in this country, this pro-Communist country, having the responsibility of protecting our entire Embassy and personnel there? They are doing double and triple duty.

When I asked one of the young men who was there, "How are you doing?" He said, "Well, sir, sometimes we get a bit tired, but we will do all right, sir."

Well, their attitude is remarkable. It is nothing less than you would expect of a U.S. marine, but you could tell that they are wearing thin.

I think it is incumbent upon my colleagues, Mr. Speaker, to recognize the problem that we have there with the Sandinista government not being willing to allow us to even replace our Embassy personnel and the guards there that guard it.

In any event, Mr. Speaker, as we left town debating what would have hapened, we stopped because we noticed the gentleman we had met the night before, whose car was right there, who told us that he lived in this town, near this town, and we told him what happened, and he said yes, he had left a little earlier, that he had seen Tomas Borge, the head of the Interior Ministry, in town just a few minutes earlier.

We got back in our vehicles to go back to Managua. As we did, we noticed that the same Interior Ministry vehicle that had stopped us in the city of Diriamba had followed us on out, had seen him and we wanted to leave immediately, because we did not want him to get into any further trouble.

The point of all this, and I would like to yield back because our colleague, the gentleman from Missouri, wants to make some comments since he is here; but the point I want to conclude with Mr. Speaker, is this: The only way that the Arias peace plan will work in Nicaragua is if the whole world can focus its attention on what occurs next February, and before February, because it is one thing to have an election on election day. It is something else to have a period of time prior to that during which political candidates can organize, can file, can get supporters, can campaign, can hold rallies, can do all these things that are needed in order to persuade fellow citizens to support them in a free election. We are now in that election process, and if we are not permitted to have objective observes, Members of the U.S. Congress from both political parties, to be able freely to observe what occurs there prior to the election, then we are not going to be able to do our part in seeing that the Arias peace plan is carried out. We are not going to be able to properly evaluate the decisions that should be made in this body with respect to providing further aid; for example, aid to the Contras, aid to a country like Honduras, and to develop a policy to support the administration's policy in that part of the world. We need to know what is going on there.

When the Sandinista government denies us the ability to travel freely in the country, says that we are not welcome, that we have no right to attend a political rally, that if we want to know what happened, we should read the paper the next day or watch it on television, which is precisely what this person told us, if that is all the better that we are going to be able to do, then I think we have to appreciate right now that the Sandinistas have no intention of holding free and fair elections and they are not going to allow us in to tell that story.

Therefore, Mr. Speaker, we ought to be putting as much pressure on that regime as possible to allow objective observers from now on to be there, to observe what is happening, and to help focus public attention in this country and around the world on the Sandinista regime so that it does conduct itself in such a way that the people of that country can freely choose their next government.

□ 1700

It is a responsibility on those of us in the U.S. Congress who helped to vote on the issues that resulted in this peace plan being supported, first, by the Reagan administration and now the Bush administration, so, Mr. Speaker, I urge my colleagues to pay attention to what is going on there, to learn as much about it as they can, to travel there themselves and see it with their own eyes.

Mr. Speaker, we hope that as a result of that, the Sandinista regime will finally get the idea that they should not turn people like us away but, rather, open up their process so we can come back here and report the system is fair.

I want to commend my colleague, the gentleman from California [Mr. DREIER], for putting this congressional delegation together to visit Nicaragua and the other Central American countries over the weekend. I plan to join him on further such occasions and further commend him for putting together this special order to explain to our colleagues what happened this past weekend.

Mr. DREIER of California. Mr. Speaker, I thank my friend for his contribution. I would like to say to him that he provided invaluable input to the trip, because he and I were able to juxtapose the experience which we had in November 1987 when he led a delegation which we referred to earlier, the delegation which saw us nearly arrested when we were in front of the Interior Ministry taking that photograph of the sign which said, "Sentinel of the People's Happiness" even though they are known as some of the worst barbarians on the face of the Earth, and then from there, when we went to another political rally and we went to a political rally at a union hall, and at that union hall we were there as observers, interviewing people, talking to people.

Mr. KYL. If the gentleman will yield, as a matter of fact, there was in 1987 in November, and am I correct in remembering the date?

Mr. DREIER of California. November 7, 1987.

Mr. KYL. I knew my colleague would remember the exact date. We were attending another political rally, as he pointed out, and they even asked us if we would like to come up on the stage and say something.

Mr. DREIER of California. The gentleman is correct. They did.

Mr. KYL. But that was at another time. There was no election going on in November 1987. Does my colleague think that might count for part of the difference?

Mr. DREIER of California. That is a very important point which needs to be made, and that is why I felt that as we went to this rally that there might be an even greater opportunity, and yet I really do believe, Mr. Speaker, that to see the kinds of controls imposed on the people who are trying to observe the rallies clearly demonstrates, and it pains me to say this, Mr. Speaker, because I supported the bipartisan compromise. I supported it for one simple reason, because I saw in that dark cloud the prospect of February 25, 1990, being the time when we would have for the first time a reasonably free and reasonably fair election in Nicaragua, and it saddens me, because when I look at the treatment that we received day before yesterday in Managua, in Diriamba, it really pains me and, frankly, Mr. Speaker, at this point having gotten the treatment that I did, I wished I had voted against the great bipartisan compromise. I would not have done it if I had

thought for a moment that my attempt to simply observe a political rally would have turned out the way that it did.

Mr. Speaker, we have had the chance to hear from two other members of this bipartisan delegation, Democrat-Republican delegation, and there is another new Member of Congress who has joined this place and come with an incredible perspective. He is a farmer, businessman, a man who is very well known throughout the Show-Me State, which, as I said, Mr. Speaker, is my original home State, the State of Missouri. He comes here from Springfield, MO, with a great perspective after 7 months and the first trip that he has taken as a Member of Congress.

Incidentally, I should say that anyone who wants to call what we went through last weekend a congressional junket should come and take a look at some of the photographs and just look at what we have gone through for the past few days. But the first congressional trip that my friend, the gentleman from Missouri [Mr. HANCOCK], has taken was the one that we had last weekend, and I know that he has some very, very interesting thoughts about it, because I had the chance to get to know him well over the past few days.

Mr. Speaker, I yield to my distinguished friend, the gentleman from Missouri [Mr. HANCOCK].

Mr. HANCOCK. Mr. Speaker, first, I would like to commend my colleague, the gentleman from California [Mr. DREIER], for these special orders, and also for arranging the trip to Nicaragua. He has been there several times.

The comments the gentleman made about junkets, I agree. If this was what I had perceived that I had heard about the junket trips before I came to Washington, I have been a little bit misled. It was hard work. It was tense at times.

This was my first trip to Central America, and I think possibly the thing to do is talk about the first impression. We already have talked about the situation in Guatemala and El Salvador, so I would like to maybe express my feelings as a first impression of Nicaragua as we crossed the border into Nicaragua and started to let down to the airport. We did have a little weather, but beautiful countryside, mountains. That much cannot be seen from the air, but it is a beautiful country.

As we approached the runway and got a little lower over Managua, why we started seeing some of the things, the ravages of war, I guess they could be called, but just as we approached the approach of the runway, just before touchdown, there were wrecked helicopters. As we rolled down the runway, Russian helicopters alongside. It is not a good experience. One does not feel real good. Immediately I felt, just by what we saw, what the people of Nicaragua have been going through.

We have talked about going to the rally. We stopped on the way to the rally, maybe a half a mile or a mile from town. Everybody in the vans were in a good mood from the meetings we had had the night before. We got out of the vans, stood around for a few minutes, and everybody was really up, I mean, we really felt good about the situation. The comment was made several times, and my colleague from California mentioned, "I am really optimistic. I am more optimistic now about the possibilities of democracy in Nicaragua." We all felt this way.

We got into town, and as we approached the town, and we drove several blocks, and I would say maybe 8 or 10 blocks of what obviously 15 or 20 years ago was a prosperous community, but all of the businesses were shut down. There were not any smiles on the faces of the people, the few people who were on the streets. It looked almost like an abandoned ghost town, because of the way it was boarded up. The churches were in the same condition, completely, totally deteriorated.

We, in fact, went around one church building, and I commented as we drove all the way around it, as we happened to go around a little square, that I thought it was closed. It was in that bad shape. But it was obvious that the door to that church was still open.

The sense I had was that these people need the help of the American people. We cannot ignore the situation down there.

Mr. DREIER of California. If I could reclaim my time, the gentleman makes a very good point. I would like him to underscore what he said when we were down there when he was talking about the plight of some of the very serious problems we face in the United States, looking at some public housing, some of the problems that we face here, and he was comparing those to what we saw there. I wish the gentleman would do that for our colleagues.

Mr. HANCOCK. Even the poorest public housing in the United States is better than what some of those people are living in down there. In fact, I made the comment that some of the houses that we drove by were like pigsties. I have torn down buildings on my place because they were not good enough to put my dogs in and, in fact, the dogs would not want to live in a place like that, some of those places. I was shocked.

It has been several years since I had studied and had seen pictures from that area.

□ 1710

If in some way the American people, enough people could go down there and see what that situation is, and understand it, that those people are not wanting us to finance them, they are not wanting us to furnish their food or anything else, they are wanting freedom is what they are wanting.

My impression is now that we made several mistakes a few years ago, and it is time that we do our best to try to rectify those mistakes and make sure that the people in that country have the opportunity of free elections so they could determine their own distiny. Maybe this is from a different perspective. I am a freshman Member of the Congress. I am also the senior citizen Member of the freshman Congress. As far as I know, I am the only Member of the freshman Congress who has grandchildren.

Mr. DREIER of California. I think we should point out, Mr. Speaker, I think it gave the gentleman from Missouri special pleasure when I was introduced as the senior Member at our dinner with the opposition leaders.

Mr. HANCOCK. The gentleman from California was recognized as the senior Member, and I reminded the group that he was only 4 years older than my oldest son.

But as I was standing there, as these police officers came up to us, and very impolitely, to say the least, one of them screaming and hollering, one of them using pretty foul language, at least off to one side, and I kind of moved over to one side to where I could observe the crowd. In fact, quite frankly I moved to where I was in a position that I had a wall behind me, directly behind me so that I could see exactly what was going on in front.

There was a little fellow who walked across the street about that high, and I would say he was maybe 8 or 9 years old, about the size of my grandson, Donald, who is back safely in Springfield, MO. He walked up to me, and that was the only friendly smile that I saw, other than from around the Embassy, from the Nicaraguan people. He walked up, a good-looking young man, with a big smile, and he spoke to me. I smiled back, and I wanted to visit with him, just real briefly. In the meantime, all of the noise was going on in the riots, and I glanced around for an interpreter. This young fellow said something and I shrugged and he repeated it. I tried to get the interpreter over, but Jerry, by the time he got over there and I glanced back around, the little boy was gone.

You really get to thinking. One of the reasons I am in the U.S. Congress is because of the kids, our grandchildren, and future generations. In the last 30 minutes we were there we met with two people and I asked the question: "What can we do?" The man said, very emotionally, and this is the least we can do, and I am sure my colleagues, all of my colleagues in the Congress would agree with this, his

statement was, "Keep coming, please, more people come."

Mr. DREIER of California. Because what they want to do is keep the pressure on the Sandinistas, is that correct?

Mr. HANCOCK. Keep the pressure on, keep the pressure on.

There is no way that we can have free elections February 25 without free rallies, campaigning, and for those to be free they have to be observed by the international community, including the United States. I would like to see all of the Members between now and those elections of the U.S. Congress, if at all possible, from both sides of the aisle. This is not a partisan issue. There is no way we can call this partisan.

Mr. DREIER of California. In fact, it is probably very important to note that since the gentleman has served here for the past 7 months, this has not in any way been a partisan issue.

But when I think about my friend, the gentleman from California [Mr. DANNEMEYER] and my friend, the gentleman from Indiana [Mr. BURTON], we have had very, very great partisanship throughout this decade in dealing with the problem. But since this historic 101st Congress has been in operation, the gentleman from Missouri is correct, it has been a bipartisan goal which we have had.

Mr. HANCOCK. It should have been the entire time. It did get partisan a few years ago. But I think that the effort we are working on now, if we could get more people down there. I would like to say this for the benefit of the public that might be viewing this. When I told my wife that I was going, and I had planned on being in Washington this weekend because I was going to get caught up because of the recess that starts next week, getting paperwork, what have you sorted out, plans made for several, in fact 17 county meetings back in southwest Missouri to bring people up to date on what we are attempting to do up here, she was a little nervous about it. I do not think anybody should be nervous about going to Nicaragua. I do not think they should be concerned about their safety at the present time.

I think if we refuse to go there would very well be reason. If people say we are not going to go down there, I think there could be reason to be concerned. I do not think that is true now.

But one of the things that I think the American people should realize, if the Sandinistas and communism does completely take over, and democracy is not restored in Central America, the American people face the potential influx of between 3 to 4 million refugees at a cost of probably in excess of $100 billion a year. We have a choice. We can at least make sure these people have the ability, that they are allowed free elections, that they have the right of self-determination. It is not a case of the United States Government attempting to impose our will on them. We only want for them the same things that we have, and the same things that we are concerned about in the world generally, the human rights we are concerned about, the freedoms, and we are concerned about the economic system being to the benefit of the people instead of the benefit of a few of the Communists, and maybe the expression is not correct, but I call them overlords. We do not need that in Central America.

Mr. DREIER of California. I thank my friend for his very important contribution and for getting involved in an issue which clearly is critical to the future of the free world. He has been here 7 months and done a superb job, succeeding our very able colleague, who is truly from a small town, Sarcoxie, MO, Mr. Taylor, and my friend from Springfield comes from what just a few moments ago was referred to as a large town. I came from an even bigger town, Kansas City, which is another spot in the Show Me State. I think that is a very important thing to underscore, because the gentleman from Missouri [Mr. HANCOCK] did not have any preconceived notions as to what he was going to see in Nicaragua, and then he took that show-me spirit to Nicaragua.

Mr. HANCOCK. If the gentleman will yield, I truly did not know what to expect. I think I went down there with a completely open mind on what to anticipate. As I say, I had heard some stories up here since I got into Washington and read some articles in the paper, and some of them you kind of have question marks about, but I went down there I think with a truly open mind from the standpoint of I believe in the right of the individual, in the right of the freedom to vote. In fact, as we know, one of the things we talk about is the fact that in many cases in our country we seem from time to time not to appreciate that right. If these people who do not vote in this country would go down there and look at the people that are being denied the right to vote, the percentages would be greater at the polls.

Mr. DREIER of California. That is a very important point to make. I should say that we observed that on March 19 in El Salvador when we saw people who literally walked 10 kilometers, 12 kilometers to vote, many of whom had been threatened with having their thumbs cut off if they did vote in that free and fair election, many were told that they would lose their lives if they voted, and yet there was a higher percentage turnout in El Salvador's election on March 19 of this year than there was last November 6 in our election, without any kind of hindrance imposed on the people here.

So it is a very good point that the gentleman makes, and I believe that the people of Nicaragua clearly want next February 25 to exercise their right and to put into place what was the same basic goal of the people of El Salvador. Three things: peace, stability, and economic recovery.

□ 1720

I yield to my friend from Missouri.

Mr. HANCOCK. Mr. Speaker, it is my opinion that if we should withdraw our support in November from the Contras, there will be no free election. There may be an election, but it will be a sham.

We have to continue to support the Contras. I hope the summit meeting this week will remove any doubt about the demobilization of the Contras.

Mr. DREIER of California. I think that the gentleman makes a very good point. When we met with President Cristiani in El Salvador, one of the things we underscored was a point made very well by a letter signed by my friend from Indiana, the gentleman from Indiana [Mr. BURTON], authored by our colleagues CASS BALLENGER and DUNCAN HUNTER, saying that no demobilization of the democratic resistence in Nicaragua should take place until after free and fair elections have taken place in Nicaragua.

On that point I would like to yield to my friend, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding.

I just wanted to follow on the point just made by our colleague, that any one of the eight Members of this body in November, by not sending a letter of affirmation to the President of the United States and/or the Secretary of State can, in effect, cut off the aid to the Contras.

As the gentleman just said, without that aid continuing, the possibility of a free and fair election in Nicaragua is almost impossible to comprehend.

Mr. DREIER of California. The gentleman is absolutely right because we know that the only reason that any semblance of election is moving forward is because of the pressure which has been applied on Daniel Ortega, Tomas Borge, Miguel Descoto, and other Sandinista Communists in Managua to hold.

Mr. BURTON of Indiana. That is why I think it is extremely important that our colleagues in their offices and anyone who is interested makes sure that they talk to Congressmen who are wavering on this point so that we can make sure that the aid continues through next February when the election takes place.

Mr. DREIER of California. I thank all the gentlemen who participated in this special order.

UPDATE ON THE AIDS PANDEMIC

The SPEAKER pro tempore (Mr. MCNULTY). Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. I thank the Speaker.

Mr. Speaker, I will not take the whole 60 minutes, but we have received some new information on the AIDS pandemic, the AIDS epidemic that is sweeping across the country. I thought it was important that the people of this country and my colleagues be made aware of just how bad it is and get an update on the spread of the disease.

The fact of the matter is that we now have in America over 100,000 people who are dead or dying of the AIDS pandemic and it is getting worse by the day.

The Centers for Disease Control has estimated that by 1992 there will be over 350,000 people in this country dead or dying of AIDS. Our figures, that is, mine and many of my colleagues' who have been working with scientists across this country, have come to the conclusion that by the end of 1992 there will be approximately 350,000 people dead or dying of AIDS.

Now what is so revealing about that; if we come to the same basic conclusion that the Centers for Disease Control has? The problem is they have not extrapolated these figures out beyond 1992 to let the American people know the real danger that they are involved in here.

By 1993, according to our projections and the projections of many scientists, there will be 500,000 people dead or dying, on the low side, and as many as 650,000 dead or dying.

We do not know for sure because we have not tested the population of this country.

It has been very spotty at best. By 1995 there will be between 1 million and 1.5 million people dead or dying. That is just 6 years from now.

By 1997, 8 years from now, there will be between 2 million and 3.5 million people dead or dying.

By the year 1999, the turn of the century, the end of the year 1999 when we will welcome the year 2000, there will be between 4 million and 8 million Americans dead or dying of AIDS.

Now when you think about the magnitude of that number, the problems that are created by this many people dead or dying of AIDS, it boggles the mind.

We have in this country approximately 1.3 million hospital beds. And many parts of the country are now straining under the load of AIDS patients and people who are dying of AIDS-related complex and other AIDS-related diseases.

Yet the Centers for Disease Control in my view has not come up with an overall program to deal with the AIDS pandemic.

It is my view and the view of many of my colleagues, a growing number, I might add—when I first started out talking about a mandatory testing program for this country we had one person in favor of that. We now have probably 30 or 40 in the Congress who believes a mandatory testing program ultimately is the only way to get a handle on this thing or at least part of the handle on this thing.

But the program that needs to be devised to deal with the AIDS pandemic consists, I believe, of 5 or 6 things.

First of all, a testing program that involves the entire population. You may be able to not test people under the age 5 or 6 or people over the age of 60 or 65, but the vast majority of people in this country have to be tested so that we know how the disease is spreading, where it is spreading most rapidly, who has it, what areas of the country are the most heavily affected.

We have got to come up with some kind of a basic platform from which to deal with this problem.

In addition to testing, we have to have education. You see a lot of education on television. They talk about safe sex, condoms, things like that; they give people a false sense of security. I am going to read an article showing that some of these things that they are telling people on television that will help eliminate the possibility of a person getting AIDS, simply do not hold water.

We need education, testing.

Then we need contact testing. If a person has AIDS and we know they have AIDS, they should be counseled. We should tell them they could no longer have sexual contact with people outside of the AIDS community. And if someone comes in next year when we do the next test—the testing will have to be on an annual basis—if people come in next year and we find that they are infected, we are going to have to find out how they got the disease so that we can stop whoever is spreading it on a voluntary basis from continuing to spread it.

If you give somebody AIDS knowingly, if you have sexual contacts with someone, knowing that you have AIDS, it is as bad as putting a gun to their head and killing them because you can murder that person by giving them this lethal disease.

There is no cure for it, and it is not likely there will be a cure for it in the next 10 or 20 years.

So we need to have testing, education, contact tracing. Then we need to have a very heavy amount of expenditures in the area of scientific research; an all-out, full-court press to find a cure, if possible, and at least a vaccination.

This is the kind of program I think we need to have. What I would like to do tonight—and I am going to do this at least one more night this week and possibly a couple of nights per week when we come back from the August break—I want to give the people of this country and my colleagues information that we are not getting from HHS, Health and Human Services, or the Centers for Disease Control.

These scientific articles and other articles I am going to read will give information from experts around the country, around the world on the AIDS virus and how it is transmitted and what can be done about it.

This first article I am going to read is in a magazine called New Dimensions. It is an interview by the magazine conducted with a man named Gene Antonio. Mr. Antonio spent several years researching the AIDS pandemic. He has written a book called "The AIDS Cover Up."

I submit to my colleagues that they ought to read this book. I have copies of it in my office. But if they cannot, I have a synopsis of it in this interview which I am going to go into right now.

First of all, in the article there are some side notes that I think are very important.

□ 1730

The Government of the United States estimates the AIDS epidemic may reflect only half of the Americans infected with the AIDS virus, and could create dangerous complacency among heterosexuals, a public policy group has found. A mathematical study conducted by the Hudson Institute concluded a best guess at the range of total infections as of year end 1987, a year and a half ago, was from 1.9 to 3 million people, with a likeliest range between 2.2 to 2.6 million. So at least according to the Hudson Institute, a very highly regarded think tank in America, at least 2½ million people are infected. That means there are 2½ million people out there who have the virus, many of whom do not know they have it, who go on their merry way, involving themselves with other people through sexual contact, and they are spreading it to other people. They do not know they have it. They do not look like they have it. They are healthy looking people, and the people they come into contact with are getting the disease, and it is spreading at a rapid rate.

The Center for Disease Control, at one time about 3 years ago, said we had 1½ million infections, and doubling every 12 to 18 months. They have backed off on that and are now estimating, as the end of 1987, we had 900,000 to 1.4 million infections. The

Hudson Institute believes we have about double that figure.

Now, how do we know? The fact of the matter is, we do not know. There is no way to know how many people are infected in this country until we do a testing program. In a testing program we could start off with smaller amounts in regions of the country, to get some kind of a ballpark figure, but the only way to know for sure how bad this epidemic is, and how widespread it is, and who is spreading it, is through a testing program that involves the entire population.

The Center for Disease Control officials in Atlanta refused to comment on the Hudson estimates. "We do not want fear and alarm for fear's sake, but we want constructive concerns," said Kevin Hopkins, director of the study and former science consultant to the Reagan administration.

I do not think anyone wants to terrorize the population. However, the fact of the matter is that ignorance in this particular case is not going to be bliss. Abraham Lincoln said, "Let the people know the facts and the country will be saved." He was not just talking about politics. Now, if we have pandemic that is doubling every year to 18 months, and I believe we have more like 5 million infected as of the middle of 1989, but if we have an epidemic that is spreading like that, then the people have a right to know as much about it as possible so they can protect themselves, especially if we do not have a vaccination or a cure for it.

Why would we not tell people how they get AIDS in detail, in order to make sure that a man or his wife or children of that family are not exposed unduly? This article, this interview, was conducted, between the magazine and Mr. Gene Antonio, and they asked him a number of questions, and he answered them, because of his research and scientific contacts with other scientists around the country and around the world, and I think it is important that the American people know what this interview develops.

The first question:

AIDS is a most horrible disease which is contracted most likely by homosexual and intravenous drug users. That is what most people know about AIDS. I believe most of our readers are not homosexuals or IV drug users, but are very concerned about the possibilities of inadvertently being infected with the AIDS virus. That is what I want to talk about.

The Surgeon General of the United States, C. Everett Koop, sent a report called Understanding AIDS to virtually every household in the country. It says you will not get AIDS from a mosquito, you will not get AIDS from bedbugs or other flies or insects, or you will not get AIDS from saliva, tears, urine or bowel movements. You will not get AIDS from kissing, clothes, toilets, you will not get AIDS from glass or eating utensils. Yet one of the top researchers, Dr. William Haseltine of Harvard Medical School says, "Anyone who tells you categorically that AIDS is not contracted by saliva is not telling you the truth." What he is saying, if a person french kisses, somebody, and Dr. Koop said a person cannot get it that way, Dr. Haseltine of Harvard is saying he is lying, because a person cannot make that kind of categorical statement.

AIDS may, in fact, be transmissible by tears, saliva, fluids, or mosquito bites.

Who is right? Who is right? Now, this is what Mr. Antonio says:

Let us talk about normal people who are supposedly not in high-risk categories, can become infected with the disease.

Now, AIDS and HIV are interchangeable terms if you hear both. We are talking about the same thing.

First of all, women are increasingly seen to be at high risk due to the high percentage of homosexual men who are engaging in sex with women. We recently had a case of a woman who was married to a man for over 30 years. He led a very clandestine life as a sodomy practitioner on the side, and he picked up AIDS. She is now dying of AIDS.

She did not know he was homosexual.

Another factor involving women:

There is very strong evidence that women who are using the pill, birth control pills, are at a 350 percent higher risk of acquiring AIDS infection from a partner, if the partner has AIDS. This is because the pill causes changes in the cellular physiology of these women's reproductive organs, and the cells of the cervix are altered and become more susceptible to viral infection. I think people ought to know that.

I do too.

A major factor involved in the transmission of AIDS is that the longer a person is carrying the virus, the more powerful the virus is, and the more capable it is of infecting people. It is absolutely essential that people realize this. Consider what Dr. Jay Levy and other researchers at the Cancer Research Institute at the University of California at San Francisco write. "These HIV-1 variants, AIDS viruses, were more cytopathic, able to be effectively destroyed cells in vitro in the laboratory as the disease progressed, and they also replicated more efficiently in a wide variety of different human cells." The longer a person has the virus, the more disease spreads in that person, until it destroys the immune system, and the longer it goes, the more able he or she is to infect other human beings.

The magazine says:

Would you explain this?

He says:

In each person infected, AIDS viruses carry many mutant forms of the virus and the changes in each individual cell. No two individuals have exactly the same identical AIDS virus. In very similar virus diseases in sheep, horses, and goats, it is the same way. Different sheep carry different strains. Different horses carry different strains.

Just to focus in on the ineffectivity of this, let me just finish the quote:

These results suggest that the development of a disease symptoms in HIV-1 infected individuals is associated with the emergency of more pathogenics (capable of causing disease) virus variants.

What he is saying is that each person infected is a walking virus factory, a walking mutation factory. No one is really certain what this powerful and deadly virus is going to do. It is changing in each person.

So let us say a person who has been infected with AIDS for one year, has sex with a woman. Let us say her chance of infection from that single exposure may be one in five. This is just an estimate. However, if she instead has sex with the same man, say 2 years later, who has now been infectious for 3 years, her chance of being infected would perhaps be 2 in 5; 3 or 4 years later, 4 in 5, and down the road a virtual certain thing.

People can carry this virus, contrary to what we used to think, for up to 20 years without anyone knowing they got it. Seven years they estimate is the average.

The magazine says:

That is because the carrier has more of the virus in him as time goes by, and the virus is mutating and has become more able to infect her cells. Mutated versions have more ability to infect someone else.

Mr. Antonio says, "That is absolutely correct." "That is incredible," says the magazine. "It is incredible." That is what no one is hearing, so the threat to women is a major, major issue.

The magazine asks if;

Through having sex with infected men, now that brings up the question of transmission through saliva, through kissing. The Surgeon General's report says that a person cannot get it that way.

Mr. Antonio says:

I was reading an article and it is interesting, obviously written by radically pro-homosexual people, but they admit, they admit, "people in the homosexual community, of avoidance of all open-mouth kissing as a way of avoiding it.

Now, if people who in many parts of the country, 70 percent of which have the AIDS virus, in many parts of the country the homosexual community in San Francisco, New York, and elsewhere, they estimate up to 70 percent of the gay community or homosexual community has the AIDS virus, if they are telling people that they should not have open-mouth kissing with another person, why would the Surgeon General say that a person cannot get it that way?

□ 1740

The Surgeon General says you won't get AIDS from saliva, sweat, tears, urine, or a bowel movement, and that you won't get AIDS from a kiss.

He says that the Center for Disease Control, paid for by the Government and located in Atlanta, has been "warning homosexual men not to engage in practices such as 'golden showers' where they drink urine"—I hate to even talk about this—"or urinate on one another, or to engage in

'skat,' "—which is another form of sexual contact that I will not go into.

On the one hand, they're telling the homosexuals it's dangerous, but for the rest of the population it's safe?

Then the question is asked:

Why would the Surgeon General put out a report which gives people false information?

The magazine asks that question.

Antonio says:

I think he has proven highly susceptible to the influence of the AIDS and homosexual lobby. They have had a tremendous amount of input in getting their own homosexual rights/AIDS carrier agenda across.

The magazine asks:

What about someone who is living or working in close proximity with a person infected with AIDS? They're breathing the same air, they may be having touching contact through work. Are they in danger, and if so, how much danger?

Mr. Antonio says:

Transmission through the air? Listen, the AIDS virus is in saliva; that's a fact. I personally would prefer not to have someone with AIDS sneeze or cough in my face.

The magazine says:

Sounds reasonable.

Then it goes on. Mr. Antonio says:

The public health service doesn't think so. They say, let them sneeze and cough in your face and that's just your tough luck. There's all sorts of confidentiality provisions, so you can't find out if that person who works next to you has AIDS or not. The fact is, the AIDS virus is in the lung fluids of AIDS patients, and it's there in higher concentrations than in the blood.

He says that it is in higher concentrations than even in the blood.

Then the magazine asks:

So therefore, if that person coughs or sneezes * * *.

Mr. Antonio says:

They could be coughing live virus. The virus infects cells in the lung called macrophage cells, which are supposed to help ward off infection. They, in fact, become infected themselves by the AIDS virus, and the virus can reproduce from these cells. This is reality.

The magazine asks:

Are you saying that a person who is infected with the virus, but who as yet manifests none of the symptoms which we associate with AIDS, could have a very infectious cough or sneeze?

Mr. Antonio says:

The potential does exist, clearly.

Now, we might say, "Well, he is speculating." But listen to this next part:

In sheep, there is a very similar disease, known as maedi-visna, which causes a deadly lung disease and brain disease, as does the AIDS virus in humans. It is spread among the sheep when they are in close contact during the winter, like in a barn. Well, the analogy is, what about people pent up in an office, where the other person is coughing infectious viral particles into the air, and are inhaling that? This is a source of real concern.

The magazine asks:

You inhale it, it goes down into your lungs, and from your lungs it gets into your blood.

Mr. Antonio says:

Well, once it gets into your lungs, it's in your cells. It doesn't have to get into your blood. It's in the lung cells themselves. By the way, this is really hot information, that has not been publicized elsewhere in the mass media.

The magazine asks:

You have written about the potential for transmission of the AIDS virus through the skin . . .

Now, we have been told that you cannot get it through the skin. Here Mr. Antonio says:

I am going to quote from a prestigious British medical journal, Lancet, the 7th of November 1987, page 1094. "The Langerhans cells occur in skin and mucous membranes, including oral, vaginal, and cervical epithelium." The researchers conclude that "the accessory cells, or target cells for HIV, are within these barriers themselves. The assumption that HIV infection occurs exclusively by the entry of virus through wounds in the skin and mucous membranes into the blood can no longer be considered valid."

In other words, they are saying you can possibly get it without a cut, with the skin being unimpaired.

Our results suggest that the Langerhans cells in the skin and mucous membranes are the primary target cells for sexually transmitted HIV infection.

It was previously thought that you would need a lesion or open cut or sore, in order for exposure to the virus or infected body fluids to cause infection. But what these researchers are saying is: That's not true; infection is possible if you were to get the virus in your mouth, or in your eye, or on unbroken skin, or any part of your body.

So if you have your hands out and somebody spills blood or body fluid from an AIDS patient on you, there is a possibility that you can get it. As a matter of fact, in Soviet Russia there was a nurse who was selling needles on the black market—to make extra money, I suppose. She was in a children's ward, and whenever a child needed a shot, she would use the same needle over and over and over again. One of the childen that came in the ward was infected with the AIDS virus, so she transmitted it to 27 different children. Now, seven of those children, through breast feeding, gave their mothers the AIDS virus. That was the only contact she had with the child, and there was no broken skin. So the mucus from that child infected the mother. That is a relatively new revelation.

The magazine goes on:

It's a good thing you have all the medical citations for your information. Otherwise it might be hard for people to believe this since they haven't heard it anywhere else.

I might add that they are quoting medical journals, Lancet, and other scientific research journals around the world.

Mr. Antonio says:

The medical people that know—they all wear gloves. They will not allow any skin to come in contact with live virus.

The magazine asks:

Here's a classic question: Can you get it from a toilet seat?

Mr. Antonio:

I would not let the body fluids from another person touch your skin. Let's say it was urine on the seat. You should always have something between you and the surface.

The next question:

How about public swimming pools?

He goes into this at length. It is pretty gross, so I am not going to go into all the details there. But the gist of it is that the chlorine in the swimming pool should kill the virus. However, if somebody coughs or something and you ingest or swallow part of the sputum into your body, there is a risk factor.

The next question:

What effect does chlorine have on the AIDS virus?

Mr. Antonio:

Well, it is supposed to kill the virus, in the quantities normally used in swimming pools.

So it might not be too bad to swim in a public pool. And then there is the answer I just gave, which is not quite as graphic as the article.

The next question:

What about restaurants? Is there a danger posed by a food preparer who is infected and handles your food, or possibly an infected patron who sneezes all over the salad bar?

Mr. Antonio:

I think you should be very cautious about salad bars, not just on account of AIDS, but other diseases too. We just had an outbreak of hepatitis among 52,000 people up in Seattle who were exposed to that disease by a food handler at Wendy's. There are cases of outbreaks of hepatitis among food handlers and patrons of restaurants, from homosexual food handlers.

People need to be careful about restaurants. I think that food handlers in the future should go through routine AIDS testing. All food handlers should be required to wear gloves, at the very least.

Then the next question:

I want to mention insects. I've been hearing about bed bugs; they can hold the virus.

Mr. Antonio says that they can hold the virus, and he says that "body lice seem to be a source of concern among children in school. Lice can contain the virus."

The next question:

How about mosquitoes?

Mr. Antonio says:

Again what we don't want is people throwing up mosquito netting and washing their hands everytime they touch a doorknob, and then continuing to fornicate as usual, and then thinking they're safe from AIDS. People have to use their common sense.

Question:

What is AIDS doing to the health care industry?

I might add, about this mosquito thing, that we need more testing to find out if that is a possibility. There are two doctors in Philadelphia at the Center for Tropical Diseases, Dr. Mark Whiteside and Caroline McLeod, who came to my office and talked to me, and they are convinced that AIDS can be transmitted through mosquitoes, and they have done some testing down there. I had them talk with people at HHS and CDC about this possibility. It was pooh-poohed by the people at HHS. I think it was Caroline McLeod who asked them:

Well, if a mosquito bites somebody who has the AIDS virus and is filled up with blood and then it goes and bites someone else, what is the natural reaction when a mosquito bites you.

The answer is:

The first thing you do is you hit it.

If you use a syringe that someone else has used that has AIDS and you stick it in your arm, you are going to get AIDS. Her question to the doctor at HHS was:

What is the difference between that and the blood coming out of a mosquito into a wound?

So I think we need to do testing to find out if that is a possibility. I am not saying all of this is going on or is possible. The fact of the matter is it is something we should test for and find out about.

I might add parenthetically that they did a poll in this country among the people to find out if they would go along with AIDS testing on a regular testing basis, and over two-thirds of Americans are for mandatory testing because they do not want to get the virus and they want to make sure that this Nation's health is protected.

□ 1750

Next question:

What is AIDS doing to the health care industry?

Mr. Antonio:

The nurses are leaving in droves.

Now this is something we ought to be concerned about. If people are afraid to work as a health care worker, and we have a shortage of nurses, and maybe doctors start leaving the field, it is going to be a real crisis for other health care issues in this country. So, this is not an isolated problem. It affects many other areas of our health care industry.

Mr. Antonio:

The nurses are leaving in droves. They're voting with their feet. We have 2,583 health care workers who have AIDS.

Now think about that. We have 2,583 health care workers working in hospitals and other facilities who have AIDS. Most of them got it through the usual means. But how would you like to have one of those AIDS infected nurses in the operating room when you are having surgery or a doctor handling your spleen?

Question:

How many people are estimated to be infected with the AIDS?

There could be one hundred million people in the next 5 years according to the World Health Organization worldwide.

Well, if there are a hundred million people, then all it takes is for one of them to infect one other person, and then you've got two hundred million people.

Question:

To the best of your knowledge what is the prognosis for the millions of people who are infected with the virus but who don't as yet demonstrate any symptoms?

Mr. Antonio:

They are all dead men and women, meaning that the vast majority within the next 5 to 10 years will be dead or dying of the AIDS, and after that all of them will be dead, but within 5 to 10 years virtually every one will have their brains being rapidly deteriorated by the virus itself, their lungs infected and/or severe immune deficiency related illness, and anyone that they infect, they're going to kill. This is terribly gruesome.

How do you know this to be true?

Mr. Antonio:

Because of the studies that are coming out in which they take a group of people who are infected in year zero, and then look at the progression to fully developed disease over time. The progression is relentless. It increases. For example, let's say for the first 4 to 5 years the progression from infection to full disease is, say, 6 percent a year, which means that at the end of 5 years 30 percent of those infected will have the full terminal—be at the full terminal stage. Another 20 to 30 percent will have ARC, AIDS related complex, and that affects your brain first, and a lot of people have been misdiagnosed as having dementia or Alzheimer's disease, and they find out really that they have AIDS, and it affects their brains, and they are deteriorating mentally very rapidly. They'll be at the intermediate stage. In year five the brain deterioration becomes even more manifest, so instead of 6 percent a year developing full disease, it progresses to 8 or 10 percent. Over time it is like a nuclear reactor going off. The virus literally builds up momentum in the body and finally blows out.

Question:

What about AIDS dementia? The public is under the impression when a person becomes infected with AIDS they are O.K. until one day they get an infectious disease to which they have no immunity because their immune system has been shot by the AIDS virus.

Mr. Antonio:

That unfortunately is the type of misinformation that our government is giving out. In fact, I call the government report "Misunderstanding AIDS," not "Understanding AIDS," but "Misunderstanding AIDS," because it is so filled with gross misinformation and disinformation and outright lies or omissions. They nowhere mention the terrible problem of AIDS brain disease that we'll be seeing, AIDS brain fever. In fact, AIDS brain fever is an initial sympton of AIDS in many people. It is called aseptic meningitis, and it's an inflammation of the membranes surrounding the brain. The overwhelming evidence now is that AIDS brain deterioration starts early in the course of infection and involves memory loss, emotional confusion, paranoia, deep depressions, psychotic episodes, heightened aggression and other major medical problems.

How early does this start?

Mr. Antonio:

The brain infection can occur at the time that a person can develop antibodies, so the brain's infection apparently is occurring very early in the course of the infection.

Question:

So what's the first target of the virus? So, that's the first target of the virus.

Mr. Antonio:

That's right, but we're not hearing that, and there's a good reason why we're not hearing that, because the AIDS lobby has been so vigorous in demanding total secrecy about who's carrying the disease and has been demanding special protection for those carrying the disease. Information regarding how the disease can be transmitted through nontraditional routes, such as coughing and through the skin and information regarding how the disease affects the brain throws a medical monkey wrench into this demand because you have people who shouldn't be working in certain occupations if they have brain impairment. AIDS virus carriers should not under any circumstances be front-line police officers; they should not be firemen, they should not be doctors, pilots or nurses.

Question:

In other words, these people want to maintain the impression that they're of sound mind until the time that they die.

Mr. Antonio says.

That's right, the word "AIDS" itself is a misnomer, acquired immune deficiency syndrome, because the virus does so much more to the body than impair the immune system, as bad as that is.

Question:

Is the strength of a person's immune system a factor in fighting off the AIDS disease?

Answer:

Yes, to a degree, but there are people who are very healthy in many instances who become infected.

Question:

Is there any evidence at all of anyone having a strong enough immune system to successfully fight off infection of the AIDS virus?

Answer:

Well, the virus can kill you without damaging your immune system. You can have a healthy immune system, but, if the virus is eating away at your brain, it won't do you much good.

Question:

But I'm speaking of when the virus is first introduced into your body through whatever means. Could a healthy immune system fight it off?

Answer:

It doesn't make any difference because there are strains of the virus which do not affect the immune system at all. They are neurotropic, so you can have a perfectly healthy immune system, but the virus goes directly to the central nervous system.

Question:

Let me see if I'm understanding this. You're saying that no matter how strong the immune system is, the virus can affect a person. The immune system function I thought was to fight off the threatening viruses.

Answer:

I'm just trying to make it a clear dichotomy. The virus kills in two ways. One, is can actually infect the immune system; or, two, it can directly infect the central nervous system, but the virus can get directly into the cells in your central nervous system. It evades any immune system response whatsoever.

So, therefore, it's irrelevant whether you have a good immune system at the outset.

Answer:

That's right. The other thing is that antibodies, which form in response to HIV infection generally do very little to stop the course of infection. So you can have lots of antibodies around, but they don't do anything because the virus is mutating inside the cell so fast that the antibodies don't even recognize it. So you can have a very healthy immune system, but, if you get a transfusion of AIDS-infected blood, you're dead.

Let me make this biologically, absolutely clear. Once you're infected with the virus, you are always infected. The virus incorporates itself into the very genetic material of cells, so that all subsequent progeny cells are going to be infected. Once the virus gets into the human body, it doesn't just get into the blood stream: it gets in the heart, it gets in the kidneys, it gets in the liver, it gets in the eyes, it gets into cerebral spinal fluid. There's no way that this virus is just going to "go away."

Question: It's actually altering your genetic identity.

Answer: Exactly. That's a very good way of putting it. You are now a permanent, genetically stamped AIDS carrier.

It starts changing right along with your cells. Every time you produce a new cell, you produce a new AID virus because it is part of your cell structure. That is why you cannot kill it like you can kill cancer. In cancer you can attack it with radiation or chemotherapy, and it will kill that particular tumor, but in AIDS the only way to kill the virus is to kill the cell, and, as it is reproduced, it spreads and you cannot stop it.

"That's scary," the magazine says, and he says, "Of course it is."

Question: Do you believe personally that it's possible for a person with AIDS to be cured?

Answer: Not permanently. There may be remissions. There's no doubt that there are certain therapies in which you temporarily alleviate some of the symptoms. You may boost a person's immune system. There are anecdotal stories about people who have had AIDS and have lived for six or seven years, but that's the extreme, rare exception. There are rare exceptions for a lot of diseases.

Question: Is there anything positive at all that you can say to someone that has AIDS or has been infected with the virus, any hope that you can give them, any direction as far as what they can do with their life?

Answer: Well, I would say number one, that when you are infected and you realize it, hopefully it will give you a jarring jolt of awareness of your own mortality, and prompt you to start dealing with eternal principles. Eternity suddenly comes crashing in, and I think that's good. Depending on how someone got the disease, I would say this: If someone got it through fornication or IV drug abuse, I would hope they would have the human decency to warn others to avoid the destructive behaviors that got them involved in that. We have videos of people who did get involved in those things, they did get AIDS, and in their dying moments or last few months of their life have warned people to stay away from the terrible behaviors that got them AIDS. On the other hand, Paul Gann (California conservative tax crusader), for instance, got it through a blood transfusion, and he has been campaigning for just public health measures in California.

Question: So there are some noble things that a person can do with their life, even if they're infected.

Answer: Absolutely.

Question: What is your position on mandating AIDS testing? And for whom?

Answer: I think the time will come when the entire population will be tested.

And I agree with that.

The question is: When? Do we wait until 1995 when 2, or 3, or 4 million people are dead or dying and we have another 15 or 20 million people infected who are doomed to die?

□ 1800

Do we wait that long and condemn those people to death because we have not started a program immediately or as quickly as possible? We are running out of time for millions of Americans who are going to die because we did not start a testing program. Ultimately, we are going to do it anyhow. It is the only answer to get a handle on this and find out how it is spreading, where it is spreading and who has got it and who is spreading it.

Question: You mean as a matter of governmental edict? Would that be good as far as you're concerned?

Answer: There are positives and negatives about that. At the present time I advocate the routine reportability of HIV infected people, just as is done in the cases of gonorrhea or syphillis.

Question: Reportability to whom?

Answer: State public health authorities. And they should do contact traces.

That is one of the things I think should be in an overall comprehensive program.

Then all of these bath houses should be closed. They are the teaming, breeding grounds of AIDS infection, and they're wide open. In fact, they're opening new ones.

Question: How can this be?

Answer: The way they look at it, "I've got it—

He is talking about people who have the AIDS viruses who go to these bath houses—the way they look at it—

so I may as well go for the gusto and sodomize myself and others into oblivion. And women too." There has been a call in some homosexual publications to go and have sex with as many women as possible so that they can inject it into the general population.

We know that to be a fact, incidentally.

Question. What can you say about the mentality of the public health authorities?

Answer. I think that many of them have been morally lobotomized. The public health commissioner of New York—and this was in the Oct. 16 issue of the New York Times—has come out and said that there need to be tax incentives for public housing for AIDS patients. He's also saying that all the babies with AIDS should be put into daycare centers with the other babies.

Question. How does he justify that?

Answer. He's saying that there are no proven cases of AIDS being transmitted that way. So sure, we put in babies. Their urine is going to be infectious. Their diarrhea is going to be infectious. Their fecal matter is going to be infectious. They barf up milk and that's going to be infectious, and they're slobbering AIDS-infected saliva all over the toys. Imagine—you leave your kid there, and they have a bunch of AIDS toddlers. . . They have to be demented!

Next they'll say, all children with chicken pox, influenza, and whooping cough should have the same rights. If you have whooping cough, you don't have the same rights as everybody else. You have to stay home! If your kid has German measles, he does not have the right to go up and cough on pregnant women. This is absolute insanity!

Here's another thing: A dental clinic in New York was just sued and had to pay $47,000 to two AIDS carriers. The city human rights commission ruled that way because one person had fully developed AIDS and the other had ARC. The dental clinic chose not to do oral surgery or dentistry on them. So they had to pay almost $50,000 in damages.

Question. It sounds as if public policy is as big a disaster as the bath houses in enlarging the AIDS crisis.

Answer. It is.

Question. Is there any hope! What needs to be done?

Answer. Well, I think there's hope as people get the true information in their hands. For instance, when they learn that their dentist just worked on an AIDS patient, and that live, infectious viruses can remain as a fine, undetectable mist. . .

Question. In other words, as the information gets out to the public, the public is going to put pressure on public servants and demand that they act responsibly on this issue.

Answer. That's exactly right. I would urge every single person reading this article to call and write their congressman. There are two things you can urge them to do:

1) Tell them you do not want legislation (commonly referred to as anti-AIDS discrimination laws) which would prohibit an employer from testing employees for AIDS, or for considering AIDS as a factor in hiring or firing;

2) Tell them you want reportability and contact tracing; that is, all people who test positive for AIDS infection must be reported to public health authorities, and their sexual or other intimate contacts must be traced and tested. Especially, there must be mandatory spousal notification.

You know that in some parts of the country right now if a man has AIDS, the doctor cannot by law call his wife and tell her that she is at risk? If that man chooses, not to tell his wife, that woman every day is exposed to a great-

er and greater degree of getting the AIDS virus because she cannot by law be told by that doctor. That is criminal. That is absolutely criminal.

I want to read just a couple more articles here that I think are extremely important, and then I will end my special order for tonight.

Can the U.S. hospital system survive the AIDS epidemic?

Dr. William Grace, Chief of Oncology of New York St. Vincent's Hospital says:

I think AIDS is going to devastate the American medical system, every 10 to 12 months the number of AIDS patients doubles everywhere.

Right now at St. Vincent's, 45 medical beds out of our 316 beds available are occupied by AIDs patients. That is more than 1 out of 8, and most of these are middle class patients, not the drug users or others without medical coverage, who get sent to Bellevue.

What happens next year when we have 90 patients and 180 the year after that? In four years we will have exhausted all the medical beds in New York.

As I said before, we have 1.3 million beds in the country. You see how quickly those will be filled up as this pandemic spreads.

Last year coronary bypass surgery cost $1 billion in this country, $1 billion for coronary bypass surgery, and that was very expensive. In 1985, the 12,000 patients with AIDS cost over six times that much to this country, $6 billion. That was in 1985.

There are going to be over a quarter of a million cases. The virus is already incubating in 1 million people. Now, we believe that is about 4 or 5 times greater than that, but that is what he is saying.

We are seeing now that the incubation period can be 8 or 9 years. We are also seeing a steadily growing number of those with the virus who are actually getting AIDS. We are also seeing other viruses like the AIDS virus, viruses that are not even talked about in the press. There will be many, many more, especially as this thing mutates and changes it characteristics.

So we have a real problem with the hospital and health care field. That is another reason why we need to get on with a comprehensive program to deal with this, and I hope somebody is paying attention.

Another article here:

Studies by Internationally known Dermatologists in Norway and the Robert Cooke Institute in Berlin indicate the AIDS virus is able to be transmitted through intact skins and mucous membranes via the Langerhan's cells.

Langerhan's, and I talked about this briefly earlier, but I am going to go into it in a little more detail here.

Langerhan's cells occur in skin and mucous membranes, including oral, vaginal, cervical and others. We therefore conclude that the accessory cells, target cells for HIV, are within these barriers themselves. The assumption that HIV infection occurs exclusively by the entry of virus through wounds in the skin and mucous membranes into the blood can no longer be considered valid.

Now, remember, this is two different organizations that came to this conclusion in Norway and Berlin.

Our results suggest that the Langerhan's cells in the skin and mucous membrances are the primary target cells for sexually transmitted AIDS virus. These and other findings indicate unequivocally that the exposure of undamaged skin—no damage to your skin—intact skin or mucous membranes to live AIDS viruses can result in acquisition of the AIDS infection.

In other words, if you have AIDS virus splashed, some kind of fluid with AIDS virus in it, blood, urine, or whatever, on your skin, you are at risk.

All medical workers, emergency care personnel, including paramedics, firemen, policemen, and schoolteachers working with potentially infectious individuals, must be informed—and they are not being informed, but they must be informed of the serious risk of the exposure of intact skin to infectious AIDS in blood, other bodily fluids, and secretions. The recommendations for double gloving * * *.

They are talking about double gloving. That means putting on one pair of gloves and putting on another pair of gloves, and that is because 230 million AIDS viruses will fit on a period at the end of a sentence, 230 million AIDS viruses will fit on a period at the end of a sentence, and those rubber gloves, as good as they are, are still porous and the AIDS virus can go through gloves, rubber gloves, so you need, they are talking about double gloves.

The recommendation for double gloving underscores the need for avoidance of any skin contact with potentially infectious bodily fluids and secretions. Also if bodily secretions or fluids containing live HIV or AIDS were to be inhaled into your lungs—we were talking about coughing earlier—or taken into the mouth, this would also pose a danger.

Now, bear in mind, this is not some crank talking about this. These are two scientific research facilities in both Berlin and Norway.

Impermeable facial masks and protective eye covering, such as safety glasses and facial shields, are also being recommended for medical workers. A plastic facial shield similar to the one welders wear is being recommended for dentists, oral surgeons, and general surgeons.

Can you get AIDS by breathing? This is why we have to have testing so we can come to conclusions about how to deal with this crisis.

Pulmonary tuberculosis is on the rise in prisons and nursing homes in the United States, according to recent revelations by Dr. Dixie Snider, Director for the Center for Disease Control Tuberculosis Control Department.

In a recent article in the Los Angeles Times, Snider disclosed that unpublished statistics from a survey of 29 states indicate that TB, known in the last century as the White Plague, is on the rise among nursing home residents.

□ 1810

Tuberculosis rates for inmates in prisons and jails nationwide have risen to twice the level than the general population. Several factors are said to be responsible for the high rates of TB increase. Tuberculosis is readily transmitted by coughing. Environments where individuals having regular close interpersonal contacts such as prisons and nursing homes foster opportunities for frequent exposure. In various urban areas across the United States, pulmonary tuberculosis among AIDS patients has increased dramatically. That is because the immune system breaks down and they are much more susceptible to catching it and other diseases. As AIDS infection suppresses the immune system, it frequently permits latent TB infection to become active and contagious. This can occur before a person fulfills the criteria for a diagnosis of in-stage AIDS.

Nursing homes in various States are required to allow entrance of AIDS patients into the general patient population. AIDS lobbying groups have argued that placing AIDS patients in separate facilities or separate wards is unnecessary and discriminatory.

Despite the close contact in prison settings, most penal authorities have not implemented a policy of placing AIDS-infectious convicts in separate cell blocks. One of the largest concerns, Mr. Snider said:

Is that there are a large number of people who have gone through correctional facilities each year, if there is not a mechanism in place to detect when people are infected and give preventive treatment, we can increase the tuberculosis problem in the community.

So there needs to be some kind of a detection system, testing.

In nursing homes, Snider said, the high infection rate could affect visitors as well as residents. "Not that I want to alarm people, but there have also been outbreaks of TB in nursing homes," Snider said. Some family members are very devoted and stay many hours. These folks are at risk. "I think for those reasons the general public has a vested interest."

What is the danger of AIDS virus infection from the upsurge of TB cases? According, and I hope everybody listens to this, according to Dr. John Seale, eminent British venereologist and AIDS expert, tuberculosis and pulmonary AIDS are a lethal combination. He says:

When pulmonary AIDS is combined with pulmonary tuberculosis, a very common complication of AIDS, it is inevitable the coughing will produce some aerosols containing tuberculosis bacilli and the AIDS virus. After the fluid in the aerosols, when you cough, and the aerosol evaporates, the minute dry flakes containing tuberculosis bacilli and the AIDS virus float in the air indefinitely, and both remain infectious for days.

In another article, written in the New England Journal of Medicine, Dr. Allan Salzberg, chief of medical service at the Veterans' Medical Center in Miles City, MT, presented a study indi-

cating there is a significant risk of acquiring HIV infections during major surgery. Salzberg, who conducted the study, called the results alarming. His findings indicate, and get this: (1) as many as 1 in every 5,000 people who undergo major surgery in the United States may become infected with the AIDS virus from contaminated blood that slips through the screening process, a researcher said, and (2) in such areas as New York and San Francisco where AIDS is more common, the risk may be as high as 1 out of every 500 surgeries, major surgeries, to 1,000 surgeries, and people who require a large amount of donated blood will get the AIDS virus. Salzberg said that he computed the risk for being infected with the AIDS virus from donated blood using a computer model that he developed to track the AIDS epidemic.

Some other statistics that need to be brought our are that they just did some random testing of college students, and they found that 1 out of 500 college students in America, they estimate, have the AIDS virus, 1 out of 500 college students. We do not know what it is in the high school area. 800,000-plus men in this country last year had 10 or more sexual partners. So the education that we are putting across on television has not slowed down the sexual revolution.

Information I have given tonight comes from Masters and Johnson, from the Hudson Institute, from the man who wrote "The AIDS Coverup," Mr. Antonio, from scientists from all over the world, and the fact of the matter is that this is much worse than we have been led to believe by CDC or HHS.

The people of this country need to know the facts. We cannot keep this from them indefinitely, and the quicker they know it, the better it is going to be.

Masters and Johnson, the authors of the sexual revolution 20 years ago, who were heralded by liberals around this country as great scientists, and people who are really on the ball as far as understanding sexual problems in this country, they came out with a book on the AIDS virus which is just as alarming as the Hudson Institute studies or Mr. Antonio's book or some of the other things I have quoted tonight, and yet now they are being denigrated. They were being heralded 10 years ago, 20 years ago, as people who were way ahead of their time, but now, because they are taking on the AIDS issue, they are being criticized severely.

There is a new AIDS case every 14 minutes in this country, and it is becoming more rapid than that day by day. We are over 100,000 people dead or dying; by the end of this year it will be up to 120,000 approximately, and it is going to be up way beyond that in the not-too-distant future.

Mr. Speaker, I want to end up by saying that these are the figures that we project, and I think they are very conservative. They track with the Center for Disease Control through the year 1992. We figure that between 250,000 and 280,000 people will be dead or dying of AIDS by the end of 1991, less than 2 years from now. There will be 500,000 to 650,000 dead or dying by 1993. There will be between 1 million and 1.5 million by 1995. By the end of 1995; 2 million to 3.5 million between now and 1997, and by the turn of the century, less than 11 years from now, unless we take some real strong action and do testing and come up with a comprehensive program, we are going to have at least 4 million people dead or dying. It could be as high as 8 million.

Bear in mind that we have 240 million people in this country, and in 11 years, 1 out of 60, 1 out of 60 will be dead or dying of AIDS. That is why it is imperative that this country get on with a massive testing program and a comprehensive program to get a handle on this disease.

This cannot be done in Africa, because they do not have the education system. They do not have the health care facilities to deal with it. In parts of Africa today, in Uganda, in 3 to 5 years, they are going to have half of the population infected with AIDS, half. In Zaire, they already have 12 to 15 percent of the people infected with AIDS. In Malawi it is over 20 percent. In Africa, we are going to see a real holocaust, probably 50 to 100 million people in that continent alone who will die of AIDS In the next 15 to 20 years. It is going to be a catastrophe.

Here in this country, an educated, civilized country that has great health facilities and great scientific research facilities, we can get a handle on this thing. We can save our population, but we are not doing what needs to be done, and the people of this country need to be informed. They need to know the facts. They need to put pressure on all of their political leaders to get on with a comprehensive program to deal with it.

Mr. Speaker, we do not have a lot of time. I hate to come down here and rail about this, but I feel it is so important that these facts get out, and so I apologize to my friends who have to stay here and listen to this tonight.

I will conclude my remarks, Mr. Speaker, but I will tell everyone that later on this week I will bring some more information to the floor. Hopefully somebody will listen. Next week or when we get back from our recess, I am going to do it again, and I am going to do it again and again and again and again until people who are in a position to do something about it do it.

CONFERENCE REPORT ON H.R. 1278

Mr. GONZALEZ submitted the following conference report and statement on the bill (H.R. 1278) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-209)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1278) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Financial Institutions Reform, Recovery, and Enforcement Act of 1989".

(b) TABLE OF CONTENTS.—

TITLE I—PURPOSES

Sec. 101. Purposes.

TITLE II—FEDERAL DEPOSIT INSURANCE CORPORATION

Sec. 201. Depository institutions.
Sec. 202. Duties of Federal Deposit Insurance Corporation.
Sec. 203. FDIC Board members.
Sec. 204. Definitions.
Sec. 205. Insured savings associations.
Sec. 206. Application process; insurance fees.
Sec. 207. Insurability factors.
Sec. 208. Assessments.
Sec. 209. Corporate powers of the FDIC.
Sec. 210. Administration of Corporation.
Sec. 211. Insurance funds.
Sec. 212. Conservatorship and receivership powers of the Corporation.
Sec. 213. New banks.
Sec. 214. Bridge banks.
Sec. 215. FSLIC Resolution Fund.
Sec. 216. Amendments to section 12.
Sec. 217. Amendments to section 13.
Sec. 218. FDIC borrowing authority.
Sec. 219. Exemption from taxation; limitation on borrowing.
Sec. 220. Reports.
Sec. 221. Regulations governing insured depository institutions.
Sec. 222. Activities of savings associations.
Sec. 223. Nondiscrimination.
Sec. 224. Brokered deposits.
Sec. 225. Contracts between depository institutions and persons providing goods, products, or services.
Sec. 226. Savings association insurance fund industry advisory committee established.

TITLE III—SAVINGS ASSOCIATIONS

Sec. 301. Amendment to Home Owners' Loan Act of 1933.
Sec. 302. Savings provisions.
Sec. 303. Qualified thrift lender test.
Sec. 304. Transitional rule for certain transactions with affiliates.

Sec. 305. Transitional rules regarding certain loans and effective dates.
Sec. 306. Amendment of additional powers of Director.
Sec. 307. Amendment to title 31, United States Code.
Sec. 308. Preserving minority ownership of minority financial institutions.

TITLE IV—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY

Sec. 401. FSLIC and Federal Home Loan Bank Board abolished.
Sec. 402. Continuation and coordination of certain regulations.
Sec. 403. Determination of transferred functions and employees.
Sec. 404. Rights of employees of abolished agencies.
Sec. 405. Division of property and facilities.
Sec. 406. Report.
Sec. 407. Repeals.

TITLE V—FINANCING FOR THRIFT RESOLUTIONS

Subtitle A—Oversight Board and Resolution Trust Corporation

Sec. 501. Oversight Board and Resolution Trust Corporation established.

Subtitle B—Resolution Funding Corporation

Sec. 511. Resolution Funding Corporation established.
Sec. 512. Financing Corporation.

TITLE VI—THRIFT ACQUISITION ENHANCEMENT PROVISIONS

Sec. 601. Acquisition of thrift institutions by bank holding companies.
Sec. 602. Technical amendments to the Bank Holding Company Act.
Sec. 603. Passive investments by companies controlling certain nonbank banks.
Sec. 604. Purchase of minority interest in undercapitalized savings associations by other savings and loan holding companies allowed.

TITLE VII—FEDERAL HOME LOAN BANK SYSTEM REFORMS

Subtitle A—Federal Home Loan Bank Act Amendments

Sec. 701. Definitions.
Sec. 702. Federal Housing Finance Board established.
Sec. 703. Termination of the Federal Home Loan Bank Board.
Sec. 704. Eligibility for membership.
Sec. 705. Repeal of provision relating to rate of interest on deposits.
Sec. 706. Capital stock.
Sec. 707. Election of Bank directors.
Sec. 708. Repeal of provisions relating to certain powers of the Federal Home Loan Bank Board.
Sec. 709. Powers and duties of Banks.
Sec. 710. Eligibility of borrowers to secure advances.
Sec. 711. Administrative expenses.
Sec. 712. Nonadministrative expenses.
Sec. 713. Federal Savings and Loan Insurance Corporation Industry Advisory Committee.
Sec. 714. Advances.
Sec. 715. Amendments relating to withdrawal from Federal Home Loan Bank membership.
Sec. 716. Repeal of provisions relating to lawful contract rate.
Sec. 717. Bank stock and obligations.
Sec. 718. Thrift Advisory Council.
Sec. 719. Examination of members.
Sec. 720. Liquidity.
Sec. 721. Affordable housing.
Sec. 722. Transferred employees of Federal Home Loan Banks and joint offices.
Sec. 723. Transitional provisions.
Sec. 724. Federal Home Loan Bank reserves.
Sec. 725. Special account.

Subtitle B—Federal Home Loan Mortgage Corporation

Sec. 731. Federal Home Loan Mortgage Corporation.

Subtitle C—Technical and Conforming Amendments

Sec. 741. Repeal of limitation of obligation for administrative expenses.
Sec. 742. Amendment of title 5, United States Code.
Sec. 743. Amendment of Balanced Budget and Emergency Deficit Control Act provisions.
Sec. 744. Conforming amendments to financial institution related Acts.

TITLE VIII—BANK CONSERVATION ACT AMENDMENTS

Sec. 801. Definitions.
Sec. 802. Appointment of conservator.
Sec. 803. Examinations.
Sec. 804. Termination of conservatorship.
Sec. 805. Conservator; powers and duties.
Sec. 806. Liability protection.
Sec. 807. Rules and regulations.
Sec. 808. Repeals.

TITLE IX—REGULATORY ENFORCEMENT AUTHORITY AND CRIMINAL ENHANCEMENTS

Subtitle A—Expanded Enforcement Powers, Increased Penalties, and Improved Accountability

Sec. 901. Institution-affiliated parties of a depository institution subject to administrative enforcement orders; substitution of "depository institution" for "bank" in enforcement provisions.
Sec. 902. Amendments to cease and desist authority with respect to restitution, restrictions on specific activities, grounds for issuance of a temporary order, and incomplete or inaccurate records.
Sec. 903. Merger of removal and prohibition authority.
Sec. 904. Industrywide application of removal, suspension, and prohibition orders.
Sec. 905. Enforcement proceedings allowed after separation from service.
Sec. 906. Expansion of removal powers for state criminal proceedings.
Sec. 907. Amendments to expand and increase civil money penalties.
Sec. 908. Clarification of criminal penalty provisions for violation of certain orders.
Sec. 909. Supervisory records.
Sec. 910. Increased penalty for participation by convicted individuals.
Sec. 911. Amendments to various provisions of law relating to reports.
Sec. 912. Authority of the FDIC to take enforcement action against savings associations.
Sec. 913. Public disclosure of enforcement actions required.
Sec. 914. Agency disapproval of directors and senior executive officers of certain depository institutions.
Sec. 915. Clarification of NCUA's authority to conduct compliance investigations.
Sec. 916. Improved administrative hearings and procedures.
Sec. 917. Task force study of delegation of enforcement actions.
Sec. 918. Annual report to Congress.
Sec. 919. Credit union audit requirements.
Sec. 920. Technical amendments relating to administrative and judicial review.

Subtitle B—Termination of Deposit Insurance

Sec. 926. Revision of procedures for termination of FDIC deposit insurance.

Subtitle C—Improving Early Detection of Misconduct and Encouraging Informants

Sec. 931. Information required to be made available to outside auditors.
Sec. 932. Depository institution employee protection remedy.
Sec. 933. Reward for information leading to recoveries or civil penalties.

Subtitle D—Right to Financial Privacy Act Amendments

Sec. 941. Definitions.
Sec. 942. Additional exceptions.
Sec. 943. Prohibition.
Sec. 944. Miscellaneous provisions.

Subtitle E—Civil Penalties for Violations Involving Financial Institutions

Sec. 951. Civil penalties.

Subtitle F—Criminal Law and Procedure

Sec. 961. Increased criminal penalties for certain financial institution offenses.
Sec. 962. Miscellaneous revisions to title 18.
Sec. 963. Civil and criminal forfeiture.
Sec. 964. Grand jury secrecy.
Sec. 965. Criminal Division Fraud Section regional office.
Sec. 966. Department of Justice appropria-

tion authorization.
Sec. 967. Authorization of additional appropriations for the judiciary.
Sec. 968. Racketeer influenced and corrupt organizations.

TITLE X—STUDIES OF FEDERAL DEPOSIT INSURANCE, BANKING SERVICES, AND THE SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES

Sec. 1001. Study of federal deposit insurance system.
Sec. 1002. Survey of bank fees and services.
Sec. 1003. General Accounting Office study.
Sec. 1004. Study regarding capital requirements for government-sponsored enterprises.

TITLE XI—REAL ESTATE APPRAISAL REFORM AMENDMENTS

Sec. 1101. Purpose.
Sec. 1102. Establishment of Appraisal Subcommittee of the Federal Financial Institutions Examination Council.
Sec. 1103. Functions of Appraisal Subcommittee.
Sec. 1104. Chairperson of Appraisal Subcommittee; term of Chairperson; meetings.
Sec. 1105. Officers and staff.
Sec. 1106. Powers of Appraisal Subcommittee.
Sec. 1107. Procedures for establishing appraisal standards and requiring the use of certified and licensed appraisers.
Sec. 1108. Startup funding.
Sec. 1109. Roster of State certified or licensed appraisers; authority to collect and transmit fees.
Sec. 1110. Functions of the Federal financial institutions regulatory agencies relating to appraisal standards.
Sec. 1111. Time for proposal and adoption of standards.
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Sec. 1113. Transactions requiring the services of a State certified appraiser.
Sec. 1114. Transactions requiring the services of a State licensed appraiser.
Sec. 1115. Time for proposal and adoption of rules.
Sec. 1116. Certification and licensing requirements.
Sec. 1117. Establishment of State appraiser certifying and licensing agencies.
Sec. 1118. Monitoring of State appraiser certifying and licensing agencies.
Sec. 1119. Recognition of State certified and licensed appraisers for purposes of this title.
Sec. 1120. Violations in obtaining and performing appraisals in federally related transactions.
Sec. 1121. Definitions.
Sec. 1122. Miscellaneous provisions.

TITLE XII—MISCELLANEOUS PROVISIONS

Sec. 1201. GAO study of credit union system.
Sec. 1202. OCC employment provision.
Sec. 1203. NCUA employment provision.
Sec. 1204. Expansion of use of underutilized minority banks, women's banks, and low-income credit unions.
Sec. 1205. Credit standards advisory committee.
Sec. 1206. Comparability in compensation schedules.
Sec. 1207. Study by Secretary of the Treasury.
Sec. 1208. Expenditure of taxpayer money only for deposit insurance purposes.
Sec. 1209. Amendment to section 5373 of title 5, United States Code.
Sec. 1210. Farm Credit Administration and Farm Credit System Insurance Corporation employment provision.
Sec. 1211. Fair lending oversight and enforcement.
Sec. 1212. Amendment to the Community Reinvestment Act of 1977.
Sec. 1213. Comptroller General audit and access to records.
Sec. 1214. Amendment related to the Hart-Scott-Rodino Act.
Sec. 1215. Capital and accounting standards.
Sec. 1216. Equal opportunity.
Sec. 1217. NCUA powers as liquidating agent and conservator.
Sec. 1218. Risk management training.
Sec. 1219. Cross-marketing restrictions.
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TITLE XIII—PARTICIPATION BY STATE HOUSING FINANCE AUTHORITIES AND NONPROFIT ENTITIES

Sec. 1301. Definitions.
Sec. 1302. Authorization for State housing finance agencies and nonprofit entities to purchase mortgage-related assets.

TITLE XIV—TAX PROVISIONS

Sec. 1401. Early termination of special reorganization rules for financial institutions.
Sec. 1402. Tax exemption for Resolution Trust Corporation and Resolution Funding Corporation.
Sec. 1403. Annual reports on transactions in which Federal financial assistance provided.
Sec. 1404. Studies of relationship between public debt and activities of Government-sponsored enterprises.

TITLE I—PURPOSES

SEC. 101. PURPOSES.

The purposes of this Act are as follows:

(1) To promote, through regulatory reform, a safe and stable system of affordable housing finance.

(2) To improve the supervision of savings associations by strengthening capital, accounting, and other supervisory standards.

(3) To curtail investments and other activities of savings associations that pose unacceptable risks to the Federal deposit insurance funds.

(4) To promote the independence of the Federal Deposit Insurance Corporation from the institutions the deposits of which it insures, by providing an independent board of directors, adequate funding, and appropriate powers.

(5) To put the Federal deposit insurance funds on a sound financial footing.

(6) To establish an Office of Thrift Supervision in the Department of the Treasury, under the general oversight of the Secretary of the Treasury.

(7) To establish a new corporation, to be known as the Resolution Trust Corporation, to contain, manage, and resolve failed savings associations.

(8) To provide funds from public and private sources to deal expeditiously with failed depository institutions.

(9) To strengthen the enforcement powers of Federal regulators of depository institutions.

(10) To strengthen the civil sanctions and criminal penalties for defrauding or otherwise damaging depository institutions and their depositors.

TITLE II—FEDERAL DEPOSIT INSURANCE CORPORATION

SEC. 201. DEPOSITORY INSTITUTIONS.

(a) AMENDMENTS TO REFERENCES TO INSURED BANK.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by striking out "insured bank", "insured banks", and "insured bank's" each place each term appears in such Act (except where any such term is preceded by "member" or "nonmember") and inserting in lieu thereof "insured depository institution", "insured depository institutions", and "insured depository institution's", respectively.

(2) EXCEPTIONS.—The terms "insured bank" and "insured banks" shall not be amended pursuant to paragraph (1) in sections 3(h), 11(h), 11(i), 13(c)(1)(B), 13(f), and 18(d) of the Federal Deposit Insurance Act.

(b) AMENDMENTS TO REFERENCES TO FEDERAL HOME LOAN BANK BOARD.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by striking out "Federal Home Loan Bank Board" each place such term appears and inserting in lieu thereof "Director of the Office of Thrift Supervision".

SEC. 202. DUTIES OF FEDERAL DEPOSIT INSURANCE CORPORATION.

Section 1 of the Federal Deposit Insurance Act (12 U.S.C. 1811) is amended by inserting "and savings associations" after "banks".

SEC. 203. FDIC BOARD MEMBERS.

(a) IN GENERAL.—Section 2 of the Federal Deposit Insurance Act is amended to read as follows:

"SEC. 2. MANAGEMENT.

"(a) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—The management of the Corporation shall be vested in a Board of Directors consisting of 5 members—

"(A) 1 of whom shall be the Comptroller of the Currency;

"(B) 1 of whom shall be the Director of the Office of Thrift Supervision; and

"(C) 3 of whom shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

"(2) POLITICAL AFFILIATION.—After February 28, 1993, not more than 3 of the members of the Board of Directors may be members of the same political party.

"(b) CHAIRPERSON AND VICE CHAIRPERSON.—

"(1) CHAIRPERSON.—1 of the appointed members shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairperson of the Board of Directors for a term of 5 years.

"(2) VICE CHAIRPERSON.—1 of the appointed members shall be designated by the President, by and with the advice and consent of the Senate, to serve as Vice Chairperson of the Board of Directors.

"(3) ACTING CHAIRPERSON.—In the event of a vacancy in the position of Chairperson of the Board of Directors or during the absence or disability of the Chairperson, the Vice Chairperson shall act as Chairperson.

"(c) TERMS.—

"(1) APPOINTED MEMBERS.—Each appointed member shall be appointed for a term of 6 years.

"(2) INTERIM APPOINTMENTS.—Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

"(3) CONTINUATION OF SERVICE.—The Chairperson, Vice Chairperson, and each appointed member may continue to serve after the expiration of the term of office to which such member was appointed until a successor has been appointed and qualified.

"(d) VACANCY.—

"(1) IN GENERAL.—Any vacancy on the Board of Directors shall be filled in the manner in which the original appointment was made.

"(2) ACTING OFFICIALS MAY SERVE.—In the event of a vacancy in the office of the Comptroller of the Currency or the office of Director of the Office of Thrift Supervision and pending the appointment of a successor, or during the absence or disability of the Comptroller or such Director, the acting Comptroller of the Currency or the acting Director of the Office of Thrift Supervision, as the case may be, shall be a member of the Board of Directors in the place of the Comptroller or Director.

"(e) INELIGIBILITY FOR OTHER OFFICES.—

"(1) POSTSERVICE RESTRICTION.—

"(A) IN GENERAL.—No member of the Board of Directors may hold any office, position, or employment in any insured depository institution or any depository institution holding company during—

"(i) the time such member is in office; and

"(ii) the 2-year period beginning on the date such member ceases to serve on the Board of Directors.

"(B) EXCEPTION FOR MEMBERS WHO SERVE FULL TERM.—The limitation contained in subparagraph (A)(ii) shall not apply to any member who has ceased to serve on the Board of Directors after serving the full term for which such member was appointed.

"(2) RESTRICTION DURING SERVICE.—No member of the Board of Directors may—

"(A) be an officer or director of any insured depository institution, depository institution holding company, Federal Reserve bank, or Federal home loan bank; or

"(B) hold stock in any insured depository institution or depository institution holding company.

"(3) CERTIFICATION.—Upon taking office, each member of the Board of Directors shall certify under oath that such member has complied with this subsection and such certification shall be filed with the secretary of the Board of Directors.".

(b) TRANSITION PROVISION.—

(1) CHAIRPERSON.—Notwithstanding any provision of section 2 of the Federal Deposit Insurance Act, the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 may continue to serve as the Chairperson until the end of the term to which such Chairman was appointed.

(2) MEMBERS.—Notwithstanding any provision of section 2 of the Federal Deposit Insurance Act, the appointed member of the Board of Directors of the Federal Deposit Insurance Corporation on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 who is not the Chairman shall continue to serve in office until the earlier of—

(A) the end of the term to which such member was appointed; or

(B) February 28, 1993,

except that such member may continue to serve after the end of such term until a successor has been appointed and qualified.

(3) APPOINTMENTS BEFORE MARCH 1, 1993.—Notwithstanding any provision of section 2 of the Federal Deposit Insurance Act, the term of any member appointed to the Board of Directors of the Federal Deposit Insurance Corporation before February 28, 1993 (including the term of any Chairperson), shall end on such date.

SEC. 204. DEFINITIONS.

(a) DEFINITIONS OF BANK AND RELATED TERMS.—Section 3(a) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is amended to read as follows:

"(a) DEFINITIONS OF BANK AND RELATED TERMS.—

"(1) BANK.—The term 'bank'—

"(A) means any national bank, State bank, and District bank, and any Federal branch and insured branch;

"(B) includes any former savings association that—

"(i) has converted from a savings association charter; and

"(ii) is a Savings Association Insurance Fund member.

"(2) STATE BANK.—The term 'State bank' means any bank, banking association, trust company, savings bank, industrial bank (or similar depository institution which the Board of Directors finds to be operating substantially in the same manner as an industrial bank), or other banking institution which—

"(A) is engaged in the business of receiving deposits, other than trust funds (as defined in this section); and

"(B) is incorporated under the laws of any State or which is operating under the Code of Law for the District of Columbia (except a national bank),

including any cooperative bank or other unincorporated bank the deposits of which were insured by the Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(3) STATE.—The term 'State' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

"(4) DISTRICT BANK.—The term 'District bank' means any State bank operating under the Code of Law of the District of Columbia.

(b) DEFINITION OF SAVINGS ASSOCIATIONS AND RELATED TERMS.—Section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) is amended to read as follows:

"(b) DEFINITION OF SAVINGS ASSOCIATIONS AND RELATED TERMS.—

"(1) SAVINGS ASSOCIATION.—The term 'savings association' means—

"(A) any Federal savings association;

"(B) any State savings association; and

"(C) any corporation (other than a bank) that the Board of Directors and the Director of the Office of Thrift Supervision jointly determine to be operating in substantially the same manner as a savings association.

"(2) FEDERAL SAVINGS ASSOCIATION.—The term 'Federal savings association' means any Federal savings association or Federal savings bank which is chartered under section 5 of the Home Owners' Loan Act.

"(3) STATE SAVINGS ASSOCIATION.—The term 'State savings association' means—

"(A) any building and loan association, savings and loan association, or homestead association; or

"(B) any cooperative bank (other than a cooperative bank which is a State bank as defined in subsection (a)(2)),

which is organized and operating according to the laws of the State (as defined in subsection (a)(3)) in which it is chartered or organized.".

(c) DEFINITIONS RELATING TO DEPOSITORY INSTITUTIONS.—Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) is amended to read as follows:

"(c) DEFINITIONS RELATING TO DEPOSITORY INSTITUTIONS.—

"(1) DEPOSITORY INSTITUTION.—The term 'depository institution' means any bank or savings association.

"(2) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' means any bank or savings association the deposits of which are insured by the Corporation pursuant to this Act.

"(3) INSTITUTIONS INCLUDED FOR CERTAIN PURPOSES.—The term 'insured depository institution' includes any uninsured branch or agency of a foreign bank or a commercial lending company owned or controlled by a foreign bank for purposes of section 8 of this Act.

"(4) FEDERAL DEPOSITORY INSTITUTION.—The term 'Federal depository institution' means any national bank, any Federal savings association, and any Federal branch.

"(5) STATE DEPOSITORY INSTITUTION.—The term 'State depository institution' means any State bank, any State savings association, and any insured branch which is not a Federal branch.".

(d) DEFINITIONS RELATING TO MEMBER BANKS.—Section 3(d) of the Federal Deposit Insurance (12 U.S.C. 1813(d)) is amended to read as follows:

"(d) DEFINITIONS RELATING TO MEMBER BANKS.—

"(1) NATIONAL MEMBER BANK.—The term 'national member bank' means any national bank which is a member of the Federal Reserve System.

"(2) STATE MEMBER BANK.—The term 'State member bank' means any State bank which is a member of the Federal Reserve System.".

(e) DEFINITIONS RELATING TO NONMEMBER BANKS.—Section 3(e) of the Federal Deposit Insurance Act (12 U.S.C. 1813(e)) is amended to read as follows:

"(e) DEFINITIONS RELATING TO NONMEMBER BANKS.—

"(1) NATIONAL NONMEMBER BANK.—The term 'national nonmember bank' means any national bank which—

"(A) is located in any territory of the United States, Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Northern Mariana Islands; and

"(B) is not a member of the Federal Reserve System.

"(2) STATE NONMEMBER BANK.—The term 'State nonmember bank' means any State bank which is not a member of the Federal Reserve System.".

(f) ADDITIONAL AMENDMENTS TO DEFINITIONS.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended—

(1) in subsection (j), by inserting "or savings association" after "of a bank";

(2) in subsection (l)—

(A) by inserting "or savings association" after "a bank", "the bank", "another bank", "receiving bank", and "such bank" each place such terms appear;

(B) by inserting "or savings association's" after the word "bank's" each place such term appears;

(C) in paragraph (5), by inserting ", Director of the Office of Thrift Supervision," after "Comptroller of the Currency"; and

(D) in paragraph (5)(A), by striking out "and the Virgin Islands" and inserting in lieu thereof "the Virgin Islands, and the Northern Mariana Islands";

(3) in subsection (m)—

(A) in paragraph (1)—

(i) by striking out "the bank" and inserting in lieu thereof "the depository institution"; and

(ii) by inserting "of the Northern Mariana Islands," after "Virgin Islands,"; and

(B) in paragraph (2), by striking out "ther" and inserting in lieu thereof "term";

(4) by striking out subsection (q) and inserting in lieu thereof the following:

"(q) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' means—

"(1) the Comptroller of the Currency, in the case of any national banking association, any District bank, or any Federal branch or agency of a foreign bank;

"(2) the Board of Governors of the Federal Reserve System, in the case of—

"(A) any State member insured bank (except a District bank),

"(B) any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978,

"(C) any foreign bank which does not operate an insured branch,

"(D) any agency or commercial lending company other than a Federal agency,

"(E) supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceedings under the Depository Institutions Supervisory Act, and

"(F) any bank holding company and any subsidiary of a bank holding company (other than a bank);

"(3) the Federal Deposit Insurance Corporation in the case of a State nonmember insured bank (except a District bank), or a foreign bank having an insured branch; and

"(4) the Director of the Office of Thrift Supervision in the case of any savings association or any savings and loan holding company.

Under the rule set forth in this subsection, more than one agency may be an appropriate Federal banking agency with respect to any given institution."; and

(5) by striking out subsection (t) and inserting in lieu thereof the following new subsection:

"(t) INCLUDES, INCLUDING.—

"(1) IN GENERAL.—The terms 'includes' and 'including' shall not be construed more restrictively than the ordinary usage of such terms so as to exclude any other thing not referred to or described.

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as creating any inference that the term 'includes' or 'including' in any other provision of Federal law may be deemed to exclude any other thing not referred to or described.";

(6) by adding at the end thereof the following new subsections:

"(u) INSTITUTION-AFFILIATED PARTY.—The term 'institution-affiliated party' means—

"(1) any director, officer, employee, or controlling stockholder (other than a bank holding company) of, or agent for, an insured depository institution;

"(2) any other person who has filed or is required to file a change-in-control notice with the appropriate Federal banking agency under section 7(j);

"(3) any shareholder (other than a bank holding company), consultant, joint venture partner, and any other person as determined by the appropriate Federal banking agency (by regulation or case-by-case) who participates in the conduct of the affairs of an insured depository institution; and

"(4) any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in—

"(A) any violation of any law or regulation;

"(B) any breach of fiduciary duty; or

"(C) any unsafe or unsound practice,

which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the insured depository institution.

"(v) VIOLATION.—The term 'violation' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(w) DEFINITIONS RELATING TO HOLDING COMPANIES.—

"(1) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term 'depository institution holding company' means a bank holding company or a savings and loan holding company.

"(2) BANK HOLDING COMPANY.—The term 'bank holding company' has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956.

"(3) SAVINGS AND LOAN HOLDING COMPANY.—The term 'savings and loan holding company' has the meaning given to such term in section 10 of the Home Owners' Loan Act.

"(4) SUBSIDIARY.—The term 'subsidiary'—

"(A) means any company which is owned or controlled directly or indirectly by another company; and

"(B) includes any service corporation owned in whole or in part by an insured depository institution or any subsidiary of such a service corporation.

"(5) CONTROL.—The term 'control' has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956.

"(6) AFFILIATE.—The term 'affiliate' has the meaning given to such term in section 2(k) of the Bank Holding Company Act of 1956.

"(x) DEFINITIONS RELATING TO DEFAULT.—

"(1) DEFAULT.—The term 'default' means, with respect to an insured depository institution, any adjudication or other official determination by any court of competent jurisdiction, the appropriate Federal banking agency, or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed for an insured depository institution or, in the case of a foreign bank having an insured branch, for such branch.

"(2) IN DANGER OF DEFAULT.—The term 'in danger of default' means an insured depository institution with respect to which (or in the case of a foreign bank having an insured branch, with respect to such insured branch) the appropriate Federal banking agency or State chartering authority has advised the Corporation (or, if the appropriate Federal banking agency is the Corporation, the Corporation has determined) that—

"(A) in the opinion of such agency or authority—

"(i) the depository institution or insured branch is not likely to be able to meet the demands of the institution's or branch's depositors or pay the institution's or branch's obligations in the normal course of business; and

"(ii) there is no reasonable prospect that the depository institution or insured branch will be able to meet such demands or pay such obligations without Federal assistance; or

"(B) in the opinion of such agency or authority—

"(i) the depository institution or insured branch has incurred or is likely to incur losses that will deplete all or substantially all of its capital; and

"(ii) there is no reasonable prospect that the capital of the depository institution or insured branch will be replenished without Federal assistance.".

SEC. 205. INSURED SAVINGS ASSOCIATIONS.

Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended—

(1) in subsection (a)—

(A) by striking out "(a) Every bank" and inserting in lieu thereof the following:

"(a) CONTINUATION OF INSURANCE.—

"(1) BANKS.—Each bank"; and

(B) by adding at the end thereof the following new paragraph:

"(2) SAVINGS ASSOCIATIONS.—Each savings association the accounts of which were insured by the Federal Savings and Loan Insurance Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, shall be, without application or approval, an insured depository institution.";

(2) in subsection (b)—

(A) by inserting after the 1st sentence the following new sentences: "Any application or notice for membership or to commence or resume business shall be promptly provided by the appropriate Federal banking agency to the Corporation and the Corporation shall have a reasonable period of time to provide comments on such application or notice. Any comments submitted by the Corporation to the appropriate Federal banking agency shall be considered by such agency.";

(B) by striking out the penultimate and the last sentences; and

(C) by striking out "(b) Every national bank" and inserting in lieu thereof "(b) CERTIFICATION BY OTHER BANKING AGENCIES.—Every national bank"; and

(3) by striking out subsection (c) and inserting in lieu thereof the following new subsections:

"(c) CONTINUATION OF INSURANCE AFTER CONVERSION.—Subject to section 5(d)—

"(1) any State depository institution which results from the conversion of any insured Federal depository institution; and

"(2) any Federal depository institution which results from the conversion of any insured State depository institution,

shall continue as an insured depository institution.

"(d) CONTINUATION OF INSURANCE AFTER MERGER OR CONSOLIDATION.—Any State depository institution or any Federal depository institution which results from the merger or consolidation of insured depository institutions, or from the merger or consolidation of a noninsured depository institution with an insured depository institution, shall continue as an insured depository institution.".

SEC. 206. APPLICATION PROCESS; INSURANCE FEES.

(a) IN GENERAL.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) is amended—

(1) by striking out "(a) Subject to the provisions of this Act, any" and inserting in lieu thereof the following:

"(a) APPLICATION FOR INSURANCE.—

"(1) NATIONAL AND STATE NONMEMBER BANKS; STATE SAVINGS ASSOCIATIONS.—Any";

(2) in the 1st sentence of subsection (a)(1) (as so redesignated by paragraph (1) of this subsection), by striking out the comma after "State nonmember bank" and inserting in lieu thereof "and State savings association,"; and

(3) in the 2nd sentence of subsection (a)(1) (as so redesignated by paragraph (1) of this subsection)—

(A) by striking out the comma after "State nonmember bank" and inserting in lieu thereof "and State savings association,";

(B) by striking out the comma after "such bank" and inserting in lieu thereof "or savings association,"; and

(C) by inserting "or savings association, and, in the case of an application by a State savings association, the Corporation shall notify the Director of the Office of Thrift Supervision of the Corporation's approval of such application" before the period at the end;

(4) by adding at the end of subsection (a) the following new paragraphs:

"(2) FEDERAL SAVINGS ASSOCIATIONS.—Any Federal savings association shall become an insured depository institution upon—

"(A) application to the Corporation; and

"(B) receipt by the Corporation of a certificate issued to the Corporation by the Director which meets the requirements of paragraph (4),

unless insurance is denied by the Board of Directors.

"(3) INTERIM FEDERAL SAVINGS ASSOCIATIONS.—In the case of any interim Federal savings association which is chartered by the Director of the Office of Thrift Supervision and will not open for business, such association shall be an insured depository institution upon the issuance of such association's charter by the Director.

"(4) CERTIFICATE REQUIREMENTS.—Any certificate issued to the Corporation under paragraph (2) shall state that the Federal savings association is authorized to transact business as a savings association and that consideration has been given to the factors enumerated in section 6.

"(5) REVIEW REQUIREMENTS.—In reviewing any certificate and application referred to in paragraph (2), the Board of Directors shall consider the factors described in paragraphs (1), (2), (3), (4), and (5) of section 6 in determining whether to deny insurance.

"(6) NOTICE OF DENIAL OF APPLICATION.—If the Board of Directors, after giving due deference to the determination of the Director of the Office of Thrift Supervision with respect to such factors, does not concur in the determination of the Director, the Board of Directors shall promptly notify the Director that insurance has been denied, giving specific reasons in writing for the Corporation's determination with reference to the factors described in paragraphs (1), (2), (3), (4), and (5) of section 6, and no insurance shall be granted.

"(7) VOTING REQUIREMENTS.—The authority of the Board of Directors to make any determination to deny insurance under this subsection may not be delegated by the Board of Directors and any such determination may be made only upon a vote of ¾ of all members of the Board of Directors (excluding the Director of the Office of Thrift Supervision).";

(5) in subsection (b)(4), by inserting "and fitness" after character;

(6) in subsection (b)—

(A) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively; and

(B) by inserting after paragraph (4) the following:

"(5) the risk presented to the Bank Insurance Fund or the Savings Association Insurance Fund;"; and

(7) by adding at the end thereof the following new subsections:

"(d) INSURANCE FEES.—

"(1) UNINSURED INSTITUTIONS.—

"(A) IN GENERAL.—Any institution that becomes insured by the Corporation, and any noninsured branch that becomes insured by the Corporation, shall pay the Corporation any fee which the Corporation may by regulation prescribe, after giving due consideration to the need to establish and maintain reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund as required by section 7.

"(B) FEE CREDITED TO APPROPRIATE FUND.—The fee paid by the depository institution shall be credited to the Bank Insurance Fund if the depository institution becomes a Bank Insurance Fund member, and to the Savings Association Insurance Fund if the depository institution becomes a Savings Association Insurance Fund member.

"(C) EXCEPTION FOR CERTAIN DEPOSITORY INSTITUTIONS.—Any depository institution that becomes an insured depository institution by operation of section 4(a) shall not pay any fee.

"(2) CONVERSIONS.—

"(A) IN GENERAL.—

"(i) PRIOR APPROVAL REQUIRED.—No insured depository institution may participate in a conversion transaction without the prior approval of the Corporation.

"(ii) 5-YEAR MORATORIUM ON CONVERSIONS.—Except as provided in subparagraph (C), the Corporation may not approve any conversion transaction before the end of the 5-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(B) CONVERSION DEFINED.—For purposes of this paragraph, the term 'conversion transaction' means—

"(i) the change of status of an insured depository institution from a Bank Insurance Fund member to a Savings Association Insurance Fund member or from a Savings Association Insurance Fund member to a Bank Insurance Fund member;

"(ii) the merger or consolidation of a Bank Insurance Fund member with a Savings Association Insurance Fund member;

"(iii) the assumption of any liability by—

"(I) any Bank Insurance Fund member to pay any deposits of a Savings Association Insurance Fund member; or

"(II) any Savings Association Insurance Fund member to pay any deposits of a Bank Insurance Fund member;

"(iv) the transfer of assets of—

"(I) any Bank Insurance Fund member to any Savings Association Insurance Fund member in consideration of the assumption of liabilities for any portion of the deposits of such Bank Insurance Fund member; or

"(II) any Savings Association Insurance Fund member to any Bank Insurance Fund member in consideration of the assumption of liabilities for any portion of the deposits of such Savings Association Insurance Fund member.

"(C) APPROVAL DURING MORATORIUM.—The Corporation may approve a conversion transaction at any time if—

"(i) the conversion transaction affects an insubstantial portion, as determined by the Corporation, of the total deposits of each depository institution participating in the conversion transaction;

"(ii) the conversion occurs in connection with the acquisition of a Savings Association Insurance Fund member in default or in danger of default, and the Corporation determines that the estimated financial benefits to the Savings Association Insurance Fund or Resolution Trust Corporation equal or exceed the Corporation's estimate of loss of assessment income to such insurance fund over the remaining balance of the 5-year period referred to in subparagraph (A), and the Resolution Trust Corporation concurs in the Corporation's determination; or

"(iii) the conversion occurs in connection with the acquisition of a Bank Insurance Fund member in default or in danger of default and the Corporation determines that the estimated financial benefits to the Bank Insurance Fund equal or exceed the Corporation's estimate of the loss of assessment income to the insurance fund over the remaining balance of the 5-year period referred to in subparagraph (A).

"(D) CERTAIN TRANSFERS DEEMED TO AFFECT INSUBSTANTIAL PORTION OF TOTAL DEPOSITS.—For purposes of subparagraph (C)(i), any conversion transaction shall be deemed to affect an insubstantial portion of the total deposits of an insured depository institution, to the extent the aggregate amount of the total deposits transferred in such transaction and in all conversion transactions occurring after the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 does not exceed 35 percent of the lesser of—

"(i) the amount which is equal to the sum of—

"(I) the total deposits of such insured depository institution on May 1, 1989; and

"(II) the total amount of net interest credited to the depository institution's deposits during the period beginning on May 1, 1989, and ending on the date of the transfer of deposits in connection with such transaction; or

"(ii) the amount which is equal to the total deposits of such insured depository institution on the date of the transfer of deposits in connection with such transaction.

"(E) EXIT AND ENTRANCE FEES.—Each insured depository institution participating in a conversion transaction shall pay—

"(i) in the case of a conversion transaction in which the resulting or acquiring depository institution is not a Savings Association Insurance Fund member, an exit fee (in an amount to be determined and assessed in accordance with subparagraph (F)) which—

"(I) shall be deposited in the Savings Association Insurance Fund; or

"(II) shall be paid to the Financing Corporation, if the Secretary of the Treasury determines that the Financing Corporation has exhausted all other sources of funding for interest payments on the obligations of the Financing Corporation and orders that such fees be paid to the Financing Corporation;

"(ii) in the case of a conversion transaction in which the resulting or acquiring depository institution is not a Bank Insurance Fund member, an exit fee in an amount to be determined by the Corporation (and assessed in accordance with subparagraph

(F)(ii)) which shall be deposited in the Bank Insurance Fund; and

"(iii) an entrance fee in an amount to be determined by the Corporation (and assessed in accordance with subparagraph (F)(ii)), except that—

"(I) in the case of a conversion transaction in which the resulting or acquiring depository institution is a Bank Insurance Fund member, the fee shall be the approximate amount which the Corporation calculates as necessary to prevent dilution of the Bank Insurance Fund, and shall be paid to the Bank Insurance Fund; and

"(II) in the case of a conversion transaction in which the resulting or acquiring depository institution is a Savings Association Insurance Fund member, the fee shall be the approximate amount which the Corporation calculates as necessary to prevent dilution of the Savings Association Insurance Fund, and shall be paid to the Savings Association Insurance Fund.

"(F) ASSESSMENT OF EXIT AND ENTRANCE FEES.—

"(i) DETERMINATION OF AMOUNT OF EXIT FEES.—

"(I) CONVERSIONS BEFORE JANUARY 1, 1997.—IN THE CASE OF ANY EXIT FEE ASSESSED UNDER SUBPARAGRAPH (E)(I) FOR ANY CONVERSION TRANSACTION CONSUMMATED BEFORE JANUARY 1, 1997, THE AMOUNT OF SUCH FEE SHALL BE DETERMINED JOINTLY BY THE CORPORATION AND THE SECRETARY OF THE TREASURY.

"(II) ASSESSMENTS AFTER DECEMBER, 31, 1996.—IN THE CASE OF ANY EXIT FEE ASSESSED UNDER SUBPARAGRAPH (E)(I) FOR ANY CONVERSION TRANSACTION CONSUMMATED AFTER DECEMBER 31, 1996, THE AMOUNT OF SUCH FEE SHALL BE DETERMINED BY THE CORPORATION.

"(ii) PROCEDURES.—The Corporation shall prescribe, by regulation, procedures for assessing any exit or entrance fee under subparagraph (E).

"(G) CHARTER CONVERSION OF SAIF MEMBERS.—This subsection shall not be construed as prohibiting any savings association which is a Savings Association Insurance Fund member from converting to a bank charter during the period described in subparagraph (A)(ii) if the resulting bank remains a Savings Association Insurance Fund member.

"(3) OPTIONAL CONVERSION THROUGH MERGER.—

"(A) IN GENERAL.—Notwithstanding paragraph (2)(A), any bank holding company that controls any savings association may merge or consolidate the assets and liabilities of such savings association with, or transfer such assets and liabilities to, any subsidiary bank which is a Bank Insurance Fund member with the approval of the appropriate Federal banking agency and the Board of Governors of the Federal Reserve System.

"(B) ASSESSMENTS BY SAIF ON DEPOSITS ATTRIBUTABLE TO FORMER SAVINGS ASSOCIATION.—That portion of the average assessment base of any subsidiary bank referred to in subparagraph (A) for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction described in subparagraph (A)) shall—

"(i) be subject to assessment at the assessment rate applicable under section 7 for Savings Association Insurance Fund members;

"(ii) shall not be taken into account for purposes of any assessment under section 7 for Bank Insurance Fund members; and

"(iii) shall be treated as deposits which are insured by the Savings Association Insurance Fund.

"(C) DETERMINATION OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The adjusted attributable deposit amount which shall be taken into account by any bank subsidiary referred to in subparagraph (A) for purposes of determining the amount of the assessment under subparagraph (B)(i) for any semiannual period is the amount which is equal to the sum of—

"(i) the amount of any deposits acquired by such bank subsidiary in connection with any transaction described in subparagraph (A) (as determined at the time of such transaction);

"(ii) the total of the amounts determined under clause (iii) for semiannual periods preceding the semiannual period for which the determination is being made under this subparagraph; and

"(iii) the amount by which the sum of the amounts described in clauses (i) and (ii) would have increased during the preceding semiannual period (other than any semiannual period beginning before the date of such transaction) if such increase occurred at a rate equal to the greater of—

"(I) an annual rate of 7 percent; or

"(II) the annual rate of growth of deposits of such subsidiary bank minus the amount of any deposits acquired through the acquisition, in whole or in part, of a Bank Insurance Fund member during such semiannual period.

"(D) DEPOSIT OF ASSESSMENT.—The amount of the assessment referred to in subparagraph (B)(i) shall be deposited in the Savings Association Insurance Fund.

"(E) CONDITIONS FOR FEDERAL RESERVE BOARD APPROVAL.—The Board of Governors of the Federal Reserve System may not approve any application by any bank holding company to engage in any transaction described in subparagraph (A) unless such Board determines that—

"(i) the amount which is equal to the aggregate amount of the total assets of all depository institution subsidiaries of such bank holding company is not less than the amount which is equal to 200 percent of the total assets of the savings association (at the time of the proposed transaction);

"(ii) the bank holding company and all bank subsidiaries of such holding company will meet all applicable capital standards upon consummation of the proposed transaction;

"(iii) the transaction is not in substance the acquisition of any Bank Insurance Fund member bank by any Savings Association Insurance Fund member;

"(iv) in the case of any transaction which occurs—

"(I) during the 1-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the savings association had tangible capital of less than 4 percent during the preceding quarter; and

"(II) during the 1-year period beginning after the end of the 1-year period referred to in subclause (I), the savings association had tangible capital of less than 5 percent during the preceding quarter; and

"(v) the transaction would comply with the requirements of section 3(d) of the Bank Holding Company Act of 1956 if, at the time of such transaction, the savings association were a State bank which the bank holding company was applying to acquire.

"(F) ALLOCATION OF COSTS IN EVENT OF DEFAULT.—If any subsidiary bank referred to in subparagraph (A) is in default or danger of default at any time before this paragraph ceases to apply, any loss incurred by the Corporation shall be allocated between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the amount of insured deposits of such bank subsidiary (other than the adjusted attributable deposit amount) which is insured by the Bank Insurance Fund and the adjusted attributable deposit amount which is insured by the Savings Association Insurance Fund pursuant to subparagraph (B)(iii).

"(G) SUBSEQUENT APPROVAL OF CONVERSION TRANSACTION.—This paragraph shall cease to apply if—

"(i) after the end of the 5-year period referred to in paragraph (2)(A), the Corporation approves an application by the bank described in subparagraph (A) to treat the transaction described in subparagraph (A) as a conversion transaction; and

"(ii) such bank pays the amount of any exit and entrance fee assessed by the Corporation under paragraph (2)(E) with respect to such transaction.

"(e) LIABILITY OF COMMONLY CONTROLLED DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—

"(A) LIABILITY ESTABLISHED.—Any insured depository institution shall be liable for any loss incurred by the Corporation, or any loss which the Corporation reasonably anticipates incurring, after the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 in connection with—

"(i) the default of a commonly controlled insured depository institution; or

"(ii) any assistance provided by the Corporation to any commonly controlled insured depository institution in danger of default.

"(B) PAYMENT UPON NOTICE.—An insured depository institution shall pay the amount of any liability to the Corporation under subparagraph (A) upon receipt of written notice by the Corporation in accordance with this subsection.

"(C) NOTICE REQUIRED TO BE PROVIDED WITHIN 2 YEARS OF LOSS.—No insured depository institution shall be liable to the Corporation under subparagraph (A) if written notice with respect to such liability is not received by such institution before the end of the 2-year period beginning on the date the Corporation incurred the loss.

"(2) AMOUNT OF COMPENSATION; PROCEDURES.—

"(A) USE OF ESTIMATES.—When an insured depository institution is in default or requires assistance to prevent default, the Corporation shall—

"(i) in good faith, estimate the amount of the loss the Corporation will incur from such default or assistance;

"(ii) if, with respect to such insured depository institution, there is more than 1 commonly controlled insured depository institution, estimate the amount of each such commonly controlled depository institution's share of such liability; and

"(iii) advise each commonly controlled depository institution of the Corporation's estimate of the amount of such institution's liability for such losses.

"(B) PROCEDURES; IMMEDIATE PAYMENT.—The Corporation, after consultation with the appropriate Federal banking agency and the appropriate State chartering agency, shall—

"(i) on a case-by-case basis, establish the procedures and schedule under which any insured depository institution shall reimburse the Corporation for such institution's liability under paragraph (1) in connection

with any commonly controlled insured depository institution; or

"(ii) require any insured depository institution to make immediate payment of the amount of such institution's liability under paragraph (1) in connection with any commonly controlled insured depository institution.

"(C) PRIORITY.—The liability of any insured depository institution under this subsection shall have priority with respect to other obligations and liabilities as follows:

"(i) SUPERIORITY.—The liability shall be superior to the following obligations and liabilities of the depository institution:

"(I) Any obligation to shareholders arising as a result of their status as shareholders (including any depository institution holding company or any shareholder or creditor of such company).

"(II) Any obligation or liability owed to any affiliate of the depository institution (including any other insured depository institution), other than any secured obligation which was secured as of May 1, 1989.

"(ii) SUBORDINATION.—The liability shall be subordinate in right and payment to the following obligations and liabilities of the depository institution:

"(I) Any deposit liability (which is not a liability described in clause (i)(II)).

"(II) Any secured obligation, other than any obligation owed to any affiliate of the depository institution (including any other insured depository institution) which was secured after May 1, 1989.

"(III) Any other general or senior liability (which is not a liability described in clause (i)).

"(IV) Any obligation subordinated to depositors or other general creditors (which is not an obligation described in clause (i)).

"(D) ADJUSTMENT OF ESTIMATED PAYMENT.—

"(i) OVERPAYMENT.—If the amount of compensation estimated by and paid to the Corporation by 1 or more such commonly controlled depository institutions is greater than the actual loss incurred by the Corporation, the Corporation shall reimburse each such commonly controlled depository institution its pro rata share of any overpayment.

"(ii) UNDERPAYMENT.—If the amount of compensation estimated by and paid to the Corporation by 1 or more such commonly controlled depository institutions is less than the actual loss incurred by the Corporation, the Corporation shall redetermine in its discretion the liability of each such commonly controlled depository institution to the Corporation and shall require each such commonly controlled depository institution to make payment of any additional liability to the Corporation.

"(3) REVIEW.—

"(A) JUDICIAL.—Actions of the Corporation shall be reviewable pursuant to chapter 7 of title 5, United States Code.

"(B) ADMINISTRATIVE.—The Corporation shall prescribe regulations and establish administrative procedures which provide for a hearing on the record for the review of—

"(i) the amount of any loss incurred by the Corporation in connection with any insured depository institution;

"(ii) the liability of individual commonly controlled depository institutions for the amount of such loss; and

"(iii) the schedule of payments to be made by such commonly controlled depository institutions.

"(4) LIMITATION ON RIGHTS OF PRIVATE PARTIES.—To the extent the exercise of any right or power of any person would impair the ability of any insured depository institution to perform such institution's obligations under this subsection—

"(i) the obligations of such insured depository institution shall supersede such right or power; and

"(ii) no court may give effect to such right or power with respect to such insured depository institution.

"(5) WAIVER AUTHORITY.—

"(A) IN GENERAL.—The Corporation, in its discretion, may exempt any insured depository institution from the provisions of this subsection if the Corporation determines that such exemption is in the best interests of the Bank Insurance Fund or the Savings Association Insurance Fund.

"(B) CONDITION.—During the period any exemption granted to any insured depository institution under subparagraph (A) or (C) is in effect, such insured depository institution and all other insured depository institution affiliates of such depository institution shall comply fully with the restrictions of sections 23A and 23B of the Federal Reserve Act without regard to section 23A(d)(1).

"(C) LIMITED PARTNERSHIPS.—

"(i) IN GENERAL.—The Corporation may, in its discretion, exempt any limited partnership and any affiliate of any limited partnership (other than any insured depository institution which is a majority owned subsidiary of such partnership) from the provisions of this subsection if such limited partnership or affiliate has filed a registration statement with the Securities and Exchange Commission on or before April 10, 1989, indicating that as of the date of such filing such partnership intended to acquire 1 or more insured depository institutions.

"(ii) REVIEW AND NOTICE.—Within 10 business days after the date of submission of any request for an exemption under this subparagraph together with such information as shall be reasonably requested by the Corporation, the Corporation shall make a determination on the request and shall so advise the applicant.

"(6) 5-YEAR TRANSITION RULE.—During the 5-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(A) no Savings Association Insurance Fund member shall have any liability to the Corporation under this subsection arising out of assistance provided by the Corporation or any loss incurred by the Corporation as a result of the default of a Bank Insurance Fund member which was acquired by such Savings Association Insurance Fund member or any affiliate of such member before the date of the enactment of such Act; and

"(B) no Bank Insurance Fund member shall have such liability with respect to assistance provided by or loss incurred by the Corporation as a result of the default of a Savings Association Insurance Fund member which was acquired by such Bank Insurance Fund member or any affiliate of such member before the date of the enactment of such Act.

"(7) EXCLUSION FOR INSTITUTIONS ACQUIRED IN DEBT COLLECTIONS.—Any depository institution shall not be treated as commonly controlled, for purposes of this subsection, during the 5-year period beginning on the date of an acquisition described in subparagraph (A) or such longer period as the Corporation may determine after written application by the acquirer, if—

"(A) 1 depository institution controls another by virtue of ownership of voting shares acquired in securing or collecting a debt previously contracted in good faith; and

"(B) during the period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending upon the expiration of the exclusion, the controlling bank and all other insured depository institution affiliates of such controlling bank comply fully with the restrictions of sections 23A and 23B of the Federal Reserve Act, without regard to section 23A(d)(1) of such Act, in transactions with the acquired insured depository institution.

"(8) EXCEPTION FOR CERTAIN FSLIC ASSISTED INSTITUTIONS.—No depository institution shall have any liability to the Corporation under this subsection as the result of the default of, or assistance provided with respect to, an insured depository institution which is an affiliate of such depository institution if—

"(A) such affiliate was receiving cash payments from the Federal Savings and Loan Insurance Corporation under an assistance agreement or note entered into before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

"(B) the Federal Savings and Loan Insurance Corporation, or such other entity which has succeeded to the payment obligations of such Corporation with respect to such assistance agreement or note, is unable to continue such payments; and

"(C) such affiliate—

"(i) is in default or in need of assistance solely as a result of the failure to meet the payment obligations referred to in subparagraph (B); and

"(ii) is not otherwise in breach of the terms of any assistance agreement or note which would authorize the Federal Savings and Loan Insurance Corporation or such other successor entity, pursuant to the terms of such assistance agreement or note, to refuse to make such payments.

"(9) COMMONLY CONTROLLED DEFINED.—For purposes of this subsection, depository institutions are commonly controlled if—

"(A) such institutions are controlled by the same depository institution holding company (including any company required to file reports pursuant to section 4(f)(6) of the Bank Holding Company Act of 1956); or

"(B) 1 depository institution is controlled by another depository institution.".

(b) NEWLY INSURED THRIFT PROVISION.—Any insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act, as added by section 204(c) of this Act)—

(1) which was an insured institution (as defined in section 401(a) of the National Housing Act, as in effect before the date of the enactment of this Act) on the day before the date of the enactment of this Act;

(2) the board of directors of which determined, before April 1, 1987, to terminate such association's status as an insured institution (as so defined) as evidenced in sworn minutes of the board of directors meeting held before such date;

(3) had insured deposits of less than $11,000,000 on April 1, 1987; and

(4) was an insured institution (as so defined) for less than 1 year as of April 1, 1987,

may cease to be a Savings Association Insurance Fund member and become a Bank Insurance Fund member at any time during the 2-year period beginning on the date of the enactment of this Act without the approval of the Federal Deposit Insurance Cor-

poration under section 5(d)(2) of the Federal Deposit Insurance Act (as added by subsection (a) of this section) and without incurring any liability for any exit or entrance fee imposed under such section 5(d)(2).

SEC. 207. INSURABILITY FACTORS.

Section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816) is amended to read as follows:

"SEC. 6. FACTORS TO BE CONSIDERED.

"The factors that are required, under section 4, to be considered in connection with, and enumerated in, any certificate issued pursuant to section 4 and that are required, under section 5, to be considered by the Board of Directors in connection with any determination by such Board pursuant to section 5 are the following:

"(1) The financial history and condition of the depository institution.

"(2) The adequacy of the depository institution's capital structure.

"(3) The future earnings prospects of the depository institution.

"(4) The general character and fitness of the management of the depository institution.

"(5) The risk presented by such depository institution to the Bank Insurance Fund or the Savings Association Insurance Fund.

"(6) The convenience and needs of the community to be served by such depository institution.

"(7) Whether the depository institution's corporate powers are consistent with the purposes of this Act.".

SEC. 208. ASSESSMENTS.

Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

(1) in subsection (a)(2)—

(A) by inserting ", the Director of the Office of Thrift Supervision, the Federal Housing Finance Board, any Federal home loan bank," after "Comptroller of the Currency" each place such term appears (except after "Comptroller of the Currency,");

(B) by inserting "the Director of the Office of Thrift Supervision, the Federal Housing Finance Board, any Federal home loan bank," after "Comptroller of the Currency,";

(C) by striking out "either" in the 1st sentence and inserting in lieu thereof "any";

(D) in the last sentence of subparagraph (A), by inserting "or savings associations" after "banks";

(E) by striking out "State nonmember bank (except a District bank)" and inserting in lieu thereof "depository institution"; and

(F) by striking out subparagraph (B) and inserting the following:

"(B) ADDITIONAL REPORTS.—The Board of Directors may from time to time require any insured depository institution to file such additional reports as the Corporation, after agreement with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Director of the Office of Thrift Supervision, as appropriate, may deem advisable for insurance purposes.";

(2) in subsection (a)(3)—

(A) by striking out "Each insured State nonmember bank" and all that follows through "four reports" and inserting the following: "Each insured depository institution shall make to the appropriate Federal banking agency 4 reports";

(B) by striking out "bank" each place such term appears in the 2nd, 5th, and 6th sentences and inserting in lieu thereof "depository institution";

(C) by striking out "insured national, District" and all that follows through "member bank" in the 7th sentence and inserting in lieu thereof "insured depository institution"; and

(D) by inserting "or savings associations" after "banks" in the last sentence;

(3) in subsection (a)(4), by striking out "bank", "bank's", and "banks" each place such terms appear (except in "foreign bank") and inserting in lieu thereof "depository institution", "depository institution's", and "depository institutions", respectively;

(4) by striking out paragraphs (1) and (2) of subsection (b) and inserting the following:

"(1) ASSESSMENT RATES.—

"(A) ANNUAL ASSESSMENT RATES PRESCRIBED.—

"(i) The Corporation shall set assessment rates for insured depository institutions annually.

"(ii) The Corporation shall fix the annual assessment rate of Bank Insurance Fund members independently from the annual assessment rate for Savings Association Insurance Fund members.

"(iii) The Corporation shall, by September 30 of each year, announce the assessment rates for the succeeding calendar year.

"(B) DESIGNATED RESERVE RATIO DEFINED.—

"(i) The designated reserve ratio of the Bank Insurance Fund for each year shall be—

"(I) 1.25 percent of estimated insured deposits; or

"(II) such higher percentage of estimated insured deposits, not exceeding 1.50 percent, as the Board of Directors determines for that year to be justified by circumstances that raise a significant risk of substantial future losses to the Bank Insurance Fund.

"(ii) The designated reserve ratio of the Savings Association Insurance Fund for each year shall be—

"(I) 1.25 percent of estimated insured deposits; or

"(II) such higher percentage of estimated insured deposits, not exceeding 1.50 percent, as the Board of Directors determines for that year to be justified by circumstances that raise a significant risk of substantial future losses to the Savings Association Insurance Fund.

"(iii) The Board of Directors shall—

"(I) maintain reserves in the Bank Insurance Fund received pursuant to clause (i)(II) as Supplemental Reserves in the Bank Insurance Fund;

"(II) allocate each calendar quarter to an Earnings Participation Account in the Bank Insurance Fund the investment income earned by the Bank Insurance Fund on such Supplemental Reserves in the preceding calendar quarter;

"(III) distribute such Earnings Participation Account at the conclusion of each calendar year to Bank Insurance Fund members; and

"(IV) distribute such Supplemental Reserves to Bank Insurance Fund members if and to the extent the Corporation determines that such Supplemental Reserves are not needed to satisfy the projected designated reserve ratio for the next succeeding calendar year.

"(iv) The Board of Directors shall—

"(I) maintain reserves in the Savings Association Insurance Fund received pursuant to clause (ii)(II) as Supplemental Reserves in the Savings Association Insurance Fund;

"(II) allocate each calendar quarter to an Earnings Participation Account in the Savings Association Insurance Fund the investment income earned by the Savings Association Insurance Fund on such Supplemental Reserves in the preceding calendar quarter;

"(III) distribute such Earnings Participation Account at the conclusion of each calendar year to Savings Association Insurance Fund members; and

"(IV) distribute such Supplemental Reserves to Savings Association Insurance Fund members if and to the extent the Corporation determines that such Supplemental Reserves are not needed to satisfy the projected designated reserve ratio for the next succeeding calendar year.

"(C) ASSESSMENT RATE FOR BANK INSURANCE FUND MEMBERS.—The annual assessment rate for Bank Insurance Fund members shall be—

"(i) until December 31, 1989, 1/12 of 1 percent;

"(ii) from January 1, 1990, through December 31, 1990, 0.12 percent;

"(iii) on and after January 1, 1991, 0.15 percent;

"(iv) on January 1 of a calendar year in which the reserve ratio of the Bank Insurance Fund is expected to be less than the designated reserve ratio by determination of the Board of Directors, such rate determined by the Board of Directors to be appropriate to restore the reserve ratio to the designated reserve ratio within a reasonable period of time, after taking into consideration the expected operating expenses, case resolution expenditures, and investment income of the Bank Insurance Fund, and the impact on insured bank earnings and capitalization, except that—

"(I) from the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 until the earlier of January 1, 1995, or January 1 of the calendar year in which the Bank Insurance Fund reserve ratio is expected to first attain the designated reserve ratio, the rate shall be as specified in clauses (i), (ii), and (iii) of this subparagraph so long as the Bank Insurance Fund reserve ratio is increasing on a calendar year basis;

"(II) the rate shall not exceed 0.325 percent; and

"(III) the increase in the rate in any 1 year shall not exceed 0.075 percent; and

"(v) sufficient to ensure that for each member in each year the assessment shall not be less than $1,000.

"(D) ASSESSMENT RATE FOR SAVINGS ASSOCIATION INSURANCE FUND MEMBERS.—The annual assessment rate for Savings Association Insurance Fund members shall be—

"(i) until December 31, 1990, 0.208 percent;

"(ii) from January 1, 1991, through December 31, 1993, 0.23 percent;

"(iii) from January 1, 1994, through December 31, 1997, 0.18 percent;

"(iv) on and after January 1, 1998, 0.15 percent;

"(v) on January 1 of a calendar year in which the reserve ratio of the Savings Association Insurance Fund is expected to be less than the designated reserve ratio by determination of the Board of Directors, such rate determined by the Board of Directors to be appropriate to restore the reserve ratio to the designated reserve ratio within a reasonable period of time, after taking into consideration the expected expenses and income of the Savings Association Insurance Fund, and the effect on insured savings association earnings and capitalization, except that—

"(I) from the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 through December 31, 1994, the rate shall be as specified in clauses (i), (ii), and (iii) above;

"(II) the rate shall not exceed 0.325 percent; and

"(III) the increase in the rate in any one year shall not exceed 0.075 percent; and

"(v) sufficient to ensure that for each member in each year the assessment shall not be less than $1,000.

"(E) FINANCING CORPORATION AND FUNDING CORPORATION ASSESSMENTS.—Notwithstanding any other provision of this paragraph, amounts assessed by the Financing Corporation and the Funding Corporation under sections 21 and 21B, respectively, of the Federal Home Loan Bank Act against Savings Association Insurance Fund members, shall be subtracted from the amounts authorized to be assessed by the Corporation under this paragraph.

"(F) SPECIAL RULE TO ALLOW CONTINUING ASSESSMENTS BY THE FINANCING CORPORATION AND THE FUNDING CORPORATION DURING PREMIUM YEAR ADJUSTMENTS.—In order to ensure that the Financing Corporation and the Resolution Funding Corporation obtain sufficient funds for interest payments on obligations of such corporations, the Corporation, in coordination with the Financing Corporation and the Secretary of the Treasury, may prescribe such regulations as may be necessary to allow the Financing Corporation and the Resolution Funding Corporation to impose assessments against Savings Association Insurance Fund members pursuant to sections 21 and 21B, respectively, of the Federal Home Loan Bank Act during the period required to change such members' premium year from the 1-year period applicable under section 404(b) of the National Housing Act (as in effect before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) to a calendar year basis.

"(2) ASSESSMENT PROCEDURES.—

"(A) SEMIANNUAL ASSESSMENTS.—Except as provided in subsection (c)(2)—

"(i) the semiannual assessment due from any Bank Insurance Fund member for any semiannual period shall be equal to the product of—

"(I) ½ the annual assessment rate applicable to such Bank Insurance Fund member; and

"(II) such Bank Insurance Fund member's average assessment base for the immediately preceding semiannual period; and

"(ii) the semiannual assessment due from any Savings Association Insurance Fund member for any semiannual period shall be equal to the product of—

"(I) ½ the annual assessment rate applicable to such Savings Association Insurance Fund member; and

"(II) such Savings Association Insurance Fund member's average assessment base for the immediately preceding semiannual period.

"(B) DEFINITION.—For purposes of this section, the term 'semiannual period' means a period beginning on January 1 of any calendar year and ending on June 30 of the same year, or a period beginning on July 1 of any calendar year and ending on December 31 of the same year.";

(5) by amending subsection (d) to read as follows:

"(d) ASSESSMENT CREDITS.—

"(1) IN GENERAL.—

"(A) By September 30 of each calendar year, the Corporation shall prescribe and publish the aggregate amount to be credited to insured depository institutions in the succeeding calendar year.

"(B) Each insured depository institution shall be notified by the Corporation of the percentage by which the assessment rate should be reduced in computing its net premium.

"(C) Any outstanding obligations owed to the Corporation by an individual insured depository institution shall be deducted from any assessment credit to be credited to such depository institution.

"(2) ASSESSMENT CREDIT FOR INSURED BANKS.—

"(A) CREDIT BARRED.—The Board of Directors shall not prescribe an assessment credit to Bank Insurance Fund members if the Board of Directors determines that the Bank Insurance Fund reserve ratio is expected to be equal to or less than the designated reserve ratio in the coming year after taking into consideration such Fund's expected expenses and income.

"(B) CREDIT AUTHORIZED.—If the Board of Directors determines, after taking into consideration the Bank Insurance Fund's expected operating expenses, case resolution expenditures, investment income, and assessment income, that the Bank Insurance Fund reserve ratio is expected to exceed the designated reserve ratio in the succeeding year, the Board of Directors shall prescribe an assessment credit to Bank Insurance Fund members in such succeeding calendar year equal to the lesser of—

"(i) the amount necessary to reduce the Bank Insurance Fund reserve ratio to the designated reserve ratio; or

"(ii) 100 percent of the net assessment income to be received from Bank Insurance Fund members in such succeeding year.

"(3) ASSESSMENT CREDIT FOR INSURED SAVINGS ASSOCIATIONS.—

"(A) CREDIT BARRED.—The Board of Directors shall not prescribe an assessment credit to Savings Association Insurance Fund members if the Board of Directors determines that the Savings Association Insurance Fund reserve ratio is expected to be equal to or less than the designated reserve ratio in the coming year after taking into consideration such Fund's expected expenses and income.

"(B) CREDIT AUTHORIZED.—If the Board of Directors determines, after taking into consideration the Savings Association Insurance Fund's expected expenses and income, that the Savings Association Insurance Fund reserve ratio is expected to exceed the designated reserve ratio in the succeeding year, the Board of Directors shall prescribe an assessment credit to Savings Association Insurance Fund members in such succeeding calendar year equal to the lesser of—

"(i) the amount necessary to reduce the Savings Association Insurance Fund reserve ratio to the designated reserve ratio; or

"(ii) 100 percent of the net assessment income to be received from Savings Association Insurance Fund members in such succeeding year.

"(4) NET ASSESSMENT INCOME DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'net assessment income' means—

"(i) with respect to the Bank Insurance Fund, the Bank Insurance Fund net assessment income (as defined in subparagraph (B)); and

"(ii) with respect to the Savings Association Insurance Fund, the Savings Association Insurance Fund net assessment income (as defined in subparagraph (C)).

"(B) BANK INSURANCE FUND NET ASSESSMENT INCOME.—

"(i) IN GENERAL.—The term 'Bank Insurance Fund net assessment income' means—

"(I) the total assessments which become due during the calendar year with respect to members of such Fund, minus

"(II) the sum of the amount of the operating costs and expenses described in clause (ii) and the amount by which the Bank Insurance Fund's insurance costs described in clause (iii) exceed its investment income for the calendar year.

"(ii) OPERATING COST AND EXPENSES.—For the purposes of this subparagraph, the operating costs and expenses to be deducted from assessments include the operating costs and expenses of—

"(I) the Corporation for the calendar year directly attributable to the Bank Insurance Fund; and

"(II) the Bank Insurance Fund.

"(iii) INSURANCE COSTS.—For purposes of this subparagraph, the insurance costs include—

"(I) additions to the Bank Insurance Fund's reserve to provide for insurance losses during the calendar year, excluding any adjustments to such reserve which result in a reduction of such reserve; and

"(II) the insurance losses sustained in such calendar year.

"(C) SAVINGS ASSOCIATION INSURANCE FUND NET ASSESSMENT INCOME.—

"(i) IN GENERAL.—The term 'Savings Association Insurance Fund net assessment income' means—

"(I) the total assessments which become due during the calendar year with respect to members of such Fund, minus

"(II) the sum of the amount of the operating costs and expenses described in clause (ii) and the amount by which the Savings Association Insurance Fund's insurance costs described in clause (iii) exceed its investment income for the calendar year.

"(ii) OPERATING COST AND EXPENSES.—For purposes of this subparagraph, the operating costs and expenses to be deducted from assessments include the operating costs and expenses of—

"(I) the Corporation for the calendar year directly attributable to the Savings Association Insurance Fund; and

"(II) the Savings Association Insurance Fund.

"(iii) INSURANCE COSTS.—For the purposes of this subparagraph, the insurance costs include—

"(I) additions to the Savings Association Insurance Fund's reserve to provide for insurance losses during the calendar year, excluding any adjustments to such reserve which result in a reduction of such reserve; and

"(II) the insurance losses sustained in such calendar year.

"(5) INVESTMENT INCOME DEFINED.—For purposes of this subsection, the term 'investment income' means—

"(A) for the Bank Insurance Fund, interest, dividends, and net market gains earned on investments of the Bank Insurance Fund; and

"(B) for the Savings Association Insurance Fund, interest, dividends, and net market gains earned on investments of the Savings Association Insurance Fund.".

(6) in paragraphs (3), (4), (5), (6), (7), and (8) of subsection (b), by striking out "bank", "bank's", and "banks" each place such term appears (except where "foreign" precedes any of such terms) and inserting in lieu thereof "depository institution", "depository institution's", and "depository institutions", respectively;

(7) in subsections (c), (e), (f), (g), and (i), by striking out "bank" each place such term

appears and inserting in lieu thereof "depository institution";

(8) in subsection (j)(1), by striking out the last sentence;

(9) in subsection (j)(2)(A)—

(A) by striking out "failure" and inserting in lieu thereof "default"; and

(B) by striking out "bank" each place such term appears and inserting in lieu thereof "depository institution";

(10) in subsection (j)(2)(D), by inserting "unless such agency determines that an emergency exists," after "shall,";

(11) in subsection (j)(7)—

(A) by striking out "or" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) the appropriate Federal banking agency determines that the proposed transaction would result in an adverse effect on the Bank Insurance Fund or the Savings Association Insurance Fund.";

(12) by amending subsection (j)(17) to read as follows:

"(17) EXCEPTIONS.—This subsection shall not apply with respect to a transaction which is subject to—

"(A) section 3 of the Bank Holding Company Act of 1956;

"(B) section 18(c) of this Act; or

"(C) section 10 of the Home Owners' Loan Act.";

(13) by adding at the end of subsection (j) the following new paragraph:

"(18) APPLICABILITY OF CHANGE IN CONTROL PROVISIONS TO OTHER INSTITUTIONS.—For purposes of this subsection, the term 'insured depository institution' includes—

"(A) any depository institution holding company; and

"(B) any other company which controls an insured depository institution and is not a depository institution holding company.";

(14) by adding at the end thereof the following new subsection:

"(l) DESIGNATION OF FUND MEMBERSHIP FOR NEWLY INSURED DEPOSITORY INSTITUTIONS; DEFINITIONS.—For purposes of this section:

"(1) BANK INSURANCE FUND.—Any institution which—

"(A) becomes an insured depository institution; and

"(B) does not become a Savings Association Insurance Fund member pursuant to paragraph (2),

shall be a Bank Insurance Fund member.

"(2) SAVINGS ASSOCIATION INSURANCE FUND.—Any savings association, other than any Federal savings bank chartered pursuant to section 5(o) of the Home Owners' Loan Act, which becomes an insured depository institution shall be a Savings Association Insurance Fund member.

"(3) TRANSITION PROVISION.—

"(A) BANK INSURANCE FUND.—Any depository institution the deposits of which were insured by the Federal Deposit Insurance Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, including—

"(i) any Federal savings bank chartered pursuant to section 5(o) of the Home Owners' Loan Act; and

"(ii) any cooperative bank,

shall be a Bank Insurance Fund member as of such date of enactment.

"(B) SAVINGS ASSOCIATION INSURANCE FUND.—Any savings association which is an insured depository institution by operation of section 4(a)(2) shall be a Savings Association Insurance Fund member as of the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(4) BANK INSURANCE FUND MEMBER.—The term 'Bank Insurance Fund member' means any depository institution the deposits of which are insured by the Bank Insurance Fund.

"(5) SAVINGS ASSOCIATION INSURANCE FUND MEMBER.—The term 'Savings Association Insurance Fund member' means any depository institution the deposits of which are insured by the Savings Association Insurance Fund.

"(6) BANK INSURANCE FUND RESERVE RATIO.—The term 'Bank Insurance Fund reserve ratio' means the ratio of the net worth of the Bank Insurance Fund to the value of the aggregate estimated insured deposits held in all Bank Insurance Fund members.

"(7) SAVINGS ASSOCIATION INSURANCE FUND RESERVE RATIO.—The term 'Savings Association Insurance Fund reserve ratio' means the ratio of the value of the net worth of the Savings Association Insurance Fund to the value of the aggregate estimated insured deposits held in all Savings Association Insurance Fund members.";

(15) by adding after the subsection added by paragraph (14) of this section the following new subsections:

"(m) SECONDARY RESERVE OFFSETS AGAINST PREMIUMS.—

"(1) OFFSETS IN CALENDAR YEARS BEGINNING BEFORE 1993.—Subject to the maximum amount limitation contained in paragraph (2) and notwithstanding any other provision of law, any insured savings association may offset such association's pro rata share of the statutorily prescribed amount against any premium assessed against such association under subsection (b) of this section for any calendar year beginning before 1993.

"(2) ANNUAL MAXIMUM AMOUNT LIMITATION.—The amount of any offset allowed for any savings association under paragraph (1) for any calendar year beginning before 1993 shall not exceed an amount which is equal to 20 percent of such association's pro rata share of the statutorily prescribed amount (as computed for such calendar year).

"(3) OFFSETS IN CALENDAR YEARS BEGINNING AFTER 1992.—Notwithstanding any other provision of law, a savings association may offset such association's pro rata share of the statutorily prescribed amount against any premium assessed against such association under subsection (b) for any calendar year beginning after 1992.

"(4) TRANSFERABILITY.—No right, title, or interest of any insured depository institution in or with respect to its pro rata share of the secondary reserve shall be assignable or transferable whether by operation of law or otherwise, except to the extent that the Corporation may provide for transfer of such pro rata share in cases of merger or consolidation, transfer of bulk assets or assumption of liabilities, and similar transactions, as defined by the Corporation for purposes of this paragraph.

"(5) PRO RATA DISTRIBUTION ON TERMINATION OF INSURED STATUS.—If—

"(A) the status of any savings association as an insured depository institution is terminated pursuant to any provision of section 8 or the insurance of accounts of any savings association institution is otherwise terminated;

"(B) a receiver or other legal custodian is appointed for the purpose of liquidation or winding up the affairs of any savings association; or

"(C) the Corporation makes a determination that for the purposes of this subsection any savings association has otherwise gone into liquidation,

the Corporation shall pay in cash to such institution its pro rata share of the secondary reserve, in accordance with such terms and conditions as the Corporation may prescribe, or, at the option of the Corporation, the Corporation may apply the whole or any part of the amount which would otherwise be paid in cash toward the payment of any indebtedness or obligation, whether matured or not, of such institution to the Corporation, existing or arising before such payment in cash. Such payment or such application need not be made to the extent that the provisions of the exception in paragraph (4) are applicable.

"(6) STATUTORILY PRESCRIBED AMOUNT DEFINED.—For purposes of this subsection, the term 'statutorily prescribed amount' means, with respect to any calendar year which ends after the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(A) $823,705,000, minus

"(B) the sum of—

"(i) the aggregate amount of offsets made before such date of enactment by all insured institutions under section 404(e)(2) of the National Housing Act (as in effect before such date of enactment); and

"(ii) the aggregate amount of offsets made by all savings associations under this subsection before the beginning of such calendar year.

"(7) SAVINGS ASSOCIATION'S PRO RATA AMOUNT.—For purposes of this subsection, any savings association's pro rata share of the statutorily prescribed amount is the percentage which is equal to such association's share of the secondary reserve as determined under section 404(e) of the National Housing Act on the day before the date on which Federal Savings and Loan Insurance Corporation ceased to recognize the secondary reserve (as such Act was in effect on the day before such date).

"(8) YEAR OF ENACTMENT RULE.—With respect to the calendar year in which the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is enacted, the Corporation shall make such adjustments as may be necessary—

"(A) in the computation of the statutorily prescribed amount which shall be applicable for the remainder of such calendar year after taking into account the aggregate amount of offsets by all insured institutions under section 404(e)(2) of the National Housing Act (as in effect before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) after the beginning of such calendar year and before such date of enactment; and

"(B) in the computation of the maximum amount of any savings association's offset for such calendar year under paragraph (1) after taking into account—

"(i) the amount of any offset by such savings association under section 404(e)(2) of the National Housing Act (as in effect before such date of enactment) after the beginning of such calendar year and before such date of enactment; and

"(ii) the change of such association's premium year from the 1-year period applicable under section 404(b) of the National Housing Act (as in effect before such date of enactment) to a calendar year basis.

"(n) COLLECTIONS ON BEHALF OF THE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—

When requested by the Director of the Office of Thrift Supervision, the Corporation shall collect on behalf of the Director assessments on savings associations levied by the Director under section 9 of the Home Owners' Loan Act. The Corporation shall be reimbursed for its actual costs for the collection of such assessments. Any such assessments by the Director shall be in addition to any amounts assessed by the Corporation, the Financing Corporation, and the Resolution Funding Corporation.".

SEC. 209. CORPORATE POWERS OF THE FDIC.

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) is amended—

(1) by striking out "bank" and "banks" each place such terms appear (except in the last sentence of the paragraph designated the "Fourth") and inserting in lieu thereof "depository institution" and "depository institutions", respectively; and

(2) by striking out "Upon the date" and inserting the following:

"(a) IN GENERAL.—Upon the date";

(3) by amending the paragraph designated the "Fourth" to read as follows:

"Fourth. To sue and be sued, and complain and defend, in any court of law or equity, State or Federal."; and

(4) by adding at the end thereof the following new subsection:

"(b) AGENCY AUTHORITY.—

"(1) STATUS.—The Corporation, in any capacity, shall be an agency of the United States for purposes of section 1345 of title 28, United States Code, without regard to whether the Corporation commenced the action.

"(2) FEDERAL COURT JURISDICTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), all suits of a civil nature at common law or in equity to which the Corporation, in any capacity, is a party shall be deemed to arise under the laws of the United States.

"(B) REMOVAL.—Except as provided in subparagraph (D), the Corporation may, without bond or security, remove any action, suit, or proceeding from a State court to the appropriate United States district court.

"(C) APPEAL OF REMAND.—The Corporation may appeal any order of remand entered by any United States district court.

"(D) STATE ACTIONS.—Except as provided in subparagraph (E), any action—

"(i) to which the Corporation, in the Corporation's capacity as receiver of a State insured depository institution by the exclusive appointment by State authorities, is a party other than as a plaintiff;

"(ii) which involves only the preclosing rights against the State insured depository institution, or obligations owing to, depositors, creditors, or stockholders by the State insured depository institution; and

"(iii) in which only the interpretation of the law of such State is necessary,

shall not be deemed to arise under the laws of the United States.

"(E) RULE OF CONSTRUCTION.—Subparagraph (D) shall not be construed as limiting the right of the Corporation to invoke the jurisdiction of any United States district court in any action described in such subparagraph if the institution of which the Corporation has been appointed receiver could have invoked the jurisdiction of such court.

"(3) SERVICE OF PROCESS.—The Board of Directors shall designate agents upon whom service of process may be made in any State, territory, or jurisdiction in which any insured depository institution is located.

"(4) BONDS OR FEES.—The Corporation shall not be required to post any bond to pursue any appeal and shall not be subject to payments of any filing fees in United States district courts or courts of appeal.".

SEC. 210. ADMINISTRATION OF CORPORATION.

(a) EXAMINATION AUTHORITY.—Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended to read as follows:

"(b) EXAMINATIONS.—

"(1) APPOINTMENT OF EXAMINERS AND CLAIMS AGENTS.—The Board of Directors shall appoint examiners and claim agents.

"(2) REGULAR EXAMINATIONS.—Any examiner appointed under paragraph (1) shall have power, on behalf of the Corporation, to examine—

"(A) any insured State nonmember bank (except a District bank) or insured State branch of any foreign bank;

"(B) any savings association, State nonmember bank, or State branch of a foreign bank, or other depository institution which files an application with the Corporation to become an insured depository institution; and

"(C) any insured depository institution in default,

whenever the Board of Directors determines an examination of any such depository institution is necessary.

"(3) SPECIAL EXAMINATION OF ANY INSURED DEPOSITORY INSTITUTION.—In addition to the examinations authorized under paragraph (2), any examiner appointed under paragraph (1) shall have power, on behalf of the Corporation, to make any special examination of any insured depository institution whenever the Board of Directors determines a special examination of any such depository institution is necessary to determine the condition of such depository institution for insurance purposes.

"(4) EXAMINATION OF AFFILIATES.—

"(A) IN GENERAL.—In making any examination under paragraph (2) or (3), any examiner appointed under paragraph (1) shall have power, on behalf of the Corporation, to make such examinations of the affairs of any affiliate of any insured depository institution as may be necessary to disclose fully—

"(i) the relationship between such insured depository institution and any such affiliate; and

"(ii) the effect of such relationship on the insured depository institution.

"(B) COMMITMENT BY FOREIGN BANKS TO ALLOW EXAMINATIONS OF AFFILIATES.—No branch or depository institution subsidiary of a foreign bank may become an insured depository institution unless such foreign bank submits a written binding commitment to the Board of Directors to permit any examination of any affiliate of such branch or depository institution subsidiary pursuant to subparagraph (A) to the extent determined by the Board of Directors to be necessary to carry out the purposes of this Act.

"(5) POWER AND DUTY OF EXAMINERS.—Each examiner appointed under paragraph (1) shall—

"(A) have power to make a thorough examination of any insured depository institution or affiliate under paragraph (2), (3), or (4); and

"(B) shall make a full and detailed report of condition of any insured depository institution or affiliate examined to the Corporation.

"(6) POWER OF CLAIM AGENTS.—Each claim agent appointed under paragraph (1) shall have power to investigate and examine all claims for insured deposits.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 10(c) of the Federal Deposit Insurance Act (12 U.S.C. 1820(c)) is amended by striking out ", State nonmember banks or other institutions" and inserting in lieu thereof "and any State nonmember bank, savings association, or other institution".

(2) Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by striking out subsection (d).

SEC. 211. INSURANCE FUNDS.

Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended—

(1) by striking out paragraph (1) and inserting the following:

"(1) The Corporation shall insure the deposits of all insured depository institutions as provided in this Act. The maximum amount of the insured deposit of any depositor shall be $100,000.";

(2) in paragraph (2)(B), by striking out "time and savings"; and

(3) by adding at the end the following new paragraphs:

"(4) GENERAL PROVISION RELATING TO FUNDS.—The Bank Insurance Fund established under paragraph (5) and the Savings Association Insurance Fund established under paragraph (6) shall each be—

"(A) maintained and administered by the Corporation;

"(B) maintained separately and not commingled; and

"(C) used by the Corporation to carry out its insurance purposes in the manner provided in this subsection.

"(5) BANK INSURANCE FUND.—

"(A) ESTABLISHMENT.—There is established a fund to be known as the Bank Insurance Fund.

"(B) TRANSFER TO FUND.—On the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Permanent Insurance Fund shall be dissolved and all assets and liabilities of the Permanent Insurance Fund shall be transferred to the Bank Insurance Fund.

"(C) USES.—The Bank Insurance Fund shall be available to the Corporation for use with respect to Bank Insurance Fund members.

"(D) DEPOSITS.—All amounts assessed against Bank Insurance Fund members by the Corporation shall be deposited into the Bank Insurance Fund.

"(6) SAVINGS ASSOCIATION INSURANCE FUND.—

"(A) ESTABLISHMENT.—There is established a fund to be known as the Savings Association Insurance Fund.

"(B) USES.—The Savings Association Insurance Fund shall be available to the Corporation for use with respect to Savings Association Insurance Fund members.

"(C) DEPOSITS.—All amounts assessed against Savings Association Insurance Fund members which are not required for the Financing Corporation, the Resolution Funding Corporation, or the FSLIC Resolution Fund shall be deposited in the Savings Association Insurance Fund.

"(D) AVAILABILITY OF FUNDS FOR ADMINISTRATIVE EXPENSES.—

"(i) IN GENERAL.—The FSLIC Resolution Fund shall deposit in the Savings Association Insurance Fund such amounts as the Corporation determines are needed during the period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending on September 30, 1991, to pay the administrative and supervisory expenses of such Fund.

"(ii) PRIORITY.—The Savings Association Insurance Fund shall have priority over other obligations of the FSLIC Resolution Fund with respect to such amounts.

"(E) TREASURY PAYMENTS TO FUND.—To provide sufficient funding for the Savings Association Insurance Fund to carry out the purposes of this Act, the Secretary of the Treasury shall pay to such Fund, for each of the fiscal years 1992 through 1999, the amount, if any, by which $2,000,000,000 exceeds the amount deposited in such Fund (during such fiscal year) pursuant to subparagraph (C).

"(F) TREASURY PAYMENTS TO MAINTAIN NET WORTH OF FUND.—The Secretary of the Treasury shall pay to the Savings Association Insurance Fund, for each fiscal year described in the following table, any additional amount which may be necessary, as determined by the Corporation and the Secretary of the Treasury to ensure that such Fund has the minimum net worth referred to in such table throughout each such fiscal year:

"For the fiscal year beginning October 1 of:	The amount of minimum net worth (in billions):
1991	0.0
1992	1.0
1993	2.1
1994	3.2
1995	4.3
1996	5.4
1997	6.5
1998	7.6
1999	8.8

"(G) EXCEPTION TO SUBPARAGRAPHS (E) AND (F).—Notwithstanding subparagraphs (E) and (F), no payment may be made pursuant to such subparagraphs after the Savings Association Insurance Fund achieves a reserve ratio of 1.25 percent.

"(H) DISCRETIONARY RTC PAYMENTS.—If amounts available to the Savings Association Insurance Fund for purposes other than the payment of administrative expenses are insufficient for the Savings Association Insurance Fund to carry out the purposes of this Act, the Corporation may request the Resolution Trust Corporation to provide, and the Oversight Board of the Resolution Trust Corporation (in the discretion of the Oversight Board) may pay, such amount as may be needed for such purposes.

"(I) BORROWING AUTHORITY.—

"(i) IN GENERAL.—The Corporation may borrow from the Federal home loan banks, with the concurrence of the Federal Housing Finance Board, such funds as the Corporation considers necessary for the use of the Savings Association Insurance Fund.

"(ii) TERMS AND CONDITIONS.—Any loan from any Federal home loan bank under clause (i) to the Savings Association Insurance Fund shall—

"(I) bear a rate of interest of not less than such bank's current marginal cost of funds, taking into account the maturities involved;

"(II) be adequately secured, as determined by the Federal Housing Finance Board;

"(III) be a direct liability of such Fund; and

"(IV) be subject to the limitations of section 15(c).

"(J) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury, such sums as may be necessary to carry out the provisions of this paragraph, except that—

"(i) the annual amount appropriated under subparagraph (F) shall not exceed $2,000,000,000 in either fiscal year 1991 or fiscal year 1992; and

"(ii) the cumulative amount appropriated under subparagraph (F) for fiscal years 1991 through 1999 shall not exceed $16,000,000,000.

"(7) PROVISIONS APPLICABLE TO MAINTENANCE OF ACCOUNTS.—

"(A) CORPORATION'S AUTHORITY.—Any provision of this Act forbidding the commingling of the Bank Insurance Fund with the Savings Association Insurance Fund, or requiring the separate maintenance of the Bank Insurance Fund and the Savings Association Insurance Fund, is not intended—

"(i) to limit or impair the authority of the Corporation to use the same facilities and resources in the course of conducting supervisory, regulatory, conservatorship, receivership, or liquidation functions with respect to banks and savings associations, or to integrate such functions; or

"(ii) to limit or impair the Corporation's power to combine assets or liabilities belonging to banks and savings associations in conservatorship or receivership for managerial purposes, or to limit or impair the Corporation's power to dispose of such assets or liabilities on an aggregate basis.

"(B) ACCOUNTING REQUIREMENTS.—

"(i) ACCOUNTING FOR USE OF FACILITIES AND RESOURCES.—The Corporation shall keep a full and complete accounting of all costs and expenses associated with the use of any facility or resource used in the course of any function specified in subparagraph (A)(i) and shall allocate, in the manner provided in subparagraph (C), any such costs and expenses incurred by the Corporation—

"(I) with respect to Bank Insurance Fund members to the Bank Insurance Fund; and

"(II) with respect to Savings Association Insurance Fund members to the Savings Association Insurance Fund.

"(ii) ACCOUNTING FOR HOLDING AND MANAGING ASSETS AND LIABILITIES.—The Corporation shall keep a full and complete accounting of all costs and expenses associated with the holding and management of any asset or liability specified in subparagraph (A)(ii).

"(iii) ACCOUNTING FOR DISPOSITION OF ASSETS AND LIABILITIES.—The Corporation shall keep a full and complete accounting of all expenses and receipts associated with the disposition of any asset or liability specified in subparagraph (A)(ii).

"(iv) ALLOCATION OF COST, EXPENSES AND RECEIPTS.—The Corporation shall allocate any cost, expense, and receipt described in clause (ii) or clause (iii) which is associated with any asset or liability belonging to—

"(I) any Bank Insurance Fund member to the Bank Insurance Fund; and

"(II) any Savings Association Insurance Fund member to the Savings Association Insurance Fund.

"(C) ALLOCATION OF ADMINISTRATIVE EXPENSES.—Any personnel, administrative, or other overhead expense of the Corporation shall be allocated—

"(i) fully to the Bank Insurance Fund, if the expense was incurred directly as a result of the Corporation's responsibilities solely with respect to Bank Insurance Fund members;

"(ii) fully to the Savings Association Insurance Fund, if the expense was incurred directly as a result of the Corporation's responsibilities solely with respect to Savings Association Insurance Fund members;

"(iii) between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the relative degree to which the expense was incurred as a result of the activities of Bank Insurance Fund and Savings Association Insurance Fund members; or

"(iv) between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the relative total assets as of the end of the preceding calendar year of Bank Insurance Fund members and Savings Association Insurance Fund members, to the extent that the Board of Directors is unable to make a determination under clause (i), (ii), or (iii).".

SEC. 212. CONSERVATORSHIP AND RECEIVERSHIP POWERS OF THE CORPORATION.

(a) BASIC AUTHORITIES.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by striking out subsections (c) through (j) and inserting the following new subsections:

"(c) APPOINTMENT OF CORPORATION AS CONSERVATOR OR RECEIVER.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law, the law of any State, or the constitution of any State, the Corporation may accept appointment and act as conservator or receiver for any insured depository institution upon appointment in the manner provided in paragraph (2) or (3).

"(2) FEDERAL DEPOSITORY INSTITUTIONS.—

"(A) APPOINTMENT.—

"(i) CONSERVATOR.—The Corporation may, at the discretion of the supervisory authority, be appointed conservator of any insured Federal depository institution or District bank and the Corporation may accept such appointment.

"(ii) RECEIVER.—The Corporation shall be appointed receiver, and shall accept such appointment, whenever a receiver is appointed for the purpose of liquidation or winding up the affairs of an insured Federal depository institution or District bank by the appropriate Federal banking agency, notwithstanding any other provision of Federal law (other than section 21A of the Federal Home Loan Bank Act) or the code of law for the District of Columbia.

"(B) ADDITIONAL POWERS.—In addition to and not in derogation of the powers conferred and the duties imposed by this section on the Corporation as conservator or receiver, the Corporation, to the extent not inconsistent with such powers and duties, shall have any other power conferred on or any duty (which is related to the exercise of such power) imposed on a conservator or receiver for any Federal depository institution under any other provision of law.

"(C) CORPORATION NOT SUBJECT TO ANY OTHER AGENCY.—When acting as conservator or receiver pursuant to an appointment described in subparagraph (A), the Corporation shall not be subject to the direction or supervision of any other agency or department of the United States or any State in the exercise of the Corporation's rights, powers, and privileges.

"(D) DEPOSITORY INSTITUTION IN CONSERVATORSHIP SUBJECT TO BANKING AGENCY SUPERVISION.—Notwithstanding subparagraph (C), any Federal depository institution for which the Corporation has been appointed conservator shall remain subject to the supervision of the appropriate Federal banking agency.

"(3) INSURED STATE DEPOSITORY INSTITUTIONS—

"(A) APPOINTMENT BY APPROPRIATE STATE SUPERVISOR.—Whenever the authority having supervision of any insured State depository institution (other than a District depository institution) appoints a conservator or receiver for such institution and tenders appointment to the Corporation, the Corporation may accept such appointment.

"(B) ADDITIONAL POWERS.—In addition to the powers conferred and the duties related to the exercise of such powers imposed by

State law on any conservator or receiver appointed under the law of such State for an insured State depository institution, the Corporation, as conservator or receiver pursuant to an appointment described in subparagraph (A), shall have the powers conferred and the duties imposed by this section on the Corporation as conservator or receiver.

"(C) CORPORATION NOT SUBJECT TO ANY OTHER AGENCY.—When acting as conservator or receiver pursuant to an appointment described in subparagraph (A), the Corporation shall not be subject to the direction or supervision of any other agency or department of the United States or any State in the exercise of its rights, powers, and privileges.

"(D) DEPOSITORY INSTITUTION IN CONSERVATORSHIP SUBJECT TO BANKING AGENCY SUPERVISION.—Notwithstanding subparagraph (C), any insured State depository institution for which the Corporation has been appointed conservator shall remain subject to the supervision of the appropriate State bank or savings association supervisor.

"(4) APPOINTMENT OF CORPORATION BY THE CORPORATION.—Except as otherwise provided in section 21A of the Federal Home Loan Bank Act and notwithstanding any other provision of Federal law, the law of any State, or the constitution of any State, the Corporation may appoint itself as sole conservator or receiver of any insured State depository institution if—

"(A) the Corporation determines—

"(i) that—

"(I) a conservator, receiver, or other legal custodian has been appointed for such institution;

"(II) such institution has been subject to the appointment of any such conservator, receiver, or custodian for a period of at least 15 consecutive days; and

"(III) 1 or more of the depositors in such institution is unable to withdraw any amount of any insured deposit; or

"(ii) that such institution has been closed by or under the laws of any State; and

"(B) the Corporation determines that 1 or more of the grounds specified in paragraph (5)—

"(i) existed with respect to such institution at the time—

"(I) the conservator, receiver, or other legal custodian was appointed; or

"(II) such institution was closed; or

"(ii) exist at any time—

"(I) during the appointment of the conservator, receiver, or other legal custodian; or

"(II) while such institution is closed.

"(5) GROUNDS FOR PARAGRAPH (4) APPOINTMENT.—The grounds referred to in paragraph (4)(B) for the appointment of the Corporation as conservator or receiver for any insured State depository institution are as follows:

"(A) Insolvency in that the assets of the institution are less than the institution's obligations to its creditors and others, including members of the institution.

"(B) Substantial dissipation of assets or earnings due to—

"(i) any violation of any law or regulation; or

"(ii) any unsafe or unsound practice.

"(C) An unsafe or unsound condition to transact business, including substantially insufficient capital or otherwise.

"(D) Any willful violation of a cease-and-desist order which has become final.

"(E) Any concealment of books, papers, records, or assets of the institution or any refusal to submit books, papers, records, or affairs of the institution for inspection to any examiner or to any lawful agent of the appropriate Federal banking agency or State bank or savings association supervisor.

"(F) The likelihood that the institution will not be able to meet the demands of its depositors or pay its obligations in the normal course of business.

"(G) The incurrence or likely incurrence of losses by the institution that will deplete all or substantially all of its capital with no reasonable prospect for the replenishment of the capital of the institution without Federal assistance.

"(H) Any violation of any law or regulation, or an unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the condition of the institution or otherwise seriously prejudice the interests of its depositors.

"(6) APPOINTMENT BY DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—

"(A) CONSERVATOR.—The Corporation or the Resolution Trust Corporation may, at the discretion of the Director of the Office of Thrift Supervision, be appointed conservator and the Corporation may accept any such appointment.

"(B) RECEIVER.—Whenever the Director of the Office of Thrift Supervision appoints a receiver under the provisions of section 5(d)(2)(C) of the Home Owner's Loan Act for the purpose of liquidation or winding up any savings association's affairs—

"(i) during the 3-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Resolution Trust Corporation shall be appointed; and

"(ii) after the end of the 3-year period referred to in clause (i), the Corporation shall be appointed.

"(7) JUDICIAL REVIEW.—If the Corporation appoints itself as conservator or receiver under paragraph (4), the insured State depository institution may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Corporation to remove itself as such conservator or receiver, and the court shall, upon the merits, dismiss such action or direct the Corporation to remove itself as such conservator or receiver.

"(8) REPLACEMENT OF CONSERVATOR OF STATE DEPOSITORY INSTITUTION.—

"(A) IN GENERAL.—In the case of any insured State depository institution for which the Corporation appointed itself as conservator pursuant to paragraph (4), the Corporation may, without any requirement of notice, hearing, or other action, replace itself as conservator with itself as receiver of such institution.

"(B) REPLACEMENT TREATED AS REMOVAL OF INCUMBENT.—The replacement of a conservator with a receiver under subparagraph (A) shall be treated as the removal of the Corporation as conservator.

"(C) RIGHT OF REVIEW OF ORIGINAL APPOINTMENT NOT AFFECTED.—The replacement of a conservator with a receiver under subparagraph (A) shall not affect any right of the insured State depository institution to obtain review, pursuant to paragraph (7), of the original appointment of the conservator.

"(9) ADDITIONAL POWERS.—In any case in which the Corporation is appointed conservator or receiver pursuant to paragraph (4) or (6)

"(A) the provisions of this section shall be applicable to the Corporation, as conservator or receiver of any insured State depository institution in the same manner and to the same extent as if such institution were a Federal depository institution for which the Corporation had been appointed conservator or receiver; and

"(B) the Corporation as receiver of any insured State depository institution may—

"(i) liquidate such institution in an orderly manner; and

"(ii) make such other disposition of any matter concerning such institution as the Corporation determines is in the best interests of the institution, the depositors of such institution, and the Corporation.

"(d) POWERS AND DUTIES OF CORPORATION AS CONSERVATOR OR RECEIVER.—

"(1) RULEMAKING AUTHORITY OF CORPORATION.—The Corporation may prescribe such regulations as the Corporation determines to be appropriate regarding the conduct of conservatorships or receiverships.

"(2) GENERAL POWERS.—

"(A) SUCCESSOR TO INSTITUTION.—The Corporation shall, as conservator or receiver, and by operation of law, succeed to—

"(i) all rights, titles, powers, and privileges of the insured depository institution, and of any stockholder, member, accountholder, depositor, officer, or director of such institution with respect to the institution and the assets of the institution; and

"(ii) title to the books, records, and assets of any previous conservator or other legal custodian of such institution.

"(B) OPERATE THE INSTITUTION.—The Corporation may, as conservator or receiver—

"(i) take over the assets of and operate the insured depository institution with all the powers of the members or shareholders, the directors, and the officers of the institution and conduct all business of the institution;

"(ii) collect all obligations and money due the institution;

"(iii) perform all functions of the institution in the name of the institution which is consistent with the appointment as conservator or receiver; and

"(iv) preserve and conserve the assets and property of such institution.

"(C) FUNCTIONS OF INSTITUTION'S OFFICERS, DIRECTORS, AND SHAREHOLDERS.—The Corporation may, by regulation or order, provide for the exercise of any function by any member or stockholder, director, or officer of any insured depository institution for which the Corporation has been appointed conservator or receiver.

"(D) POWERS AS CONSERVATOR.—The Corporation may, as conservator, take such action as may be—

"(i) necessary to put the insured depository institution in a sound and solvent condition; and

"(ii) appropriate to carry on the business of the institution and preserve and conserve the assets and property of the institution.

"(E) ADDITIONAL POWERS AS RECEIVER.—The Corporation may, as receiver, place the insured depository institution in liquidation and proceed to realize upon the assets of the institution, having due regard to the conditions of credit in the locality.

"(F) ORGANIZATION OF NEW INSTITUTIONS.—The Corporation may, as receiver—

"(i) with respect to savings associations and by application to the Director of the Office of Thrift Supervision, organize a new Federal savings association to take over such assets or such liabilities as the Corporation may determine to be appropriate; and

"(ii) with respect to any insured bank, organize a new national bank under subsection (m) or a bridge bank under subsection (n).

"(G) MERGER; TRANSFER OF ASSETS AND LIABILITIES.—

"(i) IN GENERAL.—The Corporation may, as conservator or receiver—

"(I) merge the insured depository institution with another insured depository institution; or

"(II) subject to clause (ii), transfer any asset or liability of the institution in default (including assets and liabilities associated with any trust business) without any approval, assignment, or consent with respect to such transfer.

"(ii) APPROVAL BY APPROPRIATE FEDERAL BANKING AGENCY.—No transfer described in clause (i)(II) may be made to another depository institution (other than a new bank or a bridge bank established pursuant to subsection (m) or (n)) without the approval of the appropriate Federal banking agency for such institution.

"(H) PAYMENT OF VALID OBLIGATIONS.—The Corporation, as conservator or recciver, shall pay all valid obligations of the insured depository institution in accordance with the prescriptions and limitations of this Act.

"(I) INCIDENTAL POWERS.—The Corporation may, as conservator or receiver—

"(i) exercise all powers and authorities specifically granted to conservators or receivers, respectively, under this Act and such incidental powers as shall be necessary to carry out such powers; and

"(ii) take any action authorized by this Act,

which the Corporation determines is in the best interests of the depository institution, its depositors, or the Corporation.

"(3) AUTHORITY OF RECEIVER TO DETERMINE CLAIMS.—

"(A) IN GENERAL.—The Corporation may, as receiver, determine claims in accordance with the requirements of this subsection and regulations prescribed under paragraph (4)(A).

"(B) NOTICE REQUIREMENTS.—The receiver, in any case involving the liquidation or winding up of the affairs of a closed depository institution, shall—

"(i) promptly publish a notice to the depository institution's creditors to present their claims, together with proof, to the receiver by a date specified in the notice which shall be not less than 90 days after the publication of such notice; and

"(ii) republish such notice approximately 1 month and 2 months, respectively, after the publication under clause (i).

"(C) MAILING REQUIRED.—The receiver shall mail a notice similar to the notice published under subparagraph (B)(i) at the time of such publication to any creditor shown on the institution's books—

"(i) at the creditor's last address appearing in such books; or

"(ii) upon discovery of the name and address of a claimant not appearing on the institution's books within 30 days after the discovery of such name and address.

"(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—The Corporation may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determination of claims and review of such determination.

"(5) PROCEDURES FOR DETERMINATION OF CLAIMS.—

"(A) DETERMINATION PERIOD.—

"(i) IN GENERAL.—Before the end of the 180-day period beginning on the date any claim against a depository institution is filed with the Corporation as receiver, the Corporation shall determine whether to allow or disallow the claim and shall notify the claimant of any determination with respect to such claim.

"(ii) EXTENSION OF TIME.—The period described in clause (i) may be extended by a written agreement between the claimant and the Corporation.

"(iii) MAILING OF NOTICE SUFFICIENT.—The requirements of clause (i) shall be deemed to be satisfied if the notice of any determination with respect to any claim is mailed to the last address of the claimant which appears—

"(I) on the depository institution's books;

"(II) in the claim filed by the claimant; or

"(III) in documents submitted in proof of the claim.

"(iv) CONTENTS OF NOTICE OF DISALLOWANCE.—If any claim filed under clause (i) is disallowed, the notice to the claimant shall contain—

"(I) a statement of each reason for the disallowance; and

"(II) the procedures available for obtaining agency review of the determination to disallow the claim or judicial determination of the claim.

"(B) ALLOWANCE OF PROVEN CLAIMS.—The receiver shall allow any claim received on or before the date specified in the notice published under paragraph (3)(B)(i) by the receiver from any claimant which is proved to the satisfaction of the receiver.

"(C) DISALLOWANCE OF CLAIMS FILED AFTER END OF FILING PERIOD.—

"(i) IN GENERAL.—Except as provided in clause (ii), claims filed after the date specified in the notice published under paragraph (3)(B)(i) shall be disallowed and such disallowance shall be final.

"(ii) CERTAIN EXCEPTIONS.—Clause (i) shall not apply with respect to any claim filed by any claimant after the date specified in the notice published under paragraph (3)(B)(i) and such claim may be considered by the receiver if—

"(I) the claimant did not receive notice of the appointment of the receiver in time to file such claim before such date; and

"(II) such claim is filed in time to permit payment of such claim.

"(D) AUTHORITY TO DISALLOW CLAIMS.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

"(E) NO JUDICIAL REVIEW OF DETERMINATION PURSUANT TO SUBPARAGRAPH (D).—No court may review the Corporation's determination pursuant to subparagraph (D) to disallow a claim.

"(F) LEGAL EFFECT OF FILING.—

"(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

"(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (12), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the receiver.

"(6) PROVISION FOR AGENCY REVIEW OR JUDICIAL DETERMINATION OF CLAIMS.—

"(A) IN GENERAL.—Before the end of the 60-day period beginning on the earlier of—

"(i) the end of the period described in paragraph (5)(A)(i) with respect to any claim against a depository institution for which the Corporation is receiver; or

"(ii) the date of any notice of disallowance of such claim pursuant to paragraph (5)(A)(i),

the claimant may request administrative review of the claim in accordance with subparagraph (A) or (B) of paragraph (7) or file suit on such claim (or continue an action commenced before the appointment of the receiver) in the district or territorial court of the United States for the district within which the depository institution's principal place of business is located or the United States District Court for the District of Columbia (and such court shall have jurisdiction to hear such claim).

"(B) STATUTE OF LIMITATIONS.—If any claimant fails to—

"(i) request administrative review of any claim in accordance with subparagraph (A) or (B) of paragraph (7); or

"(ii) file suit on such claim (or continue an action commenced before the appointment of the receiver),

before the end of the 60-day period described in subparagraph (A), the claim shall be deemed to be disallowed (other than any portion of such claim which was allowed by the receiver) as of the end of such period, such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

"(7) REVIEW OF CLAIMS.—

"(A) ADMINISTRATIVE HEARING.—If any claimant requests review under this subparagraph in lieu of filing or continuing any action under paragraph (6) and the Corporation agrees to such request, the Corporation shall consider the claim after opportunity for a hearing on the record. The final determination of the Corporation with respect to such claim shall be subject to judicial review under chapter 7 of title 5, United States Code.

"(B) OTHER REVIEW PROCEDURES.—

"(i) IN GENERAL.—The Corporation shall also establish such alternative dispute resolution processes as may be appropriate for the resolution of claims filed under paragraph (5)(A)(i).

"(ii) CRITERIA.—In establishing alternative dispute resolution processes, the Corporation shall strive for procedures which are expeditious, fair, independent, and low cost.

"(iii) VOLUNTARY BINDING OR NONBINDING PROCEDURES.—The Corporation may establish both binding and nonbinding processes, which may be conducted by any government or private party, but all parties, including the claimant and the Corporation, must agree to the use of the process in a particular case.

"(iv) CONSIDERATION OF INCENTIVES.—The Corporation shall seek to develop incentives for claimants to participate in the alternative dispute resolution process.

"(8) EXPEDITED DETERMINATION OF CLAIMS.—

"(A) ESTABLISHMENT REQUIRED.—The Corporation shall establish a procedure for expedited relief outside of the routine claims process established under paragraph (5) for claimants who—

"(i) allege the existence of legally valid and enforceable or perfected security interests in assets of any depository institution for which the Corporation has been appointed receiver; and

"(ii) allege that irreparable injury will occur if the routine claims procedure is followed.

"(B) DETERMINATION PERIOD.—Before the end of the 90-day period beginning on the date any claim is filed in accordance with

the procedures established pursuant to subparagraph (A), the Corporation shall—

"(i) determine—

"(I) whether to allow or disallow such claim; or

"(II) whether such claim should be determined pursuant to the procedures established pursuant to paragraph (5); and

"(ii) notify the claimant of the determination, and if the claim is disallowed, a statement of each reason for the disallowance and the procedure for obtaining agency review or judicial determination.

"(C) PERIOD FOR FILING OR RENEWING SUIT.—Any claimant who files a request for expedited relief shall be permitted to file a suit, or to continue a suit filed before the appointment of the receiver, seeking a determination of the claimant's rights with respect to such security interest after the earlier of—

"(i) the end of the 90-day period beginning on the date of the filing of a request for expedited relief; or

"(ii) the date the Corporation denies the claim.

"(D) STATUTE OF LIMITATIONS.—If an action described in subparagraph (C) is not filed, or the motion to renew a previously filed suit is not made, before the end of the 30-day period beginning on the date on which such action or motion may be filed in accordance with subparagraph (B), the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim which was allowed by the receiver), such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

"(E) LEGAL EFFECT OF FILING.—

"(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

"(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (12), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the receiver.

"(9) AGREEMENT AS BASIS OF CLAIM.—

"(A) REQUIREMENTS.—Except as provided in subparagraph (B), any agreement which does not meet the requirements set forth in section 13(e) shall not form the basis of, or substantially comprise, a claim against the receiver or the Corporation.

"(B) EXCEPTION TO CONTEMPORANEOUS EXECUTION REQUIREMENT.—Notwithstanding section 13(e)(2), any agreement relating to an extension of credit between a Federal home loan bank or Federal Reserve bank and any insured depository institution which was executed before the extension of credit by such bank to such institution shall be treated as having been executed contemporaneously with such extension of credit for purposes of subparagraph (A).

"(10) PAYMENT OF CLAIMS.—

"(A) IN GENERAL.—The receiver may, in the receiver's discretion and to the extent funds are available, pay creditor claims which are allowed by the receiver, approved by the Corporation pursuant to a final determination pursuant to paragraph (7) or (8), or determined by the final judgment of any court of competent jurisdiction in such manner and amounts as are authorized under this Act.

"(B) PAYMENT OF DIVIDENDS ON CLAIMS.—The receiver may, in the receiver's sole discretion, pay dividends on proved claims at any time, and no liability shall attach to the Corporation (in such Corporation's corporate capacity or as receiver), by reason of any such payment, for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

"(11) DISTRIBUTION OF ASSETS.—

"(A) SUBROGATED CLAIMS; CLAIMS OF UNINSURED DEPOSITORS AND OTHER CREDITORS.—The receiver shall—

"(i) retain for the account of the Corporation such portion of the amounts realized from any liquidation as the Corporation may be entitled to receive in connection with the subrogation of the claims of depositors; and

"(ii) pay to depositors and other creditors the net amounts available for distribution to them.

"(B) DISTRIBUTION TO SHAREHOLDERS OF AMOUNTS REMAINING AFTER PAYMENT OF ALL OTHER CLAIMS AND EXPENSES.—In any case in which funds remain after all depositors, creditors, other claimants, and administrative expenses are paid, the receiver shall distribute such funds to the depository institution's shareholders or members together with the accounting report required under paragraph (14)(C).

"(12) SUSPENSION OF LEGAL ACTIONS.—

"(A) IN GENERAL.—After the appointment of a conservator or receiver for an insured depository institution, the conservator or receiver may request a stay for a period not to exceed—

"(i) 45 days, in the case of any conservator; and

"(ii) 90 days, in the case of any receiver,

in any judicial action or proceeding to which such institution is or becomes a party.

"(B) GRANT OF STAY BY ALL COURTS REQUIRED.—Upon receipt of a request by any conservator or receiver pursuant to subparagraph (A) for a stay of any judicial action or proceeding in any court with jurisdiction of such action or proceeding, the court shall grant such stay as to all parties.

"(13) ADDITIONAL RIGHTS AND DUTIES.—

"(A) PRIOR FINAL ADJUDICATION.—The Corporation shall abide by any final unappealable judgment of any court of competent jurisdiction which was rendered before the appointment of the Corporation as conservator or receiver.

"(B) RIGHTS AND REMEDIES OF CONSERVATOR OR RECEIVER.—In the event of any appealable judgment, the Corporation as conservator or receiver shall—

"(i) have all the rights and remedies available to the insured depository institution (before the appointment of such conservator or receiver) and the Corporation in its corporate capacity, including removal to Federal court and all appellate rights; and

"(ii) not be required to post any bond in order to pursue such remedies.

"(C) NO ATTACHMENT OR EXECUTION.—No attachment or execution may issue by any court upon assets in the possession of the receiver.

"(D) LIMITATION ON JUDICIAL REVIEW.—Except as otherwise provided in this subsection, no court shall have jurisdiction over—

"(i) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets of any depository institution for which the Corporation has been appointed receiver, including assets which the Corporation may acquire from itself as such receiver; or

"(ii) any claim relating to any act or omission of such institution or the Corporation as receiver.

"(14) STATUTE OF LIMITATIONS FOR ACTIONS BROUGHT BY CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Notwithstanding any provision of any contract, the applicable statute of limitations with regard to any action brought by the Corporation as conservator or receiver shall be—

"(i) in the case of any contract claim, the longer of—

"(I) the 6-year period beginning on the date the claim accrues; or

"(II) the period applicable under State law; and

"(ii) in the case of any tort claim, the longer of—

"(I) the 3-year period beginning on the date the claim accrues; or

"(II) the period applicable under State law.

"(B) DETERMINATION OF THE DATE ON WHICH A CLAIM ACCRUES.—For purposes of subparagraph (A), the date on which the statute of limitation begins to run on any claim described in such subparagraph shall be the later of—

"(i) the date of the appointment of the Corporation as conservator or receiver; or

"(ii) the date on which the cause of action accrues.

"(15) ACCOUNTING AND RECORDKEEPING REQUIREMENTS.—

"(A) IN GENERAL.—The Corporation as conservator or receiver shall, consistent with the accounting and reporting practices and procedures established by the Corporation, maintain a full accounting of each conservatorship and receivership or other disposition of institutions in default.

"(B) ANNUAL ACCOUNTING OR REPORT.—With respect to each conservatorship or receivership to which the Corporation was appointed, the Corporation shall make an annual accounting or report, as appropriate, available to the Secretary of the Treasury, the Comptroller General of the United States, and the authority which appointed the Corporation as conservator or receiver.

"(C) AVAILABILITY OF REPORTS.—Any report prepared pursuant to subparagraph (B) shall be made available by the Corporation upon request to any shareholder of the depository institution for which the Corporation was appointed conservator or receiver or any other member of the public.

"(D) RECORDKEEPING REQUIREMENT.—After the end of the 6-year period beginning on the date the Corporation is appointed as receiver of an insured depository institution, the Corporation may destroy any records of such institution which the Corporation, in the Corporation's discretion, determines to be unnecessary unless directed not to do so by a court of competent jurisdiction or governmental agency, or prohibited by law.

"(16) CONTRACTS WITH STATE HOUSING FINANCE AUTHORITIES.—

"(A) IN GENERAL.—The Corporation may enter into contracts with any State housing finance authority for the sale of mortgage-related assets (as such terms are defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) of any depository institution in default (including assets and liabilities associated with any trust business), such contracts to be effective in accordance with their terms without any further approval, assignment, or consent with respect thereto.

"(B) FACTORS TO CONSIDER.—In evaluating the disposition of mortgage related assets to any State housing finance authority the Corporation shall consider—

"(i) the State housing finance authority's ability to acquire and service current, delinquent, and defaulted mortgage related assets;

"(ii) the State housing finance authority's ability to further national housing policies;

"(iii) the State housing finance authority's sensitivity to the impact of the sale of mortgage related assets upon the State and local communities;

"(iv) the costs to the Federal Government associated with alternative ownership or dispositions of the mortgage related assets;

"(v) the minimization of future guaranties which may be required of the Federal Government;

"(vi) the maximization of mortgage related asset values; and

"(vii) the utilization of institutions currently established in mortgage related asset market activities.

"(e) PROVISIONS RELATING TO CONTRACTS ENTERED INTO BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(1) AUTHORITY TO REPUDIATE CONTRACTS.—In addition to any other rights a conservator or receiver may have, the conservator or receiver for any insured depository institution may disaffirm or repudiate any contract or lease—

"(A) to which such institution is a party;

"(B) the performance of which the conservator or receiver, in the conservator's or receiver's discretion, determines to be burdensome; and

"(C) the disaffirmance or repudiation of which the conservator or receiver determines, in the conservator's or receiver's discretion, will promote the orderly administration of the institution's affairs.

"(2) TIMING OF REPUDIATION.—The conservator or receiver appointed for any insured depository institution in accordance with subsection (c) shall determine whether or not to exercise the rights of repudiation under this subsection within a reasonable period following such appointment.

"(3) CLAIMS FOR DAMAGES FOR REPUDIATION.—

"(A) IN GENERAL.—Except as otherwise provided in subparagraph (C) and paragraphs (4), (5), and (6), the liability of the conservator or receiver for the disaffirmance or repudiation of any contract pursuant to paragraph (1) shall be—

"(i) limited to actual direct compensatory damages; and

"(ii) determined as of—

"(I) the date of the appointment of the conservator or receiver; or

"(II) in the case of any contract or agreement referred to in paragraph (8), the date of the disaffirmance or repudiation of such contract or agreement.

"(B) NO LIABILITY FOR OTHER DAMAGES.—For purposes of subparagraph (A), the term 'actual direct compensatory damages' does not include—

"(i) punitive or exemplary damages;

"(ii) damages for lost profits or opportunity; or

"(iii) damages for pain and suffering.

"(C) MEASURE OF DAMAGES FOR REPUDIATION OF FINANCIAL CONTRACTS.—In the case of any qualified financial contract or agreement to which paragraph (8) applies, compensatory damages shall be—

"(i) deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims; and

"(ii) paid in accordance with this subsection and subsection (k) except as otherwise specifically provided in this section.

"(4) LEASES UNDER WHICH THE INSTITUTION IS THE LESSEE.—

"(A) IN GENERAL.—If the conservator or receiver disaffirms or repudiates a lease under which the insured depository institution was the lessee, the conservator or receiver shall not be liable for any damages (other than damages determined pursuant to subparagraph (B)) for the disaffirmance or repudiation of such lease.

"(B) PAYMENTS OF RENT.—Notwithstanding subparagraph (A), the lessor under a lease to which such subparagraph applies shall—

"(i) be entitled to the contractual rent accruing before the later of the date—

"(I) the notice of disaffirmance or repudiation is mailed; or

"(II) the disaffirmance or repudiation becomes effective,

unless the lessor is in default or breach of the terms of the lease;

"(ii) have no claim for damages under any acceleration clause or other penalty provision in the lease; and

"(iii) have a claim for any unpaid rent, subject to all appropriate offsets and defenses, due as of the date of the appointment which shall be paid in accordance with this subsection and subsection (k).

"(5) LEASES UNDER WHICH THE INSTITUTION IS THE LESSOR.—

"(A) IN GENERAL.—If the conservator or receiver repudiates an unexpired written lease of real property of the insured depository institution under which the institution is the lessor and the lessee is not, as of the date of such repudiation, in default, the lessee under such lease may either—

"(i) treat the lease as terminated by such repudiation; or

"(ii) remain in possession of the leasehold interest for the balance of the term of the lease unless the lessee defaults under the terms of the lease after the date of such repudiation.

"(B) PROVISIONS APPLICABLE TO LESSEE REMAINING IN POSSESSION.—If any lessee under a lease described in subparagraph (A) remains in possession of a leasehold interest pursuant to clause (ii) of such subparagraph—

"(i) the lessee—

"(I) shall continue to pay the contractual rent pursuant to the terms of the lease after the date of the repudiation of such lease;

"(II) may offset against any rent payment which accrues after the date of the repudiation of the lease, any damages which accrue after such date due to the nonperformance of any obligation of the insured depository institution under the lease after such date; and

"(ii) the conservator or receiver shall not be liable to the lessee for any damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II).

"(6) CONTRACTS FOR THE SALE OF REAL PROPERTY.—

"(A) IN GENERAL.—If the conservator or receiver repudiates any contract (which meets the requirements of each paragraph of section 13(e)) for the sale of real property and the purchaser of such real property under such contract is in possession and is not, as of the date of such repudiation, in default, such purchaser may either—

'(i) treat the contract as terminated by such repudiation; or

"(ii) remain in possession of such real property.

"(B) PROVISIONS APPLICABLE TO PURCHASER REMAINING IN POSSESSION.—If any purchaser of real property under any contract described in subparagraph (A) remains in possession of such property pursuant to clause (ii) of such subparagraph—

"(i) the purchaser—

"(I) shall continue to make all payments due under the contract after the date of the repudiation of the contract; and

"(II) may offset against any such payments any damages which accrue after such date due to the nonperformance (after such date) of any obligation of the depository institution under the contract; and

"(ii) the conservator or receiver shall—

"(I) not be liable to the purchaser for any damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II);

"(II) deliver title to the purchaser in accordance with the provisions of the contract; and

"(III) have no obligation under the contract other than the performance required under subclause (II).

"(C) ASSIGNMENT AND SALE ALLOWED.—

"(i) IN GENERAL.—No provision of this paragraph shall be construed as limiting the right of the conservator or receiver to assign the contract described in subparagraph (A) and sell the property subject to the contract and the provisions of this paragraph.

"(ii) NO LIABILITY AFTER ASSIGNMENT AND SALE.—If an assignment and sale described in clause (i) is consummated, the conservator or receiver shall have no further liability under the contract described in subparagraph (A) or with respect to the real property which was the subject of such contract.

"(7) PROVISIONS APPLICABLE TO SERVICE CONTRACTS.—

"(A) SERVICES PERFORMED BEFORE APPOINTMENT.—In the case of any contract for services between any person and any insured depository institution for which the Corporation has been appointed conservator or receiver, any claim of such person for services performed before the appointment of the conservator or the receiver shall be—

"(i) a claim to be paid in accordance with subsections (d) and (i); and

"(ii) deemed to have arisen as of the date the conservator or receiver was appointed.

"(B) SERVICES PERFORMED AFTER APPOINTMENT AND PRIOR TO REPUDIATION.—If, in the case of any contract for services described in subparagraph (A), the conservator or receiver accepts performance by the other person before the conservator or receiver makes any determination to exercise the right of repudiation of such contract under this section—

"(i) the other party shall be paid under the terms of the contract for the services performed; and

"(ii) the amount of such payment shall be treated as an administrative expense of the conservatorship or receivership.

"(C) ACCEPTANCE OF PERFORMANCE NO BAR TO SUBSEQUENT REPUDIATION.—The acceptance by any conservator or receiver of services referred to in subparagraph (B) in connection with a contract described in such subparagraph shall not affect the right of the conservator or receiver to repudiate such contract under this section at any time after such performance.

"(8) CERTAIN QUALIFIED FINANCIAL CONTRACTS.—

"(A) RIGHTS OF PARTIES TO CONTRACTS.—Subject to paragraph (10) of this subsection and notwithstanding any other provision of this Act (other than subsections (d)(9) and (i)(4)(I) of this section and section 13(e)), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

"(i) any right to cause the termination or liquidation of any qualified financial contract with an insured depository institution which arises upon the appointment of the Corporation as receiver for such institution at any time after such appointment;

"(ii) any right under any security arrangement relating to any contract or agreement described in clause (i); or

"(iii) any right to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more contracts and agreements described in clause (i), including any master agreement for such contracts or agreements.

"(B) APPLICABILITY OF OTHER PROVISIONS.—Subsection (d)(12) shall apply in the case of any judicial action or proceeding brought against any receiver referred to in subparagraph (A), or the insured depository institution for which such receiver was appointed, by any party to a contract or agreement described in subparagraph (A)(i) with such institution.

"(C) CERTAIN TRANSFERS NOT AVOIDABLE.—

"(i) IN GENERAL.—Notwithstanding paragraph (11), the Corporation, whether acting as such or as conservator or receiver of an insured depository institution, may not avoid any transfer of money or other property in connection with any qualified financial contract with an insured depository institution.

"(ii) EXCEPTION FOR CERTAIN TRANSFERS.—Clause (i) shall not apply to any transfer of money or other property in connection with any qualified financial contract with an insured depository institution if the Corporation determines that the transferee had actual intent to hinder, delay, or defraud such institution, the creditors of such institution, or any conservator or receiver appointed for such institution.

"(D) CERTAIN CONTRACTS AND AGREEMENTS DEFINED.—For purposes of this subsection—

"(i) QUALIFIED FINANCIAL CONTRACT.—The term 'qualified financial contract' means any securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, and any similar agreement that the Corporation determines by regulation to be a qualified financial contract for purposes of this paragraph.

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) has the meaning given to such term in section 741(7) of title 11, United States Code, except that the term 'security' (as used in such section) shall be deemed to include any mortgage loan, any mortgage-related security (as defined in section 3(a)(41) of the Securities Exchange Act of 1934), and any interest in any mortgage loan or mortgage-related security; and

"(II) does not include any participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term.

"(iii) COMMODITY CONTRACT.—The term 'commodity contract' has the meaning given to such term in section 761(4) of title 11, United States Code.

"(iv) FORWARD CONTRACT.—The term 'forward contract' has the meaning given to such term in section 101(24) of title 11, United States Code.

"(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement'—

"(I) has the meaning given to such term in section 101(41) of title 11, the United States Code, except that the items (as described in such section) which may be subject to any such agreement shall be deemed to include mortgage-related securities (as such term is defined in section 3(a)(41) of the Securities Exchange Act of 1934, any mortgage loan, and any interest in any mortgage loan; and

"(II) does not include any participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term.

"(vi) SWAP AGREEMENT.—The term 'swap agreement'—

"(I) means any agreement, including the terms and conditions incorporated by reference in any such agreement, which is a rate swap agreement, basis swap, commodity swap, forward rate agreement, interest rate future, interest rate option purchased, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency future, or currency option purchased or any other similar agreement, and

"(II) includes any combination of such agreements and any option to enter into any such agreement.

"(vii) TREATMENT OF MASTER AGREEMENT AS 1 SWAP AGREEMENT.—Any master agreement for any agreements described in clause (vi)(I) together with all supplements to such master agreement shall be treated as 1 swap agreement.

"(viii) TRANSFER.—The term 'transfer' has the meaning given to such term in section 101(50) of title 11, United States Code.

"(E) CERTAIN PROTECTIONS IN EVENT OF APPOINTMENT OF CONSERVATOR.—Notwithstanding any other provision of this Act (other than paragraph (12) of this subsection, subsections (d)(9) and (i)(4)(I) of this section, and section 13(e) of this Act), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

"(i) any right such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a depository institution in a conservatorship based upon a default under such financial contract which is enforceable under applicable noninsolvency law;

"(ii) any right under any security arrangement relating to such qualified financial contracts; or

"(iii) any right to offset or net out any termination values, payment amounts, or other transfer obligations arising under or in connection with such qualified financial contracts.

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

"(A) transfer to 1 depository institution (other than a depository institution in default)—

"(i) all qualified financial contracts between—

"(I) any person or any affiliate of such person; and

"(II) the depository institution in default;

"(ii) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

"(iii) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

"(iv) all property securing any claim described in clause (ii) or (iii) under any such contract; or

"(B) transfer none of the financial contracts, claims, or property referred to in subparagraph (A) (with respect to such person and any affiliate of such person).

"(10) NOTIFICATION OF TRANSFER.—

"(A) IN GENERAL.—If—

"(i) the conservator or receiver for an insured depository institution in default makes any transfer of the assets and liabilities of such institution; and

"(ii) the transfer includes any qualified financial contract,

the conservator or receiver shall use such conservator's or receiver's best efforts to notify any person who is a party to any such contract of such transfer by 12:00, noon (local time) on the business day following such transfer.

"(B) BUSINESS DAY DEFINED.—For purposes of this paragraph, the term 'business day' means any day other than any Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

"(11) CERTAIN SECURITY INTERESTS NOT AVOIDABLE.—No provision of this subsection shall be construed as permitting the avoidance of any legally enforceable or perfected security interest in any of the assets of any depository institution except where such an interest is taken in contemplation of the institution's insolvency or with the intent to hinder, delay, or defraud the institution or the creditors of such institution.

"(12) AUTHORITY TO ENFORCE CONTRACTS.—

"(A) IN GENERAL.—The conservator or receiver may enforce any contract, other than a director's or officer's liability insurance contract or a depository institution bond, entered into by the depository institution notwithstanding any provision of the contract providing for termination, default, acceleration, or exercise of rights upon, or solely by reason of, insolvency or the appointment of a conservator or receiver.

"(B) CERTAIN RIGHTS NOT AFFECTED.—No provision of this paragraph may be construed as impairing or affecting any right of the conservator or receiver to enforce or recover under a directors or officers liability insurance contract or depository institution bond under other applicable law.

"(13) EXCEPTION FOR FEDERAL RESERVE AND FEDERAL HOME LOAN BANKS.—No provision of this subsection shall apply with respect to—

"(A) any extension of credit from any Federal home loan bank or Federal Reserve bank to any insured depository institution; or

"(B) any security interest in the assets of the institution securing any such extension of credit.

"(f) PAYMENT OF INSURED DEPOSITS.—

"(1) IN GENERAL.—In case of the liquidation of, or other closing or winding up of the affairs of, any insured depository institution, payment of the insured deposits in such institution shall be made by the Corporation as soon as possible, subject to the provisions of subsection (g), either by cash or by making available to each depositor a transferred deposit in a new insured depository institution in the same community or in another insured depository institution in an amount equal to the insured deposit of such depositor, except that—

"(A) all payments made pursuant to this section on account of a closed Bank Insurance Fund member shall be made only from the Bank Insurance Fund, and

"(B) all payments made pursuant to this section on account of a closed Savings Association Insurance Fund member shall be made only from the Savings Association Insurance Fund.

"(2) PROOF OF CLAIMS.—The Corporation, in its discretion, may require proof of

claims to be filed and may approve or reject such claims for insured deposits.

"(3) RESOLUTION OF DISPUTES.—

"(A) RESOLUTIONS IN ACCORDANCE TO CORPORATION REGULATIONS.—In the case of any disputed claim relating to any insured deposit or any determination of insurance coverage with respect to any deposit, the Corporation may resolve such disputed claim in accordance with regulations prescribed by the Corporation establishing procedures for resolving such claims.

"(B) ADJUDICATION OF CLAIMS.—If the Corporation has not prescribed regulations establishing procedures for resolving disputed claims, the Corporation may require the final determination of a court of competent jurisdiction before paying any such claim.

"(4) REVIEW OF CORPORATION'S DETERMINATION.—Final determination made by the Corporation shall be reviewable in accordance with chapter 7 of title 5, United States Code, by the United States Court of Appeals for the District of Columbia or the court of appeals for the Federal judicial circuit where the principal place of business of the depository institution is located.

"(5) STATUTE OF LIMITATIONS.—Any request for review of a final determination by the Corporation shall be filed with the appropriate circuit court of appeals not later than 60 days after such determination is ordered.

"(g) SUBROGATION OF CORPORATION.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law, the law of any State, or the constitution of any State, the Corporation, upon the payment to any depositor as provided in subsection (f) in connection with any insured depository institution or insured branch described in such subsection or the assumption of any deposit in such institution or branch by another insured depository institution pursuant to this section or section 13, shall be subrogated to all rights of the depositor against such institution or branch to the extent of such payment or assumption.

"(2) DIVIDENDS ON SUBROGATED AMOUNTS.—The subrogation of the Corporation under paragraph (1) with respect to any insured depository institution shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of such institution and recoveries on account of stockholders' liability as would have been payable to the depositor on a claim for the insured deposit, but such depositor shall retain such claim for any uninsured or unassumed portion of the deposit.

"(3) WAIVER OF CERTAIN CLAIMS.—With respect to any bank which closes after May 25, 1938, the Corporation shall waive, in favor only of any person against whom stockholders' individual liability may be asserted, any claim on account of such liability in excess of the liability, if any, to the bank or its creditors, for the amount unpaid upon such stock in such bank; but any such waiver shall be effected in such manner and on such terms and conditions as will not increase recoveries or dividends on account of claims to which the Corporation is not subrogated.

"(4) APPLICABILITY OF STATE LAW.—If the Corporation is appointed pursuant to subsection (c)(3), or determines not to invoke the authority conferred in subsection (c)(4), the rights of depositors and other creditors of any State depository institution shall be determined in accordance with the applicable provisions of State law.

"(h) CONDITIONS APPLICABLE TO LIQUIDATION PROCEEDINGS.—

"(1) CONSIDERATION OF LOCAL ECONOMIC IMPACT REQUIRED.—The Corporation shall fully consider the adverse economic impact on local communities, including businesses and farms, of actions to be taken by it during the administration and liquidation of loans of a depository institution in default.

"(2) ACTIONS TO ALLEVIATE ADVERSE ECONOMIC IMPACT TO BE CONSIDERED.—The actions which the Corporation shall consider include the release of proceeds from the sale of products and services for family living and business expenses and shortening the undue length of the decisionmaking process for the acceptance of offers of settlement contingent upon third party financing.

"(3) GUIDELINES REQUIRED.—The Corporation shall adopt and publish procedures and guidelines to minimize adverse economic effects caused by its actions on individual debtors in the community.

"(i) VALUATION OF CLAIMS IN DEFAULT.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law or the law of any State and regardless of the method which the Corporation determines to utilize with respect to an insured depository institution in default or in danger of default, including transactions authorized under subsection (n) and section 13(c), this subsection shall govern the rights of the creditors (other than insured depositors) of such institution.

"(2) MAXIMUM LIABILITY.—The maximum liability of the Corporation, acting as receiver or in any other capacity, to any person having a claim against the receiver or the insured depository institution for which such receiver is appointed shall equal the amount such claimant would have received if the Corporation had liquidated the assets and liabilities of such institution without exercising the Corporation's authority under subsection (n) of this section or section 13.

"(3) ADDITIONAL PAYMENTS AUTHORIZED.—

"(A) IN GENERAL.—The Corporation may, in its discretion and in the interests of minimizing its losses, use its own resources to make additional payments or credit additional amounts to or with respect to or for the account of any claimant or category of claimants. The Corporation shall not be obligated, as a result of having made any such payment or credited any such amount to or with respect to or for the account of any claimant or category of claimants, to make payments to any other claimant or category or claimants.

"(B) SOURCE OF FUNDS.—If the depository institution in default is a Bank Insurance Fund member, the Corporation may only make such payments out of funds held in the Bank Insurance Fund. If the depository institution in default is a Savings Association Insurance Fund member, the Corporation may only make such payments out of funds held in the Savings Association Insurance Fund.

"(C) MANNER OF PAYMENT.—The Corporation may make the payments or credit the amounts specified in subparagraphs (A) and (B) directly to the claimants or may make such payments or credit such amounts to an open insured depository institution to induce such institution to accept liability for such claims.

"(j) LIMITATION ON COURT ACTION.—Except as provided in this section, no court may take any action, except at the request of the Board of Directors by regulation or order, to restrain or affect the exercise of powers or functions of the Corporation as a conservator or a receiver.

"(k) LIABILITY OF DIRECTORS AND OFFICERS.—A director or officer of an insured depository institution may be held personally liable for monetary damages in any civil action by, on behalf of, or at the request or direction of the Corporation, which action is prosecuted wholly or partially for the benefit of the Corporation—

"(1) acting as conservator or receiver of such institution,

"(2) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed by such receiver or conservator, or

"(3) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed in whole or in part by an insured depository institution or its affiliate in connection with assistance provided under section 13,

for gross negligence, including any similar conduct or conduct that demonstrates a greater disregard of a duty of care (than gross negligence) including intentional tortious conduct, as such terms are defined and determined under applicable State law. Nothing in this paragraph shall impair or affect any right of the Corporation under other applicable law.

"(l) DAMAGES.—In any proceeding related to any claim against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution, recoverable damages determined to result from the improvident or otherwise improper use or investment of any insured depository institution's assets shall include principal losses and appropriate interest.".

SEC. 213. NEW BANKS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (l) (as added by section 212) the following new subsection:

"(m) NEW BANKS.—

"(1) ORGANIZATION AUTHORIZED.—As soon as possible after the default of an insured bank, the Corporation, if it finds that it is advisable and in the interest of the depositors of the insured bank in default or the public shall organize a new national bank in the same community as the bank in default to assume the insured deposits of such bank in default and otherwise to perform temporarily the functions hereinafter provided for.

"(2) ARTICLES OF ASSOCIATION.—The articles of association and the organization certificate of the new bank shall be executed by representatives designated by the Corporation.

"(3) CAPITAL STOCK.—No capital stock need be paid in by the Corporation.

"(4) EXECUTIVE OFFICER.—The new bank shall not have a board of directors, but shall be managed by an executive officer appointed by the Board of Directors of the Corporation who shall be subject to its directions.

"(5) SUBJECT TO LAWS RELATING TO NATIONAL BANKS.—In all other respects the new bank shall be organized in accordance with the then existing provisions of law relating to the organization of national banking associations.

"(6) NEW DEPOSITS.—The new bank may, with the approval of the Corporation, accept new deposits which shall be subject to withdrawal on demand and which, except where the new bank is the only bank in the community, shall not exceed $100,000 from any depositor.

"(7) INSURED STATUS.—The new bank, without application to or approval by the Corporation, shall be an insured depository institution and shall maintain on deposit with

the Federal Reserve bank of its district reserves in the amount required by law for member banks, but it shall not be required to subscribe for stock of the Federal Reserve bank.

"(8) INVESTMENTS.—Funds of the new bank shall be kept on hand in cash, invested in obligations of the United States or obligations guaranteed as to principal and interest by the United States, or deposited with the Corporation, any Federal Reserve bank, or, to the extent of the insurance coverage on any such deposit, an insured depository institution.

"(9) CONDUCT OF BUSINESS.—The new bank, unless otherwise authorized by the Comptroller of the Currency, shall transact business only as authorized by this Act and as may be incidental to its organization.

"(10) EXEMPT STATUS.—Notwithstanding any other provision of Federal or State law, the new bank, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

"(11) TRANSFER OF DEPOSITS.—(A) Upon the organization of a new bank, the Corporation shall promptly make available to it an amount equal to the estimated insured deposits of such bank in default plus the estimated amount of the expenses of operating the new bank, and shall determine as soon as possible the amount due each depositor for the depositor's insured deposit in the bank in default, and the total expenses of operation of the new bank.

"(B) Upon such determination, the amounts so estimated and made available shall be adjusted to conform to the amounts so determined.

"(12) EARNINGS.—Earnings of the new bank shall be paid over or credited to the Corporation in such adjustment.

"(13) LOSSES.—If any new bank, during the period it continues its status as such, sustains any losses with respect to which it is not effectively protected except by reason of being an insured bank, the Corporation shall furnish to it additional funds in the amount of such losses.

"(14) PAYMENT OF INSURED DEPOSITS.—(A) The new bank shall assume as transferred deposits the payment of the insured deposits of such bank in default to each of its depositors.

"(B) Of the amounts so made available, the Corporation shall transfer to the new bank, in cash, such sums as may be necessary to enable it to meet its expenses of operation and immediate cash demands on such transferred deposits, and the remainder of such amounts shall be subject to withdrawal by the new bank on demand.

"(15) ISSUANCE OF STOCK.—(A) Whenever in the judgment of the Board of Directors it is desirable to do so, the Corporation shall cause capital stock of the new bank to be offered for sale on such terms and conditions as the Board of Directors shall deem advisable in an amount sufficient, in the opinion of the Board of Directors, to make possible the conduct of the business of the new bank on a sound basis, but in no event less than that required by section 5138 of the Revised Statutes for the organization of a national bank in the place where such new bank is located.

"(B) The stockholders of the insured bank in default shall be given the first opportunity to purchase any shares of common stock so offered.

"(16) ISSUANCE OF CERTIFICATE.—Upon proof that an adequate amount of capital stock in the new bank has been subscribed and paid for in cash, the Comptroller of the Currency shall require the articles of association and the organization certificate to be amended to conform to the requirements for the organization of a national bank, and thereafter, when the requirements of law with respect to the organization of a national bank have been complied with, the Comptroller of the Currency shall issue to the bank a certificate of authority to commence business, and thereupon the bank shall cease to have the status of a new bank, shall be managed by directors elected by its own shareholders, may exercise all the powers granted by law, and shall be subject to all provisions of law relating to national banks. Such bank shall thereafter be an insured national bank, without certification to or approval by the Corporation.

"(17) TRANSFER TO OTHER INSTITUTION.—If the capital stock of the new bank is not offered for sale, or if an adequate amount of capital for such new bank is not subscribed and paid for, the Board of Directors may offer to transfer its business to any insured depository institution in the same community which will take over its assets, assume its liabilities, and pay to the Corporation for such business such amount as the Board of Directors may deem adequate; or the Board of Directors in its discretion may change the location of the new bank to the office of the Corporation or to some other place or may at any time wind up its affairs as herein provided.

"(18) WINDING UP.—Unless the capital stock of the new bank is sold or its assets are taken over and its liabilities are assumed by an insured depository institution as above provided within 2 years after the date of its organization, the Corporation shall wind up the affairs of such bank, after giving such notice, if any, as the Comptroller of the Currency may require, and shall certify to the Comptroller of the Currency the termination of the new bank. Thereafter the Corporation shall be liable for the obligations of such bank and shall be the owner of its assets.

"(19) APPLICABILITY OF CERTAIN LAWS.—The provisions of sections 5220 and 5221 of the Revised Statutes shall not apply to a new bank under this subsection.".

SEC. 214. BRIDGE BANKS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (m) (as added by section 213) the following new subsection:

"(n) BRIDGE BANKS.—

"(1) ORGANIZATION.—

"(A) PURPOSE.—When 1 or more insured banks are in default, or when the Corporation anticipates that 1 or more insured banks may become in default, the Corporation may, in its discretion, organize, and the Office of the Comptroller of the Currency shall charter, 1 or more national banks with respect thereto with the powers and attributes of national banking associations, subject to the provisions of this subsection, to be referred to as bridge banks.

"(B) AUTHORITIES.—Upon the granting of a charter to a bridge bank, the bridge bank may—

"(i) assume such deposits of such insured bank or banks that is or are in default or in danger of default as the Corporation may, in its discretion, determine to be appropriate, except that if any insured deposits of a bank are assumed, all insured deposits of that bank shall be assumed by the bridge bank or another insured depository institution;

"(ii) assume such other liabilities (including liabilities associated with any trust business) of such insured bank or banks that is or are in default or in danger of default as the Corporation may, in its discretion, determine to be appropriate;

"(iii) purchase such assets (including assets associated with any trust business) of such insured bank or banks that is or are in default or in danger of default as the Corporation may, in its discretion, determine to be appropriate; and

"(iv) perform any other temporary function which the Corporation may, in its discretion, prescribe in accordance with this Act.

"(C) ARTICLES OF ASSOCIATION.—The articles of association and organization certificate of a bridge bank as approved by the Corporation shall be executed by 3 representatives designated by the Corporation.

"(D) INTERIM DIRECTORS.—A bridge bank shall have an interim board of directors consisting of not fewer than 5 nor more than 10 members appointed by the Corporation.

"(E) NATIONAL BANK.—A bridge bank shall be organized as a national bank.

"(2) CHARTERING.—

"(A) CONDITIONS.—A national bank may be chartered by the Comptroller of the Currency as a bridge bank only if the Board of Directors determines that—

"(i) the amount which is reasonably necessary to operate such bridge bank will not exceed the amount which is reasonably necessary to save the cost of liquidating, including paying the insured accounts of, 1 or more insured banks in default or in danger of default with respect to which the bridge bank is chartered;

"(ii) the continued operation of such insured bank or banks in default or in danger of default with respect to which the bridge bank is chartered is essential to provide adequate banking services in the community where each such bank in default or in danger of default is located; or

"(iii) the continued operation of such insured bank or banks in default or in danger of default with respect to which the bridge bank is chartered is in the best interest of the depositors of such bank or banks in default or in danger of default or the public.

"(B) INSURED NATIONAL BANK.—A bridge bank shall be an insured bank from the time it is chartered as a national bank.

"(C) BRIDGE BANK TREATED AS BEING IN DEFAULT FOR CERTAIN PURPOSES.—A bridge bank shall be treated as an insured bank in default at such times and for such purposes as the Corporation may, in its discretion, determine.

"(D) MANAGEMENT.—A bridge bank, upon the granting of its charter, shall be under the management of a board of directors consisting of not fewer than 5 nor more than 10 members appointed by the Corporation.

"(E) BYLAWS.—The board of directors of a bridge bank shall adopt such bylaws as may be approved by the Corporation.

"(3) TRANSFER OF ASSETS AND LIABILITIES.—

"(A) IN GENERAL.—

"(i) TRANSFER UPON GRANT OF CHARTER.—Upon the granting of a charter to a bridge bank pursuant to this subsection, the Corporation, as receiver, or any other receiver appointed with respect to any insured bank in default with respect to which the bridge bank is chartered may transfer any assets and liabilities of such bank in default to the bridge bank in accordance with paragraph (1).

"(ii) SUBSEQUENT TRANSFERS.—At any time after a charter is granted to a bridge bank, the Corporation, as receiver, or any other receiver appointed with respect to an insured

bank in default may transfer any assets and liabilities of such insured bank in default as the Corporation may, in its discretion, determine to be appropriate in accordance with paragraph (1).

"(iii) TREATMENT OF TRUST BUSINESS.—For purposes of this paragraph, the trust business, including fiduciary appointments, of any insured bank in default is included among its assets and liabilities.

"(iv) EFFECTIVE WITHOUT APPROVAL.—The transfer of any assets or liabilities, including those associated with any trust business, of an insured bank in default transferred to a bridge bank shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto.

"(B) INTENT OF CONGRESS REGARDING CONTINUING OPERATIONS.—It is the intent of the Congress that, in order to prevent unnecessary hardship or losses to the customers of any insured bank in default with respect to which a bridge bank is chartered, especially creditworthy farmers, small businesses, and households, the Corporation should—

"(i) continue to honor commitments made by the bank in default to creditworthy customers, and

"(ii) not interrupt or terminate adequately secured loans which are transferred under subparagraph (A) and are being repaid by the debtor in accordance with the terms of the loan instrument.

"(4) POWERS OF BRIDGE BANKS.—Each bridge bank chartered under this subsection shall have all corporate powers of, and be subject to the same provisions of law as, a national bank, except that—

"(A) the Corporation may—

"(i) remove the interim directors and directors of a bridge bank;

"(ii) fix the compensation of members of the interim board of directors and the board of directors and senior management, as determined by the Corporation in its discretion, of a bridge bank; and

"(iii) waive any requirement established under section 5145, 5146, 5147, 5148, or 5149 of the Revised Statutes (relating to directors of national banks) or section 31 of the Banking Act of 1933 which would otherwise be applicable with respect to directors of a bridge bank by operation of paragraph (2)(B);

"(B) the Corporation may indemnify the representatives for purposes of paragraph (1)(B) and the interim directors, directors, officers, employees, and agents of a bridge bank on such terms as the Corporation determines to be appropriate;

"(C) no requirement under section 5138 of the Revised Statutes or any other provision of law relating to the capital of a national bank shall apply with respect to a bridge bank;

"(D) the Comptroller of the Currency may establish a limitation on the extent to which any person may become indebted to a bridge bank without regard to the amount of the bridge bank's capital or surplus;

"(E)(i) the board of directors of a bridge bank shall elect a chairperson who may also serve in the position of chief executive officer, except that such person shall not serve either as chairperson or as chief executive officer without the prior approval of the Corporation;

"(ii) the board of directors of a bridge bank may appoint a chief executive officer who is not also the chairperson, except that such person shall not serve as chief executive officer without the prior approval of the Corporation;

"(F) a bridge bank shall not be required to purchase stock of any Federal Reserve bank;

"(G) the Comptroller of the Currency shall waive any requirement for a fidelity bond with respect to a bridge bank at the request of the Corporation;

"(H) any judicial action to which a bridge bank becomes a party by virtue of its acquisition of any assets or assumption of any liabilities of a bank in default shall be stayed from further proceedings for a period of up to 45 days at the request of the bridge bank;

"(I) no agreement which tends to diminish or defeat the right, title or interest of a bridge bank in any asset of an insured bank in default acquired by it shall be valid against the bridge bank unless such agreement—

"(i) is in writing,

"(ii) was executed by such insured bank in default and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by such insured bank in default,

"(iii) was approved by the board of directors of such insured bank in default or its loan committee, which approval shall be reflected in the minutes of said board or committee, and

"(iv) has been, continuously from the time of its execution, an official record of such insured bank in default;

"(J) notwithstanding section 13(e)(2), any agreement relating to an extension of credit between a Federal home loan bank or Federal Reserve bank and any insured depository institution which was executed before the extension of credit by such bank to such depository institution shall be treated as having been executed contemporaneously with such extension of credit for purposes of subparagraph (I); and

"(K) except with the prior approval of the Corporation, a bridge bank may not, in any transaction or series of transactions, issue capital stock or be a party to any merger, consolidation, disposition of assets or liabilities, sale or exchange of capital stock, or similar transaction, or change its charter.

"(5) CAPITAL.—

"(A) NO CAPITAL REQUIRED.—The Corporation shall not be required to—

"(i) issue any capital stock on behalf of a bridge bank chartered under this subsection; or

"(ii) purchase any capital stock of a bridge bank, except that notwithstanding any other provision of Federal or State law, the Corporation may purchase and retain capital stock of a bridge bank in such amounts and on such terms as the Corporation, in its discretion, determines to be appropriate.

"(B) OPERATING FUNDS IN LIEU OF CAPITAL.—Upon the organization of a bridge bank, and thereafter, as the Board of Directors may, in its discretion, determine to be necessary or advisable, the Corporation may make available to the bridge bank, upon such terms and conditions and in such form and amounts as the Corporation may in its discretion determine, funds for the operation of the bridge bank in lieu of capital.

"(C) AUTHORITY TO ISSUE CAPITAL STOCK.—Whenever the Board of Directors determines it is advisable to do so, the Corporation shall cause capital stock of a bridge bank to be issued and offered for sale in such amounts and on such terms and conditions as the Corporation may, in its discretion, determine.

"(6) NO FEDERAL STATUS.—

"(A) AGENCY STATUS.—A bridge bank is not an agency, establishment, or instrumentality of the United States.

"(B) EMPLOYEE STATUS.—Representatives for purposes of paragraph (1)(B), interim directors, directors, officers, employees, or agents of a bridge bank are not, solely by virtue of service in any such capacity, officers or employees of the United States. Any employee of the Corporation or of any Federal instrumentality who serves at the request of the Corporation as a representative for purposes of paragraph (1)(B), interim director, director, officer, employee, or agent of a bridge bank shall not—

"(i) solely by virtue of service in any such capacity lose any existing status as an officer or employee of the United States for purposes of title 5, United States Code, or any other provision of law, or

"(ii) receive any salary or benefits for service in any such capacity with respect to a bridge bank in addition to such salary or benefits as are obtained through employment with the Corporation or such Federal instrumentality.

"(7) ASSISTANCE AUTHORIZED.—The Corporation may, in its discretion, provide assistance under section 13(c) to facilitate any transaction described in clause (i), (ii), or (iii) of paragraph (10)(A) with respect to any bridge bank in the same manner and to the same extent as such assistance may be provided under such section with respect to an insured bank in default, or to facilitate a bridge bank's acquisition of any assets or the assumption of any liabilities of an insured bank in default.

"(8) ACQUISITION.—

"(A) IN GENERAL.—The responsible agency shall notify the Attorney General of any transaction involving the merger or sale of a bridge bank requiring approval under section 18(c) and if a report on competitive factors is requested within 10 days, such transaction may not be consummated before the 5th calendar day after the date of approval by the responsible agency with respect thereto. If the responsible agency has found that it must act immediately to prevent the probable failure of 1 of the banks involved, the preceding sentence does not apply and the transaction may be consummated immediately upon approval by the agency.

"(B) BY OUT-OF-STATE HOLDING COMPANY.—Any depository institution, including an out-of-State depository institution, or any out-of-State depository institution holding company may acquire and retain the capital stock or assets of, or otherwise acquire and retain a bridge bank if the bridge bank at any time had assets aggregating $500,000,000 or more, as determined by the Corporation on the basis of the bridge bank's reports of condition or on the basis of the last available reports of condition of any insured bank in default, which institution has been acquired, or whose assets have been acquired, by the bridge bank. The acquiring entity may acquire the bridge bank only in the same manner and to the same extent as such entity may acquire an insured bank in default under section 13(f)(2).

"(9) DURATION OF BRIDGE BANK.—Subject to paragraphs (11) and (13), the status of a bridge bank as such shall terminate at the end of the 2-year period following the date it was granted a charter. The Board of Directors may, in its discretion, extend the status of the bridge bank as such for 3 additional 1-year periods.

"(10) TERMINATION OF BRIDGE BANK STATUS.—The status of any bridge bank as such shall terminate upon the earliest of—

"(A) the merger or consolidation of the bridge bank with a depository institution that is not a bridge bank;

"(B) at the election of the Corporation, the sale of a majority of the capital stock of the bridge bank to an entity other than the Corporation and other than another bridge bank;

"(C) the sale of 80 percent, or more, of the capital stock of the bridge bank to an entity other than the Corporation and other than another bridge bank;

"(D) at the election of the Corporation, either the assumption of all or substantially all of the deposits and other liabilities of the bridge bank by a depository institution holding company or a depository institution that is not a bridge bank, or the acquisition of all or substantially all of the assets of the bridge bank by a depository institution holding company, a depository institution that is not a bridge bank, or other entity as permitted under applicable law; and

"(E) the expiration of the period provided in paragraph (9), or the earlier dissolution of the bridge bank as provided in paragraph (12).

"(11) EFFECT OF TERMINATION EVENTS.—

"(A) MERGER OR CONSOLIDATION.—A bridge bank that participates in a merger or consolidation as provided in paragraph (10)(A) shall be for all purposes a national bank with all the rights, powers, and privileges thereof, and such merger or consolidation shall be conducted in accordance with, and shall have the effect provided in, the provisions of applicable law.

"(B) CHARTER CONVERSION.—Following the sale of a majority of the capital stock of the bridge bank as provided in paragraph (10)(B), the Corporation may amend the charter of the bridge bank to reflect the termination of the status of the bridge bank as such, whereupon the bank shall remain a national bank, with all of the rights, powers, and privileges thereof, subject to all laws and regulations applicable thereto.

"(C) SALE OF STOCK.—Following the sale of 80 percent or more of the capital stock of a bridge bank as provided in paragraph (10)(C), the bank shall remain a national bank, with all of the rights, powers, and privileges thereof, subject to all laws and regulations applicable thereto.

"(D) ASSUMPTION OF LIABILITIES AND SALE OF ASSETS.—Following the assumption of all or substantially all of the liabilities of the bridge bank, or the sale of all or substantially all of the assets of the bridge bank, as provided in paragraph (10)(D), at the election of the Corporation the bridge bank may retain its status as such for the period provided in paragraph (8).

"(E) EFFECT ON HOLDING COMPANIES.—A depository institution holding company acquiring a bridge bank under section 13(f), paragraph (8)(B) (or any predecessor provision), or both provisions, shall not be impaired or adversely affected by the termination of the status of a bridge bank as a result of subparagraph (A), (B), (C), or (D) of paragraph (10), and shall be entitled to the rights and privileges provided in section 13(f).

"(F) AMENDMENTS TO CHARTER.—Following the consummation of a transaction described in subparagraph (A), (B), (C), or (D) of paragraph (10), the charter of the resulting institution shall be amended to reflect the termination of bridge bank status, if appropriate.

"(12) DISSOLUTION OF BRIDGE BANK.—

"(A) IN GENERAL.—Notwithstanding any other provision of State or Federal law, if the bridge bank's status as such has not previously been terminated by the occurrence of an event specified in subparagraphs (A), (B), (C), or (D) of paragraph (10)—

"(i) the Board of Directors may, in its discretion, dissolve a bridge bank in accordance with this paragraph at any time; and

"(ii) the Board of Directors shall promptly commence dissolution proceedings in accordance with this paragraph upon the expiration of the 2-year period following the date the bridge bank was chartered, or any extension thereof, as provided in paragraph (9).

"(B) PROCEDURES.—The Comptroller of the Currency shall appoint the Corporation receiver for a bridge bank upon certification by the Board of Directors to the Comptroller of the Currency of its determination to dissolve the bridge bank. The Corporation as such receiver shall wind up the affairs of the bridge bank in conformity with the provisions of law relating to the liquidation of closed national banks. With respect to any such bridge bank, the Corporation as such receiver shall have all the rights, powers, and privileges and shall perform the duties related to the exercise of such rights, powers, or privileges granted by law to a receiver of any insured depository institution and notwithstanding any other provision of law in the exercise of such rights, powers, and privileges the Corporation shall not be subject to the direction or supervision of any State agency or other Federal agency.

"(13) MULTIPLE BRIDGE BANKS.—Subject to paragraph (1)(B)(i), the Corporation may, in the Corporation's discretion, organize 2 or more bridge banks under this subsection to assume any deposits of, assume any other liabilities of, and purchase any assets of a single bank in default.".

SEC. 215. FSLIC RESOLUTION FUND.

The Federal Deposit Insurance Act is amended by inserting after section 11 the following:

"SEC. 11A. FSLIC RESOLUTION FUND.

"(a) ESTABLISHED.—

"(1) IN GENERAL.—There is established a separate fund to be designated as the FSLIC Resolution Fund which shall be managed by the Corporation and separately maintained and not commingled.

"(2) TRANSFER OF FSLIC ASSETS AND LIABILITIES.—

"(A) IN GENERAL.—Except as provided in section 21A of the Federal Home Loan Bank Act, all assets and liabilities of the Federal Savings and Loan Insurance Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be transferred to the FSLIC Resolution Fund.

"(B) ADDITIONAL CLAIMS ON ASSETS.—The FSLIC Resolution Fund shall pay to the Savings Association Insurance Fund such amounts as are needed for administrative and supervisory expenses from the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 through September 30, 1991.

"(3) SEPARATE HOLDING.—Assets and liabilities transferred to the FSLIC Resolution Fund shall be the assets and liabilities of the Fund and not of the Corporation and shall not be consolidated with the assets and liabilities of the Bank Insurance Fund, the Savings Association Insurance Fund, or the Corporation for accounting, reporting, or any other purpose.

"(b) SOURCE OF FUNDS.—The FSLIC Resolution Fund shall be funded from the following sources to the extent funds are needed in the listed priority:

"(1) Income earned on assets of the FSLIC Resolution Fund.

"(2) Liquidating dividends and payments made on claims received by the FSLIC Resolution Fund from receiverships to the extent such funds are not required by the Resolution Funding Corporation pursuant to section 21B of the Federal Home Loan Bank Act or the Financing Corporation pursuant to section 21 of such Act.

"(3) Amounts borrowed by the Financing Corporation pursuant to section 21 of the Federal Home Loan Bank Act.

"(4) During the period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending on December 31, 1991, amounts assessed against Savings Association Insurance Fund members by the Corporation pursuant to section 7 which are not required by the Financing Corporation pursuant to section 21 of the Federal Home Loan Bank Act or by the Resolution Funding Corporation pursuant to section 21B of the Federal Home Loan Bank Act.

"(c) TREASURY BACKUP.—

"(1) IN GENERAL.—If the funds described in subsections (a) and (b) are insufficient to satisfy the liabilities of the FSLIC Resolution Fund, the Secretary of the Treasury shall pay to the Fund such amounts as may be necessary, as determined by the Corporation and the Secretary, for FSLIC Resolution Fund purposes.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury, without fiscal year limitation, such sums as may be necessary to carry out this section.

"(d) LEGAL PROCEEDINGS.—Any judgment resulting from a proceeding to which the Federal Savings and Loan Insurance Corporation was a party prior to its dissolution or which is initiated against the Corporation with respect to the Federal Savings and Loan Insurance Corporation or with respect to the FSLIC Resolution Fund shall be limited to the assets of the FSLIC Resolution Fund.

"(e) TRANSFER OF NET PROCEEDS FROM SALE OF RTC ASSETS.—The FSLIC Resolution Fund shall transfer to the Resolution Funding Corporation any net proceeds from the sale of assets acquired from the Resolution Trust Corporation upon the termination of such Corporation pursuant to section 21A of the Federal Home Loan Bank Act.

"(f) DISSOLUTION.—The FSLIC Resolution Fund shall be dissolved upon satisfaction of all debts and liabilities and sale of all assets. Upon dissolution any remaining funds shall be paid into the Treasury. Any administrative facilities and supplies, including offices and office supplies, shall be transferred to the Corporation for use by and to be held as assets of the Savings Association Insurance Fund.".

SEC. 216. AMENDMENTS TO SECTION 12.

Section 12 of the Federal Deposit Insurance Act (12 U.S.C. 1822) is amended—

(1) by striking out "closed bank" each place it appears and inserting in lieu thereof "depository institution in default";

(2) by striking out subsection (a) and inserting the following:

"(a) BOND NOT REQUIRED; AGENTS; FEE.—The Corporation as receiver of an insured depository institution or branch of a foreign bank shall not be required to furnish bond and may appoint an agent or agents to assist it in its duties as such receiver. All fees, compensation, and expenses of liquidation and administration shall be fixed by the Corporation, and may be paid by it out

of funds coming into its possession as such receiver."; and

(3) in subsection (d)—

(A) by striking out "as a stockholder of the depository institution in default, or of any liability of such depositor"; and

(B) by striking out "such bank" and inserting in lieu thereof "such depository institution".

SEC. 217. AMENDMENTS TO SECTION 13.

Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended—

(1) by striking out subsection (a) and inserting the following:

"(a) INVESTMENT OF CORPORATION'S FUNDS.—

"(1) AUTHORITY.—Funds held in the Bank Insurance Fund, the Savings Association Insurance Fund, or the FSLIC Resolution Fund, that are not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

"(2) LIMITATION.—The Corporation shall not sell or purchase any obligations described in paragraph (1) for its own account, at any one time aggregating in excess of $100,000, without the approval of the Secretary of the Treasury. The Secretary may approve a transaction or class of transactions subject to the provisions of this paragraph under such conditions as the Secretary may determine.";

(2) in subsection (b)—

(A) by striking out "banking and checking" and "banking or checking" each place such terms appear and inserting in lieu thereof "depository";

(B) by striking out "bank" (except "Federal Reserve bank") each place such term appears and inserting in lieu thereof "depository institution";

(3) in subsection (c)—

(A) by striking out "closing" or "closed" each place such terms appear and inserting in lieu thereof "default" or "in default";

(B) by striking out "an" before "closed insured bank" each place such terms appear and inserting in lieu thereof "a";

(C) by striking out "in default insured depository institution" each place such term appears and inserting in lieu thereof "insured depository institution in default";

(D) in paragraph (2)(A)—

(i) by striking out "such insured institution" and "an insured depository institution" and inserting in lieu thereof "such other insured depository institution" and "another insured depository institution", respectively;

(ii) by inserting "any or all of the" after "the sale of"; and

(iii) by striking out "and the assumption" and inserting in lieu thereof "or the assumption of any or all";

(E) by adding at the end of paragraph (2) the following:

"(C) Any action to which the Corporation is or becomes a party by acquiring any asset or exercising any other authority set forth in this section shall be stayed for a period of 60 days at the request of the Corporation.";

(F) in paragraph (3), by striking out "section 13(f) of this Act" and inserting in lieu thereof "subsection (f) or (k) of this section";

(G) in paragraph (4)—

(i) by striking out "banking" and inserting in lieu thereof "depository"; and

(ii) by inserting at the end of subparagraph (A) the following: "In calculating the cost of assistance, the Corporation shall include (i) the immediate and long-term obligations of the Corporation with respect to such assistance, including contingent liabilities, and (ii) the Federal tax revenues foregone by the Government, to the extent reasonably ascertainable."; and

(H) by striking out paragraph (8);

(I) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(J) by inserting after paragraph (5) the following:

"(6) The transfer of any assets or liabilities associated with any trust business of an insured depository institution in default under subparagraph (2)(A) shall be effective without any State or Federal approval, assignment, or consent with respect thereto."; and

(K) by adding at the end the following:

"(9) Payments made under this subsection shall be made—

"(A) from the Bank Insurance Fund in the case of payments to or on behalf of a member of such Fund; or

"(B) from the Savings Association Insurance Fund or from funds made available by the Resolution Trust Corporation in the case of payments to or on behalf of any Savings Association Insurance Fund member.";

(4) by striking out subsections (d) and (e) and inserting the following:

"(d) SALE OF ASSETS TO CORPORATION.—

"(1) IN GENERAL.—Any conservator, receiver, or liquidator appointed for any insured depository institution in default, including the Corporation acting in such capacity, shall be entitled to offer the assets of such depository institutions for sale to the Corporation or as security for loans from the Corporation.

"(2) PROCEEDS.—The proceeds of every sale or loan of assets to the Corporation shall be utilized for the same purposes and in the same manner as other funds realized from the liquidation of the assets of such depository institutions.

"(3) RIGHTS AND POWERS OF CORPORATION.—

"(A) IN GENERAL.—With respect to any asset acquired or liability assumed pursuant to this section, the Corporation shall have all of the rights, powers, privileges, and authorities of the Corporation as receiver under sections 11 and 15(b).

"(B) RULE OF CONSTRUCTION.—Such rights, powers, privileges, and authorities shall be in addition to and not in derogation of any rights, powers, privileges, and authorities otherwise applicable to the Corporation.

"(C) FIDUCIARY RESPONSIBILITY.—In exercising any right, power, privilege, or authority described in subparagraph (A), the Corporation shall continue to be subject to the fiduciary duties and obligations of the Corporation as receiver to claimants against the insured depository institution in receivership.

"(4) LOANS.—The Corporation, in its discretion, may make loans on the security of or may purchase and liquidate or sell any part of the assets of an insured depository institution which is now or may hereafter be in default.

"(e) AGREEMENTS AGAINST INTERESTS OF CORPORATION.—No agreement which tends to diminish or defeat the interest of the Corporation in any asset acquired by it under this section or section 11, either as security for a loan or by purchase or as receiver of any insured depository institution, shall be valid against the Corporation unless such agreement—

"(1) is in writing,

"(2) was executed by the depository institution and any person claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the depository institution,

"(3) was approved by the board of directors of the depository institution or its loan committee, which approval shall be reflected in the minutes of said board or committee, and

"(4) has been, continuously, from the time of its execution, an official record of the depository institution.";

(5) in subsection (f)—

(A) by striking out "closed" and "closing" each place such terms appear (except in "closed bank") and inserting in lieu thereof "in default" or "default", respectively;

(B) by striking out "closed bank" and inserting in lieu thereof "bank in default";

(C) in paragraph (1), by inserting "savings association" after "out-of-state bank";

(D) in paragraph (2)(B)(iii), by striking out "a unanimous vote" and inserting in lieu thereof "a vote of 75 percent of";

(E) by striking out "the constitution of any State,";

(F) in paragraph (6)(A), by inserting "the offeror which made the initial lowest acceptable offer and" after "the Corporation shall permit";

(G) by adding at the end of paragraph (7) the following:

"(C) if in the opinion of the Corporation the acquisition threatens the safety and soundness of the acquirer or does not result in the future viability of the resulting depository institution.";

(H) in paragraph (8), by striking out subparagraphs (A), (B), and (D) and redesignating paragraphs (C), (E), (F), and (G) as subparagraphs (A), (B), (C), and (D), respectively;

(I) in paragraph (9)—

(i) in the paragraph heading, by striking out "NONBANK" and inserting in lieu thereof "CERTAIN";

(ii) in paragraph (9)(A), by inserting ", other than a subsidiary that is an insured depository institution," after "subsidiary" and by striking out "which is not an insured bank"; and

(iii) in paragraph (9)(B), by inserting "or an affiliate of an insured depository institution" after "intermediate holding company"; and

(J) by adding at the end thereof the following new paragraph:

"(12) ACQUISITION OF MINORITY BANK BY MINORITY BANK HOLDING COMPANY WITHOUT REGARD TO ASSET SIZE.—

"(A) IN GENERAL.—For the purpose of ensuring continued minority control of a minority-controlled bank, paragraphs (2) and (3) shall apply with respect to the acquisition of a minority-controlled bank by an out-of-State minority-controlled depository institution or depository institution holding company without regard to the fact that the total assets of such minority-controlled bank is less than $500,000,000.

"(B) DEFINITIONS.—For purposes of this paragraph:

"(i) MINORITY BANK.—The term 'minority bank' means any depository institution described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act—

"(I) more than 50 percent of the ownership or control of which is held by one or more minority individuals; and

"(II) more than 50 percent of the net profit or loss of which accrues to minority individuals.

"(ii) MINORITY.—The term 'minority' means any Black American, Native American, Hispanic American, or Asian American.";

(6) in subsection (h), by striking out "a closed insured depository institution",

"closing", and "insurance fund" and inserting in lieu thereof "an insured depository institution in default", "default", and "Bank Insurance Fund", respectively;

(7) in subsection (i)—

(A) by inserting "depository" before "institution" each place such term appears;

(B) in paragraph (1)(C)—

(i) by striking out "corporation" and inserting in lieu thereof "Corporation";

(ii) by striking out "chartered bank" and inserting in lieu thereof "chartered depository institution";

(iii) by inserting ", a savings association," after "State member bank"; and

(iv) by inserting "or the Director of the Office of Thrift Supervision" after "Federal Reserve System";

(C) in paragraph (2), by striking out "or insured or guaranteed under State law"; and

(D) by striking out paragraphs (10) and (12); and

(8) by adding at the end thereof the following:

"(k) EMERGENCY ACQUISITIONS.—

"(1) IN GENERAL.—

"(A) ACQUISITIONS AUTHORIZED.—

"(i) TRANSACTIONS DESCRIBED.—Notwithstanding any provision of State law, upon determining that severe financial conditions threaten the stability of a significant number of savings associations, or of savings associations possessing significant financial resources, the Corporation, in its discretion and if it determines such authorization would lessen the risk to the Corporation, may authorize—

"(I) a savings association that is eligible for assistance pursuant to subsection (c) to merge or consolidate with, or to transfer its assets and liabilities to, any other savings association or any insured bank,

"(II) any other savings association to acquire control of such savings association, or

"(III) any company to acquire control of such savings association or to acquire the assets or assume the liabilities thereof.

The Corporation may not authorize any transaction under this subsection unless the Corporation determines that the authorization will not present a substantial risk to the safety or soundness of the savings association to be acquired or any acquiring entity.

"(ii) TERMS OF TRANSACTIONS.—Mergers, consolidations, transfers, and acquisitions under this subsection shall be on such terms as the Corporation shall provide.

"(iii) APPROVAL BY APPROPRIATE AGENCY.—Where otherwise required by law, transactions under this subsection must be approved by the appropriate Federal banking agency of every party thereto.

"(iv) ACQUISITIONS BY SAVINGS ASSOCIATIONS.—Any Federal savings association that acquires another savings association pursuant to clause (i) may, with the concurrence of the Director of the Office of Thrift Supervision, hold that savings association as a subsidiary notwithstanding the percentage limitations of section 5(c)(4)(B) of the Home Owners' Loan Act.

"(v) DUAL SERVICE.—Dual service by a management official that would otherwise be prohibited under the Depository Institution Management Interlocks Act may, with the approval of the Corporation, continue for up to 10 years.

"(vi) CONTINUED APPLICABILITY OF CERTAIN STATE RESTRICTIONS.—Nothing in this subsection overrides or supersedes State laws restricting or limiting the activities of a savings association on behalf of another entity.

"(B) CONSULTATION WITH STATE OFFICIAL.—

"(i) CONSULTATION REQUIRED.—Before making a determination to take any action under subparagraph (A), the Corporation shall consult the State official having jurisdiction of the acquired institution.

"(ii) PERIOD FOR STATE RESPONSE.—The official shall be given a reasonable opportunity, and in no event less than 48 hours, to object to the use of the provisions of this paragraph. Such notice may be provided by the Corporation prior to its appointment as receiver, but in anticipation of an impending appointment.

"(iii) APPROVAL OVER OBJECTION OF STATE OFFICIAL.—If the official objects during such period, the Corporation may use the authority of this paragraph only by a vote of 75 percent or more of the voting members of the Board of Directors. The Corporation shall provide to the official, as soon as practicable, a written certification of its determination.

"(2) SOLICITATION OF OFFERS.—

"(A) IN GENERAL.—In considering authorizations under this subsection, the Corporation may solicit such offers or proposals as are practicable from any prospective purchasers or merger partners it determines, in its sole discretion, are both qualified and capable of acquiring the assets and liabilities of the savings association.

"(B) MINORITY-CONTROLLED INSTITUTIONS.—In the case of a minority-controlled depository institution, the Corporation shall seek an offer from other minority-controlled depository institutions before seeking an offer from other persons or entities.

"(3) DETERMINATION OF COSTS.—In determining the cost of offers under this subsection, the Corporation's calculations and estimations shall be determinative. The Corporation may set reasonable time limits on offers.

"(4) BRANCHING PROVISIONS.—

"(A) IN GENERAL.—If a merger, consolidation, transfer, or acquisition under this subsection involves a savings association eligible for assistance and a bank or bank holding company, a savings association may retain and operate any existing branch or branches or any other existing facilities. If the savings association continues to exist as a separate entity, it may establish and operate new branches to the same extent as any savings association that is not affiliated with a bank holding company and the home office of which is located in the same State.

"(B) RESTRICTIONS.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), if—

"(I) a savings association described in such subparagraph does not have its home office in the State of the bank holding company bank subsidiary, and

"(II) such association does not qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986, or does not meet the asset composition test imposed by subparagraph (C) of that section on institutions seeking so to qualify,

such savings association shall be subject to the conditions upon which a bank may retain, operate, and establish branches in the State in which the Savings Association Insurance Fund member is located.

"(ii) TRANSITION PERIOD.—The Corporation, for good cause shown, may allow a savings association up to 2 years to comply with the requirements of clause (i).

"(5) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(A) ASSISTANCE PROPOSALS.—The Corporation shall consider proposals by Savings Association Insurance Fund members for assistance pursuant to subsection (c) before grounds exist for appointment of a conservator or receiver for such member under the following circumstances:

"(i) TROUBLED CONDITION CRITERIA.—The Corporation determines—

"(I) that grounds for appointment of a conservator or receiver exist or likely will exist in the future unless the member's tangible capital is increased;

"(II) that it is unlikely that the member can achieve positive tangible capital without assistance; and

"(III) that providing assistance pursuant to the member's proposal would be likely to lessen the risk to the Corporation.

"(ii) OTHER CRITERIA.—The member meets the following criteria:

"(I) Before enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the member was solvent under applicable regulatory accounting principles but had negative tangible capital.

"(II) The member's negative tangible capital position is substantially attributable to its participation in acquisition and merger transactions that were instituted by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation for supervisory reasons.

"(III) The member is a qualified thrift lender (as defined in section 10(m) of the Home Owners' Loan Act) or would be a qualified thrift lender if commercial real estate owned and nonperforming commercial loans acquired in acquisition and merger transactions that were instituted by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation for supervisory reasons were excluded from the member's total assets.

"(IV) The appropriate Federal banking agency has determined that the member's management is competent and has complied with applicable laws, rules, and supervisory directives and orders.

"(V) The member's management did not engage in insider dealing or speculative practices or other activities that jeopardized the member's safety and soundness or contributed to its impaired capital position.

"(VI) The member's offices are located in an economically depressed region.

"(B) CORPORATION CONSIDERATION OF ASSISTANCE PROPOSAL.—If a member meets the requirements of clauses (i) and (ii) of subparagraph (A), the Corporation shall consider providing direct financial assistance.

"(C) ECONOMICALLY DEPRESSED REGION DEFINED.—For purposes of this paragraph, the term 'economically depressed region' means any geographical region which the Corporation determines by regulation to be a region within which real estate values have suffered serious decline due to severe economic conditions, such as a decline in energy or agricultural values or prices.".

SEC. 218. FDIC BORROWING AUTHORITY.

Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended—

(1) by striking out "$3,000,000,000 outstanding at any one time" and inserting in lieu thereof "$5,000,000,000 outstanding at any one time, subject to the approval of the Secretary of the Treasury"; and

(2) by adding at the end the following: "The Corporation may employ such funds for purposes of the Bank Insurance Fund or the Savings Association Insurance Fund and the borrowing shall become a liability of each such fund to the extent funds are employed therefor. There are hereby appropri-

ated to the Secretary, for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to carry out this section."; and

(3) by striking out "the current average rate on outstanding marketable and nonmarketable obligations of the United States as of the last day of the month preceding the making of such loan" and inserting in lieu thereof the following: "an amount determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities".

SEC. 219. EXEMPTION FROM TAXATION; LIMITATION ON BORROWING.

Section 15 of the Federal Deposit Insurance Act (12 U.S.C. 1825) is amended—

(1) by inserting "(a) GENERAL RULE.—" before "All"; and

(2) by adding at the end the following new subsections:

"(b) OTHER EXEMPTIONS.—When acting as a receiver, the following provisions shall apply with respect to the Corporation:

"(1) The Corporation including its franchise, its capital, reserves, and surplus, and its income, shall be exempt from all taxation imposed by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed, except that, notwithstanding the failure of any person to challenge an assessment under State law of such property's value, such value, and the tax thereon, shall be determined as of the period for which such tax is imposed.

"(2) No property of the Corporation shall be subject to levy, attachment, garnishment, foreclosure, or sale without the consent of the Corporation, nor shall any involuntary lien attach to the property of the Corporation.

"(3) The Corporation shall not be liable for any amounts in the nature of penalties or fines, including those arising from the failure of any person to pay any real property, personal property, probate, or recording tax or any recording or filing fees when due. This subsection shall not apply with respect to any tax imposed (or other amount arising) under the Internal Revenue Code of 1986.

"(c) LIMITATION ON BORROWING.—

"(1) COST ESTIMATE FOR OUTSTANDING OBLIGATIONS LIABILITIES.—As soon as practicable after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Corporation shall estimate the aggregate cost to the Corporation for all outstanding obligations and guarantees of the Corporation which were issued, and all outstanding liabilities which were incurred, by the Corporation before such date.

"(2) ESTIMATE OF NOTES AND OTHER OBLIGATIONS REQUIRED.—Before issuing an obligation or making a guarantee, the Corporation shall estimate the cost of such obligations or guarantees.

"(3) INCLUSION OF ESTIMATES IN FINANCIAL STATEMENTS.—The Corporation shall—

"(A) reflect in its financial statements the estimates made by the Corporation under paragraphs (1) and (2) of the aggregate amount of the costs to the Corporation for outstanding obligations and other liabilities, and

"(B) make such adjustments as are appropriate in the estimate of such aggregate amount not less frequently than quarterly.

"(4) ESTIMATE OF OTHER ASSETS REQUIRED.—The Corporation shall—

"(A) estimate the market value of assets held by it as a result of case resolution activities, with a reduction for expenses expected to be incurred by the Corporation in connection with the management and sale of such assets;

"(B) reflect the amounts so estimated in its financial statements; and

"(C) make such adjustments as are appropriate of such market value not less than quarterly.

"(5) MINIMUM NET WORTH REQUIRED.—The Corporation may not issue any note or similar obligation, and may not incur any liability under a guarantee or similar obligation, with respect to either the Bank Insurance Fund or the Savings Association Insurance Fund if, after reduction for the estimated cost of the obligation or guarantee, the net worth of the affected insurance fund would be less than 10 percent of assets.

"(6) EXCEPTION.—With the prior approval of the Secretary of the Treasury, the Corporation may issue or incur up to $5,000,000,000 in the aggregate of additional liabilities in excess of the limitations of paragraph (5). The amount which the Corporation may borrow from the Treasury under section 14 of this Act shall be reduced by the amount of additional liabilities issued or incurred under this paragraph.

"(7) NET WORTH AND ASSET VALUATION.—For the purpose of paragraph (5)—

"(A) the assets of the Bank Insurance Fund or the Savings Association Insurance Fund shall be calculated based on the most recent audit of such Fund by the Comptroller General of the United States, subject to any adjustments described in paragraph (3) or (4) and taking into account any subsequent transactions; and

"(B) the net worth of the Bank Insurance Fund or the Savings Association Insurance Fund shall be calculated based on the most recent audit of such Fund by the Comptroller General of the United States, subject to any adjustments described in paragraphs (3) and (4) and taking into account any subsequent transactions.

"(d) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of any obligation issued after the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 by the Corporation, with respect to both principal and interest, if—

"(1) the principal amount of such obligation is stated in the obligation; and

"(2) the term to maturity or the date of maturity of such obligation is stated in the obligation.".

SEC. 220. REPORTS.

(a) IN GENERAL.—Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended—

(1) by striking out subsection (a) and inserting the following:

"(a) ANNUAL REPORTS ON BIF, SAIF, AND THE FSLIC RESOLUTION FUND.—

"(1) IN GENERAL.—The Corporation shall annually submit a full report of its operations, activities, budget, receipts, and expenditures for the preceding 12-month period. The report shall include, with respect to the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund, an analysis by the Corporation of—

"(A) the current financial condition of each such fund;

"(B) the purpose, effect, and estimated cost of each resolution action taken for an insured depository institution during the preceding year;

"(C) the extent to which the actual costs of assistance provided to, or for the benefit of, an insured depository institution during the preceding year exceeded the estimated costs of such assistance reported in a previous year under paragraph (A);

"(D) the exposure of each insurance fund to changes in those economic factors most likely to affect the condition of that fund;

"(E) a current estimate of the resources needed for the Bank Insurance Fund, the Savings Association Insurance Fund, or the FSLIC Resolution Fund to achieve the purposes of this Act; and

"(F) any findings, conclusions, and recommendations for legislative and administrative actions considered appropriate to future resolution activities by the Corporation.

"(2) MANNER OF SUBMISSION.—Such report shall be submitted to the President of the Senate and the Speaker of the House of Representatives, who shall cause the same to be printed for the information of Congress, and the President as soon as practicable after the first day of January each year.";

(2) by redesignating subsections (b), (c), and (d) as (e), (f), and (g), respectively; and

(3) by inserting after subsection (a) the following new subsections:

"(b) QUARTERLY REPORTS TO TREASURY.—

"(1) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal quarter, the Corporation shall provide to the Secretary of the Treasury a copy of the Corporation's financial operating plans and forecasts.

"(2) FINANCIAL CONDITION AND REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal quarter, the Corporation shall submit to the Secretary of the Treasury a copy of the report of the Corporation's financial condition as of the end of such fiscal quarter and the results of the Corporation's operations during such fiscal quarter.

"(3) ITEMS TO BE INCLUDED.—The plans, forecasts, and reports required under this subsection shall reflect the estimates required to be made under section 15(b) of the liabilities and obligations of the Corporation described in such section.

"(4) RULE OF CONSTRUCTION.—The requirement to provide plans, forecasts, and reports to the Secretary of the Treasury under this subsection may not be construed as implying any obligation on the part of the Corporation to obtain the consent or approval of such Secretary with respect to such plans, forecasts, and reports.

"(c) REPORTS TO OMB.—

"(1) FINANCIAL INFORMATION.—The Corporation shall continue to provide to the Director of the Office of Management and Budget financial information consistent with that contained in the reports that were being provided to the Director immediately prior to the effective date of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(2) FINANCIAL OPERATING PLANS AND FORECASTS.—The Corporation shall also provide to the Director copies of the Corporation's financial operating plans and forecasts as prepared by the Corporation in the ordinary course of its operations, and copies of the quarterly reports of the Corporation's financial condition and results of operations as prepared by the Corporation in the ordinary course of its operations.

"(3) RULE OF CONSTRUCTION.—This subsection may not be construed as implying any obligation on the part of the Corporation to

consult with or obtain the consent or approval of the Director with respect to any reports, plans, forecasts, or other information referred to in paragraph (1) or (2) or any jurisdiction or oversight over the affairs or operations of the Corporation.

"(d) AUDIT.—

"(1) AUDIT REQUIRED.—The Comptroller General shall audit annually the financial transactions of the Corporation, the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund in accordance with generally accepted government auditing standards.

"(2) ACCESS TO BOOKS AND RECORDS.—All books, records, accounts, reports, files, and property belonging to or used by the Corporation, the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund, or by an independent certified public accountant retained to audit the Fund's financial statements, shall be made available to the Comptroller General.".

(b) SPECIFIC REPORTS.—

(1) RISK-BASED ASSESSMENTS.—

(A) REPORT REQUIRED.—The Federal Deposit Insurance Corporation shall study the establishment of premium assessment categories related to types of risk to the insurance funds and shall report its recommendations to the Congress not later than January 1, 1991. If the Corporation should recommend the establishment of such a risk-based assessment plan, it shall also provide a timetable and plan for implementation.

(B) CONGRESSIONAL RESPONSE.—Not later than 180 days after receipt by the Congress of the report required under subparagraph (A) and the accompanying plan and timetable, the Congress shall make a recommendation to the Chairperson of the Board of Directors regarding the disposition of such plan and timetable.

(2) STUDY OF DEPOSIT INSURANCE PASS-THROUGH.—Not later than 6 months after the date of enactment of this Act, the Federal Deposit Insurance Corporation shall transmit to the Congress a report containing its findings and recommendations relating to the pass-through of deposit insurance either to individual investors in unit investment trust funds or to individual participants in pension or to profit sharing plans qualified under section 401 of the Internal Revenue Code of 1986. Such report shall also contain the Corporation's assessment of the potential effects of broadening deposit insurance coverage on the safety of the insurance funds and the operation of capital markets.

(3) REPORT ON DIRECTORS' AND OFFICERS' LIABILITY INSURANCE.—

(A) STUDY.—The Federal Deposit Insurance Corporation shall, together with the Secretary of the Treasury and the Attorney General, conduct a comprehensive study of directors' and officers' liability insurance and depository institution bonds, and the availability of such insurance for directors and officers of insured depository institutions. The study shall include—

(i) consideration of State laws limiting liability for directors and officers;

(ii) the effect of contractual provisions limiting insurance coverage when an institution is placed in receivership or conservatorship;

(iii) provisions limiting coverage when a claim is made by the Federal Deposit Insurance Corporation; and

(iv) provisions limiting claims made by one insured against another insured.

In addition, the study shall consider the need for such insurance or bonds and the effect any change in any of the above noted conditions or terms may have on the future availability of such insurance, and the ability of depository institutions to attract qualified officers and directors.

(B) REPORT.—Not later than 6 months after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Federal Deposit Insurance Corporation, together with the Secretary of the Treasury and the Attorney General, shall report the findings from the study under subparagraph (A) to the Congress, together with legislative recommendations, if appropriate.

SEC. 221. REGULATIONS GOVERNING INSURED DEPOSITORY INSTITUTIONS.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(1) by striking out "(a)" and the 1st 2 sentences of subsection (a) and inserting the following:

"(a) INSURANCE LOGO.—

"(1) INSURED SAVINGS ASSOCIATIONS.—Each insured savings association shall display at each place of business maintained by such association a sign containing only the following items:

"(A) A statement that insured deposits are backed by the full faith and credit of the United States Government.

"(B) A statement that deposits are federally insured to $100,000.

"(C) The symbol of an eagle.

The sign shall not contain any reference to a Government agency and shall accord each item substantially equal prominence.

"(2) INSURED BANKS.—Not later than 30 days after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, each insured bank shall display at each place of business maintained by such bank one of the following:

"(A) The sign required to be displayed by insured banks under regulations prescribed by the Corporation in effect on January 1, 1989.

"(B) The sign prescribed under paragraph (1).

"(3) REGULATIONS.—The Corporation shall prescribe regulations to carry out the purposes of this subsection, including regulations governing the manner of display or use of such signs, except that the size of the sign prescribed under paragraph (1) shall be similar to that prescribed under paragraph (2)(A). Initial regulations under this subsection shall be prescribed on the date of enactment of the Financial Institutions Recovery, Reform, and Enforcement Act of 1989.";

(2) in subsection (c)—

(A) in paragraph (2), by striking out subparagraph (C) and inserting the following:

"(C) the Corporation if the acquiring, assuming, or resulting bank is to be a State nonmember insured bank (except a District bank or a savings bank supervised by the Director of the Office of Thrift Supervision); and

"(D) the Director of the Office of Thrift Supervision if the acquiring, assuming, or resulting institution is to be a savings association.";

(B) by striking out paragraph (12);

(C) in paragraphs (3), (4), (6), (7), and (9), by inserting after the word "bank" or "banks" each time it appears, the words "or savings association" or "or savings associations", respectively; and

(D) in paragraph (3), by striking out "failure" and inserting in lieu thereof "default";

(3) in subsection (i)(2)—

(A) by striking out "insured bank" and inserting in lieu thereof "insured Federal depository institution";

(B) by striking out "insured State bank" and inserting in lieu thereof "insured State depository institution";

(C) by striking out the period at the end of subpargraph (C) and inserting in lieu thereof "; and"; and

(D) by inserting after subparagraph (C) the following new subparagraph:

"(D) the Director of the Office of Thrift Supervision if the resulting institution is to be an insured State savings association.";

(C) in paragraph (4)(D), by inserting "and fitness" after "character"; and

(D) by striking out paragraph (5); and

(4) by adding at the end the following:

"(m) ACTIVITIES OF SAVINGS ASSOCIATIONS AND THEIR SUBSIDIARIES.—

"(1) PROCEDURES.—When an insured savings association establishes or acquires a subsidiary or when an insured savings association elects to conduct any new activity through a subsidiary that the insured savings association controls, the insured savings association—

"(A) shall notify the Corporation and the Director of the Office of Thrift Supervision not less than 30 days prior to the establishment, or acquisition, of any such subsidiary, and not less than 30 days prior to the commencement of any such activity, and in either case shall provide at that time such information as each such agency may, by regulation, require; and

"(B) shall conduct the activities of the subsidiary in accordance with regulations and orders of the Director of the Office of Thrift Supervision.

"(2) ENFORCEMENT POWERS.—With respect to any subsidiary of an insured savings association:

"(A) the Corporation and the Director of the Office of Thrift Supervision shall each have, with respect to such subsidiary, the respective powers that each has with respect to the insured savings association pursuant to this section or section 8; and

"(B) the Director of the Office of Thrift Supervision may determine, after notice and opportunity for hearing, that the continuation by the insured savings association of its ownership or control of, or its relationship to, the subsidiary—

"(i) constitutes a serious risk to the safety, soundness, or stability of the insured savings association, or

"(ii) is inconsistent with sound banking principles or with the purposes of this Act.

Upon making any such determination, the Corporation or the Director of the Office of Thrift Supervision shall have authority to order the insured savings association to divest itself of control of the subsidiary. The Director of the Office of Thrift Supervision may take any other corrective measures with respect to the subsidiary, including the authority to require the subsidiary to terminate the activities or operations posing such risks, as the Director may deem appropriate.

"(3) ACTIVITIES INCOMPATIBLE WITH DEPOSIT INSURANCE.—

"(A) IN GENERAL.—The Corporation may determine by regulation or order that any specific activity poses a serious threat to the Savings Association Insurance Fund. Prior to adopting any such regulation, the Corporation shall consult with the Director of the Office of Thrift Supervision and shall provide appropriate State supervisors the opportunity to comment thereon, and the Corporation shall specifically take such comments into consideration. Any such regulation shall be issued in accordance with section 553 of title 5, United States Code. If the

Board of Directors makes such a determination with respect to an activity, the Corporation shall have authority to order that no Savings Association Insurance Fund member may engage in the activity directly.

"(B) AUTHORITY OF DIRECTOR.—This section does not limit the authority of the Office of Thrift Supervision to issue regulations to promote safety and soundness or to enforce compliance with other applicable laws.

"(C) ADDITIONAL AUTHORITY OF FDIC TO PREVENT SERIOUS RISKS TO INSURANCE FUND.—Notwithstanding subparagraph (A), the Corporation may prescribe and enforce such regulations and issue such orders as the Corporation determines to be necessary to prevent actions or practices of savings associations that pose a serious threat to the Savings Association Insurance Fund or the Bank Insurance Fund.

"(4) 'SUBSIDIARY' DEFINED.—As used in this subsection, the term 'subsidiary' does not include an insured depository institution.

"(5) APPLICABILITY TO CERTAIN SAVINGS BANKS.—Subparagraphs (A) and (B) of paragraph (1) of this subsection do not apply to—

"(A) any Federal savings bank that was chartered prior to October 15, 1982, as a savings bank under State law, or

"(B) a savings association that acquired its principal assets from an institution that was chartered prior to October 15, 1982, as a savings bank under State law.

"(n) CALCULATION OF CAPITAL.—No appropriate Federal banking agency shall allow any insured depository institution to include an unidentifiable intangible asset in its calculation of compliance with the appropriate capital standard, if such unidentifiable intangible asset was acquired after April 12, 1989, except to the extent permitted under section 5(t) of the Home Owners' Loan Act.".

SEC. 222. ACTIVITIES OF SAVINGS ASSOCIATIONS.

The Federal Deposit Insurance Act is amended by adding at the end the following new section:

"SEC. 28. ACTIVITIES OF SAVINGS ASSOCIATIONS.

"(a) IN GENERAL.—On and after January 1, 1990, a savings association chartered under State law may not engage as principal in any type of activity, or in any activity in an amount, that is not permissible for a Federal savings association unless—

"(1) the Corporation has determined that the activity would pose no significant risk to the affected deposit insurance fund; and

"(2) the savings association is and continues to be in compliance with the fully phased-in capital standards prescribed under section 5(t) of the Home Owners' Loan Act.

"(b) DIFFERENCES OF MAGNITUDE BETWEEN STATE AND FEDERAL POWERS.—Notwithstanding subsection (a)(1), if an activity (other than an activity described in section 5(c)(2)(B) of the Home Owners' Loan Act) is permissible for a Federal savings association, a savings association chartered under State law may engage as principal in that activity in an amount greater than the amount permissible for a Federal savings association if—

"(1) the Corporation has not determined that engaging in that amount of the activity poses any significant risk to the affected deposit insurance fund; and

"(2) the savings association chartered under State law is and continues to be in compliance with the fully phased-in capital standards prescribed under section 5(t) of the Home Owners' Loan Act.

"(c) EQUITY INVESTMENTS BY STATE SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—Notwithstanding subsections (a) and (b), a savings association chartered under State law may not directly acquire or retain any equity investment of a type or in an amount that is not permissible for a Federal savings association.

"(2) EXCEPTION FOR SERVICE CORPORATIONS.—Paragraph (1) does not prohibit a savings association from acquiring or retaining shares of one or more service corporations if—

"(A) the Corporation has determined that no significant risk to the affected deposit insurance fund is posed by—

"(i) the amount that the association proposes to invest in those shares (or, in the case of shares held on May 1, 1989, the amount that the association has invested in those shares), or

"(ii) the activities in which the service corporation engages; and

"(B) the savings association is and continues to be in compliance with the fully phased-in capital standards prescribed under section 5(t) of the Home Owners' Loan Act.

"(3) TRANSITION RULE.—

"(A) IN GENERAL.—The Corporation shall require any savings association to divest any equity investment the retention of which is not permissible under paragraph (1) or (2) as quickly as can be prudently done, and in any event not later than July 1, 1994.

"(B) TREATMENT OF NONCOMPLIANCE DURING DIVESTMENT.—With respect to any equity investment held by any savings association on May 1, 1989, the savings association shall be deemed not to be in violation of the prohibition in paragraph (1) or (2) on retaining such investment so long as the savings association complies with any applicable requirement established by the Corporation pursuant to subparagraph (A) for divesting such investments.

"(d) CORPORATE DEBT SECURITIES NOT OF INVESTMENT GRADE.—

"(1) IN GENERAL.—No savings association may, directly or through a subsidiary, acquire or retain any corporate debt security not of investment grade.

"(2) EXCEPTION FOR SECURITIES HELD BY QUALIFIED AFFILIATE.—Paragraph (1) shall not apply with respect to any corporate debt security not of investment grade which is acquired and retained by any qualified affiliate of a savings association.

"(3) TRANSITION RULE.—

"(A) IN GENERAL.—The Corporation shall require any savings association or any subsidiary of any savings association to divest any corporate debt security not of investment grade the retention of which is not permissible under paragraph (1) as quickly as can be prudently done, and in any event not later than July 1, 1994.

"(B) TREATMENT OF NONCOMPLIANCE DURING DIVESTMENT.—With respect to any corporate debt security not of investment grade held by any savings association or subsidiary on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the savings association or subsidiary shall be deemed not to be in violation of the prohibition in paragraph (1) on retaining such investment so long as the association or subsidiary complies with any applicable requirement established by the Corporation pursuant to subparagraph (A) for divesting such securities.

"(4) DEFINITIONS.—For purposes of this section—

"(A) INVESTMENT GRADE.—Any corporate debt security is not of 'investment grade' unless that security, when acquired by the savings association or subsidiary, was rated in one of the 4 highest rating categories by at least one nationally recognized statistical rating organization.

"(B) QUALIFIED AFFILIATE.—The term 'qualified affiliate' means—

"(i) in the case of a stock savings association, an affiliate other than a subsidiary or an insured depository institution; and

"(ii) in the case of a mutual savings association, a subsidiary other than an insured depository institution, so long as all of the savings association's investments in and extensions of credit to the subsidiary are deducted from the savings association's capital.

"(C) CERTAIN SECURITIES NOT INCLUDED.—The term 'corporate debt security not of investment grade' does not include any obligation issued or guaranteed by a corporation that may be held by a Federal savings association without limitation as to percentage of assets under subparagraphs (D), (E), or (F) of section 5(c)(1) of the Home Owners' Loan Act.

"(e) TRANSFER OF CORPORATE DEBT SECURITY NOT OF INVESTMENT GRADE IN EXCHANGE FOR A QUALIFIED NOTE.—

"(1) ACQUISITION OF NOTE.—Notwithstanding subsections (a), (b), and (c) of section 5 of the Home Owners' Loan Act and any other provision of Federal or State law governing extensions of credit by savings associations, any insured savings association, and any subsidiary of any insured savings association, that, on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, holds any corporate debt security not of investment grade may acquire a qualified note in exchange for the transfer of such security to—

"(A) any holding company which controls 80 percent or more of the shares of such insured savings association; or

"(B) any company other than an insured savings association, or any subsidiary of any insured savings association, 80 percent or more of the shares of which are controlled by such holding company,

if the conditions of paragraph (2) are met.

"(2) CONDITIONS FOR EXCHANGE OF SECURITY FOR QUALIFIED NOTE.—The conditions of this paragraph are met if—

"(A) the insured savings association was in compliance with applicable capital requirements on December 31, 1988, and the insured savings association after such date—

"(i) remains in compliance with applicable capital requirements; or

"(ii) adopts and complies with a capital plan acceptable to the Director of the Office of Thrift Supervision;

"(B) the company to which the corporate debt security not of investment grade is transferred is not a bank holding company, an insured savings association, or a direct or indirect subsidiary of such holding company or insured savings association;

"(C) before the end of the 90-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the insured savings association notifies the Director of the Office of Thrift Supervision of such association's intention to transfer the corporate debt security not of investment grade to the savings and loan holding company or the subsidiary of such holding company;

"(D) the transfer of the corporate debt security not of investment grade is completed—

"(i) before the end of the 1-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, in the case of an insured savings association that, as of such date, is controlled by a savings and loan holding company; or

"(ii) before the end of the 2-year period beginning on such date, in the case of a savings association that is not, as of such date, a subsidiary of a savings and loan holding company;

"(E) the insured savings association receives in exchange for the corporate debt security not of investment grade the fair market value of such security;

"(F) the Director of the Office of Thrift Supervision has—

"(i) approved the transaction; and

"(ii) determined that the transfer represents a complete and effective divestiture of the corporate debt security not of investment grade and is in compliance with the provisions of this subsection; and

"(G) any gain on the sale of the corporate debt security not of investment grade is recognized, and included for applicable regulatory capital requirements, by the insured savings association only at such time and to the extent that the insured savings association receives payment of principal on the note in cash in excess of the fair market value of the transferred corporate debt security not of investment grade as carried on the accounts of the insured savings association immediately prior to the transfer.

"(3) QUALIFIED NOTE DEFINED.—The term 'qualified note' means any note that—

"(A) is at all times fully secured by the corporate debt security not of investment grade transferred in exchange for the note, or by other collateral of at least equivalent value that is acceptable to the Director of the Office of Thrift Supervision;

"(B) contains provisions acceptable to the Director of the Office of Thrift Supervision that would—

"(i) prevent any action to encumber or impair the value of the collateral referred to in subparagraph (A); and

"(ii) allow the sale of the corporate debt security not of investment grade if the proceeds of the sale are reinvested in assets of equivalent value;

"(C) is on market terms, including interest rate, which must in all cases be above the insured savings association's borrowing rate for similar term funds;

"(D) is fully repayable over a period of time not to exceed 5 years from the date of transfer;

"(E) is repaid with annual principal payments at least as large as would be necessary to repay the note within 5 years if it were on a level payment amortization schedule and the interest rate for the first year of repayment were fixed throughout the amortization period;

"(F) is fully guaranteed by each holding company of the insured savings association that acquires such note; and

"(G) is repaid in full in cash in accordance with its terms and this subsection.

"(4) FAILURE TO REPAY ON SCHEDULE.—The exemption provided by this subsection from subsections (a), (b), and (c) of section 11 of the Home Owners' Loan Act any other applicable provision of Federal or State law shall terminate immediately if the insured savings association or any affiliate of such association fails to comply with the terms of the qualified note or this subsection.

"(f) DETERMINATIONS.—The Corporation shall make determinations under this section by regulation or order.

"(g) ACTIVITY DEFINED.—For purposes of subsections (a) and (b)—

"(1) IN GENERAL.—The term 'activity' includes acquiring or retaining any investment.

"(2) DIVESTITURE OF CERTAIN ASSETS.— Notwithstanding paragraph (1), subsections (a) and (b) shall not be construed to require a savings association to divest itself of any assets acquired before the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(h) DISCLOSURES BY UNINSURED SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—Any savings association the deposits of which are not insured by the Corporation under this Act shall disclose clearly and conspicuously in periodic statements of account and in all advertising that the savings association's deposits are 'not federally insured'.

"(2) MANNER AND CONTENT.—The Corporation may, by regulation or order, prescribe the manner and content of the disclosure.

"(3) ENFORCEMENT.—Compliance with the requirements of this subsection, and any regulation prescribed or order issued under this subsection, shall be enforced under section 8 in the same manner and to the same extent as if the savings association were an insured State nonmember bank.

"(i) OTHER AUTHORITY NOT AFFECTED.—This section may not be construed as limiting—

"(1) any other authority of the Corporation; or

"(2) any authority of the Director of the Office of Thrift Supervision or of a State to impose more stringent restrictions.".

SEC. 223. NONDISCRIMINATION.

Section 22 of the Federal Deposit Insurance Act (12 U.S.C. 1830) is amended to read as follows:

"SEC. 22. NONDISCRIMINATION.

"It is not the purpose of this Act to discriminate in any manner against State nonmember banks or State savings associations and in favor of national or member banks or Federal savings associations, respectively. It is the purpose of this Act to provide all banks and savings associations with the same opportunity to obtain and enjoy the benefits of this Act.".

SEC. 224. BROKERED DEPOSITS.

(a) IN GENERAL.—The Federal Deposit Insurance Act is amended by inserting after section 28 (as added by section 222 of this title) the following new section:

"SEC. 29. BROKERED DEPOSITS.

"(a) IN GENERAL.—A troubled institution may not accept funds obtained, directly or indirectly, by or through any deposit broker for deposit into 1 or more deposit accounts.

"(b) RENEWALS AND ROLLOVERS TREATED AS ACCEPTANCE OF FUNDS.—Any renewal of an account in any troubled institution and any rollover of any amount on deposit in any such account shall be treated as an acceptance of funds by such troubled institution for purposes of subsection (a).

"(c) WAIVER AUTHORITY.—The Corporation may, on a case-by-case basis and upon application by an insured depository institution, waive the applicability of subsection (a) upon a finding that the acceptance of such deposits does not constitute an unsafe or unsound practice with respect to such institution.

"(d) LIMITED EXCEPTION FOR CERTAIN CONSERVATORSHIPS.—In the case of any insured depository institution for which the Corporation has been appointed as conservator, subsection (a) shall not apply to the acceptance of deposits (described in such subsection) by such institution if the Corporation determines that the acceptance of such deposits—

"(1) is not an unsafe or unsound practice; and

"(2) either—

"(A) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; or

"(B) is consistent with the conservator's fiduciary duty to minimize the losses of the institution.

"(e) ADDITIONAL RESTRICTIONS.—The Corporation may impose, by regulation or order, such additional restrictions on the acceptance of brokered deposits by any troubled institution as the Corporation may determine to be appropriate.

"(f) DEFINITIONS RELATING TO DEPOSIT BROKER.—

"(1) DEPOSIT BROKER.—The term 'deposit broker' means—

"(A) any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions or the business of placing deposits with insured depository institutions for the purpose of selling interests in those deposits to third parties; and

"(B) an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan.

"(2) EXCLUSIONS.—The term 'deposit broker' does not include—

"(A) an insured depository institution, with respect to funds placed with that depository institution;

"(B) an employee of an insured depository institution, with respect to funds placed with the employing depository institution;

"(C) a trust department of an insured depository institution, if the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

"(D) the trustee of a pension or other employee benefit plan, with respect to funds of the plan;

"(E) a person acting as a plan administrator or an investment adviser in connection with a pension plan or other employee benefit plan provided that that person is performing managerial functions with respect to the plan;

"(F) the trustee of a testamentary account;

"(G) the trustee of an irrevocable trust (other than one described in paragraph (1)(B)), as long as the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

"(H) a trustee or custodian of a pension or profitsharing plan qualified under section 401(d) or 403(a) of the Internal Revenue Code of 1986; or

"(I) an agent or nominee whose primary purpose is not the placement of funds with depository institutions.

"(3) INCLUSION OF DEPOSITORY INSTITUTIONS ENGAGING IN CERTAIN ACTIVITIES.—Notwithstanding paragraph (2), the term 'deposit broker' includes any insured depository institution, and any employee of any insured depository institution, which engages, directly or indirectly, in the solicitation of deposits by offering rates of interest (with respect to such deposits) which are significantly higher than the prevailing rates of in-

terest on deposits offered by other insured depository institutions having the same type of charter in such depository institution's normal market area.

"(4) EMPLOYEE.—For purposes of this subsection, the term 'employee' means any employee—

"(A) who is employed exclusively by the insured depository institution;

"(B) whose compensation is primarily in the form of a salary;

"(C) who does not share such employee's compensation with a deposit broker; and

"(D) whose office space or place of business is used exclusively for the benefit of the insured depository institution which employs such individual.

"(g) TROUBLED INSTITUTION DEFINED.—The term 'troubled institution' means any insured depository institution which does not meet the minimum capital requirements applicable with respect to such institution.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to deposits accepted after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 225. CONTRACTS BETWEEN DEPOSITORY INSTITUTIONS AND PERSONS PROVIDING GOODS, PRODUCTS, OR SERVICES.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 29 (as added by section 224 of this title) the following new section:

"SEC. 30. CONTRACTS BETWEEN DEPOSITORY INSTITUTIONS AND PERSONS PROVIDING GOODS, PRODUCTS, OR SERVICES.

"(a) IN GENERAL.—An insured depository institution may not enter into a written or oral contract with any person to provide goods, products, or services to or for the benefit of such depository institution if the performance of such contract would adversely affect the safety or soundness of the institution.

"(b) RULEMAKING.—The Corporation shall prescribe such regulations and issue such orders, including definitions consistent with this section, as may be necessary to administer and carry out the purposes of, and prevent evasions of, this section.

"(c) ENFORCEMENT.—Any action taken by any appropriate Federal banking agency under section 8 to enforce compliance on the part of any insured depository institution with the requirements of this section may include a requirement that such institution properly reflect the transaction on its books and records.

"(d) NO PRIVATE RIGHT OF ACTION.—This section may not be construed as creating any private right of action.

"(e) STUDY.—

"(1) IN GENERAL.—The Attorney General and the Comptroller General of the United States shall jointly conduct a study on the extent to which—

"(A) insured depository institutions are entering into contracts with venders under which venders agree to purchase stock or assets from insured depository institutions or to invest capital in or make deposits in such institutions; and

"(B) if such practices occur, the extent to which such practices are having an anticompetitive effect and should be prohibited.

"(2) REPORT TO CONGRESS.—Before the end of the 1-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Attorney General and the Comptroller General shall submit a report to the Congress on the results of the study conducted pursuant to paragraph (1).".

SEC. 226. SAVINGS ASSOCIATION INSURANCE FUND INDUSTRY ADVISORY COMMITTEE ESTABLISHED.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 30 (as added by section 225 of this title) the following new section:

"SEC. 31. SAVINGS ASSOCIATION INSURANCE FUND INDUSTRY ADVISORY COMMITTEE.

"(a) ESTABLISHMENT.—There is hereby established the Savings Association Insurance Fund Industry Advisory Committee (hereinafter referred to in this section as the "Committee").

"(b) MEMBERSHIP.—The Committee shall consist of 18 members, appointed as follows:

"(1) 1 member elected from each Federal home loan bank district (by the members of the Board of Directors of each such bank who were elected by the members of such bank) from among individuals residing therein who are officers of insured depository institutions that are Savings Association Insurance Fund members.

"(2) 6 members appointed by the Corporation from among individuals who shall represent the public interest.

"(c) VACANCIES.—Any vacancy on the Committee shall be filled in the same manner in which the original appointment was made.

"(d) PAY AND EXPENSES.—Members of the Committee shall serve without pay, but each member shall be reimbursed, in such manner as the Corporation shall prescribe by regulation, for expenses incurred in connection with attendance of such members at meetings of the Committee.

"(e) TERMS.—Members shall be appointed or elected for terms of 1 year.

"(f) AUTHORITY OF THE COMMITTEE.—The Committee may select its Chairperson, Vice Chairperson, and Secretary, and adopt methods of procedure, and shall have power—

"(1) to confer with the Board of Directors on general and special business conditions and regulatory and other matters affecting insured financial institutions that are members of the Savings Association Insurance Fund; and

"(2) to request information, and to make recommendations, with respect to matters within the jurisdiction of the Corporation.

"(g) MEETINGS.—The Committee shall meet 4 times each year, and more frequently if requested by the Corporation.

"(h) REPORTS.—The Committee shall submit a semiannual written report to the Committee on Banking, Finance and Urban Affairs of the House and to the Committee on Banking, Housing, and Urban Affairs of the Senate. Such report shall describe the activities of the Committee for such semiannual period and contain such recommendations as the Committee considers appropriate.

"(i) PROVISION OF STAFF AND OTHER RESOURCES.—The Corporation shall provide the Committee with the use of such resources, including staff, as the Committee reasonably shall require to carry out its duties, including the preparation and submission of reports to Congress, under this section.

"(j) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply to the Committee.

"(k) SUNSET.—The Committee shall cease to exist 10 years after the enactment of this section.".

TITLE III—SAVINGS ASSOCIATIONS

SEC. 301. AMENDMENT TO HOME OWNERS' LOAN ACT OF 1933.

The Home Owners' Loan Act of 1933 is amended to read as follows:

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

"This Act may be cited as the 'Home Owners' Loan Act'.

"TABLE OF CONTENTS

"Sec. 1. Short title and table of contents.
"Sec. 2. Definitions.
"Sec. 3. Director of the Office of Thrift Supervision.
"Sec. 4. Supervision of savings associations.
"Sec. 5. Federal savings associations.
"Sec. 6. Liquid asset requirements.
"Sec. 7. Applicability.
"Sec. 8. District associations.
"Sec. 9. Examination fees.
"Sec. 10. Regulation of holding companies.
"Sec. 11. Transactions with affiliates; extensions of credit to executive officers, directors, and principal shareholders.
"Sec. 12. Advertising.
"Sec. 13. Powers of examiners.
"Sec. 14. Separability provision.

"SEC. 2. DEFINITIONS.

"For purposes of this Act—

"(1) DIRECTOR.—The term 'Director' means the Director of the Office of Thrift Supervision.

"(2) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation.

"(3) OFFICE.—The term 'Office' means the Office of Thrift Supervision.

"(4) SAVINGS ASSOCIATION.—The term 'savings association' means a savings association, as defined in section 3 of the Federal Deposit Insurance Act, the deposits of which are insured by the Corporation.

"(5) FEDERAL SAVINGS ASSOCIATION.—The term 'Federal savings association' means a Federal savings association or a Federal savings bank chartered under section 5 of this Act.

"(6) NATIONAL BANK.—The term 'national bank' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(7) FEDERAL BANKING AGENCIES.—The term 'Federal banking agencies' means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

"(8) STATE.—The term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(9) AFFILIATE.—The term 'affiliate' means any person that controls, is controlled by, or is under common control with, a savings association, except as provided in section 10.

"SEC. 3. DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

"(a) ESTABLISHMENT OF OFFICE.—There is established the Office of Thrift Supervision, which shall be an office in the Department of the Treasury.

"(b) ESTABLISHMENT OF POSITION OF DIRECTOR.—

"(1) IN GENERAL.—There is established the position of the Director of the Office of Thrift Supervision, who shall be the head of the Office of Thrift Supervision and shall be subject to the general oversight of the Secretary of the Treasury.

"(2) AUTHORITY TO PRESCRIBE REGULATIONS.—The Director may prescribe such regulations and issue such orders as the Director may determine to be necessary for carrying out this Act and all other laws within the Director's jurisdiction.

"(3) AUTONOMY OF DIRECTOR.—The Secretary of the Treasury may not intervene in any matter or proceeding before the Director unless otherwise provided by law.

"(c) APPOINTMENT; TERM.—

"(1) APPOINTMENT.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

"(2) TERM.—The Director shall be appointed for a term of 5 years.

"(3) VACANCY.—A vacancy in the position of Director which occurs before the expiration of the term for which a Director was appointed shall be filled in the manner established in paragraph (1) and the Director appointed to fill such vacancy shall be appointed only for the remainder of such term.

"(4) SERVICE AFTER END OF TERM.—An individual may serve as Director after the expiration of the term for which appointed until a successor Director has been appointed.

"(5) TRANSITIONAL PROVISION.—Notwithstanding paragraphs (1) and (2), the Chairman of the Federal Home Loan Bank Board on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, shall be the Director until the date on which that individual's term as Chairman of the Federal Home Loan Bank Board would have expired.

"(d) PROHIBITION ON FINANCIAL INTERESTS.—The Director shall not have a direct or indirect financial interest in any insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act.

"(e) POWERS OF THE DIRECTOR.—The Director shall have all powers which—

"(1) were vested in the Federal Home Loan Bank Board (in the Board's capacity as such) or the Chairman of such Board on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and

"(2) were not—

"(A) transferred to the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, the Resolution Trust Corporation, or the Federal Home Loan Mortgage Corporation pursuant to any amendment made by such Act; or

"(B) established under any provision of law repealed by such Act.

"(f) ANNUAL REPORT REQUIRED.—The Director shall make an annual report to the Congress. Such report shall include—

"(1) a description of any changes the Director has made or is considering making in the district offices of the Office, including a description of the geographic allocation of the Office's resources and personnel used to carry out examination and supervision functions; and

"(2) a description of actions taken to carry out section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(g) STAFF.—

"(1) APPOINTMENT AND COMPENSATION.—The Director shall fix the compensation and number of, and appoint and direct, all employees of the Office of Thrift Supervision notwithstanding section 301(f)(1) of title 31, United States Code. Such compensation shall be paid without regard to the provisions of other laws applicable to officers or employees of the United States.

"(2) RATES OF BASIC PAY.—Rates of basic pay for employees of the Office may be set and adjusted by the Director without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

"(3) ADDITIONAL COMPENSATION AND BENEFITS.—The Director may provide additional compensation and benefits to employees of the Office if the same type of compensation or benefits are then being provided by any Federal banking agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Office, the Director shall consult, and seek to maintain comparability with, the Federal banking agencies.

"(4) DELEGATION AUTHORITY.—

"(A) IN GENERAL.—The Director may—

"(i) designate who shall act as Director in the Director's absence; and

"(ii) delegate to any employee, representative, or agent any power of the Director.

"(B) LIMITATIONS.—Notwithstanding subparagraph (A)(ii), the Director shall not, directly or indirectly—

"(i) after October 10, 1989, delegate to any Federal home loan bank or to any officer, director, or employee of a Federal home loan bank, any power involving examining, supervising, taking enforcement action with respect to, or otherwise regulating any savings association, savings and loan holding company, or other person subject to regulation by the Director; or

"(ii) delegate the Director's authority to serve as a member of the Corporation's Board of Directors.

"(h) FUNDING THROUGH ASSESSMENTS.—The compensation of the Director and other employees of the Office and all other expenses thereof may be paid from assessments levied under this Act.

"(i) GAO AUDIT.—The Director shall make available to the Comptroller General of the United States all books and records necessary to audit all of the activities of the Office of Thrift Supervision.

"SEC. 4. SUPERVISION OF SAVINGS ASSOCIATIONS.

"(a) FEDERAL SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—The Director shall provide for the examination, safe and sound operation, and regulation of savings associations.

"(2) REGULATIONS.—The Director may issue such regulations as the Director determines to be appropriate to carry out the responsibilities of the Director or the Office.

"(3) SAFE AND SOUND HOUSING CREDIT TO BE ENCOURAGED.—The Director shall exercise all powers granted to the Director under this Act so as to encourage savings associations to provide credit for housing safely and soundly.

"(b) ACCOUNTING AND DISCLOSURE.—

"(1) IN GENERAL.—The Director shall, by regulation, prescribe uniform accounting and disclosure standards for savings associations, to be used in determining savings associations' compliance with all applicable regulations.

"(2) SPECIFIC REQUIREMENTS FOR ACCOUNTING STANDARDS.—Subject to section 5(t), the uniform accounting standards prescribed under paragraph (1) shall—

"(A) incorporate generally accepted accounting principles to the same degree that such principles are used to determine compliance with regulations prescribed by the Federal banking agencies;

"(B) allow for no deviation from full compliance with such standards as are in effect after December 31, 1993; and

"(C) prior to January 1, 1994, require full compliance by savings associations with accounting standards in effect at any time before such date not later than provided under the schedule in section 563.23-3 of title 12, Code of Federal Regulations (as in effect on May 1, 1989).

"(3) AUTHORITY TO PRESCRIBE MORE STRINGENT ACCOUNTING STANDARDS.—The Director may at any time prescribe accounting standards more stringent than required under paragraph (2) if the Director determines that the more stringent standards are necessary to ensure the safe and sound operation of savings associations.

"(c) STRINGENCY OF STANDARDS.—All regulations and policies of the Director governing the safe and sound operation of savings associations, including regulations and policies governing asset classification and appraisals, shall be no less stringent than those established by the Comptroller of the Currency for national banks.

"(d) INVESTMENT OF CERTAIN FUNDS IN ACCOUNTS OF SAVINGS ASSOCIATIONS.—The savings accounts and share accounts of savings associations insured by the Corporation shall be lawful investments and may be accepted as security for all public funds of the United States, fiduciary and trust funds under the authority or control of the United States or any officer thereof, and for the funds of all corporations organized under the laws of the United States (subject to any regulatory authority otherwise applicable), regardless of any limitation of law upon the investment of any such funds or upon the acceptance of security for the investment or deposit of any of such funds.

"(e) PARTICIPATION BY SAVINGS ASSOCIATIONS IN LOTTERIES AND RELATED ACTIVITIES.—

"(1) PARTICIPATION PROHIBITED.—No savings association may—

"(A) deal in lottery tickets;

"(B) deal in bets used as a means or substitute for participation in a lottery;

"(C) announce, advertise, or publicize the existence of any lottery; or

"(D) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

"(2) USE OF FACILITIES PROHIBITED.—No savings association may permit—

"(A) the use of any part of any of its own offices by any person for any purpose forbidden to the institution under paragraph (1); or

"(B) direct access by the public from any of its own offices to any premises used by any person for any purpose forbidden to the institution under paragraph (1).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) DEAL IN.—The term 'deal in' includes making, taking, buying, selling, redeeming, or collecting.

"(B) LOTTERY.—The term 'lottery' includes any arrangement under which—

"(i) 3 or more persons (hereafter in this subparagraph referred to as the 'participants') advance money or credit to another in exchange for the possibility or expectation that 1 or more but not all of the participants (hereafter in this paragraph referred to as the 'winners') will receive by reason of those participants' advances more than the amounts those participants have advanced; and

"(ii) the identity of the winners is determined by any means which includes—

"(I) a random selection;

"(II) a game, race, or contest; or

"(III) any record or tabulation of the result of 1 or more events in which any participant has no interest except for the bearing that event has on the possibility that the participant may become a winner.

"(C) LOTTERY TICKET.—The term 'lottery ticket' includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery.

"(4) EXCEPTION FOR STATE LOTTERIES.—Paragraphs (1) and (2) shall not apply with respect to any savings association accepting funds from, or performing any lawful services for, any State operating a lottery, or any officer or employee of such a State who is charged with administering the lottery.

"(5) REGULATIONS.—The Director shall prescribe such regulations as may be necessary to provide for enforcement of this subsection and to prevent any evasion of any provision of this subsection.

"(f) FEDERALLY RELATED MORTGAGE LOAN DISCLOSURES.—A savings association may not make a federally related mortgage loan to an agent, trustee, nominee, or other person acting in a fiduciary capacity without requiring that the identity of the person receiving the beneficial interest of such loan shall at all times be revealed to the savings association. At the request of the Director, the savings association shall report to the Director the identity of such person and the nature and amount of the loan.

"(g) PREEMPTION OF STATE USURY LAWS.—(1) Notwithstanding any State law, a savings association may charge interest on any extension of credit at a rate of not more than 1 percent in excess of the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which such savings association is located or at the rate allowed by the laws of the State in which such savings association is located, whichever is greater.

"(2) If the rate prescribed in paragraph (1) exceeds the rate such savings association would be permitted to charge in the absence of this subsection, the receiving or charging a greater rate of interest than that prescribed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the extension of credit carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the date of such payment, an amount equal to twice the amount of the interest paid from the savings association taking or receiving such interest.

"(h) FORM AND MATURITY OF SECURITIES.—No savings association shall—

"(1) issue securities which guarantee a definite maturity except with the specific approval of the Director, or

"(2) issue any securities the form of which has not been approved by the Director.

"SEC. 5. FEDERAL SAVINGS ASSOCIATIONS.

"(a) IN GENERAL.—In order to provide thrift institutions for the deposit of funds and for the extension of credit for homes and other goods and services, the Director is authorized, under such regulations as the Director may prescribe—

"(1) to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as Federal savings associations (including Federal savings banks), and

"(2) to issue charters therefor,

giving primary consideration of the best practices of thrift institutions in the United States. The lending and investment powers conferred by this section are intended to encourage such institutions to provide credit for housing safely and soundly.

"(b) DEPOSITS AND RELATED POWERS.—

"(1) DEPOSIT ACCOUNTS.—

"(A) Subject to the terms of its charter and regulations of the Director, a Federal savings association may—

"(i) raise funds through such deposit, share, or other accounts, including demand deposit accounts (hereafter in this section referred to as 'accounts'); and

"(ii) issue passbooks, certificates, or other evidence of accounts.

"(B) A Federal savings association may not—

"(i) pay interest on a demand account; or

"(ii) permit any overdraft (including an intraday overdraft) on behalf of an affiliate, or incur any such overdraft in such savings association's account at a Federal reserve bank or Federal home loan bank on behalf of an affiliate.

All savings accounts and demand accounts shall have the same priority upon liquidation. Holders of accounts and obligors of a Federal savings association shall, to such extent as may be provided by its charter or by regulations of the Director, be members of the savings association, and shall have such voting rights and such other rights as are thereby provided.

"(C) A Federal savings association may require not less than 14 days notice prior to payment of savings accounts if the charter of the savings association or the regulations of the Director so provide.

"(D) If a Federal savings association does not pay all withdrawals in full (subject to the right of the association, where applicable, to require notice), the payment of withdrawals from accounts shall be subject to such rules and procedures as may be prescribed by the savings association's charter or by regulation of the Director. Except as authorized in writing by the Director, any Federal savings association that fails to make full payment of any withdrawal when due shall be deemed to be in an unsafe or unsound condition.

"(E) Accounts may be subject to check or to withdrawal or transfer on negotiable or transferable or other order or authorization to the Federal savings association, as the Director may by regulation provide.

"(F) A Federal savings association may establish remote service units for the purpose of crediting savings or demand accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions, as provided in regulations prescribed by the Director.

"(2) OTHER LIABILITIES.—To such extent as the Director may authorize in writing, a Federal savings association may borrow, may give security, may be surety as defined by the Director and may issue such notes, bonds, debentures, or other obligations, or other securities, including capital stock.

"(3) LOANS FROM STATE HOUSING FINANCE AGENCIES.—

"(A) IN GENERAL.—Subject to regulation by the Director but without regard to any other provision of this subsection, any Federal savings association that is in compliance with the capital standards in effect under subsection (t) may borrow funds from a State mortgage finance agency of the State in which the head office of such savings association is situated to the same extent as State law authorizes a savings association organized under the laws of such State to borrow from the State mortgage finance agency.

"(B) INTEREST RATE.—A Federal savings association may not make any loan of funds borrowed under subparagraph (A) at an interest rate which exceeds by more than 1¾ percent per annum the interest rate paid to the State mortgage finance agency on the obligations issued to obtain the funds so borrowed.

"(4) CREDIT CARDS.—Subject to regulations of the Director, a Federal savings association may issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations.

"(5) MUTUAL CAPITAL CERTIFICATES.—In accordance with regulations issued by the Director, mutual capital certificates may be issued and sold directly to subscribers or through underwriters. Such certificates may be included in calculating capital for the purpose of subsection (t) to the extent permitted by the Director. The issuance of certificates under this paragraph does not constitute a change of control or ownership under this Act or any other law unless there is in fact a change in control or reorganization. Regulations relating to the issuance and sale of mutual capital certificates shall provide that such certificates—

"(A) are subordinate to all savings accounts, savings certificates, and debt obligations;

"(B) constitute a claim in liquidation on the general reserves, surplus, and undivided profits of the Federal savings association remaining after the payment in full of all savings accounts, savings certificates, and debt obligations;

"(C) are entitled to the payment of dividends; and

"(D) may have a fixed or variable dividend rate.

"(c) LOANS AND INVESTMENTS.—To the extent specified in regulations of the Director, a Federal savings association may invest in, sell, or otherwise deal in the following loans and other investments:

"(1) LOANS OR INVESTMENTS WITHOUT PERCENTAGE OF ASSETS LIMITATION.—Without limitation as a percentage of assets, the following are permitted:

"(A) ACCOUNT LOANS.—Loans on the security of its savings accounts and loans specifically related to transaction accounts.

"(B) RESIDENTIAL REAL PROPERTY LOANS.—Loans on the security of liens upon residential real property.

"(C) UNITED STATES GOVERNMENT SECURITIES.—Investments in obligations of, or fully guaranteed as to principal and interest by, the United States.

"(D) FEDERAL HOME LOAN BANK AND FEDERAL NATIONAL MORTGAGE ASSOCIATION SECURITIES.—Investments in the stock or bonds of a Federal home loan bank or in the stock of the Federal National Mortgage Association.

"(E) FEDERAL HOME LOAN MORTGAGE CORPORATION INSTRUMENTS.—Investments in mortgages, obligations, or other securities which are or have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act.

"(F) OTHER GOVERNMENT SECURITIES.—Investments in obligations, participations, securities, or other instruments issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association, the Student Loan Marketing Association, the Government National Mortgage Association, or any agency of the United States. A savings association may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act.

"(G) DEPOSITS.—Investments in accounts of any insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act.

"(H) STATE SECURITIES.—Investments in obligations issued by any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision). A Federal savings association may not invest more than 10 per-

cent of its capital in obligations of any one issuer, exclusive of investments in general obligations of any issuer.

"(I) PURCHASE OF INSURED LOANS.—Purchase of loans secured by liens on improved real estate which are insured or guaranteed under the National Housing Act, the Servicemen's Readjustment Act of 1944, or chapter 37 of title 38, United States Code.

"(J) HOME IMPROVEMENT AND MANUFACTURED HOME LOANS.—Loans made to repair, equip, alter, or improve any residential real property, and loans made for manufactured home financing.

"(K) INSURED LOANS TO FINANCE THE PURCHASE OF FEE SIMPLE.—Loans insured under section 240 of the National Housing Act.

"(L) LOANS TO FINANCIAL INSTITUTIONS, BROKERS, AND DEALERS.—Loans to—

"(i) financial institutions with respect to which the United States or an agency or instrumentality thereof has any function of examination or supervision, or

"(ii) any broker or dealer registered with the Securities and Exchange Commission,

which are secured by loans, obligations, or investments in which the Federal savings association has the statutory authority to invest directly.

"(M) LIQUIDITY INVESTMENTS.—Investments which, when made, are of a type that may be used to satisfy any liquidity requirement imposed by the Director pursuant to section 6.

"(N) INVESTMENT IN THE NATIONAL HOUSING PARTNERSHIP CORPORATION, PARTNERSHIPS, AND JOINT VENTURES.—Investments in shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968, and investments in any partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of such Act.

"(O) CERTAIN HUD INSURED OR GUARANTEED INVESTMENTS.—Loans that are secured by mortgages—

"(i) insured under title X of the National Housing Act, or

"(ii) guaranteed under title IV of the Housing and Urban Development Act of 1968, under part B of the National Urban Policy and New Community Development Act of 1970, or under section 802 of the Housing and Community Development Act of 1974.

"(P) STATE HOUSING CORPORATION INVESTMENTS.—Obligations of and loans to any State housing corporation, if—

"(i) such obligations or loans are secured directly, or indirectly through an agent or fiduciary, by a first lien on improved real estate which is insured under the provisions of the National Housing Act, and

"(ii) in the event of default, the holder of the obligations or loans has the right directly, or indirectly through an agent or fiduciary, to cause to be subject to the satisfaction of such obligations or loans the real estate described in the first lien or the insurance proceeds under the National Housing Act.

"(Q) INVESTMENT COMPANIES.—A Federal savings association may invest in, redeem, or hold shares or certificates issues by any open-end management investment company which—

"(i) is registered with the Securities and Exchange Commission under the Investment Company Act of 1940, and

"(ii) the portfolio of which is restricted by such management company's investment policy (changeable only if authorized by shareholder vote) solely to investments that a Federal savings association by law or regulation may, without limitation as to percentage of assets, invest in, sell, redeem, hold, or otherwise deal in.

"(R) MORTGAGE-BACKED SECURITIES.—Investments in securities that—

"(i) are offered and sold pursuant to section 4(5) of the Securities Act of 1933; or

"(ii) are mortgage related securities (as defined in section 3(a)(41) of the Securities Exchange Act of 1934),

subject to such regulations as the Director may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales price, or both.

"(2) LOANS OR INVESTMENTS LIMITED TO A PERCENTAGE OF ASSETS OR CAPITAL.—The following loans or investments are permitted, but only to the extent specified:

"(A) COMMERCIAL AND OTHER LOANS.—Secured or unsecured loans for commercial, corporate, business, or agricultural purposes. The aggregate amount of loans under this paragraph shall not exceed 10 percent of the assets of the Federal savings association.

"(B) NONRESIDENTIAL REAL PROPERTY LOANS.—

"(i) IN GENERAL.—Loans on the security of liens upon nonresidential real property. Except as provided in clause (ii), the aggregate amount of such loans shall not exceed 400 percent of the Federal savings association's capital, as determined under subsection (t).

"(ii) EXCEPTION.—The Director may permit a savings association to exceed the limitation set forth in clause (i) if the Director determines that the increased authority—

"(I) poses no significant risk to the safe and sound operation of the association, and

"(II) is consistent with prudent operating practices.

"(iii) MONITORING.—If the Director permits any increased authority pursuant to clause (ii), the Director shall closely monitor the Federal savings association's condition and lending activities to ensure that the savings association carries out all authority under this paragraph in a safe and sound manner and complies with this subparagraph and all relevant laws and regulations.

"(C) INVESTMENTS IN PERSONAL PROPERTY.—Investments in tangible personal property, including, vehicles, manufactured homes, machinery, equipment, or furniture, for rental or sale. Investments under this subparagraph may not exceed 10 percent of the assets of the Federal savings association.

"(D) CONSUMER LOANS AND CERTAIN SECURITIES.—A Federal savings association may make loans for personal, family, or household purposes, including loans reasonably incident to providing such credit, and may invest in, sell, or hold commercial paper and corporate debt securities, as defined and approved by the Director. Loans and other investments under this subparagraph may not exceed 30 percent of the assets of the Federal savings association.

"(3) LOANS OR INVESTMENTS LIMITED TO 5 PERCENT OF ASSETS.—The following loans or investments are permitted, but not to exceed 5 percent of assets of a Federal savings association for each subparagraph:

"(A) EDUCATION LOANS.—Loans made for the payment of educational expenses.

"(B) COMMUNITY DEVELOPMENT INVESTMENTS.—Investments in real property and obligations secured by liens on real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under title I of the Housing and Community Development Act of 1974. No investment under this subparagraph in such real property may exceed an aggregate of 2 percent of the assets of the Federal savings association.

"(C) NONCONFORMING LOANS.—Loans upon the security of or respecting real property or interests therein used for primarily residential or farm purposes that do not comply with the limitations of this subsection.

"(D) CONSTRUCTION LOANS WITHOUT SECURITY.—Loans—

"(i) the principal purpose of which is to provide financing with the respect to what is or is expected to become primarily residential real estate; and

"(ii) with respect to which the association—

"(I) relies substantially on the borrower's general credit standing and projected future income for repayment, without other security; or

"(II) relies on other assurances for repayment, including a guarantee or similar obligation of a third party.

The aggregate amount of such investments shall not exceed the greater of the Federal savings association's capital or 5 percent of its assets.

"(4) OTHER LOANS AND INVESTMENTS.—The following additional loans and other investments to the extent authorized below:

"(A) BUSINESS DEVELOPMENT CREDIT CORPORATIONS.—A Federal savings association that is in compliance with the capital standards prescribed under subsection (t) may invest in, lend to, or to commit itself to lend to, any business development credit corporation incorporated in the State in which the home office of the association is located in the same manner and to the same extent as savings associations chartered by such State are authorized. The aggregate amount of such investments, loans, and commitments of any such Federal savings association shall not exceed one-half of 1 percent of the association's total outstanding loans or $250,000, whichever is less.

"(B) SERVICE CORPORATIONS.—Investments in the capital stock, obligations, or other securities of any corporation organized under the laws of the State in which the Federal savings association's home office is located, if such corporation's entire capital stock is available for purchase only by savings associations of such State and by Federal associations having their home offices in such State. No Federal savings association may make any investment under this subparagraph if the association's aggregate outstanding investment under this subparagraph would exceed 3 percent of the association's assets. Not less than one-half of the investment permitted under this subparagraph which exceeds 1 percent of the association's assets shall be used primarily for community, inner-city, and community development purposes.

"(C) FOREIGN ASSISTANCE INVESTMENTS.—Investments in housing project loans having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 or loans having the benefit of any guarantee under section 224 of such Act, or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition, holding, and disposition of loans guaranteed under section 221 or 222 of such Act. Investments under this subparagraph shall not exceed 1 percent of the Federal savings association's assets.

"(D) SMALL BUSINESS INVESTMENT COMPANIES.—A Federal savings association may

invest in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958 for the purpose of aiding members of a Federal home loan bank. A Federal savings association may not make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 percent of the assets of such savings association.

"(5) DEFINITIONS.—As used in this subsection—

"(A) RESIDENTIAL PROPERTY.—The terms 'residential real property' or 'residential real estate' mean leaseholds, homes (including condominiums and cooperatives, except that in connection with loans on individual cooperative units, such loans shall be adequately secured as defined by the Director) and, combinations of homes or dwelling units and business property, involving only minor or incidental business use, or property to be improved by construction of such structures.

"(B) LOANS.—The term 'loans' includes obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment.

"(d) REGULATORY AUTHORITY.—

"(1) IN GENERAL.—

"(A) ENFORCEMENT.—The Director shall have power to enforce this section, section 8 of the Federal Deposit Insurance Act, and regulations prescribed hereunder. In enforcing any provision of this section, regulations prescribed under this section, or any other law or regulation, or in any other action, suit, or proceeding to which the Director is a party or in which the Director is interested, and in the administration of conservatorships and receiverships, the Director may act in the Director's own name and through the Director's own attorneys. Except as otherwise provided, the Director shall be subject to suit (other than suits on claims for money damages) by any Federal savings association or director or officer thereof with respect to any matter under this section or any other applicable law, or regulation thereunder, in the United States district court for the judicial district in which the savings association's home office is located, or in the United States District Court for the District of Columbia, and the Director may be served with process in the manner prescribed by the Federal Rules of Civil Procedure.

"(B) ANCILLARY PROVISIONS.—(i) In making examinations of savings associations, examiners appointed by the Director shall have power to make such examinations of the affairs of all affiliates of such savings associations as shall be necessary to disclose fully the relations between such savings associations and their affiliates and the effect of such relations upon such savings associations. For purposes of this subsection, the term 'affiliate' has the same meaning as in section 2(b) of the Banking Act of 1933, except that the term 'member bank' in section 2(b) shall be deemed to refer to a savings association.

"(ii) In the course of any examination of any savings association, upon request by the Director, prompt and complete access shall be given to all savings association officers, directors, employees, and agents, and to all relevant books, records, or documents of any type.

"(iii) Upon request made in the course of supervision or oversight of any savings association, for the purpose of acting on any application or determining the condition of any savings association, including whether operations are being conducted safely, soundly, or in compliance with charters, laws, regulations, directives, written agreements, or conditions imposed in writing in connection with the granting of an application or other request, the Director shall be given prompt and complete access to all savings association officers, directors, employees, and agents, and to all relevant books, records, or documents of any type.

"(iv) If prompt and complete access upon request is not given as required in this subsection, the Director may apply to the United States district court for the judicial district (or the United States court in any territory) in which the principal office of the institution is located, or in which the person denying such access resides or carries on business, for an order requiring that such information be promptly provided.

"(v) In connection with examinations of savings associations and affiliates thereof, the Director may—

"(I) administer oaths and affirmations and examine and to take and preserve testimony under oath as to any matter in respect of the affairs or ownership of any such savings association or affiliate, and

"(II) issue subpenas and, for the enforcement thereof, apply to the United States district court for the judicial district (or the United States court in any territory) in which the principal office of the savings association or affiliate is located, or in which the witness resides or carries on business.

Such courts shall have jurisdiction and power to order and require compliance with any such subpena.

"(vi) In any proceeding under this section, the Director may administer oaths and affirmations, take depositions, and issue subpenas. The Director may prescribe regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory at any designated place where such proceeding is being conducted.

"(vii) Any party to a proceeding under this section may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district (or the United States court in any territory) in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena issued pursuant to this subsection or section 10(c) of the Federal Deposit Insurance Act, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. All expenses of the Director in connection with this section shall be considered as nonadministrative expenses. Any court having jurisdiction of any proceeding instituted under this section by a savings association, or a director or officer thereof, may allow to any such party reasonable expenses and attorneys' fees. Such expenses and fees shall be paid by the savings association.

"(2) CONSERVATORSHIPS AND RECEIVERSHIPS.—

"(A) GROUNDS FOR APPOINTMENT FOR FEDERAL SAVINGS ASSOCIATIONS.—A conservator or receiver may be appointed for a Federal savings association if one or more of the following conditions exist:

"(i) insolvency in that the assets of the association are less than its obligations to its creditors and others, including its members;

"(ii) substantial dissipation of assets or earnings due to any violation or violations of law or regulations, or to any unsafe or unsound practice or practices;

"(iii) an unsafe or unsound condition to transact business, including having substantially insufficient capital or otherwise;

"(iv) willful violation of a cease-and-desist order which has become final;

"(v) concealment of books, papers, records, or assets of the savings association or refusal to submit books, papers, records, or affairs of the association for inspection to any examiner or to any lawful agent of the Director;

"(vi) the association is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course of business;

"(vii)(I) the association has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and (II) there is no reasonable prospect for the replenishment of the capital of the association without Federal assistance; or

"(viii) there is a violation or violations of laws or regulations, or an unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the condition of the association or otherwise seriously prejudice the interests of its depositors.

"(B) ADDITIONAL GROUNDS FOR APPOINTMENT OF FEDERAL ASSOCIATIONS.—In addition to the foregoing provisions, the Director may, without any requirement of notice, hearing, or other action, appoint a conservator or receiver for a Federal savings association if—

"(i) the association, by resolution of its board of directors or of its members, consents to such appointment, or

"(ii) the association is removed from membership in any Federal home loan bank, or its status as an institution the accounts of which are insured by the Corporation is terminated.

"(C) GROUNDS FOR APPOINTMENT FOR STATE ASSOCIATIONS.—Notwithstanding any other provision of law, the Director shall have power and jurisdiction to appoint a conservator or receiver for an insured State savings association, if the Director determines that any of the following grounds for the appointment of a conservator or receiver exists:

"(i) insolvency in that the assets of the savings association are less than its obligations to its creditors and others, including its members;

"(ii) substantial dissipation of assets or earnings due to any violation or violations of law or regulations, or to any unsafe or unsound practice or practices;

"(iii) an unsafe or unsound condition to transact business, including having substantially insufficient capital or otherwise;

"(iv) the association is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course of business;

"(v)(I) the savings association has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and (II) there is no reasonable prospect for the savings association's capital to be replenished without Federal assistance; or

"(vi) there is a violation or violations of laws or regulations, or an unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipa-

tion of assets or earnings, or is likely to weaken the condition of the association or otherwise seriously prejudice the interests of its depositors.

"(D) APPROVAL OF STATE OFFICIAL.—(i) The authority conferred by subparagraph (C) shall not be exercised without the written approval of the State official having jurisdiction over the insured State savings association that one or more of the grounds specified for such exercise exist.

"(ii) If such approval has not been received within 30 days of receipt of notice to the State that the Director has determined such grounds exist, and the Director has responded in writing to the State's written reasons, if any, for withholding approval, then the Director may proceed without State approval.

"(E) POWER OF APPOINTMENT; JUDICIAL REVIEW.—The Director shall have exclusive power and jurisdiction to appoint a conservator or receiver for a Federal savings association. If, in the opinion of the Director, a ground for the appointment of a conservator or receiver for a savings association exists, the Director is authorized to appoint ex parte and without notice a conservator or receiver for the savings association. In the event of such appointment, the association may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such association is located, or in the United States District Court for the District of Columbia, for an order requiring the Director to remove such conservator or receiver, and the court shall upon the merits dismiss such action or direct the Director to remove such conservator or receiver. Upon the commencement of such an action, the court having jurisdiction of any other action or proceeding authorized under this subsection to which the association is a party shall stay such action or proceeding during the pendency of the action for removal of the conservator or receiver.

"(F) REPLACEMENT.—The Director may, without any prior notice, hearing, or other action, replace a conservator with another conservator or with a receiver, but such replacement shall not affect any right which the association may have to obtain judicial review of the original appointment, except that any removal under this subparagraph shall be removal of the conservator or receiver in office at the time of such removal.

"(G) COURT ACTION.—Except as otherwise provided in this subsection, no court may take any action for or toward the removal of any conservator or receiver, or, except at the instance of the Director, restrain or affect the exercise of powers or functions of a conservator or receiver.

"(H) POWERS.—

"(i) IN GENERAL.—A conservator shall have all the powers of the members, the stockholders, the directors, and the officers of the association and shall be authorized to operate the association in its own name or to conserve its assets in the manner and to the extent authorized by the Director.

"(ii) FDIC OR RTC AS CONSERVATOR OR RECEIVER.—Except as provided in section 21A of the Federal Home Loan Bank Act, the Director, at the Director's discretion, may appoint the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as appropriate, as conservator for a savings association. The Director shall appoint only the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as appropriate, as receiver for a savings association for the purpose of liquidation or winding up the affairs of such savings association. The conservator or receiver so appointed shall, as such, have power to buy at its own sale. The Federal Deposit Insurance Corporation, as such conservator or receiver, shall have all the powers of a conservator or receiver, as appropriate, granted under the Federal Deposit Insurance Act, and (when not inconsistent therewith) any other rights, powers, and privileges possessed by conservators or receivers, as appropriate, of savings associations under this Act and any other provisions of law.

"(I) DISCLOSURE REQUIREMENT FOR THOSE ACTING ON BEHALF OF CONSERVATOR.—A conservator shall require that any independent contractor, consultant, or counsel employed by the conservator in connection with the conservatorship of a savings association pursuant to this section shall fully disclose to all parties with which such contractor, consultant, or counsel is negotiating, any limitation on the authority of such contractor, consultant, or counsel to make legally binding representations on behalf of the conservator.

"(3) REGULATIONS.—

"(A) IN GENERAL.—The Director may prescribe regulations for the reorganization, consolidation, liquidation, and dissolution of savings associations, for the merger of insured savings associations with insured savings associations, for savings associations in conservatorship and receivership, and for the conduct of conservatorships and receiverships. The Director may, by regulation or otherwise, provide for the exercise of functions by members, stockholders, directors, or officers of a savings association during conservatorship and receivership.

"(B) FDIC OR RTC AS CONSERVATOR OR RECEIVER.—In any case where the Federal Deposit Insurance Corporation or the Resolution Trust Corporation is the conservator or receiver, any regulations prescribed by the Director shall be consistent with any regulations prescribed by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act.

"(4) REFUSAL TO COMPLY WITH DEMAND.—Whenever a conservator or receiver appointed by the Director demands possession of the property, business, and assets of any savings association, or of any part thereof, the refusal by any director, officer, employee, or agent of such association to comply with the demand shall be punishable by a fine of not more than $5,000 or imprisonment for not more than one year, or both.

"(5) DEFINITIONS.—As used in this subsection, the term 'savings association' includes any savings association or former savings association that retains deposits insured by the Corporation, notwithstanding termination of its status as an institution insured by the Corporation.

"(6) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(A) COMPLIANCE PROCEDURES REQUIRED.—The Director shall prescribe regulations requiring savings associations to establish and maintain procedures reasonably designed to assure and monitor the compliance of such associations with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(B) EXAMINATIONS OF SAVINGS ASSOCIATIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(i) IN GENERAL.—Each examination of a savings association by the Director shall include a review of the procedures required to be established and maintained under subparagraph (A).

"(ii) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the association.

"(C) ORDER TO COMPLY WITH REQUIREMENTS.—If the Director determines that a savings association—

"(i) has failed to establish and maintain the procedures described in subparagraph (A); or

"(ii) has failed to correct any problem with the procedures maintained by such association which was previously reported to the association by the Director,

the Director shall issue an order under section 8 of the Federal Deposit Insurance Act requiring such association to cease and desist from its violation of this paragraph or regulations prescribed under this paragraph.

"(e) CHARACTER AND RESPONSIBILITY.—A charter may be granted only—

"(1) to persons of good character and responsibility,

"(2) if in the judgment of the Director a necessity exists for such an institution in the community to be served,

"(3) if there is a reasonable probability of its usefulness and success, and

"(4) if the association can be established without undue injury to properly conducted existing local thrift and home-financing institutions.

"(f) FEDERAL HOME LOAN BANK MEMBERSHIP.—Each Federal savings association, upon receiving its charter, shall become automatically a member of the Federal home loan bank of the district in which it is located, or if convenience requires and the Director approves, shall become a member of a Federal home loan bank of an adjoining district. Such associations shall qualify for such membership in the manner provided in the Federal Home Loan Bank Act with respect to other members.

"(g) PREFERRED SHARES.—[Repealed.]

"(h) DISCRIMINATORY STATE AND LOCAL TAXATION PROHIBITED.—No State, county, municipal, or local taxing authority may impose any tax on Federal savings associations or their franchise, capital, reserves, surplus, loans, or income greater than that imposed by such authority on other similar local mutual or cooperative thrift and home financing institutions.

"(i) CONVERSIONS.—

(1) IN GENERAL.—Any savings association which is, or is eligible to become, a member of a Federal home loan bank may convert into a Federal savings association (and in so doing may change directly from the mutual form to the stock form, or from the stock form to the mutual form). Such conversion shall be subject to such regulations as the Director shall prescribe. Thereafter such Federal savings association shall be entitled to all the benefits of this section and shall be subject to examination and regulation to the same extent as other associations incorporated pursuant to this Act.

"(2) AUTHORITY OF DIRECTOR.—(A) No savings association may convert from the mutual to the stock form, or from the stock form to the mutual form, except in accordance with the regulations of the Director.

"(B) Any aggrieved person may obtain review of a final action of the Director which approves or disapproves a plan of conversion pursuant to this subsection only by complying with the provisions of section 10(j) of this Act within the time limit and in the manner therein prescribed, which provisions shall apply in all respects as if such

final action were an order the review of which is therein provided for, except that such time limit shall commence upon publication of notice of such final action in the Federal Register or upon the giving of such general notice of such final action as is required by or approved under regulations of the Director, whichever is later.

"(C) Any Federal savings association may change its designation from a Federal savings association to a Federal savings bank, or the reverse.

"(3) CONVERSION TO STATE ASSOCIATION.—(A) Any Federal savings association may convert itself into a savings association or savings bank organized pursuant to the laws of the State in which the principal office of such Federal savings association is located if—

"(i) the State permits the conversion of any savings association or savings bank of such State into a Federal savings association;

"(ii) such conversion of a Federal savings association into such a State savings association is determined—

"(I) upon the vote in favor of such conversion cast in person or by proxy at a special meeting of members or stockholders called to consider such action, specified by the law of the State in which the home office of the Federal savings association is located, as required by such law for a State-chartered institution to convert itself into a Federal savings association, but in no event upon a vote of less than 51 percent of all the votes cast at such meeting, and

"(II) upon compliance with other requirements reciprocally equivalent to the requirements of such State law for the conversion of a State-chartered institution into a Federal savings association;

"(iii) notice of the meeting to vote on conversion shall be given as herein provided and no other notice thereof shall be necessary; the notice shall expressly state that such meeting is called to vote thereon, as well as the time and place thereof; and such notice shall be mailed, postage prepaid, at least 30 and not more than 60 days prior to the date of the meeting, to the Director and to each member or stockholder of record of the Federal savings association at the member's or stockholder's last address as shown on the books of the Federal savings association;

"(iv) when a mutual savings association is dissolved after conversion, the members or shareholders of the savings association will share on a mutual basis in the assets of the association in exact proportion to their relative share or account credits;

"(v) when a stock savings association is dissolved after conversion, the stockholders will share on a equitable basis in the assets of the association; and

"(vi) such conversion shall be effective upon the date that all the provisions of this Act shall have been fully complied with and upon the issuance of a new charter by the State wherein the savings association is located.

"(B)(i) The act of conversion constitutes consent by the institution to be bound by all the requirements that the Director may impose under this Act.

"(ii) The savings association shall upon conversion and thereafter be authorized to issue securities in any form currently approved at the time of issue by the Director for issuance by similar savings associations in such State.

"(iii) If the insurance of accounts is terminated in connection with such conversion, the notice and other action shall be taken as provided by law and regulations for the termination of insurance of accounts.

"(4) SAVINGS BANK ACTIVITIES.—(A) To the extent authorized by the Director, but subject to section 18(m)(3) of the Federal Deposit Insurance Act—

"(i) any Federal savings bank chartered as such prior to October 15, 1982, may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was permitted to do so as a Federal savings bank prior to October 15, 1982; and

"(ii) any Federal savings bank organized prior to October 15, 1982, formerly organized as a mutual savings bank under State law may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was authorized to do so as a mutual savings bank under State law.

"(B) The authority conferred by this paragraph may be utilized by any Federal savings association that acquires, by merger or consolidation, a Federal savings bank enjoying grandfather rights hereunder.

"(j) SUBSCRIPTION FOR SHARES.—[Repealed.]

"(k) DEPOSITORY OF PUBLIC MONEY.—When designated for that purpose by the Secretary of the Treasury, a savings association the deposits of which are insured by the Corporation shall be a depository of public money and may be employed as fiscal agent of the Government under such regulations as may be prescribed by the Secretary and shall perform all such reasonable duties as fiscal agent of the Government as may be required of it. A savings association the deposits of which are insured by the Corporation may act as agent for any other instrumentality of the United States when designated for that purpose by such instrumentality, including services in connection with the collection of taxes and other obligations owed the United States, and the Secretary of the Treasury may deposit public money in any such savings association, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

"(l) RETIREMENT ACCOUNTS.—A Federal savings association is authorized to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under section 401(d) of the Internal Revenue Code of 1986 and to act as trustee or custodian of an individual retirement account within the meaning of section 408 of such Code if the funds of such trust or account are invested only in savings accounts or deposits in such Federal savings association or in obligations or securities issued by such Federal savings association. All funds held in such fiduciary capacity by any Federal savings association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under this paragraph.

"(m) BRANCHING.—

"(1) IN GENERAL.—

"(A) No savings association incorporated under the laws of the District of Columbia or organized in the District or doing business in the District shall establish any branch or move its principal office or any branch without the Director's prior written approval.

"(B) No savings association shall establish any branch in the District of Columbia or move its principal office or any branch in the District without the Director's prior written approval.

"(2) DEFINITION.—For purposes of this subsection the term 'branch' means any office, place of business, or facility, other than the principal office as defined by the Director, of a savings association at which accounts are opened or payments are received or withdrawals are made, or any other office, place of business, or facility of a savings association defined by the Director as a branch within the meaning of such sentence.

"(n) TRUSTS.—

"(1) PERMITS.—The Director may grant by special permit to a Federal savings association applying therefor the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which compete with Federal savings associations are permitted to act under the laws of the State in which the Federal savings association is located. Subject to the regulations of the Director, service corporations may invest in State or federally chartered corporations which are located in the State in which the home office of the Federal savings association is located and which are engaged in trust activities.

"(2) SEGREGATION OF ASSETS.—A Federal savings association exercising any or all of the powers enumerated in this section shall segregate all assets held in any fiduciary capacity from the general assets of the association and shall keep a separate set of books and records showing in proper detail all transactions engaged in under this subsection. The State banking authority involved may have access to reports of examination made by the Director insofar as such reports relate to the trust department of such association but nothing in this subsection shall be construed as authorizing such State banking authority to examine the books, records, and assets of such associations.

"(3) PROHIBITIONS.—No Federal savings association shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the association awaiting investment shall be carried in a separate account and shall not be used by the association in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Director.

"(4) SEPARATE LIEN.—In the event of the failure of a Federal savings association, the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the association.

"(5) DEPOSITS.—Whenever the laws of a State require corporations acting in a fiduciary capacity to deposit securities with the State authorities for the protection of private or court trusts, Federal savings associations so acting shall be required to make similar deposits. Securities so deposited shall be held for the protection of private or court trusts, as provided by the State law. Federal savings associations in such cases shall not be required to execute the bond usually required of individuals if State corporations under similar circumstances are exempt from this requirement. Federal savings associations shall have power to execute such bond when so required by the laws of the State involved.

"(6) OATHS AND AFFIDAVITS.—In any case in which the laws of a State require that a corporation acting as trustee, executor, admin-

istrator, or in any capacity specified in this section, shall take an oath or make an affidavit, the president, vice president, cashier, or trust officer of such association may take the necessary oath or execute the necessary affidavit.

"(7) CERTAIN LOANS PROHIBITED.—It shall be unlawful for any Federal savings association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than $50,000 or twice the amount of that person's gain from the loan, whichever is greater, or may be imprisoned not more than 5 years, or may be both fined and imprisoned, in the discretion of the court.

"(8) FACTORS TO BE CONSIDERED.—In reviewing applications for permission to exercise the powers enumerated in this section, the Director may consider—

"(A) the amount of capital of the applying Federal savings association,

"(B) whether or not such capital is sufficient under the circumstances of the case,

"(C) the needs of the community to be served, and

"(D) any other facts and circumstances that seem to it proper.

The Director may grant or refuse the application accordingly, except that no permit shall be issued to any association having capital less than the capital required by State law of State banks, trust companies, and corporations exercising such powers.

"(9) SURRENDER OF CHARTER.—(A) Any Federal savings association may surrender its right to exercise the powers granted under this subsection, and have returned to it any securities which it may have deposited with the State authorities, by filing with the Director a certified copy of a resolution of its board of directors indicating its intention to surrender its right.

"(B) Upon receipt of such resolution, the Director, if satisfied that such Federal savings association has been relieved in accordance with State law of all duties as trustee, executor, administrator, guardian or other fiduciary, may in the Director's discretion, issue to such association a certificate that such association is no longer authorized to exercise the powers granted by this subsection.

"(C) Upon the issuance of such a certificate by the Director, such Federal savings association (i) shall no longer be subject to the provisions of this section or the regulations of the Director made pursuant thereto, (ii) shall be entitled to have returned to it any securities which it may have deposited with State authorities, and (iii) shall not exercise thereafter any of the powers granted by this section without first applying for and obtaining a new permit to exercise such powers pursuant to the provisions of this section.

"(D) The Director may prescribe regulations necessary to enforce compliance with the provisions of this subsection.

"(10) REVOCATION.—(A) In addition to the authority conferred by other law, if, in the opinion of the Director, a Federal savings association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of 5 consecutive years to exercise, the powers granted by this subsection or otherwise fails or has failed to comply with the requirements of this subsection, the Director may issue and serve upon the association a notice of intent to revoke the authority of the association to exercise the powers granted by this subsection. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association.

"(B) Such hearing shall be conducted in accordance with the provisions of subsection (d)(1)(B), and subject to judicial review as therein provided, and shall be fixed for a date not earlier than 30 days and not later than 60 days after service of such notice unless the Director sets an earlier or later date at the request of any Federal savings association so served.

"(C) Unless the Federal savings association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Director shall find that any allegation specified in the notice of charges has been established, the Director may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this subsection, except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

"(D) A revocation order shall become effective not earlier than the expiration of 30 days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Director or a reviewing court.

"(o) CONVERSION OF STATE SAVINGS BANKS.—(1) Subject to the provisions of this subsection and under regulations of the Director, the Director may authorize the conversion of a State-chartered savings bank that is a Bank Insurance Fund member into a Federal savings bank, if such conversion is not in contravention of State law, and provide for the organization, incorporation, operation, examination, and regulation of such institution.

"(2)(A) Any Federal savings bank chartered pursuant to this subsection shall continue to be a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member.

"(B) The Director shall notify the Corporation of any application under this Act for conversion to a Federal charter by an institution insured by the Corporation, shall consult with the Corporation before disposing of the application, and shall notify the Corporation of the Director's determination with respect to such application.

"(C) Notwithstanding any other provision of law, if the Corporation determines that conversion into a Federal stock savings bank or the chartering of a Federal stock savings bank is necessary to prevent the default of a savings bank it insures or to reopen a savings bank in default that it insured, or if the Corporation determines, with the concurrence of the Director, that severe financial conditions exist that threaten the stability of a savings bank insured by the Corporation and that such a conversion or charter is likely to improve the financial condition of such savings bank, the Corporation shall provide the Director with a certificate of such determination, the reasons therefor in conformance with the requirements of this Act, and the bank shall be converted or chartered by the Director, pursuant to the regulations thereof, from the time the Corporation issues the certificate.

"(D) A bank may be converted under subparagraph (C) only if the board of trustees of the bank—

"(i) has specified in writing that the bank is in danger of closing or is closed, or that severe financial conditions exist that threaten the stability of the bank and a conversion is likely to improve the financial condition of the bank; and

"(ii) has requested in writing that the Corporation use the authority of subparagraph (C).

"(E)(i) Before making a determination under subparagraph (D), the Corporation shall consult the State bank supervisor of the State in which the bank in danger of closing is chartered. The State bank supervisor shall be given a reasonable opportunity, and in no event less than 48 hours, to object to the use of the provisions of subparagraph (D).

"(ii) If the State supervisor objects during such period, the Corporation may use the authority of subparagraph (D) only by an affirmative vote of three-fourths of the Board of Directors. The Board of Directors shall provide the State supervisor, as soon as practicable, with a written certification of its determination.

"(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations, and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provision of this Act.

"(p) CONVERSIONS.—(1) Notwithstanding any other provision of law, and consistent with the purposes of this Act, the Director may authorize (or in the case of a Federal savings association, require) the conversion of any mutual savings association or Federal mutual savings bank that is insured by the Corporation into a Federal stock savings association or Federal stock savings bank, or charter a Federal stock savings association or Federal stock savings bank to acquire the assets of, or merge with such a mutual institution under the regulations of the Director.

"(2) Authorizations under this subsection may be made only—

"(A) if the Director has determined that severe financial conditions exist which threaten the stability of an association and that such authorization is likely to improve the financial condition of the association,

"(B) when the Corporation has contracted to provide assistance to such association under section 13 of the Federal Deposit Insurance Act, or

"(C) to assist an institution in receivership.

"(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provision of this Act, and may engage in any investment, activity, or operation that the institution it acquired was engaged in if that institution was a Federal savings bank, or

would have been authorized to engage in had that institution converted to a Federal charter.

"(q) TYING ARRANGEMENTS.—(1) A savings association may not in any manner extend credit, lease, or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement—

"(A) that the customer shall obtain additional credit, property, or service from such savings association, or from any service corporation or affiliate of such association, other than a loan, discount, deposit, or trust service;

"(B) that the customer provide additional credit, property, or service to such association, or to any service corporation or affiliate of such association, other than those related to and usually provided in connection with a similar loan, discount, deposit, or trust service; and

"(C) that the customer shall not obtain some other credit, property, or service from a competitor of such association, or from a competitor of any service corporation or affiliate of such association, other than a condition or requirement that such association shall reasonably impose in connection with credit transactions to assure the soundness of credit.

"(2)(A) Any person may sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by reason of a violation of paragraph (1), under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity and under the rules governing such proceedings.

"(B) Upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

"(3) Any person injured by a violation of paragraph (1) may bring an action in any district court of the United States in which the defendant resides or is found or has an agent, without regard to the amount in controversy, or in any other court of competent jurisdiction, and shall be entitled to recover three times the amount of the damages sustained, and the cost of suit, including a reasonable attorney's fee. Any such action shall be brought within 4 years from the date of the occurrence of the violation.

"(4) Nothing contained in this subsection affects in any manner the right of the United States or any other party to bring an action under any other law of the United States or of any State, including any right which may exist in addition to specific statutory authority, challenging the legality of any act or practice which may be proscribed by this subsection. No regulation or order issued by the Director under this subsection shall in any manner constitute a defense to such action.

"(5) For purposes of this subsection, the term 'loan' includes obligations and extensions or advances of credit.

"(r) OUT-OF-STATE BRANCHES.—(1) No Federal savings association may establish, retain, or operate a branch outside the State in which the Federal savings association has its home office, unless the association qualifies as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986 or meets the asset composition test imposed by subparagraph (c) of that section on institutions seeking so to qualify. No out-of-State branch so established shall be retained or operated unless the total assets of the Federal savings association attributable to all branches of the Federal savings association in that State would qualify the branches as a whole, were they otherwise eligible, for treatment as a domestic building and loan association under section 7701(a)(19).

"(2) The limitations of paragraph (1) shall not apply if—

"(A) the branch results from a transaction authorized under section 13(k) of the Federal Deposit Insurance Act;

"(B) the branch was authorized for the Federal savings association prior to October 15, 1982;

"(C) the law of the State where the branch would be located would permit the branch to be established if the branch were a Federal savings association chartered by the State in which its home office is located; or

"(D) the branch was operated lawfully as a branch under State law prior to the association's conversion to a Federal charter.

"(3) The Director, for good cause shown, may allow Federal savings associations up to 2 years to comply with the requirements of this subsection.

"(s) MINIMUM CAPITAL REQUIREMENTS.—

"(1) IN GENERAL.—Consistent with the purposes of section 908 of the International Lending Supervision Act of 1983 and the capital requirements established pursuant to such section by the appropriate Federal banking agencies (as defined in section 903(1) of such Act), the Director shall require all savings associations to achieve and maintain adequate capital by—

"(A) establishing minimum levels of capital for savings associations; and

"(B) using such other methods as the Director determines to be appropriate.

"(2) MINIMUM CAPITAL LEVELS MAY BE DETERMINED BY DIRECTOR CASE-BY-CASE.—The Director may, consistent with subsection (t), establish the minimum level of capital for a savings association at such amount or at such ratio of capital-to-assets as the Director determines to be necessary or appropriate for such association in light of the particular circumstances of the association.

"(3) UNSAFE OR UNSOUND PRACTICE.—In the Director's discretion, the Director may treat the failure of any savings association to maintain capital at or above the minimum level required by the Director under this subsection or subsection (t) as an unsafe or unsound practice.

"(4) DIRECTIVE TO INCREASE CAPITAL.—

"(A) PLAN MAY BE REQUIRED.—In addition to any other action authorized by law, including paragraph (3), the Director may issue a directive requiring any savings association which fails to maintain capital at or above the minimum level required by the Director to submit and adhere to a plan for increasing capital which is acceptable to the Director.

"(B) ENFORCEMENT OF PLAN.—Any directive issued and plan approved under subparagraph (A) shall be enforceable under section 8 of the Federal Deposit Insurance Act to the same extent and in the same manner as an outstanding order which was issued under section 8 of the Federal Deposit Insurance Act and has become final.

"(5) PLAN TAKEN INTO ACCOUNT IN OTHER PROCEEDINGS.—The Director may—

"(A) consider a savings association's progress in adhering to any plan required under paragraph (4) whenever such association or any affiliate of such association (including any company which controls such association) seeks the Director's approval for any proposal which would have the effect of diverting earnings, diminishing capital, or otherwise impeding such association's progress in meeting the minimum level of capital required by the Director; and

"(B) disapprove any proposal referred to in subparagraph (A) if the Director determines that the proposal would adversely affect the ability of the association to comply with such plan.

"(t) CAPITAL STANDARDS.—

"(1) IN GENERAL.—

"(A) REQUIREMENT FOR STANDARDS TO BE PRESCRIBED.—The Director shall, by regulation, prescribe and maintain uniformly applicable capital standards for savings associations. Those standards shall include—

"(i) a leverage limit;

"(ii) a tangible capital requirement; and

"(iii) a risk-based capital requirement.

"(B) COMPLIANCE.—A savings association is not in compliance with capital standards for purposes of this subsection unless it complies with all capital standards prescribed under this paragraph.

"(C) STRINGENCY.—The standards prescribed under this paragraph shall be no less stringent than the capital standards applicable to national banks.

"(D) DEADLINE FOR REGULATIONS.—The Director shall promulgate final regulations under this paragraph not later than 90 days after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and those regulations shall become effective not later than 120 days after the date of enactment.

"(2) CONTENT OF STANDARDS.—

"(A) LEVERAGE LIMIT.—The leverage limit prescribed under paragraph (1) shall require a savings association to maintain core capital in an amount not less than 3 percent of the savings association's total assets.

"(B) TANGIBLE CAPITAL REQUIREMENT.—The tangible capital requirement prescribed under paragraph (1) shall require a savings association to maintain tangible capital in an amount not less than 1.5 percent of the savings association's total assets.

"(C) RISK-BASED CAPITAL REQUIREMENT.—Notwithstanding paragraph (1)(C), the risk-based capital requirement prescribed under paragraph (1) may deviate from the risk-based capital standards applicable to national banks to reflect interest-rate risk or other risks, but such deviations shall not, in the aggregate, result in materially lower levels of capital being required of savings associations under the risk-based capital requirement than would be required under the risk-based capital standards applicable to national banks.

"(3) TRANSITION RULE.—

"(A) CERTAIN QUALIFYING SUPERVISORY GOODWILL INCLUDED IN CALCULATING CORE CAPITAL.—Notwithstanding paragraph (9)(A), an eligible savings association may include qualifying supervisory goodwill in calculating core capital. The amount of qualifying supervisory goodwill that may be included may not exceed the applicable percentage of total assets set forth in the following table:

"For the following period:	The applicable percentage is:
Prior to January 1, 1992	1.500 percent
January 1, 1992–December 31, 1992	1.000 percent
January 1, 1993–December 31, 1993	0.750 percent

"For the following period:	The applicable percentage is:
January 1, 1994–December 31, 1994	0.375 percent
Thereafter	0 percent

"(B) ELIGIBLE SAVINGS ASSOCIATIONS.—For purposes of subparagraph (A), a savings association is an eligible savings association so long as the Director determines that—

"(i) the savings association's management is competent;

"(ii) the savings association is in substantial compliance with all applicable statutes, regulations, orders, and supervisory agreements and directives; and

"(iii) the savings association's management has not engaged in insider dealing, speculative practices, or any other activities that have jeopardized the association's safety and soundness or contributed to impairing the association's capital.

"(4) SPECIAL RULES FOR PURCHASED MORTGAGE SERVICING RIGHTS.—

"(A) IN GENERAL.—Notwithstanding paragraphs (1)(C) and (9), the standards prescribed under paragraph (1) may permit a savings association to include in calculating capital for the purpose of the leverage limit and risk-based capital requirement prescribed under paragraph (1), on terms no less stringent than under both the capital standards applicable to State nonmember banks and (except as to the amount that may be included in calculating capital) the capital standards applicable to national banks, 90 percent of the fair market value of readily marketable purchased mortgage servicing rights.

"(B) TANGIBLE CAPITAL REQUIREMENT.—Notwithstanding paragraphs (1)(C) and (9)(C), the standards prescribed under paragraph (1) may permit a savings association to include in calculating capital for the purpose of the tangible capital requirement prescribed under paragraph (1), on terms no less stringent than under both the capital standards applicable to State nonmember banks and (except as to the amount that may be included in calculating capital) the capital standards applicable to national banks, 90 percent of the fair market value of readily marketable purchased mortgage servicing rights.

"(C) PERCENTAGE LIMITATION PRESCRIBED BY FDIC.—Notwithstanding paragraph (1)(C) and subparagraphs (A) and (B) of this paragraph—

"(i) for the purpose of subparagraph (A), the maximum amount of purchased mortgage servicing rights that may be included in calculating capital under the leverage limit and the risk-based capital requirement prescribed under paragraph (1) may not exceed the amount that could be included if the savings association were an insured State nonmember bank; and

"(ii) for the purpose of subparagraph (B), the Corporation shall prescribe a maximum percentage of the tangible capital requirement that savings associations may satisfy by including purchased mortgage servicing rights in calculating such capital.

"(D) QUARTERLY VALUATION.—The fair market value of purchased mortgage servicing rights shall be determined not less often than quarterly.

"(5) SEPARATE CAPITALIZATION REQUIRED FOR CERTAIN SUBSIDIARIES.—

"(A) IN GENERAL.—In determining compliance with capital standards prescribed under paragraph (1), all of a savings association's investments in and extensions of credit to any subsidiary engaged in activities not permissible for a national bank shall be deducted from the savings association's capital.

"(B) EXCEPTION FOR AGENCY ACTIVITIES.—Subparagraph (A) shall not apply with respect to a subsidiary engaged, solely as agent for its customers, in activities not permissible for a national bank unless the Corporation, in its sole discretion, determines that, in the interests of safety and soundness, this subparagraph should cease to apply to that subsidiary.

"(C) OTHER EXCEPTIONS.—Subparagraph (A) shall not apply with respect to any of the following:

"(i) MORTGAGE BANKING SUBSIDIARIES.—A savings association's investments in and extensions of credit to a subsidiary engaged solely in mortgage-banking activities.

"(ii) SUBSIDIARY INSURED DEPOSITORY INSTITUTIONS.—A savings association's investments in and extensions of credit to a subsidiary—

"(I) that is itself an insured depository institution or a company the sole investment of which is an insured depository institution, and

"(II) that was acquired by the parent insured depository institution prior to May 1, 1989.

"(iii) CERTAIN FEDERAL SAVINGS BANKS.—Any Federal savings association existing as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(I) that was chartered prior to October 15, 1982, as a savings bank or a cooperative bank under State law; or

"(II) that acquired its principal assets from an association that was chartered prior to October 15, 1982, as a savings bank or a cooperative bank under State law.

"(D) TRANSITION RULE.—

"(i) INCLUSION IN CAPITAL.—Notwithstanding subparagraph (A), if a savings association's subsidiary was, as of April 12, 1989, engaged in activities not permissible for a national bank, the savings association may include in calculating capital the applicable percentage (set forth in clause (ii)) of the lesser of—

"(I) the savings association's investments in and extensions of credit to the subsidiary on April 12, 1989; or

"(II) the savings association's investments in and extensions of credit to the subsidiary on the date as of which the savings association's capital is being determined.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is as follows:

"For the following period:	The applicable percentage is:
Prior to July 1, 1990	100 percent
July 1, 1990–June 30, 1991	90 percent
July 1, 1991–June 30, 1992	75 percent
July 1, 1992–June 30, 1993	60 percent
July 1, 1993–June 30, 1994	40 percent
Thereafter	0 percent

"(iii) FDIC'S DISCRETION TO PRESCRIBE LESSER PERCENTAGE.—The Corporation may prescribe by order, with respect to a particular savings association, an applicable percentage less than that provided in clause (ii) if the Corporation determines, in its sole discretion, that the use of a greater percentage would, under the circumstances, constitute an unsafe or unsound practice or be likely to result in the association's being in an unsafe or unsound condition.

"(E) CONSOLIDATION OF SUBSIDIARIES NOT SEPARATELY CAPITALIZED.—In determining compliance with capital standards prescribed under paragraph (1), the assets and liabilities of each of a savings association's subsidiaries (other than any subsidiary described in subparagraph (C)(ii)) shall be consolidated with the savings association's assets and liabilities, unless all of the savings association's investments in and extensions of credit to the subsidiary are deducted from the savings association's capital pursuant to subparagraph (A).

"(6) CONSEQUENCES OF FAILING TO COMPLY WITH CAPITAL STANDARDS.—

"(A) PRIOR TO JANUARY 1, 1991.—Prior to January 1, 1991, the Director—

"(i) may restrict the asset growth of any savings association not in compliance with capital standards; and

"(ii) shall, beginning 60 days following the promulgation of final regulations under this subsection, require any savings association not in compliance with capital standards to submit a plan under subsection (s)(4)(A) that—

"(I) addresses the savings association's need for increased capital;

"(II) describes the manner in which the savings association will increase its capital so as to achieve compliance with capital standards;

"(III) specifies the types and levels of activities in which the savings association will engage;

"(IV) requires any increase in assets to be accompanied by an increase in tangible capital not less in percentage amount than the leverage limit then applicable;

"(V) requires any increase in assets to be accompanied by an increase in capital not less in percentage amount than required under the risk-based capital standard then applicable; and

"(VI) is acceptable to the Director.

"(B) ON OR AFTER JANUARY 1, 1991.—On or after January 1, 1991, the Director—

"(i) shall prohibit any asset growth by any savings association not in compliance with capital standards, except as provided in subparagraph (C); and

"(ii) shall require any savings association not in compliance with capital standards to comply with a capital directive issued by the Director (which may include such restrictions, including restrictions on the payment of dividends and on compensation, as the Director determines to be appropriate).

"(C) LIMITED GROWTH EXCEPTION.—The Director may permit any savings association that is subject to subparagraph (B) to increase its assets in an amount not exceeding the amount of net interest credited to the savings association's deposit liabilities if—

"(i) the savings association obtains the Director's prior approval;

"(ii) any increase in assets is accompanied by an increase in tangible capital in an amount not less than 6 percent of the increase in assets (or, in the Director's discretion if the leverage limit then applicable is less than 6 percent, in an amount equal to the increase in assets multiplied by the percentage amount of the leverage limit);

"(iii) any increase in assets is accompanied by an increase in capital not less in percentage amount than required under the risk-based capital standard then applicable;

"(iv) any increase in assets is invested in low-risk assets, such as first mortgage loans secured by 1- to 4-family residences and fully secured consumer loans; and

"(v) the savings association's ratio of core capital to total assets is not less than the ratio existing on January 1, 1991.

"(D) ADDITIONAL RESTRICTIONS IN CASE OF EXCESSIVE RISKS OR RATES.—The Director may restrict the asset growth of any savings association that the Director determines is taking excessive risks or paying excessive rates for deposits.

"(E) FAILURE TO COMPLY WITH PLAN, REGULATION, OR ORDER.—The Director shall treat as an unsafe and unsound practice any material failure by a savings association to comply with any plan, regulation, or order under this paragraph.

"(F) EFFECT ON OTHER REGULATORY AUTHORITY.—This paragraph does not limit any authority of the Director under other provisions of law.

"(7) EXEMPTION FROM CERTAIN SANCTIONS.—

"(A) APPLICATION FOR EXEMPTION.—Any savings association not in compliance with the capital standards prescribed under paragraph (1) may apply to the Director for an exemption from any applicable sanction or penalty for noncompliance which the Director may impose.

"(B) EFFECT OF GRANT OF EXEMPTION.—If the Director approves any savings association's application under subparagraph (A), the only sanction or penalty to be imposed by the Director for the savings association's failure to comply with the capital standards prescribed under paragraph (1) is the growth limitation contained in paragraph (6)(B) or paragraph (6)(C), whichever is applicable.

"(C) STANDARDS FOR APPROVAL OR DISAPPROVAL.—

"(i) APPROVAL.—The Director may approve an application for an exemption if the Director determines that—

"(I) such exemption would pose no significant risk to the affected deposit insurance fund;

"(II) the savings association's management is competent;

"(III) the savings association is in substantial compliance with all applicable statutes, regulations, orders, and supervisory agreements and directives; and

"(IV) the savings association's management has not engaged in insider dealing, speculative practices, or any other activities that have jeopardized the association's safety and soundness or contributed to impairing the association's capital.

"(ii) DENIAL OR REVOCATION OF APPROVAL.—The Director shall deny any application submitted under clause (i) and revoke any prior approval granted with respect to any such application if the Director determines that the association's failure to meet any capital standards prescribed under paragraph (1) is accompanied by—

"(I) a pattern of consistent losses;

"(II) substantial dissipation of assets;

"(III) evidence of imprudent management or business behavior;

"(IV) a material violation of any Federal law, any law of any State to which such association is subject, or any applicable regulation; or

"(V) any other unsafe or unsound condition or activity, other than the failure to meet such capital standards.

"(D) SUBMISSION OF PLAN REQUIRED.—Any application submitted under subparagraph (A) shall be accompanied by a plan which—

"(i) meets the requirements of paragraph (6)(A)(ii); and

"(ii) is acceptable to the Director.

"(E) FAILURE TO COMPLY WITH PLAN.—The Director shall treat as an unsafe and unsound practice any material failure by any savings association which has been granted an exemption under this paragraph to comply with the provisions of any plan submitted by such association under subparagraph (D).

"(F) EXEMPTION NOT AVAILABLE WITH RESPECT TO UNSAFE OR UNSOUND PRACTICES.—This paragraph does not limit any authority of the Director under any other provision of law, including section 8 of the Federal Deposit Insurance Act, to take any appropriate action with respect to any unsafe or unsound practice or condition of any savings association, other than the failure of such savings association to comply with the capital standards prescribed under paragraph (1).

"(8) TEMPORARY AUTHORITY TO MAKE EXCEPTIONS FOR ELIGIBLE SAVINGS ASSOCIATIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1)(C), the Director may, by order, make exceptions to the capital standards prescribed under paragraph (1) for eligible savings associations. No exception under this paragraph shall be effective after January 1, 1991.

"(B) STANDARDS FOR APPROVAL OR DISAPPROVAL.—In determining whether to grant an exception under subparagraph (A), the Director shall apply the same standards as apply to determinations under paragraph (7)(C).

"(9) DEFINITIONS.—For purposes of this subsection—

"(A) CORE CAPITAL.—Unless the Director prescribes a more stringent definition, the term 'core capital' means core capital as defined by the Comptroller of the Currency for national banks, less any unidentifiable intangible assets, plus any purchased mortgage servicing rights excluded from the Comptroller's definition of capital but included in calculating the core capital of savings associations pursuant to paragraph (4).

"(B) QUALIFYING SUPERVISORY GOODWILL.—The term 'qualifying supervisory goodwill' means supervisory goodwill existing on April 12, 1989, amortized on a straightline basis over the shorter of—

"(i) 20 years, or

"(ii) the remaining period for amortization in effect on April 12, 1989.

"(C) TANGIBLE CAPITAL.—The term 'tangible capital' means core capital minus any intangible assets (as intangible assets are defined by the Comptroller of the Currency for national banks).

"(D) TOTAL ASSETS.—The term 'total assets' means total assets (as total assets are defined by the Comptroller of the Currency for national banks) adjusted in the same manner as total assets would be adjusted in determining compliance with the leverage limit applicable to national banks if the savings association were a national bank.

"(10) USE OF COMPTROLLER'S DEFINITIONS.—

(A) IN GENERAL.—The standards prescribed under paragraph (1) shall include all relevant substantive definitions established by the Comptroller of the Currency for national banks.

"(B) SPECIAL RULE.—If the Comptroller of the Currency has not made effective regulations defining core capital or establishing a risk-based capital standard, the Director shall use the definition and standard contained in the Comptroller's most recently published final regulations.

"(u) LIMITS ON LOANS TO ONE BORROWER.—

"(1) IN GENERAL.—Section 5200 of the Revised Statutes shall apply to savings associations in the same manner and to the same extent as it applies to national banks.

"(2) SPECIAL RULES.—

"(A) Notwithstanding paragraph (1), a savings association may make loans to one borrower under one of the following clauses:

"(i) for any purpose, not to exceed $500,000; or

"(ii) to develop domestic residential housing units, not to exceed the lesser of $30,000,000 or 30 percent of the savings association's unimpaired capital and unimpaired surplus, if—

"(I) the purchase price of each single family dwelling unit the development of which is financed under this clause does not exceed $500,000;

"(II) the savings association is and continues to be in compliance with the fully phased-in capital standards prescribed under subsection (t);

"(III) the Director, by order, permits the savings association to avail itself of the higher limit provided by this clause;

"(IV) loans made under this clause to all borrowers do not, in aggregate, exceed 150 percent of the savings association's unimpaired capital and unimpaired surplus; and

"(V) such loans comply with all applicable loan-to-value requirements.

"(B) A savings association's loans to one borrower to finance the sale of real property acquired in satisfaction of debts previously contracted in good faith shall not exceed 50 percent of the savings association's unimpaired capital and unimpaired surplus.

"(3) AUTHORITY TO IMPOSE MORE STRINGENT RESTRICTIONS.—The Director may impose more stringent restrictions on a savings association's loans to one borrower if the Director determines that such restrictions are necessary to protect the safety and soundness of the savings association.

"(v) REPORTS OF CONDITION.—

"(1) IN GENERAL.—Each association shall make reports of conditions to the Director which shall be in a form prescribed by the Director and shall contain—

"(A) information sufficient to allow the identification of potential interest rate and credit risk;

"(B) a description of any assistance being received by the association, including the type and monetary value of such assistance;

"(C) the identity of all subsidiaries and affiliates of the association;

"(D) the identity, value, type, and sector of investment of all equity investments of the associations and subsidiaries; and

"(E) other information that the Director may prescribe.

"(2) PUBLIC DISCLOSURE.—

"(A) Reports required under paragraph (1) and all information contained therein shall be available to the public upon request, unless the Director determines—

"(i) that a particular item or classification of information should not be made public in order to protect the safety or soundness of the institution concerned or institutions concerned, the Savings Association Insurance Fund; or

"(ii) that public disclosure would not otherwise be in the public interest.

"(B) Any determination made by the Director under subparagraph (A) not to permit the public disclosure of information shall be made in writing, and if the Director restricts any item of information for savings institutions generally, the Director shall disclose the reason in detail in the Federal Register.

"(C) The Director's determinations under subparagraph (A) shall not be subject to judicial review.

"(3) ACCESS BY CERTAIN PARTIES.—

"(A) Notwithstanding paragraph (2), the persons described in subparagraph (B) shall not be denied access to any information contained in a report of condition, subject to reasonable requirements of confidentiality. Those requirements shall not prevent such information from being transmitted to the Comptroller General of the United States for analysis.

"(B) The following persons are described in this subparagraph for purposes of subparagraph (A):

"(i) the Chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and their designees; and

"(ii) the Chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives and their designees.

"(4) FIRST TIER PENALTIES.—Any savings association which—

"(A) maintains procedures reasonably adapted to avoid any inadvertent and unintentional error and, as a result of such an error—

"(i) fails to submit or publish any report or information required by the Director under paragraph (1) or (2), within the period of time specified by the Director; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The savings association shall have the burden of proving by a preponderence of the evidence that an error was inadvertent and unintentional and that a report was inadvertently transmitted or published late.

"(5) SECOND TIER PENALTIES.—Any savings association which—

"(A) fails to submit or publish any report or information required by the Director under paragraph (1) or (2), within the period of time specified by the Director; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (4) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(6) THIRD TIER PENALTIES.—If any savings association knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (5) submits or publishes any false or misleading report or information, the Director may assess a penalty of not more than $1,000,000 or 1 percent of total assets, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(7) ASSESSMENT.—Any penalty imposed under paragraph (4), (5), or (6) shall be assessed and collected by the Director in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act (for penalties imposed under such section), and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(8) HEARING.—Any savings association against which any penalty is assessed under this subsection shall be afforded a hearing if such savings association submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"SEC. 6. LIQUID ASSET REQUIREMENTS.

"(a) IN GENERAL.—The purpose of this section is to provide a means for creating effective and flexible liquidity in savings associations which can be increased when mortgage money is plentiful, maintained in easily liquidated instruments, and reduced to add to the flow of funds to the mortgage market in periods of credit stringency. More flexible liquidity will help support sound mortgage credit and a more stable supply of such credit.

"(b) MAINTENANCE OF ACCOUNT.—

"(1) IN GENERAL.—Every savings association shall maintain the aggregate amount of its assets of the following types at not less than such amount as, in the opinion of the Director, is appropriate:

"(A) cash;

"(B) balances maintained in a Federal reserve bank or passed through a Federal home loan bank or another depository institution to a Federal reserve bank pursuant to the Federal Reserve Act; and

"(C) to such extent as the Director may approve for the purposes of this section—

"(i) time and savings deposits in Federal home loan banks, institutions which are, or are eligible to become, members thereof, and commercial banks;

"(ii) such obligations, including such special obligations, of the United States, a State, any territory or possession of the United States, or a political subdivision, agency, or instrumentality of any one or more of the foregoing, and bankers' acceptances, as the Director may approve;

"(iii) shares or certificates of any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such investment company's investment policy, changeable only if authorized by shareholder vote, solely to any of the obligations or other investments enumerated in subparagraph (A) and in clauses (i), (ii), (iv), (v), (vi), and (vii) of this subparagraph;

"(iv) liquid, highly rated corporate debt obligations with 3 years or less remaining until maturity;

"(v) highly rated commercial paper with 270 days or less remaining until maturity;

"(vi) mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934)—

"(I) that have one year or less remaining until maturity; or

"(II) that are subject to an agreement (including a repurchase agreement, put option, right of redemption, or takeout commitment) that requires another person to purchase the securities within a period that does not exceed one year, and that person is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) that is in compliance with applicable capital standards, a primary dealer in United States Government securities, or a broker or dealer registered under the Securities Exchange Act of 1934; and

"(vii) mortgage loans on the security of a first lien on residential real property, if the mortgage loans qualify as backing for mortgage-backed securities issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Association or guaranteed by the Government National Mortgage Association, and either—

"(I) the mortgage loans have one year or less remaining until maturity, or

"(II) the mortgage loans are subject to an agreement (including a repurchase agreement, put option, right of redemption, or takeout commitment) that requires another person to purchase the loans within a period that does not exceed one year, and that person is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) that is in compliance with applicable capital standards, a primary dealer in United States Government securities, or a broker or dealer registered under the Securities Exchange Act of 1934.

"(2) LIMITATION.—The requirement prescribed by the Director pursuant to this subsection (hereafter in this section referred to as the 'liquidity requirement') may not be less than 4 percent or more than 10 percent of the obligation of the institution on withdrawable accounts and borrowings payable on demand or with unexpired maturities of one year or less. The Director shall prescribe regulations to implement the provisions of this subsection.

"(c) CALCULATION.—The amount of any savings association's liquidity requirement, and any deficiency in compliance therewith, shall be calculated as the Director shall prescribe. The Director may prescribe different liquidity requirements, within the limitations specified herein, for different classes of savings associations, and for such purposes the Director is authorized to classify savings associations according to type, size, location, rate of withdrawals, or on such other basis or bases of differentiation as the Director may deem to be reasonably necessary or appropriate for the purposes of this section.

"(d) DEFICIENCY ASSESSMENTS.—For any deficiency in compliance with the liquidity requirements, the Director may, in the Director's discretion, assess a penalty consisting of the payment by the institution of such sum as may be assessed by the Director but not in excess of a rate equal to the highest rate on Federal home loan bank advances of one year or less, plus 2 percent per year, on the amount of the deficiency for the period with respect to which the deficiency existed. Any penalty assessed under this subsection against a savings association shall be paid to the Director. The Director may authorize or require that, at any time before collection thereof, and whether before or after the bringing of any action or other legal proceeding, the obtaining of any judgment or other recovery, or the issuance or levy of any execution or other legal process therefor, and with or without consideration, any such penalty or recovery be compromised, remitted, or mitigated in whole or part. The penalties authorized under this subsection are in addition to all remedies and sanctions otherwise available.

"(e) REDUCTION OR SUSPENSION.—Whenever the Director deems it advisable in order to enable a savings association to meet withdrawals or to pay obligations, the Director may, to such extent and subject to such conditions as the Director may prescribe, permit the savings association to reduce its liquidity below the minimum amount. Whenever the Director determines that conditions of national emergency or unusual economic stress exist, the Director may suspend any part or all of the liquidity requirements hereunder for such period as the Director may prescribe. Any such suspension, unless sooner terminated by its terms or by the Director, shall terminate at the expiration of 90 days next after its commencement. The preceding sentence does not prevent the Director from again exercising,

before, at, or after any such termination, the authority conferred by this subsection.

"(f) REGULATING AUTHORITY.—The Director is authorized to issue such regulations, including definitions of terms used in this section, to make such examinations, and to conduct such investigations as the Director deems necessary or appropriate to effectuate the purposes of this section. The reasonable cost of any such examination or investigation, as determined by the Director, shall be paid by the association.

"SEC. 7. APPLICABILITY.

"The provisions of this Act shall apply to the United States and to Puerto Rico, Guam, and the Virgin Islands.

"SEC. 8. DISTRICT ASSOCIATIONS.

"(a) IN GENERAL.—The Director shall, with respect to all incorporated or unincorporated building, building or loan, building and loan, or homestead associations, and similar institutions, of or transacting or doing business in the District of Columbia, or maintaining any office in the District of Columbia (other than Federal savings associations), have the same powers and functions as to examination, operation, and regulation as the Director has with respect to Federal savings associations.

"(b) ADDITIONAL POWERS.—Any such association or institution incorporated under the laws of, or organized in, the District of Columbia shall have in addition to any existing statutory authority such statutory authority as is vested in Federal savings associations.

"(c) CHARTER AMENDMENTS.—Charters, certificates of incorporation, articles of incorporation, constitutions, bylaws, or other organic documents of associations or institutions referred to in subsection (b) of this section may, without regard to anything contained therein or otherwise, be amended in such manner and to such extent and upon such votes if any as the Director may by regulation or otherwise provide.

"(d) LIMITATION.—Nothing in this section shall cause, or permit the Director to cause, District of Columbia associations to be or become Federal savings associations, or require the Director to impose on District of Columbia associations the same regulations as are imposed on Federal savings associations.

"SEC. 9. EXAMINATION FEES.

"(a) EXAMINATION OF SAVINGS ASSOCIATIONS.—The cost of conducting examinations of savings associations pursuant to section 5(d) of this Act shall be assessed by the Director against each such savings association in proportion to the assets or resources of the savings association.

"(b) EXAMINATION OF AFFILIATES.—The cost of conducting examinations of affiliates of savings associations pursuant to this Act may be assessed by the Director against each affiliate which is examined in proportion to the assets or resources held by the affiliate on the date of any such examination.

"(c) ASSESSMENT AGAINST ASSOCIATION IN CASE OF AFFILIATE'S REFUSAL TO PAY.—

"(1) IN GENERAL.—Subject to paragraph (2), if any affiliate of any savings association—

"(A) refuses to pay any assessment under subsection (b); or

"(B) fails to pay any such assessment before the end of the 60-day period beginning on the date of the assessment,

the Director may assess such cost against, and collect such cost from, such savings association.

"(2) AFFILIATE OF MORE THAN 1 SAVINGS ASSOCIATION.—If any affiliate referred to in paragraph (1) is an affiliate of more than 1 savings association, the assessment with respect to the affiliate against, and collected from, any affiliated savings association in such proportions as the Director may prescribe.

"(d) CIVIL MONEY PENALTY FOR AFFILIATE'S REFUSAL TO COOPERATE.—

"(1) PENALTY IMPOSED.—If any affiliate of any savings association—

"(A) refuses to permit any examiner appointed by the Director to make an examination; or

"(B) refuses to provide any information required to be disclosed in the course of any examination,

the savings association shall forfeit and pay a civil penalty of not more than $5,000 for each day that any such refusal continues.

"(2) ASSESSMENT AND COLLECTION.—Any penalty imposed under paragraph (1) shall be assessed and collected by the Director, in the manner provided in section 8(i)(2) of the Federal Deposit Insurance Act.

"(e) REGULATIONS.—Only the Director may prescribe regulations with respect to—

"(1) the computation of, and the assessment for, the cost of conducting examinations pursuant to this section; and

"(2) the collection and use of such assessments and any fees under this section.

Such regulations may establish formulas to determine a fee or schedule of fees to cover the costs of examinations and also to cover the cost of processing applications, filings, notices, and requests for approvals by the Director or the Director's designee.

"(f) COLLECTION THROUGH FDIC OR FEDERAL HOME LOAN BANKS.—The Corporation or the Federal home loan banks shall, upon request of and by agreement with the Director, collect fees and assessments on behalf of the Director and be reimbursed for the actual cost of collection.

"(g) COSTS OF OTHER EXAMINATIONS.—

"(1) EXAMINATION OF FIDUCIARY ACTIVITIES.—In addition to any assessment imposed pursuant to subsection (a), the cost of conducting examinations of fiduciary activities of savings associations which exercise fiduciary powers (including savings associations or similar institutions in the District of Columbia) shall be assessed by the Director against such savings associations (or similar institutions).

"(2) EXAMINATIONS IN EXCESS OF 2 PER CALENDAR YEAR.—If any savings association or affiliate of a savings association is examined by the Director, or the Corporation, as the case may be, more than 2 times in any calendar year, the cost of conducting such additional examinations shall be assessed, in addition to any assessment imposed pursuant to subsection (a), by the Director or the Corporation, as the case may be, against such savings association or affiliate.

"(h) ADDITIONAL INFORMATION.—Any savings association and any affiliate of any savings association shall provide the Director with access to any information or report with respect to any examination made by any public regulatory authority and furnish any additional information with respect thereto as the Director may require.

"(i) TREATMENT OF EXAMINATION ASSESSMENTS.—

"(1) DEPOSITS.—Amounts received by the Director from assessments under this section (other than an assessment under subsection (d)(2)) or section 10(b)(4) may be deposited in the manner provided in section 5234 of the Revised Statutes with respect to assessments by the Comptroller of the Currency.

"(2) ASSESSMENTS ARE NOT GOVERNMENT FUNDS.—The amounts received by the Director from any assessment under this section shall not be construed to be Government or public funds or appropriated money.

"(3) ASSESSMENTS ARE NOT SUBJECT TO APPORTIONMENT OF FUNDS.—Notwithstanding any other provision of law, the amounts received by the Director from any assessment under this section shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.

"(j) PROCESSING FEE.—The Director may, in the Director's sole discretion, assess against any person that submits to the Director an application, filing, notice, or request a fee to cover the cost of processing such submission.

"(k) FEES FOR EXAMINATIONS AND SUPERVISORY ACTIVITIES.—The Director may assess against institutions for which the Director is the appropriate Federal banking agency, within the meaning of section 3 of the Federal Deposit Insurance Act, fees to fund the direct and indirect expenses of the Office. Such fees shall be imposed in proportion of the assets or resources of the institutions. The fees may be imposed more frequently than annually at the discretion of the Director. The annual rate of such fees shall be the same for all institutions subject to such fees.

"(l) WORKING CAPITAL.—The Director is authorized to impose fees and assessments pursuant to subsections (a), (b), (e), and (k) of this section, in excess of actual expenses for any given year, to permit the Director to maintain a working capital fund. The Director shall remit to the payors of such fees and assessments any funds collected in excess of what he deems necessary to maintain such working capital fund.

"(m) USE OF FUNDS.—The Director is authorized to use the combined resources retained through fees and assessments imposed pursuant to this section to pay all direct and indirect salary and administrative expenses of the Office, including contracts and purchases of property and services, and the direct and indirect expenses of the examinations and supervisory activities of the Office.

"SEC. 10. REGULATION OF HOLDING COMPANIES.

"(a) DEFINITIONS.—

"(1) IN GENERAL.—As used in this section, unless the context otherwise requires—

"(A) SAVINGS ASSOCIATION.—The term 'savings association' includes a savings bank or cooperative bank which is deemed by the Director to be a savings association under subsection (l).

"(B) UNINSURED INSTITUTION.—The term 'uninsured institution' means any depository institution the deposits of which are not insured by the Federal Deposit Insurance Corporation.

"(C) COMPANY.—The term 'company' means any corporation, partnership, trust, joint-stock company, or similar organization, but does not include the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, any Federal home loan bank, or any company the majority of the shares of which is owned by the United States or any State, or by an instrumentality of the United States or any State.

"(D) SAVINGS AND LOAN HOLDING COMPANY.—The term 'savings and loan holding company' means any company which directly or indirectly controls a savings association or controls any other company which is a savings and loan holding company.

"(E) MULTIPLE SAVINGS AND LOAN HOLDING COMPANY.—The term 'multiple savings and loan holding company' means any savings and loan holding company which directly or indirectly controls 2 or more savings associations.

"(F) DIVERSIFIED SAVINGS AND LOAN HOLDING COMPANY.—The term 'diversified savings and loan holding company' means any savings and loan holding company whose subsidiary savings association and related activities as permitted under paragraph (2) of subsection (c) of this section represented, on either an actual or a pro forma basis, less than 50 percent of its consolidated net worth at the close of its preceding fiscal year and of its consolidated net earnings for such fiscal year, as determined in accordance with regulations issued by the Director.

"(G) SUBSIDIARY.—The term 'subsidiary' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(H) AFFILIATE.—The term 'affiliate' of a savings association means any person which controls, is controlled by, or is under common control with, such savings association.

"(I) BANK HOLDING COMPANY.—The terms 'bank holding company' and 'bank' have the meanings given to such terms in section 2 of the Bank Holding Company Act of 1956.

"(J) ACQUIRE.—The term 'acquire' has the meaning given to such term in section 13(f)(8) of the Federal Deposit Insurance Act.

"(2) CONTROL.—For purposes of this section, a person shall be deemed to have control of—

"(A) a savings association if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 25 percent of the voting shares of such savings association, or controls in any manner the election of a majority of the directors of such association;

"(B) any other company if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 25 percent of the voting shares or rights of such other company, or controls in any manner the election or appointment of a majority of the directors or trustees of such other company, or is a general partner in or has contributed more than 25 percent of the capital of such other company;

"(C) a trust if the person is a trustee thereof; or

"(D) a savings association or any other company if the Director determines, after reasonable notice and opportunity for hearing, that such person directly or indirectly exercises a controlling influence over the management or policies of such association or other company.

"(3) EXCLUSIONS.—Notwithstanding any other provision of this subsection, the term 'savings and loan holding company' does not include—

"(A) any company by virtue of its ownership or control of voting shares of a savings association or a savings and loan holding company acquired in connection with the underwriting of securities if such shares are held only for such period of time (not exceeding 120 days unless extended by the Director) as will permit the sale thereof on a reasonable basis; and

"(B) any trust (other than a pension, profit-sharing, shareholders', voting, or business trust) which controls a savings association or a savings and loan holding company if such trust by its terms must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust, and is (i) in existence on June 26, 1967, or (ii) a testamentary trust created on or after June 26, 1967.

"(4) SPECIAL RULE RELATING TO QUALIFIED STOCK ISSUANCE.—No savings and loan holding company shall be deemed to control a savings association solely by reason of the purchase by such savings and loan holding company of shares issued by such savings association, or issued by any savings and loan holding company (other than a bank holding company) which controls such savings association, in connection with a qualified stock issuance if such purchase is approved by the Director under subsection (q)(1)(D), unless the acquiring savings and loan holding company, directly or indirectly, or acting in concert with 1 or more other persons, or through 1 or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 15 percent of the voting shares of such savings association or holding company.

"(b) REGISTRATION AND EXAMINATION.—

"(1) IN GENERAL.—Within 90 days after becoming a savings and loan holding company, each savings and loan holding company shall register with the Director on forms prescribed by the Director, which shall include such information, under oath or otherwise, with respect to the financial condition, ownership, operations, management, and intercompany relationships of such holding company and its subsidiaries, and related matters, as the Director may deem necessary or appropriate to carry out the purposes of this section. Upon application, the Director may extend the time within which a savings and loan holding company shall register and file the requisite information.

"(2) REPORTS.—Each savings and loan holding company and each subsidiary thereof, other than a savings association, shall file with the Director, and the regional office of the Director of the district in which its principal office is located, such reports as may be required by the Director. Such reports shall be made under oath or otherwise, and shall be in such form and for such periods, as the Director may prescribe. Each report shall contain such information concerning the operations of such savings and loan holding company and its subsidiaries as the Director may require.

"(3) BOOKS AND RECORDS.—Each savings and loan holding company shall maintain such books and records as may be prescribed by the Director.

"(4) EXAMINATIONS.—Each savings and loan holding company and each subsidiary thereof (other than a bank) shall be subject to such examinations as the Director may prescribe. The cost of such examinations shall be assessed against and paid by such holding company. Examination and other reports may be furnished by the Director to the appropriate State supervisory authority. The Director shall, to the extent deemed feasible, use for the purposes of this subsection reports filed with or examinations made by other Federal agencies or the appropriate State supervisory authority.

"(5) AGENT FOR SERVICE OF PROCESS.—The Director may require any savings and loan holding company, or persons connected therewith if it is not a corporation, to execute and file a prescribed form of irrevocable appointment of agent for service of process.

"(6) RELEASE FROM REGISTRATION.—The Director may at any time, upon the Director's own motion or upon application, release a registered savings and loan holding company from any registration theretofore made by such company, if the Director determines that such company no longer has control of any savings association.

"(c) HOLDING COMPANY ACTIVITIES.—

"(1) PROHIBITED ACTIVITIES.—Except as otherwise provided in this subsection, no savings and loan holding company and no subsidiary which is not a savings association shall—

"(A) engage in any activity or render any service for or on behalf of a savings association subsidiary for the purpose or with the effect of evading any law or regulation applicable to such savings association;

"(B) commence any business activity, other than the activities described in paragraph (2); or

"(C) continue any business activity, other than the activities described in paragraph (2), after the end of the 2-year period beginning on the date on which such company received approval under subsection (e) of this section to become a savings and loan holding company subject to the limitations contained in this subparagraph.

"(2) EXEMPT ACTIVITIES.—The prohibitions of subparagraphs (B) and (C) of paragraph (1) shall not apply to the following business activities of any savings and loan holding company or any subsidiary (of such company) which is not a savings association:

"(A) Furnishing or performing management services for a savings association subsidiary of such company.

"(B) Conducting an insurance agency or escrow business.

"(C) Holding, managing, or liquidating assets owned or acquired from a savings association subsidiary of such company.

"(D) Holding or managing properties used or occupied by a savings association subsidiary of such company.

"(E) Acting as trustee under deed of trust.

"(F) Any other activity—

"(i) which the Board of Governors of the Federal Reserve System, by regulation, has determined to be permissible for bank holding companies under section 4(c) of the Bank Holding Company Act of 1956, unless the Director, by regulation, prohibits or limits any such activity for savings and loan holding companies; or

"(ii) in which multiple savings and loan holding companies were authorized (by regulation) to directly engage on March 5, 1987.

"(G) In the case of a savings and loan holding company, purchasing, holding, or disposing of stock acquired in connection with a qualified stock issuance if the purchase of such stock by such savings and loan holding company is approved by the Director pursuant to subsection (q)(1)(D).

"(3) CERTAIN LIMITATIONS ON ACTIVITIES NOT APPLICABLE TO CERTAIN HOLDING COMPANIES.—Notwithstanding paragraphs (4) and (6) of this subsection, the limitations contained in subparagraphs (B) and (C) of paragraph (1) shall not apply to any savings and loan holding company (or any subsidiary of such company) which controls—

"(A) only 1 savings association, if the savings association subsidiary of such company is a qualified thrift lender (as determined under subsection (m)); or

"(B) more than 1 savings association, if—

"(i) all, or all but 1, of the savings association subsidiaries of such company were initially acquired by the company or by an individual who would be deemed to control

such company if such individual were a company—

"(I) pursuant to an acquisition under section 13(c) or 13(k) of the Federal Deposit Insurance Act or section 408(m) of the National Housing Act; or

"(II) pursuant to an acquisition in which assistance was continued to a savings association under section 13(i) of the Federal Deposit Insurance Act; and

"(ii) all of the savings association subsidiaries of such company are qualified thrift lenders (as determined under subsection (m)).

"(4) PRIOR APPROVAL OF CERTAIN NEW ACTIVITIES REQUIRED.—

"(A) IN GENERAL.—No savings and loan holding company and no subsidiary which is not a savings association shall commence, either de novo or by an acquisition (in whole or in part) of a going concern, any activity described in paragraph (2)(F)(i) of this subsection without the prior approval of the Director.

"(B) FACTORS TO BE CONSIDERED BY DIRECTOR.—In considering any application under subparagraph (A) by any savings and loan holding company or any subsidiary of any such company which is not a savings association, the Director shall consider—

"(i) whether the performance of the activity described in such application by the company or the subsidiary can reasonably be expected to produce benefits to the public (such as greater convenience, increased competition, or gains in efficiency) that outweigh possible adverse effects of such activity (such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound financial practices);

"(ii) the managerial resources of the companies involved; and

"(iii) the adequacy of the financial resources, including capital, of the companies involved.

"(C) DIRECTOR MAY DIFFERENTIATE BETWEEN NEW AND ONGOING ACTIVITIES.—In prescribing any regulation or considering any application under this paragraph, the Director may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern.

"(D) APPROVAL OR DISAPPROVAL BY ORDER.—The approval or disapproval of any application under this paragraph by the Director shall be made in an order issued by the Director containing the reasons for such approval or disapproval.

"(5) GRACE PERIOD TO ACHIEVE COMPLIANCE.—If any savings association referred to in paragraph (3) fails to maintain the status of such association as a qualified thrift lender, the Director may allow, for good cause shown, any company that controls such association (or any subsidiary of such company which is not a savings association) up to 3 years to comply with the limitations contained in paragraph (1)(C).

"(6) SPECIAL PROVISIONS RELATING TO CERTAIN COMPANIES AFFECTED BY 1987 AMENDMENTS.—

"(A) EXCEPTION TO 2-YEAR GRACE PERIOD FOR ACHIEVING COMPLIANCE.—Notwithstanding paragraph (1)(C), any company which received approval under subsection (e) of this section to acquire control of a savings association between March 5, 1987, and August 10, 1987, shall not continue any business activity other than an activity described in paragraph (2) after August 10, 1987.

"(B) EXEMPTION FOR ACTIVITIES LAWFULLY ENGAGED IN BEFORE MARCH 5, 1987.—Notwithstanding paragraph (1)(C) and subject to subparagraphs (C) and (D), any savings and loan holding company which received approval, before March 5, 1987, under subsection (e) of this section to acquire control of a savings association may engage, directly or through any subsidiary (other than a savings association subsidiary of such company), in any activity in which such company or such subsidiary was lawfully engaged on such date.

"(C) TERMINATION OF SUBPARAGRAPH (B) EXEMPTION.—The exemption provided under subparagraph (B) for activities engaged in by any savings and loan holding company or a subsidiary of such company (which is not a savings association) which would otherwise be prohibited under paragraph (1)(C) shall terminate with respect to such activities of such company or subsidiary upon the occurrence (after August 10, 1987) of any of the following:

"(i) The savings and loan holding company acquires control of a bank or an additional savings association (other than a savings association acquired pursuant to section 13(c) or 13(k) of the Federal Deposit Insurance Act or section 406(f) or 408(m) of the National Housing Act).

"(ii) Any savings association subsidiary of the savings and loan holding company fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986.

"(iii) The savings and loan holding company engages in any business activity—

"(I) which is not described in paragraph (2); and

"(II) in which it was not engaged on March 5, 1987.

"(iv) Any savings association subsidiary of the savings and loan holding company increases the number of locations from which such savings association conducts business after March 5, 1987 (other than an increase which occurs in connection with a transaction under section 13 (c) or (k) of the Federal Deposit Insurance Act or section 408(m) of the National Housing Act.

"(v) Any savings association subsidiary of the savings and loan holding company permits any overdraft (including an intraday overdraft), or incurs any such overdraft in its account at a Federal Reserve bank, on behalf of an affiliate, unless such overdraft is the result of an inadvertent computer or accounting error that is beyond the control of both the savings association subsidiary and the affiliate.

"(D) ORDER BY DIRECTOR TO TERMINATE SUBPARAGRAPH (B) ACTIVITY.—Any activity described in subparagraph (B) may also be terminated by the Director, after opportunity for hearing, if the Director determines, having due regard for the purposes of this title, that such action is necessary to prevent conflicts of interest or unsound practices or is in the public interest.

"(7) FOREIGN SAVINGS AND LOAN HOLDING COMPANY.—Notwithstanding any other provision of this section, any savings and loan holding company organized under the laws of a foreign country as of June 1, 1984 (including any subsidiary thereof which is not a savings association), which controls a single savings association on August 10, 1987, shall not be subject to this subsection with respect to any activities of such holding company which are conducted exclusively in a foreign country.

"(8) EXEMPTION FOR BANK HOLDING COMPANIES.—Except for paragraph (1)(A), this subsection shall not apply to any company that is treated as a bank holding company for purposes of section 4 of the Bank Holding Company Act of 1956, or any of its subsidiaries.

"(d) TRANSACTIONS WITH AFFILIATES.—Transactions between any subsidiary savings association of a savings and loan holding company and any affiliate (of such savings association subsidiary) shall be subject to the limitations and prohibitions specified in section 11 of this Act.

"(e) ACQUISITIONS.—

"(1) IN GENERAL.—It shall be unlawful for—

"(A) any savings and loan holding company directly or indirectly, or through one or more subsidiaries or through one or more transactions—

"(i) to acquire, except with the prior written approval of the Director, the control of a savings association or a savings and loan holding company, or to retain the control of such an association or holding company acquired or retained in violation of this section as heretofore or hereafter in effect;

"(ii) to acquire, except with the prior written approval of the Director, by the process of merger, consolidation, or purchase of assets, another savings association or a savings and loan holding company, or all or substantially all of the assets of any such association or holding company;

"(iii) to acquire, by purchase or otherwise, or to retain more than 5 percent of the voting shares of a savings association not a subsidiary, or of a savings and loan holding company not a subsidiary, or in the case of a multiple savings and loan holding company (other than a company described in subsection (c)(8)), to so acquire or retain more than 5 percent of the voting shares of any company not a subsidiary which is engaged in any business activity other than the activities specified in subsection (c)(2). This clause shall not apply to shares of a savings association or of a savings and loan holding company—

"(I) held as a bona fide fiduciary (whether with or without the sole discretion to vote such shares);

"(II) held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business;

"(III) held in an account solely for trading purposes;

"(IV) over which no control is held other than control of voting rights acquired in the normal course of a proxy solicitation;

"(V) acquired in securing or collecting a debt previously contracted in good faith, during the 2-year period beginning on the date of such acquisition or for such additional time (not exceeding 3 years) as the Director may permit if the Director determines that such an extension will not be detrimental to the public interest;

"(VI) acquired under section 408(m) of the National Housing Act or section 13(k) of the Federal Deposit Insurance Act;

"(VII) held by any insurance company, as defined in section 2(a)(17) of the Investment Company Act of 1940, except as provided in paragraph (6);

"(VIII) acquired pursuant to a qualified stock issuance if such purchase is approved by the Director under subsection (q)(1)(D);

except that the aggregate amount of shares held under this clause (other than under subclauses (I), (II), (III), (IV), and (VI)) may not exceed 15 percent of all outstanding shares or of the voting power of a savings association or savings and loan holding company; or

"(iv) to acquire the control of an uninsured institution, or to retain for more than

one year after February 14, 1968, or from the date on which such control was acquired, whichever is later, except that the Director may upon application by such company extend such one-year period from year to year, for an additional period not exceeding 3 years, if the Director finds such extension is warranted and is not detrimental to the public interest;

"(B) any other company, without the prior written approval of the Director, directly or indirectly, or through one or more subsidiaries or through one or more transactions, to acquire the control of one or more savings associations, except that such approval shall not be required in connection with the control of a savings association, (i) acquired by devise under the terms of a will creating a trust which is excluded from the definition of 'savings and loan holding company' under subsection (a) of this section, or (ii) acquired in connection with a reorganization in which a person or group of persons, having had control of a savings association for more than 3 years, vests control of that association in a newly formed holding company subject to the control of the same person or group of persons. The Director shall approve an acquisition of a savings association under this subparagraph unless the Director finds the financial and managerial resources and future prospects of the company and association involved to be such that the acquisition would be detrimental to the association or the insurance risk of the Savings Association Insurance Fund or Bank Insurance Fund, and shall render a decision within 90 days after submission to the Director of the complete record on the application.

"(2) FACTORS TO BE CONSIDERED.—The Director shall not approve any acquisition under subparagraph (A)(i) or (A)(ii), or of more than one savings association under subparagraph (B) of paragraph (1) of this subsection, any acquisition of stock in connection with a qualified stock issuance, any acquisition under paragraph (4)(A), or any transaction under section 13(k) of the Federal Deposit Insurance Act, except in accordance with this paragraph. In every case, the Director shall take into consideration the financial and managerial resources and future prospects of the company and association involved, the effect of the acquisition on the association, the insurance risk to the Savings Association Insurance Fund or the Bank Insurance Fund, and the convenience and needs of the community to be served, and shall render a decision within 90 days after submission to the Director of the complete record on the application. Before approving any such acquisition, except a transaction under section 13(k) of the Federal Deposit Insurance Act, the Director shall request from the Attorney General and consider any report rendered within 30 days on the competitive factors involved. The Director shall not approve any proposed acquisition—

"(A) which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the United States, or

"(B) the effect of which in any section of the country may be substantially to lessen competition, or tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed acquisition are clearly outweighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community to be served.

"(3) INTERSTATE ACQUISITIONS.—No acquisition shall be approved by the Director under this subsection which will result in the formation by any company, through one or more subsidiaries or through one or more transactions, of a multiple savings and loan holding company controlling savings associations in more than one State, unless—

"(A) such company, or a savings association subsidiary of such company, is authorized to acquire control of a savings association subsidiary, or to operate a home or branch office, in the additional State or States pursuant to section 13(k) of the Federal Deposit Insurance Act;

"(B) such company controls a savings association subsidiary which operated a home or branch office in the additional State or States as of March 5, 1987; or

"(C) the statutes of the State in which the savings association to be acquired is located permit a savings association chartered by such State to be acquired by a savings association chartered by the State where the acquiring savings association or savings and loan holding company is located or by a holding company that controls such a State chartered savings association, and such statutes specifically authorize such an acquisition by language to that effect and not merely by implication.

"(4) ACQUISITIONS BY CERTAIN INDIVIDUALS.—

"(A) IN GENERAL.—Notwithstanding subsection (h)(2), any director or officer of a savings and loan holding company, or any individual who owns, controls, or holds with power to vote (or holds proxies representing) more than 25 percent of the voting shares of such holding company, may acquire control of any savings association not a subsidiary of such savings and loan holding company with the prior written approval of the Director.

"(B) TREATMENT OF CERTAIN HOLDING COMPANIES.—If any individual referred to in subparagraph (A) controls more than 1 savings and loan holding company or more than 1 savings association, any savings and loan holding company controlled by such individual shall be subject to the activities limitations contained in subsection (c) to the same extent such limitations apply to multiple savings and loan holding companies, unless all or all but 1 of the savings associations (including any institution deemed to be a savings association under subsection (1) of this section) controlled directly or indirectly by such individual was acquired pursuant to an acquisition described in subclause (I) or (II) of subsection (c)(3)(B)(i).

"(5) ACQUISITIONS PURSUANT TO CERTAIN SECURITY INTERESTS.—This subsection and subsection (c)(2) of this section do not apply to any savings and loan holding company which acquired the control of a savings association or of a savings and loan holding company pursuant to a pledge or hypothecation to secure a loan, or in connection with the liquidation of a loan, made in the ordinary course of business. It shall be unlawful for any such company to retain such control for more than one year after February 14, 1968, or from the date on which such control was acquired, whichever is later, except that the Director may upon application by such company extend such one-year period from year to year, for an additional period not exceeding 3 years, if the Director finds such extension is warranted and would not be detrimental to the public interest.

"(6) SHARES HELD BY INSURANCE AFFILIATES.—Shares described in clause (iii)(VII) of paragraph (1)(A) shall not be excluded for purposes of clause (iii) of such paragraph if—

"(A) all shares held under such clause (iii)(VII) by all insurance company affiliates of such savings association or savings and loan holding company in the aggregate exceed 5 percent of all outstanding shares or of the voting power of the savings association or savings and loan holding company; or

"(B) such shares are acquired or retained with a view to acquiring, exercising, or transferring control of the savings association or savings and loan holding company.

"(f) DECLARATION OF DIVIDEND.—Every subsidiary savings association of a savings and loan holding company shall give the Director not less than 30 days' advance notice of the proposed declaration by its directors of any dividend on its guaranty, permanent, or other nonwithdrawable stock. Such notice period shall commence to run from the date of receipt of such notice by the Director. Any such dividend declared within such period, or without the giving of such notice to the Director, shall be invalid and shall confer no rights or benefits upon the holder of any such stock.

"(g) ADMINISTRATION AND ENFORCEMENT.—

"(1) IN GENERAL.—The Director is authorized to issue such regulations and orders as the Director deems necessary or appropriate to enable the Director to administer and carry out the purposes of this section, and to require compliance therewith and prevent evasions thereof.

"(2) INVESTIGATIONS.—The Director may make such investigations as the Director deems necessary or appropriate to determine whether the provisions of this section, and regulations and orders thereunder, are being and have been complied with by savings and loan holding companies and subsidiaries and affiliates thereof. For the purpose of any investigation under this section, the Director may administer oaths and affirmations, issue subpenas, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which may be relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in any State. The Director may apply to the United States district court for the judicial district (or the United States court in any territory) in which any witness or company subpenaed resides or carries on business, for enforcement of any subpena issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance.

"(3) PROCEEDINGS.—(A) In any proceeding under subsection (a)(2)(D) or under paragraph (5) of this section, the Director may administer oaths and affirmations, take or cause to be taken depositions, and issue subpenas. The Director may make regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this paragraph may be required from any place in any State or in any territory at any designated place where such proceeding is being conducted. Any party to such proceedings may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this section

shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

"(B) Any hearing provided for in subsection (a)(2)(D) or under paragraph (5) of this section shall be held in the Federal judicial district or in the territory in which the principal office of the association or other company is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code.

"(4) INJUNCTIONS.—Whenever it appears to the Director that any person is engaged or has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this section or of any regulation or order thereunder, the Director may bring an action in the proper United States district court, or the United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, to enforce compliance with this section or any regulation or order, or to require the divestiture of any acquisition in violation of this section, or for any combination of the foregoing, and such courts shall have jurisdiction of such actions. Upon a proper showing an injunction, decree, restraining order, order of divestiture, or other appropriate order shall be granted without bond.

"(5) CEASE AND DESIST ORDERS.—(A) Notwithstanding any other provision of this section, the Director may, whenever the Director has reasonable cause to believe that the continuation by a savings and loan holding company of any activity or of ownership or control of any of its noninsured subsidiaries constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association and is inconsistent with the sound operation of a savings association or with the purposes of this section or section 8 of the Federal Deposit Insurance Act, order the savings and loan holding company or any of its subsidiaries, after due notice and opportunity for hearing, to terminate such activities or to terminate (within 120 days or such longer period as the Director directs in unusual circumstances) its ownership or control of any such noninsured subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the savings and loan holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing savings and loan holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.

"(B) The Director may in the Director's discretion apply to the United States district court within the jurisdiction of which the principal office of the company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith. Except as provided in subsection (j), no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.

"(h) PROHIBITED ACTS.—It shall be unlawful for—

"(1) any savings and loan holding company or subsidiary thereof, or any director, officer, employee, or person owning, controlling, or holding with power to vote, or holding proxies representing, more than 25 percent of the voting shares, of such holding company or subsidiary, to hold, solicit, or exercise any proxies in respect of any voting rights in a savings association which is a mutual association;

"(2) any director or officer of a savings and loan holding company, or any individual who owns, controls, or holds with power to vote (or holds proxies representing) more than 25 percent of the voting shares of such holding company, to acquire control of any savings association not a subsidiary of such savings and loan holding company, unless such acquisition is approved by the Director pursuant to subsection (e)(4); or

"(3) any individual, except with the prior approval of the Director, to serve or act as a director, officer, or trustee of, or become a partner in, any savings and loan holding company after having been convicted of any criminal offense involving dishonesty or breach of trust.

"(i) PENALTIES.—

"(1) CRIMINAL PENALTIES.—(A) Whoever knowingly violates any provision of this section, and any company which violates any regulation or order issued by the Director pursuant thereto, shall be fined not more than $100,000 per day for each day during which the violation continues.

"(B) Any individual who knowingly violates any provision of this section shall be fined not more than $100,000 per day for each day during which the violation continues, imprisoned not more than 1 year, or both.

"(C) Whoever knowingly violates any provision of this section with intent to deceive, to defraud, or to profit significantly shall be fined not more than $1,000,000 per day for each day during which the violation continues, imprisoned not more than 5 years, or both.

"(2) FALSE ENTRIES.—Every director, officer, partner, trustee, agent, or employee of a savings and loan holding company shall be subject to the same penalties for false entries in any book, report, or statement of such savings and loan holding company as are applicable to officers, agents, and employees of a savings association the accounts of which are insured by the Corporation for false entries in any books, reports, or statements of such association under section 1006 of title 18, United States Code.

"(3) CIVIL MONEY PENALTY.—

"(A) PENALTY.—Any company which violates, and any person who participates in a violation of, any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(B) ASSESSMENT.—Any penalty imposed under subparagraph (A) may be assessed and collected by the Director in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(C) HEARING.—The company or other person against whom any civil penalty is assessed under this paragraph shall be afforded a hearing if such company or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this paragraph.

"(D) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(E) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(F) REGULATIONS.—The Director shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.

"(4) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a savings and loan holding company or subsidiary thereof (including a separation caused by the deregistration of such a company or such a subsidiary) shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such holding company or its subsidiary (whether such date occurs before, on, or after the date of the enactment of this paragraph).

"(j) JUDICIAL REVIEW.—Any party aggrieved by an order of the Director under this section may obtain a review of such order by filing in the court of appeals of the United States for the circuit in which the principal office of such party is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Director, and thereupon the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director. Review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28, United States Code.

"(k) SAVINGS CLAUSE.—Nothing contained in this section, other than any transaction approved under subsection (e)(2) of this section or section 13 of the Federal Deposit Insurance Act, shall be interpreted or construed as approving any act, action, or conduct which is or has been or may be in violation of existing law, nor shall anything herein contained constitute a defense to any action, suit, or proceeding pending or hereafter instituted on account of any act, action, or conduct in violation of the antitrust laws.

"(l) TREATMENT OF FDIC INSURED STATE SAVINGS BANKS AND COOPERATIVE BANKS AS SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a savings bank (as defined in section 3(g) of the Federal Deposit Insurance Act) and a cooperative bank that is an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act) upon application shall be deemed to be a savings association for the purpose of this section, if the Director determines that such

bank is a qualified thrift lender (as determined under subsection (m)).

"(2) FAILURE TO MAINTAIN QUALIFIED THRIFT LENDER STATUS.—If any savings bank which is deemed to be a savings association under paragraph (1) subsequently fails to maintain its status as a qualified thrift lender, as determined by the Director, such bank may not thereafter be a qualified thrift lender for a period of 5 years.

"(m) QUALIFIED THRIFT LENDER TEST.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (6), any savings association shall have the status of a qualified thrift lender if—

"(A) the qualified thrift investments of such savings association equal or exceed 60 percent of the total tangible assets of such association; and

"(B) the qualified thrift investments of such savings association continue to equal or exceed 60 percent of the total tangible assets of such association on an average basis in 3 out of every 4 quarters and 2 out of every 3 years.

"(2) EXCEPTIONS GRANTED BY DIRECTOR.—Notwithstanding paragraph (1), the Director may grant such temporary and limited exceptions from the minimum actual thrift investment percentage requirement contained in such paragraph as the Director deems necessary if—

"(A) the Director determines that extraordinary circumstances exist, such as when the effects of high interest rates reduce mortgage demand to such a degree that an insufficient opportunity exists for a savings association to meet such investment requirements; or

"(B) the Director determines that—

"(i) the grant of any such exception will significantly facilitate an acquisition under section 13(c) or 13(k) of the Federal Deposit Insurance Act;

"(ii) the acquired association will comply with the transition requirements of paragraph (6)(B), as if the date of the exemption were the starting date for the transition period described in that paragraph; and

"(iii) the Director determines that the exemption will not have an undue adverse effect on competing savings associations in the relevant market and will further the purposes of this subsection.

"(3) FAILURE TO BECOME AND REMAIN A QUALIFIED THRIFT LENDER.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), a savings association that fails to become or remain a qualified thrift lender shall either become one or more banks (other than a savings bank), or be subject to subparagraph (B).

"(B) RESTRICTIONS APPLICABLE TO SAVINGS ASSOCIATIONS THAT ARE NOT QUALIFIED THRIFT LENDERS.—

"(i) RESTRICTIONS EFFECTIVE IMMEDIATELY.—The following restrictions shall apply immediately to a savings association after the date on which the savings association should have become or ceases to be a qualified thrift lender:

"(I) ACTIVITIES.—The savings association shall not make any new investment (including an investment in a subsidiary) or engage, directly or indirectly, in any other new activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

"(II) BRANCHING.—The savings association shall not establish any new branch office at any location at which a national bank located in the savings association's home State may not establish a branch office. For purposes of this subclause, a savings association's home State is the State in which the savings association's total deposits were largest on the date on which the savings association should have become or ceased to be a qualified thrift lender.

"(III) ADVANCES.—The savings association shall not be eligible to obtain new advances from any Federal home loan bank.

"(IV) DIVIDENDS.—The savings association shall be subject to all statutes and regulations governing the payment of dividends by a national bank in the same manner and to the same extent as if the savings association were a national bank.

"(ii) ADDITIONAL RESTRICTIONS EFFECTIVE AFTER THREE YEARS.—The following additional restrictions shall apply to a savings association beginning 3 years after the date on which the savings association should have become or ceases to be a qualified thrift lender:

"(I) ACTIVITIES.—The savings association shall not retain any investment (including an investment in any subsidiary) or engage, directly or indirectly, in any activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

"(II) ADVANCES.—The savings association shall repay any outstanding advances from any Federal home loan bank as promptly as can be prudently done consistent with the safe and sound operation of the savings association.

"(C) HOLDING COMPANY REGULATION.—Any company that controls a savings association that is subject to any provision of subparagraph (B) shall, within one year after the date on which the savings association should have become or ceases to be a qualified thrift lender, register as and be deemed to be a bank holding company subject to all of the provisions of the Bank Holding Company Act of 1956, section 8 of the Federal Deposit Insurance Act, and other statutes applicable to bank holding companies, in the same manner and to the same extent as if the company were a bank holding company and the savings association were a bank, as those terms are defined in the Bank Holding Company Act of 1956.

"(D) REQUALIFICATION.—A savings association that should have become or ceases to be a qualified thrift lender shall not be subject to subparagraph (B) or (C) if the savings association becomes a qualified thrift lender by meeting the qualified thrift lender requirement in paragraph (1) on an average basis in 3 out of every 4 quarters and 2 out of every 3 years and thereafter remains a qualified thrift lender. If the savings association (or any savings association that acquired all or substantially all of its assets from that savings association) at any time thereafter ceases to be a qualified thrift lender, it shall immediately be subject to all provisions of subparagraphs (B) and (C) as if all the periods described in subparagraphs (B)(ii) and (C) had expired.

"(E) DEPOSIT INSURANCE ASSESSMENTS.—Any bank chartered as a result of the requirements of this section shall be obligated until December 31, 1993, to pay to the Savings Association Insurance Fund the assessments assessed on savings associations under the Federal Deposit Insurance Act. Such association shall also be assessed, on the date of its change of status from a Savings Association Insurance Fund member, the exit fee and entrance fee provided in section 5(d) of the Federal Deposit Insurance Act. Such institution shall not be obligated to pay the assessments assessed on banks under the Federal Deposit Insurance Act until—

"(i) December 31, 1993, or

"(ii) the institution's change of status from a Savings Association Insurance fund member to a Bank Insurance Fund member, whichever is later.

"(F) SPECIAL RULE.—This paragraph shall not apply to savings associations headquartered and operating primarily in Puerto Rico or the Virgin Islands.

"(G) NO CIRCUMVENTION OF EXIT MORATORIUM.—Subparagraph (A) of this paragraph shall not be construed as permitting any insured depository institution to engage in any conversion transaction prohibited under section 5(d) of the Federal Deposit Insurance Act.

"(H) EFFECTIVE DATE.—This paragraph shall take effect upon the expiration of 1 year after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) ACTUAL THRIFT INVESTMENT PERCENTAGE.—The term 'actual thrift investment percentage' means the percentage determined by dividing—

"(i) the amount of the qualified thrift investments of a savings association, by

"(ii) the total amount of tangible assets of such savings association.

"(B) QUALIFIED THRIFT INVESTMENTS.—The term 'qualified thrift investments' means, with respect to any savings association, the sum of—

"(i) the aggregate amount of loans, equity positions, or securities held by the savings association (or any subsidiary of such association) which are related to domestic residential real estate or manufactured housing;

"(ii) the value of property used by such association or subsidiary in the conduct of the business of such association or subsidiary;

"(iii) subject to paragraph (5), the liquid assets of the type required to be maintained under this Act; and

"(iv) subject to paragraph (5), 50 percent of the dollar amount of the residential mortgage loans originated by such savings association or subsidiary and sold within 90 days of origination.

"(5) LIMITATION ON TREATMENT OF CERTAIN ASSETS AS THRIFT INVESTMENTS.—The aggregate amount of the assets described in clauses (iii) and (iv) of paragraph (4)(B) which may be taken into account in determining the amount of the qualified thrift investments of any savings association shall not exceed the amount which is equal to 10 percent of the tangible assets of such association.

"(6) TRANSITIONAL RULE FOR CERTAIN SAVINGS ASSOCIATIONS.—

"(A) IN GENERAL.—If any Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(i) that was chartered as a savings bank or a cooperative bank under State law before October 15, 1982; or

"(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law,

meets the requirements of subparagraph (B), such savings association shall be treated as a qualified thrift lender during the 6-year period beginning on August 10, 1989.

"(B) SUBPARAGRAPH (B) REQUIREMENTS.—A savings association meets the requirements of this subparagraph if, in the determination of the Director—

"(i) the actual thrift investment percentage of such association does not, after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, decrease below the actual thrift investment percentage of such association on July 15, 1989; and

"(ii) the amount by which—

"(I) the actual thrift investment percentage of such association at the end of each period described in the following table, exceeds

"(II) the actual thrift investment percentage of such association on July 15, 1989,

is equal to or greater than the applicable percentage (as determined under the following table) of the amount by which 70 percent exceeds the actual thrift investment percentage of such association on such date of enactment:

"For the following period:	The applicable percentage is:
Prior to July 1, 1991	25 percent
July 1, 1991-December 31, 1992	50 percent
January 1, 1993-June 30, 1994	75 percent
Thereafter	100 percent

"(C) For purposes of this paragraph, the actual thrift investment percentage of an association on July 15, 1989, shall be determined by applying the definition of 'actual thrift investment percentage' that takes effect on July 1, 1991.

"(n) TYING RESTRICTIONS.—A savings and loan holding company and any of its affiliates shall be subject to section 5(q) and regulations prescribed under such section, in connection with transactions involving the products or services of such company or affiliate and those of an affiliated savings association as if such company or affiliate were a savings association.

"(o) MUTUAL HOLDING COMPANIES.—

"(1) IN GENERAL.—A savings association operating in mutual form may reorganize so as to become a holding company by—

"(A) chartering an interim savings association, the stock of which is to be wholly owned, except as otherwise provided in this section, by the mutual association; and

"(B) transferring the substantial part of its assets and liabilities, including all of its insured liabilities, to the interim savings association.

"(2) DIRECTORS AND CERTAIN ACCOUNT HOLDERS' APPROVAL OF PLAN REQUIRED.—A reorganization is not authorized under this subsection unless—

"(A) a plan providing for such reorganization has been approved by a majority of the board of directors of the mutual savings association; and

"(B) in the case of an association in which holders of accounts and obligors exercise voting rights, such plan has been submitted to and approved by a majority of such individuals at a meeting held at the call of the directors in accordance with the procedures prescribed by the association's charter and bylaws.

"(3) NOTICE TO THE DIRECTOR; DISAPPROVAL PERIOD.—

"(A) NOTICE REQUIRED.—At least 60 days prior to taking any action described in paragraph (1), a savings association seeking to establish a mutual holding company shall provide written notice to the Director. The notice shall contain such relevant information as the Director shall require by regulation or by specific request in connection with any particular notice.

"(B) TRANSACTION ALLOWED IF NOT DISAPPROVED.—Unless the Director within such 60-day notice period disapproves the proposed holding company formation, or extends for another 30 days the period during which such disapproval may be issued, the savings association providing such notice may proceed with the transaction, if the requirements of paragraph (2) have been met.

"(C) GROUNDS FOR DISAPPROVAL.—The Director may disapprove any proposed holding company formation only if—

"(i) such disapproval is necessary to prevent unsafe or unsound practices;

"(ii) the financial or management resources of the savings association involved warrant disapproval;

"(iii) the savings association fails to furnish the information required under subparagraph (A); or

"(iv) the savings association fails to comply with the requirement of paragraph (2).

"(D) RETENTION OF CAPITAL ASSETS.—In connection with the transaction described in paragraph (1), a savings association may, subject to the approval of the Director, retain capital assets at the holding company level to the extent that such capital exceeds the association's capital requirement established by the Director pursuant to sections 5 (s) and (t) of this Act.

"(4) OWNERSHIP.—

"(A) IN GENERAL.—Persons having ownership rights in the mutual association pursuant to section 5(b)(1)(B) of this Act or State law shall have the same ownership rights with respect to the mutual holding company.

"(B) HOLDERS OF CERTAIN ACCOUNTS.—Holders of savings, demand or other accounts of—

"(i) a savings association chartered as part of a transaction described in paragraph (1); or

"(ii) a mutual savings association acquired pursuant to paragraph (5)(B),

shall have the same ownership rights with respect to the mutual holding company as persons described in subparagraph (A) of this paragraph.

"(5) PERMITTED ACTIVITIES.—A mutual holding company may engage only in the following activities:

"(A) Investing in the stock of a savings association.

"(B) Acquiring a mutual association through the merger of such association into a savings association subsidiary of such holding company or an interim savings association subsidiary of such holding company.

"(C) Subject to paragraph (6), merging with or acquiring another holding company, one of whose subsidiaries is a savings association.

"(D) Investing in a corporation the capital stock of which is available for purchase by a savings association under Federal law or under the law of any State where the subsidiary savings association or associations have their home offices.

"(E) Engaging in the activities described in subsection (c)(2), except subparagraph (B).

"(6) LIMITATIONS ON CERTAIN ACTIVITIES OF ACQUIRED HOLDING COMPANIES.—

"(A) NEW ACTIVITIES.—If a mutual holding company acquires or merges with another holding company under paragraph (5)(C), the holding company acquired or the holding company resulting from such merger or acquisition may only invest in assets and engage in activities which are authorized under paragraph (5).

"(B) GRACE PERIOD FOR DIVESTING PROHIBITED ASSETS OR DISCONTINUING PROHIBITED ACTIVITIES.—Not later than 2 years following a merger or acquisition described in paragraph (5)(C), the acquired holding company or the holding company resulting from such merger or acquisition shall—

"(i) dispose of any asset which is an asset in which a mutual holding company may not invest under paragraph (5); and

"(ii) cease any activity which is an activity in which a mutual holding company may not engage under paragraph (5).

"(7) REGULATION.—A mutual holding company shall be chartered by the Director and shall be subject to such regulations as the Director may prescribe. Unless the context otherwise requires, a mutual holding company shall be subject to the other requirements of this section regarding regulation of holding companies.

"(8) CAPITAL IMPROVEMENT.—

"(A) PLEDGE OF STOCK OF SAVINGS ASSOCIATION SUBSIDIARY.—This section shall not prohibit a mutual holding company from pledging all or a portion of the stock of a savings association chartered as part of a transaction described in paragraph (1) to raise capital for such savings association.

"(B) ISSUANCE OF NONVOTING SHARES.—This section shall not prohibit a savings association chartered as part of a transaction described in paragraph (1) from issuing any nonvoting shares or less than 50 percent of the voting shares of such association to any person other than the mutual holding company.

"(9) INSOLVENCY AND LIQUIDATION.—

"(A) IN GENERAL.—Notwithstanding any provision of law, upon—

"(i) the default of any savings association—

"(I) the stock of which is owned by any mutual holding company; and

"(II) which was chartered in a transaction described in paragraph (1);

"(ii) the default of a mutual holding company; or

"(iii) a foreclosure on a pledge by a mutual holding company described in paragraph (8)(A),

a trustee shall be appointed receiver of such mutual holding company and such trustee shall have the authority to liquidate the assets of, and satisfy the liabilities of, such mutual holding company pursuant to title 11, United States Code.

"(B) DISTRIBUTION OF NET PROCEEDS.—Except as provided in subparagraph (C), the net proceeds of any liquidation of any mutual holding company pursuant to subparagraph (A) shall be transferred to persons who hold ownership interests in such mutual holding company.

"(C) RECOVERY BY CORPORATION.—If the Corporation incurs a loss as a result of the default of any savings association subsidiary of a mutual holding company which is liquidated pursuant to subparagraph (A), the Corporation shall succeed to the ownership interests of the depositors of such savings association in the mutual holding company, to the extent of the Corporation's loss.

"(10) DEFINITIONS.—For purposes of this subsection—

"(A) MUTUAL HOLDING COMPANY.—The term 'mutual holding company' means a corporation organized as a holding company under this subsection.

"(B) MUTUAL ASSOCIATION.—The term 'mutual association' means a savings association which is operating in mutual form.

"(C) DEFAULT.—The term 'default' means an adjudication or other official determination of a court of competent jurisdiction or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed.

"(p) HOLDING COMPANY ACTIVITIES CONSTITUTING SERIOUS RISK TO SUBSIDIARY SAVINGS ASSOCIATION.—

"(1) DETERMINATION AND IMPOSITION OF RESTRICTIONS.—If the Director determines that there is reasonable cause to believe that the continuation by a savings and loan holding company of any activity constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association, the Director may impose such restrictions as the Director determines to be necessary to address such risk. Such restrictions shall be issued in the form of a directive to the holding company and any of its subsidiaries, limiting—

"(A) the payment of dividends by the savings association;

"(B) transactions between the savings association, the holding company, and the subsidiaries or affiliates of either; and

"(C) any activities of the savings association that might create a serious risk that the liabilities of the holding company and its other affiliates may be imposed on the savings association.

Such directive shall be effective as a cease and desist order that has become final.

"(2) REVIEW OF DIRECTIVE.—

"(A) ADMINISTRATIVE REVIEW.—After a directive referred to in paragraph (1) is issued, the savings and loan holding company, or any subsidiary of such holding company subject to the directive, may object and present in writing its reasons why the directive should be modified or rescinded. Unless within 10 days after receipt of such response the Director affirms, modifies, or rescinds the directive, such directive shall automatically lapse.

"(B) JUDICIAL REVIEW.—If the Director affirms or modifies a directive pursuant to subparagraph (A), any affected party may immediately thereafter petition the United States district court for the district in which the savings and loan holding company has its main office or in the United States District Court for the District of Columbia to stay, modify, terminate or set aside the directive. Upon a showing of extraordinary cause, the savings and loan holding company, or any subsidiary of such holding company subject to a directive, may petition a United States district court for relief without first pursuing or exhausting the administrative remedies set forth in this paragraph.

"(q) QUALIFIED STOCK ISSUANCE BY UNDERCAPITALIZED SAVINGS ASSOCIATIONS OR HOLDING COMPANIES.—

"(1) IN GENERAL.—For purposes of this section, any issue of shares of stock shall be treated as a qualified stock issuance if the following conditions are met:

"(A) The shares of stock are issued by—

"(i) an undercapitalized savings association; or

"(ii) a savings and loan holding company which is not a bank holding company but which controls an undercapitalized savings association if, at the time of issuance, the savings and loan holding company is legally obligated to contribute the net proceeds from the issuance of such stock to the capital of an undercapitalized savings association subsidiary of such holding company.

"(B) All shares of stock issued consist of previously unissued stock or treasury shares.

"(C) All shares of stock issued are purchased by a savings and loan holding company that is registered, as of the date of purchase, with the Director in accordance with the provisions of subsection (b)(1) of this section.

"(D) Subject to paragraph (2), the Director approves the purchase of the shares of stock by the acquiring savings and loan holding company.

"(E) The entire consideration for the stock issued is paid in cash by the acquiring savings and loan holding company.

"(F) At the time of the stock issuance, each savings association subsidiary of the acquiring savings and loan holding company (other than an association acquired in a transaction pursuant to subsection (c) or (k) of section 13 of the Federal Deposit Insurance Act or section 408(m) of the National Housing Act has capital (after deducting any subordinated debt, intangible assets, and deferred, unamortized gains or losses) of not less than 6½ percent of the total assets of such savings association.

"(G) Immediately after the stock issuance, the acquiring savings and loan holding company holds not more than 15 percent of the outstanding voting stock of the issuing undercapitalized savings association or savings and loan holding company.

"(H) Not more than one of the directors of the issuing association or company is an officer, director, employee, or other representative of the acquiring company or any of its affiliates.

"(I) Transactions between the savings association or savings and loan holding company that issues the shares pursuant to this section and the acquiring company and any of its affiliates shall be subject to the provisions of section 11.

"(2) APPROVAL OF ACQUISITIONS.—

"(A) ADDITIONAL CAPITAL COMMITMENTS NOT REQUIRED.—The Director shall not disapprove any application for the purchase of stock in connection with a qualified stock issuance on the grounds that the acquiring savings and loan holding company has failed to undertake to make subsequent additional capital contributions to maintain the capital of the undercapitalized savings association at or above the minimum level required by the Director or any other Federal agency having jurisdiction.

"(B) OTHER CONDITIONS.—Notwithstanding subsection (a)(4), the Director may impose such conditions on any approval of an application for the purchase of stock in connection with a qualified stock issuance as the Director determines to be appropriate, including—

"(i) a requirement that any savings association subsidiary of the acquiring savings and loan holding company limit dividends paid to such holding company for such period of time as the Director may require; and

"(ii) such other conditions as the Director deems necessary or appropriate to prevent evasions of this section.

"(C) APPLICATION DEEMED APPROVED IF NOT DISAPPROVED WITHIN 90 DAYS.—An application for approval of a purchase of stock in connection with a qualified stock issuance shall be deemed to have been approved by the Director if such application has not been disapproved by the Director before the end of the 90-day period beginning on the date such application has been deemed sufficient under regulations issued by the Director.

"(3) NO LIMITATION ON CLASS OF STOCK ISSUED.—The shares of stock issued in connection with a qualified stock issuance may be shares of any class.

"(4) UNDERCAPITALIZED SAVINGS ASSOCIATION DEFINED.—For purposes of this subsection, the term 'undercapitalized savings association' means any savings association—

"(A) the assets of which exceed the liabilities of such association; and

"(B) which does not comply with one or more of the capital standards in effect under section 5(t).

"(r) PENALTY FOR FAILURE TO PROVIDE TIMELY AND ACCURATE REPORTS.—

"(1) FIRST TIER.—Any savings and loan holding company, and any subsidiary of such holding company, which—

"(A) maintains procedures reasonably adapted to avoid any inadvertent and unintentional error and, as a result of such an error—

"(i) fails to submit or publish any report or information required under this section or regulations prescribed by the Director, within the period of time specified by the Director; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. Such holding company or subsidiary shall have the burden of proving by a preponderence of the evidence that an error was inadvertent and unintentional and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any savings and loan holding company, and any subsidiary of such holding company, which—

"(A) fails to submit or publish any report or information required under this section or under regulations prescribed by the Director, within the period of time specified by the Director; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—If any savings and loan holding company or any subsidiary of such a holding company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Director may assess a penalty of not more than $1,000,000 or 1 percent of total assets of such company or subsidiary, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Director in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING.—Any savings and loan holding company or any subsidiary of such a holding company against which any penalty is assessed under this subsection shall be afforded a hearing if such savings and loan holding company or such subsidiary, as the case may be, submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the

Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"SEC. 11. TRANSACTIONS WITH AFFILIATES; EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.

"(a) AFFILIATE TRANSACTIONS.—

"(1) IN GENERAL.—Sections 23A and 23B of the Federal Reserve Act shall apply to every savings association in the same manner and to the same extent as if the savings association were a member bank (as defined in such Act), except that—

"(A) no loan or other extension of credit may be made to any affiliate unless that affiliate is engaged only in activities described in section 10(c)(2)(F)(i); and

"(B) no savings association may enter into any transaction described in section 23A(b)(7)(B) of the Federal Reserve Act with any affiliate other than with respect to shares of a subsidiary.

2 "(2) SISTER BANK EXEMPTION MADE AVAILABLE TO SAVINGS ASSOCIATIONS.—

"(A) SAVINGS ASSOCIATIONS CONTROLLED BY BANK HOLDING COMPANIES.—Every savings association more than 80 percent of the voting stock of which is owned by a company described in section 10(c)(8) shall be treated as a member bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act, if every savings association and bank controlled by such company complies with all applicable capital requirements on a fully phased-in basis and without reliance on goodwill.

"(B) SAVINGS ASSOCIATIONS GENERALLY.—Effective on and after January 1, 1995, every savings association shall be treated as a member bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act.

"(3) AFFILIATES DESCRIBED.—Any company that would be an affiliate (as defined in sections 23A and 23B of the Federal Reserve Act) of any savings association if such savings association were a member bank (as such term is defined in such Act) shall be deemed to be an affiliate of such savings association for purposes of paragraph (1).

"(4) ADDITIONAL RESTRICTIONS AUTHORIZED.—The Director may impose such additional restrictions on any transaction between any savings association and any affiliate of such savings association as the Director determines to be necessary to protect the safety and soundness of the savings association.

"(b) EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—

"(1) IN GENERAL.—Section 22(h) of the Federal Reserve Act shall apply to every savings association in the same manner and to the same extent as if the savings association were a member bank (as defined in such Act).

"(2) ADDITIONAL RESTRICTIONS AUTHORIZED.—The Director may impose such additional restrictions on loans or extensions of credit to any director or executive officer of any savings association, or any person who directly or indirectly owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a savings association, as the Director determines to be necessary to protect the safety and soundness of the savings association.

"(c) ADMINISTRATIVE ENFORCEMENT.—The Director may take enforcement action with respect to violations of this section pursuant to section 8 or 18(j) of the Federal Deposit Insurance Act, as appropriate.

"SEC. 12. ADVERTISING.

"No savings association shall carry on any sale, plan, or practices, or any advertising, in violation of regulations promulgated by the Director.

"SEC. 13. POWERS OF EXAMINERS.

"For the purposes of this Act, examiners appointed by the Director shall—

"(1) be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the Federal Reserve Act and title LXII of the Revised Statutes; and

"(2) have, in the exercise of functions under this Act, the same powers and privileges as are vested in such examiners by law.

"SEC. 14. SEPARABILITY PROVISION.

"If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.".

SEC. 302. SAVINGS PROVISIONS.

Notwithstanding the amendment made by this title to section 10 of the Home Owners' Loan Act and the repeal of section 416 of the National Housing Act—

(1) any plan approved by the Federal Home Loan Bank Board under such section 10 for any Federal savings association shall continue in effect as long as such association adheres to the plan and continues to submit to the Director of the Office of Thrift Supervision regular and complete reports on the association's progress in meeting the association's goals under the plan; and

(2) any plan approved by the Federal Savings and Loan Insurance Corporation under such section 416 for any State savings association shall continue in effect as long as such association adheres to the plan and continues to submit to the Federal Deposit Insurance Corporation regular and complete reports on the association's progress in meeting the savings association's goals under the plan.

SEC. 303. QUALIFIED THRIFT LENDER TEST.

(a) IN GENERAL.—Section 10(m) of the Home Owners' Loan Act is amended to read as follows:

"(m) QUALIFIED THRIFT LENDER TEST.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (7), any savings association is a qualified thrift lender if—

"(A) the savings association's qualified thrift investments equal or exceed 70 percent of the savings association's portfolio assets; and

"(B) the savings association's qualified thrift investments continue to equal or exceed 70 percent of the savings association's portfolio assets, as measured by a daily or weekly average of such qualified thrift investments and such portfolio assets, for the 2-year period beginning on July 1, 1991, and for each 2-year period thereafter.

"(2) EXCEPTIONS GRANTED BY DIRECTOR.—Notwithstanding paragraph (1), the Director may grant such temporary and limited exceptions from the minimum actual thrift investment percentage requirement contained in such paragraph as the Director deems necessary if—

"(A) the Director determines that extraordinary circumstances exist, such as when the effects of high interest rates reduce mortgage demand to such a degree that an insufficient opportunity exists for a savings association to meet such investment requirements; or

"(B) the Director determines that—

"(i) the grant of any such exception will significantly facilitate an acquisition under section 13(c) or 13(k) of the Federal Deposit Insurance Act;

"(ii) the acquired association will comply with the transition requirements of paragraph (7)(B), as if the date of the exemption were the starting date for the transition period described in that paragraph; and

"(iii) the Director determines that the exemption will not have an undue adverse effect on competing savings associations in the relevant market and will further the purposes of this subsection.

"(3) FAILURE TO BECOME AND REMAIN A QUALIFIED THRIFT LENDER.—

"(A) IN GENERAL.—A savings association that fails to become or remain a qualified thrift lender shall either become one or more banks (other than a savings bank) or be subject to subparagraph (B), except as provided in subparagraph (D).

"(B) RESTRICTIONS APPLICABLE TO SAVINGS ASSOCIATIONS THAT ARE NOT QUALIFIED THRIFT LENDERS.—

"(i) RESTRICTIONS EFFECTIVE IMMEDIATELY.—The following restrictions shall apply to a savings association beginning on the date on which the savings association should have become or ceases to be a qualified thrift lender:

"(I) ACTIVITIES.—The savings association shall not make any new investment (including an investment in a subsidiary) or engage, directly or indirectly, in any other new activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

"(II) BRANCHING.—The savings association shall not establish any new branch office at any location at which a national bank located in the savings association's home State may not establish a branch office. For purposes of this subclause, a savings association's home State is the State in which the savings association's total deposits were largest on the date on which the savings association should have become or ceased to be a qualified thrift lender.

"(III) ADVANCES.—The savings association shall not be eligible to obtain new advances from any Federal home loan bank.

"(IV) DIVIDENDS.—The savings association shall be subject to all statutes and regulations governing the payment of dividends by a national bank in the same manner and to the same extent as if the savings association were a national bank.

"(ii) ADDITIONAL RESTRICTIONS EFFECTIVE AFTER THREE YEARS.—The following additional restrictions shall apply to a savings association beginning 3 years after the date on which the savings association should have become or ceases to be a qualified thrift lender:

"(I) ACTIVITIES.—The savings association shall not retain any investment (including an investment in any subsidiary) or engage, directly or indirectly, in any activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

"(II) ADVANCES.—The savings association shall repay any outstanding advances from any Federal home loan bank as promptly as can be prudently done consistent with the safe and sound operation of the savings association.

"(C) HOLDING COMPANY REGULATION.—Any company that controls a savings association that is subject to any provision of subparagraph (B) shall, within one year after the

date on which the savings association should have become or ceases to be a qualified thrift lender, register as and be deemed to be a bank holding company subject to all of the provisions of the Bank Holding Company Act of 1956, section 8 of the Federal Deposit Insurance Act, and other statutes applicable to bank holding companies, in the same manner and to the same extent as if the company were a bank holding company and the savings association were a bank, as those terms are defined in the Bank Holding Company Act of 1956.

"(D) REQUALIFICATION.—A savings association that should have become or ceases to be a qualified thrift lender shall not be subject to subparagraph (B) or (C) if the savings association becomes a qualified thrift lender by meeting the qualified thrift lender requirement in paragraph (1) for the preceding 2-year period and remains a qualified thrift lender. If the savings association (or any savings association that acquired all or substantially all of its assets from that savings association) at any time thereafter ceases to be a qualified thrift lender, it shall immediately be subject to all provisions of subparagraphs (B) and (C) as if all the periods described in subparagraphs (B)(ii) and (C) had expired.

"(E) DEPOSIT INSURANCE ASSESSMENTS.—Any bank chartered as a result of the requirements of this section shall be obligated until December 31, 1993, to pay to the Savings Association Insurance Fund the assessments assessed on savings associations under the Federal Deposit Insurance Act. Such association shall also be assessed, on the date of its change of status from a Savings Association Insurance Fund member, the exit fee and entrance fee provided in section 5(d) of the Federal Deposit Insurance Act. Such institution shall not be obligated to pay the assessments assessed on banks under the Federal Deposit Insurance Act until—

"(i) December 31, 1993, or

"(ii) the institution's change of status from a Savings Association Insurance fund member to a Bank Insurance Fund member, whichever is later.

"(F) EXEMPTION FOR SPECIALIZED SAVINGS ASSOCIATION SERVING TRANSIENT MILITARY PERSONNEL.—Subparagraph (A) shall not apply to a savings association subsidiary of a savings and loan holding company if—

"(i) the savings and loan holding company is a reciprocal interinsurance exchange that acquired control of the insured institution before January 1, 1984; and

"(ii) at least 90 percent of the customers of the savings and loan holding company and its subsidiaries and affiliates are active or former officers in the United States military services or the widows, widowers, divorced spouses, or current or former dependents of such officers.

"(G) EXEMPTION FOR CERTAIN FEDERAL SAVINGS ASSOCIATIONS.—This paragraph shall not apply to any Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(i) that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law; or

"(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law.

"(H) NO CIRCUMVENTION OF EXIT MORATORIUM.—Subparagraph (A) of this paragraph shall not be construed as permitting any insured depository institution to engage in any conversion transaction prohibited under section 5(d) of the Federal Deposit Insurance Act.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) ACTUAL THRIFT INVESTMENT PERCENTAGE.—The term 'actual thrift investment percentage' means the percentage determined by dividing—

"(i) the amount of a savings association's qualified thrift investments, by

"(ii) the amount of the savings association's portfolio assets.

"(B) PORTFOLIO ASSETS.—The term 'portfolio assets' means, with respect to any savings association, the total assets of the savings association, minus the sum of—

"(i) goodwill and other intangible assets;

"(ii) the value of property used by the savings association to conduct its business; and

"(iii) liquid assets of the type required to be maintained under section 6 of the Home Owners' Loan Act, in an amount not exceeding the amount equal to 10 percent of the savings association's total assets.

"(C) QUALIFIED THRIFT INVESTMENTS.—

"(i) IN GENERAL.—The term 'qualified thrift investments' means, with respect to any savings association, the assets of the savings association that are described in clauses (ii) and (iii).

"(ii) ASSETS INCLUDIBLE WITHOUT LIMIT.—The following assets are described in this clause for purposes of clause (i):

"(I) The aggregate amount of loans held by the savings association that were made to purchase, refinance, construct, improve, or repair domestic residential housing or manufactured housing.

"(II) Home-equity loans.

"(III) Securities backed by or representing an interest in mortgages on domestic residential housing or manufactured housing.

"(IV) EXISTING OBLIGATIONS OF DEPOSIT INSURANCE AGENCIES.—Direct or indirect obligations of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation issued in accordance with the terms of agreements entered into prior to July 1, 1989, for the 10-year period beginning on the date of issuance of such obligations.

"(V) NEW OBLIGATIONS OF DEPOSIT INSURANCE AGENCIES.—Obligations of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the FSLIC Resolution Fund, and the Resolution Trust Corporation issued in accordance with the terms of agreements entered into on or after July 1, 1989, for the 5-year period beginning on the date of issuance of such obligations.

"(iii) ASSETS INCLUDIBLE SUBJECT TO PERCENTAGE RESTRICTION.—The following assets are described in this clause for purposes of clause (i):

"(I) 50 percent of the dollar amount of the residential mortgage loans originated by such savings association and sold within 90 days of origination.

"(II) Investments in the capital stock or obligations of, and any other security issued by, any service corporation if such service corporation derives at least 80 percent of its annual gross revenues from activities directly related to purchasing, refinancing, constructing, improving, or repairing domestic residential real estate or manufactured housing.

"(III) 200 percent of the dollar amount of loans and investments made to acquire, develop, and construct 1- to 4-family residences the purchase price of which is or is guaranteed to be not greater than 60 percent of the median value of comparable newly constructed 1- to 4-family residences within the local community in which such real estate is located, except that not more than 25 percent of the amount included under this subclause may consist of commercial properties related to the development if those properties are directly related to providing services to residents of the development.

"(IV) 200 percent of the dollar amount of loans for the acquisition or improvement of residential real property, churches, schools, and nursing homes located within, and loans for any other purpose to any small businesses located within any area which has been identified by the Director, in connection with any review or examination of community reinvestment practices, as a geographic area or neighborhood in which the credit needs of the low- and moderate-income residents of such area or neighborhood are not being adequately met.

"(V) Loans for the purchase or construction of churches, schools, nursing homes, and hospitals, other than those qualifying under clause (IV), and loans for the improvement and upkeep of such properties.

"(VI) Loans for personal, family, household, or educational purposes, but the dollar amount treated as qualified thrift investments under this subclause may not exceed the amount which is equal to 5 percent of the savings association's portfolio assets.

"(iv) PERCENTAGE RESTRICTION APPLICABLE TO CERTAIN ASSETS.—The aggregate amount of the assets described in clause (iii) which may be taken into account in determining the amount of the qualified thrift investments of any savings association shall not exceed the amount which is equal to 15 percent of a savings association's portfolio assets.

"(v) The term 'qualified thrift investments' excludes—

"(I) except for home equity loans, that portion of any loan or investment that is used for any purpose other than those expressly qualifying under any subparagraph of clause (ii) or (iii); or

"(II) goodwill or any other intangible asset.

"(5) CONSISTENT ACCOUNTING REQUIRED.—

"(A) In determining the amount of a savings association's portfolio assets, the assets of any subsidiary of the savings association shall be consolidated with the assets of the savings association if—

"(i) Assets of the subsidiary are consolidated with the assets of the savings association in determining the savings association's qualified thrift investments; or

"(ii) Residential mortgage loans originated by the subsidiary are included pursuant to paragraph (4)(C)(iii)(I) in determining the savings association's qualified thrift investments.

"(B) In determining the amount of a savings association's portfolio assets and qualified thrift investments, consistent accounting principles shall be applied.

"(6) SPECIAL RULES FOR PUERTO RICO AND VIRGIN ISLANDS SAVINGS ASSOCIATIONS.—

"(A) PUERTO RICO SAVINGS ASSOCIATIONS.—With respect to any savings association headquartered and operating primarily in Puerto Rico—

"(i) the term 'qualified thrift investments' includes, in addition to the items specified in paragraph (4)—

"(I) the aggregate amount of loans for personal, family, educational, or household purposes made to persons residing or domi-

ciled in the Commonwealth of Puerto Rico; and

"(II) the aggregate amount of loans for the acquisition or improvement of churches, schools, or nursing homes, and of loans to small businesses, located within the Commonwealth of Puerto Rico; and

"(ii) the aggregate amount of loans related to the purchase, acquisition, development and construction of 1- to 4-family residential real estate—

"(I) which is located within the Commonwealth of Puerto Rico; and

"(II) the value of which (at the time of acquisition or upon completion of the development and construction) is below the median value of newly constructed 1- to 4-family residences in the Commonwealth of Puerto Rico, which may be taken into account in determining the amount of the qualified thrift investments and of such savings association shall be doubled.

"(B) VIRGIN ISLANDS SAVINGS ASSOCIATIONS.—With respect to any savings association headquartered and operating primarily in the Virgin Islands—

"(i) the term 'qualified thrift investments' includes, in addition to the items specified in paragraph (4)—

"(I) the aggregate amount of loans for personal, family, educational, or household purposes made to persons residing or domiciled in the Virgin Islands; and

"(II) the aggregate amount of loans for the acquisition or improvement of churches, schools, or nursing homes, and of loans to small businesses, located within the Virgin Islands; and

"(ii) the aggregate amount of loans related to the purchase, acquisition, development and construction of 1- to 4-family residential real estate—

"(I) which is located within the Virgin Islands; and

"(II) the value of which (at the time of acquisition or upon completion of the development and construction) is below the median value of newly constructed 1- to 4-family residences in the Virgin Islands, which may be taken into account in determining the amount of the qualified thrift investments and of such savings association shall be doubled.

"(7) TRANSITIONAL RULE FOR CERTAIN SAVINGS ASSOCIATIONS.—

"(A) IN GENERAL.—If any Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(i) that was chartered as a savings bank or a cooperative bank under State law before October 15, 1982; or

"(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law,

meets the requirements of subparagraph (B), such savings association shall be treated as a qualified thrift lender during period ending on September 30, 1995.

"(B) SUBPARAGRAPH (B) REQUIREMENTS.—A savings association meets the requirements of this subparagraph if, in the determination of the Director—

"(i) the actual thrift investment percentage of such association does not, after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, decrease below the actual thrift investment percentage of such association on July 15, 1989; and

"(ii) the amount by which—

"(I) the actual thrift investment percentage of such association at the end of each period described in the following table, exceeds

"(II) the actual thrift investment percentage of such association on July 15, 1989,

is equal to or greater than the applicable percentage (as determined under the following table) of the amount by which 70 percent exceeds the actual thrift investment percentage of such association on such date of enactment:

"For the following period:	The applicable percentage is:
July 1, 1991–September 30, 1992	25 percent
October 1, 1992–March 31, 1994	50 percent
April 1, 1994–September 30, 1995	75 percent
Thereafter	100 percent

"(C) For purposes of this paragraph, the actual thrift investment percentage of an association on July 15, 1989, shall be determined by applying the definition of 'actual thrift investment percentage' that takes effect on July 1, 1991.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 1991.

(c) ASSOCIATIONS THAT HAVE PREVIOUSLY FAILED TO REMAIN QUALIFIED THRIFT LENDERS.—If, as of June 30, 1991, any savings association is subject to any provision of section 10(m)(3) of the Home Owners' Loan Act as in effect on that date, the amendment to this subsection made by section 303 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, shall not be construed as reducing the period specified in section 10(m)(3) of such Act.

SEC. 304. TRANSITIONAL RULE FOR CERTAIN TRANSACTIONS WITH AFFILIATES.

(a) CONSISTENCY OF CERTAIN REGULATIONS WITH SECTION 23A OF THE FEDERAL RESERVE ACT.—Not later than 6 months after the date of enactment of this Act, the Director of the Office of Thrift Supervision shall revise the Director's conflicts regulations so as not to prohibit a thrift institution from purchasing mortgages from a mortgage-banking affiliate to the same extent as a member bank may do so under section 250.250 of title 12, Code of Federal Regulations.

(b) TRANSITIONAL PERIOD.—Notwithstanding section 11(a) of the Home Owners' Loan Act (as added by section 301 of this Act), a thrift institution that, before May 1, 1989, had received approval from the Federal Savings and Loan Insurance Corporation pursuant to section 408(d)(6) of the National Housing Act as then in effect to purchase mortgages from a mortgage-banking affiliate may, during the 6-month period following the date on which final regulations are prescribed pursuant to subsection (a), continue to engage in transactions for which it had received such approval. Any savings association that engages in such transactions pursuant to this subsection shall comply with the standards that were applicable under section 408(d)(6) as in effect on May 1, 1989.

(c) AUTHORITY TO EXTEND REGULATORY APPROVALS THAT WOULD OTHERWISE LAPSE DURING THE TRANSITIONAL PERIOD.—The Director of the Office of Thrift Supervision may extend until the expiration of the 6-month period described in subsection (b) any approval granted by the Federal Savings and Loan Insurance Corporation that expires or would expire before the expiration of that 6-month period. In determining whether to grant such exemptions, the Director shall apply the standards that were applicable under section 408(d)(6) of the National Housing Act as in effect on May 1, 1989.

SEC. 305. TRANSITIONAL RULES REGARDING CERTAIN LOANS AND EFFECTIVE DATES.

(a) DIVESTITURE OF CERTAIN LOANS AND INVESTMENTS NOT REQUIRED.—The limitations on loans and investments contained in section 5(c) of the Home Owners' Loan Act, as amended by section 301, do not require the divestiture of any loan or investment that was lawful when made under the provisions of such section as those provisions were in effect at the time such loan or investment was made.

(b) LOANS SECURED BY NONRESIDENTIAL REAL PROPERTY.—

(1) IN GENERAL.—The Director of the Office of Thrift Supervision may, by order, permit a Federal savings association to exceed the limitation set forth in section 5(c)(2)(B)(i) of the Home Owners' Loan Act during the period beginning on the date of enactment of this Act and ending on June 1, 1991, if the Director determines that—

(A) there is a reasonable prospect that the savings association can be in compliance, not later than June 1, 1991, with the capital standards prescribed under section 5(t) of the Home Owners' Loan Act; and

(B) the increased authority—

(i) is consistent with prudent operating practices, and

(ii) is in accordance with a plan submitted by the savings association for—

(I) an orderly transition to compliance with section 5(c)(2)(B)(i), or

(II) an orderly conversion to a bank charter.

(2) OTHER EXEMPTIVE AUTHORITY NOT AFFECTED.—The authority granted by paragraph (1) is in addition to any authority of the Director under section 5(c)(2)(B)(ii) of the Home Owners' Loan Act.

(c) EFFECTIVE DATE.—The amendments made by section 301 relating to civil penalties shall apply with respect to violations committed and activities engaged in after the date of the enactment of this Act, except that the increased maximum civil penalties of $5,000 and $25,000 per violation or per day may apply to such violations or activities committed or engaged in before such date with respect to an institution if such violations or activities—

(1) are not already subject to a notice issued by the appropriate Federal banking agency or the Board (initiating an administrative proceeding); and

(2) occurred after the completion of the last report of examination of the institution by the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) occurring before the date of the enactment of this Act.

SEC. 306. AMENDMENT OF ADDITIONAL POWERS OF DIRECTOR.

(a) Section 502(c) of the Housing Act of 1948 (12 U.S.C. 1701c(c)) is amended by striking out "Federal Home Loan Bank Board (which term as used in this section shall also include and refer to the Federal Savings and Loan Insurance Corporation, the Home Owners Loan Corporation, and the Chairman of the Federal Home Loan Bank Board)," and inserting in lieu thereof the following: "Director of the Office of Thrift Supervision,".

(b) Section 502(c)(1) of the Housing Act of 1948 (12 U.S.C. 1701c(b)(1)) is amended by striking out "of any State" and inserting in lieu thereof "of any Federal, State,".

SEC. 307. AMENDMENT TO TITLE 31, UNITED STATES CODE.

(a) OFFICE ESTABLISHED AS AN OFFICE WITHIN THE DEPARTMENT.—

(1) IN GENERAL.—Subchapter I of chapter 3 of title 31, United States Code, is amended by redesignating section 309 as section 310 and by inserting after section 308 the following new section:

"§ 309. Office of Thrift Supervision

"The Office of Thrift Supervision established under section 2A(a) of the Home Owners' Loan Act shall be an office in the Department of the Treasury.".

(2) CLERICAL AMENDMENT.—The table of chapters for subchapter I of chapter 3 of title 31, United States Code, is amended by redesignating the item relating to section 309 as section 310 and by inserting after the item relating to section 308 the following new item:

"309. Office of Thrift Supervision.".

(b) CONFORMING AMENDMENT.—Section 321(c) of title 31, United States Code, is amended—

(1) by adding at the end thereof the following new paragraph:

"(3) of the Director of the Office of Thrift Supervision;";

(2) by striking out "and" at the end of paragraph (1); and

(3) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and".

(c) GAO AUDIT AUTHORITY.—Section 714(a) of title 31, United States Code, is amended—

(1) by inserting ", and the Office of Thrift Supervision" before the period; and

(2) by striking out "and" after "Corporation,".

(d) CERTAIN REORGANIZATION PROHIBITED.—Section 321 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) CERTAIN REORGANIZATION PROHIBITED.—The Secretary of the Treasury may not merge or consolidate the Office of Thrift Supervision, or any of the functions or responsibilities of the Office or the Director of such office, with the Office of the Comptroller of the Currency or the Comptroller of the Currency.".

(e) TECHNICAL AND CONFORMING AMENDMENT TO GOVERNMENT CONTROL ACT.—Section 9101(3) of title 31, United States Code is amended by striking out subparagraph(E).

SEC. 308. PRESERVING MINORITY OWNERSHIP OF MINORITY FINANCIAL INSTITUTIONS.

(a) CONSULTATION ON METHODS.—The Secretary of the Treasury shall consult with the Director of the Office of Thrift Supervision and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation on methods for best achieving the following goals:

(1) Preserving the present number of minority depository institutions.

(2) Preserving their minority character in cases involving mergers or acquisition of a minority depository institution by using general preference guidelines in the following order:

(A) Same type of minority depository institution in the same city.

(B) Same type of minority depository institution in the same State.

(C) Same type of minority depository institution nationwide.

(D) Any type of minority depository institution in the same city.

(E) Any type of minority depository institution in the same State.

(F) Any type of minority depository institution nationwide.

(G) Any other bidders.

(3) Providing technical assistance to prevent insolvency of institutions not now insolvent.

(4) Promoting and encouraging creation of new minority depository institutions.

(5) Providing for training, technical assistance, and educational programs.

(b) DEFINITIONS.—For purposes of this section—

(1) MINORITY FINANCIAL INSTITUTION.—The term "minority depository institution" means any depository institution that—

(A) if a privately owned institution, 51 percent is owned by one or more socially and economically disadvantaged individuals;

(B) if publicly owned, 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and

(C) in the case of a mutual institution where the majority of the Board of Directors, account holders, and the community which it services is predominately minority.

(2) MINORITY.—The term "minority" means any black American, Native American, Hispanic American, or Asian American.

TITLE IV—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY

SEC. 401. FSLIC AND FEDERAL HOME LOAN BANK BOARD ABOLISHED.

(a) IN GENERAL.—

(1) FSLIC.—Effective on the date of the enactment of this Act, the Federal Savings and Loan Insurance Corporation established under section 402 of the National Housing Act is abolished.

(2) FHLBB.—Effective at the end of the 60-day period beginning on the date of the enactment of this Act, the Federal Home Loan Bank Board and the position of Chairman of the Federal Home Loan Bank Board are abolished.

(b) DISPOSITION OF AFFAIRS.—

(1) IN GENERAL.—During the 60-day period beginning on the date of the enactment of this Act, the Chairman of the Federal Home Loan Bank Board—

(A) shall, solely for the purpose of winding up the affairs of the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board—

(i) manage the employees of the Board and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of such employee pursuant to section 403; and

(ii) manage any property of the Board and the Corporation until such property is transferred pursuant to section 405; and

(B) may take any other action necessary for the purpose of winding up the affairs of the Corporation and the Board.

(2) AVAILABILITY OF FUNDS IN FSLIC RESOLUTION FUND ON A REIMBURSABLE BASIS.—

(A) AVAILABILITY OF FUNDS.—Notwithstanding any provision of section 11A of the Federal Deposit Insurance Act (as added by section 215 of this Act), funds in the FSLIC Resolution Fund shall be available to the Chairman of the Federal Home Loan Bank Board to pay any expense incurred in carrying out the requirements of paragraph (1).

(B) PAYMENT BY FDIC.—Upon the request of the Chairman of the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation shall pay to the Chairman from the FSLIC Resolution Fund the amounts requested for expenses described in subparagraph (A).

(C) EXCLUSIVE SOURCE OF FUNDS.—No funds or other property of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation (other than the FSLIC Resolution Fund) may be used by the Chairman of the Federal Home Loan Bank Board to pay any expense incurred in carrying out any provision of this title.

(D) REIMBURSEMENT BY SUCCESSOR AGENCIES.—Disbursements from the FSLIC Resolution Fund pursuant to subparagraph (A) which are attributable to employees described in paragraph (1)(A)(i) and property described in paragraph (1)(A)(ii) shall be reimbursed by the agency to which any such employee or property is transferred.

(c) AUTHORITY AND STATUS OF CHAIRMAN OF THE FEDERAL HOME LOAN BANK BOARD.—

(1) IN GENERAL.—Notwithstanding the repeal of section 17 of the Federal Home Loan Bank Act by section 703 of this Act, the repeal of section 402(c) of the National Housing Act by section 407 of this title, the abolishment of the Federal Savings and Loan Insurance Corporation under section 401 of this title, the Chairman of the Federal Home Loan Bank Board shall have any authority vested in the Chairman or the Board before such date of enactment which is necessary for the Chairman to carry out the requirements of this section, paragraphs (1) and (2) of section 403(b), and section 405(a) during the 60-day period beginning on such date.

(2) OTHER PROVISIONS.—For purposes of paragraph (1), the Chairman of the Federal Home Loan Bank Board shall continue to be—

(A) treated as an officer of the United States during the 60-day period referred to in such subparagraph; and

(B) entitled to compensation at the annual rate of basic pay payable for level III of the Executive Schedule.

(3) NO ADDITIONAL COMPENSATION IF APPOINTED DIRECTOR.—During the 60-day period beginning on the date of the enactment of this Act, the Chairman of the Federal Home Loan Bank Board shall not be entitled to any additional compensation by reason of his appointment as Director of the Office of Thrift Supervision.

(d) STATUS OF EMPLOYEES BEFORE TRANSFER.—

(1) EMPLOYEES OF FSLIC.—Any employee of the Federal Savings and Loan Insurance Corporation shall be treated as an employee of the Federal Home Loan Bank Board for purposes of subsection (b)(1)(A)(i).

(2) RULE OF CONSTRUCTION.—The repeal of section 17 of the Federal Home Loan Bank Act by section 703 of this Act, the repeal of section 402(c) of the National Housing Act by section 407 of this title, and the abolishment of the Federal Savings and Loan Insurance Corporation under section 401 of this title, shall not be construed as affecting the status of employees of such Corporation or of the Federal Home Loan Bank Board as employees of an agency of the United States for purposes of any other provision of law before the effective date of the transfer of any such employee pursuant to section 403.

(e) CONTINUATION OF SERVICES.—

(1) IN GENERAL.—The Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board may use the services of employees and other personnel and the property of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, on a reimbursable basis, to perform functions which have been transferred to

such agencies for such time as is reasonable to facilitate the orderly transfer of functions transferred pursuant to any other provision of this Act or any amendment made by this Act to any other provision of law.

(2) REIMBURSEMENT.—The reimbursement required under paragraph (1) with respect to employees, personnel, and property described in such paragraph shall be made to the FSLIC Resolution Fund and shall be taken into account in determining the amount of any reimbursement required under subsection (b)(2)(D).

(3) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States (including any Federal home loan bank), and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation before the enactment of this Act in connection with functions that are transferred to the Office of Thrift Supervision, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall—

(A) continue to provide such services, on a reimbursable basis, until the transfer of such functions is complete; and

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(f) SAVINGS PROVISIONS RELATING TO FSLIC.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Federal Savings and Loan Insurance Corporation, or any other person, which—

(A) arises under or pursuant to any section of title IV of the National Housing Act; and

(B) existed on the day before the date of the enactment of this Act.

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Federal Savings and Loan Insurance Corporation, or any Federal home loan bank with respect to any function of the Corporation which was delegated to employees of such bank, shall abate by reason of the enactment of this Act, except that the appropriate successor to the interests of such Corporation shall be substituted for the Corporation or the Federal home loan bank as a party to any such action or proceeding.

(g) SAVINGS PROVISIONS RELATING TO FHLBB.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Federal Home Loan Bank Board, or any other person, which—

(A) arises under or pursuant to the Federal Home Loan Bank Act, the Home Owners' Loan Act of 1933, or any other provision of law applicable with respect to such Board (other than title IV of the National Housing Act); and

(B) existed on the day before the date of the enactment of this Act.

(2) CONTINUATION OF SUITS.—

(A) IN GENERAL.—No action or other proceeding commenced by or against the Federal Home Loan Bank Board, or any Federal home loan bank with respect to any function of the Board which was delegated to employees of such bank, shall abate by reason of the enactment of this Act, except that the appropriate successor to the interests of such Board shall be substituted for the Board or the Federal home loan bank as a party to any such action or proceeding.

(h) CONTINUATION OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS.—Subject to section 402, all orders, resolutions, determinations, and regulations, which—

(1) have been issued, made, prescribed, or allowed to become effective by the Federal Savings and Loan Insurance Corporation or the Federal Home Loan Bank Board (including orders, resolutions, determinations, and regulations which relate to the conduct of conservatorships and receiverships), or by a court of competent jurisdiction, in the performance of functions which are transferred by this Act; and

(2) are in effect on the date this Act takes effect,

shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations and shall be enforceable by or against the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, or the Resolution Trust Corporation, as the case may be, until modified, terminated, set aside, or superseded in accordance with applicable law by the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, or the Resolution Trust Corporation, as the case may be, by any court of competent jurisdiction, or by operation of law.

(i) IDENTIFICATION OF REGULATIONS WHICH REMAIN IN EFFECT PURSUANT TO THIS SECTION.—Before the end of the 60-day period beginning on the date of the enactment of this Act, the Director of the Office of Thrift Supervision and the Chairperson of the Federal Deposit Insurance Corporation shall—

(1) identify the regulations and orders which relate to the conduct of conservatorships and receiverships in accordance with the allocation of authority between them under this Act and the amendments made by this Act; and

(2) promptly publish notice of such identification in the Federal Register.

SEC. 402. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

(a) REGULATIONS RELATING TO INSURANCE FUNCTIONS.—All regulations and orders of the Federal Savings and Loan Insurance Corporation, or the Federal Home Loan Bank Board (in such Board's capacity as the board of trustees of such Corporation), which are in effect on the date of the enactment of this Act and relate to—

(1) the provision, rates, or cancellation of insurance of accounts; or

(2) the administration of the insurance fund of the Federal Savings and Loan Insurance Corporation,

shall remain in effect according to the terms of such regulations and orders and shall be enforceable by the Federal Deposit Insurance Corporation unless determined otherwise by such Corporation after consultation with the Director of the Office of Thrift Supervision and, with respect to regulations and orders relating to the scope of deposit insurance coverage, pursuant to subsection (c).

(b) IDENTIFICATION OF REGULATIONS WHICH REMAIN IN EFFECT PURSUANT TO THIS SECTION.—Before the end of the 60-day period beginning on the date of the enactment of this Act, the Director of the Office of Thrift Supervision and the Chairperson of the Federal Deposit Insurance Corporation shall—

(1) identify the regulations and orders referred to in subsection (a) of this section in accordance with the allocation of authority between them under this Act and the amendments made by this Act; and

(2) promptly publish notice of such identification in the Federal Register.

(c) PROCEDURE FOR DIFFERENCES IN DEPOSIT INSURANCE COVERAGE BETWEEN FSLIC AND FDIC.—

(1) TRANSITION RULE.—Until the effective date of regulations prescribed under paragraph (3)(B), any determination of the amount of any insured deposit in any depository institution which becomes an insured depository institution as a result of the amendment made to section 4(a) of the Federal Deposit Insurance Act by section 205(1) of this Act shall be made in accordance with the regulations and interpretations of the Federal Savings and Loan Insurance Corporation for determining the amount of an insured account which were in effect on the day before the date of the enactment of this Act.

(2) LIMITATION ON EXTENT OF COVERAGE.—During the period beginning on the date of the enactment of this Act and ending on the effective date of regulations prescribed under paragraph (3)(B), the amount of any insured account which is required to be treated as an insured deposit pursuant to paragraph (1) shall not exceed the amount of insurance to which such insured account would otherwise have been entitled pursuant to the regulations and interpretations of the Federal Savings and Loan Insurance Corporation which were in effect on the day before the date of the enactment of this Act.

(3) UNIFORM TREATMENT OF INSURED DEPOSITS.—The Federal Deposit Insurance Corporation shall—

(A) review its regulations, principles, and interpretations for deposit insurance coverage and those established by the Federal Savings and Loan Insurance Corporation; and

(B) on or before the end of the 270-day period beginning on the date of the enactment of this Act, prescribe a uniform set of regulations which shall be applicable to all insured deposits in insured depository institutions (except to the extent any provision of this Act, any amendment made by this Act to the Federal Deposit Insurance Act, or any other provision of law requires or explicitly permits the Federal Deposit Insurance Corporation to treat insured deposits of Savings Association Insurance Fund members differently than insured deposits of Bank Insurance Fund members).

(4) FACTORS REQUIRED TO BE CONSIDERED.—In prescribing regulations providing for the uniform treatment of deposit insurance coverage, the Federal Deposit Insurance Corporation shall consider all relevant factors necessary to promote safety and soundness, depositor confidence, and the stability of deposits in insured depository institutions.

(5) NOTICE; EFFECTIVE DATE.—Regulations prescribed under this subsection shall—

(A) provide for effective notice to depositors in insured depository institutions of any change in deposit insurance coverage which would result under such regulations; and

(B) take effect on or before the end of the 90-day period beginning on the date such regulations become final.

(6) DEFINITIONS.—For purposes of this subsection—

(A) INSURED ACCOUNT.—The term "insured account" has the meaning given to such term in section 401(c) of the National Housing Act (as in effect before the date of the enactment of this Act).

(B) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

(d) INTERIM TREATMENT OF CUSTODIAL ACCOUNTS.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding subsection (a) or any limitation contained in the Federal Deposit Insurance Act relating to the amount of deposit insurance available to any 1 borrower, amounts held in custodial accounts in insured depository institutions (as defined in section 3(c)(2) of such Act) for the payment of principal, interest, tax, and insurance payments for mortgage borrowers, shall be insured under the Federal Deposit Insurance Act in the amount of $100,000 per mortgage borrower.

(2) TREATMENT AFTER EFFECTIVE DATE OF NEW REGULATIONS.—After the effective date of the regulations prescribed under subsection (c)—

(A) the amount of deposit insurance available for custodial accounts shall be determined in accordance with such regulations; and

(B) paragraph (1) shall cease to apply with respect to such accounts.

(e) TREATMENT OF REFERENCES IN ADJUSTABLE RATE MORTGAGE INSTRUMENTS.—

(1) IN GENERAL.—For purposes of adjustable rate mortgage instruments that are in effect as of the date of enactment of this Act, any reference in the instrument to the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board, or institutions insured by the Federal Savings and Loan Insurance Corporation before such date shall be treated as a reference to the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, the Office of Thrift Supervision, or institutions which are members of the Savings Association Insurance Fund, as appropriate on the basis of the transfer of functions pursuant to this Act, unless the context of the reference requires otherwise.

(2) SUBSTITUTION FOR INDEXES.—If any index used to calculate the applicable interest rate on any adjustable rate mortgage instrument is no longer calculated and made available as a direct or indirect result of the enactment of this Act, any index—

(A) made available by the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Board pursuant to paragraph (3); or

(B) determined by the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Board, pursuant to paragraph (4), to be substantially similar to the index which is no longer calculated or made available,

may be substituted by the holder of any such adjustable rate mortgage instrument upon notice to the borrower.

(3) AGENCY ACTION REQUIRED TO PROVIDE CONTINUED AVAILABILITY OF INDEXES.—Promptly after the enactment of this subsection, the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board shall take such action as may be necessary to assure that the indexes prepared by the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board, and the Federal home loan banks immediately prior to the enactment of this subsection and used to calculate the interest rate on adjustable rate mortgage instruments continue to be available.

(4) REQUIREMENTS RELATING TO SUBSTITUTE INDEXES.—If any agency can no longer make available an index pursuant to paragraph (3), an index that is substantially similar to such index may be substituted for such index for purposes of paragraph (2) if the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Board, as the case may be, determines, after notice and opportunity for comment, that—

(A) the new index is based upon data substantially similar to that of the original index; and

(B) the substitution of the new index will result in an interest rate substantially similar to the rate in effect at the time the original index became unavailable.

SEC. 403. DETERMINATION OF TRANSFERRED FUNCTIONS AND EMPLOYEES.

(a) ALL FHLBB AND FSLIC EMPLOYEES SHALL BE TRANSFERRED.—All employees of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation shall be identified for transfer under subsection (b) to the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, or the Federal Housing Finance Board.

(b) FUNCTIONS AND EMPLOYEES TRANSFERRED.—

(1) IN GENERAL.—The Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, the Chairperson of the Federal Housing Finance Board, and the Chairman of the Federal Home Loan Bank Board (as of the day before the date of the enactment of this Act) shall jointly determine the functions or activities of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, and the number of employees of such Board and Corporation necessary to perform or support such functions or activities, which are transferred from the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation to the Office of Thrift Supervision, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board, as the case may be.

(2) ALLOCATION OF EMPLOYEES.—The Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board shall allocate the employees of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation consistent with the number determined pursuant to paragraph (1) in a manner which such Director, Chairman, and Chairpersons, in their sole discretion, deem equitable, except that, within work units, the agency preferences of individual employees shall be accommodated as far as possible.

(c) FEDERAL HOME LOAN BANK PERSONNEL.—Employees of the Federal home loan banks or the joint offices of such banks who, on the day before the date of the enactment of this Act, are performing functions or activities on behalf of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation shall be treated as employees of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation for purposes of determining, pursuant to subsection (b)(1), the number of employees performing or supporting functions or activities of such Board or Corporation to the extent such functions or activities are transferred to the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Resolution Trust Corporation, or the Federal Housing Finance Board.

(d) FSLIC EMPLOYEES ENGAGED IN CONSERVATORSHIP OR RECEIVERSHIP FUNCTIONS.—Individuals who, on the day before the date of the enactment of this Act, are employed by the Federal Savings and Loan Insurance Corporation in such Corporation's capacity as conservator or receiver of any insured depository institution shall be treated as employees of the Federal Savings and Loan Insurance Corporation for purposes of determining, pursuant to subsection (b)(1), the number of employees performing or supporting functions or activities of such Corporation if such conservatorship or receivership is transferred to the Federal Deposit Insurance Corporation or the Resolution Trust Corporation.

SEC. 404. RIGHTS OF EMPLOYEES OF ABOLISHED AGENCIES.

All employees identified for transfer under subsection (b) of section 403 (other than individuals described in subsection (c) or (d) of such section) shall be entitled to the following rights:

(1) Each employee so identified shall be transferred to the appropriate agency or entity for employment no later than 60 days after the date of the enactment of this Act and such transfer shall be deemed a transfer of function for the purpose of section 3503 of title 5, United States Code.

(2) Each transferred employee shall be guaranteed a position with the same status, tenure, and pay as that held on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 1 year after the date of transfer, except for cause.

(3)(A) In the case of employees occupying positions in the excepted service or the Senior Executive Service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred, subject to subparagraph (B).

(B) An agency or entity may decline a transfer of authority under subparagraph (A) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character, and noncareer positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(4) If any agency or entity to which employees are transferred determines, after the end of the 1-year period beginning on the date the transfer of functions to such agency or entity is completed, that a reorganization of the combined work force is required, that reorganization shall be deemed a "major reorganization" for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(5) Any employee accepting employment with any agency or entity (other than the Office of Thrift Supervision) as a result of such transfer may retain for 1 year after the

date such transfer occurs membership in any employee benefit program of the Federal Home Loan Bank Board, including insurance, to which such employee belongs on the date of the enactment of this Act if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Director of the Office of Thrift Supervision.

The difference in the costs between the benefits which would have been provided by such agency or entity and those provided by this section shall be paid by the Director of the Office of Thrift Supervision. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director of the Office of Thrift Supervision, the employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or notice, without regard to any other regularly scheduled open season.

(6) Any employee employed by the Office of Thrift Supervision as a result of the transfer may retain membership in any employee benefit program of the Federal Home Loan Bank Board, including insurance, which such employee has on the date of enactment of this Act, if such employee does not elect to give up such membership and the benefit or program is continued by the Director of the Office of Thrift Supervision. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director of the Office of Thrift Supervision, such employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or discontinuance, without regard to any other regularly scheduled open season.

(7) A transferring employee in the Senior Executive Service shall be placed in a comparable position at the agency or entity to which such employee is transferred.

(8) Transferring employees shall receive notice of their position assignments not later than 120 days after the effective date of their transfer.

(9) Upon the termination of the Resolution Trust Corporation pursuant to section 21A(m) of the Federal Home Loan Bank Act, any employee of such Corporation shall be transferred to the Federal Deposit Insurance Corporation in accordance with the provisions of paragraphs (2) and (4) through (7) of this subsection, except that the liability for any difference in the costs of benefits described in paragraph (5) shall be a liability of the Resolution Trust Corporation and not the Office of Thrift Supervision.

SEC. 405. DIVISION OF PROPERTY AND FACILITIES.

Before the end of the 60-day period beginning on the date of the enactment of this Act, the Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board shall jointly divide all property of the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board used to perform functions and activities of the Federal Home Loan Bank Board among the Office of Thrift Supervision, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, and the Federal Housing Finance Board in accordance with the division of responsibilities, functions, and activities effected by this Act. Any disagreement between them in so doing shall be resolved by the Director of the Office of Management and Budget.

SEC. 406. REPORT.

Before the end of the 60-day period beginning on the date of the enactment of this Act, the Chairman of the Federal Home Loan Bank Board shall provide by written report to the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Congress, a final accounting of the finances and operations of the Federal Savings and Loan Insurance Corporation.

SEC. 407. REPEALS.

Title 4 of the National Housing Act (1724 et seq.) is hereby repealed.

TITLE V—FINANCING FOR THRIFT RESOLUTIONS

Subtitle A—Oversight Board and Resolution Trust Corporation

SEC. 501. OVERSIGHT BOARD AND RESOLUTION TRUST CORPORATION ESTABLISHED.

(a) IN GENERAL.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 21 the following new section:

"SEC. 21A. OVERSIGHT BOARD AND RESOLUTION TRUST CORPORATION.

"(a) OVERSIGHT BOARD ESTABLISHED.—

"(1) IN GENERAL.—There is hereby established the Oversight Board as an instrumentality of the United States with the powers and authorities herein provided.

"(2) STATUS.—The Oversight Board shall oversee and be accountable for the Resolution Trust Corporation (hereinafter referred to in this section as the 'Corporation'). The Oversight Board shall be an 'agency' of the United States for purposes of subchapter II of chapter 5 and chapter 7 of title 5, United States Code.

"(3) MEMBERSHIP.—

"(A) IN GENERAL.—The Oversight Board shall consist of 5 members—

"(i) the Secretary of the Treasury;

"(ii) the Chairman of the Board of Governors of the Federal Reserve System;

"(iii) the Secretary of Housing and Urban Development; and

"(iv) two independent members appointed by the President, with the advice and consent of the Senate. Such nominations shall be referred to the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(B) POLITICAL AFFILIATION.—The independent members shall not be members of the same political party. No independent member of the Oversight Board shall hold any other appointed office during his or her term as a member.

"(C) CHAIRPERSON.—The Chairperson of the Oversight Board shall be the Secretary of the Treasury.

"(D) TERM OF OFFICE.—The term of each member (other than the independent members) of the Oversight Board shall expire when such member has fulfilled all of his or her responsibilities under this section and section 21B. The term of each independent member shall be 3 years.

"(E) QUORUM REQUIRED.—A quorum shall consist of 3 members of the Oversight Board and all decisions of the Board shall require an affirmative vote of at least a majority of the members voting.

"(4) COMPENSATION AND EXPENSES.—

"(A) EXPENSES.—Members of the Oversight Board shall receive allowances in accordance with subchapter I of chapter 57 of title 5, United States Code, for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Oversight Board, as set forth in the bylaws issued by the Oversight Board.

"(B) NO ADDITIONAL COMPENSATION FOR UNITED STATES OFFICERS OR EMPLOYEES.—Members of the Oversight Board (other than independent members) shall receive no additional pay by reason of service on such Board.

"(C) COMPENSATON FOR INDEPENDENT MEMBERS.—The independent members of the Oversight Board shall be paid at a rate equal to the daily equivalent of the rate of basic pay for level II of the Executive Schedule for each day (including travel time) during which such member is engaged in the actual performance of duties of the Oversight Board.

"(5) POWERS.—The Oversight Board shall be a body corporate that shall have the power to—

"(A) adopt, alter, and use a corporate seal;

"(B) provide for a principal or executive officer and such other officers and employees as may be necessary to perform the functions of the Oversight Board, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(C) fix the compensation and number of, and appoint, employees for any position established by the Oversight Board;

"(D) set and adjust rates of basic pay for employees of the Oversight Board without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code;

"(E) provide additional compensation and benefits to employees of the Oversight Board if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation; in setting and adjusting the total amount of compensation and benefits for employees of the Oversight Board, the Oversight Board shall consult with and seek to maintain comparability with the other Federal bank regulatory agencies, except that the Oversight Board shall not in any event exceed the compensation and benefits provided by the Federal Deposit Insurance Corporation with respect to any comparable position;

"(F) with the consent of any executive agency, department, or independent agency utilize the information, services, staff, and facilities of such department or agency, on a reimbursable (or other) basis, in carrying out this section;

"(G) prescribe bylaws that are consistent with law to provide for the manner in which—

"(i) its officers and employees are selected, and

"(ii) its general operations are to be conducted;

"(H) enter into contracts and modify or consent to the modification of any contract or agreement;

"(I) sue and be sued in courts of competent jurisdiction; and

"(J) exercise any and all powers established under this section and such incidental powers as are necessary to carry out its powers, duties, and functions under this Act.

"(6) OVERSIGHT BOARD DUTIES AND AUTHORITIES.—The Oversight Board shall have the following duties and authorities with respect to the Corporation:

"(A) To develop and establish overall strategies, policies, and goals for the Corporation's activities in consultation with the Corporation, including such items as—

"(i) general policies and procedures for case resolutions, the management and disposition of assets, the use of private contractors, and the use of notes, guarantees or other obligations by the Corporation;

"(ii) overall financial goals, plans, and budgets; and

"(iii) restructuring agreements described in subsection (b)(11)(B).

"(B) To approve prior to implementation periodic financing requests developed by the Corporation.

"(C) To review all rules, regulations, principles, procedures, and guidelines that may be adopted or announced by the Corporation. After consultation with the Corporation, the Oversight Board may require the modification of any such rules, regulations, principles, procedures, or guidelines except that the rules, regulations, principles, procedures, and guidelines relating to the Corporation's powers and activities as a conservator or receiver shall be consistent with the Federal Deposit Insurance Act. The provisions of this subparagraph shall not apply to internal administrative policies and procedures, and determinations or actions described in paragraph (8) of this subsection.

"(D) To review the overall performance of the Corporation on a periodic basis, including its work, management activities, and internal controls, and the performance of the Corporation relative to approved budget plans.

"(E) To require from the Corporation any reports, documents, and records it deems necessary to carry out its oversight responsibilities.

"(F) To establish a national advisory board and regional advisory boards.

"(G) To authorize the use of proceeds from any financing by the Resolution Funding Corporation established pursuant to section 21B of this Act consistent with the approved budget and financial plans of the Corporation and to oversee the collection of funds by the Resolution Funding Corporation.

"(H) To evaluate audits by the Inspector General and other congressionally required audits.

"(7) TRANSITION POLICIES.—Until such time as the Oversight Board and the Corporation (consistent with paragraph (6) and subsection (b)(12)) adopt strategies, policies, goals, regulations, rules, operating principles, procedures, or guidelines, the Corporation may carry out its duties in accordance with the strategies, policies, goals, regulations, rules, operating principles, procedures, or guidelines of the Federal Deposit Insurance Corporation, notwithstanding the provisions of section 553 of title 5, United States Code.

"(8) LIMITATION ON AUTHORITY.—

"(A) IN GENERAL.—The Corporation shall have the authority, without any prior review, approval, or disapproval by the Oversight Board, to make such determinations and take such actions as it deems appropriate with respect to case-specific matters (i) involving individual case resolutions, (ii) asset liquidations, or (iii) day-to-day operations of the Corporation. The preceding sentence in no way limits the authority of the Oversight Board to provide general policies and procedures.

"(B) FEDERAL DEPOSIT INSURANCE CORPORATION.—Nothing contained in this section shall give the Oversight Board authority over the activities, powers, or functions of the Federal Deposit Insurance Corporation except to the extent provided in this section and only with respect to the activities of the Federal Deposit Insurance Corporation in carrying out the responsibilities of the Corporation. The Federal Deposit Insurance Corporation shall be subject to the obligations, responsibilities, duties, and restrictions imposed by this section only to the extent it is carrying out the functions of the Corporation.

"(9) DELEGATION.—Except with respect to the meetings required by paragraph (10), nothing in this section shall preclude a member of the Oversight Board who is a public official from delegating his or her authority to an employee or officer of such member's agency or organization if such employee or officer has been appointed to his or her position by the President, with the advice and consent of the Senate. For purposes of the preceding sentence, the Chairman of the Board of Governors of the Federal Reserve System may delegate his or her authority to another member of the Board of Governors.

"(10) QUARTERLY MEETINGS.—Not less than 4 times each year, the Oversight Board shall conduct open meetings to establish and review the general policy of the Corporation and to consider such other standards, policies, and procedures necessary to carry out its functions under this Act.

"(11) POWER TO REMOVE; JURISDICTION.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Oversight Board is a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction. The Oversight Board may, without bond or security, remove any such action, suit, or proceeding from a State court to a United States District Court or to the United States District Court for the District of Columbia.

"(12) ADMINISTRATIVE EXPENSES.—The administrative expenses of the Oversight Board shall be paid by the Corporation, upon request of the Oversight Board.

"(13) STANDARDS, POLICIES, PROCEDURES, GUIDELINES, AND STATEMENTS.—The Oversight Board may issue rules, regulations, standards, policies, procedures, guidelines, and statements as the Oversight Board considers necessary or appropriate to carry out its authorities and duties under this Act which shall be promulgated pursuant to subchapter II of chapter 5 of title 5, United States Code.

"(14) STRATEGIC PLAN FOR CORPORATION OPERATIONS.—

"(A) IN GENERAL.—The Oversight Board shall, subject to paragraph (6), develop a strategic plan for conducting the Corporation's functions and activities. The Oversight Board shall submit the strategic plan to the Congress not later than December 31, 1989.

"(B) PROVISIONS OF PLAN.—The strategic plan and implementing policies and procedures required under this paragraph shall at a minimum contain the following:

"(i) Factors the Corporation shall consider in deciding the order in which failed institutions or categories of failed institutions will be resolved.

"(ii) Standards the Corporation shall use to select the appropriate resolution action for a failed institution.

"(iii) With respect to assisted acquisitions, factors the Corporation shall consider in deciding whether non-performing assets of the failed institution will be transferred to the acquiring institution rather than retained by the Corporation for management and disposal.

"(iv) Plans for the disposition of assets.

"(v) Management objectives by which the Corporation's progress in carrying out its duties under this section can be measured.

"(vi) A plan for the organizational structure and staffing of the Corporation, including an assessment of the extent to which the Corporation will perform asset management functions and other duties through contracts with public and private entities.

"(vii) Consideration of whether incentives should be included in asset management contracts to promote active and efficient asset management.

"(viii) Standards for adequate competition and fair and consistent treatment of offerors.

"(ix) Standards that prohibit discrimination on the basis of race, sex, or ethnic group in the solicitation and consideration of offers.

"(x) Procedures for the active solicitation of offers from minorities and women.

"(xi) Procedures requiring that unsuccessful offerors be notified in writing of the decision within 30 days after the offer has been rejected.

"(xii) Procedures for establishing the market value of assets based upon standard market analysis, valuation, and appraisal practices.

"(xiii) Procedures requiring the timely evaluation of purchase offers for an institution.

"(xiv) Procedures for bulk sales and auction marketing of assets.

"(xv) Guidelines for determining if the value of an asset has decreased so that no reasonable recovery is anticipated. In such cases, the Corporation may consider potential public uses of such asset including providing housing for lower income families (including the homeless), day care centers for the children of low- and moderate-income families, or such other public purpose designated by the Secretary of Housing and Urban Development.

"(xvi) Guidelines for the conveyance of assets to units of general local government, States, and public agencies designated by a unit of general local government or a State, for use in connection with urban homesteading programs approved by the Secretary of Housing and Urban Development under section 810 of the Housing and Community Development Act of 1974.

"(xvii) Policies and procedures for avoiding political favoritism and undue influence in contracts and decisions made by the Oversight Board and the Corporation.

"(15) TERMINATION.—The Oversight Board shall terminate not later than 60 days after the Oversight Board fulfills all of its responsibilities under this Act.

"(b) RESOLUTION TRUST CORPORATION ESTABLISHED.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—There is hereby established a Corporation to be known as the Resolution Trust Corporation which shall be an instrumentality of the United States.

"(B) STATUS.—The Corporation shall be deemed to be an agency of the United States for purposes of subchapter II of chapter 5 and chapter 7 of title 5, United States Code, when it is acting as a corporation. The Corporation, when it is acting as a conservator or receiver of an insured depository institution, shall be deemed to be an agency of the United States to the same extent as the Federal Deposit Insurance Corporation when it is acting as a conservator or receiver of an insured depository institution.

"(C) FDIC AS EXCLUSIVE MANAGER.—Immediately upon enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Federal Deposit Insurance Corporation shall be authorized to and

shall perform all responsibilities of the Corporation, and shall continue to do so unless removed pursuant to subsection (m).

"(2) GOVERNMENT CORPORATION.—Notwithstanding the fact that no Government funds may be invested in the Corporation, the Corporation shall be treated, for purposes of sections 9105, 9107, and 9108 of title 31, United States Code, as a mixed-ownership Government corporation which has capital of the Government.

"(3) DUTIES.—The duties of the Corporation shall be to carry out a program, under the general oversight of the Oversight Board and through the Federal Deposit Insurance Corporation (or any replacement authorized pursuant to subsection (m)), including:

"(A) To manage and resolve all cases involving depository institutions—

"(i) the accounts of which were insured by the Federal Savings and Loan Insurance Corporation before the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and

"(ii) for which a conservator or receiver—

"(I) had been appointed at any time during the period beginning on January 1, 1989, and ending on the date of the enactment of such Act (including any institution described in paragraph (6)); or

"(II) is appointed within the 3-year period beginning on the date of the enactment of such Act.

"(B) To manage the Federal Asset Disposition Association, subject to the provisions of subsection (f).

"(C) To conduct the operations of the Corporation in a manner which—

"(i) maximizes the net present value return from the sale or other disposition of institutions described in subparagraph (A) or the assets of such institutions;

"(ii) minimizes the impact of such transactions on local real estate and financial markets;

"(iii) makes efficient use of funds obtained from the Funding Corporation;

"(iv) minimizes the amount of any loss realized in the resolution of cases; and

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.

"(D) To perform any other function authorized under this section.

"(4) CONSERVATORSHIP, RECEIVERSHIP, AND ASSISTANCE POWERS.—Except as provided in paragraph (5) and in addition to any other provision of this section, the Corporation shall have the same powers and rights to carry out its duties with respect to institutions described in paragraph (3)(A) as the Federal Deposit Insurance Corporation has under sections 11, 12, and 13 of the Federal Deposit Insurance Act with respect to insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act).

"(5) LIMITATION ON PARAGRAPH (4) POWERS.—The Corporation—

"(A) may not obligate the Federal Deposit Insurance Corporation or any funds of the Federal Deposit Insurance Corporation; and

"(B) in connection with providing assistance to an institution under this subsection, shall be subject to the limitations contained in section 13(c)(4) of the Federal Deposit Insurance Act.

"(6) SUCCESSOR TO FSLIC AS CONSERVATOR OR RECEIVER.—As of the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Corporation shall succeed the Federal Savings and Loan Insurance Corporation as conservator or receiver with respect to any institution for which the Federal Savings and Loan Insurance Corporation was appointed conservator or receiver during the period beginning on January 1, 1989 and ending on such date of enactment.

"(7) OBLIGATIONS AND GUARANTEES.—The Corporation's authority to issue obligations and guarantees shall be subject to general supervision by the Oversight Board under subsection (a) and shall be consistent with subsection (j).

"(8) BOARD OF DIRECTORS.—

"(A) IN GENERAL.—Except as provided in subsection (m), the Board of Directors of the Federal Deposit Insurance Corporation shall serve as the Board of Directors of the Corporation.

"(B) CHAIRPERSON.—Except as provided in subsection (m), the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation shall serve as the Chairperson of the Board of Directors of the Corporation.

"(C) COMPENSATION.—Members of the Board of Directors of the Corporation shall receive no pay, allowances, or benefits from the Corporation by reason of their service on the Board of Directors, but shall receive allowances in accordance with subchapter I of chapter 57 of title 5, United States Code, for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Board of Directors, as set forth in the bylaws issued by the Board of Directors.

"(9) STAFF.—

"(A) IN GENERAL.—Unless the Oversight Board exercises its authority under subsection (m), the Corporation itself shall have no employees.

"(B) UTILIZATON OF PERSONNEL OF OTHER AGENCIES.—

"(i) FDIC.—The Federal Deposit Insurance Corporation, when acting as the exclusive manager of the Corporation, shall (subject to subsection (a)(6)) receive reimbursement from the Corporation for all services performed for the Corporation. Such reimbursement may not exceed the actual and reasonable cost incurred by the Federal Deposit Insurance Corporation in performing such services.

"(ii) OTHER AGENCIES.—With the agreement of any executive department or agency, the Corporation may utilize the personnel of any such executive department or agency on a reimbursable basis to cover actual and reasonable expenses.

"(10) CORPORATE POWERS.—The Corporation shall have the following powers:

"(A) To adopt, alter, and use a corporate seal.

"(B) In the event the Oversight Board exercises its authority under subsection (m), the Corporation shall provide for a chief executive officer, 1 or more vice presidents, a secretary, a general counsel, a treasurer, and such other officers, employees, attorneys, and agents as the Corporation may determine to be necessary, define the duties of such officers or employees, and require surety bonds or make other provisions against losses occasioned by acts of such individuals.

"(C) To enter into contracts and modify, or consent to the modification of, any contract or agreement to which the Corporation is a party or in which the Corporation has an interest under this section.

"(D) To make advance, progress, or other payments.

"(E) To acquire, hold, lease, mortgage, maintain, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to the operations of the Corporation.

"(F) To sue and be sued in its corporate capacity in any court of competent jurisdiction.

"(G) To deposit any securities or funds held by the Corporation in any facility or depository described in section 13(b) of the Federal Deposit Insurance Act under the terms and conditions applicable to the Federal Deposit Insurance Corporation under such section 13(b) and pay fees thereof and receive interest thereon.

"(H) To take warrants, voting and nonvoting equity, or other participation interests in institutions or assets or properties of institutions described in paragraph (3)(A) and paragraph (11)(A)(iv).

"(I) To use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(J) To prescribe through its Board of Directors bylaws that shall be consistent with law.

"(K) To make loans.

"(L) To prepare reports and provide such reports, documents, and records to the Oversight Board as required by this section.

"(M) To exercise any other power established under this section and such incidental powers as are necessary to carry out its duties and functions under this section.

"(11) SPECIAL POWERS.—

"(A) IN GENERAL.—In addition to the powers of the Corporation described in paragraph (10), the Corporation shall have the following powers:

"(i) CONTRACTS.—The Corporation may enter into contracts with any person, corporation, or entity, including State housing finance authorities (as such term is defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) and insured depository institutions, which the Corporation determines to be necessary or appropriate to carry out its responsibilities under this section. Such contracts shall be subject to the procedures adopted pursuant to paragraph (12).

"(ii) UTILIZATION OF PRIVATE SECTOR.—In carrying out the Corporation's duties under this section, the Corporation and the Federal Deposit Insurance Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services are practicable and efficient.

"(iii) MERGERS AND CONSOLIDATIONS.—The Corporation may require a merger or consolidation of an institution or institutions over which the Corporation has jurisdiction, if such merger or consolidation is consistent with section 13(c)(4) of the Federal Deposit Insurance Act.

"(iv) ORGANIZATION OF SAVINGS ASSOCIATIONS.—The Corporation may organize 1 or more Federal savings associations—

"(I) which shall be chartered by the Director of the Office of Thrift Supervision,

"(II) the deposits of which, if any, shall be insured by the Federal Deposit Insurance Corporation through the Savings Association Insurance Fund, and

"(III) which shall operate in accordance with subsection (e).

"(v) ORGANIZATION OF BRIDGE BANKS.—The Corporation may organize 1 or more bridge

banks pursuant to subsection (i) of section 11 of the Federal Deposit Insurance Act with respect to any institution described in paragraph (3)(A) which becomes a bank. Such bridge bank shall be subject to subsection (e).

"(B) REVIEW OF PRIOR CASES.—The Corporation shall—

"(i) review and analyze all insolvent institution cases resolved by the Federal Savings and Loan Insurance Corporation between January 1, 1988, and the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and actively review all means by which it can reduce costs under existing Federal Savings and Loan Insurance Corporation agreements relating to such cases, including restructuring such agreements;

"(ii) evaluate the costs under existing Federal Savings and Loan Insurance Corporation agreements with regard to the following—

"(I) capital loss coverage,

"(II) yield maintenance guarantees,

"(III) forbearances,

"(IV) tax consequences, and

"(V) any other relevant cost consideration;

"(iii) review the bidding procedures used in resolving such cases in order to determine whether the bidding and negotiating processes were sufficiently competitive; and

"(iv) report to the Oversight Board and the Congress pursuant to subsection (k).

The Corporation shall exercise any and all legal rights to modify, renegotiate, or restructure such agreements where savings would be realized by such actions. The cost or income of any modification shall be a liability or an asset of the Corporation or the FSLIC Resolution Fund as determined by the Oversight Board. Nothing in this paragraph shall be construed as granting the Corporation any legal rights to modify, renegotiate, or restructure agreements between the Federal Savings and Loan Insurance Corporation and any other party, which did not exist prior to the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(12) REGULATIONS, POLICIES, AND PROCEDURES.—

"(A) IN GENERAL.—Subject to the review of the Oversight Board, the Corporation shall adopt the rules, regulations, standards, policies, procedures, guidelines, and statements necessary to implement the strategic plan established by the Oversight Board under subsection (a)(14). The Corporation may issue such rules, regulations, standards, policies, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out this section.

"(B) REVIEW.—Such rules, regulations, standards, policies, procedures, guidelines, and statements—

"(i) shall be provided by the Corporation to the Oversight Board promptly or prior to publication or announcement to the extent practicable;

"(ii) shall be subject to the review of the Oversight Board as provided in subsection (a)(6)(C); and

"(iii) shall be promulgated pursuant to subchapter II of chapter 5 of title 5, United States Code.

"(C) PREPARATION AND MAINTENANCE OF RECORDS RELATING TO SOLICITATION AND ACCEPTANCE OF OFFERS.—The Corporation shall—

"(i) document decisions made in the solicitation and selection process and the reasons for the decisions; and

"(ii) maintain such documentation in the offices of the Corporation, as well as any other documentation relating to the solicitation and selection process.

"(D) DISTRESSED AREAS.—

"(i) IN GENERAL.—In developing its implementing policies, the Corporation shall take the action described in clause (ii) to avoid adverse economic impact for those real estate markets that are distressed.

"(ii) VALUATION AND DISPOSITION.—The Corporation shall establish an appraisal or other valuation method for determining the market value of real property. With respect to a real property asset with a market value in excess of a certain dollar limit (such limit to be determined by the Board of Directors of the Corporation), consideration shall be given to the volume of assets above such limit and the potential impact of sales in such distressed areas. The Corporation shall not sell a real property asset located in a distressed area without obtaining at least the minimum disposition price, unless a determination has been made that such a transaction furthers the objectives set forth in paragraph (3)(C).

"(iii) EXCEPTION.—The provisions of this subparagraph shall not apply to any property as long as such property is subject to the requirements of subsection (c).

"(E) DEFINITIONS.—For the purposes of this subsection—

"(i) The term 'minimum disposition price' means 95 percent of the market value established by the Corporation. The Board of Directors, in its discretion, may change the percentage set forth in this definition from time to time if the Board of Directors determines that such change does not adversely impact the objectives set forth in paragraph (3)(C).

"(ii) The term 'sell a real property asset' means to convey all title and interest in a piece of tangible real property in which the Corporation has a fee simple or equivalent interest. The term 'real property' does not include loans secured by real property, joint ventures, participation interests, options, or other similar interests. In addition, the term 'sell' does not include hypothecation of assets, issuance of asset backed securities, issuance of joint ventures, or participation interests, or other similar activities.

"(iii) The term 'distressed area' means the geographic areas in those political subdivisions designated from time to time by the Board of Directors as having depressed real estate markets. Until the Board of Directors designates otherwise, such distressed areas shall be the States of Arkansas, Colorado, Louisiana, New Mexico, Oklahoma, and Texas.

"(iv) The term 'market value' means the most probable price which a property should bring in a competitive and open market if—

"(I) all conditions requisite to a fair sale are present,

"(II) the buyer and seller are acting prudently and are knowledgeable, and

"(III) the price is not affected by any undue stimulus.

"(F) REAL ESTATE ASSET DIVISION.—The Corporation shall establish a Real Estate Asset Division to assist and advise the Corporation with respect to the management, sale, or other disposition of real property assets of institutions described in paragraph (3)(A). The Real Estate Asset Division shall have such duties as the Corporation establishes, including the publication of an inventory of real property assets of institutions subject to the jurisdiction of the Corporation. Such inventory shall be published before January 1, 1990 and updated semiannually thereafter and shall identify properties with natural, cultural, recreational, or scientific values of special significance.

"(13) PERIODIC FINANCING REQUESTS.—The Corporation shall provide the Oversight Board with periodic financing requests which shall detail—

"(A) anticipated funding requirements for operations, case resolution, and asset liquidation,

"(B) anticipated payments on previously issued notes, guarantees, other obligations, and related activities, and

"(C) any proposed use of notes, guarantees or other obligations.

Such financing requests shall be submitted on a quarterly basis or such other period as the Oversight Board determines necessary. Following approval by the Oversight Board, such requests shall form the basis for transferring funds from the Resolution Funding Corporation to the Corporation.

"(c) DISPOSITION OF ELIGIBLE RESIDENTIAL PROPERTIES.—

"(1) PURPOSE.—The purpose of this subsection is to provide homeownership and rental housing opportunities for very low-income, lower-income, and moderate-income families.

"(2) RULES GOVERNING DISPOSITION OF ELIGIBLE SINGLE FAMILY PROPERTIES.—

"(A) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible single family property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, condition, and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to other public agencies, other nonprofit organizations, and qualifying households. The Corporation shall allow public agencies, nonprofit organizations, and qualifying households reasonable access to eligible single family property for purposes of inspection.

"(B) OFFERS TO SELL SINGLE FAMILY PROPERTIES TO NONPROFIT ORGANIZATIONS, PUBLIC AGENCIES, AND QUALIFYING HOUSEHOLDS.—For the 3-month period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation shall offer to sell the property to (i) qualifying households, or (ii) public agencies or nonprofit organizations that agree to (I) make the property available for occupancy by and maintain it as affordable for lower-income families for the remaining useful life of such property, or (II) make the property available for purchase by such families. The restrictions described in subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument. If upon the expiration of such 3-month period, no qualifying household, public agency, or nonprofit organization has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any purchaser. The Corporation shall actively market eligible single family properties for sale to lower-income families.

"(3) RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—

"(A) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible multifamily housing property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, number of units (identified

by number of bedrooms), and information relating to the estimated fair market value of the property. The clearinghouses shall make such information available, upon request, to qualifying multifamily purchasers. The Corporation shall allow qualifying multifamily purchasers reasonable access to an eligible multifamily housing property for purposes of inspection.

"(B) EXPRESSION OF SERIOUS INTEREST.—Qualifying multifamily purchasers may give written notice of serious interest in a property during a period ending 90 days after the time the Corporation provides notice under subparagraph (A), or until the Corporation determines that a property is ready for sale, whichever occurs first. Such notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

"(C) NOTICE OF READINESS FOR SALE.—Upon determining that a property is ready for sale the Corporation shall provide written notice to any qualifying multifamily purchaser that has expressed serious interest in the property. Such notice shall specify the minimum terms and conditions for sale of the property.

"(D) OFFERS TO PURCHASE.—A qualifying multifamily purchaser receiving notice in accordance with subparagraph (C) shall have 45 days (from the date notice is received) to make a bona fide offer to purchase a property. The Corporation shall accept an offer that complies with the terms and conditions established by the Corporation.

"(E) LOWER-INCOME OCCUPANCY REQUIREMENTS.—Not less than 35 percent of all dwelling units purchased by a qualifying multifamily purchaser under subparagraph (D) shall be made available for occupancy by and maintained as affordable for lower-income families during the remaining useful life of the property in which the units are located, provided that not less than 20 percent of all units shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of such property. Where a single entity purchases more than 1 eligible property as part of the same negotiation, the requirements of this subparagraph shall apply in the aggregate to the properties so purchased. The requirements of this subparagraph shall be contained in the deed or other recorded instrument.

"(F) SALE OF MULTIFAMILY PROPERTIES TO OTHER PURCHASERS.—

"(i) If, upon the expiration of the period referred to in subparagraph (B), no qualifying multifamily purchaser has expressed serious interest in a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(ii) The Corporation may not sell in combination with other properties any property which a qualifying multifamily purchaser has expressed serious interest in purchasing individually.

"(iii) If, upon the expiration of the period referred to in subparagraph (D), no qualifying multifamily purchaser has made an offer to purchase the property, the Corporation may sell the property, individually or in combination with other properties, to any purchaser.

"(G) EXEMPTIONS.—

"(i) CONTINUED OCCUPANCY OF CURRENT RESIDENTS.—No purchaser of an eligible multifamily housing property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of meeting the lower-income occupancy requirement applicable to the property under subparagraph (E). The purchaser shall be in compliance with this paragraph if each newly vacant dwelling unit is reserved for lower-income occupancy until the lower-income occupancy requirement is met.

"(ii) FINANCIAL INFEASIBILITY.—The Secretary of Housing and Urban Development or the State housing finance agency for the State in which the property is located may temporarily reduce the lower-income occupancy requirements applicable to any property under subparagraph (E), if the Secretary or the applicable State housing finance agency determines that an owner's compliance with such requirements is no longer financially feasible. The owner of the property shall make a good-faith effort to return lower-income occupancy to the level required by subparagraph (E), and the Secretary of Housing and Urban Development or the State housing finance agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

"(4) RENT LIMITATIONS.—

"(A) IN GENERAL.—With respect to properties under subparagraph (B), rents charged to tenants for units made available for occupancy by very-low income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants for units made available for occupancy by lower-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(B) APPLICABILITY.—The rent limitations under this paragraph shall apply to any eligible single-family property sold pursuant to paragraph (2)(B)(ii)(I) and to any multifamily housing property sold pursuant to paragraph (3).

"(5) PREFERENCE FOR SALES.—When selling any eligible multifamily housing property or combinations of eligible residential properties, the Corporation shall give preference, among substantially similar offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income families and lower-income families and would retain such affordability for the longest term.

"(6) FINANCING OF SALE.—

"(A) ASSISTANCE BY CORPORATION.—

"(i) SALE PRICE.—The Corporation shall establish a market value for each eligible residential property. The Corporation shall sell eligible residential property at the net realizable market value. The Corporation may agree to sell an eligible single family property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of the property and enable a lower-income family to purchase the property. The Corporation may agree to sell eligible residential property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to such property under paragraphs (2) and (3).

"(ii) PURCHASE LOAN.—The Corporation may provide a loan at market interest rates to the purchaser of eligible residential property for all or a portion of the purchase price, which loan shall be secured by a first or second mortgage on the property. The Corporation may provide such a loan at below market interest rates to the extent necessary to facilitate an expedited sale of eligible residential property and permit (I) a lower-income family to purchase an eligible single family property under paragraph (2); or (II) a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to the purchase of an eligible residential property under paragraph (2) or (3). The Corporation shall provide such loan in a form which would permit its sale or transfer to a subsequent holder.

"(B) ASSISTANCE BY HUD.—The Secretary shall take such action as may be necessary to expedite the processing of applications for assistance under section 202 of the Housing Act of 1959, the United States Housing Act of 1937, title IV of the Stewart B. McKinney Homeless Assistance Act, section 810 of the Housing and Community Development Act of 1974, and the National Housing Act to enable any organization or individual to purchase eligible residential property.

"(C) ASSISTANCE BY FMHA.—The Secretary of Agriculture shall take such action as may be necessary to expedite the processing of applications for assistance under title V of the Housing Act of 1949 to enable any organization or individual to purchase eligible residential property.

"(7) CONTRACTING RULES.—Contracts entered into under this subsection shall not be subject to the requirements of subsection (b)(11)(A).

"(8) USE OF SECONDARY MARKET AGENCIES.—

"(A) IN GENERAL.—In the disposition of eligible residential properties, the Corporation shall, in consultation with the Secretary, explore opportunities to work with secondary market entities to provide housing for lower- and moderate-income families.

"(B) CREDIT ENHANCEMENT.—With respect to such Corporation properties, the Secretary may, consistent with statutory authorities, work through the Federal Housing Administration, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for lower- and moderate-income families.

"(C) REPORT.—In the annual report submitted by the Secretary to the Congress, the Secretary shall include a detailed description of his activities under this paragraph, including recommendations for such additional authorization as he deems necessary to implement the provisions of this subsection.

"(9) DEFINITIONS.—For purposes of this subsection:

"(A) ADJUSTED INCOME.—The term 'adjusted income' has the same meaning as such term has under section 3 of the United States Housing Act of 1937.

"(B) CLEARINGHOUSES.—The term 'clearinghouses' means—

"(i) the State housing finance agency for the State in which an eligible residential property is located,

"(ii) the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board, and

"(iii) any national nonprofit organizations (including any nonprofit entity established by the corporation established under

title IX of the Housing and Community Development Act of 1968) that the Corporation determines has the capacity to act as a clearinghouse for information.

"(C) CORPORATION.—The term 'Corporation' means the Resolution Trust Corporation either in its corporate capacity or as receiver, but does not include the Corporation in its capacity as an operating conservator.

"(D) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(i) to which the Corporation acquires title; and

"(ii) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(E) ELIGIBLE RESIDENTIAL PROPERTY.—The term 'eligible residential property' includes eligible single family properties and eligible multifamily housing properties.

"(F) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(i) to which the Corporation acquires title; and

"(ii) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).

"(G) LOWER-INCOME FAMILIES.—The term 'lower-income families' means families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

"(H) NET REALIZABLE MARKET VALUE.—The term 'net realizable market value' means a price below the market value that takes into account (i) any reductions in holding costs resulting from the expedited sale of a property, including but not limited to foregone real estate taxes, insurance, maintenance costs, security costs, and loss of use of funds, and (ii) the avoidance, where applicable, of fees paid to real estate brokers, auctioneers, or other individuals or organizations involved in the sale of property owned by the Corporation.

"(I) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means a private organization (including a limited equity cooperative)—

"(i) no part of the net earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

"(ii) that is approved by the Corporation as to financial responsibility.

"(J) PUBLIC AGENCY.—The term 'public agency'—

"(i) means any Federal, State, local, or other governmental entity; and

"(ii) includes any public housing agency.

"(K) QUALIFYING HOUSEHOLD.—The term 'qualifying household' means a household (i) who intends to occupy eligible single family property as a principle residence; and (ii) whose adjusted income does not exceed 115 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(L) QUALIFYING MULTIFAMILY PURCHASER.—The term 'qualifying multifamily purchaser' means (i) a public agency, (ii) a nonprofit organization, or (iii) a for-profit entity which makes a commitment (for itself or any related entity) to satisfy the lower-income occupancy requirements specified under paragraph (3)(E) for any eligible multifamily property for which an offer to purchase is made during or after the periods specified under paragraph (3).

"(M) RURAL AREA.—The term 'rural area' has the meaning given such term in section 520 of the Housing Act of 1949.

"(N) SECRETARY.—The term 'Secretary' means the Secretary of the Housing and Urban Development.

"(O) STATE HOUSING FINANCE AGENCY.—The term 'State housing finance agency' means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout such State.

"(P) VERY LOW-INCOME FAMILIES.—The term 'very-low income families' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

"(10) EXCEPTION.—The provisions of this subsection shall not apply whenever the Corporation as receiver contracts to sell all or substantially all of the assets of a closed savings association to an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act).

"(11) THIRD PARTY RIGHTS.—

"(A) IN GENERAL.—The provisions of this subsection, or any failure by the Corporation to comply with such provisions, may not be used by any person to attack or defeat any title to property once it is conveyed by the Corporation.

"(B) LOWER-INCOME OCCUPANCY.—The lower-income occupancy requirements specified under paragraphs (2) and (3) shall be judicially enforceable against purchasers of property under this subsection or their successors in interest by affected very low- and lower-income families, State housing finance agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(C) CLEARINGHOUSE.—A clearinghouse shall not be subject to suit for its failure to comply with the requirements of this subsection.

"(d) NATIONAL AND REGIONAL ADVISORY BOARDS.—

"(1) NATIONAL ADVISORY BOARD.—

"(A) ESTABLISHMENT.—The Oversight Board shall establish a national advisory board to provide information to the Oversight Board and to advise that Board on policies and programs for the sale or other disposition of real property assets of institutions which are described in subsection (b)(3)(A).

"(B) MEMBERSHIP.—The national advisory board shall consist of—

"(i) a chairperson appointed by the Oversight Board; and

"(ii) the chairpersons of any regional advisory boards established pursuant to paragraph (2).

"(C) MEETINGS.—The national advisory board shall meet 4 times a year, or more frequently if requested by the Corporation.

"(2) REGIONAL ADVISORY BOARDS.—

"(A) ESTABLISHMENT.—The Oversight Board shall establish not less than 6 regional advisory boards to advise the Corporation on the policies and programs for the sale or other disposition of real property assets of institutions described in subsection (b)(3)(A). Such regional advisory boards shall be established in any region where the Oversight Board determines that there exists a significant portfolio of real property assets of institutions which are described in subsection (b)(3)(A).

"(B) MEMBERSHIP.—

"(i) APPOINTMENT.—Each regional advisory board shall consist of 5 members. Each member shall be appointed by the Oversight Board and shall serve at the pleasure of the Oversight Board. The members shall be selected from those residents of the region who will represent the views of low- and moderate-income consumers and small businesses, or who have knowledge and experience regarding business, financial, and real estate matters.

"(ii) TERMS.—Each member of a regional advisory board shall serve a term not to exceed 2 years, except that the Oversight Board may provide for classes of members so that the terms of not more than 3 members of any such board shall expire in any 1 year.

"(C) MEETINGS.—Each regional advisory board shall meet 4 times a year, or more frequently if requested by the Corporation. A regional advisory board shall conduct its meetings in its region.

"(3) PROHIBITION ON COMPENSATION.—Members of the national and regional advisory boards shall serve without compensation, except that such members shall be entitled to receive allowances in accordance with subchapter I of chapter 57 of title 5, United States Code, for necessary expenses of travel, lodging, and subsistence incurred in attending official meetings and other activities of the boards.

"(4) TREATMENT AS ADVISORY COMMITTEE AND TERMINATION OF NATIONAL AND REGIONAL ADVISORY BOARDS.—

"(A) FEDERAL ADVISORY COMMITTEE ACT.—The national and regional advisory boards shall be subject to the provisions of the Federal Advisory Committee Act.

"(B) TERMINATION.—Notwithstanding the provisions of the Federal Advisory Committee Act, the national advisory board and any regional advisory board established pursuant to this subsection which is in existence on the date on which the Corporation terminates shall also terminate on such date.

"(e) INSTITUTIONS ORGANIZED BY THE CORPORATION.—

"(1) LIMITATIONS ON CERTAIN ACTIVITIES.—All insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) organized by the Corporation under this section shall, during the period such institutions are within the control of the Corporation, be subject to such limitations, restrictions, and conditions as determined by the Corporation with respect to the following activities:

"(A) Growth of assets.

"(B) Lending and borrowing activities.

"(C) Asset acquisitions.

"(D) Use of brokered deposits.

"(E) Payment of deposit rates.

"(F) Setting policy or credit standards.

"(G) Capital standards.

"(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Except as otherwise provided, all insured depository institutions (defined in section 3 of the Federal Deposit Insurance Act) organized by the Corporation shall—

"(A) be subject to all laws and rules otherwise applicable to them as insured depository institutions, and

"(B) shall be subject to the supervision of the appropriate Federal banking agency (as that term is defined in section 3 of the Federal Deposit Insurance Act).

"(f) FADA.—Before the end of the 180-day period beginning on the date of the enactment of the Financial Institutions Reform,

Recovery, and Enforcement Act of 1989, the Corporation shall liquidate the Federal Asset Disposition Association.

"(g) EXEMPTION FROM STATE AND LOCAL TAXATION.—The Corporation and the Oversight Board, the capital, reserves, surpluses, and assets of the Corporation and the Oversight Board, and the income derived from such capital, reserves, surpluses, or assets shall be exempt from State, municipal, and local taxation except taxes on real estate held by the Corporation, according to its value as other similar property held by other persons is taxed.

"(h) GUARANTEES OF FSLIC.—

"(1) ASSUMPTION BY CORPORATION.—On the date of the enactment of this section, the Corporation shall, by operation of law (and without further action by the Corporation, the Oversight Board, the Federal Housing Finance Board, the Federal Savings and Loan Insurance Corporation, or any court), assume all rights and obligations of the Federal Savings and Loan Insurance Corporation with respect to any guarantee issued by the Federal Savings and Loan Insurance Corporation during the period beginning on January 1, 1989, and ending on such date of enactment, in connection with any loan to any savings association by any Federal Reserve Bank or Federal Home Loan Bank (hereinafter in this subsection referred to as a 'lender').

"(2) PAYMENT BY CORPORATION.—Any obligation assumed by the Corporation for any guarantee described in paragraph (1) to any lender shall be paid by the Corporation before the end of the 1-year period beginning on the date of the enactment of this section. Payment shall be made from funds or assets available to the Corporation.

"(3) PRIORITY OF CLAIMS OF LENDERS.—Any claim by a lender with respect to any obligation assumed by the Corporation for a guarantee described in paragraph (1) shall have priority over all other secured or unsecured obligations of the Corporation.

"(4) TREASURY BACKUP.—If the resources of the Corporation are insufficient to pay all the obligations assumed by the Corporation under paragraph (1) within the 1-year period, the Secretary of the Treasury shall pay the amount of any such deficiency. There are hereby appropriated to the Secretary, for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to pay such deficiency.

"(i) BORROWING.—

"(1) IN GENERAL.—The Corporation, upon approval of the Oversight Board, is authorized to borrow from the Treasury. The Secretary of the Treasury is authorized and directed to loan to the Corporation, on such terms as may be fixed by the Secretary of the Treasury, an amount not exceeding in the aggregate $5,000,000,000 outstanding at any one time.

"(2) INTEREST RATE.—Each such loan shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(j) MAXIMUM AMOUNT LIMITATIONS ON OUTSTANDING OBLIGATIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, the amount which is equal to—

"(A) the sum of—

"(i) the total amount of contributions received from the Resolution Funding Corporation; and

"(ii) the total amount of outstanding obligations of the Corporation; minus

"(B) the sum of—

"(i) the amount of cash held by the Corporation; and

"(ii) the amount which is equal to 85 percent of the Corporation's estimate of the fair market value of other assets held by the Corporation,

may not exceed $50,000,000,000.

"(2) OUTSTANDING OBLIGATION DEFINED.—For purposes of this subsection (other than paragraph (3)), the term 'outstanding obligation' includes—

"(A) any obligation or other liability assumed by the Corporation from the Federal Savings and Loan Insurance Corporation under this section or pursuant to any provision of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

"(B) any guarantee issued by the Corporation;

"(C) the total of the outstanding amounts borrowed from the Secretary of the Treasury pursuant to subsection (i); and

"(D) any other obligation for which the Corporation has a direct or contingent liability to pay any amount.

"(3) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of any obligation issued by the Corporation, with respect to both principal and interest, if—

"(i) the principal amount of such obligation is stated in the obligation; and

"(ii) the term to maturity or the date of maturity of such obligation is stated in the obligation.

"(4) ESTIMATES OF COSTS OF CONTINGENT LIABILITIES REQUIRED.—

"(A) IN GENERAL.—The Corporation shall—

"(i) estimate the cost to such Corporation of any contingent liability of the Corporation; and

"(ii) at least once each calendar quarter, make such adjustment as is appropriate in the estimate of such cost.

"(B) INCLUSION IN FINANCIAL STATEMENTS AND OUTSTANDING OBLIGATIONS.—The estimated amount of the cost to the Corporation of any contingent liability of the Corporation (taking into account the most recent adjustment to such estimate pursuant to paragraph (A)(ii)) shall be—

"(i) treated as an outstanding obligation of the Corporation for purposes of this subsection; and

"(ii) included in any financial statement of the Corporation.

"(k) REPORTING AND DISCLOSURE OBLIGATIONS.—

"(1) AUDITS.—

"(A) ANNUAL AUDIT.—The Comptroller General shall audit annually the financial statements of the Corporation in accordance with generally accepted government auditing standards unless the Comptroller General notifies the Oversight Board not later than 180 days before the close of a fiscal year that the Comptroller General will not perform such audit for that fiscal year. In the event of such notification, the Oversight Board shall contract with an independent certified public accountant to perform the annual audit of the Corporation's financial statement in accordance with generally accepted government auditing standards.

"(B) ACCESS TO BOOKS AND RECORDS.—All books, records, accounts, reports, files, and property belonging to or used by the Corporation, or the Oversight Board, or by an independent certified public accountant retained to audit the Corporation's financial statement, shall be made available to the Comptroller General.

"(2) PUBLIC DISCLOSURE OF TRANSACTIONS.—

"(A) DISCLOSURE REQUIRED.—Except as otherwise provided in this subsection, the Corporation shall make available to the public—

"(i) any agreement entered into by the Corporation relating to a transaction for which the Corporation provides assistance pursuant to section 13(c) of the Federal Deposit Insurance Act, not later than 30 days after the first meeting of the Oversight Board after such agreement is entered into; and

"(ii) all agreements relating to cases reviewed by the Corporation pursuant to subsection (b)(11)(B).

"(B) EXCEPTION FOR DISCLOSURES AGAINST THE PUBLIC INTEREST.—

"(i) IN GENERAL.—The Oversight Board may withhold from public disclosure any document or part of a document if the Oversight Board determines, by a unanimous affirmative vote of the members of the Board, that disclosure would be contrary to the public interest.

"(ii) REPORT OF DETERMINATION.—A written report shall be made of any determination by the Oversight Board to withhold any part of a document from public disclosure pursuant to clause (i). Such report shall contain a full explanation of the specific reasons for such determination.

"(iii) PUBLICATION AND SUBMISSION OF REPORT.—The report prepared pursuant to clause (ii) shall be—

"(I) published in the Federal Register; and

"(II) transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(C) AGREEMENT DEFINED.—For purposes of this subsection, the term 'agreement' includes—

"(i) all documents which effectuate the terms and conditions of the assisted transaction;

"(ii) a comparison, which the Corporation shall prepare of—

"(I) the estimated cost of the transaction, with

"(II) the estimated cost of liquidating the insured institution; and

"(iii) a description of any economic or statistical assumptions on which such estimates are based.

"(3) DISCLOSURE TO CONGRESS OF TRANSACTIONS.—

"(A) PROSPECTIVE TRANSACTIONS.—The Corporation shall make available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate any agreement entered into by the Corporation relating to a transaction for which the Corporation provides assistance pursuant to section 13(c) of the Federal Deposit Insurance Act not later than 25 days after the first meeting of the Oversight Board after such agreement is entered into. The foregoing requirement is in addition to the Corporation's obligation to make such agreements publicly available pursuant to paragraph (2).

"(B) PRIOR TRANSACTIONS.—The Corporation shall submit a report to the Oversight Board and the Congress containing the results and conclusions of the review of the 1988 transactions conducted pursuant to subsection (b)(11)(B) and such recommendations for legislative action as the Corporation may determine to be appropriate.

"(4) ANNUAL REPORTS.—

"(A) IN GENERAL.—The Oversight Board and the Corporation shall annually submit

a full report of their respective operations, activities, budgets, receipts, and expenditures for the preceding 12-month period.

"(B) CONTENTS.—The report required under subparagraph (A) shall include—

"(i) audited statements and such information as is necessary to make known the financial condition and operations of the Corporation in accordance with generally accepted accounting principles;

"(ii) the Corporation's financial operating plans and forecasts (including budgets, estimates of actual and future spending, and estimates of actual and future cash obligations) taking into account the Corporation's financial commitments, guarantees, and other contingent liabilities;

"(iii) the number of minority and women investors participating in the bidding process for assisted acquisitions and the disposition of assets and the number of successful bids by such investors; and

"(iv) a list of the properties sold to State housing finance authorities (as such term is defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989), the individual purchase prices of such properties, and an estimate of the premium paid by such authorities for such properties.

"(C) SUBMISSION TO CONGRESS AND THE PRESIDENT.—The Corporation shall submit each annual report required under this subsection to the Congress and the President as soon as practicable after the end of the calendar year for which such report is made but not later than June 30 of the year following such calendar year.

"(5) ADDITIONAL REPORTS.—

"(A) REPORTS REQUIRED.—In addition to the annual report required under paragraph (4), the Oversight Board and the Corporation shall submit to Congress not later than April 30 and October 31 of each calendar year, a semiannual report on the activities and efforts of the Corporation, the Federal Deposit Insurance Corporation, and the Oversight Board for the 6-month period ending on the last day of the month prior to the month in which such report is required to be submitted.

"(B) CONTENTS OF REPORT.—Each semiannual report required under subparagraph (A) shall include the following information with respect to the Corporation's assets and liabilities and to the assets and liabilities of institutions described in subsection (b)(3)(A):

"(i) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

"(ii) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(iii) The number of employees of the Corporation, the Federal Deposit Insurance Corporation, and the Oversight Board at the beginning and end of the reporting period.

"(iv) The total amounts expended on employee wages, salaries, and overhead, during such period which are attributable to—

"(I) contracting with, supervising, or reviewing the performance of private contractors, or

"(II) managing or disposing of such assets.

"(v) A statement of the total amount expended on private contractors for the management of such assets.

"(vi) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation or the Federal Deposit Insurance Corporation.

"(vii) The total book value and total proceeds from such assets disposed of during the reporting period.

"(viii) Summary data on discounts from book value at which such assets were sold or otherwise disposed of during the reporting period.

"(ix) A list of all of the areas that carried a distressed area designation during the reporting period (including a justification for removal of areas from or addition of areas to the list of distressed areas).

"(x) An evaluation of market conditions in distressed areas and a description of any changes in conditions during the reporting period.

"(xi) Any change adopted by the Oversight Board in a minimum disposition price and the reasons for such change.

"(xii) The valuation method or methods adopted by the Oversight Board or the Corporation to value assets and the reasons for selecting such methods.

"(6) APPEARANCES BEFORE CONGRESSIONAL COMMITTEES.—

"(A) SEMIANNUAL APPEARANCE REQUIRED.—Not later than 30 days after submission of the semiannual reports required by paragraph (5), the Oversight Board shall appear before the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate to—

"(i) report on the progress made during such period in resolving cases involving institutions described in subsection (b)(3)(A);

"(ii) provide an estimate of the short-term and long-term cost to the United States Government of obligations issued or incurred during such period;

"(iii) report on the progress made during such period in selling assets of institutions described in subsection (b)(3)(A) and the impact such sales are having on the local markets in which such assets are located;

"(iv) describe the costs incurred by the Corporation in issuing obligations, managing and selling assets acquired by the Corporation;

"(v) provide an estimate of the income of the Corporation from assets acquired by the Corporation;

"(vi) provide an assessment of any potential source of additional funds for the Corporation; and

"(vii) provide an estimate of the remaining exposure of the United States Government in connection with institutions described in subsection (b)(3)(A) which, in the Oversight Board's estimation, will require assistance or liquidation after the end of such period.

"(7) APPEARANCES CONCERNING START-UP OF CORPORATION.—

"(A) APPEARANCE REQUIRED.—Before January 31, 1990, the Oversight Board and the Corporation shall appear before the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate for the purposes described in subparagraph (B).

"(B) PURPOSES OF APPEARANCE.—In connection with the appearance of the Oversight Board and the Corporation required by subparagraph (A), the Oversight Board and the Corporation shall—

"(i) describe the strategic plan established for the operations of the Corporation;

"(ii) describe the policies and procedures established or proposed to be established for the Corporation, including specific measures taken to avoid political favoritism or undue influence with respect to the activities of the Corporation;

"(iii) provide any regulation proposed to be prescribed by the Corporation; and

"(iv) provide the proposed case resolution schedule.

"(l) POWER TO REMOVE; JURISDICTION.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction over such action, suit, or proceeding.

"(2) CORPORATION AS PARTY.—The Corporation shall be substituted as a party in any civil action, suit, or proceeding to which its predecessor in interest was a party with respect to institutions which are subject to the management agreement dated February 7, 1989, among the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation.

"(3) REMOVAL AND REMAND.—The Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia, or if the action, suit, or proceeding arises out of the actions of the Corporation with respect to an institution for which a conservator or a receiver has been appointed, the United States district court for the district where the institution's principal business is located. The removal of any action, suit, or proceeding shall be instituted—

"(A) not later than 90 days after the date the Corporation is substituted as a party, or

"(B) not later than 30 days after the date suit is filed against the Corporation, if such suit is filed after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

The Corporation may appeal any order of remand entered by a United States district court.

"(m) INTERVENTION BY OVERSIGHT BOARD IN EXTRAORDINARY CIRCUMSTANCES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Oversight Board has the ultimate authority to supervise the Corporation and is ultimately accountable for the administration of the Corporation. The Oversight Board is authorized to remove the Federal Deposit Insurance Corporation (or any replacement) from its position as exclusive manager of the Corporation and from all of its responsibilities and authorities to act for the Corporation, in any case where the Oversight Board determines that any of the following extraordinary events has occurred:

"(A) There has been a material failure of the Corporation to adhere to the strategic plan developed pursuant to subsection (a)(14).

"(B) There has been a material failure of the Corporation to meet its financial goals, including over-commitment of financial resources.

"(C) There is evidence of fraud, abuse, gross mismanagement in the Corporation's programs or activities, or willful violation

of this Act or the Corporation's policies or procedures.

"(D) There is a continuing failure to obtain consideration at least nearly equivalent to the market value of the assets sold or otherwise transferred by the Corporation.

"(2) PROCEDURE.—Any decisions made or action taken by the Oversight Board under paragraph (1) shall be made or taken at an open meeting of the Oversight Board and the Oversight Board shall document its reasons for such actions or decisions.

"(3) NOTIFICATION TO CONGRESS.—Within 30 days of the meeting of the Oversight Board described in paragraph (2) and not later than 90 days before the removal of the Federal Deposit Insurance Corporation pursuant to paragraph (1), the Oversight Board shall notify Congress of any decision made or action taken pursuant to such paragraph and provide written documentation of its decision, including any supporting documentation relied on by the Oversight Board.

"(n) OPERATION OF CORPORATION AFTER EXERCISE OF POWERS UNDER SUBSECTION (m).—If the Oversight Board exercises authority under subsection (m), the Oversight Board shall—

"(1) develop an operations and management plan for the Corporation, including a detailed description of the employment and retention procedures for the Corporation and the classification standards for employment positions for the Corporation and the compensation rates and benefits established for each class of positions, all of which shall be subject to the provisions of subsection (a)(5);

"(2) select a Board of Directors and a chief executive officer for the Corporation; and

"(3) provide to Congress, not later than 60 days before the removal of the Federal Deposit Insurance Corporation, the operations and management plan developed pursuant to paragraph (1) and the identity of the Board of Directors and the chief executive officer selected pursuant to paragraph (2).

"(o) TERMINATION.—

"(1) IN GENERAL.—The Corporation shall terminate not later than December 31, 1996. If at the time of its termination, the Corporation is acting as a conservator or receiver, the Federal Deposit Insurance Corporation shall succeed the Corporation as conservator or receiver.

"(2) CASE RESOLUTIONS TRANSFERRED.—Simultaneous with the termination of the Corporation as provided in paragraph (1), all assets and liabilities of the Corporation shall be transferred to the FSLIC Resolution Fund. Thereafter the FSLIC Resolution Fund shall transfer any net proceeds from the sale of assets to the Resolution Funding Corporation.

"(p) CONFLICT OF INTEREST.—

"(1) IN GENERAL.—

"(A) Notwithstanding any other provision, the Oversight Board and the Corporation shall be an 'agency' as defined in section 6 of title 18, United States Code. Any individual who, pursuant to a contract or any other arrangement, performs functions or activities of the Oversight Board or the Corporation, under the direct supervision of an officer or employee of the Oversight Board or the Corporation, shall be deemed to be an employee of the Oversight Board or the Corporation for the purposes of title 18, United States Code and this Act.

"(B) Any individual who, pursuant to a contract or any other agreement, acts for or on behalf of the Corporation shall be deemed to be a public official for the purposes of section 201 of title 18, United States Code.

"(2) ESTABLISHMENT OF RULES.—The Oversight Board and the Corporation shall, not later than 180 days after the date of enactment of this subsection, promulgate rules and regulations governing conflict of interest, ethical responsibilities, and post-employment restrictions applicable to members, officers, and employees of the Oversight Board and the Corporation that shall be no less stringent than those applicable to the Federal Deposit Insurance Corporation.

"(3) USE OF CONFIDENTIAL INFORMATION.—In addition to the requirements of paragraph (6), the Oversight Board and the Corporation shall, not later than 180 days after the date of enactment of this subsection, promulgate rules and regulations applicable to independent contractors governing conflicts of interest, ethical responsibilities, and the use of confidential information consistent with the goals and purposes of titles 18 and 41, United States Code.

"(4) POST EMPLOYMENT.—The chief executive officer of the Corporation shall be prohibited for a period of 1 year after leaving the Corporation from holding any office, position, or employment with, or receiving remuneration other than from the Corporation from, an entity which, during the time the chief executive was employed by the Corporation, participated in any case resolution or contract with the Corporation for which such person was either responsible or in which such person was personally and substantially involved, except that the chief executive officer may hold any office, position, or employment so long as the chief executive officer does not, during the 1-year period, provide advice with respect to, participate in decisions relating to, or otherwise provide assistance to such entity on the enumerated matters or receive remuneration with respect thereto from such entity.

"(5) OTHER AGENCY EMPLOYEES.—Directors, officers, and employees of the Oversight Board and the Corporation who are also subject to the ethical rules of another agency or Government Corporation shall file with the Corporation a copy of any financial disclosure statement required by such other agency or corporation.

"(6) DISAPPROVAL OF CONTRACTORS.—

"(A) IN GENERAL.—The Oversight Board shall prescribe regulations establishing procedures for ensuring that any individual who is performing, directly or indirectly, any function or service on behalf of the Corporation meets minimum standards of competence, experience, integrity, and fitness.

"(B) PROHIBITION FROM SERVICE ON BEHALF OF CORPORATION.—The procedures established under subparagraph (A) shall provide that the Corporation shall prohibit any person who does not meet the minimum standards of competence, experience, integrity, and fitness from—

"(i) entering into any contract with the Corporation; or

"(ii) being employed by the Corporation or any person performing any service for or on behalf of the Corporation.

"(C) INFORMATION REQUIRED TO BE SUBMITTED.—The procedures established under subparagraph (A) shall require that any offer submitted to the Corporation by any person under this section and any employment application submitted to the Corporation by any person shall include—

"(i) a list and description of any instance during the preceding 5 years in which the person or entity under such person's control defaulted on a material obligation to an insured depository institution; and

"(ii) such other information as the Board may prescribe by regulation.

"(D) SUBSEQUENT SUBMISSIONS.—No offer submitted to the Corporation may be accepted unless the offeror agrees that no individual will be employed, directly or indirectly, by the offeror under any contract with the Corporation unless all applicable information described in subparagraph (C) with respect to any such individual is submitted to the Corporation and the Corporation does not disapprove of the direct or indirect employment of such individual. Any decision made by the Corporation pursuant to this paragraph shall be in its sole discretion and shall not be subject to review.

"(E) PROHIBITION REQUIRED IN CERTAIN CASES.—The standards established under subparagraph (A) shall require the Corporation to prohibit any individual who has—

"(i) been convicted of any felony,

"(ii) been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by any appropriate Federal banking agency,

"(iii) demonstrated a pattern or practice of defalcation regarding obligations to insured depository institutions, or

"(iv) caused a substantial loss to Federal deposit insurance funds,

from service on behalf of the Corporation.

"(7) ABROGATION OF CONTRACTS.—The Oversight Board or the Corporation may rescind any contract with a person who—

"(A) fails to disclose a material fact to the Oversight Board or the Corporation,

"(B) would be prohibited under paragraph (6) from providing services to, receiving fees from, or contracting with the Corporation or the Oversight Board, or

"(C) has been subject to a final enforcement action by any Federal bank regulatory agency.

"(7) PRIORITY OF OVERSIGHT BOARD RULES.—To the extent that the rules established under this subsection conflict with rules of other agencies or Government corporations, officers, directors, employees, and independent contractors of the Corporation or the Oversight Board, who are also subject to the conflict of interest or ethical rules of another agency or Government corporation, shall be governed by the rules and regulations established by the Oversight Board under this subsection when acting for or on behalf of the Corporation.

"(8) DEFINITIONS.—For the purposes of this subsection—

"(A) The term 'person' means an individual, company, corporation, partnership, business trust, association, or similar organization.

"(B) The term 'entity' has the same meaning as the term 'company' has under section 2(b) of the Bank Holding Company Act of 1956.

"(C) The term 'control' has the same meaning given such term under regulations promulgated by the Federal Home Loan Bank Board with respect to savings and loan holding companies as in effect on the day before the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(D) The term 'Corporation' includes the Resolution Trust Corporation, the national advisory board, and the regional advisory boards.".

(b) INSPECTOR GENERAL OF THE CORPORATION.—

(1) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in paragraph (1), by inserting "the Oversight Board and the Board of Directors

of the Resolution Trust Corporation" before "; as the case may be,"; and

(B) in paragraph (2), by inserting "the Resolution Trust Corporation," after "the Railroad Retirement Board,".

(2) POSITION AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—

(A) IN GENERAL.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof:

"Inspector General, Resolution Trust Corporation.".

(B) APPROPRIATION.—There is hereby authorized to be appropriated such sums as may be necessary for the operation of the Office of Inspector General established by the amendment made by paragraph (1) of this subsection.

(c) CONFORMING AMENDMENTS TO TITLE 5.—Section 5313 of title 5, United States Code, is amended by adding at the end thereof:

"Independent Members, Oversight Board, Resolution Trust Corporation.".

(d) MIXED-OWNERSHIP GOVERNMENT CORPORATION.—Section 9101(2) of title 31, United States Code, is amended by adding at the end thereof:

"(L) the Resolution Trust Corporation.".

(e) CONFORMING AMENDMENTS TO URBAN HOMESTEADING PROGRAM AND HOUSING ACT OF 1949.—

(1) URBAN HOMESTEADING.—Section 810(g) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e(g)) is amended by adding at the end the following new paragraph:

"(3) The Secretary is authorized to reimburse the Resolution Trust Corporation, in an amount to be agreed upon by the Secretary and the Corporation, for property that the Corporation conveys to a unit of general local government, State, or agency for use in connection with an urban homesteading program approved by the Secretary.".

(2) HOUSING ACT OF 1949.—Section 517 of the Housing Act of 1949 (42 U.S.C. 1987) is amended by adding after subsection (m) the following new subsection:

"(n) The Secretary may guarantee and service loans made for the purchase of eligible residential properties under section 21A(c) of the Federal Home Loan Bank Act in accordance with subsection (d) of this section and the last sentence of section 521(a)(1)(A).".

(f) GAO EXAMINATION OF CERTAIN FSLIC RESOLUTIONS.—Notwithstanding any other provision of this Act, the Comptroller General of the United States shall examine and monitor all insolvent institution cases resolved by the Federal Savings and Loan Insurance Corporation from January 1, 1988, through the date of the enactment of this Act, and not later than April 30, 1990, shall report to Congress with an estimate of the costs of the agreements entered into by the Corporation pursuant to such resolutions. Not less than annually thereafter, the last report being due on April 30, 1992, the Comptroller General shall provide Congress with revisions to such estimates, to take into account any new information that he obtains with regard to such agreements.

Subtitle B—Resolution Funding Corporation

SEC. 511. RESOLUTION FUNDING CORPORATION ESTABLISHED.

(a) IN GENERAL.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 21A (as added by subtitle A of this title) the following new section:

"SEC. 21B. RESOLUTION FUNDING CORPORATION ESTABLISHED.

"(a) STATEMENT OF PURPOSE.—The purpose of this section is to establish the Resolution Funding Corporation to provide the funds necessary for the Resolution Trust Corporation to carry out its purposes under this Act.

"(b) ESTABLISHMENT.—There is hereby established the Resolution Funding Corporation. The Funding Corporation shall be an instrumentality of the Federal Government and shall maintain any offices necessary or appropriate in the conduct of its business.

"(c) MANAGEMENT.—

"(1) IN GENERAL.—The Funding Corporation shall be subject to the general supervision and direction of the Secretary of the Treasury.

"(2) STAFF.—The Funding Corporation shall have no paid employees. The Secretary may, on a reimbursable basis, authorize the officers or employees of the Department of the Treasury to act for and on behalf of the Funding Corporation to carry out the functions of the Funding Corporation.

"(3) ADMINISTRATIVE EXPENSES AND ISSUANCE COSTS.—

"(A) IN GENERAL.—All administrative expenses and issuance costs of the Funding Corporation shall be paid by the Federal Home Loan Banks.

"(B) PRO RATA DISTRIBUTION.—The amount each Federal Home Loan Bank shall pay shall be determined by the Secretary by multiplying the total administrative expenses and issuance costs for any period by the percentage arrived at by dividing—

"(i) the cumulative amount the Secretary has required the Bank to pay to the Funding Corporation (as of the time of such determination) under paragraphs (4) and (5) of subsection (e) (as computed without regard to paragraphs (3) or (6) of such subsection); by

"(ii) the aggregate of the cumulative amounts the Secretary has required all Federal Home Loan Banks to pay (as of the time of such determination) under such paragraphs.

"(d) POWERS.—The Funding Corporation shall have only the following powers, subject to the other provisions of this section and any regulations issued by the Secretary:

"(1) REQUIRE PAYMENTS.—To take such actions as may be necessary to collect amounts required to be paid to the Funding Corporation in this section.

"(2) TRANSFER FUNDS.—To transfer funds to the Resolution Trust Corporation.

"(3) ISSUE OBLIGATIONS.—To issue debentures, bonds, or other obligations to the Secretary and to pay interest on any such obligation.

"(4) IMPOSE ASSESSMENTS.—To impose assessments in accordance with subsection (e)(7).

"(5) CORPORATE SEAL.—To adopt, alter, and use a corporate seal.

"(6) SUCCESSION.—To have succession until dissolved.

"(7) CONTRACTS.—To enter into contracts.

"(8) AUTHORITY TO SUE.—To sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the Funding Corporation in any State or Federal court of competent jurisdiction.

"(9) INCIDENTAL POWERS.—To exercise incidental powers which are not inconsistent with this section and are necessary or appropriate to carry out this section.

"(e) PAYMENTS BY FEDERAL HOME LOAN BANKS AND OTHERS FOR FUNDING CORPORATION PRINCIPAL FUND.—

"(1) IN GENERAL.—The Secretary shall ensure that the aggregate of the amounts obtained under this subsection shall be sufficient so that the total of the face amounts (the amount of principal payable at maturity) of noninterest bearing instruments in the Funding Corporation Principal Fund are equal to the aggregate amount of principal on the obligations of the Funding Corporation.

"(2) PAYMENTS BY FEDERAL HOME LOAN BANKS.—Each Federal Home Loan Bank shall make payments to the Funding Corporation for the Funding Corporation Principal Fund at times and in amounts prescribed by the Secretary.

"(3) MAXIMUM PAYMENT LIMITATION FOR EACH FEDERAL HOME LOAN BANK.—The cumulative amount of funds paid to the Funding Corporation by each Federal Home Loan Bank under paragraph (1) shall not at any time exceed the sum of the amounts calculated under subparagraphs (A) and (B), as adjusted in subparagraph (C), as follows:

"(A) RESERVES AND UNDIVIDED PROFITS ON DECEMBER 31, 1988.—The sum on December 31, 1988, of—

"(i) the reserves maintained by such Bank pursuant to the reserve requirement contained in the first 2 sentences of section 16 (as in effect on December 31, 1988); and

"(ii) the undivided profits of such Bank, minus the amounts invested in the capital stock of the Financing Corporation pursuant to section 21.

"(B) SUBSEQUENT ADDITIONS TO RESERVES AND UNDIVIDED PROFITS.—The sum, calculated until the date on which the Funding Corporation Principal Fund is fully funded, of—

"(i) the amounts added to reserves by such Bank after December 31, 1988, pursuant to the reserve requirement contained in the first 2 sentences of section 16 (as in effect on December 31, 1988); and

"(ii) the quarterly additions to undivided profits of the Bank after December 31, 1988, minus the amounts used to invest in the capital stock of the Financing Corporation after December 31, 1988, pursuant to the requirement contained in section 21.

"(C) ANNUAL ADJUSTMENT.—The amounts in subparagraph (B) shall be adjusted as follows:

"(i) INCREASE IN LIMIT.—If the aggregate amount for all Federal Home Loan Banks determined under subparagraph (B) is less than $300,000,000 per year, the limit for each Bank shall be increased by an amount determined by the Secretary by multiplying the aggregate deficiency by the percentage applicable to such Bank arrived at in the manner described in paragraph (5).

"(ii) DECREASE IN LIMIT.—If the aggregate amount for all Federal Home Loan Banks determined under subparagraph (B) is more than $300,000,000 per year, the limit for each Bank shall be decreased by an amount determined by the Secretary by multiplying the aggregate excess by the percentage applicable to such Bank arrived at in the manner described in paragraph (5).

"(4) PRO RATA DISTRIBUTION OF FIRST $1,000,000,000 PAID TO FUNDING CORPORATION BY FEDERAL HOME LOAN BANKS.—Of the first $1,000,000,000 of the aggregate that the Federal Housing Finance Board (pursuant to section 21) or the Secretary (under this section) may require the Federal Home Loan Banks collectively to invest in the capital stock of the Financing Corporation or pay to the Funding Corporation, respectively, the amount which each Federal Home Loan Bank (or any successor to the Bank) shall invest or pay shall be determined by the Federal Housing Finance Board or the Secretary (as the case may be) by multiplying the

aggregate amount of such investment or payment by all Banks by the percentage appearing in the following table for each such Bank:

Bank	Percentage
Federal Home Loan Bank of Boston	1.8629
Federal Home Loan Bank of New York	9.1006
Federal Home Loan Bank of Pittsburgh	4.2702
Federal Home Loan Bank of Atlanta	14.4007
Federal Home Loan Bank of Cincinnati	8.2653
Federal Home Loan Bank of Indianapolis	5.2863
Federal Home Loan Bank of Chicago	9.6886
Federal Home Loan Bank of Des Moines	6.9301
Federal Home Loan Bank of Dallas	8.8181
Federal Home Loan Bank of Topeka	5.2706
Federal Home Loan Bank of San Francisco	19.9644
Federal Home Loan Bank of Seattle	6.1422

"(5) PRO RATA DISTRIBUTION OF AMOUNTS REQUIRED TO BE PAID IN EXCESS OF $1,000,000,000.—Of any amount which the Secretary may require the Federal Home Loan Banks to pay to the Funding Corporation under this subsection in excess of the $1,000,000,000 amount referred to in paragraph (4), the amount which each Federal Home Loan Bank (or any successor to such Bank) shall pay shall be determined by the Secretary by multiplying the excess amount by the percentage arrived at by dividing—

"(A) the sum of the total assets (as of the most recent December 31) held by all Savings Association Insurance Fund members which are members of such Bank; by

"(B) the sum of the total assets (as of such date) held by all Savings Association Insurance Fund members which are members of a Federal Home Loan Bank.

"(6) SPECIAL PROVISIONS RELATING TO MAXIMUM AMOUNT LIMITATIONS.—

"(A) IN GENERAL.—If the amount of any Federal Home Loan Bank's allocation under paragraph (5) exceeds the maximum amount applicable with respect to such Bank (in this paragraph referred to as a 'deficient Bank') under paragraph (3) at the time of such determination (in this paragraph referred to as the 'excess amount')—

"(i) the Secretary shall require each Federal Home Loan Bank that is not allocated an amount under paragraph (5) that exceeds its maximum under paragraph (3) (in this paragraph referred to as a 'remaining Bank') to pay to the Funding Corporation (in addition to the amount determined under paragraph (5) for such remaining Bank and subject to the maximum amount applicable with respect to such remaining Bank under paragraph (3) at the time of such determination) on behalf of the deficient Bank the amount determined under subparagraph (B);

"(ii) the Secretary shall require the deficient Bank to subsequently reimburse the remaining Banks out of its net earnings (or reimbursements received from other Banks) in the manner described in subparagraphs (C) and (D); and

"(iii) the requirements contained in subparagraph (D) relating to the use of net earnings shall apply to the deficient Bank until such Bank has reimbursed the remaining Banks for all of the excess amount.

"(B) ALLOCATION OF EXCESS AMOUNT AMONG REMAINING FEDERAL HOME LOAN BANKS.—

"(i) IN GENERAL.—The amount each remaining Federal Home Loan Bank shall be required to pay under subparagraph (A)(i) is the amount determined by the Secretary by multiplying the excess amount by the percentage arrived at by dividing—

"(I) the cumulative amount paid to the Funding Corporation under this subsection by such remaining Bank at the time of such determination; by

"(II) the aggregate of the cumulative amounts paid under this subsection by all remaining Banks at such time.

"(ii) REALLOCATION.—If the allocation under this subparagraph results in a remaining Bank exceeding its maximum amount under paragraph (3), such excess amount shall be reallocated to the other remaining Bank in accordance with this subparagraph.

"(C) REIMBURSEMENT PROCEDURE.—

"(i) IN GENERAL.—A Bank on whose behalf a payment is made under subparagraph (A)(i) shall make payments annually from amounts, if any, in its reserve account (as described in subparagraph (D)) to each Bank that made payments on its behalf until a full reimbursement has been completed. A full reimbursement shall require repayment of the excess amounts paid by other Banks plus interest which shall accrue at a rate equal to the annual average cost of funds in the most recent year to all Federal Home Loan Banks and which shall begin to accrue 2 years after the payments under subparagraph (A)(i) are made.

"(ii) DETERMINATION OF AMOUNTS.—The Secretary shall annually determine the dollar amounts of such reimbursements by distributing the amount available for such reimbursements (at the time of such determination) from the reimbursing Bank to the Banks that made payments on its behalf according to the shares of the reimbursing Bank's excess amount that the other Banks paid.

"(D) TRANSFER TO ACCOUNT FOR REIMBURSEMENTS REQUIRED.—

"(i) IN GENERAL.—Of the net earnings for any year of a Bank on whose behalf a payment is made under subparagraph (A)(i) and any reimbursements received from other Banks, the amount necessary to make the reimbursements required under subparagraph (A)(ii) shall be placed in a reserve account (established in the manner prescribed by the Secretary), which shall be available only for such reimbursements.

"(ii) LIMITATION.—The total amount placed in such reserve account in any year by any Bank shall not exceed an amount equal to 20 percent of the net earnings of such Bank for such year.

"(7) ADDITIONAL SOURCES.—If each Federal Home Loan Bank has exhausted the amount applicable with respect to the Bank under paragraph (3) after payments under paragraphs (4), (5), and (6), the amounts necessary to provide additional funding for the Funding Corporation Principal Fund shall be obtained from the following sources:

"(A) ASSESSMENTS.—The Funding Corporation, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation, shall assess against each Savings Association Insurance Fund member an assessment (in the same manner as assessments are assessed against such members by the Federal Deposit Insurance Corporation pursuant to section 7 of the Federal Deposit Insurance Act) except that—

"(i) the maximum amount of the aggregate amount assessed shall be the amount of additional funds necessary to fund the Funding Corporation Principal Fund;

"(ii) the sum of—

"(I) the amount assessed under this subparagraph; and

"(II) the amount assessed by the Financing Corporation under section 21;

shall not exceed the amount authorized to be assessed against Savings Association Insurance Fund members pursuant to section 7 of the Federal Deposit Insurance Act;

"(iii) the Financing Corporation shall have first priority to make the assessment; and

"(iv) the amount of the applicable assessment determined under such section 7 shall be reduced by the sum described in clause (ii) of this subparagraph.

"(B) RECEIVERSHIP PROCEEDS.—To the extent the amounts available pursuant to subparagraph (A) are insufficient to fund the Funding Corporation Principal Fund, the Federal Deposit Insurance Corporation shall transfer amounts to the Funding Corporation from the liquidating dividends and payments made on secured claims received by the FSLIC Resolution Fund from receiverships.

"(f) OBLIGATIONS OF FUNDING CORPORATION.—

"(1) ISSUANCE TO SECRETARY.—

"(A) IN GENERAL.—The Funding Corporation may issue bonds, notes, debentures, and similar obligations to the Secretary, in an aggregate amount not to exceed $50,000,000,000. No obligation may be issued under this paragraph unless, at the time of issuance, the face amounts (the amount of principal payable at maturity) of noninterest bearing instruments in the Funding Corporation Principal Fund are equal to the aggregate amount of principal on the obligations of the Funding Corporation that will be outstanding following such issuance.

"(B) TERMS AND CONDITIONS OF PURCHASE.—The Secretary shall purchase each obligation issued under this paragraph upon terms and conditions established by the Secretary. Each such obligation shall bear interest at a rate determined by the Secretary, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity.

"(2) INTEREST PAYMENTS.—The Funding Corporation shall pay the interest due on such obligations from funds obtained for such interest payments from the following sources:

"(A) EARNINGS ON CERTAIN ASSETS.—Earnings on assets of the Funding Corporation which are not invested in the Funding Corporation Principal Fund shall be used for interest payments on outstanding debt of the Funding Corporation.

"(B) PROCEEDS FROM RESOLUTION TRUST CORPORATION.—To the extent the amounts available pursuant to subparagraph (A) are insufficient to cover the amount of interest payments, the Resolution Trust Corporation shall pay to the Funding Corporation—

"(i) the liquidating dividends and payments made on secured claims received by the Resolution Trust Corporation from receiverships to the extent such proceeds are determined by the Oversight Board to be in excess of funds presently necessary for resolution costs; and

"(ii) any proceeds from warrants and participations acquired by the Resolution Trust Corporation.

"(C) PAYMENTS BY FEDERAL HOME LOAN BANKS.—To the extent the amounts available pursuant to subparagraphs (A) and (B) are

insufficient to cover the amount of interest payments, the Federal Home Loan Banks shall pay to the Funding Corporation each calendar year the aggregate amount of $300,000,000 minus the amounts required in such year by the Financing Corporation (pursuant to section 21) and the amounts required in such year by the Funding Corporation pursuant to subsection (e). Each Bank's individual share of any amounts required to be paid by the Banks under this subparagraph shall be determined as follows:

"(i) AMOUNTS UP TO 20 PERCENT OF NET EARNINGS.—Each Federal Home Loan Bank shall pay an equal percentage of its net earnings for the year for which such amount is required to be paid, up to a maximum of 20 percent of net earnings.

"(ii) AMOUNTS IN EXCESS OF 20 PERCENT OF NET EARNINGS.—If the aggregate amount required to be paid by the Federal Home Loan Banks under this subparagraph for any year exceeds 20 percent of the aggregate net earnings of the Banks for such year, each Bank shall pay 20 percent of its net earnings for such year as provided in clause (i), and each Bank's individual share of the excess of the required amount over 20 percent of the aggregate net earnings of the Banks for such year shall be determined by dividing—

"(I) the average month-end level in the prior year of advances outstanding by such Bank to Savings Associations Insurance Fund members; by

"(II) the average month-end level in the prior year of advances outstanding by all such Banks to Savings Associations Insurance Fund members.

"(D) PROCEEDS FROM SALE OF ASSETS.—To the extent the amounts available pursuant to subparagraphs (A), (B), and (C) are insufficient to cover the amount of interest payments, the FSLIC Resolution Fund shall transfer to the Funding Corporation any net proceeds from the sale of assets received from the Resolution Trust Corporation, which shall be used by the Funding Corporation to pay such interest.

"(E) TREASURY BACKUP.—

"(i) IN GENERAL.—To the extent the amounts available pursuant to subparagraphs (A), (B), (C), and (D) are insufficient to cover the amount of interest payments, the Secretary shall pay to the Funding Corporation the additional amount due, which shall be used by the Funding Corporation to pay such interest.

"(ii) LIABILITY OF FUNDING CORPORATION.—In each instance where the Secretary is required to make a payment under this subparagraph to the Funding Corporation, the amount of the payment shall become a liability of the Funding Corporation to be repaid to the Secretary upon dissolution of the Funding Corporation (to the extent the Funding Corporation may have any remaining assets).

"(iii) APPROPRIATION OF FUNDS.—There are hereby appropriated to the Secretary, for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to carry out clause (i).

"(3) PRINCIPAL PAYMENTS.—On maturity of an obligation issued under this subsection, the obligation shall be repaid by the Funding Corporation from the liquidation of noninterest bearing instruments held in the Funding Corporation Principal Fund.

"(4) PROCEEDS TO BE TRANSFERRED TO RESOLUTION TRUST CORPORATION.—Subject to terms and conditions approved by the Secretary, the proceeds of any obligation issued by the Funding Corporation shall be used to—

"(A) transfer amounts to the Resolution Trust Corporation under section 21A; or

"(B) refund any previously issued obligation the proceeds of which were transferred in the manner described in subparagraph (A).

"(g) USE AND DISPOSITION OF ASSETS OF FUNDING CORPORATION NOT TRANSFERRED TO RESOLUTION TRUST CORPORATION.—

"(1) IN GENERAL.—Subject to regulations, restrictions, and limitations prescribed by the Secretary, assets of the Funding Corporation which are not required to be transferred to the Resolution Trust Corporation under section 21A and are not needed for current interest payments shall be invested in direct obligations of the United States issued by the Secretary.

"(2) SEPARATE ACCOUNT FOR ZERO COUPON INSTRUMENTS HELD TO ENSURE PAYMENT OF PRINCIPAL.—

"(A) IN GENERAL.—The Funding Corporation shall invest amounts received pursuant to subsection (e) in, and hold in a separate account to be known as the Funding Corporation Principal Fund, noninterest bearing instruments—

"(i) which are direct obligations of the United States issued by the Secretary; and

"(ii) the total of the face amounts (the amount of principal payable at maturity) of which is approximately equal to the aggregate amount of principal on the obligations of the Funding Corporation.

"(B) PREVENTION OF DOUBLE COUNTING AGAINST PUBLIC DEBT LIMIT.—Noninterest bearing instruments purchased by the Funding Corporation under subparagraph (A) shall not be taken into account for purposes of determining compliance with the public debt limit under section 3101(b) of title 31, United States Code.

"(h) MISCELLANEOUS PROVISIONS.—

"(1) JURISDICTION AND POWER TO REMOVE.—

"(A) FEDERAL COURT JURISDICTION.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Funding Corporation is a party shall be deemed to arise under the laws of the United States.

"(B) REMOVAL.—The Funding Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

"(2) IMPOSITION OF LIEN FOR FAILURE TO MAKE PAYMENTS.—

"(A) IN GENERAL.—If any entity fails to make a payment required to be paid to the Funding Corporation under this section within 10 days after demand for such payment, then there shall be a lien in favor of the Funding Corporation equal to the amount not paid upon all property and rights to property, whether real or personal, belonging to such entity.

"(B) APPLICABLE RULES.—Any amount with respect to which a lien is imposed by subparagraph (A) shall be treated as taxes due and owing the United States, and rules similar to the rules of subsections (c), (d), and (e) of section 4068 of the Employee Retirement Income Security Act of 1974 shall apply with respect to a lien imposed by subparagraph (A) and the amount with respect to such lien.

"(i) ANNUAL REPORT.—

"(1) IN GENERAL.—The Secretary shall annually submit a full report of the operations, activities, budget, receipts, and expenditures of the Funding Corporation for the preceding 12-month period.

"(2) CONTENTS.—The report required under paragraph (1) shall include—

"(A) audited statements and any information necessary to make known the financial condition and operations of the Funding Corporation in accordance with generally accepted accounting principles;

"(B) the financial operating plans and forecasts (including estimates of actual and future spending, and estimates of actual and future cash obligations) of the Funding Corporation taking into account its financial commitments, guarantees, and other contingent liabilities; and

"(C) the results of the annual audit of the financial transactions of the Funding Corporation conducted by the Comptroller General pursuant to section 9105(a) of title 31, United States Code.

"(3) SUBMISSION TO CONGRESS AND PRESIDENT.—The Secretary shall submit each annual report required under this subsection to the Congress and the President as soon as practicable after the end of the calendar year for which the report is made, but not later than June 30 of the year following such calendar year.

"(j) TERMINATION OF FUNDING CORPORATION.—

"(1) IN GENERAL.—The Funding Corporation shall be dissolved, as soon as practicable, after the maturity and full payment of all obligations issued by the Funding Corporation under this section.

"(2) AUTHORITY OF SECRETARY TO CONCLUDE AFFAIRS OF FUNDING CORPORATION.—Effective on the date of the dissolution of the Funding Corporation under paragraph (1), the Secretary may exercise on behalf of the Funding Corporation any power of the Funding Corporation which the Secretary determines to be necessary to settle and conclude the affairs of the Funding Corporation.

"(k) DEFINITIONS.—For purposes of this section:

"(1) ADMINISTRATIVE EXPENSES.—The term 'administrative expenses' does not include interest on any obligation of the Funding Corporation.

"(2) FUNDING CORPORATION.—The term 'Funding Corporation' means the Resolution Funding Corporation established in subsection (b).

"(3) FUNDING CORPORATION PRINCIPAL FUND.—The term 'Funding Corporation Principal Fund' means the separate account established under subsection (g)(2).

"(4) ISSUANCE COSTS.—The term 'issuance costs' means issuance fees and commissions incurred by the Secretary in connection with the issuance or servicing of any obligation under chapter 31 of title 31, United States Code, the proceeds of which are used to purchase obligations of the Funding Corporation, as determined by the Secretary in accordance with procedures established by regulation.

"(5) NET EARNINGS.—The term 'net earnings' means net earnings without reduction for chargeoffs or expenses incurred by a Federal Home Loan Bank for the purchase of capital stock of the Financing Corporation or payments relating to the Funding Corporation required by the Secretary under subsections (e) and (f).

"(6) OVERSIGHT BOARD.—The term 'Oversight Board' means the Oversight Board of the Resolution Trust Corporation under section 21A.

"(7) SAVINGS ASSOCIATION INSURANCE FUND MEMBER.—The term 'Savings Association Insurance Fund member' means a Savings Association Insurance member as such term is defined by section 7(l) of the Federal Deposit Insurance Act.

"(8) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(9) UNDIVIDED PROFITS.—The term 'undivided profits' means earnings retained after dividends have been paid minus the sum of—

"(A) that portion required to be added to reserves maintained pursuant to the first 2 sentences of section 16; and

"(B) the dollar amounts held by the respective Federal Home Loan Banks in special dividend stabilization reserves on December 31, 1985, as determined by the table set forth in section 21(d)(7).

"(l) REGULATIONS.—The Secretary may prescribe any regulations necessary to carry out this section.".

(b) FUNDING CORPORATION AS WHOLLY OWNED GOVERNMENT CORPORATION.—

(1) IN GENERAL.—Section 9101(3) of title 31, United States Code, is amended by adding at the end the following new subparagraph:

"(N) the Resolution Funding Corporation.".

(2) ANNUAL GAO AUDIT.—Section 9105(a)(2) of title 31, United States Code, is amended by adding at the end the following new sentence: "The Comptroller General shall audit the Resolution Funding Corporation annually.".

(c) BUDGETARY TREATMENT OF FUNDING CORPORATION.—

(1) INCLUSION IN BUDGET.—The receipts and disbursements of the Resolution Funding Corporation shall be included in—

(A) each budget of the Federal Government submitted by the President under title 31, United States Code; and

(B) each concurrent resolution on the budget considered by the Congress pursuant to title III of the Congressional Budget Act of 1974.

(2) EXCLUSION FROM CALCULATION OF DEFICIT.—

(A) IN GENERAL.—The outlays of the Resolution Trust Corporation which are attributable to the net Treasury borrowing of the Resolution Funding Corporation shall not be counted for purposes of calculating—

(i) the deficit in each budget of the Federal Government submitted by the President under title 31, United States Code, for purposes of comparison with the maximum deficit amount in section 3(7) of the Budget and Impoundment Control Act of 1974;

(ii) the deficit under section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 for purposes of comparison with the maximum deficit amount in section 3(7) of the Budget and Impoundment Control Act of 1974; and

(iii) the deficit and excess deficit for purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(B) NET TREASURY BORROWING.—For purposes of this paragraph, the term "net Treasury borrowing" means—

(i) the principal amount of the obligations of the Resolution Funding Corporation purchased by the Secretary of the Treasury under subsection (f)(1) of section 21B of the Federal Home Loan Bank Act; minus

(ii) the funds invested by the Resolution Funding Corporation in noninterest bearing instruments under subsection (g)(2) of such section.

(C) IDENTIFICATION OF AMOUNT EXCLUDED.—The amount excluded pursuant to subparagraph (A) for any fiscal year shall be identified in—

(i) each budget of the Federal Government submitted by the President under title 31, United States Code;

(ii) each concurrent resolution on the budget considered by the Congress pursuant to title III of the Congressional Budget Act of 1974; and

(iii) each report submitted by the Director of the Office of Management and Budget or the Director of the Congressional Budget Office under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(3) EXEMPTION FROM SEQUESTRATION.—The Resolution Funding Corporation shall be exempt from any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 512. FINANCING CORPORATION.

Section 21 of the Federal Home Loan Bank Act (12 U.S.C. 1441) is amended—

(1) by striking "insured institution" each place it appears and inserting "Savings Association Insurance Fund member";

(2) by striking "Federal Home Loan Bank Board" and "Board" each place they appear and inserting "Federal Housing Finance Board";

(3) in subsection (c)(2), by inserting before the period the following: "prior to the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and thereafter to transfer the proceeds of any obligation issued by the Financing Corporation to the FSLIC Resolution Fund";

(4) in subsection (c)(9) by striking "or section 402(b) of the National Housing Act";

(5) by amending the portion of subsection (d)(4) appearing before the table to read as follows: "Of the first $1,000,000,000 in the aggregate which the Secretary of the Treasury pursuant to section 21B or the Federal Housing Finance Board under this section (as the case may be) may require the Federal Home Loan Banks collectively to pay to the Funding Corporation or invest in the capital stock of the Financing Corporation, respectively, the amount which each Federal Home Loan Bank (or any successor to such Bank) shall pay or invest shall be determined by the Secretary of the Treasury or the Federal Housing Finance Board (as the case may be) by multiplying the aggregate amount of such payment or investment by all Banks by the percentage appearing in the following table for each such Bank:";

(6) in subsection (d)(5), by striking "$1,000,000,000 which the Board" and inserting "the $1,000,000,000 amount referred to in paragraph (4) which the Federal Housing Finance Board";

(7) in subsection (d)(6)(A)(iii), by striking "available for dividends";

(8) in subsection (d)(6)(D), by striking "available for dividends";

(9) in subsection (d)(6)(E), by striking "available for dividends";

(10) by striking subsection (d)(6)(F) and adding at the end of subsection (l) the following:

"(4) NET EARNINGS DEFINED.—The term 'net earnings' means net earnings without reduction for any chargeoffs or expenses incurred by a Bank in connection with the purchase of capital stock of the Financing Corporation or payments relating to the Funding Corporation required by the Secretary of the Treasury under subsections (e) and (f) of section 21B.";

(11) in subsection (e)(3)(A)—

(A) by striking "used to";

(B) by inserting "used to" before "purchase" and "refund"; and

(C) by inserting before the semicolon the following: "prior to the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and thereafter transferred to the FSLIC Resolution Fund";

(12) in subsection (e)—

(A) by striking paragraph (2) and redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively, and

(B) in paragraph (6) as redesignated, by striking "the Federal Savings and Loan Insurance Corporation" and inserting "the FSLIC Resolution Fund";

(13) by striking subsection (f) and inserting the following:

"(f) SOURCES OF FUNDS FOR INTEREST PAYMENTS; FINANCING CORPORATION ASSESSMENT AUTHORITY.—The Financing Corporation shall obtain funds for anticipated interest payments, issuance costs, and custodial fees on obligations issued hereunder from the following sources:

"(1) PREENACTMENT ASSESSMENTS.—The Financing Corporation assessments which were assessed on insured institutions pursuant to this section as in effect prior to the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(2) NEW ASSESSMENT AUTHORITY.—To the extent the amounts available pursuant to paragraph (1) are insufficient to cover the amount of interest payments, issuance costs, and custodial fees, the Financing Corporation, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation, shall assess against each Savings Association Insurance Fund member an assessment (in the same manner as assessments are assessed against such members by the Federal Deposit Insurance Corporation under section 7 of the Federal Deposit Insurance Act), except that—

"(A) the sum of—

"(i) the amount assessed under this paragraph; and

"(ii) the amount assessed by the Funding Corporation under section 21B;

shall not exceed the amount authorized to be assessed against Savings Association Insurance Fund members pursuant to section 7 of the Federal Deposit Insurance Act;

"(B) the Financing Corporation shall have first priority to make the assessment; and

"(C) the amount of the applicable assessment determined under such section 7 shall be reduced by the sum described in subparagraph (A) of this paragraph.

"(3) RECEIVERSHIP PROCEEDS.—To the extent the amounts available pursuant to paragraphs (1) and (2) are insufficient to cover the amount of interest payments, issuance costs, and custodial fees, and if the funds are not required by the Resolution Funding Corporation to provide funds for the Funding Corporation Principal Fund under section 21B, the Federal Deposit Insurance Corporation shall transfer to the Financing Corporation, from the liquidating dividends and payments made on secured claims received by the FSLIC Resolution Fund (established under section 11A of the Federal Deposit Insurance Act) from receiverships, the remaining amount of funds necessary for the Financing Corporation to make interest payments.";

(14) in subsection (g)(1) by striking "National Housing Act," and inserting "National Housing Act before the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and after such date in capital certificates issued by the FSLIC Resolution Fund,";

(15) in subsection (g), by inserting the following at the end of paragraph (2): "For purposes of the foregoing, the Financing Corporation shall be deemed to hold noninterest bearing instruments that it lends temporarily to primary United States Treasury

dealers in order to enhance market liquidity and facilitate deliveries, provided that United States Treasury securities of equal or greater value have been delivered as collateral.";

(16) in subsection (j), by striking subparagraph (A) of paragraph (1) and inserting the following:

"(A) the maturity and full payment of all obligations issued by the Financing Corporation pursuant to this section; or"; and

(17) in subsection (l)—

(A) by striking paragraph (1) and inserting the following:

"(1) SAVINGS ASSOCIATION INSURANCE FUND MEMBER.—The term 'Savings Association Insurance Fund member' means a savings association which is a Savings Association Insurance Fund member as defined by section 7(l) of the Federal Deposit Insurance Act."; and

(B) by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

TITLE VI—THRIFT ACQUISITION ENHANCEMENT PROVISIONS

SEC. 601. ACQUISITION OF THRIFT INSTITUTIONS BY BANK HOLDING COMPANIES.

(a) IN GENERAL.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

"(i) ACQUISITION OF SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—The Board may approve an application by any bank holding company under subsection (c)(8) to acquire any savings association in accordance with the requirements and limitations of this section.

"(2) PROHIBITION ON TANDEM RESTRICTIONS.—In approving an application by a bank holding company to acquire a savings association, the Board shall not impose any restriction on transactions between the savings association and its holding company affiliates, except as required under sections 23A and 23B of the Federal Reserve Act or any other applicable law.".

(b) MODIFICATION OF PRIOR APPROVALS.—If the Board of Governors of the Federal Reserve System, in approving an application by a bank holding company to acquire a savings association, imposed any restriction that would have been prohibited under section 4(i)(2) of the Bank Holding Company Act of 1956 (as added by subsection (a) of this section) if that section had been in effect when the application was approved, the Board shall modify that approval in a manner consistent with that section.

SEC. 602. TECHNICAL AMENDMENTS TO THE BANK HOLDING COMPANY ACT.

(a) DEFINITIONS.—Section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)) is amended to read as follows:

"(j) DEFINITION OF SAVINGS ASSOCIATIONS AND RELATED TERM.—The term 'savings association' or 'insured institution' means—

"(1) any Federal savings association or Federal savings bank;

"(2) any building and loan association, savings and loan association, homestead association, or cooperative bank if such association or cooperative bank is a member of the Savings Association Insurance Fund; and

"(3) any savings bank or cooperative bank which is deemed by the Director of the Office of Thrift Supervision to be a savings association under section 10(l) of the Home Owners' Loan Act.".

(b) INSURANCE REQUIRED.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by striking "an insured bank as defined in section 3(h)" and inserting "an insured depository institution as defined in section 3".

SEC. 603. PASSIVE INVESTMENTS BY COMPANIES CONTROLLING CERTAIN NONBANK BANKS.

(a) IN GENERAL.—Section 4(f)(2)(A)(ii) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(2)(A)(ii)) is amended to read as follows:

"(ii) acquires control of more than 5 percent of the shares or assets of an additional bank or a savings association other than—

"(I) shares held as a bona fide fiduciary (whether with or without the sole discretion to vote such shares);

"(II) shares held by any person as a bona fide fiduciary solely for the benefit of employees of either the company described in paragraph (1) or any subsidiary of that company and the beneficiaries of those employees;

"(III) shares held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business;

"(IV) shares held in an account solely for trading purposes;

"(V) shares over which no control is held other than control of voting rights acquired in the normal course of a proxy solicitation;

"(VI) loans or other accounts receivable acquired in the normal course of business;

"(VII) shares or assets acquired in securing or collecting a debt previously contracted in good faith, during the 2-year period beginning on the date of such acquisition or for such additional time (not exceeding 3 years) as the Board may permit if the Board determines that such an extension will not be detrimental to the public interest;

"(VIII) shares or assets of a savings association described in paragraph (10) or (12) of this subsection;

"(IX) shares of a savings association held by any insurance company, as defined in section 2(a)(17) of the Investment Company Act of 1940, except as provided in paragraph (11); and

"(X) shares issued in a qualified stock issuance under section 10(q) of the Home Owners' Loan Act;

except that the aggregate amount of shares held under this clause (other than under subclauses (I), (II), (III), (IV), (V), and (VIII)) may not exceed 15 percent of all outstanding shares or of the voting power of a savings association or savings and loan holding company; or".

(b) TECHNICAL AMENDMENTS.—

(1) Section 4(f)(10) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(10)) is amended—

(A) by striking "and (ii)(V)" and inserting "and (ii)(VIII)"; and

(B) in subparagraph (A), by inserting "or section 13(k) of the Federal Deposit Insurance Act" after "National Housing Act".

(2) Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by adding at the end the following:

"(11) SHARES HELD BY INSURANCE AFFILIATES.—Shares described in clause (ii)(IX) of paragraph (2)(A) shall not be excluded for purposes of clause (ii) of such paragraph if—

"(A) all shares held under such clause (ii)(IX) by all insurance company affiliates of such savings association in the aggregate exceed 5 percent of all outstanding shares or of the voting power of the savings association; or

"(B) such shares are acquired or retained with a view to acquiring, exercising, or transferring control of the savings association.".

SEC. 604. PURCHASE OF MINORITY INTEREST IN UNDERCAPITALIZED SAVINGS ASSOCIATIONS BY HOLDING COMPANIES ALLOWED.

(a) AMENDMENT TO DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.—Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended by adding at the end thereof the following new paragraph:

"(9) Any savings association (as defined in section 10(a)(1)(A) of the Home Owners' Loan Act or any savings and loan holding company (as defined in section 10(a)(1)(D) of such Act) which has issued stock in connection with a qualified stock issuance pursuant to section 10(q) of such Act, except that this paragraph shall apply only with respect to service as a single management official of such savings association or holding company, or any subsidiary of such savings association or holding company, by a single management official of the savings and loan holding company which purchased the stock issued in connection with such qualified stock issuance, and shall apply only when the Director of the Office of Thrift Supervision has determined that such service is consistent with the purposes of this Act and the Home Owners' Loan Act.".

(b) AMENDMENTS TO BANK HOLDING COMPANY ACT.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(1) by adding at the end thereof the following new paragraphs:

"(12) EXEMPTION UNAFFECTED BY CERTAIN OTHER ACQUISITIONS.—For purposes of clauses (i) and (ii)(VIII) of paragraph (2)(A), an insured institution is described in this paragraph if the insured institution was acquired (or any shares or assets of such institution were acquired) by a company described in paragraph (1)—

"(A) from the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or the Director of the Office of Thrift Supervision, in any capacity; or

"(B) in an acquisition in which the insured institution has been found to be in danger of default (as defined in section 3 of the Federal Deposit Insurance Act) by the appropriate Federal or State authority.

"(13) SPECIAL RULE RELATING TO SHARES ACQUIRED IN A QUALIFIED STOCK ISSUANCE.—A company described in paragraph (1) that holds shares issued in a qualified stock issuance pursuant to section 10(q) of the Home Owners' Loan Act by any savings association or savings and loan holding company (neither of which is a subsidiary) shall not be deemed to control such savings association or savings and loan holding company solely because such company holds such shares unless—

"(A) the company fails to comply with any requirement or condition imposed by paragraph (2)(A)(ii)(X) or section 10(q) of the Home Owners' Loan Act with respect to such shares; or

"(B) the shares are acquired or retained with a view to acquiring, exercising, or transferring control of the savings association or savings and loan holding company."; and

(2) in clause (i) of paragraph (2)(A), by striking out "paragraph (10)" and inserting in lieu thereof "paragraph (10) or (12)".

TITLE VII—FEDERAL HOME LOAN BANK SYSTEM REFORMS

Subtitle A—Federal Home Loan Bank Act Amendments

SEC. 701. DEFINITIONS.

(a) IN GENERAL.—Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

"(1) BOARD.—The term 'Board' means the Federal Housing Finance Board established under section 2A.

"(2)(A) BANK.—The term 'Federal Home Loan Bank' or 'Bank' means a bank established under the authority of the Federal Home Loan Bank Act.

"(B) BANK SYSTEM.—The term 'Federal Home Loan Bank System' means the Federal Home Loan Banks under the supervision of the Board.";

(2) in paragraph (4) by striking "(except when used in reference to the member of the Board)"; and

(3) by striking paragraph (9) and adding at the end the following:

"(9) SAVINGS ASSOCIATION.—The term 'savings association' has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.

"(10) CHAIRPERSON.—The term 'Chairperson' means the Chairperson of the Board.

"(11) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(12) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' means—

"(A) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act), and

"(B) except as used in sections 21A and 21B, an insured credit union (as defined in section 101 of the Federal Credit Union Act).".

(b) CHANGE IN TERMS.—

(1) IN GENERAL.—Except as otherwise specifically provided in this title, the Federal Home Loan Bank Act is amended by striking "board" (other than in section 7) and "Federal Home Loan Bank Board" each place such terms appear and inserting "Board".

(2) CHAIRPERSON.—The Federal Home Loan Bank Act is amended by striking "Chairman" and "chairman" each place such terms appear and inserting "Chairperson" and "chairperson".

(3) EXCEPTIONS.—

(A) GENERAL RULE.—The amendments made by paragraph (1) shall not apply to sections 18(c), 21A, and 21B of the Federal Home Loan Bank Act.

(B) CONFORMING AMENDMENT.—Section 18(c) of the Federal Home Loan Bank Act (12 U.S.C. 1438(c)) is amended by striking "Federal Home Loan Bank Board" and "board" each place such terms appear and inserting "Director of the Office of Thrift Supervision".

(c) TECHNICAL AMENDMENTS.—Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended—

(1) in subsection (e)(2)(C), by inserting "Federal Home Loan" before "Banks,"; and

(2) in the first sentence of the third paragraph of subsection (i) by inserting "Federal" before "Home Loan Bank System".

SEC. 702. FEDERAL HOUSING FINANCE BOARD ESTABLISHED.

(a) IN GENERAL.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 2 the following new sections:

"SEC. 2A. FEDERAL HOUSING FINANCE BOARD.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established the Federal Housing Finance Board, which shall succeed to the authority of the Federal Home Loan Bank Board with respect to the Federal Home Loan Banks.

"(2) STATUS.—The Board shall be an independent agency in the executive branch of the Government.

"(3) DUTIES.—The duties of the Board shall be—

"(A) to supervise the Federal Home Loan Banks,

"(B) to ensure that the Federal Home Loan Banks carry out their housing finance mission,

"(C) to ensure the Federal Home Loan Banks remain adequately capitalized and able to raise funds in the capital markets, and

"(D) to ensure the Federal Home Loan Banks operate in a safe and sound manner.

"(b) MANAGEMENT.—

"(1) IN GENERAL.—The management of the Board shall be vested in a Board of Directors consisting of 5 directors as follows:

"(A) The Secretary who shall serve without additional compensation.

"(B) Four citizens of the United States, appointed by the President, by and with the advice and consent of the Senate, each of whom shall hold office for a term of 7 years.

"(2) PROVISIONS RELATING TO APPOINTED DIRECTORS.—

"(A) IN GENERAL.—The directors appointed pursuant to paragraph (1)(B) shall be from among persons with extensive experience or training in housing finance or with a commitment to providing specialized housing credit. An appointed director shall not hold any other appointed office during his or her term as director. Not more than 3 directors shall be members of the same political party. Not more than 1 appointed director shall be from any single district of the Federal Home Loan Bank System. Nominations pursuant to this subparagraph shall be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs.

"(B) CONSUMER REPRESENTATIVE.—At least 1 director shall be chosen from an organization with more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections.

"(C) LIMITATIONS ON CONFLICTS OF INTEREST.—No director may—

"(i) serve as a director or officer of any Federal Home Loan Bank or any member of any Bank; or

"(ii) hold shares of, or any other financial interest in, any member of any such Bank.

"(3) INITIAL TERMS.—Notwithstanding paragraph (2), of the directors first appointed—

"(A) one shall be appointed for a term of 1 year;

"(B) one shall be appointed for a term of 3 years; and

"(C) one shall be appointed for a term of 5 years.

"(c) CHAIRPERSON; TRANSITIONAL PROVISIONS.—

"(1) IN GENERAL.—The President shall designate 1 of the appointed directors to be the Chairperson of the Board. The Chairperson shall designate another director to serve as Acting Chairperson during the absence or disability of the Chairperson.

"(2) TRANSITIONAL PROVISION.—Beginning on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, until such time that at least 2 directors are appointed and confirmed pursuant to subsection (b), the Secretary shall act for all purposes and with the full powers of the Board of Directors. The Secretary may utilize the services of employees from the Department of Housing and Urban Development to perform services for the Board of Directors during such transition period.

"(d) VACANCIES.—

"(1) IN GENERAL.—Any vacancy on the Board of Directors shall be filled in the manner in which the original appointment was made. Any director appointed to fill a vacancy occurring before the expiration of the term for which such director's predecessor was appointed shall be appointed only for the remainder of such term. Each director may continue to serve until a successor has been appointed and qualified.

"(2) THE SECRETARY.—In the event of a vacancy in the office of Secretary or during the absence or disability of the Secretary, the Acting Secretary shall act as a director in place of the Secretary.

"SEC. 2B. POWERS AND DUTIES.

"(a) GENERAL POWERS.—The Board shall have the following powers:

"(1) To supervise the Federal Home Loan Banks and to promulgate and enforce such regulations and orders as are necessary from time to time to carry out the provisions of this Act.

"(2) To suspend or remove for cause a director, officer, employee, or agent of any Federal Home Loan Bank or joint office. The cause of such suspension or removal shall be communicated in writing to such director, officer, employee, or agent and to such Bank or joint office. Notwithstanding any other provision of this Act, no officer, employee, or agent of a Bank or joint office shall be a Federal officer or employee under any definition of either term in title 5, United States Code.

"(3) To determine necessary expenditures of the Board under this Act and the manner in which such expenditures shall be incurred, allowed, and paid.

"(4) To use the United States mails in the same manner and under the same conditions as a department or agency of the United States.

"(b) STAFF.—

"(1) BOARD STAFF.—Subject to title IV of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Board may employ, direct, and fix the compensation and number of employees, attorneys, and agents of the Federal Housing Finance Board, except that in no event shall the Board delegate any function to any employee, administrative unit of any Bank, or joint office of the Federal Home Loan Bank System. The prohibition contained in the preceding sentence shall not apply to the delegation of ministerial functions including issuing consolidated obligations pursuant to section 11(b). In directing and fixing such compensation, the Board shall consult with and maintain comparability with the compensation at the Federal bank regulatory agencies. Such compensation shall be paid without regard to the provisions of other laws applicable to officers or employees of the United States, except the Chairperson and other Directors shall be compensated as prescribed in sections 5314 and 5315 of title 5, United States Code, respectively.

"(2) ABOLITION OF JOINT OFFICES.—The joint or collective offices of the Federal Home Loan Bank System, except for the Office of Finance, are hereby abolished.

"(c) RECEIPTS OF THE BOARD.—Receipts of the Board derived from assessments levied upon the Federal Home Loan Banks and from other sources (other than receipts from the sale of consolidated Federal Home Loan Bank bonds and debentures issued under section 11 of this Act) shall be deposited in the Treasury of the United States. Salaries of the directors and other employees of the Board and all other expenses thereof may be paid from such assessments or other sources and shall not be construed to be Government Funds or appropriated monies, or subject to apportionment for the purposes of chapter 15 of title 31, United States Code, or any other authority.

"(d) ANNUAL REPORT.—The Board shall make an annual report to the Congress.".

(b) AUDITS AND REPORTS.—Section 20 of the Federal Home Loan Bank Act (12 U.S.C. 1440) is amended by adding at the end the following: "In addition to such examinations, the Comptroller General may audit or examine the Board and the Banks, to determine the extent to which the Board and the Banks are fairly and effectively fulfilling the purposes of this Act.".

(c) APPOINTMENT OF INSPECTOR GENERAL.—Section 8E(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "Federal Home Loan Bank Board," and inserting "Federal Housing Finance Board,".

SEC. 703. TERMINATION OF THE FEDERAL HOME LOAN BANK BOARD.

(a) IN GENERAL.—Section 17 of the Federal Home Loan Bank Act (12 U.S.C. 1437) is hereby repealed.

SEC. 704. ELIGIBILITY FOR MEMBERSHIP.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended to read as follows:

"(a) CRITERIA FOR ELIGIBILITY.—

"(1) IN GENERAL.—Any building and loan association, savings and loan association, cooperative bank, homestead association, insurance company, savings bank, or any insured depository institution (as defined in section 2 of this Act), shall be eligible to become a member of a Federal Home Loan Bank if such institution—

"(A) is duly organized under the laws of any State or of the United States;

"(B) is subject to inspection and regulation under the banking laws, or under similar laws, of the State or of the United States; and

"(C) makes such home mortgage loans as, in the judgment of the Board, are long-term loans (except that in the case of a savings bank, this subparagraph applies only if, in the judgment of the Board, its time deposits, as defined in section 19 of the Federal Reserve Act, warrant its making such loans).

"(2) QUALIFIED THRIFT LENDER.—An insured depository institution that is not a member on January 1, 1989, may become a member of a Federal Home Loan Bank only if—

"(A) the insured depository institution has at least 10 percent of its total assets in residential mortgage loans;

"(B) the insured depository institution's financial condition is such that advances may be safely made to such institution; and

"(C) the character of its management and its home-financing policy are consistent with sound and economical home financing.

An insured depository institution commencing its initial business operations after January 1, 1989, may become a member of a Federal Home Loan Bank if it complies with regulations and orders prescribed by the Board for the 10 percent asset requirement (described in the preceding sentence) within one year after the commencement of its operations.".

(c) REPEAL OF SECTION 27.—Section 27 of the Federal Home Loan Bank Act (12 U.S.C. 1447) is hereby repealed.

SEC. 705. REPEAL OF PROVISION RELATING TO RATE OF INTEREST ON DEPOSITS.

Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is hereby repealed.

SEC. 706. CAPITAL STOCK.

Section 6 of the Federal Home Loan Bank Act (12 U.S.C. 1426) is amended—

(1) by striking subsections (a), (e), (f), and (g) and redesignating subsections (b), (c), (d), (h), (i), (j), (k), and (m) as subsections (a), (b), (c), (d), (e), (f), (g), and (h), respectively;

(2) by striking the second sentence of subsection (e) (as redesignated by paragraph (1) of this section) and inserting the following: "If any member's membership in a Federal Home Loan Bank is terminated, the indebtedness of such member to the Federal Home Loan Bank shall be liquidated in an orderly manner (as determined by the Federal Home Loan Bank), and upon completion of such liquidation, the capital stock in the Federal Home Loan Bank owned by such member shall be surrendered and canceled. Any such liquidation shall be deemed a prepayment of any such indebtedness, and shall be subject to any penalties or other fees applicable to such prepayment."; and

(3) in subsection (h) (as redesignated by paragraph (1) of this section), by striking "charter" and all that follows through the end period and inserting "charter as a Federal savings association (as defined in section 3 of the Federal Deposit Insurance Act).".

SEC. 707. ELECTION OF BANK DIRECTORS.

Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427) is amended—

(1) in subsection (a)—

(A) by striking "appointed by the Federal Home Loan Bank Board referred to in subsection (b) of section 17, hereinafter in this section referred to as the Board" and inserting "appointed by the Board referred to in section 2A",

(B) by inserting after the last sentence the following: "At least 2 of the Federal Home Loan Bank directors who are appointed by the Board shall be representatives chosen from organizations with more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections. No Federal Home Loan Bank director who is appointed pursuant to this subsection may, during such Bank director's term of office, serve as an officer of any Federal Home Loan Bank or a director or officer of any member of a Bank, or hold shares, or any other financial interest in, any member of a Bank.";

(2) by inserting after the first sentence of subsection (b) the following: "No person who is an officer or director of a member that fails to meet any applicable capital requirement is eligible to hold the office of Federal Home Loan Bank director.";

(3) by amending subsection (f) to read as follows:

"(f) VACANCIES.—

"(1) IN GENERAL.—A Bank director appointed or elected to fill a vacancy shall be appointed or elected for the unexpired term of his or her predecessor in office.

"(2) APPOINTED BANK DIRECTORS.—In the event of a vacancy in any appointive Bank directorship, such vacancy shall be filled through appointment by the Board for the unexpired term. If any appointive Bank director shall cease to have the qualifications set forth in subsection (a), the office held by such person shall immediately become vacant, but such person may continue to act as a Bank director until his or her successor assumes the vacated office or the term of such office expires, whichever occurs first.

"(3) ELECTED BANK DIRECTORS.—In the event of a vacancy in any elective Bank directorship, such vacancy shall be filled by an affirmative vote of a majority of the remaining Bank directors, regardless of whether such remaining Bank directors constitute a quorum of the Bank's board of directors. A Bank director so elected shall satisfy the requirements for eligibility which were applicable to his predecessor. If any elective Bank director shall cease to have any qualification set forth in this section, the office held by such person shall immediately become vacant, and such person shall not continue to act as a Bank director."; and

(4) by adding at the end the following new subsection:

"(k) INDEMNIFICATION OF DIRECTORS, OFFICERS, AND EMPLOYEES.—The board of directors of each Bank shall determine the terms and conditions under which such Bank may indemnify its directors, officers, employees or agents.".

SEC. 708. REPEAL OF PROVISIONS RELATING TO CERTAIN POWERS OF THE FEDERAL HOME LOAN BANK BOARD.

Section 19 of the Federal Home Loan Bank Act (12 U.S.C. 1439) is hereby repealed.

SEC. 709. POWERS AND DUTIES OF BANKS.

Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended—

(1) in subsection (e)(1), by inserting "incidental to activities" after "not";

(2) in subsection (f), by striking out "or whenever in the judgment of at least 4 members of the board an emergency exists requiring such action";

(3) by amending subsection (k) to read as follows:

"(k) BANK LOANS TO SAIF.—

"(1) LOANS AUTHORIZED.—Subject to paragraph (3), the Federal Home Loan Banks may, upon the request of the Federal Deposit Insurance Corporation, make loans to such Corporation for the use of the Savings Association Insurance Fund.

"(2) LIABILITY OF THE FUND.—Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall be a direct liability of the Savings Association Insurance Fund.

"(3) INTEREST ON AND SECURITY FOR SUCH LOANS.—Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall—

"(A) bear a rate of interest not less than such Bank's current marginal cost of funds, taking into account the maturities involved; and

"(B) be adequately secured.".

SEC. 710. ELIGIBILITY OF BORROWERS TO SECURE ADVANCES.

(a) IN GENERAL.—Section 9 of the Federal Home Loan Bank Act (12 U.S.C. 1429) is amended by striking "or nonmember borrower" in the first sentence.

(b) CONFORMING AMENDMENTS.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(1) in sections 2(5) and 4(b), by striking "or a nonmember borrower" wherever it appears;

(2) in section 6(e) (as redesignated by section 706 of this Act), by striking "or nonmember borrower" wherever it appears;

(3) in section 6(e) (as redesignated by section 706 of this Act), by striking "or deprive any nonmember borrower of the privilege of further advances,";

(4) in sections 7(j) and 10(c), by striking "or nonmember borrower" wherever it appears;

(5) in section 10(c), by striking ", or made to a nonmember borrower" in the second sentence; and

(6) in sections 11(g) and 11(h), by striking "or nonmember borrowers" wherever it appears.

(c) COMMUNITY SUPPORT.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by adding at the end the following:

"(g) COMMUNITY SUPPORT REQUIREMENTS.—

"(1) IN GENERAL.—Before the end of the 2-year period beginning on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Board shall adopt regulations establishing standards of community investment or service for members of Banks to maintain continued access to long-term advances.

"(2) FACTORS TO BE INCLUDED.—The regulations promulgated pursuant to paragraph (1) shall take into account factors such as a member's performance under the Community Reinvestment Act of 1977 and the member's record of lending to first-time homebuyers.".

SEC. 711. ADMINISTRATIVE EXPENSES.

Section 18(b) of the Federal Home Loan Bank Act (12 U.S.C. 1437(b)) is amended to read as follows:

"(b) ASSESSMENTS FOR ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—The Board may impose a semiannual assessment on the Federal Home Loan Banks, the aggregate amount of which is sufficient to provide for the payment of the Board's estimated expenses for the period for which such assessment is made.

"(2) DEFICIENCIES.—If, at any time, amounts available from any assessment for any semiannual period are insufficient to cover the expenses of the Board incurred in carrying out the provisions of this Act during such period, the Board may make an immediate assessment against the Banks to cover the amount of the deficiency for such semiannual period.

"(3) SURPLUSES.—If, at the end of any semiannual period for which an assessment is made, any amount remains from such assessment, such amount will be deducted from the assessment on the Banks by the Board for the following semiannual period.

"(4) TRANSITION PROVISION.—On or after the effective date of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Board may levy a one-time special assessment on the Banks pursuant to this subsection for the Board's estimated expenses for the transitional period following enactment of such Act, if such assessment is made before the Board's first semiannual assessment under paragraph (1).".

SEC. 712. NONADMINISTRATIVE EXPENSES.

Subsection (a) of section 18 of the Federal Home Loan Bank Act (12 U.S.C. 1438(a)) and section 19A of such Act (12 U.S.C. 1439-1) are hereby repealed.

SEC. 713. FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION INDUSTRY ADVISORY COMMITTEE.

Subsection (i) of section 21 of the Federal Home Loan Bank Act (12 U.S.C. 1441) is repealed and subsections (j), (k), and (l) are redesignated subsections (i), (j), and (k), respectively.

SEC. 714. ADVANCES.

(a) IN GENERAL.—Subsection (a) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended by striking everything after "members" to the end period and inserting the following: "upon collateral sufficient, in the judgment of the Bank, to fully secure advances obtained from the Bank under this section or section 11(g) of this Act. All long-term advances shall only be made for the purpose of providing funds for residential housing finance. A Bank, at the time of origination or renewal of a loan or advance, shall obtain and maintain a security interest in collateral eligible pursuant to one or more of the following categories:

"(1) Fully disbursed, whole first mortgages on improved residential property (not more than 90 days delinquent), or securities representing a whole interest in such mortgages.

"(2) Securities issued, insured, or guaranteed by the United States Government or any agency thereof (including without limitation, mortgage-backed securities issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Corporation, and the Government National Mortgage Association).

"(3) Deposits of a Federal Home Loan Bank.

"(4) Other real estate related collateral acceptable to the Bank if such collateral has a readily ascertainable value and the Bank can perfect its interest in the collateral. The aggregate amount of outstanding advances secured by such other real estate related collateral shall not exceed 30 percent of such member's capital.

"(5) Paragraphs (1) through (4) shall not affect the ability of any Federal Home Loan Bank to take such steps as it deems necessary to protect its security position with respect to outstanding advances, including requiring deposits of additional collateral security, whether or not such additional security would be eligible to originate an advance. If an advance existing on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 matures and the member does not have sufficient eligible collateral to fully secure a renewal of such advance, a Bank may renew such advance secured by such collateral as the Bank and the Board determines is appropriate. A member that has an advance secured by such insufficient eligible collateral must reduce its level of outstanding advances promptly and prudently in accordance with a schedule determined by the Board.".

(b) REDUCED ELIGIBILITY FOR ADVANCES.—Section 10(e) of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)) is amended to read as follows:

"(e) QUALIFIED THRIFT LENDER STATUS.—

"(1) IN GENERAL.—A member that is not a qualified thrift lender may only receive an advance if it holds stock in its Federal Home Loan Bank at the time it receives that advance in an amount equal to at least—

"(A) 5 percent of that member's total advances, divided by

"(B) such member's actual thrift investment percentage.

Such members that are not qualified thrift lenders may only apply for advances under this section for the purpose of obtaining funds for housing finance.

"(2) PRIORITY.—The Board, by regulation, shall establish a priority for advances to members that are qualified thrift lenders. The aggregate amount of any Bank's advances to members that are not qualified thrift lenders shall not exceed 30 percent of a Bank's total advances.

"(3) MINIMUM STOCK PURCHASE REQUIREMENT FOR MEMBERSHIP.—Each member of a Federal Home Loan Bank shall, at a minimum, purchase and maintain stock in its Federal Home Loan Bank in the amount that would be required under section 6(b) if at least 30 percent of such member's assets were home mortgage loans.

"(4) EXCEPTIONS.—Paragraphs (1) and (2) of this subsection do not apply to—

"(A) a savings bank as defined in section 3 of the Federal Deposit Insurance Act; or

"(B) a Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(i) that was chartered as a savings bank or cooperative bank prior to October 15, 1982; or

"(ii) that acquired its principal assets from an institution which was chartered prior to October 15, 1982, as a savings bank or cooperative bank under State law.

"(5) DEFINITIONS.—As used in this subsection—

"(A) SAVINGS ASSOCIATION.—The term 'savings association' has the same meaning as in section 10(a)(1)(A) of the Home Owners' Loan Act.

"(B) QUALIFIED THRIFT LENDER.—The term 'qualified thrift lender' has the same meaning as in section 10(m) of the Home Owners' Loan Act.

"(C) ACTUAL THRIFT INVESTMENT PERCENTAGE.—The term 'actual thrift investment percentage' has the same meaning as in section 10(m) of the Home Owners' Loan Act.".

(c) SPECIAL LIQUIDITY ADVANCES.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) (as amended by section 710(c) of this Act) is amended by adding at the end the following new subsection:

"(h) SPECIAL LIQUIDITY ADVANCES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Federal Home Loan Banks may, upon the request of the Director of the Office of Thrift Supervision, make short-term liquidity advances to a savings association that—

"(A) is solvent but presents a supervisory concern because of such association's poor financial condition; and

"(B) has reasonable and demonstrable prospects of returning to a satisfactory financial condition.

"(2) INTEREST ON AND SECURITY FOR SPECIAL LIQUIDITY ADVANCES.—Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall be subject to all applicable collateral requirements, including the requirements of section 10(a) of this Act, and shall be at an interest rate no less favorable than those made available for similar short-term liquidity advances to savings associations that do not present such supervisory concern.".

SEC. 715. AMENDMENTS RELATING TO WITHDRAWAL FROM FEDERAL HOME LOAN BANK MEMBERSHIP.

Section 6(h) of the Federal Home Loan Bank Act (as redesignated by section 706 of this Act) is amended by striking "five" and inserting "10".

SEC. 716. REPEAL OF PROVISIONS RELATING TO LAWFUL CONTRACT RATE.

Section 5 of the Federal Home Loan Bank Act (12 U.S.C. 1425) is hereby repealed.

SEC. 717. BANK STOCK AND OBLIGATIONS.

Section 23 of the Federal Home Loan Bank Act (12 U.S.C. 1443) is amended to read as follows:

"SEC. 23. FORMS OF BANK STOCK AND OBLIGATIONS.

"Any stock, debentures, bonds, notes, or other obligations issued under the authority of this Act may be issued in uncertificated form, utilizing a book entry method, or in certificated form under such rules, regulations, or guidelines as the Board of Directors of the Federal Housing Finance Board may provide.".

SEC. 718. THRIFT ADVISORY COUNCIL.

Section 8a of the Federal Home Loan Bank Act (12 U.S.C. 1428a) is hereby repealed.

SEC. 719. EXAMINATION OF MEMBERS.

Section 22 of the Federal Home Loan Bank Act (12 U.S.C. 1442) is amended to read as follows:

"SEC. 22. MEMBER FINANCIAL INFORMATION.

"(a) IN GENERAL.—In order to enable the Federal Home Loan Banks to carry out the provisions of this Act, the Secretary of the Treasury, the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, the Chairperson of the Federal Deposit Insurance Corporation, the Chairperson of the National Credit Union Administration, and the Director of the Office of Thrift Supervision, upon request by any Federal Home Loan Bank—

"(1) shall make available in confidence to any Federal Home Loan Bank, such reports, records, or other information as may be available, relating to the condition of any member of any Federal Home Loan Bank or any institution with respect to which any such Bank has had or contemplates having transactions under this Act; and

"(2) may perform through their examiners or other employees or agents, for the confidential use of the Federal Home Loan Bank, examinations of institutions for which such agency is the appropriate Federal banking regulatory agency.

In addition, the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, the Chairperson of the National Credit Union Administration, and the Director of the Office of Thrift Supervision shall make available to the Board or any Federal Home Loan Bank the financial reports filed by members of any Bank to enable the Board or a Bank to compile and publish cost of funds indices or other financial or statistical reports.

"(b) CONSENT BY MEMBERS.—Every member of a Federal Home Loan Bank shall, as a condition precedent thereto, be deemed—

"(1) to consent to such examinations as the Bank or the Board may require for the purposes of this Act;

"(2) to agree that reports of examinations by local, State, or Federal agencies or institutions may be furnished by such authorities to the Bank or the Board upon request; and

"(3) to agree to give the Bank or the Federal agency, upon request, such information as they may need to compile and publish cost of funds indices and to publish other reports or statistical summaries pertaining to the activities of Bank members.".

SEC. 720. LIQUIDITY.

Section 5A of the Federal Home Loan Bank Act (12 U.S.C. 1425a) is hereby repealed.

SEC. 721. AFFORDABLE HOUSING.

Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) (as amended by section 710 and section 714 of this Act) is amended by adding at the end the following:

"(i) COMMUNITY INVESTMENT PROGRAM.—

"(1) IN GENERAL.—Each Bank shall establish a program to provide funding for members to undertake community-oriented mortgage lending. Each Bank shall designate a community investment officer to implement community lending and affordable housing advance programs of the Banks under this subsection and subsection (j) and provide technical assistance and outreach to promote such programs. Advances under this program shall be priced at the cost of consolidated Federal Home Loan Bank obligations of comparable maturities, taking into account reasonable administrative costs.

"(2) COMMUNITY-ORIENTED MORTGAGE LENDING.—For purposes of this subsection, the term 'community-oriented mortgage lending' means providing loans—

"(A) to finance home purchases by families whose income does not exceed 115 percent of the median income for the area,

"(B) to finance purchase or rehabilitation of housing for occupancy by families whose income does not exceed 115 percent of median income for the area,

"(C) to finance commercial and economic development activities that benefit low- and moderate-income families or activities that are located in low- and moderate-income neighborhoods, and

"(D) to finance projects that further a combination of the purposes described in subparagraphs (A) through (C).

"(j) AFFORDABLE HOUSING PROGRAM.—

"(1) IN GENERAL.—Pursuant to regulations promulgated by the Board, each Bank shall establish an Affordable Housing Program to subsidize the interest rate on advances to members engaged in lending for long term, low- and moderate-income, owner-occupied and affordable rental housing at subsidized interest rates.

"(2) STANDARDS.—The Board's regulations shall permit Bank members to use subsidized advances received from the Banks to—

"(A) finance homeownership by families with incomes at or below 80 percent of the median income for the area; or

"(B) finance the purchase, construction, or rehabilitation of rental housing, at least 20 percent of the units of which will be occupied by and affordable for very low-income households for the remaining useful life of such housing or the mortgage term.

"(3) PRIORITIES FOR MAKING ADVANCES.—In using advances authorized under paragraph (1), each Bank member shall give priority to qualified projects such as the following:

"(A) purchase of homes by families whose income is 80 percent or less of the median income for the area,

"(B) purchase or rehabilitation of housing owned or held by the United States Government or any agency or instrumentality of the United States; and

"(C) purchase or rehabilitation of housing sponsored by any nonprofit organization, any State or political subdivision of any State, any local housing authority or State housing finance agency.

"(4) REPORT.—Each member receiving advances under this program shall report annually to the Bank making such advances concerning the member's use of advances received under this program.

"(5) CONTRIBUTION TO PROGRAM.—Each Bank shall annually contribute the percentage of its annual net earnings prescribed in the following subparagraphs to support subsidized advances through the Affordable Housing Program:

"(A) In 1990, 1991, 1992, and 1993, 5 percent of the preceding year's net income, or such prorated sums as may be required to assure that the aggregate contribution of all the Banks shall not be less than $50,000,000 for each such year.

"(B) In 1994, 6 percent of the preceding year's net income, or such prorated sum as may be required to assure that the aggregate contribution of the Banks shall not be less than $75,000,000 for such year.

"(C) In 1995, and subsequent years, 10 percent of the preceding year's net income, or such prorated sums as may be required to assure that the aggregate contribution of the Banks shall not be less than $100,000,000 for each such year.

"(6) GROUNDS FOR SUSPENDING CONTRIBUTIONS.—

"(A) IN GENERAL.—If a Bank finds that the payments required under this paragraph are contributing to the financial instability of such Bank, it may apply to the Federal Housing Finance Board for a temporary suspension of such payments.

"(B) FINANCIAL INSTABILITY.—In determining the financial instability of a Bank, the Federal Housing Finance Board shall consider such factors as (i) whether the Bank's earnings are severely depressed, (ii) whether there has been a substantial decline in membership capital, and (iii) whether there has been a substantial reduction in advances outstanding.

"(C) REVIEW.—The Board shall review the application and any supporting financial data and issue a written decision approving or disapproving such application. The Board's decision shall be accompanied by specific findings and reasons for its action.

"(D) MONITORING SUSPENSION.—If the Board grants a suspension, it shall specify the period of time such suspension shall remain in effect and shall continue to monitor the Bank's financial condition during such suspension.

"(E) LIMITATIONS ON GROUNDS FOR SUSPENSION.—The Board shall not suspend payments to the Affordable Housing Program if the Bank's reduction in earnings is a result of (i) a change in the terms for advances to members which is not justified by market conditions, (ii) inordinate operating and administrative expenses, or (iii) mismanagement.

"(F) The Federal Housing Finance Board shall notify the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not less than 60 days before such suspension takes effect. Such suspension shall become effective unless a joint resolution is enacted disapproving such suspension.

"(7) FAILURE TO USE AMOUNTS FOR AFFORDABLE HOUSING.—If any Bank fails to utilize or commit the full amount provided in this subsection in any year, 90 percent of the amount that has not been utilized or committed in that year shall be deposited by the Bank in an Affordable Housing Reserve Fund administered by the Board. The 10 percent of the unutilized and uncommitted amount retained by a Bank should be fully utilized or committed by that Bank during the following year and any remaining portion must be deposited in the Affordable Housing Reserve Fund. Under regulations established by the Board, funds from the Affordable Housing Reserve Fund may be made available to any Bank to meet additional affordable housing needs in such Bank's district pursuant to this section.

"(8) NET EARNINGS.—The net earnings of any Federal Home Loan Bank shall be determined for purposes of this paragraph—

"(A) after reduction for any payment required under section 21 or 21B of this Act; and

"(B) before declaring any dividend under section 16.

"(9) REGULATIONS.—The Federal Housing Finance Board shall promulgate regulations to implement this subsection. Such regulations shall, at a minimum—

"(A) specify activities eligible to receive subsidized advances from the Banks under this program;

"(B) specify priorities for the use of such advances;

"(C) ensure that advances made under this program will be used only to assist projects for which adequate long-term monitoring is available to guarantee that affordability standards and other requirements of this subsection are satisfied;

"(D) ensure that a preponderance of assistance provided under this subsection is ultimately received by low- and moderate-income households;

"(E) ensure that subsidies provided by Banks to member institutions under this program are passed on to the ultimate borrower;

"(F) establish uniform standards for subsidized advances under this program and subsidized lending by member institutions supported by such advances, including maximum subsidy and risk limitations for different categories of loans made under this subsection; and

"(G) coordinate activities under this subsection with other Federal or federally-subsidized affordable housing activities to the maximum extent possible.

"(10) OTHER PROGRAMS.—No provision of this subsection or subsection (i) shall preclude any Bank from establishing additional community investment cash advance programs or contributing additional sums to the Affordable Housing Reserve Fund.

"(11) ADVISORY COUNCIL.—Each Bank shall appoint an Advisory Council of 7 to 15 persons drawn from community and nonprofit organizations actively involved in providing or promoting low- and moderate-income housing in its district. The Advisory Council shall meet with representatives of the board of directors of the Bank quarterly to advise the Bank on low- and moderate-income housing programs and needs in the district and on the utilization of the advances for these purposes. Each Advisory Council established under this paragraph shall submit to the Board at least annually its analysis of the low-income housing activity of the Bank by which it is appointed.

"(12) REPORTS TO CONGRESS.—

"(A) The Board shall monitor and report annually to the Congress and the Advisory Council for each Bank the support of low-income housing and community development by the Banks and the utilization of advances for these purposes.

"(B) The analyses submitted by the Advisory Councils to the Board under paragraph (11) shall be included as part of the report required by this paragraph.

"(C) The Comptroller General of the United States shall audit and evaluate the Affordable Housing Program established by this subsection after such program has been operating for 2 years. The Comptroller General shall report to Congress on the conclusions of the audit and recommend improvements or modifications to the program.

"(13) DEFINITIONS.—For purposes of this subsection—

"(A) LOW- OR MODERATE-INCOME HOUSEHOLD.—The term 'low- or moderate-income household' means any household which has an income of 80 percent or less of the area median.

"(B) VERY LOW-INCOME HOUSEHOLD.—The term 'very low-income household' means any household that has an income of 50 percent or less of the area median.

"(C) LOW- OR MODERATE-INCOME NEIGHBORHOOD.—The term 'low- or moderate-income neighborhood' means any neighborhood in which 51 percent or more of the households are low- or moderate-income households.

"(D) AFFORDABLE FOR VERY-LOW INCOME HOUSEHOLDS.—For purposes of paragraph (2)(B) the term 'affordable for very-low income households' means that rents charged to tenants for units made available for occupancy by low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the income for the area (as determined by the Secretary of Housing and Urban Development) with adjustment for family size.".

SEC. 722. TRANSFERRED EMPLOYEES OF FEDERAL HOME LOAN BANKS AND JOINT OFFICES.

(a) IN GENERAL.—Each employee of the Federal Home Loan Banks or joint offices of such Banks performing a function identified for transfer under section 403 of this Act, including employees who otherwise would be ineligible for employment by the United States because of their citizenship, shall be transferred for employment not later than 60 days after the date of the enactment of this Act.

(b) NOTICE TO EMPLOYEES.—Transferring employees shall receive notice of their position assignments not later than 120 days after the effective date of their transfer.

(c) GUARANTEED POSITION.—Each transferred employee shall be guaranteed a position with the same status and tenure as that held by such employee on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated for one year after the date of transfer, except for cause.

(d) PAY AND BENEFITS.—Each employee transferred under this section shall be entitled to receive, during the one-year period immediately following the transfer, pay and benefits comparable to those received by such employee immediately preceding the transfer. Where necessary or appropriate to further the safety and soundness of the thrift industry, the employing agency may continue the pre-transfer compensation of any transferring employee for up to 2 years beyond the expiration of the period provided for under the preceding sentence. Such pay and benefits shall be subject to the comparability provisions of this Act. Any transferred employee who suffers a reduction of pay or benefits as a result of such comparability provisions shall be compensated for such reduction during the 1 year period following the transfer by assessments from the Federal Home Loan Bank or joint office of such Banks, from which the employee transferred. In any event, this subsection shall only apply to a transferred employee while such employee remains with the agency to which the employee is transferred.

(e) HEALTH INSURANCE.—If the health insurance program of a transferred employee is not continued by the agency to which the employee is transferred, such employee may elect to participate in the agency's health insurance program notwithstanding health conditions pre-existing at the time of election or enrollment into an alternate health insurance program of the agency to which he or she is transferred and without regard to any other regularly scheduled open season. Such election shall be made within 30 days of the transfer.

(f) EQUITABLE TREATMENT.—The Director of the Office of Thrift Supervision or the Chairperson of the Federal Housing Finance Board shall take such action as is necessary on a case-by-case basis so that employees transferring under this section receive equitable treatment regarding credit for prior service with a Federal entity or instrumentality, or with a Federal Home Loan Bank or joint office of such Banks, with respect to the transferring employees' retirement accounts and the transferring employees' accrued leave or vacation time, in recognition of the transferring employees' supervisory service.

(g) SPECIAL RULE FOR CERTAIN ANNUITANTS.—An individual who was a reemployed annuitant on July 26, 1989, and who is transferred under this section, shall not be subject to the deduction from pay required by section 8344 or 8468 of title 5, United States Code, during the 1-year period beginning on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

SEC. 723. TRANSITIONAL PROVISIONS.

(a) FEDERAL HOME LOAN BANKS' SHARE OF ADMINISTRATIVE EXPENSES.—The Federal Home Loan Banks shall pay to the Director of the Office of Thrift Supervision the amount obtained by multiplying the administrative expenses of the Office of Thrift Supervision incurred in connection with functions of the Banks that are transferred to the Office (less any fees or assessments collected by the Office) by a fraction—

(1) the numerator of which is the amount of such expenses of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation paid by the Banks during the 1-year period ending on the date of enactment of this Act; and

(2) the denominator of which is the total expenses of such Board and Corporation during such period.

No payment under this subsection is required after December 31, 1989.

(b) COMPENSATION OF SUPERVISORY AND EXAMINATIONS EMPLOYEES.—The Federal Home Loan Banks shall continue to pay the compensation of employees of the Federal Home Loan Banks or the joint offices of such banks who, on the day before the date of the enactment of this Act, are performing supervisory and examination functions until such supervisory and examination functions are transferred under this Act. Thereafter, the obligation of the Federal Home Loan Banks hereunder to pay such applicable compensation shall continue until the later of—

(1) the date which is 120 days after the date of transfer of such supervisory and examination functions to the Office of Thrift Supervision, or

(2) March 31, 1990.

Payment of such compensation by the Federal Home Loan Banks shall be in lieu of, and not in addition to, the payment of compensation by the Office of Thrift Supervision.

(c) FACILITIES AND SUPPORT SERVICES.—Until December 31, 1990, the Federal Home Loan Banks, as necessary, shall (with respect to supervisory and examination functions performed by employees transferred from the Federal Home Loan Banks or joint offices of such Banks to the Office of Thrift Supervision), provide the Office of Thrift Supervision facilities and support services comparable to those presently provided for the employees of the Federal Home Loan Banks or joint offices of such Banks performing such supervisory and examination

functions, including office space, furniture and equipment, computer, personnel, and other support services. With respect to supervisory and examination functions presently performed by employees of individual Federal Home Loan Banks, each such Bank will only be required to provide such facilities and support services to the extent that the functions continue to be performed in that Bank's offices.

(d) PRINCIPAL SUPERVISORY AGENT.—Beginning on the date of enactment of this Act until the Director of the Office of Thrift Supervision shall otherwise provide, the Principal Supervisory Agent for each Federal Home Loan Bank district shall be the senior supervisory official (other than the President of the Federal Home Loan Bank) employed by the Federal Home Loan Bank in such district on the day before the date of the enactment of this Act, and such employees performing supervisory and examination functions shall continue to be responsible for the supervision and examination of savings associations within such district.

SEC. 724. FEDERAL HOME LOAN BANK RESERVES.

(a) IN GENERAL.—Section 16(a) of the Federal Home Loan Bank Act (12 U.S.C. 1436(a)) is amended—

(1) by striking the first three sentences and inserting in lieu thereof: "Each Federal Home Loan Bank may carry to a reserve account from time-to-time such portion of its net earnings as may be determined by its board of directors."; and

(2) by striking the fifth sentence and inserting the following: "No dividends shall be paid except out of net earnings remaining after reductions for all reserves, chargeoffs, purchases of capital certificates of the Financing Corporation, and payments relating to the Funding Corporation required under this Act have been provided for, other than chargeoffs or expenses incurred by a Bank in connection with the purchase of capital stock of the Financing Corporation under section 21 or payments relating to the Funding Corporation Principal Fund under section 21B(e), and then only with the approval of the Federal Housing Finance Board. Beginning on January 1, 1992, the preceding sentence shall be applied by substituting 'previously retained earnings or current net earnings' for 'net earnings'.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect on January 1, 1992.

SEC. 725. SPECIAL ACCOUNT.

At the time of dissolution of the Federal Home Loan Bank Board, all such moneys and funds as shall remain in the special deposit account of the Federal Home Loan Bank Board, or other such accounts, shall become the property of the Federal Housing Finance Board.

Subtitle B—Federal Home Loan Mortgage Corporation

SEC. 731. FEDERAL HOME LOAN MORTGAGE CORPORATION.

(a) STATEMENT OF PURPOSE.—

(1) IN GENERAL.—Section 301 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended—

(A) by inserting "(a)" after the section designation; and

(B) by adding at the end the following new subsection:

"(b) It is the purpose of the Federal Home Loan Mortgage Corporation—

"(1) to provide stability in the secondary market for home mortgages;

"(2) to respond appropriately to the private capital market; and

"(3) to provide ongoing assistance to the secondary market for home mortgages (including mortgages securing housing for low- and moderate-income families involving a reasonable economic return to the Corporation) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for home mortgage financing.".

(2) CONFORMING AMENDMENT.—The section heading for section 301 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended to read as follows:

"SHORT TITLE AND STATEMENT OF PURPOSE".

(b) BOARD OF DIRECTORS.—

(1) NEW BOARD.—Section 303(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)) is amended to read as follows:

"(a)(1) There is hereby created the Federal Home Loan Mortgage Corporation, which shall be a body corporate under the direction of a Board of Directors. Within the limitations of law and regulation, the Board of Directors shall determine the general policies that govern the operations of the Corporation. The principal office of the Corporation shall be in the District of Columbia or at any other place determined by the Corporation.

"(2)(A) The Board of Directors of the Corporation shall consist of 18 persons, 5 of whom shall be appointed annually by the President of the United States and the remainder of whom shall be elected annually by the voting common stockholders. The Board of Directors shall at all times have as members appointed by the President of the United States at least 1 person from the homebuilding industry, at least 1 person from the mortgage lending industry, and at least 1 person from the real estate industry.

"(B) Each member of the Board of Directors shall be such or elected for a term ending on the date of the next annual meeting of the voting common stockholders.

"(C) Any appointive seat on the Board of Directors that becomes vacant shall be filled by appointment by the President of the United States, but only for the unexpired portion of the term. Any elective seat on the Board of Directors that becomes vacant after the annual election of the directors shall be filled by the Board of Directors, but only for the unexpired portion of the term.

"(D) Any member of the Board of Directors who is a full-time officer or employee of the Federal Government shall not, as such member, receive compensation for services as such a member.".

(2) TRANSITIONAL PROVISIONS.—

(A) INTERIM BOARD.—

(i) ESTABLISHMENT.—There shall be an interim Board of Directors of the Federal Home Loan Mortgage Corporation, which shall serve from the date of the enactment of this Act until the date of the 1st meeting of the voting common shareholders of the Corporation at which the first election of the directors elected by the shareholders occurs.

(ii) MEMBERS.—The interim Board of Directors of the Federal Home Loan Mortgage Corporation shall consist of—

(I) the President of the Corporation; and

(II) the persons who were (on the day before the date of the enactment of this Act) the Chairman of the Federal Home Loan Bank Board and the Secretary of Housing and Urban Development (or their designees).

(iii) QUORUM.—A quorum of the interim Board of Directors of the Federal Home Loan Mortgage Corporation shall consist of a majority of the directors duly serving from time to time.

(B) ELECTION OF PERMANENT DIRECTORS.—The first meeting of the voting common shareholders of the Federal Home Loan Mortgage Corporation for election of directors shall occur, under procedures established by the Corporation, within 6 months after the date of the enactment of this Act.

(c) REGULATORY POWER.—Section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452) is amended—

(1) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b)(1) The Secretary of Housing and Urban Development shall have general regulatory power over the Corporation and shall make such rules and regulations as shall be necessary and proper to ensure that the purposes of this title are accomplished.

"(2) The Secretary of Housing and Urban Development may require that a reasonable portion of the mortgage purchases of the Corporation be related to the national goal of providing adequate housing for low- and moderate-income families, but with reasonable economic return to the Corporation.

"(3) The aggregate amount of cash dividends paid by the Corporation in any fiscal year on account of any share of its common stock shall not exceed any rate that may be determined from time to time by the Secretary of Housing and Urban Development to be a fair rate of return after consideration of the current earnings and capital condition of the Corporation.

"(4) The Secretary of Housing and Urban Development may examine and audit the books and financial transactions of the Corporation and may require the Corporation to issue any reports on its activities that the Secretary determines to be advisable. The Secretary shall, not later than June 30 of each year, submit to the Congress a report describing the activities of the Corporation under this Act.

"(5) The aggregate amount of notes, debentures, or substantially identical types of unsecured obligations outstanding at any time shall not exceed the amount which is 15 times the sum of the Corporation's capital, capital surplus, general surplus, reserves, and undistributed earnings unless a greater ratio shall be fixed at any time or from time to time by the Secretary of Housing and Urban Development. The outstanding total principal amount of any obligations of the Corporation which are entirely subordinated to the general debt obligations of the Corporation shall be deemed to be capital of the Corporation for the purpose of determining the aggregate amount of notes, debentures, or substantially identical types of unsecured obligations outstanding at any time.

"(6) All issuances of stock, and debt obligations convertible into stock, by the Corporation shall be made only with the approval of the Secretary of Housing and Urban Development.

"(7)(A) The exercise of the authority of the Corporation pursuant to commitments or otherwise to purchase, service, sell, lend on the security of, or otherwise deal in conventional residential mortgages under section 305(a) shall be subject to the approval of the Secretary of Housing and Urban Development.

"(B) Any conventional mortgage programs or activities with respect to purchasing, servicing, selling, lending on the security of, or otherwise dealing in mortgages in which the Corporation has engaged or is engaging as of the date of the enactment of the Finan-

cial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be deemed to have been approved by the Secretary of Housing and Urban Development as required by this paragraph.

"(8) If the Corporation submits to the Secretary of Housing and Urban Development a request for approval or other action under this title, the Secretary shall, not later than the expiration of the 45-day period following the submission of the request, approve the request or transmit to the Congress a report explaining why the request has not been approved. The period may be extended for an additional 15-day period if the Secretary requests additional information from the Corporation, but the 45-day period may not be extended for any other reason or for any period in addition to or other than the 15-day period. If the Secretary fails to transmit the report to the Congress within the 45-day period or 60-day period, as the case may be, the Corporation may proceed as if the request had been approved.".

(d) COMMON STOCK.—

(1) IN GENERAL.—Section 304(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453(a)) is amended to read as follows:

"(a)(1) The common stock of the Corporation shall consist of—

"(A) nonvoting common stock, which shall be issued only to Federal home loan banks; and

"(B) voting common stock, which shall be issued to such holders in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation.

"(2) The nonvoting common stock and the voting common stock shall have such par value and other characteristics as the Corporation provides. The voting common stock shall be vested with all voting rights, each share being entitled to 1 vote. The free transferability of the voting common stock at all times to any person, firm, corporation or other entity shall not be restricted except that, as to the Corporation, it shall be transferable only on the books of the Corporation. Nonvoting common stock of the Corporation shall be evidenced in the manner and shall be transferable only to the extent, to the transferees, and in the manner, provided by the Corporation.".

(2) CONVERSION OF STOCK.—On the date of the enactment of this Act, each share of outstanding senior participating preferred stock of the Federal Home Loan Mortgage Corporation, with a par value of $2.50 per share, shall be changed into and shall become 1 share of voting common stock of the Corporation. Such voting common stock shall, with respect to the nonvoting common stock of the Corporation, retain all of the rights, priorities and privileges of the senior participating preferred stock. The transformation of the senior participating preferred stock into voting common stock under this paragraph shall be deemed to satisfy the obligation of the Corporation to redeem senior participating preferred stock for non-callable common stock.

(3) CONFORMING AMENDMENTS.—

(A) SUBSCRIPTIONS OF FEDERAL HOME LOAN BANKS.—Section 304(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453(b)) is amended by inserting "nonvoting" before "common".

(B) ALLOCATION OF SUBSCRIPTIONS.—Section 304(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453(c)) is amended by striking "such" and by inserting "nonvoting common" before "stock".

(C) RETIREMENT OF STOCK.—Section 304(d) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453(d)) is amended by inserting "nonvoting common" before "stock" each place it appears.

(e) MORTGAGE OPERATIONS.—

(1) PROHIBITION ON FEES.—Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(1)) is amended by adding at the end the following: "Nothing in this section authorizes the Corporation to impose any charge or fee upon any mortgagee approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act solely because of such status.".

(2) LENDING ACTIVITIES.—Section 305(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)) is amended by adding at the end the following new paragraph:

"(5) The Corporation is authorized to lend on the security of, and to make commitments to lend on the security of, any mortgage that the Corporation is authorized to purchase under this section. The volume of the Corporation's lending activities and the establishment of its loan ratios, interest rates, maturities, and charges or fees in its secondary market operations under this paragraph, shall be determined by the Corporation from time to time; and such determinations shall be consistent with the objectives that the lending activities shall be conducted on such terms as will reasonably prevent excessive use of the Corporation's facilities, and that the operations of the Corporation under this paragraph shall be within its income derived from such operations and that such operations shall be fully self-supporting. The Corporation shall not be permitted to use its lending authority under this paragraph (A) to advance funds to a mortgage seller on an interim basis, using mortgage loans as collateral, pending the sale of the mortgages in the secondary market; or (B) to originate mortgage loans. Notwithstanding any Federal, State, or other law to the contrary, the Corporation is hereby empowered, in connection with any loan under this paragraph, whether before or after any default, to provide by contract with the borrower for the settlement or extinguishment, upon default, of any redemption, equitable, legal, or other right, title, or interest of the borrower in any mortgage or mortgages that constitute the security for the loan; and with respect to any such loan, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such security shall become the absolute property of the Corporation.".

(f) REFERENCES TO FSLIC AND FHLBB.—

(1) SECTION 302.—Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended—

(A) in the 4th sentence, by striking out "Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "Resolution Trust Corporation"; and

(B) in the 8th sentence, by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Federal Housing Finance Board".

(2) SECTION 305.—Section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454) is amended—

(A) by striking out "Federal Savings and Loan Insurance Corporation" each place it appears and inserting in lieu thereof "Resolution Trust Corporation"; and

(B) in subsection (a)(2), by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Federal Housing Finance Board".

(g) STANDBY CREDIT.—Section 306(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(c)) is amended to read as follows:

"(c)(1) The Secretary of the Treasury may purchase any obligations issued under subsection (a). For such purpose, the Secretary may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include such purpose.

"(2) The Secretary of Treasury shall not at any time purchase any obligations under this subsection if the purchase would increase the aggregate principal amount of the outstanding holdings of obligations under this subsection by the Secretary to an amount greater than $2,250,000,000.

"(3) Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon terms and conditions established to yield a rate of return determined by the Secretary to be appropriate, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the making of the purchase.

"(4) The Secretary of the Treasury may at any time sell, upon terms and conditions and at prices determined by the Secretary, any of the obligations acquired by the Secretary under this subsection.

"(5) All redemptions, purchases and sales by the Secretary of the Treasury of obligations under this subsection shall be treated as public debt transactions of the United States.".

(h) PREFERRED STOCK.—Section 306(f) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(f)) is amended to read as follows:

"(f) The Corporation may have preferred stock on such terms and conditions as the Board of Directors shall prescribe. Any preferred stock shall not be entitled to vote with respect to the election of any member of the Board of Directors.".

(i) TERMS OF OBLIGATIONS.—Section 306 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455) is amended by adding at the end the following new subsections:

"(j)(1) Any notes, debentures, or substantially identical types of unsecured obligations of the Corporation evidencing money borrowed, whether general or subordinated, shall be issued upon the approval of the Secretary of the Treasury and shall have such maturities and bear such rate or rates of interest as may be determined by the Corporation with the approval of the Secretary of the Treasury.

"(2) Any notes, debentures, of substantially identical types of unsecured obligations of the Corporation having maturities of 1 year or less that the Corporation has issued or is issuing as of the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be deemed to have been approved by the Secretary of the Treasury as required by this subsection. Such deemed approval shall expire 365 days after such date of enactment.

"(3) Any notes, debentures, or substantially identical types of unsecured obligations of the Corporation having maturities of more than 1 year that the Corporation has

issued or is issuing as of the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be deemed to have been approved by the Secretary of the Treasury as required by this subsection. Such deemed approval shall expire 60 days after such date of enactment.

"(k)(1) Any securities in the form of debt obligations or trust certificates of beneficial interest, or both, and based upon mortgages held and set aside by the Corporation, shall be issued upon the approval of the Secretary of the Treasury and shall have such maturities and shall bear such rate or rates of interest as may be determined by the Corporation with the approval of the Secretary of the Treasury.

"(2) Any securities in the form of debt obligations or trust certificates of beneficial interest, or both, and based upon mortgages held and set aside by the Corporation, that the Corporation has issued or is issuing as of the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be deemed to have been approved by the Secretary of the Treasury as required by this subsection.".

(j) STATE LIMITATIONS.—

(1) The second sentence of section 307(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(a)) is amended to read as follows: "The Corporation is authorized to conduct its business without regard to any qualification or similar statute in any State.".

(2) The amendment made by this subsection shall not apply to any assertion of priority by the Federal Home Loan Mortgage Corporation with respect to any cause of action or claim filed before the date of the enactment of this Act.

(k) PENAL PROVISIONS.—Section 308 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1457) is amended—

(1) in subsection (a), by striking the subsection designation; and

(2) by striking subsections (b), (c), (d), (e), and (f).

(l) CONSTRUCTION.—Section 310 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1459) is amended—

(1) in the section heading, by striking "CONSTRUCTION AND"; and

(2) by striking the first sentence.

(m) CONFORMING AMENDMENTS TO FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.—

(1) STATEMENT OF PURPOSE.—Section 301 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) is amended—

(A) by striking paragraphs (a) and (b) and inserting the following new paragraphs:

"(1) provide stability in the secondary market for home mortgages;

"(2) respond appropriately to the private capital market;

"(3) provide ongoing assistance to the secondary market for home mortgages (including mortgages securing housing for low- and moderate-income families involving a reasonable economic return) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for home mortgage financing; and"; and

(B) by redesignating paragraph (c) as paragraph (4).

(2) LENDING ACTIVITIES.—Section 304(a)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(a)(2)) is amended—

(A) by inserting after the 3rd sentence the following new sentence: "The corporation shall not be permitted to use its lending authority (A) to advance funds to a mortgage seller on an interim basis, using mortgage loans as collateral, pending the sale of the mortgages in the secondary market; or (B) to originate mortgage loans."; and

(B) by striking the 1st and 2nd sentences.

(3) AUDITS BY GAO.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding at the end the following new subsection:

"(j) The mortgage transactions of the corporation may be subject to audit by the Comptroller General of the United States in accordance with the principles and procedures applicable to commercial corporation transactions under such rules and regulations as may be prescribed by the Comptroller General. The representatives of the General Accounting Office shall have access to such books, accounts, financial records, reports, files, and such other papers, things, or property belonging to or in use by the corporation and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. A report on each such audit shall be made by the Comptroller General to the Congress. The corporation shall reimburse the General Accounting Office for the full cost of any such audit as billed therefor by the Comptroller General.".

Subtitle C—Technical and Conforming Amendments

SEC. 741. REPEAL OF LIMITATION OF OBLIGATION FOR ADMINISTRATIVE EXPENSES.

Section 7(b) of the First Deficiency Appropriation Act of 1936 (15 U.S.C. 712a(b)) is amended by striking the following:

"1. Federal Home Loan Bank Board;";

"2. Home Owners' Loan Corporation;"; and

"11. Federal Savings and Loan Insurance Corporation;".

SEC. 742. AMENDMENT OF TITLE 5, UNITED STATES CODE.

(a) EXECUTIVE SCHEDULE.—

(1) Section 5314 of title 5, United States Code (5 U.S.C. 5315) is amended—

(A) by striking

"Chairman of the Federal Home Loan Bank Board."; and

(B) by adding at the end thereof the following:

"Director of the Office of Thrift Supervision.

"Chairperson of the Federal Housing Finance Board.".

(2) Section 5315 of title 5, United States Code (5 U.S.C. 5315) is amended—

(A) by striking out

"Members, Federal Home Loan Bank Board.", and

(B) by inserting

"Directors, Federal Housing Finance Board.".

(b) LIMITATION ON PAY FIXED BY ADMINISTRATIVE ACTION.—Section 5373(2) of title 5, United States Code, is amended by inserting after "481," the following: "1437, 1439,".

(c) DEFINITION OF AGENCY.—Section 3132(a)(1) of title 5, United States Code (5 U.S.C. 3132(a)(1)), is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C), by inserting "or" after the semicolon; and

(3) by adding at the end the following:

"(D) the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Housing Finance Board, the Resolution Trust Corporation, and the National Credit Union Administration;".

SEC. 743. AMENDMENT OF BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT PROVISIONS.

(a) Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(1) by inserting after the item relating to the Comptroller of the Currency the following new item:

"Director of the Office of Thrift Supervision;";

(2) by striking out "Federal Home Loan Bank Board;" and inserting in lieu thereof the following new items:

"Federal Deposit Insurance Corporation, Bank Insurance Fund;

"Federal Deposit Insurance Corporation, FSLIC Resolution Fund;

"Federal Deposit Insurance Corporation, Savings Association Insurance Fund;";

(3) by striking out "Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation"and inserting in lieu thereof "Federal Housing Finance Board"; and

(4) by inserting after the item relating to the Postal service fund the following new items:

"Resolution Funding Corporation;

"Resolution Trust Corporation;".

(b) Section 256(b)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 256(b)(4)) is amended—

(1) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph

"(C) Office of Thrift Supervision.";

(2) by striking subparagraph (D) and inserting in lieu thereof the following new subparagraph:

"(D) Office of Thrift Supervision."; and

(3) by adding at the end thereof the following new subparagraphs:

"(H) Resolution Funding Corporation.

"(I) Resolution Trust Corporation.".

(c) Section 255(g)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "Federal Savings and Loan Insurance Corporation fund (82-4037-0-3-371);".

SEC. 744. CONFORMING AMENDMENTS TO FINANCIAL INSTITUTION RELATED ACTS.

(a) FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT.—

(1) SECTION 1003.—Section 1003 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3302) is amended—

(A) in paragraph (1), by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Office of Thrift Supervision"; and

(B) in paragraph (3), by striking out "savings and loan association" and inserting in lieu thereof "savings association".

(2) SECTION 1004.—Section 1004(a)(4) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)(4)) is amended by striking out "Chairman of the Federal Home Loan Bank Board, and" and inserting in lieu thereof "Director, Office of Thrift Supervision".

(3) SECTION 1006.—Section 1006(d) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305(d)) is amended in the 2d sentence by inserting "and employees of the Federal Housing Finance Board" after "supervisory agencies".

(b) RIGHT TO FINANCIAL PRIVACY ACT.—Section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401) is amended—

(1) in paragraph (1), by striking out "savings and loan" and inserting in lieu thereof "savings association";

(2) in paragraph (6), by striking out subparagraph (B) and redesignating the remaining subparagraphs as subparagraphs (B) through (H), respectively; and

(3) in paragraph (6)(B) (as so redesignated), by striking out "the Federal Home Loan Bank Board" and inserting in lieu thereof "Director, Office of Thrift Supervision".

(c) ALTERNATIVE MORTGAGE TRANSACTIONS PARITY ACT.—The Alternative Mortgage Transactions Parity Act of 1982 (12 U.S.C. 3801-06) is amended by striking out "Federal Home Loan Bank Board" each place such term appears and inserting in lieu thereof "Director of the Office of Thrift Supervision".

(d) EXPEDITED FUNDS AVAILABILITY ACT.—Section 610(a)(2) of the Expedited Funds Availability Act (12 U.S.C. 4009(a)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision in the case of savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation; and".

(e) PAPERWORK REDUCTION ACT.—Section 2(a)(10) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3502(a)(10)) is amended by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "the Federal Housing Finance Board".

(f) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT.—Section 602(11) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474(11)) is amended—

(1) by inserting "or the Resolution Trust Corporation" after "Department of Housing and Urban Development";

(2) by striking out "savings and loan accounts" and inserting in lieu thereof "savings association accounts"; and

(3) by inserting "under the Federal Deposit Insurance Act or any other law." after "National Housing Act".

(g) PUBLIC BUILDINGS ACT.—Section 13(4) of the Public Buildings Act of 1959 (40 U.S.C. 612(d)) is amended by striking out subparagraph (D).

(h) BANK PROTECTION ACT.—Section 2 of the Bank Protection Act of 1968 (12 U.S.C. 1881) is amended—

(1) in paragraph (4), by—

(A) striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Director of the Office of Thrift Supervision";

(B) striking out "and loan"; and

(C) striking "associations" and all that follows through "Corporation"; and

(2) in paragraph (3), by inserting "and State savings associations" before ", and".

(i) THE FEDERAL RESERVE ACT.—

(1) SECTION 11.—Section 11(a)(2) of the Federal Reserve Act (12 U.S.C. 248(a)(2)) is amended by striking "(iii) Federal Home Loan Bank Board in the case of any institution insured by the Federal Savings and Loan Insurance Corporation" and inserting "(iii) the Director of the Office of Thrift Supervision in the case of any savings association which is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act)".

(2) SECTION 19(b).—Section 19(b)(1)(A)(vi) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(vi)) is amended to read as follows:

"(vi) any savings association (as defined in section 3 of the Federal Deposit Insurance Act) which is an insured depository institution (as defined in such Act) or is eligible to apply to become an insured depository institution under the Federal Deposit Insurance Act; and".

(3) SECTION 19.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended by striking out "the Federal Home Loan Bank Board," and inserting in lieu thereof "the Director of the Office of Thrift Supervision," each place it appears.

(j) PUBLIC LAW 93-495.—Section 3 of title I of Public Law 93-495 (12 U.S.C. 250) is amended by striking "Federal Home Loan Bank Board" and inserting "Director of the Office of Thrift Supervision".

(k) TRUTH IN LENDING ACT.—Section 108(a)(2) of the Truth in Lending Act (15 U.S.C. 1607(a)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(l) FAIR CREDIT REPORTING ACT.—Section 621(b)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;".

(m) EQUAL CREDIT OPPORTUNITY ACT.—Section 704(a)(2) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(a)(2)) is amended to read as follows:

"(2) Section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(n) FAIR DEBT COLLECTION PRACTICES ACT.—Section 814(b)(2) of the Fair Debt Collection Practices Act (15 U.S.C. 1692l(b)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;".

(o) ELECTRONIC FUND TRANSFER ACT.—Section 917(a)(2) of the Electronic Fund Transfer Act (15 U.S.C. 1693o(a)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;".

(p) HOME MORTGAGE DISCLOSURE ACT OF 1975.—

(1) SECTION 305.—Section 305(b)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804(b)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation; and".

(2) SECTION 306.—Section 306(b)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2805(b)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(3) SECTION 307.—Section 307 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2806) is amended by striking "Federal Home Loan Bank Board" each place it appears and inserting "Director of the Office of Thrift Supervision".

(q) COMMUNITY REINVESTMENT ACT OF 1977.—Section 803(1)(D) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(1)(D)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association (the deposits of which are insured by the Federal Deposit Insurance Corporation) and a savings and loan holding company;".

(r) DEPOSITORY INSTITUTIONS MANAGEMENT INTERLOCKS ACT.—

(1) Section 207(4) of the Depository Institutions Management Interlocks Act (12 U.S.C. 3206(4)) is amended to read as follows:

"(4) the Director of the Office of Thrift Supervision with respect to a savings association (the deposits of which are insured by the Federal Deposit Insurance Corporation) and savings and loan holding companies,".

(s) DEPOSITORY INSTITUTIONS DEREGULATION ACT OF 1980.—Section 208(a)(2) of the Depository Institutions Deregulation Act of 1980 (12 U.S.C. 3507(a)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(t) FEDERAL TRADE COMMISSION ACT.—Section 18(f)(3) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(3)) is amended to read as follows:

"(3) Compliance with regulations prescribed under this subsection shall be enforced under section 8 of the Federal Deposit Insurance Act with respect to savings associations as defined in section 3 of the Federal Deposit Insurance Act.".

(u) SECURITIES EXCHANGE ACT OF 1934.—

(1) SECTION 3.—Section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) is amended—

(A) in subparagraph (G)—

(i) by striking clauses (iv) and (v) and inserting the following:

"(iv) the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;"; and

(ii) by redesignating clause (vi) as clause (v); and

(B) in the second sentence, by striking "the Federal Home Loan Bank Board" and inserting "the Office of Thrift Supervision".

(2) SECTION 12.—Section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(i)) is amended—

(A) in the first sentence—

(i) by inserting "and savings associations" after "banks" the first place it appears;

(ii) by striking "or institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation"; and

(iii) by striking paragraph (4) and inserting "(4) with respect to savings associations the accounts of which are insured by the Federal Deposit Insurance Corporation are vested in the Office of Thrift Supervision"; and

(B) in the second sentence, by striking "the Federal Home Loan Bank Board" and inserting "the Office of Thrift Supervision".

(3) SECTION 15.—Section 15C(f)(1) (15 U.S.C. 78o-5(f)(1)) of such Act is amended by striking "Federal Home Loan Bank Board" and inserting "Director of the Office of Thrift Supervision".

TITLE VIII—BANK CONSERVATION ACT AMENDMENTS

SEC. 801. DEFINITIONS.

Section 202 of the Bank Conservation Act (12 U.S.C. 202) is amended—

(1) by inserting after "national banking association" the following: "or any other financial institution chartered or licensed under Federal law and subject to the supervision of the Comptroller of the Currency"; and

(2) by inserting before "and the term 'State' " the following: "the term 'voluntary dissolution and liquidation' means a transaction pursuant to section 5220 of the Revised Statutes that involves the assumption of the bank's insured deposit liabilities and the sale of the bank, or of control of the bank, as a going concern;".

SEC. 802. APPOINTMENT OF CONSERVATOR.

Section 203 of the Bank Conservation Act (12 U.S.C. 203) is amended to read as follows:

"SEC. 203. APPOINTMENT OF CONSERVATOR.

"(a) APPOINTMENT.—The Comptroller of the Currency may, without notice or prior hearing, appoint a conservator, which may be the Federal Deposit Insurance Corporation, to take possession and control of a bank whenever the Comptroller determines that one or more of the following circumstances exist:

"(1) any one or more of the conditions for appointment of a receiver for the bank specified in the first section of the Act of June 30, 1876 (12 U.S.C. 191) are present;

"(2) the bank is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course of business;

"(3) the bank is in an unsafe or unsound condition to transact business, including having substantially insufficient capital or otherwise;

"(4)(A) the bank has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and

"(B) there is no reasonable prospect for the bank's capital to be replenished without Federal assistance;

"(5) there is a violation or violations of laws, rules, or regulations, or any unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the bank's condition or otherwise seriously prejudice the interests of its depositors;

"(6) there is concealment of books, papers, records, or assets of the bank, or refusal to submit books, papers, records, or affairs of the bank for inspection to any examiner or to any lawful agent of the Comptroller;

"(7) there is a willful or continuing violation of an order enforceable against the bank under section 8(i) of the Federal Deposit Insurance Act; or

"(8) the bank's board of directors consists of fewer than 5 members.

"(b) JUDICIAL REVIEW.—

"(1) IN GENERAL.—Not later than 20 days after the initial appointment of a conservator pursuant to this section, the bank may bring an action in the United States district court for the judicial district in which the home office of such bank is located, or in the United States District Court for the District of Columbia, for an order requiring the Comptroller to terminate the appointment of the conservator, and the court, upon the merits, shall dismiss such action or shall direct the Comptroller to terminate the appointment of such conservator. The Comptroller's decision to appoint a conservator pursuant to this section shall be set aside only if the court finds that such decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(2) STAY.—The conservator may request that any judicial action or proceeding to which the conservator or the bank is or may become a party be stayed for a period of up to 45 days after the appointment of the conservator. Upon petition, the court shall grant such stay as to all parties.

"(3) ACTIONS AND ORDERS.—Except as otherwise provided in this subsection, no court may take any action regarding the removal of a conservator, or restrain, or affect the exercise of powers or functions of a conservator. A court, upon application by the Comptroller, shall have jurisdiction to enforce an order of the Comptroller relating to—

"(A) the conservatorship and the bank in conservatorship, or

"(B) restraining or affecting the exercise of powers or functions of a conservator.

"(c) ADDITIONAL GROUNDS FOR APPOINTMENT.—In addition to the foregoing provisions, the Comptroller may appoint a conservator for a bank if—

"(1) the bank, by an affirmative vote of a majority of its board of directors or by an affirmative vote of a majority of its shareholders, consents to such appointment, or

"(2) the Federal Deposit Insurance Corporation terminates the bank's status as an insured bank.

The appointment of a conservator pursuant to this subsection shall not be subject to review.

"(d) EXCLUSIVE AUTHORITY.—The Comptroller shall have exclusive power and jurisdiction to appoint a conservator for a bank. Whenever the Comptroller appoints a conservator for any bank, the Comptroller may appoint the Federal Deposit Insurance Corporation conservator for such bank. The Federal Deposit Insurance Corporation, as such conservator, shall have all the powers granted under the Federal Deposit Insurance Act, and (when not inconsistent therewith) any other rights, powers, and privileges possessed by conservators of banks under this Act and any other provision of law. The Comptroller may also appoint another person as conservator, who shall be subject to the provisions of this Act.

"(e) REPLACEMENT OF CONSERVATOR.—The Comptroller may, without notice or hearing, replace a conservator with another conservator. Such replacement shall not affect the bank's right under subsection (b) to obtain judicial review of the Comptroller's original decision to appoint a conservator.".

SEC. 803. EXAMINATIONS.

Section 204 of the Bank Conservation Act (12 U.S.C. 204) is amended to read as follows:

"SEC. 204. EXAMINATIONS.

"The Comptroller of the Currency (in consultation with the Board of Directors of the Federal Deposit Insurance Corporation when the Corporation is appointed conservator) is authorized to examine and supervise the bank in conservatorship as long as the bank continues to operate as a going concern. The Comptroller may use reports and other information provided by the Federal Deposit Insurance Corporation for this purpose.".

SEC. 804. TERMINATION OF CONSERVATORSHIP.

Section 205 of the Bank Conservation Act (12 U.S.C. 205) is amended to read as follows:

"SEC. 205. TERMINATION OF CONSERVATORSHIP.

"(a) GENERAL RULE.—At any time the Comptroller becomes satisfied that it may safely be done and that it would be in the public interest, the Comptroller (with the agreement of the Board of Directors of the Federal Deposit Insurance Corporation when the Corporation has been appointed conservator) may—

"(1) terminate the conservatorship and permit the involved bank to resume the transaction of its business subject to such terms, conditions, and limitations as the Comptroller may prescribe; or

"(2) terminate the conservatorship upon a sale, merger, consolidation, purchase and assumption, change in control, or voluntary dissolution and liquidation of the involved bank.

"(b) OTHER GROUNDS FOR TERMINATION.—The Comptroller also may terminate the conservatorship upon the appointment of a receiver pursuant to the first section of the Act of June 30, 1876 (12 U.S.C. 191).

"(c) ENFORCEMENT UNDER FEDERAL DEPOSIT INSURANCE ACT.—Such terms, conditions, and limitations as may be prescribed under subsection (a)(1) shall be enforceable under the provisions of section 8(i) of the Federal Deposit Insurance Act, to the same extent as an order issued pursuant to section 8(b) of the Federal Deposit Insurance Act which has become final. The bank may bring an action in the United States district court for the judicial district in which the home office of such bank is located or in the United States District Court for the District of Columbia for an order requiring the Comptroller to terminate the order. An action for judicial review of the terms, conditions, and limitations may not be commenced later than 20 days from the date of the termination of the conservatorship or the imposition of the order, whichever is later.

"(d) ACTION UPON TERMINATION.—

"(1) IN GENERAL.—Upon termination of the conservatorship under subsection (a)(2), the Federal Deposit Insurance Corporation, as conservator, or when another person is appointed conservator, such other person, shall conclude the affairs of the conservatorship in accordance with paragraph (2).

"(2) DEPOSIT AND DISTRIBUTION OF PROCEEDS.—(A) Within 180 days of the sale, merger, consolidation, purchase and assumption, change in control, or voluntary dissolution and liquidation, the conservator shall deposit all net proceeds received from the transaction, less any outstanding expenses of the conservatorship, with the United States district court for the judicial district in which the home office of such bank is located and shall cause notice to be published for three consecutive months and notify by mail all known and remaining creditors and shareholders. Within 60 days thereafter, any depositor, creditor, or other claimant of the bank, or any shareholder of the bank may bring an action in interpleader in that court for distribution of the proceeds. The district court shall distribute such funds equitably. If no such action is instituted within one year after the date the funds are deposited with the district court, title to such net proceeds shall revert to the United States and the district court shall remit the funds to the Treasury of the United States.

"(B) The conservator shall be deemed to have discharged all responsibility of the conservatorship upon the deposit of the proceeds with the district court and giving the required notifications.".

SEC. 805. CONSERVATOR; POWERS AND DUTIES.

Section 206 of the Bank Conservation Act (12 U.S.C. 206) is amended to read as follows:

"SEC. 206. CONSERVATOR; POWERS AND DUTIES.

"(a) GENERAL POWERS.—A conservator shall have all the powers of the shareholders, directors, and officers of the bank and may operate the bank in its own name unless the Comptroller in the order of appointment limits the conservator's authority.

"(b) SUBJECT TO RULES OF COMPTROLLER.—The conservator shall be subject to such rules, regulations, and orders as the Comptroller from time to time deems appropriate; and, except as otherwise specifically provided in such rules, regulations, or orders or in section 209 of this Act, shall have the same rights and privileges and be subject to the same duties, restrictions, penalties, conditions, and limitations as apply to directors, officers, or employees of a national bank.

"(c) PAYMENT OF DEPOSITORS AND CREDITORS.—The Comptroller may require the conservator to set aside and make available for withdrawal by depositors and payment to other creditors such amounts as in the opinion of the Comptroller may safely be used for that purpose. All depositors and creditors who are similarly situated shall be treated in the same manner.

"(d) COMPENSATION OF CONSERVATOR AND EMPLOYEES.—The conservator and professional employees appointed to represent or assist the conservator shall not be paid amounts greater than are payable to employees of the Federal Government for similar services, except that the Comptroller of the Currency may authorize payment at higher rates (but not in excess of rates prevailing in the private sector), if the Comptroller determines that paying such higher rates is necessary in order to recruit and retain competent personnel.

"(e) EXPENSES.—All expenses of any such conservatorship shall be paid by the bank and shall be a lien upon the bank which shall be prior to any other lien.".

SEC. 806. LIABILITY PROTECTION.

Section 209 of the Bank Conservation Act (12 U.S.C. 209) is amended to read as follows:

"SEC. 209. LIABILITY PROTECTION.

"(a) FEDERAL AGENCY AND EMPLOYEES.—In any case in which the conservator is a Federal agency or an employee of the Government, the provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to such conservator's liability for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship.

"(b) OTHER CONSERVATORS.—In any case where the conservator is not a conservator described in subsection (a), the conservator shall not be liable for damages in tort or otherwise for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence, including any similar conduct or any form of intentional tortious conduct, as determined by a court.

"(c) INDEMNIFICATION.—The Comptroller shall have authority to indemnify the conservator on such terms as the Comptroller deems proper.".

SEC. 807. RULES AND REGULATIONS.

Section 211 of the Bank Conservation Act (12 U.S.C. 211) is amended to read as follows:

"SEC. 211. RULES AND REGULATIONS.

"(a) IN GENERAL.—The Comptroller of the Currency may prescribe such rules and regulations as the Comptroller may deem necessary to carry out the provisions of this Act.

"(b) F.D.I.C. AS CONSERVATOR.—In any case in which the Federal Deposit Insurance Corporation is the conservator, any rules or regulations prescribed by the Comptroller shall be consistent with any rules and regulations prescribed by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act.".

SEC. 808. REPEALS.

Sections 207 and 208 of the Bank Conservation Act (12 U.S.C. 207 and 208) are repealed.

TITLE IX—REGULATORY ENFORCEMENT AUTHORITY AND CRIMINAL ENHANCEMENTS

Subtitle A—Expanded Enforcement Powers, Increased Penalties, and Improved Accountability

SEC. 901. INSTITUTION-AFFILIATED PARTIES OF A DEPOSITORY INSTITUTION SUBJECT TO ADMINISTRATIVE ENFORCEMENT ORDERS; SUBSTITUTION OF "DEPOSITORY INSTITUTION" FOR "BANK" IN ENFORCEMENT PROVISIONS.

(a) INSTITUTION-AFFILIATED PARTY DEFINED.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end thereof the following new subsection:

"(r) INSTITUTION-AFFILIATED PARTY DEFINED.—For purposes of this Act, the term 'institution-affiliated party' means—

"(1) any committee member, director, officer, or employee of, or agent for, an insured credit union;

"(2) any consultant, joint venture partner, and any other person as determined by the Board (by regulation or on a case-by-case basis) who participates in the conduct of the affairs of an insured credit union; and

"(3) any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in—

"(A) any violation of any law or regulation;

"(B) any breach of fiduciary duty; or

"(C) any unsafe or unsound practice,

which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the insured credit union.".

(b) AMENDMENTS RELATING TO USE OF "INSTITUTION-AFFILIATED PARTY".—

(1) FDIA.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(A) in subsection (b)(1)—

(i) by striking out "director, officer, employee, agent, or other person participating in the conduct of the affairs of such a bank" and inserting in lieu thereof "institution-affiliated party"; and

(ii) by striking out "directors, officers, employees, agents, or other persons participating in the conduct of the affairs of such bank" and inserting in lieu thereof "institution-affiliated parties";

(B) in each of subsections (b)(1) and (c)—

(i) by striking out "director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank" each place such term appears and inserting in lieu thereof "institution-affiliated party"; and

(ii) by striking out "such director, officer, employee, agent, or other person" each place such term appears and inserting in lieu thereof "such party";

(C) in subsection (e)(4), as so redesignated by section 903(a)(2) of this Act—

(i) by striking out "a director, officer, or other person from office or to prohibit his participation" and inserting in lieu thereof "an institution-affiliated party from office or to prohibit such party from participating";

(ii) by striking out "such director or officer or other person" and inserting in lieu thereof "such party";

(iii) by striking out "such director, officer, or other person" and inserting in lieu thereof "such party";

(iv) by striking out "he" and inserting in lieu thereof "such party";

(v) by striking out "any director, officer or other person" and inserting in lieu thereof "any such party"; and

(vi) by striking out "the director, officer, or other person concerned" and inserting in lieu thereof "such party";

(D) in subsection (e)(5), as so redesignated by section 903(a)(2) of this Act—

(i) by inserting after "the term 'officer' " the following: "within the term 'institution-affiliated party' "; and

(ii) by inserting after "the term 'director' " the following: "within the term 'institution-affiliated party' as used in this subsection";

(E) in subsection (f)—

(i) by striking out "any director, officer, or other person" and inserting in lieu thereof "any institution-affiliated party"; and

(ii) by striking out "such director, officer, or other person" each place such term appears and inserting in lieu thereof "such party";

(F) in subsection (g)(1)—

(i) by striking out "director or officer of an insured bank, or other person participating in the conduct of the affairs of such bank" and inserting in lieu thereof "institution-affiliated party";

(ii) by striking out "the individual" each place such term appears and inserting in lieu thereof "such party";

(iii) by striking out "such director, officer, or other person" each place such term appears and inserting in lieu thereof "such party";

(iv) by striking out "him" each place such term appears and inserting in lieu thereof "such party";

(v) by striking out "director, officer or other person" and inserting in lieu thereof "party"; and

(vi) by striking out "whereupon such director or officer" and inserting in lieu thereof "whereupon such party (if a director or an officer)";

(G) in subsection (g)(3)—

(i) by striking out "the director, officer, or other person concerned" and inserting in lieu thereof "the institution-affiliated party concerned";

(ii) by striking out "such individual" each place such term appears and inserting in lieu thereof "such party";

(iii) by striking out "the concerned director, officer, or other person" and inserting in lieu thereof "such party";

(iv) by striking out "the director, officer, or other person" each place such term appears (except in "the director, officer, or other person concerned") and inserting in lieu thereof "such party";

(v) by striking out "said director, officer or other person" and inserting in lieu thereof "such party"; and

(vi) by striking out "the director, officer or other person" and inserting in lieu thereof "such party";

(H) in subsection (h)(2), by striking out "director or officer or other person" and inserting in lieu thereof "institution-affiliated party";

(I) in subsection (l), by striking out "director or officer thereof or other person participating in the conduct of its affairs" and inserting in lieu thereof "institution-affiliated party"; and

(J) in subsection (m), by striking out "director or officer or other person participating in the conduct of its affairs" and inserting in lieu thereof "institution-affiliated party".

(2) FCUA.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(A) in subsection (e)(1)—

(i) by striking out "director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union" and inserting in lieu thereof "institution-affiliated party"; and

(ii) by striking out "directors, officers, committee members, employees, agents, or other persons participating in the conduct of the affairs of such credit union" and inserting in lieu thereof "institution-affiliated parties";

(B) in each of subsections (e)(1) and (f)—

(i) by striking out "director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union" each place such term appears and inserting in lieu thereof "institution-affiliated party"; and

(ii) by striking out "such director, officer, committee member, employee, agent, or other person" each place such term appears and inserting in lieu thereof "such party"; and

(C) in subsection (f)(1), by striking out "such director, officer, committee member, employee, agent, or other person" and inserting in lieu thereof "such party";

(D) in subsection (i)(1)—

(i) by striking out "director, committee member, or officer of an insured credit union, or other person participating in the conduct of the affairs of such credit union" and inserting in lieu thereof "institution-affiliated party";

(ii) by striking out "the individual" each place such term appears and inserting in lieu thereof "such party";

(iii) by striking out "such director, committee member, officer, or other person" each place such term appears and inserting in lieu thereof "such party";

(iv) by striking out "him" and inserting in lieu thereof "such party";

(v) by striking out "director, officer or other person" and inserting in lieu thereof "party"; and

(vi) by striking out "whereupon such director, committee member, or officer" and inserting in lieu thereof "whereupon such party (if a director, a committee member, or an officer)";

(E) in subsection (i)(3)—

(i) by striking out "director, committee member, officer, or other person concerned" and inserting in lieu thereof "institution-affiliated party concerned"; and

(ii) by striking out "such individual" each place such term appears and inserting in lieu thereof "such party";

(iii) by striking out "the concerned director, committee member, officer, or other person" and inserting in lieu thereof "such party";

(iv) by striking out "the director, committee member, officer, or other person" each place such term appears (except in "the director, committee member, officer, or other person concerned") and inserting in lieu thereof "such party"; and

(v) by striking out "said director, committee member, officer or other person" and inserting in lieu thereof "such party";

(F) in subsection (j)(2), by striking out "director, officer, committee member, or other person" and inserting in lieu thereof "institution-affiliated party"; and

(G) in subsection (o), by striking out "director, officer, committee member or other person participating in the conduct of its affairs" and inserting in lieu thereof "institution-affiliated party".

(d) SUBSTITUTION OF "DEPOSITORY INSTITUTION" FOR "BANK".—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), as amended by subsection (b)(1) of this section, is amended by striking out "bank" and "banks" each place such terms appear and inserting in lieu thereof "depository institution" and "depository institutions", respectively, except in subsections (b)(3), (b)(4), (m), (o), and (r).

SEC. 902. AMENDMENTS TO CEASE AND DESIST AUTHORITY WITH RESPECT TO RESTITUTION, RESTRICTIONS ON SPECIFIC ACTIVITIES, GROUNDS FOR ISSUANCE OF A TEMPORARY ORDER, AND INCOMPLETE OR INACCURATE RECORDS.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—

(1) CEASE AND DESIST AUTHORITY.—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended—

(A) in paragraph (3), by striking out "subsections (c) through (f) and (h) through (n)" and inserting in lieu thereof "subsections (c) through (s) and subsection (u)";

(B) in paragraph (4), by striking out "subsections (c) through (f) and (h) through (n)" and inserting in lieu thereof "subsections (c) through (s) and subsection (u)"; and

(C) by adding at the end thereof the following new paragraphs:

"(6) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR PRACTICES.—The authority to issue an order under this subsection and subsection (c) which requires an insured depository institution or any institution-affiliated party to take affirmative action to correct any conditions resulting from any violation or practice with respect to which such order is issued includes the authority to require such depository institution or such party to—

"(A) make restitution or provide reimbursement, indemnification, or guarantee against loss if—

"(i) such depository institution or such party was unjustly enriched in connection with such violation or practice; or

"(ii) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the appropriate Federal banking agency;

"(B) restrict the growth of the institution;

"(C) dispose of any loan or asset involved;

"(D) rescind agreements or contracts; and

"(E) employ qualified officers or employees (who may be subject to approval by the appropriate Federal banking agency at the direction of such agency); and

"(F) take such other action as the banking agency determines to be appropriate.

"(7) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this subsection or subsection (c) includes the authority to place limitations on the activities or functions of an insured depository institution or any institution-affiliated party.

"(8) EXPANSION OF AUTHORITY TO SAVINGS AND LOAN AFFILIATES AND ENTITIES.—Subsections (a) through (s) and subsection (u) shall apply to any savings and loan holding company and to any subsidiary (other than a bank or subsidiary of that bank) of a savings and loan holding company, to any service corporation of a savings association and to any subsidiary of such service corporation, whether wholly or partly owned, in the same manner as such subsections apply to a savings association.".

(2) TEMPORARY CEASE AND DESIST AUTHORITY.—Section 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is amended—

(A) in paragraph (1)—

(i) by striking out "substantial" and inserting in lieu thereof "significant";

(ii) by striking out "seriously" each place such term appears; and

(iii) by inserting after the 1st sentence the following new sentence: "Such order may include any requirement authorized under subsection (b)(6)(B)."; and

(B) by adding at the end thereof the following new paragraph:

"(3) INCOMPLETE OR INACCURATE RECORDS.—

"(A) TEMPORARY ORDER.—If a notice of charges served under subsection (b)(1) specifies, on the basis of particular facts and circumstances, that an insured depository institution's books and records are so incomplete or inaccurate that the appropriate Federal banking agency is unable, through the normal supervisory process, to determine the financial condition of that depository institution or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of that depository institution, the agency may issue a temporary order requiring—

"(i) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

"(ii) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under subsection (b)(1).

"(B) EFFECTIVE PERIOD.—Any temporary order issued under subparagraph (A)—

"(i) shall become effective upon service; and

"(ii) unless set aside, limited, or suspended by a court in proceedings under paragraph (2), shall remain in effect and enforceable until the earlier of—

"(I) the completion of the proceeding initiated under subsection (b)(1) in connection with the notice of charges; or

"(II) the date the appropriate Federal banking agency determines, by examination or otherwise, that the insured depository institution's books and records are accurate and reflect the financial condition of the depository institution.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—

(1) CEASE AND DESIST AUTHORITY.—Section 206(e) of the Federal Credit Union Act (12 U.S.C. 1786(e)) is amended by adding at the end thereof the following new paragraphs:

"(3) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR PRACTICES.—The authority to issue an order under this subsection and subsection (f) which requires an insured credit union or any institution-affiliated party to take affirmative action to correct any conditions resulting from any violation or practice with respect to which such order is issued includes the authority to require such insured credit union or such party to—

"(A) make restitution or provide reimbursement, indemnification, or guarantee against loss if—

"(i) such credit union or such party was unjustly enriched in connection with such violation or practice; or

"(ii) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the Board;

"(B) restrict the growth of the institution;

"(C) rescind agreements or contracts;

"(D) dispose of any loan or asset involved; and

"(E) employ qualified officers or employees (who may be subject to approval by the Board at the direction of such Board); and

"(F) take such other action as the Board determines to be appropriate.

"(4) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this subsection or subsection (f) includes the authority to place limitations on the activities or functions of an insured credit union or any institution-affiliated party.".

(2) TEMPORARY CEASE AND DESIST AUTHORITY.—Section 206(f) of the Federal Credit Union Act (12 U.S.C. 1786(f)) is amended—

(A) by redesignating paragraph (3) as paragraph (4);

(B) in paragraph (1)—

(i) by striking out "substantial" and inserting in lieu thereof "significant";

(ii) by striking out "seriously" each place such term appears; and

(iii) by inserting after the 1st sentence the following new sentence: "Such order may include any requirement authorized under subsection (e)(3)(B)."; and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) INCOMPLETE OR INACCURATE RECORDS.—

"(A) TEMPORARY ORDER.—If a notice of charges served under subsection (e)(1) specifies, on the basis of particular facts and circumstances, that an insured credit union's books and records are so incomplete or inaccurate that the Board is unable, through the normal supervisory process, to determine the financial condition of that insured credit union or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of that insured credit union, the Board may issue a temporary order requiring—

"(i) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

"(ii) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under subsection (e)(1).

"(B) EFFECTIVE PERIOD.—Any temporary order issued under subparagraph (A)—

"(i) shall become effective upon service; and

"(ii) unless set aside, limited, or suspended by a court in proceedings under paragraph (2), shall remain in effect and enforceable until the earlier of—

"(I) the completion of the proceeding initiated under subsection (e)(1) in connection with the notice of charges; or

"(II) the date the Board determines, by examination or otherwise, that the insured credit union's books and records are accurate and reflect the financial condition of the credit union.".

SEC. 903. MERGER OF REMOVAL AND PROHIBITION AUTHORITY.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—

(1) IN GENERAL.—Section 8(e)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(1)) is amended to read as follows:

"(e) REMOVAL AND PROHIBITION AUTHORITY.—

"(1) AUTHORITY TO ISSUE ORDER.—Whenever the appropriate Federal banking agency determines that—

"(A) any institution-affiliated party has, directly or indirectly—

"(i) violated—

"(I) any law or regulation;

"(II) any cease-and-desist order which has become final;

"(III) any condition imposed in writing by the appropriate Federal banking agency in connection with the grant of any application or other request by such depository institution; or

"(IV) any written agreement between such depository institution and such agency;

"(ii) engaged or participated in any unsafe or unsound practice in connection with any insured depository institution or business institution; or

"(iii) committed or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty;

"(B) by reason of the violation, practice, or breach described in any clause of subparagraph (A)—

"(i) such insured depository institution or business institution has suffered or will probably suffer financial loss or other damage;

"(ii) the interests of the insured depository institution's depositors have been or could be prejudiced; or

"(iii) such party has received financial gain or other benefit by reason of such violation, practice, or breach; and

"(C) such violation, practice, or breach—

"(i) involves personal dishonesty on the part of such party; or

"(ii) demonstrates willful or continuing disregard by such party for the safety or soundness of such insured depository institution or business institution,

the agency may serve upon such party a written notice of the agency's intention to remove such party from office or to prohibit any further participation by such party, in any manner, in the conduct of the affairs of any insured depository institution.".

(2) TEMPORARY SUSPENSION OR PROHIBITION.—Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended by striking out paragraphs (2) and (4), by redesignating paragraphs (3), (5), and (6) as paragraphs (2), (4), and (5), respectively, and by inserting after paragraph (2) (as so redesignated) the following new paragraph:

"(3) SUSPENSION ORDER.—

"(A) SUSPENSION OR PROHIBITION AUTHORIZED.—If the appropriate Federal banking agency serves written notice under paragraph (1) or (2) to any institution-affiliated party of such agency's intention to issue an order under such paragraph, the appropriate Federal banking agency may suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution, if the agency—

"(i) determines that such action is necessary for the protection of the depository institution or the interests of the depository institution's depositors; and

"(ii) serves such party with written notice of the suspension order.

"(B) EFFECTIVE PERIOD.—Any suspension order issued under subparagraph (A)—

"(i) shall become effective upon service; and

"(ii) unless a court issues a stay of such order under subsection (f), shall remain in effect and enforceable until—

"(I) the date the appropriate Federal banking agency dismisses the charges contained in the notice served under paragraph (1) or (2) with respect to such party; or

"(II) the effective date of an order issued by the agency to such party under paragraph (1) or (2).

"(C) COPY OF ORDER.—If an appropriate Federal banking agency issues a suspension order under subparagraph (A) to any institution-affiliated party, the agency shall serve a copy of such order on any insured depository institution with which such party is associated at the time such order is issued.".

(3) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended by adding after paragraph (5) (as so redesignated by paragraph (2) of this subsection) the following new paragraph:

"(6) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Any person subject to an order issued under this subsection shall not—

"(A) participate in any manner in the conduct of the affairs of any institution or agency specified in paragraph (7)(A);

"(B) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any institution described in subparagraph (A);

"(C) violate any voting agreement previously approved by the appropriate Federal banking agency; or

"(D) vote for a director, or serve or act as an institution-affiliated party.".

(4) CONFORMING AMENDMENTS.—

(A) Section 8(f) of the Federal Deposit Insurance Act (12 U.S.C. 1818(f)) is amended—

(i) by striking out "(e)(4)" and inserting in lieu thereof "(e)(3)"; and

(ii) by striking out "(e)(1), (e)(2), or (e)(3)" and inserting in lieu thereof "(e)(1) or (e)(2)".

(B) Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended by striking out "(1), (2), (3), or (4)" and inserting in lieu thereof "(1), (2), or (3)".

(b) CREDIT UNIONS INSURED BY THE NCUA.—

(1) IN GENERAL.—Section 206(g)(1) of the Federal Credit Union Act (12 U.S.C. 1786(g)(1)) is amended to read as follows:

"(g) REMOVAL AND PROHIBITION AUTHORITY.—

"(1) AUTHORITY TO ISSUE ORDER.—Whenever the Board determines that—

"(A) any institution-affiliated party has, directly or indirectly—

"(i) violated—

"(I) any law or regulation;

"(II) any cease-and-desist order which has become final;

"(III) any condition imposed in writing by the Board in connection with the grant of any application or other request by such credit union; or

"(IV) any written agreement between such credit union and the Board;

"(ii) engaged or participated in any unsafe or unsound practice in connection with any insured credit union or business institution; or

"(iii) committed or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty;

"(B) by reason of the violation, practice, or breach described in any clause of subparagraph (A)—

"(i) such insured credit union or business institution has suffered or will probably suffer financial loss or other damage;

"(ii) the interests of the insured credit union's members have been or could be prejudiced; or

"(iii) such party has received financial gain or others benefit by reason of such violation, practice or breach; and

"(C) such violation, practice, or breach—

"(i) involves personal dishonesty on the part of such party; or

"(ii) demonstrates such party's unfitness to serve as a director or officer of, or to otherwise participate in the conduct of the affairs of, an insured credit union,

the Board may serve upon such party a written notice of the Board's intention to remove such party from office or to prohibit any further participation, by such party, in any manner in the conduct of the affairs of any insured credit union.".

(2) TEMPORARY SUSPENSION OR PROHIBITION.—Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended by striking out paragraphs (2) and (4), by redesignating paragraphs (3) and (5) as paragraphs (2) and (4), respectively, and by inserting after paragraph (2) (as so redesignated) the following new paragraph:

"(3) SUSPENSION ORDER.—

"(A) SUSPENSION OR PROHIBITION AUTHORIZED.—If the Board serves written notice under paragraph (1) or (2) to any institution-affiliated party of the Board's intention to issue an order under such paragraph, the Board may suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the institution, if the Board—

"(i) determines that such action is necessary for the protection of the credit union or the interests of the credit union's members; and

"(ii) serves such person with written notice of the suspension order.

"(B) EFFECTIVE PERIOD.—Any suspension order issued under subparagraph (A)—

"(i) shall become effective upon service; and

"(ii) unless a court issues a stay of such order under paragraph (6), shall remain in effect and enforceable until—

"(I) the date the Board dismisses the charges contained in the notice served under paragraph (1) or (2) with respect to such party; or

"(II) the effective date of an order issued by the Board to such person under paragraph (1) or (2).

"(C) COPY OF ORDER.—If the Board issues a suspension order under subparagraph (A) to any institution-affiliated party, the Board shall serve a copy of such order on any insured credit union with which such party is associated at the time such order is issued.".

(3) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES REQUIRED.—Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended by adding after paragraph (4) (as so redesignated by paragraph (2) of this subsection) the following new paragraph:

"(5) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Any person subject to an order issued under this subsection shall not—

"(A) participate in any manner in the conduct of the affairs of any institution or agency specified in paragraph (7)(A);

"(B) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any institution described in subparagraph (A);

"(C) violate any voting agreement previously approved by the appropriate Federal banking agency; or

"(D) vote for a director, or serve or act as an institution-affiliated party.".

(4) CONFORMING AMENDMENTS.—Section 206(g)(6) of the Federal Credit Union Act (12 U.S.C. 1786(g)(6)) is amended—

(A) by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)"; and

(B) by striking out "(1), (2), or (3)" and inserting in lieu thereof "(1) or (2)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations committed and activities engaged in after the date of the enactment of this Act.

SEC. 904. INDUSTRYWIDE APPLICATION OF REMOVAL, SUSPENSION, AND PROHIBITION ORDERS.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended by inserting after the paragraph added by section 903(a)(3) of this Act the following new paragraph:

"(7) INDUSTRYWIDE PROHIBITION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any person who, pursuant to an order issued under this subsection or subsection (g), has been removed or suspended from office in an insured depository institution or prohibited from participating in the conduct of the affairs of an insured depository institution may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of—

"(i) any insured depository institution;

"(ii) any institution treated as an insured bank under subsection (b)(3) or (b)(4), or as a savings association under subsection (b)(8);

"(iii) any insured credit union under the Federal Credit Union Act;

"(iv) any institution chartered under the Farm Credit Act of 1971;

"(v) any appropriate Federal depository institution regulatory agency;

"(vi) the Federal Housing Finance Board and any Federal home loan bank; and

"(vii) the Resolution Trust Corporation.

"(B) EXCEPTION IF AGENCY PROVIDES WRITTEN CONSENT.—If, on or after the date an order is issued under this subsection which removes or suspends from office any institution-affiliated party or prohibits such party from participating in the conduct of the affairs of an insured depository institution, such party receives the written consent of—

"(i) the agency that issued such order; and

"(ii) the appropriate Federal financial institutions regulatory agency of the institution described in any clause of subparagraph (A) with respect to which such party proposes to become an institution-affiliated party,

subparagraph (A) shall, to the extent of such consent, cease to apply to such party with respect to the institution described in each written consent. Any agency that grants such a written consent shall report such action to the Corporation and publicly disclose such consent.

"(C) VIOLATION OF PARAGRAPH TREATED AS VIOLATION OF ORDER.—Any violation of subparagraph (A) by any person who is subject to an order described in such subparagraph shall be treated as a violation of the order.

"(D) APPROPRIATE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCY DEFINED.—For purposes of this paragraph and subsection (j), the term "appropriate Federal financial institutions regulatory agency" means—

"(i) the appropriate Federal banking agency, in the case of an insured depository institution;

"(ii) the Farm Credit Administration, in the case of an institution chartered under the Farm Credit Act of 1971;

"(iii) the National Credit Union Administration Board, in the case of an insured credit union (as defined in section 101(7) of the Federal Credit Union Act);

"(iv) the Secretary of the Treasury, in the case of the Federal Housing Finance Board and any Federal home loan bank; and

"(v) the Oversight Board, in the case of the Resolution Trust Corporation.

"(E) CONSULTATION BETWEEN AGENCIES.—The agencies referred to in clauses (i) and (ii) of subparagraph (B) shall consult with each other before providing any written consent described in subparagraph (B).

"(F) APPLICABILITY.—This paragraph shall only apply to a person who is an individual, unless the appropriate Federal banking agency specifically finds that it should apply to a corporation, firm, or other business enterprise.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 206(g)(7) of the Federal Credit Union Act (12 U.S.C. 1786(g)(7)) is amended to read as follows:

"(7) INDUSTRYWIDE PROHIBITION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any person who, pursuant to an order issued under this subsection or subsection (i), has been removed or suspended from office in an insured credit union or prohibited from participating in the conduct of the affairs of an insured credit union may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of—

"(i) any insured depository institution;

"(ii) any institution treated as an insured bank under paragraph (3) or (4) of section 8(b) of the Federal Deposit Insurance Act, or as a savings association under section 8(b)(8) of such Act;

"(iii) any insured credit union;

"(iv) any institution chartered under the Farm Credit Act of 1971;

"(v) any appropriate Federal depository institution regulatory agency;

"(vi) the Federal Housing Finance Board and any Federal home loan bank; and

"(vii) the Resolution Trust Corporation.

"(B) EXCEPTION IF AGENCY PROVIDES WRITTEN CONSENT.—If, on or after the date an order is issued under this subsection which removes or suspends from office any institution-affiliated party or prohibits such party from participating in the conduct of the affairs of an insured credit union, such party receives the written consent of—

"(i) the Board; and

"(ii) the appropriate Federal financial institutions regulatory agency of the institution described in any clause of subparagraph (A) with respect to which such party proposes to become an institution-affiliated party,

subparagraph (A) shall, to the extent of such consent, cease to apply to such party with respect to the institution described in each written consent. If any person receives such a written consent from the Board, the Board shall publicly disclose such consent. If the agency referred to in clause (ii) grants such a written consent, such agency shall report such action to the Board and publicly disclose such consent.

"(C) VIOLATION OF PARAGRAPH TREATED AS VIOLATION OF ORDER.—Any violation of subparagraph (A) by any person who is subject to an order described in such subparagraph shall be treated as a violation of the order.

"(D) APPROPRIATE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCY DEFINED.—For purposes of this paragraph and subsection (1), the term "appropriate Federal financial institutions regulatory agency" means—

"(i) the appropriate Federal banking agency, as provided in section 3(q) of the Federal Deposit Insurance Act;

"(ii) the Farm Credit Administration, in the case of an institution chartered under the Farm Credit Act of 1971;

"(iii) the National Credit Union Administration Board, in the case of an insured credit union (as defined in section 101(7) of the Federal Credit Union Act);

"(iv) the Secretary of the Treasury, in the case of the Federal Housing Finance Board and any Federal home loan bank; and

"(v) the Oversight Board, in the case of the Resolution Trust Corporation.

"(E) CONSULTATION BETWEEN AGENCIES.—The agencies referred to in clauses (i) and (ii) of subparagraph (B) shall consult with each other before providing any written consent described in subparagraph (B).

"(F) APPLICABILITY.—This paragraph shall only apply to a person who is an individual, unless the Board specifically finds that it should apply to a corporation, firm, or other business enterprise.".

SEC. 905. ENFORCEMENT PROCEEDINGS ALLOWED AFTER SEPARATION FROM SERVICE.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end thereof the following new paragraph:

"(3) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (including a separation caused by the closing of an insured depository institution) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such depository institution (whether such date occurs before, on, or after the date of the enactment of this paragraph).".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 206(k) of the Federal Credit Union Act (12 U.S.C. 1786(k)) is amended by adding at the end thereof the following new paragraph:

"(3) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (including a separation caused by the closing of an insured credit union) shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such credit union (whether such date occurs before, on, or after the date of the enactment of this paragraph).".

(c) CHANGE IN CONTROL OF DEPOSITORY INSTITUTION.—Section 7(j)(15) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(15)) is amended by adding at the end thereof the following new sentence: "The resignation, termination of employment or participation, divestiture of control, or separation of or by an institution-affiliated party (including a separation caused by the closing of a depository institution) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this subsection against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such depository institution (whether such date occurs before, on, or after the date of the enactment of this sentence).".

(d) NONMEMBER INSURED BANKS AND SAVINGS ASSOCIATIONS.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by adding at the end the following new paragraph:

"(6) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (including a separation caused by the closing of a nonmember bank or a savings association) shall not affect the jurisdiction and authority of the Corporation or the Director of the Office of Thrift Supervision, as appropriate, to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such nonmember bank or such savings association (whether such date occurs before, on, or after the date of the enactment of this paragraph).".

(e) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end thereof the following new subsection:

"(c) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such an association (including a separation caused by the closing of such an association) shall not affect the jurisdiction and authority of the Comptroller of the Currency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such association (whether such date occurs before, on, or after the date of the enactment of this subsection).".

(f) MEMBER BANKS.—Section 29 of the Federal Reserve Act (12 U.S.C. 504(a)), as added by section 907(g) of this Act, is amended by adding at the end the following new subsection:

"(m) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a member bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such bank (whether such date occurs before, on, or after the date of the enactment of this subsection).".

(g) MEMBER BANKS.—Section 19 of the Federal Reserve Act (12 U.S.C. 505) is amended by adding at the end thereof the following new subsection:

"(m) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a member bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such bank (whether such date occurs before, on, or after the date of the enactment of this subsection).".

(h) BANKS.—Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended by adding at the end the following new subparagraph:

"(I) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such a bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such bank (whether such date occurs before, on, or after the date of the enactment of this subparagraph).".

(i) BANK HOLDING COMPANIES.—Section 8 of the Bank Holding Company Act of 1956 (12 U.S.C. 1847) is amended by adding at the end the following new subsection:

"(c) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a bank holding company (including a separation caused by the deregistration of such a company) shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such holding company (whether such date occurs before, on, or after the date of the enactment of this subsection).".

(j) SAVINGS AND LOAN HOLDING COMPANIES.—Section 10(i) of the Home Owners' Loan Act (as amended by section 301 of this Act) is amended by adding at the end thereof the following new paragraph:

"(5) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a savings and loan holding company or subsidiary thereof (including a separation caused by the deregistration of such a company or such a subsidiary) shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such holding company or its subsidiary (whether such date occurs before, on, or after the date of the enactment of this paragraph).".

SEC. 906. EXPANSION OF REMOVAL POWERS FOR STATE CRIMINAL PROCEEDINGS.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended—

(1) in the 1st sentence, by striking "authorized by a United States attorney"; and

(2) in the 4th sentence, by striking "with respect to such crime" and inserting in lieu thereof "or an agreement to enter a pre-trial diversion or other similar program".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)) is amended—

(1) in the 1st sentence, by striking "authorized by a United States Attorney"; and

(2) in the 4th sentence, by striking "with respect to such crime" and inserting in lieu thereof "or an agreement to enter a pre-trial diversion or other similar program".

SEC. 907. AMENDMENTS TO EXPAND AND INCREASE CIVIL MONEY PENALTIES.

(a) GENERAL PROVISIONS FOR DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 8(i)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)) is amended to read as follows:

"(2) CIVIL MONEY PENALTY.—

"(A) FIRST TIER.—Any insured depository institution which, and any institution-affiliated party who—

"(i) violates any law or regulation;

"(ii) violates any final order or temporary order issued pursuant to subsection (b), (c), (e), (g), or (s);

"(iii) violates any condition imposed in writing by the appropriate Federal banking agency in connection with the grant of any application or other request by such depository institution; or

"(iv) violates any written agreement between such depository institution and such agency,

shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), any insured depository institution which, and any institution-affiliated party who—

"(i)(I) commits any violation described in any clause of subparagraph (A);

"(II) recklessly engages in an unsafe or unsound practice in conducting the affairs of such insured depository institution; or

"(III) breaches any fiduciary duty;

"(ii) which violation, practice, or breach—

"(I) is part of a pattern of misconduct;

"(II) causes or is likely to cause more than a minimal loss to such depository institution; or

"(III) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), any insured depository institution which, and any institution-affiliated party who—

"(i) knowingly—

"(I) commits any violation described in any clause of subparagraph (A);

"(II) engages in any unsafe or unsound practice in conducting the affairs of such depository institution; or

"(III) breaches any fiduciary duty; and

"(ii) knowingly or recklessly causes a substantial loss to such depository institution or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (D) for each day during which such violation, practice, or breach continues.

"(D) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (C).—The maximum daily amount of any civil penalty which may be assessed pursuant to subparagraph (C) for any violation, practice, or breach described in such subparagraph is—

"(i) in the case of any person other than an insured depository institution, an amount to not exceed $1,000,000; and

"(ii) in the case of any insured depository institution, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such institution.

"(E) ASSESSMENT.—

"(i) WRITTEN NOTICE.—Any penalty imposed under subparagraph (A), (B), or (C) may be assessed and collected by the appropriate Federal banking agency by written notice.

"(ii) FINALITY OF ASSESSMENT.—If, with respect to any assessment under clause (i), a hearing is not requested pursuant to subparagraph (H) within the period of time allowed under such subparagraph, the assessment shall constitute a final and unappealable order.

"(F) AUTHORITY TO MODIFY OR REMIT PENALTY.—Any appropriate Federal banking agency may compromise, modify, or remit any penalty which such agency may assess or had already assessed under subparagraph (A), (B), or (C).

"(G) MITIGATING FACTORS.—In determining the amount of any penalty imposed under subparagraph (A), (B), or (C), the appropriate agency shall take into account the appropriateness of the penalty with respect to—

"(i) the size of financial resources and good faith of the insured depository institution or other person charged;

"(ii) the gravity of the violation;

"(iii) the history of previous violations; and

"(iv) such other matters as justice may require.

"(H) HEARING.—The insured depository institution or other person against whom any penalty is assessed under this paragraph shall be afforded an agency hearing if such institution or person submits a request for such hearing within 20 days after the issuance of the notice of assessment.

"(I) COLLECTION.—

"(i) REFERRAL.—If any insured depository institution or other person fails to pay an assessment after any penalty assessed under this paragraph has become final, the agency that imposed the penalty shall recover the amount assessed by action in the appropriate United States district court.

"(ii) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any civil action under clause (i), the validity and appropriateness of the penalty shall not be subject to review.

"(J) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(K) REGULATIONS.—Each appropriate Federal banking agency shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.".

(b) GENERAL PROVISIONS FOR CREDIT UNIONS INSURED BY THE NCUA.—Section 206(k)(2) of the Federal Credit Union Act (12 U.S.C. 1786(k)(2)) is amended to read as follows:

"(2) CIVIL MONEY PENALTY.—

"(A) FIRST TIER.—Any insured credit union which, and any institution-affiliated party who—

"(i) violates any law or regulation;

"(ii) violates any final order or temporary order issued pursuant to subsection (e), (f), (g), (i), or (q);

"(iii) violates any condition imposed in writing by the Board in connection with the grant of any application or other request by such credit union; or

"(iv) violates any written agreement between such credit union and such agency,

shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), any insured credit union which, and any institution-affiliated party who—

"(i)(I) commits any violation described in any clause of subparagraph (A);

"(II) recklessly engages in an unsafe or unsound practice in conducting the affairs of such credit union; or

"(III) breaches any fiduciary duty;

"(ii) which violation, practice, or breach—

"(I) is part of a pattern of misconduct;

"(II) causes or is likely to cause more than a minimal loss to such credit union; or

"(III) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), any insured credit union which, and any institution-affiliated party who—

"(i) knowingly—

"(I) commits any violation described in any clause of subparagraph (A);

"(II) engages in any unsafe or unsound practice in conducting the affairs of such credit union; or

"(III) breaches any fiduciary duty; and

"(ii) knowingly or recklessly causes a substantial loss to such credit union or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (D) for each day during which such violation, practice, or breach continues.

"(D) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (C).—The maximum daily amount of any civil penalty which may be assessed pursuant to subparagraph (C) for any violation, practice, or breach described in such subparagraph is—

"(i) in the case of any person other than an insured credit union, an amount to not exceed $1,000,000; and

"(ii) in the case of any insured credit union, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such credit union.

"(E) ASSESSMENT.—

"(i) WRITTEN NOTICE.—Any penalty imposed under subparagraph (A), (B), or (C) may be assessed and collected by the Board by written notice.

"(ii) FINALITY OF ASSESSMENT.—If, with respect to any assessment under clause (i), a hearing is not requested pursuant to subparagraph (H) within the period of time al-

lowed under such subparagraph, the assessment shall constitute a final and unappealable order.

"(F) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Board may compromise, modify, or remit any penalty which such agency may assess or had already assessed under subparagraph (A), (B), or (C).

"(G) MITIGATING FACTORS.—In determining the amount of any penalty imposed under subparagraph (A), (B), or (C), the Board shall take into account the appropriateness of the penalty with respect to—

"(i) the size of financial resources and good faith of the insured credit union or the person charged;

"(ii) the gravity of the violation;

"(iii) the history of previous violations; and

"(iv) such other matters as justice may require.

"(H) HEARING.—The insured credit union or other person against whom any penalty is assessed under this paragraph shall be afforded an agency hearing if such institution or person submits a request for such hearing within 20 days after the issuance of the notice of assessment.

"(I) COLLECTION.—

"(i) REFERRAL.—If any insured credit union or other person fails to pay an assessment after any penalty assessed under this paragraph has become final, the Board shall recover the amount assessed by action in the appropriate United States district court.

"(ii) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any civil action under clause (i), the validity and appropriateness of the penalty shall not be subject to review.

"(J) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(K) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(L) REGULATIONS.—The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.".

(c) NONMEMBER INSURED BANKS AND SAVINGS ASSOCIATIONS.—Paragraphs (4) and (5) of section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) are amended to read as follows:

"(4) CIVIL MONEY PENALTY.—

"(A) FIRST TIER.—Any nonmember insured bank or savings association which, and any institution-affiliated party who, violates any provision of section 22(h), 23A, or 23B of the Federal Reserve Act or any lawful regulation issued pursuant thereto, and any nonmember insured bank which, and any institution-affiliated party who, violates any provision of section 20 of the Banking Act of 1933, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), any nonmember insured bank or savings association which, and any institution-affiliated party who—

"(i)(I) commits any violation described in any clause of subparagraph (A);

"(II) recklessly engages in an unsafe or unsound practice in conducting the affairs of such bank or association, as the case may be; or

"(III) breaches any fiduciary duty;

"(ii) which violation, practice, or breach—

"(I) is part of a pattern of misconduct;

"(II) results in more than a minimal loss to such bank or association, as the case may be; or

"(III) causes or is likely to cause pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), any nonmember insured bank or savings association which, and any institution-affiliated party who—

"(i) knowingly—

"(I) commits any violation described in any clause of subparagraph (A);

"(II) engages in any unsafe or unsound practice in conducting the affairs of such bank or association; or

"(III) breaches any fiduciary duty; and

"(ii) knowingly or recklessly causes a substantial loss to such bank or association or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (D) for each day during which such violation, practice, or breach continues.

"(D) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (C).—The maximum daily amount of any civil penalty which may be assessed pursuant to subparagraph (C) for any violation, practice, or breach described in such subparagraph is—

"(i) in the case of any person other than a nonmember insured bank or savings association, an amount to not exceed $1,000,000; and

"(ii) in the case of any nonmember insured bank or savings association, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such bank or association.

"(E) ASSESSMENT; ETC.—Any penalty imposed under subparagraph (A), (B), or (C) shall be assessed and collected by the appropriate Federal banking agency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(F) HEARING.—The nonmember insured bank, savings association, or other person against whom any penalty is assessed under this paragraph shall be afforded an agency hearing if such nonmember insured bank, savings association, or other person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) shall apply to any proceeding under this paragraph.

"(G) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(5) REGULATIONS.—The appropriate Federal banking agency shall prescribe regulations establishing such procedures as may be necessary to carry out paragraph (4).".

(d) CHANGE IN CONTROL OF DEPOSITORY INSTITUTION.—Section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)) is amended to read as follows:

"(16) CIVIL MONEY PENALTY.—

"(A) FIRST TIER.—Any person who violates any provision of this subsection, or any regulation or order issued by the appropriate Federal banking agency under this subsection, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), any person who—

"(i)(I) commits any violation described in any clause of subparagraph (A);

"(II) recklessly engages in an unsafe or unsound practice in conducting the affairs of a depository institution; or

"(III) breaches any fiduciary duty;

"(ii) which violation, practice, or breach—

"(I) is part of a pattern of misconduct;

"(II) causes or is likely to cause more than a minimal loss to such institution; or

"(III) results in pecuniary gain or other benefit to such person,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), any person who—

"(i) knowingly—

"(I) commits any violation described in any clause of subparagraph (A);

"(II) engages in any unsafe or unsound practice in conducting the affairs of a depository institution; or

"(III) breaches any fiduciary duty; and

"(ii) knowingly or recklessly causes a substantial loss to such institution or a substantial pecuniary gain or other benefit to such person by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (D) for each day during which such violation, practice, or breach continues.

"(D) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (C).—The maximum daily amount of any civil penalty which may be assessed pursuant to subparagraph (C) for any violation, practice, or breach described in such subparagraph is—

"(i) in the case of any person other than a depository institution, an amount to not exceed $1,000,000; and

"(ii) in the case of a depository institution, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such institution.

"(E) ASSESSMENT; ETC.—Any penalty imposed under subparagraph (A), (B), or (C) shall be assessed and collected by the appropriate Federal banking agency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(F) HEARING.—The depository institution or other person against whom any penalty is assessed under this paragraph shall be afforded an agency hearing if such institution or other person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) shall apply to any proceeding under this paragraph.

"(G) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.".

(e) NATIONAL BANKS.—Section 5239(b) of the Revised Statutes (12 U.S.C. 93(b)) is amended to read as follows:

"(b) CIVIL MONEY PENALTY.—

"(1) FIRST TIER.—Any national banking association which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such association who, violates any provision of this title or any of the

provisions of the first section of the Act of September 28, 1962 (76 Stat. 668; 12 U.S.C. 92a), or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(2) SECOND TIER.—Notwithstanding paragraph (1), any national banking association which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such association who, commits any violation described in paragraph (1) which—

"(A)(i) commits any violation described in any paragraph (1);

"(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such association; or

"(iii) breaches any fiduciary duty;

"(B) which violation, practice, or breach—

"(i) is part of a pattern of misconduct;

"(ii) causes or is likely to cause more than a minimal loss to such association; or

"(iii) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), any national banking association which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such association who—

"(A) knowingly—

"(i) commits any violation described in paragraph (1);

"(ii) engages in any unsafe or unsound practice in conducting the affairs of such association; or

"(iii) breaches any fiduciary duty; and

"(B) knowingly or recklessly causes a substantial loss to such association or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.

"(4) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN PARAGRAPH (3).—The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in such paragraph is—

"(A) in the case of any person other than a national banking association, an amount to not exceed $1,000,000; and

"(B) in the case of a national banking association, an amount not to exceed the lesser of—

"(i) $1,000,000; or

"(ii) 1 percent of the total assets of such association.

"(5) ASSESSMENT; ETC.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(6) HEARING.—The association or other person against whom any penalty is assessed under this subsection shall be afforded an agency hearing if such association or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(7) DISBURSEMENT.—All penalties collected under authority of this subsection shall be deposited into the Treasury.

"(8) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(12) REGULATIONS.—The Comptroller shall prescribe regulations establishing such procedures as may be necessary to carry out this subsection.".

(f) NATIONAL BANKS.—The 2d paragraph of section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by striking "$100" and inserting "$5,000".

(g) MEMBER BANKS.—Section 29 of the Federal Reserve Act (12 U.S.C. 504) is amended to read as follows:

"SEC. 29. CIVIL MONEY PENALTY.

"(a) FIRST TIER.—Any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who, violates any provision of section 22, 23A, or 23B, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(b) SECOND TIER.—Notwithstanding subsection (a), any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who

"(1)(A) commits any violation described in subsection (a);

"(B) recklessly engages in an unsafe or unsound practice in conducting the affairs of such member bank; or

"(C) breaches any fiduciary duty;

"(2) which violation, practice, or breach—

"(A) is part of a pattern of misconduct;

"(B) causes or is likely to cause more than a minimal loss to such member bank; or

"(C) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(c) THIRD TIER.—Notwithstanding subsections (a) and (b), any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who—

"(1) knowingly—

"(A) commits any violation described in subsection (a);

"(B) engages in any unsafe or unsound practice in conducting the affairs of such credit union; or

"(C) breaches any fiduciary duty; and

"(2) knowingly or recklessly causes a substantial loss to such credit union or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subsection (d) for each day during which such violation, practice, or breach continues.

"(d) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBSECTION (c).—The maximum daily amount of any civil penalty which may be assessed pursuant to subsection (c) for any violation, practice, or breach described in such subsection is—

"(1) in the case of any person other than a member bank, an amount to not exceed $1,000,000; and

"(2) in the case of a member bank, an amount not to exceed the lesser of—

"(A) $1,000,000; or

"(B) 1 percent of the total assets of such member bank.

"(e) ASSESSMENT; ETC.—Any penalty imposed under subsection (a), (b), or (c) shall be assessed and collected by

"(1) in the case of a national bank, by the Comptroller of the Currency; and

"(2) in the case of a State member bank, by the Board,

in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(f) HEARING.—The member bank or other person against whom any penalty is assessed under this section shall be afforded an agency hearing if such member bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this section.

"(g) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(h) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(i) REGULATIONS.—The Comptroller of the Currency and the Board shall prescribe regulations establishing such procedures as may be necessary to carry out this section.".

(h) MEMBER BANK.—Section 19(l) of the Federal Reserve Act (12 U.S.C. 505(l)) is amended to read as follows:

"(l) CIVIL MONEY PENALTY.—

"(1) FIRST TIER.—Any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who, violates any provision of this section, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(2) SECOND TIER.—Notwithstanding paragraph (1), any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who—

"(A)(i) commits any violation described in paragraph (1);

"(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such member bank; or

"(iii) breaches any fiduciary duty;

"(B) which violation, practice, or breach—

"(i) is part of a pattern of misconduct;

"(ii) causes or is likely to cause more than a minimal loss to such member bank; or

"(iii) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal

Deposit Insurance Act) with respect to such member bank who—

"(A) knowingly—

"(i) commits any violation described in paragraph (1);

"(ii) engages in any unsafe or unsound practice in conducting the affairs of such member bank; or

"(iii) breaches any fiduciary duty; and

"(B) knowingly or recklessly causes a substantial loss to such member bank or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.

"(4) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN PARAGRAPH (3).—THE MAXIMUM DAILY AMOUNT OF ANY CIVIL PENALTY WHICH MAY BE ASSESSED PURSUANT TO PARAGRAPH (3) FOR ANY VIOLATION, PRACTICE, OR BREACH DESCRIBED IN SUCH PARAGRAPH IS—

"(A) in the case of any person other than a member bank, an amount not to exceed $1,000,000; and

"(B) in the case of a member bank, an amount not to exceed the lesser of—

"(i) $1,000,000; or

"(ii) 1 percent of the total assets of such member bank.

"(5) ASSESSMENT; ETC.—Any penalty imposed under paragraph (1), (2), or (3) may be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(6) HEARING.—The member bank or other person against whom any penalty is assessed under this subsection shall be afforded an agency hearing if such member bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(7) DISBURSEMENT.—All penalties collected under authority of this subsection shall be deposited into the Treasury.

"(8) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(9) REGULATIONS.—The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this subsection.".

(i) BANKS.—Section 106(b)(2)(F) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)) is amended to read as follows:

"(F) CIVIL MONEY PENALTY.—

"(i) FIRST TIER.—Any bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such bank who, violates any provision of this paragraph shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(ii) SECOND TIER.—Notwithstanding clause (i), any bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such bank who—

"(I)(aa) commits any violation described in clause (i);

"(bb) recklessly engages in an unsafe or unsound practice in conducting the affairs of such bank; or

"(cc) breaches any fiduciary duty;

"(II) which violation, practice, or breach—

"(aa) is part of a pattern of misconduct;

"(bb) causes or is likely to cause more than a minimal loss to such bank; or

"(cc) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(iii) THIRD TIER.—Notwithstanding clauses (i) and (ii), any bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such bank who—

"(I) knowingly—

"(aa) commits any violation described in clause (i);

"(bb) engages in any unsafe or unsound practice in conducting the affairs of such bank; or

"(cc) breaches any fiduciary duty; and

"(II) knowingly or recklessly causes a substantial loss to such bank or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under clause (iv) for each day during which such violation, practice, or breach continues.

"(iv) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN CLAUSE (iii).—The maximum daily amount of any civil penalty which may be assessed pursuant to clause (iii) for any violation, practice, or breach described in such clause is—

"(I) in the case of any person other than a bank, an amount to not exceed $1,000,000; and

"(II) in the case of a bank, an amount not to exceed the lesser of—

"(aa) $1,000,000; or

"(bb) 1 percent of the total assets of such bank.

"(v) ASSESSMENT; ETC.—Any penalty imposed under clause (i), (ii), or (iii) may be assessed and collected—

"(I) in the case of a national bank, by the Comptroller of the Currency;

"(II) in the case of a State member bank, by the Board; and

"(III) in the case of an insured nonmember State bank, by the Federal Deposit Insurance Corporation,

in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(vi) HEARING.—The bank or other person against whom any penalty is assessed under this subparagraph shall be afforded an agency hearing if such bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subparagraph.

"(vii) DISBURSEMENT.—All penalties collected under authority of this subsection shall be deposited into the Treasury.

"(viii) VIOLATE DEFINED.—For purposes of this paragraph, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(ix) REGULATIONS.—The Comptroller of the Currency, the Board, and the Federal Deposit Insurance Corporation shall prescribe regulations establishing such procedures as may be necessary to carry out this subparagraph.".

(j) BANK HOLDING COMPANIES.—Section 8 of the Bank Holding Company Act of 1956 (12 U.S.C. 1847) is amended—

(1) in subsection (a), by striking out the first 2 sentences and inserting in lieu thereof the following:

"(a) CRIMINAL PENALTY.—

"(1) Whoever knowingly violates any provision of this Act or, being a company, violates any regulation or order issued by the Board under this Act, shall be imprisoned not more than 1 year, fined not more than $100,000 per day for each day during which the violation continues, or both.

"(2) Whoever, with the intent to deceive, defraud, or profit significantly, knowingly violates any provision of this Act shall be imprisoned not more than 5 years, fined not more than $1,000,000 per day for each day during which the violation continues, or both."; and

(2) by amending subsection (b) to read as follows:

"(b) CIVIL MONEY PENALTY.—

"(1) PENALTY.—Any company which violates, and any individual who participates in a violation of, any provision of this Act, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(2) ASSESSMENT; ETC.—Any penalty imposed under paragraph (1) may be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(3) HEARING.—The company or other person against whom any penalty is assessed under this subsection shall be afforded an agency hearing if such association or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(4) DISBURSEMENT.—All penalties collected under authority of this subsection shall be deposited into the Treasury.

"(5) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(6) REGULATIONS.—The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this subsection.".

(k) SAVINGS AND LOAN HOLDING COMPANIES.—Section 10(i) of the Home Owners Loan Act of 1933 (as amended by section 301 of this Act) is amended—

(1) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) CRIMINAL PENALTY.—

"(A) Whoever knowingly violates any provision of this section or being a company, violates any regulation or order issued by the Director under this section, shall be imprisoned not more than 1 year, fined not more than $100,000 per day for each day during which the violation continues, or both.

"(B) Whoever, with the intent to deceive, defraud, or profit significantly, knowingly

violates any provision of this section shall be fined not more than $1,000,000 per day for each day during which the violation continues, imprisoned not more than 5 years, or both.";

(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(3) by amending paragraph (3) (as so redesignated by paragraph (2) of this subsection) to read as follows:

"(3) CIVIL MONEY PENALTY.—

"(A) PENALTY.—Any company which violates, and any person who participates in a violation of, any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(B) ASSESSMENT; ETC.—Any penalty imposed under subparagraph (A) may be assessed and collected by the Director in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(C) HEARING.—The company or other person against whom any penalty is assessed under this paragraph shall be afforded an agency hearing if such company or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this paragraph.

"(D) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(E) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(F) REGULATIONS.—The Director shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.".

(l) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to conduct engaged in by any person after the date of the enactment of this Act, except that the increased maximum civil penalties of $5,000 and $25,000 per violation or per day may apply to such conduct engaged in before such date if such conduct—

(1) is not already subject to a notice (initiating an administrative proceeding) issued by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) or the National Credit Union Administration Board; and

(2) occurred after the completion of the last report of examination of the institution involved by the appropriate Federal banking agency (as so defined) occurring before the date of the enactment of this Act.

SEC. 908. CLARIFICATION OF CRIMINAL PENALTY PROVISIONS FOR VIOLATION OF CERTAIN ORDERS.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 8(j) of the Federal Deposit Insurance Act (12 U.S.C. 1818(j)) is amended to read as follows:

"(j) CRIMINAL PENALTY.—Whoever, being subject to an order in effect under subsection (e) or (g), without the prior written approval of the appropriate Federal financial institutions regulatory agency, knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order or in subsection (e)(6)) in the conduct of the affairs of—

"(1) any insured depository institution;

"(2) any institution treated as an insured bank under subsection (b)(3) or (b)(4), or as a savings association under subsection (b)(8);

"(3) any insured credit union (as defined in section 101(7) of the Federal Credit Union Act);

"(4) any institution chartered under the Farm Credit Act of 1971; or

"(5) the Resolution Trust Corporation,

shall be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 206(l) of the Federal Credit Union Act (12 U.S.C. 1786(l)) is amended to read as follows:

"(l) CRIMINAL PENALTY FOR VIOLATION OF CERTAIN ORDERS.—Whoever—

"(1) under this Act, is suspended or removed from, or prohibited from participating in the affairs of any credit union described in section 206(g)(5); and

"(2) knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order or in subsection (g)(5)) in the conduct of the affairs of such a credit union;

shall be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.".

SEC. 909. SUPERVISORY RECORDS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (m) (as added by section 214 of this Act) the following new subsection:

"(o) SUPERVISORY RECORDS.—In addition to the requirements of section 7(a)(2) to provide to the Corporation copies of reports of examination and reports of condition, whenever the Corporation has been appointed as receiver for an insured depository institution, the appropriate Federal banking agency shall make available all supervisory records to the receiver which may be used by the receiver in any manner the receiver determines to be appropriate.".

SEC. 910. INCREASED PENALTY FOR PARTICIPATION BY CONVICTED INDIVIDUALS.

(a) BANKS INSURED BY THE FDIC.—Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended to read as follows:

"SEC. 19. PENALTY FOR UNAUTHORIZED PARTICIPATION BY CONVICTED INDIVIDUAL.

"(a) PROHIBITION.—Except with the prior written consent of the Corporation—

"(1) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust may not participate, directly or indirectly, in any manner in the conduct of the affairs of an insured depository institution; and

"(2) an insured depository institution may not permit such participation.

"(b) PENALTY.—Whoever knowingly violates subsection (a) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PENALTY FOR PROHIBITED PARTICIPATION.—

"(1) PROHIBITION.—Except with the prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust may not participate, directly or indirectly, in any manner in the conduct of the affairs of an insured credit union; and

"(B) an insured credit union may not permit such participation.

"(2) PENALTY.—Whoever knowingly violates paragraph (1) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. 911. AMENDMENTS TO VARIOUS PROVISIONS OF LAW RELATING TO REPORTS.

(a) BANK PROTECTION ACT.—Section 3(b) of the Bank Protection Act of 1968 (12 U.S.C. 1882) is amended by striking out "and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures".

(b) AMENDMENTS RELATING TO NATIONAL BANKS.—

(1) Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(A) in the 5th sentence of subsection (a), by striking out "within ten days after the receipt of a request therefor from him" and inserting in lieu thereof "within the period of time specified by the Comptroller"; and

(B) in subsection (c), by striking out the last sentence.

(2) Section 5213 of the Revised Statutes (12 U.S.C. 164) is amended to read as follows:

"SEC. 5213. PENALTY FOR FAILURE TO MAKE REPORTS.

"(a) FIRST TIER.—Any association which—

"(1) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error—

"(A) fails to make, obtain, transmit, or publish any report or information required by the Comptroller of the Currency under section 5211 of this chapter, within the period of time specified by the Comptroller; or

"(B) submits or publishes any false or misleading report or information; or

"(2) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The association shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(b) SECOND TIER.—Any association which—

"(1) fails to make, obtain, transmit, or publish any report or information required by the Comptroller of the Currency under section 5211 of this chapter, within the period of time specified by the Comptroller; or

"(2) submits or publishes any false or misleading report or information,

in a manner not described in subsection (a) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(c) THIRD TIER.—Notwithstanding subsections (a) and (b), if any association knowingly or with reckless disregard for the accuracy of any information or report described in subsection (b) submits or publishes any false or misleading report or information, the Comptroller may assess a penalty of not more than $1,000,000 or 1 percent of total assets of the association, whichever is less,

per day for each day during which such failure continues or such false or misleading information is not corrected.

"(d) ASSESSMENT; ETC.—Any penalty imposed under subsection (a), (b), or (c) shall be assessed and collected by the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(e) HEARING.—Any association against which any penalty is assessed under this subsection shall be afforded an agency hearing if such association submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this section.".

(c) AMENDMENT RELATING TO STATE NONMEMBER INSURED BANKS.—Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking out the last sentence and inserting in lieu thereof the following new sentences: "Any such bank which (A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to make or publish any report required under this paragraph, within the period of time specified by the Corporation, or submits or publishes any false or misleading report or information, or (B) inadvertently transmits or publishes any report which is minimally late, shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. Such bank shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late. Any such bank which fails to make or publish any report required under this paragraph, within the period of time specified by the Corporation, or submits or publishes any false or misleading report or information, in a manner not described in the 2nd preceding sentence shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected. Notwithstanding the preceding sentence, if any such bank knowingly or with reckless disregard for the accuracy of any information or report described in such sentence submits or publishes any false or misleading report or information, the Corporation may assess a penalty of not more than $1,000,000 or 1 percent of total assets of such bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected. Any penalty imposed under any of the 4 preceding sentences shall be assessed and collected by the Corporation in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section. Any such bank against which any penalty is assessed under this subsection shall be afforded an agency hearing if such bank submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) shall apply to any proceeding under this paragraph.".

(d) AMENDMENT RELATING TO STATE MEMBER BANKS.—The 6th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by striking out the penultimate sentence and inserting in lieu thereof the following new sentences: "Any bank which (A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to make or publish any report required under this paragraph, within the period of time specified by the Board, or submits or publishes any false or misleading report or information, or (B) inadvertently transmits or publishes any report which is minimally late, shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The bank shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late. Any bank which fails to make or publish such reports within the period of time specified by the Board, or submits or publishes any false or misleading report or information, in a manner not described in the 2nd preceding sentence shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected. Notwithstanding the preceding sentence, if any bank knowingly or with reckless disregard for the accuracy of any information or report described in such sentence submits or publishes any false or misleading report or information, the Board may assess a penalty of not more than $1,000,000 or 1 percent of total assets of such bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected. Any penalty imposed under any of the 4 preceding sentences shall be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section. Any bank against which any penalty is assessed under this subsection shall be afforded an agency hearing if such bank submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this paragraph.".

(e) AMENDMENT RELATING TO BANK HOLDING COMPANIES.—Section 8 of the Bank Holding Company Act of 1956 (12 U.S.C. 1847) is amended by adding after the subsection added by section 905(i) of this Act the following new subsection:

"(d) PENALTY FOR FAILURE TO MAKE REPORTS.—

"(1) FIRST TIER.—Any company which—

"(A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error—

"(i) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board pursuant to this Act, within the period of time specified by the Board; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The company shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any company which—

"(A) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board pursuant to this Act, within the period of time specified by the Board; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Board may, in its discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such company, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT; ETC.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Board in the manner provided in subsection (b) (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING.—Any company against which any penalty is assessed under this subsection shall be afforded an agency hearing if such company submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.".

(f) AMENDMENT RELATING TO CREDIT UNIONS.—Section 202(a)(3) of the Federal Credit Union Act (12 U.S.C. 1782(a)(3)) is amended by striking out the 2nd sentence and inserting in lieu thereof the following new sentences: "Any insured credit union which maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit or publish any report required under this subsection or section 106, within the period of time specified by the Board, or submits or publishes any false or misleading report or information, or inadvertently transmits or publishes any report which is minimally late, shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The insured credit union shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late. Any insured credit union which fails to submit or publish any report required under this subsection or section 106, within the period of time specified by the Board, or submits or publishes any false or misleading report or information, in a manner not described in the 2nd preceding sentence shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected. Notwithstanding the preceding sentence, if any insured credit union knowingly or with reckless disregard

for the accuracy of any information or report described in such sentence submits or publishes any false or misleading report or information, the Board may assess a penalty of not more than $1,000,000 or 1 percent of total assets of such credit union, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected. Any penalty imposed under any of the 4 preceding sentences shall be assessed and collected by the Board in the manner provided in section 206(k)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section. Any insured credit union against which any penalty is assessed under this subsection shall be afforded an agency hearing if such insured credit union submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 206(j) shall apply to any proceeding under this subsection.".

(i) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to reports filed or required to be filed after the date of the enactment of this Act.

SEC. 912. AUTHORITY OF THE FDIC TO TAKE ENFORCEMENT ACTION AGAINST SAVINGS ASSOCIATIONS.

Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(t) AUTHORITY OF BOARD TO TAKE ENFORCEMENT ACTION AGAINST SAVINGS ASSOCIATIONS.—

"(1) AUTHORITY TO RECOMMEND THAT DIRECTOR OF OFFICE OF THRIFT SUPERVISION TAKE ENFORCEMENT ACTION.—The Corporation, based on an examination of a savings association by the Corporation or by the Director of the Office of Thrift Supervision or on other information, may recommend that the Director take any enforcement action authorized under section 7(j), this section, or section 18(j) with respect to any savings association.

"(2) AUTHORITY OF BOARD TO ORDER CORPORATION TO TAKE ENFORCEMENT ACTION IF DIRECTOR OF OFFICE OF THRIFT SUPERVISION FAILS TO FOLLOW RECOMMENDATION.—If the Director fails to take the recommended action or to provide an acceptable plan for addressing the concerns of the Corporation as set forth in its recommendation before the close of the 60-day period beginning on the date of the receipt of the formal recommendation from the Corporation, the Board of Directors may order the Corporation to take such action if the Board determines that—

"(A) the association is in an unsafe or unsound condition; or

"(B) failure to take the recommended action will result in continuance of unsafe or unsound practices in conducting the business of the savings association.

"(3) EFFECT OF EXIGENT CIRCUMSTANCES.—

"(A) AUTHORITY TO ACT.—Notwithstanding paragraphs (1) and (2), the Board of Directors may order the Corporation to exercise its authority, without regard to the time period set forth, in exigent circumstances after notifying the Director.

"(B) AGREEMENT ON EXIGENT CIRCUMSTANCES.—The Corporation shall, by agreement with the Director, set forth those exigent circumstances in which the Corporation may act without regard to the time period set forth above.

"(4) REQUESTS FOR FORMAL ACTIONS AND INVESTIGATIONS.—

"(A) SUBMISSION OF REQUESTS.—The regional offices of the Office of Thrift Supervision shall concurrently submit all requests for formal investigations or enforcement actions to both the Director and the Corporation.

"(B) DIRECTOR REQUIRED TO REPORT ON REQUESTS.—The Director shall report semiannually to the Corporation the status or disposition of all such requests, including the reasons for the Director's decision to either approve or deny all such requests.

"(5) NONDELEGATION.—Any decisions by the Board of Directors to order actions described in this subsection shall not be delegated.".

SEC. 913. PUBLIC DISCLOSURE OF ENFORCEMENT ACTIONS REQUIRED.

(a) ORDERS ISSUED BY APPROPRIATE FEDERAL BANKING AGENCIES.—Section 8 of the Federal Deposit Insurance Act is amended by adding after the subsection added by section 912 of this Act the following new subsection:

"(u) PUBLIC DISCLOSURE OF FINAL ORDERS.—

"(1) IN GENERAL.—The appropriate Federal banking agency shall publish and make available to the public—

"(A) any final order issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other provision of law; and

"(B) any modification to or termination of any final order described in subparagraph (A) of this paragraph.

"(2) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the appropriate Federal banking agency makes a determination in writing that the publication of any final order pursuant to paragraph (1) would seriously threaten the safety or soundness of an insured depository institution, such agency may delay the publication of such order for a reasonable time.".

(b) ORDERS ISSUED BY NCUA.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by inserting after the subsection added by section 901(b) of this Act the following new subsection:

"(s) PUBLIC DISCLOSURE OF FINAL ORDERS.—

"(1) IN GENERAL.—The Board shall publish and make available to the public—

"(A) any final order issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other provision of law; and

"(B) any modification to or termination of any final order described in subparagraph (A).

"(2) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Board makes a determination in writing that the publication of any final order pursuant to paragraph (1) would seriously threaten the safety or soundness of an insured credit union or other federally regulated depository institution, the Board may delay the publication of such order for a reasonable time.".

SEC. 914. AGENCY DISAPPROVAL OF DIRECTORS AND SENIOR EXECUTIVE OFFICERS OF CERTAIN DEPOSITORY INSTITUTIONS.

(a) DEPOSITORY INSTITUTION INSURED BY THE FDIC.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after the section added by section 226 of this Act the following new section:

"SEC. 32. AGENCY DISAPPROVAL OF DIRECTORS AND SENIOR EXECUTIVE OFFICERS OF INSURED DEPOSITORY INSTITUTIONS OR DEPOSITORY INSTITUTION HOLDING COMPANIES.

"(a) PRIOR NOTICE REQUIRED.—An insured depository institution or depository institution holding company shall notify the appropriate Federal banking agency of the proposed addition of any individual to the board of directors or the employment of any individual as a senior executive officer of such institution or holding company at least 30 days before such addition or employment becomes effective, if the insured depository institution or depository institution holding company—

"(1) has been chartered less than 2 years in the case of an insured depository institution;

"(2) has undergone a change in control within the preceding 2 years; or

"(3) is not in compliance with the minimum capital requirement applicable to such institution or is otherwise in a troubled condition, as determined by such agency on the basis of such institution's or holding company's most recent report of condition or report of examination or inspection.

"(b) DISAPPROVAL BY AGENCY.—An insured depository institution or depository institution holding company may not add any individual to the board of directors or employ any individual as a senior executive officer if the appropriate Federal banking agency issues a notice of disapproval of such addition or employment before the end of the 30-day period beginning on the date the agency receives notice of the proposed action pursuant to subsection (a).

"(c) EXCEPTION IN EXTRAORDINARY CIRCUMSTANCES.—

"(1) IN GENERAL.—Each appropriate Federal banking agency may prescribe by regulation conditions under which the prior notice requirement of subsection (a) may be waived in the event of extraordinary circumstances.

"(2) NO EFFECT ON DISAPPROVAL AUTHORITY OF AGENCY.—Such waivers shall not affect the authority of each agency to issue notices of disapproval of such additions or employment of such individuals within 30 days after each such waiver.

"(d) ADDITIONAL INFORMATION.—Any notice submitted to an appropriate Federal banking agency with respect to an individual by any insured depository institution or depository institution holding company pursuant to subsection (a) shall include—

"(1) the information described in section 7(j)(6)(A) about the individual; and

"(2) such other information as the agency may prescribe by regulation.

"(e) STANDARD FOR DISAPPROVAL.—The appropriate Federal banking agency shall issue a notice of disapproval with respect to a notice submitted pursuant to subsection (a) if the competence, experience, character, or integrity of the individual with respect to whom such notice is submitted indicates that it would not be in the best interests of the depositors of the depository institution or in the best interests of the public to permit the individual to be employed by, or associated with, the depository institution or depository institution holding company.

"(f) DEFINITION REGULATIONS.—Each appropriate Federal banking agency shall prescribe by regulation a definition for the terms 'troubled condition' and 'senior executive officer' for purposes of subsection (a).".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Title II of the Federal Credit Union Insurance Act (12 U.S.C. 1781 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 212. BOARD DISAPPROVAL OF DIRECTORS, COMMITTEE MEMBERS, AND SENIOR EXECUTIVE OFFICERS OF INSURED CREDIT UNIONS.

"(a) PRIOR NOTICE REQUIRED.—An insured credit union shall notify the Board of the proposed addition of any individual to the board of directors or committee or the employment of any individual as a senior exec-

utive officer of such credit union at least 30 days before such addition or employment becomes effective, if the insured credit union—

"(1) has been chartered less than 2 years; or

"(2) is in troubled condition, as determined on the basis of such credit union's most recent report of condition or report of examination.

"(b) DISAPPROVAL BY THE BOARD.—An insured credit union may not add any individual to the board of directors or employ any individual as a senior executive officer if the Board issues a notice of disapproval of such addition or employment before the end of the 30-day period beginning on the date the agency receives notice of the proposed action pursuant to subsection (a).

"(c) EXCEPTION IN EXTRAORDINARY CIRCUMSTANCES.—

"(1) IN GENERAL.—The Board may prescribe by regulation conditions under which the prior notice requirement of subsection (a) may be waived in the event of extraordinary circumstances.

"(2) NO EFFECT ON DISAPPROVAL AUTHORITY OF BOARD.—Such waivers shall not affect the authority of the Board to issue notices of disapproval of such additions or employment of such individuals within 30 days after each such waiver.

"(d) ADDITIONAL INFORMATION.—Any notice submitted to the Board by any insured credit union pursuant to subsection (a) shall include—

"(1) the information described in section 7(j)(6)(A) of the Federal Deposit Insurance Act about the individual; and

"(2) such other information as the Board may prescribe by regulation.

"(e) STANDARD FOR DISAPPROVAL.—The Board shall issue a notice of disapproval with respect to a notice submitted pursuant to subsection (a) if the competence, experience, character, or integrity of the individual with respect to whom such notice is submitted indicates that it would not be in the best interests of the depositors of the insured credit union or in the best interests of the public to permit the individual to be employed by, or associated with, such insured credit union.

"(f) DEFINITION REGULATIONS.—The Board shall prescribe by regulation a definition for the terms 'troubled condition' and 'senior executive officer' for purposes of subsection (a).".

SEC. 915. CLARIFICATION OF NCUA'S AUTHORITY TO CONDUCT COMPLIANCE INVESTIGATIONS.

(a) EXAMINATIONS.—Section 204(b) of the Federal Credit Union Act (12 U.S.C. 1784(b)) is amended—

(1) by inserting after "insured credit unions," the following: "or with other types of investigations to determine compliance with applicable law and regulations,"; and

(2) by inserting after "subpena duces tecum" the following: "and to exercise such others powers as are set forth in section 206(p)".

(b) ENFORCEMENT.—Section 206(p) of the Federal Credit Union Act (12 U.S.C. 1786(p)) is amended in the 1st sentence—

(1) by inserting after "any proceeding under this section" the following: "or in connection with any claim for insured deposits or any examination or investigation under section 204(b)";

(2) by inserting after "the Board" the 1st place such term appears the following: ", in conducting the proceeding, examination, or investigation or considering the claim for insured deposits,"; and

(3) by inserting ", claims, examinations, or investigations" before the period.

(c) PAYMENT OF CLAIMS.—Section 207(c)(1) of the Federal Credit Union Act (12 U.S.C. 1787(c)(1)) is amended in the last sentence by inserting after "before paying the insured accounts," the following: "may investigate said claims under section 206(p),".

SEC. 916. IMPROVED ADMINISTRATIVE HEARINGS AND PROCEDURES.

Before the close of the 24-month period beginning on the date of the enactment of this Act, the appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act) and the National Credit Union Administration Board shall jointly—

(1) establish their own pool of administrative law judges, and

(2) develop a set of uniform rules and procedures for administrative hearings, including provisions for summary judgment rulings where there are no disputes as to material facts of the case.

SEC. 917. TASK FORCE STUDY OF DELEGATION OF ENFORCEMENT ACTIONS.

(a) CREATION OF TASK FORCE.—The appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act) and the National Credit Union Administration Board shall create a joint task force to study the desirability and feasibility of delegating investigation and enforcement authority to their regional or district offices or banks.

(b) COMPOSITION OF TASK FORCE.—The composition of the task force shall be reasonably balanced between officials from headquarters and officials from the regions, districts, or district banks.

(c) REPORT.—Not later than September 30, 1990, the task force shall report to the Congress the findings and recommendations of the Task Force, together with the responses of the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the National Credit Union Administration.

SEC. 918. ANNUAL REPORT TO CONGRESS.

(a) IN GENERAL.—Each agency described in subsection (b) shall submit an annual report to the Congress which shall contain the following information with respect to the 12-month period for which such report is made:

(1) The number of formal and informal supervisory, administrative, and civil enforcement actions initiated by such agency during such 12-month period, and the number of such actions completed by such agency during such 12-month period, including actions initiated or taken with respect to memoranda of understanding, written agreements, cease and desist orders (including temporary orders), suspension orders, removal or prohibition orders, and civil money penalty assessments.

(2) The number of individuals and institutions against whom civil money penalties were assessed by such agency during such 12-month period, the amount of each such penalty, the total amount of all such penalties, and data on uncollected penalties for such period and prior years.

(3) A description of all other enforcement efforts and initiatives relating to unsafe and unsound practices, criminal misconduct, and insider abuse which were undertaken by such agency during such 12-month period.

(4) The number of criminal referrals made to the Department of Justice.

(5) With respect to the criminal referrals received by the Department of Justice and with respect to investigations of similar matters initiated without such a referral, the number and status of grand jury investigations and investigations being conducted by the Federal Bureau of Investigation, and the number and disposition of prosecutions and civil actions commenced by the Attorney General.

(6) Recommendations concerning the need for additional legislation or financial resources.

(b) AGENCIES REQUIRED TO SUBMIT REPORTS.—The agencies referred to in subsection (a) are as follows:

(1) The Comptroller of the Currency.

(2) The Board of Governors of the Federal Reserve System.

(3) The Federal Deposit Insurance Corporation.

(4) The Federal Housing Finance Board.

(5) The Office of Thrift Supervision.

(6) The National Credit Union Administration.

(7) The Attorney General of the United States.

SEC. 919. CREDIT UNION AUDIT REQUIREMENTS.

Section 202(a) of the Federal Credit Union Act (12 U.S.C. 1782(a)) is amended by adding at the end thereof the following new paragraph:

"(6) AUDIT REQUIREMENT.—

"(A) IN GENERAL.—Before the end of the 120-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and notwithstanding any other provision of Federal or State law, the Board shall prescribe, by regulation, audit standards which require an outside, independent audit of any insured credit union by a certified public accountant for any fiscal year (of such credit union)—

"(i) for which such credit union has not conducted an annual supervisory committee audit;

"(ii) for which such credit union has not received a complete and satisfactory supervisory committee audit; or

"(iii) during which such credit union has experienced persistent and serious recordkeeping deficiencies, as determined by the Board.

"(B) UNSAFE OR UNSOUND PRACTICE.—The Board may treat the failure of any insured credit union to obtain an outside, independent audit for any fiscal year for which such audit is required under subparagraph (A) as an unsafe or unsound practice within the meaning of section 206(b).".

SEC. 920. TECHNICAL AMENDMENTS RELATING TO ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) FDIA.—Section 8(h)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(2)) is amended by striking "Any party" and all that follows through "therein," and inserting in lieu thereof "Any party to any proceeding under paragraph (1)".

(b) FCUA.—Section 206(j)(2) of the Federal Credit Union Act (12 U.S.C. 1786(j)(2)) is amended by striking "Any party" and all that follows through "therein," and inserting in lieu thereof "Any party to any proceeding under paragraph (1)".

(c) MISCELLANEOUS CONFORMING AMENDMENT.—Section 8(k) of the Federal Deposit Insurance Act (12 U.S.C. 1818(k)) is amended by striking out all that follows "(k)".

Subtitle B—Termination of Deposit Insurance

SEC. 926. REVISION OF PROCEDURES FOR TERMINATION OF FDIC DEPOSIT INSURANCE.

Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended—

(1) by striking out "(a) Any insured bank" and all that follows through the period at the end of the 4th sentence and inserting in lieu thereof the following:

"(a) TERMINATION OF INSURANCE.—

"(1) VOLUNTARY TERMINATION.—Any insured depository institution which is not—

"(A) a national member bank;

"(B) a State member bank;

"(C) a Federal branch;

"(D) a Federal savings association; or

"(E) an insured branch which is required to be insured under subsection (a) or (b) of section 6 of the International Banking Act of 1978,

may terminate such depository institution's status as an insured depository institution if such insured institution provides written notice to the Corporation of the institution's intent to terminate such status not less than 90 days before the effective date of such termination.

"(2) INVOLUNTARY TERMINATION.—

"(A) NOTICE TO PRIMARY REGULATOR.—If the Board of Directors determines that—

"(i) an insured depository institution or the directors or trustees of an insured depository institution have engaged or are engaging in unsafe or unsound practices in conducting the business of the depository institution;

"(ii) an insured depository institution is in an unsafe or unsound condition to continue operations as an insured institution; or

"(iii) an insured depository institution or the directors or trustees of the insured institution have violated any applicable law, regulation, order, condition imposed in writing by the Corporation in connection with the approval of any application or other request by the insured depository institution, or written agreement entered into between the insured depository institution and the Corporation,

the Board of Directors shall notify the appropriate Federal banking agency with respect to such institution (if other than the Corporation) or the State banking supervisor of such institution (if the Corporation is the appropriate Federal banking agency) of the Board's determination and the facts and circumstances on which such determination is based for the purpose of securing the correction of such practice, condition, or violation. Such notice shall be given to the appropriate Federal banking agency not less than 30 days before the notice required by subparagraph (B), except that this period for notice to the appropriate Federal banking agency may be reduced or eliminated with the agreement of such agency.

"(B) NOTICE OF INTENTION TO TERMINATE INSURANCE.—If, after giving the notice required under subparagraph (A) with respect to an insured depository institution, the Board of Directors determines that any unsafe or unsound practice or condition or any violation specified in such notice requires the termination of the insured status of the insured depository institution, the Board shall—

"(i) serve written notice to the insured depository institution of the Board's intention to terminate the insured status of the institution;

"(ii) provide the insured depository institution with a statement of the charges on the basis of which the determination to terminate such institution's insured status was made (or a copy of the notice under subparagraph (A)); and

"(iii) notify the insured depository institution of the date (not less than 30 days after notice under this subparagraph) and place for a hearing before the Board of Directors (or any person designated by the Board) with respect to the termination of the institution's insured status.

"(3) HEARING; TERMINATION.—If, on the basis of the evidence presented at a hearing before the Board of Directors (or any person designated by the Board for such purpose), in which all issues shall be determined on the record pursuant to section 554 of title 5, United States Code, and the written findings of the Board of Directors (or such person) with respect to such evidence (which shall be conclusive), the Board of Directors finds that any unsafe or unsound practice or condition or any violation specified in the notice to an insured depository institution under subparagraph (B) has been established, the Board of Directors may issue an order terminating the insured status of such depository institution effective as of a date subsequent to such finding.";

(2) by striking out "Unless the" and inserting in lieu thereof the following:

"(4) APPEARANCE; CONSENT TO TERMINATION.—Unless the";

(3) by striking out "Any insured" and all that follows through "status" the 1st place such term appears and inserting in lieu thereof the following:

"(5) JUDICIAL REVIEW.—Any insured depository institution whose insured status";

(4) by striking out "The Corporation may publish" and inserting in lieu thereof the following:

"(6) PUBLICATION OF NOTICE OF TERMINATION.—The Corporation may publish";

(5) by striking out "After the termination of the insured status" and inserting in lieu thereof the following:

"(7) TEMPORARY INSURANCE OF DEPOSITS INSURED AS OF TERMINATION.—After the termination of the insured status";

(6) in paragraph (7) (as so designated by the amendment made by paragraph (5) of this section)—

(A) by striking out "of two years" the 1st place such term appears and inserting in lieu thereof "of at least 6 months or up to 2 years, within the discretion of the Board of Directors";

(B) by striking out "of two years" the 2nd place such term appears and inserting in lieu thereof "the period referred to in the 1st sentence"; and

(C) by striking out "of two years" the 3rd place such term appears;

(7) by adding at the end the following new paragraphs:

"(8) TEMPORARY SUSPENSION OF INSURANCE.—

"(A) IN GENERAL.—If the Board of Directors initiates a termination proceeding under paragraph (2), and the Board of Directors, after consultation with the appropriate Federal banking agency, finds that an insured depository institution (other than a savings association to which subparagraph (B) applies) has no tangible capital under the capital guidelines or regulations of the appropriate Federal banking agency, the Corporation may issue a temporary order suspending deposit insurance on all deposits received by the institution.

"(B) SPECIAL RULE FOR CERTAIN SAVINGS INSTITUTIONS.—

"(i) CERTAIN GOODWILL INCLUDED IN TANGIBLE CAPITAL.—In determining the tangible capital of a savings association for purposes of this paragraph, the Board of Directors shall include goodwill to the extent it is considered a component of capital under section 5(t) of the Home Owners' Loan Act. Any savings association which would be subject to a suspension order under subparagraph (A) but for the operation of this subparagraph, shall be considered by the Corporation to be a 'special supervisory association'.

"(ii) SUSPENSION ORDER.—The Corporation may issue a temporary order suspending deposit insurance on all deposits received by a special supervisory association whenever the Board of Directors determines that—

"(I) the capital of such association, as computed utilizing applicable accounting standards, has suffered a material decline;

"(II) that such association (or its directors or officers) is engaging in an unsafe or unsound practice in conducting the business of the association;

"(III) that such association is in an unsafe or unsound condition to continue operating as an insured association; or

"(IV) that such association (or its directors or officers) has violated any applicable law, rule, regulation, or order, or any condition imposed in writing by a Federal banking agency, or any written agreement including a capital improvement plan entered into with any Federal banking agency, or that the association has failed to enter into a capital improvement plan which is acceptable to the Corporation within the time period set forth in section 5(t) of the Home Owners' Loan Act.

Nothing in this paragraph limits the right of the Corporation or the Director of the Office of Thrift Supervision to enforce a contractual provision which authorizes the Corporation or the Director of the Office of Thrift Supervision, as a successor to the Federal Savings and Loan Insurance Corporation or the Federal Home Loan Bank Board, to require a savings association to write down or amortize goodwill at a faster rate than otherwise required under this Act or under applicable accounting standards.

"(C) EFFECTIVE PERIOD OF TEMPORARY ORDER.—Any order issued under subparagraph (A) shall become effective not earlier than 10 days from the date of service upon the institution and, unless set aside, limited, or suspended by a court in proceedings authorized hereunder, such temporary order shall remain effective and enforceable until an order of the Board under paragraph (3) becomes final or until the Corporation dismisses the proceedings under paragraph (3).

"(D) JUDICIAL REVIEW.—Before the close of the 10-day period beginning on the date any temporary order has been served upon an insured depository institution under subparagraph (A), such institution may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the home office of the institution is located, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order, and such court shall have jurisdiction to issue such injunction.

"(E) CONTINUATION OF INSURANCE FOR PRIOR DEPOSITS.—The insured deposits of each depositor in such depository institution on the effective date of the order issued under this paragraph, minus all subsequent withdrawals from any deposits of such depositor, shall continue to be insured, subject to the administrative proceedings as provided in this Act.

"(F) PUBLICATION OF ORDER.—The depository institution shall give notice of such order to each of its depositors in such manner and at such times as the Board of Directors may find to be necessary and may order for the protection of depositors.

"(G) NOTICE BY CORPORATION.—If the Corporation determines that the depository institution has not substantially complied with the notice to depositors required by the Board of Directors, the Corporation may provide such notice in such manner as the Board of Directors may find to be necessary and appropriate.

"(H) LACK OF NOTICE.—Notwithstanding subparagraph (A), any deposit made after the effective date of a suspension order issued under this paragraph shall remain insured to the extent that the depositor establishes that—

(i) such deposit consists of additions made by automatic deposit the depositor was unable to prevent; or

(ii) such depositor did not have actual knowledge of the suspension of insurance.

"(9) FINAL DECISIONS TO TERMINATE INSURANCE.—Any decision by the Board of Directors to—

"(A) issue a temporary order terminating deposit insurance; or

"(B) issue a final order terminating deposit insurance (other than under subsection (p) or (q));

shall be made by the Board of Directors and may not be delegated.

"(10) LOW- TO MODERATE-INCOME HOUSING LENDER.—In making any determination regarding the termination of insurance of a solvent savings association, the Corporation may consider the extent of the association's low- to moderate-income housing loans.".

Subtitle C—Improving Early Detection of Misconduct and Encouraging Informants

SEC. 931. INFORMATION REQUIRED TO BE MADE AVAILABLE TO OUTSIDE AUDITORS.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end thereof the following new paragraph:

"(8) REPORT TO INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured depository institution which has engaged the services of an independent auditor to audit such depository institution within the past 2 years shall transmit to such auditor a copy of the the most recent report of condition made by such depository institution (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by such depository institution.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided to an auditor under subparagraph (A), each insured depository institution shall provide such auditor with—

"(i) a copy of any supervisory memorandum of understanding with such depository institution and any written agreement between a Federal or State banking agency and the depository institution which is in effect during the period covered by the audit; and

"(ii) a report of any action initiated or taken by a Federal banking agency during such period under subsection (a), (b), (c), (e), (g), (i), or (s) of section 8, or of any similar action taken by a State banking agency under State law, or any other civil money penalty assessed under any other provision of law with respect to—

"(I) the depository institution; or

"(II) any institution-affiliated party.".

(b) INSTITUTIONS INSURED BY THE NCUA.—Section 202(a) of the Federal Credit Union Act (12 U.S.C. 1782(a)) is amended by adding after the paragraph added by section 922 of this Act the following new paragraph:

"(7) REPORT TO INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured credit union which has engaged the services of an independent auditor to audit such depository institution within the past 2 years shall transmit to such auditor a copy of the most recent report of condition made by such credit union (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by such credit union.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided to an auditor under subparagraph (A), each insured credit union shall provide such auditor with—

"(i) a copy of any supervisory memorandum of understanding with such credit union and any written agreement between the Board or a State regulatory agency and the credit union which is in effect during the period covered by the audit; and

"(ii) a report of any action initiated or taken by the Board during such period under subsection (e), (f), (g), (i), (l), or (q) of section 206, or any similar action taken by a State regulatory agency under State law, or any other civil money penalty assessed by the Board under this Act, with respect to—

"(I) the credit union; or

"(II) any institution-affiliated party.".

SEC. 932. DEPOSITORY INSTITUTION EMPLOYEE PROTECTION REMEDY.

(a) EMPLOYEES OF DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after the section added by section 914(a) of this Act the following new section:

"SEC. 33. DEPOSITORY INSTITUTION EMPLOYEE PROTECTION REMEDY.

"(a) PROHIBITION AGAINST DISCRIMINATION AGAINST WHISTLEBLOWERS.—No federally insured depository institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal banking agency or to the Attorney General regarding a possible violation of any law or regulation by the depository institution or any of its officers, directors, or employees.

"(b) ENFORCEMENT.—Any employee or former employee who believes he has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the close of the 2-year period beginning on the date of such discharge or discrimination. The complainant shall also file a copy of the complaint initiating such action with the appropriate Federal banking agency.

"(c) REMEDIES.—If the district court determines that a violation of subsection (a) has occurred, it may order the depository institution which committed the violation—

"(1) to reinstate the employee to his former position,

"(2) to pay compensatory damages; or

"(3) take other appropriate actions to remedy any past discrimination.

"(d) LIMITATION.—The protections of this section shall not apply to any employee who—

"(1) deliberately causes or participates in the alleged violation of law or regulation; or

"(2) knowingly or recklessly provides substantially false information to such an agency or the Attorney General.".

(b) EMPLOYEES OF CREDIT UNIONS INSURED BY THE NCUA.—The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by inserting after the section added by section 914(b) of this Act the following new section:

"SEC. 213. CREDIT UNION EMPLOYEE PROTECTION REMEDY.

"(a) PROHIBITION AGAINST DISCRIMINATION AGAINST WHISTLEBLOWERS.—No federally insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board or to the Attorney General regarding a possible violation of any law or regulation by the credit union or any of its officers, directors, or employees.

"(b) ENFORCEMENT.—Any employee or former employee who believes he has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the close of the 2-year period beginning on the date of such discharge or discrimination. The complainant shall also file a copy of the complaint initiating such action with the Board.

"(c) REMEDIES.—If the district court determines that a violation of subsection (a) has occurred, it may order the credit union which committed the violation—

"(1) to reinstate the employee to his former position,

"(2) to pay compensatory damages, or

"(3) take other appropriate actions to remedy any past discrimination.

"(d) LIMITATIONS.—The protections of this section shall not apply to any employee who—

"(1) deliberately causes or participates in the alleged violation of law or regulation, or

"(2) knowingly or recklessly provides substantially false information to such an agency or the Attorney General.".

SEC. 933. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after the section added by section 932(a) of this Act the following new section:

"SEC. 34. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

"(a) IN GENERAL.—An appropriate Federal banking agency, with the concurrence of the Attorney General, may pay a reward to a person who provides original information which leads to—

"(1) recovery, in an amount that exceeds $50,000, of a criminal fine, restitution, or civil penalty—

"(A) under—

"(i) the Federal Deposit Insurance Act;

"(ii) the Federal Credit Union Act;

"(iii) sections 5213, 5239(b), and 5240 of the Revised Statutes;

"(iv) the Federal Reserve Act;

"(v) the Bank Holding Company Act Amendments of 1970;

"(vi) the Bank Holding Company Act of 1956;

"(vii) the Home Owners' Loan Act; or

"(viii) section 3663 of title 18, United States Code, pursuant to a conviction for an offense referred to in subparagraph (B) of this paragraph,

"(B) pursuant to a conviction for an offense under section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code, affecting a depository institution insured by the Federal Deposit

Insurance Corporation, or for a conspiracy to commit such an offense; or

"(C) under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; or

"(2) a forfeiture under section 981 or 982 of title 18, United States Code, that—

"(A) arises in connection with a depository institution insured by the Federal Deposit Insurance Corporation; and

"(B) exceeds $50,000.

"(b) PERCENTAGE LIMITATION.—An appropriate Federal banking agency may not pay a reward under subsection (a) of more than 25 percent of the amount of the fine, penalty, restitution, or forfeiture or $100,000, whichever is less.

"(c) OFFICIALS AND PERSONS INELIGIBLE.—An appropriate Federal banking agency may not pay a reward under subsection (a) to—

"(1) an officer or employee of the United States or of a State or local government who provides information described in subsection (a), obtained in the performance of official duties; or

"(2) a person who—

"(A) deliberately causes or participates in the alleged violation of law or regulation, or

"(B) knowingly or recklessly provides substantially false information to such an agency or the Attorney General.

"(d) NONREVIEWABILITY.—Any agency decision under this section is final and not reviewable by any court.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Title II of the Federal Credit Union Act (12 U.S.C. 1790 et seq.) is amended by inserting after the section added by section 932(b) of this Act the following new section:

"SEC. 214. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

"The Board may pay rewards in connection with an offense affecting a insured credit union, under the same circumstances and subject to the same limitations that a Federal banking agency may pay rewards under section 33 of the Federal Deposit Insurance Act in connection with an offense affecting a depository institution insured by the Federal Deposit Insurance Corporation.".

Subtitle D—Right to Financial Privacy Act Amendments

SEC. 941. DEFINITIONS.

Section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401), as amended by section 744(b) of this Act, is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) in paragraph (7) (as so redesignated), by striking all that precedes subparagraph (A) and inserting in lieu thereof the following:

"(7) 'supervisory agency' means with respect to any particular financial institution, holding company, or any subsidiary of a financial institution or holding company, any of the following which has statutory authority to examine the financial condition, business operations, or records or transactions of that institution, holding company, or subsidiary—"; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) 'holding company' means—

"(A) any bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956);

"(B) any company described in section 3(f)(1) of the Bank Holding Company Act of 1956; and

"(C) any savings and loan holding company (as defined in the Home Owners' Loan Act);".

SEC. 942. ADDITIONAL EXCEPTIONS.

Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(b)) is amended—

(1) by amending subsection (b) to read as follows:

"(b) This chapter shall not apply to the examination by or disclosure to any supervisory agency of financial records or information in the exercise of its supervisory, regulatory, or monetary functions, including conservatorship or receivership functions, with respect to any financial institution, holding company, subsidiary of a financial institution or holding company, institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a financial institution, holding company, or subsidiary, or other person participating in the conduct of the affairs thereof."; and

(2) by adding at the end the following new subsections:

"(m) This title shall not apply to the examination by or disclosure to employees or agents of the Board of Governors of the Federal Reserve System or any Federal Reserve Bank of financial records or information in the exercise of the Federal Reserve System's authority to extend credit to the financial institutions or others.

"(n) This title shall not apply to the examination by or disclosure to the Resolution Trust Corporation or its employees or agents of financial records or information in the exercise of its conservatorship, receivership, or liquidation functions with respect to a financial institution.

"(o) This title shall not apply to the examination by or disclosure to the Federal Housing Finance Board or any of the Federal home loan banks of financial records or information in the exercise of the Federal Housing Finance Board's authority to extend credit (either directly or through a Federal home loan bank) to financial institutions or others.".

SEC. 943. PROHIBITION.

Section 1120 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420) is redesignated as section 1120(a) and is amended by adding at the end the following new subsection:

"(b)(1) No officer, director, partner, employee, or shareholder of, or agent or attorney for, a financial institution shall, directly or indirectly, notify any person named in a grand jury subpoena served on such institution in connection with an investigation relating to a possible—

"(A) crime against any financial institution or supervisory agency; or

"(B) conspiracy to commit such a crime, about the existence or contents of such subpoena, or information that has been furnished to the grand jury in response to such subpoena.

"(2) Section 8 of the Federal Deposit Insurance Act and section 206(k)(2) of the Federal Credit Union Act shall apply to any violation of this subsection.".

SEC. 944. MISCELLANEOUS PROVISIONS.

Section 1112(e) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(e)) is amended—

(1) by inserting after "with respect to a depository institution" the following: ", holding company, or any subsidiary of a depository institution or holding company,"; and

(2) by striking out "Council" and inserting in lieu thereof "Council and the Securities and Exchange Commission".

Subtitle E—Civil Penalties for Violations Involving Financial Institutions

SEC. 951. CIVIL PENALTIES.

(a) IN GENERAL.—Whoever violates any provision of law to which this section is made applicable by subsection (c) shall be subject to a civil penalty in an amount assessed by the court in a civil action under this section.

(b) MAXIMUM AMOUNT OF PENALTY.—

(1) GENERALLY.—The amount of the civil penalty shall not exceed $1,000,000.

(2) SPECIAL RULE FOR CONTINUING VIOLATIONS.—In the case of a continuing violation, the amount of the civil penalty may exceed the amount described in paragraph (1) but may not exceed the lesser of $1,000,000 per day or $5,000,000.

(3) SPECIAL RULE FOR VIOLATIONS CREATING GAIN OR LOSS.—(A) If any person derives pecuniary gain from the violation, or if the violation results in pecuniary loss to a person other than the violator, the amount of the civil penalty may exceed the amounts described in paragraphs (1) and (2) but may not exceed the amount of such gain or loss.

(B) As used in this paragraph, the term "person" includes the Bank Insurance Fund, the Savings Association Insurance Fund, and the National Credit Union Share Insurance Fund.

(c) VIOLATIONS TO WHICH PENALTY IS APPLICABLE.—This section applies to a violation of, or a conspiracy to violate—

(1) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of title 18, United States Code; or

(2) section 1341 or 1343 of title 18, United States Code, affecting a federally insured financial institution.

(d) ATTORNEY GENERAL TO BRING ACTION.—A civil action to recover a civil penalty under this section shall be commenced by the Attorney General.

(e) BURDEN OF PROOF.—In a civil action to recover a civil penalty under this section, the Attorney General must establish the right to recovery by a preponderance of the evidence.

(f) ADMINISTRATIVE SUBPOENAS.—

(1) IN GENERAL.—For the purpose of conducting a civil investigation in contemplation of a civil proceeding under this section, the Attorney General may—

(A) administer oaths and affirmations;

(B) take evidence; and

(C) by subpoena, summon witnesses and require the production of any books, papers, correspondence, memoranda, or other records which the Attorney General deems relevant or material to the inquiry. Such subpoena may require the attendance of witnesses and the production of any such records from any place in the United States at any place in the United States designated by the Attorney General.

(2) PROCEDURES APPLICABLE.—The same procedures and limitations as are provided with respect to civil investigative demands in subsections (g), (h), and (j) of section 1968 of title 18, United States Code, apply with respect to a subpoena issued under this subsection. Process required by such subsections to be served upon the custodian shall be served on the Attorney General. Failure to comply with an order of the court to enforce such subpoena shall be punishable as contempt.

(3) LIMITATION.—In the case of a subpoena for which the return date is less than 5 days after the date of service, no person shall be found in contempt for failure to comply by the return date if such person files a petition

under paragraph (2) not later than 5 days after the date of service.

Subtitle F—Criminal Law and Procedure

SEC. 961. INCREASED CRIMINAL PENALTIES FOR CERTAIN FINANCIAL INSTITUTION OFFENSES.

(a) RECEIPT OF COMMISSIONS OR GIFTS FOR PROCURING LOANS.—Section 215(a) of title 18, United States Code, is amended—

(1) by striking "$5,000" and inserting "$1,000,000"; and

(2) by striking "five" and inserting "20".

(b) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended—

(1) by striking "$5,000" and inserting "$1,000,000"; and

(2) by striking "five" and inserting "20".

(c) LENDING, CREDIT, AND INSURANCE INSTITUTIONS.—Section 657 of title 18, United States Code, is amended—

(1) by striking "$5,000" and inserting "$1,000,000"; and

(2) by striking "five" and inserting "20".

(d) BANK ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1005 of title 18, United States Code, is amended—

(1) in the 1st paragraph, by inserting "bank or savings and loan holding company," after "member bank,";

(2) in the 3rd paragraph—

(A) by inserting "or company" after "bank" each place it appears; and

(B) by striking the "—" at the end and inserting a semicolon;

(3) by adding after the 3rd paragraph the following:

"Whoever with intent to defraud the United States or any agency thereof, or any financial institution referred to in this section, participates or shares in or receives (directly or indirectly) any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such financial institution—";

(4) by striking "$5,000" and inserting "$1,000,000"; and

(5) by striking "five" and inserting "20".

(e) FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1006 of title 18, United States Code, is amended—

(1) by striking "$10,000" and inserting "$1,000,000"; and

(2) by striking "five" and inserting "20".

(f) FEDERAL DEPOSIT INSURANCE CORPORATION TRANSACTIONS.—Section 1007 of title 18, United States Code, is amended to read as follows:

"§ 1007. Federal Deposit Insurance Corporation Transactions

"Whoever, for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, knowingly makes or invites reliance on a false, forged, or counterfeit statement, document, or thing shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both.".

(g) FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION TRANSACTIONS.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by striking section 1008.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by striking the item relating to section 1008.

(h) LOAN AND CREDIT APPLICATIONS GENERALLY; RENEWALS AND DISCOUNTS; CROP INSURANCE.—Section 1014 of title 18, United States Code, is amended—

(1) by striking "a Federal Home Loan Bank, the Federal Home Loan Bank Board, the Home Owners' Loan Corporation, a Federal Saving and Loan Association";

(2) by striking "the Federal Saving and Loan Insurance Corporation, any bank the deposits of which are insured by";

(3) by striking "any member of";

(4) by inserting "the Resolution Trust Corporation" after "Federal Deposit Insurance Corporation,";

(5) by striking "$5,000" and inserting "$1,000,000"; and

(6) by striking "two" and inserting "20".

(i) FRAUDS AND SWINDLES.—Section 1341 of title 18, United States Code, is amended by adding at the end "If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both.".

(j) FRAUD BY WIRE, RADIO, OR TELEVISION.—Section 1343 of title 18, United States Code, is amended by adding at the end: "If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both.".

(k) BANK FRAUD.—Section 1344 of title 18, United States Code, is amended to read as follows:

"§ 1344. Bank fraud

"Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud a financial institution; or

"(2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises;

shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both.".

(l) LIMITATIONS.—

(1) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3293. Financial institution offenses

"No person shall be prosecuted, tried, or punished for a violation of, or a conspiracy to violate—

"(1) section 215, 656, 657, 1005, 1006, 1007, 8001, 1014, or 1344; or

"(2) section 1341 or 1343, if the offense affects a financial institution;

unless the indictment is returned or the information is filed within 10 years after the commission of the offense.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"3293. Financial institution offenses.".

(3) EFFECT OF AMENDMENTS ON OFFENSES FOR WHICH THE CURRENT PERIOD OF LIMITATIONS HAD NOT RUN.—The amendments made by this subsection shall apply to an offense committed before the effective date of this section, if the statute of limitations applicable to that offense under this chapter had not run as of such date.

(m) SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide for a substantial period of incarceration for a violation of, or a conspiracy to violate, section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code, that substantially jeopardizes the safety and soundness of a federally insured financial institution.

SEC. 962. MISCELLANEOUS REVISIONS TO TITLE 18.

(a) SPECIFIC TERMINOLOGY CHANGES AND REPEAL.—

(1) SECTION 212.—Section 212 of title 18, United States Code, is amended—

(A) by striking "bank" the first place it appears and inserting "financial institution" in lieu thereof;

(B) by striking "land bank" and all that follows through "farm credit examiner" and inserting "Farm Credit Bank, bank for cooperatives, production credit association, Federal land bank association, agricultural credit association, Federal land credit association, service organization chartered under section 4.26 of the Farm Credit Act of 1971, the Farm Credit System Financial Assistance Corporation, the Federal Agricultural Mortgage Credit Corporation, the Federal Farm Credit Banks Funding Corporation, the National Consumer Cooperative Bank, or other institution subject to examination by a Farm Credit Administration examiner";

(C) in the 2nd undesignated paragraph, by striking "insured banks" and inserting "insured financial institutions" in lieu thereof; and

(D) in the 2nd undesignated paragraph, by striking "or by the Federal Deposit Insurance Corporation" and inserting in lieu thereof ", by the Federal Deposit Insurance Corporation, by the Office of Thrift Supervision, or by the Federal Housing Finance Board".

(2) SECTION 213.—Section 213 of title 18, United States Code, is amended by striking "banks the deposits of which" and inserting "financial institutions the deposits of which".

(3) REPEAL OF SECTION 1009.—Title 18, United States Code, is amended by striking out section 1009.

(4) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by striking out the item relating to section 1009.

(5) SECTION 1030(e)(4).—Section 1030(e)(4) of title 18, United States Code, is amended—

(A) in subparagraph (A), by striking "a bank" and inserting "an institution,";

(B) by striking subparagraph (C); and

(C) by redesignating subparagraphs (D), (E), (F), (G), and (H), as subparagraphs (C), (D), (E), (F), and (G), respectively.

(6) SECTION 1114.—Section 1114 of title 18, United States Code, is amended—

(A) by striking "the Federal Savings and Loan Insurance Corporation,"; and

(B) by striking "the Federal Home Loan Bank Board" and inserting "the Office of Thrift Supervision, the Federal Housing Finance Board, the Resolution Trust Corporation".

(7) CHANGES RELATING TO NATIONAL CREDIT UNION ADMINISTRATION.—Sections 657, 1006, 1014, and 2113(h) of title 18, United States Code, are each amended by striking "Administrator of the National Credit Union Administration" and inserting "National Credit Union Administration Board".

(8) CHANGES RELATING TO THE FARM CREDIT SYSTEM.—

(A) Sections 657 and 1006 of title 18, United States Code, are each amended by striking "any land bank, intermediate credit bank," and inserting in lieu thereof "the Farm Credit System Insurance Corporation, a Farm Credit Bank, a".

(B) Section 1014 of title 18, United States Code, is amended—

(i) by striking "any Federal intermediate credit bank" and all that follows through "Title 12" and inserting in lieu thereof "any

Farm Credit Bank, production credit association, agricultural credit association, bank for cooperatives, or any division, officer, or employee thereof"; and

(ii) by striking "Federal Savings and Loan Insurance Corporation" and inserting "Farm Credit System Insurance Corporation" in lieu thereof.

(b) CROSS REFERENCE CHANGE.—Section 1306 of title 18, United States Code, is amended by striking "section 20 of the Federal Deposit Insurance Act, or section 410 of the National Housing Act" and inserting "or section 20 of the Federal Deposit Insurance Act".

(c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b)(1) Whoever, being an officer of a financial institution, with the intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that financial institution, or information that has been furnished to the grand jury in response to that subpoena, shall be fined under this title or imprisoned not more than 5 years, or both.

"(2) Whoever, being an officer of a financial institution, directly or indirectly notifies—

"(A) a customer of that financial institution whose records are sought by a grand jury subpoena; or

"(B) any other person named in that subpoena;

about the existence or contents of that subpoena or information that has been furnished to the grand jury in response to that subpoena, shall be fined under this title or imprisoned not more than one year, or both.

"(3) As used in this subsection—

"(A) the term 'an officer of a financial institution' means an officer, director, partner, employee, agent, or attorney of or for a financial institution; and

"(B) the term 'subpoena for records' means a Federal grand jury subpoena for customer records that has been served relating to a violation of, or a conspiracy to violate—

"(i) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344; or

"(ii) section 1341 or 1343 affecting a financial institution.".

(d) CONFORMING TERMINOLOGY IN BANK ROBBERY SECTION.—Section 2113 of title 18, United States Code, is amended—

(1) in subsection (f), by striking "any bank the deposits of which" and inserting "any institution the deposits of which";

(2) by adding before the period at the end of subsection (h) ", and any 'Federal credit union' as defined in section 2 of the Federal Credit Union Act"; and

(3) by striking subsection (g) and redesignating subsection (h) as subsection (g).

(e) CREATION OF GENERAL DEFINITION OF FINANCIAL INSTITUTION FOR TITLE 18.—

(1) IN GENERAL.—Subsection (b) of section 215 of title 18, United States Code, is transferred to the end of chapter 1 of such title.

(2) UPDATING AND TECHNICAL AMENDMENTS.—Such subsection (b), as so transferred, is amended—

(A) by inserting at the beginning the following section heading:

"§20. Financial institution defined"

(B) by striking "(b)";

(C) by striking "this section" and inserting "this title";

(D) so that paragraph (1) reads as follows:

"(1) an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act);";

(E) by striking paragraphs (2) and (8);

(F) so that paragraph (5) reads as follows:

"(5) a System institution of the Farm Credit System, as defined in section 5.35(3) of the Farm Credit Act of 1971;";

(G) so that paragraph (7) reads as follows:

"(7) a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act.";

and

(H) by redesignating paragraphs (3), (4), (5), (6), and (7) (as amended by this paragraph) as paragraphs (2), (3), (4), (5), and (6), respectively.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"20. Financial institution defined.".

SEC. 963. CIVIL AND CRIMINAL FORFEITURE.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

"(C) Any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of this title.".

(b) TRANSFER OF PROPERTY UNDER CIVIL FORFEITURE.—Section 981(e) of title 18, United States Code, is amended—

(1) in the matter before paragraph (1), by striking out "determine to—" and inserting in lieu thereof "determine—";

(2) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) to any other Federal agency;

"(2) to any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property;

"(3) in the case of property referred to in subsection (a)(1)(C) (if the affected financial institution is in receivership or liquidation), to any Federal financial institution regulatory agency—

"(A) to reimburse the agency for payments to claimants or creditors of the institution; and

"(B) to reimburse the insurance fund of the agency for losses suffered by the fund as a result of the receivership or liquidation;

"(4) in the case of property referred to in subsection (a)(1)(C) (if the affected financial institution is not in receivership or liquidation), upon the order of the appropriate Federal financial institution regulatory agency, to the financial institution as restitution, with the value of the property so transferred to be set off against any amount later recovered by the financial institution as compensatory damages in any State or Federal proceeding; or

"(5) in the case of property referred to in subsection (a)(1)(C), to any Federal financial institution regulatory agency, to the extent of the agency's contribution of resources to, or expenses involved in, the seizure and forfeiture, and the investigation leading directly to the seizure and forfeiture, of such property."; and

(3) by adding at the end the following new sentence: "The United States shall not be liable in any action arising out of a transfer under paragraph (3), (4), or (5) of this subsection.".

(c) CRIMINAL FORFEITURE.—Section 982 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following:

"(2) The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate, section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title, affecting a financial institution, shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation."; and

(2) in subsection (b), by striking "(b) The provisions" and all that follows through "However, the" and inserting in lieu thereof the following:

"(b)(1) Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed—

"(A) in the case of a forfeiture under subsection (a)(1) of this section, by subsections (c) and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853); and

"(B) in the case of a forfeiture under subsection (a)(2) of this section, by subsections (b), (c), (e), and (g) through (p) of section 413 of such Act.

"(2) The".

SEC. 964. GRAND JURY SECRECY.

(a) IN GENERAL.—Chapter 215 of title 18, United States Code, is amended by striking section 3322 and all that follows through section 3328 and inserting the following:

"§ 3322. Disclosure of certain matters occurring before grand jury

"(a) A person who is privy to grand jury information concerning a banking law violation—

"(1) received in the course of duty as an attorney for the government; or

"(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the government for use in enforcing section 951 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 or for use in connection with civil forfeiture under section 981 of title 18, United States Code, of property described in section 981(a)(1)(C) of such title.

"(b)(1) Upon motion of an attorney for the government, a court may direct disclosure of matters occurring before a grand jury during an investigation of a banking law violation to identified personnel of a financial institution regulatory agency—

"(A) for use in relation to any matter within the jurisdiction of such regulatory agency; or

"(B) to assist an attorney for the government to whom matters have been disclosed under subsection (a).

"(2) A court may issue an order under paragraph (1) upon a finding of a substantial need.

"(c) A person to whom matter has been disclosed under this section shall not use such matter other than for the purpose for which such disclosure was authorized.

"(d) As used in this section—

"(1) the term 'banking law violation' means a violation of, or a conspiracy to violate—

"(A) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344; or

"(B) section 1341 or 1343 affecting a financial institution;

"(2) the term 'attorney for the government' has the meaning given such term in the Federal Rules of Criminal Procedure; and

"(3) the term 'grand jury information' means matters occurring before a grand jury other than the deliberations of the grand jury or the vote of any grand juror.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 215 of title 18, United States Code, is amended by striking out the item relating to sections 3322 through 3328 and inserting the following:

"3322. Disclosure of certain matters occurring before grand jury.".

(c) FAIR CREDIT REPORTING ACT AMENDMENT.—Paragraph (1) of section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by inserting before the period at the end the following: ", or a subpoena issued in connection with proceedings before a Federal grand jury".

SEC. 965. CRIMINAL DIVISION FRAUD SECTION REGIONAL OFFICE.

(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Department of Justice shall create a regional office of the Fraud Section of the Criminal Division in the Northern District of Texas, and maintain such office, by providing sufficient legal and other staff and office space, through fiscal year 1992.

(b) STUDY.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall study and report to the Congress on whether additional regional offices of the Fraud Section of the Criminal Division should be established in other parts of the country.

SEC. 966. DEPARTMENT OF JUSTICE APPROPRIATION AUTHORIZATION.

(a) IN GENERAL.—There is authorized to be appropriated to the Attorney General, without fiscal year limitation—

(1) $65,000,000 for each of fiscal years 1990 through 1992, for purposes of investigations and prosecutions involving financial institutions to which this Act and amendments made by this Act apply; and

(2) $10,000,000 for each of fiscal years 1990 through 1992, for purposes of civil proceedings involving financial institutions to which this Act and amendments made by this Act apply.

(b) SUPPLANTATION AND REALLOCATION PROHIBITED.—Sums authorized by this section—

(1) are in addition to any other sums authorized to be appropriated for such purposes;

(2) shall not be used to supplant sums otherwise available for such purposes; and

(3) shall not be reallocated for any other purpose.

SEC. 967. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE JUDICIARY.

There is authorized to be appropriated to the Federal courts system $10,000,000, to carry out such system's duties under this Act, for each of fiscal years 1990 through 1992.

SEC. 968. RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS.

Section 1961(1) of title 18, United States Code, is amended by inserting "section 1344 (relating to financial institution fraud)," after "(relating to wire fraud),".

TITLE X—STUDIES OF FEDERAL DEPOSIT INSURANCE, BANKING SERVICES, AND THE SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES

SEC. 1001. STUDY OF FEDERAL DEPOSIT INSURANCE SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the National Credit Union Administration Board, the Director of the Office of Management and Budget, and individuals from the private sector, shall conduct a study of the Federal deposit insurance system.

(b) TOPICS.—As part of the study required under subsection (a), the Secretary of the Treasury shall investigate, review, and evaluate the following:

(1) The feasibility of establishing a deposit insurance premium rate structure which would take into account, on an institution-by-institution basis—

(A) asset quality risk;

(B) interest rate risk;

(C) quality of management; and

(D) profitability and capital.

(2) Incentives for market discipline, including the advantages of—

(A) limiting each depositor to 1 insured account per institution;

(B) reducing the amount insured, or providing for a graduated decrease in the percentage of the amounts deposited which are insured as the amounts deposited increase;

(C) combining Federal with private insurance in order to bring the market discipline of private insurance to bear on the management of the depository institution; and

(D) ensuring, by law or regulation, that on the closing of any insured depository institution, the appropriate Federal insurance fund will honor only its explicit liabilities, and will never make good any losses on deposits not explicitly covered by Federal deposit insurance.

(3) The scope of deposit insurance coverage and its impact on the liability of the insurance fund.

(4) The feasibility of market value accounting, assessments on foreign deposits, limitations on brokered deposits, the addition of collateralized borrowings to the deposit insurance base, and multiple insured accounts.

(5) The impact on the deposit insurance funds of varying State and Federal bankruptcy exemptions and the feasibility of—

(A) uniform exemptions;

(B) limits on exemptions when necessary to repay obligations owed to federally insured depository institutions; and

(C) requiring borrowers from federally insured depository institutions to post a personal or corporate bond when obtaining a mortgage on real property.

(6) Policies to be followed with respect to the recapitalization or closure of insured depository institutions whose capital is depleted to, or near the point of, insolvency.

(7) The efficiency of housing subsidies through the Federal home loan bank system.

(8) Alternatives to Federal deposit insurance.

(9) The feasibility of developing and administering, through the appropriate Federal banking agency, an examination of the principles and techniques of risk management and the application of such principles and techniques to the management of insured institutions.

(10) The adequacy of capital of insured credit unions and the National Credit Union Share Insurance Fund, including whether the supervision of such fund should be separated from the other functions of the National Credit Union Administration.

(11) The feasibility of requiring, by statute or other means, that—

(A) independent auditors and accountants of a depository institution report the results of any audit of the institution to the relevant regulatory agency or agencies;

(B) a regulator share reports on a depository institution with the institution's independent auditors and accountants; and

(C) independent auditors and accountants participate in conferences between the regulator and the depository institution.

(12) The feasibility of adopting regulations which are the same as or similar to the provisions of England's Banking Act, 1987, ch. 22 (4 Halsbury's Statutes of England and Wales 527–650 (1987)), enacted on May 15, 1987, relating to the Bank of England's relationship with auditors and reporting accountants (including sections 8, 39, 41, 45, 46, 47, 82, 83, 85, and 94 of such Act).

(c) FINAL REPORT.—Not later than the close of the 18-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Congress a final report containing a detailed statement of findings made, and conclusions drawn from, the study conducted under this section, including such recommendations for administrative and legislative action as the Secretary determines to be appropriate.

SEC. 1002. SURVEY OF BANK FEES AND SERVICES.

(a) ANNUAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System shall obtain a sample, which is representative by geographic location and size of institution, of—

(1) certain retail banking services provided by insured depository institutions; and

(2) the fees, if any, which are imposed by such institutions for providing such services.

(b) ANNUAL REPORT TO CONGRESS REQUIRED.—

(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsection (a).

(2) CONTENTS OF REPORT.—Each report prepared pursuant to paragraph (1) shall include—

(A) a description of any discernable trends in the cost and availability of retail banking services; and

(B) a description of the correlation, if any, between—

(i) any increase in the amount of any deposit insurance premium assessed by the Federal Deposit Insurance Corporation against insured depository institutions;

(ii) any increase in the amount of the fees imposed by such institutions for providing retail banking services; and

(iii) any decrease in the availability of such services.

(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit—

(A) the first annual report required under paragraph (1) not later than June 1, 1990; and

(B) each subsequent annual report not later than June 1 of each calendar year beginning after 1990.

(c) SUNSET.—The requirements of subsection (a) shall terminate at the end of the 2-year period beginning on the later of—

(1) the 5-year period beginning on the date of the enactment of this Act; or

(2) the date (if any) during the 2-year period beginning at the end of such 5-year period, on which deposit insurance premiums are increased under section 7 of the Federal Deposit Insurance Act.

SEC. 1003. GENERAL ACCOUNTING OFFICE STUDY.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of deposit insurance issues raised by section 1001 emphasizing in particular—

(1) analysis of the policy considerations affecting the scope of deposit insurance coverage;

(2) evaluation of the risks associated with bank insurance contracts both as to the issuing institution and the deposit insurance funds; and

(3) the effect of proposed changes in the definition of "deposit" on—

(A) market discipline; and

(B) the ability of other participants in capital markets to raise funds.

(b) REPORT.—Not later than the close of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit to the Congress the results of the study required by subsection (a).

SEC. 1004. STUDY REGARDING CAPITAL REQUIREMENTS FOR GOVERNMENT-SPONSORED ENTERPRISES.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the risks undertaken by all government-sponsored enterprises and the appropriate level of capital for such enterprises consistent with—

(1) the financial soundness and stability of the government-sponsored enterprises;

(2) minimizing any potential financial exposure of the Federal Government; and

(3) minimizing any potential impact on borrowing of the Federal Government.

(b) CONSULTATION AND COOPERATION WITH OTHER AGENCIES.—The Comptroller General shall determine the structure and methodology of the study under this section in consultation with and with the cooperation of the Secretary of Agriculture and the Farm Credit Administration (with respect to the Farm Credit Banks, the Banks for Cooperatives, and the Federal Agricultural Mortgage Corporation), the Secretary of Education (with respect to the Student Loan Marketing Association and the College Construction Loan Corporation), the Secretary of Housing and Urban Development (with respect to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation), and the government-sponsored enterprises.

(c) ACCESS TO RELEVANT INFORMATION.—Each government-sponsored enterprise shall provide full and prompt access to the Comptroller General to its books and records and shall promptly provide any other information requested by the Comptroller General. In conducting the study under this section, the Comptroller General may request information from, or the assistance of, any department or agency of the Federal Government that is authorized by law to supervise or approve any of the activities of any government-sponsored enterprise.

(d) SPECIFIC REQUIREMENTS.—The study shall examine and evaluate—

(1) the degrees and types of risks that are undertaken by the government-sponsored enterprises in the course of their operations, including credit risk, interest rate risk, management and operational risk, and business risk;

(2) the most appropriate method or methods for quantifying the types of risks undertaken by the government-sponsored enterprises;

(3) the actual level of risk that exists with respect to each government-sponsored enterprise, which shall take into account factors including the volume and type of securities outstanding that are issued or guaranteed by each government-sponsored enterprise and the extent of off-balance sheet expense of each government-sponsored enterprise;

(4) the appropriateness of applying a risk-based capital standard to each government-sponsored enterprise, taking into account the nature of the business each government-sponsored enterprise conducts;

(5) the costs and benefits to the public from application of a risk-based capital standard to the government-sponsored enterprises and the impact of such a standard on the capability of each government-sponsored enterprise to carry out its purpose under law;

(6) the impact, if any, of the operation of the government-sponsored enterprises on borrowing of the Federal Government;

(7) the overall level of capital appropriate for each of the government-sponsored enterprises; and

(8) the quality and timeliness of information currently available to the public and the Federal Government concerning the extent and nature of the activities of government-sponsored enterprises and the financial risk associated with such activities.

(e) REPORTS TO CONGRESS.—The Comptroller General shall submit to the Congress 2 reports regarding the study under this section. The first report shall be submitted to the Congress not later than 9 months after the date of the enactment of this Act and the second report shall be submitted to the Congress not later than 21 months after the date of the enactment of this Act. Each report shall set forth—

(1) the results of the study under this section;

(2) any recommendations of the Comptroller General with respect to appropriate capital standards for each government-sponsored enterprise;

(3) any recommendations of the Comptroller General with respect to information that, in the determination of the Comptroller General, should be provided to the Congress concerning—

(A) the extent and nature of the activities of the government-sponsored enterprises; and

(B) the nature of any periodic reports that the Comptroller General believes should be submitted to the Congress relating to the capital condition and operations of the government-sponsored enterprises; and

(4) any recommendations and opinions of the Secretary of Agriculture, the Secretary of Education, the Secretary of Housing and Urban Development, and the Secretary of the Treasury regarding the report, to the extent that the recommendations and views of such officers differ from the recommendations and opinions of the Comptroller General.

(f) DEFINITION.—For purposes of this section, the term "government-sponsored enterprises" means the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Home Loan Bank System, the Farm Credit Banks, the Banks for Cooperatives, the Federal Agricultural Mortgage Corporation, the College Construction Loan Insurance Corporation, the Student Loan Marketing Association.

TITLE XI—REAL ESTATE APPRAISAL REFORM AMENDMENTS

SEC. 1101. PURPOSE.

The purpose of this title is to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

SEC. 1102. ESTABLISHMENT OF APPRAISAL SUBCOMMITTEE OF THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1011. ESTABLISHMENT OF APPRAISAL SUBCOMMITTEE.

"There shall be within the Council a subcommittee to be known as the 'Appraisal Subcommittee', which shall consist of the designees of the heads of the Federal financial institutions regulatory agencies. Each such designee shall be a person who has demonstrated knowledge and competence concerning the appraisal profession.".

SEC. 1103. FUNCTIONS OF APPRAISAL SUBCOMMITTEE.

(a) IN GENERAL.—The Appraisal Subcommittee shall—

(1) monitor the requirements established by States for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility;

(2) monitor the requirements established by the Federal financial institutions regulatory agencies and the Resolution Trust Corporation with respect to—

(A) appraisal standards for federally related transactions under their jurisdiction, and

(B) determinations as to which federally related transactions under their jurisdiction require the services of a State certified appraiser and which require the services of a State licensed appraiser;

(3) maintain a national registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions; and

(4) transmit an annual report to the Congress not later than January 31 of each year which describes the manner in which each function assigned to the Appraisal Subcommittee has been carried out during the preceding year.

(b) MONITORING AND REVIEWING FOUNDATION.—The Appraisal Subcommittee shall monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation.

SEC. 1104. CHAIRPERSON OF APPRAISAL SUBCOMMITTEE; TERM OF CHAIRPERSON; MEETINGS.

(a) CHAIRPERSON.—The Council shall select the Chairperson of the subcommittee. The term of the Chairperson shall be 2 years.

(b) MEETINGS; QUORUM; VOTING.—The Appraisal Subcommittee shall meet at the call of the Chairperson or a majority of its members when there is business to be conducted. A majority of members of the Appraisal Subcommittee shall constitute a quorum but 2 or more members may hold hearings. Decisions of the Appraisal Subcommittee shall be made by the vote of a majority of its members.

SEC. 1105. OFFICERS AND STAFF.

The Chairperson of the Appraisal Subcommittee shall appoint such officers and staff as may be necessary to carry out the functions of this title consistent with the appointment and compensation practices of the Council.

SEC. 1106. POWERS OF APPRAISAL SUBCOMMITTEE.

The Appraisal Subcommittee may, for the purpose of carrying out this title, establish advisory committees, hold hearings, sit and act at times and places, take testimony, receive evidence, provide information, and perform research, as the Appraisal Subcommittee considers appropriate.

SEC. 1107. PROCEDURES FOR ESTABLISHING APPRAISAL STANDARDS AND REQUIRING THE USE OF CERTIFIED AND LICENSED APPRAISERS.

Appraisal standards and requirements for using State certified and licensed appraisers in federally related transactions pursuant to this title shall be prescribed in accordance with procedures set forth in section 553 of title 5, United States Code, including the publication of notice and receipt of written comments or the holding of public hearings with respect to any standards or requirements proposed to be established.

SEC. 1108. STARTUP FUNDING.

(a) IN GENERAL.—For purposes of this title, the Secretary of the Treasury shall pay to the Appraisal Subcommittee a one-time payment of $5,000,000 on the date of the enactment of this Act. Thereafter, expenses of the subcommittee shall be funded through the collection of registry fees from certain certified and licensed appraisers pursuant to section 1109 or, if required, pursuant to section 1122(b) of this title.

(b) ADDITIONAL FUNDS.—Except as provided in section 1122(b) of this title, funds in addition to the funds provided under subsection (a) may be made available to the Appraisal Subcommittee only if authorized and appropriated by law.

SEC. 1109. ROSTER OF STATE CERTIFIED OR LICENSED APPRAISERS; AUTHORITY TO COLLECT AND TRANSMIT FEES.

(a) IN GENERAL.—Each State with an appraiser certifying and licensing agency whose certifications and licenses comply with this title, shall—

(1) transmit to the Appraisal Subcommittee, no less than annually, a roster listing individuals who have received a State certification or license in accordance with this title; and

(2) collect from such individuals who perform or seek to perform appraisals in federally related transactions, an annual registry fee of not more than $25, such fees to be transmitted by the State agencies to the Council on an annual basis.

Subject to the approval of the Council, the Appraisal Subcommittee may adjust the dollar amount of registry fees, up to a maximum of $50 per annum, as necessary to carry out its functions under this title.

(b) USE OF AMOUNTS APPROPRIATED OR COLLECTED.—Amounts appropriated for or collected by the Appraisal Subcommittee under this section shall be used—

(1) to maintain a registry of individuals who are qualified and eligible to perform appraisals in connection with federally related transactions;

(2) to support its activities under this title;

(3) to reimburse the general fund of the Treasury for amounts appropriated to and expended by the Appraisal Subcommittee during the 24-month startup period following the date of the enactment of this title; and

(4) to make grants in such amounts as it deems appropriate to the Appraisal Foundation, to help defray those costs of the foundation relating to the activities of its Appraisal Standards and Appraiser Qualification Boards.

SEC. 1110. FUNCTIONS OF THE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES RELATING TO APPRAISAL STANDARDS.

Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of each such agency or instrumentality. These rules shall require, at a minimum—

(1) that real estate appraisals be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation; and

(2) that such appraisals shall be written appraisals.

Each such agency or instrumentality may require compliance with additional standards if it makes a determination in writing that such additional standards are required in order to properly carry out its statutory responsibilities.

SEC. 1111. TIME FOR PROPOSAL AND ADOPTION OF STANDARDS.

Appraisal standards established under this title shall be proposed not later than 6 months and shall be adopted in final form and become effective not later than 12 months after the date of the enactment of this Act.

SEC. 1112. FUNCTIONS OF THE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES RELATING TO APPRAISER QUALIFICATIONS.

Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe, in accordance with sections 1113 and 1114 of this title, which categories of federally related transactions should be appraised by a State certified appraiser and which by a State licensed appraiser under this title.

SEC. 1113. TRANSACTIONS REQUIRING THE SERVICES OF A STATE CERTIFIED APPRAISER.

In determining whether an appraisal in connection with a federally related transaction shall be performed by a State certified appraiser, an agency or instrumentality under this title shall consider whether transactions, either individually or collectively, are of sufficient financial or public policy importance to the United States that an individual who performs an appraisal in connection with such transactions should be a State certified appraiser, except that—

(1) a State certified appraiser shall be required for all federally related transactions having a value of $1,000,000 or more; and

(2) 1-to-4 unit, single family residential appraisals may be performed by State licensed appraisers unless the size and complexity requires a State certified appraiser.

SEC. 1114. TRANSACTIONS REQUIRING THE SERVICES OF A STATE LICENSED APPRAISER.

All federally related transactions not requiring the services of a State certified appraiser shall be performed by either a State certified or licensed appraiser.

SEC. 1115. TIME FOR PROPOSAL AND ADOPTION OF RULES.

As appropriate, rules issued under sections 1113 and 1114 shall be proposed not later than 6 months and shall be effective upon adoption in final form not later than 12 months after the date of the enactment of this Act.

SEC. 1116. CERTIFICATION AND LICENSING REQUIREMENTS.

(a) IN GENERAL.—For purposes of this title, the term "State certified real estate appraiser" means any individual who has satisfied the requirements for State certification in a State or territory whose criteria for certification as a real estate appraiser currently meets the minimum criteria for certification issued by the Appraiser Qualification Board of the Appraisal Foundation.

(b) RESTRICTION.—No individual shall be a State certified real estate appraiser under this section unless such individual has achieved a passing grade upon a suitable examination administered by a State or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualification Board of the Appraisal Foundation.

(c) DEFINITION.—As used in this section, the term "State licensed appraiser" means an individual who has satisfied the requirements for State licensing in a State or territory.

(d) ADDITIONAL QUALIFICATION CRITERIA.—Nothing in this title shall be construed to prevent any Federal agency or instrumentality under this title from establishing such additional qualification criteria as may be necessary or appropriate to carry out the statutory responsibilities of such department, agency, or instrumentality.

SEC. 1117. ESTABLISHMENT OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES.

To assure the availability of State certified and licensed appraisers for the performance in a State of appraisals in federally related transactions and to assure effective supervision of the activities of certified and licensed appraisers, a State may establish a State appraiser certifying and licensing agency.

SEC. 1118. MONITORING OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES.

(a) IN GENERAL.—The Appraisal Subcommittee shall monitor State appraiser certifying and licensing agencies for the purpose of determining whether a State agency's policies, practices, and procedures are consistent with this title. The Appraisal Subcommittee and all agencies, instrumentalities, and federally recognized entities under this title shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, or procedures are found to be inconsistent with this title.

(b) DISAPPROVAL BY APPRAISAL SUBCOMMITTEE.—The Federal financial institutions regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation shall accept certifications and licenses awarded by a State appraiser certifying the licensing agency unless the Appraisal Subcommittee issues a written finding that—

(1) the State agency fails to recognize and enforce the standards, requirements, and procedures prescribed pursuant to this title;

(2) the State agency is not granted authority by the State which is adequate to permit the agency to carry out its functions under this title; or

(3) decisions concerning appraisal standards, appraiser qualifications and supervision of appraiser practices are not made in a manner that carries out the purposes of this title.

(c) REJECTION OF STATE CERTIFICATIONS AND LICENSES.—

(1) OPPORTUNITY TO BE HEARD OR CORRECT CONDITIONS.—Before refusing to recognize a State's appraiser certifications or licenses, the Appraisal Subcommittee shall provide that State's certifying and licensing agency

a written notice of its intention not to recognize the State's certified or licensed appraisers and ample opportunity to provide rebuttal information or to correct the conditions causing the refusal.

(2) ADOPTION OF PROCEDURES.—The Appraisal Subcommittee shall adopt written procedures for taking actions described in this section.

(3) JUDICIAL REVIEW.—A decision of the subcommittee under this section shall be subject to judicial review.

SEC. 1119. RECOGNITION OF STATE CERTIFIED AND LICENSED APPRAISERS FOR PURPOSES OF THIS TITLE.

(a) EFFECTIVE DATE FOR USE OF CERTIFIED OR LICENSED APPRAISERS ONLY.—

(1) IN GENERAL.—Not later than July 1, 1991, all appraisals performed in connection with federally related transactions shall be performed only by individuals certified or licensed in accordance with the requirements of this title.

(2) EXTENSION OF EFFECTIVE DATE.—Subject to the approval of the council, the Appraisal Subcommittee may extend, until December 31, 1991, the effective date for the use of certified or licensed appraisers if it makes a written finding that a State has made substantial progress in establishing a State certification and licensing system that appears to conform to the provisions of this title.

(b) TEMPORARY WAIVER OF APPRAISER CERTIFICATION OR LICENSING REQUIREMENTS FOR STATE HAVING SCARCITY OF QUALIFIED APPRAISERS.—Subject to the approval of the Council, the Appraisal Subcommittee may waive any requirement relating to certification or licensing of a person to perform appraisals under this title if the Appraisal Subcommittee or a State agency whose certifications and licenses are in compliance with this title, makes a written determination that there is a scarcity of certified or licensed appraisers to perform appraisals in connection with federally related transactions in a State leading to inordinate delays in the performance of such appraisals. The waiver terminates when the Appraisal Subcommittee determines that such inordinate delays have been eliminated.

(c) REPORTS TO STATE CERTIFYING AND LICENSING AGENCIES.—The Appraisal Subcommittee, any other Federal agency or instrumentality, or any federally recognized entity shall report any action of a State certified or licensed appraiser that is contrary to the purposes of this title, to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the agency or instrumentality may take such further action, pursuant to written procedures, it deems necessary to carry out the purposes of this title.

SEC. 1120. VIOLATIONS IN OBTAINING AND PERFORMING APPRAISALS IN FEDERALLY RELATED TRANSACTIONS.

(a) VIOLATIONS.—Except as authorized by the Appraisal Subcommittee in exercising its waiver authority pursuant to section 1119(b), it shall be a violation of this section—

(1) for a financial institution to seek, obtain, or give money or any other thing of value in exchange for the performance of an appraisal by a person who the institution knows is not a State certified or licensed appraiser in connection with a federally related transaction; and

(2) for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Resolution Trust Corporation to knowingly contract for the performance of any appraisal by a person who is not a State certified or licensed appraiser in connection with a real estate related financial transaction defined in section 1121(5) to which such association or corporation is a party.

(b) PENALTIES.—A financial institution that violates subsection (a)(1) shall be subject to civil penalties under section 8(i)(2) of the Federal Deposit Insurance Act or section 206(k)(2) of the Federal Credit Union Act, as appropriate.

(c) PROCEEDING.—A proceeding with respect to a violation of this section shall be an administrative proceeding which may be conducted by a Federal financial institutions regulatory agency in accordance with the procedures set forth in subchapter II of chapter 5 of title 5, United States Code.

SEC. 1121. DEFINITIONS.

For purposes of this title:

(1) STATE APPRAISER CERTIFYING AND LICENSING AGENCY.—The term "State appraiser certifying and licensing agency" means a State agency established in compliance with this title.

(2) APPRAISAL SUBCOMMITTEE; SUBCOMMITTEE.—The terms "Appraisal Subcommittee" and "subcommittee" mean the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(3) COUNCIL.—The term "Council" means the Federal Financial Institutions Examinations Council.

(4) FEDERALLY RELATED TRANSACTION.—The term "federally related transaction" means any real estate-related financial transaction which—

(A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and

(B) requires the services of an appraiser.

(5) REAL ESTATE RELATED FINANCIAL TRANSACTION.—The term "real estate-related financial transaction" means any transaction involving—

(A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof;

(B) the refinancing of real property or interests in real property; and

(C) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(6) FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES.—The term "Federal financial institutions regulatory agencies" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporations, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.

(7) FINANCIAL INSTITUTION.—The term "financial institution" means an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act or an insured credit union as defined in section 101 of the Federal Credit Union Act.

(8) CHAIRPERSON.—The term "Chairperson" means the Chairperson of the Appraisal Subcommittee selected by the council.

(9) FOUNDATION.—The terms "Appraisal Foundation" and "Foundation" means the Appraisal Foundation established on November 30, 1987, as a not for profit corporation under the laws of Illinois.

(10) WRITTEN APPRAISAL.—The term "written appraisal" means a written statement used in connection with a federally related transaction that is independently and impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

SEC. 1122. MISCELLANEOUS PROVISIONS.

(a) TEMPORARY PRACTICE.—A State appraiser certifying or licensing agency shall recognize on a temporary basis the certification or license of an appraiser issued by another State if—

(1) the property to be appraised is part of a federally related transaction,

(2) the appraiser's business is of a temporary nature, and

(3) the appraiser registers with the appraiser certifying or licensing agency in the State of temporary practice.

(b) SUPPLEMENTAL FUNDING.—Funds available to the Federal financial institutions regulatory agencies may be made available to the Federal Financial Institutions Examination Council to support the council's functions under this title.

(c) PROHIBITION AGAINST DISCRIMINATION.—Criteria established by the Federal financial institutions regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation for appraiser qualifications in addition to State certification or licensing shall not exclude a certified or licensed appraiser for consideration for an assignment solely by virtue of membership or lack of membership in any particular appraisal organization.

(d) OTHER REQUIREMENTS.—A corporation, partnership, or other business entity may provide appraisal services in connection with federally related transactions if such appraisal is prepared by individuals certified or licensed in accordance with the requirements of this title. An individual who is not a State certified or licensed appraiser may assist in the preparation of an appraisal if—

(1) the assistant is under the direct supervision of a licensed or certified individual; and

(2) the final appraisal document is approved and signed by an individual who is certified or licensed.

(e) STUDIES.—

(1) STUDY.—The Appraisal Subcommittee shall—

(A) conduct a study to determine whether real estate sales and financing information and data that is available to real estate appraisers in the States is sufficient to permit appraisers to properly estimate the values of properties in connection with federally related transactions; and

(B) study the feasibility and desirability of extending the provisions of this title to the function of personal property appraising and to personal property appraisers in connection with Federal financial and public policy interests.

(2) REPORT.—The Appraisal Subcommittee shall report its findings to the Congress with respect to the study described in paragraph—

(A) no later than 12 months after the date of the enactment of this title, and

(B) report its findings with respect to the study described in paragraph (2) to Congress not later than 18 months after the date of the enactment of this title.

TITLE XII—MISCELLANEOUS PROVISIONS

SEC. 1201. GAO STUDY OF CREDIT UNION SYSTEM.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a comprehensive study of the Nation's credit union system. In conducting the study, the Comptroller General shall examine—

(1) credit unions' present and future role in the financial marketplace;

(2) the financial condition of credit unions;

(3) credit union capital;

(4) credit union regulation and supervision on both the Federal and State levels;

(5) whether the National Credit Union Administration examinations of credit unions are comparable in frequency and quality to supervisory examinations of insured banks and savings associations;

(6) the structure and financial condition of the National Credit Union Share Insurance Fund, including whether supervision of that Fund should be separated from the other functions of the National Credit Union Administration Board; and

(7) whether the common bond rules regarding credit union membership continue to serve their original purpose.

Comparative information with other types of depository institutions should be included.

(b) SUBMISSION.—Before the close of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a final report which shall contain a detailed statement of findings and conclusions, including recommendations for such administrative and legislative action as the Comptroller General deems advisable.

SEC. 1202. OCC EMPLOYMENT PROVISION.

The 3rd undesignated paragraph of section 5240 of the Revised Statutes (12 U.S.C. 482) is amended—

(1) by striking out the 1st sentence and inserting in lieu thereof the following:

"Notwithstanding any of the preceding provisions of this section to the contrary, the Comptroller of the Currency shall fix the compensation and number of, and appoint and direct, all employees of the Office of the Comptroller of the Currency. Rates of basic pay for all employees of the Office may be set and adjusted by the Comptroller without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code. The Comptroller may provide additional compensation and benefits to employees of the Office if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Office, the Comptroller shall consult with, and seek to maintain comparability with, other Federal banking agencies."; and

(2) by redesignating the remaining sentences of such undesignated paragraph as a new undesignated paragraph.

SEC. 1203. NCUA EMPLOYMENT PROVISION.

Section 120 of the Federal Credit Union Act (12 U.S.C. 1766) is amended by adding at the end thereof the following new subsection:

"(j) STAFF.—

"(1) APPOINTMENT AND COMPENSATION.—The Board shall fix the compensation and number of, and appoint and direct, employees of the Board. Rates of basic pay for employees of the Board may be set and adjusted by the Board without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

"(2) ADDITIONAL COMPENSATION AND BENEFITS.—The Board may provide additional compensation and benefits to employees of the Board if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Board, the Board shall seek to maintain comparability with other Federal bank regulatory agencies.

"(3) FUNDING.—The salaries and expenses of the Board and employees of the Board shall be paid from fees and assessments (including income earned on insurance deposits) levied on insured credit unions under this Act.".

SEC. 1204. EXPANSION OF USE OF UNDERUTILIZED MINORITY BANKS, WOMEN'S BANKS, AND LOW-INCOME CREDIT UNIONS.

(a) CONSULTATION ON EXPANDED USE.—The Secretary of the Treasury shall consult with the appropriate Federal banking agencies and the National Credit Union Administration Board on methods for increasing the use of underutilized minority banks, women's banks, and limited income credit unions as depositaries or financial agents of Federal agencies.

(b) REPORT TO CONGRESS.—The Secretary of the Treasury shall include, in the 1st annual report submitted to the Congress under section 331(a) of title 31, United States Code, after the completion of the consultation required by subsection (a), a report of the actions taken by the Secretary to increase the use of underutilized minority banks, women's banks, and limited income credit unions as depositaries or financial agents of Federal agencies.

(c) DEFINITIONS.—For purposes of this section:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) MINORITY BANK.—The term "minority bank" means any depository institution described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act—

(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

(3) MINORITY.—The term "minority" means any Black American, Native American, Hispanic American, or Asian American.

(4) LOW-INCOME CREDIT UNION.—The term "low-income credit union" means any depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act which serves predominately low-income members (as defined by the National Credit Union Administration Board pursuant to section 101(5) of the Federal Credit Union Act).

(5) WOMEN'S BANK.—The term "women's bank" means any depository institution described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act—

(A) more than 50 percent of the outstanding shares of which are held by 1 or more women;

(B) a majority of the directors on the board of directors of which are women; and

(C) a significant percentage of senior management positions of which are held by women.

SEC. 1205. CREDIT STANDARDS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the Credit Standards Advisory Committee (in this section referred to as the "Committee").

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Committee shall consist of 11 members, as follows:

(A) The Chairman of the Board of Governors of the Federal Reserve System, or the Chairman's designee.

(B) The Director of the Office of Thrift Supervision, or the Director's designee.

(C) The Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson's designee.

(D) The Comptroller of the Currency, or the Comptroller's designee.

(E) The Chairman of the National Credit Union Administration, or the Chairman's designee.

(F) 6 members of the public appointed by the President who are knowledgeable with the credit standards and lending practices of insured depository institutions, no more than 3 of whom shall be from the same political party.

(2) TERMS.—Each member appointed under paragraph (1)(F) shall serve for the life of the Committee.

(3) CHAIRPERSON.—The members shall elect a chairperson of the Committee who shall serve for a term of 1 year.

(4) VACANCIES.—Any vacancy on the Committee shall be filled in the manner in which the original appointment was made.

(5) PAY AND EXPENSES.—Members of the Committee shall serve without pay but each member of the Committee shall be reimbursed for expenses incurred in connection with attendance of such members at meetings of the Committee. All expenses of the Committee shall be shared on a pro rata basis, based upon each agency's total budget for the preceding year by the Federal financial regulators specified in subparagraphs (A) through (E) of paragraph (1).

(6) MEETINGS.—The Committee shall meet, not less frequently than quarterly, at the call of the chairperson or a majority of the members.

(c) DUTIES OF THE COMMITTEE.—The Committee shall do the following:

(1) REVIEW CREDIT STANDARDS, LENDING PRACTICES, AND SUPERVISION BY FEDERAL REGULATORS.—Review the credit standards and lending practices of insured depository institutions and the supervision of such standards and practices by the Federal financial regulators.

(2) PREPARE RECOMMENDATIONS.—Prepare written comments and recommendations for the Federal financial regulators to ensure that insured depository institutions adhere to prudential credit standards and lending practices that are consistent for all insured depository institutions, to the maximum extent possible.

(3) MONITOR CREDIT STANDARDS, LENDING PRACTICES, AND SUPERVISION BY FEDERAL REGULATORS.—Monitor the credit standards and lending practices of insured depository institutions, and the supervision of such standards and practices by the Federal financial regulators, to ensure that insured depository institutions can meet the de-

mands of a modern and globally competitive financial world.

(d) ANNUAL REPORT.—

(1) REQUIRED.—Not later than January 30 of each year, the Committee shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) CONTENTS.—The report required by paragraph (1) shall describe the activities of the Committee during the preceding year and the reports and recommendations made by the Committee to the Federal financial regulators.

(e) CONFLICT OF INTEREST GUIDELINES.—The Committee shall prescribe such guidelines as the Committee determines to be appropriate to avoid conflicts of interest with respect to the disclosure to and use by members of the Committee of information relating to insured depository institutions and the Federal financial regulators.

SEC. 1206. COMPARABILITY IN COMPENSATION SCHEDULES.

The Federal Deposit Insurance Corporation, the Comptroller of the Currency, the National Credit Union Administration Board, the Federal Housing Finance Board, the Oversight Board of the Resolution Trust Corporation, the Farm Credit Administration, and the Office of Thrift Supervision, in establishing and adjusting schedules of compensation and benefits which are to be determined solely by each agency under applicable provisions of law, shall inform the heads of the other agencies and the Congress of such compensation and benefits and shall seek to maintain comparability regarding compensation and benefits.

SEC. 1207. STUDY BY SECRETARY OF THE TREASURY.

Not later than the close of the 18-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall conduct a study and report to the Congress on—

(1) whether, and to what extent, the issuance of securities by the United States Government in small denominations benefits small investors, increases the participation of small investors in United States Government securities offerings, and promotes savings and thrift by the average United States taxpayer; and

(2) additional measures the Secretary recommends be taken to expand the availability of securities issued by the United States Government to benefit small investors, increase their participation in United States Government securities offerings, and to promote savings and thrift by the average United States taxpayer.

SEC. 1208. EXPENDITURE OF TAXPAYER MONEY ONLY FOR DEPOSIT INSURANCE PURPOSES.

Funds appropriated to the Secretary of the Treasury pursuant to an authorization contained in this Act, and any amount authorized to be borrowed from the Secretary of the Treasury by any entity pursuant to this Act, may only be used as permitted by law, and may not otherwise be used for making any payment to any shareholder in, or creditor to, any insured depository institution.

SEC. 1209. AMENDMENT TO SECTION 5373 OF TITLE 5, UNITED STATES CODE.

Paragraph (2) of section 5373 of title 5, United States Code, is amended to read as follows:

"(2) sections 248, 482, 1766, and 1819 of title 12, section 206 of the Bank Conservation Act, sections 2B(b) and 21A(e)(4) of the Federal Home Loan Bank Act, section 2A(i) of the Home Owners' Loan Act, and sections 5.11 and 5.58 of the Farm Credit Act of 1971;".

SEC. 1210. FARM CREDIT ADMINISTRATION AND FARM CREDIT SYSTEM INSURANCE CORPORATION EMPLOYMENT PROVISION.

Section 5.11(c)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2245) is amended to read as follows:

"(2) OFFICERS AND EMPLOYEES.—

"(A) APPOINTMENT, COMPENSATION, AND BENEFITS.—The Chairman shall fix the compensation and number of, and appoint and direct, employees of the Administration. The Chairman may set and adjust the rates of basic pay for employees of the Administration without regard to the provisions of chapter 51, or subchapter III of chapter 53, of title 5, United States Code. The Chairman may provide such additional compensation and benefits to employees of the Administration as is necessary to maintain comparability with the total amount of compensation and benefits provided by other Federal bank regulatory agencies. In setting and adjusting the total amount of compensation and benefits for employees of the Administration, the Chairman shall consult with, and seek to maintain comparability with, other Federal bank regulatory agencies.

"(B) OTHER FEDERAL BANK REGULATORY AGENCIES DEFINED.—For purposes of this subsection, the term 'other Federal bank regulatory agencies' has the same meaning given to the term 'appropriate Federal banking agency' in section 3(q) of the Federal Deposit Insurance Act.

"(C) ETHICS IN GOVERNMENT.—The officers and employees of the agency shall be—

"(i) subject to the Ethics in Government Act of 1978; and

"(ii) considered officers or employees of the United States for the purposes of sections 201 through 203, and sections 205 through 209, of title 18, United States Code.".

SEC. 1211. FAIR LENDING OVERSIGHT AND ENFORCEMENT.

(a) INFORMATION REGARDING INCOME LEVEL, RACIAL CHARACTERISTICS, AND GENDER OF MORTGAGORS AND MORTGAGE APPLICANTS.—Section 304(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(b)) is amended—

(1) in paragraph (2), by striking out "and" after the semicolon at the end;

(2) in paragraph (3), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the number and dollar amount of mortgage loans and completed applications involving mortgagors or mortgage applicants grouped according to census tract, income level, racial characteristics, and gender.".

(b) SUBMISSION TO AGENCIES.—Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803) is amended by adding at the end the following:

"(h) SUBMISSION TO AGENCIES.—The data required to be disclosed under subsection (b)(4) shall be submitted to the appropriate agency for each institution reporting under this title. Notwithstanding the requirement of section 304(a)(2)(A) for disclosure by census tract, the Board, in cooperation with other appropriate regulators, including—

"(1) the Comptroller of the Currency for national banks;

"(2) the Director of the Office of Thrift Supervision for savings associations;

"(3) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph;

"(4) the National Credit Union Administration Board for credit unions; and

"(5) the Secretary of Housing and Urban Development for other lending institutions not regulated by the agencies referred to in paragraphs (1) through (4),

shall develop regulations prescribing the format for such disclosures, the method for submission of the data to the appropriate regulatory agency, and the procedures for disclosing the information to the public. These regulations shall also require the collection of data required to be disclosed under subsection (b)(4) with respect to loans sold by each institution reporting under this title, and, in addition, shall require disclosure of the class of the purchaser of such loans. Any reporting institution may submit in writing to the appropriate agency such additional data or explanations as it deems relevant to the decision to originate or purchase mortgage loans.".

(c) INFORMATION REGARDING LOAN APPLICATIONS.—

(1) GENERAL REPORTING REQUIREMENT.—Section 304(a)(1) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(a)(1)) is amended by striking out "originated, or" and inserting in lieu thereof "originated (or for which the institution received completed applications), or".

(2) CONFORMING AMENDMENTS.—

(A) The last sentence of section 304(a)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(a)(2)) is amended by inserting after "originated or purchased" the following: "(or for which completed applications were received)".

(B) Section 304(g)(1) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(g)(1)) is amended by inserting after "made" the following: "(or for which completed applications are received)".

(C) Section 304(g)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(g)(2)) is amended by inserting after "approved" the following: "(or for which completed applications are received)".

(D) The first sentence of section 311 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2810) is amended by inserting after "approved" the following: "(or for which completed applications are received)".

(d) APPLICABILITY OF REPORTING REQUIREMENTS TO ALL MORTGAGE LENDERS.—Section 303(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2802(2)) is amended to read as follows:

"(2) the term 'depository institution'—

"(A) means—

"(i) any bank (as defined in section 3(a)(1) of the Federal Deposit Insurance Act);

"(ii) any savings association (as defined in section 3(b)(1) of the Federal Deposit Insurance Act); and

"(iii) any credit union,

which makes federally related mortgage loans as determined by the Board; and

"(B) includes any other lending institution (as defined in paragraph (4)) other than any institution described in subparagraph (A);".

(e) COMPLETED APPLICATION DEFINED.—Section 303 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2802) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraphs:

"(3) the term 'completed application' means an application in which the creditor has received the information that is regularly obtained in evaluating applications for the amount and type of credit requested;

"(4) the term 'other lending institutions' means any person engaged for profit in the business of mortgage lending;".

(f) APPLICABILITY OF HOME MORTGAGE DISCLOSURE ACT.—Section 304(a)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(a)(2)) is amended by inserting at the end the following new sentence: "For purposes of this paragraph, other lending institutions shall be deemed to have a home office or branch office within a primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas if such institutions have originated or purchased or received completed applications for at least 5 mortgage loans in such area in the preceding calendar year.".

(g) AMENDMENT TO ENFORCEMENT PROVISIONS.—Section 305(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804(b)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(4) other lending institutions, by the Secretary of Housing and Urban Development.".

(h) REPORT ON UTILITY OF DATA.—Section 308 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2807) is amended to read as follows:

"SEC. 308. REPORT.

"The Board, in consultation with the Secretary of Housing and Urban Development, shall report annually to the Congress on the utility of the requirements of section 304(b)(4).".

(i) CONFORMING AMENDMENT TO FORMAT REQUIREMENT.—Section 304(e) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(e)) is amended by striking out "The Board" and inserting in lieu thereof "Subject to subsection (h), the Board".

(j) EXEMPTION FROM CERTAIN DISCLOSURE REQUIREMENTS.—Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803) is amended by inserting after subsection (h) (as added by subsection (b) of this section) the following new subsection:

"(i) EXEMPTION FROM CERTAIN DISCLOSURE REQUIREMENTS.—The requirements of subsection (b)(4) shall not apply with respect to any depository institution described in section 303(2)(A) which has total assets, as of the most recent full fiscal year of such institution, of $30,000,000 or less.".

(k) EFFECTIVE DATE.—The amendments made by this section shall apply to each calendar year beginning after December 31, 1989.

SEC. 1212. AMENDMENT TO THE COMMUNITY REINVESTMENT ACT OF 1977.

(a) CONFORMING AMENDMENT TO DEFINITION OF REGULATED FINANCIAL INSTITUTION.—Section 803(2) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(2)) is amended by striking out "insured bank as defined in section 3 of the Federal Deposit Insurance Act or an insured institution as defined in section 401 of the National Housing Act" and inserting in lieu thereof "insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act)".

(b) EXAMINATION IMPROVEMENT.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

"SEC. 807. WRITTEN EVALUATIONS.

"(a) REQUIRED.—

"(1) IN GENERAL.—Upon the conclusion of each examination of an insured depository institution under section 804, the appropriate Federal depository institutions regulatory agency shall prepare a written evaluation of the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods.

"(2) PUBLIC AND CONFIDENTIAL SECTIONS.—Each written evaluation required under paragraph (1) shall have a public section and a confidential section.

"(b) PUBLIC SECTION OF REPORT.—

"(1) FINDINGS AND CONCLUSIONS.—The public section of the written evaluation shall—

"(A) state the appropriate Federal depository institutions regulatory agency's conclusions for each assessment factor identified in the regulations prescribed by the Federal depository institutions regulatory agencies to implement this Act;

"(B) discuss the facts supporting such conclusions; and

"(C) contain the institution's rating and a statement describing the basis for the rating.

"(2) ASSIGNED RATING.—The institution's rating referred to in paragraph (1)(C) shall be 1 of the following:

"(A) 'Outstanding record of meeting community credit needs'.

"(B) 'Satisfactory record of meeting community credit needs'.

"(C) 'Needs to improve record of meeting community credit needs'.

"(D) 'Substantial noncompliance in meeting community credit needs'.

Such ratings shall be disclosed to the public on and after July 1, 1990.

"(c) CONFIDENTIAL SECTION OF REPORT.—

"(1) PRIVACY OF NAMED INDIVIDUALS.—The confidential section of the written evaluation shall contain all references that identify any customer of the institution, any employee or officer of the institution, or any person or organization that has provided information in confidence to a Federal or State depository institutions regulatory agency.

"(2) TOPICS NOT SUITABLE FOR DISCLOSURE.—The confidential section shall also contain any statements obtained or made by the appropriate Federal depository institutions regulatory agency in the course of an examination which, in the judgment of the agency, are too sensitive or speculative in nature to disclose to the institution or the public.

"(3) DISCLOSURE TO DEPOSITORY INSTITUTION.—The confidential section may be disclosed, in whole or part, to the institution, if the appropriate Federal depository institutions regulatory agency determines that such disclosure will promote the objectives of this Act. However, disclosure under this paragraph shall not identify a person or organization that has provided information in confidence to a Federal or State depository institutions regulatory agency.".

SEC. 1213. COMPTROLLER GENERAL AUDIT AND ACCESS TO RECORDS.

(a) AUDIT OF AGENCIES OR OTHER PERSONS PERFORMING FUNCTIONS UNDER BANKING LAWS.—

(1) IN GENERAL.—Except as provided in paragraph (2), all agencies, corporations, organizations, and other persons of any description which perform any function or activity under this Act, or any other Act which is amended by this Act, shall be subject to audit by the Comptroller General of the United States with respect to such function or activity.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) any function or activity of the Board of Governors of the Federal Reserve System or the Federal Reserve banks that is described in any paragraph of section 714(b) of title 31, United States Code; and

(B) any function or activity of the Federal National Mortgage Association, except as provided in section 309(j) of the Federal National Mortgage Association Charter Act.

(b) AUDIT OF PERSONS PROVIDING CERTAIN GOODS OR SERVICES.—All persons and organizations which, by contract, grant, or otherwise, provide goods or services to, or receive financial assistance from, any agency or other person performing functions or activities under this Act shall be subject to audit by the Comptroller General with respect to such provision of goods or services or receipt of financial assistance.

(c) PROVISIONS APPLICABLE TO AUDITS UNDER THIS SECTION.—

(1) NATURE AND SCOPE OF AUDIT.—The Comptroller General shall determine the nature, scope, and terms and conditions of audits conducted under this section.

(2) COORDINATION WITH OTHER PROVISIONS OF LAW.—The authority of the Comptroller General under this section shall be in addition to any audit authority available to the Comptroller General under other provisions of this Act or any other law.

(3) RIGHTS OF ACCESS, EXAMINATION, AND COPYING.—The Comptroller General, and any duly authorized representative of the Comptroller General, shall have access to, and the right to examine and copy, all records and other recorded information in any form, and to examine any property, within the possession or control of any agency or person which is subject to audit under this section which the Comptroller General deems relevant to an audit conducted under this section.

(4) ENFORCEMENT OF RIGHT OF ACCESS.—The Comptroller General's right of access to information under this section shall be enforceable pursuant to section 716 of title 31, United States Code.

(5) MAINTENANCE OF CONFIDENTIAL RECORDS.—The provisions of section 716(e) of title 31, United States Code, shall apply to information obtained by the Comptroller General under this section.

SEC. 1214. AMENDMENT RELATED TO THE HART-SCOTT-RODINO ACT.

Section 7A(c) of the Clayton Act (15 U.S.C. 18a(c)) is amended—

(1) in paragraph (7), by inserting "section 10(e) of the Home Owners' Loan Act," after "transactions which require agency approval under"; and

(2) in paragraph (8), by striking out ", section 403 or 408(e) of the National Housing Act (12 U.S.C. 1726 and 1730a),".

SEC. 1215. CAPITAL AND ACCOUNTING STANDARDS.

Before the end of the 1-year period beginning on the date of the enactment of this

Act, each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) shall establish uniform accounting standards to be used for determining the capital ratios of all federally insured depository institutions and for other regulatory purposes. Each such agency shall report annually to the Chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives any differences between the capital standard used by such agency and capital standards used by any other such agency. Each such report shall contain an explanation of the reasons for any discrepancy in such capital standards, and shall be published in the Federal Register.

SEC. 1216. EQUAL OPPORTUNITY.

(a) IN GENERAL.—For purposes of this Act, Executive Order Numbered 11478, providing for equal employment opportunity in the Federal Government, shall apply to—

(1) the Comptroller of the Currency;

(2) the Director of the Office of Thrift Supervision;

(3) the Federal home loan banks;

(4) the Federal Deposit Insurance Corporation;

(5) the Oversight Board of the Resolution Trust Corporation; and

(6) the Resolution Trust Corporation.

(b) AFFIRMATIVE PROGRAM FOR EQUAL EMPLOYMENT OPPORTUNITY.—For purposes of this Act, sections 1 and 2 of Executive Order Numbered 11478, providing for the adoption and implementation of equal employment opportunity, shall apply to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(c) SOLICITATION OF CONTRACTS.—The Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Housing Finance Board, the Oversight Board of the Resolution Trust Corporation, and the Resolution Trust Corporation shall each prescribe regulations to establish and oversee a minority outreach program within each such agency to ensure inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by the agency with such persons or entities, public and private, in order to manage the institutions and their assets for which the agency is responsible or to perform such other functions authorized under any law applicable to such agency.

(d) REPORT TO CONGRESS.—Before the end of the 180-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

(1) the Federal Deposit Insurance Corporation;

(2) the Comptroller of the Currency;

(3) the Director of the Office of Thrift Supervision;

(5) the Federal Housing Finance Board;

(6) the Oversight Board of the Resolution Trust Corporation;

(7) the Resolution Trust Corporation;

(8) the Federal Home Loan Mortgage Corporation; and

(9) the Federal National Mortgage Association,

shall each submit to the Congress a report containing a complete description of the actions taken by such agency pursuant to subsections (a) and (b) and such recommendations for administrative and legislative action as each such agency may determine to be appropriate to carry out the purposes of such subsection.

SEC. 1217. NCUA POWERS AS LIQUIDATING AGENT AND CONSERVATOR.

(a) IN GENERAL.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended—

(1) in subsection (a), by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2);

(2) by striking subsections (d) and (j);

(3) by redesignating subsections (b), (c), (e), (f), (g), (h), and (i) as subsections (j), (k), (l), (m), (n), (o), and (p), respectively;

(4) by inserting after subsection (a) the following new subsections:

"(b) POWERS AND DUTIES OF BOARD AS CONSERVATOR OR LIQUIDATING AGENT.—

"(1) RULEMAKING AUTHORITY OF BOARD.—The Board may prescribe such regulations as the Board determines to be appropriate regarding the conduct of the Board as conservator or liquidating agent.

"(2) GENERAL POWERS.—

"(A) SUCCESSOR TO CREDIT UNION.—The Board shall, as conservator or liquidating agent, and by operation of law, succeed to—

"(i) all rights, titles, powers, and privileges of the credit union, and of any member, accountholder, officer, or director of such credit union with respect to the credit union and the assets of the credit union; and

"(ii) title to the books, records, and assets of any previous conservator or other legal custodian of such credit union.

"(B) OPERATE THE CREDIT UNION.—The Board may, as conservator or liquidating agent—

"(i) take over the assets of and operate the credit union with all the powers of the members or shareholders, the directors, and the officers of the credit union and shall be authorized to conduct all business of the credit union;

"(ii) collect all obligations and money due the credit union;

"(iii) perform all functions of the credit union in the name of the credit union which is consistent with the appointment as conservator or liquidating agent; and

"(iv) preserve and conserve the assets and property of such credit union.

"(C) FUNCTIONS OF CREDIT UNION'S OFFICERS, DIRECTORS, AND SHAREHOLDERS.—The Board may, by regulation or order, provide for the exercise of any function by any member or stockholder, director, or officer of any credit union for which the Board has been appointed conservator or liquidating agent.

"(D) POWERS AS CONSERVATOR.—The Board may, as conservator, take such action as may be—

"(i) necessary to put the credit union in a sound and solvent condition; and

"(ii) appropriate to carry on the business of the credit union and preserve and conserve the assets and property of the credit union.

"(E) ADDITIONAL POWERS AS LIQUIDATING AGENT.—The Board may, as liquidating agent, place the credit union in liquidation and proceed to realize upon the assets of the credit union, having due regard to the conditions of credit in the locality.

"(F) PAYMENT OF VALID OBLIGATIONS.—The Board, as conservator or liquidating agent, shall pay all valid obligations of the credit union in accordance with the prescriptions and limitations of this Act.

"(G) INCIDENTAL POWERS.—The Board may, as conservator or liquidating agent—

"(i) exercise all powers and authorities specifically granted to conservators or liquidating agents, respectively, under this Act and such incidental powers as shall be necessary to carry out such powers; and

"(ii) take any action authorized by this Act,

which the Board determines is in the best interests of the credit union, its account holders, or the Board.

"(3) AUTHORITY OF LIQUIDATING AGENT TO DETERMINE CLAIMS.—

"(A) IN GENERAL.—The Board may, as liquidating agent, determine claims in accordance with the requirements of this subsection and regulations prescribed under paragraph (4).

"(B) NOTICE REQUIREMENTS.—The liquidating agent, in any case involving the liquidation or winding up of the affairs of a closed credit union, shall—

"(i) promptly publish a notice to the credit union's creditors to present their claims, together with proof, to the liquidating agent by a date specified in the notice which shall be not less than 90 days after the publication of such notice; and

"(ii) republish such notice approximately 1 month and 2 months, respectively, after the publication under clause (i).

"(C) MAILING REQUIRED.—The liquidating agent shall mail a notice similar to the notice published under subparagraph (B)(i) at the time of such publication to any creditor shown on the credit union's books—

"(i) at the creditor's last address appearing in such books; or

"(ii) upon discovery of the name and address of a claimant not appearing on the credit union's books within 30 days after the discovery of such name and address.

"(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—The Board may prescribe regulations regarding the allowance or disallowance of claims by the liquidating agent and providing for administrative determination of claims and review of such determination.

"(5) PROCEDURES FOR DETERMINATION OF CLAIMS.—

"(A) DETERMINATION PERIOD.—

"(i) IN GENERAL.—Before the end of the 180-day period beginning on the date any claim against a credit union is filed with the Board as liquidating agent, the Board shall determine whether to allow or disallow the claim and shall notify the claimant of any determination with respect to such claim.

"(ii) EXTENSION OF TIME.—The period described in clause (i) may be extended by a written agreement between the claimant and the Board.

"(iii) MAILING OF NOTICE SUFFICIENT.—The requirements of clause (i) shall be deemed to be satisfied if the notice of any determination with respect to any claim is mailed to the last address of the claimant which appears—

"(I) on the credit union's books;

"(II) in the claim filed by the claimant; or

"(III) in documents submitted in proof of the claim.

"(iv) CONTENTS OF NOTICE OF DISALLOWANCE.—If any claim filed under clause (i) is disallowed, the notice to the claimant shall contain—

"(I) a statement of each reason for the disallowance; and

"(II) the procedures available for obtaining agency review of the determination to disallow the claim or judicial determination of the claim.

"(B) ALLOWANCE OF PROVEN CLAIMS.—The liquidating agent shall allow any claim received on or before the date specified in the notice published under paragraph (3)(B)(i) by the liquidating agent from any claimant which is proved to the satisfaction of the liquidating agent.

"(C) DISALLOWANCE OF CLAIMS FILED AFTER END OF FILING PERIOD.—

"(i) IN GENERAL.—Except as provided in clause (ii), claims filed after the date specified in the notice published under paragraph (3)(B)(i) shall be disallowed and such disallowance shall be final.

"(ii) CERTAIN EXCEPTIONS.—Clause (i) shall not apply with respect to any claim filed by any claimant after the date specified in the notice published under paragraph (3)(B)(i) and such claim may be considered by the liquidating agent if—

"(I) the claimant did not receive notice of the appointment of the liquidating agent in time to file such claim before such date; and

"(II) such claim is filed in time to permit payment of such claim.

"(D) AUTHORITY TO DISALLOW CLAIMS.—The liquidating agent may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the liquidating agent.

"(E) NO JUDICIAL REVIEW OF DETERMINATION PURSUANT TO SUBPARAGRAPH (D).—NO COURT MAY REVIEW THE BOARD'S DETERMINATION PURSUANT TO SUBPARAGRAPH (D) TO DISALLOW A CLAIM.

"(F) LEGAL EFFECT OF FILING.—

"(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the liquidating agent shall constitute a commencement of an action.

"(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (12), the filing of a claim with the liquidating agent shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the liquidating agent.

"(6) PROVISION FOR AGENCY REVIEW OR JUDICIAL DETERMINATION OF CLAIMS.—

"(A) IN GENERAL.—Before the end of the 60-day period beginning on the earlier of—

"(i) the end of the period described in paragraph (5)(A)(i) with respect to any claim against a credit union for which the Board is liquidating agent; or

"(ii) the date of any notice of disallowance of such claim pursuant to paragraph (5)(A)(i),

the claimant may request administrative review of the claim in accordance with subparagraph (A) or (B) of paragraph (7) or file suit on such claim (or continue an action commenced before the appointment of the liquidating agent) in the district or territorial court of the United States for the district within which the credit union's principal place of business is located or the United States District Court for the District of Columbia (and such court shall have jurisdiction to hear such claim).

"(B) STATUTE OF LIMITATIONS.—If any claimant fails to—

"(i) request administrative review of any claim in accordance with subparagraph (A) or (B) of paragraph (7); or

"(ii) file suit on such claim (or continue an action commenced before the appointment of the liquidating agent),

before the end of the 60-day period described in subparagraph (A), the claim shall be deemed to be disallowed (other than any portion of such claim which was allowed by the liquidating agent) as of the end of such period, such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

"(7) REVIEW OF CLAIMS.—

"(A) ADMINISTRATIVE HEARING.—If any claimant requests review under this subparagraph in lieu of filing or continuing any action under paragraph (6) and the Board agrees to such request, the Board shall consider the claim after opportunity for a hearing on the record. The final determination of the Board with respect to such claim shall be subject to judicial review under chapter 7 of title 5, United States Code.

"(B) OTHER REVIEW PROCEDURES.—

"(i) IN GENERAL.—The Board shall also establish such alternative dispute resolution processes as may be appropriate for the resolution of claims filed under paragraph (5)(A)(i).

"(ii) CRITERIA.—In establishing alternative dispute resolution processes, the Board shall strive for procedures which are expeditious, fair, independent, and low cost.

"(iii) VOLUNTARY BINDING OR NONBINDING PROCEDURES.—The Board may establish both binding and nonbinding processes, which may be conducted by any government or private party, but all parties, including the claimant and the Board, must agree to the use of the process in a particular case.

"(iv) CONSIDERATION OF INCENTIVES.—The Board shall seek to develop incentives for claimants to participate in the alternative dispute resolution process.

"(8) EXPEDITED DETERMINATION OF CLAIMS.—

"(A) ESTABLISHMENT REQUIRED.—The Board shall establish a procedure for expedited relief outside of the routine claims process established under paragraph (5) for claimants who—

"(i) allege the existence of legally valid and enforceable or perfected security interests in assets of any credit union for which the Board has been appointed liquidating agent; and

"(ii) allege that irreparable injury will occur if the routine claims procedure is followed.

"(B) DETERMINATION PERIOD.—Before the end of the 90-day period beginning on the date any claim is filed in accordance with the procedures established pursuant to subparagraph (A), the Board shall—

"(i) determine—

"(I) whether to allow or disallow such claim; or

"(II) whether such claim should be determined pursuant to the procedures established pursuant to paragraph (5); or

"(ii) notify the claimant of the determination, and if the claim is disallowed, a statement of each reason for the disallowance and the procedure for obtaining agency review or judicial determination.

"(C) PERIOD FOR FILING OR RENEWING SUIT.—Any claimant who files a request for expedited relief shall be permitted to file a suit, or to continue a suit filed before the appointment of the liquidating agent, seeking a determination of the claimant's rights with respect to such security interest after the earlier of—

"(i) the end of the 90-day period beginning on the date of the filing of a request for expedited relief; or

"(ii) the date the Board denies the claim.

"(D) STATUTE OF LIMITATIONS.—If an action described in subparagraph (C) is not filed, or the motion to renew a previously filed suit is not made, before the end of the 30-day period beginning on the date on which such action or motion may be filed in accordance with subparagraph (B), the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim which was allowed by the liquidating agent), such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

"(E) LEGAL EFFECT OF FILING.—

"(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the liquidating agent shall constitute a commencement of an action.

"(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (12), the filing of a claim with the liquidating agent shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the liquidating agent.

"(9) AGREEMENT AS BASIS OF CLAIM.—

"(A) REQUIREMENTS.—Except as provided in subparagraph (B), any agreement which does not meet the requirements set forth in section 208(a)(3) shall not form the basis of, or substantially comprise, a claim against the liquidating agent or the Board.

"(B) EXCEPTION TO CONTEMPORANEOUS EXECUTION REQUIREMENT.—Notwithstanding section 208(a)(3), any agreement between a Federal home loan bank or Federal Reserve bank and any insured credit union which was executed before the extension of credit by such bank to such credit union shall be treated as having been executed contemporaneously with such extension of credit for purposes of subparagraph (A).

"(10) PAYMENT OF CLAIMS.—

"(A) IN GENERAL.—The liquidating agent may, in the liquidating agent's discretion and to the extent funds are available, pay creditor claims which are allowed by the liquidating agent, approved by the Board pursuant to a final determination pursuant to paragraph (7) or (8), or determined by the final judgment of any court of competent jurisdiction in such manner and amounts as are authorized under this Act.

"(B) PAYMENT OF DIVIDENDS ON CLAIMS.—The liquidating agent may, in the liquidating agent's sole discretion, pay dividends on proved claims at any time, and no liability shall attach to the Board (in such Board's corporate capacity or as liquidating agent), by reason of any such payment, for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

"(11) DISTRIBUTION OF ASSETS.—

"(A) SUBROGATED CLAIMS; CLAIMS OF UNINSURED ACCOUNTHOLDERS AND OTHER CREDITORS.—The liquidating agent shall—

"(i) retain for the account of the Board such portion of the amounts realized from any liquidation as the Board may be entitled to receive in connection with the subrogation of the claims of accountholders; and

"(ii) pay to accountholders and other creditors the net amounts available for distribution to them.

"(B) DISTRIBUTION TO SHAREHOLDERS OF AMOUNTS REMAINING AFTER PAYMENT OF ALL OTHER CLAIMS AND EXPENSES.—In any case in which funds remain after all account holders, creditors, other claimants, and administrative expenses are paid, the liquidating agent shall distribute such funds to the credit union's shareholders or members together with the accounting report required under paragraph (14)(C).

"(12) SUSPENSION OF LEGAL ACTIONS.—

"(A) IN GENERAL.—After the appointment of a conservator or liquidating agent for an insured credit union, the conservator or liqui-

dating agent may request a stay for a period not to exceed—

"(i) 45 days, in the case of any conservator; and

"(ii) 90 days, in the case of any liquidating agent,

in any judicial action or proceeding to which such credit union is or becomes a party.

"(B) GRANT OF STAY BY ALL COURTS REQUIRED.—Upon receipt of a request by any conservator or liquidating agent pursuant to subparagraph (A) for a stay of any judicial action or proceeding in any court with jurisdiction of such action or proceeding, the court shall grant such stay as to all parties.

"(13) ADDITIONAL RIGHTS AND DUTIES.—

"(A) PRIOR FINAL ADJUDICATION.—The Board shall abide by any final unappealable judgment of any court of competent jurisdiction which was rendered before the appointment of the Board as conservator or liquidating agent.

"(B) RIGHTS AND REMEDIES OF CONSERVATOR OR LIQUIDATING AGENT.—In the event of any appealable judgment, the Board as conservator or liquidating agent shall—

"(i) have all the rights and remedies available to the credit union (before the appointment of such conservator or liquidating agent) and the Board in its corporate capacity, including removal to Federal court and all appellate rights; and

"(ii) not be required to post any bond in order to pursue such remedies.

"(C) NO ATTACHMENT OR EXECUTION.—No attachment or execution may issue by any court upon assets in the possession of the liquidating agent.

"(D) LIMITATION ON JUDICIAL REVIEW.—Except as otherwise provided in this subsection, no court shall have jurisdiction over—

"(i) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets of any credit union for which the Board has been appointed liquidating agent, including assets which the Board may acquire from itself as such liquidating agent; or

"(ii) any claim relating to any act or omission of such credit union or the Board as liquidating agent.

"(14) STATUTE OF LIMITATIONS FOR ACTIONS BROUGHT BY CONSERVATOR OR LIQUIDATING AGENT.—

"(A) IN GENERAL.—Notwithstanding any provision of any contract, the applicable statute of limitations with regard to any action brought by the Board as conservator or liquidating agent shall be—

"(i) in the case of any contract claim, the longer of—

"(I) the 6-year period beginning on the date the claim accrues; or

"(II) the period applicable under State law; and

"(ii) in the case of any tort claim, the longer of—

"(I) the 3-year period beginning on the date the claim accrues; or

"(II) the period applicable under State law.

"(B) DETERMINATION OF THE DATE ON WHICH A CLAIM ACCRUES.—For purposes of subparagraph (A), the date on which the statute of limitation begins to run on any claim described in such subparagraph shall be the later of—

"(i) the date of the appointment of the Board as conservator or liquidating agent; or

"(ii) the date on which the cause of action accrues.

"(15) ACCOUNTING AND RECORDKEEPING REQUIREMENTS.—

"(A) IN GENERAL.—The Board as conservator or liquidating agent shall, consistent with the accounting and reporting practices and procedures established by the Board, maintain a full accounting of each conservatorship and liquidation or other disposition of credit unions in default.

"(B) ANNUAL ACCOUNTING OR REPORT.—With respect to each conservatorship or liquidation to which the Board was appointed, the Board shall make an annual accounting or report, as appropriate, available to the Comptroller General of the United States or, in the case of a State-chartered credit union, the authority which appointed the Board as conservator or liquidating agent.

"(C) AVAILABILITY OF REPORTS.—Any report prepared pursuant to subparagraph (B) shall be made available by the Board upon request to any shareholder of the credit union for which the Board was appointed conservator or liquidating agent or any other member of the public.

"(D) RECORDKEEPING REQUIREMENT.—After the end of the 6-year period beginning on the date the Board is appointed as liquidating agent of an insured credit union, the Board may destroy any records of such credit union which the Board, in the Board's discretion, determines to be unnecessary unless directed not to do so by a court of competent jurisdiction or governmental agency, or prohibited by law.

"(c) PROVISIONS RELATING TO CONTRACTS ENTERED INTO BEFORE APPOINTMENT OF CONSERVATOR OR LIQUIDATING AGENT.—

"(1) AUTHORITY TO REPUDIATE CONTRACTS.—In addition to any other rights a conservator or liquidating agent may have, the conservator or liquidating agent for any insured credit union may disaffirm or repudiate any contract or lease—

"(A) to which such credit union is a party;

"(B) the performance of which the conservator or liquidating agent, in the conservator's or liquidating agent's discretion, determines to be burdensome; and

"(C) the disaffirmance or repudiation of which the conservator or liquidating agent determines, in the conservator's or liquidating agent's discretion, will promote the orderly administration of the credit union's affairs.

"(2) TIMING OF REPUDIATION.—The conservator or liquidating agent appointed for any insured credit union shall determine whether or not to exercise the rights of repudiation under this subsection within a reasonable period following such appointment.

"(3) CLAIMS FOR DAMAGES FOR REPUDIATION.—

"(A) IN GENERAL.—Except as otherwise provided in subparagraph (C) and paragraphs (4), (5), and (6), the liability of the conservator or liquidating agent for the disaffirmance or repudiation of any contract pursuant to paragraph (1) shall be—

"(i) limited to actual direct compensatory damages; and

"(ii) determined as of—

"(I) the date of the appointment of the conservator or liquidating agent; or

"(II) in the case of any contract or agreement referred to in paragraph (8), the date of the disaffirmance or repudiation of such contract or agreement.

"(B) NO LIABILITY FOR OTHER DAMAGES.—For purposes of subparagraph (A), the term 'actual direct compensatory damages' does not include—

"(i) punitive or exemplary damages;

"(ii) damages for lost profits or opportunity; or

"(iii) damages for pain and suffering.

"(C) MEASURE OF DAMAGES FOR REPUDIATION OF FINANCIAL CONTRACTS.—In the case of any qualified financial contract or agreement to which paragraph (8) applies, compensatory damages shall be—

"(i) deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims; and

"(ii) paid in accordance with this subsection and subsection (f) except as otherwise specifically provided in this section.

"(4) LEASES UNDER WHICH THE CREDIT UNION IS THE LESSEE.—

"(A) IN GENERAL.—If the conservator or liquidating agent disaffirms or repudiates a lease under which the credit union was the lessee, the conservator or liquidating agent shall not be liable for any damages (other than damages determined pursuant to subparagraph (B)) for the disaffirmance or repudiation of such lease.

"(B) PAYMENTS OF RENT.—Notwithstanding subparagraph (A), the lessor under a lease to which such subparagraph applies shall—

"(i) be entitled to the contractual rent accruing before the later of the date—

"(I) the notice of disaffirmance or repudiation is mailed; or

"(II) the disaffirmance or repudiation becomes effective,

unless the lessor is in default or breach of the terms of the lease;

"(ii) have no claim for damages under any acceleration clause or other penalty provision in the lease; and

"(iii) have a claim for any unpaid rent, subject to all appropriate offsets and defenses, due as of the date of the appointment which shall be paid in accordance with this subsection and subsection (b).

"(5) LEASES UNDER WHICH THE CREDIT UNION IS THE LESSOR.—

"(A) IN GENERAL.—If the conservator or liquidating agent repudiates an unexpired written lease of real property of the credit union under which the credit union is the lessor and the lessee is not, as of the date of such repudiation, in default, the lessee under such lease may either—

"(i) treat the lease as terminated by such repudiation; or

"(ii) remain in possession of the leasehold interest for the balance of the term of the lease unless the lessee defaults under the terms of the lease after the date of such repudiation.

"(B) PROVISIONS APPLICABLE TO LESSEE REMAINING IN POSSESSION.—If any lessee under a lease described in subparagraph (A) remains in possession of a leasehold interest pursuant to clause (ii) of such subparagraph—

"(i) the lessee—

"(I) shall continue to pay the contractual rent pursuant to the terms of the lease after the date of the repudiation of such lease;

"(II) may offset against any rent payment which accrues after the date of the repudiation of the lease, any damages which accrue after such date due to the nonperformance of any obligation of the credit union under the lease after such date; and

"(ii) the conservator or liquidating agent shall not be liable to the lessee for any damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II).

"(6) CONTRACTS FOR THE SALE OF REAL PROPERTY.—

"(A) IN GENERAL.—If the conservator or liquidating agent repudiates any contract (which meets the requirements of each para-

graph of section 208(a)(3)) for the sale of real property and the purchaser of such real property under such contract is in possession and is not, as of the date of such repudiation, in default, such purchaser may either—

"(i) treat the contract as terminated by such repudiation; or

"(ii) remain in possession of such real property.

"(B) PROVISIONS APPLICABLE TO PURCHASER REMAINING IN POSSESSION.—If any purchaser of real property under any contract described in subparagraph (A) remains in possession of such property pursuant to clause (ii) of such subparagraph—

"(i) the purchaser—

"(I) shall continue to make all payments due under the contract after the date of the repudiation of the contract; and

"(II) may offset against any such payments any damages which accrue after such date due to the nonperformance (after such date) of any obligation of the credit union under the contract; and

"(ii) the conservator or liquidating agent shall—

"(I) not be liable to the purchaser for any damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II);

"(II) deliver title to the purchaser in accordance with the provisions of the contract; and

"(III) have no obligation under the contract other than the performance required under subclause (II).

"(C) ASSIGNMENT AND SALE ALLOWED.—

"(i) IN GENERAL.—No provision of this paragraph shall be construed as limiting the right of the conservator or liquidating agent to assign the contract described in subparagraph (A) and sell the property subject to the contract and the provisions of this paragraph.

"(ii) NO LIABILITY AFTER ASSIGNMENT AND SALE.—If an assignment and sale described in clause (i) is consummated, the conservator or liquidating agent shall have no further liability under the contract described in subparagraph (A) or with respect to the real property which was the subject of such contract.

"(7) PROVISIONS APPLICABLE TO SERVICE CONTRACTS.—

"(A) SERVICES PERFORMED BEFORE APPOINTMENT.—In the case of any contract for services between any person and any insured credit union for which the Board has been appointed conservator or liquidating agent, any claim of such person for services performed before the appointment of the conservator or the liquidating agent shall be—

"(i) a claim to be paid in accordance with subsection (b); and

"(ii) deemed to have arisen as of the date the conservator or liquidating agent was appointed.

"(B) SERVICES PERFORMED AFTER APPOINTMENT AND PRIOR TO REPUDIATION.—If, in the case of any contract for services described in subparagraph (A), the conservator or liquidating agent accepts performance by the other person before the conservator or liquidating agent makes any determination to exercise the right of repudiation of such contract under this section—

"(i) the other party shall be paid under the terms of the contract for the services performed; and

"(ii) the amount of such payment shall be treated as an administrative expense of the conservatorship or liquidation.

"(C) ACCEPTANCE OF PERFORMANCE NO BAR TO SUBSEQUENT REPUDIATION.—The acceptance by any conservator or liquidating agent of services referred to in subparagraph (B) in connection with a contract described in such subparagraph shall not affect the right of the conservator or liquidating agent to repudiate such contract under this section at any time after such performance.

"(8) CERTAIN QUALIFIED FINANCIAL CONTRACTS.—

"(A) RIGHTS OF PARTIES TO CONTRACTS.—Subject to paragraph (12) of this subsection and notwithstanding any other provision of this Act (other than subsection (b)(9) of this section and section 208(a)(3)), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

"(i) any right to cause the termination or liquidation of any qualified financial contract with an insured credit union which arises upon the appointment of the Board as liquidating agent for such credit union at any time after such appointment;

"(ii) any right under any security arrangement relating to any contract or agreement described in clause (i); or

"(iii) any right to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more contracts and agreements described in clause (i), including any master agreement for such contracts or agreements.

"(B) APPLICABILITY OF OTHER PROVISIONS.—Subsection (b)(12) shall apply in the case of any judicial action or proceeding brought against any liquidating agent referred to in subparagraph (A), or the credit union for which such liquidating agent was appointed, by any party to a contract or agreement described in subparagraph (A)(i) with such credit union.

"(C) CERTAIN TRANSFERS NOT AVOIDABLE.—

"(i) IN GENERAL.—Notwithstanding paragraph (11), the Board, whether acting as such or as conservator or liquidating agent of an insured credit union, may not avoid any transfer of money or other property in connection with any qualified financial contract with an insured credit union.

"(ii) EXCEPTION FOR CERTAIN TRANSFERS.—Clause (i) shall not apply to any transfer of money or other property in connection with any qualified financial contract with an insured credit union if the Board determines that the transferee had actual intent to hinder, delay, or defraud such credit union, the creditors of such credit union, or any conservator or liquidating agent appointed for such credit union.

"(D) CERTAIN CONTRACTS AND AGREEMENTS DEFINED.—For purposes of this subsection—

"(i) QUALIFIED FINANCIAL CONTRACT.—The term 'qualified financial contract' means any securities contract, forward contract, repurchase agreement, and any similar agreement that the Board determines by regulation to be a qualified financial contract for purposes of this paragraph.

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) has the meaning given to such term in section 741(7) of title 11, United States Code, except that the term 'security' (as used in such section) shall be deemed to include any mortgage loan, any mortgage-related security (as defined in section 3(a)(41) of the Securities Exchange Act of 1934), and any interest in any mortgage loan or mortgage-related security; and

"(II) does not include any participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such participation within the meaning of such term.

"(iii) FORWARD CONTRACT.—The term 'forward contract' has the meaning given to such term in section 101(24) of title 11, United States Code.

"(iv) REPURCHASE AGREEMENT.—The term 'repurchase agreement'—

"(I) has the meaning given to such term in section 101(41) of title 11, the United States Code, except that the items (as described in such section) which may be subject to any such agreement shall be deemed to include mortgage-related securities (as such term is defined in section 3(a)(41) of the Securities Exchange Act of 1934, any mortgage loan, and any interest in any mortgage loan; and

"(II) does not include any participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such participation within the meaning of such term.

"(v) TRANSFER.—The term 'transfer' has the meaning given to such term in section 101(50) of title 11, United States Code.

"(E) CERTAIN PROTECTIONS IN EVENT OF APPOINTMENT OF CONSERVATOR.—Notwithstanding any other provision of this Act (other than paragraph (12) of this subsection, subsection (b)(9) of this section, and section 208(a)(3) of this Act), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

"(i) any right such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a credit union in a conservatorship based upon a default under such financial contract which is enforceable under applicable noninsolvency law;

"(ii) any right under any security arrangement relating to such qualified financial contracts; or

"(iii) any right to offset or net out any termination values, payment amounts, or other transfer obligations arising under or in connection with such qualified financial contracts.

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—In making any transfer of assets or liabilities of a credit union in default which includes any qualified financial contract, the conservator or liquidating agent for such credit union shall either—

"(A) transfer to 1 credit union (other than a credit union in default)—

"(i) all qualified financial contracts between—

"(I) any person or any affiliate of such person; and

"(II) the credit union in default;

"(ii) all claims of such person or any affiliate of such person against such credit union under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such credit union);

"(iii) all claims of such credit union against such person or any affiliate of such person under any such contract; and

"(iv) all property securing any claim described in clause (ii) or (iii) under any such contract; or

"(B) transfer none of the financial contracts, claims, or property referred to in subparagraph (A) (with respect to such person and any affiliate of such person).

"(10) NOTIFICATION OF TRANSFER.—

"(A) IN GENERAL.—If—

"(i) the conservator or liquidating agent for an insured credit union in default makes any transfer of the assets and liabilities of such credit union; and

"(ii) the transfer includes any qualified financial contract,

the conservator or liquidating agent shall use such conservator's or liquidating agent's best efforts to notify any person who is a party to any such contract of such transfer by 12:00, noon (local time), on the business day following such transfer.

"(B) BUSINESS DAY DEFINED.—For purposes of this paragraph, the term 'business day' means any day other than any Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

"(11) CERTAIN SECURITY INTERESTS NOT AVOIDABLE.—No provision of this subsection shall be construed as permitting the avoidance of any legally enforceable or perfected security interest in any of the assets of any credit union except where such an interest is taken in contemplation of the credit union's insolvency or with the intent to hinder, delay, or defraud the credit union or the creditors of such credit union.

"(12) AUTHORITY TO ENFORCE CONTRACTS.—

"(A) IN GENERAL.—The conservator or liquidating agent may enforce any contract, other than a director's or officer's liability insurance contract or a credit union bond, entered into by the credit union notwithstanding any provision of the contract providing for termination, default, acceleration, or exercise of rights upon, or solely by reason of, insolvency or the appointment of a conservator or liquidating agent.

"(B) CERTAIN RIGHTS NOT AFFECTED.—No provision of this paragraph may be construed as impairing or affecting any right of the conservator or liquidating agent to enforce or recover under a directors or officers liability insurance contract or credit union bond under other applicable law.

"(13) EXCEPTION FOR FEDERAL RESERVE AND FEDERAL HOME LOAN BANKS.—No provision of this subsection shall apply with respect to—

"(A) any extension of credit from any Federal home loan bank or Federal Reserve bank to any insured depository institution; or

"(B) any security interest in the assets of the institution securing any such extension of credit.

"(d) PAYMENT OF INSURED DEPOSITS.—

"(1) IN GENERAL.—In case of the liquidation of any insured credit union, payment of the insured deposits in such credit union shall be made by the Board as soon as possible, subject to the provisions of subsection (e) of this section, either by cash or by making available to each accountholder a transferred deposit in a new credit union in the same community or in another insured credit union in an amount equal to the insured deposit of such accountholder.

"(2) PROOF OF CLAIMS.—The Board, in its discretion, may require proof of claims to be filed and may approve or reject such claims for insured deposits.

"(3) RESOLUTION OF DISPUTES.—

"(A) RESOLUTIONS IN ACCORDANCE TO BOARD REGULATIONS.—In the case of any disputed claim relating to any insured deposit or any determination of insurance coverage with respect to any deposit, the Board may resolve such disputed claim in accordance with regulations prescribed by the Board establishing procedures for resolving such claims.

"(B) ADJUDICATION OF CLAIMS.—If the Board has not prescribed regulations establishing procedures for resolving disputed claims, the Board may require the final determination of a court of competent jurisdiction before paying any such claim.

"(4) REVIEW OF BOARD'S DETERMINATION.—Final determination made by the Board shall be reviewable in accordance with chapter 7 of title 5, United States Code, by the United States Court of Appeals for the District of Columbia or the court of appeals for the Federal judicial circuit where the principal place of business of the credit union is located.

"(5) STATUTE OF LIMITATIONS.—Any request for review of a final determination by the Board shall be filed with the appropriate circuit court of appeals not later than 60 days after such determination is ordered.

"(e) SUBROGATION OF BOARD.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law, the law of any State, or the constitution of any State, the Board, upon the payment to any accountholder as provided in subsection (d) in connection with any insured credit union described in such subsection or the assumption of any deposit in such credit union by another insured credit union pursuant to this section, shall be subrogated to all rights of the accountholder against such credit union to the extent of such payment or assumption.

"(2) DIVIDENDS ON SUBROGATED AMOUNTS.—The subrogation of the Board under paragraph (1) with respect to any insured credit union shall include the right on the part of the Board to receive the same dividends from the proceeds of the assets of such credit union as would have been payable to the accountholder on a claim for the insured deposit, but such accountholder shall retain such claim for any uninsured or unassumed portion of the deposit.

"(f) VALUATION OF CLAIMS IN DEFAULT.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law or the law of any State, this subsection shall govern the rights of the creditors (other than insured accountholders) of such credit union.

"(2) MAXIMUM LIABILITY.—The maximum liability of the Board, acting as liquidating agent or in any other capacity, to any person having a claim against the liquidating agent or the insured credit union for which such liquidating agent is appointed shall equal the amount such claimant would have received if the Board had liquidated the assets and liabilities of such credit union without exercising the Board's authority under subsection (n) of this section.

"(3) ADDITIONAL PAYMENTS AUTHORIZED.—

"(A) IN GENERAL.—The Board may, in its discretion and in the interests of minimizing its losses, use its own resources to make additional payments or credit additional amounts to or with respect to or for the account of any claimant or category of claimants. The Board shall not be obligated, as a result of having made any such payment or credited any such amount to or with respect to or for the account of any claimant or category of claimants, to make payments to any other claimant or category or claimants.

"(B) MANNER OF PAYMENT.—The Board may make the payments or credit the amounts specified in subparagraph (A) directly to the claimants or may make such payments or credit such amounts to an open insured credit union to induce the open insured credit union to accept liability for such claims.

"(g) LIMITATION ON COURT ACTION.—Except as provided in this section, no court may take any action, except at the request of the Board of Directors by regulation or order, to restrain or affect the exercise of powers or functions of the Board as a conservator or a liquidating agent.

"(h) LIABILITY OF DIRECTORS AND OFFICERS.—A director or officer of an insured credit union may be held personally liable for monetary damages in any civil action by, on behalf of, or at the request or direction of the Board, which action is prosecuted wholly or partially for the benefit of the Board—

"(1) acting as conservator or liquidating agent of such insured credit union,

"(2) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed by such liquidating agent or conservator, or

"(3) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed in whole or in part by an insured credit union or its affiliate in connection with assistance provided under section 208,

for gross negligence, including any similar conduct or conduct that demonstrates a greater disregard of a duty of care (than gross negligence) including intentional tortious conduct, as such terms are defined and determined under applicable State law. Nothing in this paragraph shall impair or affect any right, if any, of the Board under other applicable law.

"(i) DAMAGES.—In any proceeding related to any claim against an insured credit union's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured credit union, recoverable damages determined to result from the improvident or otherwise improper use or investment of any insured credit union's assets shall include principal losses and appropriate interest.".; and

(5) in subsection (k) (as so redesignated by paragraph (3) of this subsection) by striking out the 1st and 5th sentences.

(b) LIMITATION ON COURT ACTION.—Section 206(h)(3) of the Federal Credit Union Act (12 U.S.C. 1786(h)(3)) is amended by adding at the end thereof the following sentence: "Except as provided in this paragraph, no court may take any action, except at the request of the Board by regulation or order, to restrain or affect the exercise of powers or functions of the Board as conservator.".

SEC. 1218. RISK MANAGEMENT TRAINING.

The Federal Financial Institutions Examination Council Act (12 U.S.C. 3301 et seq.) is amended by adding at the end the following new section:

"SEC. 1009A. RISK MANAGEMENT TRAINING.

"(a) SEMINARS.—The Council shall develop and administer training seminars in risk management for its employees and the employees of insured financial institutions.

"(b) STUDY OF RISK MANAGEMENT TRAINING PROGRAM.—Not later than end of the 1-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Council shall—

"(1) conduct a study on the feasibility and appropriateness of establishing a formalized risk management training program designed to lead to the certification of Risk Management Analysts; and

"(2) report to the Congress the results of such study.".

SEC. 1219. CROSS-MARKETING RESTRICTIONS.

Section 4(f)(3)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(3)(B)) is amended by striking clause (ii) and inserting the following:

"(ii) offer or market products or services of an affiliate that are not permissible for bank holding companies to provide under subsection (c)(8), or permit its products or services to be offered or marketed in connec-

tion with products and services of an affiliate, unless—

"(I) the Board, by regulation, has determined such products and services are permissible for bank holding companies to provide under subsection (c)(8);

"(II) such products and services are described in section 20 of the Banking Act of 1933 and the Board, by regulation, has permitted bank holding companies to offer or market such products or services, but has prohibited bank holding companies and their affiliates from principally engaging in the offering or marketing of such products or services; or

"(III) such products or services were being so offered or marketed as of March 5, 1987, and then only in the same manner in which they were being offered or marketed as of that date;".

SEC. 1220. SEPARABILITY OF PROVISIONS.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

TITLE XIII—PARTICIPATION BY STATE HOUSING FINANCE AUTHORITIES AND NONPROFIT ENTITIES

SEC. 1301. DEFINITIONS.

For purposes of this title:

(1) STATE HOUSING FINANCE AUTHORITY.—The term "State housing finance authority" means any public agency, authority, or corporation which—

(A) serves as an instrumentality of any State or any political subdivision of any State; and

(B) functions as a source of residential mortgage loan financing in that State.

(2) NONPROFIT ENTITY.—The term "nonprofit entity" means any not-for-profit corporation chartered under State law that is exempt from Federal taxation under section 501(c) of the Internal Revenue Code of 1986 and no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual (including any nonprofit entity established by the corporation established under title IX of the Housing and Urban Development Act of 1968).

(3) MORTGAGE-RELATED ASSETS.—The term "mortgage-related assets" means—

(A) residential mortgage loans secured by 1- to 4-family or multifamily dwellings; and

(B) real property improved with 1- to 4-family or multifamily residential dwellings, which are located within the jurisdiction of the applicable State housing finance authority or within the geographical area served by the nonprofit entity.

(4) NET INCOME.—The term "net income" means income after deduction of all associated expenses calculated in accordance with generally accepted accounting principles.

SEC. 1302. AUTHORIZATION FOR STATE HOUSING FINANCE AGENCIES AND NONPROFIT ENTITIES TO PURCHASE MORTGAGE-RELATED ASSETS.

(a) AUTHORIZATION.—Notwithstanding any other provision of Federal or State law, a State housing finance authority or nonprofit entity may purchase mortgage-related assets from the Resolution Trust Corporation or from financial institutions with respect to which the Federal Deposit Insurance Corporation is acting as a conservator or receiver (including assets associated with any trust business), and any contract for such purchase shall be effective in accordance with its terms without any further approval, assignment, or consent with respect to that contract.

(b) INVESTMENT REQUIREMENT.—Any State housing finance authority or nonprofit entity which purchases mortgage-related assets pursuant to subsection (a) shall invest any net income attributable to the ownership of those assets in financing, refinancing, or rehabilitating low- and moderate-income housing within the jurisdiction of the State housing finance authority or within the geographical area served by the nonprofit entity.

TITLE XIV—TAX PROVISIONS

SEC. 1401. EARLY TERMINATION OF SPECIAL REORGANIZATION RULES FOR FINANCIAL INSTITUTIONS.

(a) GENERAL RULE.—

(1) REORGANIZATIONS.—Subparagraph (D) of section 368(a)(3) of the Internal Revenue Code of 1986 (as amended by section 4012 of the Technical and Miscellaneous Revenue Act of 1988) is amended to read as follows:

"(D) AGENCY RECEIVERSHIP PROCEEDINGS WHICH INVOLVE FINANCIAL INSTITUTIONS.—For purposes of subparagraphs (A) and (B), in the case of a receivership, foreclosure, or similar proceeding before a Federal or State agency involving a financial institution referred to in section 581 or 591, the agency shall be treated as a court."

(2) NET OPERATING LOSS RULES.—The last sentence of section 382(l)(5)(F) of such Code (as so amended) is amended by striking "after December 31, 1989" and inserting "on or after May 10, 1989".

(3) FINANCIAL ASSISTANCE.—

(A) Section 597 of such Code (as so amended) is amended to read as follows:

"SEC. 597. TREATMENT OF TRANSACTIONS IN WHICH FEDERAL FINANCIAL ASSISTANCE PROVIDED.

"(a) GENERAL RULE.—The treatment for purposes of this chapter of any transaction in which Federal financial assistance is provided with respect to a bank or domestic building and loan association shall be determined under regulations prescribed by the Secretary.

"(b) PRINCIPLES USED IN PRESCRIBING REGULATIONS.—

"(1) TREATMENT OF TAXABLE ASSET ACQUISITIONS.—In the case of any acquisition of assets to which section 381(a) does not apply, the regulations prescribed under subsection (a) shall—

"(A) provide that Federal financial assistance shall be properly taken into account by the institution from which the assets were acquired, and

"(B) provide the proper method of allocating basis among the assets so acquired (including rights to receive Federal financial assistance).

"(2) OTHER TRANSACTIONS.—In the case of any transaction not described in paragraph (1), the regulations prescribed under subsection (a) shall provide for the proper treatment of Federal financial assistance and appropriate adjustments to basis or other tax attributes to reflect such treatment.

"(3) DENIAL OF DOUBLE BENEFIT.—No regulations prescribed under this section shall permit the utilization of any deduction (or other tax benefit) if such amount was in effect reimbursed by nontaxable Federal financial assistance.

"(c) FEDERAL FINANCIAL ASSISTANCE.—The purposes of this section, the term 'Federal financial assistance' means—

"(1) any money or other property provided with respect to a domestic building and loan association by the Federal Savings and Loan Insurance Corporation or the Resolution Trust Corporation pursuant to section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any other similar provision of law), and

"(2) any money or other property provided with respect to a bank or domestic building and loan association by the Federal Deposit Insurance Corporation pursuant to section 11(f) or 13(c) of the Federal Deposit Insurance Act (or under any other similar provision of law),

regardless of whether any note or other instrument is issued in exchange therefor.

"(d) DOMESTIC BUILDING AND LOAN ASSOCIATION.—For purposes of this section, the term 'domestic building and loan association' has the meaning given such term by section 7701(a)(19) without regard to subparagraph (C) thereof."

(B) Subparagraph (B) of section 904(c)(2) of the Tax Reform Act of 1986 is hereby repealed.

(C) The table of sections for part II of subchapter H of chapter 1 of such Code is amended by striking the item relating to section 597 and inserting the following:

"Sec. 597. Treatment of transactions in which Federal financial assistance provided."

(b) TECHNICAL AMENDMENTS.—

(1) Section 904 of the Tax Reform Act of 1986 (other than subsection (c)(2)(B) thereof) is hereby repealed and the Internal Revenue Code of 1986 shall be applied as if the amendments made by such section had not been enacted.

(2) The last sentence of paragraph (3) of section 4012(c) of the Technical and Miscellaneous Revenue Act of 1988 is amended to read as follows:

"In the case of any bank or any institution treated as a domestic building and loan association for purposes of section 597 of the 1986 Code by reason of the amendment made by subsection (b)(2)(B), the amendments made by this subsection shall also apply to any transfer before January 1, 1989, to which the amendments made by subsection (b)(2) apply."

(3) The last sentence of section 593(e)(1) of such Code is amended to read as follows: "This paragraph shall not apply to any transaction to which section 381 applies, or to any distribution to the Federal Savings and Loan Insurance Corporation (or any successor thereof) or the Federal Deposit Insurance Corporation in redemption of an interest in an association, if such interest was originally received by any such entity in exchange for assistance provided under a provision of law referred to in section 597(c).".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a)(1).—The amendment made by subsection (a)(1) shall apply to acquisitions on or after May 10, 1989.

(2) SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall apply to transactions on or after May 10, 1989.

(3) SUBSECTION (a)(3).—

(A) IN GENERAL.—The amendments made by subsection (a)(3) shall apply to any amount received or accrued by the financial institution on or after May 10, 1989, except that such amendments shall not apply to transfers on or after such date pursuant to an acquisition to which the amendment made by subsection (a)(1) does not apply.

(B) INTERIM RULE.—In the case of any payment pursuant to a transaction on or after May 10, 1989, and before the date on which the Secretary of the Treasury (or his delegate) takes action in exercise of his regulatory authority under section 597 of the In-

ternal Revenue Code of 1986 (as amended by subsection (a)(3)), the taxpayer may rely on the legislative history for the amendments made by subsection (a)(3) in determining the proper treatment of such payment.

(4) SUBSECTION (b)(1).—The provisions of subsection (b)(1) shall take effect on the date of the enactment of the Tax Reform Act of 1986.

(5) SUBSECTION (b)(2).—The amendment made by subsection (b)(2) shall take effect on the date of the enactment of the Technical and Miscellaneous Revenue Act of 1988.

(6) SUBSECTION (b)(3).—The amendment made by subsection (b)(3) shall take effect on the date of the enactment of this Act.

(7) CLARIFICATION OF PRIOR LAW.—Any reference to the Federal Savings and Loan Insurance Corporation in section 597 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) shall be treated as including a reference to the Resolution Trust Corporation and the FSLIC Resolution Fund.

SEC. 1402. TAX EXEMPTION FOR RESOLUTION TRUST CORPORATION AND RESOLUTION FUNDING CORPORATION.

(a) GENERAL RULE.—Subsection (l) of section 501 of the Internal Revenue Code of 1986 (relating to government corporations exempt under subsection (c)(1)) is amended to read as follows:

"(l) GOVERNMENT CORPORATIONS EXEMPT UNDER SUBSECTION (c)(1).—For purposes of subsection (c)(1), the following organizations are described in this subsection:

"(1) The Central Liquidity Facility established under title III of the Federal Credit Union Act (12 U.S.C. 1795 et seq.).

"(2) The Resolution Trust Corporation established under section 21A of the Federal Home Loan Bank Act.

"(3) The Resolution Funding Corporation established under section 21B of the Federal Home Loan Bank Act."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1403. ANNUAL REPORTS ON TRANSACTIONS IN WHICH FEDERAL FINANCIAL ASSISTANCE PROVIDED.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall submit to the Senate and to the Committee on Ways and Means of the House of Representatives annual reports on—

(1)(A) the transactions which occur during the year for which the report is made and with respect to which Federal financial assistance is provided;

(B) the aggregate amount of Federal financial assistance provided with respect to such transactions; and

(C) any tax benefits available by reason of such transactions; and

(2) the aggregate amount of Federal financial assistance provided during such year, and the aggregate tax benefits utilized during such year, which are attributable to such transactions in prior years.

(b) DEFINITION.—For purposes of this section, the term "Federal financial assistance" means any assistance to which section 597 of the Internal Revenue Code of 1986 applies.

SEC. 1404. STUDIES OF RELATIONSHIP BETWEEN PUBLIC DEBT AND ACTIVITIES OF GOVERNMENT-SPONSORED ENTERPRISES.

(a) IN GENERAL.—In order to better manage the bonded indebtedness of the United States, the Secretary shall conduct 2 annual studies to assess the financial safety and soundness of the activities of all Government-sponsored enterprises and the impact of their operations on Federal borrowing.

(b) ACCESS TO RELEVANT INFORMATION.—

(1) INFORMATION FROM GSE'S.—Each Government-sponsored enterprise shall provide full and prompt access to the Secretary to its books and records, and shall promptly provide any other information requested by the Secretary.

(2) INFORMATION FROM SUPERVISORY AGENCIES.—In conducting the studies under this section, the Secretary may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of any Government-sponsored enterprise.

(3) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—The Secretary shall determine and maintain the confidentiality of any book, record, or information made available under this subsection in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

(B) EXEMPTION FROM PUBLIC DISCLOSURE REQUIREMENTS.—The Department of the Treasury shall be exempt from section 552 of title 5, United States Code, with respect to any book, record, or information made available under this subsection and determined by the Secretary to be confidential under subparagraph (A).

(C) PENALTY FOR UNAUTHORIZED DISCLOSURE.—Any officer or employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if—

(i) by virtue of his employment or official position, he has possession of or access to any book, record, or information made available under this subsection and determined by the Secretary to be confidential under subparagraph (A); and

(ii) he discloses the material in any manner other than—

(I) to an officer or employee of the Department of the Treasury; or

(II) pursuant to the exceptions set forth in such section 1906.

(c) ASSESSMENT OF RISK.—In assessing the financial safety and soundness of the activities of Government-sponsored enterprises, and the impact of their activities on Federal borrowing, the Secretary shall quantify the risks associated with each Government-sponsored enterprise. In quantifying such risks, the Secretary shall determine the volume and type of securities outstanding which are issued or guaranteed by each Government-sponsored enterprise, the capitalization of each Government-sponsored enterprise, and the degree of risk involved in the operations of each Government-sponsored enterprise due to factors such as credit risk, interest rate risk, management and operations risk, and business risk. The Secretary shall also report on the quality and timeliness of information currently available to the public and the Federal Government concerning the extent and nature of the activities of Government-sponsored enterprises and the financial risk associated with such activities.

(d) REPORTS TO CONGRESS.—The Secretary shall submit to the Congress—

(1) by May 15, 1990, a report setting forth the results of the 1st annual study conducted under this section; and

(2) by May 15, 1991, a report setting forth the results of the 2nd annual study conducted under this section.

(e) DEFINITIONS.—For purposes of this section:

(1) GOVERNMENT-SPONSORED ENTERPRISE.—The term "Government-sponsored enterprise" means—

(A) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System, the Farm Credit Banks, the Banks for Cooperatives, the Federal Agricultural Mortgage Corporation, the Student Loan Marketing Association, the College Construction Loan Insurance Association, and any of their affiliated or member institutions; and

(B) any other Government-sponsored enterprise, as designated by the Secretary.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

And the Senate agree to the same.

From the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 1, 219(5), 223, 314, and 315 and title I of the House bill, and secs. 1, 222(4), 223, that portion of sec. 301 adding new secs. 3(b) and 5(s) and (t) to the Home Owners' Loan Act of 1933, and 1409, and titles I and XV of the Senate amendment, and modifications committed to conference:

HENRY B. GONZALEZ,
FRANK ANNUNZIO,
MARY ROSE OAKAR,
BRUCE F. VENTO,
DOUG BARNARD, JR.,
ROBERT GARCIA,
CHARLES SCHUMER,
RICHARD LEHMAN,
BRUCE A. MORRISON,
TOM CARPER,
GERALD D. KLECZKA,
DAVID PRICE,
CHALMERS P. WYLIE,
MARGE ROUKEMA,
JIM SAXTON,
CLIFF STEARNS,
PAUL E. GILLMOR,

From the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 501, 505 through 508, 1203, 1204, 1207, 1208, 1211, and 1212 and titles II (except secs. 219(5) and 223); III (except secs. 314 and 315), IV, VI, and VIII of the House bill, and secs. 501, 505, 724, 1402 through 1405, 1410, 1413, and 1414 and titles II (except secs. 221(b)(2), 222(4), and 223), III (except that portion of sec. 301 adding new secs. 3(b) and 5(s) and (t) to the Home Owners' Loan Act of 1933), IV, VI, and VIII of the Senate amendment, and modifications committed to conference:

HENRY B. GONZALEZ,
FRANK ANNUNZIO,
MARY ROSE OAKAR,
CHARLES SCHUMER,
BARNEY FRANK,
RICHARD LEHMAN,
TOM CARPER,
TOM MCMILLEN,
JIM MCDERMOTT,
CHALMERS P. WYLIE,
JOHN HILER,
STEVE BARTLETT,

From the Committee on Banking, Finance and Urban Affairs, for consideration of titles IX, X, and XI of the House bill, and secs. 221(b)(2), 1408, and 1411, and titles IX, X, and XIII of the Senate amendment, and modifications committed to conference:

HENRY B. GONZALEZ,
FRANK ANNUNZIO,
WALTER E. FAUNTROY,
CARROLL HUBBARD,
DOUG BARNARD, JR.,
MARCY KAPTUR,
BEN ERDREICH,
BILL NELSON,
LIZ PATTERSON,
FLOYD H. FLAKE,

PETER HOAGLAND,
RICHARD E. NEAL,
CHALMERS P. WYLIE,
AL MCCANDLESS,

From the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 1201, 1202, 1205, 1206, 1210, 1213 through 1216, and titles VII and XIII of the House bill, and secs. 1401, 1406, 1407, and 1415 and titles VII (except sec. 724), XI, and XII of the Senate amendment, and modifications committed to conference:

HENRY B. GONZALEZ,
FRANK ANNUNZIO,
WALTER E. FAUNTROY,
CARROLL HUBBARD,
MARY ROSE OAKAR,
BRUCE F. VENTO,
ROBERT GARCIA,
BARNEY FRANK,
BRUCE A. MORRISON,
ESTEBAN E. TORRES,
GERALD D. KLECZKA,
JOE KENNEDY,
KWEISI MFUME,
NANCY PELOSI,
CHALMERS P. WYLIE,
MARGE ROUKEMA,
STEVE BARTLETT,

From the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 502 through 504 of the House bill, and secs. 502 through 504 of the Senate amendment, and modifications committed to conference:

HENRY B. GONZALEZ,
FRANK ANNUNZIO,
WALTER E. FAUNTROY,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
BRUCE A. MORRISON,
ESTEBAN E. TORRES,
GERALD D. KLECZKA,

From the Committee on Ways and Means, for consideration of title XIV of the House bill, and sec. 1412 of the Senate amendment and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J.J. PICKLE,
C.B. RANGEL,
PETE STARK,
BILL ARCHER,
GUY VANDER JAGT,
PHIL CRANE,

From the Committee on Ways and Means, for consideration of sec. 217, such portions of sec. 502 adding new subsections 21B(b), (c)(1) and (2), (d)(3), (f)(1)(A) and (B), (g)(2)(B), and (j) to the Federal Home Loan Bank Act, secs. 502(b) and (c), 504, and 1209 of the House bill and that portion of sec. 501 adding a new subsection 21A(k) to the Federal Home Loan Bank Act, such portions of sec. 502 adding new subsections 21B(b), (c)(1), (2), (3), (5), (6), and (8), (d)(1), (2), and (3), (f)(1) and (i) to the Federal Home Loan Bank Act, sec. 504 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J.J. PICKLE,
C.B. RANGEL,
PETE STARK,
HAROLD FORD,
ED JENKINS,
THOMAS J. DOWNEY,
FRANK J. GUARINI,
MARTY RUSSO,
DONALD J. PEASE,
BILL GRADISON,
RAYMOND J. MCGRATH,

As additional conferees, for consideration of the remaining portions of sec. 502 of the House bill, and the remaining portions of sec. 502 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
FRANK J. GUARINI,
BILL ARCHER,

As an additional conferee, for consideration of secs. 1213 through 1215 of the House bill, and modifications committed to conference:

JOHN CONYERS,

As an additional conferee, for consideration of sec. 223 of the House bill, and that portion of sec. 223 adding a new subsection 28(d) to the Federal Deposit Insurance Act of the Senate amendment, and modifications committed to conference:

BYRON L. DORGAN,

From the Committee on the Judiciary, for consideration of secs. 212 and 219 of the House bill, and secs. 212, 214, and 222 of the Senate amendment, and modifications committed to conference:

ROBERT W. KASTENMEIER,
JOHN CONYERS,
BILL HUGHES,
DAN GLICKMAN,
HARLEY O. STAGGERS, Jr.,
GEORGE E. SANGMEISTER,
HAMILTON FISH, Jr.,
GEORGE W. GEKAS,
LARKIN SMITH,

From the Committee on the Judiciary, for consideration of title IX of the House bill, and secs. 913 and 981(c), and title X of the Senate amendment, and modifications committed to conference:

ROBERT W. KASTENMEIER,
JOHN CONYERS,
BILL HUGHES,
BARNEY FRANK,
CHARLES SCHUMER,
GEORGE E. SANGMEISTER,
HAMILTON FISH, Jr.,
GEORGE W. GEKAS,
LARKIN SMITH,

From the Committee on Government Operations, for consideration of sec. 502(c) of the House bill, and modifications committed to conference:

JOHN CONYERS,
CARDISS COLLINS,
GLENN ENGLISH,
MIKE SYNAR,
BOB WISE,

From the Committee on Rules, for consideration of that portion of sec. 501 adding a new sec. 21A(u) to the Federal Home Loan Bank Act, and sec. 502(c) of the House bill, and modifications committed to conference:

JOHN JOSEPH MOAKLEY,
BUTLER DERRICK,
ANTHONY C. BEILENSON,
MARTIN FROST,
DAVID BONIOR,

Managers on the Part of the House.

From the Committee on Banking, Housing, and Urban Affairs to reconcile all provisions of H.R. 1278, and of the Senate amendment to H.R. 1278, except those in secs. 1401 and 1402 of H.R. 1278:

DON RIEGLE,
ALAN CRANSTON,
PAUL SARBANES,

From the Committee on Finance as additional conferees solely for the consideration of reconciling:

First, secs. 1401 and 1402 of H.R. 1278, and the specific disagreeing provisions of secs. 501 and 502 of the Senate amendment to H.R. 1278 relating to the tax-exempt status of the Resolution Trust Corporation and the Resolution Funding Corporation (new paragraphs 21A(k) and 21B(f)(7) of the Federal Home Loan Bank Act), and

Second, secs. 1403 and 1404 of H.R. 1278:

LLOYD BENTSEN,
SPARK M. MATSUNAGA,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1278) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I. PURPOSES

The primary purposes of the bill are: (1) to promote, through regulatory reform, a safe and stable system of affordable housing finance; (2) to improve the supervision of savings associations by strengthening capital, accounting, and other supervisory standards; (3) to curtail investments and other activities of savings associations that pose unacceptable risks to the Federal deposit insurance funds; (4) to promote the independence of the Federal Deposit Insurance Corporation through an independent board of directors, adequate funding, and appropriate powers; (5) to put the Federal deposit insurance funds on a sound financial footing for the future; (6) to establish an Office of Thrift Supervision in the Department of the Treasury, under the general oversight of the Secretary of the Treasury; (7) to create a new corporation, to be known as the Resolution Trust Corporation, to deal with failed thrift institutions; (8) to provide funds from public and private sources to deal expeditiously with failed financial institutions; (9) to strengthen the enforcement powers of federal regulators of financial institutions; and (10) to strengthen the penalties for defrauding or otherwise damaging financial institutions and their depository.

TITLE II. FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC AS INSURER BUT NOT PRIMARY REGULATOR OF THRIFTS

Title II gives the Federal Deposit Insurance Corporation ("FDIC") the duty of insuring the deposits of savings associations as well as banks but does not make the FDIC the primary Federal regulator of savings associations of any type. "Savings association" and "bank" are mutually exclusive terms. The term "Depository institution" includes both savings associations and banks. "Savings association" includes federally chartered savings associations and savings banks

as well as State chartered savings association.

CHANGE IN COMPOSITION OF FDIC'S BOARD OF DIRECTORS

The Conference Report changes the composition of the FDIC's board of directors from its present number of 3, including the Comptroller of the Currency, to a board of 5, including the Comptroller as well as the Director of the Office of Thrift Supervision. As of March 1, 1993, no more than 3 members of the board may be affiliated with the same political party. The 3 members of the board appointed by the President with the advice and consent of the Senate have 6-year terms, the Chairperson a term of 5 years as Chairperson.

VOTE REQUIRED TO DENY INSURANCE TO FEDERAL SAVINGS ASSOCIATION

Title II requires the FDIC's board to act by a vote of ¾ths of its members (excluding the Director of the Office of Thrift Supervision) in order to deny deposit insurance to a Federal savings association whose charter application has been approved by the Director of the Office of Thrift Supervision.

CONVERSIONS FROM MEMBERSHIP IN ONE INSURANCE FUND TO ANOTHER

The Conference Report requires that the FDIC approve any transaction in which an insured depository institution ceases to be a member of the Bank Insurance Fund (BIF) or the Savings Association Insurance Fund (SAIF) and becomes a member of the other fund. Generally, any savings association other than a Federal savings bank chartered under section 5(o) of the Home Owners' Loan Act is a member of the SAIF, and any bank is a member of the BIF. During the 5 years following enactment of the Act, conversions are prohibited with certain exceptions. The FDIC may approve one or more conversion transactions, if during the 5-year moratorium period the aggregate amount of deposits transferred from insurance by SAIF to insurance by BIF (or vice versa) does not exceed 35 percent of the lesser of (i) the sum of an insured depository institution's total deposits as of May 1, 1989, plus net interest credited to the date or dates of transfer or (ii) the total deposits of the institution on the date or dates of transfer.

During the conversion moratorium the FDIC also may approve a conversion as part of an acquisition of a depository institution in default or in danger of default if the estimated benefits to the fund the institution is leaving (or the RTC, if the institution is a savings association) equal or exceed the estimated lost assessment income to that fund during the years remaining in the moratorium period.

In the event of any conversion transaction the institution involved must pay an exit fee to the fund it is leaving and an entrance fee to the fund it is entering. During the 7-year period following date of enactment of the Act the Secretary of the Treasury and the FDIC jointly determine the exit fee payable for leaving SAIF.

The conversion provisions permit a savings association to switch to a bank charter so long as it remains a SAIF member during the 5-year moratorium.

The Conferees do not intend for this provision to apply to any institution that has never accepted deposits, and thus has never been insured by either fund.

CROSS-GUARANTEES BY COMMONLY CONTROLLED INSTITUTIONS

The Conference Report establishes liability to the FDIC for the loss or anticipated loss to the FDIC that arises from the default of a commonly controlled insured depository institution or assistance provided to such an institution in danger of default. Institutions are commonly controlled if they have the same holding company or one institution is controlled by another. The FDIC may waive collection on this liability.

The FDIC also may provide exemptions from liability for prospective losses if it determines that such exemption is in the best interests of the SAIF or BIF or both. If it grants such an exemption, the institution or institutions exempted must comply with the affiliated transactions restrictions of sections 23A and 23B of the Federal Reserve Act without regard to the 'sister bank' exemption for as long as FDIC's grant of exemption extends.

The "cross-guarantee" provisions during the 5-year period following date of enactment of the Act also exempt SAIF (or BIF) members from losses attributable to BIF (or SAIF) members acquired by the SAIF (or BIF) member prior to enactment of the Act. The provisions also exclude from liability a depository institution that acquires control of another depository institution through foreclosure of a pledge of stock granted to secure a debt incurred in good faith. The same restrictions on affiliated transactions apply as in the case of the discretionary grant of exemption described above. Furthermore, an institution is not liable for any loss solely attributable to an affiliate if such affiliate was receiving assistance from the FSLIC and the FSLIC's successor is unable to make such payments and the affiliate's default is solely caused by the failure to make such payments.

FDIC's claim for loss reimbursement under the cross-guarantee is superior to any claim of shareholders of the institution liable or any claim of affiliates of such institution (other than claims on secured debt that existed as of May 1, 1989). FDIC's claim is subordinate to the claims against the depository institution of depositors, general and third party secured creditors, and holders of subordinated debt other than affiliates.

ASSESSMENTS FOR DEPOSIT INSURANCE

Assessment rates for the BIF and the SAIF will be set independently. BIF rates are scheduled to increase from the current 0.083 percent to 0.12 percent in 1990 and to 0.15 percent in 1991. SAIF rates are scheduled to increase from the current 0.208 percent to 0.23 percent in 1991 and recede to 0.18 percent in 1994 and 0.15 in 1998.

The FDIC may increase rates from the scheduled levels for either fund if necessary to restore the fund's ratio of reserves to insured deposits to its target level within a reasonable period of time. The assessment rates for SAIF may not be increased before 1995; those for BIF may not be increased before 1995 unless the reserve ratio falls or the fund has earlier reached its designated reserve ratio. The maximum assessment rate is 0.325 percent, and the maximum year-to-year increase is 0.075 percent.

The designated reserve ratios of the funds will be set independently on an annual basis at 1.25 percent or higher, up to 1.50 percent, if the FDIC Board determines on a year-by-year basis that significant risk of substantial future losses justifies a higher ratio. However, the designated reserve ratio may not exceed 1.50 percent. The conferees chose the Senate requirements of a "significant risk" rather than the House of Representatives' "probable risk" to clarify that losses large enough to justify greater protection need not be judged more likely than not.

There are several provisions designed to prevent the funds from becoming unnecessarily large. Any assets of a fund in excess of 1.25 percent of insured deposits will be treated as a supplemental reserve. Earnings from the supplemental reserve will be distributed to members, as will the supplemental reserve itself if it becomes no longer needed. Assessment income in excess of amounts necessary to maintain the designated reserve ratio will be rebated.

Consistent with current law, a SAIF member may use its share of the FSLIC's secondary reserve to offset insurance premiums.

CHANGE IN CONTROL OF INSURED DEPOSITORY INSTITUTIONS

The Change in Bank Control Act is amended to apply to changes in control of savings associations as well as banks. Title III of the Act repeals the Change in Savings and Loan Control Act. The Director of the Office of Thrift Supervision is the appropriate Federal banking agency for purposes of approving any change in control of a savings association or holding company that controls a savings association.

CONSERVATORSHIP AND RECEIVERSHIP POWERS OF THE FDIC

The FDIC is authorized to act as a conservator or receiver for insured banks and insured savings associations that are chartered under Federal or State law. The title also distinguishes between the powers of a conservator and receiver, making clear that a conservator operates or disposes of an institution as a going concern while a receiver has the power to liquidate and wind up the affairs of an institution.

Title II permits the appointment of the FDIC as conservator for an insured depository institution chartered under Federal or State law. It requires the appointment of the FDIC as receiver for such an institution chartered under Federal law. It permits the appointment of the FDIC as receiver of State chartered institutions pursuant to State law, and requires the appointment of FDIC as receiver for State chartered institutions pursuant to Federal law. The title also empowers the FDIC to appoint itself as sole conservator or receiver for a State chartered insured institution if the appropriate State regulatory agency has acted first to take custody of such institution and either closed the institution or taken custody for 15 days during such period and depositors are unable to withdraw funds.

Title II establishes the manner of conduct of a conservatorship or receivership of an insured depository institution under Federal law. The FDIC is granted rulemaking authority with respect to this subject. The title sets forth in detail the claims procedures that apply with respect to claims against institutions in liquidation. These procedures allow a claimant, after an initial agency determination, the choice of pursuit of judicial adjudication or with the consent of the agency, administrative review.

Title II grants the FDIC as conservator or receiver certain rights and powers of a receiver in equity, including the right to repudiate contracts that the conservator or receiver determines are burdensome and the repudiation of which will promote the orderly administration of the affairs of the institution in conservatorship or receivership. In detailing the repudiation power Title II provides for repudiation of real property leases. The disaffirmance of burdensome

leases should take into account the total circumstances of the lease, including whether, in the case of a sale and lease back, the lease was executed as part of an arms-length transaction. Title II also provides specifically for financial instruments contracts (defined as "qualified financial contracts").

It is expressly intended that should the FDIC determine that a transfer of servicing rights relating to mortgages owned by or backing the securities of Government National Mortgage Association, Federal National Mortgage Association and/or Federal Home Loan Mortgage Corporation is appropriate for the conservator, receiver, or FDIC in some other capacity, GNMA, FNMA, FHLMC and FDIC will work together to accomplish such a transfer so that the guarantee agreements, servicing contracts, rules, and program requirements governing such mortgages or securities are binding upon the transferee. Nothing in this Act impairs GNMA's rights under Section 306(g) of the National Housing Act.

Title II also establishes administrative procedures for the determination of claims of insurance deposit coverage and judicial review of administrative determinations.

Current law is clarified with respect to FDIC's liability in the event it elects to arrange an assisted acquisition or transfer of assets and liabilities to a bridge bank in order to preserve or attempt to preserve the going concern value of an institution. In such event the FDIC as receiver or in any other capacity is liable to a claimant only for the amount that the claimant would realize from the liquidation and winding up of the affairs of the institution and the payment of insured depositors.

Title II substantially amends the FDIC's current authority to organize bridge banks as a means of preserving the going concern value of an institution pending a solicitation of offers for or other disposition of the institution. The amendments clarify the circumstances in which the status of a bridge bank ends and distinguish between the status of a bridge bank and its corporate existence as a national bank.

Title II preempts State law with respect to claims brought by the FDIC in any capcity against officers or directors of an insured depository institution. The preemption allows the FDIC to pursue claims for gross negligence or any conduct that demonstrates a greater disregard of a duty of care, including intentional tortious conduct.

FDIC'S ASSISTANCE AND DEFAULT PREVENTION AUTHORITY

The FDIC is empowered to provide financial assistance to prevent the default or failure of insured savings associations as well as insured banks. Assistance payments must be made from SAIF is they are made to or for the benefit of an insured savings association.

Title II grants to the FDIC authority similar to FSLIC's emergency authority to arrange acquisitions of failing thrits. The amendments curtail severely the extent to which other Federal law may be waived in such acquisitions. The amendments also remove the procedures under current law that give priority to in-State thrift acquirers of failing thrifts. The acquisition of failing thrifts by banks or bank holding companies is uninsured. A thrift subsidiary of a bank or bank holding company may branch in the same manner as a savings association (not affiliated with a bank holding company) that has its home office in the same state as the home office of such thrift subsidiary. Finally, emergency acquisition authority is amended to grant to the FDIC discretion to provide assistance to certain savings associations located in economically depressed regions.

FUNDING FOR THE SAIF

The SAIF will receive funds, as needed, for administrative and supervisory expenses from the FSLIC Resolution Fund through fiscal year 1991. It is not anticipated that these will amount to more than $150 million. Starting in 1992, the SAIF will receive assessments paid by its members, less amounts needed for interest on FICO bonds. The Treasury will ensure that the SAIF receives at least $2 billion per year from assessments through 1999 by making up any shortfall from Treasury funds.

In addition, the Treasury will provide any funds necessary to ensure that a schedule of steadily increasing minimum net worth levels is met by the fund from 1991 through 1999. For this purpose the Treasury may spend as much as $2 billion in 1991 and in 1992. For the full 9-year period, Treasury may spend up to $16 billion.

FDIC BORROWING

The SAIF may borrow from the Federal home loan banks, with the approval of the Federal Housing Finance Board, and the FDIC may borrow from the Treasury on behalf of either the SAIF or the BIF with the approval of the Secretary. Combined Treasury borrowing by FDIC funds is limited to $5 billion.

The FDIC may also issue other obligations as needed. All borrowings must be attributed to the BIF or the SAIF and total borrowing by either fund is limited by a requirement that no obligation can be issued if its issuance would leave the net worth of that fund equal to less than 10 percent of assets.

In meeting this test, assets held as a result of case resolution activities must be measured at estimated market value less expected management and disposition costs. Guarantees and other obligations must be measured at their estimated cost. Estimates must be adjusted at least quarterly, and transactions subsequent to the most recent audit must be taken into account.

All obligations issued by the BIF or the SAIF subsequent to the date of enactment of this Act that have a stated principal amount and a stated maturity date will be backed by the full faith and credit of the United States.

FSLIC RESOLUTION FUND

The FSLIC Resolution Fund will be managed by the FDIC as a separate fund. It will assume all the assets and liabilities of the FSLIC except for those expressly transferred or assumed by the Resolution Trust Corporation.

To meet its obligations, this Fund may use its assets, returns from receiverships, amounts borrowed by FICO, and insurance assessments on SAIF members through 1991 that are not required for interest on FICO bonds and not required by REFCORP for defeasance of its bonds. Any additional funds needed will be provided by the Treasury. The Fund will terminate when its debts are paid and its assets are sold.

REPORTS BY FDIC

The FDIC is required to submit annual reports to the Congress and certain quarterly financial forecasts and results of the operations to the Secretary of the Treasury and the Director of the Office of Management and Budget.

The FDIC currently provides financial information reports to the Office of Management and Budget and the Corporation will continue to provide such reports. The obligation to provide such reports, however, does not imply any jurisdiction or oversight by OMB over the affairs or operations of the FDIC and, similarly does not affect or alter in any way the FDIC's existing exemption from the apportionment or sequestration provisions of federal budget laws nor does it affect the FDIC's exemption from the provisions of the Budget and Accounting Act of 1921, the Budget and Accounting Procedures Act of 1950 and the Anti-deficiency Act. Further, OMB's lack of jurisdiction or oversight does not preclude the current practice under which the Director of the Office of Management and Budget may request information necessary to carry out OMB's budget and financial responsibilities for the overall Federal Government.

The Title also requires the FDIC to submit certain special reports, including one on risk-based premiums. The FDIC is authorized to study the imposition of risk-based premiums but may not establish such premiums without specific Congressional authorization.

INSURANCE LOGO

Title II establishes the forms of logo that insured banks and insured savings associations may display. Each type of institution may represent that insured deposits are backed by the full faith and credit of the United States Government.

The Conferees recommend that the Federal Deposit Insurance Corporation and the National Credit Union Administration adopt appropriate rules designed to discourage advertising by an insured depository institution which disparages the condition of any Federal deposit insurance fund. The Conferees further recommend that any such rules discourage advertisements that refer to the length of time that an institution has been a member of a fund or that it was formerly a member of another fund.

BANK MERGER ACT

The Bank Merger Act is amended by apply to merger transactions involving insured savings associations as well as insured banks. The Director of the Office of Thrift Supervision is the appropriate Federal regulator with jurisdiction to approve a merger in which the surviving entity is a savings association.

THRIFT POWERS

Title II makes major revisions in the powers of thrift institutions. The heart of these revisions is in a new section 28 of the Federal Deposit Insurance Act, which has four key provisions: (1) a general rule relating to State-authorized activities that are not permissible for a Federal savings association; (2) a modified version of that rule applicable when the only difference between State and Federal powers is that a State savings association may engage in a greater amount of a given activity than can a Federal savings association; (3) a prohibition against equity investments that are not permissible for a Federal savings association; and (4) a prohibition against investing in corporate debt securities not of investment grade (commonly known as "junk bonds").

General Rule

Subsection (a) prohibits a State savings association from engaging as principal, after January 1, 1990, in any type of activity that is not permissible for a Federal savings asso-

ciation unless both parts of the following two-part test are satisfied: (1) the FDIC has determined that the activity in question would pose no significant risk of loss to the deposit insurance fund of which the savings association is a member; and (2) the savings association has enough capital to meet the fully phased-in capital standards prescribed under section 5(t) of the Home Owners' Loan Act (section 301 of the bill). The test of a "significant risk" of loss to the deposit insurance fund is not the relative or absolute size of the potential loss, but whether there is significant risk that the insurance fund will suffer a loss if a State savings association engages in the activity. The "fully phased-in capital standards" are those that will apply after all phase-in periods relating to capital have expired.

Subsection (a) does not apply to activities that a savings association engages in only as its customer's agent. Such activities could, however, be restricted under other provisions of law, such as those authorizing the FDIC to prohibit any activity found to pose a serious threat of loss to the deposit insurance fund.

Differences of Magnitude

Subsection (b) applies when an activity is permissible for a Federal savings association and a State savings association seeks to engage in that activity in an amount greater than that permissible for a Federal savings association. Under subsection (b), the State savings association may engage in that higher amount of the activity so long as both parts of the following two-part test are satisfied: (1) the FDIC has *not* determined that engaging in that higher amount of the activity would pose any significant risk of loss to the deposit insurance fund; and (2) the savings association has enough capital to meet the fully phased-in capital standards prescribed under section 5(t) of the Home Owners' Loan Act.

Subsection (b) does not apply to nonresidential real-estate loans, which are governed by subsection (a).

Prohibition Against Equity Investments

Effective as soon as the bill becomes law, subsection (c) prohibits a State savings association from acquiring or retaining any equity investment of a type or in an amount that is not permissible for a Federal savings association to acquire and retain directly. The prohibition applies to equity investments in real estate, investments in equity securities, and any other equity investment. In applying subsection (c), Federal regulators should look to the substance of the investment and not merely to the form. Any transaction that is in substance an equity investment may be covered by subsection (c), even if the transaction is nominally a loan or other permissible transaction.

There is a limited exception for shares of service corporations. Such shares must, however, meet a two-part test similar to that in subsection (a) if either (1) the aggregate amount of the savings association's investment in service corporations exceeds that permissible for a Federal savings association; or (2) the service corporation engages in any activity that is not permissible for a service corporation of a Federal savings association. By the same token, subsection (c) does not restrict investments in service corporations that are permissible for a Federal savings association.

A State savings association must divest itself of any equity investment that is not permissible either (1) for a Federal savings association directly or (2) under the exception for shares of service corporations. Any such investment must be divested as quickly as can be prudently done, as determined by the FDIC, and in any event not later than July 1, 1994. No such investment may be acquired after the bill becomes law.

Corporate Debt Securities That Are Not of Investment Grade

Subsection (d) prohibits a savings association or its subsidiaries from acquiring or retaining any corporate debt security that, at the time of acquisition, is not rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization. A transition rule provides that any such security held when the bill becomes law must be divested as quickly as can be prudently done (as determined by the FDIC) consistent with safety and soundness and in light of relevant market conditions, and in any event not later than July 1, 1994. No such securities may be acquired after the bill becomes law, other than by an affiliate (or in the case of a mutual savings association, a separately capitalized subsidiary). Affiliates must by definition be separately capitalized, and appropriate firewall protections will apply under other provisions of law, such as Section 23A of the Federal Reserve Act. The Conferees do not intend that securities subject to divestment under subsection (d) be treated, for regulatory accounting purposes, as securities "held for sale."

LOAN TO VALUE RATIOS

Although the Conferees deleted from statutory language the loan to value requirements enacted by the Senate, the appropriate Federal banking agencies are to ensure that general limits or loan to value ratios for both banks and thrifts are implemented. The appropriate Federal banking agencies shall consider specifically the standards in the Senate bill for loans secured by residential property, loans secured by developed commercial real estate and loans secured by raw land and implement such standards as are consistent with safe and sound business practices.

BROKERED DEPOSITS

Any insured financial institution which does not meet the minimum capital requirements applicable with respect to such institutions and is thus a "troubled" institution may not accept funds obtained directly or indirectly by or through any deposit broker for deposit into one or more accounts. A troubled institution is also prohibited from soliciting deposits by offering rates of interest which are significantly higher than the prevailing rates of interest on deposits offered by other insured financial institutions of the same type, i.e., banks or thrifts, in such financial institution's normal market area. This latter provision prohibits the solicitation of deposits by in-house salaried employees through so-called money desk operations.

The FDIC is also explicitly authorized to impose by regulation or rule additional restrictions on the acceptance of brokered deposits by troubled institutions. Explicitly providing such authority to the FDIC with regard to troubled institutions is not meant to imply that the Corporation does not already have the authority to regulate the use of brokered deposits by fully capitalized and under capitalized institutions.

The provision authorizes the FDIC to waive the prohibition on the acceptance of brokered deposits by troubled institutions, but only after a case-by-case review of applications made by such institutions and then only upon a finding that the acceptance of brokered deposits by a given institution does not constitute an unsafe or unsound practice.

The conferees understand that there are situations where brokered deposits are useful and needed particularly for liquidity purposes. Although the provision requires a case-by-case application by a troubled institution for waiver of the prohibition, the Corporation may indicate by rulemaking the type or types of situations in which the Corporation would consider granting a waiver consistent with the statute. The prohibition, however, could only be waived by a finding that the use of brokered deposits by a particular troubled institution does not constitute an unsafe or unsound practice for it.

Conferees intend that the prohibition imposed by this section should not become effective for 120 days in order to conform it with the effective date of the new capital standard for thrift institutions established by section 314 of the bill. During the 120 day phase in period the FDIC should insure that all currently under-capitalized institutions, or any thrift institutions that will be under-capitalized under the new standard, do not increase their overall holdings of brokered deposits.

CONTRACTS FOR GOODS, PRODUCTS AND SERVICES

Section 225 adds a new section to the Federal Deposit Insurance Act (FDIA) which prohibits an insured depository institution from entering into a written or oral contract with any person to provide goods, products, or services to or for the benefit of such financial institution which would jeopardize the safety or soundness of the institution. Under subsection (b), the FDIC is directed to issue regulations and orders necessary to implement the section and to prevent evasion of its provisions. The provision is enforceable against all institution affiliated parties under section 8 of the FDIA. Corrective actions, which may be ordered for violations of this provision, are found in that section. These may include orders to cease and desist (which may require the recision of agreements or contracts or the disposal of any assets) or civil money penalties.

Subsection (e) directs the Attorney General and the Comptroller General to jointly initiate a study and report to Congress on the extent to which insured institutions have entered into contracts with vendors under which vendors agree to purchase the stock or assets of, or invest capital or make deposits in, such institutions. The study and report must also address the extent to which such practices may be anti-competitive and should be prohibited. The report is to be submitted one year from the date of enactment.

TITLE III—SAVINGS ASSOCIATIONS

DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION

This title abolishes the Federal Home Loan Bank Board ("Bank Board") and the position of the Chairman of the Bank Board as the chief regulator of the savings and loan industry. The Office of Thrift Supervision is established as an office in the Department of the Treasury subject to the general oversight of the Secretary of the Treasury. However, the Secretary of the Treasury may not intervene in any matter or proceeding before the Director unless otherwise provided by law. The Director is responsible for the examination and supervision of all savings and loans and will have

all the powers which were vested in the Federal Home Loan Bank Board or the Chairman of such Board on the day before the date of enactment. The Director shall be appointed by the President for a five year term with the advice and consent of the Senate. The Director is prohibited from maintaining a direct or indirect financial interest in any insured depository institution.

CAPITAL STANDARDS

The Conferees recognize that strong capital standards are essential to protect the safety of our deposit insurance system. Capital represents the investment made by owners of a savings association in that association. Without sufficient capital, the owners have little incentive to limit the risks taken with depositors' funds. Therefore, an adequate capital requirement will provide the self-restraint necessary to limit risk-taking by Federally insured savings associations.

Capital also protects the deposit insurance fund by providing a cushion against losses if the institution's condition deteriorates. Even the most prudently managed savings association may experience losses, such as through changes in interest rates, a downturn in the local economy, or unfortunate investment decisions. An institution with adequate capital should be able to absorb such losses.

in order to provide a benchmark below which the thrift regulator generally cannot fall, the legislation requires that the capital standards prescribed by the Director of the Office of Thrift Supervision (Director) be no less stringent than the capital standards applicable for national banks. Thus, for example, the Director is required under this Act to establish risk-based capital standards that are no less stringent than those applicable to national banks. Also, savings institutions are required to maintain a leverage limit (ratio) of not less than 3% core capital to assets, and a minimum level of tangible capital equal to 1.5% of assets.

Savings associations are required to meet the leverage limit upon the effective date of the capital standards. Savings associations currently including supervisory goodwill in capital are permitted to continue to include supervisory goodwill in capital, with the approval of the Director, but are required to progressively phase-out supervisory goodwill from capital (in accordance with the schedule contained in the report) by January 1, 1995, at which time all savings associations must satisfy the leverage limit without including any supervisory goodwill.

Both banking and thrift institution regulators have devoted considerable effort to the initial development of risk-based capital standards. These efforts have demonstrated that the initial standards will evolve and be refined over time as the regulators and the regulated institutions gain experience with the appropriate standards applicable to the various investments made by depository institutions.

The legislation requires that the capital standards prescribed by the Director be no less stringent than the capital standards applicable to national banks. This requirement refers not only to the numerical capital-to-asset ratios appliable to national banks, but also to the qualitative factors used by the Comptroller. For example, the Comptroller permits the value attributed to core deposits to be included in calculating core capital, but only if the rights meet certain criteria (e.g., relating to an identifiable stream of cash flows and being separable and marketable). The Director's standards for savings associations should be no less stringent. Likewise, to the extent percentage restrictions apply to including such assets in calculating the capital of a national bank, restrictions at least as stringent must be applied to savings associations. The Director retains the discretion to determine the extent to which, if any, this assets may be counted toward the capital requirements.

Under the OCC's current regulations, such intangible assets may be used for capital purposes so long as such assets are separately identifiable, saleable and marketable, and of an established value. This legislation is not intended to limit the Director's authority to establish the same type of criteria for the computation of the leverage and risk-based requirements established under this legislation.

Where supervisory transactions were approved by the Federal Home Loan Bank Board prior to the enactment of H.R. 1278, and the Bank Board had authorized certain contributed assets, such as land, to be valued at market value for regulatory capital purposes; the Director may, at his discretion, continue to treat those assets as capital to the same extent previously authorized, if such treatment would be no less stringent than the treatment OCC provides for national banks. The Director would be expected to review the appraisals of these contributed assets and determine whether these assets should be included in determining the value of capital.

MORTGAGE SERVICING RIGHTS

In calculating core capital for the purpose of the leverage limit, the 1.5% tangible capital requirement and risk-based standards, a savings association shall treat purchased mortgage servicing rights in a manner no less stringent than they are treated at such time under regulations prescribed by the Corporation with respect to insured State nonmember banks and on terms no less stringent than those imposed under the capital standards prescribed by the Corporation for State nonmember banks. The Corporation has full discretion over the percentage of capital that may be composed of purchased mortgage servicing rights.

The standards prescribed may permit a savings association to include in capital, on terms no less stringent than those prescribed by the Corporation for State nonmember banks, 90 percent of the fair market value of readily marketable purchased mortgage servicing rights. The fair market value of purchased mortgage servicing rights shall be determined not less often than quarterly and qualifying purchased mortgage servicing rights shall meet OCC qualitative standards for marketability, valuation, and separability, but not be limited to OCC quantitative standards for tangible capital.

DATE OF ENACTMENT

The 1.5% tangible capital requirement and the leverage limit go into effect not more than 120 days following the enactment of this Act. Until the capital standards required in this Act become effective, the capital regulations promulgated by the Federal Home Loan Bank Board remain in effect. In defining core capital and prescribing the risk-based capital requirement, the Director is to follow the Comptroller's final regulations for national banks, even if those regulations have not yet taken effect.

In developing the regulations on capital standards, the Director shall consider and shall include a description of the procedure for institutions not in compliance with capital standards to receive timely consideration of applications for an exemption from sanctions resulting from non-compliance with such standards. This description shall include information on required forms, prioritization of applications and other guidelines designed to expedite the application process.

An institution not in compliance with capital standards upon promulgation of applicable regulations may be subject to restrictions on asset growth, at the regulator's discretion. Also, within 60 days of the promulgation of the capital standards regulations, or the date in which the institution falls out of compliance with such standards, which ever is later, an institution not in compliance with capital standards must submit an acceptable business plan to the Director outlining how the institution plans to work towards compliance with capital standards.

TEMPORARY EXEMPTION

Prior to Janaury 1, 1991, the Director has the discretion to exempt from capital standards any institution that has submitted a business plan and meets certain other statutory criteria. Any exceptions granted under this authority must be on an institution-by-institution basis. The authority to grant exemptions under this provision expires on January 1, 1991 and any exemption previously granted under this authority expires at that time.

FAILURE TO COMPLY WITH CAPITAL STANDARDS

Any savings association, which upon the date of enactment of this Act is not in compliance with the new capital standards, shall have 60 days from the effective date of final regulations adopted pursuant to this Act to seek a temporary exception from capital standards. To seek such an exception a savings association must submit a business plan acceptable to the Director addressing how the savings association will work towards compliance with applicable capital standards. Any savings association which has submitted such a completed business plan shall not be deemed to be in violation of capital standards established by the Act until such business plan has been rejected by the Director. However, the Director may place an asset growth restriction on such institution pending review of the institution's business plan.

After January 1, 1991, an institution not in compliance with capital standards shall be subject to mandatory asset growth restrictions specified under Title III of this Act, and is required to adhere to a capital directive issued by the Director which will establish a plan for bringing the institution into compliance with all applicable standards.

An institution may submit an application for an exemption to the Director, and have such application approved by the Director. This application must include a business plan, which must also be approved by the Director prior to the granting of any exemption. The business plan must outline how the institution plans to work toward complying with capital standards by a specified date. If the application for exemption is approved, the Director may not take any enforcement action based on failure to comply with the minimum capital requirements.

After December 31, 1990, as increased capital standards take effect (e.g. with the phase-out of supervisory goodwill from capital), an institution must apply for and receive an exemption before the increased standard takes effect; otherwise, the institution must be placed under a capital direc-

tive. Should an institution be placed under a capital directive for failure to comply with capital standards, the Director may remove the imposed capital directive following the approval of an application for an exemption by the institution.

The Director may act upon and approve any application for an exemption from applicable sanctions prior to January 1, 1991. Any application for an exemption approved prior to January 1, 1991, will supersede any previously approved temporary exemption from capital standards.

Approval for an exemption from applicable sanctions for failing to meet capital standards does not exempt an institution from specified restrictions on asset growth or the requirement to submit an acceptable business plan to the Director.

If an exemption is granted by the Director, the institution is only exempted from sanctions resulting from capital noncompliance. Sanctions imposed due to any other violations of safety and soundness are not covered under the exemption. An exemption approved by the Director does not prevent FDIC from imposing sanctions or other enforcement action on the FDIC's authority.

In acting upon a proposed business plan the regulator may give priority consideraton to an institution's tangible capital and the institution's ability to meet the increasing requirements of subsequent periods. An institution that fails capital standards should not be treated more harshly than an institution with identical tangible capital that meets the total core capital requirement only because of intangibles.

Qualified Thrift Lender Test

The qualified thrift lender (QTL) test mandates that a savings association maintain a minimum percentage of its assets in housing finance and related activities. The bill reenacts the current QTL test until July 1, 1991, at which point a new test goes into effect. Assets qualifying under the new test are specifically defined so as to prevent the inclusion of other assets by regulatory interpretation. Penalties for failure to comply with the QTL test are substantially increased, and apply for any failures occurring more than one year after the date of enactment.

Commercial Real-Estate Lending

A Federal savings association may currently devote up to 40 percent of its assets to loans secured by nonresidential real property, regardless of whether the association has any capital. Under the bill, such loans may not, in the aggregate, exceed 400 percent of the savings association's capital. The Director is given limited discretion to allow such loans to account for a higher proportion of a savings association's capital. The Director must, however, find that the additional amount will pose no significant risk to the safe or sound operation of the institution involved, and that the increased authority is consistent with prudent operating practices. If an institution is permitted to exceed the 400-percent limit, DOTS must closely monitor the institution's condition so as to ensure compliance with all applicable laws. A transition rule provides a more lenient standard under which the Director may permit a savings association to exceed the 400-percent limit until June 1, 1991.

Limits on Loans to One Borrower

The bill generally makes savings associations subject to the same limit on loans to one borrower as apply to national banks. The limits are incorporated by reference, and are self-executing. Exceptions are provided for loans of up to $500,000 and real-estate construction loans. There is a special rule for loans made to finance the sale of property acquired by foreclosure.

Transactions With Affiliates

The bill establishes a uniform approach to regulating transactions with affiliates, based on sections 23A, 23B, and 22(h) of the Federal Reserve Act. The limits in those sections are incorporated by reference, and are self-executing. Under new section 11(a), a savings association must comply with sections 23A and 23B of the Federal Reserve Act in the same manner and to the same extent as if the savings association were a member bank.

Three additional rules apply to savings associations under the bill, reflecting the fact that affiliates of savings associations can engage in a far greater range of activities than affiliates of banks, and can thus expose the savings association to greater risk. First, a savings association may not make any loan or other extension of credit to an affiliate unless that affiliate is engaged only in activities permissible for bank holding companies. Second, a savings association may not purchase or invest in securities issued by an affiliate (other than securities of a subsidiary). Third, the Director may for reasons of safety and soundness impose more stringent restrictions on savings associations, but may not exempt transactions from or otherwise abridge section 23A or 23B. Exemptions from section 23A or 23B may be granted only by the Federal Reserve Board, as is currently the case with respect to all FDIC-insured banks.

TITLE IV. TRANSFERS OF FUNCTIONS, PERSONNEL AND PROPERTY

Title IV of the conference report provides for the transfer of personnel and administrative property of the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board to the agencies to which other titles of the Act transfer the functions of the FSLIC or the Bank Board. These agencies are the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Federal Housing Finance Board, and the Resolution Trust Corporation. This title also defines the rights of the Federal employees who will be transferred.

Title IV also provides for the interim management of the personnel and property of the Bank Board and the FSLIC pending the transfer of such personnel and property within 60 days of enactment of the Act.

The conference report also provides for the continuation of litigation to which the FSLIC, the Board or a Federal Home Bank acting under delegated authority is a party as well as the continued enforceability of orders, resolutions, determinations and regulations of the FSLIC and the Bank Board.

A procedure is established for the reconciliation of the different interpretations by the FSLIC and the FDIC of the scope of deposit insurance coverage for thrift institutions and banks as well as a procedure for the substitution of new indexes used to calculate interest under adjustable rate mortgage instruments.

TREATMENT OF REFERENCES IN ADJUSTABLE RATE MORTGAGE INSTRUMENTS

There are several points the Conferees wish to emphasize regarding the application of this provision.

First, where an ARM contract specifies that, in the event an index is no longer available, a specifically designated alternate will be substituted, that contractual agreement will control, and the alternate index may be employed without resort to the agency approval process.

Second, in the event an agency no longer maintains an index, the contract will govern absolutely until such time as the substitution process is completed. Thus, for example, if the contract allows the lender to substitute a "substantially similar" index for an index that no longer is available, that substitution can be effected until such time as the agency makes a determination of an appropriate substitute.

Finally, where the agency does embark upon an index substitution procedure, its objective should be to develop an index that displays, to the maximum extent possible, the historical movement characteristics of the original index agreed to between the parties. A substitute that was based on substantially similar data but that failed in that key regard would be inappropriate.

TITLE V. FINANCING FOR THRIFT RESOLUTIONS

SUBTITLE A.—RESOLUTION TRUST CORPORATION

Oversight Board and Resolution Trust Corporation Established

CREATION AND STATUS OF OVERSIGHT BOARD AND RESOLUTION TRUST CORPORATION

This section adds a new section 21A to the Federal Home Loan Bank Act establishing the structure under which insolvent savings associations will be resolved. This structure is primarily the Administration's proposal as modified by additional comments made by the Administration during the course of the conference. Section 501 establishes the Oversight Board, a government instrumentality that is ultimately accountable for the operations of the Resolutions Trust Corporation ("RTC"), a mixed-ownership Government corporation.

ADMINISTRATIVE PROCEDURES ACT

Both the RTC and its Oversight Board will constitute an "agency" for purposes of title 5 of the United States Code, provided however that when the RTC is acting in its capacity as conservator or receiver it shall have the same status as the FDIC acting in such a capacity. The Freedom of Information Act, in subsection (b)(8), exempts from disclosure certain information related to the regulation or supervision of financial institutions. Neither the Oversight Board nor the RTC, whether in its corporate capacity or in its capacity as conservator or receiver, act as a supervisor or regulator of insured depository institutions. The appropriate Federal bank regulatory agency retains such status for all purposes, including the Freedom of Information Act.

POWERS AND DUTIES OF THE OVERSIGHT BOARD

The RTC will operate under the direction of an Oversight Board composed of the Secretary of the Treasury who shall serve as Chairperson, the Secretary of Housing and Urban Development, the Chairman of the Board of Governors of the Federal Reserve System, and two independent persons chosen by the President of the United States and confirmed by the Senate. The independent members cannot hold any other appointed position and may be from the private sector. The public officials who are members of the Oversight Board may delegate any activity to another member, officer or employee of such agency or entity, except for attendance at the quarterly meeting required hereunder.

The Oversight Board will review and have overall responsibility for the RTC's activities. The Oversight Board will not, however,

be involved in or responsible for case specific matters involving individual institutions, specific asset dispositions or generally the day-to-day operations of the RTC. The Oversight Board has the general power to hire employees, use employees of other agencies, prescribe bylaws, enter into contracts and exercise any incidental powers necessary to carry out its functions. The compensation of Oversight Board employees must be consistent with that of FDIC employees. The Conferees have allowed such hiring authority in reliance upon the Administration's statements that the Oversight Board will hire a small staff because of the limited functions performed by the Oversight Board. Notwithstanding the requirement that the employees of the Oversight Board be paid as if they were employees of a Federal banking regulatory agency, the Oversight Board will only oversee the actions of the RTC. The Oversight Board is not a supervisory or regulatory agency.

The specific duties of the Oversight Board include establishing the strategic plans and overall goals of the RTC, approving periodic financing requests, reviewing the performance of the RTC, establishing national and regional advisory boards, and approving all rules, regulations and guidelines of the RTC. The Oversight Board, after consultation with the RTC, may require modification of any such rule, regulation or guideline so long as the rules and regulations adopted for the operation of conservatorships and receiverships are consistent with the Federal Deposit Insurance Act. The review of such guidelines does not extend to the RTC's internal administrative policies.

Development of Strategic Plan

In consultation with the RTC, the Oversight Board shall develop a strategic plan to be submitted to Congress by December 31, 1989. The strategic plan shall incorporate a sufficiently detailed description of the goals of and methods to be used by the RTC in its case resolution activities to enable Congress to exercise its responsibility to monitor the progress of the Oversight Board and the RTC. The strategic plan, at a minimum, shall include the factors for selecting the priority for the resolution of failed thrifts, the standards for selecting the appropriate resolution method, measurement standards for RTC's overall progress, and the various other procedures to provide for the fair and efficient operation of the RTC. However, by listing some specific areas of concern to be addressed in the strategic plan, the Conferees do not intend to exclude other matters appropriate for oversight, such as disposition of assets in distressed areas.

Structure of the RTC

The FDIC will be the exclusive manager of the RTC unless removed pursuant to subsection (m). The Board of Directors of the FDIC will be the Board of Directors of the RTC and the Chairperson of the FDIC Board of Directors will be the Chairperson of the RTC Board of Directors.

Powers and Duties of the Resolution Trust Corporation

The RTC's primary purposes are: (1) to resolve cases involving institutions that once were FSLIC-insured and that are placed in a conservatorship or receivership between January 1, 1989, and three years from the date of enactment of this legislation; (2) to liquidate the Federal Asset Disposition Association ("FADA") within 180 days of the date of enactment; and (3) to conduct its operations so as to maximize recovery on assets it acquires, minimize the impact of its activities on local markets, make efficient use of its funds, minimize losses incurred in resolving cases, and maximize preservation of affordable housing.

In dealing with institutions in its custody, the RTC will exercise the FDIC's conservatorship and receivership powers. These include the power to operate an institution as a going concern, to facilitate its acquisition or to liquidate it.

The RTC will exist until December 31, 1996, after which its assets and liabilities will pass to the FSLIC Resolution Fund.

Review of 1988 Deals

The RTC shall review all assisted thrift acquisitions approved by the FSLIC after January 1, 1988, and report to the Oversight Board and the Congress the results of that review. The RTC shall exercise all the rights that FSLIC had to modify, renegotiate, or restructure assistance agreements where savings can be realized. Any gains or losses from exercising such rights would accrue to the RTC or the FSLIC Resolution Fund, as the Oversight Board determines.

Utilization of Private Resources

In carrying out its responsibilities, the RTC shall rely on private-sector services to the extent it determines that such services are available and their use is practicable and efficient. This provision is not intended to create any private right of action. This provision grants the RTC the authority to use private sector resources in order to minimize the reliance upon government sources and is a reflection of the standard by which Congress will measure the performance of RTC.

Performance of RTC Functions

The RTC will have both general corporate powers and certain special powers with which to perform its functions. The RTC will have no employees unless the Oversight Board exercises its removal powers. The RTC may enter into contracts including contracts for insurance, or joint venture agreements, make progress payments, exercise all the usual incidents of ownership with respect to the property it acquires, sue and be sued in its corporate capacity, make loans, take warrants, equity positions or other similar interests in assets or institutions, use the United States mails on the same basis as an agency of the United States, and exercise any incidental power necessary to carry out its duties. The specific delineation or omission of any contractual power is not intended to create any negative inference with regard to the extent of the RTC's general power to contract.

The RTC will have the power under its Federal Deposit Insurance Act powers to create new entities during the course of its case resolution activities. In section 501, this power is expressly recognized in the provisions allowing the RTC to create federal savings associations and bridge banks. During the period these entities are under the RTC's control, the RTC will be able to set certain standards for these entities. A bridge bank may be under the RTC's control during its entire existence; a federal savings association is under RTC's control until there is an actual acquirer and for so long as the RTC is providing assistance to, or has other contractual obligations with, the federal savings association. Except for those standards specifically reserved by statute for the RTC, such institutions will be subject to all laws and regulations generally applicable to them as enforced by the appropriate Federal banking regulatory agency. Once such institution is no longer under RTC's control and RTC's standards become inoperative, the institution will be under the appropriate Federal bank regulatory, agency and governed by all the laws and regulations applicable to institutions with similar charters.

The RTC also has special powers and may require the merger or consolidation of an institution in its jurisdiction pursuant to applicable standards.

Regulations and Procedures

The Oversight Board and the RTC shall issue regulations pursuant to the Administrative Procedures Act. Such rules are subject to the review of the Oversight Board as set forth above. Regulations or procedures adopted by the RTC relating to its exercise of the FDIC's rights and powers under the FDI Act must accord with that Act and with the FDIC's regulations.

Documentation of Decisions

The RTC must adopt written procedures for selling or otherwise disposing of insured institutions and their assets, and must document its decisions and reasons. The RTC must document decisions so that any transaction involving the exercise of its statutory powers may be adequately reviewed. These procedures must provide for adequate competition, and fair and consistent treatment of offerors, and minimize the cost to the RTC consistent with the overall goals of the RTC.

Asset Disposal in Distressed Areas

The RTC must adopt special asset-disposition procedures to protect the economies of distressed areas. The RTC must set a minimum disposition price for real property that it owns before it sells that property. The procedures for setting that price, and the discretion to approve specific transactions for lesser amounts, are intended to protect against the dumping of assets while retaining the flexibility needed to make sound business decisions. This provision and the provisions for the disposition of residential properties found in subsection (c) require that the provisions of the latter program apply to the eligible property first. Once the requirements of subsection (c) no longer apply to a particular property, the distressed area property rules apply.

Structure of RTC and Advisory Boards

The FDIC operates as exclusive manager of the RTC unless it is replaced by the Oversight Board. The FDIC shall establish a Real Estate Asset Division to assist and advise the Corporation with respect to the management, sale or other disposition of real property assets. The Real Estate Asset Division will perform asset inventories and such other duties as the FDIC prescribes. The inventory shall identify properties with natural, cultural, recreational or scientific values of special significance. The creation of this inventory does not impose any duty on the RTC with respect to such properties or create any liabilities for the RTC in connection with such properties.

In addition, the Oversight Board shall establish national and regional advisory boards to advise the Oversight Board and the RTC with respect to asset management and disposition. Such boards will bring local expertise and concerns to bear on the Oversight Board's strategic decisions and the RTC's decisions regarding asset disposition.

Funding

To carry out its functions, the RTC will receive the proceeds of up to $50 billion of obligations issued by the Resolution Funding Corporation ("REFCORP"), as well as

whatever cash its activities generate. The RTC may also borrow up to $5 billion from the Treasury. The RTC cannot obligate the FDIC or any of its insurance funds. The RTC shall provide the Oversight Board with periodic detailed funding requests.

Federal Asset Disposition Association

The RTC shall liquidate the Federal Asset Disposition Association ("FADA") within 180 days of enactment of this Act. In liquidating the FADA, the RTC should not sell FADA's name.

Exemption From Taxation

The Oversight Board and the RTC will be exempt from taxation, other than taxes on real property.

FSLIC Liabilities

The RTC succeeds to the FSLIC's liabilities as guarantee of certain loans made by the Federal Reserve Banks and Federal Home Loan Banks ("Lenders") to insured savings associations before the bill becomes law. The RTC must, within one year, repay any outstanding indebtedness not repaid by such savings associations to the Lenders. Any claim by a Lender shall have priority over all obligations of the RTC. If the resources of the RTC are insufficient to pay the obligations to the Lenders, then the Secretary of the Treasury shall pay such obligations.

Note Cap

The RTC cannot issue obligations in excess of the total amount of unused REFCORP borrowing, RTC's cash, and 85 percent of the fair market value of RTC's other assets. Obligations of the RTC that have a stated principal amount and a stated maturity date shall be backed by the full faith and credit of the United States.

Reports and Congressional Appearances

The RTC must make both annual and semiannual reports to Congress. Annual reports must include financial statements, as well as the RTC's financial operating plans and forecasts. Semiannual reports must contain the same types of information as annual reports, plus certain items important for Congressional oversight.

The Comptroller General must audit the RTC annually, unless the Comptroller General notifies the RTC at least 180 days before the end of the fiscal year. If the Comptroller General gives such notice, the RTC must arrange to be audited by the independent certified public accountant. The Comptroller General will have access to all books and records of the RTC and its agents.

One of the reports to Congress includes a report on agreement entered into by the RTC with third parties that acquire institutions with assistance from the RTC. Such assistance agreements must also be disclosed to the public unless the Overisight Board, by unanimous vote, determines that disclosure would be harmful to the public interest. It is the intent of the Congress that these agreements be disclosed and that such public interest exception be rarely used and narrowly construed.

Termination of FDIC as exclusive manager

Because the Oversight Board will be ultimately responsible for the operations of RTC, the Oversight Board will be able to remove the FDIC as exclusive manager, but only under extraordinary circumstances. Such extraordinary circumstances are defined by the statute as: a material figure to adhere to the strategic plan or to meet the RTC's programs or activities; willful violation of the Act or the RTC's policies; or a continuing failure to obtain consideration at least nearly equivalent to the market value for assets sold by the RTC. Neither the disposition of property under subsection (c), the special provisions for eligible residential properties, nor the disposition of property in distressed areas at less than 95% of market value, pursuant to the exceptions provided therein, shall constitute a failure to obtain consideration at least nearly equivalent to market value.

STANDARDS OF CONDUCT FOR RTC INDEPENDENT CONTRACTORS

Unless the Oversight Board exercises its authorities to remove the FDIC, the RTC will have no employees. The FDIC as exclusive manager will use its employees to perform many of the functions of the RTC. The RTC must adopt conflict-of-interest and ethical standards for such persons who are operating in the capacity of an employee that are at least as stringent as those applicable to FDIC employees. In addition, the RTC, through the FDIC will contract with other private persons to provide other services. Such private persons may have responsibility for vast amounts of what are, in substance, Federal resources. To ensure that such persons act for the public good rather than for personal gain, the Oversight Board, must adopt ethical standards for independent contractors consistent with Titles 18 and 41 of the United States Code and independent contractors acting on behalf of the RTC will be subject to the same criminal sanctions as FDIC employees for bribery.

The Conferees are mindful of the abuses that have taken place with respect to the awarding of contracts and the consulting arrangements and political favoritism shown by the Department of Housing and Urban Development in its housing programs. The Oversight Board is directly accountable for ensuring that there are no similar problems in the administration of the RTC. Given the large amounts of funds to be expended on this matter, Congress expects the Oversight Board and FDIC as exclusive manager to be vigilant and aggressive in its pursuit of the highest ethical standards at the RTC. A failure to propose, adopt, implement or enforce adequate ethical standards would constitute the extraordinary grounds necessary for dismissal of the FDIC under the Oversight Board's authority to remove the FDIC as exclusive manager.

The FDIC as exclusive manager will be using its personnel to perform the functions of the RTC. Persons who are under the direct supervision of an employee or officer of the FDIC are the functional equivalent of a government employee and shall be subject to the full range of criminal sanctions that are applicable to federal government employees. For the purposes of this section, acting under the direct supervision of an employee would necessarily include, but not limited to, any person making or implementing a decision to provide assistance pursuant to the RTC's statutory powers. Other Federal criminal sanctions, such as those for bank fraud and misapplication of funds, would continue to apply to any person acting on behalf of a conservator or receiver for institutions that are covered by such statutes.

The RTC is required to adopt conflict of interest regulations applicable to independent contractors consistent with the goals and purposes of the Ethics in Government Act. Under such standard, the regulations adopted by the RTC shall prohibit a contractor with the RTC from acquiring an interest in an institution with respect to which the contractor has rendered services to the RTC, or advising potential acquirers with respect to that institution. Further, such regulations shall prevent the unauthorized use of non-public information obtained through providing services to the RTC. Such restrictions on the use of information should include items such as: (1) requiring independent contractors to take all reasonable measures to avoid unintentional or inadvertent disclosure of such information; (2) prohibiting the use of any non-public information for private gain by the contractor or any person with whom the contractor has on ongoing relationship, such as its counsel; and (3) requiring that the contractor treat all information gained by it as a result of services performed for the RTC as non-public information unless specifically authorized in writing by the RTC. Non-public information does not lose its character as such for a particular contractor until it has become a part of the body of public information from a source other than that contractor.

Inspector General

The RTC will have a presidentially appointed Inspector General who will report to both the Board of Directors of the RTC and the Oversight Board.

Disposition of Residential Properties

The House bill contained a provision not included in the Senate bill that would give nonprofit organizations, public agencies and lower income families a 90-day right of first refusal to purchase eligible residential property which the RTC is required to sell. Eligible residential property means, in the case of single family units, units costing less than $67,500 and, in the case of multifamily units, units ranging from $28,032 to $58,392, depending upon the number of bedrooms. Not less than 20 percent of the dwelling units sold during this period would be reserved for very low-income families (incomes do not exceed 50 percent of median income) and not less than an additional 15 percent would be reserved for lower income families (incomes do not exceed 80 percent of median income). The RTC could sell a property at a price below the net realizable market value and could provide financing at a reduced interest rate to the extent necessary to fulfill the lower income occupancy requirements. If no qualified nonprofit, public agency, or lower income family made a bona fide offer within a 3-month period, then the RTC may offer to sell the property to any qualified purchaser. The RTC would publish a listing of eligible residential properties (for each 3-month period) available to any person upon request and available for public inspection in the central and regional offices of the Federal home loan banks.

The conference agreement contains the House proposal with a number of significant changes.

Disposition of Eligible Single Family Property

For the first three months after a single family property is made available for sale, the RTC would be allowed to sell the property only to two classes of eligible purchasers: (a) homebuyers whose income does not exceed 115 percent of area median and who intend to live in the property as their principal residence and (b) public agencies and nonprofit organizations (including limited equity cooperatives) who agree either to resell the units to lower income families or

to provide rental housing affordable to lower income families for the remaining useful life of the property. Eligible single family properties are those single family properties that are appraised at $67,500 or less. After the three month period, if an eligible single family property is not subject to a purchase offer, anyone (including a for-profit investor) may purchase the property. The RTC will develop appropriate guidelines for settlement and closing of sales involving single-family residences.

In order to enhance the purchasing power of eligible purchasers, the conference report provides a mechanism by which such purchasers may be given an early look at eligible residential properties. Within a reasonable time after the Resolution Trust Corporation (RTC), in its corporate capacity or as receiver, acquires title to a single family property, it must provide information on the property's location, condition (including current occupancy and age), and fair market value to certain clearinghouses. It is expected that this initial information will be provided quickly, even before clear title is acquired in some cases. The clearinghouses would be responsible for passing on property information to eligible purchasers. The purpose of this notice process is to alert eligible purchasers of the availability of the property early enough for inspections, rehabilitation estimates and bona fide offers to be prepared. Reasonable access to the properties for purposes of inspection must be given to these eligible purchasers. The lower income occupancy requirements must be included in a deed or other recorded instrument. The conference report makes the lower income occupancy requirements judicially enforceable against owners by affected very low- and lower-income families, State housing finance agencies and agencies, authorities or corporations of the United States. The conferees intend that affected very low- and lower-income families include families who are renting a particular property as well as families who would be eligible to rent. The conference report does not impose resale restrictions on properties sold to lower income households. However, public agencies or nonprofit organizations that purchase single family properties for subsequent resale to lower income households may impose such restrictions to assure long-term availability of the properties for lower income purchasers.

The clearinghouses are entities that have a particular interest in the provision of affordable housing, particularly housing that serves lower income households. They include State housing finance agencies where the properties are located, the Office of Community Investment (or comparable division in the Federal Housing Finance Board) and any national nonprofit organization (including any nonprofit entity established by the National Housing Partnerships) that the Corporation determines has a capacity to act as a clearinghouse. Organizations such as the Council of State Housing Agencies, the National Low Income Housing Coalition, the Neighborhood Reinvestment Corporation, ACORN, LISC, and the Enterprise Foundation are some of the national nonprofit organizations that might be willing and appropriate to undertake these functions, under contract with the Resolution Trust Corporation. State housing finance agencies, because of their location in each State, their expertise in the financing of home ownership and lower income rental projects, as well as their role in allocating federal tax credits are particularly well suited to assume the clearinghouse function. To help induce organizations, particularly national nonprofit organizations, to act as clearinghouses, the conference report provides that clearinghouses shall not have legal liability for failure to comply, when acting as clearinghouses, with the requirements of this subsection.

MULTIFAMILY RESIDENTIAL PROPERTY DISPOSITION

Initial Notice Period and Bona Fide Offer

The conferees believe that the disposition of multifamily properties will differ greatly from the disposition of single family property. Most multifamily properties will undergo a natural holding period before they can be made ready for sale. During this period, RTC will most likely need to clear title, repair the properties and establish the market value. Depending on the condition of individual properties and the extent of encumbrances upon title, this period may range from weeks to months to years.

Given these inherent differences between single family and multifamily disposition, the conference report establishes a more detailed early look process for multifamily properties than for single-family residences. The process would operate as follows. Within a reasonable time after the RTC in its corporate or receivership capacity, acquires title to a multifamily property, it must provide information on the property's location, condition (including current occupancy and age) and fair market value to specified clearinghouses. Once again it is expected that this information will be provided in a timely manner even before clear title is acquired and before the RTC is ready to offer the property for sale. (The RTC, however, has the authority to enter into negotiations for sale before a property is formally offer for sale.) The clearinghouses are the same entities that will be providing information about the single family properties. They would be responsible for passing on the property information to "qualifying multifamily purchasers"—public agencies, nonprofit organizations and for-profit organizations that make an upfront commitment to comply with the lower income occupancy requirements described below.

A qualifying multifamily purchaser would be required to express, by written notice, a serious interest in purchasing a particular property (a) within 90 days of the date the clearinghouses receive notice from the RTC or (b) by the time a property is ready for sale, whichever occurs earlier. The RTC may by regulation or order prescribe the required form and content of an expression of "serious interest." In so prescribing, the conferees intend the RTC to protect itself and the overall asset disposition process from frivolous expressions of interest by organizations that may, in fact, be seeking nothing more than to preserve for themselves the widest range of options. At a minimum, "serious interest" should entail a reasonable probability that the organization expressing interest could in fact accomplish a purchase of the subject property, and a good faith commitment on the part of the organization to work toward preparing a bona fide offer for the property.

Upon determining that a property is ready for sale, the RTC would be required to provide written notice to those qualifying multifamily purchasers that have expressed a serious interest in a property. Such purchasers would then be given 45 days to make a bona fide offer to purchase the property. The conferees believe only a limited number of multifamily properties will be ready for sale less than 90 days after the date clearinghouses receive notice from the RTC. The RTC should develop appropriate guidelines for settlement and closing of multifamily properties.

The lower income targeting requirements in the conference report are similar to those included in the House bill. At least 20% of the units must be made available for occupancy by and shall be maintained as affordable to very low income families for the remaining useful life of the property and at least an additional 15% of the units shall be available for occupancy by and shall be maintained as affordable to lower income families. The remaining useful life of the property is not determined by tax law principles but is intended to cover the property as long as it is habitable and assumes good faith efforts by the purchaser to maintain the property and to rehabilitate it as necessary. A rental unit will be considered affordable as long as the rent charged to tenants on a lower-income unit does not exceed 30% of 65% of the area median income and the rent charged to tenants on a very low-income unit does not exceed 30% of 50% of the area median income. The conferees recognize that the established caps on tenant rent contributions might cause hardship in individual circumstances. Yet, these restrictions on tenant contributions to rent are necessary to facilitate the underwriting of private financing for the acquisition of multifamily properties. Subject to the availability of funds, the conferees fully expect Section 8 rental assistance—both tenant-based and project-based—to be used in conjunction with these properties. Where Section 8 rental assistance is available, tenant contributions to rent will be 30 percent of an individual tenant's adjusted income and actual rents will probably exceed the caps contained in the statute. These lower income targeting requirements may be exceeded in any project and preference between substantially similar offers for individual multifamily properties or blocks of single family and multifamily properties will be given to those offers that propose to house more lower income families for longer periods of time. This preference applies to all offers, even those made after the statutory serious interest and bona fide offer periods. All agreements related to lower income targeting must be recorded in a deed or other legal instrument and are, therefore, applicable to subsequent purchasers. The conference report makes the lower income occupancy requirements judicially enforceable against owners by affected very low- and lower-income families, State housing finance agencies and agencies, authorities or corporations of the United States. The conferees intend that affected very low- and lower-income families include families who are renting a dwelling unit in a particular multifamily development as well as families who would be eligible to rent.

The lower income occupancy requirements applicable to multifamily sales may be reduced for a temporary period if the HUD Secretary or the State housing financing agency in the State where the property is located determines that compliance with those requirements is no longer financially feasible. It is expected that such reductions will be given for short time periods. The owner must make good faith efforts to secure the funds necessary to permit continued lower income occupancy and affordability and to reduce costs through refinancing or other means. This exemption must be reviewed annually, no tenant may be dis-

placed if the reduction is granted and the owner must show good faith efforts to restore the lower income occupancy to the levels required by statute. If a property was part of a bulk sale in which occupancy restrictions were applied on an aggregate basis, the HUD Secretary or the State housing finance agency should look at the earnings and costs associated with all properties on an aggregate basis to determine whether compliance with the occupancy restrictions on one property is financially infeasible.

Bulk Sales

The amendment authorizes the sale of properties individually or as a group. Any single or multifamily offers made during the expression of serious interest period or intial purchase offer period must meet the lower income targeting requirements. For single family properties, the restrictions apply to each property. For multifamily properties, the requirements apply in the aggregate so that properties rented at market rate could be used to cross-subsidize properties containing a higher proportion of lower income families. If a multifamily property has been identified during the serious interest period for an individual purchase it may not be considered as part of a bulk sale unless no purchase offer is subsequently made during the bona fide offer period.

The conferees are aware of an interesting proposal made by the National Housing Partnership (NHP), a congressionally chartered organization. Under NHP's proposal, RTC would sell a significant number of multifamily properties at book value to a nonprofit foundation established by the NHP. The nonprofit foundation would subsequently place conventional first mortgages on each property, remitting to RTC a substantial amount of the proceeds of the first mortgage financing and giving RTC a note for the difference between the first mortgage amount and book value. The first mortgages would come from reputable mortgage lenders which use appraisal methods acceptable to RTC. The foundation would sell the properties within a fifteen year period and, upon each sale, RTC (or its successor in interest) will receive sales proceeds, as a first priority after the mortgage holder to cover the difference between the first mortgage and the second note. The foundation would be bound by the lower income occupancy requirements of the conference report. Because RTC would sell each property at book value, which the conferees believe to be far in excess of the market value in most instances, RTC could expedite sales of properties to the foundation, saving itself a significant investment of time and resources which would ordinarily be required to set market value and ready property for sale. The conference report would permit this type of portfolio sale any time after the serious interest period as long as the properties were not identified for individual purchase by qualified multifamily purchasers.

Financing of Sale

Sale Price

The RTC is directed to establish a market value for each eligible residential property. Through negotiations, the RTC is required to sell a property at the net realizable market value which is the price below the market value that takes into account any reductions in holding costs resulting from expedited sale of a property, including but not limited to forgone real estate taxes, insurance, maintenance expenses, security costs and the loss of use of its funds as well as the avoidance, if applicable, of fees paid to real estate brokers, auctioneers or other individuals usually involved in the sale of RTC property. The conferees intend the term "maintenance expenses" to include repairs or capital costs necessary to ready properties for sale as well as repairs necessary to enable continued occupancy during the period a property is being prepared for sale. The RTC may agree to a sales price that is below the net realizable market value to the extent such a reduction expedites the sale and enables a lower-income family to purchase a unit or enables a public agency or nonprofit agency to comply with the lower income occupancy requirement. The RTC may not sell a property below the net realizable market value to enable a for-profit purchaser to meet the lower income targeting requirements. A willingness to negotiate a lower sales price on these properties may be critical to making such properties affordable to lower income homeowners and lower and very low income renters.

Seller Financing

The RTC is also authorized to provide seller financing as a first or second mortgage for all or part of the purchase price of any residential property. This mortgage financing may be provided at a subsidized rate if necessary to meet the lower income occupancy requirement by lower income purchasers or by nonprofit or State or local government purchasers agreeing to meet the lower income occupancy requirements. Once again, this assistance is not available to for-profit purchasers.

Other Federal Assistance

The House bill authorized additional funds for several housing assistance programs administered by HUD and FmHA for use in conjunction with the disposition of these assets. The conference report does not authorize those funds but it does direct the Secretary of HUD to take actions to expedite the processing of applications for assistance under a number of programs: Section 202 elderly and handicapped housing, the homeless assistance programs, the urban homesteading program, all of the programs under the U.S. Housing Act of 1937, including Section 8 and rental rehabilitation grants as well as FHA mortgage insurance under the National Housing Act. Similarly the Secretary of Agriculture is directed to expedite the processing of applications for assistance under any of the FmHA programs. The availability of assistance under any of these programs and from other State or local government sources should be taken into consideration when the RTC agrees on a final purchase price or the provision of subsidized financing.

The HUD urban homesteading program and the FmHA loan guarantee program are amended to assure they may be used in conjunction with the disposition of these properties.

Third Party Rights

The conference report contains a provision designed to protect purchasers of eligible residential property against challenges to their title based upon RTC's failure to comply with the special disposition rules.

SUBTITLE B—RESOLUTION FUNDING CORPORATION

Introduction

The conference report generally retains the financing structure for RTC and REFCORP contained in the Administration proposal and Senate bill. However, the conference report follows the House bill with respect to on-budget financing. The amount of funds collected from the industry will be identical to the plan proposed by the Administration. The primary difference is that in the conference report, funds are ultimately raised through the regular Treasury method of borrowing. The use of Treasury securities rather than agency securities, like those which would have been offered by REFCORP as an off-budget agency, will produce lower borrowing costs.

Purpose and Structure

The Resolution Funding Corporation (Funding Corporation or REFCORP) is established as an instrumentality of the government to provide funds for the Resolution Trust Corporation (RTC). The Funding Corporation will have no paid employees, but may use Treasury Department employees on a reimbursable basis. The Secretary of the Treasury will provide general supervision and direction and may prescribe any necessary regulations. Administrative expenses and issuance costs will be paid by the Federal Home Loan Banks.

The REFCORP is given authority to borrow $50 billion from the Treasury Department and will transfer the proceeds to the RTC. The REFCORP will purchase zero-coupon bonds from the Treasury Department to defease the principal of the borrowings. These purchases of zero-coupon bonds will not be subject to the public debt limit to avoid double counting. The authority to borrow money from the Treasury is limited by the amount of industry funds available to defease the principal of the REFCORP bonds. Treasury can use whatever maturity it deems necessary for efficient debt management in obtaining the funds from the public to finance the purchase of REFCORP bonds. When the bonds mature, the REFCORP will pay the principal on its debt to the Treasury with funds obtained by redeeming its holdings of zero-coupon bonds for the same amount.

Budgetary Treatment

The outlays of the Resolution Trust Corporation which are attributable to the net Treasury borrowing ($50 billion less the contributions from the Federal Home Loan Banks and SAIF members) for the Resolution Funding Corporation will not be counted for purposes of calculating the deficit which is compared to the maximum deficit amounts established in the Gramm-Rudman Act. This would include the submission of the President's budget; the budget resolutions considered or adopted by Congress; and the calculation of the deficit and the excess deficit under the Gramm-Rudman Act. The amount excluded will be identified in each budget or report required under the Gramm-Rudman Act.

Payments by the Federal Home Loan Banks to the Funding Corporation Principal Fund

The Treasury will require the Federal Home Loan Banks to pay to the Funding Corporation Principal Fund whatever it needs up to a maximum of their aggregate retained earnings (less a small amount of dividend stabilization reserves) at year-end 1988, plus $300 million per year. Until the combined payments for this purpose and payments to the Financing Corporation (FICO) amount to $1 billion, the payments will be distributed among the Banks according to a table of percentages originally specified in CEBA. Subsequent payments will be distributed according to each Bank's share

of total SAIF member assets as of the recent year-end. To reduce the likelihood that some Banks might need to make payments out of their paid-in capital and to fix the maximum payment for the Banks in the aggregate of $300 million per year, each Bank is subject to a maximum amount limitation. Payments by any Bank may not exceed its retained earnings at year-end 1988, plus its subsequently accumulated retained earnings, with an adjustment factor to ensure the sum of the adjusted retained earnings for all Banks in any year after 1988 equals $300 milion.

When a Bank reaches its maximum, any additional payments it is assessed will be redistributed to the remaining Banks. If the Treasury assesses the aggregate maximum, all Banks will reach their amounts.

Banks on whose behalf other Banks have made payments must reimburse the other Banks. Interest will begin to accrue on outstanding unreimbursed amounts 2 years after the reimbursed payments were made at a rate equal to the annual average cost of funds for all of the Banks for the most recent year.

Reimbursements will be made out of reserve accounts set up for that purpose. Funds for these accounts will come from any reimbursements from other banks and net earnings up to a combined maximum for each Bank of 20 percent of that Bank's net earnings.

Payments to the Funding Corporation Principal Fund from Other Sources

If each Federal Home Loan Bank has reached its maximum amount, and more funds are needed by the Funding Corporation Principal Fund, the Funding Corporation will assess SAIF members in the manner prescribed for insurance premiums. The total assessment may not exceed the amounts allowable for insurance premiums, less any amounts assessed by FICO. Insurance premiums received by the FSLIC Resolution Fund (through 1991) or the SAIF (after 1991) will be reduced accordingly.

If more funds are needed, receivership proceeds of the FSLIC Resolution Fund will be used.

Source of Funds for Interest Payments by the Funding Corporation

The Funding Corporation will use for its interest payments, any earnings on assets it holds not invested in its Principal Fund, any proceeds from RTC receiverships not deemed by the RTC Oversight Board to be presently necessary for resolutions, and any proceeds from warrants or participations acquired by the RTC.

To the extent these sources are not sufficient, the Funding Corporation will assess the Federal Home Loan Banks up to $300 million per year (less any amounts paid by the Banks in that year to FICO or to the Funding Corporation for its Principal Fund).

These assessments will be distributed among the Federal Home Loan Banks according to their income, up to a maximum of 20 percent of each Bank's net earnings. If 20 percent of aggregate Bank earnings is less than $300 million, the deficiency will be allocated among the Banks according their respective shares of aggregate advances outstanding to SAIF members in the prior year.

After RTC's dissolution, any net proceeds from the sale of assets previously owned by RTC will also be used for REFCORP interest payments. If the $300 million annual industry contribution and other sources of funds for interest payments are inadequate, direct Treasury payments will make up the difference.

Budgetary Treatment of the Funding Corporation

The Funding Corporation's receipts and disbursements will be included in the annual budgets of the Federal Government. However, the net outlays of the Funding Corporation will not be counted for the purposes of calculating whether the deficit exceeds Gramm-Rudman targets or for computing any required sequestration under Gramm-Rudman.

FICO

The Financing Corporation (FICO) will continue to operate much as before. Proceeds from its bond issues will go to the FSLIC Resolution Fund. Interest payments will come from assessments on SAIF members made in the manner prescribed for insurance premiums. FICO has first claim on that assessment authority. If the required interest payments exceed the maximum assessment amounts, receivership proceeds of the FSLIC Resolution Fund that are not required by the Funding Corporation Principal Fund may be used, as well as exit fees from institutions leaving the SAIF.

TITLE VI. THRIFT ACQUISITION ENHANCEMENT PROVISION

Title VI amends the Bank Holding Company Act in an effort to attract additional private capital to the thrift industry.

The Federal Reserve Board is given the specific authority to permit the acquisition of a savings association by a bank holding company under section IV of the Bank Holding Company Act. All nonbanking restrictions and other criteria under that section will continue to apply. However, the Conferees intend that the Board not impose tandem restrictions on the activities of the savings associations and affiliated companies unless such restrictions are required under law. Prior tandem restrictions imposed by the Board are to be lifted.

The Bank Holding Company Act is also amended to clarify that companies controlling so-called grandfathered nonbank banks may, within certain limits, make strictly passive investments in the shares of a nonaffiliated bank or savings association.

The title also permits companies that control nonbank banks to acquire certain "qualified" shares issued by troubled savings associations or savings and loan holding companies. Such a company will not be deemed to control the troubled association or holding company solely by reason of the control of such shares so long as the holding company observes the limitations for the qualified stock issuance. One of these requires that the thrift not be a subsidiary of the holding company and that the holding company not make the investment with a view towards obtaining control of the thrift. This means that the investment must be strictly passive. The holding company may not directly or indirectly exercise a controlling influence over the management and policies of the thrift.

Certain technical and conforming amendments are made to the Bank Holding Company Act to take into account other changes made by the bill.

TITLE VII. FEDERAL HOME LOAN BANK SYSTEM REFORMS

FEDERAL HOUSING FINANCE BOARD ESTABLISHED

The overall purpose of this Subtitle is to restructure and refocus the thrift industry by separating the deposit insurance, the chartering and the credit allocation functions for housing finance. Under this section, the Federal Home Loan Bank Act is amended by the addition of a new section 2A under which the Federal Housing Finance Board is established as an independent agency in the Executive branch of the Federal government to oversee the Federal Home Loan Banks (Banks). Subsections (b), (c) and (d) provide for the composition and terms of the Board of Directors of the Board. The Board is composed of five members, including the Secretary of HUD and four citizens of the U.S. appointed by the President with the advice and consent of the Senate.

The appointive directors of the Board hold office for a term of seven years; however, the initial members of the Board are appointed for terms of two, three, five, and seven years to provide for staggered board membership in the future. The directors are appointed from among persons with extensive experience or training in housing finance or with a commitment to the provision of specialized housing credit, and at least one director must be chosen from organizations with more than a two-year history of representing consumer or community interests on banking services, credit needs, housing or financial consumer protections. The organizations can be involved in any one of the four areas identified in the Act and the Committee does not intend to require that the consumer representative have experience in all four areas.

No appointive director can hold any other appointive office during his or her term as director. Not more than three directors can be members of the same political party and no more than one of the directors can be appointed from any single Bank district. No appointive member of the Board may, during such director's term of office, be an officer or director of any Bank or a stockholder, officer or director of any member of a Bank. This provision is not intended to preclude an investment in a diversified mutual fund that in turn may own shares of a savings association.

The President designates one of the appointive members to be the Chairperson of the Board. In the Chairperson's absence or disability, the duties of the Chairperson are performed by another member of the Board to be designated in advance by the Chairperson.

This section also adds a new section 2B establishing the powers and duties of the Federal Housing Finance Board. The legislation transfers to the Board the existing authority of the Federal Home Loan Bank Board to supervise the activities of the Banks. The Board is directed to ensure that the Banks carry out their housing finance mission, remain adequately capitalized and able to raise funds in the capital markets, and are operated in a safe and sound manner.

As an independent agency in the Executive branch, the Board is subject to the Administrative Procedures Act, the Freedom of Information Act and the Government in the Sunshine Act. In addition, the Treasury Department's oversight and direction of the Director of the OTS does not extend, directly or indirectly, to the Federal Housing Finance Board, or to any office or joint office of a Bank, with respect to any credit related or correspondent banking activities.

The Federal Housing Finance Board has the authority to fix the compensation of employees, attorneys and agents of the Board without regard to provisions of law applicable to officers or employees of the United States. Nevertheless, the compensation of employees, attorneys and agents of

the Board is subject to the comparability provisions of this Act.

The receipts of the Federal Housing Finance Board derived from assessments upon the Banks and from other sources, other than receipts from the sale of consolidated obligations, shall be deposited in the Treasury and may be withdrawn to defray the expenses of the Board and to pay the salaries of the employees of the Board.

The Board of Directors also has the power to suspend or remove for cause any director, officer, employee or agent of any Bank, or any joint office of the Banks. The cause of any such suspension or removal must be communicated in writing, in a timely fashion, to that director, officer, employee or agent, as well as the Bank or joint office.

In addition to the appointment of an inspector general, the Comptroller General of the United States is given the authority to audit and examine the activities of the Federal Housing Finance Board and the Banks, in order to determine the extent to which the Board and the Banks are fairly and effectively fulfilling the purposes of this Act.

TERMINATION OF THE FEDERAL HOME LOAN BANK BOARD

The Federal Home Loan Bank Board and the post of Chairman of the Federal Home Loan Bank Board are abolished consistent with Title IV.

Eligibility for Membership

The purpose of this section is to provide for expanded membership in the Banks to include Federally insured commercial banks and credit unions that engage in mortgage lending. A Federally insured bank or credit union would qualify for Bank membership if its financial condition is acceptable, its management and home-financing policy are consistent with sound economic home financing. Such institutions must have at least 10 percent of their assets in residential mortgage loans; including 1-4 family, multifamily and funded residential construction loans, to qualify for membership. Meeting the specific asset threshold test does not raise any presumption with respect to whether the applicant's policies are consistent with sound economic home financing. The member's access to advances, however, would be limited by that institution's demonstrated commitment to housing as provided under the advance section. This expansion of Bank membership is intended to promote and sustain housing finance and the Banks. The Committee believes that the extension of membership to insured commercial banks and credit unions that engage in mortgage lending will strengthen the Banks and their ability to support the mortgage market.

Repeal of Provision Relating to Rate of Interest on Deposits

This section repeals section 5B of the Federal Home Loan Bank Act (12 U.S.C. § 1425b).

Capital Stock

This section removes outdated provisions relating to the minimum amount of capital stock that must be issued by a Bank, the subscription by the United States for a portion of the capital stock, and the subsequent retirement of the stock owned by the United States. This section further provides that at any time a member's membership in a Bank is terminated, all advances must be repaid and any penalties and other fees applicable to a repayment of such advances would apply.

Election of Bank Directors

Under this section, at least two appointive directors of each Bank must be chosen from organizations with more than a two-year history of representing consumer or community interests on banking services, credit needs, housing or financial consumer protections.

In providing for consumer representation on the Boards of the Banks, the Committee does not intend to force the removal of any existing directors. Instead, consumer representatives will be appointed to fill the earliest vacancies of existing appointive member positions, whether by resignation, removal or expiration of term. In addition, the organizations from which these individuals are selected can be involved in any one of the four identified areas and the Committee does not intend to require that they have experience in all four areas.

Also under this section, no appointive member of the Board of Directors of a Bank shall, during such director's term of office, be an officer or director of the Bank or a stockholder, officer or director of any member of that Bank. This provision is not intended to preclude investment in a diversified mutual fund that in turn may own shares of a savings association.

This section further provides that no person who is an officer or director of a member that fails to meet its applicable capital requirements may seek or hold the office of director of a Bank. The directors of each Bank shall determine the terms and conditions under which the Bank may indemnify its directors, officers, employees, or agents.

Repeal of Provision Relating to Certain Powers of the Federal Home Loan Bank Board

This section repeals section 19 of the Federal Home Loan Bank Act (12 U.S.C. (1439)) regarding the powers of the Federal Home Loan Bank Board.

Powers and Duties of Banks

This section authorizes, but does not require, the Banks to make loans to the FDIC, for use of the Savings Association Insurance Fund. Under this section, any loans by the Banks for this purpose are a direct liability on the insurance fund. As is the case with all advances by the Banks, loans to the FDIC for the SAIF must be adequately secured as determined by the Board and the Bank. In addition, the interest on any such advances must be no less than the Bank's current marginal cost of funds.

Also under this provision, section 11 of the Federal Home Loan Bank Act (12 U.S.C. (1431)), is amended to provide that the Banks are permitted to engage in activities that are incidental to those expressly authorized by the Act. This incidental authority helps ensure that Bank members are able to provide economical housing finance.

For example, these activities include the collection and settlement of checks, and related services that the Banks can provide to or for members. The Banks can also provide courier and custody services for, and can process and transmit information related to these services. The Banks are also able to provide other correspondent banking services for members. This includes the reconciliation of customer accounts and servicing payrolls, as well as the analysis and transmission of such information.

Eligibility of Borrowers to Secure Advances

This provision amends section 9 of the Federal Home Loan Bank Act (12 U.S.C. (1449)) by removing obsolete language relating to nonmember borrowers. Entities that are not members are not eligible to borrow from the Banks.

The provision also amends section 10 of the Federal Home Loan Bank Act (12 U.S.C. (1430)) by adding a community support requirement for access to long-term Bank advances.

Under this section, the Federal Housing Finance Board is required to adopt regulations, within two years after enactment of the Act, establishing standards of community investment or service for members of the Banks to maintain continued access by such members to advances. The section provides that the regulations promulgated by the Board shall take into account such factors as the member's performance under the Community Reinvestment Act of 1977, and that member's record of lending to first-time home buyers.

Administrative Expenses

This section provides the Federal Housing Finance Board with the power to levy, semiannually upon the Banks, an assessment sufficient to provide for the payment of the administrative expenses of the Board.

Under this section, the estimated expenses of the Board are to be allocated among the Banks on an equitable basis. Any surplus at the conclusion of any semiannual period will be deducted from the assessment for the following semiannual period. The Committee recognizes that the Board will need to make an immediate assessment on the Banks for the administrative expenses the Board is likely to incur in the first 60 to 90 days following enactment.

Therefore, this section includes a transitional provision for a one time special assessment on the Banks. Because of the separation of the regulatory and credit functions of the current Federal Home Loan Bank System, neither the Federal Housing Finance Board nor any of the Banks is subject to any assessment for the operation of the Office of Thrift Supervision, except as specifically provided in this Act.

Nonadministrative Expenses

This section repeals section 18 of the Federal Home Loan Bank Act (12 U.S.C. (1438a)) and section 19A of that Act (12 U.S.C. (1439-1)).

Federal Savings and Loan Insurance Corportion Industry Advisory Committee

This section repeals section 21(i) of the Federal Home Loan Bank Act (12 U.S.C. (1441(i))) and thereby abolishes the Federal Savings and Loan Insurance Corporation Industry Advisory Committee.

Advances

This section amends section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. (1430(a))) to provide that advances must be made on collateral sufficient, in the judgment of the particular Bank, to fully secure such advances. The section also provides that long-term advances can be made only for the purpose of providing funds for housing finance.

At the time a Bank makes or renews an advance, the Bank must obtain or maintain collateral eligible under certain designated categories. These categories limit the eligible collateral to the following low risk assets: current first residential mortgage loans and securities representing a whole interest in such loans; marketable federal agency securities; deposits at a Federal Home Loan Bank; and a limited basket of other real estate related collateral that is

sufficiently liquid to have a readily ascertainable value.

Since these new collateral requirements only apply when an advance is made or renewed, they do not apply to advances existing at the time of enactment unless those advances are renewed. If, at the time an advance is renewed, the member institution meets all the specified collateral requirements except for the 30% restriction of Section 714(a)(4), the advance may be renewed at the discretion of the Federal Home Loan Bank. In such circumstances, the Federal Housing Finance Board shall, in consultation with the Resolution Trust Corporation, determine a repayment schedule for such renewed advances which is consistent with the sound operation of both the Bank and such member.

By allowing the Banks to originate advances based on securities representing whole interests in first mortgage loans, this section enables the Banks to continue to accept privately issued mortgage-backed securities. However, the section precludes acceptance of (i) stripped securities, such as those backed only by the interest payments or the principal payments on such loans, (ii) any security representing a subordinated interest in mortgage loans, or (iii) any security that represents an interest in a residual or other high risk mortgage derivative product. The category for first mortgages on improved residential property includes loans for co-op units secured by the stock in the cooperative.

In addition, this section imposes special eligibility requirements for advances to members that are not qualified thrift lenders. Such members may only receive advances for the purpose of obtaining funds for housing finance. In addition, a member that is not a qualified thrift lender may only receive an advance if it holds stock in its Bank at the time it receives that advance in an amount at least equal to 5% of that member's total advances, divided by that member's actual thrift investment percentage.

The Board, by regulation, must also establish a priority for advances to members who are qualified thrift lenders, and each Bank's advances to members that are not qualified thrift lenders cannot exceed 30% of the Bank's total advances. An exception to the above eligibility requirements is provided for savings banks, a savings association chartered as a savings bank or which acquired its principal assets from an institution chartered as a savings bank prior to October 15, 1982. The section also provides that each member of a Bank must, at a minimum, purchase and maintain stock in that Bank in an amount as if 30% of the member's assets were home mortgage loans.

This section further provides that the Banks may, upon the request of the Director of the OTS make short-term liquidity advances to an association that: (1) is solvent but represents a supervisory concern due to its poor financial condition, and (2) has reasonable and demonstrable prospects of returning to a satisfactory financial condition. The section provides that any such advance is subject to all applicable collateral requirements, including those in section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)), as determined by the Board and the Bank, to insure that any such advances are consistent with the principles of prudent lending and that the Bank is not asked to make unsafe or unsound advances. The section also provides that such advances, when made, shall be at an interest rate no less favorable than those made available for similar short-term liquidity advances to associations that do not present such supervisory concerns.

Amendments Relating to Withdrawal From Federal Home Loan Bank Membership

This section amends current section 6(m) of the Federal Home Loan Bank Act (12 U.S.C. 1426(m)) by increasing from five years to ten years the period during which an institution that withdraws from membership in a Bank would be prohibited from rejoining that Bank. Institutions insured by the FSLIC are presently required to maintain membership in their Bank as a condition of their FSLIC insurance. Under the Act, the existing obligation of such agreements remain in effect and institutions would continue to be precluded from terminating their Bank membership as long as they were paying premiums to the Savings Association Insurance Fund. Institutions that withdrew from Federal Home Loan Bank membership prior to the date of enactment may rejoin after 5 years from the date of their withdrawal.

Repeal of Provision Relating to Unlawful Contract Rate

This section repeals section 5 of the Federal Home Loan Bank Act (12 U.S.C. 1425).

Bank Stock and Obligations

This section amends section 23 of the Federal Home Loan Bank Act (12 U.S.C. 1443) relating to Bank stock and obligations.

Thrift Advisory Council

This section repeals section 8a of the Federal Home Loan Bank Act (12 U.S.C. 1428a) to abolish the Thrift Advisory Council.

Examination of Members

Under this section, the Treasury Department, the Office of the Comptroller of the Currency, the Federal Reserve Board, the Office of Thrift Supervision, and the Federal Reserve Banks shall make available to the Banks, upon request by a Bank, in confidence for its use and the use of any other Bank, such reports, records or other information relating to the condition and ownership of any member of a Bank. The Conferees do not intend the Federal Home Loan Banks would needlessly obtain information from these agencies when such information is available from the member or other savings association. These same agencies may also perform, at their discretion, examinations of institutions for the confidential use of the Federal Home Loan Banks.

Liquidity

This section repeals section 5A of the Federal Home Loan Bank Act (12 U.S.C. 1425a).

Community Investment and Affordable Housing Programs

The House bill contained several provisions which established two programs for reinforcing the Federal Home Loan Banks role in supplying mortgage credit and other related assistance for low and moderate income families and neighborhoods through the cash advance system. The Senate agreed to the House provisions with amendments.

The Conferees are aware that a range of forces, including inordinate building and finance costs, shrinking fiscal capacities of governments at all levels and other economic forces have left large numbers of poor and elderly families unable to participate in the national goal of decent, affordable housing and a suitable living environment. Even relatively more affluent families, those just above the lower income housing assistance standards, are increasingly unable to purchase or even to rent housing within their means. The conferees, therefore, have provided the means for assuring that the Federal Home Loan Banks help most critical community investment and affordable housing needs through the utilization of special cash advance programs. The conferees are mindful of the uneven use of similar special advance programs maintained by the Federal Home Loan Banks in the past and the reluctance of some of the banks to actively encourage their member institutions to address critical community investment and affordable housing needs. The conferees wish to make clear that the activities undertaken through the use of these special advances are no less important than any other credit activity undertaken by the banks.

Community Investment Program.—The House bill required each Federal Home Loan Bank to designate a community investment officer to implement the Bank's community lending and affordable housing programs, as well as provide technical assistance and outreach to promote such programs. The bill directed each Bank to establish a program designed to provide funding for member institutions to undertake community-oriented lending for mortgages that lack an established secondary market. Advances under the program would be priced at the Bank's cost of funds plus administrative expenses.

The Conference Report adopts the House provisions with an amendment deleting the requirement that loans under the program be limited to those for which no secondary market is established, requiring instead that loans under the program support community-oriented lending. The Conference Report defines "community-oriented lending" to mean loans for 1) homebuyers whose income does not exceed 115% of area median income, 2) the purchase or rehabilitation of housing occupied by families with incomes not exceeding 115% of area median income, 3) commercial and economic development activities that benefit low- and moderate-income families or are located in low- and moderate-income neighborhoods, and 4) projects that include a combination of these activities. The conferees wish to make clear that among the purposes specified in this provision, the loans should be used for the purpose of providing mortgage financing for qualified projects that would not necessarily meet the customary secondary market standards or for which there is no secondary market. Such financing might involve loans having longer terms than are customary for the secondary market, long-term mortgage loans for small multifamily projects, rehabilitation loans for one to four-family buildings, mortgage loans for mixed use buildings, for buildings that cannot obtain mortgage insurance and loans for community and economic development activities in low and moderate income neighborhoods, especially those activities that will result in employment for low income persons. The conferees expect the HUD Secretary to work with the several secondary market entities to expand existing, or create new, secondary market approaches to provide liquidity for these otherwise non-conforming loans on par with those types of loans that are now purchased by the secondary market. The conferees expect that the Banks will not limit their advance activities to a few projects simply to satisfy the requirements of this section but instead will use their advances on as many projects as is practicable without speading them too thinly.

Affordable Housing Program.—The House bill directed each Bank to establish a program to subsidize interest rates on advances to member institutions that make loans for long-term affordable low- and moderate-income housing at subsidized interest rates. The House bill required each member institution receiving advances under the program to report to the Bank on the use of program advances. The conference report contains the House bill with an amendment that provides standards that limit subsidized advances to (1) loans to finance homeownership purchases or rehabilitation by families with incomes at or below 80% of median; and (2) to finance the purchase, construction or rehabilitation of rental housing in which at least 20% of the units will be occupied by and affordable for very low income households for the remaining useful life of the property or the mortgage term. The conferees expect that the Board will encourage the use of the longest practicable mortgage term in order to aid in making the housing affordable by very low income families.

Priority.—The House bill required each Bank to give priority for advances for loans for 1) the purchase, rehabilitation or construction of multifamily housing where 40% of the units would be occupied by low- or middle-income households for at least 30 years, 2) the purchase or rehabilitation of housing held by the federal government, and 3) housing sponsored by any nonprofit organization, any State or political subdivision of any State, any local housing authority or State housing finance agency.

The conference report contains the House bill with an amendment which provides that priority will be given to loans for rental or homeownership purposes such as the following: 1) homeownership for families whose income is 80% of the area median income or less, 2) the purchase or rehabilitation of housing owned or held by the federal government, and 3) the purchase or rehabilitation of housing sponsored by nonprofit organizations, State and local governments, local housing authorities and State housing finance agencies. The conferees wish to make clear that the Board is expected to take steps to assure that the preponderance of funds provided herein be utilized in behalf of families having income of 80% or below the area median. Also, these priorities are intended to assure that both multifamily rental as well as homeownership activities receive substantial portions of total funds utilized.

Contributions.—The House bill required each Bank to contribute to its affordable housing program 5% of its net income during calendar years 1990 through 1993, 6% for calendar year 1994, 10% for 1995 and each subsequent year. The bill required annual aggregate contributions to be at least $75 million through 1993, $90 million in 1994, and $150 million in 1995 and subsequent years. The conference report contains the House language with an amendment lowering the minimums to $50 million in 1990 through 1993, $75 million in 1994, and $100 million in 1995 and subsequent years. The percentage contribution for any given year shall be based on the net income of the preceding year.

If a Bank finds that these sums are contributing to its financial instability, it may apply to the Federal Housing Board for a temporary suspension. In determining financial instability, the Board must consider such factors as whether the Bank's earnings are severely depressed, whether there has been a substantial decline in membership capital, and whether there has been a substantial reduction in outstanding advances.

Any suspension is to be temporary and the Board is required to monitor the Bank's financial condition during a suspension. Suspensions shall not be granted where a Bank's earnings decline because of a change not justified by market conditions in the terms on which it makes advances to members, inordinate operating and administrative expenses, or mismanagement. The Board shall review applications for suspension and any supporting financial data and provide approval or disapproval in writing with specific findings and reasons for its action. The suspension shall take place 60 days after notice is provided to the House and Senate Banking Committees unless a joint resolution is enacted to disapprove the suspension.

Reserve Fund.—The House bill required Banks that fail to use or commit the full amount of the required annual contribution to place the excess above 10% of the unutilized amount in an Affordable Housing Reserve Fund to be administered by the Federal Housing Finance Board. Unused or uncommitted amounts were to be fully used or committed in the following year. The Board should provide these reserve funds to any Bank to meet additional eligible affordable housing needs in the Bank's district. The Board is required to establish regulations for any monies remaining in the Reserve Fund. The conference report contains the House provision.

The conferees have also provided that the Federal Housing Finance Board must promulgate regulations to implement the affordable housing program. The regulations are intended to ensure that the program operates in a manner that serves the affordable housing needs of low- and moderate-income households. The conferees also intend that, by establishing some overarching uniformity of program priorities, procedures, and standards, these regulations will minimize the potential for fraud and abuse that might otherwise exist if the Banks were left with unfettered discretion to conduct the affordable housing program.

Other Programs.—The House bill provided that the Community Investment and Affordable Housing Programs do not preclude Banks from establishing other community investment cash advance programs or contributing additional funds to the Affordable Housing Reserve Fund. The conference report contains the House provision.

Advisory Council.—The House bill directed each Bank to appoint an Advisory Council consisting of 7 to 15 persons from community and nonprofit organizations actively involved in providing or promoting low- and moderate-income housing in the Bank's district. The bill instructed the Advisory Council to meet quarterly with representatives of the Bank's board of directors to advise the Bank on low- and moderate-income housing programs and needs in the Bank's district and on the use of cash advances for such purposes. Each Advisory Council is required to submit to the Federal Housing Finance Board at least annually its analysis of the low-income housing activity of the Bank which appointed it. The conference report contains the House provision.

Reports to Congress.—The House bill directed the Board to monitor and submit an annual report to Congress and each Advisory Council on the Banks' support of low-income housing and community development and the Banks' use of advances for these purposes. The bill required the Board to include the Advisory Council's reports in the Board's report to Congress. The conference report contains the House provision with an amendment requiring the Comptroller General to audit and evaluate the Program after two years and report to Congress its conclusions and recommendations.

Definitions.—The House bill included the following definitions: low- or moderate-income household—any household whose income is 80% of the area median income or less; low- or moderate-income neighborhood—any neighborhood in which 51% or more of the households are low- or moderate-income households; and affordable rental housing—any housing in which low- or moderate-income households are not required to pay more than 30% of the monthly adjusted household income for rent.

The conference report contains the House provisions with an amendment adding a definition of very low income household as any household that has an income of 50% or less of the area medial income, and further providing that the term "affordable for very low income households" means housing in which the unit rent does not exceed 30% of a family's adjusted income which income equals 50% of the median income of the area with adjustments for family size. This is to conform the definition of very low income households with that required for tax-credit purposes.

Transferred Employees of Federal Home Loan Banks and Joint Offices

The purpose of this section is to equitably address the transfer of employees of the Federal Home Loan Banks (Banks), or joint offices of such Banks, performing supervisory and examination functions and credit allocation functions to the Office of Thrift Supervision and the Federal Housing Finance Board, respectively.

Under this section, each employee of a Bank, or a joint office of such banks, identified under section 403 of this Act for transfer must be transferred to the OTS or the Board for employment no later than 60 days after the date of enactment, and must receive notice of the position assignment no later than 120 days after the effective date of that transfer. These two employee rights parallel those provided for transferred employees of the Bank Board and the FSLIC. Also, like Bank Board and FSLIC employees, each employee of a Bank, or joint office of such Banks, transferred is guaranteed a position at that agency with the same status and tenure as held by that employee prior to the transfer. Also, like transferred Bank Board and FSLIC employees, transferred Bank employees cannot be involuntarily separated or reduced in grade or compensation for a year, except for cause. Where necessary or appropriate to further safety and soundness, the Director of the OTS may continue the pre-transfer compensation of any transferring employee for up to two additional years.

Because of the special circumstances involving the transfer of such employees to the OTS or the Board, an employee may be transferred to the OTS or the Board even if that employee would otherwise be ineligible for employment by the United States because of his or her citizenship.

This section also provides that personnel transferred to the OTS or the Board are entitled to receive, during the one-year period immediately following the transfer, pay and benefits similar to those received by that employee immediately prior to the transfer.

However, the pay and benefits received by each such employee during this one-year period are subject to the comparability provisions of this Act. Therefore, each employee would be compensated by his or her new agency at a level which is comparable to other employees of similar status and tenure at the OTS or the Board. To the extent, however, that the transferred employee suffers a reduction of pay or benefits as a result of the comparability provisions during the one-year period, that employee will be compensated for the differential by the particular Bank, or joint office of such Banks, from which that employee was transferred. The obligation of the Banks to compensate former employees for any such differential, however, shall only apply during this initial one-year period. The term "benefits" for purposes of this section means primary benefits such as health insurance coverage and life insurance coverage.

The conferees are concerned that the transfer of supervisory and examination employees from the Banks not adversely affect the integrity of the thrift regulatory system. In particular, the conferees are concerned that the primary legislative goals of resolving the current crisis and ensuring the future safe and sound operation of the thrift industry not be compromised by the loss of necessary staff, especially the most senior and experienced employees whose continued participation in the regulatory process is essential to the achievement of these goals. Therefore, the conferees have agreed that the Director of OTS may extend, on a case by case basis, the existing levels of compensation and benefits for employees transferring to OTS from the Banks for two years beyond the initial one year period guaranteed to all transferring employees. If the OTS Director determines to continue the pre-transfer compensation for any employee for up to two years beyond the initial one-year period, the compensation of that employee will not be subject to the comparability restriction during that additional period.

Further, the conferees are aware that some of the most valuable regulatory professionals being transferred are presently federal annuitants that would be financially harmed by the return to federal employee status. Therefore, the conferees have provided for the retention of these employees by giving the Director of OTS the flexibility to avoid statutory penalties that would apply to these employees due to their federal annuitant status. An annuitant who accepts reemployment shall not be subject to the deduction from pay required by 5 U.S.C. § 8344 or 8468.

The level of comparable pay and benefits under this section is not determined solely at the time of the transfer, but may change during the year as salary and benefits at the new agency change during that year. Therefore, the resulting compensation from the particular Bank, or joint office of such Banks, may also vary during that year. The provision of Title VII only applies to a transferred employee while that employee remains with the agency to which that employee is transferred. As a result, if an employee transferred to the OTS or the Board leaves that agency, the Bank from which that employee transferred would no longer be obligated to provide any compensation for that employee under this Act.

Subsection (e) provides that if the health insurance program of a transferred employee is not continued by the agency to which that employee is transferred, the employee is entitled to health insurance coverage notwithstanding health conditions pre-existing at the time of election or enrollment into the alternate pre-existing at the time of election or enrollment into the alternate health insurance program of the agency. Again, because of the special nature of the transfer of such employees to the OTS or the Board, the Committee determined that it would be inappropriate to exclude a transferred employee (or a family member of such an employee) from the new health insurance program because of a health condition which did not preclude that individual's participation in an existing health insurance program, but would otherwise have precluded enrollment into the alternate insurance program of the new agency.

For similar reasons, the Act directs the Director of the OTS or the Chairman of the Board to take such action as is necessary on a case-by-case basis so that employees transferring under this section receive equitable treatment regarding credit for service with a Federal entity or instrumentality, or with a Bank or joint office of such Banks, with respect to his or her retirement accounts, and accrued annual leave or vacation time, in recognition of the supervisory service of such transferring employees.

Transitional Provisions

The purpose of this section is to provide supplemental funding for the supervisory and examination functions, facilities and support services transferred from the Banks, or joint offices of such banks to the new Office of Thrift Supervision during the transitional period immediately following enactment.

Under subsection (a), the Banks continue to pay their current proportionate share of the administrative expenses of operating the regulatory and insurance functions of the Bank Board and the FSLIC until those functions are transferred to the Office of Thrift Supervision, the FDIC, or the Resolution Trust Corporation under this Act. After these functions are transferred, the Banks continue to pay a comparable share of such administrative expenses for the transferred functions until December 31, 1989. All administrative expenses payable by the Banks shall be reduced by the amount of any examination fees and assessments for this period received by the Banks, the Bank Board or the FSLIC before the transfer, or by the Banks or the successor agencies after the transfer of functions under this Act. The expenses payable by the Banks shall also be reduced by the amount of any unexpended funds paid by the Banks to the Bank Board or the FSLIC, or to a joint office of the Banks the functions of which have been transferred to the OTS.

In addition, under subsection (b), the Banks continue to pay the applicable salary of employees of the Banks, or joint offices of such Banks, performing supervisory and examination functions after such functions and employees are transferred to the OTS. Like payments for Bank Board expenses, these payments by the Banks would also be reduced by the allocable amount of the examination fees and assessments received in connection with the activities of these employees. The payment for each transferred employee is to be made by the particular Bank, or joint office of such Banks, from which that employee is transferred. The obligation of the Banks to pay the salaries of these transferred supervisory and examination personnel continues until the later of: (1) 120 days after the transfer of such supervisory and examination functions to the OTS, or (2) March 31, 1990. The subsection also makes it clear that the payment of this compensation by the Banks is in lieu of, and not in addition to, the payment of such compensation by the OTS.

Under subsection (c), the Banks also continue to provide to the OTS, until December 31, 1990, for supervisory and examination functions transferred from the Banks, or joint offices of such Banks, facilities and support services comparable to those presently provided for the employees of the Banks, or joint offices of such Banks, performing those supervisory and examination functions. This provision relates to the facilities and support services that are provided by the Banks themselves, as opposed to those obtained from third parties. For example, the Banks must continue to provide office space, furniture and equipment, computer, personnel and other similar support services with respect to the transferred employees until December 31, 1990. With respect to supervisory and examination functions performed by employees of individual Banks, the section makes it clear that the Bank is only required to provide the facilities and support services for as long as, and to the extent that, the functions continue to be performed in that Bank's offices. For example, the OTS cannot move a particular function from the offices of a Bank to another location and then request payment of the rent or other expenses of that new location.

With respect to other transititional matters, subsection (d) provides that the senior supervisory official in each Bank district (other than the Bank president) remains the Principal Supervisory Agent for that district until the Director of the OTS provides otherwise. The Director has the ability to name a new Principal Supervisory Agent for any district at any time. Also, the supervisory and examination personnel located in each Bank district continue to be responsible for the supervision and examination of savings associations in that district until the Director of the OTS provides otherwise.

Federal Home Loan Bank Reserves

Under this section, the Board of Directors of each Bank may determine the reserve account to be maintained from time to time by such Bank. The section also specifies when dividends may be paid by a Bank, and provides that the dividends paid by each Bank must be approved by the Federal Housing Finance Board.

Special Account

This section specifically directs that all monies and funds remaining in the special deposit account of the Federal Home Loan Bank Board, or other accounts of the Federal Home Loan Bank Board at the time of the dissolution of the Federal Home Loan Bank Board shall become the property of the Federal Housing Finance Board.

Conforming Amendments

This section contains several provisions making miscellaneous conforming amendments to the Federal Home Loan Bank Act or other laws relating to the Federal Home Loan Bank Board or the FSLIC.

Manufactured Housing

Throughout the conference report, there are various provisions specifically relating to housing. The Qualified Thrift Lender test, Capital Standards, home financing offered by the RTC, community support requirements, and the affordable housing pro-

gram are all housing-related elements of the bill. The conferees believe manufactured housing constitutes a viable source of affordable housing. Therefore, the conferees believe that manufactured housing, for the purpose of this Bill, should be treated similar to site-built housing. For the purposes of this Bill, whenever the term "home" "single-family residence", or other reference to housing is used, it is intended to include a manufactured home as defined in the National Manufactured Home Construction and Safety Standards Act of 1974, as amended. This does *not* include recreational vehicles, travel trailers, campers, or other types of temporary shelter designed to be moved frequently.

FEDERAL HOME LOAN MORTGAGE CORPORATION

The House bill and the Senate amendment contained similar provisions relating to the restructuring of the Federal Home Loan Mortgage Corporation (FHLMC) and the regulatory standards under which FHLMC would operate. In addition, the House bill and the Senate amendment made a number of technical and conforming amendments to the Federal National Mortgage Association (FNMA) Charter Act.

The House bill contained a provision not included in the Senate amendment that set forth in the statement of purpose for both the FHLMC and FNMA that these two corporations would provide ongoing assistance in the secondary mortgage market to mortgages securing housing for low and moderate income families. The conferees wish to reaffirm FHLMC and FNMA's commitment to assist the housing needs of low and moderate income households by reaffirming in the statement of purposes that their mission to address the housing needs of low and moderate income people is important to their public purpose.

In restructuring the corporate operations of FHLMC the basic purpose of the changes embodied in this legislation is to ensure that FHLMC's existing mortgage purchase and securities sales activities will continue without interruption. FHLMC therefore will not be required to obtain either programmatic or rate and maturity approvals from the Secretary of the Treasury for any future sales of mortgage-related securities which are of the same type as mortgage-related securities which FHLMC has issued or is issuing as of the effective date of this Act.

In addition, this Act will require the initial election of FHLMC directors to occur within six months. The conferees do not intend this requirement to preclude FHLMC from following the typical corporate practice of holding director elections in the spring, following distribution of year-end financial information. Therefore, to the extent necessary to follow typical practice, the initial terms for the directors of FHLMC may exceed one year.

In providing for an interim Board of Directors, the conferees have provided that the Secretary of Housing and Urban Development and the Chairman of the Federal Home Loan Bank Board have authority to designate persons to fulfill their responsibilities as members of the FHLMC's interim Board of Directors. The conferees believe that stability and continuity on the interim Board is essential. Therefore, if the Secretary or the Chairman is unable to serve as a director, the designee should be a person who is expected to serve for the entire term of an interim member. The designee will not be able to subdesignate his responsibility to discharge the functions of a director.

The Conference Report provides that the FHLMC is authorized to conduct its business without regard to any qualification or similar statute in any State. Accordingly, the FHLMC can conduct its activities without compliance with State laws such as doing business and Blue Sky laws. This amendment does not apply to any assertion of priority by the FHLMC with respect to any cause of action or claim filed prior to the effective date of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Any cause of action or claim filed prior to such effective date which is subsequently refiled or amended due to the dismissal of the case or some other legal action shall be treated for purposes of the application of this amendment as if it were filed prior to the effective date of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

The Conference Report authorizes FHLMC to have voting common stock on such terms and conditions as the Board of Directors may prescribe. This authorization, including the authority to impose limitations on concentration of ownership, applies to both new issuances of common stock and to the senior participating preferred stock converted into common stock by the FIRRE Act.

Also contained in this part of the Conference Report are various technical conforming amendments, including an amendment to assure that the existing method for determining increases in the balance of conventional loans eligible for purchase under the charters of the FNMA and FHLMC will continue without change, conducted for both FNMA and FHLMC by the Board's successor regarding this responsibility, the new Federal Housing Finance Board.

GAO AUDIT OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION

The House bill contained a provision not included in the Senate amendment that would provide that the financial transactions of the Federal National Mortgage Association (FNMA) would be subject to an audit by the GAO. The Conference Report contains a House provision with an amendment to provide for a GAO audit of the mortgage transactions of FNMA.

TITLE VIII. BANK CONSERVATION ACT AMENDMENTS

Title VIII grants to the Comptroller of the Currency more clearly articulated powers to appoint a conservator for a national bank or any other depository institution chartered or licensed under Federal law and subject to the Comptroller's supervision.

Title VIII resembles in many respects the provision of Title III of the Act conference report that amend the Home Owners' Loan Act to grant the Director of the Office of Thrift Supervision's power to appoint a conservator for a Federal or State savings association.

TITLE IX. REGULATORY ENFORCEMENT AUTHORITY AND CRIMINAL ENHANCEMENTS

PERSON SUBJECT TO ENFORCEMENT

Section 901 substitutes the new term "institution-affiliated party" for the many variations of the terms "director", "officer", "employee", "agent", and "other person participating in the affairs of an institution" currently found throughout section 8 of the Federal Deposit Insurance Act (FDIA) and section 206 of the Federal Credit Union Act (FCUA). The new term, which is defined in section 3 of the FDIC as amended, makes uniform the scope of Federal banking agency enforcement and broadens the group of individuals and entities covered. In addition, the term "bank" in the FDIA is replaced by "depository institution" so that the enforcement provisions will be applicable to savings associations as well as banks. Parallel changes are made to the Federal Credit Union Act by all applicable sections of Title IX.

ORDERS TO CEASE AND DESIST

Section 902 clarifies the authority of the agencies to order restitution or reimbursement in a cease and desist order (C&D). It specifies that a C&D order may include restrictions of specific activities of a financial institution or its employees. It also provides that an agency can issue temporary corrective C&D orders whenever an institution's records are so incomplete or inaccurate that the regulatory agency is not able to determine the institution's financial condition. It contains a provision allowing the regulators to issue a temporary C&D that may restrict growth in an institution. The section changes the regulators' burden of proof for obtaining a temporary C&D from a showing of "substantial" dissipation of assets to a showing of a "significant" dissipation of assets. In making this change, the Conferees intend (1) that the term "significant" lower the agencies' burden of proof from the term "substantial"; and (2) that "significant" cover anything more than a minimal or nominal dissipation of assets. The Conferees further intend that an individual who dissipates the assets of an institution cannot circumvent this provision by making the institution whole for the losses that the individual caused by such dissipation. Finally the section makes explicit the applicability of section 8 of the FDIA to savings and loan holding companies, their subsidiaries, and their affiliates.

Removal Orders

Section 903 unifies the removal provisions used by the regulators and allows the regulatory agencies to proceed with a removal or prohibition action when an institution has been harmed or the interests of the depositors have been prejudiced without requiring the agencies to quantify the harm or prejudice.

Industry-wide Removal Orders

Section 904 provides that any removed institution-affiliated party may seek consent to commence or resume any affiliation otherwise prohibited. The Conferees intend that the agencies closely scrutinize any request and review the persons's activity from the time the original order was issued. The Conferees intend that consent should be given only when there is no doubt that such an approval is justified by the complete rehabilitation of an individual. All approvals have to be made public by the agencies.

Enforcement After Separation

Section 905 authorizes the banking agencies to take enforcement actions against culpable institution-affiliated parties who resign or otherwise depart from an institution, within 6 years of their leaving the institution. This section does not create a new offense; it is procedural in nature, and can therefore be applied retroactively to yet undiscovered misconduct and to currently pending supervisory matters that have been stayed awaiting congressional action. For example, assuming that the legislation is enacted on August 26, 1989, a banking agency could initiate and pursue enforcement against any institution-affiliated party who

departed an institution in the previous six years dating back to August 26, 1983.

Removal for State Criminal Proceedings

Section 906 expands present law to include State criminal charges as a ground for removal. The term "nolo contendere" was deleted because such a plea results in a judgement of conviction.

Civil Money Penalties

This section increases the maximum amount for civil money penalties ("CMPs"); expands the grounds for imposing them; provides for judicial review under the Administrative Procedure Act; and authorizes the banking agencies to take action to collect CMPs. It creates three tiers of civil penalties, based on the seriousness of the misconduct. By greatly expanding the scope of misconduct covered by the civil penalty provisions and by making substantial increases to the penalty amounts, the Conferees intend for the Federal banking agencies to aggressively utilize this new authority, whenever it is justified in law and by the facts.

Criminal Penalty for Violation of a Removal

Section 908 increases the criminal penalty for participation in the affairs of a depository institution, a credit union, or a farm credit system bank in violation of a removal order to a maximum of $1 million and the imprisonment to a maximum of five years. An express civil penalty for violations of this section was deleted because the Conferees intend that the general civil money penalty provisions of the FDIA and the FCUA apply.

Supervisory Records

Section 909 requires that the Federal banking agencies make available to the FDIC, in its capacity as a receiver of a closed financial institution, all supervisory records pertaining to that institution. The Conferees intend for all privileges to transfer with the documents and remain applicable. A transfer does not constitute a waiver of any governmental agency, work product, attorney-client, or other privilege recognized by the courts or by statute.

Criminal Penalty for Participation by a Criminal

Section 910 broadens the prohibition against participation in the affairs of insured depository institutions by persons who have been convicted of any criminal offense involving dishonesty or breach of trust. The level of intent needed for conviction is changed from 'willful' to 'knowing' and the penalty applies to both financial institutions and indivduals. The maximum criminal penalty is increased to five years imprisonment and $1 million per day fine.

Reports

Under this section, civil money penalties may be imposed both for (1) failure to file or the late filing of call reports and other information and (2) filing any false or misleading reports or information. This provision, like section 907, creates three tiers of penalties based on the seriousness of the misconduct. The lowest penalty is to be imposed only for inadvertent and unintentional errors, but only if there were procedures in place to reasonably avoid such errors, and if the insured institution can prove the inadvertency of the error. Otherwise the higher penalty standards must be imposed. The Conferees intend that a legal judgment with respect to a person's obligations under this section should never be considered an inadvertent error. The respondent in all civil penalty proceedings is entitled to a hearing to challenge such assessment.

FDIC Backup Enforcement Authority for Thrifts

Under this provision, the FDIC may request that the Director of the Office of Thrift Supervision ("OTS") take a particular enforcement action concerning any savings association. If the Director does not take such action within 60 days, the FDIC Board may authorize FDIC to take the action itself. In extreme situations, as defined by the agencies, the FDIC would not have to wait 60 days.

The regional offices of the OTS must submit all requests for formal investigations or enforcement actions to the FDIC at the same time such requests are submitted to the Director of the OTS. The Conferees intend that the regional offices of the OTS submit only copies of reports of examination and summaries of requests for enforcement action to comply with this requirement. In addition, the Director of the OTS must provide semiannual reports to the FDIC on the status and disposition of such requests, including reasons for disappoval or approval decisions.

Public Disclosure of Enforcement Actions

Section 913 requires publication of formal enforcement orders, modification of such orders, or termination of such orders by the depository institutions regulatory agencies. Publication required by this provision could be delayed for a reasonable time of public disclosure would seriously threaten the safety or soundness of a financial institution.

Agency Disapproval of Directors and Executive Officers

Troubled financial institutions (and their holding companies), newly chartered institutions (within 2 years), and those which have undergone a change in control (also within 2 years) would have to give 30 days notice to their primary Federal regulatory agency before appointing senior executive officers or directors. The banking agencies would then be able to disapprove, within this 30 day period, such appointments. The agencies must prescribe by regulation those extraordinary circumstances under which the prior notice requirement could be waived, allowing directors to be appointed or senior management to be employed quickly. (The agencies would still have 30 days to disapprove such additions or employments.) In addition, the agencies would define by regulation the terms "troubled" and "senior executive officers". The Conferees intend the following: First, the agencies should not define these terms too narrowly. Second, the banking agencies should consult among themselves before issuing regulations under this section. Third, an agency's decision under section 914 not to disapprove appointment of a senior executive officer of a director not prejudice the agency's ability to take any later enforcement action (including removal action), if such becomes warranted.

NCUA Investigative Authority

Section 915 clarfies the NCUA's authority to monitor and investigate instances where the NCUA suspects noncompliance with its statutes or regulations during or outside of the normal examination process. It also clarifies the NCUA's authority to conduct thorough investigations in determining claims on insured accounts. The Conferees intend for the NCUA to exercise powers similar to the FDIC in such matters.

Improved Administrative Hearings and Procedures

Section 916 requires the Federal banking agencies to jointly establish their own pool of administrative law judges and to develop a set of uniform rules and procedures within 24 months. The Conferees intend for the agencies to improve and expedite administrative proceedings through these new procedures.

Task Force Study of Delegation of Enforcement Actions

Section 917 mandates an interagency task force study of the desirablity and feasibility of the additional delegation of investigation and enforcement authority to the regional offices of the banking agencies. The task force's recommendations nand the responses of the heads of the banking agencies must be reported to Congress by September 30, 1990.

Annual Reports to Congress

Section 918 requires the Federal banking agencies and the Attorney General to report annually to Congress on enforcement actions. The Conferees intend that the data required under clause (a)(1) be provided for the following subcategories for each type of informal and formal supervisory, administrative and civil enforcement action: insured institutions, holding companies and subisdiaries (if appropriate), and institution-affiliated parties (broken down for independent contractors, consultants, and agents).

The Conferees intend that each report required under subsection (a)(4) contain comments on any concerns about the Justice Department's handling of these matters, including inadequate responses, unnecessary delays, or other problems.

The Conferees intend that each report required under subsection (a)(5) break down the data on investigations, prosecutions, and convictions (or other dispositions), particularly by seriousness of the offense and also by categories of sources of the information which gave rise to the investigation. For example, the FBI presently provides data on numbers of financial institution fraud and embezzlement investigations, broken down by the dollar loss category (such as $100,000 plus cases, and $250,000 plus cases). The Conferees expect the Justice Department to provide data under these or similar subcategories and to indicate the numbers of referrals from each of the banking agencies. The Conferees also intend that the Department of Justice comment on the quality of agency referrals and on the assistance provided by agency staff.

Credit Union Audit Requirement

Section 919 requires the NCUA, within 120 days after enactment, to prescribe audit standards requiring any insured credit union to be audited by an independent certified accountant for any fiscal year in which the credit union: (1) has not conducted an annual supervisory committee audit; (2) has not received a complete and satisfactory supervisory committee audit; or (3) has had persistent and serious recordkeeping deficiencies. The failure of a credit union to obtain required audits will constitute an unsafe and unsound practice.

Technical Amendments to Administrative Process

Section 920 makes the provisions of 8(h) relating to administrative hearings and judicial review applicable to all agency actions under section 8 of the FDIA, except removals of persons charged with a crime involv-

ing dishonesty or breach of trust under section 8(g) of the FDIA. The section also eliminates an inconsistent definition of 'order which has become final' from the FDIA. The Conferees intend for enforcement orders against insured depository institutions and institution-affiliated parties to be final once the agency has completed its administrative action (or immediately upon consent). The definition was deleted from section 8(k) to remove the contradiction with section 8(h)(3), which remains operative. Under section 8(h)(3), judicial review of an agency's enforcement order stays the effectiveness of the order only if the court specifically orders such a stay.

Deletion of section 920 of H.R. 1278

Section 920 of the House bill was deleted because the Conferees believe that it is unnecessary. The provisions of the Federal Tort Claims Act already provide immunity for banking agency employees while exercising their official duties. The Conferees believe that the activities specified in the House bill are part of an employee's official duties and are therefore covered by the Federal Tort Claims Act. Accordingly, neither the original inclusion nor the later deletion of the House provision is intended to diminish in any way the existing immunities of bank regulatory officials and employees.

Termination of Deposit Insurance

Section 926 shortens the period for agency notice from 120 days to 30 days. This period can be eliminated by the FDIC with the approval of the primary regulator.

The provisions regarding lack of notice that are set forth in subsection 8(G) apply only in the case of a temporary suspension of insurance. The Conferees do not intend clause (ii) of 8(G) to apply, for example, when a person chooses not to collect or read mail (as in the case of a person who refuses to accept the delivery of a certified letter). The Conferees hope that the FDIC will consider the special circumstances of unsophisticated depositors when acting under this section. Insured deposits of each depositor remain insured, less all subsequent withdrawals, for at least six months or up to two years with the approval of the Board.

Submission of Information to Auditors

Section 931 mandates that all Federally insured financial institutions furnish their external auditors with copies of their most recent call reports, State or Federal reports of examination, and all ongoing and final civil enforcement or other supervisory actions issued by Federal or State banking agencies.

Depository Institution Employee Protection

This section creates a new cause of action for financial institution employees who are fired because they provide information about alleged violations to a banking agency or to the Justice Department. Persons who cause the misconduct or who knowingly or recklessly provide substantially false information will not be able to pursue such actions. The Conferees deleted the provision in the House bill which awarded attorneys' fees to defendant financial institutions for those lawsuits brought in bad faith under this section. The removal of this provision should in no way be construed as supporting frivolous lawsuits brought in bad faith by discharged employees. Rather, the Conferees believe that deterrence of such lawsuits can most effectively be accomplished through imposition of sanctions under existing provisions in the Federal Rules of Civil Procedure. Accordingly, the Conferees expect the Federal courts to aggressively apply sanctions under Rule 11 of the Federal Rules of Civil Procedure.

Rewards for Providing Information

Section 933 gives the Federal banking agencies the ability to pay a reward for information which leads to a recovery of a criminal fine, restitution, a civil penalty under the banking statutes or under one of the applicable criminal provisions, or a forfeiture, if the amount of recovery exceeds $50,000. The maximum reward cannot exceed the lessor of 25% of the fine, penalty, restitution, or forfeiture or $100,000.

Definitions

Section 941 expands the list of financial regulators exempted from the Right to Financial Privacy Act to include agencies that supervise the activities of financial institution holding companies and any subsidiary of a financial institution or a financial institution holding company.

Additional Exceptions

Section 942 adds additional exceptions to the Right to Financial Privacy Act to make clear that information relevant to conservatorship or receivership functions concerning failed institutions can be provided to Federal deposit insurance agencies by the banking agencies or law enforcement authorities. It creates similar exceptions for disclosure to and examination by agencies and other entities.

Prohibition

Section 943 prohibits a financial institution from notifying any person that a grand jury has subpoenaed a customer's records in connection with a possible violation of certain financial institution related criminal provisions. Violation of the prohibition can result in a civil enforcement action by the regulatory agencies.

Miscellaneous Provisions

Section 944 includes the SEC as one of the agencies which may share information under Right to Financial Privacy Act exceptions.

Civil Penalties

Section 951 authorizes the Attorney General to bring a civil action to recover a civil penalty for conduct that violates any of 10 banking-related offenses in title 18 of the United States Code. The Attorney General must establish the right to recover the civil penalty by a preponderance of the evidence. Section 951 also authorizes the Attorney General, during a civil investigation of such offenses, to issue subpoenas to summon witnesses and require the production of documents. Once the civil action has begun, the Federal Rules of Civil Procedure would govern the action. The recipient of the subpoena can contest the subpoena in court, and if the recipient does not respond to the subpoena, the Attorney General can get a court order compelling the recipient to respond. The recipient's failure to respond to the court order is punishable as contempt of court.

Increased Criminal Penalties

Section 961 increases to 20 years the maximum prison term for 10 banking-related offenses in title 18 of the United States Code. Section 961 also increases the statute of limitation period for those 10 offenses from 5 to 10 years. Finally, section 961 requires, for those 10 offenses, that the United States Sentencing Commission promulgate sentencing guidelines that "provide for a substantial period of incarceration" if the particular offense "substantially jeopardizes the safety and soundness of a Federally insured financial institution."

This direction will require the Sentencing Commission, for the sentencing guidelines applicable to the 10 offenses covered, to promulgate amendments to those guidelines that add a specific offense characteristic that calls for an increase in the base offense level if the offense "substantially jeopardizes the safety and soundness of a Federally insured financial institution." The result of such a specific offense characteristic will be to increase the final offense level. An increase in the final offense level results in the applicable guideline sentencing range being greater.

Miscellaneous Revisions to Title 18

Section 962 of the Conference Report amends the obstruction of justice offense (section 1510 of title 18, United States Code) to prohibit an officer, director, partner, or employee of, or an agent or attorney for, a financial institution to disclose the existence or contents of certain grand jury subpoenas for bank records. The grand jury subpoenas covered are those issued in connection with an investigation of a possible violation of 10 banking-related offenses in title 18. The maximum prison term is 5 years if the disclosure is made to any person with the specific intent to obstruct a judicial proceeding, including a grand jury proceeding and one year if the disclosure is made to a customer of the financial institution whose records are sought by the subpoena or any to other person named in the subpoena, including targets of the investigation specifically so named.

The House bill uses "knowingly notifies". The Senate bill uses "notifies", but the courts ordinarily would require "knowingly" as the culpability for the offense as set forth in the Senate bill. *See* H.R. Rep. No. 1396, 96th Cong., 2d Sess. 35 (1980). The provision agreed to by the Conferees does not use "knowingly" in subsection (b)(1) because that subsection requires a specific intent, and therefore requires a knowing notification. The provision agreed to by the Conferees does not use "knowingly" in subsection (b)(2) because that is the standard the courts will require, since another standard is not specified. *See id.* Further, the Conferees understand and intend that "knowingly" incorporates the concept of "willful blindness". *See id.* at 35-36.

Civil and Criminal Forfeiture

Section 963(a) provides for civil forfeiture in connection with 8 banking-related offenses in title 18, United States Code. Section 963(b) authorizes criminal forfeiture upon conviction of any of 10 banking-related offenses in title 18 (or a conspiracy to commit any of those 10 offenses).

Grand Jury Secrecy

Section 964(a) amends title 18, United States Code, to permit the disclosure of grand jury information concerning a banking law violation in certain circumstances. First, such information can be disclosed, without a court order, to an attorney for the government, but only for use (1) in enforcing a civil penalty authorized in section 951 of the legislation or (2) in connection with a civil forfeiture proceeding under section 981 of title 18 when the property involved constitutes or is traceable to a violation of any of 10 banking-related offenses in title 18. Second, such information can be disclosed to personnel of a federal agency regulating financial institutions for use in relation to any matter within that agency's

jurisdiction, if a court finds that there is a "substantial need" for the disclosure.

The term "substantial need" is explained in the section-by-section analysis of the Senate bill as follows: "Under the substantial need standard, a court could consider a number of factors. . . . In weighing these considerations . . . a court would not be able to deny disclosure merely because the agency for whom disclosure is sought may have alternative discovery tools available to it. On the other hand, the 'substantial need' test does not contemplate that a court would become simply a 'rubber stamp' for the government's request for disclosure. Review under this standard should require a Justice Department attorney to make more than a showing of mere convenience or simple relevance to matters within the jurisdiction of the agency." 135 Cong. Rec. S2396 (daily ed. Mar. 8, 1989).

Section 964(c) amends the Fair Credit Reporting Act to provide specifically that a credit reporting agency must furnish consumer credit report records when served with a grand jury subpoena for those records.

Criminal Division Fraud Section Office

Section 965 requires the Attorney General to establish a regional office of the Criminal Division's fraud section in the Northern District of Texas. The GAO is also directed to report to Congress on whether additional regional offices should be established. The Conferees intend that the Criminal Division substantially reduce the numbers of fraud section attorneys travelling from Washington, D.C. to Dallas by transferring some senior or supervisory personnel to Dallas and by hiring additional attorneys to work in Dallas. The Justice Department has tentatively planned to hire approximately 24 attorneys for the fraud section with the additional appropriation authorized by this legislation. The Conferees intend that the Department hire a number of these attorneys expressly for the Dallas regional office.

Department of Justice Appropriation

Section 966(a) authorizes for the Department of Justice, for each of the next three fiscal years, $65 million per year for investigations and prosecutions of banking crimes and $10 million per year for civil proceedings involving financial institutions. Section 966(b) precludes supplantation and reallocation of the funds authorized.

Judiciary Appropriation

Section 967 authorizes, for each of the next three fiscal years, $10 million for the Federal judiciary, in anticipation of an increase in the number of financial institution cases litigated in the Federal courts.

Amendment to RICO Statute

Section 968 amends section 1961 of title 18, United States Code, to add a new predicate offense—violation of section 1344 of title 18 (financial institution fraud)—to the definition of the term "racketeering activity", a term used in the RICO chapter of title 18.

Provisions of Senate and House Bills Modified or Deleted

The modification or deletion of any provisions in either the House or Senate bills, in this or any other title, regarding the litigation authority of the Justice Department or any federal financial institution regulatory or insurance agency is not intended to, and does not, affect any litigation authority possessed by the Justice Department or any federal financial institution regulatory or insurance agency.

TITLE X. STUDIES OF FEDERAL DEPOSIT INSURANCE, BANKING SERVICES, AND THE SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES

Title X is devoted to studies and reports. The bill contains a number of reports, studies, and audits, many of them contained in other titles of the bill. Those that are directed to Congress are all summarized here, however, as a * * *

While concern for the cost of the large number of reports was voiced during the Conference, members felt that expenditure is warranted on studies to enhance the safety and soundness of the financial system. Such studies should reduce the probability of future problems in the financial sector that would necessitate Federal outlays. Other studies are included in the report in order to further certain social objectives.

PERIODIC REPORTS AND AUDITS

The Insurance Funds

Title II requires the FDIC to report annually to Congress on its operations, the condition of the BIF, SAIF, and FSLIC Resolution Fund, the projected needs of these funds, their response to changes in the economic environment, and any findings or recommendation for legislative or administrative action. The FDIC will also report quarterly to Congress, the Treasury Department and OMB on the recent and forecast condition of the insurance funds.

Within 60 days of enactment, the Chairman of the Federal Home Loan Bank Board must submit a final accounting of FSLIC finances and operations to Treasury, OMB and Congress (Title IV).

Regulatory Oversight

The Office of Thrift Supervision (Title III), the Resolution Trust Corporation (Title V), and the Federal Housing Finance Board (Title VII), Resolution Funding Corporation (Title V), shall each submit an annual report to Congress.

The RTC must also send a semi-annual report to Congress each April and October on its financial condition, the progress it is making in resolving thrifts in receivership or conservatorship, its remaining exposure to failed and failing institutions, its asset-management activities, market conditions in distressed regions of the country and the impact of its asset sales on these conditions. The RTC is also required to make a semi-annual appearance before the House and Senate Banking Committees (Title V).

The Department of Housing and Urban Affairs is required to submit an annual report on the activities and conditions of the Federal Home Loan Mortgage Corporation by June 30 each year (Title VII).

The act establishes a new Credit Standards Advisory Committee for two years. The Committee is asked to submit an annual report each year on its activities and include recommendations to help the federal regulators ensure that financial institutions follow prudential credit standards and lending practices (Title XII).

Appraisal Standards

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council is required to report each January on Monitoring the States' requirements for certifying and licensing appraisers and the Federal regulators' and the RTC's appraisal standards, and on its progress toward establishing a national registry of State-certified and licensed appraisers (Title XI).

GAO Audits

The U.S. General Accounting Office is directed to annually audit the financial transactions of BIF, SAIF, and the FSLIC Resolution Fund and is granted access to all books and records needed to facilitate its audit (Title II). GAO is given the authority to audit the Resolution Trust Corporation (Title V), the Resolution Funding Corporation (Title V), the Federal Housing Finance Board (Title XII) and the mortgage transactions of the Federal National Mortgage Association (Title VII).

SAFETY AND SOUNDNESS ISSUES

Deposit Insurance

The Treasury Department, in consultation with OCC, the Federal Reserve, DOTS, FDIC, NCUA and OMB, shall undertake a major study of the system of federal deposit insurance. Topics include risk-based insurance premiums, incentives for market discipline, the scope of coverage and its impact on the liability of the insurance fund, market value accounting, impact on the funds of state and federal bankruptcy exemptions, closure or recapitalization policies for weak or insolvent institutions, the efficiency of housing subsidies through the FHLBS, deposit insurance alternatives, risk-management, the credit union insurance fund, and increasing the use of private audit reports in the supervisory process. The study is due 18 months after enactment and will be submitted to Congress (Title X).

GAO will also conduct a study of deposit insurance issues, including policy considerations affecting the scope of coverage, bank insurance contracts, and the definition of a "deposit." The report is to be submitted to Congress within 18 months of enactment (Title X).

Title II requires the FDIC to undertake three special studies of: the passthrough of deposit insurance to individual investors in unit investment trusts or individual participants in pension or profit sharing plans; the advisability of implementing a system of risk-based insurance premiums; and the availability of liability insurance for the officers and directors of insured depository institutions. The last study is to be undertaken in cooperation with the Secretary of the Treasury and the Attorney General.

The Resolution Trust Corporation

The RTC Oversight Board must appear before the Banking Committees prior to start-up to describe its business plans, any proposed regulations and its case resolution schedule (Title V).

The RTC shall disclose any assisted transaction agreements, first to the Banking Committees and then to the public. If disclosure of such agreements would be contrary to the public interest, the Board must submit an explanation to the Banking Committees and also publish it in the *Federal Register* (Title V).

The Oversight Board is accountable to the RTC and, under extraordinary circumstances the Board can remove the FDIC from its responsibilities undertaken on behalf of the RTC. However, before doing so it must notify Congress of its decision and the reasons for it. In this event, the Oversight Board must develop a management plan that includes policies for employment and retention and submit it to Congress 60 days before removing the FDIC (Title V).

Risk-Management

The Federal Financial Institutions Examination Council shall study the efficacy of

establishing a training program in risk-management for the regulators and managers of insured depository institutions.

Other Safety and Soundness Studies

The U.S. General Accounting Office will examine the contracting practices of companies providing services to insured depository institutions (Title II).

The OTS will include a section in its first annual report on the geographic location of its regional offices and the allocation of resources and responsibilities among these offices (Title III).

The act takes significant steps toward establishing common capital standards among the separate sections of banking and thrift industries. It also requires the establishment of uniform accounting standards to be used in determining capital ratios. The act requires the regulatory agencies to report annually any remaining discrepancies in capital standards and the reasons for such discrepancies to the Banking Committees and publish them in the *Federal Register* (Title XII).

GAO Audit and Access Authority

The act gives GAO comprehensive authority to audit organizations and persons performing any function under the Act, or any Act amended by the Act, providing goods and services or receiving financial assistance under the Act. It also provides the Comptroller General with access to the information needed to conduct any such audits. There are two exceptions to this very general provision. First, the Act does not change existing law with respect to the Comptroller's audit authority over the Federal Reserve. Second, GAO's audit authority over the Federal National Mortgage Association, is limited to FNMA's mortgage transactions (Title XII).

Govenment Sponsored Enterprises

The House bill contained a provision not included in the Senate amendment directing the Comptroller General to undertake a study regarding the capital requirements of the FHLMC, the FNMA, the Federal Farm Credit System, the Federal Agriculture Mortage Corporation, the College Construction Loan Insurance Corporation, and the Student Loan Marketing Association, (government-sponsored enterprises). The Conference Report contains the House provision with an amendment to expand this GAO study to include two reports—one to be submitted to Congress 9 months after enactment, one to be submitted 21 months after enactment. The evaluation of risks related to each GSE would include: the volume and type of securities outstanding which are issued or guaranteed by each GSE; the capitalization of each GSE; and the degree of risk involved in the operation of each GSE due to factors such as credit risk, interest risk, management and operations risk, and business risk.

GAO would also report on the quality and timeliness of information currently available to the public and the Federal Government concerning the extent and nature of the activities of GSEs and the financial risk associated with such activities.

GAO would design the study in consultation and cooperation with each GSE and the appropriate agency and department with respect to each GSE (Farm Credit Administration and the Departments of Agriculture, Education, and Housing and Urban Development). If the Administrator or Secretaries disagree with the results of the study, their views would be included as an addendum to the report. The report would be due 9 months after enactment of the Act. When the report is forwarded to the Congress, it is the intention of the conferees that such report be referred to the appropriate Committees of Congress with jurisdiction over such GSEs. In addition, the Comptroller General would be required to consult with each of the government-sponsored enterprises. The GSEs must be active participants in the study and cooperate with the GAO in the development of the study and its conclusions. It is understood that some of the information to which the GAO may be given access in the course of the study may be commercially or financially sensitive. The GAO must assure that it does not make public disclosure of such commercially or financially sensitive information. This consultation requirement is not intended to expand the regulatory rule or authority of any of the GSEs' regulators. It recognizes that Treasury's regulatory role is solely to ensure the orderly function of the securities market with respect to Treasury and GSE securities issuances. The role of the other regulators with respect to the report is solely to ensure the production of a study that will have maximum utility to the Congress.

Credit Unions

GAO shall study the nation's credit union system, including credit unions' capital and condition, their role in the marketplace, the adequacy of their regulation and supervision, rules governing the common bond, and the structure and financial condition of the National Credit Union Share Insurance Fund and report to the Banking Committees within 18 months (Title XII).

Appraisal Standards

The Appraisal Subcommittee of FFIEC shall conduct a study to determine a) whether available real estate sales and financing data are sufficient to permit appraisers to properly estimate the values of properties in federally related transactions, and b) the feasibility and desirability of extending the provisions of the title to personal property appraising and appraisers related to Federal financial and public policy interests. The study is due 18 months after enactment and is submitted to Congress (Title XI).

LIMITING THE COST OF FEDERAL ASSISTANCE

The Secretary of the Treasury shall submit an annual report to the House Committee on Ways and Means and to the Senate on federal Financial assistance transactions, the amount of assistance provided, and any tax benefits resulting from these transactions (Title XIV).

RTC shall review insolvent financial institution cases resolved by FSLIC since January 1, 1988, and identify means by which it can reduce costs under these agreements. The report is directed to the Oversight Board and Congress (Title V).

In addition, GAO shall conduct a review of the 1988 FSLIC cases and provide cost estimates for these agreements. The report will be submitted to Congress (Title V).

MINORITY ISSUES

Four studies, three to be included in the appropriate agencies' annual reports, are designed to further the interests of women and/or minorities.

For example, the Treasury Department, OTS and FDIC will include a section in each of their annual reports on actions taken to preserve the present number of minority institutions, and to establish priorities for these institutions in mergers and acquisitions and the resolution of failed thrifts (Title III).

The RTC shall include a section in its annual report on the inclusion of women and minorities in the bidding process for failed institutions (Title V).

A provision in Title XII requires the banking and failure resolution agencies to establish an outreach program to encourage the inclusion of minorities and women in all contracts that they make and requires each agency to report its progress to Congress.

The Treasury Department, in consultation with the appropriate Federal banking agencies and the NCUA, shall also include a section in its annual report on the results of a one-time study of methods for increasing the use of under-utilized minority and women's banks, and limited income credit unions, as depositories or financial agents of federal agencies (Title XII).

HOUSING REPORT AND STUDIES

Five studies reflect Congress' concern over the availability and affordability of housing in the U.S.

In its annual report to Congress, HUD will include a section on RTC use of secondary market agencies to provide housing for low- and moderate-income families, including development of risk sharing structures (Title V).

HUD shall submit to Congress its reasons for denying any FHLMC request for approval (Title VII).

The Federal Housing Finance Board shall annually report on each FHLBank's use of advances for low-income housing and community development. The reports are submitted to the Bank Advisory Councils and Congress (Title VII).

GAO shall audit and evaluate the Affordable Housing Program after it has been operating for two years. GAO shall report to Congress its conclusions and recommended improvements or modifications to the program (Title VII).

The appropriate Federal regulatory agencies (the Federal Reserve, FDIC, OCC, DOTS, NCUA, and HUD) are required by the Act to collect and publish data on mortgage applicants (in addition to mortgagors who are already covered by existing legislation). The data are to be categorized by income levels, racial characteristics, and gender. The Federal Reserve is to report annually to Congress on the utility of these requirements (Title XII).

COMPENSATION COMPARABILITY

FDIC, OCC, NCUA, FHFB, RTC, OTS, and the Farm Credit Administration should try to maintain comparability in compensation schedules, and inform the other agency heads and Congress when establishing and adjusting the schedules (Title XII).

CONSUMER ISSUES

Two studies seek to protect the interests of consumers.

The Federal Reserve will conduct an examination of trends in the provision of retail banking services. To contain the cost of the study and any reporting burden on institutions, the Federal Reserve may focus on certain bank services and the fees charges for their provision at a sample of financial institutions of differing sizes located in different regions of the country. The Federal Reserve shall use these data to determine whether the additional insurance premiums imposed by the act are passed on to consumers or whether they decrease the availability of banking services. The Federal

Reserve will report the results of the study annually for seven years (Title X).

The Treasury Department will conduct a study, due 18 months after enactment, on the possibility of issuing U.S. securities in small denominations to benefit the small investor and encourage savings (Title XII).

TITLE XI. REAL ESTATE APPRAISAL REFORM AMENDMENTS

PURPOSES

Establishes that the purpose of this title is to protect Federal financial and public policy interests in real estate related transactions.

APPRAISAL SUBCOMMITTEE OF THE FFIEC

This section establishes an appraisal subcommittee of the Federal Financial Institutions Examinations Council ("FFIEC") consisting of the representatives of the heads of the agencies comprising the FFIEC (the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration Board.) These representatives shall be persons with demonstrated knowledge and competence in appraisal profession.

FUNCTIONS OF THE APPRAISAL SUBCOMMITTEE

The functions of the Appraisal Subcommittee include: monitoring the State appraiser certification and licensing systems; monitoring appraisal standards and determinations regarding which Federally related transactions will require the use of certified appraisers and which licensed appraisers; maintaining a national registry of certified and licensed appraisers; and monitoring the work of the Appraisal Foundation, a nonprofit corporation of the appraisal industry. The Subcommittee must report annually to Congress on its activities.

Chairperson of the Subcommittee

The Subcommittee will select a chairperson from among its members who will serve a two year term.

Officers and Staff

The Conferees intend for all necessary officers and staff of the Subcommittee to be appointed and compensated in the same manner as other employees of the FFIEC.

Powers of the Appraisal Subcommittee

The Subcommittee will have those administrative powers needed to carry out its functions.

Procedures for Establishing Standards

The establishment of appraisal standards and other requirements will be subject to the publication of notice and receipt of comments or the holding of public hearings and other provisions in accordance with procedures set forth in Section 553 of Title 5 of the United States Code.

Start-up Funding Appropriations

The Appraisal Subcommittee is authorized to borrow from the Secretary of the Treasury $5,000,000 in start up funds on the date of enactment. Any additional funds needed by the Subcommittee would be subject to the normal appropriations process. These funds are to be repaid from fees collected by the Subcommittee under section 1109.

Roster of State Certified and Licensed Appraisers

The Subcommittee is authorized to maintain a roster of all State certified and licensed appraisers eligible for Federally related transactions; and to collect from eligible appraisers who perform or seek to perform Federally related work an annual registration fee of not more than $50. These funds are to be used to fund the activities of the Subcommittee, to repay the Treasury, and to help defray certain expenses of the Appraisal Foundation.

Functions of the Federal Financial Institution Regulatory Agencies Relating to Standards

Each Federal financial institution regulatory agency and the Resolution Trust Corporation are required to establish appraisal standards that meet the minimum requirements adopted by the Appraisal Foundation. Additional standards can be required as well. Section 1110 requires that appraisals for the purposes of the title means "written appraisals". Conferees used the term "written appraisal" and defined the term to be absolutely clear about what is required of the title. In doing so the Conferees do not intend to imply that the term "appraisal" as used elsewhere in laws or regulations means anything other than a written appraisal.

Time for Proposal and Adoption of Standards

Appraisal standards must be proposed within six months and final within twelve months of enactment.

Functions of the Federal Financial Institution Regulatory Agencies Relating to Qualifications

Each Federal financial institution regulatory agency and the Resolution Trust Corporation are required to prescribe which categories of federally related transactions should be appraised by a State certified appraiser and which by a State licensed appraiser.

Transactions Requiring a Certified Appraiser

All federally related transactions involving property with a value over $1,000,000 must be completed by a State certified appraiser. Additional guidelines are provided by the section.

Transactions Requiring A Licensed Appraiser

All federally related transactions not requiring a State certified appraiser must be completed by a State licensed appraiser.

Time for Proposal and Adoption of Rules

Rules pursuant to sections 1113 and 1114 must be proposed within six months and final within twelve months of enactment.

Certification and Licensing Requirements

State certified appraisers must meet the requirements for certification issued by the Appraisal Foundation, including a passing grade on a uniform examination; and licensed appraisers must satisfy State or territory requirements for licensing. Federal agencies and instrumentalities and Federally recognized entities are authorized to establish additional appraiser certification and licensing qualification criteria. Because State licensed appraisers are not required to meet Appraisal Foundation criteria, the Conferees intend that the Appraisal Subcommittee and the Federal agencies should pay particular attention to the adequacy of State appraiser licensing requirements.

Establishment of State Certifying and Licensing Agencies

States are authorized to establish appraiser certification and licensing agencies.

Monitoring of State Agencies

Section 1118 gives the Appraisal Subcommittee the responsibility of monitoring State appraiser certifying and licensing agencies for the purpose of determining whether a State's agency's policies, practices and procedures are consistent with this title. The Appraisal Subcommittee and all agencies, instrumentalities and federally recognized entities under the title are ordered not to recognize appraiser certifications and licenses from States whose appraisal policies, practices or procedures are found to be inconsistent with the title.

Federal agencies, instrumentalities, and entities under the title will accept State approved certifications and licenses unless the Appraisal Subcommittee issues a written finding that, among other things, could assert that State decisions concerning appraisal standards, appraiser qualifications, and supervision of appraiser practices are being made in a manner that does not carry out the purposes of the title. In this regard it is the intention of Conferees that States avoid potential conflicts of interest in licensing and certifying appraisers. Decisions as to whether or not to license and certify, or to discipline or de-license or de-certify appraisers should not be made by the same state officials whose responsibilities include licensing realtors, or engaging in real estate promotion activities, or financing real estate development.

The Conferees do not intend to impose any particular organization upon the States and a State may choose to have appraisal and real estate functions in the same department. The Conferees recognize that each state will have fiscal and other factors to consider when its real estate appraiser licensing and certification system is established. The Conferees do intend; however, that the potential conflicts of interest mentioned above must be avoided. If officials charged with licensing and certifying appraisers are found in the same state agency or department that licenses realtors or promotes real estate development, then adequate safeguards must be established to ensure that conflicts of interest are avoided between these two functions. The Subcommittee should examine the adequacy of such safeguards in making its decisions on whether to disapprove for Federal functions the appraisers licensed and certified by a given state. If such safeguards are not adequate, State certified and licensed appraisers should not be approved for Federal purposes.

Recognition of State Certified and Licensed Appraisers

After July 1, 1991 all appraisals in connection with federally related transactions must be performed by State certified or licensed appraisers. An extension until December 1991 is permitted if the Appraisal Subcommittee finds that a State is making substantial progress in establishing a State certification and licensing system. In addition, the requirements of this title may be waived temporarily if such requirements lead to inordinate delays in the performance of federally related appraisals in a State.

Violations

Violations of this title are punishable by civil fines. The authority for assessment and collection of such fines is found in section 8(i) of the FDIA and section 206(k) of the FCUA.

Definitions

This section provides definitions of terms used in the section, including the term 'written appraisal' referred to in section 1110.

Miscellaneous Provisions

This section provides for recognition, among the States, of each other's certifications and licenses in connection with temporary practice and prohibits discrimination against certified and licensed appraisers solely by virtue of membership or lack of membership in any particular appraisal organization.

TITLE XII. MISCELLANEOUS PROVISIONS

OCC COMPENSATION PROVISIONS

The House version is adopted with modifications. Under this provision, the Comptroller is given the authority to appoint persons as employees of the OCC and to direct their activities. The Comptroller is also authorized to fix the number and compensation of all OCC employees. The term employees is intended to include examiners, attorneys, and all other employees of the Office. The conferees emphasize that, while many of the activities of the OCC are subject to the general direction of the Secretary of the Treasury, all personnel-related matters, including determinations regarding the number of employees to be hired, their status, pay, and functions to be performed, are within the exclusive authority of the Comptroller to determine. Treasury may not veto or block the implementation of the Comptroller's decisions on these matters.

The authority to fix compensation under this provision includes the authority to fix total compensation, including pay and benefits. (The exemption from chapter 51 and subchapter 3 of chapter 53 confirms OCC's current exclusion from these provisions based on its nonappropriated status.) The guiding standard is comparability in total compensation and benefits with compensation and benefits offered by the other Federal bank regulatory agencies. To further this objective, the Comptroller is given the same authorities as the Federal Reserve System and the Federal Deposit Insurance Corporation to establish compensation and benefits programs. Thus, for instance, a 401k offered like that offered by the Federal Reserve System may be offered by the Comptroller to employees of the Office. In addition, like the FDIC, OCC salaries limitations (including limitations on adjustments, e.g., 5 U.S.C. Sec. 5308) are not applicable. Other provisions of this legislation confirm the OCC's exemption from 5 U.S.C. Sec. 5373 and provide, by amendment to 5 U.S.C. Sec. 3132(a)(1), that the OCC is not covered by the Senior Executive Service.

NCUA, FARM CREDIT ADMINISTRATION EMPLOYMENT PROVISIONS

The conferees adopted provisions of Sections 1203 and 1210 which are identical to comparable sections of the House bill.

Credit Standards Advisory Committee

Section 1205 of the Conference Report contains the language of the House bill amended only to conform with the provisions of the Federal Advisory Committee Act which provides for a termination of the Committee after two years. In preparing recommendations to ensure consistent credit standards, and lending practices for all insured depository institutions, the Committee shall take into consideration that credit unions have traditionally made loans to persons unable to obtain them elsewhere and that such lending practices by credit unions should be encouraged in the future.

Comparability of pay of Federal banking regulatory agencies

The House bill contains various sections conforming the authority of the Office of Thrift Supervision, the Oversight Board, the Federal Housing Finance Board, the Office of the Comptroller of the Currency, and the National Credit Union Administration to hire and pay their employees.

The conference substitute adopts the House provisions as modified to require that the various federal banking regulatory agencies consult with each other in fixing compensation and benefits for their employees.

It is the conferee's intent in eliminating the restrictions of title 5 that the various federal banking regulatory agencies be able to address identifiable personnel. In requiring consultation, the intention was to ensure that bank regulatory agencies do not compete with each other for these unique personnel.

Limitation on use of taxpayer funds

Section 1208 provides that funds appropriated or borrowed pursuant to an authorization contained in this Act may be used only for purposes permitted in the Act and may not be otherwise used for making any payment to any shareholder in, or creditor to, any insured financial institution. It is the express intent of the conferees that nothing in section 1208 shall be constructed to mean that funds pursuant to an authorization contained in the Act may not be used by an appropriate Federal regulatory agency, pursuant to its jurisdiction, to arrange or carry out the acquisition, merger or liquidation of any insured depository institution.

Fair Lending Oversight and Enforcement

Section 1213 of H.R. 1278 included amendments to the House Mortgage Disclosure Act of 1979 ("HMDA") that required collection and reporting of data on race, gender, and income characteristics of mortgagors and applicants for mortgage loans. These amendments were intended to provide data to assist in identifying discriminatory lending practices and enforcing antidiscrimination statutes. The Senate bill contained no comparable HMDA amendments, but also sought to address mortgage discrimination by mandating (in section 1406 of S. 774) studies and legislative recommendations by each of the Federal banking regulatory agencies.

The conferees found both provisions meritorious. Accordingly, the House recedes to the Senate on section 1406 of S. 774. In addition, the Senate recedes to the House on section 1213 of H.R. 1278 with an amendment to provide flexibility for regulatory agencies in designing the format for the collection, disclosure, and reporting of the required data. The conferees have also provided an exemption from the new HMDA reporting requirements for depository institutions with less than $30 million in assets.

An especially significant change to HMDA is the new requirement for disclosure of information on completed applications. Collection of data on completed applications will permit comparison of acceptance and rejected statistics. The conferees chose to define "completed application" in a manner similar to that adopted in regulations under the Equal Credit Opportunity Act but to exclude from the definition only approvals or reports by secondary market entities, government entities, and private mortgage insurers. The regulatory agencies should adopt regulations designed to prevent mortgage lenders from evading the requirements of the Act through inordinate delays and information requests that leave applications in the "pending" category rather than the "completed" category, for reporting purposes. Lenders must use diligence in obtaining the information necessary to complete applications.

The conferees placed highest priority on the collection of analytically useful data by means of which to identify and eliminate discriminatory lending practices. The conferees expect that the regulatory agencies will use the flexibility they have been accorded to develop reporting formats that maximize public disclosure of analytically useful data while minimizing reporting burdens for lenders. The conferees recognize the loan application register approach, under which lending institutions keep and make available the appropriate information in an application-by-application format, as one way to efficiently collect and maintain the required data. Such an approach is currently employed by thrift institutions under supervision of the Federal Home Loan Bank Board.

To ensure that lending patterns are as thoroughly and accurately understood as possible, the conference report also would permit lending institutions to submit additional relevant data or explanatory material to the appropriate agency in writing.

The Home Mortgage Disclosure Act, as amended by this Act, requires among other things reporting by mortgage lenders to the appropriate regulatory agencies. A primary purpose of such reporting is to assist regulatory agencies in identifying possible discriminatory lending patterns that warrant closer scrutiny. To accomplish this purpose, it is essential that the data submitted to the agencies be in a form that facilitates the task of identifying any discriminatory lending patterns that disadvantage women, minority borrowers, or predominantly minority or low- or moderate-income neighborhoods. To accomplish this task, cross-tabulation of the loan application and disposition data, stratified at a minimum by (i) applicant race and gender, (ii) racial composition of neighborhood, and (iii) applicant income level is recommended. It should not be necessary to prepare separate reports for each census tract, but the required information could by disclosed category to facilitate regression analysis. The reports submitted by mortgage lenders to the regulatory agencies could neither include cross-tabulated data or present raw data in a form permitting its cross-tabulation by the agencies.

To ensure that there is a complete, accurate and fair picture of lending patterns, the conferees believe it is important to have data on the impact of requirements imposed on mortgage lenders by the secondary market. To develop the necessary data, the conferees considered imposing the new HMDA disclosure requirements on secondary market entities. Ultimately, however, the conferees chose not to impose such requirements out of concern that they could prove unduly burdensome for secondary market entities, and in recognition of the fact that the information necessary to identify discriminatory secondary market requirements could be collected from the originating lender—i.e., those conducting a retail loan or mortgage banking operation for the origination, processing and approval or rejection of mortgage loan applications. Accordingly, the conferees chose to acquire the desired information about secondary market requirements from the primary market, by requiring reporting institutions to disclose the class of purchaser for loans sold. It is recommended that regulators create a sufficiently small number of "classes" to facilitate meaningful analysis but

retain sufficient separation to permit identification of potentially discriminatory practices by particularly large secondary market entities. Each of the large government-sponsored enterprises in the secondary market would comprise a distinct class. Additional classes—for example, insurance companies, depository institutions, or private investors—should be established based on common traits and significance, possibly determined on the basis of aggregate market share, in the secondary market.

The HMDA amendments in the conference report will be effective for calendar years beginning after December 31, 1989. Thus, lending institutions reporting under these amendments must begin compiling the required data on January 1, 1990.

Section 1214 of H.R. 1278 amended the Community Reinvestment Act ("CRA") to require disclosure of CRA ratings and evaluation reports. The intent of the section was to promote enforcement of CRA by allowing the public to know both what regulatory agencies are telling depository institutions and what the community reinvestment records of particular depository institutions are. The Senate bill contained no comparable provisions.

The Senate receded to the House with certain amendments. First, in lieu of the existing five-tiered numerical rating system, the conference report provides for a four-tiered descriptive rating system. The report further requires that ratings assigned under the new system be disclosed, along with written evaluations of the institution's performance in meeting community credit needs under the assessment factors set forth in CRA regulations.

Second, although the conferees deleted from statutory language the requirement enacted by the House that CRA evaluations place special emphasis on certain types of credit, the conferees nonetheless intend that the written evaluations, including the statement, discussion, supporting facts, and conclusions shall place special emphasis on the insured depository institution's record of serving the housing credit needs of low and moderate-income persons, small business credit needs, small farm credit needs, and rural economic development. In expressing their intent that CRA evaluations place special emphasis on these particular credit needs, however, the conferees do not intend to indicate that these categories constitute the entire universe of desirable community investment activities.

Third, the conferees clarified the disclosure requirements in the House provision to permit certain confidential communications between examiners and institutions. This provision should be construed narrowly to protect only information potentially harmful to safety and soundness, information relating to recommendations for future community investment performance, and information not directly related to community investment (e.g., strategic plans) whose release might adversely affect an institution's competitive position. The provision is not intended to shield an institution from whatever harm to its competitive position might naturally flow from a purely factual disclosure of its actual community investment performance.

Capital and Accounting Standards

Section 1215 requires the Federal banking agencies to establish, within one year, uniform accounting standards to be used for determining the capital ratios of all federally insured financial institutions and for other purposes. Each Federal banking agency must also report annually to the Senate and House Banking Committees any differences between the capital standard used by such agency and capital standards used by other agencies. The report to the Senate and House Banking Committees must also contain an explanation of the reasons for any discrepancies in such accounting of capital standards.

The report shall include recommendations for simplifying and clarifying the capital and accounting standards used for federally-insured depository institutions and any recommendations deemed appropriate for improved auditing of federally-insured depository institutions.

Equal Opportunity

Section 1216 places the OCC, the FDIC, the Oversight Board of the RTC, the RTC and REFCORP under the provision of Executive Order 11478. The Section limits of the FMLMC and the FNMA's compliance to the first two sections of 11478 to allow FHLMC and FNMA to act under the private employers grievance process rather than two grievance processes. Subsection (b) makes it clear they are not subject to both private employer and government rules in terms of remedies.

This Section also requires that each listed agency develop a minority outreach program to ensure, to the maximum extent possible, the inclusion of minorities and women in all contracts entered into by such agency and requires each agency to report to Congress on its progress.

Cross-Marketing restrictions on grandfathered nonbank banks

Current law generally prohibits a grandfathered nonbank bank from allowing its products or services to be cross-marketed by or through an affiliate unless the affiliate engages only in activities permissible for a bank holding company. This section revises the restriction to permit an affiliate of such bank to cross-market the bank's products or services with products or services of the affiliate that the Federal Reserve Board has by regulation determined to be permissible for bank holding companies under section 4(c)(8) of the Bank Holding Company Act (other than certain security-related products or services). No other substantive change in current law is intended.

TITLE XIII. PARTICIPATION BY STATE HOUSING FINANCE AUTHORITIES

State Housing Finance Authorities have proven to be effective in the effort to promote affordable housing and home ownership opportunities. The intent of this Title is to provide State Housing Finance Authorities, as defined in the Act, with the authority to purchase mortgage-related assets from the RTC or from a financial institution with respect to which the Federal Deposit Insurance Corporation is acting as a receiver or conservator. The State Housing Finance Authorities will be required to invest any net profits attributable to the ownership of such assets in the financing, refinancing or rehabilitation of low and moderate income housing within the jurisdiction of such State Housing Finance Authority.

TITLE XIV

TAX PROVISIONS

1. REPEAL OF SPECIAL RULES APPLICABLE TO FINANCIALLY TROUBLED FINANCIAL INSTITUTIONS

Present Law

Special tax rules applicable to financially troubled thrift institutions were adopted in 1981. In the Technical and Miscellaneous Revenue Act of 1988 (the "1988 Act"), these special rules were expanded to cover financially troubled banks and certain thrift institutions which did not meet a qualifying asset test. These rules are scheduled to expire for transactions after December 31, 1989.

(1) ASSISTANCE PAYMENTS TO FINANCIALLY TROUBLED FINANCIAL INSTITUTIONS

Payments from the Federal Savings and Loan Insurance Corporation (the "FSLIC") or the Federal Deposit Insurance Corporation (the "FDIC") to a financially troubled financial institution are not included in the income of the recipient institution and no basis reduction is required. However, the 1988 Act provided for a reduction in certain tax attributes equal to 50 percent of the amount of the financial assistance.

(2) TREATMENT AS A TAX-FREE REORGANIZATION

Certain FSLIC- or FDIC-assisted acquisitions involving a financially troubled financial institution may qualify as tax-free reorganizations, without regard to the requirement that the shareholders of an acquired corporation must generally maintain a meaningful ownership interest in the acquiring corporation (the "continuity of interest" requirement).

(3) NET OPERATING LOSS CARRYOVERS

The general limitations on the ability of an acquiring corporation to utilize the net operating losses, built-in losses, and excess credits of a corporation acquired in a tax-free reorganization are relaxed in the case of a tax-free acquisition of a financially troubled financial institution.

House Bill

The House bill repeals the special tax rules applicable to financially troubled financial institutions. The Treasury Department is granted regulatory authority to issue regulations providing rules for the Federal income tax treatment of transactions involving financially troubled financial institutions. The repeal is effective for transactions occurring on or after May 10, 1989.

The House bill also clarifies that the reduction in tax attributes equal to 50 percent of the amount of nontaxable financial assistance received with respect to FDIC transactions and certain FSLIC transactions (involving institutions which did not meet a qualifying asset test) is effective on the same date that the special tax rules relating to financially troubled financial institutions were extended to such transactions (i.e., November 10, 1988). The provision is effective as if included in the 1988 Act.

In addition, the House bill conforms the provisions of the Code to take into account successor entities to the FSLIC established by the bill. The provision is effective on the date of enactment.

Senate Amendment

The Senate amendment contains a sense of the Senate resolution that the House of Representatives should repeal the special tax rules applicable to financially troubled financial institutions.

The repeal should be effective on or after the date of enactment of FIRREA.

Conference Agreement

The conference agreement follows the House bill, with certain clarifications.

Under the interim rules for taxable asset acquisitions set forth in the legislative history of this provision, financial assistance received by, or paid with respect to, finan-

cially troubled financial institutions is generally treated as taxable. Such assistance is deemed to be received by the financially troubled financial institution at the time the assets of such institution are sold or transferred. As a result, the financial assistance generally will be offset by the net operating losses and built-in losses of the financially troubled financial institution. Thus, an acquired financially troubled financial institution will generally have no net tax liability resulting from the receipt (or deemed receipt) of financial assistance.

It is possible, however, that the net operating losses and built-in losses of the financially troubled financial institution may not always be sufficient to offset the amount of financial assistance received (or deemed received) by the troubled institution.[1] In this regard, the conferees intend that the regulatory authority granted by the bill to the Treasury Department may be exercised to limit the potential applicability of section 7507 of the Code [2] in cases where financially troubled financial institutions are acquired in transactions in which Federal financial assistance is provided. Nonetheless, the conferees understand that the Treasury Department may exercise the regulatory authority provided to it by the bill to issue regulations or other guidance providing that, in certain circumstances, no net tax liability would be payable by financially troubled financial institutions as a result of the receipt of Federal financial assistance. It is expected that any such guidance be consistent with the purposes of this provisions and with the overall grant of regulatory authority to the Treasury Department.

The conferees also intend that the regulatory authority granted the Treasury Department under the bill would permit the Treasury Department to determine the extent to which an acquiror of a financially troubled financial institution receiving Federal assistance would have transferee liability with respect to any tax liability of the acquired institution. For example, the conferees understand that the Treasury Department may exercise such authority to provide that transferee liability will not be asserted against an acquiror in a taxable acquisition in which Federal financial assistance is provided

2. TAX EXEMPTION FOR RESOLUTION FUNDING CORPORATION (REFCORP) AND RESOLUTION TRUST CORPORATION (RTC)

Present Law

Federal tax exemptions for instrumentalities of the United States organized on or after July 18, 1984, may be provided only by an amendment to the Internal Revenue Code or by a provision (not amending the Code) enacted as part of a revenue act.

House Bill

The House bill provides exemptions from Federal income tax for REFCORP and RTC in the Internal Revenue Code (rather than in banking law). The provision is effective on the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

3. ANNUAL REPORTS ON TRANSACTIONS IN WHICH FEDERAL FINANCIAL ASSISTANCE IS PROVIDED

Present Law

Financially troubled financial institutions may receive financial assistance from governmental entities providing Federal deposit insurance. There is no requirement that the Congress be provided with information concerning such assistance transactions.

House Bill

The House bill requires the Treasury Department to submit annual reports to the House Ways and Means and the Senate Finance Committees concerning the amounts of Federal financial assistance and the availability (and utilization) of any resulting tax benefits. The provision is effective on the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, except that the reports are to be provided the Senate as well as the House Ways and Means Committee.

4. TAX TREATMENT OF THE FDIC AND ITS OBLIGATIONS

Present Law

Obligations issued by the FDIC are not exempt from Federal tax. The FDIC is exempt from Federal tax.

House Bill

The Houe bill relates present law with respect to the Federal tax treatment of the FDIC, obligations issued by the FDIC, and financial institutions for which the FDIC acts as a receiver. The provisions are effective on the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

5. TWO ANNUAL STUDIES OF THE RELATIONSHIP BETWEEN THE PUBLIC DEBT AND ACTIVITIES OF GOVERNMENT-SPONSORED ENTERPRISES (GSES)

Present Law

The Congress has established a number of GSEs which are permitted to issue debt and/or guarantee other securities.

House Bill

The House bill requires the Treasury Department to annually conduct a study to assess the financial safety and soundness of the activities of GSEs and the impact of their operations on Federal borrowing. The results of the study are to be submitted to the House Ways and Means and Senate Finance Committees. The provision is effective on the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, except that (1) two studies are required, (2) appropriate confidentiality safeguards are provided, and (3) the results of such studies are to be provided to the Congress. The first report is to be provided on or before May 15, 1990, and the second report is to be provided on or before May 15, 1991. The conference agreement requires that the Treasury Secretary determine and maintain the confidentiality of the books, records, and information made available to the Treasury Department under this provision. The Treasury Secretary is authorized to determine what is confidential in a manner that is generally consistent with the level of confidentiality established by the GSE from which the Treasury Secretary received the information. In providing for these studies, the conferees do not intend to expand the traditional regulatory role of the Treasury Department with respect to GSEs.

From the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 1, 219(5), 223, 314, and 315 and title I of the House bill, and secs. 1, 222(4), 223, that portion of sec. 301 adding new secs. 3(b) and 5(s) and (t) to the Home Owners' Loan Act of 1933, and titles I and XV of the Senate amendment, and modifications committed to conference:

HENRY B. GONZALEZ,
FRANK ANNUNZIO,
MARY ROSE OAKAR,
BRUCE F. VENTO,
DOUG BARNARD, Jr.,
ROBERT GARCIA,
CHARLES SCHUMER,
RICHARD LEHMAN,
BRUCE A. MORRISON,
TOM CARPER,
GERALD D. KLECZKA,
DAVID PRICE,
CHALMERS P. WYLIE,
MARGE ROUKEMA,
JIM SAXTON,
CLIFF STEARNS,
PAUL E. GILLMOR,

From the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 501, 505 through 508, 1203, 1204, 1207, 1208, 1211, and 1212 and titles II (except secs. 219(5) and 223), III (except secs. 314 and 315), IV, VI, and VIII of the House bill, and secs. 501, 505, 724, 1402 through 1405, 1410, 1413, and 1414 and titles II (except secs. 221(b)(2), 222(4), and 223), III (except that portion of sec. 301 adding new secs. 3(b) and 5 (s) and (t) to the Home Owners' Loan Act of 1933), IV, VI, and VIII of the Senate amendment, and modifications committed to conference:

HENRY B. GONZALEZ,
FRANK ANNUNZIO,
MARY ROSE OAKAR,
CHARLES SCHUMER,
BARNEY FRANK,
RICHARD LEHMAN,
TOM CARPER,
TOM MCMILLEN,
JIM MCDERMOTT,
CHALMERS P. WYLIE,
JOHN HILER,
STEVE BARTLETT,

From the Committee on Banking, Finance and Urban Affairs, for consideration of titles IX, X, and XI of the House bill, and secs. 221(b)(2), 1408, and 1411, and titles IX, X, and XIII of the Senate amendment, and modifications committed to conference:

HENRY B. GONZALEZ,
FRANK ANNUNZIO,
WALTER E. FAUNTROY,
CARROLL HUBBARD,
DOUG BARNARD, Jr.,
MARCY KAPTUR,
BEN ERDREICH,
BILL NELSON,
LIZ PATTERSON,
FLOYD H. FLAKE,
PETER HOAGLAND,
RICHARD E. NEAL,
CHALMERS P. WYLIE,

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[1] This could occur, for example, in cases in which the financially troubled financial institution was a member of a group of corporations filing a consolidated return and the net operating losses of such institution were used to offset the income of other members of the affiliated group.

[2] Section 7507 generally provides an exemption (or in some cases a deferral) for insolvent banks from any tax that would reduce assets necessary for payment of depositors.

AL MCCANDLESS,

From the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 1201, 1202, 1205, 1206, 1210, 1213 through 1216, and titles VII and XIII of the House bill, and secs. 1401, 1406, 1407, and 1415 and titles VII (except sec. 724), XI, and XII of the Senate amendment, and modifications committed to conference:

HENRY B. GONZALEZ,
FRANK ANNUNZIO,
WALTER E. FAUNTROY,
CARROLL HUBBARD,
MARY ROSE OAKAR,
BRUCE F. VENTO,
ROBERT GARCIA,
BARNEY FRANK,
BRUCE A. MORRISON,
ESTEBAN E. TORRES,
GERALD D. KLECZKA,
JOE KENNEDY,
KWEISI MFUME,
NANCY PELOSI,
CHALMERS P. WYLIE,
MARGE ROUKEMA,
STEVE BARTLETT,

From the Committee on Banking, Finance and Urban Affairs, for consideration of secs. 502 through 504 of the House bill, and secs. 502 through 504 of the Senate amendment, and modifications committed to conference:

HENRY B. GONZALEZ,
FRANK ANNUNZIO,
WALTER E. FAUNTROY,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
BRUCE A. MORRISON,
ESTEBAN E. TORRES,
GERALD D. KLECZKA,

From the Committee on Ways and Means, for consideration of title XIV of the House bill, and sec. 1412 of the Senate amendment and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J.J. PICKLE,
C.B. RANGEL,
PETE STARK,
BILL ARCHER,
GUY VANDER JAGT,
PHIL CRANE,

From the Committee on Ways and Means, for consideration of sec. 217, such portions of sec. 502 adding new subsections 21B(b), (c)(1) and (2), (d)(3), (f)(1)(A) and (B), (g)(2)(B), and (j) to the Federal Home Loan Bank Act, secs. 502(b) and (c), 504, and 1209 of the House bill and that portion of sec. 501 adding a new subsection 21A(k) to the Federal Home Loan Bank Act, such portions of sec. 502 adding new subsections 21B(b), (c)(1), (2), (3), (5), (6), and (8), (d)(1), (2), and (3), (f)(1) and (i) to the Federal Home Loan Bank Act, sec. 504 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J.J. PICKLE,
C.B. RANGEL,
PETE STARK,
HAROLD FORD,
ED JENKINS,
THOMAS J. DOWNEY,
FRANK J. GUARINI,
MARTY RUSSO,
DONALD J. PEASE,
BILL GRADISON,
RAYMOND J. MCGRATH,

As additional conferees, for consideration of the remaining portions of sec. 502 of the House bill, and the remaining portions of sec. 502 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
FRANK J. GUARINI,
BILL ARCHER,

As an additional conferee, for consideration of secs. 1213 through 1215 of the House bill, and modifications committed to conference:

JOHN CONYERS,

As an additional conferee, for consideration of sec. 223 of the House bill, and that portion of sec. 223 adding a new subsection 28(d) to the Federal Deposit Insurance Act of the Senate amendment, and modifications committed to conference:

BYRON L. DORGAN,

From the Committee on the Judiciary, for consideration of secs. 212 and 219 of the House bill, and secs. 212, 214, and 222 of the Senate amendment, and modifications committed to conference:

ROBERT W. KASTENMEIER,
JOHN CONYERS,
BILL HUGHES,
DAN GLICKMAN,
HARLEY O. STAGGERS, Jr.,
GEORGE E. SANGMEISTER,
HAMILTON FISH, Jr.,
GEORGE W. GEKAS,
LARKIN SMITH,

From the Committee on the Judiciary, for consideration of title IX of the House bill, and secs. 913 and 981(c), and title X of the Senate amendment, modifications committed to conference:

ROBERT W. KASTENMEIER,
JOHN CONYERS,
BILL HUGHES,
BARNEY FRANK,
CHARLES SCHUMER,
GEORGE E. SANGMEISTER,
HAMILTON FISH, Jr.,
GEORGE W. GEKAS,
LARKIN SMITH,

From the Committee on Government Operations, for consideration of sec. 502(c) of the House bill, and modifications committed to conference:

JOHN CONYERS,
CARDISS COLLINS,
GLENN ENGLISH,
MIKE SYNAR,
ROBERT E. WISE, JR.,

From the Committee on Rules, for consideration of that portion of sec. 501 adding a new sec. 21A(u) to the Federal Home Loan Bank Act, and sec. 502(c) of the House bill, and modifications committed to conference:

JOHN JOSEPH MOAKLEY,
BUTLER DERRICK,
ANTHONY C. BEILENSON,
MARTIN FROST,
DAVID BONIOR,

Managers on the Part of the House.

From the Committee on Banking, Housing, and Urban Affairs to reconcile all provisions of H.R. 1278, and of the Senate amendment to H.R. 1278, except those in secs. 1401 and 1402 of H.R. 1278:

DONALD W. RIEGLE, JR.,
ALAN CRANSTON,
PAUL SARBANES,

From the Committee on Finance as additional conferees solely for the consideration of reconciling:

First, secs. 1401 and 1402 of H.R. 1278, and the specific disagreeing provisions of secs. 501 and 502 of the Senate amendment to H.R. 1278 relating to the tax-exempt status of the Resolution Trust Corporation and the Resolution Funding Corporation (new paragraphs 21A(k) and 21B(f)(7) of the Federal Home Loan Bank Act), and

Second, secs. 1403 and 1404 of H.R. 1278:

LLOYD BENTSEN,
SPARK M. MATSUNAGA,

Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HOYER (at the request of Mr. GEPHARDT) for today on account of death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HOAGLAND) to revise and extend their remarks and include extraneous material:)

Mr. SIKORSKI, for 5 minutes, today.
Mr. HOAGLAND, for 5 minutes, today.
Mr. STARK, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. NEAL of North Carolina, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ANNUNZIO, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $995.

Mr. FORD of Michigan, prior to concurring in Senate amendment to H.R. 2705, in House, today.

(The following Members (at the request of Mr. DREIER of California) and to include extraneous matter:)

Mr. BROWN of Colorado.
Mr. PORTER.
Mr. GILMAN, in two instances.
Mr. DAVIS.
Mr. LIGHTFOOT.
Mr. KOLBE.

(The following Members (at the request of Mr. HOAGLAND) and to include extraneous matter:)

Mr. PENNY.
Mr. FEIGHAN.
Mr. KENNEDY.
Mr. TOWNS.
Mr. ROE.
Mr. FORD of Michigan.
Mr. SLATTERY.
Mr. FAZIO.
Mr. KILDEE.
Mr. LANTOS, in two instances.
Mr. TORRES.
Mr. MILLER of California in two instances.

SENATE ENROLLED JOINT RESOLUTION

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 150. Joint resolution to designate August 1, 1989, as "Helsinki Human Rights Day."

A BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill and joint resolution of the House of the following titles:

H.R. 968. An act to provide for the Federal reimbursement of local noise abatement funds; and

H.J. Res. 281. Joint resolution to approve the designation of the Cordell Bank National Marine Sanctuary, to disapprove a term of that designation, to prohibit the exploration for, or the development or production of, oil, gas, or minerals in any area of that sanctuary, and for other purposes.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 20 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, August 2, 1989, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1529. A letter from the Deputy General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to modify the restrictions on the level of compensation allowed on contracts for direct health care providers; to the Committee on Armed Services.

1530. A letter from the Deputy General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend titles 10 and 37, United States Code, relating to personnel matters in the management of the Department of Defense, and for other purposes; to the Committee on Armed Services.

1531. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of the intent to continue assistance for El Salvador under the Anti-Terrorism Assistance Program, pursuant to 22 U.S.C. 2349aa-3(a)(1); to the Committee on Foreign Affairs.

1532. A letter from the Benefits and Risk Manager, Farm Credit Bank of Louisville, transmitting the Farm Credit Institutions in the Fourth District amended retirement plan, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

1533. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1534. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1535. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1536. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1537. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1538. Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1539. A letter from the Comptroller General of the United States, transmitting a report on the types of diseases and injuries for which veterans receive disability compensation (GAO/HRD-89-60); jointly, to the Committees on Government Operations and Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BATES: Committee on House Administration. House Resolution 104. Resolution requiring the Architect of the Capitol to establish and implement a voluntary program for recycling paper disposed of in the operation of the House of Representatives (Rept. 101-204). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2065. A bill to provide for studies and planning activities for improvement of tropical forest management, including forest management of insular areas and jurisdictions and public lands of the United States, and for other purposes; with an amendment (Rept. 101-205, Pt. 1). Ordered to be printed.

Mr. DERRICK: Committee on Rules. House Resolution 221. Resolution waiving certain points of order against consideration of the bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes. (Rept. 101-206). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2364. A bill to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes; with an amendment (Rept. 101-207). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURTHA: Committee on Appropriations. H.R. 3072. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes. (Rept. 101-208). Referred to the Committee of the Whole House on the State of the Union.

Mr. GONZALEZ: Committee of Conference. Conference report on H.R. 1278 (Rept. 101-209). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 569. A bill for the relief of Maurice G. Hardy (Rept. 101-201). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 756. A bill for the relief of Shelton Anthony Smith (Rept. 101-202). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 2107. A bill for the relief of Pablo Cruz Patag (Rept. 101-203). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CRAIG (for himself, Mrs. BENTLEY, Mr. DORNAN of California, Mr. KOLBE, Mr. LAGOMARSINO, Mr. NEAL of North Carolina, Mr. PARRIS, and Mr. RHODES):

H.R. 3064. A bill to improve the financial management of the Federal Government by establishing the Under Secretary of the Treasury for Federal Financial Management; by establishing agency chief financial officers; by requiring the development of systems that will provide complete, accurate, and timely information; and by increasing accountability through a process which utilizes financial management plans and reports; to the Committee on Government Operations.

By Mr. DICKS (for himself, Mr. MILLER of Washington, Mr. SWIFT, Mr. MCDERMOTT, and Mr. PALLONE):

H.R. 3065. A bill to create a Federal nuclear facility environmental response fund, to create an Office of Environmental Management and Remedial Action, to require the Secretary of Energy and the Administrator of the Environmental Protection Agency to cooperate with affected States and Indian tribes, to provide for research and development to address environmental problems at Federal nuclear facilities, and for other purposes; jointly, to the Committees on Science, Space, and Technology; Energy and Commerce; Interior and Insular Affairs; and Armed Services.

By Mr. EVANS:

H.R. 3066. A bill to strengthen the political responsibility and accountability of the Federal Reserve System; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GAYDOS (for himself, Mr. KENNEDY, Mr. AUCOIN, Mr. HALL of Ohio, Mr. PENNY, Mr. STARK, Mr.

BRYANT, Mr. CONTE, Mr. OWENS of Utah, Mr. NOWAK, Mr. HAYES of Illinois, Mr. MORRISON of Connecticut, Mr. MATSUI, Mr. PERKINS, Mr. FORD of Michigan, Mr. FAUNTROY, Mr. DICKS, Mr. WEISS, Mr. CLAY, Mr. KOLTER, Mr. FRANK, Mrs. COLLINS, Mr. HAMILTON, Mr. RICHARDSON, Mr. DYMALLY, Mr. CROCKETT, Mr. PALLONE, Mr. FASCELL, Mr. BROWN of California, Mr. DE LA GARZA, Mrs. BOXER, Mr. BILBRAY, Mr. OBEY, Mr. RUSSO, Ms. PELOSI, Mr. WILLIAMS, Mr. LEVINE of California, Mrs. UNSOELD, Mr. KANJORSKI, Mr. LEVIN of Michigan, Mr. GEJDENSON, Mr. DWYER of New Jersey, Mr. LEWIS of Georgia, Mr. MCCLOSKEY, Mr. WHEAT, Mr. GUARINI, Mr. JONTZ, Mr. MCCURDY, Mr. ATKINS, Mr. OBERSTAR, Mr. VENTO, Mr. FAZIO, Mr. COURTER, Mr. SABO, Mr. MCDERMOTT, Mr. KILDEE, Mr. COYNE, Mr. SIKORSKI, Mr. EVANS, Mr. FORD of Tennessee, Mr. POSHARD, Mr. ENGEL, Mr. FLORIO, Mr. FLAKE, Mr. OWENS of New York, Mr. KASTENMEIER, Mr. MARKEY, Mr. SKAGGS, Mr. MURTHA, Mr. SAVAGE, Mr. WALGREN, Mr. STOKES, Mr. AKAKA, Mr. MURPHY, Mr. WILSON, Mr. COOPER, Mr. MOAKLEY, Mr. KLECZKA, Mr. GILMAN, Mr. MANTON, Mr. HAWKINS, Mr. MILLER of California, Mr. ACKERMAN, Mr. BROOKS, Mr. DELLUMS, Mr. DIXON, Mr. ESPY, Mr. FOGLIETTA, Mr. KOSTMAYER, Mr. MRAZEK, Mr. EDWARDS of California, Mr. MAVROULES, Mr. TORRES, Mr. PEASE, Mr. BERMAN, Mrs. LOWEY of New York, Mr. PAYNE of New Jersey, Mr. FUSTER, Mr. MOODY, Mr. VISCLOSKY, Mr. MARTINEZ, Mr. LANTOS, Mr. MFUME, Mr. MINETA, Mr. ROYBAL, Mr. TOWNS, Mrs. SCHROEDER, Mr. LIPINSKI, Mr. BOSCO, Mr. TRAFICANT, Mr. WAXMAN, Mr. BATES, Ms. KAPTUR, and Ms. OAKAR):

H.R. 3067. A bill to establish a system for identifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes; to the Committee on Education and Labor.

By Mr. LIGHTFOOT:

H.R. 3068. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to require that budget resolutions be presented to the President for his approval or disapproval, to amend the Rules of the House of Representatives to prohibit the consideration of certain continuing appropriations, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. MARTINEZ (for himself, Mr. FUSTER, Mr. MFUME, and Mrs. MORELLA):

H.R. 3069. A bill to amend the Job Training Partnership Act to establish an employment training program for displaced homemakers, and for other purposes; to the Committee on Education and Labor.

By Mr. NEAL of North Carolina:

H.R. 3070. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to limit annual, total Federal outlays to no more than 20 percent of gross national product, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. PENNY (for himself, Mr. TAUKE, Mr. JOHNSON of South Dakota, Mr. KOLTER, Mr. PETRI, Mr. LAGOMARSINO, Mr. RINALDO, Mr. JONES of North Carolina, Mr. SCHUETTE, Mr. TALLON, and Mr. DANNEMEYER):

H.R. 3071. A bill to consolidate food inspection functions in the Department of Agriculture; jointly, to the Committees on Energy and Commerce, Agriculture, and Merchant Marine and Fisheries.

By Mr. MURTHA:

H.R. 3072. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes.

By Mr. NEAL of North Carolina:

H.J. Res. 382. Joint resolution directing the Federal Open Market Committee of the Federal Reserve System to adopt and pursue monetary policies leading to, and maintaining, zero inflation; to the Committee on Banking, Finance and Urban Affairs.

H.J. Res. 383. Joint resolution proposing an amendment to the Constitution of the United States providing that, except in cases of national emergency, expenditures of the U.S. Government shall not exceed its revenues, nor exceed 20 percent of the gross national product, in any fiscal year; to the Committee on the Judiciary.

By Mr. GILMAN (for himself, Mr. COUGHLIN, Mr. ACKERMAN, Mr. BUSTAMANTE, Mr. FAUNTROY, Mr. GUARINI, Mr. HERGER, Mr. INHOFE, Mr. KOSTMAYER, Mr. LAGOMARSINO, Mr. LEVINE of California, Mr. MFUME, Mr. MORRISON of Connecticut, Mr. ORTIZ, Mr. OXLEY, Mr. PARRIS, Mr. PAXON, Mr. PENNY, Mr. SHAYS, Mr. SMITH of Florida, Mr. SOLARZ, Mr. TOWNS, and Mr. WALSH):

H. Con. Res. 181. Concurrent resolution to express the sense of the Congress that Latin American drug production control efforts will continue to be severely hampered if the debt burden of Latin American nations is not substantially reduced; jointly, to the Committee on Foreign Affairs and Banking, Finance and Urban Affairs.

By Mr. SAXTON:

H. Con. Res. 182. Concurrent resolution expressing the sense of Congress that each State should develop a curriculum for instructing school children in the history of genocide and the Holocaust; to the Committee on Education and Labor.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

222. By the SPEAKER: A memorial of the Legislature of the State of Maine, relative to passenger rail service in the State of Maine; to the Committee on Energy and Commerce.

223. Also, memorial of the Legislature of the State of Maine, relative to broadcast and print media alcohol advertisements; to the Committee on Energy and Commerce.

224. Also, memorial of the Legislature of the State of California, relative to desecration of the American flag; to the Committee on the Judiciary.

225. Also, memorial of the Legislature of the State of New York, relative to Pan American World Airlines Flight 103; to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 33: Mr. GUARINI.

H.R. 108: Mr. CAMPBELL of California.

H.R. 214: Mr. BOSCO and Mr. SPENCE.

H.R. 215: Mr. SAXTON, Mr. ERDREICH, Mr. SHUMWAY, Mr. YATES, Mr. SMITH of Texas, and Mr. MINETA.

H.R. 237: Mr. HERTEL.

H.R. 500: Mr. SLATTERY, Mr. WILSON, and Mr. ROE.

H.R. 520: Mr. SHUMWAY.

H.R. 521: Mr. SHUMWAY.

H.R. 522: Mr. SHUMWAY.

H.R. 523: Mr. SHUMWAY.

H.R. 590: Mr. DEFAZIO.

H.R. 725: Mr. BONIOR, Mr. MARTINEZ, Ms. SLAUGHTER of New York, and Mr. WALGREN.

H.R. 746: Mr. LEWIS of California, Mr. SHUMWAY, Mr. WEBER, Mr. PETRI, Mr. SMITH of Mississippi, Mr. RAVENEL, Mrs. SMITH of Nebraska, Mr. WHITTAKER, and Mr. MCEWEN.

H.R. 844: Mr. JOHNSON of South Dakota.

H.R. 879: Mrs. BOXER and Mr. OWENS of Utah.

H.R. 1074: Mr. MINETA and Mr. MAZZOLI.

H.R. 1292: Mr. WISE.

H.R. 1356: Mr. MILLER of California and Mr. BENNETT.

H.R. 1602: Mr. BOEHLERT and Mr. HAYES of Illinois.

H.R. 1605: Mr. ATKINS, Mr. RANGEL, Mr. HALL of Ohio, Mr. HUGHES, Mr. MCDADE, Mr. TRAFICANT, Mr. BORSKI, and Mrs. COLLINS.

H.R. 1730: Mr. HAMILTON.

H.R. 1852: Mr. WOLPE, Mr. BOSCO, Mr. MATSUI, Mr. HOCHBRUECKNER, Mr. MCNULTY, and Mr. FROST.

H.R. 2023: Mr. MOLLOHAN, Mr. FROST, Mr. BROWN of Colorado, Mr. LANCASTER, Mr. MRAZEK, and Mr. SCHUETTE.

H.R. 2154: Mr. PACKARD.

H.R. 2257: Mr. WYDEN.

H.R. 2269: Mr. HEFLEY and Mr. PACKARD.

H.R. 2374: Mr. TRAFICANT, Mr. MFUME, and Mr. JONTZ.

H.R. 2380: Mr. HOAGLAND and Mr. PALLONE.

H.R. 2437: Mr. PAYNE of Virginia.

H.R. 2487: Mr. FRANK, Mr. PARRIS, Mrs. SCHROEDER, Mr. MCEWEN, and Mr. PACKARD.

H.R. 2532: Mr. POSHARD, Mr. HERTEL, Mr. BONIOR, Mr. SHAYS, Mr. COLEMAN of Texas, Mr. MCDERMOTT, Mr. WEISS, Mr. BROWN of California, Mr. KOLTER, and Mr. ROWLAND of Connecticut.

H.R. 2545: Mr. WAXMAN and Mr. MCEWEN.

H.R. 2547: Mr. JONTZ, Mr. MURPHY, Mr. BORSKI, Mr. STOKES, Mr. SOLARZ, Mr. MARTINEZ, Mrs. UNSOELD, Mr. FRANK, Mr. BATES, and Mr. RAHALL.

H.R. 2584: Mr. WALGREN.

H.R. 2648: Mr. RANGEL, Mr. WALSH, Mr. DIXON, Mr. HOCHBRUECKNER, and Mr. ROE.

H.R. 2681: Mr. PALLONE.

H.R. 2694: Mr. STUDDS.

H.R. 2699: Mr. GONZALEZ, Mr. AKAKA, Mrs. SAIKI, and Mr. ECKART.

H.R. 2700: Mr. HENRY and Mr. CLINGER.

H.R. 2812: Mr. DOWNEY, Mr. LAGOMARSINO, and Mr. DYMALLY.

H.R. 2957: Mr. SMITH of Mississippi, Mr. FAUNTROY, Mr. WEISS, Mr. AKAKA, Mrs. BOXER, Mr. ALEXANDER, Mr. GEPHARDT, Mr. RANGEL, Mr. BOUCHER, and Mr. HAYES of Illinois.

H.R. 2958: Mr. WILSON, Mr. NOWAK, Ms. PELOSI, Mr. ECKART, Mr. SCHEUER, Mrs. SAIKI, Mr. JONTZ, Mr. MARTINEZ, Mr. DIN-

GELL, Mrs. SCHROEDER, Mr. UDALL, Mr. LEWIS of Georgia, Mr. EDWARDS of California, and Mr. EVANS.

H.R. 2997: Mr. LAGOMARSINO, Mr. FRANK, Mr. RANGEL, and Mr. ROWLAND of Connecticut.

H.R. 3000: Mr. STARK and Mr. SISISKY.

H.R. 3037: Mr. RANGEL and Mr. WOLPE.

H.J. Res. 147: Mr. BORSKI, Mr. SIKORSKI, Mr. BILIRAKIS, Mr. ROWLAND of Connecticut, and Mr. FROST.

H.J. Res. 160: Mr. WHITTAKER.

H.J. Res. 217: Mr. COURTER, Ms. KAPTUR, Mr. DIXON, Mr. BOEHLERT, Mr. WILSON, Mr. TANNER, Mr. MURPHY, Mr. HUBBARD, Mr. KENNEDY, Mr. RAVENEL, Mr. HYDE, Mr. LEWIS of California, Mr. MCDADE, Mr. LEHMAN of Florida, Ms. OAKAR, Mr. MCEWEN, Mr. ORTIZ, Mr. BRENNAN, Mr. CLARKE, Mr. MARKEY, Mr. HAWKINS, Mr. TALLON, Mr. SAXTON, Mr. SHAYS, Mr. TRAXLER, Mr. STALLINGS, Mr. BATES, and Mr. SKEEN.

H.J. Res. 223: Mr. NOWAK, Mr. FOGLIETTA, Ms. SNOWE, Mr. HAYES of Louisiana, and Mr. MOORHEAD.

H.J. Res. 231: Mr. RUSSO, Mr. DICKS, Mr. NELSON of Florida, Mr. MURTHA, Mr. YATRON, Mr. BOEHLERT, Mr. CALLAHAN, Mr. DAVIS, Mr. CRAIG, Mr. LENT, Mr. GREEN, Mr. ROYBAL, Mr. FISH, Mr. MOLINARI, Mr. GUNDERSON, and Mr. CLEMENT.

H.J. Res. 253: Mr. ACKERMAN, Mr. AKAKA, Mr. APPLEGATE, Mr. ASPIN, Mr. BRUCE, Mr. BUSTAMANTE, Mr. CONTE, Mr. COSTELLO, Mr. COURTER, Mr. CRANE, Mr. DE LUGO, Mr. DERRICK, Mr. DICKINSON, Mr. DONNELLY, Mr. ESPY, Mr. FIELDS, Mr. FLIPPO, Mr. GEKAS, Mr. GONZALEZ, Mr. HOPKINS, Mr. HUGHES, Mr. IRELAND, Mr. LEWIS of Florida, Mr. MAVROULES, Mr. MOAKLEY, Mr. NELSON of Florida, Ms. OAKAR, Mr. OWENS of New York, Mr. RAHALL, Mr. RICHARDSON, Mr. ROBERTS, Mr. RUSSO, Mr. SCHUMER, Mr. SMITH of Texas, Mr. STANGELAND, Mr. TAUZIN, Mr. THOMAS of Georgia, Mr. VANDER JAGT, Mr. VOLKMER, Mr. WATKINS, and Mr. WHEAT.

H.J. Res. 255: Mr. LIPINSKI, Mr. PALLONE, Mr. MCCLOSKEY, Mr. LEHMAN of Florida, Mr. MCCOLLUM, Mr. MCHUGH, Mr. MCDADE, Mr. HAMMERSCHMIDT, Mr. DORNAN of California, Mr. HAWKINS, Mr. WOLF, Mr. HARRIS, Mr. HENRY, Mr. KOLTER, Mrs. MEYERS of Kansas, Mr. STARK, Mr. KENNEDY, Mr. FAUNTROY, Mr. DE LA GARZA, Mr. ROWLAND of Connecticut, and Mr. ANTHONY.

H.J. Res. 278: Mr. STAGGERS, Mr. MCNULTY, and Mr. SOLARZ.

H.J. Res. 286: Mr. PARRIS and Mr. MCEWEN.

H.J. Res. 293: Mr. SHAW.

H.J. Res. 353: Mrs. MARTIN of Illinois.

H.J. Res. 354: Mr. KOSTMAYER, Mr. FAUNTROY, Mr. NATCHER, Mr. THOMAS of Georgia, Mr. WELDON, Mr. MOAKLEY, Mr. ROWLAND of Georgia, and Mr. MCEWEN.

H.J. Res. 372: Mr. MCGRATH, Mr. FROST, Mr. HORTON, and Mr. ROE.

H. Con. Res. 23: Mr. GUARINI.

H. Con. Res. 92: Mr. SMITH OF NEW HAMPSHIRE, Mr. GINGRICH, and Mrs. LOWEY of New York.

H. Con. Res. 100: Mr. MACHTLEY.

H. Con. Res. 118: Mr. MCHUGH.

H. Con. Res. 156: Mr. HAMMERSCHMIDT, Mr. ROSE, Mr. MCEWEN, Mr. STOKES, Mrs. LOWEY of New York, Mr. WYDEN, Mr. WALSH, Mr. COLEMAN of Missouri, and Mr. ECKART.

H. Con. Res. 161: Mr. RAVENEL and Mr. DERRICK.

H. Con. Res. 166: Mr. NIELSON of Utah, Mr. WISE, and Mr. PORTER.

H. Res. 133: Mr. PENNY, Mr. ROE, Mr. LENT, Mr. PAXON, Mr. RITTER, Mr. DONNELLY, Mr. GREEN, Mr. GILMAN, Mr. WOLPE, Mr. ACKERMAN, Mrs. COLLINS, Mr. OWENS of New York, Mr. MANTON, Mr. ENGEL, Mrs. LOWEY of New York, Mr. BUSTAMANTE, Mr. EARLY, Mr. WALSH, Mr. JONTZ, Mr. JOHNSTON of Florida, Mr. BORSKI, Mr. WEISS, and Mr. CARDIN.

H. Res. 157: Mr. ECKART.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 293: Mr. CAMPBELL of California.
H.J. Res. 379: Mr. CAMPBELL of California.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3026

By Mr. BURTON of Indiana:

—Page 31, after line 2, insert the following new section:

SEC. 138. (a) FINDINGS.—The Congress finds that—

(1) the District of Columbia is seeking from the United States Federal funds totaling $532,310,000, including a Federal payment of $430,500,000, reimbursements for water and sewer services of $34,740,000, contributions to the retirement funds of $52,070,000, and a further payment in transition resources for St. Elizabeth's Hospital of $15,000,000;

(2) the total amount of appropriations recommended by the Committee on Appropriations for the District of Columbia is $3,449,993,000, consisting of $3,285,643,000 for operating expenses and $164,350,000 in capital outlay funds;

(3) the District of Columbia appears unable to meet its obligations with this level of funding, as evidenced by an increase in the general fund deficit for the fiscal year 1988 of $14,279,000, despite a congressional mandate that the general fund deficit, which reached a total of $387,509,000 in 1980, now stands at $218,872,000, and may rise further, be reduced annually by $20,000,000;

(4) the obligations of the District of Columbia with respect to repayment of loans and interest on capital projects will total $251,474,000 in the fiscal year 1990 and represents 58 percent of the Federal payment and 9 percent of the operating expenses, excluding all Federal funds, which is near the upper limits of prudent fiscal management;

(5) the District of Columbia has disregarded Federal laws relating to the implementation of a residency preference law which would not preclude the hiring of noncity residents;

(6) 250 individuals were murdered in the District of Columbia between January 1, 1989, and August 1, 1989, representing a possible annual total of 429 murders, or a murder rate of 1 death per each 1,400 residents, which, if extrapolated to the entire Nation, is equivalent to a national total of 582,750 murders;

(7) a recent study conducted under the auspices of the highly recognized Federal city council of the public school system of the District of Columbia proposed a series of massive and far reaching changes expected to cost an additional $67,000,000 per year for 5 years, which would be paid through an earmarked increase in the Federal payment of $33,000,000 per year, with the District of Columbia paying the remainder of such additional cost;

(8) there is support for such changes as outlined in the study, but serious concerns exist about the capacity of the school system and the administration of the District of Columbia to spend these additional resources wisely;

(9) there continues to be concern over the response capability of the emergency medical services of the District of Columbia, due to continuing accounts of unacceptably slow responses to emergency situations;

(10) the District of Columbia has ignored Federal law requiring that the fire department be equipped with sufficient under water recovery or diving gear; and

(11) the District of Columbia has a higher percentage of adults in jail, compared to its adult population, than any other jurisdiction in the United States, averaging 1,500 individuals incarcerated per each 100,000 residents, which, if extrapolated to the entire Nation, would mean a national total of 3,750,000 prisoners.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that in order to bring about improvements in the government of the Nation's Capital located in Washington, DC, that—

(1) following upon the general statement of the Committee on Appropriations of the House of Representatives, the District of Columbia should undertake to examine its form of government, including the efficiency of its management, its financial controls, and its expenditure priorities, with a view to lowering expenses, concentrating governing resources on matters which only government can undertake, and improving the public health, safety, and education;

(2) the District of Columbia should undertake to immediately fulfill the legal mandate and underlying spirit of various Federal laws affecting residency law proposals, fire and rescue facilities and equipment, law enforcement (including personnel and changes in the District of Columbia Good Time Credits Act of 1986, the Duncan Ordinance, subchapter 2 of chapter 13 of title 23 of the District of Columbia Code, relating to bail reform, and laws of the District of Columbia relating to forfeiture), procurement law changes, abortion, and correctional facility construction; and

(3) should the District of Columbia fail to undertake to accomplish these objectives, and fail to report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on the District of Columbia of the House of Representatives and the Subcommittee on Governmental Efficiency, Federalism, and the District of Columbia of the Committee on Governmental Affairs of the Senate in a timely fashion on its progress on each of the matters contained in this resolution, the Committee on the District of Columbia of the House of Representatives and the Subcommittee on Governmental Efficiency, Federalism, and the District of Columbia of the Committee on Governmental Affairs of the Senate should consider and report legislation amending the District of Columbia Self-Government and Governmental Reorganization Act of 1973 to establish direct Federal control over public safety, health, education, and public works in the District of Columbia.

By Mr. DORNAN of California:
—Page 23, line 13, strike "Federal."
—Page 23, line 14, strike "except where" and all that follows through line 22 and insert a period.
—Page 23, line 13, strike "Federal."
—Page 23, line 16, strike the semicolon and all that follows through line 22 and insert a period.

SENATE—*Tuesday, August 1, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by the Honorable WENDELL H. FORD, a Senator from the State of Kentucky.

Mr. FORD. Today's prayer will be offered by a guest chaplain, the Reverend Alta Jewell, Chevy Chase United Methodist Church, Chevy Chase, MD.

PRAYER

The Reverend Alta Jewell, Chevy Chase United Methodist Church, Chevy Chase, MD, offered the following prayer:

Let us pray:

Holy God, without whose guidance our wisdom is but folly, grant us the grace to enter upon the waiting tasks of this day in sincerity of purpose. In the midst of thronging duties and confused issues we would keep the avenues of our lives open to You, the source of all goodness and beauty and truth.

Disturb us, Lord, when we are too well pleased with ourselves; when our dreams have come true because we have dreamed too little; when we have arrived safely because we have sailed too close to shore. Disturb us, Lord, when with the abundance of the things we possess we have lost our thirst for the waters of life. Stir us, Lord, to dare to move boldly; to venture on wider seas where storms will show Your mastery, where in losing sight of the land we will find the stars. Push back the horizons of our hopes and push us into the future with strength, hope, and love.

In these crucial and creative days enable Your servants here in posts of high public office to perform faithfully that which You require: to do justice, to love kindness, and to walk humbly with You, our God.

In His holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 1, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. FORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the distinguished acting majority leader, the Senator from Georgia.

THE JOURNAL

Mr. FOWLER. Mr. President, good morning. Thank you. I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. FOWLER. Mr. President, there will be a period of morning business this morning, not to extend beyond the hour of 9 a.m., at which time, under the order, the Senate will return to S. 1352, the Department of Defense authorization bill.

RESERVATION OF LEADER TIME

Mr. FOWLER. Mr. President, I ask unanimous consent that the time for the majority leader this morning be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the order, the Republican leader is recognized.

Mr. DOLE. I thank the Chair.

A LINE DRAWN IN THE SAND

Mr. DOLE. Mr. President, the terrible events of yesterday in Lebanon remind us anew that a line has been drawn in the sand.

It is not a line between the United States and its allies—though many would relish laying down that kind of line.

More specifically, it is not a line between the United States and Israel—though there are many whose enterprise would profit were that line drawn.

It is a much clearer, and more permanent, line.

It is a line between those who practice, and profit from, terrorism—and those who are its victims.

A line between those who ascribe to the proposition that individual human beings have unique and inestimable value—and those who see human beings as valuable only because of the political advantage their lifeless bodies can buy.

We are on one side of that line—and the murderers of Col. William Higgins are on the other.

We are on one side of that line; and in our company are our closest allies—Israel, NATO, Japan, and the other civilized nations of the world.

And on the other are the Irans, the Libyas, the Hezbollahs, the "Organizations of the Oppressed of the Earth," on the other side are those who see human beings as chips in some lethal and immoral poker game.

Mr. President, it is not a line of difference in policy, or even national interest. It is a line of difference in principle; in morality; in values.

It is a defining line. And what it defines, most of all, is the difference between civilization and barbarism.

Mr. President, we confuse that line, or ignore it, at the peril of the civilization which defines us.

That does not mean those of us—those nations—on our side of the line; it does not mean that we do not make mistakes. It does not mean, in particular, that we do not make mistakes in dealing with those on the other side of the line.

We do make those mistakes.

This Nation made a doozy of a mistake in the Iran-Contra affair. We tried to deal—quid pro quo—with terrorists. We tried to define, and add up, the value of human life in Hawk missiles.

We will pay for that terrible mistake for a long time.

And it gives me no comfort that others on our side of the line have made equally terrible mistakes. It gives me no comfort that some of our closest allies have bargained for the release of their hostages, even though that very act of bargaining compromised our common front against terrorism.

It gives me no comfort that the West Germans may have made mistakes; and the French; and the British; and

almost everyone else within the alliance.

And, today, I am not happy that one of our closest and most important allies, Israel, has also struck out alone, free-lancing, if you will, apparently in the interest of gaining leverage to win the release of some of its citizens held hostage.

I note in this morning's Washington Post that Israeli Defense Minister Rabin acknowledged that Israeli actions had threatened Western hostages. He is also quoted in the Post as saying that Israel's abduction of Obeid was carried out in accordance with an Israeli decision, with Israeli considerations, and for the Israeli captives—and without bringing any other elements into the picture.

I think that is where the mistake was made.

I can understand, as a human being, how the Israeli Government would be tempted to take unilateral action to win some bargaining chips in its efforts to win the release of its own citizens from barbaric capture.

But I cannot condone, as a thinking person, how any government—our's, the Israeli Government, or any other civilized government—could embark on this unilateral, free-lancing course, without regard to the effect on innocent citizens of other friendly countries; without regard to our common front against terrorism.

I cannot condone it, any more than—in retrospect—I can condone what some in our Government may have done in the Iran-Contra affair; or those in other Western governments may have done in other situations.

It is one of those circumstances that can easily be understood from a human standpoint; but must be vigorously deplored from a realistic standpoint.

But what is important, in any case, is not whether an action is abhorred or condoned; but whether all of us learn some lesson from the mistakes that one of us has made.

We are in this together. The line is between us and them; not us and us.

Let us keep that line distinct. Let us keep that line clear in our own minds.

And let us dedicate ourselves anew to forge a common front; a common, realistic, tough, effective stance against international terrorism.

Let us make this—not just one item—but the top item in our consultations within the alliance.

Let us make this agenda item No. 1 at the next alliance summit—a summit that, for this discussion, at least, ought to include all of our allies and friends, like Israel, that enjoy a special place in our common struggle against the scourge of terrorism.

Mr. President, I pray that I am wrong, but I fear that I am right. I believe that Col. William Higgins has been murdered. His murder—his blood—is on the hands of his assassins; these lunatics who hide behind the title of "Oppressed on Earth." They are to blame for William Higgins' death—no one else. And they should be brought to justice and punished.

But William Higgins' death, if it has occurred, is not the end of the story. It is only another chapter—another lesson; a lesson that will have value only if it is learned, by all of us on our side of the line. A lesson that there is a line drawn in the sand—a line between civilized conduct, and barbarism;

A line that we must understand, and act on—if the civilization that all of us on our side of the line hold dear is to be preserved.

THE VISITING CHAPLAIN

Mr. FOWLER. Let me take the occasion, Mr. President, in this moment, to thank the Reverend Jewell for her fine prayer. We need to be reminded at all times that budgets are not just matters of cold calculation of numbers, but they can always be instruments of justice and mercy.

It is really through budgets that we decide the fate of a child's mind and reclaim someone from alcoholism. When we look at the extraordinary needs of our country, whether it be nutrition or the homeless, we can exercise mercy as to where we put our funding and where we commit the public's resources. We sometimes forget that extraordinary obligation that we have to exercise mercy and to try and do justice and to walk humbly with our God.

I thank the chaplain for her contribution this morning.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 9 a.m., with Senators permitted to speak therein.

Mr. FOWLER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. EXON. Mr. President, we have a few moments left in morning business and I believe that I can finish my remarks on the introduction of a bill by that time.

If I go slightly beyond the hour of 9 o'clock, I ask unanimous consent that I be allowed to proceed as if in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

(The remarks of Mr. EXON pertaining to the introduction of S. 1450 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PAN AM FLIGHT 103

Mr. METZENBAUM. Mr. President, a very special meeting took place in Alliance, OH, late this past June. I would like my colleagues to know a little bit about this gathering, and the people who participated in it.

On December 21, 1988, Pan American Airways flight 103 was blown out of the sky over Lockerbie, Scotland. Two hundred seventy innocent civilians were killed in what appears to have been a contract killing. Recent evidence indicates that a radio cassette-disguised bomb was placed aboard flight 103 by the radical PLO faction led by Ahmed Jibril, at the behest of Iranian extremists.

The magnitude of this tragedy is still sinking in. While the families and friends of the victims try to make some sense out of their loss, our country is still trying to comprehend the meaning of this, the single largest act of terrorism against American citizens in history.

Mr. President, regrettably, it seems to me that many of us have been slow to understand the effect that the flight 103 bombing will have on each of our lives. Our hearts and best wishes have gone out to the families of the victims. But I think that we may be subconsciously waiting for this tragedy to slip from memory. I think that some are hoping that we can avoid the issues raised by flight 103 until some other, more convenient time.

Mr. President, there is simply no way for us to avoid the bombing of flight 103, or the legacy it has left with us.

On June 25, 1989, the tragic story of flight 103 was relived in a memorial service attended by over 200 family and friends of flight 103 victims. The service was hosted by the congregation of St. Nicholas Romanian Orthodox Church, in Alliance, OH. The Victims of Flight 103 organization has grown to the point where it operates on an international scale. With this global perspective, one could legitimately ask why they chose the small, industrial town of Alliance as the site of their meeting. The answer is simple: it lies in the memory of a 21-year-old Ohioan named Peter Vulcu.

Candit and Georgina Vulcu came to the United States from Romania to find a better life for themselves and for their children. The deplorable conditions currently being imposed on Romanians by the Ceaucescu government demonstrates how bleak life could have been for the Vulcu family. As in most immigrant stories, they worked hard—Candit at the American Steel Co. in Alliance, and Georgina doing laundry—in the hope that their family would prosper. Sons Alex and John established their own businesses in Houston, TX. The Vulcu's daughter Angie remained in Alliance, as did their son Peter, who completed his bachelor of arts degree at Alliance's Mount Union College. Peter embodied not only the Vulcu's hope for a new future in a new world, but also the family's deep love and respect for their homeland.

Peter Vulcu was killed on Pan Am flight 103 as he was returning from an extended visit to Romania, a visit meant to renew ties to his people, and to his family's home.

Mr. President, every life lost aboard flight 103 was precious, and extraordinary in its own special way. Yet, Peter Vulcu symbolized something beyond the extraordinary. Losing Peter was truly losing something of America. Not only was he a first-generation member of our great melting pot, he was also a bona-fide immigrant success story. Aside from being the first in his family to attend college, Peter achieved the distinction of being the youngest licensed stock broker in the State of Ohio. Peter planned to begin work in a local brokerage firm 2 weeks after his return home.

The Vulcu family's tragedy is an American tragedy. In destroying their hope for the future, the flight 103 terrorists attacked the essence of our national spirit: the will to achieve, and the desire to build a better life for oneself and one's family.

In Romanian orthodox tradition, a memorial service is held in honor of the deceased 6 months after his or her passing. June 25 marked the Sunday immediately following the 6 month anniversary of flight 103's destruction on December 21, 1988. The Vulcu family and the congregation of Saint Nicholas Church used this occasion to gather with other, similarly stricken families.

Mr. President, I am sorry to say that Peter Vulcu's story is not the only one from the State of Ohio that is especially tragic. Unbelievable as it may seem, there was a second Ohio immigrant family torn apart by the flight 103 bombing.

John Dixit is a young medical doctor in Cleveland Heights, OH. He and his family are of Indian extraction, and it was a visit to their homeland that put them aboard flight 103 on December 21. John had returned to India to get married, joined by most of his immediate family, all of whom lived in Ohio. After the wedding, the Dixit family had planned to return to the United States together, with only John staying behind to attend to some final details. At the last minute, his new wife decided to remain with her husband for an additional few days.

Her decision saved her life, as the entire group held tickets for Pan Am flight 103.

John Dixit's mother, father, sister, niece aged 7, and nephew aged 3 all lost their lives on flight 103.

The remaining Dixits did not attend the June 25 memorial; they are not yet able to deal publicly with their grief.

Mr. President, I am very proud of the Ohio Victims of Flight 103 chapter. They are one of the most energetic groups in a national organization that has quickly become known for its energy. I think it's worth noting that the leader of the Ohio group, Johanna Hesami, did not actually lose a member of her own family on flight 103. She has pursued the interests of flight 103 families with single-minded devotion over these past 6 months. Johanna is a friend of Candit and Georgina Vulcu. Such is the depth of loyalty and emotion stirred by the losses of flight 103.

Mr. President, Peter Vulcu and the family of John Dixit are but two examples of the many other tragedies brought on by the flight 103 bombing in my State, and around the Nation. I do not bring these cases to the attention of the Senate simply to continue the ongoing lamentations of the past half year. The families of flight 103 victims are dealing with their grief: They do not ask us for our sympathy or for our charity.

This group has galvanized itself into a force for action, a force for increased vigilance against the scourge of terrorism and for better air safety. We recognize that their loss was a loss for all of us. Similarly, they have taken on a challenge that is of great personal importance to each of them, but also to each and every one of us here in the Congress and around the Nation.

Mr. President, the flight 103 families group has asked that an impartial commission of inquiry review the circumstances surrounding the bombing. They have assembled a substantial body evidence which suggests that U.S. Government agencies did not do what they should have done in the wake of the disaster. The evidence also suggests that there is a serious attitude problem among Federal bureaucrats who are responsible for securing passenger air safety.

The investigation being requested by the flight 103 families is not some vehicle through which they hope to selfishly bury their grief and frustration. The bombing of Pan Am flight 103 pointed out a number of tragic deficiencies in U.S. and western air safety procedures. Flight 103 families seek to make the skies safer for future travelers, in the hope that other families will not be forced to suffer their fate.

The flight 103 families met with President Bush and Secretary of Transportation Skinner on April 13, 1989 and received assurances that their concerns would be addressed. Soon after their meeting, Mr. Skinner announced that the administration saw no need for an independent inquiry into the flight 103 situation. He said that an in-house DOT probe would suffice.

Mr. President, as responsible public officials, we must be concerned about the sufficiency of an internal probe in an area as crucial as counter-terrorism. The policies of the Federal Aviation Administration, a unit of the DOT are among the most important issues raised by the flight 103 families in their argument for an independent inquiry.

Mr. President, should we really expect an agency under this kind of scrutiny to impartially investigate itself? I think that this is unfair to both the responsible professionals within the DOT, and to all those concerned with the future of airline security. I am troubled by the question of impartiality regarding an investigation into the flight 103 incident. I believe that we must invest the time, and the money, to find answers that the flight 103 families can have faith in, and that future air travelers can have faith in as well. Such confident answers will not come from an internal probe. This is why so much energy has been expended in pursuit of an independent investigation.

The flight 103 families' energy has been unfailing. They didn't miss a beat after the administration declined their request to institute an independent inquiry. With the skill and determination of seasoned lobbyists, they pressed the Congress to establish its own independent commission of inquiry. After overcoming the objections of many here on the Hill, the families' objective is almost in sight.

Legislation which would authorize and fund an independent investigation is currently being drafted, with considerable support from the Senate leadership. The cost of this bill will be relatively small monetarily; perhaps slightly more expensive in terms of the DOT's pride.

Mr. President, this inquiry will be an investment worth making. There are simply too many important questions about flight 103 left unanswered. I am proud to have supported the independent investigation proposal from the very beginning, and I urge my colleagues to join me when this bill comes to the floor of the Senate.

Mr. President, I want to say a final word about the flight 103 families organization. This diverse group of people was thrown together by a tragedy of incomprehensible proportions. They have adopted a common goal of making the skies safer for all future air travelers—and they have tenaciously pursued this goal in the face of formidable opposition.

Mr. President, these people are true American heroes. We owe them our gratitude for what they have accomplished so far, and our support for their continuing efforts.

THE FLAG—A UNIQUE, COMMON BOND BETWEEN US

Mr. HATCH. Mr. President, each time the American people see the flag burned or otherwise desecrated, the overwhelming majority of Americans will burn with anger, and rightly so. The American people revere the flag as a unique symbol of our country and of the freedom we enjoy as Americans. It is the one symbol that unites a very diverse people in a way nothing else can. Despite our differences of party, politics, philosophy, religion, ethnic background, economic status, social status, or geographic region, the flag forms a unique, common bond among us.

So strong is the attachment of the people to the Stars and Stripes, it may be said that the flag is a representation of our country in many intangible ways. Those who believe that the American people's deep-seated and abiding regard for the flag will wane or that Americans do not expect Congress, clearly and with certainty, to safeguard the flag are just kidding themselves.

Justice Stevens, dissenting in Texas versus Johnson, aptly stated:

> A country's flag is a syumbol of "more than nationhood and national unity." It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas. . . .
>
> [The American flag] . . . is a symbol of freedom, of equal opportunity, or religious tolerance, and of goodwill for other peoples who share our aspirations. . . .

As Justice White has written:

> One need not explain fully a phenomenon to recognize its existence and in this case to concede that the flag is an important symbol of nationhood and unity, created by the Nation and endowed with certain attributes. *Smith* v. *Goguen*, 415 U.S. 566, 587 (White, J., concurring).

Chief Justice Rehnquist wrote:

> The significance of the flag, and the deep emotional feelings it arouses in a large part of our citizenry, cannot be fully expressed in the two dimension of a lawyer's brief or of a judicial opinion. *Smith* v. *Goguen*, 415 US. at 602 (1974) (Rehnquist, J., dissenting).

The Chief Justice then made a point that rang particularly true to me as ranking member of the Subcommittee of Patents, Copyrights, and Trademarks:

> . . . If the government may create private proprietary interests in written work and in musical and theatrical performances by virtue of copyright laws, I see no reason why it may not . . . create a similar governmental interest in the flag by prohibiting even those who have purchased the physical object from impairing its physical integrity. For what they have purchased is not merely cloth dyed red, white, and blue, but also the one visible manifestation of two hundred years of nationhood . . ." Id. at 602-603.

In my view, Mr. President, it cannot be seriously argued that the protection of the flag from physical desecration impairs the first amendment's principle of freedom of speech. This freedom has never been deemed absolute. Libel is actionable, even under the first amendment. A person cannot blare out his or her political views at 2 o'clock in the morning in a residential neighborhood and claim first amendment protection.

Protecting the flag from physical desecration does not prevent a single idea or thought from being expressed. It does not interfere with the numerous ways of conveying an idea—through speech, use of placards, leaflets, newspapers, and more. It merely prevents conduct with respect to one object, and one object only, our flag. We can withdraw that one unique object from physical abuse and, I assure you, our freedom of speech will remain intact. Indeed, for many years, a Federal statute and 48 statutes did protect the flag. Can anyone identify actual harm to the first amendment during this time?

Moreover, there is no slippery slope here—because there is simply nothing else like our flag.

I think the Supreme Court made a mistake in Texas versus Johnson. I became a cosponsor of S. 1338, Senator BIDEN'S statutory response to Texas versus Johnson because I thought it was important to register immediate concern about that decision. I am also a cosponsor of constitutional amendments to overturn the decision and protect the flag from physical desecration, including Senate Joint Resolution 169, which I introduced, as well as Senator THURMOND'S proposal, and the President's proposal.

Upon reflection, I have concluded that a constitutional amendment is absolutely necessary to ensure with certainty the validity of any statute banning flag desecration. I believe it is unsound to try to overturn this Supreme Court interpretation of the Constitution by a statute.

Even a facially neutral statute is, at a minimum, at severe risk when applied to a person who desecrates the flag as part of a political expression, after Texas versus Johnson. Why? Because the Supreme Court declared in that case that the Government's asserted "interest in preserving the flag as a symbol of nationhood and national unity" is insufficient to overcome a person's so-called right to burn the flag as part of expressive conduct. Indeed, it cannot be denied that the principal, if not the only, purpose in enacting a facially neutral statute, if we do so, is to prohibit expressive conduct that physically desecrates the flag. Because this is the clear purpose of the statutory approach, that approach is extremely risky after Texas versus Johnson.

Moreover, I want to consider carefully whether a neutral, blanket statute reaching all physical desecration, such as S. 1338, is one we ought to enact. I think a blanket statute may sweep too far. There are legitimate reasons to dispose of flags in a way that would seem to run afoul of such a statute. Yet, any exception we write into a statute further undermines its constitutionality under Texas versus Johnson. The Court there noted if a State were to forbid "flag-burning wherever it is likely to endanger the flags symbolic role, but allow it wherever burning a flag promotes that role—as where, for example, a person ceremoniously burns a dirty flag—we would be saying that when it comes to impairing the flag's physical integrity, the flag itself may be used as a symbol—as a substitute for the written or spoken word * * *—only in one direction." Slip opinion at 18, 19. This, the Court indicated, is impermissible. While the Court did not make this remark in the context of an otherwise blanket ban on flag desecration, I am deeply concerned that such a rationale would be used ot invalidate just such a blanket statute.

In light of these concerns, I have withdrawn my cosponsorship of S. 1338. An amendment is the safest, surest, and most permanent way of achieving the protection of the flag that the supporters of a statute only approach also favor. I note that the Federal statute, 18 U.S.C. 700, has not yet been before the Court or struck down by it. If we enact a constitutional amendment, this statute will already be on the books. Thus, there will be no gap in protection of the flag between the effective date of an amendment and the enactment of a new statute.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, it is now the 1,599th day of Terry Anderson's captivity in Beirut.

Peggy Say, Terry Anderson's sister, has shown remarkable strength and purpose in the face of her brother's ordeal. Of course, it is a nightmarish ordeal for her and her family as well.

I ask unanimous consent that a Los Angeles Times profile of Peggy Say be printed in the RECORD.

There being no objection, the profile was ordered to be printed in the RECORD, as follows:

[From The Los Angeles Times, Apr. 19, 1987]

PEGGY SAY: HOSTAGE'S SISTER IS WOMAN WITH A MISSION

(By Lee May)

BATAVIA, NY.—When Peggy Say met with Lt. Col. Oliver L. North in the White House last October, she begged for action to free her brother, Terry Anderson, who had then been held hostage in Lebanon for a year and a half.

She left the meeting, which occurred just before Anderson's birthday, in tears after telling North: "I once thought Terry might not have to celebrate his 39th birthday in captivity. Now he'll be damn lucky if he doesn't turn 40 in there."

North, showing no anger, replied, "Peggy, I promise you we are doing everything we can."

Only later did Say learn how true that was. The sale of arms to Iran, engineered by North and designed to win the freedom of Say's brother and the other American hostages in Lebanon, became public in early November.

The arms sales have also turned into the gravest crisis of Ronald Reagan's presidency—and Say's persistent pleading for Anderson's freedom may well have helped persuade Reagan to proceed with the secret arms sales.

Some of her mail has turned hostile. One writer said she "damned near brought down a President" and urged her to "go live in the Middle East and trade yourself off."

The criticism stings. "At the beginning," she said in an interview, "I had the feeling, 'Oh, my God, what have I done?' But in thinking about it and talking to a lot of other people, I had to realize that I can't be blamed . . . for the poor judgment of Administration officials in choosing this initiative."

In a quavering voice that reflected the weight of her statement, she declared: "If somebody said to me today, 'We have a chance to trade weapons to anybody and get your brother out,' I'm pretty sure I'd have to say, "Thank you, but let him be.' "

That is a difficult position for a woman who has devoted the last two years of her life—since practically the day Anderson was kidnapped on March 16, 1985—to winning her brother's freedom.

Terry Anderson's ordeal has also been Peggy Say's. Among the relatives of the 13 Americans who have been held hostage in Beirut since 1985, she has been the most outspoken, the most demanding, the most abrasive. She has established herself as a familiar figure both in public and in the corridors of the government.

She met with President Reagan and Vice President George Bush. She recalls Reagan telling her on Oct. 28, 1985, after the arms deals had begun: "I don't care what anybody says, I'm going to get those men home."

And at the White House National Security Council, Say met half a dozen times with North. "I know in retrospect," she said, "that it had to be very difficult" for North to listen to her "rant and rave" without divulging details of his efforts to free Anderson and other hostages.

Say's October, 1986, meeting with North was her last. He was fired on Nov. 25 for diverting profits from the Iran arms sale to the Nicaraguan *contras.*

Now she is frozen out of high-level government contacts. In her efforts to free her brother, she has taken on a lower profile. But she has not given up.

"I can't stop just because some people may find it offensive," she declared. "I figure it's too bad for them; it's not their brother."

Peggy Say, 46, was born Margaret Rae Anderson in Lorain, Ohio. She was living in De Leon Springs, Fla., when Anderson, chief Middle East correspondent for the Associated Press, was kidnapped in Beirut. His captors, the Shia Muslim group called Islamic Jihad (Islamic Holy War), offered to release him in return for 17 Arab prisoners held by Kuwait.

Two weeks later, Say and her husband, David, both of whom had lived in Batavia earlier, moved back. They rent a three-bedroom home with white siding on a busy street in this town of 16,000 in a rich farm belt of Upstate New York. David Say's building and electrical contracting business brings in more money here than it did in Florida.

The Says returned here not only to seek emotional support from family and friends but also to be closer to those they hope can help her brother—government officials and reporters based in Washington and New York.

A red-haired woman who wore blue jeans and a red knit top during the interview, Say said she had never thought of herself as a public person. Nevertheless, she quickly became the chief spokesman for the hostages' families.

"ONSLAUGHT" OF REPORTERS

Puffing a Winston 100, she remembered the "onslaught" of reporters and television camera crews each time any news about hostages came out of the Middle East. Friends answered the two telephones. Say was news.

She was also a nagging concern for the Reagan Administration. The Tower Commission report on the arms scandal cited an Oct. 4, 1986, computer message from Robert C. McFarlane, Reagan's former security adviser, to Vice Adm. John M. Poindexter, McFarlane's successor. Although out of government, McFarlane retained a home-computer link with the White House.

"By the way," McFarlane said, "I watched the news tonight and saw Peggy Say beating up on the Administration for not getting the Beirut hostages out."

He volunteered to spend "a couple of months" working on the hostage problem. "No guarantee and no need for any sponsorship [except for air fares and hotels]," he said, "but I might be able to turn something up. Think about it."

The next day, North flew to West Germany, the Tower Commission reported, to meet with Iranian officials. He reported to Poindexter on Oct. 10 that Iran, which held considerable sway over the captors in Lebanon, would do its "utmost to secure release of remaining hostages" if the United States sold it more weapons for its war with Iraq.

HOSTAGE FREED

After Iran received a shipment of 500 TOW missiles from the United States later in October, David Jacobsen of Huntington Beach, Calif., was freed after 17 months in captivity. Two other hostages had already been released, and two others had died. That left only Anderson and Thomas Sutherland still in captivity among those who had been kidnaped before the arms deals began in August, 1985.

But starting in September of last year, six more Americans were kidnaped. John H. Adams, the State Department official who monitors the hostage situation and reports developments to the families of the hostages, said the recent abductions have damaged the cause of Anderson and Sutherland.

Adams said the two longtime hostages have been "blurred into these latest six" kidnaping victims, who did not heed U.S. government warnings to get out of Lebanon. "The collective mentality in this country said, 'What in the hell are they still doing out there anyway?' " Adams said.

Six of today's eight hostages have wives in Lebanon who have turned to local authorities in their efforts to free their husbands, Adams said. That has made the Reagan Administration's job "a lot easier," he said.

"There has not been the clamor from the present families to meet at high levels in Washington," he explained. "They've been told that their contact with the State Department will be here, and I will give them whatever we know."

READILY ACCESSIBLE

Say praised Adams for being readily accessible to her. But she is not so satisfied with the government's performance at higher levels. Politicians, she complained, are more interested in ducking the Iran arms scandal's fallout than in freeing the hostages.

"There's this insanity in Washington, this fear," she said. "And I want to say to them, 'You think you're scared, how the hell do you think my brother feels?' "

She still makes a daily round of telephone calls to Washington, beginning with Adams and proceeding to officials representing Lebanon, Syria and Greece, among others. The Associated Press also is on her list. The questions are always the same: Have you heard anything? Is anything going on?

Before the Iran scandal broke, her list would have included someone at the National Security Council staff. McFarlane, describing Say as "insistent but reasonable," said they used to discuss a variety of plans.

"She had considerable imagination and would think up things we might do and had not tried," McFarlane recalled. Some of the ideas were good, he said, adding: "When I explained some were not good ideas, she would buy it."

SETS UP COMMAND POST

Say has set up a command post in a window-walled room at the front of her house. A desk, telephone, personal computer and files of clippings and correspondence fill the narrow, well-lit room. On an entire wall are pictures to remind her of the last two years: photos of her brother, of Say with Reagan, of her with Bush, of her with Mother Teresa.

Say writes to anyone with influence in the Middle East. She gets help from a Washington-based humanitarian organization, No Greater Love, which, according to board Chairman Carmella LaSpada, sent 4,000 toys and boxed of lollipops to Lebanon last Christmas and is negotiating to send medical supplies to Damascus and Beirut.

"You never know what's going to make them respond," LaSpada said.

Say travels a great deal and went to Damascus last July. Her only outside help on expenses comes from the Associated Press, she said. Frequently, she talks with members of other hostage families and with former hostages.

Several people described her as bright and energetic, an inspiration as they have tried to cope with their own crises. Jacobsen, calling her "a lovely lady," said Say and his own son, Eric, were instrumental in his release

because they "kept our situation before the American public."

SOME QUESTION TACTICS

Others question Say's assertive tactics. In Boise, Ida., Estelle Ronneburg, mother of hostage Jesse Turner, said: "I don't agree with her in some ways because she may do harm if we try to force things."

Some of the letters Say receives openly accuse her of subverting the Administration's foreign policy. "Your constant complaining and harping about the government's inaction led to the whole Iran arms mess," a Colorado woman wrote.

Terry Anderson's ordeal has taken a toll in Peggy Say's family. David Say, her husband of nine years, remembers the missed meals when she was away and the pressures that "drained both of us at different times, where we say we just can't take it anymore." Although he increasingly travels with her, he said, "it never gets any easier."

Nevertheless, the Says can still laugh about the time someone from the Middle East telephoned repeatedly, claiming to have Anderson and demanding ransom. "Honey, it's the kidnappers again," David Say told his wife after one call. He said they wanted $50,000, some Lee jeans and a stack of break-dance records. When the Says refused, the callers gave up.

Now the Says are trying to get their lives back to something approaching normal. Peggy Say is spending more time working on a cottage in the rolling countryside nearby and caring for her potted plants.

TIME FOR CHILDREN

She also makes more time for children: a stepson, David, 18, who is in the Air Force; a 25-year-old daughter, Melody Brewington, who recently gave birth to a son, and a 24-year-old son, Edward Langendorfer, who works in her husband's contracting business. Both of her own children, by a previous marriage, live nearby in Batavia.

Terry Anderson has two brothers and another sister, all of whom live in Florida.

A third brother, Glenn Anderson Jr., made a videotape for broadcast in Lebanon last June, seeking Terry's release. In the emotional appeal, he mentioned that their father had died of cancer earlier in the year and said that he himself was also suffering from the disease and wished to see his brother "one more time." Glenn Anderson, the eldest member of the family, died a week later, and Say does not know whether her hostage brother knows of either death.

Now Say is the oldest of the siblings and, because her mother is dead, the head of the family. Soon after the kidnaping she assumed leadership of the effort to free her brother, she said, because the other siblings "found it hard to deal with the media."

Say has managed to cope with reporters. Now she is trying to cope with the criticism her campaign has attracted. And she is looking forward to breaking out some Elvis Presley records and Miller beer when her brother comes home.

But now she waits. "Half in hope and half in fear," she said. "What's it going to be?"

WILLIAM LIGHT KINNEY III

Mr. THURMOND. Mr. President, it is with deep sorrow that I rise today to pay tribute to an exceptional young man, William Light Kinney III, of Bennettsville, SC, who was taken from us in a tragic and unexpected accident on July 21.

Words come with difficulty at times such as these, when we pause to reflect upon a shining, promising young life, taken before its prime. Light Kinney, a cheerful, handsome, and ambitious young man, was 20 years old when he was killed in an automobile accident.

As a young boy, Light achieved the prestigious rank of Eagle Scout in Boy Scout Troop 625, and he was also a member of the Order of the Arrow, Santee Lodge. Talent and good character were evident early in Light's life.

Light graduated from Marlboro Academy as an honor student in 1987. I was privileged to have sponsored Light as a Senate floor page during his junior year in high school, and I am glad that I had the opportunity to spend time with him while he worked for the U.S. Senate. Light also served as a member of the youth council of the First United Methodist Church in Bennettsville.

Light was a rising junior and active campus figure at Wofford College, where he served as a campus union representative for 2 years and as features editor of the school newspaper, the Old Gold and Black. Light, an English major and fourth generation Wofford student, planned to return to his hometown and work at his family's newspaper, the Marlboro Herald-Advocate. Light was also a devoted member of Alpha Phi Omega service fraternity, Pi Kappa Alpha social fraternity, the Wofford College Glee Club, and the ROTC. In his many activities and undertakings, Light gave his all.

We will cherish the memory of Light for years to come, and our fond recollection of him will inspire us to achieve greater heights in his name. Nancy joins me in extending my deepest and most sincere condolences to the Kinney family: his fine parents, Bill and Peggy Kinney; his sister, Elisabeth Kinney; his paternal grandmother, Mrs. W.L. Kinney; and his maternal grandmother, Mrs. V.R. Pegues. Our thoughts and prayers are with them all.

Mr. President, I ask that the following articles from the Marlboro Herald-Advocate be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Marlboro Herald-Advocate, July 24, 1989]

LIGHT KINNEY KILLED IN BEACH ACCIDENT

LITCHFIELD BEACH.—A 20-year-old Bennettsville man leaving a theater where he saw the public premiere of "Shag" drowned Thursday night in a pond near the parking lot after his car left the road, hit a low retaining wall and overturned in the pond, trapping him in the water.

William Light Kinney, III, of 508 East Main Street, Bennettsville, was pronounced dead in the Georgetown Memorial Hospital emergency room at 12:25 a.m. Friday.

Georgetown County Coroner Wilson Williams said he ruled the death accidental, and no inquest is planned as no drugs, alcohol, or excessive speed are suspected as causes. Authorities said the car was traveling at a normal speed, later calculated to be 23.65 miles per hour.

Kinney whose family has a Pawleys Island house and who was spending the summer working at 82 Queen, a Pawleys Island restaurant, was leaving the parking lot of the Tara II theaters at the Waccamaw House, authorities said.

The Wofford College rising junior had attended a benefit premiere showing of "Shag", a movie set in Myrtle Beach in 1963 and filmed partly on the Grand Strand in 1987.

He was alone in his 1988 Honda Prelude, which struck a low retaining wall on the bank of the pond adjacent to the parking lot on grounds of the Waccamaw House about 11 p.m. There is no barrier on the bank, and the car fell into the pond, landing on its roof in the 4-foot-to-5-foot-deep water. The sun-roof was open and the car apparently flooded immediately.

S.C. Highway Patrol Trooper Scot Edgeworth said Kinney may have been confused and thought he was on a driveway leading to the highway. Witness David Gault, who pulled Kinney unconscious from the car, said he might have been confused by bright lights along the highway.

Kinney's mother Margaret "Peggy" Pegues Kinney, and sister, Elizabeth Kinney, and her friend, Ann Dennis, of Clio were in their car behind him, though they did not see the Prelude fall into the pond, said Georgetown County Sheriff's Deputy Craig Mitchum. The three Kinneys had been together all night and had enjoyed "shagging" together only minutes before the accident.

Gault, chef at the J. Madison's restaurant across U.S. 17 from the pond, said he arrived after his manager heard women scream. When Gault arrived, he said, the car was upside down with its tail lights facing U.S. 17 highway.

"There were three people in the lagoon clinging to the car, screaming for help," Gault said. They were Light's mother and sister and Donald Hudson of Georgetown, a passer-by. Miss Dennis ran to the theater to seek help, and a father and daughter returned with her and later began CPR. Former Bennettsville Mayor Johnny Weaver, now of Pawleys Island, had been with them at the theater event and also rushed to their aid.

The water was too dark to see, so Gault felt for and found the driver's side door.

"I bent down, forced the door open, and reached in the car with my arms," Gault said, "He was floating in the car and I gently pulled him out the door and he floated to the surface."

On the pond bank, Kinney was given cardiopulmonary resuscitation. Members of the Midway Fire Department and Pawleys Island-Litchfield Rescue Squad—stationed across the highway from the Waccamaw House—took Kinney to the hospital, where resuscitation efforts continued.

Mitchum estimated it was about 10 minutes from the time the car fell into the pond until Kinney was pulled out.

His car had automatic seat belts, electric windows and power locks.

WM. LIGHT KINNEY III

Funeral services for William Light Kinney, III, 20, of 508 East Main Street, Bennettsville, were held Saturday at First

United Methodist Church with interment following at Sunset Memorial Park.

Light died early Friday, July 21, 1989, in an automobile accident at Waccamaw House, Litchfield Beach. He was working this summer at a Pawleys Island restaurant and living at the beach.

Born January 4, 1969, he was the son of Mr. and Mrs. (Margaret P.) William L. Kinney, Jr. of Bennettsville.

Light was a 1987 honor graduate of Marlboro Academy and a rising junior at Wofford College, where he was the fourth generation of his family to attend. He was majoring in English and planned to return to his family's newspaper here following completion of his education.

Light was an Eagle Scout with Boy Scout Troop 625, and a member of Order of the Arrow, Santee Lodge. While a junior in high school, Light served as a floor page for United States Senator Strom Thurmond. He was a member of First United Methodist Church wher he served on the Youth Council.

At Wofford, Light served as a Campus Union representative for two years and as Features Editor of the Old Gold and Black newspaper. Light was a member of Alpha Phi Omega service fraternity, the Wofford College Glee Club, and ROTC. Light was currently rush chairman for Pi Kappa Alpha social fraternity.

In addition to his parents, Light is survived by his sister, Miss Elisabeth Mayer Kinney, and his grandmothers, Mrs. W.L. Kinney and Mrs. V.R. Pegues, all of Bennettsville.

Memorials may be made to First United Methodist Church, P.O. Box 456, Bennettsville, S.C. 29512, or Wofford College, 429 N. Church St., Spartansburg, S.C. 29301.

FORMER SENATOR ROMAN L. HRUSKA'S 85TH BIRTHDAY

Mr. THURMOND. Mr. President, on August 16, 1989, our esteemed former colleague, Roman L. Hruska, will celebrate his 85th birthday. Although he retired from this body in 1976, Roman Hruska is still vividly remembered for the outstanding contributions he made to this country as a Senator.

Roman was my colleague on the Judiciary Committee where he was for many years its ranking minority member. In that capacity he worked diligently for the reform of the criminal code and for improvements in the judicial system from which we benefit today. His tireless labors brought about much good legislation, but equally important, he was instrumental in either defeating or amending many measures which he felt would have been harmful for the Nation. When he was on the losing side of legislation, which was infrequent, Roman could always be counted on to eloquently present his views in minority statements. These statements, setting forth the pitfalls to certain legislation, have been used as points of reference in subsequent years.

Always a stalwart on matters of national defense, Roman also never forgot the agricultural interests of his great State of Nebraska. Unlike many former Members, Roman chose to return to his home State when he retired. But back in Omaha, Roman has been anything but retired. Continuing the practice of law, which had always been his first love, Roman today continues at a pace which tires many associates half his age. He is also greatly involved in many civic and business enterprises and, as a senior party statesman, is frequently called upon for his able advice. Roman is blessed with a wonderful and lovely wife, Victoria, two sons and a daughter and is, in addition, a very proud grandfather. They will, no doubt, be gathering at his summer cabin on the Platte River to celebrate this important milestone.

Mr. President, I know that my colleagues will want to join me in wishing Roman Hruska a very happy birthday and to extend the best of wishes to him and his family.

DAVID H. McDOLE, WESTMORELAND, TN

Mr. SASSER. Mr. President, I rise today to pay tribute to David H. McDole, of Westmoreland, TN, who is leaving my staff after 11 years of loyal and dedicated service.

When Dave McDole came to my staff in 1978, he brought with him excellent administrative abilities and a vast knowledge of State and Federal governments. Because of these attributes, I named him as my State coordinator and he has served very capably in that capacity.

Dave McDole is known for his ability to cut through red tape and resolve problems and, over the years, he has been an effective liaison for many of my constituents who have had problems with Federal and State agencies. Additionally, he has coordinated activities in my six State offices and acted as my representative on a daily basis.

Dave McDole has devoted his entire life to public service. Before joining my staff, he served for 12 years in Tennessee State government. He was an assistant commissioner in the Department of Insurance, and a regional manager for the Tennessee Public Service Commission.

Mr. President, Dave McDole is one of those rare individuals who understands the true meaning of public service. His dedication and hard work for the benefit of others exemplify the type of commitment respected and admired by all of us in public life.

Dave has been a trusted employee, a confidante, and a long-time friend to me and my family. As he returns to State government, I wish him the very best in the days and years ahead.

CONGRATULATING WILLISTON BABE RUTH TEAM

Mr. BURDICK. Mr. President, I grew up in Williston, ND, and I am proud to announce that the Williston Babe Ruth baseball team is No. 1 in North Dakota for the third consecutive year. The Williston team will be competing in the regional Babe Ruth baseball tournament in Iowa City, IA.

Our State champions completed the 1989 season with a 13 and 0 record, remaining undefeated throughout the State tournament with a 7-to-1 victory in the final game. These young people can be very proud of that impressive record.

I would like to congratulate coaches Everett Enno and Chris Thon, and all the members of the Williston team for their hard work and determination. The 1989 team consists of Chris Buschta, Darcy Collings, Tate Cymbaluk, Aaron Finders, Kyle Helstad, Jeremy Holm, Jake Luidahl, Shawn Peterson, Darwin Potter, Kyle Rossland, Mike Ruffalo, Dan Soggie, Jason Stensos, Clint Strietzel and Todd Wahl.

I commend everyone involved with the Babe Ruth program, and I wish these outstanding youth athletes from Williston the best of luck as they travel to Iowa City to represent the State of North Dakota. Thank you.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1352, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1352) to authorize appropriations for fiscal years 1990 and 1991 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1990 and 1991, and for other purposes.

The Senate resumed consideration of the bill.

Mr. EXON. Mr. President, temporarily, while waiting for one or two other Senators to come to the floor, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. EXON. Mr. President, today begins the 6th day of debate on the defense bill, although for several days we were hung up for several hours on other matters. The Senate has disposed of 36 amendments thus far, with

six rollcall votes. Despite the fact that we are handling numerous amendments, the lists goes on and on and on and does not get shorter and shorter and shorter.

As the majority leader indicated last night, the Senate has a substantial amount of work to do this week in addition to this bill. It is essential that we complete action on this bill by tomorrow night and all Members of the Senate should be on notice that that is the goal. That means a very late session tonight and a very late session tomorrow night, possibly going into the morning hours on both days. So the quicker we can get Members here, the more that we can limit debate, the sooner we will have a chance to come up with a reasonable proposal that can stand final passage.

For that reason, a cloture motion was filed last night. That means the cloture vote will occur tomorrow 1 hour after the Senate convenes. If cloture is invoked, any amendment that is not filed by 1 p.m. today—let me repeat that, Mr. President—if cloture is invoked tomorrow, any amendment that is not filed by 1 p.m. today—will be ineligible for consideration except by unanimous consent. Second-degree amendments have to be filed 1 hour prior to cloture. Of course, eligibility after cloture is determined by the Chair based on a number of factors only one of which is the timely fashion of filing.

Today's general schedule, subject to the Chair's recognition, is that we would have started at 9 o'clock, and we are already 10 minutes behind schedule. But we are going to move ahead with the Levin MX amendment. We expect to ask the Senate to consider the four committee burdensharing provisions that we discussed yesterday, either right before or right after the joint caucuses at noon today.

In addition, the committee has the Department of Energy waste cleanup provisions that we will offer in that same general timeframe. Senator KERRY has indicated that he will be available to do his Asat amendment in the 4 p.m. timeframe and at 5:30 p.m. we expect Senator GLENN to offer a series of amendments related to the personnel provisions of the bill.

We will be very late this evening with many rollcall votes and everyone should be on notice.

Mr. President, I yield the floor. I hope the Chair will consider the recognition of the Senator from Michigan so he can proceed with his amendment.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I join with my distinguished colleague from Nebraska. We are here prepared to receive amendments from Members to facilitate and expedite their consideration. It is my hope we can move along swiftly this morning such that we do not have to spend a late night here but have an orderly day and then resume tomorrow.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

AMENDMENT NO. 535

(Purpose: To reduce certain authorizations of appropriations for the MX rail garrison program and to increase authorizations for certain other programs)

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of myself, Senator SIMON, and Senator DECONCINI, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. SIMON, and Mr. DECONCINI, proposes an amendment numbered 535.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 17, strike out "$2,706,500,000" and insert in lieu thereof "$2,766,500,000".

On page 4, line 20, strike out "$15,930,600,000" and insert in lieu thereof "$16,272,600,000".

On page 4, line 25, strike out "$7,010,000,000" and insert in lieu thereof "$6,787,000,000".

On page 21, strike out line 5 and all that follows through line 8 on page 23.

On page 32, line 4, strike out "$14,629,932,000" and insert in lieu thereof "$14,455,932,000".

On page 341, line 15, strike out "$897,460,000" and insert in lieu thereof "$792,460,000".

On page 405, after line 25, add a line titled Defense Waste R&D and Compliance Technology, $300,000,000.

Mr. LEVIN. Mr. President, this amendment would reduce the funding for the MX Rail Garrison Program $502 million. It eliminates the procurement and Military Construction funds for the rail cars and the garrison structure. It leaves in place most of the research and development funds. As a matter of fact, it leaves in place a robust $600 million for research and development on the MX rail garrison, which is $100 million more than this year's budget.

The amendment does not kill the MX rail garrison. It delays final judgment on whether to procure MX rail garrison until after the development and testing is finished and until after the President decides whether he wants to ban mobile missiles or allow mobile missiles.

Mr. President, it is a little-known fact, perhaps, that the budget calls for the procurement and construction of MX rail garrison before the development and testing is completed. The GAO reported to us in January of this year that the rail garrison acquisition strategy provides for the start of production 2 years before the completion of the development contract. The train car development contracts extend into mid-1992, even though a production decision is scheduled for early 1990.

So we are making the same mistake on the MX rail garrison that we made in other systems. We are buying it before its testing and its development is completed. We are making a procurement decision under this budget proposal before the testing and the development is completed by, in fact, about 2 years.

This amendment says do not begin procuring the MX rail garrison cars and the structures. Do not put those structures in place. Finish the testing, finish the development and then decide whether or not we want to procure and want to construct the MX rail garrison.

I believe so it is a little-known fact we have all this concurrency in the MX Rail Garrison Program. A better-known fact is that the President does not know if he wants to ban mobile MX's in the negotiations that are taking place in Geneva.

Our current position is to ban mobile MX's and to ban other mobile ICBM's, but the President says he is going to review that. He is going to reconsider his position in the event that we provide the two mobile missiles. He does not know what that reconsideration will lead to.

We have tried, indeed for about a year, to find out what the position of the last administration and this administration is on mobile missiles. But the President says, give him the blank check, he will fill it in later.

This amendment takes $502 million, mainly from the procurement of MX rail garrison, again leaving most of the research and development funds, and it applies that $502 million to two very useful conventional systems, the F-14D and the Apache helicopter. Of those two systems the F-14D was prematurely terminated, and the Apache helicopter was prematurely cut.

This amendment also applies $100 million to nuclear waste cleanup technology funding. We are going to have a major need for nuclear waste cleanup technology funding. I will get into that more in a moment. But this amendment divides that $502 million among three very important programs. It maintains the F-14D manufacturing this year. It maintains the Apache system at the current production rate. And it applies $100 million to nuclear waste cleanup technology funding.

Mr. President, Secretary of Defense Cheney showed courage in his budget submission. We should match his cour-

age. But we should not rubber-stamp his defense priorities.

The bill before us does little to change or even question the President's priorities. It increases SDI by $500 million over last year and accepts uncritically the President's rationale, that we need to fund two mobile missiles in fiscal year 1990 so he can go back and review the U.S.-proposed position banning these weapons under a future arms control treaty.

In the START talks, our current position is to ban all mobile land-based intercontinental ballistic missiles. But, in Washington, we are being asked by the administration to spend well over $1 billion this year on two mobile ICBM's, and $47 billion for those systems in the years ahead.

If we provide this funding we are told the President will review our current negotiating position in Geneva regarding mobile missiles. He has not agreed to change it. He has not decided to change it. He just said he will review it.

So, with the rail mobile MX, we are asked to provide funding to deploy a system that the President is currently asking be banned in the START negotiations. The President wants to keep his options open. So should we. Until he decides his long-range goal.

Then we will be in a position to judge how wise and coherent those discussions are. To fully fund two new mobile systems before the President decides whether he wants to change his goals, I believe, is to abdicate our responsibility to judge the President's decision.

We should not be writing a blank check on two mobile systems. We do not know if the President wants to deploy or ban those two mobile systems. We should wait until that decision is made and then judge the merit of any new arms control position that is undertaken by the administration.

Pending the President's review of our START negotiating position, we should keep the MX Rail Garrison Program alive this year but with an initial operating capability at a later date, a date more comparable to that of the Midgetman missile.

In this way, we keep most of the research and development funds in the budget and they have not completed the research and development—but do not commit ourselves to deployment of the MX Rail Garrison Program. By taking this approach we can accomplish a whole host of useful objectives.

First, we can avoid the concurrency which I described; committing ourselves to procurement before the testing is completed.

Second, we could still give our negotiators leverage because the MX would be on track, although a slower track than the President proposes. It does, under this amendment, keep the MX on track.

Third, we can save some money.

Fourth, we can allow the President to review his negotiating position.

Fifth, we will keep alive the Senate's role of considering executive branch plans after they have been evolved.

And, sixth, we can fund some higher priority programs that I plan to discuss in some detail in a moment.

Let me emphasize at the outset of this debate that the amendment that I offer does not kill the MX Rail Garrison Program. The effect of this amendment will be to delay the procurement decision by about 2 years and to place this decision on a track that more nearly approximates that of the small ICBM while the President figures out what he wants to do with these mobile ICBM's: Keep them or trade them as part of an effort to ban them.

The two-missile approach is simply not a sensible commitment to make at this time. The majority of the Congress probably believes that one mobile ICBM is necessary, but there has been a split on the question of which one is the right one: MX or Midgetman. Some favor the Midgetman while others have favored the MX rail garrison. I believe the majority think we should fund both. Another minority, including this Senator, do not believe that we should deploy either. But the President has not chosen to make a choice on this issue. He has decided to fund them both, even though his Secretary of Defense has said we could not afford them both. So, here we are.

The long stalemate has created a vacuum of indecision. It has now been filled with a deal based on the philosophy: I'll support your missile if you support my missile.

On the Midgetman issue, the administration did not propose one missile and fight for it; they punted and we are prematurely on the road to two mobile ICBM's. Other needed defense programs and nuclear technology for the cleanup will pay the price. Those other programs that are needed will pay the price this year, next year, and the year after, why? Because while asking for two mobile ICBM's and for a big increase in star wars, the Pentagon has presented to us a budget that contains significant cuts in conventional programs.

The Secretary has received a lot of credit in Congress for his willingness to make some cuts. He deserves credit for his courage, but he made the wrong choices. Too many of the administration's choices harm our conventional capability because too many resources are devoted to strategic and nuclear systems.

The bill before us raises spending for the strategic defense initiative by half a billion dollars over last year. With the increases in spending this program has accumulated as it rolls along—untested and with its dubious value if it is deployed—we should change its name to the "snowball defense initiative." It simply grows and grows. Total spending for next year in this bill for this program is $4.5 billion. Do we really want an increase of a half billion dollars in SDI while prematurely ending useful, needed programs like the F-14 and Apache helicopters? I believe that decision represents the wrong defense priorities. And a premature decision to buy both the MX and the Midgetman would also be the wrong defense priorities.

The primary mission of U.S. strategic nuclear forces is to deter a nuclear attack against the United States. As the ultimate threat, these weapons contribute to deterring any Soviet comtemplation of launching an attack against the West. The deterrence by strategic nuclear weapons stems from the certain knowledge of the aggressor that he would have undreamed of devastation visited on himself by retaliation against such an attack. The principal assumption that leads to this "I'll support your missile if you support my missile" approach is because our 1,000 ICBM silos can be accurately targeted by Soviet missiles and that the United States could not retaliate if it were attacked. It assumes, that the United States is therefore, vulnerable to nuclear blackmail or defeat.

In response to this perceived vulnerability, Midgetman supporters claim that we need to spend another $37 billion on the new generation single-warhead ICBM because it will be virtually invulnerable to a surprise attack. The supporters of the MX missile argue that it, too, should be made mobile at a cost of $10 billion so that this 10-warhead nuclear weapon can become less vulnerable to attack during a crisis than it is as now deployed in silos.

Let us just take a moment to look at the military strategy behind the MX rail garrison proposal. In normal times, each of these 10-warhead ICBM's will sit on railcars, 2 per car, 20 warheads on 1 target. Now, remember, in this latest plan, they will be pulled out of their hardened silos where they now sit and placed on unhardened railroad trains within military garrisons. In this configuration, the MX will be uniquely vulnerable to a surprise attack.

Like the star wars system that has been transformed in mission over the years from a proposed armor-like shell of protection to a very limited defense for our missiles, the MX, in times of calm, would be reconfigured from a missile that has at least a chance of survival in the hardened silos in which they now sit, into strategic fish in a barrel. That is an especially important point for those who believe that the strength of the MX would lay in its mobility.

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In fact, the MX would rarely be mobile in this proposal. In its garrison, 2 MX missiles with a total of 20 warheads, would sit awaiting a call to be moved out. So, the MX in rail garrison is less survivable than it is now, except in those rare cases when our forces are generated. It will not be able to survive a surprise attack, and yet its destructive potential will make MX in garrison an especially inviting target for a surprise attack when a few enemy warheads could eliminate 20 of our warheads.

In time of crisis, when our nuclear forces are generated, the MX train is supposed to pull out of the station and leave its vulnerability behind. What exactly is a time of crisis? Thirty years ago, we created a defense condition system, Defcon, and since then on three occasions worldwide U.S. nuclear forces were placed on a high state of alert. These events occurred in May of 1960 during the Paris summit conference; October of 1962 during the Cuban missile crisis; and October of 1973 during the war in the Middle East.

So in a comparable time of crisis, the MX missiles, 500 total warheads, would be roaming the country side evading enemy detection. The enemy, if it was the Soviet Union, for example, knows that even half of those warheads could obliterate every Soviet city with a population of more than 100,000 people. At times such as this, the mobilizing of MX could become an apocalyptic signal to an enemy.

The MX, the missile that they call the Peacekeeper, is a system that invites surprise attack because it is vulnerable on unhardened trains, except in times of crisis when it threatens obliteration of the world in a full-scale nuclear exchange. Let me just remark that in times of crisis, we need a mobile MX system least because our planes and submarines are generated in a time of crisis, and we have more than twice as many warheads available as in times of calm. The numbers here are important. In normal times, some 3,500 of our nuclear warheads could survive a surprise attack on the United States. In times of crisis, the only time when the MX in rail garrison would be survivable, we have already more than 8,000 warheads that would be survivable shortly after our forces were put on a higher state of alert.

The fact is that for either a surprise attack or an attack that followed a crisis, the United States now and for the foreseeable future has more than enough nuclear weapons to launch a totally devastating counterattack against any enemy. That is the essence of deterrence. Every military official who has testified before the Armed Services Committee this year has stated that we have sufficient nuclear deterrence.

On April 14, I asked Admiral Crowe, the Chairman of the Joint Chiefs of Staff the following question:

> Do we not have a considerable hedge now against an attack after we have had some strategic warning?

The Chairman's answer:

> Yes, we do.

Secretary Cheney on May 3 told the Armed Services Committee:

> We have thousands of survivable warheads deployed that would survive even a bolt-out-of-the-blue attack, when you consider our submarine forces and our alert bomber forces.

Even if we accepted the notion that the Soviets could knock out every ICBM that we have—a very questionable assumption by the way—and destroy a portion of our alert bomber forces, and hit strategic submarines that are in port, we would still have about 3,500 nuclear weapons on submarines at sea and on bombers that could be hurled at the Soviet Union. Just one Trident submarine carries enough nuclear fire power to destroy more than 150 city-sized targets and we have more than half our force of 35 Trident and Poseidon ballistic missile submarines away at sea. The B–2 Stealth bomber currently coming on line is designed as a survivable strategic delivery system for nuclear weapons. And, this scenario of a knockout punch aginst our ICBM's does not include the nuclear weapons possessed by our allies, or our nuclear-tipped cruise missiles on ships at sea.

As some notable generals and administration officials have testified recently, it would be totally irrational for a Soviet leader to launch a nuclear attack when faced with such certain and potent retaliation.

Mr. President, at the same time there is a proposal that is a premature commitment to two redundant mobile missiles, we know that we have some conventional weaknesses. The Secretary of Defense, the President, the Chairman of the Joint Chiefs, have been vocal about those conventional weaknesses.

Admiral Crowe, in the testimony before the Armed Services Committee that I noted earlier said:

> I would like to see the prospect of nuclear war diminished, and I mean really diminished. Right now, the only way to do that is to improve our conventional capability.

Last year, while testifying before the House Armed Services Committee, Lt. Gen. Donald Pihl, the military deputy to the Assistant Secretary of the Army for Research, Development, and Acquisition, stated:

> The highest priority [for the Army] would be the M–1 tank . . . [followed by] the Apache helicopter.

Yet, in this budget the administration cut back on M–1 tank production and proposed the cancellation of the Apache helicopter program.

Gen. Royal Moore, the Director of Operations for the Pacific Command, stated before the Armed Services Committee this year:

> Also required are modernization efforts in our major problem areas of antisubmarine warfare, surveillance and intelligence, air warfare with preferred munitions, and strategic lift.

Vice Admiral Dunn, stated in testimony before the House Armed Services Committee last year that—

> We still have not filled the resupply pipeline and forward prepositioned inventories of several of the newer, more sophisticated weapons like HARM, IRR Maverick, Phoenix, and Harpoon.

The budget request, however, called for deep reductions in many of these missile systems.

Gen. Thomas Richards, USAF, Deputy Commander in Chief to the U.S. European Command, stated in testimony last year:

> Serious shortages remain in certain ground and air munitions, high technology surface-to-surface rounds, antiradiation missiles, and in the readiness of support forces.

Lt. Gen. K.A. Smith, USMC, Deputy Chief of Staff for Aviation, testified last year:

> The current inventory of expeditionary munitions particularly 2.75, Zuni rockets, and machine gun training ammunition is below the level necessary for training readiness and sustainability.

Mr. President, there is no reason or excuse for these equipment and training shortfalls cited by our military leaders. It simply is not in the best interests of our Nation to continue along the path where we provide funding for redundant strategic weapons, like two mobile missiles, and unfocused programs, like SDI, when we face such real conventional shortfalls.

The price of this excessive strategic spending plan is evident in the conventional programs which the budget before us proposes for premature termination.

At a time when the administration is requesting funding for two new ICBM's—which will cost $47 billion—it has asked us to approve the elimination of eight major conventional weapons systems and has offered up large reductions in advanced conventional munitions as a way to pay for these strategic programs.

Now Mr. President, it is fine if the administration wants to send its spokesmen up here to tell us and tell the press about the need for MX and Midgetman. And it is fine also if these spokesmen want to dispute the merits of conventional programs that the administration wants to get rid of.

But I have to tell you it is an entirely different matter when a spokesman appears in the midst of a substantive debate, as the Vice President did recently, and suggests that conventional weapons programs are little more than "pork" or "pet rocks."

And certainly, Mr. President, all programs and all systems are open to that easy shot because they are built by contractors identified with a particular area or State.

But the definition of "pork" suggests Government spending is for political reasons. And if we want to get into identifying this pork, these pet rocks as Vice President QUAYLE called some conventional programs many of us believe in, we should start with two new mobile ICBM's in the budget before us. Some people want the MX. Others want the Midgetman. The administration could not figure out how to lead us out of the deadlock. And so, we have $47 billion in spending for the political reason that nearly everyone gets the new missile they want. And if it is not pet rocks that we are making the American people buy, it is at least pet rockets.

So there is a political understanding we will buy them both, Midgetman and MX, but at what price? What are some of these programs that are suddenly labeled "pet rocks" by some in the administration, an administration that is claiming to be strong on defense.

Among the programs slated for termination in fiscal years 1990 and 1991 are the Navy's F-14D fighter and the Army's Apache helicopter. I find each of these proposed terminations to be puzzling because last year both of these programs were cited as integral elements in our future conventional defense.

Let me begin, with the F-14D.

Last year Congress funded the new production of 12 F-14D's because the Pentagon told us that this was a needed ongoing capability and we needed years more of production.

In fact, last year, when Secretary Carlucci testified before the Senate Armed Services Committee, he had on his list of acquisition priorities, new production of the F-14D.

Secretary Carlucci last year went on to state, "Several new systems now in production or development will enhance our Tactical Air Force capabilities. In fiscal year 1988 we began procuring the F-14D, a significantly upgraded version of the combat-proven F-14A with new avionics and engines. We expect a Navy variant of the ATF—advanced tactical fighter—to provide a necessary and timely follow-on to the F-14D near the turn of the century." Just think, in fiscal year 1988 we began procuring the F-14D. That is the program that is proposed for termination this year.

As of last year, the Pentagon said we needed to purchase 60 new F-14D's over the fiscal 1990 through 1994 period; that is, 12 per year in 1990, 1991, 1992, 1993, and 1994. Suddenly, we are being asked to forgo the new production of the F-14D as a sacrifice to a tight defense budget. Let us be clear—the reason is not that the defense budget has been cut; it is because we have chosen to robustly fund other programs such as MX and star wars.

The F-14D need not be cut this year unless we, the Congress, place a higher priority on expediting MX by procuring its rail garrison 2 years before the completion of development and testing of the system and unless we in the Congress decide we want to put a half billion dollars more in star wars.

The elimination of this F-14 fighter will have serious consequences for naval aviation for the next decade. In fact, Deputy Secretary of Defense, Donald Atwood, in a statement before the Armed Services Committee, said the resulting loss of 60—newly manufactured—aircraft will cause "inventory shortages in the late 1990's."

Mr. President, let me just turn briefly to the Apache helicopter, the AH-64.

Once again the President's request contradicts what the Pentagon has been telling us over the last few years. Last year, the Pentagon planned to purchase a total of 300 Apaches, between fiscal year 1990 and fiscal year 1994.

In December 1989, the Office of the Secretary of Defense determined that the Apache should be produced at a rate of 72 per year through fiscal year 1993.

This would have provided the Army with a total of 975 helicopters, which is somewhat less than the Army testified that they needed which was 1,031. But only 4 months after the Office of the Secretary of Defense determined that Apache should be produced at a rate of 72 per year over the next 4 years, the budget of President Bush requested that we terminate the program after 1991.

This will provide the Army with only 807 helicopters instead of the 975 that they said they absolutely required, and it will significantly decrease the number of these modern helicopters which will be available for the Guard and for the Reserve.

Just yesterday Army Secretary designate Michael Stone at a Senate Armed Services Committee hearing said that the reduction in the total number of Apaches that the Army will receive is "an adverse consequence." And he went on to say, that even more important is that between 1992 and 1996, about a 3-year period or 4-year period in there, we will have no production base in the United States for attack helicopters. Once the Apache line goes cold, we will have no production of attack helicopter for the Government until 1996 and 1997 when the LHX helicopter comes along, and our new Army Secretary Michael Stone said that this is of serious concern.

In his fiscal year 1990 annual report Secretary Carlucci said:

> The fiscal years 1990-94 program [for land forces aviation] supports the Army's long-range goal of maintaining a helicopter fleet that is both affordable and effective against the threat. Modern new systems now being deployed, such as the AH-64 * * * and future ones, such as the LHX, form the centerpiece of a smaller but more combat capable force.

The report cites the Apache as "the Army's first line antiarmor attack helicopter."

In that report, this is the fiscal year 1990 report to the Congress, he cites the Apache as the "Army's first line antiarmor attack helicopter." Shortly before, the Joint Chiefs described the Apache as a "major modernization effort * * * that has been highly successful." But just as with the F-14D fighter plane, we are being asked to close down a warm production line in the hopes that an advanced system, the LHX, will be better, timely, and affordable. We have no evidence that this will be the case.

Given the armor/antiarmor imbalance that currently exists, an imbalance that we have been working to correct, we should continue production of the Apache helicopter at the fiscal year 1989 rate of 72 per year, continue it for 1990, and hopefully in the years ahead.

We also should reconsider whether this warm production line should be sacrificed to a promised but untested advanced technology weapon.

Finally, the $100 million in this amendment that we would place with the Department of Energy allows them to do some advanced research and development on cleanup technologies.

We have a major problem in this country, one that we all acknowledge, one that our subcommittee chairman, my good friend from Nebraska, Senator EXON, has indeed attempted to address in this budget. I give him and our committee a great deal of credit for what they have attempted to do in terms of at least a down payment on both the waste cleanup and investment in the technologies that will make that cleanup possible, and hopefully will be cheaper in future years.

But we know that nuclear waste and chemical waste threaten the public health and safety in this country, and the General Accounting Office has estimated that clean up costs alone will reach $70 billion.

Charles Bowsher, Director of GAO, called the DOE cleanup "one of the major areas of explosive unfunded costs that will have to be dealt with at the same time that we address the budget deficit."

Admiral Watkins at the Energy Department has signaled strongly his intention to deal with the cleanup, and he has told Congress that new tech-

nologies for waste treatment are vital to managing waste and reducing the long-term cleanup costs.

Just yesterday newspaper articles cited the fact that there is going to be a major increase in funding necessary for nuclear waste cleanup, and for research and development on nuclear waste technology.

To that end the committee, following the lead of Senator EXON and Senator NUNN and others, wisely voted to increased funding by $100 million for research and development for cleanup technologies. This was on top of the President's request of $100 million for the cleanup in fiscal year 1990.

The committee increased that amount to $200 million but this is a pittance compared to what is needed, and our amendment would apply an additional $100 million to research and development on nuclear waste cleanup technology.

Mr. President, we need the F-14 and we need the Apache. These are not pet rocks and they are not pork. On the other hand, the MX rail garrison is currently on a fast track with deployment and construction fund committed in this budget prior to the completion of the development and testing, as pointed out by the GAO.

We cannot justify a fast track MX rail garrison at the same time we are prematurely cutting needed weapons systems.

This decision is one of priorities. It is no secret, Mr. President, that I have not been a supporter of the MX missile. But for those who do support it, or might support it, let me be clear.

This amendment does not eliminate the MX Missile Program. It maintains funding above last year's level for research and development, and as a matter of fact it is our understanding that only 12 percent of the money which was appropriated last year for MX rail garrison was spent 8 months into the fiscal year.

This amendment is a commonsense approach to ICBM modernization. It keeps both the MX and the Midgetman options alive pending a Presidential decision whether or not to seek a ban on mobile ICBM's or to reverse field and allow mobile ICBM's. It will have the effect of slowing the MX rail garrison initial operating capability by about 2 years to a pace closer to Midgetman but it avoids the risk that occurred when we have concurrency between procurement and development which is the case that we now have with the MX rail garrison.

If the President intends to maintain our present negotiating position in Geneva which calls for a ban on mobile land-based missiles, then the Congress needs to know this because the MX rail garrison becomes simply a bargaining chip that the President can use to get the Soviets to give up their SS-24's. Congress could then decide if we need to actually deploy the MX in order to make it an effective bargaining chip. But if the President decides to change course and to allow mobile missiles as part of a START treaty, we also need to know this because some who may vote for the MX rail garrison as a bargaining chip may not vote for it if it is the President's intention to finally deploy this system.

Mr. President, we have tried to obtain from the President their position on mobile ICBM's; their position is still unfocused and unfixed. We do not know what their long-term goals are. The report which was supposed to be forthcoming, and finally was a few days ago—months and months late—did not answer the question; nor has General Scowcroft provided the answer to the question as to what are the long-term goals relative to mobile ICBM's. Do we want them or not? Do we want to ban them, or do we not want to ban them? Do we want to negotiate them away or do we not?

The current tack of the administration has gained a tailwind in the Congress because it appeals not only to supporters of Midgetman and supporters of MX, but also to those whose opinions vary widely on MX alone. Absent a definitive strategy in Geneva, the administration can come to Congress with a claim for support from those who want the MX mobile missile as a permanent feature of our arsenal, and those who think MX should be developed, so it can be traded away for the SS-24's in the future. The buy-both missile strategy hopes to bag-both sides in terms of votes in Congress. This amendment gives us a chance to consider the merits of these systems in light of the long-term goals, when they are finally decided upon by the administration.

At the same time, until the administration decides on those goals, we can transfer the MX funds to needed conventional weapons systems, that are needed to maintain our day-to-day defense capability and to help with more research into technologies to deal with the nuclear waste problem.

Mr. President, I understand that a portion of my amendment hits language which has already been amended, and I ask unanimous consent that my amendment be in order.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. I want to alert my friend from Nebraska, and I am yielding the floor now, but because this is a unanimous-consent request, I want to make sure Senator EXON is aware of it. A portion of the amendment which we have sent to the desk hits language which has already been amended. Therefore, it would take a unanimous-consent request for this amendment to be in order. I ask unanimous consent that my amendment be in order.

Mr. EXON. We have no objection to the Senator's offering that.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The Senator from Georgia.

Mr. NUNN. If the Senator will yield for a brief inquiry, I know he has not given his rebuttal yet, and that is very important. Can I ask the Senator from Nebraska about what time he thinks we would be ready to conclude this debate? We have been requested not to have rollcall votes until about noon and then to stack. I would like to know about what time this debate will be concluded, so we can get another amendment up. I hope it will be one of the controversial amendments, because we need to get them done as soon as possible. Could the Senators from Michigan and Nebraska give me an estimate of the time?

Mr. EXON. Let me reply to the chairman of the committee, I was about to propose a unanimous-consent agreement. We have spent about 50 minutes on this so far, and the proponents of the amendment have had all of that time. I was going to propose a half-hour to be equally divided for the time remaining. That will give us 15 minutes to rebut and that side an additional 15 minutes to present their case.

I believe we can sum up our strong opposition to this amendment in that time, and then we are ready to vote. I would just comment that when we started this morning, the Senator from Nebraska indicated on behalf of the committee that we had a long, long day ahead of us with lots of rollcall votes.

There must be some good reason that we are going to be delaying rollcall votes. Since we are under considerable time constraints on this and other matters, I wish the Senate could set aside everything else for the Senate's business for a change and have the rollcall votes promptly when they are called. Put everybody on notice that this is the matter before the Senate, and quit trying to accommodate everything else that comes along. I agree, to answer your question, that we can sum up our opposition, and I speak both for myself and for the Senator from Virginia on the other side. Give us 15 minutes, and we would be willing to enter into such a time agreement.

Mr. NUNN. I thank the Senator from Nebraska. I share the Senator's sentiments about wishing we could concentrate on this and nothing else, but the leadership has to consider the impeachment procedures now going on in committee. I understand that one of the principal witnesses is testifying today, and they would desire as little interruption with rollcall votes as possible before the noon break, so the

Senate could concentrate on that impeachment panel.

I suppose everything we do around here is important. The question is the leadership has to make that decision. I do not see how we are going to be disrupted by having rollcall votes stacked. The main thing is not to let the debates go on longer than they were going to go on if we were going to have rollcall votes. We can conclude this debate, the Senator from Michigan will agree, at 10:30, possibly, with equal division of time.

The PRESIDING OFFICER. The Senator from Nebraska has proposed a unanimous-consent request that there be 30 minutes equally divided between the two sides. Is there objection?

Mr. WARNER. Reserving the right to object, I say to my distinguished colleague, I am not certain we need that much time on this side. I will try to shorten that period so we can get on with other amendments. I am not trying to denigrate the importance and significance of the amendment, but it is a subject so well known to the Senate, particularly the members of the Armed Services Committee, and the basic issues have been thrashed out, not only in the context of this bill, but debated for an extended period,

Mr. NUNN. Can I inquire of the Senator from Michigan how much time he needs?

Mr. LEVIN. We are trying to determine what other Senators are going to want to speak and for how long. We know other Seantors want to speak in favor of the amendment. I only need 5 minutes.

If I could quickly respond to my friend from Virginia, the F-14 and Apache helicopter issues have not been debated at all on the floor of the Senate. The termination of the F-14 and slowdown of the Apache, and termination, have not been debated. I think this is worthy of some debate on the priorities.

Mr. WARNER. What I would do is accept the 15 minutes on this side, with the understanding that we can give up that time as 10:30 approaches.

Mr. NUNN. Will the Senator agree to the unanimous-consent request?

Mr. LEVIN. If I can reserve and try to check to see if those other two Senators will get to the floor.

The PRESIDING OFFICER. Objection has been heard.

Mr. LEVIN. We will know within a few minutes. I only need about 5 additional minutes at the most. I presume that part of that unanimous-consent request would be a bar on second-degree amendments.

Mr. EXON. Mr. President, the objection has been heard. I think we need not go into that any further.

If we are not under time agreement constraints, unfortunately, I would simply say that 45 minutes ago the statement was made that other Senators might want to come to the floor. Come to the floor. Please come to the floor if you want to debate this issue. It is necessary that we move ahead.

I just heard the former distinguished majority leader say, "It is the same old refrain." Is it true, Senator BYRD, that we have trouble getting people who want to talk but only want to talk when they want other people to hear them talk? We cannot run the Senate officially in that fashion.

Let me answer some of the suggestions that have been made by my good friend and colleague from Michigan.

Mr. President, we use that term "good friend and colleague" often around here and usually it is the case. I use it very advisedly because we came to the U.S. Senate together, my friend from Michigan and myself. We have been close friends and confidants all of that time. We sat next to each other on the Armed Services Commitee and on most of the subcommittees of the Armed Services Committee, side by side for almost 11 years now, and we have been together on far, far more issues than we have been divided upon.

But I must say, with all due respect to my friend and colleague, that the amendment that he offers today is an amendment that would blow apart, it would literally destroy a carefully crafted agreement that has been worked out on both sides of the aisle.

I would simply say that the Senator from Michigan knows full well that his amendment could not possibly have passed the Armed Services Committee. In fact, he advised us during our deliberations that he would be offering this on the floor, and it was asserted at that time that would be certainly within his right and very proper to do so, and so he is following through.

I have no quarrel with him offering the amendment, but let me take a few moment if I could to attempt to straighten out some of the spin that has been put on the amendment by the Senator from Michigan.

In the first place, the amendment would do three things.

First, it would subtract the following funds from the Rail Garrison MX Program, $342 million to fund 12 F-140 flighter aircraft. That is a program recommended for cancellation by the Secretary of Defense and the President of the United States.

Second, it would transfer $60 million to the AH-64 Apache helicopter. That is a program that has been recommended by the Secretary of Defense and the President of the United States to be canceled out also in the terms of saving money on a tight budget.

And third, the Senator from Michigan has proposed $100 million for the purpose of increased funding for the waste and R&D compliance technology program in the Department of Energy waste and environmental restoration activity that comes under the jurisdiction of the Strategic Subcommittee.

The Senator from Michigan serves on that committee and knows full well that the $100 million that he is suggesting that we take out of the MX is already funded in the measure that is going to be presented to us later as an amendment to the bill by the Armed Services Committee.

So there is great redundancy and concurrency at least in that portion of the measure authored by the Senator from Michigan because he knows, I believe, that that is exactly the same figure that we agreed to in committee to fund the waste and R&D compliance technology program and, therefore, that is going to be taken off and justifiably so whether we adopt this amendment or not.

Mr. President, I simply want to say that the amendment offered by the Senator from Michigan would very likely throw into total disarray and break down the procedures of the U.S. Senate even further than we have experienced in the last few days in concluding debate on the DOD defense authorization bill.

If the amendment of the Senator from Michigan is adopted, he would be doing exactly the same thing that Congressman SPRATT did in the House of Representatives last week to which he has indicated since that he is sorry that he ever brought it up. What the Spratt amendment did in the U.S. House of Representatives and what the Levin amendment will do in the U.S. Senate is a blow apart the carefully crafted compromise on all of these programs.

I quote from the Washington Times of yesterday regarding the Spratt amendment.

> The Congressman who last week engineered the House's anti-MX vote, triggered a tit-for-tat tally to kill the Midgetman missile, now regrets his action but predicts that the House-Senate conference committee will patch up the damage.

Further quoting:

> "Had I known this had been the outcome, I might not have pursued it," Rep. John Spratt, South Carolina Democrat, said in an interview.

What Mr. Spratt did is essentially along the same lines of what the Senator from Michigan is attempting to do here. It is not wise. It is not constructive. And essentially, Mr. President, it would set back the Rail Garrison MX Program, which is one of those that have been generally agreed to both in the House of Representatives and the U.S. Senate, and I think any interference with the programs that we have carefully put together would be a sad mistake.

I simply predict once again that if the amendment offered by the Senator from Michigan is adopted by the United States Senate I think there is no question but what there would be an amendment offered not by me but by other Senators that would, therefore, in turn attack the Midgetman Missile Program and attempt to zero that out and we would be right back into the situation of the two sides, some for the rail garrison MX, some for the small ICBM; we would be back at each other's throats with little or nothing accomplished.

Therefore, Mr. President, I hope that the Senate will turn down the amendment offered by the Senator from Michigan for the reasons that I have just stated, among others.

Mr. President, I ask unanimous consent that the article from the Times that I referenced in my remarks be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, July 31, 1989]

SPRATT SORRY HE BLOCKED MX, HOPES DAMAGE WILL BE CORRECTED

(By Rowan Scarborough)

The congressman who last week engineered the House's anti-MX vote, triggering a tit-for-tat tally to kill the Midgetman missile, now regrets his action but predicts a House-Senate conference committee will patch up the damage.

"Had I known this had been the outcome, I might not have pursued it," Rep. John Spratt, South Carolina Democrat, said in an interview.

Mr. Spratt pushed an amendment to the 1990 defense authorization bill that nearly cut in half the $1.1 billion earmarked for the MX rail garrison, a program strongly backed by the Bush administration. Republicans, aided by liberal Democrats opposed to ICBM proliferation, retaliated by voting to kill money for the truck-based Midgetman. The single-warhead Midgetman is favored by House Armed Services Chairman Les Aspin, Wisconsin Democrat.

When the dust settled, President Bush's goals for strategic weapons were shot full of holes. The House approved a $305.5 billion defense bill that:

Terminated the Midgetman.

Gutted the MX.

Cut the request for the Strategic Defense Initiative from $4.87 billion to $3.1 billion.

Reduced from eight to four the number of B-2 Stealth bombers the Pentagon can buy the next two years.

Restored money for the Navy F-14D Tomcat and Marine Corps V-22 Osprey, two aircraft Defense Secretary Richard Cheney seeks to terminate.

"I am disappointed that the House did what they did," Mr. Bush told reporters Friday. "We have a defense secretary who has made some tough cuts and set some priorities and done that which many have failed to do, and that is to cut out some systems. But then the House, regrettably, is looking at it more narrowly than I am. And they have restored some of the very things that the secretary and the Joint Chiefs [of Staff] felt that we could get along without."

The House will enter a conference committee with the Senate far apart on strategic issues. The Senate, which resumes work on the defense bill today, already has voted to back continued B-2 production and turned aside a bid to cut SDI spending.

"There's been a lot of emphasis on the Senate, work with people like Chairman Aspin, who does not want to see the defense bill gutted, and I think that we will prevail for most of what we want," Mr. Bush said.

The MX and Midgetman votes also left in shambles a consensus between the administration and Congress to develop both mobile missiles, something Mr. Bush urged on the eve of recent Strategic Arms Reduction Talks with the Soviets. Since the House vote, some Senators have begun eyeing MX rail money to keep Grumman Corp.'s F-14D production line running on Long Island.

Mr. Spratt, a Midgetman supporter, said he did not intend to cripple MX rail, but to "position ourselves for bargaining with the Senate" in a conference committee later this summer. Mr. Spratt said he was unhappy with the $1.1 billion allocated to the MX compared with $100 million for Midgetman. He said he fears that without adequate money, Midgetman will lag in development and eventually be scrapped. The congressman said he viewed his MX amendment as "a good opportunity to bargain for a little more for Midgetman [funding] knowing we will put more back into MX."

The outcome raised the question of whether a bipartisan agreement to fund both weapons in 1990 ever, in fact existed. Rep. William Dickinson, Alabama Republican, ranking minority member of the Armed Services Committee, contended there was a pact.

Mr. Spratt, however, said: "Not to my knowledge. I wasn't party to that agreement."

Although Mr. Aspin has spoken of a consensus on the issue, his spokesman, Warren Nelson, said, "There was never an agreement."

Mr. EXON. I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. President, I will just take a moment here relative to the $100 million that would be added to nuclear waste cleanup technology research and development in our amendment. I want to make it clear that this is on top of the $100 million which the committee has added to that account.

So the amendment which has been offered by myself, Senators SIMON and DECONCINI would result in a total of $300 million in that account. As I understand it the committee's action would put $200 million in that account. The President requested, I believe, $100 million.

Mr. EXON. Mr. President, I thank my friend for his explanation.

The PRESIDENT pro tempore. Has the Senator from Michigan yielded the floor?

Mr. LEVIN. I yield the floor.

Mr. EXON. Mr. President, I thank the Senator from Michigan for his explanation.

I guess the problem with that is what assurance is there that the Department of Energy could use an additional $100 million on top of that which we have already provided.

I have been in close contact with the Secretary of Defense on this matter. He is delighted that we have provided $100 million for new technology. I think, and I would suspect that the Secretary would tell us, that that is all that he could use in the next fiscal year.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Virginia [Mr. WARNER].

Mr. WARNER. Mr. President, I thank the Chair for that recognition.

I join with my distinguished colleague from Nebraska, the chairman of the Subcommittee on Armed Services on Strategic Forces, in opposing the amendment of the Senator from Michigan.

As I said a few minutes ago, these issues have been thoroughly discussed and they are understood by the Senate. I personally shall not dwell on them.

We went through a very strenuous debate on the Johnston amendment about the advisability at this time for the U.S. Senate to begin to break into this package crafted by the Armed Services Committee, in view of the fact that the House has literally laid waste to the prioritization of these various programs by the President and the Secretary of Defense.

Were this amendment to be adopted, in my respectful judgment, it would reopen all of the issues with respect to this package and again invite attention being given to breaking it apart, not only just for the F-14 and the Apache, but in many other ways.

This is going to be a most difficult conference, and I fully intend, and I am certain the chairman and the other members of our committee do, to listen carefully to the viewpoints of the Members of the United States as we proceed to discharge our responsibilities in this conference.

We need the strongest possible package to go into that conference if there is any hope that we can restore what I regard as a reasonable sense of prioritization of the allocation of the defense funds in the fiscal 1990 budget.

So I would hope our colleagues would accept the advice of the Armed Services Committee which I think almost certainly the great majority of our membership support the position that the distinguished Senator from Nebraska, and myself, and Senator NUNN have taken on this amendment.

Now, Mr. President, there are, I think, some Members on this side who wish to come over and address the specifics of the F-14 and possibly the AH-64, and I shall await their arrival and, therefore, put in a request, and I defer to our chairman.

Mr. DASCHLE. Mr. President, I rise in support of the amendment by the Senator from Michigan [Mr. LEVIN], to transfer $500 million from the MX rail garrison basing plan to conventional systems. Those conventional systems include the F-14D fighter, the AH-64 Apache helicopter, and the MLRS rocket—three programs that can put this money to use far more effectively than the MX Program.

We are faced with difficult choices today. Our national debt is astronomical. As of this week, it was rounded off at $2.8 trillion. Our unique Federal accounting procedures have caught up with us. As a result, we have to make some of the tough decisions we've been avoiding for years. We have to prioritize, and we have to give some things up. Even in the area of defense, we are realizing more and more that we have to work harder to identify our most vital security needs and find the most cost-effective means of addressing them.

The B-2 bomber is a perfect example of the dilemma we face, and we are going to have to think long and hard before we fund that $70 billion program. The land-based missile debate is equally difficult. So difficult, it appears, that we have been mired in indecision that has led us to a nondecision decision based less on strategic needs than on the politics of "you scratch my back; I'll scratch yours." It's time to stop passing the buck and make a real decision based on the merits of the systems and the international climate.

How should the positive changes in the Soviet Union and Eastern Europe, and the ongoing START negotiations impact our decision? Should we fund the MX, or Midgetman? Should we fund neither, or both? All of these positions have been argued.

The administration says we should have both. Mr. President, I believe that is the worst option. We don't need two land-based mobile missiles. And we certainly can't afford them when we face other, compelling needs both within and outside the defense area. Nor can we afford to ignore the demands and opportunities resulting from a new international climate.

In light of these strategic and fiscal realities, an expansion of the MX system is the first place to cut. I have always been concerned about the MX system and have opposed it in the past. The missile is destabilizing, because it is highly MIRV'd and has a first-strike capability, and it sends the wrong message at a time when we are seeking strategic arms reductions with the Soviets. Nevertheless, we have 50 MX missiles—with 500 warheads—in silos.

The administration would have us spend an additional $1.1 billion to put those missiles on rail cars. This proposal is both unwise and unsafe.

The administration plan is unwise because although it was proposed to increase the MX's survivability, the rail garrison basing mode would require 4-6 hours to deploy the MX after receiving strategic warning. This situation would create an attractive first-strike target for the Soviets, as they could eliminate up to 100 warheads with a preemptive attack on a single garrison of 6-12 missiles. MX proponents concede that the rail garrison MX could not survive a surprise attack. As the chairman of the House Armed Services Committee put it last year. "Day to day, it's in garrison, more vulnerable than silo-based missiles. Given warning, the missiles can be dispatched over the rails, making them more survivable. That solves the problem we don't have and doesn't solve the problem we do have."

The administration plan is unsafe because it is destabilizing as a result of both its dependence on strategic warning and the fact that it will travel by public railways. An accident or act of sabotage could cause a collision or derailment, and the risk to the public was one of the reasons the rail-mobile option was rejected earlier.

Is it worth $5.5 billion to move existing MX missiles from silos to rail cars? And let there be no mistake—the MX rail garrison will cost $5.5 billion just for acquisition. Operations and support costs will increase the overall figure to about $10 billion.

Right now we are experiencing one of the most productive times in the history of the United States-Soviet relationship. We should be investing in ways to negotiate the dismantlement of the existing MX missiles—not ways to employ dubious enhancements.

This is not to say that we shouldn't be wary of the Soviets. Just as we cannot afford to fund every weapons proposal, neither can we afford to be left with an inferior defense.

So what is the alternative? The alternative offered by the Senator from Michigan would strengthen three conventional programs that deserve our support.

The F-14D fighter is a proven system that the administration has recommended for termination. These funds would allow continuation of that successful program.

The AH-64 Apache helicopter is another proven system that has been an important asset to both the Army and the Army National Guard. An increase in the Army helicopter program will not only benefit the Army, but will also accelerate the Army National Guard's helicopter acquisition, which will enhance the Guard's ability to assume its proper role in the Total Force.

Finally, the Levin amendment would increase funds for the MLRS rocket. This program has broad congressional support and has been identified in the committee report on S. 1352 as "a model acquisition program, characterized by stable configuration, production procedures, and subcontractors." In a time when contracting fraud and cost overruns are all too common, it makes sense to increase funding for an overwhelmingly successful program.

So, the question recurs: Should we fund the MX, or Midgetman? Should we fund neither, or both?

I am not prepared to suggest today that we zero out both programs, though I hope that we will be successful in Geneva and that we will not need either system. We need to maintain the flexibility to negotiate and to deal with the outcome of those negotiations. Toward this end I would suggest that we: First, pass the Levin amendment, which would stop MX rail garrison procurement and military construction, but leave most of the research and development funds in place; and second, limit our Midgetman obligation to research and development so that we can keep the program in the wings until we have a better idea where the START negotiations are taking us.

Mr. President, the Levin amendment is good policy. It allows us to use our scarce fiscal resources more effectively, limiting our financial risk on land-based mobile missiles while keeping our mobile options open. I urge my colleagues to support it.

Mr. THURMOND. Mr. President, I want to express my strong opposition to the amendment by my colleague on the Senate Armed Services Committee. Although I am sympathetic to his efforts to increase the conventional forces capabilities, I believe his effort to gut the MX Rail Garrison Program is misguided and, if successful, will have serious implications on our Nation's Strategic Modernization Program.

I have been a proponent of the MX missile since its inception. It is now the mainstay of our land-based missile force and has proven its reliability. By developing the MX rail garrison mode we will enhance the survivability of the Peacekeeper. There are approximately 146,000 miles of railroad track in the United States along which the rail mobile Peacekeeper can travel during a time of crisis. This mobility will compound the Soviet planners targeting and render the Soviet's improvements in missile accuracy virtually irrelevant.

Mr. President, President Bush reached a bipartisan consensus on a two-mobile missile program. In order to reach that consensus he added nearly $1 billion to the small ICBM starting in fiscal year 1992 through fiscal year 1994 to guarantee an initial operational capability by 1997. The House nullified that consensus by cutting the funding for both the MX rail

garrison and the small ICBM to a point where neither missile can be developed. Now my friend from Michigan is proposing that we delete $502 million from the MX rail garrison. His action will virtually eliminate any possibility of developing the MX rail garrison and leave us only with the small ICBM, which has yet to be developed.

Mr. President, the two-missile program is essential to maintain the credibility and integrity of our strategic deterrence force. The argument that the MX rail garrison should be canceled because the administration is negotiating a ban on mobile missiles is not logical. Opponents of the MX are supporting the small ICBM, a missile that has yet to be developed. Canceling either the MX rail garrison and small ICBM weakens our negotiating position at a time when the Soviets have deployed two mobile missiles.

I urge my colleagues to vote against this amendment and support the bipartisan consensus on the two-missile program.

Mr. KOHL. Mr. President, I rise in support of the amendment offered by my colleagues from Michigan and Illinois. I also rise in opposition to the military, political and diplomatic justification for a mobile MX.

The MX is the ultimate symbol of the inconsistency and incoherence of the self-contained world created by nuclear war planners. It is a world in which planning is driven more by the possible than the probable. It is a world in which cataclysmic questions of human existence coexist with pork barrel politics. It is a world in which 10 warhead weapons can be called peacekeeper and in which arms control initiatives coexist with proposals to build three new strategic weapon systems.

As insane as it is, that is the world we live in and have to deal with. Wishing it was different will not make it different—any more than wanting it to remain the same will keep the tide of history from carving changes into the global realities with which we live.

With that overview in mind, Mr. President, let me begin by making it clear that I am disappointed in the failure of this administration's strategic policy review to adapt to the new realities we are facing. Clearly there are changes taking place in the Soviet Union; those changes are not yet fixed, and even if they become permanent they will not eliminate the need for a strong national defense. But the point is that changes are taking place and our defense strategy does not seem to recognize that fact. We are negotiating a START agreement which will reduce the number of nuclear weapons and, theoretically, we are still seeking to ban mobile missiles. Yet at the same time we are considering legislation which will build two new mobile ICBM's, produce a bomber which will cost more than any plane ever built, and increase our ability to produce plutonium which we don't need. There is a disconnect here, Mr. President—a gap between the diplomacy we are conducting and the defense forces we are building. This is not an appropriate or productive compliment to the diplomatic efforts we are undertaking.

But if those diplomatic efforts fail—and they may, Mr. President, they may—building a rail mobile MX system is not the way to strengthen our national security. To begin with, we all have begun to realize that MIV'd missiles are not a stabilizing force. Even Henry Kissinger confessed, when he reviewed nuclear developments, that MIRV'ing was a mistake. But, given the existence of the MIRV'd MX, placing it in railroad cars isn't going to do anything to protect it. As I understand it, you need a 4-hour warning time to disperse the railroad cars sufficiently to achieve invulnerability. Mr. President, that means that the MX rail garrison cannot deter a bolt out of the blue surprise attack. But we already have weapons that can deter a predictable attack: Our bombers and submarines can become invulnerable with enough lead time. We don't need the MX to deter an escalation or sufficient warning attack—and it cannot deter a surprise attack. Indeed, all this suggests two weaknesses in the rail garrison strategy. First, all that the rail garrison MX can do is encourage a surprise attack since the best way to eliminate the threat the MX presents is to blow it up before it can be used. Second, efforts to save the MX by moving the trains out will be easily observed by the Soviets and increase the escalation pressure which will exist in any time of crisis. The MX, in silos or on railroad cars, simply does not make military sense.

There is also an economic issue to consider, Mr. President. We are supposed to be trying to reduce the deficit. The strategy of this bill is inconsistent with that goal. You may be able to justify the need for a ground-based mobile missile, but you sure can't justify two ground-based mobile missiles. We are moving ahead on the MX and the Midgetman for one reason only—and it ain't national security. The reason we are building both missiles is that we haven't had the political will to decide which one we ought to build. So we have done what the Congress does best: we have generated a compromise which gives everyone something—except the American taxpayer who has to pay the bill and doesn't get full value in return.

Mr. President, for over a decade the debate about the MX has divided this Congress. It is time we brought it to an end and began the process of uniting behind a rational defense policy. The MX road mobile missile is not a part of a rational policy, but it has been a part of the political process which has prevented decisions. Over the years, the MX has become an instrument of domestic politics rather than military necessity. The MX has become a simplistic symbol: if you are for it, you are for a strong defense and if you are against it, you are against a strong defense. That is nonsense, Mr. President. Nonsense. Under the terms of the budget agreement any money we do not spend on the MX has to stay within the defense function. By reducing spending on the MX we are not reducing spending on defense. We are simply moving it from this strategic system to other conventional capabilities. I have some questions and concerns about the specific conventional add-ons contained in this amendment, but the value of not moving ahead on the road mobile MX really is so great that I would accept virtually any other use of those funds.

One final comment, Mr. President. Part of the difficulty associated with this debate is that there are inherent limitations associated with congressional attempts to impose a rational defense policy on the President since, ideally, that policy should be a product of negotiation with the Soviets rather than unilateral action by the United States. We have learned too often and too painfully that we cannot force the President to negotiate, let alone negotiate in good faith. I recognize the limitation of congressionally inspired arms control and I know that they apply in this case. But I also know that in regard to the MX, there is no alternative but for us to act. This administration will try any basing scheme, create any justification, to keep some form of the MX alive. So we are going to have to be a little heavy handed if we want to be even a little bit rational. This amendment to cut funding for the road mobile system is a step in the right direction and I support it.

Mr. SIMPSON. Mr. President, I wish to express my strong opposition to the amendment proposed by Senator LEVIN that would cut funding for the MX Rail Garrison Missile Program.

This country has embarked on a strategic missile modernization program that is so desperately needed to ensure that strategic deterrence is maintained. In the past, we have found that our land based missiles may be vulnerable to a Soviet first strike and we have undertaken to ensure that the survivability of our land based strategic forces is enhanced. I believe that Senator LEVIN's amendment would unnecessarily and seriously slow our progress in this important endeavor.

The rail garrison basing mode offers the best near term solution to enhancing survivability. We recently witnessed a test in Colorado of a dummy

MX missile from a rail car. This was an important step in the scheme to employ the MX on rail cars.

If the MX rail garrison schedule is maintained, we could deploy the system in 1992. Senator LEVIN's amendment would cause a very serious delay in the deployment of this system and would result in an even longer time period of vulnerability.

Some senators have argued that this administration has proposed to eliminate all mobile missile systems. However, it seems unlikely that the Soviets would be willing to scrap all of their mobile missiles when they have such a commanding advantage over the United States. For this reason we must proceed with the MX Rail Garrison Program in a timely manner.

In the future the MX missiles based in the rail garrison mode would remain in secure areas within the confines of Warren Air Force Base in Cheyenne, WY. During periods of high international tension the rail cars would be moved off base and could make use of nearly 150,000 miles of available trackage. This mobility would then offer a very high degree of survivability and this survivability will assure that we maintain deterrence and world peace.

Some opponents to the MX have raised concerns about safety. However, all safety factors have been taken into full account and security teams would travel with the missile trains in order to provide protection against sabotage and conventional attack.

Senator LEVIN's amendment to strike procurement funding for the MX rail car may be well intentioned but it is an unnecessary amendment. I trust my colleagues will see the seriousness of this issue and will not support Senator LEVIN's amendment.

Mr. EXON. Mr. President, just let me say: Hear ye, hear ye, hear ye, all Members of the U.S. Senate: We are open for debate to move ahead with the business. If you care to address the measure at hand, please make your presence known on the floor of the U.S. Senate.

I yield the floor.

The PRESIDENT pro tempore. The question is on the adoption of the amendment by Mr. LEVIN.

Mr. WARNER. Mr. President, it is the understanding of this Senator that we are operating under a time agreement.

Mr. EXON. We are not operating under a time agreement at all.

Mr. WARNER. I understood that the Senator was going to work out a time agreement.

Mr. EXON. We have not been able to work out a time agreement.

Mr. WARNER. Then, in that instance, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. MCCAIN pertaining to the introduction of legislation are in today's RECORD under "Statements on Introduced Bills and Joint Resolutions" and "Amendments Submitted.")

Mr. McCAIN. Mr. President, I rise to speak in opposition to the Levin amendment. I respect Senator LEVIN, and have the greatest appreciation for his indepth knowledge of the issue.

I think he makes three very important points. One is that this Nation does not need two new additional ICBM's, particularly given the evolving progress in our arms negotiations. It is the small ICBM or Midgetman, however, that we do not need. The initial cost estimates for Midgetman are somwhere between $30 and $40 billion; clearly. In the view of this Senator, the marginal advantage the Midgetman provides of a few hours of additional warning certainly is not justified by its enormous cost.

Second, he is correct that we do need continued production of the AH-64 Apache helicopter. And finally, he is correct that we do need the F-14 aircraft. I regret that my amendments to restore these programs during the committee's deliberation did not succeed. I am hopeful that when this bill goes to conference, there will be negotiations which will motivate the conferees from this body to agree with the position held by the other body on the Apache helicopter and the F-14. To turn back to the issue of our future mix of strategic forces, I am deeply concerned with the waste and abuse that is inherent in funding two ICBM's. I find it equally regrettable that we seem to be wasting equal or greater amounts of money on overfunding our bomber forces, and that we have not had a serious examination of the overall requirement for penetrating high-cost bombers.

Mr. President, when we look at the total amount of the Air Force strategic budget that will be devoted to penetrating bombers, during the coming decade, as opposed to missile systems, I think you will find it disproportionate. I also think you will find good reason why we should be very deeply concerned about the fact that we seem to be on a treadmill and will be forced to continue the outpouring of billions of dollars to upgrade the ECM capabilities of the B-1 in order to continue a penetrating role for that inadequate and expensive weapons system. I think you will find that the Air Force has failed to provide a proper analysis of the risk that these upgrades will not succeed in allowing the B-1B to penetrate through the bucket brigade of Soviet air defenses and fighters, and has failed to show why we need an inadequate penetration capability for the B-1B at a time when we will be deploying the B-2.

I think it is time we comprehensively reexamined whether the B-1 and B-52, and the B-2 if it is funded, should continue in a penetrating role or should become stand-off cruise missile carriers. I think this would lead to changes that would reduce expense to the taxpayers enormously.

I also reject the idea that the reason to fund two ICBM's is the requirement to have both systems to negotiate at the START talks. I find it unacceptable for us to spend tens of billions of dollars to develop and build new weapons systems in order to dismantle them, but this now seems to be one of the major rationales behind the Midgetman.

I also think it is of the utmost importance that we examine how the prospective costs of investing in Midgetman track with the real-world advantages provided by that weapons system. I think it is common knowledge that the United States has a large number of intelligence capabilities which would provide the United States with a warning in case of a serious threat on the part of the Soviet Union to launch or to initiate nuclear exchange. The only possible exception would be a total Soviet "bolt from the blue" with no prior deployment of the large number of Soviet forces that normally are not on alert.

Mr. President, I see no credibility in a scenario, where Mr. Gorbachev comes to work one morning and suddenly decides that he would launch a nuclear attack against the United States. In contrast, the most likely scenario is one of an increasing buildup of tensions, during which ample signals and warning would be provided to the United States, so we could react in a defensive posture.

The small ICBM at best buys us a few hours of additional warning in a worst case war triggered by a Soviet leader without rationale motive. Ideally, this warning would be a very nice thing to have. But not, in the real world, at an anticipated cost of some $30 to $40 billion. In my view the cost of Midgetman simply is not justified. That is why I have cosponsored Senator WILSON's amendment to do away with finding for the small ICBM. Further, I will seek to kill any future funding of additional penetrating capabilities for the B-1, and take every possible step to ensure that the procurement of the B-2 is revised to take into consideration the overall question of what mix of penetrating bombers is, indeed, justified by the costs.

I should note Senator LEVIN has spoken at length about the AH-64. I

fully agree this aircraft is vital to our defense. I proposed an amendment in the Senate Armed Services Committee to keep it alive to track, and which tracked, with the House action on this issue. The fact is, however, we do not need more money in fiscal year 1990 for the AH-64. What we need is a solid and stable multiyear program of the kind the House has already recommended.

Such a multiyear program would ensure the long-term production of this aircraft, the Nation vitally needs—something the Levin amendment does not. It would actually achieve major savings in fiscal years 1990 and 1991, because there would be no surge in production before we cancel the program, and no termination costs. It would both aid our national security and help fight the deficit.

In fact, all my colleagues have to do to help secure our Nation's defense and help fight the budget deficit is to support the House position on this issue. This cannot be done by the Levin amendment. It can be done by supporting a strong multiyear program.

As for the F-14D I have already proposed tradeoffs for fiscal year 1990 that will not be budget busters. If we take a more careful approach to funding penetrating bombers, and to funding the multiyear contracting programs for the F-14D we really need to create a sound naval aviation procurement plan. I strongly believe we will be able to fund the F-14D. In fact, we have already called for such a naval aviation procurement plan in the SASC report language.

Mr. President, I do not want to elaborate on the virtues of the F-14 at length. Let me just say that the F-14 will remain through the late 1990's, the only long-range capable aircraft on the decks of our aircraft carriers that can defend the carrier battle group. It will be the only weapon to defend a multi-, multi-billion dollar carrier battle group at long distances. Frankly, Mr. President, there is no replacement in sight for that capability in the short term, and a high risk that its current, future replacement—the NATF—will never enter production. The Chairman of the Joint Chiefs of Staff and the Chief of Naval Operations, have also stated before the Senate Armed Services Committee their deep concern about a fighter shortfall on our carrier decks in the 1990's. If we cancel production of the F-14D, we not only cannot correct this shortfall, we will have no way to protect against delay or cancellation of the NATF, and no way to replace combat losses of our F-14's until the early 2000's.

Mr. President, it is with reluctance that I oppose Senator LEVIN's amendment. I am strongly supportive of the Apache helicopter, and F-14D. At the same time, I think it would be a serious mistake to reduce funding for the rail garrison MX. I think it would also be even a more serious mistake if we continued funding the Midgetman at the expense of the MX. The Midgetman is a program which, because of its expense and our changed relations with the Soviet Union, can never become a reality.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Nebraska [Mr. EXON].

Mr. EXON. Mr. President, I inquire once again of my friend and colleague from Michigan about whether or not we can get a time agreement or is he prepared to ask for a vote on his amendment?

Mr. LEVIN. In response to my friend, there is one of our colleagues who is going to be on the floor in a few minutes. I have no objection to a time agreement of perhaps 10 minutes on this side.

But I would ask we set aside this amendment from time to time, preserving that time so that other amendments can be taken up. I understand that there are such amendments ready to be taken up.

Mr. EXON. I thank my friend.

Therefore, I propose a unanimous-consent agreement that we conclude debate on the Levin amendment with the agreement that, henceforth there will be 10 minutes of debate assigned to the time directed by the Senator from Michigan, 5 minutes in opposition assigned to the Senator from Virginia, and that no other debate be in order on this amendment pending a stacked vote.

The PRESIDENT pro tempore. Is there objection? The Senator from Michigan reserves the right to object.

Mr. LEVIN. I will not object. I think it is fine. Part of that understanding being that any quorum calls not be charged against the 10 minutes because there is a colleague who is coming to the floor?

Mr. EXON. I would agree to that with the understanding when debate is finished on this or all time yielded back, the Senator from Nebraska reserves the right to offer a tabling motion.

The PRESIDENT pro tempore. Is there objection to the request reserving any time consumed by a quorum call not come out of the 15 minutes?

The Chair hears none. It is so ordered.

Who yields time?

Mr. EXON. Mr. President, I am delighted to see the Senator from Illinois has arrived on the scene. He has been tied up in markup. I know he wants to be heard on this amendment, and I assume his time will come out of the 10 minutes previously agreed to, the time assigned to the Senator from Michigan.

The PRESIDENT pro tempore. Who yields time? The time is presently being charged against both sides.

Mr. LEVIN. Mr. President, I yield to my friend from Illinois 5 minutes.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Illinois [Mr. SIMON] is recognized for 5 minutes.

Mr. SIMON. Mr. President, first, I apologize for not being on the floor to join my colleague, Senator LEVIN, in behalf of his amendment. I think it is a good, solid amendment. If it is to be criticized, it is to be criticized for not going far enough.

Why do we have nuclear warheads? Why do we have an MX missile? Because we want a deterrent. And what is a good deterrent? Well, a good deterrent is judged by its sureness and its swiftness. Part of its assuredness, obviously, is accuracy.

This particular idea, this concept, fails on both counts. In terms of sureness, the Soviets obviously will know where we have these things buried. And they can knock out the tracks out of which they come out of their tunnels to deliver the nuclear warheads. And, in terms of the swiftness of the deterrent, we are going to have to respond, in the case of Soviet submarines, within 10 minutes; in the case of land-based missiles, 25 minutes. We do not have hours to respond.

Yet that is what is required with this kind of a weapons system.

It is a great weapons system if the Soviets send us a postcard and say, "We are going to attack." But that is not likely. The reality is, if a deterrent is to be meaningful, it has to be ready on a moment's notice to respond.

That is what our submarine launched missiles can do. That is what our air launched missiles can do. That is what our land launched missiles ought to be able to do. This idea does not permit that immediate fast response. It is, in my belief, a massive waste of funds. The amendment, as crafted by my colleague from Michigan, is a very conservative amendment. It does not knock out the research. Frankly, I would vote for an amendment that would knock out the research also. I just think this is an ill-conceived idea, but we are at a point where we are going to have to question do we go ahead with production; do we go ahead with deployment? Clearly the answer on that ought to be no.

I hope the Levin amendment will carry, and I will just in closing, Mr. President, point out that even in the Armed Services Committee, on which Senator LEVIN serves, at one point the chairman of the committee, Senator NUNN, had serious questions about the wisdom of moving ahead on this particular weapons system.

Mr. President, I urge my colleagues to vote for the Levin amendment. I

yield back my time remaining to the Senator from Michigan.

The PRESIDING OFFICER. Who yields time? The Senator from Nebraska.

Mr. EXON. Mr. President, before the Senator from Illinois leaves the floor, I wish he could enlighten us a little bit further on who it was on the Armed Services Committee who had some concerns about this amendment, evidently supporting it? Is the Senator from Illinois indicating it was the chairman of the committee, Senator NUNN? Who was it?

Mr. SIMON. I am not sugesting the chairman of the committee is supporting this amendment. What I am saying is the Senator from Georgia at one point expressed some concerns about this system.

Mr. EXON. About what system?

Mr. SIMON. About this MX tunnel railroad system. If I may respond to my colleague from Nebraska, he expressed concerns because of how slowly this system can respond because if you are going to have a deterrent, it ought to be a swift deterrent. Those missiles from the Soviet submarines are going to be here in 10 minutes; they are going to be here in 25 minutes from the Soviet Union. We cannot wait hours to respond, and that is what this system does.

The PRESIDING OFFICER. The Chair advises the Senator from Virginia controls 3 minutes and 20 seconds; the Senator from Michigan controls 5 minutes and 9 seconds.

Mr. WARNER. Mr. President, I yield to the Senator whatever time he wishes.

Mr. EXON. I would hope that the chairman of the committee, Senator NUNN, would come to the floor and give us a full explanation of the reference just made by the Senator from Illinois. I worked very closely with the Senator from Georgia on this, and I think it would be wrong to imply to the U.S. Senate that the chairman of the Armed Services Committee in any way wants to tamper with this package.

Mr. WARNER. Mr. President, for that purpose, I reserve the remainder of my time.

Mr. LEVIN. If the Senator will yield, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. The Senator from Illinois simply suggested that the Senator from Georgia, the chairman of our committee, has on occasion expressed some question about the MX system. He is not suggesting in any way, I believe, that Senator NUNN does not support the Armed Services Committee and does not oppose our amendment. I think it is very clear the chairman of the Armed Services Committee, as a matter of fact led the Armed Services Committee and opposes this amendment that is pending. I do not think the Senator from Illinois suggested otherwise in any way.

Mr. WARNER. Mr. President, I reserve the remainder of my time for the chairman of the Armed Services Committee in hopes that he will rejoin us on the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. EXON. Mr. President, I ask unanimous consent that I be allowed to proceed for 20 seconds to propose a unanimous-consent agreement without it being charged to either side.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, reserving the right to object, and I shall not, might I suggest we add to that unanimous-consent request that the pending amendment be set aside such that the leadership of the Senate can address the Senate on another matter?

Mr. EXON. Mr. President, I ask unanimous consent that the vote on or in relation to the Levin amendment, No. 535, occur at noon today; that the Senator from Nebraska [Mr. EXON] be recognized before the vote to offer a tabling motion; that no other amendments be in order to the Levin amendment; and that in the meantime, this amendment be set aside so that we can recognize the Republican leader for the purpose of offering an amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered. The Republican leader is recognized.

AMENDMENT NO. 543

(Purpose: To reaffirm that service in the National Guard and Reserve is in the highest traditions of military service)

Mr. DOLE. Mr. President, I send an amendment to the desk for myself, the distinguished majority leader, Senator MITCHELL, and Senators NUNN, WARNER, and GLENN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. MITCHELL, Mr. NUNN, Mr. GLENN, Mr. WARNER, proposes an amendment numbered 543.

Mr. DOLE. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The Senate finds: that American Citizens have taken up arms to defend their homes and communities, and to preserve this Nation's independence, from the earliest days of our Nation; and

The concept of the citizen-soldier has been a keystone of the defense strategy of this Nation; and

Members of the National Guard and Reserve have served proudly and honorably in every war or conflict involving United States Armed Forces; and

The Total Force Policy, by placing significant portions of wartime mission capability and selected day-to-day operations in the National Guard and Reserve, has reinforced the proposition that the Guard and Reserve are essential elements of our national defense; and

The Congress and the Deparment of Defense during the 1980's have demonstrated their increasing reliance and confidence in the National Guard and Reserve by expanding missions, increasing training requirements and providing new state-of-the-art weapons and support equipment; and

The National Guard and Reserve represent a very cost-effective arm of the Total Force, preserving combat capability and retaining valuable trained human resources, especially during periods of austere defense budgets; and

Participation in the National Guard and Reserve enhances military readiness and demonstrates the resolve of the citizenry to protect and preserve American values; and

Participation in the National Guard and Reserve improves our economy, by providing individuals with job skills and education; now

Therefore be it declared, that the United States Senate reaffirms that service in the National Guard and Reserve is in the highest traditions of military service to the country and acknowledges the valuable contribution that the men and women who serve in the National Guard and Reserve are making to their country; encourages Guard and Reserve participation by all elements of our society; and continues to support fully reliance on the National Guard and Reserve as full partners in the Total Force.

Mr. DOLE. Mr. President, every year we spend about 2 weeks debating the Defense authorization bill. Most of that time is spent arguing for or against some weapons program.

Providing the resources for the defense of this country is one of the greatest responsibilities we have as U.S. Senators. But, as we get deeply involved in the pros and cons of some fighter plane or battleship, we tend to forget what the defense of this country really rests on: our men and women in uniform.

Moreover, when we do think about our military personnel, we often overlook the contribution of our citizen-soldiers in the National Guard and Reserve.

Mr. President, my amendment reminds us all of the great tradition of the National Guard and Reserve—a tradition which started with the birth of this Nation. More importantly, it also recognizes the significant contribution the men and women who serve in the Guard and Reserve are making to this country.

The Guard and Reserve are essential elements of our national defense. The National Guard and Reserve enhance the military readiness of the United States. And, they do so in a cost-effective way. This cost effectiveness is even more important in times of limited resources.

Mr. President, I ask my colleagues to take a break from the debate on military hardware and defense policies to acknowledge the valuable contribution that these men and women are making to the United States.

I trust that all the Members of this body will join me in thanking the men and women in the National Guard and Reserve for their loyalty and service to this country.

Mr. THURMOND. Mr. President, the distinguished minority leader, Senator DOLE, proposed an amendment recognizing the important role our National Guard and Reserve forces play in the defense of our Nation. I heartily support that amendment and congratulate the distinguished Senator from Kansas for proposing the amendment.

Mr. President, I would like to point out that over 50 percent of the combat missions of the Army are in the Army National Guard and Army Reserve. About 33 percent of the combat mission of the Air Force are performed by the Air Guard and Air Reserve. About 15 to 20 percent of the combat capability of the Navy and, in some areas, 100 percent of the Navy's capability, are in the Navy Reserves. About 25 percent of the Marine's combat capability is found in the Marine Reserve. These are significant facts which demonstrate the importance of our citizen soldiers.

Although we expect a great deal from the National Guard and Reserves in the defense of our Nation, we cannot forget the roles the National Guard and Reserves are playing in support of our communities. They are out helping in the war on drugs, they are on the fire lines in Idaho, and they are on the shores of the Gulf of Mexico fighting the ravages of the hurricane.

Mr. President, our National Guard and Reserves are ready in war and peace to support our Nation. I join my distinguished colleague in recognizing their contribution to our Nation and salute them for their dedication.

I believe the amendment I sent to the desk has been cleared on both sides. I want to thank my colleagues on both sides for their support.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I am privileged to join the distinguished Republican leader and others in this amendment. It most certainly has been cleared on this side.

The PRESIDING OFFICER. Is there further debate.

Mr. DIXON. Mr. President, the committee has had a long and continuing tradition of support for the National Guard and Reserve Forces. We are keenly aware of the great reliance that we have placed in these forces under the total force policy.

The committee bill this year also includes a total of $1.9 billion for new equipment for the National Guard and Reserve Forces, an increase of $400 million above the budget request. I congratulate my distinguished friend, the senior Senator from Kansas, on this amendment and we support it enthusiastically.

Mr. DOLE. I thank my colleagues.

Mr. WARNER. Mr. President, I wonder if I might suggest to the distinguished Republican leader that we seek unanimous consent, since there are other Senators who may wish to speak to this amendment, Senators may do so during the course of the day and their statements be included as a part of the RECORD immediately following the comments and statement by the distinguished Republican leader.

Mr. DOLE. That is a good suggestion, if there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 543) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 544

Mr. DOLE. Mr. President, I send to the desk an amendment on behalf of myself, the distinguished majority leader, Mr. MITCHELL, and Senator WARNER. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. MITCHELL, and Mr. WARNER, proposes an amendment numbered 544.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and the Soviet Union are currently engaged in talks regarding the reduction of strategic nuclear arms.

(2) The United States position at the strategic arms reduction talks (START) since 1985 has been to ban the deployment of mobile ICBM's within a START regime unless an effective verification regime could be identified and implemented.

(3) The Soviet Union has deployed two mobile ICBM systems, the SS-24 and the SS-25.

(4) President Bush conducted a strategic review upon entering office which was completed prior to the resumption of the START Talks on June 15, 1989.

(5) The President's fiscal year 1990 defense budget to the Congress includes funding for the development of two mobile ICBM's, the Rail Garrison MX missile and the Small ICBM (Midgetman).

(6) The United States must have confidence that any START Treaty will be effectively verifiable.

(b) PRESIDENTIAL REPORT.—The President shall submit to the President of the Senate and the Speaker of the House, and when necessary to protect particularly sensitive information, the Chairman of the Senate Select Committee on Intelligence and the Chairman of the House Permanent Select Committee on Intelligence, not later than March 31, 1990, a report describing all studies that have been performed between March 1985 and August 1989 by agencies of the United States Government with regard to our capability to monitor and verify a START Treaty which allows mobile ICBM's. The report shall include the following:

(1) A description of all studies conducted by United States Government agencies during the President's strategic review to determine the ability of the United States to verify Soviet mobile missiles in START. These descriptions shall include a summary of conclusions reached.

(2) A description of any Red Team studies conducted between March 1985 with regard to the existence of mobiles in a START regime as well as a summary of conclusions reached.

(3) A description of studies conducted by United States Government agencies between March 1989 and August 1989 to assess the value of various verification options relating to the verification of mobiles, including tagging and designated deployment areas. These descriptions shall include a summary of conclusions reached.

Mr. DOLE. Mr. President, just a few weeks ago President Bush put years of argument over ICBM modernization behind us with his two-missile decision. Hearing strong arguments in favor of both rail garrison MX and Midgetman, the President decided to include both in his strategic modernization package.

This forged the strategic consensus our country needs.

But let's not forget that our new mobile ICBM's are just two components of a strategic package which includes modernizing the other two legs of our strategic triad, strategic defense, and the START negotiations.

Our plans for rail mobile MX and Midgetman must be worked into a greater overall strategic concept.

Right now our start position is to ban mobile ICBM's. This makes sense because the Soviets have two deployed mobile systems—the SS-24 and SS-25—while we have none. Furthermore, should we decide to allow mobiles under START, they will present a tough verification problem.

We're working on authorizing and appropriating for our two systems right now.

I believe that means we should also tackle the verification problem right now. I know President George Bush won't sign an unverifiable treaty, and I also know that this Senate and the American people will back him on this. So let's begin examining the problem right now.

We need to know if we will have to face trade-offs between the stability mobiles can bring and our ability to verify. What analytical work, treaty provisions or new technical systems, if any, can help with the mobile verification problem? What degree of verification confidence can these things provide?

Will a phase one strategic defense system be our best protection against Soviet mobile ICBMs? Will phase one give use that extra margin of confidence we need to proceed with a START Treaty which allows mobiles?

I know there are no easy answers to these questions. But I also know there are a lot of smart people—at DOD, in the intelligence community, at our national labs, and in private industry—who are working on these.

I believe it is in our interest, and in the administration's interest, for the Senate to become acquainted with these issues. After all, any START Treaty will end up right here.

Therefore, I am pleased that the distinguished majority leader Senator MITCHELL and the distinguished ranking member on the Senate Armed Services Committee, Senator WARNER, are joining me in offering this amendment which simply asks the President to report to us on work being done on mobile ICBM veritifcation.

I understand the amendment has been cleared on both sides, and I thank my colleagues for their support.

Mr. WARNER. Mr. President, indeed the amendment has been cleared on this side. We thank the distinguished Republican leader and the majority leader for sponsoring this amendment. It contributes to the body of knowledge which is absolutely essential for the Congress to make continuing decisions on these systems.

I am hopeful that this report will be forthcoming and timely. The history of the Department is not to meet deadlines, but in this instance I personally together with the leadership will try to present a convincing case that this report should be submitted in a timely way.

The PRESIDING OFFICER. Is there further debate on the amendment? The Senator from Illinois is recognized.

Mr. DIXON. Mr. President, this amendment by the distinguished minority leader would direct the President to submit a report to Congress listing all agency studies prepared within the executive branch since START began in 1985 on the subject of verifying mobile ICBM limitations under the agreement. The report will describe each agency report and include a summary of its conclusions. The majority is delighted to support this amendment, and we congratulate the minority leader.

Mr. DOLE. I thank my colleagues, Senator DIXON and Senator WARNER, for their support.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 544) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 545

Mr. DOLE. Mr. President, I send a sense-of-the-Senate amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself and Mr. WARNER, proposes an amendment numbered 545.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

SENSE OF SENATE ON START TALKS

It is the sense of the Senate that any agreement negotiated by the President to achieve a reduction and limitation on strategic arms (through the strategic arms reduction talks in Geneva or otherwise)—

(1) should not prevent the United States from deploying a force structure under the agreement which emphasizes survivable strategic systems and, in particular, should not in any way compromise the security of the United States ballistic-missile carrying submarine force, and

(2) should not prohibit or limit the deployment of nonnuclear cruise missiles.

Mr. DOLE. Mr. President, last year, this body joined me in expressing the sense of the Senate that the United States should not include nonnuclear cruise missiles in any future START Treaty.

It is my view that the issues haven't changed and that therefore, this is still the sense of the Senate. I think that everybody agrees we want to make deep cuts in existing nuclear weapons and that's what the START negotiations are all about.

The START neogitations are aimed at achieving cuts in a way that will be effectively verifiable and will enhance stability. The President reaffirmed this objective during his strategic review. In START, we are not trying to negotiate limitations on our nonnuclear forces.

Following this review, the President reaffirmed the U.S. position at the START talks. And, the Soviets seem to have stuck to their position. They continue to try to bring in nonnuclear cruise missiles into any START agreement.

That is why I think we need this amendment. It sends a signal to our negotiators that we do not want to give them up. They should not be part of START. We need to keep our goals in mind. We are trying to cut strategic nuclear weapons. We are not trying to foreclose nonnuclear options which may become all the more important under a START regime.

The need for strong deterrent forces will not go away with the signing of an arms control agreement. There are a lot of experts in this, many more expert than I, but according to our negotiators, cruise missiles offer one of the most promising avenues for nonnuclear defense technology. Yet each day our negotiators go to the sessions and they face Sovet attempts to include cruise missiles of any type in START limitations.

I think we have correctly opposed this and I want the administration to continue to oppose this.

Mr. President, although we may differ on the path to follow, I believe there is broad consensus in this room—indeed across America—for deep cuts in existing nuclear weapons.

So, as we negotiate START, we need to keep our goals clearly in mind, reducing strategic nuclear weapons.

I believe the best thing the Senate can do to help achieve a good START agreement is to stand firmly behind American positions. Our amendment simply notes the U.S. position and encourages the administration to maintain it.

The PRESIDING OFFICER. Is there further debate?

Mr. WARNER. Mr. President, this amendment, of course, is cleared on this side. I thank the distinguished Republican leader for once again bringing to our attention the importance of the United States preserving what I regard as one of the most significant parts of our overall deterrent structure. From time to time this subject does come up in these discussions and I think the imprint of the Congress of the United States on this subject is vital and timely. I thank the leader.

The PRESIDING OFFICER. Is there further debate?

Mr. DIXON. Mr. President, this side supports this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 545) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I thank again my colleagues on both sides of the aisle for helping me to dispose of these amendments.

Let me urge my colleagues on both sides of the aisle—I know the majority leader has made this plea earlier—to come to the floor and offer their amendments so that we might complete action on this very important piece of legislation today.

It is my hope—I have not discussed this with the majority leader but I will during our Republican caucus—that we might even agree to vote on cloture earlier than tomorrow morning so that we can bring this bill to a close because the majority leader has outlined a rather extensive program for the balance of the week including rural development legislation, drought legislation, the debt ceiling, the S&L bill, oilspill perhaps, and maybe other appropriation bills. This is Tuesday and we hope to complete action on all these measures by Friday. So I urge my colleagues on this side to come to the floor with their amendments. I thank the managers for their expeditious handling of this bill.

The PRESIDING OFFICER. Is there further debate or further amendments?

The Chair will observe that the Levin amendment is now before the Senate. And the time remaining is 2 minutes, 43 seconds, to the Senator from Virginia, and 4 minutes and 23 seconds to the Senator from Michigan.

Mr. NUNN. Mr. President, I ask unanimous consent that the Levin amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 536

(Purpose: To authorize appropriations for, and otherwise to promote, environmental restoration and management of defense waste and transportation in connection with nuclear defense activities of the Department of Energy)

Mr. NUNN. Mr. President, I call up amendment No. 536 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself, Mr. WARNER, Mr. EXON, Mr. THURMOND, Mr. LEVIN, Mr. COHEN, Mr. KENNEDY, Mr. WILSON, Mr. BINGAMAN, Mr. MCCAIN, Mr. DIXON, Mr. WALLOP, Mr. GLENN, Mr. GORTON, Mr. GORE, Mr. LOTT, Mr. WIRTH, Mr. COATS, Mr. SHELBY, and Mr. BYRD, proposes an amendment numbered 536.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title XXXI insert the following:

PART E—ENVIRONMENT, SAFETY, AND MANAGEMENT

SEC. 3151. AUTHORIZATION FOR ENVIRONMENTAL RESTORATION AND FOR MANAGEMENT OF DEFENSE WASTE AND TRANSPORTATION.

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1990 for environmental restoration and management of defense waste and transportation, as follows:

(1) For operating expenses, $1,602,639,000, to be allocated as follows:

(A) For environmental restoration, $640,293,000. Such funds may also be used for plant and capital equipment.

(B) For waste operation and projects, $747,167,000.

(C) For waste research, development, and compliance in support of the defense waste cleanup technology program under section 154, $200,338,000.

(D) For transportation management, $11,841,000.

(E) For program direction, $2,950,000.

(2) For plant and capital equipment, $166,966,000, to be allocated as follows:

Project 90-D-170, general plant projects, various locations, $29,036,000.

Project 90-D-171, laboratory ventilation and electrical system upgrade, Richland, Washington, $1,100,000.

Project 90-D-172, aging waste transfer lines, Richland, Washington, $1,300,000.

Project 90-D-173, B plant canyon crane replacement, Richland, Washington, $1,500,000.

Project 90-D-174, decontamination laundry facility, Richland, Washington, $2,800,000.

Project 90-D-175, landlord program safety compliance-1, Richland, Washington, $4,200,000.

Project 90-D-176, transuranic (TRU) waste facility, Savannah River, South Carolina, $3,100,000.

Project 90-D-177, RWMC transuranic (TRU) waste treatment and storage facility, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $5,000,000.

Project 90-D-178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $6,000,000.

Project 90-D-171, Idaho National Engineering Laboratory road renovation, Idaho, $7,400,000.

Project 89-D-172, Hanford environmental compliance, Richland, Washington, $27,600,000.

Project 89-D-173, tank farm ventilation upgrade, Richland, Washington, $15,400,000.

Project 89-D-174, replacement high level waste evaporator, Savannah River, South Carolina, $9,360,000.

Project 89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $6,440,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $29,100,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $700,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $2,790,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $14,140,000.

(3) For capital equipment not related to construction, $50,126,000.

SEC. 3152. MAJOR DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS.

(a) MAJOR PROGRAM DEFINED.—In this section, the term "major Department of Energy national security program" means a research and development program (which may include construction and production activities), a construction program, or a production program—

(1) that is designated by the Secretary of Energy as a major Department of Energy national security program; or

(2) that is estimated by the Secretary of Energy to cost more than $500,000,000 (based on fiscal year 1989 constant dollars).

(b) REQUIRED REPORTS.—(1) Except as provided in paragraph (3), the Secretary of Energy shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives at the end of each calendar-year quarter a report on each major Department of Energy national security program.

(2) Each such report shall include, at a minimum, the following information:

(A) A description of the program, its purpose, and its relationship to the mission of the national security program of the Department of Energy.

(B) The program schedule, including estimated annual costs.

(C) A comparison of the current schedule and cost estimates with previous schedule and cost estimates, and an explanation of changes.

(3) A report under this section need not be submitted for the first, second, or third calendar-year quarter if the comparison between current schedule and cost estimates and schedule and cost estimates contained in the last submitted report shows that there has been—

(A) less than a 5 percent change in total program cost; and

(B) less than a 90-day delay in any significant schedule item of the program.

(c) SUBMISSION OF REPORT.—Each report under this section shall be submitted not later than 30 days after the end of each calendar-year quarter. The first report shall cover the fourth quarter of 1989 and shall be submitted not later than January 30, 1990.

(d) IDENTIFICATION OF PROGRAMS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall submit a report to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives that identifies all programs of the Department of Energy that are major Department of Energy national security programs, as defined in subsection (a).

SEC. 3153. FIVE-YEAR BUDGET PLAN REQUIREMENT.

(a) PLAN REQUIREMENT.—The Secretary of Energy each year shall prepare a five-year budget plan for the national security programs of the Department of Energy. The plan shall contain the estimated expendi-

tures and proposed appropriations necessary to support the programs, projects, and activities of the national security programs and shall be at a level of detail comparable to that contained in the budget submitted by the President to Congress under section 1105 of title 31, United States Code.

(b) SUBMISSION OF PLAN.—The Secretary shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives the plan required under subsection (a) at the same time as the President submits to Congress the budget pursuant to section 1105 of title 31, United States Code.

SEC. 3154. DEFENSE WASTE CLEANUP TECHNOLOGY PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish and carry out a program for the supervision, direction, and coordination of all research activities of the Department of Energy for the development of technologies useful for (1) the reduction of environmental hazards and contamination resulting from defense waste, and (2) environmental restoration of inactive defense waste disposal sites.

(b) PROGRAM MANAGER.—The Secretary shall carry out the program referred to in subsection (a) through a program manager appointed by the Secretary. The program manager shall supervise and direct all research activities conducted by or for the Department of Energy for the development of technologies referred to in such subsection.

(c) COORDINATION WITH EPA.—(1) In order to ensure nonduplication of research activities by the Department of Energy and the Environmental Protection Agency regarding technologies referred to in subsection (a), the Secretary shall coordinate the research activities of the Department of Energy relating to the development of such technologies with the research activities of the Environmental Protection Agency relating to the same matter.

(2) The Secretary and the Administrator of the Environmental Protection Agency may enter into cooperative agreements for the conduct of research for the development of technologies referred to in subsection (a).

(d) REPORT.—(1) The Secretary shall submit to Congress not later than April 1 each year a report on the research activities of the Department of Energy for the development of technologies referred to in subsection (a). The report shall cover such activities for the fiscal year preceding the fiscal year in which the report is submitted. The Secretary shall include in the report the following:

(A) A description and assessment of each research program being carried out by or for the Department of Energy and the Identification of the individual laboratory, contractor, or institution of higher education responsible for the research program.

(B) An assessment of the extent to which (i) there are practical applications of the technologies being researched, and (ii) such technologies will likely facilitate compliance by the Department of Energy with applicable environmental laws and regulations.

(C) An accounting of the funds allocated to each research program and to each laboratory, contractor, or institution of higher education carrying out the research program.

(D) An assessment of the research projects that have been coordinated with the Environmental Protection Agency pursuant to subsection (c).

(2) The first report required by paragraph (1) shall be submitted not later than April 1, 1990.

(e) DEFINITIONS.—As used in this section:

(1) The term "defense waste" means hazardous waste, including radioactive waste, resulting primarily from atomic energy defense activities of the Department of Energy.

(2) The term "inactive defense waste disposal site" means any site (including any facility) which is used for the disposal of defense waste and is closed to the disposal of additional defense waste, including any site that is subject to decontamination and decommissioning.

SEC. 3155. BLUE RIBBON TASK GROUP ON ENVIRONMENTAL RESTORATION AND DEFENSE WASTE MANAGEMENT.

(a) ESTABLISHMENT OF GROUP.—The President shall establish a Blue Ribbon Task Group on Environmental Restoration and Defense Waste Management to examine the procedures used in establishing requirements, providing necessary resources, planning, and implementing plans for each of the following:

(A) Environmental restoration activities, including corrective actions at, and decontamination and decommissioning of, facilities of the Department of Energy that conduct atomic energy defense activities.

(B) Defense waste management operations and disposal at such facilities.

(C) Compliance with, and enforcement of compliance with, applicable environmental laws at such facilities.

(b) MEMBERSHIP OF GROUP.—(1) The Task Group shall consist of seven members, qualified for service by reasons of experience and education. The President shall appoint three members and shall designate one of those members to act as chairman of the Task Group. The Chairman and ranking minority members of the Committees on Armed Services of the Senate and the House of Representatives shall each appoint one member.

(2) No person may be appointed to the Task Group who is an employee of the Department of Energy, who has a contract with such Department, or who is an employee of any person that has a contract with such Department.

(c) ACCESS TO RECORDS AND EMPLOYEES.—The Secretary of Energy shall ensure that the Task Group has complete and timely access to all records of the Department of Energy pertaining to policies and procedures referred to in subsection (a) and to all employees of the Department who are directly concerned with such policies and procedures.

(d) REPORT BY THE PRESIDENT.—Within 90 days after the date of the enactment of this Act, the President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing (1) the name of the each person appointed by the President to the Task Group, (2) a statement of the qualifications of each such person to serve on the Task Group, and (3) a detailed plan for completing the report required by subsection (e).

(e) REPORT BY THE TASK GROUP.—Not later than January 15, 1991, the Task Group shall submit to the President and the Committees on Armed Services of the Senate and the House of Representatives a report containing its findings and recommendations. Such report shall include any additional or dissenting views that any member of the Task Group may wish to submit. The report shall (in addition to any other matters) include recommendations of the Task Group on the following matters:

(1) Changes needed to improve the policies and procedures referred to in subsection (a).

(2) Improvements in the budgeting, organization, and management policies and procedures that affect environmental compliance and restoration, enforcement, and defense waste activities.

(3) Appropriate policies and procedures for achieving, maintaining, and enforcing compliance with substantive and procedural requirements of Federal and State environmental laws at atomic energy defense facilities of the Department of Energy while minimizing interference with the performance of the missions of those facilities, including recommended changes in existing law or existing Federal agency policies necessary for the establishment of (A) the policies and procedures recommended by the Task Group, and (B) consistent Government-wide policies on the matters covered by the policies and procedures recommended by the Task Group.

(4) Priorities for implementing such measures for environmental compliance and restoration and defense waste management at atomic energy defense facilities of the Department of Energy as may be necessary to bring such facilities into compliance with applicable Federal and State laws.

(5) Actions to enhance the capability of the Department of Energy to meet program milestones.

(6) The amount of funding needed for long-term environmental restoration at Department of Energy atomic energy defense facilities.

(7) Alternative means for funding long-term environmental restoration at such facilities.

(8) Whether one of the means for funding such long-term environmental restoration should be a trust fund established for purposes of correcting environmental contamination at the Department of Energy atomic energy defense facilities and, if so, what the scope of the trust fund should be, what the sources of revenue for the trust fund should be, and what the criteria should be for determining the priorities for which expenditures from the trust fund should be made.

SEC. 3156. EXECUTIVE MANAGEMENT TRAINING IN THE DEPARTMENT OF ENERGY.

(a) ESTABLISHMENT OF TRAINING PROGRAM.—The Secretary of Energy shall establish and implement a management training program for personnel of the Department of Energy involved in the management of atomic energy defense activities.

(b) TRAINING PROVISIONS.—The training program shall include instruction in the following areas:

(1) The appropriate management responsibilities and reporting requirements for the operation of atomic energy defense facilities and the conduct of related activities.

(2) Methods of evaluating technical performance.

(3) Federal and State environmental laws and requirements for compliance with such environmental laws, including timely compliance with reporting requirements in such laws.

(4) The establishment of program milestones and methods to evaluate success in meeting such milestones.

(5) Methods for conducting long-range technical and budget planning.

(6) Procedures for reviewing and applying innovative technology to environmental restoration and defense waste management.

SEC. 3157. DEFENSE PROGRAM MISSIONS.

Section 91(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2121(a)) is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clauses:

"(3) provide for safe storage, processing, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs; and

"(4) carry out research on and development of technologies needed for the effective negotiation and verification of international agreements on control of special nuclear materials and nuclear weapons.".

Mr. NUNN. Mr. President, I am pleased to offer, with Senators WARNER, EXON, THURMOND, and other members of the committee, the Department of Energy Safety Management Improvements Act as an amendment to this Defense authorization bill.

The provisions contained in this measure were reported by the Armed Services Committee as a separate bill, S. 1369, and is now being offered as an amendment to the Defense authorization bill. Although this amendment has the support of the committee, we are offering this in our capacity as individual Senators.

Mr. President, I believe provisions in this amendment represent some of the most important actions Congress can take to correct the problems of our Nation's nuclear weapons complex.

Senator LEVIN mentioned this morning that a portion of his amendment deals with the same overall subject matter in terms of the add-back he makes after making the cut on the MX.

So I shall oppose his amendment. Senator GRASSLEY has already outlined the reasons for opposition to that MX amendment. But the add-back portion relating to energy is a part of this amendment. I think everyone should understand that.

Mr. LEVIN. Mr. President, will the Senator yield?

Mr. NUNN. I will not only yield, but I will say the Senator has added another $100 million above these amendments. So these two are not in any way in conflict. I appreciate the Senator for getting up and bringing that to my attention.

Mr. LEVIN. I thank the Senator.

Mr. NUNN. That means the administration requested $100 million for this new technology for energy cleanup for nuclear waste. This amendment adds another $100 million. If the Senator's MX amendment is approved, it will be another $100 million. So they are not in any way incompatible.

All of us are aware that the Department of Energy faces a crisis in managing its defense facilities and in meeting environmental and safety requirements. Many of the facilities of the nuclear weapons complex are approaching the end of their useful life and need to be modernized or replaced. Many of the plants were built 30 to 40 years ago and no longer represent modern, industrial technology.

Recent events suggest that environmental protection and safe operations have not always been an integral part of the nuclear weapons program. I say that with deep regret but I think it is clear that is the case. Just this month, six Department of Energy defense sites were added to the Environmental Protection Agency's Superfund national priority list of the most serious hazardous waste sites in the country. Last month the FBI launched a criminal investigation into alleged illegal storage of nuclear waste at the Rocky Flats Plant outside of Denver, CO. A recent report by the Department of Energy's Inspector General stated that, "The Department of Energy does not have a systematic approach to reasonably assure compliance with environmental requirements." The Secretary of Energy himself is so dissatisfied with the Department of Energy's environmental performance that he has created environmental "tiger teams" to conduct environmental compliance assessments at all Department of Energy facilities.

Department of Energy reports have estimated that the cost of cleanup at Department of Energy defense sites could be as much as $85 billion over the next 20 years. If these estimates are correct, cleanup costs could run as high as $4 billion per year on average.

Last year the Nation spent less than $1 billion on cleanup efforts. This amendment proposes to raise the level of expenditure for environmental cleanup at the Department of Energy to $1.8 billion, an amount that may still be small in comparison to the Department of Energy's long-term needs. This amount is an increase of over $500 million to the Bush administration budget request.

The Secretary of Energy has spoken of the "cultural malaise and serious problems that now plague some of our vital Department of Energy facilities." He has clearly expressed the priorities that guide his approach to the nuclear weapons complex: the realization that—

Environmental, public health and safety issues are important components of the Department's strategic responsibility to produce nuclear warheads and treat or dispose of the wastes that have been generated over 40 years of nuclear operations. * * * Waste operations and environmental protection must be on a par with production.

Mr. President, I share the Secretary's view of the equal importance of environmental protection and nuclear weapons production.

With this objective in mind, the amendment I offer today with my colleagues contains seven important provisions:

First, authorization of $1.8 billion for environmental restoration and defense waste operations at the Department of Energy's extensively contaminated defense facilities. This is $518 million more than the budget request. Of this amount, $418 million is to be used for environmental restoration and waste operations and $100 million to fund the creation of a new program to accelerate the development of innovative cleanup technologies.

That $100 million is what Senator LEVIN and I just had our dialog about.

Virtually every witness who testified before the committee on environmental priorities, including Department of Energy officials, indicated that the Department of Energy's needs exceed the amounts requested by the administration for fiscal year 1990. In fact, the Secretary himself has already suggested an increase of $300 million in cleanup funding for fiscal year 1990 and an increase of about $1 billion for fiscal year 1991. This is merely a down payment on the problem. If current estimates are correct, the Department of Energy would need to spend an average of $4 billion per year over the next 21 years in the environmental cleanup and defense waste area; we hope these amounts can be cut by new technology, but, nevertheless, the problem is staggering.

Second, a requirement for the Department of Energy to report regularly on cost overruns and schedule delays in its major defense programs. This provision is similar to the selected acquisition report or SAR requirement that applies to all major Department of Defense programs and helps Congress monitor cost and schedule compliance of these major activities. I should strike the word "energy" and say this applies now to the Department of Defense programs. The Secretary of Energy will be required to submit reports on each major defense program on an annual basis and on a quarterly basis for programs with a change in cost of more than 5 percent or a change in schedule of more than 90 days since the last report.

We have found these reports very valuable, and I think the Department of Defense management found them very valuable in the defense arena, because they are an early warning system telling us that something is going wrong. We believe this should also apply to DOE.

This important management tool helps Congress conduct consistent and informed oversight of major Department of Defense defense programs. The Department of Energy's record on

major programs suggests that better internal management and more informed congressional oversight of major Department of Energy defense programs is needed. Department of Energy records show that its major construction projects have had an actual cost of about an average of 1.5 times more than the original estimate. While this reporting requirement cannot substitute for responsible management by the Department of Energy itself, it can help identify programs that are being poorly managed early in the process and give Congress an opportunity to correct them.

Third, a requirement that the Department of Energy annually prepare and submit to Congress a 5-year plan for all its nuclear weapons activities. The 5-year defense plan is central to the management of long-range planning of our national security effort in the Department of Defense. While the Department of Energy has informally utilized long-term planning methods, it has lacked the detailed 5-year planning system that has been successfully developed within the Department of Defense. The new Secretary of Energy has already begun to prepare a 5-year plan for environmental and waste cleanup. This provision will ensure that a long-range planning process is applied to all the Energy Department's defense activities. It might be a good idea to do this in nondefense areas, too, but we are correcting this amendment only to defense.

The 5-year planning system used by the Department of Defense is one of the most important management tools available for reconciling needed programs, projects, and activities with realistic 5-year funding projections. The pressing problems facing the Department of Energy require a comprehensive 5-year planning system patterned after the one developed by the Department of Defense. This plan will provide a roadmap for the future and aid Congress in making the difficult budgetary choices that will confront the nuclear weapons complex in the next decade.

Fourth, the Secretary of Energy is directed to set up a Cleanup Technology Program to accelerate the development of innovative cleanup technologies. Department of Energy witnesses have testified that, "there are contaminants that we have throughout the Department of Energy complex for which there is no known cost-effective technology." Examples of current problems for which Department of Energy witnesses have stated a cost-effective technology is not yet available include the single-shell high-level waste tanks at Hanford, WA; buried transuranic waste at the Idaho National Engineering Laboratory; and the radon-contaminated silos at Fernald, OH.

To date, the technical talent that exists at the Department of Energy's laboratories, at universities, and within private industry has not been effectively harnessed in coordinated national effort to advance the state of the art in technologies for environmental cleanup. Technological advances have the potential to accelerate cleanup schedules and reduce long-term costs.

This provision directs the Secretary of Energy to establish a Cleanup Technology Program to coordinate the research and development of technologies for environmental restoration and waste minimization. The Secretary will appoint a program manager who will be responsible for supervising and directing the research and development of cleanup technologies to be conducted at our national laboratories, at universities, and by private industry. This program will be conducted on a competitive basis to ensure that all meritorious ideas are fully considered.

Fifth, creation of a blue-ribbon task group, composed of independent experts, to develop recommendations on a long-term funding approach for defense waste cleanup and environmental restoration. Cleaning up the nuclear weapons complex is a costly endeavor that will take many decades. We need additional resources, and we also need a well-thought out approach to managing this increased level of expenditure over many years.

A long term, analytic assessment is essential to providing coherence, structure, and consistency to the cleanup program the Department of Energy will be conducting over the next few decades. No adequate scientific or analytic framework currently exists for managing such a long-term cleanup problem. The Superfund model, while attempting to address a related set of environmental problems, differs significantly from the Department of Energy because the Superfund can tap private industry as a major source of revenue for cleanup activities. The Department of Energy's defense facilities are owned by the Federal Government, and the Federal Government alone is responsible for cleanup of these facilities. Congress will thus need to consider innovative and alternative approaches to funding environmental cleanup over the long term.

The recommendations of the task group will help provide a roadmap for the future—a way to conduct environmental cleanup consistent with the Department's mission of maintaining the nuclear deterrent. As Secretary Watkins has said: The Department's job "is to keep things on line safely and to keep them environmentally sound—not to shut them down;"

Sixth, the Secretary of Energy is directed to establish a Management Training Program for Department of Energy personnel with national security responsibilities. The Secretary of Energy has stated numerous times that the "culture" of operations at Department of Energy facilities must be changed. A recent report by the Department of Energy Inspector General states that the Department of Energy managers and operating employees are "not adequately trained on their responsibilities for complying with environmental regulations." This provision is designed to help the Department of Energy change its safety culture and instill a new sense of responsibility and accountability into its defense operations.

Seventh, environmental restoration and waste cleanup are established as a primary mission of the Department of Energy's defense programs under the Atomic Energy Act. This provision codifies the basic premise of the Secretary of Energy's approach that "environmental protection must be on a par with production." We are going on record with the statute, if this is adopted, endorsing very strongly and codifying that sentiment.

The traditional missions of nuclear weapons research, development, and production remain as important as ever. However, we must recognize that these missions can and must be conducted in a manner that protects the environment and that properly treats and disposes of hazardous and nuclear waste.

So these are the seven individual parts of this very important amendment that has been agreed on, I believe, unanimously in the Armed Services Committee.

In closing, I would like to commend all the members of the Senate Armed Services Committee for supporting these measures to improve environment, safety, and management at Department of Energy defense facilities. I would like to pay particular recognition to Senators EXON and THURMOND for the capable leadership they have demonstrated on these matters in the Subcommittee on Strategic Forces and Nuclear Deterrence.

Cleanup of our Department of Energy nuclear weapons production facilities will be a long and very expensive process. Nothing in this amendment will alter that fact.

What the amendment will do, though, is send a clear message to the Department of Energy and to the American people that Congress is committed to the safe operation of our nuclear weapons production facilities and to the cleanup of hazardous waste sites caused by the activities of these facilities in the past.

Senators EXON and THURMOND have exercised very capable leadership. They have demonstrated in these matters that they have a concern about not only our nuclear deterrent, but also the cleanup and the environmen-

tal restoration program which has to be a very, very important priority.

This amendment represents a very large hunk of money. This money has not been something that was easy to come by. There have been cuts made throughout our committee markup, particularly in the strategic area, in order to find the money to begin a major effort that is above the President's budget. And I think everybody should focus on that and understand what we are doing here, because not only is the money important, but the overall thrust of this amendment is very important.

I commend the Senator from Virginia for his consistent and strong leadership in this area.

Mr. President, I will not immediately ask for a vote on the amendment. There may be an amendment or two that some people want us to consider.

I urge my colleagues to support this amendment.

Mr. BINGAMAN. Mr. President, I rise in support of the amendment offered by Mr. NUNN on behalf of our committee, to authorize appropriations for the Department of Energy for fiscal year 1990 to address the critical environmental problems that have arisen at DOE's defense facilities.

This amendment is a key provision of the fiscal year 1990 Defense Authorization Act. It is a provision that I strong support, and one on which I have worked closely with my colleagues on the committee. Until now, the Department of Energy nuclear defense mission has been narrowly focused on weapons development and materials production, with insufficient attention given to the environmental impact of that mission. This amendment would make a major addition to the mission of the Department of Energy under the Atomic Energy Act. With adoption of this amendment, we are recognizing the dire need for a program of cleanup at our country's nuclear defense facilities, as well as a program of research into technologies with which to pursue that cleanup.

The need for environmnental restoration at these facilities is addressed through authorizations that will get us started on the cleanup problems which now seem endemic to our defense nuclear facilities. This amendment would authorize $518 million above the President's request to accelerate the waste cleanup and waste research efforts of the Department.

The need to develop new technologies to aid the Department of Energy in its cleanup mission is recognized by the establishment of a cleanup action program and by a doubling in the funding for research and development of waste management and compliance technology, from $100 to $200 million. Research into cleanup technology is necessary if we are truly going to restore contaminated areas. We are only beginning to understand the problems at many of these sites. Research into cleanup technology has not received the priority it deserves, and that lack of priority is partially to blame for the problems we now face in trying to cope with a huge cleanup task. Harnessing the DOE laboratories into a coordinated national effort on cleanup technology offers the potential of both accelerating the cleanup and significantly reducing costs in the long term. We simply cannot deal with this problem with bulldozers. I hope that my colleagues will recognize the need to move forward with this legislation, and the importance of this particular provision.

The committee has also included a provision to create a Blue Ribbon Task Group on Environmental Restoration and Defense Waste Management to provide the Congress an independent assessment on how to approach this problem in the long term. I believe this is a very useful provision. We need to sort out how we are going to establish priorities for cleanup, how we are going to fund the cleanup effort, including whether a trust fund approach would be appropriate, and how DOE can improve its management and implementation of this massive undertaking. We had a blue ribbon task group several years ago chaired by Judge Clark that provided very useful input to us on management of DOE's weapons development program. I hope that we will get an even more useful and timely assessment from this new group.

I would conclude by noting that there is one other provision contained in this amendment not related to the environment on which I have worked very closely with the chairman and my other colleagues on the Armed Services Committee. It involves a second addition to the Department of Energy defense mission under the Atomic Energy Act.

The provision I refer to designates the research and development of technologies needed to verify arms control agreements as a key mission of the Assistant Secretary of Energy for Defense Programs. Since coming to the Senate, I have worked to strengthen DOE's verification program. It has been clear to me all along that verification was likely to be the show stopper on many desirable arms control agreements, and that we were not doing enough to develop verification options for our arms control negotiators. Unfortunately, the Department of Energy under its previous leadership did not place the same priority as the Congress did on this function. For example, the first year 1990 DOE verification budget request is $5 million below the fiscal year 1989 total, and the budget for detection technology, the heart of the program, is actually $13 million lower than in 1989. This would mean work on the most advanced verification concepts would have to be terminated, according to DOE's budget submission.

This strikes me as exactly the opposite direction from where we should be going. Until DOE recognizes the importance of this mission, we will have to seek funding increases above the request every year. I would like that to become unnecessary. Elsewhere in the bill we authorized an additional $35 million over the President's request to pursue verification research and technology. This simple amendment to the Atomic Energy Act mission statement would strengthen the visibility of the verification function within the Department and hopefully reinvigorate DOE research into this important area. I believe that Admiral Watkins recognizes the importance of verification to arms control progress, and I am sure he will rise to the challenge of ensuring this mission a strong place in his department.

I urge my colleagues to support the committee amendment.

I yield the floor.

Mr. EXON. Mr. President, the amendment offered by Chairman NUNN on behalf of the committee regarding our nuclear waste cleanup is one of the most vital parts of this Department of Defense authorization bill. I thank him for his kind recognition of this Senator's long and ongoing efforts in this regard.

Last year and again this year my Subcommittee on Strategic Forces and Nuclear Deterrence has focused numerous hearings and countless time on this key requirement and have again this year, as we did last year, provided significantly more funding for demanding cleanup than requested by the administration.

All during this period we have worked closely with the Secretary of Energy to provide funds where needed so they could be profitably used.

I urge the adoption of this amendment that has been carefully crafted to meet this critical need.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank the chairman. Again, this is a manifestation of his leadership and that of the committee in a field that is absolutely essential. Might I suggest that further consideration of the amendment be momentarily withheld until such time as two Senators on this side arrive—and I know of two, Senators THURMOND and CHAFEE—who are anxious to address this amendment? Is that possible that we can accommodate them before the Senate moves to consider this amendment?

Mr. NUNN. Yes. I want to make sure we had the discussion out there. We have been contacted by the Energy

Committee, and they would like for us to consider a slight alteration in the way the blue ribbon task force is appointed. Certainly, we will listen to their advice on this one and we will discuss that.

Mr. WARNER. I am now ascertaining the availability of those two Senators, and I will be able to advise the Senator from Georgia shortly.

Mr. NUNN. I ask the Senator from Virginia to consider, and we do not have to decide at this moment, and I also ask the Chair, as an individual Senator, the leader of our subcommittee, to consider whether we want a rollcall vote on this amendment. It is really one of the most important matters that have been undertaken in our committee, and it is going to have very important and long-range consequences.

So it may very well be that we may want a rollcall vote. I hope there will not be opposition. Nevertheless, we may want everyone to really focus on this. It depends on how many other votes we have stacked. Do we know how many votes are stacked now? One is at 12 o'clock, is that right?

The PRESIDING OFFICER. The Chair will advise that there is only one stacked vote at noon as of the present time.

Mr. WARNER. That is correct. And that would be for purposes of identification, the Levin amendment.

The PRESIDING OFFICER. The Senator from Virginia is correct. The Levin amendment is scheduled for a vote at noon.

Mr. NUNN. It is my strong inclination, unless there is another amendment that we have completed debate on and is ready for a rollcall vote, to get a rollcall vote on this one immediately after the scheduled vote.

Mr. WARNER. Mr. President, I will be able to advise the Senator very shortly, and we will try to accommodate that second vote. Perhaps at this time the leadership should consider whether or not that vote could be 10 minutes if it is sequential to the first vote.

Mr. NUNN. I also want to serve notice on everyone that sometime after the caucuses this afternoon I will be asking the Senate to approve the burden-sharing amendments which have been filed and explained. There is one amendment that touches on NATO, a very important amendment. There is one that touches on South Korea, and there is one that touches on Japan.

It would be my plan to ask for votes on those amendments this afternoon, not necessarily rollcall votes, but I want to make sure everyone has a chance to read them and study them before we ask the Senate to approve them.

Mr. WARNER. Mr. President, I join the distinguished chairman in that these are amendments which the two of us worked on together with Senators LEVIN and MCCAIN primarily. They are important subjects and I would lean toward at least a rollcall vote on one to attach the significance that we in turn wish to focus on these amendments.

I would suggest we consult among ourselves if the Senator agrees that one vote should be cast.

Mr. NUNN. My problem would be determining which one because I think all three of them are important.

Mr. WARNER. I realize that.

Mr. NUNN. The Japanese amendment is important, as are the South Korea, and then the NATO.

It would be my view we may want to stack those votes sometime later this afternoon and have a shorter vote.

Mr. WARNER. A block of votes and then just have 10 minutes apiece.

Mr. NUNN. Maybe have 10 minutes on each one of them after another vote has already occurred.

Mr. WARNER. I would certainly favor that because I think at a minimum we ought to have at least one, and then I would favor the other recommendation on all four.

Mr. President, at this time I shall yield the floor, and I see the presence of the Senator from Maine in hopes he will go ahead with his amendment.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I have an amendment at the desk and I am going to ask unanimous consent to modify my own amendment to conform to some of the negotiations that have been under way between our respective staffs. It is, in fact, a sense-of-the-Senate resolution, and I will discuss its details at the end of my comments.

The PRESIDING OFFICER. The Chair would advise the Senator from Maine it would be appropriate to request to lay aside the present amendment so the body could consider his amendment.

Mr. COHEN. Mr. President, I ask unanimous consent that the pending amendment be laid aside temporarily in order to take up the amendment that I now offer.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine.

Mr. COHEN. Mr. President, over the last few days much has been said and written by the news media about the ongoing congressional consideration of the B-2 bomber. A review of these reports reveal many conflicting interpretations about what the Senate and the House of Representatives have voted to do to the B-2 program.

Last week, the Washington Post carried a headline that read "Senate Gives Conditional Go-Ahead on B-2 Bomber." The lead sentence of that article read:

> The Senate agreed overwhelming yesterday to push ahead with the production of the controversial B-2 Stealth bomber so long as it passes a series of flight and radar-envasion tests.

The New York Times, on the other hand, ran a headline reading, "Senate Deals Bush Defeat in Killing Funds for Stealth." The lead sentence in this article read:

> Bowing to heavy opposition to the Stealth bomber, the Senate voted overwhelmingly today to bar purchases of the radar-evading plane next year unless the Pentagon demonstrates that the bomber can perform as advertised.

In addition to discussing the conditions placed upon the fiscal year 1990 procurement, and the skepticism those conditions represent, the New York Times also gave prominent attention to another amendment the Senate adopted unanimously that requires the Secretary of Defense to study and report on the possibility of cutting back the planned B-2 force by as much as half.

The different assessments of our action was not limited to the print media. The McNeil-Lehrer news program stated that "The Senate has voted to proceed with the full B-2 program."

It is also worth noting that the Washington Post article contrasted the Senate's action to the House's by stating that "The House version of the defense bill includes a major cut in proposed spending for the defense bill." It's important to note that the House bill to which the article referred would have approved two B-2 aircraft while the Senate version of the bill approves three. Apparently approval of three planes subject to certain restrictions constitutes overwhelming support while approval of two planes with similar restrictions constitutes a major cut.

I think that the ambiguity embodied in these different new accounts reflect, to some extent, the ambivalence that may exist among the Members.

Did the Senate give a nearly unanimous endorsement to the B-2 program? I can only answer for myself, no. Nothing in the amendment adopted last Tuesday should lead to such a conclusion. But if that is the case, what did the amendment represent?

First of all, I think it reflects the great respect enjoyed by the sponsors of the amendment, Senators NUNN and WARNER.

Second, I think it reflects the circumstances under which the Senate considered the amendment, which precluded the possibility of any other Senator attempting to amend it. There is no doubt that it was an improvement over the administration's request, however, and I would suggest that is precisely why so many voted in favor of it.

Finally, I think support for one amendment reflects some ambivalence on the part of Members who are being told that after having spent $23 billion on the program, we cannot afford not to proceed.

Members of Congress are also being pressured with the argument that Congress has known all along how much the program was going to cost so it would be a breach of faith for Congress to curtail the program now due to costs.

Little weight should be given to this argument. First of all, up until recently, the Pentagon did its best to prevent informed debate of the B-2 program's cost. Back in 1986 when some proposed deferring the B-2 and buying more B-1's instead, DOD refused to declassify cost estimates for the B-2, and the figure that was leaked to the media over and over again for the B-2 was $36 billion. This $36 billion represented an estimate calculated in 1981 dollars. Now there is nothing illegitimate with talking in terms of constant dollars, but the extensive use of this figure and the refusal to discuss then-year costs was clearly an effort to manage the Congress' perception of the program.

Back in 1986, we were also told by Dr. Hicks, the Under Secretary of Defense for Research and Engineering that the cost of each B-2 would be just 2 to 3 percent more than the cost of a B-1B. This figure apparently was arrived at by rolling in all kinds of costs that DOD had previously refused to include in B-1 cost estimates.

Even now that DOD and the Air Force has released what they say are their best estimates of the B-2 program's cost—$70.2 billion—many questions remain. This $70.2 billion figure, for example, does not include such things as the military construction costs.

More importantly, the $70.2 billion figure is merely an acquisition figure. It does not include the costs to operate and support the B-2. Operation and support costs are invariably quite high for aircraft. Three years ago, before problems with the B-1 came to light, analysts at the Congressional Budget Office informed me that cost to operate and support each B-1 bomber is about $8 million per year. We have not yet been provided with operations and support cost estimates for the B-2, but if they are similar to the B-1's this would mean about $1 billion a year for a force of 132 B-2's. If the plane has a 30-year life, the lifecycle costs for the B-2 will be over $100 billion. This is admittedly a rough estimate of the B-2's lifecycle cost, but it is the best that is available. In order to get better information, the Senate voted on Tuesday to require DOD to provide life-cycle cost estimates for the B-2.

For these reasons, Mr. President, the arguments we hear from Pentagon officials regarding the fly-away costs of the B-2 compared to the B-1 are incomplete, at best.

There are other arguments we are being presented with in order to erode the so-called sticker shock with which we are all afflicted. We are told that the B-2 will consume only 1.3 percent of the defense budget over its procurement period, an amount similar to that for the B-52 (1.4 percent) and the B-1 (1.6 percent). Presumably, this is intended to convince us that if we could afford these other systems then we can also afford the B-2.

What it fails to take into account is that 2½ decades elapsed between the procurement of the B-52 and the procurement of the B-1. We, on the other hand, are now being asked to buy the B-2 immediately after having paid for the B-1. While it may make sense to acquire a new bomber force once every two to three decades, it is quite another story to buy two new bomber forces within a single decade.

This is particularly true in light of the high cost of bombers compared to other strategic systems. Over the past decade, almost half of the money we have spent on R&D and procurement of strategic forces—including SDI—has gone to the bomber force. A similar portion of the strategic forces budget would be spent on bomber programs under the current 5-year plan.

In response to these concerns about the B-2 program's cost and the effect it will have on other elements of the budget, the Air Force strikes back with the ultimate argument—what price for deterrence, what price for freedom?

This argument, of course, can be used to justify any weapon system. The real issue is whether it is worth $70 billion—or, perhaps more accurately, $100 billion—to acquire the capabilities offered by the B-2 that cannot be acquired through the available alternatives.

The extremely high cost of the B-2 program has thus raised fundamental questions about the B-2 and its mission, such as: Do we need a penetrating bomber? Do we need 132 penetrating B-2's?

Last week, I took the floor to discuss some of these questions. In particular, I raised the question of whether a new strategic penetrating bomber is really needed when we can accomplish most of the same nuclear missions using cruise missiles and the same conventional missions using a variety of weapon systems we will have available.

Earlier, during the deliberations in the committee, I cited a book that was written by Norm Augustine, who many may recall was at least under consideration or in contention to become Secretary of Defense. He wrote a book called "Augustine's Laws." He pointed out that the cost of tactical aircraft during the last 30-40 years has grown at such an exponential rate that by the year 2054 "the entire defense budget will purchase just one tactical aircraft. That aircraft will have to be shared by the Air Force and Navy 3½ days each per week except for leap year, when it will be made available to the Marines for the extra day."

Another issue I raised in my floor statement last week was the overselling we are seeing of the B-2, the concurrent underselling of alternatives to accomplish the same missions, and how the Pentagon changes its arguments and its logic to fit whatever weapon it wants Congress to buy. I also discussed the START counting rule that favors penetrating bombers over cruise missile carriers, and how the Soviet acceptance of that counting rule contradicts the thrust of the arguments we are now hearing from the Air Force.

I would like to return to these matters to amplify on my comments of Tuesday.

B-2 MORE STABILIZING THAN WHAT?

Supporters of the B-2 have been seeking to justify it on the grounds that it would provide unique capabilities that no other weapon system can provide.

A B-2, we are told, is a stabilizing system because it poses no first-strike threat as a slow-flying system and avoids dangers of accidental war because it can be recalled after being launched. General Scowcroft, for whom I have the highest regard, has made this argument. Last Tuesday, he sent us a letter in which he said, "Both sides agree the bomber is the most stabilizing nuclear system in that it holds significant numbers of targets at risk in retaliation but cannot be regarded as a first-strike system."

All of these things are true, Mr. President, but the relevant fact is that these things are also true for a bomber equipped with cruise missiles. To quote from another White House document, a factsheet released after last year's summit in Moscow, "It is the U.S. view that ALCM's should be treated differently from ballastic missile warheads under the 6,000 limit because they are slower and do not pose a first-strike threat."

Simply stated, Mr. President, the stabilizing characteristics of bombers do indeed argue for creating an arms control regine that favors bombers, be they equipped with gravity bombs or cruise missiles, over ballistic missiles. But they do not provide a basis for choosing a penetrating bomber over a cruise missile-carrying bomber.

And so the argument that we should pay $70 billion for the B-2 because it is stabilizing misses the fundamental point that bombers with cruise missiles are just as stabilizing.

PENETRATING BOMBERS MORE THREATENING TO THE SOVIETS?

It has been suggested that the Soviet leadership will find the B-2 more worrisome and difficult to deal with than other nuclear weapon systems, including air-launched cruise missiles with stealth characteristics.

At the same time, however, we are told that the Soviet Union blithely accepted a counting rule in START that strongly encourages the deployment of penetrating bombers, like the B-2, rather than cruise-missile carrying bombers. General Chain, in fact, has stated that it was the Soviet Union that proposed the Reykjavik counting rule.

This raises the interesting question, why would the Soviet accept, much less propose, a counting rule that encourages the deployment of the very system which, we are now told, is the one they view as so worrisome and threatening?

ATTACKING MOBILE ICBM'S

Going beyond the obvious illogic of this argument for the B-2, let us examine the ability of the B-2 and cruise missiles to carry out specific missions in order to determine if the B-2 has significant unique capabilities that cannot be adquately matched by air-launched cruise missiles—significant, unique capabilities for which we would be willing to pay $70 billion.

For a long time, we were told that a major reason for buying the B-2 was the ability it would have to attack mobile targets, in particular, mobile ICBM's. Back when the current Air Force Chief of Staff, General Welch, was commander of the Strategic Air Command, he testified that "Fielding the ATB (B-2) will ensure a highly credible capability against the full spectrum of Soviet targets—fixed, hardened and mobile. The ATAB (B-2) is the most promising weapon system to counter the relocatable target threat.

That was in prepared testimony, it was not an off-the-cuff response to a question, and similar statements have been made on other occasions by Air Force and DOD witnesses.

The Joint Chiefs' posture statement for fiscal year 1988 stated that "Plans call for the ATB (B-2) to deploy in the 1990's to ensure a continued U.S. capability to * * * attack the full range of fixed and relocatable targets."

In March of this year, the current SAC commander, General Chain, submitted information to the committee which stated that "the B-2 will be preplanned to attack the full range of strategic targets—fixed/mobile, defended/undefended, hard/soft—in all categories. * * * The B-2 mission will include attacking relocatable targets. Of all current and planned weapon systems, the B-2 can best hold this target set at risk." He want on to state that "the B-2 enhances stability because of its flexibility to strike any SIOP target. No Soviet nuclear forces would be completely invulnerale to a U.S. retaliatory threat. This reduces Soviet confidence in their reserve force."

In recent weeks, however, the Air Force and DOD have been much more modest in their claims about the ability of the B-2 in this area. In a briefing released just prior to the committee's markup, the Air Force stated that "attacking highly mobile targets is neither the reason for the B-2 nor is it likely to be accomplished with great efficiency in the near to midterm future. However, the B-2 is the best longer term hope for that job."

And so contrary to the earlier statements that the B-2 "will ensure a highly credible capability against the full spectrum of Soviet targets—fixed, hardened and mobile" and contrary to the JCS statement that plans for the B-2 "ensure a continued U.S. capability to * * * attack the full range of fixed and relocatable targets," and contrary to General Chain's letter of just a few months ago stating that "the B-2 will be preplanned to attack the full range of strategic targets (fixed/mobile)," we now are told that attacking mobiles is not likely to be accomplished in the near to midterm and that this is not the reason for buying the B-2.

With this most recent and much more modest statement, Mr. President, I think that we are finally getting to the point where the rubber meets the road. The B-2 as it is planned to be deployed and for which we would pay over $70 billion will not be effective in attacking mobile ICBM's and other highly mobile targets.

The Air Force says that the B-2 is the best longer term hope for that job, but what does that mean? What changes would have to be made in the B-2 or in other U.S. systems in order to give the B-2 an effective capability?

In their fiscal year 1989 posture statement, the Joint Chiefs stated that "Countering such systems—as the SS-24 and SS-25—will require improved U.S. detection capability and more responsive command, control, communications, and intelligence."

In a report released in January, a group of highly regarded defense specialists convened by the Center for Strategic and International Studies to analyze U.S. strategic force options addressed this question by stating that "Although the B-2 has better inherent potential to deal with relocatable targets, it is not clear that either the B-2 or the B-1 will be equipped for this purpose or that supporting, survivable command, control, communications, and intelligence—C-3-I—will be provided." The CSIS panel went on to state that it would be "very optimistic" to assume that "the necessary onboard sensors and offboard C-3-I systems needed would be invented and deployed by the year 2000."

I ask unanimous consent a list of participants in the CSIS panel be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. FOWLER). Without objection, it is so ordered.

(See exhibit 1.)

Mr. COHEN. And so, while it is difficult to give a comprehensive answer to the question of what would be required to take the B-2's much touted potential for attacking mobile ICBM's and turn it into an actual, effective capability, it seems the short answer is plenty. And to acquire such a capability, if it is even possible, would require expenditures well beyond the current $70 billion-plus price tag for acquisition of the basic B-2.

In summary, Mr. President, contrary to what we were led to believe in recent years, the B-2 will not have a significant capability to attack mobile ICBM's. Giving the B-2 such a capability, if it is even possible to do so, will require that we do a great deal, probably both to modify the B-2 and to acquire new support systems. And the cost for all this would come on top of the current $70 billion acquisition estimate.

ATTACKING FIXED TARGETS

And so if the B-2 has little ability to hunt down mobile ICBM's in the aftermath of a nuclear exchange, we return to the question of whether the B-2 has any significant, unique capabilities that cannot be performed by other systems such as air-launched cruise missiles and, if so, are they worth $70 billion?

The next set of targets to be addressed are fixed targets, including hardened fixed targets. ALCM's are perfectly capable of attacking fixed targets with high accuracy. Just to cite one source on this, let me quote the Air Force annual report to the Congress—this is from the fiscal year 1989 report, but nearly identical statements have been made in each of the previous years' reports—"Air launched cruise missiles are effective weapons for attacking preplanned, fixed, hardened, strategic targets."

Air Force officials have argued that there are some very hard fixed targets which need to be attacked with high yield weapons of a type that can only be carried on penetrating bombers. There is a perfectly good response to that argument, but one that cannot be discussed on the Senate floor. I can only say that I find the argument in favor of penetrators to have limited validity.

In short, Mr. President, ALCM's are just as capable as the B-2 of attacking fixed targets, which constitutes the majority of the targets likely to be assigned to the B-2.

The Air Force also makes the argument that a penetrating bomber is more flexible than an ALCM in situations in which a target is of sufficient priority that it was cross-targeted by both a ballistic missile warhead and a bomber warhead. This is because, unlike a preprogrammed ALCM, the bomber crew can refrain from applying a weapon to the target if it has already been adequately damaged by the ballistic missile warhead. As a result, the bomber will then be able to attempt to attack an additional, lower priority, target. This assumes that a bomber crew will be able to determine with sufficient confidence that the high priority target has been damaged adequately enough to forgo a second attack. I think we need to remain skeptical of this argument. But even granting it a degree of validity, one is left with the question of whether this additional targeting flexibility is worth over $70 billion. I am, to say the least, far from convinced.

B-2 AS A CONVENTIONAL BOMBER

Yet another argument for the B-2 is that it will, to quote the Air Force's briefing from earlier this month, "make a powerful contribution with its conventional capability." General Randolph, head of the Air Force Systems Command, has put much significance on the B-2's conventional capabilities, indicating that just three to four B-2's, with one or two tankers, could have carried out the 1986 bombing of Libya. I think it is fair to say that for B-2 advocates the conventional mission has replaced attacking mobile ICBM's as the leading fall-back justification to buttress the primary justification of penetrating Soviet air defenses.

The B-2 will, indeed, have a conventional role. That is not news; we have been told that ever since the program became publicly known. But this is another example of overselling on the part of the Air Force.

We have plenty of other means for carrying out conventional bombing attacks—none of which involve risking half a billion dollars if one aircraft is lost.

In May, General Chain testified that—

SAC's conventional B-52's provide a potent combat capability for theater commanders today and in the future by decreasing theater firepower shortfalls with a responsive maritime and land-attack capability. Also, at the lower end of the spectrum of conflict, B-52's provide the NCA with the capability to attack targets anywhere in the world within hours and without the need for third-country basing.

He went on to note that "Some—B-52G's—are being modified to carry the Air Force's first conventional standoff, point target weapon, the HAVE NAP." I would add that the B-52G's will also be able to carry gravity bombs, Harpoon antiship missiles and the Tacit Rainbow defense suppression missile. General Chain concluded his testimony by pointing out that the conventionally armed B-52G's "are capable and constitute a bought and paid for national asset."

Besides the B-52's, we also have FB-111's, which are scheduled to be transferred into the tactical air force in the early 1990's, which not only can be but recently have been used for conventional bombing missions.

We also have the conventional land-attack Tomahawk available for use with increasing numbers being deployed throughout the fleet.

We are developing the Standoff land-attack missile, an air-launched land-attack version of the well-proven Harpoon missile.

In addition, DOD has underway a program to develop a long-range conventional cruise missile. This is a program in which the Senate has taken particular interest because of the capability it will provide, and so I think it would be a mistake for the Senate to overlook it when evaluating the conventional contribution of the B-2.

And, of course, we also have the B-1B, which has a conventional capability. I doubt that we would use the B-1B for conventional bombing missions, given its $285 million unit cost, but we would probably use it before we would use the B-2.

The conventional capability of bombers is a good example of promotional overload. Back in 1981, when Congress was being asked to build the B-1, emphasis was placed on its conventional capabilities. When pressed—by Senator EXON—on whether the B-2 could not perform that role when it came along, DOD replied that while the B-2 could carry out conventional missions, it would not be optimum or efficient.

Armed Service Committee hearing, November 1, 1981:

Secretary WEINBERGER. We think that the much more likely scenario and use of the B-1B will be as a conventional plane. * * * The B-1B with its ability to carry cruise missiles and ability to do all kinds of conventional missions is an enormously useful plane.

Senator EXON. I presume the Stealth would be able to carry out most of those missions if it were operational?

Secretary WEINBERGER. It could. It would certainly not be the optimum or best use. It is like using the B-52 in Vietnam. It could be done but it was not a very efficient use of resources.

When the B-1 was the item up for approval, the B-1 was the conventional bomber of choice. But now that the B-2 is up for approval, it has become the conventional bomber of choice.

This is hardly the only case in which the attributes of various bombers have fluctuated to fit the circumstances. Back in 1981 when this body was debating an amendment by Senator BYRD on the B-1, the current chairman of the committee, Senator NUNN, argued that DOD was skewing the date on the cost to maintain the B-52 in order to convince the Senate to buy the B-1. Let me quote Senator NUNN's speech from the RECORD of December, 1, 1981, page S14166:

So it is clear, Mr. President, that this package of costs for extending the B-52, at least it's clear to me, was engineered to convince the Senate that it is cheaper to procure and operate two new bombers than to produce only the so-called Stealth or ATB and maintain the B-52 as needed.

I would at this stage conclude that this analysis by Dr. DeLauer and the Air Force is clearly designed to make the B-1 option look like a bargain.

And it was not only the asserted costs of the B-52 that were questionable in 1981. The B-1B's guaranteed cost of $20.5 billion was also structured to convince the Congress to support the B-1B. As it turns out, that $20.5 billion cost ceiling did not include the cost of many items that should have been included.

This same strategy of overselling the weapon currently up for sale while denigrating potential alternatives has been repeatedly employed in recent weeks. At last week's hearing, the committee received testimony that when the B-52G and B-52H bombers are taken out of their penetrating missions, they will be lost from the SIOP. The fact is that most of B-52G's, 98 of them, are equipped with ALCM's and will remain in the SIOP in a standoff role and all of the B-52H bombers—all of them—are being equipped with ALCM's and will remain in the SIOP. The record was clarified about the 98 B-52G's that will remain in the SIOP, but the record remains uncorrected with regard to the B-52H bombers.

This penchant for squeezing facts to fit an argument is not unique.

In 1986, the Under Secretary of Defense for Research and Engineering, Dr. Donald Hicks, testified to the committee about the MX and Midgetman programs. He testified that there was a requirement for 1,500 hard-target warheads deployed on land-based missiles. Never mind the D-5 missile based in Trident submarines, which will provide us with thousands of hard-target warheads, we need 1,500 hard-target warheads based on ICBM's. Because of this requirement, Dr. Hicks testified, if we did not approve 100 MX missiles with 1,000 warheads, we would be forced to deploy not 500 Midgetman but many more, presumably 500 more. The cost of this, Dr. Hicks testified could be $85 billion. General Welch was not so categorical on these points, but he said similar things in his testimony.

But here we are 3 years later with President Bush and Secretary Cheney having decided not to seek a second 50 MX, and yet we find no outcry from DOD or the Air Force that we therefore need a second 500 Midgetman. In

fact, we are told that the desired number of Midgetman might be fewer than 500. What happened to the requirement for 1,500 land-based hard-target warheads that was so critical just 3 years ago? Could it be that this requirement was simply a device to justify a second 50 MX? And what if the Congress had bought this argument and agreed to procure 100 MX—I do not think there is any doubt that 1,000 MX warheads would have suddenly been deemed sufficient and the 1,500 requirement would have faded away, taking Midgetman with it.

Another example of the strategic relocatable argument involves the question of stability. The Air Force and DOD argue for the B-2 by saying that the bombers are the most stabilizing type of strategic system because, unlike ballistic missiles and in particular vulnerable ICBM's, they are slow flying and do not create use-them-or-lose them situations. I wholeheartedly agree with this, although as I have indicated, I believe that cruise missile carrying bombers are just as stabilizing as penetrators and thus this argument really does not bolster the case for the B-2.

The point I want to make is that the recognition by DOD and the Air Force that bomber's are the most stabilizing type of system represents something of a revolution in DOD and Air Force public relations. Throughout the time that they were trying to convince Congress to put MX missiles into vulnerable silos we were told that the most destabilizing element of the strategic equation was the imbalance in prompt hard target kill capability and the best way to improve stability was to deploy the MX as quickly as possible, which meant in vulnerable silos. The committee received testimony in 1986 that:

> The most destabilizing shortfall in our nuclear force structure is in capability to hold at risk hardened Soviet ICBM sites and command centers. With the existing imbalance, many of the Soviet's most valued assets could not be damaged to the level required for high confidence deterrence during the first critical hours of a nuclear conflict. That imbalance is highly destabilizing.

And what about the vulnerability of MX deployed in silos, creating use-them-or-lose-them pressures? Do not worry, we were told. In a March 1985 report to Congress, President Reagan told us that, "We believe the Peacekeeper's ultimate survivability resides in its ability to deter attack in the first place."

In other words, the MX missile in vulnerable Minuteman silos will enhance stability precisely because it is a fast-flying hard-target weapon that can launched under attack.

Slow flyers that can be recalled and do not create use-them-or-lose them situations are stabilizing. Fast flyers that can be—and in fact almost need to be—launched under attack and are not recallable are stabilizing.

When I say that revolution has occurred in statements coming from DOD and the Air Force about stability, I am not questioning the fact that bombers do, in fact, have stability-promoting characteristics. What I am doing is highlighting how little stability there is in the advocates of the systems.

Another example of the strategic relocatable argument concerns the question of whether the survivability of a strategic weapon system should rely upon strategic warning. Until December 1986, the answer was no—a strategic weapon system must be able to perform its mission even if strategic warning fails. Unable to find any acceptable, survivable basing mode for the MX, however, a decision was made to redefine the requirements for survivability. In order to promote the rail garrison as a survivable basing mode, it was decided that the vulnerability of the rail garrison MX system should strategic warning fail was acceptable.

Mr. President, the most persuasive argument being advanced for the B-2 today is that the counting rules under START which have not been agreed to in any final form, only proposed—that the counting rules favor the B-2 as a penetrator because you can load 16 or 20 gravity bombs on a B-2 and it only counts as one. That was the counting rule that was proposed at Reykjavik.

It is not locked in concrete, but that is about where we are today. It can be changed, certainly. It might be difficult to open it up. It seems to me if we came to the conclusion that we can accomplish the same thing with a standoff capability on a B-1B equipped with air-launched cruise missiles and have the same capability or comparable capability, we may want to deploy that and change the counting rules to favor a slow-flying, recallable bomber which has a standoff capability. We might seek to count that ALCM-carrying bomber as having only one, even though it might have 10, 12, 15, or 20 on board. We could do that, theoretically.

Mr. President, what I am offering to the Senate this morning is a sense-of-the-Senate resolution which recites the essential facts about the cost of the program, the potential cost of the program; states that the Senate has not gone on record of favoring the full B-2 program as envisioned; and concludes that the administration and Congress ought to consider two major options: Number one, that we look at options other than a penetrating bomber for the future, given the counting rules currently agreed to and taking into account possible alternatives to that counting rule. Number two, we look at a B-2 program which would be substantially less costly than the one currently envisioned. Those are the essential items contained in the sense-of-the-Senate resolution. I will not take the time at this moment to read the resolution, but I believe I have accurately stated its contents.

EXHIBIT 1

PROJECT ON SECURING STRATEGIC STABILITY, 1987-1988

COCHAIRMEN

Robert H. Kupperman, Senior Adviser, CSIS;

William J. Taylor Jr., Vice President for Political-Military Affairs, CSIS.

STUDY PARTICIPANTS

Robert Bott, Senate Armed Services Committee.

John L. Boyes, AFCEA.

Albert Carnesale, John F. Kennedy School of Government.

Paul Cole, CSIS.

Tom Cooper, General Electric Company,

Charles Corddry, Baltimore Sun.

Edwin A. Deagle, Jr., Hughes Aircraft Company.

John S. Dehne, Honeywell, Inc.

Andrew Goldberg, CSIS.

Sidney Graybeal, Systems, Planning Corporation.

Francis X. Kane, Rockwell International.

Glenn Kent, The RAND Corporation.

Donald Kerr, EG&G, Inc.

Raymond E. Kozen, General Dynamics Corporation.

Frank Kramer, Shea & Gardner.

John Mahoney, Textron Defense Systems.

J.J. Martin, Science Applications International Corporation.

L. David Montague, Lockheed Missiles & Space Company.

Thomas Moorer, CSIS.

Joseph S. Nye, John F. Kennedy School of Government.

Philip A. Odeen, Coopers & Lybrand.

Charles Pease, United Technologies Corporation.

Joseph Russel, Boeing Aerospace Company.

Robert W. Selden, Los Alamos National Laboratories.

Walter Slocombe, Caplin and Drysdale.

Jeffery H. Smith, Senate Armed Services Committee.

Harlan K. Ullman, ICF Incorporated.

James P. Wade, Jr., HRA/Defense Group.

Edward L. Warner III, The RAND Corporation.

Jasper Welch, Jasper Welch Associates.

Seymour Zeiberg, Martin Marietta.

Charles A. Zraket, The MITRE Corporation.

Mr. NUNN. Mr. President, I agree with a great deal of what the Senator from Maine has said. May I ask him a question? I have before me two different resolutions that are largely alike. One is the original Cohen resolution. The other is the redraft of the Cohen resolution. On one version, we have had a considerable amount of dialog with the Senator from Maine and his staff, and we have made a number of small, but, we think, important changes. Which version does the Senator have in mind in terms of the one we will be voting on and which one is at the desk?

Mr. COHEN. If the Senator will yield, I can just take the time to read

it right now since I did offer a modification.

Mr. NUNN. Perhaps that could be sent to the desk.

The PRESIDING OFFICER. Does the Senator wish to have the amendment considered?

Mr. COHEN. I think it should be read.

Mr. NUNN. I would like to go down it. I do not see any need in reading it, but perhaps the Senator could ask his amendment be so modified.

AMENDMENT NO. 472, AS MODIFIED

Mr. COHEN. Mr. President, I ask unanimous consent that my amendment be modified.

The PRESIDING OFFICER. Without objection, the amendment is modified by the Senator from Maine.

The question still is: Does the Senator from Maine ask that the modified amendment be considered at this point?

Mr. COHEN. Yes.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN] proposes an amendment numbered 472, as modified.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is a follows:

At the appropriate place, insert:

SEC. . SENSE OF THE SENATE ON PROCUREMENT OF B-2 AIRCRAFT.

(a) FINDINGS.—The Senate makes the following findings:

(1) Over the past several decades, the United States has devoted substantial resources to the strategic bomber force, including significant upgrades to B-52 bombers, and the research, development, and procurement of B-1 bombers and air-launched cruise missiles.

(2) The Department of Defense currently estimates that the acquisition cost for a force of 132 B-2 aircraft will be $70.2 billion (then-year dollars), and this estimate is premised on several assumptions, including the achievement of cost-reduction initiatives, not all of which have been contracted for yet.

(3) The lifecycle costs for a force of 132 B-2 aircraft would be significantly higher than this acquisition cost estimate of $70.2 billion (then-year dollars).

(4) The Congress has approved funds for the low rate initial production of 11 B-2 aircraft through Fiscal Year 1990, but has not decided how many B-2 aircraft should be produced in total.

(5) If the Congress makes a decision not to acquire a large number of B-2 aircraft, the funds available for other military programs could be increased.

(6) Fiscal year 1990 will constitute the fifth consecutive year of real decline in the amount appropriated for budget function (National Security).

(7) The constraints on future defense budgets make it essential that the Nation's defense priorities be carefully analyzed so as to properly fund the Armed Forces, including the various elements of the Nation's strategic forces.

(b) SENSE OF THE SENATE.—In light of the findings in subsection (a), it is the sense of the Senate that:

(1) It is not prudent or possible at this time to commit to the production of B-2 aircraft other than under the low-rate initial production plan.

(2) The contingent authorization of funds in this Act for the low-rate initial production of 3 additional B-2 aircraft does not constitute a commitment to support the procurement of large numbers of B-2 aircraft, to provide funding in subsequent years for rate production of B-2 aircraft, or to approve a multiyear procurement of B-2 aircraft.

(3) Prior to a commitment to rate production of B-2 aircraft, the President and the Congress should carefully consider the feasibility and desirability, both under a START regime that uses the Reykjavik counting rule or an alternative counting rule for bombers and in the absence of a START treaty, of

(A) structuring the strategic bomber force in such a manner that primary reliance would be placed upon bombers carrying cruise-missiles rather than bombers having strictly a penetrating role;

(B) pursuing options for the procurement of significantly fewer than 132 B-2 aircraft, in the event that a decision is made in the future to procure an operational force of B-2 aircraft, in order to reduce the total acquisition and lifecycle cost of the B-2 program.

Mr. NUNN. Let us go down the sense-of-the-Senate portion of this. I think we can comment on each section. After going through the findings, and those are largely factual and now have been slightly modified to reflect some changes that have been worked out, but the sense of the Senate would read as follows:

In light of the findings in subsection (a), it is the sense of the Senate that:

(1) It is not prudent or possible at this time to commit to the production of B-2 aircraft other than the low-rate initial production plan.

Commenting on that for myself—and Senator WARNER will speak for himself—I think that is entirely true, and I would agree with that. We do not believe we should commit until the aircraft has been fully tested beyond what we have committed in this bill.

The second sense of the Senate:

The contingent authorization of funds in this act for the low-rate initial production of three additional B-2 aircraft does not constitute a commitment to support the procurement of large numbers of B-2 aircraft, to provide funding in subsequent years for rate production of B-2 aircraft, or to approve a multiyear procurement of B-2 aircraft.

I would say from my personal perspective, all of those are true. We really should not and cannot make those decisions until we get the test results in and we are assured on some of the cost factors also.

Mr. COHEN. The reason for this part of the sense-of-the-Senate resolution is, in part, the media reporting on what we did and what the House did to the B-2 program, in terms of whether we gave full support. This does a little more than actually reflect what we did last Tuesday.

Mr. NUNN. I agree with the Senator on that.

The third part of the sense-of-the-Senate is:

Prior to a commitment to rate production of B-2 aircraft, the President and the Congress should carefully consider the feasibility and desirability, both under a START regime that uses the Reykjavik counting rule or an alternative counting rule for bombers and in the absence of a START treaty, of * * *

Mr. COHEN. If I could correct the Senator on that, it would be "desirability, both of a START regime that uses the Reykjavik counting rule or an alternative counting rule for bombers."

In other words, right now the principal argument, it seems to me, for favoring a penetrating bomber is the Reykjavik counting rule which has been tentatively agreed upon, but we have always gone on record saying nothing is agreed upon until we have a whole package. Theoretically, if the United States were to conclude that we accomplish the same missions, or something comparable to the same missions with a standoff capability we could argue for a counting rule which favors the standoff bomber, counting it as one just as we have done with the penetrating bomber.

Mr. NUNN. I agree with the Senator on that. I see my note has the same. Part (A) under (3), this is what the President should carefully consider the feasibility and desirability of:

(A) structuring the strategic bomber force in such a manner that primary reliance will be placed upon bombers carrying cruise missiles rather than bombers having strictly a penetrating role;

And:

(B) pursuing options for the procurement of significantly fewer than 132 B-2 aircraft, in the event that a decision is made in the future to procure an operational force of B-2 aircraft, in order to reduce the total acquisition and lifecycle cost of the B-2 program.

I agree with the Senator, both should be considered. When you talk about spending $70 billion, if there are alternatives to getting the job done, to preserve deterrence, that can be done in a more cost-effective way, then certainly the President should carefully consider that before submitting a proposal for the procurement of additional B-2's. These to me are very appropriate considerations and are not inconsistent with what we did last week on the adoption of the committee amendment.

I urge this amendment be approved as modified. I know the Senator from Virginia has looked it over carefully. His staff has been involved in working out the modifications. Perhaps he would like to be heard at this time, or does the Senator from Maine desire a rollcall on this?

Mr. COHEN. Yes. The Senator from Colorado is indicating he would like to be heard on this. I think also, if I could indicate, Senator WARNER thought a rollcall would be in order for this.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Have the yeas and nays on this amendment been requested, Mr. President?

The PRESIDING OFFICER. They have not.

Mr. WIRTH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WIRTH. Mr. President, the thrust of this important amendment is in, I think, the sense of the Senate, the last 3 items: It is not prudent or possible at the present time to commit to the procurement of an operational force of the B-2 aircraft.

This is a very clear statement by the Senate and significantly different from the interpretation that was given to our actions last week. There were a number of articles, as the Senator from Maine pointed out, constituents calling in, and so on, groups around the country saying, "Hey, are you all really putting your shoulders to 100 percent commitment behind the B-2 program?"

The sense-of-the-Senate resolution offered by the Senator from the State of Maine, which I am pleased to cosponsor, indicates we are not.

Mr. President, many Americans are understandably shocked at the enormous cost of the B-2 program. At $70 billion, the new Stealth bomber is the single most expensive weapons system in history. And $70 billion is only the beginning. Experience suggests the cost will escalate as development problems arise and delays occur—especially in a program involving so many new technologies and unique design features. If the B-2 encounters cost overruns similar in magnitude to those of the B-1, the Stealth bomber will end up costing over $110 billion or $850 million per aircraft. And none of these estimates include the funds necessary for maintenance and operation of the B-2 fleet. I would not like to argue against the proposition that full program costs for the B-2 could well be as much as $1 billion per airplane—$1 billion.

The sticker shock is compounded by the fact that we have already spent an astonishing $23 billion over the last decade for this top secret special access program.

The B-2 has been as invisible to public scrutiny as it is meant to be to Soviet radar. The American public has been kept in the dark about this major national commitment. A small group of Members of Congress may well have been briefed regularly on the B-2 but without the benefit of independent analysis or the opportunity for public discussion. This intense secrecy has stunted debate and, according to recent accounts, may have led to some very questionable contracting procedures addressed in the debate on the earlier Levin amendment.

Inevitably we are now being told that since we have already sunk $23 billion in the B-2, it would be foolish to throw that investment away by refusing to appropriate the additional $50 billion for production, something of a catch-22 argument.

We are not going to tell you about the $23 billion you have already put in this but now you have put it in, you have to put another $50 billion in to justify the $23 billion. It seems to me we have to step back, and that is what the amendment before us suggests, to take a much better look at this program before we make this enormous commitment.

There are many questions that have to be addressed in this. One of them is clearly the cost situation. Another is do we need the B-2. That question, it seems to me, is the other part of the issue in front of us.

On the one hand, this enormous cost question, the American public saying does it rationally make sense for us to be committing almost $1 billion per airplane for a weapons system that is a manned bomber in this day and age, a day and age of presumably changed world conditions. So one, the sticker shock is one central issue, the other is the mission of this bomber.

The Air Force argues that we need the B-2 to maintain the strategic triad of land-based missiles, submarine-launched missiles, and strategic bombers. The assumption of this argument is that the air-based leg of the triad is vulnerable, and yet 100 B-1 bombers have just been built and nearly 200 as has been pointed out by the Senator from Maine, B-52 bombers equipped with nuclear air-launched cruise missiles are in inventory.

The issue we have to face is whether a third bomber is necessary. The Air Force argues that improvements in the Soviet air defenses will render the B-1 incapable of penetrating Soviet airspace, but the United States intelligence community to my knowledge has not performed a net assessment of projected Soviet air defense capabilities. The B-2 proponents also imply that this is an all-or-nothing proposition. They argue that without the B-2 we will have no penetrating capability, but is this the case and under what conditions? We certainly have to look at that issue as well.

I am sure, Mr. President, that at this time in our Nation's history we would all agree that the United States should maintain sufficient ratallatory nuclear weapons to hold key Soviet targets at risk and thereby deter the Soviets. Obviously, the B-2 provides additional capability, but at what cost?

I argue that the B-2 is a redundant capability. Virtually all the targets we need to hold at risk can be covered by other means, the Minuteman, the MX, the Trident D-5 and air- and sea-launched cruise missiles. Can we, given this questionable mission, afford an additional $50 billion to provide greater redundancy? We have to ask ourselves is this worth the cost. We are not committing ourselves at this point to the B-2. We are asking these very significant questions.

Finally, Mr. President, we were told in the debate on the B-2, when the hearings came up as the B-2 got into trouble, that the B-2 was absolutely essential to START. The Air Force came in and told us that if we did not support the B-2 bomber, they would in effect withdraw their support from START. Not until the B-2 got into trouble, not until July 21 did any Air Force or administration official draw such a clear, direct correlation between funding for the B-2 and support of START. I think this was clearly an overreaching of the argument, clearly the kind of correlation that I would suspect given the opportunity again the Air Force would not draw once more.

The Senator from Maine has addressed this issue very clearly. He dis cussed this. I think all of us who sat in on that testimony were concerned about the drawing of this direct parallel and the statement that if we do not put another $50 billion after the $23 billion, if we do not support the B-2, the Air Force withdraws its support from START.

The amendment before us, on which we all have the opportunity to record our preference, makes a great deal of sense. It says we are not at this point committing ourselves to 132 B-2 bombers or any significant addition to the force. There are a significant number of other questions that have to be asked. We have enormous challenges in front of us in this defense budget. I again remind my colleagues that as you look at this budget and look at the need, the request for $50 billion more for one weapons system, a manned bomber that is probably redundant, one that does not have a very clear mission at all, as we look at that $50 billion, if we commit ourselves to $50 billion more, that in turn is going to squeeze out all kinds of other programs, other programs in a constrained budget that will probably prove to be much more valuable in a world that is changing very rapidly.

Mr. CHAFEE. Mr. President, I congratulate the Senator from Maine for his resolution. I think it sets to rest those alarmists around the country, particularly in the news media, who

are suggesting that we are embarking wholesale into the purchase of 132 B-2 bombers. That just is not so. I want to, if I might, ask the Senator from Maine a question.

As I read this, just so there is no mistake and perhaps we can clarify it on the record—what we are saying is we are now going to proceed under this authorization on which we are acting today for the production of three additional B-2 aircraft and that does not constitute a commitment by anybody, including of course the members of the Armed Services Committee, who I understand even though there is going to be a rollcall vote, are going to support this amendment, to support large numbers of B-2 aircraft. In other words, we might end the whole business a year from now. And furthermore, there is no commitment to provide funding in subsequent years for the rate production. I assume the term "rate production" means the most economical production of these aircraft. Or to approve any multiyear procurement. That is the essence of this whole amendment; am I not correct?

Mr. COHEN. The Senator is correct.

Mr. CHAFEE. I say to the Senator from Maine I think this is an excellent amendment. It makes clear exactly where we stand. Also, in Reykjavik certain fact proposals were agreed to, but that does not mean that can never be changed. After all, we are going to have further negotiations with the Soviets and perhaps the counting rules at Reykjavik will be changed, as the Senator from Maine has suggested.

So I believe this is an excellent amendment. We are not committing ourselves to go down the road to spend $70 billion or to buy 132 aircraft or to buy any aircraft beyond the three additional B-2's. Am I not correct?

Mr. COHEN. The Senator is correct.

Mr. SYMMS. Will the Senator yield for one question?

Mr. CHAFEE. I have completed my part and will yield the floor.

Mr. HELMS. Mr. President, I am obliged to oppose the Cohen amendment on the B-2 because it is prejudicial to the program. The administration and Defense Secretary Cheney strongly support full deployment of the B-2 Stealth bomber.

Senator COHEN's amendment is a sense of the Senate declaration that full production of the Stealth bomber should not be started—clearly prejudicial to the B-2 program. I therefore must oppose the amendment because while the B-2 is indeed expensive, we vitally need it to bolster each leg of our strategic triad.

Mr. President, we are now in a period of severe strategic inferiority to the Soviet Union. The Soviets are ahead of the United States in every one of seven key measures of strategic nuclear power. Our weakness in strategic forces has weakened and, in consequence, our diplomacy. Not only are the Soviets treating the United States as an inferior power, but all other nations are beginning to treat us as something less than a great power. Costly as it is, the United States needs the B-2 in order to regain strategic parity.

The PRESIDING OFFICER. The hour of 12 o'clock having arrived, under the previous order, the question occurs on amendment numbered 535.

Mr. NUNN. Mr. President, I ask unanimous consent that this vote be delayed for 1 minute.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Will the Senator withhold that unanimous-consent request?

Mr. NUNN. Mr. President, is there time to be yielded back?

The PRESIDING OFFICER. The hour of 12 o'clock having arrived——

Mr. NUNN. Mr. President, I ask unanimous consent that this vote be suspended for 2 minutes with the time equally divided.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that immediately following the vote on the Levin amendment, which will occur momentarily, that there be a vote on the Cohen amendment. I believe the yeas and nays have been ordered. I ask unanimous consent that vote be a 10-minute rollcall vote.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President reserving the right to object, I shall not object, will there be any intervening time between the two amendments for the managers of the bill to address the Cohen amendment? At this time, I indicate that the Cohen amendment is acceptable to this Senator and I think a number of us on this side of the aisle.

Mr. NUNN. I did speak to that subject, and said the Senator had been working on it.

The PRESIDING OFFICER. Hearing no objection, the order is agreed to.

Mr. WARNER. Mr. President, if I might inquire, there was some consideration given to the chairman and I moving to table. From a parliamentary viewpoint, would the Chair advise Senators with respect to the option of the Senator from Nebraska to move to table the Levin amendment?

The PRESIDING OFFICER. The Chair would advise the Senator that is included in the order.

Mr. WARNER. I thank the Chair.

The PRESIDING OFFICER. The Chair, for the sake of clarity, to make sure the Chair understands the agreement, momentarily the Senator from Nebraska will be recognized on a motion to table amendment No. 535. That will be a 15-minute vote. At the conclusion of that under the request of the chairman of the committee, now agreed to, there will be a vote on the Cohen amendment. The yeas and nays have already been ordered, and that will be a 10-minute vote.

Who yields time?

Mr. NUNN. Mr. President, I will make my remarks very brief.

I rise to support the Exon motion to table the Levin amendment. This compromise on the two missiles has been carefully crafted. Both the Armed Services Committee in the House and the Armed Services Committee in the Senate have approved this compromise. We have already seen what happened on the House side when it unraveled, and it unraveled not just affecting the MX but also the entire land-based missile systems.

If we have that kind of unraveling over here, we will go to conference with a totally illogical, unsound program in both bodies, and I believe that would be detrimental to both our national security and arms control.

So I urge this amendment be tabled.

AMENDMENT NO. 535, AS MODIFIED

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 1 minute.

Mr. LEVIN. I send a technical amendment to the desk on my amendment which I understand has been cleared on both sides of the aisle.

Mr. EXON. It has been cleared on this side.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 2, line 17, strike out "$2,706,500,000" and insert in lieu thereof "$2,766,500,000".

On page 4, line 20, strike out "$15,930,600,000" and insert in lieu thereof "$16,272,600,000".

On page 4, line 25, strike out "$7,010,000,000" and insert in lieu thereof "$6,787,000,000".

On page 21, strike out line 5 and all that follows through line 8 on page 23.

On page 32, line 4, strike out "$14,629,932,000" and insert in lieu thereof "$14,455,932,000".

On page 341, line 15, strike out "$897,460,000" and insert in lieu thereof "$792,460,000".

On page 405, after line 25, add a line titled Defence Waste R&D and Compliance Technology, $300,000,000.

Mr. LEVIN. Mr. President, unless the amendment that I have proposed, cosponsored by Senator SIMON and Senator DECONCINI, is adopted we will be spending money to procure and to construct the MX rail garrison, the railroad cars, and the igloos prior to the time that their development and their testing has been finished. The GAO has pointed out this concur-

rency, and has pointed out the dangers of it.

The President has not determined whether he wants MX rail garrison or does not want MX rail garrison finally because we do not know what his arms control position is yet. Does he want mobile missiles or does he want to bargain away mobile missiles? We do not know. It is still uncertain what the President's position is.

The PRESIDING OFFICER. The Senator's time has expired. Under the order, the Senator from Nebraska is recognized for the purposes of a tabling motion.

Mr. EXON. Mr. President, I ask unanimous consent that notwithstanding the recess at 12:30 today amendments to S. 1352 may be filed until 1 p.m.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. EXON. Mr. President, in behalf of Senator WARNER and myself, I move to table the Levin amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nebraska to lay on the table the amendment of the Senator from Michigan. On this motion, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. KERRY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 62, nays 38, as follows:

[Rollcall Vote No. 152 Leg.]

YEAS—62

Armstrong	Gore	McConnell
Bentsen	Gorton	Mitchell
Bond	Graham	Murkowski
Boren	Gramm	Nickles
Boschwitz	Grassley	Nunn
Breaux	Hatch	Packwood
Bryan	Heflin	Pressler
Burdick	Heinz	Robb
Burns	Helms	Roth
Byrd	Hollings	Rudman
Chafee	Humphrey	Sanford
Coats	Inouye	Shelby
Cochran	Jeffords	Simpson
Cohen	Johnston	Specter
Conrad	Kasten	Stevens
Danforth	Kerrey	Symms
Dixon	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Exon	McCain	Wilson
Garn	McClure	

NAYS—38

Adams	Fowler	Metzenbaum
Baucus	Glenn	Mikulski
Biden	Harkin	Moynihan
Bingaman	Hatfield	Pell
Bradley	Kassebaum	Pryor
Bumpers	Kennedy	Reid
Cranston	Kerry	Riegle
D'Amato	Kohl	Rockefeller
Daschle	Lautenberg	Sarbanes
DeConcini	Leahy	Sasser
Dodd	Levin	Simon
Durenberger	Lieberman	Wirth
Ford	Matsunaga	

So the motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 472, AS MODIFIED

The PRESIDING OFFICER. Under the prior order, the vote now occurs on amendment No. 472, as modified, and offered by the Senator from Maine.

The question is on agreeing to the amendment as modified of the Senator from Maine. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 7, as follows:

[Rollcall Vote No. 153 Leg.]

YEAS—93

Adams	Fowler	McCain
Armstrong	Garn	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Moynihan
Bond	Grassley	Murkowski
Boren	Harkin	Nunn
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Pell
Breaux	Heflin	Pressler
Bryan	Heinz	Pryor
Bumpers	Hollings	Reid
Burdick	Humphrey	Riegle
Burns	Inouye	Robb
Byrd	Jeffords	Rockefeller
Chafee	Johnston	Roth
Cochran	Kassebaum	Rudman
Cohen	Kasten	Sanford
Conrad	Kennedy	Sarbanes
Cranston	Kerrey	Sasser
D'Amato	Kerry	Shelby
Danforth	Kohl	Simon
Daschle	Lautenberg	Simpson
DeConcini	Leahy	Specter
Dixon	Levin	Stevens
Dodd	Lieberman	Thurmond
Domenici	Lott	Wallop
Durenberger	Lugar	Warner
Exon	Mack	Wilson
Ford	Matsunaga	Wirth

NAYS—7

Coats	Helms	Symms
Dole	McClure	
Gramm	Nickles	

So the amendment (No. 472), as modified, was agreed to.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair reminds the Senate at this time there is an order for the Senate to stand in recess.

The Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent that we stand in recess until 10 minutes of 1.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I see that the distinguished Republican leader is on the floor. Would he like to proceed?

Mr. DOLE. I will wait.

Mr. MOYNIHAN. Mr. President, we have just seen a remarkable expression of the Senate's view with respect to the technology of the Armed Services, and particularly the airborne components thereof, in the last two votes. Thirty-eight Senators voted not to take funds from the new missile configuration known as the MX Rail Garrison, to initiate or maintain the production lines of several weapons systems including the F-14D, the Grumman aircraft known as the Tomcat. Thirty-eight Senators have asked that we not go forward with the Defense Department and the administration's proposal to, among other things, put an end to the production of the F-14D, which is the principal fighter aircraft flying off our carriers today and has been over 15 years. Then by a vote of 93 to 7 we asked that we slow down the commitment to the vast technology of the B-2 bomber and reconsider the role of cruise missiles in our airborne weapons systems.

These are not chance votes, Mr. President. This Chamber is very concerned about the decisions that are explicit in this budget, in this authorization. The concerns are mixed. On the one hand, you have an open acknowledgment that the new Secretary of Defense, our former colleague, Secretary Cheney, has come to the committee with as close to an open and honest budget as we have seen in a very long while. He has insisted on speaking of 5-year costs, of the realistic judgments of what new weapons systems will be involved, in contrast to a period of the last 8 years where startup costs were minimized and outyear costs were ignored and the Defense Department got itself in a situation where today it cannot fund a number of the new weapons systems that have been ordered up in the last decade.

Why is this so? Partly because of the pattern of ordering them without understanding the real limitations involved. From 1980 through 1985 the defense budget grew by almost 50 percent in real terms. But also we are now in our fourth year of a decline in the real terms of our Federal defense budget. This decline was inevitable once the deficits of the early 1980's began to accumulate. Those who said it would happen have lived to see it happen without much acknowledgment that it has happened.

All this was entirely predictable. On September 13, 1981, I addressed the

New York State Business Council at Kiamesha Lake, NY. The subject was the extraordinary deficits we were about to incur as a result of the Reagan administration's fiscal policy. I said:

Do we really want a decade in which the issue of public discourse, over and over and over, will be how big must the budget cuts be in order to prevent the deficit from being even bigger? Surely larger, more noble purposes ought to engage us.

Defense spending, no more than programs for housing, health, education and welfare, would not be immune to this phenomenon. Again, I told the Business Council in 1981 that:

Our defense budget, which finally was getting on a steady course, will now be torn apart once more; * * *

And so we continue to tear the defense budget apart.

In New York State alone, defense procurement dropped $2.4 billion from fiscal year 1987 to fiscal year 1988.

Recently, Herbert Stein, sometime chairman of the Council of Economic Advisers, described the situation thus:

Our defense program is now at least 12 percent below the program that President Reagan proposed four years ago. Until a few weeks ago, President Bush, Defense Secretary Cheney, and Admiral Crowe, chairman of the Joint Chiefs of Staff, were all saying they would like to spend more for defense but were limited by economic and budgetary considerations.

Defense spending is even below President Carter's spending path if you extend it beyond the years he left us.

There are going to have to be reductions. But need the reductions eliminate a tested, a developed, a functioning weapon, the cost of which is known, the sunk costs of which have long since been paid, and instead put our expectations on a new weapons system, a new fighter, not yet developed, not scarcely drawn, not in the least bit manufactured or tested, which we expect to have in service within a decade, in an age in which it takes a generation to develop a missile system? We are still working with President Eisenhower's Minuteman and the silos he built in the 1950's.

Should we rely on the successful and timely production of a totally new aircraft, one that utilizes the embryonic stealth technology?

Much attention has been focused in recent years on how to keep defense costs down. There exists a consensus that one of the best ways to do so is through competition.

The benefits of competition are obvious and testimony on its merits is numerous. An example: the former assistant secretary of the Navy for shipbuilding and logistics, Everett Pyatt, stated in the Navy's fiscal year 1988 Procurement Competition Report to Congress that:

We continue to see consistent and overwhelming evidence that the competitive marketplace serves as our best pricing mechanism.

Consequently, the Navy, having suffered embarrassing cost overruns with the Trident submarine, is now spending billions to end General Dynamics' monopoly in the submarine business by making Newport News Shipbuilding & Drydock Co. a competitor. Similarly, DOD is trying to establish Pratt & Whitney as competitor to General Electric with respect to jet engines. And so it goes.

Now it appears we may have forgotten why competition is so important, both in terms of quality and cost. At present, only two companies, Grumman and McDonnell Douglas, design and produce carrier-based aircraft. If the decision to terminate production of the F-14D prevails, its manufacturer, the Grumman Corp., would be eliminated as a design engineering house for naval tactical aircraft. The country would then have but one experienced company that could both design and build these aircraft. We ought not allow ourselves to get into such a predicament.

Such a decision would also bring to an end the historic relationship between Grumman and naval air, which began in 1932 when the company was awarded its first Navy contract for 27 FF-1's. Since that time, Grumman has been the preeminent source of carrier-based aircraft for the Navy. Such Grumman naval aircraft as the F4F Wildcat and the F6F Hellcat distinguished themselves during World War II. The Navy purchased 7,898 of the former and 7,870 of the latter.

In the 1970s Grumman diversified into new areas, including commercial aviation. However, in 1978 Grumman sold its commercial aviation subsidiary, American Aviation Corp., which was not earning profits in the highly competitive corporate jet market. The former subsidiary, renamed Gulfstream Aerospace Corp., has since become quite profitable, earning $132 million on sales of $1 billion last year.

Thus, Grumman's aviation business now rests primarily on military sales, particularly to the Navy. Today our carriers launch A-6 Intruders, E-2C Hawkeyes, EA-6B Prowlers, as well as F-14's. Grumman has been the preeminent source of carrier-based aircraft since near the company's founding 60 years ago.

UNCERTAINTY REGARDING THE F-14'S SUCCESSOR, THE ATF

Not only will termination of the F-14 program undermine the defense industrial base, but it could leave the Navy dangerously short of carrier-based aircraft by the turn of the century.

The underlying assumption behind cancellation of the F-14 is that we will be able to deploy the new advanced tactical fighter [ATF] and its naval counterpart, the NATF, on a timely basis.

In 1983 the Secretary of the Air Force began plans to procure the ATF. At around the same time the Navy began a similar program to develop and produce a new type of plane called the A-12 advanced tactical aircraft [ATA] to replace the carrier-based Grumman A-6 bomber. Grumman had the financial, engineering, and production capacity to compete in only one of these procurements. Because of its long association with the Navy, Grumman chose to participate in the ATA rather than the ATF procurement. Grumman lost this procurement to a General Dynamics and McDonnell Douglas team in late 1987. However, Grumman continued with its efforts to upgrade the F-14D as a possible competitor to the ATF.

On October 31, 1986, the Air Force awarded contracts to a Lockheed, Boeing, and General Dynamics team and a Northrop/McDonnell Douglas team to build two prototype ATF aircraft, one of which will be chosen for full-scale development following flight tests that are not scheduled to begin until 1990, at the earliest. Production is not scheduled to begin until the mid-1990's.

The ATF relies heavily on unproven stealth technology. The aircraft is still just in the design and prototype competition stage. One only has to look at a program such as the B-2, with its expensive and highly uncertain technology, to get a sense of the delays and other varied problems that can accompany introduction of new, complex weapon systems. For example, the B-2's first flight test was originally scheduled for November 1987. As we all know, the B-2 flew for the first time just this July. Although the B-1B was delivered on time, significant performance flaws demonstrate the difficulties of reliably developing and producing complex aircraft on a timely basis.

Thus, it was no surprise that in January 1989 the Air Force reported that full-scale development of the ATF would be delayed about a year. The Air Force also indicated that it would not be possible to meet the ATF's original cost and weight goals. Admiral Crowe stated on April 25, 1989:

The pace of developing an Advanced Tactical Fighter (ATF) * * * will be slower than originally planned.

Development of the NATF will trail the Air Force ATF by approximately 3 years. If the program proceeds according to schedule, the NATF will not be in production until 1997 and will not be delivered until 1999-2001.

ADAPTING THE ATF TO CARRIER USE MAY PROVE DIFFICULT

In addition to the general technical obstacles that must be surmounted before the NATF can go into full-scale

production, there is the further problem—by no means a small one—of adapting a land-based aircraft for carrier use.

Design and weight differences make land-based aircraft unsuitable for sea duty. For example, the F-14 is 62 feet long and weighs about 40,000 pounds. The NATF may be as long as 85 feet and weigh over 70,000 pounds. As such, it may not be able to use existing carrier elevators or catapults. The NATF's long and thin design to reduce the radar cross-section may also pose serious problems for deck handling and carrier landings. All this creates considerable uncertainty regarding our ability to bring the NATF on line as scheduled. And there is little margin for error here.

AVOIDING A SHORTAGE OF CARRIER-BASED AIRCRAFT

If the NATF is not successfully produced on schedule (1999-2001), the Navy will face an increasing shortage of F-14's, which will reach almost 15 percent, that is, 63 planes, by 2001. By 2002 we will be 91 aircraft short against inventory requirements of 458 and by 2005 235 aircraft short. All this assumes that the F-14's life can be extended from 6,000 to 7,500 hours and attrition remains at 9-10 per year. Of course, if we encounter significant delays in bringing the NATF on line, the shortfalls will increase even more so.

The great cost of maintaining naval aviation into the next century also presents the distinct likelihood of delays. According to a Congressional Research Service study commissioned by my colleague, Senator D'AMATO, by 2002 we will need over $10 billion per year to meet our needs in naval aviation. Over two and one-half times as much as is currently being spent. The ATF alone will cost an estimated $68 billion for 750 aircraft. Obviously, these expenditures will be stretched out, resulting in even greater shortfalls than anticipated.

Such costs can be kept down, and shortages minimized, only if competition from the F-14 is preserved. On May 15, 1989, Vice Adm. Robert F. Dunn, the recently retired Deputy Chief of Naval Operations—Air, testified before the Senate Armed Services Committee that:

> We should not stop that production [of the F-14]. I'm afraid that stopping that production at this time will * * * put us in jeopardy towards the end of the century.

Admiral Dunn further stated that without new production of the F-14, the Navy will be:

> [D]riven to transferring [F-14s] from carrier to carrier as they are deployed. * * * We will then be unable to meet our commitments.

At the Navy's request, Gruman has spent over $800 million in the last 8 years to modernize its production facilities for the F-14. An updated F-14, Grumman's Tomcat 21, is a realistic alternative to the NATF, if costs and technological obstacles prove too formidable with respect to the NATF.

We should not shut down Grumman's production base before the F-14 remanufacturing program is established and the inventory adequate. Grumman employs almost 30,000 people nationwide. Its Aircraft Systems Division 16,060. For the F-14D program alone, Grumman employs 4,500 people nationwide, about two-thirds of whom are located in New York. However, if Grumman loses the F-14D, along with the EA-6B and A-6E which are also threatened, the economic impact will be felt not just in New York, where 3,425 people work on these programs. For example, Grumman employs 4,090 people in Florida, 1,858 in Pennsylvania, 691 in Michigan, 653 in Georgia, 833 in Maryland, 779 in Texas, 819 in California and 948 in Virginia. Many of these employees work in naval aviation. Of course, this data include just Grumman employees, not the many subcontractors and vendors from all over the country that participate in Grumman's naval aviation programs.

Mr. President, I would like to suggest that it would be a very poor decision to scrap a weapons system in place for one that is not in place, to do so against the very explicit wishes of the Navy, which wants the F-14 for its carriers and says if it does not get them, the time will come, and not long from now, when in redeploying ships from other regions, planes will be taken from one aircraft carrier to another, like transferring cannon in an 18th-century fleet.

Just as important, Mr. President, if we go forward with this decision, which nearly half the Senate does not wish us to do, and clearly a majority of the House does not wish us to do, we decide to have one contractor left in the United States capable of building aircraft for the Navy.

We have seen the consequences of monopoly in submarines. We are seeing it in other areas of defense production. We find it deplored on every hand, among the business community, the military community and the community that concerns itself with the budget, yet here we are deciding there is to be one contractor for an indefinite period of time and, as near makes no matter, for good in the foreseeable future.

The Grumann Co. will continue; it is a nationwide company headquartered in New York but with many of its employees living elsewhere. But it will be out of naval aircraft, never to return, and we will be dealing with the consequences of the resulting monopoly for a generation or two to come. It seems to me to be a very poor economy and seems to me even less wise as a military doctrine.

Several Senators addressed the Chair.

Mr. SYMMS. Mr. President, I ask unanimous consent that the time of the recess be extended to 5 minutes to the hour?

The PRESIDING OFFICER. Is there objection?

Mr. WILSON. Reserving the right to object, and I do not object, in fact I ask my friend to ask in his unanimous-consent request for an expansion to accommodate the statement I had arranged earlier to make.

Mr. SYMMS. How long does the Senator wish?

Mr. WILSON. I wish for 7½ minutes.

Mr. SYMMS. Mr. President, I ask unanimous consent that the hour of recess be extended to 1 p.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed out of order for 3 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE LUCAS NOMINATION

Mr. DOLE. Mr. President, the Senate Judiciary Committee has had a longstanding commitment to the principle of equality of opportunity. Apparently, the Judiciary Committee abandoned this commitment when it came to equal opportunity for Bill Lucas, President Bush's outstanding choice to lead the Justice Department's Civil Rights Division.

Earlier this morning, the Judiciary Committee failed to endorse the Lucas nomination. The vote in the committee was close, a 7 to 7 tie. By a 7 to 7 vote, the committee also refused to report out the nomination. It refused, in other words, to give Bill Lucas his day in court, refused to let us in the Senate make a judgment on whether or not Bill Lucas should be confirmed, refused to allow him to come before the full Senate to make his case, which I think is very unusual in this day when we talk about fairness and equality. Why not bring the Lucas nomination to the Senate floor? Why not let us make the judgment in the full Senate?

Mr. President, I am disappointed. I know that the President and the Attorney General are disappointed and the American people are disappointed, disappointed because crass political partisanship has taken over and twisted the nominations process.

The Judiciary Committee vote is not the end for Bill Lucas. Bill Lucas is too strong a person. He has mastered every other challenge in his life, his struggle to get out of the ghetto, go to college, become a policeman, lawyer,

FBI agent, and finally an elected sheriff and county executive. I am sure that Bill Lucas will carry on and live a life of further distinction and achievement.

But I hope that the Judiciary Committee vote is not the end of the Lucas nomination. It should not be the end of the nomination. I urge the President to make a recess appointment, to appoint Bill Lucas to the assistant attorney general post during the upcoming August recess. A recess appointment will allow Bill Lucas, until the end of next year, to disprove his critics, to show that he indeed has the technical qualifications and the commitment to be a tough enforcer of our Nation's civil rights laws.

If the Senate and the Senate Judiciary Committee will not give Bill Lucas this opportunity, if they will not give him a simple chance to make his case, then the President of the United States should do so with a recess appointment.

RECESS

The PRESIDING OFFICER. The Senate will recess until the hour of 2:15 p.m..

Thereupon, at 1 p.m. the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The pending question is amendment No. 536.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. NUNN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 486

Mr. ARMSTRONG. Mr. President, in order to expedite the proceedings, I have agreed with the Senator from Georgia, the manager of the bill, Mr. NUNN, to take a moment to explain an amendment which I intend to call up immediately following the disposition of the amendment of the Senator from Nevada, Mr. REID. My interest is simply to make clear what the purpose of the amendment is and then to briefly explain it. It is my understanding that, upon the disposition of the Reid amendment, we will then turn officially to the consideration of the Armstrong amendment.

This amendment is not very complicated and I do not want to make it any more complicated than it is. Oftentimes in life important issues are really quite simple. In fact, when this amendment is called up, I can almost predict that somebody is going to come down here and tell you that this is a very complicated matter. Well, it is not.

This is an amendment that asks a very simple question: If we are going to send financial aid to the Soviet Union and the Soviet Union is, at the same time, sending financial aid to Cuba, is that not the same thing as if we were sending money directly to Cuba? And should we be doing that if Cuba continues to foster and harbor drug smugglers?

Now, my opinion is that what is going on now in Cuba at the present time is tantamount to an undeclared war against the United States of America, particularly against the young people of America. Because it is very clear, documented on the public record, not hidden in some files of a Senate committee, not in some classified top secret document of the Central Intelligence Agency, but spread for all to see upon the pages of reputable news magazines and newspapers in this country, that it is Cuba which, in instance after instance, is giving protection and aid and comfort to drug smugglers.

Now, I think we ought to put a stop to that. Perhaps it is beyond our capacity and power to do so. But it is certainly not beyond our power and capacity to withhold aid to the Soviet Union, on which Cuba depends for its continued economic viability.

Mr. President, I do not want to argue that point, because I do not think it is in dispute. Cuba is a client of the Soviet Union. Castro remains in power because of and, in my view, only because of the continued military and economic support of the U.S.S.R. If anybody doubts that and wants to raise that as a serious question, I would be glad to go into it more deeply. But I think we all understand that is a fact. Cuba is a puppet of the Soviet Union. Cuba is a client of the Soviet Union. The money, the military support, the war material, the training of the troops, the whole thing all ties back to what the Soviet Union has given Cuba. Castro could not maintain, in my opinion, his continued domination of Cuba, his tragic domination of Cuba, were it not for the Soviet Union.

In any case, that is not really the issue. The real issue is: Should we subsidize the Soviet Union while they subsidize Cuba, which, in turn, is bringing drugs into this country?

Mr. President, the essence of the amendment which I will offer is really very simple. Under my amendment, we would deny the Soviets, or at least we would seek to deny the Soviets, membership in any of the United States Government-supported international organizations like GATT, IMF, and the World Bank, and deny financing from United States Government entities like the Eximbank and OPIC to the Soviet Union with some limited restrictions. Particularly, we do not, in this amendment, address anything that has to do with Jackson-Vanik or exisitng subsidies for farm exports under those programs.

But this respect to what we are reading about in the press, the speculation that we hear that we may grant at some point membership or observer status for the Soviet Union, be it in things like GATT and IMF and the World Bank, I just do not think we ought to do that. At least I do not think the United States ought to be a party to that until the Soviet Union begins to bring under control the menace which they have created and which they are perpetuating on our shores in the Caribbean.

Mr. President, the exact method by which we do this is not very complicated. We just say in the amendment, which I will submit in due course: "Notwithstanding any other provision of law, until the President makes the certification"—which I will come back to in a moment—he shall:

> Instruct the United States representative to any international organization funded in whole or in part by the Government of the United States, which extends financial assistance to member states, including but not limited to the International Monetary Fund, the General Agreement on Tariffs and Trade, and the International Bank for Reconstruction and Development, to oppose membership or observer status of the Union of Soviet Socialist Republics in such organizations and to oppose the extension, directly or indirectly, of any form of financial aid, assistance, loan, or credit whatsoever to the Union of Soviet Socialist Republics whether or not that country achieves membership or observer status in which organization.

In other words, we are saying the President shall direct all representatives to vote no. We recognize that we may not have the controlling voice in these international bodies, but our position ought to be no admittance, no observer status, no membership so long as they are parties to fostering this reprehensible trade in illegal drugs.

In addition, the President, under the terms of the amendment which I will offer, is instructed to:

> Deny to the government or any state enterprise of the Union of Soviet Socialist Re-

publics, or to U.S. persons or corporations and their subsidiaries doing business in or with the Union of Soviet Socialist Republics, the extension, directly or indirectly, of any form of financial aid, assistance, loan, credit, subsidy, of loan guarantee—

And so on, to conduct business with the U.S.S.R.

In addition, Mr. President, to:

Oppose any substantial relaxation, liberalization, reclassification, or end of restrictions on any license for the sale of goods or technology—

That is under Cocom—until the President makes a finding.

Let me just read you and quote what that finding is.

The provision of subsection (a) of this section—

Which is what I have just been discussing—

shall remain in effect until the President certifies to the President of the Senate and to the Speaker of the House of Representatives, that it is his opinion that—

"(1) Neither the Government of Cuba nor any entity controlled by the Government of Cuba is involved in any way in illegal drug trafficking;

"(2) Neither Cuban territory nor Cuban territorial waters are used as a conduit or transfer point for the supply of illegal drugs to the United States; and

"(3) The conditions specified in paragraphs (1) and (2) of this subsection have existed for a period of at least one year.

So we have a very simple proposition, Mr. President. There are some fine points which, in due course, we may need to get into and I will be happy to answer questions when the time comes.

But the essence of the proposition is: As long as the Soviet Union is subsidizing Cuba and as long as Cuba is providing a haven and, in fact, it appears, providing active support for drug smuggling operations, then the United States votes no on membership in GATT, IMF, and that kind of thing, and denies any direct or indirect financial support to the Soviet Union.

So, Mr. President, that is my program and that is my amendment. Consistent with the agreement I have with Mr. NUNN, I am now going to yield the floor, and after we have disposed of the Reid amendment.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. NUNN. Mr. President, if the Senator will yield, may I suggest he go ahead and explain his amendment. We are having to check out a couple of details on the pending amendment. If he could withhold sending his amendment to the desk. The Senator from Colorado has already explained his amendment. He has one he is going to send to the desk. So I just want to tell the Senator from Iowa that we do have a pending amendment.

Mr. HARKIN. Mr. President, if I could take this time, then, to explain my amendment, then I will offer it at the appropriate time.

Mr. President, at the appropriate time, I will be offering an amendment that will ensure that military installations located in the European community sell and serve only U.S. meat and meat products in their dining halls and in their commissaries.

Mr. President, I am joined in this amendment by Senator CONRAD and Senator DOMENICI.

It is my understanding that U.S. meat is currently served in most or all of the dining halls, in our bases in Europe, so this measure would apply primarily to the commissaries. The amendment provides for the allocation of an additional $10 million in fiscal 1990 for transportation of the U.S. meat to Europe.

In addition, I will work within the Agriculture Committee to allocate money within the Export Enhancement Program to defray any added costs of purchasing U.S. meat and meat products and shipping that to Europe. It is my understanding, Mr. President, that this amendment has been accepted by the managers of the bill.

Mr. President, a little background is in order. On January 1, of this year, the European Community imposed a ban, a total ban, on all U.S. beef grown with hormones. After that, I did some checking and found out that each year our military installations in Europe buy some 46 million pounds of European beef to serve to our soldiers, our troops in Europe, and to sell in our commissaries at a cost of $55 million or more each year. Mr. President, I had to ask myself why these purchases continue, particularly since the European Community persists in barring nearly all sales of U.S. beef in these countries; why do we continue to buy European beef for our troops at our bases in Europe?

The European Community claims that implanting cattle with hormones poses a risk to the health of consumers, but there is absolutely no scientific basis for this assertion. The use of growth-promoting hormones is an improved and accepted practice in the United States and many other countries. In an average 3-ounce hamburger, implanted beef contains only an additional six ten-billionths of a gram of hormone.

Under the interim agreement reached with the United States in May, the European Community can establish its own monitoring system to certify that meat was not produced with hormones. Even with all this red-tape of a certification process, the ban would still be lifted on only 15 percent of the more than 100 million dollars' worth of U.S. beef exports banned by the European Community. Let me repeat that, Mr. President. The European Community's ban on U.S. beef grown with implanted hormones is worth about $100 million a year to our cattle producers in this country.

Mr. President, it is not right and it is not fair for the European Community to cut off U.S. beef sales in Europe and then to have our Government, with our taxpayers' money, turn around and buy $55 million a year in European beef to serve to our troops in Europe. It is not fair and it is not right. That is why I am offering this amendment.

Serving only U.S. meat in the commissaries and dining halls will also ensure that American military personnel and their families receive safe and wholesome meat. Now you might ask, if the Europeans are not using hormones, is that meat safer than ours? The answer is absolutely not; since the European Community banned the use of hormones, the black market use of illegal hormones in European Community beef production has escalated. So what they have done is they have promoted a black market in Europe to use hormones. The real irony is that the European Community has banned U.S. beef that is safe, lawfully produced while consumers of European Community beef may receive meat tainted with illegal hormones. And that is the situation that we find our troops and their families confronted with in Europe.

Americans served by our military dining halls and commissaries are entitled to the same assurances of safety and wholesomeness as consumers within the United States.

Again, Mr. President, the Europeans earlier this year, in banning U.S. beef sales over there, did nothing more than put a restriction on trade. Since that time, the black market use of hormones in Europe has escalated. Our taxpayers are buying European beef for our troops and their families in Europe—$55 million a year. It is not fair and it is not right.

What this amendment will do is it will provide the funds necessary to purchase wholesome, safe U.S. beef transported to Europe so that our troops and their families could be assured that they are getting the best quality beef products produced safely with quality assurance here in the United States and not with illegally produced and illegally used hormones in the European Community.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 613 TO AMENDMENT NO. 536

(Purpose: To modify provisions relating to reports on the Department of Energy's national security programs, its five-year budget, and the Blue Ribbon Task Group on environmental restoration and defense waste management.)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 613 to amendment No. 536.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 5, strike "Chairman and ranking minority members of the Committees on Armed Services of the Senate and the House of Representatives shall each appoint one member" and insert "the Majority Leader and the Minority Leader of the Senate shall jointly appoint two members, and the Speaker and the Minority Leader of the House of Representatives shall jointly appoint two members".

On page 12, line 3, strike "January 15, 1991," and insert "April 30, 1990,".

On page 12, line 5, strike "the Committees on Armed Services of the Senate and the House of Representatives" and insert "Congress".

On page 12, line 22, strike "while minimizing interference with the performance of the missions of those facilities,".

On page 13, line 7, strike "environmental compliance and".

On page 14, between lines 3 and 4, insert the following:

(9) The adequacy of the five-year plan proposed by the Secretary of Energy to bring the Department of Energy atomic energy defense facilities into compliance with environmental laws.

Mr. REID. Mr. President, I rise to offer an amendment to an amendment that has been offered by the chairman of the committee. I would first like to commend the chairman of the Armed Services Committee, the senior Senator from Georgia, for his efforts to address an issue that is paramount. He should have the accolades of the entire Senate for addressing this problem.

We all know that there have been problems in recent years caused by production of nuclear weapons and other military efforts that have led to degradation of the environment. I think it is important that this amendment come before us. We, in offering the amendment, Mr. President, recognize that the task group contemplated in the chairman's amendment is directed to review the operation of these environmental programs at DOE facilities.

As drafted, the amendment has some shortcomings. Basically, without taking a lot of time of the Senate, there are a number of problems that we see: First, who appoints the task force members? It is my understanding that all parties concerned agree that the proposal submitted be changed. We also are concerned about how the environmental laws are addressed. The amendment calls into question whether DOE facilities even have to comply with Federal or State environmental laws. We can have a dialog between the chairman and myself that would bring an understanding to this Senate about the compliance question.

We would like language that ensures that compliance and enforcement of environmental laws is important and even sacrosanct. Initially we had a problem with the report deadline, but after conferring with the chairman, we feel that the date is appropriate.

The amendment that has been submitted, I suggest to the senior Senator from Georgia, now takes into consideration how this panel would be appointed. There would be joint appointments by the majority leader of the Senate and the minority leader of the Senate. They would appoint two members. The Speaker of the House and the minority leader of the House would jointly appoint two members. it is my understanding that this meets the problems that the chairman and I have discussed, and this would satisfy the committee.

Mr. NUNN. Let me say first, to my friend from Nevada, that the purpose of this blue ribbon task force is to strengthen, not to in any way weaken, the cleanup of the nuclear weapons complex. We believe the Department of Energy, under Secretary Watkins, is moving in the right direction, but there are monumental problems. These problems have accumulated over a number of years, and we have discussed this matter in committee so that the high-level task force is to give visibility to environmental problems and the cleanup problems. It is our intention to strengthen that whole effort.

As was explained when this original amendment, the Nunn amendment, was proposed, we are adding $500 million to the administration's budget for that purpose, above what was requested.

My answer in general to the Senator is we worked carefully with him. I think his amendment is going to strengthen and clarify any ambiguity on these points. I agree with changing the power that was contained in the bill, shifting it to the majority leader and the minority leader on both the Senate and House side.

We have worked with the Senator on the other language, so the Reid amendment I believe should be accepted.

Mr. REID. If the Senator will yield, I did not mention one point that is included in the amendment. The report would come to the Congress rather than the specific committees that were originally outlined.

Mr. NUNN. I read that and understand that. I believe the Senator has worked out a carefully crafted amendment and improves the existing language and my recommendation is that the Senate should accept the amendment.

Mr. REID. I would like to make clear what we are trying to accomplish. I do compliment and applaud the committee for not only recognizing the problem but putting money toward the effort.

I have here a letter dated June 15, 1989, from the Secretary of Energy where he says among other things,

In particular, I emphasize what I believe is the truism that there cannot be any subordination of compliance with environmental, safety and health requirement to our production missions. Simply stated, we are not in a position to produce at all unless and until we are in a position to meet all environmental, safety and health requirements.

In addition, in a statement issued by Admiral Watkins on June 6 of this year, he stated,

I have stated repeatedly that it is my intention to operate DOE facilities fully in compliance with all pertinent statutes and in such a manner that the primary concern for environment, health and safety of the employees and public is satisfied.

So having put that on the record, Mr. President, I would suggest this amendment offered by the chairman of the committee, the Nunn amendment, is a good amendment. It is improved with the modifications that I have suggested to the Senate. I urge adoption of the amendment.

Mr. NUNN. This has been checked by both sides of the aisle. I see the Senator from Virginia here and he has given the affirmative sign so I hope the amendment would be adopted.

Mr. CHAFEE. Mr. President, I strongly support the amendment offered by the Senator from Nevada. This amendment is important for several reasons.

First, the amendment would ensure that the Committee on Environment and Public Works, the committee with jurisdiction over Federal facility compliance with environmental laws, is included in the development of strategy for cleaning up these Energy Department facilities.

The Committee on Environment and Public Works shares Senator NUNN's concerns regarding the need to develop a sound Federal strategy for cleaning up the environment at our Nation's Department of Energy facilities, as well as at Department of Defense facilities. The current criminal investigation at DOE's Rocky Flats facility in Colorado highlights the pressing need to get on with the work.

To this end, the committee chairman—the distinguished Senator from

North Dakota—and I have already written the Senator from Georgia advising him that Environment and Public Works would like to join with him in developing this DOE cleanup strategy. In that spirit, we have suggested that the panel proposed in his amendment be appointed by the leadership in both Houses of Congress, and that the report prepared by the panel be submitted not only to the Committees on Armed Services, but also to the Committee on Environment and Public Works. These modifications to the amendment would materially strengthen our efforts to address this problem, and Senator REID's amendment accomplishes our goals.

Second, Senator REID's amendment would ensure that the Federal strategy for cleaning up these Department of Energy facilities emphasizes the requirement that these facilities comply at all times with applicable environmental laws. The current Energy Secretary, Admiral Watkins, has himself observed in recent days that—unfortunately—it has heretofore been Department of Energy policy to place a much higher priority on production at its facilities, than on compliance with environmental law. That kind of policy is precisely what has created the mess we now confront as we endeavor to clean up these facilities. This amendment ensures that we do not repeat our past mistakes.

Finally, this amendment would add a requirement that the panel appointed to develop a Federal strategy for cleaning up these DOE facilities review the 5 year plan recently proposed by Admiral Watkins as his Department's game plan to address cleanup. In this fashion, the Congress would ensure that it is working closely with the Department of Energy on this important problem.

Mr. President, this is an exceedingly important amendment, and I urge that it be adopted.

Mr. GLENN. Mr. President, I rise in support of a second degree amendment offered by my colleague Senator REID to an amendment to the fiscal year 1990 DOD authorization bill offered by the distinguished Armed Services Committee chairman, Senator NUNN.

I applaud Senator NUNN for his initiative. However, I am concerned that this task force is dealing with a matter of such scope and national importance that it transcends the primary concern of the Senate Armed Services Committee to maintain our national security. This task group is to also render judgments affecting the very integrity of our Nation's environmental laws. Its recommendations could affect not only the future of the U.S. nuclear weapons complex but also the health and environment of communities near U.S. Department of Energy defense sites for centuries to come.

In my view Senator REID's amendment broadens the scope of this Commission by making it accountable to the U.S. Congress as a whole.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment (No. 613) to amendment No. 536, was agreed to.

Mr. WARNER. I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I would like to consult with the Senator from Virginia—we can do it right here on the floor—about whether he believes we need to have a rollcall vote on this. Given the time and number of people that are over here, I would recommend that we not have a rollcall vote and we go ahead and approve the underlying amendment.

Mr. WARNER. I know of no request on this side of the aisle, and I concur in that amendment.

Mr. NUNN. Mr. President, I hope the Senate will act on the underlying amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Georgia, as amended.

The amendment (No. 536), as amended, was agreed to.

Mr. NUNN. I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, if I could get the attention of the chairman, I think it would be helpful if we were to advise the Senate of the status of this bill and the amendments we know are now pending and perhaps the time that might be consumed. I see two Senators on this side of the aisle and possibly—yes, a third—actively seeking recognition for purposes of facilitating the forward motion of this bill.

Mr. NUNN. I thank the Senator from Virginia.

As the Senator knows, the managers of the bill cannot manage the floor unless there is an unanimous-consent agreement and we do not have one. So this bill is in the status where anyone who comes over and gets recognized and sends an amendment to the desk will be in order.

We do have a cloture petition that has been filed, and as of right now it appears we will vote on that tomorrow morning. It is our intention to try to finish this bill tomorrow night, and I think anyone looking at the other business the Senate has to complete this week before we go out on recess would understand that if we do not finish this bill tomorrow night, then there is really no hope we will be out of all this other business by the end of the week.

So it is my hope that this afternoon we will take up these amendments.

Mr. WARNER. Mr. President, what I thought I would do is ask each of the Senators on this side just a little about their amendment and the amount of time they might deem appropriate.

First I would like to ask the Senator from Colorado, who has been waiting very patiently here for really 2 days.

Mr. ARMSTRONG. Mr. President, if the Senator will yield to me, while the Senator from Virginia was off the floor I made an initial presentation.

Mr. WARNER. I was aware of that and I listened.

Mr. ARMSTRONG. It is my purpose at a time convenient—I hope as soon as this colloquy is concluded—to simply call up the amendment and see if there are questions or other discussion and I have one or two brief remarks. I would think a very few minutes.

Mr. WARNER. I thank the Senator from Colorado. I invite the Senator from Kentucky to advise the Senate with respect to his amendment and the time that might be consumed.

Mr. McCONNELL. I would say to the Senator from Virginia my amendment deals with the provision of authority to DEA, Coast Guard, and Customs to force down planes over American airspace suspected of carrying drugs into our country. Active discussions have gone on among staff. The Senator from Kentucky is hopeful that this would be signed off on by both sides. If that happens, I would assume the Senator from Kentucky could dispose of the amendment in 10 or 15 minutes.

Mr. WARNER. I thank the Senator from Kentucky. I ask the Senator from Idaho to advise the Senate with respect to his amendment.

Mr. SYMMS. Mr. President, if the Senator will yield, the amendment that I am working on right now might——

Mr. WARNER. The Senator is not answering the question. I am asking for a response.

Mr. SYMMS. I would say to my good friend that the amendment I am working on now is the amendment to restore the military retirement for Lt. Col. Oliver North which should not take very much time. It has sponsorship of Senator DOLE and many other Senators. I think it would be rather expeditious.

Mr. President, if I could have the attention of the senior Senator from Virginia, I have another amendment that deals with atomic veterans that thus far I have been unable to get the approval of the Veterans' Affairs Com-

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mittee. The issue which I think the Senate needs to address, which it seems would be appropriate in this bill, is that we have a National Guardsman from my State who was called up to active duty, went to Korea, fought in the Korean war, came back, was in the tests in Nevada in the early fifties, died of cancer brought on by the atomic tests, and is not qualified because he was a Guardsman as opposed to being a bona fide member of the armed services. I would like to address that issue.

Mr. WARNER. Mr. President, I thank the Senator from Idaho. I see the distinguished Republican leader on the floor. I inquire perhaps among the three colleagues present and waiting, if they all wanted to establish a priority or an order in which they might present their amendments, it would convenience the three Senators—we cannot do it by unanimous consent but maybe informally—and other Senators who want to address the contents of those amendments. Is that a possibility?

Mr. SYMMS. Five minutes equally divided for my amendment.

Mr. WARNER. I ask the Senator from Colorado how much time.

Mr. ARMSTRONG. Mr. President, just as a matter of principle, I quit entering into time agreements, but I have said I will be brief.

Mr. WARNER. I am not asking for a time agreement. Just simply if there is an informal agreement to convenience colleagues on the floor.

Mr. ARMSTRONG. Mr. President, I believe I am already party to an informal agreement under which my amendment would be offered.

Mr. WARNER. Mr. President, I yield the floor.

Mr. NUNN. Mr. President, I thank each of the Senators for indicating the time that would be required if their amendments are accepted. The problem is that there will be people who are opposing those amendments and therefore to really get a gauge on time we have to find out who is opposing the amendments, how long they are going to take, and so forth. I anticipate that we may hear from them now that they know these amendments may be coming up. I urge everyone who has a thought, an idea, or an objection to any of these amendments that have been described by the Senator from Colorado, the Senator from Kentucky, and the Senator from Idaho to come to the floor because these amendments could come up at any time.

Let me just suggest two things. We do not manage the time on this, but we do have one matter of which I hope everyone will be conscious.

We have certain Members that are involved in the impeachment proceedings. They cannot be here during the day because they are in effect jurors in this procedure. Senator BINGAMAN is one of those, and Senator BINGAMAN has agreed to be here at approximately 5:30 to 6 o'clock to have a discussion with Senator GLENN. Senator GLENN opposes several personnel-related provisions in this bill applying to the Department of Defense and the Department of Energy.

So my request would be that when we get to the hour of 5:30 to 6 o'clock, since this is the only time we can have both the proponents and opponents of those amendments here together, it may take 2, 3, or 4 hours to do them—they are very important amendments—that we would be willing to set whatever is pending aside unless we are about to vote on it and go to those amendments. But that will be up to the body.

Mr. President, Senator KERRY has a very important amendment on Asat testing. He had indicated he could be here by 4 o'clock, but again I have no authority to guarantee anyone their right of appearance. The Senator from Colorado has the floor, and he has been very patient. He will have the floor in a minute.

So at this point I would just simply yield the floor and hope everyone will agree that somewhere in the neighborhood of 5:30 to 6 o'clock when Senator BINGAMAN and Senator GLENN are here together we will be able to set whatever is pending aside, move on to the personnel matters, and come back.

Again, we are going to be here very late tonight. It is the only way we can possibly assure people who have nongermane amendments that they will have an opportunity to be heard. Again, we are going to vote on cloture sometime tomorrow. If cloture is invoked, then a lot of amendments will not be at that point eligible for discussion.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 486

(Purpose: To prohibit membership or observer status in, or financing from, certain organizations or the extension of other benefits to the Union of Soviet Socialist Republics unless certain conditions are met)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG] proposes an amendment numbered 486.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title IX the bill, add the following new section:

"SEC. . FINANCIAL BENEFITS TO THE UNION OF SOVIET SOCIALIST REPUBLICS CONTINGENT UPON OF CESSATION OF DRUG TRADE BY CUBA.

"(a) Notwithstanding any other provision of law, until the President makes the certification specified in subsection (b), he shall—

"(1) Instruct the United States representatives to any international organization funded in whole or in part by the Government of the United States, which extends financial assistance to member states, including but not limited to the International Monetary Fund, the General Agreement on Tariffs and Trade, and the International Bank for Reconstruction and Development, to oppose membership or observer status of the Union of Soviet Socialist Republics in such organizations and to oppose the extension, directly or indirectly, of any form of financial aid, assistance, loan, or credit whatsoever to the Union of Soviet Socialist Republics whether or not country achieves membership or observer status in such organization;

"(2) Deny to the government or any state enterprise of the Union of Soviet Socialist Republics, or to U.S. persons or corporations and their subsidiaries doing business in or with the Union of Soviet Socialist Republics, the extension, directly or indirectly, of any form of financial aid, assistance, loan, credit, subsidy, or loan guarantee whatsoever having the purpose or effect of facilitating the conduct of business in or with the Union of Soviet Socialist Republics, by any entity controlled by the Government of the United States (other than the Commodity Corporation), which extends financial aid, assistance, loans or credits to foreign states or to United States persons or corporations doing business in or with foreign states, including but not limited to the Overseas Private Investment Corporation and the Export-Import Bank; and

"(3) Oppose any substantial relaxation, liberalization, reclassification, or end of restrictions on any license for the sale of goods or technology (apart from routine review and updating of the control list), or the granting of any exceptions to such restrictions, to the Union of Soviet Socialist Republics through the Coordinating Committee for Multilateral Export Controls.

"(b) the provisions of subsection (a) of this section shall remain in effect until the President certifies to the President of the Senate and to the Speaker of the House of Representatives, that—

"(1) Neither the Government of Cuba nor any entity controlled by the Government of Cuba is involved in any way in illegal drug trafficking;

"(2) Neither Cuban territory nor Cuban territorial waters are used as a conduit or transfer point for the supply of illegal drugs to the United States; and

"(3) The conditions specified in paragraphs (1) and (2) of this subsection have existed for a period of at least one year.

"(c) Nothing in this section shall be construed to repeal, contravene, or waive any provision of law prohibiting or establishing other requirements for the extension to the Union of Soviet Socialist Republics of the benefits denied by subsection (a) or otherwise to grant or to require the granting of such benefits upon the certification specified in subsection (b).".

Mr. ARMSTRONG. Mr. President, the title says it all. I have explained the amendment briefly. I have a couple of additional points I would like to make, but I note that other Senators are here I believe to speak on this. After making my initial presentation of the matter, I wonder, since I was speaking to a virtually empty Chamber, whether anybody was watching it on television. Apparently a couple of our colleagues were because I do have requests which I now present to the Senate that the Senator from Florida [Mr. MACK] and the Senator from California [Mr. WILSON] be added as cosponsors.

The PRESIDING OFFICER. Without objection, those names will be added as cosponsors.

Mr. ARMSTRONG. Mr. President, I am prepared to hear other views, entertain questions or go to a vote.

The PRESIDING OFFICER. Is there further debate?

Mr. WARNER. Mr. President, with great reluctance I rise in opposition for the obvious reason that the administration opposes this amendment. The distinguished Republican leader at some point will come and advise the Senate with respect to his views which I have no reason to believe are confident with my views. Individually, personally, we think that the Senator has some commendable objectives here but the time, the manner, if the Senator wishes to seek it, is inconsistent with the overall policy of the President. I propose that at the appropriate time to speak further on this.

Mr. ARMSTRONG. Mr. President, will the Senator from Virginia yield to me?

Mr. WARNER. Yes. Of course.

Mr. ARMSTRONG. I wonder if the Senator could state with greater precision what it is that he dislikes about this proposal. This proposal says we are not going to give financial aid to the Soviet Union which gives financial aid to Cuba until Cuba quits providing military air cover and other forms of aid and assistance to drug smugglers.

There may be more to it than I understand. It seems like a perfectly straightforward matter. It says that at any time the President wants to give such financial aid to the Soviet Union, he may do so if he first enters a finding with the President of the Senate that it is his opinion this enterprise is stopped and they are not sending any more illegal drugs in to corrupt the lives of our young people.

I must say I am quite surprised to learn that the Senator from Virginia would oppose that. I wonder if he could be more forthcoming about what his objections are.

Mr. WARNER. I say to my good friend, he is tying this action to the conduct of the relationship between the Soviet Union and a third country. Was there a reason for example he omitted Afghanistan?

Mr. ARMSTRONG. Mr. President, the reason I tied the matter to the Soviet Union is because, as all Senators know, the reason that Castro is in power in Cuba and stays in power in Cuba is because of the active, unrelenting year in and year out economic and military support of the Soviet Union. They are what the newspapers like to call euphemistically a client state. They are a puppet of the Soviet Union.

You will never make me believe for an instant that Fidel Castro would have come to power in Cuba had it not been for the Soviet Union nor that it is anything other than the economic and indirectly military might of the Soviet Union that keeps him in power. In other words, the Soviet Union has the power to bring Castro to heel on this very important matter.

The evidence is pretty clear, and in fact I will cite a couple of quite specific pieces of evidence if the Senator would like; that the Cuban Government is both actively and passively fostering illegal drug trade. I hate to use a term like "illegal drug trade," because it makes it sound less reprehensible than it is. They are sending in the poisonous substances which are killing and ruining the lives of our young people. Castro is doing that. It is undeclared war against the people of this country. It is one of the first times I can recall in the recorded history of the world when it is war waged for profit.

It fulfills Castro's ambition not only to hurt our country but to make money in the process. All my amendment says is, so long as he is doing that and at the same time is gaining financial support from the Soviet Union, we should not send money to the Soviet Union. If we do, and they sent it to Cuba, it is the same as if we were sending it to Cuba. That is all my amendment does. I still do not understand why he would be opposed.

Mr. WARNER. Mr. President, let us take another part of the world. I find myself in a very awkward position indirectly supporting the Government in Nicaragua, which I do not, but there is an example of another clear satellite interest of the Soviet Union. While I do not have the evidence at hand, I am sure that there is some evidence to the effect they may well be involved in some of the illicit drug trade in this country.

Why select this one-third country, tying it with the Soviet Union?

Mr. ARMSTRONG. Mr. President, it so happens that I have at the desk of Senators an amendment that relates to Nicaragua as well. It is a very plain fact that the Soviet Union has shipped enormous quantities of military and other kinds of aid to Nicaragua, and that in turn Nicaragua has become an international center for revolution and terror—that more than three dozen terrorist organizations, not just Communist organizations, but every rotten terrorist organization you have ever heard of and a lot of them nobody ever heard of, outfits like the Red Brigade, the Baader-Meinhof gang openly have been training terrorists in Managua, from there are laying waste to adjacent countries, and in fact are exporting revolution and terror.

So, if the Senator's point is we ought to do the same thing with respect to Nicaragua, I have no argument, but on the other hand I do not want to come here and offer 100 amendments or even 20. I wanted to start by offering one that puts the matter in perspective.

We are on the brink, it is speculated in the press—every single day we are on the brink of bringing the Soviet Union into the family of nations in an economic sense, I do not oppose that. In fact, I think it is a good idea. Mr. Gorbachev has actively sought that. It is clear that the Soviet Union's economy is in a state of collapse. He says they need to be a part of the Western economic community. He said so as recently as a few days ago, and was quoted in the Washington Post.

I say before we start sending the money or permitting them to get money from international organizations which we support, we ought to ask at least—not instead of what else may be on the table—that they put a stop to this horrible corrupting drug trade from Cuba.

As I say, it is very simple. If we send them money, they send it to Cuba, and it is used against us. We ought to put a stop to that before we send them anything.

I do not think it is a very complicated matter, I would not object if anyone wants to put the burden on Nicaragua or somebody else where they are causing great anguish, and make them pay. I am addressing it to Cuba because they are the nearest source of the problem, and really they are the most tragic source of the problem because of the nature of the drug problem.

Mr. WARNER. I ask my colleague, is there a precedent for this type of diplomatic relations where we would simply say we are trying to help you but we are not going to do it unless you do A, B, C, and D?

Mr. ARMSTRONG. Sure, there is all kinds of precedent of that kind. Probably the most obvious precedent is the Jackson-Vanik amendment, which has long been the policy of this Government. The sanctions we levied against South Africa was a precedent. Even if there were not a single precedent—and there are lots of them—that does not cut any ice, because the fact of the matter is—and, Mr. President, I

predicted this—that someone is going to try to make this more complicated than it is.

The truth of the matter is, it is a question of are we going to send the money of the people of the United States, either directly or through international organizations, to the Soviet Union to support their economy at a time when they are also sending their money, their economic and military support, to Cuba? I do not think we ought to do that, until the President is satisfied that Cuba is no longer implicated in supporting and providing military air cover for them, because that is reported by Reuters and United Press International as recently as July 9. Two Mig's flew air cover for one of these cigarette boats which had drugs in it. It finally ran aground, and they got the drugs. I do not think we ought to support the people trying to kill us.

Mr. WARNER. I certainly concur in the Senator's observation.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. WARNER. I do not want to be associated in any way with trying to foster Cuba's interests, least of all the drug trade. I am considerably concerned that we are setting a precedent here which is unusual. The Senator cited the Jackson-Vanik amendment. That was a relationship which controlled the actions of the Soviet Union, not a third party country.

The Soviet Union, at some point in time, may want to tie to arms control. We are trying to work out bilateral arms control arrangements. At the negotiating table, the last stroke before the pen is fixed, they may say we are not going to sign this agreement unless the United States stops doing certain things in another part of the world, in a third country, affecting their interest adversely. I will allow others to speak to this issue.

Mr. ARMSTRONG. Mr. President, I thank the Senator for his observations. I want to say that I am disappointed that the Senator from Virginia sees this in a different light. It is a well-known fact that the Senator from Virginia is a good soldier, and I believe that in fact he is carrying the water to the administration. The State Department does not like this amendment. The State Department does not like any amendment of this character. I honor him for doing his duty. It did not seem to me that his heart was really in it. It is recorded in my heart that, although he has spoken against the amendment, he thinks I am right.

Mr. WARNER. I thank my good friend from Colorado. We came to the Senate together, and we have known each other for 11 years, and there are certain things one can conceal and certain things one cannot conceal. I shall not say anything further.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado.

Mr. ARMSTRONG. I want to report that the TV system is still working and Senators are apparently following the debate, because I now have requests from the Senator from Indiana [Mr. COATS] that he be added as a cosponsor and that the Senator from North Carolina [Mr. HELMS] be added.

The PRESIDING OFFICER. Without objection, those Senators will be added as additional cosponsors.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I ask unanimous consent that I might be added as a cosponsor, also.

The PRESIDING OFFICER. Without objection.

Mr. SYMMS. Mr. President, I would further like to say—and I see the distinguished chairman of the Foreign Relations Committee on the floor. I am sorry if I cut him off. If he is ready, I will wait. But I will say briefly that I believe that the Armstrong amendment, when you put it in the perspective of here we are on the floor of the U.S. Senate debating a $300 billion-plus authorization bill for our defenses.

Now, if you look around the world, Mr. President, if you had to allocate how much of this defense budget would we have to have, and you could in some way allocate it out to certain countries, that you need 5 percent because of this country, and 5 percent for that country; I think one would find that the biggest reason we have a big defense budget, the reason we have the penetrating bombers and the missiles and the high-priced aircraft carrier task force is because of the terrorism and the hegemony that come out of the Kremlin in the Soviet Union through their puppet states like Cuba; that is why we have a big defense budget. That is the reason.

Senator ARMSTRONG is simply saying that we should not furnish the very people with benefits through lending—and I will read what his amendment says: The amendment requires that the President shall oppose membership or observer status of the Soviet Union in any aid to the Soviet Union. The U.S. Government supports international organizations like GATT, IMF, World Bank, including Eximbank and OPIC. It opposes any relaxation of licensing or export restrictions or granting of exceptions in COCOM, unless he certifies that the Cuban Government is not involved in illegal drug trafficking and Cuban territorial waters are not used for drug transport. These conditions have existed for at least 1 year.

That is so simple, and it seems to me so logical, makes so much common sense, I cannot imagine this Senate not passing that amendment. I cannot, for the life of me, imagine how we can turn down an amendment that makes this much sense. The reason we have such a big defense budget is because we have adversaries in the world who are the enemies of freedom, and they have been for 70-plus years.

The Soviet Union is the engine of darkness. They are the government that has created more problems around the world, and Fidel Castro, as one of their puppet spokesmen, created more problems in this hemisphere for the United States than anyone else in this hemisphere that I can think of. There may be some, but I can think of none other.

I hear criticisms sometimes levied at Chile; I have heard it on the Senate and House floors. But I do not think we spend very much of our Defense budget because of any threat that Chile is to the United States. I heard about it because of the Communists in the Soviet Union and in Castro's Cuba. So I urge my colleagues to vote for the Armstrong amendment, and I look forward to a chance to cast a vote for it. I hope it is accepted. I hope that the committee will just accept the amendment. If not, I would hope it would have an overwhelming vote.

I thank my good friend from Colorado.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. PELL. Mr. President, I think we all share the view that we want to stem the flow of narcotics into our country. We have the same objectives. The question is how we get there.

In this case, it would seem to me this is not a wise, balanced approach. The administration, as we know, opposes the Armstrong amendment; and I think we should bear in mind our basic policy vis-a-vis the Soviet Union.

Our present policy, as set forth by the President, acceded to by the Congress, is a policy that represents a full balance between national security, human rights, and our enlightened self-interests. Along this line, we recognize the fact that our President already is strongly opposed to Soviet membership in GATT and other U.S.-supported international financial institutions.

This, of course, is because of the nature of their economies, their inability to meet the commitments required, and because of the need to keep these institutions free of politics. OPIC and Exim financing is not now available for business in the U.S.S.R. in any case. We do not need this amendment to deal with this concern. Indeed, the amendment could be counterproductive, since it could move us in the wrong direction in connection with

evolving policy vis-a-vis the Soviet Union.

For these reasons, it would seem to me that it would be best if this amendment were not agreed to. I would hope that it would be tabled. I am very conscious of the fact that this is one amendment about which the administration and some of us on the other side of the aisle are in full agreement.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado [Mr. ARMSTRONG].

Mr. ARMSTRONG. I think the issue is squarely before us. I do want to note in passing that the Senator from Rhode Island, the distinguished chairman of the Foreign Relations Committee, made the point that this amendment is unnecessary because the President says he does not want to permit the Soviet Union to join IMF, World Bank, or GATT—in any case, due to economic reasons that are due to the nonmarket nature of their economy. I do not think we can have it both ways. I do not think we can say both the amendment is unnecessary and undesirable. It might be one or the other but it could scarcely be both.

My own view is that there may be many reasons why United States representatives in these world bodies will want to vote against membership for the Soviet Union at this time, but gradually over a period of time, it is my hope that in fact there will be reasons to integrate the Soviet Union into the international economy, reasons that are mainly rooted in United States self-interest, but obviously the Soviet Union itself has great interest in joining these international organizations.

By the same token, although I consider myself to be something of a hard-liner, I really think it is in the United States' best interests for us to move closer to the Soviet Union, to deescalate the tensions between our countries, to enter into thoughtful, well-policed, well-verified arms control agreements, and to expand international trade.

I do not think, however, we ought to subsidize them as long as they are in such a direct incontrovertible way subsidizing an assault on the very heart of our country, on our young people through the drug trade.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

Mr. ARMSTRONG. Mr. President, as I close, I ask unanimous consent to print in the RECORD at this point just a couple of items that ought to be available to those who follow the RECORD of this in the future, and I hope that my colleagues will do so, a dispatch from Reuters under the date of July 9 which details the episode which I mentioned earlier, that is, in which Soviet Mig's in effect held off United States aircraft from their surveillance of a cigarette boat, which later was found to be transporting illegal drugs; also the report of the United Press International on the same episode; and most interestingly an extensive article from Human Events of July 29, which goes into some detail about the involvement of Cuba and of its leader, Fidel Castro, in this reprehensible trade.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Reuters, July 9, 1989]

CUBAN MIG'S FACE DOWN U.S. PLANE DURING DRUG DROP

(By Matt Spetalnick)

MIAMI.—Two Cuban Mig jet fighters kept a U.S. customs aircraft at bay while a small plane dropped a load of cocaine to a waiting speedboat just inside Cuban territorial waters, U.S. customs officials said Sunday.

Customs agents later seized the boat and nearly 1,600 pounds of cocaine on board when it ran aground about 20 miles south of Miami, Customs Service spokesman Michael Sheehan said.

Sheehan said the incident late Friday night cast doubt on Cuba's pledge to crack down on drug smuggling as well as its threat to shoot down suspicious aircraft flying outside of its commercial air corridors.

He said that while there was no evidence the Mig pilots were in league with the smugglers it was unlikely that the Mig's elaborate surveillance equipment could have missed what was happening on the water's surface.

"It seems very odd that at the very time there is a drug air drop and our plane is nearing Cuban air space, that two Mig's come out to intercept our plane but in no way interfere with the drug traffickers," Sheehan told Reuters.

The incident occurred on the same day Cuba announced that four senior military officers had been sentenced to death for involvement in drug smuggling. The military bench of the Cuban Supreme Court upheld the sentences Sunday.

A U.S. Customs surveillance plane tracked the suspected drug-running plane as it flew across Cuba late Friday night and watched it drop more than a dozen bales to a boat off Cuba's north coast, officials said.

Two Soviet-made Migs intercepted the customs plane to ensure that it did not enter Cuban air space, customs said. "We were held at bay, but our people saw everything that was going on," Sheehan said.

Customs agent lost sight of the 37-foot speedboat in the dark waters of the Atlantic but later found it run aground and abandoned Saturday at Biscayne National Park with bales of cocaine floating nearby, officials said.

Customs officials said they had seen no change in Cuban drug enforcement efforts since the arrests of the drug-linked military officers last month.

"For the last year and a half, we've had two flights a week overflying Cuba and doing the same thing," said L. George Garland, a supervisor of the customs air interdiction program.

[From United Press International, July 9, 1989]

PLANE DROPS COCAINE IN CUBAN WATERS WHILE MIG'S STAND BY

MIAMI.—U.S. Customs agents watched a small plane drop a load of cocaine into a waiting boat just inside Cuban territorial waters, then seized the boat and 1,584 pounds of cocaine when it ran aground off Florida.

Two Soviet-made Mig jet fighters stood by to ensure the U.S. Customs plane did not enter Cuban airspace, but made no effort to intercept the drug shipment, which was discovered Saturday, said Pat O'Brien, special agent in charge of the Miami Customs office.

"We didn't see any effort to shoot it down and they certainly weren't going to let us fly in," O'Brien said.

There was no indication whether the Mig pilots knew what cargo the plane delivered, he said.

The seizure followed Cuban action on Friday ordering its national hero Gen. Arnaldo Ochoa Sanchez and three other disgraced officials condemned to death by a firing squad for their involvement in drug smuggling and corruption.

There was no word on whether the executions were carried out. Allegations escalated in the United States that the trials for the officials were merely for show and not an valid attempt by the Cuban government to halt narcotics trafficking.

Agents in a Customs plane spotted the drug plane about 10 p.m. Friday, he said.

"The plane flew over Cuba and did an air drop to a waiting boat in Cuban waters, then the plane went back over Cuba," O'Brien said. "They sent out the two Mig's and we thought they were going to go after the bad guys, but they stayed there to make sure we didn't go in."

The boat, a 37-foot Midnight Express cigarette boat registered in Florida, was about 10 miles inside Cuban waters when the drop was made, he said. Customs agents waited just outside Cuban boundaries, and attempted to follow the boat, but were forced to turn back because they were low on fuel.

[From Human Events, July 29, 1989]

CASTRO DEEPLY INVOLVED IN DRUG RUNNING

(By Bretton G. Sciaroni)

As a part of the biggest shake-up in the Cuban government since the Communists seized power in 1959, numerous officials have either been arrested or lost their positions. In a show trial reminiscent of Stalin's purges of the 1930s, the most prominent official arrested by Cuban authorities was recently executed, along with three others.

Yet, Fidel Castro, who has orchestrated the purge, is attempting to hide both the true nature of the present government realignment as well as the substantial ongoing Cuban involvement in drug smuggling. Unfortunately, there are those in the U.S. government and the American media who are willing to help Castro obscure the real origins of the government reorganization and give credence to his newly discovered anti-drug trafficking zeal.

The shake-up began on June 12, when Maj. Gen. Arnaldo Ochoa Sanchez, the highly decorated deputy minister of Cuba's armed forces, was arrested. This event was of no small significance: Believed to be Cuba's most decorated officer, Ochoa is only one of five soldiers who has been awarded Cuba's Hero of the Republic medal. He is a veteran of the Cuban revolution, having

served with Castro at Sierra Maestra, and was considered a possible successor to Raul Castro as chief of the armed forces.

Furthermore, Ochoa was associated with nearly every Cuban overseas venture. According to former NSC staff member Jose Sorzano, Ochoa was regarded as "Castro's Mr. Fix-it," and wherever Cuban troops had to fulfill their "internationalist" duties, Ochoa was not far behind.

Among the highlights of this celebrated officer's career are the following facts:

From 1967-1969, Ochoa reportedly helped train guerrillas in Angola and the Congo.

After attending the Frunze Military Academy in Moscow, he was sent to Angola in 1976, where he oversaw the expansion of Cuban troop deployments from 3,000 to 20,000. He again commanded Cuban troops in Angola in 1987-1988.

In 1978, Ochoa advised the Ethiopian military fighting against Somalia. Cuban forces in Ethiopia grew from 2,000 to 17,000 while he was stationed there.

From 1985-1986, Ochoa was in charge of the 8,000 Cuban military advisers in Nicaragua.

He has also been linked to Cuban military activities in Venezuela and Mozambique. For example, testimony at Ochoa's trial referred to his being an "internationalista" in Venezuela, thus hinting at his involvement in secret operations there.

According to a Reuters dispatch, the original charge by Cuban authorities against the prominent general was corruption: Ochoa was alleged to have been involved in illegal sugar sales in Angola. Within two days, however, the Cuban government officially upgraded the charges to drug trafficking.

News of Ochoa's arrest was quickly followed by the arrests of numerous other Cuban officials. Besides members of Ochoa's personal staff, others arrested or dismissed included:

A number of senior officials of the interior Ministry were arrested, including Brig. Gen. Patricio de la Guardia Font and his twin brother, Col. Antonio de la Guardia Font. They were considered close to Castro.

Gen. de la Guardia commanded a unit of Cuban special forces assigned to the Interior Ministry and was believed to be involved in special operations abroad in support of Communist objectives.

According to sources in the Miami exile community, he was involved in the planning and perhaps even the execution of the October 1981 operation which destroyed the "Bridge of Gold" in El Salvador.

Col. de la Guardia held a senior post inside the Interior Ministry and was charged with circumventing the U.S. trade embargo against Cuba.

The minister of the interior, Gen. Jose Abrantes Fernandez, was fired because of his department's role in drug smuggling. As head of the secret police, he was the third most powerful man in Cuba after Fidel and Raul Castro.

Abrantes, who was in charge of Fidel Castro's personal security in the 1960s, was replaced by a career army officer who is considered close to the Castro brothers.

The head of the Civil Aviation Institute, Vicente Gomez Lopez, was dismissed. The institute controls private and commercial air traffic in Cuba. He was replaced by Gen. Rogelio Acevedo, who had been in charge of the political office of the Armed Forces Ministry.

A long-time supporter of Castro and a former high-ranking Air Force officer, Transport Minister Diocles Torralbas was dismissed the day before Ochoa's arrest.

Like Ochoa, he was a member of the Communist party Central Committee and fought with Castro during the 1959 revolution. According to the Reuters dispatch, Torralbas was alleged to be linked with Ochoa in an illegal sugar selling scheme.

Doubt was immediately cast upon the official Communist party rationale for Ochoa's arrest by knowledgeable Cuban experts. Ochoa was considered a soldier's soldier with a reputation for honesty.

For example, the highest-ranking Cuban defector ever to have fled Cuba, former Brig. Gen. Rafael del Pino, discounted the charges of corruption against the prominent general. Del Pino stated that Ochoa "has always been an austere individual, devoted to military life. . . ."

In an interview with Radio Marti two years ago, del Pino singled out Ochoa as one of the two most prestigious generals in the Cuban armed forces, stating that Ochoa was not among the "corrupt elite" ruling Cuba. (The Radio Marti interview was published as General Del Pino Speaks, Cuban-American National Foundation, 1987.)

Furthermore, the fact that Ochoa and the others have been singled out is curious because corruption is rampant in the Cuban government. According to Jaime Suchlicki, a Cuban expert at the University of Miami, "If they were really concerned about corruption, they could remove half of the party bureaucracy. . . ."

But the practice of using corruption allegations to remove officials who have fallen from favor is an old practice in Cuba. According to the Washington Times, an unnamed State Department official stated that corruption charges have been used in the past against internal enemies of Castro: "A lot of corruption is tolerated . . . and then used by Castro to arrest people who are in disfavor for non-ideological reasons."

Rather than being caused by alleged acts of corruption, the arrested officers and other officials are more likely to be attributable to unrest in the military, prompted by Castro's hard-line policies. Compared with political and economic reform within the Soviet bloc, Castro's Cuba has been recalcitrant.

In recent years, Castro has emphasized the recentralization and rigid control of economic decision-making.

For example, in 1986, he abolished the "free peasant markets." Resembling markets established in other Communist countries, they permitted peasants who raised crops, apart from those dedicated to national plan production, to sell their produce in special markets that did not have price controls. These markets rewarded peasants, increased the output of food crops and improved supplies in the cities.

But Castro became angry by the new wealth that these markets made possible. According to Castro, the markets encouraged "liberal bourgeois" tendencies and built capitalism, not socialism. Nevertheless, the abolition of these markets was unpopular not only among the peasants but even among dedicated Communists.

Another source of unrest has been Castro's foreign policy. During this time of Soviet retrenchment worldwide, Castro has been reluctant to withdraw entirely from his overseas adventures. The Cuban military is known to have chafed under their commitment to foreign battlefields like Angola, only to find a tepid reception upon their return.

Some Angolan veterans, unable to find work in Cuba, have reportedly been sent to Nicaragua to work on construction projects and even to Siberia to cut timber.

For these reasons, many observers feel that the arrests, far from being attributable to isolated cases of corruption, symbolize a far more significant development in Cuba's internal affairs.

It has been reported that Ochoa, because of his dealings with the Russian military in Ethiopia and Angola, was pro-Soviet and could have provided Moscow with an alternative to Castro. Indeed, based on his personal popularity and prestige, Ochoa could have been a catalyst for change in Cuba.

He was widely known as an approachable and often irreverent officer who was popular among his troops. And, according to Enrique Baloyra, a Cuban expert at the University of Miami, Ochoa was one of the few people in Cuba other than Fidel Castro who was cheered in public.

In fact, many Cuban experts dismiss the corruption charges entirely, claiming that the government shake-up is a political power struggle.

For example, prominent Cuban exile Huber Matos, who fought with Castro before being imprisoned by him for his political views, believes the case is politcal: "Its purpose is to demoralize and destroy the most valuable men in the army, in whom Castro sees dangerous enemies because of their valor and influence in the military."

Pamela Falk, a Cuban scholar at Columbia University, commented regarding the Ochoa arrests, "My reading is that it's the purge of a rival, pure and simple."

Even the initial comments of Cuban Defense Minister Raul Castro implied that major policy differences were behind the arrests.

Although he denied that there was a power struggle in the Cuban government, Raul Castro stated that individuals within the Cuban armed forces "who disagree with Fidel Castro" should quit their posts and emigrate to the Soviet Union or Poland. And when he made a surprise appearance before the military tribunal trying Ochoa, Raul Castro also accused Ochoa of "unbridled populism" and of having criticized Fidel Castro's conduct of the war in Angola.

The proceeding against Ochoa itself, a hearing that revealed Stalin's purge trials of the 1930s, was so flawed in its conduct so as to lend support to the analysis suggesting that this was a political trial, not a case of corruption in high places.

The urgency and prominence given by the government to the charges against Ochoa has led to the suspicion among many analysts that the case is serving as a smoke screen.

Castro said that as late as June 2, when he last met with Ochoa, he had no notion that Ochoa was allegedly involved in a wide array of crimes. Yet, enough evidence was supposed to have been gathered by June 12 to arrest Ochoa, with a trial occurring only 10 days later.

In addition, U.S. officials familiar with allegations of Cuban compliance in drug smuggling were astonished by the sudden appearance of detailed information regarding the drug trafficking. Yet, much of the detail reported in the Communist newspaper *Granma* had previously appeared in federal indictments issued in Miami in 1988.

Also, there was little specific information about Gen. Ochoa's involvement. According to Richard Gregorie, former deputy U.S. attorney in Miami, "I had never heard of the name [of Ochoa] before. We know [the drug

dealers] were landing planes there [in Cuba], but to me something about this stinks."

Furthermore, the very conduct of the trial itself indicated that it was a staged event. The 47-man tribunal was composed of senior military officers. It was speculated that the tribunal was so large so as to broaden the responsibility for Ochoa's judgment among all the military. That supposition was supported by the fact that every member of the tribunal called Ochoa a traitor and asked for the death sentence.

The appearance of Ochoa himself also lent credence to the notion that the trial was staged. In the proceedings, edited versions of which were televised on government stations. Ochoa never lifted his eyes to look at his accuser or the tribunal. Rather, he appeared preoccupied with cleaning his fingernails and brushing lint from his uniform. At other times, his eyes appeared to be closed for long periods. According to the New York *Times*, this behavior led diplomats to speculate that he had been drugged to prepare him for court.

Subsequently, Ochoa confessed to the tribunal and asked for his own execution. His half-hour confession, which was again edited for broadcast, included denials that the Castro brothers were involved in the smuggling and that he was involved in a political conspiracy against their rule of Cuba.

He concluded that "If the death sentence comes, and it could mean a firing squad, my final thought will be of Fidel and our great revolution." Much like his comportment during the first day of his trial, Ochoa did not look at the tribunal during his statement, but gazed only at the ceiling or the floor.

If Gen. Ochoa was set up because he posed a threat to the regime, what is to be made of the admissions by Havana that Cuba had been used as a transit point for drug smuggling?

In Ochoa's trial, evidence was offered that indicated that some of the officers arrested, particularly Col. de la Guardia, were involved in the smuggling. Official Cuban newspapers gave great detail about drug-smuggling activities, including the time, place and content of conversations among Cubans, Colombians and Panamanians. The information is generally compatible with data collected by U.S. law enforcement and intelligence agencies.

Furthermore, the admission that Cuba has been used by drug traffickers constitutes a reversal of Fidel Castro's past denials of any involvement in narcotics trafficking. For example, in a 1985 interview, Castro said that "Cuba has an unimpeachable record" on drugs, and did not know of any case in which a Cuban official has been involved in drugs.

In fact, the anti-drug campaign being orchestrated in Havana appears to be a clever move by Castro to rid himself of internal enemies and, at the same time, spread disinformation about his own role in drug trafficking as well as curry favor with the U.S.

The U.S. government long ago established that Castro's regime was heavily involved in drug trafficking. Consider the following U.S. government reports and actions:

One Drug Enforcement Administration report dated the Cuban government's participation in drug smuggling to 1961. It stated that, although the Castro government's primary interest in drug smuggling is profit, the smuggling network is also used to move arms and other illegal items.

In 1982, four senior Cuban officials were indicted in Miami for conspiracy to smuggle cocaine into the U.S.

They were Aldo Santamaria, a vice admiral of the Cuban navy and a member of the Cuban Communist party Central Committee; Rene Rodriguez-Cruz, a senior official of the Cuban Intelligence Service (DGI) and a ranking member of the Communist party Central Committee; Fernando Ravelo-Renedo, then Cuban ambassador to Colombia and now ambassador to Nicaragua; and Gonzalo Bassols-Suarez, a former deputy chief of mission in Bogota. They were indicted for shipping cocaine to the U.S., with the proceeds of the sales financing the M-19 guerrillas in Colombia. All four were convicted in absentia in February 1983.

In 1983, then Assistant Secretary of State Thomas Enders testified to a U.S. Senate committee that "We now also have detailed and reliable information linking Cuba to traffic in narcotics as well as arms. Since 1980, the Castro regime has been using a Colombian narcotics ring to funnel arms as well as funds to Colombian M-19 guerrillas."

He explained that drug smuggling ships used Cuban waters as sanctuary from the U.S. Coast Guard as well as for transshipment purposes, and frequently flew the Cuban flag so as to avoid being stopped by U.S. officials.

Before the same Senate committee in 1983, another U.S. official testified that the Cuban government had provided marijuana that had been grown in Cuba to smugglers and was assisting smugglers by using their radar systems to detect U.S. Coast Guard surveillance.

In 1984, Antonio Farach, a Nicaraguan diplomat who defected, testified that Raul Castro encouraged the Sandinista government to engage in drug smuggling.

In 1986, the President's Commission on Organized Crime observed that "Cuba and Nicaragua blatantly aid traffickers smuggling drugs from Colombia to the United States. . . ."

A State Department report in 1988 on international drug trafficking referred to the "routine use of Cuban airspace and waters by narcotics smugglers as safe haven against U.S. interdiction efforts."

In 1988, a federal grand jury in Miami issued indictments, charging that cocaine was flown from Colombia to Cuba, where it was unloaded and transferred onto boats for shipment to the U.S.

U.S. officials have charged that in recent years, the amount of drug trafficking activity from and through Cuba has increased dramatically with at least 63 suspected drug flights over the island since February 1988.

For example, DEA officials had noted a surge in cocaine transshipment from Cuba and had pinpointed Varadero Beach, on Cuba's north coast, as the point of dispatch. Loads of cocaine were wrapped in fluorescent material, dropped from the air into the sea just off Cuba and picked up by boats.

At other times, planes from South America simply hide in Cuban air space. According to former Deputy U.S. Attorney Richard Gregorie, "In recent years, when we run into dope planes, they immediately dip into Cuban air space, they signal Cuban defense forces, and they are allowed to seek protection where the Coast Guard can't fly."

Fidel Castro, then, is asking the U.S. to believe that all of this occurred without his knowledge. In fact, during the trial of Ochoa, the Communist newspaper *Granma* said Castro took note of U.S. Coast Guard accusations, which coincided with other bits of information reaching him, and decided to undertake an investigation.

This story leads one to wonder where Fidel has been for the last decade, during which time the U.S. government repeatedly accused and identified Cuban officials as being involved in drug trafficking.

What makes Fidel's new-found righteousness regarding Cuban officials' drug corruption even more ridiculous, is that one member of the 47-man tribunal which determined that Ochoa should be tried for high treason was Adm. Aldo Santamaria, who was one of the four Cuban officials indicted in the 1982 drug smuggling case in Miami. In the 1982 indictment, it was alleged that Santamaria had supervised the protection and resupplying of ships transporting drugs from Colombia to the United States through Cuba.

The simple fact is that, given the totalitarian nature of the Castro regime, with its all-powerful secret police, Cuban officials could not have been involved in drug trafficking without Fidel and Raul Castro's knowledge and approval.

In March 1988, defector Maj. Florentino Azpillage Lombard, Cuba's former chief of intelligence in Czechoslovakia, said that no official involvement in the drug trade could occur without Castro's personal approval.

In August 1983, Cuban defector Jesus Raul Perez Mendez, who had worked with one of the Cuban officials indicted in 1982, told U.S. officials that Raul Castro took money from drug traffickers to allow smuggling through Cuba.

Evidence such as this has led Ernesto Betancourt, director of Radio Marti, to doubt Fidel's lack of knowledge: "How can Castro claim he knew nothing about drugs when he himself has been involved? Nobody in Cuba is involved in this type of thing on his own."

A good case in point was the allegation against one of Ochoa's codefendants, Col. Antonio de la Guardia. The DEA has identified him as being involved in narcotics trafficking. In fact, de la Guardia was perfectly positioned to engage in that enterprise.

As part of the secret unit inside the Interior Ministry that worked with U.S. smugglers to send Cuba computer parts, medical equipment, and other high-technology U.S. goods, which are banned under the U.S. trade embargo, de la Guardia was Cuba's official chief smuggler.

Thus, it would have been easy for de la Guardia to ship cocaine to the U.S. in boats returning to Florida after dropping off high-tech contraband.

In fact, it would also be logical for de la Guardia to be assigned the job of aiding drug shipments. For that reason, most analysts have found it difficult to believe that he did it without Castro's knowledge and approval.

De la Guardia was a confidant of Castro, who carried out delicate and sensitive missions for him. According to Cuban experts, "you can't get closer to Fidel" than was de la Guardia.

Finally, it is interesting to note that during Ochoa's trial, Col. de la Guardia's testimony was evasive and led diplomats in Havana to speculate that he was shielding the person who gave the orders regarding the drug shipments.

It is apparent that Fidel Castro is trying to deflect suspicion away from himself by claiming that there was some kind of a "rogue operation" in his government. It is most convenient for him to denounce internal opponents as drug traffickers and thus

hide Havana's real role in the narcotics trade. Yet, a number of publications and U.S. government officials seem prepared to believe the Cuban dictator.

The Washington Post has devoted considerable attention to printing the official Communist party line, while doing little to get the real story. Likewise, Rep. Charles Rangel (D-N.Y.), chairman of the House Narcotics Committee, who discussed Cuban cooperation on drug matters with Castro in Havana last December, has accused the State Department, which has been skeptical of the arrests in Cuba, of "playing anti-Communist politics."

Rep. Rangel has encouraged the U.S. government to work with Castro on narcotics control, and has even critically noted that the U.S. does not share information on suspected drug shipments that may be occurring. Following this lead, the Communist paper *Granma* echoed this accusation the day after Rangel made it, stating that U.S. intelligence agencies knew about the drug shipments but would not share their information with the Cuban government.

Clearly, Castro and those involved in aiding drug transshipments would like to have U.S. intelligence concerning their activities for purposes of evasion. In addition, Castro would like to improve U.S.-Cuban relations, as the State Department has made better drug enforcement a precondition for better relations. Efforts such as those by Rep. Rangel can only benefit Havana.

In stating that "It is drugs, not Communists, that are killing our kids," what Rep. Rangel fails to recognize is that it is Castro's Communists that are aiding the narcotics traffickers. There is an ongoing pattern of behavior, not disrupted by the recent arrests in Cuba, which indicates Castro's abiding commitment to drug smuggling. Evidence of his continued activity in drug trafficking includes:

DRUG FLIGHTS

After the arrests of Ochoa and the others, the Cuban government stated that unidentified aircraft flying over Cuba will be assumed to be carrying drugs and shot down. However, drug smuggling flights have continued unabated since that announcement.

According to the DEA, as Ochoa was being tried in Havana, yet another drug-smuggling plane airdropped a load of cocaine off the Cuban coast and flew back to safety over the island. According to the U.S. Customs official in charge of south Florida, "Two MiG fighters came onto the scene and protected the Cuban airspace."

NORIEGA

Cuban relations with the drug-smuggling regime of Panamanian strongman Manuel Noriega have continued unabated. Last year, for example, Cuba reportedly rushed arms and ammunition to Panama in anticipation of U.S. military intervention. In addition, the Cuban media have not only justified Noriega's annulment of the Panamanian elections in May, but Castro subsequently hosted Noriega's frontman, Manuel Solis Palma, for a four-day visit.

All of this should not surprise anyone, since Castro was mentioned in the indictment of Noriega returned by a federal grand jury in Miami in February 1988. The indictment said that Castro met with Noriega "on or about June 29, 1984," in an effort to mediate a dispute between the Panamanian leader and members of the Medellin cartel.

VESCO

Castro continues to provide refuge to Robert Vesco, the fugitive U.S. financier who was indicted on drug-smuggling charges by a Florida grand jury.

Vesco was indicted in Jacksonville earlier this year for allegedly helping convicted Medellin cartel trafficker Carlos Lehder Rivas conspire to import cocaine. Lehder sent a messenger to Vesco in Cuba to get permission to smuggle cocaine across the island. Nevertheless, Cuba does not acknowledge Vesco to be a resident in Cuba.

Thus, with the arrests of senior Cuban government officials last month, Castro is attempting to achieve several goals. He is ridding himself of potential rivals, improving his image, and trying to better relations with the U.S. However, as the evidence demonstrates, narcotics trafficking has long been an authorized activity in the Cuban government, and continues to this day.

Those in the U.S. government who are eager to cooperate with Castro should look behind the appearance of anti-drug activity and understand the real character of the most significant purge of the Cuban government in 30 years.

Mr. ARMSTRONG. Mr. President, I think we are ready to vote.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Virginia [Mr. WARNER].

Mr. WARNER. Mr. President, this is indeed a very, very important issue. As my good friend has indicated within the limited time this Senator has had and the opportunity to contact the administration, which has been done, I am not satisfied that we have the full story from the perspective of the President and the Secretary of State.

It seems to me we are at this juncture on this bill and this amendment. I am not able to adequately inform the Senate, as I think I am obligated to do, with respect to the President's view and that of the Secretary of State. I am going to seek to get some document in writing.

Now, the yeas and nays have been ordered. We are probably at that juncture where we either have to lay this aside for an indefinite period of time and have this the pending business and we are not able to carry on, but I would like to get the thought.

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. WARNER. Just a minute. If the Senator will forbear a minute, I would like to get the thoughts of the distinguished chairman here who has been working with me on this matter.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia [Mr. NUNN].

Mr. NUNN. Mr. President, I would say in response to the Senator from Virginia, I think all of us here in this body want to be very cautious about extension of any credit to the Soviet Union. I think everybody in this body wants to be as tough as possible on Cuba as far as the transport of drugs, but I also believe everybody wants to know how the President stands and how the Secretary of State stands because after all this is their foreign policy. This amendment is a restrictive amendment on the ability of the President of the United States to conduct foreign policy. Sometimes I vote for those amendments. Sometimes I vote against them.

But I always like to know how the President feels about it, and before I ask Members on this side of the aisle to table the amendment or to vote against the amendment, when I know they are concerned about being prudent on the extension of credits to the Soviet Union, I know they are also concerned about drugs and I am sure everyone on the Republican side feels the same way.

I think the President or the Secretary of State in his name should give us a statement, put it in writing as to what their view is on this amendment.

Mr. ARMSTRONG. Mr. President, if the Senator will yield, I think I can satisfy his concern on that point because I have such a statement. In fact, I believe I was the first Senator to point out that the State Department opposes this.

I am going to read briefly from the guidance which has been provided by the State Department and then later I am going to ask unanimous consent that that statement be put in the RECORD.

It is no secret. The State Department does not like this amendment. I can tell you that any amendment of this general character is going to enjoy the opposition of the State Department whether that President is Ronald Reagan or Jimmy Carter or George Bush or whoever it might be in the future. The State Department is not going to like this kind of an amendment.

Mr. NUNN. Mr. President, could the Senator tell us how the President feels on this amendment because the way the Senator from Colorado is describing it is as if the State Department is not part of the Bush administration, as if they are some institution. I am sure sometimes they are. But if we could get some word from the White House as to how he feels about this amendment, I think it would make a big difference.

Mr. ARMSTRONG. Mr. President, I have not discussed this with the President, nor have we discussed, so far as I know, any of the amendments we have taken up on this bill with the President of the United States.

In the ordinary course of business, even on amendments of great consequence, it is that we rely on the guidance of the various departments.

I do not think it is probably up to me to clarify whether or not the State Department is a part of the Government of the United States.

Mr. NUNN. I do not either.

Mr. ARMSTRONG. I gather we all entertain some doubts about that from time to time, but I take it for granted that the State Department is

the appropriate agency to speak for the administration on this matter.

Mr. WARNER. Mr. President, I would respectfully disagree with my friend from Colorado. The President has to address this issue.

I propose to seek unanimous consent that this amendment be temporarily laid aside——

Mr. ARMSTRONG. No. I object to that.

Mr. WARNER. If I may finish the statement—until such time as I or the Republican leader or others who wish to join with me seek a written communication from the National Security Adviser and, hopefully, the President himself on this issue so that we can fully inform the Senate.

The advantage to that seems to me is, first, we show respect to our President, and second, we enable this bill to continue and many amendments which are now waiting to be given consideration.

So I would like at this time to propound the following unanimous-consent request: That this amendment be laid aside temporarily with the understanding that the Senator from Virginia in conjunction with other Members of the body will seek to get in writing from the President's National Security Adviser which has overall jurisdiction, as the Senator well knows—the State Department, the Defense Department, all entities of the Government that formulate the foreign policy—a written position on this very important amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President, with some reluctance but without any doubt I do object.

The PRESIDING OFFICER. There is objection.

Mr. ARMSTRONG. Mr. President, this is not a request which I think we should honor. Obviously the President has the right to comment on this. It would be extraordinary he did so in a personal way.

We have the recommendation of the State Department. If the National Security Adviser or others want to comment on it, they are free to do so. This is not a surprise amendment. This is an amendment which I called up last night and at the request of the managers of the bill I deferred until this time precisely, as they pointed out, so that those who are interested would have a chance to comment on it, and comment has been forthcoming.

The fact of the matter is, what really is at work is that those who oppose the amendment want some time to run around and twist some arms or make some deals, and I do not want to permit that to happen.

I have not done that. In fact, I did not ask for all cosponsors of this amendment. In fact, when it came to the floor and I called it up, it did not have one cosponsor on it.

I do not have the capacity, nor, frankly, do I have the desire, to spend the next 2 or 3 days running around to Senators and trying to talk them into or out of something.

Mr. WARNER. Mr. President, will the Senator yield for a reply from the manager?

Mr. ARMSTRONG. Let me finish my point and then I will be happy to.

This is not a complicated matter, although, as I predicted at the outset, someone wants to make it complicated. I do not. I just do not think there is any justification for delaying the progress of this amendment or delaying progress on the bill. Senators know how they feel about this, and there is no reason we should not go ahead and vote on it.

Mr. WARNER. Mr. President, the distinguished chairman and I have both asked—excuse me, I made this unanimous-consent request—but the chairman joined me in requesting the opportunity to gain the President's perspective, most likely through his National Security Adviser. I would amend my unanimous-consent request just to ask for the hour of 4:30 and we could return to this amendment, in the interim period to lay it aside.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object, let me say that as usual the Senator from Virginia has found a way to graciously accommodate everybody involved and with great pleasure I accede to his request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. ARMSTRONG. Mr. President, the understanding is that this amendment would automatically recur at 4:30?

Mr. WARNER. That is the request.

The PRESIDING OFFICER. That is the position. If the unanimous-consent request is entered into that will be the position of this body.

Mr. ARMSTRONG. I thank the Chair.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. BRADLEY. Mr. President, reserving the right to object, would this foreclose discussion of this amendment until 4:30?

Mr. WARNER. Mr. President, it would be this Senator's understanding that we return to the bill which is subject to amendment. There have been a number of Senators waiting patiently to bring forward their amendments. However, I think we could accommodate the distinguished Senator from New Jersey if he could stipulate the amount of time that he might wish to address this amendment assuming my friend from Colorado would have no objection to allowing him to speak for a brief period.

Mr. BRADLEY. If I could say to my friend, I would prefer not to put a time limit on what I am going to say. I would expect as usual I would be brief, but I would not like to have 5 minutes or 10 minutes. I cannot conceive what I have to say will be longer than 10 minutes.

Mr. WARNER. Mr. President, if the Senator will forebear until the hour of 4:30 when the amendment would be the pending business at which time Senators could speak to the amendment.

The PRESIDING OFFICER. A unanimous-consent request has been made. Is there objection?

Mr. NUNN. Mr. President, reserving the right to object, and I will not object, if this unanimous-consent agreement is entered into, it would simply set the amendment aside. It does not prevent any Senator from taking the floor and saying anything he would like to.

So the question of what a Senator will say about the bill or about the amendment or about events in China or about events even in New Jersey is unlimited. It is just a matter of getting the floor.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request proposed by the senior Senator from Virginia. If not, the unanimous-consent request as stated is agreed to.

Mr. WARNER. I thank the Chair and thank my colleague.

Mr. BRADLEY. Mr. President, if I could have the attention of the distinguished Senator from Colorado just to go over the amendment that he has proposed. I hope that he would look at the amendment a little more carefully and might consider a modification of the amendment, particularly, as it relates to the first criteria.

I certainly would like to get the Soviets to make the choice between guns and butter. I certainly would strongly oppose OPIC and Eximbank financing and loosening up of Cocom.

But I think the Senator might end up having the opposite effect that he intends if we also applied the same restrictions to IMF membership, for example, or even observer status. Because I think that the objective here is to get the Soviet Union to spend less on its military budget.

If you listen to reformers in the Soviet Union, they say that if they progress, economic criteria becomes more dominant than allocation of resources. And if economic criteria becomes more dominant than the allocation of resources, then you will find great pressure on the military budget.

If the Soviet Union sought to be a member of the IMF, that would come

with certain conditions, one of which might be to exact pressure to reduce Third World commitments, such as to Cuba that the Senator seeks to limit.

So I hope he might consider a modification of that to address what I think are the main issues. The Senator is not addressing the grain subsidy, and I appreciate the politics of that and why he chose not to do that.

But I hope he could make the same point by simply confining it to OPIC and Exim and to the restrictions on Cocom.

Mr. ARMSTRONG. Mr. President, if the Senator will yield to me, I would be glad to respond to his question. It is no secret to any Senator that the Senator from New Jersey is one of the smartest and most thoughtful and most responsible Members of the body. So the exact answer to his question—would I consider it?—is yes, I would consider it. He makes a very good point and I will certainly think about that.

I guess when I confer with him privately, I will probably also ask this question: Does the Senator otherwise support the amendment? In other words, is it his desire to support the amendment either with or without the IMF language? That might be something he would want to think about while I am thinking about what I would like to do with IMF.

The PRESIDING OFFICER. Is there further debate?

AMENDMENT NO. 574

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS]. for himself, Mr. DOLE, Mr. NICKLES, Mr. THURMOND, and Mr. HELMS, proposes an amendment numbered 574.

At an appropriate place in the bill, add the following new section:

SEC. . MILITARY RETIREMENT OF LT. COL. OLIVER NORTH, USMC (RETIRED).

Notwithstanding his conviction under section 2071(b) of title 18, United States Code, Lieutenant Colonel Oliver L. North, United States Marine Corps (Retired), is hereby entitled to military retired pay under the provisions of title 10, United States Code, as well as rights, privileges, and other benefits to which he would otherwise be entitled but for his conviction under 18 U.S.C. 2071(b).

Mr. SYMMS. Mr. President, the amendment really speaks for itself. I think that all Members in this Senate are very well aware of what is at stake here.

I might say, Mr. President, before I proceed with my remarks, I offer this amendment on behalf of Senator DOLE, Senator NICKLES, Senator THURMOND, Senator HELMS, and there may be others that have not talked to me yet, but those have asked to be cosponsors.

Recently, on July 19, 1989, 32 Senators joined in a letter to the Honorable Charles A. Bowsher, the Comptroller General of the United States. I want to read part of what they said because I think it basically states the case.

We are writing with regard to the potential suspension of Lt. Col. Oliver North's retirement pay, pursuant to 18 U.S.C.—

Section so forth.

Recently, you received a memorandum prepared by the Judge Advocate General of the Navy attached to a letter from the Navy's general counsel on this very matter. We understand this memoradum supported the retention of Lt. Colonel North's retirement benefits. We endorse strongly his conclusion.

And the letter goes on to make the case that we believe that a ruling against this would set a very negative precedent.

Mr. President, there is no question in the minds of millions and millions of Americans that Oliver North was a very good, young patriot; good, young Marine; good soldier for this country and he endeavored to serve the country to the best of his ability.

Now, all of these things that have happened we do not have to go back over the case. I do not think that Senators here have to have an opinion about the case to vote on this amendment. The question is: Had he earned his pension prior to all of this situation? The conviction on the points of law that he was convicted on were basically things that he had confessed to in front of the congressional committees on television before the American people, three offenses that he was actually convicted of.

So I think it is a very simple case. I do not believe that he should be deprived of his retirement benefits. I think he earned those benefits. I think most Americans believe that he earned those benefits.

I think it would be a mistake for us to let this bill pass, which is so important in terms of keeping the morale of the troops up; that they know that the people in Congress care about the morale of the troops and they know that when a soldier or any member of the armed services gets in a circumstance where they end up with this problem, that they are not doing things which they think are in the best interest for the country and yet they have lost their pension benefits.

Mr. President, Oliver North was a loyal soldier to the United States of America and endeavored to serve his country to the best of his ability. I believe he did his duty to this great Nation and was guilty only of following what he believed were his superiors' orders. In fact, two of the so-called crimes of which he was convicted resulted from obedience of orders he received. Those of you who do not think he should have accepted a security fence around his home should consider the fear he felt with the possibility of a threat to his family from terrorists. I am sure many people would have acted similarly if faced with a comparable situation, wanting to protect their family from possible reprisals.

Thus, I do not think he should be deprived of his retirement benefits acquired through many years of military service. Lieutenant Colonel North earned his retirement benefits by serving the United States for 20 years and these benefits should be given to him regardless of the decision of the Comptroller General. The revocation of Oliver North's benefits, I feel, is a flagrant dismissal of the rightful authority of the courts to dispense such sentences. A person should not be punished for following orders, and I believe that Lt. Col. Oliver North has a valid claim upon his pension. Although he has been convicted of three offenses against our Nation, his crimes of shredding, aiding in the preparation of false testimony, and taking an illegal gratuity were not violent, and Colonel North hardly qualifies as a hardened criminal. The only thing he is guilty of is zealousness in the service of his country, his President, and liberty. Oliver North was one of few men courageous enough to make some effort to establish liberty in Central America. He should be given his retirement benefits and allowed to walk away with his family's security intact.

Many of you have served this country for several years, and I am sure that everyone knows the importance of following orders from your superiors, especially in military service. Lt. Col. Oliver North also knew of the importance of obeying his superiors. He did all he could to accept the burden of the commands he received, even to the point of endangering his family. He should be commended as a truly valiant soldier who served his country exceptionally well rather than branded as a independent actor in the Iran-Contra affairs and deprived of what is rightly his. Moreover, denying Oliver his retirement benefits would send a signal to all branches of our military that following orders can jeopardize an officer or enlisted person's benefits.

I fail to see any logic in taking away the retirement benefits of Lt. Col. Oliver North. We spent over $40 million prosecuting him and it resulted in conviction on only three counts. I ask my colleagues, was the effort and money worth it? Oliver North's conviction on three counts only proves that if you spend $40 million to prosecute one man, you are sure to succeed somewhere. This amendment should be adopted to show our respect for deeds which are done in the service of our country and respect of efforts to aid in the spread of democracy and freedom around the world. I do not be-

lieve we should apologize for having a policy of spreading democracy throughout the world.

Our judicial system has already reprimanded Lieutenant Colonel North for his actions. The additional penalty of taking away the retirement benefits he earned is unjust. Lt. Col. Oliver North has contributed a lot to this great Nation throughout his years of military service. With the possibility of revocation of his retirement benefits, he stands to face a empty, bleak future with no way to support his family in exchange for his loyalty and devoted service to the United States of America. We cannot allow this to happen. I hope that my colleagues will join me in ensuring that loyal Americans are not unjustly deprived of the benefits they are entitled to receive after devoted service to our great Nation.

The amendment really speaks for itself. I have this letter here for Senators to look at. This is a bipartisan letter. It only took a few minutes on the floor the other day to pick up this many signatures of 32 on the floor.

I hope that the committee would accept this amendment. But, if not, it would be my intention to push this to a record vote.

The PRESIDING OFFICER. Is there further debate?

Mr. NUNN. Mr. President, I would like to serve notice that the members of the Judiciary Committee who are interested in this should come over, because this is not a matter of military law. This is a matter that has gone through the Judiciary Committee. The title in question was in the Judiciary Committee. There are people who served on the Iran-Contra panel that I have heard want to be heard on this amendment.

So I send out the notice to the chairman and the ranking member of the Judiciary Committee and any others that may be interested to come over and take a look. I am trying to get some information right now that is very relevant to my own decision on this subject: Is this a case of first impression? Is it something that has happened to many other officers? What about the question of appeals? As I understand it, Colonel North has not exhausted his appeals.

If his appeals are successful, of course, this is a moot question. Another question is whether the precedent is being set here for military officers or whether it would also apply to other people who work for the Federal Government. For instance, civil service. Suppose the civil servant gets out after 20, 30 years of civil service and is convicted of a felony. Is that pension taken away? Maybe the author of the amendment can answer this. I have not been able to get this information. Let us suppose a Member of Congress is convicted of a felony after serving enough time to qualify for a pension; is their pension taken away? Those are questions I have that we simply do not have information on.

Another question is, Did the judge order that he lose his pension, or was this simply a coincidence of having been convicted of a felony? Maybe the author of the amendment can answer some of these questions. I pose any of them to him. Does he know whether the judge actually required that Colonel North lose his pension?

Mr. SYMMS. I cannot answer that question. I do not know.

Mr. NUNN. Has anybody read the actual decision on it as to what caused him to lose his pension?

Mr. SYMMS. I have that information, I say to the Senator.

Mr. WARNER. Mr. President, the Senator is aware of the GAO opinion which I think should be printed in the RECORD at this juncture.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. GENERAL ACCOUNTING OFFICE,
OFFICE OF THE GENERAL COUNSEL,
Washington, DC, July 31, 1989.

B-236084.

Hon. LAWRENCE L. LAMADE,
General Counsel,
Department of the Navy.

DEAR MR. LAMADE: Your July 5 letter requests our views on the question of whether Lieutenant Colonel Oliver North, USMC (Retired), must forfeit his retired pay as a result of his conviction on a charge of violating subsection (b) of 18 U.S.C. § 2071 (1982). This subsection provides that: 'Whoever, having the custody of any [government] record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, multilates, obliterates, falsifies, or destroys the same, shall be fined not more than $2,000 or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States."

We share your conclusion that Colonel North, as a retired regular officer of the Marine Corps, holds on office under the United States, at least for some purposes. Your letter cites the large body of precedent stretching back into the nineteenth century that supports this view. *United States* v. *Tyler,* 105 U.S. 244 (1881), is perhaps the most important of these precedents, but as your extensive analysis makes clear, it is by no means the only one.

We also share your view that this conclusion does not answer the question of whether a retired regular officer holds an office within the meaning of subsection 2071(b). As the Judge Advocate General says in his memorandum to the Secretary of the Navy which you enclosed with your letter, this is a question of first impression.

As you are aware, the Judge Advocate General has concluded that Colonel North does not hold an office within the meaning of subsection 2071(b) and his memorandum to the Secretary argues for this conclusion. Two of the arguments seem to us to have the most force.

First, the Judge Advocate General makes the point that the Attorney General formally has expressed the opinion that the purpose of forfeiture provisions like the one in subsection 2071(b) is not punishment, which is otherwise provided for, but protection of the public from any further official misconduct. 38 Op. Atty. Gen. 468 (1936). Arguably, retired officers have no official duties and therefore there is no reason to include them within the scope of the forfeiture provisions of subsection 2071(b) and similar statutes.

Second, the Judge Advocate General points out that neither reserve military officers nor civilian officials are considered still to hold an office under the United States after they retire. A reading of subsection 2071(b) that requires retired regular officers who violate it to forfeit their retired pay but imposes no such requirement on retired reservists or civilians is sufficiently anomalous to raise doubts as to whether Congress intended that result.

On the other hand, there is nothing in the language of subsection 2071(b) or its legislative history to suggest that Congress intended the term "office under the United States" as used there to have a more limited definition than the term is commonly given. Nor is there any suggestion of such an intent in any of the predecessors to the subsection.

More importantly, there is in our view a serious conceptual problem with the Judge Advocate General's position. As your letter points out, retired regular officers continue to be a part of their military service. They receive, not a pension for prior service as retired reserve officers and civlian officials do, but reduced pay in return for current reduced responsibilities and obligations, including possible recall to full active duty under certain circumstances.

It seems unlikely that a retired regular officer convicted of violating subsection 2071(b) could thereafter excercise any responsibilities as an officer of the United States and certainly the officer could not be recalled to active duty. Thus the Judge Advocate General's position requires somehow separating a retired regular officer's pay from the responsibilities and obligations for which he receives it. It is extremely difficult to see any basis for concluding that Congress, in enacting subsection 2071(b), intended this result which is so inconsistent with our fundamental understanding of the status of retired regular officers as it has been articulated over the past hundred years. See *McCarty* v. *McCarty,* 453 U.S. 210 (1981), and cases cited therein.

In the final analysis we think it is impossible to avoid the conclusion that there is serious doubt that a retired regular officer convicted of violating subsection 2071(b) continues to be entitled to retired pay. As you know, it has long been the government's practice in such circumstances not to make payment, and this is essentially the course on which you already have embarked in suspending Colonel North's pay. The denial of payment gives Colonel North the right to sue for it. Should he do so, he and the government will obtain from the federal courts a conclusive determination of whether he is entitled to continue to be paid as a retired regular officer of the Marine Corps.

Sincerely yours,

JAMES F. HINCHMAN,
General Counsel.

The PRESIDING OFFICER. The Senator from Georgia has the floor. Does any Senator seek recognition?

Mr. WARNER. While the Senator from Georgia is speaking, I can say a word or two.

Mr. NUNN. Go right ahead. I was asking questions I wanted to get answers to.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Virginia [Mr. WARNER].

Mr. WARNER. Mr. President, I thank the Chair. I, too, find myself in the position, as does the chairman of the committee, without adequate information to make an informed judgment on this case. Heretofore, I have not publicly revealed, for reasons largely to protect Colonel North, that I endeavored likewise to see whether or not this pension could be retained. The very day that I learned that there was some question about his receiving the pension I wrote a letter to various members of the executive branch, including the Secretary of Defense, and I shall print those in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, May 5, 1989.

Hon. RICHARD B. CHENEY,
Secretary of Defense,
The Pentagon, Washington, DC.

DEAR MR. SECRETARY: This morning there were media reports that "the Marine Corps had canceled Colonel North's retirement pension."

Having followed the judicial proceedings throughout, having carefully studied the findings of the jury, and having had considerable experience as Secretary of the Navy with criminal proceedings which could impact upon retirement benefits, I questioned the accuracy of this news report.

My calls to appropriate officials in your Department and to Justice confirmed that the reports were inaccurate and that no decision has been made.

Therefore, I ask you to consider my views, which are directed only to the issue of Lieutenant Colonel North's retirement benefits. I express no opinion on the judicial proceedings as that matter is to be appealed.

The conviction of Lt. Col. North of a violation of section 2071 of title 18, United States Code, does raise a question of whether or not the "forfeiture of office" provision of that section requires—mandatorily—a termination of Lt. Col. North's military retired pay. Such a termination would also have the effect of removing Lt. Col. North's family from future contingent coverage under the Survivor Benefit Program.

During my tenure in the Navy Secretariat, I had occasion to review several cases which involved issues of whether a criminal case fell within the purview of the retirement and annuity forfeiture provisions of section 8312 of title 5, United States Code. In those cases, I took the general view that Congress had not intended that the families of convicted persons should suffer the substantial financial penalties resulting from the statute except in the most clear cut serious cases. It is rare that a wife or children bear any responsibility for the criminal culpability of the husband. Their interests, I believe, must be considered.

In the case of Lt. Col. North, I hope this equitable view will be taken into consideration in determining the meaning of the "forfeiture of office" provision of 18 U.S.C. 2701. It seems to me that if Congress had intended to reach the retired pay of employees of the United States upon a conviction for violation of that statute, it would have done so directly by inclusion of section 2071 of title 18 in the list of offenses triggering the pay forfeiture provisions of 5 U.S.C. 8312. Furthermore, it seems to me a determination that the "forfeiture of office" provisions of 18 U.S.C. 2071 reach military retired pay, under some theory that receipt of retired pay is contingent upon the retiree continuing to hold an "office", would lead to the clearly unfair result of reaching military retired pay while not reaching the retired pay of a former civilian officer or employee convicted of the identical offense. In clear contrast, section 8312 of title 5 applies equally to military and civilian retirees.

Finally, I have some doubt that the Congress intended to indirectly impose upon a retiree and his family a financial penalty, which could amount to hundreds of thousands of dollars over the lifetime of the retiree and the retiree's family, when the maximum financial penalty authorized directly for conviction of the crime described by section 2071 of title 18 is $2,000.

I hope that these thoughts, arising out of my prior experiences with similar issues and with the effects such decisions can have on innocent family members, will be considered in reaching any final determination concerning the meaning of the forfeiture of office provisions of 18 U.S.C. 2071.

Sincerely,

JOHN W. WARNER.

DEPARTMENT OF THE NAVY,
Washington, DC, May 5, 1989.

Headquarters, U.S. Marine Corps:

What effect, if any, Lieutenant Colonel North's conviction will have on his retired status is unknown at this time. When the judicial proceedings in his case are completed, any action required will be taken in accordance with the provisions of the law.

We must stress that no action has been taken. News reports that we had moved within hours of the verdict to strip Lieutenant Colonel North of his rank and retired pay were grossly in error.

For further information, please contact the Division of Public Affairs, Headquarters, U.S. Marine Corps, at (202) 694-1492/4/5.

JUNE 28, 1989.

Hon. JOHN W. WARNER,
Ranking Minority Member, Committee on Armed Services, Washington, DC.

DEAR SENATOR WARNER: I am writing in response to your May 5, 1989 letter to Secretary Cheney in which you expressed your concern for the effect Lieutenant Colonel North's conviction under 18 U.S.C. § 2071 would have on his retired status.

As you recognized, no one within the Department of the Navy has taken any action which would affect Lieutenant Colonel North's retirement pay. I assure you that no action will be taken until after his current status is resolved, and the applicable law thoroughly researched. Your observations and experiences, both as a member of the Senate and as Secretary of the Navy, will be particularly helpful to us in this regard. Thank you for sharing them with us.

As always, your interest in this case, and your continuing concern for the welfare of all members of the naval service and their families, is greatly appreciated. Whatever the ultimate resolution in this matter, your insight and experience will make a valuable contribution.

Sincerely,

A.M. GRAY,
General, U.S. Marine Corps,
Commandant of the Marine Corps.

Mr. WARNER. In writing this letter, I drew on my experience as a former Secretary of the Navy when I had the difficult decision of deciding whether or not the law required the termination of the military pension of individuals returning from prison camps in North Vietnam who were alleged to have either transgressed the law or in some way took actions which were to the detriment of their fellow prisoners. It was a tough and hot, controversial issue. But, as a general rule, I came down on the side of the wives and the children and the families who waited throughout that lengthy ordeal of incarceration of their spouse, or father. That pension, in many respects, was a benefit for those wives and children, most of whom, almost without exception, were loyal to those husbands and withstood the incredible pressure and sadness and distress of the incarceration of their husbands and fathers. Therefore, I decided the Department of the Navy would not, I repeat, not institute action to take away the pensions of those who were alleged to have transgressed the law, morality and good military discipline.

We took other measures with those particular prisoners to see that equity was meted out. I will not go into the details. While the particular laws involved in those cases differ from that applicable to the North case, it seems to me there is some parallel here in terms of Colonel North's wife and family.

Until I have further information, I am not going to indicate how the Senator from Virginia is going to vote on this amendment should it eventually be brought to a vote, but I just wanted to bring back that bit of history because this is an important case, one of first impression, and it could establish a precedent for all military personnel, for civilians and others. At this point I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mr. NUNN. Mr. President, in keeping with the informal understanding we had here with the leadership on both sides, I believe the Senator from Idaho is willing to temporarily lay

aside his amendment so that we can take up the McConnell amendment which also may be controversial I am told, and we would debate the McConnell amendment until such time as we can get back to the unanimous-consent agreement to take up the Armstrong amendment at 4:30, at which time we hope to hear from the White House on their position on that.

Then after we dispose of both the Armstrong and the McConnell amendments one way or the other, we would refer back to the Symms amendment.

That is my understanding of the understanding we had here. Before I propound the unanimous-consent request, does anyone have a different understanding?

Mr. KERRY. Mr. President, if I could inquire of the distinguished manager of the bill, I have been on a CIA briefing, and have not been here. But I have been under the understanding that we would proceed to Asat at 4 o'clock. I know circumstances have changed.

Does the manager want to include us in any way with respect to that agreement at this time?

Mr. NUNN. I would have a very hard time doing that, the reason being that at 5:30 approximately Senator BINGAMAN is coming over, and Senator GLENN and Senator BINGAMAN have some relevant and germane amendments on personnel. Senator BINGAMAN is chairing an impeachment hearing. It is the only time he can be here.

I certainly intend to take up the Senator's amendment hopefully this evening. We are going to be here very late.

I told the Senator that we would try to take it up at 4 o'clock. The managers do not have any unanimous-consent agreement. We do not control time, we do not control recognition, and we cannot tell the Chair who to recognize, nor should we.

So it is beyond our power in this set of circumstances to control it any more than we have.

We now have three controversial amendments. My opinion is that, unless we get some breakthrough on all three of them, we are going to have some difficulty getting to the Asat amendment any time in the next hour or two.

Mr. KERRY. If the distinguished manager will withhold for a minute——

Mr. NUNN. I would be glad to add the Asat amendment at the end of the Symms amendment, but I have asked everyone. This is not part of the unanimous consent. When Senator GLENN and Senator BINGAMAN come over, it is going to take 2 or 3 hours on those personnel amendments. Unless we get to those this evening, it is going to be very hard to get them together again. So it is going to hold up the whole bill.

So I have asked everyone. Although we do not have a unanimous consent, I do not mind adding the Asat amendment after the Symms amendment with the understanding we would like to take up the personnel matters somewhere in the interim.

Mr. KERRY. Mr. President, I want to accede to the manager's wishes on this. He has a difficult task trying to move this. I am happy to live with his word that we will take up this amendment at the appropriate time. If he thinks it is convenient to add it to the request, in that way accelerating matters, I would leave it to his judgment.

Mr. NUNN. I prefer not to make the unanimous-consent agreement any more complicated. I will work with the Senator from Massachusetts to find a time more convenient to him. It may be early in the morning. We are going to be here until 2 or 3 o'clock in the morning and be back in here by 9 tomorrow morning. I think we are going to have a very long night tomorrow night. So everyone should be prepared for that.

I do not want to have the Senator from Massachusetts start a very important amendment like that after he has been patient at 2 o'clock tomorrow morning, but perhaps——

Mr. KERRY. I assure the Senator that I do not want to start on any amendment at 2 o'clock in the morning, if I can help it.

Mr. NUNN. We have been given a mandate to finish this bill by tomorrow night. There is no way to do it except to drive hard at this point. I will work with the Senator.

Mr. McCAIN. I believe that we have a certain amount of debate to be taken up with the important burdensharing amendments by the committee.

Mr. NUNN. That is correct. It would be my intent, as soon as we get a lull, to do that. We do not have a lull now; we have a storm.

Mr. President, I ask unanimous consent that the Symms amendment be temporarily set aside and the McConnell amendment be in order, and that at 4:30, to go back to the regular order, after the Armstrong amendment is disposed of, to refer to the McConnell amendment, and after that, we would refer back to the Symms amendment.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Reserving the right to object, and I shall, regretfully, respectfully do so. I object. Mr. President, I ask for the yeas and nays on the Symms amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. HELMS. I move to table the Symms amendment, and I ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HELMS. What was the Chair's response?

The PRESIDING OFFICER. The question is on the motion to table the Symms amendment. We need a vote on this. The Chair recognizes the Senator from Georgia.

Mr. NUNN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. NUNN. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Armstrong amendment.

Mr. NUNN. Mr. President, I yield the floor.

Mr. WARNER. Mr. President, the Senator from Virginia sought the unanimous consent so that he could have the opportunity to consult with the White House with respect to the President's position on the Armstrong amendment. The Senator from Virginia has now had that opportunity. He has directly consulted with the National Security Adviser's principal deputy, Mr. Gates. The National Security Adviser at the moment is in with the President on other matters. But, nevertheless, Mr. Gates reflects the views of the President and of the National Security Adviser.

The President is strongly opposed to this amendment. It will literally tie his hands at a critical time that he is formulating and breaking new ground in terms of foreign policy arrangements with the Soviet Union.

Mr. NUNN. Will the Senator yield just briefly?

Mr. WARNER. Yes.

Mr. NUNN. Will the Senator from Virginia and the Senator from Colorado agree that we could propound a unanimous-consent request now that when we dispose of the Armstrong amendment, we then take up the McConnell amendment and then the amendment of the Senator from Idaho would be the pending business after we dispose of the McConnell amendment?

Mr. WARNER. Mr. President, I join with the distinguished chairman in that request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WARNER. Mr. President, if I may regain the floor.

Mr. President, to clarify, at the time I made the call, the President was with his National Security Adviser engaged in matters of some importance. The Deputy Security Adviser, Mr. Gates, informed me that the President would be in opposition to this amendment. He did not go into the distinction as to whether he sought personally the President's view, but bear in mind that this amendment has been printed, resting before the Senate since Friday and, therefore, I have every reason to believe that this is a matter that has been taken up at every level in the White House. But I wanted to clarify that for my distinguished colleagues.

I would like to just pose this question. The certification requirement, as called for by the amendment, just places upon the President of the United States an impossible, absolutely impossible certification. Let me try to portray the problem that the President will be confronted with by giving you an example.

Supposing this amendment read that the President had to certify that neither the city of New York nor any entity controlled by the city of New York is involved in any way with illegal drug trafficking. How could the President make that certification about even a community in the United States? In other words, it is totally impractical to make a certification. You are not even giving him a chance to work.

Mr. ARMSTRONG. Is the Senator addressing that as a question?

Mr. WARNER. I address it as a question.

Mr. ARMSTRONG. I do not think that is a difficult certification at all. I want to direct the attention of my colleague from Virginia to the fact that we are not asking him to assert or prove something conclusively. We are asking him to state his opinion. That is an opinion which we would expect certainly that he would arrive at after consulting intelligence sources and other kinds of sources.

What we are saying here is the Government of Cuba or entities controlled by the Government of Cuba. Why have we particularly mentioned, singled out the Government of Cuba? Because we have every reason to believe that the Government of Cuba, including its highest ranking officials, one of whom was recently convicted of drug smuggling and others of whom have been indicted, are implicated in this horrendous trade.

We are not talking about a theoretical problem here. We are not talking about something that might have happened. We are talking about something well documented, which has been written about and spoken about at great length and which has been in large measure admitted even by Fidel Castro.

Mr. President, I do not think it is a difficult certification. It is simply asking the President to use the intelligence information available to him and to certify whether or not in his opinion the Government of Cuba has stopped aiding and abetting, directing and permitting this kind of illegal trafficking into our country. I would not want to write something difficult and impossible for the President to comply with, and I have not done so.

Mr. WARNER. Mr. President, let us return to the second part of the certification: "Neither Cuban territory nor territorial waters are used as a conduit or transfer point for the supply of illegal drugs to the United States."

We are having an incredible task at the moment in trying to control and interdict the flow into the United States, and the Senator is fully aware the statistics would show that despite the combined efforts of the Army, the Air Force, the Marines, the Coast Guard, that we are not having success at this point. How can the President ever certify that the territorial waters are no longer used as a conduit or transfer point for the supply of illegal drugs to the United States?

Mr. ARMSTRONG. Mr. President, if that is directed to me as a question, I will respond by quoting a dispatch of July 9, 1989, from Reuters News Agency:

> Two Cuban Mig jet fighters kept a U.S. Customs aircraft at bay while a small plane dropped a load of cocaine to a waiting speedboat just inside Cuban territorial waters, U.S. customs officials said Sunday.
>
> Customs agents later seized the boat and nearly 1,600 pounds of cocaine on board when it ran aground about 20 miles south of Miami, Customs Service spokesman Michael Sheehan said.

The article goes on. I would like to quote an article by the same date of United Press International which sets forth this same set of facts basically, that Cuban Migs—we are not talking about private parties or renegades in Cuba; we are talking about Migs, owned, operated by the Cuban Government—that they in effect held at bay the United States effort to interdict these drugs.

The UPI story recites that and then goes on to make this point:

> The seizure—
>
> Referring to the seizure of the drugs after the so-called cigarette boat ran aground—
>
> The seizure followed Cuban action on Friday ordering its national hero Gen. Arnaldo Ochoa Sanchez and three other disgraced officials condemned to death by a firing squad for their involvement in drug smuggling and corruption.

It goes on to explain, as does the article from Human Events, which I printed in the RECORD, that these trials are an attempt by Mr. Castro to cover up the involvement of the officials of his government. That is what we are talking about. Let us not have any misunderstanding. We are not talking about isolated episodes or private parties; we are talking about the Government of Cuba. When the President reaches the decision the Government of Cuba is no longer implicated, he can state that opinion and this restriction is lifted.

Mr. WARNER. Mr. President, my good friend has the facts and he is arguing a strong case, but I ask him momentarily to put himself in the position of the President of the United States. What sort of facts would have to be brought to your attention before you could make this certification and could you, in fact, make it?

Mr. ARMSTRONG. Yes, Mr. President. I find it hard to put myself in the position of the President of the United States, but let me think if I were perhaps not the President but an adviser to the President, and he said to me, "Mr. Senator, how shall I make the certification," I will say, "That is very simple, Mr. President. You have had extensive reports, both classified reports and published reports, saying that they are smuggling. Why do not you ask the same informants, the CIA, others, Drug Enforcement Agency, the Customs Service, to tell you has this stopped; if it has, what their indication of that is?"

They are in the process of constant surveillance, not perfect surveillance. But this does not ask for a standard of perfection. It asks for his opinion of whether or not it has stopped. I do not think that is complicated at all. We know they have been doing it. It is public that they have been doing it, and one day the President says to his adviser, "Well, have they stopped doing it?" They are going to say yes or no and have some reason for saying that. Maybe he will get fooled. Maybe, in fact they can conceal it. I am not trying to account for every eventuality; I am trying to establish a policy.

Mr. WARNER. Mr. President, I respectfully ask my good friend to refer to the amendment. I do not see any possibility that the President can render an opinion. It is black and white. "Neither Cuban territory nor Cuban territorial waters are used as a conduit." It is not that in his opinion, in his judgment, based on such facts as he may have at his disposal; it says point blank he is to tell the Congress of the United States that neither Cuban territory nor Cuban territorial waters are used as a conduit.

Mr. ARMSTRONG. Mr. President, I regret there may be some confusion. Those words do appear in the amendment. I happen to know it because I wrote them in with my own hand. If I

may have just a moment to direct the attention of my colleagues to where that is written in. When I read the first draft of the amendment, I had exactly the concern that the Senator expresses.

Mr. WARNER. Mr. President, the copy that has been given to the Senator from Virginia, and it may well be I do not have the latest copy——

Mr. ARMSTRONG. Let me refer the Senator to the fourth line from the bottom, second page. Let me read subsection B.

Mr. WARNER. First, Mr. President, could we identify the copy that the Senator from Colorado is reading from?

Mr. ARMSTRONG. Rather than have me read it, Mr. President, how about if we ask the legislative clerk to read on the second page of the pending amendment near the bottom, subsection B of the amendment?

Mr. WARNER. Mr. President, I acknowledge that the copy the Senator from Virginia has was what the Senator from Colorado filed I guess earlier, and I have been given another copy which now has the word "opinion" in it.

Mr. ARMSTRONG. The Senator is correct. Perhaps while the Senator was off the floor, I made a point of explaining that issue earlier because I did have the same concern. I do not want to put the President in a straitjacket, and I do not want to ask the President to make a certification that he could not make reasonably or ask him to make a hypocritical certification.

Mr. WARNER. The amendment pending at the desk is the one containing the word "opinion."

Mr. ARMSTRONG. The Senator is correct.

Mr. WARNER. I have finished making the comments I wish to make at this time on the amendment. I yield the floor .

Mr. ARMSTRONG. Mr. President, are the yeas and nays ordered?

The PRESIDING OFFICER. They are ordered.

Mr. ARMSTRONG. Mr. President, I have nothing more to say. I am ready to vote.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. EXON. Mr. President, I ask unanimous consent that Mr. Geary T. Burton, an employee of the General Accounting Office who has been detailed to the Senate Committee on Armed Services, be granted the privilege of the floor during the Senate's consideration of and in votes in relation to S. 1352, the National Defense Authorization Act for fiscal years 1990 and 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I had hoped that the administration would send a letter, and that we would get a clear statement from the administration on the Armstrong amendment. I think everybody is in favor of two parts of the amendment. One part is to be cautious in terms of granting credit to the Soviet Union and, second, stop the Cuban drug traffic.

The problem is as I see it, maybe the Senator from Virginia has already gone into this, is we are asserting in this amendment that the Soviet Union controls everything the Cubans do. At least that is the implicit message of this. I am not sure that is altogether accurate today. Perhaps they do. I would like to see them cut off aid to Cuba and cut off aid to Nicaragua. Nothing would suit me better. But the second point of it is—I think the Senator from Virginia alluded to this—the condition is that neither Cuban territory nor Cuban territorial waters are used as a conduit or transfer point for the supply of illegal drugs to the United States.

The President would have to essentially certify that. I think that sets a totally impossible condition. If we want to make it impossible to trade or to have any of these credits or to have the Soviet Union serve even as an observer to any of these international agreements, then I think that is a straight up-and-down question, and that can be debated.

It seems that this is what this amendment does. I cannot conceive of any country in Central or South America that would pass this test, based on the knowledge I have of drug trafficking.

Frankly, I cannot conceive of any State in the Union that would pass this test. Can you imagine saying that Virginia shall not receive any U.S. aid until such time as the President can certify that no conduit or transfer of illegal drugs in the United States——

Mr. WARNER. In the Senator's absence, I used Georgia.

[Laughter.]

Mr. NUNN. That is a close question. I think we are setting up mission impossible here. If we want to say straight up and down that no administration can basically have any kind of cooperation with the Soviet Union in economics, including any kind of Export-Import Bank, commodity credit, overseas private investment—and I assume IMF is in here; I do not know what all is covered here—I think that is a straight up-and-down debate. It probably ought to go on the foreign relations bill.

Mr. ARMSTRONG. If the Senator will yield, I explained why it did not go on that bill.

Mr. NUNN. I would be glad to hear.

Mr. ARMSTRONG. The reason is because that bill is going to be vetoed, and should be, because of an irresponsible amendment put on by this Senate. This is a provision that ought to be enacted into law, in my opinion. So this bill simply becomes a convenient vehicle.

Mr. NUNN. I understand that.

Mr. ARMSTRONG. Let me also make the point that the day that the State of Virginia or the State of Georgia——

Mr. NUNN. Or Colorado.

Mr. ARMSTRONG. Uses its governmental forces, its military forces, say its Mig jets, to prevent law enforcement officials of this country from keeping under surveillance and apprehending drug smugglers, I think we would have a comparable situation. We do not have anything like this; there are gray areas. But it is clear that the President has discretion on this.

Of course, it is a fact that if at some point the Cuban Government is seen to be making a good-faith effort to solve this problem, that there are a lot of ways to handle it at that stage; or if at some point Cuba cannot be controlled by the Soviet Union and withdraws its support, we can make a change. What we are talking about here is a very, very simple matter. There is in prospect, according to published reports, the notion that we are going to start sending financial aid to the Soviet Union, or that the Soviet Union is going to be permitted to join international organizations supported by the United States, from which they would derive financial aid.

It is also a well-known fact that every year, year in and year out, the Soviet Union heavily subsidizes Cuba. It is a client state or puppet state. So I am saying that to a reasonable extent, on a matter of the utmost national urgency, that Cuba ought to be held accountable and that the Soviet Union ought to be held accountable for what their client state does.

Mr. NUNN. I say to the Senator, would the Senator want this to apply

to any country in the world that helps the Cubans?

Mr. ARMSTRONG. Mr. President, I learned a long time ago that you can get in trouble by making rash snap judgments. If I wanted it to apply to every country, I would have written an amendment to that effect. I have written it to a specific—not a hypothetical—outrageous situation. I have used the term "undeclared war," and I do not think that is inappropriate to the kind of terrorist attack which Cuba is making on this country, on the young people of this country, on the very fiber of this country. I am not exaggerating that. That is not an idea I came up with. That is a well-known fact.

Mr. NUNN. Well, Mr. President, I thank the Senator from Colorado. I think his answer basically was to provision No. 1, that neither the Government of Cuba nor any entity under its control is involved in any way in illegal drug trafficking. That condition No. 1 is really very reasonable compared to condition No. 2.

What I address my question to is condition No. 2. The Senator answered condition No. 1. No. 2 said neither Cuban territory nor Cuban territory subsidiaries used as conduit or transfer point for the supply of illegal drugs to the United States.

The President will never be able to certify that. There is no way that the President can certify that. He can certify, but he would do so without knowledge. No one can certify that any country does not have some drugs going through it, I would say.

Let me close out my remarks. I am not going to get that involved in this debate. Let me ask the Senator from Virginia a question or two. Is the President's position, as represented by his staff and his people, that they oppose this amendment?

Mr. WARNER. Mr. President, unequivocally. I endeavored to reach the President, and, as you might imagine, he is engaged in matters of the utmost seriousness. Within the brief time I had to contact them under the unanimous-consent agreement, the Security Adviser, Mr. Scowcroft, was in with the President. But the deputy, Robert Gates, assured me that it would be the President's view, as well as the Security Adviser and the Secretary of State, that this amendment would "literally cripple the President's foreign policy initiative with the Soviet Union."

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I do not want to delay this any longer, but I do not want to leave unanswered the issues that have just been raised. We are told that the Deputy National Security Adviser has recommended against the passage of the amendment. I accept that. We are told that the State Department recommended against it. I accept that.

Mr. President, I want to remind anyone who has just joined this debate that I was the first Senator to point out that the administration opposed this amendment. In fact, one or two Senators have read, more or less verbatim, the statements which were submitted in writing by the State Department. I acknowledge that.

I also want to make this point, Mr. President: In part, that is the job of the administration, to oppose any change on any subject. I see the Senator from Virginia here. I can remember when the administration testified and worked hard to prevent the reenactment of the GI bill of rights. I think if you went over and asked them now, they would say that is one of the most successful Federal programs in the history of this country.

Mr. President, I want the Senator from Virginia to think about this with me. I can recall going over to testify——

Mr. WARNER. At this point, let me say to my good friend who makes a persuasive argument—and I say this with respect and affection—a vote for Armstrong is good politics. WARNER's motion to table is for good government. Take your choice.

Mr. ARMSTRONG. Before we get to that point, I do not think I quite agree with that. Since we raised the administration's view on this, I want to tick off some of the things that at one time or another the administration opposed.

I know the Senator is a supporter of SDI. Long before there was SDI, when it was called "high frontier," I thought this was a reasonable idea. I introduced legislation on it. In fact, I went over to testify before the House Armed Services Committee on this legislation, and after I had testified, I listened to the administration ridicule the notion of what was then called high frontier and now known as SDI.

I think of tax legislation that has come through here, including things like indexing. When that was first presented in the committee and on the floor, the administration opposed it. I think of the side buster bill.

I will bet every Member of this body can recall occasions when they or their colleagues have introduced legislation which was enacted into law which the administration subsequently praised, but which they first started out by objecting to. Why is that? Is it because the administration is shortsighted or stupid? Of course not. It is because that, in part, is the job of the administration—basically to be against anything that they do not think up themselves. I am not exaggerating. That is their function.

They are to be a counterweight, to be the devil's advocate, the people that say what is wrong with any proposal to come up. Ask yourselves, my colleagues, how many times have you introduced an important, substantive proposal and had the administration come out in favor of it? I think you can count a very small number of such instances. In fact, I was reminiscing during the extended quorum call with some of my colleagues on the Finance Committee.

I went back to one time, and over a period of 7 years we counted up every bill that had been brought before the Finance Committee for a hearing and what the administration testimony was, and of all those bills, hundreds of bills, we could only find four occasions when the Treasury Department, to name one, testified in support of any legislation introduced by any Senator, except administration legislation.

I do not say that to denigrate the administration. I say that is their job. They are doing their job. Senators ought to do their job. This is a simple matter. Let us vote on it. If the Senator from Virginia insists on offering a motion to table, then let us get on with it.

Mr. WARNER. Mr. President, the Senator from Virginia gets on with it and asks for a motion to table.

Mr. ARMSTRONG. And I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Virginia to lay on the table the amendment of the Senator from Colorado.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. BUMPERS). Are there any Senators in the Chamber who desire to change their vote?

The result was announced—yeas 73, nays 27, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—73

Adams	Domenici	Matsunaga
Baucus	Durenberger	Metzenbaum
Bentsen	Ford	Mikulski
Biden	Fowler	Mitchell
Bingaman	Glenn	Moynihan
Boren	Gore	Murkowski
Boschwitz	Gorton	Nunn
Bradley	Harkin	Packwood
Breaux	Hatfield	Pell
Bryan	Heflin	Pryor
Bumpers	Heinz	Reid
Burdick	Hollings	Riegle
Burns	Inouye	Robb
Byrd	Jeffords	Rockefeller
Chafee	Johnston	Roth
Cochran	Kassebaum	Rudman
Cohen	Kennedy	Sanford
Conrad	Kerrey	Sarbanes
Cranston	Kerry	Sasser
D'Amato	Kohl	Simon
Daschle	Lautenberg	Simpson
DeConcini	Leahy	Warner
Dixon	Levin	Wirth
Dodd	Lieberman	
Dole	Lugar	

NAYS—27

Armstrong	Hatch	Nickles
Bond	Helms	Pressler
Coats	Humphrey	Shelby
Danforth	Kasten	Specter
Exon	Lott	Stevens
Garn	Mack	Symms
Graham	McCain	Thurmond
Gramm	McClure	Wallop
Grassley	McConnell	Wilson

So the motion to lay on the table amendment number 486 was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order the Senator from Kentucky [Mr. McCONNELL] is recognized to offer an amendment.

AMENDMENT NO. 614

Mr. McCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] for himself, Mr. KERRY, and Mr. COATS, proposes an amendment numbered 614.

Mr. McCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert where appropriate:

SECTION 1. GENERAL AUTHORITY.

(a) The purpose of this provision is to authorize Federal law enforcement agencies to use appropriate force to compel airborne drug traffickers to comply with instructions to land their aircraft.

(b) Whenever any aircraft liable to seizure or examination on the grounds that narcotics are being transported on the aircraft by any agency of the U.S. with responsibility for drug law enforcement does not land on being ordered to do so on being pursued by an authorized aircraft which has displayed identifying insignia prescribed for an authorized aircraft, the person in charge or in command of the authorized aircraft may, after a gun has been fired by the authorized aircraft as a warning signal, fire at or into the aircraft which does not land.

SEC. 2. INDEMNIFICATION.

The person in command of an authorized aircraft and all persons acting under that person's direction shall be indemnified from any penalties or actions for damages for firing at or into an aircraft pursuant to Section 1. If any person is killed or wounded by the firing, and the person in command of the authorized aircraft or any person acting pursuant to their orders is prosecuted or arrested therefor, they shall be forthwith admitted to bail.

SEC. 3. DEFINITION.

For the purposes of the Act—

(1) the term "authorized aircraft" means an aircraft operated by an agency of the U.S. with responsibility for drug law enforcement; and

(2) the term "agency of the U.S. with responsibility for drug law enforcement" means the Coast Guard and Customs Service and the Drug Enforcement Agency.

Mr. McCONNELL. Mr. President, I sent that amendment to the desk on behalf of myself and Senator KERRY, and Senator COATS.

Mr. President, in the last 5 years, the Congress has approved and the United States has spent roughtly $16 billion.

Mr. NUNN. Mr. President, I hope the Senator will forgive me. The Senate is not in order. I am trying to listen to the Senator, and I cannot hear. Could the Senate be in order?

I would also inquire of the Senator, if he would yield just briefly, about how much time does he believe he will take for this explanation because I would like to dispose of this amendment as soon as we can. I do not want to cut the Senator off.

Mr. McCONNELL. I would say to my friend from Georgia, 10 minutes, 15 maybe, max.

Mr. NUNN. Let me inform everyone then what I would like to do, with the permission of the leader. The Senator from Kentucky will make a 10- or 15-minute presentation. I know the Senator from Arizona has thoughts on this amendment. I will be opposing this amendment, but it will not take long. I would think in 20 minutes we can have a vote on this amendment.

Mr. McCONNELL. Mr. President, Senator KERRY would like a couple of minutes on this amendment as well.

Mr. MITCHELL. Will the Senator yield for a moment?

Mr. McCONNELL. Yes.

Mr. MITCHELL. Mr. President, all Members of Congress have been invited to attend a function at the White House this evening. I have discussed with the distinguished Republican leader the possibility of having a window to permit Senators and their families to go.

If this amendment can be completed within the next 20 or 30 minutes it would be my intention to vote on that. Then if the Senator from Idaho would agree to set his amendment aside to permit two or three other amendments that could be debated during the window and then the votes stacked on that, after 8 o'clock, then the Senator's amendment could be in line to come back into place then.

That would be my intention. It would accommodate the interests of those Senators who have expressed a desire to do so, without losing more valuable time on the bill.

I understand for the managers, and I will ask them now to confirm this, it will be possible to have amendments debated during that period and votes stacked. That is the crucial part of this understanding.

Mr. WARNER. Mr. President, if the distinguished majority leader would enable us to check for a minute, I know the Senator from Iowa has been very patient. He has an amendment relating to agricultural matters.

Mr. NUNN. May I suggest this, if we could? I do not mind having an amendment, but if we could get Senator BINGAMAN or Senator GLENN, they have three or four personnel amendments that are very important amendments and have to have some discussion when Senator BINGAMAN is not tied up in impeachment.

I suggest after we dispose of the McConnell amendment, if we could take up the Glenn amendments, I am sure that will take an hour or hour and a half debate and that would get us to the point maybe we could stack those votes and vote on those when we get back.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Ohio?

Mr. McCONNELL. Yes.

Mr. GLENN. Mr. President, just a short remark. We have several amendments that have been agreed to. They can maybe be just described and accepted. There is one that requires a little more lengthy statement and then there are several with Senator BINGAMAN that will require some debate. I think it is probably an hour and a half or 2 hours. I know on some of those some people on the other side of the aisle also will have some very strong feelings on them and wish to speak. Senator PRYOR on our side I know, and Senator STEVENS on the other side. So I would imagine that will probably take at least a couple of hours. I would be prepared whenever Senator BINGAMAN is here.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that, following the disposition of the McConnell amendment, Senator GLENN be recognized to offer his amendment or amendments; that following the debate on the Glenn amendment, Senator HARKIN be recognized to offer his amendment; that following debate on the Harkin amendment, that there then occur a vote on the Glenn amendment or amendments, to be followed immediately by a vote on the Harkin amendment, and that in any event those votes not commence prior to 8 p.m.

The PRESIDING OFFICER. Is there objection? The Senator from Arkansas.

Mr. PRYOR. Mr. President, reserving the right to object, I will not object, but I have in case, I say to the distinguished leader, in case the Glenn amendment fails, Mr. President, I have an amendment that is closely related to it that I would like to put in that chain of activity in some way, therefore, possibly after the Harkin

amendment, after we have disposed of that.

Mr. MITCHELL. Mr. President, then if there is no objection, I would amend my request to add the Pryor amendment and have the three votes in succession, and I would move the time back for the votes to begin not earlier than 8:15 p.m.

Mr. NUNN. There may be more than three votes, I say to the leader. Senator GLENN has five amendments. Senator PRYOR has one amendment. Senator HARKIN has one. I do not know whether the Senator from Ohio will want a vote on all of his amendments, but there could be as many as seven.

Mr. MITCHELL. That the vote or votes on the Glenn amendment or amendments occur not prior to 8:15, and as soon as the debate has been concluded on the Glenn amendments, the Harkin amendment, and the Pryor amendment.

Mr. SASSER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. May I inquire of the majority leader, is he seeking to get a window here?

Mr. MITCHELL. That is correct.

Mr. LEVIN. Would the leader yield for a question?

Mr. MITCHELL. Yes.

Mr. LEVIN. I am in the same position as the Senator from Arkansas. If the Glenn amendment fails, there is a small piece of that that I may wish to offer as an amendment also, and I would like to be also protected, if the leader can.

Mr. MITCHELL. May I say to the Senator he is not precluded from anything. I think it is best if we do this in manageable segments and we now have three Senators with the possibility of seven amendments. If at the conclusion of that, the Senator wished to offer an amendment he is completely free to do so. This does not preclude him from doing so.

Mr. GLENN. Will the leader yield for a question? This would all be contingent on the fact Senator BINGAMAN is here. He is involved in this. I do not know what his schedule is.

Mr. MITCHELL. I am advised he will be present. I am simply trying to accommodate the interests of several Senators who wish to attend the function at the White House and at the same time move this business forward.

I hope Senators would permit me to gain approval of this agreement.

Mr. SASSER. Mr. President, I do not want to unduly complicate the majority leader's life. Apparently, it is pretty complicated at the present time. But I have had a death of one of my staff members and I have to journey to my State this evening.

The last airplane leaves here at 9 o'clock. I have to leave from Dulles. If at all possible, I would like to vote on these amendments before departure.

If that is impossible, I quite understand. But if we could arrange to have these votes occurring at no later than 8 o'clock, or perhaps arrange for the votes to occur beginning at 7:45 or 7:30?

Mr. MITCHELL. The problem is not just in the window but it is the number and subject matter of the amendments that will take some time to accommodate.

Can we leave it and permit the agreement to be approved with the understanding that the managers and the participants make every effort to complete action on the amendments so the votes can commence at 8:15; that they will then be 15-, 10-, and 10-minute votes.

Mr. NUNN. If the leader could frame the agreement so we would not be precluded from starting earlier, then that would at least give us a shot, depending on how long the debate takes.

But if the agreement says not before 8:15, there is no way we could start the votes. If the agreement said not before 7:45, in that event if we got through the debate we could begin voting and try to accommodate them.

Mr. MITCHELL. The reason for that, of course, is to create the window. If we permit the time before that, then Senators go down there with no assurance as to when the votes will begin. Let us compromise and say the votes will begin at 8 o'clock.

Does the plane leave from National?

Mr. SASSER. Unfortunately, the plane leaves from Dulles.

Mr. President, I will just have to take my chance here; 7:45 would help, but if that is impossible, I do not object to it.

Mr. MITCHELL. I will amend the request for the first vote to begin at 7:45 p.m. That means that Senators coming back from the White House, if they are back here by 8 p.m., could make the vote and we will, of course, attempt to accommodate them and also try to accommodate the Senator from Tennessee.

Mr. NUNN. Maybe the Senator from Ohio was not listening. That suits me fine. That means he has only 1 hour, 45 minutes. Maybe that is enough. Is that enough for his debate?

Mr. GLENN. No, I do not think it is. Not for all of these.

Mr. NUNN. I hope the Senator from Ohio could summarize and be very concise in his presentation, but perhaps we could say not before 7:45 p.m. and that at least gives us a chance but does not cut off the debate.

Mr. GLENN. I will do what I can, but I know several people want to speak on the issues. They are important items. I will be happy to be brief, but I have not seen any particular effort of brevity around here this afternoon. I will do my best.

The PRESIDING OFFICER. Is the majority leader's request that the voting begin at 8 o'clock whether the amendments have been debated or not?

Mr. McCONNELL. After the vote on the McConnell amendment.

Mr. MITCHELL. After the vote on the McConnell amendment, if the debate has been completed, the votes begin not earlier than 7:45 p.m. In all other respects the request is to be as previously stated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I have an amendment at the desk on behalf of myself and Senator KERRY from Massachusetts. I very much want the chairman of the Armed Services Committee to be able to listen because I hope this will not become as controversial as he fears.

Mr. President, in the past 5 years, the Congress has approved and the United States has spent roughly $16 billion in the war on drugs; $16 billion! In spite of this enormous commitment, we do not seem to be gaining any ground, let alone winning this war: Cocaine is one-third of what it used to cost.

According to a study released yesterday, 862,000 people are using crack and cocaine regularly—33 percent more than in 1985, a fact that drug czar, William Bennett, called shocking and unacceptable.

The number of cocaine related hospital emergencies in 1988 was the highest ever recorded topping 42,000.

Hundreds of newborn infants struggle for each breath, virtually comatose, pathetically tiny and helpless because they are born heavily addicted to crack.

And, drug related homicides have skyrocketed. In the District alone, there have already been 250 homicides this year. This time last year, 177 people had been killed.

We do not have a problem, Mr. President, we have a crisis. The statistics—the people killed and injured by illegal drug trade—cry out for a bold and meaningful solution. The time has come when we must tackle our crisis—and it is our crisis. Drugs plague our elementary schools, our high schools, our colleges, our workplaces, our families. We are a Nation in peril of losing a generation of our children if we don't act now.

All we need to do is talk with Danny Hotz' parents to understand this is our problem. Imagine the anguish of a family who sent their fresh-scrubbed graduate off to begin a new life in the

Nation's Capital, only to have him come home a week later in a casket. My heart and prayers go out to the Hotz family.

Danny Hotz lost his life—the story of Dooney Waters on the front page of the Washington Post for the past 2 days is the story of the living dead. Not one of us experienced the trauma, the despair, the fear and violence by the age of 6 that this little boy has endured living in a crack house. Dooney Waters deserves a chance—and that chance will only come when we act—only when we wage the same war on drug pushers that they are waging on our communities will we stop the narcotics tidal wave flooding this country.

Mr. President, I come before you today to offer an idea which some of you may think is too tough. Some might argue, let us study this option, let us not act in haste. We cannot act fast enough, in fact, as far as I am concerned. We cannot wait to lose one more child—we cannot wait to lose Dooney Waters—we cannot wait while smugglers put another kilo of cocaine at cutrate prices on the streets. We must give our law enforcement agencies the tools, the authority to do their job, to win our war on drugs.

The Customs Department and the Drug Enforcement Agency estimate roughly half the cocaine coming into the United States is smuggled aboard private aircraft. Time and time and time again, U.S. law enforcers track aircraft, check the tail number and recognize a plane previously involved in narcotics smuggling or, worse still, actually watch as bales and bundles of drugs are kicked out the back.

I might say, Mr. President, I just watched a Customs Service film back in my office earlier this afternoon that showed just what I am talking about: A plane being watched, kicking drugs out the back as it is under surveillance.

With the job done, the planes high-tail it back to safe sanctuary in nearby countries. In spite of the best efforts of our law enforcement community, in the sky there is no limit for a smuggler with a fast plane and the confidence that they are immune from prosecution unless caught on the ground.

We will not stop air trafficking unless we give our airborne law enforcement agencies the authority to compel a suspected drug-smuggling aircraft to comply with instructions to land. This means giving these agencies the authority to use disabling, and if absolutely necessary, deadly force.

The need for this authority is not new—nor in fact, is it without some precedent. Congress granted the Coast Guard the authority to use disabling and deadly force on the high seas, which it has exercised cautiously and in accordance with strict guidelines. I say to my friend from Georgia, 9 years, the Coast Guard has only applied force 18 times against well over 1,500 vessels which were actually stopped for trafficking. The Coast Guard has demonstrated a record of responsible, effective use of force.

I think its high time Mr. President, that we recognize the air war deserves the same priority and authority as our war at sea and on land. In hearings before the Senate Foreign Relations Committee last week, Admiral Walter Leland, Chief of the Law Enforcement and Defense Operations for the Coast Guard pointed out air traffic had virtually stopped over Cuba after Castro announced a policy to shoot down drug smugglers. All the witnesses agreed Castro, in fact, may not choose to exercise such force, but the smugglers' doubts were a sufficient deterrent.

I believe the Coast Guard and Customs Service will exercise the new authority judiciously. In fact, the guidelines for air interdiction obviously could parallel use of force at sea beginning with an international public announcement that private aircraft operators who fly across our borders must obey instructions of airborne law enforcement officers to land where directed. The law enforcement aircraft could also be required to actually observe and I repeat, the law enforcement aircraft could also be required to actually observe suspected illegal activity such as bundles being kicked out of planes and would have to consult with higher authority—on the ground—prior to exercising force.

Mr. McCAIN. Will the Senator yield for one comment?

Mr. McCONNELL. I will yield in a moment.

Mr. McCAIN. I think there is some confusion about this vote as to when it is coming up, I have been told. I ask if the Senator will yield for a moment.

Mr. McCONNELL. I yield for that purpose. It is my understanding we will be voting around 6:30.

Mr. McCAIN. That is my understanding, Mr. President. I have been told there are several Members who are not clear on that. I would appreciate it if we could interrupt just a moment for the Chair to state the terms of the unanimous-consent agreement so all Members would be aware of exactly when the window is when we will not be voting so they have an opportunity to go to the White House.

The PRESIDING OFFICER. The Chair will do this in about 15 seconds.

Mr. McCAIN. I thank my friend from Kentucky.

The PRESIDING OFFICER. The Chair would advise the Members of the Senate that upon the conclusion of the colloquy of the Senator from Kentucky, unless there are others who wish to speak to that amendment, the amendment will be disposed of without a vote, unless a vote is asked for. And after that, there will be a series of amendments by the Senator from Ohio [Mr. GLENN], and those will not be voted upon until the hour of 7:45 p.m. There may be an additional amendment from the Senator from Iowa [Mr. HARKIN].

Mr. McCAIN. But it was my understanding, Mr. President, that there was a vote on the McConnell amendment planned either on a motion to table or a straight up or down motion on the amendment, hopefully taking place in the next 10 or 15 minutes.

Mr. McCONNELL. That is the understanding of the Senator from Kentucky.

The PRESIDING OFFICER. The Chair remembers the Senator from Georgia making such a statement and will confer with the Parliamentarian.

The Chair advises that that certainly could be the case and there may be a vote.

Mr. McCAIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Let me repeat, Mr. President, the key point that I think would reassure hopefully the chairman, the law enforcement aircraft that we are talking about could also be required to actually observe suspected illegal activity such as bundles being kicked out of planes and would have to consult with higher authority on the ground prior to exercising force.

These guidelines have worked effectively at sea. I frankly believe they can work in the air. When asked point blank the significance of having the authority to use force against drug smuggling planes, Commissioner von Raab—at least Commissioner until yesterday—said it would end the air war. He said, Mr. President, it would end the air war to have this kind of authority.

Mr. President, half the cocaine crippling this Nation is coming in by air. Half of the cocaine coming into this country is coming in by air, and the Customs Service and others who are observing this from the air cannot do anything about it. They can take film of them dropping drugs out onto the ground but they cannot do anything about it.

The amendment that the Senator from Kentucky is proposing would grant the authority to get these planes out of the air. For those who think this just means willy-nilly shooting private planes out of the air, it does not. But it does give the authority to communicate with those planes, to signal those planes, to let them know they must come down if, and only if, it is suspected that there are drugs on board.

If we really mean what we say, if we really want to stop the flow, we must give our drug enforcement agencies

the tools they need to do their job. We must give them the authority when all else fails to force positively identified drug dealers to land or face the consequences.

Now, I might say, Mr. President, I do not understand why the staff has declared this controversial. This should not be controversial at all.

Let me repeat the facts. Over half the cocaine coming into this country is coming by air. If it comes in by boat, the Coast Guard has had the kind of authority I am talking about and had it quite some time. Over the last 8 years with 1,500 interdictions nobody has been killed. We are simply here applying the same kind of authority to the air.

Now, admittedly, a plane and a boat are not the same thing. But there are ways to signal to another aircraft that you must come down and that is what we are talking about here. Over half the cocaine coming into this country is coming by air and we are incapable of doing anything effective to stop it. Commissioner von Raab said last week if we had this kind of authority, the air war would be won tomorrow.

Mr. President, that is all I have to say at the moment. I am sure there are others who would like to speak to this issue.

The PRESIDING OFFICER. Is there further debate?

Mr. NUNN. Mr. President, could I ask the Senator from Kentucky just a couple of questions before I give a brief statement. What law enforcement agencies are covered here?

Mr. McCONNELL. DEA, Customs, and Coast Guard.

Mr. NUNN. Could I ask the Senator from Kentucky what weapons they have on their planes?

Mr. McCONNELL. I think that is really not the concern of this amendment. We are saying that whatever equipment they currently have could be used. We are not trying to specify the equipment that they have.

Mr. NUNN. I am informed they do not have any weapons. I just wonder if we should not figure out what kind of weapons——

Mr. McCONNELL. They do not have the authority so why would they bother to have any weapons?

Mr. NUNN. Perhaps they ought to be trained, if they do not have any training on shooting. I have never heard that they were seeking this authority.

Mr. McCONNELL. Perhaps we ought to provide the training and provide the weapons. If over half the cocaine is coming into this country by air and we sit by and do nothing, perhaps we ought to provide that.

Mr. NUNN. Does the Senator have a request from the Coast Guard? Who has requested this amendment in law enforcement? Who says they need this authority?

Mr. McCONNELL. I would say they have not requested it, but they do not oppose it and this is under active discussion right now with the drug czar. Outgoing Commissioner von Raab, the head of the Customs Service, indicated that he supported it. The Coast Guard tells me today they are not opposed. DEA has some concern about informants possibly being on board planes that might be intercepted.

Mr. NUNN. Is there reason the Senator could not wait for another bill and let us see what the drug czar proposes on this because I am told that there is vigorous dissent within the administration.

Mr. McCONNELL. There is also vigorous support within the administration.

Mr. NUNN. That is right. Why not let them come up and make their case in September and let us take a look at this because it may very well be that I could support it at that time. But at this point in time these have been no hearings, no indication of any training. There is no indication of any request. There is no indication of any big problem that they are now having.

I have here statistics from "Capabilities of Interdicting Private Aircraft are Costly." This is a GAO report. It says:

Our analysis of Customs data shows that during fiscal year 1987 and 1988 Custom aviation branches attempted 1,443 air interdiction missions. In 335 of these missions an enforcement action occurred when a Customs apprehension aircraft landed near a suspect aircraft and Customs law enforcement officials confronted the crew. Of the 335 enforcement actions, 134 or about 10 percent of the total mission resulted in drug seizure, plane seizure, arrest or some combination of the three.

So what we have here, they landed 335 times and 134 of them had drugs on the planes, meaning two-thirds of them did not. Now, if two-thirds of those suspected that were landed and had all that profile did not have drugs on the plane and if that statistic held for those they were attempting to apprehend—and I have no idea how those things transpose—you could have a situation where 50 percent or more of the planes that might be shot down might have no drugs on them at all.

I also would like to point out—and I am not going to take much time on this—this amendment was obviously modeled after——

Mr. McCONNELL. Will the chairman yield on this point before he goes to the next point.

Mr. NUNN. Let me make this other point and then I would then come right back and yield to the Senator for a question.

I am told—and I know the junior Senator from Kentucky mentioned this in his remarks—that this is modeled after the authority the Coast Guard has as far as apprehending ships on water. It is obvious that it is modeled after that because if you read this proposed amendment we will be voting on in just a few minutes, it says:

Whenever any aircraft liable to seizure or examination—on the grounds that narcotics are being transported on the aircraft—by any agency of the United States with responsibility for drug law enforcement does not land on being ordered to do so on being pursued by an authorized aircraft which has displayed identifying insignia prescribed for an authorized aircraft, the person in charge or in command of the authorized aircraft may, after a gun has been fired by the authorized aircraft as a warning signal, fire at or into the aircraft which does not land.

I have never seen a plane stop in air.

Mr. McCONNELL. Will the chairman yield?

Mr. NUNN. We have a V-STOL aircraft that takes off straight up, and now we are debating the V-22 aircraft that takes off like a helicopter, and goes into a fixed-wing mode. But if we have drug smugglers that have planes that will stop in the air I think we had better dump the V-22 and V-STOL airplane and buy some of those.

So I do not know how anybody is going to comply with this. If you stop, you crash. There would not be any shootdown required. They are gone. If they stop, they are gone. They drop straight down.

How does the Senator intend to enforce this?

Mr. McCONNELL. I think the chairman ought to read the version that went to the clerk which does not read that way. The version that went to the clerk reads this way:

(b)Whenever any aircraft liable to seizure or examination (on the grounds that narcotics are being transported on the aircraft) by any agency of the United States with responsibility for drug law enforcement does not land or being ordered to do so on being pursued by an authorized aircraft which has displayed identifying insignia prescribed for an authorized aircraft, the person in charge or in command of the authorized aircraft may, after a gun has been fired by the authorized aircraft as a warning signal, fire at or into the aircraft which does not land.

Which I believe takes care of the problem that the chairman was talking about.

Mr. NUNN. That is much better. We read an earlier version. I am glad this really made a better transition.

Mr. McCONNELL. We are talking about the earlier verison, too.

Mr. NUNN. I say to the Senator that there is a big difference in the Coast Guard going out, apprehending a ship on the water, and the dangers inherent in trying to force down a plane particularly when there has been no training. We do not have any Coast Guard planes that have guns that I know of. Maybe they do.

This is one of those amendments I may very well support. But for goodness sakes, let us have a hearing on it. There are civil aircraft all over this

country. I think the Air Transport Association ought to be able to be heard on this. I think people who fly private aircraft ought to be able to be heard. I think airlines ought to be able to be heard.

I do not think we ought to come in here late at night without any hearings, and give this kind of authority for shootdown when people do not know that there is an order to stop.

I will leave it at that. I thought maybe we had a new kind of drug smuggling aircraft that we could not duplicate in the military.

Mr. McCONNELL. Let me predict the outcome of the hearings. The people we will hear from will speak on the authority. They want to do this not because their overwhelming concern is the fact that over half of the cocaine coming into this country is coming in by aircraft. That is not their concern. What we are talking about here is the authority only, the authority to beef up the war on drugs, and give us a chance to get some of these planes landed and out of the skies so we can make a dent in the cocaine coming into this country.

I think it is safe to say that the private aircraft industry is going to be reluctant. I think it is safe to say that. But there is no indication to paint the worst case scenario, I say to my friend from Georgia, that these agencies are going to go around willy nilly shooting planes out of the air. That is really quite absurd. I cannot imagine them acting that way. The Coast Guard has not done that with regard to ships.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. NUNN. I yield the floor.

Several Senators addressed the chair.

Mr. GLENN. Mr. President, I would like to ask a question. There are some very practical issues here. What frequencies are we talking about? Aircraft are not required to be on certain frequencies. How do you communicate with them? If you are flying an aircraft, you do not necessarily know you are being shot at by anybody unless there is a tracer round used or unless you have a flare.

There is no requirement in here for any of those things that I know of. Most of these drug planes come in without lights at night.

I have a small plane. I have flown along the border in this country in the past. I know if I saw someone coming up at night the first thing I would do is get out of the way. I would be avoiding them. I am liable to get shot down if this amendment is agreed to.

The intercepting aircraft do not have the means of communicating with me unless they happen to know what frequency I am on. There is no requirement for frequency, and there is no requirement for whatever the warning signal would be.

Just from the practical standpoint of making certain that our innocent people do not get shot down out there, I would have to oppose this.

Mr. McCONNELL. Mr. President, I think all of the concerns of the Senator from Ohio, which he has raised legitimately, would be taken care of with regulations.

I think it is with all due respect absurd to assume that these agencies are going to go around willy nilly shooting innocent people out of the air. There would have to be some suspicions for illegal drugs on board.

The PRESIDING OFFICER. The Chair will interrupt to make the point that the Chair did not give recognition to the Senator from Ohio. That was not the mistake of the Senator from Ohio but the mistake of the Presiding Officer. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I yield the floor which I do not have.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I will be brief. As all Members are aware, we are trying to get a vote on this amendment as soon as possible so all Members will have an opportunity to go to the function at the White House.

Mr. President, with great reluctance I will be making a motion to table this amendment at the conclusion of the remarks that anyone also wishes to make. Hopefully, such remarks will be brief, and I will try to set a good example.

At present, however, we have had no hearings, and the Senate Armed Services Committee has no jurisdiction over the agencies that are affected by this amendment—the Coast Guard, Customs Service, and Drug Enforcement Agency.

Further, as the distinguished chairman of the committee said, I think there will be a more appropriate time for voting on this issue—perhaps in the fall after this issue has been ventilated and after we have heard from the administration speaking with one voice. All of us might well then be able to support this amendment.

I would also like, before I present my reasons for making such a motion, to express my enormous appreciation for the commitment that the Senator from Kentucky has in fighting the war on drugs. I know of no individual who is more concerned with this issue, or who has shown more invovlement in trying to win this war on drugs, than the Senator from Kentucky.

I think the thrust of what he is trying to do is laudable. But I believe that there are too many questions at this point in time that would have to be answered before we could support such an amendment which really calls for a dramatically radical course of action.

We also lack a clear endorsement from the administration. In fact, it has expressed deep concern over this bill.

Mr. President, I ask unanimous consent that the letter from the Secretary of Transportation, dated July 27, to Hon. William Bennett be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, DC, July 27, 1989.

Hon. WILLIAM J. BENNETT,
Director, Office of National Drug Control Policy, Executive Office of the President, Washington, DC.

DEAR MR. BENNETT: Thank you for the opportunity to review the section of the National Drug Control Strategy covering international drug control policies and strategies, and strategies related to other foreign initiatives, interdiction, chemical precursor controls, money laundering, intelligence, and research and development support.

In general, the section provides a good overview of the problems the Nation faces in controlling the flow of drugs from foreign countries and the kind of measures we must take to reduce that flow. I do have concerns about two specific suggestions in the section, however.

LEVEL OF RISK TO GENERAL AVIATION PILOTS

Item "c." on page 15 points out that current air interdiction programs provide virtually no risk to general aviation pilots attempting to smuggle drugs into the country. It recommends a review of the Rules of Engagement "with a view toward modifying those currently in effect to raise the level of risk to the general aviation aircraft pilot short of the use of deadly force."

I can understand the frustration of law enforcement agencies that track a plane they are fairly sure is smuggling drugs only to lose it when the pilot detects their presence and turns around without landing in the U.S. In fact, that happens to Coast Guard interceptors when they see a suspected drug drop at sea and the aircraft then turns around and returns to a foreign country. However, the Federal government has a special responsibility to protect aviation safety, and it simply must not engage in activities to "raise the level of risk to the general aviation aircraft pilot," even in the name of drug law enforcement.

Rules of the International Civil Aviation Organization contain detailed procedures for intercept of civil aircraft, which forbid any force, even warning shots, unless there is an imminent threat to U.S. persons or national security.

This is longstanding U.S. policy, which is reflected in international law with U.S. support. The United States has much to lose and little to gain if physical force against civil aircraft, even sanctioned in the name of national security, were to become accepted as a norm of government behavior.

While I cannot support a proposal to raise the level of physical risk against general aviation aircraft in the air, we would be pleased to work with your Office and the State Department to raise the probability of apprehension and the risk of criminal penalties for pilots and owners of general aviation aircraft engaged in drug smuggling. Such an initiative would be consistent with the emphasis you propose in the criminal justice section of the strategy on increasing the

risk of criminal sanctions against anyone convicted of using or selling illegal drugs. As an example of one alternative, we could seek international agreements to expand our authority to pursue suspect aircraft in foreign airspace and, in cooperation with foreign national law enforcement officials, ensure that the aircraft is searched upon landing and, if appropriate, the personnel aboard are apprehended.

I strongly urge that the recommendation in item "C." be revised to eliminate any notion of physical threat against general aviation aircraft and to suggest increased risk of criminal penalties.

RESOURCES FOR SOUTHWEST BORDER INTERDICTION

Item "d." on page 15 suggests "the likely need to redirect some resources towards the Southwest border as an equal status high-threat area." While we cannot evaluate this suggestion without more detail about the threat information underlying it and about the specific proposal on resources to be added and their source, we are concerned that the proposal may be to reallocate interdiction resources from the Southeast border on a permanent or semi-permanent basis. If that is the proposal, we would want to understand what resources would be redirected, for how long, and what the implications would be for interdiction along the Southeast border. I would urge clarification of this proposal as the strategy is further developed.

GENERAL COMMENT

Except for the two concerns expressed above, we would concur on the international section you distributed for review. We have noted, however, that there is an overlap between this section and sections of the strategy being reviewed through the Domestic Policy Council Working Group, specifically on interdiction and intelligence. It will be important to ensure that these separate pieces come together in a coordinated way. It will also be important that, when the various pieces of the strategy are integrated, Federal departments and agencies have an opportunity for final review and comment because I expect that some resource tradeoffs will be necessary. An opportunity to comment on resource allocations must be a key component of the strategy development process.

Sincerely,

SAMUEL K. SKINNER.

Mr. McCAIN. Mr. President, let me give you a quote from the letter that the Secretary of Transportation sent to Mr. Bennett:

I can understand the frustration of law enforcement agencies that track a plane they are fairly sure is smuggling drugs only to lose it when the pilot detects their presence and turns around without landing in the U.S. In fact, that happens to Coast Guard interceptors when they see a suspected drug drop at sea and the aircraft then turns around and returns to a foreign country. However, the Federal government has a special responsibility to protect aviation safety, and it simply must not engage in activities to "raise the level of risk to the general aviation aircraft pilot," even in the name of drug law enforcement.

Rules of the International Civil Aviation Organization contain detailed procedures for intercept of civil aircraft, which forbid any force, even warning shots, unless there is an imminent threat to U.S. persons or national security.

This is longstanding U.S. policy, which is reflected in international law with U.S. support. The United States has much to lose and little to gain if physical force against civil aircraft, even sanctioned in the name of national security, were to become accepted as a norm of government behavior.

Mr. President, that is an import caveat, coming from the Secretary of Transportation—the man who would be given the responsibility to implement this amendment because the agencies under his responsibility would have to carry out this permission to fire on suspected drug-carrying aircraft.

Let me also point out that it is very difficult for a general aviation pilot to understand, as the Senator from Ohio mentioned, the different frequencies necessary to communicate in a crisis and know whether they are carrying the Coast Guard frequency or not. I think a lot of civilians, flying from a place like the Bahamas to Miami, and who had a shot fired at them would panic.

I also wonder what authority a Coast Guard pilot would have to shoot at what will only be a "suspect." No police officer, Mr. President, could carry out his job in that fashion on the streets of our Nation. You cannot fire at someone just because they are a fleeing suspect.

I would also suggest that there may be much better ways to deal with this problem, such as a major increase in criminal penalties for pilots who engage in this kind of activity, improved tracking systems, and law enforcement command, control, and communications facilities are other options that I think we should consider.

Let me again repeat that I have the highest respect and admiration for the thrust of what the Senator from Kentucky is doing. But, Mr. President, our Coast Guard pilots now have no training in air-to-air gunnery. They do not even have any air-to-air weapons or other special IFF and surveillance equipment to be sure they are tracking the right target. I would hate to ask them to start shooting at aircraft that refuse to land on their request, or their command. I think that could lead us into some very serious situations.

Nevertheless, as the distinguished chairman of the committee has said, I think that this is an area that should be carefully examined. We should do better in enforcing the law and increasing our capability to bring down aircraft that are smuggling drugs. I certainly would join the chairman of the committee and the distinguished Senator from Kentucky in trying to shape legislation which would increase our effectiveness and capability in these areas.

Mr. President, if there is no further comment, I make a motion on behalf of myself and Senator NUNN at this time, unless the Senator from Kentucky wishes to be recognized before I do so.

Mr. McCONNELL. One final observation before the Senator from Arizona makes a motion to table. In the same letter he referred to, the Secretary of Transportation says, "unless there is an imminent threat to U.S. persons or national security." The Senator from Kentucky argues that drugs are a threat to national security; 862,000 Americans use cocaine at least once a week. Over half of the cocaine coming into this country is coming in by air. Granting this authority is a step in the right direction.

Mr. McCAIN. Mr. President, I make a motion to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 45, nays 55, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—45

Bentsen	Glenn	McClure
Bond	Gore	Mikulski
Boren	Hatfield	Mitchell
Bradley	Hollings	Moynihan
Bumpers	Humphrey	Nunn
Burdick	Inouye	Riegle
Byrd	Jeffords	Robb
Cochran	Johnston	Rudman
Cohen	Kassebaum	Sanford
Cranston	Kennedy	Sarbanes
Danforth	Lautenberg	Sasser
Dodd	Leahy	Simon
Durenberger	Lugar	Wallop
Ford	Matsunaga	Warner
Fowler	McCain	Wirth

NAYS—55

Adams	Garn	Metzenbaum
Armstrong	Gorton	Murkowski
Baucus	Graham	Nickles
Biden	Gramm	Packwood
Bingaman	Grassley	Pell
Boschwitz	Harkin	Pressler
Breaux	Hatch	Pryor
Bryan	Heflin	Reid
Burns	Heinz	Rockefeller
Chafee	Helms	Roth
Coats	Kasten	Shelby
Conrad	Kerrey	Simpson
D'Amato	Kerry	Specter
Daschle	Kohl	Stevens
DeConcini	Levin	Symms
Dixon	Lieberman	Thurmond
Dole	Lott	Wilson
Domenici	Mack	
Exon	McConnell	

So the motion to table the amendment (No 614) was rejected.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 614

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky [Mr. MCCONNELL].

The amendment (No. 614) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio is recognized.

AMENDMENT NO. 602

(Purpose: To provide for alternative compensation programs, and for other purposes)

Mr. GLENN. Mr. President, I call up amendment No. 602 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN] proposes an amendment numbered 602.

Mr. GLENN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 248, line 4, strike out all through line 12 on page 258 and insert in lieu thereof the following:

(a) DEFINITIONS.—For purposes of this title—

(1) the term "agency" means an Executive agency (as defined in section 105 of title 5, United States Code), except that such term does not include—

(A) the National Security Agency;

(B) the Central Intelligence Agency;

(C) the Defense Intelligence Agency;

(D) the Federal Bureau of Investigation; or

(E) the General Accounting Office;

(2) the term "employee" means an employee (as defined in section 2105 of title 5, United States Code) whose rate of basic pay would, but for this title, be determined under—

(A) subchapter III of section 5371 of chapter 53 of title 5, United States Code, relating to the General Schedule; or

(B) chapter 54 of title 5, United States Code, relating to the performance management and recognition system; and

(3) the terms "collective bargaining", "collective bargaining agreement", "exclusive representative", "management official", and "supervisor" each has the meaning given such term under section 7103(a) of title 5, United States Code.

(b) DEMONSTRATION PROGRAMS OF ALTERNATIVE COMPENSATION SYSTEMS.—(1) Within 2 years after the date of the enactment of this section, the demonstration programs using alternative compensation systems as provided under this section, shall be implemented by the Office of Personnel Management and—

(A) the head of the relevant agency for any program described under paragraph (2)(A)(i);

(B) the Secretary of Defense for the programs described under paragraph (2)(A)(ii); and

(C) the Administrator of the National Aeronautics and Space Administration for the program described under paragraph (2)(A)(iii).

(2)(A) There shall be implemented under the provisions of this subsection, no less than 6 and no more than 10 demonstration programs using alternative compensation systems, of which—

(i) between 1 and 5 such programs shall be designed and implemented by the head of an agency, after consultation and approval by the Office of Personnel Management;

(ii) 4 such programs shall be developed and implemented within the Department of Defense by the Secretary of Defense, after consultation and approval by the Office of Personnel Management; and

(iii) 1 such program shall be developed and implemented within the National Aeronautics and Space Administration by the Administrator of such Administration, after consultation and approval by the Office of Personnel Management.

(B) Each such program under this subsection shall—

(i) cover a sufficient number of positions within an agency to provide an adequate basis on which to evaluate the desirability of implementing such program on a broader scale within the Government, except that not less than the equivalent of 5,000 full-time positions and no more than the equivalent of 25,000 full-time positions shall be covered in any such program at any time;

(ii) include in the development of such program, prior to implementation, a detailed information gathering plan—

(I) to provide for the evaluation of such program to be developed by the Office of Personnel Management and the head of the relevant agency;

(II) which shall include the total number of employees to participate in such program;

(III) which shall be—

(aa) submitted to the General Accounting Office, at least 60 days prior to program implementation; and

(bb) reviewed by the General Accounting Office which shall report the results of the review to the Senate Committee on Governmental Affairs, the House Committee on Post Office and Civil Service, and the head of the relevant agency; and

(IV) which shall be periodically reviewed with regard to the adherence of such agency to such plan by the General Accounting Office which shall submit reports of such reviews to the relevant congressional committees; and

(iii) within 2 years after the date of implementation under paragraph (1), have the full number of employees participating in such program as provided for in clause (ii)(II).

(c)(i) notwithstanding the provisions of subparagraph (B), no more than 2 programs described under subparagraph (A)(ii) may cover no more than the equivalent of 35,000 full-time positions each.

(ii) Notwithstanding the provisions of clause (i), the total number or equivalent full-time positions combined for the 4 programs described under subparagraph (A)(ii) may cover no more than 100,000 such positions.

(3) Each program under this subsection shall provide that—

(A) the rate of basic pay for an employee participating in any program under this title—

(i) shall be at least equal to the rate of basic pay payable to such employee for the pay period immediately preceding the date of the implementation of such program; and

(ii) may not exceed the rate of basic pay payable for level V of the Executive Schedule; and

(B) the total cost to the Government in carrying out such programs shall not exceed what the total cost to the Government would have been, during the same period, if this Act had not been enacted.

(4)(A) Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code, shall not be included within any program under this section if the program—

(i) would violate a collective bargaining agreement between the agency and the labor organization, unless there is another written agreement with respect to the program between the agency and the organization permitting the inclusion; or

(ii) is not covered by such a collective bargaining agreement, until there has been consultation or negotiation, as appropriate, by the agency with the labor organization.

(B) Employees within any unit with respect to which a labor organization has not been accorded exclusive recognition under chapter 71 of title 5, United States Code, shall not be included within any program under this section, unless there has been agency consultation regarding the program with the employees in the unit.

(5) The Office of Personnel Management, the Secretary of Defense, and the Administrator of the National Aeronautics and Space Administration shall, with respect to each applicable program implemented under paragraph (1)—

(A) publish the plan developed under paragraph (2)(B)(ii) for such program in the Federal Register prior to implementation of such program;

(B) provide notification of the implementation of such program to affected employees and the Congress within 90 days before the date of such implementation; and

(C) provide an annual report to the Congress on such program.

(6)(A) Subject to subparagraph (B), any demonstration program implementing an alternative compensation system under this subsection shall terminate at the earlier date of—

(i) 5 years after the date on which the full number of employees are participating in such program as provided for under paragraph (2)(B)(iii); or

(ii) 7 years after the date of the implementation of such program under paragraph (1).

(B)(i) A program under this subsection may be terminated in accordance with the provisions of clause (ii), if the Office of Personnel Management, in consultation with the head of the relevant agency, determines that such program creates a substantial hardship on, or is not in the best interests of, the public, the Federal Government, or employees.

(ii) If a determination is made under the provisions of clause (i), a program may be terminated by the Office of Personnel Management, after consultation with—

(I) the head of the relevant agency, with regard to a program described under paragraph (2)(A)(i);

(II) the Secretary of Defense, with regard to a program described under paragraph (2)(A)(ii); or

(III) the Administrator of the National Aeronatuics and Space Administration, with regard to the program described under paragraph (2)(A)(iii).

(C) If a program is terminated under the provisions of subparagraph (B), the head of the relevant agency shall notify all affected employees of such termination no later than 90 days before the date of such termination.

(c) ALTERNATIVE COMPENSATION SYSTEMS.—(1) Before developing and implementing a demonstration program under subsection (b), the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, and each head of a relevant agency shall consider an alternative compensation system—

(A) under which annual pay adjustments under section 5305 of title 5, United States Code, provide that the total pay and benefits for Government service shall be comparable to the total pay and benefits for individuals at the same levels of work outside the Government;

(B) under which annual pay adjustments under section 5305 of title 5, United States Code, provide that rates of basic pay payable to employees are consistent with rates of basic pay generally payable for the same levels of work outside the Government within the same geographic region;

(C) under which conditions of employment for employees shall be subject to collective bargaining; or

(D) establishing by the head of the agency involved, which—

(i) may identify separate career categories for employees in positions which are subject to the system;

(ii) shall provide for the rate of basic pay of an employee to be set and adjusted within salary structures based on such factors as the experience and achievements of the employee, position in a pay range, job responsibilities, rates of pay for similar positions outside the government, and (consistent with section 5334 of title 5, United States Code) changes in positions or types of appointments;

(iii) shall provide pay differentials for service as a supervisor or management official (which shall be considered a part of basic pay for purposes of subchapter III of chapter 83, and chapter 84, of title 5, United States Code);

(iv) may authorize special awards (which shall not be considered a part of basic pay for any purpose); and

(v) shall authorize performance recognition in the form of—

(I) a lump-sum payment (which shall not be considered a part of basic pay for any purpose);

(II) an increase in the rate of basic pay of an employee within a pay range or to a higher pay range; or

(III) nonmonetary recognition.

(2)(A) If the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, or any head of an agency implements a program using a system described in paragraph (1)(C), such program shall provide that—

(i) any pay schedules or rates shall be established to provide that an appropriate differential (which shall be considered part of basic pay) is provided for service as a supervisor or management official; and

(ii) only a unit or subdivision of a unit for which an exclusive representative is certified may participate.

(3) For purposes of a program using a system described in paragraph (1)(C), the term "conditions of employment" means—

(i) personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, included under section 4103(a)(14) of title 5, United States code; and

(ii) personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, relating to classification of positions, leave, pay, or other compensation or benefits;

except that such term does not include policies, practices, and matters relating to life insurance, health insurance, and retirement.

(d) RULE OF STATUTORY CONSTRUCTION.—(1) Except as provided in paragraph (2), in the administration of an alternative compensation system under this section, the provisions of this section shall apply notwithstanding any inconsistent provision of title 5, United States Code.

(2) In the administration of an alternative compensation system under this section, no provision of this section may be construed to waive any Inconsistent provision of—

(A) chapters 83 and 84 of title 5, United States Code, relating to retirement;

(B) chapter 87 of title 5, United States Code, relating to life insurance; or

(C) chapter 89 of title 5, United States Code, relating to health insurance.

Mr. GLENN. Mr. President, I rise to offer this amendment to modify section 841 of the bill. I believe it has been agreed to. I will describe it very briefly. It is identical to the legislation passed by the Senate last year, title I of S. 2530, the Federal Personnel Improvements Act of 1988. The Personnel Improvements Act was the product of lengthy negotiations between a number of authorizing committees, including Governmental Affairs, Armed Services and Commerce. Last year, it was supported by the Office of Personnel Management, the Department of Defense, and the National Aeronautics and Space Administration. I am pleased that the Armed Services Committee has agreed to accept my amendment to modify section 841 to expand the section's personnel demonstration provisions to make them apply on a governmentwide basis. These are the so-called China Lake experiments, plus different experiments for the future.

As modified, section 841 would require that a minimum of 6, with a maximum of 10, personnel demonstration programs be designed and implemented within 2 years of enactment of the Defense authorization bill. These programs would be developed by the agency head, after consultation with and approval by the OPM. Four of these projects would be implemented at the Department of Defense, covering a total of 100,000 full-time employees. Another project would be implemented at the NASA, which would cover all of NASA's employees. It would not affect any demonstration project currently operating under chapter 47 of title 5, United States Code.

Each agency implementing a demonstration project would be required to work with OPM in developing a detailed information-gathering plan. The information gathered under these plans will then be used by OPM, the General Accounting Office [GAO], and the Congress in evaluating the success of the demonstration programs. We have learned from our experience with the Naval Weapons Center in China Lake, CA, which has been operating a demonstration project since 1980, that a well-designed evaluation plan is essential to assessing the ultimate success and transferability of any demonstration project. Last year, the GAO stated that while the China Lake experiment was not a failure, there was no evidence to support expanding it because necessary data for an evaluation plan had not been collected.

The intent of section 841, as modified, is to provide agencies and OPM with an opportunity to test a variety of personnel projects, rather than simply expanding on variations of China Lake. It is my hope that this legislation might provide some short-term relief to agency recruitment and retention problems as well as provide an opportunity to test potential longer-term proposals as to how we can improve the Federal personnel system. Again, I am pleased that we were able to work out this agreement with members of the Senate Armed Services Committee.

Mr. President, I recommend that we approve this amendment. I believe it has been agreed to on both sides.

Mr. BINGAMAN. Mr. President, I commend the Senator from Ohio for this amendment. This is the same bill which I sponsored last year and which passed the Senate as title I of Senate bill 2530 in the last Congress. At that time, it was a freestanding bill. This year, I think very wisely, we have determined that it should be added to the defense authorization bill.

Senator GLENN supported the effort last year, as did I. The bill was not taken up by the House. I think putting it on this defense authorization bill will ensure that it be given adequate consideration. It is good legislation. It is an outgrowth of the work that the Packard Commission did in 1986. It was initially brought to me as a member of the Armed Services Committee, and to other members of that committee, as a recommendation from that Packard Commission.

I ask the Senator from Ohio if I could be added as a cosponsor of the amendment.

Mr. GLENN. Mr. President, I ask unanimous consent that the Senator from New Mexico [Mr. BINGAMAN] and Senators PRYOR and ROTH be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. The amendment is totally acceptable on this side of the aisle.

Mr. WALLOP. Mr. President, the amendment has been cleared with this side of the aisle, as well. It is, as the distinguished chairman of the subcommittee has noted, a recommendation of the Packard Commission, perhaps too long in coming, but better now than never. I salute the Senator for having brought it up.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Ohio [Mr. GLENN].

The amendment (No. 602) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 459

(Purpose: To amend the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) to modify post-government service employment restrictions, and for other purposes)

Mr. GLENN. Mr. President, I call up amendment No. 459, as amended, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN], for himself, Mr. BINGAMAN, Mr. WALLOP, and Mr. LEVIN, proposes an amendment numbered 459.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 260, line 19, strike out all through line 11 on page 266 and insert in lieu thereof the following:

SEC. 844. POST-EMPLOYMENT RESTRICTIONS.

(a) Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended—

(1) in subsection (a)(1) by inserting before the semicolon a comma and "except as provided under the provisions of subsection (c)";

(2) in subsection (b)(1) by inserting before the semicolon a comma and "except as provided under the provisions of subsection (c)"; and

(3)(A) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively;

(B) by redesignating subsections (j) through (n) (as designated before the date of the enactment of this section) as subsections (l) through (p), respectively; and

(C) by inserting after subsection (b) the following new subsection:

"(c) RECUSAL.—(1) A procurement official and a competing contractor may engage in discussions of future employment or business opportunity otherwise prohibited by this section if, prior to engaging in such discussions or immediately after an initial contact for the limited purpose of determining whether the procurement official is subject to the requirements of this section and is interested in pursuing such discussions—

"(A) the procurement official provides his supervisor with a formal written notice of intent to disqualify himself from all participation in the performance of procurement functions relating to contracts of the competing contractor for any period during which future employment opportunities for such procurement official have not been rejected by either the procurement official or the competing contractor and a reasonable period thereafter as determined by the designated agency ethics official; and

"(B) the supervisor of the procurement official, after consultation with the designated agency ethics official and the contracting officer on any relevant contract, approves in writing the recusal of the procurement official.

"(2) A procurement official shall promptly report any initial contact with a competing contractor under this subsection to the supervisor of the official.";

(4) in subsection (f) (as redesignated by subsection (a)(3) of this section)—

(A) in the first sentence by inserting "knowingly" after "such procurement shall";

(B) in paragraph (1) by striking out "or" at the end thereof;

(C) by amending paragraph (2) to read as follows:

"(2) participate personally and substantially in the performance of such contract on behalf of the contractor, or"; and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) participate personally and substantially in the performance of a subcontract of such a contract on behalf of any subcontractor under such a contractor, if—

"(A) the price of such subcontract is in excess of $5,000,000 or 5 percent of the contract price, whichever is less; or

"(B) the procurement official personally reviewed or approved the award of such subcontract,"; and

(5) by inserting after subsection (j) (as redesignated in subsection (a)(3)(A) of this section) the following new subsection:

"(k) ETHICS ADVICE.—(1) An employee or former employee of an agency may request advice from the appropriate designated agency ethics official as to whether such employee or former employee is precluded by this seciton from participating in the performance of a particular contract on behalf of a particular contractor or subcontractor.

"(2) An employee or former employee of an agency who requests advice from a designated agency ethics official pursuant to paragraph (1) shall provide the official with all information reasonably available to the employee or former employee that is relevant to a determination by the ethics official regarding such request.

"(3) Not later than 30 days after the date on which a designated agency ethics official receives a request for advice under paragraph (1) accompanied by the information required pursuant to paragraph (2), the official shall issue a written opinion as to whether the employee is precluded by this section from participating in the performance of the contract at issue.

"(4) An employee or former employee of an agency who obtains a written opinion from a designated agency ethics official under this section on the basis of the complete disclosure of information required by paragraph (2) shall not be subject to any penalty under this section to the extent that the employee or former employee reasonably relies upon such opinion.".

(b) Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is further amended—

(1) in subsection (e) (as redesignated by subsection (a)(3) of this section)—

(A) in paragraph (1)(A)(i) by striking out "(c), or (e)" and inserting in lieu thereof "(d), or (f)";

(B) in paragraph (1)(B)(ii) by striking out "(c), or (e)" and inserting in lieu thereof "(d), or (f)";

(C) in paragraph (2)(A) by striking out "(c), or (e)" and inserting in lieu thereof "(d), or (f)";

(D) in paragraph (3)(A) by striking out "(c), or (e)" and inserting in lieu thereof "(d), or (f)";

(E) in paragraph (7)(B)(ii) by striking out "subsection (m)" and inserting in lieu thereof "subsection (o)";

(2) in subsection (g) (as redesignated by subsection (a)(3) of this section) by striking out "subsection (m)" and inserting in lieu thereof "subsection (o)";

(3) in subsection (h) (as redesignated by subsection (a)(3) of this section)—

(A) in paragraph (1) by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)";

(B) in paragraph (2) by striking out "(b) or (c)" and inserting in lieu thereof "(b) or (d)"; and

(C) in paragraph (3) by striking out "(h) and (i)" and inserting in lieu thereof "(i) and (j)";

(4) in subsection (i) (as redesignated by subsection (a)(3) of this section) by striking out "(c), or (e)" and inserting in lieu thereof "(d), or (f)";

(5) in subsection (j)(1) (as redesignated by subsection (a)(3) of this section)—

(A) by striking out "subsection (n)" and inserting in lieu thereof "subsection (p)"; and

(B) by striking out "subsection (m)" and inserting in lieu thereof "subsection (o)"; and

(6) in subsection (l) (as redesignated by subsection (a)(3)(B) of this section)—

(A) in paragraph (1) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b), (c), and (k)"; and

(B) in paragraph (2)—

(i) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b), (c), and (k)"; and

(ii) by striking out "(c) or (e)" and inserting in lieu thereof "(d), or (f)".

(c) Section 2397a(a)(6) of title 10, United States Code, is amended to read as follows:

"(6) The term 'procurement function' includes, with respect to a contract, any function relating to—

"(A) the administration of the contract;

"(B) the approval of changes in the contract;

"(C) quality assurance, operational and developmental testing, the approval of payment, or auditing under the contract; or

"(D) the management of the procurement program.".

(d) No later than 90 days after the date of the enactment of this section, the Federal Acquisition Regulatory Council shall prescribe regulations implementing the amendments made by this section to the provisions of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423).

Mr. BINGAMAN. Mr. President, let me just put my own explanation of this amendment in, as I understand it, then the Senator from Ohio can clarify and be sure we are talking about the same amendment.

The amendment that the Senator has asked to be called up is one which we are offering on behalf of myself, Senator GLENN, Senator LEVIN, and Senator WALLOP. It is a provision dealing with postemployment restrictions for employees and former employees of the Department of Defense.

Section 844 of the bill that we now have in the defense authorization bill deals with this same subject. The amendment that has been sent up provides for a Governmentwide clarification.

Mr. President, I am advised that the Senator wished to withdraw the amendment that was sent to the desk and we can send up the one that I am now referring to, so I yield the floor.

Mr. GLENN. Mr. President, I do agree with that. I withdraw the amendment. I understand it will be submitted in a corrected form by the distinguished Senator from New Mexico.

Mr. President, I ask unanimous consent that amendment No. 459, as amended, be withdrawn.

The PRESIDING OFFICER (Mr. KERREY). The Senator has that right. The amendment is withdrawn.

The amendment was withdrawn.

AMENDMENT NO. 615

(Purpose: To amend the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) to modify post-government service employment restrictions, and for other purposes)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. GLENN, Mr. LEVIN, and Mr. WALLOP, proposes an amendment numbered 615.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 260, beginning with line 19, strike out all through line 11 on page 266 and insert in lieu thereof the following:

SEC. 844. POST-EMPLOYMENT RESTRICTIONS.

(a) CLARIFICATION.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended—

(1) in subsection (a)(1), by inserting ", except as provided in subsection (c)" before the semicolon;

(2) in subsection (b)(1), by inserting "except as provided in subsection (c)" before the semicolon; and

(3)(A) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively;

(B) by redesignating subsections (j) through (n) as subsections (l) through (o), respectively; and

(C) by inserting after subsection (b) the following new subsection (c):

"(c) RECUSAL.—(1) A competing contractor may contact a procurement official with whom discussions are otherwise prohibited under subsection (a)(1) for the limited purpose of determining whether such official, after obtaining the approval required by paragraph (2), would be interested in engaging in such discussions. If a competing contractor makes such a contact with a procurement official, the procurement official shall promptly notify the official's supervisor and the appropriate designated agency ethics official of the contact.

"(2) A procurement official may engage in discussions with a competing contractor that are otherwise prohibited by subsection (b)(1) if, before engaging in such discussions—

"(A) the procurement official proposes in writing to disqualify himself from the conduct of any procurement relating to contracts of the competing contractor for any period during which future employment or business opportunities for such procurement official with such competing contractor have not been rejected by either the procurement official or the competing contractor and, if determined to be necessary by the designated agency ethics official in accordance with criteria prescribed in implementing regulations, for a reasonable period thereafter; and

"(B) the supervisor of the procurement official, after consultation with the appropriate designated agency ethics official, approves in writing the recusal of the procurement official.";

(4) in subsection (f) (as redesignated by paragraph (3)(A))—

(A) by striking out "No Government official" and inserting in lieu thereof "(1) No Government official";

(B) by striking out "shall—" and inserting in lieu thereof "shall knowingly—";

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(D) by inserting at the end the following new paragraph:

"(2) This section does not apply to the following:

"(A) A subcontract of a subcontractor who is a competing contractor unless—

"(i) the subcontract is for an amount in excess of $5,000,000;

"(ii) the subcontract is for an amount that is at least 5 percent of the amount of the prime contract and is for an amount in excess of $100,000; or

"(iii) the procurement official personally reviewed and approved the award, modification, or extension of the subcontract;

"(B) To actions, as prescribed in implementing regulations, that (1) primarily involve general scientific, technical, or engineering work, budget or policy advice or decisions, advice on the feasibility of contracting out functions, or other similar actions, and (2) do not involve the development, preparation, or issuance of a procurement solicitation, the preparation or evaluation of bids or proposals, selection of sources, conduct of negotiations, the award, modification, or extension of a contract, or performance of a contract.";

(5) by inserting after subsection (j) (as redesignated in subsection (3)(A)) the following new subsection:

"(k) ETHICS ADVICE.—(1) An employee or former employee of an agency may request advice from the appropriate designated agency ethics official as to whether such employee or former employee is precluded by this section from participating in the performance of a particular contract on behalf of a particular contractor or subcontractor.

"(2) An employee or former employee of an agency who requests advice from a designated agency ethics official pursuant to paragraph (1) shall provide the official with all information reasonably available to the employee or former employee that is relevant to a determination by the ethics official regarding such request.

"(3) Not later than 30 days after the date on which a designated agency ethics official receives a request for advice under paragraph (1) accompanied by the information required pursuant to paragraph (2), the official shall issue a written opinion as to whether the employee is precluded by this section from participating in the performance of the contract at issue.

"(4) An employee or former employee who obtains a written opinion from a designated agency ethics official under this section on the basis of the complete disclosure of information required by paragraph (2) shall not be subject to any penalty under this section to the extent that the employee or former employee reasonably relies upon such opinion.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 27 of such Act is further amended—

(1) in subsection (e) (as redesignated by subsection (a)(3)—

(A) by striking out "(c), or (e)" in paragraph (1)(A)(i) and inserting in lieu thereof "(d), or (f)";

(B) by striking out "(c), or (e)" in paragraph (1)(B)(ii) and inserting in lieu thereof "(d), or (f)";

(C) by striking out "(c), or (e)" in paragraph (2)(A) and inserting in lieu thereof "(d), or (f)";

(D) by striking out "(c), or (3)" in paragraph (3)(A) and inserting in lieu thereof "(d), or (f)"; and

(E) by striking out "subsection (m)" in paragraph (7)(B)(ii), and inserting in lieu thereof "subsection (n)";

(2) in subsection (g)(1) (as redesignated by subsection (a)(3)), by striking out "subsection (m)" and inserting in lieu thereof "subsection (n)";

(3) in subsection (h) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (d)" in paragraph (1) and inserting in lieu thereof "subsection (e)";

(B) by striking out "(b) or (c)" in paragraph (2) inserting in lieu thereof "(b) or (d)"; and

(C) by striking out "(h) and (i)" in paragraph (3) and inserting in lieu thereof "(i) and (j)";

(4) in subsection (i) (as redesignated by subsection (a)(3)), by striking out "(c), or (e)" and inserting in lieu thereof "(d), or (f)";

(5) in subsection (j)(1) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (n)"; and inserting in lieu thereof "subsection (o)"; and

(B) by striking out "subsection (m)" and inserting in lieu thereof "subsection (n)"; and

(6) in subsection (l) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (b)" in paragraph (1) and inserting in lieu thereof "subsections (b), (c), and (e)"; and

(B) in paragraph (2)—

(i) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b), (c), and (e)"; and

(ii) by striking out "(c) or (e)" and inserting in lieu thereof "(d), or (f)".

(c) DEFINITION.—Subsection (o) (as redesignated by subsection (a)(3)) is amended by adding at the end of the following new paragraph:

"(8) The term 'designated agency ethics official' has the same meaning as the term 'designated agency official' in section 209(10) of the Ethics in Govenrment Act of 1978 (92 Stat. 1850; 5 U.S.C. App.)".

(d) AMENDMENT TO TITLE 10.—Paragraph (6) of section 2397a(a) of title 10 United States Code, is amended to read as follows:

"(6) The term 'procurement function' includes, with respect to a contract, any function relating to—

"(A) the administration of the contract;

"(B) the approval of changes in the contract;

"(C) quality assurance, operational and developmental testing, the approval of payment, or auditing under the contract; or

"(D) the management of the procurement program.".

(e) DEADLINE FOR REGULATIONS.—Not later than 90 days after the date of the enactment of this section, final regulations implementing the amendments made by this section to the provisions of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) shall be issued in accordance with section 6 and 25 of such Act (41 U.S.C. 405, 421).

Mr. BINGAMAN. Mr. President, the amendment I have sent to the desk on behalf of myself, Senator GLENN, Senator LEVIN, and Senator WALLOP, is a provision dealing with the subject of postemployment restrictions for employees and former employees of the Department of Defense.

Section 844 of the bill that we are now considering clarifies postemployment restrictions for employees and former employees of the Department.

The amendment that we have sent to the desk provides for a government-wide clarification.

I ask unanimous consent that an explanatory statement dealing with this subject, which contains the views of Senator GLENN and Senator LEVIN and Senator WALLOP and myself, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT STATEMENT ON PROCUREMENT INTEGRITY AMENDMENT

1. *Recusal of Procurement Officials.*—Section 27 of the OFPP Act prohibits a procurement official from discussing employment with a competing contractor during the course of a procurement. A "procurement official" is defined as a government official "who has participated personally and substantially in the conduct of the agency procurement concerned . . . as further defined by applicable implementing regulations."

The amendment adds a new Section 27(c) to the OFPP Act, which makes it clear that the Act permits recusal of procurement officials in appropriate circumstances. Under this provision, a procurement official may discuss employment with a competing contractor if, prior to engaging in such discussions or promptly after an initial contact from the contractor, the official requests recusal in writing, and his or her supervisor approves the request.

Regulations implementing this new section should include specific criteria bearing on the integrity of a procurement—such as the timing of the request and the degree of the employee's involvement in key procurement decisions and actions—to be considered by agency officials in deciding whether to approve or disapprove an employee's request for recusal and in determining the appropriate length of a recusal. The appropriate length of a recusal may vary from contract to contract, depending on the stage of the procurement process and the degree of the employee's involvement in key procurement decisions and actions.

2. *Enforcement Discretion.*—Section 27 gives broad discretion to officials responsible for determining the appropriate course of action with respect to alleged violations.

Concerns have been expressed that a former employee could be subject to sanctions for violating the revolving door prohibition in Section 27, even though the former employee was not aware that a matter that he was working on in the private sector involved the same contract on which he had been involved as a government official.

The amendment would revise Section 27(e) (redesignated by the amendment as Section 27(f)) to incorporate a "knowing" violation standard directly into the statute. A "knowing" standard is already included in the other substantive prohibitions of Section 27.

3. *Personal and Substantial Participation.*—The post-employment restrictions in redesignated Section 27(f) restrict certain government officials from working for competing contractors on specified contract matters. The amendment clarifies that this provision does not apply (a) to actions by government officials that do not involve the award, modification, or extension of a contract or the conduct of a procurement; or (b) to actions on behalf of a competing contractor that do not involve the negotiation or performance of a contract that the individual worked on as a government employee.

The amendment directs the issuance of implementing regulations detailing the types of actions that fall into these categories.

a. *Actions by Government Officials.*—With regard to actions by government officials, these implementing regulations should specify that, as a general matter, scientific, engineering, or technical personnel performing general research in a particular area are not considered to have participated personally and substantially in a given procurement simply because the research may have a bearing on that procurement.

For example, such personnel should not be considered to be procurement officials because their research is used by others in writing the specifications for a procurement. On the other hand, personnel who actually participate personally and substantially in the drafting of specifications should be considered to be procurement officials and are covered by redesignated Section 27(f).

The implementing regulations should also specify that general budget and policy advise and decisions are not considered procurement functions covered by redesignated Section 27(f). For example, a decision by a high-ranking agency official to proceed with the development of a new weapons system, to modify or terminate a system or to increase or reduce the funding request for an ongoing acquisiton does not constitute personal and substantial participation in a procurement action covered by the statute, even though it may influence a procurement. Other actions by high ranking officials—such as a meeting between such an official and a contractor to bargain for a contract modification reducing the contractor's price prior to a budget decison—are covered by redesignated Section 27(f).

b. *Actions on Behalf of Competing Contractors.*—The regulations should make it clear that general scientific and technical work on an independent research and development project would not be covered because redesignated section 27(f) does not apply to work charged as an indirect or overhead cost unless such work involves the negotiation or performance of a specific contract that the individual worked on as a government employee.

4. *Coverage of Subcontractors.*—The statutory term "competing contractor" includes entities that are reasonably likely to compete for subcontracts as well as contracts.

The amendment would revise redesignated Section 27(f) to limit the applicability of the revolving door provision of the statute to subcontractors. In particular, a procurement official would be prohibited from working on a particular subcontract only if: (1) the price of the subcontract is in excess of $5 million; (2) the price is in excess of $100,000 and constitutes 5 percent of the prime contract price; or (3) the procurement official personally reviewed or approved the award of the subcontract.

5. *Ethics Advise.*—The amendment adds a new section 27(k) to the OFPP Act. Under this provision, an employee or former employee of an agency may request advice from the appropriate designated agency ethics official as to whether he or she is precluded from working for a particular contractor on a particular contract. Such a request must be accompanied by all information reasonably available to the employee or former employee that is relevant to a determination by the ethics official. Regulations implementing this section should provide guidance as to the kinds of information that are necessary to render such a determination.

Upon receipt of such a request, accompanied by appropriate information, the designated agency ethics official has 30 days to issue a written opinion as to whether the employee or former employee is precluded from working on the specified contract. The provision further provides that the employee or former employee is not subject to any penalty under section 27 to the extent that he or she reasonably relies upon an ethics opinion that is based upon full disclosure of relevant information.

6. *Section 2397a.*—The amendment also amends the definition of "procurement function" in section 2397a(a)(6) to title 10. The purpose of this amendment is to delete coverage in section 2397a of pre-award procurement activities which are covered on a government-wide basis by section 27 of the OFPP Act. Section 2397a would continue in effect for DOD employees with regard to post-award procurement activities.

Mr. BINGAMAN. Mr. President, this is legislation that we have spent a sub-

stantial amount of time in hearings on in the subcommittee which Senator WALLOP and I head in the Armed Services Committee. It is good legislation. I am hopeful the Senate will adopt it. I believe the amendment has been cleared on both sides.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. The Senator is correct. It has been cleared on both sides and I think it is of some urgent necessity.

From time to time we take a look at things that terrify us and in taking care of the things that terrify us we take care as well and prevent the things which are most useful to us. I think Senator GLENN and Senator BINGAMAN, and I and Senator LEVIN have really happened on to one of those things that is most urgently needed to restore a certain level of competence into this procurement process.

The title of it is "Procurement Integrity Amendment." I think it is well titled and I certainly support it.

I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have not seen this amendment and I am very interested in this subject. I will be happy to take a look at it but I am not anxious to see this amendment adopted without some debate or at least a chance to read the amendment.

Mr. BINGAMAN. We are glad to provide the amendment to the Senator from Alaska. It was my understanding that it had been cleared with him and his staff. If that is not the case then obviously we would not want action.

Mr. STEVENS. As a matter of fact, I was the cosponsor of the amendment to strike the section in the bill and I am prepared to defend that position to begin with. I would be happy to review this amendment to see if it takes care of the objections I previously raised.

Mr. BINGAMAN. Let me just clarify with the Senator from Alaska. This is an amendment to section 844 of the bill. I do not believe there has ever been an amendment proposed to strike that. If there is a genuine disagreement or need to spend additional time on it, we are certainly glad to do that.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. President, I am grateful for the delay so that we might review this and its application Governmentwide and I express no further opposition to it at this time.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 615) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I want to take just a moment to applaud the action of the committee and of the distinguished Senator from New Mexico, trying to meet what I think is a very, very real problem in staffing the Department of Energy.

I realize the Government Operations Committee has for a long while been dealing in this area of trying to determine what are acceptable conflicts of interest. But I want to recite to the Senate, of my own knowledge, the efforts that have been made by the Department of Energy to hire qualified people to deal with problems of overriding national significance and very real problems. There is only one way to deal with those problems and that is to find qualified people to deal with them.

I know the Secretary has had tremendous difficulty finding the kind of people we would all want to staff the Department of Energy in these areas where technical expertise is necessary. We can find that technical expertise in the national labs and their contractors and it is a tragedy if the matter of fact restrictions we set up bar that employment access to that kind of real skills in areas that demand action by the Federal Government.

I applaud what the committee has done in an effort to ease that problem and to make it possible for the Department of Energy to do the kind of job that is necessary.

It was earlier this afternoon when the distinguished chairman of the committee, Senator NUNN, offered an amendment dealing with the cleanup of these nuclear weapons plants in order to increase the amount of money which is available to go into the cleanup program. That is an amendment I support. I supported it then. I do now.

But it will not be solved by money alone. It must be solved with competent people. If we have rules that make it impossible for us to get the kind of competent people we need, we need to make changes in those rules or adaptations of those rules to the very real and critical situation that confronts us.

Again, I applaud the committee for addressing the question. I think it is a real question. It is not just a sham. It is something we must deal with.

I want to do anything I can to help the Department of Energy in its effort to get the personnel on board that alone can deal with the problem that is of overriding national consequence.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I appreciate the remarks of the distinguished Senator from Idaho and I appreciate the intent with which he gives them. I, too, want to see the finest people come into Government. But I could not disagree with him more on doing it on this bill and the way we are going about it. I think we have within this bill, the seeds of the destruction of the civil service system of the U.S. Government. I do not overstate that one iota.

If we want to start shuffling people around and paying special pay for this and that and something else, then this bill is the appropriate way to do it. I did not call the amendments up yet, but my remarks will be addressed to amendments 458, 460, and 461, which deal with different aspects of this particular problem.

I rise to speak in opposition to several sections of the Defense bill. I speak as a member of the Armed Services Committee. I opposed this in committee, and I oppose it on the floor because I think it is flat wrong. I agree we should be getting good people in the Government. I have talked personally to Energy Secretary Watkins. I know the problems he is having. I know the problems we are having at NIH. I know the problems we are having at NASA. I know the problems we have getting good people at DARPA. If we are to make a new policy, as the administration has begun to propose with their pay proposal, and if we are going to say, OK, we are going to pay what we have to pay in whatever branch of Government to get these people, then that is a whole new departure from the protections of civil service and the equities of civil service that have guided our Government employment policies for a long, long time and done very well.

What is at the base of our problem here? Did the Senator vote for the pay increase for the Congress? I do not know. I have not checked it. There were not many Senators who voted for it, I know that. That is at the heart of our problem. We do not have guts enough in this body to get up and say since civil service pay is linked to the Congress, the pay of the judiciary is linked to the Congress, that we, in fact, should take care of that problem. We do not have guts enough to do that. We dance all over the lot on it. So we wind up with pay scales of our

civil servants being below what they should be.

I agree with that. We cannot always get the right people into Government at our present rates of pay. NIH has had 20 percent of their top staff quit in the last 10 years to go other places. Are we to ignore them, ignore NASA? Greg Field was over at DARPA and he was before our committee. He was not testifying on this particular subject, but I talked to him before the hearing about this at DARPA, the people used to line up to try and get their 4- or 5-year stint at DARPA in order to get it on their record—because it was such a high visibility, highly technical program. He is having trouble getting fully qualified people. That would argue in one respect in favor of what was done in the Senate Armed Services Committee.

But I oppose this provision because I think it may well wreck civil service. Sections of this defense bill authorize numerous exemptions from civil service limitations on pay. This bill waives the civil procurement integrity restrictions and criminal conflict-of-interest laws for people at DOE. Did anyone hear that? The civil procurement integrity restrictions and criminal conflict-of-interest laws are waived. We worked on creating those restrictions for years around here.

In particular, I rise to oppose three sections of the bill which, if enacted, will begin the dismantlement of the civil service as we know it. Sections 843 and 3142 would, respectively, permit DOD to pay 500 persons, and section 3142 would permit DOE to pay 25 persons, 525 persons total, as much as 150 percent of the pay applicable to executive level II salaries. This would permit them to be paid approximately $135,000 a year, more than the vice President of the United States.

Section 3142, which covers DOD personnel, would also waive dual compensation limits and allow those individuals to make as much as $180,000 a year. Section 3142 would also waive criminal conflict-of-interest restrictions. It would waive criminal conflict-of-interest restrictions and procurement integrity legislation which applies to Federal employees. I believe this makes the provision objectionable on a variety of grounds.

Let me go on to another section, section 845. It is a waiver of current dual compensation provisions in the current law for 1,000 employees of DOD. The effect of this change would be to allow retired military, but not civilian personnel to accept their pensions and a full Government salary. Mr. President, I have some sympathy with this one, I must admit. I was a military retiree before I came to the Senate. I thought that was earned income that I had done without all those years, and I do not like these restrictions that say you have to give up some of what you have earned in order to come in here and serve as people do in other branches of Government. But this is not the way to take care of that problem, as I see it.

The problem here is we are doing it just for these employees of DOD, 1,000 of them, and at the same time you are telling the civilian employees who are retired and getting their retired pay, no, they cannot come back and get that same waiver. What on Earth is fair about that? You say, well, military retirees have the option of retiring at an earlier date. OK, what about your civil service employees who have 30 years in, they are in their late 50's, they retire, why should they be excluded from coming back and getting another 10 years of employment if they wanted to? We freeze them out with this. We say it only applies to military. We give 1,000 military retirees this option.

As many of you know, I serve both as chairman of the Manpower Subcommittee on Armed Services—it deals with those manpower matters in this bill before us—and also I am chairman of the Governmental Affairs Committee. Under the Governmental Affairs Committee, we deal with civil service. These two posts have given me a very keen sense of the problems of the civil service and the overall problem created by failure to provide adequate pay raises to dedicated Government employees.

I have often spoken of the crisis facing the Federal Government because of our inability, addressed just a moment ago, to hire and retain an adequate cadre of scientific and technical personnel. While this problem certainly exists at DOE and other high-technology mission agencies, it is a problem that exists not just there, not just DOD, not just DOE, but across the whole length and breadth of Government, wherever we need highly technical people or highly trained management people for this $1.2 trillion budget that we try to administer every year.

Similar problems exist at NASA, NIH, all other places where the Government requires topflight scientific and technical personnel. In fact, apart from these types of technical personnel, it equally affects other disciplines. For example, the FBI, and other law enforcement agencies can legitimately claim they suffer problems in staffing retention due to salary restraints; and in particular, recruiting agents for areas of high living expenses. Therefore, I am aware of the problems DOD authorization bills special pay provisions are attempting to address.

As chairman of the Governmental Affairs Committee, I must recognize there are larger issues here that need to be addressed. I believe we need to address our scientific and technical manpower problems on something more than an ad hoc agency-by-agency basis. Taking piecemeal action like this just encourages delay in dealing with the larger problem and will allow certain favored departments to be the beneficiaries of salary largess while others lacking the same political clout will fall behind.

Endorsing any of the exceptions to the civil service structure that are contained in this bill, particularly those which create separate pay systems allowing up to 150 percent normal Government salaries, would be particularly ill-timed given that the Bush administration has recently tendered a pay proposal that would address the scientific and technical pay problems Governmentwide. That proposal has been referred to the Governmental Affairs Committee. It would create 200 such positions Governmentwide. And, remember, this provision that we are talking about this evening right here creates 500 such positions in DOD alone. We should consider that proposal and those of the Members of the Senate before addressing the Federal Government scientific and technical personnel problems in such a piecemeal fashion.

The Governmental Affairs Committee, which I chair, plans to hold hearings on the administration's pay proposal in the near future. I know some of my colleagues, particularly Senator PRYOR and Senator STEVENS, the chairman and ranking member of the Civil Service Subcommittee, have very strong opinions on these issues and are looking forward to hearing the many witnesses who undoubtedly wish to address these issues. I believe this issue could await the outcome of those discussions. I know also, over in the House, Congressman FORD, in a discussion with him this afternoon that some of the staff had, indicates that there already are things under way that we were aware of before, discussions with OMB in trying to get a satisfactory pay package that will address this thing Governmentwide.

I cannot guarantee we will get it through this year. I can guarantee we are working on it. I know the other thing that will be brought up is I promised this same thing last year that we were going to address this in the new year. I said let us not piecemeal it last year. What I depended on, and I was wrong in my dependency, but I depended on the Senate to have some common sense and vote for a pay raise that would have taken care of this whole thing so that we could move on to consideration of raises for civil service, technical pay, whatever was needed to get the right pay scales in Government, to get the talented people in that we need and must have. We got stopped dead in our tracks because we did not have the guts as Sen-

ators to vote that kind of a pay raise and get it through the Congress.

So I got sidetracked on that, and I am the first to admit that that is what happened this year. So we were not able to fulfill that promise of last year when I stood on the floor and made promises that we were going to deal with this thing as soon as we got into the new year.

Mr. President, I would like to address sections 843 and 3142 in the bill, compensation for "critical personnel."

I have the following specific objections to each of the provisions in the civil service area.

With respect to the 150 percent pay provision, in the interest of preventing chaos and maintaining a unified civil service, it is important that Congress continue its moratorium on approving different pay plans for individual agencies. If we allow DOD and DOE to exercise special pay authority, then how do we say you cannot do it, with the same latitude for the SEC, NASA, NIH, and all the other agencies which have asked Congress repeatedly for special pay authority. If this provision is allowed in the defense bill, every member of a standing authorization or appropriation committee will see the agencies they oversee making the case, and the justified case, for such provisions of their agencies.

How will you be able to stem this gold rush once you breach the principle of civil service pay in this way? How will you be able to distinguish the legitimate need of one agency from another?

I believe a special pay program of this sort could have an extremely negative impact on civil service as a whole. The effect of the program would be higher pay for a select few and demoralization for all the rest in the workplace.

How long will it be before the politically "correct" civil servant obtains the rewards of higher pay versus colleagues who do not play politics on the job but simply represent the best interests of the taxpayer?

Allowing certain employees to make 150 percent of executive level II salary, as this bill currently provides, would mean that some scientists and engineers could make more than the Vice President of the United States. This is a ludicrous possibility and one we should not establish at this time. Let us channel our energies into obtaining a decent pay raise for all civil servants and for Congress and the judiciary and then turn our attention to the special programs where greater incentive pay is needed. And I agree with that. Not in this way and in this manner.

Mr. President, I would also like to address section 845, the waiver of dual compensation provisions.

Is this just a limited pay raise plan in disguise for certain lucky military employees under this plan? All 1,000 employees authorized by the amendment could retire tomorrow, draw their full military pension and a Government salary as well.

Now, at a minimum should this section of the bill be passed, there should be a mandatory waiting period before military retirees drawing their full pension can also draw a Government salary. We should not have people simply change clothes from military to civilian dress and keep the same position with greater pay. What criterion will be used to designate the lucky thousand? The bill is silent in this regard. I said before I have a great sympathy for that. I do not like it that my military retirement, which I thought I earned by giving many years service with lesser pay for that retirement income—it was like deferred income. We looked at it that way. We talked about it that way. So I have great sympathy for taking away those restrictions, but not just for a favored thousand in the Department of Defense with no such provisions for other agencies and no such provision for civil service personnel that have retired.

Finally, there is just a fairness issue at stake here. It is not logically consistent to allow military retirees to return to work with full pensions while disallowing civilian retirees the same privilege. Will we now make such a provision available for civilian retirees? How do we keep people from retiring in name only, so they can collect a pension and a salary for the same position, be they military or civilian employees? What is fair about that?

Mr. President, there is an old saying that hard cases make bad law. Sections 843, 3142, and 845 represent an attempt to address an admittedly difficult problem in recruitment and retention of good people for critical positions in Government. But the proposed remedy may bring with it a host of equally or more serious problems. If we have not the courage to completely decouple congressional pay from executive branch pay so that all Government employees can be treated fairly, then let us not destroy the civil service system by arbitrary assignment of special pay and privileges to a select few in order to reduce the pressure on us to do the right thing for the entire Government work force.

Let us be clear about this. The problem these sections of the bill try to address has been created by the failure of Congress to raise its own pay. Having failed to do that, we are now going to dismantle without hearings, without careful deliberation, a structure that in past years has served us I think very well.

Perhaps there is a need for the establishment of additional pay bands in Government. If so, it should be carefully examined and commented on by those who have devoted parts or all of their lives and careers to studying the public service. Proposals in sections 843, 3142, and 845 have not been subjected to such scrutiny. Until they are, I cannot support them and I urge my colleagues to vote for my amendment to strike them from the bill before us.

Now, there are two related provisions in this bill concerning senior DOE managers which I believe create very serious concerns. Some of the concerns are similar to the ones expressed previously concerning specific DOD exemptions. These DOE provisions can be found in section 3142 of the bill. It begins at page 444.

Summarizing these provisions, they allow the Secretary of Energy to designate 25 senior jobs as "critical positions" and fill those jobs with persons from outside DOE. Again, unlike normal Government servants, these persons can also be paid up to 150 percent of a normal Government executive salary so long as they stay in Government. There is no limit on them. Dual compensation limitations will be waived for them.

One could only speculate as to the impact this will have on the morale of Government employees who perform similar work for their significantly more modest Government salaries.

Second—and this one is even more disturbing to me—if these individuals are drawn from one of several DOE-sponsored laboratories, they will be exempted from all civil procurement integrity law restrictions and the criminal laws of the United States. 18 United States Code 207 and 208, concerning conflicts of interest will be waived. The practical effect of these provisions could be devastating to the fair operations of the Department's contracting and decisionmaking powers.

To give an example, pursuant to these provisions DOE could hire a senior employee from one of the DOE laboratories who will then be vested with sweeping powers over administrative, budget, and procurement authority. These authorities could be used consciously or unconsciously to benefit the laboratory from which the critical employee is drawn, and to which he or she intends to return.

No effort has been made to encourage even minimal limitations upon such possible activities by such usual methods of requiring recusal where possible, or limiting power over procurement sensitive source selection information, or limiting control of budget authority with regard to the laboratories from which the person comes.

It would be human nature for any person given such powers to look favorably upon his own programs, his own laboratory, indeed his own future. In addition, based on the loose draft-

ing of this section, it does not appear that the person who benefits from such dispensation is limited to returning to the lab from which they came, although I am told that is the committee's intent.

I believe this also is very bad policy, and that it will encourage a process of balkanizing our ethics in civil service laws. I am very sympathetic to the concerns of the Secretary of Energy, who feels that DOE's level of expertise is so woeful he can only obtain the type of help he needs at the expense of dispensations from the usual terms of Government service. I have talked to him personally about these things, and I am very concerned about how he is going to staff some of the positions over there.

But without more meaningful limitations upon these powers, this provision simply opens up the Government to potential fraud, waste, and abuse.

Once we breach the conflict-of-interest laws for DOE, will we breach them next month or next year for DOE, NASA, National Science Foundation, and others?

Mr. President, those are my concerns. I know there are others who wish to speak on this particular subject. At the appropriate time it would be my intention to combine amendments 458, 460, and 461 and ask to consider them together and ask that sections 843, 845, and 3142 be taken out of the Department of Defense authorization bill that we have before us on the floor.

Mr. President, I yield the floor, or stand by for questions if people have any questions.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have listened with great interest to my able friend and colleague from Ohio, who has been very much involved in the whole matter of nuclear production and nuclear cleanup as not only a very valuable member of the Armed Services Committee and a member of the Strategic Subcommittee thereof that I chair, that has been working on this program in conjunction with the other important duties that the Senator from Ohio has, as chairman of another very important Governmental Affairs Committee that has some jurisdiction in this area.

In some instances I believe that the Senator from Ohio has made some excellent points, and I believe that the Members of the Senate should listen and weigh the evidence before the amendment that he has offered is voted upon. I think he makes some very good points. I wish we had the time to have a thorough overview, review, and enact legislation that would better compensate those whom we need most in certain critical areas today. But that simply is daydreaming. It does not address the critical issue that I feel faces the United States of America and its national security unless we act favorably on the armed services amendment provisions in this whole area.

As the chairman of the Strategic Subcommittee I have worked very, very closely with the Secretary of Defense on this whole matter. The chairman of the committee, Senator NUNN, has been very much involved as have most of the members of the committee. Senator GLENN, I think, brings up some very good points and some very logical concerns. All of those concerns were addressed, studied, and bandied about as we formed the committee positions.

There is one thing that I would like to correct, though; that is, in listening to Senator GLENN I felt that he indicated somehow conflict of interest laws had been totally abandoned. That basically is not the case because of the provisions along those lines and the measures that were adopted by the committee provides these people who are experts that we need can go back to their laboratories in the private sector such as a university, the University of California to use an example. And they would not be covered—that part of the act to eliminate conflict of interest for anyone who comes out of strictly the private sector to assist the Department of Energy under their present critical situation.

How critical is this? I think it is extremely critical. I hope after we have a thorough discussion on this while I agree with the points generally brought up by my friend from Ohio, I want to say that this legislation is for 25 employees—25 key employees. What is the critical situation?

The situation can best be described I think as a disaster, not a meltdown, but a disaster as far as our national security interests are concerned. The 25 individuals and 25 individuals only that we are allowing in this legislation for the Secretary of Energy to recruit and put on line are absolutely critically needed, Mr. President. And I hope after this discussion my friend from Ohio will see fit to withdraw his amendment. If he does not do that, I hope the Senate will soundly defeat the strike motion that he is making.

I think the best way to sum this up, perhaps, is to simply say that there are 25 people, and 25 people only. They are to be used by the Secretary of Energy who himelf is an expert in the whole nuclear field. I say to all that the President of the United States and we Americans indeed are privileged to have the luck to have former Admiral Watkins, an expert in the whole nuclear area, to be tapped for this very, very important position at a particularly critical time.

Why is it critical? Well, it is a critical period for our nuclear deterrence because as of now, and for several months and maybe over a year, we have had no tritium production in the United States. As we all know, tritium is a key ingredient—it decays at the rate of 5 percent a year—to keep our nuclear deterrent up to its requirements.

We have closed down as we all know the three plants at Savannah River. And we do not know when those are going to come back on line. The best estimates that I can get as to if we started right today—and we have not started—to build a new reactor to produce tritium is that it would take a minimum of 8 years on a crash program all out, if we could do it then and if we did not have environmental problems connected therewith. More likely, it will take 10 to 12 years.

With that fact alone, I think we would set aside the objections by the Senator from Ohio. The right people in the right jobs are critically important as of right now.

That is to say nothing, Mr. President, of the cleanup difficulty that we have with almost every one of the Department of Defense operated nuclear facilities.

The Senator from Ohio is thoroughly familiar with this proposition, and he certainly is thoroughly familiar with the Fernald plant in Ohio that is costing us millions and millions of dollars right now under a lawsuit. No one in the Senate knows more about that problem than does the Senator from Ohio.

Likewise, things have been in the news from time to time, including the latest tragedy at Rocky Flats right outside Denver, CO, which is threatening a very large area, and the water supply possibly of Denver itself. I think what we are trying to do, and why we have worked so hard, Mr. President, with the Secretary of Energy on this matter, is to recruit 25 only, 25 only, high quality, high-technology scientists and other people that can both move along the necessity to come up with new tritium production and some plutonium also, along the line, and at the same time other people who would be recruited to clean up the mess that we have, the nuclear mess, around the plants owned and operated by the United States of America.

Just today the Secretary of Energy had a press conference, and he announced that it is going to cost $3 to $5 billion per year for the next 5 years to start on the program. He still refused to come up with an estimated figure of what it is going to cost to clean up these facilities, and you couple that in with what is necessary to get new production on line, and it is billions and billions of dollars.

If I have any complaint about the Secretary of Energy, it is that he has

not laid it on the line as to what it is going to cost the American people. The Congress has a right to know what the estimates are. I suspect the estimates are so scary that no one wants to lay it out.

I am going to read a letter that we received today from the Secretary of Energy, addressed to the chairman of the committee, that I think explains better than anything else why the Strategic Subcommittee and the Armed Services Committee feel it is absolutely necessary, regardless of any of the other problems in Government, that we recognize but cannot do anything about now.

Mr. STEVENS. Mr. President, will the Senator yield for a question?

Mr. EXON. I will be glad to yield for a question.

Mr. STEVENS. I have been sitting here listening, Mr. President, to the Senator from Nebraska, and I think he states a case that the Senator from Ohio and I would agree with.

Do the Senator and the Armed Services Committee members who voted for these amendments seek to offer an incentive to people to come forward and provide solutions to people at DOE, for instance, or DOD, in this type of amendment? Is that what we want, people to come forward that have the ability to solve problems that no one else has?

Mr. EXON. The answer to the question is that we are authorizing the Secretary of Energy, at his request, to pay some increased salaries to people that he says are vitally needed to address the problem.

Now, Mr. President, I am going to go ahead with my presentation.

Mr. STEVENS. Will the Senator yield for one more question?

Mr. EXON. With patience, I yield to the Senator from Alaska for another question.

Mr. STEVENS. Mr. President, I know the patience of the Senator from Nebraska, because I have been fishing with him, and he is very patient.

Mr. President, my question is this: Did the members of your committee, the Armed Services Committee, explore the options for seeking the result that the Secretary wished? For instance, did they explore the concept of bonuses for performance or lumpsum payments, not salaried, in addition to existing salary? Were there any other options selected by the Armed Services Committee to achieve the results without disturbing the whole pay network of the Federal Government?

Mr. EXON. I think the best answer that I can forwardly give to the Senator from Alaska is that we have worked closely with the last Secretary of Energy and the new Secretary of Energy to come up with a program that will work.

If the Senator is asking me whether or not we explored bonuses, my honest answer to that question is that other members of the committee may have, but I did not. I suspect that I relied, to a large extent, on the Secretary of Energy, his expertise, and the needs as he outlined them.

I will now proceed, Mr. President, to read the letter of August 1, 1989 from the Secretary of Energy.

I ask that the full text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, August 1, 1989.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: When the President asked me to take on the job as Energy Secretary, he made it clear that my first and most challenging mission was to clean up the Nation's nuclear production complex.

The plain fact of the matter is that production of strategic nuclear materials can resume only with the highest confidence levels of safety and environmental compliance. Achieving this will require more than just money for bricks and mortar. The Department desperately needs an infusion of key individuals possessing superior skills and expertise in managing complex scientific and industrial activities whose operation requires the utmost in professionalism and experience.

To carry out this task the Secretary of Energy requires individuals of exceptional ability and experience in a variety of technical fields. The skills needed range from leadership and individual creative experience in the weapons program conducted by the national laboratories, to individuals possessing experience in senior management positions in industries that have had to deal with and master problems similar to those encountered by the Department's weapons complex.

My ability to attract such people has been hampered. Compensation levels in the private sector for individuals possessing the type of experience the Department needs now frequently are well into six figure ranges. For example, I am informed that the senior contractor executive at one of the Department's major facilities—whose performance DOE must be in a position to oversee effectively—commands in excess of $200,000 in annual compensation. Even senior scientists at the national laboratories, whose work is exclusively financed by the government to carry out government programs, typically are compensated at rates comfortably within six figures. For these individuals, too often it is literally impossible to accept a federal position at federal compensation levels.

It is to remedy this immediate problem that the 1991 Defense Authorization Bill contains temporary authority authorizing the Secretary of Energy to designate 25 positions supporting the Department's defense activities as critical to that program. Under this legislation, such a designation would enable the Secretary of Energy to fix the compensation for this minimum number of critical positions up to 150% of that otherwise provided by law for positions in Level II of the Executive Schedule.

As it was reported by the Armed Services Committee, the bill contains two features that are of critical importance to its effectiveness. First, during the course of its consideration by that Committee, it was determined that 25 positions were appropriate for designation by the Secretary of Energy under this legislation. From my survey of the Department's defense activities, 25 positions is a very modest complement and the minimum necessary to make this approach actually work. While I estimate that easily more than 100 positions probably could be considered critical to the Department's strategic defense missions, I believe the Committee's choice of 25 positions is the minimum necessary and that number should not be reduced.

Second, in addition to its compensation features, the bill affords certain limited conflict of interest law relief for scientists of the national laboratories who come to work for a time in critical DOE positions. The talent in the national laboratories is a critically-needed element that should be available to the Department. A period of service in DOE by a national laboratory scientist should be a logical step in a career path, and that period of service in DOE should not prejudice a laboratory scientist's future career opportunities within the national laboratory system.

Even though the national laboratories perform exclusively governmental work with government property to carry out sensitive government programs, technically they are operated by contractors, like the University of California. Thus for conflict of interest law restrictions, laboratory service both before and after service in DOE is regarded as though it were any other employment with a private contractor. National laboratories in fact are not ordinary private contractors, however, and this legislation would provide the minimal tailoring of the existing conflict of interest laws to enable laboratory scientists to serve in critical positions in DOE without prejudicing their future careers in the national laboratory system.

In urging favorable action on this measure I am keenly aware that the President has advanced initiatives dealing with government-wide executive compensation and federal ethics law reform. As a member of the President's team, I enthusiastically share his conviction that these measures properly should be considered on a government-wide basis. Although the President's measure is not before the Senate today, I urge that his proposal for government-wide special pay authority be acted upon promptly. The pay provisions for the Department of Energy should be modified to be consistent with the President's proposals when they are enacted.

My assessment of the Armed Service Committee's formulation for critical DOE positions is that it is entirely consistent with the spirit and thrust of the President's initiatives. That formulation is directed, however, to the narrower and immediate problem of restoring the Nation's ability to produce strategic nuclear defense materials within the next year.

Thus, it is my personal view and my strong conviction that, to deal with the Department's urgent current needs, the approach adopted by the Armed Services Committee is the best way to proceed. Therefore I urge and appreciate your support for this provision.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

Mr. EXON. Mr. President, I think that says it all.

While we can talk about the fact that it would be better to do this another way, the facts of the matter are the Armed Services Committee has decided that we cannot delay this any further. We put it off and we punted last year. It is now time to take the ball and run with it if the national security interests of the United States are our top priority and the cleanup of nuclear complexes is demanded as is being demanded today clear across the Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me speak very briefly, because I see the Senator from Arkansas is desiring recognition, as is the Senator from Alaska, and I know Senator NUNN, the chairman of the Armed Services Committee, is anxious to speak on this matter here before we go to a vote. I am sure there are others as well who would like to speak.

Let me just put this debate in a little bit of context if I could. The arguments that are being made are of several types, but a major part of the argument that the Senator from Ohio is making is that we should not do this at this time; we should wait until it can be done in a more comprehensive fashion.

That is the argument we heard last year. That is the argument we heard in 1987. That is the argument we heard in 1986. That is an issue which in my view can wait no longer, and we have a statement by our current Vice President, Senator QUAYLE at this time, in 1986, indicating that his view was, in 1986, here on the Senate floor, it was a problem that could wait no longer.

We have deferred year after year and tried to accommodate the desire of those who would do it governmentwide.

I would support a governmentwide effort to deal with this set of problems. But we do not have that before us tonight. We need to do what we can do, and the bill picks out some of the most severe problems and tries to deal with them.

So I feel very strongly we need to do what we can do.

The other part of the argument is, of course, if you cannot do it governmentwide, do not do any of it. That again to my mind is difficult.

The box that we are in, Mr. President, is very simply that some would argue if you cannot do all of the Federal Government executive branch, do not do DOD and DOE, and then when you try to do all of the Federal Government executive branch there are many who say you cannot do that unless you can raise the salary of the Congress. So it all sort of fits together, and the problem is if you try to do it all you can do nothing.

So we are trying through this legislation that is on the floor, the bill as it was reported out of committee, to do the minimal amount, and I believe it is a modest change in the current law to provide the flexibility needed both in the Department of Energy and in the Department of Defense to do what needs to be accomplished.

Let me just address two particular points that I think need clarification.

One is the argument that this would be a terrible precedent, an unprecedented action by the Senate to single out a particular group for special pay.

I point out that Senator GLENN, who is of course chairman of the Manpower Subcommittee of the Armed Services Committee, has taken the lead in the last 2 years to address the very type of problem we are trying to address here but as it applied to military medical doctors. He had recognized that the military medical work force is severely underpaid compared to private sector physicians, and I agree totally with that, and as a result he has sponsored legislation that expanded special pay for military medical doctors. That legislation was enacted last year and as we result we have 2,000 military doctors who are earning salaries above the civil service pay cap, some of them as high as $110,000.

As I indicated, I support what he has been trying to do there, but I believe that we need to recognize that that need that exists for having adequate compensation for military doctors also exists in these other areas as well. I think it is clear that the action of the committee was responsible in this regard.

There is one other thing I wanted to make very clear because there has been reference to it by the Senator from Ohio in particular, and that is this issue of conflict of interest. The provisions that relate to DOE are trying to deal with a very particular problem, and the problem is this: the Department of Energy has under its jurisdiction some of the best laboratories in this country today, and I refer to the Department of Energy laboratory at Livermore in California, to the Los Alamos Laboratory in my home State, the Sandia Laboratory, and to others around the country. Those laboratories have in the main a tremendous resource, and that is the talented scientists and engineers who work there.

We have the weird provision now in the law that the Department of Energy and the Secretary of Energy cannot call upon the talented people in those laboratories to help him in the Department of Energy to work for the Department of Energy and then have those people after a certain number of years go back to work in those laboratories without running directly into the conflict of interest laws.

Those laboratories are operated on contracts with the Department of Energy, but there is a single contract for each laboratory. We have not been precise and articulate enough in drafting the legislation on conflict of interest to permit the situation which obviously should occur which is that the Secretary of Energy can call upon the people in his department who are working in those Department of Energy laboratories to help the Department of Energy.

The problem that he has, of course, is that the people he can pay in the Department of Energy are limited very severely in what they can receive, while the laboratories that are on these contracts can pay a much more reasonable wage which is still not comparable to what many of these people can receive in the private sector but it is certainly more reasonable than what the Department of Energy can pay under the civil service pay caps.

Mr President, we can go into a lot of detail about these provisions. As I indicated when I started, there are others who want to speak, and I just would urge the Senate to allow us to do what has to be done. These are critical problems, both in the Department of Energy and in the Department of Defense. We are not trying to do anything inconsistent with a Governmentwide program, but what we are saying is let us begin here to deal with these serious problems.

Many of these proposals are an outgrowth of the recommendations of the Packard Commission in 1986. Even today, 3 years later, 4 years later, after that report, we find that we have taken very, very little action to try to deal with the problem.

So I would urge that we resist the amendments of the Senator from Ohio and go ahead and keep the bill intact as it was reported out of the committee.

Mr. President, I yield the floor.

Mr. PRYOR. Mr. President, I rise tonight in strong support of the amendment offered by the Senator from Ohio [Mr. GLENN]. Senator GLENN, I think, has made a very compelling case. He has cited the facts and the figures, that we are beginning to unravel the civil service system should this amendment not be adopted.

Mr. President, one of our colleagues has to catch a plane at 9 o'clock at Dulles. I am going to cut my statement. I will be here no more than 60 more seconds.

But I am here to ask my colleagues a simple question: Tonight, if we do not adopt the Glenn amendment and we allow DOE and DOD an exception, what comes tomorrow? The FBI? The SEC? The Department of Education? The NIH? NASA? Where do we stop?

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Mr. President, there is no place to stop. If we grant these two exceptions, we are going to be opening a Pandora's box. It is too late at night, this is too far-reaching a statute, a proposal that we have in the authorization bill. Senator GLENN's amendment desperately needs to pass in order to rectify this situation.

Let me also say, Mr. President, for my colleagues' benefit, should the Glenn amendment not be successful, then I am going to offer an amendment later this evening dealing with the revolving door and the waiver of the revolving door issue. But I do hope that Senator GLENN's amendment will be passed this evening.

Mr. President, I yield the floor.

Mr. WALLOP. Mr. President, I will be very brief. I would just like to point out how strongly I support this amendment.

DARPA is one of the more important parts of this Government, I am sure the Senator from Ohio and others would admit. Since the 1st of January of this year, they lost a director; deputy director of Systems and Technology; the chief scientist; the Director of Naval Technology; the Director of Prototype Projects; the Director of Information Services; the Director of Aerospace and Strategic Technology; and the Director of the Office of Directed Energy.

This is nothing more than a turf battle; nothing more than a turf battle.

Who does not understand that? Well, Americans do not understand it, that is who. It is just as simple as that. Critical employees do not understand it; that is who else. "What do you mean that this Nation has a desperate need of my services but you cannot afford to compensate me?" You lose these kinds of people, while we are waiting for the Governmental Operations Committee, for the Senate, for the House, for the Government in some way or another to come to grips with a crisis that we ourselves have created.

Now, it strikes me that an adequate pay raise will not address all of the issues in all of these different places, though it helps.

The Senator from Ohio says: "What is fair about this differentiation?" And in a strictly egalitarian sense, nothing is fair about this differentiation. But in the interest of America, everything is fair about this differentiation.

We are losing the capabilities and the talents that America cannot do without. It goes back to 1986. We have had the same arguments again in this concept every single time. Now we lose the kind of people that I have just read their titles.

So by the time we await the solutions that come from the cowardice of the House and the Senate and the cowardice of the administration and the incompetence of the committees to deal with these things and present the kinds of solutions that all of us will accept, we will have lost the people to the country that we so badly need.

If we do not have the guts to address pay raise issues of ourselves and we do not have the guts to separate them, at least, for Heaven's sake, let us have the guts to address the situation that exists in the country tonight and give America the talent she so desperately needs and is losing every day we miss a solution to these problems.

Mr. President, I am strongly in support of the provisions of the bill as reported from the Senate Armed Services Committee.

Mr. STEVENS. Mr. President, I regret deeply the time constraints, but I do honor the request of any Senator who has a death in his staff family and I am not going to take too long.

I could not disagree more with the Senator from Wyoming. If I ever saw a good old boy network coming on the line, this is it.

Where do we think all of those people the Senator from Wyoming just mentioned went to work? They went to work for grantees in the Department of Defense.

Senator GLENN and I held hearings where it was proved that people are leaving the Federal Government and going out and working for contractors who are spending Federal grant money. The competition is not from some portion of the private sector. It is from contractors, who are sometimes even acting as nonprofit contractors, hiring people away from the Department of Defense.

The Department of Defense is not the only department that has problems, Mr. President. But, having worked now 21 years on the civil service and the problems of this Government in maintaining an adequate civil service, I have never seen a proposition that would do more to destroy morale in the Government as a whole than this.

Now, it will cost, Mr. President, only about $2 million to take care of the Department of Energy under the proposal here, if you just look at the money. But are these salaries that are 150 percent of executive level II subject to retirement? Are they subject to the thrift fund? Can this person come in and contribute 10 percent of his salary and have 50 percent of it matched by the Federal Government? What is the life insurance level?

I tell you the Department of Defense has come to the Armed Services Committee and asked them to give them carte blanche—"Let us raise the pay here." They do not even know what they are talking about.

And who are the people they are going to hire? Former employees of the Department of Defense who went out and worked for these contractors and they want them now. The good old boy network wants to go to work.

I tell the Members of the Senate, if these are adopted, we will never put the pay scales back into shape. We must change them. We have tried time and time to change them. But, because of the linkage that the Members of the House and the Senate make between their salaries and Government salaries generally, we cannot solve the problem. So along comes the Department of Defense and the Department of Energy and says, "Let us out."

I say, Mr. President, if you have a problem, do you want bonuses? Does the Department of Energy want $2½ million to pay as bonuses to those who perform in the energy areas, nuclear science area to come in and solve some problem, bonuses for work performed? We will give you that money. It will not be salary money.

Does the Deparment of Defense want to have money to hire people who have proven track records in managing money so we do not have some of the scandals we have had in the past? We could give you that money. We would give you that support.

But why make them salaries? Why say that some people are going to get 50 percent more than executive level II, more than the Vice President? They are going to be eligible for retirement. They are going to be eligible for life insurance. They are going to be eligible for matching thrift payments. And you are going to waive almost all of the real effective ethics restrictions against these people.

I only wish Tom Eagleton was here. I can just hear him now. This is the double-dipper of all times. I mean, this is a triple-dipper. Senator Eagleton railed against double-dipping, and he was right.

Now, in one fell swoop for the Department of Defense and Department of Energy, we are going to waive ethics restrictions, waive salary restrictions, and waive the revolving door restrictions. I have never seen a worse proposal, and it ought to be taken out of this bill now.

If we want to solve these problems, we can solve them. We can solve them right here tonight. I will cosponsor any amendment that will give the Secretary of Energy the money to pay bonuses for work performed, for solutions that they bring forward from these scientists they say we cannot do without. As far as the Department of Defense is concerned, if they want to hire those people back from the contractors they lost them to, we will give them bonuses to bring them back provided they perform. Let them show savings if they are going to spend more money than other people are entitled to. Let them show bonuses that

were earned and pay them as bonuses, not as salaries.

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I will be very brief. I ask that a list of the people who have supported these acquisition work force provisions that are the subject of Senator GLENN's amendments be printed in the RECORD at this point.

The list includes David Packard, Jim Woolsey, Frank Carlucci, various former Secretaries of Defense and Secretaries of Energy.

I think it would be a useful thing to have printed in the RECORD as part of this debate and I ask unanimous consent it be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORTERS OF ACQUISITION WORKFORCE PROVISIONS INCLUDED IN THE FY 90-91 NATIONAL DEFENSE AUTHORIZATION ACT (SECS. 841, 843, 844, 845, and 3142)

David Packard, Chairman of the Board, Hewlett-Packard Company; Chairman, President's Blue Ribbon Commission on Defense Management (Packard Commission); Former Deputy Secretary of Defense.

Jim Woolsey, Partner, Shea and Gardner; former Under Secretary of the Navy; member, Packard Commission.

Frank Carlucci, The Carlyle Group; former Secretary of Defense; member, Packard Commission.

Ron Fox, Professor, Harvard Business School; former Assistant Secretary of the Army.

Phil Odeen, Managing Partner, Coopers & Lybrand; member, FPI-CSIS Project on Monitoring Defense Reorganization.

Jack Gansler, Senior Vice President, TASC; former Deputy Assistant Secretary of Defense; Senior Consultant to the Packard Commission; member, FPI-CSIS Project on Monitoring Defense Reorganization.

Don White, President, Hughes Aircraft Company; member, Defense Industry Advisory Group to the Senate Armed Services Committee's Defense Industry and Technology Subcommittee.

John Rittenhouse, Senior Vice President, General Electric Company; Chairman, Defense Industry Advisory Group.

Harold Brown, Chairman, The Johns Hopkins Foreign Policy Institute (SAIS); former Secretary of Defense; Co-Chairman, FPI-CSIS Project on Monitoring Defense Reorganization.

Bob Fuhrman, Vice Chairman and Chief Operating Officer, Lockheed Corp.; Member, Defense Industry Advisory Group.

John Wickham, President, Armed Forces Communications and Electronics Assoc.; member, FPI-CSIS Project on Monitoring Defense Reorganization; Former Army Chief of Staff.

Don Fuqua, President, Aerospace Industries Association; former Chairman of the House Science and Technology Committee.

Bill Brehm, Chairman and Chief Operating Officer, SRA International, Inc.; Member, FPI-CSIS Project on Monitoring Defense Reorganization.

Kent Black, Executive Vice President & Chief Operating Officer, Rockwell; Member, Defense Industry Advisory Group.

William Hoover, President and Chairman of the Board, Computer Sciences Corp.; Member, Defense Industry Advisory Group.

Paul Gross, Vice President-General Manager, Rexnord; Member, Defense Industry Advisory Group.

Melvin Laird, Former Secretary of Defense; Member, FPI-CSIS Project on Monitoring Defense Reorganization.

Norm Augustine, Chairman and Chief Executive Officer, Martin Marietta Corp.; Former Under Secretary of the Army; Member, Defense Industry Advisory Group; Member, FPI-CSIS Project on Monitoring Defense Reorganization.

Earle Williams, President, BDM International, Inc.; Member, Defense Industry Advisory Group.

Cliff Hall, Director Mechanical Research, Sundstrand Corp.; Member, Defense Industry Advisory Group.

Wallace Robinson, President, National Security Industrial Association.

Lawrence Skibbie, President, American Defense Preparedness Association; Retired Lieutenant General, US Army.

James Holloway, President, Naval Historical Foundation; Former Chief of Naval Operations; Member, Packard Commission.

James Schlesinger, former Secretary of Defense.

Mr. BINGAMAN. Mr. President, I also would like to very briefly recount the statements by three of those individuals. Frank Carlucci wrote to us indicating: "I support these acquisition personnel amendments. I supported them when I was Secretary of Defense. I will continue to support them."

Harold Brown wrote that: "I believe these amendments are a valuable step in the right direction. I support them wholeheartedly."

And David Packard, who has done a tremendous amount of work in this area, wrote that he "strongly urges passage of the amendments that have been sponsored as part of the defense authorization bill."

Mr. President, I think it is clear the bill as reported out of committee makes good sense. I resist and oppose the amendments by the Senator from Ohio. It is my understanding he would like to have them voted on en bloc and that is certainly acceptable to the committee.

Mr. ROTH. Mr. President, I rise in support of my colleague from Ohio. Senator GLENN's amendment strikes provisions in this legislation which would provide an exception to the pay cap for certain Federal employees. Specifically, the provisions he moves to strike would allow more than 500 Federal employees within the Departments of Defense and Energy to receive a maximum paycheck equal to 150 percent of Executive Level 2 salary.

As the ranking Republican member of the Committee on Government Affairs, which has jurisdiction over the Civil Service, I am well aware of the difficulties the Federal Government is having in recruiting and retaining highly qualified individuals. I would submit, however, that this is a Governmentwide difficulty and we are better off addressing it in a comprehensive fashion rather than on an agency by agency approach.

While these provisions focus on efforts to recruit and retain scientists and engineers within these departments, it is my understanding that other agencies are experiencing similar difficulties. NASA is having difficulty recruiting scientists and engineers. The National Institutes of Health is having extreme difficulties attracting top-level scientists. The fact is, Governmentwide we are not able to attract the individuals we need.

I am also concerned that provisions in the DOD authorization bill would waive the dual compensation law for up to 1,000 individuals within the Department of Defense and 250 individuals within the Department of Energy. Taken together, providing 150 percent of Executive Level 2 salary and providing the dual compensation waiver, a scientist or engineer in the Department of Defense or Energy could make more than $170,000 under this legislation.

On July 7, President Bush sent to the Congress the Senior Executive Salary Act of 1989. This legislation provides higher salaries to up to 200 employees Governmentwide in positions requiring specialized and critical skills and an 8- to 25-percent raise for senior executive branch officials generally.

In his package to the Congress, the President said:

> The pay of senior Government officials has eroded significantly in relation to the pay of executives in comparable jobs in the private and not-for-profit sectors of the economy. This pay gap is affecting the Federal Government's ability to attract and retain the skilled and motivated senior executives necessary to direct the complex, wide ranging, and critical functions of the Federal Government. Prompt legislative action is needed to address pay deficiencies for employees with exceptional qualifications and to make pay more competitive at the senior levels of Government.

I could not agree more with the President. I believe we need to address this issue Governmentwide, not in a piecemeal approach. While I fully understand the efforts of the Armed Services Committee and the proponents of these provisions, and in fact, agree with their end result, I strongly feel this issue must be addressed on a Governmentwide basis. This amendment does not do that and I urge my colleagues to support Senator GLENN in striking these provisions.

Mr. GLENN. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I prefer to vote on them individually.

AMENDMENT NO. 458

(Purpose: To eliminate the authority of the Secretary of Defense to prescribe rates of pay for certain employment positions)

Mr. GLENN. Mr. President, I call up amendment 458 at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN] proposes an amendment numbered 458.

On page 259, line 12, strike out all through line 18 on page 260.

Mr. GLENN. Mr. President, I am prepared to move to a vote if there is no further discussion on that particular amendment. I know we are anxious to get a vote going and I am happy to do this at this time if the majority leader so wishes.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I will be very brief. I take this time only because the Senator from Ohio earlier said we are in this problem because nobody had guts to vote for a pay increase. Ask the Senator from Idaho how he voted on that matter. I got the RECORD out just to make sure I was right. I thought I was. I voted exactly the same way the Senator from Ohio did.

Mr. GLENN. That is correct on the last vote. I led the floor fight for the pay raise on that when we got only six votes in the Senate.

Mr. McCLURE. I just wanted to make the record clear. The Senator from Ohio and the Senator from Idaho voted exactly the same way on that issue when that vote was before us the last time. I want to repeat what I said earlier: there is an emergency in this country dealing with nuclear weapons plants. There is an emergency in this country today. Those people who wish to deny that have their heads in the sand.

I think it is time for us to get that out to the public, that we need competent people. The Secretary of Energy needs all the help he can get.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. WALLOP. Mr. President, one of the problems the Senate has is too many of its Members have never been in business. One of the things that is clear is that we cannot attract people with the promises of bonuses. We can attract people with promises of direct compensation. And bonuses for which they can compete someplace and somewhere down the road are a nice thing, an incentive to keep people around once hired. But we are not going to bring somebody back who is earning a salary of $150,000 and pay him a salary of $79,000 and promise on the other side that we are going to give him a bonus—we think. That is not a way to solve the problems that exist in crisis form in America tonight.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. As soon as the Senator from Ohio completes his summary I would move to table the amendment but I would defer to him.

Mr. GLENN. Mr. President, I am ready to vote.

Mr. BINGAMAN. Mr. President, I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, I rise in opposition to section 843 of the bill, which provides a 50-percent pay increase for certain Department of Defense personnel.

Mr. President, I understand the problems that section 843 is intended to address. I think that we are all concerned about the reports we have been getting regarding the increasing difficulty of attracting qualified personnel to Government service.

However, this problem cannot and should not be addressed on a haphazard or piecemeal basis. One of the fundamental principles of the civil service system has been, and must continue to be, fairness and equity to all Federal employees. When we single out one group of employees for special treatment, we severely undermine this fairness and equity.

The DOD scientific and technical personnel who are singled out by section 843 of this bill may well be deserving of a pay increase. However, this does not mean that they are any more deserving of such a pay increase than are scientific and technical personnel in other Federal agencies, or than other employees in the Department of Defense who are of equivalent rank.

In fact, section 843, as drafted by the committee, would lead to the anomalous situation where a high-ranking managerial employee responsible for supervising technical and engineering personnel would be paid considerably less than the lower ranking personnel he or she is charged with supervising.

For this reason, I believe that the Federal pay problem can only be addressed in a systematic matter, with full consideration to the relative needs of civil service personnel. This kind of large pay increase for one narrow group of Federal employees simply encourages delay in addressing the larger problems in the Federal pay system.

In fact, the President proposed a pay increase for certain Federal officials—including specified scientific and technical personnel—just last month. The provision in this bill is inconsistent with the President's proposal in terms of the number of personnel covered, the amount of the pay increase proposed, and the terms of the increase.

With a comprehensive pay increase proposal from the administration already on the table, I do not believe that this is the time to be adopting makeshift partial solutions to parts of the pay problem. In my view, we must assess the President's pay proposal, and an appropriate range of alternatives, in a considered manner through committee hearings and markup.

Mr. President, the chairman of the Governmental Affairs Committee, Senator GLENN, has promised to hold hearings on these issues in the near future. I believe that this is the right course, and that we should defer to Senator GLENN and strike section 843 from the bill.

Mr. NUNN. Mr. President, the defense authorization bill contains several provisions designed to help the Department of Energy cope with the management, safety, and environmental crises it currently faces. These provisions are intended to allow the Secretary of Energy to hire a small number of highly qualified people to help him with the unique responsibility that the Department of Energy has to provide the Nation with its nuclear deterrent forces, but also to begin solving the significant problems created in providing that deterrent.

All of us are aware that the nuclear weapons complex faces monumental problems today, problems of safety, problems of environmental contamination, problems of modernization, and problems of nuclear waste. These problems have already led to the shutdown of four nuclear reactors and three important processing facilities. All the country's defense nuclear reactors have been shut down by safety problems, some caused by human error. The Rocky Flats plutonium processing plant was temporarily shut down for exposing workers to radioactive dust and the entire plant is now under an FBI investigation for alleged illegal storage of nuclear waste. Another critical processing plant at Hanford has been shut down for 7 months due to equipment failure. The Fernald uranium plant has also been shut down due to unsafe operations. In addition, the Department of Energy has been unable to resolve the technical issues that have delayed for over a year the opening of the Nation's first-nuclear waste repository. These problems threaten to shut down the entire set of defense facilities needed for our nuclear deterrent unless they can be managed more effectively than they have been in the past.

Some of these problems can be addressed by additional financial resources. The committee has already provided an additional $500 million to the Department of Energy's cleanup budget for fiscal year 1990, to bring

the total we will spend on our Nation's nuclear weapons complex to $9.8 billion in the next fiscal year.

But many of the problems of these defense facilities can only be fixed by human resources. By that I mean allowing the Secretary of Energy to hire the best, most highly qualified people in the nuclear weapons and nuclear cleanup business. People with these skills are in scarce supply. The Secretary of Energy has stated that his managers and supervisors lack the technical skills to run these complex and dangerous facilities and that, "The Department relies on insufficient scientific information in making its decisions and in developing public policy."

Management of the facilities that produce nuclear weapons and nuclear materials demand highly skilled and well-trained individuals in such fields as nuclear engineering, nuclear physics, and nuclear waste management. Relatively few individuals are trained in these fields today and even fewer have had experience in applying these skills to the problems of nuclear weapons. Much of this talent is employed by the national laboratories, such as Lawrence Livermore or Los Alamos, that are operated for the Department of Energy on a nonprofit basis. Some of this talent was trained in the Navy in its nuclear power program.

These individuals have unique skills and experience in nuclear waste management, nuclear weapons design, and nuclear materials production. The Department of Energy needs to be able to tap such talent for Federal service. At present, Federal pay caps and personnel laws have stymied the attempts to the Secretary of Energy to hire qualified candidates to fill its critical management positions. The Secretary of Energy has stated that under current law, "I can't hire the best in nuclear weapons to come in to help me on nuclear weapons."

Let me provide a few concrete examples about the predicament at the Department of Energy. The Secretary of Energy has made the restart of the Savannah River reactors his No. 1 priority in putting the nuclear weapons complex back on its feet. Without these reactors, the United States is unable to produce tritium, a rapidly decaying substance, for its nuclear deterrent. The Secretary needs someone experienced in running nuclear reactors at Savannah River to run the restart operations.

Currently, the Secretary is unable to pay this person more than $76,400. Yet his contractor counterpart at Savannah River, is currently paid more than $200,000,000. How can Admiral Watkins hire a reactor specialist for $76,000 when the same person can make 2½ times as much, have a superior working environment, and no constraints on future opportunities, by working for the private contractor? Is it any wonder that our nuclear facilities are in such a mess today?

Let me suggest another example of a position that cannot currently be filled at the ordinary pay grade under current personnel laws. The principal deputy assistant secretary in charge of nuclear weapons is responsible for overseeing seven weapons production plants and the three nuclear weapons design laboratories. Admiral Watkins has been through several candidates already and wants to bring on a highly qualified individual who has worked at the Lawrence Livermore Laboratory for about 20 years. At age 52, with a family to support, he cannot afford to take a $40,000 pay cut to work for the Federal Government. The standard salary of a top weapons scientist is about $120,000. The Government just cannot hire someone for $40,000 less, which is the ordinary pay for this position, and also tell him that he is unable to go back to the laboratory afterward. Why would that person take the job, particularly when managing these facilities today is not exactly career enhancing?

To recruit qualified candidates from the national laboratories for critical positions managing the Nation's defense nuclear facilities, the Department of Energy needs to be able to compensate these individuals in a manner comparable to that of the national laboratories. We are talking about paying someone about $135,000 a year to manage a $100 billion cleanup problem or multibillion-dollar reactor restart program. How can we not afford to get the best people?

Another important reactor in recruiting qualified candidates, when they come from the national laboratories—and not all, but many, will—is their ability to return to the laboratory after Federal service. The unique nature of the nuclear weapons program means this profession cannot be pursued elsewhere. Despite the functional near-identity between service in a national laboratory and Federal service, senior national laboratory personnel remain employees of the laboratory operators, such as the University of California.

Under current law, employees returning to a national laboratory after a period of Federal service in a senior Department of Energy position are subject to the same postemployment restriction as individuals employed by private contractors. This result occurs because postemployment restrictions applicable to former Federal employees are determined by the former Federal employee's subsequent participation in particular matters in which the former Federal employee participated in Federal service.

Under current law, the long-term contracts under which the national laboratories are operated for the Department of Energy are considered to be a single particular matter for purposes of postemployment restrictions. Thus, under current law, the former Federal employee is prohibited from returning to the national laboratory and working on the particular matter, which, as currently interpreted, covers the full range of activities the laboratory performs for the Department of Energy.

In the example of the Livermore Lab employee, it is a Hobson's choice: If the person comes to the Department of Energy to run the nuclear weapons program, he must be involved in matters concerning Livermore or he cannot do his job effectively. If he does, he cannot, under present law, return to the laboratory without fear of criminal prosecution. The current situation neither benefits anyone nor does it protect the public's interest. The University of California, as the operating contractor for the Livermore Laboratory, does not stand to benefit financially from the return of the lab employee.

Another valuable source of talent for the nuclear weapons complex resides among military retirees, some of whom have extensive experience in operating nuclear reactors for the Navy. The Navy's record in nuclear safety is one the Department of Energy would like to achieve and Admiral Watkins is drawing upon some of the management principles that have ensured safety and line management accountability in the Navy. Under current law, military retirees face a substantial reduction, and in many cases a total forfeiture, of retired pay if they subsequently enter civil service. This provision would thus allow the Secretary to waive this penalty for up to 250 persons filling critical scientific, engineering, and managerial positions.

If we are really serious about doing something regarding nuclear waste, if we are serious about modernizing our facilities so that we can preserve the deterrent, and if we are serious about the environmental and safety problems, then we have to do something about the personnel problem.

It is for these reasons that the committee added these provisions in our bill and that I oppose efforts to remove them.

The PRESIDING OFFICER. Is there further debate?

There being no further debate, the question is on agreeing to the motion of the Senator form New Mexico. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. ADAMS). Are there any Senators in the Chamber desiring to change their vote?

The result was announced—yeas 69, nays 31, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—69

Baucus	Ford	Mack
Bentsen	Fowler	McCain
Biden	Garn	McClure
Bingaman	Gore	McConnell
Bond	Gorton	Murkowski
Boren	Graham	Nickles
Boschwitz	Gramm	Nunn
Breaux	Hatch	Packwood
Bryan	Heflin	Pell
Burns	Heinz	Pressler
Chafee	Helms	Reid
Coats	Hollings	Robb
Cochran	Humphrey	Rockefeller
Cranston	Inouye	Shelby
D'Amato	Jeffords	Simon
Danforth	Johnston	Simpson
Daschle	Kassebaum	Specter
DeConcini	Kasten	Symms
Dodd	Kennedy	Thurmond
Dole	Kerry	Wallop
Domenici	Leahy	Warner
Durenberger	Lott	Wilson
Exon	Lugar	Wirth

NAYS—31

Adams	Harkin	Moynihan
Armstrong	Hatfield	Pryor
Bradley	Kerrey	Riegle
Bumpers	Kohl	Roth
Burdick	Lautenberg	Rudman
Byrd	Levin	Sanford
Cohen	Lieberman	Sarbanes
Conrad	Matsunaga	Sasser
Dixon	Metzenbaum	Stevens
Glenn	Mikulski	
Grassley	Mitchell	

So the motion to lay on the table amendment No. 458 was agreed to.

Mr. WARNER. I move to reconsider the vote by which the motion was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I want to clarify that we still have Senator GLENN's amendments to dispose of, then Senator HARKIN's amendment, then Senator PRYOR's amendment in accordance with the previous order. The votes will occur on or in relation to each of those amendments as debate is concluded or unless the amendment is not offered or withdrawn.

After this sequence of amendments, we will then be back on the amendment of Senator SYMMS and of course any other amendments which Senators may wish to offer. Senators, in accordance with a previous announcement, should plan to be here for several hours still this evening as we have to make further progress if we hope to complete this bill by the close of business tomorrow.

Mr. WARNER. Mr. President, I wonder if the distinguished leader and the Senator from Ohio might address a voice vote in view of the parallelism here on these issues. That would enable us to move along somewhat more swiftly.

Mr. GLENN. I believe what I would prefer to do is talk about these for just a very short time. I know the distinguished Senator from Alaska wants to say a few words about this and then Senator PRYOR wants to mention a few things. I have a few remarks. I think the handwriting is on the wall, when we have a vote of over 2 to 1 against. I want to bring out a couple of the things we were going to have amendments on which obviously would go down by a wide margin also, and then after a little bit of discussion probably withdraw them. I reserve the right to go ahead with them.

Mr. STEVENS. Mr. President, I regret that the Senator wishes to withdraw the next amendment. I, too, can see the handwriting on the wall. One provision would permit, for instance, dual compensation. It would allow the Department of Defense to rehire military employees who have a full pension, a thousand of them can continue to draw their pension and go to work for the Department of Defense.

They will be eligible for this 50-percent increase in salary that the Senate has just insisted on maintaining.

Mr. GLENN. Mr. President, could we have order? We have about five different groups in conversations around the Chamber. Could they break it off, please?

The PRESIDING OFFICER. The point of order is well taken. Senators will please take their seats and retire to the cloakroom. Staff will please take their seats in the back or retire from the Chamber. The point of order is well taken. Senators will please take their seats.

The Senator from Alaska.

Mr. STEVENS. Mr. President, so we take a general who just retired at full salary, and a colonel takes his place. He now has the right to decide who gets the 50-percent increase in salary. He rehires his former boss, who gets his full retirement, and he now can get 50 percent more than executive level II.

Again, I ask—is this new employment subject to civilian retirement? The Armed Services Committee has acted as though it understands the retirement systems of the Federal Government. There is nothing in the bill about that. Is he eligible for life insurance? Can he put up 10 percent of his civilian salary in the thrift plan and get a 5-percent match from the Federal Government? What are the circumstances that surround this person who is rehired having been a military person for a full term? That is who it covers—military employees receiving full pension benefits. They get a full civil service salary, and are eligible for 50 percent more.

Again, I said before the last vote and I would say it again, if I ever saw the good old boy network in being, it is here. And I regret having been a supporter of the Department of Defense now for so many years to see this domination of this Senate by this military clique that wants to run the Department of Defense.

Somewhere we have to get some sanity back in this. I want a pay increase for civilians and for military. I tried to do that. We all tried to do that, as I think those of us who work on those subjects do. This defense pay bill now puts a standard into effect.

What are you going to do about NASA? We are going into a space program. How do you think they can really work on that? Are they not going to ask for increased salaries? What about NOAA and all the scientists there in the weather system that are being hired out by the massive systems throughout the world that want our trained weather people?

What about NIH? All of the people that left our NIH to go out in various private concerns that are really nonprofit concerns getting paid $200,000 or $300,000 a year? We need them back for AIDS research. We need them back for cancer research. Are you going to give NIH a waiver? How much are you going to give them?

Mr. President, I have tried to assist the Senator from Ohio: Those of us who have the responsibility are trying to see if we could have a fair, balanced, and comparable pay system for the Federal Government and its employees as compared to the private sector, as compared to the demand worldwide, but this is no way to do it.

I particularly oppose this concept that 1,000 people now can be hired without regard to the dual compensation restrictions and brought back into the Department of Defense after having a full military career. The Senator from Ohio, as he mentioned here earlier, has had a military retirement. Why do we not waive it for him? We know what he did for this country.

I do not mean to embarrass him. But why should we make separate standards here? Look at the list of the people who have recommended this. All people in major companies, when they come to the Government to serve their time, want to reach out and get the people who used to work for them.

Would you not like to do that? Would you not like to go and get the guy who was your assistant, your vice president for engineering, or your president of a subsidiary dealing with scientific matters? Do you know why they would not come back?

You paid them too much money in those salaries before. You are spending Government money out there, too. So what difference did it make?

Now they are coming back in. They want to bring those people back in the DOD because they say they can solve the problems of defense. I say let us put up some bonuses, and let them get bonuses if they do solve the problems

of defense, but these people want to pay them in advance. Not only that, they now want to waive the restrictions against rehiring of retired people. What about civilian retirees? Do you not think there are a few civilian retirees out there who retired from NASA, retired from NIH, retired from NOAA, retired from the Department of Defense who might be able to be brought back and use their expertise? No; it does not cover this. This only covers military full pension retirees—waive it for a thousand people.

If I have ever seen a way not to run a government, this is it. If I have ever seen a way to stampede the Senate by the very strength of the armed services and the defense bill which I have supported in the past, this is it. I think it is wrong. And I think we ought to stop and think about what we are going to do. How are we going to get a fair pay system for the 1.1 million civilian employees in the Department of Defense? You have just voted to give 500 of them 50 percent more than executive level II, more than the Vice President of the United States. Only 500 of them. The others who are eligible and need salary increases to prevent them from leaving are not covered by this bill. And they will not be. What we can do about civilian employees is going to be a problem for the Governmental Affairs Committee to work out under the Federal law which governs military employees also. They will get a pay raise when the civilians get a basic pay raise in terms of adjustments in salary.

Mr. President, I have learned to count votes. I am not going to persist either in terms of offering these amendments. I tell the Senate you will rue the day that you have destroyed the civil service system, destroyed the incentives of bringing young people into Government, because this says we are going to pay the people who have left Government to come back. It does not trust the younger generations. It says the only people who know anything about the problems we have are the people who have already left us.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, the Senator from Alaska makes very eloquent points, which he also made prior to the vote. I point out one other. I do not think we have taken into account retirement for these 500 people. They now retire at the highest level of their last 3 years, or the highest 3-year level. So we have not even taken that into account.

Let me very briefly run through the other two amendments that I will withdraw just so people are aware of what is going on here.

Dual compensation; the Senator from Alaska referred to this issue. That is what we usually call double-dippers, double-dipping. You have all seen editorials against double-dipping. We go out after the double-dippers. The next amendment was going to strike the provision in this bill which permits 1,000 people, military only, to a waiver. It permits them to be double-dippers in the Department of Defense.

I read the vote. So I am not going to push this one. I do not want to lose another one here. But I know if we cannot vote against 500 people that are going to get 150 percent of pay without knowing any more about their retirement and all the other things that the Senator from Alaska brought up, there is not much chance of stopping 1,000 double-dippers that we are going to authorize. That is in the bill now. That is in there. I do not think it is fair. I do not think it is right. I think it is unfair for me. I gave up some coming to the Senate. Military retirees all over the Government give up some.

We are saying for the Department of Defense now you can have a person in a job, he retires, gets the same job back, 135 percent of salary, and keeps all his retired pay, too. There will be people making up to, the way we calculate it, $180,000 a year in some of these positions. That is what we are permitting. That is the reason this was so important—$180,000 a year, if you permit the double-dipping, an exempted position—and think of that retirement pay. Think of that one when you try to calculate out what they are going to get. That is what we voted. That is what you voted here just a few minutes ago.

The other one that I will withdraw applies to the Department of Energy. It waives dual compensation, or double-dipping for a total of 275 people at DOE. It involves 25 positions at 150 percent of pay, the same as the last vote, but it does something else. It waives title 18 criminal provisions for those 25 positions out of 150 percent pay. It waives title 18, U.S. Code, which is criminal conflict-of-interest law; exempts them.

We have never done that; never since I have been in the Senate have we ever done anything like that, waiving conflict-of-interest laws for these people coming into sensitive positions. It also gives a waiver for the civilian procurement integrity statutes, the revolving door statutes, to those same 25 people who earn 150 percent of salary.

So along with the Senator from Alaska, I am disappointed that we are not treating this on a more Governmentwide basis. I am on the Armed Services Committee, too, so I appreciate what happened there. I lost this same fight in committee. But when we permit 500 people at 150 percent of pay and with ill-consideration of what goes on beyond that, I know that just the double-dipping thing, or the smaller numbers in DOE, would hardly get any better consideration this evening. So, Mr. President, I withdraw amendment 460 and amendment 461.

The PRESIDING OFFICER. Those amendments have not as yet been offered, and therefore they are not before the body.

Mr. GLENN. The Chair is correct. I had not called those up. I said originally I was trying to call them up en bloc. Therefore I will not call up 460 or 461 as had been my original intent.

The PRESIDING OFFICER. The Senator has so stated.

Who seeks recognition?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. Under the prior order, the Chair will now recognize the Senator from Iowa for the purpose of offering an amendment. I am sorry. Under the prior order, after the amendments of the Senator from Ohio, the Senator from Iowa is to be recognized to offer an amendment.

Mr. BINGAMAN. If the Senator will yield for a very short period.

The PRESIDING OFFICER. One at a time. The Senator from New Mexico has asked the Senator from Iowa a question.

Mr. BINGAMAN. I ask if the Senator from Iowa would yield.

The PRESIDING OFFICER. The Senator will not lose his right to the floor.

Mr. BINGAMAN. Will the Senator from Iowa yield for approximately a minute while I do a short explanation on those last two amendments, just so we have some explanation in the RECORD as to the committee's position on these, before we go on to the next issue?

The PRESIDING OFFICER. Does the Senator yield, without yielding his right to the floor, for 2 minutes?

Mr. HARKIN. Yes, I yield.

The PRESIDING OFFICER. Hearing no objection, it is so ordered. The Senator from New Mexico is recognized for 2 minutes.

Mr. BINGAMAN. Mr. President, I ask just to point out two things to the Senate, because I think they are important. First, the issue of dual compensation. What we are trying to deal with there is a problem that was identified very clearly by the Deputy Inspector General of the Department of Defense, Derrick Vandershaf, when he testified in front of our committee.

Let me give the Senate the quotation of his statement. He said:

> It makes little sense to encourage a brain drain from the Government by forcing retired military personnel with badly needed skills to become contractors, consultants, instead of civil servants.

What we are trying to do is provide a modest exemption here so that the Secretary of Defense and Secretary of Energy can use the talents of these people for key positions, and to the extent that they determine their dis-

cretion, it is essential that they do so. I think it is a prudent provision, one that I support.

The other comment I would make is on the conflict of interest laws that it is suggested we are waiving. The only provision in this bill which even addresses conflict of interest deals with a situation where the Department of Energy is hiring people from its own laboratories, from the Federal Government laboratories, that are on contract to the Department of Energy.

As a technical matter, those laboratories are contractors, but they have a single contract per laboratory, and what we do here is to say that people can come from those laboratories, work for the Secretary of Energy, and then go back to those laboratories, without violating the conflict of interest laws. I think that is eminently reasonable.

The present situation we have is not reasonable. I think the committee has acted wisely, and I support the decision by the Senator from Ohio to withdraw the amendments.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa has the floor and is recognized.

Does the Senator from Iowa wish to respond to the inquiries?

Mr. WARNER. Will the Senator from Iowa allow me to direct a question to the chairman of the Armed Services Committee?

Mr. HARKIN. I yield to the distinguished Senator, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I thank the Chair.

I ask the question of the chairman, should we not begin now to try and give some consideration to those amendments which followed the Senator from Iowa and to those Senators who are involved tomorrow in an all-day hearing on the Hastings matter? I am specifically referring to the Senator from Missouri, Mr. BOND, who has an amendment, and has been patiently waiting for some time. I urge the chairman and the Senate leadership to see what we can do to accommodate those Senators who have other responsibilities tomorrow that would keep them from coming to the floor.

Mr. NUNN. I would be glad to work with my friend from Virginia to try to arrange something. As you know, we are in an awkward situation. Anybody who gets the floor can present an amendment. The two managers cannot control the situation. All we can do is recommend. I certainly join the Senator from Virginia in trying to work with him to try to find the time where we recommend that they bring up their amendment.

The other possibility is to arrange a time that would give them an opportunity during the lunch break tomorrow, their lunch break, to bring up their amendment at that point.

Mr. WARNER. Mr. President, I wonder if the distinguished chairman would focus on the Senator from Missouri, who has one, as a possibility following the Senator from Iowa.

Mr. NUNN. I will be delighted and pleased to do that. Now, the Senator from Massachusetts, on an ASAT amendment, has been around with that amendment for several hours. I will have to consider that. I have other requests, but I will work with the Senator from Virginia and the Senator from Missouri.

Mr. WARNER. I thank the Chair and the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 619

(Purpose: To authorize the transfer of $450,000,000 of the funds appropriated for the strategic defense initiative to carry out the Anti-Drug Abuse Act of 1988)

Mr. HARKIN. Mr. President, I have an amendment I will send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] for himself, Mr. KERRY, Mr. DECONCINI, and Mr. SIMON, proposes an amendment numbered 619.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . FUNDING FOR PROGRAM UNDER THE ANTI-DRUG ABUSE ACT OF 1988.

(a) TRANSFER AUTHORIZATION.—Of the amount authorized in section 201 to be appropriated for fiscal year 1990 and made available pursuant to section 231(a) for the Strategic Defense Initiative, $450,000,000 is authorized to be transferred and be made available for carrying out in fiscal year 1990 the programs provided for under the Anti-Drug Abuse Act of 1988.

(b) ALLOCATION OF FUNDS.—Except as provided in subsection (c), if the amount of funds transferred pursuant to subsection (a) is insufficient to fund the programs referred to in that subsection in the amount authorized for such programs for fiscal year 1990, the funds transferred pursuant to subsection (a) shall be apportioned to each such program in an amount that bears the same ratio to the difference between the amount authorized for the program and the amount appropriated for the program for fiscal year 1990 as the total amount of funds transferred pursuant to subsection (a) bears to the difference between the total amount authorized for such programs and the total amount appropriated for such programs for fiscal year 1990.

(c) ALLOCATION AMONG TYPES OF PROGRAMS.—To the maximum extent practicable, the President shall allocate the funds transferred pursuant to subsection (a) equally among the following types of programs provided for under the Anti-Drug Abuse Act of 1988:

(1) Law enforcement and drug interdiction programs.

(2) Drug treatment, rehabilitation, and education programs.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I offer this amendment on behalf of myself, Senator KERRY, Senator DECONCINI, and Senator SIMON.

It is basically a straightforward, very simple amendment. The amendment basically transfers $450 million from SDI to fund programs of the Anti-Drug Abuse Act of 1988.

In other words, we are shifting money from star wars to drug wars. Mr. President, the most fundamental role of the Federal Government is to provide for our national defense. But our most dangerous enemy today is not dressed in a red army uniform, but probably is dressed in very expensive civilian clothes. He is not driving a tank; he is driving a sports car, more than likely. He is not waiting in a foxhole, but he is standing on our street corners right outside of our schools. He is the drug dealer, and he is waging an all-out war on our homes, cities, and our children.

Let us not kid ourselves—it really is a war, complete with casualties, brave soldiers, gunfire, and grieving families.

Right here in our Nation's Capital, the city with the highest murder rate in the country, 372 homicides in 1988, 3 in every 5 murders are drug-related in our Nation's Capital.

The annual cost of treating gunshot wounds now exceeds $1 billion, and most of the shootings are drug-related.

The number of cocaine-related hospital emergencies has increased 13 times in the last decade to at least 100,000 last year.

One in four of the diagnosed AIDS cases in the United States is from injecting drugs with an infected needle.

Sad to say, my own State of Iowa is not immune from the drug epidemic.

The dollar value of drugs confiscated in our capital city, Des Moines, increased from $117,000 in 1987 to $932,000 last year.

Cocaine use in Iowa has increased threefold since 1983.

Then there's the human dimension to these statistics. There's the case of Ramona Pebbles of Des Moines, whose son, the father of two, died from crack cocaine last November.

There's the story of three boys, aged 9, 10, and 13, caught selling crack in downtown Des Moines.

Mr. President, it is time that we redefine what we mean by national security. The drug wars going on right now in our cities is a real and present threat to national security.

Last year we vowed to fight a war on drugs. We passed the Anti-Drug Abuse

Act of 1988 with much fanfare and self-congratulation and a lot of speeches.

President Bush applauded this verbal war on drugs. But his actions did not match his rhetoric: $2.77 billion was authorized, but only $1.07 billion was appropriated to help stop the drug war.

So what we are not doing, Mr. President, is we are just not putting our money where are mouths are, where our speeches are, where our self-congratulation was last year when we passed the drug bill.

Our law enforcement officials are overwhelmed by drug-related crime and do not have the resources to restore order on our streets.

Our judges are overwhelmed and do not have the resources to handle the drug cases on a timely basis.

Our jails are overwhelmed; convicted drug dealers are released early or never serve any time.

Our drug treatment centers are so overwhelmed that many drug addicts must wait 8 months or more for treatment.

Our research centers do not have adequate resources to devise new treatments for drugs.

Our border patrols are overwhelmed, able to intercept but a minuscule fraction of the illicit drugs pouring across our borders.

Our education system is just now beginning to bring the warning messages to the youth of our country, but more needs to be done to cut off the demand for drugs before it gets started in our youngest children.

Meanwhile, in the Pentagon, we are spending $4 billion each year chasing a fantasy: a shield against nuclear missiles. Initially, President Reagan said that star wars would render nuclear weapons impotent and obsolete.

When that ideal proved to be impractical, dangerous, and extraordinarily expensive, the goals diminished and changed year by year, until we are now told that star wars would be a leaky defense to complicate Soviet attack plans.

But Soviet attack plans don't need complicating. The sure threat of 5,000 submarine-launched nuclear bombs going off over Soviet territory would clearly complicate any Soviet leader's plans.

Next we were told that, instead of replacing deterrence as promised by President Reagan, star wars is now supposed to enhance deterrence.

But, fortunately, deterrence does not need enhancing. Deterrence has worked for 40 years without star wars. The Soviets have been deterred by the threat of massive nuclear retaliation.

Invulnerable submarines carrying, as I said, over 5,000 nuclear weapons are more than enough to deter any future adversary from ever attacking our Nation.

In other words, we are spending $4 billion per year on star wars to solve a non-existent national security problem—"complicating Soviet attack plans" or "enhancing deterrence"—while we cannot find $1.7 billion to fulfill our promise to the American public to fight the scourge of drugs that daily threatens our real national security.

We must change our priorities. That is why we have introduced this amendment to shift $450 million from star wars to drug wars, to address the real threats to our national security.

We are not suggesting that star wars research should be stopped. Far from it. This amendment would still leave star wars funding at about $4 billion, including SDI programs of the Department of Energy, which is an increase over last year's level.

I must be honest; in my judgment, there is only one legitimate purpose for ballistic missile defense research, and that is to provide a hedge against a potential breakout of the ABM Treaty by the Soviet Union.

As long as we depend on nuclear weapons for deterrence, we must make sure that no future adversary could ever deploy an effective defense. Therefore, a robust research program is justified, to allow scientists to investigate new technologies and to provide the technical information so that we could penetrate any possible future defenses.

But how much must we spend to provide this "hedge"?

The Congressional Budget Office has analyzed the SDI Program, and determined that from $1.9 billion to $2.6 billion would be adequate to provide a hedge against a Soviet breakout of the ABM Treaty.

So again I must be honest. I personally believe that this is what should be done: enough SDI research to prevent a Soviet breakout and that SDI——

Mr. KERRY. Mr. President, will the distinguished Senator yield?

Mr. NUNN. Mr. President, for what purpose does the Senator seek the Senator to yield?

Mr. KERRY. The Senator from Massachusetts seeks to submit a second-degree amendment.

Mr. NUNN. Mr. President, I object to yielding for that purpose.

The PRESIDING OFFICER (Mr. GRAHAM). Senators may not yield for that purpose.

Mr. KERRY. I thank the Senator.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. HARKIN. Again, Mr. President, as I said, the CBO, the Congressional Budget Office, has analyzed the SDI program and determined that only from $1.9 billion to $2.6 billion would be adequate to provide a hedge against the Soviet breakout. So, therefore, I personally believe that SDI should be reduced to the $2.6 billion per year level with the program reoriented away from early deployment schemes that are sapping much of the SDI research money to fund destabilizing leaky defense systems, but that is not what this amendment does.

Our amendment would merely slow the growth of SDI because it still leaves the amount in there that is more than what was in there last year for SDI. SDI would still have over $4 billion for fiscal year 1990. This is twice the amount needed to provide the hedge against the Soviet breakout of the ABM Treaty, according to the Congressional Budget Office.

This amendment is far weaker than it should be. We really should be transferring $1.7 billion from star wars to drug wars.

Coincidentally, a transfer of $1.7 billion would fully fund the Anti-Drug Abuse Act, and it would reduce SDI to $2.6 billion, the maximum amount recommended by the Congressional Budget Office for ABM Treaty breakout protection.

Again, I know the political reality. My colleague from Louisiana fell short in his efforts to reduce star wars by $558 million just last week. Our amendment is more modest, transferring only $450 million from star wars to drug wars, and again I heard last week on the amendment that was offered there were some who did not believe that some of that money from SDI should go to fund some of the other programs, like the V–22 or the F–14.

I persaonally believe that those programs needed the funding so I supported the amendment of the Senator from Louisiana.

But I heard that others said that they did not want to transfer that money to those programs. So Senator KERRY and myself, Senator DECONCINI, and Senator SIMON felt that it was important to offer Senators another chance, and that was to vote on a similar amount of money—it is a little bit less, it is $450 million—to be transferred from SDI to fund part of the unfunded Drug Abuse Act of 1988. And that is what this amendment does.

So I say that if you believe, as we do, that widespread drug abuse is indeed a very real and present danger to our national security, while star wars is really an overfunded fantasy in search of a mission, then I hope that the Senators would support this modest amendment.

Mr. President, we do not need Brilliant Pebbles to deter the Soviets. Every time this program moves along, it comes up with different names. First it was Smart Rocks. That was last year. Now this year it is Brilliant Pebbles. Who knows what it is going to be next year?

We do not need Brilliant Pebbles and we do not need Smart Rocks to deter the Soviets. But we must stop the lethal rock that threatens our national security each and every day, and by that I mean that lethal rock of cocaine, crack cocaine, heroin, and the other drugs that really threaten our national security.

Mr. President, I also ask unanimous consent that Senator LEAHY be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, again I just wanted to close my remarks by pointing out some of the unfunded parts of the drug bill.

For State and local police, $125 million to set up 1,000 drug-enforcement task forces to shut down crack houses and arrest drug pushers. INS agents, $26 million to hire 145 new border patrol agents; the courts, $38 million to add 55 judicial magistrates, 250 probation officers to handle 3,500 drug cases in Federal courts next year.

The Bureau of Alcohol, Tobacco and Firearms, $4 million for 80 positions; the FBI, $15 million for 225 positions; the U.S. marshals, $5.1 million for 64 positions; the U.S. attorneys, $6 million for 193 positions; prison construction, $131 million for prision construction for 2,000 beds.

The Federal Law Enforcement Training Center, $6 million to allow more than 5,000 State and local police officers to take the needed training that they need for drug enforcement.

The DEA, $46 million for 70 positions. It would have increased DEA's total staffing by more than 10 percent.

The Coast Guard, $164 million; Customs Service, $70 million; juvenile justice, $14 million for 280 Park and Forest Service agents to combat the drug production on Federal lands.

This is something, Mr. President, I offered an amendment on last year. The National Park Service has had to stop virtually all overflights to detect marijuana through the end of 1989 because they do not have enough fuel to run the operations.

Drug treatment underfunded $470 million, to provide 46,000 inpatient and 175,000 outpatient beds.

Treatment demonstration, $24 million; community drug prevention grants, $25 million; the Office of Substance Abuse Prevention, $46 million.

Mr. President, that is just a list of the unfunded parts of the Drug Abuse Act of 1988. Now, this amendment will not fund it all, but it will sure fund a goodly portion of it.

Mr. President, in our amendment we say that to the maximum extent practicable, the President shall allocate funds transferred—that is, the $450 million—equally among the following types of programs provided for under the Anti-Drug Abuse Act of 1988. That is law enforcement and drug interdiction programs and drug treatment, rehabilitation, and education programs.

So if you want to know where the money is going, that is where it is going to go, for interdiction, treatment, rehabilitation, and education.

Mr. President, again, that is the real national security threat to our country—not star wars, but drug wars. This is a modest amendment it only transfers $450 million from star wars to fight the real national threat to our country, the real threat to our national security, the drug wars.

I yield the floor.

Mr. NUNN. Mr. President, first, let me congratulate the Senator from Iowa and the Senator from Massachusetts for undertaking to fund the drug bill. I spent last fall, along with a number of other Senators—the Senator from New York on this side of the aisle; the Senator from New Hampshire [Mr. RUDMAN] and many others, on that side of the aisle—in trying to get a drug bill passed. We had a number of innovative new approaches in that drug bill, both on law enforcement and on health and on education. It has been one of my real disappointments since that bill passed that we have only funded about a third of it.

So before I get into any debate about any differences I might have in this approach which the Senator from Iowa is taking and the Senator from Massachusetts, I want to start off by saying that we agree completely on the goal of funding that drug bill.

I will offer a second-degree amendment in just a few moments to the amendment of the Senator from Iowa. That second-degree amendment will fully fund the drug bill, but it will do so in keeping with the spirit, at least, with the spirit of the agreement that was entered into between the President, the Budget Committee leadership, and the leadership of the House and Senate.

In that overall summit agreement—I was not a part of that agreement, so I am going to stand corrected if someone comes in and tells me it was different—but my understanding of it was that there was a firm agreement about how much the defense section of the overall agreement would be and how much the domestic side would be and how much the revenue side would be. I though that was the understanding.

What this amendment will do as it presently is constructed is to take money from the defense budget and put it into health and education and law enforcement outside of the defense budget. Again, I agree that we need to fully fund each one of those purposes and my second-degree amendment will do that.

But this amendment, the Harkin-Kerry amendment, as I understand what the top leadership of this Congress agreed with with the President of the United States, this amendment would breach that agreement and it would breach it in a very substantial way.

I do not think we want to do that. Perhaps we are going to have a hard, continuing struggle over the budget. I hope some day we will be able to get a 2-year plan that really does something about the deficit. But I do not believe we are going to come close to doing that, to even begin to do it, if we breach the agreement we have already entered into.

Now, of course, the Senate can override the leadership. We can always do that. The leadership cannot make a deal around here with the President that Senators cannot override. Every Senator can vote. There is nothing out of order about the amendment that I know of.

But I will assure everyone here that if the leadership cannot deliver on a budget agreement that has been negotiated with the administration as to its major component parts, there is no hope of ever getting any kind of budget agreement or any kind of overall deficit reduction package.

So I think there is a lot at stake here. FIrst of all, the drug funding is at stake. As I said, my second-degree amendment that I am going to be submitting, which the Senator from Virginia will be cosponsoring and I hope we will have a number of other cosponsors, will carry out that end of it, because we will fully fund the drug bill.

Now, I have to admit up front that the way we are going to have to be proposing to fully fund the drug bill will take some money out of defense. But what we will also be doing is taking money in other areas of the Government so that we keep the spirit of the overall agreement between the President and the Congress.

I will make the details of this known in a few minutes. It is our intent to fully fund the drug bill, the education part, the law enforcement part, as well as the health part, but to do so in a way that at least keeps the spirit of that overall agreement by having defense bear a part of it but not all of it.

There is one other complication with the pending amendment, and it gets to the Budget Act. This is complex, but I hope and I believe most Senators will understand it.

There are different rates of spend out in determining the outlays that govern the size of the deficit. There are different rates of spend out that the Congressional Budget Office gives us in order to determine whether we have gone over the targets of Gramm-Rudman.

There is a tremendous difference in the spendout on SDI funds and drug funds. Drug money tends to be spent more rapidly because it is heavily involved with personnel, whereas SDI

funding normally is for research projects whereby the SDI Office contracts with, let us say, a university or some corporation and that contract is for a 2- or 3-year period. So those moneys spend out slowly.

So, it is my guess, although the Senator from New Mexico and the Senator from Tennessee will have to really get the Congressional Budget Office to tell us the implications here, I do not have those numbers, it is my guess that what we have here is a rather substantial increase in outlays for fiscal year 1990 by shifting funds from the SDI budget to the overall drug fight.

In a few minutes I will be offering that second-degree amendment. Again I congratulate the Senator from Iowa and the Senator from Massachusetts for their diligent efforts in attempting to fully fund the drug bill. I hope before we leave here this evening we will have done that. I hope we will have done that, but I hope it will be in the form of a second-degree amendment that I will be proposing with Senator WARNER that will take these moneys from every part of government. It is up to us to decide whether we really mean what we say about drugs being the top priority. If they are the top priority, then every part of government should be willing to participate a little bit. Not a lot, but a little bit.

We are talking about $1.7 billion here, out of an overall budget of $1 trillion or somewhere in that neighborhood.

So we are not talking about a large percent but we are talking about extremely important money.

Mr. DOMENICI. Will the Senator from Georgia yield for a question?

Mr. HARKIN. Will the Senator yield? I was going to ask a question.

Mr. NUNN. I will be glad to yield to the Senator from New Mexico, and then the Senator from Iowa.

The PRESIDING OFFICER. The Senator yields to the Senator from New Mexico and then to the Senator from Iowa for purposes of a question.

Mr. DOMENICI. Let me just say to my friend from Georgia, he indicated that this was complicated and he hoped we would understand it.

Mr. NUNN. I said I hope all Senators would. I knew the Senator from New Mexico would understand it.

Mr. DOMENICI. I want to ask a question on a completely different subject than the spent-out rate. I am really confused because I did not think we had an appropriations bill before us tonight.

Do we?

Mr. NUNN. No, we do not.

Mr. DOMENICI. I thought we had an authorization bill tonight. Is that not correct?

Mr. NUNN. The Senator is correct.

Mr. DOMENICI. I say to my friend—and I see the chairman of the Appropriations Committee here—if we were to take $500 million out of defense in an authorization bill and reauthorize existing authorized drug programs, is somebody telling the American people that we are funding those drug programs here on the floor of the Senate?

I see the distinguished chairman of Appropriations here. Maybe I could state verbally what he is indicating to me by the manner of handling his head. I understand he is saying: no.

I believe we are involved in a charade to stand up here and say: I am taking $700 million out of a defense authorization bill. Let me say to all Senators, it may mean that defense will be limited by the appropriations process, maybe, by $700 million less in potential appropriations. But I assure the Senators, and I would ask my friend the chairman of the Armed Services Committee whether it has anything at all to do with what we spend for the war on drugs?

The appropriators spend the money. We have already authorized the money. We are complaining on the floor that it is not fully funded. What are we going to get by reauthorizing full funding in an authorization mode? It seems to me, and I regret to say it, and I do not ask for anyone to answer this question, but it seems to me as it pertains to the war on drugs, it is rhetoric. It is a good, solid speech on the floor of the Senate for which not one single penny of money will be spent by the appropriators because they already have the authority to spend what is again being given them tonight, and they either chose to spend it or they chose not to.

I see no way in an authorization bill that we can do anything other than negate the economic summit by cutting money out of defense, whether it is for MX, whether it is for SDI. We can reduce the amount for defense, but we cannot spend it on drugs.

The PRESIDING OFFICER. The Senator from New Mexico was recognized for a question to the Senator from Georgia.

Mr. DOMENICI. I wonder if the Senator from Georgia would agree with my conclusion?

Mr. NUNN. The Senator said a great deal. That was a long question.

Mr. DOMENICI. Just the last one. Are we appropriating any money for anything in this bill?

Mr. NUNN. I would say to the Senator we normally do not and I hope we do not have to start doing that. It is possible. Just as the Appropriations Committee on the floor can bring through a bill and authorize and appropriate; so can an authorization bill appropriate, depending on how it is worded. The Senate can appropriate. The Senate can do what it wants to do. But I think is is a very bad policy to begin appropriating on an authorization bill and, might I add a self-serving declaration, I think it is also a bad policy to be authorizing in an appropriation bill. So I would say both apply.

Mr. DOMENICI. Let me be more specific. Does the Senator from Georgia assume the amendment pending is an appropriation amendment or that his substitute second-degree for it is an appropriation bill?

Mr. NUNN. We are trying to design the substitute so it is not an appropriation and are working with the chairman of the Appropriations Committee to do that. I have to say that what we will clearly do with the substitute though, as I envision it, is point a clear direct from the Senate to the appropriators as to what this body expects to be done on the drug bill.

The way I intend to word it, it would be less than on appropriation but it would be more than an authorization. It would be a clear direction to the Appropriation Committee and I am sure that is about what the Senator from Iowa intends.

Mr. DOMENICI. I thank the Senator for yielding. I look forward to reviewing his amendment for similar questions. I am intrigued how he will direct the appropriators when half the bills have already been completed and some still have to be completed.

Mr. NUNN. We are going to be working with the chairman of the Appropriations Committee so that is a district advantage in doing that.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. Does the distinguished chairman yield for a question?

Mr. NUNN. I yield the floor to the Senator from Iowa for a question.

Mr. HARKIN. First I would like to ask that Senator LEVIN also be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Second, I would like to ask if CBO, the Congressional Budget Office, as I understand it, said that the defense bill before us was $3.8 billion over the budget summit agreement?

Is that incorrect, or is that correct? I am trying to get a handle on this. I understand CBO said it was over.

Mr. NUNN. I am sorry, I did not hear the Senator's full question.

Mr. HARKIN. Mr. President, I ask unanimous consent that Sentor SANFORD also be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. CBO said the bill before us is $3.8 billion over the budget summit. The distinguished chairman was saying that we had a budget summit agreement. As I under-

stand it, the CBO said this was about $3.8 billion over that summit meeting agreement. I am trying to get a handle on that to see if that was correct or not.

While the chairman is looking that up let me also, Mr. President, hasten to add that there is no one for whom I have a higher regard and a higher respect than the distinguished chairman of the Armed Services Committee, the Senator from Georgia. I know he has been one of the leaders in the war against drugs and I know he has fought very hard to make sure we get adequate funding to fight that war on drugs. He was a leader on the Anti-drug Abuse Act of last year and I know he feels very strongly about funding the war on drugs.

I say that I think right now we are in a period of trying to decide what the priorities are and where we get the money for them, right now, and how we fund it.

Certainly I do not in any way by my amendment mean to imply in any manner, shape, or form that the distinguished chairman from Georgia is anything less than fully committed to the war on drugs and fully funding the war on drugs. I just wanted to make that clear while the chairman was checking on the CBO figure.

Mr. NUNN. I thank the Senator. I am informed the Congressional Budget Office has taken the position, and we have not agreeed with that yet. We have not resolved it with the Budget Committee leadership yet or the leadership of the Senate. It is a must item before the bill is completed to have an understanding. The Senator is correct, the Congressional Budget Office said outlay cap. We put an outlay cap on this bill and told the Department of Defense, and said you have told us you are going to live within the outlay.

We felt that outlay was in good faith and we felt it was a mandated law. In fact, we have antideficiency language where there are sanctions if people go over that. We are holding the Department of Defense to their own word on this bill.

CBO I believe has technical objections to the way the outlay cap is worded. Therefore, they now take the position that we are over because they do not qualify our outlay cap. The House of Representatives has an outlay cap and they have complex language. We have had two or three meetings with the leadership. It is not yet resolved. It is one of the things we have to agree on tomorrow.

I would say, I hope we do not make it any more complex this evening because the problem we have now is getting the cap, if we use the cap, getting it technically in keeping with the Congressional Budget Office, a requirement for an outlay cap. That can be done, I am confident. If we make the problem worse on a substantive matter, then it probably cannot be done. I will answer in a qualified way that the Senator has a point.

Mr. HARKIN. I thank the chairman.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 621 TO AMENDMENT NO. 619

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration. It is an amendment to the Harkin amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself, Mr. BYRD, and Mr. WARNER, proposes an amendment numbered 621 to amendment numbered 619.

In the pending amendment, strike out everything after "(a) TRANSFER AUTHORIZATION.—" and insert the following in lieu thereof:

Of the unobligated funds available to all departments and agencies of the executive branch of the Government at the end of fiscal year 1989 from funds appropriated for defense and nondefense discretionary programs, $1,700,000,000, as provided in subsection (b), is authorized to be transferred for the purpose of carrying out during fiscal year 1990 the Anti-Drug Abuse Act of 1988 and the amendments made by such Act.

(b) ALLOCATION OF UNOBLIGATED FUNDS.—The amount authorized to be transferred from the unobligated funds of any department or agency pursuant to subsection (a) shall be an amount which bears the same ratio to $1,700,000,000 as the amount of unobligated funds of that department or agency at the end of fiscal year 1989 bears to the total amount of unobligated funds of all departments and agencies for the executive branch at the end of such fiscal year from funds appropriated for defense and nondefense discretionary programs.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, this is an amendment sponsored by Senator BYRD, Senator WARNER, and myself. I would like to briefly explain it and then I know the Senator from Massachusetts would like to speak to both the underlying amendment and this one and I am going to defer to him because he has been waiting patiently for a long time.

Mr. President, what this amendment would do, it would authorize the transfer of $1.7 billion from unobligated balances of funds available at the end of fiscal year 1989 to fund the $1.7 billion deficit in funding the Anti-Drug Abuse Act of 1988.

It applies only to defense and nondefense discretionary programs. This means the amendment will not touch unobligated balances of mandatory entitlement programs such as Social Security trust fund, medicare, civil service retirement fund, and subsidized housing programs. It does not touch those entitlements.

Briefly, the way the amendment works is as follows. Of the total unobligated balances from discretionary funds available to each agency, on September 30, 1989, $1.7 billion is authorized to be transferred by the executive branch to fund the Drug Act. Each agency would be required to provide an amount equal to its share of the total unobligated balances covered by the amendment.

Mr. President, let me add this is not the ideal way to fund the drug bill, and I want to let everyone know that I hope during the month of the August recess and during September there will be a better way found. I hope the Appropriations Committee and the executive branch will get their heads together and come up with a better way. But this will do the job, and this does say that drugs and fighting drugs are the top priority. They come before other priorities on the unobligated balances.

It says that before you spend money on other things, you are going to fund the drug bill. That is what this Senate, I believe, wants to say. It gives the executive branch the authority to do that. They have the authority to make these transfers under this amendment. It would fully fund the drug bill. We can say that. It is accurate.

When we get to conference, we will have to deal with the House of Representatives. I hope that they will have an equal commitment and, again, if there is a better way presented to fund this drug bill before we complete the conference, then I would be the first to say let us explore that better avenue.

These unobligated balances are not simply sitting there. This is not money that would never be spent. These unobligated balances are funds that have been appropriated, that the Congress decided they wanted to go for specific purposes, but they have not yet been contracted. They have not yet been obligated by the agencies.

These may be very important programs. The defense part of this will be about 25 percent, that is about $160 billion of unobligated balances, and defense has $40 billion.

I also want to be absolutely candid. This does cut defense and it does cut it to some extent below the summit agreement that was made with the leadership and the President. But it does it in keeping with the spirit of that because defense will bear its proportionate share but it will not bear the whole burden.

So everyone should understand what we are doing and what we are not doing. I am not going to try to explain it in any way other than as accurately as I know how and then the Senate will have to make its own decision.

I would like to add, Mr. President, Senator ROCKEFELLER, the junior Senator from West Virginia, as cosponsor of this amendment.

Mr. President, at this stage, I know the Senator has been waiting a long time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KERRY. I ask the indulgence of the distinguished manager. I would like to ask him a few questions so I can understand exactly what is on the table here.

Mr. NUNN. I yield the floor and let the Senator from Massachusetts be recognized in his own right.

Mr. KERRY. I stand recognized in my own right. I wonder if the Senator from Georgia would answer a couple of questions.

Mr. NUNN. Yes.

Mr. KERRY. Under the plan, the exemptions which the Senator has articulated I would like to hear again, are precisely what? Social Security?

Mr. NUNN. I would say the best way I can describe it is as the amendment has described it. This amendment covers defense and it covers nondefense discretionary, which means it does not include the entitlement programs.

I can give my colleague a few examples but I am not going to try to make them exhaustive because I do not know every program that is under this category. Social Security trust fund would be one of those, civil service retirement fund, unemployment trust funds, subsidized housing programs; those are the type programs.

The term "discretionary nondefense" is well understood. We can get a list of all of them here before this debate is concluded, if anyone wants to see them. I think most people on the Budget Committee would have a very clear record of that.

Mr. KERRY. Mr. President, I ask the distinguished Senator if we could have that list. I think it is important in the event that the second-degree amendment prevails. I think the record ought to show precisely what the Senate is thinking that it is including.

Let me share with my colleagues why I think this is important, why we are here. I will try not to take too long. I know the hour is late and the purpose is not, obviously, to simply talk; but I think it is important.

I listened to the distinguished Senator. Let me say before I start that the manager, the distinguished Senator from Georgia, has been diligent in working with this Senator and with the Drug Task Force and others to try to find funding. Our effort is by no stretch of the imagination directed whatsoever at the Senator. It is simply a disagreement, I suppose, as to what we ought to be doing and how.

This Senator talked at great length with the Senator from Georgia about different methods of funding. And, in fact, one of the methods that we had designed, and prepared as an amendment to this authorization bill, was to take unobligated funds. I think the Senator from Georgia will remember that I asked him if we could take a small portion from star wars, a small portion from the money that I think he intended to fence, about $600 million for interdiction and some of the uses within the military budget, and then about $400 million that could have come from the unobligated funds.

We were told, no, we cannot do that because there is a differential in the rate of payout. And some of those programs pay out very fast. The drug war pays out very fast and we really have difficulty doing it.

Now we are not taking $400 million. We are being told we are going to be able to take $1.7 billion, the full amount from the unobligated funds.

In the process of doing that, Mr. President, we are going to cut the FBI, we are going to cut prisons, we are going to cut the Coast Guard, we are going to cut Customs in order to fund the drug war.

It simply does not make sense. We were sent here to make priority choices, Mr. President. That is what we are supposed to do. And this amendment is designed to put in front of the U.S. Senate a question about priorities.

Do we want brilliant pebbles or dirty streets and dark alleys, Mr. President? How many of those drugs are coming in from outer space? The fact is, Mr. President, that I heard the distinguished Senator from New Mexico talk about rhetoric. Well, we are guilty of rhetoric on this subject.

We passed a drug bill last year and we authorized $2.7 billion. And we went home and people campaigned on it and ran for office. We come back this year and it is not funded.

In the military budget there is not enough money for interdiction.

Last year we put $300 million in for the purpose of interdiction and by, what, June of this year they had not even spent $30 million of it. Here is your phony war on drugs, Mr. President, beginning back in 1980 here on these charts. That is the steady rate of increase in the entitlement programs, the blue; the hefty increase of defense in green; and there is your little old drug war, pretty steady line at the bottom.

You can take a hard look in this next chart at what has been happening in this country, the flow of cocaine, number of prisoners, estimated number of arrests for drug abuse: all way up. Price of cocaine, way down, as can be seen on the black line. Yet the estimated number of law enforcement officers, while Federal and State prisoners go up, up, up, remains an almost steady line, Mr. President. A steady line of law enforcement people out there trying to do the job. No increases there. Cops going out and getting killed delivering warrants of arrests, and we are sitting here talking about rhetoric while these people are trying to fight a real war.

Mr. President, the real war is the war in this hemisphere—Colombia, half the Supreme Court murdered in the Supreme Court Building; the Minister of Justice murdered; the Attorney General murdered; Panama taken over by a drug dictator; Cuba, drugs flowing through; Mexico. We have debated those issues on the floor, but what have we really done, really done, to wage a war?

Mr. President, everybody here notices what happened in Washington a few days ago when Danny Hotz got killed. A kid comes from Nebraska, and he is looking for opportunity in the United States and he finds it in Washington, DC. He comes to Washington and within 1 week he is blown away. Do you know what his mother said, Mr. President? Let me read you what she said. This is the mother of nine kids from Nebraska. She called President Bush and left a message, and she wanted to talk to the President about the Capitol Hill killing of her son, about violence in America, about guns, drugs, poverty, and homelessness. She said, "I believe I was entitled to 2 minutes of the President's time. There is something so seriously wrong with our country. How are we going to turn this around? We cannot live like this. We cannot go on like this. We are only 200 years old, and we're going down the drain."

That is the perception of a mother from Nebraska who lost her son, and that perception is repeated again and again in communities all over this country. And there is not a Senator in this Chamber who has not been home and heard a family complain and say, "Why can't you get them off the streets?" Well, you cannot get them off the streets because the prisons are all full, and the prisons are all full because we have not funded them.

I remember when I was a prosecutor, Mr. President. The only way we could prosecute cases was because we had an LEAA. We took 12,000 backlog cases, and we could knock them down to zero and prosecute within 90 days, from date of arrest to conviction, because we had Federal Government involvement.

The Federal Government has still been walking away from the drug war, notwithstanding all the rhetoric. The rhetoric is absolutely extraordinary, Mr. President. Absolutely extraordinary:

"We are going to win the war on drugs," President Reagan, June 24, 1982;

"This administration hereby declares an all-out war on big-time organized crime and drug racketeers who are poisoning our young people," President Reagan, January 25, 1983;

"If this is a real drug war, are we going to really fight it or will it be rhetoric? No, its not going to be rhetoric," President Reagan, August 4, 1986;

"We've taken strong steps to turn the tide against illegal drugs," President Reagan, September 15, 1986;

"To those who commit crime, who engage in violence, we say the American people have great patience, but that patience has been sapped," President Bush, when he was Vice President, February 16, 1982;

"So when I talk about a war on drugs, I mean more than a rhetorical war," President Bush, March 7, 1989.

So there is, Mr. President, the war that goes on and on but Americans keep saying, "Where's the war?"

I believe, respectfully, that we ought to make a very simple choice here. CBO came out with a study in June of this year, and CBO says that in order to maintain a hedge, higher option lower option, I will take the higher option, with star wars against Soviet breakout, we need to spend $2.6 billion. In order to deploy an accidental launch protection system, $2.6 billion. That is alternative two. In order to deploy a system to protect silo-based ICBM's, $2.7 billion. That is alternative three. The administration plan, $4.6 billion and in the bill, $4.5 billion. The House of Representatives said no. They passed a star wars bill in their authorization bill that is at $2.9 billion, plus $200 million in DOE or $3.1 billion in all.

Mr. President, what the Senator from Iowa and I are trying to do is say take $500 million of real money, not money that comes out of the current war, not money that comes out of Head Start, not money that comes out of education and Pell grants, but real money, and make a choice: Do you need to be fighting the illusory concept of star wars at the very moment Gorbachev opens up a whole new set of alternatives, or could you take some of that money and put it into the war that Americans really want us to be fighting?

Mr. President, I do not think it is that hard a choice; $500 million from the $4.3 billion proposed by the distinguished Senator from Georgia brings you down to $3.8 billion. But there is $200 million in the DOE budget. So you add that back and it still leaves you with a $4 billion star wars budget. CBO says $2.6 billion; the House of Representatives says $3.1 billion and we are willing to come in here—I am not comfortable with it—and say, find $500 million real and put it into the drug war to say to the American people we are serious. That leaves us $4 billion for star wars for brilliant pebbles, laser beams, and a host of technologies which, Mr. President, are not as urgently needed as DEA officers, customs officers, courtrooms, judges, prosecutors, and the capacity to fight the war.

There is a young prosecutor down in Florida by the name of Richard Gregorie. He was an assistant U.S. attorney. He dedicated years to the effort to put people behind bars. He is the guy who indicted General Noriega. He is the man who led the charge against The Bahamas. He quit a few months ago. He quit because he was tired of fighting with the Government that he came to believe was not backing him up and serious in the effort to fight the war.

I am not going to belabor the point tonight with the statistics. You know them. Kids born on various drug addictions; parents who cannot find even the adequate child care and health care, and we are talking now about taking money that ought to be spent on a Head Start program, for instance. Head Start only reaches 20 percent of the kids in this country who need it, and yet it has been proven that of those 20 percent kids that it reaches, 50 percent of them are less likely to go to jail, 50 percent of them are more likely to have a job later in life, 30 percent are less likely to wind up retarded or with health problems, early intervention matters. And we are suddenly saying we are incapable of making choices; we are unwilling to make a cut where there is too much money. We have to take it from everything and even restrict in the process the very drug programs that we are supposed to be funding, robbing from Peter to pay Paul, taking from one hand to put into the other. It simply does not make sense, and the American people know it does not make sense, Mr. President.

I do not know. I am not an expert on all the budget matters and finaglings, but I would warrant you this money of unobligated funds is no more real than the money was last year, and if it does have the problems that the distinguished Senator from Georgia told me we had, then I think we have a significant problem, Mr. President, a very significant problem.

It seems to me that this is a moment where we in the Senate can do something more than talk—a relatively painless way of adjusting our own priorities and of making clear to the American people that when we come back in September, if we can find the money elsewhere we will find it, but if we do not we have some real dollars to put into the drug war that was supposedly funded last year.

I do not know how else we should approach it, Mr. President, but I am convinced that we are at a moment in the START talks, about at a moment in the transition in Europe where we may be able to make enormous savings. This is a moment where clearly star wars at $4.3, $4, $3.8 billion is not necessary.

One other point, The distinguished Senator from Virginia knows this. Every year the Senate votes more money than necessary, and every year we come down in conference with the House. It has happened the entire 4½ years I have been here. Every time that happens. It is my understanding there may even be an already agreed upon figure of $3.8 billion which is where they are going to wind up. That, Mr. President, is $200 million below the number that this amendment offers the Senate on which to vote in order to put real money into the drug war effort.

Now, it was a conservative by the name of Edmund Burke who reminded people, way back at a time when people listened to some of these things, that conscientious men ought to be cautious how they deal in blood.

Mr. President, to borrow the words of a conservative, we are not conscientious about how we have dealt with blood in this country and we are dealing in blood, in this city and in countless other cities all across America. The American people are demanding, and their disrespect for this institution which shows up in every poll demands it, not to mention the fact that the drug issue shows up as the No. 1 issue of their concerns in every poll in America. My question is, Are we going to do more than react to the public urgency with rhetoric?

I agree this does not appropriate the money. I would have preferred to have in here and appropriated the money. But I went to the distinguished chairman of the Appropriations Committee, and in deference to the process as well as to his wishes we sought not to appropriate on an authorizing bill.

I understand that we will have to come back in September and make good yet again on this intent, but unlike 1988 when we did it at the end of the year, at a moment we were able to go back and campaign and not be accountable, this is at the beginning of the year and a beginning of a new administration and at a time when Mr. Bennett, the drug czar, will be coming out with his proposals. So I suggest we set ourselves on a course that begins to make clear our determination to strike out the last vestige of this scourge which we have talked about for too long. This is not a tough choice

or a difficult approach that we are asked to make today.

Mr. President, I respectfully hope that colleagues will decide that the responsible thing to do is to reject cuts from those very programs we are seeking to fund, to reject the mythical money of unobligated funds which runs into the problem of the rate of expenditure versus the rate of drawdown and take the hard 500 as a down payment to the American people on a task that has really too long escaped our sense of responsibility.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

Mr. WARNER. Mr. President, on this side of the aisle as far as I know the amendment is accepted and therefore I move consideration of the amendment.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. Is there further debate?

Mr. BIDEN. The Senator said what?

Mr. WARNER. The amendment is accepted on this side, the amendment offered by the chairman of the Armed Services Committee.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, I am not going to apologize for taking the Senate's time at this time of night. If anyone is owed an apology, we owe an apology not to one another for keeping us late tonight, we owe an apology to the American people for not keeping a promise, or at a minimum, for being late on the promise.

Mr. President, my colleagues when they have heard me speak in the last 12 months on this floor have almost in every instance heard me speak about this issue. Well here is a little refresher course. We came back—before we went out, it so happened it was when I came back—in September of last year because of the fine work of a number of people, including some people on the floor like the distinguished Senator, Mr. MOYNIHAN, from New York, and other distinguished Republicans and Democrats as well, there was a drug bill, a real live, honest to goodness, serious, meaningful drug bill. It was not filled with silly ideas. It was not full of rhetoric. It was full of very hard nosed, straightforward proposals based upon what has been an emerging consensus among experts in this country, whether it is in the area of pharmacology or criminology, an emerging consensus about what we know we can do and what we know we must do if we are going to make any progress in stopping the drug epidemic.

We passed that bill, and that bill did some very meaningful things. It promised State and local police officers about a thousand new drug task forces. It promised INS agents to stop criminal aliens; about $26 million for another 145 border patrol officers. It promised the courts another $38 million for assistance. It promised the bureau of ATF about another 80 positions, the FBI another 225 agents, U.S. marshals another 64, U.S. attorneys almost 200 more. It authorized the construction of 2,000 new prison beds.

Then it went on further in the law enforcement area to call for Federal law enforcement training, 6 million new dollars.

I might note parenthetically the President of the United States went down to Glynnco, GA, a training facility, and stood there with the police officers of all stripes and jurisdictions behind him and said, paraphrasing, we are going to get tough again. And by the way, you all do a wonderful job at Glynnco. This is an important thing that is going on here. But he didn't bother to tell them that he had sent a message to the Judiciary Committee to cut Glynnco $10 million.

The drug bill we passed has 707 new DEA agents, new drug enforcement agents—707 more. The women and men of this body got together in September and said these DEA agents need help. So we created 707 new positions. For the Coast Guard we said we are going to provide 13 new 110-foot patrol ships, 7 new HH-60 drug interdiction helicopters, because we had a problem, a problem particularly on the border down in Florida. For the Customs Service, we said we were going to give them $70 million because they were strapped. Juvenile justice, we said we were going to give 60 communities $15 million to deal with drug gangs that are now in the drug transportation business. And we said, by the way, we were going to provide $14 million for new Forest Service agents to combat drugs on public lands. We said we were going to provide for 46,000 inpatient beds and 176,000 treatment options for drug addicts who are knocking on the door in Miami, in Wilmington, in New York, in Bangor, ME—throughout this country—saying, "I have got a habit. I am shooting people. I am robbing people." Heroin addicts commit on average 200 crimes a year.

And they are knocking on the door saying, "I want out. I want out of my habit. Help me." We said, "OK, we are going to provide for over 200,000 treatment beds." We said, "By the way, we are also going to provide almost 20,000 new outpatient beds for existing programs" including treatment programs where addicts show up every morning to receive help. We also said, "We are going to give $24 million for experimental drug treatment programs. We said—you said—you folks right in this room said, "It is important." We negotiated. When I got back here all I did was spend 2 weeks with all of you who wrote the bill, negotiating the final details. And we fought for it. We fought over whether or not it should be 24,000 beds or 21,000 or 36,000. We fought as if it matters.

We also said, "By the way, we are going to provide 125 new drug prevention projects." We said, "We are also going to provide $46 million for 320 communities across the country to help develop substance abuse programs."

We did more. I will not take the time to explain it all, but we did more. We did all of that because you all said it was important.

Mr. MOYNIHAN. Mr. President, may we have order? An important statement is being made.

The PRESIDING OFFICER (Mr. BRYAN). The Senate will be in order.

Mr. BIDEN. Then we said, "Well, it is late," just like it is late tonight. But then, it was late in the year. We said, we cannot come up with the money at this time in the year. There was $2.7 billion authorized by this bill for all the things we said were so important. By the way, I might add, the President of the United States, then a candidate, was running around the country saying the drug bill was a wonderful bill in one of his debates. He raised the issue. He said this is very important, and that we should pass this bill.

So we said, "It is late in the session." We really cannot take the time now to come up with the rest of the money. But we made, excuse the expression, a gentleman's agreement. We agreed that as soon as we get back here, we will take care of this thing. That is what we said. We said that in the RECORD. And I went forward and tried to come up with a specific funding proposal. But it was defeated. And everybody said, "But don't worry on the floor, Biden. Don't try to come up with more of these proposals because we will take care of it in emergency supplemental. We will fund this thing."

We came back this year. We said the No. 1 priority in America is drugs. The most important fight we can fight. My conservative friend from North Carolina said it, my liberal friend from Massachusetts said it, and my in-between friends from every other State said it. We must fight this fight, we must "end this scourge." But we did not do anything. The supplemental came up. It came up and the House put in $700 million to fund the drug bill—not all of the bill, but at least $700 million of it. And Mr. Darman wrote a note, a very thoughtful note. Mr. Darman is the Budget Director. He wrote a very thoughtful note. He said, "Gentlemen and ladies of the House"—I am paraphrasing—"Gentlemen and ladies of the House, there are things that are more important than the drug prob-

lem. One of them is the fiscal situation in the United States. Ergo, if you keep this $700 million in this supplemental, the President is going to veto this bill he thought was so wonderful to fight for all these new police officers, all these new hard-nosed, tough cops and prosecutors stuff, the stuff of which law and order is made, the stuff of which campaigns are run on."

"I am going to veto it, folks." We said, OK, the President, a reasonable person, says he is going to veto it; perhaps it is not the proper vehicle. We all wondered: What is coming, Mr. President? You are threatening a veto, but tell us how are you going to do this now? How are you going to pay for this, because we know you mean what you say? We know you are sincere. And what did the President do? He said, "I am going to Glynnco. I am going to Glynnco, GA, and by the way, when I get to Glynnco, GA, I am announcing to the world that I am sending to the Senate a new bill. The bill is the new Bush crime package. And I am being tough."

Now, let me just take a minute to tell you what is in the crime package. He said, "I want $6 million for State and local police." We already gave him $120 million in the drug bill. He said, "I do not want that. Give me $6 million, because I want to be tougher." Then he came along and he said, "INS agents, they are important, they are critical. Give me $14.1 million in the new Bush crime package because I do not want the $6 million you gave me 6 months earlier."

Then he made a big deal, "We need more FBI agents. Read my lips. The war on crime is about to end." Then he asked for 500 and some FBI agents. We turned around and said, "Mr. President, we have already authorized for you over 2,000 tough guys, cops, DEA agents, FBI agents, the best and the toughest. Why don't you want them, Mr. President? How come you want a couple hundred less than we are offering you, Mr. President?"

But, basically I kept silent because the logical argument would have been to charge the President, of getting soft on us. We would ask, "Are you weak on crime, Mr. President? Are you a softy? Why do you not want all these FBI agents, Mr. President?" That is the answer we received when we said, Mr. President, you do not want to fund it through a supplemental. You are going to veto that. Tell us, Mr. President, I am waiting. How are you going to get tough, Mr. President? Where are you, Mr. President? Where are you in this war? What have you given us? You have given us cardboard cops, you have given us paper prisons, and you have given us tenuous treatment programs. You have not given us a thing, Mr. President.

Mr. President, and my colleagues, here we are once again.

Once again, apparently, we have all read President Bush's lips. President Bush's lips said, "No new taxes." That was his lips. He meant it; he said it. But I think maybe we all should take lip-reading lessons. This time, let us read the lips of the American people. They are being very straightforward. They are saying, read our collective lips. "We want our neighborhoods back. We want to be able to send our kids to school." They are not even asking that there be no drugs in school. They just want it safe enough so they can walk to school. They are not even asking us in Congress; they are not even asking you, Mr. President, to guarantee there will be no drugs in school. Just let their kids get to and from school without being accosted, without getting caught in a crossfire, without being in the middle of a jungle, because of drugs.

They said, "By the way, Mr. President, it would be real nice if I could walk on my street again. It is not asking a lot, but it would be nice." I think it is time we read their lips.

Now, let me get to the final point. I think Senator KERRY's amendment is a good amendment. I think there are even better amendments, like the one I offered this spring concerning excise taxes. I think there are amendments that are not as good, but are strong and warrant strong support, other than the amendment of the Senator from Massachusetts. Maybe it is the difference of being here 4½ and 16½ years. Maybe I have become a little cynical. I have not only learned to read the lips of the people, I have learned to read the body language of my colleagues. The chances of my amendment on funding passing before we go out are zero. The chances of the amendment of the Senator from Massachusetts passing, although I will support it, are not so hot, in my view. I hope I am wrong.

So I am ready to take the amendment of the Senator from Georgia—by the way, let me add, the Senator from Georgia has been in the forefront of this fight as much as anybody has, and he has been willing to vote to fund these things, in addition to what he is proposing. I mean this as no criticism to the Senator. After we vote on the Nunn amendment, depending on the outcome—and I think I know the outcome—I am going to vote for the Nunn amendment, because I am a realist. We have to get the money somewhere.

If the President wishes to be irresponsible, which he is being, so be it. We cannot change that. I will take any small degree of responsibility that is available to deal with this problem, and as they say, run with it right now.

Let me say, in conclusion, I only served on the Budget Committee about 8 years. I have only been on the Judiciary Committee about 14 years. I have only been chairman of a couple. But I have been there long enough to know that whatever we do tonight is only a down payment, only a down payment. The $1.7 billion is a down payment. And so I think we should take the down payment, but I think we should all be aware—and we should not kid anybody—and it should be on the record; when we passed that drug bill last time, we promised that there would be another billion coming after that. We are now waiting for the new drug strategy, which, hopefully, will have something in it.

So, Mr. President, I think it is time that we begin to pay for what we say is important. The absolute last comment I wish to make tonight is to acknowledge that this amendment will take money from a number of programs that I strongly support. I do not have the option to do it the way that I think is the fairest way, the most honest and straightforward way; reasonable men and women can differ on that.

I think it is important that we decide if we mean what we say. Is there anything else in this country that is more important than making a dent in the war on drugs? Is there anything else as immediate and more important? I think there is not.

Therefore, I am willing to reduce one quarter of 1 percent—in many cases more than that—from programs I am devoted to, like education, health, and others.

Mr. HARKIN. Will the distinguished Senator yield on that point?

Mr. BIDEN. I yield for a question.

Mr. HARKIN. I listened with great interest to the Senator's compassionate speech on the issue of drugs and fighting the drug war.

I have been privileged to serve on the task force with the distinguished Senator from Delaware. I would hope that the Senator would take a look at the way the amendment is drafted of the distinguished chairman of the committee, because it takes out of unobligated accounts that occur at the end of the fiscal year, and then does it in a way that is proportionate.

As the chairman of the Senate Appropriations Subcommittee on Health and Education, I asked my staff to take a look at the unobligated accounts and what might happen if this amendment were to pass. It turns out that the biggest unobligated accounts occur in the student aid programs, because the fiscal year ends at the end of September, but the student aid programs are funded for the next year. Many of these student aid programs are indeed drug education programs, also. But student aid, $1.8 billion; handicapped education, $540 million, these are going to be drastically and severely cut by the second-degree amendment.

Now, I heard the Senator say that we have to fight this war on drugs; we have to get the money. I say here is a classic case of priorities, right here, right before us tonight, a classic case of priorities. We can take some money out of star wars, which still leaves star wars above the last year's level, and put it into the drug program, or we can cut student aid, cut handicapped education, cut chapter 1, cut the Center for Disease Control, cut Meals on Wheels and all these other programs. My point is that the largest unobligated account is in student aid. That is what is going to be cut the most because that is where the unobligated account is.

Mr. BIDEN. In response to the Senator's comment and question, let me say something that is bound to get me in trouble, but one that I feel strongly about. I do not think there is anything more important than this war on drugs. I am a realist; I know there is no way to get the money out of the Star Wars Program.

Therefore, I think if I have to choose between student aid, which I have supported for close to 17 years, never voted against it, and always tried to increase it, if they are my choices, the actual priorities I have to choose between, I have no hesitation of choosing the war on drugs over student aid, the war on drugs over Meals on Wheels, the war on drugs over every other thing that exists in the budget. Therefore, I am going to support the Senator from Georgia because I think being a realist here is the only way we are going to get any commitment at all.

I think it is a shame. I think it is the wrong way to go. I think it is a mistake, but I think it is the only option made available, and I am no longer going to make the case that based on what I think is best, guaranteeing I end up with nothing for the war, I will take what I think is the least best knowing that it is better than getting nothing on the war on drugs, and I think it is an unfortunate choice, but it is the only one we have.

Mr. WARNER addressed the Chair.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. BIDEN. I yield to the Senator.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. JOHNSTON addressed the Chair.

Mr. WARNER. Mr. President, I have the floor, I believe.

Mr. BIDEN. I do not believe I yielded the floor. I was asked whether I would yield to the Senator from Louisiana for a question.

The PRESIDING OFFICER. Did the Senator from Delaware yield the floor?

Mr. BIDEN. No, the Senator from Delaware did not yield the floor.

Mr. WARNER. Mr. President, I understood the Chair to indicate the Senator from Virginia had the floor.

The PRESIDING OFFICER. The Chair was incorrect, if I might advise the Senator from Virginia. I thought the Senator from Delaware had concluded his remarks, and I was in error.

Mr. BIDEN. To the Senator from Louisiana I yield for a question.

Mr. JOHNSTON. Yes.

Mr. President, I thank the Senator from Delaware for yielding.

I preface my question by saying that I was a member of the so-called budget summit 3 years ago. I recall that we spent about 10 days at one time trying to find a billion dollars in the whole Federal budget of cuts, and we ended up being able to get only $500 million, which happened to come out of Medicare and some of the country hospitals that some of you from the country will remember the difficulty of cutting country hospitals, but that is where the $500 million came from.

There are a number of sort of presto solutions around here.

My question is this: In the Nunn amendment which says we take this out of unobligated funds, which is meant to be so very slight in percentage, has there been any statement of where they might come from, what agencies, what programs would be cut by what percentage? Has there been any representation at all on this floor of where they might come from?

Mr. BIDEN. The answer to the Senator's questions is there has been a partial answer to that question and there has been a representation in part as to where they would come from. I say to the Senator from Louisiana that there is no doubt that the ultimate impact will be just as it was a year ago. Whether it is actually a rural medical program or not begs the question. It will be very much needed, worthwhile programs. But in rural America——

Mr. JOHNSTON. Do we know where the unobligated funds are?

Mr. BIDEN. Yes, we do know and the Senator from Georgia indicated where some of them were. He did not give an exhaustive list. He said he would in fact have such a list for us. Apparently, his staff is preparing that.

But the point I want to make to the Senator from Louisiana——

Mr. JOHNSTON. But it has not been given yet.

Mr. BIDEN. It has not been given in full, no.

I will shortly yield the floor and the person to ask that question to is the Senator from Georgia.

But let me suggest to the Senator that I am so convinced this drug problem is an epidemic that if the choice is between having crossroads in rural America that crackle with gunfire because of crack wars, and that is literally what is happening, not figuratively, literally what is happening—you need only read the press. Small towns not only have a problem, like Seaford, DE, which was covered extensively in the Wall Street Journal. There is a major crack problem. They also have a major problem with regard to access to significant medical health care. But given the choice at this moment in those horrible priority choices, they chose to get rid of the crack problem.

So, I hate to say it, the fact of the matter is that I am prepared to support it almost no matter what it cuts because we have to get the money somewhere, and I think the Senator from Georgia has come up with the only thing that will fly at this time of night or before we do go out.

Mr. President, I ask for the yeas and nays on the Nunn amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

Mr. KERRY. Mr. President, will the Senator from Delaware yield for a question?

The PRESIDING OFFICER. Who seeks recognition?

Mr. BIDEN. I have not yielded the floor. I just asked for the yeas and nays.

Mr. DOLE. The Senator yielded the floor when he asked for the yeas and nays.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I have listened to these three speeches. There is much in these speeches that I agree with and I guess everyone here agrees with them. They were very nice speeches, but they were given on the wrong occasion.

I would like to ask my colleagues where they were when we debated a budget resolution, a budget resolution that was about priorities. In fact, unless I am wrong, and I hope I will be corrected, each of the Senators who spoke voted for that budget resolution. That budget resolution set our priorities and that resolution set our funding which ultimately we agreed to that involved the leadership of both Houses and the President as to how much was to go to defense and how much was to go to other purposes.

Mr. KERRY. Mr. President, will the distinguished Senator yield for a point of clarification?

Mr. GRAMM. I certainly will.

Mr. KERRY. This Senator resolutely voted against the budget resolution precisely because it did not make these choices.

Mr. GRAMM. I take the point back then, and let me just state it differently.

The Senate and the House adopted that budget and we set out an agreement as to how we were going to allocate the funds.

The time to have this debate is when in fact we were setting priorities. What we are doing now is coming into the defense budget with a number that was agreed upon in the budget and trying to transfer funds somewhere else.

The amendment pending before us by the Senator from Georgia which has now been amended by Senator HARKIN is an amendment that it seems to me would have been appropriate to address in the Appropriations Committee when we allocated the 302(b) allocation.

I heard no such amendment presented.

Mr. GRAHAM. Mr. President, will the Senator from Texas yield?

Mr. GRAMM. I do not yield. I listened for an hour and I would like to make my point.

My point is this: That we are talking about an authorization bill for defense here. You cannot get blood out of a turnip. You cannot appropriate out of an authorization bill.

If Senators want to debate this issue, they ought to be debating it on an appropriation bill.

Let me remind my colleagues that last year when we appropriated for FBI, DEA, and prisons, we cut President Reagan's proposal for FBI by $100 million. Last year we cut the President's proposal for DEA by $33 million in the appropriations bill and we cut his proposal for prison construction by $300 million.

In fact, I offered an amendment to cut legal services by $58 million to add it to DEA, and yet I did not see this groundswell of support when we were shooting with real dollars.

I am afraid that we hear a lot of rhetoric about priorities when we are debating priorities in a specific area and that area is defense.

I just submit to my colleagues, since I know everyone wants to vote, if we are going to play this game where these issues are not determined on the budget, they are not determined in the allocation under the appropriations bill, but we wait around until we find one program within another allocation that has already been agreed to that we do not like and then we come in and pit it against drugs, let me assure you it will not be long until we will be debating issues and debating funding for programs that are supported by Senators here who are talking about funding this drug war. Maybe we ought to vote on this amendment when we are talking about foreign aid, maybe we ought to vote on this amendment when we are talking about funding in other areas, and that is basically my point.

If we are going to debate priorities let us do it on the budget. If we are going to debate priorities on appropriations, let us do it on the appropriations allocation.

This is an authorization bill. There is no way that I am aware of that we can offer an amendment to an authorization bill that is going to appropriate money in another area.

In fact, I believe everyone has said here we have plenty of authorization; what we do not have is money. We do not have an appropriation.

The bill of the Senator from Georgia, the authorization bill for defense, is not an appropriation bill. It is a bill that is authorizing in defense.

Now granted we can pass an amendment changing authorization, but that does not and cannot fund the drug bill.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. GRAMM. I am glad to yield.

Mr. BIDEN. Was the Senator aware that when the appropriations bill was up, the one we had on the emergency supplemental that the Senator from Delaware did attempt to fund in an appropriation bill the entire drug bill?

Mr. GRAMM. Let me say that the Senator proposed raising taxes, which the Constitution says has to emanate in the House. But that was not the reason I opposed it.

The Senator proposed a legitimate proposal that was timely to fund it by raising taxes. I mean, we can debate that whether we should do it or whether we ought to cut something else. But in my mind that is a legitimate position to take.

But the point I am making is here at almost midnight, when we have already decided, already made an agreement as to how much is going to defense and how much is going to every other area, to be coming in talking about appropriating from an authorization bill violating the budget summit just simply does not make any sense. Let me tell you, we authorize a lot of things that I do not like and I would not support them if they were free. And it is going to be very easy, I think, to drop your little amendment in there and say, "Let's take money away from them."

In fact, I will tell you today, when we vote on Commerce, State, Justice, I am going to offer an amendment to take money away from legal services to fund the war on drugs. We are going to be shooting with real bullets that day and I hope my colleagues are as keen at that moment to fund the war on drugs as they are to try to appropriate out of SDI.

I yield the floor.

Mr. MITCHELL. Mr. President, during this year, I have made every effort to accommodate every Senator in every reasonable way. I have not at any time attempted to shut off debate or to prevent any Senator from offering whatever argument he or she wished to make for however long he or she wished to make the argument.

We have now been debating this for some hours. It is a very important issue. A lot has been said. I believe we ought to proceed promptly to vote on this matter. I believe everyone understands the issues, understands what we are about to vote on.

And then I suggest the following, if we can do that: That under the existing order, we would proceed to the amendment of the Senator from Arkansas [Mr. PRYOR], which I understand will be accepted by the managers.

Mr. NUNN. I believe that is correct, but it is subject to another review by the managers.

Mr. WARNER. Mr. President, I am not sure we know what it is.

Mr. MITCHELL. Then I suggest we proceed to that and, if it is not accepted, hopefully have a brief debate on it and then a vote on that.

Senator SYMMS graciously agreed to set aside his amendment earlier today to permit other amendments to be taken up. I believe neither he nor I anticipated that it would be this late hour before we returned to his amendment. We attempted to work it out in the meantime. We were not successful in doing so. He and I are both prepared to proceed with that.

I will offer a perfecting amendment, which we will debate. I do not believe either the Senator from Idaho or I need a long time to do that.

I would suggest for that Senator's consideration and for the distinguished Republican leader, if he is agreeable to do so, that after we finish with the Pryor amendment, we recess for the night; that we come in tomorrow morning when we have a cloture vote scheduled 1 hour after the Senate convenes; that we could agree, if we are prepared to do so by unanimous consent, that after the time for the two leaders in the morning we could proceed to my perfecting amendment to the Symms amendment under a time agreement for whatever time the Senator feels is appropriate and when that is concluded proceed to the cloture vote.

I suggest all of these things as a way of permitting the Senate to proceed with the matters that we have agreed should be decided. I am perfectly prepared to stay here and complete action on the Symms amendment, on the issue raised by the Symms amendment, this evening. It is very late. We have not finished this vote. We have the Pryor amendment. I thought this would be a more rational procedure.

The managers will have to stay for some time, in any event. I do not want to get us in a situation where Senators

are exhausted and not paying the proper attention.

I suggest this as an alternative that I hope will accommodate everyone's interest and permit us to proceed with some dispatch.

If the Senator from Idaho would choose to proceed tonight, that is perfectly acceptable to me.

I yield to the distinguished Republican leader. I know he is interested in this, as well.

Mr. DOLE. Mr. President, I thank the distinguished majority leader for yielding.

I think there are a number of amendments, probably some on each side, which may be accepted. I am wondering if we might be able to dispose of some of them later this evening. I know Senator DOMENICI has one. I am certain there are others on that side.

Mr. NUNN. If the Senator will yield, the Senator from Virginia and I talked about that. We will be perfectly willing, and in fact we would like to stay for a while and see if we cannot dispose of as many amendments that will not require rollcall votes.

Mr. MITCHELL. That is my intention. That is one reason why I would like to finish reasonably soon, because the managers will have to stay for an hour or so beyond the rest of us and they have to be back here early in the morning to deal with this.

Mr. DOLE. Then if I might indicate also, we have at least one Senator who is on the Hastings case. He was here yesterday. He came back today at every available time to offer his amendment. He could not because there were two or three other amendments ahead of his.

I do not know how we can accommodate him and there may be Senators on that side who have the same problem who have been on sort of that jury. I know Senator BOND has an amendment. He would like to offer it. I am not certain whether it would fall if cloture is invoked. I have not checked that with the Parliamentarian. But there may be one or two of those on that side of the aisle.

It seems to me, in fairness to those Senators who have been spending about 12 hours a day on that case, that we might be able to accommodate them in some way.

Mr. MITCHELL. I would be happy to do so. As the distinguished Republican leader and other Senators know, I have been trying for several days to get an agreement limiting the amendments and identifying those which we could take up so that we could proceed with some dispatch. As I said earlier, I have no desire to prevent any Senator from exercising his rights to the fullest or to shut anyone off. I would be very pleased to see if the managers can reach some understanding in that regard.

I raise only this cautionary note: of course, if everyone is accommodated, then, of course, the cloture vote has no meaning and we might just as well vitiate it and proceed to do tomorrow what we did today.

Mr. DOLE. I think in the case of the Senator from Missouri [Mr. BOND], he would be willing to debate his amendment this evening and have a vote the first in the morning. It would be one way to get everybody here. He is prepared to do that because he does have duty again tomorrow morning starting at what time?

Mr. BOND. Nine.

Mr. DOLE. Nine o'clock.

Mr. MITCHELL. I am perfectly prepared to accommodate that, if that is acceptable to the managers.

I would ask if the Senator from Idaho has any reaction to my suggestion.

Mr. SYMMS. I would be willing to accept that under the condition that the cloture motion would not cause the Symms amendment, which is now pending, to fall.

Mr. MITCHELL. I am suggesting we do it before cloture.

Mr. SYMMS. I would be willing to accept a short time agreement. It will not take a lot of time, as far as I am concerned.

Mr. MITCHELL. May I suggest 40 minutes, equally divided?

Mr. SYMMS. I do not think we need that much time.

Mr. MITCHELL. Let us make it 30, then. There are two or three Senators who wish to speak on it. Thirty minutes, equally divided.

Mr. SYMMS. That is agreeable to me.

Mr. MITCHELL. If this is agreeable to all Senators—does the Senator from North Carolina wish to respond?

Mr. HELMS. It is not clear to me what you are talking about when you say the Symms amendment. Are you talking about the Symms amendment or your substitute for it?

Mr. MITCHELL. My perfecting amendment.

Mr. HELMS. They are two different things.

Mr. MITCHELL. Right.

Mr. HELMS. I would be unwilling—by the way, Mr. President, may I inquire: What is the status of the Symms amendment? I am not talking about the majority leader's perfecting amendment, because that has not been offered yet. It cannot be offered yet.

The PRESIDING OFFICER. The Symms amendment was laid aside earlier by unanimous consent.

Mr. HELMS. I understand that. But is there not a tabling motion?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. OK. No amendment can be offered as long as that tabling motion is there. I talked with the majority leader about withdrawing that, but I do not want it withdrawn in my absence. So the majority leader cannot move until I do something about the tabling motion.

Mr. MITCHELL. I think it is best if we discuss this with the leader and Senator SYMMS and Senator HELMS off the floor. I just say the only way that we are going to be able to conduct any business in the Senate is if we can reach agreements informally and privately and rely upon those agreements being adhered to.

I would like to accommodate the Senator. If he has some advantage in position as a consequence of the action that he took earlier which he wishes to press, and I am left with no recourse, I will accept that result.

I also say to the Senator that, since I have been majority leader I have tried as hard as a human being can try to be fair. I have kept every commitment formal, informal, otherwise.

I think this is something that we might best discuss subsequent to this. I am trying to work out an arrangement for the convenience of all Senators, including the Senator from North Carolina.

Mr. HELMS. Will the Senator yield?

Mr. MITCHELL. I would be pleased to yield.

Mr. HELMS. That is a two-way street. I have tried to cooperate with the majority leader. But each of us does have our rights.

Mr. MITCHELL. Yes.

Mr. HELMS. I know what is afoot about the Ollie North amendment, which is the one offered by the distinguished Senator from Idaho. There are a lot of Senators who do not want a vote on that amendment and that is what this is all about. But I agree with the majority leader. I will be glad to talk with him off the floor, but I must say to him with all due respect and friendship that I want to press my case as much as I can. But I will be glad to talk with him off the floor.

Mr. MITCHELL. I thank the Senator.

Mr. SYMMS. Will the Senator yield for another question? I want to say to the majority leader, since we have been standing here, I have had requests, two Senators have come up and asked for part of that time. One asked for 15 minutes.

So it will probably take a little longer than 30 minutes equally divided. It may take as much as an hour equally divided.

Mr. HELMS. Will the Senator yield further? I listened to JOE BIDEN for an hour. I do not think we ought to have any time agreement on the Ollie North amendment.

I promise not to string it out but I listened to JOE and I enjoyed every syllable of his speech, almost.

Mr. MITCHELL. If we attempt to go back and compute the time used by various Senators on each amendment, it would be a fruitless and nonproductive effort. I do not think we can use as a baseline for this discussion merely the most recent statement by a Senator. I am trying to resolve this in a manner that accommodates the interests of all Senators.

I understood the Senator from Idaho to be satisfied. I suggested 40 minutes and he proposed 30 minutes. If he wants to go back to an hour, that is agreeable to me.

Mr. HELMS. In any case there has been no unanimous consent.

Mr. MITCHELL. No. I have engaged in more fruitless efforts to obtain unanimous-consent agreements in this year to last me for my lifetime, and I have no desire to pursue that course further.

If this appeared to be agreeable, reasonable, and fair to all Senators, I will now propound a unanimous-consent request. But I do not want to just jump up and propound one without inviting comment and getting a sense from Senators if they feel it is a fair thing to do.

Mr. HELMS. One final question, and I am not trying to be difficult. Will the Chair explain to me how we can debate the Symms amendment at all when there is a tabling motion on it? The answer to that, I would say to the Chair, is we cannot.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair.

Mr. SYMMS. Mr. Leader, I am willing to agree to a time agreement, but I think the Senator from North Carolina made it pretty clear that his tabling motion is pending. As long as that is pending, the time agreement is not—I need some time for the Senator from South Carolina.

Mr. MITCHELL. Why do I not propound a request now and, of course, the Senator can agree or not agree, if he wants.

Mr. President, I ask unanimous consent that the Senate proceed to vote on the pending Nunn amendment.

Mr. JOHNSTON. Mr. President, will the majority leader yield? I hate to ask this request, but I have not spoken. If I can have 5 minutes?

Mr. KERRY. Mr. President, I simply want to ask a couple of procedural questions so we can get some things in the RECORD. It will not take very long. In fact, I could just ask it now. Will the distinguished Senator from Georgia agree and could we have unanimous consent to place at the appropriate place in the RECORD a full list of those areas that will be, in fact, affected by virtue of the amendment?

Mr. NUNN. Yes. We do have that information now. We will put it in the RECORD.

Mr. KERRY. If I could simply ask one question of him, if he could articulate in brief form precisely what it is his understanding this measure of his will do with respect to the actual funding of the $1.7 billion for the drug war.

Mr. NUNN. I would like to defer that until the leader gets through with his unanimous-consent request, but I will be glad to address it.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be 20 minutes more debate on the Nunn amendment, equally divided under the control of Senator NUNN and Senator HARKIN; and that upon the expiration of that debate or the yielding back of time there be a vote on the Nunn amendment; that, if the Nunn amendment does not prevail then it be followed immediately without any intervening action by a vote on the pending Harkin amendment; that following disposition of the Harkin amendment, the Senate proceed to consideration of the Pryor amendment and that following disposition of the Pryor amendment, there would be no further votes tonight. And following action by the managers with respect to other noncontroversial amendments, the Senate would stand in recess until the hour of 9:30 tomorrow morning; that there be a period between 9:30 and 10 for the two leaders and for morning business and at 10 o'clock the Senate return to this bill and at that time take up the Symms amendment and a perfecting amendment which I intend to offer to the Symms amendment; that there be 1 hour of debate on the perfecting amendment, equally divided between myself and Senator SYMMS, following which there would be a vote on the perfecting amendment; that if the perfecting amendment is not adopted, that the Senate immediately vote without any intervening action on the Symms amendment.

Mr. President, I amend the request to state that this evening, following the disposition of the Pryor amendment, that there be debate on the Bond amendment for such time as that debate occurs, and that a vote on the Bond amendment occur at 10 o'clock in the morning and the taking up of the Symms amendment and the Mitchell perfecting amendment thereto commence at 10:15, with 1 hour of debate with the remainder of the agreement as stated and that following disposition of these matters, the Senate proceed to vote on cloture.

Mr. HOLLINGS. Mr. President, would the Senator make it an hour and 15 minutes, make it 15 minutes between the leader and Senator SYMMS and me? I want 15 minutes on the leader's perfecting amendment.

Mr. MITCHELL. I would so amend the request.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Reserving the right to object, I am constrained to object to just one piece of that request and that is to immediately go to the Harking amendment in the event the Nunn amendment is defeated. I wonder if we might drop that portion, see what happens to the Nunn amendment. There is no objection on this side to the balance of the request. We have taken care of the Senator from Missouri, unless the Senator from North Carolina has any further reservations.

Mr. HELMS. Well, of course I do, reserving the right to object. I still do not see how the leader can propound a unanimous-consent request, Mr. President, and I say this with all due respect, with a tabling motion setting astride the Symms amendment. I cannot agree to any time agreement because we have to dispose of this tabling motion.

Mr. MITCHELL. If the Senator from North Carolina is not willing to agree to this request and withdraw his tabling motion, why, then we will proceed to vote in that manner.

Early this afternoon, the Senator from Idaho and I reached an understanding on how we would handle the disposition of his amendment.

It was intended that his amendment would be set aside; that no action with respect thereto would occur in the interim; and that when we return to it, all parties would be in the place they were in at that time. I stated openly and candidly to the Senator from Idaho what my intention was. Unfortunately, through what I understand was a lack of communication between the Senator from Idaho and the Senator from North Carolina after I left the floor, the Senator from North Carolina moved to table because he was not aware of the understanding that I had made with respect to the Senator from Idaho.

Under the circumstances, I believe that the most appropriate, fair thing to do would be for the Senator from North Carolina to withdraw that motion to table.

Mr. HELMS. I will consider that if the distinguished majority leader will yield. I simply cannot agree to a unanimous-consent request that even talks about time. We must meet. I suggest we go ahead and vote on the Nunn amendment and let some of us get together and try to work this thing out during the vote and not keep Senators here listening to this because we are not going to resolve it unless we get together in the Cloakroom, you, myself, Senator DOLE, and Senator SYMMS.

Mr. MITCHELL. I have been trying to do just that, I say to the Senator, for the past 15 minutes. If the Senator objects, as he has every right to do, obviously, then we will simply proceed.

Mr. HELMS. To simplify the thing, for the time being I object.

Mr. MITCHELL. Mr. President, I withdraw my request.

The PRESIDING OFFICER. The Senator form Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I will be brief. Let me say I think very much we ought to find a way to fund drugs, and I will vote for a way to find money for drugs. But, Mr. President, let me say that the Nunn amendment is the most mischievous and arbitrary way we could possibly do that. I ask my colleagues to listen to me for just a moment.

Mr. President, it says at the end of the fiscal year 1989, that is October 1, 1989, that a percentage computation will be made of the relationship between 1 billion 7 and all the unobligated balances, and that that shall be allocated among departments or agencies pursuant to subsection A.

Mr. President, what this does is it gives to the President the authority to decide what will be funded and what is not funded because between now and October 1, if the President wants to fund a program, he obligates the money. He does not have to spend it. He obligates it. If he does not want to fund a program, he does not obligate it. So, Mr. President, it is a carte blanche for the President of the United States, or for OMB, to decide what shall be funded and what shall not be funded.

Second, Mr. President, it states that they shall divide this among "departments" or "agencies." Department may or may not be a well-understood term, but I can tell you agency is not. For example, the Department of Commerce has a huge number of agencies. The National Weather Service; is that an agency? Who decides? I suppose the President of the United States would decide. He can make the cuts in the department or the agency. It says that the President would have the right to decide whether he makes the cut across all of the department or whether he selects specific agencies as to which he makes that cut. So he has full discretion as to what he obligates prior to October 1, but even after October 1, he has the right to say what is a department or what is an agency.

Mr. President, you will note, those of you who have looked at this sheet, as to what is obligated and what is not obligated, will note that DOD unobligated is about 25 percent and domestic discretionaries is about 75 percent. So if the President wishes to, he can go ahead and obligate all of DOD so that all 75 percent falls on what? I suppose, Mr. President, he would start with some of those programs he does not like. How about the Appalachian Regional Commission? He did not put it in his budget. Do you think the President is going to obligate those funds? So what is going to happen? Those programs he does not like are going to be completely unfunded. Those he likes are going to be completely obligated so that you are not going to have a quarter of 1 percent veto over some of these programs, you are going to have 100 percent veto over these programs.

Mr. President, what is an obligated account? We think we know what an obligated account is. A personnel account, for example, if you have 1,000 people in your department who are employed on civil service and to get their salaries for the whole year, is that obligated? Well, I guess so but, on the other hand, there is no contract in effect to pay those people. You can always fire those people. There is just enormous discretion. It is worse than illogical; it is worse than arbitrary; it is downright mischievous and anybody who is opposed to line-item veto has to oppose this amendment.

I know it is well meaning. I support the idea, Mr. President, of getting money for drugs, but surely there is a better way of doing it than just saying let us look at what is unobligated. By the way, what is unobligated does not have anything to do with its priority; it does not have anything to do with its importance; it does not have anything to do with anything except that in the course of the spending of that year, it just did not happen to be obligated.

So, Mr. President, there are many better ways to do it. If we are going to cut across the board, then we ought to come in with a detailed formula. Gramm-Rudman was the subject of a huge amount of debate where we said, in the case of sequester, it is cut from every department, agency, function—I forget what those words of art were, but they were words of art, so we knew exactly where it was going to fall. We thought it might not be good, but we knew where it was going to fall, and we took the discretion out of the President's hand. I think my colleagues remember that debate. It went on at great length because we wanted to get away from the right of the President to, in effect, impound funds.

This would give the President the right to impound funds 100 percent in those programs he did not like. I think we ought to find a better way to do it.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I hope we can now vote on the Nunn amendment. I only say in response to the Senator from Louisiana, there are probably a lot of better ways to do it. The point is we passed the drug bill last fall and nobody has found a better way, and nobody has proposed a better way that got 50 percent of the votes. So at some point you have to say where are all these better ways? We are still here 9 months later. Everybody has declared war on drugs, but the troops do not have any ammunition, and those are not just the law enforcement troops; it is the health troops and the education troops, too.

There is no better way that I can think of tonight, and I have some responsibility under this bill to see that this bill does not breach the summit. The better way proposed by the Senator from Iowa and the Senator from Massachusetts, that better way breaches the whole summit conference that was agreed to. Supposedly peoples' words around here mean something.

The leadership agreed to it. I did not but the leadership did. So that better way is to take the money out of defense and put it into the drug program, and there are a lot of people who would like to do that but that would breach the deal that was made and probably this bill would not go anywhere, if that is the way it is done. So we are not going to fund the drug bill that way, even if it is voted for tonight. It is not going to happen. We all know that. That will turn the conference into a very long conference and put us in a situation where we basically as the Congress breach the agreement that was made with the President.

So the Senator from Louisiana is entirely right in theory. There are a lot of better ways. This is not the best way, but it is the only way I know of tonight. It is the only way we have before us tonight.

I would also say again that I have pointed out with the greatest precision I am capable the way this estimate would come out, but I do not want anyone to think that these numbers are in concrete because what we have in terms of discussing the $160 billion in unobligated balances is an estimate made in February of what may happen in September. So we are going to have to wait until September to know precisely.

I will put a list in the RECORD that will show all the mandatory programs and all the nondiscretionary programs. We are trying to get that now, and we have part of it. We do not have the whole thing. But I will put that in the RECORD.

So it is up to the Senate to decide. This is not a good choice. There are certainly better ways, but we do not have them before us tonight. We have had a long time to try to find them and nobody has come up with them.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. NUNN. I will be happy to yield for a question. Then I hope we can come to a vote.

Mr. JOHNSTON. Just one question. Does the Senator agree with me that this puts the whole discretion in the

hands of the President as to what would be funded and what not?

Mr. NUNN. I would say it leaves the Appropriations Committee and other committees the alternative before we get through with the conference which will be sometime in September. If the Senator knows a better way, all he has to do is get it passed and the conferees on the Armed Services Committee will be delighted to turn this back over to other people because this is not our primary jurisdiction anyway.

So I would say the discretion is not just in the President. Under this amendment, if it becomes law, it would give the President additional discretion. I will certainly say that. But it would give him discretion to make the drug bill the highest priority. Maybe it is not the highest priority. Maybe an Appalachian project is higher priority. Or maybe there is a project in Louisiana that is higher priority or maybe there is one in Georgia or South Carolina. But I do not think that is the way the public feels. I think they feel the drug problem is the highest priority, so we will be taking care of that problem with this amendment. Again I would invite anyone on the Appropriations Committee or otherwise to come up with an alternative and we will be glad to consider that. So the Senator will have a lot of leadership to exercise there because he has a lot of influence in that committee. We will be listening to him. The Senator from West Virginia is a cosponsor of this amendment. He has helped us work it out. He has helped us work it out in a way this does not appropriate money on an authorization bill. We are not setting that precedent. He knows, as I know, there are better ways to do this and I know with his leadership we will be looking for those. All I say to my colleagues tonight, this is the best way that I can offer that causes the least amount of damage and still funds the drug bill, which is what I think most of us here want to do.

Mr. HARKIN. Mr. President, again we still do not know just what those unobligated funds are. I would ask the chairman of the committee if we know what those unobligated funds are?

Mr. NUNN. I have a list here based on the February 30 estimates that shows $166 billion and it shows every branch and every department as to where that money is estimated to be, but the key date in this amendment is September 30. This is an estimate of what may take place September 30.

So I cannot stand here tonight and tell Senators this is what is going to happen. The Defense Department under this has $39 billion estimated in unobligated balances but that was somebody in February who tried to project how many contracts were going to be signed by September 30. And so you cannot answer it with precision, but can you answer it by putting this list in the RECORD. I will be glad to show the Senator a list.

Mr. HARKIN. I would like to see the list. I have here the list of unobligated accounts from the end of last fiscal year and at the end of fiscal year 1988 there was $666 billion in unobligated accounts. So I do not understand why last year there was $666 billion and yet they estimate only $166 billion this year. There is quite a discrepancy from last year to this year in unobligated accounts. I am just trying to get a handle on all these figures.

Mr. NUNN. The Senator is including the mandatory trust funds in that figure and we do not include mandatory trust funds in our amendment. If the Senator will look at this chart, he would see the distinction. The Senator just read from the total of the mandatory and the discretionary.

Mr. HARKIN. I have here the Health and Human Services figures except for Social Security, but I think the chairman may be right. There are some other figures, now that I look at it, which look as though they may be in the mandatory column.

Mr. NUNN. I think the Senator is correct.

Mr. HARKIN. I think that is correct. I would like to look at that because I still make the point, as I did earlier, that the largest portions of unobligated accounts that I can see are the education accounts that are yet to be funded for the next fiscal year. I would sure like to look at those unobligated funds.

Mr. NUNN. The list we have here—this again is the estimate but I believe it to be reasonable—shows $1.8 billion in education funds.

Mr. HARKIN. That is what I have.

Mr. NUNN. And that is out of $160 billion so if you take $1.8 billion and make it a fraction of $160 billion, education would have approximately two one-hundred-sixtieths which is something less than about $3 million is what we figure.

Mr. CONRAD. Will the Senator yield for a point?

Mr. NUNN. That is not a very big percentage.

Mr. CONRAD. Will the Senator from Iowa allow me to ask a question on this point?

Mr. HARKIN. I yield the floor.

Mr. CONRAD. Will the Senator from Georgia tell me, with the wording that has been provided for, if it would not be possible for the President to take the full amount out of education?

Mr. NUNN. No. No.

Mr. CONRAD. What would preclude that? Is not the language——

Mr. NUNN. There is a proportional section, part B of this amendment, which says that each account, each Department shall be proportional to its percentage of the whole of the unobligated balance. So if education had $2 billion unobligated at the end of the year, and the total amount is 160, education would only pay two one-hundred-sixtieths of the $1.7 billion for drugs, but if defense was $40 billion, if it was out of 160 then it would pay 25 percent.

Mr. CONRAD. Is the language of the amendment that the Senator from Georgia has offered mandatory language?

Mr. NUNN. Yes.

Mr. CONRAD. Or is it language that authorizes the President to make these determinations?

Mr. NUNN. The President is authorized to make these transfers but if he makes them they have to be in proportion, so the mandatory part of it is the proportional.

Mr. CONRAD. So the President—correct me if I am wrong—as I understand it, could determine to do nothing?

Mr. NUNN. If the President wants to take the responsibility, after Congress has given him the funding mechanism, of not funding the war on drugs, then he would be authorized to either do it or not do it but he has been given the money.

Mr. CONRAD. Could the Senator answer the question, if the President chose to take these funds on a proportional basis, would he be able to fund half of the drug war, three-quarters of the drug war, as long as he did it proportionally?

Mr. NUNN. I would say to the Senator that I believe the President would have the authority to fund less than 100 percent under this amendment but whatever percentage he funded under this amendment he would have to do so proportionally with each account. So the President could fund the whole drug war or he could fund less than that. Any time you authorize the administration to do something and take the words "shall" out of it, the President then has broad discretion.

But we are giving him the money to do the job if he chooses to do it.

Mr. CONRAD. If I might just conclude by asking, could the Senator from Georgia give the rationale for taking the mandatory language out and substituting language that gives the authority to the President to determine what amounts are transferred or what proportion is transferred?

Mr. NUNN. I say to the Senator the underlying amendment is also the same character. It authorizes to be transferred, which is exactly the same as we do. They take it from a different fund. The underlying amendment does not mandate the President. It is not "shall." It says it is authorized to be transferred. So the President has discretion under either of these amendments.

Mr. CONRAD. But I am wondering the rationale of the Senator's amendment, why "to be transferred" is used rather than mandatory.

Mr. NUNN. The rationale is trying to count to 51. [Laughter.]

Mr. LEVIN. Mr. President, will the chairman yield for a question? Will the Senator from Georgia yield? Is it my understanding of his amendment that the President has discretion within each department to take the funds for that department's cut from any project or program that he chooses?

Mr. NUNN. I think the Senator is correct on that. The President has broad discretion within the departments.

Mr. LEVIN. If for instance in the Defense Department the President wanted to take something from star wars and everything from readiness, the President would have the authority under this language?

Mr. NUNN. Unless it was not otherwise constrained in law. But I want everyone to understand that we will be in conference on this. We are going to be working on it. We also have appropriations bills. I believe if you vote aye on this amendment tonight you are guaranteed that there will be a funding mechanism that will give the money for the fight on drugs before we get through this year. I do not say it will be precisely this mechanism. I never have said this is perfect. But I believe this tells the President of the United States that the Senate of the United States is absolutely committeed to this, and we are giving him the authority.

Mr. LEVIN. Will the chairman yield for one additional question?

Mr. NUNN. Yes.

Mr. LEVIN. In the Gamm-Rudman law we required "proportionate," so that every program, project, and activity would be hit equally inside the department.

Mr. NUNN. That is right.

Mr. LEVIN. So the President could not pick and choose his favorite programs, projects, and activities within a department. My question is why is it that this amendment does not require an equal hit on all programs, projects, and activities inside the department in order to prevent that kind of untrammeled discretion by the President?

Mr. NUNN. I say to the Senator because the unobligated balance is very uneven across the departments, and I think to come to that degree of detail would probably take us 2 or 3 months. As I recall Gramm-Rudman-Hollings took 6 months. That particular point was negotiated to the best of my knowledge for 45 days or more.

So would say to the Senator there are two reasons. One is we are trying to finish this bill this week, and the second reason is that the unobligated balances vary year to year. I think it would be almost impossible for the Congress to come to that kind of precision.

I would also add that the readiness funds—the Senator gave an example—would probably not be the best example because readiness spends very rapidly. Very likely readiness will not be unobligated in the fiscal year. It will probably have to be extended.

Mr. LEVIN. It is not correct, though, that this decision is made on September 30 so there is at least about 2 months between now and then for that kind of example?

Mr. NUNN. Right.

Mr. LEVIN. That could be ascertained between now and then so that the President could be prevented from having this kind of discretion by simply adding the words "program, projects, and activities" will be hit equally within each department.

Mr. NUNN. I would say to the Senator that I think tonight we should not do that. I would oppose that tonight. I know he will be a member of the conference, and we will be discussing this in the conference.

I certainly think that is a worthy thought to be considered in the conference. I am trying to find something tonight we can get enough votes to pass that funds the drug bill. That is my priority.

Mr. KERRY. Mr. President, will the Senator yield for a question?

The Senator just said "that funds the drug bill." I asked the question earlier, and I want to try to see if we can pin it down. I understand the Senator from Louisiana had a question. The answer to it states that this does not fund the drug bill. This gives the President discretion to decide if he wants to fund the drug bill. Is that correct?

Mr. NUNN. I say it is the same approach as the Senator from Massachusetts and the Senator from Iowa in their amendment, precisely. The words in the amendment of the Senator from Massachusetts is of the amount authorized in section 201 to be appropriated and made available pursuant to, and so forth, strategic defense initiative, $450 million is authorized to be transferred and be made available.

So perhaps whatever the fault the Senator is casting on this amendment is also making it applicable to his amendment.

Mr. KERRY. I understand. I am just trying to make clear what we are doing here tonight. In the words of the amendment on star wars, I am not sure we would be discussing funding. There was not even the word "drugs" in this bill until we came to this point.

Mr. NUNN. As the Senator knows, I have been working on the drug amendment now for about 1 month.

Mr. KERRY. And the Senator from Georgia knows well that I said that at the outset of my comments. The point is that we do not have anything yet. I mean, I listened to the Senator from Texas talk about 302(b) and the inappropriateness of being here. You know, nobody out in the rest of this country understands the inappropriateness of being here right now. We are going to come back here in a few hours and talk about $160 billion for FSLIC. We are going to talk about $30 billion that we are willing to bond right up front and pay for bailing out the banks. The mother out in Nebraska does not understand why we are bailing out the banks and not funding the drug war. All I want to do is make certain.

Mr. NUNN. The Senator and I do not have any disagreement on that. I think we have business being here, and I think we have business trying to find the money before we go home for any recess to fully fund the drug bill. When I say "fully fund," it becomes the President's responsibility if this becomes law. I think the President would find a way to fund the bill under this.

Mr. KERRY. What I am really trying to ascertain so the language of this record is very, very clear and we do not leave here, have somebody else pointing a finger, "You guys didn't fund it, you didn't do it"—I want to make certain what choices have to be made after whatever action is taken tonight by whom.

It is clear that if we do this tonight, the President has the ability to fully fund the drug war if he chooses to do so.

Mr. NUNN. If this becomes law.

Mr. KERRY. If this becomes law.

Let me ask this question, if I may, and I turn to the distinguished chairman of the Appropriations Committee. He and I have discussed the question of trying to fund with respect to other accounts or other ways. He had indicated that it might be possible to find some other means of funding it.

I would ask the distinguished President pro tempore of the Senate whether or not if we pass this tonight it would still be his intention to attempt in the appropriations process or in some other way to find the full funding for that bill, because there may yet be a means of undoing some of the harm that could be done by the passing of this amendment. I ask the distinguished chairman if he would answer that.

Mr. BYRD. Mr. President, in response to the question, this amendment authorizes the President of the United States immediately upon the passage of this bill and his signing into law to fund the Drug Act. The ball is in his court. If he wants to fund it, if this bill were to become law tonight, he could fund the Drug Act that we pass tonight because we are putting it

within his hands to do that. We are saying, "Mr. President, if you really mean business in funding the war on drugs, here is the means by which you can do it."

There is something else it is doing. It is putting the gun to the heads of the Congress and saying "If you do not like what you are doing here tonight you find a better way." And I hope that this amendment will prove to be a catalyst so that we all work together to find a way to fund the war on drugs.

While I am on my feet, if the Senator will allow me, let me thank him and let me also thank the Senator from Georgia. Everybody agrees as to the criticality of the war on drugs. We all agree to that. The problem has been how we are going to fund it. In the polls it is true that is the number one problem. But also in the polls close on to that first place problem is the budget deficit.

The budget deficit runs a pretty close second, as far as what I have seen. Now, everything that the distinguished Senator from Louisiana said, I think is true. He is right. I do not like this approach, but there are approaches that I like even less. I do not want to see the Senate—may we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. I do not want to see authorizing bills making appropriations, and it seems that this is the top priority of Members of the Senate, and there is going to be money appropriated for this war on drugs. If we do not do it tonight, we will do it tomorrow. If we do not do it tomorrow, we will do it when we get back.

Now, I said that it is an absolute futility to even dream that you can fund this war on drugs before we go home. Now, if anybody can tell me how we can do that, I will sit down, and I will not get out of my seat until we adjourn sine die. You cannot do it. You cannot pass a law that fast. So this is the one way to go in the direction that we know we are going in sooner or later. Now, there are many here who are very protective of the appropriations process. I count myself as one of those. And so out of deference to that appropriation process, the budget process, the distinguished Senator from Massachusetts, Mr. KERRY, moved away from an amendment that would have appropriated the funds, and I thank him for that.

In answer to the question, one way or another, the war on drugs will be funded this year. If we pass this bill, it goes to conference. That is going to consume a good many weeks. We are going to come back here. And of all the appropriation bills which pass and to fall within their allocation, do not exceed those efforts, and if reconciliation legislation is passed and it provides the revenue that it has been directed to provide, we will not have any problem funding the war on drugs. It can be done without fear of sequester.

I think that what we really all want to do is to do the job and do it right. This is not the best way, but it does say, Mr. President, when it is passed into law, it is your baby. You fund this war on drugs. But it also says to us, if you do not like that—and I do not like it, and this is to the Senator's credit. If you do not like it, then you find a better one. I am going to do everything I can to find a better way, because I do not like this, for the very reasons that the Senator from Louisiana has stated. I hope we will adopt this amendment and get on with the further business.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. I shall be very brief. I prefer the amendment by the Senator from Iowa, but if those of us who prefer that vote against this, we may end up with no amendment. I think that is the reality. And so with the assurance of the chairman of the Appropriations Committee that they are going to take a good look at this, it seems to me the sensible thing for us tonight is to vote for the Nunn amendment and adopt that and send a clear signal to the Appropriations Committee and to the country that we are going to move on this problem.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I tend to agree with what my colleague from Illinois said, but again, the matter of funding the drug war is also a matter of choices, of priorities. There is money to fund the war on drugs. There just is not enough money to do everything that everybody wants. But there is enough money to fund the war on drugs. It becomes a question of what our priorities are and where we are going to get the money.

I have stated my priorities here this evening. I pointed out that the only reason for funding star wars is to prevent the Soviets from breaking out of the ABM Treaty. The Congressional Budget Office stated that the amount of funding needed for the program to prevent that breakout by the Soviets would fall somewhere between $1.9 and $2.6 billion. But we have a program here to fund SDI at $4.3 billion. It is interesting that the difference between the maximum that CBO said was necessary to prevent breakout, which is $2.6 billion, and the SDI funding of $4.3 billion is $1.7 billion, the exact amount of money needed to fully fund the Drug Abuse Act of 1988.

I would like to see a vote on the Senate floor on that switch of priorities. I would vote to take $1.7 billion out of star wars and fully fund the war on drugs, because I think that poses a more real and present danger to our national security than does the threat addressed by star wars. But for some reason we cannot get that kind of vote here on the Senate floor. I attempted to do that with the underlying amendment that would transfer $450 million to partially fund the war on drugs out of SDI.

That has been preempted by the perfecting amendment of the distinguished chairman of the committee. I look at the tables of unobligated funds, and I still have very serious questions as to what they mean. There are funds appropriated to the President of $30.3 billion. I have no idea what that means.

After listening to the distinguished chairman of the Appropriations Committee, I am convinced that he has the best of the arguments. That is, what this really does is to tell both the President and the Congress that we have to fund the drug program. Either you do it, Mr. President, or we have to do it in some way before the end of the fiscal year. I believe that approach is proper.

I also agree with the Senator from Louisiana. This is not a good way to do it. I hope we can come up with something better.

This Senator's intention was to vote against the amendment offered by the chairman of the authorizing committee, the Senator from Georgia, but then to ask for the yeas and nays on the underlying amendment, so that we can express ourselves both ways.

Mr. KERRY. Will the Senator yield on that?

Mr. HARKIN. I will not yield right now. After considering that—the chairman of the Appropriations Committee put it very succinctly—I believe the best course of action is to adopt the chairman's amendment. After having looked at these tables, I will admit that the tables I had about an hour ago were not the right tables, because they included all of the mandatory programs.

After having looked at the tables that the chairman gave me, it has become more clear to me that the amendment offered by the chairman of the authorizing committee is a fair amendment, in that it does not require agencies or departments to come across in the amount that it is proporational to $1.7 billion. I do not know what all these mean, but it does look fair.

So while I would prefer to have a clean vote on switching money out of SDI to the war on drugs, I can see that that is not possible. So you have to take what you can get. The amendment offered by the chairman of the authorizing committee, the perfecting amendment, is the best we can accomplish here tonight, considering what is

before the Senate at this time. I intend to support it.

Mr. LEVIN. Mr. President, it is essential that we redeem our promise to the American people and fully fund the drug war legislation that we enacted last year. The method presented by the Nunn amendment is not the best approach. As I indicated during the debate, I have serious reservations about the degree of discretion which it would give the President to manipulate the unobligated balances in ways which would allow him to play favorites among programs, projects, and activities. I will work actively in the conference to improve this amendment in this report.

But what we are doing here tonight with this amendment is not fine-tuning legislation. What we are doing here tonight is sending a clear signal to the President that the Senate—in one way or another—is going to demand a fully funded drug war. The drug crisis in our communities requires no less.

The PRESIDING OFFICER. The question occurs on the Nunn perfecting amendment.

Mr. NUNN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have previously been ordered.

The question is on agreeing to the amendment of the Senator from Georgia. On this question, the yeas the nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. SASSER], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 90, nays 9, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—90

Adams	Exon	Metzenbaum
Armstrong	Ford	Mikulski
Baucus	Fowler	Mitchell
Bentsen	Garn	Moynihan
Biden	Glenn	Murkowski
Bingaman	Gore	Nickles
Bond	Gorton	Nunn
Boren	Graham	Packwood
Boschwitz	Gramm	Pell
Breaux	Grassley	Pressler
Bryan	Harkin	Pryor
Bumpers	Hatch	Reid
Burdick	Heflin	Riegle
Burns	Heinz	Robb
Byrd	Helms	Rockefeller
Chafee	Hollings	Roth
Coats	Humphrey	Rudman
Cochran	Inouye	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kerrey	Shelby
Cranston	Kohl	Simon
D'Amato	Leahy	Simpson
Danforth	Levin	Specter
Daschle	Lieberman	Stevens
DeConcini	Lott	Symms
Dixon	Lugar	Thurmond
Dodd	Mack	Wallop
Dole	Matsunaga	Warner
Domenici	McCain	Wilson
Durenberger	McConnell	Wirth

NAYS—9

Bradley	Johnston	Kerry
Hatfield	Kassebaum	Lautenberg
Jeffords	Kennedy	McClure

NOT VOTING—1

Sasser

So the amendment (No. 621) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I am going to ask the Senators from Idaho and North Carolina if they would at this time be prepared to discuss where we are.

Mr. President, I have discussed the Symms amendment with the Senator from Idaho and the Senator from North Carolina. The situation we are now in is this: Earlier today, I reached an understanding with the Senator from Idaho under which we would set aside his amendment and move to other amendments.

During the time the other amendments were being considered, we agreed to take no action with respect to the Symms amendment and when we returned to it, after completing action on the other amendments, all parties would find themselves in the same position they were earlier. I then left the floor.

The Senator from North Carolina, unaware of the understanding between myself and Senator SYMMS, then came to the floor and moved to table the Symms amendment. That means that if I call for the regular order or if any other Senator were to call for the regular order, the pending matter would be a nondebatable motion to table the Symms amendment made by Senator HELMS. If we proceed to that point, it is my intention to myself ask for the regular order, to ask all of my colleagues to vote against the Helms motion to table, which, if all did, it would then of course not prevail and be a meaningless vote.

I would then offer the perfecting amendment to the Symms amendment, which I earlier told the Senator from Idaho I would do, if we could not work the matter out in a manner acceptable to all concerned. We would then proceed to debate tonight my perfecting amendment to the Symms amendment and for however long Senators would wish to debate it, we would do so and then vote on it.

I am trying to accommodate Senators because I do not think it is good for individual Senators or for the Senate as a whole to be in session for 15 to 16 hours a day and certainly not beyond midnight.

I would suggest to the Senators from Idaho and North Carolina that if the Senator from North Carolina would withdraw his motion to table, it would at the very least save us the time of that vote. I do not think he would be losing any particular advantage that he has in that respect.

I would also suggest to the Senators that we can debate this this evening and vote tomorrow morning first thing so that those Senators who wish to leave can do so. We will not have any more rollcall votes.

I am trying to assure the Senator from Idaho a chance to discuss this issue and have a vote on the perfecting amendment prior to the cloture vote. Because it is my understanding that if cloture is invoked, and that vote must occur, unless changed by unanimous consent, within 1 hour after we come into session tomorrow, he would then be frozen out. I do not want that to happen because he agreed graciously to set his amendment aside earlier today and I think that would be a result unfair to him, and he would have been disadvantaged as a result of accommodating all of us in permitting the legislation to go forward.

So I will suggest to the Senators from Idaho and North Carolina that the fairest way to proceed may be to vitiate the motion to table, let me offer the amendment, and let us debate it with an agreement that we will vote on it first thing in the morning. We will try to accommodate Senator BOND as well because I think the distinguished Republican leader made a persuasive case on that, and then we would proceed to vote cloture.

Then Senators would not have to remain here this evening. We could complete the debate on both amendments, the Symms amendment, as amended by mine, and the Bond amendment, and vote on those first thing in the morning.

If that is not acceptable, then, of course, we can remain and complete action tonight.

Mr. SYMMS. Would the leader answer a question? I do not have a copy of the Senator's amendment. What date would it come back from the Judiciary Committee?

Mr. MITCHELL. As the Senator from Idaho knows, I drafted this this afternoon and gave him a copy and left the date blank and gave the Republican leader a copy, inviting their suggestions as to what date they would like in there.

I was then told that the Senator was not interested in the amendment and therefore did not respond to my request to place a date in it. Therefore, having had my offer rejected, I had no choice but to insert a date of my own. I inserted the date of November 1, 1989.

If the Senator would find it agreeable to suggest another date, I renew my offer to him to make a suggestion to me. I did that earlier today, and of course, as I said, my offer was rejected without any suggestions for a date.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I just saw a Senator in the cloakroom and he was very red-eyed. I said, boy, your eyes are terrible. He said, you ought to see it from this side.

I have no desire whatsoever under the parliamentary situation that exists to keep Senators here for a rollcall vote on a motion to table. Neither the Senator from Maine nor the Senator from North Carolina were born yesterday. He has the advantage. He has the advantage of priority recognition, which he deserves.

So I suggest with the understanding that I will keep on keeping on, under the rules anytime I have a chance, that I withdraw my motion to table; the Senator offer his perfecting amendment, and the whole cotton-pickin' thing be voice voted and let everybody go home and go to bed.

I made the leader an offer he cannot refuse.

Mr. MITCHELL. That is an offer I cannot refuse, I must say to the Senator. I think that is an excellent suggestion, if that is acceptable to other Senators.

The Senator from Alaska.

Mr. MURKOWSKI. I wonder if that is the pleasure of the body. The Senator from Alaska on Monday was here prior to noon and proposed his amendment, one amendment that was accepted. I was asked to set aside my other three amendments until a better time. I have been prepared to offer those amendments.

They have been filed prior to the curtailment time. I would be willing to stay tonight, if it is the intention of the leader, to present pending amendments. I do not know if my amendments—two remaining, I have withdrawn one—are going to be accepted or rejected. If the leader would allow us an opportunity for stacking until tomorrow, that would be agreeable to the Senator from Alaska. But I am concerned about being foreclosed from the opportunity to present my amendment as a consequence of the cloture which is pending. I wanted to share that with the leadership.

Mr. MITCHELL. I appreciate that. May we resolve this? One of the things I have found in trying to resolve these issues, if we get beyond one there is an exponential increase in the complexities.

Mr. MURKOWSKI. I can appreciate that.

Mr. MITCHELL. If we can attempt to resolve this with the Senator from Idaho. Then I will yield to the managers on the Senator's amendment.

Mr. SYMMS. I would like to avoid having an understanding where we do not clearly understand. I would prefer it if we had a date, say October 1, rather than November 1, so there might be a possibility that the Judiciary Committee could bring back something we might act on this year.

But the question I want to ask, Mr. President, is on the understanding. If we accept this and voice vote it tonight, is that going to preclude some other amendment dealing with Oliver North's pension coming up on some other piece of legislation in the near future?

Mr. MITCHELL. No. I did not intend to preclude it.

Obviously the same arguments to be made now would pertain at that time. I think perhaps with even more force, if the matter is being studied.

I might say with respect to the date, I see the distinguished chairman of the Senate Judiciary Committee here. I discussed this with him. As you know, we have now entered into several agreements in which the Senate has directed the Judiciary Committee to do things with respect to the death penalty, with respect to the flag legislation, with respect to the flag amendment. His initial reaction was to insist that any date be no earlier than 1990. I put in this date because I was trying to strike a proper balance between the two. But my answer to the Senator is this: It does not preclude you from doing anything you want on any other bill.

Mr. SYMMS. Then I think the date is not as important, I would say to the leader.

I say I hate to keep sending subjects to the chairman of the Judiciary Committee. I know all of us like it better when he is on the floor speaking rather than when he is in the committee. But I agree.

Mr. MITCHELL. Would the Senator agree we can voice vote it and then proceed?

Mr. SYMMS. I agree with that, with Senator HELMS' suggestion.

Mr. MITCHELL. Then if it is agreeable, I will now offer this amendment, ask simply that it be read and then have a voice vote on it and then proceed to the further matter of discussing the situation of the Senator from Alaska.

Yes, the Senator from North Carolina.

Mr. HELMS. With the understanding that I do nothing but withdraw my motion to table, would the Senator yield?

Mr. MITCHELL. Yes. Certainly.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from North Carolina.

Mr. HELMS. Mr. President, I withdraw my motion to table the Symms amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Then if all Senators have an understanding in that regard, I would like to proceed to get this matter resolved and then the pending, the regular order will be to turn to the Harkin amendment now as amended by the Nunn amendment.

Then I would yield to the managers to discuss with the Senator from Alaska, who had raised an issue.

The PRESIDING OFFICER. Without objection, the motion to table offered by the Senator from North Carolina is withdrawn.

AMENDMENT NO. 624 TO AMENDMENT NO. 574

Mr. MITCHELL. Mr. President, I send an amendment to the desk and ask it be read and immediately considered.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. MITCHELL. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The regular order has been called for and the Symms amendment is the regular order. Therefore, the clerk will report the amendment to the Symms amendment.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes an amendment numbered 624 to amendment numbered 574.

Strike all after SEC. in the amendment and insert in lieu thereof the following:

The Judiciary Committee is directed to hold appropriate hearings and report back to the Senate by November 1, 1989.

The report shall contain the following determinations:

1. Whether the legislative intent of 18 U.S.C. Section 2071(b) was to require the forfeiture and disqualification from "office under the United States" to apply to officers, both active and retired, in the armed forces;

2. Whether the legislative intent of 18 U.S.C. Section 2071(b) was to deprive persons convicted under this section from receipt of their Federal pensions;

3. Whether 18 U.S.C. Section 2071(b) applies to other retired government employees, and if not, whether such is equitable;

4. Whether action on any remedial legislation for Lieutenant Colonel Oliver North, relating to the denial of his pension as a result of his conviction under 18 U.S.C. Section 2071(b) is appropriate in lieu of litigation, or whether it is preferable for this issue to be determined in the courts;

5. Whether remedial legislation for Lieutenant Colonel Oliver North is warranted under the application of 18 U.S.C. Section 2071(b), considering the opinion of the General Counsel of the General Accounting Office dated July 31, 1989;

6. Whether any other legislation relating to the application of 18 U.S.C. Section 2071(b) is appropriate.

Mr. MITCHELL. Mr. President, Oliver North has been found guilty by a jury of the crime of destroying Government documents. The statute under which he was convicted requires that any person so convicted "shall

forfeit his office, and be disqualified from holding any office under the United States." At the time of his conviction, Lieutenant Colonel North was a retired regular officer of the U.S. Marine Corps.

There is no question that a person removed from office as a result of conviction under this statute would lose his pension. Retired military officers have been considered to "hold office under the United States" in a number of legal cases. At the same time, the general counsel of the Navy has pointed out that this is the first and only case involving an active duty or retired military officer convicted, under this statute, of shredding or destroying documents.

Thus, we are confronted with a new question, one which has not previously been raised or answered.

To avoid making an erroneous payment, the Navy has assumed that North holds an office for purposes of the statute under which he was convicted, and has therefore suspended his pension effective July 5, 1989, the date of his conviction.

The general counsel of the General Accounting Office has suggested that the Navy has a solid legal basis for making this decision, and that North has the right to obtain a conclusive determination from the Federal courts concerning his rights to a pension.

In addition to the possibility of his successfully appealing the Navy's decision to suspend his pension, North would undoubtedly have his pension restored if he is successful in having his conviction overturned.

Some Senators feel that Oliver North is entitled to a pension regardless of the specific statute under which he was convicted. Some Senators feel that the decision of the Navy was incorrect. Still other Senators feel that the statute is clear, that North as a convicted felon under this statute should forfeit his pension, that North has the right to appeal the interpretation of the statute, and that no action should be pursued in the Senate until that interpretation is resolved in the courts.

I believe that the prudent course, in view of the novel nature of the question, the complexity of the matter and the diversity of views on it, is to proceed in a deliberate manner to study the implications of the various actions which have been suggested by several Senators.

That is especially so since there have never been any hearings in any legislative body on this proposal. No one has had the opportunity to review and analyze the matter, to consider its implications as to other retirees, military or civilian, to evaluate what precedent we may be setting by acting on this proposal. This is precisely the kind of question we should think about, at least briefly, before acting. Instead, with no hearings, no consideration, scant thought, and minimal debate, we are being asked to rush to judgment for no valid reason.

The amendment I am offering to the amendment by the Senator from Idaho requires the Judiciary Committee to study the question and to hold hearings concerning the applicability of the specific statute (18 U.S.C. section 2071(b)) under which North was convicted to cases of this type. It also requires the Judiciary Committee to recommend any remedial actions, including general legislation or legislation relating specifically to the case of Oliver North, that might be warranted. The committee is directed to complete its consideration and report back to the full Senate by November 1, 1989.

Mr. President, the approach offered in my amendment is a responsible and careful one. It permits study. It does not prejudge the outcome of any legal actions which Oliver North may take, including any legal effort to recover his pension. It does not prevent the Senate, at a later date, from enacting legislation such as that proposed by the Senator from Idaho. Let us think before we act.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment offered by the majority leader to amendment No. 574.

The amendment (No. 624) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that action on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I am not certain with respect to the situation of the Senator from Alaska. I did not understand the issue which he raised. Perhaps the manager can address that.

Mr. NUNN. Mr. President, the Senator from Illinois was managing the floor at that time. I believe it would be appropriate for me to defer to him.

Mr. MITCHELL. Mr. President, before we move off the other issue, may I make a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. MITCHELL. We have adopted the perfecting amendment to the Symms amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. MITCHELL. Now we are in order to have the adoption of the Symms amendment, as amended by the Mitchell amendment?

The PRESIDING OFFICER. That is the pending question.

AMENDMENT NO. 574, AS AMENDED

Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 574), as amended, was agreed to.

Mr. ADAMS. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. MITCHELL, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is the Harkin amendment, as amended.

Mr. MITCHELL. Mr. President, may we now dispose of the Harkin amendment, as amended by the Nunn amendment? We would have that matter behind us.

Mr. NUNN. Mr. President, can I make a 10-second statement? I want to thank Senator HARKIN and Senator KERRY for bringing this to the attention of the Senate. I did not agree on the funding mechanism, but I did agree on the purpose of their amendment. The purpose of their amendment is being accomplished by this.

I commend both of them, as well as other Senators on both sides who assisted in getting this done.

Mr. KERRY. Mr. President, the vote we are taking tonight to fund the 1988 Anti-Drug Abuse Act is a victory. I take pride that the amendment offered by Senator HARKIN and me helped to focus the debate on funding the drug bill, and that Senator NUNN and the leadership were able to draft language to fund the bill capable of being supported by the Senate.

I am grateful to Senator NUNN for his comments regarding our efforts to fund the drug bill, and proud of the fact that where there was not a word about drugs before in this bill, we now have a plan to fully fund the war on drugs we promised in 1988. I am also grateful to the chairman of the Appropriations Committee, Mr. BYRD, for his kind comments regarding my efforts, and for his assurances that he will persist to find a better means of funding the war on drugs than the Nunn amendment we are passing tonight.

It should be obvious from my dogged pursuit of full funding of the drug bill tonight, and over the past weeks and months, that my vote against the Nunn amendment should not be misinterpreted. I am committed to funding the drug bill, and will continue to do what is necessary to make sure that antidrug efforts are fully funded until the American people are secure against this scourge.

I am voting against the Nunn amendment for several reasons. The Nunn amendment effectively prevents a vote on the amendment sponsored by Senator HARKIN and me. Our

amendment would have forced the Members of this body to make a choice between excess funding for star wars to defend us against an enemy we have already deterred and funding the drug war to face the enemy that is already crossing our borders every day.

Instead, the Nunn amendment will fund the drug bill by taking funds across the board from unobligated balances of all agencies of the Government. There are several problems with this: First, the amendment is discretionary. That is, it gives the President the right to take these funds proportionately from all discretionary programs, but it does not mandate that he do so. This is not full funding of the drug bill. It is full funding at the discretion of the President.

The risks of providing such discretion are heightened by the fact that the legislation does not require the funds to be taken equally from every line item within each agency, but only equally from each agency. The result is to provide the President with the equivalent of a line-item veto for programs that he doesn't like. If he doesn't permit the obligation of funds for that program within an agency, that program's funds can be used to fund the drug bill—sharply curtailing that program. The result could be sharp cuts in programs that serve fundamental needs. And the Congress will have no say in what happens.

Finally, the Nunn amendment takes funds across the board from places like the DEA and Coast Guard and FBI, robbing Peter to pay Paul, at the same time that it takes funds from education, the environment, child nutrition and health care, and other essential services. These are not the areas from which we should be taking funds to pay for the drug war. We should have been permitted instead to choose a different set of priorities, which the Harkin-Kerry amendment would have done.

I am glad we are making the move tonight to fund the drug bill. I regret that we were prevented tonight from voting on a real choice, of the kind we were selected to make—star wars or drug wars.

Accordingly, while I am glad the Senate is finally taking steps to meet this responsibility to fund the drug bill, I will vote against the Nunn amendment.

AMENDMENT NO. 619, AS AMENDED

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the Harkin amendment, as amended.

The amendment (No. 619), as amended, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, first I want to thank the Senator from Idaho and the Senator from North Carolina for their cooperation in permitting us to proceed. I think we still have to discuss how to handle the amendments of the Senator from Missouri, the Senator from Alaska, and a number of others. I must say I consulted with the distinguished Republic leader, and I see no purpose in having any further rollcall votes this evening. The managers will have to stay and Senators with amendments have to stay because if their amendments are going to be taken up and debated, there will have to be votes on them in the morning, but there will be no more rollcall votes this evening.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. DIXON addressed the Chair.

Mr. DOLE. Mr. President, will the Senator from Illinois yield just for a question?

Mr. DIXON. I will be delighted to yield. The majority leader asked me to clarify the differences with my friend from Alaska, which I am prepared to do. I will be glad to yield to the minority leader.

Mr. DOLE. Mr. President, I want to ask the majority leader what time he plans to convene tomorrow morning.

Mr. MITCHELL. Mr. President, I think we have discussed this with the managers. They have to be here for a while. We have to take them into account.

Mr. WARNER. I think an hour here, Mr. President, is what we require.

Mr. MITCHELL. In response to the distinguished Republican leader, I will suggest in view of the lateness of the hour and the demand on the managers that we would come into session tomorrow at 10:15 and dispose of as much as we can in the intervening hour, which means that the cloture vote will occur at or shortly after 11:15.

I now yield to the Senator from Alaska and the manager of the bill with respect to his amendments.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, are the managers ready to accept amendments that have heretofore been acceptable?

Mr. MITCHELL. Mr. President, I ask the distinguished Senator from New Mexico to yield the floor just for a brief announcement.

Mr. President, the distinguished Republican leader has called to my attention the fact—I did not state it—I thought it was obvious from the discussion, I think it should be stated there may be votes prior to the cloture vote on the amendment of the Senator from Missouri and others. So we are coming in at 10:15. Senators should be prepared for the possibility of votes at any time after 10:15, perhaps 10:30 at the earliest. So there will, in all likelihood, be votes prior to the cloture vote.

Mr. DOLE. Mr. President, let me remind all Senators, I understand even with cloture there are going to be 50 amendments that are germane to dispose of with all the other work we have this week. It seems to me it brings into question whether we are going to finish this week.

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. LEAHY. Mr. President, will the Senator from New Mexico yield for 1 minute so I can apprise Senators where we stand with the disaster relief bill?

Mr. DOMENICI. I will be pleased to yield.

DISASTER RELIEF—S. 1429

Mr. LEAHY. Mr. President, very briefly, the proposal has been made, and I expedited it to all members to the Agriculture Committee.

The proposal cuts the cost of the disaster relief bill one-third from the House proposal. We cut $450 million off the House proposal. We made a recommendation which meets the administration's $900 million spending cap for disaster relief.

I note that all commodities and all Members sacrificed some to bring this bill within budget. Everybody has given up something from their State or from their commodities. It is a fair proposal.

Mr. President, I notify the Senate I am ready at any time to move forward on the disaster relief to complete action before the recess. It still has to go back to the other body in conference. We have laid four proposals on the table. The last one is $225 million below our additional proposal, and what we tried to do is bring one that is fair. We have brought it down to the $900 million cap the administration said they wanted. We have gone to the formulas that I understood from the other side they wanted.

Mr. President, I know the distinguished ranking member on committee, the distinguished Republican leader, and others have been working hard on this. I just note for Members that we have gone a considerable distance. I think we made about as much of an offer as we can. It is a fair offer. I think it would pass the Senate in a hurry. If we bring it up, it will.

If it is not going to be possible to vote for it so we can go on to other

matters, perhaps it will be next week or the week after or next fall. If they do not do it this week, they will have to do it next fall.

I thank the Chair. I thank the Senator.

Mr. DOMENICI. I was pleased to yield to the distinguished chairman. I yield to the distinguished Republican leader.

Mr. DOLE. I thank the chairman of the Agriculture Committee. We are not there yet but I think we are getting closer and closer. I agree with him we do not have much time left. It seems to me there are minor changes that should be made—we hope to give them to the chairman and other members of the committee in the morning—that I think add some symmetry and that is within the budget and treats all crops equitably.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991

The Senate continued with consideration of the bill.

AMENDMENT NO. 616

(Purpose: To establish a national program to improve U.S. competitiveness by facilitating cooperative arrangements between the U.S. private sector and the contractor-managers of certain Department of Energy facilities engaged in atomic energy defense activities so as to foster the application of new technologies, and the enhancement of skills in areas of significant economic potential, without interfering with any national security mission of the Department of Energy, and for other purposes.)

Mr. DOMENICI. Mr. President, I call up amendment No. 616 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read a follows:

The Senator from New Mexico [Mr. DOMENICI], for himself and Mr. BINGAMAN, proposes an amendment numbered 616.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all of Part C of title XXXI of Division C (page 421, line 1 through page 443, line 5) and insert in lieu thereof the following:

"PART C—DEFENSE ENERGY TECHNOLOGY TRANSFER

"SEC. 3131. SHORT TITLE.

"This Act may be referred to as the 'Department of Energy National Competitiveness Technology Transfer Act of 1989'.

"SEC. 3132. FINDINGS AND PURPOSE.

"(a) FINDINGS.—Congress finds that:

"(1) technology advancement is a key component in the growth of the U.S. industrial economy, and a strong industrial base is an essential element of the security of this country;

"(2) there is a need to enhance U.S. competitiveness in both domestic and international markets;

"(3) innovation and the rapid application of new technology are assuming a more significant role in near-term marketplace success;

"(4) the Department of Energy's laboratories and other facilities have outstanding capabilities in a variety of advanced technologies and skilled scientists, engineers, and technicians who could contribute substantially to the posture of U.S. industry in international competition;

"(5) improved opportunities for cooperative arrangements between contractor-managers of certain Department of Energy facilities and the U.S. private sector, consistent with the program missions at those facilities, particularly the national security functions involved in atomic energy defense activities, would contribute to our national well-being; and

"(6) more effective cooperation between those Department of Energy facilities and the U.S. private sector is required to provide speed and certainty in the technology transfer process.

"(b) PURPOSES.—The purposes of this Act are to—

"(1) enhance United States national security by establishing a national competitiveness mission for certain Department of Energy facilities in order to provide opportunities to utilize the technologies and capabilities residing in those facilities for the United States to enhance its competitiveness; and

"(2) enhance collaboration between universities, the private sector, and facilities of the Department of Energy so as to foster the development of technologies in areas of significant economic potential.

"SEC. 3133. DEFINITIONS.

"For purposes of this Act, the term—

"(a) 'Facility' means the following Department of Energy installations, respectively:

"(1) Lawrence-Livermore National Laboratory;

"(2) Los Alamos National Laboratory;

"(3) Sandia National Laboratory;

"(4) Idaho National Engineering Laboratory; and

"(5) any other installations that are managed under a contract that includes the provisions referred to in section 3134(d) and any government-owned, contractor-operated installations established as Department of Energy multi-purpose laboratories or program-dedicated laboratories that are designated by the Secretary upon request of the contractor-manager; except that term does not include Naval Nuclear Propulsion laboratories or contractors performing work covered under Executive Order 12344, as codified in 42 U.S.C. 7158;

"(b) 'Secretary' means the Secretary of Energy;

"(c) 'Contract' means a prime contract between the United States, represented by the Department of Energy, and a contractor to manage and operate a facility;

"(d) 'Contractor-manager' means the entity undertaking the responsibility under a contract to manage and operate a facility;

"(e) 'Cooperative arrangement' means a written agreement between a contractor-manager and one or more collaborative parties, under which the contractor-manager, acting under his contract, provides personnel, services, equipment, or other resources for the conduct of specified developmental or advanced work to assist in creating products of potential commercial value;

"(f) 'Collaborative party' means a party to a cooperative arrangement other than a Federal department or agency or any of their contractors or subcontractors acting in furtherance of their contractual undertakings to the federal entities;

"(g) 'Program mission' means the work and services constituting the entire scope of work to be performed by the contracting party under the contract, excluding the national competitiveness mission;

"(h) 'National competitiveness mission' means the contractor-manager's activities under the contract, conducted in partnership with the Department of Energy, consistent with program missions and national security considerations, to provide for the transfer of technology developed at the facility to the U.S. private sector, including activities performed under cooperative arrangements and intellectual-property licensing activities;

"(i) 'Intellectual property' means patents, trademarks, copyrights, mask works, and other forms of comparable property rights protected by Federal law;

"(j) 'Technical data' means recorded information, regardless of form or characteristic of a scientific or technical nature, excluding computer software;

"(k) 'Computer software' means recorded information, regardless of form or media on which it may be recorded, comprising computer programs or documentation thereof; and

"(l) 'Unlimited rights' means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly or display publicly, in any manner and for any purpose, and to have or permit others to do so.

"SEC. 3134. NATIONAL COMPETITIVENESS MISSION.

"(a) Within 180 days after the date of enactment of this Act, the Secretary shall:

"(1) review all existing laws, regulations, policy guidelines, orders, directives and administrative processes associated with the Department's ability to achieve the purpose of this Act;

"(2) confer with representatives of U.S. industry and labor, education institutions, and contracting parties respecting effective implementation of this Act.

"(3) advise the Congress of any existing legal obstacles interfering with the Department's ability to achieve the purpose of this Act, and make pertinent recommendations; and

"(4) publish a comprehensive set of policy guidelines, procedures, and supporting regulations to effectuate the purpose of this Act, including:

"(A) a procedure for assuring that proposed cooperative arrangements are reviewed and concurred in, required to be modified, or rejected by the Secretary within 60 days after receipt by the Secretary of the proposed arrangement. If action is not taken by the Secretary within this 60-day period, the Secretary shall—

"(i) notify the contractor-manager affected of the date on which action will be taken, not to exceed in additional 60 days from the original deadline; and

"(ii) provide a written explanation of the reasons for the delay.

"In any case under such procedure in which the Secretary disapproves or requires the modification of any proposed cooperative arrangement submitted under this Act, the Secretary shall transmit a written explana-

tion of such disapproval or modification to the contractor-manager affected;

"(B) requirements to avoid conflicts of interests, and to govern the use of Government funds for a receipt of funds, due to the national competitiveness mission; and

"(C) any other requirements related to the principles stated in subsection (b) of this section.

"(b) In taking the steps provided for in subsections (a)(4) and (d) of this section the Secretary shall be guided by the following principles:

"(1) That national competitiveness mission shall not interfere with any national security mission for the Department of Energy and shall be complementary to and supportive of the program missions at the facility, and in the overall best interests of the federal government.

"(2) Classified information and unclassified sensitive information protected by law or regulations shall be safeguarded.

"(3) The Secretary's management authority and responsibility with respect to the facility and the conduct of activities under the contract for the operation of the facility shall not be diminished.

"(4) The national competitiveness mission shall be conducted in a manner that—

"(A) provides fairness of opportunity to participate to entities in the U.S. private sector and for a fair return on the taxpayer's investment;

"(B) includes consideration of small business firms and universities; and

"(C) permits, subject to such restrictions, limitations, terms, and conditions as the Secretary considers necessary, temporary exchanges of personnel between any domestic firm or university and facility subject to this act.

"(5)(A) The benefits of technology transfer resulting from the national competitiveness mission shall accrue to U.S. industry.

"(B) In accordance with the principles in paragraphs (2), (4) and (5)(A) of this subsection, entities that are owned, controlled or dominated by a foreign government or foreign entity shall be separately considered in light of the objective of this Act to improve U.S. competitiveness and of national security. In addition, agreements with such foreign entities shall take into consideration whether or not the associated foreign government permits United States agencies, organizations, or other persons to enter into cooperative arrangements and licensing agreements with agencies, organizations, or other persons of such foreign country.

"(6) The Secretary shall establish an explicit policy and procedures to govern a contractor-manager's use of Government resources for their national competitiveness mission, royalties or other income from licensing agreements, and receipts of funds by reasons of cooperative arrangements, as well as the maintenance of books and records.

"(7) Appropriate march-in rights shall be provided for intellectual property acquired by the contractor-manager, collaborative party or their successors-in-interest to assure commercial utilization of technology developed under cooperative arrangements.

"(c) Beginning promptly after the inclusion of the national competitiveness mission in a contract, and continuing thereafter during the course of the national competitiveness mission, the Secretary and the contractor-manager shall periodically confer on:

"(1) potential projects for cooperative arrangements;

"(2) terms and conditions in cooperative arrangements;

"(3) specification of particular inventions and specific technical data or computer software provided for in section 5 of this Act; and

"(4) progress and problem areas associated with potential or actual cooperative arrangements.

"(d) Within 60 days after publication of the guidelines, procedures and regulations under subsection (a)(4), the Secretary shall make available to each contractor-manager of a facility for possible inclusion in the contract appropriate contract provisions that—

"(1) refer to this Act;

"(2) establish the concept of cooperative arrangements as a mission for the government; and

"(3) describe the respective obligations and responsibility of the government and a contractor-manager party with respect to the national competitiveness mission.

"SEC. 3135. PARTICULAR INVENTIONS AND SPECIFIC TECHNICAL DATA OR COMPUTER SOFTWARE.

"(a) Beginning after the inclusion in a contract of the national competitiveness mission, the contractor-manager shall identify in writing in advance of its use in a contemplated cooperative arrangement or in an amendment to the arrangement:

"(1) any particular inventions, conceived or first actually reduced to practice by the contractor-manager in the performance of program missions under its contract; and

"(2) any specific technical data or computer software determined to have have near-term commercial value, first produced by the contractor-manager in the performance of program missions under its contract.

"(b) To the extent that this Act is inconsistent with any of the provisions of 35 U.S.C. 200 et seq., the provisions of this Act take precedence.

"(c) In addition to the exemptions provided by section 202(a)(i), (ii), (iii), and (iv) of title 35, United States Code, for purposes of this Act the Secretary may designate special circumstance technologies or inventions for which title shall vest in the Government in the same manner as exceptional circumstance determinations under section 202(a)(ii) of title 35, United States Code. The Secretary may make this designation only where a finding can be made that retention of title by the contractor would not meet the principles of section 3134(b) or that public health, safety, energy, or environmental considerations require otherwise. The Secretary's finding shall be processed in the same manner as determinations under subsection 202(b)(1) of title 35, United States Code.

"(d) With respect to any inventions conceived or first actually reduced to practice by the contractor-manager in the performance of its contract to manage and operate the facilities:

"(1) Notwithstanding section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), section 9 of the Federal Non-nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908), or other provision of law, the Secretary shall dispose of the title to an invention made by a contractor-manager in the same manner as applied to small business and nonprofit organizations under chapter 18 of title 35, United States Code, and as provided by this Act.

"(2)(A) Whenever a contractor-manager makes an invention to which the Secretary has determined to retain title for exceptional circumstances under section 202(a)(ii) of title 35, United States Code or for special circumstances under subsection (c), title to the invention shall be retained by the Government unless the facility at which the invention is made requests title or an exclusive right to the invention and the Secretary does not notify the contractor-manager of the facility within ninety days after receipt of the request that—

"(i) the invention is covered by a determination under section 202(a)(ii) of title 35, United States Code or a special circumstance designation under subsection (c) or has been classified or has been designated sensitive technical information; and

"(ii) rejection of the request, in whole or in part, either is justified by the Secretary's original determination to retain title for exceptional circumstances or for special circumstances or is in the best interests of the United States, taking into consideration the matters set forth in subparagraph (C).

"(B) Whenever a contracting party makes an invention to which the Secretary has determined to retain title because the invention is made in the course of or under a funding agreement described in section 202(a)(iv) of title 35, United States Code, the title to the invention shall be retained by the Government unless the contractor-manager of the facility at which the invention is made requests title or an exclusive right to the invention and the Secretary does not notify the director of the facility within ninety days after receipt of the request that—

(i) the invention is covered by a determination under subsection 202(a)(iv) of title 35, United States Code, or has been classified or has been designated sensitive technical information, and

(ii) rejection of the request, in whole or in part, is in the best interests of the United States, taking into consideration the matters set forth in subparagraph (C).

"(C) In making a determination in accordance with this paragraph, the Secretary shall consider whether any such determination either may result in—

"(i) the compromise of the national security;

"(ii) the release to unauthorized persons of sensitive technical information (whether classified or unclassified) under any program or activity for which dissemination is controlled under Federal law; or

"(iii) a conflict of interest contemplated by Federal statutes and regulations;

or will adversely affect the operation of any other program or activity conducted at any facility. The Secretary may not use export control statutes or regulations as the sole bases for refusing a requst for title to an invention.

"(D) If the Secretary does not notify the contractor-manager that has requested title to an invention in accordance with this section, the Secretary shall—

"(i) notify the contractor-manager of the date on which action will be taken by the Secretary, not to exceed an additional 60 days beyond the original deadline; and

"(ii) shall provide a written explanation of the reason for the delay.

"(e) With respect to specific technical data or computer software referred to in subsection (a)(2) that the Secretary, upon request of the contractor-manager, determines has near-term commercial value and is necessary for commercialization of technology to be developed under the cooperative arrangement, the cooperative arrangement may provide intellectual property

rights to the technical data or computer software; if so protected the technical data or computer software shall not be disclosed to or reproduced for any third party by the Government (except for third parties to which the Government decides it must disclose the technical data or computer software on a restricted basis either for national security purposes, for health, safety and environmental purposes, or to Government contractors in the performances of Government work), the contractor-manager or any collaborative party to the arrangement, for a period of up to three years after completion of the work performed under the arrangement up to a maximum of six years after the technical data or computer software is first produced. Thereafter, or earlier upon permission of the parties, the Government shall have unlimited rights to such intellectual property and technical data or computer software.

"(f) Notwithstanding any grant of rights under subsections (d) and (e) of this section, the Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license, to practice or have practiced for or on behalf of the United States throughout the world, to such inventions, to use or have used or create derivative works for or on behalf of the United States throughout the world such technical data or computer software.

"SEC. 3136. COOPERATIVE ARRANGEMENTS.

"(a) Notwithstanding any other provision of this Act or any other provision of any other law to the contrary, the rights to any inventions conceived or first actually reduced to practice by a collaborating party in performing under a cooperative arrangement shall be agreed to by the parties to the arrangement, subject to regulations under this Act and to the Government's nonexclusive, nontransferable, irrevocable, paid-up license, to practice or have practiced for or on behalf of the United States throughout the world, to that invention;

"(b) With respect to technical data or computer software first produced in the performance of a cooperative arrangement that the Secretary, upon request of the contractor-manager, determines has near-term commercial value and is necessary for commercialization of technology to be developed under the cooperative arrangement, may be protected by an intellectual property right; if so protected, the technical data or computer software shall not be disclosed to or reproduced for any third party by the Government (except for third parties to which the Government decides it must disclose the technical data on a restricted basis either for national security purposes, for health, safety, and environmentl purposes, or to Government contractors in performance of Government work), the contractor-manager or any collaborative party to the arrangement, without the express written permission of all parties to the arrangement, for a period of up to three years after completion of the work performed under the arrangement up to a maximum of six years after the technical data is first produced, subject to the Government's nonexclusive, nontransferable, irrevocable, paid-up license, to use or have used or create derivative works for or on behalf of the United States throughout the world, such technical data or computer software. Thereafter, or earlier upon permission of the parties to the agreement, the Government shall have unlimited rights to the intellectual property and technical data or computer software; and

"(c) technical data or computer software in which collaborating parties have rights established prior to entering into cooperative arrangements shall be accorded appropriate protection.

"SEC. 3137. OVERSIGHT.

"The Secretary, the Inspector General of the Department of Energy, and the Comptroller General shall conduct periodic audits of activities under this Act.

"SEC. 3138. LIABILITY.

"Neither the United States nor the contractor-managers, or any of their officers, employees or agents, may be held liable for injury or damage due to a defect or deficiency in a product or process produced or service performed by a collaborating party or its licensees or assigns that embodies tehnology developed under a cooperative arrangement under this Act.

"SEC. 3139. COPYRIGHTS AND PATENTS.

"This Act does not contain any new authority for the Department of Energy to obtain a copyright or a patent.".

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator WALLOP be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I am pleased today to offer as an amendment to the Department of Defense authorization bill, legislation entitled "The Department of Energy National Competitiveness Technology Transfer Act of 1989."

This amendment would direct the Department of Energy to carry out a newly defined and comprehensive mission to use its technology research and development capabilities to enhance our Nation's economic competitiveness.

HARNESSING THE STRENGTH OF DOE'S NATIONAL LABORATORIES

This new mission aims to enhance technology transfer from the Department of Energy national laboratories. These labs are a tremendous research and development resource to our Nation, but we have not been successful at using that capability to assist American industry.

Our lack of success is due, in part, to the history of the laboratories. Several are principally involved with national security work, and have long been very secretive. But the labs have also been constrained by a technology management structure at DOE that functions to discourage technology transfer.

The amendment I am offering today will reform technology transfer policies within the Department of Energy—policies which are very significant to DOE's defense program laboratories. These reforms will improve the transfer of commercially valuable nonclassified, and nonsensitive, technologies to American industry.

The reforms in this amendment are designed to assure that technologies created at the laboratories are managed by those who are as close to, and as familiar with, the technologies as possible. The amendment also strives to encourage the national laboratories to engage in cooperative research arrangements with industry and universities.

This amendment is a modification of legislation I proposed earlier this year as S. 550, the Department of Energy National Laboratory Cooperative Research and Technology Competitiveness Act. This bill was passed by the Senate twice last year, and was recently reported out of the Energy and Natural Resources Committee.

Mr. President, I am pleased to be offering this amendment on behalf of myself and my colleague from New Mexico, Senator BINGAMAN. Senator BINGAMAN is a cosponsor of S. 550, has been very helpful in advancing legislation in this area over the past few years, and had language similar to S. 550 included in the DOD authorization bill during committee consideration.

We have worked together with the Armed Services Committee, the Energy and Natural Resources Committee, and representatives of the Department of Energy to reach consensus language that all could support, and which the Armed Services Committee would accept as a substitute for the Bingaman language already included in the bill.

THE IMPORTANCE OF DOE LEADERSHIP IN TECHNOLOGY TRANSFER

This is a highly significant piece of legislation. For years I and others have been trying to encourage and, quite frankly have had to push, the Department of Energy toward reforming the way they manage technologies created at the national laboratories.

This is particularly important with respect to the many technologies created at our defense program laboratories that have highly useful nondefense applications. I and Senator BINGAMAN are very familiar with the capabilities of those laboratories since we have two of the best defense program laboratories in our State: Los Alamos, and Sandia National Laboratories.

While in the past DOE has resisted our efforts, I believe the new Secretary of Energy recognizes the tremendous resources this department has and strongly supports moving DOE in ways that will enable his Department to enhance technology transfer, and in turn, American competitiveness.

The legislation we are offering today was crafted together with representatives of the DOE and I believe can be strongly supported by this Secretary. This support is very important since these reforms alone will not be able to affect significantly improved technology transfer. It will take forceful leadership from the top of DOE to change the atmosphere and attitude within the DOE—national laboratory structure.

I believe this Secretary can provide the leadership necessary to make technology transfer happen.

Modifications we have made to the proposal in S. 550 reflect the confidence we have in this Secretary. This language provides the Department considerably greater discretion to implement and carry out the technology transfer directives of the amendment.

SUMMARY OF THE PROVISIONS

This amendment directs the Secretary of Energy to develop and implement a competitiveness mission for the national laboratories, to complement their primary energy and defense missions.

The heart of this directive is to enable, and encourage the national laboratories to negotiate and enter into cooperative research arrangements with industry, and universities, as well as other entities such as Federal agencies, State or local governments, foundations, and nonprofit organizations.

To a certain extent the laboratories can do this now, but under current rules, the labs often have to go through a laborious and delay-ridden process to get proposed agreements approved, or to obtain title to lab-created technologies. This is particularly problematic for the defense program laboratories.

Under this amendment the laboratories would be able to negotiate the terms for transferring to industry the commercial rights to unclassified innovations generated at the labs. Rules are clarified on how ownership of intellectual property arising from work conducted at the laboratories are to be transferred to the labs. Cooperative arrangements may include provisions to ensure that commercially valuable information produced at the labs—such as technical data and computer software—can be protected for commercial development.

In addition, the Secretary would establish procedures to assure that when a lab requests approval of a cooperative research proposal, or otherwise requests title to inventions created at the labs, DOE will respond to such requests in a timely fashion. Thus it is very important for the laboratories to be able to conduct business with industry, and to be of any use to them.

The labs must be responsive to the time demands of a competitive marketplace. I think the process we have called for in this legislation will give DOE adequate time to evaluate proposals, while assuring the labs get a timely response.

Consistent with or Federal investment in those laboratories, the Government will retain a royalty-free license to all technologies developed at the national laboratories.

To ensure that no one sits on the technologies being transferred out of the laboratories, the Department also retains march-in rights to the technologies to assure that they are developed.

Finally Mr. President, let me point out that this legislation was crafted with great concern that the national security activities of the DOE labs not be compromised. Much effort has been made to assure the protection of classified and sensitive information, and nothing in this bill limits DOE's ability to control classified or sensitive research or products.

Yet, it is very much that intention of this legislation that all of our national laboratories—even those whose primary mission is defense weapons research—should vigorously pursue technology transfer. There is a great deal of nonclassified expertise in these labs which should not be hidden simply because they are housed at a weapons laboratory.

While in the past the weapons laboratories have been completely excluded from technology transfer laws and Executive orders, this must change. It is fully the intent of this legislation to make that change.

WHAT CAN THIS LEGISLATION MEAN TO AMERICA

How much, Mr. President, can we expect to gain from this legislation? I'll admit that that is hard to answer, and I cannot give any shot-run promises. But I believe the long-run benefits could be tremendous.

Let me describe a little about what we are doing now and give a sense of what we might attain.

Sandia National Laboratory, for example, has estimated that 15 technologies it developed since 1960 were worth over $100 million a piece to industry by 1987. These included innovations ranging from a polycrystalline diamond drill bit which is now used in half the world's drilling footage to clean room technology that is used in virtually all manufacture of microelectronic circuits.

Over the past few years collaboration between industry and the labs has begun to increase, and it is paying off. Industry increased its royality payments to DOE labs from less than $140,000 in all of 1986 to nearly a half million dollars in just the first half of 1988. From 1985 to 1987 87 startup companies were formed to commercialize technologies from DOE labs.

Even with this growth, the DOE labs are not even close to producing at their potential. The Massachusetts Institute of Technology [MIT]'s research and development budget is only one-tenth the size of DOE's R&D budget, yet MIT is creating about the same number of new companies and generating about the same number of license agreements as DOE.

To be just comparable with MIT's efforts, DOE's R&D work should be generating about 10 times more economic activity than it is now. MIT and the DOE labs are very different places, and maybe its somewhat unfair to compare them, but this surely illustrates that there is a tremendous amount of untapped potential at these labs.

This amendment we are offering today is designed to begin mining that potential. It builds upon the technology transfer statutes of recent years, including the Stevenson-Wydler Technology Innovation Act of 1980, the Patent and Trademark Amendments of 1980—commonly known as the Bayh-Dole Act)—and the Federal Technology Transfer Amendments of 1986.

Let me in closing describe some of the benefits one of those statutes has already generated. The Bayh-Dole Act was designed to enhance technology transfer by allowing federally funded nonprofit organizations, universities, and small business laboratories to grant licenses to innovations.

Since its enactment funding of cooperative arrangements between universities receiving Federal R&D dollars and industry has grown 74 percent, from $227 million in fiscal year 1980 to $482 million in fiscal year 1985. Average private funding of universities has risen to between 6 and 8 percent.

Over 900 patents have been issued to universities in 1987—that is four times the number of patents issued in 1976. These patents make up 36 percent of the approximately 2,500 patents issued in 1987 for all federally funded R&D performers, yet the universities received only about 10 percent of the federal R&D budget.

The potential for improvement is great, and the amendment we offer here today will help us realize the full potential the DOE national laboratories have to offer. I urge my colleagues both in the Senate and the House of Representatives to support this measure.

Mr. President, I understand that this amendment has been cleared by the floor managers and will be accepted. I thank them, their staffs, as well as the staffs of the Senate Energy and Natural Resources Committee, for their tremendous assistance and contribution to this important legislation.

Mr. President, I yield to my distinguished colleague, Senator BINGAMAN.

Mr. BINGAMAN. Mr. President, I thank my colleague for yielding to me. I rise in support of his amendment. It accomplishes a major milestone for those who have advocated technology transfer from our national defense agency laboratories to the private sector.

This amendment represents a significant milestone for the advocates for technology transfer from our national defense energy laboratories to private industry.

I first entered the Senate in 1983, and during that first year, I was proud

to cosponsor Senator DOLE's Uniform Patent Procedure Act of 1983, which later was incorporated in Public Law 98-620. My support for that legislation launched me into the thick of technology transfer debate for years to come.

When regulations were promulgated in 1986 under Senator DOLE's legislation, the Department of Energy attempted to seek exemption from their requirements through language proposed by the House Armed Services Committee. I worked closely with House and Senate conferees to block this action, and the result was compromise language which was codified in the beginnings of what is now section 7261a of title 42 of the United States Code. The compromise at least provided for a waiver process, whereby the Government could waive its rights to an invention developed at our defense weapons labs. The provision stated the criteria for such a waiver and specified a reasonable time by which the Department should decide on any waiver request.

In 1987, I offered language which was intended to streamline and make the waiver process more effective. It would have provided that a waiver would become automatically effective if the waiver request were not affirmatively denied by a specified date. Again, we had to settle in conference for a compromise amendment to section 7261a, which specified a 150-day maximum period for any waiver decision. The amendment further required reports to the Armed Services Committees of Congress to explain delays in processing any requests and to report progress made by the Department under this provision.

In 1988, I cosponsored S. 1480, offered by Senator DOMENICI, a comprehensive bill addressing the technology transfer problems experienced by most Department of Energy laboratories—not just our defense weapons labs. Senator DOMENICI is to be complimented for his very hard work on S. 1480, which finally received the endorsement of the then Secretary of Energy Herrington and eventually passed the Senate, but too late in the session for action by the House of Representatives.

Senator DOMENICI and I agreed to work together to pass a comprehensive bill in this Congress. I introduced such a bill, entitled "The National Energy Technology Transfer Act of 1989," on July 11, 1989. Its provisions were incorporated in the markup of that portion of the defense authorization bill for which the subcommittee, which I chair, Defense Industry and Technology, is responsible. The language was then included in the markup of the full Armed Services Committee and is currently in S. 1352, the bill now before the Senate.

Our committee's action prompted some serious work on the part of officials in the Department of Energy. Since the filing of S. 1352, these DOE officials have met repeatedly with staff members from my office, from Senator DOMENICI's office, from the Armed Services Committee, and from the Energy Committee, to offer comments and suggestions on a substitute amendment which might at some point receive the enthusiastic endorsement of the Department.

Senator DOMENICI and I are delighted to offer that substitute amendment today. The amendment we offer reflects the consultations we have had with Department of Energy officials, and we feel confident that the Department will soon be in position to support its adoption officially.

Last night the Senate adopted an amendment making technology transfer a stated mission of the defense programs of the Department of Energy. And the adoption of this amendment today will provide part of the implementation of that mission. It accomplishes two critical objectives. First, it establishes the statutory authority for our laboratories to enter into cooperative research and development arrangements with private industry, universities, and other nonprofit institutions. And second, it streamlines the process whereby the labs and other parties to these cooperative research and development arrangements secure rights to the inventions, computer software, and other technology developed under these arrangements. And all of this is accomplished in a manner which supports, and even complements, the national security mission of the Department of Energy's defense programs complex.

While the amendment generally speaks for itself, there are four points which require some clarification of the intent of the draftsmen of this amendment. First, the definition of "intellectual property" does not include reference to State law or to trade secrets law. The drafters of the amendment had a vigorous debate as to whether to include such a reference. The parties agreed that as part of a task force to be formed by the Secretary of Energy during the next year to review policies and procedures for the Department's technology transfer program, the question as to whether there is a need to include specific provision in cooperative arrangements for State law and trade secret protection for the intellectual property rights granted to collaborative parties would be answered in full.

Second, section 3134(b)(7) of the amendment provides for appropriate march-in rights. The parties agreed that the purpose of this language was to give the Secretary flexibility to draft march-in rights to encourage technology commercialization to a greater extent than currently provided in section 203 of title 35, United States Code.

Third, the amendment does not repeal the current language of section 7261a of title 42, United States Code, which provides the waiver process for Department of Energy contractors, whether or not they are contractor-managers, as defined in the amendment. Because the amendment's waiver process only applies to contractor-managers, the existing language was left in statute for the benefit of contractors not in that category. The drafters also believed that contractor-managers should be able to choose to proceed either under section 7261a or under the provisions of the amendment, as alternatives.

Finally, the drafters did not include a provision making clear that the amendment was not to be construed as in any way establishing policies which are more restrictive regarding technology transfer than are now in place. They did so because they could not think of an example where adoption of the amendment would have that effect, but the understanding was that such was not its intent, if such circumstances do in fact exist.

An opportunity exists to use those resources residing in the DOE defense programs laboratories to promote technology commercialization while, at the same time, enhancing their primary national security mission. Today we see as much technology flowing from the commercial sector to the defense sector as we see flowing in the opposite direction. The labs need to stay in touch with the private sector more than ever before in their history. We need to improve commercial sector utilization of Federal research and development resources to increase our appreciation of industry's technology requirements and to forge new linkages so that technology flows in two directions: from the labs to industry and from industry to the labs. This cross-fertilization will increase the laboratories' exposure to external technology which can actually accelerate innovation and increase efficiencies within the defense program laboratories themselves.

The provisions of the amendment Senator DOMENICI and I offer today would precisely have such salutary effects. Industry would be made more aware of the defense program laboratory research and development capabilities and activities. The defense program laboratories would be made more aware of industry market requirements. Industry would become more involved with the activities of defense program laboratories at an early enough time in the research and development process to provide guidance on the development of commercially viable products. And all of this can be accomplished while nuclear weapons

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design, development, production, and maintenance still remain the primary mission of the Department of Energy nuclear weapons complex. In fact, this amendment would be only complementary to and supportive of the laboratories' national security mission.

As a strong believer that America's economic future depends on America's technology future, I am very pleased that this amendment has been cleared by both sides, and reflects substantial input from officials of the Department of Energy.

Finally, I thank my colleague from New Mexico, Senator DOMENICI for his great work on this amendment, and I would urge its immediate adoption by the Senate.

Mr. McCLURE. Mr. President, I rise in support of the amendment of Senators DOMENICI and BINGAMAN. The amendment is a substitute for a similar provision in S. 1352 governing defense energy technology transfers.

Similar to the provision in the bill, the amendment fosters collaborative agreements between the Department of Energy's national laboratories and the private sector to develop new technologies with significant economic potential.

American industry is encountering increasingly tough international competition, in part due to a worldwide explosion of new technologies. Our trade deficit is partially explained by new foreign competition which is capturing markets previously dominated by the United States.

The challenge is whether we can be more effective in delivering American inventions to the marketplace as a source for new businesses and jobs. This is true whether the technologies are publicly or privately created.

The measure before us recognizes that the advancement of new technologies, particularly energy and energy related technologies, can serve as a critical component in the growth of the U.S. economy. But the issue is not just development of new technologies; there also is the management of what we create to ensure that it is brought to the marketplace by American companies.

Opportunities exist for cooperative arrangements between certain DOE facilities, such as the Idaho National Engineering Laboratory and the private sector. Under such arrangements the United States can expedite the transfer of those technologies with significant economic importance into the marketplace so as to enhance the U.S. competitiveness in both domestic and international markets.

During the 100th Congress, the Committee on Energy and Natural Resources considered similar legislation which passed the Senate on two occasions. Three days of hearings were held by the Subcommittee on Energy Research and Development before the measure, S. 1480, was reported by the committee. Subsequently, during the closing days of the 100th Congress, the measure was passed by the Senate twice as a part of more comprehensive measures, H.R. 3048 and H.R. 4505. Despite extensive discussions between the Energy and Natural Resources Committee and the House Science and Technology and Armed Services Committees, it was not possible to reach a final agreement on statutory language before adjournment sine die.

As a continuation of this earlier legislative effort, similar legislation S. 550, was introduced in the 101st Congress. This legislation was ordered reported by the Energy and Natural Resources Committee on July 19. Almost simultaneously, the Armed Services Committee decided to include similar, but more limited, provisions in the bill now before us. As reported, the technology transfer provisions of S. 1352 apply only to DOE's so-called defense laboratories. By comparison, the provisions of S. 550 apply to all the contractor-operated laboratories of the Department of Energy. Consistent with this approach to technology transfer, the amendment before us also applies departmentwide.

Mr. President, the amendment reflects extensive discussions with the Department of Energy by the joint staffs of the Armed Services and Energy and Natural Resources Committees and Senators DOMENICI and BINGAMAN. These discussions have reflected a general concern that there be one uniform policy governing the technology transfer activities of the Department, and that this policy apply to both the civilian and defense facilities of the Department.

In this regard, the Department of Energy representatives have assured the committee staffs that the amendment does so. More importantly, it does so without interference with any of the Department's national security missions. From this standpoint the measure is complementary to and supportive of the ongoing missions of various departmental facilities and activities.

The scope of this amendment is not limited to the Department's defense facilities but reflects a general concern by the Department that there be a departmentwide policy governing technology transfer. Departmental spokesmen, who feel very strongly in this regard, have worked closely with us in the drafting of this amendment to achieve this objective. This position also is consistent with the position of the Energy and Natural Resources Committee as reflected in S. 550.

Of particular concern are the provisions of the amendment that ensure that a DOE contractor-manager can, by a date certain, obtain a decision from the Federal Government as to whether he can obtain title to any technology that he wishes to commercialize.

As the committee's ranking minority member I am concerned for the final outcome of any discussions with the House of Representatives on this matter. During the last Congress, efforts to arrive at agreement on this matter were very protracted. I would hope that would not occur again this year.

I am therefore prepared to work closely with the chairman and ranking minority members of the Armed Services Committee to ensure that this matter is resolved expeditiously. However, it is important that any conference agreement preserve the policies set forth in the amendment. As I mentioned, these policies reflect extensive discussions with departmental representatives and the staff of our respective committees.

At this time, it is not clear how this matter will be conferenced and whether Senate conferees would include non-Armed Services Committee members. Nevertheless, I am prepared to work with the chairman and ranking minority member of the other committee to ensure that any conference agreement preserves the interests of the Senate as well as the respective jurisdictions of the Armed Services Committee and the Energy Committee with respect to technology transfer.

I would observe, however, that should it not be possible to preserve the Senate's position in conference, the Senate has the opportunity to consider this matter as separate legislation, S. 550.

I urge Senate adoption of the amendment.

Mr. DOMENICI. Mr. President, I understand that the distinguished managers of the bill have reviewed this matter, portions of which were included in the original bill as reported by the committee. Those items that were in the bill have been accommodated in this amendment which is a whole technology transfer amendment with reference to the Department of Energy's national laboratories. I am pleased that they have helped us with this and I thank my colleague, Senator BINGAMAN, for the original work in the committee. We have been working on this for about 3 years, and its adoption here tonight represents a significant milestone. I yield the floor.

Mr. HARKIN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senate will be in order.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Iowa is recognized.

Mr. NUNN. Mr. President, will the senior Senator from Iowa yield on the Domenici amendment so we can com-

plete this? Or do his comments apply to the Domenici amendment?

Mr. HARKIN. I am sorry, I would like to know what the request is because I have an amendment I want to offer.

Mr. NUNN. We have a pending amendment we are about to dispose of. If we can dispose of that, we can get right back to the Senator.

Mr. WARNER. Mr. President, I advise the distinguished chairman that this side has not been able to clear the amendment on beef as submitted by the Senator from Iowa. I see no opportunity for that clearance being obtained tonight, I regret to advise the Senator.

The PRESIDING OFFICER. The Senator from Iowa has the floor. The Chair would remind the Senator from Iowa the pending business is the amendment offered by the Senator from New Mexico.

Mr. DOMENICI. I say to my friend we did not get the amendment adopted before he got the floor. We were just asking if we could adopt this amendment.

The PRESIDING OFFICER. Is there further discussion on the amendment?

Mr. NUNN. Mr. President, this amendment has been carefully worked out by the two Senators from New Mexico, Senator BINGAMAN and Senator DOMENICI. Senator BINGAMAN has certain provisions in this bill that were accepted by the committee. Senator DOMENICI's amendment amends those and adds a couple very important items as I understand it which would enable the Department of Energy to support these amendments.

Mr. DOMENICI. The chairman is correct.

Mr. NUNN. So I commend both Senators from New Mexico and I urge the amendment be accepted.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator DOLE be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 616) was agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

We thank the Senators from New Mexico for their patience and I am delighted we were able to accommodate them.

AMENDMENT NO. 626

(Purpose: To require the Secretaries of the military departments to sell United States domestic meat and meat food products in commissary stores in member countries of the Economic Community and to serve United States domestic meat and meat food products in dining facilities of that department in such countries)

Mr. HARKIN. Mr. President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 626.

Mr. HARKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 293, between lines 13 and 14, insert the following:

SEC. 917. SALE AND USE OF UNITED STATES DOMESTIC MEAT IN ARMED FORCES FACILITIES IN THE EUROPEAN COMMUNITY.

(a) REQUIREMENT TO USE UNITED STATES DOMESTIC MEAT.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2491. Commissary stores and dining facilities: sale and use of United States domestic meat in the European Community

"(a) The Secretary of each military department shall ensure that the meat and meat food products sold in commissary stores of that military department located in any member country of the European Community and the meat and meat food products served in dining facilities of that military department located in any such country are produced and processed in the United States.

"(b) In this section:

"(1) The term 'meat' means meat within the meaning of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

"(2) The term 'meat food product' has the same meaning as provided in section 1(j) of such Act.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2491. Commissary stores and dining facilities: sale and use of United States domestic meat in the European Community.".

(b) GENERAL POLICY.—It is the sense of Congress that the Secretary of each military department should intensify efforts to procure from United States sources the products to be sold in commissary stores of that department, the food products to be served in dining facilities of that department, and the supplies to be used in such dining facilities.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to this division, $10,000,000 shall be available to defray the cost of transporting meat and meat products referred to in section 2491 of title 10, United States Code (as added by subsection (a)), from the United States to European Community countries for sale in commissary stores and for serving in dining facilities as provided in that section.

Mr. HARKIN. Mr. President, I spoke about this amendment earlier, much earlier today—I should say much earlier yesterday. I had thought that the amendment had been cleared but evidently there has been some problem with it on the other side of the aisle. I do not know what that problem is but perhaps it will come out in the debate.

I do not know what the situation is on the floor with regard to votes, but I understand there are no more votes tonight. Perhaps a vote could be held on this amendment. I do not know.

Basically what this amendment does is to ensure that military installations located in the European Community serve and sell only United States meat and meat products in their dining facilities and commissary stores.

I say again the reason I offer this amendment is because earlier this year in January the European Community put a ban on all U.S. meat and meat products that were grown using hormones.

Well, the fact is that not only the United States but many other countries use hormones and they use them in a perfectly safe manner.

The fact is that the European Community put on this ban in a very arbitrary and capricious manner. The amendment here provides that only United States meat and meat products may be served and sold in United States military dining halls and commissary stores located in the European Community and provides for the allocation of $10 million in fiscal year 90 for the transportation of United States meat to Europe.

When the European Community imposed its ban on January 1 against United States beef grown with hormones, I did some checking. I found out that each year our military installations buy some 46 million pounds of European beef at a cost of $55 million or more a year.

I had to ask myself why these purchases continue since the EC persists in barring nearly all sales of U.S. beef in those countries.

Now, the European Community claims that beef grown with hormones poses a risk to the health of consumers, but there is absolutely no scientific basis for this assertion. The use of growth hormones is an approved and accepted practice in the United States and many other countries. In an average 3-ounce hamburger, implanted beef contains only an additional six ten-billionths of a gram of hormones. The EC ban is a trade barrier, pure and simple.

Under an interim agreement reached with the United States in May the EC can establish its own monitoring systems to certify that meat was not produced with hormones. But even with all that red tape the ban would be lifted on no more than 15 percent of

the total $100 million in beef exports banned by the European Community.

Mr. President, it is not right, it is not fair, that the European Community cuts off United States beef sales in Europe, and that our taxpayers turn right around and buy European beef to provide to our soldiers and their families in Europe.

Again, I point out that since the European Community ban went into effect, and since European beef producers were barred from using hormones, the black market use of illegal hormones in the European Community beef production has increased.

Here is the irony. Black market hormones are being used unlawfully in European beef production. European beef is purchased by our military people and sold in the commissary stores. But our United States beef that is produced safely using legal hormones is banned from sale in the EC.

Again, that is not right or fair. I believe that our soldiers in Europe and their families are entitled to the same wholesome and good quality meat that the American people are entitled to.

That is the purpose of this amendment, to make sure our soldiers and their families get that wholesome meat, and to make sure that they do not have to eat meat produced in the European Community, where illegal hormone use occurs.

I might point out that Senator CONRAD and Senator DOMENICI and Senator GRASSLEY are cosponsors of this amendment. I was pleased to join in Senate Resolution 14, submitted by Senator DOMENICI, which encouraged requiring commissaries in the European Community to buy and sell only U.S. meat and meat products. And when it became clear how little progress had been made in the interim agreement I wrote to Secretary Cheney asking him to direct that commissary stores in Europe sell and serve only United States meat. There has been no indication that the Department of Defense will comply with these requests. This is an amendment that provides for wholesome high quality United States meat to be procured for our soldiers and their families in Europe and lets the Europeans know we are not going to be buying their beef that may contain illegal hormones that may be injurious to the health of our soldiers and their families overseas.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I recognize the hour is very late. I do not want to get into an extended debate on this amendment. But I must say there has been considerable concern about this amendment raised by my colleagues on this side. One of course is the cost which I understand my friend from Iowa says is an additional $55 million. Another is, does this apply only to beef or does it also apply to pork, lamb, veal, and other meats?

I think it raises a legitimate question as to if there is an added cost in this transportation of U.S. meat overseas, who will pay that cost? Will it be the service person in the commissary or at the mess hall or at the dining facilities? I wonder if my colleague will agree to a second-degree amendment which would basically say that the provisions to this section shall only be effective during fiscal years in which funds have been appropriated specifically for the purposes described in the amendment, and such appropriations are from those made available to agencies or departments other than the Department of Defense.

I guess what I am saying is I would like to make sure if this amendment is accepted that it is not whacked out of the defense appropriations which obviously should be earmarked for those purposes.

As I say, I do not wish to drag out this amendment, discuss this amendment, at 1:15 in the morning. But I believe there are serious concerns primarily over the cost, of who would pay for it, and if my colleague will make sure that whatever those additional costs are they would be taken from other appropriations other than the Department of Defense.

I yield the floor.

Mr. DOMENICI. Mr. President, our Armed Forces in Europe are served only American meat in their messhalls. This amendment would intensify efforts to extend that practice to the commissaries as well, with $10 million appropriated to defray the cost of transporting meat and meat products.

This measure would be permitted under the recently enacted Omnibus Trade and Competitiveness Act of 1988. It is also legal under the General Agreement on Tariffs and Trade.

In my own State of New Mexico, in 1987 over $635.9 million of cash receipts were generated by cattle and calves. That means that over 55 percent of total agricultural cash receipts came from cattle, and three-quarters of our agriculture is cattle based.

Mr. GRASSLEY. Mr. President, I rise in support of this amendment which requires our military commissaries overseas to purchase U.S. beef. This seems to me a very appropriate response to the action taken several months ago by the European Economic Community to ban the importation of U.S. beef produced with animal hormones. The EC has no legitimate grounds for imposing such a ban. The use of hormones in U.S. beef production is common practice. More important, it is safe.

This is why I wrote to the President in January, as well as to other administration officials to urge that requiring military commissaries to purchase U.S. beef be considered as a response and possible option for retaliation against the EC.

This is also why I joined Senator DOMENICI by cosponsoring S. Res. 14, which expressed the sense of the Senate deploring the European Community's ban of U.S. beef and requiring U.S. commissaries in the European Community to buy and sell American meat. Unfortunately, this resolution is still pending in the Finance Committee.

Mr. President, in response to my earlier urgings I received a letter from the Department of Defense which I would like to enclose for the RECORD. It details that there are some logistical and financial problems that would need to be worked out if we are to mandate these purchases.

The Department of Defense estimated that it would cost about $15 million for facilities and then an additional $20 million annually for the transportation and handling of U.S. beef sent to Europe.

Second, the higher prices of U.S. beef would increase the cost of living for our U.S. military personnel and families by about $12 million annually.

I was informed that this $47 million was not available in the current budget. In conclusion, DOD informed that while they fully support the purchase of U.S. products whenever possible, this funding problem would need to be resolved.

Therefore, I am pleased with the action already taken in the House of Representatives. The House DOD authorization bill's committee report includes language calling for funds to be made available for the transportation of U.S. beef to our overseas military commissaries.

Furthermore, the House Agriculture Committee has included an earmark of $14 million to be attached to reconciliation. This money will also assist with the related costs of our proposal.

Mr. President, we in the Senate will need to take similar steps. Therefore, I have written to the chairmen and ranking Republicans in both the Senate Appropriations Subcommittee on Defense and the Senate Agriculture Committee to urge that necessary funds be made available either through appropriations or reconciliation to cover the necessary costs associated with mandating our military commissaries to purchase U.S. beef.

Mr. President, I urge my colleagues to join and support this amendment. The European ban on U.S. beef is unjustified. We have the safest, most wholesome food supply in the world, and the Europeans know it. They have had to subsidize the domestic sale of

their own beef in order to compete with U.S. beef. The EC now tires of this competition and the cost of their own subsidies, and therefore manufactures a bogus excuse to ban U.S. beef. Now they'll pay with the loss of the U.S. military commissary market.

In addition to its value in terms of trade policy, the move by Congress and the administration to require military commissaries to purchase U.S. beef will be cheered by our military personnel. Now they will have access to that high quality, tasty beef that they could only find at home. And if Congress adopts the House Agriculture reconciliation language providing $14 million in Export Enhancement Program funds toward this effort, the intervention prices or below market prices subsidized by the Europeans can be offset so that our military personnel can buy this U.S. beef at no extra cost over that of European beef.

Furthermore, since the commissary market is worth about $70 million to American beef producers, this effort should help to some degree buffer the impact of the European ban.

Mr. President, again I urge my colleagues to support this amendment offered by my colleague from Iowa. And I urge my colleagues to support the additional measures needed either through appropriations or reconciliation to assure the success of this proposal.

THE OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, April 7, 1989.

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Washington, DC.

DEAR MR. GRASSLEY: Thank you for your recent letter to the Deputy Secretary of Defense recommending that military commissary purchases of U.S. beef vice European Economic Community (EEC) beef be used as a bargaining chip to relieve some of the stress placed on American producers by the EEC ban of beef containing growth hormone. I have been asked to reply.

The Department has been actively involved with the Department of Agriculture, the House Armed Services Morale, Welfare, and Recreation Panel, and the House Agricultural Committee regarding this issue. Discussions have centered on replacing the European beef currently procured for military commissaries in Europe with U.S. beef. There is no doubt that U.S. beef is the finest in the world, but the fact that logistically we are dealing with shipping perishable U.S. beef products over great distances will require detailed planning of schedules and resources. We have estimated that implementing a permanent, reliable system of supplying U.S. meat would cost an additional $30-35 million in appropriations (about $15M for facilities and $20M annually for transportation and handling to Europe). Also, the higher prices of U.S. beef (EEC beef is subsidized by the EEC) would increase the current cost of living to U.S. military members and their families by about $12 million annually. This estimated total cost of $47 million is not available in the current budget and would be required to be funded if this proposal is to be implemented. Therefore, while we fully support the purchase of U.S. products whenever possible, there will be additional costs and logistical problems that must be considered prior to a final decision on this proposal.

I trust the above information is responsive.

Sincerely,

DONALD W. JONES,
Lieutenant General, USA, Deputy Assistant Secretary (Military Manpower and Personnel Policy).

AMENDMENT NO. 627 TO AMENDMENT NO. 626

Mr. McCAIN. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

THE PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 627 to amendment 626.

Strike out subsection (C) and insert the following:

(C) The provisions of this section shall only be effective during fiscal years in which funds have been appropriated specifically for the purposes described in the subsection and such appropriations are from those made available to agencies or departments other than the Department of Defense.

THE PRESIDING OFFICER. Is there debate on the amendment?

Mr. HARKIN. Mr. President, I would like to inquire as to exactly what this amendment does. Will the distinguished Senator from Arizona tell me what the amendment does?

Mr. McCAIN. If my friend will yield, the purpose of this second-degree amendment is that the funds, any added expenses, or costs that would be associated with the amendment of the Senator from Iowa would be assumed by other agencies other than the Department of Defense.

Mr. HARKIN. Might I inquire whether the Senator has any information or knowledge as to how the transportation is paid for now for food products that go from the United States to our commissaries and dining halls in Europe? Who pays for that transportation?

Mr. McCAIN. I am sure that all necessary transportation expenditures are paid for by the Department of Defense.

Additional expenditures I believe should not be taken out of the defense budget.

Mr. HARKIN. I would point out that, since the Department of Defense provides for the transportation of foods and food products from the United States to our commissaries and troops overseas, action under this amendment this amounts to an estimated additional $10 million for the transportation of United States beef to Europe.

This amount would come out of the defense budget since they already provide for the transportation of other foods and food products to Europe, including meat for dining halls. Any additional cost of the meat itself can be covered by funds that the House Agriculture Committee has allocated within the Export Enhancement Program to get the price of that meat down so that it would be equivalent to the cost of the European beef. I will work for a similar allocation in the Senate. If I might make that clear, that Export Enhancement Program allocation has already been provided in the budget reconciliation bill by the House Agriculture Committee.

Mr. McCAIN. Perhaps that makes my second-degree amendment redundant. But I would just like to make sure we do not take another whack out of the defense budget for the purposes in making sure that our European friends do not discriminate against us in the matter of beef, and my understanding is other meat products.

Mr. HARKIN. Maybe the Senator and I can reach an agreement on this, if we could agree that transportation be picked up by DOD, but any other additional costs in terms of buying down the price of the meat be picked up by the export enhancement program. That is the biggest factor of all, not the transportation.

Mr. McCAIN. I guess my question to my friend would be why should we have the Department of Defense pick up the extra transportation costs?

Mr. HARKIN. Because they already pay for transporting all the foodstuffs over there anyway. They may allocate that spending among various products. They may transport more potato chips or more canned dog food or something like that in any given year. They may provide any kind of transportation for foodstuffs to Europe.

Mr. McCAIN. I understand. But my friend from Iowa stated that it will be an additional $10 million to pay for these additional transportation costs, I believe, if I understand his statement correctly. Again, I would like to extend my apologies to my colleagues, especially my friend from Missouri, who has been waiting patiently for about 36 hours.

Mr. HARKIN. We have a standing policy of promoting U.S. products abroad. We do it through all kinds of organizations. We do it through the military. I wish I had the figures here on how much food we actually transport to Europe, Korea, or any other place our troops are stationed.

The cost of transporting meat to Europe is a very small part of the total amount of transportation costs that would be involved. I think the principle here is very important, the principle being that our troops are entitled to wholesome meat, meat that is produced under United States laws and regulations, meat that has been inspected rather than buying meat in the EC with the black market hormones being used in Europe right now.

As I said, I think there might be an agreement there if the Department of

Defense would pick up the transportation costs like they do on everything else, but making sure we can buy down on the export enhancement program price. I think that would be a reasonable agreement.

Mr. WARNER. Mr. President, might I inquire of the Senator from Iowa?

In an effort to keep our calendar moving tonight, is there the opportunity that we can accept the amendment in the second degree, the Senator from Iowa, in which case, we would be prepared to accept the first-degree amendment? Could the Senator from Iowa advise the managers of the bill of the likelihood that he will accept the amendment in the second degree?

Mr. HARKIN. With the amendment offered by the Senator from Arizona?

Mr. WARNER. In the second degree, would the Senator be willing to accept it, in which case we can now move forward?

Mr. HARKIN. If we can agree on the funding mechanism. I am concerned, however, that there is no other way to fund the transportation to Europe other than through DOD sources. We can fund the buy-down level through EEP, but we cannot fund the transport. So the effect, I think, of my friend's amendment is basically to gut the amendment. It guts it, makes it meaningless.

Mr. WARNER. That is not the intention, because I worked with the Senator from Arizona.

Mr. McCAIN. Mr. President, I also would like to remind my friend that I think we take it out of the agriculture appropriations to subsidize whatever costs might be incurred. What I am trying to say to my friend, I am not trying to prevent him from seeing his goal attained, but what I am saying is that time after time we pay for these things out of the defense appropriations, and I think this goal could be achieved by taking funding from somewhere else. My friend asked where, and I say from agriculture appropriations.

Mr. HARKIN. I would say to my friend that we have a $288 billion Department of Defense authorization bill here. We are talking about $10 million in this amendment. Again, I point out that the Department of Defense will ship all kinds of food to Europe next year. And the cost of transportation will vary according to the level of shipments. They could increase their purchase of dog food or of soda pop or who knows what else. All I am asking is that U.S. meat be procured by the Department of Defense for selling and serving at commissaries and dining halls overseas. I do not think $10 million is a great deal in terms of transportation, since agriculture program money, through our Export Enhancement Program, is going to buy down the price. We are going to buy down the price with EEP. $10 million is such a big ticket item that we cannot afford $10 million to assure our troops in Europe have clean, wholesome meat out of the Defense Department budget? Give me a break. Out of $288 billion? I do not know if there is any authority for the Department of Agriculture to transfer money over to ship that meat to Europe.

Mr. McCAIN. I would say to my friend from Iowa, without any taint of sarcasm, we could spend the money on the war on drugs, which was the subject of 2 hours of debate. I can find lots of uses for $10 million. Yes, it is a large defense budget, but I think $10 million is a significant amount of money.

I would like to, Mr. Chairman, try to work this out with my friend from Iowa. I hate to hold up the proceedings of this evening. If we could temporarily, at least for 5 or 10 minutes, lay this aside and see if we cannot work something out, would that be agreeable to my friend from Iowa?

Mr. HARKIN. Yes.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 628

Mr. WARNER. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. NUNN. Mr. President, I ask unanimous consent that the Harkin amendment and the second-degree amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. Senator WARNER.

Mr. WARNER. Mr. President, I ask for immediate consideration of the amendment.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Virginia.

If the Senator from Virginia would suspend, the Senator from Vermont has a unanimous-consent request that he has been trying to get in. The Senator from Vermont.

Mr. WARNER. On the condition that I retain the floor.

The PRESIDING OFFICER. The Senator from Vermont.

CHANGE OF VOTE, AMENDMENT NO. 535

Mr. JEFFORDS. Mr. President, I ask unanimous consent that I may change my vote on rollcall 152, the motion to table the Levin amendment 535 from "aye" to "nay." This will not in any way change the result of the vote.

The PRESIDING OFFICER. Is there any objection?

Hearing no objection, it is so ordered.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Virginia.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 628.

Mr. WARNER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, add the following new section:

SEC. . FEASIBILITY STUDY OF LAND TRANSFER FOR USE AS A CORRECTIONAL FACILITY.

(a)(1) The Secretary of Defense, in consultation with the United States Attorney General, shall conduct a study of the feasibility of selling or otherwise transferring to the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, a parcel of land of approximately 100 acres not more than 100 miles from the southern boundary of Arlington County, from the military installations within Virginia which encompass land that may be suitable for use by the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, as a site for a medium security correctional facility for persons sentenced in the courts of Virginia or in the United States District Court in Virginia.

(2) The study required by paragraph (1) shall address, at a minimum, the following issues:

(A) Whether there are parcels of land within those installations of the size described which could be released from Federal control without severely affecting the present mission of such installations.

(B) A description of the parcels of land described in subparagraph (A).

(C) A description of the effects, if any, transfer of such parcels of land from Federal control would have on the ability of the Secretary of Defense to effectively carry out the mission of the Department of Defense.

(D) An analysis of the risk, if any that might be posed to military personnel and their dependents housed on such installation by the operation of such a correctional facility on the parcels of land described in subparagraph (A).

(E) An estimate of the date on which the parcels of land described in subparagraph (A) would be available for transfer from Federal control.

(b) The report of the study described in subsection (a) shall be delivered to the Committees on Armed Services of the Senate and House of Representatives not later than 60 days after enactment of this Act.

Mr. WARNER. Mr. President, this amendment requires just a study. It has been approved on both sides.

Mr. President, in the last several days I have been approached by a delegation of representatives of northern Virginia jurisdictions who have demonstrated to me a compelling need for the construction of a regional correctional facility. Northern Virginia, like most suburban areas, has experienced a remarkable increase in jail population, far beyond its capacity to construct suitable facilities on current sites. In fact, most correctional institutions in northern Virginia are housing approximately twice the number of prisoners for which these jails were

designed. Over the last 4 years, the regional jail population has increased by 125 percent. With the initiation of enhanced drug enforcement efforts in the northern Virginia and Fredericksburg area, jail space will become even more scarce.

This creates a hazardous situation, both within and outside the institution. When jails are overcrowded, security within the institution is strained, the atmosphere is tense and potentially violent. Moreover, such overcrowded conditions invite costly litigation, ultimately at the expense of the taxpayer. A case in point is Prince William County, VA. Here a recent consent decree has resulted in closure of this facility on 10 separate occasions in the last 2 months.

When local jails are overcrowded, there is a natural tendency for violent offenders to displace those who pose a lesser risk. This in effect means that our courts have less sentencing options. While I support the general notion that our communities must explore innovative alternatives to incarceration for nonviolent, low risk first offenders, I believe that with respect to those who defraud our citizens, breach the public trust, commit violent crimes or distribute drugs, swift, firm punishment is a vital element of deterrence. While the costs of incarceration are admittedly high, they are not nearly as high as permitting crowded jail conditions to emasculate our criminal justice system. It simply makes no sense to spend the vitally needed money for better enforcement and prosecution, and then have no place to imprison the criminals we catch.

To accommodate the burgeoning jail population of northern Virginia, I support the construction of a regional correctional facility. To keep this project within the range of reasonable affordability, I am proposing that a study be conducted by the U.S. Department of Defense to determine the feasibility of situating this detention center on public lands in the Commonwealth of Virginia, such as Fort A.P. Hill in Caroline County. While this facility is primarily designed to house prisoners from northern Virginia, I would expect that it will provide space for inmates from the Fredericksburg to Richmond areas as well. I understand that local jails in that area are either filled beyond or at their comfortable capacity. For northern Virginia, collectively as of May 1, 1989, there were approximately 900 prisoners in local jails actually sleeping on floors.

This regional detention facility will be operated as a joint venture between the State of Virginia and local jurisdictions. I anticipate that it will be composed of a consortium of resources contributed by Arlington County, Fairfax County, the city of Alexandria, Prince William County, Loudon County, and any other jurisdiction that wishes to participate. Legislation that will become effective on December 1, 1989, will make these jurisdictions eligible for reimbursement of up to 50 percent of the total cost from the Commonwealth of Virginia.

A regional correctional facility will not only serve to alleviate the over crowded jail conditions that hinder effective law enforcement in each of our local communities, it will also provide job opportunities for citizens in the area in which it will be situated. While correctional facilities are always greeted by citizens with mixed emotions. I join the representatives from northern Virginia jurisdictions in their belief that this project is a central ingredient in our future law enforcement strategy. In the short run, at least, the criminals are not going to go away. The only question is whether we would rather pay the costs of building prisons to hold them or the much higher costs of leaving them on our hometown streets.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

THE PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment of the Senator from Virginia.

The amendment (No. 628) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 552

(Purpose: To require a report on the International Military Education and Training Program)

AMENDMENT NO. 579

(Purpose: Relating to Federal Cooperation with State and Local Law Enforcement efforts to Interdict Illegal Narcotics)

Mr. GRAHAM. Mr. President, I call up amendment Nos. 552 and 579 en bloc and ask for their immediate consideration.

The PRESIDING OFFICER. The Senator from Florida, I assume, asks unanimous consent that the Harkin amendment be set aside?

Mr. GRAHAM. Yes.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes amendments en bloc numbered 552 and 579.

Mr. GRAHAM. Mr. President, I ask that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 552 and 579) are as follows:

AMENDMENT No. 552

On page 293, between lines 13 and 14, insert the following:

SEC. 917. REPORT ON THE INTERNATIONAL MILITARY EDUCATION AND TRAINING PROGRAM.

(a) FINDINGS.—The Congress makes the following findings:

(1) Military professionals in many developing countries would benefit from training which enhances their ability both to engage in militarily valuable activities and to contribute to nation-building in their countries, including training in such matters as engineering, communications, electronics, maintenance, health care, logistics, management, and military jurisprudence.

(2) Such training of military professionals of developing countries could be coordinated in such a way as to contribute to the total economic and social development of those countries.

(3) The technical activities of the Army Corps of Engineers and the medical departments of the Armed Forces throughout the history of the United States are examples of the use of military skills and personnel to build, and otherwise to benefit, a nation in nonmilitary ways.

(b) REPORT REQUIREMENT.—(1) The Comptroller General of the United States shall prepare a report on the International Military Education and Training (IMET) Program. The report shall contain the following:

(A) A tabulation of the number of students from countries around the world who are currently participating in training under the program.

(B) A description of the content of the courses currently offered military personnel enrolled in the IMET program.

(C) A discussion of the feasibility of refocusing IMET activities to include training in nation-building skills such as engineering, communications, electronics, maintenance, health care, logistics, management, and military jurisprudence.

(D) A discussion of the desirability and feasibility of developing cooperative IMET programs involving the Army Corps of Engineers and the medical departments of the Armed Forces.

(2) The Comptroller General shall transmit the report to the Committees on Armed Services of the Senate and the House of Representatives not later than 45 days after the date of the enactment of this Act.

AMENDMENT No. 579

The Anti-Drug Abuse Act of 1988 terminated the national narcotics border interdiction system [NNBIS] and placed it under the auspices of the Office of National Drug Control Policy;

The National Narcotics Border Interdiction System [NNBIS] provided valuable information and support to State and local law enforcement agencies involved in drug interdiction activities;

Therefore, it is the sense of the Senate of the United States that the cooperation that existed between State and local law enforcement officials and the Federal agencies participating in NNBIS should, to the extent possible, be continued and enhanced by the Director of the Office of National Drug Control Policy.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, these two amendments, both of which have been cleared on both sides of the aisle, refer to Amendment 552, which speaks to the IMET Program, International Military Education Training Program, and calls upon the Comptroller General to prepare a report.

The purpose of this report, Mr. President, is to assess the means by which this program is currently being used and to provide to this Senate and Congress and the American people information which might indicate how this program could be used to encourage a greater exposure of military officers from other countries in fields such as Corps of Engineers, Army Medical Corps, that would have both military and a civilian application in their countries.

The second amendment, Mr. President, which is Amendment No. 579, relates to a decision that was made in the 1988 Anti-Drug Abuse Act, which terminated a former program called the National Narcotics Border Interdiction System, NNBIS, and placed it under the control of the Department of Defense. This is a sense-of-the-Senate amendment that we asked the same cooperation which had existed under NNBIS as it relates to State and local law enforcement agencies, be extended to the——

Mr. NUNN. Would the Senator from Florida permit me to interject that we recommend these amendments be approved on both sides?

Mr. GRAHAM. Yes.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendments of the Senator from Florida.

The amendments (Nos. 552 and 579) were agreed to, en bloc.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to, en bloc.

AMENDMENT NOS. 629 AND 630

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask unanimous consent that the two amendments that I am sending to the desk be considered en bloc.

The PRESIDING OFFICER. The clerk will report the amendments.

Without objection, the pending Harkin amendment will be set aside.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes amendments en bloc numbered 629 and 630.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 629

Add at the end of Part D—Miscellaneous Reporting Requirements of Title III, insert the following:

SEC. . REPORT ON SECOND SOURCE FOR CARBONIZABLE RAYON YARN.

Not later than November 30, 1989; the Secretary of Defense will report to the Committee on Armed Services of the Senate and House on the progress, time table, and a time certain for the Department to establish a certified second production source for carbonizable rayon yarn for use on reentry vehicles heat shields and rocket nozzles, applicable to both defense and space programs.

AMENDMENT No. 630

Add at end of Part F—Miscellaneous Provisions, of Title III, insert the following:

SEC. . ENVIRONMENTAL IMPACT STUDY OF THE SHENANDOAH RIVER.

(a) The Secretary of Army, acting through the Chief of Engineers, will conduct a study to determine the damage and environmental impact on the Shenandoah River by companies under contract to the Defense Department, and National Aeronautics and Space Administration.

(b) The study will determine:

(1) the degree, in full, of the pollution effect and the environmental impact to the river, and

(2) the estimated cost and time schedule to restore the water quality of the river to federal standards.

(c) An interim study report will be due not later than December 31, 1989. A final report is due June 30, 1990.

Mr. WARNER. These two amendments by the Senator from Virginia require simple reports, and have been approved by both sides.

Mr. NUNN. Mr. President, I urge the approval of the amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Virginia [Mr. WARNER].

The amendments (Nos. 629 and 630) were agreed to, en bloc.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendments were agreed to, en bloc.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 631

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 631.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SEC. . UNITED STATES ON-SITE INSPECTORS PROGRAM.

(a) FINDINGS.—The Senate recognizes the need for a program designed to establish a database of prospective personnel that would be qualified to participate in the on-site inspection process since the U.S. is currently engaged in multilateral and bilateral negotiations to reduce or eliminate various military weaponry and manpower. Specifically, the United States is negotiating reductions on strategic forces, conventional armaments and manpower, monitoring regimes for nuclear testing, and the complete elimination of chemical weapons.

(1) Monitoring requirements for these possible treaties will be extensive and stressing on United States national technical means. To complement and support NTM monitoring requirements the United States and Soviet Union have negotiated and are currently employing on-site inspection procedures for the INF Treaty. Similar on-site inspection provisions are being negotiated for possible future treaties and agreements.

(2) The Administration, and many in Congress, consider on-site inspection procedures to be an integral part of any future arms control treaty.

(3) During initial implementation of INF Treaty provisions, the United States was not fully prepared for the manpower requirements necessary to conduct on-site inspections. The Director of Central Intelligence has stated that on-site inspection requirements for any Strategic Arms Reduction Treaty (START) will be far more extensive than the INF Treaty. Estimates of possible START on-site locations are approximately 2,500 as opposed to 120 for the INF Treaty.

(4) Personnel requirements will be extensive, in terms of both numbers and technical and linguistic skills. Since INF Treaty verification requirements are already taxing current personnel resources, START and other requirements may quickly exceed the numbers of verification personnel with requisite technical and language skills.

(5) The Department of Defense organization best suited to establish such a database is the On-Site Inspection Agency. As an agency of the Department of Defense, the OSIA was created to organize and coordinate United States Government efforts to monitor the INF Treaty, which includes all responsibilities for on-site inspections as required by the terms on the Treaty.

(b) REQUIREMENT.—Recognizing these requirements, the On-Site Inspection Agency shall establish a database of prospective personnel that could be called upon to conduct on-site inspections of any future arms control agreement that has such provisions as part of the terms of the Treaty.

(1) The database shall be composed of individuals with linguistic and technical skills necessary to conduct on-site inspections.

(2) This database shall consist of active military and other government agency personnel and, on a voluntary basis, non-government personnel with requisite skills to perform duties, on a full-time or part-time basis, as prospective on-site inspectors.

(c) THE INF TREATY DEFINED.—In this section, the term "INF Treaty" means the Treaty Between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, signed in Washington, DC, on December 8, 1987.

Mr. WARNER. Mr. President, this sets up a data base for onsite inspec-

tion. It has been approved by both sides.

Mr. NUNN. Mr. President, I urge the approval of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia.

The amendment (No. 631) was agreed to.

Mr. WARNER. I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I have a series of amendments that I would like to get approved. It will not take but just a minute, but they must be approved. People are counting on them, and they have been agreed to on both sides.

I ask unanimous consent that the pending Harkin amendment be set aside

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 632

(Purpose: To provide credit for certain Indian contracting ventures toward meeting certain minority subcontracting goals)

Mr. NUNN. Mr. President, I first send an amendment to the desk on behalf of Mr. CONRAD.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. CONRAD (for himself, Mr. MCCAIN, Mr. INOUYE, and Mr. MURKOWSKI), proposes an amendment numbered 632.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 247, below line 24, insert the following:

SEC. 836. CREDIT FOR INDIAN CONTRACTING IN MEETING CERTAIN MINORITY SUBCONTRACTING GOALS.

(a) REGULATIONS.—Pursuant to regulations which the Secretary of Defense shall prescribe and subject to subsections (b) and (c), in any case in which a subcontracting goal is specified for a Department of Defense contractor in the implementation of section 1207 of the National Defense Authorization Act of Fiscal Year 1987 (10 U.S.C. 2301 note) and section 8(d) of the Small Business Act (15 U.S.C. 637(d)), credit toward meeting that subcontracting goal shall be given for each Department of Defense contract awarded to that contractor, and each subcontract awarded by that contractor in connection with a Department of Defense contract, that—

(1) is to be performed on any Indian lands and meets the requirements of paragraph (1) of subsection (b); or

(2) is undertaken as a joint venture that meets the requirements of paragraph (2) of that subsection.

(b) ELIGIBLE CONTRACTS, SUBCONTRACTS, AND JOINT VENTURES.—(1) A contract or subcontract to be performed on Indian lands meets the requirements of this paragraph if—

(A) not less than 40 percent of the workers directly engaged in the performance of the contract or subcontract on the Indian lands are Indians; and

(B) the contractor or subcontractor has a management plan which—

(i) provides for Indians to manage the workforce employed in the performance of such contract or subcontract and, in the case of a contract or subcontract for the construction of facilities, provides for Indians to have an ownership interest in any facilities constructed pursuant to the contract or subcontract; and

(ii) is approved by the tribal government having jurisdiction over such Indian lands.

(2) A joint venture undertaking to perform a contract or subcontract meets the requirements of this paragraph if—

(A) an Indian tribe or tribally-owned corporation owns at least 50 percent of the joint venture;

(B) the activities of the joint venture under the contract or subcontract provide employment opportunities for Indians either directly or through the purchase of products or services for the performance of such contract or subcontract; and

(C) the Indian tribe or tribally-owned corporation manages the performance of such contract or subcontract.

(c) EXTENT OF CREDIT.—(1) The amount of the credit given for a contract or subcontract toward the attainment of any minority subcontracting goal under subsection (a) shall be the percentage of the value of the contract or subcontract designated by the prime contractor to whom the goal applies.

(2) The maximum percentage that may be designated by a contractor—

(A) in the case of a contract or subcontract to be performed on Indian lands, is the percentage equal to one-half of the ratio that the number of Indians performing work under the contract or subcontract on the Indian lands bears to the total number of workers performing such work; and

(B) in the case of a contract or subcontract undertaken by a joint venture referred to in subsection (a)(2), is the percentage of the tribe's or tribally-owned corporation's ownership interest in the joint venture.

(3) A contractor may apply the credit given under this subsection for performance of any contract or subcontract toward a subcontracting goal specified for any other Department of Defense contract or any other subcontract under a Department of Defense contract. A contractor may not, however, receive credit for any contract or subcontract that exceeds 100 percent of the value of the contract or subcontract.

(d) DEFINITIONS.—In this section:

(1) The term "Indian lands" has the same meaning as is provided in section 4(4) of the Indian Gaming Regulatory Act (102 Stat. 2468; 25 U.S.C. 2703(4)).

(2) The term "Indian" means an Indian, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d).

(3) The term "Indian tribe" has the meaning given to such term by section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(e)).

(4) The term "tribally-owned corporation" means a corporation owned entirely by an Indian tribe.

Mr. NUNN. Mr. President, this amendment would permit a prime contract to receive credit toward the 5-percent small and disadvantaged business subcontracting goal, relating to Indian contracts. It has been approved on both sides.

Mr. WARNER. That is correct.

Mr. CONRAD. Mr. President, few areas are more in need of increased economic opportunity than Indian reservations. The amendment I am offering today will help foster reservation economic development by increasing defense procurement opportunities in Indian country.

Recently, National Public Radio aired a piece on the scourge of alcoholism plaguing our Nation's Indian reservations. NPR highlighted one of several problems eating away at the social fabric of reservation areas.

Mr. President, any effort to improve the social and economic well-being of native Americans must be accompanied by the availability of jobs. Joblessness serves to exacerbate problems like alcoholism, suicide, and other family and social problems stifling the reservation. Job opportunities can help correct them.

If we are serious about improving life in Indian country, we must get jobs to the reservation We must provide incentives for businesses—whether large or small—to locate facilities on Indian reservations.

My amendment will help us do just that.

Mr. President, the Department of Defense has set a goal for major contractors to subcontract at least 5 percent of their work to minority businesses. However, while contractors receive credit for subcontracts, they do not receive any credit for two other types of arrangements: where they undertake joint ventures with minority or Indian-owned enterprises, and where they operate facilities on Indian reservations.

Many reservations do not possess a pool of management expertise necessary to spawn and maintain small Indian businesses, especially in areas like defense procurement. By locating facilities on reservations not only can larger enterprises provide job opportunities, but they can also help build management talent and train prospective Indian entrepreneurs.

In addition, by joint venturing with Indian enterprises, large business concerns provide technical expertise that may not otherwise be easily attainable for Indian businesses.

Mr. President, this amendment provides credit for both of these relationships, but under very specific conditions.

If a business concern wishes to receive credit toward its DOD subcontracting goal by operating a facility on a reservation, under my amendment the facility in question must employ in its work force at least 40 percent native Americans. These employees must possess meaningful jobs and re-

sponsibilities. They can't just be pushing brooms.

In order to receive the credit, that same facility would have to institute a management plan approved by the tribal government providing for native Americans to eventually assume day-to-day management of the work force and ownership participation in the facility. Ideally, this would include company management training programs, apprenticeship programs, and other substantive activities.

The joint venture provision of this amendment will also provide a needed boost to Indian country and Indian business. It has been narrowly drafted to prevent abuses. It directs the Secretary of Defense to issue regulations providing for recognition of the attainment of minority subcontracting goals only where a joint venture is at least 50 percent owned by the Indian firm. This helps insure that the involvement of the Indian firm will not be a token arrangement.

I am very pleased to have as cosponsors of this amendment Senator INOUYE, who chairs the Select Committee on Indian Affairs, Senator MCCAIN, the committee's ranking minority member, and Senator MURKOWSKI. All three have repeatedly proven their dedication to improving the lives of native Americans.

Mr. President, I urge the amendment's adoption.

I ask unanimous consent to print in the RECORD an analyses of contracting on Indian reservations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONTRACTING ON INDIAN RESERVATIONS

Sponsor: Sen. Conrad.

Background: Current law encourages minority business ownership and participation in the award of government contracts and related subcontracts awarded by prime contractors.

To implement the policy, before a prime may receive certain government contracts, the prime must first negotiate a subcontracting plan specifing the small and disadvantaged business participation in the prime's subcontract awards. Currently, the goal for small and disadvantaged business participation in subcontracting is 5 percent.

To qualify as a disadvantaged business the majority interest in the firm must be owned and controlled by members of a disadvantaged group. American Indians qualify as disadvantaged group. However, if Indians do not own the business, then the prime contractor may not receive credit towards the 5 percent goal for small and disadvantaged business participation in subcontract awards.

The economic reality on many Indian reservations is such that Indians do not own very many business and unemployment is chronic.

Proposed amendment: The amendment would permit a prime contractor to receive credit towards the 5 percent small and disadvantaged business subcontracting goal even though Indians do not own the business to which the prime contractor awards a subcontract under the following circumstances:

The work contracted for is performed on an Indian reservation and Indians manage the workforce which shall be not less than 40 percent Indian; *or*

A joint venture is established that is 50 percent owned by Indians.

Arguments for the amendment: It addresses chronic unemployment problems on Indian reservations and may lead to Indian business ownership if contractors form joint ventures with Indians.

It will assist defense contractors in meeting minority subcontracting goals.

Arguments against the amendment: Current small and disadvantaged business policy is to encourage contracting and subcontracting with minority owned business. The amendment may undercut that policy it contractors do not form joint ventures with Indians and instead utilize that authority under the amendment to receive credit for small and disadvantaged business participation if the work is performed on a reservation with a workforce that is at least 40 percent Indian.

The amendment does not incentivize contractors to form joint ventures with Indians.

Majority and minority staff recommendation: Support the amendment.

Note: (1) The Office of the Secretary of Defense's Small and Disadvantaged Business Utilization Office does not object to the amendment.

(2) We are resolving some drafting technicalities with the sponsor's staff. Therefore, the amendment is not ready to be offered yet.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Georgia.

The amendment (No. 632) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, first I ask unanimous consent that the Harkin amendment be laid aside.

Mr. MCCAIN. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. The Senator from Arizona reserves the right to object.

Mr. MCCAIN. I withdraw the objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 633

(Purpose: To require the Secretary of Defense to review and report on the report of the Secretary of Commerce regarding the decontrol of certain computers)

Mr. WARNER. Mr. President, I send an amendment to the desk on behalf of the senior Senator from Wyoming and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. WALLOP, proposes an amendment numbered 633.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 293, between lines 13 and 14, insert the following new section:

SEC. . REVIEW AND REPORT ON DECONTROL OF CERTAIN PERSONAL COMPUTERS.

(a) REVIEW.—The Secretary of Defense, in consultation with the Director of Central Intelligence and the Science Advisor to the President, shall conduct a review of the report made by the Secretary of Commerce on the foreign availability of certain personal computers entitled "Foreign Availability Assessment: AT-Compatable Microcomputers." In conducting such review, the Secretary of Defense shall, at a minimum—

(1) determine the availability of microcomputers referred to in such report from sources other than members nations of the Coordinating Committee for Multilateral Export Controls or other nations that control the export of such computers; and

(2) assess the military significance of such computers for the Soviet Union and its Warsaw Pact allies.

(b) REPORT.—The Secretary of Defense shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report containing the results of the Secretary's review. The Secretary shall include in such report such recommendations for legislative changes as the Secretary considers appropriate to protect the national security of the United States.

(c) DEADLINE FOR REPORT.—The report required by subsection (b) shall be submitted not later than January 1, 1990.

Mr. WALLOP. Mr. President, the amendment which I intend to offer to the Department of Defense authorization bill deals with the recent decision to ease export control restrictions on certain advanced personal computers to the Soviet Union and other Warsaw pact countries. First of all, Mr. President, I want to make very clear that it is not my intention to permanently prevent such sales of personal computers. However, I am extremely concerned from what I have seen in the press and from briefings by administration officials that U.S. national security interests may have not been fully taken into account.

In particular, Mr. President, I am appalled at the apparent disregard by the Department of Commerce for the Department of Defense's objection to the easing of these restrictions. Having just completed the wrangle over the FSX through which I was persuaded—as was the President—that the Department of Commerce needed

to take another look at this issue, I am surprised that Commerce seems to be denying its sister agencies an opportunity to play a comparable role in fashioning a sensible approach to East-West technology flows.

As I understand the Export Administration Act, a study must be conducted which concludes that an item is found in a controlled country "in sufficient quantity and of comparable quality sufficient to meet the military needs of proscribed destinations" thus establishing that export controls on such items are ineffective.

Mr. President, I have serious reservations regarding the integrity and extent of Commerce's foreign availability study. First, the Commerce Department's assessment of the foreign availability of these more powerful desktop computers depends in large part on circumstantial evidence such as advertisements and occasional eyewitness sightings. Second, Mr. President, Commerce's conclusions provide us with precious little hard data—especially given the fact that their decontrol initiative would seek to loosen controls by more than 10 times in some categories. Although separate components may be sold in the world marketplace at these levels—meaning components would have to be mixed and matched—the study does not show how many whole machines are available to Warsaw Pact countries. In fact, Mr. President, I am hard pressed to find very many hard numbers from Commerce's foreign availability study.

The severity of this issue can be understood in light of the following scenario: If the United States were to follow the Department of Commerce's decontrol initiative, we effectively would be putting at the disposal of Soviet military PC's that surpass those of our own Armed Forces.

Of the 19 countries the Commerce study said could provide these computers to the Soviets, only 2 were either not already members of Cocom, parties to existing agreements designed to limit technology flows to the U.S.S.R., or parties with whom we are currently negotiating to follow Cocom regulations. These two countries are Czechoslovakia and Hungary. Although these two countries may have some indigenous capabilities, they depend very heavily on key components from the West. Moreover, Mr. President, there is no evidence that either has the ability to produce computers up to the standard or in sufficient quantity to meet Soviet military requirements.

Although Commerce has asserted that decontrolling certain advanced desktop computers will result in substantial commercial benefits for American computer manufacturers, they are overly optimistic. While the potential Soviet market may be huge, people who are unable to obtain basic commodities like milk and sugar are unlikely consumers of advanced technology computers. The latter point serves to reemphasize Secretary Cheney's observation: The most significant end-users for the new, more powerful PC's will be Soviet military and intelligence organizations.

Mr. President, I regret that action at this time cannot change the decision Secretary Mosbacher pushed through without regard to Defense Department concerns. However, I do think it is important for the Senate to go on record against an unbalanced, and I believe misguided, approach to managing East-West technology flows.

My amendment, if accepted, would require the Secretary of Defense, in consultation with the Director of Central Intelligence and the President's science advisor, to conduct a review of the foreign availability assessment conducted by the Department of Commerce. The Secretary of Defense shall then submit a report, no later than January 1, 1990, on the findings of this review to the Committees on Armed Services of the Senate and the House along with recommendations for legislative changes as the Secretary considers appropriate.

With this measure, Mr. President, both Armed Services Committees can determine whether or not Commerce's original study was indeed inconclusive. If such a determination is made, Mr. President, I would hope that Senators on both sides of the aisle would agree that legislation regarding potentially dangerous technology flows should be more comprehensively considered in the future.

Mr. President, I ask unanimous consent to print in the RECORD various items pertaining to this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 28, 1989]

SOVIET SATELLITES' RADIATION DISTORTS SCIENTIFIC OBSERVATIONS

(By Philip J. Hilts)

Some sky-watching satellites have been blinded as much as half the time by radiation leaking from nuclear reactors that power Soviet satellites, a fact U.S. officials knew for eight years but concealed from much of the scientific community, according to the authors of five reports in today's issue of the journal Science.

As a result, large amounts of data that scientists thought were telling them something about the universe must be weeded out and discarded. Moreover, the continuing radiation problem may threaten information to be collected by some of the biggest space science projects planned for the near future, according to Joel R. Primack of the University of California at Santa Cruz, author of one of five papers in Science detailing the astronomical disaster.

The threatened projects include the $500,000 Gamma Ray Observatory and the $1 billion Hubble Space Telescope, the most expensive piece of equipment ever put in space and the first optical telescope to see to the edge of the universe, Primack said.

The problem is caused by the Radar Ocean Reconnaissance Satellites used by the Soviets to observe U.S. naval operations. The problem could be made even worse, scientists say, by the U.S. Department of Energy, which plans to develop more reactors for space, and by similar reactors planned for the Strategic Defense Initiative.

Some scientists are now arguing for banning reactors in orbit, a step that would require the agreement of the Soviets and force the Bush administration publicly to abandon SDI plans as they are now drawn.

The Soviet Union has put up an estimated 35 spy satellites powered by nuclear reactors in the past two decades, and the United States has launched one. The reactors being designed by the Energy Department for the SDI are 25 times more powerful than the earlier U.S. device and would create far more contamination.

A number of astronomical instruments on satellites and high-altitude balloons look out into the universe specifically to see gamma rays coming from celestial objects. They are the highest-energy "light" that can be seen, and are the best way to observe the most mysterious of objects in the universe such as black holes, neutron stars, and quasars.

But the gamma rays coming from the reactors in orbit are 50 times brighter than those from sources in the sky, Primack said. So whenever a gamma ray instrument happens to look in the direction of one of the reactors, or whenever other instruments pass through the cloud of charged particles left behind by reactors, their detectors crackle madly with signals from the reactor that have been interpreted as signs of mysterious phenomena in space.

Astronomers at the University of New Hampshire who operated the instrument on a satellite called Solar Max first noticed something amiss in 1980 when they encountered about five unexplained bursts of data per month. The researchers were not told about the problem until 1981, when one was given a security clearance.

Then he and his group were told not to discuss the matter, according to documents obtained from the Defense Intelligence Agency by a Los Angeles group that monitors nuclear activity in space, called the Committee to Bridge the Gap.

By 1987 and 1988, the number and power of reactors in orbit had increased and the bursts contaminating data had grown to five a day, each lasting from less than a second to 20 minutes.

[From the New York Times, Dec. 27, 1988]

SPACE POLLUTION FORCES NASA TO CHANGE PLANS FOR KEY PROJECTS

(By William J. Broad)

Upset and angry, scientists are being forced to modify plans and equipment for space missions in a last-ditch attempt to protect billions of dollars worth of telescopes and spacecraft from the growing hazards of pollution in the heavens.

Hundred of thousands of large and small objects left from past launchings are zipping through space at speeds up to 25 miles a second. Sky watchers now track more than 7,000 objects the size of a baseball or larger in orbit around the Earth.

Moreover, a recently revealed peril, radiation from distant nuclear reactors in space, is already causing false readings in orbiting scientific sensors and may threaten the success of a new generation of observatories that are more sensitive to radiation.

Spacecraft designers and scientists are trying to cope with this celestial pollution by adding shielding to satellites, modifying equipment, reprogramming computers, and exploring ways to dodge debris. In several instances, however, the spacecraft are largely built, limiting the extent and effectiveness of such precautions.

Designers are considering heavy shielding and maneuvering capability for the proposed space station, which the space agency wants to loft by the late 1990's; computer software changes and minor shielding for the Gamma Ray Observatory, which is nearly finished; and software changes for the Hubble Space Telescope, which is already built and would be enormously expensive to modify extensively.

More immediately, new plans are already in place to help space shuttle crews dodge debris. Scientists on the ground are calculating the orbits of space junk that might collide with the shuttle, damaging or destroying the winged spaceship.

But space scientists are clearly upset with the need for such efforts.

"There's frustration and disgust that what ought to be a clean environment is a mess and seems to be getting worse," said Dr. James M. Ryan, an astrophysicist at the University of New Hampshire.

Telescopes on Earth, he noted, already suffer earthly interference such as "light pollution" from cities.

Now, ironically, orbiting telescopes that were meant to get above those problems and the obscuring effect of the Earth's atmosphere are facing a host of man-made impediments to such efforts to observe the universe.

Planners especially worry that space debris might hit a manned spacecraft. A small piece of debris hit the shuttle on one flight and planners consider it luck that a severe collision has not yet taken place.

To protect the space telescope, the Gamma Ray Observatory, and the space station from celestial pollution, scientists are taking a variety of steps:

Hubble Space Telescope. Now scheduled for launching late next year, the $1 billion observatory is to search for bizarre objects at the end of the universe, its sensors probing the visible universe more deeply than any Earth-based telescope.

Precautions against space pollution have been minimal, designers say, because the telescope was started in 1976 and finished long before the severity of the problem was realized.

Jean Olivier, a manager for the project at the Marshall Space Flight Center in Huntsville, Ala., said that some changes have been made in the software for "star trackers" so that they would not be misled by reflections from orbiting debris.

The trackers fix on a star, helping the telescope's jets keep the platform stable in relation to the stars. The danger is that floating debris could be mistaken for a star, sending the telescope into wild gyrations.

It is too late, he added, to try to redesign the telescope to be better shielded from the direct impact of speeding debris. "It's impractical to try to change the hardware," he said.

He noted that the telescope, as originally designed, had only a 5 percent chance of suffering "serious degradation" during two years of operation because of the impact of orbiting debris.

But now, he said, with the steady rise over the years in space junk orbiting the Earth, that figure has increased to 15 percent.

"When it was designed, no one was worried about debris," he said. "But now we have a problem."

Gamma Ray Observatory. To be lofted in 1990, the $500 million Gamma Ray Observatory is to probe the highly energetic, invisible radiations spewed by the hottest, most violent stars and galaxies.

It also aims to study such mysteries as gamma-ray bursters, points in space that occasionally emit explosive packets of gamma-ray energy. These bursts have yet to be linked with any known object in the universe.

A new threat to its operation was recently revealed by its designer, the National Aeronautics and Space Administration.

Orbiting nuclear reactors, the agency said, emit radiation and charged particles that can streak across hundreds of miles of space to hit orbiting gamma ray telescopes and sensors on spacecraft, producing a host of false readings.

In November, scientists revealed that radiation from Soviet nuclear reactors in space has already hampered the operation of an American satellite designed to measure gamma rays from the Sun.

The danger will be greater with the Gamma Ray Observatory, which is far more sensitive than the current gamma ray instruments in space.

Dr. Ryan, the astrophysicist at the University of New Hampshire and a scientist on the observatory project, said two protective steps were being weighed, both involving changes in the craft's on-board control software.

The first would try to predict when the craft would encounter reactor radiation and then turn off its instruments, in effect "turning a blind eye to the problem," he said. The second would try to see if the craft's onboard computers can discriminate between real and artificial readings, and filter out the false ones before they are radioed to Earth.

The other threat to the Gamma Ray Observatory is a collision with orbiting debris.

Even minor impacts could virtually wipe out its capability by damaging coverings on its sensors, allowing the instruments to be blinded by the Sun.

To try to prevent such problems, designers are increasing the thickness of coverings over sensors to better shield them.

The Space Station. The $28 billion NASA manned space station is to be launched in the mid-1990's. At 508 feet long, it is a large target. So too, the consequences of collision are seen as great since its crew compartments can carry up to eight astronauts. Debris the size of a marble, traveling a few miles per second, can pack the explosive power of a hand grenade.

Sherman L. Avans, lead engineer for the Space Structures and Dynamics Lab at the Marshall Center, said a gas gun installation there had fired small projectiles at simulated space-station walls some 700 times to study the danger. As a result, the station will be fitted with double-walled structures and "bumper shields," adding at least 2,000 pounds of shielding to each of the six modules occupied by astronauts.

Mr. Avans noted that the station also might have the capacity to be actively moved out of harm's way. With "a few hours of advance warning," he said, small jets might push the station to safety. Warnings for such "collision avoidance" might be provided by ground controllers or by onboard radar or infrared telescopes, he said.

For unmanned spacecraft, such precautions are too costly. The result, said Dr. Ryan, is that "there's a real, live possibility that a significant chunk of material is eventually going to wreak havoc with a spacecraft.

[From the New York Times, Nov. 17, 1988]

RADIATION FROM SOVIET NUCLEAR REACTORS IN SPACE HAMPERS UNITED STATES SATELLITE

(By William J. Broad)

Radiation from Soviet nuclear reactors in space is hampering the operation of an American satellite designed to measure invisible gamma rays from the Sun, scientists said yesterday.

Such radiation also threatens the success of a $500 million observatory to be lofted by the National Aeronautics and Space Administration in 1990 to study gamma rays produced by stars, galaxies and baffling events that may give clues to the evolution of the universe.

American scientists fear that the celestial pollution could grow worse as both the United States and Soviet Union accelerate plans to launch new space reactors. Hundreds of such generators might be needed to power a system of anti-missile weapons.

Orbiting nuclear reactors emit a variety of radiation and charged particles that streak across hundreds of miles through the vacuum of space. Some of these have repeatedly hit orbiting gamma-ray telescopes and sensors on spacecraft, producing a host of false readings.

IT'S A BIG WASTE OF TIME

"You spend all your time trying to identify if these events are manmade or cosmic," said Dr. James M. Ryan, a astrophysicist at University of New Hampshire. It can usually be done, he said, but "it's a big waste of time."

Dr. Gerald J. Fishman, an astrophysicist in NASA's Gamma Ray Observatory project, said, "It's a serious problem for this multimillion-dollar experiment we've been working on for eight years."

Scientists say that the problem can only get worse as more powerful reactors are launched into space, and as orbiting instruments become more sensitive.

Over the years, the Soviet Union has launched 33 reactor-powered spy satellites, and the United States is working on an even more powerful type of space reactor for use by both civilians and the military.

However, the new kind of celestial pollution has been seized upon by scientists and public interest groups trying to halt the lofting of reactors for everything but deep-space scientific missions.

"It's one more reason to ban them in orbit," said Steven Aftergood, director of the Committee to Bridge the Gap, a private group, based in Los Angeles, that monitors nuclear space technologies.

The Washington-based Federation of American Scientists, another private group, is pointing to the pollution issue as a way to promote a proposed international ban on space reactors, which it is pressing for in concert with some Soviet scientists.

Soviet scientists have plans to loft a large gamma ray telescope, and are themselves divided on whether the country should continue to loft nuclear reactors.

The reactor pollution problem was previously classified top secret by the American military, which apparently feared that discussing it would reveal information about the ability to track orbiting Soviet reactors and to monitor space for the presence of nuclear weapons.

"They realized it's so important for science that it's been declassified," said Donald A. Kniffen, a NASA scientist at the Goddard Space Flight Center in Greenbelt, Md.

In late August, the first unclassified memorandum on the subject was written by NASA headquarters in Washington. Made public yesterday by the Committee to Bridge the Gap, it cites cases of interference "in recent years on various spacecraft, including the gamma-ray spectrometer on the Solar Maximum Mission spacecraft."

All stars emit gamma rays in copious amounts, as well as X-rays and myriad types of other visible and invisible radiations. The $79 million Solar Maximum Mission, lofted in 1980 and repaired by space-walking astronauts in 1984, has an instrument on board meant to record gamma rays mainly from the Sun but can also scan other parts of sky.

SENSOR REGULARLY DISRUPTED

Now, however, the spacecraft's sensor is being regularly disrupted by radiations from space reactors.

"The situation has become completely unlivable in the last couple of years," Edward L. Chupp, another astrophysicist at the University of New Hampshire, told a scientific conference at the University of California at Los Angeles earlier this month.

Dr. Ryan said in an interview that disruptions of the Solar Maximum Mission occur "several times a day at their worst."

According to the August memorandum, orbiting nuclear reactors cause false readings in two ways. First, the fission of nuclear fuel in the reactors directly produces gamma rays that speed across space and hit the detectors of space sensors and telescopes.

Second, the reactors also produce positrons, a type of antimatter, which are shed by the reactor and tend to clump around the Earth's magnetic field lines. When these positrons come in contact with any kind of matter, they produce a tiny burst of energy in the form of gamma rays. These radiations can then disrupt nearby spacecraft.

Dr. Ryan says that the direct method of gamma ray production in space reactors can cause false readings in orbiting telescopes hundreds of miles away.

MYSTERY IN ASTROPHYSICS

Moreover, both kinds of false readings caused by space reactors are often virtually identical to the gamma ray bursts of celestial origin that have baffled astronomers for years, the scientists said.

"The whole area of gamma-ray bursts is still one of the most mysterious aspects of astrophysics," said Dr. Fishman, who is working on the Gamma Ray Observatory project. "And now it turns out these artificial bursts are going to hamper our operations."

With the Solar Maximum Mission, the pollution problem is mainly a nuisance. But with the more complex and sensitive Gamma Ray Observatory, NASA scientists are worried that false readings could seriously damage its mission by overloading onboard computers that store data.

"Right now, as things stand, we probably would have 50 percent dead time," said Dr. Kniffen, NASA's project scientist for the Gamma Ray Observatory. In particular, the complex observatory has gamma-ray burst detectors that continuously scan the whole sky, making it particularly vulnerable to interference.

Dr. Kniffen added, however, that project scientists were trying to fashion a way to predict when the spacecraft might be vulnerable to reactor-caused disruptions and take steps to periodically turn off critical sensors. He said it was too soon to tell whether such precautions might prove effective.

[From Science News, Apr. 29, 1989]

DETAILING SOVIET GAMMA-RAY "GARBAGE"

Gamma-rays and positrons emitted by unshielded nuclear reactors aboard more than 30 Soviet satellites have interfered with several space research projects during the 1980s, a problem long kept hidden by U.S. officials. Now, using recently declassified data, four teams of scientists have released details of the negative effects and have even described some benefits.

Astronomers first noticed the interference while observing gamma-rays from solar flares and other cosmic sources using the Solar Maximum Mission satellite. Researchers noticed the strange signals soon after Solar Max's launch in 1980 and deduced from their periodicity that they probably came from human-made satellities. The Department of Defense kept the information classified until last summer.

Three of the four reports in the April 28 Science come from scientists working with Solar Max. The other describes observations from a balloon-borne gamma-ray telescope built by researchers at the University of California, Riverside. Most astronomers say the satellites are irksome or even damaging to their projects, but one team is taking advantage of reactor-generated particles to study Earth's magnetosphere.

Only about 3 percent of the gamma-rays reaching Solar Max come directly from the Soviet reactors. Most come from positively charged electrons, known as positrons, emitted when gamma-rays spontaneously generate a positron-electron pair. The positrons spiral along Earth's magnetic field lines for a few minutes. When positrons meet electrons, both particles annihilate, leaving behind two gamma-rays, each with exactly 511 kilo-electron-volts of energy. Because positrons encounter electrons in all ordinary matter, they produce gamma-rays when hitting the Solar Max gamma-ray detector, registering a generally unwanted signal.

According to one Solar Max astronomer, Edward L. Chupp of the University of New Hampshire in Durham, the Soviet reactors operate for only a few months and then switch off. In 1987, the amount of interference from Soviet reactors shot up by more than a factor of 25. Chupp says the increase came because the Soviets launched two new satellites into orbits far higher than usual. The emitted positrons last much longer at higher altitudes. Scientists can distinguish the satellite-generated signals from those from the sun and elsewhere in space, says Chupp, so these satellites haven't confused any earlier data. Still, he says, sorting the satellite interference from natural signals creates an annoying burden. "It is the equivalent of light pollution for people using ground-based telescopes," he says.

But David J. Forrest of the University of New Hampshire contends the extraneous positrons and gamma-rays can devastate other astronomers' projects. The hardest-hit victim was probably the Japanese Ginga satellite, he says, explaining that Ginga's detectors work like a voice-activated tape—they switch on only when they encounter gamma-rays to record. The radiation interference filled Ginga's tape with "garbage" and prevented further observations. Forrest and other scientists worry that the U.S. Gamma-Ray Observatory, scheduled for launch next year, many suffer a similar fate. Concerns about that project may have persuaded the Defense Department to lift its veil of secrecy. If scientists aren't warned about all the interference, Forrest says, "equipment on this craft may be useless."

Things might get worse if the United States launches a reactor contemplated for the Strategic Defense Initiative with 25 times the radiation of the Soviet satellities, says Steven Aftergood of the Los Angeles-based Committee to Bridge the Gap.

But one scientist's interference can be another scientist's tracer. Edward W. Hones and Paul R. Higbie of Los Alamos (N.M.) National Laboratory have used the satellites' positrons to study the structure of the magnetosphere. Hones says in 1964 he proposed adding positrons to the atmosphere as tracers, following the particles' motion to test models of Earth's magnetic field. The Soviets inadvertently granted his wish.

Hones and Higbie are now analyzing the data from Solar Max's detector. Hones says that if world governments don't soon ban orbiting reactors—a move proposed last year by a group of U.S. and Soviet scientists—he would like to launch detectors designed especially to detect their positron trails.—F. FLAM.

[From Science magazine, Nov. 25, 1988]

SPACE REACTORS HINDER GAMMA-RAY ASTRONOMY

For 8 years now, many of the astronomers who monitor the sky with satellite-borne gamma-ray detectors have known that their data are being corrupted by Soviet intelligence satellites powered by unshielded nuclear reactors. Indeed, "the situation has become completely unlivable in the last couple of years," says University of New Hampshire astrophysicist Edward L. Chupp, a principal investigator for the gamma-ray instrument on the Solar Maximum Mission satellite.

And yet for 8 years, those same astronomers have been reluctant to talk about the problem: no sooner was the interference discovered by Solar Max in 1980 than it was classified as secret. The classification was finally lifted this past summer. But in the meantime the atmosphere of secrecy and uncertainty has been such that the Japanese Ginga satellite was designed without adequate knowledge of the threat, so that one of its most important gamma-ray instruments is now crippled. And National Aeronautics and Space Administration (NASA) scientists and engineers have been left scrambling to find a fix for a similar instrument that is scheduled to fly just 2 years from now aboard the $500 million Gamma-Ray Observatory.

According to astronomers and NASA officials contacted by *Science*, the interference was discovered not long after the February 1980 launch of Solar Max, which carried a gamma-ray detector capable of looking both at the sun and at more distant objects such as supernovas and neutron stars. Every so often the instrument would show a burst of gamma-ray at 0.511 million electron volts (MeV), precisely the energy of photons produced by the annihilation of electrons and positrons. The bursts would last anywhere from a few seconds to 100 seconds or so, and would typically be accompanied by an enhanced flux of charged particles striking the spacecraft. "They just didn't make sense as extraterrestrial events," says New Hamp-

shire's David Forrest. "So we decided the sources were in orbit."

It took little imagination to guess what those sources might be. The Soviet practice of hoisting nuclear reactors into orbit had been public knowledge since at least 1978, when Cosmos 954 reentered the atmosphere out of control and scattered radioactive debris across the Canadian Arctic. Indeed, the practice continues today. The reactors provide power for the Soviet military's Radar Ocean Reconnaissance Satellites, or RORSATs, which are used to track Western fleet movements. They have been launched at the rate of 2 or 3 per year since the late 1960s—the satellites rarely operate for more than a few months apiece—and their population now stands at 34.

The gamma-ray interference arises from the fact that none of these reactors is shielded, presumably because the Soviets find it pointless to lift so much extra weight when no human being is ever going to come near the things (barring accidents, of course: Cosmos 1402 followed Cosmos 954 back to Earth in 1982, and Cosmos 1900 very nearly came down this year). One problem is the direct emission of gamma rays from fission fragments in the reactor core—a lesser problem, says Forrest, because satellites such as Solar Max orbit well above the active RORSATs. Much more serious are the indirect emissions: electron-positron pairs that stream from each reactor and then spread out along the earth's magnetic field to form vast, tenuous clouds. Indeed, it is almost impossible for any other satellite to escape such a cloud. Thus the Solar Max episodes: an enhanced flux of charged particles (the electrons), plus a pulse of 0.511-MeV gamma rays (positrons annihilating in the detector).

None of this was clearly understood back in the early 1980s, says Forrest, but he and his colleagues reported their findings to NASA nonetheless. And in due course, the word came back down: keep it quiet. This subject was classified.

The question that Chupp, Forrest, and their colleagues still find baffling is "Why?" The existence of the Soviet RORSATs was hardly a secret after Cosmos 954. The Solar Max data were in the public domain. The capabilities of the gamma-ray detector had already been published. So, precisely what compelling national security need did this action fulfill? No one contacted by *Science* seems to have any idea.

In any case, the situation began to change about 2 years ago in ways that made it very hard to keep the interference a secret anymore. To begin with, the frequency of spurious events escalated dramatically, for reasons that are not entirely clear, but that probably has to do with the orbits of the newer RORSATs. By a cosmic coincidence, this escalation came at the same time that astronomers were focusing intense scrutiny on gamma rays from Supernova 1987A.

Second, the Soviet reactors have been causing a drastic loss of data on the Japanese Ginga satellite, which was launched in February 1987. The particular victim is a detector built at the Los Alamos National Laboratory to study gamma-ray bursters—real ones. These bursts are known to be natural events because they have been detected simultaneously by multiple spacecraft. They occur randomly all over the sky, at random times. They consist of a bright flare of gamma rays only a few seconds long. And they are among the most mysterious phenomena in astrophysics. No one knows what they are. The challenge in observing the bursters is that the information comes into the instruments far faster than it can be relayed to the ground. The Ginga detector is therefore designed to store up millions of bits of data during the course of an event; and then to shut itself off for the next 90 minutes until its transmittal to the ground is complete and its memory is empty again.

But therein lies the problem: the Ginga detector is being triggered so often by spurious bursts from the Soviet reactors is that it spends more than 40% of its available observing time transmitting garbage. The frustrating thing, says a Los Alamos astrophysicist working with the Ginga detector, is that the scientists on the ground can tell which event is which—the simultaneous pulse of electrons gives it away—but the on-board logic cannot. Things might have been different if they had known more about the reactor problem ahead of time, he says.

And finally, the Ginga experience has made it clear that the Soviet reactors pose a major threat to the Gamma Ray Observatory, which will carry a burst detector quite similar to the one on Ginga. According to Gerald J. Fishman of NASA's Marshall Space Flight Center, chief scientist on this instrument, the reactors could trigger the detector as often as five times per day. Unlike the Ginga instrument, fortunately, this detector will be programmable. "So I'm optimistic we can find a software solution to reject the spurious events," says Fishman.

Nonetheless, it was the threat to the Gamma Ray Observatory that precipitated efforts by the NASA astrophysics division to get the classification lifted. The request was approved by an interagency intelligence council this past summer. A nonclassified memorandum from observatory program manager Arthur J. Reetz, dated 29 August, brought the subject officially into the open. Several technical studies of the problem are now being prepared for publication.

Meanwhile, there remains the issue of the Soviet reactors themselves. The gamma-ray interference issue has recently been taken up by such groups as the Federation of American Scientists and the Committee to Bridge the Gap, both of which are seeking an international ban on any kind of nuclear reactors in space. They are after bigger game, of course: by banning reactors in space they hope to hamstring the U.S. Strategic Defense Initiative, which would need reactors to power the weapons of its orbital missile shield. Nonetheless, says Steven Aftergood, executive director of the Committee to Bridge the Gap, "This is another compelling reason to ban nuclear power in orbit."—M. Mitchell Waldrop.

[From the Los Angeles Times, July 21, 1989]

CHENEY RAPS EASING OF COMPUTER CURBS TO SOVIETS

(By Melissa Healy)

WASHINGTON.—In a rare public airing of a long-running bureaucratic dispute, Defense Secretary Dick Cheney on Wednesday took issue with Commerce Department plans to ease export controls on the sale of some personal computers to the East Bloc.

"It gives them significant capabilities they do not now possess," Cheney said a day after the Commerce Department announced its decision. "We would have preferred an arrangement that would have permitted the sale of less sophisticated computers to the Soviet Bloc," Cheney added.

The Commerce Department, in a reversal of Reagan Administration policy, announced Tuesday that it would lift requirements that U.S. manufacturers obtain special licenses to sell certain medium-capacity computers to non-Communist countries. At the same time, the department said it would recommend that Washington and its allies drop a prohibition against the sale of these computers to the Soviet Union and its Eastern European allies.

That recommendation would clear the way for U.S. producers to sell the so-called AT-compatible units, described as "medium-capacity, mid-range" computers, to the East Bloc.

Since the United States was the only country in the 17-nation Coordinating Committee on Multilateral Exports to object to sale of such computers to the East Bloc, the approval of the Commerce Department's plan by CoCom is considered a virtual certainty.

American companies have argued that the type of technology found in AT-compatible computers is already widely available from other sources in Asia and other nations that impose few, if any, controls on sales to the Soviet Union. U.S. export restrictions, which are intended to limit the flow of advanced technology to America's adversaries, have put domestic PC makers at a competitive disadvantage, they say.

Michael Lūkala, Western regional director for the Commerce Department's Bureau of Export Administration, said the agency determined that similar computers were readily available from suppliers in 11 countries, including some in Eastern Europe.

"We had evidence of assembly [of AT-compatible machines] in Hungary and Czechoslovakia," Lūkala said. "Obviously, if they're manufacturing these things in the East Bloc, it's silly to recommend against U.S. sales to Eastern Europe."

Cheney said he decided to air his disagreement with Commerce Secretary Robert A. Mosbacher, who made the decision, to correct published reports that indicated the defense secretary had met with Mosbacher and approved the Commerce Department decision.

Following Cheney's remarks, White House spokesman Marlin Fitzwater said President Bush supported Mosbacher's decision.

Officials said the Commerce Department was able to effectively lift the controls without notifying the President or Defense Department in advance. It did so by issuing the decision in the form of a "finding" which concluded that the computers already are widely available on international markets to East Bloc nations.

In an 18-month inter-agency review of the computer-export policy, the Defense Department argued repeatedly that the restrictions should not be lifted. While the Pentagon's approval would have been necessary to change the policy formally, officials said the Commerce Department could proceed without Pentagon approval by issuing the decision as a regulatory change.

"It's a decision that the secretary of commerce is empowered to make," said Marion Blakey, a Commerce Department spokeswoman. "It is final."

EARLIER DISAGREEMENT

It was the second time that Cheney, formerly a conservative six-term congressman from Wyoming, openly differed with Bush Administration policy. And for the second time, the dispute focused on the Soviet Union's campaign to restructure economic and military policy, placing Cheney as a hard-liner who remains skeptical of Soviet intentions.

In April, Cheney departed from the Bush Administration's position on Soviet leader Mikhail S. Gorbachev, predicting that he would fail in his efforts to reform the Soviet system. Gorbachev would likely be replaced with a leader more hostile to the West, Cheney added.

In a recent hearing, Cheney reiterated his views as a skeptic of Soviet reform, telling House members that the economic restructuring has as its goal the modernization of the Soviet military.

On Wednesday, Cheney said he believed that the U.S. decision to allow the sale of the personal computers "will give them a computing capability that has military applications. That should be avoided," he added.

"I'm not satisfied we are protecting technology," said Cheney.

Former and current Pentagon officials said the sale of the computers could add substantially to Soviet military capabilities because they can be used together in large networks, improving the flow of basic and applied research as well as making better logistics and communications networks possible.

The Apple II computer, one example of the medium-capability computers cleared for export, is used by U.S. forces in planning the targeting of tactical nuclear weapons in Europe, said one knowledgeable former official.

If the eased export restrictions allow the transfer of the medium-capacity computer technology, said the former official, "all bets are off." That would allow the Soviets to use the computers to build still better computers and to improve the memory capacity and speed with which Soviet computers operate.

Administration officials said it is unlikely that Cheney can persuade Bush to overturn Mosbacher's decision. But they added that the Commerce Department's handling of the decision offended Cheney's sense of fair play, and he could not remain silent.

"Cheney is a guy of unusual commitment to fairness in the process," said one adviser. "He would never do something like this. I think he was shocked."

CENTER FOR SECURITY POLICY,
Washington, DC, July 24, 1989.

A FORMULA FOR DISASTER: COMPUTERS FOR THE SOVIET MILITARY

INTRODUCTION

This week, the Commerce Department announced that it would facilitate the Soviet bloc's ability to acquire advanced desktop computers. It issued new regulations in the Federal Register and initiated consultations with the allies in the Coordinating Committee on Export Controls (COCOM) designed to permit the export without license of "personal" computers (PCs) with ten times the computing power [1] of those currently available for unlicensed sale to users behind the Iron Curtain.

Personal or desktop computers affected include all IBM's AT models and the PS II Model 55 with its SX386 chip. Also affected would be AT-compatible computers such as those manufactured by Hewlett-Packard Co., Compaq Computer Corp., and Unisys Corp. The order would also decontrol systems with equivalent capacity based on other architects such as Apple Computer Inc.'s MacIntosh Plus and MacIntosh SE models.

It should be noted at the outset that it is rather misleading to call many of the more sophisticated of the systems proposed for decontrol "personal" computers. These items processing capability are far in excess of most individual's needs; in any event their cost would be in excess of a year's earnings for an ordinary Soviet bloc citizen.

HOW MILITARILY SIGNIFICANT ARE THESE COMPUTERS?

A comparison of the performance characteristics of personal computers the Soviets will be able to procure if the Commerce Department's action is allowed to stand and those the Defense Department plans to buy is extremely revealing:

KEY PERFORMANCE CHARACTERISTICS OF PERSONAL COMPUTERS

	Present control level	IBM "AT"	Current DOD PC's	Approximate future DOD baseline	New commerce decontrol proposal
Process data rate	6.5	34	34	45	68
Internal memory storage (in Mbs)	.8	.5–.6	.25–.625	2	4
Hard disk storage (in Mbs)	25	30	20	25	140

The bottom line is appalling: The effect of the Commerce Department's recommended decontrol initiative would be to allow the Soviet Union to "leapfrog" the U.S. armed forces in the application of quite powerful PCs for military purposes. How the Department of Commerce came to ignore this fact—and disregard strenuous Defense Department objections to the decontrol action—is a frightening case study of how export control policy is being made by the Commerce Department to the detriment of U.S. security interests

HOW COULD THE COMMERCE DEPARTMENT TAKE SUCH AN IRRESPONSIBLE ACTION?

Three factors contributed to this dangerous decision by the Commerce Department: (1) a grossly misleading assessment of the foreign availability of such powerful computers; (2) a high-handed bureaucratic power-play that effectively disenfranchised the Defense Department in decision-making concerning this decontrol action; and (3) erroneous assumptions about the significant U.S. personal computer sales that would follow should decontrol be authorized.

A Preposterous Assessment of Foreign Availability

The Law: The Export Administration Act [2] requires that controlled goods and technology be decontrolled only if an item is found to be available to a controlled country (e.g., the USSR) "in sufficient quantity and of comparable quality sufficient to meet the military needs of proscribed destinations" such that export controls are essentially ineffective in safeguarding military critical technologies.

In other words, the Commerce Department must be able to demonstrate that the item in question is either produced indigenously in the controlled country, or available from a third country which does not maintain stringent export controls. In this case, Commerce was supposed to show that the desktop computers in question are available in the Soviet Union from indigenous or third country sources.

The law permits evidence of such foreign availability to include manufacturers' catalogues, manuals, brochures, articles from trade publications, photographs, and eyewitness accounts. It is important to bear in mind, however, that the intent of Congress in drafting this provision was not to make such evidence the sole criteria for a foreign availability assessment; it was, instead, to make clear that such evidence could not be rejected out of hand, as had been done on occasion in the past. Such representations may nonetheless be rejected if they are contradicted by reliable evidence, including scientific examination, expert opinion, or intelligence information.

The Facts: In this case, the Commerce Department's assessment of the foreign availability of these powerful desktop computers depends critically upon circumstantial evidence such as advertisements and occasional eyewitness sightings. There is ample basis for contesting the conclusions drawn from this data. Consider the following:

Indigenous Soviet Capabilities: The Soviet Union clearly does not have the indigenous capability to manufacture significant quantities of comparably capable PCs to those now planned for decontrol by the United States. A 1988 report [3] prepared by a team of distinguished, independent experts starkly describes the hapless state of the Soviet computer industry:

"The Soviet Union has a minuscule number of PCs . . . there are now about 50,000 personal computers there or one for every 5,600 people." (This compares to the more than 30 million in the United States, or one for every 8 people.)

"The Soviets have been unable to mass produce a reliable personal computer on the order of the IBM-PC, and support service is questionable at best."

"Reliability of computers in the Soviet Union is also a large problem. Some 30 percent of the PCs delivered by the three main producing ministries—Minelektronprom, Minradioprom, and Minpribor—do not work on delivery."

"Given the rates at which countries in the Pacific Rim have managed to master the production of PC clones, it is not inconceivable that the Soviets will finally be able to put together mass production of reliable PCs, but this has not yet happened. . . . The total domestic output of PCs would have to double in each of 1988, 1989, and 1990 to come close to the production of 1 million PCs, and this now appears highly unlikely.)"

Third-country Availability: The case for foreign availability from third countries is not much better. The Commerce Department's study concluded that comparable quality computers to those proposed for decontrol are available to the Soviet Union in significant quantity from 19 countries. Of

[1] Prior to this control decision, the maximum capability permitted in personal computers allowed to be sold abroad without a license has been a Process Data Rate (PDR)—a measure of processing capability used by the export control community—of 6.5. The new regulations would permit an increase to 68.

[2] P.L. 96-72, as amended by P.L. 100-418, the Omnibus Trade Act of 1988, Section 5(f).

[3] The sponsors of this report, "Global Trends in Computer Technology and their Impact on Export Control (1988)," were the Committee to Study International Developments in Computer Science and Technoloy, the Computer Science and Technology Board, the Commission on Physical Sciences, Mathematics, and Resources, and the National Research Council. Participants included representatives from major U.S. computer manufacturers like IBM, Digital Equipment Corp., and Unisys. Passages from the book have emphasis added.

these, all but two are either members of COCOM, non-COCOM nations with existing agreements (or policies) designed to limit technology flows to the USSR, or in the process of negotiating such agreements. The two nations that have no domestic policy or obligations under international agreements that could impede transfers of such computers are Czechoslovakia and Hungary.

There is no evidence that either of these countries has the ability to produce computers up to the standard contemplated by the Commerce Department decision, let alone to do so in significant quantities. While both engage in extremely limited assembly of computer parts acquired elsewhere, this hardly constitutes the kind of capability or availability contemplated by the Export Administration Act.

In short, the Commerce Department's conclusion that there is foreign availability—the pretext for its decision to decontrol extremely powerful desktop computers—is simply false. The foreign availability study calls into question both the competence of those who performed it and the prudence of policies predicated upon such an analysis.

This should not come as a surprise, given the fact that the Commerce Department is woefully ill-prepared to perform the kind of rigorous analysis required. As the authors of "Global Trends in Computer Technology" put it:

Although the Department of Commerce monitors foreign availability and performs competitive assessments, its limited resources appear to be stretched quite thin. . . . To monitor global technology trends well, the government must invest in perhaps 100 or more additional, highly skilled people who are knowledgeable not only in computer technologies and their applications but also in international market trends and foreign languages.[4]

No Effective Interagency Process—Shades of FSX

Efforts by other agencies to challenge and, where necessary to correct, the shortcomings of the Commerce Department's foreign availability study were repeatedly rebuffed by its authors. As a result, errors of fact and unfounded conclusions went uncorrected despite persistent attempts to effect improvements by the Defense Department and, to a lesser degree, the intelligence community.

It is ironic that, only a few short months after the Commerce Department complained bitterly about its inability to play a coequal role with Defense in mapping out government policy concerning a West-West technology transfer issue—namely, the FSX—Commerce is denying sister agencies an opportunity to play a comparable part in fashioning a sensible approach on East-West technology flows. Whenever such bureaucratic sandbagging is permitted to occur, the checks and balances inherent in an effective interagency process do not operate and the public interest is poorly served.

Indeed, the FSX example should serve as a guide for resolving the present conflict between Defense Secretary Dick Cheney who has gone public with his vehement opposition to this decontrol action and Commerce Secretary Robert Mosbacher. The President should direct a new interagency review of the issue before permitting the new regulations to become final.

[4] General Trends, p. 234.

Unwarranted Expectations about U.S. Sales

A final factor in the decision to decontrol advanced desktop computers was the belief that substantial commercial benefits are likely to accrue to American computer manufacturers from this action. In fact, for several reasons, such expectations are vastly overstated.

While the potential Soviet bloc market for desktop computers is theoretically huge, in reality, it is sharply constrained. The fact is that the hard currency resources with which such systems might be procured in quantity simply do not exist behind the Iron Curtain. This gives rise to two conclusions:

First, the people of Eastern Europe—who President Bush has pledged to help in their efforts to achieve greater liberties—are not likely to benefit from the new access to vastly more capable computers. Those who are unable to obtain soap, milk, sugar and other basic staples are improbable consumers of advanced technology like computers. This reality reinforces Secretary Cheney's judgment that the most significant end-users for the new, more powerful PCs now envisioned for decontrol will, instead, be the Soviet bloc's military and intelligence organizations.

Second, such sales of computers as do take place behind the Iron Curtain will almost certainly require the seller to extend credit to the purchaser. A number of leading American computer manufacturers appreciate that their competitors—especially the Japanese—are better positioned to make sales under these circumstances than are U.S. companies. When combined with the real prospect that such competitors may also be willing to "dump" PCs at a loss in order to secure substantial market shares and to underwrite sales further by offering below-market financing terms, the potential for significant Soviet bloc sales by firms from the United States appears even less.

CONCLUSION

The United States has made a serious strategic mistake in so broadly decontrolling computer sales to the East bloc. If permitted to proceed, this action will greatly facilitate the enhancement of the military capabilities of the Soviet Union and its allies. Moreover, it will do so without necessarily creating new economic opportunities for American manufacturers or aiding those in Eastern Europe struggling to transform the oppressive political and economic systems still operating there.

This decision is the more worrisome for its coming on the heels of another step taken by the Bush Administration to erode the mechanisms for denying potential adversaries access to sophisticated, militarily-relevant technologies. Just last month, the United States announced that it would abandon the "no-exceptions" policy—the arrangement by which the United States and its allies have since 1981 categorically opposed the transfer to the Soviet bloc of certain classes of "dual-use" technologies without exception.

These steps are dangerous both in their own right and for what they portend for the Bush technology security policy down the road. Accordingly, the following steps must be taken at once:

An independent foreign availability assessment should be performed by the President's Science Advisor, and if necessary by the General Accounting Office, taking full account of all information sources—including intelligence data.

Until such time as this assessment is completed, the proposed personal computer decontrol measures should be held in abeyance. If, as seems likely, the assessment finds that the foreign availability determinations of the Commerce Department are vastly overstated, an immediate effort should be made to determine some other, lower level of capability that could be established so as to permit some upward adjustment in the control standards without imperilling national security interests.

A rigorous interagency procedure must be established for vetting foreign availability studies and for holding those who produce them accountable. This will require, among other things, the creation of a strong organization in the President's Science Advisor's office capable of serving as an honest-broker, ensuring that every relevant agency is able to participate fully in decision-making affecting technology transfer and related issues.

Finally, Congress should amend the foreign availability provision of the Export Administration Act to require the concurrence in these assessments of the Secretary of Defense—whose responsibilities include ongoing evaluations of Soviet military needs and the extent to which those needs are being met by acquisitions of foreign technologies.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment of the Senator from Virginia.

The amendment (No. 633) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 634

(Purpose: To require certain notifications in the case of persons to whom certain conflicts-of-interest laws are inapplicable)

Mr. NUNN. Mr. President, on behalf of Senator PRYOR, for himself and Mr. STEVENS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. PRYOR (for himself and Mr. STEVENS) proposes an amendment numbered 634.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 447, between lines 13 and 14, insert the following:

(4)(A) Whenever a person, upon separation from employment by the Department of Energy, commences the furnishing of services with respect to which section 207 of title 18, United States Code, or section 27(e) of the Office of Federal Procurement Policy

Act does not apply by reason of paragraph (1) or (3), the Secretary of Energy shall transmit to the Office of Government Ethics a notification containing the name of such person, the Department of Energy position in which the person is furnishing such services, and a description of such services.

(B) Whenever the Secretary of Energy appoints to a position of employment in the Department of Energy any person to whom section 208 of title 18, United States Code, does not apply by reason of paragraph (2), the Secretary shall transmit to the Office of Government Ethics a notification containing the name of such person, the position in which such person was employed while such person was employed in a laboratory referred to in that paragraph, the name of the person's employer while such person was so employed, and the position to which such person is appointed.

(C) Notifications received by the Office of Government Ethics under this paragraph shall be available to the public.

The PRESIDING OFFICER. Without objection, the Harkin amendment is considered to be set aside for the consideration of this amendment.

Mr. NUNN. Mr. President, this amendment requires the Secretary of Energy to provide a notification to the Office of Government Ethics whenever the criminal conflict of interest laws are considered inapplicable to someone in a critical position.

It has been cleared on both sides.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 634) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 635

(Purpose: To request the President to urge the Soviet Union to cease deployment of nuclear reactors in space)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator BUMPERS.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for Mr. BUMPERS, proposes an amendment numbered 635.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title IX, add the following new section:

SEC. . EFFECT OF SPACE NUCLEAR REACTORS ON GAMMA-RAY ASTRONOMY MISSIONS.

(a) CONGRESSIONAL DECLARATION.—CONGRESS HEREBY—

(1) notes that gamma-ray astronomy missions provide an important contribution to our understanding of the origin of the universe; and

(2) expresses its concern that the radiation emitted by nuclear reactors of the Soviet Union in Earth orbit has interfered with the operation of gamma-ray detectors aboard scientific satellites operated by the United States and other nations.

(b) PRESIDENT URGED TO CALL UPON SOVIET UNION TO CEASE DEPLOYMENT OF REACTORS IN SPACE.—Congress calls on the President to urge the Soviet Union to reduce its reliance on nuclear reactors in Earth orbit, where possible in order to reduce the interference of those reactors with the operation of gamma-ray detectors aboard satellites in Earth orbit.

(c) REPORT.—Not later than April 30, 1990, the President shall submit to Congress a report on the potential for interference with gamma-ray astronomy missions that could be caused by the placement in Earth orbit of space nuclear reactors presently under development by the United States.

EFFECT OF SPACE NUCLEAR REACTORS ON GAMMA RAY ASTRONOMY MISSIONS

Mr. BUMPERS. Mr. President, the amendment that I am offering today addresses a problem that is worrisome but not too serious in the year 1989. However, it has the real potential to grow into a very serious problem in a very few years. The problem I am talking about is the serious damage that orbiting nuclear reactors do to scientific satellites.

The Soviet Union has launched about 35 small nuclear reactors into Earth orbit since the late 1960's to power its radar ocean reconnaissance satellites, or Rorsat's. It has recently become evident that the radiation emitted by these orbiting nuclear powerplants has seriously interfered with the operation of some of our most highly valued and scientifically productive astronomical satellites.

Though merely a nuisance when this was first encountered, the magnitude of this problem has grown significantly in recent years. According to one U.S. astrophysicist quoted by the New York Times, "the situation has become completely unlivable in the last couple of years."

Thus, for example, the operation of one satellite system built by Los Alamos National Laboratory was blocked for about 20 percent of its operating time by nuclear reactor-generated interference. During that time this expensive satellite system transmitted only meaningless garbage, not unlike, I suppose, the interference we all have experienced watching television when an electrical appliance nearby is turned on.

The situation for gamma ray astronomers could become even worse. According to a newly declassified report performed for the Defense Intelligence Agency, "if the number and operating power of space reactors increases, the ability to conduct x- and gamma-ray observations from near-earth platforms will be severely restricted."

Mr. President, I ask unanimous consent that five news articles dealing with this problem, "Soviet Satellites' Radiation Distorts Scientific Observations" from the Washington Post, "Space Pollution Forces NASA to Change Plans for Key Projects" and "Radiation From Soviet Nuclear Reactors in Space Hampers U.S. Satellite" from the New York Times, "Detailing Soviet Gamma-Ray 'Garbage'" from Science News, and "Space Reactors Hinder Gamma-Ray Astronomy" from Science, be entered into the RECORD immediately following my remarks.

We have launched a $500 million gamma ray observatory satellite the operation of which is threatened by nuclear reactors in space. Before long, we will launch the $1+ billion Hubble Space Telescope which could also be affected by space-based nuclear reactors. In not too many years we will have a space station orbiting the Earth in which scientists will conduct many technical and scientific experiments and observations for the betterment of mankind. In the nearer term we will have further flights of the spacelab on the space shuttle which will also host scientists conducting technical experiments and observations. And the future will undoubtedly see ever more sophisticated unmanned satellites placed in orbit.

Mr. President, orbiting Soviet nuclear reactors should not be permitted to obstruct the operation of scientific satellites in general and to jeopardize the emerging science of gamma ray astronomy. We must do something to prevent our investment in many billions of dollars worth of present and future space hardware from being ruined by an insidious form of "space pollution." Accordingly, my amendment calls upon the President to urge the Soviets to reduce its reliance on nuclear reactors in orbit to eliminate their interference with our satellites. And the sooner the better.

But we need to make sure that our skirts are clean, too. The Energy and Natural Resources Committee held a hearing on space nuclear power last September in which NASA, the Defense Department, and the Department of Energy presented possible plans for using the United States' SP-100 nuclear reactor in space. So even if we can get the Soviets to stop their interference we could inflict this same problem on ourselves.

Accordingly, my amendment also calls on the President to report to Congress on the potential for interference by space nuclear reactors that we have under development, too.

Too often we ignore small problems, allowing them to grow into very large problems. My amendment is a small step in getting both Superpowers to

come to grips now with what could become a very serious problem in the future. More steps may be needed in the near future, but this is a start. I urge the adoption of my amendment.

Mr. NUNN. Mr. President, in this amendment we ask the President of the United States for a report on the potential impact of gamma ray radiation from nuclear power sources for satellites on astronomy programs as designed to protect such radiation.

This amendment has been cleared on both sides.

The PRESIDING OFFICER. If there be no further discussion on the amendment, the question is on agreeing to the amendment.

The amendment (No. 635) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 636

(Purpose: To require the President to report to Congress on current administrative procedures to ensure that relevant agencies of the Government are informed when a Government contractor is being investigated or has been convicted of fraud, and for other purposes)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator BUMPERS, and ask that it be reported.

Mr. HARKIN. Mr. President, what happened to the pending amendment?

The PRESIDING OFFICER. Without objection, the Harkin amendment is laid aside.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for Mr. BUMPERS, proposes an amendment numbered 636.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 293, between lines 13 and 14, insert the following new section:

SEC. . REPORT REGARDING COORDINATION OF INFORMATION WITHIN THE EXECUTIVE BRANCH ON FRAUD BY CONTRACTORS.

(a) IN GENERAL.—Not later than September 30, 1990, the President shall report to Congress on current and planned administrative mechanisms to coordinate information within the Executive branch concerning administrative and judicial actions taken against Government contractors as a result of activities described in subsection (b)(1).

(b) CONTENT OF REPORT.—The report required by subsection (a) shall include the following:

(1) A description of current administrative actions that will ensure that all relevant agencies are advised when there has been an investigation, proceeding, or litigation involving fraud on the part of a contractor (or an agent or employee of a contractor) that has resulted in a judgment against the contractor (or an agent or employee of the contractor), a decision to debar or suspend, or resolved by consent or compromise.

(2) Recommendations to enhance the effectiveness of the procedures described in paragraph (1).

(3) A discussion of the feasibility and desirability of requiring a review or audit of each contract of a value of more than $1,000,000 or if the potential of recovery would justify such follow-up, that such contractor has, or has had, with any Government agency where similar problems may have occurred.

(4) Recommendations for any legislative changes necessary to accomplish the purposes of paragraphs (2) and (3).

(5) The estimated costs of implementing any recommendations described pursuant to paragraph (2).

(b) DEFINITIONS.—For the purposes of the report required by this section the term "fraud" means—

(1) acts of fraud or corruption or attempts to defraud the Government or corrupt its agents;

(2) acts which constitute a cause for debarment or suspension under part 9.406.2(a) or part 9.407-2(a) of the Federal Acquisition Regulation or successor parts of such regulation; and

(3) acts which violate any provision of sections 3729 through 3731 of title 31, United States Code, section 1031 of title 18, United States Code, or the Anti-Kickback Act of 1986 (41 U.S.C. 51-58).

Mr. BUMPERS. Mr. President, this amendment is a simple one. It asks the executive branch to report to us how they currently share information among the various agencies when one has exposed a contractor fraud situation, or has a consent decree.

This issue came up when I asked the Air Force a few months ago if they were aware that one of their contractors had signed a consent decree with the Army involving several million dollars on a product similar to the one dealt with by the consent decree. Amazingly, they were unaware of this. To their credit, they immediately started investigating.

We all know that one Government agency often doesn't know what's happening with another agency. And that seems to be the case on contract fraud, or a consent order, or the like. The Justice Department told my staff that while there is usually awareness of such cases within an agency, there is no formalized mechanism for the interagency sharing of this material. That appears to be the case with my inquiry to the Air Force. They didn't know about the Army situation.

What is needed is some kind of clearinghouse in the executive branch for this kind of information. My amendment calls on the President to report to us on what mechanisms currently exist to coordinate such information, and asks him how he would propose to improve this. I hope some kind of clearinghouse proposal will come out of this, and that we can act on the proposals next year.

I want to thank the chairman and ranking minority member for the excellent help and cooperation they and their staff have provided on this issue. I particularly want to thank Andy Effron and Geary Burton of the majority staff and Jon Etheron of the minority staff for their outstanding assistance and help.

Mr. President, I urge the adoption of my amendment.

Mr. NUNN. Mr. President, this amendment would require the President to provide the Congress with a report on current and planned administrative mechanisms when the executive branch will coordinate information concerning administrative and judicial actions taken against Government contractors who are engaged in fraud in the performance of a Government contract.

This has been cleared on both sides, and I urge its approval.

The PRESIDING OFFICER. Is there further discussion of the amendment?

The Chair hears none.

The question is on agreeing to the amendment.

The amendment (No. 636) was agreed to.

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid upon the table.

Mr. NUNN. Mr. President, I yield the floor temporarily.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 627 WITHDRAWN

Mr. McCAIN. Mr. President, I ask unanimous consent to withdraw the second-degree amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 626, AS MODIFIED

(Purpose: To require the Secretaries of the military departments to sell United States domestic meat and meat food products in commissary stores in member countries of the Economic Community and to serve United States domestic meat and meat food products in dining facilities of that department in such countries)

Mr. HARKIN. Mr. President, I send a modification to my underlying first-degree amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment offered by the Senator from Iowa will be treated as a modification of his own amendment.

Without objection, the modification will be reported. The amendment as modified will be reported by the clerk.

The legislative clerk read as follows:

The Harkin amendment (No. 626) is modified to delete the subsection C related to funding.

The amendment, as modified, is as follows:

On page 293, between lines 13 and 14, insert the following:

SEC. 917. SALE AND USE OF UNITED STATES DOMESTIC MEAT IN ARMED FORCES FACILITIES IN THE EUROPEAN COMMUNITY.

(a) REQUIREMENT TO USE UNITED STATES DOMESTIC MEAT.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

§ 2491. Commissary stores and dining facilities: sale and use of United States domestic meat in the European Community

"(a) The Secretary of each military department shall ensure that the meat and meat food products sold in commissary stores of that military department located in any member country of the European Community and the meat and meat food products served in dining facilities of that military department located in any such country are produced and processed in the United States.

"(b) In this section:

"(1) The term 'meat' means meat within the meaning of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

"(2) The term 'meat food product' has the same meaning as provided in section 1(j) of such Act.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2491. Commissary stores and dining facilities: sale and use of United States domestic meat in the European Community.".

(b) GENERAL POLICY.—It is the sense of Congress that the Secretary of each military department should intensify efforts to procure from United States sources the products to be sold in commissary stores of that department, the food products to be served in dining facilities of that department, and the supplies to be used in such dining facilities.

Mr. HARKIN. Mr. President, the modification basically strikes out the references to specific levels or sources of funding. The Secretary will carry out the requirements of the amendment using the funds and resources of the Department of Defense. The obligation of the Secretary under the amendment will not depend upon any specific authorizations or appropriations of funds to carry out the provisions of the amendment.

I thank my good friend from Arizona for helping work this amendment out. I really appreciate his help very much.

The PRESIDING OFFICER. Is there further discussion of the amendment? If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 626), as modified was agreed to.

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid upon the table.

The Senator from Virginia.

AMENDMENT NO. 637

(Purpose: To provide a report to identify individuals participating in radiation risk activities not covered by the Atomic Veterans Act, Public Law 100-321)

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of Senator SYMMS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. SYMMS, proposes an amendment numbered 637.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . (a) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall submit to the Committees on Armed Services and Veterans' Affairs of the Senate and House of Representatives a report identifying the numbers of individuals who, while serving on active duty for training, inactive duty training, or as a military technician of the National Guard, participated in radiation-risk activities, but are not covered under provisions of the Atomic Veterans Act, Public Law 100-321.

(b) The report required by subparagraph (a) shall be submitted not later than 60 days after enactment of this Act.

Mr. WARNER. Mr. President, this amendment simply asks for a report.

It is cleared on both sides.

The PRESIDING OFFICER. If there is no further discussion of the amendment, the question is on agreeing to the amendment.

The amendment (No. 637) was agreed to.

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid upon the table.

AMENDMENT NO. 638

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator KENNEDY.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. KENNEDY, proposes an amendment numbered 638.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . REPORT ON VERIFICATION PROCEDURES FOR THE DISMANTLEMENT OF NUCLEAR WARHEADS ON FISSILE MATERIAL MONITORING.

(a) REPORT.—The Secretary of Defense and Secretary of Energy, in coordination with the Director of Central Intelligence, shall prepare a report for the Congress on—

(1) The on-site monitoring techniques, inspection arrangements, and national technical means, that would be used to verify Soviet dismantlement of nuclear warheads in the event the United States determines that it is in its national interests to agree to a provision in a future strategic arms reduction treaty that would require both parties to dismantle warheads associated with delivery systems eliminated by the terms of the agreement.

(2) The on-site monitoring techniques, inspection arrangements, and national technical means, that would produce or be used to verify the end use and purpose of any fissile materials that are recovered from the dismantlement process described under section (a)(1) of this amendment.

(b) PREPARATION AND SUBMISSION OF REPORT.—The report shall be submitted in both classified and unclassified form to the Committee on Armed Services and Senate Select Committee on Intelligence of the Senate and the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives no later than April 30, 1990.

Mr. KENNEDY. Mr. President, I have an amendment at the desk. The wording of this amendment has been worked out and agreed upon by both sides.

Senator WIRTH and Senator ADAMS join me in offering this amendment. Our amendment requires a report from the President on the technical aspects of verifiable nuclear warhead dismantlement and the monitoring of fissile materials.

One of the disputed issues during the debate over the INF Treaty was the lack of a requirement to verifiably dismantle the warheads on delivery systems to be eliminated under the treaty. This issue was raised by a number of Senators from across the political spectrum. It remains to be explored as a potential component of future agreements beyond START.

Another important aspect of verifying future nuclear warhead reductions is assuring that additional plutonium and highly enriched uranium is not produced to replace the warheads being dismantled. This would require a capability to monitor a future agreement assuring the peaceful uses of nuclear materials.

Such enhanced monitoring capabilities will also be important for verifying an extended nuclear nonproliferation regime, covering the so-called nuclear weapons threshold states, such as India and Pakistan, that may no longer fit the description of "nonweapon" states under the Nonproliferation Treaty.

Our premise in offering this amendment is that technical knowledge about various future possibilities for arms control verification is preferable to ignorance about these issues. The process of becoming informed about these possibilities can be separated from the policy decisions on whether to pursue them as formal objectives at the negotiating table in Geneva. I thank my colleagues on the other side of the aisle for their willingness to reach an agreement on this amendment, which I believe will yield important information for all of us who are concerned about the future of arms control.

The PRESIDING OFFICER. Is there further discussion on the amendment? The question is on agreeing to the amendment.

The amendment (No. 638) was agreed to.

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid upon the table.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California, who was seeking recognition.

AMENDMENT NO. 639

(Purpose: To further cooperative efforts in the war against illegal drugs)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON], for himself, Mr. NUNN, Mr. THURMOND, Mr. HELMS, and Mr. D'AMATO, proposes an amendment numbered 639.

Mr. WILSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. WARNER. Mr. President, with due respect to our colleague, we are not aware of the amendment. So we ask that it be read. We have to object to the dispensing of the reading.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

At the appropriate place in the bill, add the following new section:

"SEC. . Section 511(e)(3)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(3)(B)), as added by the Asset Forfeiture Amendments Act of 1988, is amended to read as follows:

" '(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.' ".

Mr. WARNER. Mr. President, the amendment is cleared on this side.

Mr. NUNN. Mr. President, has the Senator got me listed as a cosponsor of this amendment?

Mr. WILSON. Mr. President, I offer this on behalf of myself, Mr. NUNN, Mr. THURMOND, Mr. HELMS, and Mr. D'AMATO.

Mr. President, drug abuse and drug trafficking are national problems. Nevertheless, they cannot simply be attacked on the national level. Rather, if we are to have a chance at success in our antidrug efforts, all levels of government must be involved.

The efforts of every Federal law enforcement agency—DEA, FBI, Coast Guard, Border Patrol, and Customs—are simply not enough and never could be. It is absolutely essential that local law enforcement take part in the battle.

Well, Mr. President, local law enforcement is certainly doing an outstanding job against difficult odds. But, to make the most of its efforts, and to make the most of Federal law enforcement efforts, we need real cooperation.

Fortunately, cooperative operations are taking place throughout the country—and they have been incredibly successful in my State of California, as I am sure that they have been elsewhere.

Without doubt, the primary motivation for cooperation is dedication to fight the common enemy—drug traffickers and abusers. Yet, there is another incentive that understandably and reasonably helps cement this cooperative spirit—namely, sharing of assets seized under the Federal asset forfeiture law.

With regular expansions and refinements of the Federal asset forfeiture law, there have been phenomenal increases in money flowing back into law enforcement. Indeed, California, alone, more than $60 million has been forfeited and distributed to State and local law enforcement agencies.

Unfortunately, this very success has upset one Member of the other body, who has taken it upon himself to shut down a program that has served to further interagency cooperation in our battle against drugs.

Specifically, he successfully inserted in the 1988 drug bill a provision that will prohibit asset sharing with State and local agencies in so-called adoptive cases—those cases in which the bulk of the investigative effort was undertaken by State or local agencies but the forfeiture was processed under Federal law. Furthermore, this objectionable provision could, as it presently reads, prevent asset sharing even when the assets were seized as a result of a joint Federal-State-local task force operation.

I want to emphasize to my colleagues that adoptive cases do not drain Federal resources. Rather, for every dollar forfeited by the Federal Government in an adoptive case, the Federal Government keeps 10 cents. A 10-percent processing charge invariably covers Federal expenses. This is a true pay-as-you-go approach.

Mr. President, many times, indeed, too many times, the Federal Government decides it has come up with a better mouse trap and tries to foist it on local government—no matter what the cost may be to local government, and only rarely do we pick up the cost.

With asset forfeiture, local government knows that we have a better mouse trap—a comprehensive asset forfeiture law—and it wants to make use of it. Yet, at the insistence of one Member of the House, the program has been hampered, thereby cutting off millions of dollars from local law enforcement agencies that are struggling to stop drug trafficking and abuse.

Mr. President, the problem created by the new limit on asset sharing, which is scheduled to start on October 1 of this year, will not be severe for my State of California, as the State legislature improved the State forfeiture statute last year. Yet, it will reduce the amount of money flowing to State and local police in some instances. In other States, however, the impact truly will be severe, as many State laws have no provision or an extremely limited one for applying criminals' forfeited assets to law enforcement. I am told that the problem will be particularly acute in Alabama, New York, Virginia, and North Carolina.

Mr. President, the amendment that I am offering would replace the present absolute prohibition against asset sharing in adoptive and other asset forfeiture cases with a rule allowing asset sharing if it will serve to further cooperation between the recipient State or local law enforcement agencies and Federal law enforcement agencies.

As I have said, cooperation is a key to success in our efforts against illegal drugs, and if we can attain this by allowing State and local agencies to use the Federal asset forfeiture laws, then there is no justification for preventing their use; we should encourage it.

Mr. President, I urge adoption of my amendment.

Mr. NUNN. Mr. President, this is a very good amendment. I cosponsored it. We worked together on it. I had my own amendment along this line, but I have decided not to press my amendment and to join with Mr. WILSON on his amendment.

This is very important to local law enforcement agencies. It relates to the forfeiture on drug money. It clears up a provision in the law that was placed there last year at the last minute on the drug bill that has had an unintentional detrimental effect on the sharing with local law enforcement agencies. It is so important in the fight against drugs.

So I hope that the Senate will adopt this amendment.

The PRESIDING OFFICER. Is there further discussion of the amendment?

Mr. WARNER. Mr. President, I ask the Senator from California to list the Senator from Virginia as a cosponsor.

Mr. WILSON. Mr. President, I ask unanimous consent that the Senator from Virginia and the Senator from Missouri [Mr. BOND] be listed as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further discussion of the amendment?

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, in support of the amendment by my friend

from California, Mr. WILSON, I would say only that in discussions with local law enforcement officials in my State, I find that this is one of the most important changes they want to see and feel it would be vitally important in the war against drugs. I am proud to be a cosponsor.

Mr. FORD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The pending amendment is the amendment of the Senator from California. The question is on agreeing to the amendment of the Senator from California [Mr. WILSON].

The amendment (No. 639) was agreed to.

The PRESIDING OFFICER. Without objection, the motion to reconsider will be laid upon the table.

Several Senators addressed the Chair.

Mr. WARNER. Mr. President, I send an amendment to the desk on behalf of the Senator from North Carolina [Mr. HELMS].

Mr. FORD. Mr. President, I was recognized a moment ago and my amendment was sent to the desk and then we went back to vote on the amendment of the Senator from California.

Mr. WARNER. Mr. President, I ask my amendment be temporarily laid aside in order to consider the amendment of the Senator from Kentucky.

AMENDMENT NO. 640

The PRESIDING OFFICER. The clerk will report the amendment offered by the Senator from Kentucky.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] proposes an amendment numbered 640.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

It is the sense of Congress that any combat unit of battalion or squadron size (or larger size) that on the date of the enactment of this Act is stationed at Fort Knox, Kentucky shall not be permanently reassigned to Fort Irwin, California.

Mr. FORD. Mr. President, this is regarding the movement of troops in Fort Knox. It costs no money. It is agreeable on both sides. I hope it will be accepted.

Mr. NUNN. Mr. President, I urge the adoption of the Ford amendment. We worked very carefully with the Senator from Kentucky on this amendment. It is an important amendment. We talked to the Army about it. I urge its adoption.

Mr. WARNER. Mr. President, if I may inquire of the distinguished Senator from Kentucky, as I understand it, part of this preparation for this amendment is he had consultations today with the acting Under Secretary of the Army.

Mr. FORD. And they have no objection.

Mr. WARNER. Not only that, he provided the Senator with——

Mr. FORD. Language that is used in the amendment that has been proposed.

Mr. WARNER. I just wish to have that clarified as part of the RECORD because that enables this side to accept it.

Mr. FORD. Not only did he discuss it with me, but he discussed it with the staff; and he is a fine Kentucky gentleman.

Mr. WARNER. Mr. President, I thank the Senator from Kentucky for bringing this matter to our attention and for his careful preparation of the amendment.

The PRESIDING OFFICER. Is there further discussion of the amendment? If not, the question is on agreeing to the amendment of the Senator from Kentucky [Mr. FORD].

The amendment (No. 640) was agreed to.

The PRESIDING OFFICER. Without objection, a motion to reconsider will be laid upon the table.

AMENDMENT NO. 641

Mr. WARNER. Mr. President, I believe the amendment offered by the Senator from Virginia on behalf of the Senator from North Carolina recurs.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] on behalf of Mr. HELMS, proposes an amendment numbered 641.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . POLICY REAFFIRMING UNITED STATES/SOVIET EQUALITY IN STRATEGIC FORCES.

It is the sense of the Senate that:

(1) the President should seek a START treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union;

(2) the success of the President's efforts to attain such a treaty is dependent upon the maintenance of a vigorous research and development and modernization program as required by a prudent strategic posture; and

(3) no action should be taken under this or any other act that will obligate the United States to disarm or to reduce or limit the Armed Forces or armaments of the United States, except pursuant to the treatymaking power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States.

Mr. HELMS. Mr. President, it is ironic that efforts are still being made to bring the United States back into compliance with the unratified SALT II Treaty. As my colleagues know, I have long been opposed to United States unilateral compliance with SALT II, especially compliance by means of dismantling perfectly good Poseidon submarines.

I am opposed to American unilateral disarmament, Mr. President. In my judgement American dismantling of Poseidon submarines for compliance with the unratified SALT II Treaty—a treaty the Soviets are violating—is unilateral disarmament.

The current fiscal year 1989 Defense authorization bill provides for the dismantling of two operational Poseidon submarines, instead of overhauling them. I am informed that, as a result of the fiscal year 1990 Defense authorization bill now before us, another Poseidon submarine will be dismantled. This Poseidon will be dismantled for the sake of SALT II compliance. In fact, the United States is within three Poseidon submarines of being in full compliance with the obsolete constraints of SALT II, and if the fiscal year 1990 Defense bill passes, we will return to de facto SALT II compliance—compliance with treaty constraints never ratified by the United States and long since surpassed by the Soviets. Indeed, the Defense Department plans to dismantle the entire remaining 23 submarines of the Poseidon IIs, carrying about 4,000 warheads, over the next few years. This is one third of our nuclear arsenal.

There are several other reasons why the Senate should still be concerned with the status of the unratified SALT II Treaty.

First, the Bush administration has made yet another a new finding of a Soviet violation of SALT II—a finding of a new violation which finally completes the long-emerging pattern of Soviet break-out from SALT II.

Second, this new Soviet violation also triggers a situation in which our intelligence community will have to begin counting the intercontinental Soviet Backfire bomber as a SALT II Strategic Nuclear Delivery Vehicle [SNDV] and as a SALT II ALCM-carrier.

Third, this new violation accentuates the growing Soviet strategic superiority over the United States, and raises the question of whether the United States can ever regain strategic equality through the Strategic Arms Reduction Talks (START) Treaty, or even through unilateral defense programs.

First. How can we achieve equality in START?

Mr. President, the legally established, fundamental objective of the United States in arms control negotiations, under the 1972 Jackson amendment to SALT I, that is, Public Law 92-448, is "equal levels of strategic forces" with the Soviet Union. But we do not have equal levels of strategic

forces with the Soviet Union in the context of SALT II. If we have failed to achieve equality in SALT II, how are we going to get equality in START?

Mr. President, for the first time we can say that the strategic force levels of the Soviet Union have been reported by successive administrations to be in excess of all three of the numerical SALT II sublimits, and also in excess of the overall SALT II Strategic Nuclear Delivery Vehicle [SNDV] numerical ceiling. Moreover, the Soviets have long been confirmed as violating the main qualitative constraint of SALT II.

Mr. President, Soviet strategic force levels are currently superior to the strategic force levels of the United States in all but one of the four SALT II numerical levels; indeed, if we count the Backfire bomber as an ALCM carrier, the Soviets are even superior in the fourth level. In fact, the Soviet Union is superior to the United States in seven of the most important strategic measures.

But the American Secretary of State stated on May 14, 1984: "Arms control will simply not survive in conditions of inequality." Thus for successful arms control, especially a consummation of a START Treaty, we need equality with the Soviets.

The United States and the Soviet Union have tentatively agreed on parts of a Joint Draft Text for a START Treaty that would entail reductions to lower levels of Strategic Nuclear Delivery Vehicles and to lower levels of warheads equal for both sides. However, the Soviet Union would have to dismantle two to three times as many more SNDV's than the United States in order to reach these lower but equal START levels. How are we going to convince the Soviets in START to give up two or three times as many more missiles and bombers than the United States? Why should the Soviet Union be willing to reduce their nuclear weapons at all, when nuclear weapons are their most important attribute for becoming and remaining a superpower?

Mr. President, logic suggests that the United States has only one way to convince the Soviet Union to agree finally to dismantle two to three times as many more SNDV's as the United States in the START negotiations. That way is for the United States to declare and even to demonstrate that it is determined to regain equal levels of strategic forces, with or without a START Treaty. After all, why should the Soviets give up their existing advantages, unless they think we will eventually match them?

It seems to this Senator logical that, in order to achieve equal levels of strategic forces for the United States and the Soviet Union in the START negotiations, the President should formally declare to the Soviet Union at the outset that the United States does not intend to allow such negotiations to limit its inherent sovereign right to deploy at least the same levels of strategic forces as are currently possessed by the Soviet Union. In fact, Mr. President, I shall presently propose and amendment that will do just this.

II. THE STATUS OF SALT II AND SOVIET DECEPTION

Mr. President, as we consider the fiscal year 1990 Defense authorization bill and as we resume negotiations for a START Treaty, we are necessarily forced to consider the status of the unratified and now expired SALT II Treaty. We need to consider the status of SALT II because of the tendency for the United States to comply unilaterally with this Treaty despite the fact that the Soviets continue to violate SALT II constraint levels. Continued compliance under these circumstances will perpetuate and increase Soviet strategic superiority.

Today we find ourselves in a strange, almost inexplicable situation regarding the SALT II Treaty. Due to longstanding Soviet violations the SALT II levels, in 1986 the United States finally disavowed its intention to comply with its constraints. Congress, however, has failed to understand the significance and seriousness of the Soviet violations, and seems determined to bring the United States back into full, unilateral compliance with this obsolete agreement. Indeed, we are already in compliance on all aspects of this obsolete agreement, except on its MIRVed missile/ALCM-carrier sublimit which is in question here.

In contrast, Mr. President, the Soviet Union has not disavowed the SALT II Treaty; in fact, the Soviets praise it and falsely claim that they have always been in full compliance with it. For example, as recently as March 1, 1987 Soviet Ambassador to the United States Yuri Dubinin wrote: "We are staying within the limits of the SALT I and SALT II agreements." But Soviet SALT II violations date back in some cases even to before its signing in 1979, remain uncorrected today, and, since 1984 have steadily continued to increase in scope and in scale. The Soviets in reality are ignoring SALT II, while paying lip service to it for the sake of propaganda.

Mr. President, we thus have a situation in which the Soviet Union, even under Gorbachev, is simultaneously engaged in massive violations in arms control and massive deception in the public diplomacy of arms control. The Soviets vociferously claim to be complying with SALT II, but their repeated claims are belied by their massive and ever-expanding violations of it.

These facts about SALT II are directly relevant to the U.S. approach to the recently renewed START negotiations. If Gorbachev, like Brezhnev before him, is engaged in massive deceptions, with regard to the illegal Krasnoyarsk radar and with massive SALT II violations, then how can the United States conclude a START Treaty with Gorbachev?

III. SOVIET POLITICAL COMMITMENT TO SALT II HAS NOT BEEN DISAVOWED

The 1979-85 SALT II Treaty, of course, was never ratified and its negotiated expiration date was December 31, 1985. But in the view of international lawyers both the United States and the Soviet Union had legal obligations not to defeat its object and purpose pending its ratification. In 1981 United States declared that it did not intend to ratify the Treaty, ending that presumed legal obligation. Nevertheless, for some inexplicable reason, at that time both the United States and the Soviet Union each declared a mutual "political commitment" to comply with its terms. The Soviet Union has never disavowed its political commitment to comply with SALT II. Thus the Soviets are still politically obliged to comply with SALT II. But in 1986, President Reagan, in a report to Congress, disavowed the U.S. "political commitment."

IV. THE FIVE MAIN SALT II CONSTRAINTS

Mr. President, it is important that we look at the five main constraints that were negotiated, but never ratified, in the SALT II Treaty.

The treaty contains four numerical limits and one major qualitative limit. Under the overall ceiling, there are three numerical SALT II sublimits, equal for each side.

820 MIRVed ICBM launchers;

1,200 MIRVed ICBM and MIRVed SLBM launchers;

And 1,320 MIRVed ballistic missile launchers and heavy bombers carrying long range Air Launched Cruise Missile (ALCM's)

The fundamental constraint level is the overall numerical ceiling on Strategic Nuclear Delivery Vehicles (intercontinental missile and bombers, or SNDV's), a ceiling that is also equal for both sides, namely, 2,250 SNDV's.

But the United States has since 1981 allowed the Soviet Union to have a de facto higher overall ceiling on SNDV's, which the United States did not explicitly also claim the right to have—2,504 SNDV's—the number of SNDV's that the Soviets had when they signed the SALT II Treaty in 1979. No one has ever denied that the Soviets have been violating the overall ceiling from the beginning. Therefore, we must examine the sublimits very carefully.

Finally, the main SALT II qualitative limit is the prohibition on no more than one new type of ICBM.

V. SOVIET VIOLATION OF THE FIVE MAIN SALT II CONSTRAINTS

Former President Reagan reported to Congress in January 1984 several serious Soviet violations of key provi-

sions of SALT II. Since then, there have been six Presidential reports to Congress on Soviet SALT violations.

As I shall discuss in more detail later, for the first time we can say that the Soviets have violated every one of the four numerical limits. Moreover, the Soviets developed two new types of ICBM's and by 1984 were preparing to deploy them. Yet, the SALT II Treaty allows only one new type of ICBM. The "one new type" rule was the main qualitative constraint, the fifth of the five major constraints.

According to press reports, the Soviets have developed over 200 SS-25 mobile ICBM's and over 50 rail-mobile SS-24 ICBM's. These are their two new types. The United States has deployed zero rail-mobile MX's and zero mobile Midgetman ICBM's. Both of these two new mobile ICBM's violate SALT II—the SS-25 because it is the prohibited second new type ICBM, and the SS-24 because it has prohibited telemetry encryption and prohibited heavy throw-weight.

Thus the Soviets have violated all five of the main SALT II constraints.

VI. CONGRESS RESTORES U.S. COMPLIANCE WITH SALT II

Ever since President Reagan reported in January 1984 on the first Soviet violations of the SALT II Treaty, the number of Soviet SALT II violations reported by the President has expanded. Now there are 26. Since that historic first report, Soviet violations of SALT II have not been corrected, and instead have increased. In May 1986, President Reagan finally announced that because of these ongoing and increasing Soviet SALT II violations, and also because of the expiration of the treaty itself under its own terms in 1985, the United States would no longer by its supposed political commitment to comply with the treaty. Accordingly, the United States continued its own deployment of heavy bombers equipped with long-range air launched cruise missiles past the SALT II sublimit of 1,320.

In contrast to these multiple Soviet SALT II violations in which the Soviets exceed the numerical constraints, the strategic forces of the United States are currently well below the SALT II sublimit of 820 MIRV'd ICBM's, and also below the SALT II sublimit of 1,200 MIRV'd ICBM's and MIRV'd SLBM's. While the strategic forces of the United States are currently above the SALT II sublimit of 1,320 MIRV'd ballistic missiles and bomber ALCM carriers, Congress has legislated the continuation of a program of dismantling Poseidon submarines at a rate which will soon reduce the United States to less than 1,320 MIRV'd ballistic missiles and ALCM carriers.

The United States is below the Soviet Union in overall number of missiles and bombers on three different levels. The current U.S. deployment of a total of only 1,985 SNDV's is well below the overall SNDV ceiling of 2,250 SNDV's; it is substantially below the higher Soviet de facto SALT II SNDV ceiling of 2,504 SNDV's; finally, it is even further below the reported current Soviet SNDV total deployment level of over about 2,580 or more SNDV's. Thus we are below the treaty level, below the de facto level we have tacitly allowed the Soviets to claim, and below the actual level of Soviet deployment, which is even higher yet.

But ever since the United States cancellation of its SALT II compliance in May 1986, a determined bloc in Congress has successfully forced the executive branch to restore U.S. compliance to a nonexistent treaty.

Meanwhile, Soviet SALT II violations continue to increase.

VII. THE NEW SOVIET SALT II VIOLATION

Mr. President, as I stated previously, there are four numerical benchmarks in the SALT II agreement—the overall ceiling of 2,250 intercontinental missiles and bombers, and the three sublimits. That first sublimit was 820 MIRV'd ICBM's on both sides. What happened to that sublimit?

In September 1987, the Reagan administration made the following statement—a statement which was reviewed by all national security agencies in the government, and declared to be accurate and unclassified:

The fact that the Soviet Union has exceeded the SALT II sublimit of 820 MIRVed ICBM's with their deployment of the rail-mobile, MIRVed SS-24 ICBM is now clear.

So it is clear that the Soviets have violated the first sublimit.

Then, Mr. President, the Reagan administration confirmed several times that the Soviets were violating the second SALT II sublimit of 1,200, and the overall SNDV ceiling. Now, Mr. President, the Bush administration has just reconfirmed that the Soviets are still violating the SALT II sublimit of 1,200, and the overall ceiling on SNDV's as reported by President Reagan. But for the first time, the United States has found that the Soviets are also violating the third SALT II sublimit of 1,320. Therefore, Mr. President, the record shows that each one of the four numerical limits has been reported as an official violation by Presidential report to Congress.

Mr. President, what precisely is the confirmation received from the Bush administration? On July 17, 1989, the Bush administration after review by all relevant national security agencies, determined that the following statement is both accurate and unclassified:

Information indicates that the Soviet Union appears to be slightly above the SALT II Treaty sublimit of 1,200 MIRVed ICBM and MIRVed SLBM launchers. The Soviets on occasion have temporarily exceeded the sublimit of 1,200 MIRVed ballistic missile launchers since mid-1987. Information also indicates that the Soviets may be above the sublimit of 1,320 total MIRVed ballistic missile launchers and heavy bombers equipped with long range ALCM's. The Soviets have exceeded the SALT II Strategic Nuclear Delivery Vehicle limit of 2,504 for several years.

Mr. President, this confirms the Soviet violations of the second sublimit, and for the first time, the Soviet violations of the third sublimit. It also notes that the main, over-all ceiling violation has continued for several years. This record, in conjunction with the Reagan report on the first sublimit, shows that the Soviets have violated, and will continue to violate, every one of the SALT II constraints.

Mr. President, note that the word "indicates" is used to describe the evidence of the Soviet violation of the 1,320 sublimit. This is a strong word and it means that the intelligence evidence of the violation is hard. Although the wording of the new statement on the 1,320 sublimit also contains the cautious bureaucratic qualifier may, I am reliably assured by arms contol experts that there is hard evidence that the Soviets are clearly and conclusively over the 1,320 SALT II sublimit.

Again, this is the first time that the United States has found that the Soviet Union was violating the 1,320 SALT II sublimit. The two official statements by the Reagan and Bush administrations taken together also mark the first time it can be said that the United States has found the Soviets to be in total violation of each of the four sublimits and ceilings in SALT II. And, of course, the Soviets have been found to be in violation of the main SALT II qualitative constraint since 1984.

In fact, according to many press reports, the Soviets have continuously exceeded their unilateral SALT II SNDV limit of 2,504 since 1984, well before the unratified SALT II Treaty expired under its own terms in 1985, and the Soviets currently have over 2,580 SNDV's or even more, counting the intercontinental Backfire bomber. Moreover, according to press reports, the Soviets were violating the SALT II sublimit on MIRV'd ICBM's as early as mid-1986, and the Soviets currently have over 1,220 MIRV'd ballistic missile launchers.

Mr. President, there is really nothing left of significance in the quantitative and qualitative constraints of SALT II that the Soviets have not violated, and it is therefore fair and reasonable to conclude that the Soviets have long been breaking out of SALT II. Indeed, they have now finally broken out completely.

VIII. THE SOVIET BACKFIRE BOMBER SHOULD COUNT IN SALT II

Mr. President, there is another reason why we can be fully confident that the Soviets are over the 1,320

sublimit. The Soviet Backfire bomber should originally have counted under the SALT II numerical constraints since 1979 because of its inherent intercontinental range. We simply accepted the false Soviet claim that it was not intercontinental. Candidate Reagan opposed the SALT II Treaty in the 1980 campaign, partly because the problems raised by the failure to count the international-range Backfire in the SALT II constraints. The Defense Department stated in the 1981 edition of "Soviet Military Power" that the Backfire had a range greater than the Soviet Bison bomber, which counts in SALT II. Moreover, there is now reportedly strong new evidence that the Backfire's range is international. Thus, the 350 or more Backfire bombers should have counted all along as SALT II SNDV's, and they should also count now as SALT II ALCM carriers. Indeed, the United States already counts the Backfire as a START SNDV, indicating the strength of the evidence of its intercontinental range.

Mr. President, not only should all 350 Backfire bombers inherently count as SNDV's in SALT II and in START, they should also be counted as SALT II and START ALCM carriers. This is because the CIA, in 1987, has made the unclassified judgment that it would have to consider Backfires as ALCM-carriers in the event of confirmed Soviet breakout from SALT II. Soviet SALT II breakout in fact thus triggers the counting of Backfires as SALT II SNDV's and ALCM carriers, and it reinforces the counting of Backfires as START SNDV's and ALCM-carriers. The CIA's rationale for their judgment is that in the absence of SALT II constraints, the Soviets would use the already intercontinental and ALCM-capable Backfire to attack the United States.

There are two factors supporting the CIA's unclassified judgment. First, according to press reports, the Soviets tested long range ALCM's on the Backfire in the late 1970's. Therefore the Backfire is clearly ALCM-capable. Indeed, this evidence of ALCM-capability means that Backfire should have been counted in SALT II even if it did not have international range. Second, the evidence of Soviet breakout from SALT II is now conclusive. The Soviets have, in fact, broken out of every SALT II numerical constraint and have also violated the main qualitative constraint.

In sum, Mr. President, all 350 or more Backfires should count in both SALT II and in START as SNDV's and ALCM-carriers. The Soviets therefore really have about 2,980 SALT II-accountable SNDV's and 1,670 MIRV'd ballistic missile launchers and ALCM-carriers.

Mr. President, we can thus conclude that not only are the Soviets over the 1,320 sublimit because of their reported deployment of more than 100 Bear H and Blackjack ALCM-carrying bombers, but they are over by as many as 350 more Backfire bombers which must also be considered to be ALCM-equipped. And these Backfires are in fact also already counted in the United States proposal for a possible START Treaty.

IX. SOVIET STRATEGIC SUPERIORITY

Mr. President, in contrast to the Soviets, the United States currently has only 550 MIRV'd ICBM's, well below the SALT II sublimit of 820 MIRV'd ICBM's which the Soviets have exceeded. Moreover, the United States currently has 1,182 MIRV'd ICBM's and MIRV'd SLBM's, also below the SALT II sublimit of 1,200 which the Soviets have also exceeded. Moreover, the United States currently has only 1,985 SNDV's, well below the SALT II ceiling on SNDV's of 2,250. Indeed, this U.S. SNDV level is also well below the 2,504 Soviet unilateral SALT II ceiling, and even further below the 2,580 to 2,980 or more Soviet SNDV's currently deployed.

I am informed that the United States currently has 1,364 MIRV'd ballistic missiles and heavy bombers carrying ALCM's. The SALT II sublimit on MIRV'd ballistic missiles and heavy bombers carrying ALCM's is 1,320. Three U.S. Poseidon submarines carry 48 MIRV'd SLBM's, and if these three Poseidons were dismantled, the United States would have 1,316 MIRV'd ballistic missiles and ALCM-carriers, which is below the sublimit.

In contrast, however, the Soviets should be considered to have over 1,670 MIRV'd ballistic missile launchers and ALCM-carriers, counting their ALCM-equipped Backfires, a much higher number than the United States.

The United States is thus within three Poseidon submarines of achieving SALT II compliance. The Congress legislated in the fiscal year 1989 Defense authorization bill the continued U.S. unilateral dismantling of two Poseidon submarines. Although the SALT II Treaty is not specifically mentioned in the legislation, the purpose and effect of continued U.S. unilateral dismantling of Poseidon submarines is to return the United States to unilateral compliance with the SALT II sublimits.

President Reagan originally vetoed the fiscal year 1989 Defense authorization bill last August, partly because it required U.S. unilateral compliance with SALT II through Poseidon dismantling. The Congress then rewrote the bill and took out most of the features that the President objected to, but the unilateral disarmament bloc in Congress kept in the unilateral Poseidon dismantling. If U.S. unilateral dismantling of Poseidon submarines is continued and a third Poseidon is dismantled, the United States will soon again be in full unilateral compliance with the SALT II sublimits. The President finally was forced to accept U.S. unilateral SALT II compliance.

In fact, Mr. President, a third Poseidon is scheduled for dismantling in fiscal year 1990.

Mr. President, there is thus a need to affirm that the legally mandated principle that strict strategic equality between the United States and the Soviet Union is necessary in strategic forces and in arms control negotiations such as START. It is dangerous for American national security to allow Soviet overall strategic nuclear superiority to persist.

In conclusion, I note that the Department of Defense has stated recently that: "The combination of Soviet offensive and defensive developments, if unanswered, may provide the Soviet Union with a decisive military advantage in the near future." This is an ominous but accurate assessment. It suggests that the Soviets already have a military advantage, and it may already be decisive.

In fact, the Soviet Union is already superior to the United States in the following categories:

First, MIRV'd ICBM's;

Second, the total number of MIRV'd ICBM's and MIRV'd SLBM's;

Third, the total of MIRV'd ballistic missile launchers and intercontinental bombers carrying ALCM's, counting Backfires as ALCM carriers;

Fourth, total SNDV's;

Fifth, the deployment of more than one new type of ICBM—the Soviets have widely deployed two new mobile ICBM's, while the United States has zero;

Sixth, strategic offensive first strike capability;

Seventh, Anti-Ballistic Missile capability.

JCS Chairman Admiral Crowe testified on June 19, 1986: "The strategic nuclear balance has shifted dramatically. The Soviets now enjoy superiority in ICBM's." A White House document dated June 1986 entitled "Strategic Modernization" stated: "And certainly, the Soviet Union, in building a first strike capability, never accepted the premise that the West should be allowed to possess secure retaliatory forces." Soviet Military Power 1987 stated: "The Soviets will enhance their first strike capability."

America is now witnessing the Soviet SALT II breakout deployment of illegal new mobile ICBM's, carrying illegal new high yield MIRV'd warheads, defended by an illegal nationwide ABM system using illegal ABM Battle Management Radars and illegal mobile ABM and ABM-capable interceptor missiles and radars. The result of these Soviet SALT I and II breakout violations is a Soviet first strike ca-

pability and a nationwide ABM defense.

Mr. President, my amendment is simple. It merely requires a reaffirmation of the existing law of the land on American arms control objectives with the Soviets—equal levels of American and Soviet strategic forces in the START negotiations.

Mr. President, I ask unanimous consent that a letter to the President on the possible Soviet decisive military advantage signed by 10 Senators be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 18, 1989.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We have just received copies of an excellent unclassified Defense Department study entitled "Strategic Defense Initiative, Progress and Promise." This new DoD report is, in our judgment, a remarkably candid description of the present status of SDI and the fearful consequences if the United States does not deploy it in the near term.

This is all the more significant in the light of your repeated assurances during the 1988 Presidential campaign that you would deploy an SDI defensive ABM system as soon as developed and ready for deployment. The new DoD report supports your pledge.

The DoD report makes the following assessment:

"The combination of Soviet offensive and defensive developments, if unanswered, may provide the Soviet Union with a decisive military advantage in the near future." (Page 4, attached.)

This arresting statement is of obvious significance to those of us who have been attentive to the official unclassified assessments of the steadily growing Soviet threat over the years. The Soviet offensive first-strike capability keeps expanding, with steady Soviet deployments of the mobile SS-24 and SS-25 ICBMs, and the super-heavy SS-18 Mod 5 ICBMs. Meanwhile, a massive Soviet nationwide Anti-Ballistic Missile defense also continues to emerge on land and in space. We are also aware of the classified National Intelligence Estimates showing the details.

Twenty years ago, in 1969, then Defense Secretary Clark Clifford stated that the United States has already become militarily inferior to the Soviet Union. Former President Reagan and many of his advisors also believed that the Soviets had achieved a first strike capability by 1979. Yet, the Soviet strategic offensive and defensive threats are even worse today, as the recent report recognizes and the NIEs confirm.

Mr. President, we ask four urgent questions:

1. Do you believe that the Soviet "Maskirovka" program of strategic camouflage, concealment, and deception, coupled with the demonstrated historical record of U.S. Intelligence underestimates of the Soviet strategic threat, together have made our already ominous National Intelligence Estimates of the Soviet military threat too optimistic?

2. Do you believe that a Soviet strategic offensive first strike capability, especially when coupled with a unilateral, emerging Soviet nationwide ABM and space defense, constitutes a "decisive military advantage"?

3. Given the existing Soviet strategic offensive first strike capability and the unilateral, emerging Soviet nationwide ABM and space defense, both of which were well documented in public and classified official assessments produced by the previous Administration, is it possible that the Soviets *already* have a "decisive military advantage"?

4. Given the well documented existence of a present or imminent Soviet "decisive military advantage," what additional military programs are necessary as a "safeguard package" to ameliorate or prevent a decisive Soviet military advantage?

We pledge our full support to your proposals to address this grave danger to American national security.

Sincerely,

Connie Mack, Malcolm Wallop, Larry Pressler, Conrad Burns, James A. McClure, Jesse Helms, Steve Symms, Chuck Grassley, Bob Kasten, Orrin Hatch.

Mr. HELMS. Mr. President, my amendment is simple.

The fundamental American arms control objective is equality with the Soviet Union. The Soviets are exceeding all four of the SALT II numerical limits. Further, Soviet strategic forces are superior to United States forces in all but one of these four numerical categories, and even in the fourth category there is evidence that the Soviets are superior. These Soviet superiorities are important in the United States approach to START negotiations, because the United States needs to convince the Soviets in START to reduce their forces to lower levels that are equal on each side. The Soviets will have to dismantle two or three times as many more missiles and bombers as the United States if they agree to a START Treaty. The United States thus needs to reaffirm the principle of equality with the Soviets in START. This is what the sense of the Senate resolution does.

Mr. WARNER. Mr. President, it is an amendment calling for a report. It is cleared on both sides.

The PRESIDING OFFICER. Is there further discussion of the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 641) was agreed to.

The PRESIDING OFFICER. Without objection, a motion to reconsider will be laid upon the table.

AMENDMENT NO. 642

Mr. NUNN. Mr. President, on behalf of the Senator from Tennessee [Mr. GORE] I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], on behalf of Mr. GORE, proposes an amendment numbered 642.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . AMENDMENT TO SECTION 2301 OF PUBLIC LAW 100-456.

(a) INCREASED AUTHORITY.—Section 2301(a), Title XXIII of Public Law 100-456, September 29, 1988 is amended—

(1) by striking out "Arnold Engineering Development Center, $213,800,000." and inserting in lieu thereof "Arnold Engineering Development Center, $256,800,000."

(b) RESTRICTION.—This amendment shall not take effect unless and until the requirement for the Large Rocket Test Facility (J-6) has been validated by the Department of Defense and so certified to the Committees on Armed Services of the Senate and the House of Representatives.

Mr. NUNN. Mr. President, this amendment has been requested by the Secretary of the Air Force, Secretary Rice. It increases the funding amount at the Army Engineering Development Center from $183 million to $226 million. It has been requested by the Air Force. It has been cleared by both sides and I urge its adoption.

The PRESIDING OFFICER. Is there further discussion of the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 642) was agreed to.

The PRESIDING OFFICER. Without objection, a motion to reconsider will be laid upon the table.

AMENDMENT NO. 643

(Purpose: To require certain reports in connection with closures of Department of Energy defense nuclear facilities)

Mr. NUNN. Mr. President, on behalf of Senator GLENN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], on behalf of Mr. GLENN, proposes an amendment numbered 643.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with..

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 450, between lines 13 and 14, insert the following:

SEC. 3145. REPORTS IN CONNECTION WITH PERMANENT CLOSURES OF DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES.

(a) TRAINING AND JOB PLACEMENT SERVICES PLAN.—Not later than 120 days before a Department of Energy defense nuclear facility (as defined in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g)) permanently ceases all production and processing operations, the Secretary of Energy must submit to the Committees on Armed Services of the Senate and the House of

Representatives a report containing a discussion of the training and job placement services needed to enable the employees at such facility to obtain employment in the environmental remediation and cleanup activities at such facility. The discussion shall include the actions that should be taken by the contractor operating and managing such facility to provide retraining and job placement services to employees of such contractor.

(b) CLOSURE REPORT.—Upon the permanent cessation of production operations at a Department of Energy defense nuclear facility, the Secretary of Energy shall submit to Congress a report containing—

(1) a complete survey of environmental problems at the facility;

(2) budget quality data indicating the cost of environmental restoration and other remediation and cleanup efforts at the facility; and

(3) a discussion of the proposed cleanup schedule.

Mr. NUNN. Mr. President, this amendment requires the Secretary of Energy to provide job training and placement services for employees at the Department of Energy defense facilities that are to permanently cease production operations and require a report on the cost of schedule and cleanup.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 643) was agreed to.

The PRESIDING OFFICER. Without objection, a motion to reconsider will be laid upon the table.

AMENDMENT NO. 644

(Purpose: To limit the test program for use of simplified procedures in the competitive award of certain contracts established by section 824 of the bill)

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of Mr. COHEN, for himself and Mr. LEVIN, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. COHEN (for himself and Mr. LEVIN), proposes an amendment numberd 644.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 219, line 18, strike out "3-year period" and insert in lieu thereof "2-year period."

On page 220, line 7, strike out "30 percent" and insert in lieu thereof "20 percent."

On page 220, line 15, strike out "3-year period" and insert in lieu thereof "2-year period."

Mr. COHEN. Mr. President, the amendment I am offering today on behalf of myself and Senator LEVIN would limit the scope of a test program under which the Department of Defense would be authorized to make contract awards without discussions to vendors who offer the best long term value to the Government. This is an amendment that has been discussed with the majority and minority staffs of the Armed Services Committee and I believe that the floor managers of the bill are prepared to accept the amendment.

The Competition in Contracting Act, which my colleagues will recall was passed in 1984, does not permit award of a contract based solely on review of the initial proposals of the offeror unless "acceptance of the initial proposal without discussions would result in the lowest overall cost to the United States." Under this provision, an award can be made without discussions only to the acceptable offeror with the lowest price.

As the committee report explains, the Department has indicated that the requirement for discussions at times creates problems in situations where factors other than price are major considerations in evaluating proposals. The Department has expressed concerns that in such instances discussions do not necessarily improve a superior proposal. But instead level the competitive playing field and create pressures for multiple best and final offers, which can open the door for fraud and abuse. To address these concerns, the committee bill authorizes the Department to conduct a 3-year test program under which awards for property or services in the acquisition of any nonmajor system can be made without discussions, as long as the evaluation criteria stated in the solicitation are still met.

Under the bill, the Secretary of Defense may designate the organizations that will participate in the test program. The bill limits the total number of organizations which may participate in this test program to a group of procuring organizations which cumulative account for no more than 30 percent of the total dollar value of procurement contracts awarded by DOD in fiscal year 1989.

The amendment I am offering would reduce the size and length of this test program. Under this amendment, the total number of organizations which can participate in the test program cannot cumulatively account for more than 20 percent of the total dollar value of procurement contracts awarded by DOD in fiscal year 1989. The 20 percent figure is intended to limit the number of DOD organizations which may participate in the test program and is not intended to permit the award of contracts with an aggregate value equal to 20 percent of the fiscal year 1989 DOD procurement budget. The amendment would also reduce the period of the test program from 3 years to 2 years.

I believe that this amendment will provide a more appropriate, limited, test program upon which the Congress and the Secretary can evaluate whether it is appropriate to eliminate discussions in limited circumstances, based on the quality of the initial contractor proposal. The distinguished chairmen of the committee and subcommittee have assured me that this test program is intended to be truly limited in scope and applies only to procurements which are properly conducted using competitive procedures, as defined in current law. Under the test program, agencies are still required to state evaluation criteria in solicitations and then make awards using only these stated criteria.

I hope the managers of the bill are willing to accept this amendment establishing a more limited test program which will still provide ample information through which the Department and the Congress can evaluate the effects of eliminating discussions in special circumstances.

TEST PROGRAM FOR USE OF SIMPLIFIED PROCEDURES IN THE COMPETITIVE AWARD OF CERTAIN CONTRACTS ON THE BASIS OF QUALITY FACTORS

Mr. GLENN. I would like to discuss section 824 of the bill with my friend Senator BINGAMAN, the chairman of the Subcommittee on Defense Industry and Technology of the Senate Armed Services Committee, who is the author of that provision.

Mr. BINGAMAN. I would be pleased to discuss that provision with Senator GLENN, who has played a key role in acquisition policy matters, both as a member of the Armed Services Committee and as chairman of the Governmental Affairs Committee.

Mr. GLENN. Section 824 establishes a test program to permit awards without discussions in competitive DOD procurements. Is it your understanding that section 824(e) limits the organizations that may participate in the test program to a group of procuring organizations which cumulatively account for no more than 30 percent of the total dollar value of procurement contracts awarded by the Department of Defense in fiscal year 1989?

Mr. BINGAMAN. The Senator is correct.

Mr. GLENN. Am I correct in stating that it is not the intent of section 824 to permit DOD to award as much as 30 percent of its total procurement budget under procedures authorized by the section 824 test program?

Mr. BINGAMAN. That is also correct.

Mr. GLENN. Under the prevailing interpretation of current law, an award cannot be made without discussions in a competitive procurement unless the award is made to the of-

feror with the lowest price. As I understand section 824, it permits an award in the test program to be made without discussions. On what factor will such an award be made?

Mr. BINGAMAN. The test program specifies detailed criteria to ensure that the Government receives the best value.

Mr. GLENN. Is the "best value" standard or any of the statutory criteria intended to modify in any way the requirements of the Competition in Contracting Act?

Mr. BINGAMAN. No. The only change from current law is to permit awards without discussions to another offeror who does not propose the lowest price. The test program does not otherwise modify requirements of the Competition in Contracting Act. Our intent in creating this "best value" standard is to encourage the inclusion of objective, measurable quality factors in acquisition criteria to the extent required by current law. It is our intent that the "best value" standard and the related criteria will be applied in a manner entirely consistent with the Competition in Contracting Act.

Mr. GLENN. I appreciate this important clarification.

The PRESIDING OFFICER. Is there further discussion of the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 644) was agreed to.

The PRESIDING OFFICER. Without objection, a motion to reconsider will be laid upon the table.

AMENDMENT NO. 527

(Purpose: To provide for a reduction in the relative amount of the cost of maintaining United States forces in Europe that is to be borne by the United States)

AMENDMENT NO. 528

(Purpose: To express the sense of Congress with respect to Japan's contribution to security)

AMENDMENT NO. 529

(Purpose: To direct the Secretary of Defense to submit a report to Congress regarding means of reducing costs associated with overseas dependents of military personnel and overseas dependents of civilian employees of the Department of Defense)

AMENDMENT NO. 533

(Purpose: Sense of Congress regarding the security relationship between the United States and the Republic of Korea)

Mr. NUNN. Mr. President, I call up amendment No. 527. That amendment is on the NATO alliance. We have gone through this in great detail and explanation, and I think all Senators thoroughly understand what we have done with this amendment.

I also call up amendment No. 528, relating to Japan. This has also been discussed in some detail. It is a burdensharing amendment.

I call up amendment No. 529, which is the dependents amendment relating to addressing the cost of dependents overseas. That has also been discussed in detail.

And I call up amendment No. 533, relating to South Korea and burdensharing relating to our troops in South Korea.

I ask that these amendments be considered en bloc.

The PRESIDING OFFICER. The clerk will report the amendments en bloc.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes amendments numbered 527, 528, 529, and 533 en bloc.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 527

On page 293, between lines 13 and 14, insert the following new section:

SEC. . ALLIED DEFENSE BURDENSHARING IN EUROPE.

(a) Congress makes the following findings:

(1) Member Nations of the North Atlantic Treaty Organization (NATO), at the initiative of the President, have presented a comprehensive arms reductions proposal to the Nations of the Warsaw Pact for consideration in the negotiations on Conventional Armed Forces in Europe (CFE), which, should the proposal provide the basis for agreement on an eventual CFE treaty, would significantly enhance security and stability in Europe and the cause of peace worldwide.

(2) Unilateral reductions in active duty force levels by individual member Nations of NATO before the attainment of a CFE agreement would undercut NATO's efforts to improve its conventional defense posture, increase its reliance on the threat of the early use of nuclear weapons to deter agression, and undermine NATO's arms control negotiating posture in CFE.

(3) Nevertheless, several member Nations of NATO are considering making significant reductions over the next few years in the size of their active forces irrespective of developments in the CFE negotiations.

(4) Despite shifts in relative economic power from the United States to some of the major allies of the United States, the costs of mutual defense continue to be borne disproportionately by the United States.

(5) Adjustments in burdensharing are long overdue.

(6) Unilateral cuts in active duty force levels by member Nations of NATO before the successful conclusion of CFE negotiations would exacerbate longstanding burdensharing tensions within the alliance.

(b) BASELINE REPORT.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the defense committees a report showing the following:

(A) The end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO for fiscal year 1989.

(B) The end strength level of allied forces assigned to permanent duty ashore in European member nations of NATO for such fiscal year.

(C) The end strength level of the armed forces of each member nation of NATO assigned to permanent duty ashore in European member nations of NATO in such fiscal year.

(D) The ratio (expressed in terms of a percentage) of the end strength level referred to in subparagraph (A) to the end strength level referred to in subparagraph (B).

(2) The ratio referred to in paragraph (1)(D) is hereinafter in this section referred to as the "baseline ratio".

(c) ANNUAL REPORT.—The Secretary of Defense shall submit to the defense committees not later than April 1 of 1991, 1992, and 1993 a report showing the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO and the end strength of allied forces assigned to permanent duty ashore in such nations in the fiscal year preceding the fiscal year in which the report is submitted. The Secretary shall include in such report the following:

(A) Data showing the U.S.-allied forces ratio for such preceding fiscal year.

(B) A statement indicating whether there has been any change in the U.S.-allied forces ratio for such preceding fiscal year compared with the U.S.-allied forces ratio for the fiscal year immediately before such preceding fiscal year and, if so, the amount of such change and an explanation of the cause of such change.

(C) A discussion of any action taken in the fiscal year preceding the year in which the report is submitted to encourage the NATO allies (other than the United States) to increase the number of allied forces assigned to permanent duty ashore in the European member nations of NATO and a discussion of the results of such action.

(d) LIMITATION ON OBLIGATION OF FUNDS.—If the Secretary determines on the basis of a report referred to in subsection (b) that the U.S.-allied forces ratio for the fiscal year preceding the fiscal year in which the report is submitted is greater than the baseline ratio by more than one percentage point—

(1) the President shall initiate appropriate diplomatic initiatives to persuade the NATO allies to increase allied forces assigned to permanent duty in European member nations of NATO in sufficient numbers so that the U.S.-allied forces ratio no longer exceeds the baseline ratio; and

(2) funds appropriated to or for the use of the Department of Defense may not be obligated or expended to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO for the fiscal year following the fiscal year in which the report is received in any number that would cause the U.S.-allied forces ratio in such following fiscal year to exceed the baseline ratio by more than one percentage point.

(e) WAIVER AUTHORITY.—The President may waive this section if the President declares that such action is critical to the national security of the United States and immediately notifies Congress of his action and the reasons therefor.

(f) INAPPLICABILITY.—This section shall not apply in the event of a declaration of war or an armed attack on any NATO member or in the event that a comprehensive arms reduction agreement is signed as a

result of the negotiations on Conventional Armed Forces in Europe (CFE).

(g) REPORT COMPLIANCE.—The Secretary shall be deemed to have complied with the report requirements of subsection (b) in any fiscal year if the Secretary includes the information required by such subsection in the report submitted in such year to the defense committees pursuant to section 1002(d) of the Department of Defense Authorization Act, 1985 (98 Stat. 2575; 22 U.S.C. 1928 note).

(h) END STRENGTH PERMANENT CEILING.—Nothing in this section shall be construed to permit the obligation or expenditure of funds to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level in excess of the permanent ceiling specified in section 1002(c)(1) of the Department of Defense Authorization Act, 1985.

(i) DEFINITIONS.—As used in this section:

(1) The term "defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(2) The term "allied forces" means members of the armed forces of member nations of NATO serving on active duty, other than the members of the Armed Forces of the United States.

(3) The term "U.S.-allied forces ratio" means, with respect to a fiscal year, the ratio (expressed in terms of a percentage) of the end strength level of members of the armed forces of the United States assigned to permanent duty ashore in European member nations of NATO relative to the end strength level of allied forces assigned to permanent duty ashore in such nations in that fiscal year.

AMENDMENT NO. 528

On page 293, between lines 13 and 14, insert the following new section:

SEC. . JAPAN'S CONTRIBUTIONS TO SECURITY.

(a) FINDINGS.—Congress makes the following findings:

(1) Extraordinary political, economic, and social changes have occurred in Japan since World War II.

(2) As a result of such changes, Japan is capable of assuming increased responsibility for its own security.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) in view of the changes referred to in subsection (a), Japan should assume increased responsibility for its own security;

(2) Japan should offset the direct costs incurred by the United States in deploying military forces for the defense of Japan;

(3) Japan should assume a more significant security role consistent with its economic status by taking the following actions:

(A) Increase expenditures for its Official Development Assistance program and its defense programs so that, by 1992, the level of spending by Japan on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization (NATO) on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(B) Devote any increase in its spending for such Official Development Assistance program primarily to the Republic of the Philippines and to countries in regions of importance to global stability outside of East Asia, particularly to countries in Latin America, the Caribbean area, and the Mediterranean area.

(C) Devote any increase in spending for that program primarily to untied grants and increasing the portion of total expenditures made in that program for those multilateral financial institutions of which Japan is a member.

(D) Designate those nations that are to be recipients of increased development assistance referred to in subparagraphs (A) through (C) after consultation with Japan's security partners.

(E) In consultation with the United States, complete its 5-year defense program for fiscal years 1986 through 1990 and, at the earliest possible date after the completion of that program, fulfill the pledge of Prime Minister Suzuki to defend the territory, airspace, and sea lanes of Japan to a distance of 1,000 miles.

(F) Acquire "off-the-shelf" military equipment from the United States (including completely equipped, long-range early warning aircraft, additional AEGIS weapon systems, refueling aircraft, munitions, and spare parts) in developing the capabilities called for in Japan's current and subsequent 5-year defense programs.

(c) NEGOTIATIONS.—At the earliest practicable date after the enactment of this Act, the President shall enter into negotiations with Japan for the purpose of achieving an agreement under which Japan agrees to make contributions sufficient in value to meet the direct cost of deploying United States forces for the defense of Japan.

(d) NOTIFICATION TO CONGRESS.—In order that Congress may determine whether further action is appropriate, the President shall submit to Congress an initial report, not later than April 1, 1990, on the status and results of the negotiations referred to in subsection (a) and shall submit a second report, not later than one year after the date of the enactment of this Act, on the status and results of such negotiations.

AMENDMENT NO. 529

On page 293, between lines 13 and 14, insert the following new section:

SEC. . REPORT ON COSTS ASSOCIATED WITH OVERSEAS DEPENDENTS.

(a) REPORT.—The Secretary of Defense shall conduct a study of practicable options available to the Department of Defense to reduce costs associated with maintaining overseas large numbers of dependents of members of the Armed Forces of the United States and dependents of civilian employees of the Department of Defense. In carrying out such study the Secretary shall consider such options and combinations of options as the Secretary considers feasible to achieve a reduction in such costs. The Secretary shall specifically address, at a minimum, the following questions:

(1) Would expansion of incentives for unaccompanied tours of duty overseas be effective in reducing the number of such tours and would such an increase in incentives be cost effective?

(2) Would more frequent rotation of overseas personnel without dependents result in overall savings?

(3) Would an increase in the use of local contractors at overseas stations to provide services currently being provided by Department of Defense personnel result in overall savings to the United States and, if so, what would the cost implications be for United States families at such stations?

(4) What costs associated with the support of overseas dependents would likely result from a reduction in personnel under a conventional forces in Europe (CFE) agreement?

(5) Would the granting of fewer exceptions to the length of overseas duty tours reduce permanent change of station costs?

(6) To what extent can overseas facilities be consolidated and centralized to reduce administrative and overhead costs?

(7) To what extent can reductions in family support services at overseas stations be made without materially affecting the standard of living of the personnel assigned to duty at such stations?

(8) Would reductions in overseas family support costs likely result in increased costs in programs in the United States?

(9) To what extent would dependents be likely to accompany members of the Armed Forces and civilian employees of the Department of Defense to overseas stations in the absence of each of the various types of special assistance and benefits currently provided to overseas dependents?

(10) How would reduction or termination of the various types of the special assistance and benefits for overseas dependents affect combat readiness, morale, and retention?

(b) SUBMISSION OF REPORT.—The Secretary shall submit the report required by subsection (a) to the Committees on Armed Services of the Senate and the House of Representatives not later than February 1, 1990, together with such comments and recommendations for legislation as the Secretary considers appropriate.

AMENDMENT NO. 533

On page 293, between lines 13 and 14, insert the following new section:

SEC. . UNITED STATES-REPUBLIC OF KOREA SECURITY RELATIONSHIP.

(a) FINDINGS.—Congress makes the following findings:

(1) Since the Korean conflict, the Republic of Korea has made tremendous progress in rebuilding its economic and military strength.

(2) The alliance between the United States and the Republic of Korea has contributed greatly to the security of both countries.

(3) The Republic of Korea has dedicated a large share of its national resources to its security, as manifested by defense expenditures which comprise approximately one-third of its national budget.

(4) The United States has contributed a large amount of its national resources, including approximately 46,000 military personnel, to protecting the security interests that it shares with the Republic of Korea.

(5) In accordance with its obligations under the 1954 Mutual Defense Treaty with the Republic of Korea, the United States remains committed to the security and territorial integrity of the Republic of Korea.

(b) SENSE OF CONGRESS AND REPORT REQUIREMENT.—(1) It is the sense of Congress that—

(A) the United States should reassess the missions, force structure, and locations of its military forces in the Republic of Korea and East Asia;

(B) the Republic of Korea should assume increased responsibility for its own security;

(C) the Republic of Korea should offset more of the direct costs incurred by the United States in deploying military forces for the defense of the Republic of Korea; and

(D) the United States and the Republic of Korea should consult on the feasibility and

desirability of partial, gradual reductions of United States military forces in the Republic of Korea.

(2) In order that Congress may determine whether further action is appropriate, the President shall submit to Congress an initial report, not later than April 1, 1990, on the status and results of the consultations referred to in paragraph (1)(D) and shall submit a second report, not later than one year after the date of the enactment of this Act, on the status and results of such consultations.

(c) REPORT.—(1) Not later than April 1, 1990, the President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the military presence of the United States in the Republic of Korea and in East Asia. The President shall include in such report a strategic plan relating to the continued United States military presence in the Republic of Korea and East Asia. The President shall specifically include in the report the following:

(A) An assessment of the implications of recent developments in the Soviet Union and the People's Republic of China for United States and allied security planning in East Asia.

(B) Identification of those changes in the missions, force structure, and locations of United States forces in East Asia that would strengthen the capabilities of such forces and lower the costs of maintaining such forces.

(C) A discussion of ways in which increased defense responsibilities and costs presently borne by the United States can be transferred to the allies of the United States in East Asia.

(D) Identification of the additional actions that the Republic of Korea can take to contribute more to its own security.

(E) A discussion of the feasibility of restructuring United States military forces stationed in Okinawa with the objective of improving civil-military relations and increasing United States training opportunities.

(F) A discussion of the status and prospects of negotiations between the United States and the Republic of the Philippines on the continued use of United States military installations in the Republic of the Philippines.

(G) An assessment of whether a requirement still exists for a regional security role for United States forces stationed in the Republic of Korea.

(2) The President shall also include in the report a five-year plan with respect to the United States military presence in the Republic of Korea. The President shall specifically include in the plan a discussion of the feasibility and desirability of the following:

(A) Restructuring United States military forces in the Republic of Korea with the objective of changing the role of such forces from a leading role in deterring aggression to a supporting role.

(B) Partial, gradual reductions in the number of United States military personnel stationed in the Republic of Korea.

(C) Larger offsets by the Republic of Korea for the direct costs incurred by the United States in deploying military forces in defense of the Republic of Korea.

(D) The redeployment of United States military personnel and facilities within the Republic of Korea that can be made to reduce friction between such personnel and the people of the Republic of Korea.

(E) Changes in the United Nations and United States-Republic of Korea bilateral command arrangements that would facilitate a transfer of certain military missions and command to the Republic of Korea.

(F) Confidence-building measures that could be promoted in northeast Asia to lessen tensions in the region.

(G) Additional actions the Republic of Korea could take to assume more responsibility for its security.

Mr. NUNN. Mr. President, these amendments have been discussed. They have been worked out. They have been sponsored by almost every member of our committee. Perhaps one of them does not have some members on it. Senator MCCAIN worked on these, Senator WARNER and I worked on them at length, and Senator LEVIN and many others on the committee, including the present occupant of the chair, the Senator from Colorado. I urge the amendments be agreed to.

BURDEN-SHARING INITIATIVE

Mr. WARNER. Mr. President, I am pleased to join my colleagues—Chairman NUNN, Senator MCCAIN, Senator LEVIN and others—in cosponsoring this package of four burden-sharing amendments which addresses the concerns of the majority of the members of the Senate Armed Services Committee on the vital issue of burden-sharing in both Europe and the Pacific.

Although this burden sharing package contains separate amendments for Europe, Japan and the Republic of Korea, the underlaying concern is the same for all—that despite the growing economic wealth of our European and Pacific allies, the United States continues to bear too large a share of the burden for the common defense. To give just one example, although the combined gross national product [GNP] of our NATO allies is larger than that of the United States, we spend almost twice as much on defense as our NATO allies. Corrections in this situation are long overdue.

Although our allies have talked a good deal about increasing their burden-sharing efforts, very little concrete progress has been made in reducing the U.S. defense burden. It is time for the Congress to require results—but to do so in a responsible way that will result in a strengthened common defense, and avoid harmful friction with our allies. I believe these burden-sharing amendments meet that standard. We have emphasized a negotiated and consultative approach to the burden-sharing problem, not a U.S.-dictated solution.

NATO AMENDMENT

The NATO burden-sharing amendment is an attempt to maintain the status quo in Europe as we negotiate a CFE agreement. The amendment establishes a ceiling on the ratio of U.S. active duty forces stationed in Europe to allied active duty forces deployed in Europe, to discourage our allies from making unilateral reductions in manpower levels prior to the conclusion of a CFE agreement. The net effect of the amendment is to require proportional U.S. troop reductions from Europe to match allied reductions.

Unfortunately, it appears that such an amendment is necessary. Despite the fact that the member nations of NATO have unanimously supported President Bush's comprehensive CFE arms reduction proposal, several of our allies are considering making substantial reductions in the size of their armed forces over the next few years. Such unilateral reductions would undermine NATO's negotiating position in the CFE talks and undercut NATO efforts to improve its conventional defense posture.

As was the case with INF, negotiating from a position of strength in the CFE talks is the only way to achieve a successful arms control agreement. We will not be successful if our allies begin—at this time—to make the reductions that they are anticipating will come under a CFE agreement.

Therefore, I think this amendment sends a necessary and important message to our NATO allies that we must all maintain our current defense capabilities until the end of the CFE negotiating process.

JAPAN AMENDMENT

Although Japan is the third largest defense spender in the world, Japan spends relatively little of its vast economic wealth on defense—slightly more than 1 percent of its GNP. This amendment expresses the sense of the Congress that, in view of the extraordinary economic prosperity Japan has enjoyed, Japan should assume increased responsibility for its own security.

As one way to achieve this result, the amendment requires the President to enter into negotiations with Japan for the purpose of achieving an agreement providing for a 100-percent offset by Japan of the costs of deploying United States forces in defense of Japan. In my opinion, this approach to burden-sharing with Japan takes into account Japan's unique constitutional problems with expanding its military role. We call on Japan to increase its offsets, as well as increase its foreign assistance programs, not simply to expand its military might.

While we call on our Japanese allies to do more, I think it is important to acknowledge the substantial defense efforts they are currently making—defense budgets which have increased by approximately 5 percent in real terms throughout the 1980's; over $2 billion per year in host nation support for United States forces stationed in Japan; and, as mentioned above, the third largest defense budget in the world. This amendment seeks to legislate a negotiated approach to the burden-sharing issue with Japan, in the hopes of bringing their defense ef-

forts more in line with their economic capabilities.

TROOPS IN KOREA

The Korea amendment calls for a study by the President of the feasibility and desirability of restructuring our troop presence in the Republic of Korea. Given the continued military superiority of the North Koreans and the very real threat the North still poses to our allies in the South, this amendment does not mandate unilateral United States troop withdrawals. It is the opinion of the vast majority of the Members of the Senate Armed Services Committee that such withdrawals are not justified at this time.

The 46,000 United States troops that are stationed in South Korea are there both to deter an attack from the North and to demonstrate the United States commitment to the defense of our allies in northeast Asia. North Korea and its Soviet and Chinese allies are guaranteed that an attack against South Korea is also an attack on the United States. Considering the unpredictable and violent behavior of the North Korean leadership, the United States troop presence provides a valuable and irreplaceable deterrent to aggression by the North for the foreseeable future.

In addition, given the current instability in Asia caused by recent events in China, now is not the time for the United States to contribute to the uncertainty in the region by unilaterally withdrawing troops.

However, I do believe that a review of the United States military presence in South Korea and East Asia would be beneficial. This amendment calls for a 5-year plan for the United States military presence in Korea and expresses the sense of the Congress that the United States and South Korea should consult on the issue of possible changes in United States forces in Korea. This is the responsible approach. If any restructuring of United States troops in Korea is to take place, such changes should be thoroughly studied and made only in consultation with our Korean allies—not unilaterally.

OVERSEAS DEPENDENTS

The final burden-sharing amendment requires the Secretary of Defense to prepare a report on options for reducing the costs associated with U.S. overseas dependents.

Mr. WILSON. Mr. President, let me inquire of the managers, are the amendments being offered en bloc now, ones relating to burden-sharing and include one relating to Korea?

Mr. WARNER. The Senator is correct.

Mr. WILSON. Mr. President, the hour is late, so I will not do more than voice my agreement with the other three and my strong disagreement with the one related to Korea. I think that the timing is particularly ill-advised. We have a country that is struggling with democracy. They have achieved free elections. I think that the clear import of what is proposed cannot help but undermine the security of that Government. So I would ask that the Record reflect no only my disagreement but if there is a voice vote that I be shown as voting no.

The PRESIDING OFFICER. Is there further discussions on the amendments as offered en bloc?

If not, the question is on agreeing to the amendments en bloc.

The amendments (Nos. 527, 528, 529, and 533) were agreed to en bloc.

The PRESIDING OFFICER. Without objection, the motions to reconsider en block will be laid upon the table.

AMENDMENT NO. 645

(Purpose: To require the Department of Defense to utilize certain Small Business Act authority to assist the development of participants in the Minority Small Business and Capital Ownership Development Program)

Mr. NUNN. Mr. President, I send an amendment to the desk relating to the Small Business Act authority to assist certain disadvantaged small business concerns, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 645.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 247, below line 24, insert the following:

SEC. 836. UTILIZATION OF SMALL BUSINESS ACT AUTHORITY TO ASSIST CERTAIN DISADVANTAGED SMALL BUSINESS CONCERNS.

The Secretary of Defense shall direct the Secretary of each military department to identify, in each of fiscal years 1990 and 1991, not less than 10 construction projects (including repair and alteration of existing facilities) that are suitable for participants in the Minority Small Business and Capital Ownership Development Program of the Small Business Administration and to make use of the authority provided in section 7(j)(13)(D) of the Small Business Act (15 U.S.C. 636(j)(13)(D)) in the award of contracts in connection with each such project.

Mr. NUNN. Mr. President, this amendment has been cleared on both sides. It minimizes certain barriers to small and disadvantaged business participation and is consistent with the small business policy of the Small Business Act.

Mr. President, I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 645) was agreed to.

The PRESIDING OFFICER. Without objection, a motion to reconsider will be laid upon the table.

Mr. WARNER. Mr. President, I ask unanimous consent to add Senator SYMMS as an original cosponsor to the Wallop amendment, which amendment related to computers and which amendment was just adopted by the Senate a brief few minutes ago.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 646

(Purpose: To provide funds for a limited deployment of an accidental launch protection system)

Mr. BOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself, Mr. WALLOP, Mr. DOLE, Mr. HOLLINGS, Mr. MCCLURE, Mr. THURMOND, Mr. DANFORTH, Mr. GORTON, Mr. KASTEN, Mr. WILSON, Mr. HELMS, Mr. MCCAIN, and Mr. BURNS, proposes an amendment numbered 646.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be disposed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 52, between lines 8 and 9 insert the following:

SEC. 237. ACCIDENTAL LAUNCH PROTECTION SYSTEM.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Strategic Defense Initiative (SDI) has made substantial progress in developing the technologies to defend the United States from a ballistic missile attack. Advances in interceptor technology, sensors, and command, control, and communications have been achieved and six key components of the SDI program have recently been combined to form the basic architecture for Phase I deployment of a system to defend the United States against ballistic missile attack.

(2) As a result of additional development and analytical study of ground-based midcourse and low-atmosphere interceptors and their appropriate sensors, a decision can be made with confidence to deploy an accidental launch protection system (ALPS) as an initial step in a phased deployment of a comprehensive SDI system.

(3) Available evidence indicates that the technology for defending the United States against an accidental or unauthorized launch of ballistic missiles can be effectively deployed by 1995.

(4) The deployment of an accidental launch protection system would be in the national security interest for the following reasons:

(A) The deployment of such a system would provide the United States with an operational system that would yield the additional knowledge and experience necessary for achieving greater reliance on defense for deterrence and security.

(B) As the United States continues to negotiate major reductions in nuclear forces, a

commitment to the deployment of such a system would provide the technology and production base needed to help safeguard against noncompliance by the Soviet Union in the event of an agreement to effectuate such reductions.

(C) The deployment of such a system would close the advantage currently held by the Soviet Union in deployed antiballistic missile capabilities, would reduce the threat of a total strategic defense breakout by the Soviet Union, and would provide the United States with a technological and production base with which to support a later decision to deploy a more comprehensive strategic defense of the United States.

(D) An initial deployment of 100 ground-based interceptors at Grand Forks, North Dakota would be consistent with the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitations of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

(E) The development of an accidental launch protection system is increasingly needed in order to offset the proliferation of offensive ballistic missile forces among nonsuperpower countries hostile to the United States and allied countries.

(F) Such a deployment would provide a mechanism for a crisis-stabilizing response to unauthorized or accidental limited missile launches by the Soviet Union, China, or any other source.

(b) POLICY.—It is the sense of Congress that—

(1) the Secretary of Defense should study options for a comprehensive deployment of an accidental launch protection system that is integrated into a step-by-step strategic defense initiative system (including space-based elements); and

(2) if appropriate, the President should initiate discussions with the leaders of the Soviet Union regarding a deployment of such a system.

(c) AUTHORIZATION FOR ALPS PROGRAM.—Of the amounts authorized to be appropriated for fiscal year 1990 pursuant to section 201, $100,000,000 shall be available only for the deployment of an accidental launch protection system as follows:

(1) $30,000,000 of the amount authorized to be appropriated pursuant to section 201(1)(A).

(2) $30,000,000 of the amount authorized to be appropriated pursuant to section 201(2)(A).

(3) $30,000,000 of the amount authorized to be appropriated pursuant to section 201(3)(A).

(4) $10,000,000 of the amount authorized to be appropriated pursuant to section 201(4)(A).

(d) PROGRAM REQUIREMENTS.—(1) The accidental launch protection system developed pursuant to this section shall provide for at least a two-layer defense and may include the following:

(A) The Exoatmospheric Re-entry Intercept System (ERIS) interceptor and the High Endoatmospheric Defense Interceptor (HEDI).

(B) A ground-based radar.

(C) A ground-based tracking system.

(2) The Secretary of Defense shall develop a design for the accidental launch protection system that takes advantage of existing antiballistic missile facilities, particularly those at Grand Forks, North Dakota, and shall give special consideration to deploying such system initially at such facilities.

(e) BUDGET REQUIREMENTS.—For fiscal years after fiscal year 1990, the Secretary of Defense shall include in the budget requests for the Department of Defense funds for deployment of the accidental launch protection system as an integral component of a comprehensive, layered strategic defense system. The Secretary shall give such a comprehensive strategic defense system the highest research and development priority in order to ensure that advanced technologies expected to be available in the mid-to-late-1990s are incorporated into the comprehensive strategic defense system.

(f) ACCELERATED DEPLOYMENT PLAN.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for the accelerated deployment of an accidental launch protection system as an important and integral step toward a comprehensive, layered strategic defense system. The plan shall include provisions for deployment of space-based elements and for refurbishment of the existing antiballistic missile facilities at Grand Forks, North Dakota.

Mr. BOND. Mr. President, the amendment I am offering this evening is both simple and straightforward. It provides a modest amount of funding to begin initial planning for and deployment of a missile protection system at Grand Forks, ND. This amendment has received wide support and cosponsored by 12 Senators, and I am hopeful that my colleagues will vote to include it in the Defense authorization bill.

For more than four decades now, we have lived under the threat of nuclear disaster. Today there are tens of thousands of nuclear warheads throughout the world, any one of which could cause the deaths of millions of innocent people.

Fortunately, we have so far beaten the odds; we have never experienced the tragedy of a nuclear weapon accident—an accidental or unauthorized launch, or the threat of a launch by a terrorist group or outlaw nation.

Mr. President, the American people want to be protected against the possibility of a nuclear attack or accident. Survey after survey has shown that people throughout the Nation want to see a system deployed.

I can tell my colleagues first hand that the people of my State want to see a missile protection system deployed. As I have traveled throughout my State and talked to people about the issues that concern them, I often ask them, "What do you think we would do if there was an accidental missile launch by the Soviet Union? Or if a Soviet submarine commander launched his missiles without authorization; or if a Qadhafi managed to put together enough bailing wire and scotch tape to get a missile off the ground and shoot it at the United States." Every time the answer is, "Well we would shoot it down, of course." And when I tell them that we do not have the means to do that, they are shocked.

I can understand their reaction. It seems to me only logical that after more than 40 years of living with the threat of nuclear disaster we would at least have developed a means to protect our country against one missile launched at us either by mistake or by a terrorist or another country. But we don't have one and we should. The Soviets have long had such a system, and over the years they have been upgrading it and making it more effective. If someone managed to launch a ballistic missile against Moscow this afternoon, the Soviets have the capability to shoot it down.

For the benefit of my colleagues, I will briefly describe what this amendment does. It recognizes that we currently have the capability to begin deployment of an effective missile protection system which could be operable by the middle of the next decade; that deployment of such a system would be in the interest of our national security; and that such a deployment would be consistent with the Anti-Ballistic Missile Treaty between the United States and the Soviet Union. The amendment then directs the Secretary of Defense to study options for deployment of such a system and authorizes $100 million to begin deployment of at least a two-layer defense system at Grand Forks. This is a modest amount that will not significantly affect other national security objectives and will give us a first concrete step toward the ability to protect Americans against the threat of ballistic missiles.

The components for such a system either exist or are at an advanced stage of research and development. As the amendment states, the system could utilize the exoatmospheric reentry vehicle interceptor system and the high endoatmospheric defense interceptor as the interceptors for the system. Tracking for the system could be provided by a ground-based tracking system and ground-based radar.

There are several reasons that we need a missile protection system. First, a limited protection system would provide us with effective protection against an accidental missile launch by the Soviet Union or some other nuclear power. The world has been fortunate over the past four decades that we have not had to face the disaster of an accidental missile launch. But it would be a mistake to assume that our good fortune will continue—especially when we can take steps to ensure that such an accident can be countered effectively.

A limited protection system would also provide protection against an unauthorized launch of nuclear missiles—for example, a Soviet submarine commander or missile flight crew launching its warheads without direction from Moscow.

A third reason for deploying a limited protection system, and one that I find very compelling, is that it would provide us with protection against the ballistic missiles of terrorists or outlaw nations.

The proliferation of ballistic missile technology is an issue that ought to concern all of us as well as the leaders of all nations. The worldwide scramble to develop, borrow, beg or steal the technology needed to build ballistic missiles is truly frightening. Last year, CIA Director Bill Webster estimated that by the year 2000 at least 15 developing countries will either have produced or will be able to produce their own ballistic missiles. And according to Jane's Strategic Weapons Systems, at least 16 countries outside NATO and the Warsaw Pact currently possess or are developing short-range ballistic missiles. Ballistic missiles already are deployed in almost a dozen developing countries including several that are hostile to the United States—Libya, Syria, and Iraq, for example. Other countries, including Brazil, Pakistan, and India are expected to deploy their own ballistic missiles in he next few years. In addition, the push by countries to develop their own space launch capability will contribute to the development of new and more powerful ballistic missiles.

It is certainly not unreasonable, unfortunately, to hypothesize that a nation, or even a terrorist organization, could get its hands on both a ballistic missile and a nuclear warhead. A situation which, if it arose now, would leave the United States helpless—totally unable to defend ourselves.

An even more likely possible threat is that a terrorist group or a terrorist nation would threaten the United States with a chemical or biological weapon.

We have seen the reemergence in recent years of the use of chemical weapons—in the gulf war, in Afghanistan, and now even in Soviet Georgia. There have also been strong indications that countries are rushing to build chemical and biological weapons production plants—Libya and Iraq are just two examples that come to mind.

A modest missile protection system would free us from the possibility of being held hostage by those countries. From my point of view, this alone is reason enough to deploy a system.

A fourth benefit from the deployment of a missile protection system in the near term would be the operational experience we would gain. The experience of developing and deploying an actual missile defense system—even a modest one such as envisioned here—would give our scientists, engineers and servicemen invaluable experience for the future. Furthermore, the deployment of a limited protection system would give our scientists and engineers a specific goal to pursue. This would allow us to take an open-ended, long-term program and give it a realistic, short-term goal which will allow us to measure our progress on strategic defense.

A final and critical reason for deploying the system envisioned in this amendment is that it would provide us with a much needed hedge against a Soviet breakout from the ABM Treaty. The Soviets have an operational ABM system. They have radars and tracking systems and hot production lines for interceptors that quickly could be used to deploy a nationwide defense system. The United States currently has only a limited ability to counter such a breakout. The Armed Services Committee expressed its concern regarding this problem when it stated in the report accompanying this bill that:

> The committee remains concerned about continued Soviet noncompliance with the ABM Treaty, its extensive network of large phased array radars, and its significant in-place ABM production capabilities.

I believe the committee has highlighted a very real problem and I believe that passage of this amendment would give us the ability to begin to deal with it.

The arguments in favor of a limited protection system are clear. They have been voiced at one time or another by defense experts on both sides of the aisle, in the administration and in Congress, including the distinguished chairmen of the Senate and House Armed Services Committees and the distinguished chairman of the Strategic Forces and Nuclear Deterrence Subcommittee. Approval of this amendment will give us the opportunity to go beyond words and act on the need to protect Americans against ballistic missiles. I urge my colleagues to support it.

Mr. WALLOP. Mr. President, I support this amendment by the Senator from Missouri and commend him for offering it. We both cosponsored a similar amendment last year that received almost 40 votes from this body. I hope that today it will pass.

Since that time a great deal of things have happened that increase the urgency for this action.

First, the Soviet Union continues to violate the ABM Treaty and to spend enormous amounts of its national resources on strategic defense. There may be glasnost and perestroika on some fronts, but not in the development and deployment of both Soviet strategic offenses and defenses.

Second, there is more alarming evidence of third country development of ballistic missiles. By the turn of the century, just about a decade off, as many as 20 countries are expected to have the capability to launch ballistic missiles.

Today, the U.S. Government is unable to defend the American people against a single errant missile. Should one of the increasing number of nations that are developing ballistic missiles develop the ability to launch an intercontinental missile and then do so, either by accident or temporary loss of sanity, there is absolutely nothing we could do about it. Whether launched in error or by the perverse intentions of a Qadhafi, the missile would land, and the result would be devastating.

This is absolutely not because we lack the knowledge of how to protect ourselves. This is because we refuse to protect ourselves. Major technological progress in recent years has made it possible to defend against such threats now, and has put a comprehensive defense against major intentional attacks within our reach as early as the coming decade.

Beginning in 1986, a more earnest attempt to provide a strategic defense for this country was initiated. The SDI program was reoriented by the Pentagon toward the more realistic goal of defeating the objectives of a possible Soviet missile attack. Yet, it must be stressed that there is still no commitment to the deployment of anything that can or will protect us from either intentional or unintentional attacks from ballistic missiles.

Our wanton exposure to even accidental missile attacks was the subject of a major speech in 1987 by the distinguished chairman of the Senate Armed Services Committee. He outlined the essentials of a plan to protect this Nation against accidentally launched nuclear missiles. He dubbed it ALPS. Since that time support for at least this minimal protection from ballistic missiles has increased.

There are several reasons to make the decision to deploy this system now. We do not need to raise the question of whether we can defend ourselves against accidental launches—or even unauthorized ones, which an upgraded system could deal with. As stated in this amendment, advances in interceptor technology, sensors, and command, control, and communications make it possible to deploy such a system by 1993. The Armed Services Committee received testimony from contractors last year that confirms this conclusion.

In addition to protecting us from accidents, a decision to deploy now would accomplish other tasks related to an eventual defense against the far more threatening danger of a deliberate Soviet missile attack. It will give the United States its first warm ABM production line since the early 1970's. The Soviets have continued to improve and deploy newer and better ABM interceptors in their defensive system around Moscow. Warm ABM production lines would at least allow us to make a minimal response to a

Soviet breakout of the ABM Treaty. A deployment would also give us operational experience with ABM systems, something only the Soviets now possess.

A deployment commitment would give strategic defense a boost within the military-industrial complex. The way the military is organized, the only things that get done are those oriented toward a specific mission. ALPS would begin to generate some enthusiasm for strategic defense from within the uniformed military, whose support for particular weapon systems is closely tied to the traditional career patterns of the various services.

Moreover, it would signal to defense enterprises that the U.S. Government is serious about strategic defense deployments so that they may keep their best engineering teams working on SDI-related projects.

Commitment to deploy ALPS would help restore the bipartisan consensus on defense that was lost sometime in the 1960's. But such bipartisanship must be based on agreement: if this Nation cannot agree on the need to protect itself from accidental missile attacks, what can we agree on? Only this time, let us not research the subject to death. Let us build it.

Mr. BOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, I ask the Senator from Virginia be included as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I indicate strong support on this side for the Senator's amendment.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, I, too, commend the Senator from Missouri and rise to support his amendment. I think he has put the case very well. I think he has very succinctly raised the distinct possibility that hostile nations will shortly pose the kind of threat to the United States against which the ALPS system would be an adequate safeguard and without which we are subject to blackmail, to the devastation of an accidental launch.

The point he has made about proliferation is one that I think particularly requires our attention. As he said, the estimate by official sources, including the Central Intelligence Agency, is that the number of nations who, by the turn of the century, will gain the capability for delivering a nuclear or chemical warhead, will be some 15 nations.

Mr. President, the existence of a nuclear capability without missile capability is not terribly alarming. But what we have seen is the proliferation of the missile capability, the actual ability to deliver that kind of devastation.

It is against that that a system of this kind, which is certainly much less than what is envisaged in stage one of the strategic defense initiative is nonetheless a prudent and rather modest investment.

Consider that the cost of this system at $100 million could very well offset devastation of unimaginable and incalculable costs, both in terms of the devastation in human suffering and the actual consequences.

This is a prudent thing to do, and I would say those who say it is not a sufficient safeguard against Soviet ABM breakout might well listen to the arguments that have been made persuasively by some on this floor very recently that we are in greater danger from a Qadhafi than we are from a Gorbachev.

That, I think, is reason enough to be concerned with whether or not we are in a position to sleep safely at night, given the proliferation of this technology in the hands of people who are distinctly unreliable.

I commend my friend from Missouri and urge support of his amendment.

The PRESIDING OFFICER. Is there further discussion of the amendment? The Senator from Georgia.

Mr. NUNN. Mr. President, this is the amendment that I assume we are going to vote on tomorrow morning.

I believe the Senator is willing to vote on it, approximately 10:35. Is my understanding correct?

Mr. BOND. Mr. President, that is correct. That is my understanding as well.

Mr. NUNN. Mr. President, in the year and a half since I first suggested examining the feasibility, affordability, and arms control implications of an accidental launch protection system and called it the ALPS, there has been a wide-ranging and highly constructive response both within the U.S. Government and by private groups and individuals.

The pros and cons of ALPS has been studied by the Strategic Defense Initiative Organization [SDIO], the Defense Acquisition Board, the Defense Science Board panel headed by Dr. Everett, the House Armed Services Committee special panel on SDI, and the Office of Technology Assessment. In addition, ALPS studies have been conducted by a number of defense contractors, including Lockheed and McDonnell Douglas, and by analysts at such outside organizations as the Heritage Foundation, High Frontier, the Carnegie Institute, the Committee for National Security, the Center for International Security and Arms Control at Stanford University, and the Federation of American Scientists.

Although the studies which have been completed to date reach different conclusions as to the ultimate advisability of ALPS and cost and performance estimates are not firm, several general themes appear to be emerging from these studies. These include a requirement that ALPS have a high-confidence intercept capability against worst-case unauthorized SLBM and ICBM launch scenarios would most likely necessitate a very robust defensive system which would increase costs substantially and create obvious problems for my original condition that the system "* * * be possible within the terms of the ABM Treaty or, at most, require a modest amendment."

A limited ALPS system could, nonetheless, provide some protection against some unauthorized launch threats and could limit somewhat the consequences of worst-case unauthorized launches.

The deployment of 100 fixed, land-based ABM interceptors at Grand Forks, ND, to defend against a single ICBM launched accidentally from the Soviet Union or against a single SLBM launched accidentally from waters relatively adjacent to the Soviet land mass appears to offer much better prospects for meeting the criteria of technical feasibility, affordability, and compatibility with the ABM Treaty.

This limited capability, however, might be significantly eroded, or perhaps even negated, by Soviet decoys or other penetration aids [penaids]. The degree of degradation depends upon what assumptions are made concerning the radars and sensors to be used in an ALPS system. Some proposed radars could raise treaty compliance problems. Since ALPS would function optimally in a strategic environment in which Soviet missiles were not equipped extensively with highly capable penaids or other countermeasures, the question of the likely Soviet response to an ALPS deployment, including a treaty-compliant deployment, is obviously a critical issue.

This point underscores the importance of another condition I advanced in my January 1988 speech, that ALPS "not combine with offensive forces, either with or without a START treaty, to pose a first-strike threat." To the extent ALPS is perceived by the Soviet Union as a logical follow-on to previous initiatives for preventing accidental war that is in the mutual interest of both nations, the chances that it could serve a constructive purpose are enhanced. On the other hand, if ALPS is seen by the Soviets as a stepping-stone to a far more extensive phase 1 SDI deployment, then, of course, the Soviet Union may have different reactions.

I am not saying it will preclude us from moving forward. I am saying it is important and would have to be considered very carefully.

In this regard, more attention needs to be addressed to another closely related recommendation in the speech I originally made that the review of ALPS "be coupled with a rigorous unilateral review of both sides of their respective failsafe procedures and safeguards."

If both sides were highly confident that the other side had taken fully effective steps to prevent or counteract accidentally unauthorized missile launches, then of course that would have a big effect psychologically on both sides. My objective in making the ALPS suggestion last January was to begin a debate on this issue and, in that regard, I am gratified by the response.

At this time, however, I believe it is premature to mandate through legislation a commitment to any specific programmatic option or to require the Defense Department to spend $100 million to begin deployment. The truth of it is, the questions on this have not been answered.

Even though I am the one who originally suggested the concept, I did so saying that there were a number of questions that would have to be answered and those questions can only be answered when the Joint Chiefs address them, when the President addresses them.

I always have believed if the ALPS idea is to get off the ground, it will require Presidential support and Presidential leadership. I think we have to be realistic, neither the Senate nor the Congress is going to mandate the deployment of ALPS if the administration in office is not in favor of it. For the ALPS concept to take hold, the President would have to throw its support behind it and work diligently to forge a bipartisan consensus around a specific deployment plan. I think it goes without saying a major public education effort would be required.

I point out to the authors of the amendment we simply do not know the Bush administration's position on ALPS. The reason we do not know is the administration has not submitted the so-called section 224 report. This report was required by last year's authorization bill to be submitted not later than March 1, but it still has not been received.

For these reasons, I reluctantly have to come to the conclusion that this amendment is premature, and I would not agree to the amendment. I do not agree that we should earmark $100 million to deploy ALPS. I do not believe we can commit at this stage to a specific ALPS architecture without knowing the administration's position on this matter.

Mr. President, tomorrow morning I will oppose the amendment, and I reserve the right to move to table the amendment. I ask: Do we have a unanimous-consent request to vote on this amendment? Will the Senator from Missouri agree to vote at 10:35?

Mr. BOND. Mr. President, I agree to a vote at 10:35.

Mr. NUNN. Mr. President, I ask unanimous consent that the vote on or in relation to Senator BOND's amendment occur at 10:35 a.m., and that no amendments be in order to the amendment.

Mr. MURKOWSKI. Reserving the right to object, I ask the floor manager——

Mr. WARNER. Mr. President, could I send an amendment to the desk on behalf of Senator HELMS?

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from Missouri and there is a unanimous-consent request pending. The Senator from Alaska reserves the right to object.

Mr. MURKOWSKI. I ask the floor manager, I have some contested amendments. I am concerned about the timing of votes on my amendments, which I intend to introduce tonight, and availability of time tomorrow. As a consequence, I wondered what the leader had in mind with regard to the window that we have for voting, recognizing I have no objection to stacking the votes.

Mr. NUNN. We have a real problem because we do have a limited amount of time. We come in at, I understand, 10:15. At 11:15 the vote will occur on cloture. I believe that the Bond amendment could be voted on at 10:35, if this is agreed to. That leaves, after leaders both make their opening statements for the day, very little time. I do not have any instructions from the majority leader as to whether the Bond amendment could be a 10-minute rollcall.

Mr. MURKOWSKI. My specific question is: Am I going to be allotted adequate time? How much time do we have to consider with regard to the votes tomorrow? Obviously, I want to see my friend from Missouri accommodated, but I also want with some certainty the opportunity to have a rollcall vote on two amendments which I am going to be offering.

Mr. NUNN. I would like to be able to assure the Senator from Alaska he could receive those rollcall votes, but I am not in a position to do so. Mr. President, we have a real dilemma here with the amendment of the Senator from Alaska. The Senator is very much opposed to those amendments. They are very controversial. We are told Senators on both sides of the aisle are opposed to those amendments. Those Senators have a right to be heard. They will not be germane after cloture. Cloture will be ordered. I do not have any answers for the Senator. I am sure if those come up, those Senators will not enter into a time agreement. There is no way I can enter into a time agreement on those amendments. I simply do not have an answer except the Senator will have to be here and protect his rights tomorrow morning as best he can.

Mr. MURKOWSKI. Mr. President, the Senator intends to be here tomorrow morning and will be protected in his rights, but by the same token, there is a window of time. Regardless of the Senators wanting to speak, that time has already been ascertained by the leadership. It is my understanding we have until 11:15 where we have a time certain to vote on cloture. I would request from the Parliamentarian a clarification if, indeed, that is the order standing.

The PRESIDING OFFICER. The majority leader had made it clear this evening it was his hope and intention to come in at 10:15 and his hope and intention to have a vote on cloture at 11:15, but no consent was agreed to. No order was entered into to that effect.

Mr. MURKOWSKI. So the Senator from Alaska would ask again under the circumstances and the late hour and not wishing to drag it out unduly, what options does the Senator from Alaska have, as well I assume I can speak for my colleague from Missouri with regard to the assurances of votes on the pending amendments tomorrow prior to being foreclosed?

Mr. NUNN. Is the Senator directing that to me or the Chair?

Mr. MURKOWSKI. I am directing it to the Chair.

The PRESIDING OFFICER. The Senator will repeat his question.

Mr. MURKOWSKI. It is the option of the Senator from Alaska that what we are looking at is a timeframe between the time we come in, which is 10:15, and the cloture, which is allegedly at 11:15.

My colleague preceding me has been advised that he can have a vote at 10:35, if my memory serves me correctly. I am willing to cut down the time to 10 minutes. Does that mean that I might ask for a vote at 10:50 and 11:05 on my two amendments assuming—and I am quite sure—that they will be rejected tonight?

The PRESIDING OFFICER. The Senator is certainly within his rights to make an unanimous consent request. Whether or not that is agreed to, of course, depends on the action of other Senators on the floor.

Mr. MURKOWSKI. The Senator from Alaska is in a position of introducing his amendments and asking for the yeas and nays. That is what I am prepared to do after the amendment of my friend from Missouri is disposed of. Now, in asking for the yeas and nays, I assume it is customarily granted without debate. What assurance do I have that I can have a vote tomorrow during this timeframe? Is it a unanimous consent request?

The PRESIDING OFFICER. The Senator would have to receive unanimous consent to assure himself there would be a vote prior to cloture. The Chair would again remind the Senator what the Chair had said earlier, that there has been no agreement on when the time of cloture will occur.

Mr. MURKOWSKI. Well, the courtesy extended to my friend from Missouri with regard to a 10:35 vote, is that with any certainty?

The PRESIDING OFFICER. The unanimous-consent request has been made and the Senator from Alaska has reserved the right to object on that unanimous-consent request.

Mr. MURKOWSKI. And the Senator from Georgia made a unanimous-consent request for a vote on the amendment at 10:35?

The PRESIDING OFFICER. In relation to the amendment offered by the Senator from Missouri, the Senator from Georgia has asked unanimous consent that a vote occur on the amendment offered by the Senator from Missouri at 10:35 in the morning.

Mr. NUNN. On the amendment or in relation to the amendment.

The PRESIDING OFFICER. Or in relation to the amendment.

Mr. NUNN. Reserving the right to table.

The PRESIDING OFFICER. Or in relation to the amendment at 10:35. The Senator from Alaska has reserved the right to object.

Mr. MURKOWSKI. The Senator from Alaska will not object. The Senator from Alaska would appeal to the Senator from Georgia and the Senator from Virginia for similar consideration on his pending amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none and the unanimous consent request is agreed to.

Mr. NUNN. What is the status of the unanimous-consent request?

The PRESIDING OFFICER. The unanimous-consent request has been agreed to.

Mr. NUNN. Mr. President, in fairness to the Senator from Alaska, I do not have the authority tonight to make a similar agreement with the Senator from Alaska because there are objections. Senators have left and they would not agree to any such thing and have had instructions to me and the minority floor manager not to agree to any kind of unanimous consent agreement regarding the amendment of the Senator from Alaska because they disagree fundamentally with the amendment and want to be protected in terms of their right to debate.

As the Senator knows, if the cloture motion is not agreed to, the Senate then votes; rights are fully protected. If the cloture motion is agreed to, the Senator has to examine his amendments, and all of us do, to see if they are germane. That is the best I can do this evening.

Mr. MURKOWSKI. If I can respond, and it is still my intention to offer the amendments, the Senator from Alaska at the request of the leadership was here in Monday with four amendments. The Senator from Alaska had one amendment accepted and was asked, even though the amendments were prefiled and printed, not to proceed in order to expedite the procedure on the floor. The Senator from Alaska acknowledged that I would attempt to cooperate even though I did give a brief overview of my pending amendments.

The Senator from Alaska has patiently sought an opportunity for recognition, and attempted to accommodate the system. As a consequence of that, I find myself here at 2:30 in the morning basically foreclosed from an opportunity to proceed with any meaningful debate. The Senator from Alaska can only express his frustration, but I assure in the future the Senator from Alaska will simply seek recognition and proceed. I know that some others share my frustration. Nevertheless, Mr. President, I would proceed since I assume amendments are still in order and send an amendment to the desk and it is my intention to ask for the yeas and nays.

Mr. BOND. Mr. President, will the Senator yield?

Mr. MURKOWSKI. I am happy to yield.

The PRESIDING OFFICER. The Chair reminds the Senator from Alaska the pending business is the amendment offered by the Senator from Missouri. To offer his amendment would require unanimous consent.

Mr. MURKOWSKI. I yield the floor.

Mr. BOND. Mr. President, I ask only that I have 2 minutes to respond to the eloquent statement of the chairman of the Armed Services Committee.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BOND. Mr. President, I would again commend the chairman of the committee for his far-sightedness and his thoughtfulness in suggesting the ALPS over a year and a half ago. Last year we had this argument, we discussed the pros and cons of the ALPS, and we determined to have a study. We are here a year later. The study has not been presented.

We are 1 year further down the pike. We still do not have a system. Now, the Senator from Georgia has pointed out that the Soviets could use decoys or pen aids, penetration aids; they do not now use those aids, and even if they did in an accidental launch a 100-interceptor location could in all probability deal with those. The Senator from Georgia has also pointed out that we do not have the leadership of the administration. I would only note that the Congress kept the Midgetman program alive through the Reagan administration even though the President did not support it. I told the Secretary of Defense that I was going to present this amendment and, while he did not say he supported it, he did not offer any opposition to it when I so informed him.

Finally, I want to call to the attention of this body one more time to what I believe is the greatest benefit of the ALPS and that is the protection of a launch by a terrorist nation.

I would only say that I found very compelling the remarks, evening before last, by the Chairman of the Strategic Forces and Nuclear Deterrence Subcommittee. Now, I know that he is not going to support this amendment and I do not claim that he did, but I found what he said to make a great deal of sense. He said, "I would alert the Senate to the threat of terrorists or small Third World nations and their ability to come up with some kind of a nuclear device, whether it is accurate or not, that could I think hold hostage the United States. Therefore, beyond everything else, one of the reasons that we must proceed in my view with some kind of reasonable program in SDI is the fact that not only today, but 2 years from now, I think it is absolutely essential that at a minimum we have some kind of a defense against a single or a double or a triple launch of an ICBM against the United States, not from the Soviet Union but from some Third World power or from some terrorist organization."

I think he has stated the case very well. If we do nothing on this system this year, we will be 2 years further down the road, no closer to it.

I thank the Chair.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I send an amendment to the desk and ask for its immediate consideration.

Mr. NUNN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from Missouri.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. If there is no further discussion, I would ask that the amendment be put aside to be held for the vote at 10:35 tomorrow morning.

Mr. NUNN. Mr. President, I would reluctantly have to object. I really am in quite a dilemma here because all of my instincts are to have the Senator from Alaska be able to bring up his amendments.

But I have been left with the instructions that there are Senators who are very much opposed to the amendment of the Senator from Alaska, and they want to be fully protected, meaning their rights to be protected. If I were to agree to this unanimous-consent agreement, that would mean the amendment of the Senator from Alaska would be pending tomorrow morning. I ask the Chair, if that amendment is pending tomorrow morning, what would the unanimous-consent agreement already having been entered into about 10:35 a.m.? What happens to 10:30 a.m. if the amendment of the Senator from Alaska is then the pending business?

The PRESIDING OFFICER. The vote would occur on the amendment offered by the Senator from Missouri or in relation thereto.

Mr. NUNN. What happens, if I could ask the Chair, if that amendment of the Senator from Alaska is still pending when the time for voting cloture occurs? What happens at that stage?

The PRESIDING OFFICER. If the amendment has not been disposed of, and cloture is invoked, the amendment would have to rise or fall depending on whether it was germane, timely filed, and properly drafted.

Mr. NUNN. Would the fact that amendment is pending preclude or slip the cloture vote or would the cloture vote occur 1 hour after we come in notwithstanding the pending amendment of the Senator from Alaska?

The PRESIDING OFFICER. One hour after the convening of the Senate, there would be a live quorum after which the cloture vote would occur.

Mr. NUNN. So the Senator from Alaska would not be entitled to a vote on his amendment prior to cloture unless it was agreed to be voted on by the body?

The PRESIDING OFFICER. The Senator is correct.

Mr. NUNN. Our problem is, and I must object, there are other amendments that come up in the morning. I would have to say to the Senator from Alaska that I object with greatest reluctance because I understand the dilemma he is in. But there are other amendments that Senators have to be protected on. If I were to agree to this unanimous-consent agreement, that would mean the Senator from Alaska would in effect control the floor the entire time of his amendment. There would be no one else to be available to get an amendment up without his permission.

I would really have to object to the unanimous-consent request which would leave the Bond amendment pending until it is disposed of in the morning.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Since the Senator from Georgia has outlined his interpretation of the procedure tomorrow, the fact that tomorrow is not here, and we are still proceeding in today's business, it would seem rather unfair that the Senator from Alaska cannot proceed tonight and is foreclosed from participating based solely on recognition during whatever time is available for amendments between the time we come in at 10:15, and the 11:15 cloture vote putting aside whatever accommodation might be given to the Senator from Missouri.

In other words, I am left with a situation where I can still proceed tonight with my amendment I gather after the disposal of the Senator from Missouri's amendment which I believe the Senator from Georgia is objecting to under his unanimous-consent request.

Mr. NUNN. I am objecting to setting aside the amendment of the Senator from Missouri tonight, which is what I understand the unanimous-consent request was.

Mr. MURKOWSKI. If the Senator from Georgia is going to set it aside, what is the alternative of the Senator from Missouri?

Mr. NUNN. Mr. President, I simply have no solution to the Senator's dilemma this evening except to advise him that from my perspective he has two alternatives to pursue. One is to seek recognition at any early point tomorrow morning which he has the right to do as well as any other Senator. The second is to vote against cloture.

Mr. WARNER. Will the Senator yield for a moment for an observation? I wish I were a poet. But there is no such thing as this evening because it is this morning. In no sense is it tomorrow because it is today. If I could weave that into poetry, I would say it. But at this late hour, I am at a loss. But perhaps the record should reflect that we are here and it is today.

Mr. NUNN. I would have to say to the Senator, my friend from Virginia, that sounded very poetic but it may be because it is late and I am not hearing well. It sounded pretty well to me because of the hour.

Mr. MURKOWSKI. In order to expedite the procedure, it would be the intention of the Senator from Alaska, after the current status of the Senator from Missouri is discussed to the satisfaction of the floor leaders, the Senator from Alaska would simply proceed with his amendments tonight.

Mr. NUNN. The Senator has that right if the amendment of the Senator from Missouri is disposed of tonight. But we have already entered a unanimous-consent agreement to have it voted on tomorrow morning at 10:35. So it is anticipated that it will be disposed of tonight.

Mr. MURKOWSKI. I assume the Senator from Georgia is satisfied that since it is being set aside, the floor is open for additional amendments tonight.

Mr. NUNN. I am sorry. I did not understand.

Mr. MURKOWSKI. I would assume that since the floor manager is setting aside the amendment of the Senator from Missouri the floor is open for additional amendments.

Mr. NUNN. But it has not been set aside.

Mr. MURKOWSKI. I would ask the Parliamentarian for an evaluation of the status that we are in.

The PRESIDING OFFICER. The Chair would once again remind the Senator from Alaska that the pending business is the amendment offered by the Senator from Missouri.

Mr. MURKOWSKI. The Senator from Missouri has asked that his amendment be set aside.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request that the amendment offered by the Senator from Missouri be set aside?

Mr. NUNN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. NUNN. Mr. President, I suggest the absence of a quorum, and would be glad to discuss this with our friend from Alaska. But I know of no way out of this.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 589, AS MODIFIED

Mr. WARNER. Mr. President, I wonder if I might ask my colleagues, I have an amendment pending at the desk, and I would like to modify it by changing one word. Therefore, I ask unanimous consent to modify amendment No. 589 by the Senator from Virginia to delete the words "beginning in the instructions."

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

"WARFIGHTING" MANUAL

Mr. NUNN. Mr. President, I want to call attention to a recent publication of the U.S. Marine Corps. In military terms, it is called "Fleet Marine Force Manual 1." In Marine Corps Commandant Al Gray's lingo it's title is "Warfighting."

This approximately 77-page manual is essentially the Marine Corps philosophy on warfighting. As General Gray indicated in the foreword: "This manual describes a philosophy for action which, in war and in peace, in

the field and in the rear, dictates our approach to duty."

Mr. President, I have provided copies of the Marine Corps "Warfighting" manual to all members of our committee, and I want to encourage all Members of the Senate to read it. Copies can be obtained from either the committee or Headquarters, Marine Corps.

FEED MATERIALS PRODUCTION CENTER

Mr. GLENN. I would like to clarify the language on the Feed Materials Production Center contained on page 265 of the committee report on this legislation. The committee report quotes the Department of Energy's modernization report on the future of the Feed Materials Production Center to the effect that Feed Materials Production Center facilities should be closed out in the near term—early 1990's—to avoid costs of expensive renovations.

Figure 6.2 of the modernization report reveals that the phrase "early 1990's" means the period of 1992 to 1994. I would like to clarify that the report accompanying the defense authorization bill is intended to be consistent with the recommendations of the modernization report and that the recommendations of the modernization report will prevail should there be any inconsistency in interpretation, particularly with respect to the beginning of phase-out as well as completion of production operations.

Mr. EXON. The Senator from Ohio is correct. The report language accompanying the defense authorization bill with respect to the Feed Materials Production Center is intended to reflect and be consistent with the recommendations of the modernization report, particularly with respect to the starting date and completion date of the phase-out of production operatons. The report the committee has directed the Secretary of Energy to submit by March 1, 1990, will provide an implementation plan for transition from the manufacture of depleted uranium metal at the Feed Materials Production Center to acquisition from domestic commercial producers on a competitive basis, and include a plan for qualifying commercial vendors and a schedule for complying with all applicable environmental laws and regulations.

CONCERNING SOLDIER/MARINE ENHANCEMENT PROGRAM

Mr. NUNN. Mr. President, yesterday evening the Senate adopted an amendment which I offered for all members of the Armed Services Committee to establish a Soldier/Marine Enhancement Program. As I stated when I offered the amendment, the development bureaucracies of the services focus too heavily on very expensive, very sophisticated weapon systems. Very little attention is given to the footsoldier who depends on simple, rugged and inexpensive weapons and support equipment.

One of the examples I cited was my recent experience with Army special forces units. Soldiers in those units complained that they could buy superior radios from Radio Shack than they could get from the Army supply system.

Several days ago I received a letter from Gen. James. J. Lindsay, commander in chief of the U.S. Special Operations Command. In the letter he referred to my recent trip to visit the 10th Special Forces Group at Bat Toelz in West Germany and my observation that they were operating antiquated radios. General Lindsay said "You are right. The radio is too heavy and is definitely not state-of-the-art." General Lindsay goes on to discuss "the long overdue modernization of our special operations forces." Mr. President, I ask unanimous consent to have General Lindsay's letter printed in the RECORD.

Mr. President, this highlights problem we have in the acquisition system of the services which we are trying to address with the Soldier/Marine Enhancement Program. We are seeking improvements for the footsoldier—simple, rugged, durable, reliable equipment for the infantryman.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SPECIAL OPERATIONS COMMAND,
OFFICE OF THE COMMANDER IN CHIEF,
MacDill AFB, FL, July 18, 1989.

Hon. SAM NUNN,
U.S. Senate, Washington, DC.

DEAR SENATOR NUNN: Major General Mike Spigelmire, Commandant of the Infantry School, advised me that during a recent visit to Fort Benning you made a comment concerning the heavy and antiquated radios you saw during your visit to the 10th Special Forces Group at Bad Toelz. You are right. The radio is too heavy and is definitely not state-of-the-art.

The current generation of SOF communications equipment, which you had the opportunity to see, is our first priority for modernization. During the team radio equipment display by the 1st BN 10th Special Forces Group, you saw the AN/PRC-104, AN/PRC-70, AN/PRC-77, AN/PSC-3, and related encryption devices. Of particular note, was the AN/PRC-104 and its offline encryption device, the Digital Message Device Group (DMDG). The assessment provided to you on this system underscores the need for modernization. The AN/PRC-104 and the DMDG represent a combined weight of almost 23 lbs and was developed with 1970's technology. As you saw, it is large relative to the types of missions expected of our soldiers. We are aggressively pursuing programs which will provide our deployed units state-of-the-art equipment that they deserve and need.

The Joint Advanced Special Operations Radio System (JASORS) is the cornerstone of the long term solution to current modernization needs which capture new technology while reducing size and weight. JASORS will feature low probability of intercept/detection techniques in its components, which include the message entry device, an inter team radio, a manpack radio, and integration with base station and infiltration/exfiltration platforms. You were also briefed on some of the nearer term solutions. Fortunately, these programs are being accelerated by the $108 plus-up provided by congress in the FY89 Budget. An overview of these programs is attached. We'll see the results in the field over the next two years.

With continued support, the long overdue modernization of our special operations forces will provide the capability to face the changing world environment. We look forward to hosting you at any of our other units and to provide any additional information that you may need.

Sincerely,

JAMES J. LINDSAY,
General, U.S. Army,
Commander in Chief.

ENCLOSURE 1

1. (U) Overview of programs supported by the $108M congressional plus-up:

(a) (U) HF Radio—non-developmental procurement of approximately 200 HF lightweight radios.

(b) (U) Multifunction Radar Transponder—provides full funding to complete the procurement of the PPN-19, a type classified fielded beacon.

(c) (U) Special Operations Improved Crypto System—replacement for the digital message entry device eliminates 7 pounds of weight and the one-time pad used with current system.

(d) (U) Interteam radio (PRC 126) a type classified system. This program provides the "chip" to allow secure voice transmissions and an additional 717 radios to complete fielding to Army SOF.

(e) (U) SO Power Sources—procurement of solar cells, hand crank generator and AC/DC converters for all SOF radio systems.

(f) (U) SO Frequency Manager—automated system which allows sounding of frequencies for HF transmissions.

(g) (U) SO Communications Assemblage—communications package which provide a "walk out the door" capability for small deploying command and control and liaison elements.

(h) (U) HF Multi-channel—provides a multi-channel capability for communications from Battalion to theater SOCS.

(i) (U) Tabletop-transit case deployable base station to replace the current TSC-99 which takes eight C-130s to move.

(j) (U) Lightweight Deployable Comms—a deployable capability which allows for the automation of all message traffic from the team to Battalion, internal to Battalion/Group and higher.

(k) (U) SOFNET—communications system which ties 1st SOCOM with all of its components to include reserve units.

(l) (U) TACSATCOM—product improvement package for current tactical satellite vans which belong to the 112th Signal Battalion in its theater support mission.

THE USE OF CFC'S IN THE DEPARTMENT OF DEFENSE MILITARY SPECIFICATIONS

Mr. WARNER. Mr. President, I would like to take this opportunity to discuss a provision in title III of the Department of Defense authorization bill dealing with chlorofluorocarbons [CFC's] in military specifications. That provision, which I offered along with my colleague Senator GORE as an amendment and the Armed Services

Committee approved unanimously during markup, establishes a "CFC Advisory Committee" to assist the Department of Defense in: First, identifying military specifications requiring the use of CFC's; and second, studying the feasibility of changing those specifications to allow for substitutes as expeditiously as possible.

Mr. President, the Department of Defense is an important user of CFC's. Moreover, CFC's have been an important and integral part of technologies manufactured for DOD. Airplane parts, gyroscopes, guided missiles systems and a host of other military products are required to be manufactured with CFC's. In fact, all electronics equipment is manufactured using CFC's for various cleaning and testing processes. This equipment is the backbone of many military communications systems, as well as weapons systems.

However, given our present understanding of the adverse environmental impact CFC's have on the Earth's ozone layer, it is essential that DOD, in concert with its supplies, expeditiously reduce its use and change requirements to use CFC's in those areas where safe substitutes have been made available. At the same time, it is crucial to our national defense interests to maintain the highest product quality as well as an adequate supply of essential parts and materials to the military.

Recognizing these concerns, the DOD authorization bill contains provisions that require DOD to address these issues. My colleague Senator GORE and I have crafted such provisions with an eye to the future.

Mr. President, if we hope to eliminate ozone-depleting substances from military uses, those uses must first be identified by listing all DOD military specifications that directly and indirectly required the use of CFC's. Our CFC provision in title III of the DOD authorization bill requires that those lists be completed within 9 months of enactment. Based on the findings of such a list, DOD will work with an advisory committee comprised of representatives from DOD, the Environmental Protection Agency and manufacturers of military products manufactured with CFC's to identify processes and specifications where available CFC alternatives can be substituted safely and expeditiously.

For those CFC applications where substitutes are not currently available, the advisory committee will recommend a research program to identify compounds and technologies that can replace CFC's.

Mr. President, it is a lengthy process, but these are the first steps that must be taken. Subsequently, feasibility testing of substitutes, reliability testing, revision of military specifications, manufacturing process changes, and final reverification of the product must follow.

It is our intent to ensure that safe substitutes for CFC's are developed to meet all of DOD's strategic need and our obligation to protect the ozone layer. In evaluating what substitutes for CFC's can be used, it is essential to take into account the safety, reliability, performance capability, cost, and availability of compounds considered as substitutes for CFC uses.

Mr. President, it is my hope that this provision in the DOD authorization bill will go a long way toward meeting these goals.

SPECIAL DUTY ASSIGNMENT PAY FOR RESERVE DRILL SERGEANTS

Mr. NICKLES. Mr. President, I rise to bring to the attention of my colleague from Ohio, the distinguished chairman of the Manpower and Personnel Subcommittee of the Senate Armed Services Committee, a provision that is of crucial importance to Army Reserve drill sergeants.

The Defense Department, in the recently completed "Sixth Quadrennial Review of Military Compensation," has recommended a number of proposals including one that is of particular importance to Army Reserve drill sergeants. Currently, special duty assignment pay [SDAP] is available only to active duty drill sergeants. The Sixth Quad report recommends that SDAP be authorized for reservists during periods of inactive duty training.

The House Armed Services Committee included a provision in its version of the Defense authorization bill authorizing special duty pay for Army Reserve drill sergeants. The House committee's report notes that the Army Reserve has had significant problems meeting its requirement for drill sergeants. Only 51.3 percent of the Reserve drill sergeant positions are filled with fully qualified personnel. In the Active Army, where this special duty pay is provided, 100 percent of drill sergeant positions are manned by fully qualified personnel.

Because I believe that providing special duty pay to reservists has significant potential to increase the level of fully qualified Reserve drill sergeants, I urge the committee to accept the House provision when the bill goes to conference.

Mr. BOREN. Mr. President, the Oklahoma Army Reserve has convinced me that it is an important recruitment and retention incentive to provide special duty assignment pay for drill sergeants in Reserve components. Statistics show that Army Reserve drill sergeants presently have a 50-percent attrition rate which, in turn, contributes to a fully qualified level of only 51.2 percent.

The report of the "Sixth Quadrennial Review on Military Compensation," recently submitted to Congress by President Bush, includes a recommendation to authorize such pay.

The House Committee on Armed Services included language in the fiscal year 1990 and fiscal year 1991 defense authorization legislation that would authorize SDAP for Reserve drill sergeants.

The Army Reserve drill sergeant receives $132 pay for a normal drill. The special pay would provide another $36 per drill which can be significant to young reservists making a decision to join or reenlist. The cost to the American taxpayers is less than $1 million. In balance, it would be a good investment and I urge my colleagues to accept the House provision in the conference on the fiscal year 1990 defense authorization legislation.

Mr. GLENN. Mr. President, I appreciate both of the Senators from Oklahoma [Mr. NICKLES and Mr. BOREN], bringing this issue to my attention.

I want to assure them that even though the Senate Armed Services Committee did not include similar language as the House provision, it was not because of any opposition to the President's recommendation. Rather, the committee did not receive the recommendation until the week after we passed the bill.

While I cannot promise that the Senate will recede to the House provision in conference, I want to assure both Senators that we will take a very close look at this provision. I appreciate the case which my colleagues make for granting special duty pay to Reserve drill sergeants and I am sure that it will be helpful to us in our consideration of this issue.

COLORADO'S NATIONAL GUARD

Mr. ARMSTRONG. Mr. President, I strongly support Senator DOLE's amendment commending the men and women in our National Guard. Deserving special recognition are the men and women in the Colorado National Guard.

Colorado is fortunate to have some of America's most eager and energetic men and women in its National Guard Force. Today, more Coloradans want to be in our Guard units than we have authorized positions. That is right. The Guard Force in Colorado is currently at 104 percent of its authorized strength, with about 5,500 members.

You may wonder why we have so many volunteers. Well, our National Guard units are making vital contributions to the Nation. For instance, the Tactical Control Group is stationed both at Buckley Air National Guard Base outside of Denver, and in Greeley, CO. These men and women have the exciting opportunity to deploy routinely and use their aircraft search radars to track down illegal drug runners entering the United States. But that is not the only reason we have so many volunteers.

Colorado's Guard units also have worldwide training. In the last 2 years, they have trained in Honduras, Panama, Bolivia, Germany, Italy, the United Kingdom, Korea, Japan, and many others—23 foreign countries in all. They are really crack troops.

Our surplus of volunteers owes much to the Colorado Guard's excellent leadership. Maj. Gen. John L. France, Colorado's adjutant general, and the deputy adjutant general, Lt. Col. Edward L. Arcuri, set a fast pace and an excellent tone. Indeed, our Guard units have all the advantages: jobs that make vital contributions, worldwide training opportunities and excellent leadership, each one an important ingredient in the Colorado Guard's success.

If the military is drawn down in Europe, Colorado has much room in which the National Guard can grow and expand. In fact, Major General France relates that Colorado's National Guard has the capacity and desire to handle as many as 5,000 more guardsmen.

We are proud of our varied terrain that is perfect for rigorous training. We're proud of our more than 23 armories around the State, and our air wing in Denver. Most of all though, we are proud of the hard-working men and women who make Colorado's National Guard the success that it is today.

AMENDMENT NO. 451, IMPACT OF BASE CLOSURES ON LOCAL SCHOOLS

Mr. SIMON. Mr. President, I want to thank my distinguished colleague from Illinois, Senator DIXON, for his consideration of the Simon-Domenici amendment to require the Secretary of Defense to provide information to local schools and State educational agencies regarding the timing of closures of military installations near those schools and the potential enrollment impact on those schools. This notification will be very helpful to these schools as they plan for enrollment changes occurring as a result of the base closures and realignments.

I am also concerned, however, about schools which may have needs for financial assistance which cannot be addressed through the Department of Education's Impact Aid Program. Nationwide, approximately 25 school districts, including the Rantoul Township High School and City School Districts and the Highwood-Highland Park School District in Illinois, face extraordinary difficult financial adjustments over the next 5 years due to either a base closure or because of increased student enrollment that would result from a transfer of military personnel to the base that a school district serves. The Rantoul city schools, alone, will lose over 1,600 students, or 65 percent of their enrollment. The Rantoul Township High School will lose over 400 students, or 43 percent of its enrollment. Already, these school districts are losing teachers due to the uncertainly over their future.

Mr. DOMENICI. I have joined with the distinguished gentleman from Illinois, Senator SIMON, in cosponsoring his amendment because I, too, am concerned about those schools which must face severe economic adjustment due to either base closure or because of increased student enrollment resulting from transfers of military personnel.

Mr. President, I'd like to ask my distinguished colleague from Illinois, Senator DIXON, a question. Last year, when we passed the Base Closure and Realignment Act, we recognized that the local communities affected by the base closure and realignment law would need assistance to help them adjust to changes in the local economy occurring as a result of the act. Was it the intent of Congress that schools directly affected by closures and realignments should receive assistance as well?

Mr. DIXON. I think that my good friends from Illinois and New Mexico have raised some important issues. You are absolutely correct in your assessment that the base closure and realignment process will present significant challenges for communities as they adjust to decreasing or increasing demands for local services. Certainly local schools will be one of the principal services which will be affected by these population changes.

Under section 204 of the Base Closure and Realignment Act, economic adjustment assistance is authorized for communities near military installations being closed or realigned, and community planning assistance is authorized for communities near military bases which will experience substantial growth because of these actions.

The Office of Economic Adjustment or OEA has had a long and distinguished record of assisting communities with both significant drawdowns and increases in military activity. This agency's principal focus is in assisting communities to plan for these changes and to marshal their own resources and those of state and federal agencies to meet these needs. In addition to representing the Secretary of Defense in these endeavors, the OEA also serves as an expediter of assistance to communities from other Federal and State programs. Since many small communities are not equipped to respond to these challenges with existing staff, the OEA's assistance is particularly valuable.

In the case of assistance to schools which will experience significant reductions in enrollment, I believe the Department of Education has the authority to provide a 3-year adjustment period during which impact assistance funds would be continued even though students had left the district. I also believe that this authority has not been funded in recent years because the need has not existed.

It would be my expectation that the OEA would work in conjunction with affected communities to ensure that the Department of Education secures this funding beginning in fiscal year 1991 when these drawdowns in enrollment will begin. I am advised that the Department of Education is already working on this matter as it develops its 1991 budget submission.

In the case of gaining school districts, I believe that the OEA is already in discussion with these communities, providing modest grants for economic planning. At this time, I am not aware whether more substantive assistance will be required. Certainly there is a precedent for further assistance if the population increase is dramatic enough to exceed local capabilities.

In either instance, be it for communities losing population or gaining population, the principal criterion for substantive financial assistance to local communities has been whether the mission change generates an unfair and excessive burden. One of the important issues which OEA must examine is whether, in the light of local and State funding capacity and the availability of funds from the Department of Education or other Federal agencies, there is an unfair and excessive burden. If so, I believe the Base Closure and Realignment Act provides the authority for the Defense Department to provide economic assistance from the base closure account. This bill, I might add, authorizes $300 million for this fund in fiscal year 1990, and $500 million in fiscal year 1991.

Mr. SIMON. Mr. DIXON, Senator DOMENICI and I would like to see the Department of Defense provide some financial assistance to those schools in need of help. I understand that the House of Representatives included in its Department of Defense reauthorization bill provisions to earmark $10 million in operation and maintenance funds to provide supplemental funding for a small group of heavily impacted school districts. We would like to know if, in conference with the House on this bill, the Senate conferees will work to modify the House provisions so that some supplemental assistance may also be provided to those school districts that will be affected negatively by the base closures.

Mr. DIXON. While I cannot speak for all the Senate conferees, I would certainly be willing to address this matter. Between now and the conference, I would want to determine the most appropriate funding source, the earmarked fund established by the other body or the base closure fund.

Mr. DOMENICI. Such assistance will be critical for situations such as the folks in Clovis, NM, are facing. Cannon Air Force Base will experience a tremendous increase in personnel. The base is scheduled to receive 1,102 military personnel and 57 civilians. It's estimated that an additional 810 students from K to 12 will be enrolling in the Clovis school system and a major concern is the provision of facilities and classrooms for these youngsters. The schools in Albuquerque are also expecting an increase of at least 5 percent, and they are facing some of these same challenges. Would you agree that providing some additional financial help to those school districts that will be hit especially hard because of substantial enrollment decreases or increases should be a matter addressed in the Department of Defense fiscal year 1991 budget, as well as during the fiscal year 1990 reauthorization process?

Mr. DIXON. I agree that this issue should be addressed in fiscal year 1991. In fact, as the Senator knows, very few of the enrollment changes you reference will occur prior to fiscal year 1991. As I said, this bill does address funding for the base closure account for fiscal year 1991, and I am advised that the Department of Education is also addressing this matter in its fiscal year 1991 budget request.

Mr. SIMON. Clearly, the closure or realignment of these military bases over the next 5 years is not just a military issue, it is also an educational issue. Some additional financial aid to schools near bases being closed and schools which must deal with sharp increases in students will help to ensure a quality education for all children attending these schools.

CLOTURE MOTION

Mr. NUNN. Mr. President, I send a cloture motion to the desk and ask that it be reported.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1352, a bill to authorize appropriations for fiscal years 1990 and 1991 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1990 and 1991, and for other purposes.

CLOTURE MOTION

Sam Nunn, Albert Gore, Jr., Edward M. Kennedy, Alan J. Dixon, J.J. Exon, Dan Coats, Thad Cochran, Trent Lott, Frank H. Murkowski, Richard Shelby, John Warner, John McCain, Al Simpson, Pete Domenici, Phil Gramm, Jake Garn, Nancy Landon Kassebaum, Jeff Bingaman, Timothy F. Wirth, and John Glenn.

MORNING BUSINESS

Mr. NUNN. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I object, Mr. President.

The PRESIDING OFFICER. The unanimous consent was propounded and was agreed to.

Mr. NUNN. Mr. President, I have 12 unanimous-consent requests——

Mr. MURKOWSKI. Mr. President, may I get a clarification from the Chair?

The PRESIDING OFFICER. The Senator from Alaska will propound any question he would like to the Chair.

Mr. MURKOWSKI. With regard to my objection to the unanimous-consent request of the Senator from Georgia——

The PRESIDING OFFICER. The Chair advises the Senator from Alaska that his objection came too late.

CHILD ABUSE DURING PREGNANCY PREVENTION ACT OF 1989

Mr. WILSON. Mr. President, in all the ugly drug lore of modern America, surely the most sordid and terrifying story is that of exploding child abuse through the umbilical cord. The tragedy of illegal substance abuse by pregnant women is metastasizing through our Nation.

Already it requires that we practice medical and fiscal triage. Unchecked, its exponential growth threatens costs that will drain health care and social services budgets and inflict incalculably greater costs in human suffering.

Mr. President, the children produced by this maternal substance abuse are called boarder babies when they have been abandoned by their crack smoking mothers. They are the John Does, and Jane Does who increasingly are filling neonatal intensive care units of our Nation's hospitals.

In a recent editorial, Charles Krauthammer described them as "The newest horror: A bio-underclass, a generation of physically damaged cocaine babies whose biological inferiority is stamped at birth."

He speaks of the estimated 400,000 babies who are born each year to mothers who use illegal substances during pregnancy—30,000 of whom are born in my home State alone.

Writhing with pain in their cribs at the hospital, emitting high pitched cries which veterans of the neonatal ward cannot silence, nor really abide, these fragile and innocent souls enter this world brain damaged, often disabled, permanently impaired.

They suffer literally the agony of the damned.

The Wall Street Journal in an article entitled, "Born to Lose," wrote on July 18, 1989 of one infant at D.C. General which was born 15 weeks premature and weighed no more than 1½ pounds at birth. Brain hemorrhages, respiratory problems, a belly bloated by liver failure "the size of a grapefruit atop his little legs and arms" marked his first and last days of life. The child died before his first birthday.

Some have written that he is the lucky one, Mr. President, because for those who survive their first agonizing months in this world, a life of dispair and hopelessness is sure to follow.

We are witnessing an explosion of crack addicted children who will grow up a burden to society, unable to make rational decisions, without capacity for sympathy or even respect for human life. So said Dr. Fuller, the director of public health for the city of Milwaukee, in testimony yesterday before the Government Affairs Committee.

The long-term effects of the epidemic are staggering and frightening.

Compassion and outrage compel us as a society to act to prevent the human suffering, and our first concern must be prevention, Mr. President. It must be to prevent the abuse of children who now are compelled to suffer the kind of maternal substance abuse that simply does not give them a decent break in life. We are compelled as well by the initial health care costs already reaching $13 billion annually for treatment of infants whose mothers use illegal drugs and engage in other substance abuse during pregnancy.

Mr. President, we can no longer simply hope that this problem will improve. It will not. Left unaddressed, the situation can only continue to deteriorate so seriously and so rapidly as to justify description as a metastasis.

No matter how costly preventive outreach, education, treatment, and rehabilitation may be, the cost of inaction is infinitely greater. We cannot allow the stranglehold drugs have on these mothers to further tighten and constrict the lives of those who represent America's future—our children.

In this vein, yesterday I have introduced, S. 1444, the Drug Abuse During Pregnancy Prevention Act of 1989, which will make available five $10 million grants to States to treat drug-addicted mothers.

This bill will make possible the development of comprehensive solutions to reduce illegal substance dependency among pregnant women and to prevent the recurrence of births of in-

fants who are seriously injured or impaired by their mother's drug habit.

Mr. President, we have to provide rehabilitation which hopefully some substance-abusing mothers will be strong enough to seek voluntarily, early enough in their pregnancy to avoid lasting harm to their child. But for others who cannot find the strength to do so, who carry to term a pregnancy in which they have damaged their child, there must be mandatory rehabilitation or we will simply see recurrence—recurrence, Mr. President, as in the case of Cheryl, described in one of the articles cited, as the mother of seven drug-addicted children—seven children have entered the world addicted, scarred, and damaged permanently by her substance abuse.

Mr. President, this represents an exploding tragedy, the dimensions of which are difficult to comprehend. So rapid has been the escalation in births of damaged children, damaged by the addiction and by the use of dangerous substances during their mother's pregnancy that the figures truly astound. And it is not simply a problem in the District of Columbia. It is a problem in my home State of California. It is a problem in the State of Ohio. It is a problem increasingly across the land everywhere that drug use has altered the natural pregnancy of women of childbearing years.

Mr. President, two important goals must be met by grantees under my legislation.

First, aggressive preventive outreach and education efforts must be pursued to identify pregnant substance abusing women in the hope of minimizing long term effects upon the child. Once identified, these women must be afforded the opportunity to voluntarily kick their drug habits through treatment.

Second, for those women who give birth to substance addicted infants, recurrence must be prevented through mandatory rehabilitation.

I recall a woman named Cheryl, also the subject of the Wall Street Journal article I cited earlier. It wasn't until Cheryl's seventh drug-addicted child that she realized what she was doing to her children was bad.

This type of emotional tragedy and loss to society is both incalculable and avoidable. We must say to the Cheryl's of this country that if you bring a drug-addicted child into this world, we will require you to enter involuntary drug rehabilitation treatment until you are certifiably drug free.

I am convinced that our response can be no less if we are to prevent the kind of needless suffering experienced by first, second, and third generation drug-addicted children.

In addition, Mr. President, to assist grantees in identifying mothers of drug-addicted infants, my legislation will enlist our Nation's health care professionals in the fight against substance abuse through mandatory reporting of suspected drug using mothers.

Finally, my legislation will require that all services provided to drug-addicted mothers be coordinated and comprehensive in nature to prevent the kind of disjointed and self-defeating treatment approach adopted by too many communities across this Nation.

Mr. President, condemning an innocent life to dispair is not acceptable. We must seek to assist substance abusing pregnant women in need of education, treatment, and vital prenatal care.

Of equal importance, for those who do not seek our assistance voluntarily and who give birth to drug-addicted infants, we must require that they rid themselves of all temptation. A humane society can require no less.

Let me close with the story of a 3-year-old girl who lives with foster parents in Napa, CA, and Laney, a 4-year-old girl, also living in Napa, both of whom I first read about in a San Francisco Chronicle article last spring.

Their tormented lives are representative of the majority of babies born addicted to drugs.

The Chronicle article begins:

> Dressed in pink overalls and matching sneakers, a 3-year-old girl living in a Napa foster home looks healthy, happy and normal long after her tortuous withdrawal from the crack her mother smoked while pregnant.
>
> But in her short life, the little girl has been hospitalized 11 times for pneumonia, diarrhea, and meningitus. She suffers from learning disabilities, hyperactivity and night terror.

Her foster mother, Linn Ford says she has never slept through a night in her life. "She wakes up screaming—tense, trembling, terrified. Sometimes it happens two or three times a night."

Mr. President, meet Laney. She is 4 years old and was also born addicted to crack.

According to her adopted mother, Kathie Respini, most days Laney can perform certain simple tasks such as picking up her toys but other days she cannot remember and must learn everything all over again.

"Some days, Laney is gone," her mother said. "When she's not responding, I may as well be talking to a wall."

Mr. President, the repeated 20 minute highs of expectant mothers create a lifetime of dispair not only for themselves but also for the Laneys of this world.

This tragedy must end.

I urge my colleagues to support S. 1444, the Drug Abuse During Pregnancy Prevention Act of 1989, as a first step in that direction.

Mr. President, I ask unanimous consent that the text of the bill, the Child Abuse During Pregnancy Prevention Act of 1989, along with articles by Charles Krauthammer and Allen Gershwitz, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1444

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Abuse During Pregnancy Prevention Act of 1989".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) substance abuse (as defined in the amendment made by section (3)) by a pregnant woman is a form of child abuse that risks the addiction and other serious injury or impairment of the child;

(2) The tragedy of substance abuse by pregnant females crosses all socioeconomic and other demographic lines;

(3) 375,000 infants are born annually to mothers who engage in substance abuse during pregnancy and that number appears to grow exponentially each year;

(4) the initial cost of providing care to infants suffering maternal substance abuse is over $13,000,000,000 annually;

(5) the human cost in suffering and loss to society in terms of wasted potential of both the abusing mother and especially the abused and innocent child is both incalculable and avoidable;

(6) it is essential as a matter of both compassion and avoidance of unaffordable public expenditure that a maximum effort be made to prevent the recurrence of substance use during pregnancy;

(7) a women who chooses to carry a pregnancy to term has a responsibility for the health and welfare of her child which requires that she refrain from substance abuse during her pregnancy;

(8) substance abuse during pregnancy produces severe and lasting or even irreversible physical, mental, and emotional damage to the child, including low birthweight, prematurity, congenital deformities, risk of child abuse, and death;

(9) programs for the rehabilitation of substance abusing pregnant females are not readily available;

(10) expanded preventive outreach and education are needed to reduce the incidence of substance abuse infants (as defined in the amendment made by section (3));

(11) it is essential to reduce the incidence of substance abuse by pregnant women and the birth of infants addicted or otherwise injured or impaired by such abuse, both for the sake of the mother and especially in order to reduce the avoidable cruel suffering of and damage to infants so afflicted, and to reduce the unaffordable costs in tax dollars that will be required as the necessary alternative to successful preventive measures; and

(12) there must be testing of new born infants for the effects of maternal substance abuse so that infants addicted or otherwise injured or impaired by the substance abuse of their mothers will be brought to the attention of the proper authorities.

(b) PURPOSES.—It is the purpose of this Act to—

(1) prevent substance abuse by pregnant women;

(2) prevent, by outreach and intervention during early pregnancy, the continued substance abuse of pregnant women and the re-

sulting incidence of births of infants who are addicted or otherwise injured or impaired by the substance abuse of their mothers during pregnancy; and

(3) prevent, through the mandatory rehabilitation of women who deliver infants suffering from the substance abuse of the mother during pregnancy, the recurrence of births of infants who are addicted or otherwise injured or impaired by the substance abuse of their mothers during pregnancy.

SEC. 3. MODEL PROJECTS FOR PREGNANT WOMEN.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), is amended by adding at the end thereof the following new section:

"SEC. 509H. MODEL PROJECTS FOR PREGNANT WOMEN.

"(a) DEFINITIONS.—As used in this section:

"(1) SUBSTANCE ABUSE.—The term 'substance abuse' means the use of controlled substances, as defined in schedules I and II of section 202 of the Controlled Substances Act (21 U.S.C. 812), the possession or distribution of which is unlawful under such Act, or excessive or injurious ingestion of legal substances, including beverage alcohol.

"(2) SUBSTANCE ABUSED INFANT.—The term 'substance abused infant' means an infant who is born addicted or otherwise injured or impaired by the substance abuse of its mother.

"(b) GRANTS TO STATES.—The Secretary, acting through the Director of the Office of Substance Abuse, shall award grants to States to enable such States to develop, implement and operate five pilot projects for the purpose of demonstrating the effectiveness of, and expense associated with, providing outreach, education and treatment services concerning substance abuse to pregnant females, postpartum females and their infants.

"(c) ELIGIBILITY.—To be eligible to receive a grant under subsection (b), a State shall submit an application to the Secretary that shall contain—

"(1) a plan for a comprehensive approach for the prevention of substance abuse by pregnant females, including—

"(A) provisions relating to the provision of preventive outreach and education and treatment;

"(B) provisions detailing the penalties associated with giving birth to an infant who is addicted or otherwise injured or impaired by the substance abuse of its mother during pregnancy; and

"(C) provisions relating to the manner in which the State will provide treatment services to such pregnant females and postpartum females and their drug-abused infants;

"(2) a description of the manner in which appropriate services will be coordinated, including prenatal and postnatal medical care services, drug abuse education and treatment services, crisis counseling services, support group services, parent training services, and child developmental services;

"(3) a comprehensive reporting plan that shall require health care providers, within the jurisdiction in which services are to be provided, to identify substance abused infants to the appropriate authorities;

"(4) a certification that, it is a crime in such State to abuse a child, and that such abuse includes giving birth to an infant who is addicted or otherwise injured or impaired by the substance abuse of its mother during pregnancy;

"(5) a certification that, on a conviction for a violation of the criminal statute described in paragraph (4), the female so convicted shall be sentenced to a period of 3 years of mandatory rehabilitation in a custodial setting or, on certification by appropriate medical authorities that the female is unlikely to engage in substance abuse if released from custody, the female may be released for a probationary period subject to the conditions described in paragraph (7) for the remaining portion of her sentence, except that in order to encourage substance-abusing pregnant females to seek assistance and to abandon substance abuse in the first trimester of pregnancy, the law of the State may provide for an exception that enables a female in the first trimester of her pregnancy to voluntarily submit to rehabilitation for such term and under such conditions as competent medical authorities shall prescribe, and such female shall not be charged with criminal child abuse if she completes the term and conditions prescribed;

"(6) a certification that the State has an expedited adjudicatory process for females charged with giving birth to a substance abused infant;

"(7) conditions of probation, that shall include—

"(A) abstinence from substance abuse; and

"(B) no association with known substance abusers;

"(8) a certification that efforts will be made to serve both the infant and the mother in the same treatment setting if the female is competent to function in a maternal capacity;

"(9) a certification that efforts will be undertaken to provide for outpatient followup care for females placed in mandatory substance abuse rehabilitation programs during probation;

"(10) a certification that on the successful completion of the conditions of probation as described in paragraph (7), females sentenced to mandatory substance abuse rehabilitation programs will be afforded the opportunity to have their record expunged; and

"(11) additional information as the Director may determine appropriate.

"(c) Evaluations, Studies, and Reports by Secretary.—

"(1) EVALUATIONS.—The Secretary shall require that each State receiving a grant under subsection (b), conduct a systematic evaluation of the projects that receive assistance through such grant to record the impact of such projects on treated individuals, and on the community as a whole, not later than 6 months after the completion of each such project.

"(2) STUDY.—Not later than 1 year after the date of enactment of this section, the Secretary shall conduct a study for the purpose of determining—

"(A) the number of infants born having suffered substance abuse;

"(B) the existence of specific trends regarding the incidence of such substance abused infants for the 5-year period immediatley preceding, and the 5-year period immediately following, the date of enactment of this section;

"(C) the health consequences of prepartum intervention efforts on obstetric and neonatal outcomes;

"(D) the number of substance abused infants abandoned in hospitals in the United States; and

"(E) the annual costs incurred by the Federal government and by State and local governments in providing medical services, housing and care for such infants.

"(3) REPORT.—Not later than 6 months after the date of the completion of the evaluations under paragraph (1), and not later than 6 months after the date of completion of the study under paragraph (2), the Secretary shall prepare and submit, to the appropriate Committees of Congress, reports containing the information contained in the evaluations and study.

"(d) SUPPLEMENTAL FUNDS.—Amounts received under this section by the State shall be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of projects of the type described in this section.

"(e) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for fiscal year 1990. Amounts appropriated under this subsection shall remain available for use in subsequent fiscal years.".

[From the Washington Post, July 30, 1989]

CHILDREN OF COCAINE

(By Charles Krauthammer)

The inner-city crack epidemic is now giving birth to the newest horror: a bio-underclass, a generation of physically damaged cocaine babies whose biological inferiority is stamped at birth. "This is not stuff that Head Start can fix," explains Douglas Besharov, the former director of the National Center on Child Abuse, who first coined the term bio-underclass. "This is permanent brain damage. Whether it is 5 percent or 15 percent of the black community, it is there. And for those children it is irrevocable."

Five percent is the estimate of New York City infants exposed to cocaine in the womb. Fifteen percent is the estimate for the District of Columbia. Although this catastrophe is particularly acute in the black community, it is obviously not restricted to it. Besharov's estimate (the best that I have seen) is that 1 to 2 percent of all babies born in the United States have been exposed to cocaine. It is clear, moreover, that throughout the country the problem is exploding. In 1985 two cocaine babies were born in Cincinnati. This year, University Hospital expects 120.

It is crack that accounts for the astonishing jump in infant mortality rates in places such as the District of Columbia. Cocaine babies, for example, have 15 times the risk of Sudden Infant Death Syndrome. But the dead babies may be the lucky ones.

For some of the crack babies who survive, the first life experience is the agony of cocaine withdrawal. They suffer terribly. They are so sensitive to touch that they cannot be held or fed properly. Some move their limbs endlessly, looking for relief. Even the hardened veterans of the neonatology intensive care units find the piercing cries of withdrawing babies intolerable. "Never in my medical career have I seen so much suffering as cocaine has brought," says the director of the nursery at D.C. General Hospital (quoted in The Wall Street Journal).

A mother's use of cocaine during pregnancy can cause appalling damage to the infant: strokes, seizures, paralysis, prematurity, deformed hearts and lungs, abnormal genital and intestinal organs. And, most ominously, permanent brain damage. A cohort of babies is now being born whose future is closed to them from day one. Theirs will be a life of certain suffering, of probable deviance, of permanent inferiority. At best, a menial life of severe deprivation. And all this is biologically determined from birth.

It is a horror worthy of Aldous Huxley. In "Brave New World," the state creates a race of (sub)human "Epsilon" drones by reduc-

ing their oxygen as they incubate in government-run fetal "hatcheries." "Nothing like oxygen-shortage for keeping an embryo below par," explains Mr. Foster, a hatchery scientist, rubbing his hands.

Cocaine works the same way. It does its damage in the womb by cutting off the blood supply to the baby, leaving every organ, the brain in particular, screaming for oxygen. Yet life has outdone Huxley. Even he could only imagine a mad (and satirical) utopian state doing this to its children. It is harder to imagine mothers doing it to their own. Yet, says Dependency Court Commissioner Stanley Genser of Los Angeles County, "We are getting women in here now who have given birth to their second or third or fourth drug baby.

It is not just in the inner city that a bio-underclass is emerging. Alcohol is creating a similar bio-underclass among Indians. Studies show that on some reservations 5 to 25 percent of children suffer from fetal alcohol syndrome—physical abnormalities and mental retardation caused by heavy maternal drinking during pregnancy. The children are hyperactive, difficult to raise, harder to educate. They have quite simply been robbed of the capacity for thinking well. The consequence, pediatrician Geoffrey Robinson told The New York Times, is "a devastation that is worse than smallpox."

No doubt, maternal drug and alcohol abuse is producing damaged babies throughout society. A 1985 survey by the National Institute on Drug Abuse found that at least one in 10 of all American women of childbearing age had used cocaine in the previous year. The problem does exist among the middle class, where it is better hidden for being widespread. But middle-class values and middle-class money can at least help protect these children after birth.

Morever, when the problem is widespread it produces individual tragedies, but only when it becomes concentrated and localized, as in the inner city or on the reservation, does it become a threat to communal life as a whole. In the poorest, most desperate pockets of America society, it has now become a menace to the future. For the bio-underclass, the biologically determined underclass of the underclass, tomorrow's misery will exceed yesterday's. That has already been decreed.

What to do? Indeed can we really do anything about women so controlled by cocaine that they risk horrible damage to their babies by doing crack during pregnancy? A new burden for inner-city hospitals is cocaine babies abandoned by mothers who simply leave the hospital after delivery and never come back. Cocaine may be the most effective destroyer of the maternal instinct ever found. And repairing the maternal instinct is a problem beyond politics.

The other voice of despair says that until the government solves the drug problem as a whole, it cannot hope to solve the problem of cocaine babies. This too may be true, but it is irresponsible, as well as cruel, not to try to save some babies pending solution of the larger drug problem. But how?

(1) Punishment. Several jurisdictions have tried criminal prosecution. Three weeks ago a judge in Florida found a 23-year-old mother guilty of criminally conveying cocaine to her unborn child. This case followed a string of legal failures, the most prominent of which occurred in Winnebago County, Ill., where a grand jury refused to indict a Melaine Green of involuntary manslaughter for killing her fetus with cocaine.

The jury was probably right. Current legislation, never intended for the contingency of cocaine babies, is too vague to sustain such a conviction. Moreover, criminal sanctions probably won't work. If concern for the child is no deterrent to a pregnant crack addict, concern for the justice system is hardly a better one.

One rationale for not prosecuting cocaine mothers is entirely fatuous, however. Leave it to the local ACLU legal director (who represented Green) to offer it. He praised the Green jury for refusing "to criminalize and punish a pregnant women who was herself a victim and who had already lost her child."

The sang-froid of middle-class whites so addicted to rights and so enamored of victimhood is shocking. It is one thing to let the homeless mentally ill die with their rights on in the streets of America. You might, if you stretch it, say that these adults are destroying themselves: the state has no business interfering in people's privacy. But how can you maintain the fiction that a women who does crack during pregnancy is protected from state intrusion because she, too, is engaged in a self-regarding act? The hospital wards filled with these broken, tormented infants utterly refute the proposition.

(2) Treatment. The liberal answer, of course, is not to punish these women but to treat them. But that assumes that they will accept treatment. In the District of Columbia, prenatal care is not only free, the city has made a large effort to bring pregnant women in for help. Yet, reports The Post, at Greater Southwest Community Hospital 25 to 30 drug-abusing women show up every month for delivery. "A person who is addicted to drugs has another priority," explains Pamela Robinson, a social worker at the hospital. "The unborn child is not a priority." Care for these mothers, says Robinson, "is available, and they are aware of it, but they are not seeking care."

The other problem with treatment is that we do not have the slightest idea how to go about it for crack addiction. Besharov, a scholar at the American Enterprise Institute who has studied the problem for 20 years, concludes that "there is almost no evidence of our ability to deliver a successful drug treatment program to people." The heroin successes are due either to the development of blocking drugs (such as methadone) or to programs with a charismatic leader who uniquely engages the participants. Otherwise? "There ain't no proof that this stuff makes a difference," concludes Besharov.

(3) custody. Jeaneen Grey Eagle, who runs an alcohol treatment program at the Pine Ridge reservation in South Dakota, tells The New York Times that her tribe once locked up a pregnant woman who could not stop drinking. She supports such action.

So do I. The choice is simple. We can either do nothing, or we can pass laws saying that any pregnant woman who takes cocaine during pregnancy will be sent until delivery to some not uncomfortable, secure location (boot camp, county jail, house arrest—the details are a purely technical matter) where she will be allowed everything except the liberty to leave or to take drugs.

We should do this not as punishment, nor as vengeance, nor even for deterrence, but purely for the protection of the soon-to-be-born child. Taking custody of the child unfortunately but necessarily means taking custody of the mother. This is no solution to mother's drug problem. But it is a solution to baby's. There might be a better solution fairer to both, but no one can find it. And until we do, the underclass grows.

[From the Los Angeles Times, May 14, 1989]

DRAWING THE LINE ON PRENATAL RIGHTS

(By Alan Dershowitz)

There is a dangerous implication in some pro-choice arguments that may frighten the Supreme Court into restricting or even overruling Roe vs. Wade, the 1973 decision that established women's right to abortion. The implication is that the right to abortion also precludes the state from requiring women to take any degree of prenatal care after they make the decision not to abort.

Syndicated columnist Ellen Goodman recently suggested this in criticizing the Bush Administration's efforts to overrule Roe vs. Wade. She wrote: "There are suggestions among those who talk of fetal rights that the government could constrain a pregnant woman's diet and physical activities, stamp out her cigarettes, empty her wine glass . . . or else," Goodman also invoked the specter of mandatory testing and treatment for the fetus.

Now, I am not a "fetal-rights" advocate. I favor Roe vs. Wade. I believe that a pregnant woman should have the right to choose between giving birth or having an abortion. But I am a human-rights advocate, and I believe that no woman who has chosen to give birth should have the right to neglect or injure that child by abusing their collective body during pregnancy.

Once a woman has made the decision to bear a child, the rights of that child should be taken into consideration. What happens to the child in the womb may have significant impact on his or her entire life. One example is the woman who drank half a bottle of whiskey a day while pregnant and gave birth to a mentally retarded child. She is now suing the whiskey company for not warning her about the relationship between heavy drinking during pregnancy and birth defects. Anyone who has spoken to an inner-city obstetrician is aware of the near epidemic of birth defects among babies born to heavy drug users.

This is not to argue for intrusive governmental rules on occasional drinking or smoking. But at the extremes, there is a compelling argument in favor of some protection for the future child against maternal excesses that threaten to cause enduring damage. Once a woman decides to give birth, a balance must be struck between her rights during the nine months of pregnancy and the equally real rights of her child during its life span. I believe that the balance should generally be struck in favor of the woman's privacy and against the power of state compulsion. But a balance, nonetheless, must be struck.

My colleague, Prof. Laurence Tribe, agrees with Goodman and argues as follows: "There's no principled way to say that the government can use women's bodies against their will to nurture the unborn without accepting the other serious and totalitarian implications about privacy." With respect, I disagree.

There is a principled distinction between totalitarian intrusions into the way a woman treats her body, and civil-libertarian concerns for the way a woman treats the body of the child she has decided to bear. That principled distinction goes back to the philosophy of John Stuart Mill and is reflected in the creed that "your right to swing your fist ends at the tip of my nose." In the context of a pregnant woman's rights and responsibilities in relation to the child she has decided to bear, the expression

might be: "Your right to abuse your own body stops at the border of your womb."

Of course, any recognition that future child may have rights—even limited ones—in relation to its mother, may be grist for the "right to life" mill. Anti-abortionists will argue that if a future child has the right not be damaged during pregnancy, then it follows that the fetus has the even more important right not to be killed—i.e., aborted.

But the second conclusion does not necessarily follow from the first. Under Roe vs. Wade, a fertilized egg, or even a biologically more advanced fetus, has no right to be born unless the mother chooses to give birth. But it does not follow, as a matter of constitutionality, principle or common sense, that a woman has the right to inflict a lifetime of suffering on her future child, simply in order to satisfy a momentary whim for a quick fix.

A principled person can fully support a woman's right to choose between abortion or birth, without supporting the very different view that the state should have no power to protect the health of a future child. The state should begin by making prenatal care available to every pregnant woman. But we need not be frightened, by the specter of totalitarianism, from considering reasonable regulations designed to reduce the serious long-term problems caused by pregnant women who abuse their future children.

Proponents of a woman's right to abortion should not weaken their powerful argument in favor of a woman's right to control her body.

And, in the eyes of many who support choice, they do weaken it when they link it to the far weaker argument denying the state the power to protect babies who are to be born.

(Alan M. Dershowitz is a professor of law at Harvard University.)

COL. WILLIAM HIGGINS

Mr. MACK. Mr. President, I would like to comment on the tragic and emotional issue of the possible murder of Col. William Higgins by Hezbollah terrorists in Lebanon. I share the outrage expressed by the President and many Members of Congress and am saddened that once again terrorists have killed an innocent American. I, like many Americans, am angered that too often the United States allows terrorists to go unpunished.

I do not have any easy answers concerning what we should do in response to such a crime. I do have some thoughts, however, regarding what we should not do if we are serious about addressing terrorism.

First, while terrorists cannot always be punished, they should at least not be rewarded. I am deeply concerned that our policy of holding official talks with the PLO is an example of rewarding terror. Decades of terror are the PLO's only diplomatic credential. It is hard to imagine an effective antiterrorism policy that sanctions meetings with Salah Halaf, a PLO terrorist directly implicated in the murder of 2 American diplomats and 11 Israeli Olympic athletes.

How can we seriously pledge to bring terrorists to justice when we treat terrorists who murder Americans as diplomats?

Second, in the current situation, we must not let the terrorists succeed in driving a wedge between the United States and our closest ally in the region, Israel.

Israel has a history of strong and effective action against terrorism from which we could learn a great deal. The man in Israeli custody right now, Sheikh Obeid, is responsible not only for the murder of Colonel Higgins, if it occurred, but for the truck bombing that killed 241 American marines in October 1983.

Israel's capture of Sheikh Obeid is completely consistent with actions the United States has taken in the past and with international law, which does not protect terrorists from capture, whether on international territory or not.

As former Secretary of State George Shultz stated, "It is absurd to argue that international law prohibits us from capturing terrorists in international waters or airspace, from attacking them on the soil of other nations, or from using force against states that support, train, and harbor terrorists or guerrillas. International law requires no such result. A nation attacked by terrorists is permitted to use force to prevent or preempt future attacks, to seize terrorists or to rescue its citizens when no other means are available. The law requires that such actions be necessary and proportionate, but this Nation has consistently affirmed the right of states to use force in exercise of their right of individual or collective self-defense."

We should not condemn our allies when they prudently exercise their right of self-defense, especially when they are acting against terrorists who have murdered Americans. We certainly should not equate the capture of a terrorist such as Sheikh Obeid with the holding of hostages by his group, Hizballah.

I support President Bush in his effort to discern the facts and to seek the counsel of his top advisors. I understand the difficulties in devising an effective response to terrorism such as we are experiencing in Lebanon. If we are to deter future terrorism, however, we must restore a measure of consistency and steadfastness to our antiterrorism policy.

KEY PORTION OF REPORT BY COMMITTEE ON LABOR AND HUMAN RESOURCES ON S. 1390

Mr. KENNEDY. Mr. President, last week, the Committee on Labor and Human Resources ordered reported S. 1390 to provide for a single competitive grant for the construction of facilities for the development, production, and distribution of genetically selected mice for use in biomedical research.

I ask unanimous consent that the following key portion of the committee's report on that measure be printed at this point in the RECORD.

There being no objection, the report excerpt was ordered to be printed in the RECORD, as follows:

BACKGROUND

The fire which destroyed 500,000 genetically selected mice and portions of the facilities at the Jackson Laboratory in Bar Harbor, Maine, on May 10, 1989, created an acute loss of supply of research mice among biomedical researchers in the United States and throughout the world. The Jackson Laboratory was established in 1929 as a not-for-profit facility mainly through financial support from the National Institutes of Health and the American Cancer Society. The Laboratory provides inbred, mutant mice to over 11,000 biomedical investigators for research in a broad range of illnesses affecting human health and well-being. The loss of stock seriously curtailed the supply of mice for research purposes and some laboratories had to curtail experiments until their supplies could be re-instituted.

The Jackson Laboratory developed over 1,700 strains of inbred and mutant mice; many of the mutant strains have been available only through this facility. These animals are critical to research in cancer, heart disease, diabetes, atherosclerosis, AIDS and other immunological disorders, kidney disease, arthritis, neurological diseases, hormonal disorders, blood diseases, metabolic disorders and birth defects. Innovative studies into the causes and cure of lupus erythematosus have been seriously hampered because these depend on the strain NZB mice, which are particularly difficult to raise. These mice are not readily available from sources other than Jackson Lab. The vast number of the special strains and mutants the Jackson Laboratory provides are supplied in very small numbers. Not only would there be logistical and financial problems with multiple sources, but the required quality controls would be virtually impossible to maintain. Commercial suppliers provide only a few of the most commonly used strains of research mice since these are the most profitable.

Besides the loss of Jackson's supply stock, facilities that housed breeding pens were destroyed. In all, the Laboratory suffered losses of $40,000,000. Property insurance on the thirty year old building, business interruption insurance, and liability coverage for the company whose workers started the blaze will recover approximately $15,000,000. Private loans for a twenty-year note on $27,000,000 would require re-payments in the amount of $71.5 million. Since approximately 65% of the Laboratory's operating income derives from federally supported research grants, the costs of servicing this debt and the re-payment of principal would come mainly from the government. It would raise the cost to researchers per animal subject by $1.88, from $6.62 to $8.50. This increase would be passed along to granting agencies as a direct supply charge.

There is a considerable need to reestablish the capacity to supply investigators with the appropriate research mice at the level preceding the fire, and to do so quickly. Breed stock for all the strains of mice for-

merly available from the Lab were saved from the fire.

COMMITTEE VIEWS

The Committee feels that the loss of facilities at the Jackson Laboratory in Bar Harbor, Maine, on May 10, 1989, created a serious crisis among biomedical researchers in the United States and throughout the world. The loss of stock seriously curtailed the supply of mice for research purposes and some laboratories had to curtail experiments until their supplies could be re-instituted.

S. 1390 provides for a competitive grant for the construction of a facility for the development, production, and distribution of genetically controlled mice for use in biomedical research. The introduction of this bill was prompted by the fire which interrupted the supply of mice distributed by the Jackson Laboratory. Any non-profit public or private organization that meets the application requirements may apply. The grant will be for up to $25,000,000 to be awarded through a competitive process to be determined by the National Institutes of Health. The bill contains language that stresses the necessity of an emergency response to this problem since it adversely affects virtually all phases of biomedical research.

The Committee felt that the Federal government would pay the majority of the costs of replacing the Jackson Laboratory, either directly or indirectly. If the facility is paid for indirectly, it is likely that the replacement will be slow, inefficient, and noncompetitive. The Committee believes that by paying directly for a replacement facility, the Federal government can assure that the process is competitive and that it will occur quickly.

VOTES IN COMMITTEE

S. 1390 was introduced by Mr. Kennedy and Mr. Hatch on July 25, 1989 and marked-up on July 26, 1989. On that day, an amendment in the nature of a substitute was adopted and reported by voice vote by the Labor and Human Resources Committee.

COST ESTIMATE

The purpose of S. 1390 is to authorize the appropriation of $25,000,000 for the purpose of constructing a mouse research laboratory to provide inbred and mutant mice for use in biomedical research in order to reduce the affects of the loss of supply of such mice through the fire at the Jackson Laboratory in Bar Harbor, Maine.

By fiscal years, in millions of dollars:	1990
Estimated authorization levels:	
Mouse research laboratory construction grant (total)	25
Estimated outlays: Mouse research laboratory construction grant (total)	25

REGULATORY IMPACT STATEMENT

This bill is likely to have no impact on regulatory practices or policies of the federal government or any of its agencies.

SECTION-BY-SECTION ANALYSIS

Section 1. Construction of Mouse Research Facility

(a) This section authorizes the Secretary of Health and Human Services, through the Director of the NIH, to provide a single competitive grant to a public or private nonprofit entity to construct a facility for the development, production, and distribution of mice for biomedical research.

(b) There is authorized to be appropriated, $25 million to carry out section (a).

COMMENDING WILLIAM VON RAAB FOR HIS SERVICE AS COMMISSIONER OF CUSTOMS

Mr. THURMOND. Mr. President, I rise today to commend William von Raab for his fine service as Commissioner of the U.S. Customs Service as he leaves that position.

As my colleagues know, Mr. von Raab has served as the Commissioner of Customs for the past 8 years. During this time, he became known for his tough law enforcement approach to combating the massive drug problem that has been facing our country. His innovative ideas often invoked controversy; however, he stood by what he believed was the most effective approach.

Under his leadership, the Customs Service more than doubled its resources devoted to drug interdiction. In addition, he successfully involved foreign governments, other Federal agencies, State and local law enforcement agencies, and private organizations in his efforts to fight drugs.

Specifically, he was responsible for implementing a toll-free hotline for private citizens to report drug smugglers, and an enhanced border patrol force which included an air program equipped with 100 aircraft, a marine program with 250 vessels, and substantially increased manpower on the Southern border. His leadership resulted in a dramatic increase in the number of drug seizures.

During his tenure, Mr. von Raab also focused his efforts on keeping illegal textile imports from entering the country. He diligently worked to ensure that the parties adhered to the textile agreements, that textile imports were charged properly, and that the requirement for country of origin labels was enforced.

Mr. von Raab served with great courage, conviction, and dedication. I am pleased to recognize him for his service to our country, and I wish him well in his future endeavors.

MORE GENERALS NEEDED IN THE WAR ON DRUGS

Mr. HELMS. Mr. President, yesterday I was honored to participate in a memorable ceremony on the Mall, marking the 200th anniversary of the U.S. Customs Service. Not only did we commemorate the proud history of the Customs Service, but we also bade farewell to one of the finest—and to the extent of my personal experience—the finest Commissioner in the history of the Service, William von Raab.

Mr. President, the Customs Service is a quintessentially American institution. Like all great institutions, it has been challenged and tested over the years. From Alexander Hamilton to Willy von Raab, it has proudly withstood the test of time.

We are greatly indebted to the foresight of our Founding Fathers who created the Customs Service in one of the first acts of Congress. The Customs Service raised the first revenues for this great Nation. It served as our first Federal law enforcement agency. In fact, when the President signed the act establishing a Customs Service in 1789, it was hailed in the press as a "second Declaration of Independence."

Thanks to the tireless dedication of the men and women of the Customs Service, the Service remains today a distinguished institution. By land, sea, and air, our dedicated Customs officials are protecting this Nation and doing their very best to keep our borders secure—often at great personal risk.

Mr. President, just as we turned to the Customs Service 200 years ago to bring stability to our Nation, we turn to the Customs Service today to help us protect our citizens from the flow of illegal drugs into the United States—to stop the poison that has turned our great cities into murder zones. Under the leadership of Commissioner William von Raab the service has risen to the challenge.

In a city where integrity and courage are rare commodities, Willy von Raab has stood his ground. Senators know that if they ask Willy a question, they will get a straight reply. No doubletalk, no excuses. I know of no one who has been more loyal to Presidents Reagan and Bush, nor anyone more effective in accomplishing the ideals of both administations.

Mr. President, there are many areas in which Willy von Raab has made a difference over the past 8 years. I recall in 1985, when the State Department was ready to ship Miroslav Medvid back to the Soviet Union, Willy was the only official to stand up for the laws of this Nation. To be specific, he refused to certify a ship for exit while it carried a passenger wanted for questioning under a Senate subpoena. Willy was overruled by his superiors. Apparently they felt that Mikhail Gorbachev would be insulted if we secured the freedom of a Soviet seaman, on the eve of the Geneva summit. Willy felt the heat; but no one paid attention more than 1 year later, when an independent investigation—mandated by the U.S. Senate—concluded that the administration broke the law by ignoring his advice.

Mr. President, as I recall, it was the Customs Service that revealed the Soviets were exporting to the United States certain goods manufactured in slave-labor camps. When Willy von Raab tried to do something about it, some of the diplomats at the State Departments screamed and hollered. It was also the Customs Service that tracked down illegal child pornogra-

phy being smuggled into the United States.

Despite his many accomplishments, there is no doubt in my mind that Willy made his greatest contribution through his tireless efforts to fight the war on drugs, even when some other members of the administration seemed to grow tired in the battle.

The Customs Service, under Willy von Raab, has shown us that we do not have to accept drug trafficking as a "fact of life." We do not have to "get used to" outright warfare in the streets of this country, because of the illegal narcotics flowing over our borders. The Customs Service has effective, innovative plans for drug interdiction. They are constantly searching for new ways to fight the war on drugs, with state-of-the-art land, sea, and air surveillance.

Mr. President, some have criticized my friend Willy von Raab over the years. He is not "diplomatic" enough, they say. Well, Mr. President, this is not the time for "diplomatic" talk. This is a time for bold action. Either we will wage a war on drugs or we will not. In a war, you need generals and foot soldiers, not striped pants and flowery rhetoric.

In 1985, a courageous agent of the Drug Enforcement Agency, Kiki Camarena, was tortured and killed in Mexico. Many Members of Congress believed that Kiki's death was ordered by high members of the Mexican Government. Mr. President, it appeared to many observers that the Mexican Government and the Mexican police were immediately engaged in a full-scale coverup. And it was clear that some in the State Department were putting other aspects of our relationship with Mexico ahead of pressing for the arrest and conviction of Kiki's murderers.

But Willy believes that drug enforcement should have the first priority, not the ninth or tenth. When no one else would look for the suspects, Willy did everything within the power of his agency. He ordered a full search of every vehicle entering the United States from Mexico. In some of the newsclips, it looked like the cars were backed up to Mexico City. But he got a message through to the Mexican Government that no one else in the administration was willing to send.

Needless to say, Mr. President, this action made him popular only with those Americans who put bringing killers to justice ahead of protecting big banks that had made bad loans to Mexico. Willy had to rescind the order and the Mexicans thumbed their noses at us. The suspects were never prosecuted for murder. They were put in jail on lesser charges—a jail which we now know was converted through bribery into a luxurious condominium for the two prisoners, complete with sofas and saunas. And the Mexican State Governor who blocked the United States investigation into the murder of our DEA agent is now the Attorney General of Mexico.

Nevertheless, I have to hand it to Willy. Despite the unpopularity that must be borne by a witness for the truth, he came to testify on the Hill about high-level corruption in Mexico and the complicity of leading Mexican officials in the drug trade. While the State Department was trying to convince the Senate that Mexico was "fully cooperating" in drug enforcement, he gave chapter and verse on the lack of cooperation. The Senate chose to believe Willy von Raab rather than the State Department a few days ago when, by an overwhelming vote, the Senate called upon Mexico to address serious shortcomings in its efforts to assist the United States with drug eradication efforts.

Mr. President, in 1987, Willy became the first public official publicly to put the finger on Manuel Noriega as a drug-running, money-laundering gangster who had stolen the Panamanian Government from the Panamanian people. For over 10 years, other agencies had put this Panamanian crook on the U.S. payroll for the alleged assistance he was giving us against Castro. But in actual fact, Noriega was the intimate partner of Fidel Castro in drug-running, smuggling, and gun-running to Communist guerrillas. Noriega also had the powerful protection of the Defense Department, the CIA, and the State Department. But the whole world knows that Willy was right.

The same is true with Fidel Castro. Long before Castro staged his classic, Stalinist show trial aimed at eliminating a rival as a supposed drug trafficker, Willy had identified Castro as a significant narcotics dealer. At a time when some Senators are advocating the preposterous notion of joint United States-Cuban drug "cooperation," Willy came to the Hill and identified Castro as "a piece of narco-trash floating on the Caribbean." He said that Castro is waiting for the United States to throw him a life-preserver. Instead, Willy said, we should throw Castro an anchor.

Unfortunately, yesterday was Willy von Raab's last day as Commissioner of the U.S. Customs Service. It is unfortunate that this administration made no efforts to keep him on board. But he can leave Washington with the satisfaction that he has mobilized the troops, and marshalled the forces to fight a true war on drugs.

Mr. President, Willy von Raab's candor, his integrity, and his keen and aggressive enforcement of our laws are rare jewels in public service today. I would think that he is exactly the sort of man that Nick Brady and Jim Baker need to have at their side. We are, after all, fighting a battle of survival in the battle against narcotics trafficking. It is a battle that will determine whether future generations of our children will live in a safe and decent environment. We should get down on our knees and be thankful that we have a man like Willy von Raab leading us in this fight.

WILLIAM VON RAAB

Mr. BOND. Mr. President, I rise today to commend a person who has been described as outspoken, relentless, vigorous, shrewd, energetic, a visionary, and confrontational. He is all of these things and more. To me he is also a friend. I rise to bid farewell to William von Raab who yesterday announced his resignation as Commissioner of the U.S. Customs Service.

William von Raab is ending an 8-year career that has been a great success. His clear vision of what the Customs Service should be and where it should go in the future has provided a major contribution to this Nation's competitiveness in world markets. His most famous quote "automate or perish" is testimony to the clarity of his vision and the manner in which he approached his job.

William von Raab is responsible for bringing state-of-the-art automation systems to the Customs Service. His efforts to increase the accuracy of customs logging and, when possible, to simplify the processing of imported goods has been widely praised. He has redirected the resources of the Customs Service and centralized much of its processing, thereby increasing its effectiveness and expanding its reach. While making the importation of foreign goods easier, Commissioner von Raab was tireless in his efforts to enforce their regulation and maintain strict adherence to quota.

Perhaps his most important contribution has been his efforts to halt the import of illegal drugs into the United States. In this capacity, William von Raab stands as a premier warrior in the fight against drugs. While he has been assailed by individuals in both parties, his contribution is undeniable. His relentless drive to intercept contraband and halt drug smuggling is renowned. He has strengthened the arm of the law considerably and has elevated the drug fighting capability of the Customs Service to the point that it is an integral and formidable force in the U.S. arsenal against drug importation and abuse.

William von Raab has been a credit to the Customs Service, to his administration and to his country. I am proud to call him my friend. His contribution will be sorely missed.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal, which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 9:58 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 150. Joint resolution to designate August 1, 1989, as "Helsinki Human Rights Day".

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

At 4:48 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3012. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes; and

H.R. 3014. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1990, and for other purposes.

At 6:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3024. An act to increase the statutory limit on the public debt, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3012. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes; to the Committee on Appropriations.

H.R. 3014. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1990, and for other purposes; to the Committee on Appropriations.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, August 1, 1989, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 150. Joint resolution to designate August 1, 1989, as "Helsinki Human Rights Day".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents which were referred as indicated:

EC-1488. A communication from the President of the United States, transmitting, pursuant to law, a report relating to the strategic modernization program; to the Committee on Armed Services.

EC-1489. A communication from the deputy general counsel of the Department of Defense, transmitting a draft of proposed legislation to amend titles 10, and 37, United States Code, relating to personnel matters in the management of the Department of Defense, and for other purposes; to the Committee on Armed Services.

EC-1490. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the results of an audit of the National Economic Commission's financial statements for the period December 22, 1987 to March 31, 1989; to the Committee on Banking, Housing, and Urban Affairs.

EC-1491. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the financial statements of the Export-Import Bank of the United States for the years ending September 30, 1988 and 1987; to the Committee on Banking, Housing, and Urban Affairs.

EC-1492. A communication from the Acting Administrator of the Agency for International Development, transmitting, pursuant to law, a report on metric usage; to the Committee on Commerce, Science, and Transportation.

EC-1493. A communication from the general counsel of the Department of the Treasury, transmitting a draft of proposed legislation to amend section 5131 of title 31, United States Code, to eliminate the General Services Administration's statutory responsibilities concerning the repair and improvement of the U.S. Mint at Philadelphia, PA; to the Committee on Environment and Public Works.

EC-1494. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, the Federal communications requirements report; to the Committee on Governmental Affairs.

EC-1495. A communication from the Chairman of the Administrative Conference of the United States, transmitting, pursuant to law, the sixth annual report on agency activities under the Equal Access to Justice Act; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-268. A joint resolution adopted by the Senate of the State of California; to the Committee on Agriculture, Nutrition, and Forestry.

"SENATE JOINT RESOLUTION NO. 31

"Whereas, Congress is considering legislation relating to crop subsidy and deficiency payments; and

"Whereas, The 1988 estimates of the Agricultural Stabilization and Conservation Service indicate that 53.3 million acres were taken out of production in the United States, and 3,084,714 acres were enrolled in California resulting in payments in excess of $285,560,000; and

"Whereas, Farmers may participate under current law in a conservation or set-aside farming program in which a portion of a farmer's base acreage, which is based on farming history, is removed from production for which a subsidy is received; and

"Whereas, The farm conservation or set-aside farming program under current law includes no provision for growing rotation crops on the set-aside ground; and

"Whereas, Emerging technology exists which demonstrate the potential for farmers to farm crops dedicated to producing alcohol for the production of ethanol or biomass as fuel for electrical production; and

"Whereas, A 25 percent reduction in carbon monoxide can be demonstrated by substituting 10 percent ethanol in unleaded gasoline; and

"Whereas, The production of electricity from renewable plant resources limits the need for increased usage of nonrenewable carbon monoxide-producing fossil fuels; and

"Whereas, Growing plants on formerly plowed 'down acreage' increases the number of plants taking in carbon dioxide and giving off oxygen through photosynthesis, thus creating a natural carbon filter effect and providing a net decrease in the collective contribution to the greenhouse effect; and

"Whereas, Scientists in the United States have developed effective and competitive biomass systems and related technologies which could impact favorably on the balance of trade problems facing this country, now: Therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memoralizes the Congress of the United States to *enact* legislation which permits farmers who are enrolled in government set-aside programs to grow rotation crops on base dedicated as feedstock for conversion to fuel sources *on displaced base acreage,* and which provides the following:

"(1) The acreage dedicated to a fuel rotation crop is not deducted from the base acreage of a farmer's program crop in the farm conservation and set-aside program administered by the Department of Agriculture.

"(2) Farmers who plant 'fuel rotation crops' market these crops solely as fuel crops.

"(3) Farmers maintain displaced base acreage as a part of family farming history and do not receive any other form of government subsidy for this acreage; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Agri-

culture, and to each Senator and Representative from California in the Congress of the United States."

POM-269. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Appropriations:

"SENATE JOINT RESOLUTION 20

"Whereas, The full implementation of the Superfund Amendments and Reauthorization Act of 1986 (SARA), Title III must be accomplished as quickly as possible; and

"Whereas, The State of Nevada has already implemented important parts of the Act by establishing a State Emergency Response Commission and Local Emergency Planning Commissions; and

"Whereas, The next step calls for implementation of local emergency response plans for hazardous chemical incidents that will go far in providing the information necessary for the optimum protection of our citizens; and

"Whereas, The entire SARA Title III program is vitally important in assisting the creation of a safe environment for the hazardous materials industry in Nevada: Now, therefore, be it

"Resolved by the Senate and Assembly of the State of Nevada, Jointly, That the Legislature of the State of Nevada hereby urges the Congress of the United States to provide additional funding for the full implementation of the Superfund Amendments and Reauthorization Act of 1986 (SARA), Title III; and be it further

"Resolved, That copies of this resolution be prepared and transmitted by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"Resolved, That this resolution becomes effective upon passage and approval."

POM-270. A joint resolution adopted by the Legislature of the State of Illinois; to the Committee on Armed Services:

"HOUSE JOINT RESOLUTION 29

"Whereas, The closure of Chanute Air Base and Fort Sheridan has been recommended by the Federal Commission on Base Closure and Realignment; and

"Whereas, The Commission relied heavily on reports and documents, some of which may have been over 10 years out dated and did not rely on personal inspections or testimony to update this information; and

"Whereas, The Commission never considered the closure of the 1,500 foreign bases the United States Military maintains or how the future closure of any of these bases will impact domestic military basing needs; and

"Whereas, These incomplete data have led to substantial errors of fact in the report such as the failure to note $170,000,000 worth of capital improvements at the Chanute facility; and

"Whereas, The flaws in this report need to be reexamined within the framework of a broad rethinking of America's military basing policy both foreign and domestic; and

"Whereas, The nature of this process requires that this report be rejected in toto or not at all; and

"Whereas, Frugality demands not simply the closure of bases, but the closure and restructuring of the correct bases; and

"Whereas, The flaws in this report cast serious doubt as to whether it recommends the closure of the correct bases: Therefore, be it

"Resolved, by the House of Representatives of the Eighty-Sixth General Assembly of the State of Illinois, the Senate concurring herein, That we urge the rejection of the Commission report and urge that our colleagues in the United States House and Senate demand that the commission be reconvened to reconsider their report and issue a more accurate one; and be it further

"Resolved, That suitable copies of this preamble and resolution be presented to the speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate, the Illinois Congressional Delegation and the Secretary of Defense."

POM-271. A resolution adopted by the City Council of the City of Margate, Florida, opposing offshore drilling and mining; to the Committee on Energy and Natural Resources.

POM-272. A joint resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Environment and Public Works.

"HOUSE JOINT RESOLUTION 61

"Whereas, the Joliet Army Ammunition Plant is currently inactive; and

"Whereas, as many as 8,000 area residents have been employed by companies located within the plant; and

"Whereas, portions of the arsenal suffer from toxic contamination and require clean-up before they can be utilized; and

"Whereas, such clean-up will assist in attracting business and industry to the facility; and

"Whereas, revitalization of the plant will result in increased employment opportunities for area residents; and

"Whereas, the plant could benefit from research and development currently being conducted by Argonne Laboratory to clean up redwater and other forms of soil contamination; and

"Whereas, the Illinois Defense Technology Association and the Institute of Illinois are working to bring defense procurement dollars back to Illinois; and

"Whereas, the Joliet and Will County Center for Economic Development has successfully promoted the region for economic development; and

"Whereas, the International Corridor currently being developed would encourage Will, Kankakee and Grundy counties to engage in cooperative efforts to attract business and industry to the area; therefore, be it

"Resolved, by the House of Representatives of the Eighty-Sixth General Assembly of the State of Illinois, the Senate concurring herein, That we commend the Department of the Army, the Joliet Army Ammunition Plant, the Illinois Environmental Protection Agency, and the U.S. Environmental Protection Agency for reaching an Interagency Agreement on clean-up of the Joliet facility; and be it further

"Resolved, That we urge the federal government to give the highest priority to the Joliet Army Ammunition Plant among all sites requiring clean-up; and be it further

"Resolved, That the U.S. Congress and the administration do their utmost to ensure that their commitment is matched with the proper funding; and be it further

"Resolved, That development of safe, cost-efficient, and more effective technologies, including the use of microorganisms to dispose of hazardous wastes, continue; and be it further

"Resolved, That such research and development be conducted at the Joliet site; and be it further

"Resolved, That we urge Governor James R. Thompson and the Illinois Environmental Protection Agency to make clean-up of the Joliet plant among its highest priorities; and be it further

"Resolved, That we urge the Department of the Army and the U.S. Environmental Protection Agency to report on the clean-up progress every six months to area legislators; and be it further

"Resolved, That suitable copies of this preamble and resolution be presented to the Department of the Army, the U.S. Environmental Protection Agency, the Illinois Environmental Protection Agency, Governor James R. Thompson, the Joliet Army Ammunition Plant, and members of the Illinois Congressional delegation."

POM-273. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION 15

"Whereas, The citizens of California and the state's economy would substantially benefit from the expeditious development of newly funded highway construction projects; and

"Whereas, The National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) (NEPA) and the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) (CEQA) require that the environmental impacts of major highway construction projects be identified and mitigation measures be developed where appropriate; and

"Whereas, The Commission on California State Government Organization and Economy and the Auditor General have found that federal environmental review of federal-aid highway projects is lengthy, and that federal review, on the average, requires four months for the Federal Highway Administration to grant approval, and considerably longer on more complex projects; and

"Whereas, The Commission on California State Government Organization and Economy has found that there is substantial similarity between NEPA and CEQA; and

"Whereas, Substantial savings could be achieved if the review of environmental documents for highway projects were expedited by a delegation of authority from the Federal Highway Administration to state transportation departments similar to that which occurs pursuant to the Clean Water Act (33 U.S.C. Sec. 1251 et seq.); now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation, in the interest of efficiency and economy, which provides that, in those states which have an environmental law as stringent as NEPA, the Secretary of Transportation discharge his or her responsibilities under Title 23 of the United States Code by accepting a certification by the state that it will perform these responsibilities with regard to all federal-aid highway projects and with regard to meeting the requirements of NEPA, of Section 303 of Title 49 of the United States Code, and of the Uniform Relocation Assistance and Real

Property Acquisition Policies Act of 1970 (P.L. 91-646, as amended); and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Transportation."

POM—274. A joint resolution adopted by the Legislature of the State of Illinois; to the Committee on Finance:

HOUSE RESOLUTION No. 336

"Whereas, The United States Congress is currently considering proposals to reduce the federal budget deficit; and

"Whereas, Some members of Congress have proposed that the federal tax on motor fuels be raised substantially for that purpose; and

"Whereas, A federal motor fuel tax increase large enough to provide more than a token decrease in the deficit would shrink the tax base for the states by reducing gasoline use; and

"Whereas, The states rely heavily on motor fuel taxes for highway and bridge construction and maintenance and for other highway needs; and

"Whereas, 39 state governments, including that of Illinois, have stated that an increased federal motor fuel tax would hurt their highway programs; and

"Whereas, Such a reduction in Illinois' tax base would add pressure for further increases in State motor fuel taxes to compensate for the reduced tax base; and

"Whereas, Such increased taxes would seriously affect travel and tourism within and among the states, further eroding state and local government revenues; and

"Whereas, Motor fuel tax increases disproportionately affect the poor and consumers in larger states where travel distances are greater; and

"Whereas, The diversion of the federal motor fuel tax revenues for deficit reduction would place an unfair burden on vehicle users to solve a national problem; and

"Whereas, Such a diversion strikes at the heart of the federal highway user-fee concept that has served the nation so well in financing necessary to highway-related programs; therefore, be it

"Resolved, by the House of Representatives of the Eighty-Sixth General Assembly of the State of Illinois, that we strongly urge the United States Congress to reject proposals to increase the federal motor fuel tax and to find other, more equitable and less damaging, ways of reducing the federal budget deficit; and be it further

"Resolved, That suitable copies of this preamble and resolution be presented to the Speaker of the U.S. House of Representatives, the President of the U.S. Senate, and to each member of the Illinois Congressional Delegation."

POM-275. A joint resolution adopted by the Legislature of the State of Illinois; to the Committee on Finance:

HOUSE JOINT RESOLUTION No. 56

"Whereas, The members of the 86th General Assembly of Illinois urge the 101st Congress and the President of the United States to support prompt and effective extension of the steel Voluntary Restraint Arrangements and the Steel Import Stabilization Extension Act; and

"Whereas, In 1984, steel imports equaled approximately twenty-five percent of the United States steel market, and, in an attempt to aid domestic producers, President Ronald Reagan endorsed negotiations with major foreign steel suppliers concerning voluntary agreements which would limit shipments of steel to the United States; and

"Whereas, Since 1984, when the Voluntary Restraint Arrangements were first instituted, conditions abroad have changed very little, and the underlying economic condition of the domestic steel industry remains fragile; and

"Whereas, Since their inception, the Voluntary Restraint Agreements have enabled domestic steel producers to improve their international competitiveness; yet, despite these gains, foreign producers continue to receive massive subsidies from their governments, foreign steel markets are still tightly restricted against imports, foreign producers continue to "dump" steel exports at artificially low prices, and there remains a structural imbalance between world steel supply and demand; and

"Whereas, Indeed, the domestic steel industry's continued profitability will be severely threatened if surges of unfairly traded imports are allowed to resume; and

"Whereas, A healthy domestic steel industry is critical to America's national security, industrial base, and infrastructure, but, unfortunately, the United States steel industry continues to lag behind foreign steel industries in such vital areas as product yield, energy efficiency, and continuous casting rate, and in order to assure ongoing worker retraining, reinvestment in new plants and equipment, and modernization of operations, it is imperative that Voluntary Restraint Arrangements be extended for five years; therefore, be it

"Resolved, by the House of Representatives of the Eighty-Sixth General Assembly of the State of Illinois, the Senate concurring herein, That, in adopting this Resolution, we urge the 101st Congress and the President of the United States to extend the steel Voluntary Restraint Arrangements and the Steel Import Stabilization Act for five years; and be it further

"Resolved, That a suitable copy of this preamble and resolution be presented to the President of the United States, to the Speaker of the United States House of Representatives, to the President pro tem of the United States Senate and to each member of the Illinois Congressional Delegation."

POM-276. A resolution adopted by the Legislature of the State of Alaska; to the Committee on Finance:

HOUSE JOINT RESOLUTION 15

"Whereas the United States Congress is looking for effective means to reduce the federal budget deficit in the immediate future; and

"Whereas several proposals being considered for deficit reduction would increase the existing federal fuel taxes by various sizable increments; and

"Whereas the United States Department of Energy has stated that a motor fuel tax will create an economic loss that is greater than the possible benefits of the tax; and

"Whereas motor fuel taxes are regressive taxes and their increase would affect the poor to a greater extent than persons of other income levels; and

"Whereas states would not receive direct revenue benefits from increased federal fuel taxes, but would incur substantial increases in their public assistance costs; and

"Whereas United States residents in the south, midwest, and west pay more fuel taxes because they must travel greater distances by personal vehicles than residents of other regions and, therefore, would bear a disproportionate burden of deficit reduction; and

"Whereas since a great need exists to rehabilitate and reconstruct the nation's transportation system infrastructure, motor fuel taxes should continue to be dedicated to transportation purposes; and

"Whereas the tourism industry, one of the top three employers in 80 percent of the states, would be adversely affected by the proposed fuel tax increases; and

"Whereas the gross national product, the consumer price index, and employment all would be severely and negatively affected by the proposed fuel tax hikes; and

"Whereas raising the motor fuel taxes and using the taxes for deficit reduction purposes would not only undermine the highway trust fund, but would severely and negatively affect the nation's transportation system; and

"Whereas Senate Resolution 63 in the United States Congress states that federal excise taxes on gasoline and diesel fuel should not be used to reduce the federal deficit; and

"Whereas House Resolution 41 in the United States Congress states that federal excise taxes on gasoline and diesel fuel should not be increased to reduce the federal deficit;

"Be it Resolved, That the Alaska State Legislature urges the United States Congress to oppose an increase in the federal motor fuel taxes and the use of the taxes to reduce the federal budget deficit, and expresses its support for Senate Resolution 63 and House Resolution 41 in the United States Congress.

"Copies of this resolution shall be sent to the Honorable George Bush, President of the United States; the Honorable Dan Quayle, Vice-President of the United States and President of the U.S. Senate; the Honorable Jim Wright, Speaker of the U.S. House of Representatives; the Honorable Lloyd Bentsen, Chair of the U.S. Senate Finance Committee; the Honorable Dan Rostenkowski, Chair of the U.S. House Ways and Means Committee; to the Honorable Samuel K. Skinner, Secretary of the U.S. Department of Transportation; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress."

POM-277. A resolution adopted by the 291 Engineer Combat Battalion United States Army, favoring the adoption of legislation prohibiting desecration of the American flag; to the Committee on the Judiciary.

POM-278. A joint resolution adopted by the House of Representatives of the State of Illinois; to the Committee on the Judiciary.

HOUSE RESOLUTION No. 542

"Whereas, Joseph Patrick Thomas Doherty was arrested and imprisoned on an immigration warrant on June 18, 1983, and he has been held without bail since that date; and

"Whereas, Request for his extradition was lodged by the English government in August, 1983; and

"Whereas, Request for his extradition was denied by the Honorable John E. Sprizzo of the United States District Court for the Southern District of New York in December

of 1984 on the grounds that the acts for which his extradition is sought are not common crimes but rather offenses of a political character; extradition was therefore barred by the political exception provision of the controlling treaty; and

"Whereas, In so ruling, Judge Sprizzo stated that "the facts of this case present the political exception in its most classic form", *Matter of Doherty by the Government of the United Kingdom*, 599 F. Supp. 270, 276 (S.D.N.Y. 1984); and

"Whereas, In the past six years, federal and immigration judges have consistently rendered decisions in favor of Mr. Doherty in every proceeding initiated by the government; and

"Whereas, Joseph Doherty has never been convicted nor charged with the commission of any crime in this country; and

"Whereas, Joseph Doherty is the longest held prisoner in the history of the Metropolitan Correctional Center; therefore, be it

"Resolved, by the House of Representatives of the Eighty-Sixth General Assembly of the State of Illinois, that we memorialize President George Bush and the Congress of the United States to direct Attorney General Richard Thornburgh to grant Joseph Patrick Thomas Doherty immediate release on bail and emphatically urge Attorney General Richard Thornburgh to grant his plea for political asylum; and be it further

"Resolved, That this body pause in its deliberations to strongly urge Attorney General Richard Thornburgh to grant Joseph Patrick Thomas Doherty bail as well as his plea for political asylum; and be it further

"Resolved, That a suitable copy of this preamble and resolution be presented to President George Bush, the President pro tem of the Senate and Speaker of the House of Representatives of the Congress of the United States, United States Attorney General Richard Thornburgh, and each member of the Illinois Congressional Delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Special Report entitled "Report of the Committee on Veterans' Affairs Pursuant to Section 302(b) of the Congressional Budget Act" (Rept. No. 101-96).

By Mr. GLENN, from the Committee on Governmental Affairs:

Report to accompany the bill (S. 303) to establish a framework for the conduct of negotiated rulemaking by Federal agencies (Rept. No. 101-97).

By Mr. BINGAMAN, from the Impeachment Committee, without amendment and with a preamble:

S. Res. 162. An original resolution directing the Senate Legal Counsel to bring a Civil Action to enforce subpoena of the Impeachment Trial Committee on the Articles Against Judge Alcee L. Hastings (Rept. No. 101-98).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1461. A bill to enhance the navigation safety of oil tankers and for other purposes (Rept. No. 101-99).

OIL TANKER NAVIGATION SAFETY ACT

Mr. HOLLINGS. Mr. President, from the Committee on Commerce, Science, and Transportation I report an original bill, S. 1461, the Oil Tanker Navigation Safety Act, and I ask unanimous consent that the text of the reported bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Oil Tanker Navigation Safety Act of 1989".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "affected oil tanker" means an oil tanker operating in waters subject to the jurisdiction of the United States that transfers oil in bulk at ports or terminals of the United States;

(2) "Commandant" means the Commandant of the Coast Guard;

(3) "oil" means oil of any kind or in any form, including petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

(4) "oil tanker" means a self-propelled vessel constructed, converted, or adapted to carry oil in bulk in its cargo spaces;

(5) "pilotage waters" means waters subject to the jurisdiction of the United States in which affected oil tankers are required to be under the direction and control of an individual licensed as a First Class Pilot, except as otherwise determined by the Secretary;

(6) "Prince William Sound" means all navigable waters within the jurisdiction of the State of Alaska and the United States north of Hinchinbrook Entrance to the Port of Valdez, Alaska;

(7) "Secretary" means the Secretary of the department in which the Coast Guard is operating; and

(8) "spill" includes any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

TITLE I—PROVISIONS APPLICABLE NATIONALLY LICENSED PERSONNEL

SEC. 101. (a) INITIATION OF RULEMAKING PROCEEDING.—Within 60 days after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to require for each affected oil tanker transiting pilotage waters that, except when pilotage of any such tanker is provided by a qualified pilot who is also licensed by a State—

(1) there be one deck officer and one lookout on the navigation bridge in addition to the mate and helmsman on watch, to assist in navigation, communications, and lookout responsibilities;

(2) no less than two individuals on board hold First Class Pilot licenses with endorsements for the waters being transited, as issued by the Secretary under section 7101 of title 46, United States Code; and

(3) no less than one of the personnel required by paragraph (1) to be on the navigation bridge fix and record the position of the tanker on a nautical chart of the area at least once every six minutes and, during a period determined by the Secretary of no more than 60 days, retain and make available the annotated chart for inspection by the Secretary.

(b) A final rule under the proceeding referred to in subsection (a) shall be in effect within 180 days after the date of enactment of this Act. The final rule may waive or modify any of the requirements specified in subsection (a), to the extent that the Secretary determines such requirement will not enhance oil tanker navigation safety, including protection of the environment.

MOTOR VEHICLE DRIVING RECORDS OF VESSEL PERSONNEL

SEC. 102. (a) ACCESS TO REGISTER.—Section 206(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by redesignating paragraph (5) (as so designated by section 4(b)(1) of the Rail Safety Improvement Act of 1988) as paragraph (6); and

(2) by adding at the end the following new paragraph:

"(7) Any individual who has applied for or received a merchant mariner's document under section 7302 of title 46, United States Code, a license or certificate of registry under section 7101 of title 46, United States Code, or a renewal of such merchant mariner's document, license, or certificate of registry to serve on or operate a commercial vessel may request the chief driver licensing official of a State to transmit information regarding the individual under subsection (a) of this section to the Commandant of the Coast Guard. The Commandant may receive such information and shall, prior to using such information in any adverse action regarding the merchant mariner's document, license, or certificate of registry of the individual, make such information available to the individual for review and written comment. The Commandant shall not otherwise divulge or use such information, except to verify information required to be reported to the Commandant by an individual applying for such a merchant mariner's document, license, certificate of registry, or renewal and to evaluate whether the individual meets the minimum standards required in order to receive such a merchant mariner's document, license, certificate, or renewal. There shall be no access to information in the Register under this paragraph if such information was entered in the Register more than 5 years before the date of such request, unless such information relates to revocations or suspensions which are still in effect on the date of the request. Information submitted to the Register by States under the Act of July 14, 1960 (74 Stat. 526), or under this title shall be subject to access for the purpose of this paragraph during the transition to the Register described under section 203(c) of this title.".

(b) SUSPENSION AND REVOCATION AUTHORITY.—(1) Section 7704 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(d) It it is shown at a hearing under this chapter that a holder has been convicted of a serious criminal offense, has been convicted within the previous 5 years of an offense described in section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982 (23 U.S.C. 401 note), has had a license to operate a motor vehicle denied, cancelled, revoked, or suspended in any jurisdiction of the United States for cause, where that cause would reflect adversely on the holder's fitness to serve, or fails in any way to meet the standards for issuance prescribed in sections 7101 and 7302 of this title, the license, certificate of registry, or merchant mariner's document may be revoked or suspended.".

(2) Section 7704(a) of title 46, United States Code, is amended by inserting, immediately before the period at the end, the following: "and 'serious criminal offense' means a crime so heinous in nature that the

commission of such offense would reflect adversely on the offender's character and on the offender's fitness to serve consistent with the interest of safety at sea".

(c) RULEMAKING PROCEEDING.—Not later than 90 days after the date of enactment of this Act, the Commandant shall initiate a rulemaking proceeding to require that each individual who has applied for or received a merchant mariner's document under section 7302 of title 46, United States Code, a license or certificate of registry under section 7101 of title 46, United States Code, or a renewal of such merchant mariner's document, license, or certificate of registry to serve or operate a commercial vessel shall—

(1) request the chief driver licensing official of each State in which such individual has within five years applied for or held a motor vehicle operator's license to provide to the Commandant such information as the Commandant may determine appropriate with respect to such individual's driving record; and

(2) make the request authorized in section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) for the transmittal to the Commandant of such information as the Commandant may determine appropriate.

The rulemaking proceeding shall be completed not later than 180 days after the date of enactment of this Act.

(d) CONFORMING AMENDMENTS.—(1) The catchline to section 7704 of title 46, United States, is amended to read as follows:

"§ 7704. Dangerous drugs and other grounds for suspension or revocation".

(2) The item relating to section 7704 in the analysis to chapter 77 of title 46, United States Code, is amended to read as follows:

"7704. Dangerous drugs and other grounds for suspension or revocation.".

ALCOHOL TESTING; ALCOHOL REHABILITATION INFORMATION

SEC. 103. (a) TESTING REQUIREMENT.—The Secretary shall issue a final rule to require the periodic, random, and reasonable cause, as well as post-accident, testing for use of alcohol by those individuals who, pursuant to licenses or merchant mariner's documents issued by the Commandant, perform safety sensitive functions (as determined by the Secretary) on affected oil tankers. The final rule shall—

(1) be designed to identify those persons who perform such safety sensitive functions on such an oil tanker while impaired by or under the influence of alcohol;

(2) include provisions, procedures, and safeguards analogous to those set forth in the Final Rule published on November 21, 1988, at pages 47064 through 47082 of the Federal Register; and

(3) be published as a final rule within 90 days after enactment of this Act.

(b) INFORMATION ON INDIVIDUAL'S ALCOHOL REHABILITATION.—The Secretary shall conduct a rulemaking proceeding to determine whether to require that the Coast Guard be informed, on a confidential basis, whenever an individual who has applied for or received a license or merchant mariner's document to perform such safety sensitive functions on a commercial vessel is undergoing treatment in an alcohol rehabilitation program. The proceeding shall consider, among other matters—

(1) which categories of individuals shall be subject to such information on their treatment in an alcohol rehabilitation program; and

(2) which persons, including such individuals, the owners and operators of vessels, and organizations representing masters, pilots, and others licensed or documented to perform such safety sensitive functions, shall provide such information.

PROHIBITION ON SERVICE

SEC. 104. The Secretary shall temporarily suspend and take possession of the merchant mariner's document or license of an individual performing safety sensitive functions (as determined by the Secretary) on an affected oil tanker, pending completion of an expedited hearing under chapter 77 of title 46, United States Code, which shall be commenced within 15 days after such temporary suspension, if there is probable cause to believe that the individual—

(1) has served in such capacity while impaired by or under the influence of alcohol;

(2) has been denied a motor vehicle license by a State for cause within the previous five years;

(3) has had any cancellation, revocation, or suspension of a motor vehicle operator's license by a State for cause within the previous five years; or

(4) has been convicted within the previous five years of an offense described under section 205(a)(3) (A) or (B) of the National Driver Register Act of 1982.

VESSEL TRAFFIC SERVICES

SEC. 105. (a) LIST OF PORTS REQUIRING VTS ASSISTANCE.—The Secretary shall, within one year after the date of enactment of this Act, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives setting forth a list of ports of the United States that are in need of new, expanded, or improved Vessel Traffic Service (VTS) systems. The ports shall be ranked in order of the priority of that need and the Secretary shall determine that priority on the basis of such factors as the Secretary considers appropriate, including the nature, volume, and frequency of vessel traffic into and out of such ports, and the risks of collisions, spills, and damages associated with such traffic that could be reduced or eliminated by installation, expansion, or improvement of a VTS system.

(b) USER FEE SYSTEM.—(1) The Secretary may establish and implement a system for the collection of payments by users of VTS systems in ports of the United States.

(2) Any final rule issued by the Secretary to establish and implement such a system shall include a schedule of fees established in accordance with the provisions of section 9701 of title 31, United States Code.

(3) Any receipts collected by the Secretary from payments by users of VTS systems shall be credited and available to the Secretary without fiscal year limitation to meet the costs of construction, installation, improvement, and operation of the VTS system for which the payments were made.

(4) Nothing in this subsection shall alter or expand the duties and liability of the United States under existing law for the performance of functions or services for which fees or payments are collected. The collection of such fees or payments shall not constitute an express or implied undertaking by the United States to perform any service or activity in a certain manner or to provide any service at a particular time or place.

(c) LIMITATION.—Notwithstanding any other law, except as provided in section 203, the Secretary shall not construct, improve, expand, or operate any new VTS system, unless funds for such construction, improvement, expansion, or operation of the new VTS system were obligated on or before the date of enactment of this Act, until the Secretary has complied with subsection (a).

POSITION-REPORTING AND IDENTIFICATION EQUIPMENT

SEC. 106. The Secretary shall, within one year after the date of enactment of this Act, complete a rulemaking proceeding to determine whether to require that electronic means of vessel position-reporting and identification be carried on board affected oil tankers. Among other matters, the proceeding shall—

(1) evaluate whether such electronic means shall be required only for tankers above a specific size; and

(2) consider the minimum standards suitable for such equipment.

OIL TANKER CONSTRUCTION AND SIZE

SEC. 107. (a) REQUIREMENT FOR DOUBLE HULLS OR DOUBLE BOTTOMS.—(1) The Secretary shall within one year after the date of enactment of this Act complete a rulemaking proceeding to require that all affected oil tankers which are newly constructed be equipped with double hulls and double bottoms, except to the extent the Secretary determines that either or both of such requirements will not enhance oil tanker navigation safety, including protection of the environment, or that an equal or greater benefit to such oil tanker navigation safety will be achieved by other structural requirements.

(2) The Secretary may require other structural or navigational features that the Secretary determines will enhance such oil tanker navigation safety.

(b) REPORT ON TANKER SIZE.—The Secretary shall, within one year after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report describing the size, cargo capacity, and flag-nation of affected oil tankers, specifying changes in such size and cargo capacity over the past 20 years, evaluating the extent to which the risks or difficulties associated with oil tanker navigation, vessel traffic control, accidents, oil spills, and the containment and cleanup of such spills are influenced by or related to an increase in such size and cargo capacity, and containing a specific recommendation as to whether limitations on such size or cargo capacity should be imposed to minimize such risks and difficulties. The report shall also contain a recommendation for such legislation as the Secretary determines necessary.

OIL SPILL CONTINGENCY PLANS AND APPROVAL

SEC. 108. (a) REQUIREMENT FOR CONTINGENCY PLANS.—Notwithstanding any other provision of law, the Secretary shall, within one year after the date of enactment of this Act, issue a final rule requiring owners and operators of affected oil tankers to prepare and submit to the Secretary for approval a contingency plan for the prevention, containment, and cleanup of oil spills from their oil tankers. The final rule shall, subject to subsection (b), require that each plan be applicable to the operations of such affected oil tankers in waters subject to the jurisdiction of the United States and that, at a minimum, each plan shall include—

(1) a clear and precise, detailed description of how the plan relates to and is integrated

into other approved contingency plans prepared by cooperatives, ports, regional entities, States, and Federal agencies as part of the National Contingency Plan required by section 311(c) of the Act of June 30, 1948 (33 U.S.C. 1321(c));

(2) procedures for timely notification of appropriate authorities regarding the occurrence of a spill;

(3) minimum training standards and identification of personnel responsible for taking corrective action in the case of a spill;

(4) a detailed description of procedures to be used by the crew of each tanker concerned to minimize damage, stop any spilling from the tanker, contain and clean up the spilled oil using equipment that is immediately available, and determine if and when additional equipment and personnel are needed;

(5) in the event that additional equipment and personnel, beyond that which is immediately available on the tanker concerned, is needed to provide effective containment and cleanup, a detailed description of each organization relied upon, its membership, the containment and cleanup equipment and personnel it has available, arrangements for contacting and obtaining such equipment and personnel, the location and time needed to deploy such equipment and personnel at the spill site, and the steps that must be taken to execute effective containment and cleanup organizations, including provisions for disposal of recovered oil;

(6) arrangements for the prepositioning of oil spill containment and cleanup equipment and trained personnel at strategic locations from which they can be deployed to the spill site in a sufficiently timely manner, including escort vessels, with skimming capability, barges to receive recovered oil, heavy duty sea booms, pumping, transferring and lightering equipment, and other appropriate recovery equipment for the protection of the coastal and marine environment, including fish hatcheries, sufficient in quantity to provide an effective response to a maximum probable spill; and

(7) requirements that each oil tanker concerned carry equipment, material, and personnel sufficient to respond immediately in the event of an oil spill so as to minimize and contain it to the maximum extent practicable and minimize the damage to the coastal and marine environment, including—

(A) sufficient heavy-duty oil boom and deployment capability to encircle the vessel at 100 yards or more;

(B) materials or other equipment to control leakage of oil from the vessel; and

(C) pumps and other necessary equipment, except to the extent that the Secretary determines after notice and opportunity for comment that any such requirement is unnecessary for an immediate and effective response.

(b) WAIVER OR MODIFICATION.—The final rule required by subsection (a) may waive or modify any of the requirements specified in subsection (a), to the extent the Secretary determines that such requirement will not enhance oil tanker navigation safety, including protection of the environment. The Secretary may also waive or modify any provision of the final rule or other requirements of this section to the extent that such waiver or modification is necessary to meet emergency circumstances that imperil such oil tanker navigation safety.

(c) INSPECTION AND MAINTENANCE.—Subsequent to issuance of the final rule described in subsection (a) the Secretary shall provide for regular inspection of affected oil tankers and equipment to ensure compliance with the requirements of the final rule.

(d) COOPERATIVE EFFORTS.—An owner or operator of an affected oil tanker may comply with the requirements of this section through participation in a cooperative effort with other persons subject to this section.

(e) APPROVAL OF PLANS.—(1) Upon receiving a contingency plan required by this section, the Secretary shall solicit public comment by publishing a notice of availability in the Federal Register and shall not approve the plan until the public has had a reasonable opportunity thereafter to make such comment. In the case of a plan applicable to Prince William Sound, the Secretary shall hold a public hearing in the Prince William Sound area for the purpose of receiving public comment prior to plan approval.

(2) In deciding whether to approve a contingency plan required by this section, the Secretary shall consider the adequacy of containment and cleanup equipment, trained personnel, communications equipment, response time, and logistical arrangements for coordination and implementation of the response.

(3) No such plan shall be approved unless the Secretary determines that the equipment, personnel, and arrangements for implementing a response listed in the plan are sufficient to respond to the maximum probable spill.

(4) The Secretary may enter into a cooperative agreement with any State to delegate to that State the approval of contingency plans, consistent with uniform criteria applicable to all States that shall be established by the Secretary.

(f) GUIDELINES FOR MAXIMUM PROBABLE SPILL.—The Secretary shall publish guidelines for the determination of the maximum probable spill from affected oil tankers in any area within waters subject to the jurisdiction of the United States, taking into account the amount of oil being transported, stored, or transferred, and the risk of a spill; except that in no event shall the maximum probable spill for any such oil tanker be less than the largest historic spill from a similar class of oil tanker in that area.

(g) PROHIBITION.—It shall be unlawful to operate an affected oil tanker in waters subject to the jurisdiction of the United States that is not in compliance with a contingency plan submitted and approved under this section.

(h) LEGAL EFFECT OF CONTINGENCY PLANS.—The provisions of contingency plans approved by the Secretary pursuant to subsection (e) shall be deemed to be legally binding upon those persons submitting them to the Secretary. The district courts of the United States shall have jurisdiction to restrain a violation of, compel specific performance of, or otherwise enforce such plans upon application by the Secretary or by any State to which the Secretary has delegated plan approval authority under subsection (e)(4).

(i) PUBLIC AWARENESS AND PRACTICE DRILLS.—(1) The Secretary shall annually publish an up-to-date description of the contingency plans approved by the Secretary for oil spills, and an inventory of equipment available to respond to such spills.

(2) The Secretary shall require practice drills under the contingency plans approved for oil spills not less than twice each year. The Secretary shall review and publish a notice of availability of a report on such drills, which shall include a statement of any discrepancy between actual response time and available equipment and personnel compared to those listed in the contingency plans, and requirements, if any, for changes in the plans or their implementation. The Secretary shall require such additional drills and changes in arrangements for implementing approved plans as are necessary to ensure their effective implementation.

(j) ACCESSIBILITY OF APPROVED PLANS.—Each contingency plan shall be kept on file and readily accessible to the Coast Guard, relevant port authorities, the personnel of affected oil tankers covered by the plan, and the owner or operator involved.

(k) ACTION BY SECRETARY IN EVENT OF SPILL.—Notwithstanding any other provision of law, the Secretary shall notify the President immediately in the event of an oil spill from an oil tanker in waters subject to the jurisdiction of the United States if—

(1) the extent of the spill is greater than 1,000,000 gallons of oil; or

(2) there is a substantial danger to life, property, or the environment in the area affected or likely to be affected by the spill.

The President shall, upon such notification, direct that the Secretary, acting through the Commandant of the Coast Guard, assume direction of the containment and cleanup of the spill. The assumption by the Secretary of such direction shall include the authority to direct compliance with the approved contingency plan and shall not affect the determination of liability for the costs of containment, cleanup, or damages associated with or resulting from the spill.

INTERNATIONAL INVENTORY OF EQUIPMENT AND CONTRACTORS

SEC. 109. (a) REQUIREMENT FOR INTERNATIONAL INVENTORY.—The Secretary shall develop, maintain, make available to the public, and periodically update an international inventory of oil spill equipment and personnel that are potentially available to the United States in the event of an oil spill within waters subject to the jurisdiction of the United States.

(b) INFORMATION ON EQUIPMENT AND PERSONNEL.—The inventory referred to in subsection (a) shall, to the extent of available information—

(1) list all equipment, whether in private or governmental custody, capable of containing or cleaning up oil spills in the marine environment and specify for each the nature, type, age, manufacturer, precise current location, name of current owner, name and phone number of the individual with authority over its disposition, and such other information as the Secretary considers necessary; and

(2) list all contractors and other persons qualified in the containment or cleanup of oil spills in the marine environment and specify for each such person the number of personnel and their skills, the nature and capabilities of available equipment, the name of the principal officer, the name and phone number of an individual with emergency response authority, and such other information as the Secretary considers necessary.

(c) EFFORTS TO OBTAIN INFORMATION.—The Secretary shall make diligent efforts to obtain the information described in subsection (b) on equipment and personnel available in the United States and worldwide.

(d) ANNUAL REPORT BY CONTRACTORS.—The Secretary shall require that any person with which the Coast Guard contracts for the

containment or cleanup of an oil spill in the marine environment shall have annually submitted a report to the Coast Guard containing the information described in subsection (b).

NATIONAL COUNCIL ON OIL SPILL TECHNOLOGY RESEARCH AND DEVELOPMENT

SEC. 110. (a) ESTABLISHMENT OF COUNCIL.—The Secretary shall establish a National Council on Oil Spill Technology Research and Development (hereafter in this section referred to as the "Council").

(b) MEMBERSHIP OF COUNCIL.—(1) The Council shall consist of 15 members, comprised of—

(A) one representative each from the Coast Guard, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the Fish and Wildlife Service, the Minerals Management Service, the Federal Emergency Management Agency, the Corps of Engineers, the Department of the Navy, and the Department of Energy; and

(B) six individuals appointed by the Secretary from the private sector, including one each from the following: the oil and gas production industry, the oil shipping industry, maritime labor, nonprofit organizations with an active involvement in marine environmental issues, the scientific research community, and the oil and hazardous materials cleanup and response industry.

(2) The members of the Council shall be knowledgeable in the containment and cleanup of oil spills in the marine environment.

(3) The representative of the Coast Guard shall serve as chairman of the Council.

(4) Appointed members of the Council shall serve until the Council is terminated pursuant to subsection (f).

(c) COUNCIL FUNCTIONS.—(1) The Council shall conduct a comprehensive study of governmental and nongovernmental research on oil spill containment and cleanup. Among other matters, the study shall—

(A) evaluate whether there should be developed in the United States a fleet of large capacity oil skimming vessels;

(B) determine the feasibility of developing new technologies for dispersing or burning spilled oil; and

(C) assess experience from the 1989 marine oil spill at Valdez, Alaska, in terms of modifications of current technology and techniques that may be necessary.

(2) On the basis of the study conducted under paragraph (1), the Council shall, not later than twelve months after its establishment, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives—

(A) a bibliography of all existing foreign and domestic research on oil spill containment and cleanup;

(B) a report describing the research and development activities of Federal agencies, State and local governmental entities, foreign governments and corporations, the academic research community, and industry with respect to oil spill containment and cleanup; and

(C) recommendations concerning additional Federal action with respect to such research and development activities.

(d)(1) COMPENSATION AND EXPENSES.—A member of the Council who is not an officer or employee of the United States or a member of the armed forces, when attending meetings of the Council or when otherwise engaged in the business of the Council, is entitled to receive—

(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-18 of the General Schedule under section 5332 of title 5, United States Code, including travel time; and

(B) travel or transportation expenses under section 5703 of title 5, United States Code.

(2) A member of the Council who is an officer or employee of the United States or a member of the armed forces shall not receive additional pay based on the member's service to the Council.

(3) The provisions of this section relating to an officer or employee of the United States or a member of the armed forces do not apply to a member of a reserve component of the armed forces unless that member is in an active status.

(e) STAFFING.—The Secretary shall provide such staffing and other assistance as the Secretary, after consultation with the chairman of the Council, considers necessary for the Council to accomplish its duties.

(f) TERMINATION.—The Council shall cease to exist on the date that is 30 days after the date on which the bibliography, report, and recommendations referred to in subsection (c) are due.

OIL SPILL DISASTER ASSISTANCE

SEC. 111. (a) DEFINITION.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting "oil spill," immediately after "flood,".

(b) PARTY LIABLE.—Section 317(a) of such Act (42 U.S.C. 5160(a)) is amended—

(1) by inserting ", or through willful misconduct or negligence," immediately after "intentionally"; and

(2) by inserting ", or the willful misconduct or negligence," immediately after "omission".

IMPACT ON OTHER LAW

SEC. 112. Nothing in this Act shall be construed or interpreted as changing, dminishing, or preempting in any way the authority of a State, or any political subdivision thereof, to regulate oil tankers or to provide for oil spill liability or contingency response planning and activities in State waters.

AUTHORITY OF SECRETARY IN UNITED STATES WATERS

SEC. 113. The Secretary may deny the right to enter, exit, or transit waters subject to the jurisdiction of the United States to any affected oil tanker that is operated in violation of this Act or a regulation prescribed under this Act, including the requirements of section 108(g) that affected oil tankers be operated in compliance with approved contingency plans.

PENALTIES

SEC. 114. (a) CIVIL PENALTIES.—A person violating this Act or a regulation issued under this Act is liable to the United States for a civil penalty of not more than $25,000. Each day of a continuing violation is a separate violation.

(b) LIABILITY IN REM.—Each vessel that is operated in violation of this Act or a regulation issued under this Act is liable in rem for a civil penalty as prescribed in subsection (a) of this section.

(c) CRIMINAL PENALTIES.—A person willfully and knowingly violating this Act or a regulation issued under this Act shall be fined not more than $50,000, imprisoned for not more than five years, or both.

(d) JURISDICTION.—The district courts of the United States have jurisdiction to restrain a violation of this Act or a regulation issued under this Act.

REPORT ON USER FEES

SEC. 115. The Secretary shall, within 180 days after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the need, if any, to impose fees upon owners or operators of affected oil tankers or other persons in amounts sufficient to offset the additional costs of implementing this Act. The Secretary shall include in the report an evaluation of the desirability and feasibility of assessing and collecting such fees, the adequacy of existing authority for doing so, and recommendations for such additional legislation as the Secretary considers necessary.

TITLE II—PROVISIONS APPLICABLE WITH RESPECT TO ALASKA PILOTAGE AT PORT OF VALDEZ

SEC. 201. The Secretary shall initiate a rulemaking proceeding within 60 days after the date of enactment of this Act to require that all affected oil tankers entering and departing the Port of Valdez, Alaska, embark and disembark a qualified pilot who also is a pilot licensed by the State of Alaska at locations that will ensure that pilotage of all such oil tankers in waters adjacent to and north of Bligh Reef is provided by such pilots. A rule under such proceeding shall be final and in effect within 90 days after the date of enactment of this Act.

BLIGH REEF LIGHT

SEC. 202. The Secretary shall, within one year after the date of enactment of this Act, install and ensure operation of an automated navigation light on or adjacent to Bligh Reef in Prince William Sound, Alaska, of sufficient power and height to provide effective long-range warning of the location of Bligh Reef.

PRINCE WILLIAM SOUND VTS

SEC. 203. The Secretary shall within 180 days after the date of enactment of this Act—

(1) acquire, install, and operate such additional equipment (which may consist of radar, closed circuit television, or shipboard dependent surveillance), train and locate such personnel, and issue such final regulations as are necessary to increase the range of the existing VTS system in the Port of Valdez, Alaska, sufficiently to track the locations and movements of affected oil tankers transiting Prince William Sound, and sound an audible alarm, when such tankers depart from designated navigation routes; and

(2) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the feasibility and desirability of instituting positive control by the Coast Guard on movements of affected oil tankers in Prince William Sound with the use of the VTS system, radar, radio telecommunications, and satellite-linked transmitters aboard such tankers.

OIL SPILL RECOVERY INSTITUTE

SEC. 204. (a) ESTABLISHMENT OF INSTITUTE.—The Secretary of Commerce shall provide for the establishment of a Prince William Sound Oil Spill Recovery Institute (hereafter in this section referred to as the

"Institute") to be administered by the Secretary of Commerce through the University of Alaska Institute of Marine Studies and located in Cordova, Alaska.

(b) FUNCTIONS.—The Institutes shall conduct research and carry out educational and demonstration projects designed to—

(1) identify and develop the best available techniques, equipment, and materials for dealing with oil spills in the arctic and subarctic marine environment; and

(2) complement Federal and State damage assessment efforts and determine, document, assess, and understand the long-term effects of the EXXON VALDEZ oil spill on the natural resources of Prince William Sound and its adjacent waters, the environment, the economy, and the lifestyle and well-being of the people who are dependent upon them.

(c) ADVISORY BOARD.—(1) The policies of the Institute shall be determined by an Advisory Board composed of—

(A) one representative appointed by each of the Commissioners of Fish and Game, Environmental Conservation, Natural Resources, and Commerce and Economic Development of the State of Alaska;

(B) one representative appointed by each of the Secretaries of Commerce, the Interior, Agriculture, Transportation, and the Navy, and the Administrator of the Environmental Protection Agency, all of whom shall be Federal employees; and

(C) three residents from communities in Alaska that were affected by the *Exxon Valdez* oil spill who are knowledgeable about fisheries, other local industries, the marine environment, wildlife, public health, safety, or education appointed by the Secretary to serve terms of two years each from a list of nine qualified individuals submitted by the Governor of the State of Alaska.

(2) The representative of the Secretary of Commerce shall serve as Chairman of the Advisory Board.

(3) Such policies shall include the conduct and support, through contracts and grants, on a nationally competitive basis, of the research, projects, and studies to be supported by the Institute in accordance with the purposes of this section.

(d) SCIENTIFIC AND TECHNICAL COMMITTEE.—(1) The Advisory Board shall establish a Scientific and Technical Committee, composed of specialists in matters relating to oil spill containment and cleanup technology, arctic and sub-artic marine ecology, and the living resources and socio-economics of Prince William Sound and its adjacent waters, from the University of Alaska and elsewhere in the academic community.

(2) The Scientific and Technical Committee shall provide such advice to the Advisory Board as the Board shall request, including recommendations regarding the conduct and support of research, projects, and studies in accordance with the purposes of this section.

(e) DIRECTOR.—The Institute shall be administered by a Director who shall be appointed by the Secretary of Commerce. The Director may hire such staff and incur such expenses on behalf of the Institute as are authorized by the Advisory Board.

(f) EVALUATION.—The Secretary of Commerce is authorized to conduct an ongoing evaluation of the activities of the Institute to ensure that funds received by the Institute are used in a manner consistent with the provisions of this section.

(g) AUDIT.—The Comptroller General of the United States, and any of his or her duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of the Institute that are pertinent to the funds received and expended by the Institute.

(h) STATUS OF EMPLOYEES.—Employees of the Institute shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

(i) TERMINATION.—The authority for establishment, operation, and funding of the Institute shall terminate ten years after the date of enactment of this Act.

(j) AUTHORIZATION OF FUNDING.—For the puposes of this section, there are authorized to be made available to the Department of Commerce, $5,000,000 for fiscal year 1989 and $2,000,000 for fiscal years 1990 through 1999. Such funds shall be provided from the Trans-Alaska Pipeline Liability Fund in accordance with the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.), as amended by this Act.

TRANS-ALASKA PIPELINE LIABILITY FUND

SEC. 205. (a) Section 204(c)(3) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(3)) is amended to read as follows:

"(3)(A) Strict liability for all claims arising out of any one incident shall be limited to $750,000,000. Subject to paragraph (4), the owner and operator of the vessel shall be jointly and severally liable for the first $70,000,000 of such claims that are allowed. Financial responsibility for $70,000,00 shall be demonstrated in accordance with the provisions of section 311(p) of the Act of June 30, 1948 (33 U.S.C. 1321(p)), before the oil is loaded. The Fund shall be liable for the balance of the claims that are allowed up to $750,000,000.

"(B) Notwithstanding any other provision of law, after receiving notice that an incident has occurred, upon the request of the Secretary of the department in which the Coast Guard is operating, the Fund shall immediately deposit $150,00,000 in the account established under section 311(k) of the Act of June 30, 1948 (33 U.S.C. 1321(K)), for use by the Coast Guard to reimburse federal and State agencies, including political subdivisiions of a State, for expenses incurred in connection with the containment and clean-up efforts undertaken in response to the incident. The $150,000,000 so deposited shall be counted against the $750,000,000 available for any single incident. When a State or political subdivision thereof has commenced containment or clean-up efforts, it may submit a request to the Secretary of the department in which the Coast Guard is operating for an advance payment from such account to facilitate such efforts. Such advances in the aggregate shall not exceed $50,000,000. Any advance from the account shall be repaid immediately upon receipt by the State or political subdivision of a reimbursement from the owner or operator of the vessel, any other party held liable, or the Trans-Alaska Pipeline Liability Fund for expenses incurred. Any portion of the $150,000,000 deposited that is not expended shall be returned to the Fund.

"(C) Any government expenditures beyond the $150,000,000 made available in subparagraph (B) of this paragraph shall be submitted with all other claims for reimbursement from the $600,000,000 remaining. If the total claims allowed under this subparagraph exceed $600,000,000, they shall be reduced proportionately. The unpaid portion of any claim may be asserted and adjudicated under other applicable Federal or State law.".

(b) Section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c) et seq.) is amended—

(1) by redesignating paragraphs (4) through (12) as paragraphs (5) through (13), respectively; and

(2) by inserting immediately after paragraph (3) the following new paragraph:

"(4) Notwithstanding the provisions of paragraph (3), any claim not paid by the owner or operator of the vessel within one year after its submission to the owner or operator may be submitted to and paid by the Fund. Upon payment, the Fund shall be subrogated to all rights of the claimant against the owner or operator for the amount of such payment, up to the limit of liability for the owner and operator set forth in paragraph (3).".

(c) Section 204(c)(6) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(6)), as so redesignated by subsection (b), is amended by striking "$100,000,000" wherever it occurs and inserting in lieu thereof "$750,000,000".

(d) Section 204(c)(7) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(7)), as so redesignated by subsection (b), is amended to read as follows:

"(7)(A) The collections under paragraph (6) shall be delivered to the Fund.

"(B) The Fund shall make available to the Department of Commerce $5,000,000 for fiscal year 1989, and $2,000,000 for each of the following fiscal years through 1999, for the purpose of funding the Prince William Sound Oil Spill Recovery Institute established under section 204 of the Oil Tanker Navigation Safety Act of 1989.

"(C) The Fund shall make available to the Secretary of the department in which the Coast Guard is operating such funds for fiscal years 1989 and 1990 as are considered necessary by the Secretary to carry out the provisions of sections 202 and 203 of the Oil Tanker Navigation Safety Act of 1989.

"(D) Costs of administration shall be paid from the money paid to the Fund, and all sums not needed for administration, satisfaction of claims, and subparagraphs (B) and (C) of this paragraph shall be prudently invested in income-producing securities approved by the Secretary. Income from such securities shall be added to the principal of the Fund.".

(e) Section 204(c) of the Trans-Alaska Pipeline Authorization Act, as amended by this section, is further amended by adding at the end the following new paragraph:

"(14) The term 'damages' in paragraph (1) includes the loss of taxes, fees, royalties, rents, and other revenues incurred by a political subdivision of a State due to the injury, destruction, or loss of real property, personal property, or natural resources, or diminished economic activity resulting from a vessel discharge of oil. This paragraph applies to any such discharge occurring on and after January 1, 1989.".

TITLE III—PROVISIONS APPLICABLE TO MISSISSIPPI RIVER

RADIO COMMUNICATIONS ON MISSISSIPPI RIVER

SEC. 301. The Secretary shall, not later than one year after the date of enactment of this Act, issue such regulations as are necessary to ensure that vessels transiting the Mississippi River shall have such capability as the Secretary considers necessary to—

(1) receive marine navigation safety warnings; and

(2) engage in radio communications on designated frequencies with the Coast

Guard, other vessels on the Mississippi River, and such stations as may be specified by the Secretary.

By Mr. FORD, from the Committee on Rules and Administration:

Special Report entitled "Report of the Committee on Rules and Administration Pursuant to Section 302(b) of the Congressional Budget Act of 1974" (Rept. No. 101-100).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment:

S. 1390. A bill to authorize funds to be appropriated for the construction of a mouse research laboratory, and for other purposes (Rept. No. 101-101).

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment:

S. 1016. A bill to change the name of "Marion Lake", located northwest of Marion, Kansas, to "Marion Reservoir".

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 1463. An original bill to provide for certain Department of Defense personnel management initiatives.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Rockwell Anthony Schnabel, of California, to be Under Secretary of Commerce for Travel and Tourism;

Janice Obuchowski, of Virginia, to be Assistant Secretary of Commerce for Communications and Information;

John A. Knauss, of Rhode Island, to be Under Secretary for Commerce for Oceans and Atmosphere;

D. Allen Bromley, of Connecticut, to be Director of the Office of Science and Technolgy Policy;

Deborah Kaye Owen, of Maryland, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1987;

Janet Dempsey Steinger, of the District of Columbia, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1988;

Sherrie Patrice Marshall, of North Carolina, to be a member of the Federal Communications Commission for the remainder of the term expiring June 30, 1992;

Andrew Camp Barrett, of Illinois, to be a member of the Federal Communications Commission for the term expiring June 30, 1990;

Alfred C. Sikes, of Missouri, to be a member of the Federal Communications Commission for a term of 5 years from July 1, 1988;

Gilbert Carmichael, of Mississippi, to be Administrator of the Federal Railroad Administration; and

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral:

Paul. A. Welling.

Walter T. Leland.

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I report favorably a nomination list in the Coast Guard which was printed in full in the CONGRESSIONAL RECORD of July 11, 1989, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. PELL, from the Committee on Foreign Relations:

Joseph Zappala, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Spain (with additional views) (Exec. Rept. No. 101-14).

Nominee: Joseph Zappala, [redacted].

Post: Ambassador to Spain.

FEDERAL CAMPAIGN CONTRIBUTION REPORT

Contributor	Amount	Date	Donee
1. Self: Joseph Zappala	$250	1/15/86	Friends of Bob Graham.
	250	3/04/86	Congressman Bill Young Campaign.
	1,900	3/24/86	Super Task Force.
	1,000	7/11/86	Michael Bilarakis Campaign Fund.
	750	8/5/86	Vice President Exploratory Account.
	1,000	9/04/86	NATPAC.
	1,000	10/21/86	NATPAC.
	5,000	3/18/87	Victory Committee.
	1,000	4/29/87	Michael Bilarakis Campaign.
	5,000	6/23/87	The Fund for America's Future.
	200	8/19/87	Iowa Republican Party.
	100	9/08/87	Friends of Michael Bilarakis.
	180	1/26/88	The Hampton Republican Town Convention.
	1,000	3/04/88	Michael Bilarakis for Congress.
	5,000	3/08/88	Florida Victory Committee.
	500	4/22/88	1,000 Republican Party of Florida.
	1,000	4/27/88	Friends of Connie Mack.
	5,000	6/29/88	Republican Party of Florida—Florida Presidential Tribute.
	10,000	7/25/88	Presidential Trust.
	1,000	7/28/88	Pete Dawkins for U.S. Senate.
	1,000	10/88	Connie Mack.
2. Spouse: Carole Zappala	500	7/11/86	Michael Bilarakis Campaign Fund.
	750	8/05/86	Vice Presidential Exploratory Account.
	500	3/87	George Bush Campaign.
	750	8/19/87	Iowa Republican Exploratory Account.
	846	2/11/88	The New Hampshire Visit.
	1,000	4/27/88	Friends of Connie Mack.
	1,000	7/23/88	Florida Victory Committee.
	200	8/19/88	Iowa Republican Party.
	1,000	10/88	Connie Mack Campaign.
3. Children and spouses.			
Joanne Zappala	1,000	10/87	George Bush Campaign.
Andrea Zappala	1,000	10/87	Do.
	1,000	11/88	Connie Mack Campaign.
Kimberly Spohn	10	3/88	Bill Young Campaign.
	115	2/11/88	The New Hampshire Visit.
James Spohn	0		
Valerie Steigner	1,000	7/87	George Bush Campaign.
	10	3/88	Bill Young Campaign.
George Steigner	1,000	7/87	George Bush Campaign.
4. Parents: Vincenza M. Tagarelli.	0		
5. Grandparents	(1)		
6. Brothers and spouses	(2)		
7. Sisters and spouses: Angela Lee.	0		

[1] Deceased.
[2] I do not have any brothers.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. EXON (for himself and Mr. KERREY):

S. 1450. A bill to rename the Calamus Dam and Reservoir the "Virginia Smith Dam and Reservoir"; to the Committee on Environment and Public Works.

By Mr. GLENN (for himself, Mr. BINGAMAN, Mr. SARBANES, Mr. RUDMAN, Mr. DECONCINI, Mr. SANFORD, Mr. BOREN, Mr. BURDICK, Ms. MIKULSKI, and Mr. ROTH):

S. 1451 A bill to provide that a Federal annuitant or former member of a uniformed service who returns to Government service, under a temporary appointment, to assist in carrying out the 1990 decennial census of population shall be exempt from certain provisions of title 5, United States Code, relating to offsets from pay and other benefits; to the Committee on Governmental Affairs.

By Mr. McCAIN (for himself, Mr. HARKIN and Mr. KENNEDY):

S. 1452. A bill to amend the Communications Act of 1934 to require that communications services be more universally available and for other purposses; to the Committee on Commerce, Science, and Transportation.

By Mr. DANFORTH

S. 1453. A bill to repeal the Medicare and Medicaid provisions and the supplemental Medicare premium of the Medicare Catastrophic Coverage Act of 1988, and for other purposes; to the Committee on Finance.

By Mr. DODD (for himself, Mr. COATS and Mr. HARKIN):

S. 1454. A bill to revise and extend the programs established in the Temporary Child Care for Handicapped Children and Crisis Nursuries Act of 1986, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DODD (for himself and Mr. COATS):

S. 1455. A bill to transfer a certain program with respect to child abuse from title IV of Public Law 98 473 to the Child Abuse Prevention and Treatment Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HATFIELD

S. 1456. A bill to amend the Immigration and Nationality Act to protect foreign spouses victimized by physical abuse and extreme mental cruelty; to the Committee on the Judiciary.

By Mr. HATFIELD (for himself and Mr. PELL):

S. 1457. A bill to amend the Older Americans Act of 1965 to authorize demonstration projects to provide innovative volunteer opportunities to older individuals to provide nursing aide services to residents of nursing homes; to the Committee on Labor and Human Resources.

By Mr. WALLOP:

S. 1458. A bill to amend chapter 6 of title 5, United States Code, relating to regulatory flexibility analysis; to the Committee on the Judiciary.

By Mr. SIMON (for himself, Mr. JEFFORDS and Mr. METZENBAUM):

S. 1459. A bill to deny crew member status in the case of certain strikes and lockouts; to the Committee on Labor and Human Resources.

By Mr. BOSCHWITZ (for himself and Mr. SIMPSON):

S. 1460. A bill to amend titles XVIII and XIX of the Social Security Act to exempt certain nurses aides from competency evaluation requirements mandated under such titles; to the Committee on Finance.

By Mr. HOLLINGS:

S. 1461. A bill to enhance the navigation safety of oil tankers and for other purposes;

from the Committee on Commerce, Science, and Transportation; placed on the calendar.

By Mr. ADAMS (for himself, Mr. WIRTH, Mr. REID, Mr. METZENBAUM, Mr. FOWLER, Mr. CRANSTON, Mr. SANFORD, Mr. BRYAN, Mr. MOYNIHAN, Mr. GORE, Mr. LIEBERMAN, Mr. DASCHLE, and Mr. HATFIELD):

S. 1462. A bill to create a Federal nuclear facility environmental response fund, to create an Office of Environmental Management and Remedial Action, to require the Secretary of Energy and the Administrator of the Environmental Protection Agency to cooperate with affected States and Indian tribes, to provide for research and development to address environmental problems at Federal nuclear facilities, and for other purposes; to the Committee on Environment and Public Works.

By Mr. NUNN, from the Committee on Armed Services:

S. 1463. A original bill to provide for certain Department of Defense personnel management initiatives; placed on the calendar.

By Mr. KENNEDY (for himself and Mr. DODD):

S. 1464. A bill to amend the Domestic Volunteer Service Act of 1973 to expand the VISTA program by 1993 to enable more individuals, particularly young adults to become volunteers in Service to America, and for other purposes.

S. 1465. A bill to amend the Domestic Volunteer Service Act of 1973 to expand the National Older American Volunteer Programs to respond to critical national needs, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PELL (for himself and Mr. HATFIELD):

S. Res. 161. A resolution expressing the sense of the Senate that long-term care aides make significant contributions to individuals of all ages in the United States and deserve recognition and compensation for their efforts; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN, from the Impeachment Committee:

S. Res. 162. An original resolution directing the Senate Legal Counsel to bring a Civil Action to enforce subpoena of the Impeachment Trial Committee on the Articles Against Judge Alcee L. Hastings; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EXON (for himself and Mr. KERREY):

S. 1450. A bill to rename the Calamus Dam and Reservoir the "Virginia Smith Dam and Reservoir"; to the Committee on Environment and Public Works.

VIRGINIA SMITH DAM AND RESERVOIR

Mr. EXON. Mr. President, the end of this Congress will mark the end of an era in Nebraska politics.

Several weeks ago Congresswoman VIRGINIA SMITH of Nebraska from the Third Congressional District surprised many of us when she announced that she would not seek reelection in 1990. Virginia, as she is affectionately known by almost everyone in Nebraska, and her husband, Haven, will be returning to enjoy Nebraska's good life on a full time basis.

In appreciation of her many years of service to Nebraska, I am today introducing legislation to name the Calamus Dam and Reservoir after her.

My colleague, Senator KERREY, of Nebraska, joins me in the introduction of this bill. It is my thought that Nebraskans should begin now to find a fitting tribute for her service and dedication. If there are reasonable objections from any source or other alternatives Nebraskans would like to pursue, I am more than willing to consider them. But from where I stand, I think the Virginia Smith Dam and Reservoir has a good ring to it and would be a very fitting tribute to this Nebraska lady.

This dam and reservoir is nestled in the beautiful hills of Loup and Garfield Counties in central Nebraska. It is the primary feature of the north Loup project and will serve Nebraska agriculture for years to come—just as Virginia served Nebraska agriculture during her years in the House of Representatives.

Nebraskans of the Third Congressional District have, with good reason, grown very fond of Virginia. She has been a strong spokeswoman, an attentive listener, and familiar figure all across the district. It is with a sense of respect and admiration that I honor her by introducing legislation establishing the Virginia Smith Dam and Reservoir.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RENAMING OF DAM AND RESERVOIR.

The Calamus Dam and Reservoir in the North Loup division of the Missouri River Basin project shall, on and after the date of enactment of this Act, be known and designated as the "Virginia Smith Dam and Reservoir". Any reference to such dam and reservoir in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Virginia Smith Dam and Reservoir.

By Mr. GLENN (for himself, Mr. BINGAMAN, Mr. SARBANES, Mr. RUDMAN, Mr. DECONCINI, Mr. SANFORD, Mr. BOREN, Mr. BURDICK, Ms. MIKULSKI, and Mr. ROTH):

S. 1451. A bill to provide that a Federal annuitant or former member of a uniformed service who returns to Government service, under a temporary appointment, to assist in carrying out the 1990 Decennial Census of Population shall be exempt from certain provisions of title 5, United States Code, relating to offsets from pay and other benefits; to the Committee on Governmental Affairs.

IMPROVING THE 1990 CENSUS

● Mr. GLENN. Mr. President, today I am introducing legislation which will improve the operations of the Census Bureau for the 1990 Decennial Census. The bill will allow retired Federal employees and military personnel to receive an exemption from reductions in their annuities should they obtain temporary employment with the Census Bureau during the upcoming census.

Senators BINGAMAN, SARBANES, RUDMAN, DECONCINI, SANFORD, BOREN, BURDICK, ROTH, and MIKULSKI join me as original cosponsors. This bill serves as a companion to H.R. 1860, sponsored by Congressman TOM SAWYER and some 36 other House Members.

In less than 1 year, our Nation will conduct its Twenty-first Decennial Census. To accomplish this enormous task, a temporary workforce of 480,000 employees will be required. The Census Bureau will recruit and train these temporary employees. If the Bureau is unable to meet its staff requirements, the data collected during 1990 will be not as reliable or accurate as it should.

An accurate and complete census is absolutely vital. Not only is reapportionment dependent on an accurate count, but many of our Nation's means of effectively targeting assistance to the needy depend on an accurate census. The Census Bureau needs to be able to fill these 480,000 temporary positions in an expeditious and efficient manner.

A significant portion of the 480,000 will serve as enumerators and visit the homes from which the initial questionnaire was not returned by mail. The job of the enumerator is not always an easy one. Often they must go into unfamiliar and unfriendly areas to gather data. Considerable "people skills" are necessary to count the population in some parts of the country where individuals fear and resent representatives of the Federal Government who ask questions.

In testimony before the House Subcommittee on the Census and Population of the Committee on Post Office and Civil Service, the Census Bureau recounted the difficulties the Bureau expects in filling these positions. In areas where unemployment rates are low, there are particular problems in hiring enumerators.

The legislation I am introducing today will help the Census Bureau overcome these problems. It is budget neutral. The General Accounting Office, the National Association of Re-

tired Federal Employees, and the Retired Officers Association join the Census Bureau in endorsing the measure as a constructive step.

A labor pool of approximately 2 million Federal annuitants are qualified to accept temporary positions with the Census Bureau. Presently, title 5 of the United States Code says that these people would have to take offsets—reductions in their Federal retirement benefits—if they return to work for the Government. Understandably, the offsets serve as a disincentive for individuals in this category to take temporary census positions.

The legislation I am introducing will change this situation. It will create narrow, temporary exemptions for the 1990 census only. It will allow retired Federal employees and military personnel to return to public service with the Census Bureau without being subject to offsets. This exemption will last no longer than 6 months. Federal annuitants have proven their willingness and capability to serve in the past. Given the manpower needs that have been identified by the Census Bureau, this step will meet a need they and the General Accounting Office have identified.

Mr. President, I want to invite my colleagues to join me and the cosponsors in supporting this bill. Our intention is to move the legislation quickly to enable the Census Bureau to recruit from Federal retirees when it begins hiring temporaries this September.●

● Mr. SARBANES. Mr. President, today I am joining in the introduction of legislation to allow Federal, postal, and military retirees to work with the U.S. Census Bureau on the 1990 Decennial Census without any offset to their salaries or retirement annuities.

In a recent Washington Post article, officials of the U.S. Bureau of the Census summarized some of the problems that they expect to encounter in their recruiting efforts for the 1990 Decennial Census. According to the article, local census offices are struggling to find workers. Advertisements have been placed in local newspapers, employment offices and colleges, and appeals have been made to local churches and civic groups. In the Washington area alone—for six Maryland counties, including the suburbs around Washington, and northern Virginia—census officials estimate that they would need to find 2,200 qualified applicants to meet their field requirements. Hiring retirees would help the Census Bureau fill this void with well qualified and enthusiastic employees.

Unfortunately, under the Civil Service Retirement Act of 1978, Federal, postal and military retirees lose part of their pensions or salaries should they decide to return to work for the Federal Government. This particular segment of the retired community dedicated much of their lives to working for the Government, and I believe that many of them would enthusiastically welcome the opportunity to perform a much needed service for their Government once again.

The legislation we are introducing today would give the Secretary of Commerce the authority to employ Federal and military retirees for temporary decennial positions, for not more than 6 months each, and to exempt their pensions from the offsets. Providing an exemption from the offset is not a new idea: Most recently, the INS was given authorization, under the Immigration Reform and Control Act of 1986, to employ military and Federal retirees in temporary positions to assist with the Alien Amnesty Program, without reductions to their annuities or salaries. In 1982, realizing that certain former Federal employees would have the experience and expertise to fill a crucial void, Congress allowed Federal retirees to work for the air traffic control system without reductions in their annuities or salaries. To assist with the 1980 Decennial Census, the Office of Personnel Management authorized an exemption from the annuity offset in 12 different occupations for military officers who worked on the 1980 Decennial Census.

Enactment of this bill would be beneficial to the Federal Government and retirees. Federal, postal, and military retirees, already have the necessary skills, expertise, and understanding of how our Government works. In addition retirees, can be recruited anywhere in the United States to fill these positions. Mr. President, this bill would make it easier for the Department of Commerce to recruit qualified personnel to assist in carrying out the 1990 census, and I urge my colleagues to support it.●

By Mr. McCAIN (for himself, Mr. HARKIN, and Mr. KENNEDY):

S. 1452. A bill to amend the Communications Act of 1934 to require that communications services be more universally available, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COMMUNICATION SERVICE FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS

Mr. McCAIN. Mr. President, before I discuss the pending Levin amendment, I ask unanimous consent that a bill regarding telecommunications services for the hearing and speech impaired be introduced for myself, Mr. HARKIN, and Mr. KENNEDY. Further, that the following amendment to S. 933, the Americans With Disabilities Act, be submitted by myself, Mr. HARKIN, and Mr. KENNEDY and that it be known as the McCain-Harkin amendment, and referred to the Labor and Human Resources Committee for its immediate consideration.

I ask that my statement on these two measures be submitted in the RECORD as if read.

The PRESIDENT pro tempore. Is there objection?

Mr. EXON. Reserving the right to object.

Let me inquire of the Chair, reserving the right to object, but I am not so sure I shall, the request the Senator from Arizona has made referring a bill, would that be the normal assignment for the bill or is the request made by the Senator from Arizona to direct this elsewhere than it would normally be referred?

The PRESIDENT pro tempore. The Chair will advise the Senator that there are two separate requests involved, that both the bill and the amendment be so referred. The amendment ordinarily would be within the jurisdiction of the committee requested. This is not the normal procedure. It is not a precedent, however.

Mr. EXON. Hearing that and having no objection, I withdraw any opposition.

The PRESIDENT pro tempore. The Chair has not seen the bill and so the Chair would hope that the request could be withheld until consideration of the bill and its particulars could be had here at the desk. Otherwise, the Chair will interpose an objection himself.

Mr. McCAIN. Mr. President, if I might perhaps explain, I will be glad to withhold if the Chair chooses to object.

The PRESIDENT pro tempore. Does the Senator temporarily withdraw his request?

Mr. McCAIN. Yes, Mr. President. I would like to explain, with the permission of the Chair, why I am proposing this at this time.

The PRESIDENT pro tempore. The Chair thanks the Senator and the Chair recognizes the Senator.

Mr. McCAIN. Thank you, Mr. President. The Americans with Disabilities Act is being marked up tomorrow by the Labor and Human Resources Committee. This is an amendment that I have cleared with the chairman of the committee, Senator KENNEDY, and the sponsor of the bill, Mr. HARKIN. It needs to be submitted at this time, 24 hours ahead of the markup, in order for it to be considered by the full committee.

If the distinguished president pro tempore and chairman of the Appropriations Committee chooses for me to withhold this amendment, I would be glad to. I did talk to the chairman of the committee as well, as Senator HARKIN, who is responsible for this legislation.

It is simply a statement concerning the Americans With Disabilities Act and an important amendment which has been supported by both the chair-

man of the committee, Senator KENNEDY, and Senator HARKIN in an effort to provide facilities for hearing-impaired Americans to be made part of the Americans With Disabilities Act.

I would ask the Chair if that explanation is sufficient to satisfy his concerns. If not, I will address the issue at a later time.

The PRESIDENT pro tempore. The Chair normally refers bills with the advice of the Parliamentarian and based upon the predominant subject matter within the bill. At this moment, the bill has not been seen at the desk.

Does the Senator want the bill to be properly referred or does the Senator want the bill to be referred by unanimous consent? And what does the Senator wish to do with the amendment?

Mr. McCAIN. Mr. President, the Senator from Arizona would ask unanimous consent that the bill regarding communications services for the hearing and speech impaired be submitted for myself, Mr. Harkin, and Mr. Kennedy, to be disposed of as the Chair and the Parliamentarian decide.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Statement of Senator McCAIN and the text of the legislation is as follows:

STATEMENT OF SENATOR JOHN MCCAIN REGARDING TELECOMMUNICATIONS SERVICES FOR HEARING AND SPEECH IMPAIRED INDIVIDUALS

Mr. President, every day Americans use the finest and most advanced telecommunications system in the world. The telephone has become synonymous with the American way of life. It is an indispensable part of "Americana." Yet, there is a group of Americans who have been denied the full use of this Nation's telecommunications network.

There are 24 million hearing impaired and 2.75 million speech impaired proud Americans who cannot place a telephone call. They cannot make a doctor's appointment, they cannot call friends, they cannot call their families. The telephone was invented 125 years ago to be an assistive device for hearing-impaired and deaf individuals. It has since proved to be one of the greatest obstacles to integrating the deaf into the mainstream of our society. But this need not be the case.

At one time there were technological problems that prevented the hearing and speech impaired from accessing the Nation's telephone systems. But those initial obstacles have long been overcome. We must now demonstrate the political will to make full access to the telephone system a reality.

Mr. President, the telecommunications network in this country is governed by the Communications Act of 1934 which requires that the Nation's communications system be made available to all the people of the United States. We must accord to the hearing and speech impaired the same opportunity for access as any hearing individual.

Countless times a day, Americans reach for that essential telephone, and without another thought, conduct their daily business. A single day without the ability to use the telephone is almost impossible to imagine. In order to remedy this disparity, Senator HARKIN and myself are introducing language that would mandate communications access. Our legislation would amend the Communications Act of 1934 to require that communications services be made available to all the hearing and speech impaired individuals in this country.

I am introducing this language at this time as an amendment to the Americans with disparities, S. 933, and ask that it be considered positively by the Labor and Human Resources Committee. I have worked closely with Senator HARKIN to develop this measure, and want to thank him and his fine staff for all their help. Because of the great importance of his measure, I am also introducing it as an independent bill which will be referred to the Commerce Committee.

This bill requires all common carriers to provide telecommunications services to the hearing and speech impaired. States that already offer, or intend to offer such services either through their carriers or through the State itself, may do so at their own discretion. This will allow for maximum latitude in the manner that such service is made available, and attempts to ensure maximum ease in implementing these new standards for the interstate carriers, intrastate carriers, and for the States.

Last year this body overwhelming passed S. 2221, a measure to make the Federal Government fully accessible to the hearing and speech impaired. This bill consequently became Public Law 100-542. The Senate correctly voiced its support for the concept full integration within the telecommunications network of the Federal Government. This was an important first step. We must now take the second step.

It has been the long standing policy of this country, and of this body, that people have a right to be connected to the Nation's telephone system. Adoption of this amendment would bring the more than 245 million Americans who cannot use the current telephone system into the mainstream of communications. We must now demonstrate the will to make this a reality for these Americans who have been denied this most basic privilege.

S. 1452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) AMENDMENT TO TITLE II, COMMUNICATIONS ACT OF 1934.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"COMMUNICATION SERVICE FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS

"SEC. 225. (a) As used in this section—

"(1) The term 'common carrier' or 'carrier' includes any common carrier engaged in interstate-communication by wire or radio as defined in section 3(h) and those carriers engaged in intrastate communication by wire or radio or both, notwithstanding the exceptions in sections 2(b) and 221(b).

"(2) The term 'telecommunications relay services' means transmission services that provide the ability for individuals who have a hearing impairment or speech impairment to engage in communication by wire or radio with hearing individuals that is functionally equivalent to the ability of individuals who do not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio, and such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.

"(3) The term 'TDD' means a Telecommunications Device for the Deaf, a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

"(b)(1) In furtherance of section 1 to make available to all people of the United States a rapid, efficient nationwide system and in order to increase the utility of the Nation's telephone system, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, so far as possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

"(2) For purposes of this section, the same remedies, procedures, rights, and obligations under this Act that are applicable to common carriers engaged in interstate communication by wire or radio are also applicable to common carriers engaged in intrastate communication by wire or radio.

"(c) It shall be the duty of every common carrier to provide telecommunications relay services individually or through designees or in concert with other carriers, not later than two years after the date of enactment of this section.

"(d)(1) The Commission shall, not later than one year after the date of enactment of this section, adopt regulations to implement this section, including regulations that—

"(A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;

"(B) establish minimum standards which shall be met by common carriers in carrying out their duty under subsection (c) to provide telecommunications relay services;

"(C) require that telecommunications relay services operate every day for 24 hours per day;

"(D) require that users of telecommunications relay services pay rates no greater than those rates paid for functionally equivalent voice communication services with respect to factors including the duration of the call, the time of day, and the distance from point of origination to point of termination.

"(E) prohibit relay operators from refusing calls or limiting the length of calls using telecommunications relay services;

"(F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and

"(G) prohibit relay operators from intentionally altering a relayed conversation.

"(2) The Commission shall ensure that regulations adopted to implement this section encourage the use of currently available technology and do not discourage or impair the development of improved technology.

"(3) The Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section. Any such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from the interstate jurisdiction and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. To the extent interstate and intrastate common carriers provide telecommunications relay services jointly, the procedures

established in section 410 shall be followed, as applicable.

"(4) The Commission shall not permit carriers to impose a fixed monthly charge on customers to cover the costs of providing interstate relay service.

"(5) Where the Commission finds that full compliance with the requirements of this section would unduly burden one or more particular common carrier, the Commission may extend the date for full compliance by the particular carrier or carriers for a period not to exceed one additional year.

(e)(1) Subject to the provisions of subsections (f) and (g), the Commission shall enforce the provisions of this section.

"(2) The Commission shall resolve, by final order, any complaint alleging a violation of this section within 180 days after the date on which the complaint is filed.

(f)(1) Each State may submit to the Commission documentation describing its program for implementing intrastate telecommunications relay services. After review of such documentation, the Commission shall certify the State program if the Commission determines that the program makes available to hearing-impaired and speech-impaired individuals either directly, or through designees or through regulation of intrastate common carriers, intrastate telecommunications relay services in that State in a manner which meets the requirements of regulations adopted by the Commission under subsection (d). Except as provided in subsection (d) the Commission shall not refuse to certify a state plan based solely on the method of funding the provision of intrastate telecommunications relay services.

"(2) The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that certification is no longer warranted.

"(g)(1) When a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of that State under subsection (f) is in effect, the Commission shall refer the complaint to the State.

"(2) After referring a complaint to a State under paragraph (1), the Commission shall thereafter exercise jurisdiction over the complaint only if—

"(A) final action under the State program has not been taken on such complaint—

"(i) within 180 days after the complaint is filed with the State, or within such shorter period as prescribed by State regulation.

"(B) the Commission determines that the State program is no longer qualified for certification under subsection (f).".

(b) CONFORMING AMENDMENTS.—

(1) SECTION 2(b) OF COMMUNICATIONS ACT.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking "section 224" and inserting in lieu thereof "sections 224 and 225,".

(2) SECTION 221(b) OF COMMUNICATIONS ACT.—Section 221(b) of the Communications act of 1934 (47 U.S.C. 221(b)) is amended by striking "section 301" and inserting in lieu thereof "section 225 and 301".

By Mr. DANFORTH:

S. 1453. A bill to repeal the medicare and medicaid provisions and the supplemental medicare premium of the Medicare Catastrophic Coverage Act of 1988, and for other purposes; to the Committee on Finance.

REPEAL OF MEDICARE CATASTROPHIC COVERAGE

● Mr. DANFORTH. Mr. President, today I am introducing legislation to repeal the Medicare Catastrophic Coverage Act of 1988. Since enactment of this law a year ago, every Senator has been inundated with mail and phone calls from elderly Americans objecting to the Catastrophic Program. I have been told by many of my older constituents they do not want the particular program we have designed for them. Under the circumstances, the most sensible thing to do, in my judgment, is to repeal the law and start over.

The common perception is that older Americans don't like the Catastrophic Insurance Program because too much of the cost falls on them alone. To be sure, senior citizens are outraged about the money they have to spend for this new health coverage. However, when I consider the question of who should pay the cost, it is difficult to envision an alternative that sufficiently improves upon what is in the law now. Proposals to spread more of the cost among more of the Medicare population—as recommended, for example, by the House Ways and Means Committee recently—will only increase the burden on those beneficiaries with fewer means. Shifting costs to the general taxpayer—as some Members in both Houses have suggested—rides roughshod over the principle of self-financing. That is the very principle which made it possible for us last year to pass this law amidst other demands on the Nation's limited resources for health care. Since those demands have not abated, there is no reason to believe the principle is any less compelling today.

Yet, the financing of the program, while important, does not seem to me to be the most important issue at stake in the controversy surrounding this law. What older Americans are telling us even more emphatically is that catastrophic protection may not be the best use of their or our resources. The fact of the matter is, relatively few older people stand to benefit from the program. After all, it is catastrophic insurance; it only helps when there is a health catastrophe. The new law requires seniors to make a large investment in a set of benefits many of them will never use or use sufficiently to justify the cost to them. No small number of older people already have private coverage akin to catastrophic protection, and others could buy it if they wanted to. For those who cannot afford it, Government, of course, should help, but the result is likely to be a far cry from the all-encompassing program we now have.

At bottom, I think what Medicare's beneficiaries are saying to those of us in Congress is that catastrophic coverage may not be what they most need from their Government as they approach the end of life. At town meetings I have attended in Missouri, senior citizens have made it plain to me that the catastrophic benefits we have made available to them are not what they had hoped for. What I discovered in talking with them is that catastrophic illness is not necessarily their greatest fear. More than experiencing a major medical crisis requiring a prolonged hospital stay and expensive, high-tech medicine, they seem to fear not having any crisis at all and simply aging wearily until they die. The older people with whom I spoke are troubled that they will just wear out in an institution somewhere, shut off from family and friends. They are less worried about spending their last years, months, and days in a hospital being kept alive by heroic medicine with the most advanced technology, than about gradually losing their physical and mental health and biding away their remaining time in a sad and lonely place that warehouses and maintains them.

We are an aging society. More and more of our people are living a long time, and the numbers will only get larger in the years ahead. An increasing share of our health care resources will go toward caring for older people in the final period of their lives. The issue is not whether we will spend the money. We surely will. Rather, the issue is how we should spend it. Should we spend it on catastrophic protection, or is there a form of care the elderly want and need more, such as supportive long-term care? It has been estimated that 27 percent of Medicare gets spent when older people are in their last year of life. That percent may grow under the catastrophic law. Is this really the best allocation of resources? Perhaps instead of the heroic, life-extending medicine associated with catastrophic insurance, seniors would prefer simple, humane care that enables them to die with dignity. I can't say if this is the widespread preference of older people. Certainly, it is for many I have met. What I do know is that it is an option we are obliged to consider with the utmost seriousness. Repealing the catastrophic insurance law will give us the chance to do just that—to decide whether catastrophic protection is really how we want to spend our next health care dollar for older people.

The bill I am proposing is simple. It does two things. First, it repeals all sections of the Medicare Catastrophic Coverage Act pertaining to the expansion of Medicare and the financing of that expansion. Benefit and financing provisions that have not yet gone into effect would be repealed immediately. Those provisions already in effect would expire as of January 1, 1991, to assure continued benefits to persons

who are already dependent on the program. Provisions affecting only Medicaid would be retained, as would the other non-Medicare portions of the law.

Second, the bill directs the Senate Finance Committee, within 6 months of enactment, to report legislation that will provide older and disabled persons with access to health care which is consistent with their dignity and wishes. Whether the outcome of the committee's deliberations is catastrophic coverage or something else, we need to focus our energies on developing a healthcare program that responds to the expressed needs of older Americans. It is neither ethically right nor politically practical for us to tell our older citizens what is best for them. Let them, and not just their representatives in Washington, tell us.

I voted for the catastrophic law last year. Indeed, I am a member of the committee that wrote it. When we adopted this law, I thought we had done the right thing. I no longer think so. We have developed a major program which many of the elderly do not seem to want, a program which does not seem to meet their most important needs. The best thing we can do now is repeal the law and revisit the basic issue of what purposes our health care resources should be serving. That will give us the opportunity, based on serious and sober analysis, to do what is right for America's older people.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF MEDICARE AND MEDICAID PROVISIONS AND SUPPLEMENTAL PREMIUM.

(a) PART B MEDICARE AND MEDICAID GENERAL REPEAL.—The following provisions of the Medicare Catastrophic Coverage Act of 1988, as amended by the Technical and Miscellaneous Revenue Act of 1988, are hereby repealed, and the Social Security Act shall be applied and administered as if such provisions (and the amendments made by such provisions) had not been enacted:

(1) Section 112.
(2) Section 201.
(3) Section 202.
(4) Section 203.
(5) Section 204.
(6) Section 205.
(7) Section 206.
(8) Section 211(c)(3).
(9) Section 212.
(10) Section 213.
(11) Section 301.

(b) PART A MEDICARE DELAYED REPEAL.—Section 104 of the Medicare Catastrophic Coverage Act of 1988 is amended in subsection (a), by striking "shall take effect on January 1, 1989" and inserting in lieu thereof "shall take effect for the period beginning on January 1, 1989 and ending before January 1, 1991".

(c) SUPPLEMENTAL MEDICARE PREMIUM REPEAL.—Section 111 of the Medicare Catastrophic Coverage Act of 1988, is hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such section (and the amendments made by such section) had not been enacted.

(d) ADJUSTMENT IN MEDICARE PART B PREMIUM.—

(1) IN GENERAL.—Subsection (g) of section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended to read as follows:

"(g)(1) Except as provided in paragraphs (2) and (3) and subsections (b) and (f), the monthly premium for each individual enrolled under this part otherwise determined without regard to this subsection shall be increased by the catastrophic coverage monthly premium for months in the year determined under the following table (for months occurring after December 1988):

"In the case of:	The catastrophic coverage monthly premium is:
1989	$4.00
1990	$4.90

"(2)(A) In the case of an individual who is a resident of Puerto Rico or who is a resident of another U.S. commonwealth or territory during a month, instead of the premium increase provided under paragraph (1), subject to subsection (b), the monthly premium for each individual enrolled under this part otherwise determined, without regard to this subsection, shall be increased by the catastrophic coverage monthly premium determined under subparagraph (B) for such resident for the year.

"(B) The catastrophic coverage monthly premium for months—

"(i) in 1989 is $1.30 for the resident of Puerto Rico and $2.10 for a resident of another U.S. commonwealth or territory; and

"(ii) in 1990 is $3.56 for a resident of Puerto Rico and $5.78 for a resident of another U.S. commonwealth or territory.

"(3) In the case of a part B only individual (as defined in paragraph (4)(B)) during a month, instead of the premium increase provided under paragraph (1), subject to subsection (b), the monthly premium otherwise determined, without regard to this subsection, shall be increased by $4.00.

"(4) For purposes of this subsection—

"(A) The term 'U.S. commonwealth or territory' means Puerto Rico, the United States Virgin Islands, Guam, American Samoa, or the Northern Mariana Islands.

"(B) The term 'part B only individual' means, with respect to a month, an individual who—

"(i) is not a resident of a U.S. commonwealth or territory (as defined in subparagraph (C)) during the month,

"(ii) is entitled to benefits under this part, and

"(iii) is not entitled to (or, on application without payment of additional premium, would not be entitled to) benefits under part A or is entitled to benefits under such part only because of payment of a premium under section 1818.".

(e) CONFORMING AMENDMENTS.—

(1) Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(A) by striking "the Medicare Catastrophic Coverage Account" in the last sentence of subsections (a)(1) and (a)(4) and inserting in lieu thereof "the amendments made by the Medicare Catastrophic Coverage Act of 1988", and

(B) by striking "subsections (f) and (g)(6)" in subsection (b) and inserting in lieu thereof "subsection (f)".

(2) Subsection (a) of section 1844 of such Act (42 U.S.C. 1395w) is amended by striking out "or section 59B of the Internal Revenue Code of 1986".

(3) Section 1840 of such Act (42 U.S.C. 1395s) is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding the previous provisions of this subsection, premiums collected under this part which are attributable to the catastrophic coverage monthly premium established under section 1839(g) shall, instead of being transferred to (or being deposited to the credit of) the Federal Supplemental Medical Insurance Trust Fund, be transferred to (or deposited to the credit of) the Federal Hospital Insurance Trust Fund.".

(4) Subsection (p) of section 1905 of such Act (42 U.S.C. 1396d) is amended—

(A) by striking out "section 1813, section 1833(b), and section 1834(c)(1))" in paragraph (3)(C) and inserting in lieu thereof "section 1813 and section 1833(b))", and

(B) by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(5) Section 421 of the Medicare Catastrophic Coverage Act of 1988 is amended to read as follows:

"SEC. 421. MAINTENANCE OF EFFORT.

"(a) IN GENERAL.—If an employer described in subsection (c)(1) provides, as of the date of the enactment of this Act, health care benefits to an employee or retired former employee that are duplicative of part A benefits (as defined in subsection (b)(1)), the employer shall, during the period described in subsection (d)(1), provide to the employee or retired former employee an amount of additional benefits or refunds, or combination of such benefits and refunds, that total at least the actuarial value of the duplicative part A benefits during the period described in subsection (d)(1)(A).

"(b) DUPLICATIVE PART A BENEFITS DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'duplicative part A benefits' means benefits which are duplicative of benefits under part A of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1989), but which were not duplicative of such benefits as such part was in effect before the date of the enactment of this Act.

"(2) DETERMINATION OF BENEFITS.—Duplicative part A benefits shall be determined under this section net of any premiums payable by employees (or retired former employees) attributable to such benefits.

"(c) EMPLOYERS COVERED.—

"(1) IN GENERAL.—An employer is described in this paragraph if the employer (including a public employer, other than an employer to which section 422 applies) provides, as of the date of the enactment of this Act, duplicative part A benefits the actuarial value of which is at least 50 percent of the national average actuarial value (discounted to the value as of the date of the enactment of this Act) of the duplicative part A benefits.

"(2) ELECTION.—For purposes of this section—

"(A) IN GENERAL.—An employer may elect to compute the actuarial value of duplicative part A benefits either—

"(i) on the basis of average actuarial values published by the Secretary under subparagraph (B)(i), or

"(ii) on the basis of the actuarial value with respect to that employer, computed using guidelines published by the Secretary under subparagraph (B)(ii).

"(B) COMPUTATION OF ACTUARIAL VALUES.—The Secretary of Health and Human Services, before the beginning of each of 4 years (beginning with 1989 for duplicative part A benefits) shall—

"(i) calculate and publish the national average actuarial value of duplicative part A benefits for 1988 and the year involved, and

"(ii) guidelines for employers to use, under subparagraph (A)(ii), in computing the actuarial value of such duplicative benefits with respect to each employer for such years.

"(d) EFFECTIVE PERIOD.—

"(1) IN GENERAL.—Subsection (a) shall only be effective during the period beginning on January 1, 1989, and ending on December 31, 1990, or, if later, the date specified in paragraph (2).

"(2) EXTENSION TO COVER CURRENT COLLECTIVE BARGAINING AGREEMENTS.—In the case of employees or retired former employees who are provided duplicative part A benefits under a collective bargaining agreement that is in effect on the date of enactment of this Act, the date specified in this paragraph is the date of the expiration of the agreement (determined without regard to any extension thereof agreed to after the date of the enactment of this Act).

"(e) EXCLUSION OF MULTI-EMPLOYER PLANS.—This section shall not apply with respect to duplicative part A benefits provided under a plan—

"(1) to which more than one employer is required to contribute, and

"(2) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer.".

(6) Section 422 of the Medicare Catastrophic Coverage Act of 1988 is amended—

(A) by striking out "and subtitle A of title II of this Act" in subsection (a)(1), and

(B) by striking out subparagraph (C) of subsection (c)(1).

(f) EFFECTIVE DATE.—The repeals and amendments made by this section shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

SEC. 2. PROPOSED LEGISLATION TO PROVIDE FOR THE HEALTH CARE NEEDS OF THE ELDERLY.

Within six months of the date of enactment of this Act the Senate Committee on Finance shall develop and report legislation providing for the health care needs of the elderly and disabled population in a manner which is consistent with the dignity and wishes of such population.●

By Mr. DODD (for himself, Mr. COATS, and Mr. HARKIN):

S. 1454. A bill to revise and extend the programs established in the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986, and for other purposes; to the Committee on Labor and Human Resources.

CHILDREN WITH DISABILITIES TEMPORARY CARE REAUTHORIZATION ACT

● Mr. DODD. Mr. President, I rise today with my colleagues, Senator COATS and Senator HARKIN, to introduce the Children with Disabilities Temporary Care Reauthorization Act of 1989—a bill that provides important services to families having children with disabilities or who are otherwise at risk for abuse.

Children with special, often unremitting, needs place exceptional demands upon even the best situated parents. As a consequence, it is reported that at least 25 percent of child abuse cases involve children with disabilities. Support services for parents with disabled children, including intermittent respite care, are both essential and cost-effective.

Federal funds were first authorized in 1986 to encourage the States to develop demonstration programs to provide temporary nursery care. Testimony before the House this year indicated that over 30 percent of families using these services would not have been able to cope had respite care been unavailable.

In my State of Connecticut, these funds have resulted in three such respite programs known as "Time Out for Parents"—TOPS. Together with six other Therapeutic Child Care Programs, a total of 500 children receive care ranging full-time to several hours per week. As valuable as these services are, the State administrator has told my staff that the current programs are able to reach only one fourth of the children needing such assistance in Connecticut.

The current reauthorization extends the demonstration funds to provide nonmedical child care and referral and support services for disabled children and children at risk for abuse. The eligibility definitions are broadened and evaluations of existing programs are required, along with directives to improve State coordination of respite care services.

Respite care helps preserve families and prevent child abuse. In its absence, the alternative is often institutionalization, which is less desirable for the child and more expensive for the State. The fiscal year 1988 Federal share of Medicaid payments to States for institutional care for the Mentally Retarded Program alone was $3.3 billion.

This legislation is as enlightened as it is cost-effective. I urge its passage and ask unanimous consent that the full text of this bill be entered into today's CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1454

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children With Disabilities Temporary Care Reauthorization Act of 1989".

SEC. 2. REFERENCES TO CHILDREN WITH DISABILITIES.

The Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended—

(1) in section 203, in the first sentence, by striking "handicapped children" and inserting "children with disabilities"; and

(2) in section 205—

(A) by striking "working with handicapped" and all that follows through "families" in subsection (a)(2)(C) and inserting the following: "working with children with disabilities, with chronically ill chilren, and with the families of such children,"; and

(B) by striking "the term" and all that follows through "such term in" in subsection (d)(2), and inserting the following: "the term 'children with disabilities' has the meaning given the term 'handicapped children' in".

SEC. 3. STATE INTERAGENCY COORDINATION.

(a) IN GENERAL.—Section 205(a)(1) of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended—

(1)(A) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively;

(B) in clause (iii) (as so redesignated), by striking "and" after the semicolon at the end;

(C) in clause (iv) (as so redesignated), by striking the period at the end and inserting "; and"; and

(D) by inserting after such clause (iv) the following new clause:

"(v) with respect to State agencies described in subparagraph (B), provide documentation of a commitment by all such agencies to develop a State plan for coordination among the agencies in carrying out programs and activities provided by the State pursuant to a grant under section 203."; and

(2)(A) by inserting "(A)" after "(1)"; and

(B) by adding at the end the following new subparagraph:

"(B) State agencies referred to in subparagraph (A)(v) are State agencies responsible for providing services to children with disabilities or with chronic or terminal illness, or responsible for financing services for such children, or both, including State agencies responsible for carrying out State programs that—

"(i) receive Federal financial assistance; and

"(ii) relate to social services, maternal and child health, comprehensive health and mental health, medical assistance and infants, or toddlers and families.".

(b) DEFINITION.—Section 205(d) of such Act (42 U.S.C. 5117c(d)) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) the term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.".

SEC. 4. REPORTS.

Section 205(c) of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended in the second sentence to read as follows: "Such report shall include—

"(1)(A) information concerning costs, the number of participants, impact on family stability, the incidence of abuse and neglect,

the types, amounts, and costs of various services provided, demographic data on recipients of services, and such other information as the Secretary may require; and

"(B) with respect to services provided by the States pursuant to section 203, information concerning the number of families receiving services and documentation of parental satisfaction with the services provided;

"(2) a specification of the amount and source of public funds, and of private funds, expended in the State for temporary child care for children with disabilities or with chronic or terminal illnesses; and

"(3) a State strategy for expanding the availability in the State of temporary child care, and other family support, for families of children with disabilities or with chronic or terminal illnesses, which strategy specifies the manner in which the State intends to expend any Federal financial assistance available to the State for such purpose, including any such assistance provided to the State for programs described in section 205(a)(1)(B).".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 206 of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended—

(1) in the first sentence, by inserting before the period the following: ", and $20,000,000 for each of the fiscal years 1990 and 1991"; and

(2) in the second sentence, by striking "Such sums" and inserting "Amounts appropriated under the preceding sentence".

SEC. 6. REVISION OF SHORT TITLE.

Section 201 of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended by striking "This title" and all that follows and inserting the following: "This title may be cited as the 'Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986'.".

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1989, or on the date of the enactment of this Act, whichever occurs later.●

● Mr. COATS. Mr. President, I am also joining Mr. DODD in introducing an important bill today.

The Children With Disabilities Temporary Care and Crisis Nurseries Act of 1986 was established by Congress to encourage the States to create demonstration programs similar to the funding groups established by the Challenge Grants Act. The Nurseries Act encouraged the funding of private and public organizations that provide temporary nonmedical child care for handicapped and chronically or terminally ill children. The act also encouraged the funding of organizations that provide crisis nurseries for abused and neglected children.

Statistics tell us that children with disabilities are at a greater risk of being abused than are children without disabilities. One report shows that at least 25 percent of the child abuse cases involve children with disabilities. This is due to the special and almost continuous care required by these disabled children which places increased pressures and strains on the child's family. Respite care and temporary child care provides an opportunity to prevent this neglect by relieving the pressures and strains.

We must reauthorize funds for this program because it provides leadership to States to improve their services to children with special needs. This program allows States to move in the right direction without huge Federal expenditures and unnecessary institutionalization. Without this program, 30 percent of the effected families would not have been able to financially cope with their children's handicap or illness.

Like the Challenge Grant Program, this program provides only seed money with the bulk of the funds provided by the States and other sources. This program is vital because it actually saves the American taxpayers money. With this program, respite care is made available to the parents of handicapped or seriously ill children. Without this program, many parents would have to resort to taxpayer provided out-of-the-home residential facilities. In effect, the seed money provided by this program provides a cost-effective alternative to institutionalized care.

Mr. President, this is a program that will save the American taxpayers money in the long run. This program will also allow families to stay together. With respite care available, handicapped and seriously ill children will be allowed to remain at home while receiving quality health care.

This is a program which is vitally necessary to many Americans in great need. I urge my colleagues to join me in supporting the passage of both of these bills.●

By Mr. DODD (for himself and Mr. COATS):

S. 1455. A bill to transfer a certain program with respect to child abuse from title IV of Public Law 98-473 to the Child Abuse Prevention and Treatment Act, and for other purposes; to the Committee on Labor and Human Resources.

CHILD ABUSE PREVENTION CHALLENGE GRANTS REAUTHORIZATION ACT

● Mr. DODD. Mr. President, I rise today to introduce the Child Abuse Prevention Challenge Grants Reauthorization Act—an important piece of legislation which will permit the States to further develop and maintain educational programs to prevent child abuse. I am particularly pleased that the ranking minority member of the Subcommittee on Children, Family, Drugs, and Alcoholism, Senator DAN COATS, is cosponsoring this bill. Child abuse is unfortunately, and tragically, increasing in prevalence: 2.2 million cases were reported in 1988 resulting in 1,255 deaths. Continued bipartisan efforts will be needed if such hurt and cruelty are to be averted and that is why I am encouraged by the consensus we have achieved in committee.

The original authorization was passed in 1984 to encourage the States to begin and maintain child abuse prevention programs. The States have been given broad flexibility in their design so that these educational efforts are appropriate and specific for the local communities. States are offered a match of one Federal dollar for every four State dollars directed toward child abuse prevention. State revenues derive from a variety of sources: State income tax checkoffs, marriage license surcharges, private donations, and State appropriations.

The Federal challenge grants have resulted in 1,200 programs in 49 States. Appropriations, however, have never been fully adequate to meet the Federal-State match. While these Federal grants have assisted States in expanding services in an important way, thousands of qualified programs have been left out because of insufficient funds. The States have been able to support less than half the grant applications received. In some States, the funding rate is as low as 8 percent of the eligible pool.

The current reauthorization would also require a study by the GAO to determine whether or not Federal funds from the challenge grants are the only Federal moneys used by the States for prevention activities. This study would also examine how the use of such funds adds to the administrative burden for the States.

Though modest in scale and cost, this legislation is important in scope and consequence. In no other social issue is prevention more critical and cost effective. The impact of child abuse is profound and the effects long lasting and far reaching for the individual as well as for society. Child abuse undeterred results in a cascade of hurt and ills that our Nation can scarce afford nor permit.

I ask unanimous consent that the full text of this bill be printed in today's CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1455

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Abuse Prevention Challenge Grants Reauthorization Act of 1989".

SEC. 2. TRANSFER OF CERTAIN PROGRAM TO CHILD ABUSE PREVENTION AND TREATMENT ACT.

(a) IN GENERAL.—Sections 402 through 409 of title IV of Public Law 98-473 (98 Stat. 2197 et seq.) are—

(1) transferred to the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.);

(2) redesignated as sections 201 through 208, respectively; and

(3) in the appropriate sequence, inserted after section 15 of the Child Abuse Prevention and Treatment Act.

(b) AVAILABILITY OF APPROPRIATIONS.—With respect to amounts made available in appropriation Acts for carrying out the program transferred by subsection (a) to the Child Abuse Prevention and Treatment Act, the transfer of such program may not be construed to affect the availability of such amounts for carrying out such program.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS TO CHILD ABUSE PREVENTION AND TREATMENT ACT.

(a) IN GENERAL.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by section 2 of this Act, is further amended—

(1) by redesignating sections 2 through 15 as sections 101 through 114, respectively;

(2) by inserting before section 101 (as so redesignated) the following new heading:

"TITLE I—GENERAL PROGRAM";

and

(3) by inserting before section 201 the following new heading:

"TITLE II—GRANTS WITH RESPECT TO ENCOURAGING STATES TO MAINTAIN CERTAIN FUNDING MECHANISMS".

(b) CROSS-REFERENCES IN TITLE I.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is further amended—

(1) in section 102—

(A) in subsection (c)(1)(A), by striking "section 4" and inserting "section 103";

(B) in subsection (e), by striking "section 4(f)" and inserting "section 103(f)"; and

(C) in subsection (f)(2)(E), by striking "sections 6 and 7" and inserting "sections 105 and 106";

(2) in section 104(b)—

(A) in paragraph (1), by striking "section 6(b)" and inserting "section 105(b)"; and

(B) in paragraph (2)(B), by striking "section 105(a)(1)" and inserting "section 105(a)(1) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988";

(3) in section 105—

(A) in subsection (a)(2)(A), by striking "section 7" and inserting "section 106"; and

(B) in subsection (b)(3), by striking "section 5" and "section 10" and inserting "section 104" and "section 109", respectively;

(4) in section 108—

(A) in subsection (a)(1), by striking "section 8(b)(10)" and inserting "section 107(b)(10)"; and

(B) in subsection (b), by striking "this Act" and inserting "this title";

(5) in section 109(b)(1), by striking "sections 8(b)" and all that follows and inserting the following: "sections 107(b) and 107(e) or receive a wavier under section 107(c);";

(6) in section 112(b)—

(A) in paragraph (1), by striking "section 10" and inserting "section 109"; and

(B) In paragraph (2), by striking "section 9" and inserting "section 108";

(7) in section 113—

(A) in the matter preceding paragraph (1), by striking "this Act" and inserting "this title";

(B) in paragraph (1), by striking "section 3" and inserting "section 102";

(C) in paragraph (2), by striking "section 2" and inserting "section 101"; and

(D) in paragraph (9), by striking "section 4" and inserting "section 103"; and

(8) in section 114—

(A) in subsection (a)—

(i) in the first sentence, by striking "this Act" and inserting "this title"; and

(ii) in the second sentence—

(I) by striking "sections 5, 6, and 7" and inserting "sections 104, 105, and 106";

(II) by striking "sections 8(a) and 9 of this Act" and inserting "sections 107(a) and 108";

(III) by striking "section 7(a) of this Act" and inserting "section 106(a)"; and

(IV) by striking "section 8(f) of this Act" and inserting "section 107(f)"; and

(B) in subsection (b), by striking "this Act" and inserting "this title".

(c) CROSS-REFERENCES IN TITLE II.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is further amended—

(1) in title II, by striking "sections 402 to 409" each place such term appears and inserting "this title";

(2) in section 205(b)(1)(A)—

(A) by striking "section 2" and all that follows through "Treatment Act" and inserting "section 101"; and

(B) by striking "section 5" and inserting "section 204"; and

(3) in section 208, by striking "section 6(b)(1)(C)" and inserting "section 205(b)(1)(C)".

(d) TABLE OF CONTENTS.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as otherwise amended by this Act, is amended in section 1(b), in the table of contents—

(1) by redesignating the items relating to sections 2 through 15 as items relating to sections 101 through 114, respectively;

(2) by inserting after the item relating to section 1 the following new item relating to title I:

"TITLE I—GENERAL PROGRAM";

and

(3) by adding at the end the following new items:

"TITLE II—GRANTS WITH RESPECT TO ENCOURAGING STATES TO MAINTAIN CERTAIN FUNDING MECHANISMS

"Sec. 201. Findings and purpose.
"Sec. 202. Definitions.
"Sec. 203. Grants authorized.
"Sec. 204. State eligibility.
"Sec. 205. Limitations.
"Sec. 206. Withholding.
"Sec. 207. Audit.
"Sec. 208. Report.".

SEC. 4. STYLISTIC MODIFICATION OF TRANSFERRED PROGRAM.

(a) SECTION 201.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 201—

(1) by striking all that follows through "The Congress finds that—" in subsection (a) and inserting the following:

"SEC. 201. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—"; and

(2) in subsection (b), by inserting "PURPOSE.—" after the subsection designation.

(b) SECTION 202.—

(1) DEFINITIONS.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 202 by striking the section heading and all that follows through "As used" and inserting the following:

"SEC. 202. DEFINITIONS.

"As used".

(2) STATE.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 202 by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) the term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.".

(c) SECTION 203.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 203—

(1) by striking the section heading and all that follows through "The Secretary" in subsection (a) and inserting the following:

"SEC. 203. GRANTS AUTHORIZED.

"(a) IN GENERAL.—The Secretary";

(2) in subsection (b), by inserting "PAYMENTS.—" after the subsection designation; and

(3) in subsection (c), by inserting "AUTHORIZATION OF APPROPRIATIONS.—" after the subsection designation.

(d) SECTION 204.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 204 by striking the section heading and all that follows through "Any State" in the matter preceding paragraph (1) and inserting the following:

"SEC. 204. STATE ELIGIBILITY.

"Any State".

(e) SECTION 205.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 205—

(1) by striking the section heading and all that follows through "Any grant" in subsection (a)(1) and inserting the following:

"SEC. 205. LIMITATIONS.

"(a) AMOUNT OF GRANT.—

"(1) IN GENERAL.—Any grant";

(2) in subsection (a)—

(A) in paragraph (1), by moving subparagraphs (A) and (B) two ems to the right so that the left margins of such subparagraphs are indented 6 ems; and

(B) in paragraph (2), by striking all that follows through "paragraph (1)" and inserting the following:

"(2) DEFINITION.—For purposes of paragraph (1)(B)"; and

(3) in subsection (b)—

(A) in paragraph (1)—

(i) by striking all that follows through "No grant" in the matter preceding subparagraph (A) and inserting the following:

"(b) APPLICATION.—

"(1) REQUIREMENTS.—No grant"; and

(ii) by moving subparagraphs (A) through (C) two ems to the right so that the left margins of such subparagraphs are indented 6 ems; and

(B) in paragraph (2), by striking all that follows through "The Secretary" and inserting the following:

"(2) APPROVAL.—The Secretary".

(f) SECTION 206.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 206 by striking the section heading and all that

follows through "Whenever the Secretary" and inserting the following:

"SEC. 206. WITHHOLDING.

"Whenever the Secretary".

(g) SECTION 207.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 207 by striking the section heading and all that follows through "The Comptroller General" and inserting the following:

"SEC. 207. AUDIT.

"The Comptroller General".

(h) SECTION 208.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 208 by striking the section heading and all that follows through "The Secretary" and inserting the following:

"SEC. 208. REPORT.

"The Secretary".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR TRANSFERRED PROGRAM.

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 203(c) by striking "There is authorized" and all that follows and inserting the following: "For the purpose of carrying out this title, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991, but in no event shall amounts so appropriated exceed $7,000,000 in any fiscal year.".

SEC. 6. AUTHORITY, WITH RESPECT TO TRANSFERRED PROGRAM, OF NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 104(b)—

(1) by striking "and" after the semicolon at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2)(D) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) directly or through contract, identify effective programs carried out by the States pursuant to title II and provide technical assistance to the States in the implementation of such programs.".

SEC. 7. STUDY OF TRANSFERRED PROGRAM BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—With respect to the program transferred by section 2(a) to the Child Abuse Prevention and Treatment Act, the Comptroller General of the United States shall conduct a study of the trust funds or other funding mechanisms established by the States pursuant to the program for the purpose of determining, for each State with such a funding mechanism—

(1) whether the amounts provided by the Federal Government under the program are the only Federal funds received by the State for child abuse prevention activities;

(2) if Federal funds received under the program are not the only Federal funds received by the State for such activities, whether receiving the Federal funds under multiple programs constituted an unnecessary administrative burden for the State, and if so, a description of the nature of the burden;

(3) the extent to which, in the fund, amounts received by the State from the Federal Government under the program, together with State funds contributed pursuant to the program, are commingled with other Federal and State funds, including a specification of the total amount contributed by the State to the fund and the percentage constituted by such amount; and

(4) the amount expended by the State from the fund for each of the activities authorized in the eligibility provisions of the program, the percentage of the fund constituted by each such amount, and the policies underlying the allocation among such activities of amounts in the fund.

(b) REPORT.—The Comptroller General of the United States shall, not later than September 30, 1990, complete the study required in subsection (a) and submit to the Congress a report describing the findings made as a result of the study.

SEC. 8. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect October 1, 1989, or upon the date of the enactment of this Act, whichever occurs later.●

● Mr. COATS. Mr. President, today our Nation continues to witness a tragic nationwide problem; the problem of child abuse. Although credible efforts have been made to curb the abuse of children, this tragic problem continues to escalate. In 1988 alone 2.2 million cases of child abuse were reported. In that same year, 1,255 children died as a result of abuse and maltreatment. In my own State of Indiana reports of child abuse rose from 22,844 in 1981 to 30,763 in 1988. In Indiana the number of reported cases of child abuse doubled from 8,249 in 1981 to 16,023 in 1988. As the statistics suggest, America must work harder to purge this Nation of this national disgrace.

In 1984, Congress recognized this tragic problem and created the Challenge Grant Program. This program, which matched every four State dollars with one Federal dollar, was established to challenge the States to establish and maintain trust funds and funding mechanisms to fund child abuse and prevention programs. Unlike most Federal programs, this program encouraged the States to establish and maintain child abuse programs by providing only seed money. As a result of this program, the number of State established trust funds rose from 20 in 1984 to 44 in 1987.

Today, I am pleased to join my distinguished colleague in introducing legislation to reauthorize funds for this highly successful program. We must continue to send a message that the abuse of children is a national problem; a problem which must be solved. We must support programs such as this that seek to establish public/private partnerships and address national problems without establishing cumbersome bureaucracies. Much has been done to rid our Nation of the ugly problem of child abuse; the statistics tell us that we must do much more. Let's help the States help themselves through State created and operated programs tailored to their particular needs.●

By Mr. HATFIELD:

S. 1456. A bill to amend the Immigration and Nationality Act to protect foreign spouses victimized by physical abuse and extreme mental cruelty; to the Committee on the Judiciary.

By Mr. HATFIELD (for himself and Mr. PELL):

S. 1457. A bill to amend the Older Americans Act of 1965 to authorize demonstration projects to provide innovative volunteer opportunities to older individuals to provide nursing aide services to residents of nursing homes; to the Committee on Labor and Human Resources.

IMMIGRATION REFORM FOR BATTERED SPOUSES AND SENIOR CITIZENS AS LONG TERM CARE VOLUNTEERS

● Mr. HATFIELD. Mr. President, in 1981, I joined my distinguished colleagues from Oregon and Minnesota, Senator PACKWOOD and Senator DURENBERGER, in introducing the original Economic Equity Act, a package of provisions aimed at correcting the inequities in existing law which perpetuate financial hardship for women. Over the years, this omnibus legislation has been substantially reshaped, and many of its original provisions have been enacted into law.

The original legislation included reforms in public and private pension laws, tax policy, insurance practices and Government regulation. The 1989 Economic Equity Act package, which will be introduced later this week, makes the same statement as the original act did 9 years ago—discriminatory laws which cause economic disadvantage to women still exist and must be corrected. Today, however, the new package includes four very different titles—employment, economic security, dependent care, and, for the first time, health care. I rise today to introduce two components of the new health care title, and to join my colleague from Rhode Island, Senator PELL, in cosponsoring a third.

THE MARRIAGE FRAUD AMENDMENTS OF 1989

I am pleased to introduce today the Marriage Fraud Amendments of 1989. This legislation addresses the plight of those who, as citizens of another country, are trapped in marriages to American citizens that have become physically or mentally abusive. My colleague from New York, Ms. SLAUGHTER, has introduced similar legislation in the House.

Current immigration law mandates a 2-year period of conditional permanent residency for foreigners who marry American citizens or permanent residents. At the end of this 2-year period, the American spouse and the foreign spouse must file a joint petition to gain full permanent residency for the foreign spouse. If the relationship is not maintained or the American spouse refuses to sign the joint pe-

tition, deportation proceedings can be initiated.

The Marriage Fraud Amendments of 1989 will allow a battered spouse, in certain circumstances, to file for American citizenship without the concurrence of his or her American spouse. In order to utilize the provision, the battered spouse must demonstrate that the marriage had been entered into in good faith and credible evidence must be produced to show the spouse had been physically battered or subjected to extreme mental cruelty.

These amendments represent an important clarification in current immigration law and will be of great benefit to those foreign spouses who find themselves forced to make the difficult choice of remaining in an abusive relationship or face possible deportation to a country that is no longer home. I urge my colleagues' support.

LONG-TERM CARE VOLUNTEERS

America is rapidly becoming an aging society. Over the last 20 years, the number of people aged 65 and over has grown by 56 percent. Twenty percent of the elderly population live in nursing homes and another 20 percent are in need of some type of long-term care services. The steady growth of our elderly population emphasizes the necessity of maintaining a strong force of nursing aides and caregivers.

There are approximately 1.5 million people employed as nursing aides in over 25,000 nursing homes in the country. In the next 20 years, as the nursing home population is expected to double, another 500,000 nursing aides will be needed to adequately staff care facilities. As the need for caregivers grows however, the number of workers who have historically made up the nursing home work force is projected to decline by 30 percent in the next 8 years. Therefore, we must tap one of our country's most precious resources, our older Americans, for the support they can bring to care facilities.

Today, with the support of Senator PELL, I am introducing legislation to amend the Older Americans Act to authorize a demonstration project allowing senior citizen volunteers to work as aides in nursing homes. Under this bill, projects providing long-term care to residents of nursing homes would be eligible for funding under the Volunteer Opportunities Demonstration Grant Program of the Older Americans Act. The Older Americans Act currently authorizes demonstration grants for projects which expand volunteer opportunities for older persons. Adding such long-term care services to the demonstration grant program will heighten attention to the declining supply of caregivers and will encourage the innovative use of the nontraditional work force. A similar version of this legislation has been introduced in the House by Ms. KAPTUR, my colleague from Ohio.

I am also pleased to add my support to Senator PELL's resolution (S. Res. 161) expressing the Sense of the Congress that long-term care aides make significant contributions to individuals of all ages and deserve recognition and compensation for their efforts. I believe this simple resolution will lead the effort for improvement of the status, recruitment, salary and other benefits of long-term care workers.

I look forward to the introduction of the 1989 Economic Equity Act and am pleased to support this effort with the three legislative initiatives I have just outlined. As a cosponsor of the entire package, I encourage my colleagues to review these proposals and join in this effort to end the economic inequities women contained in our current laws.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1456

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BATTERED SPOUSE WAIVER OF THE CONDITIONAL RESIDENCY REQUIREMENT UNDER THE INA.

(a) IN GENERAL.—Section 216(c) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)) is amended by adding at the end the following new paragraph:

"(5) BATTERED SPOUSE WAIVER.—(A) The Attorney General shall remove the conditional basis of the permanent resident status for any alien who fails to meet the requirements of paragraph (1), if the alien demonstrates—

"(i) that the alien entered into the qualifying marriage in good faith; and

"(ii) through credible evidence, that the alien was battered by, or was the subject of extreme mental cruelty perpetrated by, his or her spouse.

"(B) The Attorney General shall (by regulation) establish measures to protect the confidentiality of information concerning any injured alien spouse, including information regarding the whereabouts of such spouse.".

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any marriage covered by the Immigration Marriage Fraud Amendments Act of 1986 (Public Law 99-639).

S. 1457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS.

Section 422(b)(9) of the Older Americans Act of 1965 (42 U.S.C. 3035(b)(9)) is amended—

(1) in subparagraph (A)(ii) by inserting "and" after the semicolon,

(2) in subparagraph (B) by striking the period and inserting "; and", and

(3) by inserting after subparagraph (b) the following:

"(C) projects furnishing long-term care services to residents of nursing homes.".

SEC. 2. EFFECTIVE DATE.

This Act shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.●

By Mr. WALLOP:

S. 1458. A bill to amend chapter 6 of title 5, United States Code, relating to regulatory flexibility analysis; to the Committee on the Judiciary.

REGULATORY FLEXIBILITY AMENDMENTS ACT OF 1989

● Mr. WALLOP. Mr. President, today I am introducing legislation which suggests three amendments to the Regulatory Flexibility Act we adopted in 1980. At first glance, these amendments appear simple, but their potential scope and impact is rather vast and complex. In a nutshell, my amendments provide for coverage of interpretative rules under the act; judicial review and a modification of the definitions to ensure that the indirect effects of regulations are considered when an analysis of rules is undertaken.

As my colleagues may recall, the Regulatory Flexibility Act was based on the premise that small entities may be forced to bear an unnecessary and disproportionate burden when the Federal Government imposes regulations. The act requires that agencies analyze proposed rules in order to estimate their impact on small entities and lessen the burdens posed by Federal rulemaking. Compliance with the procedures of the act is rulemaking based on the best possible records and input from the regulated community. Regrettably, some agencies have not recognized the benefits to be had by improving their regulatory activities and continue to ignore without reprisal the obligation under law to perform appropriate small entity analysis for their proposed rules.

One reason is that many rules are improperly classified by the agencies themselves as interpretative rules. Under the act, no regulatory impact analysis is required for rules classified as interpretative, thus allowing agencies to avoid this important rulemaking activity.

Second, there is no meaningful judicial review of an agency's decision to certify that a rule does not have a substantial impact on a significant number of small entities, even though it may impose tremendous burdens. And, finally, as originally adopted, the act does not take into account that regulations which are imposed on small entities have an indirect impact on the customers and/or clients of those entities. I'd like to provide a few examples to highlight these deficiencies in the act.

The Internal Revenue Service is one of 90 agencies which issues regulations comprising some 75,000 pages in the Code of Federal Regulations every year. IRS regulations ostensibly

impact a substantial number of small entities on an annual basis. The most recent illustration of the IRS' failure to comply with the act is through the interpretative rule classification of section 89. In early March, when the IRS issued proposed regulations under section 89 of the Internal Revenue Code, it incorrectly concluded that no analysis was necessary because the rule was interpretative and therefore exempt from an initial regulatory flexibility analysis.

Since that time, countless pieces of legislation have been introduced in Congress to either repeal or simplify section 89. While Congress has succeeded in making some modifications to section 89, including the exemption of businesses with 20 or fewer employees, a number of small businesses are concerned that the regulations will still be too costly to comply with. In point of fact, had the section 89 rules been covered by the act, efforts would have been properly focused on the impact on small entities and regulatory alternatives which are only now being considered as a result of intense pressures from Congress. The application of the act to rules and regulations issued by the Internal Revenue Service should therefore depend on more meaningful criteria than whether or not the rule is interpretative.

Let me also offer another rulemaking effort to illustrate the problems posed by insufficient impact analysis and improper certification decisions by various agencies. If we are to make the Regulatory Flexibility Act more effective, judicial review of certification decisions is absolutely essential.

To focus on that problem, I call my colleagues' attention to a recent case, Lehigh Valley Farms versus Block. In the Lehigh Valley case, a group of dairy producers asserted that the Secretary of Agriculture's decision to certify a rule failed to comply with the requirements of the Regulatory Flexibility Act. The Secretary had determined that changes in certain milk marketing orders would not have a significant impact on a large number of small entities, and the plaintiffs contended that the certification of no tangible impact was incorrect. While the court sided with the plaintiffs, it recognized that the core of the debate was whether or not it could review the Secretary's decision to certify. The court reluctantly concluded that certifications were not reviewable, in part because the legislative history on this point was not definitive. The court's decision stated that "it is for Congress to correct this anomaly * * *"

Congress must recognize the fact that small entities must take advantage of certain benefits inherent to being small in order to compete in the marketplace. If compliance with a proposed rule or regulation can be achieved at both cost and time savings to small business people by custom designing the regulatory and informational requirements which accomplish their purpose while lessening the negative economic impact, that should be the key component of our rulemaking process. Small businesses face unique problems; they have small staffs and fewer people to review and adhere to regulations.

A case in point is the story about a minimum wage inspector who went through a small, privately owned company to check on the people doing a number of different jobs. The inspector asked, "are they paid minimum wage or more?" And he proceeded to make his way through the company, checking all the employees off. He finally said "Is there anybody else here that I haven't seen?" The owner admitted that there was "this half-crazy guy whom we work 80 hours a week, and he gets paid about a third the minimum wage." The inspector said, "I want to talk to him." The owner replied, "You are."

Again, Mr. President, I would stress that the purpose of engaging in public participation of the rulemaking process is to ensure that we achieve a better balance in the final rules when an impact analysis and alternatives are thoroughly reviewed. Without adequate means to challenge an agency's decision to certify a rule as not having a great impact on small entities, our regulatory process tends to fuel the fires of inflation—the Nation's number one problem. While recent indicators point to an increase in wages and benefit, workers lost ground to inflation, which rose to 5.2 percent in the 12 month period ending in June.

I would also equate inflation with the problems created by the costs of complying with section 89. Because it is such an administrative burden, a great many small businesses have been forced to drop certain benefits, thus forcing their employees to pay for necessary items such as health care and further reducing their take home pay.

The last provision of my legislation which I will touch on briefly deals with a modification of the definitions to include the indirect effects of regulations on the customers of regulated businesses. For example, small telephone companies may have to raise their rates to satisfy a rule promulgated by the Federal Communications Commission. In contrast, a larger phone company is able to spread that cost out over thousands or millions of customers. The costs of compliance with those FCC regulations will be incurred not by the small telephone company, but by the customer, which may also be another small entity. To further illustrate this scenario, I would ask that a recent article from the Wall Street Journal be inserted in the RECORD at this point. This article, entitled "Agencies Block Competition by Small Firms" emphasizes the fact that government regulated occupations such as owning a cab or a beauty parlor not only have costly entry requirements, but they limit competition which in turn increases consumer costs. In my view, we should take these indirect factors into consideration if our regulatory process is to be entirely effective.

Mr. President, I urge my colleagues to join me in cosponsoring this legislation. If we are to continue our efforts to alleviate the regulatory burdens on small entities, we must send a message to regulators that we are serious about our commitment to sound regulatory practices which focus on promulgating sensible and cost-effective rules that meet their statutory objectives.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AGENCIES BLOCK COMPETITION BY SMALL FIRMS

(By John R. Emshwiller)

All they ask for is a chance to compete.

But when Alfredo Santos tried to start a jitney-cab service in Houston, he says, the city told him he was breaking a 60-year-old ordinance restricting competition in municipal transit.

Marlene Young violated no laws in trying to set up a minibus line in the suburbs of Syracuse, N.Y. She even had the strong support of local officials. But state regulators blocked her plan, saying it might take too much business away from the existing privately owned bus company.

Wilfred Allick Jr. for years operated a charter-boat service in the U.S. Virgin Islands—until the National Park Service closed it as part of an effort to reduce the number of competitors in the area.

Like thousands of others, these three entrepreneurs have learned firsthand one of the uglier truths of his nation's free-enterprise system: It's a lot freer for some businesses than others. In industry after industry, government bodies have erected obstacles or outright bars to competition. Though most are wrapped in the banner of protecting the public, they often simply protect existing practitioners, critics say.

"For the guys with the inside track, government can be your best friend," says Richard Givens, a New York City lawyer and former regional director of the Federal Trade Commission. With government as a shield, a company "can protect its own turf to the detriment of other businesses and the public," he says.

Though there are no firm estimates, the economic costs of such government-sanctioned anti-competitiveness probably run into the tens of billions of dollars a year, says Paul Pautler, deputy director of economics at the FTC.

In 1986, for instance, the FTC studied state laws limiting the number of auto dealerships that can be opened in a given area. Some three dozen states had passed such laws, usually at the urging of auto dealers, the FTC found. It estimated that the reduced competition cost consumers $3 billion annually in higher car prices.

Many government-restricted occupations—such as owning a cab or a beauty parlor—are just the kind of relatively low-skill, low-capital business opportunities that

should be within reach of poor people, says Walter Williams, an economic professor at George Mason University in Fairfax, VA., and author of a book on the subject. But with stringent entry requirements that can cost thousands of dollars, these opportunities are denied many people, he argues.

Beyond dollars and jobs, adds Mr. Williams, "what is the moral basis in a free society for government to tell one person he can drive his own cab and another person that he can't?"

State-imposed barriers to entry are nothing new, dating back to at least the Middle Ages, when governments began sanctioning guilds in various crafts and started setting minimum competence requirements in such fields as medicine, according to S. David Young, author of a book about occupational licensing.

And some barriers clearly are necessary. Nobody wants to be operated on by a brain surgeon whose only previous experience came carving the holiday turkey.

On the other hand, not everybody agrees on the need for government to restrict who can be a tree surgeon or a barber or a masseur or a landscape architect or many of the nearly 500 occupations that are licensed by one or more states. Some states also set minimum fees for practitioners in some fields, such as moving companies. The justification for all this regulation is "sometimes hard to understand," says Jeffrey Zuckerman, director of the FTC's bureau of competition.

Congress and the courts have given states and, to a lesser degree, local governments exemptions from federal anti-trust laws, as Robert Fellmeth learned when he tried to attack the garbage-hauling monopoly in Chula Vista, Calif. Mr. Fellmeth, a San Diego lawyer, filed suit against Chula Vista in federal district court in San Diego on behalf of two garbage haulers who, he says, wanted to compete for commercial customers with the private company chartered by the city.

Mr. Fellmeth won a summary judgment in 1983 but lost on appeal when the federal circuit court in San Francisco ruled the following year that the city had the power to grant an exclusive franchise.

Thomas Harron, Chula Vista's city attorney, says the city has stayed with one hauler because "we've had very good service, and the last thing we want to do is interrupt things when they are going well." Indeed, says Mr. Fellmeth, the city was so happy with the hauler that it granted every rate increase the company requested for seven years in a row. City officials don't dispute that statement.

Mr. Santos, the would-be jitney operator, filed suit in April in federal district court in Houston, charging the city with violating his "right to establish a business free from arbitrary, anachronistic, anticompetitive and excessive regulation."

The 37-year-old Mr. Santos, a Houston cab driver, started using his cab as a jitney in 1984 after discovering such a service on a visit to Mexico City. A jitney is essentially, a cross between a bus and a cab, usually following a relatively fixed route and charging a fixed rate per passenger.

Jitneys were very popular around the U.S. early in this century—too popular, in fact, for streetcar companies, which persuaded many cities, including Houston, to enact laws barring jitneys, says Clint Bolick, Mr. Santo's attorney and director of the Landmark Legal Foundation Center for Civil Rights, a Washington, D.C., group that focuses on attacking government barriers to entrepreneurs.

The streetcar companies now are largely extinct, but the anti-jitney laws remain. The cab companies and bus lines like the laws because they "limit competition," Mr. Santos says. "I think people should have a choice." An attorney for the city of Houston declines to comment while the matter is in litigation.

Ms. Young, the Syracuse area minibus promoter, also argued for choice to the state of New York, but a state administrative law judge wasn't moved. In a written opinion turning down her application last month, the judge acknowledged that Ms. Young was "wholeheartedly" supported by local residents because the existing bus line "hasn't satisfied" users' needs. But he added that Ms. Young's service could damage the existing bus company economically and, in the long run, hurt overall transportation service in the area. He also questioned Ms. Young's financial capacity to operate the minibus service.

Ms. Young says she plans to appeal to higher state officials and is considering filing suit.

Mr. Allick, the boat operator, may have claim to the unkindest cut of all. For 18 years, like his father before him, he took tourists to the Buck Island Reef National Monument, near St. Croix.

But in the mid-1970s, the National Park Service decided that too many charterboat operators were going to Buck Island. So it began licensing operators and regulating charter rates to stop "predatory" price cutting, says Leonard Hall, who is in charge of concessions for the Park Service in the southeastern U.S., which includes the Virgin Islands.

The process has apparently worked. Where once there were 23 operators, only seven remain. In fact, the Park Service is currently more worried about "price gouging" than price cutting, Mr. Hall says.

None of the operators whose licenses were terminated did anything to harm customers or the national monument, Mr. Hall concedes. He adds that Mr. Allick was one of the best operators around. Mr. Allick's transgression was that he needed a new mast on his sailboat and took longer to get his boat back in operation than the Park Service allowed. So in 1982, the agency terminated his permit.

Mr. Allick worked for other charterboat operators for a while. Last year he reapplied for a Buck Island permit but was turned down; the Park Service says it isn't giving out any new permits. Now Mr. Allick is trying to start his own charter service to other sites in the area. He is also considering filing suit through the Landmark Legal Foundation.

"I get very frustrated," he says. "I just want to make an honest living."●

By Mr. SIMON (for himself, Mr. JEFFORDS, and Mr. METZENBAUM):

S. 1459. A bill to deny crewmember status in the case of certain strikes and lockouts; to the Committee on Labor and Human Resources.

DENIAL OF CREWMEMBER STATUS IN THE CASE OF CERTAIN STRIKES AND LOCKOUTS

● **Mr. SIMON. Mr. President, today Senator JEFFORDS, Senator METZENBAUM, and I, are introducing legislation to prohibit the hiring of nonimmigrant aliens as strike replacement workers in the airline and shipping industries. The rights of American workers should not fall victim to unfair competition from foreign workers.**

This legislation is a companion bill to H.R. 285—a bill introduced in the House of Representatives by Congresswoman MARGE ROUKEMA.

As a result of a loophole in our immigration law, nonimmigrant aliens may be hired to replace striking American workers on international air and sea routes. In other industries, nonimmigrant aliens are specifically prohibited from working as strikebreakers. This is simply not fair.

When the Immigration Reform and Control Act was passed in 1986, it contained a provision preventing the admission of nonimmigrant alien crewmembers as replacement workers during a strike. The provision was approved in conference, but the conference committee provided for a 1-year sunset, in order to give Congress time to study the issue. The time period elapsed on November 5, 1987, with no action by Congress. Mr. President, it is about time we addressed this problem on a permanent basis.

The issue is a simple one; nonimmigrant aliens should not be permitted to take American jobs by working as strikebreakers. The loophole in our law actually works to encourage employers to replace their American workers with foreign labor. Such an anomaly disturbs the delicate balance in our labor laws.

Significantly, nothing in this bill would prohibit an employer from hiring replacement workers, it simply requires that replacement crewmembers, like replacement workers in other industries, would have to be American workers.

I urge my colleagues to join in this effort to correct an inequity in our labor laws. Let us work together to protect the rights of American workers.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1459

***Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in the case of a strike or lockout in the course of a labor dispute (as defined in section 2(9) of the National Labor Relations Act, 29 U.S.C. 152(9)) in a bargaining unit of an employer in which an alien crewmember intends to perform service on board a vessel or aircraft, the alien crewmember may not be admitted to the United States for the purpose of performing such service.●**

By Mr. BOSCHWITZ (for himself and Mr. SIMPSON):

S. 1460. A bill to amend titles XVIII and XIX of the Social Security Act to exempt certain nurse aides from competency evaluation requirements mandated under such titles; to the Committee on Finance.

COMPETENCY EVALUATION EXEMPTION FOR CERTAIN NURSES

Mr. BOSCHWITZ. Mr. President, I rise today to introduce legislation that will greatly reduce the burden that competency evaluations place on nurse aides and the operating costs they would add to our Nation's nursing homes. I am pleased that my friend from Wyoming, Senator SIMPSON, joins me as a cosponsor.

The massive 1987 Omnibus Budget Reconciliation Act included a provision requiring competency evaluations for nurse aides. That provision mandates that all nurse aides employed before July 1, 1989, pass a test by January 1, 1990. If they do not pass this test, they must be retrained in order to continue working.

Mr. President, certainly it's important to have well-trained personnel in our nursing homes. We all want to see older Americans afforded the best care possible when they need long-term care. However, we don't want to make the costs our seniors face prohibitive. Government regulations, such as these, increase the operating costs of nursing homes, and these costs are then passed on to the taxpayers.

Furthermore, even under the best conditions, it's difficult for nursing homes to attract quality nurse assistants. That isn't surprising considering the physical and emotional demands of the work and the low pay. While the satisfaction of helping others is great, it doesn't pay the bills.

I've heard from a great many Minnesotans who are concerned about these requirements, which went into effect July 1. Some of these nurse assistants have been doing a good job for 10 or 15 years, and they feel like they're getting no credit for their experience. This law may force some of them to go through extensive training after years on the job. That's simply unnecessary.

The bill I'm introducing today acknowledges the experience of tried and true nurse assistants while minimizing the costs to nursing homes that have maintained a quality staff. I am proposing to alter the testing requirements so that those nurse aides who have been working in a nursing home for at least 1 year as of July 1, 1989, will be exempted from the competency test. All other requirements of the current law would remain in effect. This would eliminate the costs to nursing homes of administering unnecessary tests.

Mr. President, I firmly believe that we must work harder to address the needs of older Americans and ensure that the quality of care they receive is top-notch. But we must also ensure that our seniors have access to that care, and unnecessary Government regulations will only make that goal more difficult to attain. I welcome the support and cosponsorship of my colleagues and, because the competency tests have already begun, I urge the Finance Committee to consider my bill at the earliest opportunity.

Mr. President, I ask unanimous consent that my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1460

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN NURSE AIDES EXEMPTED FROM COMPETENCY EVALUATION REQUIREMENTS.

(a) MEDICARE EXEMPTION.—Section 1819(b)(5)(F) of the Social Security Act (42 U.S.C. 1395i-3(b)(5)(F) is amended—

(1) by striking the period at the end of clause (ii) and inserting in lieu thereof ", or"; and

(2) by adding at the end thereof the following new clause:

"(iii) who has been employed as a nurse aide by an individual skilled nursing facility for a period of over 1 year as of July 1, 1989.".

(b) MEDICAID EXEMPTION.—Section 1919(b)(5)(F) of the Social Security Act (42 U.S.C. 1396r(b)(5)(F) is amended—

(1) by striking the period at the end of clause (ii) and inserting in lieu thereof ", or"; and

(2) by adding at the end thereof the following new clause:

"(iii) who has been employed as a nurse aide by an individual skilled nursing facility for a period of over 1 year as of July 1, 1989.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to nursing facility services furnished on or after October 1, 1989.

By Mr. ADAMS (for himself, Mr. WIRTH, Mr. REID, Mr. METZENBAUM, Mr. FOWLER, Mr. CRANSTON, Mr. SANFORD, Mr. BRYAN, Mr. MOYNIHAN, Mr. GORE, Mr. LIEBERMAN, Mr. DASCHLE, and Mr. HATFIELD):

S. 1462. A bill to create a Federal nuclear facility environmental response fund, to create an Office of Environmental Management and Remedial Action, to require the Secretary of Energy and the Administrator of the Environmental Protection Agency to cooperate with affected States and Indian tribes, to provide for research and development to address environmental problems at Federal nuclear facilities, and for other purposes; to the Committee on Environment and Public Works.

Mr. President, today I am pleased to introduce legislation, the Federal Nuclear Facilities Environmental Response Act, aimed at one of the Nation's most serious environmental problems; the environmental contamination resulting from the Federal Government's own nuclear facilities.

While public concern over these problems is very high in our State of Washington, this problem is really a national one and involves dozens of facilities at some 17 defense complex sites in 12 States. When all of the additional nuclear sites associated with old Manhattan Project facilities, surplus U.S. Department of Energy [DOE] facilities, nuclear energy research and remedial action program sites are added, DOE is responsible for hundreds of contaminated sites.

This bill would establish a dedicated Federal fund to bring Federal nuclear facilities into compliance with Federal environmental laws and to create a grant program for affected States to oversee these compliance activities. It would also establish a new office within the Department of Energy to manage all of the Department's environmental compliance and remedial action programs for Federal nuclear sites. The grant program and a joint U.S. Department of Energy/U.S. Environmental Protection Agency R&D Program also setup by the bill would be funded out of the dedicated Federal fund.

Examination by DOE, the Congress, GAO and individual State governments indicate that the costs of cleaning up environmental contamination, upgrading environmental controls and safety, waste disposal, and decommissioning of DOE nuclear facilities could exceed $100 billion. The Federal Government has also assumed or offered to assume responsibility for a wide range of nuclear wastes and facilities over the years—uranium mill tailings sites, commercial low-level waste disposal sites, surplus Federal sites and facilities that were contaminated with nuclear material, and commercial nuclear facility decontamination and decommissioning—Three Mile Island, West Valley, and so forth.

Costs associated with these cleanup activities alone are expected to approach or exceed $100 billion and take decades to complete. In a preliminary cost report on defense facilities, DOE projected costs through the year 2045; a period of 56 years.

FEDERAL NUCLEAR FACILITIES ENVIRONMENTAL RESPONSE ACT

Mr. ADAMS. The purpose of the environmental response fund is to finance environmental corrective and remedial actions at DOE nuclear facilities and sites, decommissioning and decontamination of those facilities, and long-term surveillance, monitoring and maintenance of facilities and sites where required. The fund would also cover some R&D costs for developing cleanup technologies and grants to affected States and Indian tribes.

The central premise of the environmental response fund proposal is that

costs of remedial measures, decommissioning and long-term care should be paid by the programs or "beneficiaries" of those activities or facilities that require corrective actions to the extent practicable. Although a large portion of the costs DOE faces are from past weapons production activities and can probably be recovered only from Federal appropriations, this is not the exclusive case and every effort should be made to allocate costs to other appropriate sources where this can be done.

The use of a dedicated Federal fund provides a proven mechanism for both funding large, long-term projects and for collecting revenues from diverse sources. For instance, the use of a dedicated fund would allow for the accumulation of revenues from current sources, such as commercial users of DOE nuclear services, for future costs of decommissioning facilities.

Consequently, a dedicated fund that apportioned costs to individual "users" or "beneficiaries" of DOE's nuclear operations appears both an equitable and desirable way to assure adequate funding and timely action.

The Federal nuclear facility environmental response fund is modeled in part on the high-level waste repository fund created by the Nuclear Waste Policy Act of 1982 and in part on the Superfund created by CERCLA. As in the high-level waste fund, DOE defense programs—and in this case DOE nuclear energy, research, isotope production, and uranium enrichment programs—make payments to the fund commensurate with their share of DOE's environmental costs.

The environmental response fund would be established as a separate fund in the U.S. Treasury and managed by the Secretary of the Treasury. Expenditures from the fund for remedial activities would be made by a new Office of Environmental Management and Remedial Action within the Department of Energy. Expenditures for grants to States and Indian tribes and regulatory activities would be made from the fund by the Administrator of the U.S. EPA. Both agencies would make R&D expenditures based upon a jointly coordinated R&D program plan.

Overall costs and cost shares would be determined by DOE, as was done for the high-level waste fund, based on detailed cost projections and site-specific and facility-specific use by each program. These site-specific costs would be derived from the requirements established for each site in the compliance and decommissioning plans required by the proposed legislation. These costs would be adjusted to annual assessment payments and all cost projections and allocations would be adjusted periodically. The proposal envisions that DOE would develop the methodology for cost determination and allocation through an administrative rulemaking with opportunity for notice and comment by interested parties.

In addition to DOE program payments, the fund would also receive payments from other Federal agencies which purchase or use DOE services or sites for nuclear purposes. For example, the Navy disposes decommissioning submarine reactors at DOE's Hanford Reservation which will require long-term monitoring and maintenance. Under the proposal, the Navy would make a payment to the fund to cover those long-term costs.

The fund would also receive payments, or "user fees," from commercial users of DOE nuclear facilities or services such as uranium enrichment or nuclear isotope sales to cover their share of decommissioning and waste disposal costs directly related to those services. As in the case of DOE programs, commercial and non-DOE payments would be apportioned by DOE using an allocation methodology developed through rulemaking. This would give commercial users, and the public in general, full legal rights to comment and challenge the fee system.

Another source of funds for the trust fund is the payment of fines, fees and legal settlements resulting from violations of Federal environmental laws by DOE or its contractors. The bill would not alter any of the underlying Federal statutes under which such penalties would be recovered. It would simply provide that when and where such penalties can be recovered they shall be deposited in the fund. The bill would also make it clear that DOE has the authority to recover fines, fees and penalties from DOE contractors and that contract indemnity provisions shall not prevent DOE from recovering such penalties from contractor award fees.

The proposal contemplates direct appropriations of $2.5 billion for fiscal year 1991 and $3.7 billion for fiscal year 1992 for the first 2 years while the fund is established and its budget, allocation, and collection procedures are put in place. This sum will be in lieu of regular appropriations to the Department for environmental activities and not in addition to such appropriations. Once the fund is established the bill authorizes such sums as are necessary thereafter. This interim 2-year funding level is comparable to that announced by Secretary James Watkins for environmental activities.

Last, receipts to the fund would be reinvested in Federal securities and additional revenues would accrue to the fund from interest earned on this reinvestment.

DOE and USEPA would be required to enter into a joint agreement to coordinate research and development of technologies necessary for cleanup and decommissioning of Federal facilities. The agreement would include use of agency personnel and research facilities. The agencies would also be required to establish a technology transfer program for transferring new developments to the private sector. Funding for research and development for activities covered by the agreement would be provided from the fund.

I believe that it is imperative that we develop new, more cost-effective environmental cleanup and control technologies if we are to restore areas contaminated by the operation of Federal nuclear facilities at a cost we can afford. While I am not as optimistic as Secretary Watkins that technology will inevitably come to the rescue and dramatically decrease the financial burden by billions, if not tens of billions of dollars, I believe that we must try to improve our technology base. In some cases, such as the final disposition of the 149 single shell tanks at Hanford, technology simply doesn't exist today that would satisfactorily deal with the environmental problems at these sites.

Notwithstanding the scope of a State's delegated regulatory authorities, the cleanup and remediation of DOE's nuclear facilities is of significant concern to its citizens. The proposal provides States and Indian tribes affected by DOE activities, including those which may not contain the facility but are adjacent to it (such as Oregon and Georgia), or are on transportation corridors. All affected States and tribes would have minimum rights to be consulted by DOE and to receive information about environmental activities at the DOE sites. Affected States and Indian tribes would be eligible for assistance grants from the fund. States with delegated regulatory authority would be eligible for additional grants for that purpose. Grants would be administered by EPA consistent with its regulatory responsibilities to implement Federal environmental laws.

Finally, I want to commend Secretary Watkins for the steps that he is taking toward solving this problem. Today, for instance, he is announcing the details of this first 5-year cleanup plan. Unfortunately, we don't have a 5-year problem, we have a 30-year problem and it will take a lot of 5-year plans to cover that 30-year period. That is why this legislation puts in place a statutorily defined planning process for bringing each individual Federal nuclear site into compliance with Federal environmental laws. These plans would be reviewed at 5-year intervals with the participation of affected States and Indian tribes and the public. In the case of some environmental issues at DOE sites, such as the decommissioning of nuclear facilities and long-term care of disposal sites, existing Federal environmental

laws are not generally applicable. Consequently, the proposal requires DOE to establish special site management plans, with the consultation and concurrence of State and Federal regulatory agencies, for these nonregulated activities.

This legislation will not solve all of the Department of Energy's problems. It does not deal with a number of regulatory and management problems afflicting the Department and it is not intended to do so. What it is intended to do is to recognize that the cleanup and management of a variety of Federal nuclear facilities is and will continue to be a major mission of the Department of Energy. Consequently, the way in which the Department is structured, funded, and organized must be changed to reflect this reality. This legislation is intended to create these changes and provide a solid foundation upon which the public can depend to respond to the unfortunate legacy of our Federal nuclear complex.

Mr. President, I ask unanimous consent that the text of the Federal Nuclear Facilities Response Act be printed following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Nuclear Facilities Environmental Response Act".

SEC. 2. PURPOSES.

The purposes of this Act are the following:

(1) To provide an adequate, assured long-term source of funding for environmental restoration, decontamination, decommissioning, and long-term management of Federal nuclear facilities and sites.

(2) To provide for the compliance of Federal nuclear facilities and sites under the jurisdiction of the Secretary of Energy with applicable Federal environmental laws.

(3) To restore the environment affected by releases of hazardous and nuclear materials from Federal nuclear facilities within 30 years.

(4) To characterize, stabilize, retrieve, and dispose of high-level radioactive waste and transuranic waste currently stored at Federal nuclear facilities.

(5) To provide for the timely decontamination, decommissioning, and long-term management and monitoring of Federal nuclear facilities and sites.

(6) To provide for cooperation and consultation between the Federal Government and States and Indian tribes affected by environmental compliance and restoration activities at Federal nuclear facilities and sites, including transportation of radioactive and hazardous materials resulting from those activities.

(7) To provide research and development necessary for the environmental restoration, decommissioning, and long-term management of Federal nuclear facilities and sites.

SEC. 3. ENFORCEMENT OF FEDERAL ENVIRONMENTAL LAW.

Nothing in this Act shall be construed to modify or restrict the obligation of the Administrator (or a State to which regulatory authority has been delegated under Federal environmental law) to enforce, or the obligation of the Secretary to comply with, Federal environmental law.

SEC. 4. NATIONAL SECURITY INFORMATION.

Nothing in this Act shall authorize the release or disclosure of classified national security information to any person, including the Administrator and the Nuclear Regulatory Commission, except as provided by other law.

SEC. 5. DEFINITIONS.

For the purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "affected State or Indian tribe" means a State or Indian tribe that—

(A) has within its borders or contiguous to one of its borders a Federal nuclear facility or site;

(B) has within its boundaries or contiguous to one of its boundaries a major river, waterway, or underground aquifer that is within or contiguous to such a facility or site; or

(C) in the case of an Indian tribe, possesses treaty rights to lands or surface or subsurface waters that lie within or are contiguous to such a facility or site.

(3) The term "affected transportation corridor State or Indian tribe" means a State or Indian tribe within whose State or reservation boundaries is a transportation corridor used for radioactive or hazardous wastes resulting from the activities authorized by this Act.

(4) The terms "byproduct material", "source material", and "special nuclear material" have the meanings given such terms by subsections e, z, and aa of section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

(5) The term "Director" means the Director of the Office of Environmental Management and Remedial Action of the Department of Energy established by section 205.

(6) The term "environmental restoration" means—

(A) the removal of hazardous and radioactive materials to background levels or to applicable Federal or State standards, both on-site and off-site, that have been released into the environment, including air, surface and subsurface water, and land; and

(B) the decontamination of facilities.

(7) The term "Federal environmental law" includes—

(A) the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

(B) the Clean Air Act (42 U.S.C. 7401 et seq.);

(C) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (in this Act referred to as "CERCLA");

(D) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(E) the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.);

(F) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(G) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); and

(H) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

(8)(A) The term "Federal nuclear facility" means—

(i) a production facility or a utilization facility, as defined by subsections v and cc, respectively, of section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014);

(ii) a facility for the storage or disposal of hazardous or radioactive materials that is owned by the Department of Energy, including soil discharge facilities; and

(iii) any other facility or site subject to the Atomic Energy Act of 1954 which is subject to the control of, or under the jurisdiction of, the Secretary of Energy.

(B) Such term does not include—

(i) a naval nuclear propulsion program facility within the jurisdiction of the Department of Energy as pursuant to section 309 of the Department of Energy Organization Act (42 U.S.C. 7158); or

(ii) a facility developed pursuant to the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.).

(9) The term "Fund" means the Federal Nuclear Facilities Environment Response Fund established by section 101.

(10) The term "hazardous material" means material that is regulated and controlled as a hazardous substance under CERCLA (42 U.S.C. 9601(14)) or as a hazardous waste under the Solid Waste Disposal Act (42 U.S.C. 6903(5)).

(11) The term "high-level radioactive waste" has the meaning given that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)).

(12) The term "Indian tribe" means an Indian tribe, band, nation, or other organized group or community of Indians, including a Native village described in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)), which is recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians.

(13) The term "penalties" means fines, fees, monetary judgments, and monetary damages resulting from regulatory enforcement or litigation stemming from federal environmental laws or this Act.

(14) The term "Secretary" means the Secretary of Energy.

(15) The term "transuranic waste" means material contaminated with elements that—

(A) have an atomic number greater than 92, including neptunium, plutonium, americium, and curium; and

(B) are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Nuclear Regulatory Commission may prescribe to protect the public health and safety.

TITLE I—FEDERAL NUCLEAR FACILITY ENVIRONMENTAL RESPONSE FUND

SEC. 101. ESTABLISHMENT OF ENVIRONMENTAL RESPONSE FUND.

(a) ESTABLISHMENT OF THE FUND.—(1) There is established in the Treasury of the United States a separate fund to be known as the "Federal Nuclear Facilities Environmental Response Fund".

(2) The Fund shall consist of such amounts as may be—

(A) appropriated and transferred to the Fund as provided in subsections (b) and (c);

(B) transferred to the Fund as provided in subsection (d); and

(C) credited to the Fund as provided in subsection (e)(2)(C).

(b) INTERIM FUNDING.—(1) There are appropriated and transferred to the Fund, out of funds in the Treasury not otherwise appropriated, amounts determined by the Secretary of the Treasury to be equivalent to

any amount appropriated pursuant to paragraph (2).

(2) There is authorized to be appropriated to the Secretary for appropriation into the Fund under paragraph (1), in lieu of any funds that prior to the date of enactment of this Act may have been authorized to be appropriated to the Secretary for defense waste management environmental restoration and compliance activities such as those authorized by this Act, $2,500,000,000 for fiscal year 1991, $3,700,000,000 for fiscal year 1992, and for each fiscal year thereafter such sums as may be necessary to carry out this Act.

(3) Any unobligated balances appropriated prior to the date of enactment of this Act for defense waste management and environmental restoration and compliance activities such as those authorized by this Act shall be transferred to the Fund not later than 30 days after the date of enactment of this Act.

(c) TRANSFER OF PENALTIES.—(1) There are appropriated and transferred to the Fund, out of funds in the Treasury not otherwise appropriated, amounts determined by the Secretary of the Treasury to be equivalent to the amounts received in the Treasury attributable to collections of penalties and other amounts as described in paragraph (2).

(2) The amounts appropriated by paragraph (1) are amounts equivalent to the following penalties and other amounts assessed against the Department of Energy or any contractor of the Department of Energy operating a Federal nuclear facility, for actions resulting from the operation of a Federal nuclear facility or site containing such facility:

(A) Amounts recovered on behalf of the Superfund under CERCLA (42 U.S.C. 9601 et seq.).

(B) Penalties assessed under title I of CERCLA.

(C) Punitive damages collected under section 107(c)(3) of CERCLA.

(D) Penalties assessed under section 3008 of the Solid Waste Disposal Act (42 U.S.C. 6928).

(E) Penalties assessed under section 16 of the Toxic Substances Control Act (15 U.S.C. 2615).

(F) Penalties assessed under section 1414 of the Safe Drinking Water Act (42 U.S.C. 300g-3).

(G) Penalties assessed under section 113 of the Clean Air Act (42 U.S.C. 7413).

(H) Moneys recovered or collected under section 311(b)(6)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1321).

(I) Penalties assessed under section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1319).

(3) The amounts appropriated by paragraph (1) shall be transferred annually from the general fund of the Treasury to the Fund.

(4)(A) A penalty or other amount described in paragraph (2) that is assessed against the Department of Energy shall be paid out of the operating budget of the Department of Energy for the activity that resulted in the assessment and not out of any other account of the Federal budget (including an account under section 1304 of title 31, United States Code).

(B)(i) A penalty or other amount described in paragraph (2) that is assessed against a contractor of the Department of Energy shall be paid by the contractor and not by the Department of Energy.

(ii) In order to effect payment of a penalty or other amount by a contractor the Secretary of Energy may deduct an appropriate amount from an award fee owed to the contractor and pay the penalty or other amount on behalf of the contractor.

(iii) A provision in a contract between the Secretary of Energy and a contractor that purports to indemnify a contractor, hold a contractor harmless, or otherwise protect a contractor against liability for action by the contractor that results in assessment of a penalty or other amount described in paragraph (2)—

(I) is void as against public policy;

(II) shall not be performed or complied with by the Secretary of Energy; and

(III) shall not be enforceable by the contractor.

(d) TRANSFERS FROM FEDERAL AGENCIES.—The Secretary of the Treasury shall transfer quarterly into the Fund amounts described in section 102(d).

(e) MANAGEMENT OF THE FUND.—(1) The Secretary of the Treasury shall report to the Congress each fiscal year ending on or after September 30, 1990, on the financial condition and results of the operation of the Fund during the preceding fiscal year and on its expected condition and operations during the coming fiscal year.

(2)(A) The Secretary of the Treasury shall invest such portion of the Fund as is not required to meet current withdrawals in interest-bearing obligations of the United States acquired—

(i) on original issue at the issue price, or

(ii) by purchase of outstanding obligations at the market price.

(B) Obligations acquired for the Fund may be sold by the Secretary of the Treasury at the market price.

(C) Interest on and proceeds of the sale or redemption of obligations held for the Fund shall be credited to and from a part of the Fund.

(f) EXPENDITURES FROM THE FUND.—(1) Amounts in the Fund shall be available to the Secretary and the Administrator, as provided in appropriation Acts, for purposes of making expenditures to carry out activities described in section 102(a) and for no other purpose.

(2) Amounts in the Fund shall remain available until expended.

(g) SEPARATE BUDGET ACCOUNT.—The Secretary shall establish a budget account for the Fund, under the Director of the Office of Environmental Management and Remedial Action, which shall be included as a separate budget account in the budget submitted each fiscal year by the President in accordance with chapter 11 of title 31, United States Code.

(h) NOTIFICATION OF INSUFFICIENT FUNDS.—If at any time the funds available in the Fund are insufficient to enable the Secretary and the Administrator to discharge their responsibilities under this Act, the Secretary shall issue a determination of insufficiency to the Secretary of the Treasury and report such determination to the Congress, identifying the amount of additional funds needed to carry out the obligations of the Secretary and the Administrator under this Act.

SEC. 102. ALLOCATION AND RECOVERY OF COSTS.

(a) BUDGET PLAN FOR ACTIVITIES.—(1) The Secretary, with the consultation and concurrence of the Secretary of the Treasury and the Administrator, and after consultation with affected States and Indian tribes and affected transportation corridor States and Indian tribes, shall prepare a budget plan for the timely completion of the following:

(A) Characterization, stabilization, retrieval, treatment, packaging, and transport of high-level radioactive and transuranic wastes generated or stored at Federal nuclear facilities in compliance with Federal environmental law.

(B) Disposal of transuranic wastes.

(C) Disposal of high-level wastes generated by the Department of Energy as determined pursuant to the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(D) Remedial investigations and surveys and response actions under CERCLA (42 U.S.C. 9601 et seq.) and corrective actions under subsections (u) and (v) of section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924) at Federal nuclear facilities.

(E) Decommissioning, decontamination, long-term monitoring and long-term care of Federal nuclear facilities.

(F) Grants to affected States and Indian tribes and affected transportation corridor States and Indian tribes.

(G) Research and development under the program established by title III.

(H) Evaluation and mitigation of releases of radioactive and hazardous materials to off-site areas affecting property and populations adjacent to Federal nuclear facilities.

(I) Activities to bring Federal nuclear facilities into compliance with Federal environmental law.

(J) Activities of the Office of Environmental Management and Remedial Action pursuant to this Act relating to Federal nuclear facilities.

(2) The budget plan required by paragraph (1) shall be based on the site-specific surveys and plans required by subtitle A of title II.

(3) The budget plan required by paragraph (1) shall be prepared in preliminary form not later than 6 months after the date of enactment of this Act, and thereafter the Secretary shall submit the plan to Congress annually at the same time as the budget of the Department of Energy is submitted in accordance with chapter 11 of title 31, United States Code.

(b) ALLOCATION OF COSTS.—(1) Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate by rule, pursuant to section 553 of title 5, United States Code, a methodology for allocating costs, proportionately among the entities listed in paragraph (3), based on—

(A) total program costs identified in budgets prepared pursuant to subsection (a);

(B) annual funding requirements of the Secretary necessary to comply with Federal environmental law and this Act; and

(C) other authorized costs of carrying out the requirements of this Act as they relate to Federal nuclear facilities and sites containing such facilities, including the provision of grants pursuant to title II.

(2) The proportionate share of costs specified pursuant to paragraph (1) shall be based on the site-specific costs for Federal nuclear facilities and sites of environmental restoration, compliance, decommissioning, and long-term surveillance to be incurred by the Department of Energy. These costs shall be allocated on a proportionate basis to each entity identified in paragraph (3) based on—

(A) the degree to which each activity and facility of the Department of Energy has resulted in such costs being incurred in providing specific services or use of specific facilities or sites to Department of Energy programs and to private and government entities other than the Department of Energy; and

(B) the degree to which the entities identified in paragraph (3) participated in, utilized, or contracted for services from such activity or facility and the level of usage by each such entity of services or usage provided by the Department of Energy to the entity (such as uranium enrichment services).

(3) The entities among which costs shall be allocated are the following:

(A) The Department of Energy, with costs allocated proportionately among budget accounts for atomic energy defense activities, the civilian nuclear energy program, energy research and uranium enrichment and radioisotope programs, and such other programs of the Department of Energy as the Secretary determines to be appropriate to recover costs related to such programs.

(B) Other departments and agencies of the Federal Government that obtain nuclear-related services from the Department of Energy or use nuclear facilities or sites under the jurisdiction of the Secretary, including waste management, naval reactor decommissioning and disposal, and uranium enrichment services.

(C) Commercial and other non-Federal entities that purchase nuclear-related services of the Department of Energy or are the beneficiary of nuclear-related activities of the Department of Energy, including—

(i) uranium enrichment services;

(ii) uranium mill tailings reclamation and long-term management;

(iii) low-level and transuranic radioactive waste management, disposal, and long-term management;

(iv) isotope production and distribution; and

(v) the basic research user facilities program and other research activities.

(4) With public notice and comment, the Secretary shall annually review the methodology established pursuant to paragraph (1) to assure adequate funding and equitable apportionment of costs.

(c) REIMBURSEMENT BY FEDERAL AGENCIES.—(1)(A) Each fiscal year the Secretary shall notify each Federal department and agency described in subsection (b)(3) (A) and (B) of its proportionate share of the costs of the activities described in subsection (a)(1) for the following fiscal year and an estimate for future years.

(B) The head of each department and agency notified of its proportionate share of costs pursuant to subparagraph (A) shall reflect its proportionate share of costs in the budget of such department or agency for such fiscal year submitted in accordance with chapter 11 of title 31, United States Code.

(C) Each department and agency (other than the Department of Energy) shall reimburse the Secretary of Energy for its proportionate share of costs for such fiscal year from amounts appropriated to the department or agency for such share of costs for such fiscal year.

(2) Under regulations issued pursuant to section 553 of title 5, United States Code, the Secretary shall assess and collect from each commercial and other non-Federal entity described in subsection (b)(3)(C) a user fee for purposes of recovering such entity's proportionate share of the costs of the activities described in subsection (a)(1).

(d) TRANSFERS TO FUND.—The Secretary shall transfer quarterly into the Fund—

(1) amounts reimbursed to the Secretary under subsection (c)(1);

(2) amounts equivalent to the fees collected under subsection (c)(2);

(3) amounts allocated to the Department of Energy by the Secretary under subsection (a) as the Department of Energy's proportionate share of costs;

(4) amounts received by the Secretary for costs associated with the disposal of low-level radioactive waste that is the responsibility of the Federal Government under section 3(b) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021c);

(5) amounts received by the Secretary for the costs of long-term monitoring and maintenance of commercial low-level waste disposal facilities transferred to the Secretary pursuant to section 151(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10171(b)); and

(6) amounts received by the Secretary for costs associated with the long-term monitoring and maintenance of uranium mill tailings and lands transferred to the Secretary pursuant to section 104(f) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7914(f)).

TITLE II—ENVIRONMENTAL MANAGEMENT AND REMEDIAL ACTION

Subtitle A—Plans for Compliance with Federal Environmental Law

SEC. 201. ENVIRONMENTAL BASELINE SURVEYS.

(a) IN GENERAL.—As soon as practicable, but not later than 1 year after the date of the enactment of this Act, the Assistant Secretary of the Department of Energy responsible for environmental protection shall conduct and complete an environmental baseline survey of each site containing a Federal nuclear facility.

(b) CONTENT OF ENVIRONMENTAL BASELINE SURVEYS.—An environmental baseline survey shall—

(1) identify all Federal nuclear facilities on the site;

(2) inventory existing quantities and concentrations of hazardous material in storage and disposal facilities on the site;

(3) identify the level of compliance of the site with Federal environmental law;

(4) inventory all previous and current releases into the environment of hazardous or radioactive materials at or from the site;

(5) identify off-site properties, aquifers, bodies of water, and populations that have been contaminated by or exposed to hazardous or radioactive materials released from the site;

(6) identify and describe site management activities currently being conducted to correct or mitigate such releases or contamination;

(7) describe the status of efforts to characterize, treat, stabilize, and dispose of high-level radioactive waste and transuranic waste at the site;

(8) specify the quality control and assurance programs and confidence levels applicable to the data contained in the survey; and

(9) include such other information as the Assistant Secretary considers appropriate.

(c) USE OF PRIOR DATA.—In the preparation of an environmental baseline survey under subsection (a), the Secretary may use preexisting environmental data and studies if—

(1) the quality control and assurance procedures utilized in the collection and analysis of such data or studies were adequate;

(2) the data and studies remain valid despite the passage of time or changes in circumstances; and

(3) the Secretary makes a specific finding to that effect.

(d) PERIODIC REVISION.—An environmental baseline survey shall be revised at appropriate intervals, but not less often than every 5 years.

(e) AVAILABILITY.—An environmental baseline survey shall be provided to the Administrator and to the affected States and Indian tribes and shall be made available to any other person on request.

SEC. 202. COMPLIANCE PLANS.

(a) IN GENERAL.—Not later than 6 months after completion of a site-specific environmental baseline survey under section 201, the Secretary, in consultation with the Administrator and affected States and Indian tribes, shall develop a compliance plan to bring each such site or facility into timely and full compliance with Federal environmental law and State environmental law.

(b) CONTENT OF COMPLIANCE PLAN.—A compliance plan shall specify—

(1) required actions that the Secretary will take in order to bring the site into compliance with Federal environmental law, including a full description of and schedule for completing such actions;

(2) a description of compliance activities, including enforcement activities, being taken by the Administrator or a State at the site, including a full description of and schedule for completing any corrective actions that the Administrator or the State has required;

(3) determination of the costs of such compliance activities, including total and estimated annual costs;

(4) a program for quality control and assurance;

(5) a program of environmental inspection and monitoring to confirm compliance; and

(6) such other items as the Secretary considers appropriate.

(c) PERIODIC REVISION.—A compliance plan shall be revised at appropriate intervals, but not less often than every 5 years unless, after public notice and comment and with the concurrence of the Administrator and affected States and Indian tribes, the Secretary determines that revision is unnecessary.

SEC. 203. SITE MANAGEMENT PLANS.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary, in consultation with the Administrator and affected States and Indian tribes, shall prepare a site management plan for each Federal nuclear facility and site.

(b) CONTENT OF SITE MANAGEMENT PLANS.—A site management plan shall—

(1) prescribe management and corrective actions for the characterization, stabilization, retrieval, treatment, and disposal of high-level radioactive wastes and transuranic wastes at the site;

(2) provide for timely decontamination and decommissioning of the facility and site;

(3) provide for long-term management of the facility and site, both before and after decontamination and decommissioning, including long-term maintenance and monitoring of the facility and site;

(4) include plans, work procedures and schedules, institutional arrangements, and budget outlay schedules for carrying out the activities described in paragraphs (1), (2), and (3) at the site;

(5) describe the health and environmental protection impacts and goals of carrying out those activities at the site and applicable regulatory standards;

(6) provide estimates of radiation exposures and risk to occupational workers in-

volved in carrying out those activities at the site and to the public;

(7) establish priorities for implementation of the plan;

(8) describe quality control and assurance programs and procedures;

(9) describe environmental monitoring measures; and

(10) address such other matters as the Secretary considers appropriate.

(c) PERIODIC REVISION.—A site management plan shall be revised at appropriate intervals, but not less often than every 5 years unless, after public notice and comment and with the concurrence of the Administrator and affected States and Indian tribes, the Secretary determines that revision is unnecessary.

SEC. 204. PROVISIONS APPLICABLE TO COMPLIANCE PLANS AND SITE MANAGEMENT PLANS.

(a) IMPLEMENTATION OF PLANS.—The Secretary shall implement the compliance plans required by section 202 and site management plans required by section 203 with the concurrence of the affected States and Indian tribes and the Administrator.

(b) AGREEMENTS.—(1) An agreement that—

(A) is among the Administrator, the Secretary, and a State to which the Administrator has delegated regulatory authority under Federal environmental law; and

(B) provides for the implementation of Federal environmental law or management or treatment of radioactive wastes or facilities at a Federal nuclear facility,

may be deemed to satisfy, in whole or in part, the requirements of sections 202 and 203 if the agreement meets the requirements of paragraph (2).

(2) The requirements that an agreement must meet for purposes of paragraph (1) are the following:

(A) The agreement is substantially consistent with the requirements of sections 202 and 203.

(B) The parties to the agreement concur that the agreement satisfies those requirements.

(3) Not later than 45 days after the date of enactment of this Act, the Secretary, after public notice and comment and with the concurrence of the Administrator and affected States and Indian tribes, shall complete a review of all site-specific agreements for the application of Federal environmental law to, management of, or environmental restoration of Federal nuclear facilities entered into before the date of enactment of this Act and shall determine the extent to which such agreements may be deemed to satisfy the requirements of section 202 or 203.

(c) PUBLIC NOTICE AND COMMENT.—(1) Prior to the initiation of an action required by section 202 or 203, the Secretary shall publish a notice of intention to initiate such action and shall solicit public comment on the scope and content of each survey or plan.

(2) At least 45 days before adoption of a survey or plan required by section 202 or 203, the Secretary shall provide public notice of such proposed plan, make a copy of the survey or plan available to the public, and solicit comments on the proposed survey or plan.

Subtitle B—Office of Environmental Management and Remedial Action

SEC. 211. ESTABLISHMENT OF OFFICE.

(a) IN GENERAL.—There is established in the Department of Energy an Office of Environmental Management and Remedial Action (in this subtitle referred to as the "Office") to consolidate the waste management, remedial, environmental, and decommissioning programs related to Federal nuclear facilities within the Department and improve the efficiency, cost-effectiveness, budgeting, and accountability of those programs.

(b) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) FUNCTIONS.—The Director shall be responsible for carrying out the functions of the Secretary under this Act and, notwithstanding any other provision of law, shall also be responsible for the Department of Energy's remedial action and waste technology programs, other than those assigned to the Office of Civilian Radioactive Waste Management by section 304 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10224) including each of the following:

(1) The Uranium Mill Tailings Remedial Action Program required by the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7091 et seq.) and land and by-product material transferred to the United States under section 83(b) of the Atomic Energy Act of 1982 (42 U.S.C. 2113(b)).

(2) Low-level radioactive waste and land to which the Secretary has assumed title and of which the Secretary has assumed custody under section 151(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10171(b)).

(3) Residual radioactive materials and lands that are transferred to the United States under section 104(f) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7914(f)).

(4) Facilities for the disposal of low-level radioactive waste that is the responsibility of the Federal Government under section 3(b) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021c(b)).

(5) The West Valley demonstration project carried out under the West Valley Demonstration Project Act (42 U.S.C. 2021a note).

(6) The Formerly Utilized Sites Remedial Action Program.

(7) The Surplus Facilities Management Program.

(8) The Shippingport Station Decommissioning Project.

(d) ANNUAL REPORT.—(1) Not later than January 15 of each year, the Director shall submit to Congress a report on the environmental compliance, management, and remedial activities of the Office.

(2) The report required by paragraph (1) shall include—

(A) a status report on the actions that need to be taken at each site containing a Federal nuclear facility in order to bring the site into compliance with Federal environmental law;

(B) a status report on management and remedial activities;

(C) a status report on research and development activities;

(D) a determination of the amount of funds necessary to carry out the actions at the sites, including an outlay schedule for each site for the next 5 fiscal years; and

(E) such other items as the Director considers appropriate.

Subtitle C—Notification and Participation of Affected States and Indian Tribes

SEC. 221. OBLIGATIONS OF THE FEDERAL GOVERNMENT.

(a) IN GENERAL.—In the execution of the activities necessary to bring Federal nuclear facilities into compliance with Federal environmental law and in the execution of any other actions for the decommissioning, decontamination, long-term care, and monitoring of Federal nuclear facilities, and transportation related thereto, and in fulfillment of the requirements of this Act, the Secretary and the Administrator shall consult with, and ensure the participation of—

(1) affected States and Indian tribes; and

(2) with regard to related transportation activities, affected transportation corridor States and Indian tribes.

(b) NOTIFICATION.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary shall—

(A) notify affected States and Indian tribes of the existence of Federal nuclear facilities within their territories; and

(B) inform them of the procedures that the Secretary and the Administrator will use in carrying out this title.

(2) Not later than 90 days after the date of enactment of this Act, the Secretary shall—

(A) notify affected transportation corridor States and Indian tribes of the existence of a transportation corridor within their territories to be utilized for activities required by this Act; and

(B) inform them of the procedures that the Secretary and the Administrator will use in carrying out this title.

(3) If, after making the notifications required by paragraphs (1) and (2), the Secretary or the Administrator determines that additional Federal nuclear facilities or transportation corridors are located within any State or within the jurisdiction of any Indian tribe, the Secretary shall notify such affected State or Indian tribe or affected transportation corridor State or Indian tribe not later than 30 days after the determination is made.

(4) The notification provided pursuant to this subsection is for the purpose of general information only and shall not be deemed to constitute notice under any other law or for any other purpose.

(c) REQUESTS FOR INFORMATION.—Upon written request by the Governor of an affected State or by the governing body of an affected Indian tribe for information pertinent to a Federal nuclear facility or transportation corridor, the Secretary shall provide a written response to such request no later than 30 days after receipt of the request.

SEC. 222. GRANTS TO AFFECTED STATES AND TRIBES.

(a) IN GENERAL.—The Secretary shall make grants from the Fund to an affected State or Indian tribe notified under section 221 for the following purposes:

(1) To negotiate agreements with the Federal Government pertaining to remedial environmental and compliance activities at Federal nuclear facilities.

(2) To independently monitor, test, and evaluate Federal nuclear facilities and sites for the purpose of determining the extent of environmental contamination at such facilities and sites and the extent of compliance with Federal environmental law at such facilities and sites.

(3) To evaluate the existing and potential public health and safety, economic, and en-

vironmental impacts of environmental releases.

(4) To educate the public regarding compliance with this title and the activities of the respective Federal, State, and tribal authorities in carrying out this title.

(5) To request information about, or comment upon, recommendations, surveys, and reports required of the Secretary and Administrator under this Act.

(6) To evaluate the effect on public health and safety of, and the economic and environmental impacts of, the transportation of hazardous and radioactive wastes resulting from remedial, corrective, decontamination, and other activities conducted pursuant to this Act.

(b) GRANTS TO STATES WITH DELEGATED REGULATORY AUTHORITY.—The Secretary, with the consultation and concurrence of the Administrator, shall make grants from the Fund to an affected State to which the Administrator has delegated regulatory under Federal environmental law for execution of that authority with respect to Federal nuclear facilities located in the State.

SEC. 223. GRANTS TO AFFECTED TRANSPORTATION CORRIDOR STATES AND INDIAN TRIBES.

(a) IN GENERAL.—The Secretary shall make grants from the Fund to an affected transportation corridor State or Indian tribe notified under section 221 for the following purposes:

(1) To negotiate agreements with the Federal Government pertaining to transportation activities of the Secretary related to the environmental management and restoration of Federal nuclear facilities and sites.

(2) To evaluate the existing and potential public health and safety, economic, and environmental impacts and risks associated with such transportation.

(3) To support emergency response planning related to such transportation.

(4) To educate the public regarding the activities of the Secretary pursuant to this Act, in general, and regarding the transportation of nuclear materials in particular.

(5) To request information about or comment upon the activities of the Secretary pursuant to this Act.

TITLE III—RESEARCH AND DEVELOPMENT FOR ENVIRONMENTAL RESTORATION AND MANAGEMENT OF FEDERAL NUCLEAR FACILITIES

SEC. 301. COORDINATION AGREEMENT.

(a) AGREEMENT.—Not more than 180 days after the date of the enactment of this Act, the Administrator and the Secretary shall enter into a coordination agreement for the purpose of coordinating research and developing technologies for—

(1) the application of, and compliance with, Federal environmental law at Federal nuclear facilities and sites;

(2) the decontamination and decommissioning of Federal nuclear facilities; and

(3) the characterization, retrieval, treatment, and stabilization of hazardous and nuclear materials at Federal nuclear facilities and sites.

(b) CONTENTS OF AGREEMENT.—The coordination agreement required by subsection (b) shall provide for—

(1) utilization and allocation of research facilities and resources of the Environmental Protection Agency and the Department of Energy, including activities authorized by section 311 of CERCLA (42 U.S.C. 9660);

(2) creation of a coordinating committee comprised of officials of the Environmental Protection Agency and the Department of Energy;

(3) establishment of independent external scientific and peer review procedures;

(4) establishment of procedures for transfer of technology and field application of research and demonstrations consistent with section 303; and

(5) establishment of procedures for the preparation of budgets for such activities consistent with section 302.

(c) SITE-SPECIFIC AGREEMENTS.—In carrying out this section, the Administrator and the Secretary may enter into site-specific coordination agreements in addition to the coordination agreement required by subsection (a).

SEC. 302. RESEARCH AND DEVELOPMENT FUNDING.

(a) BUDGET REQUEST.—(1) The Secretary and the Administrator shall each submit annually a Federal nuclear facilities environmental research and development budget, prepared pursuant to section 301(b)(5), to the Office of Management and Budget, as a separate part of the budgets of the Department of Energy and the Environmental Protection Agency, respectively, in accordance with section 1105 of title 31, United States Code.

(2) A budget submitted pursuant to paragraph (1) shall reflect the annual required research and development expenditures of the Secretary and the Administrator and state estimates for the succeeding 3 fiscal years as determined under the coordination agreement entered into under section 301.

(b) USE OF THE FUND.—The Secretary and the Administrator shall make expenditures from the Fund for the purpose of conducting the research and development program jointly established by this title, including any site-specific agreements.

SEC. 303. TECHNOLOGY TRANSFER.

(a) IN GENERAL.—In carrying out the research and development program established under this title, the Administrator and the Secretary shall, to the extent practicable, disseminate to the public such information and transfer such technologies as are developed.

(b) COMMERCIAL APPLICATIONS.—The Secretary and the Administrator shall jointly designate or establish a program to transfer such information and technologies as are susceptible of commercial application. The administrative cost of such a program shall be paid from the Fund.

SEC. 304. CONTRACTS AND RESEARCH GRANTS.

(a) AUTHORITY.—(1) In carrying out this title, the Secretary and the Administrator may enter into contracts and cooperative agreements with, and make grants to, the persons and entities described in subsection (b).

(2) Expenditures to support activities under this section may be made from the Fund.

(b) ELIGIBLE ENTITIES.—The persons who may enter into contracts and cooperative agreements with, and receive grants from, the Secretary and the Administrator under subsection (a) are—

(1) public entities;

(2) nonprofit private entities described in section 501(c)(3) of the Internal Revenue Code of 1986 exempt from taxation under section 501(a) of the Internal Revenue Code of 1986;

(3) other individuals or entities; and

(4) agencies, departments, and instrumentalities of the United States.

By Mr. KENNEDY (for himself and Mr. DODD):

S. 1464. A bill to amend the Domestic Volunteer Service Act of 1973 to expand the VISTA program by 1993 to enable more individuals, particularly young adults, to become Volunteers in Service to America, and for other purposes; to the Committee on Labor and Human Resources; and

S. 1465. A bill to amend the Domestic Volunteer Service Act of 1973 to expand the National Older American Volunteer Programs to respond to critical national needs, and for other purposes; to the Committee on Labor and Human Resources.

VISTA AND NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS EXPANSION ACTS OF 1989

Mr. KENNEDY. Mr. President, I am pleased to introduce two pieces of legislation today that will expand several important national volunteer programs—VISTA and the Older American Volunteer Programs. Senator DODD joins me in sponsoring these bills, which have been included in our National and Community Service Act, S. 1430, and the Domestic Volunteer Service Act Amendments, S. 1426.

Many of us working on the national service issue today recall when, more than a quarter century ago, President Kennedy called on Americans to ask what they could do for their country. Citizens responded by the millions, and today, the Peace Corps, VISTA, and the Older American Volunteer Programs bear witness to those words and their enduring appeal.

VISTA

For 25 years, almost 100,000 VISTA volunteers have fought the War on Poverty under difficult conditions, and have made life better for those around them—bringing food to the hungry, housing to the homeless, health care to the sick, and hope to those in despair.

Despite these remarkable achievements, VISTA was an early victim of drastic cuts made during the early 1980's. The number of VISTA volunteers dropped by almost one half, public awareness of the program all but ceased, and the spirit of voluntarism faded from our consciousness.

I support President Bush's effort to put national service back on the national agenda, and strongly believe that we should restore VISTA to its former strength as part of our new national service program. Our proposal would more than double the funding for the VISTA Program and enable it to return to its peak level of the past. It is fitting that on the 25th anniversary of the VISTA Program that we should recognize its important role in the War against Poverty by enacting this legislation.

OLDER AMERICAN VOLUNTEER PROGRAMS

With the introduction of the National Older American Volunteer Programs Expansion Act of 1989, I propose to strengthen the Retired Senior Volunteer Program, the Senior Companion Program, and the Foster

Grandparents Program and direct the energy and talent of our senior citizens toward meeting some of our most pressing problems, such as AIDS, drug and alcohol abuse, teenage parents, literacy, respite care, child care, and care for the developmentally disabled.

All, too often, the elderly are viewed not as resources, but as consumers of social services. But for the majority of older Americans, retirement need not be an end, but a beginning of a new career of public service.

For 16 years, the Retired Senior Volunteer Program has provided a variety of community volunteer opportunities for all persons 60 and over. In fiscal year 1988, there were nearly 400,000 RSVP volunteers serving in 750 projects around the country.

RSVP programs are as diverse as the people they are designed to serve. In Santa Ana, CA, for example, 175 volunteers provide literacy training, business assistance, and consumer aide to refugees in the area. In Gulfport, MS, RSVP volunteers were on the scene to provide disaster relief after Hurricane Elena devastated the area.

The Foster Grandparents Program gives senior citizens the opportunity to work with children who have special needs. In 1988, 27,000 volunteers worked on a one-to-one basis with children beset by such problems as child abuse, mental retardation, drug and alcohol abuse, illiteracy, and teenage pregnancy.

The Senior Companion Program matches volunteers on a one-to-one basis with the frail, homebound elderly. The rewards of this program, in which 7,000 participated in 1988, are seen on the individual, personal level: Many senior companions report developing long-lasting personal bonds with the people they are assigned to care for.

Studies show that voluntarism among older Americans is on the rise: The AARP reports that 2 in 5 Americans over 45 have given time in the past year for some type of volunteer activity. In almost all age groups, the percentage of those who volunteer their time has grown significantly, in some cases by as much as 12 percent, since 1981.

In Massachusetts, which has long been a leader in community involvement, the implementation of these programs has been particularly successful. For example, under the sponsorship of the Senior Companion Program, the Commission on Affairs of the Elderly of the city of Boston has been providing supportive services to elderly people seeking to remain self-sufficient. Started in August 1988, the program took on 17 volunteers; this summer, 34 volunteers will be assigned throughout the city.

Equally successful has been the Hampshire Country retired senior volunteer project, which recruits volunteers to work with low-income mothers on the subject of child nutrition. Recently, a new program was added in which seven mentally retarded adults are being recruited to volunteer with organizations such as the Audubon Society. Currently, this RSVP project has 500 volunteers ages 60 and over serving at 80 community-based stations.

Other senior volunteer projects, supported by private contributions, provide important models. One example is Family Friends, a program in which senior volunteers work with chronically ill or disabled children living at home. Family Friends has been implemented on a test basis in eight major metropolitan areas from Washington to Los Angeles. It is my hope that this legislation will allow this excellent program to spread to other cities and towns.

Older Americans are the fastest growing age group in society today. Our proposal will harness this resource and direct it toward solving our most pressing problems.

I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follow:

S. 1464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "VISTA Expanison Act of 1989".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) since 1964, over 100,000 Volunteers in Service of America (hereinafter referred to in this Act as "VISTA") volunteers have provided over 200,000,000 hours of service to United States; and

(2) an expanded force of VISTA volunteers could provide needed resources to respond to the problems, of homelessness, illiteracy, AIDS, drug abuse, infant mortality, and other national crises related to poverty.

(b) PURPOSE.—It is the purpose of this Act to restore the number of volunteers participating in the VISTA program by 1993 to VISTA's peak level of the past and to enable more individuals, particularly young adults, to serve the United States in the war against poverty.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS.—Section 501 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5081) is amended—

(1) by striking out paragraph (1) of subsection (a) and inserting in lieu thereof the following new paragraph:

"(1) There are authorized to be appropriated to carry out part A of title I title I (except section 109) $30,600,000 for fiscal year 1990, $39,909,000 for fiscal year 1991, $47,800,900 for fiscal year 1992, and $56,500,000 for fiscal year 1993.".

S. 1465

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Older American Volunteer Programs Expansion Act of 1989".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the 40,000,000 Americans ago 60 and over offer a powerful resource for volunteer service and contribute over 500,000,000 hours of service each year; and

(2) older Americans are a vital resource in addressing national needs such as—

(A) the 23,000,000 Americans who are functionally illiterate;

(B) the 2,000,000 children who are left unattended each day because of a lack of child care resources;

(C) the acute need for respite care for families of disabled or chronically ill children or frail elderly individuals;

(D) the 500,000 babies who are born each year to teenage parents;

(E) the minimum of 1,000,000 Americans who are infected with human immunodeficiency virus, many of whom cannot be assisted with existing community resources; and

(F) the adults with developmental disabilities, who are experiencing increasing longevity but have needs that are unmet by existing programs.

(b) PURPOSE.—It is the purpose of this Act to encourage older Americans to respond to the areas of national need, including those described in subsection (a)(2) through increased volunteer efforts.

SEC. 3. PROGRAMS OF NATIONAL AND LOCAL SIGNIFICANCE.

Part D of title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 502 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 225. PROGRAMS OF NATIONAL AND LOCAL SIGNIFICANCE.

"(a) IN GENERAL.—The Director shall establish, within each program authorized under this title, a program for making grants to support programs that address national problems on a local level.

"(b) USE OF GRANTS.—The recipient of a grant under the program established under subsection (a) shall use such grant to provide creative solutions to urgent problems.

"(c) AWARDING OF GRANTS.—

"(1) ESTABLISHMENT OF PROGRAM.—There is established the 'Programs of National and Local Significance' program. Under the program, the Director shall award grants each year to programs adminstered under this title to respond to an identified community need.

"(2) AWARDS.—

"(A) IN GENERAL.—The grants authorized under paragraph (1) may be awarded to both existing and new projects.

"(B) LIMITATION.—A grant under paragraph (1) may not exceed $150,000 per year.

"(3) CRITERIA FOR AWARDING GRANTS.—

"(A) IN GENERAL.—Under the program established under paragraph (1), the Director shall award grants based on a demonstration by an applicant that such grant will enable such applicant to uniquely and effectively respond to an identified community need.

"(d) USE OF GRANTS.—A program receiving a grant under subsection (a) shall demonstrate that assistance provided by such grants shall be used to increase—

"(1) the total number of volunteers supported by such projects; and

"(2) the number of volunteers in such projects engaged in responding to the identified community need referred to in subsection (g) for which such grant was made.

"(e) DISSEMINATION OF INFORMATION.—The Director shall disseminate information on the Programs of National and Local Significance established under this section to field personnel of the ACTION Agency and other community volunteer organizations that request such information.".

"(f) PRIORITY.—Priority for grants under this section shall be given to the following programs of national significance—

"(1) programs that assist individuals with chronic and debilitating illnesses such as immune deficiency syndrome;

"(2) programs designed to decrease drug and alcohol abuse;

"(3) programs that work with teenage parents;

"(4) mentoring programs that match senior volunteers with youth who need guidance;

"(5) adult and school-based literacy programs;

"(6) respite care, including care for frail elderly individuals and disabled or chronically ill children living at home;

"(7) before and after-school programs, sponsored by organizations such as libraries, that serve children of working parents;

"(8) programs working with boarder babies;

"(9) programs serving children who are enrolled in child care programs with priority given to those serving children with special needs; and

"(10) the provision of care to developmentally disabled adult individuals residing in home and community-based settings, and when appropriate, the involvement of older developmentally disabled individuals as Older American Volunteer Program volunteers.

"(g) FUNDING.—

"(1) AMOUNTS TO BE MADE AVAILABLE.—Notwithstanding any other provision of law, the Director shall make amounts under section 502 available to carry out this section.

"(2) DIRECTOR.—The Director shall not make grants under this section within a program authorized under this title unless the amount appropriated under section 502 for such program, for the fiscal year that such grants are made, exceeds 105 percent of the amount appropriated for the preceding fiscal year for such program.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) RETIRED SENIOR VOLUNTEER PROGRAM.—Section 502(a) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5082(a)) is amended—

(1) by striking out "and" after "1988,"; and

(2) by inserting after "1989" the following: ", $39,900,000 for fiscal year 1990, $43,900,000 for fiscal year 1991, $48,300,000 for fiscal year 1992, and $53,100,000 for fiscal year 1993,".

(b) FOSTER GRANDPARENT PROGRAM.—Section 502(b) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5082(b)) is amended—

(1) by striking out "and" after "1988,";

(2) by inserting after "1989" the following: ", $70,800,000 for fiscal year 1990, $80,900,000 for fiscal year 1991, $91,700,000 for fiscal year 1992, and $98,200,000 for fiscal year 1993,".

(c) SENIOR COMPANION PROGRAM.—Section 502(c) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5082(c)) is amended—

(1) by striking "and" after "1988,"; and

(2) by inserting after "1989" the following: ", $36,600,000 for fiscal year 1990, $39,000,000 for fiscal year 1991, $44,700,000 for fiscal year 1992, and $48,700,000 for fiscal year 1993,".

ADDITIONAL COSPONSORS

S. 357

At the request of Mr. SYMMS, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 357, a bill to provide that the Secretary of Transportation may not issue regulations reclassifying anhydrous ammonia under the Hazardous Materials Transportation Act.

S. 416

At the request of Mr. DOMENICI, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 416, a bill to provide that all Federal civilian and military retirees shall receive the full cost of living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991 and for other purposes.

S. 511

At the request of Mr. INOUYE, the names of the Senators from Alabama [Mr. SHELBY] and [Mr. HEFLIN] were added as cosponsors of S. 511, a bill to recognize the organization known as the National Academies of Practice.

S. 577

At the request of Mr. HOLLINGS, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 577, a bill to clarify the congressional intent concerning, and to codify, certain requirements of the Communications Act of 1934 that ensure that broadcasts afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

S. 685

At the request of Mr. METZENBAUM, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 685, a bill to amend title I of the Employment Retirement Income Security Act of 1974 to clarify the applicability of rules relating to fiduciary duties in relation to plan assets of terminated pensions plans and to provide for an explicit exception to such rules for employer reversions meeting certain requirements.

S. 714

At the request of Mr. MCCLURE the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 714, a bill to extend the authorization of the Water Resources Act of 1984 through the end of fiscal year 1993.

S. 720

At the request of Mr. BOREN, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from California [Mr. CRANSTON], the Senator from Montana [Mr. BURNS], the Senator from Mississippi [Mr. LOTT], and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 720, a bill to amend the Internal Revenue Code of 1986 to extend and modify the targeted jobs credit, and for other purposes.

S. 838

At the request of Mr. HEFLIN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 838, a bill to repeal the estate tax inclusion related to valuation freezes.

S. 840

At the request of Mr. BOREN, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 840, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for education loan interest incurred by doctors, nurses, and allied health professionals while serving in medically underserved areas.

S. 843

At the request of Mr. ROCKEFELLER, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 843, a bill to establish a program of awards by the National Science Foundation for undergraduate students who are willing to commit themselves to teach elementary or secondary mathematics or science for a specified period of time.

S. 1142

At the request of Mr. BENTSEN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1142, a bill to establish and evaluate four military-style boot camp prisons within the Federal prison system as a 4-year demonstration program.

S. 1170

At the request of Mr. INOUYE, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1170, a bill to amend the Federal Aviation Act of 1958 to provide for the establishment of limitations on the duty time for flight attendants.

S. 1203

At the request of Mr. MCCAIN, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1203, a bill to encourage Indian economic development.

S. 1207

At the request of Mr. PACKWOOD, the names of the Senator from Idaho [Mr. SYMMS], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 1207, a bill to amend the Communications Act of 1934 to reform the radio broadcast license renewal process and for other purposes.

S. 1216

At the request of Mr. SIMON, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 1216, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such act to employers and employees in similarily situated industries, to give to such employers and performers the same rights given by sections 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1226

At the request of Mr. MCCONNELL, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1226, a bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of pornographic material.

S. 1251

At the request of Mr. BOREN, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to exempt from current taxation income earned in college savings accounts and to exempt permanently from taxation amounts from college savings accounts and from the redemption of qualified U.S. saving bonds used to pay college education expenses.

S. 1338

At the request of Mr. HATCH, his name was withdrawn as a cosponsor of S. 1338, a bill to amend title 18, United States Code, to protect the physical integrity of the flag of the United States.

S. 1385

At the request of Mr. LOTT, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1385, a bill to establish a tropical cyclone reconnaissance, surveillance, and research program under the joint control of the Secretary of Defense and the Secretary of Commerce.

S. 1400

At the request of Mr. KASTEN, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Utah [Mr. HATCH], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 1400, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 1406

At the request of Mr. HEINZ, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1406, a bill to amend the United States Housing Act of 1937.

S. 1427

At the request of Mr. BOSCHWITZ, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1427, a bill to amend the Federal Meat and the Poultry Products Inspection Act to authorize the distribution of wholesome meat and poultry products for human consumption that have been seized and condemned under such acts to charity and public agencies, and for other purposes.

S. 1435

At the request of Mr. ARMSTRONG, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1435, a bill to amend the Internal Revenue Code of 1986 to allow the one-time exclusion on gain from sale of a principal residence to be taken before age 55 if the taxpayer or a family member suffers a catastrophic illness.

SENATE JOINT RESOLUTION 102

At the request of Mr. D'AMATO, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Wisconsin [Mr. KASTEN], the Senator from Michigan [Mr. LEVIN], the Senator from Nevada [Mr. REID], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 102, a joint resolution designating September 1989 as "National Library Card Sign-Up Month."

SENATE JOINT RESOLUTION 132

At the request of Mr. SASSER, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Massachusetts [Mr. KERRY], the Senator from Iowa [Mr. GRASSLEY], the Senator from Ohio [Mr. GLENN], and Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 132, a joint resolution designating September 1 through 30, 1989, as "National Alcohol and Drug Treatment Month."

SENATE JOINT RESOLUTION 166

At the request of Mr. KERRY, the names of the Senator from Kansas [Mr. DOLE] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 166, a joint resolution to designate the period of September 16 through October 9, 1989, as "Coastweeks '89."

SENATE JOINT RESOLUTION 168

At the request of Mr. MCCLURE, the names of the Senator from Utah [Mr. GARN] and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Joint Resolution 168, a joint resolution to designate the week of October 2 through 8, 1989, as "America's Gold Week."

SENATE JOINT RESOLUTION 175

At the request of Mr. D'AMATO, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Florida [Mr. MACK], the Senator from Vermont [Mr. JEFFORDS], the Senator from Tennessee [Mr. GORE], the Senator from Texas [Mr. BENTSEN], the Senator from Indiana [Mr. COATS], the Senator from Connecticut [Mr. DODD], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 175, a joint resolution designating the week beginning September 17, 1989, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 176

At the request of Mr. D'AMATO, the names of the Senator from Kansas [Mr. DOLE] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 176, a joint resolution to designate September 29, 1989, as "National Siblings of Disabled Persons Day."

SENATE CONCURRENT RESOLUTION 55

At the request of Mr. DOLE, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of Senate Concurrent Resolution 55, a concurrent resolution to commemorate the volunteers of the United States and the Hugh O'Brian Youth Foundation.

SENATE RESOLUTION 159

At the request of Mr. THURMOND, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Resolution 159, a resolution designating August 14, 1989, as "Social Security Administration Employee Recognition Day."

AMENDMENT NO. 459

At the request of Mr. GLENN, the names of the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of Amendment No. 459 proposed to S. 1352, an original bill to authorize appropriations for fiscal years 1990 and 1991 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1990 and 1991, and for other purposes.

AMENDMENT NO. 486

At the request of Mr. ARMSTRONG, the names of the Senator from Florida [Mr. MACK] and the Senator from California [Mr. WILSON], the Senator from Indiana [Mr. COATS], the Senator from North Carolina [Mr. HELMS], and the Senator from Iowa [Mr. SYMMS] were added as cosponsors of Admendment No. 486 proposed to S. 1352, an original bill to authorize appropriations for fiscal years 1990 to 1991 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1990 and 1991, and for other purposes.

SENATE RESOLUTION 161—RECOGNIZING THE CONTRIBUTIONS OF LONG-TERM CARE AIDES

Mr. PELL (for himself and Mr. HATFIELD) submitted the following rsesolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 161

Whereas the number of individuals 65 years of age and older has increased by 56 percent during the past 20 years;

Whereas in 1986 there were 2,800,000 individuals 85 years of age and older in the United States, and by 2000 the number will increase to nearly 5,000,000;

Whereas nearly 50 percent of the individuals in the United States have considered long-term care options for family members in the past, and another 20 percent are expected to face the issue within the next five years;

Whereas, while more than 20 percent of individuals 85 years of age and older live in nursing homes, at least another 20 percent of such individuals do not live in institutions and need some type of long-term care service;

Whereas nearly 1,500,000 long-term care aides are employed in 25,000 nursing homes and 12,000 home health agencies throughout the United States;

Whereas long-term care aides provide the personal care (including feeding, bathing, dressing, moving, and administering medication) needed by the frail elderly, disabled adults, neurologically handicapped infants and children, and victims of acquired immunodeficiency syndrome;

Whereas, while the labor force is 45 percent female, 10 percent Black, and 7 percent Hispanic, long-term care aides are nearly 90 percent female and nearly 38 percent Black or Hispanic;

Whereas average starting wages for home health aides is $4.00 to $4.25 per hour and the average for nursing home aides is nearly $4.50 per hour;

Whereas many of the aides are the primary wage earners for their families and nearly 40 percent have not completed high school;

Whereas many part-time nursing home and home health aides have few or no pension or health benefits and full-time employees may not be able to afford such benefits offered by employers;

Whereas annual turnover rates of long-term care aides range from 30 to 70 percent;

Whereas the need for more caregivers will grow significantly because the percentage of the population of the United States that is elderly is increasing, medical technology advancements will extend the lives of persons with severe mental or physical disabilities, and the acquired immunodeficiency syndrome epidemic will affect millions of young adults;

Whereas major long-term care aide shortages are anticipated by 2020, when the need for caregivers is expected to at least double;

Whereas a significant advancement was made to improve the professional status of caregivers with the adoption of training requirements for nursing home aides; and

Whereas enactment of a minimum wage increase is another necessary element in efforts to assist caregivers: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) recognition and further attention should be given to the professional and personal needs of long-term care aides;

(2) expanded access to health and pension benefits should be provided to long-term care aides;

(3) policy makers should recognize that problems confronting female household heads and minority workers also affect most nursing care aides;

(4) increased and more detailed data collection and benefit status of home health and nursing home aides;

(5) expanded recruitment efforts for active older individuals, young people, and new immigrants should be considered to abate the long-term care aide shortage; and

(6) changes should be made in the design of nursing aide positions to ensure integration into the management structure of long-term care agencies and institutions and to enhance the attraction to careers in long-term care.

● Mr. PELL. Mr. President, I rise today to submit a resolution which recognizes the importance of a group of people whose contributions to the elderly and sick are too often ignored. I am joined in this effort to recognize the Nation's long-term-care aides by my distinguished colleague from Oregon, Senator HATFIELD, and look forward to working with him on this important measure. A similar resolution has already been introduced in the House by Representative MARCY KAPTUR, of Ohio.

Mr. President, in society today there is a great emphasis placed on jobs which are perceived as glamorous, financially rewarding, or powerful. Too often, we fail to acknowledge properly the people who provide desperately needed services under the most stressful conditions. And when those high-stress, low-paying jobs involve services to the elderly, the infirm, the sick, or the disabled, we should know who is providing those services, and ask whether and how we can improve the lives of both caretaker and beneficiary.

Long-term-care workers are the people who feed, bathe, dress, help move, and help administer medication to those who cannot do these basic tasks themselves. They are nursing home aides, home health care aides, and family members, and they work in nursing homes and in private residences across this Nation. Their role is not an easy one, and it requires both dedication to the job and respect for the dignity of the individual needing care.

Mr. President, as our resolution points out, about 90 percent of all long-term-care workers are female. Thirty-eight percent are black or Hispanic. The average starting wage is only $4 to $4.25 per hour for home health aides, and only about $4.50 per hour for nursing home aides. Neither job is easy, neither job is glamorous, but both jobs require a professionalism and compassion that is second to none.

I am proud to submit this resolution to call attention to the important role of home health and nursing home aides. In doing so, I would also like to acknowledge the millions of family members who make countless sacrifices to provide loving care at home. Not long ago, Mr. President, I was privileged to visit Reverend and Mrs. Daniel Partridge at their home in North Providence, RI. Reverend Partridge is taking great care of his dear wife in their own home, and his tremendous energy and desire to provide comfort to her is most apparent. As we acknowledge the important contributions of those home health care aides who assist Reverend Partridge and others like him in caring for a loved one, or who provide desperately needed assistance to those who live alone, and as we express our appreciation to the nursing home aides who provide comfort and help 24 hours every day to those too ill to remain at home, we must also remember the many family members whose lives have been forever changed by the illness or incapacity of a loved one.

At this point, Mr. President, I would like to include in the RECORD a July 6, 1989, article written by Ms. Gina Macris for the Providence Journal, which describes in more detail the difficult plight of Reverend and Mrs. Partridge.

Mr. President, I am hopeful that my colleagues will join me in showing respect, concern, and gratitude to the Nation's long-term-care providers, and look forward to the early adoption of this resolution.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ELDERLY COUPLE STRUGGLE TO STAY AT HOME TOGETHER; CARE CAMPAIGN TRIES TO HELP

(By Gina Macris)

NORTH PROVIDENCE.—Time and money have put a limit on the independence of Irene Partridge, a woman who is struggling with the infirmities of old age in her own home, with her husband at her side.

Her husband, Daniel, a retired Methodist minister, is spending about $1,100 a month for a home health aide to help care for her, who suffers from Parkinson's disease, osteoporosis and other ailments that make it difficult for her to walk and to talk.

Partridge gets no help from the government to pay for his wife's care, and he figures his savings will be exhausted in about four years.

Then, he says, Medicaid will pay about $2,500 a month—about twice what he pays now—to put Mrs. Partridge in a nursing home.

The Partridges—he's 71 and she's 75—dread the day they will have to be separated.

Partridge explained their plight yesterday to Sen. Claiborne Pell, who visited the couple's apartment in the Stoney Brook Apartments complex on Bicentennial Way.

The Democratic Senator brought along Adelaide Luber, director of the state Department of Elderly Affairs, Ed Schroeder, former chairman of the Governor's Commission on the Handicapped, and other members of the Long Term Care Campaign.

The campaign is a nationwide coalition of organizations lobbying for legislation that would protect families from the risk of financial ruin when caring for someone who has a chronic debilitating illness.

The Long Term Care Campaign supports legislation that would make long-term care

affordable for everyone in need of it, regardless of income, although it has not yet endorsed any particular bill.

"The Partridges are making a case the kind of care we think most elderly and disabled people would like to have." Luber said.

"They are able to be together and able to support one another. We're very concerned about elderly people who want to stay in their own homes and they cannot receive reimbursement from the federal government," Luber said.

"It's not only cost effective, but it's humane for people to be able to remain in their own homes, with their loved ones," Pell said.

The senator walked upstairs with Partridge and the two of them knelt at Mrs. Partridge's bedside.

"I'm not like I should be," Mrs. Partridge said slowly and deliberately.

"I would like to do more," she said.

"So would we all," replied the senator, who is 70.

"Even the young would like to do more," Pell said.

"I have to remind her how much good she's done over the years," Partridge told Pell.

Mrs. Partridge has helped him over the 43 years of his ministry in upstate New York and Vermont as a Sunday school teacher and choir director, her husband said.

Her influence has imbued others with qualities such as self confidence and a spirit of giving, sometimes in a profound way, he said.

Partridge, who is also ill, is responsible for his wife's care all but 18 hours a week.

He suffers from Crohn's disease, an inflammation of the small intestine.

"I can do everything," he told Pell, "but I get tired."

He cooks and cleans and helps his wife up and down stairs. She spends about eight hours a day in the couple's living and dining room.

The home health aide, Ann Sasso, helps Mrs. Partridge bathe and gives her speech and physical therapy.

"I get lunch, do the dishes, fold the laundry. I do as much as I can, but there's only so much you can do in 3 hours a day," Sasso said.

She works at the Partridges' home Monday through Friday, and another aide puts in three more hours on Saturday, for a total of 18 hours a week.

The Partridges used to have 24 hours of help a week. "Twenty-four is much better, but the money lasts longer at 18," he said.●

SENATE RESOLUTION 162—ORIGINAL RESOLUTION REPORTED DIRECTING ACTION BY THE SENATE LEGAL COUNSEL

Mr. BINGAMAN, from the Impeachment Trial Committee on the Articles Against Judge Alcee L. Hastings, reported the following original resolution; which was placed on the calendar:

S. RES. 162

Whereas William A. Borders, Jr., appeared before the Impeachment Trial Committee on the Articles Against Judge Alcee L. Hastings ("Impeachment Trial Committee" or "Committee") on July 24 and 27, 1989, pursuant to the Committee's subpoena;

Whereas, on July 24, 1989, the Chairman of the Impeachment Trial Committee communicated to William A. Borders, Jr., an immunity order that had been issued by the United States District Court for the District of Columbia pursuant to 18 U.S.C. 6002 and 6005 (1982), but on July 24, 1989 and again on July 27, 1989, William A. Borders, Jr., refused to answer the Committee's questions to him about facts pertinent to the Articles of Impeachment;

Whereas under section 703(b) and 705 of the Ethics in Government Act of 1978, 2 U.S.C. 288b(b) and 288d (1988), the Senate Legal Counsel shall bring a civil action under 28 U.S.C. 1365 (Supp. V 1987) to enforce a subpoena of a Senate committee when directed to do so by the adoption of a resolution by the Senate;

Whereas the Senate will have a continuing interest in the testimony of William A. Borders, Jr., until its final disposition of the Articles of Impeachment: Now, therefore, be it

Resolved, That the Senate Legal Counsel shall bring a civil action in the name of the Impeachment Trial Committee on the Articles Against Judge Alcee L. Hastings to enforce the Committee's subpoena to William A. Borders, Jr., and the Senate Legal Counsel shall conduct all related civil contempt proceedings.

SEC. 2. Until the final disposition by the Senate of the Articles of Impeachment against Judge Alcee L. Hastings, the Impeachment Trial Committee is authorized to continue this action to enforce the Committee's subpoena to William A. Borders, Jr., to hear his testimony, to report that testimony to the Senate, and to report to the Senate any further resolution for the civil or criminal enforcement of the Committee's subpoena to him.

AMENDMENTS SUBMITTED

NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1990 AND 1991

LEVIN (AND OTHERS) AMENDMENT NO. 535

Mr. LEVIN (for himself, Mr. SIMON, and Mr. DECONCINI) proposed an amendment, which was subsequently modified, to the bill (S. 1352) to authorize appropriations for fiscal years 1990 and 1991 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1990 and 1991, and for other purposes, as follows:

On page 2, line 17, strike out "$2,706,500,000" and insert in lieu thereof "$2,766,500,000".

On page 4, line 20, strike out "$15,930,600,000" and insert in lieu thereof "$16,272,600,000".

On page 4, line 25, strike out "$7,010,000,000" and insert in lieu thereof "$6,787,000,000".

On page 21, strike out line 5 and all that follows through line 8 on page 23.

On page 32, line 4, strike out "$14,629,932,000" and insert in lieu thereof "$14,455,932,000".

On page 341, line 15, strike out "$897,460,000" and insert in lieu thereof "$792,460,000".

On page 405, after line 25, add a line titled Defense Waste R&D and Compliance Technology, "$300,000,000.".

NUNN AMENDMENT NO. 536

(Ordered to lie on the table.)

Mr. NUNN submitted two amendments intended to be proposed by him to the bill S. 1352, supra; as follows:

At the end of title XXXI insert the following:

PART E—ENVIRONMENT, SAFETY, AND MANAGEMENT

SEC. 3151. AUTHORIZATION FOR ENVIRONMENTAL RESTORATION AND FOR MANAGEMENT OF DEFENSE WASTE AND TRANSPORTATION.

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1990 for environmental restoration and management of defense waste and transportation, as follows:

(1) For operating expenses, $1,602,639,000, to be allocated as follows:

(A) For environmental restoration, $640,293,000. Such funds may also be used for plant and capital equipment.

(B) For waste operation and projects, $747,167,000.

(C) For waste research, development, and compliance in support of the defense waste cleanup technology program under section 154, $200,338,000.

(D) For transportation management, $11,841,000.

(E) For program direction, $2,950,000.

(2) For plant and capital equipment, $166,966,000, to be allocated as follows:

Project 90-D-170, general plant projects, various locations, $29,036,000.

Project 90-D-171, laboratory ventilation and electrical system upgrade, Richland, Washington, $1,100,000.

Project 90-D-172, aging waste transfer lines, Richland, Washington, $1,300,000.

Project 90-D-173, B plant canyon crane replacement, Richland, Washington, $1,500,000.

Project 90-D-174, decontamination laundry facility, Richland, Washington, $2,800,000.

Project 90-D-175, landlord program safety compliance-1, Richland, Washington, $4,200,000.

Project 90-D-176, transuranic (TRU) waste facility, Savannah River, South Carolina, $3,100,000.

Project 90-D-177, RWMC transuranic (TRU) waste treatment and storage facility, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $5,000,000.

Project 90-D-178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $6,000,000.

Project 90-D-171, Idaho National Engineering Laboratory road renovation, Idaho, $7,400,000.

Project 89-D-172, Hanford environmental compliance, Richland, Washington, $27,600,000.

Project 89-D-173, tank farm ventilation upgrade, Richland, Washington, $15,400,000.

Project 89-D-174, replacement high level waste evaporator, Savannah River, South Carolina, $9,360,000.

Project 89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $6,440,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $29,100,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $700,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $2,790,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $14,140,000.

(3) For capital equipment not related to construction, $50,126,000.

SEC. 3152. MAJOR DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS.

(a) MAJOR PROGRAM DEFINED.—In this section, the term "major Department of Energy national security program" means a research and development program (which may include construction and production activities), a construction program, or a production program—

(1) that is designated by the Secretary of Energy as a major Department of Energy national security program; or

(2) that is estimated by the Secretary of Energy to cost more than $500,000,000 (based on fiscal year 1989 constant dollars).

(b) REQUIRED REPORTS.—(1) Except as provided in paragraph (3), the Secretary of Energy shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives at the end of each calendar-year quarter a report on each major Department of Energy national security program.

(2) Each such report shall include, at a minimum, the following information:

(A) A description of the program, its purpose, and its relationship to the mission of the national security program of the Department of Energy.

(B) The program schedule, including estimated annual costs.

(C) A comparison of the current schedule and cost estimates with previous schedule and cost estimates, and an explanation of changes.

(3) A report under this section need not be submitted for the first, second, or third calendar-year quarter if the comparison between current schedule and cost estimates and schedule and cost estimates contained in the last submitted report shows that there has been—

(A) less than a 5 percent change in total program cost; and

(B) less than a 90-day delay in any significant schedule item of the program.

(c) SUBMISSION OF REPORT.—Each report under this section shall be submitted not later than 30 days after the end of each calendar-year quarter. The first report shall cover the fourth quarter of 1989 and shall be submitted not later than January 30, 1990.

(d) IDENTIFICATION OF PROGRAMS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall submit a report to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives that identifies all programs of the Department of Energy that are major Department of Energy national security programs, as defined in subsection (a).

SEC. 3153. FIVE-YEAR BUDGET PLAN REQUIREMENT.

(a) PLAN REQUIREMENT.—The Secretary of Energy each year shall prepare a five-year budget plan for the national security programs of the Department of Energy. The plan shall contain the estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the national security programs and shall be at a level of detail comparable to that contained in the budget submitted by the President to Congress under section 1105 of title 31, United States Code.

(b) SUBMISSION OF PLAN.—The Secretary shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives the plan required under subsection (a) at the same time as the President submits to Congress the budget pursuant to section 1105 of title 31, United States Code.

SEC. 3154. DEFENSE WASTE CLEANUP TECHNOLOGY PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish and carry out a program for the supervision, direction, and coordination of all research activities of the Department of Energy for the development of technologies useful for (1) the reduction of environmental hazards and contamination resulting from defense waste, and (2) environmental restoration of inactive defense waste disposal sites.

(b) PROGRAM MANAGER.—The Secretary shall carry out the program referred to in subsection (a) through a program manager appointed by the Secretary. The program manager shall supervise and direct all research activities conducted by or for the Department of Energy for the development of technologies referred to in such subsection.

(c) COORDINATION WITH EPA.—(1) In order to ensure nonduplication of research activities by the Department of Energy and the Environmental Protection Agency regarding technologies referred to in subsection (a), the Secretary shall coordinate the research activities of the Department of Energy relating to the development of such technologies with the research activities of the Environmental Protection Agency relating to the same matter.

(2) The Secretary and the Administrator of the Environmental Protection Agency may enter into cooperative agreements for the conduct of research for the development of technologies referred to in subsection (a).

(d) REPORT.—(1) The Secretary shall submit to Congress not later than April 1 each year a report on the research activities of the Department of Energy for the development of technologies referred to in subsection (a). The report shall cover such activities for the fiscal year preceding the fiscal year in which the report is submitted. The Secretary shall include in the report the following:

(A) A description and assessment of each research program being carried out by or for the Department of Energy and the Identification of the individual laboratory, contractor, or institution of higher education responsible for the research program.

(B) An assessment of the extent to which (i) there are practical applications of the technologies being researched, and (ii) such technologies will likely facilitate compliance by the Department of Energy with applicable environmental laws and regulations.

(C) An accounting of the funds allocated to each research program and to each laboratory, contractor, or institution of higher education carrying out the research program.

(D) An assessment of the research projects that have been coordinated with the Environmental Protection Agency pursuant to subsection (c).

(2) The first report required by paragraph (1) shall be submitted not later than April 1, 1990.

(e) DEFINITIONS.—As used in this section:

(1) The term "defense waste" means hazardous waste, including radioactive waste, resulting primarily from atomic energy defense activities of the Department of Energy.

(2) The term "inactive defense waste disposal site" means any site (including any facility) which is used for the disposal of defense waste and is closed to the disposal of additional defense waste, including any site that is subject to decontamination and decommissioning.

SEC. 3155. BLUE RIBBON TASK GROUP ON ENVIRONMENTAL RESTORATION AND DEFENSE WASTE MANAGEMENT.

(a) ESTABLISHMENT OF GROUP.—The President shall establish a Blue Ribbon Task Group on Environmental Restoration and Defense Waste Management to examine the procedures used in establishing requirements, providing necessary resources, planning, and implementing plans for each of the following:

(A) Environmental restoration activities, including corrective actions at, and decontamination and decommissioning of, facilities of the Department of Energy that conduct atomic energy defense activities.

(B) Defense waste management operations and disposal at such facilities.

(C) Compliance with, and enforcement of compliance with, applicable environmental laws at such facilities.

(b) MEMBERSHIP OF GROUP.—(1) The Task Group shall consist of seven members, qualified for service by reasons of experience and education. The President shall appoint three members and shall designate one of those members to act as chairman of the Task Group. The Chairman and ranking minority members of the Committees on Armed Services of the Senate and the House of Representatives shall each appoint one member.

(2) No person may be appointed to the Task Group who is an employee of the Department of Energy, who has a contract with such Department, or who is an employee of any person that has a contract with such Department.

(c) ACCESS TO RECORDS AND EMPLOYEES.—The Secretary of Energy shall ensure that the Task Group has complete and timely access to all records of the Department of Energy pertaining to policies and procedures referred to in subsection (a) and to all employees of the Department who are directly concerned with such policies and procedures.

(d) REPORT BY THE PRESIDENT.—Within 90 days after the date of the enactment of this Act, the President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing (1) the name of each person appointed by the President to the Task Group, (2) a statement of the qualifications of each such person to serve on the Task Group, and (3) a detailed plan for completing the report required by subsection (e).

(e) REPORT BY THE TASK GROUP.—Not later than January 15, 1991, the Task Group shall submit to the President and the Committees on Armed Services of the Senate and the House of Representatives a report containing its findings and recommendations. Such report shall include any additional or dissenting views that any member

of the Task Group may wish to submit. The report shall (in addition to any other matters) include recommendations of the Task Group on the following matters:

(1) Changes needed to improve the policies and procedures referred to in subsection (a).

(2) Improvements in the budgeting, organization, and management policies and procedures that affect environmental compliance and restoration, enforcement, and defense waste activities.

(3) Appropriate policies and procedures for achieving, maintaining, and enforcing compliance with substantive and procedural requirements of Federal and State environmental laws at atomic energy defense facilities of the Department of Energy while minimizing interference with the performance of the missions of those facilities, including recommended changes in existing law or existing Federal agency policies necessary for the establishment of (A) the policies and procedures recommended by the Task Group, and (B) consistent Government-wide policies on the matters covered by the policies and procedures recommended by the Task Group.

(4) Priorities for implementing such measures for environmental compliance and restoration and defense waste management at atomic energy defense facilities of the Department of Energy as may be necessary to bring such facilities into compliance with applicable Federal and State laws.

(5) Actions to enhance the capability of the Department of Energy to meet program milestones.

(6) The amount of funding needed for long-term environmental restoration at Department of Energy atomic energy defense facilities.

(7) Alternative means for funding long-term environmental restoration at such facilities.

(8) Whether one of the means for funding such long-term environmental restoration should be a trust fund established for purposes of correcting environmental contamination at the Department of Energy atomic energy defense facilities and, if so, what the scope of the trust fund should be, what the sources of revenue for the trust fund should be, and what the criteria should be for determining the priorities for which expenditures from the trust fund should be made.

SEC. 3156. EXECUTIVE MANAGEMENT TRAINING IN THE DEPARTMENT OF ENERGY.

(a) ESTABLISHMENT OF TRAINING PROGRAM.—The Secretary of Energy shall establish and implement a management training program for personnel of the Department of Energy involved in the management of atomic energy defense activities.

(b) TRAINING PROVISIONS.—The training program shall include instruction in the following areas:

(1) The appropriate management responsibilities and reporting requirements for the operation of atomic energy defense facilities and the conduct of related activities.

(2) Methods of evaluating technical performance.

(3) Federal and State environmental laws and requirements for compliance with such environmental laws, including timely compliance with reporting requirements in such laws.

(4) The establishment of program milestones and methods to evaluate success in meeting such milestones.

(5) Methods for conducting long-range technical and budget planning.

(6) Procedures for reviewing and applying innovative technology to environmental restoration and defense waste management.

SEC. 3157. DEFENSE PROGRAM MISSIONS.

Section 91(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2121(a)) is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clauses:

"(3) provide for safe storage, processing, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs; and

"(4) carry out research on and development of technologies needed for the effective negotiation and verification of international agreements on control of special nuclear materials and nuclear weapons.".

NUNN (AND WARNER) AMENDMENT NO. 537

(Ordered to lie on the table.)

Mr. NUNN (for himself and Mr. WARNER) submitted an amendment intended to be proposed by them to the bill S. 1352, supra, as follows:

On page 9, line 25, strike out "$29,000,000 shall be available only" and insert in lieu thereof "not more than $29,000,000 shall be available".

On page 10, beginning with line 18, strike out all down through "REDUCTIONS.—" in line 24.

On page 32, line 24, insert "authorized to be" after "amounts".

On page 33, line 1, strike out "may be obligated only" and insert in lieu thereof "shall be available".

On page 41, line 4, strike out "Of the amounts" and insert in lieu thereof "(a) FUNDING.—Of the amounts authorized to be".

On page 41, line 6, strike out "only".

On page 41, between lines 6 and 7, insert the following new subsection:

(b) INTEGRATED ELECTRIC DRIVE PROGRAM.—The Secretary of the Navy is authorized to establish an Integrated Electric Drive program by merging the Ship Propulsion System program and the Shipboard System Component program with the Electric Drive program for the purpose of providing Integrated Electric Drive propulsion in the DDG-51 guided missile destroyer program.

On page 41, line 9, strike out "Of the amounts" and insert in lieu thereof "(a) FUNDING.—Of the amounts authorized to be".

On page 41, line 11, strike out "only".

On page 41, between lines 11 and 12, insert the following new subsection:

(b) NEW PROGRAM.—The Secretary of the Navy is authorized to establish a Fast Sealift Technology Development program for the purposes of completing, within 24 months of the date of the enactment of this Act, the technology development program described in the January 1989 report to Congress entitled *Fast Sealift Program Technology Assessment Report.*

On page 41, line 13, strike out "Of the amounts" and insert in lieu thereof "(a) FUNDING.—Of the amounts authorized to be".

On page 41, line 15, strike out "only".

On page 41 between lines 15 and 16, insert the following new subsection:

(b) NEW PROGRAM.—The Secretary of the Navy is authorized to establish a Tactical Oceanography program to accelerate uses of scientific measurement and data collection devices and processes for the purpose of rapid tactical applications.

On page 42, line 5, insert "authorized to be" after "amount".

On page 42, line 8, strike out "only".

On page 52, beginning with line 11, strike out all down through "REDUCTIONS.—" in line 15.

On page 52, lines 22 and 23, strike out "shall transfer not less than" and insert in lieu thereof "may transfer".

On page 53, line 2, strike out "shall" and insert in lieu thereof "may".

On page 194, line 9, insert "authorized to be" after "funds".

On page 194, line 11, strike out "only".

On page 246, beginning with line 13, strike out all down through line 23 and insert in lieu thereof the following:

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 301 for Defense Agencies for fiscal years 1990 and 1991 for operation and maintenance, $9,000,000 shall be available for each of such fiscal years for the purpose of carrying out cooperative agreements under chapter 142 of title 10, United States Code.

(b) SET-ASIDE.—Of the amounts provided for in subsection (a), $600,000 shall be available for each of the fiscal years 1990 and 1991 for the purpose of carrying out programs sponsored by eligible entities named in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas (as defined in subparagraph (B) of section 2411(2) of such title). If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow for effective use of the funds authorized under this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services region in accordance with section 2415 of such title.

On page 270, line 2, insert "authorized to be" after "amounts".

On page 270, line 3, strike out "not less than".

On page 270, line 4, strike out "not less than".

On page 270, line 5, insert "authorized to be" after "amounts".

On page 270, line 5, insert "authorized to be" after "amounts".

On page 270, line 6, strike out "only".

On page 450, lines 10 and 1, strike out "not less than $2,900,000 and not more than $3,435,000 shall be obligated or expended" and insert in lieu thereof "not more than $3,435,000 may be obligated".

NUNN AMENDMENT NO. 538

(Ordered to lie on the table.)

Mr. NUNN submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

On page 295, after line 25, insert the following new title:

TITLE XI—DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

SEC. 1101. FUNDING OF ACTIVITIES RELATED TO DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT.

(a) FUNDING.—(1) Of the amounts authorized to be appropriated for the Department

of Defense by this Act, $600,000,000 is available from the sources and in the amounts provided in paragraph (2) for carrying out the drug interdiction and law enforcement support activities described in section 1102 through 1110.

(2) The amounts and sources referred to in paragraph (1) are as follows:

(A) $245,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $30,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $320,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(D) $5,000,000 of amounts appropriated pursuant to Division B for land acquisition and the construction of facilities.

SEC. 1102. LEAD AGENCY FOR DETECTION.

(a) IN GENERAL.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide written guidance to the Secretaries of the military departments and to the commanders of the combatant commands on the specific force levels and the specific supporting resources necessary to fulfill the responsibilities of the Department of Defense as the single lead agency for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(B) GUIDANCE REFERENCE.—The guidance referred to in subsection (a) shall be provided as part of the guidance required by section 113(l) of title 10, United States Code.

(c) FUNDING.—(1) The following amounts from the sources specified shall be available for carrying out the responsibilities referred to in subsection (a):

(A) $200,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $5,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $149,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(2) Not more than $5,000,000 of the amounts authorized to be appropriated pursuant to Division B for land acquisition and construction of facilities shall be available for the acquisition of land and the construction of facilities necessary to carry out the responsibilities referred to in subsection (a).

SEC. 1103. COMMUNICATIONS NETWORK.

(a) INTEGRATION OF NETWORK.—The Secretary of Defense, in consultation with the Director, National Drug Control Policy, shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to titles I, II, and III for fiscal year 1990, $60,000,000 shall be available for the activities described in subsection (a).

SEC. 1104. DRUG INTERDICTION AND ENFORCEMENT ACTIVITIES OF THE NATIONAL GUARD.

(a) FUNDING ASSISTANCE.—The Secretary of Defense shall provide to the Governor of a State who submits a plan to the Secretary under subsection (b) sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of such State used—

(1) for the purpose of drug interdiction and enforcement operations; and

(2) for the operations and maintenance of the equipment and facilities of the National Guard of such State that are used for the purposes described in paragraph (1).

(b) PLAN REQUIREMENTS.—(1) The Secretary shall provide funds under subsection (a) to the Governor of a State who submits to the Secretary a plan specifying how personnel of the National Guard of that State are to be used in drug enforcement and interdiction operations if—

(A) such operations are to be conducted at a time when personnel of a National Guard of the State are under the command and control of the State authority and are not in Federal service; and

(B) participation by National Guard personnel in such operations is service in addition to annual training required under section 502 of title 32, United States Code.

(2)(A) Before funds are provided to the Governor of a State under this section, the Secretary of Defense shall consult with the Attorney General of the United States regarding the adequacy of the plan submitted by the Governor to the Secretary.

(B) If the Governor of a State submits a plan to the Secretary of Defense for assistance under this section, the plan is the same as a plan previously submitted by that State, and funds were provided to the State pursuant to such plan, then funds may be provided to such State under this section without further consultation with the Attorney General.

(c) FUNDING AMOUNTS.—(1) Of the amounts made available pursuant to section 1101, the Secretary shall make available for the purposes of subsection (a)—

(A) $45,000,000 for operations and maintenance of the National Guard; and

(B) $45,000,000 for National Guard personnel.

(2) Amounts made available pursuant to paragraph (1) for the National Guard are in addition to amounts otherwise appropriated for the National Guard for fiscal year 1990.

(d) LIMITATION ON DELEGATION.—The Secretary may delegate the authority of the Secretary under this section only to the Deputy Secretary of Defense, to an Under Secretary of Defense, or to an Assistant Secretary of Defense.

(e) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

(f) EXCLUSION FROM END-STRENGTH COMPUTATION.—Members of the National Guard on full-time National Guard duty for the purposes of administering this section shall not be counted toward the end-strengths authorized in section 422 for members on full-time National Guard duty for the purposes of organizing, administering, recruiting, instructing, or training the reserve components, or toward the strengths authorized in sections 517 and 524 of title 10, United States Code.

(g) DEFINITIONS.—As used in this section:

(1) The term "Governor of a State" means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

(2) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

SEC. 1105. MAINTENANCE AND REPAIR OF EQUIPMENT MADE AVAILABLE TO FEDERAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—The Secretary of Defense shall be responsible during fiscal year 1990 for the maintenance and repair of equipment that has been made available by the Department of Defense to other Federal agencies for use in antidrug efforts or for any use under chapter 18 of title 10, United States Code, in view of the potential future utility of such equipment to the Department of Defense. The Secretary shall be responsible for the maintenance and repair of such equipment to the extent that funds are available pursuant to subsection (b).

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III, $30,000,000 shall be available for fiscal year 1990 for the purposes described in subsection (a).

SEC. 1106. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies concerned with the detection of illicit drugs and other dangerous and illegal substances concealed in containers.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990, $20,000,000 shall be available for the purposes described in subsection (a).

SEC. 1107. CIVIL AIR PATROL.

(a) IN GENERAL.—The Secretary of Defense shall pay for expenses incurred by the Civil Air Patrol in conducting drug surveillance flights for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) FUNDS.—Of the funds authorized to be appropriated pursuant to title III for fiscal year 1990, $1,000,000 shall be available for purposes described in subsection (a).

SEC. 1108. TRANSPORTATION OF PERSONNEL, SUPPLIES, AND EQUIPMENT RELATING TO DRUG INTERDICTION AND THE ERADICATION OF ILLEGAL DRUGS IN SOURCE COUNTRIES.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Defense shall transport personnel, supplies, and equipment within the United States and from the United States to a foreign country, by aircraft and ships of the Department of Defense, for the purpose of providing assistance to a counter-drug operation to be carried out in a foreign country by the United States or by a friendly foreign country.

(b) CONDITIONS.—The Secretary may transport personnel, supplies, and equipment pursuant to subsection (a) only if—

(1) the transportation of such personnel, supplies, and equipment is consistent with the foreign policy and counter-drug policy of the United States;

(2) the supplies and equipment to be transported are suitable for use in a counter-drug program;

(3) the personnel, supplies, and equipment to be transported are destined for use in a counter-drug program of the United States or of a friendly country; and

(4) the transportation of such personnel, supplies, and equipment will not adversely affect the military preparedness of the United States.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $20,000,000 shall be avail-

able for the purposes described in subsection (a).

SEC. 1109. LOAN OF NATIONAL GUARD EQUIPMENT.

(a) IN GENERAL.—(1) The Secretary shall authorize the National Guard to loan any item of equipment to any Federal or State law enforcement agency for use by such agency in carrying out drug enforcement activities. Under such regulations as the Secretary may prescribe, items of equipment loaned by the National Guard to any Federal or State law enforcement agency shall be returned promptly to the National Guard if the Chief of the National Guard Bureau determines that the equipment is needed for operational requirements of the National Guard and requests the Federal or State agency concerned to return such equipment to the National Guard.

(2) To the extent that funds are available pursuant to subsection (c), the Secretary shall maintain, repair, and restore any item of equipment made available to any Federal or State law enforcement agency pursuant to paragraph (1).

(b) CONDITIONS.—The Secretary may make the loan of items of equipment referred to in subsection (a) subject to such minimum standards of care and maintenance as the Secretary considers appropriate. The Secretary may also require, with respect to items of equipment loaned to a law enforcement agency under this section, such minimum training and proficiency requirements on the part of the personnel who are to use such items as the Secretary considers appropriate.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $20,000,000 shall be available for the purposes described in subsection (a).

SEC. 1110. EXCESS PERSONAL PROPERTY.

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), during fiscal years 1990 and 1991, the Secretary of Defense, in consultation with the Attorney General of the United States and the Director, National Drug Control Policy, may transfer to Federal and State law enforcement agencies such excess personal property of the Department of Defense, including small arms ammunition, as the Secretary determines suitable for use by such agencies in counter-drug activities. Excess property transferred to any such agency under this section may be transferred without cost to the recipient agency.

(b) The Secretary may transfer excess personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense;

(2) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment; and

(3) the Secretary determines that the transfer of the excess property will not have an adverse impact on the military readiness of the United States.

Section 421 of the bill is amended as follows:

(1) in subsection (a)(7), relating to the Coast Guard, strike out "12,950" and insert in lieu thereof "15,000"; and

(2) in subsection (b), relating to the Coast Guard, strike out "13,500" and insert in lieu thereof "15,000".

NUNN AMENDMENT NOS. 539 AND 540

(Ordered to lie on the table.)

Mr. NUNN submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

AMENDMENT NO. 539

On page 271, beginning with line 15, strike out all down through line 3 on page 273 and insert in lieu thereof the following:

SEC. 903. OUTLAY LIMITATION FOR FISCAL YEAR 1990.

(a) IN GENERAL.—(1) The net amount expended during fiscal year 1990 from covered defense appropriations may not exceed $289,645,000,000. For purposes of the preceding sentence covered defense appropriations are all funds appropriated pursuant to authorization of appropriations contained in divisions A and B of this Act or appropriated pursuant to any authorization of appropriations enacted before the date of the enactment of this Act (whether specific or indefinite) for Department of Defense-Military (budget function 051).

(2) The Secretary of Defense and the Director of Central Intelligence shall take such steps as may be necessary to ensure compliance with the limitation in subsection (a).

(b) TREATMENT OF TRANSFERS.—Any transfer of out-lays from one fiscal year to [an adjacent] fiscal year that [is made] pursuant to [this section] shall be considered a necessary (but secondary) result of a significant policy change as provided in section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (2 U.S.C. 909(a)).

(c) INAPPLICABILITY OF IMPOUNDMENT CONTROL ACT OF 1974.—The provisions of the Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) shall not apply with respect to funds appropriated pursuant to this Act or by any Act appropriating funds for the Department of Defense previous to the date of the enactment of this Act to the extent necessary to enable the Secretary of Defense to comply with subsection (a).

(d) AUTHORITY TO DELAY PAYMENTS.—Any payment required to be made by the Department of Defense to a [business concern] that, but for this subsection, would be required to be made during September 1990 may be made during the period beginning on October 1, 1990, and ending on the date that is 30 days after the date on which the payment would otherwise have been required to be made. In determining the amount of any interest penalty under section 390 of title 31, United States Code, for failure to make any such payment, any period for which payment is deferred by the Secretary of Defense under the preceding sentence shall not be taken into account.

(e) REPORTS.—(1) The Secretary of Defense shall, on each of the dates specified in paragraph (2), submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report on the implementation of this section. Each such report shall include—

(A) an analysis of cumulative obligations and cumulative expenditures from accounts subject to the limitation in subsection (a) during the period beginning on October 1, 1989, and ending on the last day of the month preceding the month in which the report is to be submitted, including a comparison of such obligations and expenditures with the relevant estimates of outlays made by the Office of Management and Budget and the Congressional Budget Office; and

(B) a description of the specific actions taken by the Secretary to ensure that the Department of Defense meets the requirements of subsection (a).

(2) The reports required by paragraph (1) shall be submitted in 1990 not later than January 15, April 15, September 15, and October 15.

(f) SENSE OF CONGRESS.—It is the sense of the Congress that the differences in estimated outlays for programs for National Defense (budget function 050) for fiscal year 1990 as prepared by the Congressional Budget Office and the Department of Defense, while small in percentage terms, are sufficiently large to have a programmatic impact. It is further the sense of Congress that the Congressional Budget Office and the Secretary of Defense, in consultation with the Committees on Armed Services, Appropriations, and the Budget of the Senate and the House of Representatives, should undertake a comprehensive review of outlay estimation techniques and methodologies as such techniques and methodologies relate to the Department of Defense with the objective of achieving consistent estimates for inclusion in the budget for fiscal year 1991.

(g) PROHIBITION ON ADVANCE OF PAY DATE.—(1) Notwithstanding section 1006(h) of title 37, United States Code, the Secretary concerned may not, for the pay period ending on September 30, 1989, advance the October 1, 1989, payday for the payment of pay and allowances to members of a uniformed service under the jurisdiction of the Secretary. Any order or directive of the Secretary requiring the advancement of the October 1, 1989, military payday to September 29, 1989, shall be null and void.

(2) For purposes of this subsection, the terms "Secretary concerned" and "uniformed services" have the meanings given to those terms in paragraphs (5) and (3), respectively, of section 101 of title 37, United States Code.

AMENDMENT NO. 540

On page 293, between lines 13 and 14, insert the following new section:

SEC. 917. SCOREKEEPING ADJUSTMENT.

(a) OPERATION AND MAINTENANCE.—The amounts authorized in section 301(a) for operations and maintenance for fiscal year 1990 are hereby reduced—

(1) by $496,908,000 for the Army;

(2) by $598,800,000 for the Navy;

(3) by $26,183,000 for the Marine Corps;

(4) by $303,950,000 for Air Force;

(5) by $28,100,000 for the Defense Agencies;

(6) by $400,000 for the Inspector General;

(7) by $3,692,000 for the Army Reserve;

(8) by $28,883,000 for the Navy Reserve;

(9) by $100,000 for the Marine Corps Reserve;

(10) by $14,500,000 for the Air Force Reserve;

(11) by $11,192,000 for the Army National Guard; and

(12) by $36,842,000 for the Air National Guard.;

(b) REDUCTION IN THE MILITARY PAY RAISE.—The increase in military pay provided for in section 601(b) shall be 2 percent in lieu of 3.6 percent. The new monthly pay for cadets and midshipmen provided for in section 601(c) shall be $535.50 instead of $543.90.

(c) REDUCTION IN END STRENGTHS FOR ACTIVE FORCES.—The authorized end

strengths for active duty personnel specified in section 401(a) are hereby reduced—

(1) by 54,150 for the Army;

(2) by 41,850 for the Navy;

(3) by 13,800 for the Marine Corps; and

(4) by 40,200 for the Air Force;

(d) ADJUSTMENT TO REFLECT MANPOWER AND PAY REDUCTIONS.—Notwithstanding section 902, the total amount that may be appropriated for fiscal year 1990 for military personnel and maintenance may not exceed $162,389,350,000 rather than $166,752,900,000 as provided in such section.

(e) REDUCTIONS IN RESEARCH AND DEVELOPMENT.—The amounts authorized in section 201 for research, development, test, and evaluation for fiscal year 1990 are hereby reduced—

(1) by $240,728,000 for the Army;

(2) by $100,000,000 for the Air Force; and

(3) by $500,000,000 for the Defense Agencies.

(f) FUNDING FOR THE STRATEGIC DEFENSE INITIATIVE.—Notwithstanding section 231(a), the maximum amount that may be obligated for the Strategic Defense Initiative may not exceed $3,801,904,000 rather than $4,301,904,000 as provided in such section.

(g) INCREASES IN PROCUREMENT FUNDING.—(a) The amounts authorized in section 101 for procurement for fiscal year 1990 are hereby increased—

(A) by $1,027,491,000 for Army aircraft procurement; and

(B) by $299,200,000 for Army missile procurement.

(2) The amounts authorized in section 102 for procurement for fiscal year 1990 are hereby increased by $776,500,000 for Navy aircraft procurement.

(3) The amounts authorized in section 103 for procurement for fiscal year 1990 are hereby increased—

(A) by $2,843,300,000 for Air Force aircraft procurement; and

(B) by $97,600,000 for Air Force missile procurement.

(h) ADDITIONAL AMOUNT AVAILABLE FOR THE B-2 BOMBER.—In addition to the amount made available for obligation for procurement for the B-2 aircraft program under section 133(a), $884,600,000 shall be available for obligation for procurement for such program for fiscal year 1990.

(i) ADJUSTMENT OF PROGRAM TERMINATION DATES.—Each case in which the date of October 1, 1991, appears in sections 142 and 144, such date shall be deemed to be October 1, 1990.

(j) REDUCTION IN FISCAL YEAR 1991 AUTHORIZATION.—(1) The amount authorized in section 101(a) for fiscal year 1991 for procurement of aircraft for the Army is hereby reduced by $785,771,000.

(2) The amount authorized in section 103(a) for fiscal year 1991 for procurement of aircraft for the Air Force is hereby reduced by $1,991,907,000.

AMERICANS WITH DISABILITIES ACT

McCAIN (AND OTHERS) AMENDMENT NO. 541

(Ordered referred to the Committee on Labor and Human Resources.)

Mr. McCAIN (for himself, Mr. HARKIN, and Mr. KENNEDY) submitted an amendment intended to be proposed by them to the bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, as follows:

Strike title V and insert in lieu thereof the following:

TITLE V—TELECOMMUNICATIONS SERVICES

SEC. 501. TELECOMMUNICATIONS SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

(a) AMENDMENT TO TITLE II, COMMUNICATIONS ACT OF 1934.—Title II of the Communications Act of 1934 (46 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"COMMUNICATIONS SERVICE FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS

"SEC. 225. (a) As used in this section—

"(1) The term 'common carrier' or 'carrier' includes any common carrier engaged in interstate-communication by wire or radio as defined in section 3(h) and those carriers engaged in intrastate communication by wire or radio or both, notwithstanding the exceptions in sections 2(b) and 221(b).

"(2) The term 'telecommunications relay services means transmission services that provide the ability for individuals who have a hearing impairment or speech impairment to engage in communication by wire or radio with hearing individuals that is functionally equivalent to the ability of individuals who do not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio, and such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.

"(3) The term 'TDD' means a Telecommunications Device for the Deaf, a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

"(b)(1) In furtherance of section 1 to make available to all people of the U.S. a rapid, efficient, nationwide system and in order to increase the utility of the Nation's telephone system, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, so far as possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

"(2) For purposes of this section, the same remedies, procedures, rights, and obligations under this Act that are applicable to common carriers engaged in interstate communication by wire or radio are also applicable to common carriers engaged in intrastate communication by wire or radio.

"(c) It shall be the duty of every common carrier to provide telecommunications relay services individually or through designees or in concert with other carriers, not later than two years after the date of enactment of this section.

"(d)(1) The Commission shall, not later than one year after the date of enactment of this section, adopt regulations to implement this section, including regulations that—

"(A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;

"(B) establish minimum standards which shall be met by common carriers in carrying out their duty under subsection (c) to provide telecommunications relay services;

"(C) require that telecommunications relay services operate every day for 24 hours per day;

"(D) require that users of telecommunications relay services pay rates no greater than those rates paid for functionally equivalent voice communication services with respect to factors including the duration of the call, the time of day, and the distance from point of origination to point of termination.

"(E) prohibit relay operators from refusing calls or limiting the length of calls using telecommunications relay services;

"(F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and

"(G) prohibit relay operators from intentionally altering a relayed conversation.

"(2) The Commission shall ensure that regulations adopted to implement this section encourage the use of currently available technology and do not discourage or impair the development of improved technology.

"(3) The Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section. Any such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from the interstate jurisdiction and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. To the extent interstate and intrastate common carriers provide telecommunications relay services jointly, the procedures established in section 410 shall be followed, as applicable.

"(4) The Commission shall not permit carriers to * * *.

"(5) Where the Commission finds that full compliance with the requirements of this section would unduly burden one or more particular common carrier, the Commission may extend the date for full compliance by the particular carrier or carriers for a period not to exceed one additional year.

"(e)(1) Subject to the provisions of subsections (f) and (g), the Commission shall enforce the provisions of this section.

"(2) The Commission shall resolve, by final order, any complaint alleging a violation of this section within 180 days after the date on which the complaint is filed.

(f)(1) Each Stae may submit to the Commission documentation describing its program for implementing intrastate telecommunications relay services. After review of such documentation, the Commission shall certify the State program if the Commission determines that the program makes available to hearing-impaired and speech-impaired individuals either directly, or through designees or through regulation of intrastate common carriers, intrastate telecommunications relay services in that State in a manner which meets the requirements of regulations adopted by the Commission under subsection (d). Except as provided in subsection (d) the Commission shall not refuse to certify a State plan based solely on the method of funding the provision of intrastate telecommunication relay services.

"(2) The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that certification is no longer warranted.

"(g)(1) When a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of that State under sub-

section (f) is in effect, the Commission shall refer the complaint to the State.

"(2) After referring a complaint to a State under paragraph (1), the Commission shall thereafter exercise jurisdiction over the complaint only if—

"(A) final action under the State program has not been taken on such complaint—

"(i) within 180 days after the complaint is filed with the State, or within such shorter period as prescribed by State regulation.

"(B) the Commission determines that the State program is no longer qualified for certification under subsection (f).".

(b) CONFORMING AMENDMENTS.—

(1) SECTION 2(b) OF COMMUNICATIONS ACT.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking "section 224" and inserting in lieu thereof "sections 224 and 225,".

(2) SECTION 221(b) OF COMMUNICATIONS ACT.—Section 221(b) of the Communications Act of 1934 (47 U.S.C. 221(b)) is amended by striking "section 301" and inserting in lieu thereof "sections 225 and 301".

Mr. McCAIN. Mr. President, everyday Americans use the finest and most advanced telecommunications system in the world. The telephone has become synonymous with the American way of life. It is an indispensable part of "Americana." Yet, there is a group of Americans who have been denied the full use of this nation's telecommunications network.

There are 24 million hearing impaired and 2.75 million speech impaired proud Americans who cannot place a telephone call. They cannot make a doctor's appointment, they cannot call friends, they cannot call their families; 125 years ago the telephone was invented to be an assistive device for hearing impaired and deaf individuals. It has since proved to be one of the greatest obstacles to integrating the deaf into the mainstream of our society. But this need not be the case.

At one time there were technological problems that prevented the hearing and speech impaired from accessing the Nation's telephone systems. But those initial obstacles have long been overcome. We must now demonstrate the political will to make full access to the telephone system a reality.

Mr. President, the telecommunications network in this country is governed by the Communications Act of 1934 which requires that the Nation's communications system be made available to all the people of the United States. We must accord to the hearing and speech impaired the same opportunity for access as any hearing individual.

Countless times a day, Americans reach for that essential telephone, and without another thought, conduct their daily business. A single day without the ability to use the telephone is almost impossible to imagine. In order to remedy this disparity, Senator HARKIN and myself are introducing language that would mandate communications access. Our legislation would amend the Communications Act of 1934 to require that communications services be made available to all the hearing and speech impaired individuals in this country.

I am introducing this language at this time as an amendment to the Americans with disabilities, S. 933, and ask that it be considered positively by the Labor and Human Resources Committee. I have worked closely with Senator HARKIN to develop this measure, and want to thank him and his fine staff for all their help. Because of the great importance of this measure, I am also introducing it as an independent bill which will be referred to the Commerce Committee.

This bill requires all common carriers to provide telecommunications services to the hearing and speech impaired. States that already offer, or intend to offer such services either through their carriers or through the State itself, may do so at their own descretion. This will allow for maximum latitude in the manner that such service is made available, and attempts to ensure maximum ease in implementing these new standards for the interstate carriers, intrastate carriers, and for the States.

Last year this body overwhelmingly passed S. 2221, a measure to make the Federal Government fully accessible to the hearing and speech impaired. This bill consequently became Public Law 100-542. The Senate correctly voiced its support for the concept full integration within the telecommunications network of the Federal Government. This was an important first step. We must now take the second step.

It has been the longstanding policy of this country, and of this body, that people have a right to be connected to the Nation's telephone system. Adoption of this amendment would bring the more than 25 million Americans who cannot use the current telephone system into the mainstream of communications. We must now demonstrate the will to make this a reality for these Americans who have been denied this most basic privilege.

NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1990 AND 1991

NUNN (AND WARNER) AMENDMENT NO. 542

(Ordered to lie on the table.)

Mr. NUNN (for himself and Mr. WARNER) submitted an amendment intended to be proposed by them to the bill S. 1352, supra, as follows:

At the appropriate place in the bill, add the following new section:

SEC. . ANTI-DRUG ABUSE ACT FUNDING.

(a) Of the unobligated balances at the end of fiscal year 1989 in the accounts of the Departments, Offices, Administrations and Agencies of the executive branch, $1,700,000,000 shall be available for transfer to fully fund Public Law 100-690, the Anti-Drug Abuse Act of 1988 in fiscal year 1990.

(b) Transfers effected under subsection (a) shall be apportioned among the various accounts of the executive branch in accordance with the ratio that the amounts of unobligated balances that are present in any such account bears to the total amount of unobligated balances.

DOLE (AND OTHERS) AMENDMENT NO. 543

Mr. DOLE (for himself, Mr. MITCHELL, Mr. WARNER, Mr. NUNN, and Mr. GLENN) proposed an amendment to the bill S. 1352, supra, as follows:

The Senate finds that American Citizens have taken up arms to defend their homes and communities, and to preserve this nation's independence, from the earliest days of our nation; and

The concept of the citizen-soldier has been a keystone of the defense strategy of this nation; and

Members of the National Guard and Reserve have served proudly and honorably in every war or conflict involving United States Armed Forces; and

The Total Force Policy, by placing significant portions of wartime mission capability and selected day-to-day operations in the National Guard and Reserve, has reinforced the proposition that the Guard and Reserve are essential elements of our national defense; and

The Congress and the Department of Defense during the 1980's have demonstrated their increasing reliance and confidence in the National Guard and Reserve by expanding missions, increasing training requirements and providing new state-of-the-art weapons and support equipment; and

The National Guard and Reserve represent a very cost-effective arm of the Total Force, preserving combat capability and retaining valuable trained human resources, especially during periods of austere defense budgets; and

Participation in the National Guard and Reserve enhances military readiness and demonstrates the resolve of the citizenry to protect and preserve American values; and

Participation in the National Guard and Reserve improves our economy, by providing individuals with job skills and education; now

Therefore be it declared, that the United States Senate reaffirms that service in the National Guard and Reserve is in the highest traditions of military service to the country and acknowledges the valuable contribution that the men and women who serve in the National Guard and Reserve are making to their country; encourages Guard and Reserve participation by all elements of our society; and continues to support fully reliance on the National Guard and Reserve as full partners in the Total Force.

DOLE (AND OTHERS) AMENDMENT NO. 544

Mr. DOLE (for himself, Mr. MITCHELL, Mr. WARNER, and Mr. GORTON) proposed an amendment to the bill S. 1352, supra, as follows:

PRESIDENTIAL REPORT ON THE VERIFICATION WORK THAT HAS BEEN CONDUCTED WITH REGARD TO MOBILE ICBM's IN A START TREATY.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and the Soviet Union are currently engaged in talks regarding the reduction of strategic nuclear arms.

(2) The United States position at the strategic arms reduction talks (START) since 1985 has been to ban the deployment of mobile ICBMs within a START regime unless an effective verification regime could be identified and implemented.

(3) The Soviet Union has deployed two mobile ICBM systems, the SS-24 and the SS-25.

(4) President Bush conducted a strategic review upon entering office which was completed prior to the resumption of the START Talks on June 15, 1989.

(5) The President's fiscal year 1990 defense budget to the Congress includes funding for the development of two mobile ICBM's, the Rail Garrison MX missile and the Small ICBM (Midgetman).

(6) The United States must have confidence that any START Treaty will be effectively verifiable.

(b) PRESIDENTIAL REPORT—The President shall submit to the President of the Senate and the Speaker of the House, and when necessary to protect particularly sensitive information, the Chairman of the Senate Select Committee on Intelligence and the Chairman of the House Permanent Select Committee on Intelligence, not later than March 31, 1990, a report describing all studies that have been performed betweeen March 1985 and August 1989 by agencies of the United States Government with regard to our capability to monitor and verify a START Treaty which allows mobile ICBMs. The report shall include the following:

(1) A description of all studies conducted by United States Government agencies during the President's strategic review to determine the ability of the United States to verify Soviet mobile missiles in START. These descriptions shall include a summary of conclusions reached.

(2) A description of any Red Team studies conducted between March 1985 with regard to the existence of mobiles in a START regime as well as a summary of conclusions reached.

(3) A description of studies conducted by United States Government agencies between March 1989 and August 1989 to assess the value of various verification options relating to the verification of mobiles, including tagging and designated deployment areas. These descriptions shall include a summary of conclusions reached.

DOLE (AND WARNER) AMENDMENT NO. 545

Mr. DOLE (for himself, Mr. WARNER, and Mr. MCCLURE) proposed an amendment to the bill S. 1352, supra, as follows:

In the appropriate place insert:

SENSE OF SENATE ON START TALKS.

It is the sense of Senate that any agreement negotiated by the President to achieve a reduction and limitation on strategic arms (through the strategic arms reduction talks in Geneva or otherwise)—

(1) should not prevent the United States from deploying a force structure under the agreement which emphasizes survivable strategic systems and, in particular, should not in any way compromise the security of the United States ballistic-missile carrying submarine force, and

(2) should not prohibit or limit the deployment of non-nuclear cruise missiles.

McCAIN AMENDMENT NOS. 546 THROUGH 548

(Ordered to lie on the table.)

Mr. MCCAIN submitted three amendments intended to be proposed by him to the bill S. 1352, supra, as follows:

AMENDMENT No. 546

On page 155, between lines 19 and 20, insert the following new section:

SEC. 630A. HAZARDOUS DUTY PAY FOR FREE-FALL PARACHUTE JUMPING.

Section 301(c)(1) of title 37, United States Code, is amended by striking out "parachute jumping at a high altitude with a low opening" in the second sentence and inserting in lieu thereof "free-fall parachute jumping".

AMENDMENT No. 547

At an appropriate place in the bill insert the following new section:

Sec. .

Chapter 61 of title 10, United States Code, is amended as follows:

(a) So much of section 1201 as precedes clause "(1) is amended to read (portion in brackets [ ] would be deleted; portion underlined would be added):

"Upon a determination by the Secretary concerned that a member of a regular component of the armed forces entitled to basic pay, [or] any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training under section 270(b) of this title) for a period of more than 30 days, *or a member of the armed forces who is not entitled to basic pay under section 502(b) of title 37 because he is authorized by the Secretary concerned under that section to participate in a program leading to appointment, designation, or assignment in an officer category,* is unfit to perform the duties of his office, grade, rank, or rating because of physical disability incurred while entitled to basic pay, *or while not entitled to basic pay under section 502(b), of title 37 because he is authorized by the Secretary concerned under that section to participate in a program leading to appointment, designation, or assignment in an officer category,* the Secretary may retire the member, with retired pay computed under section 1401 of this title, if the Secretary also determines that—

"

(b) Section 1202 is amended to read (portion in brackets [ ] would be deleted; portion underlined would be added):

"Upon a determination by the Secretary concerned that a member of a regular component of the armed forces entitled to basic pay, [or] any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training undersection 270(b) of this title) for a period of more than 30 days, *or a member of the armed forces who is not entitled to basic pay under section 502(b) of title 37, because he is authorized by the Secretary concerned under that section to participate in a program leading to appointment, designation, or assignment in an officer category,* would be qualified for retirement under section 1201 of this title but for the fact that his disability is not determined to be of a permanent nature, the Secretary shall, if he also determines that accepted medical principles indicate that the disability may be of a permanent nature, place the member's name on the temporary disability retired list, with retired pay computed under section 1401 of this title.".

(c) So much of section 1203 as precedes clause "(1)" is amended to read as follows (portion in brackets [ ] would be deleted; portion underlined would be added):

"Upon a determination by the Secretary concerned that a member of a regular component of the armed forces entitled to basic pay, [or] any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training under section 270(b) of this title) for a period of more than 30 days, *or a member of the armed forces who is not entitled to basic pay under section 502(b) of title 37 because he is authorized by the Secretary concerned under that section to participate in a program leading to appointment, designation, or assignment in an officer category,* is unfit to perform the duties of his office, rank or rating because of physical disability incurred while entitled to basic pay, *or while not entitled to basic pay under section 502(b) of title 37, because he is authorized by the Secretary concerned under that section to participate in a program leading to appointment, designation, or assigned in an officer category,* the member may be separated from his armed force with severance pay computed under section 1212 of this title, if the Secretary also determines that—

"

SEC. 2. The amendments made by this Act shall become effective immediately upon enactment.

AMENDMENT No. 548

At the appropriate place, insert:

SEC. . The Secretary of the Navy may transfer not more than three officers of the line of the Navy to the Medical Service Corps of the Navy in a grade not above commander.

McCONNELL AMENDMENT NO. 549

(Ordered to lie on the table.)

Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

At the appropriate place, insert the following:

SECTION 1. GENERAL AUTHORITY.

Whenever any aircraft liable to seizure or examination by any agency of the United States with responsibility for drug law enforcement does not stop on being ordered to do so on being pursued by an authorized aircraft which has displayed identifying insignia prescribed for an authorized aircraft, the person in charge or in command of the authorized aircraft may, after a gun has been fired by the authorized aircraft as a warning signal, fire at or into the aircraft which does not stop.

SEC. 2. INDEMNIFICATION.

The person in command of an authorized aircraft and all persons acting under that person's direction shall be indemnified from any penalties or actions for damages for firing at or into and aircraft pursuant to section 1. If any person is killed or wounded by the firing, and the person in command of the authorized aircraft or any person acting

pursuant to their orders is prosecuted or arrested therefor, they shall be forthwith admitted to bail.

SEC. 3. DEFINITION.

For the purposes of the Act—

(1) The term "authorized aircraft" means an aircraft operated by an agency of the United States with responsibility for drug law enforcement; and

(2) the term "agency" of the United States with responsibility for drug law enforcement means the Coast Guard and Customs Service and the Drug Enforcement Agency.

BOND AMENDMENT NO. 550

(Ordered to lie on the table.)

Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

On page 52, between lines 8 and 9 insert the following:

SEC. 237. ACCIDENTAL LAUNCH PROTECTION SYSTEM.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Strategic Defense Initiative (SDI) has made substantial progress in developing the technologies to defend the United States from a ballistic missile attack. Advances in interceptor technology, sensors, and command, control, and communications have been achieved and six key components of the SDI program have recently been combined to form the basic architecture for Phase I deployment of a system to defend the United States against ballistic missile attack.

(2) As a result of additional development and analytical study of ground-based midcourse and low-atmosphere interceptors and their appropriate sensors, a decision can be made with confidence to deploy an accidental launch protection system (ALPS) as an initial step in a phased deployment of a comprehensive SDI system.

(3) Available evidence indicates that the technology for defending the United States against an accidental or unauthorized launch of ballistic missiles can be effectively deployed by 1995.

(4) The deployment of an accidental launch protection system would be in the national security interest for the following reasons:

(A) The deployment of such a system would provide the United States with an operational system that would yield the additional knowledge and experience necessary for achieving greater reliance on defense for deterrance and security.

(B) As the United States continues to negotiate major reductions in nuclear forces, a commitment to the deployment of such a system would provide the technology and production base needed to help safeguard against noncompliance by the Soviet Union in the event of an agreement to effectuate such reductions.

(C) The deployment of such a system would close the advantage currently held by the Soviet Union in deployed antiballistic missile capabilities, would reduce the threat of a total strategic defense breakout by the Soviet Union, and would provide the United States with a technological and production base with which to support a later decision to deploy a more comprehensive strategic defense of the United States.

(D) An initial deployment of 100 ground-based interceptors at Grand Forks, North Dakota would be consistent with the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitations of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

(E) The development of an accidental launch protection system is increasingly needed in order to offset the proliferation of offensive ballistic missile forces among nonsuperpower countries hostile to the United States and allied countries.

(F) Such a deployment would provide a mechanism for a crisis-stabilizing response to unauthorized or accidental limited missile launches by the Soviet Union, China, or any other source.

(b) POLICY.—It is the sense of Congress that—

(1) the Secretary of Defense should study options for a comprehensive deployment of an accidental launch protection system that is integrated into a step-by-step strategic defense initiative system (including space-based elements); and

(2) if appropriate, the President should initiate discussions with the leaders of the Soviet Union regarding a deployment of such a system.

(c) AUTHORIZATION FOR ALPS PROGRAM.—Of the amounts authorized to be appropriated for fiscal year 1990 pursuant to section 201, $100,000,000 shall be available only for the deployment of an accidental launch protection system as follows:

(1) $30,000,000 of the amount authorized to be appropriated pursuant to section 201(1)(A).

(2) $30,000,000 of the amount authorized to be appropriated pursuant to section 201(2)(A).

(3) $30,000,000 of the amount authorized to be appropriated pursuant to section 201(3)(A).

(4) $10,000,000 of the amount authorized to be appropriated pursuant to section 201(4)(A).

(d) PROGRAM REQUIREMENTS.—(1) The accidental launch protection system developed pursuant to this section shall provide for at lest a two-layer defense and may include the following:

(A) The Exoatmospheric Re-entry Intercept System (ERIS) interceptor and the High Endoatmospheric Defense Interceptor (HEDI).

(B) A ground-based radar.

(C) A ground-based tracking system.

(2) The Secretary of Defense shall develop a design for the accidental launch protection system that takes advantage of existing antiballistic missile facilities, particularly those at Grand Forks, North Dakota, and shall give special consideration to deploying such system initially at such facilities.

(e) BUDGET REQUIREMENTS.—For fiscal years after fiscal year 1990, the Secretary of Defense shall include in the budget requests for the Department of Defense funds for deployment of the accidental launch protection system as an integral component of a comprehensive, layered strategic defense system. The Secretary shall give such a comprehensive strategic defense system the highest research and development priority in order to ensure that advanced technologies expected to be available in the mid-to-late-1990s are incorporated into the comprehensive strategic defense system.

(f) ACCELERATED DEPLOYMENT PLAN.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for the accelerated deployment of an accidental launch protection system as an important and integral step toward a comprehensive, layered strategic defense system. The plan shall include provisions for deployment of space-based elements and for refurbishment of the existing antiballistic missile facilites at Grand Forks, North Dakota.

GORE AMENDMENT NO. 551

(Ordered to lie on the table.)

Mr. GORE submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

At the appropriate place, insert:

SEC. . AMENDMENT TO SECTION 2301 OF PUBLIC LAW 100-456.

(a) INCREASED AUTHORITY—Section 2301(a), title XXIII of Public Law 100-456, September 29, 1988 is amended—

(1) by striking out "Arnold Engineering Development Center, $213,800,000." and inserting in lieu thereof "Arnold Engineering Development Center, $256,800,000."

(b) RESTRICTION.—This amendment shall not take effect unless and until the requirement for the Large Rocket Test Facility (J-6) has been validated by the Department of Defense and so certified to the Committees on Armed Services of the Senate and the House of Representatives.

GRAHAM AMENDMENT NO. 552

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

On page 293, between lines 13 and 14, insert the following:

SEC. 917. REPORT ON THE INTERNATIONAL MILITARY EDUCATION AND TRAINING PROGRAM.

(a) FINDINGS.—The Congress makes the following findings:

(1) Military professionals in many developing countries would benefit from training which enhances their ability both to engage in militarily valuable activities and to contribute to nation-building in their countries, including training in such matters as engineering, communications, electronics, maintenance, health care, logistics management, and military jurisprudence.

(2) Such training of military professionals of developing countries could be coordinated in such a way as to contribute to the total economic and social development of those countries.

(3) The technical activities of the Army Corps of Engineers and the medical departments of the Armed Forces throughout the history of the United States are examples of the use of military skills and personnel to build, and otherwise to benefit, a nation in nonmilitary ways.

(b) REPORT REQUIREMENT.—(1) The Comptroller General of the United States shall prepare a report on the International Military Education and Training (IMET) Program. The report shall contain the following:

(A) A tabulation of the number of students from countries around the world who are currently participating in training under the program.

(B) A description of the content of the courses currently offered military personnel enrolled in the IMET program.

(C) A discussion of the feasibility of refocusing IMET activities to include training in nation-building skills such as engineering,

communications, electronics, maintenance, health care, logistics, management, and military jurisprudence.

(D) A discussion of the desirability and feasibility of developing cooperative IMET programs involving the Army Corps of Engineers and the medical departments of the Armed Forces.

(2) The Comptroller General shall transmit the report to the Committees on Armed Services of the Senate and the House of Representatives not later than February 1, 1990.

WILSON AMENDMENT NO. 553

(Ordered to lie on the table.)

Mr. WILSON (for himself, Mr. THURMOND, Mr. HELMS, and Mr. D'AMATO) submitted an amendment intended to be proposed by them to the bill S. 1352, supra, as follows:

At the appropriate place in the bill, add the following new section:

"SEC. . Section 511(e)(3)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(3)(B)), as added by the Asset Forfeiture Amendments Act of 1988, is amended to read as follows:

"'(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.'".

WALLOP AMENDMENT NO. 554

(Ordered to lie on the table.)

Mr. WALLOP submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

On page 293, between lines 13 and 14, insert the following new section:

SEC. . REVIEW AND REPORT ON DECONTROL OF CERTAIN PERSONAL COMPUTERS.

(a) REVIEW.—The Secretary of Defense, in consultation with the Director of Central Intelligence and the Science Advisor to the President, shall conduct a review of the report made by the Secretary of Commerce on the foreign availability of certain personal computers entitled Foreign Availability Assessment: AT-Compatible Microcomputers. In conducting such review, the Secretary of Defense shall, at a minimum—

(1) determine the availability of microcomputers referred to in such report from sources other than member nations of the Coordinating Committee for Multilateral Export Controls or other nations that control the export of such computers; and

(2) assess the military significance of such computers for the Soviet Union and its Warsaw Pact allies.

(b) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the Secretary's review. The Secretary shall include in such report such recommendations for legislative changes as the Secretary considers appropriate to protect the national security of the United States.

(c) DEADLINE FOR REPORT.—The report required by subsection (b) shall be submitted not later than January 1, 1990.

RURAL PARTNERSHIPS ACT

BOSCHWITZ AMENDMENT NO. 555

(Ordered to lie on the table.)

Mr. BOSCHWITZ submitted an amendment intended to be proposed by him to the bill (S. 1036) to improve the economic, community, and educational well-being of rural America, and for other purposes; as follows:

At the appropriate place, insert the following new title:

TITLE —SMALL BUSINESS RURAL REVITALIZATION

SEC. 01. SHORT TITLE

This Act may be cited as the "Small Business Rural Revitalization Act of 1989".

Subtitle A—Capital Formation

SEC. 11. DEFINITION OF DESIGNATED RURAL AREA.

Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695) is amended—

(1) in subsection (a), by striking out the last sentence,

(2) in subsection (a), by striking out "needs of rural areas" and inserting "needs of designated rural areas", and

(3) by adding at the end thereof the following new subsection:

"(d) DESIGNATED RURAL AREA.—The term 'designated rural area' means a county or other comparable political subdivision of a State that has been designated by the Administrator of the Small Business Administration as a designated rural area that is—

"(1) a nonmetropolitan county, as periodically defined and classified by the United States Department of Agriculture's Economic Research Service (such counties are the 2,384 of the United States' 3,096 counties (or equivalents), that each have an aggregate urban population of 50,000 individuals or less); or

"(2) a political sudivision of a metropolitan county (or its equivalent) that has an aggregate urban population of 20,000 individuals or less, that has been recommended for such designation by the District Director of the Small Business Administration for the district in which such county is located, and whose recommendation for such designation has been approved by the Administrator of the Small Business Administration, except that such District Director shall make such a recommendation only if—

"(A) through official action, the highest governing authority of such metropolitan county has specifically requested that an identifiable political subdivision of such county be a designated rural area for the purposes of this Act; and

"(B) through official action, the request referred to in subparagraph (A) has been evaluated and concurred in by the department or agency of that State that is primarily responsible for rural economic development programs within the State, and which shall make such designation request to the appropriate District Director of the Small Business Administration.".

SEC. 12. CAPITAL REQUIREMENTS FOR SMALL BUSINESS INVESTMENT COMPANIES OPERATING IN DESIGNATED RURAL AREAS.

Section 302(a) of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended—

(1) by inserting "(1)" after "(a)", and

(2) by inserting after "$500,000" the following: "; and *Provided*, further, that the combined private paid-in capital and paid-in surplus of any company licensed on or after October of 1989 pursuant to subsections (c) and (d) of section 301 shall not be less than $1,000,000."; and

(3) by adding at the end thereof the following new paragraphs:

"(2) In the case of any company licensed pursuant to subsections (c) or (d) of section 301, to assist small business concerns located in designated rural areas (as defined in section 501), such private capital may include contributions by—

"(A) State and local governments if such contributions are not directly or indirectly derived from Federal funds; and

"(B) not-for-profit institutions, if such contributions are not directly or indirectly derived from Federal funds, if—

"(i) in the case of a corporation—

"(I) such contributions do not exceed 49 percent of the corporation's combined paid-in capital and paid-in surplus;

"(II) the aggregate amount of voting stock held by such contributors does not exceed 49 percent of the total issued and outstanding voting stock of such corporation; and

"(III) not less than 60 percent of the members of the board of directors of such corporation are from the private sector; and

"(i) in the case of a partnership—

"(I) such contributions do not exceed 49 percent of the partnership capital; and

"(II) the partnership interest of such contributors is that of a limited partner.".

SEC. 13. STATE DEVELOPMENT COMPANIES.

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 507. RURAL AREA DEVELOPMENT COMPANIES.

"(a) IN GENERAL.—Notwithstanding any other provision of law, a qualified certified development company may issue a debenture that shall be guaranteed by the Federal government pursuant to section 503(a) of this title in an amount that shall not exceed the lesser of—

"(1) $1,000,000; or

"(2) an amount equal to the amount of any matching funds provided by private sector entities.

"(b) DEFINITION.—As used in subsection (a), the term 'qualified certified development company' means a certified development company that—

"(1) is located and operated in a designated rural area (as defined under section 501);

"(2) has been in operation for at least 3 years;

"(3) is in good standing with, and has management abilities approved by, the Administration; and

"(4) has a minimum portfolio of 5 loans approved and disbursed under section 504, of which at least 80 percent are current.

"(c) REVOLVING FUND.—Funds obtained under this section shall be used to establish a revolving fund to make loans to small businesses operating in rural areas in an amount not to exceed $100,000.

"(d) CRITERIA ESTABLISHED BY ADMINISTRATION.—A development company issuing a debenture guaranteed under this section shall comply with any criteria established by the Administration and not less than 50 percent of the funds of the company shall be from private investors.

"(e) JOBS OBJECTIVES.—For purposes of this section, or other sections of title V to

which the requirements of section 108.503(b)(1) of title 13, Code of Federal Regulations, apply, the requirements of section 108.503(b)(1) of title 13, Code of Federal Regulations, shall be modified by substituting '$30,000' for '$15,000'.

"(f) DEBENTURES GUARANTEED.—The aggregate amount of debentures guaranteed under this section shall not exceed $25,000,000 annually. Amounts necessary to guarantee such debentures shall be derived from amounts appropriated under section 504.".

(b) CONFORMING AMENDMENT.—The table of sections for title V of the Small Business Investment Act of 1958 is amended by inserting after the item relating to section 506 the following new item:

"Sec. 507. Rural Area Development Companies.".

Subtitle B—Regulatory Simplification; Miscellaneous Amendments

SEC. 21. DEFINITION OF SMALL BUSINESS IN DESIGNATED RURAL AREAS FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) the term 'qualified designated rural area business' means any small business, as defined by the regulations issued by the Small Business Administration, that is engaged in the active conduct of a trade or business within a designated rural area (within the meaning of section 501 of the Small Business Investment Act of 1958).".

SEC. 22. INTERAGENCY REVIEW AND RECOMMENDATIONS.

(a) INTERAGENCY REVIEW.—The Administrator of the Small Business Administration shall conduct a review of all Federal economic development programs, and all Federal laws the purposes of which are to promote rural area economic and community development, rural area business promotion, or enhancement of employment opportunities in rural communities.

(b) CONSULTATION WITH FEDERAL OFFICIALS.—The Administrator in conducting the review under subsection (a) shall consult with—

(1) the Secretary of Housing and Urban Development,

(2) the Secretary of Health and Human Services,

(3) the Secretary of Energy,

(4) the Secretary of Defense,

(5) the Secretary of Commerce,

(6) the Secretary of Agriculture,

(7) the Secretary of Labor, and

(8) any other Federal officials, including the General Accounting Office, that the Administrator may consider appropriate.

(c) REPORT.—The Administrator shall, not later than 1 year after the date of enactment of this Act, submit a report to the appropriate committees of the House of Representatives and the Senate containing the findings of the review, including—

(1) a description of existing Federal grant and loan programs, which involve community development, business promotion, and research and development, for which small businesses located in rural areas are currently eligible;

(2) recommendations regarding changes to existing law which may be needed to make small businesses which are located in rural areas eligible for current Federal grant and loan programs; and

(3) recommendations for any additional legislation that may be required to foster and support small businesses in rural areas.

NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1990 AND 1991

WILSON AMENDMENT NO. 556

(Ordered to lie on the table.)

Mr. WILSON submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

At the end of part of title insert the following:

SEC. . DEADLINE FOR COMPLETION AND EXECUTION OF AGREEMENTS WITH AFFECTED STATES AND WITH THE ENVIRONMENTAL PROTECTION AGENCY.

(a) Whenever a Department of Defense facility is proposed to be added to the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended, including those facilities already proposed for listing as of the date of enactment of this Act, the Secretary of Defense shall, not later than one year after the date of such proposal or the date of enactment of this Act, whichever is later, ensure that an interagency agreement is executed with affected states and with the Environmental Protection Agency providing for the establishment of a procedural framework and schedule for developing, implementing, and monitoring appropriate response and remedial actions for any such facility in accordance with the Comprehensive Environmental, Response, Compensation and Liability Act, as amended, and the Resource, Conservation and Recovery Act, as amended, and all other applicable laws.

(b) Nothing in this provision shall be construed as affecting or modifying state law, including laws concerning removal or remedial action, or enforcement, or the application of such laws to facilities owned or operated by a department, agency, or instrumentality of the United States.

MURKOWSKI AMENDMENTS NOS. 557 THROUGH 559

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted three amendments intended to be proposed by him to the bill S. 1352, supra, as follows:

AMENDMENT NO. 557

On page 247, below line 24, insert the following:

SEC. 836. PROHIBITION ON ACQUISITION OF SOUTH AFRICAN AGRICULTURAL PRODUCTS AND FOOD.

(a) IN GENERAL.—(1) Section 319 of the Comprehensive Anti-Apartheid Act of 1986 (Public Law 99-440; 100 Stat. 1105) is amended—

(A) by striking out "no:" and inserting in lieu thereof "no—";

(B) in clause (2)—

(i) by inserting a comma after "South Africa"; and

(ii) by striking out "may be imported" and all that follows through the period; and

(C) by inserting below clause (2) and flush to the left margin the following:

"may be imported into the customs territory of the United States after the date of enactment of this Act or may be knowingly acquired by the Department of Defense or agencies thereof for consumption or resale on military installations overseas."

(2) The section heading of such section is amended to read as follows:

"PROHIBITIONS RELATING TO SOUTH AFRICAN AGRICULTURAL PRODUCTS AND FOOD".

(3) The table of contents in section 2 of such Act is amended by striking out the item relating to section 319 and inserting in lieu thereof the following:

"319. Prohibitions relating to South African agricultural products and food,".

(b) APPLICABILITY.—The prohibition in section 319 of the Comprehensive Anti-Apartheid Act of 1986 relating to acquisitions of the Department of Defense, as added by subsection (a), shall apply to contracts entered into and purchases made on or after the date of the enactment of this Act.

AMENDMENT No. 558

At the end of the bill, add the following new section:

SEC. . ILLEGAL ACTS BY TAIWANESE FISHING VESSELS.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the illegal harvesting of salmon in driftnet fisheries in the North Pacific Ocean is a serious threat to the well-being of the salmonid resources of the United States, and to the livelihoods of thousands of American citizens;

(2) vessels operating from Taiwan have been demonstrated to be extensively involved in such illegal harvesting;

(3) the Government of Taiwan has consistently failed to take appropriate and necessary steps to prevent the illegal harvest of salmonid fishes of the United States by driftnet vessels from Taiwan;

(4) a tentative agreement regarding driftnet fisheries of the North Pacific Ocean has been negotiated between the Coordination Council for North American Affairs, representing the Government of Taiwan, and the American Institute in Taiwan, representing the United States;

(5) the failure of the Government of Taiwan to finalize the tentative agreement between the Coordination Council for North American Affairs and the American Institute in Taiwan regarding driftnet fisheries of the North Pacific makes it impossible to implement effective cooperative enforcement efforts as provided for in the Driftnet Impact Monitoring, Assessment and Control Act of 1987 (16 U.S.C. 1822 note), also known as "the Driftnet Act";

(6) Taiwan has been certified by the Secretary of Commerce under the Driftnet Act, which certification is deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(A));

(7) the certification of Taiwan under the Driftnet Act permits the President to impose restrictions on the import of certain marine products from Taiwan.

(b) COOPERATIVE MONITORING.—Within ninety days of the enactment of this Act, and after consultation with the Secretary of Commerce and the Secretary of Transportation, the Secretary of Defense shall implement a system—

(1) providing for the timely transmission of information collected on the locations, names and other identifying features of foreign fishing vessels in the North Pacific Ocean to the fisheries law enforcement offices of the United States Coast Guard and National Marine Fisheries Service; and

(2) requiring any United States military vessel or aircraft which sights a foreign fishing vessel in the North Pacific Ocean to record the location of such sightings, together with other information including but not limited to the fishing vessels' names and other identifying information, unless the acquisition of such information would jeopardize the mission of the United States vessel or aircraft.

(c) IMPOSITION OF TRADE RESTRICTIONS.—Within sixty days of the date on which Taiwan was certified under the Driftnet Act, the President shall direct the Secretary of the Treasury to prohibit the bringing or importation in the United States of all fish and shellfish products from Taiwan, unless—

(1) an agreement pursuant to the Driftnet Act is in effect between the United States and Taiwan, or their representatives, within sixty days of the date on which Taiwan was certified under the Driftnet Act; and,

(2) during such time as any agreement pursuant to the Driftnet Act is in effect between the United States and Taiwan, or their representatives, the actions of the Government of Taiwan continue to demonstrate in all respects its willingness and ability to abide by the terms of the agreement.

AMENDMENT NO. 559

At the end of the bill, add the following new title:

TITLE . NATIONAL ENERGY SECURITY ACT OF 1989

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Energy Security Act of 1989".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States is the leader of the free world and has world wide responsibilities to promote economic and political security;

(2) the exercise of traditional responsibilities here and abroad in foreign policy requires that the United States be free of the risk of energy blackmail in times of shortages;

(3) the level of the United States oil security is directly related to the level of domestic production of oil, natural gas liquids, and natural gas;

(4) the ability of the United States to exercise its free will and to carry out its responsibilities as leader of the free world could be jeopardized by an excessive dependence on foreign oil imports;

(5) increasing dependence on foreign oil imports has and continues to impose severe risks to the lives of United States service men and women and unacceptable costs to the national defense; and

(6) a national energy security plan should be developed and implemented to ensure that adequate supplies of energy shall be available at all times free of the threat of embargo or other foreign hostile acts.

(b) PURPOSE.—The purpose of this Act is to establish a national energy security plan designed to reduce United States dependence on foreign oil supplies to a level which does not pose an unacceptable threat to the national security.

SEC. 3. DUTIES OF THE PRESIDENT.

(a) ESTABLISHMENT OF CEILING.—There is hereby established a National Oil Import Ceiling (referred to in this Act as the "ceiling level") of foreign crude and oil product imports at 50% of United States consumption.

(b) REPORT.—(1) The President shall prepare and submit an annual report to Congress containing a national oil security projection which shall contain a forecast of domestic oil and NGL demand and production, and imports of crude and oil product for the subsequent year. The report shall indicate the likelihood of foreign crude and oil product imports exceeding the ceiling level during the next year and the actions which the President will take to maintain crude and oil product imports below the ceiling level.

(2) At the time of the submission of the President's Budget, the projection prepared pursuant to paragraph (1) shall be presented to Congress with a description of the actions which the President would take pursuant to Section 4.

SEC. 4. NATIONAL ENERGY PRODUCTION AND SECURITY ACTION PLAN.

(a) ESTABLISHMENT OF ACTION PLAN.—

(1) The President shall at all times monitor the level of foreign crude and oil product imports as a share of United States oil consumption. Upon a finding that the ceiling level has been exceeded for a period of six continuous months, the President shall within 90 days submit an Energy Production and Security Action Plan (referred to in this Act as the "Action Plan") to the Speaker of the House of Representatives and the President of the Senate. The Action Plan shall indicate specific actions to be taken to reduce crude and product imports below the ceiling level. Notwithstanding any other provision of law, the Action Plan shall be immediately implemented by the President upon enactment of a joint resolution approving the Action Plan.

(2) The Energy Production and Security Action Plan shall include but not be limited to:

(A) a certification by the President that the ceiling level has been exceeded;

(B) a list of federal land tracts, offshore and onshore, in order of their potential for oil and gas discovery, including any federal land currently off-limits to oil and gas leasing;

(C) a schedule for leasing the tracts identified in subparagraph (B) in order of their potential for oil and gas discovery including number of tracts to be leased and the timing for individual lease sales;

(D) energy conservation action including improved fuel efficiency for automobiles and the development and utilization of alternative transportation fuels; and

(E) production incentives for domestic oil and gas including royalty reductions, tax and other incentives for stripper well production, offshore, frontier, and other oil produced with tertiary recovery techniques.

(b) CONGRESSIONAL REVIEW.—

(1) CONGRESSIONAL RULEMAKING.—This subsection is enacted by Congress as an excercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but is applicable only with respect to the procedure to be followed in this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith.

(2) RESOLUTION.—For the purposes of this subpart, the term "resolution" means only a joint resolution approving the President's Action Plan. The resolution may be made conditional upon the President making specific amendments to the Action Plan.

(3) REFERRAL.—A resolution once introduced with respect to the President's Action Plan shall immediately be referred by the Speaker of the House of Representatives and the President of the Senate, as the case may be, to the House Committee on Interior and Insular Affairs and to the Senate Committee on Energy and Natural Resources and at the same time to such other committees as appropriate under the rules of the House of Representatives and the Senate, respectively.

(4) DISCHARGE.—If the committee or committees to which a resolution with respect to the President's Action Plan has been referred has not reported it at the end of 30 continuous session days after its referral, it shall be discharged from the committee or committees.

(5) FLOOR CONSIDERATION.—

(A) MOTION TO CONSIDER.—When the last committee has reported, or has been discharged from further consideration of a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) DEBATE AND CONSIDERATION.—Debate on the resolution referred to in subparagraph (A) of this paragraph, and all amendments thereto and debatable motions and appeals in conjunction therewith, shall be limited to not more than 30 hours, which shall be divided equally between those favoring and those opposing such resolution. Debate on any amendment to a resolution shall be limited to one hour to be divided equally between those favoring and those opposing such amendment, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 30 minutes, to be divided equally between those favoring and those opposing such amendment, motion or appeal. No amendment that is not germane to the provisions of such resolution shall be received. A motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6) DETERMINATION ON MOTIONS.—

(A) MOTIONS TO POSTPONE OR TO PROCEED TO OTHER BUSINESS.—Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) APPEALS FROM THE DECISION OF THE CHAIR.—Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) SUBSEQUENT ACTION.—Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an Action Plan, then it shall not be in order to consider in that House any other resolution with respect to the same Action Plan.

(8) COMPUTATION OF PERIOD.—For the purpose of this subsection:

(A) continuity of session is broken only by an adjournment of the Congress sine die; and

(B) the days on which either House is not in session because of any adjournment of more than 3 days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

DOMENICI (AND BINGAMAN) AMENDMENT NO. 560

(Ordered to lie on the table.)

Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill S. 1352, supra, as follows:

Strike all of Part C of title XXXI for Division C (page 421, line 1 through page 443, line 5) and insert in lieu thereof the following:

"PART C—DEFENSE ENERGY TECHNOLOGY TRANSFER

"SEC. 3131. SHORT TITLE.

"This Act may be referred to as the 'Department of Energy National Competitiveness Technology Transfer Act of 1989'.

"SEC. 3132. FINDINGS AND PURPOSE.

"(a) FINDINGS.—Congress finds that:

"(1) technology advancement is a key component in the growth of the United States industrial economy, and a strong industrial base is an essential element of the security of this country;

"(2) there is a need to enhance United States competitiveness in both domestic and international markets;

"(3) innovation and the rapid application of new technology are assuming a more significant role in near-term marketplace success;

"(4) the Department of Energy's laboratories and other facilities have outstanding capabilities in a variety of advanced technologies and skilled scientists, engineers, and technicians who could contribute substantially to the posture of United States industry in international competition;

"(5) improved opportunities for cooperative arrangements between contractor managers of certain Department of Energy facilities and the United States private sector, consistent with the program missions at those facilities, particularly the national security functions involved in atomic energy defense activities, would contribute to our national well-being; and

"(6) more effective cooperation between those Department of Energy facilities and the private sector is required to provide speed and certainty in the technology transfer process.

"(b) PURPOSES.—The purposes of this Act are to—

"(1) enhance United States national security by establishing a national competitiveness mission for certain Department of Energy facilities in order to provide opportunities to utilize the technologies and capabilities residing in those facilities for the United States to enhance its competitiveness; and

"(2) enhance collaboration between universities, the private sector, and facilities of the Department of Energy so as to foster the development of technologies in areas of significant economic potential.

"SEC. 3133. DEFINITIONS.

"For purposes of this Act, the term—

"(a) 'Facility' means the following Department of Energy installations, respectively:

"(1) Lawrence-Livermore National Laboratory;

"(2) Los Alamos National Laboratory;

"(3) Sandia National Laboratory;

"(4) Idaho National Engineering Laboratory; and

"(5) any other installations that are managed under a contract that includes the provisions referred to in section 3134(d) and any government-owned, contractor-operated installations established as Department of Energy multi-purpose laboratories or program-dedicated laboratories that are designated by the Secretary upon request of the contractor-manager; except that term does not include Naval Nuclear Propulsion laboratories or contractors performing work covered under Executive Order 12344, as codified in 42 U.S.C. 7158;

"(b) 'Secretary' means the Secretary of Energy;

"(c) 'Contract' means a prime contract between the United States, represented by the Department of Energy, and a contractor to manage and operate a facility;

"(d) 'Contractor-manager' means, the entity undertaking the responsibility under a contract to manage and operate a facility;

"(e) 'Cooperative arrangement' means a written agreement between a contractor-manager and one or more collaborative parties, under which the contractor-manager, acting under his contract, provides personnel, services, equipment, or other resources for the conduct of specified developmental or advanced work to assist in creating products of potential commercial value;

"(f) 'Collaborative party' means a party to a cooperative arrangement other than a Federal department or agency or any of their contractors or subcontractors acting in furtherance of their contractual undertakings to the Federal entities;

"(g) 'Program mission' means the work and services constituting the entire scope of work to be performed by the contracting party under the contract, excluding the national competitiveness mission;

"(h) 'National competitiveness mission' means the contractor-manager's activities under the contract pursuant to section 4 of this Act;

"(i) 'Intellectual property' means patents, trademarks, copyrights, mask works, and other forms of comparable property rights protected by Federal law;

"(j) 'Technical data' means recorded information, regardless of form or characteristic of a scientific or technical nature, excluding computer software;

"(k) 'Computer software' means recorded information, regardless of form or media on which it may be recorded, comprising computer programs or documentation thereof; and

"(l) 'Unlimited rights' means the right of the Goverment to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly or display publicly, in any manner and for any purpose, and to have or permit others to do so.

"SEC. 3134. NATIONAL COMPETITIVENESS MISSION.

"(a) Within 180 days after the date of enactment of this Act, the Secretary shall:

"(1) review all existing laws, regulations, policy guidelines, orders, directives and administrative processes associated with the Department's ability to achieve the purpose of this Act;

"(2) confer with representatives of U.S. industry and labor, educational institutions, and contracting parties respecting effective implementation of this Act.

"(3) advise the Congress of any existing legal obstacles interfering with the Department's ability to achieve the purpose of this Act, and make pertinent recommendations; and

"(4) publish a comprehensive set of policy guidelines, procedures, and supporting regulations to effectuate the purpose of this Act, including:

"(A) a procedure for assuring that proposed cooperative arrangements are reviewed and concurred in, required to be modified, or rejected by the Secretary within 60 days after receipt by the Secretary of the proposed arrangement. If action is not taken by the Secretary within this 60-day period, the Secretary shall—

"(i) notify the contractor-manager affected of the date on which action will be taken, not to exceed an additional 60 days from the original deadline; and

"(ii) provide a written explanation of the reasons for the delay.

"In any case under such procedure in which the Secretary disapproves or requires the modification of any proposed cooperative arrangement submitted under this Act, the Secretary shall transmit a written explanation of such disapproval or modification to the contractor-manager affected.

"(B) requirements to avoid conflicts of interests, and to govern the use of Government funds for a receipt of funds, due to the national competitiveness mission; and

"(C) any other requirements related to the principles stated in subsection (b) of this section.

"(b) In taking the steps provided for in subsections (a)(4) and (d) of this section the Secretary shall be guided by the following principles:

"(1) The national competitiveness mission shall not interfere with any national security mission for the Department of Energy and shall be complementary to and supportive of the program missions at the facility, and in the overall best interests of the Federal Government.

"(2) Classified information and unclassified sensitive information protected by law or regulations shall be safeguarded,

"(3) The Secretary's management authority and responsibility with respect to the facility and the conduct of activities under the contract for the operation of the facility shall not be diminished.

"(4) The national competitiveness mission shall be conducted in a manner that—

"(A) provides fairness of opportunity to participate to entities in the United States private sector and for a fair return on the taxpayer's investment; and

"(B) includes consideration of small business firms and universities.

"(5)(A) The benefits of technology transfer resulting from the national competitiveness mission shall accrue to United States industry.

"(B) In accordance with the principles in paragraphs (2), (4) and (5)(A) of this subsection, entities that are owned, controlled or dominated by a foreign government or foreign entity shall be separately considered in light of the objective of this Act to improve United States competitiveness and of national security. In addition, agreements with such foreign entities shall take into consideration whether or not the associated foreign government permits United States agencies, organizations, or other persons to enter into cooperative arrangements and licensing agreements with agencies, organiza-

tions, or other persons of such foreign country.

"(6) The Secretary shall establish an explicit policy and procedures to govern a contractor-manager's use of Government resources for the national competitiveness mission, royalties or other income from licensing agreements, and receipts of funds by reasons of cooperative arrangements, as well as the maintenance of books and records.

"(7) Appropriate march-in rights shall be provided for intellectual property acquired by the contractor-manager collaborative party or their successors-in-interest to assure commercial utilization of technology developed under cooperative arrangements.

"(c) Beginning promptly after the inclusion of the national competitiveness mission in a contract, and continuing thereafter during the course of the national competitiveness mission, the Secretary and the contractor-manager shall periodically confer on:

"(1) potential projects for cooperative arrangements;

"(2) terms and conditions in cooperative arrangements;

"(3) specification of particular inventions and specific technical data or computer software provided for in section 5 of this Act; and

"(4) progress and problem areas associated with potential or actual cooperative arrangements.

"(d) Within 60 days after publication of the guidelines, procedures and regulations under subsection (a)(4), the Secretary shall—

"(1) make available to each contractor-manager of a facility for possible inclusion in the contract appropriate contract provisions that refer to this Act;

"(2) establish the concept of cooperative arrangements as a mission for the government; and

"(3) describe the respective obligations and responsibility of the government and a contractor-manager party with respect to the national competitiveness mission.

"SEC. 3135. PARTICULAR INVENTIONS AND SPECIFIC TECHNICAL DATA OR COMPUTER SOFTWARE.

"(a) Beginning after the inclusion in a contract of the national competitiveness mission, the contractor-manager shall identify in writing in advance of its use in a cooperative arrangement:

"(1) any particular inventions, conceived or first actually reduced to practice by the contractor-manager in the performance of program missions under its contract, proposed for use in the contemplated cooperative arrangement; and

"(2) any specific technical data or computer software determined to have near-term commercial value, first produced by the contractor-manager the performance of program missions under its contract, proposed for use in the contemplated cooperative arrangement.

"(b) To the extent that this Act is inconsistent with any of the provisions of 35 U.S.C. 200 et seq., the provisions of this Act take precedence.

"(c) With respect to any inventions conceived or first actually reduced to practice by the contractor-manager in the performance of its contract to manage and operate the facilities:

"(1) Notwithstanding section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), section 9 of the Federal Non-nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908), or other provision of law, the Secretary shall dispose of the title to an invention made by a contractor-manager in the same manner as applied to small business and nonprofit organizations under chapter 18 of title 35, United States Code, and as provided by this Act.

"(2)(A) Whenever a contractor-manager makes an invention to which the Secretary has determined to retain title for exceptional circumstances under section 202(a)(ii) of title 35, United States Code, title to the invention shall be retained by the Government unless the facility at which the invention is made requests title to the invention and the Secretary does not notify the contractor-manager of the facility within ninety days after receipt of the request that—

"(i) the invention is covered by a determination under section 202(a)(ii) of title 35, United States Code or has been classified or has been designated sensitive technical information; and

"(ii) rejection of the request, in whole or in part, is in the best interests of the United States, taking into consideration the matters set forth in subparagraph (C).

"(B) Whenever a contracting party makes an invention to which the Secretary has determined to retain title because the invention is made in the course of or under a funding agreement described in section 202(a)(vi) of title 35, United States Code, the title to the invention shall be retained by the Government unless the contractor-manager of the facility at which the invention is made requests title and the Secretary does not notify the director of the facility within ninety days after receipt of the request that—

(i) the invention is covered by a determination under subsection 202(a)(iv) of title 35, United States Code, or has been classified or has been designated sensitive technical information, and

(ii) rejection of the request, in whole or in part, is in the best interests of the United States, taking into consideration the matters set forth in subparagraph (C).

"(C) In making a determination in accordance with this paragraph, the Secretary shall consider whether any such determination either may in—

"(i) the compromise of the national security;

"(ii) the release to unauthorized persons of sensitive technical information (whether classified or unclassified) under any program or activity for which dissemination is controlled under Federal law; or

"(iii) a conflict of interest contemplated by Federal statutes and regulations;

or will adversely affect the operation of any other program or activity conducted at any facility. The Secretary may not use export control statutes or regulations as the sole bases for refusing a request for title to an invention.

"(D) If the Secretary does not notify the contractor-manager that has requested title to an invention in accordance with this section, the Secretary shall—

"(i) notify the contractor-manager of the date on which action will be taken by the Secretary, not to exceed and additional 60 days beyond the original deadline; and

"(ii) shall provide a written explanation of the reason for the delay.

"(d) With respect to specific technical data or computer software referred to in subsection (a)(2) that the Secretary, upon request of the contractor-operator, determines has near-term commercial value and is necessary for commercialization of technology to be developed under the cooperative arrangement, the cooperative arrangement may provide intellectual property rights to the technical data or computer software; if so provided the technical data or computer software shall not be disclosed to or reproduced for any third party by the Government (except for third parties to which the Government decides it must disclose the technical data or computer software on a restricted basis either for national security purposes, for health, safety and environmental purposes, or to Government contractors in the performance of Government work), the contractor-manager or any collaborative party to the arrangement, for a period of up to three years after completion of the work performed under the arrangement up to a maximum of six years after the technical data or computer software is first produced. Thereafter, or earlier upon permission of the parties, the Government shall have unlimited rights to such intellectual property and technical data or computer software.

"(e) Notwithstanding any grant of rights under subsections (c) and (d) of this section, the Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license, to practice or have practiced for or on behalf of the United States throughout the world, to such inventions, to use or have used or create derivative works for or on behalf of the United States throughout the world such technical data or computer software.

"SEC. 3136. COOPERATIVE ARRANGEMENTS.

"Notwithstanding any other provision of this Act or any other provision of any other law to the contrary—

"(a) the rights to any inventions conceived or first actually reduced to practice by a collaborating party in performing under a cooperative arrangement shall be agreed to by the parties to the arrangement, subject to regulations under this Act and to the Government's nonexclusive, nontrasferable, irrevocable, paid-up license, to practice or have practiced for or on behalf of the United States throughout the world, to that invention;

"(b) technical data or computer software first produced in the performance of a cooperative arrangement that the Secretary, upon request of the contractor-manager, determines has near-term commercial value and is necessary for commercialization of technology to be developed under the cooperative arrangement, may be protected by an intellectual property right; if so protected, the technical data or computer software shall not be disclosed to or reproduced for any third party by the Government (except for third parties to which the Government decides it must disclose the technical data on a restricted basis either for national security purposes, for health, safety, and environmental purposes, or to Government contractors in performance of Government work), the contractor-manager or any collaborative party to the arrangement, without the express written permission of all parties to the arrangement, for a period of up to three years after completion of the work performed under the arrangement up to a maximum of six years after the technical data is first produced, subject to the Government's nonexclusive, nontrasferable, irrevocable, paid-up license, to use or have used or create derivative works for or on behalf of the United States throughout the world, such technical data or computer soft-

ware. Thereafter, or earlier upon permission of the parties to the agreement, the Government shall have unlimited rights to the intellectual property and technical data or computer software; and

"(c) technical data or computer software in which collaborating parties have rights shall be accorded appropriated confidentiality.

"SEC. 3137. OVERSIGHT.

"The Secretary, the Inspector General of the Department of Energy, and the Comptroller General shall conduct periodic audits of activities under this Act.

"SEC. 3138. LIABILITY.

"Except as provided in title 28, United States Code, section 1498, neither the United States nor the contracting parties or any of their officers, employees, or agents shall be liable for injury or damage due to a defect or deficiency in a product produced or service performed by collaborative parties through use of personnel, services, property, or assistance by the contractor-managers under this Act.

"SEC. 3139. COPYRIGHTS AND PATENTS.

"This Act does not contain any new authority for the Department of Energy to obtain a copyright or a patent.

JOHNSTON AMENDMENT NO. 561

(Ordered to lie on the table.)

Mr. JOHNSTON submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

At the appropriate place in the bill add the following new section:

SEC. . REPORT ON SDI FULL-SCALE ENGINEERING DEVELOPMENT AND DEPLOYMENT.

If the President submits any request for funding after the date of enactment of this Act for the Strategic Defense Initiative Organization (SDIO) to be used to commence full-scale engineering development of any component of any Strategic Defense System architecture, then the Secretary of Defense shall include with such request a report to the Congress which shall contain the following information:

(a) the projected costs and schedule for completing full-scale engineering development and deployment of

(1) that component,

(2) the entire Strategic Defense System architecture which would contain that component, and

(3) any subsequent architectures, such as Phase II, which would be required to support the architecture described in paragraph (2);

(b) a description of the extent to which that component, and the Strategic Defense System architecture of which it is a part, can be fully tested prior to its procurement and deployment without violating either the so-called "broad" or "narrow" interpretation of the Anti-Ballistic Missile Treaty of 1972;

(c) to the extent that testing would result in Treaty violations as described under subsection (b), the earliest date that such violations would occur and the reasons why the United States should, or should not, as the case may be, pursue those tests anyway;

(d) progress in the ability to meet other existing requirements of law regarding a Strategic Defense System, such as the "Nitze criteria" (section 222 of Public Law 99-145) and the requirement of human decisionmaking in the SDI architecture (section 224 of Public Law 100-180);

(e) a description of which Allies were consulted about the proposal to commence full-scale engineering development and a description of their views on such development and subsequent deployment of a Strategic Defense System; and

(f) the likely impact on the START Talks and the NATO Alliance of pursuing such full-scale engineering development and deployment.

WILSON AMENDMENT NO. 562

(Ordered to lie on the table.)

Mr. WILSON submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

On page 32, line 4, strike out "$14,629,932,000" and insert in lieu thereof "$14,529,932,000".

On page 406, between lines 8 and 9, insert the following:

"(8) For defense environmental restoration, $100,000,000.".

SYMMS (AND THURMOND) AMENDMENT NO. 563

(Ordered to lie on the table.)

Mr. SYMMS (for himself and Mr. THURMOND) submitted an amendment intended to be proposed by them to the bill S. 1352, supra, as follows:

At the end of the bill, add the following new section:

SEC. . PROHIBITION OR REVOCATION OF RETIREMENT BENEFITS FOR LIEUTENANT COLONEL OLIVER L. NORTH.

No funds authorized in this or any other act may be obligated or made available for the use of revoking or suspending the retirement benefits of Marine Corps Lieutenant Colonel Oliver L. North (ret.) pursuant to his conviction under 18 U.S.C. 2071(b).

SYMMS AMENDMENT NO. 564

(Ordered to lie on the table.)

Mr. SYMMS submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

At the end of the bill add the following new section:

SEC. . REQUIRING CONCURRENCE IN FOREIGN AVAILABILITY ASSESSMENTS.

The Export Administration Act of 1979, as amended, is amended as follows:

(a) in subparagraph (B) of paragraph (3) of subsection (f) of section 5, insert between "to" and "other" in the third sentence the following: "to the Secretary of Defense and";

(b) in subparagraph (B) of paragraph (3) of subsection (f) of section 5, strike "does not require the concurrence or approval of any official, department, or agency to which such a determination is submitted" and insert in lieu thereof "requires the concurrence of the Secretary of Defense"; and

(c) strike subparagraph (C) of paragraph (4) of subsection (f) of section 5.

HARKIN (AND KERRY) AMENDMENT NO. 565

(Ordered to lie on the table.)

Mr. HARKIN (for himself and Mr. KERRY) submitted an amendment intended to be proposed by them to the bill S. 1352, supra; as follows:

On page 293, between lines 13 and 14, insert the following:

SEC. 917. FUNDING FOR PROGRAMS UNDER THE ANTI-DRUG ABUSE ACT OF 1988

(a) TRANSFER FROM SDI AUTHORIZATION.—Of the amount authorized in section 201 to be appropriated for fiscal year 1990 and made available pursuant to subsection (a) of section 231 for the Strategic Defense Initiative, $450,000,000 shall be transferred to appropriation accounts provided in fiscal year 1990 for the Anti-Drug Abuse Act programs. The amount transferred shall be allocated equally between (1) law enforcement and drug interdiction programs, and (2) drug treatment, rehabilitation and education programs.

(b) AMOUNT TO BE TRANSFERRED FOR EACH PROGRAM.—The total amount transferred to the appropriation accounts for an Anti-Drug Abuse Act program may not exceed the fiscal year 1989 deficiency amount for such program.

(c) ADDITIONAL AUTHORIZATION.—If the total amount transferred pursuant to subsection (a) to the appropriation accounts for an Anti-Drug Abuse Act program is less than the fiscal year 1989 deficiency amount for such program, there is authorized to be appropriated for such program for fiscal year 1990 the amount equal to the difference between that deficiency amount and the amount so transferred.

(d) DEFINITION.—In this section:

(1) The term "Anti-Drug Abuse Act program" means each program for which appropriations were authorized for fiscal year 1989 in the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4181) and for which the amount appropriated for such fiscal year was less than the amount authorized for such fiscal year.

(2) The term "deficiency amount" means, with respect to an Anti-Drug Abuse Act program, the difference between the amount appropriated for such program for fiscal year 1989 and the amount authorized for that program for fiscal year 1989 in the Anti-Drug Abuse Act of 1988.

FORD AMENDMENT NO. 566

(Ordered to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

On page 404, between lines 16 and 17, insert the following new section:

SEC. . CONSTRUCTION AT NATIONAL TRAINING CENTER, FORT IRWIN, CALIFORNIA.

Funds appropriated to or for the use of the Department of Defense for the construction of military facilities may not be obligated or expended for the construction of any military facility at Fort Irwin, California, for the purpose of supporting any unit of an armed force of the United States other than a unit that (1) has been reassigned from duty outside the United States, and (2) has not had an intervening duty assignment to a station in the United States since being reassigned to the United States. As used in this section, the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

SASSER AMENDMENT NO. 567

(Ordered to lie on the table.)

Mr. SASSER submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

On page 271, beginning with line 15, strike all through line 3 on page 273.

FORD AMENDMENT NO. 568

(Ordered to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

At the appropriate place insert the following:

SEC. . REPORT REGARDING CAMP BRECKINRIDGE LAND GRANTORS

The bill (S. 423) entitled "For the relief of land grantors in Henderson, Union, and Webster Counties, Kentucky, and their heirs," now pending in the Senate, together with all accompanying papers, shall be referred to the Chief Judge of the United States Court of Claims. The Chief Judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of Title 28, United States Code, and report back to the Senate, at the earliest practicable date, giving such findings of fact and conclusions that are sufficient to inform Congress of the amount, if any, legally or equitably due from the United States to the claimants individually.

KERRY AMENDMENT NO. 569

(Ordered to lie on the table.)

Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

On page 43, line 2, substitute $3,600,000,000 for $4,301,904,000;

At the appropriate place in the bill, add the following new sections:

SEC. . AUTHORIZATION OF APPROPRIATIONS RELATED TO DRUG INTERDICTION.

Of the funds appropriated for fiscal year 1990 pursuant to an authorization contained in this act, $600,000,000 shall be available only to carry out the mission of the Department of Defense relating to drug interdiction and law enforcement support;

SEC. . AUTHORIZATION TO TRANSFER UNOBLIGATED BALANCES.

Of the amounts authorized to be appropriated for the Department of Defense for fiscal year 1989, $400 million is authorized to be transferred from the unobligated balances of the Department of Defense to any accounts in the Federal government that have not been fully funded as authorized in Public Law 100-690.

SANFORD (AND HELMS) AMENDMENT NO. 570

(Ordered to lie on the table.)

Mr. SANFORD (for himself and Mr. HELMS) submitted an amendment intended to be proposed by them to the bill S. 1352, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . A FEDERAL WASTEWATER TREATMENT WORKS AT MARINE CORPS AIR STATION, CHERRY POINT, NORTH CAROLINA.

(a) DELISTING PROCEDURE.—

(1) Within 180 days after the date of enactment of this Act, the Secretary of the Navy shall submit to the Administrator of the Environmental Protection Agency a petition to exclude from the hazardous waste provisions of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) the waste generated by the federal wastewater treatment works at the Marine Corps Air Station, Cherry Point, North Carolina, on the grounds that such waste does not pose a threat to human health or the environment.

(2) The petition described in paragraph (1) shall contain test data and other relevant information necessary for the Administrator to evaluate the petition.

(3) The Administrator shall publish notice of receipt of the petition and a summary of its contents in the Federal Register for notice and opportunity of public comment of 30 days duration.

(4) Within 60 days of the close of the comment period described in paragraph (3), the Administrator shall grant or deny the petition. The petition may be denied only if the Administrator determines that the waste poses a threat to human health or the environment.

(5) If the Administrator fails to act on the petition within 60 days after the close of the public comment period described in paragraph (3), the petition shall be deemed granted.

(6) During the period in which the petition to exclude is filed and under evaluation, the Administrator shall not prohibit the operation of any industrial facility that may contribute waste to the federal wastewater treatment facility at Marine Corps Air Station, Cherry Point, North Carolina, unless the Administrator personally determines that such operation would pose an immediate threat to human health or the environment.

(b) OPERATING PROCEDURES.—

(1) If the waste generated by the federal wastewater treatment facility at Marine Corps Air Station, Cherry Point, North Carolina, is delisted in accordance with subsection (a) of this section, the treatment works shall—

(A) be considered to be managing a solid waste, but not a hazardous waste, under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(B) comply with the pretreatment program requirements established pursuant to sections 307 and 402(b)(8) of the Federal Water Pollution Control Act (33 U.S.C. 1317 and 1342(b)(8); and

(C) be subject to enforcement only under the Federal Water Pollution Control Act for any violations of such pretreatment program requirements.

(2) Removal of solid waste from any unit that is part of a wastewater treatment works as described in subsection (a) of this section, whether or not such solid waste was defined as a hazardous waste before the date of enactment of this section, shall not be required unless the removal is part of a corrective action taken in response to a release from the unit.

(c) RELATIONSHIP TO FEDERAL WATER POLLUTION CONTROL ACT.—Nothing contained in this section may be construed as defining a wastewater treatment works owned by a department, agency, or instrumentality of the Federal Government as a publicly owned treatment works for purposes of the Federal Water Pollution Control Act.

SANFORD AMENDMENT NO. 571

(Ordered to lie on the table.)

Mr. SANFORD submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

On page 293, between lines 13 and 14, insert the following:

The Secretary of Defense may recognize State Defense Forces as being reserve components of States that have organized National Guards.

The Secretary of Defense may give any form of support, that may include nonlethal surplus equipment, that the Secretary may determine to be appropriate to State Defense Forces when such support does not interfere with present or future operations or programs of active duty military forces, Reserve Forces, National Guard Forces, or other Federal Government departments and agencies.

GLENN AMENDMENT NO. 572

(Ordered to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

On page 293, between lines 13 and 14, insert the following:

SEC. 917. SENSE OF CONGRESS ON PRESIDENTIAL SUPPORT FOR CONTINUED DEVELOPMENT OF THE V-22 OSPREY PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) The V-22 tilt-rotor aircraft design is on the leading edge of aerospace technology for short takeoff and landing capability.

(2) The V-22 aircraft has the potential of simultaneously conducting helicopter missions farther, faster, and with a larger payload than any rotor-wing aircraft.

(3) The United States Marine Corps has a high priority to modernize its aging CH-46 helicopter fleet.

(4) The V-22 aircraft may be well suited for use by the Special Operations Forces of the Armed Forces.

(5) The V-22 aircraft may have substantial potential for facilitating the accomplishment of essential Army, Navy and Air Force missions.

(6) There is substantial potential for the technology used in the development and production of the V-22 aircraft to significantly enhance the commercial aviation industry in the United States.

(b) POLICY.—It is the sense of Congress that the President should continue development of the joint services V-22 Osprey program and carry out the comprehensive review of the potential military and civilian uses of the V-22 as detailed in Senate Report 101-81.

GRAMM AMENDMENT NO. 573

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

On page 10, strike lines 3 through 14.

SYMMS (AND OTHERS) AMENDMENT NO. 574

(Ordered to lie on the table.)

Mr. SYMMS (for himself, Mr. DOLE, Mr. NICKLES, Mr. THURMOND, and Mr. HEINZ) submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

At an appropriate place in the bill, and the following new section:

SEC. . MILITARY RETIREMENT OF LIEUTENANT COLONEL OLIVER NORTH, USMC (RET.)

Notwithstanding his conviction under section 2071(b) of title 18, United States Code, Lieutenant Colonel Oliver L. North, United States Marine Corps (retired), is hereby entitled to military retirees pay under the provisions of title 10, United States Code, as well as rights, privileges, and other benefits to which he would otherwise be entitled but for his conviction under 18 U.S.C. 2071(b).

WARNER AMENDMENT NOS. 575 THROUGH 578

(Ordered to lie on the table.)

Mr. WARNER submitted four amendments intended to be proposed by him to the bill S. 1352, supra, as follows:

AMENDMENT No. 1575

At an appropriate place in the bill, add the following new section:

SEC. . FEASIBILITY STUDY OF LAND TRANSFER FOR USE AS A CORRECTIONS FACILITY.

(a) (1) The Secretary of Defense, in consultation with the United States Attorney General, shall conduct a study of the feasibility of selling or otherwise transferring to the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, a parcel of land of approximately 100 acres from the Fort A.P. Hill Military Reservation (which comprises approximately 86,000 acres) to be used by the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, as a site for a medium security correctional facility. The Secretary may, at his discretion, include in such study other military installations within Virginia which encompass land that may be suitable for the above purpose.

(2) The study required by paragraph (1) shall address, at a minimum, the following issues:

(A) Whether there are parcels of land within Fort A.P. Hill (or such other installations as may be included by the Secretary in such study) of the size described which could be released from Federal control without severely affecting the present mission of such installation.

(B) A description of the parcels of land described in subparagraph (A).

(C) A description of the effects, if any, transfer of such parcels of land from Federal control would have on the ability of the Secretary of Defense to effectively carry out the mission of the Department of Defense.

(D) An analysis of the risk, if any, that might be posed to military personnel and their dependents housed on such installation by the operation of such a correctional facility on the parcels of land described in subparagraph (A).

(E) An estimate of the date on which the parcels of land described in subparagraph (A) would be available for transfer from Federal control.

(b) The report of the study described in subsection (a) shall be delivered to the Committees on Armed Service of the Senate and House of Representatives not later than 60 days after enactment of this Act.

AMENDMENT No. 576

Add at the end of part F—Miscellaneous provisions, of title III, insert the following:

SEC. . ENVIRONMENTAL IMPACT STUDY OF THE SHENANDOAH RIVER.

(a) The Secretary of the Army, acting through the Chief of Engineers, will conduct a study to determine the damage and environmental impact on the Shenandoah River by companies under contract to the Defense Department, and National Aeronautics and Space Administration.

(b) The study will determine:

(1) the degree, in full, of the pollution effect and the environmental impact to the river, and

(2) the estimated cost and time schedule to restore the water quality of the river to federal standards.

(c) An interim study report will be due not later than December 31, 1989. A final report is due June 30, 1990.

AMENDMENT No. 577

Add at the end of part D—Miscellaneous reporting requirements, of title III, insert the following:

SEC. . REPORT ON SECOND SOURCE FOR CARBONIZABLE RAYON YARN.

Not later than November 30, 1989, the Secretary of Defense will report to the Committees on Armed Services of the Senate and House on the progress, time table, and a time certain for the Department to establish a certified second production source for carbonizable rayon yarn for use on reentry vehicles heat shields and rocket nozzles, applicable to both defense and space programs.

AMENDMENT No. 578

At the appropriate place in the bill, add the following section:

SEC. . (a) The Congress finds—

(1) that the Department of Defense and the Congressional Budget Office frequently disagree on the technical and rate assumptions used for estimating defense spending and that such disagreement exists with respect to the DOD and CBO outlay estimates for the National Defense Function (050) of the President's Revised Budget Request for Fiscal Year 1990;

(2) that DOD and CBO have been unable to resolve these estimating differences in the past and for Fiscal Year 1990;

(3) that these estimating differences adversely affect the ability of DOD to plan and manage the defense budget, resulting in inefficiency and wasteful spending in the implementation of defense program decisions, and that these estimating differences also severely inhibit the Congressional budget review process;

(4) that resolution of these estimating differences is essential to restore order to both the Department's planning process and the Congressional budget review process; and

(5) that the Department of Defense and the Congressional Budget Office should resolve all technical and rate differences associated with estimating outlays for national defense for Fiscal Year 1990 and the following fiscal years.

(b)(1) Not later than August 15, 1989, the Department of Defense and the Congressional Budget Office shall report to the Committees on Armed Services, Appropriations, and Budget of the Senate and the House of Representatives on the specific resolution of all technical and rate differences in the estimating methods of DOD and CBO with respect to the Fiscal Year 1990 defense budget.

(2) In the event DOD and CBO are unable to agree upon any technical or rate assumption, the report shall reflect the average of the relevant rate or assumption used by DOD in estimating outlays for the April budget revision and the relevant rate or assumption used by CBO in its February 1989 baseline budget estimates.

(3) The report shall identify:

(A) the agreed first-year and outyear outlay rates for each account (including revolving and trust funds) in the DOD budget,

(B) the agreed amount of outlays estimated to occur from obligational authority remaining available from prior years, and

(C) the estimated total outlay impact of the revised defense budget request for Fiscal Year 1990 using the rates and assumptions specified in subsections (A) and (B).

(c)(1) Not later than December 15, 1989, and not later than December 15 of each calendar year thereafter, the Department of Defense and the Congressional Budget Office shall report to the Committees on Armed Services, Appropriations, and Budget of the Senate and the House of Representatives on the specific resolution of all technical and rate differences that may arise in the estimating methods of DOD and CBO with respect to the budget request due to be submitted to Congress in January of the succeeding calendar year.

(2) In the event DOD and CBO are unable to agree upon any technical or rate assumption, the report shall reflect the average of the relevant rates or assumptions used by DOD and CBO.

(3) The report shall identify:

(A) the agreed first-year and outyear outlay rates for each account (including revolving and trust funds) in the DOD budget, and

(B) the agreed amount of outlays estimated to occur from obligational authority remaining available from prior years, and

(C) the estimated total outlay impact of the defense budget request to be submitted in January of the following calendar year using the rates and assumptions specified in subsections (A) and (B).

(d) It is the sense of Congress that the technical and rate assumptions provided in the reports required by this section should be used in all cost estimates and scorekeeping with respect to all relevant defense authorization or appropriation bill.

GRAHAM AMENDMENT NO. 579

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

The Anti-Drug Abuse Act of 1988 terminated the National Narcotics Border Interdiction System [NNBIS] and placed it under the auspices of the Office of National Drug Control Policy;

The National Narcotics Border Interdiction System [NNBIS] provided valuable information and support to State and local law enforcement agencies involved in drug interdiction activities;

Therefore, it is the sense of the Senate of the United States that the cooperation that existed between State and local law enforcement officials and the Federal agencies participating in NNBIS should, to the extent possible, be continued and enhanced by the Director of the Office of National Drug Control Policy.

GLENN AMENDMENT NO. 580

(Ordered to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

On page 293, between lines 13 and 14, insert the following:

SEC. 917. SENSE OF CONGRESS ON PRESIDENTIAL SUPPORT FOR CONTINUED DEVELOPMENT OF THE V-22 OSPREY PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) The V-22 tilt-rotor aircraft design is on the leading edge of aerospace technology for short take-off and landing capability.

(2) The V-22 aircraft has the potential of simultaneously conducting helicopter missions farther, faster, and with a larger payload than any rotor-wing aircraft.

(3) The United States Marine Corps has a high priority to modernize its aging CH-46 helicopter fleet.

(4) The V-22 aircraft may be well suited for use by the Special Operations Forces of the Armed Forces.

(5) The V-22 aircraft may have substantial potential for facilitating the accomplishment of essential Army, Navy, and Air Force missions.

(6) There is substantial potential for the technology used in the development and production of the V-22 aircraft to significantly enhance the commercial aviation industry in the United States.

(b) POLICY.—It is the sense of Congress that the President should continue development of the joint services V-22 Osprey program and carry out the comprehensive review of the potential military and civilian uses of the V-22 aircraft as detailed in Senate Report Number 101-81.

NUNN AMENDMENT NOS. 581 THROUGH 591

(Ordered to lie on the table.)

Mr. NUNN submitted 11 amendments intended to be proposed by him to the bill S. 1352, supra, as follows:

AMENDMENT NO. 581

On page 2, line 17, strike out "$2,706,500,000" and insert in lieu thereof "$2,674,900,000".

On page 2, line 18, strike out "$2,742,100,000" and insert in lieu thereof "$2,707,400,000".

On page 3, line 3, strike out "$2,637,600,000" and insert in lieu thereof "$2,584,400,000".

On page 3, line 4, strike out "$3,120,098,000" and insert in lieu thereof "$3,061,798,000".

On page 3, line 13, strike out "$2,892,713,000" and insert in lieu thereof "$2,833,813,000".

On page 3, line 14, strike out "$3,745,835,000" and insert in lieu thereof "$3,681,335,000".

On page 3, line 18, strike out "$8,346,762,000" and insert in lieu thereof "$8,195,762,000".

On page 3, line 19, strike out "$9,200,235,000" and insert in lieu thereof "$9,046,235,000".

On page 4, line 9, strike out "$6,314,300,000" and insert in lieu thereof "$5,304,000,000".

On page 4, line 10, strike out "$6,592,460,000" and insert in lieu thereof "$5,561,860,000".

On page 4, line 14, strike out "$1,178,000,000" and insert in lieu thereof "$1,172,100,000".

On page 4, line 15, strike out "$1,090,900,000" and insert in lieu thereof "$1,086,700,000".

On page 4, line 20, strike out "$15,930,600,000" and insert in lieu thereof "$15,714,700,000".

On page 4, line 21, strike out "$13,957,064,000" and insert in lieu thereof "$13,780,364,000".

On page 4, line 25, strike out "$7,010,000,000" and insert in lieu thereof "$6,980,600,000".

On page 5, line 1, strike out "$5,892,836,000" and insert in lieu thereof "$5,868,736,000".

In paragraph (2)(A) of section 104a (as added by amendment number 400), relating to the authorization of appropriations for fiscal year 1990 for the Air National Guard, strike out "$941,200,000" and insert in lieu thereof "$887,900,000".

In paragraph (2)(B) of section 104a (as added by amendment number 400), relating to the authorization of appropriations for fiscal year 1991 for the Air National Guard, strike out "$753,900,000" and insert in lieu thereof "$697,800,000".

In paragraph (4)(A) of section 104a (as added by amendment number 400), relating to the authorization of appropriations for fiscal year 1990 for the Navy Reserve, strike out "$144,000,000" and insert in lieu thereof "$59,200,000".

In paragraph (4)(B) of section 104a (as added by amendment number 400), relating to the authorization of appropriations for fiscal year 1991 for the Navy Reserve, strike out "$159,700,000" and insert in lieu thereof "$92,600,000".

In paragraph (5)(A) of section 104a (as added by amendment number 400), relating to the authorization of appropriations for fiscal year 1990 for the Air Force Reserve, strike out "$177,900,000" and insert in lieu thereof "$152,200,000".

In paragraph (5)(B) of section 104a (as added by amendment number 400), relating to the authorization of appropriations for fiscal year 1991 for the Air Force Reserve, strike out "$179,200,000" and insert in lieu thereof "$154,000,000".

On page 17, line 16, insert a comma after "aircraft".

On page 63, line 14, strike out "$23,453,700,000" and insert in lieu thereof "$23,597,400,000".

On page 63, line 15, strike out "$24,589,900,000" and insert in lieu thereof "$24,747,400,000".

On page 63, line 17, strike out "$24,358,200,000" and insert in lieu thereof "$24,519,500,000".

On page 63, line 18, strike out "$24,945,900,000" and insert in lieu thereof "$26,130,500,000".

On page 63, line 20, strike out "$1,700,500" and insert in lieu thereof "$1,706,400,000".

On page 63, line 21, strike out "$1,767,500,000" and insert in lieu thereof "$1,771,700,000".

On page 63, line 23, strike out "$22,709,500,000" and insert in lieu thereof "$22,954,800,000".

On page 63, line 24, strike out "$23,269,300,000" and insert in lieu thereof "$23,470,100,000".

On page 64, line 8, strike out "$895,700,000" and insert in lieu thereof "$980,500,000".

On page 64, line 9, strike out "$949,900,000" and insert in lieu thereof "$1,017,000,000".

On page 64, line 14, strike out "$981,900,000" and insert in lieu thereof "$1,007,600,000".

On page 64, line 15, strike out "$1,015,400,000" and insert in lieu thereof "$1,041,300,000".

On page 64, line 20, strike out "$1,988,400,000" and insert in lieu thereof "$2,041,700,000".

On page 64, line 21, strike out "$2,104,600,000" and insert in lieu thereof "$2,160,700,000".

On page 181, line 21, strike out "3" and insert in lieu thereof "642".

On page 183, line 17, strike out "3" and insert in lieu thereof "642".

On page 185, line 9, strike out "7" and insert in lieu thereof "646".

On page 271, line 12, strike out "$166,752,900,000" and insert in lieu thereof "$168,472,900,000".

On page 271, line 14, strike out "$171,848,000,000" and insert in lieu thereof "$173,544,200,000".

On page 397, beginning with line 20, strike out all down through line 4 on page 398 and insert in lieu thereof the following:

(c) LIMITATION ON CERTAIN PAYMENTS.—After the effective date of the transfer provided in subsection (b), the Secretary of Defense shall pay to the Administrator of General Services only the costs incurred by the General Services Administration in furnishing space, repairs, alterations, maintenance, and other services and facilities to the Department of Defense in the National Capital Region until after renovation of the Pentagon building has been completed or until after September 30, 1999, whichever is earlier. Payments by the Secretary of Defense under the preceding sentence shall be in lieu of the payment of any charges the Administrator of General Services is required to make against the Department of Defense under section 210(j) of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 490(j)).

On page 447, line 20, strike out "5332" and insert in lieu thereof "5532".

AMENDMENT NO. 582

On page 293, between lines 13 and 14, insert the following new section:

SEC. . FUNDING FOR THE ANTI-DRUG ABUSE ACT OF 1988.

(a) TRANSFER OF FUNDS.—Of the funds appropriated to or for the use of any department or agency of the Executive Branch of the Government for fiscal year 1990, one-quarter of 1 percent of such funds is hereby transferred and made available only for the purposes of carrying out in fiscal year 1990 the Anti-Drug Abuse Act of 1988 and the amendments made by such Act.

(b) POINT OF ORDER.—(1) On a point of order by any Senator, no general appropriation bill or amendment thereto shall be received or considered in the Senate if the bill or amendment contains a provision to reduce or eliminate the amount of funds transferred by subsection (a).

(2) Paragraph (1) is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional rights of the Senate to change the rule in paragraph (1) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

AMENDMENT NO. 583

On page 295, after line 25, insert the following new title:

TITLE XI—DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

SEC. 1101. FUNDING OF ACTIVITIES RELATED TO DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT.

(a) FUNDING.—(1) Of the amounts authorized to be appropriated for the Department of Defense by this Act, $600,000,000 is available from the sources and in the amounts provided in paragraph (2) for carrying out the drug interdiction and law enforcement support activities described in sections 1102 through 1110.

(2) The amounts and sources referred to in paragraph (1) are as follows:

(A) $245,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $30,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $320,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(D) $5,000,000 of amounts appropriated pursuant to Division B for land acquisition and the construction of facilities.

SEC. 1102. LEAD AGENCY FOR DETECTION.

(a) IN GENERAL.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide written guidance to the Secretaries of the military departments and to the commanders of the combatant commands on the specific force levels and the specific supporting resources necessary to fulfill the responsibilities of the Department of Defense as the single lead agency for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) GUIDANCE REFERENCE.—The guidance referred to in subsection (a) shall be provided as part of the guidance required by section 113(*l*) of title 10, United States Code.

(c) FUNDING.—(1) The following amounts from the sources specified shall be available for carrying out the responsibilities referred to in subsection (a):

(A) $200,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $5,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $149,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(2) Not more than $5,000,000 of amounts authorized to be appropriated pursuant to Division B for land acquisition and construction of facilities shall be available for the acquisition of land and the construction of facilities necessary to carry out the responsibilities referred to in subsection (a).

SEC. 1103. COMMUNICATIONS NETWORK.

(a) INTEGRATION OF NETWORK.—The Secretary of Defense, in consultation with the Director, National Drug Control Policy, shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to titles I, II, and III for fiscal year 1990, $60,000,000 shall be available for the activities described in subsection (a).

SEC. 1104. DRUG INTERDICTION AND ENFORCEMENT ACTIVITIES OF THE NATIONAL GUARD.

(a) FUNDING ASSISTANCE.—The Secretary of Defense shall provide to the Governor of a State who submits a plan to the Secretary under subsection (b) sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of such State used—

(1) for the purpose of drug interdiction and enforcement operations; and

(2) for the operation and maintenance of the equipment and facilities of the National Guard of such State that are used for the purposes described in paragraph (1).

(b) PLAN REQUIREMENTS.—(1) The Secretary shall provide funds under subsection (a) to the Governor of a State who submits to the Secretary a plan specifying how personnel of the National Guard of that State are to be used in drug enforcement and interdiction operations if—

(A) such operations are to be conducted at a time when personnel of a National Guard of the State are under the command and control of the State authority and are not in Federal service; and

(B) participation by National Guard personnel in such operations is service in addition to annual training required under section 502 of title 32, United States Code.

(2)(A) Before funds are provided to the Governor of a State under this section, the Secretary of Defense shall consult with the Attorney General of the United States regarding the adequacy of the plan submitted by the Governor to the Secretary.

(B) If the Governor of a State submits a plan to the Secretary of Defense for assistance under this section, the plan is the same as a plan previously submitted by that State, and funds were provided to the State pursuant to such plan, then funds may be provided to such State under this section without further consultation with the Attorney General.

(c) FUNDING AMOUNTS.—(1) Of the amounts made available pursuant to section 1101, the Secretary shall make available for the purposes of subsection (a)—

(A) $45,000,000 for operations and maintenance of the National Guard; and

(B) $45,000,000 for National Guard personnel.

(2) Amounts made available pursuant to paragraph (1) for the National Guard are in addition to amounts otherwise appropriated for the National Guard for fiscal year 1990.

(d) LIMITATION ON DELEGATION.—The Secretary may delegate the authority of the Secretary under this section only to the Deputy Secretary of Defense, to an Under Secretary of Defense, or to an Assistant Secretary of Defense.

(e) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

(f) EXCLUSION FROM END-STRENGTH COMPUTATION.—Members of the National Guard on full-time National Guard duty for the purposes of administering this section shall not be counted toward the end-strengths authorized in section 422 for members on full-time National Guard duty for the purposes of organizing, administering, recruiting, instructing, or training the reserve components, or toward the strengths authorized in sections 517 and 524 of title 10, United States Code.

(g) DEFINITIONS.—As used in this section:

(1) The term "Governor of a State" means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

(2) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

SEC. 1105. MAINTENANCE AND REPAIR OF EQUIPMENT MADE AVAILABLE TO FEDERAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—The Secretary of Defense shall be responsible during fiscal year 1990 for the maintenance and repair of equipment that has been made available by the Department of Defense to other Federal agencies for use in antidrug efforts or for any use under chapter 18 of title 10, United States Code, because of the potential future utility of such equipment to the Department of Defense. The Secretary shall be responsible for the maintenance and repair of such equipment to the extent that funds are available pursuant to subsection (b).

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III, $30,000,000 shall be available for fiscal year 1990 for the purposes described in subsection (a).

SEC. 1106. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies concerned with the detection of illicit drugs and other dangerous and illegal substances concealed in containers.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990, $20,000,000 shall be available for the purposes described in subsection (a).

SEC. 1107. CIVIL AIR PATROL.

(a) IN GENERAL.—The Secretary of Defense shall pay for expenses incurred by the Civil Air Patrol in conducting drug surveillance flights for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) FUNDS.—Of the funds authorized to be appropriated pursuant to title III for fiscal year 1990, $1,000,000 shall be available for purposes described in subsection (a).

SEC. 1108. TRANSPORTATION OF PERSONNEL, SUPPLIES, AND EQUIPMENT RELATING TO DRUG INTERDICTION AND THE ERADICATION OF ILLEGAL DRUGS IN SOURCE COUNTRIES.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Defense shall transport personnel, supplies, and equipment within the United States and from the United States to a foreign country, by aircraft and ships of the Department of Defense, for the purpose of providing assistance to a counter-drug operation to be carried out in a foreign country by the United States or by a friendly foreign country.

(b) CONDITIONS.—The Secretary may transport personnel, supplies, and equipment pursuant to subsection (a) only if—

(1) the transportation of such personnel, supplies, and equipment is consistent with the foreign policy and counter-drug policy of the United States;

(2) the supplies and equipment to be transported are suitable for use in a counter-drug program;

(3) the personnel, supplies, and equipment to be transported are destined for use in a counter-drug program of the United States or of a friendly country; and

(4) the transportation of such personnel, supplies, and equipment will not adversely affect the military preparedness of the United States.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $20,000,000 shall be available for the purposes described in subsection (a).

SEC. 1109. LOAN OF NATIONAL GUARD EQUIPMENT.

(a) IN GENERAL.—(1) The Secretary shall authorize the National Guard to loan any item of equipment to any Federal or State law enforcement agency for use by such agency in carrying out drug enforcement activities. Under such regulations as the Secretary may prescribe, items of equipment loaned by the National Guard to any Federal or State law enforcement agency shall be returned promptly to the National Guard if the Chief of the National Guard Bureau determines that the equipment is needed for operational requirements of the National Guard and requests the Federal or State agency concerned to return such equipment to the National Guard.

(2) To the extent that funds are available pursuant to subsection (c), the Secretary shall maintain, repair, and restore any item of equipment made available to any Federal or State law enforcement agency pursuant to paragraph (1).

(b) CONDITIONS.—The Secretary may make the loan of items of equipment referred to in subsection (a) subject to such minimum standards of care and maintenance as the Secretary considers appropriate. The Secretary may also require, with respect to items of equipment loaned to a law enforcement agency under this section, such minimum training and proficiency requirements on the part of the personnel who are to use such items as the Secretary considers appropriate.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $20,000,000 shall be available for the purposes described in subsection (a).

SEC. 1110. EXCESS PERSONAL PROPERTY.

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), during fiscal years 1990 and 1991, the Secretary of Defense, in consultation with the Attorney General of the United States and the Director, National Drug Control Policy, may transfer to Federal and State law enforcement agencies such excess personal property of the Department of Defense, including small arms ammunition, as the Secretary determines suitable for use by such agencies in counter-drug activities. Excess property transferred to any such agency under this section may be transferred without cost to the recipient agency.

(b) The Secretary may transfer excess personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense;

(2) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment; and

(3) the Secretary determines that the transfer of the excess property will not have an adverse impact on the military readiness of the United States.

Section 421 of the bill is amended as follows:

(1) in subsection (a)(7), relating to the Coast Guard Reserves, strike out "12,950" and insert in lieu thereof "15,000"; and

(2) in subsection (b), relating to the Coast Guard Reserves, strike out "13,500" and insert in lieu thereof "15,000".

AMENDMENT No. 584

Insert the following at the end of section 905:

(c) This section shall not become effective until the following provisions are enacted into law:

(d) UNITED STATES-REPUBLIC OF KOREA SECURITY RELATIONSHIP.—Congress makes the following findings:

(1) Since the Korean conflict, the Republic of Korea has made tremendous progress in rebuilding its economic and military strength.

(2) The alliance between the United States and the Republic of Korea has contributed greatly to the security of both countries.

(3) The Republic of Korea has dedicated a large share of its national resources to its security, as manifested by defense expenditures which comprise approximately one-third of its national budget.

(4) The United States has contributed a large amount of its national resources, including approximately 46,000 military personnel, to protecting the security interests that it shares with the Republic of Korea.

(5) In accordance with its obligations under the 1954 Mutual Defense Treaty with the Republic of Korea, the United States remains committed to the security and territorial integrity of the Republic of Korea.

(e) SENSE OF CONGRESS AND REPORT REQUIREMENT.—(1) It is the sense of Congress that—

(A) the United States should reassess the mission, force structure, and locations of its military forces in the Republic of Korea and East Asia;

(B) the Republic of Korea should assume increased responsibility for its own security;

(C) the Republic of Korea should offset more of the direct costs incurred by the United States in deploying military forces for the defense of the Republic of Korea; and

(D) the United States and the Republic of Korea should consult on the feasibility and desirability of partial, gradual reductions of United States military forces in the Republic of Korea.

(2) In order that Congress may determine whether further action is appropriate, the President shall submit to Congress an initial report, not later than April 1, 1990, on the status and results of the consultations referred to in paragraph (1)(D) and shall submit a second report, not later than one year after the date of the enactment of this Act, on the status and results of such consultations.

(f) REPORT.—(1) Not later than April 1, 1990, the President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the military presence of the United States in the Republic of Korea and in East Asia. The President shall include in such report a strategic plan relating to the continued United States military presence in the Republic of Korea and East Asia. The President shall specifically include in the report the following:

(A) An assessment of the implications of recent developments in the Soviet Union and the People's Republic of China for United States and allied security planning in East Asia.

(B) Identification of those changes in the missions, force structure, and locations of United States forces in East Asia that would strengthen the capabilities of such forces and lower the costs of maintaining such forces.

(C) A discussion of ways in which increased defense responsibilities and costs presently borne by the United States can be transferred to the allies of the United States in East Asia.

(D) Identification of the additional actions that the Republic of Korea can take to contribute more to its own security.

(E) A discussion of the feasibility of restructuring United States military forces stationed in Okinawa with the objective of improving civil-military relations and increasing United States training opportunities.

(F) A discussion of the status and prospects of negotiations between the United States and the Republic of the Philippines on the continued use of United States military installations in the Republic of the Philippines.

(G) An assessment of whether a requirement still exists for a regional security role for United States forces stationed in the Republic of Korea.

(2) The President shall also include in the report a five-year plan with respect to the United States military presence in the Republic of Korea. The President shall specifically include in the plan a discussion of the feasibility and desirability of the following:

(A) Restructuring United States military forces in the Republic of Korea with the objective of changing the role of such forces from a leading role in deterring aggression to a supporting role.

(B) Partial, gradual reductions in the number of United States military personnel stationed in the Republic of Korea.

(C) Larger offsets by the Republic of Korea for the direct costs incurred by the United States in deploying military forces in defense of the Republic of Korea.

(D) The redeployment of United States military personnel and facilities within the Republic of Korea that can be made to reduce friction between such personnel and the people of the Republic of Korea.

(E) Changes in the United Nations and United States-Republic of Korea bilateral command arrangements that would facilitate a transfer of certain military missions and command to the Republic of Korea.

(F) Confidence-building measures that could be promoted in northeast Asia to lessen tensions in the region.

(G) Additional actions the Republic of Korea could take to assume more responsibility for its security.

AMENDMENT No. 585

Insert the following at the end of section 906:

(c) This section shall not become effective until the following provisions are enacted into law:

(a) ALLIED DEFENSE BURDENSHARING IN EUROPE.—Congress makes the following findings:

(1) Member Nations of the North Atlantic Treaty Organization (NATO), at the initiative of the President, have presented a comprehensive arms reductions proposal to the Nations of the Warsaw Pact for consideration in the negotiations on Conventional Armed Forces in Europe (CFE) which, should the proposal provide the basis for agreement on an eventual CFE treaty, would significantly enhance security and

stability in Europe and the cause of peace worldwide.

(2) Unilateral reductions in active duty force levels by individual member Nations of NATO before the attainment of a CFE agreement would undercut NATO's efforts to improve its conventional defense posture, increase its reliance on the threat of the early use of nuclear weapons to deter aggression, and undermine NATO's arms control negotiating posture in CFE.

(3) Nevertheless, several member Nations of NATO are considering making significant reductions over the next few years in the size of their active forces irrespective of developments in the CFE negotiations.

(4) Despite shifts in relative economic power from the United States to some of the major allies of the United States, the costs of mutual defense continue to be borne disproportionately by the United States.

(5) Adjustments in burdensharing are long overdue.

(6) Unilateral cuts in active duty force levels by member Nations of NATO before the successful conclusion of CFE negotiations would exacerbate longstanding burdensharing tensions within the alliance.

(e) BASELINE REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the defense committees a report showing the following:

(A) The end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO for fiscal year 1989.

(B) The end strength level of allied forces assigned to permanent duty ashore in European member nations of NATO for such fiscal year.

(C) The end strength level of the armed forces of each member nation of NATO assigned to permanent duty ashore in European member nations of NATO in such fiscal year.

(D) The ratio (expressed in terms of a percentage) of the end strength level referred to in subparagraph (A) to the end strength level referred to in subparagraph (B).

(2) The ratio referred to in paragraph (1)(D) is hereinafter in this section referred to as the "baseline ratio".

(f) ANNUAL REPORT.—The Secretary of Defense shall submit to the defense committees not later than April 1 of 1991, and 1992, and 1993 a report showing the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO and the end strength of allied forces assigned to permanent duty ashore in such nations in the fiscal year preceding the fiscal year in which the report is submitted. The Secretary shall include in such report the following:

(A) Data showing the U.S.-allied forces ratio for such preceding fiscal year.

(B) A statement indicating whether there has been any change in the U.S.-allied forces ratio for such preceding fiscal year compared with the U.S.-allied forces ratio for the fiscal year immediately before such preceding fiscal year and, if so, the amount of such change and an explanation of the cause for such change.

(C) A discussion of any action taken in the fiscal year preceding the year in which the report is submitted to encourage the NATO allies (other than the United States) to increase the number of allied forces assigned to permanent duty ashore in the European member nations of NATO and a discussion of the results of such action.

(g) LIMITATION ON OBLIGATION OF FUNDS.—If the Secretary determines on the basis of a report referred to in subsection (e) that the U.S.-allied forces ratio for the fiscal year preceding the fiscal year in which the report is submitted is greater than the baseline ratio by more than one percentage point—

(1) the President shall initiate appropriate diplomatic initiatives to persuade the NATO allies to increase allied forces assigned to permanent duty in European members nations of NATO in sufficient numbers so that the U.S.-allied forces ratio no longer exceeds the baseline ratio; and

(2) funds appropriated to or for the use of the Department of Defense may not be obligated or expended to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO for the fiscal year following the fiscal year in which the report is received in any number that would cause the U.S.-allied forces ratio in such following fiscal year to exceed the baseline ratio by more than one percentage point.

(h) WAIVER AUTHORITY.—The President may waive this section if the President declares that such action is critical to the national security of the United States and immediately notifies Congress of his action and the reasons therefor.

(i) INAPPLICABILITY.—This section shall not apply in the event of a declaration of war or an armed attack on any NATO member or in the event that a comprehensive arms reduction agreement is signed as a result of the negotiations on Conventional Armed Forces in Europe (CFE).

(j) REPORT COMPLIANCE.—The Secretary shall be deemed to have complied with the report requirements of subsection (e) in any fiscal year if the Secretary includes the information required by such subsection in the report submitted in such year to the defense committees pursuant to section 1002(d) of the Department of Defense Authorization Act, 1985 (98 Stat. 2575; 22 U.S.C. 1928 note).

(k) END STRENGTH PERMANENT CEILING.—Nothing in this section shall be construed to permit the obligation or expenditure of funds to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level in excess of the permanent ceiling specified in section 1002(c)(1) of the Department of Defense Authorization Act, 1985.

(l) DEFINITIONS.—As used in this section:

(1) The term "defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(2) The term "allied forces" means members of the armed forces of member nations of NATO serving on active duty, other than the members of the Armed Forces of the United States.

(3) The term "U.S.-allied forces ratio" means, with respect to a fiscal year, the ratio (expressed in terms of a percentage) of the end strength level of members of the armed forces of the United States assigned to permanent duty ashore in European member nations of NATO relative to the end strength level of allied forces assigned to permanent duty ashore in such nations in that fiscal year.

AMENDMENT No. 586

Insert the following at the end of section 907:

(e) This section shall not become effective until the following provisions are enacted into law:

(f) JAPAN'S CONTRIBUTIONS TO SECURITY.—Congress makes the following findings:

(1) Extraordinary political, economic, and social changes have occurred in Japan since World War II.

(2) As a result of such changes, Japan is capable of assuming increased responsibility for its own security.

(g) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) in view of the changes referred to in subsection (a), Japan should assume increased responsibility for its own security;

(2) Japan should offset the direct costs incurred by the United States in deploying military forces for the defense of Japan;

(3) Japan should assume a more significant security role consistent with its economic status by taking the following actions:

(A) Increase expenditures for its Official Development Assistance program and its defense programs so that, by 1992, the level of spending by Japan on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization (NATO) on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(B) Devote any increase in its spending for such Official Development Assistance program primarily to the Republic of the Philippines and to countries in regions of importance to global stability outside of East Asia, particularly to countries in Latin America, the Caribbean area, and the Mediterranean area.

(C) Devote any increase in spending for that program primarily to untied grants and increasing the portion of total expenditures made in that program for those multilateral financial institutions of which Japan is a member.

(D) Designate those nations that are to be recipients of increased development assistance referred to in subparagraphs (A) through (C) after consultation with Japan's security partners.

(E) In consultation with the United States, complete its 5-year defense program for fiscal years 1986 through 1990 and, at the earliest possible date after the completion of that program, fulfill the pledge of Prime Minister Suzuki to defend the territory, airspace, and sea lanes of Japan to a distance of 1,000 miles.

(F) Acquire "off-the-shelf" military equipment from the United States (including completely equipped, long-range early warning aircraft, additional AEGIS weapon systems, refueling aircraft, munitions, and spare parts) in developing the capabilities called for in Japan's current and subsequent 5-year defense programs.

(h) NEGOTIATIONS.—At the earliest practicable date after the enactment of this Act, the President shall enter into negotiations with Japan for the purpose of achieving an agreement under which Japan agrees to make contributions sufficient in value to meet the direct cost of deploying United States forces for the defense of Japan.

(i) NOTIFICATION TO CONGRESS.—In order that Congress may determine whether fur-

ther action is appropriate, the President shall submit to Congress an initial report, not later than April 1, 1990, on the status and results of the negotiations referred to in subsection (f) and shall submit a second report, not later than one year after the date of the enactment of this Act, on the status and results of such negotiations.

AMENDMENT No. 587

Insert the following at the end of section 908:

(r) This section shall not become effective until the following provisions are enacted into law:

(s) REPORT ON COSTS ASSOCIATED WITH OVERSEAS DEPENDENTS.—The Secretary of Defense shall conduct a study of practicable options available to the Department of Defense to reduce costs associated with maintaining overseas large numbers of dependents of members of the Armed Forces of the United States and dependents of civilian employees of the Department of Defense. In carrying out such study the Secretary shall consider such options and combinations of options as the Secretary considers feasible to achieve a reduction in such costs. The Secretary shall specifically address, at a minimum, the following questions:

(1) Would expansion of incentives for unaccompanied tours of duty overseas be effective in reducing the number of such tours and would such an increase in incentives be cost effective?

(2) Would more frequent rotation of overseas personnel without dependents result in overall savings?

(3) Would an increase in the use of local contractors at overseas stations to provide services currently being provided by Department of Defense personnel result in overall savings to the United States and, if so, what would the cost implications be for United States families at such stations?

(4) What costs associated with the support of overseas dependents would likely result from a reduction in personnel under a conventional forces in Europe (CFE) agreement?

(5) Would the granting of fewer exceptions to the length of overseas duty tours reduce permanent change of station costs?

(6) To what extent can overseas facilities be consolidated and centralized to reduce administrative and overhead costs?

(7) To what extent can reductions in family support services at overseas stations be made without materially affecting the standard of living of the personnel assigned to duty at such stations?

(8) Would reductions in overseas family support costs likely result in increased costs in programs in the United States?

(9) To what extent would dependents be likely to accompany members of the Armed Forces and civilian employees of the Department of Defense to overseas stations in the absence of each of the various types of special assistance and benefits currently provided to overseas dependents?

(10) How would reduction or termination of the various types of the special assistance and benefits for overseas dependents affect combat readiness, morale, and retention?

(t) SUBMISSION OF REPORT.—The Secretary shall submit the report required by subsection (s) to the Committees on Armed Services of the Senate and the House of Representatives not later than February 1, 1990, together with such comments and recommendations for legislation as the Secretary considers appropriate.

AMENDMENT No. 588

Insert the following at the end of section 909:

(b) This section shall not become effective until the following provisions are enacted into law:

(c) The following provisions shall be effective notwithstanding section 903 of this Act.

(d) OUTLAY LIMITATION FOR FISCAL YEAR 1990.—(1) The net amount expended during fiscal year 1990 from covered defense appropriations may not exceed $289,645,000,000. For purposes of the preceding sentence covered defense appropriations are all funds appropriated pursuant to authorizations of appropriations contained in divisions A and B of this Act or appropriated pursuant to any authorization of appropriations enacted before the date of the enactment of this Act (whether specific or indefinite) for Department of Defense—Military (budget function 051).

(2) The Secretary of Defense and the Director of Central Intelligence shall take such steps as may be necessary to ensure compliance with the limitation in subsection (a).

(e) TREATMENT OF TRANSFERS.—Any transfer of outlays from one fiscal year to an adjacent fiscal year that is made pursuant to this section shall be considered a necessary (but secondary) result of a significant policy change as provided in section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (2 U.S.C. 909(a)).

(f) INAPPLICABILITY OF IMPOUNDMENT CONTROL ACT OF 1974.—The provisions of the Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) shall not apply with respect to funds appropriated pursuant to this Act or by any Act appropriating funds for the Department of Defense previous to the date of the enactment of this Act to the extent necessary to enable the Secretary of Defense to comply with subsection (a).

(g) AUTHORITY TO DELAY PAYMENTS.—Any payment required to be made by the Department of Defense to a business concern that, but for this subsection, would be required to be made during September 1990 may be made during the period beginning on October 1, 1990, and ending on the date that is 30 days after the date on which the payment would otherwise have been required to be made. In determining the amount of any interest penalty under section 390 of title 31, United States Code, for failure to make any such payment, any period for which payment is deferred by the Secretary of Defense under the preceding sentence shall not be taken into account.

(h) REPORTS.—(1) The Secretary of Defense shall, on each of the dates specified in paragraph (2), submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report on the implementation of this section. Each such report shall include—

(A) An analysis of cumulative obligations and cumulative expenditures from accounts subject to the limitation in subsection (d) during the period beginning on October 1, 1989, and ending on the last day of the month preceding the month in which the report is to be submitted, including a comparison of such obligations and expenditures with the relevant estimates of outlays made by the Office of Management and Budget and the Congressional Budget Office; and

(B) a description of the specific actions taken by the Secretary to ensure that the Department of Defense meets the requirements of subsection (a).

(2) The reports required by paragraph (1) shall be submitted in 1990 not later than January 15, April 15, September 15, and October 15.

(e) SENSE OF CONGRESS.—It is the sense of the Congress that the differences in estimated outlays for programs for National Defense (budget function 050) for fiscal year 1990 as prepared by the Congressional Budget Office and the Department of Defense, while small in percentage terms, are sufficiently large to have a programmatic impact. It is further the sense of Congress that the Congressional Budget Office and the Secretary of Defense, in consultation with the Committees on Armed Services, Appropriations, and the Budget of the Senate and the House of Representatives, should undertake a comprehensive review of outlay estimation techniques and methodologies as such techniques and methodologies relate to the Department of Defense with the objective of achieving consistent estimates for inclusion in the budget for fiscal year 1991.

(f) PROHIBITION ON ADVANCE OF PAY DATE.—(1) Notwithstanding section 1006(h) of title 37, United States Code, the Secretary concerned may not, for the pay period ending on September 30, 1989, advance the October 1, 1989, payday for the payment of pay and allowances to members of a uniformed service under the jurisdiction of the Secretary. Any order or directive of the Secretary requiring the advancement of the October 1, 1989, military payday to September 29, 1989, shall be null and void.

(2) For purposes of this subsection, the terms "Secretary concerned" and "uniformed services" have the meanings given to those terms in paragraphs (5) and (3), respectively, of section 101 of title 37, United States Code.

AMENDMENT No. 589

Insert the following at the end/beginning of title X:

This title shall not become effective until the following provisions are enacted into law:

TITLE XI—DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

SEC. 1101. FUNDING OF ACTIVITIES RELATED TO DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT.

(a) FUNDING.—(1) Of the amounts authorized to be appropriated for the Department of Defense by this Act, $600,000,000 is available from the sources and in the amounts provided in paragraph (2) for carrying out the drug interdiction and law enforcement support activities described in sections 1102 through 1110.

(2) The amounts and sources referred to in paragraph (1) are as follows:

(A) $245,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $30,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $320,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(D) $5,000,000 of amounts appropriated pursuant to Division B for land acquisition and the construction of facilities.

SEC. 1102. LEAD AGENCY FOR DETECTION.

(a) IN GENERAL.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall

provide written guidance to the Secretaries of the military departments and to the commanders of the combatant commands on the specific force levels and the specific supporting resources necessary to fulfill the responsibilities of the Department of Defense as the single lead agency for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) GUIDING REFERENCE.—The guidance referred to in subsection (a) shall be provided as part of the guidance required by section 113(l) of title 10, United States Code.

(c) FUNDING.—(1) The following amounts from the sources specified shall be available for carrying out the responsibilities referred to in subsection (a):

(A) $200,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $5,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $149,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(2) Not more than $5,000,000 of amounts authorized to be appropriated pursuant to Division B for land acquisition and construction of facilities shall be available for the acquisition of land and the construction of facilities necessary to carry out the responsibilities referred to in subsection (a).

SEC. 1103. COMMUNICATIONS NETWORK.

(a) INTEGRATION OF NETWORK.—The Secretary of Defense, in consultation with the Director, National Drug Control Policy, shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to titles I, II, and III for fiscal year 1990, $60,000,000 shall be available for the activities described in subsection (a).

SEC. 1104. DRUG INTERDICTION AND ENFORCEMENT ACTIVITIES OF THE NATIONAL GUARD.

(a) FUNDING ASSISTANCE.—The Secretary of Defense shall provide to the Governor of a State who submits a plan to the Secretary under subsection (b) sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of such State used—

(1) for the purpose of drug interdiction and enforcement operations; and

(2) for the operation and maintenance of the equipment and facilities of the National Guard of such State that are used for the purposes described in paragraph (1).

(b) PLAN REQUIREMENT.—(1) The Secretary shall provide funds under subsection (a) to the Governor of a State who submits to the Secretary a plan specifying how personnel of the National Guard of that State are to be used in drug enforcement and interdiction operations if—

(A) such operations are to be conducted at a time when personnel of a National Guard of the State are under the command and control of the State authority and are not in Federal service; and

(B) participation by National Guard personnel in such operations is service in addition to annual training required under section 502 of title 32, United States Code.

(2)(A) Before funds are provided to the Governor of a State under this section, the Secretary of Defense shall consult with the Attorney General of the United States regarding the adequacy of the plan submitted by the Governor to the Secretary.

(B) If the Governor of a State submits a plan to the Secretary of Defense for assistance under this section, the plan is the same as a plan previously submitted by the State, and funds were provided to the State pursuant to such plan, then funds may be provided to such State under this section without further consultation with the Attorney General.

(c) FUNDING AMOUNTS.—(1) Of the amounts made available pursuant to section 1101, the Secretary shall make available for the purpose of subsection (a)—

(A) $45,000,000 for operations and maintenance of the National Guard; and

(B) $45,000,000 for National Guard personnel.

(2) Amounts made available pursuant to paragraph (1) for the National Guard are in addition to amounts otherwise appropriated for the National Guard for fiscal year 1990.

(d) LIMITATION OF DELEGATION.—The Secretary may delegate the authority of the Secretary under this section only to the Deputy Secretary of Defense, to an Under Secretary of Defense, or to an Assistant Secretary of Defense.

(e) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

(f) EXCLUSION FROM END-STRENGTH COMPUTATION.—Members of the National Guard on full-time National Guard duty for the purposes of administering this section shall not be counted toward the end-strengths authorized in section 422 for members on full-time National Guard duty for the purposes of organizing, administering, recruiting, instructing, or training the reserve components, or toward the strengths authorized in sections 517 and 524 of title 10, United States Code.

(g) DEFINITIONS.—As used in this section:

(1) The term "Governor of a State" means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

(2) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

SEC. 1105. MAINTENANCE AND REPAIR OF EQUIPMENT MADE AVAILABLE TO FEDERAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—The Secretary of Defense shall be responsible during fiscal year 1990 for the maintenance and repair of equipment that has been made available by the Department of Defense to other Federal agencies for use in antidrug efforts or for any use under chapter 18 of title 10, United States Code, because of the potential future utility of such equipment to the Department of Defense. The Secretary shall be responsible for the maintenace and repair of such equipment to the extent that funds are available pursuant to subsection (b).

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III, $30,000,000 shall be available for fiscal year 1990 for the purposes in subsection (a).

SEC. 1106. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies concerned with the detection of illicit drugs and other dangerous illegal substances concealed in containers.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990, $20,000,000 shall be available for the purposes described in subsection (a).

SEC. 1107. CIVIL AIR PATROL.

(a) IN GENERAL.—The Secretary of Defense shall pay for expenses incurred by the Civil Air Patrol in conducting drug surveillance flights for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) FUNDS.—Of the funds authorized to be appropriated pursuant to title III for fiscal year 1990, $1,000,000 shall be available for purposes described in subsection (a).

SEC. 1108. TRANSPORTATION OF PERSONNEL, SUPPLIES, AND EQUIPMENT RELATING TO DRUG INTERDICTION AND THE ERADICATION OF ILLEGAL DRUGS IN SOURCE COUNTRIES.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Defense shall transport personnel, supplies, and equipment within the United States and from the United States to a foreign country, by aircraft and ships of the Department of Defense, for the purpose of providing assistance to a counter-drug operation to be carried out in a foreign country by the United States or by a friendly foreign country.

(b) CONDITIONS.—The Secretary may transport personnel, supplies, and equipment pursuant to subsection (a) only if—

(1) the transportation of such personnel, supplies, and equipment is consistent with the foreign policy and counter-drug policy of the United States;

(2) the supplies and equipment to be transported are suitable for use in a counter-drug program;

(3) the personnel, supplies, and equipment to be transported are destined for use in a counter-drug program of the United States or a friendly country; and

(4) the transportation of such personnel, supplies, and equipment will not adversely affect the military preparedness of the United States.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $20,000,000 shall be available for the purposes described in subsection (a).

SEC. 1109. LOAN OF NATIONAL GUARD EQUIPMENT.

(a) IN GENERAL.—(1) The Secretary shall authorize the National Guard to loan any item of equipment to any Federal or State law enforcement agency for use by such agency in carrying out drug enforcement activities. Under such regulations as the Secretary may prescribe, items of equipment loaned by the National Guard to any Federal or State law enforcement agency shall be returned promptly to the National Guard if the Chief of the National Guard Bureau determines that the equipment is needed for operational requirements of the National Guard and requests the Federal or State agency concerned to return such equipment to the National Guard.

(2) To the extent that funds are available pursuant to subsection (c), the Secretary shall maintain, repair, and restore any item of equipment made available to any Federal or State law enforcement agency pursuant to paragraph (1).

(b) CONDITIONS.—The Secretary may make the loan of items of equipment referred to in subsection (a) subject to such minimum standards of care and maintenance as the Secretary considers appropriate. The Secretary may also require, with respect to items of equipment loaned to a law enforcement agency under this section, such minimum training and proficiency reqirements on the part of the personnel who are to use such items as the Secretary considers appropriate.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $20,000,000 shall be available for the purposes described in subsection (a).

SEC. 1110. EXCESS PERSONAL PROPERTY.

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), during fiscal years 1990 and 1991, the Secretary of Defense, in consultation with the Attorney General of the United States and the Director, National Drug Control Policy, may transfer to Federal and State law enforcement agencies such excess personal property of the Department of Defense, including small arms ammunition, as the Secretary determines suitable for use by such agencies in counter-drug activities. Excess property transferred to any such agency under this section may be transferred without cost to the recipient agency.

(b) The Secretary may transfer excess personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense;

(2) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment; and

(3) the Secretary determines that the transfer of the excess property will not have an adverse impact on the military readiness of the United States.

Section 421 of the bill is amended as follows:

(1) in subsection (a)(7), relating to the Coast Guard Reserve, strike out "12,950" and insert in lieu thereof "15,000"; and

(2) in subsection (b), relating to the Coast Guard Reserve, strike out "13,500" and insert in lieu thereof "15,000".

AMENDMENT No. 590

Insert the following at the end of section 910:

(e) This section shall not become effective until the following provisions are enacted into law:

(a) ANTI-DRUG ABUSE ACT FUNDING.—Of the unobligated balances at the end of fiscal year 1989 in the accounts of the Departments, Offices, Administrations and Agencies of the executive branch, $1,700,000,000 shall be available for transfer to fully fund Public Law 100-690, the Anti-Drug Abuse Act of 1988 in fiscal year 1990.

(b) Transfers effected under subsection (a) shall be apportioned among the various accounts of the executive branch in accordance with the ratio that the amounts of unobligated balances that are present in any such account bears to the total amount of unobligated balances.

AMENDMENT No. 591

Insert the following at the end of section 912:

This section shall not become effective until the following provisions are enacted into law:

(a) SCOREKEEPING ADJUSTMENT, OPERATION AND MAINTENANCE.—The amounts authorized in section 301(a) for operations and maintenance for fiscal year 1990 are hereby reduced—

(1) by $496,908,000 for the Army;

(2) by $598,800,000 for the Navy;

(3) by $26,183,000 for the Marine Corps;

(4) by $303,950,000 for the Air Force;

(5) by $28,100,000 for the Defense Agencies;

(6) by $400,000 for the Inspector General;

(7) by $3,692,000 for the Army Reserve;

(8) by $28,883,000 for the Navy Reserve;

(9) by $100,000 for the Marine Corps Reserve;

(10) by $14,500,000 for the Air Force Reserve;

(11) by $11,192,000 for the Army National Guard; and

(12) by $36,842,000 for the Air National Guard.

(b) REDUCTION IN THE MILITARY PAY RAISE.—The increase in military pay provided for in section 601(b) shall be 2 percent in lieu of 3.6 percent. The new monthly pay for cadets and midshipmen provided for in section 601(c) shall be $535.50 instead of $543.90.

(c) REDUCTION IN END STRENGTHS FOR ACTIVE FORCES.—The authorized end strengths for active duty personnel specified in section 401(a) are hereby reduced—

(1) by 54,150 for the Army;

(2) by 41,850 for the Navy;

(3) by 13,800 for the Marine Corps; and

(4) by 40,200 for the Air Force.

(d) ADJUSTMENT TO REFLECT MANPOWER AND PAY REDUCTIONS.—Notwithstanding section 902, the total amount that may be appropriated for fiscal year 1990 for military personnel and maintenance may not exceed $162,389,350,000 rather than $166,752,900,000 as provided in such section.

(e) REDUCTIONS IN RESEARCH AND DEVELOPMENT.—The amounts authorized in section 201 for research, development, test, and evaluation for fiscal year 1990 are hereby reduced—

(1) by $240,728,000 for the Army;

(2) by $100,000,000 for the Air Force; and

(3) by $500,000,000 for the Defense Agencies.

(f) FUNDING FOR THE STRATEGIC DEFENSE INITIATIVE.—Notwithstanding section 231(a), the maximum amount that may be obligated for the Strategic Defense Initiative may not exceed $3,801,904,000 rather than $4,301,904,000 as provided in such section.

(g) INCREASES IN PROCUREMENT FUNDING.—(1) The amounts authorized in section 101 for procurement for fiscal year 1990 are hereby increased—

(A) by $1,027,491,000 for Army aircraft procurement; and

(B) by $299,200,000 for Army missile procurement.

(2) The amounts authorized in section 102 for procurement for fiscal year 1990 are hereby increased by $776,500,000 for Navy aircraft procurement.

(3) The amounts authorized in section 103 for procurement for fiscal year 1990 are hereby increased—

(A) by $2,843,300,000 for Air Force aircraft procurement; and

(B) by $97,600,000 for Air Force missile procurement.

(h) ADDITIONAL AMOUNT AVAILABLE FOR THE B-2 BOMBER.—In addition to the amount made available for obligation for procurement for the B-2 aircraft program under section 133(a), $884,600,000 shall be available for obligation for procurement for such program for fiscal year 1990.

(i) ADJUSTMENT OF PROGRAM TERMINATION DATES.—Each case in which the date of October 1, 1991, appears in sections 142 and 144, such date shall be deemed to be October 1, 1990.

(j) REDUCTION IN FISCAL YEAR 1991 AUTHORIZATION.—(1) The amount authorized in section 101(a) for fiscal year 1991 for procurement of aircraft for the Army is hereby reduced by $785,771,000.

(2) The amount authorized in section 103(a) for fiscal year 1991 for procurement of aircraft for the Air Force is hereby reduced by $1,991,907,000.

WARNER AMENDMENT NO. 592

(Ordered to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

SEC. UNITED STATES ON-SITE INSPECTORS PROGRAM.

(a) FINDINGS.—The Senate recognizes the need for a program designed to establish a database of prospective personnel that may, on a voluntary basis, be interested in participating in the on-site inspection process since the U.S. is currently engaged in multilateral and bilateral negotiations to reduce or eliminate various military weaponry and manpower. Specifically, the United States is negotiating reductions on strategic forces, conventional armaments and manpower, monitoring regimes for nuclear testing, and the complete elimination of chemical weapons.

(1) Monitoring requirements for these possible treaties will be extensive and stressing on U.S. national technical means. To complement and support NTM monitoring requirements the United States and Soviet Union have negotiated and are currently employing on-site inspection procedures for the INF Treaty. Similar on-site inspection provisions are being negotiated for possible future treaties and agreements.

(2) The Administration, and many in Congress, consider on-site inspection procedures to be an integral part of any future arms control treaty.

(3) During initial implementation of INF Treaty provisions, the United States was not fully prepared for the manpower requirements necessary to conduct on-site inspections. The Director of Central Intelligence has stated that on-site inspection requirements for any Strategic Arms Reduction Treaty (START) will be far more extensive than the INF Treaty. Estimates of possible START on-site locations are approximately 2,500 as opposed to 120 for the INF Treaty.

(4) Personnel requirements will be extensive, in terms of both numbers and technical and linguistic skills. Since INF Treaty verification requirements are already taxing current personnel resources, START and other requirements may quickly exceed the numbers of verification personnel with requisite technical and language skills.

(5) The Department of Defense organization best suited to establish such a database is the On-Site Inspection Agency. As an agency of the Department of Defense, the OSIA was created to organize and coordinate United States Government efforts to monitor the INF Treaty, which includes all responsibilities for on-site inspections as required by the terms of the Treaty.

(b) REQUIREMENT.—Recognizing these requirements, the On-site Inspection Agency shall establish a database of prospective personnel that could be called upon to conduct on-site inspections of any future arms

control agreement that has such provisions as part of the terms of the Treaty.

(1) The database shall be composed of individuals with linguistic and technical skills necessary to conduct on-site inspections.

(2) This database shall consist of active military and other government agency personnel and non-government personnel with requisite skills that might likely consider, on full-time or part-time basis, duty as prospective on-site inspectors.

(c) THE INF TREATY DEFINED.—In this section, the term "INF Treaty" means the Treaty Between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, signed in Washington, DC, on December 8, 1987.

DOLE (AND OTHERS) AMENDMENT NOS. 593 AND 594

(Ordered to be held at the desk.)

Mr. DOLE (for himself, Mr. DIXON, Mr. WILSON, Mr. RUDMAN, and Mr. GARN) submitted two amendments intended to be proposed by them to the bill S. 1352, supra, as follows:

AMENDMENT No. 593

In section 235 strike the period and insert the following: *"Provided:*

"(a) The program is limited to adapting existing free electron laser technology applications in medicine, photobiology, surgery and associated materials science;

"(b) The program is carried out through not less than seven nor more than ten geographically distributed regional, university-based, multidisciplinary medical research centers;

"(c) Each center has reasonable plans to develop medical applications of free electron laser technology by the end of fiscal year 1993, and

"(d) Each center is able and willing to provide user facilities for research groups located outside the centers which are studying the applications of this technology.".

AMENDMENT No. 594

In section 235 strike the period and insert the following: *"Provided:*

"(a) The program is limited to adapting existing free electron laser technology applications in medicine, photobiology, surgery and associated materials science;

"(b) The program is carried out through not less than seven nor more than ten geographically distributed regional, university-based, multidisciplinary medical research centers;

"(c) During the fiscal year 1990, the director, SDIO, shall establish a peer review process for the choice of centers which meets standards generally accepted in the medical and scientific research communities;

"(d) Until such time as the peer review process described in (c) is established, the director, SDIO, shall, using existing authority to award contracts, extend such university-based research efforts as he/she deems appropriate to avoid terminating ongoing efforts prior to completion of the peer review process;

"(e) Each center has reasonable plans to develop medical applications of free electron laser technology by the end of fiscal year 1993, and

"(f) Each center is able and willing to provide user facilities for research groups located outside the centers which are studying the applications of this technology.".

LOTT AMENDMENT NO. 595

(Ordered to lie on the table.)

Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

On page 118 of the bill, strike out lines 10 through 18 and insert in lieu thereof the following:

(b) UNITED STATES MILITARY ACADEMY.—Section 4348(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(c) UNITED STATES NAVAL ACADEMY.—Section 6959(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(d) UNITED STATES AIR FORCE ACADEMY.—Section 9348 of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

NUNN AMENDMENT NO. 596

(Ordered to lie on the table.)

Mr. NUNN submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

Viz:

On page 293, between lines 13 and 14, insert the following new section:

SEC. . FUNDING FOR THE ANTI-DRUG ABUSE ACT OF 1988.

(a) TRANSFER OF FUNDS.—Of the unobligated funds available to all departments and agencies of the Executive branch to all departments and agencies of the Executive branch of the Government at the end of fiscal year 1989, $1,700,000,000 shall be transferred, as provided in subsection (b), and shall be available for carrying out during fiscal year 1990 and Anti-Drug Abuse Act of 1988 and the amendments made by such Act.

(b) ALLOCATION OF UNOBLIGATED FUNDS.—The amount transferred from the unobligated funds of any department or agency pursuant to subsection (a) shall be an amount which bears the same ratio to $1,700,000,000 as the amount of unobligated funds of that department or agency at the end of fiscal year 1989 bears to the total amount of unobligated funds of all departments and agencies of the executive branch at the end of such fiscal year.

SPECTER AMENDMENT NOS. 597 THROUGH 599

(Ordered to lie on the table.)

Mr. SPECTER submitted three amendments intended to be proposed by him to the bill S. 1352, supra, as follows:

AMENDMENT No. 597

It is the Sense of the Senate that the Secretary of Defense and Director of Central Intelligence shall report by September 1, 1989, to the Senate Committee on Armed Services, the House Committee on Armed Services, the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence on efforts to locate American hostages in Lebanon, the resources dedicated to locating these hostages and how additional resources, in terms of funds and personnel, can be effectively utilized to locate these hostages and obtain their release.

AMENDMENT No. 598

It is the Sense of the Senate that the Secretary of Defense shall report by September 1, 1989, to the Senate Committee on Armed Services, the House Committee on Armed Services, the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence on efforts to locate American hostages in Lebanon, the resources dedicated to locating these hostages and how additional resources, in terms of funds and personnel, can be effectively utilized to locate these hostages and obtain their release.

AMENDMENT No. 599

At the appropriate place insert the following:

The Senate finds:

(1.) The United States needs more HUMIN intelligence in the light of worldwide terrorist activities.

(2.) The need for more HUMIN intelligence is demonstrated by our failure to locate U.S. hostages including Colonel Higgins who was apparently murdered yesterday by terrorists.

(3.) The Department of Defense and the CIA have responsibilities for such HUMIN intelligence.

It is the sense of the Senate that the Secretary of Defense and the Director of CIA report to the Congress by September 1, 1989, as to possible improvements in collection of HUMIN intelligence.

HELMS AMENDMENT NO. 600

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

At the appropriate place in Title VI of the bill, add the following:

"Notwithstanding any other provision of law, no person who is a retired regular officer of the military service shall be considered an officer of the United States for purposes of Section 2071(b) of Title 18 of the United States Code. Upon enactment, this subsection shall be effective as of July 1, 1989.".

BOND AMENDMENT NO. 601

(Ordered to lie on the table.)

Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

On page 331, line 12, strike "$47,500,000" and insert in lieu thereof "$72,500,000".

GLENN AMENDMENT NOS. 602 AND 603

(Ordered to lie on the table.)

Mr. GLENN submitted two amendments intended to be proposed by him to the bill S. 1352, supra, as follows:

AMENDMENT No. 602

On page 248, line 4, strike out all through line 12 on page 258 and insert in lieu thereof the following:

(a) DEFINITIONS.—For purposes of this title—

(1) the term "agency" means in an Executive agency (as defined in section 105 of title 5, United States Code), except that such term does not include—

(A) the National Security Agency;

(B) the Central Intelligence Agency;

(C) the Defense Intelligence Agency;
(D) the Federal Bureau of Investigation; or
(E) the General Accounting Office;
(2) the term "employee" means an employee (as defined in section 2105 of title 5, United States Code) whose rate of basic pay would, but for this title, be determined under—
(A) subchapter III or section 5371 of chapter 53 of title 5, United States Code, relating to the General Schedule; or
(B) chapter 54 of title 5, United States Code, relating to the performance management and recognition system; and
(3) the terms "collective bargaining", "collective bargaining agreement", "exclusive representative", "management official", and "supervisor" each has the meaning given such term under section 7103(a) of title 5, United States Code.

(b) DEMONSTRATION PROGRAMS OF ALTERNATIVE COMPENSATION SYSTEMS.—(1) Within 2 years after the date of the enactment of this section, the demonstration programs using alternative compensation systems as provided under this section, shall be implemented by the Office of Personnel Management and—
(A) the head of the relevant agency for any program described under paragraph (2)(A)(i);
(B) the Secretary of Defense for the programs described under paragraph (2)(A)(ii); and
(C) the Administrator of the National Aeronautics and Space Administration for the program described under paragraph (2)(A)(iii).
(2)(A) There shall be implemented under the provisions of this subsection, no less than 6 and no more than 10 demonstration programs using alternative compensation systems, of which—
(i) between 1 and 5 such programs shall be designed and implemented by the head of an agency, after consultation and approval by the Office of Personnel Management;
(ii) 4 such programs shall be developed and implemented within the Department of Defense by the Secretary of Defense, after consultation and approval by the Office of Personnel Management; and
(iii) 1 such program shall be developed and implemented within the National Aeronautics and Space Administration by the Administrator of such Administration, after consultation and approval by the Office of Personnel Management.
(B) Each such program under this subsection shall—
(i) cover a sufficient number of positions within an agency to provide an adequate basis on which to evaluate the desirability of implementing such program on a broader scale within the Government, except that not less than the equivalent of 5,000 full-time positions and no more than the equivalent of 25,000 full-time positions shall be covered in any such program at any time;
(ii) include in the development of such program, prior to implementation, a detailed information gathering plan—
(I) to provide for the evaluation of such program to be developed by the Office of Personnel Management and the head of the relevant agency;
(II) which shall include the total number of employees to participate in such program;
(III) which shall be—
(aa) submitted to the General Accounting Office, at least 60 days prior to program implementation; and
(bb) reviewed by the General Accounting Office which shall report the results of the review to the Senate Committee on Governmental Affairs, the House Committee on Post Office and Civil Service, and the head of the relevant agency; and
(IV) which shall be periodically reviewed with regard to the adherence of such agency to such plan by the General Accounting Office which shall submit reports of such reviews to the relevant congressional committees; and
(iii) within 2 years after the date of implementation under paragraph (1), have the full number of employees participating in such program as provided for in clause (ii)(II).
(C)(i) notwithstanding the provisions of subparagraph (B), no more than 2 programs described under subparagraph (A)(ii) may cover no more than the equivalent of 35,000 full-time positions each.
(ii) Notwithstanding the provisions of clause (i), the total number or equivalent full-time positions combined for the 4 programs described under subparagraph (A)(ii) may cover no more than 100,000 such positions.
(3) Each program under this subsection shall provide that—
(A) the rate of basic pay for an employee participating in any program under this title—
(i) shall be at least equal to the rate of basic pay payable to such employee for the pay period immediately preceding the date of the implementation of such program; and
(ii) may not exceed the rate of basic pay payable for level V of the Executive Schedule; and
(B) the total cost to the Government in carrying out such programs shall not exceed what the total costs to the Government would have been, during the same period, if this Act had not been enacted.
(4)(A) Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code, shall not be included within any program under this section if the program—
(i) would violate a collective bargaining agreement between the agency and the labor organization, unless there is another written agreement with respect to the program between the agency and the organization permitting the inclusion; or
(ii) is not covered by such a collective bargaining agreement, until there has been consultation or negotiation, as appropriate, by the agency with the labor organization.
(B) Employees within any unit with respect to which a labor organization has not been accorded exclusive recognition under chapter 71 of title 5, United States Code, shall not be included within any program under this section, unless there has been agency consultation regarding the program with the employees in the unit.
(5) The Office of Personnel Management, the Secretary of Defense, and the Administrator of the National Aeronautics and Space Administration shall, with respect to each applicable program implemented under paragraph (1)—
(A) publish the plan developed under paragraph (2)(B)(ii) for such program in the Federal Register prior to implementation of such program;
(B) provide notification of the implementation of such program to affected employees and the Congress within 90 days before the date of such implementation; and
(C) provide an annual report to the Congress on such program.
(6)(A) Subject to subparagraph (B), any demonstration program implementing an alternative compensation system under this subsection shall terminate at the earlier date of—
(i) 5 years after the date on which the full number of employees are participating in such program as provided for under paragraph (2)(B)(iii); or
(ii) 7 years after the date of the implemention of such program under paragraph (1).
(B)(i) A program under this subsection may be terminated in accordance with the provisions of clause (ii), if the Office of Personnel Management, in consultation with the head of the relevant agency, determines that such program creates a substantial hardship on, or is not in the best interests of, the public, the Federal Government, or employees.
(ii) If a determination is made under the provisions of clause (i), a program may be terminated by the Office of Personnel Management, after consultation with—
(I) the head of the relevant agency, with regard to a program described under paragraph (2)(A)(i);
(II) the Secretary of Defense, with regard to a program described under paragraph (2)(A)(ii); or
(III) the Administrator of the National Aeronautics and Space Administration, with regard to the program described under paragraph (2)(A)(iii).
(C) If a program is terminated under the provisions of subparagraph (B), the head of the relevant agency shall notify all affected employees of such termination no later than 90 days before the date of such termination.

(c) ALTERNATIVE COMPENSATION SYSTEMS.—(1) Before developing and implementing a demonstration program under subsection (b), the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, and each head of a relevant agency shall consider an alternative compensation system—
(A) under which annual pay adjustments under section 5305 of title 5, United States Code, provide that the total pay and benefits for Government service shall be comparable to the total pay and benefits for individuals at the same levels of work outside the Government;
(B) under which annual pay adjustments under section 5305 of title 5, United States Code, provide that rates of basic pay payable to employees are consistent with rates of basic pay generally payable for the same levels of work outside the Government within the same geographic region;
(C) under which conditions of employment for employees shall be subject to collective bargaining; or
(D) established by the head of the agency involved, which—
(i) may identify separate career categories for employees in positions which are subject to the system;
(ii) shall provide for the rate of basic pay of an employee to be set and adjusted within salary structures based on such factors as the experience and achievements of the employee, position in a pay range, job responsibilities, rates of pay for similar positions outside the government, and (consistent with section 5334 of title 5, United States Code) changes in positions or tyes of appointments;
(iii) shall provide pay differentials for service as a supervisor or management official (which shall be considered a part of

basic pay for purposes of subchapter III of chapter 83, and chapter 84, of title 5, United States Code);

(iv) may authorize special awards (which shall not be considered a part of basic pay for any purpose); and

(v) shall authorize performance recognition in the form of—

(I) a lump-sum payment (which shall not be considered a part of basic pay for any purpose);

(II) an increase in the rate of basic pay of an employee within a pay range or to a higher pay range; or

(III) nonmonetary recognition.

(2)(A) If the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, or any head of an agency implements a program using a system described in paragraph (1)(C), such program shall provide that—

(i) any pay schedules or rates shall be established to provide that an appropriate differential (which shall be considered part of basic pay) is provided for service as a supervisor or management official; and

(ii) only a unit or subdivision of a unit for which an exclusive representative is certified may particpate.

(B) For purposes of a program using a system described in paragraph (1)(C), the term "conditions of employment" means—

(i) personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, included under section 4103(a)(14) of title 5, United States Code; and

(ii) personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, relating to classification of positions, leave, pay, or other compensation or benefits;

except that such term does not include policies, practices, and matters relating to life insurance, health insurance, and retirement.

(d) RULE OF STATUTORY CONSTRUCTION.—(1) Except as provided in paragraph (2), in the administration of an alternative compensation system under this section, the provisions of this section shall apply notwithstanding any inconsistent provision of title 5, United States Code.

(2) In the administration of an alternative compensation system under this section, no provision of this section may be construed to waive any inconsistent provision of—

(A) chapters 83 and 84 of title 5, United States Code, relating to retirement;

(B) chapter 87 of title 5, United States Code, relating to life insurance; or

(C) chapter 89 of title 5, United States Code, relating to health insurance.

AMENDMENT No. 603

On page 259, line 13, strike out all through line 18 on page 260 and inserting in lieu thereof:

"(a) PAY AUTHORITY.—The Director of the Office of Management and Budget, in consultation with the Director of the Office of Personnel Management, may, from time to time, allocate and reallocate among the departments and agencies of the executive branch critical position pay authority for not to exceed a government-wide total of 200 positions.

"(b) POSITION LIMITATIONS.—The head of an agency who receives an allocation of critical position pay authority may exercise such authority for not to exceed the number of positions for which authority is received from the Director of the Office of Management and Budget as set forth in subsection (a) of this section.

"(c) DETERMINATION OF CRITICAL POSITIONS.—In determining whether a position is a critical position to which this section shall apply, the head of the agency shall consider the extent to which—

"(1) the position requires scientific, technical, expert or professional qualifications; and

"(2) additional compensation is necessary to attract exceptionally qualified individuals.

"(d) ADJUSTMENTS IN RATES.—Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of title 5, United States Code, the maximum annual rate of pay established by this section shall be adjusted by an amount, rounded to the nearest multiple of $100, equal to the percentage of such annual rate of pay which corresponds to the percentage of the adjustment in the rates of pay for the Executive Schedule under section 5318 of title 5, United States Code.

"(e) DEFINITION.—For purposes of this section, 'critical position pay authority' means the authority of the head of an agency, notwithstanding any other law (including section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.), and sections 5308, 5382, and 5383(b) of title 5, United States Code) to fix the compensation for any position he determines to be a critical position at the time it is filled at an annual rate that does not exceed the rate for level I of the Executive Schedule. Such authority must be reexercised when a position becomes vacant and is refilled based upon a redetermination by the agency head that the position is a critical position within the meaning of this section. Such authority may be reexercised only if the allocation made by the Director of the Office of Management and Budget required for such exercise pursuant to subsection (b) is reconfirmed by the Director of the Office of Management and Budget at the time of such reexercise.".

WARNER AMENDMENT NO. 604

(Ordered to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

Add at the appropriate place:

SEC. . PROVISION ON K-REACTOR COOLING TOWER

Funds appropriated subsequent to an authorization in this Act shall not be spent for construction of a cooling tower for K-Reactor, Savannah River, SC, unless the Secretary of Energy has decided that the K-Reactor will be restarted. Nothing in this section is intended to be in conflict with the Clean Water Act or other permanent Law.

BUMPERS AMENDMENT NOS. 605 THROUGH 609

(Ordered to lie on the table.)

Mr. BUMPERS submitted five amendments intended to be proposed by him to the bill S. 1352, supra, as follows:

AMENDMENT No. 605

On page 293, between lines 13 and 14, insert the following new section:

SEC. . REPORT REGARDING COORDINATION OF INFORMATION WITHIN THE EXECUTIVE BRANCH ON FRAUD BY CONTRACTORS.

(a) IN GENERAL.—Not later than September 30, 1990, the President shall report to Congress on current and planned administrative mechanisms to coordinate information within the Executive branch concerning administrative and judicial actions taken against Government contractors as a result of activities described in subsection (b)(1).

(b) CONTENT OF REPORT.—The report required by subsection (a) shall include the following:

(1) A description of current administrative actions that will ensure that all relevant agencies are advised when there has been an investigation, proceeding, or litigation involving fraud on the part of a contractor (or an agent or employee of a contractor) that has resulted in a judgment against the contractor (or an agent or employee of the contractor), a decision to debar or suspend, or resolved by consent or compromise.

(2) Recommendations to enhance the effectiveness of the procedures described in paragraph (1).

(3) A discussion of the feasibility and desirability of requiring a review or audit of each contract of a value of more than $1,000,000, or if the potential of recovery would justify such follow-up, that such contractor has, or has had, with any Government agency where similar problems may have occurred.

(4) Recommendations for any legislative changes necessary to accomplish the purposes of paragraphs (2) and (3).

(5) The estimated costs of implementing any recommendations described pursuant to paragraph (2).

(b) DEFINITIONS.—For the purposes of the report required by this section the term "fraud" means—

(1) acts of fraud or corruption or attempts to defraud the Government or corrupt its agents;

(2) acts which constitute a cause for debarment or suspension under part 9.406-2(a) or part 9.407—2(a) of the Federal Acquisition Regulation or successor parts of such regulation; and

(3) acts which violate any provision of sections 3729 through 3731 of title 31, United States Code, section 1031 of title 18, United States Code, or the Anti-Kickback Act of 1986 (41 U.S.C. 51-58).

AMENDMENT No. 606

On page 293, between lines 13 and 14, insert the following new section:

SEC. . REQUIREMENT FOR THE WITHDRAWAL OF A LIMITED NUMBER OF UNITED STATES FORCES FROM THE REPUBLIC OF KOREA.

(a) REDUCTION OF UNITED STATES FORCE LEVELS IN THE REPUBLIC OF KOREA.—Not later than June 30, 1990, the Secretary of the Army shall initiate action for the withdrawal of 10,000 members of the Army from the Republic of Korea. The withdrawal of such personnel shall be completed by not later than September 30, 1992.

(b) PRESIDENTIAL REPORT. —Not later than May 1, 1990, the President shall submit to Congress a report on the withdrawal of United States military forces from the Republic of Korea. The President shall include in such report the following:

(1) Options and the President's recommendations with respect to the reassignment or other disposition of the United

States military forces withdrawn from the Republic of Korea.

(2) The feasibility and implications of leaving only United States air and special support military personnel in the Republic of Korea and withdrawing all other United States military personnel from that country.

(3) Technical and planning assistance that the United States should make available to the Republic of Korea as that country prepares to assume greater responsibility for its own defense.

(4) The feasibility of relocating, on an expedited basis, personnel, equipment, and facilities of the Armed Forces of the United States currently situated in Seoul, Korea, to a more suitable location or locations in the vicinity of Seoul.

(c) FORM OF REPORT. —The President shall submit the report required by subsection (b) in both classified and unclassified versions.

(d) DISCUSSIONS WITH THE REPUBLIC OF KOREA.—It is the sense of Congress that the President should initiate discussions with the Republic of Korea concerning the manner of accomplishing the withdrawal of the United States forces from the Korean peninsula.

(e) COMMITMENTS TO THE REPUBLIC OF KOREA.—Congress hereby reaffirms the United States commitment to the security and territorial integrity of the Republic of Korea.

AMENDMENT NO. 607

At the end of title IX, add the following new section:

SEC. . EFFECT OF SPACE NUCLEAR REACTORS ON GAMMA-RAY ASTRONOMY MISSIONS.

(a) CONGRESSIONAL DECLARATION.—Congress hereby—

(1) notes that gamma-ray astronomy missions provide an important contribution to our understanding of the origin of the universe; and

(2) expresses its concern that the radiation emitted by the nuclear reactors that power the Radar Ocean Reconnaissance Satellites (RORSATs) of the Soviet Union in Earth orbit has interfered with the operation of gamma-ray detectors aboard scientific satellites operated by the United States and other nations.

(b) PRESIDENT URGED TO CALL UPON SOVIET UNION TO REDUCE OR CEASE INTERFERENCE WITH U.S. SATELLITES.—Congress calls on the President to urge the Soviet Union to take whatever steps are necessary to substantially reduce or eliminate the interference of those reactors with the operation of gamma-ray detectors aboard satellites in Earth orbit.

(c) REPORT.—Not later than April 30, 1990, the President shall submit to Congress a report on the potential for implications for gamma-ray astronomy missions that could be caused by the placement in Earth orbit of space nuclear reactors presently under development by the United States.

AMENDMENT NO. 608

At the appropriate place in the bill insert the following:

"(a) Congress finds that—

(1) the efforts of the strategic defense initiative organization in supporting high payoff scientific concepts and technological breakthroughs have broad support in Congress.

(2) the Fletcher study that laid the groundwork for the strategic defense initiative said that SDI efforts should provide for continued investment of about 5% of available resources in high risk innovative approaches that offer high payoff.

(3) the innovative Science and Technology Office within SDIO is the office tasked with seeking out, funding, and bringing to technological maturity high payoff scientific concepts and technological breakthroughs.

(b) it is the sense of the Senate that in making its budget allocations for fiscal year 1990 and budget plans for future years, SDIO should fund the innovative science and technology office within SDIO at a level of 3-5% of SDIO's total budget exclusive of funds for projects carried out by the IS&T office under the small business innovative research program.

AMENDMENT NO. 609

At the appropriate place in the bill insert the following:

It is the sense of the Senate that neither the U.S. nor the Soviet Union should take actions that would lead to a net increase in their overall numbers of strategic nuclear delivery vehicles or major categories of strategic nuclear delivery vehicles, prior to the signing of a strategic arms reduction treaty.

NUNN AMENDMENT NOS. 610 THROUGH 612

(Ordered to lie on the table.)

Mr. NUNN submitted three amendments intended to be proposed by him to the bill S. 1352, supra, as follows:

AMENDMENT NO. 610

Insert the following at the end of section 916:

This section shall not become effective until the following provisions are enacted into law:

(a) FUNDING FOR THE ANTI-DRUG ABUSE ACT OF 1988.—Of the unobligated funds available to all departments and agencies of the Executive branch of the Government at the end of fiscal year 1989, $1,700,000,000 shall be transferred, as provided in subsection (b), and shall be available for carrying out during fiscal year 1990 the Anti-Drug Abuse Act of 1988 and the amendments made by such Act.

(b) ALLOCATION OF UNOBLIGATED FUNDS.—The amount transferred from the unobligated funds of any department or agency pursuant to subsection (a) shall be an amount which bears the same ratio to $1,700,000,000 as the amount of unobligated funds of that department or agency at the end of fiscal year 1989 bears to the total amount of unobligated funds of all departments and agencies of the Executive branch at the end of such fiscal year.

AMENDMENT NO. 611

On page 2, line 17, strike out "$2,706,500,000" and insert in lieu thereof "$2,674,900,000".

On page 2, line 18, strike out "$2,742,100,000" and insert in lieu thereof "$2,707,400,000".

On page 3, line 3, strike out "$2,637,600,000" and insert in lieu thereof "$2,584,400,000".

On page 3, line 4, strike out "$3,120,098,000" and insert in lieu thereof "$3,061,798,000".

On page 3, line 13, strike out "$2,892,713,000" and insert in lieu thereof "$2,833,813,000".

On page 3, line 14, strike out "$3,745,835,000" and insert in lieu thereof "$3,681,335,000".

On page 3, line 18, strike out "$8,346,762,000" and insert in lieu thereof "$8,195,762,000".

On page 3, line 19, strike out "$9,200,235,000" and insert in lieu thereof "$9,046,235,000".

On page 4, line 9, strike out "$6,314,300,000" and insert in lieu thereof "$5,304,000,000".

On page 4, line 10, strike out "$6,592,460,000" and insert in lieu thereof "$5,561,860,000".

On page 4, line 14, strike out "$1,178,000,000" and insert in lieu thereof "$1,172,100,000".

On page 4, line 15, strike out "$1,090,900,000" and insert in lieu thereof "$1,086,700,000".

On page 4, line 20, strike out "$15,930,600,000" and insert in lieu thereof "$15,714,700,000".

On page 4, line 21, strike out "$13,957,064,000" and insert in lieu thereof "$13,780,364,000".

On page 4, line 25, strike out "$7,010,000,000" and insert in lieu thereof "$6,980,600,000".

On page 5, line 1, strike out "$5,892,836,000" and insert in lieu thereof "$5,868,736,000".

In paragraph (2)(A) of section 104a (as added by amendment number 400), relating to the authorization of appropriations for fiscal year 1990 for the Air National Guard, strike out "$941,200,000" and insert in lieu thereof "$887,900,000".

In paragraph (2)(B) of section 104a (as added by amendment number 400), relating to the authorization of appropriations for fiscal year 1991 for the Air National Guard, strike out "$753,900,000" and insert in lieu thereof "$697,800,000".

In paragraph (4)(A) of section 104a (as added by amendment number 400), relating to the authorization of appropriations for fiscal year 1990 for the Navy Reserve, strike out "$144,000,000" and insert in lieu thereof "$59,200,000".

In paragraph (4)(B) of section 104a (as added by amendment number 400), relating to the authorization of appropriations for fiscal year 1991 for the Navy Reserve, strike out "$159,700,000" and insert in lieu thereof "$92,600,000".

In paragraph (5)(A) of section 104a (as added by amendment number 400), relating to the authorization of appropriations for fiscal year 1990 for the Air Force Reserve, strike out "$177,900,000" and insert in lieu thereof "$152,200,000".

In paragraph (5)(B) of section 104a (as added by amendment number 400), relating to the authorization of appropriations for fiscal year 1991 for the Air Force Reserve, strike out "$179,200,000" and insert in lieu thereof "$154,000,000".

On page 17, line 16, insert a comma after "aircraft".

On page 63, line 14, strike out "$23,453,700,000" and insert in lieu thereof "$23,597,400,000".

On page 63, line 15, strike out "$24,589,900,000" and insert in lieu thereof "$24,747,400,000".

On page 63, line 17, strike out "$24,358,200,000" and insert in lieu thereof "$25,519,500,000".

On page 63, line 18, strike out "$24,945,900,000" and insert in lieu thereof "$26,130,500,000".

On page 63, line 20, strike out "$1,700,500" and insert in lieu thereof "$1,706,400,000".

On page 63, line 21, strike out "$1,767,500,000" and insert in lieu thereof "$1,771,700,000".

On page 63, line 23, strike out "$22,709,500,000" and insert in lieu thereof "$22,954,800,000".

On page 63, line 24, strike out "$23,269,300,000" and insert in lieu thereof "$23,470,100,000".

On page 64, line 8, strike out "$895,700,000" and insert in lieu thereof "$980,500,000".

On page 64, line 9, strike out "$949,900,000" and insert in lieu thereof "$1,017,000,000".

On page 64, line 14, strike out "$981,900,000" and insert in lieu thereof "$1,007,600,000".

On page 64, line 15, strike out "$1,015,400,000" and insert in lieu thereof "$1,041,300,000".

On page 64, line 20, strike out "$1,988,400,000" and insert in lieu thereof "$2,041,700,000".

On page 64, line 21, strike out "$2,104,600,000" and insert in lieu thereof "$2,160,700,000".

On page 181, line 21, strike out "3" and insert in lieu thereof "642".

On page 183, line 17, strike out "3" and insert in lieu thereof "642".

On page 185, line 9, strike out "7" and insert in lieu thereof "646".

On page 271, line 12, strike out "$166,752,900,000" and insert in lieu thereof "$168,472,900,000".

On page 271, line 14, strike out "$171,848,000,000" and insert in lieu thereof "$173,544,200,000".

On page 397, beginning with line 20, strike out all down through line 4 on page 398 and insert in lieu thereof the following:

(c) LIMITATION ON CERTAIN PAYMENTS.—After the effective date of the transfer provided in subsection (b), the Secretary of Defense shall pay to the Administrator of General Services only the costs incurred by the General Services Administration in furnishing space, repairs, alterations, maintenance, and other services and facilities to the Department of Defense in the National Capital Region until after renovation of the Pentagon building has been completed or until after September 30, 1999, whichever is earlier. Payments by the Secretary of Defense under the preceding sentence shall be in lieu of the payment of any charges the Administrator of General Services is required to make against the Department of Defense under section 210(j) of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 490(j)).

On page 447, line 20, strike out "5332" and insert in lieu thereof "5532".

AMENDMENT NO. 612

On page 247, below line 24, insert the following:

SEC. 836. UTILIZATION OF SMALL BUSINESS ACT AUTHORITY TO ASSIST CERTAIN DISADVANTAGED SMALL BUSINESS CONCERNS

The Secretary of Defense shall direct the Secretary of each military department to identify, in each of fiscal years 1990 and 1991, not less than 10 construction projects (including repair and alteration of existing facilities) that are suitable for participants in the Minority Small Business and Capital Ownership Development Program of the Small Business Administration and to make use of the authority provided in section 7(j)(13)(D) of the Small Business Act (15 U.S.C. 636(j)(13)(D)) in the award of contracts in connection with each such project.

REID AMENDMENT NO. 613

Mr. REID proposed an amendment to amendment No. 536 proposed by Mr. NUNN to the bill S. 1352, supra; as follows:

On page 11, line 5, strike "Chairman and ranking minority members of the Committees on Armed Services of the Senate and the House of Representatives shall each appoint one member" and insert "the Majority Leader, and the Minority Leader of the Senate shall jointly appoint two members, and the Speaker and the Minority Leader of the House of Representatives shall jointly appoint two members".

On page 12, line 3, strike "January 15, 1991," and insert "April 30, 1990,".

On page 12, line 5, strike "the Committees on Armed Services of the Senate and the House of Representatives" and insert "Congress".

On page 12, line 22, strike "while minimizing interference with the performance of the missions of those facilities,".

On page 13, line 7, strike "environmental compliance and".

On page 14, between lines 3 and 4, insert the following:

(9) The adequacy of the five-year plan proposed by the Secretary of Energy to bring the Department of Energy atomic energy defense facilities into compliance with environmental laws.

McCONNELL (AND OTHERS) AMENDMENT NO. 614

Mr. MCCONNELL (for himself, Mr. KERRY, and Mr. COATS) proposed an amendment to the bill S. 1352, supra; as follows:

Insert where appropriate:

SECTION 1. GENERAL AUTHORITY.

(a) The purpose of this provision is to authorize Federal law enforcement agencies to use appropriate force to compel airborne drug traffickers to comply with instructions to land their aircraft.

(b) Whenever any aircraft liable to seizure or examination (on the grounds that narcotics are being transported on the aircraft) by any agency of the U.S. with responsibility for drug law enforcement does not land on being ordered to do so on being pursued by an authorized aircraft which has displayed identifying insignia prescribed for an authorized aircraft, the person in charge or in command of the authorized aircraft may, after a gun has been fired by the authorized aircraft as a warning signal, fire at or into the aircraft which does not land.

SEC. 2. INDEMNIFICATION.

The person in command of an authorized aircraft and all persons acting under that person's direction shall be indemnified from any penalties or actions for damages for firing at or into and aircraft pursuant to Section 1. If any person is killed or wounded by the firing, and the person in command of the authorized aircraft or any person acting pursuant to their orders is prosecuted or arrested therefor, they shall be forthwith admitted to bail.

SEC. 3. DEFINITION.

For the purposes of the Act—

(1) the term "authorized aircraft" means an aircraft operated by an agency of the U.S. with responsibility for drug law enforcement; and

(2) the term "agency" of the U.S. with responsibility for drug law enforcement means the Coast Guard and Customs Service and the Drug Enforcement Agency.

BINGAMAN (AND OTHERS) AMENDMENT NO. 615

Mr. BINGAMAN (for himself, Mr. GLENN, Mr. LEVIN, and Mr. WALLOP) proposed an amendment to the bill S. 1352, supra, as follows:

On page 260, beginning with line 19, strike out all through line 11 on page 266 and insert in lieu thereof the following:

SEC. 844. POST-EMPLOYMENT RESTRICTIONS.

(a) CLARIFICATION.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended—

(1) in subsection (a)(1), by inserting ", except as provided in subsection (c)" before the semicolon;

(2) in subsection (b)(1), by inserting "except as provided in subsection (c)" before the semicolon; and

(3)(A) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively;

(B) by redesignating subsections (j) through (n) as subsections (l) through (o), respectively; and

(C) by inserting after subsection (b) the following new subsection (c):

"(c) RECUSAL.—(1) A competing contractor may contact a procurement official with whom discussions are otherwise prohibited under subsection (a)(1) for the limited purpose of determining whether such official, after obtaining the approval required by paragraph (2), would be interested in engaging in such discussions. If a competing contractor makes such a contact with a procurement official, the procurement official shall promptly notify the official's supervisor and the appropriate designated agency ethics official of the contact.

"(2) A procurement official may engage in discussions with a competing contractor that are otherwise prohibited by subsection (b)(1) if, before engaging in such discussions—

"(A) the procurement official proposes in writing to disqualify himself from the conduct of any procurement relating to contracts of the competing contractor for any period during which future employment or business opportunities for such procurement official with such competing contractor have not been rejected by either the procurement official or the competing contractor and, if determined to be necessary by the designated agency ethics official in accordance with criteria prescribed in implementing regulations, for a reasonable period thereafter; and

"(B) the supervisor of the procurement official, after consultation with the appropriate designated agency ethics official, approves in writing the recusal of the procurement official.";

(4) in subsection (f) (as redesignated by paragraph (3)(A))—

(A) by striking out "No Government official" and inserting in lieu thereof "(1) No Government official";

(B) by striking out "shall—" and inserting in lieu thereof "shall knowingly—";

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(D) by inserting at the end the following new paragraph:

"(2) This section does not apply to the following:

"(A) A subcontract of a subcontractor who is a competing contractor unless—

"(i) the subcontract is for an amount in excess of $5,000,000;

"(ii) the subcontract is for an amount that is at least 5 percent of the amount of the prime contract and is for an amount in excess of $100,000; or

"(iii) the procurement official personally reviewed and approved the award, modification, or extension of the subcontract;

"(B) To actions, as prescribed in implementing regulations, that (1) primarily involve general scientific, technical, or engineering work, budget or policy advice or decisions, advice on the feasibility of contracting out functions, or other similar actions, and (2) do not involve the development, preparation, or issuance of a procurement solicitation, the preparation or evaluation of bids or proposals, selection of sources, conduct of negotiations, the award, modification, or extension of a contract, or performance of a contract.";

(5) by inserting after subsection (j) (as redesignated in subsection (3)(A)) the following new subsection:

"(k) ETHICS ADVICE.—(1) An employee or former employee of an agency may request advice from the appropriate designated agency ethics official as to whether such employee or former employee is precluded by this section from participating in the performance of a particular contract on behalf of a particular contractor or subcontractor.

"(2) An employee or former employee of an agency who requests advice from a designated agency ethics official pursuant to paragraph (1) shall provide the official with all information reasonably available to the employee or former employee that is relevant to a determination by the ethics official regarding such request.

"(3) Not later than 30 days after the date on which a designated agency etnics official receives a request for advice under paragraph (1) accompanied by the information required pursuant to paragraph (2), the official shall issue a written opinion as to whether the employee is precluded by this section from participating in the performance of the contract at issue.

"(4) An employee or former employee who obtains a written opinion from a designated agency ethics official under this section on the basis of the complete disclosure of information required by paragraph (2) shall not be subject to any penalty under this section to the extent that the employee or former employee reasonably relies upon such opinion.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 27 of such Act is further amended—

(1) in subsection (e) (as redesignated by subsection (a)(3))—

(A) by striking out "(c), or (e)" in paragraph (1)(A)(i) and inserting in lieu thereof "(d), or (f)";

(B) by striking out "(c), or (e)" in paragraph (1)(B)(ii) and inserting in lieu thereof "(d), or (f)";

(C) by striking out "(c), or (e)" in paragraph (2)(A) and inserting in lieu thereof "(d), or (f)";

(D) by striking out "(c), or (e)" in paragraph (3)(A) and inserting in lieu thereof "(d), or (f)"; and

(E) by striking out "subsection (m)" in paragraph (7)(B)(ii), and inserting in lieu thereof "subsection (n)";

(2) in subsecxtion (g)(1) (as redesignated by subsection (a)(3)), by striking out "subsection (m)" and inserting in lieu thereof "subsection (n)";

(3) in subsection (h) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (d)" in paragraph (1) and inserting in lieu thereof "subsection (e)";

(B) by striking out "(b) or (c)" in paragraph (2) inserting in lieu thereof "(b) or (d)"; and

(C) by striking out "(h) and (i)" in paragraph (3) and inserting in lieu thereof "(i) and (j)";

(4) in subsection (i) (as redesignated by subsection (a)(3)), by striking out "(c), or (e)" and inserting in lieu thereof "(d), or (f)";

(5) in subsection (j)(1) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (n)" and inserting in lieu thereof "subsection (o)"; and

(B) by striking out "subsection (m)" and inserting in lieu thereof "subsection (n)"; and

(6) in subsection (l) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (b)" in paragraph (1) and inserting in lieu thereof "subsections (b), (c), and (e)"; and

(B) in paragraph (2)—

(i) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b), (c), and (e)"; and

(ii) by striking out "(c) or (e)" and inserting in lieu thereof "(d), or (f)".

(c) DEFINITION.—Subsection (o) (as redesignated by subsection (a)(3)) is amended by adding at the end the following new paragraph:

"(8) The term 'designated agency ethics official' has the same meaning as the term 'designated agency official' in section 209(10) of the Ethics in Government Act of 1978 (92 Stat. 1850; 5 U.S.C. App.).".

(d) AMENDMENT TO TITLE 10.—Paragraph (6) of section 2397a(a) of title 10 United States Code, is amended to read as follows:

"(6) The term 'procurement function' includes, with respect to a contract, any function relating to—

"(A) the administration of the contract;

"(B) the approval of changes in the contract;

"(C) quality assurance, operational and developmental testing, the approval of payment, or auditing under the contract; or

"(D) the management of the procurement program.".

(e) DEADLINE FOR REGULATIONS.—Not later than 90 days after the date of the enactment of this section, final regulations implementing the amendments made by this section to the provisions of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) shall be issued in accordance with sections 6 and 25 of such Act (41 U.S.C. 405, 421).

DOMENICI (AND OTHERS) AMENDMENT NO. 616

(Ordered to lie on the table.)

Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. WALLOP, and Mr. DOLE) submitted an amendment intended to be proposed by him to the bill S. 1352, supra, as follows:

Strike all of Part C of title XXXI of Division C (page 421, line 1 through page 443, line 5) and insert in lieu thereof the following:

"PART C—DEFENSE ENERGY TECHNOLOGY TRANSFER

"SEC. 3131. SHORT TITLE.

"This Act may be referred to as the 'Department of Energy National Competitiveness Technology Transfer Act of 1989'.

"SEC. 3132. FINDINGS AND PURPOSE.

"(a) FINDINGS.—Congress finds that:

"(1) technology advancement is a key component in the growth of the U.S. industrial economy, and a strong industrial base is an essential element of the security of this country;

"(2) there is a need to enhance U.S. competitiveness in both domestic and international markets;

"(3) innovation and the rapid application of new technology are assuming a more significant role in near-term marketplace success;

"(4) the Department of Energy's laboratories and other facilities have outstanding capabilities in a variety of advanced technologies and skilled scientists, engineers, and technicians who could contribute substantially to the posture of U.S. industry in international competition;

"(5) improved opportunities for cooperative arrangements between contractor-managers of certain Department of Energy facilities and the U.S. private sector, consistent with the program missions at those facilities, particularly the national security functions involved in atomic energy defense activities, would contribute to our national well-being; and

"(6) more effective cooperation between those Department of Energy facilities and the U.S. private sector is required to provide speed and certainty in the technology transfer process.

"(b) PURPOSES.—The purposes of this Act are to—

"(1) enhance United States national security by establishing a national competitiveness mission for certain Department of Energy facilities in order to provide opportunities to utilize the technologies and capabilities residing in those facilities for the United States to enhance its competitiveness; and

"(2) enhance collaboration between universities, the private sector, and facilities of the Department of Energy so as to foster the development of technologies in areas of significant economic potential.

"SEC. 3133. DEFINITIONS.

"For purposes of this Act, the term—

"(a) 'Facility' means the following Department of Energy installations, respectively:

"(1) Lawrence-Livermore National Laboratory;

"(2) Los Alamos National Laboratory;

"(3) Sandia National Laboratory;

"(4) Idaho National Engineering Laboratory; and

"(5) any other installations that are managed under a contract that includes the provisions referred to in section 3134(d) and any government-owned, contractor-operated installations established as Department of Energy multi-purpose laboratories or program-dedicated laboratories that are designated by the Secretary upon request of the contractor-manager; except that term does not include Naval Nuclear Propulsion laboratories or contractors performing work covered under Executive Order 12344, as codified in 42 U.S.C. 7158;

"(b) 'Secretary' means the Secretary of Energy;

"(c) 'Contract' means a prime contract between the United States, represented by the

Department of Energy, and a contractor to manage and operate a facility;

"(d) 'Contractor-manager' means the entity undertaking the responsibility under a contract to manage and operate a facility;

"(e) 'Cooperative arrangement' means a written agreement between a contractor-manager and one or more collaborative parties, under which the contractor-manager, acting under his contract, provides personnel, services, equipment, or other resources for the contract of specified developmental or advanced work to assist in creating products of potential commercial value;

"(f) 'Collaborative party' means a party to a cooperative arrangement other than a Federal department or agency or any of their contractors or subcontractors acting in furtherance of their contractual undertakings to the Federal entities;

"(g) 'Program mission' means the work and services constituting the entire scope of work to be performed by the contracting party under the contract, excluding the national competitiveness mission;

"(h) 'National competitiveness mission' means the contractor-manager's activities under the contract, conducted in partnership with the Department of Energy, consistent with program missions and national security considerations, to provide for the transfer of technology developed at the facility to the U.S. private sector, including activities performed under cooperative arrangements and intellectual-property licensing activities;

"(i) 'Intellectual property' means patents, trademarks, copyrights, mask works, and other forms of comparable property rights protected by Federal law;

"(j) 'Technical data' means recorded information, regardless of form or characteristic of a scientific or technical nature, excluding computer software;

"(k) 'Computer software' means recorded information, regardless of form or media on which it may be recorded, comprising computer programs or documentation thereof; and

"(l) 'Unlimited rights' means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly or display publicly, in any manner and for any purpose, and to have or permit others to do so.

"SEC. 3134. NATIONAL COMPETITIVENESS MISSION.

"(a) Within 180 days after the date of enactment of this Act, the Secretary shall:

"(1) review all existing laws, regulations, policy guidelines, orders, directives and administrative processes associated with the Department's ability to achieve the purpose of this Act;

"(2) confer with representatives of U.S. industry and labor, educational institutions, and contracting parties respecting effective implementation of this Act.

"(3) advise the Congress of any existing legal obstacles interfering with the Department's ability to achieve the purpose of this Act, and make pertinent recommendations; and

"(4) publish a comprehensive set of policy guidelines, procedures, and supporing regulations to effectuate the purpose of this Act, including:

"(A) a procedure for assuring that proposed cooperative arrangements are reviewed and concurred in, required to be modified, or rejected by the Secretary within 60 days after receipt by the Secretary of the proposed arrangement. If action is not taken by the Secretary within this 60-day period, the Secretary shall—

"(i) notify the contractor-manager affected of the date on which action will be taken, not to exceed an additional 60 days from the original deadline; and

"(ii) provide a written explanation of the reasons for the delay.

"In any case under such procedure in which the Secretary disapproves or requires the modification of any proposed cooperative arrangement submitted under this Act, the Secretary shall transmit a written explanation of such disapproval or modification to the contractor-manager affected;

"(B) requirements to avoid conflicts of interests, and to govern the use of Government funds for any receipt of funds, due to the national competitiveness mission; and

"(C) any other requirements related to the principles stated in subsection (b) of this section.

"(b) In taking the steps provided for in subsections (a)(4) and (d) of this section the Secretary shall be guided by the following principles:

"(1) The national competitiveness mission shall not interfere with any national security mission for the Department of Energy and shall be complementary to and supportive of the program missions at the facility, and in the overall best interests of the federal government.

"(2) Classified information and unclassified sensitive information protected by law or regulations shall be safeguarded.

"(3) The Secretary's management authority and responsibility with respect to the facility and the conduct of activities under the contract for the operation of the facility shall not be diminished.

"(4) The national competitiveness mission shall be conducted in a manner that—

"(A) provides fairness of opportunity to participate to entities in the U.S. private sector and for a fair return on the taxpayer's investment;

"(B) includes consideration of small business firms and universities; and

"(C) permits, subject to such restrictions, limitations, terms, and conditions as the Secretary considers necessary, temporary exchanges of personnel between any domestic firm or university and a facility subject to this Act.

"(5)(A) The benefits of technology transfer resulting from the national competitiveness mission shall accrue to U.S. industry.

"(B) In accordance with the principles in paragraphs (2), (4) and (5)(A) of this subsection, entities that are owned, controlled or dominated by a foreign government or foreign entity shall be separately considered in light of the objective of this Act to improve U.S. competitiveness and of national security. In addition, agreements with such foreign entities shall take into consideration whether or not the associated foreign government permits United States agencies, organizations, or other persons to enter into cooperative arrangements and licensing agreements with agencies, organizations, or other persons of such foreign country.

"(6) The Secretary shall establish an explicit policy and procedures to govern a contractor-manager's use of Government resources for the national competitiveness mission, royalties or other income from licensing agreements, and receipts of funds by reasons of cooperative arrangements, as well as the maintenance of books and records.

"(7) Appropriate march-in rights shall be provided for intellectual property acquired by the contractor-manager, collaborative party or their successors-in-interest to assure commercial utilization of technology developed under cooperative arrangements.

"(c) Beginning promptly after the inclusion of the national competitiveness mission in a contract, and continuing thereafter during the course of the national competitiveness mission, the Secretary and the contractor-manager shall periodically confer on:

"(1) potential projects for cooperative arrangements;

"(2) terms and conditions in cooperative arrangements;

"(3) specification of particular inventions and specific technical data or computer software provided for in section 5 of this Act; and

"(4) progress and problem areas associated with potential or actual cooperative arrangements.

"(d) Within 60 days after publication of the guidelines, procedures and regulations under subsection (a)(4), the Secretary shall make available to each contractor-manager of a facility for possible inclusion in the contract appropriate contract provisions that—

"(1) refer to this Act;

"(2) establish the concept of cooperative arrangements as a mission for the government; and

"(3) describe the respective obligations and responsibility of the government and a contractor-manager party with respect to the national competitiveness mission.

"SEC. 3135. PARTICULAR INVENTIONS AND SPECIFIC TECHNICAL DATA OR COMPUTER SOFTWARE.

"(a) Beginning after the inclusion in a contract of the national competitiveness mission, the contractor-manager shall identify in writing in advance of its use in a contemplated cooperative arrangement or in an amendment to the arrangement:

"(1) any particular inventions, conceived or first actually reduced to practice by the contractor-manager in the performance of program missions under its contract; and

"(2) any specific technical data or computer software determined to have near-term commercial value, first produced by the contractor-manager in the performance of program missions under its contract.

"(b) To the extent that this Act is inconsistent with any of the provisions of 35 U.S.C. 200 et seq., the provisions of this Act take precedence.

"(c) In addition to the exemptions provided by section 202(a) (i), (ii), (iii), and (iv) of title 35, United States Code, for purposes of this Act the Secretary may designate special circumstance technologies or inventions for which title shall vest in the Government in the same manner as exceptional circumstance determinations under section 202(a)(ii) of title 35, United States Code. The Secretary may make this designation only where a finding can be made that retention of title by the contractor would not meet the principles of section 3134(b) or that public health, safety, energy, or environmental considerations require otherwise. The Secretary's finding shall be processed in the same manner as determinations under subsection 202(b)(1) of title 35, United States Code.

"(d) With respect to any inventions conceived or first actually reduced to practice by the contractor-manager in the performance of its contract to manage and operate the facilities:

"(1) Notwithstanding section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182),

section 9 of the Federal Non-Nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908), or other provisions of law, the Secretary shall dispose of the title to an invention made by a contractor-manager in the same manner as applied to small business and nonprofit organizations under chapter 18 of title 35, United States Code, and as provided by this Act.

"(2)(A) Whenever a contractor-manager makes an invention to which the Secretary has determined to retain title for exceptional circumstances under section 202(a)(ii) of title 35, United States Code or for special circumstances under subsection (c), title to the invention shall be retained by the Government unless the facility at which the invention is made requests title or an exclusive right to the invention and the Secretary does not notify the contractor-manager of the facility within ninety days after receipt of the request that—

"(i) the invention is covered by a determination under section 292(a)(ii) of title 35, United States Code or a special circumstance designation under subsection (c) or has been classified or has been designated sensitive technical information; and

"(ii) rejection of the request, in whole or in part, either is justified by the Secretary's original determination to retain title for exceptional circumstances or for special circumstances or is in the best interests of the United States, taking into consideration the matters set forth in subparagraph (C).

"(B) Whenever a contracting party makes an invention to which the Secretary has determined to retain title because the invention is made in the course of or under a funding agreement described in section 202(a)(iv) of title 35, United States Code, the title to the invention shall be retained by the Government unless the contractor-manager of the facility at which the invention is made requests title or an exclusive right to the invention and the Secretary does not notify the director of the facility within ninety days after receipt of the request that—

"(i) the invention is covered by a determination under subsection 202(a)(iv) of title 35, United States Code, or has been classified or has been designated sensitive technical information, and

"(ii) rejection of the request, in whole or in part, is in the best interests of the United States, taking into consideration the matters set forth in subparagraph (C).

"(C) In making a determination in accordance with this paragraph, the Secretary shall consider whether any such determination either may result in—

"(i) the compromise of the national security;

"(ii) the release to unauthorized persons of sensitive technical information (whether classified or unclassified) under any program or activity for which dissemination is controlled under Federal law; or

"(iii) a conflict of interest contemplated by Federal statutes and regulations;

or will adversely affect the operation of any other program or activity conducted at any facility. The Secretary may not use export control statutes or regulations as the sole bases for refusing a request for title to an invention.

"(D) If the Secretary does not notify the contractor-manager that has requested title to an invention in accordance with this section, the Secretary shall—

"(i) notify the contractor-manager of the date on which action will be taken by the Secretary, not to exceed an additional 60 days beyond the original deadline; and

"(ii) shall provide a written explanation of the reason for the delay.

"(e) With respect to specific technical data or computer software referred to in subsection (a)(2) that the Secretary, upon request of the contractor-manager, determines has near-term commercial value and is necessary for commercialization of technology to be developed under the cooperative arrangement, the cooperative arrangement may provide intellectual property rights to the technical data or computer software; if so protected the technical data or computer software shall not be disclosed to or reproduced for any third party by the Government (except for third parties to which the Government decides it must disclose the technical data or computer software on a restricted basis either for national security purposes, for health, safety and environmental purposes, or to Government contractors in the performance of Government work), the contractor-manager or any collaborative party to the arrangement, for a period of up to three years after completion of the work performed under the arrangement up to a maximum of six years after the technical data or computer software is first produced. Thereafter, or earlier upon permission of the parties, the Government shall have unlimited rights to such intellectual property and technical data or computer software.

"(f) Notwithstanding any grant of rights under subsections (d) and (e) of this section, the Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license, to practice or have practiced for or on behalf of the United States throughout the world, to such inventions, to use or have used or create derivative works for or on behalf of the United States throughout the world such technical data or computer software.

"SEC. 3136. COOPERATIVE ARRANGEMENTS.

"(a) Notwithstanding any other provision of this Act or any other provision of any other law to the contrary, the rights to any inventions conceived or first actually reduced to practice by a collaborating party in performing under a cooperative arrangement shall be agreed to by the parties to the arrangement, subject to regulations under this Act and to the Government's nonexclusive, nontransferable, irrevocable, paid-up license, to practice or have practiced for or on behalf of the United States throughout the world, to that invention;

"(b) With respect to technical data or computer software first produced in the performance of a cooperative arrangement that the Secretary, upon request of the contractor-manager, determines has near-term commercial value and is necessary for commercialization of technology to be developed under the cooperative arrangement, may be protected by an intellectual property right; if so protected, the technical data or computer software shall not be disclosed to or reproduced for any third party by the Government (except for third parties to which the Government decides it must disclose the technical data on a restricted basis either for national security purposes, for health, safety, and environmental purposes, or to Government contractors in performance of Government work), the contractor-manager or any collaborative party to the arrangement, without the express written permission of all parties to the arrangement, for a period of up to three years after completion of the work performed under the arrangement up to a maximum of six years after the technical data is first produced, subject to the Government's nonexclusive, nontransferable, irrevocable, paid-up license, to use or have used or create derivative works for or on behalf of the United States throughout the world, such technical data or computer software. Thereafter, or earlier upon permission of the parties to the agreement, the Government shall have unlimited rights to the intellectual property and technical data or computer software; and

"(c) technical data or computer software in which collaborating parties have rights established prior to entering into cooperative arrangements shall be accorded appropriate protection.

"SEC. 3137. OVERSIGHT.

"The Secretary, the Inspector General of the Department of Energy, and the Comptroller General shall conduct periodic audits of activities under this Act.

"SEC. 3138. LIABILITY.

"Neither the United States nor the contractor-managers, or any of their officers, employees or agents, may be held liable for injury or damage due to a defect or deficiency in a product or process produced or service performed by a collaborating party or its licensees or assigns that embodies technology developed under a cooperative arrangement under this Act.

"SEC. 3139. COPYRIGHTS AND PATENTS.

"This Act does not contain any new authority for the Department of Energy to obtain a copyright or a patent.".

SASSER AMENDMENT NO. 617

Mr. SASSER submitted an amendment intended to be proposed by him to amendment No. 539 proposed by Mr. NUNN to the bill S. 1352, supra, as follows:

On page 1, beginning with line 2, beginning with "and", strike all through line 13 on page 5 and insert a period.

BOND AMENDMENT NO. 618

(Ordered to lie on the table.)

Mr. BOND submitted an amendment intended to be proposed by him to amendment No. 527 proposed by Mr. NUNN (and others) to the bill S. 1352, supra, as follows:

At the end of the amendment, add the following:

SEC. 237. ACCIDENTAL LAUNCH PROTECTION SYSTEM

(a) FINDINGS.—The Congress makes the following findings:

(1) The Strategic Defense Initiative (SDI) has made substantial progress in developing the technologies to defend the United States from a ballistic missile attack. Advances in interceptor technology, sensors, and command, control, and communications have been achieved and six key components of the SDI program have recently been combined to form the basic architecture for Phase I deployment of a system to defend the United States against ballistic missile attack.

(2) As a result of additional development and analytical study of ground-based midcourse and low-atmosphere interceptors and their appropriate sensors, a decision can be made with confidence to deploy an accidental launch protection system (ALPS) as an

initial step in a phased deployment of a comprehensive SDI system.

(3) Available evidence indicates that the technology for defending the United States against an accidental or unauthorized launch of ballistic missiles can be effectively deployed by 1995.

(4) The deployment of an accidental launch protection system would be in the national security interest for the following reasons:

(A) The deployment of such a system would provide the United States with an operational system that would yield the additional knowledge and experience necessary for achieving greater reliance on defense for deterrence and security.

(B) As the United States continues to negotiate major reductions in nuclear forces, a commitment to the deployment of such a system would provide the technology and production base needed to help safeguard against noncompliance by the Soviet Union in the event of an agreement to effectuate such reductions.

(C) The deployment of such a system would close the advantage currently held by the Soviet Union in deployed antiballistic missile capabilities, would reduce the threat of a total strategic defense breakout by the Soviet Union, and would provide the United States with a technological and production base with which to support a later decision to deploy a more comprehensive strategic defense of the United States.

(D) An initial deployment of 100 ground-based interceptors at Grand Forks, North Dakota would be consistent with the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitations of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

(E) The development of an accidental launch protection system is increasingly needed in order to offset the proliferation of offensive ballistic missile forces among nonsuperpower countries hostile to the United States and allied countries.

(F) Such a deployment would provide a mechanism for a crisis-stabilizing response to unauthorized or accidental limited missile launches by the Soviet Union, China, or any other source.

(b) POLICY.—It is the sense of Congress that—

(1) the Secretary of Defense should study options for a comprehensive deployment of an accidental launch protection system that is integrated into a step-by-step strategic defense initiative system (including space-based elements); and

(2) if appropriate, the President should initiate discussions with the leaders of the Soviet Union regarding a deployment of such a system.

(c) AUTHORIZATION FOR ALPS PROGRAM.—Of the amounts authorized to be appropriated for fiscal year 1990 pursuant to section 201, $100,000,000 shall be available only for the deployment of an accidental launch protection system as follows:

(1) $30,000,000 of the amount authorized to be appropriated pursuant to section 201(1)(A).

(2) $30,000,000 of the amount authorized to be appropriated pursuant to section 201(2)(A).

(3) $30,000,000 of the amount authorized to be appropriated pursuant to section 201(3)(A).

(4) $10,000,000 of the amount authorized to be appropriated pursuant to section 201(4)(A).

HARKIN (AND OTHERS) AMENDMENT NO. 619

Mr. HARKIN (for himself, Mr. KERRY, Mr. DECONCINI, Mr. SIMON, Mr. LEAHY, and Mr. SANFORD) proposed an amendment to the bill S. 1352, supra, as follows:

At the appropriate place, insert the following:

SEC. . FUNDING FOR PROGRAMS UNDER THE ANTI-DRUG ABUSE ACT OF 1988.

(a) TRANSFER AUTHORIZATION.—Of the amount authorized in section 201 to be appropriated for fiscal year 1990 and made available pursuant to section 231(a) for the Stratetic Defense Initiative, $450,000,000 is authorized to be transferred and be made available for carrying out in fiscal year 1990 the programs provided for under the Anti-Drug Abuse Act of 1988.

(b) ALLOCATION OF FUNDS.—Except as provided in subsection (c), if the amount of funds transferred pursuant to subsection (a) is insufficient to fund the programs referred to in that subsection in the amount authorized for such programs for fiscal year 1990, the funds transferred pursuant to subsection (a) shall be apportioned to each such program in an amount that bears the same ratio to the difference between the amount authorized for the program and the amount appropriated for the program for fiscal year 1990 as the total amount of funds transferred pursuant to subsection (a) bears to the difference between the total amount authorized for such programs and the total amount appropriated for such programs for fiscal year 1990.

(c) ALLOCATION AMONG TYPES OF PROGRAMS.—To the maximum extent practicable, the President shall allocate the funds transferred pursuant to subsection (a) equally among the following types of programs provided for under the Anti-Drug Abuse Act of 1988:

(1) Law enforcement and drug interdiction programs.

(2) Drug treatment, rehabilitation, and education programs.

LOTT AMENDMENT NO. 620

(Ordered to lie on the table.)

Mr. LOTT submitted an amendment intended to be proposed by him to amendment No. 595 proposed by him to the bill S. 1352, supra, as follows:

In lieu of the language proposed to be inserted, insert the following:

(b) UNITED STATES MILITARY ACADEMY.—Section 4348(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "five years".

(c) UNITED STATES NAVAL ACADEMY.—Section 6959(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "five years".

(d) UNITED STATES AIR FORCE ACADEMY.—Section 9348 of such title is amended by striking out "five years" and inserting in lieu thereof "five years".

NUNN (AND OTHERS) AMENDMENT NO. 621

Mr. NUNN (for himself, Mr. BYRD, Mr. WARNER, Mr. ROCKEFELLER, and Mr. GRAHAM) proposed an amendment to amendment No. 619 proposed by Mr. HARKIN to the bill S. 1352, supra, as follows:

Of the unobligated funds available to all departments and agencies of the Executive branch of the Government at the end of fiscal year 1989 from funds appropriated for defense and nondefense discretionary programs, $1,700,000,000, as provided in subsection (b), is authorized to be transferred for the purpose of carrying out during fiscal year 1990 the Anti-Drug Abuse Act of 1988 and the amendments made by such Act.

(b) ALLOCATION OF UNOBLIGATED FUNDS.—The amount authorized to be transferred from the unobligated funds of any department or agency pursuant to subsection (a) shall be an amount which bears the same ratio to $1,700,000,000 as the amount of unobligated funds of that department or agency at the end of fiscal year 1989 bears to the total amount of unobligated funds of all departments and agencies of the Executive branch at the end of such fiscal year from funds appropriated for defense and nondefense discretionary programs.

LEVIN AMENDMENT NO. 622

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to amendment No. 538 proposed by Mr. NUNN to the bill S. 1352, supra, as follows:

On page 7, between lines 13 and 14, insert the following subsection:

"(3) The term 'enforcement operations' includes use of National Guard personnel in any law enforcement activities authorized by State and local law and requested by the Governor."

LEVIN AMENDMENT NO. 623

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to amendment No. 583 proposed by Mr. NUNN to the bill S. 1352, supra, as follows:

On page 7, between lines 13 and 14, insert the following subsection:

"(3) The term 'enforcement operations' includes use of National Guard personnel in any law enforcement activities authorized by State and local law and requested by the Governor."

MITCHELL AMENDMENT NO. 624

Mr. MITCHELL proposed an amendment to amendment No. 574 proposed by Mr. SYMMS (and others) to the bill S. 1352, supra, as follows:

Strike all after SEC. in the amendment and insert in lieu thereof the following:

The Judiciary Committee is directed to hold appropriate hearings and report back to the Senate by November 1, 1989.

The report shall contain the following determinations:

(1) Whether the legislative intent of 18 U.S.C. Section 2071(b) was to require the forfeiture and disqualification from "office under the United States" to apply to officers, both active and retired, in the armed forces;

(2) Whether the legislative intent of 18 U.S.C. Section 2071(b) was to deprive persons convicted under this section from receipt of their Federal pensions;

(3) Whether 18 U.S.C. Section 2071(b) applies to other retired government employees, and if not, whether such is equitable;

(4) Whether action on any remedial legislation for Lieutenant Colonel Oliver North, relating to the denial of his pension as a result of his conviction under 18 U.S.C. Section 2071(b) is appropriate in lieu of litigation, or whether it is preferable for this issue to be determined in the courts;

(5) Whether remedial legislation for Lieutenant Colonel Oliver North is warranted under the application of 18 U.S.C. Section 2071(b), considering the opinion of the General Counsel of the General Accounting Office dated July 31, 1989;

(6) Whether any other legislation relating to the application of 18 U.S.C. Section 2071(b) is appropriate.

SYMMS (AND HELMS) AMENDMENT NO. 625

(Ordered to be held at the desk.)

Mr. SYMMS (for himself and Mr. HELMS) submitted an amendment intended to be proposed by them to an amendment to the bill S. 1352, supra, as follows:

Insert after the word "SEC. ." in the amendment the following new section:

"None of the funds authorized by this Act shall be expended to deactivate and dismantle operational Poseidon submarines; provided further that $50 million of the funds authorized for the Air Force Operations and Maintenance shall be expended only for the purpose of retrofitting at least 50 existing MIRVed Minuteman III ICBMs into existing Minuteman II silos; provided further that none of the funds authorized by this bill shall be expended to dismantle any B-52G aircraft or to convert to a dual strategic and conventional role or to a sole conventional role the squadron of B-52G ALCM carriers of 19 aircraft that is scheduled for such conversion. SEC. .".

HARKIN (AND OTHERS) AMENDMENT NO. 626

Mr. HARKIN (for himself, Mr. CONRAD, and Mr. DOMENICI) proposed an amendment, which was subsequently modified, to the bill S. 1352, supra, as follows:

On page 293, between lines 13 and 14, insert the following:

SEC. 917. SALE AND USE OF UNITED STATES DOMESTIC MEAT IN ARMED FORCES FACILITIES IN THE EUROPEAN COMMUNITY

(a) REQUIREMENT TO USE UNITED STATES DOMESTIC MEAT.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2491. Commissary stores and dining facilities: sale and use of United States domestic meat in the European Community

"(a) The Secretary of each military department shall ensure that the meat and meat food products sold in commissary stores of that military department located in any member country of the European Community and the meat and meat food products served in dining facilities of that military department located in any such country are produced and processed in the United States.

"(b) In this section:

"(1) The term 'meat' means meat within the meaning of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

"(2) The term 'meat food product' has the same meaning as provided in section 1(j) of such Act.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2491. Commissary stores and dining facilities: sale and use of United States domestic meat in the European Community.".

(b) GENERAL POLICY.—It is the sense of Congress that the Secretary of each military department should intensify efforts to procure from United States sources the products to be sold in commissary stores of that department, the food products to be served in dining facilities of that department, and the supplies to be used in such dining facilities.

McCAIN AMENDMENT NO. 627

Mr. McCAIN proposed an amendment to amendment No. 626 proposed by Mr. HARKIN (and others) to the bill S. 1352, supra, as follows:

Strike out subsection (C) and insert the following:

(C) The provisions of this section shall only be effective during fiscal years in which funds have been appropriated specifically for the purposes described in the subsection and such appropriations are from those made available to agencies or departments other than the Department of Defense.

WARNER AMENDMENTS NOS. 628 THROUGH 631

Mr. WARNER proposed four amendments to the bill S. 1352, supra, as follows:

AMENDMENT NO. 628

At an appropriate place in the bill, add the following new section:

SEC. . FEASIBILITY STUDY OF LAND TRANSFER FOR USE AS A CORRECTIONAL FACILITY.

(a)(1) The Secretary of Defense, in consultation with the U.S. Attorney General, shall conduct a study of the feasibility of selling or otherwise transferring to the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, a parcel of land of approximately 100 acres not more than 100 miles from the southern boundary of Arlington County, from the military installations within Virginia which encompass land that may be suitable for use by the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, as a site for a medium security correctional facility for persons sentenced in the courts of Virginia or in the U.S. District Court in Virginia.

(2) The study required by paragraph (1) shall address, at a minimum, the following issues:

(A) Whether there are parcels of land within those installations of the size described which could be released from Federal control without severely affecting the present mission of such installations.

(B) A description of the parcels of land described in subparagraph (A).

(C) A description of the effects, if any, transfer of such parcels of land from Federal control would have on the ability of the Secretary of Defense to effectively carry out the mission of the Department of Defense.

(D) An analysis of the risk, if any, that might be posed to military personnel and their dependents housed on such installation by the operation of such a correctional facility on the parcels of land described in subparagraph (A).

(E) An estimate of the date on which the parcels of land described in subparagraph (A) would be available for transfer from Federal control.

(b) The report of the study described in subsection (a) shall be delivered to the Committees on Armed Services of the Senate and House of Representatives not later than 60 days after enactment of this Act.

AMENDMENT NO. 629

Add at the end of Part D—Miscellaneous Reporting Requirements of Title III, insert the following:

SEC. XXX. REPORT ON SECOND SOURCE FOR CARBONIZABLE RAYON YARN.

Not later than November 30, 1989, the Secretary of Defense will report to the Committees on Armed Services of the Senate and House on the progress, time table, and a time certain for the Department to establish a certified second production source for carbonizable rayon yarn for use on reentry vehicles heat shields and rocket nozzles, applicable to both defense and space programs.

AMENDMENT NO. 630

Add at the end of Part F—Miscellaneous Provisions, of Title III, insert the following:

SEC. XXX. ENVIRONMENTAL IMPACT STUDY OF THE SHENANDOAH RIVER.

(a) The Secretary of Army, acting through the Chief of Engineers, will conduct a study to determine the damage and environmental impact on the Shenandoah River by companies under contract to the Defense Department, and National Aeronautics and Space Administration.

(b) The study will determine:

(1) the degree, in full, of the pollution effect and the environmental impact to the river, and

(2) the estimated cost and time schedule to restore the water quality of the river to federal standards.

(c) An interim study report will be due not later than December 31, 1989. A final report is due June 30, 1990.

AMENDMENT NO. 631

SEC. 930. U.S. ON-SITE INSPECTORS PROGRAM.

FINDINGS.—The Senate recognizes the need for a program designed to establish a database or prospective personnel that would be qualified to participate in the on-site inspection process since the U.S. is currently engaged in multilateral and bilateral negotiations to reduce or eliminate various military weaponry and manpower. Specifically, the United States is negotiating reductions on strategic forces, conventional armaments and manpower, monitoring regimes for nuclear testing, and the complete elimination of chemical weapons.

(1) Monitoring requirements for these possible treaties will be extensive and stressing on United States national technical means. To complement and support NTM monitoring requirements the United States and Soviet Union have negotiated and are currently employing on-site inspection procedures for the INF Treaty. Similar on-site in-

spection provisions are being negotiated for possible future treaties and agreements.

(2) The Administration, and many in Congress, consider on-site inspection procedures to be an integral part of any future arms control treaty.

(3) During initial implementation of INF Treaty provisions, the United States was not fully prepared for the manpower requirements necessary to conduct on-site inspections. The Director of Central Intelligence has stated that on-site inspection requirements for any Strategic Arms Reduction Treaty (START) will be far more extensive than the INF Treaty. Estimates of possible START on-site locations are approximately 2,500 as opposed to 120 for the INF Treaty.

(4) Personnel requirements will be extensive, in terms of both numbers and technical and linguistic skills. Since INF Treaty verification requirements are already taxing current personnel resources, START and other requirements may quickly exceed the numbers of verification personnel with requisite technical and language skills.

(5) The Department of Defense organization best suited to establish such a database is the On-Site Inspection Agency. As an agency of the Department of Defense, the OSIA was created to organize and coordinate United States Government efforts to monitor the INF Treaty, which includes all responsibilities for on-site inspections as required by the terms on the Treaty.

(b) REQUIREMENT.—Recognizing these requirements, the On-Site Inspection Agency shall establish a database of prospective personnel that could be called upon to conduct on-site inspections of any future arms control agreement that has such provisions as part of the terms of the Treaty.

(1) The database shall be composed of individuals with linguistic and technical skills necessary to conduct on-site inspections.

(2) This database shall consist of active military and other government agency personnel and, on a voluntary basis, non-government personnel with requisite skills to perform duties, on a full-time or part-time basis, as prospective on-site inspectors.

(c) THE INF TREATY DEFINED.—In this section, the term "INF Treaty" means the Treaty Between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, signed in Washington, D.C. on December 8, 1987.

CONRAD (AND OTHERS) AMENDMENT NO. 632

Mr. NUNN (for Mr. CONRAD, for himself Mr. MCCAIN, Mr. INOUYE, and Mr. MURKOWSKI) proposed an amendment to the bill S. 1352, supra, as follows:

On page 247, below line 24, insert the following:

SEC. 836. CREDIT FOR INDIAN CONTRACTING IN MEETING CERTAIN MINORITY SUBCONTRACTING GOALS.

(a) REGULATIONS.—Pursuant to regulations which the Secretary of Defense shall prescribe and subject to subsections (b) and (c), in any case in which a subcontracting goal is specified for a Department of Defense contractor in the implementation of section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) and section 8(d) of the Small Business Act (15 U.S.C. 637(d)), credit toward meeting that subcontracting goal shall be given for each Department of Defense contract awarded to that contractor, and each subcontract awarded by that contractor in connection with a Department of Defense contract, that—

(1) is to be performed on any Indian lands and meets the requirements of paragraph (1) of subsection (b); or

(2) is undertaken as a joint venture that meets the requirements of paragraph (2) of that subsection.

(b) ELIGIBLE CONTRACTS, SUBCONTRACTS, AND JOINT VENTURES.—(1) A contract or subcontract to be performed on Indian lands meets the requirements of this paragraph if—

(A) not less than 40 percent of the workers directly engaged in the performance of the contract or subcontract on the Indian lands are Indians; and

(B) the contractor or subcontractor has a management plan which—

(i) provides for Indians to manage the workforce employed in the performance of such contract or subcontract and, in the case of a contract or subcontract for the construction of facilities, provides for Indians to have an ownership interest in any facilities constructed pursuant to the contract or subcontract; and

(ii) is approved by the tribal government having jurisdiction over such Indian lands.

(2) A joint venture undertaking to perform a contract or subcontract meets the requirements of this paragraph if—

(A) an Indian tribe or tribally-owned corporation owns at least 50 percent of the joint venture;

(B) the activities of the joint venture under the contract or subcontract provide employment opportunities for Indians either directly or through the purchase of products or services for the performance of such contract or subcontract; and

(C) the Indian tribe or tribally-owned corporation manages the performance of such contract or subcontract.

(c) EXTENT OF CREDIT.—(1) The amount of the credit for a contract or subcontract toward the attainment of any minority subcontracting goal under subsection (a) shall be the percentage of the value of the contract or subcontract designated by the prime contractor to whom the goal applies.

(2) The maximum percentage that may be designated by a contractor—

(A) in the case of a contract or subcontract to be performed on Indian lands, is the percentage equal to one-half of the ratio that the number of Indians performing work under the contract or subcontract on the Indian lands bears to the total number of workers performing such work; and

(B) in the case of a contract or subcontract undertaken by a joint venture referred to in subsection (a)(2), is the percentage of the tribe's or tribally-owned corporation's ownership interest in the joint venture.

(3) A contractor may apply the credit given under this subsection for performance of any contract or subcontract toward a subcontracting goal specified for any other Department of Defense contract or any other subcontract under a Department of Defense contract. A contractor may not, however, receive credit for any contract or subcontract that exceeds 100 percent of the value of the contract or subcontract.

(d) DEFINITION.—In this section:

(1) The term "Indian lands" has the same meaning as is provided in section 4(4) of the Indian Gaming Regulatory Act (102 Stat. 2468; 25 U.S.C. 2703(4)).

(2) The term "Indian" means an Indian, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)).

(3) The term "Indian tribe" has the meaning given to such term by section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(4) The term "tribally-owned corporation" means a corporation owned entirely by an Indian tribe.

WALLOP AMENDMENT NO. 633

Mr. WARNER (for Mr. WALLOP) proposed an amendment to the bill S. 1352, supra, as follows:

On page 293, between lines 13 and 14, insert the following new section:

SEC. . REVIEW AND REPORT ON DECONTROL OF CERTAIN PERSONAL COMPUTERS.

(a) REVIEW.—The Secretary of Defense, in consultation with the Director of Central Intelligence and the Science Advisor to the President, shall conduct a review of the report made by the Secretary of Commerce on the foreign availability of certain personal computers entitled Foreign Availability Assessment: AT-Compatible Microcomputers. In conducting such review, the Secretary of Defense shall, at a minimum—

(1) determine the availability of microcomputers referred to in such report from sources other than member nations of the Coordinating Committee for Multilateral Export Controls or other nations that control the export of such computers; and

(2) assess the military significance of such computers for the Soviet Union and its Warsaw Pact allies.

(b) REPORT.—The Secretary of Defense shall submit to the Committees on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report containing the results of the Secretary's review. The Secretary shall include in such report such recommendations for legislative changes as the Secretary considers appropriate to protect the national security of the United States.

(c) DEADLINE FOR REPORT.—The report required by subsection (b) shall be submitted not later than January 1, 1990.

PRYOR (AND STEVENS) AMENDMENT NO. 634

Mr. NUNN (for Mr. PRYOR, for himself and Mr. STEVENS) proposed an amendment to the bill S. 1352, supra, as follows:

On page 447, between lines 13 and 14, insert the following:

(4)(A) Whenever a person, upon separation from employment by the Department of Energy, commences the furnishing of services with respect to which section 207 of title 18, United States Code, or section 27(e) of the Office of Federal Procurement Policy Act does not apply by reason of paragraph (1) or (3), the Secretary of Energy shall transmit to the Office of Government Ethics a notification containing the name of such person, the Department of Energy position in which the person was employed at the time of separation, the contractor to which or on behalf of which such person is furnishing such services, and a description of such services.

(B) Whenever the Secretary of Energy appoints to a position of employment in the Department of Energy any person to whom section 208 of title 18, United States Code, does not apply by reason of paragraph (2), the Secretary shall transmit to the Office of

Government Ethics a notification containing the name of such person, the position in which such person was employed while such person was employed in a laboratory referred to in that paragraph, the name of the person's employer while such person was so employed, and the position to which such person is appointed.

(C) Notifications received by the Office of Government Ethics under this paragraph shall be available to the public.

BUMPERS AMENDMENT NOS. 635 AND 636

Mr. NUNN (for Mr. BUMPERS) proposed two amendments to the bill S. 1352, supra, as follows:

AMENDMENT No. 635

At the end of title IX, add the following new section:

SEC. . EFFECT OF SPACE NUCLEAR REACTORS ON GAMMA-RAY ASTRONOMY MISSIONS.

(a) CONGRESSIONAL DECLARATION.—Congress hereby—

(1) notes that gamma-ray astronomy missions provide an important contribution to our understanding of the origin of the universe; and

(2) expresses its concern that the radiation emitted by nuclear reactors of the Soviet Union in Earth orbit has interfered with the operation of gamma-ray detectors aboard scientific satellites operated by the United States and other nations.

(b) PRESIDENT URGED TO CALL UPON SOVIET UNION TO CEASE DEPLOYMENT OF REACTORS IN SPACE.—Congress calls on the President to urge the Soviet Union to reduce its reliance on nuclear reactors in Earth orbit, where possible, in order to reduce the interference of those reactors with the operation of gamma-ray detectors aboard satellites in Earth orbit.

(c) REPORT.—Not later than April 30, 1990, the President shall submit to Congress a report on the potential for interference with gamma-ray astronomy missions that could be caused by the placement in Earth orbit of space nuclear reactors presently under development by the United States.

AMENDMENT No. 636

On page 293, between lines 13 and 14, insert the following new section:

SEC. . REPORT REGARDING COORDINATION OF INFORMATION WITHIN THE EXECUTIVE BRANCH ON FRAUD BY CONTRACTORS.

(a) IN GENERAL.—Not later than September 30, 1990, the President shall report to Congress on current and planned administrative mechanisms to coordinate information within the Executive branch concerning administrative and judicial actions taken against Government contractors as a result of activities described in subsection (b)(1).

(b) CONTENT OF REPORT.—The report required by subsection (a) shall include the following:

(1) A description of current administrative actions that will ensure that all relevant agencies are advised when there has been an investigation, proceeding, or litigation involving fraud on the part of a contractor (or an agent or employee of a contractor) that has resulted in a judgment against the contractor (or an agent or employee of the contractor), a decision to debar or suspend, or resolved by consent or compromise.

(2) Recommendations to enhance the effectiveness of the procedures described in paragraph (1).

(3) A discussion of the feasibility and desirability of requiring a review or audit of each contract of a value of more than $1,000,000 or if the potential of recovery would justify such follow-up, that such contractor has, or has had, with any Government agency where similar problems may have occurred.

(4) Recommendations for any legislative changes necessary to accomplish the purposes of paragraphs (2) and (3).

(5) The estimated costs of implementing any recommendations described pursuant to paragraph (2).

(b) DEFINITIONS.—For the purposes of the report required by this section the term "fraud" means—

(1) acts of fraud or corruption or attempts to defraud the Government or corrupt its agents;

(2) acts which constitute a cause for debarment or suspension under part 9.406.2(a) or part 9.407-2(a) of the Federal Acquisition Regulation or successor parts of such regulation; and

(3) acts which violate any provision of sections 3729 through 3731 of title 31, United States Code, section 1031 of title 18, United States Code, or the Anti-Kickback Act of 1986 (41 U.S.C. 51-58).

SYMMS AMENDMENT NO. 637

Mr. WARNER (for Mr. SYMMS) proposed an amendment to the bill S. 1352, supra; as follows:

At the end of the bill, add the following new section:

SEC. .

(A) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall submit to the Committee on Armed Services and Veterans Affairs of the Senate and House of Representatives a report identifying the numbers of individuals who, while serving on active duty for training, inactive duty training, or as a military technician of the National Guard, participated in radiation-risk activities, but are not covered under provisions of the Atomic Veterans Act, Public Law 100-321.

(B) The report required by subparagraph (a) shall be submitted not later than 60 days after enactment of this Act.

KENNEDY AMENDMENT NO. 638

Mr. NUNN (for Mr. KENNEDY) proposed an amendment to the bill S. 1352, supra; as follows:

SEC. . REPORT ON VERIFICATION PROCEDURES FOR THE DISMANTLEMENT OF NUCLEAR WARHEADS AND FISSILE MATERIAL MONITORING.

(a) REPORT.—The Secretary of Defense and Secretary of Energy, in coordination with the Director of Central Intelligence, shall prepare a report for the Congress on—

(1) The on-site monitoring techniques, inspection arrangements, and national technical means, that would be used to verify Soviet dismantlement of nuclear warheads in the event the United States determines that it is in its national interests to agree to a provision in a future strategic arms reduction treaty that would require both parties to dismantle warheads associated with delivery systems eliminated by the terms of the agreement.

(2) The on-site monitoring techniques, inspection arrangements, and national technical means, that would be used to verify the end use and purpose of any fissile materials that are recovered from the dismantlement process described under section (a)(1) of this amendment.

(b) PREPARATION AND SUBMISSION OF REPORT.—The report shall be submitted in both classified and unclassified form to the Committee on Armed Services and Senate Select Committee on Intelligence of the Senate and the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives no later than April 30, 1990.

WILSON (AND OTHERS) AMENDMENT NO. 639

Mr. WILSON (for himself, Mr. NUNN, Mr. THURMOND, Mr. HELMS, and Mr. D'AMATO) proposed an amendment to the bill S. 1352, supra, as follows:

At the appropriate place in the bill, add the following new section:

"SEC. . Section 511(e)(3)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(3)(B)), as added by the Asset Forfeiture Amendments Act of 1988, is amended to read as follows:

" '(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.' "

FORD AMENDMENT NO. 640

Mr. FORD proposed an amendment to the bill S. 1352, supra, as follows:

At the appropriate place in the bill, add the following new section:

It is the sense of Congress that any combat unit of battalion or squadron size (or larger size) that on the date of the enactment of this Act is stationed at Fort Knox, Kentucky, shall not be permanently reassigned to Fort Irwin, California.

HELMS AMENDMENT NO. 641

Mr. WARNER (for Mr. HELMS) proposed an amendment to the bill S. 1352, supra, as follows:

SEC. . POLICY REAFFIRMING U.S./SOVIET EQUALITY IN STRATEGIC FORCES.

It is the sense of the Senate that:

(1) the President should seek a START treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union;

(2) the success of the President's efforts to attain such a treaty is dependent upon the maintenance of a vigorous research and development and modernization program as required by a prudent strategic posture; and

(3) no action should be taken under this or any other Act that will obligate the United States to disarm or to reduce or limit the Armed Forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States.

GORE AMENDMENT NO. 642

Mr. NUNN (for Mr. GORE) proposed an amendment to the bill S. 1352, supra, as follows:

SEC. . AMENDMENT TO SECTION 2301 OF PUBLIC LAW 100-456.

(a) INCREASED AUTHORITY.—Section 2301(a), title XXIII of Public Law 100-456, September 29, 1988, is amended—

(1) by striking out "Arnold Engineering Development Center, $213,800,000." and inserting in lieu thereof "Arnold Engineering Development Center, $256,800,000.".

(b) RESTRICTION.—This amendment shall not take effect unless and until the requirement for the Large Rocket Test Facility (J-6) has been validated by the Department of Defense and so certified to the Committee on Armed Services of the Senate and the House of Representatives.

GLENN AMENDMENT NO. 643

Mr. NUNN (for Mr. GLENN) Proposed an amendment to the bill S. 1352, supra, as follows:

On page 450, between lines 13 and 14, insert the following:

SEC. 3145. REPORTS IN CONNECTION WITH PERMANENT CLOSURES OF DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES.

(a) TRAINING AND JOB PLACEMENT SERVICES PLAN.—Not later than 120 days before a Department of Energy defense nuclear facility (as defined in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g)) permanently ceases all production and processing operations, the Secretary of Energy must submit to the Committees on Armed Services of the Senate and House of Representatives a report containing a discussion of the training and job placement services needed to enable the employees at such facility to obtain employment in the environmental remediation and cleanup activities at such facility. The discussion shall include the actions that should be taken by the contractor operating and managing such facility to provide retraining and job placement services to employees of such contractor.

(b) CLOSURE REPORT.—Upon the permanent cessation of production operations at a Department of Energy defense nuclear facility, the Secretary of Energy shall submit to Congress a report containing—

(1) a complete survey of environmental problems at the facility;

(2) budget quality data indicating the cost of environmental restoration and other remediation and cleanup efforts at the facility; and

(3) a discussion of the proposed cleanup schedule.

COHEN (AND LEVIN) AMENDMENT NO. 644

Mr. WARNER (for Mr. COHEN, for himself, and Mr. LEVIN) proposed an amendment to the bill S. 1352, supra, as follows:

On page 219, line 18, strike out "3-year period" and insert in lieu thereof "2-year period".

On page 220, line 7, strike out "30 percent" and insert in lieu thereof "20 percent".

On page 220, line 15, strike out "3-year period" and insert in lieu thereof "2-year period".

NUNN AMENDMENT NO. 645

Mr. NUNN proposed an amendment to the bill S. 1352, supra; as follows:

On page 247, below line 24, insert the following:

SEC. 236. UTILIZATION OF SMALL BUSINESS ACT AUTHORITY TO ASSIST CERTAIN DISADVANTAGED SMALL BUSINESS CONCERNS.

The Secretary of Defense shall direct the Secretary of each military department to identify, in each of fiscal years 1990 and 1991, not less than 10 construction projects (including repair and alteration of existing facilities) that are suitable for participants in the Minority Small Business and Capital Ownership Development Program of the Small Business Administration and to make use of the authority provided in section 7(j)(13)(D) of the Small Business Act (15 U.S.C. 636(j)(13)(D)) in the award of contracts in connection with each such project.

BOND (AND OTHERS) AMENDMENT NO. 646

Mr. BOND (for himself, Mr. WALLOP, Mr. DOLE, Mr. HOLLINGS, Mr. MCCLURE, Mr. DANFORTH, Mr. GORTON, Mr. KASTEN, Mr. WILSON, Mr. HELMS, Mr. MCCAIN, and Mr. BURNS) proposed an amendment to the bill S. 1352, supra, as follows:

On page 52, between lines 8 and 9 insert the following:

SEC. 237. ACCIDENTAL LAUNCH PROTECTION SYSTEM

(a) FINDINGS.—The Congress makes the following findings:

(1) The Strategic Defense Initiative (SDI) has made substantial progress in developing the technologies to defend the United States from a ballistic missile attack. Advances in interceptor technology, sensors, and command, control, and communications have been achieved and six key components of the SDI program have recently been combined to form the basic architecture for Phase I deployment of a system to defend the United States against ballistic missile attack.

(2) As a result of additional development and analytical study of ground-based midcourse and low-atmosphere interceptors and their appropriate sensors, a decision can be made with confidence to deploy an accidental launch protection system (ALPS) as an initial step in a phased deployment of a comprehensive SDI system.

(3) Available evidence indicates that the technology for defending the United States against an accidental or unauthorized launch of ballistic missiles can be effectively deployed by 1995.

(4) The deployment of an accidental launch protection system would be in the national security interest for the following reasons:

(A) The deployment of such a system would provide the United States with an operational system that would yield the additional knowledge and experience necessary for achieving greater reliance on defense for deterrence and security.

(B) As the United States continues to negotiate major reductions in nuclear forces, a commitment to the deployment of such a system would provide the technology and production base needed to help safeguard against noncompliance by the Soviet Union in the event of an agreement to effectuate such reductions.

(C) The deployment of such a system would close the advantage currently held by the Soviet Union in deployed antiballistic missile capabilities, would reduce the threat of a total strategic defense breakout by the Soviet Union, and would provide the United States with a technological and production base with which to support a later decision to deploy a more comprehensive strategic defense of the United States.

(D) An initial deployment of 100 ground-based interceptors at Grand Forks, North Dakota would be consistent with the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitations of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

(E) The development of an accidental launch protection system is increasingly needed in order to offset the proliferation of offensive ballistic missile forces among nonsuperpower countries hostile to the United States and allied countries.

(F) Such a deployment would provide a mechanism for a crisis-stabilizing response to unauthorized or accidental limited missile launches by the Soviet Union, China, or any other source.

(B) POLICY—It is the sense of Congress that—

(1) the Secretary of Defense should study options for a comprehensive deployment of an accidental launch protection system that is integrated into a step-by-step strategic defense initiative system (including space-based elements); and

(2) if appropriate, the President should initiate discussions with the leaders of the Soviet Union regarding a deployment of such a system.

(c) AUTHORIZATION FOR ALPS PROGRAM.—Of the amounts authorized to be appropriated for fiscal year 1990 pursuant to section 201, $100,000,000 shall be available only for the deployment of an accidental launch protection system as follows:

(1) $30,000,000 of the amount authorized to be appropriated pursuant to section 201(1)(A).

(2) $30,000,000 of the amount authorized to be appropriated pursuant to section 201(2)(A).

(3) $30,000,000 of the amount authorized to be appropriated pursuant to section 201(3)(A).

(4) $10,000,000 for the amount authorized to be appropriated pursuant to section 201(4)(A).

(d) PROGRAM REQUIREMENTS.—(1) The accidental launch protection system developed pursuant to this section shall provide for at least a two-layer defense and may include the following:

(A) The Exoatmospheric Re-entry Intercept System (ERIS) interceptor and the High Endoatmospheric Defense Interceptor (HEDI).

(B) A ground-based radar.

(C) A ground-based tracking system.

(2) The Secretary of Defense shall develop a design for the accidental launch protection system that takes advantage of existing antiballistic missile facilities, particularly those at Grand Forks, North Dakota, and shall give special consideration to deploying such system initially at such facilities.

(e) BUDGET REQUIREMENTS—For fiscal years after fiscal year 1990, the Secretary of Defense shall include in the budget requests for the Department of Defense funds for deployment of the accidental launch protection system as an integral component of a comprehensive, layered strategic defense system. The Secretary shall give such a comprehensive strategic defense system the highest research and development priority in order to ensure that advanced technologies expected to be available in the mid-to-

late-1990s are incorporated into the comprehensive strategic defense system.

(f) ACCELERATED DEPLOYMENT PLAN.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for the accelerated deployment of an accidental launch protection system as an important and integral step toward a comprehensive, layered strategic defense system. The plan shall include provisions for deployment of space-based elements and for refurbishment of the existing antiballistic missile facilities at Grand Forks, North Dakota.

NUNN AMENDMENT NO. 647

(Ordered to lie on the table.)

Mr. NUNN submitted an amendment intended to be proposed by him, to an amendment to the bill S. 1352, supra, as follows:

In the pending amendment, strike out all after the word "this" and insert the following in lieu thereof: "section shall not become effective until the following provisions are enacted into law:

TITLE XI—DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

SEC. 1101. FUNDING OF ACTIVITIES RELATED TO DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORTS.

(a) FUNDING.—(1) Of the amounts authorized to be appropriated for the Department of Defense by this Act, $450,000,000 is available from the sources and in the amounts provided in paragraph (2) for carrying out the drug interdiction and law enforcement support activities described in sections 1102 through 1110.

(2) The amounts and sources referred to in paragraph (1) are as follows:

(A) $182,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $28,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $235,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(D) $5,000,000 of amounts appropriated pursuant to Division B for land acquisition and the construction of facilities.

SEC. 1102. LEAD AGENCY FOR DETECTION.

(a) IN GENERAL.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joints Chiefs of Staff, shall provide written guidance to the Secretaries of the military departments and to the commanders of the combatant commands on the specific force levels and the specific supporting resources necessary to fulfill the responsibilities of the Department of Defense as the single lead agency for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) GUIDANCE REFERENCE.—The guidance referred to in subsection (a) shall be provided as part of the guidance required by section 113(*l*) of title 10, United States Code.

(c) FUNDING.—(1) The following amounts from the sources specified shall be available for carrying out the responsibilities referred to in subsection (a):

(A) $160,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $5,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(A) $109,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(2) Not more than $5,000,000 of amounts authorized to be appropriated pursuant to Division B for land acquisition and construction of facilities shall be available for the acquisition of land and the construction of facilities necessary to carry out the responsibilities referred to in subsection (a).

SEC. 1103. COMMUNICATION NETWORK.

(a) INTEGRATION OF NETWORK.—The Secretary of Defense, in consultation with the Director, National Drug Control Policy, shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to titles I, II, and III for fiscal year 1990, $30,000,000 shall be available for the activities described in subsection (a).

SEC. 1104. DRUG INTERDICTION AND ENFORCEMENT ACTIVITIES OF THE NATIONAL GUARD

(a) FUNDING ASSISTANCE.—The Secretary of Defense shall provide to the Governor of a State who submits a plan to the Secretary under subsection (b) sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of such State used—

(1) for the purpose of drug interdiction and enforcement operations; and

(2) for the operation and maintenance of the equipment and facilities of the National Guard of such State that are used for the purposes described in paragraph (1).

(b) PLAN REQUIREMENTS.—(1) The Secretary shall provide funds under subsection (a) to the Governor of a State who submits to the Secretary a plan specifying how personnel of the National Guard of that State are to be used in drug enforcement and interdiction operations if—

(A) such operations are to be conducted at a time when personnel of a National Guard of the State are under the command and control of the State authority and are not in Federal Service; and

(B) participation by National Guard personnel in such operations is service in addition to annual training required under section 502 of title 32, United States Code.

(2)(A) Before funds are provided to the Governor of a State under this section, the Secretary of Defense shall consult with the Attorney General of the United States regarding the adequacy of the plan submitted by the Governor to the Secretary.

(B) If the Governor of a State submits a plan to the Secretary of Defense for assistance under this section, the plan is the same as a plan previously submitted by that State, and funds were provided to the State pursuant to such plan, then funds may be provided to such State under this section without further consultation with the Attorney General.

(c) FUNDING AMOUNTS.—(1) Of the amounts made available pursuant to section 1101, the Secretary shall make available for the purposes of subsection (a)—

(A) $35,000,000 for operations and maintenance of the National Guard; and

(B) $35,000,000 for National Guard personnel.

(2) Amounts made available pursuant to paragraph (1) for the National Guard are in addition to amounts otherwise appropriated for the National Guard for fiscal year 1990.

(d) LIMITATION ON DELEGATION.—The Secretary may delegate the authority of the Secretary under this section only to the Deputy Secretary of Defense, to an Under Secretary of Defense, or to an Assistant Secretary of Defense.

(e) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

(f) EXCLUSION FROM END-STRENGTH COMPUTATION.—Members of the National Guard on full-time National Guard duty for the purposes of administering this section shall not be counted toward the end-strengths authorized in section 422 for members on full-time National Guard duty for the purposes of organizing, administering, recruiting, instructing, or training the reserve components, or toward the strengths authorized in sections 517 and 524 of title 10, United States Code.

(g) DEFINITIONS.—As used in this section:

(1) The term "Governor of a State" means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

(2) The term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

SEC. 1105. MAINTENANCE AND REPAIR OF EQUIPMENT MADE AVAILABLE TO FEDERAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—The Secretary of Defense shall be responsible during fiscal year 1990 for the maintenance and repair of equipment that has been made available by the Department of Defense to other Federal agencies for use in antidrug efforts or for any use under chapter 18 of title 10, United States Code, because of the potential future utility of such equipment to the Department of Defense. The Secretary shall be responsible for the maintenance and repair of such equipment to the extent that funds are available pursuant to subsection (b).

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III, $20,000,000 shall be available for fiscal year 1990 for the purposes described in subsection (a).

SEC. 1106. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies concerned with the detection of illicit drugs and other dangerous and illegal substances concealed in containers.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990, $20,000,000 shall be available for the purposes described in subsection (a).

SEC. 1107. CIVIL AIR PATROL.

(a) IN GENERAL.—The Secretary of Defense shall pay for expenses incurred by the Civil Air Patrol in conducting drug surveillance flights for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) FUNDS.—Of the funds authorized to be appropriated pursuant to title III for fiscal year 1990, $1,000,000 shall be available for purposes described in subsection (a).

SEC. 1108. TRANSPORTATION OF PERSONNEL, SUPPLIES, AND EQUIPMENT RELATING TO DRUG INTERDICTION AND THE ERADICATION OF ILLEGAL DRUGS IN SOURCE COUNTRIES.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Defense shall transport personnel, supplies, and equipment within the United States and from the United States to a foreign country, by aircraft and ships of the Secretary of Defense, for the purposes of providing assistance to a counter-drug operation to be carried out in a foreign country by the United States or by a friendly foreign country.

(b) CONDITIONS.—The Secretary may transport personnel, supplies, and equipment pursuant to subsection (a) only if—

(1) the transportation of such personnel, supplies, and equipment is consistent with the foreign policy and counter-drug policy of the United States;

(2) the supplies and equipment to be transported are suitable for use in a counter-drug program;

(3) the personnel, supplies, and equipment to be transported are destined for use in a counter-drug program of the United States or of a friendly country; and

(4) the transportation of such personnel, supplies, and equipment will not adversely affect the military preparedness of the United States.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $15,000,000 shall be available for the purposes described in subsection (a).

SEC 1109. LOAN OF NATIONAL GUARD EQUIPMENT

(a) IN GENERAL.—(1) The Secretary shall authorize the National Guard to loan any item of equipment to any Federal or State law enforcement agency for use by such agency in carrying out drug enforcement activities. Under such regulations as the Secretary may prescribe, items of equipment loaned by the National Guard to any Federal or State law enforcement agency shall be returned promptly to the National Guard if the Chief of the National Guard Bureau determines that the equipment is needed for operational requirements of the National Guard and requests the Federal or State agency concerned to return such equipment to the National Guard.

(2) To the extent that funds are available pursuant to subsection (c), the Secretary shall maintain, repair, and restore any item of equipment made available to any Federal or State law enforcement agency pursuant to paragraph (1).

(b) CONDITIONS.—The Secretary may make the loan of items of equipment referred to in subsection (a) subject to such minimum standards of care and maintenance as the Secretary considers appropriate. The Secretary may also require, with respect to items of equipment loaned to a law enforcement agency under this section, such minimum training and proficiency requirements on the part of the personnel who are to use such items as the Secretary considers appropriate.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $15,000,000 shall be available for the purposes described in subsection (a).

SEC. 1110. EXCESS PERSONAL PROPERTY

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), during fiscal years 1990 and 1991, the Secretary of Defense, in consultation with the Attorney General of the United States and the Director, National Drug Control Policy, may transfer to Federal and State law enforcement agencies such excess personal property of the Department of Defense, including small arms ammunition, as the Secretary determines suitable for use by such agencies in counter-drug activities. Excess property transferred to any such agency under this section may be transferred without cost to the recipient agency.

(b) The Secretary may transfer excess personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense;

(2) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment; and

(3) the Secretary determines that the transfer of the excess property will not have an adverse impact on the military readiness of the United States.

Section 421 of the bill is amended as follows:

(1) in subsection (a)(7), relating to the Coast Guard Reserve, strike out "12,950" and insert in lieu thereof "15,000"; and

(2) in subsection (b), relating to the Coast Guard Reserve, strike out "13,500" and insert in lieu thereof "15,000".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Tuesday, August 1, 1989, at 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGENDA

1. Justice Department Nominations: William C. Lucas, Michigan, to be an Assistant Attorney General; and Richard B. Stewart, Massachusetts, to be an Assistant Attorney General.

2. Bills:

S. 458, a bill to provide for a General Accounting Office investigation and report on conditions of displaced Savladorans and Nicaraguans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans and Nicaraguans, and for other purposes—DeConcini;

S. 438, to amend chapter 96 of title 18, United States Code—DeConcini;

S. 865, to amend the Sherman Act regarding retail competition—Metzenbaum;

S.J. Res. 14, joint resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation—Thurmond;

S.J. Res. 23, joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations—Dixon;

S. 1259, a bill to amend section 3143 of title 18, United States Code, to require the detention of any person found guilty of a violent offense pending sentence of appeal, and for other purposes—Simon;

S. 594, a bill to establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purposes—Heflin;

S. 84, a bill to amend title 28, United States Code, to provide Federal debt collection procedures—Biden;

S. 993, a bill to implement the convention on the prohibition of the development, production, and stockpiling of bacteriological (biological) and toxin weapons and their destruction, by prohibiting certain conduct relating to biological weapons—Kohl;

S. 185, a bill to amend title 18 of the United States Code to punish as a Federal criminal offense the crimes of international parental child abduction—Dixon;

S. 198, a bill to amend title 17, United States Code, the Copyright Act to protect certain computer programs—Hatch;

S. 497, a bill entitled the "Copyright Remedy Clarification Act"—DeConcini;

S. 1271, a bill to amend title 17, United States Code, to change the fee schedule of the Copyright Office, and to make certain technical amendments—DeConcini;

S. 1272, a bill to amend chapter 8 of title 17, United States Code, to reduce the number of Commissioners on the Copyright Royalty Tribunal, to provide for lapsed terms of such Commissioners, and for other purposes—DeConcini; and

S. 459, a bill to amend title 35, United States Code, and the National Aeronautics and Space Act of 1985, with respect to the use of inventions in outer space—Gore.

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 1, 1989, at 9:30 a.m. to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 561, Transportation Employee Testing Act of 1989 (Robert Holleyman and Steve Palmer);

S. 1191, Technology Administration Authorization Act of 1989 (Pat Windham and Tom Cohen);

S. 1249, Federal Trade Commission Act Amendments of 1989 (Kevin Curtin and Linda Lance);

S. 1062, Earthquake Hazards Reduction Act of 1989 (Mike Nelson);

H.R. 838, Releases Restrictions on Certain Property of the Peninsula Airport Commission, Newport News, VA (Carol Carmody and Steve Palmer);

S. 1005, relates to the sale, purchase, or other acquisition of certain railroads (Robert Holleyman and Sheryl Washington);

Nomination of D. Allan Bromley, of Connecticut, to be Director of the Office of Science and Technology Policy (Mike Nelson, Pat Windham, and Becky Kojm);

Nomination of Gilbert E. Carmichael, of Mississippi, to be Administrator of the Federal Railroad Administration (Sheryl Washington, Robert Holleyman, and Becky Kojm);

Nomination of Rockwell Anthony Schnabel, of California, to be Under Secretary of Commerce for Travel and Tourism (Sally Susman and Becky Kojm);

Nomination of John A. Knauss, of Rhode Island, to be Under Secretary of Commerce for Oceans and Atmosphere (Mike Nussman, Penny Dalton, and Becky Kojm);

Nomination of Janice Obuchowski, of Virginia, to be Assistant Secretary of Commerce for Communications and Information (Toni Cook and Becky Kojm);

Nomination of Alfred C. Sikes, of Missouri, to be a member of the Federal Communications Commission (John Windhausen and Becky Kojm);

Nomination of Sherri Patrice Marshall, of North Carolina, to be a member of the Federal Communications Commission (John Windhausen and Becky Kojm);

Nomination of Andrew Camp Barrett, of Illinois, to be a member of the Federal Communications Commission (John Windhausen and Becky Kojm).

Nomination of Janet Dempsey Steiger, of the District of Columbia, to be a Federal Trade Commissioner (Linda Lance and Becky Kojm);

Nomination of Deborah Kaye Owen, of Maryland, to be a Federal Trade Commissioner (Kevin Curtin, Linda Lance, and Becky Kojm);

Nomination of the following officers of the U.S. Coast Guard for appointment to the grade of rear admiral (upper half): Paul A. Welling and Walter T. Leland (PN-294) (Becky Kojm);

Routine Coast Guard Nominations (PN-520) (Becky Kojm); and

Approval of Larry McRae of Kalispell, MT, to be a member of the Commerce Committee's Travel and Tourism Industry Advisory Council (Sally Susman and Becky Kojm).

COMMITTEE ON THE JUDICIARY

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, August 1, 1989, at 10 a.m., to hold a hearing on the U.S. flag.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, OCEAN AND WATER PROTECTION

Mr. NUNN. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Ocean and Water Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, August 1, beginning at 9:15 a.m., to conduct a markup of S. 1045, the National Environmental Policy on International Financing Act of 1989; and S. 1089, a bill to authorize appropriations for the Office of Environmental Quality.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, August 1, at 9:30 a.m., for a hearing on the subject: Prospects for development of a U.S. Navy HDTV industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. NUNN. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, August 1, 1989, at 2:30 p.m. in 332 Russell Senate Office Building to receive testimony on the implementation of the Agricultural Credit Act of 1987 by the Farmers Home Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, August 1, at 2 p.m. to hold a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, August 1, at 9 a.m. to hold a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Tuesday August 1, 1989, at 9:15 a.m. to conduct a hearing on the nomination of Dennis E. Kloske, of Virginia, to be Under Secretary of Commerce for Export Administration; and, C. Austin Fitts, of New York, to be an Assistant Secretary of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, OCEAN AND WATER PROTECTION

Mr. NUNN. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Ocean and Water Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, August 1, beginning at 9:30 a.m., to conduct a hearing on the seriousness and extent of ground water contamination problems.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. NUNN. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing and Urban Affairs be allowed to meet during the session of the Senate, Tuesday, August 1, 1989, at 10 a.m. to conduct an oversight hearing to assess recently revealed problems in FHA and Ginnie Mae and to determine legislative remedies for these problems.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Energy and National Resources be authorized to meet during the session of the Senate August 1, 1989, 9:30 a.m. to continue consideration of S. 712, a bill to provide for a referendum on the political status of Puerto Rico, and other pending calendar business. Please note that this meeting could continue throughout day.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

REPORT OF THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS PURSUANT TO SECTION 302(b) OF THE CONGRESSIONAL BUDGET ACT OF 1974

● Mr. RIEGLE. Mr. President, under section 302(a) of the Congressional Budget Act, the statement of managers accompanying a conference report on a concurrent budget resolution includes an allocation of budget totals among the committees of the Senate and House of Representatives that have jurisdiction over spending authority.

Section 302(b) of the act requires the committees to allocate such spending authority among either their subcommittees or programs over which they have jurisdiction. This section also requires the committees to divide their allocations into amounts that are controllable and amounts that are mandatory under existing law. After consultation with appropriate committees of the other House, the committees are required to report the allocations they have made.

The allocations received by the Committee on Banking, Housing, and Urban Affairs from the managers of the conference were for direct spending authority that was assumed for Federal programs and activities over which this committee has original and complete jurisdiction.

The Committee on Banking, Housing, and Urban Affairs received the following allocations for fiscal year 1989 related to programs under its jurisdiction:

Fiscal year 1990:	*Millions*
Direct spending authority:	
Budget authority	8,036
Outlays	4,076

The committee has made its subcommittee allocation as shown in the following table.

The amount allocated is equal to the allocations made to this committee in House Concurrent Resolution 106, 101th Congress.

Fiscal year 1990:	*Millions*
Banking, Housing, and Urban Affairs:	
Budget authority	3,233
Outlays	1,716
Housing and Urban Affairs Subcommittee:	
Budget authority	4,803
Outlays	2,856
International Finance and Monetary Policy Subcommittee:	
Budget authority	0
Outlays	−496

● Mr. D'AMATO. Mr. President, the time has come for this Nation to address at last the need to fully integrate those with disabilities into society. I rise today, therefore, to cosponsor S. 933, the Americans With Disabilities Act.

The Americans With Disabilities Act is a comprehensive bill to extend civil right protections to 43 million disabled persons in the United States. While I believe there is room for improvement in this bill, on balance it is a sound foundation on which to build a more fair and equitable nation. We cannot pass along to the next generation the responsibility to fully and meaningfully open society to all persons.

Few are able to truly understand the struggle faced daily by millions of Americans with disabilities. The barriers the disabled must overcome in order to meet basic needs are many. Activities accomplished with ease by most—communicating, commuting, or entering the workplace—are often significant hurdles for those with disabilities. This legislation, Mr. President, will break down these barriers once and for all.

The Americans with Disabilities Act takes a five-prong approach to end discrimination resulting from architectural and structural inaccessibility. The act requires reasonable accommodation of those with disabilities in the areas of employment, public services, transportation, public accommodations and telecommunications.

This measure enjoys bipartisan support in the Congress as well as support by the administration. Although the administration has identified several areas of concern, it is my hope that these concerns will not prove to be insurmountable obstacles to adoption of this vital legislation.

Mr. President, I am reminded of the recent feat of a young man by the name of Mark Wellman. Mr. Wellman, who as a result of climbing accident lost the use of his legs, recently scaled the 3,200 foot El Capitan in Yosemite National Park. For a period of 9 days Mark Wellman doggedly pursued the summit of El Capitan using only his powerful arms. His victory over the peak was celebrated across the country, for it was a victory not only for Mark but in a small way for all others who share understanding of Mark's burden.

Mr. President, I urge my colleagues to join the effort to fashion as strong, comprehensive approach to end discrimination against Americans with disabilities.●

ON BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the latest budget scorekeeping report for fiscal year 1989, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is over the budget resolution by $3.8 billion in budget authority, and over the budget resolution by $1 billion in outlays. Current level is under the revenue floor by $0.3 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the Budget Act is $136.4 billion, a $0.4 billion above the maximum deficit amount for 1988 of $136 billion.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, July 31, 1989.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1989 and is current through July 27, 1989. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the most recent budget resolution for FY 1989, H.Con. Res. 268. This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, Congress has taken no action that affects the current level of spending or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 101ST CONG., 1ST SESS, AS OF JULY 27, 1989

[In billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 268 [2]	Current level +/− resolution
Budget authority	1,235.8	1,232.1	3.8
Outlays	1,100.8	1,099.8	1.0
Revenues	964.4	964.7	−.3
Debt subject to limit	2,787.2	[3] 2,824.7	−37.5
Direct loan obligations	24.4	28.3	−3.9
Guaranteed loan commitments	111.0	111.0	
Deficit	136.4	[4] 136.0	[5] −.4

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 268. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current law of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] In accordance with sec. 5(a)(b) the levels of budget authority, outlays, and revenues have been revised for catastrophic health care public law 100-360).

[3] The permanent statutory debt limit is $2,800,000,000,000.

[4] Maximum deficit amount [MDA] in accordance with section 3(7)(D) of the Congressional Budget Act, as amended.

[5] Current level plus or minus MDA.

PARLIAMENTARIAN STATUS REPORT, 101ST CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1989 AS OF CLOSE OF BUSINESS JULY 27, 1989

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			964,434
Permanent appropriations and trust funds	874,205	724,990	
Other appropriations	594,475	609,327	
Offsetting receipts	−218,335	−218,335	
Total enacted in previous sessions	1,250,345	1,115,982	964,434
II. Enacted this session:			
Adjust the purchase price for non-fat dry dairy products (Public Law 101-7)		−10	
Implementation of the bipartisan accord on Central America (Public Law 101-14)	−11		
Dire emergency and urgent supplemental appropriations, 1989 (Public Law 101-45)	3,493	1,023	
Total enacted this session	3,482	1,013	
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			

PARLIAMENTARIAN STATUS REPORT, 101ST CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1989 AS OF CLOSE OF BUSINESS JULY 27, 1989—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Dairy Indemnity Program	(1)	(1)	
Special milk	4		
Food Stamp Program	29		
Federal Crop Insurance Corporation fund	144		
Compact of free association	1	1	
Special benefits	37	37	
Payments to the Farm Credit System	35	35	
Payment to the civil service retirement and disability trust fund	(85)	(85)	
Payment to hazardous substance Superfund	(99)	(99)	
V. Entitlement authority and other mandatory items requiring further appropriation action, continued:			
Supplemental security income	201	201	
Special benefits for disabled coal miners	3		
Medicaid:			
Public Law 100–360	45	45	
Public Law 100–485	10	10	
Family support payments to States:			
Previous law	355	355	
Public Law 100–485	63	63	
Total entitlement authority	926	747	
VI. Adjustment for economic and technical assumptions	−18,925	−16,990	
Total current level as of July 27, 1989	1,235,828	1,100,751	964,434
1989 budget resolution, H. Con. Res. 268	1,232,050	1,099,750	964,700
Amount remaining:			
Over budget resolution	3,778	1,001	
Under budget resolution			266

[1] Less than $500,000.

Notes.—Numbers may not add due to rounding. Amounts in parenthesis are interfund transactions that do not add to budget totals.●

RESTORATION OF PEACE IN THE MIDDLE EAST

● Mr. SIMON. Mr. President, one of the things that has to happen is a restoration of peace in the Middle East. Every time a step forward seems to be taken, even a small step forward, additional barriers seem to be put in the way.

One of the principal actors in the Middle East situation is unquestionably Yasser Arafat of the Palestine Liberation Organization [PLO]. His image in this country is not a good one. There are those within the PLO who want to improve that image.

The best way to improve the image is to take constructive action to work with Israel to see that genuine and free elections take place on the Gaza Strip and on the West Bank.

But other things, also, sometimes impede a good relationship between the United States and the PLO.

For example, recently Yasser Arafat sent a message to the new leader of China, Jiang Zemin, in which he looks with "extreme gratification" on the actions taken by the Government of China to "restore normal order" over there.

Most people in the United States look upon the action taken by the Government of China as brutal, irresponsible, and a barrier to improved relationships between our country and the People's Republic of China.

I believe in talking rather than shooting, in dialog rather than dying. But that dialog becomes much more difficult to obtain when insensitive statements and actions are taken.

My colleagues in the House and the Senate would find his statement on the Chinese situation of interest.

At this point, I ask to insert that statement in the RECORD.

The statement follows:

* * * On behalf of the Arab Palestinian people and their leadership, and myself, I express the warmest, most sincere congratulations to you—dear comrade—on your appointment to General Secretary of the CPC, and take this opportunity to express our extreme gratification that the friendly People's Republic of China has restored normal order after the recent incidents.—YASSER ARAFAT.

(Peoples Daily, Hong Kong, June 27, 1989.)●

CAMPAIGN FINANCE REFORM

● Mr. BOREN. Mr. President, as we review the internal political issues which have had a dominant impact on the Congress in the past few months, a common thread appears to be money.

January saw people across the country unite to decry a proposed 51 percent salary increase for Members of Congress and a renewed concern over the practice of our receiving honoraria in outside income. The House had been shaken by the eventual resignation of its Speaker due to an ethics investigation involving book royalties and other business dealings. Numerous reports and stories have shown the enormous cost of the franking privilege which Congress enjoys as another form of incumbency protection. The White House has entered the arena of ethics and campaign financing with two distinct proposals on these issues. And finally, disclosures have surfaced alleging the influence of soft money contributions—those which fall outside Federal limitations but do impact Federal elections—even affecting ambassadorship appointments.

Mr. President, we should be able to sense that the growing outrage which the public feels toward the pursuit and influence of money in Washington is rooted in perceptions and in reality. When Congress fails to act to truly reform the system—it should be no surprise that citizens express outrage when Congress considers a pay raise for itself. If Congress cannot show fiscal restraint with its allowance to send mail at taxpayers' expense, it should not be surprised at a backlash from those taxpayers. If Congress is resistant to attempts—Presidential and internal—to reform the laws which govern the ever-escalating, multimillion-dollar industry of congressional campaigns, the public has every right to suspect that large amounts of money raised for elections do in fact make a difference in Washington.

Mr. President, I believe that the American people are truly concerned about the huge sums of money raised to run for public office. A recent National Federation of Independent Business survey—in which over 500,000 small and independent business owners nationwide participated—asked this question: "Should limits be placed on campaign spending of congressional candidates?"

To that question, 83 percent answered "yes," 12 percent "no," and 5 percent undecided.

Mr. President, as we look to the August recess, I want to remind my colleagues of the pressing issue which deserves and will receive action in this Congress—the need to reform the way in which congressional elections are financed and influenced.

I wish to share with my colleagues some figures which help demonstrate that the massive growth in campaign spending to win a seat in the U.S. Senate is indeed startling.

My review shows that since Federal Election Commission recordkeeping began with the 1976 election cycle, the cost of winning a seat in the Senate—while adjusted for inflation by the June 1989 Consumer Price Index—has increased by 307 percent.

Additional figures and statistics are included in this study, which I ask to have printed in the RECORD at the conclusion of my remarks.

Mr. President, the task of amending the laws which govern how Members of Congress can run for reelection is by its nature prone to partisanship and personal manipulation. The decisions about the system must be made by those who are part of the same system. I urge my colleagues to personally reflect upon these figures and inquire of their constituents their thoughts of this trend at public meetings over this recess period. I would suggest that we all review this issue away from the heat and humidity of Washington in August and away from party operatives, political consultants, PAC managers, fundraisers, lobbyists, and fellow colleagues who fear that change will not serve their own self-interests.

If we are to make progress on this issue, intellectual honesty and personal integrity must be the moving force.

The statistics follow:

CAMPAIGN SPENDING TO WIN A SEAT IN THE U.S. SENATE: 1976–88

[Figured in 1989 dollars]

State	1976	1978	1980	1982	1984	1986	1988	Proposed limit in Boren bill
Alabama		$2,012,314	$1,291,567		$2,281,816	$2,557,377		$2,122,904
Alaska		658,990	1,053,054		1,422,783	1,569,633		1,586,500
Arizona	$1,302,342		1,434,487	2,460,491		2,684,204	$2,733,414	1,826,312
Arkansas		1,472,165	333,500		2,095,726	1,889,848		1,586,500
California	2,582,480		4,240,166	9,136,619		12,472,608	15,183,120	8,231,250
Colorado		2,055,693	1,724,222		3,561,723	4,279,538		1,853,867
Connecticut	1,047,945		2,123,046	2,974,893		2,572,743	2,647,579	1,879,418
Delaware	723,934	927,257		1,024,530	1,712,778		2,064,490	1,586,500
Florida	789,672		1,201,911	1,040,551		6,976,239	5,482,642	4,688,525
Georgia		1,042,746	1,111,171		868,513	3,140,605		2,804,765
Hawaii	948,583		446,580	724,190		1,175,109	735,654	1,586,500
Idaho		732,518	2,688,973		1,140,287	3,649,831		1,586,500
Illinois		4,110,754	2,543,814		5,448,656	2,179,487		4,524,030
Indiana	1,586,429		3,457,655	3,836,190		2,236,903	3,383,838	2,668,493
Iowa		1,383,709	3,296,372		3,383,997	2,840,050		1,725,611
Kansas		1,627,623	1,848,985		429,547	1,714,871		1,586,500
Kentucky		867,220	742,047		2,113,592	1,357,835		2,022,203
Louisiana		1,629,934	3,271,925		1,403,294	3,342,893		2,234,126
Maine	698,530	1,232,604		1,558,353	1,216,339		1,517,413	1,586,500
Maryland	1,943,541		1,267,563	2,080,442		2,324,886	1,603,314	2,318,795
Massachusetts	1,953,707	1,459,927		3,186,910	2,463,300		3,052,558	2,863,215
Michigan	1,734,889	1,846,372		1,989,369	4,170,904		3,561,217	3,759,857
Minnesota	1,349,154	3,553,309		5,120,536	7,166,614		7,063,728	2,198,054
Mississippi	261,277	1,999,375		1,282,329	3,322,181		3,607,619	1,586,500
Missouri	1,616,393		2,099,745	2,330,191		6,097,768	4,179,308	2,522,702
Montana	678,200	1,242,136		1,062,861	1,456,867		1,123,106	1,586,500
Nebraska	517,996	446,237		674,174	1,003,637		3,617,391	1,586,500
Nevada	883,728		1,696,713	1,265,744		2,323,004	3,032,164	1,586,500
New Hampshire		678,503	957,738		2,003,407	939,140		1,586,500
New Jersey	1,329,996	3,208,148		8,302,108	5,434,442		8,211,455	4,809,600
New Mexico	962,053	1,737,804		2,046,256	3,115,544		3,143,869	1,586,500
New York	2,639,535		2,256,500	3,494,171		9,220,525	5,640,980	6,602,345
North Carolina		14,175,835	1,959,791		19,634,270	4,710,415		2,950,055
North Dakota	256,180		607,214	1,006,018		1,025,332	2,221,984	1,586,500
Ohio	2,380,675		1,265,685	3,632,597		1,490,499	9,119,678	4,288,142
Oklahoma		1,427,443	1,250,802		1,285,209	3,675,849		1,858,877
Oregon		425,360	2,317,256		720,612	7,371,317		1,657,976
Pennsylvania	6,550,494		2,231,766	3,364,298		6,772,349	5,897,315	4,749,480
Rhode Island	906,119	708,846		1,314,535	515,788		3,132,484	1,586,500
South Carolina		3,825,518	1,092,374		1,949,775	2,524,242		1,882,925
South Dakota		854,127	2,720,496		1,117,063	3,939,033		1,586,500
Tennessee	1,829,846	3,652,888		2,696,766	3,785,360		3,475,719	2,437,031
Texas	2,698,643	8,216,741		6,444,974	11,316,571		9,587,931	5,833,310
Utah	807,727		1,679,967	6,044,728		838,058	4,259,612	1,587,500
Vermont	344,280		656,312	512,149		1,926,761	911,686	1,586,500
Virginia	1,750,383	5,504,750		2,800,539	3,315,506		2,984,583	2,781,385
Washington	432,457		1,353,763	1,745,896		2,160,906	2,953,226	2,285,720
West Virginia	205,650	1,300,749		2,274,471	14,347,876		1,173,598	1,586,500
Wisconsin	1,519		1,037,004	-0-		3,880,273	7,851,555	2,416,991
Wyoming	657,447	835,019		1,421,639	836,145		1,486,879	1,586,500

Summary of campaign spending to win a seat in the U.S. Senate: 1976–1988

Total spending per year: (Adjusted for inflation):

1976	$44,407,834
1978	76,852,614
1980	59,530,164
1982	88,849,518
1984	116,040,122
1986	158,589,692
1988	136,641,109

Percentage increase by campaign cycle [1]

100 percent increase over 1976	1982
51 percent increase over 1978	1984
166 percent increase over 1980	1986
54 percent increase over 1982	1988

[1] These percentages are figured by 6-year cycles to remain consistent with respect to Senate seats up for election.●

BARBARA BIGGINS, TV VIOLENCE AND CHILDREN

● Mr. SIMON. Mr. President, Barbara Biggins, the distinguished Australian leader in the field of television, recently spent 9 weeks in the United States and Canada interviewing people on the question of television violence.

While she visited with me and other Americans who are interested in the subject, more important than that, she visited with those in the United States who have really done research on this subject.

Her conclusion, stated simply at the beginning of this summary, is:

There were no researchers out of 19 interviewed to date who thought that children's exposure to television violence was not a problem.

I am pleased that the Senate has acted on this question of television violence, and I hope my colleague in the House will do the same shortly. For the first time, the House Judiciary Committee has now passed this legislation that would permit the television industry to get together and establish standards on violence without violating antitrust laws.

Among the people she visited with were John Murray of Kansas State University; Aletha Huston and John Wright of the University of Kansas, Lawrence, Center for Research on the Impact of Television on Children; Bruce Watkins of the University of Michigan, Ann Arbor; Dan Anderson of the University of Massachusetts, Amherst; Dale Kunkel of the University of California at Santa Barbara; Marsha Liss of California State University, San Bernadino; Aimee Dorr of the University of California, Los Angeles; Joseph Turow, George Gerbner, Larry Gross of the Annenberg School of Communication, University of Pennsylvania; Edward L. Palmer, independent television consultant, Philadelphia; Roger Desmond, longtime collaborator with Jerome and Dorothy Singer, currently on sabbatical with a private firm in New York; Pro. Chester Pierce of Harvard Graduate School of Medicine; Dr. William Dietz of the New England Medical Center, pediatrics and spokesman for the American Academy of Pediatrics; Ronald Slaby of the Harvard Graduate School of Education; and, Andre Caron of the University of Montreal, Centre for Research on Youth and Television.

I ask that her report be inserted in the RECORD at this point.

The report follows:

TV VIOLENCE AND CHILDREN

An overview of the opinions of U.S. TV researchers in response to the questions:

(a) Should we be concerned about the impact of TV violence on children? and if so

(b) What would you recommend as remedies?

SUMMARY

There were no researchers out of 19 interviewed to date, who thought that children's exposure to TV violence was not a problem. The amount of time that children spend with TV, the types of progams that they were exposed to, and the fact that children attend to TV to learn about life were seen to be key factors in the problem. All were concerned that children make inferences from

TV about the way to solve problems. Many were concerned about the fact that many children imitate what they see on TV. More were concerned that children were densitised to the use of violence by watching violent TV. Children's cartoons were seen to affect attitudes toward violence. Even though many children could tell that cartoons were not real, nevertheless they made inferences about the use of violence from watching them. The most influential form of violence was seen to be the use of violence by heroes, and imitatable violence. Programs featuring violent heroes were almost universally considered not suitable to be given a G classification. The great majority believed that classification criteria should be based on content, not on impact on the viewer. Generally it was considered that parents were unaware of the nature of many of today's cartoons, and of the effects of violent cartoons and violence in general. TV had not served the public interest as it had failed to regularly discuss the effects of the media, including violence.

1. John Murray (Kansas State University, Manhattan, Kansas):

Yes, we should be concerned. The research indicates that we should do something. TV violence has a variety of effects. Copycat things do happen, when the circumstances allow them to happen.

Conflict cannot be removed from TV dramas, but we can use the classification system and time zones to ensure that high level violence is not shown at certain hours.

Guidelines for classification should be kept simple. Criteria should be based on content, not impact on the viewer (causes controversy).

The things that most upset children are scary incidents that involve children; cruelty to the young and to immature defenceless animals; anything that has direct relevance and could happen to you.

News journalists know the difference between relished violence included for its own sake, and necessary violence. Their codes should encourage this discrimination.

2. Aletha Huston and John Wright (University of Kansas, Lawrence, Center for Research on the Impact of Television on Children):

Researchers on the impact of TV violence on children have accepted the desensitization effect; catharsis has been discredited. There is disagreement among the research community as to the magnitude of the effect of TV violence. However, if we could even reduce violence in society by 4% (hypothetical figure), it would be worthwhile.

The most demonstrably harmful material is violence against women, in an erotic context.

There are age differences with the kinds of material that can be harmful. With young children, cartoon violence can be very harmful. Bugs Bunny and Road Runner are full of destruction. He Man and his ilk have another element—superheroes and these have enormous appeal to small boys. The message of those cartoons is that violence is power—to be powerful attack other people. The difference between the impact of the Road Runner genre and He Man is developmental—it takes an older child to say He Man's not real, as it contains bodies. Even if a child can tell you that a cartoon is not real, it does not mean that the violence does not affect him.

Remedies would include putting different heroes in children's cartoons—people who deal with conflicts in ways other than violence.

The G classification criteria should depend on content, not effect on the viewer. Lead characters should not use violence to achieve their ends. The use of weapons, fist fights should not be permitted in G programs, where these are portrayed in a positive light, and their use is shown as justified.

With news and current affairs programs, AO type news coverage should be shown in AO time. Self regulatory codes are better than none at all. Perhaps incentives in the form of awards could be given for news crews who shoot good news stories, without the inclusion of violence. Research indicates that it is possible to hold the attention of viewers with high action without violence; with cuts, pans, zooms, loud fast music, and auditory cues.

Footnote 1: When I mentioned the Bud Dwyer episode, the response was, Who? Most US stations did not show footage as it was considered insensitive to show it.

Footnote 2: Tannis Macbeth Williams who BB is to visit in mid June is considered by CRITC group to have developed a very useful system for measuring violence content of programs, which produces consistent results across raters.

3. Bruce Watkins (University of Michigan, Ann Arbor):

The evidence indicates that we should act in the area of children's exposure to TV violence. The more realistic an outcome of violence, the more likely it is to have a emotional effect.

If a set of standards on TV violence is to apply to all types of programs, they will be too broad to be useful. Violence in children programs should be tightly controlled. Violence in adult programs is perhaps best controlled by later time zones. Violence in the early evening news is a problem if there is no choice at the time, i.e. all news and current affairs programs are in same time slots. Mandate that there be choice?

The US networks and public broadcast station WGBH codes on TV violence are worth looking at. (BB will get these if possible.) Adult standards should include the concept of "fortuitous violence" i.e. every instance of the use of violence must be clearly necessary to the development of the story. At every stage of production, must ask if this violence is necessary.

Standards that apply to children's programs should be tighter and apply equally to cartoon and real programming. These standards should be based on modelling theory. Whether the character is live or real, it will be taken as a model. (See Aimee Dorr's work with cartoon violence.) Additionally, a particular problem arises with the cartoon—toy tiein. All the conditions for the encouragement of violent play are given with the program.

The 2 standards for all children's programs that would do most to fix the problem would be:

(a) never let the hero solve a problem by using aggression;

(b) there should be relatively immediate punishment for the use of violence, no matter who uses it, along with a verbal message at the same time. (The He Man homilies at the end of the programs are not considered useful.)

4. Dan Anderson (University of Mass. Amherst):

One can't, nor should, prohibit all violence, as it is part of society, and we don't do children a favor by pretending it doesn't exist.

However, it is clear that children look to TV as a source of information. Children use TV as a medium of instruction all the time. They are not wise nor critical in what they watch. They absorb information about society and its expectations.

There is a particular problem with the imitation of TV heroes. Children want to be effective and respected. Parents often are insufficient models (i.e. of how to be effective and respected). All too often, TV talks to children in ways that no one else does, and shows them violent models that are effective.

Anderson would try to prevent shows where violence is a necessary component of many cartoon programs. They are harmful because violence is the dominant element, and the central actions revolve around confrontation.

His remedies would include having a Committee review all programming for children, including cartoons, with violence being one of the issues being reviewed. He would apply the criteria of whether violence in the production serves a clear and necessary role in the promotion of the story. Of most importance, is the factor that under no circumstances should the people involved in the violence be in any way glorified or glamorous. Violent heroes should not be seen as someone to be like.

He believes that the protection of preschoolers from the images of violence is important, e.g. riots, etc.

He was not particularly concerned that the definition of violence include verbal violence or expressions of anger.

5. Dale Kunkel; (University of California at Santa Barbara) and Brian Wilcox (American Psychological Association Executive, Washington):

There is good reliable evidence that TV violence is a significant contributor to attitudes of violence and is a problem of significant magnitude.

Young children do not integrate cause and effect, and interactions well, and will often miss whether violence is punished or unpunished. Therefore a regulatory remedy based on whether the violent acts are punished or not will not be effective.

Programs with violent toy tie-ins are a problem. The Courts in NABB case some years back ruled that HeMan cartoon constituted advertising. FCC has not yet acted on the issue.

DK and BW would prohibit in children's programs, animate characters who use violence. (Animate including humans and other characters equating to human life.)

The line in regulation needs to be drawn where there is broad consensus, and support of research, i.e. with the programs where the theme is the use of violence. They would include such programs as the Three Stooges, and Road Runner.

They saw a clear need to signal violent content in program publicity, and labelling. They strongly recommend that that the release of the ABT's Violence Report be tied to an information campaign, to inform parents. Programs containing violence should be clearly signalled by a V symbol (which may of itself provide a disincentive to programming violence). The information campaign could be via CSA's, required to be screened by the commercial industry.

6. Marsha Liss (California State University, San Bernadino):

Believes action should be taken. Children's programs, including cartoons should never include violence performed by the good guys. Young children do not understand justification for the use of violence.

She would include in a definition, violence against persons and property.

Violence in the evening news disturbs children because they identify with incidents that could happen to them. News coverage should not provide limelight for the aggressors. There has been a study of the effect of this ("Fifteen minutes of glory").

7. Aimee Dorr (University of California, LA):

There is good reason to be concerned about TV violence and children, because there is clear evidence that aggressive/violent material that can be imitated, can teach and instigate violence.

There is a tendency for viewers to abstract ways of solving problems from TV violence.

TV has the potential to encourage prosocial values. Programs with a lot of violence in them waste that opportunity.

Solutions are not easy. TV is not a major cause of aggressive people. A child who is well socialized and controlled can watch violent material and draw a moral. If well handled, some conflict and aggression can be useful. However, most producers work under pressure and know very little about children. The system makes it too hard to do the right things.

She would not treat animated material differently from real life material (though its effects may depend on how far removed from reality it is). A feature of animation is that it can show things very clearly and emphasize them, and so can cause more trouble. Dorr's work suggests that children can know that a program is not real, and how it is made, but still make inferences from it for real life. The fact that it's fantasy does not matter. For young children, violence in a humorous context is not harmless—they still imitate it, e.g. The Three Stooges.

Her suggested criteria for programming harmful for children, would include material that was imitatable by children and which was hostile and negative; storylines which promote the use of violence and aggression to make the world right.

The types of news likely to cause anxiety in children included harm to children and animals, events likely to happen in their own environment. News services could use still photos in a small screen in the background, when describing horrific events, and/or use verbal descriptions.

* * * * *

9. Edward L. Palmer (Independent TV consultant, Philadelphia):

What is needed is a child-friendly policy that puts children's real needs first. Children need a diversity of program type, which reflect constructive values. He is not opposed to all depictions of violence, but does oppose specious violence used for dramatic effect, and violence repeated often. Bettelheim's Uses of Enchantment talks about stories which incorporate violence but which go to the heart of human need. Most Sat. morning cartoon stories don't do this, and are shallow useless stories.

10. Roger Desmond (long time collaborator with Jerome and Dorothy Singer, currently on sabbatical with a private firm in New York):

He believes that TV violence is a problem to children.

He thought the violent adult programs on too early in the evening were the big problem.

His remedies would include excluding from G classification action and adventure programming featuring crime as a theme; acts of violence which were separated from their consequences; those programs with heroes who were allowed to commit acts of physical aggression (children will imitate heroes); programs with derogatory references to other races; unregulated music video clips.

His concern about the music video clips lay in the fact that they were around 3 min. in length and perfect for children's attention span. They have no development of story or structure, and are perfect dream sequence stuff. The recurring themes are violence and domination. There are very few interruptions between clips and this invites uncritical viewing. There is a satisfaction effect so that the content has to keep shocking at a higher level. He believed that such video clips should not be classified G.

11. Prof. Chester Pierce (Harvard Grad. School of Medicine):

TV creates a view of the world for us night after night, where unlawful things are shown as the norm. Violence is done to us as a people by producers who put gratuitous violence in programs. Violence is done to us by TV's constant emphasis on the unusual and the problematic. People can get over stressful events, but getting over stressful circumstances is much harder. TV is creating stressful circumstances for viewers by distorting real life. TV news presents a skewed and overbalanced view of the world.

12. Dr. William Dietz (New England Medical Center, Pediatrics, and spokesman for the American Academy of Pediatrics):

There is no question but that there is a (causal) relationship between viewing TV violence and violence in children. The effect is dose related, and temporally related. TV cartoons are the most violent shows. If we accept that much of the development of children's behavior is based on imitiation, then we can't escape the effects of TV as a developer too. Cartoons are a critical source of information for children. If we ignore the influence of cartoons we miss a substantial proportion of TV's adverse effects on children. The frequency of violence on children's TV is driven by the program length toy commercial. These programs should be prohibited (we should ban all programs which introduce a toy within 2 years of the program.) Broadcasters could be required to publish a count of violent acts in programs. (Define a violent act as one intended to harm or injure.) The publication of such a count could focus attention on the problem.

13. Ronald Slaby (Harvard Graduate School of Education):

TV suppresses the findings of the relationship between TV violence and violence in society, in contrast to the coverage given in the US, of the findings of the studies of the links between smoking and lung cancer. The American public is ignorant therefore, of the effects of TV violence.

Feshbach and Singer have withdrawn their findings of a catharsis effect. Those who claim that there is no evidence of effects are those who haven't read it, or who don't know the complementary nature and convergence of the evidence. Slaby has written a number of review articles. TV violence is a contributor to aggression at least on a par with parents, peers. Fictional as well as realistic violence is influential, and on girls as well as boys.

The best model is that none is immune, but some are more susceptible than others. The question is who, and under what circumstances are most susceptible. Research indicates that there are cognitive factors that mediate the impact on the individual. There is a parallel with the effects of smoking—who and under what circumstances have the stronger immune systems? What factors lead people not to watch TV violence? We are now able to develop reliable and valid measures of thinking that strengthens the connections between input and output, and so we're better able to predict who will be affected, as well as what we can do about it. This research will have implications for what we put on TV as well as what we can do about the children who choose to watch violent TV.

Regulatory remedies need to include the concept of truth in labelling, to enable parents and kids to select carefully. Such labelling needs to be specific about the levels of violence likely to be encountered in the programs. The labelling needs to also indicate whether the program is real or not (as in the confusion of fact and fantasy in docudramas).

Research shows that justified violence, sanitised violence, and violence that is laughed at are more likely to trigger violence. This includes laughtracks tied in with violence.

Extreme violence in AO type programs should only be accessible in a limited way, e.g., after midnight.

The industry should offer the public the opportunity to lock out undesirable programs.

The commercial industry must offer airtime that's not editorialised by the station, that permits the TV industry to be examined. At present such comment comes into conflict with the interests of broadcasters. However, the public must be given the opportunity to learn of the effects of TV. The ABT needs to require that this time be given, to encourage critical viewing skills.

As a category, cartoons have the highest level of violence. Research indicates that the violence effects hold for cartoons as well as for reality based programs. A blend of fiction and humour if anything, has a stronger effect. Children may well make a fantasy reality distinction, but even fantasy has real life implications and messages that may be applied (cf Pinocchio). Violent cartoon heroes seen as fantasy still say something to children. Such cartoons should have a PG classification.

14. Andre Caron (University of Montreal. Centre for research on Youth and Television):

We will never be able to prove conclusively the media's effects on anything. But, of course, TV does have an effect. TV violence not only triggers imitation, but also desensitisation effects, fails to show consequences, shows who the victims are (see Gerbner). We will be unable to convince broadcasters to change on the basis of research, but research can help focus on certain elements. We should be challenging them to ask themselves why they have violent programs, and how important is this violent aspect in my programming. Canadian children spend 24 hours per week with TV. That is significant in itself. Caron's research on TV's contribution to Canadian people's knowledge about America showed TV was responsible for 18% out of all the variables. This has significance in the issue of how much TV violence contributes to the use of violence in society.

With regard to Saturday morning cartoons, we need to look at the heroes and their characteristics. In essence most good guys solve problems with violence just as the bad guys do. We should do some content analyses of cartoons and the ways problems are solved, and ask whether that is the way we want children to learn to solve problems

in Australia. We should compare violent indices of the programs children see with those of our society, and ask about the impact of those differences on the ¾ year old mind.●

NATIONAL BICENTENNIAL COMPETITION ON THE CONSTITUTION AND BILL OF RIGHTS

● Mr. ROTH. Mr. President, the week of May 1, 1989, in our Nation's Capital, over 950 young people from 44 States gathered to participate in the National Bicentennial Competition on the Constitution and Bill of Rights. I am proud to announce that a team from Middletown High School of Middletown, DE, represented my State. These young scholars worked hard to reach the national finals by winning the district and the State competitions and I would like to congratulate them for the fine job they did competing for the national title.

The members of the Delaware team were: Beverly Dant, Brian Ford, Brent Kane, Donna Lavigne, Rebecca McAlpin, Teresa Payne, Amy Pennington, Albert Rhodes, Betsy Schulenberger, Dawn Smith, Karen Sommers, Melissa Wilmoth, Demar Beck, Ike Henry, and David Bright.

Along with the students, their teacher, Thomas Neubauer, deserves much of the credit for the success of the team to date. As well, Donald R. Knouse, the district coordinator, and Lewis E. Huffman, the State coordinator, worked hard to help their team reach the finals.

The National Bicentennial Competition on the Constitution and Bill of Rights is the most extensive educational program in the country developed to educate young people about the Constitution and Bill of Rights. With the support of Congress, the active involvement of Representatives and Senators, and the efforts of thousands of civic and education leaders, the program achievements over the past 2 years have been dramatic: 1,022,320 students have studied the curriculum; 14,381 teachers are teaching the course; 420 congressional districts and the 5 territories have fully functioning programs; 92 U.S. Senators are supporting the program in their States; and 393 U.S. Representatives are participating in their districts.

The program provides students with a specially designed 6-week course of study designed to provide upper elementary, middle and high school students with a fundamental understanding of the Constitution and Bill of Rights and the principles and values they embody. Students complete the instructional portion of the program with a test designed to measure their constitutional literacy and receive a certificate of achievement signed by their U.S. Representative.

High school participants then enter a nationwide series of competitions at the congressional district, State, and national levels. Students testify before a panel of experts at a simulated congressional hearing designed to measure understanding and capacity to apply principles being learned to historical and contemporary events. Each year, the National Bicentennial Competition culminates in 3 days of intensive competition among classes from almost every State in the Union.

Mr. President, the need to educate our young people about the Constitution and Bill of Rights is well documented. Studies have found that only slightly more than half of students surveyed were able to identify the original purpose of the Constitution. Nearly half thought the President could appoint Members of Congress and one-third thought he could adjourn Congress when he saw fit. Another survey conducted on behalf of the Hearst Corp. suggested that over half of Americans thought that the Marxist credo "from each according to his ability, to each according to his need" can be found in the Constitution. Most alarming was the finding that a greater proportion of today's students display antidemocratic attitudes than did students in 1952.

The preservation of our freedom and our Nation depends upon our young people, the decisionmakers of tomorrow. We have much to gain from educating them about the Constitution, the Congress, and the continuing responsibilities of citizenship. I am proud to have students from my State in the national finals and I commend each of them and their teacher for their hard work.●

KENYA

● Mr. SIMON. Mr. President, Kenya's trade and investment practices are becoming a cause of serious concern. The Kenyan Government has adopted a policy requiring the localization of its insurance industry, which constitutes a barrier to American service exports and could result in the illegal expropriation of U.S. property in Kenya.

American Life Insurance Co. [Alico], a Delaware corporation, may soon become the principal victim of this policy. Alico is the leading life insurer in Kenya, where it has been doing business for nearly 30 years. As such, Alico is a major investor in the Kenyan economy with assets in Kenya valued at approximately U.S. $64 million.

The Kenyan Government, pursuant to the localization policy, has required that at least one-third of Alico's Kenyan subsidiary must be owned by Kenyans. I am advised that Alico is now being forced to sell this one-third interest to an instrumentality of the Kenyan Government at far less than fair market value. This one-third ownership has already been transferred to the Kenyan instrumentality, but Alico has yet to receive any payment for these shares. If Kenya proceeds with these actions, without providing prompt, adequate, and effective compensation—or at least assurance that such payment will be made within a limited time certain—such an expropriation would be contrary to the international legal rights of citizens of the United States.

Despite earlier assurances to the contrary, the Kenyan Insurance Commissioner has refused to approve the remittance in U.S. dollars of Alico's total accumulated retained earnings which were blocked locally, prior to the localization decree. Such action is unfair and will send an extremely negative signal to potential investors in the Kenyan economy.

The Kenyan Government has seriously interfered with Alico's ability to effectively operate its Kenyan subsidiary. The Kenyan Government has rejected the technical assistance agreements between Alico and its Kenyan subsidiary. These agreements would have allowed Alico's home office to provide the necessary technical expertise to its Kenyan subsidiary. Alico is also being pressured to reallocate seats on its Kenyan subsidiary's board of directors. Kenya has even repudiated a previous contractual commitment allowing Alico to appoint the managing director of its own subsidiary.

Most employees of Alico's Kenyan subsidiary are Kenyan nationals. However, the Kenyan Government refuses to provide assurances that Alico will be able to bring into Kenya the few non-Kenyans that it needs to effectively operate its business there.

If Kenya's actions against Alico are not quickly rectified, they will have a chilling effect on potential investors and will thereby undermine Kenya's economic development.

All of this information I have received from Alico, but no one from the Kenyan Government has suggested that these assertions are not accurate.

My hope is that this problem will be resolved very soon. Kenya is an important nation in Africa, one that has had a history of good relations with the United States. We want that relationship to continue and grow. Kenya has also been a good friend to its African neighbors. President Moi's leadership in helping to mediate a peace process in Mozambique is an important contribution to the region and I commend him for that leadership. I hope that Alico's problems will be concluded satisfactorily in the immediate future and thereby prevent further deterioration of bilateral economic relations.●

THE 100TH ANNIVERSARY OF THE NATIONAL ASSOCIATION OF LETTER CARRIERS

● Mr. PELL. Mr. President, later this month, the National Association of Letter Carriers will celebrate its centennial, and 100 years of mail delivery service to citizens in every city and community across the country.

Members of the National Association of Letter Carriers will retrace the steps of some 60 carriers who traveled to Milwaukee, WI, in August 1889, during the annual reunion of the Grand Army of the Republic, to establish a national organization of letter carriers.

Throughout the centennial celebration in Milwaukee, letter carriers from across the Nation will pay tribute to the 60 delegates who established the framework for the strong union that exists today, as well as the important goals for the National Association of Letter Carriers, including improved mail service for postal patrons, improved working conditions for letter carriers, and assisting carrier families in need.

For Rhode Island letter carriers, this 100th anniversary of the National Association of Letter Carriers has special significance. Not only was Rhode Island represented at the first convention of the letter carriers in 1889, but more importantly, delegates at the Milwaukee convention elected John J. Goodwin of Providence to serve as temporary chairman of the convention. Mr. Goodwin was also elected to the executive committee of the NALC in 1889, and the following year at the first annual convention in Boston, elected to serve as NALC's second president. During this same year at the NALC convention, Branch 15 of Providence, RI, was recognized as one of the first chartered organizations in the National Association of Letter Carriers.

Today, the National Association of Letter Carriers with more than 315,000 members including 1,800 in Rhode Island, continues these goals and traditions established in Milwaukee by the 60 carrier delegates in 1889—traditions which are committed to improving mail service for all Americans, improving the working conditions of letter carriers, and rich in service to citizens across the country.

In this regard, I want to recognize and commend the National Association of Letter Carriers and especially the more than 1,800 letter carriers in Rhode Island for their outstanding service to the American public over the past 100 years. Letter carriers have served over the years not only by ensuring that the mail must go through, but in many ways including working to improve health care for employees and the elderly, pressing for women's voting rights, working with the disabled as well as the nationally recognized Carrier Alert Program established by the NALC to assist citizens in time of need.

No more clearly is the rich letter carrier tradition of service exemplified than through the outstanding service to the public by Rhode Island letter carrier and NALC Branch 55 member Ron DeFelice. Mr. DeFelice recently assisted a patron in apprehending a thief while on his letter carrier route in Pawtucket, RI. Without question, Mr. DeFelice's actions clearly represented the highest of NALC traditions.

Again I commend and congratulate the National Association of Letter Carriers as they celebrate their 100th anniversary. I especially want to recognize the Rhode Island letter carriers along with Branch 15 in Providence for their many contributions to Rhode Islanders, and the National Association of Letter Carriers over the past 100 years. Rhode Island letter carriers continue to exemplify the finest NALC traditions of pride, service to others, and ensuring that the mail must go through.

Mr. President, I ask that an article from the NALC Postal Record of May 1989, and most appropriate for the NALC centennial celebration, be printed in the RECORD at the conclusion of my remarks.

The article follows:

THE MAIL MUST GO THROUGH—NEITHER FLOOD NOR FIRE NOR THREAT OF THEFT STAYS THESE COURIERS

Maintaining the vital link of mail service—come what may—has been the standard practice of letter carriers throughout the past 100 years. In the face of floods, fires, earthquakes and even pistol-brandishing robbers, carriers have continued on their appointed rounds.

In the aftermath of most of this nation's great natural disasters, letter carriers have performed the essential job of returning life to normal for the survivors. And many times carriers risked their own lives to ensure that the mail entrusted to them would eventually reach its destination.

In the infancy of free city delivery, carriers earned a nationwide reputation for dedication by their work during and after the great Chicago fire of 1871. Supposedly the result of an ill-placed kick by Mrs. O'Leary's cow, the blaze ultimately destroyed more than 17,000 buildings—including Chicago's main post office.

Yet post office officials claimed that thanks to the tireless efforts of carriers and other postal employees, not a single "live" letter was lost—although the contents of the dead-letter office could not be saved. And even before the embers had cooled, carriers were out on the streets making deliveries to such addresses as they could find.

FORDING THE FLOOD

Chicago carriers passed the test of fire—and just nine years later carriers in Johnstown, Pennsylvania showed that they were equally undaunted by flood. The disastrous Johnstown flood on May 31, 1880 killed more than 2,200 people and wiped out much of Pennsylvania's Conemagh Valley.

Yet within a few days of the deluge, which destroyed almost all the post offices in the area, carriers were back on the job doing as much as they could to restore normal mail service to grief-stricken residents.

Tragically, the heroism of Johnstown's carriers was again required when another major flood devastated the same area on July 19, 1977. More than 10 inches of water stood on the workroom floor of Johnstown's main post office, and all 90 of the office's postal vehicles were engulfed by five feet of water.

Yet the mail was safe, moved out of danger by postal employees working through the night. By July 21, those carriers who could get transportation to the post office were back on duty helping to clean up.

On July 22, carriers began delivering whatever routes they could. One carrier reported that a customer was so happy to see her mail—a sign of the return to normalcy—that she acted as if the telephone bill she received were a winning lottery ticket!

Another major American disaster that spurred letter carriers into action was the great San Francisco earthquake of April 18, 1906. An eyewitness report of the tragedy—and rescue efforts spearheaded by NALC members—appeared in The Postal Record in August 1906.

A CITY SHAKEN

"At 5:13 on the morning of the 18th, we were awakened by the (to us) well-known rocking of our rooms," wrote San Francisco Branch 214 Secretary Dudley Cameron. "When the vibrations continued harder, and that awful circular movement began, we realized that this was no ordinary shake.

"I hastily repaired the Station C, three blocks from here, only to find that no cars were running, no mail had arrived. In fact, business was at a standstill."

Cameron noted that fires had already broken out. "Our brave firemen had a stupendous task to fight the flames," he wrote. "They would have succeeded if the water had not stopped. The earthquake had broken the water mains."

When fire threatened Cameron's station, he and other carriers worked alongside the firefighters to try to save the building. "But it was the last building to burn in the Mission district," he wrote.

More than 400 blocks of the city were destroyed, and 503 people were killed. Yet within days, carriers were back on the job.

Because of the widespread destruction, 200 carriers found themselves without routes to carry, but they promptly began work anyway. Some remained in their offices, casing mail and handing it out to patrons who managed to call for it. Other carriers went across the bay to Oakland, where vast numbers of refugees created congestion and confusion for post offices there.

NALC mounted a national fund drive for the relief of the 150 San Francisco members who lost their homes in the disaster. Only one carrier was killed, and none were injured.

HURRICANE FORCE

Many disasters such as the San Francisco earthquake occurred during carriers' off-hours, but at least one more recent catastrophe put letter carriers in peril while on duty. On August 17, 1955, Hurricane Diane roared into Worcester, Massachusetts, and carriers felt the full force of her fury.

"Letter carriers started out that black Friday morning at eight a.m., garbed in foul weather gear, under a drenching rain," wrote Worcester Branch 12 scribe Pat Feeney in the October 1955 Postal Record.

"By nine a.m., things sure looked scary. With eerie-looking skies and the rain sweeping down in a solid wall of water * * * the bus companies ordered buses back to the garages. We were soaked to the hides and when you get that wet, more water doesn't matter.

"Over the loudspeakers of radios rang out the terrifying news of the dams letting go. * * * Soon walls of water 30 feet high came roaring down, leaving behind a scene of destruction.

"About 11 a.m. the postmasters sent out a frantic general alarm over the radio and television stations for the letter carriers to get off the streets. Every truck was put into service to salvage the relays and gather up the half-drowned letter carriers.

"The water in the Webster Square branch office rose up to the second shelf of the carriers' cases. At nearby Rochdale, the post office was swept away, leaving but the front door and wall standing, looking like the false front of movie scenery."

Again, carriers began working as soon as was possible—and again, NALC came to the aid of its stricken members with a national emergency relief fund drive.

As if natural disasters weren't hazard enough, through the past century carriers have also endured more than their share of tragedy caused by the actions of other humans.

MASKED MARAUDERS

Train robbers and train wrecks—frequently staged by the robbers to gain access to the train's mail car—took a heavy toll on postal employees working in the railway mail service. From 1876 to 1905, 207 postal clerks died in train wrecks while on duty.

One of the most notorious robbers of the nation's mail was the infamous Black Bart, a real Wild West bandit who robbed more than 30 mail messengers in California between July 1875 and November 1883.

Black Bart's counterpart in the East was a West Virginia gang which called itself the Red Men. They wore long red robes, red hats and red hoods over their faces as they held up mail messengers for their letters and packages.

VALIANT DEFENSES

In more modern times, there have been several—and even one is too many—letter carriers who have been killed by would-be mail robbers.

On October 14, 1926, letter carrier John Enz of Elizabeth, New Jersey was gunned down when seven men in two sedans ambushed his mail truck, which was carrying $151,700 in cash. A clerk riding with Enz, Patrick Quinn, was wounded.

To memorialize Enz, Elizabeth Branch 67 has adopted his name and is known as John Enz Branch 67.

Another similar tragedy 40 years later proves that letter carriers still face enormous risks today. In August 1966, Eddie Lindsay of Los Angeles Branch 24 was killed when he refused to surrender his satchel to two armed robbers.

This decade has seen the murders of two NALC members while delivering mail. Debra Sue Schatz of Houston, Texas Branch 283 was kidnapped and murdered on her route in June 1984. By act of Congress, her station was renamed the Debra Sue Schatz Post Office Building in her honor.

Another Los Angeles Branch 24 member, Dale J. Hooker, was killed in May 1986 by a drug addict who shot her through the front door as she approached his house to deliver the mail.

These violent, on-duty deaths of dedicated carriers are fortunately very rare. Yet every day on routes across the country, carriers persevere through difficult conditions to ensure that the nation's mail is delivered.

And when the larger crises come—when natural or man-made hazards threaten—letter carriers are quick to respond, committed to continue, in the face of all odds, "the swift completion of their appointed rounds."●

GLOBAL TOPICS ON THE SUPERPOWER AGENDA: NOT SO UTOPIAN AFTER ALL

● Mr. BRADLEY. Mr. President, I ask to place in the RECORD an article on multilateral relations by Richard Gardner, professor of international law at Columbia University Law School.

I have long valued Professor Gardner's understanding of international relations. His comments are especially important now. This article reflects the insights garnered in a recent series of candid meetings between American academics and policymakers and their Soviet counterparts. Professor Gardner's perspective on the changes taking place in the Soviet Union should be taken into consideration if we are to shape a foreign policy that recognizes the challenges and opportunities created by those changes.

I commend Professor Gardner's comments to my colleagues.

The article follows:

[From the International Herald Tribune, May 8, 1989]

GLOBAL TOPICS ON THE SUPERPOWER AGENDA: NOT SO UTOPIAN AFTER ALL

(By Richard N. Gardner)

NEW YORK.—When Secretary of State James Baker meets Wednesday with Foreign Minister Eduard Shevardnadze in Moscow, the traditional items on the U.S.-Soviet agenda—arms control, regional conflicts, bilateral relations and human rights—will be supplemented by a new "fifth basket" of global issues. A recent meeting in Moscow of experts convened by the United Nations Associations for the two countries suggested that this may be an opportunity to test Mr. Gorbachev's "new thinking" on foreign policy and match it with some "new thinking" from the Bush administration.

Until recently, the idea of superpower cooperation on global problems seemed utopian—even now, some in the Defense and State departments call it "global baloney."

Indeed, for years Moscow battered the core principles of the UN Charter: the nonuse of force save in self-defense, multilateral cooperation in solving economic and social problems, and universal respect of human rights.

But Mr. Gorbachev now calls for a broad repudiation of traditional Soviet foreign policy doctrines—a search for common interests instead of international class warfare, a respect of the concept of nonintervention instead of the export of revolution by force, a strengthening rather than a weakening of the authority of international organizations, and the entry of the Soviet Union into the world trade and financial system in place of a policy of autarchy. How far can we trust Mr. Gorbachev's version of neo-Wilsonianism? Experience justifies caution.

One reason not to dismiss Gorbachevian rhetoric is that Soviet leaders are offering the same "new thinking" to domestic audiences as to foreign audiences—a speech last summer by Mr. Shevardnadze to his ministry's cadres is a case in point.

There is, moreover, the lengthening list of Soviet deeds in support of Soviet words: the payment of some back dues to the United Nations; the acceptance of World Court jurisdiction in interpreting five human rights treaties; the withdrawal of troops from Afghanistan; the effort, along with other nations, to help end the Iran-Iraq war and to create a peacekeeping force for Namibia.

In the Moscow meeting last month, senior Soviet officials and academics told American experts of their desire to go further. They underlined their interest in strengthening the UN's capacity to avoid and contain regional conflicts through preventive diplomacy and peacekeeping forces. They called for the speedy conclusion of a chemical weapons treaty, the creation of a common regime to limit missile exports to Third World countries, and the establishment of a UN Environment Council at the ministerial level to coordinate global action on various threats to the biosphere.

And they hinted that their government might accept the optional protocol to the UN Covenant on Political and Civil Rights, under which Soviet citizens could petition a UN committee over violations of their human rights by the Soviet government.

The reasons for all these changes, past and prospective, are not difficult to understand. An overextended Soviet empire with a sick economy needs agreed rules and multilateral arrangements to protect its interests in regional trouble spots while enabling it to maintain some political influence.

More responsible behavior on their part, the Soviets clearly hope, will open new possibilities for badly needed trade and joint ventures. Moreover, Mr. Gorbachev evidently believes that making new multilateral economic and human rights commitments will help him institutionalize his still fragile domestic reforms.

All this does not mean that the Cold War has ended or that we can ignore the need to maintain a secure balance of power through a strong defense and strong alliances. We cannot be sure that Mr. Gorbachev will survive or that, if he does, his "new thinking" will prevail against hardliners in the Politburo.

But his approach offers an opportunity to advance U.S. interests and the general human interest. America should seek to tie him to his rhetoric and to call the Soviets to account when their deeds fail to match their words—as with their sale of long-range SU-24 bombers to Libya and their votes to expel Israel from the General Assembly. And the Bush administration should prepare an agenda to put alongside Mr. Gorbachev's, thus adding, at long last, a strong multilateral dimension to the U.S.-Soviet dialogue.

For if Mr. Gorbachev is able to complete the course on which he has embarked, the main threats to the future security of the superpowers may be not from each other but from ominous developments in the Third World—not only terrorism and drug-trafficking, but the presence of missiles, chemical weapons and nuclear arms in the armories of unstable governments and a multiplication of conflicts fueled by under-

development, overpopulation and ecological catastrophe.

The Baker-Shevardnadze meeting could help in preparing proposals for global cooperation to be examined at the first Bush-Gorbachev meeting. Such a development would not be utopian but intensely practical. For George Bush's America no less than for Mikhail Gorbachev's Russia, in a time of military, economic and environmental challenges, multilateralism has become realpolitik.●

PIKEVILLE NATIONAL CORP.

● Mr. McCONNELL. Mr. President, I came across an article recently in the Louisville Courier-Journal that I think deserves special recognition. I would like to share with my colleagues this article about an extremely successful bank holding company in Pikeville, KY.

Burlin Coleman was wandering through Pikeville, fresh out of college, 1 day when his old high school principal told him about a job at Pikeville National Bank. Thinking that he might become a certified public accountant, he took a temporary job with the bank. As time went on, though, Mr. Coleman became more interested in banking, and more involved in the community. By 1979, he was named president of the bank. The bank's success in the past 20 years has been measured by a $557 million increase in assets, something that Mr. Coleman attributes to hard work.

Though a man of few words, Burlin Coleman is aggressive and forward thinking in his profession. He acts instead of talking. Competitive in his profession, Mr. Coleman knows the banking and coal industries inside and out. He was ready for the oil embargo when it hit in the mid-1970's, although no one had predicted it. When the coal industry began to decline in 1975, Mr. Coleman realized that the future growth of the bank could not be tied to the one industry, so in 1981, he took a lead role with the Progressive Bankers Association, who lobbied the legislature to enable Kentucky holding companies to buy and own banks across county lines. In 1984, the year that Mr. Coleman became chairman of Pikeville National Corp., this law was passed. Between March 1987 and July 1988, Pikeville National bought four banks, and last November they opened up a loan production office in Lexington, KY. They have invested money in establishing the Community Bank of Lexington, Inc., which they plan to purchase in 5 years. Mr. Coleman is also interested in acquiring more banks elsewhere in the State.

Due to its location, Mr. Coleman's leading bank, Pikeville National Bank & Trust, is still closely tied to the coal industry. Coal will remain a part of the bank's business, though the company will continue to diversify. Mr. Coleman is optimistic that the oversupply of coal is leveling off, and is not worried about the industry's future.

Burlin Coleman's aggressive professional personality has made Pikeville National Corp. a great success. I hope that my colleagues take note of the success of this man and his company.

The article follows:

PIKEVILLE MOUNTAINS ARE HOME TO A RISING FORCE IN BANKING

(By Susan Tompor)

PIKEVILLE, KY.—An eastern Kentucky mountain community—population 5,683—might seem an unlikely place for the fifth-largest bank holding company in the State to spring forth.

Unless one considers two factors: the oil crisis of the mid-1970s that led to a boom in the coal industry and a boom for banks serving the coal barons, and second, what many bankers say is most critical, the man in charge of the bank.

Burlin Coleman, chairman of Pikeville National Corp. since 1984, began at the bank 40 years ago. He was 20, fresh out of National Business College in Roanoke, Va., and "just loafing in Pikeville" when his old high school principal, T.W. Oliver, pulled him off the street and told him about a job at the bank.

Coleman grew up in Johns Creek in Pike County, about 25 miles outside of Pikeville. His father was a coal miner, and he had no desire to follow him into the mines. Coleman thought he might be a certified public accountant.

"I took a temporary job with the bank," he said.

At that time Pikeville National Bank and Trust Co. operated just one bank that had about $9 million in assets.

Over the years, Coleman became more interested in banking and involved in the community. He moved up through the customary bank promotions—teller to assistant cashier to assistant vice president. In 1967, he became an executive vice president; and in 1979 he was named president.

The bank, meanwhile, grew relatively slowly, reaching about $29 million in assets by 1969—a far cry from the $688 million in assets that the bank holding company controls today.

What accounted for much of the bank's success?

Coleman, an astute banker, avid hunter and fisherman, and man of few words, smiles and simply answers "hard work."

Subordinates who have driven with Coleman across the mountains to other parts of Kentucky report that they've heard Coleman say only slightly more than that on those half-day trips.

But that quiet nature masks Coleman's true professional personality—described by bankers as aggressive, forward thinking, and conservative in a good banking sense.

"People think if you're conservative, you pull your horns in and just sit there," said C.K. Stacy, president and chief executive officer of the Bank of the Mountains in West Liberty, "Burlin certainly doesn't do that."

Coleman "acts instead of talking," said Thomas Brumley, president and chief executive officer of The Owensboro National Bank.

A banking rival who recently acquired First National Bank of Pikeville—one of three in the community—laughed when asked if he was concerned that Coleman would be difficult to compete against.

"Do you think Attila the Hun would be a tough competitor?" asked Marshall Reynolds, chairman of Key Centurion Bancshares Inc.

Being competitive has meant getting to know banking—and coal, the business that drives Pike County—inside and out.

After hustling coal operators for business in the 1950s and 1960s, Coleman and the bank—one of the few making loans to coal companies—were poised to benefit when the oil embargo hit unexpectedly in the mid-1970s.

Coleman, again smiling, said: "We were ready."

Although no one could have predicted the oil embargo, Ballard W. Cassady, Jr., head of the Kentucky Bankers Association and a former employee of Pikeville National, notes that Coleman is one of the sharpest bankers in Kentucky and jokes that for "some reason or another, I think he knew about it."

As money came into eastern Kentucky for coal, independent coal operators paid off their loans, built up their deposits and took out new loans.

That boom lasted but a year, though, and the industry began a steady decline in 1975. It bottomed out in the late 1970s and has had slow growth through the 1980s.

Coleman was aware of the mercurial nature of the coal business, and he recognized early on that the bank's future growth couldn't be tied exclusively to one industry.

"He didn't want his bank to be held hostage to those events," said Michael N. Harreld, president of Citizens Fidelity Corp.

As a result, Coleman took a lead role in 1981 with a maverick industry group called the Progressive Bankers Association. That group, which spun away from the KBA on this issue, lobbied the legislature to change Kentucky's banking laws to enable holding companies to buy and own banks across county lines. Others had lobbied for that through the years. It wasn't until 1984, though, that the legislature passed a law allowing Kentucky banks to buy banks across county lines.

When that happened, Coleman was the first to announce a deal.

The agreement to merge with the First Bank & Trust Co. in Ashland, soon received another distinction. It became the first to unravel.

"Someone got ahead and out-bid us," Coleman said. The bank was acquired by First American Corp. in Nashville, Tenn. Pikeville offered about $21 million in cash. First American paid about $25 million.

A second deal, involving Pikeville National and The First Guaranty Bank of Martin, fell through in 1985.

The Federal Reserve Board blocked Pikeville's acquisition based on antitrust laws. Two Prestonburg banks—The Bank of Josephine and First Commonwealth Bank—protested Pikeville National's proposed acquisition, arguing that Pikeville National would have too much control in one market.

The dispute centered on defining that market.

The Prestonsburg banks argued—with the Federal Reserve later agreeing—that Pike and Floyd counties are one market.

'That's what they said; we think differently," Coleman said.

Coleman argued that Martin, in Floyd County, is 25 miles from Pikeville and that the banks in those counties are part of a larger market in eastern Kentucky consisting of several counties. If Coleman's definition were used by regulators, Pikeville National would have been less of dominant

force and might have been able to acquire The First Guaranty Bank.

Those early disappointments, thought, didn't hinder Coleman's enthusiasm for other acquisitions.

In March 1987, Pikeville National acquired First Security Bancorp of Whitesburg, Ky., which owned First Security Bank & Trust Co., with about $65 million in assets. The price, as stated in Pikeville National's annual report: $9.73 million.

In December 1987, Pikeville National bought Commerical Bank in West Liberty, Ky., with about $55 million assets. The price: $6.03 million.

Last July, Pikeville bought two more banks—The Excange Bank of Kentucky in Mount Sterling, which had about $45 million in assets, and Farmers National Bank in Williamsburg, which had about $70 million in assets. The price tags: $5.19 million for Mount Sterling; $8.27 million for Farmers National.

All deals were for cash.

Last November, Pikeville National opened a loan production office in Lexington. That office can't take deposits, though, and as a result is limited in the amount of money it is able to lend out.

Pikeville National plans to move into the Lexington market in an even bigger, albeit off-beat, way.

Currently, only two roads are available to bankers interested in given market—buy an existing bank or start a new one.

Coleman plans to do a bit of both.

Pikeville National has invested about $650,000 in establishing a new bank called The Community Bank of Lexington Inc. It plans to buy that bank in five years—the earliest date that such a purchase would be allowed under current banking laws in Kentucky.

Pikeville's acquisition would be subject to regulatory approval, the approval of Community Bank shareholders and other conditions.

The new bank, which is expected to open for business next month, recently sold 150,0000 shares at $20 a share, raising $3 million in capital. It has 183 shareholders—most in the Lexington and Pikeville areas.

Pikeville National bought less than 7,500 shares, about 4.9 percent, and invested less than $150,000. It invested another $500,000 in preferred stock and is the only owner of preferred shares.

Joe Graves, organizer and chairman of the Community Bank, approached Coleman last summer to determine his interest in the venture.

"I felt that they had really dominated their market in eastern Kentucky" and Lexington seemed like a logical extension, said Graves, who also organized the Bank of Lexington in 1966.

Coleman—who remains interested in acquiring other banks elsewhere in the State—agreed.

He noted no banks were for sale in Lexington and the new bank seems to be a good way to get into that popular market—which is about 140 miles from Pikeville—and further diversity.

His banking company's lead bank, Pikeville National Bank and Trust, remains closely tied to the coal industry because of its location. Last year, 19.87 percent of the bank's total loans were to coal companies or businesses directly related to the coal industry.

Counting the loans at all five banks brings the level of coal-related loans to less than 15 percent company-wide.

In general, Coleman said, coal loans have dropped off in recent years at the lead bank. At one point, coal loans were as high as 30 percent of the total loans, he said.

The downturn in the coal industry hurt independent coal operators, with many going out of business. And Pikeville National didn't totally escape the industry's troubles.

In 1987, the bank wrote off $3.04 million in loans—most coal related—compared with $1.61 million in 1986 and $1.92 million in 1988. The ratio of chargeoffs to average loans was 1.1 percent in 1987, 0.66 percent in 1986 and 0.54 percent in 1988.

Coleman said the bank was cleaning up its nonperforming loans and believes that most of those problems have been resolved. He noted that the bank's level of nonperforming loans to its total loans is now down to about 1.67 percent. That compares well with banks of similar size nationwide, he said. The nationwide average is 2.67 percent.

Although loan losses were higher than the bank's losses historically, the bank maintains that the losses were manageable because it was able to anticipate some problems. To prepare, it tightened its credit requirements about four years ago, reducing loans to small coal producers. Current loans are being made to larger, better capitalized companies, the bank said.

While the banking company will continue to diversity, Coleman said, coal will still be a part of the bank's business. "We've been into financing the coal industry for 30 or 40 years and we're comfortable with it."

He's particularly optimistic about the coal industry's future. He believes that the tremendous oversupply in the industry is leveling off, with production and coal usage on the verge of evening out.

"We wouldn't trade our spot for any that I know of in the state," Coleman said.●

CORPORATE ACTION AGAINST DRUGS

● Mr. GORTON. Mr. President, in our present war on drugs many States across the Nation are leading the fight through community action targeting specific problems plaguing their communities. In the State of Washington, six black men who believe they can help win the war on drugs formed Corporate Action Against Drugs (CAAD). CAAD's goal is to educate, motivate, and demonstrate the benefits of a clean lifestyle. Corporate Action Against Drugs has sponsored motivational high school assemblies featuring professional athletes; free workshops covering self-esteem and peer pressure; and a role model mentorship program.

Using the collective experience of their programs and direct interaction with gangs and the drug situation in the Northwest, CAAD has published its findings in "Conclusions and Solutions to the Gang and Drug Problem." While a comprehensive drug war strategy will surely incorporate additional measures, I believe that CAAD's findings are instructive, and provide an approach to the drug and gang crime problem that can help us all in our efforts to keep our communities livable. I ask all of you to join me in commending Wayne Perryman, Ravon Johnson, Andre Anderson, Clint Hooper, Paul Johnson, and Harvey Drake for their great personal commitment to the war on drugs.

Mr. President, I ask that "Conclusions and Solutions to the Gang and Drug Problem" be reprinted in the RECORD.

Tne article follows:

CONCLUSIONS AND SOLUTIONS TO THE GANG AND DRUG PROBLEM

INTRODUCTION

It is estimated that there are as many as 6,000,000 drug dealer and gang members in possession of some 2 million weapons in America today. If these figures increase by 10 percent annually, the numbers will have doubled in only 7 years. Yet the frightening reality is that gang and drug activities are increasing at a rate in excess in 10 percent all over America.

The problem of street gangs and the drugs they traffic is not just an inner city problem—it's everbody's problem. Gang violence has migrated from the back alleys and vacant lots of big-city slums and is spilling into the suburban countryside. In truth, our entire population is vulnerable to the threat of gang-related crime.

CONCLUSIONS

Conclusion I: Prison is not the total solution.—

For many residents of inner city communities that are controlled by gangs, movement from one neighborhood to another is prevented by rival gang oppression. Unlike middle-class residents, inhabitants of lower income communities rarely have the opportunity to travel beyond the confines of their own neighborhood. They are virtually a prisoner of their location. They are born there, live there, and die there.

Some penal institutions are actually larger than the neighborhoods in which these people are trapped. Frequently, prison offers a step up in lifestyle. One could say that to imprison a person trapped in the pain and hopelessness of poverty is like sending Brer Rabbit to the brier patch. It is important to note that our prisons are filled with second- and third-time offenders who have discovered that prisons are not such a bad place to live.

Conclusion II: The threat of capital punishment does not intimidate gang members and drug dealers.—

In the inner city, death is a way of life. Children of the inner city are accustomed to seeing homicides, which makes death commonplace to them. Thus, they learn to accept death more readily than their middle-class counterparts.

Because of poverty, many feel they have no choice when it comes to choosing a life of crime. They believe that if they do nothing they will die and if they become involved in crime they will die. Crime, however, offers them a chance to live before they die when no job opportunities are available. Drug dealers and gang members accept death as part of the lifestyle package and are not intimidated by threats of death sentences.

Conclusion III: In spite of nationwide efforts to deter illegal drug activity, drug sales and crime associated with it continue.—

Most inner city crime, including drug sales, is related to economic survival. High unemployment is being replaced by new careers in marketing drugs. These lucrative careers offer victims of poverty an opportu-

nity to live like those associated with the "lifestyle of the rich and famous."

Our appetite for drugs is fueled by a society that focuses on "feeling good" and having material possessions as a measurement of success. As the appetite increases, so do drug marketing opportunities. Some of our most popular advertisements include drug-related jingles: "This Bud's for you, "Weekends are made for Michelob," and "It's Miller time."

Conclusion IV: Legalization of drugs is not the solution.—

More lives have been destroyed by the abuse of alcohol and tobacco than from all of the wars combined in the history of our country. All the remaining drugs together cannot begin to inflict as much pain and damage as our two legal drugs (alcohol and tobacco). Since we have statistically proven that we cannot control the abuse of alcohol, tobacco, and prescription drugs, it would be senseless to legalize other drugs. The first step to stop abuse is to eliminate the use. We cannot abuse what we do not use, and this applies to alcohol—the drug that has 15-20 million addicts.

Legalization will not stop crime. Criminals are criminals because they do not respect the law. They will not abandon criminal activities because of the legalization of drugs. Furthermore, legalization will not instantly transform criminals into law-abiding citizens. To purchase a car is legal in America, but car theft is still a billion-dollar industry. Studies show that most crimes correlate to drug use.

Above all, legalization will not satisfy those who crave a still greater high than the legalized allocation can offer. These individuals will be forced to purchase additional drugs by way of the black market.

Finally, legalization will not prevent the discovery of new drugs which offer a novel thrill to the drug user. "Crystal" and "crack" are relatively new drugs now, but more are on the way.

Conclusion V: Most gangs are composed of followers without fathers.—

Gang members are usually the products of broken homes or disfunctional families. Although a number would like to have a positive male role model, far too many are forced to settle for male drug dealers and gang members. Without strong father figures and stable families, young people are vulnerable to peer pressure and most suffer from low self-esteem. Gang members have become surrogate family to these children, offering them the "five C's:" concern, compassion, companionship, careers and compensation. Society has yet to top the gang's offer.

Conclusion VI: Most drug prevention programs do not work.

Most prevention programs consist of spending millions of dollars to print drug information brochures. Young people seldom read these brochures or pay attention to the 30-second anti-drug television spots. What they do pay attention to are the movies, television programs, and advertising which associate good times and good looks with drugs. Drug dealers and gang members do not spend money on printed materials to recruit gang members—they spend TIME.

Typical prevention programs are not structured to spend time—quality time—with young people. They use a long distance approach with printed materials.

SOLUTIONS

Solution I: We must provide positive role models for young people.

Children come into the world doing three things: imitating, emulating, and duplicating behavior. The behavior they are most likely to duplicate is the behavior to which they are most often exposed. In the first 18 years of life, the average child will spend over 22,000 hours watching T.V., but only 168 hours of uninterrupted time with their father. The one who invests the time can control the mind and the behavior of our youth.

Solution II: Children must be taught to have high self-esteem and how to deal with peer pressure.

Solution III: Our society, from the White House to the church house, must show our children that we can have functions and fun without the use of alcohol or any other drug.

If the White House and the church house cannot live without alcohol, we cannot expect our children to do without. We cannot abuse a drug we do not use. All of us must be role models, including the White House and the church house.

Solution IV: We must stop funding prevention programs whose focus is only to print brochures, and start funding programs that spend TIME with young people. We must fund programs that demonstrate a lifestyle of saying no to drugs and alcohol, rather than just using the slogan.

Solution V: America must provide jobs. If we are willing to spend billions of dollars to place criminals in prison, we must be willing to spend millions to keep them out and provide a way for them to make a decent living. The same talent that makes a criminal successful can be redirected into employable working skills before they go to prison, rather than waiting to start this process as a part of their prison rehabilitation.

(NOTE.—This special report was produced by the staff and volunteers of Youth Challenge. Youth Challenge is a project of Corporate Action Against Drugs. Their primary goal is to educate, motivate and demonstrate the benefits of a clean lifestyle. Programs include: motivational high school assemblies with professional athletes, free workshops covering self esteem, peer pressure and a Role Model Mentorship program. They also produce children's story books with an anti-drug/clean lifestyle message. This project and document was developed and coordinated by Wayne Perryman, with the assistance of Katie Gruhl and Linda Mitchell, student interns from the University of Washington; Paul Johnson, Research Analyst and Ravon Johnson, Executive Director of Corporate Action Against Drugs. For additional information, call (206) 340-1934 or write: 1305 4th Ave., Suite 711, Seattle, WA 98101.)●

DEFORREST SMITH URGES SUPPORT FOR PRESIDENT BUSH

● Mr. SYMMS. Mr. President, I recently received a letter from DeForrest Smith of Meridian, ID, who is extremely concerned about the expanding role of government and its role in the future of this country. I ask that his letter be printed in the RECORD at this point, and I urge my colleagues to review it.

The letter follows:

June 30, 1989.

Hon. SENATOR STEVE SYMMS: First of all there are a number of Senators and Congressmen whose first priority and goals are to act on all issues for the best interests of our country and use their own good common sense to make the right decision on these issues. It's sad to say that they have become a minority now and others are bowing to the interest of minority group's goals and demands which by their very nature are detrimental and damaging to our country, to the schools, to the family unit, to the entertainment and communications media, to our national security and other areas.

I have at least 122 Political Action, Lobby groups and other organizations sending letters of solicitation, polls, questionnaires, etc. all wanting money to try to pressure our leaders in Washington to do the things and make the decisions that are, hopefully, for the best interests of our country. Strangely enough they all seem to be pretty much on the right track.

All our Senators and Congressmen plus other supportive personnel are paid a high salary to use their head and make good common sense decisions to use in Washington and other government areas. Instead, too many are not using their head in the right way and all these pressure and lobby groups are soliciting extra money over and above all the taxes we pay to try to get these people to do things right. Instead, many have been, and still are placing their politics and special interests above the best interests of our country. I watched liberal Democrats and, yes, some liberal Republicans too, dragging their feet all through the Reagan administration on his proposals and programs, apparently hoping they would fail and enhance the chances of a Democratic presidential candidate winning in the next election.

Some of the same tactics are obvious now in the Bush administration. Some will be quick to deny this but it is true. I watched the whole thing happen and many others would tell the same thing.

Everyone needs to get behind the President and honestly help his ideas and proposals to succeed as long as they are a good common sense approach to the problems. If he is wrong he should be corrected in a way that is constructive and not crucified for making a mistake. He should be shown why it is wrong and what needs to be changed to make it right.

At this point it needs to be stressed that ideas that will perpetuate and benefit our free enterprise and personal incentive system of government and society are the ideas that need to be used and promoted. The socialistic ideas of the liberals have always caused a free society to fail.

The ideas that tend to pervert our lifestyle, destroy our religious heritage and split and destroy our home family units and degrade the morals and destroy our children's and young people's desire to submit to authority are all things that will destroy us as certainly as the worst form of cancer and should be put in their rightful place. Anyone with just a tiny bit of good common sense knows these and other things not mentioned here are wrong. Our Constitution should not be used to allow these things to destroy us.

Get behind the President and help keep this country on the right track that Ronald Reagan started to do.

You all have a choice to make. It's either this or else watch our country go to hell in a liberal, false currency, pornography-lined handbasket.

DEFORREST E. SMITH,
An Idaho voter.●

NAM PROPOSES EXPORT POLICY

● Mr. HEINZ. Mr. President, the National Association of Manufacturers has long been ahead of most of us in understanding the keyrole manufacturing plays in our trade balance and the importance of increasing exports as a means of reducing the trade deficit.

While these premises are well established and the arguments in support of them well known, they clearly have failed to translate into real policy alternatives. Everyone is for exports. You can't find a dissenter on that in this country. Our recent gains in exporting, thanks to the decline in the dollar's value, are welcomed by all, even as there are signs it is tapering off. While exports expanded 23 percent in 1988, current projections indicate only a 15-percent further growth this year. If imports also increase or remain stable, that means the trade deficit will begin to rise again, and foreign investment in the United States will become an ever bigger economic and political issue than it is now.

Being proexport, however, is a long way from being willing to do anything about it. Between those who blame our failure to export on ourselves—the same people who say Japan's trade barriers are a myth, that we don't just try hard enough—and those who argue we simply don't have the money for export promotion, there has been precious little support for exporting in the Congress or the administration beyond rhetoric.

Now comes an excellent NAM paper on this subject by Howard Lewis that not only once again clearly outlines the importance of exporting but also presents a compelling policy argument for more Government support for it. The essence of that argument is that exporting is a symbol of our Nation's commitment to international competitiveness and the trading system.

When nearly 46 percent of Japan's bilateral aid goes to capital goods projects almost always linked to purchases of Japanese equipment compared to only 2.3 percent for the United States; when France spends $4 per capita on export promotion, Japan $5, Canada $8, and the United States only $0.50; we are telling the rest of the world we are not prepared to compete. We are not even going to make the effort.

And when we send that signal, we are helping to defeat the very market system we claim to defend. We should have learned by now that you can't play if you're not at the table. How can we negotiate an end to tied aid credits if the rest of the world knows we have only empty threats to offer? How can we compete for foreign projects if our commercial officers—where we have them—are not prepared to go head-to-head with their counterparts? How can we expect to sell anything in countries we have cheerfully let develop product standards that the Europeans can meet and we cannot?

Mr. President, this is laissez-faire in the worst sense of the term. It is a do-nothing policy that is guaranteed to get us nothing in the marketplace.

I have spoken out on this subject many times, and only recently once again introduced legislation to make the Eximbank more competitive. Along with the Senator from Utah [Mr. GARN], I will shortly introduce legislation to reform our export control process to produce more rapid, efficient decisionmaking.

But what is needed is not simply the introduction of bills but also the mobilization of support behind them and the realization that in the current global marketplace exporting is not a luxury; it is essential to survival. For that reason I welcome the NAM report and hope it lays the foundation for building the necessary degree of support.

Mr. President, I ask that the report be printed at this point in the RECORD.

The report follows:

A U.S. EXPORT DRIVE

(By Howard Lewis III, Vice President-International Economic Affairs National Association of Manufacturers)

OVERVIEW

Americans have heard a lot about export-led growth in other nations such as Japan, Germany, South Korea and Taiwan. For the past two years, however, it has been the United States' turn to experience this type of growth. In 1987, exports directly accounted for 30% of U.S. economic expansion and for nearly 40% in the past year.[1] Working with latest available date, a new Commerce Department study found that in 1986 4.6 million jobs in this country depend upon exports.[2] This figure is undoubtedly even higher today given export growth in 1987 and 1988.

While these numbers are encouraging, now is not the time for complacency over the continuation of U.S. export growth. In 1989, U.S. exports are expected to increase by only 15% compared to the 23% expansion seen in 1988.[3] A recent poll of executives on NAM's Board of Directors found that 44% expected their exports to increase this year, 54% expected them to remain about the same and 2% anticipated a drop. It is clear that much of U.S. export growth resulted from the realignment of the dollar since 1985, with little coming from a concerted U.S. export drive. And, the big boost from the dollar may have run its course. That is why the United States should be looking for ways to launch a major drive to keep the current export boom going—some examples of the elements in such a drive can be found in the following "Elements of an Export Drive":

ELEMENTS OF AN EXPORT DRIVE

Issue: Eximbank.—Cuts in Exim direct loan budget of 85% since 1981 have left U.S. in a weak position to counter other official finance programs.

Impact on trade/exports: OECD nations still offering $7-9 billion yearly in direct credits while great uncertainty exists over financing U.S. direct loan budget.

Policy recommendations: Maintain Exim direct loan budget at current levels, use guarantee program to rejuvenate commercial financing, establish appropriate treatment of Exim in overall federal budget.

Issue: Tied Aid/Mixed Credits.—Other Industrial nations are offering mixed credits/tied aid (i.e., combination of foreign aid and official export financing) to gain strategic positions in key markets.

Impact on trade/exports: Mixed credit/tied aid offers in the neighborhood of $15 billion annually.

Policy recommendations: Provide greater support for capital goods projects under U.S. foreign aid and implement a credible mixed credit program.

Issue: Export Promotion.—U.S. Foreign Commercial Service (FCS) needs to be strengthened to match programs of other nations.

Impact on trade/exports: U.S. spends .50 cents per capita on export promotion versus $2.00 in West Germany, $4.00 in France, $5.00 in Japan, and nearly $8.00 in Canada.

Policy recommendations: Provide greater resources for FCS and address serious management and morale problems found in recent GAO report.

Issue: Product Standards.—U.S. has not acted on requests from Saudi Arabia, China, Brazil, India and five other nations for assistance in development of product standards. Other nations have responded to requests.

Impact on trade/exports: Harmonization of standards by Saudi Arabia and other nations in the Gulf region alone could increase U.S. export by $100-300 million.

Policy recommendations: Establish program in Commerce Department to respond to these requests for development of product standards.

Issue: Taxation of Export Income.—Until recently, Treasury Department has proposed changes which would increase the tax on income earned by U.S. manufacturers exporting to overseas affiliates.

Impact on trade/exports: Current regulations contribute as much as $5 billion annually in exports to U.S. trade and generate 170,000 jobs.

Policy recommendations: Abandon any further attempts at such changes.

Issue: Export Disincentives.—Largest disincentive is probably U.S. export control system on so-called "dual use" commercial products.

Impact on trade/exports: National Academy of Science estimated that $9 billion in exports lost each year due to cumbersome system that requires 40% manufactured exports get prior approval before leaving U.S.

Policy recommendations: Implement 1988 Trade bill provisions to reduce licensing requirements, scope of control list, limit unilateral controls and decontrol low tech exports.

Supporting U.S. exports makes sense. It fits with the need to shift the U.S. economy towards increased investment, savings and overseas markets and away from domestic consumption and government spending. It provides a boost to the most competitive sectors of our economy spending. It is a logical and necessary follow-on to the market opening initiatives mandated in the 1988 Omnibus Trade and Competitiveness Act.

We should not underestimate the contribution which continued export growth can make in reducing the U.S. trade deficit. Paul McCracken, former Chairman of the Coun-

cil of Economic Advisors, goes so far as to argue in a recent Wall Street Journal editorial that "the key to the U.S. trade problem is not bloated imports but weak exports. Even in 1988, after a sharp recovery, exports were only 6.6% of U.S. output, compared with just over 8% in 1980." [4] He maintains that "further sustained and large improvement in our external trade is not apt to occur unless U.S. businesses become hungrier for export orders. And the origin of that must be less expansive domestic monetary and fiscal policies." [5]

To some extent, the lack of prominence given to U.S. export policies may be due to the widespread view that exporting, at least by itself, does not represent a viable corporate strategy for competing in today's highly interdependent, global market. Indeed, investment in overseas plants and facilities has become a cornerstone in the overall competitive strategy of many U.S. multinational firms. Exports however, still play a central role in this strategy as evidenced by the fact that shipments between American parents and their foreign affiliates account for 30% of total U.S. exports. Moreover, exports undoubtedly will play a larger role in the competitive strategies of many medium-sized U.S. firms. In order to achieve greater economies of scale in their domestic production, these firms must seek out markets on an international rather than domestic scale. This phenomenon is already seen among medium-sized, high technology firms in this country which typically export between 30 to 40 percent of their output. In short, exporting will remain a vital part of U.S. corporate strategy for competing in today's international markets.

An export drive by itself, of course, will not eliminate U.S. trade problems. To believe that would be naive. We clearly must focus on recapturing our own domestic markets, lost to foreign competitors during the years of the high dollar, 1981–85. And we must pursue an overall program that addresses the federal budget deficit, exchange rates and the opening of foreign markets. Sound macro-policies are essential to restoring the competitiveness of U.S. industry. It is important to realize, however, that export related policies ranging from financing to taxation cannot be dismissed as relatively unimportant, peripheral matters.

Large amounts of trade are heavily influenced by these policies.[6] For example, as will be discussed below, over $5 billion in exports are generated each year by the foreign source tax rule on exports. While the Eximbank faces continued uncertainty over its direct loan program, other industrial nations offer $7–9 billion a year in direct credit export financing. Over $15 billion in mixed credit offers were made last year by our competitors—offers which the U.S. is essentially unable to counter. And, nearly $9 billion in exports may be lost because of our cumbersome export control system which requires that 40% of our manufactured exports—$60 billion in trade—get prior approval from the government before leaving the country.

The potential payoff of a U.S. export drive, therefore, could be considerable. We can be sure, however, that other major industrial nations will not easily give up the export markets they captured during the 1981–85 "super dollar" era. As exchange rate adjustments narrow the price gaps between the U.S. and our competitors, government support for exports, whether in terms of export financing, elimination of export disincentives, or aggressive overseas commercial services, will play an important role in successful efforts to compete for export business around the world. This will be especially true in the most competitive of U.S. industrial sectors—capital goods—which accounts for 45% of U.S. manufactured exports.

ELEMENTS OF AN EXPORT DRIVE

Examples of some immediate policy actions to encourage continued export growth include:

1. *Strengthening the Eximbank.*—Export financing is the weak link in U.S. export expansion, with Eximbank resources totally inadequate to meet the needs of U.S. exporters. The Bank has to close its doors to new direct loan business three-quarters of the way through 1988 and is expected to shut down even earlier this year because of uncertainty over funding. Over the past nine years Eximbank's direct loan budget has been cut by 85%. Other OECD nations, however, have continued to offer significant amounts of official export financing—most recent data indicates in the neighborhood of $7-9 billion per year.[7]

American exporters will find less export financing help from commercial banks many of whom have abandoned export financing over the past decade. As noted in a 1988 report by the House Banking Subcommittee on International Finance, Trade and Monetary Policy, "exporters and U.S. leaders are heading in the opposite directions. While exporters face increased international competition and higher levels of risks—needing financing support to compete—the U.S. commercial banks have become adverse to foreign risks and are scaling down their international lending, including export financing." [8] For those U.S. banks which have maintained trade relating financing, the Subcommittee report found that over 50% was import rather than export related.[9]

In a survey of nearly 100 U.S. exporters conducted as part of the House Subcommittee report, 66% of the responding companies found that competitive export financing was only "sometimes" or "rarely available" and 53% stated that they had lost export business because of the lack of competitive financing. Almost 55% of the companies indicated that, if more export financing were available, they would export more.[10]

A strengthened Eximbank that can support a rejuvenated commercial financing sector should be the linchpin of a U.S. export drive. At a minimum, this will require maintaining Eximbank's direct loan budget at current levels. In addition, the Bank's guarantee program should be used aggressively to encourage commercial bank involvement in export financing. In the longer term, attention must be given to the treatment of the Exim in the Federal budget where Exim authorizations are counted as expenditures rather than loans repaid with interest. This deficiency significantly overstates the real impact of the Exim on the budget.

2. *Trade and Aid.*—Closely related to official export financing offered by agencies such as Eximbank is the issue of tied aid-mixed credits in which foreign aid and official export financing are combined to achieve more attractive financing terms. As international agreements to limit official financing practices really began to take hold in the mid-1980s, most industrial nations moved the game over to the playing field of tied aid/mixed credits, where the rules were less restrictive.

U.S. foreign assistance programs in the mid-1970s, however, had virtually abandoned the use of aid in support of capital project assistance in favor of a narrowly defined basic human needs approach to development aid. This orientation contrasts sharply with the bilateral assistance programs of other industrial nations. The extent of the difference can be seen in the following figures representing the percent of bilateral foreign aid going to capital goods projects by other donor nations: [11]

	Percent
Japan	45.8
Denmark	33.0
Norway	22.5
Germany	20.8
Italy	17.0
United Kingdom	15.4
Canada	14.0
Sweden	13.3
France	13.0
United States	2.3

In analyzing this data, it should be remembered that Japanese bilateral foreign aid now exceeds that of the U.S.

In theory, if no link existed between the capital project assistance and the commercial interests of donor nations, we would not have to be concerned about this issue since American firms would have an equal opportunity when bidding on these projects. In practice, of course, matters are a great deal more complicated. OECD data indicates that tied aid/mixed credit offers increased from $11 billion in 1986 to over $15 billion in 1987.[12] Such credit offerings appear to have increased by approximately 400% since the early 1980s, even though various OECD agreements during this time were supposed to curb such practices.

A U.S. strategy for dealing with tied aid/mixed credits should include the following elements: (1) provide greater support for capital goods projects as a legitimate and necessary means of promoting economic development and U.S. trade interests in those nations receiving such aid (e.g., Egypt, Pakistan, Turkey); (2) further strengthen current foreign aid programs which leverage the impact of U.S. assistance. The Trade and Development Program (TDP), which supports feasibility studies and training programs, is a good example of this type of assistance; and (3) put forward and forcefully implement a credible mixed credit program which focuses on key markets in the developing world (e.g., China, India) which receive little, if any, foreign assistance and hence would not be eligible for the capital project assistance noted above.

3. *Beefing up export promotions.*—Of the major industrial nations, the United States provides the least support in terms of export promotion and assistance. Commerce Department data indicates that the U.S. spends about 50 cents per capita on export promotion, compared to about $2.00 in West Germany, $4.00 in France, $5.00 in Japan and nearly $8.00 in Canada.[13] The U.S. has only a few more commercial officers overseas than South Korea—a nation with one-seventh the amount of trade.[14]

Besides the funding and the number of officers assigned overseas, recent reports from the General Accounting Office (GAO) and other sources have identified serious management and morale problems with the Foreign Commercial Service (FCS) and U.S. export promotion efforts. A GAO report issued in January of 1988 stated that Commerce Department export promotion efforts were plagued by "poor event selection, marketing, and recruitment and a lack of accountability for either positive results or

failures." The report found that 55% of scheduled trade shows do not take place.[15] GAO staff reviewed promotion activities in four Latin American nations and found that 40% of the trade events proposed for those countries involved sectors not listed as good export opportunities in reports by the foreign commercial posts.[16]

The GAO report examined the Commerce Department's Commercial Information Management Systems (CIMS) and concluded that the program may "continue to languish with only minimal capability if its technical and resource problems are not addressed by senior Commerce officials."[17] CIMS represents the third time in 10 years the Commerce Department has attempted to develop a computerized trade information system.

In the short term, the Secretary of Commerce and top policy officials in International Trade Administration should ensure that qualified career officials are appointed to top FCS jobs, that U.S. trade missions target the sectors of greatest opportunity, and that accountability exists for the running of trade events and support programs. In the longer term, however, it is clear that basic issues must be addressed in strengthening the FCS.

The 1988 Omnibus Trade and Competitiveness Act attempted to address some of these issues. Among other things, it provided statutory authority for the FCS, directed that senior Commercial Service Officers be given the rank of Minister-Counselor in eight U.S. Embassies, and assigned FCS officers to the U.S. Executive Director offices in the World Bank and other multilateral development banks (MDB) in order to promote U.S. exports in MDB procurement.

This is certainly a start at improving U.S. export promotion but a number of matters remain to be dealt with. For example, greater attention needs to be given to the coordination of U.S. commercial policies among the FCS, country desk officers, and industry specialists in the Commerce Department. Steps should be taken to ensure that the FCS has enough standing in the hierachy of American embassies to get the job done. We should examine how effectively the State Department carries out trade promotion in embassies to which no FCS officers are assigned. These are all important matters which need to be addressed in efforts to strengthen the FCS.

4. *Product Standard Development.*—Strengthening the FCS is only part of the effort that needs to be undertaken to protect and support U.S. exports. Attention must also be focused on how the U.S. deals with actions taken by other countries that affect U.S. trade interests. While this is an extremely broad subject, a good example of what often needs to be done can be seen in recent requests the U.S. Government has received from various nations asking for assistance in the development of product standards. The quality of a product usually is not the issue here but rather regulations governing the uniformity of the size, material and performance of a product. Such regulations govern whether a product actually can be sold within a particular nation or region. This is why the standard-setting aspects of EC-92 have gained such widespread attention and concern from U.S. industry.

While the EC is not asking for official U.S. help in actually developing its standards, other nations are doing so. The U.S. Government has received such requests from Saudi Arabia, Brazil, China and six other nations. The Government maintains that it does not have the resources, either financial or technical, to assist other nations with developing such criteria. The net effect of this may be that U.S. products are being shut out of important export markets.

A case in point involves the Saudi Arabian Standards Organization (SASO). Saudi Arabia has adopted a "national standard concept" like many other industrialized nations. Under these national standards arrangements, commodities and goods that do not conform to these standards cannot enter the country. SASO also is developing import standards for the Gulf Cooperation Council, which is comprised of Saudi Arabia, Kuwait, Oman, Bahrain, Qatar and the United Arab Emirates. The Gulf Cooperation Council is the 12th largest U.S. export market, buying nearly $5 billion worth of goods in 1987. The Commerce Department estimates that with increased harmonization of standards and certification procedures for U.S. electrical, electronic and food products, U.S. exports to the Gulf Cooperation Council could potentially increase by $100-$300 million a year.[18]

In the fall of 1987, the Saudi Ministry of Commerce asked that the United States provide funding for a full-time standards expert to be assigned to SASO. The U.S. Government has responded to the Saudi request by suggesting the alternative of a privately-funded expert rather than a government official. This alternative is now being pursued.

While the United States remains uninvolved in foreign standards setting, other nations have become very actively involved. Industrialized countries including Britain, France, West Germany, Japan, Australia and New Zealand work closely with SASO staff to ensure that the standards developed do not shut their country's products out of the Saudi market. Through government-to-government agreements, these countries have technical experts at SASO and the governments pay the bills. They also educate their domestic manufacturers about SASO criteria to facilitate easy entry for their products into the country.

The situation in Saudi Arabia and SASO is an immediate problem that will be solved, if at all, with a stopgap measure. A privately-funded expert to work with SASO may be acceptable this one time, but a series of privately-funded standards experts assigned to countries around the world hardly seems to be a viable solution or the best policy in the long run. The SASO example simply points out the need for a long-term solution to the problem. Eight other nations including China, Brazil, India and Israel have already made similar requests for technical assistance in the development standards.

5. *Make no further adverse changes in the taxation of export income.*—Over the past several years, the Treasury Department has been considering modification of the "export source rule." Under this decades-old interpretation of the nation's income tax laws, export profits generally are allocated 50% to U.S. sources and 50% to foreign sources. Throughout the period 1984-88, this rule was under attack by the Treasury, which first sought to have Congress repeal it as part of the 1986 tax reform legislation, and, when that failed, to reinterpret the rule administratively.

Treasury's attempted reinterpretation of the export source rule was vigorously opposed by NAM and other members of the Export Source Coalition. Late in 1988, Treasury relented in part, at least for the time being, and stated that exporters could continue to use the 50/50 rule except in cases where there was an "independent factory price" that could be used as the basis for allocating profits. While not entirely satisfactory, this resolution may prove adequate if it is reasonably applied by IRS auditors.

The impact of the export source rule is significant. One study, U.S. Export Competitiveness and Source-of-Income Rules, found that the current rule contributes as much as $5 billion annually in exports and generates nearly 170,000 jobs.[19] This study also concluded that the rule was particularly important in stimulating exports of high technology products by small firms. Faced with continuing large trade deficits, it simply makes no sense for U.S. tax policy to discourage exports by increasing taxes on export-related income. Treasury should abandon any further attempted changes of this sort.

6. *Continue to eliminate or modify unnecessary export disincentives.*—The U.S. places more obstacles in the way of its exporters than any other industrial nation. Example of these export disincentives include the Foreign Corrupt Practices Act, two anti-boycott statutes, foreign policy export controls, national security export controls, and a variety of restrictive measures on organizations such as Overseas Private Investment Corporation and Eximbank which limit the ability of these agencies to support American exports. While all of these policies are intended to achieve laudatory goals, they often fly in the face of international commercial reality, ensnarling U.S. firms in red tape and extraterritorial application of U.S. laws and policies.

Changes in the Foreign Corrupt Practices Act (FCPA) contained in the 1988 Omnibus Trade and Competitiveness Act, demonstrate that it is possible to modify these export disincentives to eliminate some of the unintended impact on U.S. international commerce while at the same time maintaining the basic purpose of the statute. The recent changes in the FCPA provide a clearer guideline of what is acceptable and unacceptable behavior under the law. Their implementation will help ensure that legitimate business opportunities are not lost because of uncertainty over how the FCPA would be applied.

Perhaps the largest export disincentive facing American business today is the U.S. export control system. The National Academy of Sciences (NAS) in a 1987 study estimated nearly $9 billion in exports were lost each year because of our cumbersome export control system which requires that 40% of manufactured exports—$60 billion of commercial products—get prior approval from the U.S. Government before leaving the country.[20]

The NAS study focused on national security controls. The U.S., of course, maintains another set of controls for foreign policy reasons which have periodically embroiled the U.S. in major disputes with our allies and seriously damaged the reputation of U.S. firms as reliable suppliers. A case in point are the foreign policy controls on the export of U.S. petroleum equipment to the Soviet Union which started in 1978 and expanded in 1980-81. The Commerce Department estimated that U.S. firms lost nearly $2 billion in business before these controls were lifted in 1987.[21]

The 1988 Omnibus Trade and Competitiveness Act contained some important provisions which could:

(1) Significantly lessen licensing requirements for exports to the group of allies known as Cocom countries;

(2) Reduce the scope of the control list;

(3) Limit unilateral U.S. controls; and

(4) Decontrol low technology exports.

Implementation of these provisions over the next year will be important. In the past, progress has been stymied by inter-agency conflicts. It is vital that the leadership of top policymakers, especially in the White House, be exerted to ensure that these important reforms are carried out and that U.S. control policies are directed toward realistic and practical goals.

7. *Other Actions:*—The preceding are some examples of policy initiatives that could be taken immediately to launch a U.S. export drive—with minimum impact on the U.S. budget. In the longer run, other steps could be taken such as continuing to promote the development of export trading companies, consolidating the two anti-boycott statutes, and examining ways to boost U.S. trade with Eastern Europe, the Soviet Union, and China. We need to carefully review our policies towards arms exports to avoid the type of multibillion dollar loses experience when Saudi Arabia in the mid-1980s decided to purchase British rather than U.S. military aircraft. The antitrust reforms proposed in 1988 by former Commerce Secretary Verity and former Attorney General Thornburgh have identified another major policy issue which needs to be reexamined as we look for ways to encourage greater industry collaboration on research and development.

In addition, over the longer term, we need to learn more about the very nature of U.S. exporting. This will involve answering some very basic questions. For example, what is the breakdown for the size and frequency of U.S. export transactions? Are U.S. exports generally small shipments of say $5,000 or less, or larger shipments of $25,000 or more? How many shipments does a typical U.S. exporter make in a year—200, 500, 1,000? Is there any relationship between the frequency of exporting and the size of the shipments. And how do the answers to the preceding questions vary among different industrial sectors? Only recently have we begun to develop data to answer such questions.[22] The answers may hold very important policy implications for how we should or should not go about encouraging greater U.S. exporting, especially among small/medium sized firms.

CONCLUSION

You cannot talk about an export drive without putting the question into the larger context of what the United States as a nation is willing to do to ensure its competitive position in international markets. The NAM has long argued that a national commitment to international competitiveness is the single most important step to be taken in developing a strategy for correcting U.S. trade problems. From this commitment flows the support necessary to implement policies that will increase our international competitiveness.

We often have paid lip service to this idea, but have done very little to adapt our policies or institutions to the new realities of international competition. Other nations have adjusted to these new realities. But in this country, government-business relations are still driven by an outdated adversarial tradition more suited to the beginning of this century rather than its end.

If the embassies or official financing institutions of other nations do a better job of supporting their commercial interests overseas, it is more a reflection of the importance they attach to international trade than it is a condemnation of our FCS or Eximbank. We cannot make the FCS or the Eximbank as good as our competitors unless we are willing to assign trade a much higher national priority than it now enjoys. In short, we get what we pay for: to date the United States has not been willing to pay the price in terms of putting aside other national priorities in order to support our international commercial interests.

FOOTNOTES

[1] "The U.S. Export Boom: Causes and Effects," *Business America*, U.S. Department of Commerce, October 24, 1988, p. 7-11.

[2] *Exports from Manufacturing Establishments, 1985 and 1986, Analytical Report Series.* Bureau of the Census, U.S. Department of Commerce, 1989.

[3] "Export Growth May Slow to Half of Last Year's Role", *Journal of Commerce*, February 9, 1989.

[4] "Why U.S. Exports Are a Casualty", *Wall Street Journal*, March 3, 1989.

[5] Ibid.

[6] Sources for the figures cited in this paragraph can be found in the main body of the text.

[7] *Report to the U.S. Congress on Export Credit Completion*, U.S. Export-Import Bank, 1988, p. 5.

[8] *Export Financing in the United States: Problems and Options*, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, December 1988, p. 4.

[9] Ibid, p. 10.

[10] Ibid, p. 5.

[11] Ernest H. Preeg, "Trade, Aid and Capital Projects", *Washington Quarterly*, Winter 1989, p. 176.

[12] Statement of The Honorable John A. Bohn, President and Chairman, Export-Import Bank of the United States before the House Banking Subcommittee on International Finance, Trade and Monetary Policy, February 25, 1988, p. 19.

[13] "Assistance for Exporters", *Trade and Industry*, National Association of Manufacturers, May 23, 1988.

[14] *The Commercial Services of the United States and Its Major Competitors*, U.S. Department of Commerce, October 1983.

[15] *Export Promotion: Problems in Commerce's Programs*, U.S. General Accounting Office, January 1989, p. 32.

[16] Ibid, p. 35-37.

[17] Ibid, p. 61.

[18] "A Missed Export Opportunity", *Trade and Industry*, National Association of Manufacturers, October 10, 1988.

[19] *Balancing The National Interest*, National Academy Press, 1987.

[20] Hufbauer, Gary C. and Hammond-Tooke, A., *U.S. Export Competitiveness and Sourt-of-Income Rules*, Report for Export Source Coalition, January 1988.

[21] *Foreign Policy Report to Congress:* January 21, 1985-January 20, 1986, U.S. Department of Commerce, p. 38.

[22] Commerce Department Press Release, June 2, 1989, regarding Bureau of the Census Report on manufactured exports.●

AUTHORITY FOR COMMITTEES TO MEET

Mr. NUNN. Mr. President, I have 12 unanimous-consent requests for committees to meet during today's session of the Senate. They all have the approval of the Republican leader. I ask unanimous consent that these requests be agreed to en bloc and that the requests be printed in the RECORD.

Mr. MURKOWSKI. Object.

The PRESIDING OFFICER. Objection is heard.

REQUEST FOR BILL TO BE PLACED ON CALENDAR

Mr. NUNN. Mr. President, I ask unanimous consent that a child nutrition bill introduced earlier today by Mr. HARKIN (for himself, Mr. BOSCHWITZ, Mr. LEAHY, Mr. LUGAR, Mr. MITCHELL, Mr. DOLE, Mr. PRYOR, Mr. HELMS, Mr. BOREN, Mr. COCHRAN, Mr. HEFLIN, Mr. MCCONNELL, Mr. CONRAD, Mr. BOND, Mr. FOWLER, Mr. WILSON, Mr. DASCHLE, Mr. KERREY, Mr. GORTON, Mr. BAUCUS, Mr. PELL and Mr. WARNER) be placed on the calendar.

Mr. MURKOWSKI. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Mr. President, the record should reflect that the Republican leader has instructed the Senator from Virginia to concur in the unanimous-consent requests.

The PRESIDING OFFICER. The unanimous-consent requests have been objected to.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, pursuant to Senate Resolution 106 (101st Congress), section 2(a)(2)(b), announces the appointment of the following Senators to the Central American Negotiations Observer Group: the Senator from Arizona [Mr. MCCAIN], cochairman; the Senator from Idaho [Mr. SYMMS]; and the Senator from Florida [Mr. MACK].

ORDERS FOR TODAY

RECESS UNTIL 10:15 A.M.

RESUME CONSIDERATION OF S. 1352

Mr. NUNN. Mr. President, on behalf of the majority leader I ask unanimous consent that when the Senate completes its business today it stand in recess until 10:15 a.m., Wednesday, August 2, and that following the time reserved for the two leaders, but not later than 10:35 a.m. the Senate resume consideration of S. 1352, the Department of Defense authorization bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. NUNN. Mr. President, the majority leader requested that I indicate to Senators that votes are possible to-

morrow at 11:15 when the Senate would begin proceedings under provisions of rule XXII.

RECESS UNTIL 10:15 A.M.

Mr. NUNN. Mr. President, if the distinguished Republican leader has no further business, I ask unanimous consent that the Senate stand in recess under the previous order until 10:15 a.m., Wednesday, August 2.

There being no objection, the Senate at 2:50 a.m. recessed until 10:15 a.m., Wednesday, August 2, 1989.

NOMINATIONS

Executive nominations received by the Senate August 1, 1989:

DEPARTMENT OF STATE

PAUL MATTHEWS CLEVELAND, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MALAYSIA.

DEPARTMENT OF DEFENSE

J. DANIEL HOWARD, OF TENNESSEE, TO BE UNDER SECRETARY OF THE NAVY, VICE H. LAWRENCE GARRETT III, RESIGNED.

TERRENCE O'DONNELL, OF THE DISTRICT OF COLUMBIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE, VICE KATHLEEN A. BUCK, RESIGNED.

UNITED NATIONS

JONATHAN MOORE, OF MASSACHUSETTS, TO BE THE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR.

COMMODITY FUTURES TRADING COMMISSION

WILLIAM P. ALBRECHT, OF IOWA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 1993, VICE WILLIAM E. SEALE, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE RECESS OF THE SENATE FROM OCTOBER 22, 1988, TO JANUARY 3, 1989.

WITHDRAWAL

Executive nomination withdrawn by the President from further Senate consideration, August 1, 1989:

COMMODITY FUTURES TRADING COMMISSION

WILLIAM P. ALBRECHT, OF IOWA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 1993, VICE WILLIAM E. SEALE, RESIGNED, WHICH WAS SENT TO THE SENATE ON JANUARY 3, 1989.

EXTENSIONS OF REMARKS

A REVIVAL IN TUCSON

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. KOLBE. Mr. Speaker, recently those of us who come from the Grand Canyon State have been feeling a bit under seige from all the reports in national newspapers, magazines, and on television and radio that state how desperate is our economic situation. The point seems to be that Arizona is a desert in more ways than one.

Clearly, Arizona is facing significant economic problems brought on by a downturn in the real estate economy and the continuing savings and loan crisis. But at the same time, Arizona offers companies many attractive qualities including a good climate, low cost of living, educated work force, and strong technical community centered in three competitive universities. In recent times, it seems reports on the problems and the obstacles have overshadowed the underlying strengths and opportunities that exist in Arizona.

Well, finally a report has been written on the more positive aspects of Arizona. The article "A Revival in Tucson" written by Darla Morgan in the August 1989 edition of Arizona Trend magazine deserves the attention of all who have looked at the problems in Arizona recently.

Mr. Speaker, I would like to submit for the RECORD a copy of this article. I hope all who have shown an interest in this issue will find this worthwhile reading.

[From the Arizona Trend, August 1989]

(By Darla Morgan)

Gerald Swanson is preaching the gospel of economic development, and fire and brimstone are in his voice. "I wonder," he intones, "why Tucson has had such a hard time singing the economic development song?" The University of Arizona economics professor surveys an audience of 400 business leaders munching apple crepes and sipping hot coffee.

The occasion is a breakfast meeting of Tucson First, a group created to encourage business growth in southern Arizona. The breakfast is served at no charge. But, as the group soon finds out, there is no free breakfast.

Focusing intently on his audience, Swanson urges each member to help rid Tucson of a lingering anti-business image. "Some of our choir members only mouth the words," he warns. "Some sing off-key. Our goal is to get everybody singing the same song and everybody singing in harmony."

Tucson, he notes, will not prosper by "taking in each other's laundry." The group murmurs quietly in agreement; they could almost be reviving souls here rather than reviving business. One almost expects an "amen" to erupt in the background.

Before breakfast ends, other converts would march to the pulpit: Mayor Tom Volgy, once considered an enemy of business, led a standing ovation to welcome representatives of eight companies that recently announced their intention to relocate to Tucson. His backing of economic development is not out of line with his pro-neighborhood stance, Volgy says. The goal, he says, was to stop pitting factions against each other. "I said in my campaign that we had major problems with our economics and that we needed to build a better economy," Volgy says. "We are not going to have stable and prosperous neighborhoods if people can't eat."

Jim Click, a Tucson auto dealer and banker, noted that the 3,000 new jobs created by the new businesses could translate to 3,000 new home mortgages and auto sales. He also announced a $25,000 donation to the newly formed Pima County Economic Development Council and encouraged others to do the same.

This pep rally and breakfast, the second sponsored by Tucson First, contrasted sharply with the first, held last fall. Tucson's economy had taken a body blow with IBM's elimination of 2,800 jobs, a move soon followed by other layoffs by local businesses. But at this June pep rally, there was something to cheer about, says Larry Hecker, an attorney who heads Tucson First. "We feel like we are more in control of the future than we were in the past."

After 24 months of adversity, Tucson's economy appears on the mend. New businesses have been lured by rents and land prices that are cheaper now than they were four years ago, and by a low cost of living that looks attractive to companies, especially those based in California. New businesses find a versatile, well-educated labor force, including a large and capable Spanish-speaking population that is increasingly in demand.

Additionally—and maybe more surprisingly—new businesses coming to Tucson are met with a coordinated economic development effort and a united community. There seem to be fewer and fewer people in Tucson who can't be counted among the converted. Almost every institution in town—from UA's Lute Olson and his winning Wildcats to the Tucson Film Festival—has been credited with playing a part in the recovery. Even environmentalists are joining the economic development chorus. Says Barbara Tellman of the Rincon Group of the Sierra Club, "I support Mayor Volgy's economic development plan. . . . We are not against any group coming to town if it is offering quality employment."

Besides the new arrivals, several established businesses, such as Hamiltion Aviation and Hughes Aircraft, are expanding their work forces. A drop in membership at Tucson's private clubs has slowed. Housing sales are increasing and vacancy rates on industrial properties are inching down. Even the number of people employed in Pima County increased by 2,000 between September 1988 and March 1989, says Marshall Vest, an economist with the University of Arizona—though he, like others, still sees some long-term problems that are far from being resolved.

So why is Tucson's economy on the upswing while, 120 miles up the highway, the Phoenix economy is as flat as a summer road kill? Timing, bargain-basement prices for land and leases, and efforts to unite the community have all played a role.

Roy Drachman, Sr., 83 a Realtor who has seen plenty of good and bad times in his long career, contends that Phoenix is experiencing one of the laws of gravity: The higher you climb, the farther you fall. "We did not soar as high as Phoenix, so we didn't go down as deep when the cycle turned," Drachman says. "We don't have as far to climb out."

Bill Laos, the lone Republican on the Tucson city Council, says William Stephenson and the Tucson Economic Development Corporation should get credit for the city's economic recovery. The cheerleading sessions and slogans kicked off by Volgy and his committees have had no noticeable impact, claims Laos. "It has nothing to do with jingles," he says. "The new companies are coming here because it is more cost-effective to do business here than somewhere else."

Others, such as Geroge H. "Hank" Amos, executive vice president of Tucson Realty & Trust Co., contend that Tucson is recovering faster than Phoenix because hard times hit earlier in Pima County and kicked the business establishment into action. "Everyone felt the pinch. It brought the community together to focus on a single issue," says Amos.

TEDC's Stephenson certainly felt the pinch. He almost quit his job. Criticism of the group's economic development efforts help prompt formation of an umbrella organization to coordinate the efforts of TEDC and the other county entities involved in economic development.

As support for the Pima County Economic Development Council grew, Stephenson became worried, and in December he tendered his resignation. Jan Lesher Ireland, manager of communications and marketing for TEDC, says much of the problem was caused by a misunderstanding. "In the beginning, I think the discussion was that the new council may have been created to put TEDC out of business. But that was not the case."

Before Stephenson's resignation came due at TEDC, however, many of his efforts began to bear fruit. In January, a rash of announcements began. Weiser Lock, First Data Resources, MindPlay, EECO Systems and 3M all announced their plans to come to town. On April 7, the TEDC board of directors had second thoughts. It ask Stephenson to withdraw his resignation. He agreed and is now working closely with the Pima County Economic Development council, which in July began providing funding to TEDC.

Ireland claims the umbrella organization will help TEDC. "Like many nonprofit organizations, we spent a lot of time trying to raise money," says Ireland. "Now that another organization is responsible for raising money, we are free from that task."

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Volgy, who backed the formation of the Pima County group, says he never intended to supplant TEDC. "The council works much like the United Way works with social service agencies. You didn't get rid of the agencies when United Way was formed," says Volgy.

The companies moving to Tucson offer a healthy economic balance—services, manufacturing, entry-level jobs, executive positions, even part-time jobs. WATS Marketing Group (formerly called First Data Resources Inc.), a Omaha, Neb.-based subsidiary of American Express Information Services Co., will employ 850 workers when it opens a telecommunications center later this year. 3M purchased the IBM magnetic tape manufacturing facility and will employ 120 people. Confederation Life Insurance Co. will hire about 90 workers for the group benefit office it plans to open. Sears Roebuck & Co. will need 800 employees for its telecatalog center, which opens this fall.

"We wanted to make sure we had the right quality of people," says Jim Dykstra, human resources manager for Sears in Chicago. "We need a good supply of college students, homemakers and retirees."

The list goes on. EECO Inc. is relocating its California-based manufacturing and assembly plant and expects to hire 65 workers to produce electro-mechanical switches, hotel computer systems and video products.

Weiser Lock will employ more than 300 people to assemble, plate and package residential lock sets in its 175,000-square-foot facility. Comparing the average price of a home in Tucson ($101,950) to one in Orange County, Calif. ($247,000) helps convince employees reluctant to leave their homes and families to make the transfer, says Ron Spencer, vice president of human resources for Weiser. "It is a tremendous advantage to our employees," says Spencer. "They can sell their homes in Huntington Beach and buy a home in Tucson for less than half the cost."

Indeed, the lower cost of doing business in Tucson has grabbed the attention of many California companies. "We get the most inquiries from California by a 2-1 margin," Ireland says (New York and Illinois are next). These companies "are concerned about the high cost of doing business, the quality of life and keeping their employees happy," she says.

Further, since 1985 some costs of doing business in Tucson have actually dropped. According to Bob Davis of Coldwell Banker Commercial Real Estate Services, the lease price of research and development space has fallen from an average of $9 per square foot per year to $6. "In some cases, depending on the stress level [of the building's owner]," says Davis, "it goes lower than that." In contrast, research and development space in Orange County leases for up to $13.25 per square foot, according to a spokeswoman from Grubb & Ellis Commercial Real Estate Services.

And as for raw land, values have dropped as much as 20% to 30%, says Amos. "We have an abundant supply."

Another attraction is the quantity of the work force in Pima County. Virtually every city in the U.S. touts the quality of its labor pool, but Tucson has some statistics to back up the brag. Says Ireland, "It's younger than the national average and has about a year more in college education than the national average."

In fact, before choosing Tucson, First Data compiled its own data, says Dave Russell, director of operations for the company. The information indicated that the attrition rate in Tucson is one of the lowest of the cities studied, Russell says.

Competition for the facility was intense, he says. For instance, Pueblo, Colo., offered discounted rent, tax credits and training programs through a local community college at no cost. "Arizona did not have these incentives," Russell recalls.

On the other hand, TEDC staff members and the community were "genuinely enthusiastic" and very aggressive in marketing their city, Russell says. "Gov. Mofford called our office and said she sincerely wished we could sit there and would do what she could in terms of incentives."

Finally, it was the need for Spanish-speaking workers, to communicate with clients in California, New Mexico, Arizona and Nevada that swayed First Data. Says Russell, "That made Tucson a top contender because they have a pool of Hispanics."

Sears looked at 170 cities to locate nine telecatalog centers, recalls Dykstra. Factors that were weighed included climate, right-to-work laws, education and the crime rate. "We want to know if a community values its schools," says Dykstra. "Does it pass bond issues? What is the crime rate? We want our people to feel safe in their community."

When ratings were complete, Tucson ranked 10th. Provo, Utah was chosen instead. But Sears decided to establish a 10th facility, and Tucson was at the top of the list. While the jobs offered at the telecatalog centers won't pay quite as much as those at IBM, they will offer employment for college students, retirees and homemakers who would prefer to work part-time. "Out of the 800 jobs, only five to seven won't be Tucson residents," says Dykstra.

The balance between high-paying jobs and lower-paying jobs that offer training is encouraging, says Bill Clements, chairman of the board of Golden Eagle Distributors in Tucson and vice chairman of the Pima County Economic Development Council. "We need to provide employment for the high-tech industry and for low-income people. We are encouraged that many of these employers will provide training to bring up the low-income earners so they can find better employment and better benefits."

Despite all the recent success, a few lingering ills could slow Tucson's recovery. The availability of capital is a perennial problem, says Hecker. Attracting capital from out-of-state investors has always posed a problem for Tucson companies, he claims. Now that out-of-state banks have purchased many Arizona banks, the problem is even worse. Says Hecker, "We used to be a branch bank of a state bank. Now we are a branch of a branch of a regional bank."

Drachman also feels too many financial decisions are being made outside the city. But, he adds, the problem is being addressed by such institutions as Valley National Bank and the two locally owned banks, Interwest of Arizona and the National Bank of Tucson. "The fact that Valley National Bank has elevated Jack Davis [of Tucson] to their board of directors is a good sign," says Drachman. "It shows that the bank thinks Tucson is important to the bank."

Additionally, the real estate market could die on the vine if banks and savings and loans play hardball with struggling developers, says Amos. Or, if federal regulators come in and dump more property on the market, that would further depress prices and lower values. "It is important that banks and regulators work with real estate developers and their customers," says Amos. "If they let developers go south, it could ruin our economy."

Tucson must also deal with problems in its education system, says Ireland. Public education is becoming more of a factor in corporate relocations, not just because companies need an educated work force but because they're concerned about where their workers will send their children. "One of the obstacles we have is in funding public education," says Ireland. "School districts are losing [funding] throughout the state."

The high cost and relatively low availability of air transportation in Tucson also poses problems. A task force is studying the possibility of raising funds to establish a Tucson-based airline. City representatives are also trying to persuade Dallas-based Southwest Airlines to serve Tucson. Companies that have employees who travel frequently are hard hit by the higher fares in Tucson, Ireland says. "We find people driving to Phoenix because it is so much cheaper to fly out of Sky Harbor."

Hecker, however, prefers to dwell not on the problems but on those things that make Tucson such a nice place to live and work. "We have clean air, beautiful mountains and a bicultural heritage that few other communities have. This is not just another Southwest city," he says. "This is a unique and beautiful place."

To which believers would add, "Amen."

GILMAN SUPPORTS ISRAELI HOSTAGE EXCHANGE PLAN

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. GILMAN. Mr. Speaker, yesterday's announcement of the apparent execution of Lt. Col. William Higgins, USMC, by the Iranian-backed Hizballah terrorist organization shocked and appalled the entire civilized world. It is incumbent upon all of us to assign culpability for that tragedy to those who are responsible for it. Operating out of Beirut, with the explicit and implicit support of the Iranian Government, Hizballah is responsible for killing over 300 Americans, more than 70 Frenchmen, and dozens of Israelis. If it were not for the vigilance and cooperation of the Israeli Defense Force, which has thwarted countless terrorist incursions, many additional lives would have been forfeit.

For the past 3 years, Shiite factions held several Israeli soldiers prisoner. Throughout that period, the Israeli Government exhausted every peaceful means in an attempt to secure their release. Unfortunately, similar to the efforts of the U.S. Government to free its hostages, all of these attempts have been futile.

For these apparent reasons, Israel apprehended Sheikh Abd El Karim Obeid, the terrorist reported responsible for planning and participating in many terrorist operations, including the abduction of Colonel Higgins.

In an unprecedented gesture by a government that is unyielding in both its counterterrorism policy, and its loyalty to the United States, Israeli Defense Minister Yitzhak Rabin has proposed the exchange of hostages of all nationalities for Shiite prisoners held by Israel.

Mr. Speaker, the democratic world is united in its fight against the insidious forces of international terrorism. We applaud Israel for this important gesture. Let us pledge to continue the battle against the forces of terror alongside Israel, our most resolute ally in the Middle East, and one of our most loyal friends and allies in the world.

MEDAL OF HONOR WINNER, SENATOR KERREY, ON FLAG

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. MILLER of California. Mr. Speaker, this Chamber, and much of Washington, has been in turmoil since the decision of the Supreme Court concerning the constitutionality of a Texas statute restricting the burning of the American flag. And I fully expect that a great deal more time will be consumed in hearings and floor debate before the Congress decides what to do about this emotional and complicated legal issue.

Most Americans share an abhorrence for an act which defames the symbol of our Nation. Some are, unfortunately, using this issue to perpetuate the unfortunate debate about the patriotism of various public officials or political parties in the United States.

On this issue, as on most others, reasonable men and women can differ. But on one point we must agree before the debate continues: those who raise serious concerns about the appropriateness of amending the Constitution of the United States, or even enacting a statute, in response to the Supreme Court's action, are just as patriotic and just as supportive of our flag as those with whom they disagree.

By way of example, I want to reprint a statement on this complicated subject by one of our colleagues in the other body. Senator BOB KERREY has to prove his patriotism to no one. A Vietnam veteran who lost his leg in combat, Senator KERREY has been awarded the Congressional Medal of Honor for his bravery in support of this Nation. He has also served as Governor, and now Senator, from the State of Nebraska.

No one's position on any legislative action concerning the Texas decision should be used as an acid test of patriotism. In doing so, we demean this institution, and the flag itself. Let us consider all the serious issues raised by both the Supreme Court's action, and by the remedies proposed in response, before we act. And let us keep Senator KERREY's insights in mind.

THE FLAG STANDS FOR THE FREEDOM TO BE WRONG

(By Senator Bob Kerrey)

(Sen. Kerrey (D-Neb.) delivered the statement of which this is an excerpt on the Senate floor last week during debate over a constitutional amendment to ban burning of the flag.)

At first I was outraged by the Supreme Court's decision on flag burning. It seemed ridiculous to me that this could be a protected act. My anger grew when I watched a replay of the 1984 incident, which also included the expression of derogatory chants and epithets against the United States of America. I joined with 96 other senators expressing our disagreement with the decision. As I prepared to head home for the Fourth of July recess, I declared my disbelief at our apparent impotence in protecting this symbol of American freedom.

Then, during the recess, I read the decision. I was surprised to discover that I agreed with the majority. I was surprised to discover that I found the majority argument to be reasonable, understandable and consistent with those values that I believe make America so wonderful.

Further, I was surprised to discover that after reading this decision my anger was not directed at Justices Brennan, Scalia, Kennedy, Marshall and Blackmum, who joined in the majority. Rather, it was with the language of the dissent, particularly that of Chief Justice Rehnquist, whose argument appears to stand not on 200 years of case law supporting greater and greater freedom of speech but on a sentimental nationalism that imposes a functional litmus test of loyalty before expression is permitted.

Today, I declare that I do not support any of the constitutional amendments that are being offered by my colleagues and friends as a necessary remedy to this decision. I will not yield in my belief that these amendments create problems rather than solving them.

Today, I am even skeptical about the need to pass anti-flag burning laws at the state or the federal level. Even this response seems more patronizing than necessary.

Today, I am disappointed that the strength of leadership shown by President Bush in his travels to Poland and Hungary was not shown here at home. President Bush did not stand before the angry and distressed mob to stop us in our tracks before we did something we would regret. He did not offer words that calm us or give us assurance that the nation is not endangered. Instead of leading us, President Bush joined us.

The polls showed support for a constitutional amendment, and so the president yielded to his political advisers. Even though most Americans had not read the decision prior to being polled, even though they did not understand what is potentially at stake if our Bill of Rights is altered, the president chose the path of least resistance and greatest political gain.

I believe we should slow down and examine what it is we are about to do. I believe we should look at the decision carefully. If we do, we are less likely to conclude that action is even needed.

I believe that we should look first at the two states that do not have anti-flag burning laws. Ask yourself how it is that Alaska and Wyoming have survived without such laws. Is it because they are less patriotic than the citizens of 48 other states? Is it because they simply were not aware of the great danger that exists to them without such laws?

Or is it because they simply recognize that no danger exists? Is it because there is already a sufficient amount of unwritten negative sanctions against flag burning without the need for the lawmakers to act further? I suspect it is the latter. I suspect that a law making it illegal to burn the American flag in Wyoming or Alaska is seen as unnecessary.

There is simply no line of Americans queuing up to burn our flag. On the fact of the evidence at hand it seems to me that there is no need for us to do anything.

I also believe that a complete reading of the decision will yield the strong impression that the court broke no new ground. Nor did it create any new rights, protections or guarantees. Rather, it applied longstanding and settled principles of law to this specific case.

The court's decision was the fifth since 1931 that found use or abuse of the flag to be a form of expression protected by the Constitution. The court has long held that the First Amendment applies to conduct as well as pure speech. Such conduct is protected if an intent to convey a particular message is present and if it is likely that the message would be understood by those who viewed it, as the court has held in the cases of students wearing black armbands, picketing and attaching peace signs to the flag. Not only has the court protected such offenses as burning but also acts that commercialized this symbol of freedom and liberty.

John Stuart Mill, in his 1859 essay "On Liberty," offered three reasons why the expression of opinion should rarely be limited. First, the suppressed opinion might be right; its suppression might deprive mankind of the opportunity of "exchanging error for truth." Second, even though the opinion might be false, it may contain "a portion of truth," and "it is only by the collision of adverse opinions," each of which contains partial truth, "that the remainder of the truth has any chance of being supplied." Third, even if the opinion to be silenced is completely wrong, in silencing it mankind loses "what is almost as great a benefit as that [of truth], the clearer perception and livelier impression of truth, produced by its collision with error."

Mr. President, flag burning is in the last category. It does not persuade us that the burner holds an opinion that is true. It persuades us that his opinion is untrue. And it gives us the opportunity to see what true freedom and true patriotism are.

Chief Justice Rehnquist, in his disappointing dissent, asserts that men and women fought for our flag in Vietnam. In my case I do not remember feeling this way.

I remember that my first impulse to fight was the result of a feeling that it was my duty. My nation called, and I went. In the short time that I was there I don't remember giving the safety of our flag anywhere near the thought that I gave the safety of my men.

I do remember thinking about going home, and I remember why that home felt so good to me. I remember longing to be back in the old neighborhood. I remember most vividly on the night that I was wounded, with the smell of my own burning flesh in my head, that I knew I was going home and how happy I was with that certainty.

America—the home of the free and the brave—is my home, and I give thanks to God that it is. America—the home of the free and the brave—does not need our government to protect us from those who burn a flag.

IN HONOR OF BRIG. GEN. JOHN R. ALLEN, JR.

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to Brig. Gen. John R. Allen, Jr., vice commander of Sacramento's Air Logistics Center at McClellan Air Force Base in California. General Allen will soon be departing for a similar assignment at Tinker Air Force Base in Oklahoma. His distinguished career at McClellan, from September 28, 1987 to August 10, 1989, has been characterized by one successful accomplishment after another. McClellan, which is the largest Federal sector employer in northern California, will certainly miss his fine service.

Upon assuming the position of vice commander in 1987, General Allen initiated superior management policies and guidelines which ultimately led the logistics center to a higher degree of productivity and an increased quality of work at all levels. His accomplishments, which have set new standards throughout the Air Force and Air Force Logistics Command, have been numerous and noteworthy.

General Allen accelerated improvements to an F-111 Avionics Modernization Program that involved upgrading and standardizing the bomb navigation system on all versions of this combat proven aircraft. This modernization greatly enhanced reliability, sustainability, and operations capability of the F-111 in such a way that the mean-time-between-failure rate was increased. In addition, he has revised productivity maintenance standards in such a manner that the Sacramento center leads the entire Air Force Logistics Command in aircraft delivered on time.

The Sacramento ALC, while under his leadership, established an effective F-15 speedline operation that has produced and delivered 14 F-15's without customer reported defects. A unique Office of Personnel Management gainsharing project, PACER SHARE, which rewards employees based on group productivity, was also implemented by General Allen.

The center, with General Allen's assistance, also gained a new and much needed aircraft workload when they were assigned the system management responsibility for the A-7 fighter aircraft from the Oklahoma City ALC.

Finally, General Allen played a prominent role in making the Sacramento ALC a key figure in the rapid development and implementation of a new strategy for the logistics support of the Air Force's space and early warning systems. This strategy was a product of Air Force efforts to normalize its space logistics operations by transferring system program management duties to the Air Force Logistics Command. To accommodate this agreement between the Air Force Logistics Command, Air Force Space Command, and Air Force Systems Command, the Sacramento Air Logistics Center at McClellan Air Force Base activated a detachment of 25 at Peterson Air Force Base, CO, in June 1988.

As one might expect, General Allen's accomplishments go far beyond his immediate duties as vice commander. His tremendous leadership and professional expertise can be seen in improvements to the environment and quality of work life at the installation. In the environmental area, McClellan's sincere efforts to establish and carry out cleanup actions have been recognized, and resulted in McClellan winning the coveted Gen. Thomas D. White Installation Environmental Quality Award.

General Allen's relationship with the surrounding communities chambers of commerce and other distinguished civic groups, as well as my Sacramento office, has been one of availability, helpfulness, and professionalism. On behalf of my constituents, my staff, and myself, I would like to thank General Allen for the assistance and direction he has given to all of us over the past 2 years. He will certainly be missed.

I know my colleagues join with me today in the sincere best wishes to General Allen not only in his new assignment, but in all future endeavors. General Allen's devotion, skill, and extraordinary leadership to the military and civilian communities are superb examples for all to follow. I extend my best wishes to General Allen and his wife Jody.

THE COMPREHENSIVE FOOD SAFETY INSPECTION ACT OF 1989

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. PENNY. Mr. Speaker, today along with Representatives TAUKE, JOHNSON of South Dakota, KOLTER, PETRI, LAGOMARSINO, RINALDO, JONES of North Carolina, SCHUETTE, TALLON, and DANNEMEYER, I am introducing the Comprehensive Food Safety Inspection Act of 1989, which will merge food safety inspection activities into one agency within the USDA. Presently, food safety inspection activities are fragmented among three different Federal departments. Creating a central location for food safety will better serve industry, consumers, and the Government.

Food safety is a very important issue to the American people. Many public concerns have surfaced in recent months, which illuminate this importance. These concerns have included a demand to ban a preservative on apples, a push to establish a mandatory fish inspection program, public outcry to continue with daily inspection in meat and poultry processing plants, and infrequent inspection of imported food products. To maintain public confidence in our food supply, we need to have a focal point for food safety that will focus on scientific evidence and sensible policies.

Presently, food safety inspection is fragmented among agencies within the Food and Drug Administration [FDA], the Department of Commerce, and the Department of Agriculture [USDA]. Each agency must have significant support staff to develop agency policy and provide administrative and managerial functions. These functions are necessary but reduce the resources available for actual inspection activities.

Today's food technology and marketing practices have increased the number of companies that produce products that could come under the jurisdiction of all three departments. In addition, many conflictive regulations exist among the agencies. The streamlining of inspection activities would be cost-effective for the Government and much less confusing for industry and consumer groups in dealing with regulatory requirements. Consumers will benefit from the aspect that food inspection will have one focal point. Industry will benefit by not being burdened with satisfying conflicting regulations from different agencies. The Government and taxpayers will benefit because a higher percentage of resources can go for actual inspection activities by cutting administrative costs.

If the potential of U.S. agriculture is to be effectively applied to the current set of public concerns, we need organizational realignment that reflects some of the changes in food processing that have occurred over the last few years. If we are to take advantage of our expanding knowledge about food to meet public needs, we must recognize that the food system is complex and integrated.

Historically, the Department of Agriculture has been viewed as having a major purpose of promoting the interests of farmers. With passage of this legislation, USDA should make organizational adjustments giving equal weight and visibility to food safety. If USDA makes these adjustments, it can still represent farmers and their interests while handling consumer concerns objectively both in real terms and in appearance. This will be to the long-term benefit of farmers, food processors, and consumers.

The bill is as follows:

H.R.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Food Safety Act of 1989".

SEC. 2. CONSOLIDATION OF FUNCTIONS.

(a) FUNCTIONS.—Effective on the 90th day beginning after the date of the enactment of this Act there are transferred to the Secretary of Agriculture—

(1) all the functions of the Secretary of Health and Human Services carried out by the Center for Food Safety and Applied Nutrition with respect to food, under the Federal Food, Drug, and Cosmetic Act; and

(2) all the functions under the Agricultural Marketing Act of 1946 transferred to the Secretary of the Interior by the Fish and Wildlife Act of 1956.

(b) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL—

(1) IN GENERAL.—Effective upon the transfer of functions under subsection (a)—

(A) the personnel employed; and

(B) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available;

in connection with those functions shall, subject to section 1531 of title 31, United States Code, be transferred to the Secretary of Agriculture for appropriate allocation.

(2) LIMITATION ON USE OF UNEXPENDED FUNDS.—Unexpended funds transferred under this subsection may not be used for any purpose other than the purposes for which such funds were originally authorized and appropriated.

SEC. 3. RULEMAKING BY SECRETARY OF AGRICULTURE.

(a) IN GENERAL.—The Secretary of Agriculture shall make rules to provide for the efficient carrying out of the functions transferred by this Act.

(b) REQUIRED PROVISIONS OF RULES.—Such rules shall provide—

(1) for a single agency within the Department of Agriculture to carry out such functions and the functions of the Food Safety Inspection Service; and

(2) for appropriate transitional arrangements for the 90-day period before such transfer of functions takes effect to facilitate such transfer.

CONGRESSIONAL SALUTE TO DEAN C. NOLL, ENGINEER OF THE YEAR

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. ROE. Mr. Speaker, it is with the greatest admiration and pride that I rise today to salute a truly outstanding individual from my home State of New Jersey whose tireless efforts and great expertise in the area of water resources and water supply have meant a better quality of life for all New Jerseyans.

I am speaking of Dean C. Noll, chief engineer of the North Jersey District Water Supply Commission who was recently named Engineer of the Year by the north Jersey branch of the American Society of Civil Engineers. Mr. Speaker, I have known Dean Noll for many years and I can say without hesitation that I know of no individual more deserving of this prestigious honor.

For the RECORD, Mr. Speaker, I would like to insert the text of an article that appeared recently in the newspaper Suburban Trends, in my Eighth District of New Jersey and which details Dean Noll's outstanding career and numerous accomplishments.

DEAN NOLL HONORED

(By Linda Baldwin)

WANAQUE.—Referring to it as "an honor," Dean C. Noll, chief engineer of the North Jersey District Water Supply Commission, accepted his selection as "Engineer of the Year" by the North Jersey Branch of the American Society of Civil Engineers. He was selected for his accomplishments in the field of water supply engineering.

A resident of Denville, Noll joined the North Jersey Water Commission's engineering staff following his 1950 graduation from Manhattan College.

As chief engineer, his career has been highlighted by the conception and design of the recently-completed Wanaque South Project which includes the Monksville Reservoir in Ringwood and West Milford, the development of the Wanaque Water Treatment Plant serving 800,000 people in northern New Jersey and his work on the Round Valley Reservoir later built by the state. Noll also was involved with the design and construction of Ramapo Pump Station, capable of diverting 150 million gallons of water daily from the Ramapo River at the base of the Pompton Lakes Dam.

The Wanaque South Project was constructed as a joint venture between the North Jersey District Water Supply Commission and the privately-owned Hackensack Water Company. Overall, Noll has overseen the completion of water supply facilities which today serve more than two million residents.

The Denville engineer is the author of numerous articles published in professional journals dealing with resource development, the environment, repair of dams and resource protection. He has provided expert testimony in court cases, congressional and legislative hearings and has presented technical papers in this country, England and Belgium.

A life member of the American Water Works Association, Noll is former chairman of the New Jersey Section and has just completed a three-year term as national director of that association. In 1977, Noll received the George Warren Fuller Award from the AWWA for "sound engineering skills and distinguished service in the water supply field." He was awarded honorary membership in the international organization last year.

While at Manhattan College, Noll was captain of the track team and a member of the national championship mile-relay team. He is married to the former Liz Rienzo. The Nolls, with their nine children, have been residents of Denville since 1956.

Noll has served on various special committees and study groups for Denville, including open space, library reconstruction and flood damage abatement. He was a confraternity of Christian doctrine teacher for 20 years at St. Mary's Parish in Denville and was recently elected to the Morris Catholic High School Hall of Fame for his service as a voluntary track coach and advisor.

When reached for comment recently on his selection, Noll said he "was pleased" to be recognized. "It's always nice to be recognized by your peers," he said, adding, "After all, they're the ones who know what you do."

Mr. Speaker, I appreciate the opportunity to present a brief profile of this outstanding man whose multitude of professional, personal, and educational accomplishments have truly made his community, State, and our Nation a better place to live—Dean C. Noll, chief engineer of the North Jersey District Water Supply Commission and New Jersey's "Engineer of the Year."

CHILD CARE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. KILDEE. Mr. Speaker, I would like to share with my colleagues a recent editorial which appeared in the June 27, 1989, issue of the Detroit Free Press. The editorial speaks forcefully to the need for a national child care policy combining tax credits with a comprehensive direct services approach that targets assistance to low-income families while improving the quality of care for all families. I invite my colleagues to read its thoughtful words.

[From the Detroit Free Press, June 27, 1989]

CHILD CARE: FINALLY, CONGRESS IS PROGRESSING IN EFFORTS TO HELP WORKING FAMILIES

What a long way we've come. No longer is child care narrowly defined as a women's, especially poor women's, issue. Presidential candidates discussed it. It also has been discussed by lawmakers. And, finally, one house of Congress has acted.

Although the $3.5 billion-a-year Democratic plan adopted by the Senate is a drop in the bucket compared to the overwhelming needs, it's a start—a long overdue one.

Ask any of the 52 percent of working women with children under 3 years old about her biggest problem. The answer most likely won't be low wages or an impossible boss; it will be child care.

The strength of the Act for Better Child Care Services, cosponsored in the Senate by Democrat Christopher Dodd of Connecticut and Republican Orrin Hatch of Utah, is that it offers help for the full range of American families. It would make day care more affordable for lower-income families; all families would benefit from provisions that seek to improve the quality of care.

It would do so by making $1.75 billion available to the states for training grants and other programs to expand and upgrade day care facilities and for subsidies for poor working families, as well as by revamping the federal Dependent Care Tax Credit to make it more useful to the poor. The bill would also create a new tax credit to help defray the costs of health insurance for low-income children.

Sen. Hatch, in supporting the measure, broke with the White House (and most of his Republican colleagues) who favored a proposal, which would have cost about the same, that relied largely on tax credits and would have done little to address concerns about quality. That Mr. Hatch, known for his conservative views, would back the more comprehensive plan is evidence of the remarkable transformation that this nation has undergone since the early 1970s when objections—especially from the religious right—scuttled an earlier effort to expand the federal government's role in child care.

The House is now considering several child care proposals. Its members, too, would be well advised to take a broad view of the problems working parents face and consider the federal stake in working to improve the quality—as well as the quantity—of child care. Tax credits alone won't do that.

THE THREAT OF DEBT AND ILLICIT DRUGS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. GILMAN. Mr. Speaker, today I am introducing a resolution (H. Con. Res. 181) expressing the sense of Congress that Latin American drug production control efforts will continue to be severely hampered if Latin America's debt burden is not reduced.

The resolution, in section 1, calls on the President to place debt relief and drug control efforts among the highest of his foreign policy priorities. Section 2 calls for a Presidential

level hemispheric drug and debt summit and suggests some agenda items.

Many of the nations in our hemisphere are suffering under the unrelenting burden of a series of inter-related crises. The worst of these, debt and drugs, threaten to drag some nations to a state of virtual anarchy.

The developing nations of Latin America are starving for funds because of a yearly net payment of $20 billion to $25 billion, in principal and interest, to foreign banks. While they are attempting to deal with this economic crisis, antinarcotics efforts as well as economic reform programs are severely handicapped.

As a senior member of both the House Select Committee on Narcotics Abuse and Control and the Foreign Affairs Committee, I have long been concerned by the impact of drug trafficking on our Nation and nations abroad. In many places across our great Nation people are afraid to leave their homes, scared that they or their children will be gunned down in the crossfire of turf conscious drug dealers. If we do not act aggressively against drugs quickly, the American dream of the 1990's will be to earn enough money to purchase protection for one's family. The white picket fence will be replaced by the electric fence; the apartment welcome mat will be replaced by barricades and sandbags.

I am a strong supporter of efforts to cut demand through education, treatment, and rehabilitation. But we cannot wait a decade for education to work. We must also continue to try to control drugs at their source. This is not possible without debt relief.

The illicit drug producing nations have not, as some may think, truly benefited economically from America's multibillion dollar annual cocaine habit. At first some might have seen drugs as a harmless source for desperately needed income. In the past, some Latin American leaders have seen drugs as solely a U.S. problem. Not any more. As the cocaine cartels have vastly expanded their operations, all illicit drug producing, processing, transiting nations have developed a drug abuse problem, a crime problem, a corruption problem and, in some places, a drug-fueled insurgency problem.

In Colombia, over 50 judges, including half of their Supreme Court have been murdered by the drug traffickers. Hundreds of Colombian officials, including mayors, law enforcement officers, and an attorney general have also been assassinated. Thousands of brave Colombians continue President Barco's antidrug policy even though their lives and the lives of their family and friends are endangered by their courage.

Other countries in the region are also vulnerable to drug-related corruption and violence. Although the severity of the debt problem varies throughout Latin America, we must recognize that in this region of the world all nations with economic problems are especially at risk for exploitation by the drug traffickers.

Some drug-producing nations, due to economic problems, have become addicted to drug money. They now know that their economies need to overcome this dependency, but they need some help. Hundreds of thousands of poor farmers in the Andean region now earn their livelihood by producing illicit drugs. It is tragic, but it is true. To get them out of the drug business other means of making a living must be developed. No eradication program will be a long-term success without a substantial crop substitution effort or a program offering other employment opportunities. Enforcement and interdiction efforts are expensive. Economies suffocated by debt cannot adequately fund these antidrug initiatives.

I am not proposing a U.S. taxpayer bailout of foreign governments. Commercial banks must negotiate a debt reduction plan with debtor nations. The reduced debt would be guaranteed by a third party, and U.S. Government financial exposure should be minimal. However, the United States economy would benefit substantially from an economic recovery in Latin America which will likely result from debt relief. Billions of dollars of exports to Latin America and thousands of United States jobs, lost in the last few years, could be regained. Additionally, improved Latin American economies would, besides helping the antidrug effort, decrease legal and illegal immigration pressure and would ease a number of national security and foreign policy concerns.

International debt and drugs are inextricably interwoven. The United States, in cooperation with Europe, Japan, commercial banks and international institutions must work out a compromise agreement which provides debt relief for poor countries ripped by drugs and debt and allows them to break free from the misery they suffer. I have been encouraged by Japan's recent announcement to escalate its foreign assistance program and by negotiations between the United States and Mexico on providing debt relief. We must continue to aggressively pursue debt relief.

Progress in Latin America's debt and drug problems would be manifestly in the interest of the United States. To wait any longer and watch as nation after nation is suffocated by debt and drugs would endanger the national security of the United States, undermine the stability of the Western Hemisphere, and allow tons of drugs to continue to flood our streets and overwhelm our communities.

Accordingly, I would welcome the support of my colleagues for this initiative (H. Con. Res. 181), the complete text of which is inserted at this point in the RECORD:

H. CON. RES. 181

Whereas narcotics production and trafficking are inextricably linked to the severe debt crisis in Latin America;

Whereas narcotics control, both within the United States and abroad, is essential to reduce the production, trafficking, and consumption of narcotics;

Whereas the economic problems of Latin American nations are extremely severe, and recovery remains blocked by a massive debt burden;

Whereas the narcotics and economic problems of Latin American nations are becoming worse and are tearing at the political, economic, and social fabric of those nations;

Whereas the economies of Latin America, saddled with significant debt, are hampered in their anti-drug efforts;

Whereas it is crucial to the anti-drug effort that funds be made available for crop-substitution programs to provide an alternative means of income to those individuals dependent on drug production activities, as well as for eradication, enforcement, rehabilitation and treatment, and education programs;

Whereas the continued economic crisis in Latin American nations will lead to further proliferation of drug production and drug trafficking as more economies of those nations become dependent on drug-related income;

Whereas narcotics production and trafficking, and economies threatened by economic stagnation, are a danger to democracy, political stability, and economic growth in Latin American nations;

Whereas Latin American nations are experiencing a dramatic increase in domestic drug abuse, drug-related violence, and drug production, processing, and trafficking;

Whereas it is in the national interest of the United States to work with Latin American nations to solve both the drug and debt problems;

Whereas continued debt-related problems in Latin American nations contribute to increasing migration pressures on the United States; and

Whereas the economic problems of Latin American nations has resulted in significant reduction of exports, as well as a major loss of jobs in the United States; Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. POLICY OF UNITED STATES.

The President should—

(1) place debt relief for Latin American nations and drug control efforts in those nations among the highest of foreign policy priorities; and

(2) insure that the the Director of National Drug Control Policy, the Secretary of State, and the Secretary of the Treasury have leading roles in addressing these problems.

SEC. 2. CONSULTATION WITH LATIN AMERICAN NATIONS.

(a) SUMMIT MEETING.—The President should consult with Latin American nations to arrange a head-of-government level hemispheric summit to address the problems of drugs and debt.

(b) SUMMIT TOPICS.—Summit participants should discuss the formulation of a regional strategy to combat organizations in the Western Hemisphere that produce, process, and traffic in illicit drugs. Elements of the strategy would include intelligence sharing, asset seizure, the use of military units, and the development of alternative employment or crop substitution for coca growers.

(2) DEBT ISSUES.—Summit participants should discuss all options and remedies for debt reduction, including the possible use of partial debt forgiveness of Latin American debt, with third party guarantees for the remaining debt, and the manner in which nations outside the Western Hemisphere, multilateral development banks, and other international financial institutions could participate in efforts to reduce the debt burden and assist in the economic development of Latin America.

REPRESENTATIVE FRANK THOMPSON

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. MILLER of California. Mr. Speaker, I rise with deep regret to note the passing of one of our former colleagues, Congressman Frank Thompson, Jr., of New Jersey.

The obituaries written about Thompy all will note the end of his career, one tragically terminated by scandal, conviction, and imprisonment. That very unfortunate part of his life and his career cannot be overlooked.

But it would be terribly unjust, and shortsighted, to allow that final chapter of his career to diminish the enormous contributions this man made to the improvement of this Nation and the democratization of the House of Representatives, an institution he deeply loved.

Years before the arrival of our boisterous class of '74, Frank Thompson had helped lay the groundwork to restructure the Congress by curtailing the authority of a small elite, and by expanding the participatory rights of newer Members. He was one of the founders of the Democratic Study Group; he helped reform the tyrannical Rules Committee; he was an early and influential promoter of campaign reform.

As one who served with him for 6 years on the Education and Labor Committee, as well as on his Subcommittee on Labor-Management Relations, I knew Thompy as an unabashed spokesman for the working people of America, an outgrowth of his own personal history which saw him go to work as a machine operator at the age of just 12.

On many of the great issues our Government and the Congress confronted in the 1960's and 1970's, Frank Thompson was a major figure. He led the voter registration effort in 1960 on behalf of John F. Kennedy's Presidential campaign. During that decade, he was a leading figure in support of civil rights legislation, and he became one of the earliest vocal challengers of escalation in Vietnam.

On this very sad occasion of Thompy's passing, I am sure that all Members join me in extending our deepest condolences to his wife, Evelina, and to the other members of his family. Frank Thompson gave most of his adult life to the downtrodden and oppressed of our society, and we pay respect here today, on the floor where he served so well, to those decades of public service.

TRIBUTE TO JAMES P. "JIMMY" LEMOS

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to one of Benicia, CA's most outstanding citizens, James P. "Jimmy" Lemos, who recently passed away. He is survived by his wife Eva, his son James, two sisters, and two grandchildren.

Lemos was known to many as "Mr. Benicia". Anything affecting Benicia was Jimmy's concern. He served two terms as mayor and led Benicia through some of its most trying economic times. He was instrumental in rallying the public and private sector to raise the funds and buy the Benicia Arsenal after then Secretary of Defense Robert McNamara ordered its shutdown. Realizing that the town would be losing many vital jobs upon shutdown, he sought to revitalize the economy by initiating the acquisition of the arsenal site and building the Benicia industrial park. This industrial park has become an economic boon to the city and will continue to be an asset well into the 21st century. He was indeed a man of vision.

He was one of Benicia's longest serving elected officials. First elected to the Benicia city council in 1944, he served there for nearly 34 years, his tenure spanning nearly three decades. During this time he earned a reputation for integrity, hard work and fiscal responsibility.

Mr. Lemos was a native of Portugal who arrived in the United States with his family at the age of 3 and lived in Benicia for nearly 70 years. He had a long and sustaining link with Benicia's history. As an avid storyteller, he would share his memories of Benicia's past. Telling of a time when it was both a booming military town and a sleepy backwater community.

Benicia businessman Bill Saks described him as "a man of conviction and candor who gave hours of service and years of his life to Benicia." He was a longtime supporter of recreation. Upon his retirement in 1978, the municipal pool, which has been the site of international competitions, was named in his honor. In addition, he was an avid baseball fan, turning out for little-league and professional games alike.

According to former editor of the Benicia Herald, Bob Silva, Jimmy Lemos "possessed a special boundless spirit." It was that spirit which led him to give so much of himself to so many. City council member and long-time civil leader Ernie Ciarrocchi said that "Benicia has suffered a great loss, no one should underestimate the contribution that Jimmy has made to this town." The citizens of Benicia will fondly remember their civic leader and friend, Jimmy Lemos.

IN HONOR OF THE 150TH RUNNING OF THE ERIE COUNTY FAIR

HON. BILL PAXON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. PAXON. Mr. Speaker, I rise today to pay tribute to the Erie County Fair and Exposition, which will begin its 150th run on August 10.

This year, the Erie County Fair, one of the largest of all county and State fairs in the Nation, is expected to draw 750,000 patrons during its 10-day run at the beautiful fairgrounds, located on McKinley Parkway in Hamburg, Erie County, NY.

Founded in 1819, the Erie County Agricultural Society, a nonprofit, public benefit society chartered by the State of New York, held the first Erie County Fair at the current site of Pilot Field in downtown Buffalo in 1820. Interrupted only by wartime and the Great Depression, the Erie County Fair has brought together people and communities in a celebration of amusement, arts, entertainment, and above all, agriculture, New York State's largest industry.

In 1868, shortly after the end of the Civil War, the Erie County Fair moved to its present site on 250 acres in the town of Hamburg. It was here, in 1885, that the chopped-beef sandwich was created and dubbed the "hamburger" in honor of the township.

The Erie County Fair's rich history also includes the unique and historic octagon-shaped Health and Social Services building, which dates from 1885, the James E. Strates Shows, which have been at the fair since 1924, and the only original San Francisco cable car operating outside of that city.

The fairgrounds itself is composed of tree and garden-lined avenues, like Broadway and 42d Street, many spacious parks, cattle, animal and horse barns and arenas, exhibition buildings and the half-mile track that is home to Buffalo Raceway.

Each and every year, the board of directors of the Erie County Fair make many additions and improvements to the fairgrounds and, on closing day August 20, 1989, ground will be broken for the most ambitious undertaking yet, construction of the Agri-Center, a 50,000-square-foot exhibition building to be opened for the 151st fair in 1990.

Young and old, city dweller, suburbanite and rural resident, American and Canadian, everyone enjoys the festivities of what is known as "America's County Fair", reflecting western New York's sense of community and diversity.

Above all, the success of the fair down through all these decades has been due to the untiring efforts of thousands of volunteers, including exhibitors, workers, directors and Agriculture Society members, all of whom are committed to keeping alive the rich history of this great fair and our wonderful community.

I am proud, Mr. Speaker, both as a veteran fair-goer since childhood and now, as a member of the fair board of directors, to honor today in the House of Representatives the 150th running of the Erie County Fair and Exposition and to also extend best wishes to everyone attending this year's historic fair.

THE MIGRANT EDUCATION PROGRAM

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. FORD of Michigan. Mr. Speaker, the Migrant Education Program helps to equalize the opportunities for children of migratory agricultural workers, fishers and dairy workers. These families must move to work. They endure the typical problems related to poverty, including inadequate housing, poor health care, and unusual stresses that the average person in America will never know. The problems of migrant families are compounded by

their mobility. Their children inherit these difficulties at an early age as they attempt to cope with the adjustments of moving from school to school.

The Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988 made several important changes to the Migrant Education Program, including the requirement that preschool children be sought out and served. Prior to this, individual programs could choose to extend their services to preschool children, but would do so without any Federal reimbursement.

I would like to share with my colleagues an article which appeared in the State Education Leader which gives an excellent description of why the migrant program exists and why the Congress decided to lower the age range to include preschool children.

[From the State Education Leader, Summer 1989]

MIGRANT PRESCHOOL PROGRAM HAS FAMILY TOUCH

(By Ray Martino)

When 3-year-old Luis entered the Dysart Migrant Head Start/Preschool Program in Peoria, Arizona, he could not speak. Migrant Program Nurse Gail Duffy quickly discovered that recurring ear infections were the cause of his silence.

Duffy made sure that Luis received the health care he needed, and he soon was participating actively with the other children. In May, Luis completed the two-year program, speaking both English and Spanish.

Luis is ready for kindergarten thanks to the nationally recognized preschool program in the rural Dysart Unified School District #89 near Phoenix.

According to Betty Churchill, director of Dysart Migrant Child Education, the preschool program works because it addresses all of the children's developmental needs. "We treat the children as individuals and involve their families in every aspect of their education," Churchill says.

A SHARED HONOR

The success of the Dysart migrant preschool program was recognized recently by U.S. Secretary of Education Lauro F. Cavazos, who selected Dysart as one of nine migrant program recipients of the Secretary's Initiative to Improve the Education of Disadvantaged Children Award.

New York State Senator John D. Perry, senior project consultant for the Interstate Migrant Education Council (IMEC), a special project of ECS, calls the Dysart preschool program a model for the nation. "This project embodies all of the components of a successful program for disadvantaged youth—prekindergarten with health care and parental involvement," Perry says.

A BUSY DAY

A typical day for a Dysart preschooler is filled with learning activities, personal attention and plenty of love. Sixty preschool students, ages 3 and 4, arrive at the El Mirage Elementary School at 8:15 a.m. where they receive a nutritious breakfast. Afterwards, they gather into large groups with a teacher and two aides to discuss objectives for the day before dividing into working groups. The daily program includes play and rest times, language development and sharing activities.

DEVELOPING HEALTHY HABITS

Duffy also operates a comprehensive health program for the children and their parents. When the children first enroll in the preschool program, Duffy interviews parents to learn each child's developmental history. An interpreter assists her when parents speak only Spanish.

"Our physical assessment at the beginning of each school year includes vision and hearing screening and blood work to test for anemia and diabetes," Duffy says. Problems are referred to a local health clinic that provides low-cost medical care for migrants.

In addition, a dentist visits the classroom periodically to clean and examine the children's teeth, apply fluoride and sealants and identify those who need fillings and cappings.

A special fund started with the aid of several companies helps parents pay for additional health care expenses.

Because she believes in serving the whole family, Duffy is very involved with the parents. She visits the home of each preschooler at least twice during the year. "I feel that it is important to see parents in their homes," Duffy says. "I provide health information and develop a relationship with the families. Many parents call me regularly for advice."

Duffy also offers parents a series of health classes at the school where they learn about topics such as CPR, dental habits, nutrition and AIDS.

A high level of parental involvement is a key factor in the Dysart preschool program's success, Churchill says. "Some schools discourage parents from participating in the education of their children, but we see parents as a gold mine," she says.

Maria Aljos' son, Edgar, just graduated from the Dysart preschool program, and she has three older children in the Migrant Child Education Program. "When Edgar started preschool he could only speak Spanish, but now he speaks both English and Spanish fluently," Aljos says.

Aljos takes parental involvement seriously. She has served on the district's Parents Advisory Council for the past four years and now works in the preschool program training parent volunteers.

LANGUAGE DEVELOPMENT

Interwoven into the daily schedule of the preschool program is an innovative approach to improve the children's language skills. The children are divided into groups of 10 according to their level of language skills.

"We take a bilingual, bicultural approach," Churchill says. "Many children enter the program speaking one language and graduate speaking both languages fluently."

The program is called "Here and Now" speech and is aimed at strengthening a child's dominant language, Churchill says. "If the child has trouble with Spanish, we build the Spanish skills and hold off on the English."

Churchill has strong words for those who oppose bilingual education. "Forcing people to speak only English does not make them more loyal Americans." She adds that many employers today seek people who can speak more than one language."

A.M. ROSENTHAL OF THE NEW YORK TIMES RAISES THE QUESTION OF U.S. POLICY ON TIBET AND CHINA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. LANTOS. Mr. Speaker, A.M. Rosenthal, the distinguished columnist of the New York Times, last week wrote an excellent column that focused on the matter of Tibet and the violation of the human rights of the Tibetan people by the People's Republic of China.

The indiscriminate violence by Chinese troops against unarmed students just a few weeks ago in Tiananmen Square is the most outrageous in a long series of human rights violations by the Chinese Government. For three decades, but with increasing violence over the last 2 years, the Tibetan people have been subject to brutal and repressive police action against respected human rights leaders. These indiscriminate attacks against the gentle Tibetan people, who are peacefuly calling for recognition of their democratic civil and human rights, are an afront to all civilized nations and must be condemned in the strongest terms. Unfortunately, however, as Mr. Rosenthal points out, the administration has not been willing even to hear the plea of the Tibetan people for recognition of their human rights.

Mr. Speaker, I ask that Mr. Rosenthal's article be placed in the RECORD and I urge my colleagues to read his thoughtful words.

[From the New York Times, July 25, 1989]

NOT WELCOME AT STATE

(By A.M. Rosenthal)

The other day in New York sad words were spoken about our country, some of the saddest I have heard.

They came from a young foreigner who lives in Washington. He is assigned by his Government to try to speak to ours about the occupation and devastation of his country, the destruction of its religion, the slaughter of its people.

Somebody asked him, in the presence of his national leader, what contacts he had with the Administration.

"Well," he said, "We are not welcome at the State Department. Sometimes we can see them outside."

At the other end of the table sat the Dalai Lama, the exiled leader of Tibet, the very symbol of its nationhood. To his people he is also the leader and teacher of their Buddhism, a living, reincarnated vision of holiness.

The Dalai Lama was in New York as part of international tour devoted largely to religious teaching. But wherever he goes he tries to remind the world of his Himalayan nation, brutalized by Chinese Communist invaders for almost half a century.

He does it almost gently, because that is his nature, because he preaches nonviolence, and because he is fearful of bringing down even more horror on his people.

Already more than a million of a population of about six million have died—shot down in the streets, murdered in jails, starved; 6,000 temples and monasteries have been razed.

Americans gave their hearts to Chinese students who died fighting the very regime that imprisons Tibet. But even now the Dalai Lama can visit the United States only privately. The Government will not receive him.

As for the American press and people, they have room in their minds and emotions for the struggles of other peoples who do not have power—Balts, Poles, Armenians, Africans, Palestinians, Jews, Irish. Why not Tibetans?

It is not simply that there are few Tibetans here. More important is that the Chinese Communists keep reporters and cameramen out. No journalistic witnesses means no stories, no film, no "news," and that means no attention, no caring.

And while nonviolence as the leader's national policy may get casual nods of admiration from time to time, it certainly takes the heat off the rest of the world.

It works only if the governing authority is moved, embarrassed or otherwise bothered. The British were bothered enough to give up in India. The then-Fascist Government of Portugal, tiny in power, had to be driven out, later.

Decades before Tiananmen Square, the Chinese Communists showed in Tibet that their answer to nonviolence was slaughter.

But in all these years, only one part of the American Government has had the courage to speak up.

Congress has passed several resolutions supporting the people and exiled Government of Tibet. These resolutions have urged American Administrations to help the Dalai Lama get the Chinese to talk about fundamental political and religious freedoms for Tibet, even in association with Communist China.

When he was in New York, the Dalai Lama received an award from the Congressional Human Rights Caucus.

But the Bush Administration, like all Administrations since the occupation, has turned away from Tibet. No—there was a brief period in the 1960's when Washington thought it might be useful to train some Tibetan guerrillas in Colorado. Then we dumped them.

China beckoned. All that money—the mirage of the China market still makes us drool. And you know global politics—the strange idea that China is some kind of passive poker card to be played by us.

So the Chinese get away literally with murder, demanding and receiving American acquiescence about the rape of Tibet.

It never seems to penetrate the American official mind that it is the Chinese who are playing our card.

How amused the rulers of China must be. They see the great United States, kowtowing for decades, so fearful of their toothless, politically staggering regime that it has in effect renounced its belief in freedom for one endangered people. How amused, and how contemptuous. How long can an American President ignore Congressional resolutions, even against international murder? As long as he sees fit.

The Dalai Lama preaches hope. The only hope for Tibet is that George Bush will see that the best answer to Tiananmen Square is at last to receive in the White House the leader of the people who for decades have died under the same guns.

All those fighting for their own dream of freedom will praise his name, among them those who fight for it in China.

BROOMFIELD FINDS WASTED MILLIONS IN NAVAL SURPLUS FLEET

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. DAVIS. Mr. Speaker, in an era of trillion-dollar Federal budgets, it is getting harder and harder to convince American taxpayers that they are getting their money's worth.

I am happy to report that one of our colleagues, my fellow Michigander, BILL BROOMFIELD, has uncovered a clear example of Government waste, and has also come up with a solution that both saves the taxpayer money and makes the best use of the Government's assets.

This week's edition of Navy Times provides an interesting story of BILL's recent trip to investigate the Maritime Administration's National Defense Reserve Fleet in the James River near Norfolk, VA, and tells what he found when he got there.

What he saw was millions of dollars worth of drill presses, lathes, stainless steel coffee urns, and steam kettles, as well as storage bins full of copper, brass, and steel parts. All of this equipment was sitting on ships that were going to be used as targets for the U.S. Navy or sunk as part of the artificial reef program.

As BILL BROOMFIELD put it during his tour of the fleet, "I just couldn't believe what I was seeing. The whole fleet down there reminds me of an overstuffed attic. It's time to start having some garage sales."

The American taxpayer knows in his gut that there's a lot of Government waste, and so do we. It just takes a little digging to uncover it. I know my colleagues will be interested to read the story about BILL BROOMFIELD's trip to the James River fleet and about the legislation he has introduced to correct the problem he found there.

SALVAGE URGED FROM FLEET'S "OVERSTUFFED ATTIC"—BUT DOOMED SHIPS' KEEPERS ADAMANT THAT'S NOT FEASIBLE

(By William Matthews)

WASHINGTON.—As he climbed through the darkened compartments of the USS Protector, a World War II-era ship destined to become an artificial reef, Rep. William B. Broomfield, discovered storage bins full of copper, brass and steel parts, many of them still sealed in protective plastic envelopes.

In the ship's machine shop, he found drill presses and lathes just as they had been carefully stored decades ago with a protective layer of preservative grease covering the parts most likely to rust.

Further on in his tour, the Michigan Republican found communications equipment and sonar gear. In the galley, he examined big stainless steel coffee urns and steam kettles for cooking soups and stews. He found brass or bronze ingots larger than one man could lift sitting on the deck.

Protector is one of 64 old Navy, Army and merchant ships kept in storage by the U.S. Maritime Administration. After years of being kept ready to be reactivated in an emergency, the ships now are too old and rusted to be useful. Some have been designated for use as targets for Navy bombs, missiles or torpedoes. Others will be sunk as reefs to become breeding grounds for fish.

Too often when the old ships are scuttled, according to Broomfield, they still contain up to $1 million each worth of spare parts, scrap metal, electronic components, machinery and other useful items.

WASTE IN DISPUTE

After inspecting several ships in the National Defense Reserve Fleet in the James River near Norfolk, Va., July 17, Broomfield said that the Maritime Administration's management of old Navy ships "is a shocking example of waste."

But according to Michael DelPercio, director of the Maritime Administration's office of ship operations, in most cases it would cost more to salvage the equipment than it is worth.

Most of the old ships are full of asbestos, he said. Federal environmental regulations would require salvors to strip the asbestos, a cancer-causing fire retardant, from pipes, boilers and bulkheads before removing copper pipes, generators, boilers and other equipment that might have commercial value.

The cost of removing asbestos in an environmentally safe manner "is astronomical," he said. And, after the asbestos is gone, "you would have to cut holes in the side of the ship to take most of this stuff out," he said.

If a ship is then to serve as a target or a reef, the holes must be welded shut again to make the hulk seaworthy enough to be towed safely to its destination.

In most cases, the cost of stripping a ship of anything of value far exceeds the value of what can be stripped, DelPercio said.

Broomfield disagrees, and he's not alone.

TOUR WITH EXPERTS

The congressman was accompanied on his tour by an investigator from the Defense Department Inspector General's office and two commercial salvage experts.

Broomfield said when he would point to pumps and parts, generators and electronic gear, Maritime Administration officials would say it was worthless, but the salvage experts' eyes "would light up with dollar signs."

Defense Department investigator John E. Polley, who also accompanied Broomfield, agreed that there is equipment worth salvaging on many of the vessels at issue.

Most of the equipment—30-year old sonar systems, old machine tools and the like—is worthless to today's Navy, Broomfield agreed. "But the fact is, the machinery and much of the steel and copper and brass material on board these ships has value to someone, somewhere.

On one ship waiting to be sunk, Broomfield said he and Polley randomly pulled 80 repair parts off of rows of storage bins and discovered that 70 percent of them were parts the Navy still buys.

"The Defense Department and Maritime Administration are wasting millions of dollars of equipment and material for no good reason," Broomfield said.

Even for items the Navy considered obsolete, "salvage companies are willing to offer the government cold cash for material that is going to the bottom of the sea," he said.

During his tour Broomfield said, "I just couldn't believe what I was seeing. The whole fleet down there reminds me of an overstuffed attic. It's time to start having some garage sales."

VALUES ESTIMATED

Two salvage company representatives estimated the drill press Broomfield discovered would fetch $15,000 on the commercial market. The bits stored with it might bring another $15,000.

Radar and communications equipment on the ship might be worth as much as $30,000, the salvors said, while comparable coffee urns and steam kettles would cost $1,000 to $3,000 apiece.

Railings and sheet steel in the ship's superstructure would bring $150 a ton, Broomfield said. By salvaging the superstructures alone, the Navy could recover $300,000 to $500,000 a ship and still have a hull left to use as a target or sink as a reef, he said.

It would cost the Navy and the Maritime Administration nothing to let salvage companies bid for the right to remove valuables from ships that are designated to be sunk, he said.

According to DelPercio, though, the old rusting ships are far from the gold mine Broomfield describes.

"We get $130 a ton" for most of the ships, and that's from Third World countries where EPA regulations don't exist and the cost of the labor to dismantle bulkheads, decks and hulls is nominal.

When ships in the reserve fleet get too old to be of any use, "we sell them for scrap and use the money to buy new ships for the Ready Reserve Force," DelPercio said.

The old ships usually are sold to countries like India, Bangladesh, China and Spain. There, the absence of regulations on asbestos and low hourly wages make it economically worthwhile to strip and scrap a ship, he said.

"We have never had an American company win a scrapper's contract," he said. American companies paying American wages and complying with American environmental regulations simply can't compete, he said.

SELLING USED SHIPS

Generally, the Maritime Administration has to sell between three and seven old ships to get enough money to buy a new one for the Ready Reserve, he said. For the Maritime Administration to strip valuables from the ships would defeat its purpose, he said. Stripping the ships would diminish their value.

The Maritime Administration already is feeling a financial pinch. 'We're running out of old ships," DelPercio said.

In that regard, the artificial reef program is a drain for the Maritime Administration. Under the program, states can acquire old ships essentially for free, if they promise to sink them as fishing reefs.

When ships are designated as reef candidates, it becomes the responsibility of the states that receive them, not the Maritime Administration, to remove any valuables, DelPercio said.

Stripping the old ships "is not a bad idea if people can make money on it," he said. "If they change the law and we make the money and not the states, I don't care."

Broomfield has offered an amendment to the 1990 defense appropriations bill that will require the Navy to allow salvage companies to bid for the right to remove useful parts and equipment from old ships the Navy plans to use as targets.

He said he also plans to introduce legislation requiring the Maritime Administration to give salvors the opportunity to strip ships that have been designated for use as artificial reefs.

TIP FROM A FRIEND

Broomfield said he became aware valuable equipment was being sunk when a friend from Florida told of serving on a commission that acquired an old Navy ship to be sunk as a fishing reef.

When the ship was turned over to the commission, they found it filled with useable items, ranging from shop equipment to mattresses still encased in the plastic they were wrapped in at the factory. They didn't have time to unload the ship before it was sent to the bottom.

When the Navy learned of Broomfield's amendment, several Navy officials visited the lawmaker in his Washington office and agreed to study the feasibility of letting scrappers bid on the contents of old Navy ships before the Navy sank them.

"The Navy has become very responsive once they found out what we're trying to do," Broomfield said.

He has not been happy with the Maritime Administration's responses.

"The Maritime Administration seems to be stonewalling," he said. "MARAD is actively resisting" efforts to salvage valuables before sinking old ships.

Untrue, DelPercio said. "I don't think anyone purposely sinks valuable equipment." The idea to let scrappers bid to remove valuables from old ships "is great if they do it," he said. But, DelPercio said he believes the value of anything salvageable will be less than the cost of recovering it.

CONGRATULATIONS JACK B. SPRINGER

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to congratulate Jack B. Springer, an outstanding constituent of mine, for being selected as the Firelands Area Council Boy Scouts of America Distinguished Citizen of 1989.

Mr. Springer, who resides in Sandusky, OH, is being recognized for his notable contribution to the quality of life in the community in which he lives. He joins many famous and renowned Americans who have won this coveted award over many years.

It is because of people like Jack Springer that the United States continues to grow and prosper as a beacon of freedom, hope, and opportunity. Whether it was as a naval aviator, a successful businessman, or a distinguished philanthropist, Jack Springer has shown an exemplary dedication to excellence in all that he does.

Mr. Speaker, Jack Springer's contribution to society is truly remarkable. As he receives this Boy Scouts of America Distinguished Citizen Award, I am most proud to be his Congressman.

ASBURY PARK REMEMBERS INVASION OF POLAND

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. FLORIO. Mr. Speaker, on August 27 the Polish Festival at Asbury Park, NJ, will commemorate the 50th anniversary of the invasion of Poland by Nazi Germany and the Soviet Union.

The invasion of Poland was one of the most momentous events of this century. It marked the beginning of the Second World War, which dramatically altered the world political landscape.

More poignantly, the invasion led to the subjugation of the Polish people, first under the iron hand of the brutal Nazi regime, and then behind the Iron Curtain of the Soviet Union. Indeed, the Polish people have struggled for full freedom and independence ever since the 1939 invasion.

Millions of valiant Poles have taken part in this great struggle. Only now are the Polish people beginning to cast aside the shackles of authoritarianism.

Mr. Speaker, it is important that we aid the Polish people in their fight for freedom. Indeed, hundreds of Poles took part in our Nation's own struggle for independence more than two centuries ago.

America's independence could not have been won without the assistance of brave men like Casimir Pulaski, who commanded the Continental cavalry in the Battles of Trenton and Flemington. Pulaski and many other Poles gave their lives for the ideals of democracy and freedom that the United States represents. It behooves us to repay the Polish people for this support, helping them to achieve the freedom that made it possible for us to enjoy.

That is why, Mr. Speaker, we must do all we can to ensure that the process of reform that is now going on in Poland is neither temporary nor illusory. We must validate the sacrifices made by the Polish people over the years in the fight against oppression.

This year's Polish Festival at Asbury Park will be dedicated to Poland's 50-year fight for freedom. I am proud to honor the festival and the Polish people for their unbending dedication to freedom and independence.

STOLEN FUTURE

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. GARCIA. Mr. Speaker, I rise here in the Chamber of the U.S. House of Representatives to reiterate something that all people should be aware of already: Drug abuse is becoming the No. 1 killer of our children. This cancer does not know racial, economic, or age barriers and is eating away at every aspect of our social fabric.

I was particularly shocked to read the story of Ryan Shafer, the son Ronald Shafer, who suffered a drug related death at age 16. Ronald, a staff writer of the Wall Street Journal, and his wife decided to relive the agony of their son's death by writing this article in the Wall Street Journal in hopes of preventing another tragedy. I want to submit for the RECORD their story. They tell it much better than I can. Thank you.

[From the Wall Street Journal, July 31, 1989]

STOLEN FUTURE: DRUG ABUSE EXACTS ITS MOST TRAGIC TOLL FROM NATION'S YOUNG

(By Ronald G. Shafer)

MCLEAN, VA.—In America's nightmare of drugs, the most tragic victims are our children.

I know. In this quiet, well-to-do suburb of Washington, D.C., my teenage son, Ryan, became trapped by drugs starting at about age 12—while he still was playing Little League baseball. With his sunny smile, big brown eyes and impish wit, Ryan was a free-spirited charmer who could make you laugh. A voracious collector of baseball cards, he would tell me he could name every batting champion back to the 1960s, "you know, the ancient days of baseball, when you were still young, Dad."

Now, his laughter is gone. Because of drugs, he is dead. And every day, my heart breaks a little more.

Ryan's death, like countless others, isn't officially recorded in the nation's rising drug toll. On the night of Oct. 1, 1987, at age 16, he drove his tan Mustang off a street in nearby Vienna, Va. He inexplicably fled the minor accident and ran a half-mile down the road, where he was bumped by a car. Even though a passing motorist tried to restrain him. Ryan, with a crazed look in his eyes and a sudden strength far beyond his small size, broke away and ran down a hill and onto a busy expressway; he was hit head-on and killed instantly by a van that didn't stop.

Tests showed no evidence of drugs. But he was speeding from the home of a drug dealer. We later learned that, earlier the same day, he had obtained elsewhere three "hits" of LSD, a hallucinogen that can cause panic and that often doesn't show up in tests. One way or another, drugs took my only son.

The only reason my family is now reliving our nightmare in print is the hope that it might save one young person who thinks he or she can control their drug use—and one family from the pain we will always feel.

PUBLIC FEARS

In opinion polls, drug use constantly ranks as one of America's top concerns. "It is foremost on parents' minds," says Lee Dogoloff, executive director of the American Council for Drug Education. "Drug and alcohol use is the thing most likely to wrest their child from them before that child reaches adulthood."

What is frightening as a parent is that children have an amazing ability to hide even extreme drug and alcohol abuse until it is almost too late. We didn't find out about Ryan until he was 14. And the extent of his use was far beyond our worst fears.

In a paper I discovered only recently, Ryan wrote during a rehabilitation program in early 1986: "I use cocaine a lot. It started out as a weekend use, but soon I had or tried to have it daily. I used PCP [an hallucinogen] about 2 or 3 times a week. I used hallucinogens all the time, such as acid, mushrooms, peyote, ecstasy and mescaline. I used LSD about 300 times." The omnipresent drug was marijuana. It started Ryan on his downfall and was always the drug he went back to.

In the suburbs of America, both drug use and the violence related to it are often hidden. Ryan was coming from the home of a drug dealer who for years had corrupted and molested youths who feared for their lives if they exposed him. After Ryan's death, several young people courageously came forward. In 1987, the man was arrested and charged with statutory rape and selling drugs to minors.

He will never go to trial. Around Christmas of that year, he killed himself by placing a plastic bag over his head and suffocating. His death also isn't counted as drug-related.

I will never fully know why Ryan got involved in drugs. In my view, there is still a dangerous myth that good kids from good families don't do drugs. Children are vulnerable no matter who they are or where they live. My son has his problems, but he was a sensitive, caring and unforgettable young man.

Ryan Glenn Shafer came into our lives on May 27, 1971, when my wife, Barbara, and I adopted him in Prince Georges County, Md. He was two months old, and Barb cradled him on her lap as we drove to our home in Laurel. We issued a press release: "R&B Shafer Inc. announces a major expansion."

In 1976, we moved along with our daughter, Katie, two years younger than Ryan, to McLean, in Fairfax County, Va. Barb chose for the most part to forgo a full-time job and threw herself into school and community volunteer work involving our children. I got involved too, helping to coach most of Ryan's baseball teams.

Ryan grew to be a fun-loving boy with wide and intense interests. His sense of humor charmed his friends and adults. In his first year at Longfellow Intermediate School, he became the first seventh-grader ever voted "Joe Cool." When a mother was informed of this choice, she said, "Why, of course, He is Joe Cool."

Despite his glibness, we knew Ryan had been troubled by low self-esteem and by difficulty in school. (We now know that both are early warning signs of a child at risk of drug use.) What we didn't know was that he had begun experimenting with drugs as early as the sixth grade. We were going through the typical stages of parents of drug-abusing adolescents.

The first stage is abject ignorance. Back in 1983, we never suspected that drug use was possible with our pre-teen: He was way too young. In fact, these days, drug using youths on average begin at about age 12. We began to notice personality changes-hostility, rebellion-but they seemed the normal changes we had seen in our friends' teenagers.

The next step is denial. Ryan's actions worsened, but we didn't accept what we know now were warning signs: use of eye drops to cover up red eyes from smoking marijuana; incense burning in his room to mask the odor; calls from from friends whom we hadn't met; trouble at school; money missing from around the house.

OTHER SIGNS

By the time Ryan reached ninth grade in 1985 and began McLean High School, he no longer could hide his troubles. He began cutting classes—a common tipoff to drug use. By the time the school called us, he had missed nearly two dozens classes and was failing everything. We found that school officials at that time didn't know much more about drugs than we did.

The school did guide us to a local physician, Dr. Warren Klam, who has treated hundreds of adolescents. Ryan began urine tests for drugs, or, as the kids call them, the "whiz quiz." Ryan as drug abusers do, denied drug use. "You don't trust me," he self-righteously protested.

The tests showed "low positive" marijuana. (They would have been "high positive" but Ryan told us later that after giving me a specimen while I observed, he later would sneak into our bedroom and water it down.) Actually, he had been cutting classes to smoke marijuana daily.

Next came minimization. Thank God, it was "only" pot. In fact, today's marijuana can be a deceiving damaging drug for young people, and, in the case of heavy use, can cause short-term memory loss and long-term health problems. Some strains are 25 times more powerful than a decade ago, says the American Pediatrics Association, which adds: "Marijuana is no longer the 'harmless little giggle' referred to by John Lennon in the 1960s." Pot and alcohol can also be gateways to more serious drugs. By now, Ryan was long past the experimental stage and into planned use.

As Joyce Tobias, a registered nurse, explains in her booklet, "Kids & Drugs," in this stage "attitudes change and what was once unacceptable behavior is now cool and unacceptable. Unexplainable mood swings begin, including withdrawal, anger and aggression. Verbal abuse toward parents, profanity and rebellious attitudes become a constant friction point between parent and child."

FAMILY'S TOLL

As he moved into the third stage, chemical dependence. Ryan's problems took control of our family. Drugs changed him into a person we didn't recognize—lying, shouting, scheming, manipulating. My wife and I altered between anger over his actions, uncertainty over his seemingly persuasive insistence he was innocent, and frustration over our inability to resolve the situation. As the turmoil took its toll on our family, we argued over the proper course. When a child is on drugs, the traditional tools of trust and discipline no longer work. It was time for professional help.

In January 1986, we put Ryan into the Arlington (Va.) Hospital's six-week, residential Adolescent Treatment Program. He had hit bottom and was ready to accept treatment. Drug use was overwhelming his life, but he still hid the full extent from us. The night before he went into treatment, he sat calmly watching television. Later he told us he was on an LSD "acid trip" and saw snakes coming out of the TV set.

The intake tests revealed the frightening extent of his drug use. He was part of the "sicker, quicker generation" of young people known as "garbage heads" who heavily abuse both drugs and alcohol.

Ryan's drug of choice was LSD, which causes vivid hallucinations. Fellow residents dubbed him "blotter boy" because he had used LSD impregnated on blotter paper, and sold like sheets of stamps for as little as $3 to $5 a hit.

We discovered the limits of drug testing. LSD is detectable only in special tests, if at all. Cocaine remains in the system only about two to three days. Marijuana stays in the system about 30 days and, thus, is the most likely to be detected.

Barb and I attended parent-counseling sessions. We learned that, like us, most parents had no idea of their children's heavy drug or alcohol use until the youths could no longer hide their dual lives. Some of the parents were strick, some were lenient, all were caring. There is no magic bullet of parenting against drugs.

They also were middle-class parents, most of whom had insurance. Six weeks at Arlington cost more than $12,000. Elsewhere, treatment programs can cost $30,000 or more. The poor must go to limited public facilities, which in most areas have waiting lines.

The Arlington Hospital program, like most drug-treatment programs, is patterned after Alcoholics Anonymous, emphasizing a support group and education on how alcohol and drugs destroy the body. In a dormitory-like setting. Ryan dove into the program with gusto. He won over counselors and parents with his personality.

When he was free of drugs, we got our real son back. He told us about his drug use; how we had slipped out of his bedroom window at night to buy drugs; how he had started taking drugs to impress older friends, who at first gave hin drugs for free; how he couldn't stop without help.

He returned home in time for his 15th birthday in March 1986. As part of the treatment, he attended 15 weeks of aftercare five days a week. He also was required to go to 90 meetings of Alcoholics Anonymous or Narcotics Anonymous in 90 days. He did so with enthusiasm, he dropped drug-using friends, and it seemed our troubles soon would be behind us.

We placed him in a small Northern Virginia school, Enterprise, for troubled youths. The school had only about a dozen students. He got off to a fitful start, but by his 16th birthday in 1987, Ryan, now a 10th grader, was doing great. His drug tests were clean. His grades were the best ever. A dedicated teacher helped raise his reading level, damaged by pot use, to 12th-grade level. He won school awards for "funniest," "best personality" and "most supportive." He got his driver's license, worked part-time and had a lovely girl-friend. He was a joy.

Then, suddenly, the old signs began reappearing. His grades began slipping; he began spending money excessively. His behavior deteriorated. A test showed signs of marijuana, probably laced with PCP. School officials told us what we knew: Ryan had to go into another rehab program. We were crushed.

In June of 1987, he entered a new 10-week outpatient program at Arlington Hospital. As he progressed, his tests showed no drugs, but we were troubled. This time his personality didn't change back. He remained abusive and temper prone. Yet, he never got totally out of control. After an outburst, he would apologize.

A DARK TURN

We believe he truly wanted to stop using the drugs that had consumed him. In a note he wrote in the summer of 1987 thanking us for putting him in treatment, he said: "For the first time in a long time I am very happy with my life. I really don't want to lose what I have just because I want to smoke pot."

Then the situation took a dark turn. At Alcoholics Anonymous, Ryan claimed to have found a "sponsor," a recovering addict with longer sobriety whom he could call whenever he felt his own resolve weakening. Inadvertently, we eventually discovered that the supposed sponsor was a man whom Ryan had mentioned briefly and forbiddingly regarding his earlier drug use. According to some of Ryan's friends, the man may have attended AA meetings as a way to recruit young people.

The man, 30 and single, was a shadowy figure who had befriended youths and who had been suspected of providing drugs to kids at his home for several years in McLean and, later, in Vienna, Va. Ryan apparently met the man, a telephone company employee, while in junior high school, when he went to his house with friends, and had become a regular visitor. Exactly how the relationship resumed later still isn't clear.

We forbade Ryan from seeing the man, but he did so anyway. Events moved quickly amid the resulting turmoil.

For the first time, Ryan talked about committing suicide. The next day, in early August, he was ejected from the rehab program after testing positive for marijuana. In a frantic day, we checked residential programs around the country. Springwood Psychiatric Hospital 30 miles away in Leesburg, Va., had one bed open. We could bring him that night.

A NEW DIAGNOSIS

This time Ryan, angry and frightened, resisted. We got him to Springwood, where doctors told us he was in a deep depression. Therapy indicated that at least one factor in Ryan's low self-esteem was subconscious feelings of rejection for having been putup for adoption, feelings he never expressed in our many talks on his adoption. He eventually was diagnosed as manic depressive, suffering the wide mood swings of a bipolar disorder. It isn't known whether drugs caused his problems, or whether he used drugs to self-medicate. Tests at Springwood showed no extensive recent drug use and Ryan this time didn't have withdrawal symptoms, but with LSD there aren't any. We wonder now if he may have fooled everyone all along.

Once again, he responded to treatment. His mood swings could be stabilized with lithium and other medicines. After six weeks, in early September, we took him home. He was accepted at Fairfax County's special education school.

Ryan seemed free from drugs and more like his old self. He closely followed the news and discussed the Supreme Court nomination of Robert Bork with more facts than even his father, the journalist, was up on. Correcting me, he would quip: "I think I know a little bit more about Supreme Court nominations than you do."

His medicine made him tired, and he offen went to bed early. One night in late September, I looked in his room as he was falling asleep in bed and said, "I love you, Ryan." He picked his head up, smiled and said softly, "Thanks, Dad."

Within the week, he was dead.

The fatal accident occurred at about 8:30 p.m. on Oct. 1, just as Barb and I were returning from an open house at Ryan's new school, enthusiastic about his prospects there. Until midnight, all we could find out from the police was that he had run from his car and hadn't been heard from. Finally, at Fairfax Hospital, we were ushered, for privacy, into an empty storeroom by a young Virginia state trooper, who began in police jargon to tell us "there has been an accident." What he was struggling to say hit us like a jolt of electricity: Ryan was dead.

THE REAL CAUSE

The terror that ripped through my body was overwhelmed by a wrenching reality: that I would never hold my little boy again. Soon came a numbness that has never totally gone away. It is true that if your child dies, a part of you dies with him.

Publicly, Ryan's death wasn't considered drug-related, but we made a decision to talk about the real cause. Acting on our pleas, the state police pursued the probe that resulted in the drug dealer's arrest. He was charged with distributing marijuana and other drugs to minors. He also was charged with the statutory rape of a 13-year-old girl and with soliciting sex from a 14-year-old boy.

Our main concern after Ryan's death was the psychological impact on our daughter, Katie, now nearly 16. Katie has never used drugs and has dealt with the loss of her brother by counseling others against drug use. Despite a recent federal survey showing a decline in drug use among high school seniors, nearly one in two seniors says he or she has tried an illicit drug. The agency also didn't survey those who have dropped out of school.

The key to saving lives is early intervention, during the one to three years that young people typically hide their drug use. "What I see often," says Dr. Klam, the specialist in adolescent care, "are parents who wait until there is a crisis before they act. If you feel in your heart something isn't right, it's better to get that kid in for an evaluation."

The only real solution is prevention—keeping kids from ever trying drugs in the first place. Drug education—as early as elementary school—is vital, and it should include parents and teachers.

For Ryan, it is too late. On Oct. 7, 1987, I drive with my wife and daughter to a cemetery near our home. Just over 16 years before, Barb had carried our new son home on her lap. This day, she carried the urn containing his ashes. Now we visit Ryan's grave and we weep, and we ask, Why?

HUMAN RIGHTS VIOLATIONS IN CZECHOSLOVAKIA

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. FEIGHAN. Mr. Speaker, as a member of the Commission on Security and Cooperation in Europe and as a member of the Foreign Affairs Committee, I'd like to express my deep and growing concern over the human rights violations taking place in Czechoslovakia.

Unfortunately, Czechoslovakia's human rights record is a poor one. Lately, it has suffered even further setbacks—including increased use of police harassment, detentions, confiscation of property, interrogations, suspended sentences, and imprisonment.

I think that it's important to take a moment to review Czechoslovakia's worsening human rights record since the beginning of this year. In January, the Government used water cannons, dogs, and clubs to break up peaceful demonstrations in Prague. Hundreds were detained and dozens were convicted for participating in these demonstrations. Among those convicted was Vaclav Havel, the renowned playwright who was nominated for the Nobel Peace Prize a month earlier.

In February, the Czechoslovak Federal Assembly doubled both the fine and prison

terms that citizens must serve when convicted for the nonviolent expression of their beliefs. In March, the State "permits" for three Evangelical priests were revoked and then temporarily reinstated until the end of this year. Members of the Independent Peace Association were also detained to prevent them from meeting.

In April, members of the Czechoslovak Helsinki Committee were prevented from attending a meeting of the International Helsinki Federation in Poland. In May, the former Czechoslovak Foreign Minister Jiri Hajek was denied permission to receive an honorary degree from a New York university and to attend the Paris meeting of the Commission on Security and Cooperation in Europe. Other groups were prevented from holding a meeting in Prague in conjunction with the Paris meeting as well. Police also broke up a meeting of the Movement for Civil Liberty in Prague and detained and interrogated the participants.

In June, Frantisek Starek was sentenced to 2½ years for independent publishing. And in July, Jiri Hajek was detained by police so that he was unable to deliver a lecture in Prague. The passports of two activists were also withdrawn so that they could not attend meetings abroad.

Although Czechoslovak authorities speak of perestroika and glasnost, these violations of the past 6 months tell a different story. I urge my colleagues in the House to follow these events closely and to convey their concern to the Czechoslovak Government. Our vigilance is especially important now as we approach the anniversary of the Soviet invasion of Czechoslovakia on August 20–21.

HONORING DR. DAVID A. SHIRLEY

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. DELLUMS. Mr. Speaker, I rise today to honor one of America's great research scientists and administrators. David A. Shirley will be stepping down as director of the Lawrence Berkeley Laboratory on August 30. Dr. Shirley received his B.S. from the University of Maine in 1955 and his Ph.D. in chemistry from U.C. Berkeley in 1958. He then joined the staff of the Lawrence Berkeley Laboratory, where he rose to become an associate director of the laborabory and the founding head of the Materials and Molecular Research Division from 1975 to 1980. Since he has been director of the laboratory. Dr. Shirley has also been a faculty member in the U.C. Berkeley Chemistry Department since 1959, and a full professor since 1967. He served as vice chairman, from 1968 to 1971, and chairman, from 1971 to 1975, of the chemistry department.

As director of the Lawrence Berkeley Laboratory, which is located in the Eighth Congressional District of California, Dr. Shirley has done an excellent job in guiding the laboratory to help meet our national scientific and technological goals. LBL's expertise in constructing accelerators has been essential to the successful beginning of the superconducting super collider. Under Dr. Shirley's leadership, LBL has also maintained and strengthened its role as the Nation's leading laboratory in energy-efficient buildings research. Their work on advanced lighting and windows and other energy efficiency improvements in the building sector could make a major difference in postponing the advancing threat of global warming.

A recent project begun under Dr. Shirley's leadership will have a major impact on LBL and our Nation in the coming years. Currently under construction at LBL is the advanced light source, a new $100 million accelerator complex that will put LBL in the world forefront of synchrotron radiation research. This unique national user facility, whose design is now being duplicated all over the world, will be used by government, academic, and industrial researchers in fields as wide-ranging as advanced materials development, biological imaging and semiconductor development. It will be a world-class facility that will help keep LBL at the scientific cutting edge.

Dr. Shirley's tenure as director of the Lawrence Berkeley Laboratory has contributed greatly to the long-term economic and technological strength of our Nation. I am proud to represent him, and the laboratory, in the Congress. I am also pleased that even as he leaves this job, he will continue in his positions as a senior scientist at LBL and a chemistry professor at U.C. Berkeley. He has my gratitude for a job well done, and my best wishes for his continued success.

CALL FOR DIALOG IN CZECHOSLOVAKIA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. HOYER. Mr. Speaker, I recently had the opportunity, along with my colleagues DENNIS ECKART and BEN CARDIN, to attend the Paris meeting of the Conference on the Human Dimension—the first of three scheduled human rights meetings taking place within the Helsinki process. While there, I had bilateral meetings with several delegations, including the Czechoslovak delegation. I had requested that meeting in particular because I remain deeply concerned over a human rights situation which has become increasingly out of step with the aspirations of an awakening population. I had previously raised these concerns in March with the Czechoslovak delegation during a visit to participate in the ongoing military-security talks taking place in Vienna as part of the Helsinki process. Unfortunately, Mr. Speaker, despite these two appeals the human rights situation in Czechoslovakia has not improved.

Since the conclusion of the Vienna CSCE followup meeting in January, Czechoslovakia's record has been one of repeated setbacks. One might have expected that at least for the duration of the Paris meeting—a time of increased international attention to Czechoslovakia's human rights record—there might have been a reprieve from the harassment that has come to be the norm for those who dare to stand up for their beliefs. Instead, throughout June we witnessed the full range of methods used to intimidate the opposition:

Independent activits were not only prevented from coming to Paris to attend the human rights meeting themselves, they were also prevented on June 15 from meeting with each other in Prague merely to discuss the Paris meeting;

An historians' meeting on the Middle East was prevented from taking place by detaining the organizer;

During a Joan Baez concert in Bratislava, power was cut off to prevent a banned artist from performing with her; a concert in Praha-Bubenec on behalf of political prisioners was prevented from taking place altogether;

In the Chomutov region, persons suspected of independent publishing were subjected to detention and confiscation of property;

In the very week that I presented the Czechoslovak Ambassador in Paris with a list of persons confined for the nonviolent expression of their beliefs, one of those persons, Frantisek Starek, was sentenced to 2½ years in prison.

Sadly, these actions—from 1 month alone—reflect a pattern that is now all too familiar: detention, confiscation of property, arrest, and conviction. Yet this pattern of persecution has been ineffective at silencing the voice of the opposition. Indeed, independent activits—increasingly joined by average citizens—have become even more direct and open in their calls for a dialog with the authorities.

August 21 will mark the 21st anniversary of the Soviet-led invasion of Czechoslovakia. There is no better time than this anniversary for the regime to favorably respond to the opposition's call for a dialog, and begin to bridge the gaps which has divided a society for over 20 years.

ANTIDISCRIMINATION AND OUTREACH PROVISIONS OF IMMIGRATION REFORM ACT MERIT INCREASED FUNDING

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. TORRES. Mr. Speaker, I join with my colleague from California in speaking to the importance of reprogramming Department of Justice moneys to ensure the full enforcement and public understanding of the antidiscrimination provisions of the Immigration Reform and Control Act [IRCA] of 1986.

This undertaking is the direct result of the findings of the General Accounting Office [GAO] in its second annual report on employer sanctions provisions of IRCA. As you will recall, GAO found that 16 percent of the employers they surveyed admitted to engaging in discriminatory practices. This translates into 528,000 employers who have either adopted "citizens only" hiring policies or are checking the documents of only those individuals who are foreign looking or sounding.

GAO also concluded that 20 percent of the employers surveyed did not understand the

fundamental provisions of IRCA. This statistic alone explains a significant proportion of the discriminatory behavior reported.

When Congress debated the entire issue of employer sanctions, the potential practice of discriminatory hiring patterns was discussed. Provisions were established to provide for remedial action if evidence was found to prove discrimination. Faced with GAO findings and the indication that outreach and education would make significant inroads to halt discriminatory practices, it is imperative that Congress act to ensure that this unintended effect of IRCA be eliminated.

As it stands now, little effort has been made to inform and educate potential victims of discrimination of their protections under the law. The Office of Special Counsel for Immigration Related Unfair Employment Practices [OSC] has been successful in deploying only a patchwork program of education and enforcement. OSC has utilized less than 5 percent of its budget for education, producing a pamphlet and business group seminars.

It is clear to me, my colleagues and those organizations monitoring the implementation of IRCA that the public education/outreach and enforcement program in place is not comprehensive enough to fully overcome the ignorance that is out there now. OSC must play more than a reactive role in the battle against discrimination in the workplace.

COMMEMORATING TODAY AS "HELSINKI HUMAN RIGHTS DAY"

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. RITTER. Mr. Speaker, I rise in support of Senate Joint Resolution 151, which was passed yesterday to designate August 1, 1989, as "Helsinki Human Rights Day." I was an original cosponsor of House Joint Resolution 292, which has identical language.

Since the signing of the Helsinki accords 14 years ago, there have been many changes in the willingness of Communist-run states to observe human rights commitments. Poland and Hungary, for instance, are different societies today than they were in 1975. Most noteworthy, however, have been developments in the Soviet Union. Its leaders now openly acknowledge the importance of human rights both in domestic affairs and international relations. In terms of emigration and the release of political prisoners, the U.S.S.R. has come a long way since the days of Leonid Brezhnev.

But there is still a long way to go. In eastern Europe, reform has made very uneven progress—it has barely touched Czechoslovakia. Bulgaria is repressing and expelling its ethnic Turkish population, the GDR remains implacably opposed to Soviet-style perestroika and Nicolae Ceaucescu's brutal misrule in Romania has reached depths unseen elsewhere in modern Europe.

In the Soviet Union, despite positive developments, there are grounds for concern. Emigration is still not free—the Helsinki Commission knows of over 600 refusenik cases and there are still 110 prisoners of conscience. Even more disturbing are changes in the Soviet legal code—Articles 7 and 11—which were signed into law by Gorbachev on April 8. Nor are these the only reasons to conclude that Soviet reforms are still reversible. The events of the last 2 months in China graphically demonstrate that reform can come to a sudden and violent halt. The Soviet Government confronts many serious systemic problems and it is still unclear whether it will be able to cope with them and simultaneously maintain a course toward domestic liberalization.

Mr. Speaker, we cannot substitute wishful thinking for reality. Political situations are constantly in a state of flux even in stable societies. The U.S.S.R., on the other hand, is currently undergoing a wrenching reassessment of its past, present, and future and the outcome remains unpredictable. We cannot assume that respect for human rights in the Soviet Union is safe and assured until legal reforms—backed by institutional change and consistent practice over time—make it so.

For this reason, our obligation to fulfill the mandate of the Helsinki Commission and to fulfill the promise and responsibilities of Helsinki remains both pressing and relevant. We must continue to monitor and promote compliance with the provisions of the Helsinki accords, and to pay ever more careful attention to the legal aspects of reform. Mikhail Gorbachev says he wants to create a "law-based state." We must do our part to hold him to his words.

THE YOUNG AMERICANS ACT

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. KENNEDY. Mr. Speaker, I am very proud to lend my support to legislation introduced by the late Hon. Claude Pepper, the Young Americans Act. This legislation will establish a long overdue national youth policy for our Nation's young people. Introduced in the 100th Congress, the Young Americans Act has been refined and reintroduced this year maintaining its strong support in the House. The goal of this legislation is to piece together the fragmented services that are currently provided for our children so that we can begin to fill in the gaps where services are still desperately needed. The Young Americans Act is supported by a diverse intergenerational group of national and local organizations representing Americans of all ages. Generations United, a coalition of over 100 national organizations representing the young and old, and headed by the Child Welfare League of America and the National Council on Aging, has given tremendous assistance in forming and advocating on behalf of this legislation. The fact that this legislation is so widely supported demonstrates the importance America places on its youth and the necessity of giving the Young Americans Act our thorough consideration.

Shocking statistics make it clear that we have reached a point at which we can no longer put off the need for decisive action. More than one in four of our teenagers entering high school will not graduate. Many drop out of school at the age of 16. Thirteen million children—one in five—live in poverty. Nine million American children live in unsafe housing. On any given night in America, 100,000 children have no home. Among 21 industrialized nations, the United States ranks worst in its infant mortality rate.

In attempts to solve these problems, $30 billion is spent per year on a multitude of programs for our children yet there is no coordinated system to ensure its efficient expenditure. The Young Americans Act, H.R. 1492, is unlike any former attempts to remedy these problems because instead of treating symptoms in a fragmented manner, the bill moves toward a development of a comprehensive national policy for young Americans.

The Young Americans Act's focus is to coordinate Federal, State, and community resources around a central objective which will assist our children and youth to attain the best possible physical and mental health, adequate and safe physical shelter, the highest quality of educational opportunity, effective training, apprenticeship, and productive employment, the widest range of civic, cultural, and recreational activities, comprehensive community services and genuine participation in decisions affecting their lives.

The legislation proposes to reach these goals by providing economic incentives through grants to the States and localities to meet these policy objectives. Grants are authorized for the provision of direct services as well as for the purpose of encouraging the States to develop more coordinated and efficient ways to administer their programs aiding children, youth and families. Children will qualify for programs based on their age and consequently will avoid negative labels such as "poor," "troubled," "illiterate" or "minority." Programs under this act will work to target children who have previously "fallen through the cracks" because they are disqualified from current programs for no logical reason.

The Young Americans Act has been patterened after the extremely successful Older Americans Act which Congress passed in 1965. The Older Americans Act has won widespread praise for providing our senior citizens with critically needed social and support services and acting as a mechanism for improving coordination of services available to older persons. The Young Americans Act gives the Administration on Children, Youth, and Families [ACYF] a permanent office in the Department of Health and Human Services and provides the ACYF Commissioner with a direct line to the Secretary of the Department of HHS. The ACYF will become the pivot point for all children's issues not only within the Department of HHS but for all the other departments and agencies of the Federal Government which administer children services.

The legislation also establishes a Federal Council on Children, Youth, and Families to advise the President and Congress on matters related to the special needs of young Americans. This Council will be comprised of approximately 15 members who will serve as a spokesgroup on behalf of young individuals and who will review and evaluate Federal poli-

cies and programs conducted by Federal departments and agencies.

The Young Americans Act also calls for a White House Conference on Young Americans in 1990. The purpose of this conference would be to bring together the national and State leaders and experts to develop a comprehensive, coherent national policy on children, youth, and families in America.

This legislation asks nothing bureaucratically or administratively that has not been successfully achieved through the Older Americans Act, the Young Americans Act will begin with a nominal sum of money. Twenty million dollars is a small price to pay for a program that will grow to have a significant impact on the lives of our children. I am excited about the prospects of moving this legislation through Congress this session. On behalf of our beloved colleague, Senator Pepper, I urge you to support this important legislation and invest in the future of our great Nation through our children. I believe it is time to start supporting steps to help America's children become the healthy, adjusted, and productive adults they each have a right to become.

TRIBUTE TO DR. LeROY W. GOODWIN

HON. HANK BROWN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. BROWN of Colorado. Mr. Speaker, I rise today to honor one of Colorado's finest educators, Dr. LeRoy Goodwin. Dr. Goodwin retired last year, after 31 exceptional years as a member of the staff of Fort Lewis College, in Durango, CO. He hopes to spend more time with his wife, Dony, and their family.

LeRoy Goodwin obtained an A.A. degree at Pratt Community College in Kansas. From there he went on to get a bachelors degree, with a major in journalism, from the University of Colorado. A masters degree in political science from that school followed. Dr. Goodwin achieved his Ph.D. in American political institutions from Columbia University in 1970.

Among his many accomplishments prior to working as a professor, Dr. Goodwin was the public relations director at Fort Lewis College from 1957 to 1964. While working in this capacity, he assisted in creating the content of core courses at the college. Dr. Goodwin also chaired the Rules Committee which wrote the faculty constitution and bylaws. He was also instrumental in preparing the trimester calendar which the college still uses.

Dr. Goodwin began working as a political science professor at Fort Lewis College in 1964. In that role, over the next 25 years, he helped change the lives of many students. In the winter trimester of the 1973–74 academic school year, Dr. Goodwin established the highly praised Fort Lewis College State Legislative Intern Program. Since its inception, this program has matched nearly 100 students with State legislators and Members of Congress.

Through the great number of young people he has inspired to political activism, and involvement in government, Dr. Goodwin has been credited as having more influence on Colorado politics than perhaps any other individual. Many former students, including successful attorneys, businessmen, political consultants, and a judge, insist that Dr. Goodwin made all the difference in their lives.

Please join me in wishing Dr. Goodwin and his family continued success, and many thanks for the years of dedication to the youth of Colorado.

PERSONAL EXPLANATION

HON. PATRICIA F. SAIKI

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mrs. SAIKI. Mr. Speaker, during the consideration of H.R. 2461, the Department of Defense authorization for fiscal year 1990–91, my vote was inadvertently misrecorded on rollcall vote 169, an amendment by Mr. HERTEL to reduce funds for the MX Rail Garrison Program. I am opposed to the Hertel amendment and had intended to be on record as voting "no" on this amendment.

REVEREND DR. MICHAEL NEELY HARRIS DAY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. TOWNS. Mr. Speaker, I rise today to pay tribute to a man who has humbly served his community for almost 15 years without thought of his own glory or fame. Since his graduation from the Eastern Baptist Theological Seminary of Philadelphia with a master of divinity degree—Magna Cum Laude—in 1975 and a doctor of ministry degree in 1984, he has been an example of the faith and works incumbent on one who takes on the vocation of ministering to and serving the spiritual needs of others.

He has worked constantly and tirelessly as pastor of Emmanuel Baptist Church. His spiritual leadership has reaped the fruits of increased membership. He has felt a special need to establish a ministry to assist single parent families by creating the Emmanuel Support Network to assist single parent families and youth in need of counseling and tutorial services. To further assist struggling families he has led the fight to provide a State approved day care center and kindergarten, owned and operated by Emmanuel Church.

However, fully realizing that his work could not be contained within the four walls of the church, Reverend Dr. Harris has served actively in various community organizations, including the secretary of the Organization of African-American Clergy, the chairman of the Home Mission Board of the Progressive National Baptist Convention and trustee of the board of education, Roosevelt Union Free School District.

It is with great pride that I extend congratulations to a man who epitomizes the joint goals of leadership and fellowship to which every minister must aspire. I join the Clinton Hill community in proclaiming August 4, 1989 as "Rev. Michael Neely Harris Day" in honor of a truly remarkable man.

TRIBUTE TO SAUL H. BURAKOFF, GATEWAYS HOSPITAL "MAN OF THE YEAR"

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. WAXMAN. Mr. Speaker, Gateways Hospital and Mental Health Center will be presenting its Man of the Year Award to Gateways president and chairman of the board, Mr. Saul H. Burakoff. I am delighted to have this opportunity to bring the many achievements of the distinguished Mr. Burakoff to my colleagues attention and congratulate him on his most recent honor.

As head of Gateways, Mr. Burakoff's main goal has been to help those who are unable to help themselves. In light of recent mental health budget cutbacks, Mr. Burakoff's and his staff's work is all the more important.

Mr. Burakoff has supported more than 50 community, civic, and charitable organizations, including: the Myasthenia Gravis Foundation, American Cancer Foundation, National Kidney Association, St. Jude's Children's Research, United Jewish Appeal, Concern Foundation, Friends of Tel Hashomer, the Simon Weisenthal Foundation, City of Hope, the Los Angeles County Museum, the American Board of Optometry. He is also active in the B'nai B'rith Anti-Defamation League and is a board member and treasurer of the Friars Club of California.

Born and raised in New York City, Mr. Burakoff holds a bachelor of science degree from Woodbury University. He served in the military during World War II. After holding various positions in the corporate and securities field, he formed Saul H. Burakoff & Associates, business management and financial advisers. Mr. Burakoff has also been involved in real estate and other investments.

Saul Burakoff is most proud of his role as father of three and grandfather of eight. He and his wife, Elaine Fagnan Grayman, reside in Encino and enjoy outdoor activities with their family.

Mr. Speaker, I would like to congratulate Mr. Burakoff on his receipt of the Gateways Man of the Year Award and wish him the best of luck in his future endeavors on behalf of the mentally disabled.

HUMAN RIGHTS DAY

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. SMITH of New Jersey. Mr. Speaker, today the Congress commemorates the signing of the Helsinki Final Act—August 1, 1975—a comprehensive accord pledging the 35 signatory countries to economic cooperation, enhanced security, and the observance

of fundamental human rights, including religious freedom. In keeping with Human Rights Day, this morning the Helsinki Commission hosted a special briefing on the status of religious freedom in the Soviet Union.

The Commission was honored to be joined by two special guests from the Soviet Union, men who know first hand the tactics used by the Soviet authorities to thwart the work of the church and religious freedom itself. Mr. Speaker, Father Gleb Yakunin and Father Georgi Edelshtein, both Russian Orthodox priests, have come to the United States for a brief visit and will shortly be returning to home. We were most honored to have their testimony.

Mr. Speaker, as a participant of Helsinki Commission meetings conducted last November with high Soviet officials and dissident leaders, I had the opportunity to meet with several of the real heroes of the dissident movements in that country. Indeed, one of the giants of the religious human rights movement is Father Gleb Yakunin, a priest who has been waging his fight for religious freedom for at least 25 years. As a founding member of the Committee for the Defense of Religious Rights in the U.S.S.R. Mr. Speaker, Father Gleb has been in the forefront of the movement. After arrest, 5 years in labor camp and internal exile, Father Gleb was finally released in March 1987 and has since been restored as a priest in the Orthodox Church.

Father Georgi Edelshtein was denied entry into seminary for over 21 years, Mr. Speaker, and once assigned to a Russian Orthodox church was shortly thereafter harassed, had personal religious relics confiscated from his home and denied the right to conduct church services based on trumped up allegations. Following his meeting with President Reagan at the Moscow Summit in 1987, the Soviets permitted Father Georgi's assignment at a new parish. He is currently writing two books, one on the history of atheism and the other on the legislative rights of believers in the Soviet Union.

Mr. Speaker, the Helsinki Commission meetings held in Moscow and Leningrad last November were candid and seemingly productive. We repeatedly emphasized our expectation that the Soviets back their encouraging rhetoric with substantial deeds. I was especially active in the seasons pertaining to religious freedom and the rights of the religious believers. Of first priority in our discussions was the release of all prisoners of conscience. I must say, Mr. Speaker, the progress on that front has been commendable.

Mr. Speaker, during the meetings much discussion focused on the proposed changes to the Soviet laws governing religious activities which are expected to be made by the Supreme Soviet. The Soviets have promised to promulgate new laws which would permit the teaching of religion to minors and allow churches to engage in charitable activity. Unfortunately, Mr. Speaker, it seems that the Soviets have made little or no progress in that regard, and in fact, Father Gleb and Father Georgi are concerned that these reforms have been postponed indefinitely.

On several occasions, Mr. Speaker, we pressed for the Soviets to abandon their intolerance of various churches including the Ukrainian Catholic Church and Orthodox Church, and called upon the Soviets to permit these Ukraninian Churches to be legalized. Moreover, we sought the legalization of the churches in light of the Helsinki accords' gurantee of unfettered religious freedom.

Mr. Speaker, Father Gleb and Father Georgi made public this morning an open letter to the U.S. Congress. The points outlined by the priests parallel the concerns raised in Moscow under the auspices of the Helsinki Commission—the legal status and rights of the religious believers, the right of parents to provide religious training for their children, and legalization of the Ukrainian Catholic Church. I believe the letter provides us with a workable basis to determine whether official Soviet behaviour deserves the granting of most favored nation trading status to the Soviet Union. Mr. Speaker, I strongly commend a careful reading and consideration of this poignant letter, and for the benefit of my colleagues, would request that the letter be printed in the RECORD at this point:

OPEN LETTER

WASHINGTON, DC, *August 1, 1989.*

DEAR MEMBERS OF THE UNITED STATES CONGRESS: We, the priests of the Russian Orthodox Church and participants of the Soviet Human Rights movement, welcome the inclination of the United States Congress to discuss the question of the granting of Most Favored Nation Trade Status (MFN) to the Soviet Union. We hope the granting of this status to the Soviet Union will contribute to the improvement of relations between our two countries. However, this improvement in relations can only be solidified by the Soviet Government's strict observance of human rights through the implementation of the international agreements it has signed. Strict observance of human rights in the USSR should encompass, in particular, the protection of the rights of religious believers which are still being violated.

We feel it is absolutely necessary, in the case of the Soviet Union, that the United States Congress link the granting of MFN status to the Soviets' obligation to solve the following issues:

(1) the legal status of believers—that the Soviet Union guarantee to change this status either before this year or the year preceding the International Conference on Human Rights in Moscow.

(2) reverse article 52 of the constitution of the USSR because it treats believers and nonbelievers inequitably. It grants atheists the right to conduct anti-religious propaganda while giving believers only the right to pray; it deprives them, at the same time, of the right to disseminate their views and to provide their children with a religious upbringing.

(3) promulgate a new law on the freedom of conscience—a genuine freedom of conscience as stipulated by the United Nations Declaration on Human Rights and Basket III of the Helsinki accords as amended by the follow up Madrid and Vienna conferences.

(4) grant the demand of the Ukrainian Catholic (Uniate) Church for its legalization and registration.

GLEB YAKUNIN,
GEORGI EDELSHTEIN,
Priests of the Russian Orthodox Church.

FISCAL REFORM ACT OF 1989

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. LIGHTFOOT. Mr. Speaker, since first being elected to Congress in 1984 I've observed our congressional budget process, and I've been deeply concerned about our Nation's financial condition. Our public debt continues to grow and will soon reach $3 trillion. We continue to struggle along with annual deficits around the $100 billion mark. For most of the 1980's Congress has struggled to gain control of these annual deficits and we have made slight progress. But even once we reach an annual balanced budget, we will still be faced with the $3 trillion public debt to eliminate.

The public has good reason to doubt Congress' ability to deal with this debt. Our record is not very good. In spite of continual increases in Federal revenues throughout the 1980's, we continue to spend beyond our means. Since 1980, Federal tax revenue has increased by approximately 89 percent. In that same time period, Federal spending has grown by more than 90 percent. Democrats and Republicans continue to blame each other for failure to bite the bullet on Federal spending, but a lack of fiscal accountability remains. The budgeting tricks employed to meet our annual Gramm-Rudman-Hollings deficit reduction targets are not enough.

I have reached the conclusion that changes in the budget process are necessary if we are to reach a state of long-term fiscal soundness. Therefore, I am introducing legislation today to make several alterations in the congressional budget process. The bill brings together several proposals I have previously endorsed into a package which, if adopted in its entirety, would address many of the roadblocks we encounter in congressional debate of budget legislation.

First of all, the bill would require the President's signature on budget resolutions. In other words, the budget resolution would carry more weight than it presently does. Its spending ceilings would be binding upon Congress as it advances through the appropriations process. The ceilings in the budget resolution would be treated as law rather than just guidelines.

The package also contains enhanced recission authority for the President. This gives the President some power over omnibus expenditures in the absence of line-item veto power. Since we are some distance from enactment of a line-item veto amendment to the U.S. Constitution, this enhanced recission authority will give the President a little more control over frivolous expenditures. We must find a way to prevent loading down of omnibus spending bills with special interest projects which may not be in the national interest. Under this enhanced recission authority, the President will be able to notify Congress, within 10 days of a recission, of his intent to do so. Congress then will have 10 days to disapprove such a recission or it becomes effective.

Also in this package are provisions to prohibit the use of long-term continuing resolutions. The practice of rolling an entire year's spending into one massive resolution is a major source of spending abuse. Not only do individual committees lose sight of what is contained in such resolutions, but these omnibus packages often begin to resemble Christmas trees, lit up with numerous unnecessary ornaments and decorations which violate good economic sense. Continuing resolutions are often referred to as legislative sausage because it's difficult to tell what all is contained in them. This type of legislating is wrong. My bill will prevent the use of continuing resolutions covering periods longer than 30 days. In this way, Congress will be forced to return to consideration of budget legislation at least every 30 days until permanent appropriations have been adopted for the fiscal year to come.

I hope my colleagues will join me in supporting this measure.

DEFENSE WASTE CLEANUP TRUST FUND LEGISLATION

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. DICKS. Mr. Speaker, today I am introducing legislation which will establish a dedicated trust fund to generate revenues for one of America's most urgent and most significant environmental challenges: The removal of the hazards of public health and safety posed by the Federal nuclear facilities.

This bill, similar to legislation introduced last year by Congressman DON BONKER, will provide a stable and long-term source of revenue that will ensure that the greatest effort possible will be made to respond to the dangerous accumulation of high level and hazardous wastes that have accumulated at the Nation's defense production facilities and threaten both the health of citizens and the viability of the environment.

For more than 40 years at over 17 major sites supporting the defense production mission, highly radioactive plutonium-contaminated wastes have been generated, and in many cases, inadequately stored. Over the years, millions of gallons of hazardous chemical and radioactive waste were dumped into the soil, and on some sites have contaminated area ground water. Because much of the wastes at these sites are highly radioactive, they will remain dangerous for several thousand years into the future, posing a long-term threat to the environment and human health. Some of the chemical wastes at these sites will remain toxic forever.

Clearly, the defense waste cleanup problem is one that is urgent and must be dealt with expeditiously. However, with an estimated cleanup price tag of $150 billion, we must commit a substantial level of resources, both now and in the future in order to stay on a meaningful and adequate long-term timetable. This legislation will provide a credible response to the problem, which is especially important at the sites in the Nation with the most severe problems. At the Hanford Reservation in Washington State, where the largest waste problem in the Nation exists at an estimated $48 billion in cost, this legislation is also critical to expediting the recently negotiated tri-party agreement which is aimed at accelerating the cleanup schedule at that site.

Central to this legislation, which is also being introduced in the other body by Senator ADAMS, is the establishment of a dedicated fund to finance the clean-up, decommissioning, environmental compliance, and long-term surveillance and monitoring of Federal nuclear facilities and sites. Among the elements of the proposal are provisions to require the Department of Energy to prepare environmental surveys and plans for correcting problems at Federal nuclear facilities; the creation of a new Office of Environmental Management and Remedial Action to carry out environmental compliance and cleanup activities; and the establishment of a joint DOE/U.S. Environmental Protection Agency [EPA] R&D Program, to be funded out of the dedicated fund, which will open the way for the development of new compliance and cleanup technologies.

The trust fund concept called for in this legislation will offer the most stable means possible to address an estimated $150 billion national problem. I know that many Members and many citizens have been taken aback by the enormity of the cost of addressing defense waste cleanup. However, as our experience from the past teaches us, to further delay the schedule for cleaning up these wastes would only inflate the dollar amount. Most importantly, the procrastination of the past has created a situation where dangerous radioactive wastes, inadequately stored in corroding tanks or lying directly in the soil, are an immediate health and environmental threat, The problems posed by defense wastes are very serious and can no longer be ignored.

The dedicated trust fund will elevate the waste issue to the highest of national priorities, and will ensure that this problem will be insulated from the shift of political whims for years to come. While I commend the initiatives proposed by the new Secretary to put a higher priority on waste cleanup than his predecessor, I do not believe that the citizens of this Nation can rely on good faith. We do not know whether 10 years from now, or even 2 years from now, the administration will shift gears and treat waste as a lesser priority. With existing technologies and with our best efforts, it will take no less than 30 years to sufficiently reverse the present situation.

I salute Secretary Watkins' 5-year plan to commit $17.2 billion into addressing cleanup at the Nation's defense production facilities. This will do a great deal in the short term. However, what the Nation needs is long-term assurance, and a vehicle to provide long-term stability in addressing nuclear waste cleanup. The trust fund proposed in this legislation will serve as that needed vehicle. The central idea behind the concept is that the costs of remedial measures should be paid for by the beneficiaries of those activities or facilities.

The use of a dedicated Federal fund provides a mechanism for funding large, long-term projects, and for collecting revenues from diverse sources. For example, the use of a dedicated fund would allow for the accumulation of revenues from current sources such as commerial users of DOE nuclear services, for future costs of decommissioning facilities. Consequently, a dedicated fund that apportioned costs to individual users or beneficiaries of DOE's nuclear operations appears both an equitable and desirable way to assure adequate funding and timely action.

The Federal nuclear facility environmental response fund is modeled in part on the high-level waste repository fund created by the Nuclear Waste Policy Act of 1982, and in part on the Superfund law. This would be a separate fund in the U.S. Treasury, to be managed by the Secretary of the Treasury. Expenditures from the fund would be made by the new Office of Environmental Management and Remedial Action with the Department of Energy. This new office would be responsible for managing the programs that would bring the DOE facilities into environmental compliance with Federal environmental laws by ensuring an expedited cleanup.

Expenditures from grants to States and Indian tribes and regulatory activities would be made from the fund by the Secretary, as well as R&D expenditures. In addition to DOE program payments, the fund would also receive payments from other Federal agencies which purchase or use DOE services or sites for nuclear purposes. For example, the Navy disposes of decommissioned submarine reactors at DOE's Hanford Reservation, which will require long-term monitoring and maintenance. Under the proposal, the Navy would make a payment to the fund to cover those long-term costs. The fund would also receive payments or user fees from commercial users of DOE nuclear facilities or services such as uranium enrichment or nuclear isotope sales to cover their share of decommissioning or waste disposal costs directly related to those services.

Clearly, this approach to establishing a stable and long-term means for addressing the defense waste cleanup problem is in the national interest, and offer the best means available for efficiently redressing a problem that has been too long ignored.

I urge my colleagues' support for this legislation.

DISPLACED HOMEMAKERS EMPLOYMENT TRAINING AND SELF-SUFFICIENCY ACT

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 1, 1989

Mr. MARTINEZ. Mr. Speaker, I rise today to introduce the Displaced Homemaker Employment Training and Family Self-Sufficiency Act to provide skills training for our Nation's 11.5 million displaced homemakers.

Our Nation faces a human resource crisis which stems from our inability to compete economically with other developed countries, and the lack of full employment productivity and comprehensive planning. An essential solution to this crisis rests on the commitment we make in harnessing the unskilled and underutilized parts of our work force to meet the challenge of global competition.

We must fortify our commitment to the Nation's economy, and must invest in our families by training and educating displaced homemakers to allow for their successful entry and productive participation in today's modern workplace.

As an illustration of their skill shortage, only 33 percent of displaced homemakers who are in the prime working years, 35 to 64 years old, are employed. Of those who are employed, nearly all of them work only part time or in seasonal jobs. Given the present increase of highly technical and complex working environments, and the great demand for well-educated employees, it becomes obvious that the majority of these individuals are not prepared for today's highly competitive job market.

More than half, 56 percent, of the 11.5 million displaced homemakers around the country do not have high school diplomas. Nearly one-fourth have not gone beyond the eighth grade. This alarming level of education severly hinders their ability to find and retain the kinds of jobs needed to sustain their families and their households.

Displaced homemakers are often just on the edge of poverty, right at the threshold of indigence. More than 60 percent of them live with insufficient incomes; 40 percent live below the poverty line; and another 21 percent live between the poverty level and the Department of Labor's lower living standard.

Not only does this underprepared pool of individuals represent a potential drag on our economy, but their dire financial situation is caused by events often beyond their control. While it is unfortunate that displaced homemakers are forced out of secure economic settings into the labor market, nevertheless, it represents an opportunity for our Nation to harness their varied talents to become productive workers in our society.

My bill will fill the gaps in current employment training and education programs, and will expand and improve existing support services to meet the special needs of individuals who face significant employment barriers. Currently, States only sporadically target programs at this specific group. Only 23 States provide funds to displaced homemaker programs.

My bill would amend the Job Training Partnership Act of 1982, to provide for employment training and education programs and support services for displaced homemakers. This legislation builds on the expertise of State and local administrators, and will refocus needed attention to the special needs of this potential pool of workers.

Mr. Speaker, I urge my colleagues to support a comprehensive policy, so critically needed, to address the labor capital needs of our Nation. Today, we have the opportunity to create an affirmative measure to provide more than 11.5 million of these Americans an opportunity to join the work force; 2,000 with skills necessary to become self-sufficient. I ask my colleagues to join me in moving this vital legislation through Congress.

Mr. Speaker, I ask that this bill be inserted into the CONGRESSIONAL RECORD in the full text along with a summary of the bill:

DISPLACED HOMEMAKERS EMPLOYMENT TRAINING AND SELF-SUFFICIENCY ACT

SUMMARY

House Sponsor: Rep. Matthew E. Martinez

Senate Sponsor: Sen. Paul Simon

Need: There are approximately 11 million displaced homemakers in the United States who represent a significant number of workers who are currently not in the labor force, and who are not prepared for today's highly competitive labor market. The majority of displaced homemakers are women who live in poverty and who are forced to seek employment with inadequate or outdated skills. These potential workers require vocational and educational training, and other services to obtain financial independence and economic security. Current Federal, State, and local programs addressing the special needs of displaced homemakers have been largely fragmented and sadly insufficient to effectively serve their needs.

Purpose: Will amend the Job Training Partnership Act to assist States in providing greater opportunities for displaced homemakers by expanding and coordinating existing training programs and support services, and to build upon current initiatives and efforts at State and local grassroots levels.

Cost: Appropriations for fiscal year 1990 are $75 million, and such sums as necessary for each following year.

Use of Funds: Funds to State shall be used for the following: coordination activities, referral services, linkages between service providers and public services, administrative expenses, support service assistance, career counseling, assessment, testing and evaluation, preemployment services, skills training, basic skills, literacy, and bilingual training, recruitment and outreach, job development and placement, follow-up services, life skills development, and any other services benefiting displaced homemakers.

Allotment Among States: To receive funds under this title the Governor of each State is required to submit an annual State plan to the Secretary of Labor detailing the intended use of funds. Each State will receive a portion of the total funds based on the number of displaced homemakers in that State. No State whose State plan is approved by the Secretary of Labor will receive less than ¾ of 1 percent of the total appropriations in any fiscal year ($562,000 at $75 million in appropriations, $375,000 at $50 million in appropriations).

State Plan: The State Plan must be submitted prior to each fiscal year of appropriations, and must provide assurances that: (1) funds provided under this title shall be used to supplement and not supplant Federal, State, and local funds directed at displaced homemakers; (2) displaced homemakers with the greatest financial need will be given priority in the delivery of services; (3) minority displaced homemakers and those over 45 will be given special consideration in service delivery; (4) efforts will be made to coordinate, expand, and enhance existing sevices and programs that serve displaced homemakers; (5) service providers will abide by all Federal, State, and local regulations concerning discrimination in both hiring and admissions practices; (6) service providers will use Federal common law procurement and audit rules; and (7) the State will provide a description of the State's Displaced Homemaker structure and the makeup of the State Displaced Homemaker Advisory Council.

Performance Standards: The basic measure of performance for programs funded under this title is the increase in capability of displaced homemakers to achieve economic self-sufficiency as a result of participating in these programs. The Secretary will prescribe performance standards, which States must abide by, that cover certain appropriate factors.

State Administration: The Governor of each State will designate a State Displaced Homemaker Administrator, if such an individual does not already exist, and a State Displaced Homemaker Advisory Council to administer this title. The State Administrator will have the responsibility of expanding and coordinating existing programs, and to distribute funds to area service providers. The Advisory Council will provide technical expertise and advise to the Administrator and the public regarding program design and implementation, and will assist in formulating the annual State Plan.

Allocation Within States: Funds will be distributed within the State by the State Administrator by the following formula:

(1) up to 5 percent for State and local information gathering

(2) up to 5 percent for the Governor's discretionary use for purposes benefiting displaced homemakers

(3) up to 15 percent for State administration expenses

(4) between 25–35 percent for support service assistance

(5) between 35–45 percent for expanding and improving existing programs, and linkages between public entities and area service providers

(6) up to 5 percent for bonus awards to local service providers for successful training and placement of individual displaced homemakers

Information and Report: The Secretary of Labor shall implement a uniform data collection system to collect information regarding the labor, social and program needs of displaced homemakers. The Secretary is also required to report to Congress, on a biennial basis, the progress made in providing training and other work-related services to displaced homemakers.

The Secretary of Labor will reserve 5 percent of the total appropriations for each fiscal year to be used for data collection, and another 3 percent for other purposes which include Bonus Awards to States that demonstrate increased State funding and services.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Displaced Homemakers Employment Training and Self-Sufficiency Act".

SEC. 2. AMENDMENT.

The Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended by adding at the end the following new title:

"TITLE VII—DISPLACED HOMEMAKERS

"SEC. 701. FINDINGS; PURPOSE.

"(a) FINDINGS.— The Congress finds that—

"(1) the Nation has a vested interest in building a quality and productive workforce that will enable the United States to compete effectively in the global marketplace;

"(2) 2 in every 3 new entrants to the workforce during the 1990's will be women and

such women will need appropriate basic and occupational skills to fill jobs requiring much higher skill levels than the jobs of today;

"(3) there are approximately 11,000,000 displaced homemakers in the United States who represent a significant number of women not in the labor force and who must be adequately prepared for jobs;

"(4) 3 in every 4 displaced homemakers are 45 years and older and 1 in every 4 displaced homemakers is a minority, and such older women and minority women have special education and training needs which must be addressed to facilitate their successful entry into the workforce;

"(5) the majority of displaced homemakers are women who live in poverty and who require educational, vocational, training, and other services to obtain financial independence and economic security; and

"(6) Federal, State, and local programs addressing the training and employment needs of displaced homemakers have been fragmented and insufficient to effectively serve displaced homemakers.

"(b) PURPOSE.—It is the purpose of this title to provide assistance to States to provide coordination and referral services, support service assistance, and program and technical assistance to displaced homemakers and displaced homemaker service providers. Such assistance will enable public and private entities to better meet the needs of displaced homemakers and will expand the employment and self-sufficiency options of displaced homemakers.

"SEC. 702. DEFINITIONS.

"As used in this title, the following terms have the following meanings:

"(1) the term 'displaced homemaker' means an individual who—

"(A) has not worked in the paid labor force for a number of years but whose primary occupation, during those years, has been providing unpaid services to family members;

"(B) is required to leave the home setting to seek paid employment because (i) the primary source of economic support has been terminated or drastically reduced because of divorce, abandonment, change in marital status, the death or chronic disability of a spouse, or (ii) public assistance will soon be terminated because their youngest child is within two years of losing eligibility under part A of title IV of the Social Security Act;

"(C) finds joining or reentering the paid labor force difficult because of combination of factors related to, the lack of education, job skills, and recent paid work experience.

"(2) The term 'supportive services assistance' means assistance which is necessary to enable an individual eligible for training under this title to participate in training and education programs funded under this title. Such services may include transportation, health care, special services and materials for the handicapped, child care, meals, temporary shelters, financial counseling, adult dependent care, group and individual counseling, pre-employment services, and other reasonable expenses, including such work related expenses as tools, uniforms, and books required for participation in the training program.

"(3) The term 'coordination activities' means efforts to require State and local institutions to consult, share resources and information, and plan strategies to expand the current range of services targeted at displaced homemakers. Such activities may also reasonably reduce the duplication of services between Federal, State, and local entities, wherever possible.

"(4) The term 'referral activities' means activities which include the gathering and disseminating of information regarding the services available to displaced homemakers through public service providers, and the referral of displaced homemakers to those local service providers.

"(5) The term 'eligible service provider' means—

"(A) a nonprofit community based organization;

"(B) a local educational agency;

"(C) a postsecondary school;

"(D) an institution of higher education;

"(E) an area vocational education school; and

"(F) any other designated State institution designated by the Governor that has the demonstrated ability to meet the needs of displaced homemakers.

"(6) The term "linkages" means efforts to remove program barriers to clients between one program and another whereby an individual may qualify for more than one program. Such activities may include joint program efforts to deliver services to client groups.

"SEC. 703. ALLOTMENT AMONG STATES.

"(a) IN GENERAL.—Subject to subsections (b), (c), and (f), the Secretary shall allot funds appropriated under section 711 to each State on the basis of the number of displaced homemakers in that State as compared with the total number of such homemakers nationally, as determined using the most recent satisfactory data available.

"(b) MINIMUM ALLOTMENT.—No State shall receive for any fiscal year less than 0.75 percent of the amount appropriated under section 711 for such fiscal year.

"(c) RESERVATION OF DISCRETIONARY FUNDS.—The Secretary shall reserve 3 percent of total funds appropriated under section 711 to be used for technical assistance, bonus grants pursuant to subsection (d), and additional service assistance under this title.

"(d) MAINTENANCE OF EFFORT.—Funds provided under this title shall be used to supplement and not to supplant Federal, State, and local public funds expended to provide services to displaced homemakers.

"(e) BONUS GRANTS.—States that demonstrate an increase in State funding and services directed to displaced homemakers shall be eligible for bonus grants from the funds reserved under subsection (c).

"(f) RESERVATION OF FUNDS FOR DATA COLLECTION.—The Secretary shall reserve 5 percent of the total funds appropriated under section 711 for any fiscal year to pay the costs of national data collection and related activities.

"SEC. 704. STATE PLAN; STATE PERFORMANCE STANDARDS.

"(a) PLAN REQUIRED.—In order to receive funds under this title, the Governor of each State shall develop and submit to the Secretary for review and approval an annual State plan, which shall be included in the plan required by section 121 describing the programs, assessment and counseling activities, coordination and referral activities, and services for displaced homemakers to be assisted with funds provided under this title, in advance of the fiscal program year.

"(b) CONTENTS OF PLAN.—Each State plan shall—

"(1) contain assurances that funds provided under this title will be used to supplement and not supplant Federal, State, and local public funds expended to provide services for displaced homemakers;

"(2) contain assurances that displaced homemakers with the greatest financial need will be given priority in the delivery of services under this title;

"(3) contain assurances that displaced homemakers 45 years of age or older, and minority displaced homemakers will be given special consideration in the delivery of services under this title;

"(4) provide assurances that the services provided pursuant to this title will be coordinated with other Federal, State, and local programs providing services to displaced homemakers as described under section 709, and will provide a comprehensive referral system by which displaced homemakers may be directed to those programs which best meet their particular needs;

"(5) provide assurances that such entities which receive financial assistance under this title will comply with all Federal, State, and local regulations pertaining to discrimination based on race, creed, religious affiliation, age, gender, or sexual preference, in both the administration of their programs and the enrollment and qualification of participants;

"(6) provide assurances that entities which receive financial assistance under this title establish and implement Federal common law procurement and audit rules; and

"(7) provide a description of the State's displaced administrative homemaker structure, and the makeup of the State displaced homemaker advisory council (as described under section 705).

"(c) PERFORMANCE STANDARDS.—

"(1) IN GENERAL.—The Congress recognizes that education, training, and support services are investments in human capital and not expenses. In order to determine whether these investments have been productive, the Congress finds that the return on these investments is to be measured by achievement of competencies that lead to economic self-sufficiency.

"(2) The basic measure of performance for programs under this title is the increase in capability to achieve economic self-sufficiency resulting from participation in the program. In order to determine whether this basic measure has been achieved, the Secretary shall prescribe standards on the basis of appropriate factors which may include—

"(A) raising the grade level of reading, writing, and computational skills;

"(B) acquisition of a certificate of high school equivalency or high school diploma;

"(C) attainment of English language proficiency;

"(D) attainment of prevocational competencies, including ability to identify skills and values, ability to set goals, ability to manage money, ability to manage time, and assertiveness;

"(E) completion of an institutional or employer-sponsored skills training program;

"(F) enrollment in an apprenticeship program;

"(G) placement in employment that provides or leads to economic self-sufficiency; and

"(H) emphasis on job retention; and

"(I) ability of programs to coordinate training and support services within existing systems.

"(3) SPECIAL RULE.—The applicant of each State receiving assistance under this part may prescribe variations in the performance standards based on—

"(A) specific economic and geographic factors within the State; and

"(B) specific demographic characteristics of the displaced homemaker population within the State.

"SEC. 705. STATE ADMINISTRATION.

"(a) ADMINISTRATIVE STRUCTURE.—The Governor of each State shall designate a State displaced homemaker administrator, if one does not already exist, and a State displaced homemaker advisory council, to administer this title.

"(b) Responsibilities of State Administrators.—The State administrator shall have primary responsibility to direct funds to local service providers pursuant to section 707, and to evaluate the effectiveness and responsiveness of area service providers in meeting the needs of area displaced homemakers. The State administrator shall, in cooperation with the State displaced homemaker advisory council, perform the following functions:

"(1) Develop an annual plan for the use of all funds available for displaced homemakers, manage the distribution of the funds, and monitor the use of funds distributed to local service providers.

"(2) Establish and implement State performance standards to evaluate the effectiveness of programs and activities assisted under this title.

"(3) Establish and implement uniform assessment criteria by which the needs of individual displaced homemakers are evaluated for the purposes of both service provider assignment and support service assistance awards. Such assessment criteria will include, needs evaluation, skills assessment, education testing and evaluation, career counseling and examination, and performance agreements between area service providers and the individual displaced homemakers.

"(4) Gather, analyze, and disseminate data on the adequacy and effectiveness of the State in meeting the training and employment needs of displaced homemakers.

"(5) Act as the chief State administrator to coordinate and advise other State and local entities in creating and developing any and all State policies or annual State plans of State public service providers which may reasonably affect the services available to displaced homemakers in the State, pursuant to section 704.

"(6) Provide appropriate preservice and inservice training, technical assistance, and advice to individuals providing services to displaced homemakers.

"(7) Provide technical assistance and advice to service providers, local educational institutions, and other interested parties in the State to expand training and employment opportunities for displaced homemakers.

"(c) STATE DISPLACED HOMEMAKER ADMINISTRATOR AUTHORITY.—The State displaced homemaker administrator shall be consulted and informed by such public entities of any plans which may reasonably affect the availability of services to displaced homemakers. Such public entities and public service providers that shall be required to consult with the State displaced homemaker administrator may include the State welfare office, State vocational education office, State health and education organization, State education system, State economic development commission, State employment training office, State employment services department, and State human resources office.

"(d) RESPONSIBILITIES OF COUNCILS.—The State displaced homemaker advisory council shall assist the State in formulating, implementing, and coordinating the State plan, as well as provide technical assistance to the State administrator, and area service providers with regard to program design and improvement of displaced homemaker services. The council—

"(1) shall be comprised of—

"(A) a representative of the State Job Training Coordinating Council;

"(B) a representative of the JOBS program;

"(C) a representative of the State commission on women or similar entity in the State;

"(D) a sex equity coordinator for vocational education;

"(E) a representative of business;

"(F) a representative of an employer organization;

"(G) a representative of the State employment services agency;

"(H) a representative of the State educational system;

"(I) a representative of a State community based organization; and

"(J) a representative of State labor organization;

"(2) shall assist in the analysis and dissemination of information directed to the State administrator (under section 709 of this title) by local service providers regarding the performance of programs which assist displaced homemakers, and statistical and econometric data about area labor market characteristics; and

"(3) shall meet at least twice annually.

"SEC. 706. USE OF FUNDS.

"Funds allotted to States pursuant to section 703 shall be used to provide any one or more of the following: coordination activities, referral services, linkages between service providers and public services, administrative expenses, support service assistance, career counseling, assessment, testing and evaluation, pre-employment services, skills training, basic skills, literacy, and bilingual training, recruitment and outreach, job development and placement, follow-up services, life skills development, and any other services benefiting displaced homemakers.

"SEC. 707. WITHIN STATE ALLOCATION.

"(a) IN GENERAL.—From amounts allotted to each State pursuant to section 703, the Governor of each State shall direct such allotment to the designated State administrator to distribute funds pursuant to sections 705 and 706.

"(b) DISTRIBUTION.—Of funds distributed by the State administrator—

"(1) up to 5 percent of such funds may be used for State and local information gathering pursuant to section 709;

"(2) up to 5 percent of such funds may be used, at the discretion of the Governor, to assist or expand the administration and delivery of services under this title;

"(3) up to 15 percent of funds may be used for State administration expenses, which include the reasonable expenses of the State Administrator and the Administrator's office, and the reasonable expenses of the State displaced homemaker advisory council with regard to semiannual meetings;

"(4) not less than 25 nor more than 35 percent of such funds shall be used for support service assistance to individual displaced homemakers, which may include transportation, health care, special services and materials for the handicapped, child care, meals, temporary schedules, financial counseling, adult dependent care, loan interest subsidies, group and individual counseling, pre-employment services, and other reasonable expenses, including such work-related expenses as tools, clothing, and books required for participation in the training program;

"(5) not less than 35 nor more than 45 percent of funds shall be used for linkages between public entities and local service providers; and

"(6) up to 5 percent of funds shall be used for awards to local service providers, based on the successful completion of training and placement of individual displaced homemakers in paid employment.

"(c) MATCHING FUNDS.—(1) No matching State funds are required under this title for qualification for financial assistance pursuant to section 703.

"(2) A State may, at the discretion of the Governor, use the allocated funds received under this title, to qualify for State matching funds required by other Federal, State, and local programs which serve displaced homemakers.

"SEC. 708. SERVICE PROVIDERS.

"(a) IN GENERAL.—The State Administrator of each State receiving assistance under this title shall select service providers that demonstrate the ability to effectively deliver training, education, and supportive services to displaced homemakers.

"(b) PRIORITY.—The State displaced homemaker administrator of each State receiving financial assistance under this title shall give priority in assigning individual displaced homemakers to these service providers which have experience in providing services to displaced homemakers.

"(c) SPECIAL CONSIDERATION.—The State displaced homemaker administrator of each State receiving financial assistance under this title shall give special consideration in directing funds to service providers which are community based organizations.

"(d) COORDINATION AND REFERRAL CONSIDERATION.—The State displaced homemaker administrator receiving financial assistance under this title shall give priority to those service providers which demonstrate the ability to successful work cooperatively with other public entities that provide services for displaced homemakers pursuant to section 705. Such demonstrated cooperation may include referrals of individual displaced homemaker cases to other service providers that would better serve the needs of the individual homemakers, gathering and dissemination of information regarding successful techniques to better provide services to displaced homemakers, and the conducting of periodic seminars or meetings between the representatives of local service providers to discuss the needs of displaced homemakers who are being served in the local area.

"SEC. 709. INFORMATION AND REPORT.

"(a) INFORMATION.—The Secretary shall implement a uniform data collection system to collect information to assist Federal, State, and local efforts to serve displaced homemakers. The information to be collected through such a system shall include—

"(1) the number of displaced homemakers served,

"(2) the race and age of displaced homemakers,

"(3) the number of dependents of each displaced homemaker,

"(4) the source and amount of income of displaced homemakers,

"(5) the range of services required by displaced homemakers,

"(6) the services received by displaced homemakers,

"(7) retention ratio (the percentage of those displaced homemakers who were placed in jobs who remain in those jobs after a 180-day follow-up evaluation),

"(8) the type of job, training, and education placement received by displaced homemakers,

"(9) wage level at placement of displaced homemakers, and

"(10) statistical and econometric information regarding area labor market characteristics with respect to displaced homemakers.

"(b) REPORT.—The Secretary shall biennially report to Congress on the progress made in providing training and other work-related services to displaced homemakers. Such report shall include recommendations of each State for legislation needed to improve the effectiveness of Federal programs serving displaced homemakers.

"(c) RESEARCH AND INFORMATION COLLECTION.—The Secretary, through grants and contracts, and with guidance from the Women's Bureau, shall conduct research into the economic conditions of the labor markets associated with displaced homemakers, provide appropriate technical assistance to States and interested parties, and serve as a national clearinghouse in gathering and disseminating materials and information gained from exemplary programs which may be of use in the innovation or implementation of programs providing services to displaced homemakers.

"SEC. 710. ELIGIBILITY TO PARTICIPATE IN OTHER TITLES.

"(a) UNDER TITLES II AND III.—In any fiscal year in which funds appropriated for programs under this title equals or exceeds $20,000,000, displaced homemakers receiving assistance under this title shall not be eligible for assistance under title III of this Act, but shall not be excluded from participation under title II.

"(b) EFFECT ON OTHER PROGRAMS.—Eligibility under this Act does not exclude an individual from eligibility or services, under any other program, including AFDC, welfare, social security, and Medicare.

"SEC. 711. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $75,000,000 for fiscal year 1990, and such sums as may be necessary for each succeeding fiscal year to carry out this title.".

SENATE—*Wednesday, August 2, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

In a moment of silence, let us remember the hostages and their families.

Trust in the Lord with all thine heart; and lean not unto thine own understanding. In all thy ways acknowledge him, and he shall direct thy paths.—Proverbs 3:5, 6.

Gracious Father in Heaven, as inevitable tension builds with cosmic issues, often controversial, sometimes conflicting, occasionally confusing, compounded by the relentless ticking of the clock, grant to Thy servants in the Senate cool heads, warm hearts, patience with each other and the "peace of God which passes understanding." Infuse this place with Your presence and Your love. Grant grace to each Senator that he may have strength for the day, wisdom for the way, in order that nothing in these pressure hours may distract from the hopes and plans the August recess promises.

In the name of the Prince of Peace and incarnate love. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time reserved for the two leaders and no later than 10:35 a.m., the Senate will resume consideration of the DOD authorization bill. A vote has been ordered to begin at 10:35 on or in relation to the Bond amendment regarding the accidental launch protection system. Other votes could occur prior to 11:15 a.m., when the Senate would automatically begin the proceedings as provided for under rule XXII.

I would say to my colleagues that I anticipate a very late night tonight, with votes occurring throughout the day and well into the evening.

SENATE INVESTIGATION OF HUD SCANDAL TO BEGIN

Mr. MITCHELL. Mr. President, today the Senate Banking Committee will hold its first in a series of hearings to investigate abuses in HUD programs.

During the last several years, numerous reports have been made by the HUD inspector general documenting widespread abuse and mismanagement within the agency. From what I can tell from those IG reports, at least 20 HUD programs have been infested with improper activity. It is truly unfortunate that we are only now focusing on the billions of dollars lost.

The largest two programs that involve the most money improperly managed and lost to HUD are the FHA Single Family Mortgage Insurance Program and the section 223(f) Coinsurance Program for Multifamily Housing.

These two programs were the cornerstone of the Reagan administration privatization efforts. They were the embodiment of an anti-Government ideology run amok.

Through privatization, the Reagan administration believed it would reduce the Government's risk and achieve savings by delegating more responsibility to the private sector.

Unfortunately, in the case of these two programs, the effort was a dismal failure. Fraudulent activity and abuse in these two programs alone will cost American taxpayers billions of dollars before the investigation is complete. The process was driven by greed.

In the name of privatization, qualified lenders were granted the authority and responsibility to close FHA loans without FHA approval. Semiannually for the last several years the inspector general warned that assets were overstated and liabilities understated in order to allow individuals to qualify for loans.

Claims and defaults rose from $1.2 billion in fiscal year 1983 to $5.4 billion in fiscal year 1988. Claims are expected to exceed $6 billion this year.

The inspector general believes that a significant portion of the defaults are largely due to fraudulent loan origination activity, not a downturn in regional economies.

Perhaps worse than the defaults in HUD's dismal record on the disposition of foreclosed single family properties.

While the sale of single family properties is the second largest revenue producing activity within HUD, the inspector general found that there was little monitoring, oversight, or management. In fact, HUD had no idea how many closing agents it had on a nationwide basis.

On average, HUD agents listed foreclosed properties at prices averaging 21 percent below market value. Once the properties were sold, closing agents often took 4 to 6 months to remit the proceeds. In reviewing the documentation on 244 closings, the inspector general could not trace funds for about 88 properties. That is scandalous mismanagement.

One of the most egregious scams involved equity skimming. The inspector general found that investors moved into a depressed housing market, took over HUD insured properties, rented them out, but never made mortgage payments. Loan servicing was so lax that in many instances investors got away with this for over a year before defaulting on the properties.

While legal actions have been taken against this type of criminal activity, the inspector general believes that equity skimming is still rampant throughout the country.

About 340 individuals have been convicted in association with fraudulent loan originations. However, much more needs to be done to ensure that the program is properly overseen and managed.

With regard to the Property Disposition Program, the emphasis needs to shift from the sheer numbers of properties sold to the price the sale of these properties bring to HUD. As with loan originations, there needs to be better management and more oversight of closing agents.

Also under the name of privatization, the inspector general found that the section 223(f) Coinsurance Program is equally fraud-ridden, causing hundreds of millions of dollars in losses to HUD.

The program was originally designed to reduce Federal liability for multifamily projects, with private insurers taking 20 percent of the risk.

But the inspector general indicated, in reports beginning in 1985, that the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

underwriting practices were poor—property values were inflated, rents were overstated, and coinsured loans were issued in return for unusually large fees.

Nearly a billion of the program's $8 billion portfolio is in default. One company had 29 percent of its loans in default; they total about 77 percent of all defaulted coinsured properties. While the inspector general had repeatedly informed HUD about that company's poor underwriting practices, beginning with a detailed report issued in 1985, the company was not suspended from the Coinsurance Program until March 1989.

On a much smaller scale, hundreds of millions rather than billions, the inspector general repeatedly warned HUD management about abuse and fraud in many programs. The Manufactured Home Loan Program, the section 235 Mortgage Service Program, section 8 rent subsidies, the section 8 voucher program, the section 8 Moderate Rehabilitation Program, the Consolidated Supply Program, the title I Property Improvement Loan Program, the Loan Management Set-Aside Program, the title X Land Development Program, retirement service centers, flexible subsidy loans, the Community Housing Resource Board Program, the Community Development Block Grant Program, the Urban Development Action Grant Program, Congregate housing funds used to pay for an intermediate care facility, embezzlement within Public Housing and Indian Housing Authorities, contracting activities under the Office of Small and Disadvantaged Business Utilization, and the mortgage backed securities program servicing contract awarded by Ginnie Mae.

Over and over the inspector general found that proper management was lacking, little oversight or monitoring of privatized programs was occurring, and that discretionary programs were just that—completely discretionary with awards made with no documentation or substantiation.

At the same time, HUD funding was reduced from $24.9 billion in fiscal year 1981 to $7.5 billion in fiscal year 1989. It is astonishing that losses to the agency over the last several years could amount to more than Congress actually appropriates in a single year today.

One has to question what the Secretary, Assistant Secretaries, Deputy Secretaries, and Under Secretaries were doing. They certainly were not paying any attention to the inspector general's reports.

The hearings to be held in the Senate must review the activities and management practices of the responsible individuals. Those directly responsible for running the programs must be held accountable for their actions.

It is particularly important to review the activities and programs run by those retained in this administration. We cannot allow the lax management practices and political handouts of the previous HUD operation to continue.

There has been much said lately about the role of consultants and the large amounts of money that consultants earn. In the section 8 Moderate Rehabilitation Program alone, fees ranged from $326,000 to $600,000. I understand that the complexity involved in some HUD programs may require substantial work from a consultant. However, many of these consultants had no expertise or even any experience in the field of housing.

It is obvious that HUD was used as a political slush fund where political appointees gave favors, amounting to millions of dollars of taxpayers' money, to politically well-connected individuals.

To err is human. But to systematically destroy an agency by ignoring rules, regulations, and proper management practices is wrong, alarmingly wrong. Especially since large sums of money intended to help poor and working class Americans were diverted into the pockets of well heeled and well connected political operatives.

I think we need to review that. To be part of a multibillion dollar scam ought to be a criminal offense.

Widescale improper management cannot and should not be tolerated.

I commend Secretary Kemp and his Chief Deputy, Alfred DelliBovi, for their efforts to investigate program abuses and recoup lost resources. And I emphasize that oversight is a congressional responsibility as well.

I have asked that all Members of Congress receive the semiannual reports issued by the inspector general's office. Congress must be more active and effective in oversight of Government programs.

There is a dual responsibility here—HUD officials should manage their programs properly. And Congress should monitor their activities.

It may be necessary to reorganize the Inspector General's Office at HUD to place more emphasis on agency responses to IG reports.

I hope that the hearings will reveal those responsible for mismanagement and provide us sufficient detail to reform HUD programs to their original intent.

We are all saddened by a failure of government of this magnitude. We should be indignant that a Department, led by a Secretary committed to dismantling housing programs, would permit waste, fraud, and abuse of this scope.

It is a disgrace that such a large number of individuals in management positions could be so callous.

As the number of homeless families escalated, and the number of families paying over 50 percent of their income for rent increased, HUD management stood idly by requesting ever smaller budgets and then squandering available funds to wealthy developers and politically well connected consultants.

We must restore HUD's integrity.

The American dream of affording a decent and safe home is too important for anything less.

I yield to the distinguished Republican leader.

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDENT pro tempore. Under the order, the Republican leader is recognized.

Mr. DOLE. Mr. President, is there leader's time?

The PRESIDENT pro tempore. There is, and the Republican leader is recognized.

HUD

Mr. DOLE. Mr. President, I want to say I do not disagree with the distinguished majority leader. I think we do need to focus on the problem at HUD. It certainly deserves careful, nonpartisan review. And I would add that I think one way to help would be to get some of these nominations cleared. We have five assistant secretaries still held up in the Banking Committee. Instead of starting hearings on HUD they ought to kick out these nominations if they expect Secretary Kemp to reform and clean up the mess that he inherited. There are five key people who have been pending in the Banking Committee for weeks and weeks.

If we are going to criticize HUD, and I think we have a right, probably, to do that, for past practices, let us make certain we have a separation. Let us make certain we understand that Congress has not been very cooperative. Congress did not do anything over the years. We did not even read the reports that were sent up here by the Inspector General.

Now we have a situation where Secretary Kemp is trying to do the right things and he has very few of his principal deputies on board. Why are they being held up? Because some still insist that staff members be permitted to rummage through the FBI files and unless that is permitted the chairman of that committee apparently will not report out all the nominations.

It seems to me that we do a disservice. We call for hearings; we call for an examination; we call for all these things at HUD. I do not disagree with any of them. But I would add one more thing: Let us give Secretary Kemp the people he needs. There are five assistant secretaries pending and have been pending for weeks. They are in the committee. Why can we not

clear them this week? That is the purpose of my speaking at this time.

There are over 100 nominations pending in the various committees in Congress. If we are going to go out Friday, probably even next week, there is going to be a 4- or 5-week period where the nominees may go back to the White House, some may be kept up here, some may be sent back, but in the final analysis, many of these have been here long enough to be acted upon by the appropriate committees and acted upon by the Congress.

I want to make it clear I certainly have had the cooperation of the majority leader, but we have a fundamental problem, at least some say it is fundamental, because the White House does not want staff rummaging through FBI files; therefore, some of the committees will not act on the nominees.

I do not know how we resolve that impasse, but it seems to me that we should be able to move on many of these nominations. Right now there are more Presidential nominees lined up for congressional approvals than there are people waiting for hamburgers in Moscow. I think there are 111 at last count waiting in the committees.

Take a look at the list of the Presidential nominees. Some are being held for what some consider appropriate reasons, but some are just being held and some just have not had hearings. I received an urgent call yesterday from the Secretary of Energy. He is being bombarded and blasted for not taking in all the nuclear weapons problems, the nuclear weapons disposal plants around the country. Again, he only has a couple people confirmed. Again, they have been here for some time.

So I ask unanimous consent to have printed in the RECORD at the appropriate place today a list of the nominees and how long they have been pending and urge my colleagues to see if we cannot get some action on these nominations before we go out this Friday or sometime next week.

Again, I say for the RECORD, the majority leader has been cooperative. We have tried to resolve the problem. There is no doubt about it the administration did not set any speed record for getting nominees up here in the first place, but they did finally get their act together and the nominees have been here, in some cases since May—June, July, and now it is August.

So I would hope that is one thing we can do. It may not seem important in the scheme of things, but it is important to every Secretary and to many of the agencies where they do not have the Presidential appointees on board.

There being no objection, the list of nominees was ordered to be printed in the RECORD, as follows:

BUSH NOMINATIONS PENDING IN THE SENATE BY COMMITTEE (8/1/89)

AGRICULTURE, NUTRITION, AND FORESTRY

Cason, an Assistant Secretary of Agriculture (5/2).

ARMED SERVICES

Faga, Air Force Assistant Secretary (7/11).
Shannon, Army Under Secretary (7/17).
Foreman, Air Force Under Secretary (7/17).
Betti, DOD Under Secretary for Acquisition (7/18).
Lopez, an Associate Director, FEMA (5/16).
Stello, Jr., an Asst. Sec'y DOE (Def. Programs) (7/24).
Stone, Secretary of the Army, DOD (7/25).
Howard, Under Secretary of the Navy (8/1).
O'Donnell, DOD General Counsel (8/1).

BANKING, HOUSING, AND URBAN AFFAIRS

Schmalensee, Council of Economic Advisers Member (7/20).
Krosby, an Assistant Secretary of Commerce (5/31).
Kloske, Under Secretary of Commerce for Export Adm. (7/14).
Weicher, an Assistant Secretary HUD (5/16).
Fitts, an Assistant Secretary HUD (5/31).
Rollins, an Assistant Secretary HUD (6/7).
Kondratas, an Assistant Secretary HUD (6/9).
Freeman, an Assistant Secretary HUD (6/22).
Clymer, Urban Mass Transportation Admr. DOT (6/16).
Macomber, U.S. Export-Import Bank President (rptd 7/20).
Lawson, U.S. Ex-Im Bank 1st Vice President (6/22).
Martino, Supt. Mint Pa, D. Treas. (7/25).
Mc Turk, Supt. Mint Dnvr, D. Treas. (7/26).

COMMERCE, SCIENCE, AND TRANSPORTATION

Bromley, Office of Science and Technology Policy Dir. (6/6).
Schnabel, Under Secretary Commerce, Tourism & Travel (6/6).
Obuchowski, Asst. Secretary Commerce, Comm & Info (6/7).
Wince-Smith, Asst. Secretary Commerce for Tech. Policy (6/13).
Knauss, Under Secretary Commerce Oceans & Atmo. (7/20).
Carmichael, Federal Railroad Adm. Admr. (7/11).
Marshall, FCC Commissioner (6/16).
Barrett, FCC Commissioner (6/19).
Sikes, FCC Commissioner (7/11).
Owen, FTC Commissioner (6/6).
Steiger, FTC Commissioner (7/11).
Emmett, ICC Commissioner (6/8).
Coughlin, NTSB Member (6/21).

ENERGY AND NATURAL RESOURCES

Morales, DOE Asst. Secretary (ES&H) (4/12).
Sayre, an Asst Secy, D. Interior (7/25).

ENVIRONMENT AND PUBLIC WORKS

Larson, Federal Highway Admr., DOT (rptd 7/20).

FOREIGN RELATIONS

Busby, rank of Ambassador (6/6).
Einaudi, U.S. OAS Rep., Amb. (6/16).
Lavorel, rank of Ambassador (6/16).
Clarke, an Asst. Secretary of State (6/22).
Fort, an Asst. Secretary of State (7/11).
Perkins, Foreign Service Director General (7/11).
Watson, Dep. Rep, UN, Amb. (7/11).
Wilkinson, Dep. Rep. Security Council UN, Amb. (7/11).
Krys, Asst. Secretary of State for Diplomatic Sec. (7/20).
Salgo, rank of Ambassador (7/20).
Durnil, U.S. Commr. to IJC, U.S. & Canada (7/24).
Zappala, Amb. to Spain (5/2).
Brown, Amb. to Israel (5/31).
Boehm, Amb. to Oman (6/6).
Ussery, Amb. to Morocco (6/6).
Bush, Amb. to Luxembourg (6/15).
Freeman, Jr., Amb. to Saudi Arabia (6/15).
Bloch, Amb. to Nepal (6/23).
Ewing, Amb. to Ghana (7/11).
Javits, Amb. to Venezuela (7/11).
Moore, Jr. Amb. to Lesotho (7/11).
Sotirhos, Amb. to Greece (7/11).
Silverman, Amb. to Barbados (7/11).
Strook, Amb. to Guatemala (7/11).
Tregen, Amb. to Fiji (7/11).
Moore, Amb. to Ireland (7/14).
Swing, Amb. to South Africa (7/17).
Young, Amb. to Sierra Leone (7/17).
Walker, Amb. to Madagascar (7/18).
Walker, Amb. to Nigeria (7/18).
Holden, Amb. to Jamaica (7/18).
Novetzke, Amb. to Malta (7/20).
Ruppe, Amb. to Norway (7/20).
Hambley, Amb. to Qatar (7/24).
Hostler, Amb. to Bahrain (7/24).
Dawson II, U.S. Ex. Director, IMF (7/17).
Hockeimer, an Assoc. Director, USIA (6/21).
Kopp, Deputy Director, USIA (7/11).
Seitz, an Asst. Secy. of State (7/25).
Randlett, USICDA, an Asst. Admr. AID (7/26).
Cleveland, Amb. to Malaysia (8/1).

GOVERNMENTAL AFFAIRS

McKee, FLRA Member (7/11).
Koch, FLRA General Counsel (7/11).
Talkin, FLRA Member (7/31).

JUDICIARY

Walker, U.S. District Judge, California (2/28).
Lucas, an Asst. Attorney General (5/1).
Currin, U.S. Attorney, North Carolina (6/16).
Stewart, an Asst. Attorney General (6/22).
Budd, U.S. Attorney, Massachusetts (7/24).
Morris, Dep. Dir. for Supply Red., ONDCP, EOP (7/25).
Markman, DJU, Attorney, Mich. (7/31).

LABOR AND HUMAN RESOURCES

Kleber, Dep. Dir. Demand Reduction, ONDCP (7/18).
Stringer, General Counsel DED (6/6).
Easton, Dep. U/Secy DED (I&IA) (7/11).
Ball, an Assistant Secretary, D. Labor (4/18).
Bowland, Wage & Hour Div. Admr., Labor (6/8).
Scannell, an Asst. Secretary, D. Labor (6/22).
Collins III, an Asst. Sec'y, D. Labor (VE&T) (6/23).
Kenny, Action Agency Director (7/11).
Goodman, Nat'l Council on the Arts Member (rptd 7/20).
Murray, Dir. Inst. of Museum Services (7/11).
Hunter, General Counsel, NLRB (5/12).
Oviatt, Jr., NLRB Member (7/20).
Rodger, NLRB Member (7/20).

SMALL BUSINESS

Jhin, SBA Chief Counsel for Advocacy (6/23).

VETERANS AFFAIRS

Kramer, an Assoc. Judge, U.S. Court of Veterans Apls. (5/5).

Collins III, Asst. Sec. Labor, (VE&T) (6/23).

Timperlake, Asst. Secy. DVA, C&PA (6/15).

Carroll, General Counsel DVA (6/15).

McCann, Asst. Secretary DVA, F&P (6/21).

Clark, Jr., Asst. Secretary DVA, VL&PR (7/17).

Webb, Dir. Natl. Cemetery System, DVA (7/26).

(Note: Above lists of nominations pending in the various committees of the Senate do not include military nominations or nominations in the Coast Guard, Foreign Service, NOAA or Public Health Service. Also, Reagan appointments of 1/3/89 which are technically pending are not included—these are gradually being withdrawn or renominated by the President.)

THE NOMINATION OF FRED BUSH

Mr. DOLE. Mr. President, I want to say a few words about Fred Bush—the President's nominee as Ambassador to Luxembourg.

Some remarks I made about Mr. Bush's nomination have been taken out of context. I do not know the motives of those who have distorted the meaning of my remarks. But I do want to set the record straight, as far as my own views are concerned.

As I indicated at that time, I support this nomination, and the President supports this nomination. I am aware of no information suggesting Mr. Bush is unqualiifed or unfit to hold this post. I would hope to see the Senate act on it promptly and favorably.

Mr. Bush's nomination was sent to the Foreign Relations Committee in early June—it has been sitting there longer than any other not yet acted on. He has not had a hearing, and—of course—there has been no other committee action on him.

Some may have felt it was necessary to explore some questions raised about Mr. Bush's connection to HUD contracts. I am one of those who thought it was necessary. Fair enough. But by now those questions have been fully vetted. No one has charged that Mr. Bush has done anything illegal. He is not under any kind of criminal investigation or suspicion.

Mr. Bush has twice testified before a House committee, and once before the Senate Banking Committee. He has provided the Foreign Relations Committee all of the information it has requested. He is available to speak to any Senator or staffer, on the committee or anywhere in the Senate, who has any questions so he's not hiding anything, or ducking anything.

And, in any case, the way to explore any outstanding questions is to give Mr. Bush his committee hearing.

The President has nominated Mr. Bush for this ambassadorial post, and I support the nomination I believe that when all is said and done, the Senate will agree with that judgment and confirm Mr. Bush.

Above all, though, Mr. Bush has been hanging out there since June. He has a career, a family, a personal life—that has all been on hold for many weeks. It is just not fair to keep him in this position for an additional, extended period of time.

The President deserves to have his nomination acted on. Mr. Bush deserves to have his case heard, and to be judged—openly and above board—by the committee and the Senate. I think it is time we move on this nomination.

Mr. President, I reserve the remainder of my leader's time.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1990 AND 1991

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1352, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1352) to authorize appropriations for fiscal year 1990 and 1991 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1990 and 1991, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Bond Amendment No. 646, to provide funds for a limited deployment of an accidental launch protection system.

The PRESIDENT pro tempore. Under the order the hour 10:35 a.m. having arrived, the Senate will now vote on or in relation to Bond amendment No. 646 which the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 646.

AMENDMENT NO. 646

Mr. NUNN. Mr. President, I move to table the amendment. I ask for the yeas and nays.

The PRESIDENT pro tempore. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The clerk will call the roll.

Mr. CRANSTON, I announce that the Senator from Minnesota [Mr. RIEGLE] and the Senator from Tennessee [Mr. SASSER], are necessarily absent.

Mr. SIMPSON. I announced that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. Wallop] would each vote "nay."

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 158 Leg.]

YEAS—53

Adams	Exon	Lieberman
Baucus	Ford	Matsunaga
Bentsen	Fowler	Metzenbaum
Biden	Glenn	Mikulski
Bingaman	Gore	Mitchell
Bradley	Graham	Moynihan
Breaux	Harkin	Nunn
Bryan	Hatfield	Pell
Bumpers	Inouye	Pryor
Burdick	Johnston	Reid
Byrd	Kassebaum	Robb
Chafee	Kennedy	Rockefeller
Cohen	Kerrey	Sanford
Cranston	Kerry	Sarbanes
Daschle	Kohl	Shelby
DeConcini	Lautenberg	Simon
Dixon	Leahy	Wirth
Dodd	Levin	

NAYS—44

Armstrong	Gramm	McConnell
Bond	Grassley	Murkowski
Boren	Hatch	Nickles
Boschwitz	Heflin	Packwood
Burns	Heinz	Pressler
Coats	Helms	Roth
Cochran	Hollings	Rudman
Conrad	Humphrey	Simpson
D'Amato	Jeffords	Specter
Danforth	Kasten	Stevens
Dole	Lott	Symms
Domenici	Lugar	Thurmond
Durenberger	Mack	Warner
Garn	McCain	Wilson
Gorton	McClure	

NOT VOTING—3

Riegle	Sasser	Wallop

So the motion to lay on the table amendment No. 646 was agreed to.

Mr. WARNER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the Chair. I should at this time like to engage in a colloquy. Mr. President, may we have order?

The PRESIDENT pro tempore. The Senate will be in order. It is the duty of the Chair under the rules to get order and to maintain order, and this Chair will pursue that. The Senate is no meeting place for staff. Those who are here to simply observe, the Chair will kindly call their attention to the fact that there is a special gallery for staff. Staff who are standing, please be seated. That is the purpose of the benches in the rear of the Chamber.

The Chair will appreciate the cooperation of the Senators and staff and will ask the Sergeant at Arms and the deputies to mind their business. This is going to be a very busy day, and business can be best expedited if all will cooperate with the Chair in getting order, and keeping order.

The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the Chair for a firm hand, because today is going to be a difficult day, and that difficulty begins as of this moment.

I wish to say, as a courtesy to the Senators, but at the same time I hope they do not regard it as a discourtesy, that this Senator may retain the floor between now and the hour of 11:15. I have a number of things to cover. I shall enter into a colloquy with the distinguished comanager, the chairman of the Armed Services Committee. What we wish to endeavor this morning in these brief few minutes is to try and advise the Senate as to the posture of this bill, the need to go forward and deal with those amendments which will, in the judgment of the Chair, be germane, and try and get action upon this legislation prior to the proposed recess of the Senate.

Now, Mr. President, I would first ask the question of the distinguished chairman of the Senate Armed Services Committee regarding the procedure by which we will ascertain the germaneness of the remaining amendments. I put that in the form of a question.

Mr. NUNN. I would say to the Senator from Virginia that my answer would be that we will bring any amendment that we have a question on, as far as germaneness, to the attention of the Chair, and we will get a ruling from the Chair as to whether it is germane under the cloture rule, if cloture is invoked.

Mr. WARNER. Mr. President, another question to the distinguished chairman. Perhaps we should indicate the staff individuals who would be working here today. Mr. Tucker on my side, Mr. Punaro, presumably on your side, so that the Senators can come and consult with them, should you or I be otherwise engaged.

Mr. NUNN. That is correct. We will be trying to expedite consideration of all of these germane amendments. I regret that some people may have not gotten their amendments up. There were some amendments that I felt were germane, and I had no idea were not germane under the cloture rule by the way they were drafted. Evidently, some of them will be ruled out. Beyond my power, I never promised anyone that I could protect then on germaneness. Everyone has to protect themselves on that rule. But I regret very much some Senators, if cloture is invoked, may not get their amendments up.

Mr. President, I do not want to take much time, but one thing we can all have in mind is when we get a bill up and we are on the floor for 2 days asking people—in fact, pleading with people—to bring their amendments up, and we cannot get them up at the beginning of a bill, then inevitably you run into a crunch at the end of the bill, whether cloture is invoked or not.

I would hope that all the people, all Senators would take heed here, and the next time we get a defense bill up be prepared to bring their amendments to the floor at the early stages. Senator WARNER and I spent literally hours on the telephone when we first brought this bill up, the first 3 days, pleading with people to come over and bring their amendment.

Everybody wants to wait and everybody wants to be recognized at the end, and everybody feels that they ought to be accorded the privilege of bringing up their amendment at the end. I have that same human feeling, but there is just no way to do it.

Mr. WARNER. Mr. President, I would like to return to what occurred last night, because I think a certain Senator should be recognized for his patience. The Senator from Alaska was here until 3 o'clock in the morning. Under the instructions that the managers of the bill received from the leadership of the Senate, we were not able to accommodate this Senator.

Bear in mind that this Senator has been here for 2 consecutive days. We were not able to accommodate him, and, therefore, his amendments, which were nongermane, presumably will fall by the wayside, in the event the Senate votes affirmatively on cloture. But we have, as near as I can estimate—and I would like to invite the chairman's attention—some 50 to 60 amendments pending on this bill now, which in all likelihood are germane. Therefore, we will need the cooperation of all present to move this bill forward.

Last night the Senator from Virginia——

Mr. KERRY. Will the Senator yield for a question?

Mr. WARNER. Yes, I will yield for a question.

Mr. KERRY. I ask the Senator from Virginia how many amendments that are not germane woud be added to that number 50?

Mr. WARNER. We have no accurate count at this time. I would think there are somewhere in the neighborhood of 30 to 40 amendments that are not germane.

I understand that possibly it could be a larger figure.

Mr. KERRY. That is my understanding.

Mr. President, I would like to ask the distinguished Senator, for those of us that were here most of yesterday trying to get our amendments in, this Senator had a scheduled time of 4 o'clock to proceed, came at 4 o'clock, and there was another amendment on the floor, and as the Senator recalls, there was some discussion about unanimous consent.

I requested to be part of the unanimous consent request at that time, but at the request of the distinguished manager, forgave any rights that I had. I did not object, based on the notion that we were going to work out the best way possible to be included. I was one of those here until late last night, and it seems to me that it would be appropriate for those who have made a bonafide effort at this point, by presence, by request, who have been on the floor, who have sought recognition, who have asked for the opportunity to introduce their amendments but have been denied, that at least those ought to find a way to be able to be included by unanimous consent in that core group. It would seem to me in fairness to the process, some 24 hours on the floor, in an effort to be included should not now suddenly be negated.

Mr. WARNER. Mr. President, I am somewhat familiar with the problems that the distinguished Senator from Massachusetts faced yesterday and now is confronted with this morning. I, most sincerely regret that I am not in a position to accept what I would presume to be a request at some point in the proceedings for modification to the amendment that the Senator from Massachusetts proposes to send to the desk.

I would not be able to participate in that unanimous-consent request. I would have to lodge an objection, because I know of Senators on this side who likewise desire to forward amendments to the desk, to seek recognition, have modification, perhaps to make them germane. Once that amendment was filed and was not germane, I have not looked——

Mr. KERRY. Will the distinguished Senator agree, perhaps, to a unanimous-consent request to postpone the cloture vote by enough time to allow both sides to debate and vote on the amendments of those who were here seeking recognition and attempting to proceed forward?

Mr. WARNER. Mr. President, I advise my colleagues that we would not be able on this side—and this Senator will take the responsibility—to consent for any modifications to amendments which are now at the desk.

Mr. KERRY. That would not be a modification to any of the amendments.

Mr. WARNER. I understand; or in any other way, I cannot give the Senator any assurance that this Senator will consent to a unanimous-consent request anyway to get that amendment up.

Mr. NUNN. Mr. President, will the Senator yield for a brief comment?

Mr. WARNER. I will yield for a question from the Senator from Georgia?

Mr. NUNN. If I could just say to the Senator from Massachusetts I would

like to see his amendment brought up. I am not in favor of it. But he makes a good point.

I thought the amendment was germane. I did not realize until last evening around 2:30 this morning that it was not germane. That was because one of the staff people of the Senator from Massachusetts told me it was not.

I said over and over again yesterday that we were not under controlled time, that the managers could not guarantee anyone's appearance on the floor. They had to be recognized.

The Senator from Massachusetts did not object to the unaimous-consent request. That certainly helped facilitate the action of the Senate.

I would like to see him be able to get his amendment up. I do not know of any way to do that.

I will not object to a modification. I want the Senator to know that. I would hope it would not be objected to.

We stayed until 3 o'clock this morning and regretfully could not consider amendments because we had objections to the amendments of the Senator from Alaska. We could not permit him to even bring those amendments up as the pending business this morning, and that was again something that I did not relish.

I say to the Senator from Massachusetts that he has been cooperative. He has an amendment that deserves consideration and debate. I hope he finds a way to bring it up.

I would also have to say to the Senator from Massachusetts, though, that I tried the first 3 days this bill was up to get him to come over and present that amendment. I called him two or three times, and I had other people try to to it. We did that with other Senators. That was not the only time. We had a whole list of people we were trying to get to bring amendments up. We were pleading with people to bring amendments up, and they did not do it, and they had their own good reasons.

But I am just saying that this circumstance at this point is beyond the control of the Senator from Georgia.

Mr. WARNER. Mr. President, the Senator from Virginia has the floor, and I wish to continue.

The PRESIDENT pro tempore. The Senator from Virginia has the floor.

Mr. JEFFORDS. Mr. President, will the distinguished Senator from Virginia yield?

Mr. WARNER. Mr. President, I will yield solely for the purpose of a question.

Does the Senator have a question he wishes to propound to the Senator from Virginia.

Mr. JEFFORDS. Yes, I do. I am sort of new here, but it was my understanding yesterday that we had a time established so that our amendment could be brought up.

I was here. The Senator from Massachusetts was here. And at the request of the chairman of the committee and the Senator from Virginia we understood the Senator had a problem and we were very accommodating to relinquish what we thought was an agreement on time.

I am not familiar with all the rules and ramifications of that. But it seems to me that since we out of deference to the committee were willing to postpone our consideration of what I consider a very important amendment to a future time, then we find to me something which obviously is quite germane is ungermane and caught by surprise in that regard, we get a modification which will bring it into conformance with the rules and then we are left out in the cold here. I feel very badly about being treated this way.

Mr. WARNER. Mr. President, I can only say to my good friend that here is another clear example of how we have to deny the Senator's request.

Yesterday was a most unusual day. My recollection is we had a vote around 6 o'clock and then between the hours of 6 o'clock and midnight we were consumed in a very lively debate on the question as to how to fully fund the previously authorized drug legislation. The Senator, I am sure, observed that extensive debate. It consumed time that neither the distinguished Senator from Georgia nor the Senator from Virginia ever envisioned would be consumed.

Further complicating was the issue brought up by the Senator from Idaho with respect to his proposed amendment dealing with Colonel North's pension, another very important issue.

We simply could not accommodate the request of Senators.

The program that the distinguished chairman, the Senator from Georgia, and I had envisioned simply could not be fulfilled. We acted in good faith, but we could not do it.

I am advised by the Republican leader there are 170 different amendments, most of which are not germane, that various Senators wish to address.

I simply say to the Senate to reinforce what has already been said by the leadership, if we have any expectation of meeting the projected deadline to go into recess we simply have to complete action on this bill.

To do so, in this Senator's judgment, we have to invoke cloture, thereby permitting only those amendments which are germane to be considered in the very brief time that remains for this bill to be acted upon by the Senate.

Mr. KERRY. Mr. President, will the Senator yield?

Mr. WARNER. I wish to continue.

Is there a question? Does the Senator have a question of the Senator from Virginia?

Mr. KERRY. I would ask the Senator from Virginia a question.

Mr. WARNER. Mr. President, I will yield for the purpose of a question from the Senator from Massachusetts.

Mr. KERRY. I thank the distinguished Senator.

I simply wanted to ask the Senator if he was aware that during the time that he was requesting the Senator from Massachusetts to be here, the Senator from Massachusetts was chairing a number of nominations hearings which the distinguished minority leader has been complaining that the nominees are not coming out and, in addition, whether he was aware of the Senator was at a CIA briefing on the very subject matter of the amendment which he interrupted to come to the floor in order to be there at the appointed hour to proceed forward.

Colonel North's pension took most of the afternoon of the U.S. Senate. It seems to me that the Senate ought to find a way to discuss antisatellite weapons and other matters with the same diligence that was focused on Colonel North's pension.

Mr. WARNER. Mr. President, first I ask the Chair the hour at which the cloture vote has been established.

The PRESIDENT pro tempore. The hour of 11:15; the clerk will then report the motion, after which the Chair will direct the clerk to call the roll to ascertain the presence of a quorum. When a quroum has been established, the vote on the motion to invoke cloture will occur.

Mr. WARNER. The Senator from Virginia inquires if the hour of 11:15 has not arrived?

The PRESIDENT pro tempore. The Chair will notify the Senator when the hour of 11:15 has arrived, and all other Senators.

Mr. WARNER. The Senator from Virginia thanks the Chair.

The PRESIDENT pro tempore. The Presiding Officer thanks the Senator from Virginia for his understanding and cooperation.

Mr. WARNER. Mr. President, I say again to my good friend I extend the apology.

CLOTURE MOTION

The PRESIDENT pro tempore. One hour having passed since the Senate convened, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1352, a bill to authorize appropriations for fiscal years 1990 and 1991 for military functions

of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1990 and 1991, and for other purposes.

Sam Nunn, Albert Gore, Jr., Edward M. Kennedy, Alan J. Dixon, J.J. Exon, Dan Coats, Thad Cochran, Trent Lott, Frank H. Murkowski, Richard Shelby, John Warner, John McCain, Al Simpson, Pete V. Domenici, Phil Gramm, Jake Garn, Nancy Landon Kassebaum, Jeff Bingaman, Timothy E. Wirth, and John Glenn.

CALL OF THE ROLL

The PRESIDENT pro tempore. Pursuant to rule XXII the Chair directs the clerk to call the roll to establish the presence of a quorum.

The legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 5]

Boschwitz	Domenici	Pryor
Bumpers	Fowler	Sanford
Byrd	Garn	Symms
Cohen	Metzenbaum	Warner
Dole	Nunn	Wilson

The PRESIDING OFFICER (Mr. FOWLER). A quorum is not present.

The clerk will call the names of the absent Senators.

The legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. A quorum is not present.

The legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

Biden	Harkin	Mikulski
Bingaman	Hatch	Moynihan
Bond	Heflin	Murkowski
Boren	Heinz	Nickles
Bradley	Helms	Packwood
Breaux	Humphrey	Pell
Bryan	Kassebaum	Riegle
Chafee	Kasten	Robb
Coats	Kennedy	Roth
Cochran	Kerrey	Sarbanes
DeConcini	Kohl	Shelby
Dodd	Leahy	Simon
Durenberger	Levin	Simpson
Glenn	Lieberman	Specter
Gore	Lugar	
Graham	Matsunaga	

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 1352, a bill to authorize appropriations for fiscal years 1990 and 1991 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1990 and 1991, and for other purposes, shall be brought to a close?

The yeas and nays are automatic under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. SASSER] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] and, the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER. (Mr. SHELBY). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 84, nays 13, as follows:

[Rollcall Vote No. 159]

YEAS—84

Adams	Exon	Mack
Armstrong	Ford	Matsunaga
Baucus	Fowler	McCain
Bentsen	Garn	McConnell
Biden	Glenn	Metzenbaum
Bingaman	Gore	Mikulski
Bond	Gorton	Mitchell
Boren	Graham	Moynihan
Boschwitz	Gramm	Nickles
Breaux	Grassley	Nunn
Bryan	Harkin	Packwood
Bumpers	Hatch	Pell
Burdick	Hatfield	Pressler
Burns	Heflin	Pryor
Chafee	Hollings	Reid
Coats	Humphrey	Riegle
Cochran	Inouye	Robb
Cohen	Johnston	Rockefeller
Conrad	Kassebaum	Roth
Cranston	Kasten	Rudman
D'Amato	Kennedy	Sanford
Danforth	Kerrey	Sarbanes
Daschle	Kohl	Shelby
DeConcini	Leahy	Simpson
Dodd	Levin	Specter
Dole	Lieberman	Thurmond
Domenici	Lott	Warner
Durenberger	Lugar	Wirth

NAYS—13

Bradley	Jeffords	Simon
Byrd	Kerry	Symms
Dixon	Lautenberg	Wilson
Heinz	McClure	
Helms	Murkowski	

NOT VOTING—3

Sasser	Stevens	Wallop

The PRESIDING OFFICER. On this vote the yeas are 84, and the nays are 13. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. MITCHELL. Mr. President, may I have the attention of Senators?

The PRESIDING OFFICER. The Senate will be in order.

VISIT TO THE SENATE BY THE SPEAKER OF THE BRITISH HOUSE OF COMMONS

Mr. MITCHELL. The Senate today is honored by the presence, at the rear of the Chamber just outside the door to the Democratic Cloakroom, of the Right Honorable Bernard Witherfall, the Speaker of the British House of Commons.

I hope all Senators will join me in extending a warm welcome to the Speaker, and will come up and introduce themselves momentarily.

Mr. Speaker, welcome.

(Senators rising, applause.)

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991

The Senate continued with the consideration of the bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, we are now ready to proceed on amendments. It would be my hope that those Senators who are involved in the impeachment proceedings could be recognized, and handle their amendments here in the next hour.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the Chair. I thank my distinguished colleague from Virginia.

The PRESIDING OFFICER. The Senate is not in order, if the Senator from Pennsylvania will suspend.

The Senator from Pennsylvania is entitled to be heard. The Senate will be in order.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have at the desk three amendments, Nos. 597, 598, and 599 which relate to a single purpose, and that is to provide for intelligence so that we may make a determination of where hostages are located, a determination as to what it would take to rescue them, and a determination as to what resources it would take to bring their malefactors, the criminals, the terrorists who have taken them into custody to the United States for trial under our long arm jurisdiction.

This is a subject, Mr. President, that I have spoken about at considerable length on this floor and in committee sessions through the introduction of legislation which has passed the United States Senate, to extend our so-called extraterritorial jurisdiction to authorize the FBI for example, as in the case of Fawaz Yunis, to reach outside the United States to take terrorists into custody, bring them back to the United States to take terrorists into custody, bring them back to the United States for trial, as Fawaz Yunis was when he was tried and convicted in a Federal court here in Washington, DC, and sentenced to life in prison.

Mr. President, there are a variety of procedures that the United States and other peaceful nations can undertake in order to try to deal with the problems of international terrorists. But one of the approaches is a diplomatic approach. Of course, at the present time, there are intensive efforts being made——

Mr. NUNN. Mr. President, will the Senator yield for a brief question? Has the Senator sent the amendments to the desk or called them up?

Mr. SPECTER. I have the amendments at the desk and I have decided

to speak about them for a few moments before I seek unanimous consent to have a summary amendment which comprehends all three of them.

Mr. WARNER. Mr. President, will the Senator yield for a question then?

Mr. SPECTER. I would yield with unanimous consent that I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, it is the intention of the managers of the bill at an appropriate time to question each amendment as to its germaneness. As soon as the Senator from Pennsylvania provides the desk and the managers with copies, that will be ascertained.

Mr. SPECTER. These amendments have been at the desk for some time. They are at the desk, I have inquired of the Parliamentarian, and have had a determination that they are germane. They call upon the Secretary of Defense as well as the Director of the CIA to file certain reports as to the amount of funding necessary to find our hostages, to——

Mr. WARNER. Mr. President, I simply invade the time of the distinguished Senator——

Mr. SPECTER. Wait a minute, I do not yield the floor unless I maintain——

Mr. WARNER. To finish the second part of my question.

Mr. SPECTER. I want it understood that I maintain my right to the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SPECTER. I am glad to yield to my colleague, if it is understood that I do not lose any right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I was not in any way trying to impede, but to ask the second part of the question and wish to just inform the Senator from Pennsylvania by virtue of the questeion that it is our intention to follow this procedure with each Senator so those Senators observing the proceedings here can prepare.

The PRESIDING OFFICER. The Senator from Pennsylvania may proceed.

Mr. SPECTER. I thank my colleague from Virginia. I am aware of the germaneness rule. I have checked with the Parliamentarian in advance. I have received the opinion that the amendments are germane because they call upon the Secretary of Defense for certain action along with the Director of the CIA, and they are not binding. So they have been deemed to be germane.

Mr. President, as I was saying, what these amendments seek to do is to obtain a determination as to what additional funding would be necessary to have additional human intelligence, to be able to find where our hostages are located, so that we can do more to secure their release so that we do not have a tragedy of the assassination, the execution, the brutal murder, apparently, of Colonel Higgins as reported in the last couple of days.

I share the anxiety of all Americans over the fate of Joseph Cicippio and the other hostages. Reports from Lebanon yesterday indicated that the threat to kill Joseph Cicippio had been postponed for 48 hours. Mr. Cicippio, a Pennsylvanian, was serving as the deputy comptroller of the American Embassy in Beirut when he was kidnaped by the Revolutionary Justice Organization almost 3 years ago, on September 12, 1986. I spoke with Joseph's brother, Thomas Cicippio, earlier this morning and am extremely troubled by the anguish that the family is being forced to endure. In this regard, I support the position stated by the President earlier today that he is leaving no stone unturned in seeking a resolution to the current standoff and believe that under this amendment, we will be able to dedicate additional resources toward this end.

Mr. President, there are a variety of procedures where we can deal against terrorism. As I was saying, one of them is the diplomatic line. There are intensive efforts being undertaken at the present time through diplomatic channels. There are possibilities of economic sanctions which might be imposed, perhaps as to a blockade of Beirut to try to put pressure on those in Lebanon who accommodate the terrorists.

There are other alternatives, Mr. President, such as taking action against a nation which sponsors terrorism. A nation which comes to mind as behind the murderers of Colonel Higgins and holding others hostage is the nation of Iran.

We do know that in 1986 forceful action was taken against Libya when there was very solid evidence that Libya was involved in a terrorist incident resulting in the death of an American soldier in a discotheque in West Berlin.

And it may be, Mr. President, that the option of action against Iran is something that will have to be very, very seriously considered especially if the assassinations, executions or murders of Americans continue, among those who are held hostages.

Regarding the response of the newly elected President of Iran, President Rafsanjani, expressing regrets about the execution of Colonel Higgins, we appreciate that expression, but there is some reason to wonder about the sincerity of the leaders in Iran. There is a succinct statement in today's Washington Post which sets it forth in a very cursory way.

President Rafsanjani has shown growing sensitivity to his personal image abroad, as evidenced by his immediate retraction of remarks made May 5th calling for American, British, French citizens to be killed for every Palestinian death in the Israeli-occupied territories.

Now, Mr. President, it is fine to make peaceful statements, but I think it is unfortunate to have to retract remarks like that, and to have made remarks like that in the first place. Today's Post also has a front-page story, "Killings in Austria, Emirates Laid to Iran." It has some very detailed statements as to activities of Iran in worldwide terrorism.

There is a companion story which relates to "Austria Said To 'Kowtow' To Iran In Murder Case."

The matter is succinctly set forth in the first paragraph as follows:

The unresolved murder in Vienna nearly 3 weeks ago of three Iranian Kurdish activists has aroused criticism from the press and opposition politicians that Austria's Government is avoiding condemnation of suspected Iranian involvement because of fear of retribution.

When you put these events, Mr. President, together with known activities of the Iranians in sponsoring and in backing terrorism, there is an enormous question as to how much more Western civilized society can tolerate in terms of what Iran is doing. But whatever ultimate proofs may be established on the incident in Austria, whatever may be ultimately established as to the sabotage on flight 103—establish that the responsibility of whatever group or nation may be behind that—Mr. President, I do believe that there is a great deal more which can be done by the United States in terms of financing and human intelligence to locate our hostages so that we may take appropriate action.

It is an intolerable situation, Mr. President, that the most powerful nation in the history of the world stands helpless when its citizens are being held hostage. It is just an intolerable situation that we are not locating those hostages, to make a determination as to whether they can be rescued with reasonable safety. It is an intolerable situation when there are warrants of arrest outstanding for terrorists, such as warrants of arrest outstanding for terrorists who hijacked TWA flight 847, and that more is not being done to find the locale of those terrorists and to bring them to justice.

Mr. President, the response of our country to terrorism has been, frankly, pitiful. We have a long series of terrorist activities which have gone undetected and unpunished, in terms of finding the perpetrators.

In April of 1983 the U.S. Embassy was bombed in Beirut and 16 U.S. citizens died. A few months later in October of 1983 the U.S. Marine barracks

was bombed in Beirut; 241 marines lost their lives. Since 1985 four Shiite terrorists are believed to have taken 12 hostages in Lebanon. We know the tragedy aboard TWA flight 847 with Robert Stethem, the naval diver that was brutally murdered. We know the incident of the *Achille Lauro*, resulting in the death of Leon Klinghoffer; the failure of the Italians to let us have Abu Abbas. The failure of the Yugoslavians to extradite Abu Abbas to the United States. We know of the killing of almost 300 innocent citizens aboard Pan Am flight 103.

Mr. President, the one success story that the United States has had on the issue of terrorism has been the incident involving Fawaz Yunis, who was brought to the United States for trial and for conviction. That is a very, very important victory, Mr. President, and one that we ought to try to emulate for the future. Fawaz Yunis was involved in the hijacking of an airplane where U.S. citizens were involved. His identity was determined; he was lured onto a boat in the Mediterranean by the FBI. He was taken into custody in what was essentially stated an abduction. He was brought back to the United States for trial. He was tried in the Federal courtroom a few blocks from where we stand. He was convicted and sentenced to life imprisonment.

Mr. President, I think it is important that there be an understanding of the rule of law and the international law on the appropriate, proper activities in taking people into custody like terrorists and bringing them back to the United States for trial, or to any country which exercises long-arm jurisdiction.

Mr. President, a landmark case in this field was established back in 1886 when the Supreme Court of the United States, in a case captioned Kerr versus Illinois, found such conduct appropriate in apprehending suspects. As set forth on page 438 of the United States reports, the Supreme Court articulated the facts, and I will get the citation of the volume in a moment.

> The defendant being in the city of Lima in Peru, after the offenses were charged to have been committed, was in fact kidnaped and brought to this country against his will.

In that context, the Supreme Court of the United States ruled that it was appropriate to bring Kerr to trial. That opinion has been upheld, Mr. President, in a longer series of cases, one of which the opinion was written by a noted libertarian, Justice Hugo Black, in 1952, where the rule of Kerr versus Illinois was upheld. I think it is worthy to focus on the exact language where Mr. Justice Black says at page 522 of 342 U.S. reports:

> The power of the Court to try a person for a crime is not impaired by the fact that he was brought within the court's jurisdiction by reason of forcible abduction.

This issue, Mr. President, was thoroughly aired when the legislation was enacted by the Congress in 1986, introduced by this Senator, which makes it a violation of U.S. law to maim, assault, or murder a U.S. citizen by terrorists anywhere in the world.

This principle has been discussed at length in a series of hearings in the Judiciary Committee, in the Foreign Operations Subcommittee, when the remedy was commented upon by former Secretary of State Shultz, by Director Webster of the CIA, by former Attorney General Meese, by legal counselor Abraham Sofaer. Without putting all of their comments into the RECORD, Mr. President, the essence of it is that there is an agreement that where there can be a surgical stride, where we have identified a terrorist, where we have probable cause to believe that he has committed acts in violation of the laws of the United States by long-arm jurisdiction, that it is appropriate and sound as a matter of U.S. public policy to go in and arrest that individual.

Mr. President, I suggest that such activity ought to be expanded by the United States and that we ought to do whatever it takes by way of human intelligence of which it is totally insufficient—the CIA is very strapped for funds—to move forward along this line to locate our hostages, to locate the terrorists for whom there are warrants of arrest outstanding, and to use this as a very important tool to bring these villains, these brutal criminals back to the United States for trial.

Mr. President, the celebrated situation where Israel took action against Sheik Abdul Karim Obeid was carried out in a similar way. It was an exercise of long-arm jurisprudence against Sheik Obeid, who had violated the laws of Israel and in fact has violated the laws of the United States as well. According to the reports, Sheik Obeid was a party to the kidnaping of Colonel Higgins.

Israel, Mr. President, used the same approach exercising extraterritorial jurisdiction in taking Sheik Abdul Karim Obeid into custody for continuing terrorist acts against Israeli citizens including the holding of Israeli hostages.

This is a justification under international law which differs from the obvious fact that Israel is in a state of war and Sheik Obeid was a few miles from Israeli borders and was in fact engaging, planning, and carrying out terrorist activities.

It is plain, Mr. President, that under international law, Israel had the right to take Sheik Obeid into custody, as the United States Government had the right to arrest Fawaz Yunis in the Mediterranean and just as the State of Illinois had the right to arrest Kerr and abduct Kerr in fact from Pern back in the 1880's.

Mr. President, when Israel was successful in their bold raid to free hostages in Entebbe in 1976, Israel was widely praised and Israel has been praised for its successes in fighting against terrorism.

But when a country like Israel makes an aggressive effort against terrorism, it is impossible to guarantee that every act is to be successful.

In our international fight against terrorism, Mr. President, it seems to this Senator that more is going to have to be done by way of resources and there is going to have to be more aggressive action. It is simply not enough to sit back after William Buckley is brutally murdered in Lebanon and do nothing, or Peter Kilborn is brutally murdered and do nothing or Robert Stethem is brutally murdered by terrorists and do nothing, and Leon Klinghoffer is brutally murdered and do virtually nothing, and to stand back when our marines and the U.S. citizens at the Embassy have been so brutally murdered.

Mr. President, this really is minimal activity, and what my resolutions call for, is to call upon the Secretary of Defense and the Secretary of the Central Intelligence Agency to make a report by September 1 to the Senate Committee on Armed Services, the House Committee on Armed Services, the Senate Select Committee on Intelligence, and the House Permanent Committee on Intelligence on efforts to locate American hostages in Lebanon, the resources dedicated to locating these hostages and how additional resources in terms of funds and personnel can be effectively utilized to locate these hostages and obtain their release.

I would suggest that a nation with the wealth of the United States can well afford to put more into human intelligence to find out where these hostages are located and more into human intelligence to find out where the terrorists are located, especially those for whom we have warrants of arrest and to take the necessary action to bring them to justice through the statutes which the Congress has passed in 1984 and 1986.

Mr. NUNN. Mr. President, will the Senator yield for a brief observation?

Mr. SPECTER. I will with unanimous consent that I do not lose my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I commend the Senator from Pennsylvania for this amendment. I have been very concerned for some time about whether we are allocating enough of our intelligence resources to what I would call on-the-ground human intelligence. We have no doubt the best intelligence capabilities in the world in terms of

our technical intelligence, without getting into detail on that.

But I sometimes have the haunting fear that, as we became more and more inclined to technical intelligence, and as we get better and better, we may be slighting our human intelligence. No matter how advanced we became technically, there is no substitute in situations like we have just been through, the horrors we have been through, with this murder of Colonel Higgins, if it did occur and whenever it occurred, there is no substitute for having people who are on the ground. It is riskier, it is tougher, it is more dangerous, in almost every respect, but I think we need to reassess our human intelligence capabilities.

I am not reaching any conclusions. It may be that we have done everything we can do. But I do believe the Senator brings up a very good point.

I also would like to say that I think we ought to be very cautious about our criticism of what Israel has done. Certainly all of us have questions. Certainly, we want to be able to have a dialog with Israel and find out some of the things they may have known and may still know that we do not know. But I think we ought to be very cautious: It is not easy dealing with terrorism, and they are sitting right there next door at all times. Had Israel's recent actions produced the opposite results, if there had been a complete release of the prisoners, we would be then saying it was a marvelous action.

We have applauded in the past when they have been successful.

So we ourselves ought to be very cautious, and I think we ought to also review our capabilities in human intelligence and so I would be very much in support of the Senator's amendment.

If he would yield just a moment beyond that, we have been unsure for a long time where Colonel Higgins was held. We have been unsure at points about even what country he was in. We are unsure now as to whether he has been murdered. We are unsure whether photos are real. We are unsure about the dates.

I am not saying all of that could have been easily answered, but I am saying we ought to be asking some soul-searching questions about whether we can do better.

I remember about 3 years ago when we had a hostage taking on an airplane, this has probably been 3 or 4 years ago, and at that stage I raised an awful lot of questions about when a plane was sitting on a tarmac for a good many days what kinds of capabilities we had in identifying the people who perpetrated it, and I found out that our capabilities in that respect were very limited. I will not go into more detail on that subject.

But there are some tough questions that need to be asked.

In the meantime, as much as we deplore the events that have taken place, I think we ought to be cautious about rushing to judgment in terms of what the Israelis have done, and I think we ought to also recognize that they may very well be holding an individual who has been involved in killing or kidnaping a number of Americans. We do not know that yet. We do not have proof. But we ought to ascertain that before we leap to conclusions.

Mr. HEINZ. Mr. President, will the Senator yield without losing his right to the floor?

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. HEINZ. Mr. President, will the Senator from Pennsylvania yield?

The PRESIDING OFFICER. If the Senate will be in order, the Senator from Pennsylvania has the floor.

Mr. SPECTER. I will yield to my colleagues, and the Senator from Minnesota asked me first, if I may do so without losing my right to the floor, and I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, if the Senator will just yield to the Senator from Virginia for a minute, at some point I would like clarification of exactly what it is we are considering. There are three amendments at the desk. The Senator has not called them up. I have been handed a copy of what purports to be a fourth. And at some point I would like to address some of the technical aspects of these amendments.

Now, could the Senator enlighten us as to what procedure he desires to follow and when?

Mr. SPECTER. Mr. President, when the time is right I intend to call amendment No. 597 for consideration of the Senate.

Mr. WARNER. That would be the pending amendment when the time is right.

Mr. SPECTER. When the time is right.

Mr. WARNER. I hear Senators addressing "we agree with the Senator."

I certainly concur in the observations of the distinguished chairman about the State of Israel surrounded 360 degrees constantly by terrorist groups. We have to take that into consideration when we examine certain actions that they have.

But I want to get into specifics here as soon as we can about this amendment, and I would hope the Senator would direct the Senate's attention to the exact document that is under consideration at the earliest possible time.

Mr. SPECTER. Well, I have directed the Senate's attention to a specific document.

But I would be willing to yield to the distinguished Senator from Pennsylvania, my colleague, Senator HEINZ, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I just want to commend my friend and colleague from Pennsylvania, Senator SPECTER, for an extremely learned and thoughtful analysis both of the history of terrorism, the status of both domestic and international law, and the capability and capacity of our intelligence service to do as good a job as we would like them to do.

I do not think I have had an opportunity in the many hours that I have spent on this floor to hear one of our colleagues give as careful and reasoned an analysis and to propose such a rational and appropriate solution.

I might add that this is extremely timely not just because the DOD authorization is on the floor but because the life of a constituent of Senator SPECTER's and mine, Joe Cicippio, hangs in the balance. As we stand here, the minutes are ticking away and perhaps less than 48 hours from now the perpetrators of the absolutely heinous murder of Colonel Higgins may perpetrate another on our constituent Joe Cicippio.

It is completely accurate, as my colleague from Pennsylvania has said, that we have not been able to do as much as we would like, but that, as he also says, it is not true that we can do nothing.

If there was one argument—and it is a small one—I would have is that when he listed the large number of encounters that our servicemen and U.S. nationals have had with terrorists, where we have been successful, I would add one other successful example to the list and that is Libya, where we learned, beyond reasonable doubt, of Libyan involvement in blowing up our servicemen in Germany, and we took effective action directed at the perpetrators of that in Tripoli, including Mu'ammar Qadhafi. This country does have the knowledge and it does have the capability to take action against those who would take American lives.

Obviously, I think it is very important that whoever holds Joe Cicippio understands clearly that we have that capacity and capability and that there are many of us in the Senate who are going to urge or demand that the President take just as strong an action in the case of Mr. Cicippio and anybody else who might be next as we took in the case of Libya. And that means, Mr. President, so there is no mistaking it, the use of force to exact retaliation, retribution on anybody who is guilty. I hope that those who are listening are under no illusions, that we can do it, and we will do it.

I am very pleased the President has been reviewing every type of option, that all are on the table, be they covert or overt, including the use of strong and deadly force.

I thank my colleague from Minnesota as well as my colleague from Pennsylvania for yielding. But the hours and minutes are ticking away and I do not want them to be ticking away against the life of Joe Cicippio.

Mr. BOSCHWITZ. Will the Senator from Pennsylvania yield?

Mr. SPECTER. Mr. President, I have quite a bit more to say. It is the lunch hour and many of my colleagues have other commitments. I would be delighted to yield to the distinguished Senator from Minnesota, again if I may do so without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. Mr. President, I agree with the statements of both the Senators from Pennsylvania as well as the distinguished chairman of the Armed Services Committee, Senator NUNN.

The free world simply cannot exclude the use of force in dealing with terrorism. If we do so, we give terrorism a free ride; we, in fact, license terrorism, If you remove the penalty from terrorism, civilized society will suffer.

The New York Times yesterday ran a very fine editorial in this regard, And in it, it said:

> As a matter of principle and common sense, Israel and other nations subjected to terrorism have a right to pre-emptive and punitive action. Yes, that includes military operations for both rescue of hostages or kidnapping of terrorists. Yes, there are risks, sometimes tragic, for the innocent.
>
> Without that right of self-defense, civilized nations would all be held hostage by the most brutal.

Mr. President, that New York Times editorial said it well and said it conclusively; it also stated American policy. As some of my predecessors here on the floor have stated, it is the American policy to react and to react with force to terrorism. Libya has been cited as case No. 1. When we found that the Libyans indeed were responsible for acts of terrorism in Berlin, we took very harsh and punitive action.

Another case is that of the *Achille Lauro,* which was also cited. When we established that Abu Abbas was the mastermind of that act of terrorism, we found him on an Egyptian plane, forced that plane down in Italian territory, and took him into custody. Regretfully, he was later released.

In a third case, when we determined that Abu Nidal was undertaking an effort to spread terrorism to the West ern Hemisphere, the FBI snatched Mahmzid al-Abed Ahmad in Venezuela. President Reagan authorized such "snatch, grab and deliver operations" in January 1986.

Should we have allowed terrorism to spread to the Western Hemisphere? Should we reward terrorism by inaction? Should we criticize those who take active roles against terrorism? Should we equate those active roles against terrorism with the acts of the terrorists themselves? I think that would be a serious mistake, Mr. President.

The Senator from Pennsylvania has mentioned case No. 4, Fawaz Yunis, who blew up a Jordanian airliner. I do not believe any American lives were lost, but terrorism indeed occurred. Our forces lured him onto a boat and eventually abducted him and tried him, as the Senator from Pennsylvania has noted.

Grenada is case No. 5. When we saw American lives in jeopardy, we acted. We must use force selectively and judiciously, but we must use it to respond to terrorism. That is American policy. It does not tolerate terrorism.

This is what the President means, in my judgment, when he says that we will hold those committing acts of terrorism responsible. American actions have proven that this is our policy.

I was frankly, somewhat surprised and disappointed by the President's remarks, which appeared to equate to some degree, Israel's counterterrorism with acts of terrorism by the Hezbollah. Certainly, that should not be done.

Furthermore, breaking off the President's schedule and heightening the attention given to terrorism is not, in my judgment, the way to bring terrorism to heel.

I also must say that I consider the remarks of some who link the possible death of Colonel Higgins to the abduction of the Sheikh to be not helpful. First, it is not at all clear that the colonel is dead, and I hope that he is not. Second, the claim of his execution was first made at the time of the very regretful downing of the Iranian airline. As I recall, terrorists also said on a number of occasions that another American, Mr. Buckley, had been killed.

It is my hope that the colonel is still alive. I would simply point out that equating an act against terrorism with an act of terrorism does not contribute to the war against such uncivilized behavior. Instead I associate myself with the remarks of the Senator from Pennsylvania, the Senator from Georgia, and the Senator from Indiana who spoke before the press, as well as Senator MCCONNELL of Kentucky, who stated those who fight terrorism cannot be held responsible for terrorism.

Mr. President, I indeed agree with that position.

Mr. WARNER. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. BOSCHWITZ. I agree with the conclusion, "without the right of self-defense, civilized nations would all be held hostage by the most brutal."

I ask uanimous consent the entire New York Times editorial from which I just quoted be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 1, 1989]

BLAME HEZBOLLAH

Who is responsible for the killing of Lieut. Col. William Higgins of the Marines, if indeed he has been killed? Was Israel right or wrong in kidnapping Sheik Abdul Obeid, whom it believed to be a terrorist perhaps involved in the colonel's kidnapping? What should the United States do now?

Early last year, a faction of the Shiite Hezbollah kidnapped Colonel Higgins, a member of the United Nations Truce Supervision Organization in Lebanon. It contended that he was an American spy, but produced no evidence. Last week Israel abducted Sheik Obeid, insisting he was a terrorist leader. Immediately, the group holding the colonel threatened to execute him unless the sheik was freed. Yesterday the colonel's kidnappers announced that they had carried out their threat and distributed a videotape that they said showed his hanging.

Hezbollah, a group that proclaims loyalty to Iran, deserves full blame if the colonel's death occurred as reported. Iran, with influence over Hezbollah, would also bear responsibility.

Israel's abduction of the sheik in no way excuses Hezbollah's killing of an innocent man. The terrorist faction, calling itself the Organization of the Oppressed on Earth, merely used the abduction as a justification.

Bob Dole, the Senate minority leader, did not help clarify matters. "Perhaps a little more responsibility on the part of the Israelis one of these days would be refreshing," he said. Nor did the U.N. Security Council. It correctly called for the release of all hostages, but in so doing, it equated abducting Colonel Higgins with kidnapping Sheik Obeid.

As a matter of principle and common sense, Israel and other nations subjected to terrorism have a right to pre-emptive and punitive action. Yes, that includes military operations for both rescue of hostages or kidnapping of terrorists. Yes, there are risks, sometimes tragic, for the innocent.

Without that right of self-defense, civilized nations would all be held hostage by the most brutal. How else can terrorism be contained in places like Lebanon, where no central government can enforce justice, or in countries like Iran and Libya, which give succor to terrorists?

But the question here is not only one of principle but of effectiveness. If the Israeli goal was to abduct the sheik to set up an exchange for captive Israelis, is that a wise practice? Did Israel think there was a good chance the fanatical Hezbollah would approve an exchange? These are hard questions that Israel needs to address.

Israel does not consult the United States in advance of such operations. And Washington wisely does not seek such involvement. Only if Israel were to link its actions to the fate of Americans should Washington be advised. Nothing now suggests that Israel tied Sheik Obeid's future to Colonel Higgins's.

President Bush yesterday expressed his "outrage." He has to do more, quickly. First, he needs to put the blame squarely on Hezbollah and its sponsor, Iran. Second, he has to warn Hezbollah against carrying out its latest threats to kill more hostages—a warning that Hojatolislam Rafsanjani, the new President of Iran, who seems to want improved relations with the West, needs to heed as well.

Mr. WARNER. Would the Senator from Pennsylvania allow the Senator from Virginia to very briefly propound a question to the Senator from Michigan?

Mr. SPECTER. Without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I say to my friend from Minnesota, I associate myself with his remarks. We must always bear in mind the State of Israel literally for 360 degrees around its border is faced with most unusual circumstances. When we judge their actions we have to, the best we can, put ourselves in their position, living in that type of environment in sharp contrast to the relative security that we here in the United States enjoy.

Would my colleague not agree with that observation?

Mr. SPECTER. As long as I do not lose my right to the floor, Mr. President, this is fine with me.

Mr. BOSCHWITZ. Yes, I do.

Mr. WARNER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the distinguished Senator from New York had asked for leave to interrupt briefly. He has other commitments and I would yield to him, again on the understanding I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I ask the distinguished Senator from Pennsylvania, Senator SPECTER, to be included as a cosponsor of this amendment.

Mr. President, I want to compliment Senator SPECTER for bringing this matter to the floor of the Senate; for saying loudly and clearly that it is about time we began to ascertain what we are doing with the billions of dollars of assets that we have authorized and appropriated in the intelligence area.

I, for one, find it absolutely shocking that we do not have a better command of the hostage situation, not only to the seizure of Colonel Higgins but all of the others as well, some of whom have been held for 3 years or more.

Mr. President, I think it is about time that we began to demand an accounting of those committees who are charged with the responsibility of ascertaining that we are getting some results. Because it is pretty tough to go back and to justify to the American public time after time the statement that these terrorists are just a dark shadowy group.

How many times do we have to wait for these incidents to take place before we see to it that the assets that we are funding begin to develop and bear some fruit.

I have not seen it.

Mr. President, I want to take this occasion to say that Israel did exactly what it should have done in taking preemptive action against terrorists. If a nation or group sponsors terrorism, if they are promoting terrorism, then they should be at risk. And it is about time that the United States began to do more than spout rhetoric and pay lipservice. We keep saying that we are going to defend ourselves and our people, but we have been doing a pretty poor job up until now.

I have faith in our President and I think some people have misread him. I think he has the intestinal fortitude to do what should and must be done. This is one Senator who will support whatever action our President chooses to take, including the use of military force. Some people say, "Oh, do you mean that you would place at risk other lives by this?"

I would suggest that if we do not take some real action, risking lives is exactly what we are going to be doing; not only those who are held hostage now but we are going to precipitate a situation where terrorists will believe that they can continue to act and the United States will remain nothing more than a big, helpless giant.

Mr. President, before I conclude, let me say that there is no doubt in this Senator's mind that the terrorists attempted to mask the true circumstances of the murder of Colonel Higgins. We have heard from reports abroad, that there is a good likelihood that the colonel was killed some time ago. For anyone to say: Mabye he is alive is speaking nonsense. What poppycock. The terrorists actually masked the killing of the colonel.

They did not want to make a trade. Do you want to trade when you give somebody 24 hours? They could not trade because Colonel Higgins in all likelihood had already been murdered.

They can disprove this by making available the body of the colonel, but they haven't.

I think, Mr. President, it is about time for us to say to the Iranian leaders that we are going to hold you responsible for these acts of terrorism, because the evidence is conclusive and overwhelming in situation after situation. We should tell them to be prepared to pay the price.

We have the ability. I think the American people will support our President if he decides to use force.

Let us understand that state-sponsored terrorism and the use of these groups by the Iranians and other governments is nothing less than war. We have to be realistic and understand that sometimes the use of deadly force is absolutely necessary if we are going to defend our people and their legitimate interests. I support the distinguished Senator from Pennsylvania, Senator SPECTER, in his undertaking of this amendment and his courage in coming forward and placing this in the public view for discussion. We cannot continue to do nothing and give further encouragement to Iranians and others who have used this form of dreadful war. And that is what it is, it is a dreadful war which terrorists are waging on humanity.

I yield to the Senator from Pennsylvania and thank him for his courtesy.

Mr. WILSON. Will the Senator from Pennsylvania yield for a question?

Mr. SPECTER. I ask how much time I have left, Mr. President.

The PRESIDING OFFICER. Thirty eight minutes remain.

Mr. SPECTER. I do yield for a question.

Mr. WILSON. I thank my friend from Pennsylvania. Not at all parenthetically, Mr. President, I commend him for the amendment that he is proposing. I ask my friend from Pennsylvania, he is a member of the Intelligence Committee. I am not. I do not wish that in responding he violate any security or confidence.

But to establish the facts, we do not know at the present time whether or not Colonel Higgins is alive and we do not know whether or not he was executed as is contended by the Hezbollah. Is that correct.

Mr. SPECTER. I would respond to the distinguished Senator from California by saying that all I know about Colonel Higgins is what I read about him in the newspaper and that is, it appears that he has been executed. However, when the execution occurred, we do not know for sure.

Mr. WILSON. I would ask my friend what I am sure will seem a rhetorical question. It seems to me this makes a rather compelling case for the amendment that he is pressing.

The question, I suppose, would be: Does he agree? Obviously, he does because he is offering the amendment.

Let me then ask him this question. The Israeli Government has conducted a raid and they have abducted Sheik Obeid. In the New York Times editorial to which the Senator from Minnesota made reference, the statement is made that a democracy, a civilized nation, is required to defend itself and in fact the quote is that, in terms of the options available, "Yes, that includes military operations for both the rescue of hostages or kidnaping of terrorists."

Is it not true, I would ask my friend from Pennsylvania, that Sheik Obeid has been very clearly identified as the

mastermind of terrorist operations, including the abduction of Western hostages, including American citizens?

Mr. SPECTER. I would respond to my friend from California by saying that the information which we have received is just that.

Mr. WILSON. Does my friend agree with the New York Times, and I will tell him that I do, that a civilized nation, in order to defend itself and avoid risking the taking of further of its citizens as hostages, is fully justified in conducting the kind of operation that resulted in the kidnaping of this terrorist chief?

Mr. SPECTER. I would say to my friend from California that there is no question about the propriety of Israel's conduct under international law for a number of reasons. One reason is that Israel continues to be in a state of war with the nations in the Mideast, with the exception of Egypt, and that the response of Sheik Obeid is in the context of self defense. Beyond that where you have specific acts of criminality, the extraterritorial jurisdiction is something that Israel can rely upon, just as the United States relied upon extraterritorial jurisdiction in the case of Fawaz Yunis.

One of the things I think people do not understand and it is a message I have brought forward on a number of occasions that the Supreme Court of the United States in very blunt language in Kerr versus Illinois said it was appropriate in law enforcement—this is language of the law enforcement in 1886—to kidnap and bring to his country and against his will. Kerr was in Peru and then another civil libertarian Justice Hugo Black said in 1952 that it was appropriate to bring a person into the jurisdiction of a state by "forcible abduction."

So that when we are dealing with criminals, they do not have to be a terrorist. They can be guilty of much lesser offenses, as these two cases involved, Kerr being a fraud case; that is, a hardball matter and that kidnaping and forcible abduction is appropriate.

When Israel took that action, and many have criticized Israel for taking that action, it was entirely consistent with international law, with United States law, with recognized principles even for those who were noted civil libertarians.

Mr. WILSON. I thank my friend and, in fact, I think he has very eloquently, complete with citations, made the point that is in the New York Times editorial "without that right of self defense civilized nations would all be held hostage by the most brutal."

Let me ask a further question of my friend: Given the fact that some of the criticism of Israel has been on the basis that there was not adequate consultation with the United States about what the impact of this abduction of Sheik Obeid might mean in terms of American interests, would he agree that it is also quite arguable that if we are seen in the United States as essentially controlling decisions of the Israeli Government, that that would in itself have a very, very dangerous effect in terms of prompting the Hezbollah and other terrorist organizations to seize yet more Americans to bring greater pressure upon this Government in order to in turn bring pressure upon Israel?

Mr. SPECTER. The distinguished Senator from California raises a very good question which I will answer in a couple of ways. One is that Israel is a sovereign nation and has a right to defend itself. As the distinguished Senator from Virginia pointed out, it is surrounded 360 degrees by hostile forces on all sides, and it has to make its own decisions for its own self defense.

Second, if Israel starts to clear its judgments with the United States, it simply makes the United States a party to the action. It makes the United States involved. It is analogized to the 1981 action by Israel in taking out the Iraqi nuclear reactor where the action was independent so that there was no complicity or involvement by the United States.

If Israel is to check every movement with the United States, it goes against its sovereignty and it makes the United States, in effect, a party to that action.

It seems to this Senator that when the news of Colonel Higgins' assassination broke 2 days ago there was great concern and there was great anguish all over the world, including in the U.S. Congress. There were a number of responses which were made. This Senator refrained from saying anything. I could go back to the books and reanalyze the situation and deal with it in a principle context with the citations of authority as to what the United States ought to do by way of arrests, abduction, if necessary, to bring these terrorists to justice and what Israel had done.

Some people responded critically of Israel because of the horrible situation which, apparently, the result of which befell Colonel Higgins. Some criticized the United States for not telling it what to do. Israel was not under any obligation. In fact, it did the United States a favor in not communicating that information. It was under no obligation to do so. In fact, it would put the United States in a compromised position. What happens next? Are they to check with us on everything? Are we our brother's keeper?

Mr. WILSON. Mr. President, I thank my friend from Pennsylvania. I think his response is a correct one. I do not wish to take more of his time. I would say there seems to be a swelling chorus on this floor. I would associate myself with the remarks not only of the Senator from Pennsylvania but those that I heard made by the Senator from Georgia, the Senator from Virginia, and the eloquent commentary from the Senator from Minnesota.

It seems to me that we should not rush to judgment in a situation where there is, in fact, a justification cited by the Senator from Virginia for our ally to make its own decisions based upon its own needs and also we should reflect, as has the Senator from Pennsylvania, on the consequences if, in fact, we were seen as dealing in effect with an agent of the United States.

There is a very grave danger, in my judgment, that the United States would be subjected to the kind of pressure that would lead to the taking of yet more hostages. I think, Mr. President, that the amendment offered by the Senator from Pennsylvania is a very, very good thing, not only because of what it proposes to do in curing a defect in our own intelligence apparatus, our own capacity. I think in offering the amendment, he has also focused very wisely upon the setting in which we find ourselves in the Middle East.

I thank him for the generosity in yielding some of his time to my questions, and I thank him for his amendment which I support.

Mr. WARNER. Will the Senator from Pennsylvania yield for the purposes of letting the Senator from Virginia concur in his observations that we should not have an informal coordination between two sovereign nations on this issue of covert action.

Mr. SPECTER. Mr. President, I will conclude here in a few moments. I would like to thank my distinguished colleagues. There has been a parade of Senators who have come to the floor to support the amendment.

I am especially grateful to the distinguished Senator from Georgia, Senator NUNN, for his comments about the need for more HUMIN, which is the abbreviation for human intelligence. I think that is especially significant because the Senator from Georgia serves on the Intelligence Committee as I do. While we obviously cannot make any disclosures as to what we know in the secret proceedings of the Intelligence Committee, it is appropriate to make the comment that we do need more human intelligence; that the grave difficulty of locating our hostages, those great difficulties are very well known.

I think it very important, Mr. President, that there be a clear understanding of the propriety of action of the United States in taking someone like Fawaz Yunis in custody. As the Supreme Court said, it is appropriate to engage in a kidnaping under those circumstances; appropriate to engage in a forcible abduction under those circum-

stances so that we can see the power of a law enforcement tool when we take somebody in custody pursuant to a warrant of arrest. There has emerged from this discussion some support for broader action perhaps against Iran.

At this moment this Senator is not prepared to endorse that action. I do not do so because I am not privy to all of the facts which the President has available. I think that is really an executive decision. I do agree however, with my colleague, Senator HEINZ, who pointed out to the second success on Libya beyond Fawaz Yunis. I made a comment about that in my earlier remarks when discussing the possibility of action as to Iran. I believe that the comments which have been made by my colleagues on the floor today not only go to support the thrust of this amendment for more human intelligence so we can have more law enforcement a la the Fawaz Yunis case. Senator NUNN has made the comment that we should not be critical of Israel and when Senator WARNER has made the comment about the 360-degree encircling of Israel. Senator D'AMATO has spoken forcefully about the propriety of Israel's action, as has Senator WILSON and as has Senator BOSCHWITZ and Senator HEINZ as well. The record will show specifically what each has had to say, that is important in terms of the relationship between the United States and Israel, but it is important as to the propriety of extraterritorial jurisdiction to bring terrorists to justice.

AMENDMENT NO. 597

Mr. SPECTER. Mr. President, at this time I do ask that amendment No. 597 be formally considered by the Senate. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. NUNN. Mr. President, it may be that the Senator from Pennsylvania's amendment, the report he is calling for was just too much because I see the Senator from Minnesota has lost his stack and I understand they represent reports, but the amendment the Senator from Minnesota just endorsed also requires a report. I happen to think it is a very important report. I think all of us ought to be aware of it. You cannot have too many reports as we have just witnessed.

I say in all seriousness I think this is a necessary report. I frankly had already discussed with the chairman of the Intelligence Committee, Senator BOREN, the need to get into this area in the Intelligence Committee more than we have done. There has already been a good bit of attention. But I think this is a very timely set of observations by the Senator from Pennsylvania. I urge the Senate to support the amendment.

May I ask the Senator from Pennsylvania first, though, whether this amendment would also dispose of the other two amendments? It is my understanding the Senator has combined those. Is that correct?

Mr. SPECTER. Yes. I intend to only call up 597 and I do not intend to proceed as to 598 or 599.

Mr. NUNN. Does the Senator feel it would be appropriate for him to withdraw those other two amendments?

Mr. SPECTER. I am glad to do so at this time.

Mr. NUNN. We are trying to shorten our list here as the Senator from Minnesota shortens his stacks over there.

Mr. SPECTER. Mr. President, I do ask for the yeas and nays on 597.

The PRESIDING OFFICER. First the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 597:

At the appropriate place, insert:

It is the sense of the Senate that the Secretary of Defense and Director of Central Intelligence shall report by September 1, 1989, to the Senate Committee on Armed Services, the House Committee on Armed Services, the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence on efforts to locate American hostages in Lebanon, the resources dedicated to locating these hostages and how additional resources, in terms of funds and personnel, can be effectively utilized to locate these hostages and obtain their release.

Mr. NUNN. Mr. President, does the Senator believe he needs the yeas and nays on this amendment? The reason I ask is because we were in very late last night. We have a whole lot of amendments. If we are going to have the yeas and nays, I would at least like to try to have several of them at one time. We have two different impeachment panels meeting and we are trying to be sensitive at the request of the leaders to their time. I guess my question to the Senator is, does he need the nays and yeas?

Mr. SPECTER. I do need the yeas and nays, but I will be glad to defer the vote and will be glad to stack it on a 10-minute vote later in the day.

Mr. NUNN. Will the Senator be amenable to any time in the next couple hours?

Mr. SPECTER. Yes, I would be.

Mr. NUNN. For the benefit of Members, what I would prefer to do is to see that we have another amendment that has to be voted on, try to combine them and have a 15-minute and a 10-minute rollcall.

The PRESIDING OFFICER. Does the Senator from Virginia put that in the form of a request?

Mr. SPECTER. Before the Senator does that, if he would yield, I would suggest—I am on the Hastings impeachment panel. We have tried to work out the stacking at 5:30. We have Judge Hastings himself on cross-examination. We are about to resume in another 20 minutes.

Mr. NUNN. What time does that resume? It may be that we would be better off having this rollcall vote now.

Mr. SPECTER. That resumes at 1:30. There is time consistent with the duties of the impeachment committee, but I would be glad to put it off.

Mr. NUNN. Under those circumstances unless I have a leadership objection, it might be better to go ahead and vote while we are in recess. I hope we do not have very many rollcall votes today because if we do, we are going to have a hard time getting through this list of amendments even after cloture. If the Senator could suspend for a couple minutes and let the Senator from Minnesota begin, we would like to get the view of the majority leader on this as to the timing.

Mr. SPECTER. I do ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 653

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment. Is the Senator from Minnesota seeking consent to temporarily set aside the amendment of the Senator from Pennsylvania?

Mr. BOSCHWITZ. I do. I seek that consent, to set aside the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Hearing none——

Mr. NUNN. Mr. President, what was that request?

The PRESIDING OFFICER. Is there objection to the consideration of the amendment at this time by the Senator from Minnesota?

Mr. NUNN. Mr. President, is the amendment germane?

Mr. BOSCHWITZ. Mr. President, if I may——

The PRESIDING OFFICER. The Chair has not had the opportunity to review the amendment.

Mr. BOSCHWITZ. Mr. President, if I may——

The PRESIDING OFFICER. The amendment has not been filed.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I am willing to stipulate that the amendment is not germane. I will speak about it for just a moment or two, if I may, and then withdraw the

amendment. I understand that in the very strict postcloture environment the germaneness of amendments is very strictly scrutinized.

Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. President, I will speak briefly——

The PRESIDING OFFICER. The clerk will report the amendment first.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. BOSCHWITZ] proposes an amendment numbered 653.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . TERMINATION OF CONGRESSIONAL REPORTING REQUIREMENTS.

(a) TERMINATION.—Effective on January 1, 1991, any requirements imposed by law for the Secretary of Defense, the Secretary of a military department, or any other officer of the Department of Defense to submit a report to Congress (or to any committee of Congress) is terminated.

(b) POLICY CONCERNING EXCEPTIONS.—It is the policy of Congress that any exception to the provisions of subsection (A) will be enacted by law on a case-by-case basis and should only be made if (i) there is a unique and compelling rationale or requirement for requiring the report to be submitted and (ii) efforts to reduce unnecessary or redundant reporting requirements have been made and such a report is still justified.

The PRESIDING OFFICER (Mr. CONRAD). Is there objection to the consideration of the amendment?

Mr. NUNN. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. The Senator from Georgia reserves the right to object.

Mr. NUNN. Mr. President, was this amendment filed by the time of the cloture deadline?

The PRESIDING OFFICER. The Senator from Minnesota has sent an amendment to the desk. If the Senator from Minnesota had this amendment previously filed, it would be appropriate for him to call up that amendment.

Mr. NUNN. I ask the Chair, was this amendment previously filed?

Mr. BOSCHWITZ. If the Senator will yield, this is amendment 428, and it was appropriately filed.

Mr. NUNN. But it is not germane.

Mr. BOSCHWITZ. Mr. President, I am not the Parliamentarian. It is not for me to say that it is or is not germane, but I believe it is not germane.

Mr. President, if the Senator from——

Mr. NUNN. I do not want to cut the Senator off from the debate, but I would prefer that—I do not want to make a point of order until he has had a chance to speak on it. If the Senator would withhold further unanimous consent, then at some point I may need to make a point of order on this amendment.

Mr. BOSCHWITZ. Mr. President, has the amendment now been reported?

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. BOSCHWITZ. Mr. President, perhaps——

The PRESIDING OFFICER. Is there objection to consideration of the amendment which was not timely filed?

Mr. NUNN. Mr. President, I would have to object.

AMENDMENT NO. 428

(Purpose: To reduce the number of reports which the Department of Defense is required to submit to the Congress.)

The PRESIDING OFFICER. Then the clerk will report the amendment that was timely filed.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. BOSCHWITZ] proposes an amendment numbered 428.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

SEC. . TERMINATION OF CONGRESSIONAL REPORTING REQUIREMENTS.

(a) TERMINATION.—Effective on January 1, 1991, any requirement imposed by law for the Secretary of Defense, the Secretary of a military department, or any other officer of the Department of Defense to submit a report to Congress (or to any committee of Congress) is terminated.

(b) POLICY CONCERNING EXCEPTIONS.—It is the policy of Congress that any exception to the provisions of subsection (A) will be enacted by law on a case-by-case basis and should only be made if (i) there is a unique and compelling rationale or requirement for requiring the report to be submitted and (ii) efforts to reduce unnecessary or redundant reporting requirements have been made and such a report is still justified.

The PRESIDING OFFICER. Perhaps we need the Chair to clarify at this point that it is the Chair's understanding that the Senator from Georgia reserves the right to object on the grounds of germaneness to this amendment. Is the Chair correct?

Mr. NUNN. The Chair is correct. Mr. President, I do not have any real big problem with this amendment. I think the Senator is going to make some good points. But I think we have to maintain some degree of consistency. If we start waiving on these amendments we are going to have a very hard time.

Mr. WARNER. I join the distinguished manager.

Can the Senator give us some approximation of the time?

Mr. BOSCHWITZ. Eight minutes. I say to the distinguished floor leader and the distinguished Republican floor leader that I wanted to offer the amendment, immediately rather than making a long speech in advance of the amendment, and then offering it, which would have been very much in order. I wanted to do this in a way that was straight and up front.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, the amendment I have called up has to do with reports Congress requires from the Pentagon.

Mr. NUNN. Mr. President, will the Senator yield for a brief moment? The Senator from Pennsylvania I understand is willing to have a voice vote on his amendment if we could dispose of that while he is here.

Mr. SPECTER. If I may say, I had asked for the yeas and nays because of my view that there is more credence and force to an amendment when the yeas and nays are ordered. The distinguished majority leader has asked that I reconsider that request in the light of a very crowded calendar which the Senate faces on this bill. I am prepared to do that because I know what the facts are. We were here until very, very late last evening and to avoid that, as much as I would like to have the yeas and nays, in view of Senator MITCHELL's request and the status of the bill, I ask, Mr. President, unanimous consent that the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, if I may, I express my gratitude to the Senator from Pennsylvania in my behalf and in behalf of all Members of the Senate for his courtesy and cooperation on that.

Mr. SPECTER. I thank the majority leader very much.

Mr. WARNER. Mr. President, at some point I would want to address the Senator from Pennsylvania [Mr. SPECTER] with a technical observation by the Senator from Virginia.

Mr. SPECTER. If my colleague will yield to finish this, to have a voice vote to conclude the matter, we should be able to do so in a matter of a minute or two. If it takes 15, I will be back to the yeas and nays.

The PRESIDING OFFICER. Is there objection to resuming the consideration of the Specter amendment? Without objection, it is so ordered.

AMENDMENT NO. 597

Mr. WARNER. Mr. president, at the appropriate time will the Senator entertain a question from the Senator from Virginia?

Mr. SPECTER. I do so now.

Mr. WARNER. As we know, the Senator from Pennsylvania and I served together on the Intelligence Committee. I shall read the amendment which calls for a report by the Secretary of Defense by September 1, 1989, on the resources dedicated to locating these

hostages and how additional resources in terms of funds and personnel can be effectively utilized to locate these hostages and obtain their release.

It is the opinion of the Senator from Virginia that such a report should be in the form of a classified annex. It would be my intention to modify this amendment assuming it is adopted in the conference to reflect that but I would want beforehand to allow my good friend and colleague to observe this recommendation and make his comments.

Mr. SPECTER. I believe that is a constructive suggestion. I accept it.

Mr. WARNER. I thank the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that Senator KASTEN be listed formally as a cosponsor, and also that Senator D'AMATO be listed formally as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, this week we saw a bizarre, ugly, and incomprehensible action take place in Lebanon. An innocent American serving on a peace mission was brutally hung in full view of a video camera. We don't know whether Lieutenant Colonel Higgins was murdered this week, as portrayed by the fanatic, terrorist group known as Hezbollah, or whether that killing took place some time ago.

If, in fact, Lieutenant Colonel Higgins was killed in cold blood by Hezbollah terrorists, as we have reason to believe he was, it outrages everyone in the civilized world and must be harshly and unequivocally condemned. I have enormous respect for Lieutenant Colonel Higgins. An American on a United Nations peacekeeping mission in Lebanon, he was interested only in serving his country and the cause of peace in Lebanon. All of us deplore the death of Lieutenant Colonel Higgins—a true American hero—who distinguished himself in his service to our country. We grieve with his wife, Maj. Robbin Higgings, and his daughter, Christine. His death should deepen our resolve to do whatever we must to assure the safety and well-being of all of our citizens.

Mr. President, to me Hezbollah is nothing more than a band of savages. It has chosen to characterize this murder as an act of retaliation in response to the capture of Sheik Obeid by Israel. Obeid is a leader of Hezbollah, which is an enemy of our country and the entire civilized world.

Sheik Obeid was captured by the Israelis in an attempt to free hostages from the United States and other countries. Israel's decision to take action to free those captives is in sharp contrast to the wait and see policy followed by most free nations around the world, which has proven to be totally ineffective.

This week, Mr. President, comments were made on the floor of the U.S. Senate, that suggested that somehow Israel shared in the responsibility for the assassination of Lieutenant Colonel Higgins. When I heard them, I was shocked and disappointed. Those kinds of statements serve the case of fanaticism and terror. Those kinds of comments question the common mission of the United States and Israel to search for a world free of intimidation and fear. Such criticism is misplaced and counterproductive. It is wrong and unfair.

We all feel outrage and despair at the murder of yet another innocent American in Lebanon. But our anger must be directed at those responsible for this heinous crime—at Hezbollah, which claims to have killed an innocent American on a mission of peace—not at Israel.

To suggest that it was Israel that caused Hezbollah to kill Lieutenant Colonel Higgins, is to buy into Hezbollah's cynical and misguided propaganda. Many Americans have lost their lives in Lebanon and elsewhere to terrorists, despite what Israel does or doesn't do. In fact, it was the same Hezbollah that claimed credit for the truck bombing in 1983 in Lebanon that caused the loss of 241 marines, and the car bombing of our Embassy in Lebanon in 1984 that again took innocent American lives.

Moreover, Americans have continuously been the victims of terrorist attacks, from the bombing of the Pan Am flight over Scotland to the attack on the *Achille Lauro* and other incidents too numerous to name. Americans, because of what America stands for in the world, will probably continue to be targets of terrorism. To ascribe any one incident to Israel's actions is simply wrong.

It is also dangerous. It plays directly into the hands of our enemies. Hezbollah would like nothing more than to drive a wedge through the close alliance enjoyed by America and Israel by blaming Israel for Hezbollah's slaughter of innocent Americans. It suits Hezbollah's purposes to commit these despicable acts and try to lay the blame at Israel's door. We should not buy into that twisted logic.

We cannot second guess Israel's decision to seize Sheik Obeid. Israel and her citizens have been directly threatened by Obeid and took action to defend herself. He has been implicated in the kidnaping of Americans as well as Israelis. He is a military leader of the Hezbollah, the main force resisting Israel's presence in southern Lebanon.

Nations whose citizens are victimized by terrorists continuously face the issue of whether to take preemptive or other action in their own defense. One of the options available is the use of military operations to rescue hostages or capture terrorists who victimize their citizens. To totally forgo those options would leave civilized nations at the mercy of terrorist groups and their state sponsors, with very little ability to act in their own behalf.

America has taken such actions in the past, when we lured a hijacker onto an American boat when he fled Lebanon to avoid capture and punishment for his crime. The United States has worked with Colombia to seize drug traffickers. President Reagan bombed Libya in response to Libya's bombing of a German discotheque which took the lives of American soldiers abroad.

Mr. President, the President has been meeting with his advisers on what steps the United States should take in light of the apparent assassination of Lieutenant Colonel Higgins, and the threat to kill yet another American within the next 24 hours. We must make it clear that we will hold those who carry out such cold-blooded murders responsible for their actions. We must make it clear that no option, including military retaliation, has been ruled out—against terrorist murderers or their state sponsors. We must also use every diplomatic means available to us to put a stop to this barbaric behavior from here on out. Clearly, we should develop a more effective policy for dealing with terrorism and stop blaming Israel for the dastardly acts of terrorists.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 597) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 428

Mr. BOSCHWITZ. Mr. President, is the amendment that I have offered now the regular business of the Senate?

The PRESIDING OFFICER. The Senator is correct. The pending business of the Senate is the amendment of the Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, the purpose of this amendment is simple. It is an attempt to bring under control the flood of reports Congress now requires of the Pentagon.

Congressional reports are definitely a growth industry Congress now requires almost 20 times as many reports from the Pentagon as it did in 1970, many of which duplicate information found somewhere else or involve Congress in a lot of micromanagement.

My amendment would simply terminate all current reporting require-

ments and set down guidelines for future reports Congress requests. Obviously, Congress can still mandate reports that are vital. This amendment simply provides that those reports be requested on a case-by-case basis and only be requested if: First, there is a unique and compelling rationale or requirement for requiring the report to be submitted; and second, efforts to reduce unnecessary or redundant reporting requirements have been made and such a report is still justified.

The need for this amendment is clear. In its effort to oversee the Pentagon, Congress has become a micromanager that can't manage. Congress has imposed some 1,500 separate laws or regulations dealing with procurement, 100 committees and subcommittees have some part of the oversight of the Pentagon, and the demand for reports has grown astronomically—from a mere 36 in fiscal year 1970 to an overwhelming 661 in fiscal year 1989.

These 661 reports consume an astounding 370 man-years of time to prepare, at an estimated cost to the taxpayer of nearly $36 million. That is double the 182 man-years and $18 million spent on reports just 2 years ago. This year, one report alone cost nearly $2 million to prepare. The average cost of a report was $54,000. That is almost twice the average family's income; Congress spends it on one report.

Mr. President, stacked next to me are approximately 5½ feet of Defense Department reports which respond to congressional reporting requirements for this fiscal year—the one we are in now. And these are only the unclassified reports. If I could bring the classified reports onto the floor, the stack would be approximately twice as high. How many of us are going to read even a single one of these reports? How many of us have ever made use of these reports which we compel the Defense Department to produce?

I regret to say that it looks like next year's stack will rival this one. The House Defense Department authorization report for fiscal year 1990 lists 215 new separate reporting requirements, a 36-percent increase from last year's 158 mandated reports. This includes a requirement to report on how successful the marketing effort is for the dental plan for Defense Department dependents and a report on the sale of books and magazines by military exchanges.

More reports will be requested by the Senate. Then new reports will be required by the Appropriations Committee of both Chambers. At the current rate, we will easily surpass the 661 reports required in 1989.

Not surprisingly, we have gotten involved in a level of detail unimagined in 1970. The reports requested for the 1988 fiscal year included a report on morale and recreation programs and two reports on the supervision of nurses.

The growth in reporting requirements has exceeded any reasonable need for information. Indeed, Mr. President, some of these reports may continue to be submitted because no one takes the time to read them and decide they are no longer useful.

My amendment would address that situation by requiring Congress to make a specific request for each report, and not just set up a stream of annual reports that may or may not be of use.

Is there, for instance, a need for the Pentagon to report to Congress on the health of the domestic textile industry? I suspect that report has more to do with protecting our workers from foreign competition than protecting our soldiers from foreign enemies.

Is there a need for a special report on all research and development contracts made during the preceding 6 months which exceed $50,000? The same information is maintained by the Federal Procurement Data Center and is available to the public.

Is there really a need for the Secretary of Defense to report biennially to Congress on special pay for health professionals? These kinds of reports do not improve our management of the Pentagon. They only waste money and distract us from our more important responsibilities of oversight.

I repeat, Mr. President, the time has come for us to become part of the solution, not part of the problem. If we really want to curb the growth in reports, we should begin with this amendment. It is, to be sure, only a first step, but it will lay down the principle that Congress should manage, not micromanage.

Mr. President, I want to illustrate to my colleagues how many reports the various agencies of Government must make to the Congress. There is here a booklet about reports required by Congress. This is a booklet of 175 pages. There are approximately 20 or 30 reports on each page, and so there are approximately 4,000 or 5,000 reports which must be submitted to Congress from agencies each year.

Six hundred and sixty-one reports have to be submitted by the Department of Defense to the Congress this year. This stack before me, which so unceremoniously fell a few moments ago, is one of the unclassified reports that the Department of Defense must make to the Congress. It is over 5 feet tall. The classified reports are a stack that is as large as this once again.

I would imagine there is no one among us who has read more than 10 or 20 of these 661 reports. My amendment would simply terminate all current reporting requirements and set down guidelines for future reports Congress requests.

It will be my continuing effort to reduce the numbers of reports that must be made to Congress, reports that are seldom if ever read, reports that consume the time and energy of the Department of Defense and other Departments of the Government, reports that are an example of our micromanagement.

I do not mean to maintain that all 661 reports are useless, not at all. I think some of the reports serve very useful purposes. But I think the time has come for Congress to look carefully at the reports that it requires from the various agencies of Government, and I will bring this matter to the attention of the Senate a number of times during the course of the appropriations process particularly. While this amendment is not germane at this time, it nevertheless will be germane on the defense appropriations bill when it comes before the Senate.

Mr. President, I withdraw the amendment. I yield the floor.

The amendment (No. 428) was withdrawn.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, we commend the Senator from Minnesota. I think that is a very constructive observation. I would, however, observe that the reports that the Senate received—and the House from time to time—on the B-2 bomber have been very helpful in working our way through the difficult decisions of late.

So the Senate did observe but did not always value this, but indeed we should monitor more closely the burden that we put on the Department of Defense and indeed the cost borne by the taxpayers.

Mr. NUNN. Mr. President, will the Senator yield for a brief moment? I do not want to interrupt the leader. While the Senator is here, I want to commend him for bringing these to our attention, first of all.

I constantly do that in our committee, and I have ordered the staff to review every report that we require in committee and eliminate any duplication. I urged members to be very cautious. Back on the Goldwater-Nickles bill, we had a requirement that there be a zero baseline. We required that the DOD issue one other report. We asked them to tell us which one they wanted to retain. I noted the degree of amusement.

Secretary Cheney complained about reports, but I also—and I have not had a chance to talk to him—refer him and everybody back to April 1, 1987, under the DOD Goldwater defense, telling us which reports they wanted to retain. I counted the numbers, and I will give the Senator a copy. We get up to 178

annual reports that DOD themselves objected to eliminating.

I say this is a subject that needs to be carefully monitored. The DOD themselves feel they greatly benefit from some of these reports. We need to look at them very carefully.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. I thank the Senator from Georgia. I quite agree that some of these reports, as I said in my remarks, have a useful purpose, but if they want 178, that would be a reduction of almost 500. I say to my friend from Georgia that the House this year requested 215 additional reports in the defense authorization bill. I hope that he and his committee and his staff will look at ways to reduce these reports. It is a shame to waste the taxpayers' money and the time of the Pentagon to write reports that really are not necessary.

Mr. NUNN. The Senator makes a good point. I will do my best, but I have found it is a very difficult task. So many times the report is in lieu of something that might be much worse.

A lot of times the Department of Defense comes over and says, my goodness, stop them from doing this, stop them from doing that, and you say why do we not do that? They say, "We will give them a report." So that happens over and over again. I think we have to recognize that is the legislative nightmare.

Mr. BOSCHWITZ. I might say to the Senator that I had those very instances in mind when I said that indeed there was some usefulness in some of these reports.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I commend the managers for the effort that they are making to move this bill along. The distinguished Republican leader is present on the floor, and we have discussed this matter and have reviewed the list of remaining amendments.

For the information of Senators, we are now down to approximately 15 remaining germane amendments. It is our hope that not all of them will be offered. However, we are now in the second week of consideration of this bill, and I am asking all Senators who do have an amendment that they want to offer, to immediately come to the floor, to be present and ready to offer the amendment.

There can simply be no excuse, well into the second week of the bill, for a Senator not to be prepared to offer the amendment. If Senators are cooperative, it is conceivable that we could finish this bill as early as 5 or 6 o'clock this evening. Then we have some other matters, which would take a short time, and we can be well along toward completing our business, as required, before we go into the recess after this week.

So I urge the Senators who have amendments to come to the floor now, to be prepared to offer their amendments, for themselves, for the principles that they advance, and in consideration of their colleagues. We can finish this bill reasonably promptly now, if Senators will cooperate in that regard.

I yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, I thank the majority leader. I am looing at a list of amendments. Apparently, counting every amendment, there were about 51. Twenty-two have been disposed of. But I have a feeling that many of the others—the majority leader probably had that computed in his total—will not be offered. So I am sure there are somewhere around 15 or 20 amendments that still can be offered.

I will ask the staff on this side to contact each Republican Senator here who has an amendment and advise him to let us know no later than 2:30—maybe even before than at 2:15. There are not that many. Let us know whether or not they plan to offer the amendment. That would help the managers in determining what course to pursue. Hopefully, we can finish even before 5 o'clock.

It is my understanding that we would like to avoid rollcalls, if we can, because we have the Hastings matter, and those who feel compelled to offer amendments, hopefully, would be willing to accept voice votes. Maybe some will be accepted. We will make every effort to cooperate with the majority leader and hope to have available to Senator WARNER, our manager, a list of those who really intend to offer their amendments, no later than 2:15, 2:30.

Mr. MITCHELL. Will the distinguished Republican leader yield?

Mr. DOLE. Yes.

Mr. MITCHELL. May I ask that the request be framed so if they are going to offer an amendment, they be present at 2:15, as opposed to merely indicating that they intend to offer the amendment at some later time. I am advised that there are only—not counting the manager of the bill—seven Democratic Senators who have amendments listed. They will each be telephoned now by the staff and urged that if they are going to offer the amendment, that they personally be present on the floor immediately to offer their amendments and to be prepared to proceed.

Mr. WARNER. Mr. President, I wish to advise both leaders that, coincidentally, there are seven Republicans with amendments. That adds up to the 14 or 15 that the Republican leader mentioned. At the time the Senators appear, as stated by the leadership, at 2:15, the managers will try and order them sequentially so as to convenience various Members' schedules, and I think we can finish by 5 o'clock.

Mr. MITCHELL. I again thank the manager for their effort and hope that, for the benefit of all Senators, we will be able to get this done at a reasonable hour later today.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

THE ROOT OF THE PROBLEM

Mr. DOLE. Mr. President, in the past couple of days, quite a bit has been written and said about some remarks I made about Israel.

I welcome the attention that has been focused on this matter. I do not believe my remarks in any way have driven any wedge between the United States and Israel; in fact, I think 180 degrees the opposite of what really happened.

My basic message to Israel is this. We are in this together. We both have vital interests at stake. Whenever possible we ought to act together; and always we ought to take fully into account the vital interests of the other, when we contemplate unilateral action.

That is the way to avoid any wedge being driven between us.

But this morning I really want to make a separate point. As I say, I welcome the attention paid to my remarks on Israel. I think it is important that we focus on this relationship, as strong as it is. But I regret that not more attention has been paid to remarks I have been making over many months about Lebanon—the country where Colonel Higgins' tragedy has been played out; and where countless other tragedies have become a daily way of life.

We are not going to get a handle on the problem of terrorism—until we get a handle on the problem of Lebanon.

We are not going to secure a broader Middle East peace—if we are not able to bring about an end to the fighting in Lebanon.

We are not going to ensure Israel's security—if we cannot restore Lebanon's sovereignty and territorial integrity, and reestablish a national government and national military force in control of its own territory.

I want to include in the RECORD at this point an editorial that appeared in today's Washington Post, which makes many of the points I have been making for many months.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY FRET OVER LEBANON?

If you need a reminder as to why the company of nations cannot afford to let Lebanon slip into terminal violence and anarchy, it has been provided by the murder of Lt. Col. William Higgins. His killers have found protection and sanctuary, and perhaps could only do so, in the condition of lawlessness that defines Lebanon today. Otherwise there would be some sort of official apparatus or "address"—as in Libya—that others could hold responsible for acts against the code of nations. The Iranian-supported Hezbollah or Party of God, which boasts of the brutal assassination of Col. Higgins, could not be the menace it is if Lebanon were a halfway decent operating country again.

Unhappily, the Higgins affair takes place as Lebanon is in an unchecked free fall. Long ago the vying Christians and Moslems inside the country made the fatal error of seeking help from outsiders. Now the parties have become pawns of their would-be protectors, which pursue missions of power-flexing utterly unrelated to the welfare of their clients. This is how Syria, working with and through Moslem and Druze militias, comes to be contesting Iraq, which sponsors the Christian-led armed forces commanded by President Michel Aoun and the Christian militia called the Lebanese Forces. The Syrian-Iraqi battle of wills over the past four of five months has been awful even by the standards of Lebanon's 14-year civil war. The weapons become heavier, the targets less restricted. Hundreds of civilians have been killed, hundreds of thousands driven from their homes, the country wasted.

Just this week a thin but vital cord to hope was cut when an Arab mediating team, saying its mission had failed either to engineer a cease-fire or to start up a political process, quit the Lebanese field. It was a cruel blow. The broad Arab world is anguished by events in Lebanon. But as in the Iran-Iraq war, at any given moment the broad Arab (and Moslem) world takes a certain comfort in seeing its most powerful and bellicose members distracted by struggle with each other.

The Lebanese have failed to resolve their own affairs. The Arabs have failed to do it for them. That leaves one possible untried: to widen the circle of those concerned to restore Lebanese sovereignty. Lebanon never gets on those lists of "regional disputes" supposedly primed for Soviet-American addressing. Is it getting to be time?

Mr. DOLE. Mr. President, the Senate has passed a number of resolutions on Lebanon, the most recent a resolution jointly sponsored by the distinguished majority leader and myself.

That resolution calls on the administration to make Lebanon a high foreign policy priority, and urges that we use all the leverage we have with the Soviet Union, with Syria, and with others involved in the conflict to permit the Lebanese to decide their own affairs.

Undertaking that kind of concerted effort is essential to dealing with the ongoing, bloody crisis in Lebanon. And, as I said, it is an essential step if we are ever to end—once and for all—the repetition of the events we have seen, and the fate Colonel Higgins has suffered, in Lebanon.

"WHAT DID THE ISRAELIS THINK WOULD HAPPEN?"—AN OPINION PIECE IN TODAY'S NEW YORK TIMES, PROFESSOR ULLMAN BRINGS NEW LIGHT TO HOSTAGE DEBATE

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an excellent op-ed piece in today's New York Times concerning the apparent execution of Colonel Higgins and the Israeli abduction of Sheik Obeid.

It raises many of the points I have been talking about during the past 2 days on the Senate floor as we try to deal with this latest tragedy in the Middle East.

Professor Ullman also raises some new points as well, and I would urge my colleagues to read his excellent editorial contribution to the hostage debate.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHAT DID THE ISRAELI THINK WOULD HAPPEN?

(By Richard H. Ullman)

PRINCETON, NJ.—Two things must be said loudly and clearly about the proclaimed execution Monday of Lieut. Col. William Higgins by Hezbollah terrorists. The first is that his killers must be brought to justice and—somehow, somewhere—be made to pay the price of their inhumanity. They are guilty of brutal murder. They are wholly responsible for their actions. Nothing must be allowed to blur that vital fact.

Second, however, is that the leaders of Israel should have realized, when they set in motion the operation that resulted Friday in the abduction from Lebanon of Sheik Abdul Karim Obeid, that their actions were overwhelmingly likely to unleash a chain of events that would give rise to no good.

This is not to charge the Israelis with Colonel Higgins's death. Hezbollah alone must bear that blame. The Israelis should be charged instead with something approaching gross negligence and, not for the first time, with a disturbing failure to think through the consequences of their actions.

It's hard to imagine why the Israelis could ever think they could trade Sheik Obeid for their own military personnel, who were captured during an earlier raid into Lebanon. Israel is a state that adheres to the rule of law. Its law forbid capital punishment and require that prisoners be treated according to a minimum standard of decency.

Accordingly, Hezbollah knows that no matter what it does Sheik Obeid will face not execution but a hard, yet far from unendurable, existence in prison. His captivity may be indefinite, but someday it will end. By obvious contrast, Hezbollah is bound by no such code of conduct.

Surely, it should have been forseeable that, rather than release Israeli prisoners, Hexbollah would find in the kidnapping of Sheik Obeid a windfall opportunity to execute one or more of its non-Israeli hostages and thus to drive a wedge between Israel and its friends, first among them the United States.

Israelis will argue that for their friends to perceive a connection between the abduction of Sheik Obeid and the announced murder of Colonel Higgins is to embrace the terrorists' cynical logic. That is correct, but beside the point. Hezbollah seems simply to have rejected the Israelis' own equally arbitrary logic, which linked Sheik Obeid to Israeli prisoners.

Like the Western democracies, Israel will never be able to match its terrorist opponents tit-for-tat. In that deadly game of poker, the terrorists will always be able to up the ante.

For, if the democracies try to match them, they will erode the principles that in the long run will enable them to prevail.

The kidnapping of Sheik Obeid and the announced murder of Colonel Higgins come at a moment when Israeli politics have been particularly in disarray; indeed, the events may have been a product of that disarray. The Government of Prime Minister Yitzhak Shamir fears losing ground to its hardline, right-wing opponents. It has behaved as if under seige, both at home and abroad. That may explain why it reached out to seize Sheik Obeid.

Similarly, its recent statements have underlined the scope and violence of the intifada—the campaign being waged by Palestinians against the occupation of the West Bank and Gaza. Its response has been as short-sighted as its abduction of Sheik Obeid.

Instead of emphasizing what the Palestinians might gain by means of a peaceful process of political change, it has minimized what elections might achieve and has emphasized instead the need to increase the punishment its armed forces are meting out. The likely result is an intensification of the intifada.

When Hezbollah announced the death of Colonel Higgins, some Americans criticized the Israelis for failing to consult Washington before kidnapping Sheik Obeid. Demands for consultation are misguided, for consultation would inevitably bind the U.S. more tightly to disastrous Israeli policies.

Thus, the Bush Administration should seek more distance between the U.S. and Israel rather than less. It should be more forthright in its condemnation of Israel's refusal to recognize both the legitimacy of Palestinian claims for self-determination for the West Bank and Gaza and its reluctance, also, to acknowledge that its continued occupation of a "security zone" in southern Lebanon is counterproductive.

And when enough time has passed to make it clear that Washington is not "blaming" Israel for the death of Colonel Higgins, it should state in the strongest terms its opposition to actions like the seizing of Sheik Obeid.

The administration should be under no illusion that adopting such a stance would be likely to have a decisive effect upon the fortunes of the remaining American hostages in Lebanon.

Too little is known about the agendas of their captors to justify such confidence. But a concerted push for a political solution both to the Palestinian question and to the turmoil in southern Lebanon would, over the long run, do much to erode any sympathy for gangsters like the members of Hezbollah. Then, eventually, they might even be brought to justice.

Mr. WARNER. Mr. President, I wish to commend the distinguished Republican leader.

I certainly wish to associate myself with those remarks. While it has not been announced to date with respect to when the President might have his first meeting with Mr. Gorbachev, I would be one to suggest that this be

an agenda item, because as the distinguished Republican leader observes, based on his extensive experience, this problem in the Middle East hinges around the disruption in Lebanon.

Those of us who were privileged to have seen Lebanon before this strife remember it as being the Paris of the Mediterranean, a center of culture, a center of religion, and let us hope that those roots are still there and they can be nourished someday in an environment of peace and prosperity.

The people of that country have suffered immeasurably for reasons which are very perplexing to the world at large.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991

The PRESIDING OFFICER. The Senator from Illinois.

PROPOSED BASE-CLOSING AMENDMENT

Mr. SIMON. Mr. President, I offer an amendment.

The PRESIDING OFFICER. Is there objection to the consideration of this amendment at this time?

Mr. NUNN. Mr. President, I reserve the right to object. I do not want to prevent the Senator from discussing his amendment, but I do not want to, in any way, stipulate that the amendment is germane or waive germaneness based on agreeing for him to send an amendment to the desk.

So I inquire of the Chair, was the amendment filed on time and is it germane?

The PRESIDING OFFICER. The amendment has not been filed on a timely basis, and the Chair has not had an opportunity to review the amendment for germaneness.

Mr. NUNN. May I suggest the Senator withhold actually sending the amendment to the desk—I know he has some important things he wants to say about the amendment—and go ahead and discuss the amendment while the Chair is reviewing the germaneness.

I would like to have a little dialog with the Senator from Illinois.

Mr. SIMON. Mr. President, I appreciate that, and let me just add that we will at an appropriate time offer this amendment. Let me just describe very briefly what the situation is.

Let me add that my amendment is cosponsored by my colleagues, Senator DIXON, Senator LAUTENBERG, Senator BRADLEY, Senator DECONCINI, and Senator MCCAIN.

What the amendment says is that where the GAO finds there are significant errors made by the commission in this base-closing study, significant errors that would change the ranking so that there would be a different result, then there has to be reassessment by the Pentagon.

We have one example in Illinois. We have more than one base to be closed in Illinois, but in one base there clearly were some massive errors made, and that is Chanute Air Force Base.

I yield to Senator BRADLEY.

Mr. BRADLEY. Mr. President, I am pleased to join my colleague from Illinois, Senator SIMON, in cosponsoring this amendment to the Defense Authorization Bill which relates to base closures. This amendment will require the Comptroller General to certify that no significant errors were made before particular bases may be closed. The GAO is presently examining the pertinent data to determine which bases were analyzed using incorrect information. This amendment would remove any bases from the base closure list where signficant errors were made. Mr. President, this is a simple amendment based on fairness.

This amendment does not set out to undo the legislation which created the base closure Commission: instead it will legitimize the process of closing bases. It will permit Congress to correct errors and not simply accept them and allow them to become law. The Base Closure legislation dictated that objective standards be used to close obsolete bases and to allow the Department of Defense to consolidate facilities which would actually enhance mission efficiency. The military value of a base was to be a significant factor in the decision of whether to keep a base open. In the case of Fort Dix and Chanute Air Force Base in Illinois, substantial errors were made which caused the Commission to underestimate the military value of these bases.

The Base Closure Commission's decision to reduce Fort Dix to semiactive status was based on flawed information and clerical errors. The GAO has already found that errors were made in deciding to reduce Fort Dix to semiactive status. During phase I of the analysis, where bases were rated on military value to determine candidates for base closure, the Commission had inaccurate information from the Army on the conditions of facilities at Fort Dix. Actual facilities, with recent modernization, are in better shape and require less maintenance than the Commission believed in performing its analysis. The GAO also found that a clerical error resulted in Fort Dix being given a marginal rating instead of an acceptable rating, the highest rating available. This scoring had to do with the base's relationship to reserve forces. These errors placed Fort Dix seventh in military value out of eight bases considered for possible closure under the training function. If the analysis had been done correctly, Fort Dix would have ranked number one in military value.

Mr. President, I believe these errors are substantial and I think any fair-minded person would have to agree. As important as fairness should be in this process, it is not the only consideration. The Commission was touted as an instrument to save billions of dollars of wasteful spending. When this Commission was set up, its mission was to take a hard look at the future needs of the military and to determine what facilities were necessary to meet those needs. In the cases of Fort Dix and Chanute, the Commission has failed this simple test by making errors and using incorrect information. Now, because of these errors, millions of dollars will be spent to upgrade receiving bases when Fort Dix is mothballed. This makes no sense. It will not serve the American taxpayer, nor will it serve the military needs of this country.

This amendment will compel the Commission to honor its own standards. It is not sensible to accept blatant errors which could cost millions of dollars in new construction. These errors should not go uncorrected. I urge my colleagues to support this amendment and allow the Comptroller General to determine where the Commission made significant errors, and remove these bases from the base closure list. By supporting this amendment we can put reason and objectivity into this process.

Mr. MCCAIN. Mr. President, I do not like to have to support an amendment that forces a review of the work of the Commission on Basing Realignments of Closures. I believe that the Congress should stick to its bargains with the executive branch, and that Members of Congress should not block overall savings to the Federal budget in pursuing the interests of their own States.

In this case, however, the executive branch does not seem to have kept its bargain with Congress and there is an extremely high probability that the apparent savings produced by the Commission will lead to actions that will increase the ultimate burden on the taxpayer.

I do not say this lightly. I have already worked with Members of the Arizona delegation to require a GAO investigation of the Commission's recommendations relating to the move of the U.S. Army's Information Systems Command from Fort Huachuca to Fort Devens.

I have had my staff meet at length with the staff of the Commission. I have examined the transcript of the Commission's work, the materials it used, and materials provided by the command—which has strongly opposed the move.

As a result, I believe that the Commission on Base Realignments and Closures has done a serious injustice to the U.S. Army Information Systems Command and the people of Arizona.

In calling for the move of the Information Systems Command from Fort Huachuca to Fort Devens, the Commission made recommendations relating to the transfer of the Army Information Systems Command from Fort Huachuca to Fort Devens that neither the Commission's staff nor the Command supported at the time.

Let me be more specific. My office met on March 4, 1989, with members of the Commission staff. The most senior member of the Commission staff then made it clear that members of the Commission twice overruled the staff's recommendations to close Fort Devens, and did so in total disregard for cost and impact on the taxpayer. The rationale was that a few commissioners believed that the Army's only major east coast base with large-scale training facilities should not be closed as a matter of national priority.

Rather than use the kind of integrated model and systematic approach to analysis presented in the Commission's reports and testimony, the Commission made its judgments as part of a package that was justified largely on the basis that the consolidation of command functions was a proper end in itself. Further, these decisions were made during the last days of the Commission's activity, and as part of a large package of decisions.

The GAO is already investigating whether any of the Commission's conclusions relating to cost-benefits were accurate. It has long been clear, however, that the U.S. Army Information Systems Command has concluded that the move will not benefit the U.S. Government.

General Rogers, the Commander of ISC, has told my office that executing the Commission's recommendations will disrupt the operations of ISC for years because they failed to take into consideration a host of operational and cost factors.

For example, the staff of ISC put the true cost of military construction for moving the intelligence school and ISC at $92.15 million for Fort Devens and $162 million for Fort Huachuca. This compares with cost estimates by the Commission of $45 million for Fort Devens and $56 million for Fort Huachuca.

The Army officers in charge of the move, who are based at Fort Huachuca, also told my staff that the Commission ignored many of the real-world support and infrastructure costs necessary to make such a move feasible, and that these costs include changes in medical facilities, roads, service facilities, Corps of Engineers costs, and a number of other areas where the Army does not yet have even preliminary cost estimates. Further, the Commission seems to have used a wrong area factor for Fort Devens, and to have used a factor of 0.9 rather than 1.3. This sharply understated the true cost of locating in the Fort Devens area.

General Rogers also has told my office that neither he nor the commander at Fort Devens were ever explicitly consulted about the merits of moving ISC to Fort Devens, and that if he had been consulted, he would have stated that Fort Devens would be the least desirable facility for the consolidation of ISC on the east coast.

These cost issues may stem in part from the Commission's use of the dated and inaccurate information in a study called the Facilities Vision Study. In any case, the working data provided to me by the Office of the Secretary of Defense indicate that the Commission seems to have rushed this particular recommendation through without adequate validation of its cost estimates.

Further, I believe that the GAO will find that the Commission used a much longer payback period in this case than for other closings and realignments. In fact, I believe the GAO will find the Commission used a payback period that seems to have been designed to find a cost justification, no matter how forced and artificial, and used manpower numbers that are internally inconsistent and disagree with those that would have been provided by ISC.

ISC also indicates that at least 80 percent of its best trained and most skilled personnel will not make the move to Fort Devens, and that the end result will disrupt ISC's operations for years. It has concluded that it cannot hope to attract the skills and quality of personnel it needs with existing salaries and grade structures because of the higher costs in the Fort Devens area.

The Commission even called for the relocation of people at Fort McPherson that do not even belong to ISC, and for the move of personnel at Fort Belvoir that perform vital service functions in the Washington area—a move that will cost ISC virtually all of the software writers now in the area because they will not move.

Further, my office has found that there are a wide range of important costs that the Commission chose not to examine. These include the community impact costs, retraining costs, infrastructure costs, and the true costs of obtaining and maintaining a suitable technical staff in an area with much higher living costs and housing costs that are two to three times higher than in the area around Fort Huachuca.

These findings were the reason I previously joined Senator DECONCINI and Congressman KOLBE in asking for an investigation of all these issues and of the merits of the Commission's recommendations relating to the realignments affecting Fort Huachuca and Fort Devens.

They are why I support the amendment we are now debating. It will only apply to those cases where the Commission failed to properly do its job, or played politics or armchair strategist at the expense of the American people. It will not cost the taxpayer a dime, but it will correct the situation where the end result of the Commission is inefficiency, and serious damage to communities that have strongly supported our Nation's national security efforts.

My colleagues have already presented good reasons to believe that the Commission has made more than one mistake. If the GAO concludes that the Commission's recommendations are deeply flawed in these cases and that of Fort Huachuca, as I think that it may, there should be ways the Secretary of Defense can remedy the situation.

I also hope that the resulting work by the GAO will serve a broader purpose. It will be a warning about how we should deal with any future Commission proposals of this kind. As I have said before on this floor, it is one thing for a Commission to be independent, but it is quite another for it to fail to properly justify its conclusions. This is particularly true when the initial reaction of a Commission is to classify its work and records, and to deny public access to its work.

My office had to spend months fighting the Commission to gain access to its records, and it is my belief that the records are still not fully available to the public. The GAO is now having to fight its way through these records months after the damage has been done.

Any future Commissions must keep full and comprehensive records and have the responsibility of making them public immediately after they reach their conclusions. No reputable Commission can ever be free of the responsibility to justify its work to our citizens or the need to be a part of open government. The people working and living around Fort Huachuca deserve more. The people in other communities deserve more, and every American taxpayer deserves more. The only way to deal with closed minds is open government.

Mr. DECONCINI. Mr. President, I am pleased to support and cosponsor the amendment introduced today by Senator SIMON which restricts the closure and realignment of military bases. While I fully supported the original legislative initiative that led to the streamlining of military bases, I did so because it was designed to promote Government efficiency and economy.

However, based upon preliminary reviews by the General Accounting Office, it is apparent that the decisions to close or realign some of the

bases were based upon significant errors. Obviously, if bases are closed or realigned for the wrong reasons then the purpose of the initiative is defeated.

In Arizona, Fort Huachuca is one of the bases that is slated for realignment under the current plan. The cost of realigning Fort Huachuca will exceed any cost savings. It is inconceivable to me how we can allow a good idea to reduce Government expenditures to deteriorate into a plan that will ultimately be more costly to the Federal taxpayer.

GAO is still reviewing the facts and figures that led to the decision regarding which bases would be affected. Fort Huachuca is on the list of bases that GAO is studying. Therefore, I think that it is only prudent to delay any action on closing or realigning those bases under GAO review until the GAO issues its report. I think that it is equally prudent to stop the ill-conceived closing or realignment of those bases that GAO determines were chosen based on a significant error. I, therefore, fully support my colleague's amendment which is designed to prevent the Defense Department from making some very serious and costly mistakes.

I thank my colleague for his leadership on this issue. I can assure him I will do all that I can to accomplish the goals of his amendment during the appropriations process.

Mr. SIMON. Mr. President, there were basically four criticisms made of Chanute Air Force Base. One is that it would not have a great impact on the community if it were to be closed.

The reality is this is a community of 20,000 people where there would be 3,100 jobs lost, a 29-percent drop in the nongovernmental labor force. This is according to the University of Illinois study. Personnel is expected to drop in the immediate area by 38.9 percent. The village of Rantoul could expect a decrease in population of 59 percent and the school system would expect a drop of 55 percent.

As to the three other areas where they made criticisms, first they said recreational facilities are not adequate. Well, it so happens that they have just built one of the finest recreational facilities anywhere at any base, probably the finest outside of our military academies. They just held the international armed services handball competition, I believe it was, at Chanute Air Force Base.

The second criticism was on housing, and that has been met. In fact as we meet and speak right now new housing is being built at Chanute.

They have spent $150 million in the last 8 years fixing up this facility.

Then the final criticism was on hospital space. They said there was only 104,000 square feet of hospital and dental space; that was an inadequate amount. In fact, they have 173,000.

Clearly, mistakes were made. It would be unfair both for the taxpayers and to that community if this were to proceed.

The amendment that I have and that I will offer at an appropriate time, perhaps on the appropriations bill, simply says if the GAO finds significant errors that would change the ranking in terms of closing, then the Pentagon has to review and reassess whether that base should be closed.

It is a moderate amendment that I am pleased to say has support on both sides of the aisle, and I note the presence of my colleague from Arizona here at this point.

I yield to my colleague.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I would like to take this opportunity to thank my friend from Illinois for his carefully crafted amendment. I am very pleased to hear him say that he will be proposing this amendment at the appropriate time on the appropriate appropriations bill. I think his comments are right on the mark.

We set up this Commission under a certain set of guidelines that were designed to save the American taxpayers money. If that Commission violated those guidelines in secret—and my friends from Illinois, Senator SIMON and Senator DIXON, have shared my frustration in getting information as to what actually went on during the deliberations of the Base Realignments and Closing Commission—then it seems to me that it is entirely appropriate that we go back and review those decisions. The GAO is clearly a credible organization to make a judgment, and returns to this body as to whether the Commission followed its guidelines and found real savings in its recommendations. If, however, the GAO with findings that indicated that there are no real savings, or that the Commission violated its guidelines, then it seems entirely appropriate to me that its decisions should be carefully reviewed and overturned.

I realize that the Senators from Illinois and I open ourselves to the charge that we are only trying to protect bases in our own State. Mr. President, my response to that is, yes, we are trying to protect the people in our State, but from unfair treatment.

If the Senator from Illinois and I are charged of porkbarreling or trying to protect only the people in our State, then I have a clear response. If a base in Illinois, a base in Arizona, a base in Alabama, or a base in Alaska is going to be closed or realigned due to faulty data, due to political decisions, or even due to valid strategic decisions that are not part of the Commissioner's guidelines, then those closings or realignments should not take place. I have been told, for example, that one of the decisions concerning a base in my own State was based on the view of a few Commissioners that there was a requirement to keep a major Army installation on the east coast. Maybe that requirement is real. Maybe it has legitimacy; maybe it is a valid reason for that realignment.

But, the Commissioners' views regarding the need to keep Fort Devens open was not part of the guidelines under which the Commission was supposed to function.

This is why I would like to thank both my friends from Illinois for their involvement in this issue. It has required tenacity and courage to bring this amendment to the present point. The point also is fairness not to money but to the people. It is fairness to the people on these bases who are going to see their lives dramatically disrupted. These people only demand fairness. They are willing to move if there is just cause for doing so. In fact, if the GAO comes back and says there was ample justification for all these moves I know my colleagues and I will be the first to accept that GAO recommendation. If the GAO does not, we intend to act for the benefit of those men and women and their families whose lives are being seriously impaired by the decisions that were made in my view on flawed precepts and assumptions.

I thank both my friends from Illinois again. I think the people of their State can be proud of their efforts on their behalf.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I want to join my distinguished colleague from Illinois, Senator SIMON, and my friend from Arizona, and others, who will be supportive of this amendment that will be offered by my colleague from Illinois.

I am the chairman of the Subcommittee on Readiness, Sustainability, and Support that has been jurisdictional on military bases for some number of years. My colleagues in the Senate will remember that I led the fight against the base-closing commission effort last year, both in my committee, on the floor of the U.S. Senate, and ultimately in the conference between the two Houses. I said at that time, Mr. President, that this commission simply did not have the time to do responsible work in connection with the directive given it by the Congress.

This year, with the cooperation of the chairman of the committee, I have been able to hold a number of subcommittee hearings of my subcommittee in the Armed Services Committee on all of the questions of what the result of the Base-Closing Commission study was. And I can report to the Senate

that there are a good many flaws in that report.

Mr. President, I have here a letter of June 19 of this year that I sent to the Comptroller General asking him for a full analysis of the result of the base-closing commission effort. He sent a letter back saying:

DEAR SENATOR DIXON: This is in response to your request that we report on the accuracy of data used by the Secretary of Defense's Commission on Base Realignment and Closure in its analysis of two categories of training bases. As agreed with your office, this letter summarizes our work on Air Force technical training bases.

I just want to read to my colleagues certain pertinent parts of this report. For instance, this statement:

We found data errors that significantly affected the ranking of the five bases in the phase I analysis.

Further:

We also found that the initial scoring of the bases did not adequately account for deficiencies in facilities at the bases.

Mr. President, in a moment, I want to put all of this in the Record, but I refer further to an enclosure from the Comptroller's Office entitled "Reranking by Eliminating Double-Counting." And I quote from this report:

Ranking After Eliminating Double-Crossing.

And the over simplification, Mr. President, is that Chanute Air force Base which was ranked fifth by the Base-Closing Commission, in a reranking by the Comptroller's Office, is ranked second. Of the five bases, it jumps from fifth to second in the rankings when you eliminate double-counting.

On another criterion, in this same report, Mr. President, "Ranking Based on Facilities Deficiencies," Chanute was ranked fifth by the Commission on base closing but in a ranking by the Comptroller's Office—taking into account facility deficiencies, applying the formula, do you not understand, that the Base Closing Commission contended it was using—Chanute is no worse than third. Incidentally, the one that is ranked first in the other one drops to fourth. By any criteria, using either of the standards employed which are fair standards, Chanute is near the top, not at the bottom.

Now, I am going to put all of this in the RECORD, but I want to say this in conclusion, Mr. President, and I do not want to belabor this on the floor. I understand what is happening here and I think it is a great, great error and a grave injustice. But I want to say this: In the beginning, when we got the base closure report—my friend from Arizona is on the floor and he was at those hearings; my friend from Mississippi that I see on the floor was at those hearings—when I took up the base closure report with the members of the Commission there, the whole thing was marked secret. The whole thing classified. And I said, "How can we develop the question of accuracy by the Commission when the whole thing is classified secret?"

My friends remember that. It was only through the chairman, who incidentally, did not necessarily agree with what I was trying to do, that I was ultimately able to get those documents unclassified.

Now, to this moment, Mr. President, and I say this to every Member of the Senate, to this moment, every name in there and everything in there that lets you see who was responsible for this terrible miscarriage of justice against this base and others in the country is obliterated. The American public will never know.

As I said in the debate last year, this is an outrage. We are elected, may I say to my friend from Arizona, and given the responsibility of doing right or making those mistakes. We go back to our constituency and we are subjected to the scrutiny of our constituency and we are found at fault sometimes. Nobody is found at fault. Those nameless, faceless people that did this and put tens of thousands of people in America out of work are not found at fault. We do not know who they are to this day.

And yet the Comptroller's Office—and this will go in the RECORD, Mr. President—the Comptroller's Office has found that the gravest violation of justice has occurred with reference to a base in my State, listen to this, in a town of 20,000 people, where everybody either works at the base or is dependent upon it. Think of that outrage.

This base is going to be closed because it was ranked fifth by a commission when every single fair analysis documented in those papers shows it was either third or second, not fifth.

Mr. President, I ask unanimous consent these documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 19, 1989.

Hon. Charles A. Bowsher,
Comptroller General, General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: In response to a request by the Chairman and Ranking Minority members of the Senate and House Armed Services Committee, the General Accounting Office (GAO) began an audit of the Base Closing Commission's report. During hearings held before my subcommittee on Readiness, Sustainability and Support of the Senate Armed Services Committee this spring, the GAO was further directed to review the recommendations of the Base Closing Commission with specific emphasis on those analyses in which apparent errors of fact or methodology materially affected the Commission's conclusion. Last week, GAO staff briefed by staff regarding the progress made to date on their audit.

GAO staff discovered that in the categories of Army Basic Training and Air Force Technical Training, significant errors were made in the orginal analysis. When these errors are corrected, changes occur in the funcational ranking of the bases within each category. I understand that all findings will be documented in a report expected to be issued later this year. However, my subcommittee will markup the Defense Authorization bill July 10, 1989. A summary of GAO's findings to date, in letter form, is therefore requested. The summary letter will allow the subcommittee, and full committee, to consider all available information during the Defense Authorization markup.

If you have any questions, please call my staff assistants Charles Smith or Laura Abplanalp.

Kindest personal regards.

Sincerely,

ALAN J. DIXON.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, July 7, 1989.

Hon. ALAN J. DIXON,
U.S. Senate, Washington, DC.

DEAR SENATOR DIXON: This is in response to your request that we report on the accuracy of data used by the Secretary of Defense's Commission on Base Realignment and Closure in its analyses of two categories of training bases. As agreed with your office, this letter summarizes our work in Air Force technical training bases, and we will provide a separate letter covering Army basic training bases in mid-August. This work is part of a larger effort requested by the Chairmen and Ranking Minority Members of the Senate and House Committees on Armed Services to evaluate the work of the Commission on Base Realignment and Closure.

Before discussing our observations, let me briefly describe the Commission's process. It used a two-phased approach to evaluate bases for realignment and closure. The phase I analysis grouped bases into a number of categories, and then focused on determining the military value of bases within each category and each base's capacity to absorb additional missions and forces. The Commission then worked with the services to identify and rank bases warranting further review. The base or bases at or near the bottom of the ranking in each category were generally then moved into phase II. The phase II analysis focused on assessing the cost and savings of base realignment and closure options.

The key points concerning the Air Force's technical training bases are summarized below. Details are provided in the enclosure.

There were five bases in this category. The Commission's phase I analysis resulted in Chanute, AFB being ranked number five. It was then selected for phase II analysis. Service data shows that another base that was ranked higher in this category was also selected for phase II analysis. Chanute AFB was ultimately selected for closure.

We found data errors that significantly affected the ranking of the five bases in the phase I analysis. For example, certain facilities requirements data were overstated. When this error was corrected, the ranking of four of the five bases changed.

We also found that the initial scoring of the bases did not adequately account for deficiencies in facilities at the bases. For example, a base with a 4-percent deficiency in its requirement for bachelor housing was given the same score as a base with an 18-percent deficiency in its requirement for

bachelor housing. We believe it is more accurate to use the actual percent of facilities deficiencies as a basis for scoring. Using this approach and corrected data changed the ranking of all five Air Force technical training bases.

Other factors, such as the number of missions at a base, were considered by the Commission in selecting base closure candidates during the phase I analysis. Therefore, it is uncertain what effect the corrected data may have had on the Commission's deliberations.

We will continue to keep you advised as our work progresses. If you have any additional questions, please contact Donna Heivilin, Director, Logistics Issues, on 275-8430; or Dave Warren, Assistant Director, Logistics Issues, on 275-8431.

Sincerely yours,

FRANK C. CONAHAN,
Assistant Comptroller General.

Enclosure.

OBSERVATIONS ON THE COMMISSION'S RANKING OF AIR FORCE TECHNICAL TRAINING BASES

This enclosure provides more details on our observations on the Commission's ranking of Air Force technical training bases during its phase I analysis.

COMMISSION METHODOLOGY AND RESULTS

The Secretary of Defense's Commission on Base Realignment and Closure used a two-step process to select bases for realignment or closure. The first step (phase I) was to calculate a numerical military value score for each base. The second step (phase II) was to calculate the cost of various realignment or closure options for candidate bases. To calculate the military value for the Air Force's technical training bases, the Commission defined important military value attributes in five major categories. It assigned relative weights to each military value attribute and devised a method of rating each attribute.

In evaluating Air Force technical training bases, the Commission considered on-hand facilities at a base plus validated military construction projects for the base as requirements. According to the Commission staff, if the on-hand facilities met the requirement, a green rating (four points) was given. However, if military construction projects were needed in addition to the on-hand facilities to meet requirements, we were told that a yellow rating (two points) was given, regardless of the size of the deficiency. Table 1 shows the various weights.

TABLE 1.—WEIGHTS USED TO EVALUATE AIR FORCE TECHNICAL TRAINING BASES

Category	Attribute	Weight
Mission suitability	Training facilities	30
	Administrative facilities	20
	Bachelor housing	20
	Recreation facilities	15
	Medical and dental facilities	15
Availability of facilities	Buildings	1
	Maintenance	1
	Liquid fuels storage	1
	Explosive storage	1
	Warehousing	1
	Vehicle pavement	1
	Utilities	1
	Land area	1
Quality of facilities	Condition	1
	Technology	1
	Configuration	1
Quality of life	Family housing	1
Community support	Work force	1
	Distance to airport	1
	Distance to train	1
	Distance to interstate	1
	Infrastructure	1
	Industry	1
Total weights		118

The Commission's military value ranking of the five Air Force technical training bases, with number one having the highest value, is shown in table 2.

TABLE 2.—COMMISSION RANKING OF BASES

	Commission ranking
Rank order:	
1	Lowry, AFB.
2	Goodfellow, AFB.
3	Keesler, AFB.
4	Lackland, AFB.
5	Chanute, AFB.

RESULTS OF REVIEWING AIR FORCE TECHNICAL TRAINING BASE RANKINGS

During our April 12, 1989, testimony [1] before the Subcommittee on Readiness, Sustainability and Support, Senate Committee on Armed Services, we stated that we had two concerns with the Commission's methodology for ranking bases. First, we were concerned that the ranking included several projects that were to replace existing facilities. As replacement facilities rather than new facilities, they should not have been counted in requirements computations since this overstated the requirements. Second, the ranking did not adequately account for facilities deficiencies because it used a broad range measure instead of actual data.

We reranked the Air Force's technical training bases by eliminating double-counting of facilities. Because of the large amount of data and the limited amount of time, we only considered data in the mission suitability category to rank bases after eliminating double-counting of facilities. This accounted for 100 of the possible 118 points, or about 85 percent. We then used this refined data to score the bases by considering actual data on facilities deficiencies. These adjustments resulted in significant changes to the Commission's ranking.

RERANKING BY ELIMINATING DOUBLE-COUNTING

We found that the Commission had double-counted facilities in establishing unmet facility requirements at the five Air Force technical training bases. For example, at one base the Commission included military construction projects to build 23,300 square feet of replacement bachelor housing when the 23,300 square feet had already been counted in the on-hand facilities. This overstated the requirement and made the unmet facility requirement appear larger than it actually was. Table 3 shows that when double-counting is eliminated the relative position of four of the five bases changes.

TABLE 3.—RANKING AFTER ELIMINATING DOUBLE-COUNTING

	Commission ranking	Revised ranking
Rank order:		
1	Lowry, AFB	Lowry, AFB.
2	Goodfellow, AFB	Chanute, AFB.
3	Keesler, AFB	Goodfellow, AFB.
4	Lackland, AFB	Keesler, AFB.
5	Chanute, AFB	Lackland, AFB.

[1] *Base Realignments and Closures*, (GAO/T-NSIAD-89-24, Apr. 12, 1989).

RERANKING CONSIDERING THE SIZE OF THE DEFICIENCY IN FACILITIES

The Commission gave a yellow rating to an attribute if it failed to meet the requirement, regardless of the relative size of the deficiency. We believe that it is more precise to use actual data since relatively small deficiencies would have less of a negative impact on military value than relatively large ones. For example, one base had a 4-percent deficiency in its requirement for bachelor housing. However, it was given the same score for this attribute as a base that had an 18-percent deficiency in its requirement for bachelor housing. We reranked the five Air Force technical training bases by computing a score based on the percentage of the facility deficiency, after eliminating double-counting projects and the attribute's assigned weight. Table 4 shows that when these changes are made the relative position of all five bases changes.

TABLE 3.—RANKING BASED ON FACILITIES DEFICIENCIES

	Commission ranking	Revised ranking
Rank order:		
1	Lowry, AFB	Lackland, AFB.
2	Goodfellow, AFB	Keesler, AFB.
3	Keesler, AFB	Chanute, AFB.
4	Lackland, AFB	Lowry, AFB.
5	Chanute, AFB	Goodfellow AFB.

OTHER CONSIDERATIONS

Other factors, such as the number of missions at a base, were also considered by the Commission in selecting base closure candidates. Therefore, it is uncertain what effect this revised data may have had on the Commission's deliberations.

Agency officials stated that even if corrected data changes the relative ranking of the Air Force's technical training bases, Chanute, AFB is still the most logical base closure candidate because it is a single mission base and the other bases have missions that would be more difficult to move. The Commission estimated that closing Chanute would save $68.7 million annually and have a 3-year payback period. Our latest estimate indicates annual savings of $60.3 million and a 5-year payback period.

Mr. DIXON. I just want to say this in conclusion, I say to my colleague: There is a lawsuit pending, Mr. President, in my State, filed by the distinguished attorney general of our State, Neil Hartigan, questioning what the base commission has done. I want to say, so far as my expression of my legislative intention in this regard is concerned, that these documents I have put in the RECORD, this statement I have made, every hearing we held this year, it is my intention, as one Member of the United States Senate, to show that in my view the base commission effort is flawed, grievously flawed, and that Chanute Air Force Base was not properly ranked but de-

served to be ranked higher and not closed under any fair application of the formula the base commission itself employed.

I congratulate my colleague for his efforts and his amendment today which I support. I yield the floor.

Mr. SIMON. Mr. President, I wish to thank my colleague from Illinois, Senator DIXON, and my colleague from Arizona, Senator MCCAIN, for their support and their concern here.

I do not mean to interrupt the dialog that is going on on the floor over there, but I would like to just ask the chairman of the full committee one question if he would yield. I want to thank him for his courtesies. I do not mean to imply that he is supporting my amendment.

But if I could ask the chairman of the full committee this: Even though that amendment is not pending immediately, does the chairman of the full Armed Services Committee agree, in view of what the Comptroller General has said, that where there are significant errors that the Pentagon ought to review this whole matter of what bases ought to be closed.

Mr. NUNN. I would say to my friend from Illinois—and I have talked to both Senators from Illinois about this—I believe the Department of Defense has an obligation, if the General Accounting Office finds serious error—and I think they may have issued a tentative or interim report saying there was serious error in the case of one or two bases—the Department of Defense has an obligation to go back and review those, determine if that serious error was indeed an error that was determinative or largely determinative in terms of making that decision.

I think the Secretary of Defense has that obligation to the people who live in that area, as well as to the military services themselves, making sure that the base closed is indeed a rational and logical choice for the national security of our country.

So I would agree with the sentiments of the Senator. I do disagree with the amendment because it holds up the whole process. I think if we have one exception, the package unwinds, and that is the difficulty that we are in.

So I certainly understand the Senator's position. The Senator from Illinois [Mr. DIXON] and I talked on many occasions, since he is on our subcommittee, about this, and I talked to Senator SIMON on many occasions.

I would have to oppose the amendment, but I do believe the point is well made.

Mr. SIMON. I thank the chairman of the committee. Let me just add, I will get a communication to the Secretary of Defense, in closing this dialog, urging that he review this immediately.

I yield the floor.

AMENDMENT NO. 595

Mr. LOTT. Mr. President, I have an amendment at the desk, amendment No. 595, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 595.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 118 of the bill, strike out lines 10 through 18 and insert in lieu thereof the following:

(b) UNITED STATES MILITARY ACADEMY.—Section 4348(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(c) UNITED STATES NAVAL ACADEMY.—Section 6959(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(d) UNITED STATES AIR FORCE ACADEMY.—Section 9348 of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

Mr. LOTT. Mr. President, let me clarify what the purpose of this amendment is.

There is language in the bill that would require that the young men and women who go to our service academies would have to serve 8 years after graduation instead of the present 5 years. My intent would be to knock out that 8-year requirement. I think that the present 5-year requirement for students who go to our academies is certainly adequate.

I have found, as I talked to members of the committee and to other Members of the Senate, that there is a general lack of awareness that this language is in the legislation. I am really concerned that we are making a mistake; that there is going to be a self-inflicted wound here that could have a negative impact on our service academies and on our career officers who may or may not go to those academies.

So my intent here today is to generate some discussion about this because I have found that there have not been hearings in the Armed Services Committee; that we have not really looked at the impact that this might have on the quality of the students who would go to our academies and whether or not they would go to our academies under these circumstances.

As a matter of fact, what we are asking them to do under the new 8-year requirement in the bill, is really asking 12 years. We are really saying to those students who go to our service academies that they must make a commitment to serve until they are 30 or so if they accept the opportunity to go to one of the service academies.

I have also been very suprised to find that, while this language is in the bill, and while there have been no hearings, the Department of Defense is opposed to this extension and the service Secretaries have major concerns about what the impact of this change would be.

So, should we at least allow the Department of Defense to express its views in the light of day and fully look into all of the ramifications that this very significant change would have? Should we get the opinions of the service Secretaries, the service chiefs, and the superintendents of our academies?

I did talk to the superintendent of one of the academies this week. And expressed real concern that we have not thought this through enough.

So I think we are making a mistake. At the very minimum, we should give a lot more thought and deliberation to whether this proposed change should be made. I understand the argument is going to be made that we put a tremendous investment in these young men and women that we send to the academies—well over $100,000. Maybe even more. I recognize that. And it is a great opportunity.

But I think we also need to consider what these changes will mean in terms of the quality of the students we attract to the academies.

For instance, we all know that we are on the verge of a major decline in the availability of high school graduates in the next decade. There will be a smaller pool that we are going to be selecting from. It is going to be a tougher market.

A young student graduating from high school somewhere in the United States, a superior student, a physically well-qualified student, has an opportunity to go to the University of Mississippi on a career scholarship with all expenses paid. Perhaps he or she has the opportunity to go to the University of Virginia with expenses paid, and has the opportunity to attend one of the service academies.

The option is to go to these three fine institutions, two of them with no expenses, to receive a quality education, and then, on the one hand, to go right out into the private sector or into Government; or, on the other hand, to make a 12-year commitment, perhaps, to go to one of the academies—a very tough assignment. I think we are going to lose some of the best and brightest of our youth.

Several of my colleagues say we do not have any shortage of applicants for the academies. No, we do not. But the Pentagon points out that there are approximately 15 applicants for every service academy appointment. But there are only two applicants who are fully qualified . . . physically, intellectually and emotionally . . . for each

accepted for appointment. And those numbers may decline.

Some will argue that this is a tremendous education, that we are investing a lot of money in these students. At present, we only require a 5-year commitment for the 4 years of education. But now we are talking about increasing it to 8 years? Would my colleagues consider 6? Or 7?

I should also note that the House did not propose to change this language. They left the 5-year obligation as it is.

There is another important point I would like to make. Once someone goes to an academy, they have not then made an absolute commitment to the full 9 years or, under the bill, 12 years. After 2 years, a student has the option, when he or she is 19 or 20 or 21, to leave the academy, at no expense, no obligation to the student, and go to some other institution.

After 2 years a student, who may have gone to the Naval Academy or West Point, may decide this is too tough; that this is worse than I expected. And therefore I will transfer to the University of Massachusetts or someplace else. There is no obligation.

So I think we need to weigh all of this. The academies, after all, are not always a bed of roses to begin with. And I think we are going to wind up discouraging students here.

So I hope my colleagues will, first of all, be one notice that this language is in there. I think it is fundamentally unfair. We are not giving them extra pilot training. We are not training them to be doctors. This is a 4-year basic education and we are going to ask them to give 2 years for every 1 they go the academy?

I think it is too much. I do not think we have looked into it. And I think it is going to hurt our academies in many ways. I think we should invite the interested and involved persons at the Pentagon and the service academies to come and in let us hear what they have to say.

I urge my friends here in the Senate to look carefully at this language and let us not go to 8 years. In fact, I do not think we ought to change it from even 5 years but certainly we should not make this quantum leap without having looked into what the impact would be and what we are trying to do.

I will yield at this time. Perhaps I will speak further.

The PRESIDING OFFICER. Is there further debate on the amendment? The Senator from Ohio.

Mr. GLENN. Mr. President, regrettably I have to rise in opposition to my distinguished friend from Mississippi on this particular issue. Contrary to what he just indicated, we did bring this up in hearings and we did discuss it in hearings.

So this was not brought up in the dead of night. We discussed it. He is correct, we did not have a completely separate hearing just on this subject but we brought it up and discussed it, along with several other things, with all of the military personnel chiefs before the Manpower Subcommittee.

So it was indeed considered. They were sort of noncommittal on this, as a matter of fact. They had some concerns about it but they were not really opposed to it. Neither did they really get on it and support it.

The argument we made for it in committee was that they did not really oppose it so it was sort of a noncommittal approach. I could not characterize it any more than that.

Mr. President, under the current law, graduates of the military service academies are required to serve on active duty for 5 years immediately after graduation. That was put into effect in 1964. Before then the requirement was just 3 years.

The extension of active duty service commitment for graduates of the service academies was put up, at that time, for one reason and that reason is why I would put it up now. The services have had trouble obtaining volunteers from their graduates to enter aviation, nuclear, and other training-intensive career fields, just because of the additional active duty service obligations they would incur as a result of training.

I know the distinguished Senator from Mississippi can say well, that just proves that they do not want to make an extended commitment. And that is probably true. But I would respond very directly that we have one purpose for those military service academies.

It is not just to provide a nice casual campus for kids to go to school in for 4 years. What we are doing is spending a lot of taxpayer money to get career military officers. They get special training; they get special leadership training; they are given special experiences that you never get at a conventional college or university. They are supposed to be producing at the academies professional career military officers.

I do not think there is any problem at all with an 8-year active duty service commitment, and making it very clear right up front that we are spending a lot of money on these people to get career officers. We spend at least a quarter of a million dollars just getting a graduate out. That is just in direct expenses. All the indirect expenses, I would guess, is maybe several times over that.

Cadets receive 4 years of the finest college education this country has to offer. They get all their clothing; they get all their food; they get all their shelter, and they are paid $525 a month while they are getting that experience and that training. They travel to foreign countries during the summer. They have a guaranteed job upon graduation.

I do not feel it is too much at all to ask that if young persons get that kind of treatment from their country that they return 2 years of service for each year of their training that they get at the Military Academy.

Let me take a different tack on this. The ROTC graduates, those who go to regular colleges and universities, probably go to schools like Ole' Miss. They probably have a ROTC unit at Ole' Miss. What is the cost? It is far less cost to the taxpayer, yet they incur a 4-year active duty service commitment at the end of their college days. They are Reserve officers. Academy graduates are commissioned as regular career officers. Four years difference in commitments, to me, makes a lot of sense.

One argument against extending the commitments from 5 to 8 years is it would make it difficult to recruit quality high school graduates for the academies. However, Mr. President, that argument to me does not hold much water. I can give you my own experience in Ohio. I get somewhere around 1,100 to 1,500 applicants each year who want to go to one of the service academies. I believe that I am permitted—I am not sure of my allotment—I believe I am permitted to have five appointments to each academy at any one time. I believe that is what it is. I should have looked that up before I came to the floor, but I did not. So that means I have each year maybe, what, a dozen or so appointments combined for all of the service academies? Something like that. It varies. Maybe as a cadet drops out I have to replace him. So it varies up and down a little bit from year to year.

For that dozen or so I get each year, I have 1,300 to 1,500 applicants. I can tell you these are some of the outstanding young people in Ohio who apply for these academy positions.

The fact that we would have to say go down to the second or third one does not make a whit of difference to me if that person is committed and is committed to staying in the service as a career. And that is what we are paying for, and that is what we are supposed to be getting.

Let me just add one other element here, and I will not stress this one. The one thing that was brought up to me was that some people are saying if we make it an 8-year active duty service obligation, we may have difficulty recruiting top athletes for football and basketball. Well, would that not just be too bad? Would that not just be a shame if our service academies were not able to be a training ground for the National Basketball Association and the National Football League, or whatever? These kids are being trained. These young men and women

are being trained to be career service officers.

Some of them decide to opt out over a period of time. If they cannot make that decision at the time they are applying to stay for the full time. Well, that is tough; that is too bad. We will say, OK, the taxpayers will not expend all this money on them, will not give them all the training, will not pay them $525 a month, will not give them food, shelter, uniforms, everything—all expenses.

So the athlete thing to me—I am very sensitive to. I played football and basketball when I was in high school and college. I enjoyed it. I think it was formative for me in those years. I refuse to accept that as a reason why we should not be increasing the requirement for all students, including athletes. I do not see that as a major reason for not doing this. I am sure the Senator from Mississippi does not have that as an argument. He did not mention that earlier, but it has been mentioned to me by some other people.

One other factor here is this: This requirement does not apply—so it will not be misunderstood—it does not apply to a single person in the academies now. It does not apply to a single person who would be entering one of the academies this fall. It would only take effect with the incoming classes in the academies in 1991. In other words, everyone in the pipeline now, who is accepted and in the pipeline now is grandfathered. They would not be affected by this. We are not pulling the rug out and changing the ground rules in the middle of the game for those in the academies now.

For people coming in beyond that period of time, I think it is only right and fair. Right now, 60 percent or so of the academy graduates make a career of it—I want to see that percentage up. I think the American people deserve that for the expenditures we are making. These academies are there to provide career military officers, and that is what we should be stressing. That is the reason why, after addresing this in hearings, that we put this up to an 8-year requirement.

Mr. WARNER. Will the Senator yield for a question?

Mr. GLENN. Certainly.

Mr. WARNER. When I was privileged to work with the Department of Navy, this was an issue that was frequently considered. The Senator from Ohio brings up very legitimate reasons, as so does the Senator from Mississipi. The concern I have is that, we are seeing a shrinking of the demographic pool of young men and women available not only for the service academies but, indeed, as the Senator from Mississippi pointed out, I believe for just recruiting across the board.

My problem with this whole situation is if we suddenly leap to 8 without having allowed those individuals in the Department of Defense, primarily the personnel chiefs of the three departments, to come in and advise us on what is the likely impact on the pool of individuals that will continue to seek these nominations. This is what concerns me, why I would suggest either we readdress this problem in a very broad hearing or move ahead, as the Senator from Mississippi has suggested, maybe just a year at a time toward the goal sought by the Senator from Ohio.

Mr. GLENN. Let me say to my good friend from Virginia that we did have this in hearings. We did not have separate hearings just on this subject. It was brought up in hearings and discussed with the service personnel chiefs at a Manpower Subcommittee hearing along with other things. We did have a considerable discussion on this. It was not without hearings.

Mr. WARNER. What was the testimony, Mr. President?

Mr. GLENN. The testimony was that they were sort of noncommittal on the whole thing. There was not serious opposition to it. No one was advocating it, but no one was seriously against it either.

Mr. WARNER. Mr. President, it seems to me this is a matter of vital importance, not only to overall national defense but, indeed, to every Member of the U.S. Congress who, in turn, makes these nominations. We are fortunate in the last few years to have the finest and the best come forward. Suddenly that 8 years, I would like to know from the experts, I would like to hear from the chief of personnel of the U.S. Navy, I would like to have the chief of personnel in the Army to come in and say to me, "Senator, here is what will happen if we go from 5 to 6, 6 to 7, from 7 to 8, and we are dealing with an issue that affects every Member of the U.S. Congress now because we are fortunately given the responsibility to make nominations to these academies. Frankly, I at this time, consider the amendment of the Senator from Mississippi as being the best solution to this problem.

Mr. GLENN. Mr. President, I do not know what the intent of the Senator from Mississippi is, whether he is going to push to a vote on this or not. I would say, the House does not have a provision like this, I do not believe it is in the House bill.

It will be a conferenceable item. We will be glad to discuss this at that time. Also I point out to my friend from Virginia that this does not go into effect until 1991. And if there are serious objections to this, we certainly have time enough to alter it. But they expressed little or no opposition to it when we had this up in one of our hearings.

I do not find any problem at all with saying that the academies are there to provide career officers. They are not there as another small liberal arts colleges. We are committing major sums of money on these young people. We want the career officer cadre to come from those academies because they get special training. They are trained to lead. That is what we are up against as we lose almost half of those people that are just there to get an education, do their minimum commitment and out. That trend should be reversed. We are reversing it with pilot requirements and I find no difficulty whatever that a young person who wants to get this from the taxpayers of our country should expect then to make a commitment. I have no problem whatsoever saying that that should be a two for one commitment. That is the reason for the 8 years beyond graduation requirement.

Mr. WARNER. Mr. President, I say to my friend from Ohio that we are dealing with young men and women 17 or 18 years old. Let us go back ourselves. The fine Senator served in the U.S. Marine Corps. I was privileged to serve. But let us try to go back to when we were 17 or 18. If we were looking at a commitment of 8 years of our life at that time—of course, it was slightly different because World War II was on when we first entered the service, but looking at 8 years that stand there as a very formidable block, it concerns me that some of the best and the finest might decide not to make that commitment.

As to the second point that this does not become effective until, whatever it was, 1991, the word will pass across America. It will be in every high school, every preparatory school very quickly, the figure 8. It may not be associated with any particular year but the word will be out that it is 8 years. And that will start the thinking process of many I think in reverse at a time when the demographics indicate that we need to do everything we can to encourage these young men and women to consider to come to the academies.

Mr. GLENN. I hope that is exactly the word that goes out. The word that goes out is it is 8 years and we do not want people who are just looking for a way station to decide what they want to do. We are not looking for those who want the first couple years at the academy at the taxpayers' expense. We want young people who say, yes, I want to go for a career. That is what this is about. The purpose of the academy is to provide a service academy education that leads to a career in the military. There will be some people who will serve the minimum commitment and drop out. That is for sure.

I hope that is exactly what happens, that there is an 8-year commitment,

that that word does go out so the young people who sign up or apply in my home State of Ohio, or wherever across this country, are serious about it and are not just taking a dilettante attitude of, "Well, I will go in for a couple years; if I do not like it, that will be all right, I will get out. It will be a nice experience for a little while."

That is not what the service academies are for and that is not what the American people expect out of their service academies. So I have no problem whatsoever with an 8-year requirement. That just means that for every year of free college, a stipend of $525 a month, of clothing, food, shelter, travel, guaranteed job, that on graduation we require a 2-year commitment for each year of that kind of specialized career officer treatment that our young people are getting at the academies.

Mr. LOTT. Mr. President, if I could comment further on some of the points that have been made, while this issue was discussed briefly as I understand it at the subcommittee level, I think that you would have to say it certainly was not a complete hearing. And while at that point the service representatives may not have indicated a lot of opposition to jumping to 8 years, there is no question now that OSD, DOD, and the service superintendents are opposed to this 8 years and have a great deal of concern and a growing concern about what this legislation proposes to do.

I am not on the board of visitors of any academy. This was really brought to my attention by members of the board of visitors and by others on behalf of the Department of Defense who are really shocked that we are going to make this jump without more consideration. So I really wonder what the impetus was. I certainly know that the Senator from Ohio has had a great career; that he is very experienced and knowledgeable, and maybe all the impetus we needed was his knowledge and feeling that we are investing a significant amount of money in these young students and therefore we should have a right to require more from them.

But let me make one point. For instance, the Senator mentioned ROTC. I participated in the Air Force ROTC a few years ago. Let me give an example. If you go to an ROTC 4-year program at MIT, you could have a pretty good education and yet you would only be committed to 5 years. Conversely, if you go to the 4 years of the service academy, under the language in the bill you would then incur an 8-year commitment.

So again, I think there is too much of a difference there. Yes, we want career officers, but also we are looking for young officers who will make a 5-year commitment or longer perhaps. I do not think we can expect them all to make a lifetime commitment when they are 17 years old.

Right here on the floor this very afternoon I had one Senator come over and say, "I have a young man that may be looking at an academy, but if he is looking at maybe making a 12-year commitment, I doubt that he will make that decision; he may not opt to do it, even though he is physically and mentally qualified to do it."

A young man within the very hour came up to me and said, "I am interested in the Naval Academy, but if I am looking at a 12-year commitment, 4 years at the academy and then 8 years, I am just not sure I would want to do that."

Now, I understand and I would support anything that is in the bill dealing with aviators or people in the nuclear field. That is highly specialized training. An additional commitment for them is understandable, and I support that. There is language in this bill, as I understand it, dealing with aviators. So I have no problem with those specialized requirements.

But we are talking about the 4-year basic service academy jumping from 5 years to 8 years. I think it would be a big mistake. I would like to at least know a lot more about what the people who are involved think about it.

I do not want to take a lot more time. I am hoping that we will not be here again at 1 o'clock in the morning. But I really felt strongly we should get an airing on this.

The amendment at the desk says it would go to 6 years. I wonder if the Senator from Ohio would be willing to accept a voice vote on that 6-year amendment and we could go to conference and it would be conferenceable then. We could have a further discussion about it. But certainly we would be going from a more reasonable point. I really do not want to raise it to that. I think 5 years is enough.

But accepting some of the arguments, wanting to get it addressed further, I wonder, for the sake of the Senate and to have this discussed further, if the Senator would accept a voice vote on that amendment as it now stands.

Mr. GLENN. I tell the Senator I would be glad to bring this up in conference—the House does not have a similar provision—the Senator could make the same arguments and let the whole conference make a decision on it, which they will do anyway.

But let me add one thing. The Senator mentioned the ROTC graduates go on 4 years of active duty. We are talking about people at a regular civilian college or university and many of them even living at home. If they happen to have a home in that same town, living at home, their college education, true, is paid for. They are required to have a 4-year commitment. Four years of active duty just for ROTC. Right now the only extra commitment for 4 years at full expense to the taxpayer for everything and all the additional expense for an academy graduate is only 1 additional year beyond the ROTC requirement.

Now, that is hardly a big sacrifice as I see It. And so I would say to my friend from Mississippi, I would be glad to bring this up in conference. We can talk about it there, but I would not want to agree to a 6-year commitment now. We considered this at some length. I would prefer to stay with the 8 years.

Mr. LOTT. Mr. President, I am prepared to move to the yeas and nays. I will withhold if there is any opportunity for a voice vote. If not, at this point I think it would be fair to ask for the yeas and nays.

I want to touch just briefly on ROTC. I understand it is 4 years, not 5. If you can get 4 years in education at Princeton or Stanford, you have only a 4-year commitment. I do not know about living at home. But in my part of the country, you have to go to the University of Mississippi or Auburn to be in a Naval ROTC. Very few people live in Oxford, MS or Auburn, AL. So you cannot live at home. But I do not want to belabor that point.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, 23 years have passed since I first arrived in the Senate, a former Governor who came to Washington determined to extricate American boys from the chaos and confusion into which this country—wrongly in my view—had sent them in Southeast Asia. Those were difficult times for the Nation—and difficult times for me personally.

In the early years, I found myself in a very small minority. We would give our speeches and cast our votes—and every day, more young people were coming home in body bags and wheel chairs.

A couple years later, when the administration began to have problems getting the money it wanted from Congress to prosecute the war, people began to talk about a peace dividend. If we can just win this thing, they would say, there will be a peace dividend for the Nation—money to spend here at home, money which will help wind down the giant war economy. Victory is right around the corner. Light is at the end of the tunnel.

In 1970—before some of the interns now working in my office were even born—I rose on this floor to question this peace dividend idea, to express my doubts about this notion that we would one day begin to rechannel our resources—not away from a strong na-

tional defense, but toward a more comprehensive, more human, definition of it. Few people listened—then. People wanted to believe that victory was right around the corner, and they wanted to believe that our massive war spending would one day end. And so—at least for a couple more years—the money kept flowing into the military.

Mr. President, from the Revolutionaly War to the Civil War to the Spanish-American War through World War I, through World War II, through Korea, through Vietnam, and through the cold wars in between: At no time did the spending for military purposes reduce or diminsh after those wars. They reached a peak during a war, and then remained at that peak following the war. No build down—only a build up. And no peace dividend, Mr. President. None at all.

And as we entered this decade, the clarion call went out: despite one of the largest and best trained militaries in the world, despite a nuclear arsenal of unprecedented destructive power, we were—somehow—vulnerable. A spending gap is what they called it—and so we began a massive buildup; billions and billions of dollars to catch up. Never mind that this spending gap was a phony as the bomber gap of the 1950's and the missile gap of the 1060's—Democrats and Republicans alike dutifully lined up and marched to the drummer of higher military spending.

And so it is that we have gathered here every year since only to play on the margins. Oh, we sound reasonable—and we like to think that we sound responsible. We go to hearings and briefings, we have long debates over this program and that program, this weapon or that weapon, and we cast our votes on amendment after amendment.

But when it comes right down to it, Mr. President, we are only playing on the margins. This Congress—a bipartisan majority of this Congress—has approved $2.2 trillion of the $2.3 trillion requested for defense spending during this decade alone.

We have played on the margins for so long, Mr. President, that I am afraid we do not even know what the real issues are anymore. We seem to have lost sight of the fact that many of the programs we have authorized—and are authorizing again here today—are intended for one purpose and one purpose only; mass destruction.

We seem to have lost sight of the fact that every dollar we spend on bombs and bullets means that we are underfunding programs to meet the Nation's desperate human needs: health care, education, our war on drugs, low income housing, prison construction, AIDS research—all of these things are part of our national defense.

Sometimes, Mr. President, we even lose sight of the margins. Several days ago, the Senate considered an amendment earmarking money for the development of more lethal weapons for our ground troops. More lethal? Even the words have begun to lose their meaning—what is more lethal supposed to mean when some of our troops already carry tactical nuclear weapons on their backs? But nobody else even raised an eyebrow: the vote was 98 to 1.

I remember, back in 1981, when 10 subcommittees of the Senate Appropriations Committee were forced to make $9.9 billion in cuts from domestic spending—so that defense spending could be increased by $7.4 billion. We can no longer afford to fool ourselves, I said in the full committee markup—but oh, how wrong I was. The Nation's defense budget has almost tripled in the past decade with our bipartisan blessing—and spending to meet the desperate human needs throughout this country has been cut and cut and cut again to pay for it—some 33 percent reduction in the nondefense discretionary programs in the last decade.

Could somebody tell me if there is some secret strategy—some finite figure that we will one day reach and then suddenly be secure? Will we ever have enough?

I do not think so. We are, Mr. President, like the thirsty man in the desert who thinks he sees an oasis ahead—but when he moves closer, it moves too. Further and further—or for us, higher and higher. And as his thirst finally kills him, our lust for bigger and better weapons of mass destruction is going to destroy us one day too.

Peace through strength is a fallacy, Mr. President, for peace is not simply the absence of a nuclear holocaust. Peace is not a nation which has seen its teenage suicide rate more than double in the past two decades. Peace is not a nation in which more people die every 2 years of gunshot wounds than died in the entire Vietnam war. Peace is not the town in Pennsylvania which last year was forced to cancel its high school graduation because officials believed that a group of students planned to commit suicide at the ceremony. And peace is not here in Washington—where after leading the Nation in murders last year, children are beginning to show the same psychological trauma as children in Belfast, Northern Ireland.

Can we really believe that the decisions we have made—and are making—do not have a direct relationship to the violence which plagues our Nation?

I suggest that we consider changing the motto on our coins, Mr. President, It now reads: In God We Trust—but by blindly pursuing the nuclear arms race, by putting the destruction of life over the preservation of life, we have foresaken our trust in God. We have shaken our fist at God—as E.B. White once put it, we have stolen God's stuff. Our motto ought to be: In Bombs We Trust. That is our national ethic—that is the example we are setting—here, on this floor.

When it comes to debating campaign finance reform and limits on honorarium, everybody seems eager to talk about ethics in government.

But is there no ethical dimension to the arms race—to our abuse of our natural and human resources, to our waste of scientific genius, to the bankrupting of the Federal Treasury to pay for weapons of mass destruction?

Is there no ethical dimension to our decision, our conscious decision, to add more and more weapons to our stockpiles, while millions of people in our own country have no roof over their heads, when we cannot fund our homeless programs, when we cannot fund our war on drugs? Is there no ethical dimension to the violent examples we are setting for our children? Is there no ethical dimensions to the definition of national security that we are passing on to the developing nations of the world, where arsenals are now as bloated as the bellies of the Third World's children?

There are those who will point to the INF Treaty, the first arms control agreement between the United States and Soviet Union in 16 years, as if somehow it legitimatizes everything. Never mind that these are the same people who spent almost a decade doing everything they could to sabotage arms control negotiations—never believing the Russians would agree to onsite inspection. Their message now to the millions of children of this country who do not get enough to eat, to the millions of children who have not been fully immunized, to the thousands of babies who die each year because their mothers receive no prenatal care, to the 37 million Americans who have no health insurance, their message is: See, it was worth it. These are the same people, Mr. President, who accept the twisted logic which says we must produce nerve gas to negotiate a treaty; which says we must continue nuclear testing to ensure safety. A safe nuclear weapon? Mr. President, I wish George Orwell could sit in on these debates.

The INF Treaty? Big deal. In the 6 months between the time the INF Treaty was signed here in Washington and the time it was ratified on this floor, the United States and the Soviet Union deployed more nuclear warheads than will be eliminated under the treaty. That is right. We spent and spent and spent, so that the administration could negotiate from strength. For all our money, all our weapons,

the only thing we received in return was a tiny little dent in the stockpile we had just created.

And then, in an incredible display of how distorted our frame of reference has become, how low our expectations have sunk, everyone cheered as if it were the end of the nuclear arms race.

To those who may suggest that I am naive, I respond: I have been there. As a young naval officer, I walked through the rubble of Hiroshima—a month after the bomb was dropped. I saw the death—the slow, agonizing pain—and the charred bodies. As we stand here playing on the margins, Mr. President, as we stand here voting 98 to 1 for the development of more lethal weapons, the stench of death haunts me still.

Forty-five years ago, we could legitimately say that we did not know. Now we do. Let me read just a few lines of John Hershey's "Hiroshima:"

> He found about 20 men and women on the sandspit. He drove the boat onto the bank and urged them to get aboard. They did not move and he realized that they were too weak to lift themselves. He reached down and took a woman by the hands, but her skin slipped off in huge, glovelike pieces.
>
> Then he got into the water and, though a small man, lifted several of the men and women, who were naked, into his boat. Their backs and breasts were clammy, and he remembered uneasily that the great burns he had seen during the day had been like: yellow at first, then red and swollen, with the skin sloughed off, and finally, in the evening, suppurated and smelly.
>
> With the tide risen, his bamboo pole was now too short and he had to paddle most of the way across it. On the other side, at a higher spit, he lifted the slimy living bodies out and carried them up the slope away from the tide. He had to keep consciously repeating to himself:
>
> "These are human beings. These are human beings."

SDI, Asat weapons, the Midgetman, the MX missile, the Stealth bomber, nerve gas, the D-5 missile, the Trident submarine: I will cast my vote against them all. Since 1980, Mr. President, I have given more than 30 speeches during our annual consideration of this bill: 7 against nerve gas production, 5 against underground testing, 3 against Asat weapons, 3 against the MX missile, 3 against the draft, 2 against SDI—the list goes on and on. But I have felt over the years like I am speaking in a vacuum—we have approved them all. And I speak in a vacuum today—my colleagues will listen politely and then vote for it all.

I will feel that way too—as I have for many years now—when I cast my vote against final passage of this bill. For I too am playing on the margins.

In the absence of political will—on this floor and across the country—in the absence of the kind of political will we seem to be able to muster when the Department of Defense needs another increase but not when children go hungry, anything more is impossible.

Mr. President, unfortunately we only have had one President of the United States who, in my view, understood national security, national defense. He was a five-star general: Dwight David Eisenhower.

Mr. President, these are his words:

> Every gun that is made, every warship launched, every rocket fired signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed. This world in arms is not spending money alone. It is spending the sweat of its laborers, the genius of its scientists, the hopes of its children. * * * This is not a way of life at all in any true sense. Under the cloud of threatening war, it is humanity hanging from a cross of iron.

This was the man who led the troops. This was the man who led the Allied troops in World War II—he understood war, but he also understood peace.

We are kidding ourselves, Mr. President. Today we are vulnerable. The national defense of this Nation has left us vulnerable, but not because we lack an arsenal. The vulnerability of this Nation today is that we rank at the bottom of the list in math and science, and that at least 20 million Americans cannot read or write. The vulnerability of our Nation is the deterioration and the erosion of our infrastructure, our highways, bridges, airports, our ports. Our vulnerability today is a nonproductive economy, a noncompetitive economy. Our vulnerability is the people who are without homes, nutrition, education, health care.

Ultimately the security of the Nation is not found in its materialism. It is found in a spirit. It is found in a strength of heart and mind. It is found in its people—we the people.

We the people are vulnerable today. Let us at least be honest: we are not addressing those vulnerabilities with this bill or any other bill.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, may I say to my friend from Mississippi and my friend from Ohio, that in my obligation right now as manager and what the two Senators intend to do, I would like to place a unanimous-consent request to accommodate our distinguished colleagues who are at the Hastings hearing, so that we can stack these rollcalls for 5:30 this afternoon.

May I hear from the Senators as to what they want to do?

The PRESIDING OFFICER. If the Senator from Mississippi does not have a statement, the Chair will put the question on the amendment.

Is there further debate?

Ms. MIKULSKI. Mr. President, I am very happy the Senator from Mississippi has offered his amendment to reduce the committee-recommended 8-year commitment for service academy graduates.

As a member of the U.S. Naval Academy Board of Visitors, I have been involved in the Academy's efforts to improve the number, diversity, and caliber of Academy applicants.

I have two points I wish to make:

First, most 17-year-olds are simply not prepared to sign up for a 12-year commitment of any kind. And who can blame them? They do not have the experience or knowledge to make that kind of career decision at that stage of their lives. Once these young men and women get a taste of military life and spirit, many will be eager to commit themselves to a career in the military services. If the committee provision becomes law, however, many dedicated, highly qualified high school seniors will be frightened away from giving West Point or Annapolis or the Air Force Academy a try. As a result, the academies will suffer and so will our country.

Second, I dispute the portrayal of Academy students as somehow pampered and privileged. Yes, it is true that all expenses of the students are paid and that students are given a monthly allowance. But I know a bit about life at the Naval Academy, and, believe me, it is not an existence that many people could survive.

Each Middie's day is highly regimented. There is virtually no free time. Living quarters are less than adequate. The academic requirements are highly technical and very demanding. The physical training is intense. Middies are constantly tested psychologically to see if they have the strength and leadership qualities for command. Training and study continue through the summer. Some Middies go through the equivalent of boot camp at Quantico. This is not the regimen of your average undergraduate.

The American taxpayer gets more than his money's worth from these men and women.

Mr. President, the committee provision would make it harder to recruit the kind of leaders we need in our Armed Forces. I urge my colleagues to reject the motion to table and support the Lott amendment.

Mr. LOTT. Mr. President, is there a unanimous-consent request?

I am prepared to ask for the yeas and nays.

Parliamentary inquiry. Would that be in order at this time?

The PRESIDING OFFICER. The Senator may ask it.

Mr. LOTT. To facilitate matters then, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Illinois has the floor, but he has yielded. The yeas and nays have been requested.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DIXON. Mr. President, on behalf of the managers at this time, I ask unanimous consent that the vote on or in relation to the Lott amendment occur at 5:30 p.m. today with no amendment to the amendment in order and that the Lott amendment be laid aside until 5:30. I would say in connection with that request, we will make that request on all amendments that are debated this afternoon to accommodate our colleagues who are at the Hastings hearing.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Mr. President, reserving the right to object, I would move to table the amendment by the Senator from Mississippi.

The PRESIDING OFFICER. There is a unanimous-consent request pending at this point.

Mr. GLENN. I will delay my request.

Mr. DIXON. I would point out, Mr. President, that the Senator from Ohio can make the motion to table at 5:30, of course.

The PRESIDING OFFICER. The Senator is correct that that may be done.

Is there objection to the unanimous-consent request?

Mr. GLENN. No, I have no objection.

Mr. LOTT. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. Did the Senator from Mississippi reserve the right to object?

Mr. LOTT. I reserve the right to object just for the purpose of asking that the name of Senator COATS from Indiana be added as a cosponsor of the Lott amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I have no objection to the unanimous-consent request.

The PRESIDING OFFICER. Does the Senator from Pennsylvania reserve the right to object?

Mr. HEINZ. No.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is on his feet.

Mr. GLENN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. It is in order I believe for me to move to table at the present time in case I was not here later on right at the beginning of that 5:30 or whatever that time was. Is that correct?

The PRESIDING OFFICER. The amendment has been laid aside so the Senator has the right to move to table at 5:30; to move to table.

Mr. GLENN. I cannot do it now?

The PRESIDING OFFICER. No.

Mr. GLENN. Mr. President, I ask unanimous consent that I be permitted to move to table the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Ohio.

Mr. GLENN. Mr. President, I send an amendment.

Mr. WARNER. Should the Senator not ask for the yeas and nays?

Mr. GLENN. He asked for the yeas and nays. I did not.

The PRESIDING OFFICER. The Senator from Ohio has asked unanimous consent——

Mr. GLENN. Mr. President, I move to table the Lott amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Several Senators addressed the Chair.

The PRESIDING OFFICER. If Senators will be in order so I can complete the business with the Senator from Ohio I will be certain that everyone has his opportunity.

The status is the Senator from Ohio has moved to table under unanimous-consent request and demand the yeas and nays.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered on the motion to table which will occur under the unanimous-consent request at 5:30 this afternoon.

Several Senators addressed the Chair.

The PRESIDING OFFICER. I believe that we have been going side to side on this. It is my understanding that the Republican side had the last amendment so the Chair will go to the Democratic side and then back to the Republican side.

The Chair recognizes the Senator from Ohio.

AMENDMENT NO. 580

(Purpose: To express the sense of Congress on Presidential support for continued development of the V-22 Osprey Program)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. GLENN. Mr. President, I understand my amendment has been accepted by both the floor managers. It expresses the sense of the Senate.

The PRESIDING OFFICER. The Chair will request of the Parliamentarian, has the amendment been filed and is it in order under the cloture motion?

The Chair would inquire of the Senator from Ohio, is this an amendment that has been filed in an appropriate fashion under the cloture motion?

Mr. GLENN. Yes, it is.

The PRESIDING OFFICER. What number is it?

Mr. GLENN. It is 580.

The PRESIDING OFFICER. The clerk will report amendment No. 580.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN], for himself and Senators BENTSEN, COATS, COHEN, DECONCINI, FORD, GORTON, GRAMM, HATCH, HEINZ, JOHNSTON, KENNEDY, MCCAIN, SPECTER, and WARNER, proposes an amendment numbered 580.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 293, between lines 13 and 14, insert the following:

SEC. 917. SENSE OF CONGRESS ON PRESIDENTIAL SUPPORT FOR CONTINUED DEVELOPMENT OF THE V-22 OSPREY PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) The V-22 tilt-rotor aircraft design is on the leading edge of aerospace technology for short takeoff and landing capability.

(2) The V-22 aircraft has the potential of simultaneously conducting helicopter missions farther, faster, and with a larger payload than any rotor-wing aircraft.

(3) The United States Marine Corps has a high priority to modernize its aging CH-46 helicopter fleet.

(4) The V-22 aircraft may be well suited for use by the Special Operations Forces of the Armed Forces.

(5) The V-22 aircraft may have substantial potential for facilitating the accomplishment of essential Army, Navy, and Air Force missions.

(6) There is substantial potential for the technology used in the development and production of the V-22 aircraft to significantly enhance the commercial aviation industry in the United States.

(b) POLICY.—It is the sense of Congress that the President should continue development of the joint services V-22 Osprey program and carry out the comprehensive review of the potential military and civilian uses of the V-22 aircraft as detailed in Senate Report Number 101-81.

The PRESIDING OFFICER. The Senator from Ohio is recognized in support of his amendment.

Mr. GLENN. Mr. President, I would also like to list as cosponsors Senators BENTSEN, COATS, COHEN, DECONCINI, FORD, GORTON, GRAMM, HATCH, HEINZ, JOHNSTON, KENNEDY, MCCAIN, SPECTER, and WARNER.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. GLENN. Mr. President, if someone walked into one of our offices and said "I have a new kind of helicopter and I will tell you what this thing will do; it will go twice as far; it will go twice as fast, and it will carry at least

a third more payload," what would we do?

We would probably fall all over ourselves to find out more about it, support it. We would try to get an appropriation for it, an authorization for it.

Well, our first question would probably be, how soon can we get this? We think maybe it is going to be out there 10 years in the future. It is going to require a long development.

The answer to that very serious question about how soon we can get it, the answer is now, now twice as far, twice as fast, and at least a third more payload.

The V-22 Osprey, has been 9 years in development at a cost of over $2 billion, supported by both Houses of every Congress, thoroughly flight tested on a two-third scale version—the XV-15—through 785 hours of actual in-the-air experience, first flight already flown on the full-size aircraft, and ready to move into production. But now it has been terminated by the Secretary of Defense on the rationale that it is too expensive a program just to provide a slightly enhanced capability for the Marine Corps ship-to-shore amphibious assault mission.

Mr. President, if that were the only use that is going to be made of this aircraft, I would agree completely, even with my Marine background; I would say that I support the termination if that were to be the V-22's major ultimate role; but it is not.

The amphibious assault role has always been looked at as just the first step in what is a much greater mission capability not only in the Marine Corps but potentially throughout the Department of Defense, and also for civilian commerical use.

Just to illustrate this, if we all just sat back right now and took a piece of paper and we tried to jot on that piece of paper all the missions now performed by helicopters, both military and civilian, we see them doing a host of things. It is not just carrying people around. It is doing firefighting. It is doing air-sea rescue. It is doing hundreds of different jobs, and we could literally fill up a a tablet here with uses being made of helicopter today.

Just think of all those military and civilian missions that could be accomplished if they could go twice as far, twice as fast, and with more payload?

The V-22 can do that. Importantly, this aircraft also will have a better night capability, it will have a better under the weather capability than the current helicopters that are flying right now and that the Marine Corps is procuring, and it will have a better navigation system. These are both extremely important in modern aviation. The alternative systems do not have systems of comparable capability.

The V-22 represents a U.S.-invented, quantum leap in vertical lift mission capability. Whatever its future application here or anywhere in the world, a full spectrum mission capability has always been the reason for development of this aircraft.

That is the reason Congress after Congress has supported it. It is not just an amphibious assault enhancement for the Marine Corps, valuable as that is in its own right.

Amphibious assault is just a first and obvious use, to be followed by expanded land tactics already being programmed by the Marine Corps, including the full range of helicopter missions. Potentially the V-22 could also be used in special operations force missions, air rescue, weapons platform development, as a new ASW capability, and for extended resupply missions for all types of ships—wherever "twice as far, twice as fast, with more payload" will have utility.

Wisely, the Senate Armed Services Committee did not support the Secretary of Defense in his cancellation of the V-22 program—The Secretary did not say just hold it up a little bit, he terminated it, period—But the committee, instead, recommended authorization of $255 million in R&D funds for continued flight testing. The committee, however, did decline to recommended funding of $157 million for advance procurement which I proposed. This advance procurement money would not be for aircraft production, but rather would be used to maintain the already existing manufacturing infrastructure. It would allow DOD to hold to a minimum what otherwise would be very high start-up costs if we decide to produce the aircraft.

The committee noted that the Department of Defense over the past 9 years has invested over $2 billion in developing the V-22. Yet DOD would terminate the program prior to flight testing, despite the fact that 95 percent of the cost to develop the aircraft has already been paid. This, to me, makes little sense. Obviously the Senate Armed Services Committee agrees, since in this bill we properly recommended funding V-22 R&D in at least the minimum amount the Navy says they need to keep the program on track.

Let me give a little bit of detail of the testing that this airplane has gone through.

The XV-15, a proof-of-concept aircraft, has been flying since 1977. It is an almost identical airplane, just a little bit smaller, a proof of concept machine. I flew the airplane. I was surprised at how easy the thing handled. It is a dual-place airplane where they could give you instruction in it.

That airplane has accumulated over 785 flight hours. It has made more than 1,500 conversions from vertical flight, tilting those rotors forward and going into conventional aircraft flight, 1,500 conversions from helicopter to airplane mode and back to helicopter. It has been flown up to 25,000 feet. It has cruised in level flight at 301 knots. It has attained a speed of 345 knots in a slight dive. It has been flown by 160 different pilots who have been impressed with its ease of handling, almost without exception.

The V-22 is about a half larger than that VX-15, but it follows the proof of concept aircraft. It has been the subject of 9,000 hours of wind tunnel testing, testing which correlated very well with flight testing of the XV-15.

Now, we have already had first flight on the Osprey, on the V-22, the full-size aircraft. It was flown 15 times, a total of 4 hours flight time, 15 different flights. As in the X-15 case, though, testing started with hover just in the helicopter mode. Nacelles have been tilted forward to 60 degrees—that is 30 degrees off the vertical—and the aircraft has been flown up to 105 knots and at 2,500 feet altitude so far in this very, very early testing.

The conversion to the full airplane mode flight testing is expected to be completed within 2 months. The final flight envelope they feel will be similar to the XV-15 making it a real combination of helicopter and turbocraft transport.

As of now, there are no major technical problems that anyone sees. The second flight test aircraft is due to fly in early August.

Mr. President, I ask unanimous consent that an article published in Amphibious Warfare Review be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. Mr. President, while the defense authorization process must concern itself primarily with military matters, there also is the potential civilian use of the Osprey that must be considered. History is replete with examples of defense research, development, and procurement that have led the way to spin-off civilian use of new products, equipment, or technology.

For example, jet engine development for military use led to production of the KC-135 aircraft, then to the civilian 707 airliner, and ultimately to worldwide commercial sales which made American jet engines and transport aircraft the standard for airlines around the globe.

Helicopters, computers, fuels, food packaging, and materials development are but a few other examples that spring to mind of beneficial spin-offs to a civilian use from military-sponsored research and development. While I agree that potential civilian use should not be the driving consideration for procurement of a military

aircraft, it would be a head-in-the-sand approach for us not to consider it.

The V-22 has enormous potential applications for civilian use.

I remember Senator Barry Goldwater, when he talked about this thing, he talked more about the possible civilian use and how it was going to revolutionize civil aviation almost as much as he did about military aviation. And I agree with his assessment of the while concept.

Emergency evacuation and air medical services, and airline service for remote areas that cannot afford expensive airline-type runways, all become feasible. Also, use of the V-22 as a commuter aircraft on comparatively short range, high density routes has been widely discussed as a possibility; the unique characteristics of the V-22 would make it ideal for city-center to city-center operations, with major time savings compared to our current airport-to-airport service, with its attendant delays from city to airport and return.

Too expensive? Maybe, but it was also thought to be too expensive for the initial development of the jet engine, for the 707, for some military computers, for food packaging, and for many other products developed originally for military use, but which later become more affordable and contributed greatly to our civilian economy both here and around the world.

The question, "If it's so great, why aren't the civilian interests investing in it?" is a valid one, and one that probably was asked at a similar stage in all of the programs mentioned above. But proving out, and introducing the new military products, followed by civilian investment and commercialization worldwide has been the normal pattern in the past.

It is my understanding that considerable interest has already been expressed in this aircraft by other nations. So if U.S. termination becomes final, as proposed by the Secretary of Defense, I would expect that the V-22 probably would be produced under foreign licensing—which we could hardly prevent.

If we agree that the V-22 capability is useful for far more than just the Marine Crops amphibious assault mission, then we should ensure that this tilt-rotor technology, which was researched in America, developed in America, and tested in America, is built in America, and not sold to the world by the Japanese.

In the Pentagon there are always proponents and opponents of any new program, and the V-22 is no exception. From the earliest days, opponents have stressed a much more limited view of the V-22 potential. In this year's budget presentation they were successful in stressing, almost to the exclusion of other missions, the Marine Corps amphibious assault role.

In support of the Pentagon position against the V-22's procurement for the amphibious assault role, quotes of high-ranking Pentagon officials to the effect that "the Marines haven't had to make an amphibious landing since Inchon" were widely disseminated and apparently given credibility in the decision-making process.

In my view, such statements show at best a tortured logic with regard to DOD decisions that I hope will not become the basis for planning defense procurement. Following through on such currency-of-use logic would mean withdrawing support for torpedo procurement. We haven't fired a torpedo in combat since World War II.

We would have no support for attack submarines, same as above, not used since World War II; no support for ballistics missile submarines—they have never been used. So if we use that kind of logic, we ought to eliminate all of those. We would have no support for nuclear weapons. The last time we used one was at Nagasaki, so we should not support those if the currency-of-use idea is there; the fact that the Marines have not had to make an amphibious landing since Inchon is almost irrelevant. On and on we could give examples of military equipment that thankfully have not had to be used.

Obviously, all of our military services, the Army, Navy, Air Force, and Marine Corps, taken together with all of their capabilities provides us with the full spectrum of warfighting capabilities for use in whatever way they may be directed. And that includes using the Marine Corps amphibious assault capability.

So, for all the above reasons, I strongly disagree with the decision of the Secretary of Defense to terminate the V-22 program—terminate, meaning no more expenditures of any kind on the V-22 program, even for completion of flight testing. In their markup of the fiscal year 1990 defense authorization bill, the House Armed Services Committee not only put in V-22 R&D money to fund completion of flight testing, they also included limited advanced procurement money for 12 aircraft. As I noted previously, the Senate Armed Service Committee recommended authorization of some R&D money but did not approve my amendment, which also would have provided some advance procurement money for maintenance of infrastructure.

In the fiscal year 1990 defense authorization bill now under consideration, the Armed Services Committee recommends authorization of $255 million in R&D funds to continue testing of the Osprey. Unfortunately, the bill does not contain the provision for $157 million in advanced procurement funds to maintain the industrial infrastructure that I proposed in the committee.

It is important to recognize that the V-22 Osprey tilt rotor aircraft was specifically developed to fulfill mission requirements for all four services. This fact is contrary to the often-repeated erroneous statement that the V-22 Osprey was designed and is being procured solely to fulfill the Marine Corps amphibious assault mission.

No less than 26 mission applications for all four services were documented in the memorandum sent by OSD PA&E to Congress on Jan. 16, 1984 in response to a congressional inquiry. These missions included tactical mobility for the Army; combat rescue, special warfare and logistics for the Navy; and special operations for the Air Force.

Today, the V-22 is being procured primarily as the replacement for the Marine Corps CH-46 troop assault helicopter, but additionally it has a special operations forces mission. Potentially, it also will be purchased by the Navy, Army, and Air Force for many of their missions currently performed less effectively by helicopters.

The Marine Corps, in part because it is a relatively light mobile force, intends to use the speed, range, and endurance of the V-22 to project combat power into lightly defended objectives close to the enemies vital areas. By using such tactics, and assault force can achieve decisive advantage by choosing its own time and its own place for initiating combat.

Also important is the fact that the V-22 will enhance the Marine Corps' strategic deployability, since its 2,100 nautical mile unrefuel range will allow the Corps to self-deploy virtually anywhere in the world. That is not a small capability.

It means that, unlike the helicopters, we do not necessarily have to provide shipborne transportation if we want to deploy some of those aircraft overseas, I concur with the opinions expressed by various Senators that have been highly complimentary to the Secretary of Defense for being willing to "bite the bullet" and to make some tough decision in cutting defense expenditures. I have made similar statements myself complimenting the Secretary. However, I also believe that it is our duty as legislators to give a second opinion on those cuts, and, where we sincerely believe the Secretary is wrong, to take appropriate action to oppose his decision, which in this case I believe was based on faulty information regarding the V-22 and its potential.

I repeat, twice as far, twice as fast and at least a third more payload. That is what we buy with this aircraft. That is a quantum leap forward in vertical lift capability, and it is one that I do not think we can afford to give up.

Mr. President, I believe others are waiting to speak. I believe this amendment has been accepted on both sides and at the appropriate time I will urge its acceptance.

EXHIBIT 1

ASSESSING THE V-22 OSPREY: THREE DIFFERENT PERSPECTIVES

AS A MARINE

As a former Marine, it is easy for me to understand the urgency in the need for improvement in the Marine Corps air assault transport capability. History is replete with the recognition that the ability to go farther and faster in delivering a combat punch is an elementary need in warfare. From ancient times to the modern day, the capability of an armed force to project troops and equipment over ever increasing distances at faster speeds has been one of the primary goals of a military commander. It is entirely in this vein that the Corps must replace its aging CH-46 fleet if it is to ensure the continued effectiveness of a major part of its combat power. The CH-46 is dated technology, with the last aircraft delivered to the Marine Corps over 14 years ago. Over the years, Corps employment of its large fleet of CH-46 aircraft in the demanding environment in which it must operate has resulted in the operational and training losses of a considerable number of aircraft. This combination of outdated technology and operational attrition has eroded combat capability significantly and leaves the Marine Corps no choice—it has to acquire a replacement assault transport aircraft in a timely manner or risk an extremely serious degradation in its combat capability.

In my opinion, the V-22 *Osprey* is the optimum aircraft to meet the Corps' assault transport requirement for the foreseeable future. Importantly, the increase in combat capability represented by the superior and unique performance characteristics of the V-22 tilt-rotor aircraft will permit the Marine Corps to keep pace with the growing threat. This aircraft will offer unprecedented mission flexibility both for the Corps and for the other services in a multitude of roles.

The V-22 is planned for introduction by all four services into units now operating helicopters. However, it is important that planning for use of these new machines not be constrained by current helicopter missions and tactics. With the advent of the V-22 the distinction between rotary wing and fixed wing missions has been blurred. The V-22 will be able to do much more than a helicopter, and be employed in ways impossible for any rotary wing aircraft. It is probably more appropriate to think of the V-22 as a fixed wing aircraft that has the capability to hover, and to take-off and land vertically, than to consider it a helicopter variant. In any event, it is critical that our military planners avoid the many-years-long get-acquainted phase experienced in the introduction of the helicopter starting some four decades ago. They will have to get on smartly with the development of the new tilt-rotor doctrine and tactics that will be required to take full advantage of the performance capabilities of the V-22 as soon as the aircraft enters inventory.

Looking back to the end of World War II and then to Korea, when the helicopter first was a factor in military operations, rotary wing aircraft employment was determined largely by trial and error. In fact, the introduction of the helicopter into the military as important as it was to become, did not occur because of visionary planning by the military, rather, the helicopter's military role evolved after the aircraft became available for military experimentation. Even then its assimilation into the mainstream of operational employment was painfully slow. As the military operators and planners became more familiar with helicopter capabilities, progress in rotary wing design and operational employment accelerated. Once the helicopter became available for wider use by troops in the field, its real potential rapidly emerged. This was dramatically demonstrated early in the Korean War when Marines made use of helicopters to move sizable infantry units to critical positions in a fraction of the time that it would have taken to move those units over the same terrain by foot. With this impetus, the somewhat primitive Marine Corps vertical assault concept rapidly evolved into the current rather sophisticated vertical envelopment mode of operations.

In the decade between Korea and Vietnam, helicopter technology progressed substantially allowing the development of the doctrine of air mobility over the battlefield. Now, in the 1980s, with the introduction of the tilt-rotor concept the doctrine of air mobility can again be dramatically expanded and improved if we but take full advantage of the unique capabilities of this technology. To do so it is imperative that both the Marine Corps and the other services be prepared to employ the V-22 effectively as soon as the aircraft enters the inventory in 1991. The Marine Corps' recently produced studies of deployment and employment concepts for the *Osprey* are a good first step in that direction.

From a Marine perpective, I am convinced that by selecting the V-22 to replace the CH-6 the Marine Corps has taken a major step towards significantly increasing its cambat capability. Just as the AV-SB Harrier V/STOL aircraft has been revolutionizing close air support since the early '70's, the V-22 tilt-rotor aircraft almost certainly will revolutionize amphibious assault in the 1990's and beyond. In large part thanks to the V-22, the Marine Corps will enter the 21st Century on the leading edge of technology for the air transport element of the amphibious operation.

AS A TEST PILOT

I recently had the opportunity to fly the XV-15, the ⅗ scale experimental aircraft that is the prototype vehicle for the V-22 program. I was, quite frankly, amazed at its performance. The aircraft is agile, easy to fly, and has very impressive performance in both the helicopter and fixed wing modes. The most unusual aspect, and of greatest interest to a test pilot, is the new flight regime—the transition corridor from rotorlift to wing-borne flight and back. I had anticipated that the transition from vertical to forward flight would be tricky and difficult. To my surprise, it was a piece of cake. The combination of the acceleration as the rotors are tilted a few degrees forward, the rapid rate at which the nacelles can then be moved to full forward "aircraft" mode position, and the positive feel of the conventional flight controls, make the transition an extremely comfortable and safe evolution. To move the nacelles from the vertical to the horizontal takes only 12 seconds; as the nacelles rotate forward, part of the power that was required for hovering is converted to horizontal acceleration, easily moving the aircraft to a speed well above wing stall by the time the nacelles approach the full down position. Reversing the process and transitioning back to rotor lift from wing borne flight is equally comfortable; the large rotors then act as very effective speed brakes. Pilot control of the aircraft during both of these transitions is simple and direct, and the pilot work load is surprisingly low.

The VX-15 is not the first true V/STOL aircraft for this country; as noted, the AV-8 Harrier has been in the Marine Corps since the early 1970's. Before the introduction of the AV-8 Harrier, the results achieved by DOD in its lengthy involvement with V/STOL aircraft technology development had been disappointing. Even today, despite a large investment by DOD in numerous programs and prototypes, only the Harrier has a true V/STOL capability in our current military inventory. However, that the Harrier exists today at all is due primarily not to DOD but rather to a firm British commitment to the technology and the persistence of a small number of U.S. Marine Corps officers who believed in its need by the Corps. A major additional pay-off on the U.S. investment in V/STOL technology is now at hand in the form of the V-22, though the tilt rotor is very different V/STOL mode from the vectored thrust Harrier.

Without question, the V-22 program has benefited from many recent technological developments. New materials now allow us to build lighter structures, which leads to reducing much of the weight penalty of the tilt rotor's wing. These new materials also permit the construction of rotors that have greatly increased hover efficiency over the flatter rotors required for helicopters; like the new helicopter blades, these rotors will be very durable. Also, aircraft engines have become more powerful, more efficient, and much lighter; the newest technology engines (not yet in production) hold even greater promise for the near future. Additionally, our ability to help the pilot with fly-by-wire controls that add stability and ease the transitions from one flight mode to another, has progressed to the point where an aircraft can be both a helicopter and a fixed wing turboprop with onl a minimal increase in pilot workload.

Taking advantage of these and other major advances in technology, the *Osprey* will take us into a new era of flight. I found myself fascinated with the operational challenges and tactical employment potential of tilt rotor technology. Testing the full scale version of this uniquely configured aircraft, with its large engine masses at its wing tips, and with its huge rotors and rotatable nacelles, will be very challenging to the test pilot, especially as he conducts a detailed exploration of the flight transition corridor. It is a challenge that I would have welcomed during my test pilot days, and one that I got a small taste of when flying the XV-15.

Operationally, the flexibility to land on ships at sea and in forward landing zones, together with the capability to refuel in the air (fixed wing mode, or in a hover) will give the V-22 range and employment options that are totally unprecedented. They will provide our contingency planners and tacticians with a quantum leap in capability for employment.

There was a time when we could count on having a clear technological edge over our potential enemies in most sophisticated weapons systems. However, a quick review of the number and the quality of the newest threat-systems, particularly aircraft, indicates this edge is rapidly disappearing. In

his latest edition of "Soviet Military Power" the U.S. Secretary of Defense states: "The new HOKUM helicopter, which has no current Western counterpart, may give the Soviets a significant rotary-wing air-superiority capability." Significantly, the V-22 will present the U.S. with an opportunity to recapture that advantage with a completely new aircraft operating in a previously untapped flight regime. It is imperative that we take advantage of this and other innovative systems to provide the improved performance and increased flexibility necessary to offset Warsaw Pact numerical advantages.

I understand that over one hundred "guest" pilots have flown the XV-15 and that all have become advocates of the aircraft. Having now shared that experience I understand why, because I, also, am a strong advocate of that technology. Having lived in the high-performance aircraft test community for many of my past years, I am particularly aware of the dangers of succumbing to being an overly impressed "one-flight-expert," but, having said that, there is no question in my mind—the time is right for the V-22 *Osprey.*

AS A MEMBER OF CONGRESS

When viewed from the Senate and the Senate Armed Services Committee, the perspective of the V-22 program shifts considerably to the broad, overall national security picture. Nonetheless, the Osprey program still looks very good from this vantage point also, for a number of reasons.

First, the V-22 Osprey program is truly a joint program which addresses operational requirements of all four of the military services.

Second, the program development and acquisition strategy has been tightly structured.

And third, it is generally recognized by those following the program that the V-22 tilt-rotor technology holds tremendous promise for later civilian applications.

"Jointness" is a major selling point for the V-22 program. At present, there are 913 aircraft on order—the Marine Corps will produce 552 aircraft for combat assault; the Air Force 80 for special operations; the Army 231 for combat support; and the Navy 50 for search and rescue. Unfortunately, DOD's history on joint programs has not been good and there have been relatively few truly successful joint programs. This situation must change for this nation can no longer afford to develop the large numbers of somewhat redundant weapon systems that we did in the past.

It is not appropriate in today's fiscally constrained environment for one Service to develop a system unilaterally without regard for another Service's requirements, thereby forcing a proliferation of weapons systems. In the past, DOD did not necessarily actively encourage joint programs either through funding advantages or through strong management support. In fact, joint programs typically were subject to DOD and service gamesmanship in the continued juggling of funding allocations, which usually resulted in less program stability and less support by the individual services for joint programs than for parochial single service efforts. The additional management challenges and headaches inherent in a joint program also acted as a major deterrent.

The V-22 program, however, is an excellent joint acquisition prototype program which has met these challenges head-on; it already has generated some interesting and very positive trends as a joint effort. I think that it is clear that for a whole variety of reasons, both DOD and the Congress should give high priority not only to this joint program, but to other similar programs in the future.

In response to a congressional inquiry several years ago, the Services drew up a long list of potential missions for the V-22, or some V-22 variant, beyond those already identified in the program. Congressional intent was to generate significant savings by stressing commonality and avoiding development of additional new aircraft if possible. The effort succeeded well beyond expectations, with the first major mission addition coming when the Navy indicated that it intended to replace its carrier-based S-3 Viking antisubmarine patrol aircraft with a variant of the V-22, adding approximately 300 aircraft to the total buy. I will be very surprised if the list of additional missions does not continue to grow. For example, because of the superior operational performance of the V-22 compared to helicopters, an *Osprey* attack variant would appear to be a very good possibility.

Another major plus for the V-22 program from a Congressional standpoint is that it has a tightly structured development and acquisition strategy. The strategy optimizes competition, which benefits not only the taxpayer and the government, but also industry.

The Navy has applied a number of management innovations in the V-22 program, including a preliminary design phase to reduce risk; a fixed price full-scale engineering development contract; contractor funding tooling; not-to-exceed prices for the first four production lots (240 aircraft); and protection competititon starting with production lot one. The Navy's purpose is to lend stability to the program and to control costs. While it is not yet clear that the V-22 acquisition strategy is the best, or even the right, strategy, the Navy is to be commended for taking the lead in trying to improve the procurement of a major expensive weapons system using innovative management and contracting procedures. The V-22 program may or may not be a role model for acquisition methodology in the future, but it is undeniable that we will gain many useful procedures from this new acquisition process.

A third important aspect of the V-22 military program is its almost unlimited potential for civilian tilt-rotor applications. Our national transportation system is a key element in the nation's economic development and growth process. We have endemic problems with congestion and traffic flow in virtually every metroplitan area; this might well be eased by use of civilian tilt-rotor aircraft. Several decades ago, military jet tankers generated the operational data later used by civilian airlines in making their decision to move into turbojet airliners; from that, a new era in civil airline transportation evolved. Some have likened the tilt-rotor potential to that of the jet airliner.

The primary advantage of the civilian tilt-rotor will be its independence of large airports and long runways. This will allow heliport-style terminals to be constructed at a fraction of the cost of current airports, and in areas where regular airport construction is prohibitive due to cost, space or other constraints. NASA, FAA, and DOD together are conducting a study of the potential civilian use of tilt rotor aircraft; the study should be concluded in about a year. The study results could well provide the trigger for the biggest civilian pay-off of all; a much more efficient short haul national transportation and distribution system for both passengers and high priority cargo. While it is too early to tell for sure, it is patently clear that tilt-rotor flexibility in take-off and landing, coupled with its cruise efficiency and relatively high speed, could lead to a new era of major airline hubs around the U.S. They would be serviced by tilt-rotor commuter aircraft operating into and out of very constrained locations in relatively distant outlying areas.

Finally, as a member of the Senate Armed Services Committee in a period of reduced defense spending, I would be remiss if I didn't acknowledge that there are substantial risks inherent in the V-22 development program. As an old fighter pilot, I don't need to be convinced by an analyst of the value of greater speed and range in a combat aircraft. It is easily demonstrated that superior aircraft performance is of prime importance to even the hottest pilot, and it can become a critical, if not fatal, disadvantage to be on the short end of that proposition. Nonetheless, if the cost of achieving superior aircraft is so high that only a few aircraft can be procured, operational flexibility is lost.

Make no mistake—this is an expensive aircraft. However I do not believe that cost will be a major problem in the V-22 program since it is estimated that the cost differential between a tilt-rotor and a comparable modern helicoper with the same mission equipment package is estimated to be approximately 15 percent greater for the tilt-rotor. To achieve roughly twice twice the speed and several times the range would appear to be a very good return for a slightly higher acquisition investment. Still, additional data validating the military value and cost-effectiveness of the tilt-rotor's speed and range advantages would be extremely useful to use in Congress, and I understand such justification will be forthcoming from DOD shortly.

In summary, I feel strongly that the V-22 is an excellent investment for the country—an investment that capitalizes well on previous technology development expenditures. Industry, DOD and Congress together must strive to keep this program on track and ensure that it remains a good investment. Right now, since the program has been adequately funded, and engineeering change proposals have been kept low in number, it is up to industry to deliver the aircraft on schedule, and according to specifications. I have high confidence that they will meet this challenge and open a new era in aviation for the military, for civilian aviation, and for the nation as a whole.

Mr. SPECTER. Mr. President, I take this opportunity to reiterate strong support for a program which I feel is very important to our national defense effort, the V-22 Osprey Program. I believe the Osprey represents an essential future component in short-range tactical air operations. In this regard, I join as a cosponsor of the amendment offered by Senator GLENN expressing the sense of Congress in support of continued development of the V-22 Osprey.

The V-22 has received a great deal of attention in the last several months following the Department of Defense's recommendation to terminate the program. Despite the attention focused

on this issue, I feel a number of misconceptions still remain regarding the program. At this time, I will briefly address several of the aircraft's assets in an attempt to clarify any remaining questions or doubts.

For those of my colleagues who may be unfamiliar with the aircraft, the V-22 Osprey combines the operational capabilities of a helicopter with a fixed-wing turboprop, greatly enhancing the aircraft's flexibility. Six prototypes are being built by the team of Boeing Helicopters of Philadelphia, PA, and Bell Helicopter Textron, Inc. of Fort Worth, TX, under a $1.8 billion full-scale development contract awarded by the U.S. Naval Air Systems Command. Reports indicate the aircraft will cruise at 275 knots and transport combat payloads over 1,000 nautical miles. No helicopter in our current fleet can match the Osprey's combination of speed, range and deployability. These attributes will permit amphibious assault from protected distances and provide the speed and maneuverability to survive close-in combat.

Critics have suggested that the mission of the V-22, which has been referred to as a ferry service, is much too narrow. The V-22, however, offers much more than the preconceived ferry service, or ship-to-shore mission. As my colleagues may know, many combat contingencies require avoiding frontal assaults or attrition-style warfare into heavily defended enemy positions. Another key attribute of the V-22 is its ability to penetrate deep inland and carry out long range insertion and extraction operations. Today, the Marine Corps must operate from over the horizon and project power ashore. The V-22 lends itself well to the Marine philosophy of maneuvering through enemy territory through a series of rapid and unexpected actions. Moreover, its speed reduces its exposure to surface fire. More importantly, its acceleration and deceleration capabilities reduce vulnerability at the critical final phases of assualt. This unique aircraft will enhance the Marines capability to operate in these vital areas.

Additionally, the original program was designed to meet seven mission requirements of the four services. However, 26 additional mission applications were identified and documented in January 1984 by the Office of the Secretary of Defense.

Critics also have suggested that various alternatives have not been studied by the Department of Defense [DOD]. In fact, three major studies dating from 1982 to as recently as January 1988, have focused on the V-22's, cost, operational effectiveness and survivability in sustained warfare operations. These studies were a Joint Technical Assessment, a Cost and Operational Effectiveness Analysis and a Subsequent Operations Ashore Study conducted for the Secretary of the Navy. All three studies determined that the V-22 is the most cost effective solution to meet the Joint Services requirements.

Perhaps the most hotly debated issue with respect to the V-22 is its projected cost. The Defense Department has repeatedly stated that the reason for cancelling the V-22 has been affordability. DOD has suggested that $26 billion can be saved by not procuring the V-22. This simply is not the case. Secretary Cheney has recommended funding for a new, medium sized combat assault transport program as an alternative to the V-22, which will cost at least $24 billion over the next 20 years. This program reportedly calls for a large fleet of helicopters much less capable and much less survivable than the V-22. DOD officials have testified that this new helicopter program would be $5 to $6 billion less expensive than the V-22. In subsequent testimony, before the Senate Appropriations Subcommittee on Defense, specifically that provided by General Pittman, Chief of Marine Aviation, and Admiral Dunn, Chief of Naval Operations, statements of both witnesses indicated that the new helicopter program would be as expensive, and possibly more expensive, than the V-22 program. It also would require additional manpower and pilots and incur substantial life cycle costs that would obviate any anticipated near-term procurement costs saving.

Mr. President, as we are all aware, our country faces a period of great uncertainty regarding future conflict scenarios and mission requirements. One thing we do know, however, is that flexibility in mission will be an essential criteria for all of our services. I am convinced the Osprey is an aircraft which fulfills this need. Mr. President, this is the real crux of the issue. The V-22 Osprey has many advantages, high speed, range, maneuverability and multiple mission usage, whereas the alternatives would not be operationally suitable for a wide range of missions as would the V-22.

In summary, Mr. President, based on the specific merits of the V-22 Osprey, and considering that $2.5 billion already has been spent on the V-22 program, cancellation of this program after such a substantial investment seems unwise and fiscally irresponsible.

Accordingly, I urge my colleagues to join in support of the pending amendment and ultimately to restore funding for the V-22 Osprey program, specifically $157 million in fiscal year 1990 procurement funding. I also urge Secretary Cheney to review the cost effectiveness of the V-22 and reconsider his position on this vital, national defense effort.

Mr. GRAMM. Mr. President, I am happy to join our colleague from Ohio as a cosponsor of the amendment. Mr. President, I will try to be brief because as a good Marine officer would in arguing for a weapon that is initially going to be used by the Marines, our colleague from Ohio has done an excellent job.

The points I want to make are pretty simple and clear-cut.

First of all, this is a revolutionary aircraft that embodies new technology that is too powerful to be stuck away in a museum somewhere. If we do not build the V-22, somebody else is going to build it. And when they build it, they are going to have not only the competency to use it for their military but they are going to have the capacity to commercialize it for use by airlines.

I believe the potential uses of the V-22 are almost limitless. I think it is vitally important as we try to employ new technology as a force multiplier in the military, as we try to develop new technology to achieve a firm place in the marketplace to create jobs, growth and opportunity in the United States, that weapons embodying new technology that have civilian use ought to be given a special premium.

Second, Mr. President, the point I would like to focus on, given that our colleague from Ohio hit all of the technical arguments, is a very practical argument as to what this amendment is trying to do. Basically, our situation—and as a member who served for 4 years on the Armed Services Committee I have followed the procedure very closely, I have often been involved in it—is that we end up with a bill that is greatly different from the House on two big ticket items: SDI, and in this case, the B-2 bomber.

Our differences in these two programs alone amount to $2.5 billion.

There are many who would be willing to look at funding for these or other programs to fund the V-22, but basically the situation we face is that we are going to go to conference where the differences between the Senate and the House in SDI and B-2 are going to be negotiated out, and at a minimum they are going to create about $500 million to $1 billion of resource that can be used on things that are not funded in the Senate bill.

Mr. President, what we are doing in this amendment is just letting the Senate go on record indicating that the V-22 is an excellent weapons system. The Secretary of Defense canceled the program not because he did not want it. It was in the original budget. But when the budget summit agreed to cut the Reagan defense budget by $10 billion, the V-22 was a casualty.

Going into conference, what we are saying is, when this $500 million to $1

billion frees up, as we lock in the final figures for SDI, as we lock in the final figures for B-2—and I hope those figures are much closer to the Senate figures than the House figures—but as we lock in those numbers, and as those resources are freed up, the V-22 ought to be at the very top of the list in terms of what is funded.

The V-22 Osprey is a revolutionary embodiment of the genius of the American free enterprise system. It is a force multiplying weapon that can help us keep Ivan back from the gate; that can fly faster, further and carry a greater payload than any similar weapon we have ever built.

It has tremendous civilian uses. What we are trying to do is to keep that program alive. If we go to conference and take the House figures as they came out of committee, we will, in essence, have slipped production by 1 year. It will give us an opportunity to finish the testing, do the advanced procurement, and be in a position next year to move ahead with this program.

That is what this amendment is about. That is why I am happy to be a cosponsor of it.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Texas.

Mr. BENTSEN. Mr. President, I am pleased to join my colleague from Texas in cosponsoring this amendment by the distinguished Senator from Ohio [Mr. GLENN], which declares the strong support of Congress to continue development of the V-22 Osprey.

I would have preferred, of course, to add procurement funds for this important program. But that proved impossible following the defeat of the amendment to transfer those funds from the Strategic Defense Initiative Program.

Nevertheless, while we have no measure of opinion on the procurement funding issue, this amendment brings us together on the important areas where we agree. We agree that development of the V-22 should continue. We agree that the President should carry out the comprehensive review of the many military and civilian applications of tilt-rotor technology which was mandated by the Armed Services Committee. We agree that the V-22 has enormous potential—but requires continued R&D funding for that potential to be evaluated.

I think it is significant that the Armed Services Committee specifically did not agree with Secretary Cheney's decision to cancel this program. Instead, the committee approved $255 million for continued research and development for this program and requested further testing and careful review of several aspects of the V-22. The committee acknowledged what I consider a most compelling reason for pressing ahead with this program—the substantial commercial potential which tilt-rotor technology could have for alleviating airport congestion and providing a new, major aerospace export for the United States.

I do not mean to minimize the military value of the V-22. It would substantially enhance the Marine Corps by giving it much greater range, speed, and flexibility for amphibious operations. It could give our special operations forces unrivaled capabilities for antiterrorist and hostage rescue missions.

While the United States is pursuing this technology for immediate military applications, other nations are rushing to exploit commercial and export opportunities. Already, five government-subsidized companies in Europe have formed a consortium to beat the United States into the civil marketplace for tilt-rotor technology. Consequently, added funds for the V-22 will preserve our future civilian options as well as maintaining the military ones.

The program is also important for Texas, where several thousand highly skilled and experienced helicopter craftspeople face the loss of their jobs if Secretary Cheney's decisions to kill the V-22 and the AHIP are implemented. It would be a tragic loss to our work force and to our defense industrial base if these people are denied the opportunities to practice their expert skills on these aircraft programs.

Mr. President, this amendment provides an opportunity for the Senate to reaffirm its earlier declarations in support of the V-22 within the context of this particular bill. It does not do all I would like, but it sends a strong signal of our interest in continuation of this important program.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I did not mean to cut off my friend from Illinois if he was rising to speak.

Mr. DIXON. I am ready to conclude this.

Mr. SYMMS. I thank my friend from Illinois. I will be very brief.

I share in the comments of my two colleagues from Texas. I agree with both my colleagues. I think they are absolutely right on target. I thank the Senator from Ohio for offering this amendment. I think that we should, and our colleagues should, think about the fact that in the hostile battlefield of the future, in a hostile environment, older, slower, less capable helicopters, it will be easier for the defenders to figure out where their route of flight will be and place hostile fire in between them and a proposed landing zone.

With this airplane, with the Osprey, the versatility with the distance it will fly, the speed at which it can fly, means it can literally come in from the opposite direction from where the defenders think it may come, and it gives a massive choice of areas where it can insert troops. It has almost limitless potential. I think many people do not realize you can literally load troops in an Osprey at Camp Lejeune and fly them to many of the Central American potential hot spots, without a fleet, without a task force and insert the troops.

It has great versatility. As a former member of the Armed Services Committee, I came away from the committee with one conclusion. I say to my colleagues, if we have to choose between more people in the Defense Department, in and out of uniform and weapons like the Osprey, the V-22, I would choose the more modern weapons, the more modern transportation systems so we can save lives, be more versatile, get people to where we need them in a hurry and be able to extract them. It will be much better in the long run.

It is a quantum leap forward, as my colleagues from Texas said. For the United States of America to not move forward with this I think would be absolutely a tragic mistake. If we cannot get it done this year, my view would be next year we need to make some manpower cuts so we can pay for systems like this. This is so important. It will save lives. It will improve our capability. It will improve our ability to solve problems, such as terrorism and other problems that have been mentioned here. There is no way that we can turn this down.

So I hope that when my colleagues go to conference, they will be able to accomplish including this in the bill.

I yield the floor.

Mr. HEINZ. Mr. President, I also want to rise in support of Senator GLENN's amendment. I am a cosponsor of it, and I commend him on offering it because it recognizes the importance of the V-22 Osprey aircraft, both as a viable replacement for our CH-46 helicopter fleet and also for its technological potential to literally revolutionize the commercial aviation industry. There is clearly, Mr. President, a very strong and good case for support of this aircraft that my colleagues have made. It will travel twice as far, twice as fast with at least a third more payload than existing helicopters. It is no wonder the Marine Corps calls the V-22 its highest priority.

This is the alternative to the helicopters for the Marines which would consist of 966 CH-53's and CH-60's. That is what Secretary Cheney proposes, and that alternative, Mr. President, would cost some $6 billion more than the V-22 and require something else that is even more precious: 500 pilots that, frankly, I do not think we have. The helicopter alternative is half as effective as the V-22 in the

ship-to-shore mission, and it cannot perform special operations. It is also between 3 to 12 times more vulnerable than the V-22. So with that ability, it makes sense to me the Defense Department should be moving forward with the development of this aircraft.

I also want to say that I think it is appropriate to focus on the Marines in light of the deplorable situation in Lebanon where Colonel Higgins was allegedly murdered and where other innocent Americans remain hostage, most notably, Mr. President, one of my constituents, Joseph Cicippio, who, as we stand here on this floor, has a clock ticking and a sword of Damocles literally held over his head.

If the United States should ever initiate a rescue operation, we would not be sending in the B-2 Stealth bomber to do it. We cannot, we found out in the deserts of Iran, send in our helicopters very effectively. What we would be sending in is the U.S. Marines, hopefully in V-22's.

I believe, Mr. President, the Congress has an obligation to provide these brave men with at least a fighting chance when they go into hostile areas. The V-22 aircraft and the capabilities it offers to our Marines and other servicemen could very well mean the difference between a successful rescue mission or a failed effort before we even hit the shores. I think we owe the Marines and anyone we are trying to rescue the very best fighting chance we can provide them, and that means the very best equipment. Mr. President, on that the record is clear, it is the V-22.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, this amendment adds emphasis to the committee position and strengthens the hand of the Senate when we go to conference with the House. The Majority side is delighted to support the amendment.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I certainly agree that the technology that we are working on and developing with the V-22 is very important.

I have always personally been attracted to the V-22 tilt rotor aircraft. But in this case, we have asked the Secretary of Defense to make some tough decisions and he made them. I think he made the right decisions and, for that reason, I support the decision he made not to go forward with the actual procurement of the V-22.

However, having said that, this resolution is a sense-of-the-Congress resolution. I think that it is consistent with the committee position. We provided additional R&D funding. We want the testing to go forward. We can look at that and make some subsequent decision about the actual funding for procurement. So on behalf of the manager for the minority, we are prepared to accept this amendment.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment.

The amendment (No. 580) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, I understand the distinguished Senator from Pennsylvania now has an amendment. I am compelled to observe that in the whole afternoon so far, we have disposed of only a couple of amendments. One is stacked for a vote after 5:30. I wonder if my friend from Pennsylvania could accommodate us by agreeing to some kind of a time limitation on his amendment that would serve to usefully shorten the time we are spending on these matters this afternoon?

Mr. HEINZ. I will be pleased to agree to, say, 30 minutes equally divided.

Mr. COATS. Mr. President, I rise today in support of this sense-of-the-Congress amendment on the V-22 Osprey. Quite frankly, I would have preferred a more solid commitment to the eventual deployment of the V-22, including advanced procurement funding in this bill, yet I feel this amendment is important nonetheless. This amendment should help focus attention on the vital contribution that tilt-rotor technology can make in numerous military and civilian applications. It would send a strong signal that the U.S. Congress strongly supports this technological innovation and urges the President to carefully review the final flight test data.

This amendment urges the President to support continued development of the V-22, consistent with the approach outlined in the Senate's Defense Department authorization report for fiscal year 1990. While I generally agree with the intent of the report, in my view it does not go far enough toward ensuring that a positive production decision can be made next year. By not providing advanced procurement funds, we run the risk of shutting down all existing V-22 production facilities. In the absence of advanced procurement funding, the prime contractors will be unable to make commitments to subcontractors, acquire special tools and materials, and obtain necessary engineering and manufacturing personnel. In other words, even if flight testing is highly successful and the Department of Defense chooses to go forward with procurement, we will face cold production lines. This would unavoidably lead to a significant slip in the commencement of production if such a decision is made in fiscal year 1991. As a result, operational V-22's would not enter service until after 1994.

The inclusion of some advanced procurement funds would have acted as a bidge between the testing and production phases. As the existing Senate bill stands, there is insufficient commitment even to the possibility that the V-22 will ultimately be procured. This amendment, while not going as far as I would like, nonetheless sends a very important signal—that the administration should support our ability to reasonably make a procurement decision in fiscal year 1991.

Mr. President, before closing I would like to make several points relevant to the debate over the V-22.

First, in many ways the discussion surrounding the V-22 has been excessively narrow in its focus. We have spent far too much time arguing over the cost of the Marine Corps over-the-beach assault mission and the supposed savings of going with a helicopter-only alternative. By focusing on such static cost comparisons, the V-22 appears significantly less attractive than the helicopter alternative. Yet once life cycle costs are factored in, and once the enormous increase in capability is taken into consideration, the difference largely evaporates. Even if the V-22 turns out to be more expensive over the long run—and this is open to debate—I believe that its increased capability warrants the additional cost. After all, the Commandant of the Marine Corps, General Gray, did not designate the Osprey his No. 1 priority for no reason.

In focusing on the Marine Corps combat assault mission, moreover, we loose perspective on the overall value of the V-22. This aircraft has tremendous potential for a wide range of military missions. Special operations forces would benefit in particular, but the V-22 will also be a valuable asset for combat strike rescue, logistics and medical evacuation and anti-submarine warfare, to name but a few of the more obvious examples.

Mr. President, as all Senators are aware, the V-22 also holds great promise for civilian aviation. There is no question that this is true yet the issue before us today is really one of military application and need. I am confident that civilian participation and foreign sales will eventually bring the cost of the V-22 down, yet it is my feeling that the program is warranted on military grounds alone.

One of America's greatest strengths has always been our leading position in technological innovation. We have led the world in aviation technology for decades, and I submit that the V-22 is wholly consistent with our tradition in this regard. Tilt-rotor technology represents an important wave of

the future with regard to military and civilian aviation. This is not to imply that helicopters are outdated and will have no role to play in the years to come; I am simply saying that we have an opportunity at hand to move into the aviation future, rather than be stuck in the past. I think its worth the cost.

I yield the floor.

Mr. JEFFORDS. Mr. President, I am pleased that Senator GLENN has offered this amendment, calling upon the President to support the V-22 Osprey.

While I can understand Secretary Cheney's decision to cut back on the number of weapons systems that the Defense Department will purchase in the coming years, I am concerned that cancellation of the V-22 will actually cost more in the long run. Alternatives to the V-22 could cost as much as $1 billion more than the Osprey program.

Tiltrotor aircraft have many potential applications in all three services, including antisubmarine warfare capabilities, which is an area of serious concern for the Navy at present. In addition, tiltrotor technologies may have valuable civilian applications and lead to advances in commercial air travel.

After careful review of the V-22 program and all available alternatives, the House Armed Services committee voted to restore $157 million to the procurement account and $300 million to the research and development account for the V-22. This position recently was upheld by the full House of Representatives.

The Senate Armed Services Committee provided $255 million in research and development funds for fiscal year 1990. I am pleased that our bill will now include a statement of support for the V-22 and I urge acceptance of the Glenn amendment.

Mr. DIXON. I would say on behalf of this side we would be agreeable to that.

Mr. LOTT. Mr. President, I certainly think there is no objection on this side. I think it would be very constructive to have that.

Mr. DIXON. I thank the Senator from Pennsylvania for that. We will ask on future amendments for the remainder of the afternoon if we can get some accommodation.

My friend from Mississippi observed that he was listening to the debate the other night on the Cambodian question. There was a time limit and he said he thought the speeches were a little crisper when the time was shorter. I thank my friend from Pennsylvania.

The PRESIDING OFFICER. The Chair would advise it has received no unanimous-consent request.

Mr. DIXON. I make the request, Mr. President, that the time in connection with this amendment be limited to 30 minutes to be equally divided, with the Senator from Pennsylvania to manage the 15 minutes on his side and this Senator to manage 15 minutes in opposition.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 446

(Purpose: To express the sense of Congress that the Department of Defense should not enter into contracts with persons of countries that deny adequate and effective protection of intellectual property rights)

Mr. HEINZ. Mr. President, I call up my amendment No. 446 and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ], for himself and Mr. ROCKEFELLER, proposes an amendment numbered 446.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 247, below line 24, insert the following:

SEC. 836. PROCUREMENT FROM COUNTRIES THAT DENY ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS.

It is the sense of Congress that the Department of Defense should not procure property, services, or technology from—

(1) any person of any country which has been identified pursuant to section 182(a)(2) of the Trade Act of 1974 (19 U.S.C. 2242) as denying adequate and effective protection of intellectual property rights or fair and equitable market access to United States persons that rely upon intellectual property protection; or

(2) any person of any other country that denies adequate and effective protection of intellectual property rights, as determined by the Secretary of Defense on the advice of the U.S. Trade Representative; or

(3) any person who misappropriates United States intellectual property.

Mr. HEINZ. Mr. President, I offer this amendment on behalf of myself and Senator ROCKEFELLER, who I ask unanimous consent be listed as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, the purpose of this amendment is to help focus the attention of the Department of Defense on the loss of advanced technologies to foreign competitors. It is the view of this Senator that such losses are critical. They erode our domestic base of supply, and they run counter to the compelling goal of restoring our ability to provide for U.S. defense needs through domestic procurement. These losses are particularly disturbing when they are the direct result not of U.S. manufacturing inferiority but of deliberate predatory tactics aimed at our most promising technologies.

What am I talking about?

In the past year, Congress recognized and began to address practices abroad which encourage the misappropriation of valued American technology. The Trade Act of 1988 includes provisions specifically identifying piracy of U.S. intellectual property as an unfair trade practice and directing the U.S. Trade Representative to prepare a Special 301 list of countries that fail to adequately and effectively protect U.S. intellectual property abroad.

Our particular concern with respect to such piracy is Japan, which has consistently targeted our advanced technologies for misappropriation. Hearings in the Commerce Subcommittee on Foreign Commerce and Tourism, chaired by the Senator from West Virginia, Mr. ROCKEFELLER, who has been far ahead of the rest of us in recognizing this problem, have documented a number of patenting tactics used by powerful Japanese competitors to extract valued intellectual property rights from United States companies. Patent flooding, coercive cross licensing, and excessive delays in the Japanese patent process which allow Japanese competitors to use with impunity promising ideas exposed in patent filings are just a few of the more blatant and costly abused.

The United States-Japan Working Group on Intellectual Property was created in response to these hearings, the first time that the United States and Japan have met in a bilateral forum to discuss problems relating to intellectual property protection. The creation of the forum certainly was encouraging, but the sad fact is that the Japanese negotiators have stonewalled—and that is not an overstatement—our negotiators on virtually every point during the Working Group's first year.

The Department of Commerce, the Patent and Trademark Office, and the United States Trade Representative have taken an active interest in eliminating these abuses through negotiation with the Japanese Government. So far, however, the Department of Defense has remained utterly aloof from this process. But as patent flooding, coercive cross licensing, and other predatory practices begin to threaten the viability of innovative and reliable domestic manufacturers in the defense chain of supply, the Department of Defense—and the Congress—have a responsibility to respond.

The FSX contract, in which the Senator from Illinois [Mr. DIXON], a member of the Armed Services Committee, was so involved, brought the matter of one-way technology transfer to Japan squarely before the Senate. It was the judgment of the Congress

and the administration that this contract after some fixing should go forward, but with meaningful protections against such one-way transfers. While opinions may differ in the Senate on the wisdom of the FSX deal generally, I am sure there is no divergence in our collective concern about the long-term effects on our economy and our national security of any one-way flow of advanced technology offshore.

In that regard, the case for this amendment—which reflects the sense of the Congress—is demonstrated in part by a specific example involving Fusion Systems Corp. of Rockville, MD, a small firm whose promising technology has been targeted and subjected to blatant patent flooding by Mitsubishi Electric Co. in Japan.

Fusion Systems is a highly innovative, reliable supplier to several defense contractors and contributes significantly to production in two of the critical technologies, semiconductors and fiber optics, identified by the Defense Department as "technologies with great promise of ensuring the long term superiority of United States weapons systems."

At the same time, Mitsubishi Electric Co. is the recipient of lucrative and significant defense contracts from our Government, including a portion of the FSX deal. Another Mitsubishi Group company, Mitsubishi Heavy Industries, is the primary Japanese beneficiary of the FSX contract.

The technology at issue here—Mitsubishi Electric's microwave lamp business—is not highly profitable. Indeed, Mitsubishi Electric has probably spent more money fighting Fusion than it has made selling microwave lamps. By contrast, the FSX is of enormous significance to Mitsubishi Heavy Industries; yet these offensive practices continue.

This leads, Mr. President, to the question this amendment poses: Should companies engaged in predatory practices which threaten the viability of our domestic suppliers be permitted to profit from U.S. defense contracts? I believe they should not as a matter of principle and also as a matter of safeguarding our defense industrial base.

The amendment I have offered addresses this issue very simply. It states that it is the sense of the Congress that the Defense Department should not procure property, services, or technology from countries that do not provide adequate intellectual property protection or from persons who steal our technology.

Mr. President, that is a pretty simple and straightforward proposition. Do not do business, if we can avoid it, with countries that steal our technology and do not do business with firms that are guilty of stealing our technology.

With respect to countries, and persons in countries, that do not provide adequate protections, the amendment references the provision of last year's trade bill, the so-called special 301 provision that requires the U.S. Trade Representative to list such countries.

By the way, at the present time, Mr. President, none are listed, but the USTR did develop a watch list of countries that might ultimately be listed in the absence of improvements in their practices.

The amendment that I offer would also permit coverage with respect to persons of other nonlisted countries as determined by the Secretary of Defense on the advice of the U.S. Trade Representative.

In addition, the amendment simply covers any person who misappropriates U.S. technology.

Mr. President, I have to say in view of the seriousness of these practices and these offenses this is an extremely modest and careful approach. First, it expresses the sense of the Congress. Second, it does not have the force of law, and it is in any event tied closely to determinations and advice that the agency charged with studying this issue, namely the U.S. Trade Representative, may make. It will serve, however, notwithstanding its modesty, to put foreign countries and foreign contractors on notice that their practices with respect to U.S. intellectual property are of significant interest to Congress, too.

While we are not prepared to act punitively at this time this matter deserves and will be afforded even closer scrutiny, I am sure, in the future.

So as I said, Mr. President, this is a modest approach that simply flags an important problem which is growing more important, and attempts to sensitize both the Defense Department and certain of our trading partners to it, and I hope my friends and colleagues will adopt the amendment.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. HEINZ. Mr. President, let me try that again. I do not want to have to put in a quorum call.

Mr. NUNN. Will the Senator withhold that?

Mr. HEINZ. Yes.

Mr. NUNN. I would like to see if we can work something out on this amendment. I do not know that we can.

Mr. HEINZ. Mr. President, I withdraw my request.

Mr. NUNN. I certainly do not want to deny the Senator the yeas and nays. I was not paying any attention at that stage.

But I think all of us could agree that it is a very serious problem when countries do not honor the intellectual property rights of the U.S. citizens. I think that is the point the Senator is making. It is awfully hard, though. I do not know enough about what is happening in this area in terms of what determinations are about to be made.

Are there countries that are about to be declared under this provision of the act that the Senator alluded to as being in the category that he has referenced?

Mr. HEINZ. Mr. President, if the Senator will yield?

Mr. NUNN. I am glad to yield.

Mr. HEINZ. Mr. President, the answer to that question is no. I did say we have a watch list. I do not have with me the countries listed on the USTR's watch list. It is possible that at some future time, but it is by no means imminent, that countries that are on the watch list and do not negotiate in good faith could indeed go on the U.S. Trade Representative's Special 301 list. But let me make this point if the Senator will yield further.

First, this is not binding on the Secretary of Defense in two ways. I recall that the Senate spent 3 hours last night on what turned out to be permissive language on an amendment that we probably could have disposed of in 15 minutes if people had actually read the words in it. I think the Senator knows the amendment about which I speak. My amendment is a sense-of-the-Senate and similarly nonbinding. Second, it goes on to say that the Department of Defense "should" not procure property, services, or technology from these very offensive sources.

Let me explain, although I think it is pretty clear to my friend from Georgia, that the term "should" is not the same as "shall not," and it it is not the same as "may not." Even if this was not a sense-of-the-Senate resolution, which it is, and was given the force of law, which I do not propose to do, frankly it would not compel the Secretary of Defense to take these actions. That is not my purpose.

My purpose is to sensitize the Department of Defense to this issue. I characterized this as a modest approach a moment ago. And, indeed, I think it is deservedly so characterized.

I thank the Senator for yielding.

Mr. NUNN. I thank the Senator from Pennsylvania.

Would the Senator consider saying in the first paragraph instead of "It is the sense of Congress that the Department of Defense should not procure properties, services or technology," something to the effect—I do not have it written out—that in procuring property, services, or technology the Department of Defense should strongly

consider, and then go ahead with the rest of the amendment rather than a flatout prohibition? I do not know what this entails.

I wonder. Let us say the Senator knows what is going on in 19 United States Code Annotated 2242. But let us say the Department of Defense is in the middle of a procurement contract on a long-term weapons systems with the French, just hypothetically. We are buying systems from the French. This determination comes in that they are not fully and adequately protecting our intellectual property rights. I know the Senator's amendment is permissive. I understand that part of it. But it seems to me would be better advised to say to the Department of Defense we want you to strongly consider that, and now say we want you to absolutely bar procuring even though it is just a sense of the Senate.

Mr. HEINZ. If the Senator will yield, Mr. President, I always thought that when we said something was sense-of-Congress resolution, that is what we were saying, that people should consider our views, but that they are not bound by them. Otherwise, I do not know what sense of the Congress is.

Mr. NUNN. If they do not take our work literally, if we tell them they should not buy anything from any person in any country that has had this found, then if we really mean what we are saying, that is pretty sweeping.

Again, I do not know what would happen to existing contracts. I would just like to be a little bit more precise with what we mean. I think what the Senator is saying is he wants the Department of Defense to give some support to the Trade Representative and support to the overall protection of intellectual property. I think this is a way to word it.

Mr. HEINZ. Mr. President, there may very well be. I am amenable to the Senator's suggestion to try in some intervening period to work out some language. But I would be remiss, it seems to me, if I did not I apologize if I am repetitive. I do not mean to be. If we say it is our advice, it is the sense of the Congress to the Defense Department that they should not do something, it should be something other than a declarative statement of intent that they should not procure these things from somebody who has an inadequate intellectual property regime or who is a thief. We have invested vast discretionary and confidence in the Department of Defense. I have no hesitation about putting that on the record.

As to any contract that is ongoing, it would not be this Senator's intention to interrupt a contract. This Senator has been in the forefront time and again of defending contract sanctity even when it was the unpopular thing to do, on the Yamal pipeline, for example, or on other arrangements such as grain deals.

So I am not one of those who believes that it is sound. Indeed, I think it is a terrible policy to have an on-again-off again-relationship.

I will withhold. I do not wish to use up the Senator's time.

Mr. NUNN. I would like to hear the Senator's proposal. I do not think we are far from being able to accept this amendment, and end the debate. But I would like to tone it down a slight bit because it is basically saying, as we say, if the Secretary of Defense took it literally, we would tell him if any country is found to violate the intellectual property rights of our own citizens, we immediately want him to stop buying anything from them. We do not say whether the contract should be completed. We do not say anything. Perhaps we should not take these sense-of-the-Congress statements literally.

Perhaps we should not take them completely seriously and sometimes we do not. But if we do not, he will not. If he will not, what good do they do?

Mr. HEINZ. Mr. President, I do not want my friend from Georgia to misinterpret me. I think a resolution that is a sense of the Congress is a very serious undertaking. They should not be meant as jokes. They are, because we are a coequal branch of Government, under our Constitution, however, not by their nature, binding on another branch of Government. In that sense, because of the separation of powers that we enjoy and that have served us well, they are serious, but they are not determinative. That is perfectly appropriate.

Mr. NUNN. I agree with the Senator, but all I am trying to say is that this is an important factor he should consider. We would agree on that. There are other important factors. If the U.S. Army does not have anyplace to procure a certain kind of ammunition except one company in a country that has been bound under this, and the U.S. Army is in a very bad situation with that, I would not want a sense-of-the-Congress resolution to say do not regard national security or anything else. Just put all that aside and make the intellectual property rights the most important thing.

Mr. HEINZ. I agree with the Senator.

Mr. NUNN. I knew the Senator would agree with that. All we need to do is get the staff in the back room for about 5 minutes and give them a directive that what we want them to do is make this an important factor, but not the only factor.

Mr. HEINZ. Would it be in order to ask that we lay aside the Heniz amendment and go on with other business?

The PRESIDING OFFICER. That would be in order.

Mr. HEINZ. Mr. President, I ask unanimous consent that we lay aside the Heinz amendment with no further time to run on it.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 537

(Purpose: To make changes in the funding requirements and limitations provided in the case of certain programs)

Mr. NUNN. Mr. President, while we have a brief moment here, I ask that amendment No. 537 be called up and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Hearing none, the clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for himself, Mr. WARNER, Mr. HATFIELD, Mr. INOUYE, and Mr. STEVENS, proposes an amendment numbered 537.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 25, strike out "$29,000,000 shall be available only" and insert in lieu thereof "not more than $29,000,000 shall be available".

On page 10, beginning with line 18, strike out all down through "REDUCTIONS.—" in line 24.

On page 32, line 24, insert "authorized to be" after "amounts".

On page 33, line 1, strike out "may be obligated only" and insert in lieu thereof "shall be available".

On page 41, line 4, strike out "Of the amounts" and insert in lieu thereof "(a) FUNDING.—Of the amounts authorized to be".

On page 41, line 6, strike out "only".

On page 41, between lines 6 and 7, insert the following new subsection:

(b) INTEGRATED ELECTRIC DRIVE PROGRAM.—The Secretary of the Navy, is authorized to establish an Integrated Electric Drive program by merging the Ship Propulsion System program and the Shipboard System Component program with the Electric Drive program for the purpose of providing Integrated Electric Drive propulsion in the DDG-51 guided missile destroyer program.

On page 41, line 9, strike out "Of the amounts" and insert in lieu thereof "(a) FUNDING.—Of the amounts authorized to be".

On page 41, line 11, strike out "only".

On page 41, between lines 11 and 12, insert the following new subsection:

(b) NEW PROGRAM.—The Secretary of the Navy is authorized to establish a Fast Sealift Technology Development program for the purposes of completing, within 24 months of the date of the enactment of this Act, the technology development program described in the January 1989 report to Congress entitled *Fast Sealift Program Technology Assessment Report.*

On page 41, line 13, strike out "Of the amounts" and insert in lieu thereof "(a) FUNDING.—Of the amounts authorized to be".

On page 41, line 15, strike out "only".

On page 41 between lines 15 and 16, insert the following new subsection:

(b) NEW PROGRAM.—The Secretary of the Navy is authorized to establish a Tactical Oceanography program to accelerate uses of scientific measurement and data collection devices and processes for the purpose of rapid tactical applications.

On page 42, line 5, insert "authorized to be" after "amount".

On page 42, line 8, strike out "only".

On page 52, beginning with line 11, strike out all down through "REDUCTIONS.—" in line 15.

On page 52, lines 22 and 23, strike out "shall transfer not less than" and insert in lieu thereof "may transfer".

On page 53, line 2, strike out "shall" and insert in lieu thereof "may".

On page 194, line 9, insert "authorized to be" after "funds".

On page 194, line 11, strike out "only".

On page 246, beginning with line 13, strike out all down through line 23 and insert in lieu thereof the following:

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 301 for Defense Agencies for fiscal years 1990 and 1991 for operation and maintenance, $9,000,000 shall be available for each of such fiscal years for the purpose of carrying out cooperative agreements under chapter 142 of title 10, United States Code.

(b) SET-ASIDE.—Of the amounts provided for in subsection (a), $600,000 shall be available for each of the fiscal years 1990 and 1991 for the purpose of carrying out programs sponsored by eligible entities named in subparagrah (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas (as defined in subparagraph (B) of section 2411(2) of such title). If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow for effective use of the funds authorized under this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services region in accordance with section 2415 of such title.

On page 270, line 2, insert "authorized to be" after "amounts".

On page 270, line 3, strike out "not less than".

On page 270, line 4, strike out "not less than".

On page 270, line 5, insert "authorized to be" after "amounts".

On page 270, line 6, strike out "only".

On page 450, lines 10 and 11, strike out "not less than $2,900,000 and not more than $3,435,000 shall be obligated or expended" and insert in lieu thereof "not more than $3,435,000 may be obligated".

Mr. NUNN. Mr. President, this is an amendment that Senator BYRD has been the primary mover on, cosponsored by myself, Senators WARNER, HATFIELD, INOUYE, and STEVENS. It makes technical adjustments in the bill based on the agreement between the Armed Services Committee and the Appropriations Committee to remove certain floors from the bill. I would like to have the amendment adopted. I think it has been cleared on both sides. The Appropriations and the Armed Services Committees all agree with it.

Mr. LOTT. Mr. President, this has been cleared on our side by the manager for the minority.

The PRESIDING OFFICER. Is there further discussion? The question is on agreeing to the amendment of the Senator from Georgia.

The amendment (No. 537) was agreed to.

Mr. NUNN. I move to reconsider the vote by which the amendment was agreed to.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Heinz amendment is pending. It has been temporarily set aside.

Mr. BUMPERS. Mr. President, I voted for cloture this morning knowing that it was going to take down an amendment that Senators BENTSEN, JOHNSTON, and I intended to offer to start withdrwing some of our troops from Korea.

I note from the pained look on the face of the distinguished manager from Virginia that there may be something else getting ready to come up, and I wanted to gauge the length of what I have to say with what may be happening with the pending amendment.

Could I have the attention of the Senator from Virginia?

Mr. WARNER. Mr. President, the Senator from Arkansas always has the attention of the Senator from Virginia.

Mr. BUMPERS. Then my question is about how long does the Senator think it is going to be before the Heinz amendment is going to be worked out if that is what is going on right now?

Mr. WARNER. Mr. President, I have been working with the distinguished Senator from Pennsylvania. He has shown his usual high degree of cooperation. We have just looked at a draft which has considerable appeal to the Senator from Virginia and indeed I may become a cosponsor.

Mr. HEINZ. Mr. President, if the Senator will yield, the copy is now being typed up so we can all take a look at it. But I think it may be suitable on both sides, and when we get it back, I will take a moment to explain it, and hopefully, it will be acceptable to the Senator from Virginia.

Mr. WARNER. I thank the Senator from Pennsylvania.

Mr. BUMPERS. I thank the Senator from Virginia and the Senator from Pennsylvania.

As I was saying, Mr. President, I knew that in the amendment of Senators BENTSEN, JOHNSTON, and BUMPERS what we were proposing to offer would fall when we voted cloture this morning because it was not germane.

Our amendment was the same thing that we have offered here as a bill, S. 1264, and on which we had hoped to get hearings before the Armed Services Committee before this bill was considered.

Mr. President, I alert Senators to this point. We will be back offering this amendment on the defense appropriations bill when that bill comes before the Senate.

It is very simple. There is not anything vindictive about it. But we believe that it is time to start bringing some of our troops home from South Korea.

Mr. President, here is the situation in South Korea, and I would like for someone to make a new, more creative argument in response to this than anything I have heard since I got on this particular project.

No. 1, we went to South Korea in 1950 when the North Koreans attacked. The North Koreans attacked South Korea because probably both the Soviet Union was urging them to and China was probably urging them to, or at least not trying to restrain them. In short, those two countries, which were strong adversaries of ours, were creating mischief everywhere, and that is when we went to Korea. Harry Truman sent our troops there for a very short while, a noble undertaking, and we saved South Korea at a considerable loss of life to American men, and something happened after that that I do not understand.

We stayed and we stayed and stayed, and we are still there. Forty-three thousand American troops are now in South Korea. That is more troops than we had 10 years ago. That's more troops than we have in any other country overseas except Germany and Japan.

I want you to consider the situation now compared to what it was when we went there in 1950.

No. 1, South Korea has come of age. As to South Korea, listen to these statistics; they are absolutely overwhelming. There we are with 43,000 troops in South Korea to defend them against their nemesis, North Korea, but South Korea has twice as many people as North Korea, 42 million people in South Korea, 21 million people in North Korea.

The gross national product in the economy of South Korea is eight times larger than North Korea. And

even the Defense Department will admit by the year 1995 the GNP of South Korea will probably be ten times greater than North Korea.

Now you have to ask yourself, what on Earth is going on here? You know, if you saw a 21-year-old going around still sucking on a bottle you would ask what in the world is going on. And that is precisely where we are here.

Now we are not suggesting with our amendment that the United States renege on its commitment to the defense of South Korea. On the contrary, all three of the principal cosponsors of this bill feel strongly about the defense of South Korea.

What else has happened? China and the Soviet Union probably represent a strong brake on North Korea right now.

Do you know what the South Korean GNP rate was last year? About 12 percent. Do you know what it was in North Korea? Zip, zero. The North Korean economy is a basket case. And yet you would have to be insane to suggest that either the Chinese or the Soviets or both want the North Koreans to invade South Korea. Good Lord, the Soviet Union is over in Vienna agreeing to destroy about 35,000 tanks, about 45,000 armored personnel carriers, and on and on it goes. They cannot even feed their people. The Chinese have the worst political situation they have ever had and as a result of their political situation their economic condition is deteriorating.

To suggest that North Korea would invade South Korea without at least the tacit approval of both the Soviet Union and the Chinese would be insane. To suggest that the North Koreans would invade South Korea without a commitment of one or both of those nations to resupply them would be insane. And yet I cannot believe, based on what we have seen in the past 6 months, really the last 3 years since Gorbachev became General Secretary in the Soviet Union, that either one of those countries would agree to resupply North Korea.

Finally, Mr. President, the South Koreans in 1988 had a $10.6 billion trade advantage against the United States. Do you know what that means? That means they sold us $10.6 billion more in goods and services than we sold them. They are eating our lunch economically. And yet we continue to maintain 43,000 men and women in South Korea at a cost to the American taxpayers of $2.6 billion.

Now, when we get around to debate this, do you know what the argument will be against it? "Not now. Wrong time. Premature."

Now, to those people who make that argument, I want them to also be prepared to answer: why not now? If not now, when? Surely to goodness a country that is twice as big, with 10 times bigger GNP, is capable of defending itself.

Mr. President, there is another reason, a very good reason, in the interest of democracy in South Korea and it is this: We want democracy to thrive in South Korea. Do you know what our presence is there now? It is an irritant. How would you like to be a South Korean and drive in to Seoul to work every day and the only area you can find that is a big green area, really beautiful, couple hundred acres of ground, the only thing you can see there is that big 18-hole golf course that belongs to the U.S. Army.

Now I think that has been worked out. But just our golf course there occupying the best real estate in Seoul, worth an estimated $7 billion, was an irritant to those people, an understandable irritant.

But then you have people—you know, we have them in this country—they are never pleased. They never like the way things are going. And in South Korea, what do those people do? Why those dissidents who do not like the government and who blame the United States for every single thing that goes wrong there, what do they do? They do what everybody in America is so upset about they cannot breathe. They burn American flags. Well, that is a favorite pastime in South Korea, burning American flags. And that is their privilege. They are not under the same constitution we are.

But, nevertheless, why do we want to maintain this presence there and jeopardize Korean democracy, it is not worth it.

And now, finally, the Koreans say they want to build an airplane, a fighter plane. Where have you heard that before? The Japanese wanted to build an airplane. Now the Japanese have a $50 billion trade deficit and they did not want to buy the best fighter in the world, the F-16, which is made in the good old U.S. of A., and help cut that $50 billion deficit.

Incidentally, you are going to get a chance to vote here in the next 48 hours on that one, too, to override the President's veto.

We had this big debate here about this joint venture building a fighter plane with the Japanese when we said if they really cared about us and that they really wanted to cut the trade deficit with the United States, they would buy our F-16's. And they were not having any of that. That is the reason I voted against this deal with the Japanese. It is not Japanese bashing; it is just that I thought they ought to buy the F-16. They are not going to build a plane any better than that.

So what are the Koreans going to do? The Koreans now want to build their own fighter plane, and they want us to join them in the development of the fighter plane, but it is going to be built in South Korea. The South Koreans do not want to help reduce the trade deficit with the United States either.

Mr. President, when you go back to the arguments that are going to be made on this floor: Not now, wrong time, the Chinese are in a state of ferment and that makes North Korea a real threat. Actually, that is just perverse logic. The very opposite is the case. But when that argument is made, I want to know when is the right time.

Here is what the Defense Minister of Korea said. In an interview with the Defense Minister in Washington by a Seoul television anchorman, here is what the Korean Defense Minister said:

> I think that to maintain our military capability at the same level as that of North Korea, we have to continue our efforts until the year 2004 or 2006.

With the utmost respect to South Korea and the Defense Minister, who is calling the shots? Is the Defense Minister of South Korea going to tell us when we can leave? I promise you in the year 2004 to 2006 you will hear the same arguments—"not now; too dangerous."

Our amendment only removes 10,000 troops of the 43,000 that are there. We are not saying precipitously pull out all the troops at one time. We are saying, Mr. President, by the year 1992, the end of 1992, pull out 10,000 troops. That is not headlong. That is not precipitous. That is a very measured response to the situation.

I do not make any bones to my colleagues about it. I want us out of Korea. I want us to do it on a gradual basis so that we do not create a precipitous situation.

But we have no business being in South Korea. Why in the name of God are we spending $2.6 billion to maintain 43,000 troops in South Korea when their economy is growing four times faster than ours is?

Do you know what they spend for defense? Almost 1 percent less of their GNP than they spent 2 years ago. Their commitment to defense is declining. Well, if I had a bird nest on the ground like they have and I knew that I could somehow or other wheedle the Secretary of Defense and the President into keeping troops there, I would reduce my commitment, too.

They are going to spend 5.1 percent of their GNP this year for defense and we are going to spend between 5.7 and 6 percent. And their commitment is going down. And we maintain our presence there and tax the American taxpayers as their commitment to their own defense wanes and declines.

The Korean Defense Minister came over and said I know there are some people over in the Senate who are wanting American troops out of South

Korea. So, he said, "I'll tell you what I will do. We will give you $30 million more in capital improvements this next year."

Everybody said that is just hunky-dory, oh, we are so grateful to you, Mr. Defense Minister, that is great. You are going to give us $30 million. That will be a big burden off us on that $2.6 billion we are spending.

He went home complacent and the Secretary of Defense and the President said: We have no plans for withdrawing from South Korea.

Incidentally, I do not believe that. I think they are on the drawing board and they are thinking about it. But when the Defense Minister was here they said: "Do not worry about this. We have no plans to pull out of South Korea." The very wrong message to be sending South Korea.

So, Mr. President, all of those reasons just about sums it up. I cannot add a lot more to what I have already said. But I cannot think of one single solitary reason to stay. And I think probably what the President and Secretary of Defense are saying is that we cannot—listen to this—we cannot unilaterally pull out of South Korea. This ought to be talked over with them.

No. 1, they say we have no plans for leaving South Korea. And, No. 2, we certainly cannot leave South Korea without consultation. This needs to be done in consultation with them.

In short, we cannot pull out of South Korea unless they agree to it. Do you know what that makes us? Hostages. Hostages are much in the news now and the United States and our 43,000 troops in South Korea are being held hostage to the whim and caprice of South Korea.

If you buy the President's argument and the Secretary of Defense's argument, that this must be done in consultation with them, we can never get out unless they say we can get out. What kind of nonsense is that?

Mr. President, I am pleased to have had the opportunity, even though I did not get a chance to offer my amendment. It might not prevail in this body right now. But as Senators JOHNSTON and BENTSEN and I make this argument over and over again and it begins to penetrate and the Senators begin to hear the arguments which in my opinion are just absolutely overwhelming, we will begin.

I will close by reemphasizing, Mr. President. Korea is to be commended for the tremendous economic advances they have made since we went there. They are to be commended for the political progress they have made in moving toward democracy. And our amendment is not designed to punish them because as I said, and I want to reemphasize, our commitment to the defense of South Korea is total. We are not trying to renege or welch on our commitment to the defense of South Korea.

What we are trying to say is, if we leave, we will help their democracy. No. 2, above all we will be helping the taxpayers of the United States. A $30 million 1-year contribution to the capital costs of our staying there, that is peanuts. That is not even enough to be called a bribe.

Mr. President, I hope that Senators will follow this as the debate goes on between now and the time we offer this amendment. Senator NUNN is going to try to give us a hearing before the Armed Services Committee. I would like to have a hearing before we offer this amendment on defense appropriations. But whether we get it or not, whether we have time for the hearing or not, it will not reveal anything that I have not told my colleagues right now. We are going to offer this amendment and give the Members of this body, this Congress, a chance to save the taxpayers a lot of money, help South Korea in the long run, and not jeopardize their security at all.

Mr. President, I thought my logic on the Korean debate as I have just expressed was overwhelming. I had no idea we would get fast action. Here is today's Defense Daily, and it is headlined: "Pentagon Plan Could Pull All Combat Units in Korea by '95."

"A Joint Chiefs of Staff Report obtained by the Defense Daily"—I do not know if it is a leak—"Joint Chiefs of Staff Report * * * outlines a scenario in which all U.S. combat units could be withdrawn from Korea by 1995."

The report goes on:

> Prepared in the wake of growing Korean opposition to the U.S. military presence on the peninsula, the report outlines three ways in which the U.S. military might be withdrawn.
>
> Option One would bring back all military units save for headquarters staff and command, control, communications and intelligence units.
>
> Option Two would keep all American air assets intact. However, it would remove the 2nd Infantry Division from its post on the demilitarized zone, leaving only Korean troops on the border. The division would be rebased in central Korea.
>
> Option Three would keep the air assets intact, but remove all American ground units to other areas in the Pacific.

I want to thank the Pentagon for such fast action on my argument a few moments ago, Mr. President.

I yield the floor.

Mr. BENTSEN. Mr. President, through crisis and calm, despite North Korea's stagnation and the South's amazing prosperity, United States officials have continued to repeat the line, "Now is not the time. * * *"

Now, is the time, Mr. President. Now is the time to wake up to the changes which have been occurring on the Korean Peninsula. Now is the time to save some money, reduce our overseas presence, and take advantage of South Korea's greater strength.

It is also time to begin reassessing the current wisdom and future need for our numerous overseas deployments which we acquired long ago. Four decades ago, we sought overseas bases to compensate for our technological shortfalls, to put likely battlefields within reach of our bombers and missiles and to save the time it would take to ship troops and equipment across the ocean.

Now we have intercontinental range missiles and bombers. Now we have jet transports that can reach distant conflicts in a matter of hours. Overseas bases remain a convenience, but not always a military necessity.

The United States has deployed half a million military personnel overseas. Counting their dependents and Federal civilian employees, we have over 900,000 Americans posted abroad.

Our global garrisons have given us some of the benefits of an empire, but now we are paying a higher price for these deployments. The costs are a burden to our balance of payments. Our people abroad are targets for local disputes and international terrorists.

Many things have changed since we acquired our global commitments and associated military bases.

Those changes include the source and shape of the most likely threats to our interests as well as the capacity of our allies to contribute to our common defense. Despite those transformations, we have remained rigid in our posture.

Mr. President, I am not proposing a withdrawal to a fortress America. But I do believe we need to question our long—unquestioned policies and assumptions regarding our overseas deployments.

After all, we recently went through an elaborate process to review the justifications for all of our domestic bases. Several communities will lose bases and jobs and all the benefits associated with those facilities in order that we can have a more efficient overall defense posture.

It would be unwise and unfair to reexamine our domestic base structure and cut back where it makes sense, and not do the same for our overseas facilities.

A good place to start this reexamination is Korea. The last time we had a fight over Korean troop withdrawals, a little over a decade ago, United States commanders vigorously fought a Presidential initiative to bring some of the troops home. But even then, they acknowledged that conditions could change to permit some U.S. troop cuts.

Gen. David Jones, then Chairman of the Joint Chiefs of Staff, told the House Armed Services Committee almost exactly 10 years ago today that

the Joint Chiefs of Staff opposed Korean troop withdrawals "At this time * * * we avoid the word 'never,' because conditions can change. * * * we do not rule out that in the days ahead, as the Republic of Korea improves its capability, there could be further withdrawals."

Gen. John Vessey, then our commander in Korea, testified in 1979 to the Senate Armed Services Committee, "In the long run, given security can be maintained—South Korea—will be a much stronger country than the North and certainly will be able to defend itself from the North alone in time."

Those are statements from 10 years ago.

Today, Mr. President, many defense planners are beginning to admit that the time may have come to make some United States troop reductions without fearing either the psychological or military collapse of South Korea. Former Army Chief to Staff, Gen. Edwin C. Meyer has written of "slimming" U.S. forces. the Wall Street Journal has reported that Pentagon policymakers are "actively developing plant to remove thousands of U.S. troops."

And the current Chairman of the Joint Chiefs of Staff, Admiral Crowe, told the press just a couple weeks ago that, while our military presence in Korea had served us well for many years, "I must tell you, as a military man, that with the kind of fiscal constraints that we are having put on us, then everything in our inventory is open to looking at and certainly being reexamined every year."

Those are signs of hard-nosed realism, Mr. President. We can no longer afford the luxury of keeping everything as it was.

Each year it costs the United States $2.6 billion to keep our forces in Korea. While the South Korean Government offsets much of that amount by waiving taxes and by providing some support activities, its direct spending for us amounts to only about 10 percent of our annual cost.

Our presence is also estimated to pump into the South Korean economy about $2.5 billion per year. A further drain on our balance of payments which exacerbates our trade deficit, which was $8.9 billion last year.

Obviously, Korea could be much more helpful to us in trade and defense cost sharing. Perhaps this very debate will sensitize them to these additional issues.

This amendment starts us down the road to change by requiring one-third of our ground troops to be withdrawn over the next 3 years. It also requires the administration to review the policy options and report to the Congress.

I believe we can take these initial steps without jeopardizing our commitment to the defense of South Korea.

While the North remains headed by a rigid Stalinist, Kim Il Sung, and while the North has some military advantages over the South, I believe that the superior air power and vastly stronger economy of the South tip the balance in favor of our ally.

South Korea has twice as many people as the North—bright, energetic, hard-working and successful people. The South's gross national product is nearly eight times that of the North. And the South's lead is projected to widen in the years ahead.

A nation with 8 to 10 percent growth each year can surely afford modest increases in defense to offset the withdrawal of 10,000 U.S. troops. That is what I think will happen and should happen if this legislation is enacted.

REDUCING UNITED STATES TROOP LEVELS IN KOREA

Mr. LEAHY. Mr. President, I would like to express my support for the amendment sponsored by Senator BUMPERS to withdraw 10,000 United States troops from South Korea by 1992. As a cosponsor of this measure and an original cosponsor of similar legislation, S. 1264, I regret that the amendment was ruled not germane under postcloture

Over the past several years there have been remarkable economic and political changes in South Korea. United States troops gave their blood and lives during the Korean war to fight back the invading northern forces and establish a protective umbrella for the South. The lower half of the peninsula has florished in stark contrast to the situation in North Korea.

During the 1980's, the South Korean economy rapidly expanded and since 1986 the GNP has grown more than 10 percent every year. The $154 billion GNP of South Korea in 1988 dwarfed the GNP of the North more than seven times over. South Korea also now has a population of 41 million—twice the size of the North.

South Korea has unquestionably prospered under the protection of United States forces—so much that it now runs a large trade surplus against the United States. Last year as the United States spent over $2 billion to defend the Korea peninsula, South Korea had a $10.6 billion trade surplus with our country. Our friend has grown up enough to share more of the defense burden.

The ties between South Korea and the United States remain as strong as when our two countries signed a mutual defense agreement in 1953. But as Korea has grown under protection, the need for United States troops on the peninsula has diminished.

Presently there are 43,000 U.S. personnel stationed in South Korea—12,000 Air Force and 31,000 Army. It costs U.S. taxpayers approximately $2.8 billion a year to maintain this presence. Our amendment would require a gradual withdrawal of 10,000 Army troops by 1992.

The reduction would not alter the balance of power on the peninsula. In the unclassified version of the Report to Congress on the Military Situation on the Korean Peninsula, the Department of Defense indicates that South Korea would contribute more than 90 percent of ground combat strength if war broke out again. United States air forces will certainly be more important during any future conflict, but our ground forces are only serving as a trip wire. We don't need a 31,000 man trip wire.

In addition to the economic reasons for reducing our troops, there are political justifications. South Korea is slowly moving toward a more democratic system. But our military presence has increasingly become a focal point of demonstrations against the government. Ironically, United States troops sent to Korea to protect the peninsula may be blocking peaceful democratic reform in that country. A lower profile may reduce some of this resentment.

Finally, Mr. President, I would like to address charges that this amendment is an unnecessary unilateral move. This is not true. The measure calls for discussions with the Korean Government on how to phase out the 10,000 United States Army personnel. These talks will also determine what materiel the Republic of Korea will require after the United States troop withdrawal.

A review of United States force structure on the Korean Peninsula is long overdue and this amendment takes an important step in the right direction.

The PRESIDING OFFICER. In my capacity as a Senator from the State of Florida, I yield my 1 hour to the Senator from Georgia, the chairman of the Armed Services Committee, Mr. NUNN.

Who seeks recognition?

The Senator from Pennsylvania.

AMENDMENT NO. 446

Mr. HEINZ. Mr. President, a few minutes ago the Senator from Georgia and myself and Senator LOTT were discussing my amendment which had been temporarily laid aside. We have resolved, I think, the concerns about the amendment. I think it might be useful if we go back to the Heinz amendment to dispose of it.

The PRESIDING OFFICER. The pending business before the Senate is the Heinz amendment.

Mr. HEINZ. Very well, Mr. President.

Mr. President, I am going to send a modification to the desk in just a second. The yeas and nays have not

been ordered on the amendment and I may modify my amendment.

I want, before I do so, to explain what this modification does.

Those who were listening to the discussion between myself and Senator NUNN will recall that he felt the emphasis on the Defense Department not procuring property, services, or technology from people who violated U.S. intellectual property rights was an important emphasis, but he questioned whether the language that I offered might be interpreted to be such as to be an absolute override on any other considerations.

He and I discussed one or two examples. If, for instance, there was a sole source of procurement it would not be this Senator's intention or that of the Senator from Georgia to preclude the Department of Defense from deciding that that was an important and perhaps overriding consideration. Thus there might be circumstances in which the language of my amendment should not be controlling.

So, we have modified the language mutually to indicate that, "it is the sense of Congress that it should be a very important consideration in the procurement of property, services, or technology by the Department of Defense, whether such procurement is from" any country or any individual, to paraphrase, that does not adequately protect intellectual property rights.

I think that change, Mr. President, preserves both the sum and substance of my original intent, and it gives the Defense Department the necessary out that it might need, should it run into an extraordinary circumstance where we would not want this policy to be controlling.

Senator NUNN made a very important point, that when we, as the legislative branch, give the executive branch our advice, even if it is in a sense-of-the-Congress resolution, we expect them to take it. We do not want to write even a sense-of-the-Congress resolution that is anything less than what we would want if we were placing it into statute. That is a very good prescription for us all and one, I think, we would all be well advised to follow.

I made one other change. On page 2 of the amendment to clarify a problem that was brought to my attention. That change in the 11th line at page 2 now reads:

Any person who has a demonstrated pattern of misappropriating United States intellectual property.

They would also be covered by the amendment. I think that also avoids an inappropriate standard.

Mr. President, I ask unanimous consent that Senator WILSON and Senator WARNER be added as cosponsors by my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 446, AS MODIFIED

Mr. HEINZ. Mr. President, I send a modification of my amendment to the desk. Under cloture, I need unanimous consent to modify my amendment and I so ask.

The PRESIDING OFFICER. Is there objection to the modification of the amendment? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 247, below line 24, insert the following:

SEC. 836. PROCUREMENT FROM COUNTRIES THAT DENY ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS.

It is the sense of Congress that it should be a very important consideration in the procurement of property, services, or technology by the Department of Defense whether such procurement is from—

(1) any person of any country which has been identified pursuant to section 182(a)(2) of the Trade Act of 1974 (19 U.S.C. 2242) as denying adequate and effective protection of intellectual property rights or fair and equitable market access to United States persons that rely upon intellectual property protection; or

(2) any person of any other country that denies adequate and effective protection of intellectual property rights, as determined by the Secretary of Defense on the advice of the U.S. Trade Representative; or

(3) any person who has a demonstrated pattern of misappropriation of United States intellectual property.

Mr. HEINZ. Mr. President, I am prepared to yield back all time on my side.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, we thank our distinguished colleague, and I am privileged to be a cosponsor. As America is fighting its daily battle of competitiveness, it is essential that we protect these rights. As I understand it, it is drawn in such a way that the rights exchange run all the way from a high-technology corporation, indeed, to an artist, a writer, of a lot of property. Many of these people simply do not have the resources to fight the cases and to engage the person to come to Washington to deal with the trade representative and the like. I think this amendment sends a strong and clear signal. I am pleased to join in supporting it. It is cleared on this side. I have indication that it is cleared on the other side.

Mr. HEINZ. Mr. President, I thank my friend and colleague from Virginia. I am pleased to have him as a cosponsor. I thank both sides of the aisle for accepting this amendment, albeit in a somewhat modified form.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 446), as modified, was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment as modified, was agreed to.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 476

(Purpose: To provide funds for the Army to continue in Magnetoencephalography [MEG] and neuromagnetism research program)

Mr. COATS. Mr. President, I send an amendment to the desk on behalf of Senator DOMENICI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] for Mr. DOMENICI, proposes an amendment numbered 476.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, between lines 19 and 20, insert the following new section:

SEC. 230a. MAGNETOENCEPHALOGRAPHY (MEG) AND NEUROMAGNETISM RESEARCH.

Of the funds authorized to be appropriated pursuant to section 201 for the Army for fiscal year 1990, not more than $250,000 shall be made available for the joint Army-Department of Energy research project on magnetoencephalography (MEG) and neuromagnetism.

Mr. DOMENICI. Mr. President, I rise to offer an amendment regarding a small but important Army research and development project. That project focuses on magnetoencephalography, or MEG. MEG is a 5-year, $5 million joint venture between the Army and the Department of Energy. Much of the research for the DOE is performed at a VA hospital in Albuquerque.

MEG is a brain scan device developed at Los Alamos National Lab. Researchers are optimistic that MEG may enable doctors to identify the portion of the brain responsible for a particular activity, to enable doctors to learn more about the brain and brain disorders, including Alzheimer's, schizophrenia, stroke, and coma.

The Army became interested in this research when it realized that MEG would contribute to the selection of qualified personnel for difficult military assignments and for studying the effects of training procedures.

My amendment would direct the Army to continue to participate in this vital and promising program. With their help, funding and participation, this joint Army-DOE project can continue. Without their participation, the project would be in severe jeopardy.

This amendment authorizes a relatively small amount of funding and is, I believe, noncontroversial. I urge my fellow Senators to support this amend-

ment, and I look forward to the continued partnership between the Army and the Department of Energy.

Mr. COATS. Mr. President, it is my understanding that this amendment has been cleared on both sides of the aisle by both the majority and minority.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment.

The amendment (No. 476) was agreed to.

Mr. COATS. Mr. President, I yield 40 minutes of my time to the Republican manager of this bill.

The PRESIDING OFFICER. The Senator has that right, and he has exercised that right.

Who seeks recognition?

Mr. COATS. Mr. President, let me take just a few moments, if I could, to comment a little bit about the process we have been undergoing here.

As a new member of the Armed Services Committee, I have been deeply impressed with the manner in which this legislation has been brought before the committee, in which discussion has ensued, and in which both the chairman and the ranking member have conducted discussions of this particular legislation. We are faced with an extraordinary situation this year; namely, that decisions having been made in the past 8 years or so relative to our national defense bumped into the hard cold reality of funding difficulties. As a result, major decisions have had to be made at the Department of Defense and by the Members of the Senate and the House as to program terminations.

The new Secretary of Defense, Secretary Cheney, in responding to what I think has been the call of a number of us in Congress for several years, faced the very tough decision of actually projecting program terminations. In the past, the practice has been to stretch out, modify, reduce funding, a number of means that essentially kept every program alive in an effort to avoid some of the tough decisions relative to program terminations. Secretary Cheney was credited with a very short amount of time in which to make the decisions. He came before the committee and presented to the Congress his decisions relative to the direction in which we would be moving in the years ahead with our defense spending.

Having done that—and I commend him for making those tough decisions and presenting his case—the committee clearly exercised its responsibility in examining carefully Secretary Cheney's budget, the President's budget in making our own decisions relative to the proposals before us.

The committee and the Senate has had a great deal of cumulative experience in examining programs carefully, in making decisions over the years as to what programs ought to be funded and to what degree. But I think considerable effort was made to go forward with the basic strategy outlined by the President of the United States and his Secretary of Defense. We obviously had disagreements about certain programs and funding for certain programs, but, by and large, the decisions made upheld the general direction in which the administration feels it is necessary to go in order to meet our budget commitments.

I was one of those Senators who had serious disagreement with Secretary Cheney over one particualr program, the V-22 Osprey, a program that has been many years in development and nearly complete in terms of the research for this revolutionary breakthrough in technology. Congress had invested nearly $2 billion of the taxpayers' money and about 8 years of effort in putting together a technology that brought us great advances in terms of our ability to deliver troops and equipment in an efficient, effective way, utilizing both a vertical and horizontal flight technique on the same aircraft. We argued strenuously for, at the very least, completion of the research and development of some prototypes and a movement toward production of this revolutionary aircraft at least fencing money to be available following completion of testifying, which is currently under way.

I am happy to report that the Senate Armed Services Committee, after considerable consultation with me and other members of the committee, agreed to include in the bill reported out of committee at this time a substantial amount of funds for completion of the research. It really made no sense to have gone as far as we did and not put the finishing touches on what is turning out to be some significant and revolutionary developments in terms of military research, with commercial application I might add.

So the $225 million was earmarked in the Armed Services Committee bill that was brought before the full committee. We were successful in adding, through an amendment from the Senator from Ohio, Mr. GLENN, an additional $30 million for procurement of the engines. Unfortunately, an additional $157 million for procurement, which procurement money would be fenced until testing was completed, was defeated in the committee against my vote. On the other hand, the House has added that money, and we will go to conference on that issue.

I raise this issue because it is the one area that Secretary Cheney, as he indicated in testimony before the committee, indicated was his toughest decision. Secretary Cheney said that there were no problems with the research, there were no problems with the development. It was the most difficult termination decision he had to reach, that he did so very reluctantly. Testimony from the Joint Chiefs of Staff in testimony before us did not indicate any problems with the V-22; it was the desirable program, one that was on the cutting edge, yet one that fell victim to budget realities.

I think the decision we have made is by and large a good one, and that is that the add-back that we have put into this bill is one that will allow for the completion of the research and one that may allow for some limited production, at least fencing of funds until such time as we can finish the research and development and provide the testing and then with all those facts before us make a final decision on where we are going to go with the V-22. It has, as I said, not only significant military application but significant commercial application.

The Marine Corps is the primary service requesting the V-22, a means for the Marine Corps to transport troops at double the current speed with all the mobility that they now enjoy through the helicopter, CH-53 and CH-60 lifts that provide this kind of delivery. By the same token the V-22 will have application for the Air Force in special forces operations, it may have application for the Army, certainly could have application for the Navy in terms of sea rescue, in terms of antisubmarine warfare capability and other transport needs. While those services did not testify in favor of it, they certainly did not testify against its versatility and utility for use in their particular functions.

As I said, the engine also has a remarkable capacity for commercial use, and given successful completion of the research, testing and development, I believe we will see a significant call for use of the V-22 technology in providing short- and medium-ranged transport of commercial passengers to congested areas. Commuter capability, short-term flights between major metropolitan areas like Washington, DC, New York, Philadelphia, on the west coast, and other areas seem particularly suitable for use of V-22 technology. It is a plane that can land and take off like a helicopter and fly like an airplane. So the amount of landing space needed is very small and yet the time between delivery points is very efficient and very fast. The tilt rotor engine application is such that we may be able to address on a commercial basis many of the transportation and commuter challenges that face this country in the future.

So those are just a few of the reasons why I think it is important to go forward with V-22 development and why I am pleased that the committee, while it did not go as far as I would have liked, made a significant step forward, and hopefully, we can come out of conference with a package that will

allow continuation of this very important technological development.

Mr. President, I reserve the time that I have remaining and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Illinois.

Mr. DIXON. Mr. President, I wish to announce to my colleagues, wherever they are and to the extent that they are following the proceedings on the floor, that we are really getting down to the end of the amendments, and I am advised by staff that there is even a probability that there are only about three amendments remaining, one being an amendment on environmental questions by my friend, the distinguished Senator from California, who I observe is on the floor. We believe there will be one on military sales to Taiwan by my colleague, the distinguished senior Senator from Alaska. There may be at least one more possibility.

Now, I have been asked by the majority leadership to express on behalf of the leadership our concern that we dispose of this bill very shortly. My colleagues know that we have at least one vote set for 5:30 to accommodate our colleagues who are doing the Hastings hearing. I wonder whether my distinguished friend from California could accommodate the managers on a reasonable time limit equally divided that would get us to the point we could look very hopefully at disposing of this bill in time to have a late window tonight for dinner and other things. There is some ambition on the part of the leadership to dispose of other things this evening as well.

Mr. WILSON. Mr. President, let me say to my friend from Illinois that I am having such fun I am loathe to tear myself away from this floor, at least so my staff tells me. But to make a serious response to his request, I would think 40 minutes might be ample, 20 minutes per side, and we might even be able to give some of that back. This is on 556.

Mr. DIXON. Yes. May I say to my friend from California that this would be fine with this Senator as manager. However, I must say, if he would indulge me for a moment, Senator LAUTENBERG is coming to the floor because the environmental interests here are paramount, and I feel I am obligated to wait until he gets here to make sure that that is satisfactory with him, but that would accommodate the managers. I thank very much my friend from California for his usual thoughtful manner accommodating his colleagues. If he would give us a moment or if he would care to go ahead until the Senator from New Jersey gets here and offer the amendment, and so forth, I will get back to him as soon as we can see about a time limit with a unanimous consent. I thank the Chair.

AMENDMENT NO. 556

(Purpose: To provide a 1-year dealine within which the Department of Defense shall execute agreements with affected States and with the Environmental Protection Agency for the cleanup of Federal facilities proposed for listing on the national priorities list)

Mr. WILSON. Mr. President, in the interest of time, I will be happy to begin. Mr. President, I have an amendment at the desk numbered 556. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 556.

Mr. WILSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of part , of title , insert the following:

SEC. . DEADLINE FOR COMPLETION AND EXECUTION OF AGREEMENTS WITH AFFECTED STATES AND WITH THE ENVIRONMENTAL PROTECTION AGENCY.

(a) Whenever a Department of Defense facility is proposed to be added to the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended, including those facilities already proposed for listing as of the date of enactment of this Act, the Secretary of Defense shall, not later than one year after the date of such proposal or the date of enactment of this Act, whichever is later, ensure that an interagency agreement is executed with affected states and with the Environmental Protection Agency providing for the establishment of a procedural framework and schedule for developing, implementing, and monitoring appropriate response and remedial actions for any such facility in accordance with the Comprehensive Environmental, Response, Compensation and Liability Act, as amended, and the Resource, Conservation and Recovery Act, as amended, and all other applicable laws.

(b) Nothing in this provision shall be construed as affecting or modifying state law, including laws concerning removal or remedial action, or enforcement, or the application of such laws to facilities owned or operated by a department, agency, or instrumentality of the United States.

Mr. WILSON. Mr. President, we all know that unwittingly in the past a number of military installations in this Nation have contributed to the problem of toxic waste, notably during the Vietnam war. Tanks and helicopters were returned from combat. They underwent maintenance cleaning. A number of the degreasing compounds that were used proved highly toxic, and instead of being collected and disposed of accordingly, they simply allowed those wastes to seep into the Earth. At many places, as a result, a plume has formed underground that threatens in some cases the ground water, the drinking water supply of the nearby residential areas.

Mr. President, this amendment has a very simply and a singular purpose. It is designed to take an existing duty of the Department of Defense and accelerate their performance in order to speed up cleanup of toxic waste sites at military installations, and the reason very simply stated is that the Department of Defense has been dragging its feet.

So this amendment would require that the Department of Defense enter into an interagency agreement with the Environmental Protection Agency, and those affected State and local governments who must cooperate in the cleanup of the toxic waste site in order that we can proceed to clean up a Department of Defense toxic waste site within 1 year of being proposed for listing on NPEA's national priority list of one of the most, the worst, contaminated sites in the country. The so-called priority list is just that. It is a list of the most, the worst contaminated sites in the country.

Unhappily, Mr. President, the number of military installations in this Nation that qualify for that doubtful distinction is 88. I am unhappy to tell you that 20 of them are in my home State, hence my interest, but I will tell you that they are also in Alaska, Arizona, Florida, Georgia, Hawaii, Iowa, Idaho, Kansas, Massachusetts, Maine, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, West Virginia, and Wyoming.

So this is not an entirely parochial concern. It is a vital concern I think of all Senators whether they are in States so affected or not but clearly to those of us representing States where this poses an immediate threat, it is a very real, a very urgent concern. But I must tell you, Mr. President, it has not been taken in that fashion by the Department of Defense. They have been in no hurry to act. To the contrary, they have dragged their feet.

Let me give you some indication. When Norton Air Force Base first proposed to be on the national priority list in October 1984 there has only just now been concluded the kind of interagency agreement necessary to go forward with cleanup—from October 1984 to June 1989.

Mr. President, that is absurdly too long. And it is too long because the Department of Defense has chosen not to give it the kind of attention, the priority in manpower and resources and money that we have created this Defense Environmental Restoration Act to address. That is why we have given the military this minisuperfund exclusively for the use of the Department of Defense.

That is not an isolated instance. Another Air Force Base, Mather, was proposed to be included on the list, the national priority list, that list of those worst, most contaminated sites in October 1984. They have just come to an interagency agreement in July 1989—a month longer than it took the Norton Air Force Base people, and that is too long. And I might say Mather is one area where they tried but not enough. Sharpe Army Depot, again proposed in October 1984, and finally in July of this year, 1989, almost 5 years in all three of those cases, have elapsed during which time the plume has grown. It has moved, and has become more threatening.

The Naval Air Station at Offutt Field was proposed for inclusion on that national priority list in April 1985. They have not yet come to closure. There is not yet an interagency agreement, Mr. President. Our hope is that it will be concluded in August of this year.

That is just too long. It is ignoring the purpose for which we created that defense environmental restoration account. It is ignoring the fact that, if not an urgent danger is being proposed or is posed by these things, there is a clear and present danger, and obviously that varies from one place to another.

These sites, even though they have been identified, have simply not proceeded with cleanup at a pace anything like that which we intended.

California, as I have said, is the host State for some 20 of these military sites on that most contaminated list, the NPL list. I first visited the four that I mentioned, Mr. President, in 1985, and I regret to tell you that notwithstanding the good faith hearings that we held, the input taken from citizens as well as the local and State agencies involved, it has taken until now for three of them to conclude an interagency agreement that would permit them to go forward with cleanup.

That is why what we are proposing is simply to take an existing duty of the Department of Defense and say enough already, you are going to have to move much more rapidly. You are going to have to within a year of being proposed for inclusion, conclude that interagency agreement. You will have had to perform the remedial investigation, the feasibility study that is presently required but there will not be permitted to you the kind of foot dragging for which there is no excuse.

Five years is simply too long. The other agencies complain that the military is dragging their feet—State and local agencies. The interagency agreement is a document intended to guide the base in the identification and cleanup of its toxic waste problems. The other agencies are involved in supplying expertise, and in supplying the guidance. They have been held up by the inability, the unwillingness of the Department of Defense to move forward, inordinate delays in communication, in hearing, back up and down the chain of command.

Mr. President, it is a bureaucrat's dream if you are trying to move slowly and not proceed with real action. I would suggest that these have been case studies in how to accomplish that.

The interagency agreement is a document that proceeds after completion of the remedial investigation and feasibility study. And agreements of the sort that have been signed at these bases are the necessary instrument to proceed to cleanup. It cannot happen without in law all of the necessary preliminary steps being memorialized in this agreement. It is a contract.

During this 5-year period with these 4 sites, 4 of 88 in the Nation covering all the States I mentioned, we have had the kind of performance that we simply would not tolerate in the private sector. We certainly should not stand for it at Federal facilities, and clearly those where there is a chain of command, where there should be the kind of responsiveness that in fact we associate with military discipline in a chain of command.

The kind of delays I spoke of are rampant, Mr. President, throughout the Department's Federal Facility Program. I have cited the experience of those four bases in California, but the problem exists at most if not all other military toxic waste sites as well.

The simple fact is that our Federal facilities are contaminated with toxic wastes that are not being cleaned up in timely fashion or anything remotely like it. Some will argue that this is a more stringent requirement than for others cited on the NPL list.

Mr. President, a lot of time has gone by. We need to make up for lost time. We need, Mr. President, the kind of action that should have been forthcoming without this urging and this prodding. It should not take 5 years to agree with EPA and the affected States and localities on how to proceed with a cleanup program. One year is more than enough, more than enough time to reach that kind of an agreement, especially in light of the fact that the Department now has the model interagency agreement language that can be used for such sites.

So this amendment, this very simple amendment, is especially timely, in light of the fact that EPA has just recently proposed to add 52 new Federal facilities, the vast majority of which are Department of Defense bases—10 new ones in my State of California alone—but, again, 42 new ones nationwide.

Mr. President, I do not want to have to go back—I think you will understand—to the communities in which these new toxic waste sites are located 5 years from now and try to explain why it is that nothing has been done to clean up the problem. Interagency agreements should be signed at each of these sites within 1 year. These agreements will set out schedules for the timely completion of the technical studies that will lead to the design and the construction work needed to remedy the toxic waste threat.

Mr. President, this amendment is a modest amendment, modest in scope. It is not an attempt to completely revamp the Federal Facility Program. I would have been happy, frankly, to enter into some kind of colloguy so that it could be part of the larger system. That was not possible, for reasons that we can explore, if there is interest in it. But this amendment is simply a proposal to put the Department of Defense on a schedule for toxic waste cleanup action that reasonably responds to the need.

Mr. President, a year is plenty. I urge the adoption of this amendment. We do not yet have a time agreement at this point.

Mr. President, I yield the floor.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, may I first congratulate my colleague from California for his continued interest, through his service here, in the Defense Department's environmental cleanup program. He has been a champion of that in our committee and has given that the greatest priority in the committee. I know that every member of the committee is indebted to him for his works.

I want to say that I believe this amendment has the very best intentions and that the Senator, who has been a leader in connection with this issue over the years, is entirely motivated by his genuine concern for a better and stronger environmental cleanup program at defense bases all over America, and he is to be congratulated for that.

Having said that, Mr. President, here is the awkward position I find myself in as the manager on the majority side, and I hope my colleague and friend from Indiana, the manager on the minority side, is paying close attention to this. At the beginning of today's discussion, both managers, the distinguished senior Senator from Georgia and the distinguished senior Senator from Virginia, agreed that it would be entirely appropriate, once we have achieved cloture, to raise the question of germaneness with respect to any amendment through the course of the day.

The problem that the Senator has is that as manager of the bill, some on this side have now raised the question—may I say to my friend from California—of germaneness with the

manager and have requested that I raise that, Mr. President, and I do raise that in this way. I am told that at least on four points this amendment cannot be considered at this time.

First, the amendment is not germane.

Second, it does not restrict the funding authorizations in this DOD authorization bill, S. 1352.

Third, it does not restrict any specific authority contained in this bill.

Fourth, it specifically refers to a law in the jurisdiction of the Environmental and Public Works Committee, and if introduced as a bill, would be referred, in fact, to that committee.

Mr. President, with the greatest personal reluctance, because of my warm regard for the Senator from California, I feel compelled to raise those germaneness issues.

Mr. WILSON. Will the Senator yield for a question?

Mr. DIXON. I will.

Mr. WILSON. I thank my friend. The question, very simply, is: Is the Senator from Illinois aware, because having discussed this with the Parliamentarian, the test proposed with respect to germaneness is, I think, a good deal less simple for the moment? The fund of which we speak, the defense environmental restoration fund account, is an account that is authorized by this bill.

The duties of the Department of Defense, of the Secretary, exist. So we are, in fact, dealing with something that is in the instant bill. In order to narrow the scope, I am not aware that there is a test that you have to cut funding. I would ask the Parliamentarian if that is a requirement.

Mr. DIXON. May I say to my friend from California, while the Parliamentarian is discussing this question with the Presiding Officer, that I am more delighted to have the Senator from California present his point of view. It is the opinion of staff on this side, notwithstanding what he has suggested, for the reasons that the managers elicited his four points, that it is not germane, but I am perfectly willing to await the pleasure of the Parliamentarian and Presiding Officer in that respect.

I do raise the point of order of germaneness, Mr. President.

The PRESIDING OFFICER. The Senator from Illinois is now placing the point before the Chair.

Mr. CHAFEE. I wonder if the Senator will withhold that point of order for just a minute to give us an opportunity to say a couple of words on the subject.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. DIXON. I am more than happy to do that, or if my friend from Rhode Island wants to await the ruling, I would be glad, by unanimous consent, to permit him to speak.

The PRESIDING OFFICER. Does the Senator from Illinois withhold his point of order?

Mr. DIXON. Of course, I am delighted to.

The PRESIDING OFFICER. Will the Senator from Illinois yield?

Mr. DIXON. Yes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, as the Senator from Illinois pointed out, the distinguished Senator from California has been wrestling with this matter for a long, long time, and what is upsetting to him is, he comes from a State that has a lot of military bases, and the efforts to get the Superfund cleanup on these bases has gone nowhere, and so he is legitimately concerned and attempting to get some action.

Now, what he does in this amendment—and it seems to me to make a lot of sense—he has said that within a year after the signing of this agreement, acceptance of this bill and the signing by the President, that the Defense Department must reach an interagency agreement with the affected States and with EPA to set up a framework for the cleanup of these toxic waste sites.

Now, he does not move anybody to the head of the line, as far as the cleanup goes. Nobody is being knocked out. But he says, let us get on with it, because people are dragging their feet, maybe EPA, but certainly the Defense Department has been dragging their feet on doing something about these toxic waste sites on the military bases.

Now, we can argue a little bit with the language. How can we, by legislation, guarantee that the Defense Department can reach an agreement within a year with EPA? Suppose EPA does not do anything? And if neither does anything, what can we do as far as retribution or punishment on defense or EPA that is not covered?

But setting that aside, the Senator from California has a legitimate complaint.

I suspect the point of order is going to be sustained.

However, we do have on the floor those Senators from the Environment Committee who are involved with this issue, both those who deal with oversight on Superfund and those who deal with RCRA, which is also involved with this type of cleanup.

I would hope that the Senator's concerns could be addressed in our committee, in the Environment and Public Works Committee, with a hearing so that he could get the Defense Department people in the committee could then say what is going wrong on these bases, why is nothing taking place?

I, personally, would say to the Senator from California, as the ranking member of that committee, I will do everything I can to accommodate these concerns, because they are legitimate and they should be met.

Mr. WILSON. Mr. President, will my friend from Rhode Island yield for a question?

Mr. CHAFEE. I yield.

Mr. WILSON. First, let me thank my friend from Rhode Island for his very generous comment, and I appreciate the support that he has uttered this afternoon.

I believe that the Senator from Rhode Island is aware that I was prepared, in fact perfectly prepared, to do exactly what he is suggesting and did pursue with my friend from New Jersey the possibility of entering into a colloquy that would have been achieved at a date when it would actually be meaningful, which is to say early enough to be meaningful, the kinds of progress which the Senator from Rhode Island has joined me in seeking.

The unfortunate fact is that we were unable to get the kind of assurance that there would, in fact, be those hearings in the committee of jurisdiction early enough to give any realistic hope of progress, and I certainly am not eager to try to intrude on anyone else's jurisdiction. As it happens, this is the defense authorization bill.

We are talking about major offenders who happen to be under the Department of Defense. They are the defense installations on the national priority list. So it is not inappropriate to address this question here. To the contrary, this is where we put the money into the bill where we authorize the defense environmental restoration account.

So, I am more than pleased to work with the members of the committee. But I candidly, having pursued in good faith with my colleagues, when it was that we might expect action, have not been given any assurance or even any real evidence that there will be action either on the RCRA legislation or on the other piece of legislation that governs in this, the Comprehensive Environmental Response Compensation and Liability Act at a time when it is offering my constituents or those of other Senators in the other States that I mentioned, which included almost better than half the States, the kind of assurance that I think they are entitled to ask, which is that there will begin to be prompt action by the Department of Defense.

So I say to my friend not only do I thank him for his kind words and for his support, I do not reject his suggestions; it is just that having pursued it, it frankly did not lead to the kind of assurance of early action that I think is acceptable. That is why, in fact, I

have brought the amendment to the floor.

Mr. CHAFEE. Mr. President, let me just say that I think that the Senator from California was right to pursue this. The arcane mysterious ways that germaneness works unbeknownst to me and I think probably unbeknownst to everybody here, it seems that once cloture has been invoked everything is nongermane, but I will not argue with the Parliamentarian in how he arrives at those conclusions.

All I say is that I hope that on the Environment and Public Works Committee we can given some satisfaction in the near future. It probably will not be in September when we come back, but maybe in October.

I see some distinguished members of that committee and those who are involved with this type of activity on the floor who chair those subcommittees and I would hope we could, through cooperation, and I know there is a full menu in that committee—we have the clean air bill we are struggling with. We have other matters. Indeed, we have RCRA we have to deal with. I would hope some time could be set aside for a hearing with the defense people coming in addressing the matter of these Superfund sites on military bases.

I just want to assure the Senator I will do everything I can to be helpful.

Mr. WILSON. I thank the Senator. He has been most helpful and I greatly appreciate his help.

Had I received similar assurances from those able to set those hearings, we would not have been compelled to offer the amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD the National Priorities List, Federal Facility Sites, Proposed Update 9.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NATIONAL PRIORITIES LIST [NP]—FEDERAL FACILITY SITES, PROPOSED UPDATE 9 (BY STATE), JULY 1989

State and site name	City/county	NPL grade [1]
Alaska:		
Eielson Air Force Base	Fairbanks N Star Bor	5
Elmendorf Air Force Base	Greater Anchorage Bo	6
Fort Wainwright	Fairbanks N Star Bor	7
Standard Steel & Sal Yd (USDOT).	Anchorage	6
Arizona:		
Luke Air Force Base	Glendale	10
Williams Air Force Base	Chandler	10
California:		
Barstow Marine Corps Logist Base	Barstow	10
Camp Pendleton Marine Corps Base.	San Diego County	13
Edwards Air Force Base	Kern County	14
Fort Ord	Marina	8
George Air Force Base	Victorville	14
Lawrence Livermore Lab-300 (USDOE).	Livermore	15
March Air Force Base	Riverside	15
Tracy Defense Depot	Tracy	15
Travis Air Force Base	Solano County	17
Treasury Island Nav Sta-Hun Pt An.	San Francisco	5
Mather Air Force Base	Sacramento	3
Air Force Plant PJKS	Waterton	7
Florida:		
Cecil Field Naval Air Station	Jacksonville	15
Homestead Air Force Base	Homestead	7
Jacksonville Naval Air Station	Jacksonville	14
Pensacola Naval Air Station	Pensacola	7
Georgia: Marine Corps Logistics Base	Albany	6
Hawaii: Schofield Barracks	Oahu	17
Iowa: Iowa Army Ammunition Plant	Middletown	17
Idaho:		
Idaho National Engin Lab (USDOE).	Idaho Falls	4
Mountain Home Air Force Base	Mountain Home	2
Kansas: Fort Riley	Junction City	13
Massachusetts:		
Fort Devens	Fort Devens	8
Fort Devens-Sudbury Training Ann	Middlesex County	12
Otis Air Nat Guard/Camp Edwards	Falmouth	6
Maine: Loring Air Force Base	Limestone	12
Minnesota: Naval Industrial Reserve Ordnance.	Fridley	16
Missouri: Weldon Spring Form Army Ord Works.	St. Charles County	16
New Hampshire: Pease Air Force Base	Portsmouth/Newington	9
New Jersey:		
Federal Aviation Admin Tech Cent	Atlantic County	9
Picatinny Arsenal	Rockaway Township	7
New York:		
Brookhaven National Lab (USDOE).	Upton	9
Plattsburgh Air Force Base	Plattsburgh	16
Seneca Army Depot	Romulus	10
Ohio:		
Feed Materials Prod Cent (USDOE).	Fernald	2
Mound Plant (USDOE)	Miamisbur	12
Pennsylvania: Tobyhanna Army Depot	Tobyhanna	10
Rhode Island:		
Davisville Naval Constr Batt Cent	North Kingstown	12
Newport Naval Educat/Training Cen.	Newport	14
South Carolina: Savannah River Site (USDOE).	Aiken	5
Tennessee: Oak Ridge Reservation (USDOE).	Oak Ridge	4
Texas: Longhorn Army Ammunition Plant.	Karnack	9
Utah: Monticello Mill Tailings (USDOE)	Monticello	11
Washington:		
Bangor Naval Submarine Base	Silverdale	2
Bonneville Power Adm Ross (USDOE).	Vancouver	3
Fort Lewis Logistics Center	Tillicum	12
Wyoming: F.E. Warren Air Force Base	Cheyenne	9

[1] Sites are placed in groups corresponding to groups of 50 on the final NPL.

Note.—Number of Federal facility sites proposed for listing: 52.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from Illinois.

Mr. DIXON. Mr. President, I respectfully renew my point of order, which was stated at the time when another Senator was in the chair.

The PRESIDING OFFICER. The Chair will not sustain the point of order.

Mr. DIXON. I respectfully accept the ruling of the Chair, Mr. President, and I would respectfully request my colleague from California to indicate whether he is still willing to accept a 40-minute unanimous consent equally divided between the Senator from California and the Senator from New Jersey.

Mr. WILSON. Mr. President, I would be happy to. In fact, I would suggest we might in light of what has already transpired shorten that considerably. I would be happy to have 20 minutes.

Mr. DIXON. I say to my friend from New Jersey, who ought to be a part of this discussion, the Senator from California is indicating he would accept a unanimous-consent time-limitation agreement of 20 minutes equally divided.

Mr. LAUTENBERG. Mr. President, if the manager will yield, the question now is what the time distribution is for the respective sides?

The PRESIDING OFFICER. Twenty minutes equally divided.

Mr. DIXON. If the Senator will accept it.

Mr. LAUTENBERG. Twenty minutes equally divided or 40 minutes equally divided?

Mr. DIXON. May I advise my friend from New Jersey, the Senator from California suggested he would take even less time. He said he could do it in 20 minutes.

What, would satisfy the Senator from New Jersey?

Mr. LAUTENBERG. I would prefer we have available 20 minutes on each side and if we want to yield back the time, if we have exhausted the discussion, that is fine with me. But I would like to start off by asking that we have 20 minutes a side to conduct this matter.

Mr. DIXON. I thank the Senator from New Jersey.

I ask unanimous consent, Mr. President, that——

Mr. DOLE. We are going to vote at 5:30.

Mr. DIXON. Yes, there is a vote at 5:30.

Mr. DOLE. A vote at 5:30.

Mr. DIXON. I suggest the absence of a quorum, Mr. President.

Mr. CHAFEE. Before we go into that, Mr. President, may I say to the manager of the bill, is it not possible to avoid all this and indeed satisfy the Senator from California, if those distinguished Members of the majority who are on the committee would inform the Senator from California that he could have his hearing, would that satisfy the Senator from California?

Mr. BAUCUS. Mr. President, will the Senator yield?

Mr. CHAFEE. I yield.

Mr. BAUCUS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAUCUS. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. BAUCUS. Mr. President, I ask the Senator from Illinois a question. Will the Senator please yield?

Mr. DIXON. I am delighted to yield to the Senator from Montana.

Mr. BAUCUS. I wish to ask the Senator from Illinois if it is possible to follow up on the suggestion of the Senator from Rhode Island, which I think is a very good suggestion, namely, we could avoid all this, avoid the debate, avoid a vote on whether to sustain the Chair, if the Senator from California would understand that the Senator from New Jersey and I agree

to joint hearings on this subject this fall.

It seems to me that we are dealing with a Superfund cleanup problem which is somewhat of a significant issue. We want to move it along. It is very clear to me that we can best move it along with the hearings this fall after the August recess, and if the Senator from California would agree with that, then we could avoid this whole question, avoid the vote and debate, and get on with the DOD bill.

Mr. DIXON. May I say, Mr. President, in answer to the question of the Senator from Montana, I would be delighted to accommodate all sides with the caveat that at 5:30 we do have a scheduled rollcall vote.

Now we could go to a quorum call and everyone could discuss this for a minute and we might accommodate 100 Senators very nicely here.

Is there any reason to persist on the floor?

Mr. WILSON. I would suggest that the manager's suggestion of a quorum call would be a very good idea.

Mr. DIXON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, we have had an opportunity to discuss among us the concerns that the Senator from California has expressed. He has a legitimate concern. Federal facilities abound across the country with enormous problems of cleanup. They unfortunately dot our landscape. As Senator WILSON noted, California has a significant problem.

Environmental compliance by Federal facilities poses an important problem, and we ought to attend to it.

You heard from my distinguished colleague from Montana, who is chairman of the Environmental Protection Subcommittee, as I am chairman of the Superfund Subcommittee. We want to help address this problem.

I would like to say that Senator MITCHELL, the majority leader, and I have a bill on Federal facilities that has been introduced, and we will be reviewing that, over the next couple of months, after our return to session. I am not satisfied, anymore than the Senator from California is, with the pace of cleanup and how the Federal Government in particular addresses cleanup and environmental compliance at Federal facilities.

We are not clear, however, that Senator WILSON's amendment would adequately address these issues. But one thing we are clear on is that we want to get that job done. So we will have an opportunity to have the problem aired by the Environment and Public Works Committee. We will hold hearings. We will talk to the parties of interest, including EPA, the environmental community, and others.

So what we will do is get together. We have a commitment from the Senator from Montana, myself, and the ranking member of the Environment and Public Works Committee, Senator CHAFEE, from Rhode Island, to expedite those hearings. We will try to schedule them sometime in the period at the end of September, beginning of October. We would invite full participation of the Senator from California and those that he thinks bring a particular experience or view to the argument.

I hope with that, Mr. President, that we can conclude this debate. It depends on willingness of the Senator from California to dispose of this in this fashion.

Mr. WILSON. Mr. President, I do appreciate the good-faith interest of the chairman of the Subcommittee on Environment, the chairman of the Subcommittee on Superfund, and certainly the ranking member of the Environment Committee. They are clearly men who share my dissatisfaction, as the Senator from New Jersey has said, with the pace of Federal cleanup. It has been insufficient.

I will not belabor that further. I think we have put enough into the RECORD on that score already.

The assurance that I have received now from the Senator from New Jersey and the Senator from Montana that there will be a hearing and that the hearing is intended to lead to markup of legislation is exactly what we must have. I think that there is virtue in not isolating this. There may be a special bill relating to Federal facilities. I understand the majority leader is interested in that approach. I will be delighted to participate in the hearing.

I think what is really essential is that we get before the cognizant committee the people who have responsibility, who, in my judgment, have not been fulfilling their responsibility. And it is with assurance that that will occur that I will not go forward with the amendment.

But let me just say before withdrawing it, that there is an urgency here. There is a requirement, not just in California but at 88 sites all across the Nation. Fifty-two of them are new sites. And I see little, Mr. President, to suggest that, without this kind of confrontation of those responsible, without this kind of a hearing calling them to account, we will see the sort of action that would change the result and prevent the Senator from Montana, the Senator from New Jersey, the Senator from Rhode Island or myself from facing the prospect of going back to those communities that host these contaminated sites in 5 years with not a bit of progress having been made. That is simply intolerable.

So I look forward to working with the Senator from New Jersey, the Senator from Montana, and with my friend the Senator from Rhode Island, whose work in this area is of long standing and whose comments today have been most helpful. So I thank the Senators involved.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment was withdrawn.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

Mr. DIXON. Mr. President, I thank the Senators from Rhode Island, and New Jersey, and Montana for their valuable contribution. Let me say this to Senators wherever they may be. The hour is 20 minutes past 5. At 5:30, under the previous order, we will go to the Lott amendment. That amendment will be voted upon at 5:30.

As far as this manager knows, and I have asked my friend on the other side, there is only one other amendment to my knowledge now pending, an amendment by the distinguished senior Senator from Alaska.

I say to every Senator that after the 5:30 vote on the Lott amendment we expect to dispose of the amendment by the Senator from Alaska and then go to this bill.

Every time we get to the crunch, somebody says I did not have my chance. Every Senator is now notified that it is 20 after 5. At 5:30 we vote on the Lott amendment. After we dispose of the Lott amendment the distinguished senior Senator from Alaska has one amendment that this manager is aware of. And then as far as we are concerned the books are closed and we go to this bill.

Does my colleague on the other side have anything to add?

Mr. COATS. Let me add, to my knowledge the only remaining Senator with an amendment or possibly amendments, in the plural, is the Senator from Alaska. The indication that we currently have is that there may be one, perhaps more, but probably one amendment offered by the senior Senator from Alaska on our side and that is all we are aware of.

Mr. DIXON. Will my colleague yield? I want to clarify by saying there are some cleanup amendments agreed to by both sides that the two managers will do that are technical in character. But I am talking about amendments of substance. To the knowledge of the managers, there is one more out there we know of, by the senior Sena-

tor from Alaska; a vote at 5:30, the senior Senator from Alaska; and we go to this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 595

Mr. WARNER. Mr. President, would you advise the Senate with respect to the pending business?

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Lott amendment. The yeas and nays have been ordered.

Mr. WARNER. And the time of that vote, Mr. President?

The PRESIDING OFFICER. The time is at 5:30.

Mr. WARNER. The hour of 5:30 having arrived, Mr. President, my only final comment on this amendment is I strongly support the Senator from Mississippi because based on my experiences as a former Secretary of the Navy, we are looking at a shrinking pool of individuals to come forward and work with us in terms of their desire to come to the various service academies. Fortunately, in the past years, we have had only the finest, but I am concerned if we put that 8-year requirement up there, we will see a shrinking of a number of young men and women coming to congressional offices for purposes of seeking appointments.

Mr. NUNN. Mr. President, I do not want to interrupt the Senator from Virginia, but the Senator from Ohio understood there would be no more debate on this amendment. I was not on the floor.

Mr. WARNER. Mr. President, I was not aware of that. I do not want to violate that understanding.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 595.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 55, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—45

Adams	Cohen	Hollings
Baucus	Cranston	Inouye
Bentsen	Daschle	Kassebaum
Bingaman	DeConcini	Kennedy
Boren	Dodd	Kerry
Bradley	Exon	Kohl
Bryan	Fowler	Lautenberg
Bumpers	Glenn	Leahy
Burdick	Graham	Levin
Byrd	Heflin	Lieberman
McCain	Nunn	Riegle
Metzenbaum	Pell	Rockefeller
Mitchell	Pressler	Roth
Moynihan	Pryor	Sasser
Nickles	Reid	Simpson

NAYS—55

Armstrong	Gorton	Mikulski
Biden	Gramm	Murkowski
Bond	Grassley	Packwood
Boschwitz	Harkin	Robb
Breaux	Hatch	Rudman
Burns	Hatfield	Sanford
Chafee	Heinz	Sarbanes
Coats	Helms	Shelby
Cochran	Humphrey	Simon
Conrad	Jeffords	Specter
D'Amato	Johnston	Stevens
Danforth	Kasten	Symms
Dixon	Kerrey	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wilson
Ford	Matsunaga	Wirth
Garn	McClure	
Gore	McConnell	

So the motion to lay on the table amendment (No. 595) was rejected.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the motion to table was rejected.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

The Senate will be in order.

Mr. LOTT. Mr. President, I move to vitiate the yeas and nays.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. LOTT. Mr. President, will the Senator yield?

Mr. METZENBAUM. May we have order in the Senate?

Mr. LOTT. Mr. President, will the Senator yield to dispose of the previous matter?

Mr. MOYNIHAN. I am happy to do so.

Mr. LOTT. Mr. President, I ask unanimous consent to vitiate the yeas and nays and ask it be agreed to by a voice vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Mississippi.

The amendment (No. 595) was agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

INTERNATIONAL LAW RELATING TO TERRORISM

Mr. MOYNIHAN. Mr. President, I rise to call attention to a point often overlooked which is that international law permits and indeed can require action against terrorists of the sort who murdered Col. William R. Higgins.

Forty years ago this month, in the aftermath of the Second World War and the Nuremberg trials, the international community bound itself to the norm of humane treatment of prisoners of war.

The Geneva Convention Relative to the Treatment of Prisoners of War absolutely outlawed "at any time and in any place whatsoever"—and I cite the convention—"the taking of hostages" and "violence to life and person, in particular murder of all kinds."

The United States became a party to the convention in 1955, having helped draft it at the proceedings in Geneva. That convention, a treaty, is the supreme law of the land of the United States under the Constitution. But it is also, Mr. President, the law of Lebanon, which is a party to the convention, and an international obligation fully binding on Syria and Iran which are also parties to the convention. It is a norm generally recognized by and binding upon all nations of the world.

The convention even addresses the specific rationalization adopted by the Lebanese terrorists.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senate will be in order.

The Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I am not talking about a procurement contract. I am talking about the murder of an American officer serving in a United Nations peacekeeping force, and I think we might show a little deference in our response to the subject matter.

The convention, as I was saying, Mr. President, addresses the specific rationalization adopted by the Lebanese terrorists. It absolutely and explicitly forbids "the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensible by civilized peoples."

There provisions of article III of the convention apply to entities within the territory of a state and to conflicts not only of an international character but as well to wars within states. They specifically pertain to Lebanon, Syria, and elsewhere.

Article III, at a minimum, applies to this situation. Thus, even if this conflict is not thought to be of an international character, this murder is plainly illegal. It surely would be illegal if this

conflict is characterized as a conflict of an international character. In such a situation—an international conflict—the norms of humane treatment to prisoners fully apply.

I would suggest, sir, that the United States ought to begin to act as if it had law on its side and not simply indignation in its heart.

This international convention was drafted in the aftermath—with specific reference to—the hideous experience of prisoners and taking of hostages that characterized the Nazi regime in Europe in the Second World War. Such practices have extended themselves, are in evidence, and have been for a decade and more in the Middle East.

I would suggest that we ought to immediately approach the persons who have both the greatest incentive and the greatest responsibility to enforce these binding laws, which is to say the commanders-in-chief of the armed forces of the nations in that region. We ought to insist that they support and demand application of the humane and legally binding laws of war by all entities in the region, including entities such as Hezbollah.

We ought to make clear our determination not to arm nations which have demonstrated, by their acquiesence or their encouragement of Hezbollah's murder of Colonel Higgins, their own contempt for the law. We should work with our allies, and, all major arms suppliers—and I include the Soviet Union—restrictions on sale of weapons to such nations.

More, we should urge that concerned international agencies such as the International Red Cross bring their influence to bear.

But most important, as we consider how we will act, we ought to have in mind that it is open to us to act under law and with the rights that the convention gave us.

The Geneva Convention of 1949 was not an idle undertaking. It was not done in the expectation that it would immediately be forgotten. It was done in the expectation that the world would never forget what happened in Europe in 1939 through 1945. It was ratified with the belief that inhumane treatment of hostages ought to be declared a specific violation of law and that this rule applies to individuals, as well as to states.

That is the defining characteristic of the Geneva Convention. The principal drafters practically left Nuremberg and went directly to Geneva for that purpose; individuals can be held accountable under law. A new principle, one which had been new at Nuremberg, became statutory international law at Geneva.

It would seem to me that this is also an issue that needs to be raised in the United Nations by our representatives. The United Nations is one of the aggrieved and injured parties. It is an officer of a U.N. peacekeeping force who was taken hostage and now, we are told, has been executed. The United Nations and the Security Council have every right and the responsibility to be seized of this issue, and not to treat it as an event which could not be avoided, and as well, soon to be forgotten.

I say simply that the belief that law should govern in the world is fading, not just in nations such as Syria, Iran, and Lebanon, but it seems to be fading here, too. In 1950, had an officer of any U.N. peacekeeping force been kidnaped, an officer or enlisted man or woman, taken hostage or executed, the world would have been indignant. It would have been unanimous that this cannot happen. This indignation would have been all the more intense in any nation which was a party to the convention. Such a people would have said, the convention gives us the right to use force in response to this illegal violence. This is force exercised under law, under statute, by prior understanding that it would be so used in response to unlawful acts.

When the leaders of the Iranian Government allowed our Embassy to be seized in Tehran, the United States sent emissaries hoping to change their minds. We came to the floor of this body and pointed out that there is an International Court of Justice, and suggested that we ought to apply immediately to the Court for a ruling on this elemental violation of the most fundamental of legal principles: the sanctity of diplomatic immunity.

We finally did apply to the Court, and we were immediately upheld. We were told to withhold all action until there was a final decision, after which point we could have exercised full rights to invade Iran, to bomb, to strike, to do whatever necessary to vindicate our acknowledged legal rights. But we acted in advance of the final decision, which gave the Soviet member of the Court the opportunity to vote against. Even so, the Court was unanimous in the first case and almost unanimous in the second.

I do not wish to keep the Senate, I only hope that someone in the State Department will remember that there is law governing the circumstances in the Middle East. The persons involved—and clearly one such person guilty in the kidnaping of Colonel Higgins is in Israeli custody—are responsible under law. The members of armed forces who permit such activities are responsible individually. States which permit such conduct are responsible as a nation.

Commanders of armed services forces such as those of Syria in effective control of large parts of Lebanon are obligated to suppress violations in the treatment of prisoners. I should hope that we will act as a nation that stands for law in the world, who fought a long and hideous world war against nations that defied international law, and in the aftermath said that this would not happen again; that we will bring to trail the people involved in gross violations, and provide for this by statute. The people who drafted the Geneva Convention, Madam President, would expect us to act on it. The people who ratified it in this Chamber in 1955 would expect us to act on it. I would hope that the State Department and the President's advisers might consider doing so.

I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991

The Senate continued with the consideration of the bill.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Georgia, the distinguished chairman of the Armed Services Committee.

AMENDMENT NO. 589, AS MODIFIED

Mr. NUNN. Madam President, I call up amendment No. 589 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment, as modified, numbered 589.

Mr. NUNN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following at the end of title X:

This title shall not become effective until the following provisions are enacted into law:

TITLE XI—DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

SEC. 1101. FUNDING OF ACTIVITIES RELATED TO DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT.

(a) FUNDING.—(1) Of the amounts authorized to be appropriated for the Department of Defense by this Act, $600,000,000 is available from the sources and in the amounts provided in paragraph (2) for carrying out the drug interdiction and law enforcement support activities described in sections 1102 through 1110.

(2) The amounts and sources referred to in paragraph (1) are as follows:

(A) $245,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $30,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $320,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(D) $5,000,000 of amounts appropriated pursuant to Division B for land acquisition and the construction of facilities.

SEC. 1102. LEAD AGENCY FOR DETECTION.

(a) IN GENERAL.—The Secretary of Defense, with advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide written guidance to the Secretaries of the military departments and to the commanders of the combatant commands on the specific force levels and the specific supporting resources necessary to fulfill the responsibilities of the Department of Defense as the single lead agency for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) GUIDANCE REFERENCE.—The guidance referred to in subsection (a) shall be provided as part of the guidance required by section 113(*l*) of title 10, United States Code.

(c) FUNDING.—The following amounts from the sources specified shall be available for carrying out the responsibilities referred to in subsection (a):

(A) $200,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $5,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $149,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(2) Not more than $5,000,000 of amounts authorized to be appropriated pursuant to Division B for land acquisition and construction of facilities shall be available for the acquisition of land and the construction of facilities necessary to carry out the responsibilities referred to in subsection (a).

SEC. 1103. COMMUNCATIONS NETWORK

(a) INTEGRATION OF NETWORK.—The Secretary of Defense, in consultation with the Director, National Drug Control Policy, shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to titles, I, II, and III for fiscal year 1990, $60,000,000 shall be available for the activities described in subsection (a).

SEC. 1104. DRUG INTERDICTION AND ENFORCEMENT ACTIVITIES OF THE NATIONAL GUARD

(a) FUNDING ASSISTANCE.—The Secretary of Defense shall provide to the Governor of a State who submits a plan to the Secretary under subsection (b) sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of such State used—

(1) for the purpose of drug interdiction and enforcement operations; and

(2) for the operation and maintenance of the equipment and facilities of the National Guard of such State that are used for the purposes described in paragraph (1).

(b) PLAN REQUIREMENTS.—(1) The Secretary shall provide funds under subsection (a) to the Governor of a State who submits to the Secretary a plan specifying how personnel of the National Guard of that State are to be used in drug enforcement and interdiction operations if—

(A) such operations are to be conducted at a time when personnel of a National Guard of the State are under the command and control of the State authority and are not in Federal service; and

(B) participation by National Guard personnel in such operations is service in addition to annual training required under section 502 of title 32, United States Code.

(2)(A) Before funds are provided to the Governor of a State under this section, the Secretary of Defense shall consult with the Attorney General of the United States regarding the adequacy of the plan submitted by the Governor to the Secretary.

(B) If the Governor of a State submits a plan to the Secretary of Defense for assistance under this section, the plan is the same as a plan previously submitted by that State, and funds were provided to the State pursuant to such plan, then funds may be provided to such State under this section without further consultation with the Attorney General.

(c) FUNDING AMOUNTS.—(1) Of the amounts made available pursuant to section 1101, the Secretary shall make available for the purposes of subsection (a)—

(A) $45,000,000 for operations and maintenance of the National Guard; and

(B) $45,000,000 for National Guard personnel.

(2) Amounts made available pursuant to paragraph (1) for the National Guard are in addition to amounts otherwise appropriated for the National Guard for fiscal year 1990.

(d) LIMITATION ON DELEGATION.—The Secretary may delegate the authority of the Secretary under this section only to the Deputy Secretary of Defense, to an Under Secretary of Defense, or to an Assistant Secretary of Defense.

(e) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

(f) EXCLUSION FROM END-STRENGTH COMPUTATION.—Members of the National Guard on full time National Guard duty for the purposes of administering this section shall not be counted toward the end-strengths authorized in section 422 for members on full-time National Guard duty for the purposes of organizing, administering, recruiting, instructing, or training the reserve components, or toward the strengths authorized in sections 517 and 524 of title 10, United States Code.

(g) DEFINITIONS.—As used in this section:

(1) The term "Governor of a State" means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

(2) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

SEC. 1105. MAINTENANCE AND REPAIR OF EQUIPMENT MADE AVAILABLE TO FEDERAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—The Secretary of Defense shall be responsible during fiscal year 1990 for the maintenance and repair of equipment that has been made available by the Department of Defense to other Federal agencies for use in antidrug efforts or for any use under chapter 18 of title 10, United States Code, because of the potential future utility of such equipment to the Department of Defense. The Secretary shall be responsible for the maintenance and repair of such equipment to the extent that funds are available pursuant to subsection (b).

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III, $30,000,000 shall be available for fiscal year 1990 for the purposes described in subsection (a).

SEC. 1106. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies concerned with the detection of illicit drugs and other dangerous and illegal substances concealed in containers.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990, $20,000,000 shall be available for the purposes described in subsection (a).

SEC. 1107. CIVIL AIR PATROL.

(a) IN GENERAL.—The Secretary of Defense shall pay for expenses incurred by the Civil Air Patrol in conducting drug surveillance flights for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) FUNDS.—Of the funds authorized to be appropriated pursuant to title III for fiscal year 1990, $1,000,000 shall be available for purposes described in subsection (a).

SEC. 1108. TRANSPORTATION OF PERSONNEL, SUPPLIES, AND EQUIPMENT RELATING TO DRUG INTERDICTION AND THE ERADICATION OF ILLEGAL DRUGS IN SOURCE COUNTRIES.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Defense shall transport personnel, supplies, and equipment within the United States and from the United States to a foreign country, by aircraft and ships of the Department of Defense, for the purpose of providing assistance to a counter-drug operation to be carried out in a foreign country by the United States or by a friendly foreign country.

(b) CONDITIONS.—The Secretary may transport personnel, supplies, and equipment pursuant to subsection (a) only if—

(1) the transportation of such personnel, supplies, and equipment is consistent with the foreign policy and counter-drug policy of the United States;

(2) the supplies and equipment to be transported are suitable for use in a counter-drug program;

(3) the personnel, supplies, and equipment to be transported are destined for use in a counter-drug program of the United States or of a friendly country; and

(4) the transportation of such personnel, supplies, and equipment will not adversely affect the military preparedness of the United States.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $20,000,000 shall be available for the purposes described in subsection (a).

SEC. 1109. LOAN OF NATIONAL GUARD EQUIPMENT.

(a) IN GENERAL.—(1) The Secretary shall authorize the National Guard to loan any item of equipment to any Federal or State law enforcement agency for use by such agency in carrying out drug enforcement activities. Under such regulations as the Secretary may prescribe, items of equipment loaned by the National Guard to any Federal or State law enforcement agency shall be returned promptly to the National Guard if the Chief of the National Guard Bureau determines that the equipment is needed for operational requirements of the National Guard and requests the Federal or State agency concerned to return such equipment to the National Guard.

(2) To the extent that funds are available pursuant to subsection (c), the Secretary shall maintain, repair, and restore any item of equipment made available to any Federal or State law enforcement agency pursuant to paragraph (1).

(b) CONDITIONS.—The Secretary may make the loan of items of equipment referred to in subsection (a) subject to such minimum standards of care and maintenance as the Secretary considers appropriate. The Secretary may also require, with respect to items of equipment loaned to a law enforcement agency under this section, such minimum training and proficiency requirements on the part of the personnel who are to use such items as the Secretary considers appropriate.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $20,000,000 shall be available for the purposes described in subsection (a).

SEC. 1110. EXCESS PERSONAL PROPERTY.

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), during fiscal years 1990 and 1991, the Secretary of Defense, in consultation with the Attorney General of the United States and the Director, National Drug Control Policy, may transfer to Federal and State law enforcement agencies such excess personal property of the Department of Defense, including small arms ammunition, as the Secretary determines suitable for use by such agencies in counter-drug activities. Excess property transferred to any such agency under this section may be transferred without cost to the recipient agency.

(b) The Secretary may transfer excess personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense;

(2) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment; and

(3) the Secretary determines that the transfer of the excess property will not have an adverse impact on the military readiness of the United States.

Section 421 of the bill is amended as follows:

(1) in subsection (a)(7), relating to the Coast Guard Reserve, strike out "12,950" and insert in lieu thereof "15,000"; and

(2) in subsection (b), relating to the Coast Guard Reserve, strike out "13,500" and insert in lieu thereof "15,000".

AMENDMENT NO. 647 TO AMENDMENT NO. 589 AS MODIFIED

Mr. NUNN. Madam President, I call up Amendment No. 647, a second-degree amendment prepared by Senator WARNER and myself, which amends Amendment 589. I ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself and Mr. WARNER, proposes an amendment numbered 647 to amendment numbered 589.

Mr. NUNN. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

TITLE XI—DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

SEC. 1101. FUNDING OF ACTIVITIES RELATED TO DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

(a) FUNDING.—(1) Of the amounts authorized to be appropriated for the Department of Defense by this Act, $450,000,000 is available from the sources and in the amounts provided in paragraph (2) for carrying out the drug interdiction and law enforcement support activities described in sections 1102 through 1110.

(2) The amounts and sources referred to in paragraph (1) are as follows:

(A) $182,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $28,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $235,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(D) $5,000,000 of amounts appropriated pursuant to Division B for land acquisition and the construction of facilities.

SEC. 1102. LEAD AGENCY FOR DETECTION

(a) IN GENERAL.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide written guidance to the Secretaries of the military departments and to the commanders of the combatant commands on the specific force levels and the specific supporting resources necessary to fulfill the responsibilities of the Department of Defense as the single lead agency for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) GUIDANCE REFERENCE.—The guidance referred to in subsection (a) shall be provided as part of the guidance required by section 113(*l*) of title 10, United States Code.

(c) FUNDING.—(1) The following amounts from the sources specified shall be available for carrying out the responsibilities referred to in subsection (a):

(A) $160,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $5,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $109,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(2) Not more than $5,000,000 of amounts authorized to be appropriated pursuant to Division B for land acquisition and construction of facilities shall be available for the acquisition of land the contruction of facilities necessary to carry out the responsibilities referred to in subsection (a).

SEC. 1103. COMMUNICATIONS NETWORK

(a) INTEGRATION OF NETWORK.—The Secretary of Defense, in consulation with the Director, National Drug Control Policy, shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title I, II, and III for fiscal year 1990, $30,000,000 shall be available for the activities described in subsection (a).

SEC. 1104. DRUG INTERDICTION AND ENFORCEMENT ACTIVITIES OF THE NATIONAL GUARD

(a) FUNDING ASSISTANCE.—The Secretary of Defense shall provide to the Governor of a State who submits a plan to the Secretary under subsection (b) sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of such State used—

(1) for the purpose of drug interdiction and enforcement operations; and

(2) for the operation and maintenance of the equipment and facilities of the National Guard of such State that are used for the purposes described in paragraph (1).

(b) PLAN REQUIREMENTS.—(1) The Secretary shall provide funds under subsection (a) to the Governor of a State who submits to the Secretary a plan specifying how personnel of the National Guard of that State are to be used in drug enforcement and interdiction operations if—

(A) such operations are to be conducted at a time when personnel of a National Guard of the State are under the command and control of the State authority and are not in Federal service; and

(B) participation by National Guard personnel in such operations is service in addition to annual training required under section 502 of title 32, United States Code.

(2)(A) Before funds are provided to the Governor of a State under this section, the Secretary of Defense shall consult with the Attorney General of the United States regarding the adequacy of the plan submitted by the Governor to the Secretary.

(B) If the Governor of a State submits a plan to the Secretary of Defense for assistance under this section, the plan is the same as a plan previously submitted by that State, and funds were provided to the State pursuant to such plan, then funds may be provided to such State under this section without further consultation with the Attorney General.

(a) FUNDING AMOUNTS.—(1) Of the amounts made available pursuant to section 1101, the Secretary shall make available for the purposes of subsection (a)—

(A) $35,000,000 for operations and maintenance of the National Guard; and

(B) $35,000,000 for National Guard personnel.

(2) Amounts made available pursuant to paragraph (1) for the National Guard are in addition to amounts otherwise appropriated for the National Guard for fiscal year 1990.

(d) LIMITATION ON DELEGATION.—The Secretary may delegate the authority of the Secretary under this section only to the Deputy Secretary of Defense, to an Under Secretary of Defense, or to an Assistant Secretary of Defense.

(e) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

(f) EXCLUSION FROM END-STRENGTH COMPUTATION.—Members of the National Guard on full-time National Guard duty for the purposes of administering this section shall not be counted toward the end-strengths authorized in section 422 for members on full-time National Guard duty for the purposes of organizing, administering, recruiting, instructing, or training the reserve components, or toward the strengths authorized in

sections 517 and 524 of title 10, United States Code.

(g) DEFINITIONS.—As used in this section:

(1) The term "Governor of a State" means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

(2) The term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

SEC. 1105. MAINTENANCE AND REPAIR OF EQUIPMENT MADE AVAILABLE TO FEDERAL LAW ENFORCEMENT OFFICIALS

(a) IN GENERAL.—The Secretary of Defense shall be responsible during fiscal year 1990 for the maintenance and repair of equipment that has been made available by the Department of Defense to other Federal agencies for use in antidrug efforts or for any use under chapter 18 of title 10, United States Code, because of the potential future utility of such equipment to the Department of Defense. The Secretary shall be responsible for the maintenance and repair of such equipment to the extent that funds are available pursuant to subsection (b).

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III, $20,000,000 shall be available for fiscal year 1990 for the purposes described in subsection (a).

SEC. 1106. RESEARCH AND DEVELOPMENT

(a) IN GENERAL.—The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies concerned with the detection of illicit drugs and other dangerous and illegal substances concealed in containers.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990, $20,000,000 shall be available for the purposes described in subsection (a).

SEC. 1107. CIVIL AIR PATROL

(a) IN GENERAL.—The Secretary of Defense shall pay for expenses incurred by the Civil Air Patrol in conducting drug surveillance flights for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) FUNDS.—Of the funds authorized to be appropriated pursuant to title III for fiscal year 1990, $1,000,000 shall be available for purposes described in subsection (a).

SEC. 1108. TRANSPORTATION OF PERSONNEL, SUPPLIES, AND EQUIPMENT RELATING TO DRUG INTERDICTION AND THE ERADICATION OF ILLEGAL DRUGS IN SOURCE COUNTRIES

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Defense shall transport personnel, supplies, and equipment within the United States and from the United States to a foreign country, by aircraft and ships of the Department of Defense, for the purpose of providing assistance to a counter-drug operation to be carried out in a foreign country by the United States or by a friendly foreign country.

(b) CONDITIONS.—The Secretary may transport personnel, supplies, and equipment pursuant to subsection (a) only if—

(1) the transportation of such personnel, supplies, and equipment is consistent with the foreign policy and counter-drug policy of the United States;

(2) the supplies and equipment to be transported are suitable for use in a counter-drug program;

(3) the personnel, supplies, and equipment to be transported are destined for use in a counter-drug program of the United States or of a friendly country; and

(4) the transportation of such personnel, supplies, and equipment will not adversely affect the military preparedness of the United States.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $15,000,000 shall be available for the purposes described in subsection (a).

SEC. 1109. LOAN OF NATIONAL GUARD EQUIPMENT

(a) IN GENERAL.—(1) The Secretary shall authorize the National Guard to loan any item of equipment to any Federal or State law enforcement agency for use by such agency in carrying out drug enforcement activities. Under such regulations as the Secretary may prescribe, items of equipment loaned by the National Guard to any Federal or State law enforcement agency shall be returned promptly to the National Guard if the Chief of the National Guard Bureau determines that the equipment is needed for operational requirements of the National Guard and requests the Federal or State agency concerned to return such equipment to the National Guard.

(2) To the extent that funds are available pursuant to subsection (c), the Secretary shall maintain, repair, and restore any item of equipment made available to any Federal or State law enforcement agency pursuant to paragraph (1).

(b) CONDITIONS.—The Secretary may make the loan of items of equipment referred to in subsection (a) subject to such minimum standards of care and maintenance as the Secretary considers appropriate. The Secretary may also require, with respect to items of equipment loaned to a law enforcement agency under this section, such minimum training and proficiency requirements on the part of the personnel who are to use such items as the Secretary considers appropriate.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $15,000,000 shall be available for the purposes described in subsection (a).

SEC. 1110. EXCESS PERSONAL PROPERTY

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), during fiscal years 1990 and 1991, the Secretary of Defense, in consultation with the Attorney General of the United States and the Director, National Drug Control Policy, may transfer to Federal and State law enforcement agencies such excess personal property of the Department of Defense, including small arms ammunition, as the Secretary determines suitable for use by such agencies in counter-drug activities. Excess property transferred to any such agency under this section may be transferred without cost to the recipient agency.

(b) The Secretary may transfer excess personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense;

(2) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment; and

(3) the Secretary determines that the transfer of the execess property will not have an adverse impact on the military readiness of the United States.

Section 421 of the bill is amended as follows:

(1) in subsection (a)(7), relating to the Coast Guard Reserve, strike out "12,950" and insert in lieu thereof "15,000"; and

(2) in subsection (b), relating to the Coast Guard Reserve, strike out "13,500" and insert in lieu thereof "15,000".

Mr. NUNN. Madam President, last year, after detailed hearings by the Armed Services Committee and a thorough debate by the Senate, Congress established a new and important mission for the Department of Defense relating to the Nation's counter drug effort. In the National Defense Authorization Act for fiscal year 1989, Congress declared the illicit importation of drugs into the United States by air and by sea to be a threat to national security. The Department of Defense was designated as the single lead agency for the detection and monitoring of aerial and maritime transit of illicit drugs into the United States and the Secretary of Defense was also directed to integrate the command, control, communications, and technical intelligence assets of the United States that are dedicated to the interdiction of illegal drugs into an effective communications network. Finally, the National Guard was assigned an enhanced role in drug enforcement and interdiction operations.

In addition to establishing a new mission for the Department of Defense, Congress last year also enacted a wide-ranging series of anti-drug initiatives for the civilian sector in the Anti-Drug Abuse Act of 1988. In June of this year, as chairman of the Permanent Subcommittee on Investigations, I chaired a series of hearings to assess the impact of last year's legislation.

First, I am convinced that we must, at both the natinal and the local levels, maintain a sense of outrage at what drugs are doing to our children and our very future as a nation. The drug epidemic in this country has skyrocketed out of control, fueled by the easy and cheap availability of crack cocaine. In our recent hearings in Georgia, we found compelling evidence that drug abuse has long since crossed the boundaries of urban areas and invaded rural America. I was told that there is no longer even a single community in Georgia where crack cocaine is not readily available.

Second, witnesses told us again and again that we must also recognize the need for urgency in addressing the drug problem. Drug abuse has not only spread to all types of communities, it has also imperiled all aspects of community life. In our cities, we have become almost numb to the news that another combat zone has been declared; that another innocent life has been lost in cross fire or drive-by shootings by warring drug lords; or that another 7- or 8-year-old child has already turned pro in dealing dope.

In rural Georgia, we heard of crime rates rising even faster than in urban areas; of the crippling costs of drug abuse on relatively small rural businesses; and of how drug abuse was overwhelming the continued availability of health care resources, even to non-drug abusers.

And perhaps must alarming, we heard that drug abuse, if it continues unchecked, may hold as yet unforeseen horrors for us in the future. Medical authorities are seeing a correlation between crack cocaine abuse and increases in AIDS, syphilis, and other sexually transmitted diseases. Georgia, like other States, is also now seeing evidence that, unless we act quickly, our future may include whole generations of children born already addicted to cocaine.

Third, I do believe that there is still room for hope in the battle against drug abuse. Amidst the devastation and despair, there are some bright spots. Communities have begun to bring together their own resources, at the grass roots level, to attack the problem. In Macon, GA, all aspects of the community—churches, schools, businesses—have banded together in a strategic plan of community action. Law enforcement officials in Georgia told us that they have seen a significant increase in the public's willingness to cooperate in drug investigations in the last few years. Public awareness overall is growing, and with it, a commitment for involvement.

Finally, we, as a nation, must learn something from over 20 years of America's good intentions, failures, and frustrations in the drug war. I am convinced the lesson is that we need a comprehensive strategy, a battle plan at the national and local levels. We could never have fought World War II successfully without that type of planning: Why should we believe that the formula for winning the war against drugs is any different?

In the 1988 drug bill we recognized that need and gave the newly created Director of the Office of National Drug Control Policy, or drug czar, the task of coming up with that strategy. Bill Bennett, our new drug czar, will be delivering that strategy to the President this September. I recognize the enormity of the task he faces and wish Director Bennett well in his efforts, for, in my view, his work will be critical to any hope of ultimate success in the drug war.

Part of Director Bennett's proposed strategy will, I am sure, address the question of how to best employ the resources and expertise of the Department of Defense in the war against drugs. It is useful, at this stage, to assess the actions taken by the Department of Defense in furtherance of its new mission, and to determine if there are further steps that we can take to enhance the Department's ability to assist in this critical endeavor.

Considering the fact that the Department took on this new mission during a period of substantial turnover in its senior civilian leadership, the activities of the Department of Defense in fulfillment of its new mission and taskings and in furtherance of its traditional law enforcement support role have been numerous and significant. They run the gamut from the loan of military equipment to law enforcement agencies, to the provision of land for the siting of law enforcement facilities, to the training of U.S. and foreign law enforcement personnel at military facilities, to the operation of ships, aircraft and radars for the purpose of detecting and monitoring of aircraft, vessels and personnel attempting to penetrate the borders of the United States while carrying illicit drugs. Although there is considerable room for improvement in the management of the Department's counternarcotics effort, it is useful to recount some of the assistance that has been and is being provided in this area.

Since the establishment of this new mission, the unified and specified combatant commands and the military services have flown over 10,000 aircraft hours, sailed hundreds of ship days, and spent hundreds of thousands of man days in the operation of radar and other detection equipment, all dedicated to the detection and monitoring mission assigned to the Department of Defense.

A partial listing of equipment provided by the military services includes the following: (UH-60) Blackhawk helicopters to the Customs Service; 26 helicopters to the Department of State for use in counter-narcotics programs outside the United States; P-3A and E-2C aircraft to the Customs Service; provision of Link 11 equipment to the U.S. Coast Guard; provision of APS-125 radar to the Customs Service for use on Airborne Early Warning aircraft; Marine Corps communications equipment to various law enforcement agencies; 3,000 M-16's to the Immigration and Naturalization Service; UPA-62 radar consoles to the Customs Service; provision of fuel trucks to the U.S. Coast Guard; secure communications equipment and navigational aids to the Customs Service and the Coast Guard.

In the area of training alone, the following is only a partial listing of support provided by the military services: water survival courses for Drug Enforcement Agency [DEA] and U.S. Customs agents at Naval Air Stations, Pensacola and Jacksonville; Ranger-type training for DEA agents at Fort Benning; Jungle Operations Training Courses at Fort Sherman, Panama; foreign language courses for DEA agents at the Defense Language Institute; medical familiarization and riverine training at the Navy's Special Boat Unit 22 at New Orleans.

Finally, the Department is embarked on a significant acquisition program of sensors, including sea and land-based areostats and other radar units for detection and monitoring and communications equipment to support an integrated interdiction capability.

I remain convinced that the above described mission as well as traditional activities of the Department of Defense in support of law enforcement authorities provide the appropriate framework for the military's role in the counter-drug effort. I also note the significant contribution that the National Guard is presently making in inspecting cargoes at the ports of entry into the United States, eradicating marijuana, transporting law enforcement officials and employing sensors. I believe that the National Guard can do even more in the future. Additionally, I expect that the Department of Defense will extend its significant R&D capabilities to investigate the development of chemical, biologic, electronic or other technologies both for the detection of drugs and other dangerous materials in sealed containers and for the detection and monitoring of aircraft, vessels and other carriers of illegal drugs. I am aware of and support the technology development efforts initiated by the Defense Advanced Research Projects Agency in conjunction with the Drug Enforcement Agency, the Federal Bureau of Investigations, the U.S. Customs Service, the U.S. Coast Guard and other user agencies in the areas of surveillance, tracking, communication intercept and data fusion for these activities. Finally, I note the massive and time consuming organization, planning, connectivity, and fusion effort undertaken by the Department of Defense over the past year. Those efforts, which are on a scale and complexity that only the Defense Department could accomplish, must be sustained and enhanced in the coming year.

I would like to emphasize that the Department has for years supported other Government agencies in their anti-drug activities by providing equipment that otherwise would be unavailable to these agencies in their law enforcement, interdiction, and eradication activities. I especially note the effective use that the State Department has made of the 26 helicopters which the Defense Department provided to them last year. In this amendment we provide additional authorities and funding by which the Department of Defense will continue activities in support of the State Department and other Government agencies for anti-drug activities.

Now let me describe further what this amendment would do. First of all,

the amendment authorizes $450 million for the Department's expanded role in drug interdiction and support of law enforcement agencies. The $450 million is divided as follows: $182 million for procurement; $28 million for research and development; $235 million for operations and maintenance; and $5 million for military construction. The amendment next restates the mission that the Congress gave the Department of Defense last year, and makes funding available for the performance of that mission and expands on the authorities of the Department as follows:

First, for detection and monitoring of aerial and maritime transit of illegal drugs into the United States, $160 million for procurement—(which would be used to acquire fixed land aerostats, ship-based aerostats, semi-submersible platforms and mobile aerostats, and various radar, communications and electronics equipment; $109 million for operation and maintenance to support the mission; $5 million for research and development of technologies; and $5 million for land acquisition and construction funds for siting of fixed land aerostats;

Second, to integrate into an effective communications network the command, control, communications and technical intelligence assets of the United States that are connected with the interdiction of illegal drugs into the United States, $30 million for procurement, operations and maintenance, and research, development, test and evaluation funding;

Third, for activities of the National Guard for drug interdiction and enforcement actions, $35 million for operations and maintenance and $35 million for pay, allowances and related personnel expenses;

Fourth, for maintenance and repair of equipment made available to other Federal agencies for antidrug and other law enforcement purposes, $20 million; this is a new requirement for the Department Defense.

Fifth, for research and development of technologies connected with the detection of illicit drugs and other dangerous substances in containers, $20 million; this is an area which we hope will lead to dramatic technological advances that will significantly enhance our ability to prevent the smuggling of drugs into the United States.

Sixth, for expenses of the Civil Air Patrol relating to drug surveillance flights in recognition that the benefit of such flights is substantially equivalent to training, $1 million;

Seventh, for the transportation of personnel, supplies and equipment to foreign countries for use in counterdrug operations, $15 million; this is also a new requirement for the Department of Defense.

Eighth, the amendment authorizes the National Guard to loan equipment to Federal and State law enforcement agencies, and makes $15 million available for the maintenance, repair and restoration of such equipment; this is the third new requirement for the Department of Defense.

Ninth, it authorizes the Secretary of Defense to provide excess personal property of the Department of Defense, which is suitable for drug enforcement activities, to Federal and State law enforcement agencies without reimbursement; and

Tenth, finally, it increases the authorized strength of the Coast Guard Reserve to 15,000.

Pursuant to this amendment, $450 million would be available in fiscal year 1990 for the performance of the Defense Department's counterdrug missions and for the Department's support to Federal and State law enforcement agencies' drug enforcement activities. This amounts to a 50-percent increase over last year's funding for this important task and provides $150 million more for this effort than the Department had planned for fiscal year 1990. I urge the Senate to support this amendment.

Mr. WARNER. Madam President, I rise to support the amendment which the chairman of the Senate Armed Services Committee and I propose to strengthen our war against the evil and insidious onslaught of drugs that threatens our Nation today.

We have worked diligently and deliberately this past year to craft legislation which would increase in appropriate ways the involvement of our military forces in this war on drugs.

We have recommended deeper involvement of our Armed Forces—including the National Guard—in order to provide greater assistance and support to the civilian authorities who must perform the law enforcement activities necessary to combat the criminal drug elements which threaten our Nation.

We have purposefully and steadfastly opposed any measures which provide for the direct participation in law enforcement by our military forces. Direct participation would transform our Armed Forces into a national police force, which is counter to the historical separation between civilian law enforcement and military national security interests.

I continue to believe, and I believe the chairman agrees with me, that we must avoid direct involvement of members of our military forces in arrests, searches, and seizures in drug cases on the high seas and in our territorial waters and in pursuit of persons evading arrest onto the land mass of the United States.

The arrest of criminals leading to conviction requires sophisticated use of informants, profiles, and trained interrogators which are uniquely within the competence of civilian police agencies. When civilian police powers are extended to the military and reliance is placed on military forces to accomplish civilian tasks, extreme difficulties arise.

While we all experience deep frustrations in dealing with this difficult war on drugs, I believe that we must not let that frustration result in our departing from the time-proven traditions of our Nation. History has shown the wisdom of not involving military forces in police work in direct confrontation with our citizens, thereby transforming our armed military forces into a national police force.

The best role for our military forces is to provide support to civilian law enforcement agencies so those civilian officials can make necessary arrests, searches, and seizures. This type of assistance strengthens and enhances the enforcement capabilities of the civilian law enforcement authorities without compromising the traditional separation of military and civilian functions. Furthermore, this is the most efficient use of both law enforcement and military assets by using each asset to accomplish the tasks for which they are equipped and trained.

Madam President, the threat posed by illegal drugs to our Nation is significant. We must apply the necessary resources to counter this threat. I believe that the provisions of this amendment will substantially increase our capabilities through greater support and assistance provided by our military forces.

Last night, the Senate voted to authorize the President to transfer up to $1.7 billion from unobligated balances at the end of fiscal year 1989 to fund the omnibus drug bill of 1988. Depending on the total amount of DOD unobligated balances proportional to such balances Government-wide, the Defense Department could be required to provide up to $425 million, or about 25 percent, of the $1.7 billion as its share of this amount.

In addition, $450 million of the amounts authorized for appropriation in this bill are identified for use in drug war efforts. We have provided $70 million—$30 million more than the amount authorized last year—for use by the National Guard, and have laid down specific procedures to facilitate increased involvement of the National Guard in support of counterdrug activities.

We have made the Department of Defense responsible for maintenance and repair of equipment that has been made available to other Federal agencies by the Defense Department.

We have provided increased funds for research and development to enhance our capabilities in our drug interdiction efforts to include the detection of illicit drugs and illegal and

dangerous substances in containerized shipping.

This amendment provides increased funding for the Civil Air Patrol, which has proven extremely helpful in conducting surveillance flights to assist in the detection and monitoring of illegal air and sea traffic.

We have provided increased resources for transporting personnel supplies and equipment to assist in our counterdrug efforts in source countries. The amendment will also facilitate the loan of National Guard equipment and the transfer of excess DOD property, including small arms ammunition, for use by other agencies in the war on drugs.

We have also provided an increase in the end strength of the Coast Guard Reserve to facilitate their increasing involvement in counterdrug efforts.

Madam President, I believe this bill provides for the appropriate involvement of our military forces in the war on drugs. This is a war in which we all must participate. It is a war which will, unfortunately, be with us for a long time. It will be a frustrating and difficult war with no abruptly final or dramatic conclusion. It will be won not solely by law enforcement and interdiction efforts but also by education, counseling, patience, and perseverance of the vast majority of Americans who recognize the harm and danger of drugs and who dedicate their daily efforts to ending this scourge.

Mr. COATS. Madam President, when it comes to the war against drugs, sincerity is not the measure of our success. Virtuous motives, crippled by inertia and timidity, are no match for armed and determined drug traffickers. If we are to wage a serious war on drugs, none of our resources can be off limits in the fight.

And I am encouraged that the Senate, over the last few days, has given teeth to this resolve. We have passed some tough new provisions to aid law enforcement agencies in their fight against drug supply. Customs, DEA, and the Coast Guard have been given the power to use lethal force in combating drug trafficking. And I have cosponsored legislation to create a high level command structure to direct our military efforts against drugs.

Now we have another chance to strengthen our commitment and evidence our resolve.

This amendment by the Senator from Georgia and the Senator from Virginia will ensure that law enforcement agencies are not alone in prosecuting the war on drugs. These agencies must have the support of the military's sophisticated communications and tracking capabilities.

Specifically, it authorizes $450 million to ensure we are more capable of defending our shores against drug traffic.

Certainly we must preserve our military preparedness. Our efforts to involve the military in fighting the drug war should never impair our ability to defend our national interests. But nothing in this amendment would interfere with this primary military objective.

The amendment squarely places the military in a supporting role—lending assistance and communications expertise to civilian law enforcement agencies involved in the fight against drugs.

Unfortunately, as the past few years have shown, without greater assistance from our Armed Forces, civilian law enforcement agencies are neither sufficiently equipped nor manned to protect the borders of a nation as geographically vast as the United States from determined and sophisticated drug smugglers. This amendment goes beyond tough rhetoric to meet this need. It provides a new level of professional knowledge. And it opens new options for civilian law enforcement.

Drug trafficking is the moral equivalent of piracy. And this measure meets the challenge with forceful action. Military involvement is not a panacea. But the subversive assult of drugs on the American character requires us to accept the military burden which is inseparable from real progress against drug supply. And I strongly urge my colleagues to support this timely and important legislation.

Mr. NUNN. Madam President, now let me describe further what this amendment would do. First of all, the amendment authorizes $450 million for the Department's expanded role in drug interdiction and support of law enforcement agencies. This is a $150 million increase over last year. The $450 million is divided as follows: $182 million for procurement, $28 million for research and development, $235 million for operations and maintenance, and $5 million for military construction. The amendment next restates the mission that the Congress gave the Department of Defense last year, and makes funding available for the performance of that mission and expands on the authorities of the Department as follows:

First, for detection and monitoring of aerial and maritime transit of illegal drugs into the United States, $160 million for procurement—which would be used to acquire fixed-land aerostats, ship-based aerostats, semisubmersible platforms and mobile aerostats, and various radar, communications, and electronics equipment—$109 million for operation and maintenance to support the mission, $5 million for research and development of technologies, and $5 million for land acquisition and construction funds for siting of fixed-land aerostats;

Second, to integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are connected with the interdiction of illegal drugs into the United States, $30 million of procurement, operations and maintenance, and research, development, test, and evaluation funding;

Third, for activities of the National Guard for drug interdiction and enforcement actions, $35 million for operations and maintenance, and $35 million for pay, allowances, and related personnel expenses;

Fourth, for maintenance and repair of equipment made available to other Federal agencies for antidrug and other law enforcement purposes, $20 millon—this is a new requirement for the Department of Defense;

Fifth, for research and development of technologies connected with the detection of illicit drugs and other dangerous substances in containers, $20 million—this is an area which we hope will lead to dramatic technological advances that will significantly enhance our ability to prevent the smuggling of drugs into the United States;

Sixth, for expenses of the Civil Air Patrol relating to drug surveillance flights in recognition that the benefit of such flights is substantially equivalent to training, $1 million;

Seventh, for the transportation of personnel, supplies, and equipment to foreign countries for use in counterdrug operations, $15 million—this is also a new requirement for the Department of Defense;

Eighth, the amendment authorizes the National Guard to loan equipment to Federal and State law enforcement agencies, and makes $15 million available for the maintenance, repair, and restoration of such equipment—this is the third new requirement for the Department of Defense;

Ninth, it authorizes the Secretary of Defense to provide excess personal property of the Department of Defense, which is suitable for drug enforcement activities, to Federal and State law enforcement agencies without reimbursement; and

Tenth, it increases the authorized strength of the Coast Guard Reserve to 15,000.

Pursuant to this amendment, $450 million would be available in fiscal year 1990 for the performance of the Defense Department's counterdrug missions and for the Department's support to Federal and State law enforcement agencies' drug enforcement activities. This amounts to a 50-percent increase over last year's funding for this important task and provides $150 million more for this effort than the Department has planned for fiscal year 1990. I urge the Senate to support this amendment.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Madam President, I wonder if I might address a question to my friend, the chairman.

Mr. NUNN. I am glad to yield.

Mr. WILSON. First, I commend him and am pleased to join as a cosponsor.

I think this is needed. As the chairman knows, I have been critical of the Department of Defense in terms of pace of response to the mandate that we placed into the authorization bill last year.

In terms of what this provides, and it clearly provides a very substantial new support, does the legislation that the Senator is putting before us in this amendment require of the Secretary any change with regard to organization in order to speed up the pace?

Mr. NUNN. There is no organizational change in this amendment.

Mr. WILSON. Is there the opportunity, let me ask my friend from Georgia, that in conference we might be able at the very least to insert some kind of report language that would make clear that the pace has not been what we sought and to at least make inquiry and require a report from the department with respect to the subject of their organization and the pace of the response?

Mr. NUNN. I would say to my friend from California, and I know he has worked long and hard in this area, that I myself have not concluded that an organizational change is necessary or desirable at this time, but I have not concluded otherwise. I have not looked into it in great depth.

If the Senator could bring the matter to our attention, I would be open on that subject in conference. The Senator will be a conferee. The House will have other provisions in conference and I am sure that the scope of the conference will be broad enough considering this amendment and considering what is on the House side, to accommodate if the conferees decided that was the thing to do, that kind of language.

Mr. WILSON. I thank the chairman and, Madam President, let me say I think this is going to be a very useful amendment. It does provide substantially increased assistance to the Department. The Department has worried that this new responsibility which Congress has imposed upon it would drain it of needed resources for the performance of its primary missions.

I do not think that they have yet fully come to appreciate that Congress was serious in terms of imposing this new responsibility and that Congress sees it as a priority.

It is clear to all of us that interdiction by itself is certainly by no means the response that is going to win the war on drugs, but it is a necessary part. I think those who spend any time with law enforcement in this Nation are persuaded of that, because their experience is that to the extent that we can succeed at least partially in interdicting the supply of drugs into the Nation we reduce the amount, the volume of traffic with which they must deal at retail on the streets which makes their lives infinitely more difficult and dangerous.

So I think the chairman is deserving of our commendation and our support.

I also think that we do need to examine into the question of why they have been as slow as they have. As nearly as I can tell, and there are some specific instances I would cite, they have been preparing to make preliminary preparations to plan. A great deal of paper has been mobilized, but very little in the way of manpower and resources.

One instance is that Lieutenant General Kelly of the Joint Chiefs of Staff gave us assurance sometime ago, months and months ago, that within, I believe it was 60 days, we would see the ultimate report crystallizing the thinking of those charged with responsibility for implementing the plans of JCS in its new responsibility. We have yet to see that report, and frankly that is not the kind of response that this problem demands.

So, I commend the chairman for this, and I think we need to keep the pressure on because candidly at least in the opinion of many of us, the response has not yet been what we expected. If they need more in the way of resources, clearly this amendment by Senator NUNN offers them substantially increased resources. I think they need some increased motivation. It is very clear that there has been resistance, that there has been no great alacrity on the part of the Department to accept this new responsibility. I think that is clearly reflected in their response.

I thank the Chair.

Mr. MURKOWSKI. Madam President, I apologize for just entering the Chamber.

It is my intention to hold the floor and yield to my colleague, the senior Senator from Alaska, who is on his way and will be presenting the next amendment, which I understand is germane and it is listed. The amendment itself involves an issue of great interest to the State of Alaska.

Mr. WALLOP. Will the Senator yield?

Mr. MURKOWSKI. I am happy to yield.

Mr. WALLOP. I wonder if the Senator would permit us to finish action on this amendment, because it is the pending business.

Mr. MURKOWSKI. Does the Senator from Wyoming have any idea of how long that should take?

Mr. WALLOP. I do not know, but it is the pending business and the Senator cannot offer an amendment whether he gets the floor or not, so he should just as well let us finish.

Mr. MURKOWSKI. What is the pending business?

The PRESIDING OFFICER. The pending question before the Senate is amendment No. 647 to amendment No. 589.

Mr. MURKOWSKI. Would the manager have any objection in recognizing the Senator from Alaska?

The PRESIDING OFFICER. The Chair would also like to state that a Senator can yield only for the purpose of a question.

Mr. WALLOP. I would say, Madam President, that I directed a question to the Senator from Alaska.

The PRESIDING OFFICER. The Senator is correct in his action.

The Senator from Alaska said he was going to speak and hold the floor until the senior Senator could arrive, at such time he would yield the floor to offer an amendment. The Chair wishes to advise all Members of the Senate of two things: No. 1, an amendment is currently pending; No. 2, a Senator may only yield for the purpose of a question.

Mr. MURKOWSKI. Madam President, I am happy to accommodate the floor leaders with the provision that I retain the floor at the conclusion of the pending amendment.

Mr. NUNN. Will the Senator yield for a brief question and observation?

Mr. MURKOWSKI. Yes.

Mr. NUNN. The observation is that we would like to finish this second-degree amendment, which will be voice voted. It will take a very short time. I think we already have had enough talk on it.

Senator LEVIN has a very brief amendment which both sides have agreed to.

Mr. MURKOWSKI. I have no objection. The senior Senator is now on the floor.

Mr. NUNN. But the Senator is assured a right to the floor in any event. He does not have any problem getting the right to the floor. He has time on his own and the other Senator from Alaska, the senior Senator, also has time. So there is no problem in getting access to the floor and the Senator can present any amendment that is ruled germane and is timely filed.

AMENDMENT NO. 622, AS MODIFIED

(Purpose: To clarify the capability of the National Guard to assist in local law enforcement activities)

Mr. LEVIN. Madam President, I have a timely filed amendment at the desk to the pending amendment. It requires, No. 1, unanimous consent to be modified so as to meet the concerns that have been expressed by the minority, and it should be so modified.

I ask unanimous consent that my amendment at the desk be modified and that it be attached to the pending second-degree amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Reserving the right to object, and I shall not object, it has been cleared with us and the amendment to the amendment is agreeable.

Mr. NUNN. I have no objection.

Mr. LEVIN. I send that amendment to the desk, and I thank my friend from Wyoming.

The PRESIDING OFFICER. Without objection, the Senator's unanimous-consent request is agreed to. The amendment is now modified as the Senator requested and it is now incorporated into the amendment as the Senator requested.

The amendment (No. 622) as modified, is as follows:

On page 7, between lines 13 and 14, insert the following subsection:

"(3) The term 'enforcement operations' includes use of National Guard personnel, while not in Federal status, in any law enforcement activities authorized by State and local law and requested by the Governor."

Mr. LEVIN. Madam President, I rise today to propose an amendment to enhance the role of the National Guard in the war against drugs. This amendment reiterates in Federal law the ability of Governors to deploy the National Guard in the fight against drugs, in any manner consistent with State and local law that a Governor requests.

This legislation would make clear to the National Guard Bureau and to Governors seeking funding for National Guard antidrug efforts, that Guardsmen can be deployed in air surveillance operations and on the street as lookouts for local law enforcement officials, both undercover and in uniform. In short, that they can do anything permissible under State law. We are only going to win the war on the drugs if we provide our Governors with the widest range of tools to fight this scourge.

My amendment clarifies that the Governors are the ones to decide how to deploy the National Guard.

Madam President, the simple fact is that we are losing the fight against drugs. You need look no further than the front page of your local newspaper to see that serious drug abuse and drug-related crime is still on the rise.

The National Institute on Drug Abuse reported yesterday, that emergency room admissions tied to cocaine have more than doubled in the last 2 years. The Department of Justice reported that more than half the men arrested in major cities test positive for some illegal drug. In New York City, for example, almost 80 percent of the men arrested test positive for cocaine; in Detroit, 49 percent.

Even more alarming is the recent jump in the number of babies born with some exposure to cocaine or other illegal drugs. Experts predict that almost 400,000 babies born this year will have been exposed to illegal drugs and warn that we can expect that number to rise steeply in the next few years.

We are passing this nightmare on to yet another generation, a generation whose babies will never be given a fair chance, whose children will be born hooked. Recently, I heard testimony by a public health official, Mr. Howard Fuller, director of the Milwaukee County Department of Health and Human Services. He described the hell that children of crack addicts live in, he described, in particular, the following scene; let me quote:

Police went to a home where a neighbor had reported a "child abuse in progress." What they found was a home infested with cockroaches and strewn with broken glass, overturned furniture, rotting food, used syringes and razor blades. A 23 year-old woman, the mother of three children, including an infant, was passed out on a soiled bed. Her children had not eaten in two days, prompting her 7-year-old son to go for food to the neighbor who had called the police. The children's grandmother said her daughter was a chronic cocaine user who sold her food stamps to buy drugs.

That is just one of the many incidents described to the Government Affairs Committee. There were countless others.

In fiscal 1989, the Federal Government appropriated over $5 billion to fight the drug war, with $300 million going to the Department of Defense. How much of this went to fight the war on the streets, the streets where 13-year-olds are selling crack, where mothers are selling food stamps to buy drugs? How much of this went to make the law-abiding mother trying to raise her children in a public housing complex safe from the crossfire of warring drug traffickers.

Madam President, my amendment would give our Nation's Governors the flexibility to fight—and gain the upper hand in—this terrible war.

Mr. NUNN. Madam President, I hope the second-degree amendment could be agreed to by voice vote.

The PRESIDING OFFICER. Is there any further debate on that second-degree amendment?

The Chair must advise the Senator from Michigan that we are not clear what amendment he is referring to. He has several at the desk. Would the Senator please clarify which amendment he wants modified?

Mr. LEVIN. Amendment No. 622.

I ask unanimous consent that the amendment that I just sent to the desk be the amendment, as modified.

The PRESIDING OFFICER. That consent has been granted.

Is there further debate on the third-degree amendment? If not, the question is on agreeing to the third-degree amendment.

The amendment (No. 622), as modified, was agreed to.

Mr. WALLOP. Madam President, would the Chair state that that was the second-degree amendment as modified?

The PRESIDING OFFICER. The Chair will be happy to state it so we can have an accurate record.

The amendment by the Senator from Michigan was a third-degree amendment, which was in order by consent only. We just approved the third-degree amendment.

AMENDMENT NO. 647, AS AMENDED

The PRESIDING OFFICER. Now the question is on agreeing to the second-degree amendment, as amended.

The amendment (No. 647), as amended was agreed to.

Mr. KERRY. Madam President, I am delighted that the chairman and ranking member of the Armed Services Committee have chosen to follow through with an amendment to this bill to add $450 million for drug interdiction, and am pleased to cosponsor this amendment.

On behalf of myself and Senator HARKIN, I had previously filed an amendment to this bill to authorize the continuation of this program. I withheld that amendment on the understanding that the chairman and the ranking member would be proposing their amendment instead.

This amendment recognizes the fact that all of us have come to understand how serious the drug problem is today in this country—the effect it is having on our communities, our schools, our streets—and the effect that it is having on our allies, as well. Drugs and drug money are corrupting governments, and threatening the security of the entire Western Hemisphere.

Eight years ago, the President of the United States declared a war on drugs. But somehow, our military, which is supposed to be our frontline of defense against the principal national security threats we face, did not get involved in this so-called war. The military did not want to take on the mission—and for 7 years, the administration never asked them to do it.

Finally, last year, in recognition of the severity of this drug crisis, the Congress decided to take the initiative to change that. We established a new role for the military, including the State National Guards, in the war on drugs.

We provided $300 million to get the Department of Defense into the war.

And as a result of that, coordinated operations have been conducted and successes have been recorded.

For example, Defense Department AWACS and F-16's participated in busts of two aircraft coming up the east coast and landing in Canada.

The National Guard has participated in the seizure of tons of marijuana and cocaine.

In its first year, the first beginnings of DOD support for the war on drugs have begun to develop. And yet when the administration sent its defense budget down to the Congress this year, they asked for not 1 penny for drug interdiction.

We have a war on drugs—we have heard the President declare it several times—and yet I repeat—he asked for not 1 penny for the Defense Department to provide support for that so-called war.

Now, we recognized there is a lot of competition right now in the military budget. But right now, the threat of narcotics from abroad is as significant a national security crisis as we face. That is why the House of Representatives looked at this situation, and last week amended their Defense authorization bill to authorize $450 million for drug interdiction support by the Defense Department. The vote on the measure was 410 to 10, supported by the Armed Services Committee on the House side, and indeed, practically everyone there.

This amendment, and the amendment which I filed last Friday, which contained funding similar to the initiative filed today by the chairman and ranking member, contain important initiatives in the war on drugs. The amendments place the military where it belongs—in a support role in the war on drugs. Last Year, the Air Force and Navy flew over 11,000 hours in support of law enforcement drug interdiction efforts. We need to keep funds authorized and keep the pressure on.

As the chairman of the Senate Armed Services Committee and the distinguished manager of this bill noted last month, last year's Defense authorization bill conference report stated that "interdiction must remain a necessary component of any national anti-drug strategy."

Prior to today, we had not authorized 1 cent for DOD support for drug interdiction in this bill. That would have been a step backward from where we were a year ago, and we cannot afford to take steps backward when so much is at stake.

If we are going to have a fully integrated border interdiction system as part of our antinarcotics efforts, DOD has the resources and has to play a part. We cannot afford to have it once again abandon this admittedly difficult mission and be a bystander, while the State Department and Drug Enforcement Agency and Customs and the Coast Guard and the Immigration Service each try to do their share out of even more limited sources.

I thank the chairman and ranking member for offering this amendment. Although it uses different earmarks from the amendment I filed last week, it carries the same funding level as the amendment I filed for drug interdiction, and embraces the same fundamental principle—that the military must participate in fighting drugs.

I urge support for this amendment.

Mr. DECONCINI. Madam President, last year during consideration of the fiscal year 1989 Defense Department authorization bill, the Department of Defense was designated as the Government's lead agency in the detection and monitoring of illegal drug traffic. In addition to this designation of the military, Congress also included $300 million to help fund the increased role of the DOD.

Due to past frustrations in attempting to bring the Pentagon into this Nation's battle against drugs, I was indeed apprehensive about handing over this critical mission to the military. However, I put these past experiences aside, and worked with Senators NUNN, WARNER, WILSON, D'AMATO, and STEVENS to craft last year's legislation.

As the end of fiscal year 1989 draws near, I would personally give the Pentagon a failing grade in addressing antidrug programs. Progress has been slow at the Department of Defense. The Pentagon has missed every deadline imposed on it to provide Congress with strategy reports on how they plan to carry out their lead agency role on monitoring and detection. The Pentagon has missed every deadline on how they plan to spend the more than $250 million appropriated for antidrug programs and assets.

However, the National Guard, which was given the authority to provide antidrug assistance to local, State, and Federal law enforcement agencies, has taken the responsibility seriously. Despite an abundance of redtape on the distribution of Guard funds to individual States, the Guard has effectively carried out its new mission.

I would also point out that in recent weeks progress has been made by the Department of Defense. DOD has sent Congress a reprogramming on the DOD drug funds. Although the reprogramming lacked specifics, I believe the Pentagon is finally demonstrating a willingness to give an added priority to its new role. The military has also made progress utilizing its intelligence resources. Ask any law enforcement official what has lacked in our war on drugs and they will probably tell you—intelligence.

Madam President, I commend those within the Department of Defense who have understood that the American people expect the military to get more involved in this Nation's war on drugs. In support of those dedicated individuals who have taken this new mission seriously, I strongly support the drug interdiction and law enforcement support amendment offered by the chairman of the Armed Services Committee, SAM NUNN. Let me just briefly say that nobody has demonstrated a stronger commitment to wage a successful battle against the drug epidemic sweeping this country than the senior Senator from Georgia.

The Nunn amendment would further strengthen the military's role in attacking the drug problem. It will not dissipate or reduce the capabilities of the Department of Defense to provide protection for our country. It will utilize, to the fullest extent possible, the expertise, personnel, and assets of the military.

The Nunn amendment includes two provisions for the National Guard which I have strongly supported—increased funding and a streamlining on the distribution of funds to individual States. Under the current provisions, after the National Guard has reviewed a State strategy plan, it must be approved by the Secretary of Defense, then approved by the Justice Department, then it goes back to the Secretary of Defense. This process is time-consuming and no longer needed. This amendment includes a provision on which my staff and that of Senator NUNN's, have worked closely. This provision will allow the National Guard chief to approve State plans that have been implemented in the past and not be forced to go through the Secretary of Defense and Justice Department. It is critical that we get the funds to individual States as quickly as possible.

The American taxpayer has spent billions of dollars outfitting our military with the most sophisticated equipment available. If military personnel and assets are not being utilized in the defense of our country then we should make sure the military is fully utilized in fighting a war on drugs.

The bottomline as I see it is—we put politics aside—we put budget constraints aside—we put agency turf battles aside—and we treat illegal drugs as the national security threat they are to our Nation, and act accordingly. We must proceed with all the energy and determination required to accomplish those objectives. I say no other choice is rational.

AMENDMENT NO. 589, AS AMENDED

The PRESIDING OFFICER. The question now is on the first-degree amendment, as modified by the second-degree amendment, as modified.

Mr. WALLOP. Madam President, I ask unanimous consent that Senator WILSON be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question now is on agreeing to the first-degree amendment, as amended.

The amendment (No. 589), as amended, was agreed to.

Mr. NUNN. Madam President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. I thank the Chair and I thank the Senator from Wyoming and the Senator from California.

Mr. WALLOP. Madam President, I wish to specifically note that this amendment includes a provision requested by the Senator from New York [Mr. D'AMATO], requiring a report on the feasibility of using deadly force in the drug war. I believe that Senator D'AMATO should be commended for this suggested provision.

I also believe that the Senator from Georgia and the Senator from Virginia are to be commended for accepting it.

I just wanted to make note of the role that Senator D'AMATO played in this amendment.

I am prepared for action on it.

Mr. STEVENS. Madam President, what is the pending business?

The PRESIDING OFFICER. The bill is before the body and it is open to amendment at any time.

AMENDMENT NO. 521

Mr. STEVENS. Madam President, the Senate has on occasion expressed itself in connection with the Defense authorization bill in policy matters that affect our Government with regard to other countries. I can recall one particular time when we were having some extreme difficulty with the fishing vessels from Korea that had invaded Alaskan waters and were fishing contrary to our conservation regulations that the Senate at my request passed an amendment to this bill that cut off all funds for Korea pending their removal of their vessels from our waters. Those vessels were removed and to this day they have not violated the waters of Alaska in a similar fashion.

In the last Congress, the Congress enacted, at the request of the Alaska membership in the Congress, a driftnet act. The goal of that act is to eliminate from the high seas the use of driftnets. They are monofilament nets that are 30 and 40 miles in length. They are waiting so that they float in the sea vertically and they ensnare all forms of marine life, particularly they ensnare immature anadromous fish such as salmon from the northern continent. They ensnare them in places where no fishing is allowed by any nation of the world.

In recent years, the Taiwanese have entered into the driftnet fishery. As a result of the Driftnet Act, our State Department has been negotiating with the Taiwanese and other countries to bring about some recognition of the great problem of driftnets and how they impact the creatures of the sea.

We have proven, for instance, that they kill annually vast numbers of sea birds that get caught up in them as they are cut adrift by some fisherman or lost in storms. This year alone, in two instances, the Taiwanese, after being approached by our Coast Guard to determine what they were doing in waters that were closed to fishing, have cut their nets and fled from our Coast Guard. We have tried to get the Government of Taiwan to stop the abuse by their fishermen, but they have been unwilling to do so. Taiwan has been very slow to authorize enforcement actions against their fleet and they have been very slow to negotiate.

One of our problems with Taiwan is that we do not negotiate directly with the Government, as members of the Senate know. We negotiate through the American Institute in Taiwan with the Coordinating Council for North American Affairs in Taiwan.

Between 1982 and 1987 we had an international agreement, called a General International Fishers' Agreement, with Taiwan. In that agreement the Taiwanese recognized our claim to anadromous fishing stocks that are spawned in the waters of the United States and Canada. The Canadians had a similar agreement with Taiwan. That agreement expired. We have not had one in 1988 or 1989. A new agreement was negotiated with Taiwan. It was initialed by Taiwan, but it has yet to be approved.

Among other things, that agreement would have put transmitters on the squid fleet of the Taiwanese; 10 percent of those vessels this year and a commitment to consider 100 percent next year if we could prove that their vessels were fishing in areas that they were not supposed to be, as I understand it, this year.

More importantly, under this agreement our enforcement personnel would have been permitted to board a Taiwanese vessel that was caught inside or outside their zone, after notice to Taiwan, if the vessel has been observed illegally fishing in our zone.

During the last 2 weeks in an incident that has played out now, in an incident that is very troublesome and underscores the incident. Two Taiwanese vessels were caught trying to sell illegally caught salmon to United States undercover agents. Their boats escaped and one of them has led the Coast Guard, our Coast Guard enforcement vessel, a chase across the Pacific that has lasted 2 weeks, the most flagrant example that I can remember in the history of the United States fisheries enforcement. And it has been a matter of what we call hot pursuit, Madam President, since that time.

Taiwan refused to grant the United States permission to board that fishing vessel in spite of the fact that it had initialed an agreement with our country because it had not yet formally approved it as a government. They offered to send out an enforcement boat of their own to inspect their own fishing vessel if we paid the expenses of their enforcement vessel. Obviously, we refused that offer and the Coast Guard has continued to chase that fishing vessel.

Madam President, I come to the floor today because at 3 a.m. this morning, 40 miles off the coast of Taiwan—and we have to remember that the chase started off the coast of Alaska—our Coast Guard finally boarded the Taiwanese fishing vessel.

It has been reported to me that the evidence was on board, of salmon poaching. The captain has admitted to illegally catching salmon. But Taiwan has not taken this situation seriously.

I want to point out to the Senate that at the time fishing is at its greatest height, the greatest volume of fishing going on in the North Pacific, we have had to commit one of our three Coast Guard vessels to the chasing of this vessel now for 2 weeks.

I have taken the floor now to present an amendment. It is at the desk and ask the Senate to consider it seriously. Madam President, I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to waiving the filing requirement?

Mr. STEVENS. This amendment has been at the desk and is properly filed, Madam President.

The PRESIDING OFFICER. The Chair apologizes.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 521.

At the appropriate place in the bill, insert the following new section:

"SEC. . No funds authorized by this Act may be used to prepare, propose, or implement any United States foreign military sales to Taiwan, or to its agents."

Mr. STEVENS. Madam President, my point to the Senate by this amendment is this. Why should we conduct military sales to the people of Taiwan if they will not enforce their agreements with this country? Why should we spend the amount of money we have had now in enforcement, sending a Coast Guard vessel across the Pacific to chase this one Taiwanese boat, and at the same time face a demand from Taiwan to pay for the costs of their enforcement vessel? And at the same time provide military sales to this country?

I firmly believe that the Taiwanese should execute the agreement that they initialed with our country earlier this year; that they should become part of the family of nations of the Pacific and try to conserve the fishery resources of the Pacific rather than permit fish pirates to operate under their flag.

This is a simple amendment. It says that we will not permit United States foreign military sales to Taiwan during the coming fiscal year.

Madam President, Taiwan has a lot of time before the end of this fiscal year to get its act together and to renew the faith that many of us have had in Taiwan over the years.

I have been a supporter of Taiwan. I have been a supporter of our military assistance to Taiwan. But I cannot continue that support in the face of the flagrant actions of the citizens of that country and part of the government of that country over these past 2 weeks. So I ask the Senate, with the knowledge that last year we had $505 million in sales to Taiwan—this is a signal to Taiwan—that, commencing October 1, there will be no further sales of military equipment to Taiwan unless they complete this agreement that they have initialed with our country and unless they observe the terms of that agreement.

This is more than salmon from the State of Alaska. This is salmon from the whole North American continent. But beyond that, these nets, these driftnets that they insist on using have been condemned by the fishing nations of the world.

None of us wants to see them used. They are outlawed in this country. They are outlawed in Canada. And they should not be used anywhere. Using them in the North Pacific, an area that is one of the greatest areas of the world for marine life, marine mammals, is absolutely murderous.

I close with this statement. We have evidence now that there are probably some 25,000 to 100,000 miles of nets that have already been cut loose by vessels operating in the North Pacific that continue to fish. They are ghost nets. They are nets that are killing the marine life of the Pacific.

We passed an act authorizing the Department of Commerce and our Government to start a program to pay for the retrieval of those nets. Until they are removed from the Pacific, they are a scourge on the marine life. It is not just an Alaskan problem I bring to the Senate, Madam President. I think I bring an international problem of whether or not we are going to commit ourselves to the protection of the marine life of the oceans. I view this as an amendment to send a message to Taiwan, acknowledging that it would not be effective until October 1. It will not cut off any of the sales in the current year. It will prohibit sales unless they clean up their act.

Madam President, I know that there is opposition here from some people who believe that this is too strong a threat to Taiwan. I point out to them that they have initialed the agreement I mentioned. They have approved it in negotiating with our Government. But they have not formally executed it, they have not lived up to it, and they have abandoned the general international fisheries agreement that they had with our country for a period of 4 years. I do not think there is anything more that I could say to demonstrate the fact that these people need a warning and I hope the Senate is willing to give it to them.

The PRESIDING OFFICER. The junior Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair and I would ask the senior Senator to add me as a cosponsor to his amendment.

Mr. STEVENS. I am happy to ask my colleague be made a cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair. Madam President, I think the senior Senator has fully outlined the problem and the need for action.

I would like to point out to my colleagues an issue of concern to our Department of Defense and our State Department; the matter of sovereignty on the high seas. With sovereignty goes responsibility, and I think the Taiwanese have shown irresponsible actions in the event which the senior Senator described, that is the successful sting operation set up by our National Marine Fisheries Service. The sting involved a very sophisticated network of illegal fishing activities by Taiwanese nationals, with deliveries being made to a U.S. vessel, the *Red Fin*, on the high seas.

To give you some idea of the significance of that successful sting action, it involved approximately $1.3 million, which was paid for the delivery of the fish. Delivery was to take place somewhere between Midway and Attu, an area of the broad Pacific. The sting was successful. The individuals who were given the money in payment for the fish were apprehended in Seattle. But prior to that apprehension, they communicated from Seattle that the money had been delivered, and directed the Taiwanese vessels to begin delivering the fish at the point of rendezvous.

At the time the first two vessels tied up to the *Red Fin*, there were six other Taiwanese vessels on the scene prepared to deliver their own loads of fish. When delivery began, however, the two Taiwanese captains boarded the *Red Fin* and were arrested by United States officials on that vessel. At that point, the two vessels tied up to the *Red Fin* cut their lines and all eight vessels dispersed in eight different directions.

The *Red Fin* and the Coast Guard cutter *Morgenthau*, which had just appeared on the scene, began to chase two of the vessels. As the senior Senator from Alaska indicated, this chase took weeks. Our smaller vessel, the *Red Fin*, was actually rammed by one of the Taiwanese vessels, which also threw its nets overboard in order to try and damage the *Red Fin's* propellers.

Madam President, the point here is that this involved more than sovereignty. This is an issue where American lives were put in danger by the flagrant activities of these Taiwanese pirates. We, as Senator STEVENS said, requested an OK from the Taiwanese Government to board. This was denied, however, even though on two previous occasions we had received permission, Madam President, from the Taiwanese to board other pirate vessels. I think this fact indicates that the Taiwanese are prepared to push us to the very limit on this issue. Their claim to the protection of sovereignty, frankly, ought to be reconsidered in view of the extreme methods that they have used to continue to fish on the high seas.

It is important to point out, I think—this is a point that should be considered when my colleagues reflect on the merits of the amendment before them—that it is in violation of Taiwanese law for any Taiwanese vessel to be involved in a salmon fishery, even if salmon and other fish that spawn in the streams and rivers of North America and Canada are not involved.

The vessel that was finally boarded at 3 a.m. yesterday, within 40 miles of the shores of Taiwan, still plugged with salmon. One should ask: What would a Taiwanese vessel be doing with all these salmon, coming home in violation of Taiwanese law? I think it speaks for itself, Madam President.

Make no mistake about it, this is big business, Madam President. I have viewed the processing of the illegal salmon coming into ports in Singapore, where the fish is processed and marketed all over Europe. I have observed the salmon being canned in Thailand for market in Europe. These salmon come into these ports after being unloaded by fishing vessels on the high seas.

We have continually requested permission to put observers on the fishing vessels involved, and have been denied by the governments not only of Taiwan, but of Korea, and Japan, as well. I think it is fair to say that in the agreement that has been initialed by the Taiwanese, we have made for the first time some substantial advances in addressing concerns such as position transmitters, observers and some assurances that if we have reason to believe that they are catching or have salmon aboard, we can then board without case by case approval. But the way that Taiwan responded during the latest crisis is evident of the manner in which they have simply ignored the responsible demands of our Government.

Madam President, I am indignant on behalf of my constitutents. They are, frankly, fed up. This is an issue that we have been assured each year by the Taiwanese Government would not reoccur. I appeal to my colleagues who have followed the efforts of the senior Senator and myself to address this under reasonable terms and with reasonable communications with the Taiwanese. I know that they have encouraged us to pursue the diplomatic channels. We have done so. I wish I could report to them tonight that this has been successful, but it, unfortunately, has not.

As for the pending amendment, I think it is appropriate that we take positive action. If the Taiwanese choose to sign this agreement, the pending drift net agreement, why, then that would be a different set of circumstances. But I have no reason to think from their actions they have such intent. And while I recognize the significance of our relationship with the Taiwanese, I think we have to make the cut between diplomacy and reality. We have a reality here that is a thorn not only in the sides of Alaskans, but of people everywhere. The reality is that we all have a responsibility here, and the responsibility, Madam President, is to maintain the oceanic resource. That resource is going to be lost unless something is done immediately.

It is time that somebody speaks for the resource; namely the fish, because we need to jointly manage this resource so it will be available for harvesting on a continued basis. But if we allow the continuation of the illegal activities currently going on so flagrantly, we are going to lose this resource.

The amendment by my senior colleague is a drastic step, but I think the record speaks for itself and necessity demands that drastic action be taken. I therefore support the amendment and urge my colleagues to consider that we have simply exhausted all other alternatives with the Taiwanese.

Mr. WARNER. Madam President, I wish to speak to several observations that I have made about this very difficult issue. It was first brought to my attention by the junior Senator from Alaska and subsequent thereto, fortuitously, I had a meeting in my office with the various senior representatives of the Government of Taiwan, together with the senior military, post civilian, and I took that occasion, which was related to national defense, to invite in the junior Senator from Alaska so that he could acquaint them, on a personal basis, with his concern on this matter. The senior Senator likewise has impressed upon the Senator from Virginia the importance of this issue.

Last night, until 3 o'clock in the morning, the junior Senator from Alaska was present in the Chamber hoping to have the opportunity to bring forth an amendment somewhat related to the one that is up at the present time but, nevertheless, the same fundamental issues were in that amendment. Now, procedural matters precluded consideration of that amendment.

I just wanted to make these comments to show the depth of sincerity by these two Senators to protect the interests of their State, and I commend them for it.

Mr. MURKOWSKI. I thank the Senator from Virginia.

Mr. STEVENS. Madam President, I ask unanimous consent the senior Senator from Oregon [Mr. HATFIELD] be made a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

DRIFT NET FISHING

Mr. PELL. Madam President, I must oppose this amendment as much as I sympathize with the Senators from Alaska on the issue of drift-net fishing and illegal fishing in Alaskan waters.

However, I must make it clear that, from a foreign relations viewpoint, there are larger issues at stake here.

First, at a time in which mainland China is in turmoil, this is the wrong time to send a signal to the people of Taiwan which might be considered as a wavering in American support. Such a unilateral action could have grave consequences to the Taiwanese people now struggling to establish a democratic state.

This measure would use a cannon to kill a fly—damaging the close relationship we presently have with Taiwan.

Moreover, it is clear that the administration has reacted srongly to this situation. The Coast Guard has pursued this case with great alacrity. Seamen are being brought to justice in American courts. This is as it should be.

I strongly urge my colleagues to oppose this amendment.

I would add that we should continue to bear all the pressure we can to persuade the Taiwanese to sign the drift net agreement.

Mr. WALLOP. Madam President, I completely agree with both Senators from Alaska that this is not just an Alaska salmon issue, and I am completely in agreement with them about the environmental hazards and damages of driftnets. I am completely in agreement with them in their frustration and anger at the action of fishing boat captains, I might say, but not the Government of Taiwan.

This amendment has two principal flaws. One, it is premature and, two, it has been mischaracterized by its proponents. The amendment quite simply prohibits any sales or preparations for sales to Taiwan or to its agents unless they sign the agreement, not any other terminus. It just proposes boom, wham, stop. That is a pretty permanent hammer for something which is now underway. The administration is and has been working on the problem of getting Taiwan to accede to the Driftnet Act. On June 29 of this year Taiwan was certified by the Secretary of Commerce under the Driftnet Act as a country which illegally harvests salmon in driftnet fisheries.

And, two, according to the act's terms, Taiwan must complete and conclude a driftnet agreement with the United States to prohibit such activity within 60 days or the President will impose trade sanctions against Taiwan. That is the act.

It is premature because by August 28 the President will have either a signature or the ability to impose these sanctions or worse or other. So it is entirely a premature amendment, mischaracterized as ending if in its prematurity it comes to fruition that Taiwan signs this agreement.

The senior Senator mentioned how we did this to Korea. Korea is an entirely different circumstance. First and foremost, formal relations. Second, a U.S. military presence on the homeland. We have abandoned Taiwan and we do not provide Taiwan military assistance. It was characterized a little while ago as if this were some great generous thing that we were doing. They buy $700 million a year from the United States, and I might say that both Senators from Alaska were among those who said that they thought nations ought to buy off-the-shelf military technology.

It strikes me that this is all out of whack for an absolutely noble purpose but premature because we are not there yet. We do not know that the problem exists yet. We know the problem has characterized the behavior that brought upon the action of the Secretary of Commerce exists, but we have an initialed agreement that can go until August 28 before being signed, at which time the President according to the act, must impose some sanctions.

Now, the junior Senator said that we must maintain the relationship of diplomacy and reality, and that is maintain the resource. I agree to maintain the resource and I agree we have the tools right now to maintain the resource. I disagree that they should be used to the full extent that the President can use them in order to bring this fishing situation to a satisfactory conclusion, but he has that power and he has initiated that action.

The amendment is no simple deal as it has been characterized. It will effectively deny Taiwan any U.S. military sales. I spoke with the Pentagon this morning and provided them with a copy of the amendment. They concur, and let me repeat that. They say that this would effectively deny the Tai-

wanese the ability to purchase the military equipment they need to ensure their security. It would effectively deny the Department of Defense the ability to sit down and have a cup of coffee with them about some future thing were they to come into compliance.

Now, you have to ask the question why we are doing this. Are we doing it because the Senators from Alaska, quite correctly, are upset that the Republic of Taiwan has not become a party to the Driftnet Act? But the Government of the Republic of China has initialed that, has time under the terms of the act that this Senate and the House and our country passed to complete these arrangements.

Now, we did not say that it had to be done instantaneously. I understand the impatience of the Senators from Alaska and other Senators, this one as well included, about the driftnet fishing. I understand that impatience, but we did not build impatience into the act. We built an orderly procedure that goes from one step to the other, and they are in compliance with that having been certified by the Secretary of Commerce.

I am at a loss to see how cutting off military sales is the appropriate and measured response that we ought to take given the terms of the act that we passed and the law under which we are proceeding. The law contains the ability for sanctions. The law contains a terminus.

Mr. STEVENS. Will the Senator yield?

Mr. WALLOP. For a question, I would be happy to yield without losing my right to the floor.

Mr. STEVENS. I do not seek the right to take the floor, Madam President. My response to the Senator, though, would be we are going out of session—this agreement was initialed June 30. Others that were initialed at about the same time have been signed, approved by the governments involved. This country has not approved the agreement that its representatives initiated and initialed.

They have in fact since that time refused to cooperate with our country. We have had a unique and really exceptional chase now as I have mentioned across the sea of a Taiwanese vessel. This is the second occasion now during this fishing season that this has happened.

This Senator offered this amendment with the full knowledge that this bill is going into conference in September. Obviously, if they have complied by that time it would come out. If the Senator wishes me to modify it and say if the Government of Taiwan fully executes and complies with the agreement that their representatives have already initiated prior to October 1 that the amendment will not become effective I am most happy to make that amendment. That is presumed it would not even be in the bill if they do that before the end of September.

But I ask unanimous consent to have printed in the RECORD a copy of the agreement that was initialed by the representatives of the Government of Taiwan.

There being no objection, the material ordered to be printed in the RECORD, as follows:

DEAR MR. DING: I have the honor to propose an agreement between AIT and CCNAA for cooperative programs regarding the monitoring, enforcement and regulation of the driftnet fishing operations conducted by vessels from the territory represented by CCNAA. The details of these cooperative programs are set forth in the attached Annex. If the terms set forth in the attached Annex are acceptable to CCNAA, this letter and the Annex, together with your reply, shall constitute an agreement between AIT and CCNAA. This agreement shall enter into force upon your reply and continue until December 31, 1990.

We place great reliance upon the commitment by CCNAA to expand and implement the observer and enforcement programs for 1990. We also take very seriously the agreement by CCNAA to take steps to limit the size of its driftnet fleet, and the success of these efforts will be taken into consideration by the party represented by AIT as it reviews and evaluates the success of implementation of this agreement.

AIT reaffirms its position that it has jurisdiction over anadromous species that spawn in the rivers and coastal waters of the territory represented by AIT. This agreement should not be understood to condone the practice of high seas driftnet fishing generally or as practiced by the vessels from the territory represented by CCNAA.

Sincerely,

MR. LAUX.

DEAR MR. LAUX: I have the honor to refer to your letter of July, 1989, which provides:

"I have the honor to propose an agreement between AIT and CCNAA for cooperative programs regarding the monitoring, enforcement and regulation of the driftnet fishing operations conducted by vessels from the territory represented by CCNAA. The details of these cooperative programs are set forth in the attached Annex. If the terms set forth in the attached Annex are acceptable to CCNAA, this letter and the Annex, together with yor reply, shall constitute an agreement between AIT and CCNAA. This agreement shall enter into force upon your reply and continue until December 31, 1990.

We place great reliance upon the commitment by CCNAA to expand and implement the observer and enforcement programs for 1990. We also take very seriously the agreement by CCNAA to take steps to limit the size of its driftnet fleet, and the success of these efforts will be taken into consideration by the party represented by AIT as it reviews and evaluates the success of implementation of this agreement.

AIT reaffirms its position that it has jurisdiction over anadromous species that spawn in the rivers and coastal waters of the territory represented by AIT. This agreement should not be understood to condone the practice of high seas driftnet fishing generally or as practiced by the vessels from the territory represented by CCNAA."

The agreement proposed in your letter is acceptable to CCNAA, except that with regard to the last paragraph CCNAA takes the position that the fishing and other rights of CCNAA nationals and CCNAA vessels on the high seas shall be governed by the applicable rules of international law and practice.

I would further like to notify you that should the authorities of the territory represented by AIT impose trade restrictions on aquatic or other products from the territory represented by CCNAA pursuant to the 1987 Driftnet Act, CCNAA reserves the right to terminate this agreement.

Notwithstanding the undertakings by CCNAA under this agreement, CCNAA reaffirms its rights and privileges under international law and practice.

Sincerely,

MR. DING.

ANNEX TO EXCHANGE OF LETTERS BETWEEN THE AMERICAN INSTITUTE IN TAIWAN (AIT) AND THE COORDINATION COUNCIL FOR NORTH AMERICAN AFFAIRS (CCNAA) REGARDING THE HIGH SEAS DRIFTNET FISHING IN THE NORTH PACIFIC BY VESSELS OF THE TERRITORY REPRESENTED BY CCNAA

ARTICLE I.—FISHING GROUNDS

The party represented by CCNAA shall ensure that all driftnet vessels of the territory represented by CCNAA are to adhere to the following fishing grounds while operating in the North Pacific Ocean beyond national 200-mile zones. Each driftnet vessel is required to confine fishing operations and all other vessel activities and movements to the area west of 145 Degrees W longitude and south of the following monthly northernmost latitudinal lines of the fishery:

(a) For the area west of 170 degrees E longitude: January through April, latitude 36 degrees N; May, latitude 38 degrees N; June, latitude 40 degrees N; July, latitude 42 degrees N; August, latitude 44 degrees N; September, latitude 46 degrees N; October, latitude 44 degrees N; November, latitude 42 degrees N; December, latitude 40 degrees N.

(b) For the area between 170 degrees E to 145 degrees W longitude: January through April, latitude 20 degrees N; May, latitude 34 degrees N; for large mesh only; June, latitude 40 degrees N; July, latitude 42 degrees N; August, latitude 44 degrees N; September, latitude 46 degrees N; October, latitude 44 degrees N; November, latitude 42 degrees N; December, latitude 40 degrees N.

ARTICLE II.—TRANSMITTERS

(a) The party represented by CCNAA will install real-time automatic satellite position fixing devices identified here as transmitters, on ten percent of its North Pacific driftnet fishing vessels for an experimental test during the 1989 fishing season. Unless CCNAA and AIT agree after consultations that the transmitters are ineffective for monitoring vessel locations, after January 1, 1990, no driftnet fishing vessel will be permitted to fish in the North Pacific without a transmitter that will allow automatic, real time monitoring of the location and identity of the vessel by the parties represented by AIT and CCNAA.

(b) The party represented by CCNAA will be responsible for the cost of purchasing and operating the transmitters, and data transmission. The party represented by AIT will ensure that the party represented by CCNAA receives the benefit of any cost savings which would be available to the parties represented by AIT. The party represented

by AIT will assist the party represented by CCNAA in procuring the transmitters.

(c) Each driftnet vessel is required to validate the time and location of catch and fishing effort, including the use of location records from an automatic navigation system, and will report such data to the appropriate officials of the party represented by CCNAA.

(d) AIT understands that such installation efforts made by the party represented by CCNAA need multi-agency coordination among the Ministry of National Defense, the Ministry of Communications, and the Council of Agriculture of the party represented by the CCNAA. AIT will take into consideration practical or legal difficulties in implementing this provision.

ARTICLE III.—OPERATING PROCEDURES

(a) No driftnet vessel may harvest anadromous species of fish.

(b) Any anadromous species of fish incidentally taken in the driftnet fishery is to be immediately returned to the water and included in catch records outlined below in Article III (i).

(c) Each driftnet vessel seeking to operate in the North Pacific Ocean will have a license issued by the appropriate officials of the party represented by CCNAA.

(d) All marine resources harvested by driftnet vessels of the territory represented by CCNAA must be landed or, in the case of tuna shipments to Thailand, thoroughly inspected, in ports of the territory represented by CCNAA, with the exception of tuna shipped to American Samoa and Puerto Rico. For the sake of effective enforcement, the party represented by CCNAA will, upon signing of the agreement, promptly take the following measures;

(1) All tuna and squid transport ships operating in the North Pacific shall be equipped with a transmitter that will allow automatic, real-time monitoring of the location and identity of the vessel by the parties represented by AIT and CCNAA;

(2) AIT will assist CCNAA in procuring transmitters immediately. Once the transmitters are available, no transport vessel of the territory represented by CCNAA will be permitted to leave port of the North Pacific without an operating transmitter;

(3) CCNAA will provide AIT with a list of transport vessels;

(4) Squid transport ships shall only sail between North Pacific fishing grounds and ports in the territory represented by CCNAA;

(5) All squid caught from the North Pacific fishing grounds may only be transshipped to transport vessels of the territory represented by CCNAA and must be landed at ports in the territory represented by CCNAA;

(6) When a tuna or squid transport ship leaves port to carry on transshipment at sea, prior permission must be obtained from the competent agency of the party represented by CCNAA. CCNAA will forward this information promptly to a designated AIT official;

(7) Detailed records shall be kept by all squid transport ships in connection with the transshipment they carry on, including the name of the fishing vessel from which the transshipped squid is received and the quantity of the squid. Upon return of the transport ship to the port in the territory represented by CCNAA it shall immediately report to the competent agency of the party represented by CCNAA for inspection.

The appropriate authorities of the party represented by CCNAA will establish a port in section program to monitor landings of all driftnet vessels at all pertinent ports in the territory represented by CCNAA.

If the above measures should fail to bring about the desired result in six months, the authorities of the party represented by CCNAA will immediately introduce a bill to its Legislature for the prohibition of any and all transshipments of squid in the North Pacific.

(e) Authorities of the party represented by CCNAA shall take steps to introduce a bill as soon as possible to its Legislature to prohibit vessels from carrying both large-mesh gear (mesh size of 18 centimeters or greater) and small-mesh gear (less than 18 centimeters).

(f) Each driftnet vessel will be assigned an international radio call sign (IRCS) which is to be displayed amidships on both the port and starboard sides of the deckhouse or hull, and on a weather deck in a color in contrast to the background and permanentely affixed to the vessel in block roman alphabet letters and arabic numerals at least one meter in height.

(g) Each driftnet vessel is to use methods to identify the driftnet gear it deploys by permanently marking at every 50 meter interval of net with the name of the vessel and its corresponding IRCS. Each vessel is also required to refrain from discarding used or damaged driftnets and related gear while at sea. Such fishing equipment is to be stowed on the vessel and returned to port for proper disposal upon completion of the vessel's voyage. The location, date, and amount of lost fishing gear must be reported to the appropriate authorities of the party represented by CCNAA.

(h) CCNAA shall provide AIT with a list of licensed driftnet vessels, including name, corresponding IRCS numbers, the CT number and size by tonnage.

(i) CCNAA will provide AIT total catch and fishing effort of the driftnet fleet, stratified by month and delineated by five degree latitude by five degree longitude areas for the 1989 fishing season and one degree latitude by one degree longitude areas for the 1990 fishing season. Catch data is to include reocrds of harvests of target species, incidental takes of anadromous species, marine mammals, seabirds, and other living marine resources. This information will be provided to AIT not later than June 30th of the following year.

ARTICLE IV.—ENFORCEMENT

(a) The authorities of the party represented by CCNAA shall ensure that enforcement boardings of driftnet fishing vessels are conducted by personnel of the party represented by CCNAA, both dockside and at sea within and beyond the fishing area authorized by the party represented by CCNAA.

(b) The parties represented by AIT and CCNAA may exchange enforcement observers to facilitate driftnet fishery enforcement activities. These exchanges may include:

(1) participation by enforcement observers of the party represented by AIT on enforcement cruises conducted by the party represented by CCNAA;

(2) participation by enforcement observers of the party represented by CCNAA on enforcement patrols conducted by the party represented by AIT.

(c) CCNAA shall ensure that authorities of the party represented by CCNAA prosecuting administrative or judicial cases involving fishing violations shall treat the evidence supplied by or through AIT in the same manner as the evidence supplied by enforcement authorities of the party represented by CCNAA. AIT understands that, under the judicial system of the party represented by CCNAA, acceptance of evidence supplied by or through AIT, as well as evidence supplied by enforcement authorities of the party represented by CCNAA, would not necessarily have binding force should any alleged violations become a court case.

ARTICLE V.—VISIT AND VERIFICATION

Enforcement authorities of the party represented by AIT may visit flag vessels of the territory represented by CCNAA for the purpose of verifying fishing violations as follows:

(a) Outside the Fishing Area Authorized by the Party Represented by CCNAA: personnel from the party represented by AIT may visit driftnet vessels of the territory represented by CCNAA wherever found if detected outside the authorized fishing area upon transmission of prior notification to CCNAA.

(b) Inside the Fishing Area Authorized by the Party Represented by CCNAA: personnel from the party represented by AIT may visit driftnet vessels of the territory represented by CCNAA inside the authorized fishing area upon the occurrence of any of the following events and upon transmission of prior notification to CCNAA:

(1) Prohibited species are observed on board;

(2) Transfer of catch is observed in progress where there is reason to believe that catch being transferred is of anadromous species;

(3) Identification of the vessel is obscured in any way;

(4) Transmitter is not operating;

(5) Vessel is not on the list provided by CCNAA of registered driftnet vessels; or

(6) Vessel is evading detection or fleeing.

(c) Personnel from the party represented by AIT may visit transport vessels of the territory represented by CCNAA upon transmission of prior notification to CCNAA.

(d) Upon discovery of a fishing violation, AIT and CCNAA will consult regarding further steps in the handling of the vessel.

(e) Enforcement authorities of AIT will take all reasonable measures to ensure a minimum interference to legitimate fishing operations of fishing vessels of the territory represented by CCNAA. Enforcement authorities of AIT will conduct their operations in accordance with applicable rules of international law and practice and show the necessary courtesy to the master and crew of fishing vessels of the territory represented by CCNAA.

(f) The foregoing is based upon the universally recognized principle of reciprocity.

ARTICLE VI.—DEPLOYMENT OF PATROL VESSELS

(a) AIT fully understands that the party represented by CCNAA currently has a rather limited number of vessels which can be deployed for patrolling the North Pacific. Nevertheless, the party represented by CCNAA will dispatch two dedicated patrol vessels for 200 vessel-days in the North Pacific during the balance of the 1989 fishing season to ensure a continuous enforcement presence throughout the season in the vicinity of the fishing grounds.

(b) For the 1990 fishing season, the number of dedicated patrol vessels will be increased to a minimum of three so that the total vessel-days will be 310 to ensure a continuous enforcement presence throughout the season in the vicinity of the fishing grounds.

(c) CCNAA shall provide AIT with planned enforcement activities before the fishing season begins and annual reports on the patrols conducted, boardings made, violations detected, and penalties assessed by enforcement officials of the party represented by CCNAA at the conclusion of each fishing season.

ARTICLE VII.—MONITORING PROGRAM

The party represented by CCNAA will implement with the party represented by AIT a cooperative monitoring program involving the deployment of scientific observers of the parties represented by AIT and CCNAA aboard driftnet vessels of the territory represented by CCNAA in the North Pacific Ocean.

CCNAA will provide to AIT the names of a sufficient number of vessels which are fully seaworthy and equipped to maintain the health and safety of scientific observers who will participate in 1989 and 1990 monitoring programs.

(a) Monitoring during the 1989 Fishing Season: The party represented by CCNAA will accept a scientific observer of the party represented by AIT aboard a driftnet vessel. The observer shall have the opportunity to observe approximately 30 driftnet retrievals.

(b) Monitoring during the 1990 Fishing Season: The party represented by CCNAA agrees to implement with the party represented by AIT a cooperative monitoring program in 1990, and later years as agreed, with the objective of obtaining statistically reliable data on the catch of target and nontarget species by all driftnet fisheries of the territory represented by CCNAA in the North Pacific Ocean. Such a program will include:

(1) deploying observers of the parties represented by both CCNAA and AIT aboard commercial driftnet vessels of the territory represented by CCNAA for at least 30 days to observe 30 or more driftnet retrievals on each vessel; and

(2) arranging for observers of the parties represented by both CCNAA and AIT to be placed on a vessel of the territory represented by CCNAA that would move among the driftnet fleet during 3 summer months of the fishing season so that the observers could be deployed from this platform on a series of driftnet fishing vessels to observe a few driftnet retrievals on each vessel.

The representatives of CCNAA will meet with the representatives of AIT prior to 1990 to formulate the cooperative observer program for the 1990 fishing season and to finalize the details of the program by February 28, 1990.

ARTICLE VIII.—MANAGEMENT OF THE DRIFTNET FISHING FLEET

The party represented by CCNAA will take steps to limit the size of its driftnet fleet during the term of this agreement and will consult further with the party represented by AIT on this matter. The authorities of the party represented by CCNAA will introduce at the earliest possible date the necessary laws and regulations for the management and control of driftnet fisheries. In doing so, they will take into account the relevant biological and socio-economic factors. CCNAA will inform AIT of the results of such efforts.

ARTICLE IX.—OPERATION OF THE AGREEMENT

The parties to this Agreement shall consult periodically in order to review the operation and application of this agreement so as to assure that, with the passage of time and changes in circumstances, the objectives of this Agreement may be effectively maintained. The parties shall consult on enforcement and monitoring agreements for subsequent years.

Notwithstanding the undertakings by CCNAA under the agreement and the reply to AIT letter, the party represented by CCNAA reaffirms its rights and privileges under international law and practice.

Mr. WALLOP. Madam President, I did not yield for that purpose. I will.

Mr. STEVENS. I do not seek the floor. I seek to ask the question of the Senator. Would the Senator be satisfied if I modified my amendment to specifically say it will not become effective if the Government of Taiwan fully executes the agreements and abide by it prior to October 1?

Mr. WALLOP. I would have major problems with the term "abide by" it. Who determines that, and the amendment if modified to say "abide by" would be an open-ended thing that goes on throughout the year with the judgment that would be made presumably by the Senator from Alaska?

Who determines "abide by"? Why not say if you are going to do that simply put down that they signed the agreement?

Mr. STEVENS. Initialing the agreement among most nations—if the question is to me—itself among most nations is enough to bring about compliance by that agreement by the Government. We have complied with SALT II although we never approved it. We have a country here that initialed an agreement in June.

Mr. WALLOP. Is the Senator asking another question?

Mr. STEVENS. No; I am answering the question. The Senator asked me a question. I believe the Senator asked me a question. I am answering it on my time. We all have time here.

But this country refused to request its fleet to observe the agreement that it already had initialed. It refused to allow us to board that boat. We had to chase it for 2 weeks to keep up with it. We finally have boarded it now this morning. That is not compliance with the agreement that they have initialed.

Would the Senator be satisfied with the provision that said the Government of Taiwan would execute and initiate compliance with the agreement? There are specific terms that would be complied with by the Government within that period of time.

Mr. WALLOP. Madam President, let me continue with my remarks because there is a problem with that. I will get to a response, I assure the Senator from Alaska.

But again I say this is premature because again I say that the President has the power assuming they do not sign the agreement to impose sanctions. The President has the power to impose sanctions. And we passed an act which we determined ought to be able to work. Why the impatience not to let the procedure run? Why not? What was wrong with the act when we passed it? Was anybody seeking to make it more stringent than it was? Not to my recollection. We thought, and agreed, that we had passed an act, and we have never passed it.

The terms ought to be allowed to come into play before expressing our frustration that it does not work and damaging the relations with a country. I go back to what the senior Senator from Alaska said, maintaining the difference between diplomacy and reality. Of course, we have to maintain the resource. I was committed as the Senators from Alaska of maintaining the source. I was repelled by the use of driftnets as anybody else. That is why I was part of the driftnet legislation.

But we have another responsibility, and that is to maintain the stability and peace of Western security in the Pacific Rim. We alone created what the Government of Taiwan is in our opening to China. We give and have given significant military capacity to a Government of China which has demonstrated its own instability and irresponsibility in the recent months. We are saying here tonight we can make a judgment that will take out the military capability of that island to act as the aircraft carrier which protects the Straits of Formosa, not only for the island nation of the Republic of China, but for the rest of that whole region including Japan and the Philippines.

This is a very drastic action that the Senator seeks. The problem is real. The tools to deal with the problem are at hand. If the President refuses or the Nation refuses to use those tools, I will join if necessary—I do not believe they are going to be necessary. My own belief is that the Government of the Republic of China will sign this agreement and implement its compliance by the time that it is permitted under the act we passed.

But we should not second-guess our own behavior and our own previous judgment because of a frustration that happened with a fishing boat which the Senator correctly characterized as a pirate. A pirate is not a government entity. And the Government of Taiwan has promised to deliver the strictest punitive efforts it can under the law. I believe they will do that.

Mr. MURKOWSKI. Will the Senator yield at this moment?

Mr. WALLOP. I will not. I will conclude in a half a second, and the Senator can have all the time he wishes.

But all I am saying is supposing we in this Nation, and you will recall, I thank the Senator from Alaska will recall what happened when Chile tried to board American tuna boats. We did not give permission for the Government of Chile to do that. We fought like the blazes down there and resisted

it. Now we are asking them to provide an instant judgment. How long do either Senator from Alaska suppose it would take a U.S. court to produce a verdict against an American fishing boat were it out of compliance in somebody else's water and we promised to do that? They have promised that they will prosecute to the fullest extent under the law.

Mr. STEVENS. Who promised?

Mr. WALLOP. The Government of Taiwan promised that.

Mr. STEVENS. When?

Mr. WALLOP. When I was in Taiwan over the Fourth of July.

Mr. STEVENS. This vessel has just been intercepted this morning.

Mr. WALLOP. It is the second vessel.

Mr. STEVENS. In 2 weeks.

Mr. WALLOP. Mr. President, the Senator from Wyoming has the floor.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Wyoming has the floor.

Mr. WALLOP. I am perfectly willing to take the promise. I do not know whether a promise has been delivered on the second vessel. I cannot suppose that a promise delivered on the first would not be followed by a promise delivered on the second. If it is only tonight that it happened or last night or this morning how can you expect the total level of diplomacy to be complete?

All I am saying is you have tools. The tools are not being used. You are discounting the tools and distrusting the act we passed. It does not do the act, the Driftnet Act any good. It does not do our relations with the Government of Taiwan any good. It does not solve the problem that both Senators have identified and I agree needs to be solved. But those dollars are in place and they are underway.

I do not believe the Senate of the United States ought to damage the relations with the most stable ally in the Pacific region in 1 night at the close of a long Defense authorization bill when the process that we put in place has not yet taken its course. I think that is irresponsible legislation.

I urge the Senate not to adopt this amendment.

Mr. MURKOWSKI. Mr. President, will the Senator respond to a question?

Mr. WALLOP. I would be happy to.

Mr. MURKOWSKI. I appreciate the views of my colleague from Wyoming. But what would his reaction be if he were told by the Ministry of Fisheries which is under the Ministry of Agricultural Products that the Taiwanese Government could not control its fisheries?

Mr. WALLOP. My reaction would be the same as yours, one of frustration. I would follow that reaction with saying, if you do not find the means by which you control your fishermen, then the Driftnet Act that we have as a tool for the conservation of salmon in North America comes into play, and the following sanctions go into play until you find a way to control your fishermen.

Mr. MURKOWSKI. If I can remind my colleague, while his response is quite appropriate, that incident actually occurred in a meeting which I had in Taiwan some 2 years ago. My response was, "If the Government cannot control your fisheries, who can?"

Mr. WALLOP. That was prior to the Driftnet Act, was it not?

Mr. MURKOWSKI. The only answer was an awkward silence. Now, there is no question that we have had reassurances from the Government of Taiwan, but this is not just a single incident. We have recorded the Taiwanese throwing salmon overboard. We have documentation. We have film. This is the third instance. This did not involve one Taiwanese vessel; it involved eight.

Now, I understand the sensitivity of our relationship. I am just wondering, Mr. President, whether the Senator from Wyoming would feel differently if the senior Senator from Alaska suggested, that if the Taiwanese did not sign the fisheries driftnet agreement, the sale of military armaments would be curtailed at that point. I am not sure whether that suggestion has been communicated formally by the senior Senator——

Mr. STEVENS. Will my colleague yield to me for a minute?

Mr. MURKOWSKI. I would be happy to.

Mr. STEVENS. I do not seek to prolong the Senate. I had not understood this to be the kind of amendment that the Senator from Wyoming describes it to be. This is the kind of action the Senate has taken before. This is the kind of action the Senate ought to take to enforce its doctrine. The sanctions of the United States are not sanctions the way military foreign sales can deal with a country—particularly like Taiwan.

Mr. President, I will be the manager of the Defense appropriations bill. It will be here in September. I withdraw the amendment and notify the Senate that I will offer this to the Defense appropriations bill. By that time, I say to the Senator from Wyoming, if this agreement is not in force and being recognized by the Government of Taiwan, I will demand a vote, and that bill will not pass until the Senate does this, because we cannot allow a country to do this, to allow a Government of Taiwan to ignore our pleas.

For 2 weeks, we asked them to stop that boat. We told them to stop the boat so we can look at it. We have chased it for 2 weeks. I cannot understand why we should sell them one single bullet if they do not live up to the laws of civilized nations.

Now, they did not cooperate with us. I do not care what the Department of Defense told you, what the State Department or anyone else told you. We have been trying to get on that boat for 2 weeks. I will tell you that that bill will be here the second week of September, and this amendment will be here the second week of September, Mr. President, if the Taiwanese have not signed this agreement and started to enforce it.

I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment was withdrawn.

Mr. WALLOP. I say to my friend that I may well join him then, and I appreciate his withdrawing it, because at least by then the tools that are available to us, passed under the Driftnet Act, will have had the opportunity to work or fail. Should they fail, we need to do something, and I may well join him.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? Are there further amendments to the bill?

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, what is the pending order of business?

The PRESIDING OFFICER. There are no amendments currently pending before the Senate.

UNOBLIGATED BALANCES FOR THE DRUG WAR

Mr. NUNN. Mr. President, according to OMB estimates, there will be $159 billion of unobligated balances available in Federal funds at the end of the fiscal year 1989. Based on information from OMB, approximately 490 billion of the $159 billion in total unobligated balances available from Federal funds are in discretionary accounts.

The $1.7 billion authorized for transfer to fund the Anti-Drug Abuse Act of 1988 represents a reduction of just 2 percent to the unobligated balances of the Federal Government in all discretionary accounts.

In addition to unobligated balances in trust funds, which may not be transferred under this amendment, there are mandatory programs funded in appropriations bills which are also exempt from reductions in their unobligated balances under this amendment. A list of these programs is attached.

There being no objections, the list was ordered to be printed in the RECORD, as follows:

ACCOUNTS WHICH ARE MANDATORY OR WHICH HAVE DISCRETIONARY AND MANDATORY SPLITS AND ARE SCORED TO THE APPROPRIATIONS COMMITTEE

Commerce, Justice, State:	
Supreme Courts, salaries and expenses 10-0100-01-752	Account split—Only salaries of judges are mandatory.
U.S. Courts of Appeals for Federal Circuit, salaries and expenses 10-0510-01-752.	Account split—Only salaries of judges are mandatory
U.S. Court of International Trade, salaries and expenses 10-0400-01-752.	Account split—Only salaries of judges are mandatory.
Courts of Appeals, District Courts and other, salaries and expenses 10-0920-01-752.	Account split—Only salaries of judges are mandatory
Judiciary Retirement Funds, payment to Judicial officers' retirement fund 10-0941-01-752.	
DOJ, legal activities, fees and expenses of witnesses 15-0311-01-752.	
DOJ, legal activities, independent counsel 15-0327-01-752	
DOJ, Office of Justice Programs, Justice assistance 15-0401-01-754.	Account split—Only funds for the public safety officers' benefits program shall be scored as mandatory.
Department of State, Administration of Foreign Affairs, payment to the Foreign Service retirement and disability fund 19-0540-01-153.	
Fisherman's guaranty fund 19-5121-02-376	
Veterans' Affairs, HUD, independent Agencies:	
Federal Housing Administration Fund 86-4070-03-371	Account split—Payments for interest and net realized losses mandated to be paid to Treasury by appropriations acts, and temporary mortgage assistance payments are classified as mandatory. Administrative expenses transferred to Management and Administration and Inspector General accounts will be classified as a discretionary obligation limitation and outlays
VA: Veterans insurance and indemnities 36-0120-01-701	
VA: Readjustment benefits 36-0137-01-702	
VA: Compensation 36-0153-01-701	
VA: Pensions 36-0154-01-701	
VA: Burial benefits and miscellaneous assistance 36-0155-01-701	
VA: Loan guaranty revolving fund 36-4025-03-704	
Interior:	
BLM: Miscellaneous trust funds 14-9971-07-302	
Compact of free association 14-0415-01-808	Account split—The account shall be split between mandatory payments (required by treaty) and discretionary costs.
Administration of territories 14-0412-01-808	Account split—The interest rate differential related to the Guam Power Authority refinancing and the Northern Marianas covenant should be scored as mandatory.
Range Improvements 14-5132-02-302	
Firefighting accounts:	
BLM, Management of Lands and Resources 14-1109-01-302	Funds to pay for firefighting are mandatory. Firefighting is currently financed by transfers from Interior and Agriculture accounts with unobligated balances. This is not an exclusive list of accounts. Accounts may vary from year to year. Only the firefighting funds are to be treated as mandatory in otherwise discretionary accounts.
NPS, Operation of Nat'l Park Service 14-1036-01-303	Do.
U.S. Fish and Wildlife, Resource management 14-1611-01-303	Do.
BIA, Operation of Indian Programs 14-2100-01-302	Do.
USDA, Forest Service, Nat'l Forest System 12-1106-01-302	Do.
Firefighters accounts (legislative proposals):	
Forest Service, National forest system 12-1106-21-302	
Forest Service, Federal wildland fire fighting 12-1111-21-302	
Forest Service, Forest Service permanent appropriations 12-9921-22-806.	
BLM, Management of lands and resources 14-1109-21-302	
BLM, Oregon and California grant lands 14-1116-21-302	
BLM, Federal wildland fire fighting 14-1119-21-302	
BLM, Miscellaneous permanent appropriations 14-9921-22-806.	
Mineral Management Service, payments to States from receipts under Mineral Leasing Act 14-5003-22-806.	
U.S. Fish and Wildlife, Resource management 14-1611-21-303	
NPS, Operation of the National park system 14-1036-21-303	
BIA, Operation of Indian Programs 14-2100-21-302	
Labor, Health, Human Services and Education:	
Health Resources and Services, medical facilities guarantee and loan fund 75-4430-03-551.	
Health Resources and Services, health professionals graduate student loan insurance fund 75-4305-03-553.	
Health Resources and Services, vaccine improvements program trust fund 20-8175-07-551.	
Retirement pay and medical benefits 75-0379-01-551	
Grants to States for Medicaid 75-0512-01-551	
Payments to health care trust funds 75-0580-01-571	
Social Security Administration, payments to social security trust funds 75-0404-01-651.	
Social Security Administration, Supplemental security income program 75-0406-01609.	Account split—Administrative expenses shall be scored as discretionary BA and outlays.
Social Security Administration, special benefits for disabled coal miners 75-0409-01-601.	
Family Support Administration, family support payments to States 75-1501-01-609.	

ACCOUNTS WHICH ARE MANDATORY OR WHICH HAVE DISCRETIONARY AND MANDATORY SPLITS AND ARE SCORED TO THE APPROPRIATIONS COMMITTEE—Continued

Family Support Administration, payments to States for AFDC work programs 75-1509-01-609.	Account split for OMB—Appropriations for transitional WIN activities shall be scored as discretionary and appropriations for JOBS shall be scored as mandatory.
Human Development Services: Social services block grant 75-1634-01-506.	
Human Development Services payments to States for foster care and adoption assistance 75-1645-01-506.	
DOL: Employment and Training Admin: Federal unemployment benefits and allowances 16-0326-01-603/504.	In fiscal year 1990 and beyond, this account includes trade adjustment activities.
DOL: Employment and training Admin: Advances to the unemployment trust fund and other funds 16-0327-01-601/603.	
Employment Standards Adminstration: Special benefits 16-1521-01-601/602.	
Black lung disability trust fund 20-8144-07-601	
Ofc. of Spec. Educ. and Rehab. Svcs., Vocational Rehabilitation 91-0301-01-506.	
Guaranteed student loans 91-0230-01-502	
Higher education facilities loans and insurance 91-0240-01-502	No new loan activity. Includes only prior-year outlays.
College housing and academic facilities loans 91-0242-01-502	Account split—payment of interest to Treasury shall be scored as mandatory. Loan levels shall be scored as discretionary loan limitations and borrowing authority.
RRB: Federal Payments to the Rail Industry Pension Fund 60-0113-01-601.	
Legislative Branch:	
Compensation of the Members (Senate) 00-0100-01-801	
Compensation of Members (House) 00-0200-01-801	
Payments to widows and heirs (House) 00-0215-01-801	
Payments to widows and heirs (Senate) 00-0115-01-801	
Rural Development/Agriculture:	
Federal Crop Insurance fund 12-4085-03-351	
Conservation Reserve Program 12-3319-01-302	Appropriations to fund an agreed-upon level of 40 million acre minimum specified in authorizing legislation shall be scored as mandatory. Appropriations above this level shall be scored as discretionary.
Dairy indemnity 12-3314-01-351	
Commodity credit Corporation Fund 12-4336-03-351	
Temporary emergency food assistance program 12-3635-01-351	Account split—Only purchases of commodities for Hunger Prevention Act are mandatory.
Funds for strengthening markets, income, and supply (Section 32) 12-5209-02-605.	The entire account shall be scored as mandatory, except to the extent that discretionary set asides are specified in appropriations language.
Special milk program 12-3502-01-605	
Cash and commodities for selected groups 12-3503-01-605	Account split—Only purchases of commodities for Hunger Prevention Act are mandatory.
Food stamp program 12-3505-01-605	
Child nutrition programs 12-3539-01-605	
Nutrition assistance for Puerto Rico 12-3550-01-605	
Payments to the Farm Credit System Financial Assistance Corporation 20-1850-01-351.	
Farm Credit Administration, revolving fund for administrative expenses 78-4131-03-351.	Account split—Administrative expenses shall be scored as discretionary limitation and outlays.
Agriculture Credit Insurance Fund 12-4140-03-351	Account split—Appropriations for losses will be scored as mandatory. Changes to loan levels allocated to authorizing committees will be scored as discretionary.
Rural Housing Insurance Fund 12-4141-03-371	Do.
Rural Development Insurance Fund 12-4155-03-452	Do.
Rural Electrification and Telephone Revolving Fund 12-4230-03-271.	Do.
Rural Communications Development Fund 12-4142-03-452	
Transportation:	
Retired pay (Coast Guard) 69-0241-01-403	
Aircraft purchase loan guarantee fund 69-1399-01-402	
WMATA, Interest payments 46-0300-01-401	
Treasury/Postal:	
Compensation of the President 11-0001-01-8027	
Payment of government losses in shipment 20-1710-01-803	
Payment to the civil service retirement and disability insurance fund 24-0200-01-805.	
Government payment for annuitants, employees health benefits 24-0206-01-551.	
Government payment for annuitants, employees life insurance 24-0500-01-551.	
Payment to the Postal Service fund for nonfunded liabilities OMB: 18-1004-01-372; CBO: 16-1521-01-602.	
Defense: Payment to the CIA retirement and disability fund 56-3400-01-054.	
Foreign Operations:	
Guarantee reserve fund 11-4121-03-152	
Payment to the Foreign Services retirement and disability fund 11-1036-01-153.	
Housing and other credit guaranty programs 72-4340-03-151	
Military Construction: All discretionary accounts	
Energy and water development: All discretionary accounts	

ORDER OF PROCEDURE

Mr. SIMON. Mr. President, I just want to speak on a general topic just for a few minutes.

AID TO POLAND

Mr. SIMON. Mr. President, we are talking about weapons systems. We are talking about expenditures in the security interests of our country.

One of the things that has happened that troubles me is what has happended to the offer of aid to Poland that the President of the United States made.

President Bush was recently in Poland and offered over a 3-year period a commitment of $100 million. There was some expressed disappointment in Poland that the figure was not larger than that.

What has happened in the House of Representatives is that $100 million figure has been reduced to $10 million.

I think that is not in the best interests of the security of the United States, nor, I hasten to add, do I think it is in the best interests of the security of the Soviet Union. I think it is important that we have some buffer states there in Europe.

I am very concerned that we are sending the wrong message to the people of Poland.

If my colleagues, Senator ADAMS or Senator PRYOR were to ask me, if you were to take one weapon system, any weapons system in this whole bill or having Poland free, which is more important to the security interests of our country, I think it is to have Poland free and not under Soviet domination.

Yet we spend billions for a B-2 or whatever the weapon system is, and when the President of the United States asks us to spend $100 million for Poland, the House of Representatives cuts that back to $10 million.

I think that is very, very shortsighted.

I do not know why it is that we can get excited over weapons much more than the more positive, constructive things, but I hope the Senate will in its wisdom when we get to the point of the foreign aid bill provide fully on the commitment that the President of the United States has made.

I think that is in our interests, it is in the interests of the freedom of the people of Poland, and it is in the interest of world stability.

Mr. President, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991

The Senate continued with the consideration of the bill.

SECTION 822, COMMERCIAL AND OFF-THE-SHELF PRODUCTS

Mr. LEVIN. Mr. President, I am extremely pleased that section 822 of this bill contains a provision requiring the Department of Defense to take concrete steps to eliminate barriers to the acquisition of commercial and off-the-shelf products. This is a provision that arises out of hearings held by the Government Affairs Subcommittee on Oversight of Government Management, which I chair.

At our hearings on May 16, the Oversight Subcommittee heard testimony from numerous industry representatives about the frustrating battles they had gone through in their efforts to sell standard commercial and off-the-shelf products to the Department of Defense. These commercial and off-the-shelf products are called "nondevelopmental items" or 'NDI's."

At our hearings, we learned that DOD continues to apply complicated specifications to NDI's, even where there is no military justification for such specifications. Moreover, DOD applies basically the same burdensome contract requirements to commercial companies as it uses for sellers of unique military products.

The result of these unnecessary hurdles is that many manufacturers simply give up and do not even try to sell their products to the Government. In this regard, it is interesting to note that the Center for Strategic and International Studies recently completed a study in which it found that the number of firms competing for DOD contracts has dropped from 118,000 to only 38,000 in the last 5 years.

When DOD buys a product that is designed and built solely for the use of the Government, we frequently end up paying more and getting less.

The acquisitions of NDI's can lower initial purchase costs by reducing or eliminating the need for research and development. Acquisition lead time can be reduced since NDI's are readily available and can be produced on existing production lines. Because the product is already developed and has been shown to work, the need for detailed design specifications and extensive testing is also reduced.

Moreover, in the case of a commercial product, the competitive marketplace also provides assurance that the price is reasonable, substantially reducing the need for costly examination of the contractor's books and records. Overall product costs can be further reduced through the use of existing product support systems maintained by the commercial vendor. Use of these systems can reduce the need for DOD to manage inventories and distribute spare and replacement parts where they are needed as well as rely on its own personnel to maintain and repair equipment. Additionally, many commercial manufacturers provide product warranties which, if utilized, can reduce maintenance and repair costs to the Government.

The acquisition of NDI's can also enhance competition and strengthen the defense industrial base. When the Department of Defense develops a product from scratch, competition is limited to those contractors who are willing to design and build a product for DOD alone. By purchasing existing products, the DOD can open competition to thousands of other manufacturers who sell similar products to other purchasers. By developing such new sources of supply, DOD also reduces its reliance on the narrow segment of domestic industry which is devoted solely to defense production.

In some cases, the acquisition of NDI's can also enable DOD to acquire advanced technology in a more timely manner. Technological growth occurs natually in the competitive commercial marketplace. Reducing acquisition leadtime and eliminating the need for designing its own products allows DOD to use the newest technological advances as quickly as the most competitive commercial businesses.

Section 822 would promote the acquisition of NDI's by requiring the Department of Defense to remove impediments to the purchase of such products. Under this provision, DOD would be required to—

First. Eliminate unnecessary and burdensome contract clauses in contracts and subcontracts for commercial products;

Second. Tailor appropriate inspection requirements for commercial products;

Third. Reduce paperwork requirements for commercial contractors;

Fourth. Enhance training for DOD personnel in the acquisition of NDI's; and

Fifth. Designate officials responsible for promoting the acquisition of NDI's.

Senator BINGAMAN, as the chairman of the Armed Services Subcommittee on Defense Industry and Technology, has been extremely helpful in working with us to address the problems in this area, and I thank my distinguished colleague for his support on this important legislation.

Mr. President, the record is clear that DOD simply has not done enough in recent years to encourage the purchase of NDI's. Section 822 of S. 1352 requires strong steps in this direction, and I am pleased that the provision has been included in the bill.

SECTION 828(C), OFFICE OF OPERATIONAL TEST AND EVALUATION

Mr. LEVIN. Mr. President, we depend upon realistic, unbiased, and independent testing of our defense systems to ensure that our troops will not be needlessly endangered by, and our tax dollars will not be wasted on, weapons systems that just don't work.

About 3 years ago, we created an independent Director of Operational Test and Evaluation to oversee weapons testing and make sure that it is working as it should. Unfortunately, the General Accounting Office and others have reported on a number of occasions that this office has failed in its mission to ensure that realistic and unbiased testing.

One area of particular concern is that the Director of OT&E has frequently relied upon consultants to do that office's legwork, rather than using its own personnel for oversight. Unless the Director takes steps to ensure that these consultants are impartial and unbiased, their activities could undermine the independence of the entire testing process.

My colleague from Arkansas, Mr. PRYOR, has taken the lead on this issue, and has worked tirelessly both to ensure the integrity of the testing process and to protect the Government against consultants' conflicts of interest. Senator PRYOR's Governmental Affairs Subcommittee has held numerous hearings on DOT&E and on consultants generally, and has laid important groundwork for any consideration of these issues. I commend Senator PRYOR for his work in this area.

Earlier this year, my subcommittee staff examined one particular aspect of the role that consultants play in the DOT&E's oversight and evaluation work. In the course of this review, we gathered evidence that strongly confirms Senator PRYOR's contention that DOT&E has not taken adequate steps to ensure the impartiality of these consultants.

For example, the subcommittee staff found that one of these consultants, which performed a very significant part of DOT&E's work, also had more than $800 million in contracts with other DOD commands over a 5-year period, most of it for research and development efforts and other studies.

The staff learned that a number of contracts were awarded to this consultant by commands which were also responsible for weapons systems that the consultant reviewed on behalf of DOT&E. On five defense systems, in fact, the consultant worked for both DOT&E and either the program office, the service test agency, or both. For example, the consultant assisted DOT&E on testing oversight on the MX missile even though it worked for the Air Force test agency, the Ballistic Missile Office, and an Air Force contracting office on the same program.

In other words, the same consultant played a role in developing the missile, purchasing the missile, testing the missile, and overseeing the testing of the missile.

Upon consultation with the consultant, the staff learned that the consultant had taken some steps on its own initiative to minimize potential conflicts that could have undermined its impartiality. However, these steps were not required by DOT&E's contract and were not monitored by DOT&E to ensure that they were effective.

Moreover, the staff learned of at least one instance when the Director of OT&E asked the consultant to assist in the testing of an aircraft which the same consultant had helped another contractor develop. In this instance, the consultant wrote to DOT&E to suggest its own disqualification and did not perform any work on the project. It appears that this problem was raised by the consultant entirely on its own initiative, and that without this effort, DOT&E would not have identified the potential conflict.

On March 17, DOD awarded substantial contracts for two new companies to take over DOT&E's consulting work. That means that any issues that may have arisen with the former consultant are now a matter of history. It is important history, however, because we can learn from it. These new consultants, like the former consultant, hold substantial contracts with numerous defense agencies and commands other than DOT&E and are susceptible to similar questions about their impartiality.

Last month, I detailed these findings at a hearing called by Senator PRYOR's Governmental Affairs Subcommittee to address the issue of DOT&E's consultants. Subsequently, the Director of OT&E has announced a temporary moratorium on the use of any consultant by his office.

A temporary moratorium will not make the problem go away in the long run, however. For this reason, I authored a provision in the DOD bill—section 828(c)—which will require the Director to ensure that a consultant does not assist in the test and evaluation of a weapons system if it also paricipated in the development, production, or testing of the same system for another contractor or another part of DOD.

Section 828(c) does not tie the Director's hands or require him to take a specific course to ensure a consultant's independence. In fact, it specifically provides that the Director may use a consultant with a potential conflict if he determines that sufficient steps have been taken to ensure the consultant's impartiality.

What this provision does is to require the Director of OT&E, for the first time, to focus on the issue of consultants' independence. The Director may choose to place the impartiality requirement directly in a consultant's contract, and he may choose to engage in more active oversight to ensure that specific consultants are not asked to work on weapons systems that they helped to design. Either way, we can expect more realistic and unbiased testing of our weapons systems.

Mr. President, we in the Congress rely upon impartial testing of weapons systems to make decisions about our Nation's defenses. The taxpayer relies upon such independent testing to ensure that tax dollars are not wasted on weapons systems that just don't work. I believe that DOT&E must do more to ensure that testing is truly impartial, and that this provision is an important step in the right direction.

OPERATIONAL TEST AND EVALUATION OFFICE

Mr. PRYOR. Mr. President, in June my Governmental Affairs Subcommittee held a hearing on the Office of Operational Test and Evaluation, the so-called OT&E. We found a slew of problems at that important office which included a web of contractors, some with glaring conflicts of interest, who perform virtually every function for which the testing office is responsible.

I want to commend the committee for taking certain positive actions that should help, but unfortunately may not ensure, that OT&E takes action to correct several of the problems we found.

The first provision, which was authored by Senator LEVIN, would require the Director of Operational Testing to ensure the impartiality of the contractors he uses to support his mission.

My hearing in June on the testing office found that contractors were doing everything from responding to GAO criticisms of office to observing, reporting on, and evaluating weapons tests for the Pentagon. In short, the testing office is run by contractors.

Worse yet was our finding that these contractors are also involved with the development of the same weapons that were being tested. In fact, 3 of the contractors were among the 100 biggest defense contractors.

That is like having a student grade his own test. The situation is contrary to common sense and to congressional intent in establishing an independent Office of Operational Test and Evaluation.

Mr. President, the Levin provision is clearly necessary. Unfortunately, unless Secretary Cheney and the new Director of the test office provide adequate oversight of this provision, the same scandalous situation will continue.

Mr. President, I might mention that recently Secretary Cheney placed an Acting Director at the head of oper-

ational testing. His somewhat perplexing choice for the interim job came directly from and will return to the developmental test office, which, by law, is expected to be separate from the operational test office.

I am hopeful that the Secretary and President Bush will more carefully select the nominee for the powerful operational testing office to ensure that he or she has a demonstrated background as a tough weapons tester free from the weapons development world.

Mr. President, I want to also applaud two provisions in the committee bill authored by Senator ROTH which make important clarifications regarding so-called low-rate initial production and early operational assessments.

The need for these provisions was discussed by the Pentagon's deputy inspector general and others in testimony before my subcommittee in June and in an April Military Reform Caucus meeting organized by its cochairman, Senator ROTH.

Mr. President, the operational test office's mission to stop bad weapons is just as important today as it was 6 years ago when it was established by an almost unanimous Senate vote. It deserves the Senate's strongest support. It also deserves our closest scrutiny and oversight.

Mr. President, again, I commend the committee for its acceptance of these provisions and the fine work of Senators ROTH and LEVIN.

SOVIET STRATEGIC SUPERIORITY

Mr. SYMMS. Mr. President, I ask unanimous consent that a "Dear Colleague" letter signed by Senator HELMS related to his amendment adopted by the Senate last night, be printed in the RECORD. This letter contains some important new information on growing Soviet strategic nuclear superiority. I ask unanimous consent that two newspaper articles related to this issue also be printed in the RECORD. These articles are as follows:

First: The Washington Post, July 28, 1989, entitled "Marshal Akhromeyev's Mark on Congress," by Rowland Evans and Robert Novak.

Second: The Washington Post, July 31, 1989, entitled "Soviet Deployments Shatter SALT II Limits," by Bill Gertz.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, July 31, 1989.

DEAR COLLEAGUE: According to official, unclassified statements of both the Reagan and Bush Administrations, the Soviet Union has now for the first time exceeded all four of the SALT II numerical limits, and the main qualitative limits as well. Moreover, the Soviets have superiority over the United States in each of these four SALT II numerical categories:

The Soviets have over 270 more MIRVed ICBM launchers than the U.S.;

The Soviets have over 38 more MIRVed ICBM and MIRVed SLBM launchers than the U.S.;

The Soviets have 306 more MIRVed ballistic missile launchers and ALCM-equipped bombers than the U.S.;

Most significantly, the Soviets have from at least 595 to 945 more intercontinental missile launchers and bombers than the U.S.;

Further, the Soviets have reportedly deployed about 250 mobile ICBMs of two new types, both prohibited by SALT II, while the U.S. has deployed zero mobile ICBMs. The Soviets seem to be intent on deploying as many as 800 mobile ICBMs. The Soviets thus also have superiority in the qualitative aspects of SALT II as well. In sum, the Soviets have finally completely broken out of all the main SALT II quantitative and qualitative constraints.

In addition, the Soviets have built up an offensive first strike capability. For example, a White House document of June, 1986, stated: "And certainly, the Soviet Union, in building a first strike capability, never accepted the premise that the West should be allowed to possess secure retaliatory forces."

Moreover, because the U.S long ago unilaterally gave up its single ABM system, the Soviets have a monopoly on Anti-Ballistic Missile capability, and the Soviets now have an emerging nationwide ABM defense in violation of the SALT II ABM Treaty.

Finally, a recent unclassified Defense Department document released in July, 1989, states:

"The combination of Soviet offensive and defensive developments, if unanswered, may provide the Soviet Union with a decisive military advantage in the new future."

The accuracy of these assessments is confirmed in classified intelligence reports such as the National Intelligence Estimates.

The legally mandated, fundamental American arms control objective, under the Jackson Amendment to SALT I (Public Law 92-488), is "equal levels of strategic forces" with the Soviet Union. Because the U.S. is currently inferior to the Soviets in all SALT II numerical strategic force levels, our negotiating leverage for achieving reductions to lower equal levels in START is weak.

If the principle of equality, as mandated under current law, is to be upheld, the START negotiations must result in an agreement by the Soviets to dismantle two or three times as many more missiles and bombers than the United States. Therefore, I propose to offer an amendment to the Defense Authorization Bill, S. 1352, which would reaffirm the principal of equality in the outcome of any START negotiations. I urge you to support my amendment, which is attached for your information, along with some related newspaper articles.

Sincerely,

JESSE HELMS.

MARSHAL AKHROMEYEV'S MARK ON CONGRESS

Pigeonholed for six months by President Bush's national security staff, an unclassified Pentagon report finally sent to Congress last week warns that the Soviet Union may achieve "a decisive military advantage" because of the momentum of its offensive and defensive military programs.

The paper has been seized on by pro-defense congressmen as evidence of the danger in unilateral U.S. disarmament induced by euphoria over Mikhail Gorbachev. While Moscow rushes production of two big new mobile missiles far exceeding limits set by the unratified SALT II treaty, congressional disarmers demand cutbacks of U.S. nuclear-firing submarines to comply with that discarded pact.

Demonstrating congressional susceptibility to Gorbachev's promised end to East-West confrontation, pacifism is in ascendancy on Capitol Hill. Congress is taking one bite after another out of a defense bill to which even the administration seems less than committed when it comes to SDI. When 34 Republicans joined Democrats in cutting SDI, Capitol Hill insiders blamed indifferent administration lobbying.

Symptomatic of the Bush team's ambivalence or confusion on national security is the long delay in releasing the report. It warns that "the combination of Soviet offensive and defensive developments, if unanswered, may provide the Soviet Union with a decisive military advantage in the near future." It was written and cleared for submission to Congress late last year, partly as a defense of the SDI program.

But insiders, fairly or not, have always doubted the president's own commitment to SDI. The report, which could not legally be made public without White House consent, was pigeonholed by the national security staff, whose chief, Lt. Gen. Brent Scowcroft, is an SDI skeptic. A toughly worded letter to Scowcroft by half a dozen Republican senators was needed to break loose the report—too late to affect Tuesday's overwhelming anti-SDI vote in the House.

Overshadowing SDI is the growing gap in Soviet vs. U.S. long-range offensive missile production. Retired Gen. William Odom, top Soviet specialist in the Carter White House and former head of the National Security Agency, warned the House Armed Services Committee in testimony on the defense bill that Gorbachev's strategy "is not at all defensive."

Committee members listened respectfully when Odom was contradicted by Soviet Marshal Sergei Akhromeyev's spectacular testimony to them last week. The marshal won standing applause from the congressmen after insisting that defense has become the key element of Soviet military strategy. Gorbachev's top military adviser apparently made a stronger impression on the House Armed Services Committee than did the American general.

That is behind the decision of both the House and the Senate this week to put the B-2 Stealth bomber in semi-mothballs, virtually guaranteeing that the planned 132 bombers capable of eluding Soviet defenses will never be built. The B-2 slowdown comes in the fact of annual Soviet production, estimated today at 200 mobile, single-warhead SS-25 missiles and 50 mobile SS-24s, each with 10 warheads. No land-based U.S. intercontinental missiles are now being produced. The 50 MXs targeted for the U.S. missile force are in their silos; the Midgetman is not yet ready for production.

That leaves the Soviets with a strategic nuclear force of missiles and bombers that exceeds ceilings set by SALT II in each of four categories of weapons, while the United States is below the ceilings in all but one category. Despite that disparity, both Senate and House liberals are certain to win approval of a proviso designed to force the administration to destroy long-range missiles on Poseidon submarines.

Defense-oriented Senators of both parties who smell danger for the United States as the Soviets move toward strategic superiority will mount a counterattack when the de-

fense authorization bill returns to the floor next week. But prospects are poor. Gorbachev's peace offensive pledge has created a transcendent mood on Capitol Hill, no matter how many warnings come from defense experts. The mood may persist until the Russian bear reverts to form, but that could be too late.

SOVIET DEPLOYMENTS SHATTER SALT II LIMITS

The Soviet Union for the first time has exceeded a numerical ceiling of the expired 1979 SALT II strategic arms treaty by deploying new ballistic missile launchers and bombers with cruise missiles, according to a senior Bush administration official.

The deployments pushed the Soviets over the last of four primary levels for strategic arms imposed by the SALT II treaty.

By contrast, the current defense authorization bill in Congress contains measures that would put the United States in compliance with the levels.

According to the senior offical, an administration interagency group determined earlier this month the number of Soviet multiple-warhead missile launchers and heavy bombers equipped with cruise missiles had exceeded the SALT II level.

"Information . . . indicates that the Soviets may be above the sublimit of 1,320 total MIRVed ballistic missile launchers and heavy bombers equipped with long-range ALCM [air-launched cruise missiles]," the official said. A MIRV is a multiple, independently targeted re-entry vehicle containing a nuclear explosive.

The treaty violation was attributed to the deployment last year of an estimated 35 Soviet "Blackjack" bombers, equipped with nuclear cruise missiles, officials said.

They also said the Soviets have exceeded the SALT II ceiling of 1,200 multiple-warhead ICBMs and multiple-warhead, submarine-launched ballistic missiles, and since 1987 have temporarily breached the limit of 1,200 multiple-warhead launchers.

The SALT II limit for the total number of Soviet strategic nuclear delivery vehicles—2,504—has been surpassed by Moscow for several years, officials said.

The fiscal 1990 defense authorization bill, now being debated by Congress, calls for scrapping U.S. Poseidon submarine with 16 missiles. That would reduce the total number of U.S. MIRVed ballistic missile launchers and bombers with cruise missiles in 1986 due to Soviet violations, but Congress has attempted since then to legislate U.S. compliance with the four main limits of the treaty.

Three of those ceilings limit each side to 820 miltiple-warhead ICBMS, 1,200 multiple-warhead ICBMs and submarine-launched missiles, 1,320 multiple warhead missile launchers and bombers with nuclear cruise missiles.

The U.S. side was kept by the fourth SALT II limit to 2,250 total missiles and bombers, compared with the Soviets' 2,504. According to the latest U.S. intelligence estimates, the Soviets have more than 830 ICBMS, 1,230 multiple-warhead land- and sub-launched missiles, 1,670 multiple-warhead missile launchers and bombers with cruise missiles, or a total of about 2,580 strategic missiles and bombers.

The United States has 550 MIRVed ICBMs, 1,182 MIRVed ICBMs and SLBMs, and 1,364 MIRVed ballistic missile launchers and cruise missile bombers—a total of 1,985 missiles and bombers.

VEHICLE INTERCOM SYSTEM

Mr. BENTSEN. Would the distinguished Senator from Michigan yield for a question concerning an item of major interest to the distinguished chairman of the Conventional Forces Subcommittee?

Mr. LEVIN. I would be glad to yield to the distinguished Senator from Texas.

Mr. BENTSEN. The report accompanying the bill correctly notes the importance of the M-1 tank to our conventional forces and our ability to defend Western Europe conventionally. Correctly the committee endorses the continued evolution of the current M-1A1 tank into the so call M-1 block 2 configuration yet questions the underlying funding strategy for the revolutionary "heavy force modernization"—the HFM Program.

Mr. LEVIN. The distinguished Senator from Texas is correct. The committee strongly endorsed the block 2 M-1 and directed that the improvements not be limited by an artificial $300,000 cost ceiling. We in fact directed that the improvements include the addition of the distributed data and power bus plus electronics standardization which we feel offer the greatest performance improvements. We also requested the Secretary of Defense to review and evaluate the Army's HFM plan.

Mr. BENTSEN. I applaud the chairman's and the committee's action but am concerned about a small but minor portion of the M-1 and other ground combat vehicles modernization which seems to be overlooked in the process. I refer to the vehicle intercom system.

I would like to place in the record a letter printed in the July 1989 Army magazine which makes this very point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARMOR INTERCOM SYSTEM "UNRELIABLE"

Lt. Gen. Donald S. Pihl's article, "Technological Superiority is Target in New Army Modernization Initiatives" (May), was excellent.

The modernization initiatives cited are exceedingly important, but one thing was overlooked: the armor intercom system is not as glamorous as the new smoothbore cannon or the advanced FLIR (forward-looking infrared), but it is more important to survivability than any single improvement.

Currently U.S. armored vehicles use the archaic AN/VIC-1 intercom as the mainstay of communications within armored vehicles among crew members. This intercom is based on 25-year-old technology and frankly does not work properly. Most tankers and crews of Bradleys will tell you they can barely hear anything over the VIC-1. I cannot describe all of the problems here, but they are real. Besides providing for crew intercommunication, this intercom also provides the only link to the combat radios that communicate to the tank crew.

If * * * as a fighting system in which the crew is an integral part, and as such communications with and among the crew are vital, we have a definite weak link. As an engineer, I set this intercom as a vital mechanism for effective battle management and survivability. As a percentage of overall modernization cost, replacing the intercom with a more reliable, modern system is rather inexpensive. The program is floundering, and I can see a rather expensive fighting machine and its crew dying in a battle because it is effectively deaf.

I strongly suggest that the intercom problem be solved as a part of our armor modernization plan and be given the priority it needs.—THOMAS J. KESOLITS.

Mr. LEVIN. I am aware of the vehicle intercom situation and am concerned about it as well. The Army has advised the committee that the need is very real but the total program cost to replace all the currently installed intercom systems is unaffordable.

Mr. BENTSEN. I too appreciate the potential cost of replacing the entire inventory of current vehicle intercoms. However, I am concerned, as I am sure the distinguished chairman is, about evolving the best tank and ground combat vehicles possible with a known fixable weakness. To that end, I hope the chairman and the Conventional Forces Subcommittee would not object to the inclusion of a new nondevelopmental vehicle intercom system in new production tanks and other ground-combat vehicles if that could be done with available funds.

Mr. LEVIN. If the distinguished senior Senator from Texas would yield. As the Senator knows, the Army's original Block 2 Program called for a new vehicle intercom system for the M-1 tank. The Army had believed previously that a new intercom system should be included, but deleted it when costs became a primary consideration. The committee wants to insure that the block 2 tank is cost-effective. If a new vehicle intercom system does prove to be cost-effective, I believe it should be included in the Block 2 Program.

I did want to point out to the Senator that the pending bill removes $10 million for a vehicle intercom system that was appropriated without an authorization last year. That action was not meant to be prejudicial to a vehicle intercom system within a Block 2 Program but rather reflected a reallocation of available prior year funds in the face of higher priorities this fiscal year.

Mr. BENTSEN. I thank the distinguished chairman for clarifying the committee's position on this small important feature of the Army's tank and combat vehicle program.

SKIPPER ENHANCEMENT PROGRAM

Mr. DIXON. Mr. President, I would like to take this opportunity to engage the distinguished chairman of the Subcommittee on Conventional Forces and Alliance Defense in a colloquy on the subject of the Skipper Enhancement Program.

The Skipper is a relatively inexpensive powered version of a laser-guided bomb. It was initially developed to improve the survivability of Navy aircraft. I understand that it is possible to modify the Skipper to add the Army's fiber optic data link for improved guidance. With that modification, Navy aircraft would not be required to shine a lazer beam on the designated target, but would be able to guide the bomb to the target as they flew away from the defended area.

May I ask the distinguished Senator from Michigan if he is familiar with this program and what are his views on it.

Mr. LEVIN. If the Senator would yield, I am indeed familiar with the Fiber Optic Guided Skipper Program. As the Senator from Illinois knows, the Conventional Forces Subcommittee had recommended that the Skipper Program be funded had additional resources been made available to the committee. Because we had to make recommendations within the funds assigned to the Conventional Forces Subcommittee, there were insufficient funds to spend on the Skipper Program.

Mr. DIXON. As the Senator may know, the defense authorization bill that has been adopted in the House includes funds for continued development of the fiber optic guided Skipper. Would he be willing to reconsider this program when we go to conference on the authorization bill?

Mr. LEVIN. Again if the Senator would yield, I am aware that this will be a conference issue. While I can make no assurances to the Senator in terms of conference outcomes, I can absolutely assure him that this Senator will approach the conference with an open mind about the Skipper Enhancement Program and will consult with the Senator from Illinois when we are in conference to insure that the Skipper Program is fairly considered.

Mr. DIXON. That is very helpful and I thank the chairman for his consideration. I look forward to working with him in conference on this and other issues. Mr. President, I yield the floor.

AMENDMENT NO. 533

Mr. ROCKEFELLER. Mr. President, I rise in support of the burden-sharing proposal on Korea offered by Senator NUNN and other members of the Armed Services Committee. This amendment requires a report from the President on the American military presence in Korea and east Asia. The report would include a strategic plan that identifies how to transfer costs and responsibilities to Korea and our other Asian allies as well as a 5-year plan concerning our forces in Korea, including the feasibility of reductions in United States forces stationed in Korea.

We clearly cannot maintain our troops in South Korea forever. But I am deeply concerned about the unpredictable and potentially very dangerous consequences of a precipitous withdrawal. This amendment assures that any decision made will be based on a thorough examination of all relevant factors.

The situation on the Korean peninsula is still highly volatile. Any change that the North Koreans perceive in the degree of the American commitment to the security of South Korea can only lead to an extremely dangerous situation. Although we are seeing today a new wave of political and economic evolution in much of the Communist world, this has not reached North Korea and the totalitarian regime of Kim II Sung. Further, the recent turmoil and instability in China can only serve to lessen any moderating influence that Beijing might be able to exert on Pyongyang.

Some people seem to have forgotten the history of the Korean conflict. We have maintained troops in South Korea for almost four decades because of the North Korean invasion in June 1950. During the 3 years of this war, almost 34,000 American troops died and over 100,000 were wounded.

Let us look at some recent events in the relationship between South Korea and North Korea. In the fall of 1983, North Korea attempted to assassinate then South Korean President Chun Doo Hwan during his visit to Burma. Chun survived, but four cabinet ministers were killed. A Korean Airlines jet was blown up by a North Korean terrorist team in November 1987. The entire world—democratic, Communist, and netural—took exceptional measures to prevent North Korean terrorist actions from disrupting the 1988 Olympics in Seoul. Over one-half of North Korea's ground troops are stationed along the demilitarized zone, the DMZ, and there have been reports that as many as 100,000 North Korean troops have received specialized training in commando and sabotage operations. Recent press reports indicate that North Korea may be developing the capacity to produce nuclear weapons. This is not an environment in which we should make decisions about troop withdrawals lightly.

In January 1950, Secretary of State Dean Acheson, in a speech at the National Press Club, excluded Korea from the American security perimeter in the Pacific. We will never know whether this was received by Pyongyang as a message that the United States would not come to the defense of South Korea, but there is little doubt that it helped bolster Kim II Sung in his determination to invade the south. Before we remove any troops from South Korea, I want to be sure that we are not making a dangerous miscalculation once again that could result in a war on the Korean peninsula and, perhaps, draw us into another ground war on the Asian continent.

Let me be clear that I remain firmly committed to policies that will encourage our Allies—in NATO, in Japan, and in Korea—to increase their share of the burden for local and regional defense. All our allies can, and must, do much more. That is why I support the package of burden-sharing amendments before us.

As a percentage of its gross national product, Korea contributes more to its own defense than any other American ally—except Greece. This is as it should be since the security threat to South Korea is close and more immediately dangerous than in Europe or Japan. But the Koreans can still do more, and that is precisely why I am pleased that during the recent visit to Washington by Korea's Defense Minister, agreement was reached to increase Korea's financial support for American military forces stationed there. That is a start in the right direction.

In conclusion, Mr. President, I support this burden-sharing amendment, and I hope all my colleagues will do so as well.

Mr. LAUTENBERG. Mr. President, I rise to speak on an amendment I would have offered with Senators SIMON, DIXON, and BRADLEY on the issue of base closings.

Unfortunately, we are precluded from offering this amendment because cloture has been invoked.

This is truly unfortunate since this amendment would have permitted the Senate to act to help correct mistakes made in the Base Closing Commission's process of deciding which bases to close.

This amendment would have exempted from closure certain military bases until the General Accounting Office, the Secretary of Defense, and certain congressional committees have reviewed the closure decisions.

The bases which would have been exempt until this review was completed were those where the Comptroller General of the General Accounting Office has found that significant errors have been made in determining that a base should be closed. Significant errors were defined under this amendment as errors made in the Commission's phase 1 analysis that result in a change in the phase 1 ranking of bases for closure or realignment.

Mr. President, this amendment would have been a reasonable approach to a difficult situation. When the Congress approved the law setting up the Base Closing Commission, it said that Congress could either accept or reject the findings of that Commission in total. It did so to try to insulate

Members of Congress from the political pressures they have always faced when Congress attempted to close military bases.

However, Congress assumed that the Base Closing Commission would do its work accurately and base its decisions on correct information. Assuming that, the law made no provision for rejecting the recommendation to close a particular base where real mistakes were made in analyzing the data that led to that decision.

I believe that since the law failed to provide for a way to remedy real errors in the Base Closing Commission process, it was appropriate for the Congress to act.

No one in Congress, no matter how ardent an advocate of base closures, can wish to have bases closed where those decisions were made on the basis of significant and inaccurate information. This amendment would have helped eliminate that possibility. It simply provided that where the decision to close a base was based on significant errors, then that base should not be closed until the Secretary of Defense has had the chance to review that decision.

This amendment would not have erected a permanent block to the closure of any bases—it was an extremely moderate approach to a difficult problem.

This amendment was particularly relevant to the case of Fort Dix in my home State of New Jersey. The Base Closing Commission decided that Fort Dix should be reduced to semiactive status. But the GAO has determined that two errors were made in reaching that decision.

During phase 1 of the analysis, when bases were rated on military value to determine candidates for base closure, the Commission used incorrect information reflecting the conditions of facilities at Fort Dix. The information showed that Fort Dix facilities are in better shape and require less maintenance than the Commission believed in making its analysis.

Again during phase 1, the Commission made a clerical error indicating that Dix received only a marginal rating on the base's relationship to Reserve forces, when in fact, it had received an acceptable rating, the highest rating available. The error was made during transcription of Dix's rating from one set of documents to another.

Those errors resulted in Fort Dix being ranked seventh in military value out of eight bases considered for possible closure under the basic training function. Had the analysis been done correctly, Fort Dix would have been ranked No. 1 in military value. Since the Commissioners stressed in their testimony before the Senate Defense Appropriations Subcommittee, on which I sit, that military value was the prime consideration in deciding which bases to close, it's likely that Dix would not even have been a candidate had these mistakes not been made.

Only Fort Dix and Fort Jackson in South Carolina, the bases rated seven and eight in military value, were considered and analyzed during phase 2 of the Commission's analysis, when the options were analyzed to see if they would pay for themselves within 6 years. Had Dix been correctly rated in terms of military value, it would probably never have been analyzed in phase 2.

I believe that the Congress never meant to empower the Base Closing Commission to close down bases like Fort Dix, which is the most militarily valuable basic training base of all the eight basic training bases in our Nation. I'm sure that it did not mean to close down bases when such closure was based on inaccurate information and clerical errors. However, that is what the Commission has done. For these reasons, I think it is unfortunate that the Senate will not get a chance to consider this amendment.

PRODUCTION FUNDS FOR THE 155-MILLIMETER CHEMICAL ROUND

Mr. PRYOR. Mr. President, last year I reached an agreement with several of my good friends on the Armed Services Committee regarding the future of the troubled Bigeye chemical bomb. The Bigeye had faltered in developmental and operational tests and a debate was begun regarding killing the program outright. The agreement we reached states that the bomb cannot go into full-scale production unless limited production models of the bomb passes rigorous operational testing next year.

Today we face an unfavorable situation regarding the production of another part of the chemical weapons program. Reports on the 155-millimeter chemical artillery round indicate that there are serious problems at the facilities of one of the contractors, the Marquardt Corp., that the production rate is far behind schedule, and there is a glut of prior year unused funds that are backed up in the 155 production pipeline.

The recent debate on this subject in the House of Representatives indicated that roughly $188 million remained unused in the 155 production account. By my calculation, that is over 3 years worth of production funds. The House appropriately, in my opinion, zeroed the $47 million request for the chemical round.

In light of these problems and the recent House action, I considered offering an amendment that would cut all of the $47 million that the committee has granted for production of the 155 round. However, I have decided to withhold offering this amendment. Instead, I have chosen to enter into a discussion with the good chairman of the Armed Services Committee to flesh out several understandings we have about the 155 round and the committee's associated position.

Mr. NUNN. Mr. President, I appreciate the statement of the Senator from Arkansas and am happy to respond to the issues he has raised.

First, my staff indicates that the Senator is correct that there are unobligated previous year funds available for production of the 155-millimeter binary chemical round in fiscal year 1990.

Second, I am told that he is also correct in his understanding that the 155-millimeter binary shell production has fallen substantially behind schedule.

Finally, the Senator is correct that there appears to have been certain problems in the Marquardt production facilities. I am told, however, that the Army is confident that these problems will soon be worked out.

Mr. President, the committee's position is first and foremost one of strong support for the new generation of binary chemical weapons. Most of our stockpile of old chemical weapons has become unsafe to handle or maintain and the existing unitary chemical munitions are not well suited for the deterrent missions to which they are assigned.

The committee provided full funding for the 155-millimeter program next year. However, in light of the action of the House last month, it is obvious that we will face a conference issue on the funding of this program. I can assure the Senator that it would be my intent in conference to pursue an agreement with the House which appropriately addresses the problem we face with regard to the backlog of unobligated production funds for the 155-millimeter round.

Mr. PRYOR. Mr. President, I thank the Senator for his help in clarifying the situation regarding this troubled production effort. I am confident that the Senator and other members of the committee who take this provision, which I believe is wrong, to conference and deal with it in a way that will ensure that 47 million good dollars are not wasted by piling up behind the $188 million that have yet to be spent.

MISSILE PROLIFERATION

Mr. GORE. Mr. President, the transfer to third countries around the world of ballistic missiles capable of delivering weapons of mass destruction and of the technology needed to produce such missiles is an assault on world security. Recognizing this, in 1987, the United States joined with six other nations—Canada, Japan, France, the United Kingdom, Italy, and the Federal Republic of Germany—to establish the Missile Technology Control Regime [MTCR], which aims to prevent such transfers.

The creation of the MTCR was an important step forward. Nevertheless, transfers continue, and it is clear that some tough punitive measures are needed to give bite to the nontransfer policy. Last week, Senator McCAIN and I introduced legislation, S. 1421, designed to meet the need: The Gore-McCain Missile and Proliferation Control Act. A parallel measure has already been introduced in the House by Congressman HOWARD BERMAN.

In taking this step, we gave credit to Senator BINGAMAN, whose hearings on this issue in the Defense Industry and Technology Subcommittee underscore the need for legislation, and who has already introduced a bill of his own on this subject, that would help block proliferation by expanding the scope and impact of the MTCR.

The Gore-McCain bill strengthens and builds on the Missile Technology Control Regime [MTCR]. It would impose sanctions on companies and nations that engage in the trade or development of long-range missile systems capable of delivering weapons of mass destruction. S. 1421 also recognizes that destabilizing, offensive aircraft are capable of delivering such weapons and their development should be monitored closely as part of a comprehensive proliferation control regime.

Mr. President, I would yield to my colleague and cosponsor, Senator McCAIN, to provide further details about our bill.

Mr. McCAIN. I thank the Senator from Tennessee.

Mr. President, S. 1421 reflects our belief that it should be the policy of the United States to take appropriate measures to discourage the proliferation of the technology, materials, and weapons necessary to produce missiles and deliver weapons of mass destruction. The United States should monitor closely the development, transfer, sale, and so forth, of such items, including destabilizing offensive aircraft. The bill would prohibit the flow of U.S. technology that would assist a nation in developing such weaponry. In addition, the United States should discourage Communist bloc countries and companies in non-Communist countries from aiding and abetting others in acquiring the relevent technology and materials.

With regard to enforcement, our bill provides that the President will determine if a U.S. person is engaged in the trade, conspiring to trade, or facilitating the trade of an MTCR item in violation of U.S. law, or, in the case of a foreign person, if an export license for the trade of that item would be denied under U.S. law. The President will also determine if a less developed state or entity is importing MTCR items, long-range systems or is equipping its forces with new or additional missile systems capable of delivering weapons of mass destruction.

If a violation by a U.S. person is discovered, the President shall choose to deny that person export licenses and/or prohibit contracting with or procurement from the U.S. Government. If a violation by a foreign person is found, the President may impose the same sanctions and also prohibit the import into the United States of products or services of the foreign person. Further, if the President determines that non-MTCR country is developing or deploying missile systems capable of delivering weapons of mass destruction, the President may deny or reduce technical assistance, deny transfer of all or selected items of technology under the control of the U.S. Government and prohibit the importation into the United States of all or selected items of technology.

The President may choose to waive sanctions if the product or service is essential to the national security of the United States, the person in violation is the sole source supplier of the product or service or the end-user of the product or service is the U.S. Government.

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These economic sanctions are important, but we have learned in recent months that the public exposure of given seller firms and countries, and of efforts to develop a capacity to deliver weapons of mass destruction in less developed countries, may well be the most effective way of blocking such efforts.

Under the bill, the administration is required to detail and assess the efforts of all foreign countries to acquire and produce long-range missile systems and destabilizing offensive aircraft, and the efforts of Communist countries to aid or abet other nations in their efforts. Similar information is required on all companies that have or continue to provide such assistance to foreign countries. Such information in a report, however, is not required if it would jeopardize the national security of the United States or compromise sensitive intelligence operations.

Finally, the Gore-McCain bill recognizes that we need to take decisive action this year. The problem we are dealing with may be one that takes decades to trigger a major global crisis, but the legacy of the Iraq-Iran war and the other recent regional crises is already driving country after country to at least examine its options for proliferation of both weapons of mass destruction, and the means of delivering them. We cannot deal with the next problem in arms control with a business as usual approach, or by creating compromises of convenience that deprive our efforts at fighting proliferation of their teeth.

President Bush and Secretary Baker have already recognized this urgency, but much of the bureaucracy has not. At present, there is an unfortunate tendency within the bureaucracy to obstruct and delay, to propose ineffective or symbolic action, and to find problems rather than solutions. Hopefully, our introduction of this bill will help to remind that bureaucracy that it works for the President, and exists to implement his policy priorities. At a minimum, I believe it will build upon the work already done by other Members of this body, and by Congressman BERMAN and others in the House of Representatives, to ensure we create a solid body of legislation this year.

Mr. GORE. Mr. President, it had been the intention of the distinguished Senator from Arizona and me to propose S. 1421 as an amendment to S. 1352, the defense authorization act for fiscal years 1990 and 1991, particularly since our counterpart bill in the House was added to their version of the defense authorization bill by an overwhelming vote of 417-9. However, we recognize that at the request of the chairman of the Armed Services Committee, Senator NUNN, Senator BINGAMAN agreed in markup not to propose his missile proliferation bill, S. 1227, as

an amendment to the Defense authorization bill. I would inquire of the Senator from New Mexico whether my understanding is correct.

Mr. BINGAMAN. The Senator from Tennessee is absolutely correct. I, too, am deeply concerned about the grave threat represented by ballistic and cruise missile proliferation. In the short term the problem is ballistic missiles, but by the turn of the century cruise missile proliferation will pose a growing threat if not checked. On June 22, I introduced S. 1227, the Missile Control Act of 1989, and I am pleased to have Senators GORE and MCCAIN as cosponsors, along with Senators MITCHELL, NUNN, GLENN, PELL, BRADLEY, DECONCINI, LIEBERMAN, CONRAD, LUGAR, KENNEDY, BOREN, DURENBERGER, BIDEN, KERRY, MATSUNAGA, DODD, and WIRTH.

S. 1227 provides a comprehensive strategy for restricting the transfer of ballistic and cruise missiles and related technology. If passed, it will encourage the United States to take the lead in restricting the development and transfer of intermediate range ballistic and cruise missiles and related technology. If passed, in combination with legislation to control nuclear, chemical, and biological weapons, it will restore to the United States the mantle of leadership toward a safer world.

This legislation is perhaps more modest in scope than S. 1421, but it does what is needed. It improves export controls and enforcement; it takes a global approach to enforcement which will not disadvantage American industry. It provides sanctions calibrated to the degree of violation, which are sufficiently strict to discourage countries and companies from cheating by denying American missile equipment and technology.

Our bill encourages the United States to take the lead in seeking international cooperation in restricting the transfer of ballistic and cruise missiles and related technologies. It reenforces U.S. adherence to the Missile Technology Control Regime [MTCR] by encouraging the administration to seek a common and stricter interpretation of MTCR provisions and more adherents to the MTCR.

It mandates cooperation among the executive agencies responsible for missile control, but it does not add layers of bureaucracy or slow the process for review of export licenses.

Mr. President, nonproliferation of missiles is not a partisan issue. Rather it is an issue of the gravest concern to every one of us. The decision before Congress is not whether we should pass legislation to prevent missile proliferation, but what type of legislation will best ensure the effective implementation of a missile nonproliferation policy.

A related question is which bill is the appropriate vehicle for legislation on this issue. As the Senator from Tennessee noted, I had originally considered attaching S. 1227 to the Defense authorization bill, but I withheld that amendment in mark up at Senator NUNN's request. Senator NUNN felt strongly that since the Foreign Relations Committee has jurisdiction over changes to the Arms Export Control Act, legislation on the missile proliferation issue should be handled by that committee. That having been said, I would have to say with all respect for my chairman that were the Gore-McCain Missile and Proliferation Control Act to be offered as an amendment to this bill, I would have to reserve my prerogative to offer S. 1227 as an amendment to the bill.

Mr. President, I would, therefore, ask the distinguished Senator from Georgia for his assessment of the situation we face.

Mr. NUNN. Mr. President, I appreciate the remarks of Senator GORE, Senator MCCAIN, and Senator BINGAMAN and commend them for the leadership they are demonstrating in the Senate on this critical issue of missile proliferation.

I do believe, however, that the Defense authorization bill is not the vehicle for legislation on this issue and I regret that the House has seen fit to put a major piece of legislation on this subject on the Defense authorization bill it passed last week.

I would hope that Senator GORE and Senator MCCAIN would refrain from offering their bill as an amendment to the Defense authorization bill and that Senator BINGAMAN would exercise similar restraint. Both bills could then follow the regular procedure of being carefully considered and marked up by the Foreign Relations Committee. I recognize that the Senators would want some assurance that the Foreign Relations Committee would act on their bills, and I would, therefore, ask the chairman and ranking member of that committee if they might advise us of their plans for dealing with this issue.

Mr. PELL. Mr. President, I appreciate Senator NUNN's consideration of the Foreign Relations Committee's jurisdiction in this area. I intend that the Committee on Foreign Relations mark up in early September legislation dealing primarily with the chemical weapons problem. I have introduced legislation, S. 195, which imposes sanctions for the use of chemical and biological weapons. I expect that this legislation will address the problem of missile proliferation. My colleague, the Senator from North Carolina, Senator HELMS, has a bill, S. 238, proposing sanctions against commerce in chemicals for weapons. In addition, I would expect to have a hearing in September on specific ways to control missile proliferation and would expect to consider the bills under discussion today at that hearing and in a mark up soon thereafter.

I would ask the distinguished ranking member, Senator HELMS, whether he concurs.

Mr. HELMS. I agree with the comments by the chairman of our committee, Senator PELL. Ballistic missile proliferation is a critical issue confronting this Nation, and it is very high on my legislative agenda. Earlier this year, I introduced a bill, S. 208, to inhibit the proliferation of ballistic and cruise missiles in the Middle East. That bill has been referred to our committee, and it will be considered when we address this issue this fall.

Mr. President, I might also mention that I see no necessity for the Foreign Relations Committee to report out one omnibus bill dealing with the proliferation issue. It may well be that it makes more sense to report out a package of related but separate bills addressing, respectively, the chemical, nuclear, and ballistic and cruise missile dimensions of the overall proliferation problem.

Mr. GORE. Mr. President, I appreciate the remarks of the chairman and ranking member of the Foreign Relations Committee. Based on those assurances, I am prepared to join with Senator MCCAIN and Senator BINGAMAN in withholding any amendment to this bill on this subject. I would ask, however, the Senator from Georgia and the Senator from Virginia, Senator WARNER, how they would propose to handle this issue in conference, given that the House bill does include the amendment by Mr. BERMAN which is very similar to the Gore-McCain Missile and Proliferation Control Act.

Mr. NUNN. I would say to my friend from Tennessee that it would be my intent to persuade the House conferees to recede to the Senate and drop the Berman amendment without prejudice to its merits. That, then, would afford the House Foreign Affairs Committee an opportunity to consider that legislation in the regular manner, leading eventually to a House-Senate conference by members of the two foreign affairs committees on legislation related to proliferation problems. I would ask Senator WARNER if he would concur in that approach.

Mr. WARNER. Mr. President, I fully agree with the statement of Senator NUNN as to how the Senate conferees would approach this matter in conference. I might add that I hope both the Senate Foreign Relations Committee and the House Foreign Affairs Committee will work with the administration to ensure that any amendments reported out of these committees have the imput of those departments that will be affected by such legislation.

Mr. GORE. I appreciate the comments of the chairman and ranking member of our committee. I am

pleased to hear that in seeking to have the Berman amendment omittted from the conference report you would do so without prejudice to its merits. I wonder if you might also indicate that you agree with Senators McCAIN and BINGAMAN and me that if the House conferees agree to drop the Berman amendment, the conference report should reflect the view of the conferees that the Congress should attach high priority to enacting legislation this session addressing the ballistic missile proliferation threat. I would, further inquire whether the Senators would agree that that report should indicate the agreement of the conferees on certain broad principles which they believe legislation on this issue should reflect, and which are reflected in both S. 1421 and S. 1227, including:

The reality and significance of the problem and its expanding nature;

The need for the United States to aggressively expand the membership—to include the Soviet Union and, at an appropriate time, the People's Republic of China—and clarify the terms of the MTCR;

The need for measures to improve the U.S. licensing process;

The need for sanctions against domestic firms or persons and foreign states, firms, entities, and/or persons found to be evading or violating MTCR guidelines;

The need for an expanded flow of information from the executive branch to the Congress on this problem; and

The need to put specifics in place rapidly.

Mr. NUNN. I of course cannot commit the House conferees to any language in advance of the conference; nor could I presume to guarantee at this stage what language the Senate conferees would accept. However, I can assure you, as well as Senator McCAIN and Senator BINGAMAN, that I personally agree with your statement of principles and will work in conference to have it reflected in the conference report should the House consent to recede to the Senate on this issue.

Mr. WARNER. Mr. President, I concur in the remarks of Senator NUNN. I might add, as well, that I would hope that the language in the conference report will also commend the administration for its good faith efforts to implement the intent of the MTCR while, as noted by Senator GORE, recognizing the need for additional measures to further improve the U.S. licensing process.

Mr. GORE. I thank the Senators for their cooperation on this matter.

RECORD CORRECTION AMENDMENT 613

Mr. NUNN. Mr. President, I would like to bring to the attention of the Senate a printing error on page S9216 of the RECORD for August 1, 1989, with respect to amendment No. 613. The amendment as filed and adopted read as follows:

On page 11, line 5, strike "Chairman and ranking minority members of the Committees on Armed Services of the Senate and the House of Representatives shall each appoint one member" and insert "the Majority Leader and the Minority Leader of the Senate shall jointly appoint two members, and the Speaker and the Minority Leader of the House of Representatives shall jointly appoint two members.

On page 12, line 5, strike "the Committees on Armed Services of the Senate and the House of Representatives," and insert "Congress.".

On page 12, line 22, strike "while minimizing interference" and insert "consistent".

On page 14, between lines 3 and 4, insert the following: (9) The adequacy of the five-year plan proposed by the Secretary of Energy to bring the Department of Energy atomic energy defense facilities into compliance with environmental laws.

NATIONAL CENTER FOR MANUFACTURING SCIENCES

Mr. LEVIN. Mr. President, I would like to clarify the intent of langauge found in the committee report on S. 1352 that relates to a major cooperative research initiative known as the National Center for Manufacturing Sciences.

Mr. President, the National Center for Manufacturing Sciences [NCMS] was formed as a result of the President's 1986 domestic action plan to revive and support U.S. manufacturing technology industries. The NCMS has grown to become the largest R&D consortium in the United States in terms of member companies and industry coverage.

The NCMS participates in numerous DOD manufacturing programs of strategic importance to the defense industrial base. NCMS projects complement and supplement defense projects in advanced machines tool controls, computer-aided logistics, concurrent engineering, technology transfer, electronic data interchange, flexible manufacturing systems, and advanced materials.

Mr. President, over the past 2 years the NCMS has shown that they are able to extend the reach of taxpayer dollars by matching Government funds with industry resources. This effective leveraging of scarce Government resources should be encouraged whenever possible.

In fiscal years 1988 and 1989, the Department of Defense supported the startup operations of the NCMS with a $5 million grant each year from the Air Force Manufacturing Technology [MANTECH] Program. The Defense Industry and Technology Subcommittee has again authorized $5 million for the NCMS for fiscal year 1990.

Mr. President, the NCMS has progressed quickly since its formation in 1986. It has identified major needs and planned long-term programs of strategic importance to the industrial base that individual U.S. firms are unable to fund independently. The NCMS is organizationally prepared to launch high priority programs pending an increased financial commitment from the Department of Defense for fiscal year 1990.

I would like to clarify with my colleague, Senator BINGAMAN, the chairman of the Defense Industry and Technology Subcommittee, as to whether or not the Department of Defense is being limited by this authorization bill to grant no more than $5 million to the NCMS for its programs in fiscal year 1990. I think that it would be a mistake for the Congress to do so considering the opportunities that the NCMS provide to leverage Government technology base programs.

Mr. BINGAMAN. Mr. President, the Defense Industry and Technology Subcommittee has strongly supported the establishment of the National Center for Manufacturing Sciences. I understand my good friend Senator LEVIN's concern for defense manufacturing technology programs since they directly impact the quality and productivity of defense weapon system procurements.

S. 1352 includes a $60 million increase over the administration request for manufacturing technology programs for all services and agencies. The NCMS has the serious and long-term task of revitalizing our manufacturing technology industries. The level, span and scope of the research programs that must be undertaken by the NCMS demands cooperation between industry and Government.

Thus, S. 1352 mandates a $5 million grant to the NCMS in fiscal year 1990, but in no way does it limit any of the services or agencies from providing additional funding via either contracts or grants to the NCMS if they deem it to further the goals of their manufacturing technology programs, provided that these funds are authorized and appropriated for this purpose.

REGARDING RELOCATION OF THE 401ST TACTICAL FIGHTER WING

Mr. WARNER. Mr. President, I am pleased that the pending bill contains an amendment which I offered during markup, which, in effect, supports President Bush's decision to proceed with NATO construction of a new fighter base in Crotone, Italy for the United States 401st Tactical Fighter Wing.

Under the terms of the new Spanish-American Defense Agreement which went into effect on May 4, 1989, the 401st Tactical Fighter Wing, which consists of 72 F-16 aircraft, must be withdrawn from its base in Torrejon, Spain, by May 4, 1992. Because of the importance the alliance attaches to keeping the 401st forward deployed in Europe, in May 1988 NATO agreed that the 401st would be relocated to a new base in Crotone, Italy, and that NATO infrastructure funds would be

used to pay for the purchase of land and the construction of most of the facilities at Crotone. This represents the first time that NATO has agreed to use infrastructure funds for construction of a peacetime airbase. Previously, the infrastructure account had been used to fund only minimum essential wartime facilities. The United States pays 28 percent of the cost of NATO infrastructure projects.

I believe that the decisions by Italy to host the 401st and the decision by NATO to use infrastructure funds to construct the base at Crotone are outstanding examples of allied unity and burden sharing. I am pleased that the Senate Armed Services Committee agreed with my amendment supporting the U.S. position on Crotone after our allies have made the difficult political decisions is to support the United States on this issue. We should keep in mind that our allies made these decisions in 1988 at the request of the United States.

Reversing the U.S. and NATO position on Crotone and returning the 401st to the United States would be viewed by our allies and adversaries alike as dramatically weakening the defense of NATO's southern flank. The forward basing of the 401st makes a powerful contribution to deterrence and defense by providing modern, flexible and immediately available military strength to the southern region.

The southern flank has historically been NATO's weakest and least modernized area. The 401st represents a significant portion of the military strength in this region. The 401st is the only U.S. tactical aviation unit and 72 percent of the total third generation NATO aircraft in the southern region. In addition, because of its dual capable role, the 401st accounts for 75 percent of the southern flank's airborne nuclear deterrent.

From a forward deployed position, unplanned contingencies can be met instantaneously. Deployment to wartime locations will require no inflight refueling from Crotone. However, with U.S. basing, deployment of just the first squadron of the 401st would take 8 to 10 days. Because of the increased demand the relocation of the 401st to the United States would put on our already oversaturated strategic lift requirements, it is not known how long it would take for the entire wing to mobilize.

Mr. President, for operational reasons alone I believe it is essential that the 401st remain forward deployed in Europe. The allies have agreed with this assessment—so much so that they are willing to pay over 70 percent of the costs of constructing a new airbase in Crotone, Italy. We should not take action in the Congress which would undercut the NATO position on this issue.

For these reasons, I am especially pleased that the Senate has taken no action during floor debate on this bill which would in any way alter the committee's recommended position on this important cooperative burdensharing endeavor.

AMENDMENT NO. 527

Mr. CONRAD. Mr. President, I rise today to discuss the issue of burden sharing. We have amendments before us that address the subject. I respect and admire the Senators who have worked on these amendments. But I regretfully conclude that these efforts will do virtually nothing to address the problem.

Mr. President we are out of touch with reality in respect to our overseas military commitments in the judgment of this Senator.

First we need to put our current position in the world into context.

In the last 9 years we have tripled the national debt—we have gone from a national debt of just over $900 billion in 1980 to a current debt of $2.8 trillion. The President is proposing a further extension of $300 billion to a total of $3.1 trillion.

We have multiplied our trade deficit by five times from $25 billion in 1980 to $120 billion today.

We have gone from being the largest creditor nation in the world with a positive balance of $141 billion in 1981 to the largest debtor nation in the world with a negative balance of $533 billion.

We are running annual budget deficits of over $100 billion on a unified basis. If we factor in the trust funds we are raiding, the annual deficit would be approximately $250 billion. Three quarters of all savings are going to finance the debt.

Mr. President, these trends cannot continue. They must be changed. One result of these policies is that for the last full year—1988—our cost of capital was 9.7 percent in the United States. It was 6.5 percent in Germany and 4.8 percent in Japan. Is it any wonder that we are losing market after market?

At the very time we are unable to pay our own bills, we are paying the bills for others. According to the interim report of the Defense Burdensharing Panel of the House Armed Services Committee, "the Department of Defense has estimated that roughly 60 percent of the U.S. defense budget is attributable to its defense commitment. This means that the United States is spending $160 to $170 billion on NATO—and that is significantly more than the defense contributions of the other 15 NATO members put together."

We continue to pick up the tab for our allies even though we have to borrow the money from them to do it.

Mr. President, this policy makes no sense.

It has been more than 40 years since the end of the Second World War, when the United States was far and away the world's preeminent economic power.

After World War II the United States represented well over half of the world's gross national product. Today we produce only 22 percent of the world's GNP and yet we act as if nothing has changed. We act as though we must pay the bills of others. That was true after World War II—and for a considerable time thereafter. It is no longer true.

Even our allies recognize this elemental fact. Jean Pierre Bechter, Secretary of the French Parliament's National Defense Committee, remarked "Do you think 320 million Europeans can continue forever to ask 240 million Americans to defend us against 280 million Soviets?"

Fully 2 years ago, the Economist wrote that Europe must get ready to defend itself, both for safety's sake and for the sake of self respect. As this article pointed out, 241 million Americans with an income of a bit over $4 trillion do not see why 374 million Europeans with $3.5 trillion should need 300,000 American servicemen and about $100 million a year of the American defense budget to guard them, giving nothing in reply except the cheery explanation that Europe is worth every penny of it.

And yet we continue to shoulder a disproportionate share of the defense burden for our allies. We pay 6 percent of our GNP for defense, the Europeans about 3 percent, and Japan 1 percent.

On average, each United States citizen pays $1,155, each West German $453, and each Japanese $163.

They take the difference and invest the money in education for their kids, health care for their seniors, and consumer products that kill our competitive position in market after market.

We are attempting to take on our allies with our hands tied behind our backs.

Our reason is an enormous subsidy being provided to those with whom we are in direct competition. Mr. President, we must move in a new direction.

We must face a new world, new realities, and this amendment acknowledges the problems but avoids addressing them in any significant way.

I will support the amendment because at least it does acknowledge the subject, but I don't want my vote misconstrued in any way. This is mighty weak medicine. In my judgment it does not meet the need.

BURDENSHARING AMENDMENT

Mr. THURMOND. Mr. President, I rise today to express my support for the burdensharing amendments that the Senate Armed Services Committee

proposed and this body adopted last night.

Mr. President, this series of amendments, which were adopted as a group, call for the administration to negotiate with our European and Pacific allies on their contributions toward the common defense. These amendments are not intended to criticize our allies. The committee crafted these amendments recognizing the significant contributions our allies are making on behalf of our common defense. These amendments are also an endorsement of the great economic strides our allies have made over the past decades, and they recognize their position as equal partners in the defense of the free world.

Mr. President, the Congress has previously taken steps to ensure that the United States does not bear a disproportionate share of the defense of Europe and the Far East. These steps have resulted in increased dedication of resources by our allies toward the common defense, but not enough in view of the current fiscal and political environment. I am convinced the United States must take action now to make its scarce defense resources go further or face a reduced military capability over the next decade.

I strongly support the amendment on the NATO Proportionality Ceiling. In view of the ongoing negotiations on conventional forces in Europe, I think it is imperative that our NATO Allies do not take the precipitous step of unilaterally reducing their forces. The amendment does not require additional expenditures on the part of the allies, but ensures that they maintain their current contributions to the defense of the alliance during the ongoing CFE talks.

Mr. President, our Nation has maintained a special relationship with Japan over the past 40 years. The United States maintains approximately 63,000 troops in Japan. Although Japan pays approximately $2.5 billion toward the cost of maintaining these forces, the United States bears a considerable portion of the cost. In view of the fact that Japan's gross national product is second only to the United States, Japan can increase its contribution toward maintaining these forces without a significant imposition on its treasury. I want to emphasize that the amendment does not advocate any withdrawal of forces from Japan nor does it call for increasing Japanese military commitments outside its current recognized defense area.

Mr. President, 46,000 American servicemen are stationed in South Korea working in equal partnership with the South Korean forces in maintaining the peace on the peninsula. Although I do not believe that the South Koreans should ever face the massive military power of North Korea by itself, I believe we are now at a point to evaluate the requirement for keeping such a large number of forces in South Korea. The amendment crafted by the committee calls for a 5-year plan for restructuring the United States military presence in South Korea. This restructuring should take into consideration South Korea's significant economic growth and increased military capabilities.

Mr. President, I want to restate that these amendments do not belittle the significant contributions our allies make toward world peace. Rather, they are a reflection of stark economic conditions and, based on these conditions, represent a realistic approach to burdensharing. I urge the adminstration to support these initiatives and begin the negotiations called for in these amendments at the earliest possible date.

APACHE HELICOPTERS

Mr. DECONCINI. Would the distinguished chairman and manager of the bill yield for a question?

Mr. NUNN. I would be glad to yield for the senior Senator from Arizona.

Mr. DECONCINI. In the report accompanying the bill, the committee notes its approval of several program terminations proposed by the administration. The report notes that the proposed termination of marginal programs was approved to reduce the budget rather than stretch out production rates on most weapons systems.

I am particularly concerned about the termination of the Army's AH-64 Apache program and the underlying rationale for that action.

As we all know, the Apache is unquestionablye the world's best attack helicopter and represents a significant part of our antitank capability. The Apache's unparalleled battlefield mobility, plus its self-deployability to Europe and to other potential theaters, makes it a major conventional force multiplier. In today's and tomorrow's international environment, this type of conventional force mobility and antitank capability is critical.

Mr. NUNN. The Senator from Arizona is correct. The Apache is an excellent antitank antiarmor, and close support weapons system for the Army. I fully support the fiscal year 1990 production program as the committee's recommendations reflect.

Mr. DECONCINI. I appreciate the chairman's and the committee's support of the President's fiscal year 1990 request for $752.1 million to procure 66 Apaches. I have even drafted a number of amendments to increase the procurement of the Apache.

However, I am most concerned about the potential termination of the Apache after the fiscal year 1991 procurement. As you know, the Apache is the only active heavy attack helicopter in production in the free world. Furthermore, Congress approved initiation of multiyear procurement for the Apache starting last year. In fact, some $40 million was added to the DOD appropriations bill last year in advanced procurement funds to initiate that multiyear procurement.

The effect of the termination is to first, disregard the congressionally approved multiyear program; second, to reduce some 168 aircraft which were to go to reserve components, particularly the Army National Guard; and third, leave the country without a warm attack helicopter production base for a number of years until the new LHX program enters production.

Based on past experience, there will likely be further delays in the LHX program. In that regard, I note that the House Appropriations Committee is considering this week a recommendation to require a competitive prototype fly-off prior to award of the full-scale development contracts. This will increase that time.

In light of the importance placed on the total force concept by the committee, the Congress, and the Department, this termination is unjustified in my opinion.

Finally, from the State of Arizona's point of view, the termination is devastating news. In addition to the expected loss of jobs, the impact will fall most severely on the Apache tribe which has been working with the prime contractor to establish production operations on the Apache reservation. This program has been most successful to date and its loss will be a big setback.

Mr. MCCAIN. I share Senator DECONCINI's views and concerns regarding the Army's treatment of the AH-64 Apache attack helicopter program. I have already sponsored an amendment in the Senate Armed Services Committee to join the House in procuring Apaches in a multiyear procurement program. As I have said earlier in the defense debate, I will also support the other body in conference.

My concerns also go far beyond any support for a pet rock or a special interest of my State. The Apache is widely recognized to be the best attack helicopter in the world. The AH-64 is also one of the few systems that can rapidly redeploy to deal with a Soviet breakthrough and can quickly deploy tank-killing power in low intensity combat. AH-64's routinely perform night attack missions in training scenarios against "enemy" targets up to 70 miles behind the front lines of the battlefield and usually are undetected by the opposing forces until they perform their lethal attacks on their targets. In NATO Reforger exercises the Apache has proved to be a uniquely effective weapon in the NATO battle environment. Opposing forces in those military exercises have lauded the

Apache as a truly unique and unsurpassed weapons system.

If we need further testimony to the combat effectiveness of attack helicopters, consider how our potential adversaries are utilizing them. The U.S.S.R.'s HIND-E is the closest single rival to the AH-64. Available informaton indicates that the Warsaw Pact deployed 993 Hind helicopters at the end of 1987. At that time, the United States deployed only 430 attack helicopters of any kind, and our allies deployed 422. The U.S.S.R. has since maintained a production rate of approximately 400 military helicopters per year and this level of production is expected to continue. Furthermore, the U.S.S.R. is expected to introduce two new attack helicopters, the Havoc and the Hokum, into their force structure over the next several years.

With this in mind, the decision to curtail attack helicopter production appears extremely questionable. The continued buildup of U.S.S.R. attack helicopters clearly offsets any proposed reduction in tank forces and in terms of mobility and firepower actually increases their conventional capability.

I realize the problems that continuing the production of the AH-64 could present in terms of future defense budgets. I believe, however, that there is a cost-effective way to solve this Apache production problem.

It seems to me that the best way to procure this vitally needed attack helicopter is by means of the program recommended by the House Armed Services Committee: A multiyear program at a rate of 60 per year. This multiyear program would allow a reduction of funds required by $27.5 million in fiscal year 1990 and by $61.1 million in fiscal year 1991. It will have several other important benefits.

These reasons for supporting a multiyear program of Apaches at a production rate of 60 per year, and others stated by my colleague from Arizona, make what I believe to be a compelling case for proceeding with the AH-64 program in that fashion. I am sorry that we in this body are not ready to support a suitable amendment, but this is clearly an urgent priority once we are in conference.

Mr. NUNN. The Senator raises a number of excellent points. The committee is concerned about having an adequate number of attack helicopters in the Army National Guard. Unfortunately, some very difficult procurement decisions had to be made this year and more will have to be made next year as well.

Mr. DECONCINI. I appreciate the difficult decisions facing the chairman and the Department. I have been following the situation carefully as a member of the Appropriations Committee which will shortly be addressing many of the same problems.

I hope the chairman will keep an open mind about the termination and would be willing to reconsider the issue next year. I trust that the chairman will be equally openminded during the conference with the House Armed Services Committee which has included bill language directing the Army to proceed with the multiyear Apache procurement.

I would like to add that this multiyear procurement would provide an estimated 13.2-percent savings over 4 years—savings which well exceed the 10-percent minimum savings prescribed by the reported bill. This equates to savings of $420 million over single year procurement and would provide $27.5 million in savings this year.

Mr. NUNN. I am aware that the House has taken a different position than the Senate on a number of the proposed terminations. This committee's historic support for the Apache program clearly suggests that our recommendation was a most difficult one. Perhaps the distinguished chairman of the Conventional Forces Subcommittee would care to comment.

Mr. LEVIN. Mr. President, our subcommittee fully considered the Apache production program during markup. It was a close call and we chose to support the Department's recommended terminations although the Apache was at the top of our list of items that would otherwise have been reversed.

I can assure the senior Senator from Arizona that we will listen carefully to the House's argument and hopefully find a solution acceptable to everyone, including the Senator from Arizona.

Mr. DIXON. If the Senator would yield, I am pleased that the senior Senator from Arizona has raised this issue. I was disappointed that Secretary Cheney recommended termination of the AH-64. I have flown in the aircraft and believe it is the finest attack helicopter in the world. We considered several amendments during markup to restore funding for the AH-64. I voted for those amendments, but unfortunately we did not win. I, too, hope that the leadership of the committee is openminded on the subject when we go to conference. I would like to restore the AH-64 program, but I know it will be a difficult conference and we all will have to approach it in an objective manner.

Mr. DECONCINI. I thank the distinguished chairmen of the committee and subcommittee for their remarks. In light of their assurance that the issue of continued production of the Apache beyond fiscal year 1991 will be approached with an open mind, I will not proceed with my plan to offer amendments concerning the Apache production program.

Mr. NUNN. I thank the Senator for withholding his amendment. I can assure the Senator that we will fully consider continued Apache production, the 4-year multiyear contract issue, and the fiscal year 1990 funding shortfall point you have outlined for us here. I thank the distinguished Senator from Arizona for his interest.

CONVENTIONAL ARMS CONTROL VERIFICATION

Mr. WIRTH. Mr. President, the initiatives outlined by Soviet President Gorbachev at his United Nations speech last December and President Bush at the NATO summit at the end of May have propelled conventional arms control to the top of the East-West agenda. The proposals of the two sides at the negotiations at Vienna, now in their sixth month, are more remarkable for their similarities than their differences. President Bush's push to seek agreement on a conventional arms reduction accord within one year has accelerated work on the remaining areas of disagreement.

No aspect of the emerging agreement on Conventional Armed Forces in Europe [CFE] is more complex than the verification regime which will accompany such an agreement. Unlike the verification provisions outlined in previous bilateral nuclear arms control accords, verification of a CFE agreement will require cooperation among 23 nations covering hundreds of thousands of defense items and military personnel in an area stretching from the Atlantic Ocean to the Ural Mountains.

In recognition of the importance and complexity of conventional arms control verification, the Senate Armed Services Committee in its markup of the fiscal year 1990 Defense Department authorization bill now pending before the Senate agreed to add a provision requiring a Presidential report on the types of measures that would be necessary to verify effectively the conventional arms proposal adopted at the NATO Summit on May 30, 1989. That provision, section 905, is self-explanatory, and I, therefore, ask unanimous consent that the text of the section appear in full in the RECORD at this point.

There being no objection, the section was ordered to be printed in the RECORD, as follows:

SEC. 905. REPORT ON CONVENTIONAL ARMS CONTROL VERIFICATION.

(a) REPORT.—(1) The President shall submit to the Committee on Armed Services and the Select Committee on Intelligence of the Senate and the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives a report on the types of measures that would be required to verify effectively the proposal for conventional arms reductions in Europe adopted by the member nations of the North Atlantic Treaty Organization (NATO) on May 30, 1989. The President shall include in such report—

(A) a discussion of the necessary types of data that would be exchanged by the parties to such an agreement;

(B) a description of the national technical means, on-site inspections, and other cooperative measures that would be necessary for the parties to such an agreement to detect and verify potential or actual violations of the agreement;

(C) an analysis of the measures that would be required to monitor (i) the withdrawal and demobilization of military personnel, and (ii) the withdrawal and when required, the destruction of military equipment provided for in any such agreement;

(D) a discussion of the procedures NATO would follow in the event of a violation of such agreement by a member or members of the Warsaw Treaty Organization; and

(E) a comprehensive analysis of—

(i) the uncertainties in data bases used by the United States with respect to the military forces of the United States, the military forces of the allies of the United States, and the military forces of the Warsaw Pact countries;

(ii) the uncertainties in the estimates of the trends in such forces; and

(iii) the differences in the data bases used by the United States, the allies of the United States, and the Warsaw Pact countries.

(2) The analysis required under paragraph (1)(E) shall address separately the uncertainties in the estimates of the following:

(A) Active forces.

(B) Reserve forces.

(C) Total equipment of such forces.

(D) Indigenous forces.

(F) Forces of a country stationed outside such country.

(b) DEADLINE FOR REPORT.—The President shall submit the report not later than March 1, 1990, together with such comments and recommendations as he determines appropriate. The report shall be submitted in both classified and unclassified versions.

Mr. WIRTH. Mr. President, at a recent discussion on conventional arms control at the Center for Strategic and International Studies [CSIS], I raised the issue of verification and the status of our thinking, both inside and outside the Government, on the issues we face in shaping a verification package for the CFE talks. It was agreed that a great deal more work in this area was necessary, and CSIS accordingly convened a working group to outline an issues paper on conventional arms control verification. That group was led by Michael Moodie, senior fellow at CSIS, and benefited from the views of several experts, acting in a private capacity, including Maria Alongi, CSIS; Lt. Col. Dorn Crawford, U.S. Army Concepts Analysis Agency; Andrew Hamilton, National Defense University; Stanley Sloan, Congressional Research Service; Thomas Stewart, BDM Corp.; and Jeff Seabright of my Senate staff.

An excellent paper outlining conventional verification issues resulted from that meeting and I commend it to all of my colleagues. This paper addresses the unique requirements for a CFE verification regime, and provides an extremely useful framework for analysis of this important issue. I ask unanimous consent that the paper entitled "Conventional Arms Control Verification: An Outline of the Issues by the Center for Strategic and International Studies" appear in the RECORD immediately following my remarks.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

CONVENTIONAL ARMS CONTROL VERIFICATION: AN OUTLINE OF THE ISSUES BY THE CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES

The recent progress in the conventional arms control negotiations in Vienna and President Bush's objective of securing an agreement within a year highlight the immediate need to consider the complex issues associated with conventional arms control verification and the requirements of an effective verification regime. This point paper is designed to prompt preliminary considerations of some of the critical issues surrounding verification: its objectives, the methods to be employed, potential tradeoffs and some problem areas that will have to be resolved to achieve a politically, militarily and economically viable verfication regime.

I. BACKGROUND

1. The lack of precedent

Verifying conventional arms control will be very different from monitoring compliance with nuclear weapons agreements. Thinking about conventional arms will require a changed mind set regarding several issues:

Conventional arms control verification measures will in themselves affect the European security context. The rights and obligations defined by an eventual verification regime will regulate the way each nation party to the treaty conducts its military business, and set the basis by which nations will conduct their relations.

The degree of precision that is possible—and the degree of precision that is necessary to determine a militarily significant violation—is considerably less for conventional agreements than in the nuclear area.

The methods of verification will reflect a different mix of human and technical resources.

If a conventional agreement is secured, verification very likely will be conducted on a multinational basis with NATO allies, rather than by the U.S. alone, and will require a multinational response, an aspect of conventional arms control verification that is likely to create considerable complexity in organizing, implementing and funding a verification regime.

The nature of the items covered by an eventual conventional arms control agreement is such that misperception and ambiguity could prove serious obstacles to ascertaining compliance. Thus, close cooperation and information sharing between NATO and the Warsaw Pact should be an integral part of a verification regime.

2. The NATO conventional arms control proposal

The following verification issues are raised on the assumption that an eventual conventional arms control agreement will not be fundamentally different from the current NATO proposal as amended after the May NATO summit. The amended NATO proposal calls for:

Parity in numbers of tanks, artillery pieces, and armored troop carriers at levels lower than current NATO holdings; for each alliance, this will mean achieving the following ceilings within the area extending from the Atlantic to the Urals: 20,000 tanks, 16,500 artillery pieces, 28,000 armored troop carriers.

Within these ceilings, limiting the numbers of tanks, artillery pieces, and armored troop carriers that any one nation can hold: 12,000 tanks, 10,000 artillery pieces, 16,800 armored troop carriers.

Limiting the numbers of tanks, artillery pieces, and armored troop carriers stationed outside national borders: 3,200 tanks, 1,700 artillery pieces, 6,000 armored troop carriers.

Placing sublimits for different geographical areas. In Central Europe, an area comprising Poland, the GDR, Czechoslovakia, the FRG, Belgium, the Netherlands, and Luxembourg, each alliance could hold: 8,000 tanks, 4,500 artillery pieces, 11,000 armored troop carriers.

Reducing manpower to a ceiling of 275,000 for the region extending from the Atlantic to the Urals.

Reducing combat aircraft to a ceiling of 5,700 and combat helicopters to 1,900 within the Atlantic to the Urals region.

We assume that resolution of issues outstanding at this point in the negotiations—the type of aircraft to be removed; definitions of equipment and zones to be covered; discrepancy in the number of systems to be reduced—will not significantly alter the verification requirements of an agreement.

II. THE OBJECTIVES OF VERIFICATION

Verification is designed to:

•detect noncompliance;

•provide a basis for continued adherence to the treaty or for taking action against the violator;

•deter noncompliance by increasing the risk of detection.

To accomplish the above goals in the most efficent manner, a verification regime must be able to:

At a minimum, capture militarily significant violations

Because of the nature of the equipment involved and the area covered by the talks, a discrepancy between the limits of the treaty and the actual numbers at any one time will be neither uncommon nor necessarily militarily significant. However, depending on the equipment involved and factors such as the location, timing, and size of the discrepancy, it could prove destabilizing. The verification regime must be able to capture these nuances and distinguish a militarily significant violation from a technical discrepancy.

Remain viable over time

It should be the task of all parties involved to ensure that the verification regime remains viable over time. The goal of the negotiations is to limit not only forces but each side's capabilities to initiate an attack as well. Thus, one aspect of the verification regime should be to ensure not just that the numbers of equipment and personnel remain within acceptable limits but also that the remaining force structures, doctrine, and training are not reconfigured to achieve offensive capabilities.

Accommodate technological change

Technological change has both negative and positive implications for a verification regime. On one hand, technological modernization could lead to circumvention of the agreement. The trade-off is that limits on modernization are very difficult, if not impossible, to monitor and restrict, partly because such monitoring would require extremely intrusive measures in the civilian industrial realm that would raise opposition in the West. In addition, modernization has

merits. The West has a lead in technology and modernization that could lead to the development of more stabilizing systems than those presently in use.

Accommodate political change

A verification regime that monitors the adjustment of force structures and capabilities of the Warsaw Pact and NATO is necessarily also a system for managing the security structure of Europe. Such a system will have to be flexible enough to accommodate the political changes that might be prompted by military adjustments, especially in Eastern Europe.

Balance resources and outcomes

The level of certainty in an agreement will be determined to a great extent by the resources allocated to verification. The most efficient verification regime will be based on simplicity and economy of effort. This involves deciding an acceptable level of confidence and risk and balancing that requirement with available resources. Striking such a balance will avoid setting verification requirements so high that the margin of security obtained by expending additional resources is not high enough to justify the effort.

III. VERIFICATION METHODS

No single method for verifying a conventional arms control agreement will suffice. Monitoring an arms control agreement will require the integration of a variety of methods and approaches. Each method has strengths and weaknesses, but in some combination they can provide an adequate level of assurance regarding the other side's compliance with an agreement.

1. National Technical Means (NTM).—The heading of NTM is assigned to a variety of data gathering methods, usually involving satellite photo-reconnaissance and exploitation of electronic signals intercepted on the surface, in the air, and from space.

Strengths

Can detect large movements of units or equipment out of garrison.

Can cover a large geographical area over a specific time (particularly in the case of electronic signals collection).

Can indicate to the monitoring side areas deserving more in-depth observation by other, more intrusive means.

Weaknesses

Orbital paths of space-based systems are predictable and allow scheduling of activities to avoid detection.

Satellite imaging cannot penetrate dense cloud cover. Because Central Europe is estimated to be under cloud cover 60% of the time, NTM must be complemented by other means of verification.

Various geographic areas are not uniformly amenable to ground and air electronic monitoring.

Because NTMs are a limited national resource used for global intelligence gathering, are considered relatively vulnerable to collection countermeasures, and involve sensitive technologies and techniques, sharing NTM-derived information with the allies and other nations involved in the agreement will be problematic. A precedent exists, however, for sharing NTM-derived information. The U.S. currently shares such information with the USSR to monitor compliance with the SALT, ABM, and INF agreements.

2. Overflights.—President Bush's recently enunciated interest in an "open skies" regime has reintroduced the concept of aircraft overflights as a means to gather information on the other side's military activities.

Strengths

Can provide higher resolution pictures of activities on the ground than NTM. Can carry other sensors, such as synthetic aperture radar.

Can be carried out at low altitude, below cloud cover.

Are not physically restricted to following a predictable schedule, thus do not necessarily allow observed party to develop countering schedule for forbidden activities.

Information can be developed on a multilateral basis bypassing limitations on release of NTM information.

Weaknesses

Requires time-consuming and manpower intensive exploitation of reconnaissance products.

Limited area of coverage by one flight. The area of coverage depends on the flight altitude. Cloud cover will require low-altitude flights, that in turn will limit coverage. This will require more frequent flights.

Trade-off between equipping aircraft with sophisticated or sensitive technology and risk that such technology could be lost.

Could prove politically untenable among the Western European publics after the recent string of air crashes. An overflight regime could be made more palatable by including "keep-out zones" over which there would be no flights.

3. Sensors and tags.—A sensor is a device, such as a radar, seismic sensor, acoustic sensor, conventional or infra-red video, or even sonar that can monitor activity in the air, on land, or in water. A tag is a device or procedure for marking materials and equipment. Tagging only those items permitted by an agreement would help inspectors to determine whether any additional, untagged items have been introduced in either side's arsenal. Tags could include microelectronic devices, applied paints, or optic fibers. Some tagging technologies would require on-site inspections while others may involve remote reading.

Strengths

Less expensive than human resources.

Less intrusive than OSI.

Can provide 24 hour monitoring.

Self-monitoring. Many sensors can detect tampering. Cameras could watch stored equipment to guard against tampering with tags.

Interruption of sensor signals could provide an indication of preparation of war.

Weaknesses

Some susceptibility to tampering. There is a trade-off between resources spent on tamper-proofing and self-monitoring. Depending on the emphasis given to tags and sensors in a particular verification regime, some level of security against tampering might have to be foregone in favor of savings or investment in another area, allowing a theoretical possibility of tampering.

Very limited coverage.

Raw output from numerous dispersed sensors would require substantial communication, and technical and human resources for data transmission and around the clock analysis.

Raw data provided by tags and sensors cannot convey in itself the real significance of a violation. What could appear as a violation by analyzing data from just one sensor site would appear less serious if it could be shown that, for example, an increase in force levels in one area was offset in another locale within the same zone. Therefore, the information gathered through these means must be integrated and analyzed in a broad assessment framework.

4. On site inspections (OSI).—OSI includes observation by roving inspectors and permanently stationed teams, and can be carried out both according to a preset schedule or with short notice depending on the type of installation being monitored and the information derived through other means. A sound verification regime will probably require a mix of inspection methods and both short-notice and advance-notice visits.

Strengths

Increase the costs and risk and thus reduce the benefits, of hiding illicit weapons on garrisons subject to inspection.

Can detect subtle indications of possible cheating not exploitable by other means, such as changes in behavior or attitude.

Will not rely on a single country's pool of inspectors, since all allied nations will be involved in the agreement.

Serve as a confidence-building measure by allowing direct observation of military activities and increasing each side's knowledge of the other's doctrine.

Weaknesses

Expensive because it requires extensive technical and language training.

Problematic from the perspective of maintaining a margin of secrecy on military installations.

Raises the issue of proprietary trade issues for the defense industry. Some of these problems could be overcome by balancing OSI with other monitoring methods, such as sensors, and by specifying areas on garrisons that would be off-limits to inspectors. The issue of proprietary trade issues is explored further below.

Limited area of coverage. The Atlantic to the Urals framework is too vast a geographic area to rely solely on inspections. To minimize the problem, both sides will have to rely on some mix of roving inspectors, short notice inspections, and permanent observers.

5. Information exchanges.—Information exchanges include cooperative measures such as advance notification of large military maneuvers and voluntary data exchanges.

Strengths

Reduce chance of misinterpretation of the intentions of the other side.

Can confirm independently gathered data on other side's capabilities.

Weaknesses

May still allow the use of military exercises for political means, for example to impress a recalcitrant ally.

Could lead observing side to a false sense of security by masking military activity as an exercise.

IV. WHAT KIND OF CONTROL STRUCTURE FOR VERIFICATION METHODS?

More important than the variety of tools for verification is the control structure of those systems and the process of evaluating the information received through various monitoring methods. The collected data will have to be integrated and organized in an analytical framework capable of relaying the full extent of compliance. In this context several issues must be explored.

1. Should verification be an alliance-to-alliance task?

If the verification process will be an alliance—as opposed to a national—task, NATO

must consider how to organize itself to conduct verification. One option would be to devise a multiple-step process. For example, allied teams could carry out the monitoring, leading to a national assessment of the gathered information, allied discussion of national evaluation, and finally a coordinated allied response. Before any procedure is implemented, however, the following issues will have to be resolved:

Should NATO set up a central institution to oversee verification?

What should be the balance between oversight by national capitals and such an institution?

Should such an institution be based at NATO headquarters?

Should there be permanent arrangements for inter-alliance contacts to resolve verification problems?

How will the verification effort be funded? Could funds for verification be drawn from a special fund similar to the NATO infrastructure fund? Should it be funded separately, based on some allocation of shares?

2. What should be the link between an eventual verification regime and the ongoing Conference on Disarmament in Europe (CDE)?

The CDE will address issues related to the verification of a conventional arms control agreement, such as information exchanges and on site inspections. Duplication of effort could hinder progress in both fora, as nations considered for inspections will be reluctant to undergo more observation than necessary. However, integrating the two will prove difficult, for the CDE involves neutral countries whose forces would not be reduced by conventional arms control and which will not be parties to a CFE agreement. In addition, the scope of the CDE is very different from that of the CFE; while the first aims to detect intentions, the latter limits capabilities.

V. ISSUES FOR THE U.S. GOVERNMENT

1. The political vs. military significance of violations.—Before verification measures are negotiated, the United States, in conjunction with its NATO allies, must develop a definition of what will constitute a violation of the terms of the treaty.

Numerical disparity is not the only factor

Unlike nuclear arms control, holding a few more conventional weapons of a particular type than specified in the treaty will not necessarily result in one side gaining any militarily significant advantage. For most weapon systems there is a threshold for what constitutes a militarily significant violation; the task of the negotiators and policy-makers is to define this limit. the issue is not just quantitative; qualitative, temporal, and geographic factors will also have to be considered in determining whether a violation is significant.

A built-in ambiguity

Identifying a militarily significant violation is complicated by the built-in ambiguity in any treaty given the number of items covered by an agreement, its broad geographic scope and the fact that the situation—unlike in the nuclear arena—will never remain static. Grey areas will continually emerge, and mechanisms must be devised to reduce their ambiguity both on an alliance basis and through interaction with the other side.

A violation may be militarily insignificant but politically damaging

There is a difference between what is politically and militarily acceptable. A violation discovered in a particular garrison could be deemed militarily not damaging because of its location, or because an offsetting situation has occurred elsewhere. This however might not be readily evident to the public and it could undermine support for the treaty. Thus, the policy makers will also have clearly in mind what will be politically acceptable as a violation.

The ownership of the means of verification.—Unless common technology is developed, the NATO allies will have to rely to some extent on U.S. NTM-derived information. The United States may wish to develop guidelines for the sharing of information derived through these means. As well as collection management (tasking).

3. Proprietary trade issues.—Intrusive OSI could extend to private production facilities. In the West this will likely raise concern about maintaining proprietary rights to technology even if national security is not directly compromised. Negotiators should consider this issue in devising an OSI regime.

4. Problems stemming from the alliance-wide framework.—An eventual conventional arms control agreement, and thus the verification regime, will involve NATO as a whole. U.S. policy-makers should therefore address the problems that stem from the alliance-wide framework.

How should verification tasks be shared among the allies?

How should the cost of verifying an agreement be shared among the allies?

What are the national differences regarding political limits of intrusive on-site inspections on the territory of the allies?

What should be the standards for sharing verification-related information obtained through national intelligence among the allies?

What should be the standards for sharing intelligence information that relates to verification between NATO and the Warsaw Pact?

5. Technological concerns: What kind of new technology will a new verification regime require?

Will Congress need to allocate new funds to develop verification technology?

Should technological cooperation in the verification area be initiated among the allies?

Is there room for East-West cooperation in the development of verification technology? For sharing existing technologies?

6. Other Concerns:

How could the verification standards developed for the CFE negotiations be applied to other geographical areas with high concentrations of military capabilities?

What should be the relationship between the verification of an eventual conventional arms control agreement and classic CSBMs? Given the different functions of the CFE and CSBM talks, how could the two fora complement one another? What role can existing CSBM agreements play?

HIGH DEFINITION SYSTEMS

Mr. WILSON. Mr. President, I would like to engage chairman of the Defense Industry and Technology Subcommittee, Senator BINGAMAN, in a colloquy on the Defense Department's funding for high-definition systems research.

High-definition systems are important both to our Nation's defense and our industrial base. High-definition systems are not really a single technology, as you know, Senator, but rather a commonly used term describing a wide range of interrelated semiconductor, imaging, and telecommunications technologies.

Mr. BINGAMAN. I would wholeheartedly agree with the Senator from California's description. I would also like to draw the Senate's attention to a recent report by DOD's foreign technology monitoring group, Project Socrates. This report describes in detail the component technologies which make up high-definition systems.

What we are particularly concerned about on the Armed Services Committee and the Defense Industry and Technology Subcommittee are the implications of high-definition technology on national security. This is an important dual-use technology with defense applications in displays for aircraft, ships and tanks, as well as for mapping, training and simulation.

In addition, as the Project Socrates report points out, many of the key component technologies for high-definition systems are also key to other important defense-related technologies, such as supercomputing, electro-optical sensing, and advanced/unconventional radar sensing technology.

As the Senator from California knows, the committee increased the funding for DARPA's research on high-definition systems from $10 to $30 million in this year's defense authorization bill. I would also point out that the Defense Manufacturing Board has been tasked to develop an affordable, comprehensive plan on high-definition systems. The committee strongly supports this effort and has asked that DMB accelerate its timetable and report back by October 1, 1989.

Mr. WILSON. If it had not been for the tight budget situation, I believe that the committee would have increased this funding level even further.

Mr. BINGAMAN. The Senator may be correct. We had to make some very tough tradeoffs in this bill.

Mr. WILSON. But I believe that there are some steps that the Department of Defense can take to stretch the resources for this important technology, and I hope that the Secretary and the Deputy Secretary of Defense would look carefully at the Department's efforts in this area, including the possibility of reallocating funds from overlapping projects, to make the high-definition systems research effort more efficient.

Mr. BINGAMAN. I agree with the Senator that even though this is a relatively small program at this stage, it is an important one. This is a priority program which should receive top-level DOD attention to ensure that it is a well-managed and focused program with all parts of the Department contributing as appropriate.

OPERATIONAL TEST AND EVALUATION

Mr. NUNN. Mr. President, the bill now under consideration includes certain changes to section 2366 of title 10, which address requirements for operational test and evaluation.

The first of the two provisions would define low-rate initial production, with authority for the Defense Secretary to establish different regulations for shipbuilding. The second clarifies congressional intent with regard to use of operational assessments.

Mr. President, at this time I would like to yield the floor to the distinguished Senator from Delaware, who has some other observations on these matters.

Mr. ROTH. I thank the chairman.

Mr. President, I rise to underscore the importance of the two amendments which the Congressional Military Reform Caucus proposed to members of the Armed Services Committee. These amendments were incorporated in the committee bill, with a modification for shipbuilding.

I would also like to express my appreciation to the members of the committee for their willingness to consider these amendments and for their cooperation in developing these proposals.

Mr. President, I am proud to serve as cochairman of the Congressional Military Reform Caucus for the 101st Congress. The two amendments we sought would: First, define low-rate initial production; and second, state the intent of Congress with regard to use of operational assessments in conjunction with operational tests.

This legislation springs from a concern that operational testing is not receiving sufficient emphasis within the Defense Department. In too many instances, weapons systems have entered full-scale production while the design is immature and before operational testing has been conducted. There are some cases in which the Department has purchased a large share of the total procurement program under the guise of low-rate initial production.

Evidence of these problems has been documented in reports by GAO and the DOD Inspector General, and in hearings before the Governmental Affairs Committee. For example, Senator PRYOR held hearings before the Senate Subcommittee on Federal Services, Post Office and Civil Service in June of this year, and in May the Congressional Military Reform Caucus held a panel discussion which focused on the inadequacy of operational testing and evaluation in DOD.

The Senate Armed Services Committee continues to conduct oversight of the Office of Operational Test and Evaluation and to monitor the effectiveness of the legislation which established it. Questions have been raised regarding how the military services define low-rate initial production. This matter has been raised as a problem by members of the House Armed Services Committee, the DOD Inspector General's Office and the U.S. General Accounting Office. For example, the House Armed Services Committee report on the National Defense Authorization Act for fiscal years 1990-91 stated: "Current law requires that major weapons systems may not proceed beyond low-rate initial production until successful completion of realistic operational and live-fire testing. The committee—House Armed Services Committee—is concerned that in some cases the Department has purchased a large share of the total procurement program before completing operational tests under the guise of low-rate initial production."

The proposal on low rate initial production seeks to allow for the establishment of only a single production line to produce the minimum quantities needed for testing and for maintaining the line until successful completion of realistic operational testing. The proposal for a single production line is in response to the problems shown by the Phoenix and AMRAAM missiles, where we have established dual sources of production before we have completed testing. It also responds to the DOD IG's concern about production awards to second source contractors before verification testing of their production version of the article is completed.

GAO and the DOD Deputy Inspector General have also expressed concern about the merging of developmental and operational testing. The Director of Operational Test and Evaluation has been criticized for his use of operational assessments in place of operational tests. In GAO's recent report on Navy Weapons Testing—Defense Policy on Early Operational Testing (NSIAD-89-98 dated May 1989), GAO found that DOD is now encouraging the military services to conduct "operational assessments" before decisions to proceed with low-rate initial production.

In congressional testimony in June 1989, the DOD Deputy Inspector General said that the use of operational assessments was beginning to substitute for use of operational tests and he questioned whether this constitutes adequate testing. He also said that a change in the law might be needed to address the procurement of low-volume, high-cost, and long production process items such as ships. He believes the results of operational assessments when production volumes are low and when prototypes are expensive and time-consuming to build should be considered merely as interim reports.

This increasing use of operational assessments becomes important in concurrent development programs, where the lines between development and production are blurred. Use of concurrency is inadvisable when the technology is so advanced that the demands of prudent production cannot keep pace. GAO studies of concurrently produced weapon systems show achievement of less than advertised performance levels and major cost growth in such programs. Nevertheless, the Director of OT&E has shown a willingness to use the results of operational assessments to support low-rate production decisions, decisions which the GAO and the DOD Deputy Inspector General believe are becoming the equivalent of full-rate production decisions.

I am pleased to see that the committee's bill answers these concerns by defining low-rate initial production and by clarifying the use of operational assessments.

I do have one question, however, and it concerns shipbuilding. Mr. President, may I inquire what was the intent of the committee with regard to low-rate initial production for ship construction programs?

Mr. NUNN. Mr. President, let me express our appreciation for the contributions of the Senator from Delaware, Senator ROTH, and his associates and for their support of the committee process. We welcome all suggestions and we appreciated the opportunity for the committee to consider how tradeoffs could be made between various objectives.

At this time, I think we should hear from the committee's distinguished ranking minority member, the Senator from Virginia.

Mr. WARNER. I thank our distinguished chairman.

Mr. President, shipbuilding programs share certain qualities which merit special and different regulations with regard to the limitations on low-rate initial production. These characteristics include: One, the long time periods required for building individual ships; two, the limited total number of units which will be built to a particular design; three, low annual production rates; and four, the relatively great expense of individual vessels. These qualities set shipbuilding apart from other systems, such as radios, armored vehicles, or fighter aircraft.

With particular regard to the Seawolf submarine program, the committee intended to give the Secretary of Defense wide latitude to include a second yard in the construction program and to request funding for up to three ships per year, should he deem this to be appropriate.

Mr. NUNN. Mr. President, I share the opinion of our distinguished ranking minority member.

Mr. ROTH. Mr. President, I would like to express my thanks to the chairman, Senator NUNN, for his consideration of this matter and for this clari-

fication of congressional intent with regard to low-rate initial production.

Mr. President, I also wish to express my thanks to Senator WARNER, Senator BINGAMAN, and Senator WALLOP for their cooperation on this issue. I believe that we will make significant progress in the weapon testing area with the implementation of these provisions. I also wish to thank the distinguished Senator from Arkansas, Senator PRYOR, for his continuing and tireless support for improvements in how we test America's weapons and for his leadership on this issue.

SECTION 831 OF DOD AUTHORIZATION

Mr. KERRY. Mr. President, as a member of the Senate Committee on Small Business and chairman of the Subcommittee on Urban and Minority-Owned Business, I rise to express my concern over a provision of this bill which I perceive as a threat to those small- and minority-owned businesses which do, or seek to do, business with the Department of Defense.

This authorization bill contains a provision, section 831, which would amend the Small Business Act and I feel, if enacted, would undermine the ability of small- and minority-owned businesses to compete for contracting opportunities under the Department of Defense, if not the Federal Government as a whole. At the very least, this provision, which amends law originated in the House and Senate Small Business Committees, presents jurisdictional problems.

Section 831 of S. 1352 would amend the Small Business Act pertaining to the small business subcontracting program. It is the opinion of many on the House and Senate Small Business Committees, as well as those in the small business community, that this provision would adversely effect existing programs designed to increase the participation of small- and minority-owned businesses in the Federal procurement process. In the wake of recent decisions by the Supreme Court regarding the Government's role in helping minority-owned businesses overcome discriminatory barriers, our concern is even greater. I see no compelling argument for changing current law and weakening small business assistance.

Section 831 would eliminate the current requirement that all prime contractors with the Department of Defense submit, on a contract-by-contract basis a subcontracting plan detailing goals for small- and minority-owned small business participation in the subcontracting process. Section 831 would instead institute a pilot program whereby certain prime contractors could submit one overall subcontracting plan for each Federal agency with which it does business.

By eliminating the requirement for contract-by-contract plans, this provision eliminates the incentive for a prime contractor to utilize small and minority-owned subcontractor services for a wide variety of contracts and allows them to satisfy subcontracting goals by utilizing small and minority-owned subcontractors primarily in areas such as janitorial and food services. This provision seriously undermines the clear intent of the Small Business Act to enable small and minority-owned businesses to expand into the more sophisticated areas of defense contracting.

Mr. President, how far are we going to go. In a mere 6 months this year, the Supreme Court blocked a number of avenues through which disadvantaged employees and business persons could seek to overcome barriers of discrimination. What's more, the Court placed new burdens of proof upon individuals and businesses who claim to have been victims of discrimination. In light of these decisions, I view any further encroachment on the Federal Government's ability to help these individuals and businesses overcome discrimination as a severe threat. In my opinion, section 831 of this bill represents just such an encroachment on the part of the Defense Department.

The Small Business Act is good policy. In 1986, nearly 13 million new jobs were created in the United States by small businesses. An increasing percentage of businesses incorporated every year in this country are minority owned. Clearly the small- and minority-owned business community is the fastest growing sector of the U.S. economy. And these are not merely mom and pop operations. Increasingly, they are the kind of entrepreneurial ventures which develop the new and innovative technologies which America needs to stay competitive in today's global economy.

I see nothing wrong in requiring that the Defense Department, and their prime contractors, make a concerted effort to share with these increasingly important small- and minority-owned businesses, a percentage of the contracting opportunities paid for by the U.S. taxpayers. Experience has shown us that we cannot rely on all prime contractors to seek out subcontractors from the small- and minority-owned business community, thus the Small Business Act. Now the Defense Department threatens to weaken this law with the institution of a pilot program which I feel goes too far in relaxing subcontracting requirements on prime contractors.

Mr. President, I recognize that circumstances on the floor are not conducive to a complete and informed debate on section 831 at this time. Moreover, a motion to strike section 831, if unsuccessful, could very well undermine the efforts of the House conferees who will be seeking the elimination of this section from the final legislation. Therefore, I will not move to strike this section at this time.

However, because we haven't had sufficient time to consider the viability and effects of sections 831, and particularly in light of the recent Supreme Court decisions effecting the Government's ability to facilitate minority business development, I urge the Senate conferees on this bill to consider eliminating, in its entirety, section 831 when they meet with the House conferees on this bill.

C-130 SIMULATOR

Mr. BOND. Mr. President, I rise today to express my strong support for language that was included in the report accompanying this bill regarding a western regional simulator training center for the Air National Guard.

The committee notes the selection of Minneapolis-St. Paul as the location for the training facility and states that it wants to ensure that full attention was given to the criteria for selecting the location. The committee directs the Director of the Air National Guard to report, not later than 45 days after enactment of this bill, on the criteria established for location selection and the basis for the selection of Minneapolis-St. Paul as the final site.

Mr. President, the committee should be commended for including this important provision in the bill. When one reviews the criteria that the National Guard Bureau indicated it would consider in making the site selection, it is difficult to understand why Minneapolis-St. Paul would be chosen.

As I told Secretary of Defense Cheney in a letter earlier this month, it is clear that when all relevant factors are taken into consideration, St. Joseph, MO is by far the most logical location for the simulator. I ask unanimous consent that my letter of July 14 to the Secretary setting forth these points be included in the RECORD at the end of my statement.

The location of the western training center is a matter of great importance to our national security. The Air National Guard would play a critical role in any mobilization of U.S. troops, and our Guard C-130 crews in particular would play the major role in transporting troops and equipment in any such situation. I want to make it clear that I intend to monitor closely the preparation and submittal of this report. I further would like to put my colleagues and the Guard Bureau on notice that if the report is not prepared in a timely manner or if it does not provide a satisfactory explanation of the selection criteria, I will offer an amendment to the Defense appropriations bill or other appropriate legislation to reopen the selection process.

I look forward to working with my colleagues and the administration to

resolve this issue and get the western simulator training center operating as quickly as possible.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 14, 1989.

Hon. DICK CHENEY,
Secretary of Defense, The Pentagon, Washington, DC.

DEAR SECRETARY CHENEY: This is to follow up on our recent telephone conversation. As we discussed, I was very disturbed to learn that Minneapolis-St. Paul has been designated as the site for the western regional C-130 simulator training center for the Air National Guard. It is clear to me that when all relevant factors are taken into consideration, St. Joseph, Missouri is by far the logical location for the simulator.

There are several reasons that the simulator should be located in St. Joseph. First, St. Joseph is centrally located with good access to air facilities including Kansas City International and Rosecrans Field, which recently has undergone major improvements. Further, these airports are less subject to closure due to weather problems than is the Minneapolis-St. Paul Airport.

Second, because of the reasonable cost of living in St. Joseph, the costs of housing and feeding Guard personnel and trainees could be kept to a minimum. It is important to note the per diem costs are lower in St. Joseph than they are in Minneapolis.

Third, and I believe most important, St. Joseph currently is home to the 139th Tactical Airlift Group as well as the Advanced Airlift Tactics Training Center. Collocation of the simulator training center with these facilities can only serve to improve the value of each to the entire National Guard.

If the simulator is located in Minneapolis-St. Paul, it will be used only for systems refresher training. However, if the simulator were located in St. Joseph, it could also be used in conjunction with the tactics training center to provide low-level flying awareness training and threat response. I believe it would be a mistake to deny our guardsmen this important training.

I would appreciate receiving a detailed rationale of why Minneapolis-St. Paul was chosen as the site for the simulator. Also, I urge you to review the decision and reconsider it with the points I have raised in mind.

Thank you for your timely attention to this matter.

Sincerely,

CHRISTOPHER S. BOND.

LEASE TRANSFER AT THE UNIVERSITY OF ARKANSAS

Mr. PRYOR. Mr. President, I have an amendment filed at the desk to transfer the lease of property on the campus of the University of Arkansas at Little Rock which is now held by the Department of the Army back to the University of Arkansas. The House of Representatives defense authorization bill contains a provision that is almost identical to my amendment.

Mr. President, the Army has stated that is no longer has a need for the property and has agreed that it is in everyone's best interests to get the property into the hands of the university who can put the property to good use.

For its part, the university has been trying without success to gain use of the property for several years. The school has plans to locate ROTC activities, physical plant, and other functions that are now poorly housed in the property under discussion.

It is my understanding that the Senate Armed Services Committee would, for a number of reasons, prefer that my amendment not be offered to the Senate bill. However, I am told that the committee has already set in motion several actions that may address the purposes of my amendment.

I understand that at this point the chairman of the Armed Services Committee Subcommittee on Readiness, Sustainability, and Support and my good friend may have some comments on this subject.

Mr. DIXON. Mr. President, I appreciate the effort the Senator from Arkansas is making to help the University of Arkansas at Little Rock make use of the property on its campus that is currently provided by the university to the Army under a long term lease.

My staff has indicated that the Department of the Army does not have further need for the property and that it is quite willing to expedite the termination of the lease. I would, however, ask the Senator to withdraw his amendment in exchange for several assurances from me and from the Army in regard to this situation.

First, I am aware of the provision in the House bill that is similar to the Senator's amendment. Although I am proposing that the Senate bill not contain such a provision, I give the Senator my assurance that as the head of the Senate conference panel with jurisdiction over this provision, I will do my best to represent the Senator's wish that the overall objective of the House provision be given favorable consideration.

Second, my staff informs me that they have discussed the property situation at the University of Arkansas with the Department of the Army and has been given assurances that the Army will make a good faith effort to quickly negotiate a leaseback agreement with the university. This could make the property available to the university in very short order, which the Senator has indicated would be desirable. I would consider that such an agreement would supplement rather than supplant efforts to permanently return the property to the University of Arkansas.

Mr. PRYOR. I thank the chairman of the Armed Services subcommittee for his enlightening statement and for the generous assistance that he and his staff have provided me in this matter.

In light of the Senator's assurances regarding the conference action and the assurances given the chairman by the Army regarding a short-term leaseback arrangement, I am happy to withdraw my amendment.

Mr. President, again, I thank the Senator and his staff for their help.

AMENDMENT NO. 619

Mr. LAUTENBERG. Mr. President, last evening the Senator from Iowa [Mr. HARKIN] offered an amendment that I was prepared to support to transfer $450 million of the funds appropriated for the strategic defense initiative, to carry out the Anti-Drug Abuse Act. However, the Senator from Georgia [Mr. NUNN] offered as an alternative an amendment to fund increased antidrug efforts by the transfer of unobligated fiscal year 1989 funds for defense and nondefense discretionary programs. I felt compelled to oppose this alternative.

While I firmly believe that we must fulfill the promise we made when we passed the Anti-Drug Abuse Act, to increase our effort to fight drugs, the amendment offered by the Senator from Georgia was the wrong approach. It cuts funds that we have already provided for a range of critical programs—in education, environmental protection, infrastructure improvements—without regard to their relative value or importance—but instead solely on the basis of the speed with which the funds have been obligated. That is no way to make choices about how to allocate the Nation's resources. I will continue to support reasonable efforts to enhance the fight against drugs.

Mr. INOUYE. Mr. President, I am pleased to express my support for this amendment which has been offered by our distinguished colleague, Senator KEN CONRAD. This proposal was developed by Senator CONRAD in response to testimony presented to the Select Committee on Indian Affairs at a hearing conducted earlier this year regarding policies to increase Indian benefits from Government procurement contracting. The testimony indicated that a number of large defense contractors had established or were considering the establishment of manufacturing and industrial facilities on Indian reservations under circumstances where properly designed Federal contracting incentives would greatly benefit the Indian people on the reservation. After extensive research and consultation, Senator CONRAD's amendment has been developed to authorize credit for that percentage of the contractor's investment which is attributable to Indian employment and or Indian ownership of joint ventures with such contractors. This credit would be toward meeting minority self-contracting goals which have been required of defense contractors.

I believe that this authorization will prove to be an effective incentive and will open doors of opportunity for Indian manufacturing enterprises

through joint ventures with defense contractors. The eligibility provisions limit these incentives to on-reservations enterprises and/or Indian employment so as to ensure that there is no unfair competitive consideration being given to business activities off the reservation. I understand that representatives of Indian tribes and Indian business organizations have been consulted regarding this amendment and have expressed their support. I wish to commend Senator CONRAD for his leadership and effort on this initiative.

THE WAIVER OF REVOLVING DOOR RESTRICTIONS

Mr. PRYOR. Mr. President, I rise today with Senator STEVENS to offer a simple amendment to section 3142 of the DOD authorization bill. Subsection (d) of that section waives important revolving door restrictions contained in sections 207 and 208 of title 18 and section 27 of the Federal Procurement Policy Act for up to 25 Department of Energy employees in so-called critical positions. This waiver is only one part of a personnel package that exempts the Energy Department from a variety of civil service statutes.

The committee report states that these provisions are designed to allow Energy Secretary Watkins to hire the best in the business to deal with the Energy Department's current management crisis. Many of the so-called best in the business currently work for contractors at the Department of Energy's national laboratories, which are Government-owned and contractor-operated. The waiver of the revolving door statutes would allow people to move freely between these contractors and the Department of Energy. However, as the provision is currently written, it is not clear that we will know to whom the waiver applies.

My amendment, therefore, simply requires the Secretary of Energy to notify the Office of Government Ethics whenever a person is hired or leaves the Government under these special provisions. The notification shall consist of the name of the person, the Government position for which he is being hired or from which he left, the contractor for which he worked or is going to work, and the description of the services which the person will provide to the contractor.

This amendment protects the employees who are covered by the waiver by making it clear to everyone that the revolving door statutes do not apply to them and allows the Office of Government Ethics to monitor the use of this special provision. I urge my colleagues to support this amendment.

Mr. CONRAD. Mr. President, I will vote against the fiscal year 1990 authorization bill for the Department of Defense because I believe that it authorizes more spending for defense than this country can afford.

Since 1980, our national debt has more than doubled and our trade deficit has reached unprecedented levels. Our overall level of defense spending has increased also. Even though this particular defense authorization of $305.5 billion represents a slight reduction from last year after inflation, the fiscal 1990 level of defense spending is 41 percent higher than fiscal 1981 after adjusting for inflation. I realize that this figure was agreed upon last December, and consequently is no surprise, but I believe that more can and must be done to reduce defense spending.

The United States currently spends over 6 percent of its gross national product on defense, including our alliance obligations. Our European allies spend on average about half this amount, or about 3.4 percent, while Japan spends about 1 percent. I believe this disparity in defense spending shows that the United States spends more than its fair share to support these alliances.

I have been a vocal proponent of greater allied burden sharing, and I am not satisfied with the progress occurring in this area. I will continue to press for actions to insist our allies assume a more fair share of the common defense burden, and hope that the Bush administration will move quickly to advance these efforts.

I support a strong national defense. However, I believe that we can have a strong defense, and reduce defense costs, if we begin to prioritize. I believe that efforts to improve the efficiency of our overall defense must continue. We will also face tough choices over selection of future weapons systems and how to deploy the weapons systems we have. These choices will only become more difficult in the future. We must accept the fact that we simply cannot afford to build and deploy all the weapons systems we would like. We must use our resources in the most efficient and effective manner so that we match our defense needs with our ability to pay for them.

Two programs illustrate my point. First, this bill authorizes funding for two mobile ICBM systems: rail-MX and the small ICBM. We cannot afford both systems. It is clear that we cannot afford both systems. I believe a choice must be made but the continued funding for both systems demonstrates that we are failing to make this choice.

The second program is the strategic defense initiative. Although I believe that continued research in this area has provided important bargaining leverage with the Soviets during arms control negotiations, I believe a realistic assessment is in order to scale back funding for many aspects of SDI. The Office of Technology Assessment has significant doubts about the effectiveness of SDI as it is now envisioned. The OTA has suggested that the system will be so complex that the chances of a catastrophic failure during wartime are virtually guaranteed. I believe this mandates a reduction in funding of SDI and a continued assessment of its feasibility prior approval of funding increases.

I am concerned not only about SDI and missile program funding, but also our ability to fund future programs. The national debt has continued to grow by over $100 billion annually, and the cumulative effects are staggering. In fiscal 1981 when the total Federal debt was still below $1 trillion, it represented about one-third of our GNP. Now, the current debt of $2.8 trillion is 56 percent of GNP. The interest we will pay to finance this debt is estimated by CBO to total over $262 billion for fiscal year 1990; according to the Wall Street Journal, it cost $37.62 billion just last month alone. I am sure every Senator can think of something more beneficial to the country than paying such high amounts on interest to service the debt. All of our programs suffer because of the inability to make serious progress in reducing the deficit.

I know that a great deal of effort has gone into this bill to make tough choices in defense. I am encouraged by and support these efforts. In my judgement, however, we must do more in view of the staggering Federal budget deficit. Accordingly, I will oppose S. 1352.

Mr. NUNN. Mr. President, as many of our colleagues know, going back a number of years, the Armed Services Committee and the Defense Appropriations Subcommittee have disagreed over the issue of unauthorized appropriations. These have been unfortunate disagreements, because they mask the fact that our committees work very closely and well with each other and tend to agree on issues 95 percent of the time.

But we have had our points of disagreement, which have tended to revolve around matters of committee jurisdiction. Let me say at the outset that both parties have legitimate grievances.

I believe the Appropriations Committee has gone too far in proposing substantive legislation on appropriations bills. We have also seen a dramatic increase in the number of programs that are appropriated at a level in excess of the authorized funding levels.

More importantly, we have also had an increasing pattern where specific policy decisions by the Armed Services Committees have been reversed by the Appropriations Committee in appropriations bills. While any committee or Senator is free to bring such matters to the floor where we should defend our position, frequently these

policy reversals have taken place in conference committees and are brought back in conference reports on continuing resolutions where there has been no opportunity to debate or amend the action.

But I must also say I believe the Defense Appropriations Subcommittee has legitimate grievances. The authorization bills have at times not complied completely with the outlay ceilings, while the Appropriations Committee has had to bring forth bills that do comply with outlay caps. That has led to a rearrangement of appropriations bills that contributed to the unauthorized appropriations problem.

And I also believe the Armed Services Committee has strayed away from its traditional role of providing authorization ceilings and has incorporated spending floors in the authorization bill.

In short, Mr. President, both sides to these disagreements have strayed from our historic roles and have disagreed as a consequence.

Chairman BYRD and I, along with Senators HATFIELD, INOUYE, WARNER, and STEVENS, have worked out a new memorandum of agreement.

Mr. President, this agreement is essentially the same as the agreement that has been in force for the past 4 years. There have been two important changes, however.

First, the agreement now specifically states that the Appropriations Committee will not appropriate funds for programs that have been explicitly terminated in an authorization bill. This has been one of the most serious points of disagreement between the authorizers and the appropriators. We have terminated programs in the authorization bill on policy grounds, only to have that decision reversed by the appropriations bill. And as I have stated earlier, most of the time the programs are restored in conference with the House and come back to the Senate. I believe this agreement goes a long way to solving that problem.

Let me say to my colleagues I have no problem with the normal legislative process. We have included program terminations in this very bill. Any Senator has a right to come to the floor to add additional terminations or seek to delete program terminations in our bill. We should then debate those issues on their merits and vote on them. That is the normal process and we are prepared to go by that process. But I strongly oppose those who say "lets ignore the authorization bill and we will just shove these things back in during the appropriations conference." That is not sound legislative practice, Mr. President, and violates the spirit of the legislative process. I am pleased that the leaders of the Appropriations Committee agree with this basic premise and have included this provision in the agreement.

The second key addition to this agreement is a specific prohibition of the use of obligation "floors" in authorization bills. Mr. President, I have consistently argued that the authorization bill represents a ceiling, but it is not and has never been the basis for spending floors.

The bill we have reported out contains several spending floors. I don't believe they belong there. Frankly, I was surprised they were in there, but in the give and take of markup occasionally compromises are developed which lead to these floors. But the authorization bill should not contain floors.

LEVEL OF CONTROL

Mr. President, there is one issue that is not resolved by this agreement, and that issue is which level of funding is constrained by an authorization act. Put simply, does the authorization act constrain appropriations at the appropriations account level or at the program, project and activity level?

Much of the controversy in recent years has revolved around this key issue. Let me outline the nature of the problem.

The Defense authorization bill and the Defense appropriations bill take the same overall approach to this question. Generally speaking, both bills specify a spending level at the appropriations account level. For example, both bills will say so much can be spent by the Army for procurement of aircraft. Both committees issue reports accompanying their bills that outline the individual programs, projects and activities that are included in the Army aircraft procurement account, and how much can be spent on each of those programs, projects and activities.

The overall approach between our two bills and reports is identical. The two bills provide totals at the account level and the two reports provide guidance at the program, project, and activity level. Both committees consider their reports equally authoritative to the Department of Defense for purposes of those programs, projects, and activities.

Occasionally there will be individual programs, projects, and activities that are included in the bill itself and not just in the report. But the same overall philosophy applies. No one argues that report language is superior to bill language, be it on an appropriations bill or an authorization bill.

Where we have had controversy in recent years is when the reports accompanying the two bills have different funding levels and directions at the program, project, and activity level. Since these reports are not legally binding, but both committees consider their reports equally authoritative, how should the Department of Defense reconcile differences?

Mr. President, in recent years there have been differences, sometimes totaling $6 to $10 billion. I do want my colleagues to know that the Armed Services Committee has reviewed those so-called excess appropriations at the program, project, and activity level and has historically approved of 98 percent of them. Our disagreements have been small, and almost always rooted in substantial policy differences.

This memorandum of agreement does not attempt to resolve for all times the program, project, and activity level issue. The Armed Services Committee recognizes that there will be times and instances where the Appropriations Committee will exceed authorized levels at the program, project, and activity level. And since those levels are outlined in our respective reports, all we ask is an opportunity to review and resolve those individual programs.

It does mean, however, that at the account level, any unauthorized appropriation must be made subject to explicit subsequent authorization.

I can say at least for myself as chairman of the Armed Services Committee that I would expect both committees to take the same approach. The Armed Services Committee continues to believe that its reports represent authoritative guidance at the program, project, and activity level and that the Appropriations Committee should observe those ceilings when it prepares its appropriations bill. The Appropriations Committee will not appropriate funds at the program, project, and activity level in excess of the authorized levels without permitting the Armed Services Committee to review those excess items. And for its part, the Armed Services Committee will not legislate floors of any type. That is a function that belongs exclusively with the Appropriations Committee.

Mr. BYRD. Would the Senator yield on that point.

Mr. NUNN. I would be happy to yield to the distinguished chairman and President pro tempore of the Senate.

Mr. BYRD. I thank the distinguished chairman of the Armed Services Committee.

Mr. President, I believe it is important that we keep in perspective during this discussion the overriding requirements of the U.S. Senate.

I have spent 31 years in the Senate. I am a student of the legislative process, and am dedicated to ensuring that the Senate functions effectively, and in accordance with its rules, precedents, and traditions.

Mr. President, our predecessors in the U.S. Senate established a basic approach to the legislative process that has met the test of time. At the core

of that process is the clear distinction between the authorization process and the appropriations process. These are two interdependent steps in the overall legislative process. The workings of the executive branch cannot proceed without both of these steps. Funds should not be appropriated if they are not first authorized; yet, no activity authorized to be carried out may be carried out without funds appropriated for that purpose.

Many times I have told my constituents in West Virginia that both steps are needed before anything can take place. When Senator Randolph and I served together, I would frequently tell my constituents that both of us had to work together before things would happen in the funding process. Senator Randolph, as chairman of the Public Works Committee, had to make sure the program was authorized before I could ensure that it was funded. That is the legislative process.

The authorization bill provides a ceiling that sets the upper limit on what can be spent, while the appropriations bill provides the actual spending level. The appropriations bill should not break the authorized ceiling, and the authorization bill should not specify any spending floor.

This two-stage process is essential. The legislative process depends on an orderly system of checks and balances—checks and balances between the House of Representatives and the Senate, and checks and balances within the Senate and within the House of Representatives between the authorization process and the appropriations process.

That is the framework that makes for an orderly legislative process and for the procedural health of the Senate, and we should observe that.

Mr. President, I too want to discuss the issue of the level of control that applies to authorization bills and appropriations bills. The senior Senator from Georgia is right when he says that both the Armed Services Committee and the Appropriations Committee should take the same overall approach. I am a member of both committees, as were the chairmen of the Appropriations Committee who have preceded me on the Democratic side. Senator Stennis and before him Senator Russell were members of both the Armed Services Committee and the Appropriations Committee. As with them, I am committed to the integrity of both committees.

Both of our committees report bills that control funds at the appropriation account levels, but both committees also issue reports that provide authorization guidance at the program, project, and activity level.

In general terms, I believe that the two committees must proceed the same way in their bills and in their reports. The Armed Services Committee provides an authorization ceiling that is binding at the account level and authoritative at the line item level. No obligation floor is appropriate in either. And the Appropriations Committee should not breach that ceiling in either level, but is free to establish any spending floor that is binding at the account level and authoritative at the line item level.

As chairman of the Appropriations Committee, I intend to do my best to ensure that the Appropriations Committee proceeds on that basis.

There will be instances, Mr. President, when our two bills and reports may be in conflict. That happens in the legislative process. And when it happens, the important point is not to convert a substantive disagreement into a philosophical battle between the authorization process and the appropriations process, but to resolve the differences on their merits.

I believe the memorandum of agreement we have worked out will do that. We will have differences on policy issues and that is as it should be. But we should have no differences in our mutual dedication to this institution and the legislative process that makes it work.

KERRY/JEFFORDS AMENDMENT ON ANTI-SATELLITE WEAPONS

Mr. JEFFORDS. I am not pleased that parliamentary confusion has prevented the Kerry-Jeffords amendment from coming to the floor. The Senator from Massachusetts was on his feet yesterday, seeking recognition at the agreed-upon time. But we were asked to postpone consideration of our amendment so that the Senate could dispose of pending business. We agreed, only to find ourselves now precluded from bringing up this matter.

The amendment that the Senator from Massachusetts and I had planned to offer is not a radical idea or a new posture for U.S. defense policy. The United States has refrained from testing an antisatellite weapon, Asat, for the last 4 years. Two years in a row, Congress enacted legislation banning the testing of Asat's against an object in space, providing the Soviet Union also refrained from testing. Last year, the Pentagon acknowledged that the Asat program was seriously flawed and canceled it.

The Bush administration is now requesting funding for the MIRACL laser and other technologies related to the strategic defense initiative that the Pentagon hopes will have Asat application. Even though Soviet Asat technology is greatly inferior to United States technology and has not been tested in more than 6 years, the Pentagon is concerned about the vulnerability of our satellites.

Partly because of our superior communications technology, the United States is considerably ahead of the Soviet Union in development of satellite communications and surveillance techniques. The Office of Technology Assessment recently concluded that the United States is also more dependent upon its satellites for essential military functions than is the Soviet Union. It therefore seems to me that we should have an even greater interest in limiting the development of antisatellite weapons and instead direct our resources toward reducing the vulnerability of our existing command, control, communications and intelligence systems.

Recognizing the destabilizing effect of Asat's once thoroughly tested against an object in space, the House Armed Services Committee decided to prohibit the Secretary of Defense from ordering any tests of the MIRACL laser against objects in space unless authorized by law. This position was upheld by the full House of Representatives.

The amendment that we were prepared to offer contains two new conditions that should make it even more acceptable to this body than Asat amendments offered in past years. I urge the administration to give serious consideration to the full text of this amendment, for I think there is much in it that it could support.

As in past years, this amendment would allow unrestricted United States testing if the Soviets test against an object in space. We have added two other important qualifications to our testing restriction. Our test ban would take effect only if the Soviet Union agrees to negotiate constraint on Asats and agrees to United States inspection of its Asat facilities. This amendment requires far more from the Soviet Union than past legislation, and it allows the President greater authority in determining Soviet intentions and United States policy.

The unfolding of "glasnost" and "perestroika" in the Soviet Union had a positive affect upon the Soviet leaders' willingness to engage in arms control discussions. Clearly, severe economic problems are forcing President Gorbachev to cut back on investment in military hardware and technology. Gorbachev's approval of a recent visit by United States scientists to the Sari Shagan Asat site is an encouraging sign that the Soviets may be willing to discuss the possibility of onsite inspections, as required by this amendment.

This amendment capitalizes on the momentum that is building on Asat control, and encourages the Soviet Union to make further moves toward Asat negotiations. It seizes upon this moment of opportunity in the attempt to make substantive progress toward arms control and ensuring the survivability of our critical satellite capabilities. While my colleague and I are not happy at being precluded from offering this amendment today, I hope that

we will be able to offer it at a later date, perhaps as an amendment to the defense appropriations bill. I urge my colleagues to carefully review the provision of this amendment and consider supporting it in the future.

Mr. HARKIN. Mr. President, I cannot in good conscience vote for final passage of the Department of Defense authorization bill for fiscal year 1990. This bill reflects a continuation of business-as-usual: we make incremental changes around the margins, when fiscal reality calls for bold action.

Everyone knows that we are going to have to cut defense spending in the years ahead, if we are to avoid a worsening of the Federal debt catastrophe-in-waiting. Everyone knows cuts are inevitable, but we turn our heads, preferring smoke and mirrors to honest choices.

The President's 5-year defense plan assumes increases in defense spending above inflation. It assumes very optimistic economic trends, including inflation falling to 1.5 percent by 1994. Even with these optimistic assumptions, the President's own defense plan includes $45 billion more in expenditures than receipts. With realistic economic assumptions, the 5-year plan would add something like $300 billion to our growing Federal debt.

This is not tolerable. Cuts will have to be made.

The DOD bill for fiscal year 1990 reflects this rosy economic outlook. It ignores the hard choices. It continues all major strategic weapons programs, including the MX rail garrison, the Midgetman, the B-2 bomber, and the costly star wars program. We will not be able to pay for all these programs in the years ahead, so continuing them now will only exacerbate our economic woes in the future.

All the much publicized cuts made by Secretary of Defense Cheney were in the conventional weapons area, such as the proven F-14 fighter and the revolutionary new V-22 Osprey tilt-rotor aircraft. We are cutting our conventional capability while continuing to add to our plentiful and grossly redundant nuclear weapons.

Actually, these were not cuts in spending, but rather cuts in the increased budget levels proposed by the outgoing Reagan administration. The total DOD budget for this year is higher in constant, inflation adjusted dollars, than at the peak of the Vietnam war.

Given our perilous economic predicament, and given that international relations are improving, we need to ask whether a blind continuation of past military spending profiles is in the best interests of the United States. In previous post-World War II periods of peace, our defense establishment consumed about $200 billion per year in 1990 dollars. Defense spending fell to about $200 billion after the Korean war and after the Vietnam war. During the Reagan administration, spending escalated to the current $300 billion per year level. I see no reason to continue these wartime spending levels indefinitely, particularly if this contributes to our obscene Federal debt.

It is time that we redefine "national security," to include not only military strength, but also economic and social strength. The health and well-being of our citizens and the health of our economy is just as important to our national security in the long run as military strength.

Our national security is threatened primarily by internal enemies: Crime, illegal drug abuse, environmental degradation, trade deficits, Federal budget deficits, and falling economic competitiveness. Every dollar spent on the military in excess of our real defense needs diverts resources from combating these internal threats to our security.

In my judgment, we must reevaluate our military needs in a changing world. We must reevaluate our need for excessive nuclear weapons arsenals. We must reevaluate our need for large standing armies in Europe and Asia. And We must reevaluate dangerous and costly programs like the star wars.

This defense authorization bill fails to take into account these realities of the 1990's. I must therefore vote against final passage.

Mr. GORE. Mr. President, last week, in the other body, a serious mistake was made in the area of strategic nuclear policy, when the House voted to cripple the MX rail mobile program and to defund the Midgetman. As a consequence of that mistake, the President's strategic modernization program was placed in jeopardy, and so too was the orderly laying out of a U.S. arms control proposal that builds upon the START framework, as inherited from the Reagan administration. It was a case in which the center could not hold: When consensus based on common values broke down, and when a temporary alliance of political polar opposites was able to seize the moment, and disable the strategic modernization program.

If we in the Senate had repeated that mistake during this week, what would have been the result?

Congress would have said, in effect, that the United States ought not to have any component of its ICBM force deployed as mobile missiles, despite the fact that all agree that ICBM's in their silos are vulnerable to attack, and that this is undesirable.

It would have said, in effect, that we want strategic arms control to proceed, despite the fact that we would have just disabled the President by rejecting his options for modernization.

It would have said, in effect, that it does not matter that the Soviet Union is in the process of deploying two versions of mobile missiles: one rail mobile like the MX rail proposal, and one truck mobile, like Midgetman.

It would have said, in effect, that it does not matter if in the future, the Soviets can hold United States ICBM's at risk in their silos, using mobile missiles of their own that we cannot touch.

And it would have said, in effect, that there is no value to the Nation in consensus on strategic affairs: That it is better we continue to battle among ourselves, while our opportunities to do business with the Soviet Union slide by.

Fortunately, however, we have in this bill taken a different approach. Instead, because we kept our good common sense, we will send our representatives into conference, armed with the means to rescue an approach to strategic forces which can command bipartisan support based on some collective agreement about sound policy.

Mr. President, what is that approach, and why should we make a special effort to preserve it?

The approach we need to protect is the administration's package involving redeployment of MX as a rail mobile, to be followed by deployment of the Midgetman. That package makes sense as an objective for strategic modernization, and it makes just as much sense as a basis for arms control.

MX as a rail mobile is a partial solution to the problem of vulnerability, but inadequate in and of itself. It requires a substantial amount of time in which to scatter, and the resulting period of half a day of vulnerability tells Soviet planners to place the highest premium on surprise. Midgetman, on the other hand, is in effect invulnerable to attack with 20 minutes of warning time. The combination of these two forms of mobility offers us something close to the ideal: Our largest missiles can be made invulnerable, given time; but their escape during this period is continuously covered by the Midgetman.

Let me amplify that argument.

Five hundred warheads on MX missiles, deployed as rail mobile systems, can survive a Soviet attack of considerable proportions, if given something on the order of half a day to travel away from their bases. But so long as they are on those bases, or still within the zone of attack, they are readily vulnerable. And the argument that they can be launched on warning may be technically correct, but it is not the answer we want to the problem. We want to defeat the logic of any conceivable Soviet first strike program, without having to depend upon the final and catastrophic option of

launching our missiles, rather than losing them.

Midgetman, on the other hand, can scatter in 15 minutes to cover a very large region which the Soviet Union would have to barrage in order to attack it. Given that the Midgetman launcher is exceptionally blast resistant, the resources needed for that barrage would be extraordinary. To be as exact as possible without resorting to classified information, if given about 15 minutes running time, the destruction of a force of 500 Midgetman missiles would require virtually all the throw-weight available to the Soviets in their current force of heavy ICBM's. That is enough throw-weight for about 3,000 warheads. Given another 10 minutes, Midgetman cannot be destroyed unless the Soviets use all—I repeat all—the throw-weight available to them on all—I repeat all—their ballistic missiles, land and sea based.

Now some people think that this kind of capability is too expensive for us to buy at $50 billion. Maybe they are right. But that isn't the price anyway. For approximately half that price—for about $25 billion—we can acquire a force of 500 Midgetman missiles, and for $5 to $6 billion, we can operate that force for the next 15 years, including the cost of personnel. And at that rate, it is a bargain, because once Midgetman is added to our arsenal, there is no way to plan even a theoretically successful first strike attack against our ICBM's. If we complete this deployment, we can close the book on more than 15 years of aggravated debate, false starts, and lost opportunities, all of them related to our concerns about the vulnerability of land based ballistic missiles.

And why should we go to these lengths? Is it because we think a Soviet first strike is rational? Of course not. All of us know that nuclear war is madness. All of us know that even in a worst case, the United States will have enough weapons at its disposal after a Soviet first strike, to deliver a devastating counterblow. So why don't we just agree with the opponents of ICBM modernization, and live with the problem of vulnerability, without letting it disturb us overmuch?

The reason we cannot do this, Mr. President, is precisely because life makes us wary of relying excessively on the rational behavior of anyone, all the time, when survival is at stake. Who among us is going to say that the history of this century is the history of rational behavior among nations? Who among us is going to say that even a theoretical first-strike capability would mean nothing in the hands of the Soviet Union? And who among us would not regret the existence of such a capability if it were to exist at some moment of deepest crisis?

And who among us, for that matter, is ready to advocate that U.S. nuclear doctrine be based exclusively on mutual assured destruction? That is not what our doctrine is now. We have not wanted to have such a doctrine since the 1960's. We have tried to provide Presidents with the options to be discriminate even in the extreme circumstances of nuclear warfare. That is why we have precision guidance in our nuclear delivery systems. That is why we need to make sure that enough ballistic missiles survive to carry out missions that are still discriminate. And that is why those who tell us to take comfort in the availability of a crushing counterblow are missing the point. If all we have is that counterblow against Soviet cities, our strategy will have been defeated. To protect our strategy requires survivable ballistic missiles.

Mr. President, we are not going to ignore the existence of the vulnerability problem. We have to solve it. Now of course, there is another way to do so, at least in theory, and that is SDI. This is the preferred conservative alternative. But SDI is intensely controversial, it is technologically uncertain, it is expensive, and it can only be deployed if we abrogate the ABM Treaty. So whatever else you might say in its favor, it is hardly the line of least resistence toward a solution to this problem. On the contrary. Let us therefore settle the vulnerability problem by means that are technically available, and far less controversial than SDI, leaving the future of SDI to be worked out as we go along.

There is in fact just one, and exactly one, option for dealing with this problem that is workable, feasible, and affordable: and that is the mobile missle package.

But what about arms control? Is not that the way to solve the vulnerability problem? Yes, it can be, but not for free. In fact we have tried before to design arms control approaches that made reductions alone the key to relief from fears of a nuclear first strike: The key to stability. It has never worked, because the changes demanded are so radical. Arms control and modernization must be worked in tandem. We should have learned finally, that reductions and stability are not necessarily one and the same. We should have learned that reductions require adaptations in the force postures of both sides, if stability is to be protected, and that these adaptations cost money.

Money spent on mobility is money spent on stability, and that is money well spent. And considering the implications of nuclear war, the case can be made that money spent on nuclear stability has higher priority than money even for conventional forces, even in a period when choices must be made.

Personally, I hope that the President will eventually propose to the Soviet Union that we either ban MIRV'd mobile missiles or perhaps ban all land-based MIRV'd missiles, with a transistion over time to single warhead missiles on land. An outcome in which neither we nor they have rail-based MIRV'd missiles would enormously relieve the problem of working out verification rules, and it would substantially reduce problems we may have with the potential for a Soviet breakout from an arms control agreement.

Now, some people may believe that Soviet agreement to unilaterally do away with all such missiles is ours for the asking: Merely the next in a series of unilateral moves on their part. If you believe that the Soviets will cut these forces without some offsetting compensation on our part, then you believe that we can gut our ICBM modernization program and not suffer for it in arms control.

I do not believe that this is the way of the world, even under glasnost. If we do not have credible deployment options of our own, I do not think we can expect the Soviet Union to absorb the cost of stability by themselves. It is a judgment call. If you believe in a free lunch, kill off our programs and then ask for a deal. If you believe in reality, let programs move forward, and then negotiate for a deal.

And so, Mr. President, whether the issue is nuclear moderization or nuclear arms control, it seems to me that the Senate has made choices this week which point in the right direction. We have indicated support for the President's approach to ballistic missile modernization. We have supported the values of bipartisanship and we made the extra effort to secure them for the Nation. Hopefully, when we meet the repesentatives of the other body in conference, better counsel will prevail.

WHITEMAN AIR FORCE BASE

Mr. BOND. Mr. President, an amendment I was prepared to offer today would increase funds for construction of B-2 bomber facilities at Whiteman Air Force Base by $25 million. Whiteman Air Force Base has been designated as home to the first wing of B-2 Stealth bombers that will be deployed. To prepare for this, construction has started on the many facilities that will be needed to accommodate the planes, their support equipment, and their crews.

For fiscal year 1990, the President requested $100.5 million for B-2 related construction at Whiteman. The House authorized $100.5 million of this amount. The Senate Armed Services Committee cut the requested amount by $50 million. This amendment would increase this amount by $25 million to allow base officials to

keep pace with necessary construction and infrastructure improvements.

The additional $25 million is necessary to continue with important projects such as temporary housing for new personnel, visiting officer quarters, a mission operations center, and an engine maintenance facility. In addition, the money will go to continue critical infrastructure improvements such as road improvement. This is necessary to avoid construction bottlenecks in future years as the pace of construction advances.

Whiteman is located in a rural part of Missouri; and the base has not seen fixed-wing aircraft in over two decades. This means that there is much that needs to be done to prepared for the new aircraft. This amendment provides the funds that are necessary for this process. It does so while recognizing that the B-2 program is likely to slip from its original timetable and accepting reductions from the original funding request.

Mr. NUNN. I understand the concern of the Senator from Missouri. I would point out however, that the House has provided $100 million for B-2 related construction at Whiteman AFB. I assure my colleague that the Senate conferees will take into consideration his concerns on this issue and attempt to address them in their dealings with the House.

Mr. BOND. I appreciate the chairman's understanding and consideration. I look forward to working with him and the other conferees as this bill progresses.

Mr. DODD. Mr. President, the first time in several years we were facing substantial decisons concerning all three legs of the strategic triad in the defense authorization debate.

We continue to struggle to reach the best way to modernize our land base forces, to agree on deploying either a sufficient MX force or a Midgetman force or a mixture of the two.

After the relatively noncontroversial years of research and development, the B-2 Stealth bomber program has arrived to a crucial crossroads. We have a very costly airplane that has made its first flight and we have to decide its future.

Finally, there was an attempt to terminate the Trident program short of its planned 20 ships by deleting advance procurement funds from the bill.

Mr. President, it is for approximately three decades that we base the structure or our strategic deterrent force on the concept of the triad. In other words the triad kept the peace for our country that long. There may be a day when we will not need to possess weapons of mass destruction in order to live in peace and relative security, but that day is clearly not here yet. There may be a day before that, when we can do with less systems than those required by a three-legged triad but, based on the history of the last 30 years, this Senator will need some convincing when that day arrives. I do not believe any Member of this body is ready to argue that the traid concept is obsolete. The obvious conclusion is that for the time being we have to continue to maintain and modernize the strategic systems comprising the strategic traid while making vigorous efforts to negotiate equitable and stabilizing arms control agreements with our major adversary.

I regard myself as a solid supporter of strategic modernization in spite of my strong belief in the desirability of arms control and disarmament and a voting record that reflects that belief. My problem is not with the idea of modernization, which I support. Not even with this or that system, because their strengths and weaknesses are usually arguable, because their arcane technical details are often accessible only to the most highly trained scientist, and because these systems are rarely perfect but rarely useless either.

What increasingly bothers me after the strategic debates of the past decade is that we are less and less able to make up our mind collectively on how to proceed with these systems. I emphasize the word collectively. Individually we may well be able to decide wisely and coherently, but as an institution we lost the ability to translate those individual choices into a coherent collective decision. With almost every new strategic programs of the last 10 years or so, instead of saying a straight yes or no, to produce or not to produce, we arrive, as a body, to half decisions, delays, fences, reductions and other similar devices to kill time and hide responsibility.

Of course, every one of these measures may be justified in one case or another. There are perfectly good reasons to reduce programs, to stretch out programs, to fence funds, et cetera. But when we do not seem to be able for years to make a coherent and final decision for or against the MX, for or against the B-1, for or against the Midgetman, and we are now about to start down on the same road with the B-2, I get uneasy.

I am afraid that in many cases these devices are employed to make it possible for us to vote on both sides of an issue. To give you an example, to vote straight for the production and deployment of 200 MX missiles might have been painful. To vote flatly to scrap the program may equally be painful. To vote to cut the program to 100 missiles, then to 50, and fencing the funds every which way, however, means being both for and against the MX. I am not making here an argument either for or against the MX missile. I did oppose it in most of its incarnations but I may have been wrong. I am arguing that we must find a way to make sensible and lasting national decisions on these questions.

What drives our desire to kill time and hide from responsibility is probably the enormous cost of these programs. All of them cost obscene amounts of money. What I am afraid of is that in many cases our nickel-and-diming will not only reduce the effectiveness and strategic value of these programs but ultimately increase their cost as well.

I have just as hard time with the full program cost of the B-2 as any of my colleagues. I want to endorse fully, however, Secretary Cheney's admonition to either continue to fund this program, or to kill it, but not to nickel-and-dime it to death. There may be a touch of bravado in the Secretary's challenge but that is just one more reason for us to face it in a straightforward fashion.

Four years after President Carter canceled the B-1 bomber, by a controversial decision, President Reagan revived it. I strongly opposed that move and I hope more and more of our colleagues realize that the worst enemy of the B-2 program is the fact that the B-1 has been produced. It gives me no pleasure at all that those of us who opposed this resurrection has proven to be right. In fact, our colleague, Senator BYRD was probably the first to recognize the B-1 as the worst enemy of the Stealth bomber. He introduced amendments yearly to protect the Stealth funds from encroachment by the B-1 program and in that respect he was successful. The fact remains, however, that the two programs were spaced much too closely. It is also indisputable that the forced schedule of the B-1, with production decisions made on the basis of inadequate testing, has created serious doubts not only about the B-1 but about the B-2 program as well, regardless of the actual merits of the latter program.

This being the case, I commend the members of the Armed Services Committee for doing their best to prevent the repetition of this mistake through the rigorous testing requirements that they have incorporated in this bill. With these conditions I was willing to support their proposal to go ahead with the B-2 program for the time being. But I also intend to stay with them in insisting on strict adherence to these conditions.

Mr. President, earlier in this debate I have already stated my reasons to rigorously oppose the idea of cutting short the Trident program. Let me just briefly restate that at a time when we have very major problems and uncertainties with both the land based and the air-based leg of the triad, it would be simply irresponsible to tinker with the only totally healthy component.

As for the modernization of our land based deterrent, the time has come to make some hard decisions. I do not think we need, neither can we afford, two new mobile land-based missiles. I am convinced that the production and deployment of the Midgetman missile is the best solution to maintain the effectiveness of the land-based deterrent. This choice does not mean getting rid of the MX missiles. Fifty of those have been produced and I would not oppose putting them in hardened silos. What I have opposed was going ahead with the rail garrison basing mode in spite of all the shortcomings of that idea. The Midgetman offers increased mobility and invulnerability, and offers a less inviting target for a prospective first strike.

As we all profess adherence to maintaining the triad concept, we have to act accordingly. We have to choose decisively, because avoiding the tough choices, opting for half measures will not only fail to assure our security but may cost us much more on the long run.

I wish we had made a few more decisive choices in this bill, particularly with respect to the land-based strategic forces. At the same time I realize that the companion bill passed by the other body pretty much boxed us in, restricting our choices considerably. Under these circumstances the Senate has produced a strong and responsible bill. Particular praise is due to probably the most effective pair of managers of the whole U.S. Congress, the distinguished Senators from Georgia and Virginia.

Mr. President, in spite of reservations I mentioned, I was pleased to be part of this effort to provide for the maintenance and the strengthening of the defenses of our Nation. I urge my colleagues to support this legislation.

Mr. DURENBERGER. Mr. President, I rise today to express my support for S. 1352, the National Defense Authorization Act for fiscal years 1990 and 1991 and to share my views with my colleagues on this legislation.

I want to commend the members of the Senate Armed Services Committee for their excellent work—especially the chairman, Senator NUNN, and the ranking minority member, Senator WARNER. We all know too well how difficult the defense authorization process is and considering the demanding schedule we face before the August recess these gentleman have accomplished a more than difficult task.

Moreover, I want to commend the Committee's decision to direct the Department of Defense to report on the financial factors that can adversely impact the health and vitality of industries deemed critical to national security. Included in this review will be an analysis of the present and future effect of mergers, acquisitions, and takeovers of the United States' industrila and technological bases. I share the Armed Services Committee's concern that we need to evaluate how the Federal Government can better facilitate industry's investment in science and technology. We must recognize that our long-term defense posture is dependent upon a technologically advanced and sophisticated economic industrial base.

The passage of this legislation is a watershed in the defense authorization process in two senses. First, notable progress has been made towards the complete adoption of a 2-year authorization for national defense. While biennial budgeting could not be accomplished this year, I am certain that both the administration and my colleagues remain dedicated to improving the efficiency and stability of the defense authorization process.

Second, this bill marks a steady, 5-year decline in real budget authority and outlays for defense funding. S. 1352 authorizes $305.5 billion in budget authority and $299.2 in outlays for fiscal year 1990 national defense spending. This is 37-percent less than the funding level projected by the Department of Defense for fiscal year 1990 4 years ago and 7.2-percent less than President Reagan requested last year.

I know my colleagues share my understanding that the amount of money spent on defense is enormous. Defense spending must face the same examination given to all areas of Federal spending. Considering our current fiscal constraints, we must be prepared to eliminate projects that do not make a contribution to our defense posture in proportion to their cost. Nonetheless, the level of funding authorized for national defense for fiscal year 1990 and 1991 is an excellent allocation of resources in view of the current budgetary constraints.

I applaud the efforts of those who have taken the time and effort on analyzing the actual contents of each budget request, in order to minimize waste. In light of the recent improvements in our relations with the Soviet Union, the Warsaw Pact and the participants in several regional conflicts, we must conduct a review of our priorities, both at home and aborad. This review should further hone our defense priorities—balancing our ever changing perceptions of threats and our fiscal constraints. I am confident that the Congress, in tandem with the Bush administration and the Department of Defense will continue to successfully craft a fine balance between our defense needs and budget considerations.

The U.S. Senate made some considerable changes to President Bush's final budget requests. The President's defense budget proposed to reschedule 10 weapons programs and proposed to cancel 8 programs, including the V-22 Osprey, the F-14D Tomcat, a final SSN-688 submarine, the AH-64 Apache, and the F-15E after fiscal year 1991. Subsequent Senate and House action has authorized $1.2 billion for the F-14D program and over $255 million for the V-22.

As the result of an agreement between the Secretary of Defense, the leadership of the Congress and the administration, President Bush requested $4.9 billion for the strategic defense initiative; $4.7 billion for the B-2 Stealth bomber; $1.9 billion for the MX missile; and $100 million for the Midgetman missile. This compromise was intended to further both our strategic deterrent and our negotiating position in the current strategic arms negotiations.

B-2 STEALTH

We have only recently witnessed the actual flight of the Stealth bomber, or B-2. Unfortunately for the program, which is 18 months behind schedule, the most recent reports indicate the price for the B-2 had greatly exceeded previous estimates—to almost $532 million per aircraft for a fleet of 132 Stealth bombers. I have reservations about committing more than $60 billion to a program that faces serious questions about its effectiveness and its basic mission.

Our national security requires that the air component of the strategic triad present a viable deterrent. The B-1, despite its problems, is deployed, has been paid for, and will enhance deterrence for many years. Furthermore, the B-2 is limited by the fact that it cannot perform the multiple missions currently conducted by our bomber fleets. As I wrote in my 1984 book, "Neither Madmen nor Messiahs,"

> In my opinion, it is important that we obtain the maximum possible flexibility from the weapons in which we invest. This was the view mandated by Congress, in 1980, and it remains binding today. So long as the new Stealth Bomber is not capable of multiple missions, the B-1 remains the better choice.

Accordingly, I supported the committee decision to reduce the funding for the B-2 program by $300 million and to place nine stringent tests for the B-2 program to pass for the funds to be obligated.

MX ICBM

Since the MX missile was first conceived in the 1970's, it has been justified by a number of concepts such as window of vulnerability and limited nuclear war. There are two fundamental, theoretical flaws with the MX missile. First, because the MX carries 10 warheads, it is an attractive target for a Soviet first strike. Second, the MX lacks a basing mode which increases ICBM survivability. As I wrote in my book, "Neither Madmen nor Messiahs":

If any one weapons program demonstrates the paralysis of strategic thought, that weapon is the MX missile.

During the last decade and a half, the underlying rationale has changed and considerable time, money, and political capital have been wasted in pursuit of the MX program.

I first opposed funding the MX missile in May 1981, because the Reagan administration failed to resolve my concerns about program goals. Since that time, I have repeatedly opposed funding for the production and deployment of the MX missile. I have voted many times against the MX program and have expressed my concern to the current administration. The latest basing mode called rail garrison makes no more sense than the 30 previous basing ideas. The MX remains not only a missile without a home, but also a missile without a compelling strategic jusification. I would prefer to see no more tax dollars spent on a missile that is wasteful at best and dangerous at best.

STRATEGIC DEFENSE INITIATIVE

The possibility of a defensive weapons system which could protect the United States from a nuclear attack is a highly attractive concept. Factors, however, such as technological research, developmental testing, arms control concerns, and fiscal constraints all must be taken into account prior to the realization of a functioning and reliable strategic defensive system. The SDI program is still in the early stages of that development and may be years away from deployment.

While I do support research into SDI technology, I did not support the administration's full funding request and I maintain my reservations about production and deployment. I felt that the administration's request was excessive and lacked well-defined program goals. In past years, I have supported the reductions recommended by the Senate Armed Services Committee and again this year I supported the $366 million reduction marked up by the Committee. During the debate on S. 1352, an amendment authored by Senator JOHNSTON, calling for an additional $558 million reduction in the SDI budget for fiscal year 1990 was rejected by the full Senate. In light of the excessive cuts made by the House of Representatives, characterized by Senator NUNN as not rational, I voted to table the Johnston amendment. While a compromise position will be reached during the Conference Committee for this bill, I firmly believe that the reductions made by the House were excessive.

BURDEN-SHARING

In the past few days, the Senate debated the periodically contentious issue of burden-sharing. Senators BUMPERS and MCCAIN offered two different approaches to this major economic and political concern. The Senate unanimously adopted an amendment offered by Senator MCCAIN, which would instruct the Department of Defense to report to the Armed Services Committee on the costs and conditons of American forces overseas. This report woud also outline measures that could be taken to rectify any discrepancies.

On May 30, President Bush announced his conventional arms control proposal for Europe. He called for the United States to reduce its ground forces by 30,000 and the Soviet Union to reduce their ground forces by 350,000, for a final level of 275,000 troops on each side; and for the North Atlantic Treaty Organization [NATO] to reduce its land-based aircraft by 977—a cut of 15 percent—and for the Warsaw Pact to reduce its aircraft by 6,450—a cut of 53 percent. These asymmetrical cuts are to be completed by 1993, and the treaty codifying the reductions to be signed within a year. I firmly believe that these negotiations are the best method to address any concerns about sharing the defense burden assumed by the United States.

Until NATO and the Warsaw Pact forces are more in balance, a premature elimination of our conventional forces could risk NATO security. As soon as productive conventional negotiations begin, the United States should also open concurrent talks on the third zero—eliminating short-range nuclear weapons in Europe—in conjunction with conventional arms limitations.

Mr. President, I am confident that I speak for my colleagues when I say that our utmost national security concern to support policies that make war less likely. Arms control agreements, mutually negotiated, equally countered with a strong defense, can make a significant contribution toward this goal. As we have seen in the past, negotiations are a building process, and progress in one area can lead to progress in another. As a strong supporter of arms control measures, I feel that we must consistently balance our national defense preparedness with efforts to negotiate reductions in conventional weapons.

While I believe reductions in defense spending are periodically necessary both because our economy cannot sustain such rates of spending and some of the military programs are not needed to insure national security, it must be noted that we have entered our 5th year of real decline in defense spending. The need for an adequate defense is evident by the conflicts around the world. We have to be able to defend our country and our citizens to protect the freedoms we cherish. We cannot afford to return the misguided approach to defense in the 1970's, when the neglect of defense needs led to a dangerously underequipped and unprepared military. Our duties to provide for a common defense and as the world's leading democracy should not be made to suffer without a strong and dedicated guide.

Mr. WARNER. Mr. President, the distinguished chairman, the Senator from Georgia, and myself are drawing to a close and conclusion of the matters relating to the defense authorization bill. I think this is an appropriate opportunity, while we are concluding a few details, for me to take a little time—I do not want to be rushed—to acknowledge my deep appreciation for the cooperation of the distinguished chairman; Mr. Punaro, his chief of staff; and all members of the majority.

In the 11 years that I have been privileged to serve on this committee, I have never seen better staff cooperation and a higher degree of nonpartisan advice across the board to the membership.

Mr. President, I made that identical statement when we started the bill, and I just reiterate it again tonight with even a sense of stronger conviction and appreciation to these hard-working people.

On our side, we have Mr. Tucker, who is the senior member of our staff, serving both as the chief of staff and counsel.

Directly serving with Mr. Tucker is Les Brownlee, former colonel, U.S. Army. He is the deputy staff director with cognizance over the Army ground programs and a great deal of time on those portions of the bill that relate to drug enforcement.

Mr. Brian Dailey, professional staff member on the strategic issue. He succeeded Robert Bott, who had served for several years on our committee staff. Mr. Dailey, in every way, has fleeted up to take over the enormous responsibilities at that post.

Jonathan Etherton, professional staff member in the acquisition area.

Judith Freedman. Judy Freedman is a professional staff member who we refer to respectfully as our secretary of state.

George K. Johnson, professional staff member on personnel and MilCon.

Ronald P. Kelly, professional staff member in the O&M and the readiness area. In the judgment of myself and others, Mr. Kelly is growing steadily in taking on additional responsibilities in the area of the O&M and other areas. We express our appreciation to him.

George Lauffer, professional staff member, working in the strategic area and particularly with those energy issues that relate to the Department of Energy and in this year, of course, particularly the nuclear cleanup.

Jack Mansfield, a new staff member on the professional side; again in the strategic area.

Durwood Ringo, former test pilot, U.S. Marine Corps, professional staff member, tactical air.

Mark Robinson, professional staff member, projection forces. And he has a particular responsibility, having been a former naval officer, in the area of naval shipbuilding.

Ann Elise Sauer, who has joined me here this evening as we conclude. She is a professional staff member with the full range of responsibilities respecting the budget. She more or less is our liaison with the Appropriations Committee, extraordinarily professional, and we are fortunate to have retained her services for these many years.

Staff assistance, Barbara Gallo, Elizabeth Ann Harlow, and Claire M. Kelly.

Last, special assistant Inga Schoonover, who works with the senior members of our staff and catches a great deal of flak but handles them extraordinarily well such as they cannot hide from this Senator and all members of the minority side in the Armed Services Committee who share fully with the Senator from Virginia the professional services and, indeed, the friendships that grow out of the close working relationship between the Senators and members of the staffs, both majority and minority.

I pay my respects to you. I thank you.

I thank the Chair.

Mr. NUNN. Mr. President, we have some technical amendments. I believe the Senator from Florida has an amendment. Perhaps we ought to take the amendment of the Senator from Florida now and then I will have a few comments.

AMENDMENT NO. 657

Mr. MACK. Mr. President, I have an amendment at the desk and I ask that the amendment be in order and that it be immediately considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Florida [Mr. MACK] proposes an amendment numbered 657.

Mr. MACK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in Title III, insert the following:

SEC. . TUG AND TOWING SERVICES AT PORT CANAVERAL, FLORIDA

With respect to tug and towing services for the Department of Navy at Port Canaveral, Florida, the Secretary of the Navy shall personally make any determination required by Part 19.502-2 of the Federal Acquisition Regulation.

Mr. MACK. Mr. President, this amendment has been cleared on both sides. I thank the managers and ask that the amendment be adopted.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Florida, [Mr. MACK].

The amendment (No. 657) was agreed to.

Mr. MACK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 658

Mr. NUNN. Mr. President, I send an amendment, which are technical amendments by the managers, to the desk and ask that it be in order and that it be immediately considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 658.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 16, insert a comma after "aircraft".

On page 63, line 20, strike out "$1,700,500" and insert in lieu thereof "$1,700,500,000".

On page 181, line 21, strike out "3" and insert in lieu thereof "642".

On page 183, line 17, strike out "3" and insert in lieu thereof "642".

On page 185, line 9, strike out "7" and insert in lieu thereof "646".

On page 397, beginning with line 20, strike out all down through line 4 on page 398 and insert in lieu thereof the following:

(c) LIMITATION ON CERTAIN PAYMENTS.—After the effective date of the transfer provided in subsection (b), the Secretary of Defense shall pay to the Administrator of General Services only the costs incurred by the General Services Administration in furnishing space, repairs, alterations, maintenance, and other services and facilities to the Department of Defense in the National Capital Region until after renovation of the Pentagon building has been completed or until after September 30, 1999, whichever is earlier. Payments by the Secretary of Defense under the preceding sentence shall be in lieu of the payment of any charges the Administrator of General Services is required to make against the Department of Defense under section 210(j) of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 490(j)).

On page 447, line 20, strike out "5332" and insert in lieu thereof "5532".

On page 271, beginning with line 15, strike all through line 3 on page 273.

Mr. NUNN. Mr. President, I just want to take a few minutes to express my deep appreciation to everyone on the Armed Services Committee and really to the staff, as well as to the Senators here in the Chamber for their cooperation and assistance in moving this very important bill, certainly year in and year out probably the most difficult bill we have facing us in the Senate in terms of the interest in it, the number of amendments, and actually the effect of this bill on our national security, the effect of this bill in many areas of our country and abroad.

Mr. President, we have debated this bill now for 7 days. We have made steady progress in getting us to where we are now. The Senate has considered 83 amendments on this bill, 14 of which were rollcall votes.

This compares to 8 days of debate last year, 97 amendments, and 26 rollcall votes on this bill.

Two years ago we had 15 days of debate, 118 amendments and 52 rollcall votes.

So we are moving in the right direction, I would say to my friend from Virginia, even though it has been a long week, this week and last week.

I am especially grateful to the Senator from Maine, the distinguished majority leader, for his superb leadership, for his assistance at every step of the way and also I would say the same for the minority leader, the Senator from Kansas.

These two leaders with their dedicated efforts help us to complete our action on this bill.

I want to particularly pay tribute to my good friend and colleague, Senator WARNER, the ranking minority member of the Armed Services Committee for his splendid assistance and help and cooperation and leadership every step of the way from the very first day of the hearings on this bill right through this point. He will be of continued assistance and a cooperative colleague and partner as we go through conference, which is going to be very difficult, as everyone knows.

JOHN WARNER is truly one of the most knowledgeable, well-informed Members of the Senate in the area of national security, as well as many other areas.

I also want to thank each of our subcommittee chairmen and ranking members for all the work they have done during the entire year. They have had literally hundreds of hearings and they spent thousands of hours working on this bill.

I will not call any names tonight. I am not going to name the staff or the Senators because I know all of our colleagues are ready to go, but I do want to mention Arnold Punaro, as the chief staff director; and the minority staff director, Pat Tucker, and each and every member of their staffs. Those who have been on the floor have been superb. They have to analyze every single amendment. They have to present the majority and minority leaders on the floor for the bill,

Senator WARNER and myself, with an analysis of every amendment.

The number of amendments we have handled this year comes to 83 amendments, but there were, at least, I would guess, 150 to 200 amendments filed. Every one of those amendments had to be analyzed. Many of them are filed where you have only 10 or 15 minutes to be able to analyze them and explan them before the Members are called on to vote on them.

So we have to have a superb staff and we are indeed very fortunate to have the hardworking group of professionals on both sides assist us in our work.

I would say a word to their families, because their families do not see them very many hours of the day for at least the month that we have been engaged in the subcommittee markups, the full committee markup, and the full action. I gather and guess each of these staff members spent at least 16 to 18 hours a day for the last 30 days working on this bill. I would say when we take a recess at the end of this week, I hope each one of them would cut back to around 12 hours a day and take off on Saturday afternoon and Sunday the whole month of August.

That is somewhat facetious, but not much, because they are going to have hundreds of hours of work to get ready for the conference. We are going to have more differences with the House, more profound differences this year than we have had in a long, long time.

Also, a large measure of thanks is owed to Mr. Hugh Evans and Mr. Greg Scott of the Senate Legislative Counsel's Office for their tireless and dedicated and tremendously helpful work on this bill. It certainly is no secret that we face a very difficult conference with the House on this bill. We will all come back from the August break, hopefully ready to work on a reasonable conference agreement on this bill with our House colleagues. We hope to have a conference agreement completed in September in time to enact the defense appropriation bill before the beginning of the next fiscal year. I will be in close consultation with Senator INOUYE, the chairman of the Defense Subcommittee of Appropriations as to our deliberations and our progress because I know he is anxious to get started on his appropriations markup and also the chairman of the full committee, Senator BYRD, who is also a member of our committee and a very, very valuable Member of the U.S. Senate and on every committee he sits on.

Mr. President, I believe there are technical amendments pending at the desk. I ask they be considered at this time.

The PRESIDING OFFICER. Is there further debate on the technical amendments? If there be no further debate, the question is on agreeing to the technical amendments.

The amendment (No. 658) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to be proposed?

Mr. WARNER. Mr. President, I would like to join the distinguished chairman of the Armed Services Committee in acknowledging our appreciation to the majority leader and the distinguished Republican leader. In every piece of legislation there come those moments when, without their assistance, things just somehow do not move as well, and there were several during the course of the consideration of this bill.

Throughout, we have had the able cooperation of all members of the Armed Services Committee. I particularly want to thank those Senators who served as ranking members and those who offered to come, as did all, to work on the floor here during the course of the deliberations of this bill.

The conference that we approach, as the chairman stated, is going to be the most difficult conference, in my judgment, in the last decade. But together with the counsel and advice of the full membership of the Armed Services Committee, which I anticipate will be conferees, that, together with the able leadership of the majority leader and the Republican leader, I am confident we can meet those challenges and emerge with a bill which will meet the President's basic policy goals.

I want to particularly express my appreciation to the distinguished chairman. We have been side by side throughout the matters relating to this bill, beginning in February when we got the President's message, through some turbulent times in the course of the hearings, the deliberations, during the markup, and now in the presentation on the floor and the anticipated acceptance by the Senate of a bill crafted under the guidance and the leadership of this distinguished U.S. Senator from the State of Georgia. In my judgment the basic goals of the President were met. And that achievement is in large measure due to the unfailing leadership of the distinguished Senator from Georgia.

Mr. NUNN. I thank my friend from Virginia. I see the majority leader on the floor.

Is the majority leader ready to go to final passage on this bill?

The PRESIDING OFFICER. Are there further amendments to the bill?

Mr. NUNN. Mr. President, have the yeas and nays been ordered on the bill?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. NUNN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN. Mr. President, I ask for third reading on the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Michigan [Mr. RIEGLE] is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 4, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—95

Adams	Fowler	McClure
Armstrong	Garn	McConnell
Baucus	Glenn	Mikulski
Bentsen	Gore	Mitchell
Biden	Gorton	Moynihan
Bingaman	Graham	Murkowski
Bond	Gramm	Nickles
Boren	Grassley	Nunn
Boschwitz	Hatch	Packwood
Bradley	Heflin	Pell
Breaux	Heinz	Pressler
Bryan	Helms	Pryor
Bumpers	Hollings	Reid
Burdick	Humphrey	Robb
Burns	Inouye	Rockefeller
Byrd	Jeffords	Roth
Chafee	Johnston	Rudman
Coats	Kassebaum	Sanford
Cochran	Kasten	Sarbanes
Cohen	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wilson
Exon	Matsunaga	Wirth
Ford	McCain	

NAYS—4

Conrad	Hatfield
Harkin	Metzenbaum

NOT VOTING—1

Riegle

So the bill (S. 1352), as amended, was passed.

The corrected text of S. 1352, as passed by the Senate on August 2, 1989, is as follows:

S. 1352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Years 1990 and 1991".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS

This Act is divided into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Other National Defense Authorizations.

DIVISION A—NATIONAL DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for procurement of aircraft for the Army as follows:

(1) $2,706,500,000 for fiscal year 1990.

(2) $2,742,100,000 for fiscal year 1991.

(b) MISSILES.—Funds are hereby authorized to be appropriated for procurement of missiles for the Army as follows:

(1) $2,385,856,000 for fiscal year 1990.

(2) $2,571,260,000 for fiscal year 1991.

(c) WEAPONS AND TRACKED COMBAT VEHICLES.—Funds are hereby authorized to be appropriated for procurement of weapons and tracked combat vehicles for the Army as follows:

(1) $2,637,600,000 for fiscal year 1990.

(2) $3,120,098,000 for fiscal year 1991.

(d) AMMUNITION.—Funds are hereby authorized to be appropriated for procurement of ammunition for the Army as follows:

(1) $1,697,400,000 for fiscal year 1990.

(2) $1,617,300,000 for fiscal year 1991.

(e) OTHER PROCUREMENT.—Funds are hereby authorized to be appropriated for other procurement for the Army as follows:

(1) $2,892,713,000 for fiscal year 1990.

(2) $3,745,835,000 for fiscal year 1991.

SEC. 102. NAVY AND MARINE CORPS

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for aircraft for the Navy as follows:

(1) $8,346,762,000 for fiscal year 1990.

(2) $9,200,235,000 for fiscal year 1991.

(b) WEAPONS.—Funds are hereby authorized to be appropriated for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

(1) $3,887,520,000 for fiscal year 1990.

(2) $3,589,502,000 for fiscal year 1991.

(c) SHIPBUILDING AND CONVERSION.—Funds are hereby authorized to be appropriated for shipbuilding and conversion for the Navy as follows:

(A) $9,756,466,000 for fiscal year 1990.

(B) $12,362,000,000 for fiscal year 1991.

(d) OTHER PROCUREMENT, NAVY.—Funds are hereby authorized to be appropriated for other procurement for the Navy as follows:

(1) $6,314,300,000 for fiscal year 1990.

(2) $6,592,460,000 for fiscal year 1991.

(e) MARINE CORPS.—Funds are hereby authorized to be appropriated for procurement for the Marine Corps as follows:

(1) $1,178,000,000 for fiscal year 1990.

(2) $1,090,900,000 for fiscal year 1991.

SEC. 103. AIR FORCE

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for procurement of aircraft for the Air Force as follows:

(1) $15,930,600,000 for fiscal year 1990.

(2) $13,957,064,000 for fiscal year 1991.

(b) MISSILES.—Funds are hereby authorized to be appropriated for procurement of missiles for the Air Force as follows:

(1) $7,010,000,000 for fiscal year 1990.

(2) $5,892,836,000 for fiscal year 1991.

(c) OTHER PROCUREMENT.—Funds are hereby authorized to be appropriated for other procurement for the Air Force as follows:

(1) $8,450,200,000 for fiscal year 1990.

(2) $8,030,677,000 for fiscal year 1991.

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for procurement for the Defense Agencies as follows:

(1) $1,284,400,000 for fiscal year 1990.

(2) $1,115,169,000 for fiscal year 1991.

SEC. 104a. RESERVE COMPONENTS

Funds are hereby authorized to be appropriated for fiscal years 1990 and 1991 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard:

(A) $506,100,000 for fiscal year 1990.

(B) $521,400,000 for fiscal year 1991.

(2) For the Air National Guard:

(A) $941,200,000 for fiscal year 1990.

(B) $753,900,000 for fiscal year 1991.

(3) For the Army Reserve:

(A) $100,400,000 for fiscal year 1990.

(B) $175,800,000 for fiscal year 1991.

(4) For the Navy Reserve:

(A) $144,000,000 for fiscal year 1990.

(B) $159,700,000 for fiscal year 1991.

(5) For the Air Force Reserve:

(A) $177,900,000 for fiscal year 1990.

(B) $179,200,000 for fiscal year 1991.

(6) For the Marine Corps Reserve:

(A) $53,800,000 for fiscal year 1990.

(B) $341,000,000 for fiscal year 1991.

SEC. 105. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747) as follows:

(1) $311,400,000 for fiscal year 1990.

(2) $317,700,000 for fiscal year 1991.

SEC. 106. MULTIYEAR CONTRACT AUTHORIZATIONS

(a) AUTHORIZED MULTIYEAR PROCUREMENTS.—Subject to subsection (c), the Secretary of the military department concerned may use funds appropriated pursuant to the authorizations contained in this Act for fiscal years 1990 and 1991 to enter into multiyear procurement contracts in accordance with section 2306(h) of title 10, United States Code, for the following programs:

(1) For the Army:

(A) the M-1 tank program.

(B) the M-2 fighting vehicle program.

(C) the MH-47 helicopter program.

(D) the Family of Heavy Tactical Vehicles.

(2) For the Navy:

(A) the E-2C aircraft program.

(B) the F/A-18 aircraft program.

(C) the Mark-45 Gun Mount and Mark-6 Ammunition Hoist.

(3) For the Air Force, the AGM-65(D) missile program.

(b) DENIAL OF CERTAIN MULTIYEAR PROCUREMENTS.—The Secretary of the military department concerned may not enter into a multiyear procurement contract for any of the following programs:

(1) The DDG-51 Destroyer program.

(2) The SH-60 B/F Helicopter program.

(c) CONDITIONS.—A multiyear contract authorized by this section may not be entered into unless each of the following conditions is met:

(1) The Secretary of Defense certifies to Congress that the current five-year defense program fully funds the support costs associated with the multiyear program.

(2) The proposed multiyear contract provides for production at not less than minimum economic rates given the existing tooling and facilities.

(3) The proposed multiyear contract—

(A) achieves a 10 percent savings as compared to the cost of current negotiated contracts, adjusted for changes in quantity and for inflation; or

(B) achieves a 10 percent savings as compared to annual contracts if no recent contract experience exists.

(4) Paragraph (3)(A) does not apply to programs which are currently under multiyear contract.

SEC. 107. MILESTONE AUTHORIZATION CHANGES

(a) PROCUREMENT PROGRAMS.—Section 106 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180, 101 Stat. 1034) is amended—

(1) in subsection (a)(2)—

(A) by striking out "$976,200,000" in subparagraph (A) and inserting in lieu thereof "$884,719,000"; and

(B) by striking out "$360,000,000" in subparagraph (B) and inserting in lieu thereof "$68,596,000";

(2) in subsection (b)(2)—

(A) by striking out "$158,200,000" in subparagraph (A) and inserting in lieu thereof "$140,873,000"; and

(B) by striking out "$209,000,000" in subparagraph (B) and inserting in lieu thereof "$199,858,000";

(3) in subsection (c)(2), by striking out "$2,215,000,000" and inserting in lieu thereof "$1,915,638,000"; and

(4) in subsection (d)(2)—

(A) by striking out "$437,700,000" in subparagraph (A) and inserting in lieu thereof "$153,114,000"; and

(B) by striking out "$596,300,000" in subparagraph (B) and inserting in lieu thereof "$431,565,000".

(b) RDT&E PROGRAMS.—Section 216 of such Act is amended—

(1) in subsection (a)(2), by striking out "$49,000,000" and inserting in lieu thereof "$44,661,000";

(2) in subsection (b)(2)—

(A) by striking out "$338,300,000" in subparagraph (A) and inserting in lieu thereof "$216,054,000"; and

(B) by striking out "$164,700,000" in subparagraph (B) and inserting in lieu thereof "$70,670,000"; and

(3) in subsection (c)(2)—

(A) by striking out "$23,700,000" in subparagraph (A) and inserting in lieu thereof "$26,475,000"; and

(B) by striking out "$24,000,000" in subparagraph (B) and inserting in lieu thereof "$14,603,000".

SEC. 108. AUTHORIZATION OF APPROPRIATIONS OF ADDITIONAL AMOUNTS FOR PROCUREMENT OF MISSILES

(a) FISCAL YEAR 1990.—Funds are hereby authorized to be appropriated for fiscal year 1990 for procurement of missiles for the Army, Navy, and Air Force as follows:

For the Army, $362,400,000.

For the Navy, $125,100,000.

For the Air Force, $109,300,000.

(b) FISCAL YEAR 1991.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of missiles for the Army and Air Force as follows:

For the Army, $227,500,000.

For the Air Force, $109,300,000.

(c) ADDITIONAL AUTHORIZATION.—Funds authorized to be appropriated pursuant to subsections (a) and (b) are in addition to funds authorized to be appropriated under sections 101, 102, and 103.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 121. M-1 TANK PROGRAM

None of the funds appropriated for the Army for fiscal year 1990 may be obligated to begin the inactivation or deactivation of the Detroit Army Tank Plant.

SEC. 122. RESTRICTION ON FISCAL YEAR 1989 FUNDS FOR 10-TON TRUCKS

Of the funds appropriated or otherwise made available to the Army for fiscal year 1989 for procurement of 10-ton trucks, not more than $29,000,000 shall be available for purposes of procuring and installing an additional 480 tanker/refueler kits on 10-ton trucks.

SEC. 123. PROCUREMENT OF V-22 AIRCRAFT

(a) IN GENERAL.—Funds appropriated or otherwise made available to the Department of Defense pursuant to this or any other Act may not be obligated on or after the date of the enactment of this Act for the procurement of the V-22 aircraft.

(b) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

PART C—STRATEGIC PROGRAM TEST AND REPORTING REQUIREMENTS

SEC. 131. TRIDENT II MISSILE PROGRAM

In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1990, no reduction may be made in the amount of funds available for the Trident II missile program.

SEC. 132. B-1B DEFENSIVE AVIONICS TEST AND EVALUATION PROGRAM

(a) REQUIREMENT FOR PROGRAM.—(1) During fiscal years 1990 and 1991, the Secretary of Defense shall develop and conduct a comprehensive program for the systematic testing of the proposed modifications of the Air Force to the defensive avionics system of the B-1B aircraft described in subsection (f).

(2) Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a detailed plan for such testing during fiscal years 1990 and 1991. Such plan shall include—

(A) the planned test schedule for each of the various components of the defensive avionics system, tested singly and in combination with other components of the defensive and offensive avionics systems;

(B) the objectives of each of the planned tests and the criteria that will be used to determine whether each such test is successful, partially successful, or unsuccessful; and

(C) an explanation of how those scheduled tests can be used to estimate the capability of the B-1B to penetrate Soviet air defenses, including both single and multiple threats.

(b) MODIFICATIONS TO B-1B AIRCRAFT.—(1) Funds appropriated or otherwise made available to the Air Force for procurement of aircraft during fiscal year 1990 may be used to modify not more than six B-1B aircraft to the configuration described in subsection (f).

(2) Such aircraft shall be used to conduct the test program defined by section (a)(2).

(3) No additional B-1B aircraft may be modified to the configuration described in subsection (f) or have radar warning receivers added until the test program has been completed and funding for such additional modifications has been authorized by legislation enacted after the date of the enactment of this Act.

(c) BIMONTHLY STATUS REPORTS.—Beginning February 1, 1990, and every two months thereafter until the completion of the test program required by this section, the Secretary shall submit to the congressional defense committees a report indicating whether the tests to be carried out after the submission of the last report have been carried out as planned and whether, in the case of each such test, the test was successful, partially successful, or unsuccessful. The Secretary shall include in such report an assessment of the capability of the B-1B aircraft to meet—

(1) performance objectives;

(2) technical and fiscal objectives; and

(3) significant test milestones.

(d) INDEPENDENT ASSESSMENT.—(1) Following completion of the test program referred to in subsection (a)(1), the Secretary shall provide for an independent assessment of the capabilities of the B-1B aircraft to penetrate air defenses of potential enemies. The Secretary shall appoint a panel of experts from the private sector to conduct the assessment and shall provide the panel with such resources as are necessary, including technical assistance by private contractors, to assist the panel in conducting the assessment. Individuals appointed to the panel shall be independent of the Air Force and shall have no arrangements with the Air Force that would constitute a conflict of interest.

(2) The panel shall assess the air defense capabilities of the six test aircraft referred to in subsection (b) after they have been modified as provided in subsection (f) and, on the basis of that assessment, determine what the air defense penetration capabilities of the entire fleet of such aircraft would be in all of its mission profiles if every aircraft in the fleet were so modified.

(3) The panel shall estimate the air defense penetration capabilities of the B-1B aircraft against the threats described—

(A) in the 1981 joint Office of the Secretary of Defense/Air Force Bomber Alternatives Study;

(B) in the 1986 Strategic Bomber Force Study; and

(C) in the most current threat baseline established by the intelligence community for estimated Soviet air defenses in the late 1990s.

(4) The Secretary of Defense shall ensure that individuals serving on the panel receive the full cooperation of all components of the Department of Defense in carrying out the functions of the panel under this section.

(5) The Secretary shall submit to the congressional defense committees the report of the panel not more than 180 days after the conclusion of the test program referred to in subsection (a).

(e) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—For purposes of this section, the term "congressional defense committees" means the Committees on Armed Services and Appropriations of the Senate and House of Representatives.

(f) AUTHORIZED MODIFICATIONS.—The modifications referred to in subsection (a) consist of the "core configuration" modification to the ALQ-161 system plus the installation and integration of a radar warning receiver.

SEC. 133. B-2 BOMBER PROGRAM REQUIREMENTS AND LIMITATIONS

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 103(a)(1) for the Air Force for procurement of aircraft for fiscal year 1990, not more than $2,549,374,000 may be obligated for procurement for the B-2 aircraft program.

(b) BLOCK 1 REQUIREMENTS.—(1) Funds appropriated for the Air Force for fiscal year 1990 for procurement of aircraft may not be obligated for the procurement of B-2 aircraft until—

(A) the initial planned Block 1 program of flight testing of the B-2 aircraft, consisting of approximately 75 flight test hours and 15 flights has been conducted;

(B) the Defense Science Board has conducted an independent review of the Block 1 flight test data and reported the results of that review, together with its findings and conclusions, to the Secretary of Defense;

(C) the Director of Operational Test and Evaluation has evaluated the performance of the B-2 aircraft during its Block 1 flight testing with respect to "Critical Operational Issues" and has provided an "Early Operational Assessment" to the Secretary of Defense; and

(D) the Secretary of Defense certifies to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives that—

(i) no major aerodynamic or flightworthiness problems have been identified during the Block 1 testing;

(ii) the performance milestones (including initial flight testing) for the B-2 aircraft for fiscal year 1990 (as contained in the B-2 full performance matrix program established under section 121 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) and section 232 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456)) have been met and that any proposed waiver or modification to the B-2 performance matrix will be provided in writing in advance to such committees;

(iii) the goals of the cost reduction initiatives established for the B-2 program under section 121 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 and section 232 of the National Defense Authorization Act, Fiscal Year 1989 will be achieved; and

(iv) the quality assurance practices and fiscal management controls of the prime contractor and major subcontractors associated with the B-2 program meet or exceed generally applicable Department of Defense standards.

(2) Any certification by the Secretary under paragraph (1)(D) shall include a description of any savings that will be realized under the initiatives referred to in such paragraph.

(c) BLOCK 2 REQUIREMENTS.—Funds appropriated for the Air Force for fiscal year 1990 for the procurement of aircraft may not be obligated for the procurement of B-2 air-

craft before the commencement of Block 2 testing to include low-observables and flying qualities and performance testing in accordance with the approved B-2 Test and Evaluation Master Plan.

(d) INDEPENDENT ASSESSMENT AND CERTIFICATION.—Of the amounts made available for fiscal year 1990 for the procurement of B-2 aircraft, not more than 25 percent may be expended until—

(1) the Low-Observables Panel of the Defense Science Board has conducted an independent review of the early Block 2 test data and reported the results of that review together with its findings and conclusions, to the Secretary of Defense;

(2) within one week of the submission to the Secretary of Defense of the report by the Low Observables Panel, the Director of Operational Test and Evaluation shall also submit to the Secretary his independent evaluation of the results of the Block 2 flight testing to that date; and

(3) the Secretary of Defense certifies to the Committees on Armed Services and Appropriations of the Senate and House of Representatives that—

(A) the results of early Block 2 flight testing, including low-observable and flying qualities and performance, are satisfactory, and

(B) no significant technical or operational problems have been identified during early Block 2 testing.

(e) EFFICIENT PRODUCTION RATE FUNDING.—Funds appropriated for the Air Force for fiscal year 1990 for procurement of aircraft may not be obligated for the procurement of B-2 aircraft until the Secretary of Defense certifies that, in the five-year defense program prepared in conjunction with any amended budget request for fiscal year 1991, the Air Force has included sufficient funding for any increase in the production rate of B-2 aircraft required to attain an efficient production rate following the planned acquisition milestone decision authorizing rate production.

(f) APPLICATION OF PROHIBITIONS.—The prohibitions in subsections (b) through (d) apply only to the three new production B-2 aircraft for which funds for procurement were requested in the President's April 1989 amended budget request for fiscal year 1990.

(g) CERTIFICATION REQUIREMENT.—(1) The Secretary of Defense shall certify annually to Congress that the unit flyaway cost for 132 B-2 aircraft measured in constant 1990 dollars does not exceed $295,000,000 per aircraft.

(2) The certification required by this subsection shall be submitted not later than March 15, 1990, and each succeeding March 15 thereafter until the B-2 procurement program is completed. Such certification shall be submitted to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives.

(3) If the Secretary cannot make the certification required by paragraph (1), the Secretary shall report to Congress the amount that the unit flyaway cost will exceed the amount described in paragraph (1) and submit an explanation of the reasons for such an increase in cost.

SEC. 134. CORRECTION OF DEFICIENCIES CLAUSES IN B-2 AIRCRAFT PROCUREMENT CONTRACTS

(a) The Secretary of Defense shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives two reports on the implementation of the contractor guarantee requirements of section 2403 of title 10, United States Code, with respect to the B-2 aircraft program. Such reports shall include the following:

(1) Copies of correction of deficiency clauses in contracts with the prime contractor of the B-2 aircraft.

(2) The plans for meeting the contractor guarantee requirements of subsection (b) of such section in future contracts for the procurement of B-2 aircraft, including any specific contract clauses that have been proposed by the Air Force or agreed to by the Air Force and the contractor.

(3) The manner in which inspection or acceptance by the Air Force will affect the relative liability of the Government and the contractor—

(A) under the contract clauses referred to in paragraphs (1) and (2) and

(B) under the plans referred to in paragraph (2) for compliance with the contractor guarantee requirements referred to in such paragraph.

(b) The first report required by subsection (a) shall be submitted not later than 30 days after the date of enactment of this Act. The second report shall be submitted in conjunction with the certification required by section 133(b)(1)(D) of this Act.

(c) The reports required by this section shall be submitted in classified and unclassified versions and shall clearly identify any material that contains proprietary information or other source selection information, the disclosure of which is restricted by law or regulation.

(d)(1) The Secretary of the Air Force shall take appropriate steps to ensure that the procurement of all B-2 aircraft authorized for fiscal years 1989 and 1990 shall be subject to a contractor guarantee pursuant to section 2403 of title 10, United States Code, and that the prime contractor for such aircraft shall be required to assume a substantially greater responsibility for the cost of corrective actions required under section 2403(b) of such title than under existing contracts for B-2 aircraft.

(2) Notwithstanding section 2403(g) of such title, the Secretary may not negotiate exclusions or limitations on the prime contractor's financial liability for the cost of corrective action for defects under section 2403(b) of such title for the B-2 aircraft referred to in paragraph (1) that are less than the total of the contractor's actual profits on the production of such aircraft unless the Secretary determines that the specific benefits of such exclusions or limitations substantially outweigh the potential costs.

(3) The Secretary of the Air Force shall notify the Committees on Armed Services of the Senate and the House of Representatives of any determinations under paragraph (2) and shall include in such notification the specific reasons for such determination and copies of any relevant exclusions or limitations.

(4) The Secretary of the Air Force shall describe the steps the Air Force has taken under this subsection in the reports required by subsection (c).

SEC. 135. STUDY OF ALTERNATIVE B-2 AIRCRAFT FORCE STRUCTURES

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall conduct a comprehensive study comparing—

(1) the current plan of the Department of Defense to produce one hundred and thirty two B-2 aircraft, with

(2) two alternative plans, one to produce ninety to one hundred B-2 aircraft and another to produce sixty to seventy B-2 aircraft.

(b) MATTERS TO BE INCLUDED.—In conducting the study under subsection (a), the Secretary of Defense shall determine the implications of adopting the alternative plans described in subsection (a)(2) with respect to each of the following:

(1) The cost of the B-2 aircraft program, including—

(A) annual program costs,

(B) total program costs,

(C) twenty-year life cycle costs, and

(D) unit and flyaway costs; and

(2) The impact on the military posture of the United States, including—

(A) strategic nuclear deterrent capabilities, and

(B) long-range conventional strike capabilities.

(c) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report in both classified and unclassified form containing the results of the study conducted by the Secretary under subsection (a). The Secretary's report shall include such comments and recommendations as the Secretary considers appropriate and shall be submitted not later than January 1, 1990.

SEC. 136. ADVANCED CRUISE MISSILE

Funds appropriated or otherwise made available to the Air Force during fiscal year 1990 may not be obligated or expended for procurement of Advanced Cruise Missiles until—

(1) the Advanced Cruise Missile has achieved a cumulative total of at least 10 successful developmental test flights; and

(2) the Secretary of Defense certifies to the Committees on Armed Services and Appropriations of the Senate and House of Representatives that since June 1, 1989, a minimum of four flight tests of the Advanced Cruise Missile have been conducted and that the percentage of successful test flights in this group is significantly greater than 50 percent.

PART D—PROGRAM TERMINATIONS

SEC. 141. F-14 AIRCRAFT

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense after September 30, 1989, may not be obligated for the procurement of F-14 aircraft.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, F-14 aircraft described in paragraph (2); or

(B) the payment of costs necessary to terminate the F-14 aircraft program.

(2) The F-14 aircraft referred to in paragraph (1)(A) are F-14 aircraft—

(A) that have been acquired by the Navy on or before the date of the enactment of this Act; or

(B) for which funds were obligated for procurement before the date of the enactment of this Act, other than for the procurement of long lead items and other advance procurement.

(c) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provi-

sion of law modifies or supersedes this section.

SEC. 142. AH-64 HELICOPTER

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense after September 30, 1991, may not be obligated for the procurement of AH-64 helicopter aircraft.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, AH-64 aircraft described in paragraph (2); or

(B) the payment of costs necessary to terminate the AH-64 helicopter program.

(2) The AH-64 helicopter aircraft referred to in paragraph (1)(A) are AH-64 helicopter aircraft—

(A) that were acquired by the Army before October 1, 1991; or

(B) for which funds have been obligated for procurement before October 1, 1991, other than for the procurement of long lead items and other advance procurement.

(c) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

SEC. 143. AHIP SCOUT HELICOPTER

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense after September 30, 1989, may not be obligated for the procurement of AHIP scout helicopter aircraft.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, AHIP scout helicopter aircraft described in paragraph (2); or

(B) the payment of costs necessary to terminate the AHIP scout helicopter program.

(2) The AHIP scout helicopter aircraft referred to in paragraph (1)(A) are AHIP scout helicopter aircraft (OH-58 helicopter aircraft that have been modified into the configuration specified under the Army Helicopter Improvement Program described in the Selected Acquisition Report on the OH-58 helicopter, dated December 31, 1988)—

(A) that were acquired by the Army before the date of the enactment of this Act; or

(B) for which funds have been obligated for procurement before the date of the enactment of this Act, other than for the procurement of long lead items and other advance procurement.

(c) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

SEC. 144. F-15E AIRCRAFT

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense after October 1, 1991, may not be obligated for the procurement of the F-15E aircraft.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, F-15E aircraft described in paragraph (2); or

(B) the payment of costs necessary to terminate the F-15E aircraft program.

(2) The F-15E aircraft referred to in paragraph (1)(A) are F-15E aircraft—

(A) that are acquired by the Air Force before October 1, 1991; or

(B) for which funds have been obligated for procurement before October 1, 1991, other than for the procurement of long lead items and other advance procurement.

(c) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

SEC. 145. M88A2 RECOVERY VEHICLE

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense after September 30, 1989, may not be obligated for the procurement of M88A2 recovery vehicles.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, M88A2 recovery vehicles described in paragraph (2); or

(B) the payment of costs necessary to terminate the M88A2 recovery vehicle program.

(2) The M88A2 recovery vehicles referred to in paragraph (1)(A) are M88A2 recovery vehicles—

(A) that were acquired by the Army before the date of the enactment of this Act; or

(B) for which funds have been obligated for procurement before the date of the enactment of this Act, other than for the procurement of long lead items and other advance procurement.

(c) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

PART E—MISCELLANEOUS PROVISIONS

SEC. 151. REPEAL OF HEMTT TRUCK PROGRAM PROCUREMENT REQUIREMENT

Section 129 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1045) is repealed.

SEC. 152. REPORT ON NAVY AIRCRAFT REQUIREMENTS

(a) IN GENERAL.—The Secretary of the Navy shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report each year which addresses the current and projected aircraft requirements of the Navy and the plans of the Navy for aircraft acquisition and modernization. The report shall cover at least the next ten years and shall specify—

(1) the number of aircraft, by type, required to fully equip the current and projected force structure of the Navy and the Marine Corps;

(2) the current and projected inventory of each type of aircraft;

(3) the current average age of (A) all Navy and Marine Corps aircraft, (B) all Navy and Marine Corps combat aircraft, and (C) all carrier-based combat aircraft; and

(4) a list of planned and programmed aircraft procurement programs and major aircraft modernization programs, specifying the approximate numbers of aircraft involved in each program, the estimated fiscal year in which each program will begin and end, and the estimated total cost for each program.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than February 1, 1990, and each February 1 thereafter.

SEC. 153. EXPANSION OF THE SCOPE OF THE CIVIL RESERVE AIR FLEET ENHANCEMENT PROGRAM

(a) DEFINITIONS.—Section 9511 of title 10, United States Code, is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The term 'passenger-cargo combined aircraft' means a civil aircraft equipped so that its main deck can be used to carry both passengers and property (including mail) simultaneously.";

(2) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The term 'cargo-convertible aircraft' means a passenger aircraft equipped or designed so that all or substantially all of the main deck of the aircraft can be readily converted for the carriage of property or mail.";

(3) in paragraph (8), by striking out clause (A) and inserting in lieu thereof the following: "(A) who owns or controls, or who will own or control, a new or existing aircraft and who contracts with the Secretary to modify that aircraft by including or incorporating specified defense features in that aircraft and to commit that aircraft to the Civil Reserve Air Fleet, or"; and

(4) by adding at the end the following new paragraph:

"(12) The term 'defense feature' means any equipment or design feature included or incorporated in a civil aircraft which ensures the interoperability of such aircraft with the Department of Defense airlift system. Such term includes any equipment or design feature which enables such aircraft to be readily modified for use as a cargo-convertible, cargo-capable, or passenger-cargo combined aircraft.".

(b) CONTRACT AUTHORITY.—Section 9512 of such title is amended to read as follows:

"§ 9512. Contract for the inclusion or incorporation of defense features

"(a) Subject to the provisions of chapter 137 of this title, and to the extent that funds are otherwise available for obligation, the Secretary—

"(1) may contract with any citizen of the United States for the inclusion or incorporation of defense features in any new or existing aircraft to be owned or controlled by that citizen; and

"(2) may contract with United States aircraft manufacturers for the inclusion or incorporation of defense features in new aircraft to be operated by a United States air carrier.

"(b) Each contract entered into under subsection (a) shall include the terms required by section 9513 of this title and a provision that requires the contractor to repay to the United States a percentage (to be established in the contract) of any amount paid by the United States to the contractor

under the contract with respect to any aircraft if—

"(1) the aircraft is destroyed or becomes unusable, as defined in the contract;

"(2) the defense features specified in the contract are rendered unusable or are removed from the aircraft;

"(3) control over the aircraft is transferred to any person that is unable or unwilling to assume the contractor's obligations under the contract; or

"(4) the registration of the aircraft under section 501 of the Federal Aviation Act of 1958 is terminated for any reason not beyond the control of the contractor.

"(c)(1) A contract for the inclusion or incorporation of defense features in an aircraft may include a provision authorizing the Secretary—

"(A) to contract, with the concurrence of the contractor, directly with another person for the performance of the work necessary for the inclusion or incorporation of defense features in such aircraft; and

"(B) to pay such other person directly for such work.

"(2) A contract entered into pursuant to paragraph (1) may include such specifications for work and equipment as the Secretary considers necessary to meet the needs of the United States.".

(c) TECHNICAL AMENDMENTS.—(1) The heading of section 9513 is amended to read as follows:

"§ 9513. Commitment of aircraft to the Civil Reserve Air Fleet"

(2) The table of sections at the beginning of chapter 931 of title 10, United States Code, is amended by striking out the items relating to sections 9512 and 9513 and inserting in lieu thereof the following:

"9512. Contracts for the inclusion or incorporation of defense features.

"9513. Commitment of aircraft to the Civil Reserve Air Fleet.".

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND FUNDING FOR SPECIFIC PROGRAMS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Funds are hereby authorized to be appropriated for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army:

(A) $5,705,898,000 for fiscal year 1990.

(B) $5,717,736,000 for fiscal year 1991.

(2) For the Navy (including the Marine Corps):

(A) $9,916,851,000 for fiscal year 1990.

(B) $8,573,726,000 for fiscal year 1991.

(3) For the Air Force:

(A) $14,629,932,000 for fiscal year 1990.

(B) $9,864,305,000 for fiscal year 1991.

(4) For the Defense Agencies:

(A) $9,474,712,000 for fiscal year 1990, of which—

(i) $294,300,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(ii) $164,500,000 is authorized for the Director of Operational Test and Evaluation.

(B) $4,610,604,000 for fiscal year 1991, of which—

(i) $434,700,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(ii) $160,400,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS OF ADDITIONAL AMOUNTS FOR IMPROVED INFANTRY EQUIPMENT

(a) AUTHORIZATION.—Funds are hereby authorized to be appropriated for fiscal year 1990 for research, development, test, and evaluation to increase the effectiveness of small infantry units through the development of improved weapons and equipment as follows:

For the Army, $18,000,000.

For the Marine Corps, $12,000,000.

(b) ADDITIONAL AUTHORIZATION.—Funds authorized to be appropriated pursuant to subsection (a) are in addition to funds authorized to be appropriated under section 201.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 221. BALANCED TECHNOLOGY INITIATIVE

(a) AMOUNTS AUTHORIZED.—Of the amounts authorized to be appropriated for fiscal year 1990 pursuant to section 201, $296,000,000 shall be available for research and development under the Balanced Technology Initiative program.

(b) DETERMINATION OF SOURCE OF FUNDS.—The Director of Defense Research and Engineering shall determine the amount of funds appropriated to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 that are to be allocated for the Balanced Technology Initiative.

(c) PROHIBITION REGARDING UNDISTRIBUTED REDUCTIONS.—No portion of any undistributed reduction may be applied against the funds allocated under subsection (a) or against any funds made available for the Balanced Technology Initiative that are in addition to the amount specified in subsection (a).

(d) PROHIBITION ON USE OF FUNDS FOR SDI.—None of the funds allocated under subsection (a) may be used in connection with any program, project, or activity in support of the Strategic Defense Initiative.

(e) REPORT.—Not later than March 15 each year the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report containing the following:

(1) A current assessment of the extent to which advanced technologies can be used to exploit potential vulnerabilities of hostile threats to the national security of the United States.

(2) Identification of each program, project, and activity being pursued under the Balanced Technology Initiative, the amount made available for such program, project, or activity pursuant to this section, and the source of such amount.

(3) For each program, project, and activity for which funds are made available pursuant to this section, a 5-year funding plan that (A) provides for the allocation of sufficient resources to maintain adequate progress in research and development under such program, project, or activity, and (B) specifies the major programmatic and technical milestones and the schedule for achieving those milestones.

(4) The status of each program, project, and activity being pursued under the Balanced Technology Initiative.

(5) Identification of other on-going or potential research and development programs, projects, and activities not currently provided for under this section that should be considered for inclusion under the Balanced Technology Initiative in order to improve conventional defense capabilities.

(6) Identification of the most critical technologies for the successful development of existing or potential Balanced Technology Initiative programs, projects, and activities and an assessment of the current status of those technologies.

SEC. 222. ADVANCED RESEARCH PROJECTS

(a) AUTHORITY FOR DARPA COOPERATIVE AGREEMENTS AND OTHER TRANSACTIONS.—(1) Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2370. Advanced research projects: cooperative agreements and other transactions

"(a) The Secretary of Defense, in carrying out advanced research projects through the Defense Advanced Research Projects Agency, may enter into cooperative agreements and other transactions with any person, any agency or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity.

"(b)(1) Cooperative agreements and other transactions entered into by the Secretary under subsection (a) may include a clause that requires a person or other entity to make payments to the Department of Defense (or any other department or agency of the Federal Government) as a condition for receiving support under the agreement or other transaction.

"(2) The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited, to the extent authorized by the Secretary of Defense, to the account established under subsection (e). Amounts so credited shall be merged with other funds in the account and shall be available for the same purposes and the same period for which other funds in such account are available.

"(c) The authority provided under subsection (a) may be exercised without regard to section 3324 of title 31, United States Code.

"(d) The Secretary shall ensure that—

"(1) to the maximum extent practicable, a cooperative agreement or other transaction under this section does not provide for research that duplicates research being conducted under existing programs carried out by the Department of Defense;

"(2) to the extent the Secretary determines practicable, the funds provided by the Government under the cooperative agreement or other transaction do not exceed the total amount provided by other parties to the cooperative agreement or other transaction; and

"(3) the authority under this section is used only when the use of standard contracts or grants is not feasible or appropriate.

"(e) There shall be established on the books of the United States Treasury an account for support of advanced research projects provided for in cooperative agreements and other transactions authorized by subsection (a). Funds in such account shall be available for the payment of such support.

"(f) Not later than 60 days after the end of each fiscal year, the Secretary of Defense shall submit to the Committees of Armed Services of the Senate and the House of Representatives an annual report on all cooperative agreements and other transactions (other than contracts and grants) entered into under this section in such fiscal year. The report shall contain, with respect to each cooperative agreement and each other transaction the following:

"(1) A general description of the cooperative agreement or other transaction (as the case may be), including the technologies for which advanced research is provided for under such agreement or transaction.

"(2) The potential military and, if any, commercial utility of such technologies.

"(3) The reasons for not using a contract or grant to provide support for such advanced research.

"(4) The amount of the payments, if any, referred to in subsection (b) that were received by the Federal Government in connection with such cooperative agreement or other transaction during the fiscal year covered by the report.

"(5) The amount of the payments reported under subparagraph (4), if any, that were credited to the account established under subsection (e).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"Sec. 2370. Advanced research projects: cooperative agreements and other transactions.".

(b) FUNDING.—Of the funds appropriated pursuant to section 201, not more than $25,000,000 of the funds appropriated for fiscal year 1990 and not more than $25,000,000 of the funds appropriated for fiscal year 1991 shall be available for the support, through the Defense Advanced Research Projects Agency, of advanced research provided for in cooperative agreements and other transactions authorized by section 2370 of title 10, United States Code (as added by subsection (a)). That amount shall be credited to the account established under subsection (e) of such section.

SEC. 223. GRANTS AND CONTRACTS TO COLLEGES AND UNIVERSITIES

(a) IN GENERAL.—Section 2361 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "(a) The" and inserting in lieu thereof "(a)(1) Except as provided in paragraph (2), the"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary of Defense may use procedures other than competitive procedures to award a research and development contract to a college or university as provided in clauses (1) through (4) and (6) of section 2304(c) of this title."; and

(2) in subsection (b)—

(A) by striking out "the date of enactment of this section" and inserting in lieu thereof "September 30, 1989,";

(B) by inserting "or as requiring funds to be made available to a particular college or university by grant or contract" after "provisions of subsection (a)"; and

(C) by striking out "provision of law" and all that follows through the end and inserting in lieu thereof "provision of law—" and the following:

"(1) specifically refers to this section and specifically states that such provision of law modifies or supersedes the provisions of this section; and

"(2) in the case of a requirement to make funds available to a specific college or university, specifically directs the Secretary to award a grant or contract to such college or university and to use procedures other than competitive procedures to do so.".

(b) SEMIANNUAL REPORT.—(1) The Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives a semiannual report on the use of competitive procedures for research and development contracts with colleges and universities. Such report shall list each college and university that received more than $1,000,000 in research and development contracts under procedures other than competitive procedures during the period covered by the report and shall include the cumulative amount of such contracts received during that period for each such college and university.

(2) The reports under paragraph (1) shall cover the six-month periods ending on June 30 and December 31 of each year.

(3) The first report under paragraph (1) shall cover the last six months of 1989, and shall be submitted not later than February 1, 1990.

(4) Except as provided in paragraph (3), each semiannual report shall be submitted within 30 days after the expiration of the period covered by the report.

(5) No report is required under this section for periods beginning after December 31, 1993.

SEC. 224. INTEGRATED ELECTRIC DRIVE PROGRAM

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 201 for the Navy for fiscal year 1990, $58,187,000 shall be available for the Integrated Electric Drive program.

(b) INTEGRATED ELECTRIC DRIVE PROGRAM.—The Secretary of the Navy is authorized to establish an Integrated Electric Drive program by merging the Ship Propulsion System program and the Shipboard System Component program with the Electric Drive program for the purpose of providing Integrated Electric Drive propulsion in the DDG-51 guided missile destroyer program.

SEC. 225. FAST SEALIFT TECHNOLOGY DEVELOPMENT PROGRAM

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 201 for the Navy for fiscal year 1990, $30,000,000 shall be available for the Fast Sealift Technology Development program.

(b) NEW PROGRAM.—The Secretary of the Navy is authorized to establish a Fast Sealift Technology Development program for the purposes of completing, within 24 months of the date of the enactment of this Act, the technology development program described in the January 1989 report to Congress entitled Fast Sealift Program Technology Assessment Report.

SEC. 226. TACTICAL OCEANOGRAPHY PROGRAM

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 201 for the Navy for fiscal year 1990, $3,000,000 shall be available for the Tactical Oceanography program.

(b) NEW PROGRAM.—The Secretary of the Navy is authorized to establish a Tactical Oceanography program to accelerate uses of scientific measurement and data collection devices and processes for the purpose of rapid tactical applications.

SEC. 227. NAVY SHIP DESIGN

Funds appropriated for research, development, test, and evaluation for the Navy for fiscal year 1991 or any subsequent fiscal year may not be obligated or expended for the preliminary design or contract design of any Navy ship.

SEC. 228. BIODEGRADABLE MATERIALS RESEARCH

Of the amounts appropriated for the Army for fiscal year 1990 pursuant to section 201, not more than $100,000 may be obligated for the purpose of continuing the research into the potential use of biodegradable materials in ration packaging designs. The Army Natick Research, Development, and Engineering Center shall be the responsible agency for such research.

SEC. 229. CHEMICAL WEAPONS MONITORING PROGRAM

Of the amount authorized to be appropriated pursuant to section 201 for the Defense Agencies for research, development, test, and evaluation for fiscal year 1990, $15,000,000 shall be available to the Office of the Secretary of Defense for the purpose of conducting a program to develop and demonstrate compliance monitoring capabilities in support of efforts by the United States in the Conference on Disarmament at Geneva to achieve a verifiable convention on the prohibition of chemical weapons.

SEC. 230. SELECTION OF HEAVY TRUCK SYSTEM CONFIGURED WITH PALLETIZED LOADING SYSTEM

Section 259(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1045) is amended by striking out "24 months" in the first sentence and inserting in lieu thereof "30 months".

SEC. 230a. LASER WEAPON VERIFICATION RESEARCH

In awarding contracts for research, development, test, and evaluation in connection with laser weapon verification technology, the Secretary of a military department or the head of a Defense Agency, as the case may be, shall ensure that such contracts are awarded to contractors that have experience in one or more of the following areas:

(1) Development of technologies for cooperative verification of laser weapons.

(2) Expertise in matters related to the propagation of high energy laser beams through the atmosphere.

(3) Ability to verify the testing or deployment of high energy laser beams against satellites in space.

SEC. 230b. MAGNETOENCEPHALOGRAPHY (MEG) AND NEUROMAGNETISM RESEARCH

Of the funds authorized to be appropriate pursuant to section 201 for the Army for fiscal year 1990, not more than $250,000 shall be made available for the joint Army-Department of Energy research project on magnetoencephalography (MEG) and neuromagnetism.

PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 231. FUNDING FOR THE STRATEGIC DEFENSE INITIATIVE FOR FISCAL YEAR 1990

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1990, not more than $4,301,904,000 may be obligated for the Strategic Defense Initiative.

(b) DEFENSE-WIDE MISSION SUPPORT.—Of the amount made available for the Strategic Defense Initiative pursuant to subsection (a), $26,394,000 may be used for defense-wide mission support of the Strategic Defense Initiative.

(c) SDI NATIONAL TEST BED CONSTRUCTION.—The Secretary of Defense may transfer not more than $23,000,000 of the amounts made available for the Strategic Defense Initiative pursuant to subsection (a) to the appropriate military construction account for use only in connection with the construction of the National Test Bed project.

SEC. 232. REPORT ON ALLOCATION OF FISCAL YEAR 1990 SDI FUNDING

(a) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a report on

the allocation of funds appropriated for the Strategic Defense Initiative for fiscal year 1990. The report shall specify the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of legislation appropriating funds for the Strategic Defense Initiative for fiscal year 1990.

SEC. 233. ANNUAL REPORT ON SDI PROGRAMS

(a) IN GENERAL.—Not later than March 15, 1990, and March 15 each year thereafter, the Secretary of Defense shall transmit to Congress a report (in both an unclassified and a classified form) on the programs and projects that constitute the Strategic Defense Initiative and on any other program or project relating to defense against ballistic missiles. Each such report shall include the following:

(1) A statement of the basic strategy for research and development being pursued by the Defense Department under the Strategic Defense Initiative, including the relative priority being afforded, respectively, to the development of near-term deployment options and research on longer-term technological approaches.

(2) A detailed description of each program or project included in the Strategic Defense Initiative (SDI) or which otherwise relates to defense against strategic ballistic missiles, including a technical evaluation of each such program or project and an assessment as to when each can be brought to the stage of full-scale engineering development (assuming funding as requested or programmed).

(3) A clear definition of the objectives of each planned deployment phase of the Strategic Defense Initiative or defense against strategic ballistic missiles.

(4) An explanation of the relationship between each such phase and each program and project associated with the proposed architecture for that phase.

(5) The status of consultations with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning research being conducted in the Strategic Defense Initiative program.

(6) A statement of the compliance of the planned SDI development and testing programs with existing arms control agreements, including the Antiballistic Missile Treaty.

(7) A review of possible countermeasures of the Soviet Union to specific SDI programs, an estimate of the time and cost required for the Soviet Union to develop each such countermeasure, and an evaluation of the adequacy of the SDI programs described in the report to respond to such countermeasures.

(8) Details regarding funding of programs and projects for the Strategic Defense Initiative (including the amounts authorized, appropriated, and made available for obligation after undistributed reductions or other offsetting reductions were carried out), as follows:

(A) the level of requested and appropriated funding provided for the current fiscal year for each program and project in the Strategic Defense Initiative budgetary presentation materials provided to Congress;

(B) the aggregate amount of funding provided for previous fiscal years (including the current fiscal year) for each such program and project;

(C) the amount requested to be appropriated for each such program and project for the next fiscal year;

(D) the amount programmed to be requested for each such program and project for the following fiscal year; and

(E) the amount required to reach the next significant milestone for each demonstration program and each major technology program.

(9) Details on what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include—

(A) defending elements of the Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate Soviet shorter range ballistic missiles armed with conventional, chemical, or nuclear warheads;

(B) defending against an accidental launch of strategic ballistic missiles against the United States;

(C) defending against a limited but militarily effective Soviet attack aimed at disrupting the National Command Authority or other valuable military assets;

(D) providing sufficient warning and tracking information to defend or effectively evade possible Soviet attacks against military satellites, including those in high orbits;

(E) providing early warning and attack assessment information and the necessary survivable command, control, and communications to facilitate the use of United States military forces in defense against possible Soviet conventional or strategic attacks;

(F) providing protection of United States population from a Soviet nuclear attack; and

(G) any other significant near-term military mission that the application of SDI technologies might help to accomplish.

(10) For each of the near-term military missions listed in paragraph (9), the report shall include—

(A) a list of specific program elements of the Strategic Defense Initiative that are pertinent to these applications;

(B) the Secretary's estimate of the initial operating capability dates for the architectures or systems to accomplish such missions;

(C) the Secretary's estimate of the level of funding necessary for each program to reach those operating capability dates; and

(D) the Secretary's estimate of the survivability and cost effectiveness at the margin of such architectures or systems against current and projected Soviet threats.

SEC. 234. DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1990, or any fiscal year before 1990, shall be subject to the limitations prescribed in paragraph (2).

(2) Funds described in paragraph (1) may not be obligated or expended—

(A) for the development or testing of any anti-ballistic missile system or component, except for development and testing consistent with the development and testing described in the 1989 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the 1989 SDIO Report.

(3) The limitation provided in paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1990 if the transfer is made in accordance with section 901 of this Act.

(b) DEFINITION.—As used in this section, the term "1989 SDIO Report" means the report entitled, "1989 Report to Congress on the Strategic Defense Initiative," dated January 19, 1989, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives by the Secretary of Defense pursuant to section 231 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1059).

SEC. 235. SDI FUNDS FOR SUPPORT OF MEDICAL FREE ELECTRON LASER PROGRAM

Of the amounts made available pursuant to section 231 for fiscal years 1990 and 1991, not more than $20,000,000 for each such year may be used to support the medical free electron laser program.

SEC. 236. REPORT ON ASYMMETRIES IN UNITED STATES AND SOVIET ABM PRODUCTION AND CAPABILITIES

(a) STUDY.—The Secretary of Defense, in coordination with the Central Intelligence Agency, shall submit to Congress a report on the asymmetry in United States and Soviet near-term capabilities to deploy anti-ballistic missile defenses beyond those permitted under the 1972 ABM Treaty. The study shall include the following:

(1) An assessment of the likelihood of a Soviet breakout of the ABM Treaty in the next five years and the assumptions used for that assessment.

(2) An assessment of the Soviet capability to exploit a non-ABM Treaty limited environment, including a detailed assessment of Soviet production capabilities for space-based ABM launchers and ground-based ABM launchers, interceptors, and battle management command, control, and communications.

(3) An assessment of the United States production base for space-based and ground-based ABM launchers, interceptors, and battle management command, control, and communications, including an estimate of how quickly the United States could respond to a Soviet breakout in each of the above mentioned areas.

(4) An assessment of the immediate and long-term steps which could be taken to respond to Soviet violations of the ABM Treaty, and other Soviet activities that are either permitted or ambiguous under the terms of that treaty, to redress the asymmetry in ABM Treaty breakout potential. This assessment shall include an evaluation of the measures which would be necessary to support a one-site ABM system allowed under the Treaty or an expanded ABM system in the event of a Soviet breakout of the Treaty. Such evaluation shall specifically address the required actions and associated costs to upgrade and expand the existing United States radar network, dismantled ABM components at Grand Forks, North Dakota, and other required components.

(b) REPORT.—Not later than the date on which the budget for fiscal year 1991 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secre-

tary of Defense shall submit in classified and unclassified form to the Committees on Armed Services of the Senate and House of Representatives a report specifying the results of the study conducted pursuant to this section.

(c) 1972 ABM TREATY DEFINED.—In this section, the term "1972 ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitations of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

PART D—STRATEGIC PROGRAMS

SEC. 241. TRIDENT II MISSILE PROGRAM

In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1990, no reduction may be made in the amount appropriated for the Trident II missile program.

SEC. 242. SECURITY AT THE KWAJALEIN TEST RANGE

The Secretary of the Air Force may transfer $5,000,000 from funds available to the Air Force for research, development, test, and evaluation for fiscal year 1990 to the Army for the sole purpose of funding highest priority security improvements at the Kwajalein Test Range. The Secretary of the Army may provide $2,500,000 for the same purpose from funds available to the Army for research, development, test, and evaluation for fiscal year 1990. Funds made available for such purpose by the Secretary of the Army may not be made available from funds otherwise available for the United States Army Kwajalein Atoll Command.

SEC. 243. RESTORATION OF CERTAIN REPORTING REQUIREMENTS RELATING TO CHEMICAL AND BIOLOGICAL WARFARE AGENTS

(a) SPECIFIC REPORTS.—Section 602 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (100 Stat. 1066; 10 U.S.C. 111 note) is amended—

(1) by striking out subsection (g) and inserting in lieu thereof the following:

"(g) PUBLIC LAW 91-121.—The exception provided in subsection (d)(3) applies to the following annual report and notifications relating to chemical or biological warfare agents:

"(1) The annual report required by subsection (a) of section 409 of Public Law 91-121 (50 U.S.C. 1511).

"(2) Notifications required by subsections (b)(4) and (c)(1) of such section (50 U.S.C. 1512(4), 1513(1)).";

(2) by striking out subsection (h) and inserting in lieu thereof the following:

"(h) PUBLIC LAW 91-441.—The exception provided in subsection (d)(3) applies to the following reports:

"(1) The annual report required by section 203(c) of Public Law 91-141 (10 U.S.C. 2358 note), relating to independent research and development and bid and proposal programs.

"(2) Reports required by subsection (d) of section 506 of such public law (50 U.S.C. 1518), relating to the disposal of chemical or biological warfare agents."; and

(3) by adding at the end the following new subsection:

"(v) PUBLIC LAW 95-79.—The exception provided in subsection (d)(3) applies to the notifications required by section 808 of Public Law 95-79 (50 U.S.C. 1520), relating to chemical or biological warfare agents.".

(b) CONFORMING AMENDMENT.—Section 602(d)(3) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 is amended by striking out "(u)" and inserting in lieu thereof "(v)".

PART E—ALLIED COOPERATIVE RESEARCH AND DEVELOPMENT

SEC. 251. ALLIED COOPERATIVE RESEARCH AND DEVELOPMENT

(a) DESIGNATION OF SUBCHAPTERS.—Chapter 138 of title 10, United States Code, is amended—

(1) by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 138—COOPERATIVE AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES

"Subchapter
"I. Acquisition and Cross-Servicing Agreements 2341
"II. Other Cooperative Agreements 2350a

"SUBCHAPTER I—ACQUISITION AND CROSS-SERVICING AGREEMENTS"; and

(2) by adding at the end the following:

"SUBCHAPTER II—OTHER COOPERATIVE AGREEMENTS

"Sec.
"2350a. Allied cooperative research and development.

"§ 2350a. Allied cooperative research and development

"(a) AUTHORITY TO ENGAGE IN COOPERATIVE R & D PROJECTS.—The Secretary of Defense may enter into a memorandum of understanding (or other formal agreement) with one or more major allies of the United States for the purpose of conducting cooperative research and development projects on defense equipment and munitions.

"(b) RESTRICTIONS.—(1) A memorandum of understanding (or other formal agreement) to conduct a cooperative research and development project under this section may not be entered into unless the Secretary of Defense determines that the proposed project will improve through the application of emerging technology the conventional defense capabilities of the North Atlantic Treaty Organization (NATO) or the common conventional defense capabilities of the United States and its major non-NATO allies.

"(2) Each cooperative project entered into under this section shall require sharing of the costs of research and development between the participants on an equitable basis.

"(3) The Secretary may not delegate the authority to make a determination under paragraph (1) except to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition.

"(c) RESTRICTIONS ON PROCUREMENT OF EQUIPMENT AND SERVICES.—(1) In order to assure substantial participation on the part of the major allies of the United States in approved cooperative research and development projects, funds made available for such projects may not be used to procure equipment or services from any foreign government, foreign research organization, or other foreign entity.

"(2) A major ally of the United States may not use any military or economic assistance grant, loan, or other funds provided by the United States for the purpose of making that ally's contribution to a cooperative research and development program entered into with the United States under this section.

"(d) COOPERATIVE OPPORTUNITIES DOCUMENT.—(1)(A) In order to ensure that opportunities to conduct cooperative research and development projects are considered during the early decision points in the Department of Defense's formal development review process in connection with any planned project of the Department of Defense, the Under Secretary of Defense for Acquisition shall prepare a formal arms cooperation opportunities document for review by the Defense Acquisition Board at its formal meetings.

"(B) The Under Secretary shall also prepare an arms cooperation opportunities document for review of each new project for which a Mission Need Statement is prepared.

"(2) The formal arms cooperation opportunities document referred to in paragraph (1) shall include the following:

"(A) A statement indicating whether or not a project similar to the one under consideration by the Department of Defense is in development or production by one or more of the major allies of the United States.

"(B) If a project similar to the one under consideration by the Department of Defense is in development or production by one or more major allies of the United States, an assessment by the Under Secretary of Defense for Acquisition as to whether that project could satisfy, or could be modified in scope so as to satisfy, the military requirements of the project of the United States under consideration by the Department of Defense.

"(C) An assessment of the advantages and disadvantages with regard to program timing, developmental and life cycle costs, technology sharing, and Rationalization, Standardization, and Interoperability (RSI) of seeking to structure a cooperative development program with one or more major allies of the United States.

"(D) The recommendation of the Under Secretary of Defense for Acquisition as to whether the Department of Defense should explore the feasibility and desirability of a cooperative development program with one or more major allies of the United States.

"(e) REPORTS TO CONGRESS.—(1) Not later than March 1 of each year, the Under Secretary of Defense for Acquisition shall submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a report—

"(A) describing the status, funding, and schedule of existing cooperative research and development projects carried out under this section for which memoranda of understanding (or other formal agreements) have been entered into; and

"(B) describing the purpose, funding, and schedule of any new cooperative research and development projects proposed to be carried out under this section (including those projects for which memoranda of understanding (or other formal agreements) have not yet been entered into) for which funds have been included in the budget submitted to Congress pursuant to section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted.

"(2) The Secretary of Defense and the Secretary of State, whenever they consider such action to be warranted, shall jointly submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report—

"(A) enumerating those countries to be added to or deleted from the existing designation of countries designated as major non-NATO allies for purposes of this section; and

"(B) specifying the criteria used in determining the eligibility of a country to be designated as a major non-NATO ally for purposes of this section.

"(f) SIDE-BY-SIDE TESTING.—(1) It is the sense of Congress—

"(A) that the Department of Defense should perform more side-by-side testing of conventional defense equipment manufactured by the United States and other member nations of NATO; and

"(B) that such testing should be conducted at the late stage of the development process when there is usually only a single United States prime contractor.

"(2) The Deputy Director of Defense Research and Engineering (Test and Evaluation) may acquire items of the type specified in paragraph (3) manufactured by other member nations of NATO for side-by-side comparison testing with comparable items of United States manufacture.

"(3) Items that may be acquired by the Deputy Director under paragraph (2) include the following:

"(A) Submunitions and dispensers.

"(B) Anti-tank and anti-armor guided missiles.

"(C) Mines, for both land and naval warfare.

"(D) Runway-cratering devices.

"(E) Torpedoes.

"(F) Mortar systems.

"(G) Light armored vehicles and major subsystems thereof.

"(H) Utility vehicles.

"(I) High-velocity anti-tank guns.

"(J) Short-Range Air Defense Systems (SHORADS).

"(K) Mobile air defense systems and components.

"(4) The Deputy Director shall notify the committees on Armed Services and on Appropriations of the Senate and House of Representatives of his intent to obligate funds made available to carry out this subsection not less than 30 days before such funds are obligated.

"(5) Not later than February 1 of each year, the Deputy Director shall submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a report—

"(A) on the systems, subsystems, and munitions produced by other member nations of NATO that were evaluated during the previous fiscal year by the Deputy Director; and

"(B) on the obligation of any funds under this subsection during the previous fiscal year.

"(g) SECRETARY TO ENCOURAGE SIMILAR PROGRAMS.—The Secretary of Defense shall encourage major allies of the United States to establish programs similar to the one provided for in this section.

"(h) DEFINITIONS.—In this section:

"(1) The term 'cooperative research and development project' means a project involving joint participation by the United States and one or more major allies of the United States under a memorandum of understanding (or other formal agreement) to carry out a joint research and development program—

"(A) to develop new conventional defense equipment and munitions; or

"(B) to modify existing military equipment to meet United States military requirements.

"(2) The term 'major ally of the United States' means a member nation of the North Atlantic Treaty Organization (other than the United States) or a major non-NATO ally.

"(3) The term 'major non-NATO ally' means a country (other than a member nation of the North Atlantic Treaty Organization) designated as a major non-NATO ally for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.".

(b) REPEALS.—Section 1103 of the Department of Defense Authorization Act, 1986 (10 U.S.C. 2407 note), and section 1105 of the Department of Defense Authorization Act, 1987 (22 U.S.C. 2767a), are repealed.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army:
(A) $23,453,700,000 for fiscal year 1990.
(B) $24,589,900,000 for fiscal year 1991.
(2) For the Navy:
(A) $24,358,200,000 for fiscal year 1990.
(B) $24,945,900,000 for fiscal year 1991.
(3) For the Marine Corps:
(A) $1,700,500,000 for fiscal year 1990.
(B) $1,767,500,000 for fiscal year 1991.
(4) For the Air Force:
(A) $22,709,500,000 for fiscal year 1990.
(B) $23,269,300,000 for fiscal year 1991.
(5) For the Defense Agencies:
(A) $7,926,000,000 for fiscal year 1990.
(B) $8,237,900,000 for fiscal year 1991.
(6) For the Army Reserve:
(A) $864,300,000 for fiscal year 1990.
(B) $902,600,000 for fiscal year 1991.
(7) For the Naval Reserve:
(A) $895,700,000 for fiscal year 1990.
(B) $949,900,000 for fiscal year 1991.
(8) For the Marine Corps Reserve:
(A) $77,500,000 for fiscal year 1990.
(B) $79,400,000 for fiscal year 1991.
(9) For the Air Force Reserve:
(A) $981,900,000 for fiscal year 1990.
(B) $1,015,400,000 for fiscal year 1991.
(10) For the Army National Guard:
(A) $1,875,500,000 for fiscal year 1990.
(B) $1,896,300,000 for fiscal year 1991.
(11) For the Air National Guard:
(A) $1,988,400,000 for fiscal year 1990.
(B) $2,104,600,000 for fiscal year 1991.
(12) For the National Board for the Promotion of Rifle Practice:
(A) $4,700,000 for fiscal year 1990.
(B) $5,600,000 for fiscal year 1991.
(13) For the Defense Inspector General:
(A) $96,200,000 for fiscal year 1990.
(B) $97,600,000 for fiscal year 1991.
(14) For the Court of Military Appeals:
(A) $4,000,000 for fiscal year 1990.
(B) $4,200,000 for fiscal year 1991.
(15) For Environmental Restoration, Defense:
(A) $517,800,000 for fiscal year 1990.
(B) $519,900,000 for fiscal year 1991.
(16) For the Goodwill Games, as provided in section 305 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1949), $14,600,000 for fiscal year 1990.
(17) For Humanitarian Assistance:
(A) $13,000,000 for fiscal year 1990.
(B) $13,000,000 for fiscal year 1991.

(b) GENERAL AUTHORIZATION FOR CONTINGENCIES.—There is authorized to be appropriated for fiscal years 1990 and 1991, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs; and

(2) for unbudgeted increases as the result of inflation in the cost of activities authorized by subsection (a).

SEC. 302. WORKING CAPITAL FUNDS

Funds are hereby authorized to be appropriated for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

(1) For the Army Stock Fund:
(A) $97,600,000 for fiscal year 1990.
(B) $141,500,000 for fiscal year 1991.
(2) For the Navy Stock Fund:
(A) $201,400,000 for fiscal year 1990.
(B) $232,100,000 for fiscal year 1991.
(3) For the Air Force Stock Fund:
(A) $306,300,000 for fiscal year 1990.
(B) $319,600,000 for fiscal year 1991.
(4) For the Defense Stock Fund:
(A) $94,100,000 for fiscal year 1990.
(B) $156,300,000 for fiscal year 1991.

SEC. 303. DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT

There are authorized to be appropriated to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2631) the following amounts:

(1) $300,000,000 for fiscal year 1990.
(2) $500,000,000 for fiscal year 1991.

SEC. 304. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—Funds appropriated pursuant to the authorization in section 301 for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of the funds appropriated for fiscal years 1990 and 1991 pursuant to such section for such purpose, not more than $3,000,000 may be used for distribution of humanitarian relief supplies to the non-Communist resistance organization at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to section 301 for fiscal years 1990 and 1991 for humanitarian assistance to provide for—

(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation for humanitarian relief provided with funds appropriated pursuant to section 301 for humanitarian assistance shall be provided under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to section 301 for humanitarian assistance shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to section 301 for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

(f) REPORTS TO CONGRESS.—(1) The Secretary of Defense shall submit (at the times specified in paragraph (2)) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report on the provision of humanitarian assistance under the humanitarian relief laws specified in paragraph (4).

(2) A report required by paragraph (1) shall be submitted—

(A) not later than 60 days after the date of the enactment of this Act;

(B) not later than June 1, 1990; and

(C) not later than June 1 of each year thereafter until all funds available for humanitarian assistance under the humanitarian relief laws specified in paragraph (4) have been obligated.

(3) A report required by paragraph (1) shall contain (as of the date on which the report is submitted) the following information:

(A) The total amount of funds obligated for humanitarian relief under the humanitarian relief laws specified in paragraph (4).

(B) The number of scheduled and completed flights for purposes of providing humanitarian relief under the humanitarian relief laws specified in paragraph (4).

(C) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

(4) The humanitarian relief laws referred to in paragraphs (1), (2), and (3) are the following:

(A) This section.

(B) Section 305 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 617).

(C) Section 331 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1078).

(D) Section 303 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1948).

(5) Section 303 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1948), is amended by striking out subsection (f).

PART B—LIMITATIONS

SEC. 321. REPEAL OF LIMITATION ON THE USE OF OPERATION AND MAINTENANCE FUNDS TO PURCHASE INVESTMENTS

Section 303 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1073) is repealed.

SEC. 322. PROHIBITION ON JOINT USE OF THE MARINE CORPS AIR STATION AT EL TORO, CALIFORNIA, WITH CIVIL AVIATION

The Secretary of the Navy may not enter into any agreement that would provide for, or permit, civil aircraft to regularly use the Marine Corps Air Station at El Toro, California.

PART C—BASE CLOSURE AND REALIGNMENT MATTERS

SEC. 331. BASE CLOSURE REPORT

(a) REPORT REQUIREMENT.—Not later than November 15, 1989, the Comptroller General of the United States shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives a report on the methodology, findings, and recommendations of the Commission on Base Realignment and Closure.

(b) CONTENT OF REPORT.—(1) The report shall include an analysis of the following:

(A) The adequacy and accuracy of the information relied upon as a basis for the Commission's recommendations.

(B) The process used in the determination of military missions and requirements and the military value of the bases in meeting such missions and requirements.

(C) The criteria used to select bases to be closed or realigned.

(D) The findings regarding military and civilian personnel reductions and associated relocation and termination expenses.

(E) The findings regarding nonrecurring costs, including expenses such as costs of construction, personnel, and logistics.

(F) The findings regarding long-term, annual savings, including the estimated cost amortization period.

(G) The findings regarding assumed proceeds from property sales for each applicable initiative.

(H) The findings regarding any environmental restoration costs that must be incurred in order to make it possible to sell or transfer excess property.

(2) Where any inaccuracies in the information referred to in paragraph (1)(A) are noted in the report, the Comptroller General shall include in the report an assessment of the effects of such inaccuracies upon the ranking of installations by the Commission within functional categories.

SEC. 332. REPORT ON ENVIRONMENTAL RESTORATION OF JEFFERSON PROVING GROUND, INDIANA

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the environmental contamination at the Jefferson Proving Ground, Indiana, resulting from the activities of the Department of Defense. The report shall include the following:

(1) A description of the nature and extent of the environmental contamination, including any contamination resulting from hazardous materials.

(2) A detailed plan to restore all portions of the Jefferson Proving Ground south of the firing line to full and unrestricted use.

(3) A description of all portions of the Jefferson Proving Ground which the Department of Defense does not plan to make available for full and unrestricted use for reasons of liability, costs of cleanup, or any other reason.

(4) A plan to finance the cleanup of the Jefferson Proving Ground, including estimated costs of the cleanup, identification of the sources of funds for cleanup, and a time schedule for implementation of cleanup measures.

(b) CONSULTATION.—The Secretary shall consult with appropriate State and local officials in preparing the report required by subsection (a).

(c) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than April 15, 1990.

SEC. 333. NOTICE TO LOCAL AND STATE EDUCATIONAL AGENCIES OF ENROLLMENT CHANGES DUE TO BASE CLOSURES AND REALIGNMENTS

(a) NOTICE REQUIRED.—Not later than January 1 of each year in which any activities necessary to close or realign a military installation under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2627) are conducted, the Secretary, in consultation with the Secretary of Education, shall—

(1) to the extent practicable, identify each local educational agency that will experience at least a 5-percent increase or at least a 10-percent reduction in the number of minor dependents of members of the Armed Forces and minor dependents of civilian employees of the Department of Defense enrolled in schools under the jurisdiction of such agency during the next academic year (compared with the number of such dependents enrolled in such schools during the preceding year) as a result of the closure or realignment of a military installation under that Act; and

(2) not later than 30 days after identifying such local educational agency, transmit a written notice of the schedule for the closure or realignment of that military installation to such local educational agency and to the State government education agency responsible for administering State government education programs involving that local educational agency.

PART D—MISCELLANEOUS REPORTING REQUIREMENTS

SEC. 341. REPORT ON MILITARY UTILIZATION OF THE INLAND NAVIGATION SYSTEM

Not later than one year after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report on the potential for obtaining efficiencies, savings, and enhanced mobilization preparedness through increased utilization of the national inland waterway system by the Department of Defense and defense industries.

SEC. 342. REPORT ON ENVIRONMENTAL REQUIREMENTS AND PRIORITIES

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the long-range environmental challenges and goals of the Department of Defense.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) A discussion of major environmental concerns that the Department of Defense will face world-wide in the next decade, and a qualitative and quantitative assessment, where practicable, of each concern.

(2) A status report of current efforts, programs, resources, and policies used to address the concerns identified under paragraph (1).

(3) The projected funding for and schedule of actions under the Department of Defense Installation Restoration Program.

(4) An assessment of Federal, State, and local environmental regulatory requirements and the effects of such requirements on operations and activities of the Department of Defense.

(5) An analysis of all the information described in paragraphs (1) through (3) and a discussion of potential courses of action, priorities, and goals of the Department of Defense.

(6) Such comments and recommendations as the Secretary considers appropriate.

(c) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted not later than two years after the date of the enactment of this Act.

SEC. 343. SOIL AND WATER CONTAMINATION NEAR MEAD, NEBRASKA

(a)(1) Since the United States Army Corps of Engineers is investigating soil and water

contamination at the former Nebraska Ordnance Plant near Mead, Nebraska.

(2) Since solvents, polychlorinated byphenals (PCBs), and RDX, and explosive material used in making ammunitions, have been discovered.

(b) Now therefore be it determined that it is the sense of the Senate that the United States Army Corps of Engineers should carry out this investigation as promptly as possible consistent with other environmental cleanup responsibilities, and should continue to keep interested parties, including potentially affected residents in the area, University of Nebraska officials, and State and local government personnel fully advised of developments relating to the study and activities at the site.

SEC. 344. REPORT ON MANPOWER, MOBILITY, SUSTAINABILITY, AND EQUIPMENT

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the readiness of the Armed Forces, in terms of manpower, mobility, sustainability, and equipment, to perform their assigned missions. The report shall be based on the manpower and other resources planned for the Armed Forces in the 1991 budget for the Department of Defense.

(b) MATTERS TO BE INCLUDED IN REPORT.—The Secretary shall include the following in the report required by subsection (a):

(1) A detailed analysis of trends in readiness and sustainability of the military forces of the United States over the five-year period 1986 to 1990 and, based on the current Five-Year Defense Program or other planning document approved by the Secretary, a projection of such trends over the succeeding five-year period.

(2) A detailed evaluation of the readiness and sustainability of the unified combatant commands and the specified combatant commands of the Armed Forces.

(3) A discussion of—

(A) the readiness and sustainability of the military forces of the United States in terms of the standards approved by the Secretary of Defense;

(B) the readiness and sustainability of allied forces of the United States; and

(C) the readiness and sustainability of potential enemy forces.

(4) A list of all improvements that need to be made in the readiness and sustainability of the manpower, mobility, and equipment of the Armed Forces to correct major shortfalls of the unified combatant commands and the specified combatant commands, the relative priority of each such improvement, and the estimated cost of each such improvement.

(5) Such other information regarding the readiness of the Armed Forces, in terms of manpower, mobility, sustainability, and equipment, as the Secretary considers appropriate.

(c) PRIORITY FOR IMPROVEMENTS.—The relative priority of the improvements referred to in subsection (b)(4) shall be determined by the Secretary on the basis of the improvements necessary to ensure the ability of the Armed Forces to perform their assigned missions and the ability of the United States to meet its military commitments.

(d) REPORT DEADLINE.—The Secretary shall submit the report required by subsection (a), together with such comments and recommendations as the Secretary considers appropriate, not later than February 15, 1990.

SEC. 345. REPORT ON IMPACT AID

(a) REQUIREMENT FOR REPORT.—Not later than December 31, 1989, the Secretary of Defense shall submit to the committees named in subsection (b) a report on the feasibility and desirability of restoring to the Secretary of Defense, on or before October 1, 1991, the responsibilities formerly exercised by the Secretary for the administration of impact aid for schools affected by Department of Defense activities.

(b) COMMITTEES.—The Secretary shall submit the report required by subsection (a) to the Committees on Armed Services and on Labor and Human Services of the Senate and the Committees on Armed Services and on Education and Labor of the House of Representatives.

(c) DEFINITION.—As used in this section, the term "impact aid" means payments and other arrangements under the provisions of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) and the Act of September 23, 1950 (Public Law 815, Eighty-first Congress).

SEC. 346. REPORT ON SECOND SOURCE FOR CARBONIZABLE RAYON YARN

Not later than November 30, 1989, the Secretary of Defense will report to the Committees on Armed Services of the Senate and House of Representatives on the progress, timetable, and a time certain for the Department to establish a certified second production source for carbonizable rayon yarn for use on reentry vehicles heat shields and rocket nozzles, applicable to both defense and space programs.

PART E—MISCELLANEOUS PROVISIONS

SEC. 351. ENERGY EFFICIENCY INCENTIVE

Section 736 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 2006; 42 U.S.C. 8287 note), is amended—

(1) in subsection (b), by striking out paragraph (1) and inserting in lieu thereof the following: "(1) One-half of the amount of such savings shall be used for the acquisition of energy conserving measures for military installations. Such measures shall be in addition to any such energy conserving measures acquired for military installations under contracts entered into under title VIII of the National Conservation Energy Policy Act.";

(2) in subsection (c)—

(A) by striking out "end of the first year" and inserting in lieu thereof "end of each of the first five years"; and

(B) by striking out "first-year" after "amount of"; and

(3) in subsection (d)—

(A) by striking out "first-year"; and

(B) by striking out "during the first year" and inserting in lieu thereof "during the first five years".

SEC. 352. AUTHORITY TO ACQUIRE RAILROAD TRACK STRUCTURE AND TEMPORARY RIGHT-OF-WAY FOR RAIL LINE

The Secretary of the Army may purchase the railroad track structure and temporary right-of-way for the railroad line known as the Mina Branch, located between milepost 331.12, near Wabuska, Nevada, and milepost 385.00, near Thorne, Nevada, for use in connection with the operation of Hawthorne Army Ammunition Plant, Nevada. The Secretary may use any funds appropriated pursuant to section 301 for the Army for fiscal year 1990 to carry out the purpose of the preceding sentence.

SEC. 353. USE OF CHLOROFLUOROCARBONS AND HALONS IN THE DEPARTMENT OF DEFENSE

(a) CHLOROFLUOROCARBONS EMISSION REDUCTION.—The Secretary of Defense shall formulate and carry out, through the Under Secretary of Defense for Acquisition, a program to reduce the unnecessary release of chlorofluorocarbons and halons into the atmosphere in connection with maintenance operations and training and testing practices of the Department of Defense.

(b) REPORT.—(1) Not more than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and of the House of Representatives a report describing the program the Secretary proposes to carry out pursuant to subsection (a). The Secretary shall specify in the report the reduction goals that are attainable on the basis of known technology, including the use of refrigerant recovery systems currently available. The Secretary shall include in the report a schedule for meeting those goals. The Secretary shall also include in such report reduction goals that can only be met with the use of new technology and assess the technologies and investment that will be required to attain those goals within a five-year period.

(2) Before the report required under paragraph (1) is submitted to the committees named in such paragraph, the Secretary shall transmit a copy of the report to the Administrator of the Environmental Protection Agency for comment thereon.

(c) DOD REQUIREMENTS FOR CFCs.—(1) Not more than 30 days after the date of the enactment of this Act, the Secretary shall appoint an advisory committee to be known as the "CFC Advisory Committee" (hereinafter in this section referred to as the "Committee"). The Committee shall be composed of not more than 15 members, with an equal number of representatives from the Department of Defense, the Environmental Protection Agency, and defense contractors. Members representing defense contractors shall be contractors that supply products or equipment to the Department of Defense that require the use of chlorofluorocarbons.

(2) It shall be the function of the Committee to study the use of chlorofluorocarbons by the Department of Defense and by contractors in the performance of contracts for the Department of Defense and the cost and feasibility of using alternative compounds or technologies for chlorofluorocarbons (CFCs).

(3) Within 120 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that specify the use of CFCs.

(4) Within 150 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that do not specify use of CFCs but cannot be met without the use of CFCs.

(d) REPORT.—Not later than September 30, 1990, the Secretary shall submit to the Committees named in subsection (b) a report containing the results of the study by the Committee. The report shall—

(1) identify cases in which the Committee found that substitutes for CFCs could be made most expeditiously;

(2) identify the feasibility and cost of substituting compounds or technologies for CFC uses referred to in subsection (c)(3) and estimate the timeframe for completing the substitution;

(3) identify CFC uses referred to in subsection (c)(4) for which substitutes are not

currently available and indicate the reasons substitutes are not available.

(4) describe the types of research programs that should be undertaken to identify substitute compounds or technologies for CFC uses referred to in paragraphs (3) and (4) of subsection (c) and estimate the cost of the program;

(5) recommend procedures to expedite the use of substitute compounds and technologies offered by contractors to replace CFC uses;

(6) estimate the earliest date on which CFCs will no longer be required for military applications; and

(7) estimate the cost of revising military specifications for the use of substitutes for CFCs, the add-on costs for revision of contracts to provide for the use of substitutes for CFCs, and the cost of purchasing new equipment and reverification necessitated by the use of substitutes for CFCs.

SEC. 354. AUTHORIZATION OF LONG-TERM AIRCRAFT SUPPORT CONTRACT

The Secretary of the Army may enter into a long-term contract pursuant to section 2401 of title 10, United States Code, that includes a lease for the provision of air transportation at Kwajalein Atoll, Republic of the Marshall Islands, if—

(1) the contract does not impose a substantial termination liability on the United States within the meaning of section 2401(a)(1)(B) of title 10, United States Code; and

(2) the contract is made subject to the availability of funds for such purpose.

SEC. 355. AUTHORITY TO LEASE FLEET ELECTRONIC WARFARE SUPPORT AIRCRAFT

Section 328 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1957), is amended to read as follows:

"The Secretary of the Navy may lease aircraft for Fleet Electronic Warfare Support Group activities in accordance with section 2401 of title 10, United States Code, if the cost of leasing, operating, and supporting such aircraft is less than the projected costs of operating and maintaining existing aircraft of the Navy for the same activity.".

SEC. 356. SERVICE CONTRACT TO TRAIN UNDERGRADUATE NAVAL FLIGHT OFFICERS

The Secretary of the Navy may enter into a contract for services to train undergraduate naval flight officers during fiscal year 1992 in accordance with section 2401 of title 10, United States Code, after conducting a competition for such contract for services.

SEC. 357. DEFENSE CONTRACT AUDITORS

The Secretary of Defense, not later than September 30, 1990, shall increase the number of full-time personnel employed by the Defense Contract Audit Agency to 7,457, of which not less than 6,488 shall be auditors.

SEC. 358. ENVIRONMENTAL IMPACT STUDY OF THE SHENANDOAH RIVER

(a) The Secretary of the Army, acting through the Chief of Engineers, will conduct a study to determine the damage and environmental impact on the Shenandoah River by companies under contract to the Department of Defense, and the National Aeronautics and Space Administration.

(b) The study will determine—

(1) the degree, in full, of the pollution effect and the environmental impact to the river, and

(2) the estimated cost and time schedule to restore the water quality of the river to Federal standards.

(c) An interim study report will be due not later than December 31, 1989. A final report is due June 30, 1990.

SEC. 359. TUG AND TOWING SERVICES AT PORT CANAVERAL, FLORIDA

With respect to tug and towing services for the Department of the Navy at Port Canaveral, Florida, the Secretary of the Navy shall personally make any determination required by Part 19.502-2 of the Federal Acquisition Regulation.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS FOR FISCAL YEARS 1990 AND 1991

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

(a) FISCAL YEAR 1990.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1990, as follows:

(1) The Army, 764,021, of which not more than 106,001 may be officers.

(2) The Navy, 591,541, of which not more than 72,443 may be officers.

(3) The Marine Corps, 197,159, of which not more than 20,110 may be officers.

(4) The Air Force, 567,474, of which not more than 102,200 may be officers.

(b) FISCAL YEAR 1991.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1991, as follows:

(1) The Army, 763,721, of which not more than 105,675 may be officers.

(2) The Navy, 591,541, of which not more than 72,263 may be officers.

(3) The Marine Corps, 197,159, of which not more than 20,108 may be officers.

(4) The Air Force, 566,374, of which not more than 102,069 may be officers.

SEC. 402. MAINTENANCE OF ARMY COMBAT FORCE STRUCTURE

(a) IN GENERAL.—The Secretary of Defense may not take any action to reduce the number of active Army ground combat brigades assigned to the 4th Infantry Division (Mechanized) before December 1, 1990.

(b) AUTHORITY TO INCREASE ARMY END STRENGTH FOR FISCAL YEAR 1990.—If, as a result of the prohibition contained in subsection (a), the Secretary of Defense determines that it is necessary to increase the end strength of the Army for fiscal year 1990 above the level authorized under section 401, the Secretary may authorize an increase in the end strength of the Army for fiscal year 1990 of not more than 3,312.

(c) ADJUSTMENT FOR REDUCTION.—If the Secretary of Defense authorizes an increase in the end strength of the Army under subsection (a), the Secretary shall reduce the authorized active end strengths of one or more of the other military services in such amounts as may be necessary to ensure that the combined authorized end strengths for the Army, Navy, Air Force, and Marine Corps does not exceed the total end strengths authorized under section 401.

SEC. 403. TEMPORARY REDUCTION IN NUMBER OF AIR FORCE COLONELS

The number of officers that (but for this section) would be authorized under section 523 of title 10, United States Code, and other applicable provisions of law to be serving on active duty in the Air Force in the grade of colonel during fiscal year 1991 is hereby reduced by 250.

SEC. 404. REASSIGNMENT TO FORT IRWIN, CALIFORNIA

It is the sense of Congress that any combat unit of battalion or squadron size (or larger size) that on the date of the enactment of this Act is stationed at Fort Knox, Kentucky, shall not be permanently reassigned to Fort Irwin, California.

PART B—RESERVE FORCES

SEC. 421. END STRENGTHS FOR SELECTED RESERVE

(a) FISCAL YEAR 1990.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1990, as follows:

(1) The Army National Guard of the United States, 458,000.

(2) The Army Reserve, 321,700.

(3) The Naval Reserve, 153,400.

(4) The Marine Corps Reserve, 44,000.

(5) The Air National Guard of the United States, 116,200.

(6) The Air Force Reserve, 84,900.

(7) The Coast Guard Reserve, 15,000.

(b) FISCAL YEAR 1991.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1991, as follows:

(1) The Army National Guard of the United States, 458,500.

(2) The Army Reserve, 323,100.

(3) The Naval Reserve, 155,000.

(4) The Marine Corps Reserve, 44,100.

(5) The Air National Guard of the United States, 116,300.

(6) The Air Force Reserve, 85,200.

(7) The Coast Guard Reserve, 15,000.

(c) ADJUSTMENTS.—(1) The end strengths prescribed by subsection (a) or (b) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(A) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(B) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

(2) Whenever units referred to in paragraph (1) or individual members referred to in such paragraph are released from active duty during any fiscal year, the end strengths prescribed for the fiscal year for the Selected Reserve of the reserve component concerned shall be proportionately increased by the total authorized strength of the units and by the total number of the individual members.

SEC. 422. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) FISCAL YEAR 1990.—Within the end strengths prescribed in section 421(a), the reserve components of the Armed Forces are authorized, as of September 30, 1990, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 26,164.

(2) The Army Reserve, 13,680.

(3) The Naval Reserve, 22,708.

(4) The Marine Corps Reserve, 2,301.

(5) The Air National Guard of the United States, 8,517.

(6) The Air Force Reserve, 686.

(b) FISCAL YEAR 1991.—Within the end strengths prescribed in section 421(b), the reserve components of the Armed Forces are authorized, as of September 30, 1991, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time

National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 26,514.

(2) The Army Reserve, 14,027.

(3) The Naval Reserve, 23,565.

(4) The Marine Corps Reserve, 2,401.

(5) The Air National Guard of the United States, 8,468.

(6) The Air Force Reserve, 700.

SEC. 423. INCREASE IN NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) SENIOR ENLISTED MEMBERS.—

(1) FISCAL YEAR 1990.—Effective on October 1, 1989, the table in section 517(b) of title 10, United States Code, is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E–9	542	200	224	13
E–8	2,504	425	637	74".

(2) FISCAL YEAR 1991.—Effective on October 1, 1990, that table is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E–9	557	202	231	13
E–8	2,585	429	670	74".

(b) OFFICERS.—

(1) FISCAL YEAR 1990.—Effective on October 1, 1989, the table in section 524(a) of such title is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	3,030	1,065	575	110
Lieutenant Colonel or Commander	1,448	520	476	75
Colonel or Navy Captain	351	188	190	25".

(2) FISCAL YEAR 1991.—Effective on October 1, 1990, that table is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	3,219	1,071	575	110
Lieutenant Colonel or Commander	1,524	520	532	75
Colonel or Navy Captain	364	188	194	25".

SEC. 424. AUTHORIZED STRENGTH OF NAVAL RESERVE OFFICERS IN CERTAIN GRADES

Section 5457(a) of title 10, United States Code, is amended—

(1) in clause (2), by striking out "7" and inserting in lieu thereof "5"; and

(2) by adding after clause (7) the following new clauses:

"(8) Medical Service Corps—1.

"(9) Nurse Corps—1."

PART C—MILITARY TRAINING

SEC. 431. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) FISCAL YEAR 1990.—For fiscal year 1990, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 79,667.

(2) The Navy, 67,224.

(3) The Marine Corps, 21,656.

(4) The Air Force, 39,575.

(5) The Army National Guard of the United States, 19,168.

(6) The Army Reserve, 15,377.

(7) The Naval Reserve, 3,237.

(8) The Marine Corps Reserve, 4,179.

(9) The Air National Guard of the United States, 2,941.

(10) The Air Force Reserve, 1,752.

(b) FISCAL YEAR 1991.—For fiscal year 1991, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 74,760.

(2) The Navy, 66,517.

(3) The Marine Corps, 22,235.

(4) The Air Force, 37,757.

(5) The Army National Guard of the United States, 18,667.

(6) The Army Reserve, 15,963.

(7) The Naval Reserve, 3,259.

(8) The Marine Corps Reserve, 4,178.

(9) The Air National Guard of the United States, 2,939.

(10) The Air Force Reserve, 1,774.

(c) ADJUSTMENTS.—The average military student loads authorized in subsections (a) and (b) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

PART D—CIVILIAN PERSONNEL

SEC. 441. REPEAL OF PROHIBITION OF USE OF CERTAIN PERSONNEL MANAGEMENT CONSTRAINTS

(a) IN GENERAL.—Section 129 of title 10, United States Code, is repealed.

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 3 of such title is amended by striking out the item relating to section 129.

SEC. 442. AUTHORITY TO ACCEPT CERTAIN VOLUNTEER SERVICES

Section 1588(a) of title 10, United States Code, is amended by striking out "museum" and inserting in lieu thereof "museum, natural resources program,".

TITLE V—MILITARY PERSONNEL

PART A—MATTERS AFFECTING THE RESERVE COMPONENTS

SEC. 501. DELAYED ENTRY PROGRAM AND DELAYED ENTRY TRAINING PROGRAM FOR RESERVISTS

(a) DELAYED ENTRY PROGRAM ENLISTMENTS.—Section 511 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) A person with no prior military service who is qualified for enlistment in a regular component of an armed force may (except as provided in paragraph (3)) be enlisted as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve for a term of not less than six years nor more than eight years.

"(2) A person enlisted under this subsection shall, unless sooner ordered to active duty under chapter 39 of this title or another provision of law, be discharged from the reserve component in which enlisted and immediately enlisted in a regular component of an armed force within 365 days after enlistment in the reserve component. During the period beginning on the date on which the person enlists under paragraph (1) and ending on the date on which the person is enlisted in a regular component under the preceding sentence, the person shall be placed in the Ready Reserve of the armed force concerned.

"(3) A person who is under orders to report for induction into an armed force under the Military Selective Service Act (50 U.S.C. App. 451 et seq.), except as provided in clause (ii) or (iii) of section 6(c)(2)(A) of that Act, may not be enlisted under paragraph (1).

"(4) This subsection shall be carried out under regulations to be prescribed by the Secretary of Defense or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.".

(b) DELAYED ENTRY PROGRAM EXEMPTION FROM READY RESERVE TRAINING REQUIREMENTS.—Section 270(a) of title 10, United States Code, is amended by inserting "or 511(e)" after "section 269(b)" in the first sentence.

(c) DELAYED ENTRY TRAINING PROGRAM LONGEVITY FOR PAY.—Subsection (e) of section 205 of title 37, United States Code, is amended to read as follows:

"(e)(1) Notwithstanding subsection (a), a period of service described in paragraph (2) of a member who enlists in a reserve component may not be counted under this section.

"(2) Paragraph (1) applies to—

"(A) service performed while a member of a reserve component under an enlistment under section 511(b) or 511(d) of title 10 before the member begins service on active duty under such section (including a period of initial active duty for training performed before beginning such service on active duty) unless the member performs inactive duty training before beginning such active service; and

"(B) service performed while a member of a reserve component under an enlistment under section 511(e) of title 10.".

SEC. 502. LIMITATION OF ACTIVE GUARD AND RESERVE PERSONNEL TO ACTIVE-DUTY PROGRAM

(a) LIMITATION.—Section 2132(d) of title 10, United States Code, is amended by adding at the end the following new sentence: "However, a person may not receive credit under the program established by this chapter for service (in any grade) described in subparagraph (B) or (C) of section 523(b)(1) of this title".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, or the date of the enactment of this Act, whichever is later.

(c) REFERENCES TO ADMINISTRATOR OF VETERANS' AFFAIRS.—Chapter 106 of title 10, United States Code, is amended—

(1) by striking out "Administrator of Veterans' Affairs" in sections 2131(b)(4), 2132(c), 2132(d), and 2136(a) and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(2) by striking out "to the Administrator" in section 2132(c) and inserting in lieu thereof "to that Secretary".

(d) OTHER TECHNICAL AMENDMENTS.—(1) Section 2131(b) of such title is amended by striking out "and educational" in the matter preceding paragraph (1) and inserting in lieu thereof "of an educational".

(2) Section 2132(d) of such title is amended by striking out "An individual" and inserting in lieu thereof "A person".

SEC. 503. ANNUAL MUSTER DUTY FOR READY RESERVISTS

(a) ORDER TO ANNUAL MUSTER DUTY.—(1) Chapter 39 of title 10, United States Code is amended by adding at the end the following new section:

"§ 691. Ready Reserve: muster duty

"(a) Under regulations prescribed by the Secretary of Defense, a member of the Ready Reserve may be ordered to muster duty one time each year without his consent. A member on muster duty under this

section shall be engaged for at least two hours on the day of muster in the performance of that duty.

"(b) The period which a member may be required to devote to muster duty under this section and to round-trip travel to and from the location of such duty may not total more than one day each calendar year.

"(c) Except as specified in subsection (d), muster duty under this section shall be treated as the equivalent of inactive-duty training for the purposes of this title and titles 37 and 38, including the determination of eligibility for and the receipt of benefits and entitlements provided under those titles for Reserves performing inactive-duty training and for their dependents and survivors.

"(d) Muster duty under this section shall not be credited in determining entitlement to, or in computing, retired pay under chapter 67 of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"691. Ready Reserve: muster duty.".

(b) ALLOWANCE FOR ANNUAL MUSTER DUTY.—(1) Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 433. Allowance for muster duty

"(a) Under uniform regulations prescribed by the Secretaries concerned, a member of the Ready Reserve who is not a member of the National Guard or of the Selected Reserve is entitled to an allowance for muster duty performed pursuant to section 691 of title 10 if the member is engaged in that duty for at least two hours.

"(b) The amount of the allowance under this section shall be equal to the average per diem rate for the United States (other than Alaska and Hawaii) under section 404(d)(2)(A) of this title as in effect on September 30 of the year preceding the year in which the muster duty is performed.

"(c) The allowance authorized by this section may not be disbursed in kind and shall be paid to the member on or before the date on which the muster duty is performed. The allowance shall constitute the single, flat-rate monetary allowance authorized for the performance of muster duty and shall constitute payment in full to the member, regardless of grade or rank in which serving, as commutation for travel to the immediate vicinity of the designated muster duty location, transportation, subsistence, and the special or extraordinary costs of enforced absence from home and civilian pursuits, including such absence on weekends and holidays.

"(d) A member who performs muster duty is not entitled to compensation for inactive-duty training under section 206(a) of this title for the same period.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"433. Allowance for muster duty.".

SEC. 504. REPEAL OF FOUR YEAR RESERVE OFFICER UNIFORM ALLOWANCE

(a) REPEAL OF ALLOWANCE.—Section 416 of title 37, United States Code, is amended—

(1) by striking out subsection (a);

(2) in subsection (b)—

(A) by striking out "(b)";

(B) by striking out "and subsection (a) of this section" in the first sentence; and

(C) by striking out "this subsection" in the second sentence and inserting in lieu thereof "this section".

(b) SAVINGS CLAUSE.—The amendments made by subsection (a) shall become effective on the date of the enactment of this Act, except that in the case of an officer of an armed force who, except for such amendments, would have become entitled to a uniform reimbursement under such section within one year after the date of the enactment of this Act, such amendments shall not become effective until one year and one day after such date of enactment.

SEC. 505. EXTENSION OF CERTAIN EXPIRING AUTHORITIES RELATING TO RESERVES

(a) EXTENSION OF THE AUTHORITY TO REPAY LOANS OF CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1992".

(b) EXTENSION OF GRADE DETERMINATION AUTHORITY FOR CERTAIN RESERVE MEDICAL OFFICERS.—Sections 3359(b) and 8359(b) of such title are each amended by striking "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(c) EXTENSION OF PROMOTION AUTHORITY FOR CERTAIN RESERVE OFFICERS WHO ARE SERVING ON ACTIVE DUTY.—Sections 3380(d) and 8380(d) of such title are each amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(d) EXTENSION OF REQUIREMENTS RELATING TO THE TREATMENT OF SINGLE PARENTS ENLISTING IN RESERVE COMPONENTS.—Section 523(d) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 510 note) is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(e) EXTENSION OF TITLE 10 PROVISIONS RELATING TO COMPUTATION OF YEARS OF SERVICE FOR MANDATORY TRANSFER TO THE RETIRED RESERVE.—Section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note), is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

SEC. 506. SPECIAL UNIT ASSIGNMENT PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE

(a) AUTHORIZATION OF SPECIAL PAY.—Chapter 5 of title 37, United States Code, is amended by inserting after section 308c the following new section:

"§ 308d. Special pay: enlisted members of the Selected Reserve assigned to certain units

"(a) Under regulations prescribed by the Secretary of Defense, an enlisted member who is assigned to a high priority unit of the Selected Reserve of the Ready Reserve of an armed force, as designated under subsection (b) of this section, and who performs inactive duty for training for compensation under section 206 of this title with such unit may be paid compensation, in addition to the compensation to which the member is otherwise entitled, in an amount not to exceed $10 for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least four hours, including any such instruction or duty performed on a Sunday or holiday.

"(b) The Secretary concerned may designate a unit, for the purposes of subsection (a) and under such terms and conditions as the Secretary considers appropriate, as a high priority unit if that unit has experienced, or reasonably might be expected to experience, critical personnel shortages. The Secretary may vacate a designation made under this subsection at any time he considers the designation no longer necessary.

"(c) Additional compensation may not be paid under this section for inactive duty performed after September 30, 1991.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 308c the following new item:

"308d. Special pay: enlisted members of the Selected Reserve assigned to certain units.".

(c) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of the special pay program provided for in section 308d of title 37, United States Code, as added by subsection (a). The Secretary shall submit the report not later than May 1, 1991, together with such comments and recommendations as the Secretary considers appropriate.

PART B—HEALTH CARE MATTERS

SEC. 521. PROHIBITION ON CHARGES FOR OUTPATIENT MEDICAL AND DENTAL CARE

During fiscal years 1990 and 1991, the Secretary of Defense may not impose a charge for the receipt of outpatient medical or dental care at a military medical treatment facility.

SEC. 522. LIMITATION ON CHAMPUS PAYMENTS TO NONINSTITUTIONAL HEALTH-CARE PROVIDERS

(a) IN GENERAL.—Subsection (h) of section 1079 of title 10, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) Payment for a charge for services by an individual health-care professional (or other noninstitutional health-care provider) for which a claim is submitted under a plan contracted for under subsection (a) may be denied only to the extent that the charge exceeds the lesser of—

"(A) the amount equivalent to the 80th percentile of billed charges made for similar services in the same locality during the base period; or

"(B) the maximum amount payable under this subsection (as in effect on October 1, 1987) for such services in that locality during fiscal year 1988, as increased by the Secretary of Defense from time to time, after consultation with the other administering Secretaries, to reflect economic changes after September 30, 1988.";

(2) in paragraph (2), by striking out "90th percentile" and inserting in lieu thereof "80th percentile";

(3) by adding at the end the following new paragraph:

"(3) The Secretary of Defense may increase the maximum amount referred to in paragraph (1)(B) each time the Secretary of Health and Human Services increases, on the basis of economic changes, the amounts payable to providers of services under part B of title XVIII of the Social Security Act. In increasing such maximum amount, the Secretary of Defense (and the other administering Secretaries) shall consider the same economic information considered by the Secretary of Health and Human Services in adjusting the amounts payable to providers of services under part B of title XVIII of the Social Security Act."; and

(4) by adding after paragraph (2) the following new paragraph:

"(3) For the purposes of paragraph (1)(B), the Secretary of Defense, after consultation with the other administering Secretaries, shall prescribe regulations to apply the appropriate economic index data. Such regula-

tions may permit exceptions to the limitation established by paragraph (1)(B) when justified by special circumstances.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall take effect on October 1, 1989, and shall apply to services provided on or after such date.

SEC. 523. CODIFICATION OF APPROPRIATION PROVISION RELATING TO CHAMPUS

Subsection (c) of section 1074 of title 10, United States Code, is amended by adding at the end the following new sentence: "If the private facility or health care provider providing care under this subsection is a health care provider under the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense, after consultation with the other administering Secretaries, may by regulation require the institutional or individual provider to provide such care in accordance with the same payment rules (subject to any modifications considered appropriate by the Secretary) as apply under that program.".

SEC. 524. ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

(a) DEFINITIONS.—Section 2120 of title 10, United States Code, is amended—

(1) by inserting "and Financial Assistance" after "Scholarship" in paragraphs (1) and (2); and

(2) by adding at the end the following new paragraph:

"(4) The term 'specialized training' means advanced training in a health professions specialty received in an accredited program beyond the basic education required for an appointment as an officer in a health profession.".

(b) SCOPE OF PROGRAM.—Section 2121 of such title is amended—

(1) in subsection (b), by inserting "or of specialized training" after "study"; and

(2) in subsection (c)—

(A) in the second sentence, by inserting "pursuing a course of study" after "of the program"; and

(B) by inserting after the second sentence the following: "Members of the program pursuing specialty training shall serve on active duty in a pay grade, determined in accordance with section 3353, 5600, or 8353 of this title, as appropriate, commensurate with their educational level, with full pay and allowances of that grade for a period of 14 days during each year of participation in the program.".

(c) ELIGIBILITY FOR PARTICIPATION.—Section 2122(a)(1) of such title is amended—

(1) by inserting "or specialized training," after "study"; and

(2) by inserting "or 2120(4), as the case may be," after "2120(3)".

(d) NUMBER OF PARTICIPANTS.—Subsection 2124 of such title is amended by striking out "except that—" and all that follows and inserting in lieu thereof "except that the total number of persons so designated in all the programs authorized by this subchapter shall not, at any time exceed 6,000."

(e) GRANT FOR SPECIALIZED TRAINING.—(1) Chapter 104 of such title is amended by adding at the end the following new section:

"§ 2127a. Grants for specialized training

"(a)(1) A person participating in specialized training for which a stipend is paid under section 2121(d) of this title shall be paid an annual grant of $15,000 in addition to such stipend.

"(2) The amount of the grant shall be increased annually by the Secretary of Defense, effective July 1 of each year, in the same manner as provided for stipends under section 2121(d) of this title.

"(3) The amount of the annual grant paid a person in any fiscal year shall be the amount in effect during the first month the person participates in a program of specialized training.

"(c) Any person who voluntarily terminates participation in a program of specialized training before completing such program shall refund to the United States the total amount of the grants paid such person under subsection (a) for participation in such program.

"(d) A discharge in bankruptcy under title 11 that is entered less than five years after the last payment of a grant under subsection (a) for participation in a program of specialized training does not discharge such person from a debt arising under this section.".

(2) The table of sections at the beginning of chapter 104 of such title is amended by adding at the end the following new item:

"2127a. Grants for specialized training.".

(3) The amendments made by this subsection shall become effective October 1, 1989.

(4) The first annual adjustment under subsection (a)(2) of section 2127a of title 10, United States Code, as added by paragraph (1), shall be made on July 1, 1991.

(f) CLERICAL AMENDMENTS.—(1) The heading of subchapter I of chapter 104 of title 10, United States Code, is amended to read as follows:

"SUBCHAPTER I—HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM FOR ACTIVE SERVICE".

(2) The item relating to such subchapter in the table of subchapters at the beginning of such chapter is amended to read as follows:

"I. Health Professions Scholarship and Financial Assistance Program ..... 2120".

SEC. 525. REVISIONS OF THE EDUCATIONAL LOAN REPAYMENT PROGRAM FOR HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE

(a) EXPANSION OF LOANS QUALIFYING FOR REPAYMENT.—Subsection (a) of section 2172 of title 10, United States Code, is amended—

(1) in clause (2), by striking out "and" after the semicolon;

(2) in clause (3), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(4) a portion of a loan made, insured, or guaranteed through a recognized financial or educational institution which was used to finance basic or advanced health professions education."

(b) EXPANSION OF PROGRAM ELIGIBILITY TO READY RESERVE.—Subsection (b)(1) of such section is amended by striking out "Selected Reserve" and inserting in lieu thereof "Ready Reserve".

(c) INCREASE IN AMOUNTS OF LOAN REPAYMENTS.—Subsection (c) of such section is amended—

(1) in paragraph (2), by striking out "$3,000 for each year of service described in paragraph (1)" and inserting in lieu thereof "$4,500 for each year of Selected Reserve service, or $2,250 for each year of service in the Ready Reserve (other than Selected Reserve service)"; and

(2) in paragraph (3), by striking out "$20,000" and inserting in lieu thereof "$30,000 for Selected Reserve service, or $15,000 for service in the Ready Reserve other than the Selected Reserve".

(d) REPEAL OF TERMINATION PERIOD FOR PROGRAM.—Subsection (d) of such section is repealed.

SEC. 526. REVISED DEADLINE FOR THE USE OF DIAGNOSIS-RELATED GROUPS FOR OUTPATIENT TREATMENT

The regulations required by section 1101(a) of title 10, United States Code, to establish the use of diagnosis-related groups as the primary criteria for the allocation of resources to health care facilities of the uniformed services shall be prescribed to take effect not later than October 1, 1990, in the case of outpatient treatments.

SEC. 527. LIMITATION ON AUTHORITY TO DEFER MANDATORY RETIREMENT FOR AGE OF HEALTH PROFESSIONS OFFICERS

Section 1251(c)(2) of title 10, United States Code, is amended by striking out "67" and inserting in lieu thereof "68".

SEC. 528. RETENTION OF CERTAIN RESERVE PSYCHOLOGISTS IN ACTIVE STATUS

(a) ARMY.—Section 3855(a) of title 10, United States Code, is amended by inserting ", or any reserve officer in the Army Medical Department designated as a psychologist" before the period at the end.

(b) NAVY.—Section 6392(a) of such title is amended by striking out "or biomedical sciences officer" and inserting in lieu thereof "biomedical sciences officer, or psychologist".

(c) AIR FORCE.—Section 8855(a) of such title is amended by striking out "or biomedical sciences officer" and inserting in lieu thereof "biomedical sciences officer, or psychologist".

PART C—PERSONNEL MANAGEMENT

SEC. 531. AUTHORITY TO VACATE PROMOTIONS TO GRADES OF MAJOR THROUGH MAJOR GENERAL AND LIEUTENANT COMMANDER THROUGH REAR ADMIRAL

(a) IN GENERAL.—Section 625 of title 10, United States Code, is amended to read as follows:

"§ 625. Authority to vacate promotions to grades of major through major general and lieutenant commander through rear admiral

"(a) The President may vacate a promotion to the grade of major through major general or to the grade of lieutenant commander through rear admiral in the case of an officer promoted to any such grade under this chapter if the officer has served less than 18 months in the grade to which promoted.

"(b) An officer whose promotion is vacated under this section shall hold the regular grade held by the officer immediately before the promotion vacated under this section if the officer is a regular officer or shall hold the reserve grade held immediately before the promotion vacated under this section if the officer is a reserve officer.

"(c) The position on the active-duty list of an officer whose promotion is vacated under this section is the position the officer would have held had the officer not been promoted.".

(b) TABLE OF SECTIONS.—The item relating to section 625 in the table of sections at the beginning of subchapter II of chapter 36 is amended to read as follows:

"625. Authority to vacate promotions to grades of major through major general and lieutenant commander through rear admiral.".

SEC. 532. NONOPERATIONAL FLYING DUTY POSITIONS

(a) REDUCTION IN NONOPERATIONAL FLYING DUTY POSITIONS.—The Secretary of Defense

shall take such action as may be necessary to reduce, by not later than September 30, 1992, the number of nonoperational flying duty positions in the Army, Navy, Air Force, and Marine Corps by a number equal to not less than 5 percent below the total number of such positions in existence on September 30, 1989. The Secretary shall effectuate a reduction of not less than 2 percent by September 30, 1991.

(b) LIMITATION ON INCREASES IN NONOPERATIONAL FLYING DUTY POSITIONS AFTER FISCAL YEAR 1991.—(1) No increase in the number of nonoperational flying duty positions referred to in subsection (a) may be made after September 30, 1991, unless the increase is specifically authorized by law.

(2) As used in this section, the term "nonoperational flying duty positions" means positions in a military department identified by the Secretary of that department as positions that require the assignment of an aviator but that do not include operational flying duty (as defined in section 301a(a)(6) of title 37, United States Code).

SEC. 533. MINIMUM SERVICE REQUIREMENT FOR AVIATORS

(a) IN GENERAL.—Chapter 37 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 653. Minimum service requirement for certain flight crew positions

"(a) PILOTS.—The minimum active duty obligation of any member who successfully completes training in the armed forces as a pilot shall be 9 years, if the member is trained to fly fixed wing jet aircraft, and 7 years, if the member is trained to fly any other type of aircraft.

"(b) NAVIGATORS AND NAVAL FLIGHT OFFICERS.—The minimum active duty obligation of any member who successfully completes training in the armed forces as a navigator or naval flight officer shall be 7 years.

"(c) DEFINITION.—In this section, the term 'active duty obligation' means the period of active duty required to be served after completion of undergraduate pilot training in the case of training as a pilot, completion of undergraduate navigator training in the case of training as a navigator, or completion of undergraduate training as a naval flight officer in the case of training as a naval flight officer.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"653. Minimum service requirement for certain flight crew positions.".

(c) EFFECTIVE DATE.—(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to persons who begin undergraduate pilot training, undergraduate navigator training, or undergraduate naval flight officer training, as the case may be, after September 30, 1990.

(2) The amendments made by this section shall apply to persons who graduate from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the Coast Guard Academy after 1991 and to persons who satisfactorily complete the academic and military requirements of the Senior Reserve Officers' Training Corps program (provided for in chapter 103 of title 10, United States Code) after 1991.

(3) The minimum service requirements provided for in section 653 of title 10, United States Code, as added by subsection (a), shall not apply in the case of any person who entered into an agreement with the Secretary concerned before October 1, 1990, and who is obligated under the terms of such agreement to serve on active duty for a period less than the applicable period specified in section 653 of such title.

(4) For purposes of this subsection, the term "Secretary concerned" has the same meaning provided for such term in section 101(8) of title 10, United States Code.

SEC. 534. REPORT ON AVIATOR ASSIGNMENT POLICIES AND PRACTICES

The Comptroller General of the United States shall conduct a comprehensive study of the aviator assignment policies and practices of the Armed Forces. The Comptroller General shall submit the results of such study to the Committees on Armed Services of the Senate and the House of Representatives not later than February 15, 1990. The Comptroller General shall include in such report an analysis of the effectiveness and efficiency of the aviator assignment policies and practices of the Armed Forces, including an analysis of the policies and practices followed in accommodating the assignment preferences of aviators within operational needs of the Armed Forces.

PART D—TOTAL FORCE POLICY

SEC. 541. TOTAL FORCE POLICY

(a) FINDINGS.—Congress makes the following findings:

(1) Since inception of the Total Force Policy concept by the Department of Defense there has been no singular authoritative study by the Department of Defense on the operation and effectiveness of that policy.

(2) Force mix decisions by the Department of Defense appear to be fragmented and decentralized.

(3) A comprehensive review of the Total Force Policy is long overdue.

(b) STUDY.—The Secretary of Defense shall convene a study group to review the operation and soundness of the Total Force Policy of the Department of Defense and to make recommendations for improvement of such Policy. The review by the study group shall include the following:

(1) A critical examination of the basic tenets of the Total Force Policy with a view to determining whether changes are required to make the policy more effective.

(2) A critical examination of the force mixes in each of the military services that have evolved since the Total Force Policy was established with a view to determining the soundness of the mixes.

(3) A realistic assessment of combat readiness shortfalls and the resources required to correct the shortfalls.

(4) Development of a cogent force mix strategy for dealing with substantially smaller active military forces in the future.

(5) An evaluation of the operational effectiveness of active and reserve force command and control relationships (similar to the ongoing Army study on alternatives to the current Army Reserve command structure).

(6) A proposed system for top level evaluation of force mix decisions on a regular and systematic basis.

(b) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than December 1, 1989, a report containing the results of the review of the study group convened pursuant to subsection (a) together with such comments and recommendations as the Secretary considers appropriate.

PART E—MISCELLANEOUS

SEC. 551. INCREASE IN SERVICE OBLIGATION FOR GRADUATES OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES AND THE SERVICE ACADEMIES

(a) UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SERVICES.—Section 2114(b) of title 10, United States Code, is amended by striking out "seven years" in the fourth sentence and inserting in lieu thereof "10 years".

(b) UNITED STATES MILITARY ACADEMY.—Section 4348(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(c) UNITED STATES NAVAL ACADEMY.—Section 6959(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(d) UNITED STATES AIR FORCE ACADEMY.—Section 9348 of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to persons who are first admitted to the Uniformed Services University of the Health Services or one of the military service academies after December 31, 1990.

SEC. 552. MILITARY APPELLATE PROCEDURES

(a) COMPOSITION OF THE UNITED STATES COURT OF MILITARY APPEALS.—(1) Subsection (a)(1) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended—

(A) in the second sentence, by striking out "three" and inserting in lieu thereof "five"; and

(B) in the third sentence by striking out "two" and inserting in lieu thereof "three".

(2) Notwithstanding the second sentence of section 867(a)(1) of title 10, United States Code, one of the judges appointed to a position added by the amendment made by paragraph (1), shall be appointed for a term of 7 years and one shall be appointed for a term of 13 years.

(3)(A) Except as otherwise provided in subparagraphs (B) and (C), a judge appointed to a term specified in paragraph (2) is eligible for an annuity as provided in section 867(i) of title 10, United States Code.

(B) The annuity of a judge referred to in subparagraph (A) is computed under paragraph (2) of such section 867(i) only if the judge—

(i) completes the term of service for which he is appointed under such subparagraph;

(ii) is reappointed as a judge of the United States Court of Military Appeals at any time after the completion of such term of service;

(iii) is separated from civilian service in the Federal Government after completing a total of 15 years as a judge of such court; and

(iv) elects to receive an annuity under such section in accordance with the third sentence of paragraph (1) of such section.

(C) In the case of a judge referred to in subparagraph (A) who is separated from civilian service after completing the term of service for which he is appointed as a judge of the United States Court of Military Appeals and before completing a total of 15 years as a judge of such court, the annuity of such judge (if elected in accordance with the third sentence of paragraph (1) of such section 867(i)) shall be—

(i) 7/15 of the amount computed under paragraph (2) of such section if the judge was appointed for a term of 7 years; and

(ii) 1⅗ of the amount computed under paragraph (2) of such section if the judge was appointed for a term of 13 years.

(b) REMOVAL OF JUDGES OF THE UNITED STATES COURT OF MILITARY APPEALS.—Paragraph (2) of section 867(a) of title 10, United States Code (article 67(a) of the Uniform Code of Military Justice), is amended by striking out "malfeasance in office" and inserting in lieu thereof "misconduct".

(c) INCAPACITY OF A JUDGE OF THE UNITED STATES COURT OF MILITARY APPEALS.—Subsection (a)(3) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended by striking out "the United States Court of Appeals" and all that follows and inserting in lieu thereof "a United States court of appeals or a United States district court, with the concurrence of the Chief Justice of the United States, the concurrence of the chief judge of such court of appeals or district court, and the consent of the designated judge, to fill the office during the period of disability. Per diem, travel allowances, and other allowances paid to the designated judge in connection with the performance of duties for the United States Court of Military Appeals shall be paid out of the same funds as are available for the payment of per diem and such allowances for judges of such court.".

(d) SENIOR JUDGES OF THE UNITED STATES COURT OF MILITARY APPEALS.—Subsection (a)(4) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(A)" after "(4)";

(2) by striking out ", may occupy" and all that follows and inserting in lieu thereof the following: "and, with his consent, may be called upon by the chief judge of the court to perform judicial duties for the court for any period specified by the chief judge. A senior judge shall be paid for each day on which he performs such duties the daily equivalent of the annual rate of pay provided for a judge of such court. Such pay shall be in lieu of retired pay and any annuity under subsection (i) of this section, subchapter III of chapter 83 of title 5, subchapter II of chapter 84 of such title, and any other Federal Government retirement system for employees of the Federal Government. A senior judge, while performing such duties, shall be provided with such office space and staff assistance as the chief judge considers appropriate and shall be entitled to the per diem, travel allowances, and other allowances provided for judges of such court."; and

(3) by adding at the end the following new subparagraphs:

"(B) For purposes of subchapter III of chapter 83 of title 5 (relating to the Civil Service Retirement and Disability System) and chapter 84 of such title (relating to the Federal Employees' Retirement System) and for purposes of any other Federal Government retirement system for employees of the Federal Government—

"(i) a period during which a senior judge performs duties referred to in subparagraph (A) shall not be considered creditable service;

"(ii) no amount shall be withheld from the pay of a senior judge as a retirement contribution under section 8334, 8343, 8422, or 8432 of title 5 or under any other such retirement system for any period during which the senior judge performs duties referred to in subparagraph (A);

"(iii) no contribution shall be made by the Federal Government to any Federal Government retirement system with respect to a senior judge for any period during which the senior judge performs duties referred to in subparagraph (A); and

"(iv) a senior judge shall not be considered a reemployed annuitant for any period during which the senior judge performs duties referred to in subparagraph (A).

"(C) A senior judge shall be considered an officer or employee of the Federal Government with respect to his status as a senior judge, but only during periods the senior judge is performing duties referred to in subparagraph (A). For the purposes of section 205 of title 18, a senior judge shall be considered a special government employee during such periods. Any provision of law that prohibits or limits the political or business activities of an employee of the Federal Government shall apply to a senior judge only during such periods.

"(D) The United States Court of Military Appeals shall prescribe rules for the utilization and conduct of senior judges of the court. The chief judge of the court shall transmit such rules, and any amendments to such rules, to the Committees on Armed Service of the Senate and the House of Representatives not later than 15 days after the issuance of such rules or amendments, as the case may be.".

(e) APPOINTMENT AND CIVIL SERVICE STATUS OF LEGAL STAFF OF THE UNITED STATES COURT OF MILITARY APPEALS.—(1) Subsection (a) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended by adding at the end the following new paragraph:

"(5) Attorney positions of employment under the United States Court of Military Appeals are excepted from the competitive service. Appointments to such positions shall be made in the same manner as appointments are made to other executive branch positions of a confidential or policy-determining character for which it is not practicable to examine or to hold a competitive examination. Such positions shall not be counted as positions of that character for purposes of any limitation on the number of positions of that character provided in law.".

(2) Section 867(a)(5) of title 10, United States Code (article 67(a)(5) of the Uniform Code of Military Justice), as added by paragraph (1) shall not be applied to change the civil service status of attorneys employed by the United States Court of Military Appeals before the date of the enactment of this Act.

(f) RETIREMENT OF JUDGES OF THE UNITED STATES COURT OF MILITARY APPEALS.—(1) Subsection (i) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended—

(A) in the first sentence of by striking out "the term of service" and inserting in lieu thereof "a term of service"; and

(B) by adding at the end the following new paragraph:

"(9)(A) The Secretary of Defense shall notify the Director of the Office of Personnel Management whenever an election under paragraph (1) is made affecting any right or interest under subchapter III of chapter 83 or chapter 84 of title 5 based on the service of the judge or former judge making the election.

"(B) Upon receiving any notification under subparagraph (1), the Director shall determine the amount of the judge's or former judge's lump-sum credit under subchapter III of chapter 83 or chapter 84 of title 5, as applicable, and shall request the Secretary of the Treasury to transfer such amount from the Civil Service Retirement and Disability Fund to the Department of Defense Military Retirement Fund. The Secretary of the Treasury shall make any transfer so requested.

"(C) In determining the amount of a lump-sum credit under section 8331(8) of title 5 for purposes of this paragraph—

"(i) interest shall be computed using the rates under section 8334(e)(3) of such title; and

"(ii) the completion of 5 years of civilian service (or longer) shall not be a basis for excluding interest.".

(2) The Secretary of Defense shall notify the Director of the Office of Personnel Management of any elections which were made under section 867(i) of title 10, United States Code, before the date of the enactment of this Act. Appropriate amounts shall be transferred from the Civil Service Retirement and Disability Fund to the Department of Defense Military Retirement Fund, based on such elections, in the manner provided for under paragraph (9) of such section 867(i), as added by paragraph (1)(B).

(g) APPELLATE REVIEW OF ARTICLE 69 ACTIONS.—(1) Section 869 of title 10, United States Code (article 69 of the Uniform Code of Military Justice), is amended—

(A) in subsection (a), by striking out the third sentence; and

(B) by adding at the end the following:

"(d) Actions of the Judge Advocate General under this section may be reviewed by a Court of Military Review under section 866 of this title (article 66) in all cases which the Judge Advocate General orders sent to the Court of Military Review.

"(e) Notwithstanding section 866 of this title (article 66), in any case reviewed by a Court of Military Review under this section, the Court shall take action only with respect to matters of law.".

(2) Subsection (e) of such section, as added by paragraph (1), shall apply with respect to cases in which a finding of guilty is adjudged by a general court-martial after the date of the enactment of this Act.

(h) INVESTIGATION OF JUDICIAL MISCONDUCT.—(1) Subchapter I of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by adding at the end the following new section:

"§ 806a. Article 6a. Investigation and disposition of matters pertaining to the fitness of military judges

"(a) The President shall prescribe procedures for the investigation and disposition of charges, allegations, or information pertaining to the fitness of a military judge or military appellate judge to perform the duties of the judge's office. To the extent practicable, the procedures shall be uniform for all armed forces.

"(b) The President shall transmit the procedures prescribed pursuant to this section to the Committees on Armed Services of the Senate and the House of Representatives.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following:

"806a. 6a. Investigation and disposition of matters pertaining to the fitness of military judges.".

(i) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (a) shall take effect on April 15, 1990.

SEC. 553. EXTENSION OF CERTAIN EXPIRING AUTHORITIES

(a) MAKING PERMANENT THE AUTHORITY TO MAKE TEMPORARY PROMOTIONS OF CERTAIN NAVY LIEUTENANTS.—Section 5721(f) of such title is repealed.

(b) EXTENSION OF TEST PROGRAM FOR REIMBURSEMENT OF ADOPTION EXPENSES.—Section 638(h) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (101 Stat. 1108; 10 U.S.C. 113 note) is amended by striking out "October 1, 1989" and inserting in lieu thereof "October 1, 1992".

SEC. 554. TESTING OF NEW ENTRANTS FOR DRUG AND ALCOHOL ABUSE

Section 978(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "or (3)" after "(2)"; and

(2) by inserting at the end the following new paragraph:

"(3) The Secretary concerned may, in lieu of the post-entry testing and evaluation required by paragraph (1), require each applicant for enlistment or appointment to undergo such testing and evaluation before becoming a member of an armed force under the Secretary's jurisdiction.".

SEC. 555. CORRECTION OF MILITARY RECORDS

Section 1552 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) Under regulations prescribed by the Secretary of the military department concerned and approved by the Secretary of Defense, the Secretary concerned may correct any military record of that department announcing the promotion and appointment to an initial or higher grade of an enlisted member of the Army, Navy, Air Force, or Marine Corps if the Secretary concerned considers such action necessary to correct an error or injustice. Under regulations prescribed by the Secretary of Transportation, the Secretary may make such corrections with regard to like military records of the Coast Guard.

"(2) Nothing in this subsection shall be construed to deny a member the right to file a request for correction of records pursuant to subsection (a).

"(3) A correction of an error under this subsection may be made only if the correction is favorable to the member.".

SEC. 556. RELIEF FOR EXPENSES INCURRED BECAUSE OF ERROR IN MANDATORY DIRECT DEPOSIT OF PAY

Section 1053 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ", a member of the National Guard, a member of a Reserve component of an armed force, a former member of the armed forces entitled to military retired pay, or a civilian employee of the Department of Defense" after "armed forces";

(B) by inserting "or allowances" after "pay"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Reimbursement for members of the armed forces under this section shall be made from appropriations available for the pay and allowances of the member of the armed forces concerned. Reimbursements for civilian employees of the Department of Defense under this section shall be made from appropriations available for the pay of the employee concerned.".

SEC. 557. MASTER OF ARTS DEGREE IN LEADER DEVELOPMENT

(a) DEGREE AUTHORIZED.—Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4353a. Master of Arts in Leader Development

"Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy may, upon recommendation by the faculty of the Academy, confer the degree of Master of Arts in Leader Development upon graduates of the Academy who fulfill the requirements for that degree.".

(b) TECHNICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4353a. Master of Arts in Leader Development.".

SEC. 558. TRANSPORTATION FOR POW/MIA FAMILIES

(a) TRANSPORTATION AUTHORIZED.—Chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 403. Transportation for POW/MIA families

"The Secretary of Defense may provide transportation to the next-of-kin of members of the armed forces who have been prisoners of war or missing in action as a result of service during the Vietnam era to attend an annual meeting of the families of such prisoners of war and persons missing in action. As used in this section, the term 'Vietnam era' has the same meaning as provided in section 101(29) of title 38.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"403. Transportation for POW/MIA families.".

SEC. 559. CLARIFICATION OF PROCEDURES REGARDING SOLICITATION AND AWARD OF CONTRACTS FOR POSTSECONDARY EDUCATION SERVICES

(a) EXCEPTION TO PROHIBITION.—Subsections (b) and (c) of section 1212 of the Department of Defense Authorization Act, 1986 (99 Stat. 726; 10 U.S.C. 113 note), are amended to read as follows:

"(b)(1) No solicitation, contract, or agreement for the provision of off-duty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees may limit the offering of such services or any group, category, or level of courses to a single academic institution.

"(2) Nothing in paragraph (1) shall prohibit such actions taken in accordance with regulations of the Secretary of Defense which are uniform for all Armed Forces as may be necessary to avoid unnecessary duplication of offerings at a specific military installation if it is determined, pursuant to such regulations, that the circumstances and conditions existing at that installation would otherwise give rise to unnecessary duplication of offerings at that installation.

"(3) In any case in which an exception is to be made in the case of any installation pursuant to paragraph (2), the specific circumstances and conditions giving rise to the exception shall be set forth in the solicitation or request for proposals for the services concerned.

"(c)(1) Before the issuance of a solicitation for any contract or agreement for the provision of off-duty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees, the Secretary concerned shall—

"(A) submit the terms of the proposed solicitation to the Advisory Board of the Servicemembers' Opportunity College (SOC) or, if at the time there is no duly constituted SOC Advisory Board, to a panel established by the Secretary concerned consisting of an equal number of (i) representatives of national higher education associations representative of public and private institutions granting associate and baccalaureate degrees, and (ii) representatives of the Armed Forces; and

"(B) solicit from the Board or panel, as the case may be, its advice and recommendations regarding the formulation of the proposed solicitation so as to ensure quality, choice, and diversity of instruction.

"(2) No solicitation shall be issued until the Board or panel has submitted its advice and recommendations to the Secretary concerned or 60 days have elapsed after the date on which the proposed solicitation was submitted to the Board or panel by the Secretary, whichever occurs first.

"(3) As used in this subsection, the term 'Secretary concerned' has the same meaning provided for such term in section 101(8) of title 10, United States Code.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contracts entered into after October 1, 1989.

SEC. 560. CIVILIAN FACULTY AT THE UNITED STATES MARINE CORPS UNIVERSITY

(a) IN GENERAL.—Section 7478 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "and the United States Marine Corps University" after "War College"; and

(2) by striking out the heading and inserting in lieu thereof the following:

"§ 7478. Naval War College and United States Marine Corps University: employment of civilian professors; compensation"

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 643 of such title is amended by striking out the item relating to section 7478 and inserting in lieu thereof the following:

"7478. Naval War College and United States Marine Corps University: employment of civilian professors; compensation.".

SEC. 561. COMMERCIAL SALE OF RECORDING OF AIR FORCE SINGING SERGEANTS

The Secretary of the Air Force may enter into an appropriate contract providing for the production and commercial sale of a recording made on April 9, 1989, by the Cincinnati Pops Orchestra and members of the Air Force known as the United States Air Force Singing Sergeants. Any contract entered into under this section shall contain such provisions as the Secretary considers appropriate to protect the interests of the United States.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1990

(a) WAIVER OF SECTION 1009 ADJUSTMENTS.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1990 shall not be made.

(b) INCREASE IN BASIC PAY, BAQ, AND BAS.—The rates of basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are each increased by 3.6 percent effective on January 1, 1990.

(c) INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective January 1, 1990, section

203(c)(1) of title 37, United States Code, is amended by striking out "$525" and inserting in lieu thereof "$543.90".

PART B—INCENTIVE PAY

SEC. 621. AVIATION CAREER INCENTIVE PAY

(a) ENTITLEMENT REQUIREMENTS.—Section 301a(a)(4) of title 37, United States Code, is amended by striking out the first two sentences and inserting in lieu thereof the following: "To be entitled to continuous monthly incentive pay, an officer must perform the prescribed operational flying duties (including flight training but excluding proficiency flying) for 9 of the first 12, and 12 of the first 18, years of his aviation service. However, if an officer performs the prescribed operational flying duties (including flight training but excluding proficiency flying) for at least 10 but less than 12 of the first 18 years of his aviation service, he will be entitled to continuous monthly incentive pay for the first 22 years of his officer service.".

(b) MONTHLY RATES.—(1) The table in section 301a(b)(1) of such title is amended to read as follows:

"Phase I

"Years of aviation service (including flight training) as an officer:	Monthly rate:
2 or less	$125
Over 2	156
Over 3	188
Over 4	206
Over 6	650

"Phase II

"Years of service as an officer as computed under section 205:	Monthly rate:
Over 18	$585
Over 20	495
Over 22	385
Over 25	250".

(2) The table in section 301a(b)(2) of such title is amended to read as follows:

"Years of aviation service as an officer:	Monthly rate:
2 or less	$125
Over 2	156
Over 3	188
Over 4	206
Over 6	650".

(c) INCREASES IN INCENTIVE PAY LINKED TO INCREASES IN BASIC PAY.—Section 301a of such title is further amended by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) Whenever the rates of basic pay of members of the uniformed services is increased pursuant to section 1009 of this title, the President shall immediately increase the rates of monthly incentive pay provided for in subsection (b).

"(2) An increase under this subsection shall have the force and effect of law and shall be effective on the same date as the compensation adjustments in basic pay of members of the uniformed services under section 1009 of this title. The percentage of the increase in any year shall be equal to the overall average percentage increase referred to in subsection (b)(3) of such section for such year.".

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2) and subject to subsection (e), the amendments made by this section shall become effective October 1, 1989.

(2)(A) The Secretary concerned may delay implementation of such amendments with respect to the department of that Secretary, subject to the approval of the Secretary of Defense in the case of a military department, until such time as the Secretary of that department determines that implementation of such amendments is necessary to meet the needs of that department.

(B) If the Secretary concerned delays the implementation of such amendments with respect to his department, the provisions of section 301a of title 37, United States Code, as in effect on September 30, 1989, shall continue to apply, in the case of such department, to the payment of aviation career incentive pay made under such section until such date as the Secretary may prescribe for the implementation of the amendments made by this section and shall continue to apply in the case of such department until such date in the same manner as if the amendments made by this section had not been made.

(e) TRANSITION.—An officer of a uniformed service who has completed 12 years or less of aviation service on October 1, 1989, and has completed his initial operational flying assignment on such date, shall be entitled to continuous monthly incentive pay if the officer performs the prescribed operational flying duties (including flight training but excluding proficiency flying) for 9 of the first 15 years of his aviation service.

(f) DEFINITIONS.—(1) For purposes of subsections (d) and (e), the terms "Secretary concerned" and "uniformed services" have the same meaning provided for such terms in section 101(5) and 101(3), respectively, of title 37, United States Code.

(2) For purposes of subsection (e), the definitions of the terms in section 301a(6) of title 37, United States Code, shall apply to the corresponding terms used in subsection (e).

SEC. 622. AVIATOR RETENTION BONUSES

(a) EXTENSION OF PROGRAM.—Section 611(a) of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1977; 37 U.S.C. 301b note), is amended by striking out "September 30, 1989" and insert in lieu thereof "September 30, 1992".

(b) REPORTING REQUIREMENTS.—(1) Subsection (h) of section 611 of such Act is amended to read as follows:

"(h) REPORTS.—(1) Not later than November 1 each year, the Secretary of each military department, the Secretary of Transportation with respect to the Coast Guard, the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services with respect to the Public Health Service, shall submit to the Secretary of Defense a report analyzing the effect that the aviator retention bonus program provided for under this section has had during the preceding fiscal year on the retention of qualified aviators in the Secretary's department, including a description of the marginal cost of paying bonuses under this section to officers who enter into an agreement referred to in clause (A) of subsection (a)(2) and a description of the marginal cost of paying bonuses under this section to officers who enter into an agreement referred to in clause (B) of such subsection.

"(2) Not later than December 1 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives copies of the reports submitted to him pursuant to paragraph (1) together with such comments and recommendations as the Secretary considers appropriate.".

(2) The first reports required under section 611(h) of the National Defense Authorization Act, Fiscal Year 1989, as amended by paragraph (1), shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives not later than December 1, 1989.

(c) LIMITATION ON OBLIGATIONS.—Section 611 of such Act is further amended by striking out subsections (i) and (j) and inserting in lieu thereof the following:

"(i) The total amount of payments that may be made to Navy officers and Air Force officers under this section during fiscal year 1990 may not exceed—

"(1) $30,000,000, in the case of the Navy; or

"(2) $78,000,000, in the case of the Air Force.".

SEC. 623. INCREASE IN SPECIAL PAY FOR MEDICAL OFFICERS IN THE ARMED FORCES

(a) INCREASE IN RATES OF SPECIAL PAY.—Section 302(a) of title 37, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking out "$1,200" in subparagraph (A) and inserting in lieu thereof "$1,620";

(B) by striking out "$5,000" in subparagraph (B) and inserting in lieu thereof "$6,750";

(C) by striking out "$10,000" in subparagraph (C) and inserting in lieu thereof "$13,500";

(D) by striking out "$9,500" in subparagraph (D) and inserting in lieu thereof "$12,825";

(E) by striking out "$9,000" in subparagraph (E) and inserting in lieu thereof "$12,150";

(F) by striking out "$8,000" in subparagraph (F) and inserting in lieu thereof "$10,800";

(G) by striking out "$7,000" in subparagraph (G) and inserting in lieu thereof "$9,450";

(H) by striking out "$6,000" in subparagraph (H) and inserting in lieu thereof "$8,100"; and

(I) by striking out "$5,000" in subparagraph (I) and inserting in lieu thereof "$6,750";

(2) in paragraph (3), by striking out "$1,000" and inserting in lieu thereof "$1,350";

(3) in paragraph (4)—

(A) by striking out "$9,000" in subparagraph (A) and inserting in lieu thereof "$12,150"; and

(B) by striking out "$10,000" in subparagraph (B) and inserting in lieu thereof "$13,500"; and

(4) in paragraph (5)—

(A) by striking out "$2,000" in subparagraph (A) and inserting in lieu thereof "$2,700";

(B) by striking out "$2,500" in subparagraph (B) and inserting in lieu thereof "$3,375";

(C) by striking out "$3,000" in subparagraph (C) and inserting in lieu thereof "$4,050";

(D) by striking out "$4,000" in subparagraph (D) and inserting in lieu thereof "$5,400"; and

(E) by striking out "$5,000" in subparagraph (E) and inserting in lieu thereof "$6,750".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1989, and shall apply to pay periods beginning on or after that date.

SEC. 624. EXTENSION OF MEDICAL OFFICER RETENTION BONUS

Section 612 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1979; 37 U.S.C. 302 note), is amended—

(1) in subsection (a)(1), by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990";

(2) in subsection (g)—

(A) in the first sentence of paragraph (1)—

(i) by striking out "1988" and inserting in lieu thereof "1989"; and

(ii) by inserting "in fiscal year 1990" immediately before the period at the end;

(B) by striking out "REPORTS.—(1)" and inserting in lieu thereof "REPORT.—"; and

(C) by striking out paragraph (2);

(3) in subsection (h), by striking out the period at the end and inserting in lieu thereof "and the total amount of payments made under this section during fiscal year 1990 may not exceed $36,000,000."; and

(4) by striking out subsection (i) and inserting in lieu thereof the following:

"(i) TERMINATION OF AUTHORITY.—If the report required by subsection (g) is not received by the committees named in such subsection by November 15, 1989, the authority to make payments under this section shall terminate effective December 2, 1989.".

SEC. 625. ACCESSION BONUS FOR REGISTERED NURSES

(a) ACCESSION BONUS AUTHORIZED.—(1) Chapter 5 of title 37, United States Code, is amended by adding after section 302c the following new section:

"§ 302d. Special pay: accession bonus for registered nurses

"(a) ACCESSION BONUS AUTHORIZED.—(1) A person who is a registered nurse and who, during the period beginning on October 1, 1989, and ending on September 30, 1990, executes a written agreement described in subsection (c) to accept a commission as an officer and remain on active duty for a period of not less than four years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

"(2) The amount of an accession bonus under paragraph (1) may not exceed $5,000.

"(b) LIMITATION ON ELIGIBILITY FOR BONUS.—A person is not eligible for a bonus under subsection (a) if—

"(1) the person received financial assistance from the Department of Defense to pursue a baccalaureate degree; or

"(2) the Secretary concerned determines that the person is not qualified as a registered nurse.

"(c) AGREEMENT.—The agreement referred to in subsection (a) shall provide that the individual agrees to accept a commission as an officer with a view toward placement as an officer of the Nurse Corps of the Army or Navy, an officer of the Air Force designated as a nurse, or an officer designated as a nurse in the commissioned corps of the Public Health Service.

"(d) REPAYMENT.—(1) An officer who receives a payment under subsection (a) and who fails to remain licensed as a registered nurse during the period for which the payment is made shall refund to the United States an amount equal to the full amount of such payment.

"(2) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

"(3) An obligation to reimburse the United States imposed under paragraph (1) or (2) is for all purposes a debt owed to the United States.

"(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after October 1, 1989.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302c the following new item:

"302d. Special pay: accession bonus for registered nurses.".

(b) ADMINISTRATION AND IMPLEMENTATION.—Section 303a of title 37, United States Code, is amended by inserting "302d," after "302c," each place it appears.

(c) REPORT ON IMPLEMENTATION.—Not later than March 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the authority provided in section 302d of title 37, United States Code (as added by subsection (a)), is implemented.

SEC. 626. NURSE OFFICER CANDIDATE ACCESSION BONUS

(a) BONUS AUTHORIZED.—Chapter 105 of title 10, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—NURSE OFFICER CANDIDATE ACCESSION PROGRAM

"Sec.
"2130a. Financial assistance: nurse officer candidates.

"§ 2130a. Financial assistance: nurse officer candidates

"(a) BONUS AUTHORIZED.—(1) An individual described in subsection (b) who executes a written agreement in accordance with subsection (c) to accept an appointment as a nurse officer may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus of not more than $5,000. The bonus may be paid in periodic installments, as determined by the Secretary concerned at the time the agreement is accepted.

"(2) In addition to the accession bonus payable under paragraph (1), an individual selected under such paragraph shall be entitled to a monthly stipend of not more than $500 for each month the individual is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title. The continuation bonus may not be paid for more than 24 months.

"(b) ELIGIBLE STUDENTS.—An individual eligible to enter into an agreement under subsection (a) is an individual who—

"(1) has completed the second year of an accredited baccalaureate degree program in nursing and has more than 6 months of academic work remaining before graduation;

"(2) is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title; and

"(3) meets the qualifications for appointment as an officer of a reserve component of the Army, Navy, or Air Force as set forth in section 591 of this title or, in the case of the Public Health Service, section 207 of the Public Health Service Act (42 U.S.C. 209) and the regulations of the Secretary concerned.

"(c) REQUIRED AGREEMENT.—The agreement required to receive the bonus and stipend payable under subsection (a) shall provide that the individual agrees to the following:

"(1) That the individual will complete the nursing degree program described in subsection (b).

"(2) That, upon acceptance of the agreement by the Secretary concerned, the individual will enlist in a reserve component of an armed force;

"(3) That the individual will accept an appointment as an officer in the Nurse Corps of the Army or the Navy or as an officer designated as a nurse officer in the Air Force or commissioned corps of the Public Health Service upon graduation from the nursing degree program.

"(4) That the individual will serve on active duty as such an officer—

"(A) for a period of 4 years in the case of an individual whose agreement was accepted by the Secretary concerned during the individual's fourth year of the nursing degree program;

"(B) for a period of 5 years in the case of an individual whose agreement was accepted by the Secretary concerned during the individual's third year of the nursing degree program.

"(d) REFUND OF PAYMENTS.—An individual shall refund a bonus paid under subsection (a) if the individual—

"(1) fails to complete the nursing degree program in which the individual is enrolled;

"(2) having completed the nursing degree program, fails to accept an appointment, if tendered, as an officer of the Nurse Corps of the Army or the Navy or as an officer designated as a nurse officer of the Air Force or commissioned corps of the Public Health Service; or

"(3) fails to complete the period of obligated active service required under the agreement.

"(e) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section.".

(b) CLERICAL AMENDMENT.—The table of subchapters at the beginning of chapter 105 of title 10, United States Code, is amended by adding at the end the following new item:

"III. Nurse Officer Candidate Accession Program ..... 2130a".

SEC. 627. INCENTIVE PAY FOR NURSE ANESTHETISTS

(a) AUTHORIZATION FOR INCENTIVE PAY.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 302d (as added by section 703) the following new section:

"§ 302e. Special pay: nurse anesthetists

"(a) SPECIAL PAY AUTHORIZED.—(1) An officer described in subsection (b) who executes a written agreement to remain on active duty for a period of one year or more may, upon the acceptance of the agreement by the Secretary concerned, be paid incentive special pay in an amount not to exceed $6,000 for any 12-month period.

"(2) The Secretary concerned shall determine the amount of incentive special pay to be paid to an officer under paragraph (1). In determining that amount, the Secretary concerned shall consider the term of the agreement under that paragraph.

"(b) COVERED OFFICERS.—An officer referred to in subsection (a) is an officer of a uniformed service who—

"(1) is an officer of the Nurse Corps of the Army or Navy, an officer of the Air Force designated as a nurse, or an officer designated as a nurse in the commissioned corps of the Public Health Service;

"(2) is a qualified certified registered nurse anesthetist; and

"(3) is on active duty under a call or order to active duty for a period of not less than one year.

"(c) PAYMENT.—Special pay payable to an officer under subsection (a) of this section shall be paid annually at the beginning of the 12-month period for which the officer is to receive that payment.

"(d) REPAYMENT.—(1) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

"(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after October 1, 1989.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302d (as added by section 703) the following new item:

"302e. Special pay: nurse anesthetists.".

(b) ADMINISTRATION AND IMPLEMENTATION.—Section 303a of title 37, United States Code (as amended by section 703(b)) is further amended by inserting "302e," after "302d," each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1989.

(d) REPORT ON MILITARY USE OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the use of Certified Registered Nurse Anesthetists by the military departments. The report shall include—

(A) a description of restrictions imposed by the military departments on the use of such nurses;

(B) a comparison of such restrictions with restrictions imposed by other entities on the use of such nurses;

(C) a description of the number of persons who annually receive training by the military departments to be Certified Registered Nurse Anesthetists; and

(D) the desirability and cost of expanding the capability of the military departments to provide such training.

(2) The report required by paragraph (1) shall be submitted not later than March 1, 1990.

SEC. 628. SPECIAL PAY FOR RESERVE MEDICAL OFFICERS

(a) IN GENERAL.—Section 302(h)(2)(B) of title 37, United States Code, is amended by striking out "$350" and inserting in lieu thereof "$450".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, and shall apply to pay periods beginning on or after such date.

SEC. 629. INCREASE IN SELECTIVE REENLISTMENT BONUS

Section 308(a)(1) of title 37, United States Code, is amended—

(1) by striking out "six months of the basic pay" and inserting in lieu thereof "ten months of the basic pay"; and

(2) by striking out "$30,000" and inserting in lieu thereof "$45,000".

SEC. 630. EXTENSION OF CERTAIN EXPIRING AUTHORITIES RELATING TO BONUSES AND INCENTIVE PAY

(a) EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES FOR RESERVE FORCES.—Sections 308b(g), 308c(f), 308e(e), 308g(h), 308h(g), and 308i(i) of title 37, United States Code, are amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

(b) EXTENSION OF SPECIAL PAY FOR NUCLEAR QUALIFIED OFFICERS EXTENDING ACTIVE DUTY.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

(c) EXTENSION OF NUCLEAR CAREER ANNUAL INCENTIVE BONUS PROGRAM.—Section 312(c) of title 37, United States Code, is amended—

(1) in subsection (b)(1), by striking out "ending before October 1, 1990"; and

(2) in subsection (e), by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1992".

(d) EXTENSION OF NUCLEAR CAREER ACCESSION BONUS PROGRAM.—Section 312b(d) of title 37, United States Code, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

SEC. 630a. ARMED SERVICE OFFICERS SPECIAL PAY

(a) SPECIAL PAY FOR PSYCHOLOGISTS.—(1) Section 302c(a) of title 37, United States Code, is amended to read as follows:

"(a) An officer who—

"(1) is an officer in the Regular or Reserve Corps of the Public Health Service, an officer in the Army Medical Department, an officer in the Bureau of Medicine and Surgery of the Navy, or an officer of the Air Force,

"(2) is designated as a psychologist, and

"(3) has been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology,

is entitled to special pay, as provided in subsection (b).".

(2)(A) The section heading of such section is amended by striking out "in the Public Health Service Corps".

(B) The item relating to section 302c in the table of sections at the beginning of chapter 5 of such title is amended by striking out "in the Public Health Service Corps".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to pay periods beginning after September 30, 1989.

PART C—TRAVEL AND TRANSPORTATION

SEC. 631. TRAVEL ENTITLEMENT FOR MEMBERS ASSIGNED TO A VESSEL UNDER CONSTRUCTION

(a) AUTHORIZATION FOR TRAVEL ALLOWANCE.—Chapter 7 of title 37, United States Code, is amended by inserting after section 406b the following new section:

"§ 406c. Travel and transportation allowances: members assigned to a vessel under construction

"(a) Under regulations prescribed by the Secretary concerned, a member of the uniformed services who is assigned to permanent duty aboard a ship that is under construction at a location either away from the designated home port of the ship or away from the area where the dependents of the member are residing is entitled to transportation, or an allowance for transportation as provided in section 404(d)(3) of this title for round-trip travel from the port of construction to the home port or to the area where the dependents are residing on or after the thirty-first day, and every sixtieth day after the thirty-first day, after the later of the day on which the ship enters the construction port or after the date on which the member becomes permanently assigned to the ship, whichever is later. However, in no event may the amount of reimbursement for personally procured transportation or allowance for transportation exceed the cost of Government-procured commercial round-trip air travel.

"(b) Transportation in kind, reimbursement for personally procured transportation, or a monetary allowance in place of the cost of transportation as provided in section 404(d)(1) of this title may be provided, in lieu of the member's entitlement to transportation, for the member's dependents from the location that was the home port of the ship before commencement of construction to the port of construction. The total reimbursement for transportation for the member's dependents may not exceed the cost of Government-procured commerce round-trip travel.

"(c) In any case in which a member of the uniformed services assigned to permanent duty aboard a ship that undergoes a change of home port to the port at which the ship is being constructed, the dependents of such member may be provided the transportation allowances prescribed in subsections (a) and (b) of this section in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.

"(d) Section 420 of this title does not apply with respect to transportation or allowances provided under this section.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 406b the following new item:

"406c. Travel and transportation allowances: members assigned to a vessel under construction.".

(c) CLARIFYING AMENDMENT.—Subsection (c) of section 406b of such title is amended to read as follows:

"(c) In any case in which a member of the uniformed services assigned to permanent duty aboard a ship that undergoes a change of home port to the overhaul or inactivation port, the dependents of the member may be provided transportation allowances prescribed in subsections (a) and (b) of this section in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.".

SEC. 632. REIMBURSEMENT FOR CERTAIN FEES INCURRED IN TRAVEL

(a) IN GENERAL.—Section 404 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(i) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) of this section is entitled to reimbursement for parking fees, ferry fares, and bridge, road, and tunnel tolls actually incurred incident to such travel.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be applicable to travel and transportation commenced after September 30, 1989.

SEC. 633. STUDENT TRAVEL AUTHORIZED FOR DEPENDENTS OF MEMBERS IN ALASKA AND HAWAII

(a) AUTHORIZATION FOR DEPENDENT CHILDREN.—Section 430 of title 37, United States Code, is amended—

(1) in subsection (a)(1), by striking out "United States" and inserting in lieu thereof "continental United States";

(2) in subsection (a)(2), by striking out "oversea";

(3) in subsection (a)(3), by striking out "United States" and inserting in lieu thereof "continental United States";

(4) in subsection (b)—

(A) by striking out "United States" each place it appears and inserting in lieu thereof "continental United States"; and

(B) by striking out "in the oversea area" and inserting in lieu thereof "outside the continental United States"; and

(5) by adding at the end the following new subsections:

"(d) For a member assigned to duty outside the continental United States, transportation under this section may be provided a dependent child as described in subsection (a)(3) of this section who is attending a school in either Alaska or Hawaii.

"(e) The transportation authorized by this section may not be paid in the case of a member assigned to a permanent duty station in Alaska or Hawaii for a child attending a school in the State of the permanent duty station.

"(f) In this section, the term 'continental United States' means the 48 contiguous States and the District of Columbia.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be applicable to travel and transportation commenced after September 30, 1989.

PART D—SURVIVOR BENEFIT PROGRAM

SEC. 641. LEVEL PREMIUM FOR SURVIVOR BENEFIT PLAN ANNUITIES

Section 1452(a)(1) of title 10, United States Code, is amended by striking out "shall be reduced each month—" and all that follows and inserting in lieu thereof "shall be reduced each month as follows:

"(A) If the annuity being providing is a standard annuity—

"(i) in the case of a person who becomes a participant in the Plan on or after the effective date of the Military Survivor Benefit Improvement Act of 1989, the reduction shall be in an amount equal to 6½ percent of the base amount; and

"(ii) in the case of a person who is a participant in the Plan before the effective date of the Military Survivor Benefit Improvement Act of 1989, the reduction shall be in whichever of the following amounts is more favorable to the person providing the annuity:

"(I) An amount equal to 6½ percent of the base amount.

"(II) An amount equal to 2½ percent of the first $300 (as adjusted with respect to that person under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount.

"(B) If the annuity being provided is a reserve-component annuity—

"(i) in the case of a person who becomes a participant in the Plan on or after the effective date of the Military Survivor Benefit Improvement Act of 1989, the reduction shall be in an amount equal to 6½ percent of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan; and

"(ii) in the case of a person who is a participant in the Plan before the effective date of the Military Survivor Benefit Improvement Act of 1989, the reduction shall be in whichever of the following is more favorable to the person providing the annuity:

"(I) The amount applicable to that person under clause (i).

"(II) An amount equal to 2½ percent of the first $300 (as adjusted with respect to that person under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.".

SEC. 642. PROGRAM TO PROVIDE SUPPLEMENTAL SPOUSE ANNUITY FOR MILITARY RETIREES

(a) ESTABLISHMENT OF PROGRAM.—(1) Chapter 73 of title 10, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—SUPPLEMENTAL SURVIVOR BENEFIT PLAN

"Sec.
"1456. Supplemental spouse coverage: establishment of plan; definitions.
"1457. Supplemental spouse coverage: payment of annuity; amount.
"1458. Supplemental spouse coverage: eligible participants; elections of coverage.
"1459. Former spouse coverage: special rules.
"1460. Supplemental spouse coverage: reductions in retired pay.
"1460a. Incorporation of certain administrative provisions.
"1460b. Regulations.

"§ 1456. Supplemental spouse coverage: establishment of plan; definitions

"(a) ESTABLISHMENT OF SUPPLEMENTAL SURVIVOR BENEFIT PLAN.—

"(1) PLAN.—The Secretary of Defense shall carry out a program in accordance with this subchapter to enable participants in the Survivor Benefit Plan who are providing coverage for a spouse or former spouse beneficiary under that Plan to also provide a supplemental annuity for that spouse or former spouse beginning when the participant dies or when the spouse or former spouse becomes 62 years of age, whichever is later, in order to offset the effects of the two-tier annuity computation under the Survivor Benefit Plan.

"(2) NAME OF PLAN.—The program under this subchapter shall be known as the Supplemental Survivor Benefit Plan.

"(b) DEFINITIONS.—

"(1) INCORPORATION OF DEFINITIONS APPLICABLE TO SURVIVOR BENEFIT PLAN.—The definitions in section 1447 of this title apply in this subchapter.

"(2) SUPPLEMENTAL SPOUSE ANNUITY DEFINED.—In this subchapter, the term 'supplemental spouse annuity' means an annuity provided to a spouse or former spouse under this subchapter.

"§ 1457. Supplemental spouse coverage: payment of annuity; amount

"(a) COMMENCEMENT OF ANNUITY.—A supplemental spouse annuity commences on the later of—

"(1) the day on which an annuity under the Survivor Benefit Plan becomes payable to the beneficiary; or

"(2) the first day of the first month after the month in which the beneficiary becomes 62 years of age.

"(b) AMOUNT OF ANNUITY FOR BENEFICIARY OF PERSON PROVIDING STANDARD ANNUITY UNDER SBP.—In the case of a person providing a standard annuity for a spouse or former spouse beneficiary under the Survivor Benefit Plan and providing a supplemental spouse annuity for that beneficiary under this subchapter, the monthly annuity payable to the beneficiary under this subchapter shall be the amount equal to 20 percent of the base amount under the Survivor Benefit Plan of the person providing the annuity. The annuity shall be computed as of the date of the death of the person providing the annuity, notwithstanding that the annuity is not payable at that time by reason of subsection (a).

"(c) AMOUNT OF ANNUITY FOR BENEFICIARY OF PERSON PROVIDING RESERVE-COMPONENT ANNUITY UNDER SBP.—In the case of a person providing a reserve-component annuity for a spouse or former spouse beneficiary under the Survivor Benefit Plan and providing a supplemental spouse annuity for that beneficiary under this subchapter, the monthly annuity payable to that beneficiary under this subchapter shall be determined as follows:

"(1) BENEFICIARY INITIALLY 62 YEARS OF AGE OR OLDER.—If the beneficiary is 62 years of age or older when the beneficiary becomes entitled to the reserve-component annuity under the Survivor Benefit Plan, the monthly amount of the supplemental spouse annuity is the difference between—

"(A) the amount of the reserve-component annuity under the Survivor Benefit Plan to which the beneficiary would be entitled if that beneficiary were under 62 years of age (as computed under section 1451(a)(2)(A) of this title); and

"(B) the amount of the reserve-component annuity to which the beneficiary is entitled (as computed under section 1451(a)(2)(B) of this title).

"(2) BENEFICIARY INITIALLY UNDER 62 YEARS OF AGE.—If the beneficiary is under 62 years of age when the beneficiary becomes entitled to the reserve-component annuity under the Survivor Benefit Plan, the monthly amount of the supplemental spouse annuity of that beneficiary (commencing on the date specified in subsection (a)(2)) is the amount by which the beneficiary's annuity under the Survivor Benefit Plan is reduced (on the same day) under section 1451(d) of this title.

(3) EXCLUSION OF DIC OFFSET.—Computations under paragraphs (1) and (2) shall be made without regard to any reduction required under section 1450(c) of this title (or any other provision of law) with respect to the receipt of dependency and indemnity compensation under section 411 of title 38.

"(d) ADJUSTMENTS IN ANNUITIES.—

"(1) PERIODIC ADJUSTMENTS (COLAS).—Whenever annuities under the Survivor Benefit Plan are increased under section 1451(g)(1) of this title (or any other provision of law) or recomputed under section

1451(i) of this title, each annuity under this subchapter shall be increased or recomputed at the same time. The increase shall, in the case of any such annuity, be by the same percent as the percent by which the annuity of that beneficiary is increased or recomputed under the Survivor Benefit Plan.

"(2) ROUNDING DOWN.—The monthly amount of an annuity payable under this subchapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(e) TERMINATION OF ANNUITY.—A supplemental spouse annuity terminates effective as of the first day of the month in which the beneficiary dies or otherwise becomes ineligible to continue to receive an annuity under the Survivor Benefit Plan.

"§ 1458. Supplemental spouse coverage: eligible participants; elections of coverage

"(a) COVERAGE.—

"(1) IN GENERAL.—A person who provides an annuity for a spouse or former spouse under the Survivor Benefit Plan may elect in accordance with this section to provide a supplemental spouse annuity for that spouse or former spouse.

"(2) COVERAGE CONTINGENT ON CONCURRENT SBP COVERAGE.—When a person providing a supplemental spouse annuity under this subchapter ceases to be a participant under the Survivor Benefit Plan, that person's coverage under this subchapter automatically terminates.

"(3) ELECTIONS TO BE VOLUNTARY.—A person may not be ordered or required to elect (or to enter into an agreement to elect) to provide a spouse or former spouse with a supplemental spouse annuity under this subchapter. Except as provided in section 1459(b) of this title, in no case shall a person be deemed to have made an election to provide a supplemental annuity for a spouse or former spouse of such person.

"(b) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under this section if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan will be computed under section 1451(e) of this title. However, such a person may waive the right to have that annuity computed under section 1451(e) of this title. Any such election is irrevocable. A person making such a waiver may make an election under this section as in the case of any other participant in the Survivor Benefit Plan.

"(c) ELECTION OF SUPPLEMENTAL SPOUSE ANNUITY BEFORE BECOMING A PARTICIPANT IN SBP.—

"(1) IN GENERAL.—A person anticipating becoming a participant in the Survivor Benefit Plan who has a spouse or former spouse may elect to provide a supplemental spouse annuity under this subchapter for that spouse or former spouse.

"(2) CONDITIONS ON ELECTION.—An election under paragraph (1)—

"(A) must be made before the day on which the person making the election first becomes a participant in the Survivor Benefit Plan; and

"(B) shall be made in the same manner as an election under section 1448 of this title that is available to that person at the same time.

"(3) REQUIREMENT OF SPOUSE ANNUITY UNDER SBP.—If upon becoming a participant in the Survivor Benefit Plan under section 1448 of this title the person is not providing an annuity for the person's spouse or former spouse, an election under this section to provide a supplemental spouse annuity shall be void.

"(4) SPECIAL RULE FOR RCSBP PARTICIPANTS.—For the purposes of this subsection, a person providing a reserve-component annuity under the Survivor Benefit Plan shall not be considered to have become a participant in that Plan until the end of the 90-day period referred to in clause (iii) of section 1448(a)(2)(B) of this title.

"(d) ELECTION OF FORMER SPOUSE AFTER BECOMING ELIGIBLE FOR SURVIVOR BENEFIT PLAN.—

"(1) ELECTION OF COVERAGE.—A person who elects under section 1448(b)(3) of this title to provide coverage under the Survivor Benefit Plan for a former spouse may elect to provide a supplemental spouse annuity for that former spouse. Any such election must be signed by the person and received by the Secretary concerned within one year after the date of the decree of divorce, dissolution, or annulment.

"(2) EFFECTIVE DATE OF ELECTION.—An election under paragraph (1) is effective as of the same day as the election under section 1448(b)(3) of this title.

"(e) NOTICE TO SPOUSE OF FORMER SPOUSE COVERAGE.—If a married person who is eligible to provide an annuity under the Survivor Benefit Plan elects to provide an annuity under that Plan for a former spouse (or for a former spouse and dependent child) and elects under this section to provide a supplemental spouse annuity for that former spouse, the notification to the person's spouse under section 1448(a)(3)(E) or 1448(b)(3)(D) of this title shall include notice of the election under this section.

"(f) IRREVOCABILITY OF ELECTIONS.—

"(1) STANDARD ANNUITY.—An election under subsection (b) to provide a supplemental spouse annuity by a person providing a standard annuity under the Survivor Benefit Plan is irrevocable if not revoked on the day before the date on which the person first becomes a participant in that Plan.

"(2) RESERVE-COMPONENT ANNUITY.—An election under subsection (b) to provide a supplemental spouse annuity by a person providing a reserve-component annuity under the Survivor Benefit Plan is irrevocable if not revoked before the end of the 90-day period with respect to that person referred to in clause (iii) of section 1448(a)(2)(B) of this title.

"(3) FORMER SPOUSE ELECTIONS.—An election under subsection (c) may not be revoked except in accordance with subsection (h).

"(g) REMARRIAGE AFTER RETIREMENT.—

"(1) ELECTION UPON REMARRIAGE.—A person—

"(A) who is a participant in the Survivor Benefit Plan and is providing coverage under that Plan for a spouse (or a spouse and child) but is not a participant in the Supplemental Survivor Benefit Plan;

"(B) who does not have an eligible spouse beneficiary under that Plan; and

"(C) who remarries,

may (subject to paragraph (2)) elect to provide a supplemental spouse annuity under this subchapter for the person's spouse.

"(2) LIMITATIONS ON ELECTION.—A person may not make an election under paragraph (1) if the person elects under section 1448(a)(6)(A) of this title not to provide coverage under the Survivor Benefit Plan for the person's spouse.

"(3) CONDITIONS ON ELECTION.—An election under paragraph (1)—

"(A) is irrevocable;

"(B) shall be made within one year after the remarriage; and

"(C) shall be made in such form and manner as may be prescribed in regulations under section 1460a of this title.

"(h) CHANGE OF FORMER SPOUSE BENEFICIARY TO SPOUSE OR CHILD BENEFICIARY.—If a person who is providing an annuity for a former spouse under the Survivor Benefit Plan and a supplemental spouse annuity for that former spouse under this subchapter elects under section 1450(f)(1) of this title to change the beneficiary of the annuity under the Survivor Benefit Plan in order to provide an annuity under that Plan to that person's spouse or to a dependent child—

"(1) the beneficiary under the supplemental spouse annuity shall be deemed to be changed to that spouse also, if the change under section 1450(f)(1) was to provide the annuity for the person's spouse; and

"(2) participation in the supplemental spouse annuity program shall be terminated, if the change under section 1450(f)(1) of this title was to provide the annuity for a dependent child.

"(i) REINSTATEMENT OF DISCONTINUED ANNUITY UPON REINSTATEMENT OF SBP ANNUITY.—If a person who is providing an annuity for a former spouse under the Survivor Benefit Plan and a supplemental spouse annuity for that former spouse under this subchapter discontinues participation in the Survivor Benefit Plan under any provision of law and subsequently resumes participation in that Plan under any provision of law, the participation of that person in the Supplemental Survivor Benefit Plan under this chapter shall be reinstated effective on the day on which participation in the Survivor Benefit Plan resumes.

"§ 1459. Former spouse coverage: special rules

"(a) DISCLOSURE OF VOLUNTARY WRITTEN AGREEMENT WITH FORMER SPOUSE.—A person who elects under section 1458 of this title to provide a supplemental spouse annuity for a former spouse shall, at the time of making the election, provide the Secretary concerned with a written statement (in a form to be prescribed by that Secretary and signed by such person and former spouse) setting forth whether the election is being made pursuant to a written agreement previously entered into voluntarily by such person as a part of or incident to a proceeding of divorce, dissolution, or annulment and (if so) whether such voluntary written agreement has been incorporated in, or ratified or approved by, a court order.

"(b) ENFORCEMENT OF VOLUNTARY WRITTEN AGREEMENTS INCIDENT TO DIVORCE, ETC.—

"(1) ELECTIONS DEEMED TO HAVE BEEN MADE.—If a person who is eligible to elect under section 1458 of this title to provide a supplemental spouse annuity for a former spouse voluntarily enters, incident to a proceeding of divorce, dissolution, or annulment, into a written agreement to elect to provide a supplemental annuity for a former spouse and that agreement is incorporated in or ratified or approved by a court order or is filed with the court of appropriate jurisdiction in accordance with applicable State law, and such person then fails or refuses to make the election as set forth in the voluntary agreement, such person shall be deemed to have made the election if the Secretary concerned—

"(A) receives from the former spouse concerned a written request, in such manner as the Secretary shall prescribe, requesting that the election be deemed to have been made; and

"(B) receives (i) a copy of the court order, regular on its face, which incorporates, ratifies, or approves the written agreement of such person, or (ii) a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable State law.

"(2) TIME LIMIT FOR REQUEST TO SECRETARY CONCERNED.—An election may not be deemed to have been made under paragraph (1) in the case of any person unless the Secretary concerned receives a request from the former spouse within one year after the date of the court order or filing involved.

"(3) EFFECTIVE DATE OF DEEMED ELECTION.—An election deemed to have been made under paragraph (1) shall become effective on the first day of the first month which begins after the date of the court order or filing involved.

"§ 1460. Supplemental spouse coverage: reductions in retired pay

"(a) REDUCTION REQUIRED.—The retired pay of a person who elects to provide a supplemental spouse annuity shall be reduced each month as required under regulations prescribed under subsection (b).

"(b) REGULATIONS DETERMINING AMOUNT OF REDUCTION.—Regulations for the purposes of subsection (a) shall be prescribed by the Secretary of Defense. Those regulations shall be based upon assumptions used by the Department of Defense Retirement Board of Actuaries in the valuation of military retirement and survivor benefit programs under chapter 74 of this title (including assumptions relating to mortality, interest rates, and inflation) and shall ensure the following:

"(1) That reductions in retired pay under this section are made in amounts sufficient to provide that the Supplemental Survivor Benefit Plan operates on an actuarially neutral basis.

"(2) That such reductions are stated, with respect to the base amount (under the Survivor Benefit Plan) of any person, as a constant percentage of that base amount.

"(3) That the amounts of such reductions in retired pay of persons participating in the Supplemental Survivor Benefit Plan (stated as a percentage of base amount)—

"(A) are based on the age of the participant at the time participation in that Plan is first effective under this subchapter; and

"(B) are not determined by any other demographic differentiation among participants in the Plan.

"(4) That such reductions are otherwise determined in accordance with generally accepted actuarial principles and practices.

"(c) SUSPENSION OF REDUCTION WHEN THERE IS NO SPOUSE BENEFICIARY.—A reduction in retired pay under this section shall not be made in the case of any person during any month in which there is no eligible spouse or former spouse beneficiary.

"(d) ADJUSTMENTS IN AMOUNT OF REDUCTION.—Whenever the amount of the reduction in retired pay of a participant in the Survivor Benefit Plan is increased under section 1452(h) of this title or recomputed under section 1452(i) of this title, the amount of the reduction in that retired pay under this section shall be increased or recomputed, as the case may be, at the same time and in the same manner as that increase or recomputation.

"(e) ADMINISTRATIVE PROVISIONS.—The provisions of subsections (d) and (f) of section 1452 of this title apply with respect to the participation of a person in the Supplemental Survivor Benefit Plan in the same manner that those provisions apply under the Survivor Benefit Plan.

"§ 1460a. Incorporation of certain administrative provisions

"(a) APPLICABILITY OF CERTAIN PROVISIONS OF SBP LAW.—The provisions of section 1449, 1452(g), 1453, and 1454 of title 10, United States Code, are applicable to a person eligible to make an election, and to an election, under this subchapter in the same manner as if made under subchapter II.

"(b) OTHER APPLICABLE PROVISIONS.—Except to the extent otherwise provided in regulations prescribed under section 1460b of this title, the provisions of subsections (h), (i), and (l) of section 1450 of this title apply to supplemental spouse annuities in the same manner that those provisions apply to annuities under the Survivor Benefit Plan.

"§ 1460b. Regulations

"The President shall prescribe regulations to carry out this subchapter. Those regulations shall, so far as practicable, be uniform for the uniformed services and shall, so far as practicable, incorporate provisions of the regulations in effect under section 1455 of this title.".

(2) The table of subchapters at the beginning of chapter 73 of such title is amended by adding at the end the following new item:

"III. Supplemental Spouse Coverage for Survivor Benefit Plan Participants ..... 1456".

(b) CONFORMING AMENDMENTS.—(1) Section 1331(d) of title 10, United States Code, is amended by inserting "and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter," after "this title".

(2) Section 3101(c)(1) of title 38, United States Code, is amended by striking out "subchapter I or II".

SEC. 643. CORRECTION OF ANNUITY COMPUTATION FOR SURVIVORS OF CERTAIN RETIREMENT-ELIGIBLE OFFICERS DYING WHILE ON ACTIVE DUTY

(a) ANNUITY COMPUTATION BASED ON FINAL BASIC PAY.—Section 1451(c) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) In the case of an annuity provided by a member described in section 1448(d)(1)(B) of this title who first became a member of a uniformed service before September 8, 1980, the retired pay to which the member would have been entitled when he died shall be determined based upon the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death, unless (as determined by the Secretary concerned) the member would have been entitled to be retired in a higher grade.".

(b) ADJUSTMENT OF ANNUITIES ALREADY IN EFFECT.—

(1) RECOMPUTATION.—The Secretary concerned shall recompute the annuity of any person who on the effective date specified in section 7 is entitled to an annuity under the Survivor Benefit Plan by reason of eligibility described in section 1448(d)(1)(B) of title 10, United States Code, and who is further described in subsection (c).

(2) AMOUNT OF RECOMPUTED ANNUITIES.—The amount of the annuity as so recomputed shall be the amount that would be in effect for that annuity on the effective date specified in section 7 if the annuity had originally been computed subject to the provisions of paragraph (3) of section 1451(c) of title 10, United States Code, as added by subsection (a).

(3) EFFECTIVE DATE OF RECOMPUTATION.—An annuity recomputed under this subsection shall take effect as so recomputed on the effective date specified in section 7.

(c) PERSONS ELIGIBLE FOR RECOMPUTATION.—A person is eligible to have an annuity under the Survivor Benefit Plan recomputed under subsection (b) if—

(1) the annuity is based upon the service of a member of the uniformed services who died on active duty during the period beginning on September 21, 1972, and ending on the effective date specified in section 7; and

(2) the retired pay of that member for the purposes of determining the amount of the annuity under the Survivor Benefit Plan was computed using a rate of basic pay lower than the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death.

SEC. 644. OPEN ENROLLMENT PERIOD

(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open enrollment period specified in subsection (f).

(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code, as added by section 642.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 67 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

(1) STANDARD ANNUITY.—A person making an election under this subsection by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(2) RESERVE-COMPONENT ANNUITY.—A person making an election under this subsection by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(b) ELECTION TO INCREASE COVERAGE UNDER SBP.—A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or (in the case of an eligible member who is married) is providing coverage under the Plan for a dependent child and not for the person's spouse or former spouse may, during the open enrollment period—

(1) elect to participate in the Plan at a higher base amount; or

(2) elect to provide an annuity under the Plan for the person's spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

(c) ELECTION FOR CURRENT SBP PARTICIPANTS TO PARTICIPATE IN SUPPLEMENTAL SBP.—

(1) ELECTION.—A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code, as added by section 642.

(2) PERSONS ELIGIBLE.—Except as provided in paragraph (3), a person is eligible to make an election under paragraph (1) if on the day before the first day of the open enrollment period the person is a participant in the Survivor Benefit Plan and under that Plan is providing an annuity for the person's spouse or a former spouse.

(3) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under this subsection if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan will be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section. Any such election is irrevocable. A person making such a waiver may make an election under this subsection during the open enrollment period as in the case of any other participant in the Survivor Benefit Plan.

(d) MANNER OF MAKING ELECTIONS.—An election under this section must be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(e) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(f) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period is the one-year period beginning on the effective date specified in section 646.

(g) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person's beneficiary under the Survivor Benefit Plan.

(h) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if made under subchapter III of chapter 73 of title 10, United States Code.

(i) DEFINITIONS.—For the purpose of this section:

(1) The term "Survivor Benefit Plan" means the program established under subchapter II of chapter 73 of title 10, United States Code.

(2) The term "retired pay" includes retainer pay paid under section 6330 of title 10, United States Code.

(3) The terms "uniformed services" and "Secretary concerned" have the meanings given those terms in section 101 of title 37, United States Code.

SEC. 645. MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS

(a) IN GENERAL.—Chapter 73 of title 10, United States Code, is amended as follows:

(1) Section 1447 is amended—

(A) in paragraph (5), by striking out "this clause" both places it appears and inserting in lieu thereof "this paragraph"; and

(B) in paragraph (11), by inserting "paid under section 6330 of this title" after "retainer pay".

(2) Sections 1447(2)(C)(i), 1447(3), 1447(4), 1448(a)(4)(A), 1449, and 1450(l)(2) are amended by striking out "or retainer".

(3) Section 1450(f)(3)(B) is amended—

(A) by striking out "before October 1, 1985, or"; and

(B) by striking out ", whichever is later".

(4) Section 1451(c) is amended—

(A) in paragraph (4) (as redesignated by section 5(a)(1)), by inserting "who first became a member of a uniformed service before September 8, 1980" after "of this title"; and

(B) in paragraph (5) (as redesignated by section 5(a)(1)), by inserting "by reason of the service of a person who first became a member of a uniformed service before September 8, 1980" after "of this title".

(5) Section 1451(e)(1) is amended by striking out "plan" in the matter preceding subparagraph (A) and inserting in lieu thereof "Plan".

(6) Section 1451(e)(2) is amended by striking out "(as the base amount is adjusted from time to time under section 1401a of this title)" in subparagraphs (A) and (B).

(7) Section 1452(h) is amended—

(A) by inserting "(or any other provision of law)" after "of this title" the first place it appears; and

(B) by striking out "increased under section 1401a of this title" and inserting in lieu thereof "so increased".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 646. EFFECTIVE DATE

This part and the amendments made by this part (other than the amendments made by section 645) shall take effect on the later of—

(1) October 1, 1989; or

(2) the first day of the third month beginning after the date of the enactment of this Act.

PART E—MISCELLANEOUS

SEC. 651. INCREASE IN EDUCATIONAL ASSISTANCE ALLOWANCE FOR PERSONS WITH CRITICAL SKILL OR SPECIALTY

Section 1415(c) of title 38, United States Code, is amended by striking out "$400" and inserting in lieu thereof "$700".

SEC. 652. AUTHORITY TO USE APPROPRIATED FUNDS TO SUPPORT STUDENT MEAL PROGRAMS IN DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

(a) IN GENERAL.—(1) Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2243. Authority to use appropriated funds to support student meal programs in overseas dependents' schools

"(a) AUTHORITY.—Subject to subsection (b), amounts appropriated to the Department of Defense to operate the defense dependents' education system may be used to maintain the cost to a student of a meal provided by an overseas meal program at a cost equal to the average cost to a student of an equivalent meal under a comparable public school meal program in the United States.

"(b) LIMITATION.—The authority provided by subsection (a) may be used only if the Secretary of Defense determines that Federal payments and commodities provided under section 20 of the National School Lunch Act (42 U.S.C. 1769b) and section 20 of the Child Nutrition Act of 1966 (42 U.S.C. 1789) to support an overseas meal program are insufficient to provide a meal under such program at a cost to a student equal to the average cost to a student of an equivalent meal under a comparable public school meal program in the United States.

"(c) OVERSEAS MEAL PROGRAM DEFINED.—In this section, the term 'overseas meal program' means a program administered by the Secretary of Defense to provide breakfasts or lunches to students attending Department of Defense dependents' schools which are located outside the United States.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2243. Authority to use appropriated funds to support student meal programs in overseas dependents' schools.".

(b) EFFECTIVE DATE.—Section 2243 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1989.

SEC. 653. AUTHORIZATION TO REDUCE UNDER CERTAIN CIRCUMSTANCES THE RATES FOR MEALS SOLD AT A MILITARY DINING FACILITY

Section 1011(a) of title 37, United States Code, is amended—

(1) by striking out "or enlisted members" and all that follows through the period in the first sentence and inserting in lieu thereof "and enlisted members."; and

(2) by adding after the second sentence the following new sentence: "Notwithstanding the preceding sentence, if the Secretary determines that it is in the best interest of the United States, the Secretary may reduce a rate for meals established under this subsection by the amount of that rate attributable to operating expenses.".

SEC. 654. UNIFORM ALLOWANCE FOR CIVILIAN EMPLOYEES

(a) IN GENERAL.—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1592. Uniform allowance for civilian employees

"Notwithstanding section 5901 of title 5, the Secretary of Defense may pay an allowance under this section to any civilian employee of the Department of Defense who is required by law or regulation to wear a prescribed uniform in the performance of official duties. An allowance paid under this section may not exceed $400 annually.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1592. Uniform allowance for civilian employees.".

(c)(1) Section 1606 of such title is repealed.

(2) The table of sections at the beginning of chapter 83 of such title is amended by striking out the item relating to section 1606.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) and the repeal made by subsection (c) shall take effect on October 1, 1989.

SEC. 655. AVIATOR INSURANCE

Not later than December 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a legislative proposal for an accidental death insurance plan for aviators serving on active duty that provides, at no cost to the insured, for the payment of death benefits in the amount of $100,000 for death resulting directly from the performance of operational flying duty (as defined in section 301a(a)(6) of title 37, United States Code).

SEC. 656. SENSE OF CONGRESS REGARDING ESTABLISHMENT OF COMMISSION TO CONDUCT A STUDY ON THE NATIONAL SHORTAGE OF AVIATORS

In view of the critical shortage of qualified aviators in both the Armed Forces and in the commercial airline industry of the United States, it is the sense of Congress that—

(1) the President should establish a commission to study the reasons for such shortages and to consider effective and practicable means of eliminating the shortages;

(2) the President should include among persons appointed to the commission representatives from the commercial airline industry, representatives from the Department of Defense, and representatives from such other sources as the President considers appropriate;

(3) the President should appoint all members of the commission not later than February 15, 1990; and

(4) the commission should be required to submit a report on the results of its study to the President and Congress not later than March 1, 1991, together with specific recommendations for eliminating the shortage of aviators in the United States.

TITLE VII—DEPARTMENT OF DEFENSE MANAGEMENT MATTERS

SEC. 701. IMPLEMENTATION OF DEFENSE MANAGEMENT REVIEW

Not later than February 15, 1990, the Secretary of Defense shall submit to Congress a report regarding actions that have been taken by the Secretary and actions the Secretary proposes to take to implement the July 1989 report of the Secretary of Defense to the President entitled Defense Management. The Secretary shall include in the report to Congress the following:

(1) A discussion of any actions taken, any ongoing actions, and any actions proposed to be taken by the Secretary with regard to such review.

(2) An assessment of the impact that such actions have had or are likely to have on the efficiency of the Department of Defense.

(3) Specific proposals for legislation that the Secretary determines would facilitate implementation of the objectives of the review.

SEC. 702. FUND FOR UNIFIED AND SPECIFIED COMBATANT COMMANDS

Of the funds authorized to be appropriated pursuant to section 301 for the Defense Agencies for fiscal year 1990, $10,000,000 shall be available for the establishment of a fund under the management of the Chairman of the Joint Chiefs of Staff for use in response to the request of a commander of a unified or specified combatant command for supplemental funding of the following activities:

(1) Joint exercises (including foreign country participation).

(2) Force training.

(3) Contingencies.

(4) Selected operations.

(5) Command and control.

(6) Military education and training to military and related civilian personnel of foreign countries.

(7) Personnel expenses of defense personnel for bilateral or regional cooperation programs.

SEC. 703. STRATEGIC AIR DEFENSE ALERT MISSION

Section 713 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1998), is amended—

(1) in subsection (b)(1), by inserting "any component or segment of" after "After"; and

(2) in subsection (b)(2), by striking out "180 days" and inserting in lieu thereof "30 days".

SEC. 704. ESTABLISHMENT OF POSITIONS AT APPROPRIATE LEVELS OF THE EXECUTIVE SCHEDULE

(a) COMPTROLLER OF DEPARTMENT OF DEFENSE.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Comptroller of the Department of Defense.".

(b) GENERAL COUNSELS OF MILITARY DEPARTMENTS.—(1) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"General Counsel of the Department of the Air Force.

"General Counsel of the Department of the Army.

"General Counsel of the Department of the Navy.".

(2) Section 5316 of title 5, United States Code, is amended by striking out the item relating to the General Counsel of the Department of the Air Force, the General Counsel of the Department of the Army, and the General Counsel of the Department of the Navy.

(c) ADDITIONAL SECRETARY OF THE AIR FORCE.—Section 5315 of title 5, United States Code, is further amended by striking out "(3)" after the item relating to the Assistant Secretaries of the Air Force and inserting in lieu thereof "(4)".

(d) CONFORMING AMENDMENT.—Section 703(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 5 U.S.C. 5316 note), is repealed.

TITLE VIII—ACQUISITION POLICY AND MANAGEMENT

PART A—DEFENSE INDUSTRIAL AND TECHNOLOGY BASE

SEC. 801. CRITICAL TECHNOLOGIES PLANNING

(a) IN GENERAL.—(1) Chapter 148 of title 10, United States Code, is amended by inserting at the end thereof the following new sections:

"§ 2508. National critical technologies report

"(a)(1) The Director of the Office of Science and Technology Policy shall establish a panel of experts in advanced technology to prepare and submit the biennial report required by subsection (b).

"(2) The panel shall consist of 13 persons who are experts in science and engineering appointed as follows:

"(A) Three Federal Government officials appointed by the Director of the Office of Science and Technology Policy.

"(B) Six persons from private industry and higher education appointed by the Director of the Office of Science and Technology Policy.

"(C) One Federal Government official appointed by the Secretary of Defense.

"(D) One Federal Government official appointed by the Secretary of Energy.

"(E) One Federal Government official appointed by the Secretary of Commerce.

"(F) One Federal Government official appointed by the Administrator of the National Aeronautics and Space Administration.

"(3) Any vacancy in the membership of the panel shall be filled in the same manner as the original appointment.

"(4) The Director of the Office of Science and Technology Policy shall designate one of the members appointed under paragraph (2)(A) as Chairman of the panel.

"(b) Not later than October 1 of each even-numbered year, the panel shall submit to the President a report identifying the product technologies and process technologies considered by the panel to be the technologies most essential to develop in order to ensure long-term national security and economic prosperity for the United States. The number of the technologies identified in the report may not exceed 30.

"(c) The biennial report shall include, with respect to each technology identified in the report, the following information:

"(1) The reasons for selecting that technology.

"(2) The state of the development of the technology in the United States and in other countries.

"(3) An estimate of the current and anticipated level of research and development effort in the United States, including anticipated milestones for specific accomplishments, by—

"(A) the Federal Government;

"(B) State and local governments;

"(C) private industry; and

"(D) colleges and universities.

"(d)(1) The Secretary of Defense, upon the request of the Director of the Office of Science and Technology Policy, may enter into agreements with the National Academy of Sciences, the National Academy of Engineering, and the National Institute of Medicine from time to time to conduct in-depth studies of selected fields of research and development essential to the development of the technologies identified in the latest biennial report submitted to the President under subsection (b).

"(2) The Secretary may not obligate more than $500,000 for such agreements in any fiscal year.

"(e) The Secretary of Defense shall pay the reasonable expenses, not to exceed $500,000, incurred by the panel in any fiscal year.

"(f) Not later than 30 days after the date on which a biennial report is submitted to the President, the President shall transmit such report, together with any comments that the President considers appropriate, to the Committees on Armed Services of the Senate and the House of Representatives.

"§ 2509. Defense critical technologies plan

"(a)(1) Not later than March 15 each year, the Secretary of Defense, in consultation with the Secretary of Energy, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for developing the technologies considered by the Secretary of Defense and the Secretary of Energy to be the technologies most critical to ensure the long-term quali-

tative superiority of United States weapon systems. The number of such technologies identified in any plan may not exceed twenty.

"(2) In selecting the technologies to be included in the plan, the Secretary of Defense and the Secretary of Energy shall consider both product technologies and process technologies, including the technologies identified in the latest biennial report submitted to the President under section 2508 of this title.

"(3) The plan shall cover the 15 fiscal years following the year in which the plan is submitted.

"(4) Such plan shall be submitted in both classified and unclassified form.

"(b) Each plan submitted under subsection (a) shall—

"(1) designate priorities for development of the 20 technologies identified in the plan; and

"(2) specify the funding requirements of the Department of Defense, the Department of Energy, and other appropriate departments and agencies of the Federal Government for the development of those technologies for the five fiscal years following the year in which the plan is submitted.

"(c) Each plan submitted under subsection (a) shall include, with respect to each technology included in the plan, the following matters:

"(1) The reasons for selecting such technology, including—

"(A) a discussion of the consideration given to the latest biennial report submitted to the President under section 2508 of this title; and

"(B) the relationship of the technology to the overall science and technology program of the Department of Defense and the long-term funding strategy associated with that program.

"(2) A designation of the lead organization within the Department of Defense or the Department of Energy responsible for the development of the technology.

"(3) A summary description of the lead organization's plan for the development of the technology, including the milestone goals.

"(4) The amounts contained in the budgets of the Department of Defense, the Department of Energy, and other departments and agencies for the support of the development of such technology for—

"(A) the five fiscal years preceding the year in which the plan is submitted; and

"(B) the fiscal year beginning in the year in which the plan is submitted; and

"(C) each fiscal year thereafter for which the Secretary of Defense, with respect to the Department of Defense, and the Secretary of Energy, with respect to the Department of Energy, has prepared a budget.

"(5) A comparison of the positions of the United States and the Soviet Union in the development of such technology.

"(6) The potential contributions that the allies of the United States and other industrialized nations can make to meet the needs of the alliance for such technology.

"(7) A comparison of the extent to which the United States has access to research conducted on such technology in allied nations and other industrialized nations with the extent to which such nations have access to research conducted in the United States on such technology and a discussion of the effects of any imbalance in such access on development of that technology.

"(8) With respect to the development of such technology—

"(A) a comparison of the relative positions of the United States and other industrialized countries that are prominent in the development of such technology;

"(B) the trends in the relevant industrial bases of such countries;

"(C) the competitiveness of the United States industrial base supporting research in, and the development and utilization of, such technology;

"(D) the extent to which the United States should depend on other countries for the development of such technology; and

"(E) the extent to which action should be taken by the Federal Government to maintain and improve—

"(i) research efforts in the United States; and

"(ii) the industrial base supporting such efforts.

"(9) The potential contributions that the private sector can be expected to make from its own resources in connection with the development of civilian applications for such technology.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

"2508. National critical technologies report.
"2509. Defense critical technologies plan.".

(b) FIRST NATIONAL CRITICAL TECHNOLOGIES REPORT.—The first biennial report under section 2508(b) of title 10, United States Code (as added by subsection (a)), shall be submitted not later than October 1, 1990.

(c) REPEAL OF SUPERSEDED PROVISION OF LAW.—(1) Section 2368 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2368.

SEC. 802. CRITICAL INDUSTRIES PLANNING

(a) FUNCTIONS OF THE DEFENSE INDUSTRIAL BASE OFFICE.—Section 2503 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(5) identify the industries most critical for national security applications of the technologies identified in the latest annual defense critical technologies plan submitted under section 2509 of this title.".

(b) REPORT.—(1) Not later than March 15, 1990, the Under Secretary of Defense for Acquisition shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives on the actions taken under section 2503 of title 10, United States Code, for the improvement of the defense industrial base of the United States.

(2) The report shall include the Under Secretary's analysis of the condition of the defense industrial base of the United States, particularly with respect to the financial ability of United States businesses—

(A) to conduct research and development activities relating to critical defense technologies, including the critical technologies referred to in section 2503(5) of title 10, United States Code, as added by subsection (a);

(B) to apply those technologies to the production of goods and the furnishing of services; and

(C) to engage in any other activities determined by the Secretary of Defense to be critical to the national security.

(3) In preparing the analysis required in paragraph (2), the Under Secretary shall consider—

(A) trends in the profitability, levels of capital investment, spending on research and development, and debt burden of businesses involved in research on, development of, and application of critical defense technologies;

(B) the consequences of mergers, acquisitions, and takeovers of such businesses;

(C) the results of current Department of Defense spending for critical defense technologies; and

(D) the likely future level of Department of Defense spending for such technologies during the four fiscal years following fiscal year 1990 and the likely results of that level of spending.

SEC. 803. DEFENSE INDUSTRIAL INFORMATION

Section 2503 of title 10, United States Code, as amended by section 802, is further amended—

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(6) analyze the ability of the defense industrial base of the United States to fulfill the national security needs of the United States.".

SEC. 804. DEFENSE MEMORANDA OF UNDERSTANDING AND RELATED AGREEMENTS

(a) IN GENERAL.—Section 2504 of title 10, United States Code, is amended to read as follows:

"§ 2504. Defense memoranda of understanding and related agreements

"(a) IN GENERAL.—In the negotiation, renegotiation, and implementation of any memorandum of understanding, or any agreement related to a memorandum of understanding, between the Secretary of Defense, acting on behalf of the United States, and one or more foreign countries (or any instrumentality of a foreign country) relating to research, development, or production of defense equipment, the Secretary of Defense shall regularly solicit and consider comments and recommendations from the Secretary of Commerce with respect to the commercial implications of such memorandum of understanding or related agreement and the potential impact of such memorandum of understanding or related agreement on the international competitive position of United States industry.

"(b) REVIEW.—Whenever the Secretary of Commerce has reason to believe that a memorandum of understanding or related agreement has, or threatens to have, a significant adverse impact on the internatio•al competitive position of United States industry, the Secretary may request an interagency review of the memorandum of understanding or related agreement. If, as a result of the review, the Secretary determines that the strategic commercial interests of the United States are not being served or would not be served by adhering to the terms of such memorandum or related agreement, the Secretary shall recommend to the President any modification to the memorandum of understanding or related agreement he considers necessary to ensure an appropriate balance of interests.

"(c) LIMITATION.—A memorandum of understanding or related agreement referred to in subsection (a) shall not be entered into or implemented if the President, taking into

consideration the results of the inter-agency review, determines that such memorandum of understanding or related agreement has or is likely to have a significant adverse impact on United States industry that outweighs the benefits of entering into or implementing such memorandum or agreement. The President shall consider the results of any inter-agency review of such memorandum or related agreement conducted pursuant to a request under subsection (b).".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 148 of such title is amended by striking out the item relating to section 2504 and inserting in lieu thereof the following:

"2504. Defense memoranda of understanding and related agreements.".

SEC. 805. OFFSETS IN RECIPROCAL DEFENSE PROCUREMENT AGREEMENTS

In the negotiation or renegotiation of any memorandum of understanding between the Secretary of Defense and one or more foreign countries (or any instrumentality of a foreign country) relating to the reciprocal procurement of defense equipment and supplies or research and development, the Secretary of Defense shall make every effort to achieve an agreement with the country or countries concerned that would limit the adverse effects that offset arrangements have on the defense industrial base of the United States.

PART B—ACQUISITION POLICY INITIATIVES

SEC. 821. DEFENSE ENTERPRISE PROGRAMS AND SIMPLIFICATION OF THE DEFENSE ACQUISITION PROCESS

(a) DEFENSE ENTERPRISE PROGRAMS GENERALLY.—Section 2436 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "senior procurement executive" and inserting in lieu thereof "service acquisition executive";

(2) in subsection (b), by inserting after the first sentence the following: "A designation under this subsection shall be subject to the approval of the Secretary of Defense.";

(3) in paragraph (3) of subsection (c), by striking out "senior procurement executive" and all that follows through the period at the end and inserting in lieu thereof "service acquisition executive of the military department concerned."; and

(4) in subsection (d)—

(A) by striking out "senior procurement executive of the military department concerned, with the approval of the Under Secretary of Defense for Acquisition," and inserting in lieu thereof "Under Secretary of Defense for Acquisition or the senior acquisition executive of the military department concerned,"; and

(B) by adding at the end the following new sentence: "The Under Secretary of Defense for acquisition may waive the application of any provision of the Federal Acquisition Regulation, and any provision of the Department of Defense supplement to such regulation, to any program designated under subsection (b).".

(b) MILESTONE AUTHORIZATIONS FOR DEFENSE ENTERPRISE PROGRAMS.—Section 2437 of such title is amended—

(1) in paragraph (2) of subsection (a)—

(A) in clause (A), by striking out "full-scale engineering development stage" and inserting in lieu thereof "concept demonstration validation stage, the full-scale engineering development stage,"; and

(B) in clause (B), by striking out "either" and inserting in lieu thereof "any"; and

(2) in subsection (c)—

(A) by striking out "full-scale engineering development stage" and inserting in lieu thereof "concept demonstration validation stage, the full-scale engineering development stage,";

(B) by redesignating clauses (1) and (2) as clauses (2) and (3), respectively; and

(C) by inserting above clause (2), as so redesignated, the following clause (1):

"(1) proceed into or complete the concept demonstration validation stage;".

(c) REPORT ON PROCUREMENT REGULATORY REFORM.—(1) Not later than February 15, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of all regulatory reform actions taken or planned to be taken in the Department of Defense on the basis of the experience under defense enterprise programs.

(2) The report shall contain any recommendations for legislation that the Secretary considers appropriate in order to enhance the effectiveness of defense enterprise programs or otherwise to simplify the Department of Defense acquisition process.

SEC. 822. ACQUISITION OF COMMERCIAL PRODUCTS

(a) REGULATIONS REQUIRED.—The Secretary of Defense shall prescribe regulations governing the acquisition of commercial products. Such regulations shall include the matters provided in subsections (b) through (d).

(b) CONTRACT AND SUBCONTRACT CLAUSES.—(1) The regulations prescribed pursuant to subsection (a) shall ensure the following:

(A) That a Department of Defense contract for the acquisition of commercial products includes only those clauses that—

(i) are on the list of clauses developed by the Secretary of Defense pursuant to paragraph (2)(A);

(ii) are included in the contractor's standard commercial order or invoice; or

(iii) are essential for the protection of the Federal Government's interest in that particular contract, as determined in writing by the contracting officer.

(B) That a prime contractor under a Department of Defense contract for the acquisition of commercial products is not required to include in subcontracts under such contract any clause other than those clauses that—

(i) are identified by the Secretary of Defense pursuant to paragraph (2)(B); or

(ii) are essential for the protection of the Federal Government, as determined in writing by the contracting officer for such contract.

(2)(A) The Secretary of Defense shall develop a list of clauses required to be included in Department of Defense contracts for the acquisition of commercial products. Such list shall include only those clauses that—

(i) are required by a statute to be included in such contracts; or

(ii) are essential for the protection of the Federal Government's interest in such contracts.

(B) The Secretary shall identify those clauses on the list of clauses required for contracts under subparagraph (A) that are required to be included in subcontracts under such contracts. The Secretary may identify for such purpose only those clauses that—

(i) are required by a statute to be included in the subcontracts; or

(ii) are essential for the protection of the Federal Government's interest in such subcontracts.

(c) MODIFIED INSPECTION CLAUSE AND WARRANTIES.—The regulations prescribed pursuant to subsection (a) shall ensure, to the maximum extent practicable, the following:

(1) That a modified inspection clause is included in each Department of Defense contract for the acquisition of commercial products awarded to a contractor that has a proven record of quality production and offers an appropriate warranty to protect the Federal Government's interest in acquiring a quality product.

(2) That applicable commercial warranties for repair and replacement of commercial products are used by the Department of Defense for any necessary repair and replacement of such products.

(d) COST AND PRICING DATA REQUIREMENTS.—The regulations prescribed pursuant to subsection (a) shall ensure that, pursuant to the exceptions in clauses (1)(A) and (1)(B) of section 2306a(b) of title 10, United States Code, no offeror, contractor, or subcontractor is required to submit certified cost or pricing data in connection with—

(1) any Department of Defense contract, or any subcontract under a Department of Defense contract, for the acquisition of a commercial product, unless the head of the agency awarding such contract determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract, as the case may be;

(2) any Department of Defense contract, or any subcontract under a Department of Defense contract, for the acquisition of a commercial product, for which the price agreed upon is based on adequate price competition, unless the head of the agency awarding such contract determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract, as the case may be; and

(3) any acquisition of a product for which the Administrator of General Services has accepted a certificate of established catalog price that is current.

(e) TRAINING.—(1) The Secretary of Defense shall establish a program for training contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items.

(2) The training program shall provide, at a minimum, for the following:

(A) Training in the requirements of this section, section 2325 of title 10, United States Code, and the regulations prescribed pursuant to those sections.

(B) Training of contracting officers in the fundamental principles of price analysis and other alternative means of determining price reasonableness.

(C) Training of appropriate acquisition personnel in market research techniques and in the drafting of functional and performance specifications.

(f) ENCOURAGING ACQUISITION OF NONDEVELOPMENTAL ITEMS.—The Secretary of Defense shall prescribe regulations to ensure that the head of each contracting activity of the Department of Defense assigns functions relating to the acquisition of nondevelopmental items to a responsible official within the contracting activity. The functions assigned pursuant to such regulations should include the function of promoting the acquisition of nondevelopmental items and the function of challenging barriers to such acquisition, including unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses.

(g) IMPLEMENTATION.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations and contract clauses required by this section or necessary for the implementation of this section.

(h) DEFINITIONS.—In this section:

(1) The term "commercial product" means—

(A) any product that is or has been sold in substantial quantities to the general public;

(B) any component of such a product; and

(C) any modified version of a product or component referred to in clause (A) or (B).

(2) The term "nondevelopmental item" has the same meaning as is provided in section 2325(d) of title 10, United States Code.

SEC. 823. UNIFORM RULES ON DISSEMINATION OF ACQUISITION

Not later than December 31, 1989, the Secretary of Defense shall prescribe a single, uniform regulation for the Department of Defense regarding dissemination of and access to acquisition information.

SEC. 824. TEST PROGRAM FOR USE OF SIMPLIFIED PROCEDURES IN THE COMPETITIVE AWARD OF CERTAIN CONTRACTS ON THE BASIS OF QUALITY FACTORS

(a) TEST PROGRAM.—The Secretary of Defense shall conduct a test program under which the Secretary of a military department or the head of a Defense Agency, notwithstanding section 2305(b)(4)(A)(ii) of title 10, United States Code, may award a contract for the procurement of property or services primarily on the basis of design or technical quality factors after evaluation of competitive proposals without discussions with offerors.

(b) PROCUREMENT OF PROPERTY OTHER THAN COMMERCIAL PRODUCTS.—The Secretary of a military department or the head of a Defense Agency may award a contract for the procurement of property or services, other than commercial items, under the test program as provided in subsection (a) if the Secretary or agency head—

(1) specifically reserves, in the solicitation issued in connection with the procurement, the right to accept an initial proposal without discussions;

(2) evaluates all offers on the basis of the evaluation criteria specified in the solicitation;

(3) awards the contract to the contractor that demonstrates that—

(A) the design and technical features of the property offered by the contractor are superior in quality or performance to the property offered by the other offerors; and

(B) there is a low risk of—

(i) delay in delivery of the property to the military department or Defense Agency concerned;

(ii) increase in the cost of the property to such military department or Defense Agency; and

(iii) failure of the property to meet the performance criteria under the contract; and

(4) determines that—

(i) the price contained in the offer submitted by the contractor awarded the contract is fair and reasonable; and

(ii) the product offered by the contractor at that price represents the best value to the Government in relation to other offers received in connection with the procurement.

(c) PROCUREMENT OF COMMERCIAL PRODUCTS.—The Secretary of a military department or the head of a Defense Agency may award a contract for the procurement of commercial products under the test program as provided in subsection (a) if the Secretary or agency head determines that—

(1) the price contained in the offer submitted by the contractor awarded the contract is fair and reasonable; and

(2) the product offered by the contractor at that price represents the best value to the Government in relation to other offers received in connection with the procurement.

(d) PERIOD OF TEST PROGRAM.—Contracts may be awarded under the test program during a 2-year period prescribed by the Secretary of Defense. Such period shall commence not later than 270 days after the date of the enactment of this Act.

(e) DESIGNATION OF DEPARTMENT OF DEFENSE PARTICIPANTS.—The Secretary of Defense shall designate the organizations within the Department of Defense that will participate in the test program. The Secretary shall designate each organization on the basis of the total dollar value of the procurement actions taken by such organization in the fiscal year ending September 30, 1989, and such other factors as the Secretary considers appropriate. The total dollar value of all procurement actions taken during such fiscal year by all organizations so designated may not exceed the amount equal to 20 percent of the dollar value of all procurement actions taken by the Department of Defense in such fiscal year.

(f) LIMITATION.—(1) No contract for the acquisition of a major system may be awarded under the test program.

(2) As used in the section, the term "major system" shall have the same meaning as is provided in section 2302(5) of title 10, United States Code.

(g) REPORT.—Not later than 270 days after the expiration of the 2-year period prescribed pursuant to subsection (d), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the test program. The report shall include any recommendations for legislation that the Secretary considers appropriate regarding the competitive award of contracts without discussions with offerors.

(h) DEFINITION.—In this section:

(1) The term "commercial product" shall have the same meaning as is provided in section 822(g)(1) of this Act.

(2) The term "discussions" does not include any discussion of an offer with the offeror that is conducted for the purpose of minor clarification.

SEC. 825. ACQUISITION REPORT STREAMLINING

(a) UNIT COST REPORTS.—(1) Subsection (a) of section 2433 of title 10, United States Code, is amended—

(A) in paragraph (2), by inserting "the service acquisition executive designated by" before "the Secretary concerned"; and

(B) in paragraph (4)—

(i) by inserting "the service acquisition executive designated by" before "the Secretary concerned";

(ii) in clause (A), by striking out "unit cost report submitted under subsection (e)(2)(B)(ii) with respect to" and inserting in lieu thereof "Selected Acquisition Report submitted under subsection (e)(2)(B) that includes information on"; and

(iii) in clause (B), by striking out "subsection (e)(2)(B)(ii) with respect to the program during that three-quarter period, the most recent unit cost report submitted under subsection (e)(1) with respect to the program" and inserting in lieu thereof "subsection (e)(2)(B) with respect to the program during that three-quarter period, the most recent Selected Acquisition Report submitted under subsection (e)(1) that includes information of the program".

(2) Subsection (b) of section 2433 of such title is amended—

(A) by striking out "(b) The program manager" and all that follows through the colon preceding paragraph (1) and inserting in lieu thereof the following:

"(b) The program manager for a major defense acquisition program (other than a program not required to be included in the Selected Acquisition Report for that quarter under section 2432(b)(3) of this title) shall, on a quarterly basis, submit to the service acquisition executive designated by the Secretary concerned a written report on the unit costs of the program. Each report shall be submitted not more than 7 days (excluding Saturdays, Sundays, and legal public holidays) after the end of that quarter. The program manager shall include in each such unit cost report the following information with respect to the program (as of the last day of the quarter for which the report is made):"; and

(B) in paragraph (4), by striking out "Selected Acquisition Report" and inserting in lieu thereof "description established under section 2435 of this title".

(3) Subsection (c) of section 2433 of such title is amended—

(A) in paragraph (1)—

(i) by striking out "fiscal-year" in the matter above clause (A); and

(ii) in matter following clause (C)—

(I) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears;

(II) by striking out "(other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year)" and inserting in lieu thereof "(other than the last quarterly unit cost report under subsection (b) for the preceding fiscal year)"; and

(III) by striking out "Secretary concerned" the second place it appears and inserting in lieu thereof "that a service acquisition executive"; and

(B) in paragraph (2)—

(i) in the matter above clause (A)—

(I) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears; and

(II) by striking out "(other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year)" and inserting in lieu thereof "(other than the last quarterly unit cost report under subsection (b) for the preceding fiscal year)"; and

(ii) by striking out "Secretary concerned" each place it appears in clauses (A), (B), and (C) and in the matter following clause (C) and inserting in lieu thereof "such service acquisition executive".

(4) Subsection (d) of section 2433 of such title is amended—

(A) in paragraph (1)—

(i) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears; and

(ii) by striking out "Secretary shall determine" and inserting in lieu thereof "service acquisition executive shall determine";

(B) in paragraph (2)—

(i) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears; and

(ii) by striking out "Secretary concerned shall, in addition to the determination under paragraph (1), determine" and insert-

ing in lieu thereof "service acquisition executive, in addition to the determination under paragraph (1), determine"; and

(C) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) If, based upon the service acquisition executive's determination, the Secretary concerned determines (for the first time since the beginning of the current fiscal year) that the current program acquisition unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (1) or that the current procurement unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (2), the Secretary shall notify Congress in writing of such determination and of the increase with respect to such program within 30 days after the date on which the service acquisition executive reports his determination of such increase in such unit cost to the Secretary and shall include in such notification the date on which the determination was made.".

(5) Subsection (e) of section 2433 of such title is amended—

(A) by striking out "(e)(1)" and all that follows through the end of paragraph (2) and inserting in lieu thereof the following:

"(e)(1)(A) Except as provided in subparagraph (B), whenever the Secretary concerned determines under subsection (d) that the current program acquisition cost of a major defense acquisition program has increased by more than 15 percent, a Selected Acquisition Report shall be submitted to Congress for the first fiscal-year quarter ending on or after the date of the determination and such report shall include the information described in section 2432(e) of this title. The report shall be submitted within 45 days after the end of that quarter.

"(B) Whenever the Secretary makes a determination referred to in subparagraph (A) in the case of a major defense acquisition program during the second quarter of a fiscal year and before the date on which the President transmits the budget for the following fiscal year to Congress pursuant to section 1105 of title 31, the Secretary is not required to file a Selected Acquisition Report under subparagraph (A) but shall include the information described in subsection (g) regarding that program in the comprehensive annual Selected Acquisition Report submitted in that quarter.

"(2) If the percentage increase in the current program acquisition cost of a major defense acquisition program (as determined by the Secretary under subsection (d)) exceeds 25 percent, the Secretary of Defense shall submit to Congress, before the end of a 30-day period beginning on the day the Selected Acquisition Report containing the information described in subsection (g) is required to be submitted under section 2432(f) of this title—

"(A) a written certification, stating that—

"(i) such acquisition program is essential to the national security;

"(ii) there are no alternatives to such acquisition program which will provide equal or greater military capability at less cost;

"(iii) the new estimates of the program acquisition unit cost or procurement unit cost are reasonable; and

"(iv) the management structure for the acquisition program is adequate to manage and control program acquisition unit cost or procurement unit cost; and

"(B) if a report under paragraph (1) has been previously submitted to Congress with respect to such program for the current fiscal year but was based upon a different unit cost report from the program manager to the service acquisition executive designated by the Secretary concerned, a further report containing the information described in subsection (g), determined from the time of the previous report to the time of the current report."; and

(B) in paragraph (3)—

(i) by striking out "(3)" and inserting in lieu thereof the following: "(3) If a determination of a more than 15 percent increase (as determined by subsection (d)) is made by the Secretary and a Selected Acquisition Report containing the information described in subsection (g) is not submitted to Congress under paragraph (1), or if, in the case of a determination of a more than 25 percent increase (as determined under section (d)), the certification of the Secretary of Defense is not submitted to Congress under paragraph (2), funds appropriated for military construction, for research, development, test, and evaluation, and for procurement may not be obligated for a major contract under the program.";

(ii) by striking out "in subsection (d)(3)(B)";

(iii) in clause (A)—

(I) by striking out in "report of the Secretary concerned" and inserting in lieu thereof "Selected Acquisition Report"; and

(II) by striking out "(2)(B)(ii)" and inserting in lieu thereof "(2)(B)"; and

(iv) in clause (B)—

(I) by striking out in "report of the Secretary concerned" and inserting in lieu thereof "Selected Acquisition Report";

(II) by striking out "(2)(B)(ii)" and inserting in lieu thereof "(2)(B)"; and

(III) by striking out "(B)(i)" and inserting in lieu thereof "(A)"; and

(6) Subsection (g)(2) of section 2433 of such title is amended by adding at the end the following new sentence: "The certification of the Secretary of Defense under subsection (e) is not required to be submitted for termination or canceled programs.".

(b) ENHANCED PROGRAM STABILITY.—Section 2435 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "development" in paragraph (2)(B)(iv) and inserting in lieu thereof "production"; and

(2) in subsection (b)—

(A) by striking out "senior procurement executives (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))" in paragraph (1) and inserting in lieu thereof "service acquisition executive"; and

(B) by striking out "90 days" in paragraph (2) and inserting in lieu thereof "180 days".

(c) SELECTED ACQUISITION REPORTS.—Section 2432(b)(2)(A) of title 10, United States Code, is amended by striking out "5 percent change in total program cost" and inserting in lieu thereof "15 percent increase in program acquisition unit cost and current procurement unit cost".

SEC. 826. DELEGATION OF APPROVAL AUTHORITY FOR CERTAIN CONTRACT ACTIONS

Section 2304(f) of title 10, United States Code, is amended—

(1) in paragraph (1)(B)(ii), by striking out "or" after the semicolon;

(2) by redesignating clause (iii) of paragraph (1)(B) as clause (iv);

(3) by inserting after clause (ii) the following new clause (iii):

"(iii) in the case of a contract for an amount exceeding $10,000,000 (but equal to or less than $50,000,000), by the senior procurement executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(3)) or the senior procurement executive's delegate designated pursuant to paragraph (6)(C); or"

(4) in clause (iv), as redesignated by clause (2) of this section, by striking out "$10,000,000" and inserting in lieu thereof "$50,000,000"; and

(5) in paragraph (6)—

(A) by striking out "paragraph (1)(B)(iii)" and inserting in lieu thereof "paragraph (1)(B)(iv)"; and

(B) by adding at the end the following new subparagraph:

"(C) The authority of the senior procurement executive under paragraph (1)(B)(iii) may be delegated to the head of a procuring activity who—

"(i) if a member of the armed forces, is a general or flag officer; or

"(ii) if a civilian, is serving in a position in grade GS-16 or above (or in a comparable or higher position under any other schedule for civilian officers or employees).".

SEC. 827. OPERATIONAL TEST AND EVALUATION AMENDMENTS

(a) INITIAL LOW-RATE PRODUCTION DEFINED.—Section 2366(e) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(9)(A) The term 'low-rate initial production' means production of items at the lowest feasible rate that—

"(i) is necessary for the establishment and maintenance of a single production line for the production of the items;

"(ii) is necessary for production of the minimum quantity of items necessary for initial operational test and evaluation of the items; and

"(iii) will permit an orderly and timely increase in the production rate sufficient to lead to full rate production upon the successful completion of operational testing.

"(B) With respect to naval vessels, such term means production of items at the lowest feasible rate, as determined pursuant to regulations prescribed by the Secretary of Defense.".

(b) OPERATIONAL TEST AND EVALUATION DEFINED.—Paragraph (7) of section 2366(e) of such title is amended to read as follows:

"(7) The term 'operational test and evaluation' has the meaning given that term in section 138(a)(2)(A) of this title. Such term does not mean an operational assessment based exclusively on—

"(A) computer modeling;

"(B) simulation; or

"(C) an analysis of system requirements, engineering proposals, design specifications, or any other information contained in program documents.".

(c) IMPARTIAL PERFORMANCE OF ASSISTANCE.—Section 138 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) The Director shall ensure that a contractor does not assist in the test and evaluation of a weapons system if the contractor participated in, or is participating in, the development, production, or testing of such weapons system for any military department or Defense Agency or any other contractor of the Department of the Defense unless the Director determines that sufficient steps have been taken to ensure the impartiality of the contractor in providing the assistance.".

SEC. 828. MASTER AGREEMENTS FOR ADVISORY OR ASSISTANCE SERVICES

(a) REQUIREMENT FOR TEST PROGRAM.—The Secretary of Defense shall conduct a test program under which the Secretaries of the military departments and the heads of Defense Agencies may enter into master agreements for the procurement of advisory services and assistance services.

(b) SCOPE OF THE TEST PROGRAM.—(1) The Secretary shall, in the regulations prescribed pursuant to subsection (h)—

(A) specify the types of advisory services and assistance services covered by the test program;

(B) establish criteria for determining when the use of a master agreement under the test program is appropriate for a procurement of advisory services or assistance services; and

(C) ensure that advisory services and assistance services are not procured under the test program—

(i) for the performance of an organic governmental function; or

(ii) in a manner or to an extent that is inconsistent with Office of Management and Budget Circular A-120 or any applicable Department of Defense regulations.

(2) Not more than one contracting activity within a military department or Defense Agency may participate in the test program.

(3) The total value of task orders awarded under master agreements by a participating contracting activity in a fiscal year may not exceed the amount equal to 30 percent of the value of all contracts for advisory and assistance services awarded by that contracting activity during fiscal year 1989.

(c) AWARD OF MASTER AGREEMENTS.—(1) Except as provided in section 2304(b)(2) of title 10, United States Code, competitive procedures shall be used for the award of each master agreement under the test program.

(2)(A) Each master agreement shall be awarded to at least three of the contractors that submit offers for the award of such master agreement.

(B) Notwithstanding any other provision of law, a master agreement may not be awarded unless there are at least three qualified offerors for the solicitation.

(d) CONTENT OF SOLICITATION FOR MASTER AGREEMENT.—A solicitation for a master agreement shall specify the following:

(1) The type of services to be ordered under the master agreement.

(2) The range of subjects to be covered by the agreement.

(3) The basic skills and levels of experience required to perform services under the agreement.

(4) The factors to be considered in evaluating the offers for the master agreement.

(5) The relative importance assigned to each evaluation factor.

(e) CONTENT OF MASTER AGREEMENT.—Each master agreement shall contain, at a minimum, the following:

(1) A description of the services to be provided under orders issued pursuant to the master agreement.

(2) The terms and conditions for furnishing services ordered under the master agreement.

(3) The method for determining the price of the services ordered under the master agreement.

(4) The period covered by the master agreement, which may not exceed two years or the period remaining between the date on which the master agreement is awarded and the date on which the test program terminates under subsection (i), whichever is less.

(5) In the case of a master agreement for a period exceeding one fiscal year, a statement that the placement of orders under the master agreement in any fiscal year beginning after the beginning of the period covered by the agreement shall be subject to the availability of appropriations for such fiscal year.

(f) ORDERS FOR SPECIFIC ADVISORY OR ASSISTANCE SERVICES.—(1) The Secretary of Defense shall prescribe by regulation the criteria for determining, in the case of a procurement of specific advisory services or specific assistance services, whether it is more appropriate to procure such services under a master agreement awarded pursuant to this section than to procure such services by other means.

(2) An order for advisory services or assistance services under the test program may not be issued unless all contractors whose master agreements cover the type of services being ordered are given the opportunity to compete for the order. The order shall be issued to the master agreement contractor that submits the offer determined to be the best value for the Government, price and other factors considered.

(3) A contracting activity participating in the test program may not issue a solicitation for any advisory and assistance services unless—

(A) the solicitation contains a statement of work clearly specifying all tasks to be performed under the contract; or

(B) the solicitation is for a master agreement pursuant to this section.

(g) PUBLICATION OF NOTICE.—(1) The procurement notice requirements in section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall apply to solicitations for offers for each master agreement under the test program (without regard to the total expected price of the services expected to be procured under such master agreement) in the same manner and to the same extent as such requirements apply to solicitations for proposals for a contract for services for a price expected to exceed $25,000.

(2) The notice requirements referred to in paragraph (1) shall not apply to the issuance of orders under master agreements awarded pursuant to this section.

(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(i) TERMINATION OF THE TEST PROGRAM.—The test program shall terminate three years after the effective date of the final regulations prescribed to carry out this section.

(j) LIMITATION ON COMMENCEMENT OF THE TEST PROGRAM.—No master agreement may be awarded pursuant to this section before the issuance of the Department of Defense regulations implementing section 8141 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-463; 41 U.S.C. 405b).

(k) DEFINITIONS.—In this section, the term "competitive procedures" shall have the same meaning as is provided in section 2302(2) of title 10, United States Code.

SEC. 829. AVAILABILITY OF FUNDS FOR OBLIGATION FOLLOWING THE RESOLUTION OF A PROTEST

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

§ 2410c. Availability of funds following resolution of a protest

"Notwithstanding section 1552 of title 31, United States Code, or any other provision of law, funds available to the Department of Defense for obligation for a contract at the time a protest is filed in connection with a solicitation for, proposed award of, or award of such contract under subchapter V of chapter 35 of title 31, United States Code, or under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)), shall remain available for obligation for 90 working days after the date on which the final ruling is made on the protest, including days on which the protest is being reconsidered or on appeal.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410c. Availability of funds following resolution of a bid protest.".

SEC. 830. SIMPLIFIED EXECUTION OF DEFENSE TRADE AGREEMENTS

Paragraph (2) of section 2304(f) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of clause (C);

(2) by striking out the period at the end of clause (D), and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new clause:

"(E) in the case of a procurement permitted by subsection (c)(4), but only if the head of the contracting activity prepares a document in connection with such procurement that describes the terms of an agreement or treaty, or the written directions, referred to in that subsection that have the effect of requiring the use of procedures other than competitive procedures.".

SEC. 831. TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS

(a) TEST PROGRAM.—(1) The Secretary of Defense shall establish a test program under which one contracting activity in each military department and Defense Agency is authorized to undertake one or more demonstration projects to determine whether the negotiation and administration of comprehensive small business subcontracting plans will result in simplified administration of the small business subcontracting opportunities provided for small business concerns under Department of Defense contracts.

(2) In developing the test program, the Secretary of Defense shall—

(A) consult with the Administrator of the Small Business Administration; and

(B) provide an opportunity for public comment on the test program.

(b) COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLAN.—(1) In a demonstration project under the test program, the Secretary of a military department or head of a Defense Agency shall negotiate a comprehensive subcontracting plan with a Department of Defense contractor described in paragraph (3).

(2) The comprehensive subcontracting plan—

(A) shall provide for small business concerns to participate as subcontractors in the contracts awarded by the Secretary or agency head to the contractor (or any division or operating element of the contractor) to which the subcontracting plan applies; and

(B) shall apply to the entire business organization of the contractor or to one or more of the contractor's divisions or operating elements, as specified in the subcontracting plan.

(3) A Department of Defense contractor referred to in paragraph (1) is, with respect to a comprehensive subcontracting plan, a business concern that—

(A) during the fiscal year ending on September 30, 1988—

(i) pursuant to at least five Department of Defense contracts, furnished supplies or services (including professional services) to the Department of Defense, engaged in research and development for the Department, or performed construction for the Department; and

(ii) was paid $25,000,000 or more for such contract activities; and

(B) during the fiscal year in which the comprehensive subcontracting plan is negotiated, is voluntarily participating in an annual company-wide plan under the authority of Office of Federal Procurement Policy Letter 80-2 or any policy on the same subject issued by Office of Federal Procurement Policy after the date of such policy letter that supersedes the policy set out in that letter.

(c) WAIVER OF CERTAIN SMALL BUSINESS ACT SUBCONTRACTING PLAN REQUIREMENTS.—A Department of Defense contractor is not required to negotiate or submit a subcontracting plan under paragraph (4) or (5) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)) with respect to a Department of Defense contract if—

(1) the contractor has negotiated a comprehensive subcontracting plan under the test program that includes the matters specified in section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6));

(2) such matters have been determined acceptable by the Secretary of the military department or head of a Defense Agency negotiating such comprehensive subcontracting plan; and

(3) the comprehensive subcontracting plan applies to the contract.

(d) TEST PROGRAM PERIOD.—The test program authorized by subsection (a) shall terminate on September 30, 1993.

(e) REPORT.—(1) Not later than March 1, 1994, the Secretary of Defense shall submit a report on the results of the test program to the Committees on Armed Services and on Small Business of the Senate and the House of Representatives.

(2) Before submitting such report to the committees referred to in paragraph (1), the Secretary shall transmit the proposed report to the Administrator of the Small Business Administration. The report submitted to the committees shall include any comments and recommendations relating to the report that are transmitted to the Secretary by the Administrator before the date specified in such paragraph.

(h) DEFINITIONS.—As used in this section:

(1) The term "small business concern" shall have the same meaning as is provided in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)), and includes a small business concern owned and controlled by socially and economically disadvantaged individuals.

(2) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall have the same meaning as is provided in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)).

SEC. 832. SMALL BUSINESS CERTIFICATE OF COMPETENCY

Section 8(b)(7)(C) of the Small Business Act (15 U.S.C. 637(b)(7)(C)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Except in the case of a small business concern that requests a contracting officer to refer a determination of the small business concern's responsibility to the Administration, a contracting officer shall not be required to refer a determination of responsibility to the Administration if the proposed contract is a small purchase for purposes of section 2304(g)(2) of title 10, United States Code, for an agency listed in section 2303 of such title, or the proposed contract is a small purchase for purposes of section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) for an executive agency other than agency listed in section 2303 of title 10, United States Code. In the case of each such contract, the solicitation shall include a notice that a small business concern may request the contracting officer to refer such a determination to the Administration. Nothing in this paragraph shall require the Administration to process an application for certification if the small business concern to which a referral pertains does not make such a request.".

SEC. 833. SMALL AND DISADVANTAGED BUSINESS PROGRAM

Section 1207(e) of the Department of Defense Authorization Act, 1987 (100 Stat. 3974), is amended by adding at the end of paragraph (3) the following sentence: "The Secretary shall tailor to industry categories the payment of prices exceeding fair market cost to ensure that small-size and medium-size nondisadvantaged businesses are not denied a reasonable opportunity to compete and that the payment of price differentials are not used when there is adequate participation by small and disadvantaged businesses within an industry category.".

SEC. 834. DEFENSE QUALITY IMPROVEMENT PROGRAM

(a) IN GENERAL.—The Secretary of Defense shall take such action as may be necessary to ensure that the Department of Defense quality assurance program is managed in a manner that will result in the production of the highest quality weapon systems, both at the initial acquisition stage and during repair and maintenance of fielded weapons systems.

(b) STRUCTURE OF PROGRAM.—In order to ensure that the quality assurance program of the Department of Defense is effectively structured, the Secretary shall—

(1) assess the status of the Department's program, including the methodology and criteria used for measuring progress and for determining areas for possible improvement;

(2) evaluate the quality training program of the Department of Defense;

(3) evaluate the quality assurance programs of major defense contractors; and

(4) evaluate the means used to motivate defense contractors to improve their quality assurance program and develop innovative techniques to enhance that motivation.

SEC. 835. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 301 for Defense Agencies for fiscal years 1990 and 1991 for operation and maintenance, $9,000,000 shall be available for each of such fiscal years for the purpose of carrying out cooperative agreements under chapter 142 of title 10, United States Code.

(b) SET-ASIDE.—Of the amounts provided for in subsection (a), $600,000 shall be available for each of the fiscal years 1990 and 1991 for the purpose of carrying out programs sponsored by eligible entities named in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas (as defined in subparagraph (B) of section 2411(2) of such title). If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow for effective use of the funds authorized under this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

(c) ASSISTANCE FURNISHED TO CERTAIN INDIAN ORGANIZATIONS.—Section 2414 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out clauses (1) and (2) and inserting in lieu thereof the following:

"(1) in the case of a program operating on a Statewide basis, other than a program referred to in clause (3) or (4), $300,000;

"(2) in the case of a program operating on less than a Statewide basis, other than a program referred to in clause (3) or (4), $150,000;

"(3) in the case of a program operated wholly within one service area of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(1)(D) of this title, $150,000; or

"(4) in the case of a program operated wholly within more than one service area of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(1)(D) of this title, $300,000."; and

(2) in subsection (b), by inserting "or is operated wholly within one or more service areas of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(a)(1)(D) of this title" after "or on less than a Statewide basis".

SEC. 836. REQUIREMENT FOR CERTIFICATE OF INDEPENDENT PRICE DETERMINATION IN CERTAIN DEPARTMENT OF DEFENSE CONTRACT SOLICITATIONS

The Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to provide that—

(1) the exception provided in Federal Acquisition Regulation 3.103-1 for work performed by foreign suppliers outside the United States, its possessions, and Puerto Rico shall not apply in the case of any firm-fixed-price contract awarded by the Department of Defense and any fixed-price contract with economic price adjustment awarded by the Department of Defense; and

(2) the provision set out in Federal Acquisition Regulation 52.203-2 (relating to a certificate of independent price determination) shall be inserted in the contract solicitation for each such contract unless another exception provided in Federal Acquisition Regulation 3.103-1 applies in the case of such contract.

SEC. 837. PARTICIPATION OF FEDERAL PRISON INDUSTRIES IN DEFENSE PROCUREMENT

(a) PROCUREMENT PROCEDURES.—The Secretary of Defense and the Secretary of a military department may obtain products from Federal Prison Industries only in accordance with the provisions of chapter 137 of title 10, United States Code, except as provided in subsections (b), (c), and (d) of this section.

(b) INAPPLICABILITY OF OTHER LAW.—The provision of section 2304(c)(5) of title 10, United States Code, shall not apply to the procurement of products from Federal Prison Industries.

(c) OFFERS SUBMITTED BY FEDERAL PRISON INDUSTRIES.—An offer submitted to the Department of Defense by Federal Prison Industries shall be treated in the same manner as an offer submitted by an offeror that is not a small business concern.

(d) CURRENT MARKET PRICE REQUIRED.—The Secretary of Defense and the Secretary of a military department shall not obtain any product from Federal Prison Industries for a price that exceeds the current market price of such product.

(e) DEFINITIONS.—As used in this section:

(1) The term "current market price" means, with respect to any product, the fair market price of that product, within the meaning of section 15(a) of the Small Business Act (15 U.S.C. 644(a)), at the time that the contract is awarded.

(2) The term "small business concern" means a business concern that meets the applicable size standards prescribed pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)), and includes a small business concern owned and controlled by socially and economically disadvantaged individuals, as defined in section 8(d)(3)(C) of such Act (15 U.S.C. 637(d)(3)(C)).

SEC. 838. CREDIT FOR INDIAN CONTRACTING IN MEETING CERTAIN MINORITY SUBCONTRACTING GOALS

(a) REGULATIONS.—Pursuant to regulations which the Secretary of Defense shall prescribe and subject to subsections (b) and (c), in any case in which a subcontracting goal is specified for a Department of Defense contractor in the implementation of section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) and section 8(d) of the Small Business Act (15 U.S.C. 637(d)), credit toward meeting that subcontracting goal shall be given for each Department of Defense contract awarded to that contractor, and each subcontract awarded by that contractor in connection with a Department of Defense contract, that—

(1) is to be performed on any Indian lands and meets the requirements of paragraph (1) of subsection (b); or

(2) is undertaken as a joint venture that meets the requirements of paragraph (2) of that subsection.

(b) ELIGIBLE CONTRACTS, SUBCONTRACTS, AND JOINT VENTURES.—(1) A contract or subcontract to be performed on Indian lands meets the requirements of this paragraph if—

(A) not less than 40 percent of the workers directly engaged in the performance of the contract or subcontract on the Indian lands are Indians; and

(B) the contractor or subcontractor has a management plan which—

(i) provides for Indians to manage the workforce employed in the performance of such contract or subcontract and, in the case of a contract or subcontract for the construction of facilities, provides for Indians to have an ownership interest in any facilities constructed pursuant to the contract or subcontract; and

(ii) is approved by the tribal government having jurisdiction over such Indian lands.

(2) A joint venture undertaking to perform a contract or subcontract meets the requirements of this paragraph if—

(A) an Indian tribe or tribally-owned corporation owns at least 50 percent of the joint venture;

(B) the activities of the joint venture under the contract or subcontract provide employment opportunities for Indians either directly or through the purchase of products or services for the performance of such contract or subcontract; and

(C) the Indian tribe or tribally-owned corporation manages the performance of such contract or subcontract.

(c) EXTENT OF CREDIT.—(1) The amount of the credit given for a contract or subcontract toward the attainment of any minority subcontracting goal under subsection (a) shall be the percentage of the value of the contract or subcontract designated by the prime contractor to whom the goal applies.

(2) The maximum percentage that may be designated by a contractor—

(A) in the case of a contract or subcontract to be performed on Indian lands, is the percentage equal to one-half of the ratio that the number of Indians performing work under the contract or subcontract on the Indian lands bears to the total number of workers performing such work; and

(B) in the case of a contract or subcontract undertaken by a joint venture referred to in subsection (a)(2), is the percentage of the tribe's or tribally-owned corporation's ownership interest in the joint venture.

(3) A contractor may apply the credit given under this subsection for performance of any contract or subcontract toward a subcontracting goal specified for any other Department of Defense contract or any other subcontract under a Department of Defense contract. A contractor may not, however, receive credit for any contract or subcontract that exceeds 100 percent of the value of the contract or subcontract.

(d) DEFINITIONS.—In this section:

(1) The term "Indian lands" has the same meaning as is provided in section 4(4) of the Indian Gaming Regulatory Act (102 Stat. 2468; 25 U.S.C. 2703(4)).

(2) The term "Indian" means an Indian, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)).

(3) The term "Indian tribe" has the meaning given to such term by section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(4) The term "tribally-owned corporation" means a corporation owned entirely by an Indian tribe.

SEC. 839. UTILIZATION OF SMALL BUSINESS ACT AUTHORITY TO ASSIST CERTAIN DISADVANTAGED SMALL BUSINESS CONCERNS

The Secretary of Defense shall direct the Secretary of each military department to identify, in each of fiscal years 1990 and 1991, not less than 10 construction projects (including repair and alteration of existing facilities) that are suitable for participants in the Minority Small Business and Capital Ownership Development Program of the Small Business Administration and to make use of the authority provided in section 7(j)(13)(D) of the Small Business Act (15 U.S.C. 636(j)(13)(D)) in the award of contracts in connection with each such project.

SEC. 840. PROCUREMENT FROM COUNTRIES THAT DENY ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

It is the sense of Congress that it should be a very important consideration in the procurement of property, services, or technology by the Department of Defense whether such procurement is from—

(1) any person of any country which has been identified pursuant to section 182(a)(2) of the Trade Act of 1974 (19 U.S.C. 2242) as denying adequate and effective protection of intellectual property rights or fair and equitable market access to United States persons that rely upon intellectual property protection; or

(2) any person of any other country that denies adequate and effective protection of intellectual property rights, as determined by the Secretary of Defense on the advice of the United States Trade Representative; or

(3) any person who has a demonstrated pattern of misappropriating United States intellectual property.

PART C—ACQUISITION WORKFORCE

SEC. 841. ALTERNATIVE PERSONNEL MANAGEMENT DEMONSTRATION PROGRAMS

(a) DEFINITIONS.—For purposes of this title—

(1) the term "agency" means an Executive agency (as defined in section 105 of title 5, United States Code), except that such term does not include—

(A) the National Security Agency;

(B) the Central Intelligence Agency;

(C) the Defense Intelligence Agency;

(D) the Federal Bureau of Investigation; or

(E) the General Accounting Office;

(2) the term "employee" means an employee (as defined in section 2105 of title 5, United States Code) whose rate of basic pay would, but for this title, be determined under—

(A) subchapter III or section 5371 of chapter 53 of title 5, United States Code, relating to the General Schedule; or

(B) chapter 54 of title 5, United States Code, relating to the performance management and recognition system; and

(3) the terms "collective bargaining", "collective bargaining agreement", "exclusive representative", "management official", and "supervisor" each has the meaning given such term under section 7103(a) of title 5, United States Code.

(b) DEMONSTRATION PROGRAMS OF ALTERNATIVE COMPENSATION SYSTEMS.—(1) Within 2 years after the date of the enactment of this section, the demonstration programs using alternative compensation systems as provided under this section, shall be implemented by the Office of Personnel Management and—

(A) the head of the relevant agency for any program described under paragraph (2)(A)(i);

(B) the Secretary of Defense for the programs described under paragraph (2)(A)(ii); and

(C) the Administrator of the National Aeronautics and Space Administration for the program described under paragraph (2)(A)(iii).

(2)(A) There shall be implemented under the provisions of this subsection, no less than 6 and no more than 10 demonstration programs using alternative compensation systems, of which—

(i) between 1 and 5 such programs shall be designed and implemented by the head of an agency, after consultation and approval by the Office of Personnel Management;

(ii) 4 such programs shall be developed and implemented within the Department of Defense by the Secretary of Defense, after consultation and approval by the Office of Personnel Management; and

(iii) 1 such program shall be developed and implemented within the National Aeronautics and Space Administration by the Administrator of such Administration, after consultation and approval by the Office of Personnel Management.

(B) Each such program under this subsection shall—

(i) cover a sufficient number of positions within an agency to provide an adequate basis on which to evaluate the desirability of implementing such program on a broader scale within the Government, except that not less than the equivalent of 5,000 full-time positions and no more than the equivalent of 25,000 full-time positions shall be covered in any such program at any time;

(ii) include in the development of such program, prior to implementation, a detailed information gathering plan—

(I) to provide for the evaluation of such program to be developed by the Office of Personnel Management and the head of the relevant agency;

(II) which shall include the total number of employees to participate in such program;

(III) which shall be—

(aa) submitted to the General Accounting Office, at least 60 days prior to program implementation; and

(bb) reviewed by the General Accounting Office which shall report the results of the review to the Senate Committee on Governmental Affairs, the House Committee on Post Office and Civil Service, and the head of the relevant agency; and

(IV) which shall be periodically reviewed with regard to the adherence of such agency to such plan by the General Accounting Office which shall submit reports of such reviews to the relevant congressional committees; and

(iii) within 2 years after the date of implementation under paragraph (1), have the full number of employees participating in such program as provided for in clause (ii)(II).

(C)(i) notwithstanding the provisions of subparagraph (B), no more than 2 programs described under subparagraph (A)(ii) may cover no more than the equivalent of 35,000 full-time positions each.

(ii) Notwithstanding the provisions of clause (i), the total number or equivalent full-time positions combined for the 4 programs described under subparagraph (A)(ii) may cover no more than 100,000 such positions.

(3) Each program under this subsection shall provide that—

(A) the rate of basic pay for an employee participating in any program under this title—

(i) shall be at least equal to the rate of basic pay payable to such employee for the pay period immediately preceding the date of the implementation of such program; and

(ii) may not exceed the rate of basic pay payable for level V of the Executive Schedule; and

(B) the total cost to the Government in carrying out such programs shall not exceed what the total cost to the Government would have been, during the same period, if this Act had not been enacted.

(4)(A) Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code, shall not be included within any program under this section if the program—

(i) would violate a collective bargaining agreement between the agency and the labor organization, unless there is another written agreement with respect to the program between the agency and the organization permitting the inclusion; or

(ii) is not covered by such a collective bargaining agreement, until there has been consultation or negotiation, as appropriate, by the agency with the labor organization.

(B) Employees within any unit with respect to which a labor organization has not been accorded exclusive recognition under chapter 71 of title 5, United States Code, shall not be included within any program under this section, unless there has been agency consultation regarding the program with the employees in the unit.

(5) The Office of Personnel Management, the Secretary of Defense, and the Administrator of the National Aeronautics and Space Administration shall, with respect to each applicable program implemented under paragraph (1)—

(A) publish the plan developed under paragraph (2)(B)(ii) for such program in the Federal Register prior to implementation of such program;

(B) provide notification of the implementation of such program to affected employees and the Congress within 90 days before the date of such implementation; and

(C) provide an annual report to the Congress on such program.

(6)(A) Subject to subparagraph (B), any demonstration program implementing an alternative compensation system under this subsection shall terminate at the earlier date of—

(i) 5 years after the date on which the full number of employees are participating in such program as provided for under paragraph (2)(B)(iii); or

(ii) 7 years after the date of the implementation of such program under paragraph (1).

(B)(i) A program under this subsection may be terminated in accordance with the provisions of clause (ii), if the Office of Personnel Management, in consultation with the head of the relevant agency, determines that such program creates a substantial hardship on, or is not in the best interests of, the public, the Federal Government, or employees.

(ii) If a determination is made under the provisions of clause (i), a program may be terminated by the Office of Personnel Management, after consultation with—

(I) the head of the relevant agency, with regard to a program described under paragraph (2)(A)(i);

(II) the Secretary of Defense, with regard to a program described under paragraph (2)(A)(ii); or

(III) the Administrator of the National Aeronautics and Space Administration, with regard to the program described under paragraph (2)(A)(iii).

(C) If a program is terminated under the provisions of subparagraph (B), the head of the relevant agency shall notify all affected employees of such termination no later than 90 days before the date of such termination.

(c) ALTERNATIVE COMPENSATION SYSTEMS.—(1) Before developing and implementing a demonstration program under subsection (b), the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, and each head of a relevant agency shall consider an alternative compensation system—

(A) under which annual pay adjustments under section 5305 of title 5, United States Code, provide that the total pay and benefits for Government service shall be comparable to the total pay and benefits for individuals at the same levels of work outside the Government;

(B) under which annual pay adjustments under section 5305 of title 5, United States Code, provide that rates of basic pay payable to employees are consistent with rates of basic pay generally payable for the same levels of work outside the Government within the same geographic region;

(C) under which conditions of employment for employees shall be subject to collective bargaining; or

(D) established by the head of the agency involved, which—

(i) may identify separate career categories for employees in positions which are subject to the system;

(ii) shall provide for the rate of basic pay of an employee to be set and adjusted within salary structures based on such factors as the experience and achievements of the employee, position in a pay range, job responsibilities, rates of pay for similar positions outside the government, and (consistent with section 5334 of title 5, United States Code) changes in positions or types of appointments;

(iii) shall provide pay differentials for service as a supervisor or management official (which shall be considered a part of basic pay for purposes of subchapter III of chapter 83, and chapter 84, of title 5, United States Code);

(iv) may authorize special awards (which shall not be considered a part of basic pay for any purpose); and

(v) shall authorize performance recognition in the form of—

(I) a lump-sum payment (which shall not be considered a part of basic pay for any purpose);

(II) an increase in the rate of basic pay of an employee within a pay range or to a higher pay range; or

(III) nonmonetary recognition.

(2)(A) If the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, or any head of an agency implements a program using a system described in paragraph (1)(C), such program shall provide that—

(i) any pay schedules or rates shall be established to provide that an appropriate differential (which shall be considered part of basic pay) is provided for service as a supervisor or management official; and

(ii) only a unit or subdivision of a unit for which an exclusive representative is certified may participate.

(B) For purposes of a program using a system described in paragraph (1)(C), the term "conditions of employment" means—

(i) personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, included under section 4103(a)(14) of title 5, United States Code; and

(ii) personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, relating to classification of positions, leave, pay, or other compensation or benefits;

except that such term does not include policies, practices, and matters relating to life insurance, health insurance, and retirement.

(d) RULE OF STATUTORY CONSTRUCTION.—(1) Except as provided in paragraph (2), in the administration of an alternative compensation system under this section, the provisions of this section shall apply notwithstanding any inconsistent provision of title 5, United States Code.

(2) In the administration of an alternative compensation system under this section, no provision of this section may be construed to waive any inconsistent provision of—

(A) chapters 83 and 84 of title 5, United States Code, relating to retirement;

(B) chapter 87 of title 5, United States Code, relating to life insurance; or

(C) chapter 89 of title 5, United States Code, relating to health insurance.

SEC. 842. PROCUREMENT MANAGEMENT PERSONNEL

Paragraph (2) of section 1621 of title 10, United States Code, is amended to read as follows:

"(2) The term 'procurement command' means any of the following:

"(A) The staffs of the service acquisition executives, program executive officers, and program managers of the military departments.

"(B) The Army Materiel Command.

"(C) The Army Information Systems Command.

"(D) The Army Strategic Defense Command.

"(E) The Navy Weapons Systems Commands.

"(F) The Navy Strategic Systems Program Office.

"(G) The Marine Corps Research, Development and Acquisition Command.

"(H) The Air Force Systems Command.

"(I) The Air Force Logistics Command.

"(J) Any successor organization to any staff, office, or command named in subparagraphs (A) through (I).".

SEC. 843. COMPENSATION FOR CRITICAL PERSONNEL

(a) AUTHORITY TO PRESCRIBE RATES OF PAY FOR CERTAIN CRITICAL POSITIONS.—(1) Notwithstanding section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.), sections 5308, 5382, and 5383(b) of title 5, United States Code, or any other provision of law, the Secretary of Defense may prescribe the rate of pay for a position designated as a critical position by the Secretary of Defense.

(2) Except as provided in paragraph (3), the rate of pay prescribed under paragraph (1) for a critical position shall be the same as the rate or pay provided for a comparable position in a federally funded Research and Development Center.

(3)(A) The rate of pay prescribed under paragraph (1) may not exceed the amount equal to 150 percent of the rate of pay that, except for this section, would otherwise apply to that position, except as provided in subparagraph (B).

(B) If the Secretary determines that the rate of pay described in paragraph (2) is in excess of the amount authorized under subparagraph (A) and that there is an extraordinary need to pay a person in a critical position an amount higher than authorized in such subparagraph, the Secretary may authorize such higher pay in an amount not to exceed the amount equal to 150 percent of the rate of pay applicable for executive level II under the Executive Schedule pursuant to section 5313 of title 5, United States Code.

(b) DEFINITION.—For purposes of this section, the term "critical position" means a scientific or engineering position that the Secretary determines to be critical to the Department of Defense acquisition process.

(c) LIMITATION ON POSITIONS.—The Secretary may designate not more than 500 positions as critical positions under this section.

SEC. 844. POST-EMPLOYMENT RESTRICTIONS

(a) CLARIFICATION.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended—

(1) in subsection (a)(1), by inserting ", except as provided in subsection (c)" before the semicolon;

(2) in subsection (b)(1), by inserting "except as provided in subsection (c)" before the semicolon; and

(3)(A) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively;

(B) by redesignating subsections (j) through (n) as subsections (l) through (o), respectively; and

(C) by inserting after subsection (b) the following new subsection (c):

"(c) RECUSAL.—(1) A competing contractor may contact a procurement official with whom discussions are otherwise prohibited under subsection (a)(1) for the limited purpose of determining whether such official, after obtaining the approval required by paragraph (2), would be interested in engaging in such discussions. If a competing contractor makes such a contact with a procurement official, the procurement official shall promptly notify the official's supervisor and the appropriate designated agency ethics official of the contact.

"(2) A procurement official may engage in discussions with a competing contractor that are otherwise prohibited by subsection (b)(1) if, before engaging in such discussions—

"(A) the procurement official proposes in writing to disqualify himself from the conduct of any procurement relating to contracts of the competing contractor for any period during which future employment or business opportunities for such procurement official with such competing contractor have not been rejected by either the procurement official or the competing contractor and, if determined to be necessary by the designated agency ethics official in accordance with criteria prescribed in implementing regulations, for a reasonable period thereafter; and

"(B) the supervisor of the procurement official, after consultation with the appropriate designated agency ethics official, approves in writing the recusal of the procurement official.";

(4) in subsection (f) (as redesignated by paragraph (3)(A))—

(A) by striking out "No Government official" and inserting in lieu thereof "(1) No Government official";

(B) by striking out "shall—" and inserting in lieu thereof "shall knowingly—";

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(D) by inserting at the end the following new paragraph:

"(2) This section does not apply to the following:

"(A) A subcontract of a subcontractor who is a competing contractor unless—

"(i) the subcontract is for an amount in excess of $5,000,000;

"(ii) the subcontract is for an amount that is at least 5 percent of the amount of the prime contract and is for an amount in excess of $100,000; or

"(iii) the procurement official personally reviewed and approved the award, modification, or extension of the subcontract;

"(B) To actions, as prescribed in implementing regulations, that (i) primarily involve general scientific, technical, or engineering work, budget or policy advice or decisions, advice on the feasibility of contracting out functions, or other similar actions, and (ii) do not involve the development, preparation, or issuance of a procurement solicitation, the preparation or evaluation of bids or proposals, selection of sources, conduct of negotiations, the award, modification, or extension of a contract, or performance of a contract.";

(5) by inserting after subsection (j) (as redesignated in subsection (3)(A)) the following new subsection:

"(k) ETHICS ADVICE.—(1) An employee or former employee of an agency may request advice from the appropriate designated agency ethics official as to whether such employee or former employee is precluded by this section from participating in the performance of a particular contract on behalf of a particular contractor or subcontractor.

"(2) An employee or former employee of an agency who requests advice from a designated agency ethics official pursuant to paragraph (1) shall provide the official with all information reasonably available to the employee or former employee that is relevant to a determination by the ethics official regarding such request.

"(3) Not later than 30 days after the date on which a designated agency ethics official receives a request for advice under paragraph (1) accompanied by the information required pursuant to paragraph (2), the official shall issue a written opinion as to whether the employee is precluded by this section from participating in the performance of the contract at issue.

"(4) An employee or former employee who obtains a written opinion from a designated agency ethics official under this section on the basis of the complete disclosure of information required by paragraph (2) shall not be subject to any penalty under this section to the extent that the employee or former employee reasonably relies upon such opinion.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 27 of such Act is further amended—

(1) in subsection (e) (as redesignated by subsection (a)(3))—

(A) by striking out "(c), or (e)" in paragraph (1)(A)(i) and inserting in lieu thereof "(d), or (f)";

(B) by striking out "(c), or (e)" in paragraph (1)(B)(ii) and inserting in lieu thereof "(d), or (f)";

(C) by striking out "(c), or (e)" in paragraph (2)(A) and inserting in lieu thereof "(d), or (f)";

(D) by striking out "(c), or (e)" in paragraph (3)(A) and inserting in lieu thereof "(d), or (f)"; and

(E) by striking out "subsection (m)" in paragraph (7)(B)(ii), and inserting in lieu thereof "subsection (n)";

(2) in subsection (g)(1) (as redesignated by subsection (a)(3)) by striking out "subsection (m)" and inserting in lieu thereof "subsection (n)";

(3) in subsection (h) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (d)" in paragraph (1) and inserting in lieu thereof "subsection (e)";

(B) by striking out "(b) or (c)" in paragraph (2) and inserting in lieu thereof "(b) or (d)"; and

(C) by striking out "(h) and (i)" in paragraph (3) and inserting in lieu thereof "(i) and (j)";

(4) in subsection (i) (as redesignated by subsection (a)(3)), by striking out "(c), or (e)" and inserting in lieu thereof "(d), or (f)";

(5) in subsection (j)(1) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (n)" and inserting in lieu thereof "subsection (o)"; and

(B) by striking out "subsection (m)" and inserting in lieu thereof "subsection (n)"; and

(6) in subsection (l) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (b)" in paragraph (1) and inserting in lieu thereof "subsections (b), (c), and (e)"; and

(B) in paragraph (2)—

(i) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b), (c), and (e)"; and

(ii) by striking out "(c) or (e)" and inserting in lieu thereof "(d), or (f)".

(c) DEFINITION.—Subsection (o) (as redesignated by subsection (a)(3)) is amended by adding at the end the following new paragraph:

"(8) The term 'designated agency ethics official' has the same meaning as the term 'designated agency official' in section 209(10) of the Ethics in Government Act of 1978 (92 Stat. 1850; 5 U.S.C. App.).".

(d) AMENDMENT TO TITLE 10.—Paragraph (6) of section 2397a(a) of title 10, United States Code, is amended to read as follows:

"(6) The term 'procurement function' includes, with respect to a contract, any function relating to—

"(A) the administration of the contract;

"(B) the approval of changes in the contract;

"(C) quality assurance, operational and developmental testing, the approval of payment, or auditing under the contract; or

"(D) the management of the procurement program.".

(e) DEADLINE FOR REGULATIONS.—Not later than 90 days after the date of the enactment of this section, final regulations implementing the amendments made by this section to the provisions of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) shall be issued in accordance with sections 6 and 25 of such Act (41 U.S.C. 405, 421).

SEC. 845. WAIVER OF COMPENSATION PENALTY IN CERTAIN CASES

(a) WAIVER AUTHORITY.—Chapter 81 of title 10, United States Code, is amended by inserting before section 1583 the following new section:

"§ 1581. Waiver of dual compensation provisions

"The Secretary of Defense may waive the applicability of section 5532 of title 5 (relating to dual compensation) in the case of not more than 1,000 employees of the Department of Defense who are in scientific, engineering, professional, or managerial positions designated as critical positions by the Secretary.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting before item relating to section 1583 the following new item:

"1581. Waiver of dual compensation provisions.".

SEC. 846. SCIENTIFIC AND TECHNICAL EDUCATION

(a) FINDINGS.—Congress makes the following findings:

(1) Superior technology is a critical part of the national defense strategy of the United States.

(2) The Department of Defense must employ scientifically and technologically skilled personnel in order to develop and maintain superior technology.

(3) A significant proportion of the military personnel and civilian employees in the Department of Defense are scientists, engineers, and technicians.

(4) Programs of the Department of Defense utilize a significant portion of the entire science and technology workforce of the United States.

(5) Numerous studies have projected a decline in the number of young entrants into the workforce and in the number of people pursuing degrees in science and technology, while at the same time projecting an increase in demand for personnel with scientific and technological training.

(6) Recruitment of both civilian and military personnel by the Department of Defense will become increasingly difficult as the number of potential, qualified entrants decreases.

(7) The Department of Defense could suffer a degradation of the critical capability to respond to technological change as the result of an inadequate supply of qualified engineers and scientists.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the Secretary of Defense should take such actions as may be necessary and appropriate to promote and encourage, at precollege through post-doctoral levels, an increase in the number of citizens and nationals of the United States who pursue courses of study in science, engineering, and other technical disciplines.

SEC. 847. NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS

(a) IN GENERAL.—(1) Part III of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 111—NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS

"Sec.

"2191. Graduate fellowships.

"§ 2191. Graduate fellowships

"(a) The Secretary of Defense shall prescribe regulations providing for the award of fellowships to United States citizens and nationals who agree to pursue graduate degrees in science, engineering, or other fields of study designated by the Secretary to be of priority interest to the Department of Defense.

"(b) A fellowship awarded pursuant to regulations prescribed under subsection (a) shall be known as a 'National Defense Science and Engineering Graduate Fellowship'.

"(c) National Defense Science and Engineering Graduate Fellowships shall be awarded solely on the basis of academic ability and the recipients shall be selected on the basis of a nationwide competition. The award of a fellowship under this section may not in any way be predicated on the geographic region in which the recipient lives or the geographic region in which the recipient will pursue an advanced degree.

"(d) The regulations prescribed under this section shall include the criteria for award of fellowships, the procedures for selecting recipients, the basis for determining the amount of a fellowship, and the maximum amount that may be awarded to an individual during an academic year.".

(2) The table of chapters at the beginning of subtitle A, and at the beginning of part III, of such title are each amended by inserting after the item relating to chapter 110 the following new item:

"111. National Defense Science and Engineering Graduate Fellowships..... 2191".

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated pursuant to section 201 for fiscal years 1990 and 1991, $10,500,000 of the amount appropriated for fiscal year 1990 and $11,000,000 of the amount authorized to be appropriated for fiscal year 1991 shall be available for National Defense Science and Engineering Graduate Fellowships provided for under chapter 111 of title 10, United States Code (as added by subsection (a)).

TITLE IX—GENERAL PROVISIONS

SEC. 901. TRANSFER AUTHORITY

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in titles I, II, and III for any fiscal year between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations for any fiscal year that the Secretary of Defense may transfer under the authority of this section may not exceed $3,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 902. REDUCTIONS TO REFLECT MANAGEMENT SAVINGS

The total amount authorized to be appropriated for fiscal year 1990 for military personnel and operations and maintenance may not exceed $166,752,900,000, and the total amount authorized to be appropriated for fiscal year 1991 for such purposes may not exceed $171,848,000,000.

SEC. 903. LIMITATION ON RESTORATION OF WITHDRAWN UNOBLIGATED BALANCES

(a) Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2782. Limitation on restoration of withdrawn unobligated balances

"(a) No funds may be restored under section 1552(a)(2) of title 31 to any appropriation account available to the Department of Defense for use in a program, project, or activity unless—

"(1) the total amount restored during a fiscal year to such account for such program, project, or activity is less than $4,000,000; or

"(2)(A) the head of the military department or Defense Agency concerned determines that the amount to be restored is required to pay obligations and make adjustments authorized by a contract described in subsection (b);

"(B) the action to restore the funds is approved by the Secretary of Defense; and

"(C) in an instance in which the total amount to be restored is $25,000,000 or more, not less than 30 days have elapsed after the notice described in subsection (c) is provided to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives.

"(b) A contract referred to in subsection (a)(2)(A) means a contract for the program, project, or activity for which funds were

made available from the account to which funds are proposed to be restored.

"(c) The notice referred to in subparagraph (a)(2)(C) means notice of the intent to restore funds under subsection (a) and a description of the legal basis and policy reasons for the action.".

(b) TECHNICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended by adding the following new item:

"2782. Limitation on restoration of withdrawn unobligated balances.".

SEC. 904. REPORT ON CONVENTIONAL ARMS CONTROL VERIFICATION

(a) REPORT.—(1) The President shall submit to the Committee on Armed Services and the Select Committee on Intelligence of the Senate and the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives a report on the types of measures that would be required to verify effectively the proposal for conventional arms reductions in Europe adopted by the member nations of the North Atlantic Treaty Organization (NATO) on May 30, 1989. The President shall include in such report—

(A) a discussion of the necessary types of data that would be exchanged by the parties to such an agreement;

(B) a description of the national technical means, on-site inspections, and other cooperative measures that would be necessary for the parties to such an agreement to detect and verify potential or actual violations of the agreement;

(C) an analysis of the measures that would be required to monitor (i) the withdrawal and demobilization of military personnel, and (ii) the withdrawal and, when required, the destruction of military equipment provided for in any such agreement;

(D) a discussion of the procedures NATO would follow in the event of a violation of such an agreement by a member or members of the Warsaw Treaty Organization; and

(E) a comprehensive analysis of—

(i) the uncertainties in data bases used by the United States with respect to the military forces of the United States, the military forces of the allies of the United States, and the military forces of the Warsaw Pact countries;

(ii) the uncertainties in the estimates of the trends in such forces; and

(iii) the differences in the data bases used by the United States, the allies of the United States, and the Warsaw Pact countries.

(2) The analysis required under paragraph (1)(E) shall address separately the uncertainties in the estimates of the following:

(A) Active forces.

(B) Reserve forces.

(C) Total equipment of such forces.

(D) Indigenous forces.

(E) Forces of a country stationed outside such country.

(b) DEADLINE FOR REPORT.—The President shall submit the report not later than March 1, 1990, together with such comments and recommendations as he determines appropriate. The report shall be submitted in both classified and unclassified versions.

SEC. 905. IMPLICATIONS OF MUTUAL REDUCTIONS IN CONVENTIONAL FORCES IN EUROPE BY NATO AND WARSAW PACT MEMBER NATIONS

(a) COMMENDATION OF PRESIDENT'S CONVENTIONAL ARMS REDUCTION INITIATIVE.—Congress commends and supports the President's conventional arms initiative announced in Brussels on May 29, 1989, in which the President proposed, and the North Atlantic Treaty Organization (NATO) agreed, that NATO expand its negotiating position at the negotiations on Conventional Armed Forces in Europe (CFE) to include substantial reductions by each side to equal ceilings of helicopters and combat aircraft and a reduction to a common ceiling of United States military personnel in Western Europe and Soviet military personnel in Eastern Europe.

(b) PRESIDENTIAL REPORT.—(1) Not later than six months after the date of the enactment of this Act, the President shall submit to Congress an unclassified report, with classified annexes as necessary, on the foreign policy and military implications to NATO and to the Warsaw Pact of significant reductions of conventional forces by NATO and Warsaw Pact countries to a ceiling which is the same for both sides.

(2) The report shall be prepared based upon three different assumptions with regard to the level of reductions in personnel and equipment. Under the first assumption, personnel and equipment would be reduced not less than 10 nor more than 15 percent below current NATO levels. Under the second assumption, personnel and equipment would be reduced 25 percent below current NATO levels. Under the third assumption, personnel and equipment would be reduced 50 percent below current NATO levels.

(3) The report shall include the following:

(A) A comprehensive net assessment of the current balance of NATO and Warsaw Pact forces and of the overall trends in the balance, including an assessment of the trends in active and reserve forces and total equipment holdings in stationed and indigenous forces.

(B) A description of the likely alternative force postures that could be adopted by member nations of both alliances (particularly by the United States and the Soviet Union) under each of the assumptions in paragraph (2), together with a description of the possible effects of restructuring both NATO and Warsaw Pact forces in Europe for defensive purposes.

(C) A statement of the costs (or savings) to the United States, over at least a seven-year period, estimated to be associated with each force posture referred to in subparagraph (A), together with an analysis of how those costs (or savings) were determined.

(D) An analysis of the implications for NATO strategy, security, and military policy under each of the reduction levels referred to in paragraph (2).

(E) An assessment of the effects under each of the reduction levels referred to in paragraph (2) (including the alternative force postures under each assumed reduction level) upon the stability of the conventional balance of forces in Europe.

(F) An assessment of NATO's ability to defend Europe under each of the assumed reduction levels in the event (i) of a short warning attack by the Warsaw Pact against NATO, or (ii) the Warsaw Pact initiates a war against NATO during a crisis in Europe.

SEC. 906. REPORT ON THE DESIRABILITY OF NEGOTIATIONS WITH THE SOVIET UNION REGARDING LIMITATIONS ON ANTI-SATELLITE CAPABILITIES

(a) REPORT BY THE PRESIDENT.—The President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive report regarding the desirability of an agreement to impose limitations on anti-satellite capabilities. The President shall include in such report his determination of whether a ban or other limitations on some or all anti-satellite (ASAT) weapons would be verifiable and, if so, whether such a ban would be in the national interest of the United States.

(b) MATTERS RELATING TO VERIFICATION.—In making the determination referred to in subsection (a), the President shall—

(1) take into consideration the extent to which on-site inspection measures as well as national technical means for verification can increase confidence in the ability of the United States to monitor and verify various agreed upon ASAT limitations;

(2) examine various arms control possibilities, including—

(A) a total ban on ASAT capability;

(B) a ban or other limitations on ASATs with the potential to attack satellites at altitudes above the Van Allen belt;

(C) a ban or other limitations on ASATs that operate only in low-Earth orbit;

(c) MATTERS RELATING TO DETERRENCE AND WARFIGHTING REQUIREMENTS.—In the report required by subsection (a), the President shall also address—

(1) the contribution an ASAT capability can make toward enhancing deterrence;

(2) the contribution an ASAT capability can make toward meeting the war fighting requirements of the United States and how an ASAT capability enhances force survivability; and

(3) the extent to which meeting the war fighting requirements and deterrence objectives of the United States would be enhanced based upon a net assessment under the following conditions:

(A) A Soviet only ASAT capability.

(B) A total or limited ban on the ASAT capability of the United States and the Soviet Union.

(C) An unrestricted United States and Soviet ASAT capability.

(d) DEADLINE FOR REPORT.—The President shall submit the report required by subsection (a) not later than March 15, 1990. The report shall be submitted in both classified and unclassified versions.

SEC. 907. COMMISSION ON NATIONAL SERVICE

(a) ESTABLISHMENT OF COMMISSION.—(1) There is established a study commission to be known as the "Commission on National Service" (hereinafter in this section referred to as the "Commission").

(b) COMPOSITION.—(1) The Commission shall be composed of nine members as follows:

(A) Three members appointed by the President.

(B) Two members appointed by the majority leader of the Senate.

(C) One member appointed by the minority leader of the Senate.

(D) Two members appointed by the Speaker of the House of Representatives.

(E) One member appointed by the minority leader of the House of Representatives.

(2) The President shall designate one of the members to serve as chairman of the Commission.

(3) The appointments of the members of the Commission shall be made not later than 60 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES; MEETINGS; QUORUM.—(1) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(2) Four members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(d) DUTIES OF THE COMMISSION.—(1) The Commission shall conduct a thorough study of the desirability, need for, advantages, and disadvantages of the establishment of a national service program.

(2) In conducting the study referred to in paragraph (1) the Commission shall address the following questions:

(A) What types of community service needs are there that are not adequately being met by the private sector or by local, State, and Federal governments and could be adequately met through a program of national service?

(B) What are the direct and indirect cost benefits that would likely result from the establishment of a comprehensive national service program under which a variety of social services would be provided?

(C) What are the future military manpower requirements of the United States and to what extent might those requirements be met by a national service program that offers special educational benefits and other incentives to participants in return for military service? In addressing this question, the Commission should take into account projected demographic changes.

(D) Are the benefits of a national service program likely to outweigh the estimated costs of such a program?

(3) In carrying out such study, the Commission shall—

(A) determine the appropriate levels of compensation and other benefits a participant in a national service program should receive for military service and for civilian community service;

(B) assess the existing Federal, State, and local efforts being made to encourage service in the Armed Forces and civilian community service;

(C) assess the opportunities that are available to, and the problems that confront, the youth of the United States and consider how service in a national service program could help participants take advantage of those opportunities and solve those problems; and

(D) evaluate the effectiveness of national service programs conducted in other countries.

(e) REPORT.—(1) The Commission shall submit the results of its study, together with such comments and recommendations as it considers appropriate, to the President and Congress not later than February 15, 1991.

(2) Within 90 days after the Commission submits its report to the President and Congress, the President shall submit his comments and recommendations regarding the report to Congress.

(f) SPECIFIC RECOMMENDATIONS.—If the Commission recommends the establishment of a national service program, it shall include in its report specific recommendations for the implementation of such a program, including recommendations regarding active duty service in the Armed Forces, service in the Reserve components of the Armed Forces, and part-time and full-time community service.

(g) INFORMATION.—The Commission may secure directly from the Department of Defense and any other Federal department or agency such information as the Commission considers necessary to enable the Commission to carry out its responsibilities under this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(h) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(i) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(j) STAFF.—(1) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate the employment of, an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of a staff director shall be subject to confirmation by the Commission.

(2) The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for GS-18 of the General Schedule under section 5332 of such title.

(k) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without payment of reimbursement to the detailing agency. A detail of a Federal employee under this subsection shall not result in the interruption or loss of civil service status or privilege.

(l) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of such title.

(m) APPLICABILITY OF OTHER FEDERAL LAWS.—A member of the Commission appointed under subsection (b) who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee, except for the purposes of—

(1) chapter 81 of title 5, United States Code, relating to compensation for work-related injuries; and

(2) chapter 171 of title 28, United States Code, relating to torts claims.

(n) POSTAL AND PRINTING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(o) MISCELLANEOUS ADMINISTRATIVE AND SUPPORT SERVICES.—The Administrator of General Services shall furnish the Commission, on a reimbursable basis, any administrative and support services requested by the Commission.

(p) TERMINATION OF COMMISSION.—The Commission shall terminate 120 days after the date on which Commission submits its report under subsection (e).

(q) EXPENSES OF THE COMMISSION.—The Secretary of Defense shall pay all expenses incurred in carrying out the study provided for in this section out of funds available to the Department of Defense.

SEC. 908. EXTENSION OF AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

(a) Effective on October 1, 1989, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100) is amended—

(1) by striking out "fiscal years 1988 and 1989" both places it appears and inserting in lieu thereof "fiscal years 1990 and 1991"; and

(2) by inserting "and the Memorandum of Understanding for Operations and Support of the NATO Airborne Early Warning and Control Force, signed by the United States Ambassador to NATO on September 26, 1984, and other follow-on support agreements for the NATO E-3A Cooperative Programme" after "December 6, 1978,".

SEC. 909. PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES

(a) AUTHORITY TO ENTER INTO BILATERAL AND MULTILATERAL ARRANGEMENTS.—Subsection (a) of section 2401a of title 10, United States Code, is amended—

(1) by striking out "an arrangement with the Minister of Defense or other appropriate official of any allied country or with the North Atlantic Treaty Organization (NATO)" and inserting in lieu thereof "a bilateral arrangement with any allied country or allied international organization or may enter into a multilateral arrangement with allied countries and allied international organizations";

(2) by striking out "such country or NATO" and inserting in lieu thereof "the allied country or countries or allied international organization or allied international organizations, as the case may be,"; and

(3) by adding at the end the following new sentence: "The term of an arrangement entered into under this subsection may not exceed 5 years.".

(b) LIQUIDATION OF CREDITS AND LIABILITIES.—Subsection (b) of such section is amended—

(1) by inserting "(1)" after "(b)";

(2) by designating the second sentence as paragraph (3);

(3) by inserting after the first sentence the following new sentence: "Liquidations may be made at such times as the participants in an arrangement may agree upon, but in no case may final liquidation in the case of an arrangement be made later than 30 days after the end of the term for which the arrangement was entered into."; and

(4) by inserting after paragraph (1), as designated by clause (1) of this subsection, the following new paragraph:

"(2) Parties to an arrangement entered into under this section shall annually reconcile accrued credits and liabilities accruing under such agreement. Any liability of the United States resulting from a reconciliation shall be charged against the applicable appropriation available to the Department of Defense (at the time of the reconcilia-

tion) for obligation for communications support and related supplies and services.".

(d) DEFINITIONS.—Subsection (d) is amended—

(1) by striking out "In this section, the term 'allied country' means—" and inserting in lieu thereof "In this section:

"(1) The term 'allied country' means—";

(2) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(3) by striking out "; or" at the end of clause (A), as redesignated by clause (2) of this subsection, and inserting in lieu thereof a semicolon;

(4) by striking out the period at the end of clause (B), as redesignated by clause (2) of this subsection, and inserting in lieu thereof "; or"; and

(5) by adding at the end the following:

"(C) any other country designated as an allied country for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

"(2) The term 'allied international organization' means the North Atlantic Treaty Organization (NATO) or any other international organization designated as an allied international organization for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.".

SEC. 910. EXTENSION OF AUTHORITY TO PROVIDE EXCESS DEFENSE ARTICLES FOR THE MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES ON THE SOUTHERN FLANK OF NATO

Section 516(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) is amended by striking out "fiscal years 1987, 1988, and 1989" in the first sentence and inserting in lieu thereof "fiscal years 1987 through 1994".

SEC. 911. EXCHANGE TRAINING

Section 544 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347c) is amended by inserting "and at the United States Army Russian Institute in Garmisch-Partenkirchen, West Germany," after "service academies)".

SEC. 912. PAYMENT OF CERTAIN EXPENSES IN CONNECTION WITH BILATERAL AND REGIONAL COOPERATION PROGRAMS

Section 1051 of title 10, United States Code, is amended—

(1) in subsection (b)(1), by inserting "or in connection with travel to Canada or Mexico" immediately before the period; and

(2) by striking out subsection (g).

SEC. 913. ADMISSION OF TEMPORARY WORKERS FOR COOPERATIVE RESEARCH, DEVELOPMENT, OR COPRODUCTION PROJECTS

Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by inserting at the end thereof the following: "or (iv) who is coming temporarily to the United States (for a period of not more than 10 years with annual extensions permitted thereafter upon petition to the Attorney General) to perform administrative, managerial, or other services as part of a government-to-government agreement administered by the Department of Defense on a cooperative research, development, or coproduction project, whether such services are performed for the duration of the project or agreement or for part of such period of time;".

SEC. 914. ADMIRALTY CLAIMS

Sections 4802(c), 4803(c), 7622(c), 7623(c), 9802(c), and 9803(c) of title 10, United States Code, are each amended by striking out "$10,000" and inserting in lieu thereof "$100,000".

SEC. 915. PUBLICATION OF THE HISTORY OF THE OFFICE OF THE SECRETARY OF DEFENSE

The Secretary of Defense may procure through the Government Printing Office services for the printing, publishing, and sale of Volumes III and IV of the publication entitled History of the Office of the Secretary of Defense and may utilize procurement procedures that exclude sources other than university presses.

SEC. 916. STUDY AND REPORT ON DEFENSE EXPORT FINANCING

(a) STUDY.—The President shall conduct a study of export financing of defense articles. In the course of the study, the President shall—

(1) examine the effect of export financing on the ability of United States industry to compete in the international market for defense products;

(2) determine the extent to which other countries support commercial financing for defense exports through official government credit programs;

(3) determine the extent to which United States private capital is used to support defense exports and the obstacles that United States lending institutions face in providing additional support; and

(4) determine the feasibility and desirability of using existing or new Government export guarantee programs to provide greater private capital support for United States defense exports.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the President shall transmit to the Congress a report on the findings of the study under subsection (a).

SEC. 917. METHODS OF PAYMENT FOR ACQUISITIONS AND TRANSFERS BY THE UNITED STATES

(a) Section 2344(a) of title 10, United States Code, is amended by striking out "or substantially identical nature" and inserting in lieu thereof "value".

(b) LIMITATIONS ON EXCHANGES.—(1) Section 2344 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) The following transfers in exchange for supplies or services are prohibited:

"(1) Transfers in exchange for property the acquisition of which is prohibited by law.

"(2) Transfers of nuclear warheads.

"(3) Transfers of chemical munitions.".

SEC. 918. TRIDENT PROGRAM AND START

(a) REPORTS.—On or before April 1, 1990, the President will submit to Congress a comprehensive report, in both classified and unclassified versions, on the Trident program and START. The report shall address, inter alia, the following issues:

(1) the fleet size objective for the Trident submarine program both with and without a START agreement;

(2) the implications for United States strategic force posture in a START environment of a fleet of 21 or more Trident submarines, each with 192 warheads on 24 ballistic missiles, under two different assumptions:

(i) all such warheads are accountable under START limits;

(ii) the warheads on 1-3 Trident submarines are not accountable under START limits;

(3) a net assessment of the implications for United States security of a START agreement that allowed the Soviets as well as the United States to have an equivalent number of warheads on submarines that would not be accountable under START limits;

(4) the technical feasibility and cost implications of various options for reducing the number of warheads on Trident submarines, including those already built, those under construction, and those yet to be built.

(5) the verification challenges to the United States posed by such options if the Soviet Union were to adopt them in its ballistic missile submarine forces.

(b) FORM OF REPORT.—The President shall submit the report under subsection (a) in both classified and unclassified versions.

(c) WAIVER.—The requirements of subsection (a) may be waived by the President if he has signed a Strategic Arms Reduction Treaty (START) or other agreement with the Soviet Union for the reduction of strategic arms.

SEC. 919. KIDNAPPING OF LIEUTENANT COLONEL HIGGINS

(a)(1) The radical, Lebanese-based terrorist organization which calls itself the "Organization of the Oppressed of the Earth" announced July 31, 1989 that it had executed Lieutenant Colonel William R. Higgins, a Marine seconded to UNTSO, the United Nations Truce Supervision Organization, and kidnapped in South Lebanon on February 17, 1988.

(2) That Organization claimed to have executed Colonel Higgins in response to the recent capture by Israeli commandos of a radical Muslim Shiite leader, Sheik Abdul Karim Obeid, believed to be associated with that Organization.

(3) That Organization released to certain news agencies a video tape purporting to show Lieutenant Colonel Higgins executed by hanging.

(4) It has not been confirmed that the execution of Lieutenant Colonel Higgins has taken place, nor have any details been provided about the alleged execution.

(5) The kidnapping of Lieutenant Colonel Higgins, who was engaged only in carrying out the legitimate United Nations peacekeeping activities he had been assigned, was wholly unjustified.

(6) It is absolutely clear that the kidnapping of Lieutenant Colonel Higgins and his execution, if it indeed has occurred, are outrageous acts of terrorism which deserve the condemnation of all civilized people.

(7) There is strong evidence that the Government of Iran has supported the Organization responsible for Lieutenant Colonel Higgins's kidnapping and alleged execution, as well as other terrorist and extremist forces inside Lebanon and throughout the Middle East.

(b) It is the sense of the Senate that:

(1) The Senate is outraged by the kidnapping and the reports of Colonel Higgins's execution, and condemns such actions as barbaric, cowardly, and utterly incompatible with the standards of conduct upheld by civilized people.

(2) The President should utilize all available resources of the United States Government, including all available diplomatic and intelligence channels, to determine the identity of those responsible and the details regarding such terrorist acts.

(3) The President should determine whether it would be possible to isolate and bring to justice or retaliate against those responsible in a manner that would reduce the risk to Americans from terrorism.

(4) The President should retaliate as would be appropriate and feasible.

(5) The United States should make clear to the new leadership in Iran that we will not tolerate a continuation of past policies of support of groups which undertake terrorist actions against American citizens or direct assaults on American vital interests in the Middle East or elsewhere, and should such support continue, the United States will hold the authorities in Iran accountable for that support and act accordingly.

(6) The United Nations Secretary General should take all necessary steps to help ensure that Lieutenant Colonel Higgins, if still alive, is safely returned to the United States, and, if dead, that his body is returned to his country and family, and that those responsible for his death be immediately brought to justice.

(7) The President should engage in urgent and continuing diplomatic contacts with the Government of Israel and other governments concerning their policies and actions which might have relevance to the interests of the United States Government or increase the vulnerability of the United States citizens to attacks by terrorists.

(8) the President should consult with other nations to ensure international cooperation and coordination to end terrorist attacks.

SEC. 920. REPORTS ON THE MANPOWER REQUIRED TO CONTROL THE TRANSFER OF MISSILE TECHNOLOGY AND CERTAIN WEAPONS.

(a) AMENDMENT TO NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989.—Section 901(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989, is amended by striking out "February 1, 1988," and inserting in lieu thereof "60 days after the date of enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991,".

(b) REPORT ON MANPOWER REQUIRED TO IMPLEMENT EXPORT CONTROLS ON CERTAIN WEAPONS TRANSFERS.—(1) Not later than February 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) identifying the role of the Department of Defense in implementing export controls on nuclear, chemical, and biological weapons;

(B) describing the number and skills of personnel currently available in the Department of Defense to perform this role; and

(C) assessing the adequacy of these resources for the effective performance of this role.

(2) The report required by paragraph (1) shall identify the total number of current Department of Defense full-time employees or military personnel and the grades of such personnel and the special knowledge, experience, and expertise of such personnel, required to carry out each of the following activities of the Department in implementing export controls on nuclear, chemical, and biological weapons:

(A) Review of private-sector export license applications and government-to-government cooperative activities.

(B) Intelligence analysis and activities.

(C) Policy coordination.

(D) International liaison activity.

(E) Technology security operations.

(F) Technical review.

(3) The report shall include the Secretary's assessment of the adequacy of staffing in each of the categories specified in subparagraphs (A) through (F) of paragraph (2) and shall make recommendations concerning measures, including legislation if necessary, to eliminate any identified staffing deficiencies and to improve interagency coordination with respect to implementing export controls on nuclear, chemical, and biological weapons.

SEC. 921. SENSE OF THE CONGRESS WITH RESPECT TO ACCIDENTAL LAUNCH PROTECTION

(a)(1) The Strategic Defense Initiative (SDI) has made substantial progress in developing technologies to defend the United States from a possible ballistic missile attack, be it deliberate or accidental.

(2) Technological advances in interceptors, sensors, and command, control and communications have been achieved and key elements of the SDI program have recently been combined to form the basic architecture for a possible Phase I defense system to defend the United States against ballistic missile attack.

(3) The Soviet Union maintains the world's only operational ballistic missile defense system and has deployed such a system in the Moscow area.

(4) There exists significant asymmetries in United States and Soviet anti-ballistic missile (ABM) production and capabilities and the ability of the United States to counter a Soviet deployment of a nationwide or more limited ABM system.

(5) Ground-based elements and their associated adjuncts and technologies represent the most mature technologies within the SDI program and should therefore receive priority by the Strategic Defense Initiative Organization.

(6) The United States is a signatory to the 1972 Anti-Ballistic Missile Treaty.

(7) There have been several accidents involving ballistic missiles, including the loss of a submarine of the Soviet Union due to inadvertent missile ignition and the inadvertent landing in China of a test missile of the Soviet Union.

(8) The continued proliferation of offensive ballistic missile forces by non-superpower countries hostile to the United States and our allies raises the possibility of future nuclear threats.

(b) It is the sense of Congress—

(1) that the Secretary of Defense should direct the Strategic Defense Initiative Organization to give priority to the development of technologies and systems for a system capable of protecting the United States from the accidental launch of a strategic ballistic missile against the continental United States;

(2) that such development of an accidental launch protection system should be carried out with an objective of ensuring that such system is in compliance with the 1972 Anti-Ballistic Missile Treaty; and

(3) that the Secretary of Defense should submit to Congress forthwith the report on the status of planning for development of a deployment option for such an accidental launch protection system as required by section 224(c) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1943).

SEC. 922. SERVICE IN NATIONAL GUARD AND RESERVES

(a) The Senate finds that—

(1) American Citizens have taken up arms to defend their homes and communities, and to preserve this nation's independence, from the earliest days of our nation;

(2) The concept of the citizen-soldier has been a keystone of the defense strategy of this nation;

(3) Members of the National Guard and Reserve have served proudly and honorably in every war or conflict involving United States Armed Forces;

(4) The Total Force Policy, by placing significant portions of wartime mission capability and selected day-to-day operations in the National Guard and Reserve, has reinforced the proposition that the Guard and Reserve are essential elements of our national defense;

(5) The Congress and the Department of Defense during the 1980's have demonstrated their increasing reliance and confidence in the National Guard and Reserve by expanding missions, increasing training requirements and providing new state-of-the-art weapons and support equipment;

(6) The National Guard and Reserve represent a very cost-effective arm of the Total Force, preserving combat capability and retaining valuable trained human resources, especially during periods of austere defense budgets;

(7) Participation in the National Guard and Reserve enhances military readiness and demonstrates the resolve of the citizenry to protect and preserve American values; and

(8) Participation in the National Guard and Reserve improves our economy, by providing individuals with job skills and education.

(b) Therefore be it declared, that the United States Senate reaffirms that service in the National Guard and Reserve is in the highest traditions of military service to the country and acknowledges the valuable contribution that the men and women who serve in the National Guard and Reserve are making to their country; encourages Guard and Reserve participation by all elements of our society; and continues to support fully, reliance on the National Guard and Reserve as full partners in the Total Force.

SEC. 923. PRESIDENTIAL REPORT ON THE VERIFICATION WORK THAT HAS BEEN CONDUCTED WITH REGARD TO MOBILE ICBMs IN A START TREATY

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and the Soviet Union are currently engaged in talks regarding the reduction of strategic nuclear arms.

(2) The United States position at the Strategic Arms Reduction Talks (START) since 1985 has been to ban the deployment of mobile ICBMs within a START regime unless an effective verification regime could be identified and implemented.

(3) The Soviet Union has deployed two mobile ICBM systems, the SS-24 and the SS-25.

(4) President Bush conducted a strategic review upon entering office which was completed prior to the resumption of the START Talks on June 15, 1989.

(5) The President's fiscal year 1990 defense budget to the Congress includes funding for the development of two mobile ICBMs, the Rail Garrison MX missile and the Small ICBM (Midgetman).

(6) The United States must have confidence that any START Treaty will be effectively verifiable.

(b) PRESIDENTIAL REPORT.—The President shall submit to the President of the Senate and the Speaker of the House, and when necessary to protect particularly sensitive information, the chairman of the Senate Select Committee on Intelligence and the chairman of the House Permanent Select Committee on Intelligence, not later than March 31, 1990, a report describing all studies that have been performed between

March 1985 and August 1989 by agencies of the United States Government with regard to our capability to monitor and verify a START Treaty which allows mobile ICBMs. The report shall include the following:

(1) A description of all studies conducted by United States Government agencies during the President's strategic review to determine the ability of the United States to verify Soviet mobile missiles in START. These descriptions shall include a summary of conclusions reached.

(2) A description of any Red Team studies conducted between March 1985 with regard to the existence of mobiles in a START regime as well as a summary of conclusions reached.

(3) A description of studies conducted by United States Government agencies between March 1989 and August 1989 to assess the value of various verification options relating to the verification of mobiles, including tagging and designated deployment areas. These descriptions shall include a summary of conclusions reached.

SEC. 924. SENSE OF SENATE ON START TALKS

It is the sense of the Senate that any agreement negotiated by the President to achieve a reduction and limitation on strategic arms (through the strategic arms reduction talks in Geneva or otherwise)—

(1) should not prevent the United States from deploying a force structure under the agreement which emphasizes survivable strategic systems and, in particular, should not in any way compromise the security of the United States ballistic-missile carrying submarine force, and

(2) should not prohibit or limit the deployment of non-nuclear cruise missiles.

SEC. 925. AIRBORNE DRUG TRAFFICKERS

(a) GENERAL AUTHORITY.—(1) The purpose of this provision is to authorize Federal law enforcement agencies to use appropriate force to compel airborne drug traffickers to comply with instructions to land their aircraft.

(2) Whenever any aircraft liable to seizure or examination (on the grounds that narcotics are being transported on the aircraft) by any agency of the United States with responsibility for drug law enforcement does not land on being ordered to do so on being pursued by an authorized aircraft which has displayed identifying insignia prescribed for an authorized aircraft, the person in charge or in command of the authorized aircraft may, after a gun has been fired by the authorized aircraft as a warning signal, fire at or into the aircraft which does not land.

(b) INDEMNIFICATION.—The person in command of an authorized aircraft and all persons acting under that person's direction shall be indemnified from any penalties or actions for damages for firing at or into any aircraft pursuant to subsection (a). If any person is killed or wounded by the firing, and the person in command of the authorized aircraft or any person acting pursuant to their orders is prosecuted or arrested therefor, they shall be forthwith admitted to bail.

(c) DEFINITION.—For the purposes of this section—

(1) the term "authorized aircraft" means an aircraft operated by an agency of the United States with responsibility for drug law enforcement; and

(2) the term "agency of the United States with responsibility for drug law enforcement" means the Coast Guard and Customs Service and the Drug Enforcement Agency.

SEC. 926. RETIREMENT PAY FORFEITURE AND DISQUALIFICATION

The Judiciary Committee is directed to hold appropriate hearings and report back to the Senate by November 1, 1989. The report shall contain the following determinations:

(1) Whether the legislative intent of title 18 United States Code, section 2071(b) was to require the forfeiture and disqualification from "office under the United States" to apply to officers, both active and retired, in the Armed Forces;

(2) Whether the legislative intent of title 18 United States Code, section 2071(b) was to deprive persons convicted under this section from receipt of their Federal pensions;

(3) Whether title 18 United States Code, section 2071(b) applies to other retired government employees, and if not, whether such is equitable;

(4) Whether action on any remedial legislation for Lieutenant Colonel Oliver North, relating to the denial of his pension as a result of his conviction under title 18 United States Code, section 2071(b) is appropriate in lieu of litigation, or whether it is preferable for this issue to be determined in the courts;

(5) Whether remedial legislation for Lieutenant Colonel Oliver North is warranted under the application of title 18 United States Code, section 2071(b) considering the opinion of the General Counsel of the General Accounting Office dated July 31, 1989;

(6) Whether any other legislation relating to the application of title 18 United States Code, section 2071(b) is appropriate.

SEC. 927. FUNDING FOR PROGRAMS UNDER THE ANTI-DRUG ABUSE ACT OF 1988

(a) TRANSFER OF AUTHORIZATION.—Of the unobligated funds available to all departments and agencies of the Executive branch of the Government at the end of fiscal year 1989 from funds appropriated for defense and nondefense discretionary programs, $1,700,000,000, as provided in subsection (b), is authorized to be transferred for the purpose of carrying out during fiscal year 1990 the Anti-Drug Abuse Act of 1988 and the amendments made by such Act.

(b) ALLOCATION OF UNOBLIGATED FUNDS.—The amount authorized to be transferred from the unobligated funds of any department or agency pursuant to subsection (a) shall be an amount which bears the same ratio to $1,700,000,000 as the amount of unobligated funds of that department or agency at the end of fiscal year 1989 bears to the total amount of unobligated funds of all departments and agencies of the Executive branch at the end of such fiscal year from funds appropriated for defense and nondefense discretionary programs.

SEC. 928. REPORT ON THE INTERNATIONAL MILITARY EDUCATION AND TRAINING PROGRAM

(a) FINDINGS.—The Congress makes the following findings:

(1) Military professionals in many developing countries would benefit from training which enhances their ability both to engage in militarily valuable activities and to contribute to nation-building in their countries, including training in such matters as engineering, communications, electronics, maintenance, health care, logistics, management, and military jurisprudence.

(2) Such training of military professionals of developing countries could be coordinated in such a way as to contribute to the total economic and social development of those countries.

(3) The technical activities of the Army Corps of Engineers and the medical departments of the Armed Forces throughout the history of the United States are examples of the use of military skills and personnel to build, and otherwise to benefit, a nation in nonmilitary ways.

(b) REPORT REQUIREMENT.—(1) The Comptroller General of the United States shall prepare a report on the International Military Education and Training (IMET) Program. The report shall contain the following:

(A) A tabulation of the number of students from countries around the world who are currently participating in training under the program.

(B) A description of the content of the courses currently offered military personnel enrolled in the IMET program.

(C) A discussion of the feasibility of refocusing IMET activities to include training in nation-building skills such as engineering, communications, electronics, maintenance, health care, logistics, management, and military jurisprudence.

(D) A discussion of the desirability and feasibility of developing cooperative IMET programs involving the Army Corps of Engineers and the medical departments of the Armed Forces.

(2) The Comptroller General shall transmit the report to the Committees on Armed Services of the Senate and the House of Representatives not later than February 1, 1990.

SEC. 929. COOPERATION WITH NNBIS

(a)(1) The Anti-Drug Abuse Act of 1988 terminated the National Narcotics Border Interdiction System (NNBIS) and placed it under the auspices of the Office of National Drug Control Policy.

(2) The National Narcotics Border Interdiction System (NNBIS) provided valuable information and support to State and local law enforcement agencies involved in drug interdiction activities;

(b) Therefore, it is the sense of the Senate of the United States that the cooperation that existed between State and local law enforcement officials and the Federal agencies participating in NNBIS should, to the extent possible, be continued and enhanced by the Director of the Office of National Drug Control Policy.

SEC. 930. UNITED STATES ONSITE INSPECTORS PROGRAM

(a) FINDINGS.—The Senate recognizes the need for a program designed to establish a database of prospective personnel that would be qualified to participate in the onsite inspection process since the United States is currently engaged in multilateral and bilateral negotiations to reduce or eliminate various military weaponry and manpower. Specifically, the United States is negotiating reductions on strategic forces, conventional armaments and manpower, monitoring regimes for nuclear testing, and the complete elimination of chemical weapons.

(1) Monitoring requirements for these possible treaties will be extensive and stressing on United States national technical means. To complement and support NTM monitoring requirements the United States and Soviet Union have negotiated and are currently employing onsite inspection procedures for the INF Treaty. Similar onsite inspection provisions are being negotiated for possible future treaties and agreements.

(2) The administration, and many in Congress, consider onsite inspection procedures to be an integral part of any future arms control treaty.

(3) During initial implementation of INF Treaty provisions, the United States was not fully prepared for the manpower requirements necessary to conduct onsite inspections. The Director of Central Intelligence has stated that onsite inspection requirements for any Strategic Arms Reduction Treaty (START) will be far more extensive than the INF Treaty. Estimates of possible START onsite locations are approximately two thousand five hundred as opposed to one hundred twenty for the INF Treaty.

(4) Personnel requirements will be extensive, in terms of both numbers and technical and linguistic skills. Since INF Treaty verification requirements are already taxing current personnel resources, START and other requirements may quickly exceed the numbers of verification personnel with requisite technical and language skills.

(5) The Department of Defense organization best suited to establish such a database is the On-Site Inspection Agency. As an agency of the Department of Defense, the OSIA was created to organize and coordinate United States Government efforts to monitor the INF Treaty, which includes all responsibilities for onsite inspections as required by the terms on the Treaty.

(b) REQUIREMENT.—Recognizing these requirements, the On-site Inspection Agency shall establish a database of prospective personnel that could be called upon to conduct onsite inspections of any future arms control agreement that has such provisions as part of the terms of the treaty.

(1) The database shall be composed of individuals with linguistic and technical skills necessary to conduct onsite inspections.

(2) This database shall consist of active military and other government agency personnel and, on a voluntary basis, nongovernment personnel with requisite skills to perform duties, on a full-time or part-time basis, as prospective onsite inspectors.

(c) THE INF TREATY DEFINED.—In this section, the term "INF Treaty" means the Treaty Between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, signed in Washington, DC, on December 8, 1987.

SEC. 931. REVIEW AND REPORT ON DECONTROL OF CERTAIN PERSONAL COMPUTERS

(a) REVIEW.—The Secretary of Defense, in consultation with the Director of Central Intelligence and the Science Advisor to the President, shall conduct a review of the report made by the Secretary of Commerce on the foreign availability of certain personal computers entitled Foreign Availability Assessment: AT-Compatible Microcomputers. In conducting such review, the Secretary of Defense shall, at a minimum—

(1) determine the availability of microcomputers referred to in such report from sources other than member nations of the Coordinating Committee for Multilateral Export Controls or other nations that control the export of such computers; and

(2) assess the military significance of such computers for the Soviet Union and its Warsaw Pact allies.

(b) REPORT.—The Secretary of Defense shall submit to the Committees on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report containing the results of the Secretary's review. The Secretary shall include in such report such recommendations for legislative changes as the Secretary considers appropriate to protect the national security of the United States.

(c) DEADLINE FOR REPORT.—The report required by subsection (b) shall be submitted not later than January 1, 1990.

SEC. 932. EFFECT OF SPACE NUCLEAR REACTORS ON GAMMA-RAY ASTRONOMY MISSIONS

(a) CONGRESSIONAL DECLARATION.—Congress hereby—

(1) notes that gamma-ray astronomy missions provide an important contribution to our understanding of the origin of the universe; and

(2) expresses its concern that the radiation emitted by nuclear reactors of the Soviet Union in Earth orbit has interfered with the operation of gamma-ray detectors aboard scientific satellites operated by the United States and other nations.

(b) PRESIDENT URGED TO CALL UPON SOVIET UNION TO CEASE DEPLOYMENT OF REACTORS IN SPACE.—Congress calls on the President to urge the Soviet Union to reduce its reliance on nuclear reactors in Earth orbit, where possible, in order to reduce the interference of those reactors with the operation of gamma-ray detectors aboard satellites in Earth orbit.

(c) REPORT.—Not later than April 30, 1990, the President shall submit to Congress a report on the potential for interference with gamma-ray astronomy missions that could be caused by the placement in earth orbit of space nuclear reactors presently under development by the United States.

SEC. 933. REPORT REGARDING COORDINATION OF INFORMATION WITHIN THE EXECUTIVE BRANCH ON FRAUD BY CONTRACTORS

(a) IN GENERAL.—Not later than September 30, 1990, the President shall report to Congress on current and planned administrative mechanisms to coordinate information within the Executive branch concerning administrative and judicial actions taken against Government contractors as a result of activities described in subsection (b)(1).

(b) CONTENT OF REPORT.—The report required by subsection (a) shall include the following:

(1) A description of current administrative actions that will ensure that all relevant agencies are advised when there has been an investigation, proceeding, or litigation involving fraud on the part of a contractor (or an agent or employee of a contractor) that has resulted in a judgment against the contractor (or an agent or employee of the contractor), a decision to debar or suspend, or resolved by consent or compromise.

(2) Recommendations to enhance the effectiveness of the procedures described in paragraph (1).

(3) A discussion of the feasibility and desirability of requiring a review or audit of each contract of a value of more than $1,000,000, or if the potential of recovery would justify such follow-up, that such contractor has, or has had, with any Government agency where similar problems may have occurred.

(4) Recommendations for any legislative changes necessary to accomplish the purposes of paragraphs (2) and (3).

(5) The estimated costs of implementing any recommendations described pursuant to paragraph (2).

(b) DEFINITIONS.—For the purposes of the report required by this section the term "fraud" means—

(1) acts of fraud or corruption or attempts to defraud the Government or corrupt its agents;

(2) acts which constitute a cause for debarment or suspension under part 9.406.2(a) or part 9.407-2(a) of the Federal Acquisition Regulation or successor parts of such regulation; and

(3) acts which violate any provision of sections 3729 through 3731 of title 31, United States Code, section 1031 of title 18, United States Code, or the Anti-Kickback Act of 1986 (41 U.S.C. 51-58).

SEC. 934. SALE AND USE OF UNITED STATES DOMESTIC MEAT IN ARMED FORCES FACILITIES IN THE EUROPEAN COMMUNITY

(a) REQUIREMENT TO USE UNITED STATES DOMESTIC MEAT.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2491. Commissary stores and dining facilities: sale and use of United States domestic meat in the European Community

"(a) The Secretary of each military department shall ensure that the meat and meat food products sold in commissary stores of that military department located in any member country of the European Community and the meat and meat food products served in dining facilities of that military department located in any such country are produced and processed in the United States.

"(b) In this section:

"(1) The term 'meat' means meat within the meaning of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

"(2) The term 'meat food product' has the same meaning as provided in section 1(j) of such Act.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2491. Commissary stores and dining facilities: sale and use of United States domestic meat in the European Community.".

(b) GENERAL POLICY.—It is the sense of Congress that the Secretary of each military department should intensify efforts to procure from United States sources the products to be sold in commissary stores of that department, the food products to be served in dining facilities of that department, and the supplies to be used in such dining facilities.

SEC. 935. REPORT ON VERIFICATION PROCEDURES FOR THE DISMANTLEMENT OF NUCLEAR WARHEADS AND FISSILE MATERIAL MONITORING

(a) REPORT.—The Secretary of Defense and Secretary of Energy, in coordination with the Director of Central Intelligence, shall prepare a report for the Congress on—

(1) The onsite monitoring techniques, inspection arrangements, and national technical means, that would be used to verify Soviet dismantlement of nuclear warheads in the event the United States determines that it is in its national interests to agree to a provision in a future strategic arms reduction treaty that would require both parties to dismantle warheads associated with delivery systems eliminated by the terms of the agreement.

(2) The onsite monitoring techniques, inspection arrangements, and national technical means that would be used to verify the end use and purpose of any fissile materials produced or that are recovered from the dismantlement process described under section (a)(1) of this amendment.

(b) PREPARATION AND SUBMISSION OF REPORT.—The report shall be submitted in both classified and unclassified form to the Committee on Armed Services and Select Committee on Intelligence of the Senate and the Committee on Armed Services and

the Permanent Select Committee on Intelligence of the House of Representatives no later than April 30, 1990.

SEC. 936. COOPERATIVE EFFORTS AGAINST ILLEGAL DRUGS

Section 511(e)(3)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(3)(B)), as added by the Asset Forfeiture Amendments Act of 1988, is amended to read as follows:

"(B) will serve to encourage further cooperation between the recipient State or local agency and federal law enforcement agencies.".

SEC. 937. ALLIED DEFENSE BURDENSHARING IN EUROPE

(a) Congress makes the following findings:

(1) Member Nations of the North Atlantic Treaty Organization (NATO), at the initiative of the President, have presented a comprehensive arms reductions proposal to the Nations of the Warsaw Pact for consideration in the negotiations on Conventional Armed Forces in Europe (CFE) which, should the proposal provide the basis for agreement on an eventual CFE treaty, would significantly enhance security and stability in Europe and the cause of peace worldwide.

(2) Unilateral reductions in active duty force levels by individual member Nations of NATO before the attainment of a CFE agreement would undercut NATO's efforts to improve its conventional defense posture, increase its reliance on the threat of the early use of nuclear weapons to deter aggression, and undermine NATO's arms control negotiating posture in CFE.

(3) Nevertheless, several member Nations of NATO are considering making significant reductions over the next few years in the size of their active forces irrespective of developments in the CFE negotiations.

(4) Despite shifts in relative economic power from the United States to some of the major allies of the United States, the costs of mutual defense continue to be borne disproportionately by the United States.

(5) Adjustments in burdensharing are long overdue.

(6) Unilateral cuts in active duty force levels by member Nations of NATO before the successful conclusion of CFE negotiations would exacerbate longstanding burdensharing tensions within the alliance.

(b) BASELINE REPORT.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the defense committees a report showing the following:

(A) The end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO for fiscal year 1989.

(B) The end strength level of allied forces assigned to permanent duty ashore in European member nations of NATO for such fiscal year.

(C) The end strength level of the armed forces of each member nation of NATO assigned to permanent duty ashore in European member nations of NATO in such fiscal year.

(D) The ratio (expressed in terms of a percentage) of the end strength level referred to in subparagraph (A) to the end strength level referred to in subparagraph (B).

(2) The ratio referred to in paragraph (1)(D) is hereinafter in this section referred to as the "baseline ratio".

(c) ANNUAL REPORT.—The Secretary of Defense shall submit to the defense committees not later than April 1 of 1991, 1992, and 1993 a report showing the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO and the end strength of allied forces assigned to permanent duty ashore in such nations in the fiscal year preceding the fiscal year in which the report is submitted. The Secretary shall include in such report the following:

(A) Data showing the U.S.-allied forces ratio for such preceding fiscal year.

(B) A statement indicating whether there has been any change in the U.S.-allied forces ratio for such preceding fiscal year compared with the U.S-allied forces ratio for the fiscal year immediately before such preceding fiscal year and, if so, the amount of such change and an explanation of the cause for such change.

(C) A discussion of any action taken in the fiscal year preceding the year in which the report is submitted to encourage the NATO allies (other than the United States) to increase the number of allied forces assigned to permanent duty ashore in the European member nations of NATO and a discussion of the results of such action.

(d) LIMITATION ON OBLIGATION OF FUNDS.—If the Secretary determines on the basis of a report referred to in subsection (b) that the U.S.-allied forces ratio for the fiscal year preceding the fiscal year in which the report is submitted is greater than the baseline ratio by more than one percentage point—

(1) the President shall initiate appropriate diplomatic initiatives to persuade the NATO allies to increase allied forces assigned to permanent duty in European members nations of NATO in sufficient numbers so that the U.S.-allied forces ratio no longer exceeds the baseline ratio; and

(2) funds appropriated to or for the use of the Department of Defense may not be obligated or expended to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO for the fiscal year following the fiscal year in which the report is received in any number that would cause the U.S-allied forces ratio in such following fiscal year to exceed the baseline ratio by more than one percentage point.

(e) WAIVER AUTHORITY.—The President may waive this section if the President declares that such action is critical to the national security of the United States and immediately notifies Congress of his action and the reasons therefor.

(f) INAPPLICABILITY.—This section shall not apply in the event of a declaration of war or an armed attack on any NATO member or in the event that a comprehensive arms reduction agreement is signed as a result of the negotiations on Conventional Armed Forces in Europe (CFE).

(g) REPORT COMPLIANCE.—The Secretary shall be deemed to have complied with the report requirements of subsection (b) in any fiscal year if the Secretary includes the information required by such subsection in the report submitted in such year to the defense committees pursuant to section 1002(d) of the Department of Defense Authorization Act, 1985 (98 Stat. 2575; 22 U.S.C. 1928 note).

(h) END STRENGTH PERMANENT CEILING.—Nothing in this section shall be construed to permit the obligation or expenditure of funds to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level in excess of the permanent ceiling specified in section 1002(c)(1) of the Department of Defense Authorization Act, 1985.

(i) DEFINITIONS.—As used in this section:

(1) The term "defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(2) The term "allied forces" means members of the armed forces of member nations of NATO serving on active duty, other than the members of the Armed Forces of the United States.

(3) The term "U.S.-allied forces ratio" means, with respect to a fiscal year, the ratio (expressed in terms of a percentage) of the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO relative to the end strength level of allied forces assigned to permanent duty ashore in such nations in that fiscal year.

SEC. 938. JAPAN'S CONTRIBUTIONS TO SECURITY

(a) FINDINGS.—Congress makes the following findings:

(1) Extraordinary political, economic, and social changes have occurred in Japan since World War II.

(2) As a result of such changes, Japan is capable of assuming increased responsibility for its own security.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) in view of the changes referred to in subsection (a), Japan should assume increased responsibility for its own security;

(2) Japan should offset the direct costs incurred by the United States in deploying military forces for the defense of Japan;

(3) Japan should assume a more significant security role consistent with its economic status by taking the following actions:

(A) Increase expenditures for its Official Development Assistance program and its defense programs so that, by 1992, the level of spending by Japan on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization (NATO) on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(B) Devote any increase in its spending for such Official Development Assistance program primarily to the Republic of the Philippines and to countries in regions of importance to global stability outside of East Asia, particularly to countries in Latin America, the Caribbean area, and the Mediterranean area.

(C) Devote any increase in spending for that program primarily to untied grants and increasing the portion of total expenditures made in that program for those multilateral financial institutions of which Japan is a member.

(D) Designate those nations that are to be recipients of increased development assistance referred to in subparagraphs (A) through (C) after consultation with Japan's security partners.

(E) In consultation with the United States, complete its 5-year defense program for fiscal years 1986 through 1990 and, at the earliest possible date after the completion of that program, fulfill the pledge of Prime Minister Suzuki to defend the terri-

tory, airspace, and sea lanes of Japan to a distance of 1,000 miles.

(F) Acquire "off-the-shelf" military equipment from the United States (including completely equipped, long-range early warning aircraft, additional AEGIS weapon systems, refueling aircraft, munitions, and spare parts) in developing the capabilities called for in Japan's current and subsequent 5-year defense programs.

(c) NEGOTIATIONS.—At the earliest practicable date after the enactment of this Act, the President shall enter into negotiations with Japan for the purpose of achieving an agreement under which Japan agrees to make contributions sufficient in value to meet the direct cost of deploying United States forces for the defense of Japan.

(d) NOTIFICATION TO CONGRESS.—In order that Congress may determine whether further action is appropriate, the President shall submit to Congress an initial report, not later than April 1, 1990, on the status and results of the negotiations referred to in subsection (a) and shall submit a second report, not later than one year after the date of the enactment of this Act, on the status and results of such negotiations.

SEC. 939. REPORT ON COSTS ASSOCIATED WITH OVERSEAS DEPENDENTS

(a) REPORT.—The Secretary of Defense shall conduct a study of practicable options available to the Department of Defense to reduce costs associated with maintaining overseas large numbers of dependents of members of the Armed Forces of the United States and dependents of civilian employees of the Department of Defense. In carrying out such study the Secretary shall consider such options and combinations of options as the Secretary considers feasible to achieve a reduction in such costs. The Secretary shall specifically address, at a minimum, the following questions:

(1) Would expansion of incentives for unaccompanied tours of duty overseas be effective in reducing the number of such tours and would such an increase in incentives be cost effective?

(2) Would more frequent rotation of overseas personnel without dependents result in overall savings?

(3) Would an increase in the use of local contractors at overseas stations to provide services currently being provided by Department of Defense personnel result in overall savings to the United States and, if so, what would the cost implications be for United States families at such stations?

(4) What costs associated with the support of overseas dependents would likely result from a reduction in personnel under a conventional forces in Europe (CFE) agreement?

(5) Would the granting of fewer exceptions to the length of overseas duty tours reduce permanent change of station costs?

(6) To what extent can overseas facilities be consolidated and centralized to reduce administrative and overhead costs?

(7) To what extent can reductions in family support services at overseas stations be made without materially affecting the standard of living of the personnel assigned to duty at such stations?

(8) Would reductions in overseas family support costs likely result in increased costs in programs in the United States?

(9) To what extent would dependents be likely to accompany members of the Armed Forces and civilian employees of the Department of Defense to overseas stations in the absence of each of the various types of special assistance and benefits currently provided to overseas dependents?

(10) How would reduction or termination of the various types of the special assistance and benefits for overseas dependents affect combat readiness, morale, and retention?

(b) SUBMISSION OF REPORT.—The Secretary shall submit the report required by subsection (a) to the Committees on Armed Services of the Senate and the House of Representatives not later than February 1, 1990, together with such comments and recommendations for legislation as the Secretary considers appropriate.

SEC. 940. UNITED STATES-REPUBLIC OF KOREA SECURITY RELATIONSHIP

(a) FINDINGS.—Congress makes the following findings:

(1) Since the Korean conflict, the Republic of Korea has made tremendous progress in rebuilding its economic and military strength.

(2) The alliance between the United States and the Republic of Korea has contributed greatly to the security of both countries.

(3) The Republic of Korea has dedicated a large share of its national resources to its security, as manifested by defense expenditures which comprise approximately one-third of its national budget.

(4) The United States has contributed a large amount of its national resources, including approximately 46,000 military personnel, to protecting the security interests that it shares with the Republic of Korea.

(5) In accordance with its obligations under the 1954 Mutual Defense Treaty with the Republic of Korea, the United States remains committed to the security and territorial integrity of the Republic of Korea.

(b) SENSE OF CONGRESS AND REPORT REQUIREMENT.—(1) It is the sense of Congress that—

(A) the United States should reassess the missions, force structure, and locations of its military forces in the Republic of Korea and East Asia;

(B) the Republic of Korea should assume increased responsibility for its own security;

(C) the Republic of Korea should offset more of the direct costs incurred by the United States in deploying military forces for the defense of the Republic of Korea; and

(D) the United States and the Republic of Korea should consult on the feasibility and desirability of partial, gradual reductions of United States military forces in the Republic of Korea.

(2) In order that Congress may determine whether further action is appropriate, the President shall submit to Congress an initial report, not later than April 1, 1990, on the status and results of the consultations referred to in paragraph (1)(D) and shall submit a second report, not later than one year after the date of the enactment of this Act, on the status and results of such consultations.

(c) REPORT.—(1) Not later than April 1, 1990, the President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the military presence of the United States in the Republic of Korea and in East Asia. The President shall include in such report a strategic plan relating to the continued United States military presence in the Republic of Korea and East Asia. The President shall specifically include in the report the following:

(A) An assessment of the implications of recent developments in the Soviet Union and the People's Republic of China for United States and allied security planning in East Asia.

(B) Identification of those changes in the missions, force structure, and locations of United States forces in East Asia that would strengthen the capabilities of such forces and lower the costs of maintaining such forces.

(C) A discussion of ways in which increased defense responsibilities and costs presently borne by the United States can be transferred to the allies of the United States in East Asia.

(D) Identification of the additional actions that the Republic of Korea can take to contribute more to its own security.

(E) A discussion of the feasibility of restructuring United States military forces stationed in Okinawa with the objective of improving civil-military relations and increasing United States training opportunities.

(F) A discussion of the status and prospects of negotiations between the United States and the Republic of the Philippines on the continued use of United States military installations in the Republic of the Philippines.

(G) An assessment of whether a requirement still exists for a regional security role for United States forces stationed in the Republic of Korea.

(2) The President shall also include in the report a five-year plan with respect to the United States military presence in the Republic of Korea. The President shall specifically include in the plan a discussion of the feasibility and desirability of the following:

(A) Restructuring United States military forces in the Republic of Korea with the objective of changing the role of such forces from a leading role in deterring aggression to a supporting role.

(B) Partial, gradual reductions in the number of United States military personnel stationed in the Republic of Korea.

(C) Larger offsets by the Republic of Korea for the direct costs incurred by the United States in deploying military forces in defense of the Republic of Korea.

(D) The redeployment of United States military personnel and facilities within the Republic of Korea that can be made to reduce friction between such personnel and the people of the Republic of Korea.

(E) Changes in the United Nations and United States-Republic of Korea bilateral command arrangements that would facilitate a transfer of certain military missions and command to the Republic of Korea.

(F) Confidence-building measures that could be promoted in northeast Asia to lessen tensions in the region.

(G) Additional actions the Republic of Korea could take to assume more responsibility for its security.

SEC. 941. POLICY REAFFIRMING UNITED STATES/SOVIET EQUALITY IN STRATEGIC FORCES

It is the sense of the Senate that—

(1) the President should seek a START treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union;

(2) the success of the President's efforts to attain such a treaty is dependent upon the maintenance of a vigorous research and development and modernization program as required by a prudent strategic posture; and

(3) no action should be taken under this or any other Act that will obligate the United States to disarm or to reduce or limit

the Armed Forces or armaments of the United States, except pursuant to the treatymaking power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States.

SEC. 942. SENSE OF THE SENATE ON PROCUREMENT OF B-2 AIRCRAFT

(a) FINDINGS.—The Senate makes the following findings:

(1) Over the past several decades, the United States has devoted substantial resources to the strategic bomber force, including significant upgrades to B-52 bombers, and the research, development, and procurement of B-1 bombers and air-launched cruise missiles.

(2) The Department of Defense currently estimates that the acquisition cost for a force of one hundred and thirty-two B-2 aircraft will be $70,200,000,000 (then-year dollars), and this estimate is premised on several assumptions, including the achievement of cost-reduction initiatives, not all of which have been contracted for yet.

(3) The lifecycle costs for a force of one hundred and thirty-two B-2 aircraft would be significantly higher than this acquisition cost estimate of $70,200,000,000 (then-year dollars).

(4) The Congress has approved funds for the low rate initial production of eleven B-2 aircraft through fiscal year 1990, but has not decided how many B-2 aircraft should be produced in total.

(5) If the Congress makes a decision not to acquire a large number of B-2 aircraft, the funds available for other military programs could be increased.

(6) Fiscal year 1990 will constitute the fifth consecutive year of real decline in the amount appropriated for budget function 050 (National Security).

(7) The constraints on future defense budgets make it essential that the Nation's defense priorities be carefully analyzed so as to properly fund the Armed Forces, including the various elements of the Nation's strategic forces.

(b) SENSE OF THE SENATE.—In light of the findings in subsection (a), it is the sense of the Senate that:

(1) It is not prudent or possible at this time to commit to the production of B-2 aircraft other than under the low-rate initial production plan.

(2) The contingent authorization of funds in this Act for the low-rate initial production of three additional B-2 aircraft does not constitute a commitment to support the procurement of large numbers of B-2 aircraft, to provide funding in subsequent years for rate production of B-2 aircraft, or to approve a multiyear procurement of B-2 aircraft.

(3) Prior to a commitment to rate production of B-2 aircraft, the President and the Congress should carefully consider the feasibility and desirability, both under a START regime that uses the Reykjavik counting rule or an alternative counting rule for members and in the absence of a START treaty, of—

(A) structuring the strategic bomber force in such a manner that primary reliance would be placed upon bombers carrying cruise missiles rather than bombers having strictly a penetrating role; and

(B) pursuing options for the procurement of significantly fewer than one hundred and thirty-two B-2 aircraft, in the event that a decision is made in the future to procure an operational force of B-2 aircraft, in order to reduce the total acquisition and lifecycle cost of the B-2 program.

SEC. 943. AMERICAN HOSTAGES IN IRAN

It is the Sense of the Senate that the Secretary of Defense and Director of Central Intelligence shall report by September 1, 1989, to the Senate Committee on Armed Services, the House Committee on Armed Services, the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence on efforts to locate American hostages in Lebanon, the resources dedicated to locating these hostages and how additional resources, in terms of funds and personnel, can be effectively utilized to locate these hostages and obtain their release.

SEC. 944. SENSE OF CONGRESS ON PRESIDENTIAL SUPPORT FOR CONTINUED DEVELOPMENT OF THE V-22 OSPREY PROGRAM

(a) FINDINGS.—Congress makes the following findings:

(1) The V-22 tilt-rotor aircraft design is on the leading edge of aerospace technology for short take-off and landing capability.

(2) The V-22 aircraft has the potential of simultaneously conducting helicopter missions farther, faster, and with a larger payload than any rotor-wing aircraft.

(3) The United States Marine Corps has a high priority to modernize its aging CH-46 helicopter fleet.

(4) The V-22 aircraft may be well suited for use by the Special Operations Forces of the Armed Forces.

(5) The V-22 aircraft may have substantial potential for facilitating the accomplishment of essential Army, Navy, and Air Force missions.

(6) There is substantial potential for the technology used in the development and production of the V-22 aircraft to significantly enhance the commercial aviation industry in the United States.

(b) POLICY.—It is the sense of Congress that the President should continue development of the joint services V-22 Osprey program and carry out the comprehensive review of the potential military and civilian uses of the V-22 aircraft as detailed in Senate Report Number 101-81.

SEC. 945. REPORT ON LOSS OF SSI BENEFITS

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the number of members of the Armed Forces who have dependents who are eligible for supplemental security income (SSI) benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.). The Secretary shall include in such report the following:

(1) A statement of the number of dependents of members of the Armed Forces who, as a consequence of members of the Armed Forces being assigned to duty outside the United States, lose their eligibility for supplemental security income (SSI) benefits.

(2) A statement of the total cost of providing SSI benefits to dependents of members of the Armed Forces.

(3) Information indicating whether the Department of Defense provides any benefit for members of the Armed Forces, based upon the blindness or disability of a dependent, similar to SSI benefits provided under title XVI of the Social Security Act.

(4) A discussion of possible programs of assistance that could be established to assist members of the Armed Forces in cases in which dependents lose SSI benefits as a result of accompanying members of the Armed Forces to duty stations outside the United States.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 180 days after the date of the enactment of this Act.

TITLE X—PANAMA CANAL COMMISSION

SEC. 1001. AUTHORIZATION OF EXPENDITURES

(a) IN GENERAL.—The Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments, without regard to fiscal year limitations, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, and improvement of the Panama Canal for fiscal years 1990 and 1991, except that not more than $52,000 for fiscal year 1990 and $56,000 for fiscal year 1991 may be expended for official reception and representation functions, of which—

(1) not more than $12,000 for fiscal year 1990 and $14,000 for fiscal year 1991 may be expended for such purposes by the supervisory board for the Commission;

(2) not more than $6,000 for fiscal year 1990 and $7,000 for fiscal year 1991 may be expended for such purposes by the Secretary of the Commission; and

(3) not more than $34,000 for fiscal year 1990 and $35,000 for fiscal year 1991 may be expended for such purposes by the Administrator of the Commission.

(b) PURCHASE OF PASSENGER MOTOR VEHICLES.—Funds available to the Panama Canal Commission shall be available for the purchase of passenger motor vehicles (including large heavy-duty vehicles) used to transport Commission personnel across the Isthmus of Panama. Such vehicles may be purchased without regard to price limitations prescribed by law or regulation.

SEC. 1002. REPORTING REQUIREMENTS

The Panama Canal Commission shall provide written advance notification to the Committee on Armed Services of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives regarding—

(1) any proposed change in the rates of tolls for use of the Panama Canal;

(2) any payment estimated to be due the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, as provided by section 1341(a) of the Panama Canal Act of 1979 (22 U.S.C. 3751(a)); and

(3) the initiation of any major capital acquisition or construction project exceeding $10,000,000, unless the proposed acquisition or project was included in the budget estimates submitted to Congress for the fiscal year in which the acquisition or project is to be undertaken.

SEC. 1003. GENERAL PROVISIONS

(a) PAY INCREASES.—Funds for the Panama Canal Commission may be obligated, notwithstanding section 1341 of title 31, United States Code, to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the United States in comparable positions.

(b) EXPENSES IN ACCORDANCE WITH LAW.—Expenditures authorized under this title may be made only to the extent they are not prohibited by the Panama Canal Treaties of 1977 and laws implementing those treaties.

(c) This section shall not become effective until the following provisions are enacted into law:

TITLE XI—DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

SEC. 1101. FUNDING OF ACTIVITIES RELATED TO DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

(a) FUNDING.—(1) Of the amounts authorized to be appropriated for the Department of Defense by this Act, $450,000,000 is available from the sources and in the amounts provided in paragraph (2) for carrying out the drug interdiction and law enforcement support activities described in sections 1102 through 1110.

(2) The amounts and sources referred to in paragraph (1) are as follows:

(A) $182,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $28,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $235,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(D) $5,000,000 of amounts appropriated pursuant to Division B for land acquisition and the construction of facilities.

SEC. 1102. LEAD AGENCY FOR DETECTION

(a) IN GENERAL.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide written guidance to the Secretaries of the military departments and to the commanders of the combatant commands on the specific force levels and the specific supporting resources necessary to fulfill the responsibilities of the Department of Defense as the single lead agency for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) GUIDANCE REFERENCE.—The guidance referred to in subsection (a) shall be provided as part of the guidance required by section 113(l) of title 10, United States Code.

(c) FUNDING.—(1) The following amounts from the sources specified shall be available for carrying out the responsibilities referred to in subsection (a):

(A) $160,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $5,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $109,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(2) Not more than $5,000,000 of amounts authorized to be appropriated pursuant to Division B for land acquisition and construction of facilities shall be available for the acquisition of land and the construction of facilities necessary to carry out the responsibilities referred to in subsection (a).

SEC. 1103. COMMUNICATIONS NETWORK

(a) INTEGRATION OF NETWORK.—The Secretary of Defense, in consultation with the Director, National Drug Control Policy, shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to titles I, II, and III for fiscal year 1990, $30,000,000 shall be available for the activities described in subsection (a).

SEC. 1104. DRUG INTERDICTION AND ENFORCEMENT ACTIVITIES OF THE NATIONAL GUARD

(a) FUNDING ASSISTANCE.—The Secretary of Defense shall provide to the Governor of a State who submits a plan to the Secretary under subsection (b) sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of such State used—

(1) for the purpose of drug interdiction and enforcement operations; and

(2) for the operation and maintenance of the equipment and facilities of the National Guard of such State that are used for the purposes described in paragraph (1).

(b) PLAN REQUIREMENTS.—(1) The Secretary shall provide funds under subsection (a) to the Governor of a State who submits to the Secretary a plan specifying how personnel of the National Guard of that State are to be used in drug enforcement and interdiction operations if—

(A) such operations are to be conducted at a time when personnel of a National Guard of the State are under the command and control of the State authority and are not in Federal service; and

(B) participation by National Guard personnel in such operations is service in addition to annual training required under section 502 of title 32, United States Code.

(2)(A) Before funds are provided to the Governor of a State under this section, the Secretary of Defense shall consult with the Attorney General of the United States regarding the adequacy of the plan submitted by the Governor to the Secretary.

(B) If the Governor of a State submits a plan to the Secretary of Defense for assistance under this section, the plan is the same as a plan previously submitted by that State, and funds were provided to the State pursuant to such plan, then funds may be provided to such State under this section without further consultation with the Attorney General.

(c) FUNDING AMOUNTS.—(1) Of the amounts made available pursuant to section 1101, the Secretary shall make available for the purposes of subsection (a)—

(A) $35,000,000 for operations and maintenance of the National Guard; and

(B) $35,000,000 for National Guard personnel.

(2) Amounts made available pursuant to paragraph (1) for the National Guard are in addition to amounts otherwise appropriated for the National Guard for fiscal year 1990.

(d) LIMITATION ON DELEGATION.—The Secretary may delegate the authority of the Secretary under this section only to the Deputy Secretary of Defense, to an Under Secretary of Defense, or to an Assistant Secretary of Defense.

(e) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

(f) EXCLUSION FROM END-STRENGTH COMPUTATION.—Members of the National Guard on full-time National Guard duty for the purposes of administering this section shall not be counted toward the end-strengths authorized in section 422 for members on full-time National Guard duty for the purposes of organizing, administering, recruiting, instructing, or training the reserve components, or toward the strengths authorized in sections 517 and 524 of title 10, United States Code.

(g) DEFINITIONS.—As used in this section:

(1) The term "Governor of a State" means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

(2) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(3) The term "enforcement operations" includes use of National Guard personnel, while not in Federal status, in any law enforcement activities authorized by State and local law and requested by the Governor.

SEC. 1105. MAINTENANCE AND REPAIR OF EQUIPMENT MADE AVAILABLE TO FEDERAL LAW ENFORCEMENT OFFICIALS

(a) IN GENERAL.—The Secretary of Defense shall be responsible during fiscal year 1990 for the maintenance and repair of equipment that has been made available by the Department of Defense to other Federal agencies for use in antidrug efforts or for any use under chapter 18 of title 10, United States Code, because of the potential future utility of such equipment to the Department of Defense. The Secretary shall be responsible for the maintenance and repair of such equipment to the extent that funds are available pursuant to subsection (b).

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III, $20,000,000 shall be available for fiscal year 1990 for the purposes described in subsection (a).

SEC. 1106. RESEARCH AND DEVELOPMENT

(a) IN GENERAL.—The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies concerned with the detection of illicit drugs and other dangerous and illegal substances concealed in containers.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990, $20,000,000 shall be available for the purposes described in subsection (a).

SEC. 1107. CIVIL AIR PATROL

(a) IN GENERAL.—The Secretary of Defense shall pay for expenses incurred by the Civil Air Patrol in conducting drug surveillance flights for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) FUNDS.—Of the funds authorized to be appropriated pursuant to title III for fiscal year 1990, $1,000,000 shall be available for purposes described in subsection (a).

SEC. 1108. TRANSPORTATION OF PERSONNEL, SUPPLIES, AND EQUIPMENT RELATING TO DRUG INTERDICTION AND THE ERADICATION OF ILLEGAL DRUGS IN SOURCE COUNTRIES

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Defense shall transport personnel, supplies, and equipment within the United States and from the United States to a foreign country, by aircraft and ships of the Department of Defense, for the purpose of providing assistance to a counter-drug operation to be carried out in a foreign country by the United States or by a friendly foreign country.

(b) CONDITIONS.—The Secretary may transport personnel, supplies, and equipment pursuant to subsection (a) only if—

(1) the transportation of such personnel, supplies, and equipment is consistent with the foreign policy and counter-drug policy of the United States;

(2) the supplies and equipment to be transported are suitable for use in a counter-drug program;

(3) the personnel, supplies, and equipment to be transported are destined for use in a counter-drug program of the United States or of a friendly country; and

(4) the transportation of such personnel, supplies, and equipment will not adversely affect the military preparedness of the United States.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $15,000,000 shall be available for the purposes described in subsection (a).

SEC. 1109. LOAN OF NATIONAL GUARD EQUIPMENT

(a) IN GENERAL.—(1) The Secretary shall authorize the National Guard to loan any item of equipment to any Federal or State law enforcement agency for use by such agency in carrying out drug enforcement activities. Under such regulations as the Secretary may prescribe, items of equipment loaned by the National Guard to any Federal or State law enforcement agency shall be returned promptly to the National Guard if the Chief of the National Guard Bureau determines that the equipment is needed for operational requirements of the National Guard and requests the Federal or State agency concerned to return such equipment to the National Guard.

(2) To the extent that funds are available pursuant to subsection (c), the Secretary shall maintain, repair, and restore any item of equipment made available to any Federal or State law enforcement agency pursuant to paragraph (1).

(b) CONDITIONS.—The Secretary may make the loan of items of equipment referred to in subsection (a) subject to such minimum standards of care and maintenance as the Secretary considers appropriate. The Secretary may also require, with respect to items of equipment loaned to a law enforcement agency under this section, such minimum training and proficiency requirements on the part of the personnel who are to use such items as the Secretary considers appropriate.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $15,000,000 shall be available for the purposes described in subsection (a).

SEC. 1110. EXCESS PERSONAL PROPERTY

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), during fiscal years 1990 and 1991, the Secretary of Defense, in consultation with the Attorney General of the United States and the Director, National Drug Control Policy, may transfer to Federal and State law enforcement agencies such excess personal property of the Department of Defense, including small arms ammunition, as the Secretary determines suitable for use by such agencies in counter-drug activities. Excess property transferred to any such agency under this section may be transferred without cost to the recipient agency.

(b) The Secretary may transfer excess personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense;

(2) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment; and

(3) the Secretary determines that the transfer of the excess property will not have an adverse impact on the military readiness of the United States.

TITLE XII—MILITARY CHILD CARE

SEC. 1201. DEFINITIONS

For purposes of this title—

(1) The term "military child development center" means a facility on a military installation (or on property under the jurisdiction of a military installation) at which child care services are provided for members of the Armed Forces.

(2) The term "family home day care" means home-based child care services provided on a military installation (or on property under the jurisdiction of a military installation) on a regular basis for compensation for members of the Armed Forces.

(3) The term "child care employee" means a civilian employee of the Department of Defense who is employed to work in a military child development center (regardless of whether the employee is paid from appropriated or nonappropriated funds).

SEC. 1202. FUNDING FOR MILITARY CHILD CARE

(a) IN GENERAL.—(1) Of the amounts authorized to be appropriated by this Act for fiscal year 1990, the Secretary of Defense shall make available for military child development centers in fiscal year 1990 funds equal to 75 percent of the estimated nonappropriated funds of the Department of Defense that are used for the purpose of providing child care for members of the Armed Forces in fiscal year 1990.

(2) The Secretary shall make available for military child development centers in each fiscal year after fiscal year 1990 appropriated funds equal to 100 percent of the estimated nonappropriated funds of the Department of Defense that are used for the purpose of providing child care to members of the Armed Forces in the fiscal year concerned.

(3) The Secretary shall give priority to increasing the number of child care employees who are directly involved in providing child care for members of the Armed Forces and to expanding the availability of child care for such members.

(4) Nonappropriated funds referred to in paragraphs (1) and (2) are those funds that are derived from fees paid by the users of military child care services.

(b) REPORTING REQUIREMENT.—Not later than December 31, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on how the Secretary intends to use the funds referred to in subsection (a)(1), including how the Secretary intends to achieve the priority specified in subsection (a)(3).

SEC. 1203. CHILD CARE EMPLOYEES

(a) TRAINING.—(1) The Secretary of Defense shall establish, and prescribe regulations to implement, a uniform training program for child care employees as a condition of employment.

(2) Under those regulations, the Secretary shall require that each child care employee shall complete the training program not later than six months after the date on which the employee begins to work as a child care employee (except that, in the case of a child care employee hired before the date on which the training program is established, the Secretary shall require that the employee complete the program not later than six months after such date).

(3) The training program established under this subsection shall cover, at a minimum, training in the following:

(A) Early childhood development.

(B) Activities and disciplinary techniques appropriate to children of different ages.

(C) Child abuse prevention and detection.

(D) Cardiopulmonary resuscitation and other emergency medical procedures.

(b) PAY.—(1) The Secretary of Defense shall increase the compensation of child care employees of the Department of Defense who are directly involved in providing child care in accordance with paragraph (2).

(2) For the purpose of enabling child care development centers to compete favorably for a qualified and stable civilian workforce, child care employees who are directly involved in providing child care shall be paid compensation competitive with the compensation paid to other employees at the same installation who are drawn from the same labor pool (whether such employees are paid from appropriated or nonappropriated funds). Payment of compensation under this paragraph shall be carried out as a pilot project for a 2-year period. The payment of child care providers shall be paid at competitive levels not later than 6 months after the date of the enactment of this Act.

(c) TRAINING AND CURRICULUM CHILD CARE EMPLOYEES.—(1) The Secretary of Defense shall require that at each military child development center at least one employee shall be a training and curriculum child care employee. In the case of a military child development center that does not have such a position, such position shall be in addition to existing civil service positions at that center as of the date of the enactment of this Act.

(2) The Secretary shall require appropriate credentials and experience for such employees. The duties of such employees shall include the following:

(A) Special teaching activities at the center.

(B) Daily oversight and instruction of other child care employees at the center.

(C) Daily assistance in the preparation of lesson plans.

(D) Assistance in the center's child abuse prevention and detection program.

(E) Advising the director of the center on the performance of other child care employees.

(3) Each training and curriculum child care employee shall be an employee in a competitive service position.

(d) EMPLOYMENT PREFERENCE FOR MILITARY SPOUSES.—The Secretary of Defense shall provide a preference for qualified spouses of members of the Armed Forces in hiring for, or promoting within, the position of child care employee in a position paid from nonappropriated funds if the spouse is among persons determined to be best qualified for the position. A spouse who is provided a preference under this subsection at a military child development center is not precluded from obtaining another preference, in accordance with section 806 of the Military Family Act of 1985 (10 U.S.C. 113 note), in the same geographical area as the military child development center.

(e) ADDITIONAL CHILD CARE POSITIONS.—In addition to the number of child care development service positions in the Department of Defense as of September 30, 1989, the Secretary of Defense shall make available to the Department, not later than September 30, 1991, an additional 3,700 child care development competitive service positions. The Secretary of Defense shall phase such

additional positions into the military child care centers consistent with the increase in funds provided for under section 1202. All such positions shall be verified in accordance with child care staffing documents. Positions for which such personnel may be used include—

(1) training and curriculum child care employees under subsection (c);

(2) child care administrators (including receptionists and operations clerks);

(3) supplemental care administrators;

(4) director of military child development centers;

(5) family day care coordinators; and

(6) supervisory program assistants to perform administrative and direct care of service functions.

(f) COMPETITIVE SERVICE POSITION DEFINED.—For purposes of this section, the term "competitive service position" means a position to which an employee is appointed and paid in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

SEC. 1204. PARENT FEES

The Secretary of Defense shall prescribe regulations on fees to be charged parents for the attendance of children at military child development centers. Those regulations shall be uniform for the military departments and shall require that fees charged to parents for child care be based on total family income.

SEC. 1205. CHILD ABUSE PREVENTION AND SAFETY

(a) ABUSE TASK FORCE.—The Secretary of Defense shall establish and maintain a special task force to respond in the case of allegations of widespread child abuse at a military child development center. The task force shall be composed of personnel (from both within the Department of Defense and outside the Department of Defense) from a variety of disciplines, including medicine, psychology, childhood development, and building safety. The task force shall provide assistance to base commanders and parents in helping them to deal with such allegations.

(b) NATIONAL HOTLINE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall establish and publicize a national telephone hotline for persons to report (anonymously if desired) suspected child abuse or safety violations at a military child development center or family day care home. The Secretary shall establish a mechanism to follow up on complaints and information received over the hotline.

(c) ASSISTANCE FROM LOCAL AUTHORITIES.—The Secretary of Defense shall prescribe regulations requiring that in a case of allegations of child abuse at a military child development center, the commander of the military installation or the task force established under subsection (a) shall seek the assistance of local child protective authorities if such assistance is appropriate.

(d) SAFETY REGULATIONS.—The Secretary of Defense shall prescribe uniform regulations on safety and operating procedures at military child development centers.

(e) INSPECTIONS.—The Secretary of Defense shall require that each military child development center be inspected at least four times a year. The inspections shall be unannounced. At least one inspection a year shall be carried out by a representative of the base that the center is serving, and one inspection a year shall be carried out by a representative of the major command under which the base operates.

(f) REMEDIES FOR VIOLATIONS.—(1) Except as provided in paragraph (2), any violation of a law or regulation (discovered at an inspection or otherwise) of a military child development center shall be remedied immediately.

(2) In the case of a violation that is not life threatening, the commander of the major command under which the base (that the military child development center is serving) operates may waive the requirement for immediate remediation of the violation for a period of up to 90 days beginning on the date of the discovery of the violation. The violation must be remedied at the end of that 90-day period. If the violation is not remedied as of the end of the period, the military child development center shall be closed until it is remedied unless the Secretary of the military department concerned authorizes the center to remain open in a case in which the violation cannot reasonably be remedied within 90 days or in which major facility reconstruction is required.

(3) In the event of a closing of a military child development center under paragraph (2), the Secretary of the military department concerned shall promptly submit to the Committees on Armed Services of the Senate and House of Representatives a report notifying those committees of the closing. The report shall include notice of the violation that caused the closing, the cost of remedying the violation, and the reasons why the violation has not been remedied as of the time of the report.

(g) REPORT ON COOPERATION WITH DEPARTMENT OF JUSTICE.—(1) The Secretary of Defense shall study areas of interdepartmental concern in military child care. Those areas shall include the following:

(A) Improving communication between the Department of Defense and the Department of Justice in investigations of child abuse at military child development centers and in the coordination of the conduct of such investigations.

(B) Eliminating overlapping responsibilities between those departments.

(C) Making better use of government and nongovernment experts in child abuse investigations and prosecutions.

(D) Improving communication between agencies and affected families.

(2) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the study required by paragraph (1). The report shall include recommendations on methods for improving the areas studied.

(3) The study shall be carried out, and the report shall be prepared, in consultation with the Comptroller General.

SEC. 1206. PARENT PARTNERSHIPS WITH CHILD DEVELOPMENT CENTERS

(a) PARENT BOARDS.—The Secretary of Defense shall require the establishment of a board of parents at each military child development center, to be composed of parents of children attending the center. Each such board shall meet periodically with staff at the military child development center and the commander of the base that the center is serving for the purpose of discussing problems and concerns. The board, together with the center staff, shall be responsible for coordinating the parent participation program described in subsection (b).

(b) PARENT PARTICIPATION PROGRAMS.—The Secretary of Defense shall require the establishment of a parent participation program at each military child development center and at each military family day care home.

SEC. 1207. REPORT ON FIVE-YEAR DEMAND FOR CHILD CARE

(a) REPORT REQUIRED.—The Secretary of Defense shall submit to Congress a report on the expected demand for child care by military and civilian personnel of the Department of Defense over the five-year period beginning on the date of the submission of the report.

(b) PLAN FOR MEETING DEMAND.—The report shall include a plan for meeting that demand and shall set forth the cost of implementing that plan.

(c) MONITORING OF FAMILY DAY CARE PROVIDERS.—The report shall also include a description of methods for monitoring family day care programs of the military departments. For purposes of the preceding sentence, a family day care program is a program in which an individual certified by the Secretary of the military department concerned provides child day care in the individual's home.

(d) TIME FOR SUBMISSION.—The report shall be submitted not later than six months after the date of the enactment of this Act.

SEC. 1208. SUBSIDIES FOR FAMILY HOME DAY CARE

The Secretary of Defense may utilize appropriated or nonappropriated funds available for military child care purposes for the support of family home day care so that family home day care services can be provided to members of the Armed Forces at a cost comparable to the cost of services provided by child development centers.

SEC. 1209. EARLY CHILDHOOD EDUCATION DEMONSTRATION PROGRAM

(a) DEMONSTRATION PROGRAM.—Not later than January 1, 1991, the Secretary of Defense shall ensure that 15 percent of all military child development centers are accredited by an appropriate national early childhood accrediting body. Such centers shall be designated as early childhood education programs and shall serve as models for child development centers and family home day care at military installations.

(b) EVALUATION REQUIRED.—The Secretary shall obtain an independent evaluation of the programs provided for in this section to determine the effectiveness of such programs in promoting the development of preschool children. The Secretary shall report the results of the evaluation to Congress together with such comments and recommendations as the Secretary considers appropriate.

(c) PLAN REQUIRED.—Not later than January 1, 1990, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for meeting the requirements of this section.

SEC. 1210. DEADLINE FOR REGULATIONS

Regulations required to be prescribed by this title shall be prescribed not later than 90 days after the date of the enactment of this Act.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

TITLE XXI—ARMY

PART A—FISCAL YEAR 1990

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of

the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $2,300,000.
Fort McClellan, $2,750,000.
Redstone Arsenal, $18,390,000.
Fort Rucker, $3,600,000.

ALASKA

Fort Richardson, $3,350,000.
Fort Wainwright, $14,800,000.

ARIZONA

Fort Huachuca, $9,900,000.
Yuma Proving Ground, $11,400,000.

CALIFORNIA

Fort Irwin, $4,950,000.
Fort Ord, $2,450,000.
Sacramento Army Depot, $3,900,000.

COLORADO

Fort Carson, $4,700,000.

DISTRICT OF COLUMBIA

Walter Reed Army Medical Center, $11,000,000.

FLORIDA

Key West Naval Air Station, $6,100,000.

GEORGIA

Fort Benning, $12,146,000.
Fort Gordon, $4,000,000.
Fort Stewart, $5,200,000.

HAWAII

Fort Shafter, $9,300,000.
Schofield Barracks, $10,000,000.

ILLINOIS

Melvin Price Support Center, $3,750,000.

INDIANA

Fort Benjamin Harrison, $359,000.

KANSAS

Fort Leavenworth, $5,500,000.
Fort Riley, $12,680,000.

KENTUCKY

Fort Campbell, $30,450,000.
Fort Knox, $14,119,000.

LOUISIANA

Fort Polk, $23,350,000.

MARYLAND

Fort Detrick, $2,300,000.
Fort Meade, $6,200,000.
Fort Ritchie, $630,000.

MASSACHUSETTS

Fort Devens, $3,550,000.

MISSOURI

Fort Leonard Wood, $10,450,000.

NEW JERSEY

Fort Monmouth, $8,600,000.
Picatinny Arsenal, $11,800,000.

NEW YORK

Fort Drum, $70,600,000.

NORTH CAROLINA

Fort Bragg, $32,000,000.

OKLAHOMA

Fort Sill, $17,320,000.
McAlester Army Ammunition Plant, $2,200,000.

PENNSYLVANIA

New Cumberland Army Depot, $14,000,000.

SOUTH CAROLINA

Fort Jackson, $23,000,000.

TEXAS

Corpus Christi Army Depot, $5,200,000.
Fort Bliss, $3,400,000.
Fort Hood, $2,800,000.
Fort Sam Houston, $3,550,000.

UTAH

Dugway Proving Ground, $2,400,000.

VIRGINIA

Fort Belvoir, $23,000,000.
Fort Lee, $1,750,000.
Fort Monroe, $1,100,000.
Fort Story, $3,350,000.

WASHINGTON

Fort Lewis, $770,000.

VARIOUS LOCATIONS

Classified Location, $3,400,000.
Classified Location, $600,000.
Classified Location, $7,500,000.
Classified Location, $3,900,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY

Grafenwoehr, $6,500,000.
Hanau, $14,800,000.
Hohenfels, $9,200,000.
Mainz, $26,400,000.
Stuttgart, $9,400,000.
Vilseck, $8,800,000.
Wuerzburg, $12,000,000.
Various locations, $4,150,000.

KOREA

H-220 Heliport, $4,050,000.

KWAJALEIN ATOLL

Kwajalein, $9,500,000.

PANAMA

Fort Kobbe, $7,200,000.

PUERTO RICO

Fort Buchanan, $690,000.

VARIOUS LOCATIONS

Location 276, $1,950,000.
Classified locations, $6,100,000.

SEC. 2102. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section 2104(a)(6)(A), at the following installations in the number of units, and in the amounts, shown for each installation:

Helemano, Hawaii, ninety units, $10,322,000.

Hickam Air Force Base, Hawaii, twenty units, $2,500,000.

Kaneohe, Hawaii, forty units, $4,700,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may, using amounts appropriated pursuant to section 2104(a)(6)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $1,349,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may, using amounts appropriated pursuant to section 2104(a)(6)(A), improve existing military family housing in an amount not to exceed $36,329,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may—

(1) carry out projects to improve one existing military family housing unit at Fort Leavenworth, Kansas, in the amount of $95,900, of which $86,900 is for concurrent repairs; and

(2) carry out projects to improve four units at Fort Sill, Oklahoma, the improvement of which was authorized by the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), in the amount of $178,088.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,170,314,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $495,814,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $114,380,000.

(3) For the construction of the Central Distribution Center, Phase III, Red River Army Depot, Texas, as authorized by section 2101 of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $39,000,000.

(4) For unspecified minor construction projects authorized under section 2805 of title 10, United States Code, $11,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United Sates Code, $72,420,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $55,200,000; and

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,377,400,000, of which not more than $319,142,000 may be obligated or expended for the leasing of military family housing worldwide.

(7) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $5,100,000, to remain available until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2105. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1495), authorization for the following projects authorized in section 101 of that Act, as extended by section 2107(b) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012) and section 2105(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1179), and section 2106(a) of the Military Construction Authorization Act, 1989 (Public Law 100-456; 102 Stat. 2087) shall remain in effect until October 1, 1991, or the date of enactment of an Act authorizing

funds for military construction for fiscal year 1992, whichever is later:

(1) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(2) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 603(a) of the Military Construction Act, 1986 (Public Law 99-167; 99 Stat. 961), authorizations for the following projects authorized in sections 101 and 102 of that Act, as extended by section 2105(b) of the Military Construction Authorization Act 1988 and 1989 (division B of Public Law 99-180; 101 Stat. 1179) and section 2106(b) of the Military Construction Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), shall remain in effect until October 1, 1991, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Modified record fire range in the amount of $2,850,000 at Nuernberg, Germany.

(2) Family housing, new construction, six units, in the amount of $596,000 at Fort Myer, Virginia.

(3) Flight simulator building in the amount of $2,900,000 at Wiesbaden, Germany.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), authorizations for the following projects authorized in sections 2101, 2102, and 2103 of that Act as extended by section 2106(c) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Aircraft maintenance hangar in the amount of $7,100,000 at Hanau, Germany.

(2) Family housing, new construction, forty units in the amount of $4,100,000 at Crailsheim, Germany.

(d) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1988 PROJECTS.—Notwithstanding the provisions of section 2171 of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1179), authorizations for the following projects authorized in sections 2101 and 2102 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Child development center in the amount of $1,050,000 at Rheinberg, Germany.

(2) Training exercise facility in the amount of $5,900,000 at Einsiedlerhof, Germany.

(3) Operations Building Modifications in the amount of $5,400,000 at Stuttgart, Germany.

(4) Hardstand/tactical equipment shop in the amount of $2,250,000 at Wiesbaden, Germany.

(5) Servicemember support complex in the amount of $5,700,000 at Fort Rucker, Alabama.

(6) Family housing, new construction, twenty-five units, in the amount of $2,200,000 at Fort A.P. Hill, Virginia.

(7) Family housing, new construction, one hundred six units, in the amount of $11,200,000 at Bamberg, Germany.

(8) Family housing, new construction, one hundred fifty-two units, in the amount of $12,600,000 at Baumholder, Germany.

(9) Troop support facility upgrade in the amount of $4,150,000 in Honduras.

(10) Wartime host nation support in the amount of $4,500,000, in Europe, various locations.

PART B—FISCAL YEAR 1991

SEC. 2121. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $34,300,000.

ARKANSAS

Pine Bluff Arsenal, $17,100,000.

OREGON

Umatilla Depot Activity, $45,500,000.

SEC. 2122. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,808,280,000 as follows:

(1) For military construction projects inside the United States authorized by section 2121, $96,900,000.

(2) For the construction of the Central Distribution Center, Phase III, Red River Army Depot, Texas, as authorized by section 2101 of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $39,000,000.

(3) For unspecified minor construction projects authorized under section 2805 of title 10, United States Code, $12,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $96,530,000.

(5) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,558,750,000, of which not more than $453,884,000 may be obligated or expended for the leasing of military family housing worldwide.

(6) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $5,100,000, to remain available until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2121 of this Act may not exceed the total amount authorized to be appropriated under subsection (a).

TITLE XXII—NAVY

PART A—FISCAL YEAR 1990

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Mobile, Navy Station, $3,965,000.

ALASKA

Adak, Naval Air Station, $18,870,000.

ARIZONA

Yuma, Marine Corps Air Station, $900,000.

CALIFORNIA

Camp Pendleton, Marine Corps Air Station, $2,100,000.

Camp Pendleton, Marine Corps Base, $57,600,000.

China Lake, Naval Weapons Center, $17,500,000.

Concord, Naval Weapons Station, $5,640,000.

Coronado, Naval Amphibious Base, $7,770,000.

Coronado, Surface Warfare Officers School Command Detachment, $4,360,000.

El Centro, Naval Air Facility, $7,200,000.

Lemoore, Naval Air Station, $2,100,000.

Moffett Field, Naval Air Station, $1,000,000.

Monterey, Fleet Numerical Oceanography Center, $750,000.

Monterey, Naval Post Graduate School, $16,690,000.

North Island, Naval Air Station, $6,160,000.

San Diego, Fleet Anti-Submarine Warfare Training Center, Pacific, $820,000.

San Diego, Fleet Combat Training Center, Pacific, $3,670,000.

San Diego, Fleet Intelligence Training Center, Pacific, $2,500,000.

San Diego, Fleet Training Center, $12,800,000.

San Diego, Integrated Combat Systems Test Facility, $4,100,000.

San Diego, Marine Corps Recruit Depot, $3,070,000.

San Diego, Naval Hospital, $5,000,000.

San Diego, Naval Ocean Systems Center, $1,300,000.

San Diego, Naval Station, $1,000,000.

San Diego, Naval Submarine Base, $10,800,000.

San Diego, Naval Training Center, $4,800,000.

San Diego, Naval Public Works Center, $4,400,000.

San Francisco, Navy Public Works Center, $3,910,000.

Seal Beach, Naval Weapons Station, $9,000,000.

Tustin, Marine Corps Air Station, $2,990,000.

Twentynine Palms, Marine Corps Air-Ground Combat Center, $3,140,000.

Vallejo, Mare Island Naval Shipyard, $6,300,000.

CONNECTICUT

New London, Naval Submarine Base, $24,250,000.

New London, Naval Submarine School, $8,200,000.

New London, Naval Underwater Systems Center, $12,600,000.

DISTRICT OF COLUMBIA

Washington, Commandant, Naval District, $420,000.

Washington, Naval Observatory, $2,500,000.

FLORIDA

Cecil Field, Naval Air Station, $1,970,000.

Jacksonville, Naval Hospital, $2,080,000.

Orlando, Naval Training Center, $18,400,000.

Panama City, Naval Diving and Salvage Training Center, $4,300,000.

Panama City, Naval Experimental Diving Unit, $2,900,000.

Pensacola, Navy Public Works Center, $2,100,000.

GEORGIA

Albany, Marine Corps Logistics Base, $4,550,000.
Athens, Navy Supply Corps School, $1,000,000.
Kings Bay, Naval Submarine Base, $66,689,000.

HAWAII

Kaneohe Bay, Marine Corps Air Station, $13,150,000.
Lualualei, Naval Magazine, $4,600,000.
Pearl Harbor, Naval Submarine Base, $18,600,000.
Pearl Harbor, Naval Submarine Training Center, Pacific, $5,550,000.
Pearl Harbor, Navy Public Works Center, $750,000.
Wahiawa, Naval Communication Area Master Station Eastern Pacific, $8,000,000.

ILLINOIS

Great Lakes, Naval Hospital, $12,270,000.
Great Lakes, Naval Training Center, $15,900,000.

INDIANA

Crane, Naval Weapons Support Center, $4,000,000.
Indianapolis, Naval Avionics Center, $8,000,000.

MAINE

Brunswick, Naval Air Station, $1,000,000.
Brunswick, Naval Branch Medical Clinic, $2,650,000.
Kittery, Portsmouth Naval Shipyard, $1,000,000.

MARYLAND

Annapolis, Naval Academy, $48,000,000.
Indian Head, Naval Explosive Ordnance Disposal Technology Center, $7,700,000.
Indian Head, Naval Ordnance Station, $10,670,000.
Patuxent River, Naval Air Test Center, $17,000,000.
St. Inigoes, Naval Electronic Systems Engineering Activity, $2,950,000.

MISSISSIPPI

Meridian, Naval Air Station, $11,800,000.
Pascagoula, Naval Station, $2,220,000.

MISSOURI

Kansas City, Marine Corps Support Activity, $10,000,000.

NEVADA

Fallon, Naval Air Station, $1,000,000.

NEW JERSEY

Bayonne, Navy Publications and Printing Service Detachment Office, $1,000,000.
Earle, Naval Weapons Station, $14,270,000.

NEW MEXICO

Elephant Butte, Naval Space Surveillance Field Station, $4,700,000.

NEW YORK

New York, Naval Station, $25,640,000.

NORTH CAROLINA

Camp Lejeune, Marine Corps Base, $28,210,000.
Cherry Point, Marine Corps Air Station, $10,750,000.
New River, Marine Corps Air Station, $23,550,000.

OKLAHOMA

Tinker Air Force Base, Naval Air Detachment, $21,500,000.

PENNSYLVANIA

Philadelphia, Naval Shipyard, $10,000,000.

RHODE ISLAND

Newport, Naval Education and Training Center, $8,000,000.

SOUTH CAROLINA

Beaufort, Marine Corps Air Station, $4,920,000.
Charleston, Naval Supply Center, $700,000.
Charleston, Naval Weapons Station, $4,600,000.

TENNESSEE

Memphis, Naval Air Station, $10,000,000.

TEXAS

Ingleside, Naval Station, $19,720,000.
Lackland Air Force Base, Naval Technical Training Center Detachment, $4,500,000.

VIRGINIA

Chesapeake, Naval Security Group Activity, Northwest, $1,300,000.
Dahlgren, Naval Surface Warfare Center, $1,000,000.
Dam Neck, Marine Environmental Systems Facility, $8,000,000.
Little Creek, Naval Amphibious Base, $5,200,000.
Norfolk, Naval Air Station, $4,400,000.
Norfolk, Naval Eastern Oceanography Center, $680,000.
Norfolk, Naval Supply Center, $6,500,000.
Oceana, Naval Air Station, $12,555,000.
Portsmouth, Norfolk Naval Shipyard, $9,700,000.
Quantico, Marine Corps Combat Development Command, $3,450,000.
Williamsburg, Cheatham Annex, Naval Supply Center, $18,500,000.
Yorktown, Naval Weapons Station, $21,420,000.

WASHINGTON

Bremerton, Naval Hospital, $1,000,000.
Bremerton, Puget Sound Naval Shipyard, $19,900,000.
Bremerton, Puget Sound Naval Supply Center, $690,000.
Everett, Naval Station, $11,200,000.
Keyport, Naval Undersea Warfare Engineering Station, $11,850,000.
Oso, Jim Creek Naval Radio Station, $1,200,000.

VARIOUS LOCATIONS

Land acquisition, $21,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

ASCENSION ISLAND

Naval Communication Detachment, $3,500,000.

AUSTRALIA

Exmouth, Harold E. Holt Naval Communication Station, $610,000.

BAHAMAS

Andros Island, Naval Underwater Systems Center, $4,140,000.

GUAM

Camp Covington, Mobile Construction Battalion, $4,300,000.
Fleet Surveillance Support Command, $27,000,000.
Navy Public Works Center, $4,150,000.

ICELAND

Keflavik, Naval Air Station, $7,500,000.
Keflavik, Naval Communication Station, $8,450,000.

ITALY

Naples, Naval Support Activity, $46,600,000.

PUERTO RICO

Roosevelt Roads, Naval Communication Station, $1,300,000.

UNITED KINGDOM

Edzell, Scotland, Naval Security Group Activity, $5,820,000.

VARIOUS LOCATIONS

Classified location, $5,800,000.
Host Nation Infrastructure Support, $1,000,000.

SEC. 2202. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Navy may, using amounts appropriated pursuant to section 2204(a)(6)(A), construct or acquire family housing units (including land acquisition), at the following installations in the number of units, and in the amount, shown for each installation:

Camp Pendleton, Marine Corps Base, California, one hundred twelve units, $10,150,000.
Long Beach, Naval Station, California, Family Housing Office, $592,000.
San Diego, Navy Public Works Center, California, Family Housing Warehouse, $1,855,000.
San Francisco, Navy Public Works Center, California, three hundred ninety-four units, $28,350,000.
Glenview Naval Air Station, Illinois, one hundred forty units, $15,300,000.
Thurmont, Naval Support Facility, Maryland, eleven units, $1,160,000.
Norfolk, Navy Public Works Center, Virginia, Community Center, $332,000.
Keflavik, Naval Air Station, Iceland, one hundred twelve units, $22,913,000.

(b) PLANNING AND DESIGN.—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2204(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $1,000,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may, using amounts appropriated pursuant to section 2204(a)(6)(A), improve existing military family housing units in the amount of $55,448,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units, and in the amount, shown for each installation:

Long Beach, Naval Station, California, forty-four units, $2,208,200.
San Diego, Navy Public Works Center, California, one unit, $79,900.
Great Lakes, Navy Public Works Center, Illinois, two hundred sixty-two units, $17,198,100.
Lakehurst, Naval Air Engineering Center, New Jersey, thirty-two units, $1,946,400.
Lakehurst, Naval Air Engineering Center, New Jersey, one unit, $80,100.
New York, Naval Station, New York, ten units, $842,000.
New York, Naval Station, New York, ten units, $719,100.
Cherry Point, Marine Corps Air Station, North Carolina, two hundred fourteen units, $13,398,000.
Newport, Naval Education and Training Center, Rhode Island, two hundred twenty units, $13,700,000.

Bangor, Naval Submarine Base, Washington, one hundred units, $5,844,200.

Guantanamo Bay, Naval Station, Cuba, one unit, $104,700.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,879,963,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $918,579,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $114,240,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $14,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $84,970,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $5,810,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $137,100,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $605,264,000 of which not more than $40,800,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $24,000,000 (the balance of the amount authorized for the construction of the Bancroft Hall Expansion, Naval Academy, Annapolis, Maryland).

SEC. 2205. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1179), authorizations for the following projects authorized in section 2121 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Physical security improvements in the amount of $2,460,000 at Naval Air Station, Sigonella, Italy.

(2) Cold-iron utilities support in the amount of $7,480,000 at Naval Support Office, La Maddalena, Italy.

SEC. 2206. COMMUNITY SUPPORT CENTER, MARINE CORPS AIR STATION, EL TORO, CALIFORNIA

(a) CONSTRUCTION AUTHORIZED.—Section 2201 of the Military Construction Authorization Act, 1989 (102 Stat. 2093), is amended by striking out "$3,970,000" after "Marine Corps Air Station El Toro," under the heading "California" and inserting in lieu thereof "$5,016,000".

(b) REPEAL OF PRIOR AUTHORIZATION.—Section 2202(a) of such Act is amended by striking out "and eighty mobile home spaces, $10,120,000" and inserting in lieu thereof ", $9,074,000".

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 2205(a)(1) of such Act is amended by striking out "$1,296,450,000" and inserting in lieu thereof "1,297,496,000".

(2) Section 2205(a)(6)(A) of such Act is amended by striking out "$250,770,000" and inserting in lieu thereof "249,724,000".

SEC. 2207. CONSTRUCTION OF MILITARY FAMILY HOUSING AT MARINE CORPS AIR STATION, TUSTIN, CALIFORNIA

(a) AUTHORITY TO USE LITIGATION PROCEEDS.—Notwithstanding any other provision of law and subject to subsections (b) through (e), upon final settlement in the case of Rossmoor Liquidating Trust v. United States, filed in the United States District Court for the Central District of California (Case No. CV 82-0956 LEW (Px)), the Secretary of the Navy may use any funds paid to the United States in settlement of such case solely for the construction of military family housing at Marine Corps Air Station, Tustin, California.

(b) UNITS AUTHORIZED.—Not more than 150 military family housing units may be constructed with funds referred to in subsection (a). The units authorized by this subsection are in addition to any units otherwise authorized to be constructed at Marine Corps Air Station, Tustin, California.

(c) PAYMENT OF EXCESS INTO TREASURY.—Any funds referred to in subsection (a) that are not obligated for construction authorized in subsection (b) within 5 years after final payment of such funds is received by the United States shall be covered into the Treasury as miscellaneous receipts.

(d) APPLICATION OF CHAPTER 169 OF TITLE 10.—The construction of new units of military family housing authorized in subsection (b) shall be subject to the applicable provisions of chapter 169 of title 10, United States Code.

(e) LIMITATION.—The Secretary may not enter into any contract for the construction of military family housing authorized by this section until after the expiration of the 21-day period beginning on the day after the day on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report containing the details of the contract.

PART B—FISCAL YEAR 1991

SEC. 2221. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ARIZONA

Yuma, Marine Corps Air Station, $3,000,000.

CALIFORNIA

San Diego, Naval Hospital, $1,500,000.

Twentynine Palms, Marine Corps Air-Ground Combat Center, $3,600,000.

FLORIDA

Orlando, Naval Training Center, $17,900,000.

GEORGIA

Kings Bay, Naval Submarine Base, $75,231,000.

NORTH CAROLINA

Camp Lejeune, Marine Corps Base, $3,000,000.

Cherry Point, Marine Corps Air Station, $1,000,000.

TEXAS

Lackland Air Force Base, Naval Technical Training Center Detachment, $11,800,000.

VIRGINIA

Dam Neck, Marine Environmental Systems Facility, $8,000,000.

Little Creek, Naval Amphibious Base, $12,400,000.

WASHINGTON

Everett, Naval Station, $22,150,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GUAM

Fleet Surveillance Support Command, $30,000,000.

ICELAND

Keflavik, Naval Air Station, $1,000,000.

SEC. 2222. FAMILY HOUSING

The Secretary of the Navy may, using amounts appropriated pursuant to section 2223(a)(5)(A), construct or acquire family housing units (including land acquisition), at the following installations in the number of units, and in the amount, shown for each installation:

New York, Naval Station, New York, one hundred fifty units, $19,600,000.

Keflavik, Naval Air Station, Iceland, one hundred twelve units, $27,200,000.

SEC. 2223. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,009,780,000 as follows:

(1) For military construction projects inside the United States authorized by section 2221(a), $159,581,000.

(2) For military construction projects outside the United States authorized by section 2221(b), $31,000,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $15,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $81,999,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $46,800,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $674,900,000 of which not more than $66,421,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2221 of this Act may not exceed the total amount authorized to be appropriated

under paragraphs (1) and (2) of subsection (a).

TITLE XXIII—AIR FORCE

PART A—FISCAL YEAR 1990

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALABAMA

Gunter Air Force Base, $12,100,000.

ALASKA

Clear Air Force Station, $5,000,000.
Eielson Air Force Base, $21,000,000.
Elmendorf Air Force Base, $2,400,000.
King Salmon Airport, $8,000,000.
Shemya Air Force Base, $22,700,000.

ARIZONA

Davis-Monthan Air Force Base, $8,200,000.
Luke Air Force Base, $3,970,000.
Williams Air Force Base, $1,850,000.

CALIFORNIA

Beale Air Force Base, $13,472,000.
Castle Air Force Base, $3,900,000.
Edwards Air Force Base, $18,900,000.
McClellan Air Force Base, $18,230,000.
Onizuka Air Force Station, $14,800,000.
Travis Air Force Base, $9,000,000.
Vandenberg Air Force Base, $11,500,000.

COLORADO

Lowry Air Force Base, $3,550,000.
Peterson Air Force Base, $16,200,000.

DELAWARE

Dover Air Force Base, $8,300,000.

FLORIDA

Cape Canaveral Air Force Station, $89,000,000.
Eglin Air Force Base, $12,100,000.
Eglin Air Force Base, Auxiliary Field 9, $21,900,000.
Homestead Air Force Base, $7,350,000.
MacDill Air Force Base, $7,540,000.
Patrick Air Force Base, $3,800,000.
Tyndall Air Force Base, $7,300,000.

GEORGIA

Robins Air Force Base, $34,050,000.

HAWAII

Hickam Air Force Base, $530,000.

INDIANA

Grissom Air Force Base, $2,150,000.

LOUISIANA

Barksdale Air Force Base, $7,700,000.
England Air Force Base, $10,300,000.

MAINE

Loring Air Force Base, $8,500,000.

MARYLAND

Andrews Air Force Base, $5,550,000.

MASSACHUSETTS

Hanscom Air Force Base, $5,600,000.

MICHIGAN

K.I. Sawyer Air Force Base, $4,300,000.

MISSISSIPPI

Columbus Air Force Base, $1,200,000.

MISSOURI

Whiteman Air Force Base, $47,500,000.

MONTANA

Malmstrom Air Force Base, $32,100,000.

NEBRASKA

Offutt Air Force Base, $1,150,000.

NEVADA

Nellis Air Force Base, $4,800,000.

NEW JERSEY

McGuire Air Force Base, $4,900,000.

NEW MEXICO

Holloman Air Force Base, $17,350,000.
Kirtland Air Force Base, $18,350,000.

NEW YORK

Plattsburgh Air Force Base, $9,900,000.

NORTH CAROLINA

Seymour Johnson Air Force Base, $4,500,000.

OHIO

Newark Air Force Base, $2,980,000.
Wright Patterson Air Force Base, $11,760,000.

OKLAHOMA

Altus Air Force Base, $5,200,000.
Tinker Air Force Base, $56,800,000.

SOUTH CAROLINA

Charleston Air Force Base, $4,650,000.
Myrtle Beach Air Force Base, $2,350,000.
Shaw Air Force Base, $5,700,000.

SOUTH DAKOTA

Ellsworth Air Force Base, $11,350,000.

TEXAS

Carswell Air Force Base, $650,000.
Goodfellow Air Force Base, $3,300,000.
Kelly Air Force Base, $22,030,000.
Lackland Air Force Base, $34,250,000.
Lackland Training Annex, $1,994,000.
Laughlin Air Force Base, $5,350,000.
Randolph Air Force Base, $630,000.
Reese Air Force Base, $4,630,000.

UTAH

Hill Air Force Base, $15,650,000.

VIRGINIA

Langley Air Force Base, $3,300,000.

WASHINGTON

Fairchild Air Force Base, $14,200,000.

WYOMING

F.E. Warren Air Force Base, $104,850,000.

VARIOUS LOCATIONS

United States, $5,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

CANADA

Various Locations, $24,000,000.

GERMANY

Hahn Air Base, $4,120,000.
Mehlingen Communications Annex, $1,100,000.
Ramstein Air Base, $11,600,000.
Rhein-Main Air Base, $3,880,000.
Sembach Air Base, $1,250,000.
Spangdahlem Air Base, $6,450,000.
Zweibrucken Air Base, $6,100,000.

GUAM

Andersen Air Force Base, $6,500,000.

HONDURAS

La Mesa Air Base, $10,200,000.
San Lorenzo Air Base, $4,900,000.

ICELAND

Naval Air Station, Keflavik, $7,400,000.

ITALY

Aviano Air Base, $2,250,000.
San Vito Air Station, $2,750,000.

KOREA

Osan Air Base, $3,100,000.

OMAN

Seeb, $2,200,000.
Thumrait, $23,600,000.

PANAMA

Howard Air Force Base, $7,210,000.

PHILIPPINES

Clark Air Base, $29,310,000.
Wallace Air Station, $4,150,000.

PORTUGAL

Lajes Field, $10,000,000.

TURKEY

Balikesir Radio Relay Site, $3,600,000.
Erhac Air Base, $2,750,000.
Incirlik Air Base, $1,100,000.

UNITED KINGDOM

Bovingdon Radio Relay Site, $400,000.
RAF Alconbury, $1,300,000.
RAF Barford St. John, $490,000.
RAF Bentwaters, $2,450,000.
RAF Christmas Common Radio Relay Site, $210,000.
RAF Fairford, $1,350,000.
RAF Mildenhall, $1,650,000.
RAF Upper Heyford, $5,350,000.

VARIOUS LOCATIONS

Classified location, $740,000.
Classified location, $15,000,000.

SEC. 2302. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(7)(A), construct or acquire family housing units (including land acquisition) at the following installations in the number of units, and in the amount, shown for each installation:

Kelly Air Force Base, Texas, eleven units, $1,619,000.
Ramstein Air Base, Germany, two hundred units, $18,722,000.
Osan Air Base, Korea, one unit, $117,000.
Beale Air Force Base, California, housing office, $295,000.
Edwards Air Force Base, California, housing office, $327,000.
Scott Air Force Base, Illinois, housing office, $407,000.
England Air Force Base, Louisiana, housing maintenance facility, $226,000.
Tinker Air Force Base, Oklahoma, housing office, $291,000.
Myrtle Beach Air Force Base, South Carolina, housing maintenance facility, $382,000.

(b) PLANNING AND DESIGN.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(7)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $8,000,000.

SEC. 2303. IMPROVEMENT TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(7)(A), improve existing military family housing units in an amount not to exceed $250,411,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Maxwell Air Force Base, Alabama, eight units, $357,000; eight units, $800,000; one unit, $108,000; thirty-two units, $1,548,000;

seven units, $728,000; thirty-five units, $1,879,000.

Elmendorf Air Force Base, Alaska, eighty-eight units, $9,578,000; forty units, $4,451,000.

Eielson Air Force Base, Alaska, fifty-one units, $5,669,000.

Davis-Monthan Air Force Base, Arizona, five units, $200,000.

Eaker Air Force Base, Arkansas, one hundred eighty-eight units, $11,500,000.

Millella Air Force Base, California, fifteen units, $1,004,000.

Travis Air Force Base, California, one hundred forty-two units, $7,691,000; one hundred forty-four units, $7,560,000.

Peterson Air Force Base, Colorado, thirty-two units, $1,438,000.

Bolling Air Force Base, District of Columbia, forty units, $1,683,000.

MacDill Air Force Base, Florida, forty-four units, $2,456,000.

Tyndall Air Force Base, Florida, forty units, $2,441,000.

Scott Air Force Base, Illinois, four units, $250,000; eighty units, $4,076,000.

England Air Force Base, Louisiana, one hundred one units, $4,208,000.

Whiteman Air Force Base, Missouri, fifteen units, $970,000.

Nellis Air Force Base, Nevada, thirty-two units, $1,727,000.

Holloman Air Force Base, New Mexico, one hundred twenty-three units, $5,710,000; one unit, $47,000.

Wright-Patterson Air Force Base, Ohio, twenty-five units, $2,253,000.

Myrtle Beach Air Force Base, South Carolina, one hundred twenty-five units, $5,549,000.

Bergstrom Air Force Base, Texas, two units, $149,000.

Carswell Air Force Base, Texas, one hundred nineteen units, $5,432,000.

Kelly Air Force Base, Texas, seventy-nine units, $3,650,000; thirty-three units, $1,750,000.

Randolph Air Force Base, Texas, one hundred twenty-four units, $4,136,000; one unit, $78,000.

Sheppard Air Force Base, Texas, one hundred thirty-six units, $5,265,000.

Langley Air Force Base, Virginia, eighty-six units, $5,398,000.

Fairchild Air Force Base, Washington, two hundred thirty units, $12,162,000; two hundred two units, $10,759,000.

Ramstein Air Base, Germany, one unit, $137,000; twenty-four units, $2,180,000; thirty-eight units, $2,681,000.

Spangdahlem Air Base, Germany, four units, $302,000.

Andersen Air Base, Guam, two hundred units, $17,817,000.

RAF Alconbury, United Kingdom, one unit, $55,000.

RAF Bentwaters, United Kingdom, eighty-three units, $4,610,000.

RAF Chicksands, United Kingdom, thirty-four units, $3,027,000.

RAF Lakenheath, United Kingdom, fourteen units, $1,153,000; sixty units, $3,408,000.

RAF Mildenhall, United Kingdom, two units, $89,000.

(c) WAIVER OF SPACE LIMITATIONS FOR FAMILY HOUSING UNITS.—(1) To support the United States Air Forces in Europe and Military Airlift Command, the Secretary of the Air Force may carry out improvement projects to add to and alter existing family housing units and, notwithstanding section 2826(a) of title 10, United States Code, to—

(A) increase the net floor area of one family housing unit at Ramstein Air Base, Germany, to not more than 3,045 square feet; and

(B) increase the net floor area of four family housing units at Scott Air Force Base, Illinois, to not more than 2,470 square feet.

(2) To support the Air Force Logistics Command and Pacific Air Forces, the Secretary of the Air Force may, notwithstanding section 2826(a) of title 10, United States Code, carry out new construction projects—

(A) to build five family housing units at Kelly Air Force Base, Texas, to not more than 3,000 square feet; and

(B) to convert one building to a family housing unit at Osan Air Base, Korea, to contain not more than 3,000 square feet.

(3) For purposes of this subsection, the term "net floor area" has the same meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,369,540,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $897,460,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $199,825,000.

(3) For the construction of the Large Rocket Test Facility, Arnold Engineering Development Center, Tennessee, as authorized by section 2301(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $66,000,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $24,350,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $106,094,000.

(6) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $3,000,000.

(7) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $280,797,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $760,208,000 of which not more than $96,000,000 may be obligated or expended, for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2305. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECT.—Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 961), authorization for the following project authorized in section 301 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

GEODSS Site 5, Portugal, Composite Support Facility in the amount of $2,250,000 and Spacetrack Observation Facility in the amount of $12,400,000.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECT.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), authorization for the following project authorized in section 2301 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

KC-135 CPT Simulator Facility in the amount of $760,000 at Beale Air Force Base, California.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1988 PROJECTS.—Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1179), authorization for the following projects authorized in sections 2131 and 2132 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) KC-135 CPT Simulator Facility, in the amount of $1,150,000 at Loring Air Force Base, Maine.

(2) Thirty-four family housing units in the amount of $2,530,000 at Holbrook, Arizona.

SEC. 2306. GRANT FOR CONSTRUCTION OF A SCHOOL AT ELLSWORTH AIR FORCE BASE, SOUTH DAKOTA

(a) AUTHORITY TO MAKE GRANT.—The Secretary of the Air Force may, subject to subsections (b) through (d), make a grant to the Douglas School District, South Dakota, in an amount not to exceed $7,250,000.

(b) CONDITIONS OF GRANT.—A grant made pursuant to subsection (a) shall be subject to the following conditions:

(1) The grant funds shall be used by the Douglas School District for construction of a middle school primarily for dependents of Armed Forces personnel assigned to duty at Ellsworth Air Force Base, North Dakota.

(2) The balance of any such funds not expended for such purpose shall be returned to the Secretary.

(c) UNUSED FUNDS.—Funds returned to the Secretary pursuant to subsection (b)(2) shall be covered into the Treasury as miscellaneous receipts.

PART B—FISCAL YEAR 1991

SEC. 2321. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALASKA

Shemya Air Force Base, $51,500,000.

COLORADO

Falcon Air Force Station, $2,000,000.
Peterson Air Force Base, $1,550,000.

OKLAHOMA

Altus Air Force Base, $7,900,000.

SOUTH CAROLINA

Charleston Air Force Base, $8,740,000.

TEXAS

Lackland Air Force Base, $22,500,000.

WYOMING

F.E. Warren Air Force Base, $6,450,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY

Hahn Air Base, $7,200,000.

PHILIPPINES

Clark Air Base, $5,190,000.

WORLDWIDE CLASSIFIED

Classified location, $5,910,000.

SEC. 2322. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,146,996,000, as follows:

(1) For military construction projects inside the United States authorized by section 2321(a), $100,640,000.

(2) For military construction projects outside the United States authorized by section 2321(b), $18,300,000.

(3) For the construction of the Large Rocket Test Facility, Arnold Engineering Development Center, Tennessee, as authorized by section 2301(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $66,300,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $12,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $114,756,000.

(6) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $835,000,000 of which not more than $138,632,000 may be obligated or expended, for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2321 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2323. AMENDMENT TO SECTION 2301 OF PUBLIC LAW 100-456

(a) INCREASED AUTHORITY.—Section 2301(a), title XXIII, of Public Law 100-456, September 29, 1988 is amended by striking out "Arnold Engineering Development Center, $213,800,000." and inserting in lieu thereof "Arnold Engineering Development Center, $256,800,000.".

(b) RESTRICTION.—This amendment shall not take effect unless and until the requirement for the Large Rocket Test Facility (J-6) has been validated by the Department of Defense and so certified to the Committees on Armed Services of the Senate and the House of Representatives.

TITLE XXIV—DEFENSE AGENCIES

PART A—FISCAL YEAR 1990

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE LOGISTICS AGENCY

Defense Depot, Tracy, California, $24,000,000.

Defense Reutilization and Marketing Office, Eglin Air Force Base, Florida, $2,750,000.

Defense Fuel Support Point, Searsport, Maine, $2,700,000.

Defense Construction Supply Center, Columbus, Ohio, $26,600,000.

Defense Personnel Support Center, Philadelphia, Pennsylvania, $3,800,000.

Defense General Supply Center, Richmond, Virginia, $6,066,000.

Defense Fuel Support Point, Manchester, Washington, $22,600,000.

DEFENSE MEDICAL FACILITIES OFFICE

Maxwell Air Force Base, Alabama, $1,600,000.

Naval Air Station, Mobile, Alabama, $3,000,000.

Naval Air Station, Adak, Alaska, $18,000,000.

Marine Corps Air Station, Twenty-Nine Palms, California, $38,000,000.

Hurlburt Field, Florida, $6,000,000.

Naval Air Station, Jacksonville, Florida, $2,400,000.

Patrick Air Force Base, Florida, $2,700,000.

Andrews Air Force Base, Maryland, $2,900,000.

Naval Station, Pascagoula, Mississippi, $2,548,000.

Nellis Air Force Base, Nevada, $62,000,000.

Lackland Air Force Base, Texas, $6,000,000.

Naval Station, Ingleside, Texas, $2,300,000.

Portsmouth Naval Hospital, Virginia, $330,000,000.

DEFENSE NUCLEAR AGENCY

Armed Forces Radiobiology Research Institute, Bethesda, Maryland, $900,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, $21,444,000.

OFFICE OF THE SECRETARY OF DEFENSE

The Pentagon, Arlington, Virginia, $3,500,000.

Classified Location, $4,500,000.

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Bethesda, Maryland, $600,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Falcon Air Force Station, Colorado, $123,000,000.

Nellis Air Force Base, Nevada, $6,542,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE MEDICAL FACILITIES OFFICE

Camp Carroll, Korea, $7,900,000.

Camp Garry Owen, Korea, $800,000.

Zaragoza Air Base, Spain, $680,000.

Royal Air Force, Chessington, United Kingdom, $12,200,000.

Royal Air Force, Lanark, United Kingdom, $15,000,000.

DEFENSE NUCLEAR AGENCY

Johnston Atoll, $6,168,000.

DEPARTMENT OF DEFENSE SCHOOLS

Naval Air Station, Bermuda, $4,810,000.

Augsburg, Germany, $6,300,000.

Frankfurt, Germany, $7,101,000.

Grafenwoehr, Germany, $4,186,000.

Hohenfels, Germany, $17,079,000.

Royal Air Force, Bicester, United Kingdom, $6,275,000.

Royal Air Force, Upwood, United Kingdom, $4,175,000.

Various Locations, $6,600,000.

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, $1,155,000.

Roosevelt Roads, Puerto Rico, $6,541,000.

NATIONAL SECURITY AGENCY

Classified Location, $23,000,000.

SEC. 2402. FAMILY HOUSING

The Secretary of Defense, may, using amounts appropriated pursuant to section 2405(a)(11)(A), construct or acquire three family housing units (including land acquisition) at classified locations in the total amount not to exceed $400,000.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may, using amounts appropriated pursuant to section 2405(a)(11)(A), improve existing military family housing units in an amount not to exceed $200,000.

SEC. 2404. CONFORMING STORAGE FACILITIES

Section 2404(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012) is amended to read as follows:

"(a) AUTHORITY TO CONSTRUCT.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987, using not more than $5,000,000 appropriated for fiscal year 1988, using not more than $9,300,000 appropriated for fiscal year 1989, and using not more than $11,000,000 appropriated for fiscal year 1990, carry out military construction projects not otherwise authorized by law for conforming storage facilities.".

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $584,500,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $229,950,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $122,670,000.

(3) For military construction projects at Fort Sill, Oklahoma, as authorized by section 2401(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $27,000,000.

(4) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), $53,000,000.

(5) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1495), $16,000,000.

(6) For unspecified minor constructed projects under section 2805 of title 10, United States Code, $13,100,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(8) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $80,480,000.

(9) For conforming storage facilities construction under the authority of section 2404 of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), $11,000,000.

(10) For military family housing functions—

(A) for construction and acquisition of military family housing facilities, $600,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $19,800,000, of which not more than $17,825,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed—

(1) the total amount authorized to be appropriated under paragraph (1) and (2) of subsection (a); and

(2) $321,500,000 (the balance of the amount authorized under section 2401(a) for the construction of a medical facility at Portsmouth Naval Hospital, Virginia).

SEC. 2406. PORTSMOUTH NAVAL HOSPITAL, VIRGINIA

The Secretary of Defense may, in advance of appropriations therefor, enter into one or more contracts for the design and construction of the military construction project authorized by section 2401 to be accomplished at Portsmouth Naval Hospital, Virginia, if each such contract limits the payments that the Federal Government is obligated to make under such contract to the amount of appropriations available for obligation under such contract, at the time the contract is executed.

SEC. 2407. MEDICAL FACILITY, FORT SILL, OKLAHOMA

(a) PROJECT AMOUNT.—Section 2401 of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087) is amended in the items listed under the heading "Defense Medical Facilities Office", by striking out "Fort Sill, Oklahoma, $54,000,000." and inserting in lieu thereof "Fort Sill, Oklahoma, $68,000,000.".

(b) TITLE TOTAL.—Section 2407(b)(2) of such Act is amended by striking out "$27,000,000" and inserting in lieu thereof "$41,000,000".

SEC. 2408. CONSOLIDATED MEDICAL FACILITY, NELLIS AIR FORCE BASE, NEVADA

The Secretary of Defense may, in advance of appropriations for the project, enter into one or more contracts for the design and construction of the military construction project authorized by section 2401 to be constructed at Nellis Air Force Base, Nevada, if each contract limits the payments that the United States is obligated to make under the contract to the amount of appropriations available for obligation under the contract as of the time the contract is entered into.

SEC. 2409. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

(a) EXTENSION OF CERTAIN 1987 PROJECT.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), authorization for the Defense Fuel Support Point, Charleston, South Carolina, in the amount of $5,530,000, in section 2401(a) of that Act shall remain in effect until October 1, 1991, or until the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later.

(b) EXTENSION OF CERTAIN 1988 PROJECTS.—Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1179), authorizations for the following projects authorized in section 2141 of that Act shall remain in effect until October 1, 1991, or until the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Fuel Tankage, in the amount of $9,400,000 at Defense Fuel Supply Point, Key West, Florida.

(2) Connector Warehouse, in the amount of $18,500,000 at Defense General Supply Center, Richmond, Virginia.

(3) Second Echelon Medical Storage Facility, Iraklion, Greece, $340,000.

(4) Composite Medical Facility, Misawa Air Base, Japan, $4,700,000.

PART B—FISCAL YEAR 1991

SEC. 2421. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

OFFICE OF THE SECRETARY OF DEFENSE

The Pentagon, Arlington, Virginia, $76,300,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Nevada Test Site, Nevada, $5,350,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, $4,200,000.

SEC. 2422. CONFORMING STORAGE FACILITIES

Section 2404(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), as amended by section 2404 of this Act, is further amended by inserting "and using not more than $15,000,000 appropriated for fiscal year 1991," after "fiscal year 1990,".

SEC. 2423. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $500,750,000, as follows:

(1) For military construction projects inside the United States authorized by section 2421(a), $81,650,000.

(2) For military construction projects outside the United States authorized by section 2421(b), $4,200,000.

(3) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), $84,000,000.

(4) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a), $176,000,000.

(5) For unspecified minor constructed projects under section 2805 of title 10, United States Code, $14,200,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(7) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $94,400,000.

(8) For conforming storage facilities construction under the authority of section 2404 of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), $15,000,000.

(9) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $21,300,000, of which not more than $18,135,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2421 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

PART A—FISCAL YEAR 1990

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 of this Act and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501 of this Act, in the amount of $462,300,000.

PART B—FISCAL YEAR 1991

SEC. 2521. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United

States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2522 of this Act and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2522. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2521 of this Act, in the amount of $503,600,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

PART A—FISCAL YEAR 1990

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $175,109,000, and

(B) for the Army Reserve, $91,455,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $50,900,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $216,180,000, and

(B) for the Air Force Reserve, $46,200,000.

PART B—FISCAL YEAR 1991

SEC. 2621. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $119,500,000, and

(B) for the Army Reserve, $61,900,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $53,300,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $107,200,000, and

(B) for the Air Force Reserve, $38,500,000.

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—(1) Except as provided in subsection (b)(1), all authorizations contained in part A of each of titles XXI, XXII, XXIII, XXIV, and XXV for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later.

(2) Except as provided in subsection (b)(2), all authorizations contained in part B of each of titles XXI, XXII, XXIII, XXIV, and XXV for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1992, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1993, whichever is later.

(b) EXCEPTIONS.—(1) The provisions of subsection (a)(1) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later, for construction contracts, land acquisitions, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

(2) The provisions of subsection (a)(2) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1992, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later, for construction contracts, land acquisitions, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 2702. EFFECTIVE DATE

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on October 1, 1989, or the date of enactment of this Act, whichever is later.

TITLE XXVIII—GENERAL PROVISIONS

PART A—MILITARY CONSTRUCTION PROGRAM CHANGES

SEC. 2801. FAMILY HOUSING RENTAL GUARANTEE PROGRAM

Section 802(b) of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(1) by striking out clause (11) and inserting in lieu thereof the following:

"(11) shall include a provision authorizing the Secretary of the military department concerned, or the Secretary of Transportation with respect to the Coast Guard, to take such action as the Secretary considers appropriate to protect the interests of the United States, including rendering the agreement null and void if, in the opinion of the Secretary, the owner of the housing fails to maintain a satisfactory level of operation and maintenance;";

(2) by striking out the period at the end of clause (12) and inserting in lieu thereof a semicolon; and

(3) by adding after clause (12) the following new clauses:

"(13) may provide that utilities, trash collection, snow removal, and entomological services will be furnished by the United States at no cost to the occupant to the same extent that those services are furnished to occupants of housing owned by the Federal Government; and

"(14) may require that rent collection and operation and maintenance services in connection with the housing be performed under the terms of a separate agreement or by personnel of the Federal Government.".

SEC. 2802. LEASING OF MILITARY FAMILY HOUSING

Section 2828 of title 10, United States Code, is amended—

(1) in subsection (b)(2), by striking out "$10,000" and inserting in lieu thereof "$12,000";

(2) in subsection (b)(3)—

(A) by striking out "(A) Except as provided in subparagraph (B), not" and inserting in lieu thereof "Not";

(B) by striking out "$10,000" and "$12,000" and inserting in lieu thereof "$12,000" and "$14,000", respectively; and

(C) by striking out subparagraph (B);

(3) in subsection (e)(1), by striking out the period at the end of the first sentence and inserting in lieu thereof ", adjusted annually for inflation and foreign currency fluctuations occurring after September 30, 1987."; and

(4) in subsection (e)(2), by striking out "38,000" and inserting in lieu thereof "53,419".

SEC. 2803. LONG-TERM FACILITIES CONTRACTS

Section 2809 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking out "identified the proposed project in the budget proposal submitted to Congress and has";

(2) in subsection (b), by inserting "and potable and waste water treatment services" after "child care centers"; and

(3) in subsection (c), by striking out "1989" and inserting in lieu thereof "1991".

SEC. 2804. IMPROVEMENTS TO FAMILY HOUSING UNITS

Section 2825(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by striking out "limitation contained in paragraph (1)" in paragraph (3), as redesignated by clause (1), and inserting in lieu thereof "limitations contained in paragraphs (1) and (2)"; and

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Secretary concerned may expend funds in any fiscal year for the improvement of not more than three housing units in an amount in excess of the limitation specified in paragraph (1) if the amount expended in excess of such limitation is necessary to make the unit suitable for habitation by a handicapped person. In no event may the cost of the improvements to any such unit exceed $100,000.".

SEC. 2805. DOMESTIC BUILD-TO-LEASE PROGRAM

Section 2828(g) of title 10, United States Code, is amended—

(1) in paragraph (8)(C)(ii), by striking out "2,000" and inserting in lieu thereof "4,000";

(2) in paragraph (8)(C)(iii), by striking out "2,100" and inserting in lieu thereof "3,600"; and

(3) in paragraph (9), by striking out "1989" and inserting in lieu thereof "1991".

SEC. 2806. TURN-KEY SELECTION PROCEDURES

Section 2862 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out the second sentence; and

(2) in subsection (c), by striking out "1990" and inserting in lieu thereof "1991".

SEC. 2807. AUTHORIZED COST VARIATIONS

Section 2853 of title 10, United States Code, is amended to read as follows:

"§ 2853. Authorized cost variations

"(a) Subject to subsection (c), the cost authorized for a military construction project or for the construction, improvement, or acquisition of a military family housing project may be increased by not more than 25 percent of the amount appropriated for such project or by 200 percent of the minor construction project ceiling specified in section 2805(a)(1) of this title, whichever is less, if the Secretary concerned determines (A) that such an increase in cost is required for the sole purpose of meeting unusual variations in cost, and (B) that such variations in cost could not have reasonably been anticipated at the time the project was originally approved by Congress.

"(b) Subject to subsection (c), the scope of work for a military construction project or for the construction, improvement, or acquisition of a military family housing project may be reduced by not more than 25 percent from the amount approved by Congress.

"(c) The limitation on cost increase in subsection (a) or the limitation on scope reduction in subsection (b) does not apply if—

"(1) the increase in cost or reduction in scope is approved by the Secretary concerned;

"(2) the Secretary concerned notifies the appropriate committees of Congress in writing of the increase or reduction and the reasons therefor; and

"(3) a period of 21 days has elapsed after the date on which the notification is received by the committees.

"(d) The limitations on cost increases in subsection (a) do not apply to within scope modifications under an existing contract or to the settlement of a contractor claim under an existing contract if the increase in cost is approved by the Secretary concerned and a written notification of the facts relating to the proposed increase in cost is submitted by the Secretary concerned to the appropriate committees of Congress.".

SEC. 2808. CONSTRUCTION AND ACQUISITIONS THROUGH NATO GOVERNMENTS

Section 2343 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Sections 2207 and 2306(b) of this title and section 3741 of the Revised Statutes (41 U.S.C. 22) shall not apply to military construction projects or family housing projects that are constructed or acquired through Governments of the North Atlantic Treaty Organization countries or North Atlantic Treaty Organization subsidiary bodies for elements of the armed forces deployed in Europe and adjacent waters.".

SEC. 2809. UNSPECIFIED MINOR CONSTRUCTION

Section 2805 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out "$1,000,000" and inserting in lieu thereof "$1,500,000"; and

(2) in subsection (c)(1), by striking out "$200,000" and inserting in lieu thereof "$300,000".

SEC. 2810. LEASE-PURCHASE OF FACILITIES

(a) IN GENERAL.—Chapter 169 of title 10, United States Code, is amended by adding at the end of subchapter I the following new section:

"§ 2812. Lease-purchase of administrative facilities

"(a)(1) The Secretary concerned may enter into a lease for a facility on or near a military installation for the provision of an activity or service named in paragraph (2).

"(2) The activities and services referred to in paragraph (1) are as follows:

"(A) Administrative office space;

"(B) Troop housing;

"(C) Energy production facilities;

"(D) Potable and waste water treatment facilities;

"(E) Hospital and medical facilities;

"(F) Transient quarters; and

"(G) Depot or storage facilities.

"(b) Leases entered into under subsection (a)—

"(1) may not exceed a term of 32 years;

"(2) shall provide that at the end of the term of the lease title to the leased facility (and the land on which the facility is located, if the facility is located on non-federally owned land) shall vest in the United States; and

"(3) shall include such other terms and conditions as the Secretary concerned determines are necessary or desirable to protect the interests of the United States.

"(c) The Secretary concerned may not enter into a lease under this section until—

"(1) the Secretary submits to the appropriate committees of Congress a justification of the need for the facility for which the proposed lease is being entered into and an economic analysis (based upon accepted life cycle costing procedures) that demonstrates that the proposed lease is cost effective when compared with a military construction project; and

"(2) a period of 21 days has expired following the date on which the justification and economic analysis are received by the committees.

"(d) Amounts obligated to be paid in any year under the terms of any lease entered into under this section shall, for budgetary purposes, be considered as expenditures for that year.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end the following new item:

"2812. Lease-purchase of facilities.".

SEC. 2811. HOMEOWNERS ASSISTANCE PROGRAM

Section 2832 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following new subsection:

"(b) Notwithstanding subsection (i) of section 1013 of the Act referred to in subsection (a), the Secretary may transfer, from any funds available for obligation by the Department of Defense, to the fund established pursuant to subsection (d) of that section, such sums as the Secretary determines are necessary to provide assistance under that section to persons eligible for assistance under that section. Any funds so transferred shall be available for obligation and expenditure under the same conditions as funds appropriated to such fund.".

PART B—LAND TRANSACTIONS

SEC. 2821. SALE OF LAND AND REPLACEMENT OF CERTAIN FACILITIES, PITTSBURGH, PENNSYLVANIA

(a) IN GENERAL.—Subject to subsections (b) through (f), the Secretary of the Navy may sell and convey all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) located at 4902 Forbes Avenue, Pittsburgh, Allegheny County, Pennsylvania, consisting of approximately 1.29 acres, and at which a Naval and Marine Corps Reserve Center is located.

(b) COMPETITIVE PROCEDURES; MINIMUM SALE PRICE.—(1) The Secretary shall use competitive procedures for the sale and conveyance authorized in subsection (a).

(2) In no event may the real property be sold for less than the fair market value of the property, as determined by the Secretary.

(c) CONDITION OF SALE.—The conveyance authorized by subsection (a) shall be subject to the condition that the purchaser permit the Navy, without consideration, to continue to occupy the property to be conveyed until the Secretary acquires or constructs a replacement facility, except that in no event may the Navy continue to occupy the property pursuant to this subsection more than two years after the date of the conveyance.

(d) USE OF FUNDS.—(1) The Secretary may use the proceeds from the sale of the property referred to in subsection (a) for the acquisition or construction of a replacement facility, including the acquisition of land, for a Naval and Marine Corps Reserve Center in the greater Pittsburgh area and to pay the costs of appraisals and other costs related to the sale of the property.

(2) Any proceeds of the sale not used for such purposes shall be covered into the Treasury as miscellaneous receipts.

(e) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of any real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the sale and conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2822. SALE OF LAND AND REPLACEMENT OF CERTAIN FACILITIES, KAPALAMA MILITARY RESERVATION, HAWAII

(a) IN GENERAL.—(1) Subsections (a) through (e) of section 2332 of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 100 Stat. 1223), are amended to read as follows:

"(a) IN GENERAL.—Subject to subsections (b) through (f), the Secretary of the Army may sell and convey to the State of Hawaii approximately 35.92 acres of real property, together with improvements thereon, at Kapalama Military Reservation, Hawaii, and may replace and relocate the facilities located on such property.

"(b) CONSIDERATION.—In consideration for the real property described in subsection (a), the State of Hawaii shall pay the United States an amount equal to not less than the fair market value of the property to be conveyed, as determined by the Secretary.

"(c) USE OF SALE PROCEEDS.—The Secretary shall use the proceeds received from the sale of property authorized by this section—

"(1) for the cost of the design and construction of suitable replacement facilities to be constructed at Fort Shafter, Fort Kamehameha, Tripler Army Medical Center, and Schofield Barracks, Hawaii; and

"(2) for any cost incurred by the Department of the Army under this section with respect to the sale and relocation of facilities.

"(d) EXCESS AMOUNT.—The Secretary may use any proceeds remaining after paying all replacement and relocation costs referred to in subsection (c) for the implementation of the plan established by the Secretary of the Army on March 1, 1988, for the future use and development of Fort DeRussy, Hawaii,

except that such proceeds may not be used to pay for the construction of nonappropriated-fund projects identified in such plan. The Secretary shall deposit any amount not used for such purpose at the end of the ten-year period beginning on the date of the enactment of the Military Construction Authorization Act, 1989, into the Treasury as miscellaneous receipts.".

(2) Subsections (f) and (g) of section 2332 of such Act are redesignated as subsections (e) and (f), respectively.

(b) SAVINGS PROVISION.—The provisions of section 2332 of the Military Construction Authorization Act of 1988 and 1989, as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the sale of any property referred to in such section that was sold pursuant to such section before the date of the enactment of this Act.

SEC. 2823. LAND CONVEYANCE, FORT KNOX, KENTUCKY

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Army may sell and convey all right, title, and interest of the United States in and to a parcel of land (together with improvements thereon) constituting a portion of Fort Knox, Kentucky, and consisting of a total of approximately 12 acres. Such parcel is contiguous to the corporate limits of the city of Radcliff, Kentucky, and bounded on the east by United States highway 31W, on the south by the Radcliff city park, on the west by residential property, and on the north by Fort Knox.

(b) COMPETITIVE BID REQUIREMENT; MINIMUM SALE PRICE.—(1) The Secretary shall use competitive procedures for the sale of the real property described in subsection (a).

(2) In no event may the property be sold for less than the fair market value, as determined by the Secretary.

(c) USE OF PROCEEDS OF SALE.—The Secretary shall use the proceeds received from the sale of the property referred to in subsection (a) to pay the cost of construction of not more than four units of military family housing at Fort Knox, Kentucky, and use the balance, if any, to pay the cost of repairs or improvements to existing family housing at Fort Knox, Kentucky.

(d) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any sale of real property under this section as the Secretary considers appropriate to protect the interests of the United States.

(f) ADDITIONAL AUTHORITY.—The military family housing authorized under this section is in addition to the military family housing otherwise authorized by law.

(g) APPLICATION OF CHAPTER 169 OF TITLE 10.—The construction of new units of military family housing and improvements made to existing military family housing with funds realized from the sale of property referred to in subsection (a) shall be subject to the applicable provisions of chapter 169 of title 10, United States Code.

SEC. 2824. SALE OF LAND AT THE PUBLIC WORKS CENTER, GREAT LAKES, ILLINOIS

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Navy may—

(1) sell and convey all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon), consisting of approximately 14 acres of land, comprising that portion of the Public Works Center, Great Lakes, located south of the intersection of Desplaines Avenue and West Roosevelt Road, Forest Park, Illinois; and

(2) use the proceeds from the sale of such property to construct not more than 35 units of military family housing at the Naval Air Station, Glenview, Illinois.

(b) COMPETITIVE PROCEDURES; MINIMUM SALE PRICE.—(1) The Secretary shall use competitive procedures for the sale of the property described in subsection (a).

(2) In no event may the property be sold for less than the greater of (A) the fair market value of the property, as determined by the Secretary, or (B) the amount necessary to cover the costs of constructing replacement housing and relocating the tenants from such property.

(c) CONDITION OF SALE.—The conveyance authorized by subsection (a) shall be subject to the condition that the purchaser permit the Navy, without consideration, to continue to occupy the property to be conveyed until the replacement housing has been constructed or acquired by the Secretary, except that in no event may the Navy continue to occupy the property pursuant to this subsection more than two years after the date of the conveyance.

(d) USE OF FUNDS.—(1) The Secretary may use the proceeds from the sale of the property described in subsection (a) for payment of the following costs:

(A) The cost of design and construction of not more than 35 units of military family housing to be constructed at the Naval Air Station, Glenview, Illinois.

(B) The cost of relocating the tenants occupying the housing facilities located on the property described in subsection (a)(1) to new housing facilities.

(C) The cost of appraisals and other costs related to the sale of the property.

(2) The Secretary shall deposit in the Department of Defense Military Family Housing Management Account provided for in section 2831 of title 10, United States Code, any proceeds of the sale not used for the purposes specified in paragraph (1). Any amount so deposited shall be merged with other funds in that account and shall be available for use as provided in that section.

(e) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of any real property to be conveyed under this section shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the purchaser.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any sale under this section as the Secretary considers appropriate to protect the interests of the United States.

(g) APPLICATION OF CHAPTER 169 OF TITLE 10.—The construction of new units of military family housing and improvements made to existing military family housing with funds realized from the sale of property referred to in subsection (a) shall be subject to the applicable provisions of chapter 169 of title 10, United States Code.

SEC. 2825. MODIFICATION OF REVERSIONARY INTEREST, PORT OF BENTON, WASHINGTON

(a) AUTHORITY TO MODIFY REVERSIONARY INTEREST.—Subject to subsections (b) through (f), the Secretary of the Army shall modify the reversionary interest of the United States in and to approximately 22 acres of land constituting a portion of a larger tract of land conveyed to the Port of Benton, Washington, by quit-claim deed dated June 1, 1964, and more particularly described in subsection (d).

(b) MODIFICATION.—(1) The Secretary shall modify the reversionary interest referred to in subsection (a) in such manner as may be necessary to permit the Port of Benton, Washington, to donate approximately 22 acres of the land conveyed by the deed referred to in subsection (c) to Washington State University for the establishment of a university branch on the donated land.

(2) The modified reversionary interest shall provide that if at any time the Secretary determines that the donated land is not being used for the purpose described in paragraph (1), title to such land shall revert to the United States, the United States shall have the right of immediate entry thereon, and title to the land (including all improvements thereon) shall vest in the United States without compensation by the United States.

(c) DEED DESCRIPTION.—The deed referred to in subsection (a) is the quit-claim deed executed by the Secretary of the Army, dated June 1, 1964, which conveyed to the Port of Benton, Washington, pursuant to section 108 of the River and Harbor Act of 1960 (74 Stat. 486; 33 U.S.C. 578), approximately 290 acres of land owned by the United States.

(d) DESCRIPTION OF PROPERTY.—The 22-acre parcel of land referred to in subsection (a) is bordered on the east by the Columbia River, on the north by First Street, on the south by the Tri-Cities University Center, and on the west by the Port of Benton property that is east of George Washington Way. The exact acreage and legal description of such parcel of land shall be determined by a survey which is satisfactory to the Secretary of the Army. The cost of such survey shall be borne by the Port of Benton, Washington.

(e) AUTHORITY TO EXECUTE DOCUMENTS.—The Secretary may execute and record such documents as he determines necessary or appropriate to carry out the provisions of this section.

(f) ADDITIONAL TERMS AND CONDITIONS.—In carrying out the provisions of this section, the Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2826. LAND CONVEYANCE, NAVAL RESERVE CENTER, KEARNEY, NEW JERSEY

(a) IN GENERAL.—Subject to sections (b) through (d) the Secretary of the Navy may convey to Hudson County, New Jersey, all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon), consisting of approximately 2.9 acres, that comprises a portion of the Naval Reserve Center, Kearney, New Jersey.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized by subsection (a), Hudson County, New Jersey, shall demolish two Naval Reserve Center buildings on the Naval Reserve Center referred to in that subsection, improve the motor vehicle parking facilities on such Naval Reserve Center, and provide additional motor vehicle parking facilities on land adjacent to or near the Naval Reserve Center (and owned

by Hudson County) for use by the United States. The additional parking facilities shall be acceptable to the Secretary and shall be provided on such terms and conditions and for such period of time as the Secretary shall prescribe.

(2) If the fair market value of the land to be conveyed under subsection (a) exceeds the fair market value of the consideration received under paragraph (1), as determined by the Secretary, Hudson County shall pay the amount of the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

(c) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by Hudson County, New Jersey.

(d) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with any conveyance under this section as the Secretary considers appropriate to protect the interests of the United States of America.

SEC. 2827. LAND CONVEYANCE, FORT BELVOIR, VIRGINIA

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsections (b) through (h), the Secretary of the Army may convey to any grantee selected in accordance with subsection (e) all right, title, and interest of the United States in and to all or any portion of a parcel of land at Fort Belvoir, Virginia, consisting of approximately 820 acres and known as the Engineer Proving Ground.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized in subsection (a), the grantee shall construct such facilities for the Department of the Army and make such infrastructure improvements for the Department of the Army as may be specified by the Secretary in an agreement to be entered into by the grantee and the Secretary in connection with the conveyance.

(2) In no event may the cost of the facilities to be constructed by the grantee for the Department of the Army and the cost of the infrastructure improvements to be made by the grantee for the Department of the Army be an amount less than the fair market value of the real property conveyed to the grantee pursuant to this section. The amount of such costs shall be determined by the Secretary.

(c) CONTENT OF AGREEMENT.—(1) An agreement entered into under this section shall include the following:

(A) A requirement that the grantee develop the real property conveyed to the grantee pursuant to this section as a balanced, mixed-use development.

(B) A requirement that the development of the property include improvements to public transportation systems, utilities, and telecommunications on and off the property, and any other infrastructure improvements that may be specified by the Secretary in connection with such development.

(C) A requirement that the development and all such improvements comply with the specifications of a master plan formulated for the real property by the Secretary and agreed to by the appropriate officials of Fairfax County, Virginia, and the Commonwealth of Virginia.

(D) A requirement that the grantee construct any facilities and make any infrastructure improvements for the Department of the Army that the Secretary determines are necessary for the relocation of Army activities within Washington, D.C., and its environs, including Fort Belvoir.

(E) A requirement that the construction of facilities and infrastructure improvements referred to in subparagraph (D) be carried out in accordance with plans and specifications approved by the Secretary.

(F) Such other terms and conditions as the Secretary and the grantee may agree upon.

(2) The Secretary may provide that the agreement be subject to review and approval by the appropriate officials of the County of Fairfax, Virginia, and the Commonwealth of Virginia.

(d) REPORT AND WAITING PERIOD.—The Secretary may not enter into any such agreement until the expiration of 21 days following the date on which the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report containing the details of the agreement.

(e) SELECTION OF GRANTEE.—The Secretary shall use competitive procedures for the selection of a grantee. In evaluating the offers of prospective grantees, the Secretary shall consider the technical sufficiency of the offers and the cost of constructing the required facilities and making the required infrastructure improvements for the Department of the Army, as contained in the offers.

(f) REVERSION.—If the Secretary determines that a grantee is unable or unwilling to develop the real property conveyed to the grantee under this section in accordance with the agreement entered into by the grantee under this section or is unable or unwilling to construct any facility or complete any infrastructure improvement for the Department of the Army in accordance with such agreement, then, regardless of the reason for such inability or unwillingness, all right, title, and interest in and to the real property conveyed to such grantee in connection with such agreement shall automatically revert to the United States and the United States shall have the right of immediate entry thereon.

(g) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of property to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the grantee.

(h) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions with respect to the conveyance as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2828. LAND CONVEYANCE, FORT GILLEM, GEORGIA

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Army shall convey, without consideration, to the State of Georgia (hereafter in this section referred to as the "State") all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) at Fort Gillem, Clayton County, Georgia, consisting of approximately 35.26 acres of land, for use by the State for the administration of the Georgia Department of Defense, the Georgia National Guard, and other Georgia National Guard activities.

(b) CONDITIONS OF CONVEYANCE.—The conveyance authorized by subsection (a) shall be subject to the following conditions:

(1) The property conveyed shall be used for the administration of the Georgia Department of Defense, the Georgia National Guard, and for other official activities of the Georgia National Guard.

(2) The Secretary may reserve to the United States (and shall include in the instrument of conveyance) such easements and other interests in the property conveyed pursuant to this section as the Secretary determines necessary or convenient for the operations, activities, and functions of the United States.

(c) REVERSION.—If the Secretary determines at any time that the property conveyed pursuant to this section is not being used for the purposes specified in subsection (b)(1), all right, title, and interest in and to the property (including improvements thereon) shall revert to the United States and the United States shall have the right of immediate entry thereon.

(d) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the State.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance required under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2829. LAND CONVEYANCE, HICKAM AIR FORCE BASE, HAWAII

(a) AUTHORITY TO CONVEY.—Subject to subsections (b) through (e), the Secretary of the Air Force may convey to the State of Hawaii all right, title, and interest of the United States in and to approximately 22.88 acres of real property, together with improvements thereon, located on the eastern boundary of Hickam Air Force Base, Hawaii.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized by subsection (a), the State of Hawaii shall be required to—

(A) pay for the cost of designing and constructing such facilities described in subsection (c)(2) as the Secretary may specify at Hickam Air Force Base or at such other location in Honolulu, Hawaii, as the Secretary may specify;

(B) pay for the cost of relocating certain designated munition storage facilities situated on the land to be conveyed by the Secretary;

(C) pay for the cost of relocating the existing security fence line to conform with the new boundaries of Hickam Air Force Base after conveyance of the property referred to in subsection (a); and

(D) pay to the United States the difference, if any, between the fair market value of the property conveyed, as determined by the Secretary, and the cost of facilities provided by the State of Hawaii under subsection (c).

(2) Costs incurred by the State of Hawaii in connection with the relocation of facilities referred to in clauses (B) and (C) of paragraph (1) may not be considered as any part of the payment of the fair market value of the property referred to in subsection (a).

(c) REPLACEMENT ACTIVITIES.—(1) The Secretary may accept facilities and improvements designed and constructed by the State of Hawaii equal in value to not less than the fair market value of the property to be conveyed by the Secretary or, in the discretion of the Secretary, to accept payment of the fair market value for the prop-

erty to be conveyed and to construct facilities referred to in subsection (b)(1).

(2) The facilities to be provided by the State of Hawaii or constructed by the Secretary with funds provided by the State shall be for one or more of the following projects in the order of priority in which they are listed:

(A) A minimum of 120 units of military family housing in or near Honolulu, Hawaii.

(B) A base support center at Hickam Air Force Base, Hawaii.

(C) The upgrading of the water distribution system at Hickam Air Force Base, Hawaii.

(D) A recreation center at Hickam Air Force Base, Hawaii.

(d) VACATING PROPERTY.—(1) Upon execution of an escrow agreement between the parties and deposit by the State of Hawaii in an escrow account of an amount equal to the fair market value of the property to be conveyed by the Secretary, the Secretary may convey the property described in subsection (a) to the State of Hawaii before construction of the facilities referred to in subsection (b)(1). If the Secretary conveys the property before construction of such facilities, the Secretary shall not be required to vacate the property conveyed until completion of the work described in clauses (B) and (C) of subsection (b)(1) and such work has been approved by the Secretary. Upon such approval, the Secretary shall promptly vacate the property.

(2) In lieu of the deposit of funds into an escrow account, the State may, with the approval of the Secretary, pay to the Secretary an amount equal to the fair market value of the property to be conveyed. Notwithstanding any other provision of law, the Secretary may obligate and expend such funds for construction of the facilities listed in subsection (c)(2).

(e) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the State of Hawaii.

SEC. 2830. LAND RELEASE TO MINNESOTA

(a) RELEASE.—(1) Subject to paragraphs (2) through (4), the Secretary of the Army shall release to the State of Minnesota the reversionary interest of the United States over approximately 35.38 acres of land, known as "Area J," conveyed from the United States to the State of Minnesota in the quitclaim deed dated August 17, 1971. The Secretary of the Army shall also release the State of Minnesota from all covenants and agreements contained in the said quitclaim deed, covering the approximately 35.38 acres of land.

(2) CONDITION OF RELEASE.—The release directed by paragraph (1) are conditioned on the State of Minnesota donating approximately 35.38 acres of land to the United States for use by the Department of the Army.

(3) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the land over which the reversionary interest is to be released shall be determined by surveys which are satisfactory to the Secretary of the Army and the State of Minnesota.

(4) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions as he considers appropriate to protect the interests of the United States. The Secretary of the Army may agree to allow the State of Minnesota to retain a reversionary interest in the land described in paragraph (1) conditioned upon the Secretary's use of the land for Army purposes and preservation of the historic structures lying thereon in conformity with Department of the Interior standards for properties on the National Register of Historic Places.

(b) DEED AMENDMENT.—The Secretary of the Army is authorized to execute and file the appropriate documents to reflect the provisions of this section.

SEC. 2830a. TINKER AIR FORCE BASE, OKLAHOMA

(a) PURCHASE AUTHORIZED.—Notwithstanding any other provision of law, the Secretary of the Air Force is authorized to acquire a Depot Operations Logistics Facility at Tinker Air Force Base for the sum of $248,900.00. No charge to appropriations shall be required for sums previously expended for site preparation, leasing, installation or other construction.

(b) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2830b. REPORT REGARDING FORT MEADE RECREATION AREA

Not later than thirty days after the enactment of this Act, the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the feasibility of conveying to the State of Delaware a parcel of property known as Fort Meade Recreation Area, formerly Fort Miles, Delaware, containing approximately 95.9 acres.

PART C—MISCELLANEOUS PROVISIONS

SEC. 2831. OPERATION AND CONTROL OF THE PENTAGON RESERVATION

(a) IN GENERAL.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2673 the following new section:

"§ 2674. Operation and control of the Pentagon Reservation

"(a) The Secretary of Defense has jurisdiction over and custody and control of the Pentagon Reservation. Except as provided in subsection (d), the Secretary shall be responsible for all matters relating to the operation and control of the Pentagon Reservation.

"(b) The Secretary of Defense may appoint military or civilian personnel or contract employees to perform law enforcement and security functions for property occupied, or under the jurisdiction, custody, and control of the Department of Defense located in the National Capital Region. Such individuals—

"(1) may be armed with appropriate firearms required for personal safety and for the proper execution of their duties, whether on Department of Defense property or in travel status, and

"(2) shall have the same powers as sheriffs and constables to enforce the laws, rules, or regulations enacted for the protection of persons and property.

"(c) The Secretary of Defense may promulgate such rules and regulations that he deems appropriate to insure the safe, efficient, and secure operation of the Pentagon Reservation, including parking and traffic rules. Whoever shall violate any rule or regulation promulgated pursuant to this section shall be fined not more than $50 or imprisoned not more than 30 days, or both.

"(d) The Secretary of the Army shall exercise the authority of the Secretary of Defense with respect to the operation, maintenance, and management of the physical facilities of the Pentagon Reservation.

"(e) The Secretary of Defense shall ensure that Members of Congress who serve on committees of the Senate or the House of Representatives having legislative oversight jurisdiction of the Department of Defense and the professional staff members of such committees have appropriate access to the facilities of the Pentagon Reservation.

"(f) In this section, the term 'Pentagon Reservation' means that area of land (consisting of approximately 420 acres) and improvements thereon, located in Arlington, Virginia, on which the Pentagon Office Building, Federal Building Number 2, the Pentagon heating and sewage treatment plants, and other related facilities are located, including various areas designated for the parking of vehicles but not including the area known as the Lagoon.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2073 the following new item:

"2674. Operation and control of the Pentagon Reservation."

(b) EFFECTIVE DATES.—(1) Jurisdiction, custody, and control over, and responsibility for the operation, maintenance, and management of the Pentagon Reservation is transferred from the Administrator of General Services to the Secretary of Defense effective October 1, 1989, or the first day of the second month following the month in which this Act is enacted, whichever is later. For purposes of this paragraph, the term "Pentagon Reservation" has the same meaning provided for such term in section 2674 of title 10, United States Code, as added by subsection (a).

(2) Section 2674 of title 10, United States Code (as added by subsection (a)), shall take effect on the effective date of the transfer under paragraph (1).

(c) LIMITATION ON CERTAIN PAYMENTS.—After the effective date of the transfer provided in subsection (b), the Secretary of Defense shall pay to the Administrator of General Services only the costs incurred by the General Services Administration in furnishing space, repairs, alterations, maintenance, and other services and facilities to the Department of Defense in the National Capital Region until after renovation of the Pentagon building has been completed or until after September 30, 1999, whichever is earlier. Payments by the Secretary of Defense under the preceding sentence shall be in lieu of the payment of any charges the Administrator of General Services is required to make against the Department of Defense under section 210(j) of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 490(j)).

SEC. 2832. COOPERATIVE AGREEMENTS FOR LAND MANAGEMENT ON DEPARTMENT OF DEFENSE INSTALLATIONS

(a) IN GENERAL.—The Act entitled "An Act to promote effectual planning, development, maintenance, and coordination of wildlife, fish, and game conservation and rehabilitation in military reservations" (popularly known as the "Sikes Act"), approved September 15, 1960 (16 U.S.C. 670a et seq.), is amended by inserting after section 103 the following new section:

"SEC. 103a. The Secretary of Defense may enter into cooperative agreements with States, local governments, nongovernmental organizations, and individuals to provide for the maintenance and improvement of natural resources on, or to benefit natural and

historic research on, Department of Defense installations.

"(b) A cooperative agreement shall provide for the Secretary of Defense and the other party or parties to the agreement—

"(1) to contribute funds on a matching basis to defray the cost of programs, projects, and activities under the agreement;

"(2) to furnish services on a matching basis to carry out such programs, projects, and activities; or

"(3) to contribute funds (on a matching basis) and to furnish services (on a matching basis).

"(c) Cooperative agreements entered into under this section shall not be considered, nor be treated as, cooperative agreements to which chapter 63 of title 31, United States Code, applies.".

(b) APPROPRIATIONS AND EXPENDITURES.—Section 106 of such Act (16 U.S.C. 670f) is amended—

(1) in subsection (a), by inserting "and cooperative agreements agreed to under section 103a" in the first sentence after "sections 101 and 102";

(2) in subsection (b), by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", and to carry out such functions and responsibilities as the Secretary may have under cooperative agreements entered into under section 103a.".

SEC. 2833. DEVELOPMENT OF LAND AND LEASE OF FACILITY AT HENDERSON HALL, ARLINGTON, VIRGINIA

(a) IN GENERAL.—The Secretary of the Navy may—

(1) using funds provided from the Navy Mutual Aid Association, design, supervise, construct, and inspect a multipurpose facility of approximately 62,000 square feet to be located at Henderson Hall, Arlington, Virginia; and

(2) lease, at no cost, to the Navy Mutual Aid Association approximately one-third of the square footage of the facility to be constructed.

(b) TERMS OF LEASE.—The lease entered into under subsection (a) shall—

(1) be for a term of 50 years;

(2) be in full consideration for the funds provided to the Secretary by the Navy Mutual Aid Association pursuant to subsection (a);

(3) provide that in the event the lease is canceled by the Secretary before expiration, the Secretary shall, as determined by the Secretary, provide comparable alternative space or, subject to the availability of funds, reimburse the Navy Mutual Aid Association for the unamortized cost of the building; and

(4) allow, at the discretion of the Secretary, for the Navy Mutual Aid Association to continue to use the space after the initial 50-year term, in compliance with laws and regulations applicable at that time.

(c) CONDITIONS.—(1) Title to the facility described in subsection (a)(1) shall be and remain in the United States.

(2) All construction authorized under this section shall be awarded through competitive procedures.

(3) Any lease or other agreement entered into under the authority of this section shall be subject to such terms and conditions as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2834. TRANSFER OF DEPARTMENT JURISDICTION OVER CERTAIN LANDS AT SANDIA, NEW MEXICO

(a) TRANSFER OF JURISDICTION AND CONTROL.—Jurisdiction and control of the real property described in subsection (b) is hereby transferred from the Secretary of Defense to the Secretary of Energy for use by the Department of Energy in providing a location for the Center for National Security and Arms Control. Notwithstanding any other provision of law, no consideration shall be paid for the transfer.

(b) LAND DESCRIPTION.—The real property referred to in subsection (a) is a tract of land located in Bernalillo County, New Mexico, in a portion of section 32, township 10 north, range 4 east, New Mexico principal meridian, and consisting of 5.583 acres, more or less. The exact acreage and land description shall be determined by the Secretary of Defense.

SEC. 2835. REIMBURSEMENT FOR COSTS ASSOCIATED WITH HOMEPORTING AT LAKE CHARLES, LOUISIANA

(a) REIMBURSEMENT.—(1) The Secretary of the Navy may—

(A) reimburse the Lake Charles Harbor and Terminal District, Lake Charles, Louisiana, in an amount not to exceed $2,600,000 for actual expenses—

(i) incurred by the District before the date of the enactment of this Act for the construction of utilities and roads to serve the proposed Lake Charles Navy Homeport, which is to be closed pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2626); and

(ii) that will be incurred by the District after the date of the enactment of this Act in connection with the construction of such utilities and roads as a direct result of the closing of the homeport, as determined by the Secretary;

(B) pay to the Lake Charles Harbor and Terminal District an amount not to exceed $1,300,000 for completion of the permanent access road to the proposed homeport from State Highway 384;

(C) take such action as may be necessary to release to the State of Louisiana any funds remaining in the trust account established by the State pursuant to the Memorandum of Agreement between the State and the Navy for use by the Navy in connection with the construction of the Lake Charles Navy Homeport; and

(D) reimburse the State of Louisiana for any funds expended by the Navy from the trust account referred to in clause (C);

(2) The total of the amount of funds that may be released to the State of Louisiana pursuant to clause (C) of paragraph (1) and paid to the State pursuant to clause (E) of that paragraph may not exceed $5,000,000.

(b) SOURCE OF FUNDS.—Payments under this section shall be made from funds appropriated pursuant to Public Law 100-202 (101 Stat. 1329) for the construction of facilities at the proposed Lake Charles Navy Homeport. In no event may the total amount paid under this section by the Secretary exceed the amount appropriated for construction of homeport facilities at Lake Charles and remaining available for obligation after payment of all termination costs resulting from the closure of the Lake Charles Navy Homeport.

(c) LAND CONVEYANCE.—The Secretary shall convey to the Lake Charles Harbor and Terminal District, without consideration, approximately 38 acres of land (together with improvements and the sheet pile materials thereon) constituting the proposed Lake Charles Navy Homeport, Louisiana. Such lands are the same lands that were previously conveyed, without consideration, to the United States by the Lake Charles Harbor and Terminal District by special warranty deed dated March 14, 1988.

(d) CONDITION.—The reimbursements and conveyance provided for in this section shall be made subject to the condition that the agreement entered into by the Lake Charles Harbor and Terminal District, the State of Louisiana, and the United States entitled "Memorandum of Understanding for Donation of Land and Establishment of Homeport", dated June 11, 1986, shall be considered canceled and of no force or effect after such reimbursements and conveyance have been made by the Secretary.

(e) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States of America.

SEC. 2836. REQUIREMENTS RELATING TO ENVIRONMENTAL RESTORATION ACTIVITIES AND ENVIRONMENTAL CONTAMINATION

(a) EXPEDITIOUS REPORTING OF INFORMATION.—The Secretary of Defense shall ensure that all information relating to environmental restoration activities at Department of Defense facilities and required to be provided to regional offices of the Environmental Protection Agency, appropriate State authorities, and local authorities under section 2705 of title 10, United States Code, is expeditiously provided to such offices and authorities.

(b) ASSESSMENTS OF ENVIRONMENTAL CONTAMINATION PLANS.—(1) The Secretary of Defense shall ensure that—

(A) all Department of Defense assessments of the Department's environmental contamination plans and of the Department's emergency and remedial actions to abate or mitigate environmental contamination at Department of Defense facilities are carried out in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510; 94 Stat. 2767) and Environmental Protection Agency regulations; and

(B) each such assessment, plan, and action is made available to and carried out in consultation with the Administrator of the Environmental Protection Agency and the appropriate State or local agency.

(2) The Administrator of the Environmental Protection Agency shall submit to the Secretary of Defense and the appropriate committees of Congress such comments and recommendations with regard to any assessment, plan, or action referred to in paragraph (1) as the Administrator considers appropriate.

(c) MONITORING CONTAMINATION.—After discovery of a potential environmental contamination at any Department of Defense facility conducting environmental restoration activities, the Secretary of Defense, in consultation with the Administrator of the Environmental Protection Agency and the head of the appropriate State agency, shall program and install such systems for monitoring contamination at such facility as may be appropriate to ensure that there is no release or exposure of environmental contamination that will pose a risk to public health.

(d) EMERGENCY ACTION.—Nothing in this section shall prevent the Secretary of Defense from carrying out such emergency actions as may be necessary to protect the public health or the environment if the Secretary determines that time does not permit

consultation with appropriate regulatory agencies.

SEC. 2837. FEASIBILITY STUDY OF LAND TRANSFER FOR USE AS A CORRECTIONAL FACILITY

(a)(1) The Secretary of Defense, in consultation with the Attorney General of the United States, shall conduct a study of the feasibility of selling or otherwise transferring to the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, a parcel of land of approximately one hundred acres not more than one hundred miles from the southern boundary of Arlington County, from the military installations within Virginia which encompass land that may be suitable for use by the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, as a site for a medium security correctional facility for persons sentenced in the courts of Virginia or in the United States District Court in Virginia.

(2) The study required by paragraph (1) shall address, at a minimum, the following issues:

(A) Whether there are parcels of land within those installations of the size described which could be released from Federal control without severely affecting the present mission of such installations.

(B) A description of the parcels of land described in subparagraph (A).

(C) A description of the effects, if any, transfer of such parcels of land from Federal control would have on the ability of the Secretary of Defense to effectively carry out the mission of the Department of Defense.

(D) An analysis of the risk, if any, that might be posed to military personnel and their dependents housed on such installation by the operation of such a correctional facility on the parcels of land described in subparagraph (A).

(E) An estimate of the date on which the parcels of land described in subparagraph (A) would be available for transfer from Federal control.

(b) The report of the study described in subsection (a) shall be delivered to the Committees on Armed Services of the Senate and House of Representatives not later than sixty days after enactment of this Act.

DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 3101. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1990 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,821,270,000, to be allocated as follows:

(A) For research and development, $1,090,670,000.

(B) For weapons testing, $532,600,000.

(C) For production and surveillance, $2,100,097,000.

(D) For program direction, $97,903,000.

(2) For defense nuclear materials production, $1,664,691,000, to be allocated as follows:

(A) For production reactor operations, $578,049,000.

(B) For processing of defense nuclear materials, including naval reactors fuel, $599,609,000, of which $78,744,000 shall be used for special isotope separation.

(C) For supporting services, $282,868,000.

(D) For uranium enrichment for naval reactors, $168,900,000.

(E) For program direction, $35,265,000.

(3) For verification and control technology, $174,146,000.

(4) For nuclear materials safeguards and security technology development program, $82,241,000.

(5) For security investigations, $41,200,000.

(6) For new production reactors, $203,500,000.

(7) For naval reactors development, $562,800,000.

SEC. 3102. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1990 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 90-D-101, general plant projects, various locations, $28,130,000.

Project 90-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $1,000,000.

Project 90-D-103, environment, safety, and health improvements, various locations, $10,700,000.

Project 90-D-121, general plant projects, various locations, $30,850,000.

Project 90-D-122, production capabilities for the nuclear depth/strike bomb (ND/SB), various locations, $8,000,000.

Project 90-D-124, high explosives (HE) synthesis facility, Pantex Plant, Amarillo, Texas, $1,800,000.

Project 90-D-125, steam plant ash disposal facility, Y-12 Plant, Oak Ridge, Tennessee, $1,500,000.

Project 90-D-126, environmental, safety, and health enhancements, various locations, $26,700,000.

Project 89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee, $9,200,000.

Project 89-D-125, plutonium recovery modification project, Rocky Flats Plant, Golden, Colorado, $45,000,000.

Project 89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio, $3,500,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,100,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $44,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $94,400,000.

Project 88-D-122, facilities capability assurance program, various locations, $83,099,000.

Project 88-D-123, security enhancements, Pantex Plant, Amarillo, Texas, $5,500,000.

Project 88-D-124, fire protection upgrade, various locations, $5,400,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, $36,000,000.

Project 87-D-104, safeguards and security enhancement, Phase II, Lawrence Livermore National Laboratory, Livermore, California, $7,000,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, $41,200,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $5,200,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $24,025,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, $9,460,000.

(2) For materials production:

Project 90-D-141, Idaho chemical processing plant fire protection, Idaho National Engineering Laboratory, Idaho, $3,500,000.

Project 90-D-142, coal storage facility environmental upgrade, Feed Materials Production Center, Fernald, Ohio, $920,000.

Project 90-D-143, plutonium finishing plant fire safety and loss limitation, Richland, Washington, $800,000.

Project 90-D-146, general plant projects, various locations, $36,802,000.

Project 90-D-149, plantwide fire protection, Phase I, Savannah River, South Carolina, $4,900,000.

Project 90-D-150, reactor safety assurance, Phase I, Savannah River, South Carolina, $12,700,000.

Project 90-D-151, engineering center, Savannah River, South Carolina, $7,000,000.

Project 89-D-140, additional separations safeguards, Savannah River, South Carolina, $10,300,000.

Project 89-D-141, M-area waste disposal, Savannah River, South Carolina, $7,800,000.

Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina, $40,000,000.

Project 89-D-148, improved reactor confinement system, design only, Savannah River, South Carolina, $7,100,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $6,400,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I, II, III, and IV, Feed Materials Production Center, Fernald, Ohio, $55,111,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $40,000,000.

Project 86-D-149, productivity retention program, Phases I, II, III, IV, and V, various locations, $81,780,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $3,164,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $6,181,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $55,000,000.

(3) For verification and control technology:

Project 90-D-186, center for national security and arms control, Sandia National Laboratories, Albuquerque, New Mexico, $1,000,000.

(4) For new production reactor:

Project 88-D-154, new production reactor capacity, various locations, $100,000,000.

(5) For naval reactors development:

Project 90-N-101, general plant projects, various locations, $8,500,000.

Project 90-N-102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $3,600,000.

Project 90-N-103, advanced test reactor off-gas treatment system, Idaho National Engineering Laboratory, Idaho, $200,000.

Project 90-N-104, facilities renovation, Knolls Atomic Power Laboratory, Niskayuna, New York, $3,900,000.

Project 89-N-102, heat transfer test facility, Knolls Atomic Power Laboratory, Niskayuna, New York, $6,500,000.

Project 89-N-103, advanced test reactor modifications, Test Reactor Area, Idaho National Engineering Laboratory, Idaho, $3,100,000.

Project 89-N-104, power system upgrade, Naval Reactors Facility, Idaho, $6,400,000.

Project 88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho, $3,000,000.

(6) For capital equipment not related to construction:

(A) For weapons activities, $288,875,000, including $8,700,000 for the defense inertial confinement fusion program.

(B) For materials production, $104,425,000.

(C) For verification and control technology, $9,732,000.

(D) For nuclear safeguards and security, $4,967,000.

(E) For naval reactors development, $54,000,000.

SEC. 3103. FUNDING LIMITATIONS

(a) PROGRAMS, PROJECTS, AND ACTIVITIES OF THE DEPARTMENT OF ENERGY RELATING TO STRATEGIC DEFENSE INITIATIVE.—Of the funds appropriated to the Department of Energy for fiscal year 1990 for operating expenses and plant and capital equipment, not more than $200,000,000 may be obligated or expended for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

(b) INERTIAL CONFINEMENT FUSION.—Of the funds appropriated to the Department of Energy for fiscal year 1990 for operating expenses and plant and capital equipment, not more than $173,700,000 may be obligated or expended for the defense inertial confinement fusion program.

(c) SPECIAL ISOTOPE SEPARATION PROJECT.—The funds authorized for Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, may not be used for construction or for procurement of long-lead materials or equipment. The Secretary of Energy may transfer not more than $10,000,000 from such project to operating expenses for the special isotope separation project. No additional funds may be obligated for construction, including site preparation, in connection with such project until the Secretary has certified to the Committees on Armed Services of the Senate and the House of Representatives that the technology for the special isotope separation project has been proven and that all environmental requirements provided in applicable laws have been met.

(d) LANCE WARHEAD FOLLOW-ON.—(1) Except as provided in paragraph (2), funds appropriated pursuant to the authorization contained in section 3101 may not be obligated for design and development of any warhead for the Follow-on To Lance (FOTL) missile.

(2) Funds referred to in paragraph (1) may be obligated for the design of any warhead for the Follow-on To Lance (FOTL) missile if the Nuclear Weapons Council certifies to the Secretary of Energy that such warhead—

(A) is a cost-effective utilization of the W84 warhead, the W85 warhead, or both the W84 and W85 warheads, or the components of such warhead or warheads, as the case may be; or

(B) is incompatible with utilization of the W84 and W85 warheads and their components.

PART B—RECURRING GENERAL PROVISIONS

SEC. 3121. REPROGRAMMING

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS

(a) IN GENERAL.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and on the Committees on Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3102 of this title, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY

(a) IN GENERAL.—Funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

(b) SPECIFIC TRANSFER.—The Secretary of Defense may transfer to the Secretary of Energy not more than $100,000,000 of the funds appropriated for fiscal year 1990 to the Department of Defense for research, development, test, and evaluation for the Defense Agencies for the performance of work on the Strategic Defense Initiative. Funds so transferred—

(1) may be used only for research, development, and testing for nuclear directed energy weapons, including plant and capital equipment related thereto;

(2) shall be merged with the appropriations of the Department of Energy; and

(3) may not be included in calculating the amount of funds obligated or expended for purposes of the funding limitation in section 3103(a).

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by section 3102, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity con-

struction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated for operating expenses or for plant and capital equipment may remain available until expended.

PART C—DEFENSE ENERGY TECHNOLOGY TRANSFER

SEC. 3131. SHORT TITLE

This part may be referred to as the "Department of Energy National Competitiveness Technology Transfer Act of 1989".

SEC. 3132. FINDINGS AND PURPOSE

(a) FINDINGS.—Congress finds that:

(1) technology advancement is a key component in the growth of the United States industrial economy, and a strong industrial base is an essential element of the security of this country;

(2) there is a need to enhance United States competitiveness in both domestic and international markets;

(3) innovation and the rapid application of new technology are assuming a more significant role in near-term marketplace success;

(4) the Department of Energy's laboratories and other facilities have outstanding capabilities in a variety of advanced technologies and skilled scientists, engineers, and technicians who could contribute substantially to the posture of United States industry in international competition;

(5) improved opportunities for cooperative arrangements between contractor-managers of certain Department of Energy facilities and the United States private sector, consistent with the program missions at those facilities, particularly the national security functions involved in atomic energy defense activities, would contribute to our national well-being; and

(6) more effective cooperation between those Department of Energy facilities and the United States private sector is required to provide speed and certainty in the technology transfer process.

(b) PURPOSES.—The purposes of this part are to—

(1) enhance United States national security by establishing a national competitiveness mission for certain Department of Energy facilities in order to provide opportunities to utilize the technologies and capabilities residing in those facilities for the United States to enhance its competitiveness; and

(2) enhance collaboration between universities, the private sector, and facilities of the Department of Energy so as to foster the development of technologies in areas of significant economic potential.

SEC. 3133. DEFINITIONS

For purposes of this part, the term—

(a) "facility" means the following Department of Energy installations, respectively:

(1) Lawrence-Livermore National Laboratory;

(2) Los Alamos National Laboratory;

(3) Sandia National Laboratory;

(4) Idaho National Engineering Laboratory; and

(5) any other installations that are managed under a contract that includes the provisions referred to in section 3134(d) and any government-owned, contractor-operated installations established as Department of Energy multi-purpose laboratories or program-dedicated laboratories that are designated by the Secretary upon request of the contractor-manager; except that term does not include Naval Nuclear Propulsion laboratories or contractors performing work covered under Executive Order 12344, as codified in 42 United States Code 7158;

(b) "Secretary" means the Secretary of Energy;

(c) "contract" means a prime contract between the United States, represented by the Department of Energy, and a contractor to manage and operate a facility;

(d) "contractor-manager" means the entity undertaking the responsibility under a contract to manage and operate a facility;

(e) "cooperative arrangement" means a written agreement between a contractor-manager and one or more collaborative parties, under which the contractor-manager, acting under his contract, provides personnel, services, equipment, or other resources for the conduct of specified developmental or advanced work to assist in creating products of potential commercial value;

(f) "collaborative party" means a party to a cooperative arrangement other than a Federal department or agency or any of their contractors or subcontractors acting in furtherance of their contractual undertakings to the Federal entities;

(g) "program mission" means the work and services constituting the entire scope of work to be performed by the contracting party under the contract, excluding the national competitiveness mission;

(h) "national competitiveness mission" means the contractor-manager's activities under the contract, conducted in partnership with the Department of Energy, consistent with program missions and national security considerations, to provide for the transfer of technology developed at the facility to the United States private sector, including activities performed under cooperative arrangements and intellectual-property licensing activities;

(i) "intellectual property" means patents, trademarks, copyrights, mask works, and other forms of comparable property rights protected by Federal law;

(j) "technical data" means recorded information, regardless of form or characteristic of a scientific or technical nature, excluding computer software;

(k) "computer software" means recorded information, regardless of form or media on which it may be recorded, comprising computer programs or documentation thereof; and

(l) "unlimited rights" means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly or display publicly, in any manner and for any purpose, and to have or permit others to do so.

SEC. 3134. NATIONAL COMPETITIVENESS MISSION

(a) Within one hundred and eighty days after the date of enactment of this Act, the Secretary shall—

(1) review all existing laws, regulations, policy guidelines, orders, directives and administrative processes associated with the Department's ability to achieve the purpose of this part;

(2) confer with representatives of United States industry and labor, educational institutions, and contracting parties respecting effective implementation of this part.

(3) advise the Congress of any existing legal obstacles interfering with the Department's ability to achieve the purpose of this part, and make pertinent recommendations; and

(4) publish a comprehensive set of policy guidelines, procedures, and supporting regulations to effectuate the purpose of this part, including:

(A) a procedure for assuring that proposed cooperative arrangements are reviewed and concurred in, required to be modified, or rejected by the Secretary within sixty days after receipt by the Secretary of the proposed arrangement. If action is not taken by the Secretary within this sixty-day period, the Secretary shall—

(i) notify the contractor-manager affected of the date on which action will be taken, not to exceed an additional sixty days from the original deadline; and

(ii) provide a written explanation of the reasons for the delay;

In any case under such procedure in which the Secretary disapproves or requires the modification of any proposed cooperative arrangement submitted under this part, the Secretary shall transmit a written explanation of such disapproval or modification to the contractor-manager affected;

(B) requirements to avoid conflicts of interests, and to govern the use of Government funds for and receipt of funds, due to the national competitiveness mission; and

(C) any other requirements related to the principles stated in subsection (b) of this section.

(b) In taking the steps provided for in subsections (a)(4) and (d) of this section the Secretary shall be guided by the following principles:

(1) The national competitiveness mission shall not interfere with any national security mission for the Department of Energy and shall be complementary to and supporting of the program missions at the facility, and in the overall best interests of the Federal Government.

(2) Classified information and unclassified sensitive information protected by law or regulations shall be safeguarded.

(3) The Secretary's management authority and responsibility with respect to the facility and the conduct of activities under the contract for the operation of the facility shall not be diminished.

(4) The national competitiveness mission shall be conducted in a manner that—

(A) provides fairness of opportunity to participate to entities in the United States private sector and for a fair return on the taxpayer's investment;

(B) includes consideration of small business firms and universities; and

(C) permits, subject to such restrictions, limitations, terms, and conditions as the Secretary considers necessary, temporary exchanges of personnel between any domestic firm or university and a facility subject to this part.

(5)(A) The benefits of technology transfer resulting from the national competitiveness mission shall accrue to United States industry.

(B) In accordance with the principles in paragraphs (2), (4) and (5)(A) of this subsection, entities that are owned, controlled or dominated by a foreign government or foreign entity shall be separately considered in light of the objective of this part to improve

United States competitiveness and of national security. In addition, agreements with such foreign entities shall take into consideration whether or not the associated foreign government permits United States agencies, organizations, or other persons to enter into cooperative arrangements and licensing agreements with agencies, organizations, or other persons of such foreign country.

(6) The Secretary shall establish an explicit policy and procedures to govern a contractor-manager's use of Government resources for the national competitiveness mission, royalties or other income from licensing agreements, and receipts of funds by reasons of cooperative arrangements, as well as the maintenance of books and records.

(7) Appropriate march-in rights shall be provided for intellectual property acquired by the contractor-manager, collaborative party or their successors-in- interest to assure commercial utilization of technology developed under cooperative arrangements.

(c) Beginning promptly after the inclusion of the national competitiveness mission in a contract, and continuing thereafter during the course of the national competitiveness mission, the Secretary and the contractor-manager shall periodically confer on—

(1) potential projects for cooperative arrangements;

(2) terms and conditions in cooperative arrangements;

(3) specification of particular inventions and specific technical data or computer software provided for in section 3135 of this part; and

(4) progress and problem areas associated with potential or actual cooperative arrangements.

(d) Within sixty days after publication of the guidelines, procedures and regulations under subsection (a)(4), the Secretary shall make available to each contractor-manager of a facility for possible inclusion in the contract appropriate contract provisions that—

(1) refer to this part;

(2) establish the concept of cooperative arrangements as a mission for the government; and

(3) describe the respective obligations and responsibility of the government and a contractor-manager party with respect to the national competitiveness mission.

SEC. 3135. PARTICULAR INVENTIONS AND SPECIFIC TECHNICAL DATA OR COMPUTER SOFTWARE

(a) Beginning after the inclusion in a contract of the national competitiveness mission, the contractor-manager shall identify in writing in advance of its use in a contemplated cooperative arrangement or in an amendment to the arrangement—

(1) any particular inventions, conceived or first actually reduced to practice by the contractor-manager in the performance of program missions under its contract; and

(2) any specific technical data or computer software determined to have near-term commercial value, first produced by the contractor-manager in the performance of program missions under its contract.

(b) To the extent that this part is inconsistent with any of the provisions of section 200, title 35 of the United States Code, et seq., the provisions of this part take precedence.

(c) In addition to the exemptions provided by section 202(a) (i), (ii), (iii), and (iv) of title 35, United States Code, for purposes of this part the Secretary may designate special circumstance technologies or inventions for which title shall vest in the Government in the same manner as exceptional circumstance determinations under section 202(a)(ii) of title 35, United States Code. The Secretary may make this designation only where a finding can be made that retention of title by the contractor would not meet the principles of section 3134(b) or that public health, safety, energy, or environmental considerations require otherwise. The Secretary's finding shall be processed in the same manner as determinations under subsection 202(b)(1) of title 35, United States Code.

(d) With respect to any inventions conceived or first actually reduced to practice by the contractor-manager in the performance of its contract to manage and operate the facilities:

(1) Notwithstanding section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), section 9 of the Federal Non-nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908), or other provision of law, the Secretary shall dispose of the title to an invention made by a contractor-manager in the same manner as applied to small business and nonprofit organizations under chapter 18 of title 35, United States Code, and as provided by this part.

(2)(A) Whenever a contractor-manager makes an invention to which the Secretary has determined to retain title for exceptional circumstances under section 202(a)(ii) of title 35, United States Code or for special circumstances under subsection (c), title to the invention shall be retained by the Government unless the facility at which the invention is made requests title or an exclusive right to the invention and the Secretary does not notify the contractor-manager of the facility within ninety days after receipt of the request that—

(i) the invention is covered by a determination under section 202(a)(ii) of title 35, United States Code or a special circumstance designation under subsection (c) or has been classified or has been designated sensitive technical information; and

(ii) rejection of the request, in whole or in part, either is justified by the Secretary's original determination to retain title for exceptional circumstances or for special circumstances or is in the best interests of the United States, taking into consideration the matters set forth in subparagraph (C).

(B) Whenever a contracting party makes an invention to which the Secretary has determined to retain title because the invention is made in the course of or under a funding agreement described in section 202(a)(iv) of title 35, United States Code, the title to the invention shall be retained by the Government unless the contractor-manager of the facility at which the invention is made requests title or an exclusive right to the invention and the Secretary does not notify the director of the facility within ninety days after receipt of the request that—

(i) the invention is covered by a determination under subsection 202(a)(iv) of title 35, United States Code, or has been classified or has been designated sensitive technical information, and

(ii) rejection of the request, in whole or in part, is in the best interests of the United States, taking into consideration the matters set forth in subparagraph (C).

(C) In making a determination in accordance with this paragraph, the Secretary shall consider whether any such determination either may result in—

(i) the compromise of the national security;

(ii) the release to unauthorized persons of sensitive technical information (whether classified or unclassified) under any program or activity for which dissemination is controlled under Federal law; or

(iii) a conflict of interest contemplated by Federal statutes and regulations;

or will adversely affect the operation of any other program or activity conducted at any facility. The Secretary may not use export control statutes or regulations as the sole bases for refusing a request for title to an invention.

(D) If the Secretary does not notify the contractor-manager that has requested title to an invention in accordance with this section, the Secretary shall—

(i) notify the contractor-manager of the date on which action will be taken by the Secretary, not to exceed an additional sixty days beyond the original deadline; and

(ii) shall provide a written explanation of the reason for the delay.

(e) With respect to specific technical data or computer software referred to in subsection (a)(2) that the Secretary, upon request of the contractor-manager, determines has near-term commercial value and is necessary for commercialization of technology to be developed under the cooperative arrangement, the cooperative arrangement may provide intellectual property rights to the technical data or computer software; if so protected the technical data or computer software shall not be disclosed to or reproduced for any third party by the Government (except for third parties to which the Government decides it must disclose the technical data or computer software on a restricted basis either for national security purposes, for health, safety and environmental purposes, or to Government contractors in the performance of Government work), the contractor-manager or any collaborative party to the arrangement, for a period of up to three years after completion of the work performed under the arrangement up to a maximum of six years after the technical data or computer software is first produced. Thereafter, or earlier upon permission of the parties, the Government shall have unlimited rights to such intellectual property and technical data or computer software.

(f) Notwithstanding any grant of rights under subsections (d) and (e) of this section, the Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license, to practice or have practiced for or on behalf of the United States throughout the world, to such inventions, to use or have used or create derivative works for or on behalf of the United States throughout the world such technical data or computer software.

SEC. 3136. COOPERATIVE ARRANGEMENTS

(a) Notwithstanding any other provision of this part or any other provision of any other law to the contrary, the rights to any inventions conceived or first actually reduced to practice by a collaborating party in performing under a cooperative arrangement shall be agreed to by the parties to the arrangement, subject to regulations under this part and to the Government's nonexclusive, nontransferable, irrevocable, paid-up license, to practice or have practiced for or on behalf of the United States throughout the world, to that invention.

(b) With respect to technical data or computer software first produced in the performance of a cooperative arrangement that the Secretary, upon request of the contrac-

tor-manager, determines has near-term commercial value and is necessary for commercialization of technology to be developed under the cooperative arrangement, may be protected by an intellectual property right; if so protected, the technical data or computer software shall not be disclosed to or reproduced for any third party by the Government (except for third parties to which the Government decides it must disclose the technical data on a restricted basis either for national security purposes, for health, safety, and environmental purposes, or to Government contractors in performance of Government work), the contractor-manager or any collaborative party to the arrangement, without the express written permission of all parties to the arrangement, for a period of up to three years after completion of the work performed under the arrangement up to a maximum of six years after the technical data is first produced, subject to the Government's nonexclusive, nontransferable, irrevocable, paid-up license, to use or have used or create derivative works for or on behalf of the United States throughout the world, such technical data or computer software. Thereafter, or earlier upon permission of the parties to the agreement, the Government shall have unlimited rights to the intellectual property and technical data or computer software.

(c) Technical data or computer software in which collaborating parties have rights established prior to entering into cooperative arrangements shall be accorded appropriate protection.

SEC. 3137. OVERSIGHT

The Secretary, the Inspector General of the Department of Energy, and the Comptroller General shall conduct periodic audits of activities under this part.

SEC. 3138. LIABILITY

Neither the United States nor the contractor-managers, or any of their officers, employees or agents, may be held liable for injury or damage due to a defect or deficiency in a product or process produced or service performed by a collaborating party or its licensees or assigns that embodies technology developed under a cooperative arrangement under this part.

SEC. 3139. COPYRIGHTS AND PATENTS

This part does not contain any new authority for the Department of Energy to obtain a copyright or a patent.

PART D—MISCELLANEOUS PROVISIONS

SEC. 3141. PRODUCTION OF THE 155-MILLIMETER ARTILLERY-FIRED, ATOMIC PROJECTILE

Section 1635 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2649), is amended—

(1) in subsection (b), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", not including amounts spent exclusively to ensure the safety and security of the warheads."; and

(2) by adding at the end the following new subsection:

"(d) The Secretary of Energy and the Secretary of Defense shall jointly submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of this section and shall include in such report the number of projectiles referred to in subsection (b) that have been produced and the total amount obligated for the production of such projectiles. Such report shall be submitted at the same time that the President submits the budget for fiscal year 1991 to Congress pursuant to section 1105 of title 31, United States Code.".

SEC. 3142. SPECIAL PERSONNEL MANAGEMENT AUTHORITY RELATING TO CERTAIN DEPARTMENT OF ENERGY POSITIONS

(a) AUTHORITY TO DESIGNATE CRITICAL POSITIONS.—(1) The Secretary of Energy may designate not more than 25 positions in the Department of Energy as critical positions. The Secretary may designate a position as a critical position for purposes of this section only if (A) the duties of the position involve significant managerial functions relating to the research, development, production, or processing of nuclear materials, facilities, or technology for defense purposes, and (B) the Secretary determines that sustained exceptional performance of such functions is required in the interest of the national security or the public health and safety of the United States.

(2)(A) The authority of the Secretary to designate a position as a critical position under this section expires three years after the date of the enactment of this Act.

(B) A position designated as a critical position for purposes of this section shall cease to be a critical position three years after the date of the enactment of this Act, except that a position designated as a critical position shall continue to be a critical position for purposes of this section after such three-year period so long as a person appointed to such position before the expiration of such three-year period continues to hold such position.

(b) AUTHORITY TO PRESCRIBE RATES OF PAY.—(1) Notwithstanding section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.), sections 5308, 5382, and 5383(b) of title 5, United States Code, or any other provision of law, the Secretary may prescribe the rate of pay for a critical position at the time an appointment is made to that position.

(2) Except as provided in paragraph (3), the rate of pay prescribed under paragraph (1) for a critical position may not exceed the amount equal to 150 percent of the rate of pay that, except for this subsection, would otherwise apply to that position.

(3) The Secretary may prescribe a rate of pay for a critical position in excess of the limit specified in paragraph (2) if the Secretary determines that there is an extraordinary need to pay a person in that position a rate of pay higher than that limit. However, in no case may the higher rate of pay exceed the amount equal to 150 percent of the rate of pay applicable for executive level II under the Executive Schedule pursuant to section 5313 of title 5, United States Code.

(4) Subject to the limitations provided in paragraphs (2) and (3), the Secretary may from time to time adjust the rates of pay prescribed under this subsection.

(c) INAPPLICABILITY OF DUAL COMPENSATION LIMITATION.—Section 5532 of title 5, United States Code, shall not apply to a person while such person is serving in a critical position.

(d) INAPPLICABILITY OF CERTAIN CONFLICTS-OF-INTEREST LAWS.—(1) Section 207 of title 18, United States Code, shall not apply in the case of a former officer or employee referred to in subsection (a) of such section who furnishes services to or on behalf of a contractor operating a multiprogram laboratory with which the Department of Energy has a contract. This paragraph shall apply only with respect to such services that relate to matters in which the former officer or employee officially participated while such former officer or employee was serving in a critical position.

(2) Section 208 of title 18, United States Code, shall not apply in the case of any person who (A) is serving in a critical position, and (B) is a former employee of a multiprogram laboratory with which the Department of Energy had a contract during the period that the person was employed by that laboratory. This paragraph shall apply only with respect to matters involving that laboratory.

(3)(A) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)) shall not apply to a person referred to in subparagraph (B) with respect to services furnished by such person to a multiprogram laboratory in connection with a competition for, award of, modification of, or extension of a Department of Energy contract for the operation of such laboratory or with respect to performance of work under the contract.

(B) This paragraph applies to any person who, while serving in a critical position, took any action described in section 27(e) of the Office of Federal Procurement Policy Act with respect to a procurement for the operation of the laboratory referred to in subparagraph (A).

(4)(A) Whenever a person, upon separation from employment by the Department of Energy, commences the furnishing of services with respect to which section 207 of title 18, United States Code, or section 27(e) of the Office of Federal Procurement Policy Act does not apply by reason of paragraph (1) or (3), the Secretary of Energy shall transmit to the Office of Government Ethics a notification containing the name of such person, the Department of Energy position in which the person was employed at the time of separation, the contractor to which or on behalf of which such person is furnishing such services, and a description of such services.

(B) Whenever the Secretary of Energy appoints to a position of employment in the Department of Energy any person to whom section 208 of title 18, United States Code, does not apply by reason of paragraph (2), the Secretary shall transmit to the Office of Government Ethics a notification containing the name of such person, the position in which such person was employed while such person was employed in a laboratory referred to in that paragraph, the name of the person's employer while such person was so employed, and the position to which such person is appointed.

(C) Notifications received by the Office of Government Ethics under this paragraph shall be available to the public.

(e) SPECIAL SCIENTIFIC, ENGINEERING, AND MANAGERIAL POSITIONS.—(1) The Secretary may designate not more than 250 scientific, engineering, and managerial positions in the Department of Energy as special scientific positions, special engineering positions, and special managerial positions, respectively.

(2) Section 5532 of title 5, United States Code, shall not apply to a person while such person is serving in a position designated pursuant to paragraph (1).

(f) DEFINITIONS.—As used in this section:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "critical position" means a position designated by the Secretary as a critical position under subsection (a).

SEC. 3143. NUCLEAR TEST BAN READINESS PROGRAM

(a) PARTICIPATION OF THE SECRETARY OF DEFENSE.—Section 1436 of National Defense Authorization Act, Fiscal Year 1986 (Public

Law 100-456; 102 Stat. 2075; 42 U.S.C. 2121 note) is amended—

(1) in subsection (b), by striking out "Secretary of Energy shall" and inserting in lieu thereof "Secretary of Defense and the Secretary of Energy shall jointly";

(2) in subsection (d)—

(A) by striking out "Secretary of Energy shall" and inserting in lieu thereof "Secretary of Defense and the Secretary of Energy shall jointly"; and

(B) by striking out "the Department of Defense,"; and

(3) in subsection (e), by striking out "Secretary of Energy shall" and inserting in lieu thereof "Secretary of Defense and the Secretary of Energy shall jointly".

(b) ESTABLISHMENT OF PROGRAM.—Subsection (b) of section 1436 of such Act is amended by striking out "deterrent effect" and all that follows through the end of such subsection and inserting in lieu thereof "military effectiveness of its stockpile of nuclear weapons designs and other deterrent systems in the event that a low-threshold or comprehensive ban on nuclear explosives testing is negotiated and ratified.".

(c) PURPOSES OF PROGRAM.—Subsection (c) of section 1436 of such Act is amended—

(1) in paragraph (1), by striking out "existing designs of nuclear weapons" and inserting in lieu thereof "its stockpile of nuclear weapons designs"; and

(2) in paragraph (3), by inserting before the period at the end the following: ", including nuclear effects on other deterrent systems, and can carry out necessary modernization requirements".

SEC. 3144. AUTHORIZATION AND FUNDING FOR ROCKY FLATS AGREEMENT

(a) AUTHORIZATION.—(1) Using funds available pursuant to subsection (b), the Secretary of Energy shall make such payments as may be necessary—

(A) to carry out the agreement entered into on June 16, 1989, between the Department of Energy and the State of Colorado with respect to the Rocky Flats Plant; and

(B) to enable the State of Colorado to provide such assistance to the Colorado communities described in paragraph (2) as is necessary to ensure, through testing and related activities, that the drinking water of those communities is safe, pure, and clean.

(2) The Colorado communities referred to in paragraph (1)(B) are those communities whose water supply flows through, runs off, or is otherwise affected by air or water emissions of, the Rocky Flats Plant.

(b) FUNDING.—Of the funds appropriated to the Department of Energy for fiscal year 1990 pursuant to the authorization in this title for environmental restoration and management of defense waste, not more than $3,435,000 may be obligated to carry out such agreement and to provide for testing and related activities authorized under subsection (a)(2).

SEC. 3145. REPORTS IN CONNECTION WITH PERMANENT CLOSURES OF DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES

(a) TRAINING AND JOB PLACEMENT SERVICES PLAN.—Not later than 120 days before a Department of Energy defense nuclear facility (as defined in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g)) permanently ceases all production and processing operations, the Secretary of Energy must submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of the training and job placement services needed to enable the employees at such facility to obtain employment in the environmental remediation and cleanup activities at such facility. The discussion shall include the actions that should be taken by the contractor operating and managing such facility to provide retraining and job placement services to employees of such contractor.

(b) CLOSURE REPORT.—Upon the permanent cessation of production operations at a Department of Energy defense nuclear facility, the Secretary of Energy shall submit to Congress a report containing—

(1) a complete survey of environmental problems at the facility;

(2) budget quality data indicating the cost of environmental restoration and other remediation and cleanup efforts at the facility; and

(3) a discussion of the proposed cleanup schedule.

SEC. 3146. NATIONAL COMPETITIVENESS MISSION

Section 91(a) of the Atomic Energy Act of 1954 (68 Stat. 936; 42 U.S.C. 2121(a)) is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(3) enhance the economic competitiveness of the United States, to the extent consistent with the national security missions of the Department of Energy, by ensuring that investment in research and development in the military application of atomic energy results, to the extent practicable, in the development of civilian applications for and commercialization of advanced technology (including, but not limited to, advanced technology relating to the safe and efficient handling and disposal of industrial wastes), through appropriate transfers of federally owned or federally originated technology to state or local governments, private industry, and universities or other non-profit institutions.".

PART E—ENVIRONMENT, SAFETY, AND MANAGEMENT

SEC. 3151. AUTHORIZATION FOR ENVIRONMENTAL RESTORATION AND FOR MANAGEMENT OF DEFENSE WASTE AND TRANSPORTATION

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1990 for environmental restoration and management of defense waste and transportation, as follows:

(1) For operating expenses, $1,602,639,000, to be allocated as follows:

(A) For environmental restoration, $640,293,000. Such funds may also be used for plant and capital equipment.

(B) For waste operation and projects, $747,167,000.

(C) For waste research, development, and compliance in support of the defense waste cleanup technology program under section 154, $200,338,000.

(D) For transportation management, $11,841,000.

(E) For program direction, $2,950,000.

(2) For plant and capital equipment, $166,966,000, to be allocated as follows:

Project 90-D-170, general plant projects, various locations, $29,036,000.

Project 90-D-171, laboratory ventilation and electrical system upgrade, Richland, Washington, $1,100,000.

Project 90-D-172, aging waste transfer lines, Richland, Washington, $1,300,000.

Project 90-D-173, B plant canyon crane replacement, Richland, Washington, $1,500,000.

Project 90-D-174, decontamination laundry facility, Richland, Washington, $2,800,000.

Project 90-D-175, landlord program safety compliance-1, Richland, Washington, $4,200,000.

Project 90-D-176, transuranic (TRU) waste facility, Savannah River, South Carolina, $3,100,000.

Project 90-D-177, RWMC transuranic (TRU) waste treatment and storage facility. Idaho National Engineering Laboratory, Idaho Falls, Idaho, $5,000,000.

Project 90-D-178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho Fall, Idaho, $6,000,000.

Project 89-D-171, Idaho National Engineering Laboratory road renovation, Idaho, $7,400,000.

Project 89-D-172, Hanford environmental compliance, Richland, Washington, $27,600,000.

Project 89-D-173, tank farm ventilation upgrade, Richland, Washington, $15,400,000.

Project 89-D-174, replacement high level waste evaporator, Savannah River, South Carolina, $9,360,000.

Project 89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $6,440,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $29,100,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $700,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $2,790,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $14,140,000.

(3) For capital equipment not related to construction, $50,126,000.

SEC. 3152. MAJOR DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

(a) MAJOR PROGRAM DEFINED.—In this section, the term "major Department of Energy national security program" means a research and development program (which may include construction and production activities), a construction program, or a production program—

(1) that is designated by the Secretary of Energy as a major Department of Energy national security program; or

(2) that is estimated by the Secretary of Energy to cost more than $500,000,000 (based on fiscal year 1989 constant dollars).

(b) REQUIRED REPORTS.—(1) Except as provided in paragraph (3), the Secretary of Energy shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives at the end of each calendar-year quarter a report on each major Department of Energy national security program.

(2) Each such report shall include, at a minimum, the following information:

(A) A description of the program, its purpose, and its relationship to the mission of the national security program of the Department of Energy.

(B) The program schedule, including estimated annual costs.

(C) A comparison of the current schedule and cost estimates with previous schedule

and cost estimates, and an explanation of changes.

(3) A report under this section need not be submitted for the first, second, or third calendar-year quarter if the comparison between current schedule and cost estimates and schedule and cost estimates contained in the last submitted report shows that there has been—

(A) less than 5 percent change in total program cost; and

(B) less than a 90-day delay in any significant schedule item of the program.

(c) SUBMISSION OF REPORT.—Each report under this section shall be submitted not later than 30 days after the end of each calendar-year quarter. The first report shall cover the fourth quarter of 1989 and shall be submitted not later than January 30, 1990.

(d) IDENTIFICATION OF PROGRAMS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall submit a report to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives that identifies all programs of the Department of Energy that are major Department of Energy national security programs, as defined in subsection (a).

SEC. 3153. FIVE-YEAR BUDGET PLAN REQUIREMENT

(a) PLAN REQUIREMENT.—The Secretary of Energy each year shall prepare a five-year budget plan for the national security programs of the Department of Energy. The plan shall contain the estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the national security programs and shall be at a level of detail comparable to that contained in the budget submitted by the President to Congress under section 1105 of title 31, United States Code.

(b) SUBMISSION OF PLAN.—The Secretary shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives the plan required under subsection (a) at the same time as the President submits to Congress the budget pursuant to section 1105 of title 31, United States Code.

SEC. 3154. DEFENSE WASTE CLEANUP TECHNOLOGY PROGRAM

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish and carry out a program for the supervision, direction, and coordination of all research activities of the Department of Energy for the development of technologies useful for (1) the reduction of environmental hazards and contamination resulting from defense waste, and (2) environmental restoration of inactive defense waste disposal sites.

(b) PROGRAM MANAGER.—The Secretary shall carry out the program referred to in subsection (a) through a program manager appointed by the Secretary. The program manager shall supervise and direct all research activities conducted by or for the Department of Energy for the development of technologies referred to in such subsection.

(c) COORDINATION WITH EPA.—(1) In order to ensure nonduplication of research activities by the Department of Energy and the Environmental Protection Agency regarding technologies referred to in subsection (a), the Secretary shall coordinate the research activities of the Department of Energy relating to the development of such technologies with the research activities of the Environmental Protection Agency relating to the same matter.

(2) The Secretary and the Administrator of the Environmental Protection Agency may enter into cooperative agreements for the conduct of research for the development of technologies referred to in subsection (a).

(d) REPORT.—(1) The Secretary shall submit to Congress not later than April 1 each year a report on the research activities of the Department of Energy for the development of technologies referred to in subsection (a). The report shall cover such activities for the fiscal year preceding the fiscal year in which the report is submitted. The Secretary shall include in the report the following:

(A) A description and assessment of each reseach program being carried out by or for the Department of Energy and the identification of the individual laboratory, contractor, or institution of higher education responsible for the research program.

(B) An assessment of the extent to which (i) there are practical applications of the technologies being researched, and (ii) such technologies will likely facilitate compliance by the Department of Energy with applicable environmental laws and regulations.

(C) An accounting of the funds allocated to each research program and to each laboratory, contractor, or institution of higher education carrying out the research program.

(D) An assessment of the research projects that have been coordinated with the Environmental Protection Agency pursuant to subsection (c).

(2) The first report required by paragraph (1) shall be submitted not later than April 1, 1990.

(e) DEFINITIONS.—As used in this section:

(1) The term "defense waste" means hazardous waste, including radioactive waste, resulting primarily from atomic energy defense activities of the Department of Energy.

(2) The term "inactive defense waste disposal site" means any site (including any facility) which is used for the disposal of defense waste and is closed to the disposal of additional defense waste, including any site that is subject to decontamination and decommissioning.

SEC. 3155. BLUE RIBBON TASK GROUP ON ENVIRONMENTAL RESTORATION AND DEFENSE WASTE MANAGEMENT

(a) ESTABLISHMENT OF GROUP.—The President shall establish a Blue Ribbon Task Group on Environmental Restoration and Defense Waste Management to examine the procedures used in establishing requirements, providing necessary resources, planning, and implementing plans for each of the following:

(A) Environmental restoration activities, including corrective actions at, and decontamination and decommissioning of, facilities of the Department of Energy that conduct atomic energy defense activities.

(B) Defense waste management operations and disposal at such facilities.

(C) Compliance with, and enforcement of compliance with, applicable environmental laws at such facilities.

(b) MEMBERSHIP OF GROUP.—(1) The Task Group shall consist of seven members, qualified for service by reasons of experience and education. The President shall appoint three members and shall designate one of those members to act as chairman of the Task Group. The Majority Leader and the Minority Leader of the Senate shall jointly appoint two members and the Speaker and the Minority Leader of the House of Representatives shall jointly appoint two members.

(2) No person may be appointed to the Task Group who is an employee of the Department of Energy, who has a contract with such Department, or who is an employee of any person that has a contract with such Department.

(c) ACCESS TO RECORDS AND EMPLOYEES.—The Secretary of Energy shall ensure that the Task Group has complete and timely access to all records of the Department of Energy pertaining to policies and procedures referred to in subsection (a) and to all employees of the Department who are directly concerned with such policies and procedures.

(d) REPORT BY THE PRESIDENT.—Within 90 days after the date of the enactment of this Act, the President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing (1) the name of each person appointed by the President to the Task Group, (2) a statement of the qualifications of each such person to serve on the Task Group, and (3) a detailed plan for completing the report required by subsection (e).

(e) REPORT BY THE TASK GROUP.—Not later than January 15, 1991, the Task Group shall submit to the President and Congress a report containing its findings and recommendations. Such report shall include any additional or dissenting views that any member of the Task Group may wish to submit. The report shall (in addition to any other matters) include recommendations of the Task Group on the following matters:

(1) Changes needed to improve the policies and procedures referred to in subsection (a).

(2) Improvements in the budgeting, organization, and management policies and procedures that affect environmental compliance and restoration, enforcement, and defense waste activities.

(3) Appropriate policies and procedures for achieving, maintaining, and enforcing compliance with substantive and procedural requirements of Federal and State environmental laws at atomic energy defense facilities of the Department of Energy consistent with the performance of the missions of those facilities, including recommended changes in existing law or existing Federal agency policies necessary for the establishment of (A) the policies and procedures recommended by the Task Group, and (B) consistent government-wide policies on the matters covered by the policies and procedures recommended by the Task Group.

(4) Priorities for implementing such measures for environmental compliance and restoration and defense waste management at atomic energy defense facilities of the Department of Energy as may be necessary to bring such facilities into compliance with applicable Federal and State laws.

(5) Actions to enhance the capability of the Department of Energy to meet program milestones.

(6) The amount of funding needed for long-term environmental restoration at Department of Energy atomic energy defense facilities.

(7) Alternative means for funding long-term environmental restoration at such facilities.

(8) Whether one of the means for funding such long-term environmental restoration should be a trust fund established for purposes of correcting environmental contamination at the Department of Energy atomic energy defense facilities and, if so, what the

scope of the trust fund should be, what the sources of revenue for the trust fund should be, and what the criteria should be for determining the priorities for which expenditures from the trust fund should be made.

(9) The adequacy of the five-year plan proposed by the Secretary of Energy to bring the Department of Energy atomic energy defense facilities into compliance with environmental laws.

SEC. 3156. EXECUTIVE MANAGEMENT TRAINING IN THE DEPARTMENT OF ENERGY

(a) ESTABLISHMENT OF TRAINING PROGRAM.—The Secretary of Energy shall establish and implement a management training program for personnel of the Department of Energy involved in the management of atomic energy defense activities.

(b) TRAINING PROVISIONS.—The training program shall include instruction in the following areas:

(1) The appropriate management responsibilities and reporting requirements for the operation of atomic energy defense facilities and the conduct of related activities.

(2) Methods of evaluating technical performance.

(3) Federal and State environmental laws and requirements for compliance with such environmental laws, including timely compliance with reporting requirements in such laws.

(4) The establishment of program milestones and methods to evaluate success in meeting such milestones.

(5) Methods for conducting long-range technical and budget planning.

(6) Procedures for reviewing and applying innovative technology to environmental restoration and defense waste management.

SEC. 3157. DEFENSE PROGRAM MISSIONS

Section 91(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2121(a)) is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clauses:

"(3) provide for safe storage, processing, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs; and

"(4) carry out research on and development of technologies needed for the effective negotiation and verification of international agreements on control of special nuclear materials and nuclear weapons.".

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION FOR THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD

There are authorized to be appropriated for fiscal year 1990, $10,000,000 for the establishment and operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954.

SEC. 3202. RADIATION-RISK ACTIVITIES

(a) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall submit to the Committees on Armed Services and Veterans' Affairs of the Senate and House of Representatives a report identifying the numbers of individuals who, while serving on active duty for training, inactive duty training, or as a military technician of the National Guard, participated in radiation-risk activities, but are not covered under provisions of the Atomic Veterans Act, Public Law 100-321.

(b) The report required by subparagraph (a) shall be submitted not later than sixty days after enactment of this Act.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. AUTHORIZED CHANGES IN MATERIAL QUANTITIES

The President is authorized to effect the following changes in quantities of materials to be acquired for the National Defense Stockpile provided for under section 3(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(a)):

(1) Aluminum oxide, abrasive grain group, from 638,000 short tons (contained) to 374,000 short tons (contained).

(2) Antimony, from 36,000 short tons to 88,500 short tons.

(3) Asbestos, amosite, from 17,000 short tons to zero short tons.

(4) Bauxite, refractory, from 1,400,000 long calcined tons to 1,240,000 long calcined tons.

(5) Bismuth, from 2,200,000 pounds to 1,060,000 pounds.

(6) Chromite, refractory grade ore, from 850,000 short dry tons to 695,000 short dry tons.

(7) Columbium group, from 4,850,000 pounds (contained) to 12,520,000 pounds (contained).

(8) Diamond, industrial, group, from 29,730,000 carats to 7,730,000 carats.

(9) Fluorspar, acid grade, from 1,400,000 short dry tons to 900,000 short dry tons.

(10) Fluorspar, metallurgical grade, from 1,700,000 short dry tons to 310,000 short dry tons.

(11) Germanium, from 146,000 kilograms to 78,000 kilograms.

(12) Graphite, natural, Malagasy, crystalline, from 20,000 short tons to 14,200 short tons.

(13) Graphite, natural, other than Ceylon and Malagasy, from 2,800 short tons to 1,930 short tons.

(14) Manganese, battery grade group, from 87,000 short dry tons to 50,000 short dry tons.

(15) Mica, muscovite block, stained and better, from 6,200,000 pounds to 2,500,000 pounds.

(16) Natural insulation fibers, from 1,500,000 pounds to zero pounds.

(17) Platinum group metals, iridium, from 98,000 troy ounces to 86,000 troy ounces.

(18) Platinum group metals, palladium, from 3,000,000 troy ounces to 2,150,000 troy ounces.

(19) Quartz crystals, from 600,000 pounds to 240,000 pounds.

(20) Talc, steatite block and lump, from 28 short tons to zero short tons.

(21) Tungsten group, from 50,666,000 pounds (contained) to 70,900,000 pounds (contained).

SEC. 3302. AUTHORIZATION OF ACQUISITIONS

During each of the fiscal years 1990 and 1991, the President shall obligate $140,000,000 out of the funds of the National Defense Stockpile Transaction Fund (subject to such limitations as may be provided in appropriations Acts) for the purposes stated in subparagraphs (A) through (E) of section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

SEC. 3303. AUTHORIZED DISPOSALS

(a) AUTHORITY.—Notwithstanding section 5(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(b)(2)), effective October 1, 1989, the President may, during fiscal years 1990 and 1991, dispose of the following materials in the National Defense Stockpile that have been determined to be excess to the current requirements of the stockpile:

Material	Quantities
Asbestos, amosite	34,000 short tons
Bismuth	255,400 pounds
Diamond, industrial, crushing bort	8,000,000 carats
Fluorspar, metallurgical grade	15,000 short dry tons
Graphite, natural, Malagasy, crystalline	3,635 short tons
Graphite, natural, other than Ceylon and Malagasy	873 short tons
Mercury	15,000 flasks
Mica, muscovite block, stained and better	10,000 pounds
Silicon carbide	690 short tons
Talc, block and lump	28 short tons
Tin	5,000 metric tons

(b) ADDITIONAL AUTHORITY.—The disposal authority under subsection (a) is in addition to any other disposal authority provided by law.

SEC. 3304. STOCKPILE MANAGEMENT

Section 6(a)(4) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(4)) is amended—

(1) by inserting "or technological obsolescence" after "deterioration"; and

(2) by inserting "or more suitable" after "same".

TITLE XXXIV—CIVIL DEFENSE

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS

There is hereby authorized to be appropriated $151,535,000 for fiscal year 1990 for the purpose of implementing the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

Mr. NUNN. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. ROBB). The Senate will be in order.

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed immediately to the consideration en bloc of the following bills: S. 1446, Calendar Order No. 190; S. 1447, Calendar Order No. 191; S. 1448, Calendar No. 192; S. 1449, Calendar Order No. 193; and S. 1463, Calendar Order No. 198.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that all after the enacting clause of each of these bills be stricken and that the appropriate portion of S. 1352, as amended, be inserted in lieu thereof, according to the following schedule: S. 1446, Department of Defense Authorization Act, division A; S. 1449, Military Construction Authorization Act, division B; S. 1447, Department of Energy and Other National Security Programs Authorization Act, division C; S. 1448, authorization of certain programs in the Department of Defense, titles IV, V, and VI; S. 1463, authorization of cer-

tain Department of Defense personnel management initiatives, title VIII, part C.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that these bills be agreed to en bloc and that a motion to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 1352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Years 1990 and 1991".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS

This Act is divided into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Other National Defense Authorizations.

DIVISION A—NATIONAL DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for procurement of aircraft for the Army as follows:

(1) $2,706,500,000 for fiscal year 1990.

(2) $2,742,100,000 for fiscal year 1991.

(b) MISSILES.—Funds are hereby authorized to be appropriated for procurement of missiles for the Army as follows:

(1) $2,385,856,000 for fiscal year 1990.

(2) $2,571,260,000 for fiscal year 1991.

(c) WEAPONS AND TRACKED COMBAT VEHICLES.—Funds are hereby authorized to be appropriated for procurement of weapons and tracked combat vehicles for the Army as follows:

(1) $2,637,600,000 for fiscal year 1990.

(2) $3,120,098,000 for fiscal year 1991.

(d) AMMUNITION.—Funds are hereby authorized to be appropriated for procurement of ammunition for the Army as follows:

(1) $1,697,400,000 for fiscal year 1990.

(2) $1,617,300,000 for fiscal year 1991.

(e) OTHER PROCUREMENT.—Funds are hereby authorized to be appropriated for other procurement for the Army as follows:

(1) $2,892,713,000 for fiscal year 1990.

(2) $3,745,835,000 for fiscal year 1991.

SEC. 102. NAVY AND MARINE CORPS

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for aircraft for the Navy as follows:

(1) $8,346,762,000 for fiscal year 1990.

(2) $9,200,235,000 for fiscal year 1991.

(b) WEAPONS.—Funds are hereby authorized to be appropriated for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

(1) $3,887,520,000 for fiscal year 1990.

(2) $3,589,502,000 for fiscal year 1991.

(c) SHIPBUILDING AND CONVERSION.—Funds are hereby authorized to be appropriated for shipbuilding and conversion for the Navy as follows:

(A) $9,756,466,000 for fiscal year 1990.

(B) $12,362,000,000 for fiscal year 1991.

(d) OTHER PROCUREMENT, NAVY.—Funds are hereby authorized to be appropriated for other procurement for the Navy as follows:

(1) $6,314,300,000 for fiscal year 1990.

(2) $6,592,460,000 for fiscal year 1991.

(e) MARINE CORPS.—Funds are hereby authorized to be appropriated for procurement for the Marine Corps as follows:

(1) $1,178,000,000 for fiscal year 1990.

(2) $1,090,900,000 for fiscal year 1991.

SEC. 103. AIR FORCE

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for procurement of aircraft for the Air Force as follows:

(1) $15,930,600,000 for fiscal year 1990.

(2) $13,957,064,000 for fiscal year 1991.

(b) MISSILES.—Funds are hereby authorized to be appropriated for procurement of missiles for the Air Force as follows:

(1) $7,010,000,000 for fiscal year 1990.

(2) $5,892,836,000 for fiscal year 1991.

(c) OTHER PROCUREMENT.—Funds are hereby authorized to be appropriated for other procurement for the Air Force as follows:

(1) $8,450,200,000 for fiscal year 1990.

(2) $8,030,677,000 for fiscal year 1991.

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for procurement for the Defense Agencies as follows:

(1) $1,284,400,000 for fiscal year 1990.

(2) $1,115,169,000 for fiscal year 1991.

SEC. 104a. RESERVE COMPONENTS

Funds are hereby authorized to be appropriated for fiscal years 1990 and 1991 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard:

(A) $506,100,000 for fiscal year 1990.

(B) $521,400,000 for fiscal year 1991.

(2) For the Air National Guard:

(A) $941,200,000 for fiscal year 1990.

(B) $753,900,000 for fiscal year 1991.

(3) For the Army Reserve:

(A) $100,400,000 for fiscal year 1990.

(B) $175,800,000 for fiscal year 1991.

(4) For the Navy Reserve.

(A) $144,000,000 for fiscal year 1990.

(B) $159,700,000 for fiscal year 1991.

(5) For the Air Force Reserve.

(A) $177,900,000 for fiscal year 1990.

(B) $179,200,000 for fiscal year 1991.

(6) For the Marine Corps Reserve:

(A) $53,800,000 for fiscal year 1990.

(B) $341,000,000 for fiscal year 1991.

SEC. 105. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747) as follows:

(1) $311,400,000 for fiscal year 1990.

(2) $317,700,000 for fiscal year 1991.

SEC. 106. MULTIYEAR CONTRACT AUTHORIZATIONS

(a) AUTHORIZED MULTIYEAR PROCUREMENTS.—Subject to subsection (c), the Secretary of the military department concerned may use funds appropriated pursuant to the authorizations contained in this Act for fiscal years 1990 and 1991 to enter into multiyear procurement contracts in accordance with section 2306(h) of title 10, United States Code, for the following programs:

(1) For the Army:

(A) the M-1 tank program.

(B) the M-2 fighting vehicle program.

(C) the MH-47 helicopter program.

(D) the Family of Heavy Tactical Vehicles.

(2) For the Navy:

(A) the E-2C aircraft program.

(B) the F/A-18 aircraft program.

(C) the Mark-45 Gun Mount and Mark-6 Ammunition Hoist.

(3) For the Air Force, the AGM-65(D) missile program.

(b) DENIAL OF CERTAIN MULTIYEAR PROCUREMENTS.—The Secretary of the military department concerned may not enter into a multiyear procurement contract for any of the following programs:

(1) The DDG-51 Destroyer program.

(2) The SH-60 B/F Helicopter program.

(c) CONDITIONS.—A multiyear contract authorized by this section may not be entered into unless each of the following conditions is met:

(1) The Secretary of Defense certifies to Congress that the current five-year defense program fully funds the support costs associated with the multiyear program.

(2) The proposed multiyear contract provides for production at not less than minimum economic rates given the existing tooling and facilities.

(3) The proposed multiyear contract—

(A) achieves a 10 percent savings as compared to the cost of current negotiated contracts, adjusted for changes in quantity and for inflation; or

(B) achieves a 10 percent savings as compared to annual contracts if no recent contract experience exists.

(4) Paragraph (3)(A) does not apply to programs which are currently under multiyear contract.

SEC. 107. MILESTONE AUTHORIZATION CHANGES

(a) PROCUREMENT PROGRAMS.—Section 106 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180, 101 Stat. 1034) is amended—

(1) in subsection (a)(2)—

(A) by striking out "$976,200,000" in subparagraph (A) and inserting in lieu thereof "$884,719,000"; and

(B) by striking out "$360,000,000" in subparagraph (B) and inserting in lieu thereof "$68,596,000";

(2) in subsection (b)(2)—

(A) by striking out "$158,200,000" in subparagraph (A) and inserting in lieu thereof "$140,873,000"; and

(B) by striking out "$209,000,000" in subparagraph (B) and inserting in lieu thereof "$199,858,000";

(3) in subsection (c)(2), by striking out "$2,215,000,000" and inserting in lieu thereof "$1,915,638,000"; and

(4) in subsection (d)(2)—

(A) by striking out "$437,700,000" in subparagraph (A) and inserting in lieu thereof "$153,114,000"; and

(B) by striking out "$596,300,000" in subparagraph (B) and inserting in lieu thereof "$431,565,000".

(b) RDT&E PROGRAMS.—Section 216 of such Act is amended—

(1) in subsection (a)(2), by striking out "$49,000,000" and inserting in lieu thereof "$44,661,000";

(2) in subsection (b)(2)—

(A) by striking out "$338,300,000" in subparagraph (A) and inserting in lieu thereof "$216,054,000"; and

(B) by striking out "$164,700,000" in subparagraph (B) and inserting in lieu thereof "$70,670,000"; and

(3) in subsection (c)(2)—

(A) by striking out "$23,700,000" in subparagraph (A) and inserting in lieu thereof "$26,475,000"; and

(B) by striking out "$24,000,000" in subparagraph (B) and inserting in lieu thereof "$14,603,000".

SEC. 108. AUTHORIZATION OF APPROPRIATIONS OF ADDITIONAL AMOUNTS FOR PROCUREMENT OF MISSILES

(a) FISCAL YEAR 1990.—Funds are hereby authorized to be appropriated for fiscal year 1990 for procurement of missiles for the Army, Navy, and Air Force as follows:

For the Army, $362,400,000.

For the Navy, $125,100,000.

For the Air Force, $109,300,000.

(b) FISCAL YEAR 1991.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of missiles for the Army and Air Force as follows:

For the Army, $227,500,000.

For the Air Force, $109,300,000.

(c) ADDITIONAL AUTHORIZATION.—Funds authorized to be appropriated pursuant to subsections (a) and (b) are in addition to funds authorized to be appropriated under sections 101, 102, and 103.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 121. M-1 TANK PROGRAM

None of the funds appropriated for the Army for fiscal year 1990 may be obligated to begin the inactivation or deactivation of the Detroit Army Tank Plant.

SEC. 122. RESTRICTION ON FISCAL YEAR 1989 FUNDS FOR 10-TON TRUCKS

Of the funds appropriated or otherwise made available to the Army for fiscal year 1989 for procurement of 10-ton trucks, not more than $29,000,000 shall be available for purposes of procuring and installing an additional 480 tanker/refueler kits on 10-ton trucks.

SEC. 123. PROCUREMENT OF V-22 AIRCRAFT

(a) IN GENERAL.—Funds appropriated or otherwise made available to the Department of Defense pursuant to this or any other Act may not be obligated on or after the date of the enactment of this Act for the procurement of the V-22 aircraft.

(b) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

PART C—STRATEGIC PROGRAM TEST AND REPORTING REQUIREMENTS

SEC. 131. TRIDENT II MISSILE PROGRAM

In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1990, no reduction may be made in the amount of funds available for the Trident II missile program.

SEC. 132. B-1B DEFENSIVE AVIONICS TEST AND EVALUATION PROGRAM

(a) REQUIREMENT FOR PROGRAM.—(1) During fiscal years 1990 and 1991, the Secretary of Defense shall develop and conduct a comprehensive program for the systematic testing of the proposed modifications of the Air Force to the defensive avionics system of the B-1B aircraft described in subsection (f).

(2) Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a detailed plan for such testing during fiscal years 1990 and 1991. Such plan shall include—

(A) the planned test schedule for each of the various components of the defensive avionics system, tested singly and in combination with other components of the defensive and offensive avionics systems;

(B) the objectives of each of the planned tests and the criteria that will be used to determine whether each such test is successful, partially successful, or unsuccessful; and

(C) an explanation of how those scheduled tests can be used to estimate the capability of the B-1B to penetrate Soviet air defenses, including both single and multiple threats.

(b) MODIFICATIONS TO B-1B AIRCRAFT.—(1) Funds appropriated or otherwise made available to the Air Force for procurement of aircraft during fiscal year 1990 may be used to modify not more than six B-1B aircraft to the configuration described in subsection (f).

(2) Such aircraft shall be used to conduct the test program defined by section (a)(2).

(3) No additional B-1B aircraft may be modified to the configuration described in subsection (f) or have radar warning receivers added until the test program has been completed and funding for such additional modifications has been authorized by legislation enacted after the date of the enactment of this Act.

(c) BIMONTHLY STATUS REPORTS.—Beginning February 1, 1990, and every two months thereafter until the completion of the test program required by this section, the Secretary shall submit to the congressional defense committees a report indicating whether the tests to be carried out after the submission of the last report have been carried out as planned and whether, in the case of each such test, the test was successful, partially successful, or unsuccessful. The Secretary shall include in such report an assessment of the capability of the B-1B aircraft to meet—

(1) performance objectives;

(2) technical and fiscal objectives; and

(3) significant test milestones.

(d) INDEPENDENT ASSESSMENT.—(1) Following completion of the test program referred to in subsection (a)(1), the Secretary shall provide for an independent assessment of the capabilities of the B-1B aircraft to penetrate air defenses of potential enemies. The Secretary shall appoint a panel of experts from the private sector to conduct the assessment and shall provide the panel with such resources as are necessary, including technical assistance by private contractors, to assist the panel in conducting the assessment. Individuals appointed to the panel shall be independent of the Air Force and shall have no arrangements with the Air Force that would constitute a conflict of interest.

(2) The panel shall assess the air defense capabilities of the six test aircraft referred to in subsection (b) after they have been modified as provided in subsection (f) and, on the basis of that assessment, determine what the air defense penetration capabilities of the entire fleet of such aircraft would be in all of its mission profiles if every aircraft in the fleet were so modified.

(3) The panel shall estimate the air defense penetration capabilities of the B-1B aircraft against the threats described—

(A) in the 1981 joint Office of the Secretary of Defense/Air Force Bomber Alternatives Study;

(B) in the 1986 Strategic Bomber Force Study; and

(C) in the most current threat baseline established by the intelligence community for estimated Soviet air defenses in the late 1990s.

(4) The Secretary of Defense shall ensure that individuals serving on the panel receive the full cooperation of all components of the Department of Defense in carrying out the functions of the panel under this section.

(5) The Secretary shall submit to the congressional defense committees the report of the panel not more than 180 days after the conclusion of the test program referred to in subsection (a).

(e) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—For purposes of this section, the term "congressional defense committees" means the Committees on Armed Services and Appropriations of the Senate and House of Representatives.

(f) AUTHORIZED MODIFICATIONS.—The modifications referred to in subsection (a) consist of the "core configuration" modification to the ALQ-161 system plus the installation and integration of a radar warning receiver.

SEC. 133. B-2 BOMBER PROGRAM REQUIREMENTS AND LIMITATIONS

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 103(a)(1) for the Air Force for procurement of aircraft for fiscal year 1990, not more than $2,549,374,000 may be obligated for procurement for the B-2 aircraft program.

(b) BLOCK 1 REQUIREMENTS.—(1) Funds appropriated for the Air Force for fiscal year 1990 for procurement of aircraft may not be obligated for the procurement of B-2 aircraft until—

(A) the initial planned Block 1 program of flight testing of the B-2 aircraft, consisting of approximately 75 flight test hours and 15 flights has been conducted;

(B) the Defense Science Board has conducted an independent review of the Block 1 flight test data and reported the results of that review, together with its findings and conclusions, to the Secretary of Defense;

(C) the Director of Operational Test and Evaluation has evaluated the performance of the B-2 aircraft during its Block 1 flight testing with respect to "Critical Operational Issues" and has provided an "Early Operational Assessment" to the Secretary of Defense; and

(D) the Secretary of Defense certifies to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives that—

(i) no major aerodynamic or flightworthiness problems have been identified during the Block 1 testing;

(ii) the performance milestones (including initial flight testing) for the B-2 aircraft for fiscal year 1990 (as contained in the B-2 full performance matrix program established under section 121 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) and section 232 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456)) have been met and that any proposed waiver or modification to the B-2 performance matrix will be provided in writing in advance to such committees;

(iii) the goals of the cost reduction initiatives established for the B-2 program under section 121 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 and section 232 of the National Defense Authorization Act, Fiscal Year 1989 will be achieved; and

(iv) the quality assurance practices and fiscal management controls of the prime contractor and major subcontractors associated with the B-2 program meet or exceed

generally applicable Department of Defense standards.

(2) Any certification by the Secretary under paragraph (1)(D) shall include a description of any savings that will be realized under the initiatives referred to in such paragraph.

(c) BLOCK 2 REQUIREMENTS.—Funds appropriated for the Air Force for fiscal year 1990 for the procurement of aircraft may not be obligated for the procurement of B-2 aircraft before the commencement of Block 2 testing to include low-observables and flying qualities and performance testing in accordance with the approved B-2 Test and Evaluation Master Plan.

(d) INDEPENDENT ASSESSMENT AND CERTIFICATION.—Of the amounts made available for fiscal year 1990 for the procurement of B-2 aircraft, not more than twenty-five percent may be expended until—

(1) The Low-Observables Panel of the Defense Science Board has conducted an independent review of the early Block 2 test data and reported the results of that review together with its findings and conclusions, to the Secretary of Defense, and

(2) Within one week of the submission to the Secretary of Defense of the report by the Low Observables Panel, the Director of Operational Test and Evaluation shall also submit to the Secretary his independent evaluation of the results of the Block 2 flight testing to that date, and

(3) The Secretary of Defense certifies to the Committees on Armed Services and Appropriations of the Senate and House of Representatives that—

(A) The results of early Block 2 flight testing, including low-observable and flying qualities and performance, are satisfactory, and

(B) No significant technical or operational problems have been identified during early Block 2 testing.

(e) EFFICIENT PRODUCTION RATE FUNDING.—Funds appropriated for the Air Force for fiscal year 1990 for procurement of aircraft may not be obligated for the procurement of B-2 aircraft until the Secretary of Defense certifies that, in the five-year defense program prepared in conjunction with any amended budget request for fiscal year 1991, the Air Force has included sufficient funding for any increase in the production rate of B-2 aircraft required to attain an efficient production rate following the planned acquisition milestone decision authorizing rate production.

(f) APPLICATION OF PROHIBITIONS.—The prohibitions in subsections (b) through (d) apply only to the three new production B-2 aircraft for which funds for procurement were requested in the President's April 1989 amended budget request for fiscal year 1990.

(g) CERTIFICATION REQUIREMENT.—(1) The Secretary of Defense shall certify annually to Congress that the unit flyaway cost for 132 B-2 aircraft measured in constant 1990 dollars does not exceed $295,000,000 per aircraft.

(2) The certification required by this subsection shall be submitted not later than March 15, 1990, and each succeeding March 15 thereafter until the B-2 procurement program is completed. Such certification shall be submitted to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives.

(3) If the Secretary cannot make the certification required by paragraph (1), the Secretary shall report to Congress the amount that the unit flyaway cost will exceed the amount described in paragraph (1) and submit an explanation of the reasons for such an increase in cost.

SEC. 134. CORRECTION OF DEFICIENCIES CLAUSES IN B-2 AIRCRAFT PROCUREMENT CONTRACTS

(a) The Secretary of Defense shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives two reports on the implementation of the contractor guarantee requirements of section 2403 of title 10, United States Code, with respect to the B-2 aircraft program. Such reports shall include the following:

(1) Copies of correction of deficiency clauses in contracts with the prime contractor for the B-2 aircraft.

(2) The plans for meeting the contractor guarantee requirements of subsection (b) of such section in future contracts for the procurement of B-2 aircraft, including any specific contract clauses that have been proposed by the Air Force or agreed to by the Air Force and the contractor.

(3) The manner in which inspection or acceptance by the Air Force will affect the relative liability of the Government and the contractor—

(A) under the contract clauses referred to in paragraphs (1) and (2) and

(B) under the plans referred to in paragraph (2) for compliance with the contractor guarantee requirements referred to in such paragraph.

(b) The first report required by subsection (a) shall be submitted not later than 30 days after the date of enactment of this Act. The second report shall be submitted in conjunction with the certification required by section 133(b)(1)(D) of this Act.

(c) The reports required by this section shall be submitted in classified and unclassified versions and shall clearly identify any material that contains proprietary information or other source selection information, the disclosure of which is restricted by law or regulation.

(d)(1) The Secretary of the Air Force shall take appropriate steps to ensure that the procurement of all B-2 aircraft authorized for fiscal years 1989 and 1990 shall be subject to a contractor guarantee pursuant to section 2403 of title 10, United States Code, and that the prime contractor for such aircraft shall be required to assume a substantially greater responsibility for the cost of corrective actions required under section 2403(b) of such title than under existing contracts for B-2 aircraft.

(2) Notwithstanding section 2403(g) of such title, the Secretary may not negotiate exclusions or limitations on the prime contractor's financial liability for the cost of corrective action for defects under section 2403(b) of such title for the B-2 aircraft referred to in paragraph (1) that are less than the total of the contractor's actual profits on the production of such aircraft unless the Secretary determines that the specific benefits of such exclusions or limitations substantially outweigh the potential costs.

(3) The Secretary of the Air Force shall notify the Armed Services Committees of the Senate and the House of Representatives of any determinations under paragraph (2) and shall include in such notification the specific reasons for such determination and copies of any relevant exclusions or limitations.

(4) The Secretary of the Air Force shall describe the steps the Air Force has taken under this subsection in the reports required by subsection (c).

SEC. 135. STUDY OF ALTERNATIVE B-2 AIRCRAFT FORCE STRUCTURES

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall conduct a comprehensive study comparing—

(1) the current plan of the Department of Defense to produce 132 B-2 aircraft, with

(2) two alternative plans, one to produce 90-100 B-2 aircraft and another to produce 60-70 B-2 aircraft.

(b) MATTERS TO BE INCLUDED.—In conducting the study under subsection (a), the Secretary of Defense shall determine the implications of adopting the alternative plans described in subsection (a)(2) with respect to each of the following:

(1) The cost of the B-2 aircraft program, including—

(A) annual program costs,

(B) total program costs,

(C) 20-year life cycle costs,

(D) unit and flyaway costs;

(2) The impact on the military posture of the United States, including—

(A) strategic nuclear deterrent capabilities,

(B) long-range conventional strike capabilities.

(c) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report in both classified and unclassified form containing the results of the study conducted by the Secretary under subsection (a). The Secretary's report shall include such comments and recommendations as the Secretary considers appropriate and shall be submitted not later than January 1, 1990.

SEC. 136. ADVANCED CRUISE MISSILE

Funds appropriated or otherwise made available to the Air Force during fiscal year 1990 may not be obligated or expended for procurement of Advanced Cruise Missiles until—

(1) the Advanced Cruise Missile has achieved a cumulative total of at least 10 successful developmental test flights; and

(2) the Secretary of Defense certifies to the Committees on Armed Services and Appropriations of the Senate and House of Representatives that since June 1, 1989, a minimum of four flight tests of the Advanced Cruise Missile have been conducted and that the percentage of successful test flights in this group is significantly greater than 50 percent.

PART D—PROGRAM TERMINATIONS

SEC. 141. F-14 AIRCRAFT

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense after September 30, 1989, may not be obligated for the procurement of F-14 aircraft.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, F-14 aircraft described in paragraph (2); or

(B) the payment of costs necessary to terminate the F-14 aircraft program.

(2) The F-14 aircraft referred to in paragraph (1)(A) are F-14 aircraft—

(A) that have been acquired by the Navy on or before the date of the enactment of this Act; or

(B) for which funds were obligated for procurement before the date of the enactment of this Act, other than for the pro-

curement of long lead items and other advance procurement.

(d) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

SEC. 142. AH-64 HELICOPTER

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense after September 30, 1991, may not be obligated for the procurement of AH-64 helicopter aircraft.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, AH-64 aircraft described in paragraph (2); or

(B) the payment of costs necessary to terminate the AH-64 helicopter program.

(2) The AH-64 helicopter aircraft referred to in paragraph (1)(A) are AH-64 helicopter aircraft—

(A) that were acquired by the Army before October 1, 1991; or

(B) for which funds have been obligated for procurement before October 1, 1991, other than for the procurement of long lead items and other advance procurement.

(d) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

SEC. 143. AHIP SCOUT HELICOPTER

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense after September 30, 1989, may not be obligated for the procurement of AHIP scout helicopter aircraft.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, AHIP scout helicopter aircraft described in paragraph (2); or

(B) the payment of costs necessary to terminate the AHIP scout helicopter program.

(2) The AHIP scout helicopter aircraft referred to in paragraph (1)(A) are AHIP scout helicopter aircraft (OH-58 helicopter aircraft that have been modified into the configuration specified under the Army Helicopter Improvement Program described in the Selected Acquisition Report on the OH-58 helicopter, dated December 31, 1988)—

(A) that were acquired by the Army before the date of the enactment of this Act; or

(B) for which funds have been obligated for procurement before the date of the enactment of this Act, other than for the procurement of long lead items and other advance procurement.

(d) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

SEC. 144. F-15E AIRCRAFT

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense after October 1, 1991, may not be obligated for the procurement of the F-15E aircraft.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, F-15E aircraft described in paragraph (2); or

(B) the payment of costs necessary to terminate the F-15E aircraft program.

(2) The F-15E aircraft referred to in paragraph (1)(A) are F-15E aircraft—

(A) that are acquired by the Air Force before October 1, 1991; or

(B) for which funds have been obligated for procurement before October 1, 1991, other than for the procurement of long lead items and other advance procurement.

(d) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

SEC. 145. M88A2 RECOVERY VEHICLE

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense after September 30, 1989, may not be obligated for the procurement of M88A2 recovery vehicles.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, M88A2 recovery vehicles described in paragraph (2); or

(B) the payment of costs necessary to terminate the M88A2 recovery vehicle program.

(2) The M88A2 recovery vehicles referred to in paragraph (1)(A) are M88A2 recovery vehicles—

(A) that were acquired by the Army before the date of the enactment of this Act; or

(B) for which funds have been obligated for procurement before the date of the enactment of this Act, other than for the procurement of long lead items and other advance procurement.

(d) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

PART E—MISCELLANEOUS PROVISIONS

SEC. 151. REPEAL OF HEMTT TRUCK PROGRAM PROCUREMENT REQUIREMENT

Section 129 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1045) is repealed.

SEC. 152. REPORT ON NAVY AIRCRAFT REQUIREMENTS

(a) IN GENERAL.—The Secretary of the Navy shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report each year which addresses the current and projected aircraft requirements of the Navy and the plans of the Navy for aircraft acquisition and modernization. The report shall cover at least the next ten years and shall specify—

(1) the number of aircraft, by type, required to fully equip the current and projected force structure of the Navy and the Marine Corps;

(2) the current and projected inventory of each type of aircraft;

(3) the current average age of (A) all Navy and Marine Corps aircraft, (B) all Navy and Marine Corps combat aircraft, and (C) all carrier-based combat aircraft; and

(4) a list of planned and programmed aircraft procurement programs and major aircraft modernization programs, specifying the approximate numbers of aircraft involved in each program, the estimated fiscal year in which each program will begin and end, and the estimated total cost for each program.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than February 1, 1990, and each February 1 thereafter.

SEC. 153. EXPANSION OF THE SCOPE OF THE CIVIL RESERVE AIR FLEET ENHANCEMENT PROGRAM

(a) DEFINITIONS.—Section 9511 of title 10, United States Code, is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The term 'passenger-cargo combined aircraft' means a civil aircraft equipped so that its main deck can be used to carry both passengers and property (including mail) simultaneously.";

(2) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The term 'cargo-convertible aircraft' means a passenger aircraft equipped or designed so that all or substantially all of the main deck of the aircraft can be readily converted for the carriage of property or mail.";

(3) in paragraph (8), by striking out clause (A) and inserting in lieu thereof the following: "(A) who owns or controls, or who will own or control, a new or existing aircraft and who contracts with the Secretary to modify that aircraft by including or incorporating specified defense features in that aircraft and to commit that aircraft to the Civil Reserve Air Fleet, or"; and

(4) by adding at the end the following new paragraph:

"(12) The term 'defense feature' means any equipment or design feature included or incorporated in a civil aircraft which ensures the interoperability of such aircraft with the Department of Defense airlift system. Such term includes any equipment or design feature which enables such aircraft to be readily modified for use as a cargo-convertible, cargo-capable, or passenger-cargo combined aircraft.".

(b) CONTRACT AUTHORITY.—Section 9512 of such title is amended to read as follows:

"§ 9512. Contract for the inclusion or incorporation of defense features

"(a) Subject to the provisions of chapter 137 of this title, and to the extent that funds are otherwise available for obligation, the Secretary—

"(1) may contract with any citizen of the United States for the inclusion or incorporation of defense features in any new or existing aircraft to be owned or controlled by that citizen; and

"(2) may contract with United States aircraft manufacturers for the inclusion or incorporation of defense features in new aircraft to be operated by a United States air carrier.

"(b) Each contract entered into under subsection (a) shall include the terms required by section 9513 of this title and a provision that requires the contractor to repay to the United States a percentage (to be established in the contract) of any amount paid by the United States to the contractor under the contract with respect to any aircraft if—

"(1) the aircraft is destroyed or becomes unusable, as defined in the contract;

"(2) the defense features specified in the contract are rendered unusable or are removed from the aircraft;

"(3) control over the aircraft is transferred to any person that is unable or unwilling to assume the contractor's obligations under the contract; or

"(4) the registration of the aircraft under section 501 of the Federal Aviation Act of 1958 is terminated for any reason not beyond the control of the contractor.

"(c)(1) A contract for the inclusion or incorporation of defense features in an aircraft may include a provision authorizing the Secretary—

"(A) to contract, with the concurrence of the contractor, directly with another person for the performance of the work necessary for the inclusion or incorporation of defense features in such aircraft; and

"(B) to pay such other person directly for such work.

"(2) A contract entered into pursuant to paragraph (1) may include such specifications for work and equipment as the Secretary considers necessary to meet the needs of the United States.".

(c) TECHNICAL AMENDMENTS.—(1) The heading of section 9513 is amended to read as follows:

"§ 9513. Commitment of aircraft to the Civil Reserve Air Fleet"

(2) The table of sections at the beginning of chapter 931 of title 10, United States Code, is amended by striking out the items relating to sections 9512 and 9513 and inserting in lieu thereof the following:

"9512. Contracts for the inclusion or incorporation of defense features.
"9513. Commitment of aircraft to the Civil Reserve Air Fleet.".

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND FUNDING FOR SPECIFIC PROGRAMS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Funds are hereby authorized to be appropriated for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army:

(A) $5,705,898,000 for fiscal year 1990.

(B) $5,717,736,000 for fiscal year 1991.

(2) For the Navy (including the Marine Corps):

(A) $9,916,851,000 for fiscal year 1990.

(B) $8,573,726,000 for fiscal year 1991.

(3) For the Air Force:

(A) $14,629,932,000 for fiscal year 1990.

(B) $9,864,305,000 for fiscal year 1991.

(4) For the Defense Agencies:

(A) $9,474,712,000 for fiscal year 1990, of which—

(i) $294,300,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(ii) $164,500,000 is authorized for the Director of Operational Test and Evaluation.

(B) $4,610,604,000 for fiscal year 1991, of which—

(i) $434,700,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(ii) $160,400,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS OF ADDITIONAL AMOUNTS FOR IMPROVED INFANTRY EQUIPMENT

(a) AUTHORIZATION.—Funds are hereby authorized to be appropriated for fiscal year 1990 for research, development, test, and evaluation to increase the effectiveness of small infantry units through the development of improved weapons and equipment as follows:

For the Army, $18,000,000.

For the Marine Corps, $12,000,000.

(b) ADDITIONAL AUTHORIZATION.—Funds authorized to be appropriated pursuant to subsection (a) are in addition to funds authorized to be appropriated under section 201.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 221. BALANCED TECHNOLOGY INITIATIVE

(a) AMOUNTS AUTHORIZED.—Of the amounts authorized to be appropriated for fiscal year 1990 pursuant to section 201, $296,000,000 shall be available for research and development under the Balanced Technology Initiative program.

(b) DETERMINATION OF SOURCE OF FUNDS.—The Director of Defense Research and Engineering shall determine the amount of funds appropriated to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 that are to be allocated for the Balanced Technology Initiative.

(c) PROHIBITION REGARDING UNDISTRIBUTED REDUCTIONS.—No portion of any undistributed reduction may be applied against the funds allocated under subsection (a) or against any funds made available for the Balanced Technology Initiative that are in addition to the amount specified in subsection (a).

(d) PROHIBITION ON USE OF FUNDS FOR SDI.—None of the funds allocated under subsection (a) may be used in connection with any program, project, or activity in support of the Strategic Defense Initiative.

(e) REPORT.—Not later than March 15 each year the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report containing the following:

(1) A current assessment of the extent to which advanced technologies can be used to exploit potential vulnerabilities of hostile threats to the national security of the United States.

(2) Identification of each program, project, and activity being pursued under the Balanced Technology Initiative, the amount made available for such program, project, or activity pursuant to this section, and the source of such amount.

(3) For each program, project, and activity for which funds are made available pursuant to this section, a 5-year funding plan that (A) provides for the allocation of sufficient resources to maintain adequate progress in research and development under such program, project, or activity, and (B) specifies the major programmatic and technical milestones and the schedule for achieving those milestones.

(4) The status of each program, project, and activity being pursued under the Balanced Technology Initiative.

(5) Identification of other on-going or potential research and development programs, projects, and activities not currently provided for under this section that should be considered for inclusion under the Balanced Technology Initiative in order to improve conventional defense capabilities.

(6) Identification of the most critical technologies for the successful development of existing or potential Balanced Technology Initiative programs, projects, and activities and an assessment of the current status of those technologies.

SEC. 222. ADVANCED RESEARCH PROJECTS

(a) AUTHORITY FOR DARPA COOPERATIVE AGREEMENTS AND OTHER TRANSACTIONS.—(1) Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2370. Advanced research projects: cooperative agreements and other transactions

"(a) The Secretary of Defense, in carrying out advanced research projects through the Defense Advanced Research Projects Agency, may enter into cooperative agreements and other transactions with any person, any agency or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity.

"(b)(1) Cooperative agreements and other transactions entered into by the Secretary under subsection (a) may include a clause that requires a person or other entity to make payments to the Department of Defense (or any other department or agency of the Federal Government) as a condition for receiving support under the agreement or other transaction.

"(2) The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited, to the extent authorized by the Secretary of Defense, to the account established under subsection (e). Amounts so credited shall be merged with other funds in the account and shall be available for the same purposes and the same period for which other funds in such account are available.

"(c) The authority provided under subsection (a) may be exercised without regard to section 3324 of title 31, United States Code.

"(d) The Secretary shall ensure that—

"(1) to the maximum extent practicable, a cooperative agreement or other transaction under this section does not provide for research that duplicates research being conducted under existing programs carried out by the Department of Defense;

"(2) to the extent the Secretary determines practicable, the funds provided by the Government under the cooperative agreement or other transaction do not exceed the total amount provided by other parties to the cooperative agreement or other transaction; and

"(3) the authority under this section is used only when the use of standard contracts or grants is not feasible or appropriate.

"(e) There shall be established on the books of the United States Treasury an account for support of advanced research projects provided for in cooperative agreements and other transactions authorized by subsection (a). Funds in such account shall be available for the payment of such support.

"(f) Not later than 60 days after the end of each fiscal year, the Secretary of Defense shall submit to the Committees of Armed Services of the Senate and the House of Representatives an annual report on all cooperative agreements and other transactions (other than contracts and grants) en-

tered into under this section in such fiscal year. The report shall contain, with respect to each cooperative agreement and each other transaction the following:

"(1) A general description of the cooperative agreement or other transaction (as the case may be), including the technologies for which advanced research is provided for under such agreement or transaction.

"(2) The potential military and, if any, commercial utility of such technologies.

"(3) The reasons for not using a contract or grant to provide support for such advanced research.

"(4) The amount of the payments, if any, referred to in subsection (b) that were received by the Federal Government in connection with such cooperative agreement or other transaction during the fiscal year covered by the report.

"(5) The amount of the payments reported under subparagraph (4), if any, that were credited to the account established under subsection (e).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"Sec. 2370. Advanced research projects: cooperative agreements and other transactions.".

(b) FUNDING.—Of the funds appropriated pursuant to section 201, not more than $25,000,000 of the funds appropriated for fiscal year 1990 and not more than $25,000,000 of the funds appropriated for fiscal year 1991 shall be available for the support, through the Defense Advanced Research Projects Agency, of advanced research provided for in cooperative agreements and other transactions authorized by section 2370 of title 10, United States Code (as added by subsection (a)). That amount shall be credited to the account established under subsection (e) of such section.

SEC. 223. GRANTS AND CONTRACTS TO COLLEGES AND UNIVERSITIES

(a) IN GENERAL.—Section 2361 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "(a) The" and inserting in lieu thereof "(a)(1) Except as provided in paragraph (2), the"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary of Defense may use procedures other than competitive procedures to award a research and development contract to a college or university as provided in clauses (1) through (4) and (6) of section 2304(c) of this title."; and

(2) in subsection (b)—

(A) by striking out "the date of enactment of this section" and inserting in lieu thereof "September 30, 1989,";

(B) by inserting "or as requiring funds to be made available to a particular college or university by grant or contract" after "provisions of subsection (a)"; and

(C) by striking out "provision of law" and all that follows through the end and inserting in lieu thereof "provision of law—" and the following:

"(1) specifically refers to this section and specifically states that such provision of law modifies or supersedes the provisions of this section; and

"(2) in the case of a requirement to make funds available to a specific college or university, specifically directs the Secretary to award a grant or contract to such college or university and to use procedures other than competitive procedures to do so.".

(b) SEMIANNUAL REPORT.—(1) The Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives a semiannual report on the use of competitive procedures for research and development contracts with colleges and universities. Such report shall list each college and university that received more than $1,000,000 in research and development contracts under procedures other than competitive procedures during the period covered by the report and shall include the cumulative amount of such contracts received during that period for each such college and university.

(2) The reports under paragraph (1) shall cover the six-month periods ending on June 30 and December 31 of each year.

(3) The first report under paragraph (1) shall cover the last six months of 1989, and shall be submitted not later than February 1, 1990.

(4) Except as provided in paragraph (3), each semiannual report shall be submitted within 30 days after the expiration of the period covered by the report.

(5) No report is required under this section for periods beginning after December 31, 1993.

SEC. 224. INTEGRATED ELECTRIC DRIVE PROGRAM

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 201 for the Navy for fiscal year 1990, $58,187,000 shall be available for the Integrated Electric Drive program.

(b) INTEGRATED ELECTRIC DRIVE PROGRAM.—The Secretary of the Navy is authorized to establish an Integrated Electric Drive program by merging the Ship Propulsion System program and the Shipboard System Component program with the Electric Drive program for the purpose of providing Integrated Electric Drive propulsion in the DDG-51 guided missile destroyer program.

SEC. 225. FAST SEALIFT TECHNOLOGY DEVELOPMENT PROGRAM

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 201 for the Navy for fiscal year 1990, $30,000,000 shall be available for the Fast Sealift Technology Development program.

(b) NEW PROGRAM.—The Secretary of the Navy is authorized to establish a Fast Sealift Technology Development program for the purposes of completing, within 24 months of the date of the enactment of this Act, the technology development program described in the January 1989 report to Congress entitled Fast Sealift Program Technology Assessment Report.

SEC. 226. TACTICAL OCEANOGRAPHY PROGRAM

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 201 for the Navy for fiscal year 1990, $3,000,000 shall be available for the Tactical Oceanography program.

(b) NEW PROGRAM.—The Secretary of the Navy is authorized to establish a Tactical Oceanography program to accelerate uses of scientific measurement and data collection devices and processes for the purpose of rapid tactical applications.

SEC. 227. NAVY SHIP DESIGN

Funds appropriated for research, development, test, and evaluation for the Navy for fiscal year 1991 or any subsequent fiscal year may not be obligated or expended for the preliminary design or contract design of any Navy ship.

SEC. 228. BIODEGRADABLE MATERIALS RESEARCH

Of the amounts appropriated for the Army for fiscal year 1990 pursuant to section 201, not more than $100,000 may be obligated for the purpose of continuing the research into the potential use of biodegradable materials in ration packaging designs. The Army Natick Research, Development, and Engineering Center shall be the responsible agency for such research.

SEC. 229. CHEMICAL WEAPONS MONITORING PROGRAM

Of the amount authorized to be appropriated pursuant to section 201 for the Defense Agencies for research, development, test, and evaluation for fiscal year 1990, $15,000,000 shall be available to the Office of the Secretary of Defense for the purpose of conducting a program to develop and demonstrate compliance monitoring capabilities in support of efforts by the United States in the Conference on Disarmament at Geneva to achieve a verifiable convention on the prohibition of chemical weapons.

SEC. 230. SELECTION OF HEAVY TRUCK SYSTEM CONFIGURED WITH PALLETIZED LOADING SYSTEM

Section 259(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1045) is amended by striking out "24 months" in the first sentence and inserting in lieu thereof "30 months".

SEC. 230a. LASER WEAPON VERIFICATION RESEARCH

In awarding contracts for research, development, test, and evaluation in connection with laser weapon verification technology, the Secretary of a military department or the head of a Defense Agency, as the case may be, shall ensure that such contracts are awarded to contractors that have experience in one or more of the following areas:

(1) Development of technologies for cooperative verification of laser weapons.

(2) Expertise in matters related to the propagation of high energy laser beams through the atmosphere.

(3) Ability to verify the testing or deployment of high energy laser beams against satellites in space.

SEC. 230b. MAGNETOENCEPHALOGRAPHY (MEG) AND NEUROMAGNETISM RESEARCH

Of the funds authorized to be appropriate pursuant to section 201 for the Army for fiscal year 1990, not more than $250,000 shall be available for the joint Army-Department of Energy research project on magnetoencephalography (MEG) and neuro-magnetism.

PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 231. FUNDING FOR THE STRATEGIC DEFENSE INITIATIVE FOR FISCAL YEAR 1990

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1990, not more than $4,301,904,000 may be obligated for the Strategic Defense Initiative.

(b) DEFENSE-WIDE MISSION SUPPORT.—Of the amount made available for the Strategic Defense Initiative pursuant to subsection (a), $26,394,000 may be used for defense-wide mission support of the Strategic Defense Initiative.

(c) SDI NATIONAL TEST BED CONSTRUCTION.—The Secretary of Defense may transfer not more than $23,000,000 of the amounts made available for the Strategic Defense Initiative pursuant to subsection (a) to the appropriate military construction account for use only in connection with the construction of the National Test Bed project.

SEC. 232. REPORT ON ALLOCATION OF FISCAL YEAR 1990 SDI FUNDING

(a) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a report on the allocation of funds appropriated for the Strategic Defense Initiative for fiscal year 1990. The report shall specify the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of legislation appropriating funds for the Strategic Defense Initiative for fiscal year 1990.

SEC. 233. ANNUAL REPORT ON SDI PROGRAMS

(a) IN GENERAL.—Not later than March 15, 1990, and March 15 each year thereafter, the Secretary of Defense shall transmit to Congress a report (in both an unclassified and a classified form) on the programs and projects that constitute the Strategic Defense Initiative and on any other program or project relating to defense against ballistic missiles. Each such report shall include the following:

(1) A statement of the basic strategy for research and development being pursued by the Defense Department under the Strategic Defense Initiative, including the relative priority being afforded, respectively, to the development of near-term deployment options and research on longer-term technological approaches.

(2) A detailed description of each program or project included in the Strategic Defense Initiative (SDI) or which otherwise relates to defense against strategic ballistic missiles, including a technical evaluation of each such program or project and an assessment as to when each can be brought to the stage of full-scale engineering development (assuming funding as requested or programmed).

(3) A clear definition of the objectives of each planned deployment phase of the Strategic Defense Initiative or defense against strategic ballistic missiles.

(4) An explanation of the relationship between each such phase and each program and project associated with the proposed architecture for that phase.

(5) The status of consultations with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning research being conducted in the Strategic Defense Initiative program.

(6) A statement of the compliance of the planned SDI development and testing programs with existing arms control agreements, including the Antiballistic Missile Treaty.

(7) A review of possible countermeasures of the Soviet Union to specific SDI programs, an estimate of the time and cost required for the Soviet Union to develop each such countermeasure, and an evaluation of the adequacy of the SDI programs described in the report to respond to such countermeasures.

(8) Details regarding funding of programs and projects for the Strategic Defense Initiative (including the amounts authorized, appropriated, and made available for obligation after undistributed reductions or other offsetting reductions were carried out), as follows:

(A) the level of requested and appropriated funding provided for the current fiscal year for each program and project in the Strategic Defense Initiative budgetary presentation materials provided to Congress;

(B) the aggregate amount of funding provided for previous fiscal years (including the current fiscal year) for each such program and project;

(C) the amount requested to be appropriated for each such program and project for the next fiscal year;

(D) the amount programmed to be requested for each such program and project for the following fiscal year; and

(E) the amount required to reach the next significant milestone for each demonstration program and each major technology program.

(9) Details on what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include—

(A) defending elements of the Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate Soviet shorter range ballistic missiles armed with conventional, chemical, or nuclear warheads;

(B) defending against an accidental launch of strategic ballistic missiles against the United States;

(C) defending against a limited but militarily effective Soviet attack aimed at disrupting the National Command Authority or other valuable military assets;

(D) providing sufficient warning and tracking information to defend or effectively evade possible Soviet attacks against military satellites, including those in high orbits;

(E) providing early warning and attack assessment information and the necessary survivable command, control, and communications to facilitate the use of United States military forces in defense against possible Soviet conventional or strategic attacks;

(F) providing protection of United States population from a Soviet nuclear attack; and

(G) any other significant near-term military mission that the application of SDI technologies might help to accomplish.

(10) For each of the near-term military missions listed in paragraph (9), the report shall include—

(A) a list of specific program elements of the Strategic Defense Initiative that are pertinent to these applications;

(B) the Secretary's estimate of the initial operating capability dates for the architectures or systems to accomplish such missions;

(C) the Secretary's estimate of the level of funding necessary for each program to reach those operating capability dates; and

(D) the Secretary's estimate of the survivability and cost effectiveness at the margin of such architectures or systems against current and projected Soviet threats.

SEC. 234. DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1990, or any fiscal year before 1990, shall be subject to the limitations prescribed in paragraph (2).

(2) Funds described in paragraph (1) may not be obligated or expended—

(A) for the development or testing of any anti-ballistic missile system or component, except for development and testing consistent with the development and testing described in the 1989 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the 1989 SDIO Report.

(3) The limitation provided in paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1990 if the transfer is made in accordance with section 901 of this Act.

(b) DEFINITION.—As used in this section, the term "1989 SDIO Report" means the report entitled, "1989 Report to Congress on the Strategic Defense Initiative," dated January 19, 1989, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives by the Secretary of Defense pursuant to section 231 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1059).

SEC. 235. SDI FUNDS FOR SUPPORT OF MEDICAL FREE ELECTRON LASER PROGRAM

Of the amounts made available pursuant to section 231 for fiscal years 1990 and 1991, not more than $20,000,000 for each such year may be used to support the medical free electron laser program.

SEC. 236. REPORT ON ASYMMETRIES IN UNITED STATES AND SOVIET ABM PRODUCTION AND CAPABILITIES

(a) STUDY.—The Secretary of Defense, in coordination with the Central Intelligence Agency, shall submit to Congress a report on the asymmetry in United States and Soviet near-term capabilities to deploy anti-ballistic missile defenses beyond those permitted under the 1972 ABM Treaty. The study shall include the following:

(1) An assessment of the likelihood of a Soviet breakout of the ABM Treaty in the next five years and the assumptions used for that assessment.

(2) An assessment of the Soviet capability to exploit a non-ABM Treaty limited environment, including a detailed assessment of Soviet production capabilities for space-based ABM launchers and ground-based ABM launchers, interceptors, and battle management command, control, and communications.

(3) An assessment of the United States production base for space-based and ground-based ABM launchers, interceptors, and battle management command, control, and communications, including an estimate of how quickly the United States could respond to a Soviet breakout in each of the above mentioned areas.

(4) An assessment of the immediate and long-term steps which could be taken to respond to Soviet violations of the ABM Treaty, and other Soviet activities that are either permitted or ambiguous under the terms of that treaty, to redress the asymmetry in ABM Treaty breakout potential. This assessment shall include an evaluation of the measures which would be necessary to support a one-site ABM system allowed under the Treaty or an expanded ABM system in the event of a Soviet breakout of the Treaty. Such evaluation shall specifically address the required actions and associated costs to upgrade and expand the existing United States radar network, dismantled

ABM components at Grand Forks, North Dakota, and other required components.

(b) REPORT.—Not later than the date on which the budget for fiscal year 1991 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit in classified and unclassified form to the Committees on Armed Services of the Senate and House of Representatives a report specifying the results of the study conducted pursuant to this section.

(c) 1972 ABM TREATY DEFINED.—In this section, the term "1972 ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitations of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

PART D—STRATEGIC PROGRAMS

SEC. 241. TRIDENT II MISSILE PROGRAM

In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1990, no reduction may be made in the amount appropriated for the Trident II missile program.

SEC. 242. SECURITY AT THE KWAJALEIN TEST RANGE

The Secretary of the Air Force may transfer $5,000,000 from funds available to the Air Force for research, development, test, and evaluation for fiscal year 1990 to the Army for the sole purpose of funding highest priority security improvements at the Kwajalein Test Range. The Secretary of the Army may provide $2,500,000 for the same purpose from funds available to the Army for research, development, test, and evaluation for fiscal year 1990. Funds made available for such purpose by the Secretary of the Army may not be made available from funds otherwise available for the United States Army Kwajalein Atoll Command.

SEC. 243. RESTORATION OF CERTAIN REPORTING REQUIREMENTS RELATING TO CHEMICAL AND BIOLOGICAL WARFARE AGENTS

(a) SPECIFIC REPORTS.—Section 602 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (100 Stat. 1066; 10 U.S.C. 111 note) is amended—

(1) by striking out subsection (g) and inserting in lieu thereof the following:

"(g) PUBLIC LAW 91-121.—The exception provided in subsection (d)(3) applies to the following annual report and notifications relating to chemical or biological warfare agents:

"(1) The annual report required by subsection (a) of section 409 of Public Law 91-121 (50 U.S.C. 1511).

"(2) Notifications required by subsections (b)(4) and (c)(1) of such section (50 U.S.C. 1512(4), 1513(1)).";

(2) by striking out subsection (h) and inserting in lieu thereof the following:

"(h) PUBLIC LAW 91-441.—The exception provided in subsection (d)(3) applies to the following reports:

"(1) The annual report required by section 203(c) of Public Law 91-141 (10 U.S.C. 2358 note), relating to independent research and development and bid and proposal programs.

"(2) Reports required by subsection (d) of section 506 of such public law (50 U.S.C. 1518), relating to the disposal of chemical or biological warfare agents."; and

(3) by adding at the end the following new subsection:

"(v) PUBLIC LAW 95-79.—The exception provided in subsection (d)(3) applies to the notifications required by section 808 of Public Law 95-79 (50 U.S.C. 1520), relating to chemical or biological warfare agents.".

(b) CONFORMING AMENDMENT.—Section 602(d)(3) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 is amended by striking out "(u)" and inserting in lieu thereof "(v)".

PART E—ALLIED COOPERATIVE RESEARCH AND DEVELOPMENT

SEC. 251. ALLIED COOPERATIVE RESEARCH AND DEVELOPMENT

(a) DESIGNATION OF SUBCHAPTERS.—Chapter 138 of title 10, United States Code, is amended—

(1) by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 138—COOPERATIVE AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES

"Subchapter
"I. Acquisition and Cross-Servicing Agreements 2341
"II. Other Cooperative Agreements 2350a

"SUBCHAPTER I—ACQUISITION AND CROSS-SERVICING AGREEMENTS"; and

(2) by adding at the end the following:

"SUBCHAPTER II—OTHER COOPERATIVE AGREEMENTS

"Sec.
"2350a. Allied cooperative research and development.

"§ 2350a. Allied cooperative research and development

"(a) AUTHORITY TO ENGAGE IN COOPERATIVE R & D PROJECTS.—The Secretary of Defense may enter into a memorandum of understanding (or other formal agreement) with one or more major allies of the United States for the purpose of conducting cooperative research and development projects on defense equipment and munitions.

"(b) RESTRICTIONS.—(1) A memorandum of understanding (or other formal agreement) to conduct a cooperative research and development project under this section may not be entered into unless the Secretary of Defense determines that the proposed project will improve through the application of emerging technology the conventional defense capabilities of the North Atlantic Treaty Organization (NATO) or the common conventional defense capabilities of the United States and its major non-NATO allies.

"(2) Each cooperative project entered into under this section shall require sharing of the costs of research and development between the participants on an equitable basis.

"(3) The Secretary may not delegate the authority to make a determination under paragraph (1) except to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition.

"(c) RESTRICTIONS ON PROCUREMENT OF EQUIPMENT AND SERVICES.—(1) In order to assure substantial participation on the part of the major allies of the United States in approved cooperative research and development projects, funds made available for such projects may not be used to procure equipment or services from any foreign government, foreign research organization, or other foreign entity.

"(2) A major ally of the United States may not use any military or economic assistance grant, loan, or other funds provided by the United States for the purpose of making that ally's contribution to a cooperative research and development program entered into with the United States under this section.

"(d) COOPERATIVE OPPORTUNITIES DOCUMENT.—(1)(A) In order to ensure that opportunities to conduct cooperative research and development projects are considered during the early decision points in the Department of Defense's formal development review process in connection with any planned project of the Department of Defense, the Under Secretary of Defense for Acquisition shall prepare a formal arms cooperation opportunities document for review by the Defense Acquisition Board at its formal meetings.

"(B) The Under Secretary shall also prepare an arms cooperation opportunities document for review of each new project for which a Mission Need Statement is prepared.

"(2) The formal arms cooperation opportunities document referred to in paragraph (1) shall include the following:

"(A) A statement indicating whether or not a project similar to the one under consideration by the Department of Defense is in development or production by one or more of the major allies of the United States.

"(B) If a project similar to the one under consideration by the Department of Defense is in development or production by one or more major allies of the United States, an assessment by the Under Secretary of Defense for Acquisition as to whether that project could satisfy, or could be modified in scope so as to satisfy, the military requirements of the project of the United States under consideration by the Department of Defense.

"(C) An assessment of the advantages and disadvantages with regard to program timing, developmental and life cycle costs, technology sharing, and Rationalization, Standardization, and Interoperability (RSI) of seeking to structure a cooperative development program with one or more major allies of the United States.

"(D) The recommendation of the Under Secretary of Defense for Acquisition as to whether the Department of Defense should explore the feasibility and desirability of a cooperative development program with one or more major allies of the United States.

"(e) REPORTS TO CONGRESS.—(1) Not later than March 1 of each year, the Under Secretary of Defense for Acquisition shall submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a report—

"(A) describing the status, funding, and schedule of existing cooperative research and development projects carried out under this section for which memoranda of understanding (or other formal agreements) have been entered into; and

"(B) describing the purpose, funding, and schedule of any new cooperative research and development projects proposed to be carried out under this section (including those projects for which memoranda of understanding (or other formal agreements) have not yet been entered into) for which funds have been included in the budget submitted to Congress pursuant to section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted.

"(2) The Secretary of Defense and the Secretary of State, whenever they consider such action to be warranted, shall jointly submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services

and Foreign Affairs of the House of Representatives a report—

"(A) enumerating those countries to be added to or deleted from the existing designation of countries designated as major non-NATO allies for purposes of this section; and

"(B) specifying the criteria used in determining the eligibility of a country to be designated as a major non-NATO ally for purposes of this section.

"(f) SIDE-BY-SIDE TESTING.—(1) It is the sense of Congress—

"(A) that the Department of Defense should perform more side-by-side testing of conventional defense equipment manufactured by the United States and other member nations of NATO; and

"(B) that such testing should be conducted at the late stage of the development process when there is usually only a single United States prime contractor.

"(2) The Deputy Director of Defense Research and Engineering (Test and Evaluation) may acquire items of the type specified in paragraph (3) manufactured by other member nations of NATO for side-by-side comparison testing with comparable items of United States manufacture.

"(3) Items that may be acquired by the Deputy Director under paragraph (2) include the following:

"(A) Submunitions and dispensers.

"(B) Anti-tank and anti-armor guided missiles.

"(C) Mines, for both land and naval warfare.

"(D) Runway-cratering devices.

"(E) Torpedoes.

"(F) Mortar systems.

"(G) Light armored vehicles and major subsystems thereof.

"(H) Utility vehicles.

"(I) High-velocity anti-tank guns.

"(J) Short-Range Air Defense Systems (SHORADS).

"(K) Mobile air defense systems and components.

"(4) The Deputy Director shall notify the committees on Armed Services and on Appropriations of the Senate and House of Representatives of his intent to obligate funds made available to carry out this subsection not less than 30 days before such funds are obligated.

"(5) Not later than February 1 of each year, the Deputy Director shall submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a report—

"(A) on the systems, subsystems, and munitions produced by other member nations of NATO that were evaluated during the previous fiscal year by the Deputy Director; and

"(B) on the obligation of any funds under this subsection during the previous fiscal year.

"(g) SECRETARY TO ENCOURAGE SIMILAR PROGRAMS.—The Secretary of Defense shall encourage major allies of the United States to establish programs similar to the one provided for in this section.

"(h) DEFINITIONS.—In this section:

"(1) The term 'cooperative research and development project' means a project involving joint participation by the United States and one or more major allies of the United States under a memorandum of understanding (or other formal agreement) to carry out a joint research and development program—

"(A) to develop new conventional defense equipment and munitions; or

"(B) to modify existing military equipment to meet United States military requirements.

"(2) The term 'major ally of the United States' means a member nation of the North Atlantic Treaty Organization (other than the United States) or a major non-NATO ally.

"(3) The term 'major non-NATO ally' means a country (other than a member nation of the North Atlantic Treaty Organization) designated as a major non-NATO ally for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.".

(b) REPEALS.—Section 1103 of the Department of Defense Authorization Act, 1986 (10 U.S.C. 2407 note), and section 1105 of the Department of Defense Authorization Act, 1987 (22 U.S.C. 2767a), are repealed.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army:
(A) $23,453,700,000 for fiscal year 1990.
(B) $24,589,900,000 for fiscal year 1991.
(2) For the Navy:
(A) $24,358,200,000 for fiscal year 1990.
(B) $24,945,900,000 for fiscal year 1991.
(3) For the Marine Corps:
(A) $1,700,500,000 for fiscal year 1990.
(B) $1,767,500,000 for fiscal year 1991.
(4) For the Air Force:
(A) $22,709,500,000 for fiscal year 1990.
(B) $23,269,300,000 for fiscal year 1991.
(5) For the Defense Agencies:
(A) $7,926,000,000 for fiscal year 1990.
(B) $8,237,900,000 for fiscal year 1991.
(6) For the Army Reserve:
(A) $864,300,000 for fiscal year 1990.
(B) $902,600,000 for fiscal year 1991.
(7) For the Naval Reserve:
(A) $895,700,000 for fiscal year 1990.
(B) $949,900,000 for fiscal year 1991.
(8) For the Marine Corps Reserve:
(A) $77,500,000 for fiscal year 1990.
(B) $79,400,000 for fiscal year 1991.
(9) For the Air Force Reserve:
(A) $981,900,000 for fiscal year 1990.
(B) $1,015,400,000 for fiscal year 1991.
(10) For the Army National Guard:
(A) $1,875,500,000 for fiscal year 1990.
(B) $1,896,300,000 for fiscal year 1991.
(11) For the Air National Guard:
(A) $1,988,400,000 for fiscal year 1990.
(B) $2,104,600,000 for fiscal year 1991.
(12) For the National Board for the Promotion of Rifle Practice:
(A) $4,700,000 for fiscal year 1990.
(B) $5,600,000 for fiscal year 1991.
(13) For the Defense Inspector General:
(A) $96,200,000 for fiscal year 1990.
(B) $97,600,000 for fiscal year 1991.
(14) For the Court of Military Appeals:
(A) $4,000,000 for fiscal year 1990.
(B) $4,200,000 for fiscal year 1991.
(15) For Environmental Restoration, Defense:
(A) $517,800,000 for fiscal year 1990.
(B) $519,900,000 for fiscal year 1991.
(16) For the Goodwill Games, as provided in section 305 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1949), $14,600,000 for fiscal year 1990.
(17) For Humanitarian Assistance:
(A) $13,000,000 for fiscal year 1990.
(B) $13,000,000 for fiscal year 1991.

(b) GENERAL AUTHORIZATION FOR CONTINGENCIES.—There is authorized to be appropriated for fiscal years 1990 and 1991, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs; and

(2) for unbudgeted increases as the result of inflation in the cost of activities authorized by subsection (a).

SEC. 302. WORKING CAPITAL FUNDS

Funds are hereby authorized to be appropriated for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

(1) For the Army Stock Fund:
(A) $97,600,000 for fiscal year 1990.
(B) $141,500,000 for fiscal year 1991.
(2) For the Navy Stock Fund:
(A) $201,400,000 for fiscal year 1990.
(B) $232,100,000 for fiscal year 1991.
(3) For the Air Force Stock Fund:
(A) $306,300,000 for fiscal year 1990.
(B) $319,600,000 for fiscal year 1991.
(4) For the Defense Stock Fund:
(A) $94,100,000 for fiscal year 1990.
(B) $156,300,000 for fiscal year 1991.

SEC. 303. DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT

There are authorized to be appropriated to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2631) the following amounts:

(1) $300,000,000 for fiscal year 1990.
(2) $500,000,000 for fiscal year 1991.

SEC. 304. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—Funds appropriated pursuant to the authorization in section 301 for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of the funds appropriated for fiscal years 1990 and 1991 pursuant to such section for such purpose, not more than $3,000,000 may be used for distribution of humanitarian relief supplies to the non-Communist resistance organization at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to section 301 for fiscal years 1990 and 1991 for humanitarian assistance to provide for—

(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation for humanitarian relief provided with funds appropriated pursuant to section 301 for humanitarian assistance shall be provided under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to section 301 for humanitarian assistance shall be provided by the most economical commercial or military means available, unless the Secretary of State determines

that it is in the national interest of the United States to provide transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to section 301 for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

(f) REPORTS TO CONGRESS.—(1) The Secretary of Defense shall submit (at the times specified in paragraph (2)) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report on the provision of humanitarian assistance under the humanitarian relief laws specified in paragraph (4).

(2) A report required by paragraph (1) shall be submitted—

(A) not later than 60 days after the date of the enactment of this Act;

(B) not later than June 1, 1990; and

(C) not later than June 1 of each year thereafter until all funds available for humanitarian assistance under the humanitarian relief laws specified in paragraph (4) have been obligated.

(3) A report required by paragraph (1) shall contain (as of the date on which the report is submitted) the following information:

(A) The total amount of funds obligated for humanitarian relief under the humanitarian relief laws specified in paragraph (4).

(B) The number of scheduled and completed flights for purposes of providing humanitarian relief under the humanitarian relief laws specified in paragraph (4).

(C) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

(4) The humanitarian relief laws referred to in paragraphs (1), (2), and (3) are the following:

(A) This section.

(B) Section 305 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 617).

(C) Section 331 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1078).

(D) Section 303 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1948).

(5) Section 303 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1948), is amended by striking out subsection (f).

PART B—LIMITATIONS

SEC. 321. REPEAL OF LIMITATION ON THE USE OF OPERATION AND MAINTENANCE FUNDS TO PURCHASE INVESTMENTS

Section 303 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1073) is repealed.

SEC. 322. PROHIBITION ON JOINT USE OF THE MARINE CORPS AIR STATION AT EL TORO, CALIFORNIA, WITH CIVIL AVIATION

The Secretary of the Navy may not enter into any agreement that would provide for, or permit, civil aircraft to regularly use the Marine Corps Air Station at El Toro, California.

PART C—BASE CLOSURE AND REALIGNMENT MATTERS

SEC. 331. BASE CLOSURE REPORT

(a) REPORT REQUIREMENT.—Not later than November 15, 1989, the Comptroller General of the United States shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives a report on the methodology, findings, and recommendations of the Commission on Base Realignment and Closure.

(b) CONTENT OF REPORT.—(1) The report shall include an analysis of the following:

(A) The adequacy and accuracy of the information relied upon as a basis for the Commission's recommendations.

(B) The process used in the determination of military missions and requirements and the military value of the bases in meeting such missions and requirements.

(C) The criteria used to select bases to be closed or realigned.

(D) The findings regarding military and civilian personnel reductions and associated relocation and termination expenses.

(E) The findings regarding nonrecurring costs, including expenses such as costs of construction, personnel, and logistics.

(F) The findings regarding long-term, annual savings, including the estimated cost amortization period.

(G) The findings regarding assumed proceeds from property sales for each applicable initiative.

(H) The findings regarding any environmental restoration costs that must be incurred in order to make it possible to sell or transfer excess property.

(2) Where any inaccuracies in the information referred to in paragraph (1)(A) are noted in the report, the Comptroller General shall include in the report an assessment of the effects of such inaccuracies upon the ranking of installations by the Commission within functional categories.

SEC. 332. REPORT ON ENVIRONMENTAL RESTORATION OF JEFFERSON PROVING GROUND, INDIANA

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the environmental contamination at the Jefferson Proving Ground, Indiana, resulting from the activities of the Department of Defense. The report shall include the following:

(1) A description of the nature and extent of the environmental contamination, including any contamination resulting from hazardous materials.

(2) A detailed plan to restore all portions of the Jefferson Proving Ground south of the firing line to full and unrestricted use.

(3) A description of all portions of the Jefferson Proving Ground which the Department of Defense does not plan to make available for full and unrestricted use for reasons of liability, costs of cleanup, or any other reason.

(4) A plan to finance the cleanup of the Jefferson Proving Ground, including estimated costs of the cleanup, identification of the sources of funds for cleanup, and a time schedule for implementation of cleanup measures.

(b) CONSULTATION.—The Secretary shall consult with appropriate State and local officials in preparing the report required by subsection (a).

(c) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than April 15, 1990.

SEC. 333. NOTICE TO LOCAL AND STATE EDUCATIONAL AGENCIES OF ENROLLMENT CHANGES DUE TO BASE CLOSURES AND REALIGNMENTS

(a) NOTICE REQUIRED.—Not later than January 1 of each year in which any activities necessary to close or realign a military installation under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2627) are conducted, the Secretary, in consultation with the Secretary of Education, shall—

(1) to the extent practicable, identify each local educational agency that will experience at least a 5 percent increase or at least a 10 percent reduction in the number of minor dependents of members of the Armed Forces and minor dependents of civilian employees of the Department of Defense enrolled in schools under the jurisdiction of such agency during the next academic year (compared with the number of such dependents enrolled in such schools during the preceding year) as a result of the closure or realignment of a military installation under that Act; and

(2) not later than 30 days after identifying such local educational agency, transmit a written notice of the schedule for the closure or realignment of that military installation to such local educational agency and to the State government education agency responsible for administering State government education programs involving that local educational agency.

PART D—MISCELLANEOUS REPORTING REQUIREMENTS

SEC. 341. REPORT ON MILITARY UTILIZATION OF THE INLAND NAVIGATION SYSTEM

Not later than one year after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report on the potential for obtaining efficiencies, savings, and enhanced mobilization preparedness through increased utilization of the national inland waterway system by the Department of Defense and defense industries.

SEC. 342. REPORT ON ENVIRONMENTAL REQUIREMENTS AND PRIORITIES

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the long-range environmental challenges and goals of the Department of Defense.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) A discussion of major environmental concerns that the Department of Defense will face world-wide in the next decade, and a qualitative and quantitative assessment, where practicable, of each concern.

(2) A status report of current efforts, programs, resources, and policies used to address the concerns identified under paragraph (1).

(3) The projected funding for and schedule of actions under the Department of Defense Installation Restoration Program.

(4) An assessment of Federal, State, and local environmental regulatory requirements and the effects of such requirements on operations and activities of the Department of Defense.

(5) An analysis of all the information described in paragraphs (1) through (3) and a discussion of potential courses of action, priorities, and goals of the Department of Defense.

(6) Such comments and recommendations as the Secretary considers appropriate.

(c) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted not later than two years after the date of the enactment of this Act.

SEC. 343. SOIL AND WATER CONTAMINATION NEAR MEAD, NEBRASKA

(a) Since the U.S. Army Corps of Engineers is investigating soil and water contamination at the former Nebraska Ordnance Plant near Mead, Nebraska;

(2) Since solvents, polychlorinated byphenals (PCBs) and RDX, and explosive material used in making ammunitions, have been discovered.

(b) Now therefore be it determined that it is the sense of the Senate that the U.S. Army Corps of Engineers should carry out this investigation as promptly as possible consistent with other environmental cleanup responsibilities, and should continue to keep interested parties, including potentially affected residents in the area, University of Nebraska officials, and State and local government personnel fully advised of developments relating to the study and activities at the site.

SEC. 344. REPORT ON MANPOWER, MOBILITY, SUSTAINABILITY, AND EQUIPMENT

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the readiness of the Armed Forces, in terms of manpower, mobility, sustainability, and equipment, to perform their assigned missions. The report shall be based on the manpower and other resources planned for the Armed Forces in the 1991 budget for the Department of Defense.

(b) MATTERS TO BE INCLUDED IN REPORT.—The Secretary shall include the following in the report required by subsection (a):

(1) A detailed analysis of trends in readiness and sustainability of the military forces of the United States over the five-year period 1986 to 1990 and, based on the current Five-Year Defense Program or other planning document approved by the Secretary, a projection of such trends over the succeeding five-year period.

(2) A detailed evaluation of the readiness and sustainability of the unified combatant commands and the specified combatant commands of the Armed Forces.

(3) A discussion of—

(A) the readiness and sustainability of the military forces of the United States in terms of the standards approved by the Secretary of Defense;

(B) the readiness and sustainability of allied forces of the United States; and

(C) the readiness and sustainability of potential enemy forces.

(4) A list of all improvements that need to be made in the readiness and sustainability of the manpower, mobility, and equipment of the Armed Forces to correct major shortfalls of the unified combatant commands and the specified combatant commands, the relative priority of each such improvement, and the estimated cost of each such improvement.

(5) Such other information regarding the readiness of the Armed Forces, in terms of manpower, mobility, sustainability, and equipment, as the Secretary considers appropriate.

(c) PRIORITY FOR IMPROVEMENTS.—The relative priority of the improvements referred to in subsection (b)(4) shall be determined by the Secretary on the basis of the improvements necessary to ensure the ability of the Armed Forces to perform their assigned missions and the ability of the United States to meet its military commitments.

(d) REPORT DEADLINE.—The Secretary shall submit the report required by subsection (a), together with such comments and recommendations as the Secretary considers appropriate, not later than February 15, 1990.

SEC. 345. REPORT ON IMPACT AID

(a) REQUIREMENT FOR REPORT.—Not later than December 31, 1989, the Secretary of Defense shall submit to the committees named in subsection (b) a report on the feasibility and desirability of restoring to the Secretary of Defense, on or before October 1, 1991, the responsibilities formerly exercised by the Secretary for the administration of impact aid for schools affected by Department of Defense activities.

(b) COMMITTEES.—The Secretary shall submit the report required by subsection (a) to the Committees on Armed Services and on Labor and Human Services of the Senate and the Committees on Armed Services and on Education and Labor of the House of Representatives.

(c) DEFINITION.—As used in this section, the term "impact aid" means payments and other arrangements under the provisions of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) and the Act of September 23, 1950 (Public Law 815, Eighty-first Congress).

SEC. 346. REPORT ON SECOND SOURCE FOR CARBONIZABLE RAYON YARN

Not later than November 30, 1989, the Secretary of Defense will report to the Committees on Armed Services of the Senate and House on the progress, time table, and a time certain for the Department to establish a certified second production source for carbonizable rayon yarn for use on reentry vehicles heat shields and rocket nozzles, applicable to both defense and space programs.

PART E—MISCELLANEOUS PROVISIONS

SEC. 351. ENERGY EFFICIENCY INCENTIVE

Section 736 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 2006; 42 U.S.C. 8287 note), is amended—

(1) in subsection (b), by striking out paragraph (1) and inserting in lieu thereof the following: "(1) One-half of the amount of such savings shall be used for the acquisition of energy conserving measures for military installations. Such measures shall be in addition to any such energy conserving measures acquired for military installations under contracts entered into under title VIII of the National Conservation Energy Policy Act.";

(2) in subsection (c)—

(A) by striking out "end of the first year" and inserting in lieu thereof "end of each of the first five years"; and

(B) by striking out "first-year" after "amount of"; and

(3) in subsection (d)—

(A) by striking out " 'first-year"; and

(B) by striking out "during the first year" and inserting in lieu thereof "during the first five years".

SEC. 352. AUTHORITY TO ACQUIRE RAILROAD TRACK STRUCTURE AND TEMPORARY RIGHT-OF-WAY FOR RAIL LINE

The Secretary of the Army may purchase the railroad track structure and temporary right-of-way for the railroad line known as the Mina Branch, located between milepost 331.12, near Wabuska, Nevada, and milepost 385.00, near Thorne, Nevada, for use in connection with the operation of Hawthorne Army Ammunition Plant, Nevada. The Secretary may use any funds appropriated pursuant to section 301 for the Army for fiscal year 1990 to carry out the purpose of the preceding sentence.

SEC. 353. USE OF CHLOROFLUOROCARBONS AND HALONS IN THE DEPARTMENT OF DEFENSE

(a) CHLOROFLUOROCARBONS EMISSION REDUCTION.—The Secretary of Defense shall formulate and carry out, through the Under Secretary of Defense for Acquisition, a program to reduce the unnecessary release of chlorofluorocarbons and halons into the atmosphere in connection with maintenance operations and training and testing practices of the Department of Defense.

(b) REPORT.—(1) Not more than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and of the House of Representatives a report describing the program the Secretary proposes to carry out pursuant to subsection (a). The Secretary shall specify in the report the reduction goals that are attainable on the basis of known technology, including the use of refrigerant recovery systems currently available. The Secretary shall include in the report a schedule for meeting those goals. The Secretary shall also include in such report reduction goals that can only be met with the use of new technology and assess the technologies and investment that will be required to attain those goals within a five-year period.

(2) Before the report required under paragraph (1) is submitted to the committees named in such paragraph, the Secretary shall transmit a copy of the report to the Administrator of the Environmental Protection Agency for comment thereon.

(c) DOD REQUIREMENTS FOR CFCs.—(1) Not more than 30 days after the date of the enactment of this Act, the Secretary shall appoint an advisory committee to be known as the "CFC Advisory Committee" (hereinafter in this section referred to as the "Committee"). The Committee shall be composed of not more than 15 members, with an equal number of representatives from the Department of Defense, the Environmental Protection Agency, and defense contractors. Members representing defense contractors shall be contractors that supply products or equipment to the Department of Defense that require the use of chlorofluorocarbons.

(2) It shall be the function of the Committee to study the use of chlorofluorocarbons by the Department of Defense and by contractors in the performance of contracts for the Department of Defense and the cost and feasibility of using alternative compounds or technologies for chlorofluorocarbons (CFCs).

(3) Within 120 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that specify the use of CFCs.

(4) Within 150 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that do not specify use of CFCs but cannot be met without the use of CFCs.

(d) REPORT.—Not later than September 30, 1990, the Secretary shall submit to the Committees named in subsection (b) a

report containing the results of the study by the Committee. The report shall—

(1) identify cases in which the Committee found that substitutes for CFCs could be made most expeditiously;

(2) identify the feasibility and cost of substituting compounds or technologies for CFC uses referred to in subsection (c)(3) and estimate the timeframe for completing the substitution;

(3) identify CFC uses referred to in subsection (c)(4) for which substitutes are not currently available and indicate the reasons substitutes are not available.

(4) describe the types of research programs that should be undertaken to identify substitute compounds or technologies for CFC uses referred to in paragraphs (3) and (4) of subsection (c) and estimate the cost of the program;

(5) recommend procedures to expedite the use of substitute compounds and technologies offered by contractors to replace CFC uses;

(6) estimate the earliest date on which CFCs will no longer be required for military applications; and

(7) estimate the cost of revising military specifications for the use of substitutes for CFCs, the add-on costs for revision of contracts to provide for the use of substitutes for CFCs, and the cost of purchasing new equipment and reverification necessitated by the use of substitutes for CFCs.

SEC. 354. AUTHORIZATION OF LONG-TERM AIRCRAFT SUPPORT CONTRACT

The Secretary of the Army may enter into a long-term contract pursuant to section 2401 of title 10, United States Code, that includes a lease for the provision of air transportation at Kwajalein Atoll, Republic of the Marshall Islands, if—

(1) the contract does not impose a substantial termination liability on the United States within the meaning of section 2401(a)(1)(B) of title 10, United States Code; and

(2) the contract is made subject to the availability of funds for such purpose.

SEC. 355. AUTHORITY TO LEASE FLEET ELECTRONIC WARFARE SUPPORT AIRCRAFT

Section 328 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1957), is amended to read as follows:

"The Secretary of the Navy may lease aircraft for Fleet Electronic Warfare Support Group activities in accordance with section 2401 of title 10, United States Code, if the cost of leasing, operating, and supporting such aircraft is less than the projected costs of operating and maintaining existing aircraft of the Navy for the same activity.".

SEC. 356. SERVICE CONTRACT TO TRAIN UNDERGRADUATE NAVAL FLIGHT OFFICERS

The Secretary of the Navy may enter into a contract for services to train Undergraduate Naval Flight Officers during fiscal year 1992 in accordance with section 2401 of title 10, United States Code, after conducting a competition for such contract for services.

SEC. 357. DEFENSE CONTRACT AUDITORS

The Secretary of Defense, not later than September 30, 1990, shall increase the number of full-time personnel employed by the Defense Contract Audit Agency to 7,457, of which not less than 6,488 shall be auditors.

SEC. 358. ENVIRONMENTAL IMPACT STUDY OF THE SHENANDOAH RIVER

(a) The Secretary of Army, acting through the Chief of Engineers, will conduct a study to determine the damage and environmental impact on the Shenandoah River by companies under contract to the Defense Department, and National Aeronautics and Space Administration.

(b) The study will determine:

(1) the degree, in full, of the pollution effect and the environmental impact to the river, and

(2) the estimated cost and time schedule to restore the water quality of the river to federal standards.

(c) An interim study report will be due not later than December 31, 1989. A final report is due June 30, 1990.

SEC. 359. TUG AND TOWING SERVICES AT PORT CANAVERAL, FLORIDA

With respect to tug and towing services for the Department of Navy at Port Canaveral, Florida, the Secretary of the Navy shall personally make any determination required by Part 19.502-2 of the Federal Acquisition Regulation.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS FOR FISCAL YEARS 1990 AND 1991

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

(a) FISCAL YEAR 1990.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1990, as follows:

(1) The Army, 764,021, of which not more than 106,001 may be officers.

(2) The Navy, 591,541, of which not more than 72,443 may be officers.

(3) The Marine Corps, 197,159, of which not more than 20,110 may be officers.

(4) The Air Force, 567,474, of which not more than 102,200 may be officers.

(b) FISCAL YEAR 1991.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1991, as follows:

(1) The Army, 763,721, of which not more than 105,675 may be officers.

(2) The Navy, 591,541, of which not more than 72,263 may be officers.

(3) The Marine Corps, 197,159, of which not more than 20,108 may be officers.

(4) The Air Force, 566,374, of which not more than 102,069 may be officers.

SEC. 402. MAINTENANCE OF ARMY COMBAT FORCE STRUCTURE

(a) IN GENERAL.—The Secretary of Defense may not take any action to reduce the number of active Army ground combat brigades assigned to the 4th Infantry Division (Mechanized) before December 1, 1990.

(b) AUTHORITY TO INCREASE ARMY END STRENGTH FOR FISCAL YEAR 1990.—If, as a result of the prohibition contained in subsection (a), the Secretary of Defense determines that it is necessary to increase the end strength of the Army for fiscal year 1990 above the level authorized under section 401, the Secretary may authorize an increase in the end strength of the Army for fiscal year 1990 of not more than 3,312.

(c) ADJUSTMENT FOR REDUCTION.—If the Secretary of Defense authorizes an increase in the end strength of the Army under subsection (a), the Secretary shall reduce the authorized active end strengths of one or more of the other military services in such amounts as may be necessary to ensure that the combined authorized end strengths for the Army, Navy, Air Force, and Marine Corps does not exceed the total end strengths authorized under section 401.

SEC. 403. TEMPORARY REDUCTION IN NUMBER OF AIR FORCE COLONELS

The number of officers that (but for this section) would be authorized under section 523 of title 10, United States Code, and other applicable provisions of law to be serving on active duty in the Air Force in the grade of colonel during fiscal year 1991 is hereby reduced by 250.

SEC. 404. REASSIGNMENT TO FORT IRWIN, CALIFORNIA

It is the sense of Congress that any combat unit of battalion or squadron size (or larger size) that on the date of the enactment of this Act is stationed at Fort Knox, Kentucky shall not be permanently reassigned to Fort Irwin, California.

PART B—RESERVE FORCES

SEC. 421. END STRENGTHS FOR SELECTED RESERVE

(a) FISCAL YEAR 1990.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1990, as follows:

(1) The Army National Guard of the United States, 458,000.

(2) The Army Reserve, 321,700.

(3) The Naval Reserve, 153,400.

(4) The Marine Corps Reserve, 44,000.

(5) The Air National Guard of the United States, 116,200.

(6) The Air Force Reserve, 84,900.

(7) The Coast Guard Reserve, 15,000.

(b) FISCAL YEAR 1991.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1991, as follows:

(1) The Army National Guard of the United States, 458,500.

(2) The Army Reserve, 323,100.

(3) The Naval Reserve, 155,000.

(4) The Marine Corps Reserve, 44,100.

(5) The Air National Guard of the United States, 116,300.

(6) The Air Force Reserve, 85,200.

(7) The Coast Guard Reserve, 15,000.

(c) ADJUSTMENTS.—(1) The end strengths prescribed by subsection (a) or (b) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(A) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(B) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

(2) Whenever units referred to in paragraph (1) or individual members referred to in such paragraph are released from active duty during any fiscal year, the end strengths prescribed for the fiscal year for the Selected Reserve of the reserve component concerned shall be proportionately increased by the total authorized strength of the units and by the total number of the individual members.

SEC. 422. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) FISCAL YEAR 1990.—Within the end strengths prescribed in section 421(a), the reserve components of the Armed Forces are authorized, as of September 30, 1990, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 26,164.

(2) The Army Reserve, 13,680.

(3) The Naval Reserve, 22,708.

(4) The Marine Corps Reserve, 2,301.

(5) The Air National Guard of the United States, 8,517.

(6) The Air Force Reserve, 686.

(b) FISCAL YEAR 1991.—Within the end strengths prescribed in section 421(b), the reserve components of the Armed Forces are authorized, as of September 30, 1991, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 26,514.

(2) The Army Reserve, 14,027.

(3) The Naval Reserve, 23,565.

(4) The Marine Corps Reserve, 2,401.

(5) The Air National Guard of the United States, 8,468.

(6) The Air Force Reserve, 700.

SEC. 423. INCREASE IN NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) SENIOR ENLISTED MEMBERS.—

(1) FISCAL YEAR 1990.—Effective on October 1, 1989, the table in section 517(b) of title 10, United States Code, is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	542	200	224	13
E-8	2,504	425	637	74".

(2) FISCAL YEAR 1991.—Effective on October 1, 1990, that table is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	557	202	231	13
E-8	2,585	429	670	74".

(b) OFFICERS.—

(1) FISCAL YEAR 1990.—Effective on October 1, 1989, the table in section 524(a) of such title is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander.	3,030	1,065	575	110
Lieutenant Colonel or Commander	1,448	520	476	75
Colonel or Navy Captain	351	188	190	25".

(2) FISCAL YEAR 1991.—Effective on October 1, 1990, that table is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander.	3,219	1,071	575	110
Lieutenant Colonel or Commander	1,524	520	532	75
Colonel or Navy Captain	364	188	194	25".

SEC. 424. AUTHORIZED STRENGTH OF NAVAL RESERVE OFFICERS IN CERTAIN GRADES

Section 5457(a) of title 10, United States Code, is amended—

(1) in clause (2), by striking out "7" and inserting in lieu thereof "5"; and

(2) by adding after clause (7) the following new clauses:

"(8) Medical Service Corps—1."

"(9) Nurse Corps—1."

PART C—MILITARY TRAINING

SEC. 431. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) FISCAL YEAR 1990.—For fiscal year 1990, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 79,667.

(2) The Navy, 67,224.

(3) The Marine Corps, 21,656.

(4) The Air Force, 39,575.

(5) The Army National Guard of the United States, 19,168.

(6) The Army Reserve, 15,377.

(7) The Naval Reserve, 3,237.

(8) The Marine Corps Reserve, 4,179.

(9) The Air National Guard of the United States, 2,941.

(10) The Air Force Reserve, 1,752.

(b) FISCAL YEAR 1991.—For fiscal year 1991, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 74,760.

(2) The Navy, 66,517.

(3) The Marine Corps, 22,235.

(4) The Air Force, 37,757.

(5) The Army National Guard of the United States, 18,667.

(6) The Army Reserve, 15,963.

(7) The Naval Reserve, 3,259.

(8) The Marine Corps Reserve, 4,178.

(9) The Air National Guard of the United States, 2,939.

(10) The Air Force Reserve, 1,774.

(c) ADJUSTMENTS.—The average military student loads authorized in subsections (a) and (b) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

PART D—CIVILIAN PERSONNEL

SEC. 441. REPEAL OF PROHIBITION OF USE OF CERTAIN PERSONNEL MANAGEMENT CONSTRAINTS

(a) IN GENERAL.—Section 129 of title 10, United States Code, is repealed.

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 3 of such title is amended by striking out the item relating to section 129.

SEC. 442. AUTHORITY TO ACCEPT CERTAIN VOLUNTEER SERVICES

Section 1588(a) of title 10, United States Code, is amended by striking out "museum" and inserting in lieu thereof "museum, natural resources program,".

TITLE V—MILITARY PERSONNEL

PART A—MATTERS AFFECTING THE RESERVE COMPONENTS

SEC. 501. DELAYED ENTRY PROGRAM AND DELAYED ENTRY TRAINING PROGRAM FOR RESERVISTS

(a) DELAYED ENTRY PROGRAM ENLISTMENTS.—Section 511 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) A person with no prior military service who is qualified for enlistment in a regular component of an armed force may (except as provided in paragraph (3)) be enlisted as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve for a term of not less than six years nor more than eight years.

"(2) A person enlisted under this subsection shall, unless sooner ordered to active duty under chapter 39 of this title or another provision of law, be discharged from the reserve component in which enlisted and immediately enlisted in a regular component of an armed force within 365 days after enlistment in the reserve component. During the period beginning on the date on which the person enlists under paragraph (1) and ending on the date on which the person is enlisted in a regular component under the preceding sentence, the person shall be placed in the Ready Reserve of the armed force concerned.

"(3) A person who is under orders to report for induction into an armed force under the Military Selective Service Act (50 U.S.C. App. 451 et seq.), except as provided in clause (ii) or (iii) of section 6(c)(2)(A) of that Act, may not be enlisted under paragraph (1).

"(4) This subsection shall be carried out under regulations to be prescribed by the Secretary of Defense or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.".

(b) DELAYED ENTRY PROGRAM EXEMPTION FROM READY RESERVE TRAINING REQUIREMENTS.—Section 270(a) of title 10, United States Code, is amended by inserting "or 511(e)" after "section 269(b)" in the first sentence.

(c) DELAYED ENTRY TRAINING PROGRAM LONGEVITY FOR PAY.—Subsection (e) of section 205 of title 37, United States Code, is amended to read as follows:

"(e)(1) Notwithstanding subsection (a), a period of service described in paragraph (2) of a member who enlists in a reserve component may not be counted under this section.

"(2) Paragraph (1) applies to—

"(A) service performed while a member of a reserve component under an enlistment under section 511(b) or 511(d) of title 10 before the member begins service on active duty under such section (including a period of initial active duty for training performed before beginning such service on active duty) unless the member performs inactive duty training before beginning such active service; and

"(B) service performed while a member of a reserve component under an enlistment under section 511(e) of title 10.".

SEC. 502. LIMITATION OF ACTIVE GUARD AND RESERVE PERSONNEL TO ACTIVE-DUTY PROGRAM

(a) LIMITATION.—Section 2132(d) of title 10, United States Code, is amended by adding at the end the following new sen-

tence: "However, a person may not receive credit under the program established by this chapter for service (in any grade) described in subparagraph (B) or (C) of section 523(b)(1) of this title".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, or the date of the enactment of this Act, whichever is later.

(c) REFERENCES TO ADMINISTRATOR OF VETERANS' AFFAIRS.—Chapter 106 of title 10, United States Code, is amended—

(1) by striking out "Administrator of Veterans' Affairs" in sections 2131(b)(4), 2132(c), 2132(d), and 2136(a) and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(2) by striking out "to the Administrator" in section 2132(c) and inserting in lieu thereof "to that Secretary".

(d) OTHER TECHNICAL AMENDMENTS.—(1) Section 2131(b) of such title is amended by striking out "and educational" in the matter preceding paragraph (1) and inserting in lieu thereof "of an educational".

(2) Section 2132(d) of such title is amended by striking out "An individual" and inserting in lieu thereof "A person".

SEC. 503. ANNUAL MUSTER DUTY FOR READY RESERVISTS

(a) ORDER TO ANNUAL MUSTER DUTY.—(1) Chapter 39 of title 10, United States Code is amended by adding at the end the following new section:

"§ 691. Ready Reserve: muster duty

"(a) Under regulations prescribed by the Secretary of Defense, a member of the Ready Reserve may be ordered to muster duty one time each year without his consent. A member on muster duty under this section shall be engaged for at least two hours on the day of muster in the performance of that duty.

"(b) The period which a member may be required to devote to muster duty under this section and to round-trip travel to and from the location of such duty may not total more than one day each calendar year.

"(c) Except as specified in subsection (d), muster duty under this section shall be treated as the equivalent of inactive-duty training for the purposes of this title and titles 37 and 38, including the determination of eligibility for and the receipt of benefits and entitlements provided under those titles for Reserves performing inactive-duty training and for their dependents and survivors.

"(d) Muster duty under this section shall not be credited in determining entitlement to, or in computing, retired pay under chapter 67 of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"691. Ready Reserve: muster duty.".

(b) ALLOWANCE FOR ANNUAL MUSTER DUTY.—(1) Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 433. Allowance for muster duty

"(a) Under uniform regulations prescribed by the Secretaries concerned, a member of the Ready Reserve who is not a member of the National Guard or of the Selected Reserve is entitled to an allowance for muster duty performed pursuant to section 691 of title 10 if the member is engaged in that duty for at least two hours.

"(b) The amount of the allowance under this section shall be equal to the average per diem rate for the United States (other than Alaska and Hawaii) under section 404(d)(2)(A) of this title as in effect on September 30 of the year preceding the year in which the muster duty is performed.

"(c) The allowance authorized by this section may not be disbursed in kind and shall be paid to the member on or before the date on which the muster duty is performed. The allowance shall constitute the single, flat-rate monetary allowance authorized for the performance of muster duty and shall constitute payment in full to the member, regardless of grade or rank in which serving, as commutation for travel to the immediate vicinity of the designated muster duty location, transportation, subsistence, and the special or extraordinary costs of enforced absence from home and civilian pursuits, including such absence on weekends and holidays.

"(d) A member who performs muster duty is not entitled to compensation for inactive-duty training under section 206(a) of this title for the same period.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"433. Allowance for muster duty.".

SEC. 504. REPEAL OF FOUR YEAR RESERVE OFFICER UNIFORM ALLOWANCE

(a) REPEAL OF ALLOWANCE.—Section 416 of title 37, United States Code, is amended—

(1) by striking out subsection (a);

(2) in subsection (b)—

(A) by striking out "(b)";

(B) by striking out "and subsection (a) of this section" in the first sentence; and

(C) by striking out "this subsection" in the second sentence and inserting in lieu thereof "this section".

(b) SAVINGS CLAUSE.—The amendments made by subsection (a) shall become effective on the date of the enactment of this Act, except that in the case of an officer of an armed force who, except for such amendments, would have become entitled to a uniform reimbursement under such section within one year after the date of the enactment of this Act, such amendments shall not become effective until one year and one day after such date of enactment.

SEC. 505. EXTENSION OF CERTAIN EXPIRING AUTHORITIES RELATING TO RESERVES

(a) EXTENSION OF THE AUTHORITY TO REPAY LOANS OF CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1992".

(b) EXTENSION OF GRADE DETERMINATION AUTHORITY FOR CERTAIN RESERVE MEDICAL OFFICERS.—Sections 3359(b) and 8359(b) of such title are each amended by striking "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(c) EXTENSION OF PROMOTION AUTHORITY FOR CERTAIN RESERVE OFFICERS WHO ARE SERVING ON ACTIVE DUTY.—Sections 3380(d) and 8380(d) of such title are each amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(d) EXTENSION OF REQUIREMENTS RELATING TO THE TREATMENT OF SINGLE PARENTS ENLISTING IN RESERVE COMPONENTS.—Section 523(d) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 510 note) is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(e) EXTENSION OF TITLE 10 PROVISIONS RELATING TO COMPUTATION OF YEARS OF SERVICE FOR MANDATORY TRANSFER TO THE RETIRED RESERVE.—Section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note), is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

SEC. 506. SPECIAL UNIT ASSIGNMENT PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE

(a) AUTHORIZATION OF SPECIAL PAY.—Chapter 5 of title 37, United States Code, is amended by inserting after section 308c the following new section:

"§ 308d. Special pay: enlisted members of the Selected Reserve assigned to certain units

"(a) Under regulations prescribed by the Secretary of Defense, an enlisted member who is assigned to a high priority unit of the Selected Reserve of the Ready Reserve of an armed force, as designated under subsection (b) of this section, and who performs inactive duty for training for compensation under section 206 of this title with such unit may be paid compensation, in addition to the compensation to which the member is otherwise entitled, in an amount not to exceed $10 for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least four hours, including any such instruction or duty performed on a Sunday or holiday.

"(b) The Secretary concerned may designate a unit, for the purposes of subsection (a) and under such terms and conditions as the Secretary considers appropriate, as a high priority unit if that unit has experienced, or reasonably might be expected to experience, critical personnel shortages. The Secretary may vacate a designation made under this subsection at any time he considers the designation no longer necessary.

"(c) Additional compensation may not be paid under this section for inactive duty performed after September 30, 1991.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 308c the following new item:

"308d. Special pay: enlisted members of the Selected Reserve assigned to certain units.".

(c) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of the special pay program provided for in section 308d of title 37, United States Code, as added by subsection (a). The Secretary shall submit the report not later than May 1, 1991, together with such comments and recommendations as the Secretary considers appropriate.

PART B—HEALTH CARE MATTERS

SEC. 521. PROHIBITION ON CHARGES FOR OUTPATIENT MEDICAL AND DENTAL CARE

During fiscal years 1990 and 1991, the Secretary of Defense may not impose a charge for the receipt of outpatient medical or dental care at a military medical treatment facility.

SEC. 522. LIMITATION ON CHAMPUS PAYMENTS TO NONINSTITUTIONAL HEALTH-CARE PROVIDERS

(a) IN GENERAL.—Subsection (h) of section 1079 of title 10, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) Payment for a charge for services by an individual health-care professional (or other noninstitutional health-care provider) for which a claim is submitted under a plan contracted for under subsection (a) may be denied only to the extent that the charge exceeds the lesser of—

"(A) the amount equivalent to the 80th percentile of billed charges made for similar services in the same locality during the base period; or

"(B) the maximum amount payable under this subsection (as in effect on October 1, 1987) for such services in that locality during fiscal year 1988, as increased by the Secretary of Defense from time to time, after consultation with the other administering Secretaries, to reflect economic changes after September 30, 1988.";

(2) in paragraph (2), by striking out "90th percentile" and inserting in lieu thereof "80th percentile";

(3) by adding at the end the following new paragraph:

"(3) The Secretary of Defense may increase the maximum amount referred to in paragraph (1)(B) each time the Secretary of Health and Human Services increases, on the basis of economic changes, the amounts payable to providers of services under part B of title XVIII of the Social Security Act. In increasing such maximum amount, the Secretary of Defense (and the other administering Secretaries) shall consider the same economic information considered by the Secretary of Health and Human Services in adjusting the amounts payable to providers of services under part B of title XVIII of the Social Security Act."; and

(4) by adding after paragraph (2) the following new paragraph:

"(3) For the purposes of paragraph (1)(B), the Secretary of Defense, after consultation with the other administering Secretaries, shall prescribe regulations to apply the appropriate economic index data. Such regulations may permit exceptions to the limitation established by paragraph (1)(B) when justified by special circumstances.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall take effect on October 1, 1989, and shall apply to services provided on or after such date.

SEC. 523. CODIFICATION OF APPROPRIATION PROVISION RELATING TO CHAMPUS

Subsection (c) of section 1074 of title 10, United States Code, is amended by adding at the end the following new sentence: "If the private facility or health care provider providing care under this subsection is a health care provider under the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense, after consultation with the other administering Secretaries, may by regulation require the institutional or individual provider to provide such care in accordance with the same payment rules (subject to any modifications considered appropriate by the Secretary) as apply under that program.".

SEC. 524. ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

(a) DEFINITIONS.—Section 2120 of title 10, United States Code, is amended—

(1) by inserting "and Financial Assistance" after "Scholarship" in paragraphs (1) and (2); and

(2) by adding at the end the following new paragraph:

"(4) The term 'specialized training' means advanced training in a health professions specialty received in an accredited program beyond the basic education required for an appointment as an officer in a health profession.".

(b) SCOPE OF PROGRAM.—Section 2121 of such title is amended—

(1) in subsection (b), by inserting "or of specialized training" after "study"; and

(2) in subsection (c)—

(A) in the second sentence, by inserting "pursuing a course of study" after "of the program"; and

(B) by inserting after the second sentence the following: "Members of the program pursuing specialty training shall serve on active duty in a pay grade, determined in accordance with section 3353, 5600, or 8353 of this title, as appropriate, commensurate with their educational level, with full pay and allowances of that grade for a period of 14 days during each year of participation in the program.".

(c) ELIGIBILITY FOR PARTICIPATION.—Section 2122(a)(1) of such title is amended—

(1) by inserting "or specialized training," after "study"; and

(2) by inserting "or 2120(4), as the case may be," after "2120(3)".

(d) NUMBER OF PARTICIPANTS.—Subsection 2124 of such title is amended by striking out "except that—" and all that follows and inserting in lieu thereof "except that the total number of persons so designated in all the programs authorized by this subchapter shall not, at any time exceed 6,000."

(e) GRANT FOR SPECIALIZED TRAINING.—(1) Chapter 104 of such title is amended by adding at the end the following new section:

"§ 2127a. Grants for specialized training

"(a)(1) A person participating in specialized training for which a stipend is paid under section 2121(d) of this title shall be paid an annual grant of $15,000 in addition to such stipend.

"(2) The amount of the grant shall be increased annually by the Secretary of Defense, effective July 1 of each year, in the same manner as provided for stipends under section 2121(d) of this title.

"(3) The amount of the annual grant paid a person in any fiscal year shall be the amount in effect during the first month the person participates in a program of specialized training.

"(c) Any person who voluntarily terminates participation in a program of specialized training before completing such program shall refund to the United States the total amount of the grants paid such person under subsection (a) for participation in such program.

"(d) A discharge in bankruptcy under title 11 that is entered less than five years after the last payment of a grant under subsection (a) for participation in a program of specialized training does not discharge such person from a debt arising under this section.".

(2) The table of sections at the beginning of chapter 104 of such title is amended by adding at the end the following new item:

"2127a. Grants for specialized training.".

(3) The amendments made by this subsection shall become effective October 1, 1989.

(4) The first annual adjustment under subsection (a)(2) of section 2127a of title 10, United States Code, as added by paragraph (1), shall be made on July 1, 1991.

(f) CLERICAL AMENDMENTS.—(1) The heading of subchapter I of chapter 104 of title 10, United States Code, is amended to read as follows:

"SUBCHAPTER I—HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM FOR ACTIVE SERVICE".

(2) The item relating to such subchapter in the table of subchapters at the beginning of such chapter is amended to read as follows:

"I. Health Professions Scholarship and Financial Assistance Program ..... 2120".

SEC. 525. REVISIONS OF THE EDUCATIONAL LOAN REPAYMENT PROGRAM FOR HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE

(a) EXPANSION OF LOANS QUALIFYING FOR REPAYMENT.—Subsection (a) of section 2172 of title 10, United States Code, is amended—

(1) in clause (2), by striking out "and" after the semicolon;

(2) in clause (3), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(4) a portion of a loan made, insured, or guaranteed through a recognized financial or educational institution which was used to finance basic or advanced health professions education."

(b) EXPANSION OF PROGRAM ELIGIBILITY TO READY RESERVE.—Subsection (b)(1) of such section is amended by striking out "Selected Reserve" and inserting in lieu thereof "Ready Reserve".

(c) INCREASE IN AMOUNTS OF LOAN REPAYMENTS.—Subsection (c) of such section is amended—

(1) in paragraph (2), by striking out "$3,000 for each year of service described in paragraph (1)" and inserting in lieu thereof "$4,500 for each year of Selected Reserve service, or $2,250 for each year of service in the Ready Reserve (other than Selected Reserve service)"; and

(2) in paragraph (3), by striking out "$20,000" and inserting in lieu thereof "$30,000 for Selected Reserve service, or $15,000 for service in the Ready Reserve other than the Selected Reserve".

(d) REPEAL OF TERMINATION PERIOD FOR PROGRAM.—Subsection (d) of such section is repealed.

SEC. 526. REVISED DEADLINE FOR THE USE OF DIAGNOSIS-RELATED GROUPS FOR OUTPATIENT TREATMENT

The regulations required by section 1101(a) of title 10, United States Code, to establish the use of diagnosis-related groups as the primary criteria for the allocation of resources to health care facilities of the uniformed services shall be prescribed to take effect not later than October 1, 1990, in the case of outpatient treatments.

SEC. 527. LIMITATION ON AUTHORITY TO DEFER MANDATORY RETIREMENT FOR AGE OF HEALTH PROFESSIONS OFFICERS

Section 1251(c)(2) of title 10, United States Code, is amended by striking out "67" and inserting in lieu thereof "68".

SEC. 528. RETENTION OF CERTAIN RESERVE PSYCHOLOGISTS IN ACTIVE STATUS

(a) ARMY.—Section 3855(a) of title 10, United States Code, is amended by inserting ", or any reserve officer in the Army Medical Department designated as a psychologist" before the period at the end.

(b) NAVY.—Section 6392(a) of such title is amended by striking out "or biomedical sciences officer" and inserting in lieu thereof "biomedical sciences officer, or psychologist".

(c) AIR FORCE.—Section 8855(a) of such title is amended by striking out "or biomedical sciences officer" and inserting in lieu thereof "biomedical sciences officer, or psychologist".

PART C—PERSONNEL MANAGEMENT

SEC. 531. AUTHORITY TO VACATE PROMOTIONS TO GRADES OF MAJOR THROUGH MAJOR GENERAL AND LIEUTENANT COMMANDER THROUGH REAR ADMIRAL

(a) IN GENERAL.—Section 625 of title 10, United States Code, is amended to read as follows:

"§ 625. Authority to vacate promotions to grades of major through major general and lieutenant commander through rear admiral

"(a) The President may vacate a promotion to the grade of major through major general or to the grade of lieutenant commander through rear admiral in the case of an officer promoted to any such grade under this chapter if the officer has served less than 18 months in the grade to which promoted.

"(b) An officer whose promotion is vacated under this section shall hold the regular grade held by the officer immediately before the promotion vacated under this section if the officer is a regular officer or shall hold the reserve grade held immediately before the promotion vacated under this section if the officer is a reserve officer.

"(c) The position on the active-duty list of an officer whose promotion is vacated under this section is the position the officer would have held had the officer not been promoted.".

(b) TABLE OF SECTIONS.—The item relating to section 625 in the table of sections at the beginning of subchapter II of chapter 36 is amended to read as follows:

"625. Authority to vacate promotions to grades of major through major general and lieutenant commander through rear admiral.".

SEC. 532. NONOPERATIONAL FLYING DUTY POSITIONS

(a) REDUCTION IN NONOPERATIONAL FLYING DUTY POSITIONS.—The Secretary of Defense shall take such action as may be necessary to reduce, by not later than September 30, 1992, the number of nonoperational flying duty positions in the Army, Navy, Air Force, and Marine Corps by a number equal to not less than 5 percent below the total number of such positions in existence on September 30, 1989. The Secretary shall effectuate a reduction of not less than 2 percent by September 30, 1991.

(b) LIMITATION ON INCREASES IN NONOPERATIONAL FLYING DUTY POSITIONS AFTER FISCAL YEAR 1991.—(1) No increase in the number of nonoperational flying duty positions referred to in subsection (a) may be made after September 30, 1991, unless the increase is specifically authorized by law.

(2) As used in this section, the term "nonoperational flying duty positions" means positions in a military department identified by the Secretary of that department as positions that require the assignment of an aviator but that do not include operational flying duty (as defined in section 301a(a)(6) of title 37, United States Code).

SEC. 533. MINIMUM SERVICE REQUIREMENT FOR AVIATORS

(a) IN GENERAL.—Chapter 37 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 653. Minimum service requirement for certain flight crew positions

"(a) PILOTS.—The minimum active duty obligation of any member who successfully completes training in the armed forces as a pilot shall be 9 years, if the member is trained to fly fixed wing jet aircraft, and 7 years, if the member is trained to fly any other type of aircraft.

"(b) NAVIGATORS AND NAVAL FLIGHT OFFICERS.—The minimum active duty obligation of any member who successfully completes training in the armed forces as a navigator or naval flight officer shall be 7 years.

"(c) DEFINITION.—In this section, the term 'active duty obligation' means the period of active duty required to be served after completion of undergraduate pilot training in the case of training as a pilot, completion of undergraduate navigator training in the case of training as a navigator, or completion of undergraduate training as a naval flight officer in the case of training as a naval flight officer.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"653. Minimum service requirement for certain flight crew positions.".

(c) EFFECTIVE DATE.—(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to persons who begin undergraduate pilot training, undergraduate navigator training, or undergraduate naval flight officer training, as the case may be, after September 30, 1990.

(2) The amendments made by this section shall apply to persons who graduate from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the Coast Guard Academy after 1991 and to persons who satisfactorily complete the academic and military requirements of the Senior Reserve Officers' Training Corps program (provided for in chapter 103 of title 10, United States Code) after 1991.

(3) The minimum service requirements provided for in section 653 of title 10, United States Code, as added by subsection (a), shall not apply in the case of any person who entered into an agreement with the Secretary concerned before October 1, 1990, and who is obligated under the terms of such agreement to serve on active duty for a period less than the applicable period specified in section 653 of such title.

(4) For purposes of this subsection, the term "Secretary concerned" has the same meaning provided for such term in section 101(8) of title 10, United States Code.

SEC. 534. REPORT ON AVIATOR ASSIGNMENT POLICIES AND PRACTICES

The Comptroller General of the United States shall conduct a comprehensive study of the aviator assignment policies and practices of the Armed Forces. The Comptroller General shall submit the results of such study to the Committees on Armed Services of the Senate and the House of Representatives not later than February 15, 1990. The Comptroller General shall include in such report an analysis of the effectiveness and efficiency of the aviator assignment policies and practices of the Armed Forces, including an analysis of the policies and practices followed in accommodating the assignment preferences of aviators within operational needs of the Armed Forces.

PART D—TOTAL FORCE POLICY

SEC. 541. TOTAL FORCE POLICY

(a) FINDINGS.—Congress makes the following findings:

(1) Since inception of the Total Force Policy concept by the Department of Defense there has been no singular authoritative study by the Department of Defense on the operation and effectiveness of that policy.

(2) Force mix decisions by the Department of Defense appear to be fragmented and decentralized.

(3) A comprehensive review of the Total Force Policy is long overdue.

(b) STUDY.—The Secretary of Defense shall convene a study group to review the operation and soundness of the Total Force Policy of the Department of Defense and to make recommendations for improvement of such Policy. The review by the study group shall include the following:

(1) A critical examination of the basic tenets of the Total Force Policy with a view to determining whether changes are required to make the policy more effective.

(2) A critical examination of the force mixes in each of the military services that have evolved since the Total Force Policy was established with a view to determining the soundness of the mixes.

(3) A realistic assessment of combat readiness shortfalls and the resources required to correct the shortfalls.

(4) Development of a cogent force mix strategy for dealing with substantially smaller active military forces in the future.

(5) An evaluation of the operational effectiveness of active and reserve force command and control relationships (similar to the ongoing Army study on alternatives to the current Army Reserve command structure).

(6) A proposed system for top level evaluation of force mix decisions on a regular and systematic basis.

(b) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than December 1, 1989, a report containing the results of the review of the study group convened pursuant to subsection (a) together with such comments and recommendations as the Secretary considers appropriate.

PART E—MISCELLANEOUS

SEC. 551. INCREASE IN SERVICE OBLIGATION FOR GRADUATES OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES AND THE SERVICE ACADEMIES

(a) UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SERVICES.—Section 2114(b) of title 10, United States Code, is amended by striking out "seven years" in the fourth sentence and inserting in lieu thereof "10 years".

(b) UNITED STATES MILITARY ACADEMY.—Section 4348(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(c) UNITED STATES NAVAL ACADEMY.—Section 6959(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(d) UNITED STATES AIR FORCE ACADEMY.—Section 9348 of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to persons who are first admitted to the Uniformed Services University of the Health Services or one of the military service academies after December 31, 1990.

SEC. 552. MILITARY APPELLATE PROCEDURES

(a) COMPOSITION OF THE UNITED STATES COURT OF MILITARY APPEALS.—(1) Subsection (a)(1) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended—

(A) in the second sentence, by striking out "three" and inserting in lieu thereof "five"; and

(B) in the third sentence by striking out "two" and inserting in lieu thereof "three".

(2) Notwithstanding the second sentence of section 867(a)(1) of title 10, United States Code, one of the judges appointed to a position added by the amendment made by paragraph (1), shall be appointed for a term of 7 years and one shall be appointed for a term of 13 years.

(3)(A) Except as otherwise provided in subparagraphs (B) and (C), a judge appointed to a term specified in paragraph (2) is eligible for an annuity as provided in section 867(i) of title 10, United States Code.

(B) The annuity of a judge referred to in subparagraph (A) is computed under paragraph (2) of such section 867(i) only if the judge—

(i) completes the term of service for which he is appointed under such subparagraph;

(ii) is reappointed as a judge of the United States Court of Military Appeals at any time after the completion of such term of service;

(iii) is separated from civilian service in the Federal Government after completing a total of 15 years as a judge of such court; and

(iv) elects to receive an annuity under such section in accordance with the third sentence of paragraph (1) of such section.

(C) In the case of a judge referred to in subparagraph (A) who is separated from civilian service after completing the term of service for which he is appointed as a judge of the United States Court of Military Appeals and before completing a total of 15 years as a judge of such court, the annuity of such judge (if elected in accordance with the third sentence of paragraph (1) of such section 867(i)) shall be—

(i) 7/15 of the amount computed under paragraph (2) of such section if the judge was appointed for a term of 7 years; and

(i) 13/15 of the amount computed under paragraph (2) of such section if the judge was appointed for a term of 13 years.

(b) REMOVAL OF JUDGES OF THE UNITED STATES COURT OF MILITARY APPEALS.—Paragraph (2) of section 867(a) of title 10, United States Code (article 67(a) of the Uniform Code of Military Justice), is amended by striking out "malfeasance in office" and inserting in lieu thereof "misconduct".

(c) INCAPACITY OF A JUDGE OF THE UNITED STATES COURT OF MILITARY APPEALS.—Subsection (a)(3) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended by striking out "the United States Court of Appeals" and all that follows and inserting in lieu thereof "a United States court of appeals or a United States district court, with the concurrence of the Chief Justice of the United States, the concurrence of the chief judge of such court of appeals or district court, and the consent of the designated judge, to fill the office during the period of disability. Per diem, travel allowances, and other allowances paid to the designated judge in connection with the performance of duties for the United States Court of Military Appeals shall be paid out of the same funds as are available for the payment of per diem and such allowances for judges of such court.".

(d) SENIOR JUDGES OF THE UNITED STATES COURT OF MILITARY APPEALS.—Subsection (a)(4) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(A)" after "(4)";

(2) by striking out ", may occupy" and all that follows and inserting in lieu thereof the following: "and, with his consent, may be called upon by the chief judge of the court to perform judicial duties for the court for any period specified by the chief judge. A senior judge shall be paid for each day on which he performs such duties the daily equivalent of the annual rate of pay provided for a judge of such court. Such pay shall be in lieu of retired pay and any annuity under subsection (i) of this section, subchapter III of chapter 83 of title 5, subchapter II of chapter 84 of such title, and any other Federal Government retirement system for employees of the Federal Government. A senior judge, while performing such duties, shall be provided with such office space and staff assistance as the chief judge considers appropriate and shall be entitled to the per diem, travel allowances, and other allowances provided for judges of such court."; and

(3) by adding at the end the following new subparagraphs:

"(B) For purposes of subchapter III of chapter 83 of title 5 (relating to the Civil Service Retirement and Disability System) and chapter 84 of such title (relating to the Federal Employees' Retirement System) and for purposes of any other Federal Government retirement system for employees of the Federal Government—

"(i) a period during which a senior judge performs duties referred to in subparagraph (A) shall not be considered creditable service;

"(ii) no amount shall be withheld from the pay of a senior judge as a retirement contribution under section 8334, 8343, 8422, or 8432 of title 5 or under any other such retirement system for any period during which the senior judge performs duties referred to in subparagraph (A);

"(iii) no contribution shall be made by the Federal Government to any Federal Government retirement system with respect to a senior judge for any period during which the senior judge performs duties referred to in subparagraph (A); and

"(iv) a senior judge shall not be considered a reemployed annuitant for any period during which the senior judge performs duties referred to in subparagraph (A).

"(C) A senior judge shall be considered an officer or employee of the Federal Government with respect to his status as a senior judge, but only during periods the senior judge is performing duties referred to in subparagraph (A). For the purposes of section 205 of title 18, a senior judge shall be considered a special government employee during such periods. Any provision of law that prohibits or limits the political or business activities of an employee of the Federal Government shall apply to a senior judge only during such periods.

"(D) The United States Court of Military Appeals shall prescribe rules for the utilization and conduct of senior judges of the court. The chief judge of the court shall transmit such rules, and any amendments to such rules, to the Committees on Armed Service of the Senate and the House of Representatives not later than 15 days after the issuance of such rules or amendments, as the case may be.".

(e) APPOINTMENT AND CIVIL SERVICE STATUS OF LEGAL STAFF OF THE UNITED STATES COURT OF MILITARY APPEALS.—(1) Subsection (a) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended by adding at the end the following new paragraph:

"(5) Attorney positions of employment under the United States Court of Military Appeals are excepted from the competitive service. Appointments to such positions shall be made in the same manner as appointments are made to other executive branch positions of a confidential or policy-determining character for which it is not practicable to examine or to hold a competitive examination. Such positions shall not be counted as positions of that character for purposes of any limitation on the number of positions of that character provided in law.".

(2) Section 867(a)(5) of title 10, United States Code (article 67(a)(5) of the Uniform Code of Military Justice), as added by paragraph (1) shall not be applied to change the civil service status of attorneys employed by the United States Court of Military Appeals before the date of the enactment of this Act.

(f) RETIREMENT OF JUDGES OF THE UNITED STATES COURT OF MILITARY APPEALS.—(1) Subsection (i) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended—

(A) in the first sentence of by striking out "the term of service" and inserting in lieu thereof "a term of service"; and

(B) by adding at the end the following new paragraph:

"(9)(A) The Secretary of Defense shall notify the Director of the Office of Personnel Management whenever an election under paragraph (1) is made affecting any right or interest under subchapter III of chapter 83 or chapter 84 of title 5 based on the service of the judge or former judge making the election.

"(B) Upon receiving any notification under subparagraph (1), the Director shall determine the amount of the judge's or former judge's lump-sum credit under subchapter III of chapter 83 or chapter 84 of title 5, as applicable, and shall request the Secretary of the Treasury to transfer such amount from the Civil Service Retirement and Disability Fund to the Department of Defense Military Retirement Fund. The Secretary of the Treasury shall make any transfer so requested.

"(C) In determining the amount of a lump-sum credit under section 8331(8) of title 5 for purposes of this paragraph—

"(i) interest shall be computed using the rates under section 8334(e)(3) of such title; and

"(ii) the completion of 5 years of civilian service (or longer) shall not be a basis for excluding interest.".

(2) The Secretary of Defense shall notify the Director of the Office of Personnel Management of any elections which were made under section 867(i) of title 10, United States Code, before the date of the enactment of this Act. Appropriate amounts shall be transferred from the Civil Service Retirement and Disability Fund to the Department of Defense Military Retirement Fund, based on such elections, in the manner provided for under paragraph (9) of such section 867(i), as added by paragraph (1)(B).

(g) APPELLATE REVIEW OF ARTICLE 69 ACTIONS.—(1) Section 869 of title 10, United States Code (article 69 of the Uniform Code of Military Justice), is amended—

(A) in subsection (a), by striking out the third sentence; and

(B) by adding at the end the following:

"(d) Actions of the Judge Advocate General under this section may be reviewed by a Court of Military Review under section 866 of this title (article 66) in all cases which the Judge Advocate General orders sent to the Court of Military Review.

"(e) Notwithstanding section 866 of this title (article 66), in any case reviewed by a Court of Military Review under this section, the Court shall take action only with respect to matters of law.".

(2) Subsection (e) of such section, as added by paragraph (1), shall apply with respect to cases in which a finding of guilty is adjudged by a general court-martial after the date of the enactment of this Act.

(h) INVESTIGATION OF JUDICIAL MISCONDUCT.—(1) Subchapter I of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by adding at the end the following new section:

"§ 806a. Article 6a. Investigation and disposition of matters pertaining to the fitness of military judges

"(a) The President shall prescribe procedures for the investigation and disposition of charges, allegations, or information pertaining to the fitness of a military judge or military appellate judge to perform the duties of the judge's office. To the extent practicable, the procedures shall be uniform for all armed forces.

"(b) The President shall transmit the procedures prescribed pursuant to this section to the Committees on Armed Services of the Senate and the House of Representatives.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following:

"806a. 6a. Investigation and disposition of matters pertaining to the fitness of military judges.".

(i) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (a) shall take effect on April 15, 1990.

SEC. 553. EXTENSION OF CERTAIN EXPIRING AUTHORITIES

(a) MAKING PERMANENT THE AUTHORITY TO MAKE TEMPORARY PROMOTIONS OF CERTAIN NAVY LIEUTENANTS.—Section 5721(f) of such title is repealed.

(b) EXTENSION OF TEST PROGRAM FOR REIMBURSEMENT OF ADOPTION EXPENSES.—Section 638(h) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (101 Stat. 1108; 10 U.S.C. 113 note) is amended by striking out "October 1, 1989" and inserting in lieu thereof "October 1, 1992".

SEC. 554. TESTING OF NEW ENTRANTS FOR DRUG AND ALCOHOL ABUSE

Section 978(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "or (3)" after "(2)"; and

(2) by inserting at the end the following new paragraph:

"(3) The Secretary concerned may, in lieu of the post-entry testing and evaluation required by paragraph (1), require each applicant for enlistment or appointment to undergo such testing and evaluation before becoming a member of an armed force under the Secretary's jurisdiction.".

SEC. 555. CORRECTION OF MILITARY RECORDS

Section 1552 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) Under regulations prescribed by the Secretary of the military department concerned and approved by the Secretary of Defense, the Secretary concerned may correct any military record of that department announcing the promotion and appointment to an initial or higher grade of an enlisted member of the Army, Navy, Air Force, or Marine Corps if the Secretary concerned considers such action necessary to correct an error or injustice. Under regulations prescribed by the Secretary of Transportation, the Secretary may make such corrections with regard to like military records of the Coast Guard.

"(2) Nothing in this subsection shall be construed to deny a member the right to file a request for correction of records pursuant to subsection (a).

"(3) A correction of an error under this subsection may be made only if the correction is favorable to the member.".

SEC. 556. RELIEF FOR EXPENSES INCURRED BECAUSE OF ERROR IN MANDATORY DIRECT DEPOSIT OF PAY

Section 1053 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ", a member of the National Guard, a member of a Reserve component of an armed force, a former member of the armed forces entitled to military retired pay, or a civilian employee of the Department of Defense" after "armed forces";

(B) by inserting "or allowances" after "pay"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Reimbursement for members of the armed forces under this section shall be made from appropriations available for the pay and allowances of the member of the armed forces concerned. Reimbursements for civilian employees of the Department of Defense under this section shall be made from appropriations available for the pay of the employee concerned.".

SEC. 557. MASTER OF ARTS DEGREE IN LEADER DEVELOPMENT

(a) DEGREE AUTHORIZED.—Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4353a. Master of Arts in Leader Development

"Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy may, upon recommendation by the faculty of the Academy, confer the degree of Master of Arts in Leader Development upon graduates of the Academy who fulfill the requirements for that degree.".

(b) TECHNICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4353a. Master of Arts in Leader Development.".

SEC. 558. TRANSPORTATION FOR POW/MIA FAMILIES

(a) TRANSPORTATION AUTHORIZED.—Chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 403. Transportation for POW/MIA families

"The Secretary of Defense may provide transportation to the next-of-kin of members of the armed forces who have been prisoners of war or missing in action as a result of service during the Vietnam era to attend an annual meeting of the families of such prisoners of war and persons missing in action. As used in this section, the term 'Vietnam era' has the same meaning as provided in section 101(29) of title 38.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"403. Transportation for POW/MIA families.".

SEC. 559. CLARIFICATION OF PROCEDURES REGARDING SOLICITATION AND AWARD OF CONTRACTS FOR POSTSECONDARY EDUCATION SERVICES

(a) EXCEPTION TO PROHIBITION.—Subsections (b) and (c) of section 1212 of the Department of Defense Authorization Act, 1986 (99 Stat. 726; 10 U.S.C. 113 note), are amended to read as follows:

"(b)(1) No solicitation, contract, or agreement for the provision of off-duty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees may limit the offering of such services or any group, category, or level of courses to a single academic institution.

"(2) Nothing in paragraph (1) shall prohibit such actions taken in accordance with regulations of the Secretary of Defense which are uniform for all Armed Forces as may be necessary to avoid unnecessary duplication of offerings at a specific military installation if it is determined, pursuant to such regulations, that the circumstances and conditions existing at that installation would otherwise give rise to unnecessary duplication of offerings at that installation.

"(3) In any case in which an exception is to be made in the case of any installation pursuant to paragraph (2), the specific circumstances and conditions giving rise to the exception shall be set forth in the solicitation or request for proposals for the services concerned.

"(c)(1) Before the issuance of a solicitation for any contract or agreement for the provision of off-duty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees, the Secretary concerned shall—

"(A) submit the terms of the proposed solicitation to the Advisory Board of the Servicemembers' Opportunity College (SOC) or, if at the time there is no duly constituted SOC Advisory Board, to a panel established by the Secretary concerned consisting of an equal number of (i) representatives of national higher education associations representative of public and private institutions granting associate and baccalaureate degrees, and (ii) representatives of the Armed Forces; and

"(B) solicit from the Board or panel, as the case may be, its advice and recommendations regarding the formulation of the proposed solicitation so as to ensure quality, choice, and diversity of instruction.

"(2) No solicitation shall be issued until the Board or panel has submitted its advice and recommendations to the Secretary concerned or 60 days have elapsed after the date on which the proposed solicitation was submitted to the Board or panel by the Secretary, whichever occurs first.

"(3) As used in this subsection, the term 'Secretary concerned' has the same meaning provided for such term in section 101(8) of title 10, United States Code.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contracts entered into after October 1, 1989.

SEC. 560. CIVILIAN FACULTY AT THE UNITED STATES MARINE CORPS UNIVERSITY

(a) IN GENERAL.—Section 7478 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "and the United States Marine Corps University" after "War College"; and

(2) by striking out the heading and inserting in lieu thereof the following:

"§ 7478. Naval War College and United States Marine Corps University: employment of civilian professors; compensation"

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 643 of such title is amended by striking out the item relating to section 7478 and inserting in lieu thereof the following:

"7478. Naval War College and United States Marine Corps University: employment of civilian professors; compensation.".

SEC. 561. COMMERCIAL SALE OF RECORDING OF AIR FORCE SINGING SERGEANTS

The Secretary of the Air Force may enter into an appropriate contract providing for the production and commercial sale of a recording made on April 9, 1989, by the Cincinnati Pops Orchestra and members of the Air Force known as the United States Air Force Singing Sergeants. Any contract entered into under this section shall contain such provisions as the Secretary considers appropriate to protect the interests of the United States.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1990

(a) WAIVER OF SECTION 1009 ADJUSTMENTS.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1990 shall not be made.

(b) INCREASE IN BASIC PAY, BAQ, AND BAS.—The rates of basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are each increased by 3.6 percent effective on January 1, 1990.

(c) INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective January 1, 1990, section 203(c)(1) of title 37, United States Code, is amended by striking out "$525" and inserting in lieu thereof "$543.90".

PART B—INCENTIVE PAY

SEC. 621. AVIATION CAREER INCENTIVE PAY

(a) ENTITLEMENT REQUIREMENTS.—Section 301a(a)(4) of title 37, United States Code, is amended by striking out the first two sentences and inserting in lieu thereof the following: "To be entitled to continuous monthly incentive pay, an officer must perform the prescribed operational flying duties (including flight training but excluding proficiency flying) for 9 of the first 12, and 12 of the first 18, years of his aviation service. However, if an officer performs the prescribed operational flying duties (including flight training but excluding proficiency flying) for at least 10 but less than 12 of the first 18 years of his aviation service, he will be entitled to continuous monthly incentive pay for the first 22 years of his officer service.".

(b) MONTHLY RATES.—(1) The table in section 301a(b)(1) of such title is amended to read as follows:

"Phase I

"Years of aviation service (including flight training) as an officer:	Monthly rate:
2 or less	$125
Over 2	156
Over 3	188
Over 4	206
Over 6	650

"Phase II

"Years of service as an officer as computed under section 205:	Monthly rate:
Over 18	$585
Over 20	495
Over 22	385
Over 25	250".

(2) The table in section 301a(b)(2) of such title is amended to read as follows:

"Years of aviation service as an officer:	Monthly rate:
2 or less	$125
Over 2	156
Over 3	188
Over 4	206
Over 6	650".

(c) INCREASES IN INCENTIVE PAY LINKED TO INCREASES IN BASIC PAY.—Section 301a of such title is further amended by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) Whenever the rates of basic pay of members of the uniformed services is increased pursuant to section 1009 of this title, the President shall immediately increase the rates of monthly incentive pay provided for in subsection (b).

"(2) An increase under this subsection shall have the force and effect of law and shall be effective on the same date as the compensation adjustments in basic pay of members of the uniformed services under section 1009 of this title. The percentage of the increase in any year shall be equal to the overall average percentage increase referred to in subsection (b)(3) of such section for such year.".

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2) and subject to subsection (e), the amendments made by this section shall become effective October 1, 1989.

(2)(A) The Secretary concerned may delay implementation of such amendments with respect to the department of that Secretary, subject to the approval of the Secretary of Defense in the case of a military department, until such time as the Secretary of that department determines that implementation of such amendments is necessary to meet the needs of that department.

(B) If the Secretary concerned delays the implementation of such amendments with respect to his department, the provisions of section 301a of title 37, United States Code, as in effect on September 30, 1989, shall continue to apply, in the case of such department, to the payment of aviation career incentive pay made under such section until such date as the Secretary may prescribe for the implementation of the amendments made by this section and shall continue to apply in the case of such department until such date in the same manner as if the amendments made by this section had not been made.

(e) TRANSITION.—An officer of a uniformed service who has completed 12 years or less of aviation service on October 1, 1989, and has completed his initial operational flying assignment on such date, shall be entitled to continuous monthly incentive pay if the officer performs the prescribed operational flying duties (including flight training but excluding proficiency flying) for 9 of the first 15 years of his aviation service.

(f) DEFINITIONS.—(1) For purposes of subsections (d) and (e), the terms "Secretary concerned" and "uniformed services" have the same meaning provided for such terms in section 101(5) and 101(3), respectively, of title 37, United States Code.

(2) For purposes of subsection (e), the definitions of the terms in section 301a(6) of title 37, United States Code, shall apply to the corresponding terms used in subsection (e).

SEC. 622. AVIATOR RETENTION BONUSES

(a) EXTENSION OF PROGRAM.—Section 611(a) of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1977; 37 U.S.C. 301b note), is amended by striking out "September 30, 1989" and insert in lieu thereof "September 30, 1992".

(b) REPORTING REQUIREMENTS.—(1) Subsection (h) of section 611 of such Act is amended to read as follows:

"(h) REPORTS.—(1) Not later than November 1 each year, the Secretary of each military department, the Secretary of Transportation with respect to the Coast Guard, the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services with respect to the Public Health Service, shall submit to the Secretary of Defense a report analyzing the effect that the aviator retention bonus program provided for under this section has had during the preceding fiscal year on the retention of qualified aviators in the Secretary's department, including a description of the marginal cost of paying bonuses under this section to officers who enter into an agreement referred to in clause (A) of subsection (a)(2) and a description of the marginal cost of paying bonuses under this section to officers who enter into an agreement referred to in clause (B) of such subsection.

"(2) Not later than December 1 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives copies of the reports submitted to him pursuant to paragraph (1) together with such comments and recommendations as the Secretary considers appropriate.".

(2) The first reports required under section 611(h) of the National Defense Authorization Act, Fiscal Year 1989, as amended by paragraph (1), shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives not later than December 1, 1989.

(c) LIMITATION ON OBLIGATIONS.—Section 611 of such Act is further amended by striking out subsections (i) and (j) and inserting in lieu thereof the following:

"(i) The total amount of payments that may be made to Navy officers and Air Force officers under this section during fiscal year 1990 may not exceed—

"(1) $30,000,000, in the case of the Navy; or

"(2) $78,000,000, in the case of the Air Force.".

SEC. 623. INCREASE IN SPECIAL PAY FOR MEDICAL OFFICERS IN THE ARMED FORCES

(a) INCREASE IN RATES OF SPECIAL PAY.—Section 302(a) of title 37, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking out "$1,200" in subparagraph (A) and inserting in lieu thereof "$1,620";

(B) by striking out "$5,000" in subparagraph (B) and inserting in lieu thereof "$6,750";

(C) by striking out "$10,000" in subparagraph (C) and inserting in lieu thereof "$13,500";

(D) by striking out "$9,500" in subparagraph (D) and inserting in lieu thereof "$12,825";

(E) by striking out "$9,000" in subparagraph (E) and inserting in lieu thereof "$12,150";

(F) by striking out "$8,000" in subparagraph (F) and inserting in lieu thereof "$10,800";

(G) by striking out "$7,000" in subparagraph (G) and inserting in lieu thereof "$9,450";

(H) by striking out "$6,000" in subparagraph (H) and inserting in lieu thereof "$8,100"; and

(I) by striking out "$5,000" in subparagraph (I) and inserting in lieu thereof "$6,750";

(2) in paragraph (3), by striking out "$1,000" and inserting in lieu thereof "$1,350";

(3) in paragraph (4)—

(A) by striking out "$9,000" in subparagraph (A) and inserting in lieu thereof "$12,150"; and

(B) by striking out "$10,000" in subparagraph (B) and inserting in lieu thereof "$13,500"; and

(4) in paragraph (5)—

(A) by striking out "$2,000" in subparagraph (A) and inserting in lieu thereof "$2,700";

(B) by striking out "$2,500" in subparagraph (B) and inserting in lieu thereof "$3,375";

(C) by striking out "$3,000" in subparagraph (C) and inserting in lieu thereof "$4,050";

(D) by striking out "$4,000" in subparagraph (D) and inserting in lieu thereof "$5,400"; and

(E) by striking out "$5,000" in subparagraph (E) and inserting in lieu thereof "$6,750".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1989, and shall apply to pay periods beginning on or after that date.

SEC. 624. EXTENSION OF MEDICAL OFFICER RETENTION BONUS

Section 612 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1979; 37 U.S.C. 302 note), is amended—

(1) in subsection (a)(1), by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990";

(2) in subsection (g)—

(A) in the first sentence of paragraph (1)—

(i) by striking out "1988" and inserting in lieu thereof "1989"; and

(ii) by inserting "in fiscal year 1990" immediately before the period at the end;

(B) by striking out "REPORTS.—(1)" and inserting in lieu thereof "REPORT.—"; and

(C) by striking out paragraph (2);

(3) in subsection (h), by striking out the period at the end and inserting in lieu thereof "and the total amount of payments made under this section during fiscal year 1990 may not exceed $36,000,000."; and

(4) by striking out subsection (i) and inserting in lieu thereof the following:

"(i) TERMINATION OF AUTHORITY.—If the report required by subsection (g) is not received by the committees named in such subsection by November 15, 1989, the authority to make payments under this section shall terminate effective December 2, 1989.".

SEC. 625. ACCESSION BONUS FOR REGISTERED NURSES

(a) ACCESSION BONUS AUTHORIZED.—(1) Chapter 5 of title 37, United States Code, is amended by adding after section 302c the following new section:

"§ 302d. Special pay: accession bonus for registered nurses

"(a) ACCESSION BONUS AUTHORIZED.—(1) A person who is a registered nurse and who, during the period beginning on October 1, 1989, and ending on September 30, 1990, executes a written agreement described in subsection (c) to accept a commission as an officer and remain on active duty for a period of not less than four years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

"(2) The amount of an accession bonus under paragraph (1) may not exceed $5,000.

"(b) LIMITATION ON ELIGIBILITY FOR BONUS.—A person is not eligible for a bonus under subsection (a) if—

"(1) the person received financial assistance from the Department of Defense to pursue a baccalaureate degree; or

"(2) the Secretary concerned determines that the person is not qualified as a registered nurse.

"(c) AGREEMENT.—The agreement referred to in subsection (a) shall provide that the individual agrees to accept a commission as an officer with a view toward placement as an officer of the Nurse Corps of the Army or Navy, an officer of the Air Force designated as a nurse, or an officer designated as a nurse in the commissioned corps of the Public Health Service.

"(d) REPAYMENT.—(1) An officer who receives a payment under subsection (a) and who fails to remain licensed as a registered nurse during the period for which the payment is made shall refund to the United States an amount equal to the full amount of such payment.

"(2) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

"(3) An obligation to reimburse the United States imposed under paragraph (1) or (2) is for all purposes a debt owed to the United States.

"(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after October 1, 1989.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302c the following new item:

"302d. Special pay: accession bonus for registered nurses.".

(b) ADMINISTRATION AND IMPLEMENTATION.—Section 303a of title 37, United States Code, is amended by inserting "302d," after "302c," each place it appears.

(c) REPORT ON IMPLEMENTATION.—Not later than March 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the authority provided in section 302d of title 37, United States Code (as added by subsection (a)), is implemented.

SEC. 626. NURSE OFFICER CANDIDATE ACCESSION BONUS

(a) BONUS AUTHORIZED.—Chapter 105 of title 10, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—NURSE OFFICER CANDIDATE ACCESSION PROGRAM

"Sec.

"2130a. Financial assistance: nurse officer candidates.

"§ 2130a. Financial assistance: nurse officer candidates

"(a) BONUS AUTHORIZED.—(1) An individual described in subsection (b) who executes a written agreement in accordance with subsection (c) to accept an appointment as a nurse officer may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus of not more than $5,000. The bonus may be paid in periodic installments, as determined by the Secretary concerned at the time the agreement is accepted.

"(2) In addition to the accession bonus payable under paragraph (1), an individual selected under such paragraph shall be entitled to a monthly stipend of not more than $500 for each month the individual is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title. The continuation bonus may not be paid for more than 24 months.

"(b) ELIGIBLE STUDENTS.—An individual eligible to enter into an agreement under subsection (a) is an individual who—

"(1) has completed the second year of an accredited baccalaureate degree program in nursing and has more than 6 months of academic work remaining before graduation;

"(2) is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title; and

"(3) meets the qualifications for appointment as an officer of a reserve component of the Army, Navy, or Air Force as set forth in section 591 of this title or, in the case of the Public Health Service, section 207 of the Public Health Service Act (42 U.S.C. 209) and the regulations of the Secretary concerned.

"(c) REQUIRED AGREEMENT.—The agreement required to receive the bonus and stipend payable under subsection (a) shall provide that the individual agrees to the following:

"(1) That the individual will complete the nursing degree program described in subsection (b).

"(2) That, upon acceptance of the agreement by the Secretary concerned, the individual will enlist in a reserve component of an armed force;

"(3) That the individual will accept an appointment as an officer in the Nurse Corps of the Army or the Navy or as an officer designated as a nurse officer in the Air Force or commissioned corps of the Public Health Service upon graduation from the nursing degree program.

"(4) That the individual will serve on active duty as such an officer—

"(A) for a period of 4 years in the case of an individual whose agreement was accepted by the Secretary concerned during the individual's fourth year of the nursing degree program;

"(B) for a period of 5 years in the case of an individual whose agreement was accepted by the Secretary concerned during the individual's third year of the nursing degree program.

"(d) REFUND OF PAYMENTS.—An individual shall refund a bonus paid under subsection (a) if the individual—

"(1) fails to complete the nursing degree program in which the individual is enrolled;

"(2) having completed the nursing degree program, fails to accept an appointment, if tendered, as an officer of the Nurse Corps of the Army or the Navy or as an officer designated as a nurse officer of the Air Force or commissioned corps of the Public Health Service; or

"(3) fails to complete the period of obligated active service required under the agreement.

"(e) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section.".

(b) CLERICAL AMENDMENT.—The table of subchapters at the beginning of chapter 105 of title 10, United States Code, is amended by adding at the end the following new item:

"III. Nurse Officer Candidate Accession Program ..... 2130a".

SEC. 627. INCENTIVE PAY FOR NURSE ANESTHETISTS

(a) AUTHORIZATION FOR INCENTIVE PAY.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 302d (as added by section 703) the following new section:

"§ 302e. Special pay: nurse anesthetists

"(a) SPECIAL PAY AUTHORIZED.—(1) An officer described in subsection (b) who executes a written agreement to remain on active duty for a period of one year or more may, upon the acceptance of the agreement by the Secretary concerned, be paid incentive special pay in an amount not to exceed $6,000 for any 12-month period.

"(2) The Secretary concerned shall determine the amount of incentive special pay to be paid to an officer under paragraph (1). In determining that amount, the Secretary concerned shall consider the term of the agreement under that paragraph.

"(b) COVERED OFFICERS.—An officer referred to in subsection (a) is an officer of a uniformed service who—

"(1) is an officer of the Nurse Corps of the Army or Navy, an officer of the Air Force designated as a nurse, or an officer designated as a nurse in the commissioned corps of the Public Health Service;

"(2) is a qualified certified registered nurse anesthetist; and

"(3) is on active duty under a call or order to active duty for a period of not less than one year.

"(c) PAYMENT.—Special pay payable to an officer under subsection (a) of this section shall be paid annually at the beginning of the 12-month period for which the officer is to receive that payment.

"(d) REPAYMENT.—(1) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

"(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after October 1, 1989.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302d (as added by section 703) the following new item:

"302e. Special pay: nurse anesthetists.".

(b) ADMINISTRATION AND IMPLEMENTATION.—Section 303a of title 37, United States Code (as amended by section 703(b)) is further amended by inserting "302e," after "302d," each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1989.

(d) REPORT ON MILITARY USE OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the use of Certified Registered Nurse Anesthetists by the military departments. The report shall include—

(A) a description of restrictions imposed by the military departments on the use of such nurses;

(B) a comparison of such restrictions with restrictions imposed by other entities on the use of such nurses;

(C) a description of the number of persons who annually receive training by the military departments to be Certified Registered Nurse Anesthetists; and

(D) the desirability and cost of expanding the capability of the military departments to provide such training.

(2) The report required by paragraph (1) shall be submitted not later than March 1, 1990.

SEC. 628. SPECIAL PAY FOR RESERVE MEDICAL OFFICERS

(a) IN GENERAL.—Section 302(h)(2)(B) of title 37, United States Code, is amended by striking out "$350" and inserting in lieu thereof "$450".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, and shall apply to pay periods beginning on or after such date.

SEC. 629. INCREASE IN SELECTIVE REENLISTMENT BONUS

Section 308(a)(1) of title 37, United States Code, is amended—

(1) by striking out "six months of the basic pay" and inserting in lieu thereof "ten months of the basic pay"; and

(2) by striking out "$30,000" and inserting in lieu thereof "$45,000".

SEC. 630. EXTENSION OF CERTAIN EXPIRING AUTHORITIES RELATING TO BONUSES AND INCENTIVE PAY

(a) EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES FOR RESERVE FORCES.—Sections 308b(g), 308c(f), 308e(e), 308g(h), 308h(g), and 308i(i) of title 37, United States Code, are amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

(b) EXTENSION OF SPECIAL PAY FOR NUCLEAR QUALIFIED OFFICERS EXTENDING ACTIVE DUTY.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

(c) EXTENSION OF NUCLEAR CAREER ANNUAL INCENTIVE BONUS PROGRAM.—Section 312(c) of title 37, United States Code, is amended—

(1) in subsection (b)(1), by striking out "ending before October 1, 1990"; and

(2) in subsection (e), by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1992".

(d) EXTENSION OF NUCLEAR CAREER ACCESSION BONUS PROGRAM.—Section 312b(d) of title 37, United States Code, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

SEC. 630a. ARMED SERVICE OFFICERS SPECIAL PAY

(a) SPECIAL PAY FOR PSYCHOLOGISTS.—(1) Section 302c(a) of title 37, United States Code, is amended to read as follows:

"(a) An officer who—

"(1) is an officer in the Regular or Reserve Corps of the Public Health Service, an officer in the Army Medical Department, an officer in the Bureau of Medicine and Surgery of the Navy, or an officer of the Air Force,

"(2) is designated as a psychologist, and

"(3) has been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology,

is entitled to special pay, as provided in subsection (b).".

(2)(A) The section heading of such section is amended by striking out "in the Public Health Service Corps".

(B) The item relating to section 302c in the table of sections at the beginning of chapter 5 of such title is amended by striking out "in the Public Health Service Corps".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to pay periods beginning after September 30, 1989.

PART C—TRAVEL AND TRANSPORTATION

SEC. 631. TRAVEL ENTITLEMENT FOR MEMBERS ASSIGNED TO A VESSEL UNDER CONSTRUCTION

(a) AUTHORIZATION FOR TRAVEL ALLOWANCE.—Chapter 7 of title 37, United States Code, is amended by inserting after section 406b the following new section:

"§ 406c. Travel and transportation allowances: members assigned to a vessel under construction

"(a) Under regulations prescribed by the Secretary concerned, a member of the uniformed services who is assigned to permanent duty aboard a ship that is under construction at a location either away from the designated home port of the ship or away from the area where the dependents of the member are residing is entitled to transportation, or an allowance for transportation as provided in section 404(d)(3) of this title for round-trip travel from the port of construction to the home port or to the area where the dependents are residing on or after the thirty-first day, and every sixtieth day after the thirty-first day, after the later of the day on which the ship enters the construction port or after the date on which the member becomes permanently assigned to the ship, whichever is later. However, in no event may the amount of reimbursement for personally procured transportation or allowance for transportation exceed the cost of Government-procured commercial round-trip air travel.

"(b) Transportation in kind, reimbursement for personally procured transportation, or a monetary allowance in place of the cost of transportation as provided in section 404(d)(1) of this title may be provided, in lieu of the member's entitlement to transportation, for the member's dependents from the location that was the home port of

the ship before commencement of construction to the port of construction. The total reimbursement for transportation for the member's dependents may not exceed the cost of Government-procured commerce round-trip travel.

"(c) In any case in which a member of the uniformed services assigned to permanent duty aboard a ship that undergoes a change of home port to the port at which the ship is being constructed, the dependents of such member may be provided the transportation allowances prescribed in subsections (a) and (b) of this section in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.

"(d) Section 420 of this title does not apply with respect to transportation or allowances provided under this section.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 406b the following new item:

"406c. Travel and transportation allowances: members assigned to a vessel under construction.".

(c) CLARIFYING AMENDMENT.—Subsection (c) of section 406b of such title is amended to read as follows:

"(c) In any case in which a member of the uniformed services assigned to permanent duty aboard a ship that undergoes a change of home port to the overhaul or inactivation port, the dependents of the member may be provided transportation allowances prescribed in subsections (a) and (b) of this section in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.".

SEC. 632. REIMBURSEMENT FOR CERTAIN FEES INCURRED IN TRAVEL

(a) IN GENERAL.—Section 404 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(i) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) of this section is entitled to reimbursement for parking fees, ferry fares, and bridge, road, and tunnel tolls actually incurred incident to such travel.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be applicable to travel and transportation commenced after September 30, 1989.

SEC. 633. STUDENT TRAVEL AUTHORIZED FOR DEPENDENTS OF MEMBERS IN ALASKA AND HAWAII

(a) AUTHORIZATION FOR DEPENDENT CHILDREN.—Section 430 of title 37, United States Code, is amended—

(1) in subsection (a)(1), by striking out "United States" and inserting in lieu thereof "continental United States";

(2) in subsection (a)(2), by striking out "oversea";

(3) in subsection (a)(3), by striking out "United States" and inserting in lieu thereof "continental United States";

(4) in subsection (b)—

(A) by striking out "United States" each place it appears and inserting in lieu thereof "continental United States"; and

(B) by striking out "in the oversea area" and inserting in lieu thereof "outside the continental United States"; and

(5) by adding at the end the following new subsections:

"(d) For a member assigned to duty outside the continental United States, transportation under this section may be provided a dependent child as described in subsection (a)(3) of this section who is attending a school in either Alaska or Hawaii.

"(e) The transportation authorized by this section may not be paid in the case of a member assigned to a permanent duty station in Alaska or Hawaii for a child attending a school in the State of the permanent duty station.

"(f) In this section, the term 'continental United States' means the 48 contiguous States and the District of Columbia.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be applicable to travel and transportation commenced after September 30, 1989.

PART D—SURVIVOR BENEFIT PROGRAM

SEC. 641. LEVEL PREMIUM FOR SURVIVOR BENEFIT PLAN ANNUITIES

Section 1452(a)(1) of title 10, United States Code, is amended by striking out "shall be reduced each month—" and all that follows and inserting in lieu thereof "shall be reduced each month as follows:

"(A) If the annuity being providing is a standard annuity—

"(i) in the case of a person who becomes a participant in the Plan on or after the effective date of the Military Survivor Benefit Improvement Act of 1989, the reduction shall be in an amount equal to 6½ percent of the base amount; and

"(ii) in the case of a person who is a participant in the Plan before the effective date of the Military Survivor Benefit Improvement Act of 1989, the reduction shall be in whichever of the following amounts is more favorable to the person providing the annuity:

"(I) An amount equal to 6½ percent of the base amount.

"(II) An amount equal to 2½ percent of the first $300 (as adjusted with respect to that person under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount.

"(B) If the annuity being provided is a reserve-component annuity—

"(i) in the case of a person who becomes a participant in the Plan on or after the effective date of the Military Survivor Benefit Improvement Act of 1989, the reduction shall be in an amount equal to 6½ percent of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan; and

"(ii) in the case of a person who is a participant in the Plan before the effective date of the Military Survivor Benefit Improvement Act of 1989, the reduction shall be in whichever of the following is more favorable to the person providing the annuity:

"(I) The amount applicable to that person under clause (i).

"(II) An amount equal to 2½ percent of the first $300 (as adjusted with respect to that person under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.".

SEC. 642. PROGRAM TO PROVIDE SUPPLEMENTAL SPOUSE ANNUITY FOR MILITARY RETIREES

(a) ESTABLISHMENT OF PROGRAM.—(1) Chapter 73 of title 10, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—SUPPLEMENTAL SURVIVOR BENEFIT PLAN

"Sec.
"1456. Supplemental spouse coverage: establishment of plan; definitions.
"1457. Supplemental spouse coverage: payment of annuity; amount.
"1458. Supplemental spouse coverage: eligible participants; elections of coverage.
"1459. Former spouse coverage: special rules.
"1460. Supplemental spouse coverage: reductions in retired pay.
"1460a. Incorporation of certain administrative provisions.
"1460b. Regulations.

"§ 1456. Supplemental spouse coverage: establishment of plan; definitions

"(a) ESTABLISHMENT OF SUPPLEMENTAL SURVIVOR BENEFIT PLAN.—

"(1) PLAN.—The Secretary of Defense shall carry out a program in accordance with this subchapter to enable participants in the Survivor Benefit Plan who are providing coverage for a spouse or former spouse beneficiary under that Plan to also provide a supplemental annuity for that spouse or former spouse beginning when the participant dies or when the spouse or former spouse becomes 62 years of age, whichever is later, in order to offset the effects of the two-tier annuity computation under the Survivor Benefit Plan.

"(2) NAME OF PLAN.—The program under this subchapter shall be known as the Supplemental Survivor Benefit Plan.

"(b) DEFINITIONS.—

"(1) INCORPORATION OF DEFINITIONS APPLICABLE TO SURVIVOR BENEFIT PLAN.—The definitions in section 1447 of this title apply in this subchapter.

"(2) SUPPLEMENTAL SPOUSE ANNUITY DEFINED.—In this subchapter, the term 'supplemental spouse annuity' means an annuity provided to a spouse or former spouse under this subchapter.

"§ 1457. Supplemental spouse coverage: payment of annuity; amount

"(a) COMMENCEMENT OF ANNUITY.—A supplemental spouse annuity commences on the later of—

"(1) the day on which an annuity under the Survivor Benefit Plan becomes payable to the beneficiary; or

"(2) the first day of the first month after the month in which the beneficiary becomes 62 years of age.

"(b) AMOUNT OF ANNUITY FOR BENEFICIARY OF PERSON PROVIDING STANDARD ANNUITY UNDER SBP.—In the case of a person providing a standard annuity for a spouse or former spouse beneficiary under the Survivor Benefit Plan and providing a supplemental spouse annuity for that beneficiary under this subchapter, the monthly annuity payable to the beneficiary under this subchapter shall be the amount equal to 20 percent of the base amount under the Survivor Benefit Plan of the person providing the annuity. The annuity shall be computed as of the date of the death of the person providing the annuity, notwithstanding that the annuity is not payable at that time by reason of subsection (a).

"(c) AMOUNT OF ANNUITY FOR BENEFICIARY OF PERSON PROVIDING RESERVE-COMPONENT ANNUITY UNDER SBP.—In the case of a person providing a reserve-component annuity for a spouse or former spouse beneficiary under the Survivor Benefit Plan and providing a supplemental spouse annuity

for that beneficiary under this subchapter, the monthly annuity payable to that beneficiary under this subchapter shall be determined as follows:

"(1) BENEFICIARY INITIALLY 62 YEARS OF AGE OR OLDER.—If the beneficiary is 62 years of age or older when the beneficiary becomes entitled to the reserve-component annuity under the Survivor Benefit Plan, the monthly amount of the supplemental spouse annuity is the difference between—

"(A) the amount of the reserve-component annuity under the Survivor Benefit Plan to which the beneficiary would be entitled if that beneficiary were under 62 years of age (as computed under section 1451(a)(2)(A) of this title); and

"(B) the amount of the reserve-component annuity to which the beneficiary is entitled (as computed under section 1451(a)(2)(B) of this title).

"(2) BENEFICIARY INITIALLY UNDER 62 YEARS OF AGE.—If the beneficiary is under 62 years of age when the beneficiary becomes entitled to the reserve-component annuity under the Survivor Benefit Plan, the monthly amount of the supplemental spouse annuity of that beneficiary (commencing on the date specified in subsection (a)(2)) is the amount by which the beneficiary's annuity under the Survivor Benefit Plan is reduced (on the same day) under section 1451(d) of this title.

(3) EXCLUSION OF DIC OFFSET.—Computations under paragraphs (1) and (2) shall be made without regard to any reduction required under section 1450(c) of this title (or any other provision of law) with respect to the receipt of dependency and indemnity compensation under section 411 of title 38.

"(d) ADJUSTMENTS IN ANNUITIES.—

"(1) PERIODIC ADJUSTMENTS (COLAS).—Whenever annuities under the Survivor Benefit Plan are increased under section 1451(g)(1) of this title (or any other provision of law) or recomputed under section 1451(i) of this title, each annuity under this subchapter shall be increased or recomputed at the same time. The increase shall, in the case of any such annuity, be by the same percent as the percent by which the annuity of that beneficiary is increased or recomputed under the Survivor Benefit Plan.

"(2) ROUNDING DOWN.—The monthly amount of an annuity payable under this subchapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(e) TERMINATION OF ANNUITY.—A supplemental spouse annuity terminates effective as of the first day of the month in which the beneficiary dies or otherwise becomes ineligible to continue to receive an annuity under the Survivor Benefit Plan.

"§ 1458. Supplemental spouse coverage: eligible participants; elections of coverage

"(a) COVERAGE.—

"(1) IN GENERAL.—A person who provides an annuity for a spouse or former spouse under the Survivor Benefit Plan may elect in accordance with this section to provide a supplemental spouse annuity for that spouse or former spouse.

"(2) COVERAGE CONTINGENT ON CONCURRENT SBP COVERAGE.—When a person providing a supplemental spouse annuity under this subchapter ceases to be a participant under the Survivor Benefit Plan, that person's coverage under this subchapter automatically terminates.

"(3) ELECTIONS TO BE VOLUNTARY.—A person may not be ordered or required to elect (or to enter into an agreement to elect) to provide a spouse or former spouse with a supplemental spouse annuity under this subchapter. Except as provided in section 1459(b) of this title, in no case shall a person be deemed to have made an election to provide a supplemental annuity for a spouse or former spouse of such person.

"(b) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under this section if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan will be computed under section 1451(e) of this title. However, such a person may waive the right to have that annuity computed under section 1451(e) of this title. Any such election is irrevocable. A person making such a waiver may make an election under this section as in the case of any other participant in the Survivor Benefit Plan.

"(c) ELECTION OF SUPPLEMENTAL SPOUSE ANNUITY BEFORE BECOMING A PARTICIPANT IN SBP.—

"(1) IN GENERAL.—A person anticipating becoming a participant in the Survivor Benefit Plan who has a spouse or former spouse may elect to provide a supplemental spouse annuity under this subchapter for that spouse or former spouse.

"(2) CONDITIONS ON ELECTION.—An election under paragraph (1)—

"(A) must be made before the day on which the person making the election first becomes a participant in the Survivor Benefit Plan; and

"(B) shall be made in the same manner as an election under section 1448 of this title that is available to that person at the same time.

"(3) REQUIREMENT OF SPOUSE ANNUITY UNDER SBP.—If upon becoming a participant in the Survivor Benefit Plan under section 1448 of this title the person is not providing an annuity for the person's spouse or former spouse, an election under this section to provide a supplemental spouse annuity shall be void.

"(4) SPECIAL RULE FOR RCSBP PARTICIPANTS.—For the purposes of this subsection, a person providing a reserve-component annuity under the Survivor Benefit Plan shall not be considered to have become a participant in that Plan until the end of the 90-day period referred to in clause (iii) of section 1448(a)(2)(B) of this title.

"(d) ELECTION OF FORMER SPOUSE AFTER BECOMING ELIGIBLE FOR SURVIVOR BENEFIT PLAN.—

"(1) ELECTION OF COVERAGE.—A person who elects under section 1448(b)(3) of this title to provide coverage under the Survivor Benefit Plan for a former spouse may elect to provide a supplemental spouse annuity for that former spouse. Any such election must be signed by the person and received by the Secretary concerned within one year after the date of the decree of divorce, dissolution, or annulment.

"(2) EFFECTIVE DATE OF ELECTION.—An election under paragraph (1) is effective as of the same day as the election under section 1448(b)(3) of this title.

"(e) NOTICE TO SPOUSE OF FORMER SPOUSE COVERAGE.—If a married person who is eligible to provide an annuity under the Survivor Benefit Plan elects to provide an annuity under that Plan for a former spouse (or for a former spouse and dependent child) and elects under this section to provide a supplemental spouse annuity for that former spouse, the notification to the person's spouse under section 1448(a)(3)(E) or 1448(b)(3)(D) of this title shall include notice of the election under this section.

"(f) IRREVOCABILITY OF ELECTIONS.—

"(1) STANDARD ANNUITY.—An election under subsection (b) to provide a supplemental spouse annuity by a person providing a standard annuity under the Survivor Benefit Plan is irrevocable if not revoked on the day before the date on which the person first becomes a participant in that Plan.

"(2) RESERVE-COMPONENT ANNUITY.—An election under subsection (b) to provide a supplemental spouse annuity by a person providing a reserve-component annuity under the Survivor Benefit Plan is irrevocable if not revoked before the end of the 90-day period with respect to that person referred to in clause (iii) of section 1448(a)(2)(B) of this title.

"(3) FORMER SPOUSE ELECTIONS.—An election under subsection (c) may not be revoked except in accordance with subsection (h).

"(g) REMARRIAGE AFTER RETIREMENT.—

"(1) ELECTION UPON REMARRIAGE.—A person—

"(A) who is a participant in the Survivor Benefit Plan and is providing coverage under that Plan for a spouse (or a spouse and child) but is not a participant in the Supplemental Survivor Benefit Plan;

"(B) who does not have an eligible spouse beneficiary under that Plan; and

"(C) who remarries,

may (subject to paragraph (2)) elect to provide a supplemental spouse annuity under this subchapter for the person's spouse.

"(2) LIMITATIONS ON ELECTION.—A person may not make an election under paragraph (1) if the person elects under section 1448(a)(6)(A) of this title not to provide coverage under the Survivor Benefit Plan for the person's spouse.

"(3) CONDITIONS ON ELECTION.—An election under paragraph (1)—

"(A) is irrevocable;

"(B) shall be made within one year after the remarriage; and

"(C) shall be made in such form and manner as may be prescribed in regulations under section 1460a of this title.

"(h) CHANGE OF FORMER SPOUSE BENEFICIARY TO SPOUSE OR CHILD BENEFICIARY.—If a person who is providing an annuity for a former spouse under the Survivor Benefit Plan and a supplemental spouse annuity for that former spouse under this subchapter elects under section 1450(f)(1) of this title to change the beneficiary of the annuity under the Survivor Benefit Plan in order to provide an annuity under that Plan to that person's spouse or to a dependent child—

"(1) the beneficiary under the supplemental spouse annuity shall be deemed to be changed to that spouse also, if the change under section 1450(f)(1) was to provide the annuity for the person's spouse; and

"(2) participation in the supplemental spouse annuity program shall be terminated, if the change under section 1450(f)(1) of this title was to provide the annuity for a dependent child.

"(i) REINSTATEMENT OF DISCONTINUED ANNUITY UPON REINSTATEMENT OF SBP ANNUITY.—If a person who is providing an annuity for a former spouse under the Survivor Benefit Plan and a supplemental spouse annuity for that former spouse under this subchapter discontinues participation in the Survivor Benefit Plan under any provision of law and subsequently resumes participation in that Plan under any provision of law, the participation of that person in the Supplemental Survivor Benefit Plan under this

chapter shall be reinstated effective on the day on which participation in the Survivor Benefit Plan resumes.

"§ 1459. Former spouse coverage: special rules

"(a) DISCLOSURE OF VOLUNTARY WRITTEN AGREEMENT WITH FORMER SPOUSE.—A person who elects under section 1458 of this title to provide a supplemental spouse annuity for a former spouse shall, at the time of making the election, provide the Secretary concerned with a written statement (in a form to be prescribed by that Secretary and signed by such person and former spouse) setting forth whether the election is being made pursuant to a written agreement previously entered into voluntarily by such person as a part of or incident to a proceeding of divorce, dissolution, or annulment and (if so) whether such voluntary written agreement has been incorporated in, or ratified or approved by, a court order.

"(b) ENFORCEMENT OF VOLUNTARY WRITTEN AGREEMENTS INCIDENT TO DIVORCE, ETC.—

"(1) ELECTIONS DEEMED TO HAVE BEEN MADE.—If a person who is eligible to elect under section 1458 of this title to provide a supplemental spouse annuity for a former spouse voluntarily enters, incident to a proceeding of divorce, dissolution, or annulment, into a written agreement to elect to provide a supplemental annuity for a former spouse and that agreement is incorporated in or ratified or approved by a court order or is filed with the court of appropriate jurisdiction in accordance with applicable State law, and such person then fails or refuses to make the election as set forth in the voluntary agreement, such person shall be deemed to have made the election if the Secretary concerned—

"(A) receives from the former spouse concerned a written request, in such manner as the Secretary shall prescribe, requesting that the election be deemed to have been made; and

"(B) receives (i) a copy of the court order, regular on its face, which incorporates, ratifies, or approves the written agreement of such person, or (ii) a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable State law.

"(2) TIME LIMIT FOR REQUEST TO SECRETARY CONCERNED.—An election may not be deemed to have been made under paragraph (1) in the case of any person unless the Secretary concerned receives a request from the former spouse within one year after the date of the court order or filing involved.

"(3) EFFECTIVE DATE OF DEEMED ELECTION.—An election deemed to have been made under paragraph (1) shall become effective on the first day of the first month which begins after the date of the court order or filing involved.

"§ 1460. Supplemental spouse coverage: reductions in retired pay

"(a) REDUCTION REQUIRED.—The retired pay of a person who elects to provide a supplemental spouse annuity shall be reduced each month as required under regulations prescribed under subsection (b).

"(b) REGULATIONS DETERMINING AMOUNT OF REDUCTION.—Regulations for the purposes of subsection (a) shall be prescribed by the Secretary of Defense. Those regulations shall be based upon assumptions used by the Department of Defense Retirement Board of Actuaries in the valuation of military retirement and survivor benefit programs under chapter 74 of this title (including assumptions relating to mortality, interest rates, and inflation) and shall ensure the following:

"(1) That reductions in retired pay under this section are made in amounts sufficient to provide that the Supplemental Survivor Benefit Plan operates on an actuarially neutral basis.

"(2) That such reductions are stated, with respect to the base amount (under the Survivor Benefit Plan) of any person, as a constant percentage of that base amount.

"(3) That the amounts of such reductions in retired pay of persons participating in the Supplemental Survivor Benefit Plan (stated as a percentage of base amount)—

"(A) are based on the age of the participant at the time participation in that Plan is first effective under this subchapter; and

"(B) are not determined by any other demographic differentiation among participants in the Plan.

"(4) That such reductions are otherwise determined in accordance with generally accepted actuarial principles and practices.

"(c) SUSPENSION OF REDUCTION WHEN THERE IS NO SPOUSE BENEFICIARY.—A reduction in retired pay under this section shall not be made in the case of any person during any month in which there is no eligible spouse or former spouse beneficiary.

"(d) ADJUSTMENTS IN AMOUNT OF REDUCTION.—Whenever the amount of the reduction in retired pay of a participant in the Survivor Benefit Plan is increased under section 1452(h) of this title or recomputed under section 1452(i) of this title, the amount of the reduction in that retired pay under this section shall be increased or recomputed, as the case may be, at the same time and in the same manner as that increase or recomputation.

"(e) ADMINISTRATIVE PROVISIONS.—The provisions of subsections (d) and (f) of section 1452 of this title apply with respect to the participation of a person in the Supplemental Survivor Benefit Plan in the same manner that those provisions apply under the Survivor Benefit Plan.

"§ 1460a. Incorporation of certain administrative provisions

"(a) APPLICABILITY OF CERTAIN PROVISIONS OF SBP LAW.—The provisions of section 1449, 1452(g), 1453, and 1454 of title 10, United States Code, are applicable to a person eligible to make an election, and to an election, under this subchapter in the same manner as if made under subchapter II.

"(b) OTHER APPLICABLE PROVISIONS.—Except to the extent otherwise provided in regulations prescribed under section 1460b of this title, the provisions of subsections (h), (i), and (l) of section 1450 of this title apply to supplemental spouse annuities in the same manner that those provisions apply to annuities under the Survivor Benefit Plan.

"§ 1460b. Regulations

"The President shall prescribe regulations to carry out this subchapter. Those regulations shall, so far as practicable, be uniform for the uniformed services and shall, so far as practicable, incorporate provisions of the regulations in effect under section 1455 of this title.".

(2) The table of subchapters at the beginning of chapter 73 of such title is amended by adding at the end the following new item:

"III. Supplemental Spouse Coverage for Survivor Benefit Plan Participants ..... 1456".

(b) CONFORMING AMENDMENTS.—(1) Section 1331(d) of title 10, United States Code, is amended by inserting "and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter," after "this title".

(2) Section 3101(c)(1) of title 38, United States Code, is amended by striking out "subchapter I or II".

SEC. 643. CORRECTION OF ANNUITY COMPUTATION FOR SURVIVORS OF CERTAIN RETIREMENT-ELIGIBLE OFFICERS DYING WHILE ON ACTIVE DUTY

(a) ANNUITY COMPUTATION BASED ON FINAL BASIC PAY.—Section 1451(c) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) In the case of an annuity provided by a member described in section 1448(d)(1)(B) of this title who first became a member of a uniformed service before September 8, 1980, the retired pay to which the member would have been entitled when he died shall be determined based upon the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death, unless (as determined by the Secretary concerned) the member would have been entitled to be retired in a higher grade.".

(b) ADJUSTMENT OF ANNUITIES ALREADY IN EFFECT.—

(1) RECOMPUTATION.—The Secretary concerned shall recompute the annuity of any person who on the effective date specified in section 7 is entitled to an annuity under the Survivor Benefit Plan by reason of eligibility described in section 1448(d)(1)(B) of title 10, United States Code, and who is further described in subsection (c).

(2) AMOUNT OF RECOMPUTED ANNUITIES.—The amount of the annuity as so recomputed shall be the amount that would be in effect for that annuity on the effective date specified in section 7 if the annuity had originally been computed subject to the provisions of paragraph (3) of section 1451(c) of title 10, United States Code, as added by subsection (a).

(3) EFFECTIVE DATE OF RECOMPUTATION.—An annuity recomputed under this subsection shall take effect as so recomputed on the effective date specified in section 7.

(c) PERSONS ELIGIBLE FOR RECOMPUTATION.—A person is eligible to have an annuity under the Survivor Benefit Plan recomputed under subsection (b) if—

(1) the annuity is based upon the service of a member of the uniformed services who died on active duty during the period beginning on September 21, 1972, and ending on the effective date specified in section 7; and

(2) the retired pay of that member for the purposes of determining the amount of the annuity under the Survivor Benefit Plan was computed using a rate of basic pay lower than the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death.

SEC. 644. OPEN ENROLLMENT PERIOD

(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open enrollment period specified in subsection (f).

(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.—An eligible retired or former

member who elects under paragraph (1) to participate in the Survivor Benefit Plan may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code, as added by section 642.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 67 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

(1) STANDARD ANNUITY.—A person making an election under this subsection by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(2) RESERVE-COMPONENT ANNUITY.—A person making an election under this subsection by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(b) ELECTION TO INCREASE COVERAGE UNDER SBP.—A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or (in the case of an eligible member who is married) is providing coverage under the Plan for a dependent child and not for the person's spouse or former spouse may, during the open enrollment period—

(1) elect to participate in the Plan at a higher base amount; or

(2) elect to provide an annuity under the Plan for the person's spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

(c) ELECTION FOR CURRENT SBP PARTICIPANTS TO PARTICIPATE IN SUPPLEMENTAL SBP.—

(1) ELECTION.—A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code, as added by section 642.

(2) PERSONS ELIGIBLE.—Except as provided in paragraph (3), a person is eligible to make an election under paragraph (1) if on the day before the first day of the open enrollment period the person is a participant in the Survivor Benefit Plan and under that Plan is providing an annuity for the person's spouse or a former spouse.

(3) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under this subsection if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan will be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section. Any such election is irrevocable. A person making such a waiver may make an election under this subsection during the open enrollment period as in the case of any other participant in the Survivor Benefit Plan.

(d) MANNER OF MAKING ELECTIONS.—An election under this section must be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(e) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(f) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period is the one-year period beginning on the effective date specified in section 646.

(g) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person's beneficiary under the Survivor Benefit Plan.

(h) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if made under subchapter III of chapter 73 of title 10, United States Code.

(i) DEFINITIONS.—For the purpose of this section:

(1) The term "Survivor Benefit Plan" means the program established under subchapter II of chapter 73 of title 10, United States Code.

(2) The term "retired pay" includes retainer pay paid under section 6330 of title 10, United States Code.

(3) The terms "uniformed services" and "Secretary concerned" have the meanings given those terms in section 101 of title 37, United States Code.

SEC. 645. MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS

(a) IN GENERAL.—Chapter 73 of title 10, United States Code, is amended as follows:

(1) Section 1447 is amended—

(A) in paragraph (5), by striking out "this clause" both places it appears and inserting in lieu thereof "this paragraph"; and

(B) in paragraph (11), by inserting "paid under section 6330 of this title" after "retainer pay".

(2) Sections 1447(2)(C)(i), 1447(3), 1447(4), 1448(a)(4)(A), 1449, and 1450(l)(2) are amended by striking out "or retainer".

(3) Section 1450(f)(3)(B) is amended—

(A) by striking out "before October 1, 1985, or"; and

(B) by striking out ", whichever is later".

(4) Section 1451(c) is amended—

(A) in paragraph (4) (as redesignated by section 5(a)(1)), by inserting "who first became a member of a uniformed service before September 8, 1980" after "of this title"; and

(B) in paragraph (5) (as redesignated by section 5(a)(1)), by inserting "by reason of the service of a person who first became a member of a uniformed service before September 8, 1980" after "of this title".

(5) Section 1451(e)(1) is amended by striking out "plan" in the matter preceding subparagraph (A) and inserting in lieu thereof "Plan".

(6) Section 1451(e)(2) is amended by striking out "(as the base amount is adjusted from time to time under section 1401a of this title)" in subparagraphs (A) and (B).

(7) Section 1452(h) is amended—

(A) by inserting "(or any other provision of law)" after "of this title" the first place it appears; and

(B) by striking out "increased under section 1401a of this title" and inserting in lieu thereof "so increased".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 646. EFFECTIVE DATE

This part and the amendments made by this part (other than the amendments made by section 645) shall take effect on the later of—

(1) October 1, 1989; or

(2) the first day of the third month beginning after the date of the enactment of this Act.

PART E—MISCELLANEOUS

SEC. 651. INCREASE IN EDUCATIONAL ASSISTANCE ALLOWANCE FOR PERSONS WITH CRITICAL SKILL OR SPECIALITY

Section 1415(c) of title 38, United States Code, is amended by striking out "$400" and inserting in lieu thereof "$700".

SEC. 652. AUTHORITY TO USE APPROPRIATED FUNDS TO SUPPORT STUDENT MEAL PROGRAMS IN DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

(a) IN GENERAL.—(1) Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2243. Authority to use appropriated funds to support student meal programs in overseas dependents' schools

"(a) AUTHORITY.—Subject to subsection (b), amounts appropriated to the Department of Defense to operate the defense dependents' education system may be used to maintain the cost to a student of a meal provided by an overseas meal program at a cost equal to the average cost to a student of an equivalent meal under a comparable public school meal program in the United States.

"(b) LIMITATION.—The authority provided by subsection (a) may be used only if the Secretary of Defense determines that Federal payments and commodities provided under section 20 of the National School Lunch Act (42 U.S.C. 1769b) and section 20 of the Child Nutrition Act of 1966 (42 U.S.C. 1789) to support an overseas meal program are insufficient to provide a meal under such program at a cost to a student equal to the average cost to a student of an equivalent meal under a comparable public school meal program in the United States.

"(c) OVERSEAS MEAL PROGRAM DEFINED.—In this section, the term 'overseas meal program' means a program administered by the Secretary of Defense to provide breakfasts or lunches to students attending Department of Defense dependents' schools which are located outside the United States.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2243. Authority to use appropriated funds to support student meal programs in overseas dependents' schools.".

(b) EFFECTIVE DATE.—Section 2243 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1989.

SEC. 653. AUTHORIZATION TO REDUCE UNDER CERTAIN CIRCUMSTANCES THE RATES FOR MEALS SOLD AT A MILITARY DINING FACILITY

Section 1011(a) of title 37, United States Code, is amended—

(1) by striking out "or enlisted members" and all that follows through the period in the first sentence and inserting in lieu thereof "and enlisted members."; and

(2) by adding after the second sentence the following new sentence: "Notwithstanding the preceding sentence, if the Secretary determines that it is in the best interest of the United States, the Secretary may reduce a rate for meals established under this subsection by the amount of that rate attributable to operating expenses.".

SEC. 654. UNIFORM ALLOWANCE FOR CIVILIAN EMPLOYEES

(a) IN GENERAL.—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1592. Uniform allowance for civilian employees

"Notwithstanding section 5901 of title 5, the Secretary of Defense may pay an allowance under this section to any civilian employee of the Department of Defense who is required by law or regulation to wear a prescribed uniform in the performance of official duties. An allowance paid under this section may not exceed $400 annually.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1592. Uniform allowance for civilian employees.".

(c)(1) Section 1606 of such title is repealed.

(2) The table of sections at the beginning of chapter 83 of such title is amended by striking out the item relating to section 1606.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) and the repeal made by subsection (c) shall take effect on October 1, 1989.

SEC. 655. AVIATOR INSURANCE

Not later than December 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a legislative proposal for an accidental death insurance plan for aviators serving on active duty that provides, at no cost to the insured, for the payment of death benefits in the amount of $100,000 for death resulting directly from the performance of operational flying duty (as defined in section 301a(a)(6) of title 37, United States Code).

SEC. 656. SENSE OF CONGRESS REGARDING ESTABLISHMENT OF COMMISSION TO CONDUCT A STUDY ON THE NATIONAL SHORTAGE OF AVIATORS

In view of the critical shortage of qualified aviators in both the Armed Forces and in the commercial airline industry of the United States, it is the sense of Congress that—

(1) the President should establish a commission to study the reasons for such shortages and to consider effective and practicable means of eliminating the shortages;

(2) the President should include among persons appointed to the commission representatives from the commercial airline industry, representatives from the Department of Defense, and representatives from such other sources as the President considers appropriate;

(3) the President should appoint all members of the commission not later than February 15, 1990; and

(4) the commission should be required to submit a report on the results of its study to the President and Congress not later than March 1, 1991, together with specific recommendations for eliminating the shortage of aviators in the United States.

TITLE VII—DEPARTMENT OF DEFENSE MANAGEMENT MATTERS

SEC. 701. IMPLEMENTATION OF DEFENSE MANAGEMENT REVIEW

Not later than February 15, 1990, the Secretary of Defense shall submit to Congress a report regarding actions that have been taken by the Secretary and actions the Secretary proposes to take to implement the July 1989 report of the Secretary of Defense to the President entitled Defense Management. The Secretary shall include in the report to Congress the following:

(1) A discussion of any actions taken, any ongoing actions, and any actions proposed to be taken by the Secretary with regard to such review.

(2) An assessment of the impact that such actions have had or are likely to have on the efficiency of the Department of Defense.

(3) Specific proposals for legislation that the Secretary determines would facilitate implementation of the objectives of the review.

SEC. 702. FUND FOR UNIFIED AND SPECIFIED COMBATANT COMMANDS

Of the funds authorized to be appropriated pursuant to section 301 for the Defense Agencies for fiscal year 1990, $10,000,000 shall be available for the establishment of a fund under the management of the Chairman of the Joint Chiefs of Staff for use in response to the request of a commander of a unified or specified combatant command for supplemental funding of the following activities:

(1) Joint exercises (including foreign country participation).

(2) Force training.

(3) Contingencies.

(4) Selected operations.

(5) Command and control.

(6) Military education and training to military and related civilian personnel of foreign countries.

(7) Personnel expenses of defense personnel for bilateral or regional cooperation programs.

SEC. 703. STRATEGIC AIR DEFENSE ALERT MISSION

Section 713 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1998), is amended—

(1) in subsection (b)(1), by inserting "any component or segment of" after "After"; and

(2) in subsection (b)(2), by striking out "180 days" and inserting in lieu thereof "30 days".

SEC. 704. ESTABLISHMENT OF POSITIONS AT APPROPRIATE LEVELS OF THE EXECUTIVE SCHEDULE

(a) COMPTROLLER OF DEPARTMENT OF DEFENSE.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Comptroller of the Department of Defense.".

(b) GENERAL COUNSELS OF MILITARY DEPARTMENTS.—(1) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"General Counsel of the Department of the Air Force.

"General Counsel of the Department of the Army.

"General Counsel of the Department of the Navy.".

(2) Section 5316 of title 5, United States Code, is amended by striking out the item relating to the General Counsel of the Department of the Air Force, the General Counsel of the Department of the Army, and the General Counsel of the Department of the Navy.

(c) ADDITIONAL SECRETARY OF THE AIR FORCE.—Section 5315 of title 5, United States Code, is further amended by striking out "(3)" after the item relating to the Assistant Secretaries of the Air Force and inserting in lieu thereof "(4)".

(d) CONFORMING AMENDMENT.—Section 703(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 5 U.S.C. 5316 note), is repealed.

TITLE VIII—ACQUISITION POLICY AND MANAGEMENT

PART A—DEFENSE INDUSTRIAL AND TECHNOLOGY BASE

SEC. 801. CRITICAL TECHNOLOGIES PLANNING

(a) IN GENERAL.—Chapter 148 of title 10, United States Code, is amended by inserting at the end thereof the following new sections:

"§ 2508. National critical technologies report

"(a)(1) The Director of the Office of Science and Technology Policy shall establish a panel of experts in advanced technology to prepare and submit the biennial report required by subsection (b).

"(2) The panel shall consist of 13 persons who are experts in science and engineering appointed as follows:

"(A) Three Federal Government officials appointed by the Director of the Office of Science and Technology Policy.

"(B) Six persons from private industry and higher education appointed by the Director of the Office of Science and Technology Policy.

"(C) One Federal Government official appointed by the Secretary of Defense.

"(D) One Federal Government official appointed by the Secretary of Energy.

"(E) One Federal Government official appointed by the Secretary of Commerce.

"(F) One Federal Government official appointed by the Administrator of the National Aeronautics and Space Administration.

"(3) Any vacancy in the membership of the panel shall be filled in the same manner as the original appointment.

"(4) The Director of the Office of Science and Technology Policy shall designate one of the members appointed under paragraph (2)(A) as Chairman of the panel.

"(b) Not later than October 1 of each even-numbered year, the panel shall submit to the President a report identifying the product technologies and process technologies considered by the panel to be the technologies most essential to develop in order to ensure long-term national security and economic prosperity for the United States. The number of the technologies identified in the report may not exceed 30.

"(c) The biennial report shall include, with respect to each technology identified in the report, the following information:

"(1) The reasons for selecting that technology.

"(2) The state of the development of the technology in the United States and in other countries.

"(3) An estimate of the current and anticipated level of research and development effort in the United States, including anticipated milestones for specific accomplishments, by—

"(A) the Federal Government;

"(B) State and local governments;

"(C) private industry; and

"(D) colleges and universities.

"(d)(1) The Secretary of Defense, upon the request of the Director of the Office of Science and Technology Policy, may enter into agreements with the National Academy of Sciences, the National Academy of Engineering, and the National Institute of Medicine from time to time to conduct in-depth studies of selected fields of research and development essential to the development of the technologies identified in the latest biennial report submitted to the President under subsection (b).

"(2) The Secretary may not obligate more than $500,000 for such agreements in any fiscal year.

"(e) The Secretary of Defense shall pay the reasonable expenses, not to exceed $500,000, incurred by the panel in any fiscal year.

"(f) Not later than 30 days after the date on which a biennial report is submitted to the President, the President shall transmit such report, together with any comments that the President considers appropriate, to the Committees on Armed Services of the Senate and the House of Representatives.

"§ 2509. Defense critical technologies plan

"(a)(1) Not later than March 15 each year, the Secretary of Defense, in consultation with the Secretary of Energy, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for developing the technologies considered by the Secretary of Defense and the Secretary of Energy to be the technologies most critical to ensure the long-term qualitative superiority of United States weapon systems. The number of such technologies identified in any plan may not exceed twenty.

"(2) In selecting the technologies to be included in the plan, the Secretary of Defense and the Secretary of Energy shall consider both product technologies and process technologies, including the technologies identified in the latest biennial report submitted to the President under section 2508 of this title.

"(3) The plan shall cover the 15 fiscal years following the year in which the plan is submitted.

"(4) Such plan shall be submitted in both classified and unclassified form.

"(b) Each plan submitted under subsection (a) shall—

"(1) designate priorities for development of the 20 technologies identified in the plan; and

"(2) specify the funding requirements of the Department of Defense, the Department of Energy, and other appropriate departments and agencies of the Federal Government for the development of those technologies for the five fiscal years following the year in which the plan is submitted.

"(c) Each plan submitted under subsection (a) shall include, with respect to each technology included in the plan, the following matters:

"(1) The reasons for selecting such technology, including—

"(A) a discussion of the consideration given to the latest biennial report submitted to the President under section 2508 of this title; and

"(B) the relationship of the technology to the overall science and technology program of the Department of Defense and the long-term funding strategy associated with that program.

"(2) A designation of the lead organization within the Department of Defense or the Department of Energy responsible for the development of the technology.

"(3) A summary description of the lead organization's plan for the development of the technology, including the milestone goals.

"(4) The amounts contained in the budgets of the Department of Defense, the Department of Energy, and other departments and agencies for the support of the development of such technology for—

"(A) the five fiscal years preceding the year in which the plan is submitted; and

"(B) the fiscal year beginning in the year in which the plan is submitted; and

"(C) each fiscal year thereafter for which the Secretary of Defense, with respect to the Department of Defense, and the Secretary of Energy, with respect to the Department of Energy, has prepared a budget.

"(5) A comparison of the positions of the United States and the Soviet Union in the development of such technology.

"(6) The potential contributions that the allies of the United States and other industrialized nations can make to meet the needs of the alliance for such technology.

"(7) A comparison of the extent to which the United States has access to research conducted on such technology in allied nations and other industrialized nations with the extent to which such nations have access to research conducted in the United States on such technology and a discussion of the effects of any imbalance in such access on development of that technology.

"(8) With respect to the development of such technology—

"(A) a comparison of the relative positions of the United States and other industrialized countries that are prominent in the development of such technology;

"(B) the trends in the relevant industrial bases of such countries;

"(C) the competitiveness of the United States industrial base supporting research in, and the development and utilization of, such technology;

"(D) the extent to which the United States should depend on other countries for the development of such technology; and

"(E) the extent to which action should be taken by the Federal Government to maintain and improve—

"(i) research efforts in the United States; and

"(ii) the industrial base supporting such efforts.

"(9) The potential contributions that the private sector can be expected to make from its own resources in connection with the development of civilian applications for such technology.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

"2508. National critical technologies report.
"2509. Defense critical technologies plan.".

(b) FIRST NATIONAL CRITICAL TECHNOLOGIES REPORT.—The first biennial report under section 2508(b) of title 10, United States Code (as added by subsection (a)), shall be submitted not later than October 1, 1990.

(c) REPEAL OF SUPERSEDED PROVISION OF LAW.—Section 2368 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2368.

SEC. 802. CRITICAL INDUSTRIES PLANNING

(a) FUNCTIONS OF THE DEFENSE INDUSTRIAL BASE OFFICE.—Section 2503 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(5) identify the industries most critical for national security applications of the technologies identified in the latest annual defense critical technologies plan submitted under section 2509 of this title.".

(b) REPORT.—(1) Not later than March 15, 1990, the Under Secretary of Defense for Acquisition shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives on the actions taken under section 2503 of title 10, United States Code, for the improvement of the defense industrial base of the United States.

(2) The report shall include the Under Secretary's analysis of the condition of the defense industrial base of the United States, particularly with respect to the financial ability of United States businesses—

(A) to conduct research and development activities relating to critical defense technologies, including the critical technologies referred to in section 2503(5) of title 10, United States Code, as added by subsection (a);

(B) to apply those technologies to the production of goods and the furnishing of services; and

(C) to engage in any other activities determined by the Secretary of Defense to be critical to the national security.

(3) In preparing the analysis required in paragraph (2), the Under Secretary shall consider—

(A) trends in the profitability, levels of capital investment, spending on research and development, and debt burden of businesses involved in research on, development of, and application of critical defense technologies;

(B) the consequences of mergers, acquisitions, and takeovers of such businesses;

(C) the results of current Department of Defense spending for critical defense technologies; and

(D) the likely future level of Department of Defense spending for such technologies during the four fiscal years following fiscal year 1990 and the likely results of that level of spending.

SEC. 803. DEFENSE INDUSTRIAL INFORMATION

Section 2503 of title 10, United States Code, as amended by section 802, is further amended—

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(6) analyze the ability of the defense industrial base of the United States to fulfill the national security needs of the United States."

SEC. 804. DEFENSE MEMORANDA OF UNDERSTANDING AND RELATED AGREEMENTS

(a) IN GENERAL.—Section 2504 of title 10, United States Code, is amended to read as follows:

"§ 2504. Defense memoranda of understanding and related agreements

"(a) IN GENERAL.—In the negotiation, renegotiation, and implementation of any memorandum of understanding, or any agreement related to a memorandum of understanding, between the Secretary of Defense, acting on behalf of the United States, and one or more foreign countries (or any instrumentality of a foreign country) relating to research, development, or production of defense equipment, the Secretary of Defense shall regularly solicit and consider comments and recommendations from the Secretary of Commerce with respect to the commercial implications of such memorandum of understanding or related agreement and the potential impact of such memorandum of understanding or related agreement on the international competitive position of United States industry.

"(b) REVIEW.—Whenever the Secretary of Commerce has reason to believe that a memorandum of understanding or related agreement has, or threatens to have, a significant adverse impact on the international competitive position of United States industry, the Secretary may request an interagency review of the memorandum of understanding or related agreement. If, as a result of the review, the Secretary determines that the strategic commercial interests of the United States are not being served or would not be served by adhering to the terms of such memorandum or related agreement, the Secretary shall recommend to the President any modification to the memorandum of understanding or related agreement he considers necessary to ensure an appropriate balance of interests.

"(c) LIMITATION.—A memorandum of understanding or related agreement referred to in subsection (a) shall not be entered into or implemented if the President, taking into consideration the results of the inter-agency review, determines that such memorandum of understanding or related agreement has or is likely to have a significant adverse impact on United States industry that outweighs the benefits of entering into or implementing such memorandum or agreement. The President shall consider the results of any inter-agency review of such memorandum or related agreement conducted pursuant to a request under subsection (b).".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 148 of such title is amended by striking out the item relating to section 2504 and inserting in lieu thereof the following:

"2504. Defense memoranda of understanding and related agreements.".

SEC. 805. OFFSETS IN RECIPROCAL DEFENSE PROCUREMENT AGREEMENTS

In the negotiation or renegotiation of any memorandum of understanding between the Secretary of Defense and one or more foreign countries (or any instrumentality of a foreign country) relating to the reciprocal procurement of defense equipment and supplies or research and development, the Secretary of Defense shall make every effort to achieve an agreement with the country or countries concerned that would limit the adverse effects that offset arrangements have on the defense industrial base of the United States.

PART B—ACQUISITION POLICY INITIATIVES

SEC. 821. DEFENSE ENTERPRISE PROGRAMS AND SIMPLIFICATION OF THE DEFENSE ACQUISITION PROCESS

(a) DEFENSE ENTERPRISE PROGRAMS GENERALLY.—Section 2436 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "senior procurement executive" and inserting in lieu thereof "service acquisition executive";

(2) in subsection (b), by inserting after the first sentence the following: "A designation under this subsection shall be subject to the approval of the Secretary of Defense.";

(3) in paragraph (3) of subsection (c), by striking out "senior procurement executive" and all that follows through the period at the end and inserting in lieu thereof "service acquisition executive of the military department concerned."; and

(4) in subsection (d)—

(A) by striking out "senior procurement executive of the military department concerned, with the approval of the Under Secretary of Defense for Acquisition," and inserting in lieu thereof "Under Secretary of Defense for Acquisition or the senior acquisition executive of the military department concerned,"; and

(B) by adding at the end the following new sentence: "The Under Secretary of Defense for acquisition may waive the application of any provision of the Federal Acquisition Regulation, and any provision of the Department of Defense supplement to such regulation, to any program designated under subsection (b).".

(b) MILESTONE AUTHORIZATIONS FOR DEFENSE ENTERPRISE PROGRAMS.—Section 2437 of such title is amended—

(1) in paragraph (2) of subsection (a)—

(A) in clause (A), by striking out "full-scale engineering development stage" and inserting in lieu thereof "concept demonstration validation stage, the full-scale engineering development stage,"; and

(B) in clause (B), by striking out "either" and inserting in lieu thereof "any"; and

(2) in subsection (c)—

(A) by striking out "full-scale engineering development stage" and inserting in lieu thereof "concept demonstration validation stage, the full-scale engineering development stage,";

(B) by redesignating clauses (1) and (2) as clauses (2) and (3), respectively; and

(C) by inserting above clause (2), as so redesignated, the following clause (1):

"(1) proceed into or complete the concept demonstration validation stage;".

(c) REPORT ON PROCUREMENT REGULATORY REFORM.—(1) Not later than February 15, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of all regulatory reform actions taken or planned to be taken in the Department of Defense on the basis of the experience under defense enterprise programs.

(2) The report shall contain any recommendations for legislation that the Secretary considers appropriate in order to enhance the effectiveness of defense enterprise programs or otherwise to simplify the Department of Defense acquisition process.

SEC. 822. ACQUISITION OF COMMERCIAL PRODUCTS

(a) REGULATIONS REQUIRED.—The Secretary of Defense shall prescribe regulations governing the acquisition of commercial products. Such regulations shall include the matters provided in subsections (b) through (d).

(b) CONTRACT AND SUBCONTRACT CLAUSES.—(1) The regulations prescribed pursuant to subsection (a) shall ensure the following:

(A) That a Department of Defense contract for the acquisition of commercial products includes only those clauses that—

(i) are on the list of clauses developed by the Secretary of Defense pursuant to paragraph (2)(A);

(ii) are included in the contractor's standard commercial order or invoice; or

(iii) are essential for the protection of the Federal Government's interest in that particular contract, as determined in writing by the contracting officer.

(B) That a prime contractor under a Department of Defense contract for the acquisition of commercial products is not required to include in subcontracts under such contract any clause other than those clauses that—

(i) are identified by the Secretary of Defense pursuant to paragraph (2)(B); or

(ii) are essential for the protection of the Federal Government, as determined in writing by the contracting officer for such contract.

(2)(A) The Secretary of Defense shall develop a list of clauses required to be included in Department of Defense contracts for the acquisition of commercial products. Such list shall include only those clauses that—

(i) are required by a statute to be included in such contracts; or

(ii) are essential for the protection of the Federal Government's interest in such contracts.

(B) The Secretary shall identify those clauses on the list of clauses required for contracts under subparagraph (A) that are required to be included in subcontracts under such contracts. The Secretary may identify for such purpose only those clauses that—

(i) are required by a statute to be included in the subcontracts; or

(ii) are essential for the protection of the Federal Government's interest in such subcontracts.

(c) MODIFIED INSPECTION CLAUSE AND WARRANTIES.—The regulations prescribed pursuant to subsection (a) shall ensure, to the maximum extent practicable, the following:

(1) That a modified inspection clause is included in each Department of Defense contract for the acquisition of commercial products awarded to a contractor that has a proven record of quality production and offers an appropriate warranty to protect the Federal Government's interest in acquiring a quality product.

(2) That applicable commercial warranties for repair and replacement of commercial products are used by the Department of Defense for any necessary repair and replacement of such products.

(d) COST AND PRICING DATA REQUIREMENTS.—The regulations prescribed pursuant to subsection (a) shall ensure that, pursuant to the exceptions in clauses (1)(A) and (1)(B) of section 2306a(b) of title 10, United States Code, no offeror, contractor, or subcontractor is required to submit certified cost or pricing data in connection with—

(1) any Department of Defense contract, or any subcontract under a Department of Defense contract, for the acquisition of a commercial product, unless the head of the agency awarding such contract determines

that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract, as the case may be;

(2) any Department of Defense contract, or any subcontract under a Department of Defense contract, for the acquisition of a commercial product, for which the price agreed upon is based on adequate price competition, unless the head of the agency awarding such contract determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract, as the case may be; and

(3) any acquisition of a product for which the Administrator of General Services has accepted a certificate of established catalog price that is current.

(e) TRAINING.—(1) The Secretary of Defense shall establish a program for training contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items.

(2) The training program shall provide, at a minimum, for the following:

(A) Training in the requirements of this section, section 2325 of title 10, United States Code, and the regulations prescribed pursuant to those sections.

(B) Training of contracting officers in the fundamental principles of price analysis and other alternative means of determining price reasonableness.

(C) Training of appropriate acquisition personnel in market research techniques and in the drafting of functional and performance specifications.

(f) ENCOURAGING ACQUISITION OF NONDEVELOPMENTAL ITEMS.—The Secretary of Defense shall prescribe regulations to ensure that the head of each contracting activity of the Department of Defense assigns functions relating to the acquisition of nondevelopmental items to a responsible official within the contracting activity. The functions assigned pursuant to such regulations should include the function of promoting the acquisition of nondevelopmental items and the function of challenging barriers to such acquisition, including unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses.

(g) IMPLEMENTATION.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations and contract clauses required by this section or necessary for the implementation of this section.

(h) DEFINITIONS.—In this section:

(1) The term "commercial product" means—

(A) any product that is or has been sold in substantial quantities to the general public;

(B) any component of such a product; and

(C) any modified version of a product or component referred to in clause (A) or (B).

(2) The term "nondevelopmental item" has the same meaning as is provided in section 2325(d) of title 10, United States Code.

SEC. 823. UNIFORM RULES ON DISSEMINATION OF ACQUISITION

Not later than December 31, 1989, the Secretary of Defense shall prescribe a single, uniform regulation for the Department of Defense regarding dissemination of and access to acquisition information.

SEC. 824. TEST PROGRAM FOR USE OF SIMPLIFIED PROCEDURES IN THE COMPETITIVE AWARD OF CERTAIN CONTRACTS ON THE BASIS OF QUALITY FACTORS

(a) TEST PROGRAM.—The Secretary of Defense shall conduct a test program under which the Secretary of a military department or the head of a Defense Agency, notwithstanding section 2305(b)(4)(A)(ii) of title 10, United States Code, may award a contract for the procurement of property or services primarily on the basis of design or technical quality factors after evaluation of competitive proposals without discussions with offerors.

(b) PROCUREMENT OF PROPERTY OTHER THAN COMMERCIAL PRODUCTS.—The Secretary of a military department or the head of a Defense Agency may award a contract for the procurement of property or services, other than commercial items, under the test program as provided in subsection (a) if the Secretary or agency head—

(1) specifically reserves, in the solicitation issued in connection with the procurement, the right to accept an initial proposal without discussions;

(2) evaluates all offers on the basis of the evaluation criteria specified in the solicitation;

(3) awards the contract to the contractor that demonstrates that—

(A) the design and technical features of the property offered by the contractor are superior in quality or performance to the property offered by the other offerors; and

(B) there is a low risk of—

(i) delay in delivery of the property to the military department or Defense Agency concerned;

(ii) increase in the cost of the property to such military department or Defense Agency; and

(iii) failure of the property to meet the performance criteria under the contract; and

(4) determines that—

(i) the price contained in the offer submitted by the contractor awarded the contract is fair and reasonable; and

(ii) the product offered by the contractor at that price represents the best value to the Government in relation to other offers received in connection with the procurement.

(c) PROCUREMENT OF COMMERCIAL PRODUCTS.—The Secretary of a military department or the head of a Defense Agency may award a contract for the procurement of commercial products under the test program as provided in subsection (a) if the Secretary or agency head determines that—

(1) the price contained in the offer submitted by the contractor awarded the contract is fair and reasonable; and

(2) the product offered by the contractor at that price represents the best value to the Government in relation to other offers received in connection with the procurement.

(d) PERIOD OF TEST PROGRAM.—Contracts may be awarded under the test program during a 2-year period prescribed by the Secretary of Defense. Such period shall commence not later than 270 days after the date of the enactment of this Act.

(e) DESIGNATION OF DEPARTMENT OF DEFENSE PARTICIPANTS.—The Secretary of Defense shall designate the organizations within the Department of Defense that will participate in the test program. The Secretary shall designate each organization on the basis of the total dollar value of the procurement actions taken by such organization in the fiscal year ending September 30, 1989, and such other factors as the Secretary considers appropriate. The total dollar value of all procurement actions taken during such fiscal year by all organizations so designated may not exceed the amount equal to 20 percent of the dollar value of all procurement actions taken by the Department of Defense in such fiscal year.

(f) LIMITATION.—(1) No contract for the acquisition of a major system may be awarded under the test program.

(2) As used in the section, the term "major system" shall have the same meaning as is provided in section 2302(5) of title 10, United States Code.

(g) REPORT.—Not later than 270 days after the expiration of the 2-year period prescribed pursuant to subsection (d), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the test program. The report shall include any recommendations for legislation that the Secretary considers appropriate regarding the competitive award of contracts without discussions with offerors.

(h) DEFINITION.—In this section:

(1) The term "commercial product" shall have the same meaning as is provided in section 822(g)(1) of this Act.

(2) The term "discussions" does not include any discussion of an offer with the offeror that is conducted for the purpose of minor clarification.

SEC. 825. ACQUISITION REPORT STREAMLINING

(a) UNIT COST REPORTS.—(1) Subsection (a) of section 2433 of title 10, United States Code, is amended—

(A) in paragraph (2), by inserting "the service acquisition executive designated by" before "the Secretary concerned"; and

(B) in paragraph (4)—

(i) by inserting "the service acquisition executive designated by" before "the Secretary concerned";

(ii) in clause (A), by striking out "unit cost report submitted under subsection (e)(2)(B)(ii) with respect to" and inserting in lieu thereof "Selected Acquisition Report submitted under subsection (e)(2)(B) that includes information on"; and

(iii) in clause (B), by striking out "subsection (e)(2)(B)(ii) with respect to the program during that three-quarter period, the most recent unit cost report submitted under subsection (e)(1) with respect to the program" and inserting in lieu thereof "subsection (e)(2)(B) with respect to the program during that three-quarter period, the most recent Selected Acquisition Report submitted under subsection (e)(1) that includes information of the program".

(2) Subsection (b) of section 2433 of such title is amended—

(A) by striking out "(b) The program manager" and all that follows through the colon preceding paragraph (1) and inserting in lieu thereof the following:

"(b) The program manager for a major defense acquisition program (other than a program not required to be included in the Selected Acquisition Report for that quarter under section 2432(b)(3) of this title) shall, on a quarterly basis, submit to the service acquisition executive designated by the Secretary concerned a written report on the unit costs of the program. Each report shall be submitted not more than 7 days (excluding Saturdays, Sundays, and legal public holidays) after the end of that quarter. The program manager shall include in each such unit cost report the following information with respect to the program (as of the last day of the quarter for which the report is made):"; and

(B) in paragraph (4), by striking out "Selected Acquisition Report" and inserting in

lieu thereof "description established under section 2435 of this title".

(3) Subsection (c) of section 2433 of such title is amended—

(A) in paragraph (1)—

(i) by striking out "fiscal-year" in the matter above clause (A); and

(ii) in matter following clause (C)—

(I) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears;

(II) by striking out "(other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year)" and inserting in lieu thereof "(other than the last quarterly unit cost report under subsection (b) for the preceding fiscal year)"; and

(III) by striking out "Secretary concerned" the second place it appears and inserting in lieu thereof "that a service acquisition executive"; and

(B) in paragraph (2)—

(i) in the matter above clause (A)—

(I) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears; and

(II) by striking out "(other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year)" and inserting in lieu thereof "(other than the last quarterly unit cost report under subsection (b) for the preceding fiscal year)"; and

(ii) by striking out "Secretary concerned" each place it appears in clauses (A), (B), and (C) and in the matter following clause (C) and inserting in lieu thereof "such service acquisition executive".

(4) Subsection (d) of section 2433 of such title is amended—

(A) in paragraph (1)—

(i) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears; and

(ii) by striking out "Secretary shall determine" and inserting in lieu thereof "service acquisition executive shall determine";

(B) in paragraph (2)—

(i) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears; and

(ii) by striking out "Secretary concerned shall, in addition to the determination under paragraph (1), determine" and inserting in lieu thereof "service acquisition executive, in addition to the determination under paragraph (1), determine"; and

(C) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) If, based upon the service acquisition executive's determination, the Secretary concerned determines (for the first time since the beginning of the current fiscal year) that the current program acquisition unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (1) or that the current procurement unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (2), the Secretary shall notify Congress in writing of such determination and of the increase with respect to such program within 30 days after the date on which the service acquisition executive reports his determination of such increase in such unit cost to the Secretary and shall include in such notification the date on which the determination was made.".

(5) Subsection (e) of section 2433 of such title is amended—

(A) by striking out "(e)(1)" and all that follows through the end of paragraph (2) and inserting in lieu thereof the following:

"(e)(1)(A) Except as provided in subparagraph (B), whenever the Secretary concerned determines under subsection (d) that the current program acquisition cost of a major defense acquisition program has increased by more than 15 percent, a Selected Acquisition Report shall be submitted to Congress for the first fiscal-year quarter ending on or after the date of the determination and such report shall include the information described in section 2432(e) of this title. The report shall be submitted within 45 days after the end of that quarter.

"(B) Whenever the Secretary makes a determination referred to in subparagraph (A) in the case of a major defense acquisition program during the second quarter of a fiscal year and before the date on which the President transmits the budget for the following fiscal year to Congress pursuant to section 1105 of title 31, the Secretary is not required to file a Selected Acquisition Report under subparagraph (A) but shall include the information described in subsection (g) regarding that program in the comprehensive annual Selected Acquisition Report submitted in that quarter.

"(2) If the percentage increase in the current program acquisition cost of a major defense acquisition program (as determined by the Secretary under subsection (d)) exceeds 25 percent, the Secretary of Defense shall submit to Congress, before the end of a 30-day period beginning on the day the Selected Acquisition Report containing the information described in subsection (g) is required to be submitted under section 2432(f) of this title—

"(A) a written certification, stating that—

"(i) such acquisition program is essential to the national security;

"(ii) there are no alternatives to such acquisition program which will provide equal or greater military capability at less cost;

"(iii) the new estimates of the program acquisition unit cost or procurement unit cost are reasonable; and

"(iv) the management structure for the acquisition program is adequate to manage and control program acquisition unit cost or procurement unit cost; and

"(B) if a report under paragraph (1) has been previously submitted to Congress with respect to such program for the current fiscal year but was based upon a different unit cost report from the program manager to the service acquisition executive designated by the Secretary concerned, a further report containing the information described in subsection (g), determined from the time of the previous report to the time of the current report."; and

(B) in paragraph (3)—

(i) by striking out "(3)" and inserting in lieu thereof the following: "(3) If a determination of a more than 15 percent increase (as determined by subsection (d)) is made by the Secretary and a Selected Acquisition Report containing the information described in subsection (g) is not submitted to Congress under paragraph (1), or if, in the case of a determination of a more than 25 percent increase (as determined under section (d)), the certification of the Secretary of Defense is not submitted to Congress under paragraph (2), funds appropriated for military construction, for research, development, test, and evaluation, and for procurement may not be obligated for a major contract under the program.";

(ii) by striking out "in subsection (d)(3)(B)";

(iii) in clause (A)—

(I) by striking out in "report of the Secretary concerned" and inserting in lieu thereof "Selected Acquisition Report"; and

(II) by striking out "(2)(B)(ii)" and inserting in lieu thereof "(2)(B)"; and

(iv) in clause (B)—

(I) by striking out in "report of the Secretary concerned" and inserting in lieu thereof "Selected Acquisition Report";

(II) by striking out "(2)(B)(ii)" and inserting in lieu thereof "(2)(B)"; and

(III) by striking out "(B)(i)" and inserting in lieu thereof "(A)"; and

(6) Subsection (g)(2) of section 2433 of such title is amended by adding at the end the following new sentence: "The certification of the Secretary of Defense under subsection (e) is not required to be submitted for termination or canceled programs.".

(b) ENHANCED PROGRAM STABILITY.—Section 2435 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "development" in paragraph (2)(B)(iv) and inserting in lieu thereof "production"; and

(2) in subsection (b)—

(A) by striking out "senior procurement executives (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))" in paragraph (1) and inserting in lieu thereof "service acquisition executive"; and

(B) by striking out "90 days" in paragraph (2) and inserting in lieu thereof "180 days".

(c) SELECTED ACQUISITION REPORTS.—Section 2432(b)(2)(A) of title 10, United States Code, is amended by striking out "5 percent change in total program cost" and inserting in lieu thereof "15 percent increase in program acquisition unit cost and current procurement unit cost".

SEC. 826. DELEGATION OF APPROVAL AUTHORITY FOR CERTAIN CONTRACT ACTIONS

Section 2304(f) of title 10, United States Code, is amended—

(1) in paragraph (1)(B)(ii), by striking out "or" after the semicolon;

(2) by redesignating clause (iii) of paragraph (1)(B) as clause (iv);

(3) by inserting after clause (ii) the following new clause (iii):

"(iii) in the case of a contract for an amount exceeding $10,000,000 (but equal to or less than $50,000,000), by the senior procurement executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(3)) or the senior procurement executive's delegate designated pursuant to paragraph (6)(C); or"

(4) in clause (iv), as redesignated by clause (2) of this section, by striking out "$10,000,000" and inserting in lieu thereof "$50,000,000"; and

(5) in paragraph (6)—

(A) by striking out "paragraph (1)(B)(iii)" and inserting in lieu thereof "paragraph (1)(B)(iv)"; and

(B) by adding at the end the following new subparagraph:

"(C) The authority of the senior procurement executive under paragraph (1)(B)(iii) may be delegated to the head of a procuring activity who—

"(i) if a member of the armed forces, is a general or flag officer; or

"(ii) if a civilian, is serving in a position in grade GS-16 or above (or in a comparable or higher position under any other schedule for civilian officers or employees).".

SEC. 827. OPERATIONAL TEST AND EVALUATION AMENDMENTS

(a) INITIAL LOW-RATE PRODUCTION DEFINED.—Section 2366(e) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(9)(A) The term 'low-rate initial production' means production of items at the lowest feasible rate that—

"(i) is necessary for the establishment and maintenance of a single production line for the production of the items;

"(ii) is necessary for production of the minimum quantity of items necessary for initial operational test and evaluation of the items; and

"(iii) will permit an orderly and timely increase in the production rate sufficient to lead to full rate production upon the successful completion of operational testing.

"(B) With respect to naval vessels, such term means production of items at the lowest feasible rate, as determined pursuant to regulations prescribed by the Secretary of Defense.".

(b) OPERATIONAL TEST AND EVALUATION DEFINED.—Paragraph (7) of section 2366(e) of such title is amended to read as follows:

"(7) The term 'operational test and evaluation' has the meaning given that term in section 138(a)(2)(A) of this title. Such term does not mean an operational assessment based exclusively on—

"(A) computer modeling;

"(B) simulation; or

"(C) an analysis of system requirements, engineering proposals, design specifications, or any other information contained in program documents.".

(c) IMPARTIAL PERFORMANCE OF ASSISTANCE.—Section 138 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) The Director shall ensure that a contractor does not assist in the test and evaluation of a weapons system if the contractor participated in, or is participating in, the development, production, or testing of such weapons system for any military department or Defense Agency or any other contractor of the Department of the Defense unless the Director determines that sufficient steps have been taken to ensure the impartiality of the contractor in providing the assistance.".

SEC. 828. MASTER AGREEMENTS FOR ADVISORY OR ASSISTANCE SERVICES

(a) REQUIREMENT FOR TEST PROGRAM.—The Secretary of Defense shall conduct a test program under which the Secretaries of the military departments and the heads of Defense Agencies may enter into master agreements for the procurement of advisory services and assistance services.

(b) SCOPE OF THE TEST PROGRAM.—(1) The Secretary shall, in the regulations prescribed pursuant to subsection (h)—

(A) specify the types of advisory services and assistance services covered by the test program;

(B) establish criteria for determining when the use of a master agreement under the test program is appropriate for a procurement of advisory services or assistance services; and

(C) ensure that advisory services and assistance services are not procured under the test program—

(i) for the performance of an organic governmental function; or

(ii) in a manner or to an extent that is inconsistent with Office of Management and Budget Circular A-120 or any applicable Department of Defense regulations.

(2) Not more than one contracting activity within a military department or Defense Agency may participate in the test program.

(3) The total value of task orders awarded under master agreements by a participating contracting activity in a fiscal year may not exceed the amount equal to 30 percent of the value of all contracts for advisory and assistance services awarded by that contracting activity during fiscal year 1989.

(c) AWARD OF MASTER AGREEMENTS.—(1) Except as provided in section 2304(b)(2) of title 10, United States Code, competitive procedures shall be used for the award of each master agreement under the test program.

(2)(A) Each master agreement shall be awarded to at least three of the contractors that submit offers for the award of such master agreement.

(B) Notwithstanding any other provision of law, a master agreement may not be awarded unless there are at least three qualified offerors for the solicitation.

(d) CONTENT OF SOLICITATION FOR MASTER AGREEMENT.—A solicitation for a master agreement shall specify the following:

(1) The type of services to be ordered under the master agreement.

(2) The range of subjects to be covered by the agreement.

(3) The basic skills and levels of experience required to perform services under the agreement.

(4) The factors to be considered in evaluating the offers for the master agreement.

(5) The relative importance assigned to each evaluation factor.

(e) CONTENT OF MASTER AGREEMENT.—Each master agreement shall contain, at a minimum, the following:

(1) A description of the services to be provided under orders issued pursuant to the master agreement.

(2) The terms and conditions for furnishing services ordered under the master agreement.

(3) The method for determining the price of the services ordered under the master agreement.

(4) The period covered by the master agreement, which may not exceed two years or the period remaining between the date on which the master agreement is awarded and the date on which the test program terminates under subsection (i), whichever is less.

(5) In the case of a master agreement for a period exceeding one fiscal year, a statement that the placement of orders under the master agreement in any fiscal year beginning after the beginning of the period covered by the agreement shall be subject to the availability of appropriations for such fiscal year.

(f) ORDERS FOR SPECIFIC ADVISORY OR ASSISTANCE SERVICES.—(1) The Secretary of Defense shall prescribe by regulation the criteria for determining, in the case of a procurement of specific advisory services or specific assistance services, whether it is more appropriate to procure such services under a master agreement awarded pursuant to this section than to procure such services by other means.

(2) An order for advisory services or assistance services under the test program may not be issued unless all contractors whose master agreements cover the type of services being ordered are given the opportunity to compete for the order. The order shall be issued to the master agreement contractor that submits the offer determined to be the best value for the Government, price and other factors considered.

(3) A contracting activity participating in the test program may not issue a solicitation for any advisory and assistance services unless—

(A) the solicitation contains a statement of work clearly specifying all tasks to be performed under the contract; or

(B) the solicitation is for a master agreement pursuant to this section.

(g) PUBLICATION OF NOTICE.—(1) The procurement notice requirements in section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall apply to solicitations for offers for each master agreement under the test program (without regard to the total expected price of the services expected to be procured under such master agreement) in the same manner and to the same extent as such requirements apply to solicitations for proposals for a contract for services for a price expected to exceed $25,000.

(2) The notice requirements referred to in paragraph (1) shall not apply to the issuance of orders under master agreements awarded pursuant to this section.

(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(i) TERMINATION OF THE TEST PROGRAM.—The test program shall terminate three years after the effective date of the final regulations prescribed to carry out this section.

(j) LIMITATION ON COMMENCEMENT OF THE TEST PROGRAM.—No master agreement may be awarded pursuant to this section before the issuance of the Department of Defense regulations implementing section 8141 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-463; 41 U.S.C. 405b).

(k) DEFINITIONS.—In this section, the term "competitive procedures" shall have the same meaning as is provided in section 2302(2) of title 10, United States Code.

SEC. 829. AVAILABILITY OF FUNDS FOR OBLIGATION FOLLOWING THE RESOLUTION OF A PROTEST

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

§ 2410c. Availability of funds following resolution of a protest

"Notwithstanding section 1552 of title 31, United States Code, or any other provision of law, funds available to the Department of Defense for obligation for a contract at the time a protest is filed in connection with a solicitation for, proposed award of, or award of such contract under subchapter V of chapter 35 of title 31, United States Code, or under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)), shall remain available for obligation for 90 working days after the date on which the final ruling is made on the protest, including days on which the protest is being reconsidered or on appeal.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410c. Availability of funds following resolution of a bid protest.".

SEC. 830. SIMPLIFIED EXECUTION OF DEFENSE TRADE AGREEMENTS

Paragraph (2) of section 2304(f) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of clause (C);

(2) by striking out the period at the end of clause (D), and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new clause:

"(E) in the case of a procurement permitted by subsection (c)(4), but only if the head of the contracting activity prepares a document in connection with such procurement that describes the terms of an agreement or treaty, or the written directions, referred to in that subsection that have the effect of requiring the use of procedures other than competitive procedures.".

SEC. 831. TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS

(a) TEST PROGRAM.—(1) The Secretary of Defense shall establish a test program under which one contracting activity in each military department and Defense Agency is authorized to undertake one or more demonstration projects to determine whether the negotiation and administration of comprehensive small business subcontracting plans will result in simplified administration of the small business subcontracting opportunities provided for small business concerns under Department of Defense contracts.

(2) In developing the test program, the Secretary of Defense shall—

(A) consult with the Administrator of the Small Business Administration; and

(B) provide an opportunity for public comment on the test program.

(b) COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLAN.—(1) In a demonstration project under the test program, the Secretary of a military department or head of a Defense Agency shall negotiate a comprehensive subcontracting plan with a Department of Defense contractor described in paragraph (3).

(2) The comprehensive subcontracting plan—

(A) shall provide for small business concerns to participate as subcontractors in the contracts awarded by the Secretary or agency head to the contractor (or any division or operating element of the contractor) to which the subcontracting plan applies; and

(B) shall apply to the entire business organization of the contractor or to one or more of the contractor's divisions or operating elements, as specified in the subcontracting plan.

(3) A Department of Defense contractor referred to in paragraph (1) is, with respect to a comprehensive subcontracting plan, a business concern that—

(A) during the fiscal year ending on September 30, 1988—

(i) pursuant to at least five Department of Defense contracts, furnished supplies or services (including professional services) to the Department of Defense, engaged in research and development for the Department, or performed construction for the Department; and

(ii) was paid $25,000,000 or more for such contract activities; and

(B) during the fiscal year in which the comprehensive subcontracting plan is negotiated, is voluntarily participating in an annual company-wide plan under the authority of Office of Federal Procurement Policy Letter 80-2 or any policy on the same subject issued by Office of Federal Procurement Policy after the date of such policy letter that supersedes the policy set out in that letter.

(c) WAIVER OF CERTAIN SMALL BUSINESS ACT SUBCONTRACTING PLAN REQUIREMENTS.—A Department of Defense contractor is not required to negotiate or submit a subcontracting plan under paragraph (4) or (5) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)) with respect to a Department of Defense contract if—

(1) the contractor has negotiated a comprehensive subcontracting plan under the test program that includes the matters specified in section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6));

(2) such matters have been determined acceptable by the Secretary of the military department or head of a Defense Agency negotiating such comprehensive subcontracting plan; and

(3) the comprehensive subcontracting plan applies to the contract.

(d) TEST PROGRAM PERIOD.—The test program authorized by subsection (a) shall terminate on September 30, 1993.

(e) REPORT.—(1) Not later than March 1, 1994, the Secretary of Defense shall submit a report on the results of the test program to the Committees on Armed Services and on Small Business of the Senate and the House of Representatives.

(2) Before submitting such report to the committees referred to in paragraph (1), the Secretary shall transmit the proposed report to the Administrator of the Small Business Administration. The report submitted to the committees shall include any comments and recommendations relating to the report that are transmitted to the Secretary by the Administrator before the date specified in such paragraph.

(h) DEFINITIONS.—As used in this section:

(1) The term "small business concern" shall have the same meaning as is provided in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)), and includes a small business concern owned and controlled by socially and economically disadvantaged individuals.

(2) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall have the same meaning as is provided in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)).

SEC. 832. SMALL BUSINESS CERTIFICATE OF COMPETENCY

Section 8(b)(7)(C) of the Small Business Act (15 U.S.C. 637(b)(7)(C)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Except in the case of a small business concern that requests a contracting officer to refer a determination of the small business concern's responsibility to the Administration, a contracting officer shall not be required to refer a determination of responsibility to the Administration if the proposed contract is a small purchase for purposes of section 2304(g)(2) of title 10, United States Code, for an agency listed in section 2303 of such title, or the proposed contract is a small purchase for purposes of section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) for an executive agency other than agency listed in section 2303 of title 10, United States Code. In the case of each such contract, the solicitation shall include a notice that a small business concern may request the contracting officer to refer such a determination to the Administration. Nothing in this paragraph shall require the Administration to process an application for certification if the small business concern to which a referral pertains does not make such a request.".

SEC. 833. SMALL AND DISADVANTAGED BUSINESS PROGRAM

Section 1207(e) of the Department of Defense Authorization Act, 1987 (100 Stat. 3974), is amended by adding at the end of paragraph (3) the following sentence: "The Secretary shall tailor to industry categories the payment of prices exceeding fair market cost to ensure that small-size and medium-size nondisadvantaged businesses are not denied a reasonable opportunity to compete and that the payment of price differentials are not used when there is adequate participation by small and disadvantaged businesses within an industry category.".

SEC. 834. DEFENSE QUALITY IMPROVEMENT PROGRAM

(a) IN GENERAL.—The Secretary of Defense shall take such action as may be necessary to ensure that the Department of Defense quality assurance program is managed in a manner that will result in the production of the highest quality weapon systems, both at the initial acquisition stage and during repair and maintenance of fielded weapons systems.

(b) STRUCTURE OF PROGRAM.—In order to ensure that the quality assurance program of the Department of Defense is effectively structured, the Secretary shall—

(1) assess the status of the Department's program, including the methodology and criteria used for measuring progress and for determining areas for possible improvement;

(2) evaluate the quality training program of the Department of Defense;

(3) evaluate the quality assurance programs of major defense contractors; and

(4) evaluate the means used to motivate defense contractors to improve their quality assurance program and develop innovative techniques to enhance that motivation.

SEC. 835. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 301 for Defense Agencies for fiscal years 1990 and 1991 for operation and maintenance, $9,000,000 shall be available for each of such fiscal years for the purpose of carrying out cooperative agreements under chapter 142 of title 10, United States Code.

(b) SET-ASIDE.—Of the amounts provided for in subsection (a), $600,000 shall be available for each of the fiscal years 1990 and 1991 for the purpose of carrying out programs sponsored by eligible entities named in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas (as defined in subparagraph (B) of section 2411(2) of such title). If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow for effective use of the funds authorized under this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services region in accordance with section 2415 of such title.

(c) ASSISTANCE FURNISHED TO CERTAIN INDIAN ORGANIZATIONS.—Section 2414 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out clauses (1) and (2) and inserting in lieu thereof the following:

"(1) in the case of a program operating on a Statewide basis, other than a program referred to in clause (3) or (4), $300,000;

"(2) in the case of a program operating on less than a Statewide basis, other than a program referred to in clause (3) or (4), $150,000;

"(3) in the case of a program operated wholly within one service area of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(1)(D) of this title, $150,000; or

"(4) in the case of a program operated wholly within more than one service area of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(1)(D) of this title, $300,000."; and

(2) in subsection (b), by inserting "or is operated wholly within one or more service areas of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(a)(1)(D) of this title" after "or on less than a Statewide basis".

SEC. 836. REQUIREMENT FOR CERTIFICATE OF INDEPENDENT PRICE DETERMINATION IN CERTAIN DEPARTMENT OF DEFENSE CONTRACT SOLICITATIONS

The Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to provide that—

(1) the exception provided in Federal Acquisition Regulation 3.103-1 for work performed by foreign suppliers outside the United States, its possessions, and Puerto Rico shall not apply in the case of any firm-fixed-price contract awarded by the Department of Defense and any fixed-price contract with economic price adjustment awarded by the Department of Defense; and

(2) the provision set out in Federal Acquisition Regulation 52.203-2 (relating to a certificate of independent price determination) shall be inserted in the contract solicitation for each such contract unless another exception provided in Federal Acquisition Regulation 3.103-1 applies in the case of such contract.

SEC. 837. PARTICIPATION OF FEDERAL PRISON INDUSTRIES IN DEFENSE PROCUREMENT

(a) PROCUREMENT PROCEDURES.—The Secretary of Defense and the Secretary of a military department may obtain products from Federal Prison Industries only in accordance with the provisions of chapter 137 of title 10, United States Code, except as provided in subsections (b), (c), and (d) of this section.

(b) INAPPLICABILITY OF OTHER LAW.—The provision of section 2304(c)(5) of title 10, United States Code, shall not apply to the procurement of products from Federal Prison Industries.

(c) OFFERS SUBMITTED BY FEDERAL PRISON INDUSTRIES.—An offer submitted to the Department of Defense by Federal Prison Industries shall be treated in the same manner as an offer submitted by an offeror that is not a small business concern.

(d) CURRENT MARKET PRICE REQUIRED.—The Secretary of Defense and the Secretary of a military department shall not obtain any product from Federal Prison Industries for a price that exceeds the current market price of such product.

(e) DEFINITIONS.—As used in this section:

(1) The term "current market price" means, with respect to any product, the fair market price of that product, within the meaning of section 15(a) of the Small Business Act (15 U.S.C. 644(a)), at the time that the contract is awarded.

(2) The term "small business concern" means a business concern that meets the applicable size standards prescribed pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)), and includes a small business concern owned and controlled by socially and economically disadvantaged individuals, as defined in section 8(d)(3)(C) of such Act (15 U.S.C. 637(d)(3)(C)).

SEC. 838. CREDIT FOR INDIAN CONTRACTING IN MEETING CERTAIN MINORITY SUBCONTRACTING GOALS

(a) REGULATIONS.—Pursuant to regulations which the Secretary of Defense shall prescribe and subject to subsections (b) and (c), in any case in which a subcontracting goal is specified for a Department of Defense contractor in the implementation of section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) and section 8(d) of the Small Business Act (15 U.S.C. 637(d)), credit toward meeting that subcontracting goal shall be given for each Department of Defense contract awarded to that contractor, and each subcontract awarded by that contractor in connection with a Department of Defense contract, that—

(1) is to be performed on any Indian lands and meets the requirements of paragraph (1) of subsection (b); or

(2) is undertaken as a joint venture that meets the requirements of paragraph (2) of that subsection.

(b) ELIGIBLE CONTRACTS, SUBCONTRACTS, AND JOINT VENTURES.—(1) A contract or subcontract to be performed on Indian lands meets the requirements of this paragraph if—

(A) not less than 40 percent of the workers directly engaged in the performance of the contract or subcontract on the Indian lands are Indians; and

(B) the contractor or subcontractor has a management plan which—

(i) provides for Indians to manage the workforce employed in the performance of such contract or subcontract and, in the case of a contract or subcontract for the construction of facilities, provides for Indians to have an ownership interest in any facilities constructed pursuant to the contract or subcontract; and

(ii) is approved by the tribal government having jurisdiction over such Indian lands.

(2) A joint venture undertaking to perform a contract or subcontract meets the requirements of this paragraph if—

(A) an Indian tribe or tribally-owned corporation owns at least 50 percent of the joint venture;

(B) the activities of the joint venture under the contract or subcontract provide employment opportunities for Indians either directly or through the purchase of products or services for the performance of such contract or subcontract; and

(C) the Indian tribe or tribally-owned corporation manages the performance of such contract or subcontract.

(c) EXTENT OF CREDIT.—(1) The amount of the credit given for a contract or subcontract toward the attainment of any minority subcontracting goal under subsection (a) shall be the percentage of the value of the contract or subcontract designated by the prime contractor to whom the goal applies.

(2) The maximum percentage that may be designated by a contractor—

(A) in the case of a contract or subcontract to be performed on Indian lands, is the percentage equal to one-half of the ratio that the number of Indians performing work under the contract or subcontract on the Indian lands bears to the total number of workers performing such work; and

(B) in the case of a contract or subcontract undertaken by a joint venture referred to in subsection (a)(2), is the percentage of the tribe's or tribally-owned corporation's ownership interest in the joint venture.

(3) A contractor may apply the credit given under this subsection for performance of any contract or subcontract toward a subcontracting goal specified for any other Department of Defense contract or any other subcontract under a Department of Defense contract. A contractor may not, however, receive credit for any contract or subcontract that exceeds 100 percent of the value of the contract or subcontract.

(d) DEFINITIONS.—In this section:

(1) The term "Indian lands" has the same meaning as is provided in section 4(4) of the Indian Gaming Regulatory Act (102 Stat. 2468; 25 U.S.C. 2703(4)).

(2) The term "Indian" means an Indian, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)).

(3) The term "Indian tribe" has the meaning given to such term by section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(4) The term "tribally-owned corporation" means a corporation owned entirely by an Indian tribe.

SEC. 839. UTILIZATION OF SMALL BUSINESS ACT AUTHORITY TO ASSIST CERTAIN DISADVANTAGED SMALL BUSINESS CONCERNS

The Secretary of Defense shall direct the Secretary of each military department to identify, in each of fiscal years 1990 and 1991, not less than 10 construction projects (including repair and alteration of existing facilities) that are suitable for participants in the Minority Small Business and Capital Ownership Development Program of the Small Business Administration and to make use of the authority provided in section 7(j)(13)(D) of the Small Business Act (15 U.S.C. 636(j)(13)(D)) in the award of contracts in connection with each such project.

SEC. 840. PROCUREMENT FROM COUNTRIES THAT DENY ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

It is the sense of Congress that it should be a very important consideration in the procurement of property, services, or technology by the Department of Defense whether such procurement is from—

(1) any person of any country which has been identified pursuant to section 182(a)(2) of the Trade Act of 1974 (19 U.S.C. 2242) as denying adequate and effective protection of intellectual property rights or fair and equitable market access to United States persons that rely upon intellectual property protection; or

(2) any person of any other country that denies adequate and effective protection of intellectual property rights, as determined by the Secretary of Defense on the advice of the United States Trade Representative;

(3) any person who has a demonstrated pattern of misappropriating United States intellectual property.

PART C—ACQUISITION WORKFORCE

SEC. 841. ALTERNATIVE PERSONNEL MANAGEMENT DEMONSTRATION PROGRAMS

(a) DEFINITIONS.—For purposes of this title—

(1) the term "agency" means an Executive agency (as defined in section 105 of title 5, United States Code), except that such term does not include—

(A) the National Security Agency;

(B) the Central Intelligence Agency;

(C) the Defense Intelligence Agency;

(D) the Federal Bureau of Investigation; or

(E) the General Accounting Office;

(2) the term "employee" means an employee (as defined in section 2105 of title 5, United States Code) whose rate of basic pay

would, but for this title, be determined under—

(A) subchapter III or section 5371 of chapter 53 of title 5, United States Code, relating to the General Schedule; or

(B) chapter 54 of title 5, United States Code, relating to the performance management and recognition system; and

(3) the terms "collective bargaining", "collective bargaining agreement", "exclusive representative", "management official", and "supervisor" each has the meaning given such term under section 7103(a) of title 5, United States Code.

(b) DEMONSTRATION PROGRAMS OF ALTERNATIVE COMPENSATION SYSTEMS.—(1) Within 2 years after the date of the enactment of this section, the demonstration programs using alternative compensation systems as provided under this section, shall be implemented by the Office of Personnel Management and—

(A) the head of the relevant agency for any program described under paragraph (2)(A)(i);

(B) the Secretary of Defense for the programs described under paragraph (2)(A)(ii); and

(C) the Administrator of the National Aeronautics and Space Administration for the program described under paragraph (2)(A)(iii).

(2)(A) There shall be implemented under the provisions of this subsection, no less than 6 and no more than 10 demonstration programs using alternative compensation systems, of which—

(i) between 1 and 5 such programs shall be designed and implemented by the head of an agency, after consultation and approval by the Office of Personnel Management;

(ii) 4 such programs shall be developed and implemented within the Department of Defense by the Secretary of Defense, after consultation and approval by the Office of Personnel Management; and

(iii) 1 such program shall be developed and implemented within the National Aeronautics and Space Administration by the Administrator of such Administration, after consultation and approval by the Office of Personnel management.

(B) Each such program under this subsection shall—

(i) cover a sufficient number of positions within an agency to provide an adequate basis on which to evaluate the desirability of implementing such program on a broader scale within the Government, except that not less than the equivalent of 5,000 full-time positions and no more than the equivalent of 25,000 full-time positions shall be covered in any such program at any time;

(ii) include in the development of such program, prior to implementation, a detailed information gathering plan—

(I) to provide for the evaluation of such program to be developed by the Office of Personnel Management and the head of the relevant agency;

(II) which shall include the total number of employees to participate in such program;

(III) which shall be—

(aa) submitted to the General Accounting Office, at least 60 days prior to program implementation; and

(bb) reviewed by the General Accounting Office which shall report the results of the review to the Senate Committee on Governmental Affairs, the House Committee on Post Office and Civil Service, and the head of the relevant agency; and

(IV) which shall be periodically reviewed with regard to the adherence of such agency to such plan by the General Accounting Office which shall submit reports of such reviews to the relevant congressional committees; and

(iii) within 2 years after the date of implementation under paragraph (1), have the full number of employees participating in such program as provided for in clause (ii)(II).

(C)(i) notwithstanding the provisions of subparagrpah (B), no more than 2 programs described under subparagraph (A)(ii) may cover no more than the equivalent of 35,000 full-time positions each.

(ii) Notwithstanding the provisions of clause (i), the total number or equivalent full-time positions combined for the 4 programs described under subparagraph (A)(ii) may cover no more than 100,000 such positions.

(3) Each program under this subsection shall provide that—

(A) the rate of basic pay for an employee participating in any program under this title—

(i) shall be at least equal to the rate of basic pay payable to such employee for the pay period immediately preceding the date of the implementation of such program; and

(ii) may not exceed the rate of basic pay payable for level V of the Executive Schedule; and

(B) the total cost to the Government in carrying out such programs shall not exceed what the total cost to the Government would have been, during the same period, if this Act had not been enacted.

(4)(A) Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code, shall not be included within any program under this section if the program—

(i) would violate a collective bargaining agreement between the agency and the labor organization, unless there is another written agreement with respect to the program between the agency and the organization permitting the inclusion; or

(ii) is not covered by such a collective bargaining agreement, until there has been consultation or negotiation, as appropriate, by the agency with the labor organization.

(B) Employees within any unit with respect to which a labor organization has not been accorded exclusive recognition under chapter 71 of title 5, United States Code, shall not be included within any program under this section, unless there has been agency consultation regarding the program with the employees in the unit.

(5) The Office of Personnel Management, the Secretary of Defense, and the Administrator of the National Aeronautics and Space Administration shall, with respect to each applicable program implemented under paragraph (1)—

(A) publish the plan developed under paragraph (2)(B)(ii) for such program in the Federal Register prior to implementation of such program;

(B) provide notification of the implementation of such program to affected employees and the Congress within 90 days before the date of such implementation; and

(C) provide an annual report to the Congress on such program.

(6)(A) Subject to subparagraph (B), any demonstration program implementing an alternative compensation system under this subsection shall terminate at the earlier date of—

(i) 5 years after the date on which the full number of employees are participating in such program as provided for under paragraph (2)(B)(iii); or

(ii) 7 years after the date of the implementation of such program under paragraph (1).

(B)(i) A program under this subsection may be terminated in accordance with the provisions of clause (ii), if the Office of Personnel Management, in consultation with the head of the relevant agency, determines that such program creates a substantial hardship on, or is not in the best interests of, the public, the Federal Government, or employees.

(ii) If a determination is made under the provisions of clause (i), a program may be terminated by the Office of Personnel Management, after consultation with—

(I) the head of the relevant agency, with regard to a program described under paragraph (2)(A)(i);

(II) the Secretary of Defense, with regard to a program described under paragraph (2)(A)(ii); or

(III) the Administrator of the National Aeronautics and Space Administration, with regard to the program described under paragraph (2)(A)(iii).

(C) If a program is terminated under the provisions of subparagraph (B), the head of the relevant agency shall notify all affected employees of such termination no later than 90 days before the date of such termination.

(c) ALTERNATIVE COMPENSATION SYSTEMS.—(1) Before developing and implementing a demonstration program under subsection (b), the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, and each head of a relevant agency shall consider an alternative compensation system—

(A) under which annual pay adjustments under section 5305 of title 5, United States Code, provide that the total pay and benefits for Government service shall be comparable to the total pay and benefits for individuals at the same levels of work outside the Government;

(B) under which annual pay adjustments under section 5305 of title 5, United States Code, provide that rates of basic pay payable to employees are consistent with rates of basic pay generally payable for the same levels of work outside the Government within the same geographic region;

(C) under which conditions of employment for employees shall be subject to collective bargaining; or

(D) established by the head of the agency involved, which—

(i) may identify separate career categories for employees in positions which are subject to the system;

(ii) shall provide for the rate of basic pay of an employee to be set and adjusted within salary structures based on such factors as the experience and achievements of the employee, position in a pay range, job responsibilities, rates of pay for similar positions outside the government, and (consistent with section 5334 of title 5, United States Code) changes in positions or types of appointments;

(iii) shall provide pay differentials for service as a supervisor or management official (which shall be considered a part of basic pay for purposes of subchapter III of chapter 83, and chapter 84, of title 5, United States Code);

(iv) may authorize special awards (which shall not be considered a part of basic pay for any purpose); and

(v) shall authorize performance recognition in the form of—

(I) a lump-sum payment (which shall not be considered a part of basic pay for any purpose);

(II) an increase in the rate of basic pay of an employee within a pay range or to a higher pay range; or

(III) nonmonetary recognition.

(2)(A) If the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, or any head of an agency implements a program using a system described in paragraph (1)(C), such program shall provide that—

(i) any pay schedules or rates shall be established to provide that an appropriate differential (which shall be considered part of basic pay) is provided for service as a supervisor or management official; and

(ii) only a unit or subdivision of a unit for which an exclusive representative is certified may participate.

(B) For purposes of a program using a system described in paragraph (1)(C), the term "conditions of employment" means—

(i) personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, included under section 4103(a)(14) of title 5, United States Code; and

(ii) personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, relating to classification of positions, leave, pay, or other compensation or benefits;

except that such term does not include policies, practices, and matters relating to life insurance, health insurance, and retirement.

(d) RULE OF STATUTORY CONSTRUCTION.—(1) Except as provided in paragraph (2), in the administration of an alternative compensation system under this section, the provisions of this section shall apply notwithstanding any inconsistent provision of title 5, United States Code.

(2) In the administration of an alternative compensation system under this section, no provision of this section may be construed to waive any inconsistent provision of—

(A) chapters 83 and 84 of title 5, United States Code, relating to retirement;

(B) chapter 87 of title 5, United States Code, relating to life insurance; or

(C) chapter 89 of title 5, United States Code, relating to health insurance.

SEC. 842. PROCUREMENT MANAGEMENT PERSONNEL

Paragraph (2) of section 1621 of title 10, United States Code, is amended to read as follows:

"(2) The term 'procurement command' means any of the following:

"(A) The staffs of the service acquisition executives, program executive officers, and program managers of the military departments.

"(B) The Army Materiel Command.

"(C) The Army Information Systems Command.

"(D) The Army Strategic Defense Command.

"(E) The Navy Weapons Systems Commands.

"(F) The Navy Strategic Systems Program Office.

"(G) The Marine Corps Research, Development and Acquisition Command.

"(H) The Air Force Systems Command.

"(I) The Air Force Logistics Command.

"(J) Any successor organization to any staff, office, or command named in subparagraphs (A) through (I).".

SEC. 843. COMPENSATION FOR CRITICAL PERSONNEL

(a) AUTHORITY TO PRESCRIBE RATES OF PAY FOR CERTAIN CRITICAL POSITIONS.—(1) Notwithstanding section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.), sections 5308, 5382, and 5383(b) of title 5, United States Code, or any other provision of law, the Secretary of Defense may prescribe the rate of pay for a position designated as a critical position by the Secretary of Defense.

(2) Except as provided in paragraph (3), the rate of pay prescribed under paragraph (1) for a critical position shall be the same as the rate of pay provided for a comparable position in a federally funded Research and Development Center.

(3)(A) The rate of pay prescribed under paragraph (1) may not exceed the amount equal to 150 percent of the rate of pay that, except for this section, would otherwise apply to that position, except as provided in subparagraph (B).

(B) If the Secretary determines that the rate of pay described in paragraph (2) is in excess of the amount authorized under subparagraph (A) and that there is an extraordinary need to pay a person in a critical position an amount higher than authorized in such subparagraph, the Secretary may authorize such higher pay in an amount not to exceed the amount equal to 150 percent of the rate of pay applicable for executive level II under the Executive Schedule pursuant to section 5313 of title 5, United States Code.

(b) DEFINITION.—For purposes of this section, the term "critical position" means a scientific or engineering position that the Secretary determines to be critical to the Department of Defense acquisition process.

(c) LIMITATION ON POSITIONS.—The Secretary may designate not more than 500 positions as critical positions under this section.

SEC. 844. POST-EMPLOYMENT RESTRICTIONS

(a) CLARIFICATION.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended—

(1) in subsection (a)(1), by inserting ", except as provided in subsection (c)" before the semicolon;

(2) in subsection (b)(1), by inserting "except as provided in subsection (c)" before the semicolon; and

(3)(A) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively;

(B) by redesignating subsections (j) through (n) as subsections (l) through (o), respectively; and

(C) by inserting after subsection (b) the following new subsection (c):

"(c) RECUSAL.—(1) A competing contractor may contact a procurement official with whom discussions are otherwise prohibited under subsection (a)(1) for the limited purpose of determining whether such official, after obtaining the approval required by paragraph (2), would be interested in engaging in such discussions. If a competing contractor makes such a contact with a procurement official, the procurement official shall promptly notify the official's supervisor and the appropriate designated agency ethics official of the contact.

"(2) A procurement official may engage in discussions with a competing contractor that are otherwise prohibited by subsection (b)(1) if, before engaging in such discussions—

"(A) the procurement official proposes in writing to disqualify himself from the conduct of any procurement relating to contracts of the competing contractor for any period during which future employment or business opportunities for such procurement official with such competing contractor have not been rejected by either the procurement official or the competing contractor and, if determined to be necessary by the designated agency ethics official in accordance with criteria prescribed in implementing regulations, for a reasonable period thereafter, and

"(B) the supervisor of the procurement official, after consultation with the appropriate designated agency ethics official, approves in writing the recusal of the procurement official.";

(4) in subsection (f) (as redesignated by paragraph (3)(A)—

(A) by striking out "No Government official" and inserting in lieu thereof "(1) No Government official";

(B) by striking out "shall—" and inserting in lieu thereof "shall knowingly)";

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(D) by inserting at the end the following new paragraph:

"(2) This section does not apply to the following:

"(A) A subcontract of a subcontractor who is a competing contractor unless—

"(i) the subcontract is for an amount in excess of $5,000,000;

"(ii) the subcontract is for an amount that is at least 5 percent of the amount of the prime contract and is for an amount in excess of $100,000; or

"(iii) the procurement official personally reviewed and approved the award, modification, or extension of the subcontract;

"(B) To actions, as prescribed in implementing regulations, that (1) primarily involve general scientific, technical, or engineering work, budget or policy advice or decisions, advice on the feasibility of contracting out functions, or other similar actions, and (2) do not involve the development, preparation, or issuance of a procurement solicitation, the preparation or evaluation of bids or proposals, selection of sources, conduct of negotiations, the award, modification, or extension of a contract, or performance of a contract.";

(5) by inserting after subsection (j) (as redesignated in subsection (3)(A)) the following new subsection:

"(k) ETHICS ADVICE.—(1) An employee or former employee of an agency may request advice from the appropriate designated agency ethics official as to whether such employee or former employee is precluded by this section from participating in the performance of a particular contract on behalf of a particular contractor or subcontractor.

"(2) An employee or former employee of an agency who requests advice from a designated agency ethics official pursuant to paragraph (1) shall provide the official with all information reasonably available to the employee or former employee that is relevant to a determination by the ethics official regarding such request.

"(3) Not later than 30 days after the date on which a designated agency ethics official receives a request for advice under paragraph (1) accompanied by the information required pursuant to paragraph (2), the official shall issue a written opinion as to whether the employee is precluded by this section from participating in the performance of the contract at issue.

"(4) An employee or former employee who obtains a written opinion from a designated agency ethics official under this section on the basis of the complete disclosure of information required by paragraph (2) shall not be subject to any penalty under this section to the extent that the employee or former employee reasonably relies upon such opinion.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 27 of such Act is further amended—

(1) in subsection (e) (as redesignated by subsection (a)(3))—

(A) by striking out "(c), or (e)" in paragraph (1)(A)(i) and inserting in lieu thereof "(d), or (f)";

(B) by striking out "(c), or (e)" in paragraph (1)(B)(ii) and inserting in lieu thereof "(d), or (f)";

(C) by striking out "(c), or (e)" in paragraph (2)(A) and inserting in lieu thereof "(d), or (f)";

(D) by striking out "(c), or (e)" in paragraph (3)(A) and inserting in lieu thereof "(d), or (f)"; and

(E) by striking out "subsection (m)" in paragraph (7)(B)(ii), and inserting in lieu thereof "subsection (n)";

(2) in subsection (g)(1) (as redesignated by subsection (a)(3)) by striking out "subsection (m)" and inserting in lieu thereof "subsection (n)";

(3) in subsection (h) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (d)" in paragraph (1) and inserting in lieu thereof "subsection (e)";

(B) by striking out "(b) or (c)" in paragraph (2) and inserting in lieu thereof "(b) or (d)"; and

(C) by striking out "(h) and (i)" in paragraph (3) and inserting in lieu thereof "(i) and (j)";

(4) in subsection (i) (as redesiganted by subsection (a)(3)), by striking out "(c), or (e)" and inserting in lieu thereof "(d), or (f)";

(5) in subsection (j)(1) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (n)" and inserting in lieu thereof "subsection (o)"; and

(B) by striking out "subsection (m)" and inserting in lieu thereof "subsection (n)"; and

(6) in subsection (l) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (b)" in paragraph (1) and inserting in lieu thereof "subsections (b), (c), and (e)"; and

(B) in paragraph (2)—

(i) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b), (c), and (e)"; and

(ii) by striking out "(c) or (e)" and inserting in lieu thereof "(d), or (f)".

(c) DEFINITION.—Subsection (o) (as redesignated by subsection (a)(3)) is amended by adding at the end the following new paragraph:

"(8) The term 'designated agency ethics official" has the same meaning as the term 'designated agency official' in section 209(10) of the Ethics in Government Act of 1978 (92 Stat. 1850; 5 U.S.C. App.).".

(d) AMENDMENT TO TITLE 10.—Paragraph (6) of section 2397a(a) of title 10 United States Code, is amended to read as follows:

"(6) The term 'procurement function' includes, with respect to a contract, any function relating to—

"(A) the administration of the contract;

"(B) the approval of changes in the contract;

"(C) quality assurance, operational and developmental testing, the approval of payment, or auditing under the contract; or

"(D) the managment of the procurement program.".

(e) DEADLINE FOR REGULATIONS.—Not later than 90 days after the date of the enactment of this section, final regulations implementing the amendments made by this section to the provisions of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) shall be issued in accordance with sections 6 and 25 of such Act (41 U.S.C. 405, 421).

SEC. 845. WAIVER OF COMPENSATION PENALTY IN CERTAIN CASES

(a) WAIVER AUTHORITY.—Chapter 81 of title 10, United States Code, is amended by inserting before section 1583 the following new section:

"§ 1581. Waiver of dual compensation provisions

"The Secretary of Defense may waive the applicability of section 5532 of title 5 (relating to dual compensation) in the case of not more than 1,000 employees of the Department of Defense who are in scientific, engineering, professional, or managerial positions designated as critical positions by the Secretary.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting before item relating to section 1583 the following new item:

"1581. Waiver of dual compensation provisions.".

SEC. 846. SCIENTIFIC AND TECHNICAL EDUCATION

(a) FINDINGS.—Congress makes the following findings:

(1) Superior technology is a critical part of the national defense strategy of the United States.

(2) The Department of Defense must employ scientifically and technologically skilled personnel in order to develop and maintain superior technology.

(3) A significant proportion of the military personnel and civilian employees in the Department of Defense are scientists, engineers, and technicians.

(4) Programs of the Department of Defense utilize a significant portion of the entire science and technology workforce of the United States.

(5) Numerous studies have projected a decline in the number of young entrants into the workforce and in the number of people pursuing degrees in science and technology, while at the same time projecting an increase in demand for personnel with scientific and technological training.

(6) Recruitment of both civilian and military personnel by the Department of Defense will become increasingly difficult as the number of potential, qualified entrants decreases.

(7) The Department of Defense could suffer a degradation of the critical capability to respond to technological change as the result of an inadequate supply of qualified engineers and scientists.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the Secretary of Defense should take such actions as may be necessary and appropriate to promote and encourage, at precollege through post-doctoral levels, an increase in the number of citizens and nationals of the United States who pursue courses of study in science, engineering, and other technical disciplines.

SEC. 847. NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS

(a) IN GENERAL.—(1) Part III of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 111—NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS

"Sec.

"2191. Graduate fellowships.

"§ 2191. Graduate fellowships

"(a) The Secretary of Defense shall prescribe regulations providing for the award of fellowships to United States citizens and nationals who agree to pursue graduate degrees in science, engineering, or other fields of study designated by the Secretary to be of priority interest to the Department of Defense.

"(b) A fellowship awarded pursuant to regulations prescribed under subsection (a) shall be known as a 'National Defense Science and Engineering Graduate Fellowship'.

"(c) National Defense Science and Engineering Graduate Fellowships shall be awarded solely on the basis of academic ability and the recipients shall be selected on the basis of a nationwide competition. The award of a fellowship under this section may not in any way be predicated on the geographic region in which the recipient lives or the geographic region in which the recipient will pursue an advanced degree.

"(d) The regulations prescribed under this section shall include the criteria for award of fellowships, the procedures for selecting recipients, the basis for determining the amount of a fellowship, and the maximum amount that may be awarded to an individual during an academic year.".

(2) The table of chapters at the beginning of subtitle A, and at the beginning of part III, of such title are each amended by inserting after the item relating to chapter 110 the following new item:

"111. National Defense Science and Engineering Graduate Fellowships..... 2191".

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated pursuant to section 201 for fiscal years 1990 and 1991, $10,500,000 of the amount appropriated for fiscal year 1990 and $11,000,000 of the amount authorized to be appropriated for fiscal year 1991 shall be available for National Defense Science and Engineering Graduate Fellowships provided for under chapter 111 of title 10, United States Code (as added by subsection (a)).

TITLE IX—GENERAL PROVISIONS

SEC. 901. TRANSFER AUTHORITY

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in titles I, II, and III for any fiscal year between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations for any fiscal year that the Secretary of Defense may transfer under the authority of this section may not exceed $3,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 902. REDUCTIONS TO REFLECT MANAGEMENT SAVINGS

The total amount authorized to be appropriated for fiscal year 1990 for military personnel and operations and maintenance may not exceed $166,752,900,000, and the total amount authorized to be appropriated for fiscal year 1991 for such purposes may not exceed $171,848,000,000.

SEC. 903. LIMITATION ON RESTORATION OF WITHDRAWN UNOBLIGATED BALANCES

(a) Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2782. Limitation on restoration of withdrawn unobligated balances

"(a) No funds may be restored under section 1552(a)(2) of title 31 to any appropriation account available to the Department of Defense for use in a program, project, or activity unless—

"(1) the total amount restored during a fiscal year to such account for such program, project, or activity is less than $4,000,000; or

"(2)(A) the head of the military department or Defense Agency concerned determines that the amount to be restored is required to pay obligations and make adjustments authorized by a contract described in subsection (b);

"(B) the action to restore the funds is approved by the Secretary of Defense; and

"(C) in an instance in which the total amount to be restored is $25,000,000 or more, not less than 30 days have elapsed after the notice described in subsection (c) is provided to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives.

"(b) A contract referred to in subsection (a)(2)(A) means a contract for the program, project, or activity for which funds were made available from the account to which funds are proposed to be restored.

"(c) The notice referred to in subparagraph (a)(2)(C) means notice of the intent to restore funds under subsection (a) and a description of the legal basis and policy reasons for the action.".

(b) TECHNICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended by adding the following new item:

"2782. Limitation on restoration of withdrawn unobligated balances.".

SEC. 904. REPORT ON CONVENTIONAL ARMS CONTROL VERIFICATION

(a) REPORT.—(1) The President shall submit to the Committee on Armed Services and the Select Committee on Intelligence of the Senate and the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives a report on the types of measures that would be required to verify effectively the proposal for conventional arms reductions in Europe adopted by the member nations of the North Atlantic Treaty Organization (NATO) on May 30, 1989. The President shall include in such report—

(A) a discussion of the necessary types of data that would be exchanged by the parties to such an agreement;

(B) a description of the national technical means, on-site inspections, and other cooperative measures that would be necessary for the parties to such an agreement to detect and verify potential or actual violations of the agreement;

(C) an analysis of the measures that would be required to monitor (i) the withdrawal and demobilization of military personnel, and (ii) the withdrawal and, when required, the destruction of military equipment provided for in any such agreement;

(D) a discussion of the procedures NATO would follow in the event of a violation of such an agreement by a member or members of the Warsaw Treaty Organization; and

(E) a comprehensive analysis of—

(i) the uncertainties in data bases used by the United States with respect to the military forces of the United States, the military forces of the allies of the United States, and the military forces of the Warsaw Pact countries;

(ii) the uncertainties in the estimates of the trends in such forces; and

(iii) the differences in the data bases used by the United States, the allies of the United States, and the Warsaw Pact countries.

(2) The analysis required under paragraph (1)(E) shall address separately the uncertainties in the estimates of the following:

(A) Active forces.

(B) Reserve forces.

(C) Total equipment of such forces.

(D) Indigenous forces.

(F) Forces of a country stationed outside such country.

(b) DEADLINE FOR REPORT.—The President shall submit the report not later than March 1, 1990, together with such comments and recommendations as he determines appropriate. The report shall be submitted in both classified and unclassified versions.

SEC. 905. IMPLICATIONS OF MUTUAL REDUCTIONS IN CONVENTIONAL FORCES IN EUROPE BY NATO AND WARSAW PACT MEMBER NATIONS

(a) COMMENDATION OF PRESIDENT'S CONVENTIONAL ARMS REDUCTION INITIATIVE.—Congress commends and supports the President's conventional arms initiative announced in Brussels on May 29, 1989, in which the President proposed, and the North Atlantic Treaty Organization (NATO) agreed, that NATO expand its negotiating position at the negotiations on Conventional Armed Forces in Europe (CFE) to include substantial reductions by each side to equal ceilings of helicopters and combat aircraft and a reduction to a common ceiling of United States military personnel in Western Europe and Soviet military personnel in Eastern Europe.

(b) PRESIDENTIAL REPORT.—(1) Not later than six months after the date of the enactment of this Act, the President shall submit to Congress an unclassified report, with classified annexes as necessary, on the foreign policy and military implications to NATO and to the Warsaw Pact of significant reductions of conventional forces by NATO and Warsaw Pact countries to a ceiling which is the same for both sides.

(2) The report shall be prepared based upon three different assumptions with regard to the level of reductions in personnel and equipment. Under the first assumption, personnel and equipment would be reduced not less than 10 nor more than 15 percent below current NATO levels. Under the second assumption, personnel and equipment would be reduced 25 percent below current NATO levels. Under the third assumption, personnel and equipment would be reduced 50 percent below current NATO levels.

(3) The report shall include the following:

(A) A comprehensive net assessment of the current balance of NATO and Warsaw Pact forces and of the overall trends in the balance, including an assessment of the trends in active and reserve forces and total equipment holdings in stationed and indigenous forces.

(B) A description of the likely alternative force postures that could be adopted by member nations of both alliances (particularly by the United States and the Soviet Union) under each of the assumptions in paragraph (2), together with a description of the possible effects of restructuring both NATO and Warsaw Pact forces in Europe for defensive purposes.

(C) A statement of the costs (or savings) to the United States, over at least a seven-year period, estimated to be associated with each force posture referred to in subparagraph (A), together with an analysis of how those costs (or savings) were determined.

(D) An analysis of the implications for NATO strategy, security, and military policy under each of the reduction levels referred to in paragraph (2).

(E) An assessment of the effects under each of the reduction levels referred to in paragraph (2) (including the alternative force postures under each assumed reduction level) upon the stability of the conventional balance of forces in Europe.

(F) An assessment of NATO's ability to defend Europe under each of the assumed reduction levels in the event (i) of a short warning attack by the Warsaw Pact against NATO, or (ii) the Warsaw Pact initiates a war against NATO during a crisis in Europe.

SEC. 906. REPORT ON THE DESIRABILITY OF NEGOTIATIONS WITH THE SOVIET UNION REGARDING LIMITATIONS ON ANTI-SATELLITE CAPABILITIES

(a) REPORT BY THE PRESIDENT.—The President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive report regarding the desirability of an agreement to impose limitations on anti-satellite capabilities. The President shall include in such report his determination of whether a ban or other limitations on some or all anti-satellite (ASAT) weapons would be verifiable and, if so, whether such a ban would be in the national interest of the United States.

(b) MATTERS RELATING TO VERIFICATION.—In making the determination referred to in subsection (a), the President shall—

(1) take into consideration the extent to which on-site inspection measures as well as national technical means for verification can increase confidence in the ability of the United States to monitor and verify various agreed upon ASAT limitations;

(2) examine various arms control possibilities, including—

(A) a total ban on ASAT capability;

(B) a ban or other limitations on ASATs with the potential to attack satellites at altitudes above the Van Allen belt;

(C) a ban or other limitations on ASATs that operate only in low-Earth orbit;

(c) MATTERS RELATING TO DETERRENCE AND WARFIGHTING REQUIREMENTS.—In the report required by subsection (a), the President shall also address—

(1) the contribution an ASAT capability can make toward enhancing deterrence;

(2) the contribution an ASAT capability can make toward meeting the war fighting requirements of the United States and how an ASAT capability enhances force survivability; and

(3) the extent to which meeting the war fighting requirements and deterrence objectives of the United States would be enhanced based upon a net assessment under the following conditions:

(A) A Soviet only ASAT capability.

(B) A total or limited ban on the ASAT capability of the United States and the Soviet Union.

(C) An unrestricted United States and Soviet ASAT capability.

(d) DEADLINE FOR REPORT.—The President shall submit the report required by subsection (a) not later than March 15, 1990. The report shall be submitted in both classified and unclassified versions.

SEC. 907. COMMISSION ON NATIONAL SERVICE

(a) ESTABLISHMENT OF COMMISSION.—(1) There is established a study commission to be known as the "Commission on National Service" (hereinafter in this section referred to as the "Commission").

(b) COMPOSITION.—(1) The Commission shall be composed of nine members as follows:

(A) Three members appointed by the President.

(B) Two members appointed by the majority leader of the Senate.

(C) One member appointed by the minority leader of the Senate.

(D) Two members appointed by the Speaker of the House of Representatives.

(E) One member appointed by the minority leader of the House of Representatives.

(2) The President shall designate one of the members to serve as chairman of the Commission.

(3) The appointments of the members of the Commission shall be made not later than 60 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES; MEETINGS; QUORUM.—(1) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(2) Four members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(d) DUTIES OF THE COMMISSION.—(1) The Commission shall conduct a thorough study of the desirability, need for, advantages, and disadvantages of the establishment of a national service program.

(2) In conducting the study referred to in paragraph (1) the Commission shall address the following questions:

(A) What types of community service needs are there that are not adequately being met by the private sector or by local, State, and Federal governments and could be adequately met through a program of national service?

(B) What are the direct and indirect cost benefits that would likely result from the establishment of a comprehensive national service program under which a variety of social services would be provided?

(C) What are the future military manpower requirements of the United States and to what extent might those requirements be met by a national service program that offers special educational benefits and other incentives to participants in return for military service? In addressing this question, the Commission should take into account projected demographic changes.

(D) Are the benefits of a national service program likely to outweigh the estimated costs of such a program?

(3) In carrying out such study, the Commission shall—

(A) determine the appropriate levels of compensation and other benefits a participant in a national service program should receive for military service and for civilian community service;

(B) assess the existing Federal, State, and local efforts being made to encourage service in the Armed Forces and civilian community service;

(C) assess the opportunities that are available to, and the problems that confront, the youth of the United States and consider how service in a national service program could help participants take advantage of those opportunities and solve those problems; and

(D) evaluate the effectiveness of national service programs conducted in other countries.

(e) REPORT.—(1) The Commission shall submit the results of its study, together with such comments and recommendations as it considers appropriate, to the President and Congress not later than February 15, 1991.

(2) Within 90 days after the Commission submits its report to the President and Congress, the President shall submit his comments and recommendations regarding the report to Congress.

(f) SPECIFIC RECOMMENDATIONS.—If the Commission recommends the establishment of a national service program, it shall include in its report specific recommendations for the implementation of such a program, including recommendations regarding active duty service in the Armed Forces, service in the Reserve components of the Armed Forces, and part-time and full-time community service.

(g) INFORMATION.—The Commission may secure directly from the Department of Defense and any other Federal department or agency such information as the Commission considers necessary to enable the Commission to carry out its responsibilities under this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(h) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(i) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(j) STAFF.—(1) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate the employment of, an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of a staff director shall be subject to confirmation by the Commission.

(2) The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for GS-18 of the General Schedule under section 5332 of such title.

(k) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without payment of reimbursement to the detailing agency. A detail of a Federal employee under this subsection shall not result in the interruption or loss of civil service status or privilege.

(l) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of such title.

(m) APPLICABILITY OF OTHER FEDERAL LAWS.—A member of the Commission appointed under subsection (b) who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee, except for the purposes of—

(1) chapter 81 of title 5, United States Code, relating to compensation for work-related injuries; and

(2) chapter 171 of title 28, United States Code, relating to torts claims.

(n) POSTAL AND PRINTING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(o) MISCELLANEOUS ADMINISTRATIVE AND SUPPORT SERVICES.—The Administrator of General Services shall furnish the Commission, on a reimbursable basis, any administrative and support services requested by the Commission.

(p) TERMINATION OF COMMISSION.—The Commission shall terminate 120 days after the date on which Commission submits its report under subsection (e).

(q) EXPENSES OF THE COMMISSION.—The Secretary of Defense shall pay all expenses incurred in carrying out the study provided for in this section out of funds available to the Department of Defense.

SEC. 908. EXTENSION OF AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

(a) Effective on October 1, 1989, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100) is amended—

(1) by striking out "fiscal years 1988 and 1989" both places it appears and inserting in lieu thereof "fiscal years 1990 and 1991"; and

(2) by inserting "and the Memorandum of Understanding for Operations and Support of the NATO Airborne Early Warning and Control Force, signed by the United States Ambassador to NATO on September 26, 1984, and other follow-on support agree-

ments for the NATO E-3A Cooperative Programme" after "December 6, 1978,".

SEC. 909. PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES

(a) AUTHORITY TO ENTER INTO BILATERAL AND MULTILATERAL ARRANGEMENTS.—Subsection (a) of section 2401a of title 10, United States Code, is amended—

(1) by striking out "an arrangement with the Minister of Defense or other appropriate official of any allied country or with the North Atlantic Treaty Organization (NATO)" and inserting in lieu thereof "a bilateral arrangement with any allied country or allied international organization or may enter into a multilateral arrangement with allied countries and allied international organizations";

(2) by striking out "such country or NATO" and inserting in lieu thereof "the allied country or countries or allied international organization or allied international organizations, as the case may be,"; and

(3) by adding at the end the following new sentence: "The term of an arrangement entered into under this subsection may not exceed 5 years.".

(b) LIQUIDATION OF CREDITS AND LIABILITIES.—Subsection (b) of such section is amended—

(1) by inserting "(1)" after "(b)";

(2) by designating the second sentence as paragraph (3);

(3) by inserting after the first sentence the following new sentence: "Liquidations may be made at such times as the participants in an arrangement may agree upon, but in no case may final liquidation in the case of an arrangement be made later than 30 days after the end of the term for which the arrangement was entered into."; and

(4) by inserting after paragraph (1), as designated by clause (1) of this subsection, the following new paragraph:

"(2) Parties to an arrangement entered into under this section shall annually reconcile accrued credits and liabilities accruing under such agreement. Any liability of the United States resulting from a reconciliation shall be charged against the applicable appropriation available to the Department of Defense (at the time of the reconciliation) for obligation for communications support and related supplies and services.".

(d) DEFINITIONS.—Subsection (d) is amended—

(1) by striking out "In this section, the term 'allied country' means—" and inserting in lieu thereof "In this section:

"(1) The term 'allied country' means—";

(2) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(3) by striking out "; or" at the end of clause (A), as redesignated by clause (2) of this subsection, and inserting in lieu thereof a semicolon;

(4) by striking out the period at the end of clause (B), as redesignated by clause (2) of this subsection, and inserting in lieu thereof "; or"; and

(5) by adding at the end the following:

"(C) any other country designated as an allied country for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

"(2) The term 'allied international organization' means the North Atlantic Treaty Organization (NATO) or any other international organization designated as an allied international organization for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.".

SEC. 910. EXTENSION OF AUTHORITY TO PROVIDE EXCESS DEFENSE ARTICLES FOR THE MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES ON THE SOUTHERN FLANK OF NATO

Section 516(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) is amended by striking out "fiscal years 1987, 1988, and 1989" in the first sentence and inserting in lieu thereof "fiscal years 1987 through 1994".

SEC. 911. EXCHANGE TRAINING

Section 544 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347c) is amended by inserting "and at the United States Army Russian Institute in Garmisch-Partenkirchen, West Germany," after "service academies)".

SEC. 912. PAYMENT OF CERTAIN EXPENSES IN CONNECTION WITH BILATERAL AND REGIONAL COOPERATION PROGRAMS

Section 1051 of title 10, United States Code, is amended—

(1) in subsection (b)(1), by inserting "or in connection with travel to Canada or Mexico" immediately before the period; and

(2) by striking out subsection (g).

SEC. 913. ADMISSION OF TEMPORARY WORKERS FOR COOPERATIVE RESEARCH, DEVELOPMENT, OR COPRODUCTION PROJECTS

Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by inserting at the end thereof the following: "or (iv) who is coming temporarily to the United States (for a period of not more than 10 years with annual extensions permitted thereafter upon petition to the Attorney General) to perform administrative, managerial, or other services as part of a government-to-government agreement administered by the Department of Defense on a cooperative research, development, or coproduction project, whether such services are performed for the duration of the project or agreement or for part of such period of time;".

SEC. 914. ADMIRALTY CLAIMS

Sections 4802(c), 4803(c), 7622(c), 7623(c), 9802(c), and 9803(c) of title 10, United States Code, are each amended by striking out "$10,000" and inserting in lieu thereof "$100,000".

SEC. 915. PUBLICATION OF THE HISTORY OF THE OFFICE OF THE SECRETARY OF DEFENSE

The Secretary of Defense may procure through the Government Printing Office services for the printing, publishing, and sale of Volumes III and IV of the publication entitled History of the Office of the Secretary of Defense and may utilize procurement procedures that exclude sources other than university presses.

SEC. 916. STUDY AND REPORT ON DEFENSE EXPORT FINANCING.

(a) STUDY.—The President shall conduct a study of export financing of defense articles. In the course of the study, the President shall—

(1) examine the effect of export financing on the ability of United States industry to compete in the international market for defense products;

(2) determine the extent to which other countries support commercial financing for defense exports through official government credit programs;

(3) determine the extent to which United States private capital is used to support defense exports and the obstacles that United States lending institutions face in providing additional support; and

(4) determine the feasibility and desirability of using existing or new Government export guarantee programs to provide greater private capital support for United States defense exports.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the President shall transmit to the Congress a report on the findings of the study under subsection (a).

SEC. 917. METHODS OF PAYMENT FOR ACQUISITIONS AND TRANSFERS BY THE UNITED STATES

(a) Section 2344(a) of title 10, United States Code, is amended by striking out "or substantially identical nature" and inserting in lieu thereof "value".

(b) LIMITATIONS ON EXCHANGES.—(1) Section 2344 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) The following transfers in exchange for supplies or services are prohibited:

"(1) Transfers in exchange for property the acquisition of which is prohibited by law.

"(2) Transfers of nuclear warheads.

"(3) Transfers of chemical munitions.

SEC. 918. TRIDENT PROGRAM AND START.

(a) REPORTS.—On or before April 1, 1990, the President will submit to the Congress: a comprehensive report, in both classified and unclassified versions, on the Trident program and START. The report shall address, *inter alia*, the following issues:

(1) the fleet size objective for the Trident submarine program both with and without a START agreement;

(2) the implications for United States strategic force posture in a START environment of a fleet of 21 or more Trident submarines, each with 192 warheads on 24 ballistic missiles, under two different assumptions:

(i) all such warheads are accountable under START limits;

(ii) the warheads on 1-3 Trident submarines are not accountable under START limits;

"(3) a net assessment of the implications for United States security of a START agreement that allowed the Soviets as well as the United States to have an equivalent number of warheads on submarines that would not be accountable under START limits;

"(4) the technical feasibility and cost implications of various options for reducing the number of warheads on Trident submarines, including those already built, those under construction, and those yet to be built.

(5) the verification challenges to the United States posed by such options if the Soviet Union were to adopt them in its ballistic missile submarine forces.

(b) FORM OF REPORT.—The President shall submit the report under subsection (a) in both classified and unclassified versions.

(c) WAIVER.—The requirements of subsection (a) may be waived by the President if he has signed a Strategic Arms Reduction Treaty (START) or other agreement with the Soviet Union for the reduction of strategic arms.

SEC. 919. KIDNAPPING OF LT. COL. HIGGINS

(a)(1) The radical, Lebanese-based terrorist organization which calls itself the "Organization of the Oppressed of the Earth" announced 31 July 1989 that it had executed Lieutenant Colonel William R. Higgins, a Marine seconded to UNTSO, the United Nations Truce Supervision Organization, and

kidnapped in South Lebanon on 17 February 1988;

(2) That Organization claimed to have executed Colonel Higgins in response to the recent capture by Israeli commandos of a radical Muslim Shiite leader, Sheik Abdul Karim Obeid, believed to be associated with that Organization;

(3) That Organization released to certain news agencies a video tape purporting to show Lieutenant Colonel Higgins executed by hanging;

(4) It has not been confirmed that the execution of Lieutenant Colonel Higgins has taken place, nor have any details been provided about the alleged execution;

(5) The kidnapping of Lieutenant Colonel Higgins, who was engaged only in carrying out the legitimate U.N. peacekeeping activities he had been assigned, was wholly unjustified;

(6) It is absolutely clear that the kidnapping of Lieutenant Colonel Higgins and his execution, if it indeed has occurred, are outrageous acts of terrorism which deserve the condemnation of all civilized people;

(7) There is strong evidence that the Government of Iran has supported the Organization responsible for Lieutenant Colonel Higgins's kidnapping and alleged execution, as well as other terrorist and extremist forces inside Lebanon and throughout the Middle East;

(b) It is the sense of the Senate that:

(1) The Senate is outraged by the kidnapping and the reports of Colonel Higgins's execution, and condemns such actions as barbaric, cowardly, and utterly incompatible with the standards of conduct upheld by civilized people.

(2) The President should utilize all available resources of the United States Government, including all available diplomatic and intelligence channels, to determine the identity of those responsible and the details regarding such terrorist acts.

(3) The President should determine whether it would be possible to isolate and bring to justice or retaliate against those responsible in a manner that would reduce the risk to Americans from terrorism.

(4) The President should undertake retaliation as would be appropriate and feasible.

(5) The United States should make clear to the new leadership in Iran that we will not tolerate a continuation of past policies of support of groups which undertake terrorist actions against American citizens or direct assaults on American vital interests in the Middle East or elsewhere, and should such support continue, the United States will hold the authorities in Iran accountable for that support and act accordingly.

(6) The United Nations Secretary General should take all necessary steps to help ensure that Lieutenant Colonel Higgins, if still alive, is safely returned to the United States, and, if dead, that his body is returned to his country and family, and that those responsible for his death be immediately brought to justice.

(7) The President should engage in urgent and continuing diplomatic contacts with the Government of Israel and other governments concerning their policies and actions which might have relevance to the interests of the United States Government or increase the vulnerability of the United States citizens to attacks by terrorists.

(8) the President should consult with other nations to ensure international cooperation and coordination to end terrorist attacks.

SEC. 920. REPORTS ON THE MANPOWER REQUIRED TO CONTROL THE TRANSFER OF MISSILE TECHNOLOGY AND CERTAIN WEAPONS.

(a) AMENDMENT TO NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989.—Section 901(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989, is amended by striking out "February 1, 1988," and inserting in lieu thereof "60 days after the date of enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991,".

(b) REPORT ON MANPOWER REQUIRED TO IMPLEMENT EXPORT CONTROLS ON CERTAIN WEAPONS TRANSFERS.—(1) Not later than February 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) identifying the role of the Department of Defense in implementing export controls on nuclear, chemical, and biological weapons;

(B) describing the number and skills of personnel currently available in the Department of Defense to perform this role; and

(C) assessing the adequacy of these resources for the effective performance of this role.

(2) The report required by paragraph (1) shall identify the total number of current Department of Defense full-time employees or military personnel and the grades of such personnel and the special knowledge, experience, and expertise of such personnel, required to carry out each of the following activities of the Department in implementing export controls on nuclear, chemical, and biological weapons:

(A) Review of private-sector export license applications and government-to-government cooperative activities.

(B) Intelligence analysis and activities.

(C) Policy coordination.

(D) International liaison activity.

(E) Technology security operations.

(F) Technical review.

(3) The report shall include the Secretary's assessment of the adequacy of staffing in each of the categories specified in subparagraphs (A) through (F) of paragraph (2) and shall make recommendations concerning measures, including legislation if necessary, to eliminate any identified staffing deficiencies and to improve interagency coordination with respect to implementing export controls on nuclear, chemical, and biological weapons.

SEC. 921. SENSE OF THE CONGRESS WITH RESPECT TO ACCIDENTAL LAUNCH PROTECTION

(a)(1) The Strategic Defense Initiative (SDI) has made substantial progress in developing technologies to defend the United States from a possible ballistic missile attack, be it deliberate or accidential;

(2) Technological advances in interceptors, sensors, and command, control and communications have been achieved and key elements of the SDI program have recently been combined to form the basic architecture for a possible Phase I defense system to defend the United States against ballistic missile attack;

(3) The Soviet Union maintains the world's only operational ballistic missile defense system and has deployed such a system in the Moscow area;

(4) There exists significant asymmetries in U.S. and Soviet anti-ballistic missile (ABM) production and capabilities and the ability of the United States to counter a Soviet deployment of a nationwide or more limited ABM system;

(5) Ground-based elements and their associated adjuncts and technologies represent the most mature technologies within the SDI program and should therefore receive priority by the Strategic Defense Initiative Organization;

(6) The United States is a signatory to the 1972 Anti-Ballistic Missile Treaty;

(7) There have been several accidents involving ballistic missiles, including the loss of a submarine of the Soviet Union due to inadvertent missile ignition and the inadvertent landing in China of a test missile of the Soviet Union;

(8) The continued proliferation of offensive ballistic missile forces by non-superpower countries hostile to the United States and our allies raises the possibility of future nuclear threats.

(b) It is the sense of Congress—

(1) that the Secretary of Defense should direct the Strategic Defense Initiative Organization to give priority to the development of technologies and systems for a system capable of protecting the United States from the accidental launch of a strategic ballistic missile against the continental United States;

(2) that such development of an accidental launch protection system should be carried out with an objective of ensuring that such system is in compliance with the 1972 Anti-Ballistic Missile Treaty; and

(3) that the Secretary of Defense should submit to Congress forthwith the report on the status of planning for development of a deployment option for such an accidental launch protection system as required by section 224(c) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1943).

SEC. 922. SERVICE IN NATIONAL GUARD AND RESERVE.

(a)(1) The Senate finds that—

(2) American Citizens have taken up arms to defend their homes and communities, and to preserve this nation's independence, from the earliest days of our nation; and

(3) The concept of the citizen-soldier has been a keystone of the defense strategy of this nation; and

(4) Members of the National Guard and Reserve have served proudly and honorably in every war or conflict involving United States Armed Forces; and

(5) The Total Force Policy, by placing significant portions of wartime mission capability and selected day-to-day operations in the National Guard and Reserve, has reinforced the proposition that the Guard and Reserve are essential elements of our national defense; and

(6) The Congress and the Department of Defense during the 1980's have demonstrated their increasing reliance and confidence in the National Guard and Reserve by expanding missions, increasing training requirements and providing new state-of-the-art weapons and support equipment; and

(7) The National Guard and Reserve represent a very cost-effective arm of the Total Force, preserving combat capability and retaining valuable trained human resources, especially during periods of austere defense budgets; and

(8) Participation in the National Guard and Reserve enhances military readiness and demonstrates the resolve of the citizenry to protect and preserve American values; and

(9) Participation in the National Guard and Reserve improves our economy, by pro-

viding individuals with job skills and eduction; now

(b) *Therefore be it declared,* That the United States Senate reaffirms that service in the National Guard and Reserve is in the highest traditions of military service to the country and acknowledges the valuable contribution that the men and women who serve in the National Guard and Reserve are making to their country; encourages Guard and Reserve participation by all elements of our society; and continues to support fully reliance on the National Guard and Reserve as full partners in the Total Force.

SEC. 923. PRESIDENTIAL REPORT ON THE VERIFICATION WORK THAT HAS BEEN CONDUCTED WITH REGARD TO MOBILE ICBMs IN A START TREATY

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and the Soviet Union are currently engaged in talks regarding the reduction of strategic nuclear arms.

(2) The United States position at the Strategic Arms Reduction Talks (START) since 1985 has been to ban the deployment of mobile ICBMs within a START regime unless an effective verification regime could be identified and implemented.

(3) The Soviet Union has deployed two mobile ICBM systems, the SS-24 and the SS-25.

(4) President Bush conducted a strategic review upon entering office which was completed prior to the resumption of the START Talks on June 15, 1989.

(5) The President's fiscal year 1990 defense budget to the Congress includes funding for the development of two mobile ICBMs, the Rail Garrison MX missile and the Small ICBM (Midgetman).

(6) The United States must have confidence that any START Treaty will be effectively verifiable.

(b) PRESIDENTIAL REPORT.—The President shall submit to the President of the Senate and the Speaker of the House, and when necessary to protect particularly sensitive information, the Chairman of the Senate Select Committee on Intelligence and the Chairman of the House Permanent Select Committee on Intelligence, not later than March 31, 1990, a report describing all studies that have been performed between March 1985 and August 1989 by agencies of the United States Government with regard to our capability to monitor and verify a START Treaty which allows mobile ICBMs. The report shall include the following:

(1) A description of all studies conducted by U.S. Government agencies during the President's strategic review to determine the ability of the United States to verify Soviet mobile missiles in START. These descriptions shall include a summary of conclusions reached.

(2) A description of any Red Team studies conducted between March 1985 with regard to the existence of mobiles in a START regime as well as a summary of conclusions reached.

(3) A description of studies conducted by United States Government agencies between March 1989 and August 1989 to assess the value of various verification options relating to the verification of mobiles, including tagging and designated deployment areas. These descriptions shall include a summary of conclusions reached.

SEC. 924. SENSE OF SENATE ON START TALKS

It is the sense of the Senate that any agreement negotiated by the President to achieve a reduction and limitation on strategic arms (through the strategic arms reduction talks in Geneva or otherwise)—

(1) should not prevent the United States from deploying a force structure under the agreement which emphasizes survivable strategic systems and, in particular, should not in any way compromise the security of the United States ballistic-missile carrying submarine force, and

(2) should not prohibit or limit the deployment of non-nuclear cruise missiles.

SEC. 925. AIRBORNE DRUG TRAFFICKERS

(a) GENERAL AUTHORITY.—(1) The purpose of this provision is to authorize Federal law enforcement agencies to use appropriate force to compel airborne drug traffickers to comply with instructions to land their aircraft.

(2) Whenever any aircraft liable to seizure or examination (on the grounds that narcotics are being transported on the aircraft) by any agency of the United States with responsibility for drug law enforcement does not land on being ordered to do so on being pursued by an authorized aircraft which has displayed identifying insignia prescribed for an authorized aircraft, the person in charge or in command of the authorized aircraft may, after a gun has been fired by the authorized aircraft as a warning signal, fire at or into the aircraft which does not land.

(b) INDEMNIFICATION.—The person in command of an authorized aircraft and all persons acting under that person's direction shall be indemnified from any penalties or actions for damages for firing at or into any aircraft pursuant to subsection (a). If any person is killed or wounded by the firing, and the person in command of the authorized aircraft or any person acting pursuant to their orders is prosecuted or arrested therefor, they shall be forthwith admitted to bail.

(c) DEFINITION.—For the purposes of the section.

(1) the term "authorized aircraft" means an aircraft operated by an agency of the United States with responsibility for drug law enforcement; and

(2) the term "agency of the United States with responsibility for drug law enforcement" means the Coast Guard and Customs Service and the Drug Enforcement Agency.

SEC. 926. RETIREMENT PAY FORFEITURE AND DISQUALIFICATION

The Judiciary Committee is directed to hold appropriate hearings and report back to the Senate by November 1, 1989: The report shall contain the following determinations:

(1) Whether the legislative intent of section 2071(b) of title 18, United State Code, was to require the forfeiture and disqualification from "office under the United States" to apply to officers, both active and retired, in the armed forces;

(2) Whether the legislative intent of section 2071(b) of title 18, United State Code, was to deprive persons convicted under this section from receipt of their Federal pensions;

(3) Whether section 2071(b) of title 18, United State Code, applies to other retired government employees, and if not, whether such is equitable;

(4) Whether action on any remedial legislation for Lieutenant Colonel Oliver North, relating to the denial of his pension as a result of his conviction under section 2071(b) of title 18, United State Code, is appropriate in lieu of litigation, or whether it is preferable for this issue to be determined in the courts;

(5) Whether remedial legislation for Lieutenant Colonel Oliver North is warranted under the application of section 2071(b) of title 18, United State Code, considering the opinion of the General Counsel of the General Accounting Office dated July 31, 1989;

(6) Whether any other legislation relating to the application of section 2071(b) of title 18, United State Code, is appropriate.

SEC. 927. FUNDING THE ANTI-DRUG ABUSE ACT OF 1988

(a) TRANSFER OF AUTHORIZATION.—Of the unobligated funds available to all departments and agencies of the Executive branch of the Government at the end of fiscal year 1989 from funds appropriated for defense and nondefense discretionary programs, $1,700,000,000, as provided in subsection (b), to be transferred for the purpose of carrying out during fiscal year 1990 the Anti-Drug Abuse Act of 1988 and the amendments made by such Act.

(b) ALLOCATION OF UNOBLIGATED FUNDS.—The amount authorized to be transferred from the unobligated funds of any department or agency pursuant to subsection (a) shall be an amount which bears the same ratio to $1,700,000,000 as the amount of unobligated funds of that department or agency at the end of fiscal year 1989 bears to the total amount of unobligated funds of all departments and agencies of the Executive branch at the end of such fiscal year from funds appropriated for defense and nondefense discretionary programs.

SEC. 928. REPORT ON THE INTERNATIONAL MILITARY EDUCATION AND TRAINING PROGRAM

(a) FINDINGS.—The Congress makes the following findings:

(1) Military professionals in many developing countries would benefit from training which enhances their ability both to engage in militarily valuable activities and to contribute to nation-building in their countries, including training in such matters as engineering, communications, electronics, maintenance, health care, logistics, management, and military jurisprudence.

(2) Such training of military professionals of development countries could be coordinated in such a way as to contribute to the total economic and social development of those countries.

(3) The technical activities of the Army Corps of Engineers and the medical departments of the Armed Forces throughout the history of the United States are examples of the use of military skills and personnel to build, and otherwise to benefit, a nation in nonmilitary ways.

(b) REPORT REQUIREMENT.—(1) The Comptroller General of the United States shall prepare a report on the International Military Education and Training (IMET) Program. The report shall contain the following:

(A) A tabulation of the number of students from countries around the world who are currently participating in training under the program.

(B) A description of the content of the courses currently offered military personnel enrolled in the IMET program.

(C) A discussion of the feasibility of refocusing IMET activities to include training in nation-building skills such as engineering, communications, electronics, maintenance, health care, logistics, management, and military jurisprudence.

(D) A discussion of the desirability and feasibility of developing cooperative IMET programs involving the Army Corps of Engi-

neers and the medical departments of the Armed Forces.

(2) The Comptroller General shall transmit the report to the Committees on Armed Services of the Senate and the House of Representatives not later than February 1, 1990.

SEC. 929. COOPERATION WITH NNBIS

(a)(1) The Anti-Drug Abuse Act of 1988 terminated the national narcotics border interdiction system (NNBIS) and placed it under the auspices of the Office of National Drug Control Policy;

(2) The national narcotics border interdiction system (NNBIS) provided valuable information and support to State and local law enforcement agencies involved in drug interdiction activities;

(b) Therefore, it is the sense of the Senate of the United States that the cooperation that existed between State and local law enforcement officials and the Federal agencies participating in NNBIS should, to the extent possible, be continued and enhanced by the Director of the Office of National Drug Control Policy.

SEC. 930. U.S. ON-SITE INSPECTORS PROGRAM

(a) FINDINGS—The Senate recognizes the need for a program designed to establish a database of prospective personnel that would be qualified to participate in the on-site inspection process since the U.S. is currently engaged in multilateral and bilateral negotiations to reduce or eliminate various military weaponry and manpower. Specifically, the United States is negotiating reductions on strategic forces, conventional armaments and manpower, monitoring regimes for nuclear testing, and the complete elimination of chemical weapons.

(1) Monitoring requirements for these possible treaties will be extensive and stressing on United States national technical means. To complement and support NTM monitoring requirements the United States and Soviet Union have negotiated and are currently employing on-site inspection procedures for the INF Treaty. Similar on-site inspection provisions are being negotiated for possible future treaties and agreements.

(2) The Administration, and many in Congress, consider on-site inspection procedures to be an integral part of any future arms control treaty.

(3) During initial implementation of INF Treaty provisions, the United States was not fully prepared for the manpower requirements necessary to conduct on-site inspections. The Director of Central Intelligence has stated that on-site inspection requirements for any Strategic Arms Reduction Treaty (START) will be far more extensive than the INF Treaty. Estimates of possible START on-site locations are approximately 2,500 as opposed to 120 for the INF Treaty.

(4) Personnel requirements will be extensive, in terms of both numbers and technical and linguistic skills. Since INF Treaty verification requirements are already taxing current personnel resources, START and other requirements may quickly exceed the numbers of verification personnel with requisite technical and language skills.

(5) The Department of Defense organization best suited to establish such a database is the On-Site Inspection Agency. As an agency of the Department of Defense, the OSIA was created to organize and coordinate United States Government efforts to monitor the INF Treaty, which includes all responsibilities for on-site inspections as required by the terms on the Treaty.

(b) REQUIREMENT.—Recognizing these requirements, the On-site Inspection Agency shall establish a database of prospective personnel that could be called upon to conduct on-site inspections of any future arms control agreement that has such provisions as part of the terms of the Treaty.

(1) The database shall be composed of individuals with linguistic and technical skills necessary to conduct on-site inspections.

(2) This database shall consist of active military and other government agency personnel and, on a voluntary basis, non-government personnel with requisite skills to perform duties, on a full-time or part-time basis, as prospective on-site inspectors.

(c) THE INF TREATY DEFINED.—In this section, the term "INF Treaty" means the Treaty Between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, signed in Washington, D.C. on December 8, 1987.

SEC. 931. REVIEW AND REPORT ON DECONTROL OF CERTAIN PERSONAL COMPUTERS

(a) REVIEW.—The Secretary of Defense, in consultation with the Director of Central Intelligence and the Science Advisor to the President, shall conduct a review of the report made by the Secretary of Commerce on the foreign availability of certain personal computers entitled Foreign Availability Assessment: AT-Compatible Microcomputers. In conducting such review, the Secretary of Defense shall, at a minimum—

(1) determine the availability of microcomputers referred to in such report from sources other than member nations of the Coordinating Committee for Multilateral Export Controls or other nations that control the export of such computers; and

(2) assess the military significance of such computers for the Soviet Union and its Warsaw Pact allies.

(b) REPORT.—The Secretary of Defense shall submit to the Committees on Banking, Housing and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report containing the results of the Secretary's review. The Secretary shall include in such report such recommendations for legislative changes as the Secretary considers appropriate to report the national security of the United States.

(c) DEADLINE FOR REPORT.—The report required by subsection (b) shall be submitted not later than January 1, 1990.

SEC. 932. EFFECT OF SPACE NUCLEAR REACTORS ON GAMMA-RAY ASTRONOMY MISSIONS

(a) CONGRESSIONAL DECLARATION.—Congress hereby—

(1) notes that gamma-ray astronomy missions provide an important contribution to our understanding of the origin of the universe; and

(2) expresses its concern that the radiation emitted by nuclear reactors of the Soviet Union in Earth orbit has interfered with the operation of gamma-ray detectors aboard scientific satellites operated by the United States and other nations.

(b) PRESIDENT URGED TO CALL UPON SOVIET UNION TO CEASE DEPLOYMENT OF REACTORS IN SPACE.—Congress calls on the President to urge the Soviet Union to reduce its reliance on nuclear reactors in Earth orbit, where possible, in order to reduce the interference of those reactors with the operation of gamma-ray detectors aboard satellites in Earth orbit.

(c) REPORT.—Not later than April 30, 1990, the President shall submit to Congress a report on the potential for interference with gamma-ray astronomy missions that could be caused by the placement in earth orbit of space nuclear reactors presently under development by the United States.

SEC. 933. REPORT REGARDING COORDINATION OF INFORMATION WITHIN THE EXECUTIVE BRANCH ON FRAUD BY CONTRACTORS

(a) IN GENERAL.—Not later than September 30, 1990, the President shall report to Congress on current and planned administrative mechanisms to coordinate information within the Executive branch concerning administrative and judicial actions taken against Government contractors as a result of activities described in subsection (b)(1).

(b) CONTENT OF REPORT.—The report required by subsection (a) shall include the following:

(1) A description of current administrative actions that will ensure that all relevant agencies are advised when there has been an investigation, proceeding, or litigation involving fraud on the part of a contractor (or an agent or employee of a contractor) that has resulted in a judgment against the contractor (or an agent or employee of the contractor), a decision to debar or suspend, or resolved by consent or compromise.

(2) Recommendations to enhance the effectiveness of the procedures described in paragraph (1).

(3) A discussion of the feasibility and desirability of requiring a review or audit of each contract of a value of more than $1,000,000 or if the potential of recovery would justify such follow-up, that such contractor has, or has had, with any Government agency where similar problems may have occurred.

(4) Recommendations for any legislative changes necessary to accomplish the purposes of paragraphs (2) and (3).

(5) The estimated costs of implementing any recommendations described pursuant to paragraph (2).

(b) DEFINITIONS.—For the purposes of the report required by this section the term "fraud" means—

(1) acts of fraud or corruption or attempts to defraud the Government or corrupt its agents;

(2) acts which constitute a cause for debarment or suspension under part 9.406.2(a) or part 9.407-2(a) of the Federal Acquisition Regulation or successor parts of such regulation; and

(3) acts which violate any provision of sections 3729 through 3731 of title 31, United States Code, section 1031 of title 18, United States Code, or the Anti-Kickback Act of 1986 (41 U.S.C. 51-58).

SEC. 934. SALE AND USE OF UNITED STATES DOMESTIC MEAT IN ARMED FORCES FACILITIES IN THE EUROPEAN COMMUNITY

(a) REQUIREMENT TO USE UNITED STATES DOMESTIC MEAT.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2491. Commissary stores and dining facilities: sale and use of United States domestic meat in the European Community

"(a) The Secretary of each military department shall ensure that the meat and meat food products sold in commissary stores of that military department located in any member country of the European Community and the meat and meat food products served in dining facilities of that military department located in any such country are produced and processed in the United States.

"(b) In this section:

"(1) The term 'meat' means meat within the meaning of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

"(2) The term 'meat food product' has the same meaning as provided in section 1(j) of such Act.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2491. Commissary stores and dining facilities: sale and use of United States domestic meat in the European Community.".

(b) GENERAL POLICY.—It is the sense of Congress that the Secretary of each military department should intensify efforts to procure from United States sources the products to be sold in commissary stores of that department, the food products to be served in dining facilities of that department, and the supplies to be used in such dining facilities.

SEC. 935. REPORT ON VERIFICATION PROCEDURES FOR THE DISMANTLEMENT OF NUCLEAR WARHEADS AND FISSILE MATERIAL MONITORING

(a) REPORT.—The Secretary of Defense and Secretary of Energy, in coordination with the Director of Central Intelligence, shall prepare a report for the Congress on—

(1) The on-site monitoring techniques, inspection arrangements, and national technical means, that would be used to verify Soviet dismantlement of nuclear warheads in the event the United States determines that it is in its national interests to agree to a provision in a future strategic arms reduction treaty that would require both parties to dismantle warheads associated with delivery systems eliminated by the terms of the agreement.

(2) The on-site monitoring techniques, inspection arrangements, and national technical means, that would be used to verify the end use and purpose of any fissile materials produced or that are recovered from the dismantlement process described under section (a)(1) of this amendment.

(b) PREPARATION AND SUBMISSION OF REPORT.—The report shall be submitted in both classified and unclassified form to the Committee on Armed Services and Senate Select Committee on Intelligence of the Senate and the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives no later than April 30, 1990.

SEC. 936. COOPERATIVE EFFORTS AGAINST ILLEGAL DRUGS

Section 511(e)(3)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(3)(B)), as added by the Asset Forfeiture Amendments Act of 1988, is amended to read as follows:

(B) will serve to encourage further cooperation between the recipient State or local agency and federal law enforcement agencies.

SEC. 937. ALLIED DEFENSE BURDENSHARING IN EUROPE

(a) Congress makes the following findings:

(1) Member Nations of the North Atlantic Treaty Organization (NATO), at the initiative of the President, have presented a comprehensive arms reductions proposal to the Nations of the Warsaw Pact for consideration in the negotiations on Conventional Armed Forces in Europe (CFE) which, should the proposal provide the basis for agreement on an eventual CFE treaty, would significantly enhance security and stability in Europe and the cause of peace worldwide.

(2) Unilateral reductions in active duty force levels by individual member Nations of NATO before the attainment of a CFE agreement would undercut NATO's efforts to improve its conventional defense posture, increase its reliance on the threat of the early use of nuclear weapons to deter aggression, and undermine NATO's arms control negotiating posture in CFE.

(3) Nevertheless, several member Nations of NATO are considering making significant reductions over the next few years in the size of their active forces irrespective of developments in the CFE negotiations.

(4) Despite shifts in relative economic power from the United States to some of the major allies of the United States, the costs of mutual defense continue to be borne disproportionately by the United States.

(5) Adjustments in burdensharing are long overdue.

(6) Unilateral cuts in active duty force levels by member Nations of NATO before the successful conclusion of CFE negotiations would exacerbate longstanding burdensharing tensions within the alliance.

(b) BASELINE REPORT.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the defense committees a report showing the following:

(A) The end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO for fiscal year 1989.

(B) The end strength level of allied forces assigned to permanent duty ashore in European member nations of NATO for such fiscal year.

(C) The end strength level of the armed forces of each member nation of NATO assigned to permanent duty ashore in European member nations of NATO in such fiscal year.

(D) The ratio (expressed in terms of a percentage) of the end strength level referred to in subparagraph (A) to the end strength level referred to in subparagraph (B).

(2) The ratio referred to in paragraph (1)(D) is hereinafter in this section referred to as the "baseline ratio".

(c) ANNUAL REPORT.—The Secretary of Defense shall submit to the defense committees not later than April 1 of 1991, 1992, and 1993 a report showing the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO and the end strength of allied forces assigned to permanent duty ashore in such nations in the fiscal year preceding the fiscal year in which the report is submitted. The Secretary shall include in such report the following:

(A) Data showing the U.S.-allied forces ratio for such preceding fiscal year.

(B) A statement indicating whether there has been any change in the U.S.-allied forces ratio for such preceding fiscal year compared with the U.S.-allied forces ratio for the fiscal year immediately before such preceding fiscal year and, if so, the amount of such change and an explanation of the cause for such change.

(C) A discussion of any action taken in the fiscal year preceding the year in which the report is submitted to encourage the NATO allies (other than the United States) to increase the number of allied forces assigned to permanent duty ashore in the European member nations of NATO and a discussion of the results of such action.

(d) LIMITATION ON OBLIGATION OF FUNDS.—If the Secretary determines on the basis of a report referred to in subsection (b) that the U.S.-allied forces ratio for the fiscal year preceding the fiscal year in which the report is submitted is greater than the baseline ratio by more than one percentage point—

(1) the President shall initiate appropriate diplomatic initiatives to persuade the NATO allies to increase allied forces assigned to permanent duty in European member nations of NATO in sufficient numbers so that the U.S.-allied forces ratio no longer exceeds the baseline ratio; and

(2) funds appropriated to or for the use of the Department of Defense may not be obligated or expended to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO for the fiscal year following the fiscal year in which the report is received in any number that would cause the U.S-allied forces ratio in such following fiscal year to exceed the baseline ratio by more than one percentage point.

(e) WAIVER AUTHORITY.—The President may waive this section if the President declares that such action is critical to the national security of the United States and immediately notifies Congress of his action and the reasons therefor.

(f) INAPPLICABILITY.—This section shall not apply in the event of a declaration of war or an armed attack on any NATO member or in the event that a comprehensive arms reduction agreement is signed as a result of the negotiations on Conventional Armed Forces in Europe (CFE).

(g) REPORT COMPLIANCE.—The Secretary shall be deemed to have complied with the report requirements of subsection (b) in any fiscal year if the Secretary includes the information required by such subsection in the report submitted in such year to the defense committees pursuant to section 1002(d) of the Department of Defense Authorization Act, 1985 (98 Stat. 2575; 22 U.S.C. 1928 note).

(h) END STRENGTH PERMANENT CEILING.—Nothing in this section shall be construed to permit the obligation or expenditure of funds to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level in excess of the permanent ceiling specified in section 1002(c)(1) of the Department of Defense Authorization Act, 1985.

(i) DEFINITIONS.—As used in this section:

(1) The term "defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(2) The term "allied forces" means members of the armed forces of member nations of NATO serving on active duty, other than the members of the Armed Forces of the United States.

(3) The term "U.S.-allied forces ratio" means, with respect to a fiscal year, the ratio (expressed in terms of a percentage) of the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO relative to the end strength level of allied forces assigned to permanent duty ashore in such nations in that fiscal year.

SEC. 938. JAPAN'S CONTRIBUTIONS TO SECURITY

(a) FINDINGS.—Congress makes the following findings:

(1) Extraordinary political, economic, and social changes have occurred in Japan since World War II.

(2) As a result of such changes, Japan is capable of assuming increased responsibility for its own security.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) in view of the changes referred to in subsection (a), Japan should assume increased responsibility for its own security;

(2) Japan should offset the direct costs incurred by the United States in deploying military forces for the defense of Japan;

(3) Japan should assume a more significant security role consistent with its economic status by taking the following actions:

(A) Increase expenditures for its Official Development Assistance program and its defense programs so that, by 1992, the level of spending by Japan on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization (NATO) on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(B) Devote any increase in its spending for such Official Development Assistance program primarily to the Republic of the Philippines and to countries in regions of importance to global stability outside of East Asia, particularly to countries in Latin America, the Caribbean area, and the Mediterranean area.

(C) Devote any increase in spending for that program primarily to untied grants and increasing the portion of total expenditures made in that program for those multilateral financial institutions of which Japan is a member.

(D) Designate those nations that are to be recipients of increased development assistance referred to in subparagraphs (A) through (C) after consultation with Japan's security partners.

(E) In consultation with the United States, complete its 5-year defense program for fiscal years 1986 through 1990 and, at the earliest possible date after the completion of that program, fulfill the pledge of Prime Minister Suzuki to defend the territory, airspace, and sea lanes of Japan to a distance of 1,000 miles.

(F) Acquire "off-the-shelf" military equipment from the United States (including completely equipped, long-range early warning aircraft, additional AEGIS weapon systems, refueling aircraft, munitions, and spare parts) in developing the capabilities called for in Japan's current and subsequent 5-year defense programs.

(c) NEGOTIATIONS.—At the earliest practicable date after the enactment of this Act, the President shall enter into negotiations with Japan for the purpose of achieving an agreement under which Japan agrees to make contributions sufficient in value to meet the direct cost of deploying United States forces for the defense of Japan.

(d) NOTIFICATION TO CONGRESS.—In order that Congress may determine whether further action is appropriate, the President shall submit to Congress an initial report, not later than April 1, 1990, on the status and results of the negotiations referred to in subsection (a) and shall submit a second report, not later than one year after the date of the enactment of this Act, on the status and results of such negotiations.

SEC. 939. REPORT ON COSTS ASSOCIATED WITH OVERSEAS DEPENDENTS

(a) REPORT.—The Secretary of Defense shall conduct a study of practicable options available to the Department of Defense to reduce costs associated with maintaining overseas large numbers of dependents of members of the Armed Forces of the United States and dependents of civilian employees of the Department of Defense. In carrying out such study the Secretary shall consider such options and combinations of options as the Secretary considers feasible to achieve a reduction in such costs. The Secretary shall specifically address, at a minimum, the following questions:

(1) Would expansion of incentives for unaccompanied tours of duty overseas be effective in reducing the number of such tours and would such an increase in incentives be cost effective?

(2) Would more frequent rotation of overseas personnel without dependents result in overall savings?

(3) Would an increase in the use of local contractors at overseas stations to provide services currently being provided by Department of Defense personnel result in overall savings to the United States and, if so, what would the cost implications be for United States families at such stations?

(4) What costs associated with the support of overseas dependents would likely result from a reduction in personnel under a conventional forces in Europe (CFE) agreement?

(5) Would the granting of fewer exceptions to the length of overseas duty tours reduce permanent change of station costs?

(6) To what extent can overseas facilities be consolidated and centralized to reduce administrative and overhead costs?

(7) To what extent can reductions in family support services at overseas stations be made without materially affecting the standard of living of the personnel assigned to duty at such stations?

(8) Would reductions in overseas family support costs likely result in increased costs in programs in the United States?

(9) To what extent would dependents be likely to accompany members of the Armed Forces and civilian employees of the Department of Defense to overseas stations in the absence of each of the various types of special assistance and benefits currently provided to overseas dependents?

(10) How would reduction or termination of the various types of the special assistance and benefits for overseas dependents affect combat readiness, morale, and retention?

(b) SUBMISSION OF REPORT.—The Secretary shall submit the report required by subsection (a) to the Committees on Armed Services of the Senate and the House of Representatives not later than February 1, 1990, together with such comments and recommendations for legislation as the Secretary considers appropriate.

SEC. 940. UNITED STATES-REPUBLIC OF KOREA SECURITY RELATIONSHIP

(a) FINDINGS.—Congress makes the following findings:

(1) Since the Korean conflict, the Republic of Korea has made tremendous progress in rebuilding its economic and military strength.

(2) The alliance between the United States and the Republic of Korea has contributed greatly to the security of both countries.

(3) The Republic of Korea has dedicated a large share of its national resources to its security, as manifested by defense expenditures which comprise approximately one-third of its national budget.

(4) The United States has contributed a large amount of its national resources, including approximately 46,000 military personnel, to protecting the security interests that it shares with the Republic of Korea.

(5) In accordance with its obligations under the 1954 Mutual Defense Treaty with the Republic of Korea, the United States remains committed to the security and territorial integrity of the Republic of Korea.

(b) SENSE OF CONGRESS AND REPORT REQUIREMENT.—(1) It is the sense of Congress that—

(A) the United States should reassess the missions, force structure, and locations of its military forces in the Republic of Korea and East Asia;

(B) the Republic of Korea should assume increased responsibility for its own security;

(C) the Republic of Korea should offset more of the direct costs incurred by the United States in deploying military forces for the defense of the Republic of Korea; and

(D) the United States and the Republic of Korea should consult on the feasibility and desirability of partial, gradual reductions of United States military forces in the Republic of Korea.

(2) In order that Congress may determine whether further action is appropriate, the President shall submit to Congress an initial report, not later than April 1, 1990, on the status and results of the consultations referred to in paragraph (1)(D) and shall submit a second report, not later than one year after the date of the enactment of this Act, on the status and results of such consultations.

(c) REPORT.—(1) Not later than April 1, 1990, the President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the military presence of the United States in the Republic of Korea and in East Asia. The President shall include in such report a strategic plan relating to the continued United States military presence in the Republic of Korea and East Asia. The President shall specifically include in the report the following:

(A) An assessment of the implications of recent developments in the Soviet Union and the People's Republic of China for United States and allied security planning in East Asia.

(B) Identification of those changes in the missions, force structure, and locations of United States forces in East Asia that would strengthen the capabilities of such forces and lower the costs of maintaining such forces.

(C) A discussion of ways in which increased defense responsibilities and costs presently borne by the United States can be transferred to the allies of the United States in East Asia.

(D) Identification of the additional actions that the Republic of Korea can take to contribute more to its own security.

(E) A discussion of the feasibility of restructuring United States military forces stationed in Okinawa with the objective of improving civil-military relations and increasing United States training opportunities.

(F) A discussion of the status and prospects of negotiations between the United States and the Republic of the Philippines on the continued use of United States military installations in the Republic of the Philippines.

(G) An assessment of whether a requirement still exists for a regional security role for United States forces stationed in the Republic of Korea.

(2) The President shall also include in the report a five-year plan with respect to the United States military presence in the Republic of Korea. The President shall specifically include in the plan a discussion of the feasibility and desirability of the following:

(A) Restructuring United States military forces in the Republic of Korea with the objective of changing the role of such forces from a leading role in deterring aggression to a supporting role.

(B) Partial, gradual reductions in the number of United States military personnel stationed in the Republic of Korea.

(C) Larger offsets by the Republic of Korea for the direct costs incurred by the United States in deploying military forces in defense of the Republic of Korea.

(D) The redeployment of United States military personnel and facilities within the Republic of Korea that can be made to reduce friction between such personnel and the people of the Republic of Korea.

(E) Changes in the United Nations and United States-Republic of Korea bilateral command arrangements that would facilitate a transfer of certain military missions and command to the Republic of Korea.

(F) Confidence-building measures that could be promoted in northeast Asia to lessen tensions in the region.

(G) Additional actions the Republic of Korea could take to assume more responsibility for its security.

SEC. 941. POLICY REAFFIRMING UNITED STATES/SOVIET EQUALITY IN STRATEGIC FORCES

It is the sense of the Senate that—

(1) the President should seek a START treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union;

(2) the success of the President's efforts to attain such a treaty is dependent upon the maintenance of a vigorous research and development and modernization program as required by a prudent strategic posture; and

(3) no action should be taken under this or any other act that will obligate the United States to disarm or to reduce or limit the Armed Forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States.

SEC. 942. SENSE OF THE SENATE ON PROCUREMENT OF B-2 AIRCRAFT

(a) FINDINGS.—The Senate makes the following findings:

(1) Over the past several decades, the United States has devoted substantial resources to the strategic bomber force, including significant upgrades to B-52 bombers, and the research, development, and procurement of B-1 bombers and air-launched cruise missiles.

(2) The Department of Defense currently estimates that the acquisition cost for a force of 132 B-2 aircraft will be $70.2 billion (then-year dollars), and this estimate is premised on several assumptions, including the achievement of cost-reduction initiatives, not all of which have been contracted for yet.

(3) The lifecycle costs for a force of 132 B-2 aircraft would be significantly higher than this acquisition cost estimate of $70.2 billion (then-year dollars).

(4) The Congress has approved funds for the low rate initial production of 11 B-2 aircraft through Fiscal Year 1990, but has not decided how many B-2 aircraft should be produced in total.

(5) If the Congress makes a decision not to acquire large number of B-2 aircraft, the funds available for other military programs could be increased.

(6) Fiscal year 1990 will constitute the fifth consecutive year of real decline in the amount appropriated for budget function 050 (National Security);

(7) The constraints on future defense budgets make it essential that the Nation's defense priorities be carefully analyzed so as to properly fund the Armed Forces, including the various elements of the Nation's strategic forces.

(b) SENSE OF THE SENATE.—In light of the findings in subsection (a), it is the sense of the Senate that:

(1) It is not prudent or possible at this time to commit to the production of B-2 aircraft other than under the low-rate initial production plan.

(2) The contingent authorization of funds in this Act for the low-rate initial production of 3 additional B-2 aircraft does not constitute a commitment to support the procurement of large numbers of B-2 aircraft, to provide funding in subsequent years for rate production of B-2 aircraft, or to approve a multiyear procurement of B-2 aircraft.

(3) Prior to a commitment to rate production of B-2 aircraft, the President and the Congress should carefully consider the feasibility and desirability, both under a START regime that uses the Reykjavik counting rule or an alternative counting rule for members in the absence of a START treaty, of

(A) structuring the strategic bomber force in such a manner that primary reliance would be placed upon bombers carrying cruise-missiles rather than bombers having strictly a penetrating role;

(B) pursuing options for the procurement of significantly fewer than 132 B-2 aircraft, in the event that a decision is made in the future to procure an operational force of B-2 aircraft, in order to reduce the total acquisition and lifecycle cost of the B-2 program.

SEC. 943. AMERICAN HOSTAGES IN IRAN

It is the Sense of the Senate that the Secretary of Defense and Director of Central Intelligence shall report by September 1, 1989, to the Senate Committee on Armed Services, the House Committee on Armed Service, the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence on efforts to locate American hostages in Lebanon, the resources dedicated to locating these hostages and how additional resources, in terms of funds and personnel, can be effectively utilized to locate these hostages and obtain their release.

SEC. 944. SENSE OF CONGRESS ON PRESIDENTIAL SUPPORT FOR CONTINUED DEVELOPMENT OF THE V-22 OSPREY PROGRAM

(a) FINDINGS.—Congress makes the following findings:

(1) The V-22 tilt-rotor aircraft design is on the leading edge of aerospace technology for short take-off and landing capability.

(2) The V-22 aircraft has the potential of simultaneously conducting helicopter missions farther, faster, and with a larger payload than any rotor-wing aircraft.

(3) The United States Marine Corps has a high priority to modernize its aging CH-46 helicopter fleet.

(4) The V-22 aircraft may be well suited for use by the Special Operations Forces of the Armed Forces.

(5) The V-22 aircraft may have substantial potential for facilitating the accomplishment of essential Army, Navy, and Air Force missions.

(6) There is substantial potential for the technology used in the development and production of the V-22 aircraft to significantly enhance the commercial aviation industry in the United States.

(b) POLICY.—It is the sense of Congress that the President should continue development of the joint services V-22 Osprey program and carry out the comprehensive review of the potential military and civilian uses of the V-22 aircraft as detailed in Senate Report Number 101-81.

TITLE X—PANAMA CANAL COMMISSION

SEC. 1001. AUTHORIZATION OF EXPENDITURES

(a) IN GENERAL.—The Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments, without regard to fiscal year limitations, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, and improvement of the Panama Canal for fiscal years 1990 and 1991, except that not more than $52,000 for fiscal year 1990 and $56,000 for fiscal year 1991 may be expended for official reception and representation functions, of which—

(1) not more than $12,000 for fiscal year 1990 and $14,000 for fiscal year 1991 may be expended for such purposes by the supervisory board for the Commission;

(2) not more than $6,000 for fiscal yea: 1990 and $7,000 for fiscal year 1991 may be expended for such purposes by the Secretary of the Commission; and

(3) not more than $34,000 for fiscal year 1990 and $35,000 for fiscal year 1991 may be expended for such purposes by the Administrator of the Commission.

(b) PURCHASE OF PASSENGER MOTOR VEHICLES.—Funds available to the Panama Canal Commission shall be available for the purchase of passenger motor vehicles (including large heavy-duty vehicles) used to transport Commission personnel across the Isthmus of Panama. Such vehicles may be purchased without regard to price limitations prescribed by law or regulation.

SEC. 1002. REPORTING REQUIREMENTS

The Panama Canal Commission shall provide written advance notification to the Committee on Armed Services of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives regarding—

(1) any proposed change in the rates of tolls for use of the Panama Canal;

(2) any payment estimated to be due the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, as provided by section 1341(a) of the Panama Canal Act of 1979 (22 U.S.C. 3751(a)); and

(3) the initiation of any major capital acquisition or construction project exceeding $10,000,000, unless the proposed acquisition or project was included in the budget estimates submitted to Congress for the fiscal year in which the acquisition or project is to be undertaken.

SEC. 1003. GENERAL PROVISIONS

(a) PAY INCREASES.—Funds for the Panama Canal Commission may be obligated, not-

withstanding section 1341 of title 31, United States Code, to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the United States in comparable positions.

(b) EXPENSES IN ACCORDANCE WITH LAW.—Expenditures authorized under this title may be made only to the extent they are not prohibited by the Panama Canal Treaties of 1977 and laws implementing those treaties.

SEC. 1004. REPORT ON LOSS OF SSI BENEFITS

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the number of members of the Armed Forces who have dependents who are eligible for supplemental security income (SSI) benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.). The Secretary shall include in such report the following:

(1) A statement of the number of dependents of members of the Armed Forces who, as a consequence of members of the Armed Forces being assigned to duty outside the United States, lose their eligibility for supplemental security income (SSI) benefits.

(2) A statement of the total cost of providing SSI benefits to dependents of members of the Armed Forces.

(3) Information indicating whether the Department of Defense provides any benefit for members of the Armed Forces, based upon the blindness or disability of a dependent, similar to SSI benefits provided under title XVI of the Social Security Act.

(4) A discussion of possible programs of assistance that could be established to assist members of the Armed Forces in cases in which dependents lose SSI benefits as a result of accompanying members of the Armed Forces to duty stations outside the United States.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 180 days after the date of the enactment of this Act.

TITLE XI—MILITARY CHILD CARE

SEC. 1101. DEFINITIONS

For purposes of this title—

(1) The term "military child development center" means a facility on a military installation (or on property under the jurisdiction of a military installation) at which child care services are provided for members of the Armed Forces.

(2) The term "family home day care" means home-based child care services provided on a military installation (or on property under the jurisdiction of a military installation) on a regular basis for compensation for members of the Armed Forces.

(3) The term "child care employee" means a civilian employee of the Department of Defense who is employed to work in a military child development center (regardless of whether the employee is paid from appropriated or nonappropriated funds).

SEC. 1102. FUNDING FOR MILITARY CHILD CARE

(a) IN GENERAL.—(1) Of the amounts authorized to be appropriated by this Act for fiscal year 1990, the Secretary of Defense shall make available for military child development centers in fiscal year 1990 funds equal to 75 percent of the estimated nonappropriated funds of the Department of Defense that are used for the purpose of providing child care for members of the Armed Forces in fiscal year 1990.

(2) The Secretary shall make available for military child development centers in each fiscal year after fiscal year 1990 appropriated funds equal to 100 percent of the estimated nonappropriated funds of the Department of Defense that are used for the purpose of providing child care to members of the Armed Forces in the fiscal year concerned.

(3) The Secretary shall give priority to increasing the number of child care employees who are directly involved in providing child care for members of the Armed Forces and to expanding the availability of child care for such members.

(4) Nonappropriated funds referred to in paragraphs (1) and (2) are those funds that are derived from fees paid by the users of military child care services.

(b) REPORTING REQUIREMENT.—Not later than December 31, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on how the Secretary intends to use the funds referred to in subsection (a)(1), including how the Secretary intends to achieve the priority specified in subsection (a)(3).

SEC. 1103. CHILD CARE EMPLOYEES

(a) TRAINING.—(1) The Secretary of Defense shall establish, and prescribe regulations to implement, a uniform training program for child care employees as a condition of employment.

(2) Under those regulations, the Secretary shall require that each child care employee shall complete the training program not later than six months after the date on which the employee begins to work as a child care employee (except that, in the case of a child care employee hired before the date on which the training program is established, the Secretary shall require that the employee complete the program not later than six months after such date).

(3) The training program established under this subsection shall cover, at a minimum, training in the following:

(A) Early childhood development.

(B) Activities and disciplinary techniques appropriate to children of different ages.

(C) Child abuse prevention and detection.

(D) Cardiopulmonary resuscitation and other emergency medical procedures.

(b) PAY.—(1) The Secretary of Defense shall increase the compensation of child care employees of the Department of Defense who are directly involved in providing child care in accordance with paragraph (2).

(2) For the purpose of enabling child care development centers to compete favorably for a qualified and stable civilian workforce, child care employees who are directly involved in providing child care shall be paid compensation competitive with the compensation paid to other employees at the same installation who are drawn from the same labor pool (whether such employees are paid from appropriated or nonappropriated funds). Payment of compensation under this paragraph shall be carried out as a pilot project for a 2-year period. The payment of child care providers shall be paid at competitive levels not later than 6 months after the date of the enactment of this Act.

(c) TRAINING AND CURRICULUM CHILD CARE EMPLOYEES.—(1) The Secretary of Defense shall require that at each military child development center at least one employee shall be a training and curriculum child care employee. In the case of a military child development center that does not have such a position, such position shall be in addition to existing civil service positions at that center as of the date of the enactment of this Act.

(2) The Secretary shall require appropriate credentials and experience for such employees. The duties of such employees shall include the following:

(A) Special teaching activities at the center.

(B) Daily oversight and instruction of other child care employees at the center.

(C) Daily assistance in the preparation of lesson plans.

(D) Assistance in the center's child abuse prevention and detection program.

(E) Advising the director of the center on the performance of other child care employees.

(3) Each training and curriculum child care employee shall be an employee in a competitive service position.

(d) EMPLOYMENT PREFERENCE FOR MILITARY SPOUSES.—The Secretary of Defense shall provide a preference for qualified spouses of members of the Armed Forces in hiring for, or promoting within, the position of child care employee in a position paid from nonappropriated funds if the spouse is among persons determined to be best qualified for the position. A spouse who is provided a preference under this subsection at a military child development center is not precluded from obtaining another preference, in accordance with section 806 of the Military Family Act of 1985 (10 U.S.C. 113 note), in the same geographical area as the military child development center.

(e) ADDITIONAL CHILD CARE POSITIONS.—In addition to the number of child care development service positions in the Department of Defense as of September 30, 1989, the Secretary of Defense shall make available to the Department, not later than September 30, 1991, an additional 3,700 child care development competitive service positions. The Secretary of Defense shall phase such additional positions into the military child care centers consistent with the increase in funds provided for under section 1202. All such positions shall be verified in accordance with child care staffing documents. Positions for which such personnel may be used include—

(1) training and curriculum child care employees under subsection (c);

(2) child care administrators (including receptionists and operations clerks);

(3) supplemental care administrators;

(4) director of military child development centers;

(5) family day care coordinators; and

(6) supervisory program assistants to perform administrative and direct care of service functions.

(f) COMPETITIVE SERVICE POSITION DEFINED.—For purposes of this section, the term "competitive service position" means a position to which an employee is appointed and paid in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

SEC. 1104. PARENT FEES

The Secretary of Defense shall prescribe regulations on fees to be charged parents for the attendance of children at military child development centers. Those regulations shall be uniform for the military departments and shall require that fees charged to parents for child care be based on total family income.

SEC. 1105. CHILD ABUSE PREVENTION AND SAFETY

(a) ABUSE TASK FORCE.—The Secretary of Defense shall establish and maintain a special task force to respond in the case of alle-

gations of widespread child abuse at a military child development center. The task force shall be composed of personnel (from both within the Department of Defense and outside the Department of Defense) from a variety of disciplines, including medicine, psychology, childhood development, and building safety. The task force shall provide assistance to base commanders and parents in helping them to deal with such allegations.

(b) NATIONAL HOTLINE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall establish and publicize a national telephone hotline for persons to report (anonymously if desired) suspected child abuse or safety violations at a military child development center or family day care home. The Secretary shall establish a mechanism to follow up on complaints and information received over the hotline.

(c) ASSISTANCE FROM LOCAL AUTHORITIES.—The Secretary of Defense shall prescribe regulations requiring that in a case of allegations of child abuse at a military child development center, the commander of the military installation or the task force established under subsection (a) shall seek the assistance of local child protective authorities if such assistance is appropriate.

(d) SAFETY REGULATIONS.—The Secretary of Defense shall prescribe uniform regulations on safety and operating procedures at military child development centers.

(e) INSPECTIONS.—The Secretary of Defense shall require that each military child development center be inspected at least four times a year. The inspections shall be unannounced. At least one inspection a year shall be carried out by a representative of the base that the center is serving, and one inspection a year shall be carried out by a representative of the major command under which the base operates.

(f) REMEDIES FOR VIOLATIONS.—(1) Except as provided in paragraph (2), any violation of a law or regulation (discovered at an inspection or otherwise) of a military child development center shall be remedied immediately.

(2) In the case of a violation that is not life threatening, the commander of the major command under which the base (that the military child development center is serving) operates may waive the requirement for immediate remediation of the violation for a period of up to 90 days beginning on the date of the discovery of the violation. The violation must be remedied at the end of that 90-day period. If the violation is not remedied as of the end of the period, the military child development center shall be closed until it is remedied unless the Secretary of the military department concerned authorizes the center to remain open in a case in which the violation cannot reasonably be remedied within 90 days or in which major facility reconstruction is required.

(3) In the event of a closing of a military child development center under paragraph (2), the Secretary of the military department concerned shall promptly submit to the Committees on Armed Services of the Senate and House of Representatives a report notifying those committees of the closing. The report shall include notice of the violation that caused the closing, the cost of remedying the violation, and the reasons why the violation has not been remedied as of the time of the report.

(g) REPORT ON COOPERATION WITH DEPARTMENT OF JUSTICE.—(1) The Secretary of Defense shall study areas of interdepartmental concern in military child care. Those areas shall include the following:

(A) Improving communication between the Department of Defense and the Department of Justice in investigations of child abuse at military child development centers and in the coordination of the conduct of such investigations.

(B) Eliminating overlapping responsibilities between those departments.

(C) Making better use of government and nongovernment experts in child abuse investigations and prosecutions.

(D) Improving communication between agencies and affected families.

(2) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the study required by paragraph (1). The report shall include recommendations on methods for improving the areas studied.

(3) The study shall be carried out, and the report shall be prepared, in consultation with the Comptroller General.

SEC. 1106. PARENT PARTNERSHIPS WITH CHILD DEVELOPMENT CENTERS

(a) PARENT BOARDS.—The Secretary of Defense shall require the establishment of a board of parents at each military child development center, to be composed of parents of children attending the center. Each such board shall meet periodically with staff at the military child development center and the commander of the base that the center is serving for the purpose of discussing problems and concerns. The board, together with the center staff, shall be responsible for coordinating the parent participation program described in subsection (b).

(b) PARENT PARTICIPATION PROGRAMS.—The Secretary of Defense shall require the establishment of a parent participation program at each military child development center and at each military family day care home.

SEC. 1107. REPORT ON FIVE-YEAR DEMAND FOR CHILD CARE

(a) REPORT REQUIRED.—The Secretary of Defense shall submit to Congress a report on the expected demand for child care by military and civilian personnel of the Department of Defense over the five-year period beginning on the date of the submission of the report.

(b) PLAN FOR MEETING DEMAND.—The report shall include a plan for meeting that demand and shall set forth the cost of implementing that plan.

(c) MONITORING OF FAMILY DAY CARE PROVIDERS.—The report shall also include a description of methods for monitoring family day care programs of the military departments. For purposes of the preceding sentence, a family day care program is a program in which an individual certified by the Secretary of the military department concerned provides child day care in the individual's home.

(d) TIME FOR SUBMISSION.—The report shall be submitted not later than six months after the date of the enactment of this Act.

SEC. 1108. SUBSIDIES FOR FAMILY HOME DAY CARE

The Secretary of Defense may utilize appropriated or nonappropriated funds available for military child care purposes for the support of family home day care so that family home day care services can be provided to members of the Armed Forces at a cost comparable to the cost of services provided by child development centers.

SEC. 1109. EARLY CHILDHOOD EDUCATION DEMONSTRATION PROGRAM

(a) DEMONSTRATION PROGRAM.—Not later than January 1, 1991, the Secretary of Defense shall ensure that 15 percent of all military child development centers are accredited by an appropriate national early childhood accrediting body. Such centers shall be designated as early childhood education programs and shall serve as models for child development centers and family home day care at military installations.

(b) EVALUATION REQUIRED.—The Secretary shall obtain an independent evaluation of the programs provided for in this section to determine the effectiveness of such programs in promoting the development of preschool children. The Secretary shall report the results of the evaluation to Congress together with such comments and recommendations as the Secretary considers appropriate.

(c) PLAN REQUIRED.—Not later than January 1, 1990, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for meeting the requirements of this section.

SEC. 1110. DEADLINE FOR REGULATIONS

Regulations required to be prescribed by this title shall be prescribed not later than 90 days after the date of the enactment of this Act.

This section shall not become effective until the following provisions are enacted into law:

TITLE XII—DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

SEC. 1201. FUNDING OF ACTIVITIES RELATED TO DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

(a) FUNDING.—(1) Of the amounts authorized to be appropriated for the Department of Defense by this Act, $450,000,000 is available from the sources and in the amounts provided in paragraph (2) for carrying out the drug interdiction and law enforcement support activities described in sections 1102 through 1110.

(2) The amounts and sources referred to in paragraph (1) are as follows:

(A) $182,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $28,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $235,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(D) $5,000,000 of amounts appropriated pursuant to Division B for land acquisition and the construction of facilities.

SEC. 1202. LEAD AGENCY FOR DETECTION

(a) IN GENERAL.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide written guidance to the Secretaries of the military departments and to the commanders of the combatant commands on the specific force levels and the specific supporting resources necessary to fulfill the responsibilities of the Department of Defense as the single lead agency for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) GUIDANCE REFERENCE.—The guidance referred to in subsection (a) shall be provided as part of the guidance required by section 113(*l*) of title 10, United States Code.

(c) FUNDING.—(1) The following amounts from the sources specified shall be available

for carrying out the responsibilities referred to in subsection (a):

(A) $160,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $5,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $109,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(2) Not more than $5,000,000 of amounts authorized to be appropriated pursuant to Division B for land acquisition and construction of facilities shall be available for the acquisition of land and the construction of facilities necessary to carry out the responsibilities referred to in subsection (a).

SEC. 1203. COMMUNICATIONS NETWORK

(a) INTEGRATION OF NETWORK.—The Secretary of Defense, in consultation with the Director, National Drug Control Policy, shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to titles I, II, and III for fiscal year 1990, $30,000,000 shall be available for the activities described in subsection (a).

SEC. 1204. DRUG INTERDICTION AND ENFORCEMENT ACTIVITIES OF THE NATIONAL GUARD

(a) FUNDING ASSISTANCE.—The Secretary of Defense shall provide to the Governor of a State who submits a plan to the Secretary under subsection (b) sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of such State used—

(1) for the purpose of drug interdiction and enforcement operations; and

(2) for the operation and maintenance of the equipment and facilities of the National Guard of such State that are used for the purposes described in paragraph (1).

(b) PLAN REQUIREMENTS.—(1) The Secretary shall provide funds under subsection (a) to the Governor of a State who submits to the Secretary a plan specifying how personnel of the National Guard of that State are to be used in drug enforcement and interdiction operations if —

(A) such operations are to be conducted at a time when personnel of a National Guard of the State are under the command and control of the State authority and are not in Federal service; and

(B) participation by National Guard personnel in such operations is service in addition to annual training required under section 502 of title 32, United States Code.

(2)(A) Before funds are provided to the Governor of a State under this section, the Secretary of Defense shall consult with the Attorney General of the United States regarding the adequacy of the plan submitted by the Governor to the Secretary.

(B) If the Governor of a State submits a plan to the Secretary of Defense for assistance under this section, the plan is the same as a plan previously submitted by that State, and funds were provided to the State pursuant to such plan, then funds may be provided to such State under this section without further consultation with the Attorney General.

(c) FUNDING AMOUNTS.—(1) Of the amounts made available pursuant to section 1101, the Secretary shall make available for the purposes of subsection (a)—

(A) $35,000,000 for operations and maintenance of the National Guard; and

(B) $35,000,000 for National Guard personnel.

(2) Amounts made available pursuant to paragraph (1) for the National Guard are in addition to amounts otherwise appropriated for the National Guard for fiscal year 1990.

(d) LIMITATION ON DELEGATION.—The Secretary may delegate the authority of the Secretary under this section only to the Deputy Secretary of Defense, to an Under Secretary of Defense, or to an Assistant Secretary of Defense.

(e) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

(f) EXCLUSION FROM END-STRENGTH COMPUTATION.—Members of the National Guard on full-time National Guard duty for the purposes of administering this section shall not be counted toward the end-strengths authorized in section 422 for members on full-time National Guard duty for the purposes of organizing, administering, recruiting, instructing, or training the reserve components, or toward the strengths authorized in sections 517 and 524 of title 10, United States Code.

(g) DEFINITIONS.—As used in this section:

(1) The term "Governor of a State" means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

(2) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(3) The term "enforcement operations" includes use of National Guard personnel, while not in Federal status, in any law enforcement activities authorized by State and local law and requested by the Governor.

SEC. 1205. MAINTENANCE AND REPAIR OF EQUIPMENT MADE AVAILABLE TO FEDERAL LAW ENFORCEMENT OFFICIALS

(a) IN GENERAL.—The Secretary of Defense shall be responsible during fiscal year 1990 for the maintenance and repair of equipment that has been made available by the Department of Defense to other Federal agencies for use in antidrug efforts or for any use under chapter 18 of title 10, United States Code, because of the potential future utility of such equipment to the Department of Defense. The Secretary shall be responsible for the maintenance and repair of such equipment to the extent that funds are available pursuant to subsection (b).

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III, $20,000,000 shall be available for fiscal year 1990 for the purposes described in subsection (a).

SEC. 1206. RESEARCH AND DEVELOPMENT

(a) IN GENERAL.—The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies concerned with the detection of illicit drugs and other dangerous and illegal substances concealed in containers.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990, $20,000,000 shall be available for the purposes described in subsection (a).

SEC. 1207. CIVIL AIR PATROL

(a) IN GENERAL.—The Secretary of Defense shall pay for expenses incurred by the Civil Air Patrol in conducting drug surveillance flights for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) FUNDS.—Of the funds authorized to be appropriated pursuant to title III for fiscal year 1990, $1,000,000 shall be available for purposes described in subsection (a).

SEC. 1208. TRANSPORTATION OF PERSONNEL, SUPPLIES, AND EQUIPMENT RELATING TO DRUG INTERDICTION AND THE ERADICATION OF ILLEGAL DRUGS IN SOURCE COUNTRIES

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Defense shall transport personnel, supplies, and equipment within the United States and from the United States to a foreign country, by aircraft and ships of the Department of Defense, for the purpose of providing assistance to a counter-drug operation to be carried out in a foreign country by the United States or by a friendly foreign country.

(b) CONDITIONS.—The Secretary may transport personnel, supplies, and equipment pursuant to subsection (a) only if—

(1) the transportation of such personnel, supplies, and equipment is consistent with the foreign policy and counter-drug policy of the United States;

(2) the supplies and equipment to be transported are suitable for use in a counter-drug program;

(3) the personnel, supplies, and equipment to be transported are destined for use in a counter-drug program of the United States or of a friendly country; and

(4) the transportation of such personnel, supplies, and equipment will not adversely affect the military preparedness of the United States.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $15,000,000 shall be available for the purposes described in subsection (a).

SEC. 1209. LOAN OF NATIONAL GUARD EQUIPMENT

(a) IN GENERAL.—(1) The Secretary shall authorize the National Guard to loan any item of equipment to any Federal or State law enforcement agency for use by such agency in carrying out drug enforcement activities. Under such regulations as the Secretary may prescribe, items of equipment loaned by the National Guard to any Federal or State law enforcement agency shall be returned promptly to the National Guard if the Chief of the National Guard Bureau determines that the equipment is needed for operational requirements of the National Guard and requests the Federal or State agency concerned to return such equipment to the National Guard.

(2) To the extent that funds are available pursuant to subsection (c), the Secretary shall maintain, repair, and restore any item of equipment made available to any Federal or State law enforcement agency pursuant to paragraph (1).

(b) CONDITIONS.—The Secretary may make the loan of items of equipment referred to in subsection (a) subject to such minimum standards of care and maintenance as the Secretary considers appropriate. The Secretary may also require, with respect to items of equipment loaned to a law enforcement agency under this section, such minimum

training and proficiency requirements on the part of the personnel who are to use such items as the Secretary considers appropriate.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $15,000,000 shall be available for the purposes described in subsection (a).

SEC. 1210. EXCESS PERSONAL PROPERTY

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), during fiscal years 1990 and 1991, the Secretary of Defense, in consultation with the Attorney General of the United States and the Director, National Drug Control Policy, may transfer to Federal and State law enforcement agencies such excess personal property of the Department of Defense, including small arms ammunition, as the Secretary determines suitable for use by such agencies in counter-drug activities. Excess property transferred to any such agency under this section may be transferred without cost to the recipient agency.

(b) The Secretary may transfer excess personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense;

(2) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment; and

(3) the Secretary determines that the transfer of the excess property will not have an adverse impact on the military readiness of the United States.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

TITLE XXI—ARMY

PART A—FISCAL YEAR 1990

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $2,300,000.
Fort McClellan, $2,750,000.
Redstone Arsenal, $18,390,000.
Fort Rucker, $3,600,000.

ALASKA

Fort Richardson, $3,350,000.
Fort Wainwright, $14,800,000.

ARIZONA

Fort Huachuca, $9,900,000.
Yuma Proving Ground, $11,400,000.

CALIFORNIA

Fort Irwin, $4,950,000.
Fort Ord, $2,450,000.
Sacramento Army Depot, $3,900,000.

COLORADO

Fort Carson, $4,700,000.

DISTRICT OF COLUMBIA

Walter Reed Army Medical Center, $11,000,000.

FLORIDA

Key West Naval Air Station, $6,100,000.

GEORGIA

Fort Benning, $12,146,000.
Fort Gordon, $4,000,000.
Fort Stewart, $5,200,000.

HAWAII

Fort Shafter, $9,300,000.
Schofield Barracks, $10,000,000.

ILLINOIS

Melvin Price Support Center, $3,750,000.

INDIANA

Fort Benjamin Harrison, $359,000.

KANSAS

Fort Leavenworth, $5,500,000.
Fort Riley, $12,680,000.

KENTUCKY

Fort Campbell, $30,450,000.
Fort Knox, $14,119,000.

LOUISIANA

Fort Polk, $23,350,000.

MARYLAND

Fort Detrick, $2,300,000.
Fort Meade, $6,200,000.
Fort Ritchie, $630,000.

MASSACHUSETTS

Fort Devens, $3,550,000.

MISSOURI

Fort Leonard Wood, $10,450,000.

NEW JERSEY

Fort Monmouth, $8,600,000.
Picatinny Arsenal, $11,800,000.

NEW YORK

Fort Drum, $70,600,000.

NORTH CAROLINA

Fort Bragg, $32,000,000.

OKLAHOMA

Fort Sill, $17,320,000.
McAlester Army Ammunition Plant, $2,200,000.

PENNSYLVANIA

New Cumberland Army Depot, $14,000,000.

SOUTH CAROLINA

Fort Jackson, $23,000,000.

TEXAS

Corpus Christi Army Depot, $5,200,000.
Fort Bliss, $3,400,000.
Fort Hood, $2,800,000.
Fort Sam Houston, $3,550,000.

UTAH

Dugway Proving Ground, $2,400,000.

VIRGINIA

Fort Belvoir, $23,000,000.
Fort Lee, $1,750,000.
Fort Monroe, $1,100,000.
Fort Story, $3,350,000.

WASHINGTON

Fort Lewis, $770,000.

VARIOUS LOCATIONS

Classified Location, $3,400,000.
Classified Location, $600,000.
Classified Location, $7,500,000.
Classified Location, $3,900,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY

Grafenwoehr, $6,500,000.
Hanau, $14,800,000.
Hohenfels, $9,200,000.
Mainz, $26,400,000.
Stuttgart, $9,400,000.
Vilseck, $8,800,000.
Wuerzburg, $12,000,000.
Various locations, $4,150,000.

KOREA

H-220 Heliport, $4,050,000.

KWAJALEIN ATOLL

Kwajalein, $9,500,000.

PANAMA

Fort Kobbe, $7,200,000.

PUERTO RICO

Fort Buchanan, $690,000.

VARIOUS LOCATIONS

Location 276, $1,950,000.
Classified locations, $6,100,000.

SEC. 2102. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section 2104(a)(6)(A), at the following installations in the number of units, and in the amounts, shown for each installation:

Helemano, Hawaii, ninety units, $10,322,000.

Hickam Air Force Base, Hawaii, twenty units, $2,500,000.

Kaneohe, Hawaii, forty units, $4,700,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may, using amounts appropriated pursuant to section 2104(a)(6)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $1,349,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may, using amounts appropriated pursuant to section 2104(a)(6)(A), improve existing military family housing in an amount not to exceed $36,329,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may—

(1) carry out projects to improve one existing military family housing unit at Fort Leavenworth, Kansas, in the amount of $95,900, of which $86,900 is for concurrent repairs; and

(2) carry out projects to improve four units at Fort Sill, Oklahoma, the improvement of which was authorized by the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), in the amount of $178,088.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,170,314,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $495,814,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $114,380,000.

(3) For the construction of the Central Distribution Center, Phase III, Red River Army Depot, Texas, as authorized by section 2101 of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $39,000,000.

(4) For unspecified minor construction projects authorized under section 2805 of title 10, United States Code, $11,000,000.

(5) For architectural and engineering services and construction design under section

2807 of title 10, United States Code, $72,420,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $55,200,000; and

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,377,400,000, of which not more than $319,142,000 may be obligated or expended for the leasing of military family housing worldwide.

(7) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $5,100,000, to remain available until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2105. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1495), authorization for the following projects authorized in section 101 of that Act, as extended by section 2107(b) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012) and section 2105(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1179), and section 2106(a) of the Military Construction Authorization Act, 1989 (Public Law 100-456; 102 Stat. 2087) shall remain in effect until October 1, 1991, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(2) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 603(a) of the Military Construction Act, 1986 (Public Law 99-167; 99 Stat. 961), authorizations for the following projects authorized in sections 101 and 102 of that Act, as extended by section 2105(b) of the Military Construction Authorization Act 1988 and 1989 (division B of Public Law 99-180; 101 Stat. 1179) and section 2106(b) of the Military Construction Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), shall remain in effect until October 1, 1991, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Modified record fire range in the amount of $2,850,000 at Nuremberg, Germany.

(2) Family housing, new construction, six units, in the amount of $596,000 at Fort Myer, Virginia.

(3) Flight simulator building in the amount of $2,900,000 at Wiesbaden, Germany.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), authorizations for the following projects authorized in sections 2101, 2102, and 2103 of that Act as extended by section 2106(c) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Aircraft maintenance hangar in the amount of $7,100,000 at Hanau, Germany.

(2) Family housing, new construction, forty units in the amount of $4,100,000 at Crailsheim, Germany.

(d) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1988 PROJECTS.—Notwithstanding the provisions of section 2171 of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1179), authorizations for the following projects authorized in sections 2101 and 2102 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Child development center in the amount of $1,050,000 at Rheinberg, Germany.

(2) Training exercise facility in the amount of $5,900,000 at Einsiedlerhof, Germany.

(3) Operations Building Modifications in the amount of $5,400,000 at Stuttgart, Germany.

(4) Hardstand/tactical equipment shop in the amount of $2,250,000 at Wiesbaden, Germany.

(5) Servicemember support complex in the amount of $5,700,000 at Fort Rucker, Alabama.

(6) Family housing, new construction, twenty-five units, in the amount of $2,200,000 at Fort A.P. Hill, Virginia.

(7) Family housing, new construction, one hundred six units, in the amount of $11,200,000 at Bamberg, Germany.

(8) Family housing, new construction, one hundred fifty-two units, in the amount of $12,600,000 at Baumholder, Germany.

(9) Troop support facility upgrade in the amount of $4,150,000 in Honduras.

(10) Wartime host nation support in the amount of $4,500,000, in Europe, various locations.

PART B—FISCAL YEAR 1991

SEC. 2121. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $34,300,000.

ARKANSAS

Pine Bluff Arsenal, $17,100,000.

OREGON

Umatilla Depot Activity, $45,500,000.

SEC. 2122. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,808,280,000 as follows:

(1) For military construction projects inside the United States authorized by section 2121, $96,900,000.

(2) For the construction of the Central Distribution Center, Phase III, Red River Army Depot, Texas, as authorized by section 2101 of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $39,000,000.

(3) For unspecified minor construction projects authorized under section 2805 of title 10, United States Code, $12,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $96,530,000.

(5) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,558,750,000, of which not more than $453,884,000 may be obligated or expended for the leasing of military family housing worldwide.

(6) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $5,100,000, to remain available until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2121 of this Act may not exceed the total amount authorized to be appropriated under subsection (a).

TITLE XXII—NAVY

PART A—FISCAL YEAR 1990

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Mobile, Navy Station, $3,965,000.

ALASKA

Adak, Naval Air Station, $18,870,000.

ARIZONA

Yuma, Marine Corps Air Station, $900,000.

CALIFORNIA

Camp Pendleton, Marine Corps Air Station, $2,100,000.

Camp Pendleton, Marine Corps Base, $57,600,000.

China Lake, Naval Weapons Center, $17,500,000.

Concord, Naval Weapons Station, $5,640,000.

Coronado, Naval Amphibious Base, $7,770,000.

Coronado, Surface Warfare Officers School Command Detachment, $4,360,000.

El Centro, Naval Air Facility, $7,200,000.

Lemoore, Naval Air Station, $2,100,000.

Moffett Field, Naval Air Station, $1,000,000.

Monterey, Fleet Numerical Oceanography Center, $750,000.

Monterey, Naval Post Graduate School, $16,690,000.

North Island, Naval Air Station, $6,160,000.

San Diego, Fleet Anti-Submarine Warfare Training Center, Pacific, $820,000.

San Diego, Fleet Combat Training Center, Pacific, $3,670,000.

San Diego, Fleet Intelligence Training Center, Pacific, $2,500,000.
San Diego, Fleet Training Center, $12,800,000.
San Diego, Integrated Combat Systems Test Facility, $4,100,000.
San Diego, Marine Corps Recruit Depot, $3,070,000.
San Diego, Naval Hospital, $5,000,000.
San Diego, Naval Ocean Systems Center, $1,300,000.
San Diego, Naval Station, $1,000,000.
San Diego, Naval Submarine Base, $10,800,000.
San Diego, Naval Training Center, $4,800,000.
San Diego, Naval Public Works Center, $4,400,000.
San Francisco, Navy Public Works Center, $3,910,000.
Seal Beach, Naval Weapons Station, $9,000,000.
Tustin, Marine Corps Air Station, $2,990,000.
Twentynine Palms, Marine Corps Air-Ground Combat Center, $3,140,000.
Vallejo, Mare Island Naval Shipyard, $6,300,000.

CONNECTICUT

New London, Naval Submarine Base, $24,250,000.
New London, Naval Submarine School, $8,200,000.
New London, Naval Underwater Systems Center, $12,600,000.

DISTRICT OF COLUMBIA

Washington, Commandant, Naval District, $420,000.
Washington, Naval Observatory, $2,500,000.

FLORIDA

Cecil Field, Naval Air Station, $1,970,000.
Jacksonville, Naval Hospital, $2,080,000.
Orlando, Naval Training Center, $18,400,000.
Panama City, Naval Diving and Salvage Training Center, $4,300,000.
Panama City, Naval Experimental Diving Unit, $2,900,000.
Pensacola, Navy Public Works Center, $2,100,000.

GEORGIA

Albany, Marine Corps Logistics Base, $4,550,000.
Athens, Navy Supply Corps School, $1,000,000.
Kings Bay, Naval Submarine Base, $66,689,000.

HAWAII

Kaneohe Bay, Marine Corps Air Station, $13,150,000.
Lualualei, Naval Magazine, $4,600,000.
Pearl Harbor, Naval Submarine Base, $18,600,000.
Pearl Harbor, Naval Submarine Training Center, Pacific, $5,550,000.
Pearl Harbor, Navy Public Works Center, $750,000.
Wahiawa, Naval Communication Area Master Station Eastern Pacific, $8,000,000.

ILLINOIS

Great Lakes, Naval Hospital, $12,270,000.
Great Lakes, Naval Training Center, $15,900,000.

INDIANA

Crane, Naval Weapons Support Center, $4,000,000.
Indianapolis, Naval Avionics Center, $8,000,000.

MAINE

Brunswick, Naval Air Station, $1,000,000.
Brunswick, Naval Branch Medical Clinic, $2,650,000.
Kittery, Portsmouth Naval Shipyard, $1,000,000.

MARYLAND

Annapolis, Naval Academy, $48,000,000.
Indian Head, Naval Explosive Ordnance Disposal Technology Center, $7,700,000.
Indian Head, Naval Ordnance Station, $10,670,000.
Patuxent River, Naval Air Test Center, $17,000,000.
St. Inigoes, Naval Electronic Systems Engineering Activity, $2,950,000.

MISSISSIPPI

Meridian, Naval Air Station, $11,800,000.
Pascagoula, Naval Station, $2,220,000.

MISSOURI

Kansas City, Marine Corps Support Activity, $10,000,000.

NEVADA

Fallon, Naval Air Station, $1,000,000.

NEW JERSEY

Bayonne, Navy Publications and Printing Service Detachment Office, $1,000,000.
Earle, Naval Weapons Station, $14,270,000.

NEW MEXICO

Elephant Butte, Naval Space Surveillance Field Station, $4,700,000.

NEW YORK

New York, Naval Station, $25,640,000.

NORTH CAROLINA

Camp Lejeune, Marine Corps Base, $28,210,000.
Cherry Point, Marine Corps Air Station, $10,750,000.
New River, Marine Corps Air Station, $23,550,000.

OKLAHOMA

Tinker Air Force Base, Naval Air Detachment, $21,500,000.

PENNSYLVANIA

Philadelphia, Naval Shipyard, $10,000,000.

RHODE ISLAND

Newport, Naval Education and Training Center, $8,000,000.

SOUTH CAROLINA

Beaufort, Marine Corps Air Station, $4,920,000.
Charleston, Naval Supply Center, $700,000.
Charleston, Naval Weapons Station, $4,600,000.

TENNESSEE

Memphis, Naval Air Station, $10,000,000.

TEXAS

Ingleside, Naval Station, $19,720,000.
Lackland Air Force Base, Naval Technical Training Center Detachment, $4,500,000.

VIRGINIA

Chesapeake, Naval Security Group Activity, Northwest, $1,300,000.
Dahlgren, Naval Surface Warfare Center, $1,000,000.
Dam Neck, Marine Environmental Systems Facility, $8,000,000.
Little Creek, Naval Amphibious Base, $5,200,000.
Norfolk, Naval Air Station, $4,400,000.
Norfolk, Naval Eastern Oceanography Center, $680,000.
Norfolk, Naval Supply Center, $6,500,000.
Oceana, Naval Air Station, $12,555,000.
Portsmouth, Norfolk Naval Shipyard, $9,700,000.
Quantico, Marine Corps Combat Development Command, $3,450,000.
Williamsburg, Cheatham Annex, Naval Supply Center, $18,500,000.
Yorktown, Naval Weapons Station, $21,420,000.

WASHINGTON

Bremerton, Naval Hospital, $1,000,000.
Bremerton, Puget Sound Naval Shipyard, $19,900,000.
Bremerton, Puget Sound Naval Supply Center, $690,000.
Everett, Naval Station, $11,200,000.
Keyport, Naval Undersea Warfare Engineering Station, $11,850,000.
Oso, Jim Creek Naval Radio Station, $1,200,000.

VARIOUS LOCATIONS

Land acquisition, $21,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

ASCENSION ISLAND

Naval Communication Detachment, $3,500,000.

AUSTRALIA

Exmouth, Harold E. Holt Naval Communication Station, $610,000.

BAHAMAS

Andros Island, Naval Underwater Systems Center, $4,140,000.

GUAM

Camp Covington, Mobile Construction Battalion, $4,300,000.
Fleet Surveillance Support Command, $27,000,000.
Navy Public Works Center, $4,150,000.

ICELAND

Keflavik, Naval Air Station, $7,500,000.
Keflavik, Naval Communication Station, $8,450,000.

ITALY

Naples, Naval Support Activity, $46,600,000.

PUERTO RICO

Roosevelt Roads, Naval Communication Station, $1,300,000.

UNITED KINGDOM

Edzell, Scotland, Naval Security Group Activity, $5,820,000.

VARIOUS LOCATIONS

Classified location, $5,800,000.
Host Nation Infrastructure Support, $1,000,000.

SEC. 2202. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Navy may, using amounts appropriated pursuant to section 2204(a)(6)(A), construct or acquire family housing units (including land acquisition), at the following installations in the number of units, and in the amount, shown for each installation:

Camp Pendleton, Marine Corps Base, California, one hundred twelve units, $10,150,000.
Long Beach, Naval Station, California, Family Housing Office, $592,000.
San Diego, Navy Public Works Center, California, Family Housing Warehouse, $1,855,000.
San Francisco, Navy Public Works Center, California, three hundred ninety-four units, $28,350,000.

Glenview Naval Air Station, Illinois, one hundred forty units, $15,300,000.

Thurmont, Naval Support Facility, Maryland, eleven units, $1,160,000.

Norfolk, Navy Public Works Center, Virginia, Community Center, $332,000.

Keflavik, Naval Air Station, Iceland, one hundred twelve units, $22,913,000.

(b) PLANNING AND DESIGN.—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2204(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $1,000,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may, using amounts appropriated pursuant to section 2204(a)(6)(A), improve existing military family housing units in the amount of $55,448,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units, and in the amount, shown for each installation:

Long Beach, Naval Station, California, forty-four units, $2,208,200.

San Diego, Navy Public Works Center, California, one unit, $79,900.

Great Lakes, Navy Public Works Center, Illinois, two hundred sixty-two units, $17,198,100.

Lakehurst, Naval Air Engineering Center, New Jersey, thirty-two units, $1,946,400.

Lakehurst, Naval Air Engineering Center, New Jersey, one unit, $80,100.

New York, Naval Station, New York, ten units, $842,000.

New York, Naval Station, New York, ten units, $719,100.

Cherry Point, Marine Corps Air Station, North Carolina, two hundred fourteen units, $13,398,000.

Newport, Naval Education and Training Center, Rhode Island, two hundred twenty units, $13,700,000.

Bangor, Naval Submarine Base, Washington, one hundred units, $5,844,200.

Guantanamo Bay, Naval Station, Cuba, one unit, $104,700.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,879,963,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $918,579,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $114,240,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $14,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $84,970,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $5,810,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $137,100,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $605,264,000 of which not more than $40,800,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $24,000,000 (the balance of the amount authorized for the construction of the Bancroft Hall Expansion, Naval Academy, Annapolis, Maryland).

SEC. 2205. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1179), authorizations for the following projects authorized in section 2121 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Physical security improvements in the amount of $2,460,000 at Naval Air Station, Sigonella, Italy.

(2) Cold-iron utilities support in the amount of $7,480,000 at Naval Support Office, La Maddalena, Italy.

SEC. 2206. COMMUNITY SUPPORT CENTER, MARINE CORPS AIR STATION, EL TORO, CALIFORNIA

(a) CONSTRUCTION AUTHORIZED.—Section 2201 of the Military Construction Authorization Act, 1989 (102 Stat. 2093), is amended by striking out "$3,970,000" after "Marine Corps Air Station El Toro," under the heading "California" and inserting in lieu thereof "$5,016,000".

(b) REPEAL OF PRIOR AUTHORIZATION.—Section 2202(a) of such Act is amended by striking out "and eighty mobile home spaces, $10,120,000" and inserting in lieu thereof ", $9,074,000".

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 2205(a)(1) of such Act is amended by striking out "$1,296,450,000" and inserting in lieu thereof "1,297,496,000".

(2) Section 2205(a)(6)(A) of such Act is amended by striking out "$250,770,000" and inserting in lieu thereof "249,724,000".

SEC. 2207. CONSTRUCTION OF MILITARY FAMILY HOUSING AT MARINE CORPS AIR STATION, TUSTIN, CALIFORNIA

(a) AUTHORITY TO USE LITIGATION PROCEEDS.—Notwithstanding any other provision of law and subject to subsections (b) through (e), upon final settlement in the case of Rossmoor Liquidating Trust v. United States, filed in the United States District Court for the Central District of California (Case No. CV 82-0956 LEW (Px)), the Secretary of the Navy may use any funds paid to the United States in settlement of such case solely for the construction of military family housing at Marine Corps Air Station, Tustin, California.

(b) UNITS AUTHORIZED.—Not more than 150 military family housing units may be constructed with funds referred to in subsection (a). The units authorized by this subsection are in addition to any units otherwise authorized to be constructed at Marine Corps Air Station, Tustin, California.

(c) PAYMENT OF EXCESS INTO TREASURY.—Any funds referred to in subsection (a) that are not obligated for construction authorized in subsection (b) within 5 years after final payment of such funds is received by the United States shall be covered into the Treasury as miscellaneous receipts.

(d) APPLICATION OF CHAPTER 169 OF TITLE 10.—The construction of new units of military family housing authorized in subsection (b) shall be subject to the applicable provisions of chapter 169 of title 10, United States Code.

(e) LIMITATION.—The Secretary may not enter into any contract for the construction of military family housing authorized by this section until after the expiration of the 21-day period beginning on the day after the day on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report containing the details of the contract.

PART B—FISCAL YEAR 1991

SEC. 2221. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ARIZONA

Yuma, Marine Corps Air Station, $3,000,000.

CALIFORNIA

San Diego, Naval Hospital, $1,500,000.

Twentynine Palms, Marine Corps Air-Ground Combat Center, $3,600,000.

FLORIDA

Orlando, Naval Training Center, $17,900,000.

GEORGIA

Kings Bay, Naval Submarine Base, $75,231,000.

NORTH CAROLINA

Camp Lejeune, Marine Corps Base, $3,000,000.

Cherry Point, Marine Corps Air Station, $1,000,000.

TEXAS

Lackland Air Force Base, Naval Technical Training Center Detachment, $11,800,000.

VIRGINIA

Dam Neck, Marine Environmental Systems Facility, $8,000,000.

Little Creek, Naval Amphibious Base, $12,400,000.

WASHINGTON

Everett, Naval Station, $22,150,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GUAM

Fleet Surveillance Support Command, $30,000,000.

ICELAND

Keflavik, Naval Air Station, $1,000,000.

SEC. 2222. FAMILY HOUSING

The Secretary of the Navy may, using amounts appropriated pursuant to section 2223(a)(5)(A), construct or acquire family housing units (including land acquisition), at the following installations in the number of units, and in the amount, shown for each installation:

New York, Naval Station, New York, one hundred fifty units, $19,600,000.

Keflavik, Naval Air Station, Iceland, one hundred twelve units, $27,200,000.

SEC. 2223. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,009,780,000 as follows:

(1) For military construction projects inside the United States authorized by section 2221(a), $159,581,000.

(2) For military construction projects outside the United States authorized by section 2221(b), $31,000,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $15,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $81,999,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $46,800,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $674,900,000 of which not more than $66,421,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2221 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE XXIII—AIR FORCE

PART A—FISCAL YEAR 1990

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALABAMA

Gunter Air Force Base, $12,100,000.

ALASKA

Clear Air Force Station, $5,000,000.
Eielson Air Force Base, $21,000,000.
Elmendorf Air Force Base, $2,400,000.
King Salmon Airport, $8,000,000.
Shemya Air Force Base, $22,700,000.

ARIZONA

Davis-Monthan Air Force Base, $8,200,000.
Luke Air Force Base, $3,970,000.
Williams Air Force Base, $1,850,000.

CALIFORNIA

Beale Air Force Base, $13,472,000.
Castle Air Force Base, $3,900,000.
Edwards Air Force Base, $18,900,000.
McClellan Air Force Base, $18,230,000.
Onizuka Air Force Station, $14,800,000.
Travis Air Force Base, $9,000,000.
Vandenberg Air Force Base, $11,500,000.

COLORADO

Lowry Air Force Base, $3,550,000.
Peterson Air Force Base, $16,200,000.

DELAWARE

Dover Air Force Base, $8,300,000.

FLORIDA

Cape Canaveral Air Force Station, $89,000,000.
Eglin Air Force Base, $12,100,000.
Eglin Air Force Base, Auxiliary Field 9, $21,900,000.
Homestead Air Force Base, $7,350,000.
MacDill Air Force Base, $7,540,000.
Patrick Air Force Base, $3,800,000.
Tyndall Air Force Base, $7,300,000.

GEORGIA

Robins Air Force Base, $34,050,000.

HAWAII

Hickam Air Force Base, $530,000.

INDIANA

Grissom Air Force Base, $2,150,000.

LOUISIANA

Barksdale Air Force Base, $7,700,000.
England Air Force Base, $10,300,000.

MAINE

Loring Air Force Base, $8,500,000.

MARYLAND

Andrews Air Force Base, $5,550,000.

MASSACHUSETTS

Hanscom Air Force Base, $5,600,000.

MICHIGAN

K.I. Sawyer Air Force Base, $4,300,000.

MISSISSIPPI

Columbus Air Force Base, $1,200,000.

MISSOURI

Whiteman Air Force Base, $47,500,000.

MONTANA

Malmstrom Air Force Base, $32,100,000.

NEBRASKA

Offutt Air Force Base, $1,150,000.

NEVADA

Nellis Air Force Base, $4,800,000.

NEW JERSEY

McGuire Air Force Base, $4,900,000.

NEW MEXICO

Holloman Air Force Base, $17,350,000.
Kirtland Air Force Base, $18,350,000.

NEW YORK

Plattsburgh Air Force Base, $9,900,000.

NORTH CAROLINA

Seymour Johnson Air Force Base, $4,500,000.

OHIO

Newark Air Force Base, $2,980,000.
Wright Patterson Air Force Base, $11,760,000.

OKLAHOMA

Altus Air Force Base, $5,200,000.
Tinker Air Force Base, $56,800,000.

SOUTH CAROLINA

Charleston Air Force Base, $4,650,000.
Myrtle Beach Air Force Base, $2,350,000.
Shaw Air Force Base, $5,700,000.

SOUTH DAKOTA

Ellsworth Air Force Base, $11,350,000.

TEXAS

Carswell Air Force Base, $650,000.
Goodfellow Air Force Base, $3,300,000.
Kelly Air Force Base, $22,030,000.
Lackland Air Force Base, $34,250,000.
Lackland Training Annex, $1,994,000.
Laughlin Air Force Base, $5,350,000.
Randolph Air Force Base, $630,000.
Reese Air Force Base, $4,630,000.

UTAH

Hill Air Force Base, $15,650,000.

VIRGINIA

Langley Air Force Base, $3,300,000.

WASHINGTON

Fairchild Air Force Base, $14,200,000.

WYOMING

F.E. Warren Air Force Base, $104,850,000.

VARIOUS LOCATIONS

United States, $5,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

CANADA

Various Locations, $24,000,000.

GERMANY

Hahn Air Base, $4,120,000.
Mehlingen Communications Annex, $1,100,000.
Ramstein Air Base, $11,600,000.
Rhein-Main Air Base, $3,880,000.
Sembach Air Base, $1,250,000.
Spangdahlem Air Base, $6,450,000.
Zweibrucken Air Base, $6,100,000.

GUAM

Andersen Air Force Base, $6,500,000.

HONDURAS

La Mesa Air Base, $10,200,000.
San Lorenzo Air Base, $4,900,000.

ICELAND

Naval Air Station, Keflavik, $7,400,000.

ITALY

Aviano Air Base, $2,250,000.
San Vito Air Station, $2,750,000.

KOREA

Osan Air Base, $3,100,000.

OMAN

Seeb, $2,200,000.
Thumrait, $23,600,000.

PANAMA

Howard Air Force Base, $7,210,000.

PHILIPPINES

Clark Air Base, $29,310,000.
Wallace Air Station, $4,150,000.

PORTUGAL

Lajes Field, $10,000,000.

TURKEY

Balikesir Radio Relay Site, $3,600,000.
Erhac Air Base, $2,750,000.
Incirlik Air Base, $1,100,000.

UNITED KINGDOM

Bovingdon Radio Relay Site, $400,000.
RAF Alconbury, $1,300,000.
RAF Barford St. John, $490,000.
RAF Bentwaters, $2,450,000.
RAF Christmas Common Radio Relay Site, $210,000.
RAF Fairford, $1,350,000.
RAF Mildenhall, $1,650,000.
RAF Upper Heyford, $5,350,000.

VARIOUS LOCATIONS

Classified location, $740,000.

Classified location, $15,000,000.

SEC. 2302. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(7)(A), construct or acquire family housing units (including land acquisition) at the following installations in the number of units, and in the amount, shown for each installation:

Kelly Air Force Base, Texas, eleven units, $1,619,000.

Ramstein Air Base, Germany, two hundred units, $18,722,000.

Osan Air Base, Korea, one unit, $117,000.

Beale Air Force Base, California, housing office, $295,000.

Edwards Air Force Base, California, housing office, $327,000.

Scott Air Force Base, Illinois, housing office, $407,000.

England Air Force Base, Louisiana, housing maintenance facility, $226,000.

Tinker Air Force Base, Oklahoma, housing office, $291,000.

Myrtle Beach Air Force Base, South Carolina, housing maintenance facility, $382,000.

(b) PLANNING AND DESIGN.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(7)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $8,000,000.

SEC. 2303. IMPROVEMENT TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(7)(A), improve existing military family housing units in an amount not to exceed $250,411,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Maxwell Air Force Base, Alabama, eight units, $357,000; eight units, $800,000; one unit, $108,000; thirty-two units, $1,548,000; seven units, $728,000; thirty-five units, $1,879,000.

Elmendorf Air Force Base, Alaska, eighty-eight units, $9,578,000; forty units, $4,451,000.

Eielson Air Force Base, Alaska, fifty-one units, $5,669,000.

Davis-Monthan Air Force Base, Arizona, five units, $200,000.

Eaker Air Force Base, Arkansas, one hundred eighty-eight units, $11,500,000.

Millella Air Force Base, California, fifteen units, $1,004,000.

Travis Air Force Base, California, one hundred forty-two units, $7,691,000; one hundred forty-four units, $7,560,000.

Peterson Air Force Base, Colorado, thirty-two units, $1,438,000.

Bolling Air Force Base, District of Columbia, forty units, $1,683,000.

MacDill Air Force Base, Florida, forty-four units, $2,456,000.

Tyndall Air Force Base, Florida, forty units, $2,441,000.

Scott Air Force Base, Illinois, four units, $250,000; eighty units, $4,076,000.

England Air Force Base, Louisiana, one hundred one units, $4,208,000.

Whiteman Air Force Base, Missouri, fifteen units, $970,000.

Nellis Air Force Base, Nevada, thirty-two units, $1,727,000.

Holloman Air Force Base, New Mexico, one hundred twenty-three units, $5,710,000; one unit, $47,000.

Wright-Patterson Air Force Base, Ohio, twenty-five units, $2,253,000.

Myrtle Beach Air Force Base, South Carolina, one hundred twenty-five units, $5,549,000.

Bergstrom Air Force Base, Texas, two units, $149,000.

Carswell Air Force Base, Texas, one hundred nineteen units, $5,432,000.

Kelly Air Force Base, Texas, seventy-nine units, $3,650,000; thirty-three units, $1,750,000.

Randolph Air Force Base, Texas, one hundred twenty-four units, $4,136,000; one unit, $78,000.

Sheppard Air Force Base, Texas, one hundred thirty-six units, $5,265,000.

Langley Air Force Base, Virginia, eighty-six units, $5,398,000.

Fairchild Air Force Base, Washington, two hundred thirty units, $12,162,000; two hundred two units, $10,759,000.

Ramstein Air Base, Germany, one unit, $137,000; twenty-four units, $2,180,000; thirty-eight units, $2,681,000.

Spangdahlem Air Base, Germany, four units, $302,000.

Andersen Air Base, Guam, two hundred units, $17,817,000.

RAF Alconbury, United Kingdom, one unit, $55,000.

RAF Bentwaters, United Kingdom, eighty-three units, $4,610,000.

RAF Chicksands, United Kingdom, thirty-four units, $3,027,000.

RAF Lakenheath, United Kingdom, fourteen units, $1,153,000; sixty units, $3,408,000.

RAF Mildenhall, United Kingdom, two units, $89,000.

(c) WAIVER OF SPACE LIMITATIONS FOR FAMILY HOUSING UNITS.—(1) To support the United States Air Forces in Europe and Military Airlift Command, the Secretary of the Air Force may carry out improvement projects to add to and alter existing family housing units and, notwithstanding section 2826(a) of title 10, United States Code, to—

(A) increase the net floor area of one family housing unit at Ramstein Air Base, Germany, to not more than 3,045 square feet; and

(B) increase the net floor area of four family housing units at Scott Air Force Base, Illinois, to not more than 2,470 square feet.

(2) To support the Air Force Logistics Command and Pacific Air Forces, the Secretary of the Air Force may, notwithstanding section 2826(a) of title 10, United States Code, carry out new construction projects—

(A) to build five family housing units at Kelly Air Force Base, Texas, to not more than 3,000 square feet; and

(B) to convert one building to a family housing unit at Osan Air Base, Korea, to contain not more than 3,000 square feet.

(3) For purposes of this subsection, the term "net floor area" has the same meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,369,540,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $897,460,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $199,825,000.

(3) For the construction of the Large Rocket Test Facility, Arnold Engineering Development Center, Tennessee, as authorized by section 2301(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $66,000,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $24,350,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $106,094,000.

(6) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $3,000,000.

(7) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $280,797,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $760,208,000 of which not more than $96,000,000 may be obligated or expended, for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2305. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECT.—Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 961), authorization for the following project authorized in section 301 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

GEODSS Site 5, Portugal, Composite Support Facility in the amount of $2,250,000 and Spacetrack Observation Facility in the amount of $12,400,000.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECT.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), authorization for the following project authorized in section 2301 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

KC-135 CPT Simulator Facility in the amount of $760,000 at Beale Air Force Base, California.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1988 PROJECTS.—Notwith-

standing the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1179), authorization for the following projects authorized in sections 2131 and 2132 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) KC-135 CPT Simulator Facility, in the amount of $1,150,000 at Loring Air Force Base, Maine.

(2) Thirty-four family housing units in the amount of $2,530,000 at Holbrook, Arizona.

SEC. 2306. GRANT FOR CONSTRUCTION OF A SCHOOL AT ELLSWORTH AIR FORCE BASE, SOUTH DAKOTA

(a) AUTHORITY TO MAKE GRANT.—The Secretary of the Air Force may, subject to subsections (b) through (d), make a grant to the Douglas School District, South Dakota, in an amount not to exceed $7,250,000.

(b) CONDITIONS OF GRANT.—A grant made pursuant to subsection (a) shall be subject to the following conditions:

(1) The grant funds shall be used by the Douglas School District for construction of a middle school primarily for dependents of Armed Forces personnel assigned to duty at Ellsworth Air Force Base, North Dakota.

(2) The balance of any such funds not expended for such purpose shall be returned to the Secretary.

(c) UNUSED FUNDS.—Funds returned to the Secretary pursuant to subsection (b)(2) shall be covered into the Treasury as miscellaneous receipts.

PART B—FISCAL YEAR 1991

SEC. 2321. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALASKA

Shemya Air Force Base, $51,500,000.

COLORADO

Falcon Air Force Station, $2,000,000.
Peterson Air Force Base, $1,550,000.

OKLAHOMA

Altus Air Force Base, $7,900,000.

SOUTH CAROLINA

Charleston Air Force Base, $8,740,000.

TEXAS

Lackland Air Force Base, $22,500,000.

WYOMING

F.E. Warren Air Force Base, $6,450,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY

Hahn Air Base, $7,200,000.

PHILIPPINES

Clark Air Base, $5,190,000.

WORLDWIDE CLASSIFIED

Classified location, $5,910,000.

SEC. 2322. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,146,996,000, as follows:

(1) For military construction projects inside the United States authorized by section 2321(a), $100,640,000.

(2) For military construction projects outside the United States authorized by section 2321(b), $18,300,000.

(3) For the construction of the Large Rocket Test Facility, Arnold Engineering Development Center, Tennessee, as authorized by section 2301(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $66,300,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $12,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $114,756,000.

(6) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $835,000,000 of which not more than $138,632,000 may be obligated or expended, for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2321 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2323. AMENDMENT TO SECTION 2301 OF PUBLIC LAW 100-456

(a) INCREASED AUTHORITY.—Section 2301(a), Title XXIII of Public Law 100-456, September 29, 1988, is amended by striking out "Arnold Engineering Development Center, $213,800,000." and inserting in lieu thereof "Arnold Engineering Development Center, $256,800,000."

(b) RESTRICTION.—This amendment shall not take effect unless and until the requirement for the Large Rocket Test Facility (J-6) has been validated by the Department of Defense and so certified to the Committee on Armed Services of the Senate and the House of Representatives.

TITLE XXIV—DEFENSE AGENCIES

PART A—FISCAL YEAR 1990

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE LOGISTICS AGENCY

Defense Depot, Tracy, California, $24,000,000.
Defense Reutilization and Marketing Office, Eglin Air Force Base, Florida, $2,750,000.
Defense Fuel Support Point, Searsport, Maine, $2,700,000.
Defense Construction Supply Center, Columbus, Ohio, $26,600,000.
Defense Personnel Support Center, Philadelphia, Pennsylvania, $3,800,000.
Defense General Supply Center, Richmond, Virginia, $6,066,000.
Defense Fuel Support Point, Manchester, Washington, $22,600,000.

DEFENSE MEDICAL FACILITIES OFFICE

Maxwell Air Force Base, Alabama, $1,600,000.
Naval Air Station, Mobile, Alabama, $3,000,000.
Naval Air Station, Adak, Alaska, $18,000,000.
Marine Corps Air Station, Twenty-Nine Palms, California, $38,000,000.
Hurlburt Field, Florida, $6,000,000.
Naval Air Station, Jacksonville, Florida, $2,400,000.
Patrick Air Force Base, Florida, $2,700,000.
Andrews Air Force Base, Maryland, $2,900,000.
Naval Station, Pascagoula, Mississippi, $2,548,000.
Nellis Air Force Base, Nevada, $62,000,000.
Lackland Air Force Base, Texas, $6,000,000.
Naval Station, Ingleside, Texas, $2,300,000.
Portsmouth Naval Hospital, Virginia, $330,000,000.

DEFENSE NUCLEAR AGENCY

Armed Forces Radiobiology Research Institute, Bethesda, Maryland, $900,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, $21,444,000.

OFFICE OF THE SECRETARY OF DEFENSE

The Pentagon, Arlington, Virginia, $3,500,000.
Classified Location, $4,500,000.

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Bethesda, Maryland, $600,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Falcon Air Force Station, Colorado, $123,000,000.
Nellis Air Force Base, Nevada, $6,542,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE MEDICAL FACILITIES OFFICE

Camp Carroll, Korea, $7,900,000.
Camp Garry Owen, Korea, $800,000.
Zaragoza Air Base, Spain, $680,000.
Royal Air Force, Chessington, United Kingdom, $12,200,000.
Royal Air Force, Lanark, United Kingdom, $15,000,000.

DEFENSE NUCLEAR AGENCY

Johnston Atoll, $6,168,000.

DEPARTMENT OF DEFENSE SCHOOLS

Naval Air Station, Bermuda, $4,810,000.
Augsburg, Germany, $6,300,000.
Frankfurt, Germany, $7,101,000.
Grafenwoehr, Germany, $4,186,000.
Hohenfels, Germany, $17,079,000.
Royal Air Force, Bicester, United Kingdom, $6,275,000.
Royal Air Force, Upwood, United Kingdom, $4,175,000.
Various Locations, $6,600,000.

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, $1,155,000.
Roosevelt Roads, Puerto Rico, $6,541,000.

NATIONAL SECURITY AGENCY

Classified Location, $23,000,000.

SEC. 2402. FAMILY HOUSING

The Secretary of Defense, may, using amounts appropriated pursuant to section 2405(a)(11)(A), construct or acquire three

family housing units (including land acquisition) at classified locations in the total amount not to exceed $400,000.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may, using amounts appropriated pursuant to section 2405(a)(11)(A), improve existing military family housing units in an amount not to exceed $200,000.

SEC. 2404. CONFORMING STORAGE FACILITIES

Section 2404(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012) is amended to read as follows:

"(a) AUTHORITY TO CONSTRUCT.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987, using not more than $5,000,000 appropriated for fiscal year 1988, using not more than $9,300,000 appropriated for fiscal year 1989, and using not more than $11,000,000 appropriated for fiscal year 1990, carry out military construction projects not otherwise authorized by law for conforming storage facilities.".

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $584,500,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $229,950,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $122,670,000.

(3) For military construction projects at Fort Sill, Oklahoma, as authorized by section 2401(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $27,000,000.

(4) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), $53,000,000.

(5) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1495), $16,000,000.

(6) For unspecified minor constructed projects under section 2805 of title 10, United States Code, $13,100,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(8) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $80,480,000.

(9) For conforming storage facilities construction under the authority of section 2404 of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), $11,000,000.

(10) For military family housing functions—

(A) for construction and acquisition of military family housing facilities, $600,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $19,800,000, of which not more than $17,825,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed—

(1) the total amount authorized to be appropriated under paragraph (1) and (2) of subsection (a); and

(2) $321,500,000 (the balance of the amount authorized under section 2401(a) for the construction of a medical facility at Portsmouth Naval Hospital, Virginia).

SEC. 2406. PORTSMOUTH NAVAL HOSPITAL, VIRGINIA

The Secretary of Defense may, in advance of appropriations therefor, enter into one or more contracts for the design and construction of the military construction project authorized by section 2401 to be accomplished at Portsmouth Naval Hospital, Virginia, if each such contract limits the payments that the Federal Government is obligated to make under such contract to the amount of appropriations available for obligation under such contract, at the time the contract is executed.

SEC. 2407. MEDICAL FACILITY, FORT SILL, OKLAHOMA

(a) PROJECT AMOUNT.—Section 2401 of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat 2087) is amended in the items listed under the heading "Defense Medical Facilities Office", by striking out "Fort Sill, Oklahoma, $54,000,000." and inserting in lieu thereof "Fort Sill, Oklahoma, $68,000,000.".

(b) TITLE TOTAL.—Section 2407(b)(2) of such Act is amended by striking out "$27,000,000" and inserting in lieu thereof "$41,000,000".

SEC. 2408. CONSOLIDATED MEDICAL FACILITY, NELLIS AIR FORCE BASE, NEVADA

The Secretary of Defense may, in advance of appropriations for the project, enter into one or more contracts for the design and construction of the military construction project authorized by section 2401 to be constructed at Nellis Air Force Base, Nevada, if each contract limits the payments that the United States is obligated to make under the contract to the amount of appropriations available for obligation under the contract as of the time the contract is entered into.

SEC. 2409. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

(b) EXTENSION OF CERTAIN 1987 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), authorization for the Defense Fuel Support Point, Charleston, South Carolina, in the amount of $5,530,000, in section 2401(a) of that Act shall remain in effect until October 1, 1991, or until the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later.

(b) EXTENSION OF CERTAIN 1988 PROJECTS.—Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1179), authorizations for the following projects authorized in section 2141 of that Act shall remain in effect until October 1, 1991, or until the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Fuel Tankage, in the amount of $9,400,000 at Defense Fuel Supply Point, Key West, Florida.

(2) Connector Warehouse, in the amount of $18,500,000 at Defense General Supply Center, Richmond, Virginia.

(3) Second Echelon Medical Storage Facility, Iraklion, Greece, $340,000.

(4) Composite Medical Facility, Misawa Air Base, Japan, $4,700,000.

PART B—FISCAL YEAR 1991

SEC. 2421. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

OFFICE OF THE SECRETARY OF DEFENSE

The Pentagon, Arlington, Virginia, $76,300,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Nevada Test Site, Nevada, $5,350,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, $4,200,000.

SEC. 2422. CONFORMING STORAGE FACILITIES

Section 2404(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), as amended by section 2404 of this Act, is further amended by inserting "and using not more than $15,000,000 appropriated for fiscal year 1991," after "fiscal year 1990,".

SEC. 2423. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $500,750,000, as follows:

(1) For military construction projects inside the United States authorized by section 2421(a), $81,650,000.

(2) For military construction projects outside the United States authorized by section 2421(b), $4,200,000.

(3) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), $84,000,000.

(4) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a), $176,000,000.

(5) For unspecified minor constructed projects under section 2805 of title 10, United States Code, $14,200,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(7) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $94,400,000.

(8) For conforming storage facilities construction under the authority of section 2404 of the Military Construction Authori-

zation Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), $15,000,000.

(9) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $21,300,000, of which not more than $18,135,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2421 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

PART A—FISCAL YEAR 1990

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 of this Act and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501 of this Act, in the amount of $462,300,000.

PART B—FISCAL YEAR 1991

SEC. 2521. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2522 of this Act and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2522. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2521 of this Act, in the amount of $503,600,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

PART A—FISCAL YEAR 1990

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $175,109,000, and

(B) for the Army Reserve, $91,455,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $50,900,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $216,180,000, and

(B) for the Air Force Reserve, $46,200,000.

PART B—FISCAL YEAR 1991

SEC. 2621. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $119,500,000, and

(B) for the Army Reserve, $61,900,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $53,300,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $107,200,000, and

(B) for the Air Force Reserve, $38,500,000.

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—(1) Except as provided in subsection (b)(1), all authorizations contained in part A of each of titles XXI, XXII, XXIII, XXIV, and XXV for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later.

(2) Except as provided in subsection (b)(2), all authorizations contained in part B of each of titles XXI, XXII, XXIII, XXIV, and XXV for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1992, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1993, whichever is later.

(b) EXCEPTIONS.—(1) The provisions of subsection (a)(1) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later, for construction contracts, land acquisitions, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

(2) The provisions of subsection (a)(2) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1992, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later, for construction contracts, land acquisitions, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 2702. EFFECTIVE DATE

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on October 1, 1989, or the date of enactment of this Act, whichever is later.

TITLE XXVIII—GENERAL PROVISIONS

PART A—MILITARY CONSTRUCTION PROGRAM CHANGES

SEC. 2801. FAMILY HOUSING RENTAL GUARANTEE PROGRAM

Section 802(b) of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(1) by striking out clause (11) and inserting in lieu thereof the following:

"(11) shall include a provision authorizing the Secretary of the military department concerned, or the Secretary of Transportation with respect to the Coast Guard, to take such action as the Secretary considers appropriate to protect the interests of the United States, including rendering the agreement null and void if, in the opinion of the Secretary, the owner of the housing fails to maintain a satisfactory level of operation and maintenance;";

(2) by striking out the period at the end of clause (12) and inserting in lieu thereof a semicolon; and

(3) by adding after clause (12) the following new clauses:

"(13) may provide that utilities, trash collection, snow removal, and entomological services will be furnished by the United States at no cost to the occupant to the same extent that those services are furnished to occupants of housing owned by the Federal Government; and

"(14) may require that rent collection and operation and maintenance services in connection with the housing be performed under the terms of a separate agreement or by personnel of the Federal Government.".

SEC. 2802. LEASING OF MILITARY FAMILY HOUSING

Section 2828 of title 10, United States Code, is amended—

(1) in subsection (b)(2), by striking out "$10,000" and inserting in lieu thereof "$12,000";

(2) in subsection (b)(3)—

(A) by striking out "(A) Except as provided in subparagraph (B), not" and inserting in lieu thereof "Not";

(B) by striking out "$10,000" and "$12,000" and inserting in lieu thereof "$12,000" and "$14,000", respectively; and

(C) by striking out subparagraph (B);

(3) in subsection (e)(1), by striking out the period at the end of the first sentence and inserting in lieu thereof ", adjusted annually for inflation and foreign currency fluctuations occurring after September 30, 1987."; and

(4) in subsection (e)(2), by striking out "38,000" and inserting in lieu thereof "53,419".

SEC. 2803. LONG-TERM FACILITIES CONTRACTS

Section 2809 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking out "identified the proposed project in the budget proposal submitted to Congress and has";

(2) in subsection (b), by inserting "and potable and waste water treatment services" after "child care centers"; and

(3) in subsection (c), by striking out "1989" and inserting in lieu thereof "1991".

SEC. 2804. IMPROVEMENTS TO FAMILY HOUSING UNITS

Section 2825(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by striking out "limitation contained in paragraph (1)" in paragraph (3), as redesignated by clause (1), and inserting in lieu thereof "limitations contained in paragraphs (1) and (2)"; and

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Secretary concerned may expend funds in any fiscal year for the improvement of not more than three housing units in an amount in excess of the limitation specified in paragraph (1) if the amount expended in excess of such limitation is necessary to make the unit suitable for habitation by a handicapped person. In no event may the cost of the improvements to any such unit exceed $100,000.".

SEC. 2805. DOMESTIC BUILD-TO-LEASE PROGRAM

Section 2828(g) of title 10, United States Code, is amended—

(1) in paragraph (8)(C)(ii), by striking out "2,000" and inserting in lieu thereof "4,000";

(2) in paragraph (8)(C)(iii), by striking out "2,100" and inserting in lieu thereof "3,600"; and

(3) in paragraph (9), by striking out "1989" and inserting in lieu thereof "1991".

SEC. 2806. TURN-KEY SELECTION PROCEDURES

Section 2862 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out the second sentence; and

(2) in subsection (c), by striking out "1990" and inserting in lieu thereof "1991".

SEC. 2807. AUTHORIZED COST VARIATIONS

Section 2853 of title 10, United States Code, is amended to read as follows:

"§ 2853. Authorized cost variations

"(a) Subject to subsection (c), the cost authorized for a military construction project or for the construction, improvement, or acquisition of a military family housing project may be increased by not more than 25 percent of the amount appropriated for such project or by 200 percent of the minor construction project ceiling specified in section 2805(a)(1) of this title, whichever is less, if the Secretary concerned determines (A) that such an increase in cost is required for the sole purpose of meeting unusual variations in cost, and (B) that such variations in cost could not have reasonably been anticipated at the time the project was originally approved by Congress.

"(b) Subject to subsection (c), the scope of work for a military construction project or for the construction, improvement, or acquisition of a military family housing project may be reduced by not more than 25 percent from the amount approved by Congress.

"(c) The limitation on cost increase in subsection (a) or the limitation on scope reduction in subsection (b) does not apply if—

"(1) the increase in cost or reduction in scope is approved by the Secretary concerned;

"(2) the Secretary concerned notifies the appropriate committees of Congress in writing of the increase or reduction and the reasons therefor; and

"(3) a period of 21 days has elapsed after the date on which the notification is received by the committees.

"(d) The limitations on cost increases in subsection (a) do not apply to within scope modifications under an existing contract or to the settlement of a contractor claim under an existing contract if the increase in cost is approved by the Secretary concerned and a written notification of the facts relating to the proposed increase in cost is submitted by the Secretary concerned to the appropriate committees of Congress.".

SEC. 2808. CONSTRUCTION AND ACQUISITIONS THROUGH NATO GOVERNMENTS

Section 2343 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Sections 2207 and 2306(b) of this title and section 3741 of the Revised Statutes (41 U.S.C. 22) shall not apply to military construction projects or family housing projects that are constructed or acquired through Governments of the North Atlantic Treaty Organization countries or North Atlantic Treaty Organization subsidiary bodies for elements of the armed forces deployed in Europe and adjacent waters.".

SEC. 2809. UNSPECIFIED MINOR CONSTRUCTION

Section 2805 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out "$1,000,000" and inserting in lieu thereof "$1,500,000"; and

(2) in subsection (c)(1), by striking out "$200,000" and inserting in lieu thereof "$300,000".

SEC. 2810. LEASE-PURCHASE OF FACILITIES

(a) IN GENERAL.—Chapter 169 of title 10, United States Code, is amended by adding at the end of subchapter I the following new section:

"§ 2812. Lease-purchase of administrative facilities

"(a)(1) The Secretary concerned may enter into a lease for a facility on or near a military installation for the provision of an activity or service named in paragraph (2).

"(2) The activities and services referred to in paragraph (1) are as follows:

"(A) Administrative office space;

"(B) Troop housing;

"(C) Energy production facilities;

"(D) Potable and waste water treatment facilities;

"(E) Hospital and medical facilities;

"(F) Transient quarters; and

"(G) Depot or storage facilities.

"(b) Leases entered into under subsection (a)—

"(1) may not exceed a term of 32 years;

"(2) shall provide that at the end of the term of the lease title to the leased facility (and the land on which the facility is located, if the facility is located on non-federally owned land) shall vest in the United States; and

"(3) shall include such other terms and conditions as the Secretary concerned determines are necessary or desirable to protect the interests of the United States.

"(c) The Secretary concerned may not enter into a lease under this section until—

"(1) the Secretary submits to the appropriate committees of Congress a justification of the need for the facility for which the proposed lease is being entered into and an economic analysis (based upon accepted life cycle costing procedures) that demonstrates that the proposed lease is cost effective when compared with a military construction project; and

"(2) a period of 21 days has expired following the date on which the justification and economic analysis are received by the committees.

"(d) Amounts obligated to be paid in any year under the terms of any lease entered into under this section shall, for budgetary purposes, be considered as expenditures for that year.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end the following new item:

"2812. Lease-purchase of facilities.".

SEC. 2811. HOMEOWNERS ASSISTANCE PROGRAM

Section 2832 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following new subsection:

"(b) Notwithstanding subsection (i) of section 1013 of the Act referred to in subsection (a), the Secretary may transfer, from any funds available for obligation by the Department of Defense, to the fund established pursuant to subsection (d) of that section, such sums as the Secretary determines are necessary to provide assistance under that section to persons eligible for assistance under that section. Any funds so transferred shall be available for obligation and expenditure under the same conditions as funds appropriated to such fund.".

PART B—LAND TRANSACTIONS

SEC. 2821. SALE OF LAND AND REPLACEMENT OF CERTAIN FACILITIES, PITTSBURGH, PENNSYLVANIA

(a) IN GENERAL.—Subject to subsections (b) through (f), the Secretary of the Navy may sell and convey all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) located at 4902 Forbes Avenue, Pittsburgh, Allegheny County, Pennsylvania, consisting of approximately 1.29 acres, and at which a Naval and Marine Corps Reserve Center is located.

(b) COMPETITIVE PROCEDURES; MINIMUM SALE PRICE.—(1) The Secretary shall use competitive procedures for the sale and conveyance authorized in subsection (a).

(2) In no event may the real property be sold for less than the fair market value of the property, as determined by the Secretary.

(c) CONDITION OF SALE.—The conveyance authorized by subsection (a) shall be subject to the condition that the purchaser permit the Navy, without consideration, to continue to occupy the property to be conveyed until the Secretary acquires or constructs a replacement facility, except that in no event may the Navy continue to occupy the property pursuant to this subsection more than two years after the date of the conveyance.

(d) USE OF FUNDS.—(1) The Secretary may use the proceeds from the sale of the property referred to in subsection (a) for the acquisition or construction of a replacement facility, including the acquisition of land, for a Naval and Marine Corps Reserve Center in the greater Pittsburgh area and to

pay the costs of appraisals and other costs related to the sale of the property.

(2) Any proceeds of the sale not used for such purposes shall be covered into the Treasury as miscellaneous receipts.

(e) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of any real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the sale and conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2822. SALE OF LAND AND REPLACEMENT OF CERTAIN FACILITIES, KAPALAMA MILITARY RESERVATION, HAWAII

(a) IN GENERAL.—(1) Subsections (a) through (e) of section 2332 of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 100 Stat. 1223), are amended to read as follows:

"(a) IN GENERAL.—Subject to subsections (b) through (f), the Secretary of the Army may sell and convey to the State of Hawaii approximately 35.92 acres of real property, together with improvements thereon, at Kapalama Military Reservation, Hawaii, and may replace and relocate the facilities located on such property.

"(b) CONSIDERATION.—In consideration for the real property described in subsection (a), the State of Hawaii shall pay the United States an amount equal to not less than the fair market value of the property to be conveyed, as determined by the Secretary.

"(c) USE OF SALE PROCEEDS.—The Secretary shall use the proceeds received from the sale of property authorized by this section—

"(1) for the cost of the design and construction of suitable replacement facilities to be constructed at Fort Shafter, Fort Kamehameha, Tripler Army Medical Center, and Schofield Barracks, Hawaii; and

"(2) for any cost incurred by the Department of the Army under this section with respect to the sale and relocation of facilities.

"(d) EXCESS AMOUNT.—The Secretary may use any proceeds remaining after paying all replacement and relocation costs referred to in subsection (c) for the implementation of the plan established by the Secretary of the Army on March 1, 1988, for the future use and development of Fort DeRussy, Hawaii, except that such proceeds may not be used to pay for the construction of nonappropriated-fund projects identified in such plan. The Secretary shall deposit any amount not used for such purpose at the end of the ten-year period beginning on the date of the enactment of the Military Construction Authorization Act, 1989, into the Treasury as miscellaneous receipts.".

(2) Subsections (f) and (g) of section 2332 of such Act are redesignated as subsections (e) and (f), respectively.

(b) SAVINGS PROVISION.—The provisions of section 2332 of the Military Construction Authorization Act of 1988 and 1989, as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the sale of any property referred to in such section that was sold pursuant to such section before the date of the enactment of this Act.

SEC. 2823. LAND CONVEYANCE, FORT KNOX, KENTUCKY

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Army may sell and convey all right, title, and interest of the United States in and to a parcel of land (together with improvements thereon) constituting a portion of Fort Knox, Kentucky, and consisting of a total of approximately 12 acres. Such parcel is contiguous to the corporate limits of the city of Radcliff, Kentucky, and bounded on the east by United States highway 31W, on the south by the Radcliff city park, on the west by residential property, and on the north by Fort Knox.

(b) COMPETITIVE BID REQUIREMENT; MINIMUM SALE PRICE.—(1) The Secretary shall use competitive procedures for the sale of the real property described in subsection (a).

(2) In no event may the property be sold for less than the fair market value, as determined by the Secretary.

(c) USE OF PROCEEDS OF SALE.—The Secretary shall use the proceeds received from the sale of the property referred to in subsection (a) to pay the cost of construction of not more than four units of military family housing at Fort Knox, Kentucky, and use the balance, if any, to pay the cost of repairs or improvements to existing family housing at Fort Knox, Kentucky.

(d) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any sale of real property under this section as the Secretary considers appropriate to protect the interests of the United States.

(f) ADDITIONAL AUTHORITY.—The military family housing authorized under this section is in addition to the military family housing otherwise authorized by law.

(g) APPLICATION OF CHAPTER 169 OF TITLE 10.—The construction of new units of military family housing and improvements made to existing military family housing with funds realized from the sale of property referred to in subsection (a) shall be subject to the applicable provisions of chapter 169 of title 10, United States Code.

SEC. 2824. SALE OF LAND AT THE PUBLIC WORKS CENTER, GREAT LAKES, ILLINOIS

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Navy may—

(1) sell and convey all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon), consisting of approximately 14 acres of land, comprising that portion of the Public Works Center, Great Lakes, located south of the intersection of Desplaines Avenue and West Roosevelt Road, Forest Park, Illinois; and

(2) use the proceeds from the sale of such property to construct not more than 35 units of military family housing at the Naval Air Station, Glenview, Illinois.

(b) COMPETITIVE PROCEDURES; MINIMUM SALE PRICE.—(1) The Secretary shall use competitive procedures for the sale of the property described in subsection (a).

(2) In no event may the property be sold for less than the greater of (A) the fair market value of the property, as determined by the Secretary, or (B) the amount necessary to cover the costs of constructing replacement housing and relocating the tenants from such property.

(c) CONDITION OF SALE.—The conveyance authorized by subsection (a) shall be subject to the condition that the purchaser permit the Navy, without consideration, to continue to occupy the property to be conveyed until the replacement housing has been constructed or acquired by the Secretary, except that in no event may the Navy continue to occupy the property pursuant to this subsection more than two years after the date of the conveyance.

(d) USE OF FUNDS.—(1) The Secretary may use the proceeds from the sale of the property described in subsection (a) for payment of the following costs:

(A) The cost of design and construction of not more than 35 units of military family housing to be constructed at the Naval Air Station, Glenview, Illinois.

(B) The cost of relocating the tenants occupying the housing facilities located on the property described in subsection (a)(1) to new housing facilities.

(C) The cost of appraisals and other costs related to the sale of the property.

(2) The Secretary shall deposit in the Department of Defense Military Family Housing Management Account provided for in section 2831 of title 10, United States Code, any proceeds of the sale not used for the purposes specified in paragraph (1). Any amount so deposited shall be merged with other funds in that account and shall be available for use as provided in that section.

(e) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of any real property to be conveyed under this section shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the purchaser.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any sale under this section as the Secretary considers appropriate to protect the interests of the United States.

(g) APPLICATION OF CHAPTER 169 OF TITLE 10.—The construction of new units of military family housing and improvements made to existing military family housing with funds realized from the sale of property referred to in subsection (a) shall be subject to the applicable provisions of chapter 169 of title 10, United States Code.

SEC. 2825. MODIFICATION OF REVERSIONARY INTEREST, PORT OF BENTON, WASHINGTON

(a) AUTHORITY TO MODIFY REVERSIONARY INTEREST.—Subject to subsections (b) through (f), the Secretary of the Army shall modify the reversionary interest of the United States in and to approximately 22 acres of land constituting a portion of a larger tract of land conveyed to the Port of Benton, Washington, by quit-claim deed dated June 1, 1964, and more particularly described in subsection (d).

(b) MODIFICATION.—(1) The Secretary shall modify the reversionary interest referred to in subsection (a) in such manner as may be necessary to permit the Port of Benton, Washington, to donate approximately 22 acres of the land conveyed by the deed referred to in subsection (c) to Washington State University for the establishment of a university branch on the donated land.

(2) The modified reversionary interest shall provide that if at any time the Secretary determines that the donated land is not being used for the purpose described in paragraph (1), title to such land shall revert to the United States, the United States shall have the right of immediate entry thereon, and title to the land (including all improve-

ments thereon) shall vest in the United States without compensation by the United States.

(c) DEED DESCRIPTION.—The deed referred to in subsection (a) is the quit-claim deed executed by the Secretary of the Army, dated June 1, 1964, which conveyed to the Port of Benton, Washington, pursuant to section 108 of the River and Harbor Act of 1960 (74 Stat. 486; 33 U.S.C. 578), approximately 290 acres of land owned by the United States.

(d) DESCRIPTION OF PROPERTY.—The 22-acre parcel of land referred to in subsection (a) is bordered on the east by the Columbia River, on the north by First Street, on the south by the Tri-Cities University Center, and on the west by the Port of Benton property that is east of George Washington Way. The exact acreage and legal description of such parcel of land shall be determined by a survey which is satisfactory to the Secretary of the Army. The cost of such survey shall be borne by the Port of Benton, Washington.

(e) AUTHORITY TO EXECUTE DOCUMENTS.—The Secretary may execute and record such documents as he determines necessary or appropriate to carry out the provisions of this section.

(f) ADDITIONAL TERMS AND CONDITIONS.—In carrying out the provisions of this section, the Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2826. LAND CONVEYANCE, NAVAL RESERVE CENTER, KEARNEY, NEW JERSEY

(a) IN GENERAL.—Subject to sections (b) through (d) the Secretary of the Navy may convey to Hudson County, New Jersey, all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon), consisting of approximately 2.9 acres, that comprises a portion of the Naval Reserve Center, Kearney, New Jersey.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized by subsection (a), Hudson County, New Jersey, shall demolish two Naval Reserve Center buildings on the Naval Reserve Center referred to in that subsection, improve the motor vehicle parking facilities on such Naval Reserve Center, and provide additional motor vehicle parking facilities on land adjacent to or near the Naval Reserve Center (and owned by Hudson County) for use by the United States. The additional parking facilities shall be acceptable to the Secretary and shall be provided on such terms and conditions and for such period of time as the Secretary shall prescribe.

(2) If the fair market value of the land to be conveyed under subsection (a) exceeds the fair market value of the consideration received under paragraph (1), as determined by the Secretary, Hudson County shall pay the amount of the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

(c) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by Hudson County, New Jersey.

(d) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with any conveyance under this section as the Secretary considers appropriate to protect the interests of the United States of America.

SEC. 2827. LAND CONVEYANCE, FORT BELVOIR, VIRGINIA

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsections (b) through (h), the Secretary of the Army may convey to any grantee selected in accordance with subsection (e) all right, title, and interest of the United States in and to all or any portion of a parcel of land at Fort Belvoir, Virginia, consisting of approximately 820 acres and known as the Engineer Proving Ground.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized in subsection (a), the grantee shall construct such facilities for the Department of the Army and make such infrastructure improvements for the Department of the Army as may be specified by the Secretary in an agreement to be entered into by the grantee and the Secretary in connection with the conveyance.

(2) In no event may the cost of the facilities to be constructed by the grantee for the Department of the Army and the cost of the infrastructure improvements to be made by the grantee for the Department of the Army be an amount less than the fair market value of the real property conveyed to the grantee pursuant to this section. The amount of such costs shall be determined by the Secretary.

(c) CONTENT OF AGREEMENT.—(1) An agreement entered into under this section shall include the following:

(A) A requirement that the grantee develop the real property conveyed to the grantee pursuant to this section as a balanced, mixed-use development.

(B) A requirement that the development of the property include improvements to public transportation systems, utilities, and telecommunications on and off the property, and any other infrastructure improvements that may be specified by the Secretary in connection with such development.

(C) A requirement that the development and all such improvements comply with the specifications of a master plan formulated for the real property by the Secretary and agreed to by the appropriate officials of Fairfax County, Virginia, and the Commonwealth of Virginia.

(D) A requirement that the grantee construct any facilities and make any infrastructure improvements for the Department of the Army that the Secretary determines are necessary for the relocation of Army activities within Washington, D.C., and its environs, including Fort Belvoir.

(E) A requirement that the construction of facilities and infrastructure improvements referred to in subparagraph (D) be carried out in accordance with plans and specifications approved by the Secretary.

(F) Such other terms and conditions as the Secretary and the grantee may agree upon.

(2) The Secretary may provide that the agreement be subject to review and approval by the appropriate officials of the County of Fairfax, Virginia, and the Commonwealth of Virginia.

(d) REPORT AND WAITING PERIOD.—The Secretary may not enter into any such agreement until the expiration of 21 days following the date on which the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report containing the details of the agreement.

(e) SELECTION OF GRANTEE.—The Secretary shall use competitive procedures for the selection of a grantee. In evaluating the offers of prospective grantees, the Secretary shall consider the technical sufficiency of the offers and the cost of constructing the required facilities and making the required infrastructure improvements for the Department of the Army, as contained in the offers.

(f) REVERSION.—If the Secretary determines that a grantee is unable or unwilling to develop the real property conveyed to the grantee under this section in accordance with the agreement entered into by the grantee under this section or is unable or unwilling to construct any facility or complete any infrastructure improvement for the Department of the Army in accordance with such agreement, then, regardless of the reason for such inability or unwillingness, all right, title, and interest in and to the real property conveyed to such grantee in connection with such agreement shall automatically revert to the United States and the United States shall have the right of immediate entry thereon.

(g) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of property to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the grantee.

(h) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions with respect to the conveyance as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2828. LAND CONVEYANCE, FORT GILLEM, GEORGIA

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Army shall convey, without consideration, to the State of Georgia (hereafter in this section referred to as the "State") all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) at Fort Gillem, Clayton County, Georgia, consisting of approximately 35.26 acres of land, for use by the State for the administration of the Georgia Department of Defense, the Georgia National Guard, and other Georgia National Guard activities.

(b) CONDITIONS OF CONVEYANCE.—The conveyance authorized by subsection (a) shall be subject to the following conditions:

(1) The property conveyed shall be used for the administration of the Georgia Department of Defense, the Georgia National Guard, and for other official activities of the Georgia National Guard.

(2) The Secretary may reserve to the United States (and shall include in the instrument of conveyance) such easements and other interests in the property conveyed pursuant to this section as the Secretary determines necessary or convenient for the operations, activities, and functions of the United States.

(c) REVERSION.—If the Secretary determines at any time that the property conveyed pursuant to this section is not being used for the purposes specified in subsection (b)(1), all right, title, and interest in and to the property (including improvements thereon) shall revert to the United States and the United States shall have the right of immediate entry thereon.

(d) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the State.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional

terms and conditions in connection with the conveyance required under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2829. LAND CONVEYANCE, HICKAM AIR FORCE BASE, HAWAII

(a) AUTHORITY TO CONVEY.—Subject to subsections (b) through (e), the Secretary of the Air Force may convey to the State of Hawaii all right, title, and interest of the United States in and to approximately 22.88 acres of real property, together with improvements thereon, located on the eastern boundary of Hickam Air Force Base, Hawaii.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized by subsection (a), the State of Hawaii shall be required to—

(A) pay for the cost of designing and constructing such facilities described in subsection (c)(2) as the Secretary may specify at Hickam Air Force Base or at such other location in Honolulu, Hawaii, as the Secretary may specify;

(B) pay for the cost of relocating certain designated munition storage facilities situated on the land to be conveyed by the Secretary;

(C) pay for the cost of relocating the existing security fence line to conform with the new boundaries of Hickam Air Force Base after conveyance of the property referred to in subsection (a); and

(D) pay to the United States the difference, if any, between the fair market value of the property conveyed, as determined by the Secretary, and the cost of facilities provided by the State of Hawaii under subsection (c).

(2) Costs incurred by the State of Hawaii in connection with the relocation of facilities referred to in clauses (B) and (C) of paragraph (1) may not be considered as any part of the payment of the fair market value of the property referred to in subsection (a).

(c) REPLACEMENT ACTIVITIES.—(1) The Secretary may accept facilities and improvements designed and constructed by the State of Hawaii equal in value to not less than the fair market value of the property to be conveyed by the Secretary or, in the discretion of the Secretary, to accept payment of the fair market value for the property to be conveyed and to construct facilities referred to in subsection (b)(1).

(2) The facilities to be provided by the State of Hawaii or constructed by the Secretary with funds provided by the State shall be for one or more of the following projects in the order of priority in which they are listed:

(A) A minimum of 120 units of military family housing in or near Honolulu, Hawaii.

(B) A base support center at Hickam Air Force Base, Hawaii.

(C) The upgrading of the water distribution system at Hickam Air Force Base, Hawaii.

(D) A recreation center at Hickam Air Force Base, Hawaii.

(d) VACATING PROPERTY.—(1) Upon execution of an escrow agreement between the parties and deposit by the State of Hawaii in an escrow account of an amount equal to the fair market value of the property to be conveyed by the Secretary, the Secretary may convey the property described in subsection (a) to the State of Hawaii before construction of the facilities referred to in subsection (b)(1). If the Secretary conveys the property before construction of such facilities, the Secretary shall not be required to vacate the property conveyed until completion of the work described in clauses (B) and (C) of subsection (b)(1) and such work has been approved by the Secretary. Upon such approval, the Secretary shall promptly vacate the property.

(2) In lieu of the deposit of funds into an escrow account, the State may, with the approval of the Secretary, pay to the Secretary an amount equal to the fair market value of the property to be conveyed. Notwithstanding any other provision of law, the Secretary may obligate and expend such funds for construction of the facilities listed in subsection (c)(2).

(e) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the State of Hawaii.

SEC. 2830. LAND RELEASE TO MINNESOTA

(a) RELEASE.—(i) Subject to clauses (ii) through (iv), the Secretary of the Army shall release to the State of Minnesota the reversionary interest of the United States over approximately 35.38 acres of land, known as "Area J," conveyed from the United States to the State of Minnesota in the quitclaim deed dated August 17, 1971. The Secretary of the Army shall also release the State of Minnesota from all covenants and agreements contained in the said quitclaim deed, covering the approximately 35.38 acres of land.

(ii) CONDITION OF RELEASE.—The release directed by clause (i) are conditioned on the State of Minnesota donating approximately 35.38 acres of land to the United States for use by the Department of the Army.

(iii) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the land over which the reversionary interest is to be released shall be determined by surveys which are satisfactory to the Secretary of the Army and the State of Minnesota.

(iv) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions as he considers appropriate to protect the interests of the United States. The Secretary of the Army may agree to allow the State of Minnesota to retain a reversionary interest in the land described in clause (i) conditioned upon the Secretary's use of the land for Army purposes and preservation of the historic structures lying thereon in conformity with Department of Interior standards for properties on the National Register of Historic Places.

(b) DEED AMENDMENT.—The Secretary of the Army is authorized to execute and file the appropriate documents to reflect the provisions of this section.

SEC. 2831. TINKER AIR FORCE BASE, OKLAHOMA

(a) PURCHASE AUTHORIZED.—Notwithstanding any other provision of law, the Secretary of the Air Force is authorized to acquire a Depot Operations Logistics Facility at Tinker Air Force Base for the sum of $248,900.00. No charge to appropriations shall be required for sums previously expended for site preparation, leasing, installation or other construction.

(b) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2832. REPORT REGARDING FORT MEADE RECREATION AREA

Not later than 30 days after the enactment of this Act, the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the feasibility of conveying to the State of Delaware a parcel of property known as Fort Meade Recreation Area, formerly Fort Miles, Delaware, containing approximately 95.9 acres.

PART C—MISCELLANEOUS PROVISIONS

SEC. 2831. OPERATION AND CONTROL OF THE PENTAGON RESERVATION

(a) IN GENERAL.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2673 the following new section:

"§ 2674. Operation and control of the Pentagon Reservation

"(a) The Secretary of Defense has jurisdiction over and custody and control of the Pentagon Reservation. Except as provided in subsection (d), the Secretary shall be responsible for all matters relating to the operation and control of the Pentagon Reservation.

"(b) The Secretary of Defense may appoint military or civilian personnel or contract employees to perform law enforcement and security functions for property occupied, or under the jurisdiction, custody, and control of the Department of Defense located in the National Capital Region. Such individuals—

"(1) may be armed with appropriate firearms required for personal safety and for the proper execution of their duties, whether on Department of Defense property or in travel status, and

"(2) shall have the same powers as sheriffs and constables to enforce the laws, rules, or regulations enacted for the protection of persons and property.

"(c) The Secretary of Defense may promulgate such rules and regulations that he deems appropriate to insure the safe, efficient, and secure operation of the Pentagon Reservation, including parking and traffic rules. Whoever shall violate any rule or regulation promulgated pursuant to this section shall be fined not more than $50 or imprisoned not more than 30 days, or both.

"(d) The Secretary of the Army shall exercise the authority of the Secretary of Defense with respect to the operation, maintenance, and management of the physical facilities of the Pentagon Reservation.

"(e) The Secretary of Defense shall ensure that Members of Congress who serve on committees of the Senate or the House of Representatives having legislative oversight jurisdiction of the Department of Defense and the professional staff members of such committees have appropriate access to the facilities of the Pentagon Reservation.

"(f) In this section, the term 'Pentagon Reservation' means that area of land (consisting of approximately 420 acres) and improvements thereon, located in Arlington, Virginia, on which the Pentagon Office Building, Federal Building Number 2, the Pentagon heating and sewage treatment plants, and other related facilities are located, including various areas designated for the parking of vehicles but not including the area known as the Lagoon.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2073 the following new item:

"2674. Operation and control of the Pentagon Reservation."

(b) EFFECTIVE DATES.—(1) Jurisdiction, custody, and control over, and responsibility for the operation, maintenance, and management of the Pentagon Reservation is

transferred from the Administrator of General Services to the Secretary of Defense effective October 1, 1989, or the first day of the second month following the month in which this Act is enacted, whichever is later. For purposes of this paragraph, the term "Pentagon Reservation" has the same meaning provided for such term in section 2674 of title 10, United States Code, as added by subsection (a).

(2) Section 2674 of title 10, United States Code (as added by subsection (a)), shall take effect on the effective date of the transfer under paragraph (1).

(c) LIMITATION ON CERTAIN PAYMENTS.—After the effective date of the transfer provided in subsection (b), the Secretary of Defense shall pay to the Administrator of General Services only the costs incurred by the General Services Administration in furnishing space, repairs, alterations, maintenance, and other services and facilities to the Department of Defense in the National Capital Region until after renovation of the Pentagon building has been completed or until after September 30, 1999, whichever is earlier. Payments by the Secretary of Defense under the preceding sentence shall be in lieu of the payment of any charges the Administrator of General Services is required to make against the Department of Defense under section 210(j) of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 490(j)).

SEC. 2832. COOPERATIVE AGREEMENTS FOR LAND MANAGEMENT ON DEPARTMENT OF DEFENSE INSTALLATIONS

(a) IN GENERAL.—The Act entitled "An Act to promote effectual planning, development, maintenance, and coordination of wildlife, fish, and game conservation and rehabilitation in military reservations" (popularly known as the "Sikes Act"), approved September 15, 1960 (16 U.S.C. 670a et seq.), is amended by inserting after section 103 the following new section:

"SEC. 103a. The Secretary of Defense may enter into cooperative agreements with States, local governments, nongovernmental organizations, and individuals to provide for the maintenance and improvement of natural resources on, or to benefit natural and historic research on, Department of Defense installations.

"(b) A cooperative agreement shall provide for the Secretary of Defense and the other party or parties to the agreement—

"(1) to contribute funds on a matching basis to defray the cost of programs, projects, and activities under the agreement;

"(2) to furnish services on a matching basis to carry out such programs, projects, and activities; or

"(3) to contribute funds (on a matching basis) and to furnish services (on a matching basis).

"(c) Cooperative agreements entered into under this section shall not be considered, nor be treated as, cooperative agreements to which chapter 63 of title 31, United States Code, applies.".

(b) APPROPRIATIONS AND EXPENDITURES.—Section 106 of such Act (16 U.S.C. 670f) is amended—

(1) in subsection (a), by inserting "and cooperative agreements agreed to under section 103a" in the first sentence after "sections 101 and 102";

(2) in subsection (b), by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", and to carry out such functions and responsibilities as the Secretary may have under cooperative agreements entered into under section 103a.".

SEC. 2833. DEVELOPMENT OF LAND AND LEASE OF FACILITY AT HENDERSON HALL, ARLINGTON, VIRGINIA

(a) IN GENERAL.—The Secretary of the Navy may—

(1) using funds provided from the Navy Mutual Aid Association, design, supervise, construct, and inspect a multipurpose facility of approximately 62,000 square feet to be located at Henderson Hall, Arlington, Virginia; and

(2) lease, at no cost, to the Navy Mutual Aid Association approximately one-third of the square footage of the facility to be constructed.

(b) TERMS OF LEASE.—The lease entered into under subsection (a) shall—

(1) be for a term of 50 years;

(2) be in full consideration for the funds provided to the Secretary by the Navy Mutual Aid Association pursuant to subsection (a);

(3) provide that in the event the lease is canceled by the Secretary before expiration, the Secretary shall, as determined by the Secretary, provide comparable alternative space or, subject to the availability of funds, reimburse the Navy Mutual Aid Association for the unamortized cost of the building; and

(4) allow, as the discretion of the Secretary, for the Navy Mutual Aid Association to continue to use the space after the initial 50-year term, in compliance with laws and regulations applicable at that time.

(c) CONDITIONS.—(1) Title to the facility described in subsection (a)(1) shall be and remain in the United States.

(2) All construction authorized under this section shall be awarded through competitive procedures.

(3) Any lease or other agreement entered into under the authority of this section shall be subject to such terms and conditions as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2834. TRANSFER OF DEPARTMENT JURISDICTION OVER CERTAIN LANDS AT SANDIA, NEW MEXICO

(a) TRANSFER OF JURISDICTION AND CONTROL.—Jurisdiction and control of the real property described in subsection (b) is hereby transferred from the Secretary of Defense to the Secretary of Energy for use by the Department of Energy in providing a location for the Center for National Security and Arms Control. Notwithstanding any other provision of law, no consideration shall be paid for the transfer.

(b) LAND DESCRIPTION.—The real property referred to in subsection (a) is a tract of land located in Bernalillo County, New Mexico, in a portion of section 32, township 10 north, range 4 east, New Mexico principal meridian, and consisting of 5.583 acres, more or less. The exact acreage and land description shall be determined by the Secretary of Defense.

SEC. 2835. REIMBURSEMENT FOR COSTS ASSOCIATED WITH HOMEPORTING AT LAKE CHARLES, LOUISIANA

(a) REIMBURSEMENT.—(1) The Secretary of the Navy may—

(A) reimburse the Lake Charles Harbor and Terminal District, Lake Charles, Louisiana, in an amount not to exceed $2,600,000 for actual expenses—

(i) incurred by the District before the date of the enactment of this Act for the construction of utilities and roads to serve the proposed Lake Charles Navy Homeport, which is to be closed pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2626); and

(ii) that will be incurred by the District after the date of the enactment of this Act in connection with the construction of such utilities and roads as a direct result of the closing of the homeport, as determined by the Secretary;

(B) pay to the Lake Charles Harbor and Terminal District an amount not to exceed $1,300,000 for completion of the permanent access road to the proposed homeport from State Highway 384;

(C) take such action as may be necessary to release to the State of Louisiana any funds remaining in the trust account established by the State pursuant to the Memorandum of Agreement between the State and the Navy for use by the Navy in connection with the construction of the Lake Charles Navy Homeport; and

(D) reimburse the State of Louisiana for any funds expended by the Navy from the trust account referred to in clause (C);

(2) The total of the amount of funds that may be released to the State of Louisiana pursuant to clause (C) of paragraph (1) and paid to the State pursuant to clause (E) of that paragraph may not exceed $5,000,000.

(b) SOURCE OF FUNDS.—Payments under this section shall be made from funds appropriated pursuant to Public Law 100-202 (101 Stat. 1329) for the construction of facilities at the proposed Lake Charles Navy Homeport. In no event may the total amount paid under this section by the Secretary exceed the amount appropriated for construction of homeport facilities at Lake Charles and remaining available for obligation after payment of all termination costs resulting from the closure of the Lake Charles Navy Homeport.

(c) LAND CONVEYANCE.—The Secretary shall convey to the Lake Charles Harbor and Terminal District, without consideration, approximately 38 acres of land (together with improvements and the sheet pile materials thereon) constituting the proposed Lake Charles Navy Homeport, Louisiana. Such lands are the same lands that were previously conveyed, without consideration, to the United States by the Lake Charles Harbor and Terminal District by special warranty deed dated March 14, 1988.

(d) CONDITION.—The reimbursements and conveyance provided for in this section shall be made subject to the condition that the agreement entered into by the Lake Charles Harbor and Terminal District, the State of Louisiana, and the United States entitled "Memorandum of Understanding for Donation of Land and Establishment of Homeport", dated June 11, 1986, shall be considered canceled and of no force or effect after such reimbursements and conveyance have been made by the Secretary.

(e) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States of America.

SEC. 2836. REQUIREMENTS RELATING TO ENVIRONMENTAL RESTORATION ACTIVITIES AND ENVIRONMENTAL CONTAMINATION

(a) EXPEDITIOUS REPORTING OF INFORMATION.—The Secretary of Defense shall ensure that all information relating to environmental restoration activities at Department of Defense facilities and required to be provided to regional offices of the Environmental Protection Agency, appropriate

State authorities, and local authorities under section 2705 of title 10, United States Code, is expeditiously provided to such offices and authorities.

(b) ASSESSMENTS OF ENVIRONMENTAL CONTAMINATION PLANS.—(1) The Secretary of Defense shall ensure that—

(A) all Department of Defense assessments of the Department's environmental contamination plans and of the Department's emergency and remedial actions to abate or mitigate environmental contamination at Department of Defense facilities are carried out in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510; 94 Stat. 2767) and Environmental Protection Agency regulations; and

(B) each such assessment, plan, and action is made available to and carried out in consultation with the Administrator of the Environmental Protection Agency and the appropriate State or local agency.

(2) The Administrator of the Environmental Protection Agency shall submit to the Secretary of Defense and the appropriate committees of Congress such comments and recommendations with regard to any assessment, plan, or action referred to in paragraph (1) as the Administrator considers appropriate.

(c) MONITORING CONTAMINATION.—After discovery of a potential environmental contamination at any Department of Defense facility conducting environmental restoration activities, the Secretary of Defense, in consultation with the Administrator of the Environmental Protection Agency and the head of the appropriate State agency, shall program and install such systems for monitoring contamination at such facility as may be appropriate to ensure that there is no release or exposure of environmental contamination that will pose a risk to public health.

(d) EMERGENCY ACTION.—Nothing in this section shall prevent the Secretary of Defense from carrying out such emergency actions as may be necessary to protect the public health or the environment if the Secretary determines that time does not permit consultation with appropriate regulatory agencies.

SEC. 2837. FEASIBILITY STUDY OF LAND TRANSFER FOR USE AS A CORRECTIONAL FACILITY

(a)(1) The Secretary of Defense, in consultation with the U.S. Attorney General, shall conduct a study of the feasibility of selling or otherwise transferring to the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, a parcel of land of approximately 100 acres not more than 100 miles from the southern boundary of Arlington County, from the military installations within Virginia which encompass land that may be suitable for use by the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, as a site for a medium security correctional facility for persons sentenced in the courts of Virginia or in the United States District Court in Virginia.

(2) The study required by paragraph (1) shall address, at a minimum, the following issues:

(A) Whether there are parcels of land within those installations of the size described which could be released from Federal control without severely affecting the present mission of such installations.

(B) A description of the parcels of land described in subparagraph (A).

(C) A description of the effects, if any, transfer of such parcels of land from Federal control would have on the ability of the Secretary of Defense to effectively carry out the mission of the Department of Defense.

(D) An analysis of the risk, if any, that might be posed to military personnel and their dependents housed on such installation by the operation of such a correctional facility on the parcels of land described in subparagraph (A).

(E) An estimate of the date on which the parcels of land described in subparagraph (A) would be available for transfer from Federal control.

(b) The report of the study described in subsection (a) shall be delivered to the Committees on Armed Services of the Senate and House of Representatives not later than 60 days after enactment of this Act.

DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 3101. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1990 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,821,270,000, to be allocated as follows:

(A) For research and development, $1,090,670,000.

(B) For weapons testing, $532,600,000.

(C) For production and surveillance, $2,100,097,000.

(D) For program direction, $97,903,000.

(2) For defense nuclear materials production, $1,664,691,000, to be allocated as follows:

(A) For production reactor operations, $578,049,000.

(B) For processing of defense nuclear materials, including naval reactors fuel, $599,609,000, of which $78,744,000 shall be used for special isotope separation.

(C) For supporting services, $282,868,000.

(D) For uranium enrichment for naval reactors, $168,900,000.

(E) For program direction, $35,265,000.

(3) For verification and control technology, $174,146,000.

(4) For nuclear materials safeguards and security technology development program, $82,241,000.

(5) For security investigations, $41,200,000.

(6) For new production reactors, $203,500,000.

(7) For naval reactors development, $562,800,000.

SEC. 3102. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1990 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 90-D-101, general plant projects, various locations, $28,130,000.

Project 90-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $1,000,000.

Project 90-D-103, environment, safety, and health improvements, various locations, $10,700,000.

Project 90-D-121, general plant projects, various locations, $30,850,000.

Project 90-D-122, production capabilities for the nuclear depth/strike bomb (ND/SB), various locations, $8,000,000.

Project 90-D-124, high explosives (HE) synthesis facility, Pantex Plant, Amarillo, Texas, $1,800,000.

Project 90-D-125, steam plant ash disposal facility, Y-12 Plant, Oak Ridge, Tennessee, $1,500,000.

Project 90-D-126, environmental, safety, and health enhancements, various locations, $26,700,000.

Project 89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee, $9,200,000.

Project 89-D-125, plutonium recovery modification project, Rocky Flats Plant, Golden, Colorado, $45,000,000.

Project 89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio, $3,500,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,100,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $44,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $94,400,000.

Project 88-D-122, facilities capability assurance program, various locations, $83,099,000.

Project 88-D-123, security enhancements, Pantex Plant, Amarillo, Texas, $5,500,000.

Project 88-D-124, fire protection upgrade, various locations, $5,400,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, $36,000,000.

Project 87-D-104, safeguards and security enhancement, Phase II, Lawrence Livermore National Laboratory, Livermore, California, $7,000,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, $41,200,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $5,200,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $24,025,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, $9,460,000.

(2) For materials production:

Project 90-D-141, Idaho chemical processing plant fire protection, Idaho National Engineering Laboratory, Idaho, $3,500,000.

Project 90-D-142, coal storage facility environmental upgrade, Feed Materials Production Center, Fernald, Ohio, $920,000.

Project 90-D-143, plutonium finishing plant fire safety and loss limitation, Richland, Washington, $800,000.

Project 90-D-146, general plant projects, various locations, $36,802,000.

Project 90-D-149, plantwide fire protection, Phase I, Savannah River, South Carolina, $4,900,000.

Project 90-D-150, reactor safety assurance, Phase I, Savannah River, South Carolina, $12,700,000.

Project 90-D-151, engineering center, Savannah River, South Carolina, $7,000,000.

Project 89-D-140, additional separations safeguards, Savannah River, South Carolina, $10,300,000.

Project 89-D-141, M-area waste disposal, Savannah River, South Carolina, $7,800,000.

Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina, $40,000,000.

Project 89-D-148, improved reactor confinement system, design only, Savannah River, South Carolina, $7,100,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $6,400,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I, II, III, and IV, Feed Materials Production Center, Fernald, Ohio, $55,111,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $40,000,000.

Project 86-D-149, productivity retention program, Phases I, II, III, IV, and V, various locations, $81,780,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $3,164,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $6,181,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $55,000,000.

(3) For verification and control technology:

Project 90-D-186, center for national security and arms control, Sandia National Laboratories, Albuquerque, New Mexico, $1,000,000.

(4) For new production reactor:

Project 88-D-154, new production reactor capacity, various locations, $100,000,000.

(5) For naval reactors development:

Project 90-N-101, general plant projects, various locations, $8,500,000.

Project 90-N-102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $3,600,000.

Project 90-N-103, advanced test reactor off-gas treatment system, Idaho National Engineering Laboratory, Idaho, $200,000.

Project 90-N-104, facilities renovation, Knolls Atomic Power Laboratory, Niskayuna, New York, $3,900,000.

Project 89-N-102, heat transfer test facility, Knolls Atomic Power Laboratory, Niskayuna, New York, $6,500,000.

Project 89-N-103, advanced test reactor modifications, Test Reactor Area, Idaho National Engineering Laboratory, Idaho, $3,100,000.

Project 89-N-104, power system upgrade, Naval Reactors Facility, Idaho, $6,400,000.

Project 88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho, $3,000,000.

(6) For capital equipment not related to construction:

(A) For weapons activities, $288,875,000, including $8,700,000 for the defense inertial confinement fusion program.

(B) For materials production, $104,425,000.

(C) For verification and control technology, $9,732,000.

(D) For nuclear safeguards and security, $4,967,000.

(E) For naval reactors development, $54,000,000.

SEC. 3103. FUNDING LIMITATIONS

(a) PROGRAMS, PROJECTS, AND ACTIVITIES OF THE DEPARTMENT OF ENERGY RELATING TO STRATEGIC DEFENSE INITIATIVE.—Of the funds appropriated to the Department of Energy for fiscal year 1990 for operating expenses and plant and capital equipment, not more than $200,000,000 may be obligated or expended for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

(b) INERTIAL CONFINEMENT FUSION.—Of the funds appropriated to the Department of Energy for fiscal year 1990 for operating expenses and plant and capital equipment, not more than $173,700,000 may be obligated or expended for the defense inertial confinement fusion program.

(c) SPECIAL ISOTOPE SEPARATION PROJECT.—The funds authorized for Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, may not be used for construction or for procurement of long-lead materials or equipment. The Secretary of Energy may transfer not more than $10,000,000 from such project to operating expenses for the special isotope separation project. No additional funds may be obligated for construction, including site preparation, in connection with such project until the Secretary has certified to the Committees on Armed Services of the Senate and the House of Representatives that the technology for the special isotope separation project has been proven and that all environmental requirements provided in applicable laws have been met.

(d) LANCE WARHEAD FOLLOW-ON.—(1) Except as provided in paragraph (2), funds appropriated pursuant to the authorization contained in section 3101 may not be obligated for design and development of any warhead for the Follow-on To Lance (FOTL) missile.

(2) Funds referred to in paragraph (1) may be obligated for the design of any warhead for the Follow-on To Lance (FOTL) missile if the Nuclear Weapons Council certifies to the Secretary of Energy that such warhead—

(A) is a cost-effective utilization of the W84 warhead, the W85 warhead, or both the W84 and W85 warheads, or the components of such warhead or warheads, as the case may be; or

(B) is incompatible with utilization of the W84 and W85 warheads and their components.

PART B—RECURRING GENERAL PROVISIONS

SEC. 3121. REPROGRAMMING

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS

(a) IN GENERAL.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and on the Committees on Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3102 of this title, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY

(a) IN GENERAL.—Funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

(b) SPECIFIC TRANSFER.—The Secretary of Defense may transfer to the Secretary of Energy not more than $100,000,000 of the funds appropriated for fiscal year 1990 to

the Department of Defense for research, development, test, and evaluation for the Defense Agencies for the performance of work on the Strategic Defense Initiative. Funds so transferred—

(1) may be used only for research, development, and testing for nuclear directed energy weapons, including plant and capital equipment related thereto;

(2) shall be merged with the appropriations of the Department of Energy; and

(3) may not be included in calculating the amount of funds obligated or expended for purposes of the funding limitation in section 3103(a).

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by section 3102, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated for operating expenses or for plant and capital equipment may remain available until expended.

PART C—DEFENSE ENERGY TECHNOLOGY TRANSFER

SEC. 3131. SHORT TITLE

This part may be referred to as the "Department of Energy National Competitiveness Technology Transfer Act of 1989".

SEC. 3132. FINDINGS AND PURPOSE

(a) FINDINGS.—Congress finds that:

(1) technology advancement is a key component in the growth of the United States industrial economy, and a strong industrial base is an essential element of the security of this country;

(2) there is a need to enhance United States competitiveness in both domestic and international markets;

(3) innovation and the rapid application of new technology are assuming a more significant role in near-term marketplace success;

(4) the Department of Energy's laboratories and other facilities have outstanding capabilities in a variety of advanced technologies and skilled scientists, engineers, and technicians who could contribute substantially to the posture of United States industry in international competition;

(5) improved opportunities for cooperative arrangements between contractor-managers of certain Department of Energy facilities and the United States private sector, consistent with the program missions at those facilities, particularly the national security functions involved in atomic energy defense activities, would contribute to our national well-being; and

(6) more effective cooperation between those Department of Energy facilities and the United States private sector is required to provide speed and certainty in the technology transfer process.

(b) PURPOSES.—The purposes of this part are to—

(1) enhance United States national security by establishing a national competitiveness mission for certain Department of Energy facilities in order to provide opportunities to utilize the technologies and capabilities residing in those facilities for the United States to enhance its competitiveness; and

(2) enhance collaboration between universities, the private sector, and facilities of the Department of Energy so as to foster the development of technologies in areas of significant economic potential.

SEC. 3133. DEFINITIONS

For purposes of this part, the term—

(a) "Facility" means the following Department of Energy installations, respectively:

(1) Lawrence-Livermore National Laboratory;

(2) Los Alamos National Laboratory;

(3) Sandia National Laboratory;

(4) Idaho National Engineering Laboratory; and

(5) any other installations that are managed under a contract that includes the provisions referred to in section 3134(d) and any government-owned, contractor-operated installations established as Department of Energy multi-purpose laboratories or program-dedicated laboratories that are designated by the Secretary upon request of the contractor-manager; except that term does not include Naval Nuclear Propulsion laboratories or contractors performing work covered under Executive Order 12344, as codified in 42 U.S.C. 7158;

(b) "Secretary" means the Secretary of Energy;

(c) "Contract" means a prime contract between the United States, represented by the Department of Energy, and a contractor to manage and operate a facility;

(d) "Contractor-manager" means the entity undertaking the responsibility under a contract to manage and operate a facility;

(e) "Cooperative arrangement" means a written agreement between a contractor-manager and one or more collaborative parties, under which the contractor-manager, acting under his contract, provides personnel, services, equipment, or other resources for the conduct of specified developmental or advanced work to assist in creating products of potential commercial value;

(f) "Collaborative party" means a party to a cooperative arrangement other than a Federal department or agency or any of their contractors or subcontractors acting in furtherance of their contractual undertakings to the Federal entities;

(g) "Program mission" means the work and services constituting the entire scope of work to be performed by the contracting party under the contract, excluding the national competitiveness mission;

(h) "National competitiveness mission" means the contractor-manager's activities under the contract, conducted in partnership with the Department of Energy, consistent with program missions and national security considerations, to provide for the transfer of technology developed at the facility to the United States private sector, including activities performed under cooperative arrangements and intellectual-property licensing activities;

(i) "Intellectual property" means patents, trademarks, copyrights, mask works, and other forms of comparable property rights protected by Federal law;

(j) "Technical data" means recorded information, regardless of form or characteristic of a scientific or technical nature, excluding computer software;

(k) "Computer software" means recorded information, regardless of form or media on which it may be recorded, comprising computer programs or documentation thereof; and

(l) "Unlimited rights" means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly or display publicly, in any manner and for any purpose, and to have or permit others to do so.

SEC. 3134. NATIONAL COMPETITIVENESS MISSION

(a) Within 180 days after the date of enactment of this Act, the Secretary shall:

(1) review all existing laws, regulations, policy guidelines, orders, directives and administrative processes associated with the Department's ability to achieve the purpose of this part;

(2) confer with representatives of United States industry and labor, educational institutions, and contracting parties respecting effective implementation of this part.

(3) advise the Congress of any existing legal obstacles interfering with the Department's ability to achieve the purpose of this Act, and make pertinent recommendations; and

(4) publish a comprehensive set of policy guidelines, procedures, and supporting regulations to effectuate the purpose of this part, including:

(A) a procedure for assuring that proposed cooperative arrangements are reviewed and concurred in, required to be modified, or rejected by the Secretary within 60 days after receipt by the Secretary of the proposed arrangement. If action is not taken by the Secretary within this 60-day period, the Secretary shall—

(i) notify the contractor-manager affected of the date on which action will be taken, not to exceed an additional 60 days from the original deadline; and

(ii) provide a written explanation of the reasons for the delay.

In any case under such procedure in which the Secretary disapproves or requires the modification of any proposed cooperative arrangement submitted under this part, the Secretary shall transmit a written explanation of such disapproval or modification to the contractor-manager affected;

(B) requirements to avoid conflicts of interests, and to govern the use of Govern-

ment funds for a receipt of funds, due to the national competitiveness mission; and

(C) any other requirements related to the principles stated in subsection (b) of this section.

(b) In taking the steps provided for in subsections (a)(4) and (d) of this section the Secretary shall be guided by the following principles:

(1) The national competitiveness mission shall not interfere with any national security mission for the Department of Energy and shall be complementary to and supporting of the program missions at the facility, and in the overall best interests of the federal government.

(2) Classified information and unclassified sensitive information protected by law or regulations shall be safeguarded.

(3) The Secretary's management authority and responsibility with respect to the facility and the conduct of activities under the contract for the operation of the facility shall not be diminished.

(4) The national competitiveness mission shall be conducted in a manner that—

(A) provides fairness of opportunity to participate to entities in the United States private sector and for a fair return on the taxpayer's investment;

(B) includes consideration of small business firms and universities; and

(C) permits, subject to such restrictions, limitations, terms, and conditions as the Secretary considers necessary, temporary exchanges of personnel between any domestic firm or university and a facility subject to this part.

(5)(A) The benefits of technology transfer resulting from the national competitiveness mission shall accrue to United States industry.

(B) In accordance with the principles in paragraphs (2), (4) and (5)(A) of this subsection, entities that are owned, controlled or dominated by a foreign government or foreign entity shall be separately considered in light of the objective of this part to improve United States competitiveness and of national security. In addition, agreements with such foreign entities shall take into consideration whether or not the associated foreign government permits United States agencies, organizations, or other persons to enter into cooperative arrangements and licensing agreements with agencies, organizations, or other persons of such foreign country.

(6) The Secretary shall establish an explicit policy and procedures to govern a contractor-manager's use of Government resources for the national competitiveness mission, royalties or other income from licensing agreements, and receipts of funds by reasons of cooperative arrangements, as well as the maintenance of books and records.

(7) Appropriate march-in rights shall be provided for intellectual property acquired by the contractor-manager, collaborative party or their successors-in-interest to assure commercial utilization of technology developed under cooperative arrangements.

(c) Beginning promptly after the inclusion of the national competitiveness mission in a contract, and continuing thereafter during the course of the national competitiveness mission, the Secretary and the contractor-manager shall periodically confer on:

(1) potential projects for cooperative arrangements;

(2) terms and conditions in cooperative arrangements;

(3) specification of particular inventions and specific technical data or computer software provided for in section 3135 of this part; and

(4) progress and problem areas associated with potential or actual cooperative arrangements.

(d) Within 60 days after publication of the guidelines, procedures and regulations under subsection (a)(4), the Secretary shall make available to each contractor-manager of a facility for possible inclusion in the contract appropriate contract provisions that—

(1) refer to this part;

(2) establish the concept of cooperative arrangements as a mission for the government; and

(3) describe the respective obligations and responsibility of the government and a contractor-manager party with respect to the national competitiveness mission.

SEC. 3135. PARTICULAR INVENTIONS AND SPECIFIC TECHNICAL DATA OR COMPUTER SOFTWARE

(a) Beginning after the inclusion in a contract of the national competitiveness mission, the contractor-manager shall identify in writing in advance of its use in a contemplated cooperative arrangement or in an amendment to the arrangement:

(1) any particular inventions, conceived or first actually reduced to practice by the contractor-manager in the performance of program missions under its contract; and

(2) any specific technical data or computer software determined to have near-term commercial value, first produced by the contractor-manager in the performance of program missions under its contract.

(b) To the extent that this Act is inconsistent with any of the provisions of 35 U.S.C. 200 et. seq., the provisions of this part take precedence.

(c) In addition to the exemptions provided by section 202(a) (i), (ii), (iii), and (iv) of title 35, United States Code, for purposes of this part the Secretary may designate special circumstance technologies or inventions for which title shall vest in the Government in the same manner as exceptional circumstance determinations under section 202(a)(ii) of title 35, United States Code. The Secretary may make this designation only where a finding can be made that retention of title by the contractor would not meet the principles of section 3134(b) or that public health, safety, energy, or environmental considerations require otherwise. The Secretary's finding shall be processed in the same manner as determinations under subsection 202(b)(1) of title 35, United States Code.

(d) With respect to any inventions conceived or first actually reduced to practice by the contractor-manager in the performance of its contract to manage and operate the facilities:

(1) Notwithstanding section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), section 9 of the Federal Non-nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908), or other provision of law, the Secretary shall dispose of the title to an invention made by a contractor-manager in the same manner as applied to small business and nonprofit organizations under chapter 18 of title 35, United States Code, and as provided by this part.

(2)(A) Whenever a contractor-manager makes an invention to which the Secretary has determined to retain title for exceptional circumstances under section 202(a)(ii) of title 35, United States Code or for special circumstances under subsection (c), title to the invention shall be retained by the Government unless the facility at which the invention is made requests title or an exclusive right to the invention and the Secretary does not notify the contractor-manager of the facility within ninety days after receipt of the request that—

(i) the invention is covered by a determination under section 202(a)(ii) of title 35, United States Code or a special circumstance designation under subsection (c) or has been classified or has been designated sensitive technical information; and

(ii) rejection of the request, in whole or in part, either is justified by the Secretary's original determination to retain title for exceptional circumstances or for special circumstances or is in the best interests of the United States, taking into consideration the matters set forth in subparagraph (C).

(B) Whenever a contracting party makes an invention to which the Secretary has determined to retain title because the invention is made in the course of or under a funding agreement described in section 202(a)(iv) of title 35, United States Code, the title to the invention shall be retained by the Government unless the contractor-manager of the facility at which the invention is made requests title or an exclusive right to the invention and the Secretary does not notify the director of the facility within ninety days after receipt of the request that—

(i) the invention is covered by a determination under subsection 202(a)(iv) of title 35, United States Code, or has been classified or has been designated sensitive technical information, and

(ii) rejection of the request, in whole or in part, is in the best interests of the United States, taking into consideration the matters set forth in subparagraph (C).

(C) In making a determination in accordance with this paragraph, the Secretary shall consider whether any such determination either may result in—

(i) the compromise of the national security;

(ii) the release to unauthorized persons of sensitive technical information (whether classified or unclassified) under any program or activity for which dissemination is controlled under Federal law; or

(iii) a conflict of interest contemplated by Federal statutes and regulations;

or will adversely affect the operation of any other program or activity conducted at any facility. The Secretary may not use export control statutes or regulations as the sole bases for refusing a request for title to an invention.

(D) If the Secretary does not notify the contractor-manager that has requested title to an invention in accordance with this section, the Secretary shall—

(i) notify the contractor-manager of the date on which action will be taken by the Secretary, not to exceed an additional 60 days beyond the original deadline; and

(ii) shall provide a written explanation of the reason for the delay.

(e) With respect to specific technical data or computer software referred to in subsection (a)(2) that the Secretary, upon request of the contractor-manager, determines has near-term commercial value and is necessary for commercialization of technology to be developed under the cooperative arrangement, the cooperative arrangement may provide intellectual property rights to the technical data or computer software; if so protected the technical data or computer software shall not be disclosed to or reproduced for any third party by the Govern-

ment (except for third parties to which the Government decides it must disclose the technical data or computer software on a restricted basis either for national security purposes, for health, safety and environmental purposes, or to Government contractors in the performance of Government work), the contractor-manager or any collaborative party to the arrangement, for a period of up to three years after completion of the work performed under the arrangement up to a maximum of six years after the technical data or computer software is first produced. Thereafter, or earlier upon permission of the parties, the Government shall have unlimited rights to such intellectual property and technical data or computer software.

(f) Notwithstanding any grant of rights under subsections (d) and (e) of this section, the Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license, to practice or have practiced for or on behalf of the United States throughout the world, to such inventions, to use or have used or create derivative works for or on behalf of the United States throughout the world such technical data or computer software.

SEC. 3136. COOPERATIVE ARRANGEMENTS

(a) Notwithstanding any other provision of this part or any other provision of any other law to the contrary, the rights to any inventions conceived or first actually reduced to practice by a collaborating party in performing under a cooperative arrangement shall be agreed to by the parties to the arrangement, subject to regulations under this Act and to the Government's nonexclusive, nontransferable, irrevocable, paid-up license, to practice or have practiced for or on behalf of the United States throughout the world, to that invention;

(b) With respect to technical data or computer software first produced in the performance of a cooperative arrangement that the Secretary, upon request of the contractor-manager, determines has near-term commercial value and is necessary for commercialization of technology to be developed under the cooperative arrangement, may be protected by an intellectual property right; if so protected, the technical data or computer software shall not be disclosed to or reproduced for any third party by the Government (except for third parties to which the Government decides it must disclose the technical data on a restricted basis either for national security purposes, for health, safety, and environmental purposes, or to Government contractors in performance of Government work), the contractor-manager or any collaborative party to the arrangement, without the express written permission of all parties to the arrangement, for a period of up to three years after completion of the work performed under the arrangement up to a maximum of six years after the technical data is first produced, subject to the Government's nonexclusive, nontransferable, irrevocable, paid-up license, to use or have used or create derivative works for or on behalf of the United States throughout the world, such technical data or computer software. Thereafter, or earlier upon permission of the parties to the agreement, the Government shall have unlimited rights to the intellectual property and technical data or computer software; and

(c) technical data or computer software in which collaborating parties have rights established prior to entering into cooperative arrangements shall be accorded appropriate protection.

SEC. 3137. OVERSIGHT

The Secretary, the Inspector General of the Department of Energy, and the Comptroller General shall conduct periodic audits of activities under this part.

SEC. 3138. LIABILITY

Neither the United States nor the contractor-managers, or any of their officers, employees or agents, may be held liable for injury or damage due to a defect or deficiency in a product or process produced or service performed by a collaborating party or its licensees or assigns that embodies technology developed under a cooperative arrangement under this part.

SEC. 3139. COPYRIGHTS AND PATENTS

This part does not contain any new authority for the Department of Energy to obtain a copyright or a patent.

PART D—MISCELLANEOUS PROVISIONS

SEC. 3141. PRODUCTION OF THE 155-MILLIMETER ARTILLERY-FIRED, ATOMIC PROJECTILE

Section 1635 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2649), is amended—

(1) in subsection (b), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", not including amounts spent exclusively to ensure the safety and security of the warheads."; and

(2) by adding at the end the following new subsection:

"(d) The Secretary of Energy and the Secretary of Defense shall jointly submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of this section and shall include in such report the number of projectiles referred to in subsection (b) that have been produced and the total amount obligated for the production of such projectiles. Such report shall be submitted at the same time that the President submits the budget for fiscal year 1991 to Congress pursuant to section 1105 of title 31, United States Code.".

SEC. 3142. SPECIAL PERSONNEL MANAGEMENT AUTHORITY RELATING TO CERTAIN DEPARTMENT OF ENERGY POSITIONS

(a) AUTHORITY TO DESIGNATE CRITICAL POSITIONS.—(1) The Secretary of Energy may designate not more than 25 positions in the Department of Energy as critical positions. The Secretary may designate a position as a critical position for purposes of this section only if (A) the duties of the position involve significant managerial functions relating to the research, development, production, or processing of nuclear materials, facilities, or technology for defense purposes, and (B) the Secretary determines that sustained exceptional performance of such functions is required in the interest of the national security or the public health and safety of the United States.

(2)(A) The authority of the Secretary to designate a position as a critical position under this section expires three years after the date of the enactment of this Act.

(B) A position designated as a critical position for purposes of this section shall cease to be a critical position three years after the date of the enactment of this Act, except that a position designated as a critical position shall continue to be a critical position for purposes of this section after such three-year period so long as a person appointed to such position before the expiration of such three-year period continues to hold such position.

(b) AUTHORITY TO PRESCRIBE RATES OF PAY.—(1) Notwithstanding section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.), sections 5308, 5382, and 5383(b) of title 5, United States Code, or any other provision of law, the Secretary may prescribe the rate of pay for a critical position at the time an appointment is made to that position.

(2) Except as provided in paragraph (3), the rate of pay prescribed under paragraph (1) for a critical position may not exceed the amount equal to 150 percent of the rate of pay that, except for this subsection, would otherwise apply to that position.

(3) The Secretary may prescribe a rate of pay for a critical position in excess of the limit specified in paragraph (2) if the Secretary determines that there is an extraordinary need to pay a person in that position a rate of pay higher than that limit. However, in no case may the higher rate of pay exceed the amount equal to 150 percent of the rate of pay applicable for executive level II under the Executive Schedule pursuant to section 5313 of title 5, United States Code.

(4) Subject to the limitations provided in paragraphs (2) and (3), the Secretary may from time to time adjust the rates of pay prescribed under this subsection.

(c) INAPPLICABILITY OF DUAL COMPENSATION LIMITATION.—Section 5532 of title 5, United States Code, shall not apply to a person while such person is serving in a critical position.

(d) INAPPLICABILITY OF CERTAIN CONFLICTS-OF-INTEREST LAWS.—(1) Section 207 of title 18, United States Code, shall not apply in the case of a former officer or employee referred to in subsection (a) of such section who furnishes services to or on behalf of a contractor operating a multiprogram laboratory with which the Department of Energy has a contract. This paragraph shall apply only with respect to such services that relate to matters in which the former officer or employee officially participated while such former officer or employee was serving in a critical position.

(2) Section 208 of title 18, United States Code, shall not apply in the case of any person who (A) is serving in a critical position, and (B) is a former employee of a multiprogram laboratory with which the Department of Energy had a contract during the period that the person was employed by that laboratory. This paragraph shall apply only with respect to matters involving that laboratory.

(3)(A) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)) shall not apply to a person referred to in subparagraph (B) with respect to services furnished by such person to a multiprogram laboratory in connection with a competition for, award of, modification of, or extension of a Department of Energy contract for the operation of such laboratory or with respect to performance of work under the contract.

(B) This paragraph applies to any person who, while serving in a critical position, took any action described in section 27(e) of the Office of Federal Procurement Policy Act with respect to a procurement for the operation of the laboratory referred to in subparagraph (A).

(4)(A) Whenever a person, upon separation from employment by the Department of Energy, commences the furnishing of services with respect to which section 207 of title 18, United States Code, or section 27(e) of the Office of Federal Procurement Policy Act does not apply by reason of paragraph (1) or (3), the Secretary of Energy shall transmit to the Office of Government

Ethics a notification containing the name of such person, the Department of Energy position in which the person was employed at the time of separation, the contractor to which or on behalf of which such person is furnishing such services, and a description of such services.

(B) Whenever the Secretary of Energy appoints to a position of employment in the Department of Energy any person to whom section 208 of title 18, United States Code, does not apply by reason of paragraph (2), the Secretary shall transmit to the Office of Government Ethics a notification containing the name of such person, the position in which such person was employed while such person was employed in a laboratory referred to in that paragraph, the name of the person's employer while such person was so employed, and the position to which such person is appointed.

(C) Notifications received by the Office of Government Ethics under this paragraph shall be available to the public.

(e) SPECIAL SCIENTIFIC, ENGINEERING, AND MANAGERIAL POSITIONS.—(1) The Secretary may designate not more than 250 scientific, engineering, and managerial positions in the Department of Energy as special scientific positions, special engineering positions, and special managerial positions, respectively.

(2) Section 5532 of title 5, United States Code, shall not apply to a person while such person is serving in a position designated pursuant to paragraph (1).

(f) DEFINITIONS.—As used in this section:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "critical position" means a position designated by the Secretary as a critical position under subsection (a).

SEC. 3143. NUCLEAR TEST BAN READINESS PROGRAM

(a) PARTICIPATION OF THE SECRETARY OF DEFENSE.—Section 1436 of National Defense Authorization Act, Fiscal Year 1986 (Public Law 100-456; 102 Stat. 2075; 42 U.S.C. 2121 note) is amended—

(1) in subsection (b), by striking out "Secretary of Energy shall" and inserting in lieu thereof "Secretary of Defense and the Secretary of Energy shall jointly";

(2) in subsection (d)—

(A) by striking out "Secretary of Energy shall" and inserting in lieu thereof "Secretary of Defense and the Secretary of Energy shall jointly"; and

(B) by striking out "the Department of Defense,"; and

(3) in subsection (e), by striking out "Secretary of Energy shall" and inserting in lieu thereof "Secretary of Defense and the Secretary of Energy shall jointly".

(b) ESTABLISHMENT OF PROGRAM.—Subsection (b) of section 1436 of such Act is amended by striking out "deterrent effect" and all that follows through the end of such subsection and inserting in lieu thereof "military effectiveness of its stockpile of nuclear weapons designs and other deterrent systems in the event that a low-threshold or comprehensive ban on nuclear explosives testing is negotiated and ratified.".

(c) PURPOSESOF PROGRAM.—Subsection (c) of section 1436 of such Act is amended—

(1) in paragraph (1), by striking out "existing designs of nuclear weapons" and inserting in lieu thereof "its stockpile of nuclear weapons designs"; and

(2) in paragraph (3), by inserting before the period at the end the following: ", including nuclear effects on other deterrent systems, and can carry out necessary modernization requirements".

SEC. 3144. AUTHORIZATION AND FUNDING FOR ROCKY FLATS AGREEMENT

(a) AUTHORIZATION.—(1) Using funds available pursuant to subsection (b), the Secretary of Energy shall make such payments as may be necessary—

(A) to carry out the agreement entered into on June 16, 1989, between the Department of Energy and the State of Colorado with respect to the Rocky Flats Plant; and

(B) to enable the State of Colorado to provide such assistance to the Colorado communities described in paragraph (2) as is necessary to ensure, through testing and related activities, that the drinking water of those communities is safe, pure, and clean.

(2) The Colorado communities referred to in paragraph (1)(B) are those communities whose water supply flows through, runs off, or is otherwise affected by air or water emissions of, the Rocky Flats Plant.

(b) FUNDING.—Of the funds appropriated to the Department of Energy for fiscal year 1990 pursuant to the authorization in this title for environmental restoration and management of defense waste, not more than $3,435,000 may be obligated to carry out such agreement and to provide for testing and related activities authorized under subsection (a)(2).

SEC. 3145. REPORTS IN CONNECTION WITH PERMANENT CLOSURES OF DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES

(a) TRAINING AND JOB PLACEMENT SERVICES PLAN.—Not later than 120 days before a Department of Energy defense nuclear facility (as defined in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g)) permanently ceases all production and processing operations, the Secretary of Energy must submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of the training and job placement services needed to enable the employees at such facility to obtain employment in the environmental remediation and cleanup activities at such facility. The discussion shall include the actions that should be taken by the contractor operating and managing such facility to provide retraining and job placement services to employees of such contractor.

(b) CLOSURE REPORT.—Upon the permanent cessation of production operations at a Department of Energy defense nuclear facility, the Secretary of Energy shall submit to Congress a report containing—

(1) a complete survey of environmental problems at the facility;

(2) budget quality data indicating the cost of environmental restoration and other remediation and cleanup efforts at the facility; and

(3) a discussion of the proposed cleanup schedule.

SEC. 3146. NATIONAL COMPETITIVENESS MISSION

Section 91(a) of the Atomic Energy Act of 1954 (68 Stat. 936; 42 U.S.C. 2121(a) is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(3) enhance the economic competitiveness of the United States, to the extent consistent with the national security missions of the Department of Energy, by ensuring that investment in research and development in the military application of atomic energy results, to the extent practicable, in the development of civilian applications for and commercialization of advanced technology (including, but not limited to, advanced technology relating to the safe and efficient handling and disposal of industrial wastes), through appropriate transfers of federally owned or federally originated technology to state or local governments, private industry, and universities or other non-profit institutions.".

PART E—ENVIRONMENT, SAFETY, AND MANAGEMENT

SEC. 3151. AUTHORIZATION FOR ENVIRONMENTAL RESTORATION AND FOR MANAGEMENT OF DEFENSE WASTE AND TRANSPORTATION

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1990 for environmental restoration and management of defense waste and transportation, as follows:

(1) For operating expenses, $1,602,639,000, to be allocated as follows:

(A) For environmental restoration. $640,293,000. Such funds may also be used for plant and capital equipment.

(B) For waste operaton and projects. $747,167,000.

(C) For waste research, development, and compliance in support of the defense waste cleanup technology program under section 154, $200,338,000.

(D) For transportation management, $11,841,000.

(E) For program direction, $2,950,000.

(2) For plant and capital equipment, $166,966,000, to be allocated as follows:

Project 90-D-170, general plant projects, various locations, $29,036,000.

Project 90-D-171, laboratory ventilation and electrical system upgrade, Richland, Washington, $1,100,000.

Project 90-D-172, aging waste transfer lines, Richland, Washington, $1,300,000.

Project 90-D-173, B plant canyon crane replacement, Richland, Washington, $1,500,000.

Project 90-D-174, decontamination laundry facility, Richland, Washington, $2,800,000.

Project 90-D-175, landlord program safety compliance-1, Richland, Washington, $4,200,000.

Project 90-D-176, transuranic (TRU) waste facility, Savannah River, South Carolina, $3,100,000.

Project 90-D-177, RWMC transuranic (TRU) waste treatment and storage facility. Idaho National Engineering Laboratory, Idaho Falls, Idaho, $5,000,000.

Project 90-D-178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho Fall, Idaho, $6,000,000.

Project 89-D-171, Idaho National Engineering Laboratory road renovation, Idaho, $7,400,000.

Project 89-D-172, Hanford environmental compliance, Richland, Washington, $27,600,000

Project 89-D-173, tank farm ventilation upgrade, Richland, Washington, $15,400,000.

Project 89-D-174, replacement high level waste evaporator, Savannah River, South Carolina, $9,360,000.

Project 89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $6,440,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $29,100,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $700,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $2,790,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $14,140,000.

(3) For capital equipment not related to construction, $50,126,000.

SEC. 3152. MAJOR DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

(a) MAJOR PROGRAM DEFINED.—In this section, the term "major Department of Energy national security program" means a research and development program (which may include construction and production activities), a construction program, or a production program—

(1) that is designated by the Secretary of Energy as a major Department of Energy national security program; or

(2) that is estimated by the Secretary of Energy to cost more than $500,000,000 (based on fiscal year 1989 constant dollars).

(b) REQUIRED REPORTS.—(1) Except as provided in paragraph (3), the Secretary of Energy shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives at the end of each calendar-year quarter a report on each major Department of Energy national security program.

(2) Each such report shall include, at a minimum, the following information:

(A) A description of the program, its purpose, and its relationship to the mission of the national security program of the Department of Energy.

(B) The program schedule, including estimated annual costs.

(C) A comparison of the current schedule and cost estimates with previous schedule and cost estimates, and an explanation of changes.

(3) A report under this section need not be submitted for the first, second, or third calendar-year quarter if the comparison between current schedule and cost estimates and schedule and cost estimates contained in the last submitted report shows that there has been—

(A) less than 5 percent change in total program cost; and

(B) less than a 90-day delay in any significant schedule item of the program.

(c) SUBMISSION OF REPORT.—Each report under this section shall be submitted not later than 30 days after the end of each calendar-year quarter. The first report shall cover the fourth quarter of 1989 and shall be submitted not later than January 30, 1990.

(d) IDENTIFICATION OF PROGRAMS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall submit a report to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives that identifies all programs of the Department of Energy that are major Department of Energy national security programs, as defined in subsection (a).

SEC. 3153. FIVE-YEAR BUDGET PLAN REQUIREMENT

(a) PLAN REQUIREMENT.—The Secretary of Energy each year shall prepare a five-year budget plan for the national security programs of the Department of Energy. The plan shall contain the estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the national security programs and shall be at a level of detail comparable to that contained in the budget submitted by the President to Congress under section 1105 of title 31, United States Code.

(b) SUBMISSION OF PLAN.—The Secretary shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives the plan required under subsection (a) at the same time as the President submits to Congress the budget pursuant to section 1105 of title 31, United States Code.

SEC. 3154. DEFENSE WASTE CLEANUP TECHNOLOGY PROGRAM

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish and carry out a program for the supervision, direction, and coordination of all research activities of the Department of Energy for the development of technologies useful for (1) the reduction of environmental hazards and contamination resulting from defense waste, and (2) environmental restoration of inactive defense waste disposal sites.

(b) PROGRAM MANAGER.—The Secretary shall carry out the program referred to in subsection (a) through a program manager appointed by the Secretary. The program manager shall supervise and direct all research activities conducted by or for the Department of Energy for the development of technologies referred to in such subsection.

(c) COORDINATION WITH EPA.—(1) In order to ensure nonduplication of research activities by the Department of Energy and the Environmental Protection Agency regarding technologies referred to in subsection (a), the Secretary shall coordinate the research activities of the Department of Energy relating to the development of such technologies with the research activities of the Environmental Protection Agency relating to the same manner.

(2) The Secretary and the Administrator of the Environmental Protection Agency may enter into cooperative agreements for the conduct of research for the development of technologies referred to in subsection (a).

(d) REPORT.—(1) The Secretary shall submit to Congress not later than April 1 each year a report on the research activities of the Department of Energy for the development of technologies referred to in subsection (a). The report shall cover such activities for the fiscal year preceding the fiscal year in which the report is submitted. The Secretary shall include in the report the following:

(A) A description and assessment of each reseach program being carried out by or for the Department of Energy and the identification of the individual laboratory, contractor, or institution of higher education responsible for the research program.

(B) An assessment of the extent to which (i) there are practical applications of the technologies being researched, and (ii) such technologies will likely facilitate compliance by the Department of Energy with applicable environmental laws and regulations.

(C) An accounting of the funds allocated to each research program and to each laboratory, contractor, or institution of higher education carrying out the research program.

(D) An assessment of the research projects that have been coordinated with the Environmental Protection Agency pursuant to subsection (c).

(2) The first report required by paragraph (1) shall be submitted not later than April 1, 1990.

(e) DEFINITIONS.—As used in this section:

(1) The term "defense waste" means hazardous waste, including radioactive waste, resulting primarily from atomic energy defense activities of the Department of Energy.

(2) The term "inactive defense waste disposal site" means any site (including any facility) which is used for the disposal of defense waste and is closed to the disposal of additional defense waste, including any site that is subject to decontamination and decommissioning.

SEC. 3155. BLUE RIBBON TASK GROUP ON ENVIRONMENTAL RESTORATION AND DEFENSE WASTE MANAGEMENT

(a) ESTABLISHMENT OF GROUP.—The President shall establish a Blue Ribbon Task Group on Environmental Restoration and Defense Waste Management to examine the procedures used in establishing requirements, providing necessary resources, planning, and implementing plans for each of the following:

(A) Environmental restoration activities, including corrective actions at, and decontamination and decommissioning of, facilities of the Department of Energy that conduct atomic energy defense activities.

(B) Defense waste management operations and disposal at such facilities.

(C) Compliance with, and enforcement of compliance with, applicable environmental laws at such facilities.

(b) MEMBERSHIP OF GROUP.—(1) The Task Group shall consist of seven members, qualified for service by reasons of experience and education. The President shall appoint three members and shall designate one of those members to act as chairman of the Task Group. The Majority Leader and the Minority Leader of the Senate shall jointly appoint two members and the Speaker and the Minority Leader of the House of Representatives shall jointly appoint two members.

(2) No person may be appointed to the Task Group who is an employee of the Department of Energy, who has a contract with such Department, or who is an employee of any person that has a contract with such Department.

(c) ACCESS TO RECORDS AND EMPLOYEES.—The Secretary of Energy shall ensure that the Task Group has complete and timely access to all records of the Department of Energy pertaining to policies and procedures referred to in subsection (a) and to all employees of the Department who are directly concerned with such policies and procedures.

(d) REPORT BY THE PRESIDENT.—Within 90 days after the date of the enactment of this Act, the President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing (1) the name of each person appointed by the President to the Task Group, (2) a statement of the qualifications of each such person to serve on the Task Group, and (3) a detailed plan for completing the report required by subsection (e).

(e) REPORT BY THE TASK GROUP.—Not later than January 15, 1991, the Task Group shall submit to the President and Congress a report containing its findings and recommendations. Such report shall include any additional or dissenting views that any member of the Task Group may wish to submit. The report shall (in addition to any other matters) include recommendations of the Task Group on the following matters:

(1) Changes needed to improve the policies and procedures referred to in subsection (a).

(2) Improvements in the budgeting, organization, and management policies and procedures that affect environmental compliance and restoration, enforcement, and defense waste activities.

(3) Appropriate policies and procedures for achieving, maintaining, and enforcing compliance with substantive and procedural requirements of Federal and State environmental laws at atomic energy defense facilities of the Department of Energy consistent with the performance of the missions of those facilities, including recommended changes in existing law or existing Federal agency policies necessary for the establishment of (A) the policies and procedures recommended by the Task Group, and (B) consistent Government-wide policies on the matters covered by the policies and procedures recommended by the Task Group.

(4) Priorities for implementing such measures for environmental compliance and restoration and defense waste management at atomic energy defense facilities of the Department of Energy as may be necessary to bring such facilities into compliance with applicable Federal and State laws.

(5) Actions to enhance the capability of the Department of Energy to meet program milestones.

(6) The amount of funding needed for long-term environmental restoration at Department of Energy atomic energy defense facilities.

(7) Alternative means for funding long-term environmental restoration at such facilities.

(8) Whether one of the means for funding such long-term environmental restoration should be a trust fund established for purposes of correcting environmental contamination at the Department of Energy atomic energy defense facilities and, if so, what the scope of the trust fund should be, what the sources of revenue for the trust fund should be, and what the criteria should be for determining the priorities for which expenditures from the trust fund should be made.

(9) The adequacy of the five-year plan proposed by the Secretary of Energy to bring the Department of Energy atomic energy defense facilities into compliance with environmental laws.

SEC. 3156. EXECUTIVE MANAGEMENT TRAINING IN THE DEPARTMENT OF ENERGY

(a) ESTABLISHMENT OF TRAINING PROGRAM.—The Secretary of Energy shall establish and implement a management training program for personnel of the Department of Energy involved in the management of atomic energy defense activities.

(b) TRAINING PROVISIONS.—The training program shall include instruction in the following areas:

(1) The appropriate management responsibilities and reporting requirements for the operation of atomic energy defense facilities and the conduct of related activities.

(2) Methods of evaluating technical performance.

(3) Federal and State environmental laws and requirements for compliance with such environmental laws, including timely compliance with reporting requirements in such laws.

(4) The establishment of program milestones and methods to evaluate success in meeting such milestones.

(5) Methods for conducting long-range technical and budget planning.

(6) Procedures for reviewing and applying innovative technology to environmental restoration and defense waste management.

SEC. 3157. DEFENSE PROGRAM MISSIONS

Section 91(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2121(a)) is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clauses:

"(3) provide for safe storage, processing, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs; and

"(4) carry out research on and development of technologies needed for the effective negotiation and verification of international agreements on control of special nuclear materials and nuclear weapons.".

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION FOR THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD

There are authorized to be appropriated for fiscal year 1990, $10,000,000 for the establishment and operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954.

SEC. 3202. RADIATION-RISK ACTIVITIES

(a) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall submit to the Committees on Armed Services and Veterans Affairs of the Senate and House of Representatives a report identifying the numbers of individuals who, while serving on active duty for training, inactive duty training, or as a military technician of the National Guard, participated in radiation-risk activities, but are not covered under provisions of the Atomic Veterans Act, Public Law 100-321.

(b) The report required by subparagraph (a) shall be submitted not later than 60 days after enactment of this Act.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. AUTHORIZED CHANGES IN MATERIAL QUANTITIES

The President is authorized to effect the following changes in quantities of materials to be acquired for the National Defense Stockpile provided for under section 3(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(a)):

(1) Aluminum oxide, abrasive grain group, from 638,000 short tons (contained) to 374,000 short tons (contained).

(2) Antimony, from 36,000 short tons to 88,500 short tons.

(3) Asbestos, amosite, from 17,000 short tons to zero short tons.

(4) Bauxite, refractory, from 1,400,000 long calcined tons to 1,240,000 long calcined tons.

(5) Bismuth, from 2,200,000 pounds to 1,060,000 pounds.

(6) Chromite, refractory grade ore, from 850,000 short dry tons to 695,000 short dry tons.

(7) Columbium group, from 4,850,000 pounds (contained) to 12,520,000 pounds (contained).

(8) Diamond, industrial, group, from 29,730,000 carats to 7,730,000 carats.

(9) Fluorspar, acid grade, from 1,400,000 short dry tons to 900,000 short dry tons.

(10) Fluorspar, metallurgical grade, from 1,700,000 short dry tons to 310,000 short dry tons.

(11) Germanium, from 146,000 kilograms to 78,000 kilograms.

(12) Graphite, natural, Malagasy, crystalline, from 20,000 short tons to 14,200 short tons.

(13) Graphite, natural, other than Ceylon and Malagasy, from 2,800 short tons to 1,930 short tons.

(14) Manganese, battery grade group, from 87,000 short dry tons to 50,000 short dry tons.

(15) Mica, muscovite block, stained and better, from 6,200,000 pounds to 2,500,000 pounds.

(16) Natural insulation fibers, from 1,500,000 pounds to zero pounds.

(17) Platinum group metals, iridium, from 98,000 troy ounces to 86,000 troy ounces.

(18) Platinum group metals, palladium, from 3,000,000 troy ounces to 2,150,000 troy ounces.

(19) Quartz crystals, from 600,000 pounds to 240,000 pounds.

(20) Talc, steatite block and lump, from 28 short tons to zero short tons.

(21) Tungsten group, from 50,666,000 pounds (contained) to 70,900,000 pounds (contained).

SEC. 3302. AUTHORIZATION OF ACQUISITIONS

During each of the fiscal years 1990 and 1991, the President shall obligate $140,000,000 out of the funds of the National Defense Stockpile Transaction Fund (subject to such limitations as may be provided in appropriations Acts) for the purposes stated in subparagraphs (A) through (E) of section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

SEC. 3303. AUTHORIZED DISPOSALS

(a) AUTHORITY.—Notwithstanding section 5(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(b)(2)), effective October 1, 1989, the President may, during fiscal years 1990 and 1991, dispose of the following materials in the National Defense Stockpile that have been determined to be excess to the current requirements of the stockpile:

Material	Quantities
Asbestos, amosite	34,000 short tons
Bismuth	255,400 pounds
Diamond, industrial, crushing bort	8,000,000 carats
Fluorspar, metallurgical grade	15,000 short dry tons
Graphite, natural, Malagasy, crystalline	3,635 short tons
Graphite, natural, other than Ceylon and Malagasy	873 short tons
Mercury	15,000 flasks
Mica, muscovite block, stained and better	10,000 pounds
Silicon carbide	690 short tons
Talc, block and lump	28 short tons
Tin	5,000 metric tons

(b) ADDITIONAL AUTHORITY.—The disposal authority under subsection (a) is in addition to any other disposal authority provided by law.

SEC. 3304. STOCKPILE MANAGEMENT

Section 6(a)(4) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(4)) is amended—

(1) by inserting "or technological obsolescence" after "deterioration"; and

(2) by inserting "or more suitable" after "same".

TITLE XXXIV—CIVIL DEFENSE

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS

There is hereby authorized to be appropriated $151,535,000 for fiscal year 1990 for the purpose of implementing the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1990 AND 1991

The bill (S. 1446) to authorize appropriations for fiscal years 1990 and 1991 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1990 and 1991, and for other purposes, was amended by striking out all after the enacting clause, and inserting in lieu thereof the provisions of division A of S. 1352, as amended, as follows:

The corrected text of S. 1446, as passed by the Senate on August 2, 1989, is as follows:

S. 1446

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Years 1990 and 1991".

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for procurement of aircraft for the Army as follows:

(1) $2,706,500,000 for fiscal year 1990.

(2) $2,742,100,000 for fiscal year 1991.

(b) MISSILES.—Funds are hereby authorized to be appropriated for procurement of missiles for the Army as follows:

(1) $2,385,856,000 for fiscal year 1990.

(2) $2,571,260,000 for fiscal year 1991.

(c) WEAPONS AND TRACKED COMBAT VEHICLES.—Funds are hereby authorized to be appropriated for procurement of weapons and tracked combat vehicles for the Army as follows:

(1) $2,637,600,000 for fiscal year 1990.

(2) $3,120,098,000 for fiscal year 1991.

(d) AMMUNITION.—Funds are hereby authorized to be appropriated for procurement of ammunition for the Army as follows:

(1) $1,697,400,000 for fiscal year 1990.

(2) $1,617,300,000 for fiscal year 1991.

(e) OTHER PROCUREMENT.—Funds are hereby authorized to be appropriated for other procurement for the Army as follows:

(1) $2,892,713,000 for fiscal year 1990.

(2) $3,745,835,000 for fiscal year 1991.

SEC. 102. NAVY AND MARINE CORPS

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for aircraft for the Navy as follows:

(1) $8,346,762,000 for fiscal year 1990.

(2) $9,200,235,000 for fiscal year 1991.

(b) WEAPONS.—Funds are hereby authorized to be appropriated for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

(1) $3,887,520,000 for fiscal year 1990.

(2) $3,589,502,000 for fiscal year 1991.

(c) SHIPBUILDING AND CONVERSION.—Funds are hereby authorized to be appropriated for shipbuilding and conversion for the Navy as follows:

(A) $9,756,466,000 for fiscal year 1990.

(B) $12,362,000,000 for fiscal year 1991.

(d) OTHER PROCUREMENT, NAVY.—Funds are hereby authorized to be appropriated for other procurement for the Navy as follows:

(1) $6,314,300,000 for fiscal year 1990.

(2) $6,592,460,000 for fiscal year 1991.

(e) MARINE CORPS.—Funds are hereby authorized to be appropriated for procurement for the Marine Corps as follows:

(1) $1,178,000,000 for fiscal year 1990.

(2) $1,090,900,000 for fiscal year 1991.

SEC. 103. AIR FORCE

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for procurement of aircraft for the Air Force as follows:

(1) $15,930,600,000 for fiscal year 1990.

(2) $13,957,064,000 for fiscal year 1991.

(b) MISSILES.—Funds are hereby authorized to be appropriated for procurement of missiles for the Air Force as follows:

(1) $7,010,000,000 for fiscal year 1990.

(2) $5,892,836,000 for fiscal year 1991.

(c) OTHER PROCUREMENT.—Funds are hereby authorized to be appropriated for other procurement for the Air Force as follows:

(1) $8,450,200,000 for fiscal year 1990.

(2) $8,030,677,000 for fiscal year 1991.

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for procurement for the Defense Agencies as follows:

(1) $1,284,400,000 for fiscal year 1990.

(2) $1,115,169,000 for fiscal year 1991.

SEC. 104a. RESERVE COMPONENTS

Funds are hereby authorized to be appropriated for fiscal years 1990 and 1991 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard:

(A) $506,100,000 for fiscal year 1990.

(B) $521,400,000 for fiscal year 1991.

(2) For the Air National Guard:

(A) $941,200,000 for fiscal year 1990.

(B) $753,900,000 for fiscal year 1991.

(3) For the Army Reserve:

(A) $100,400,000 for fiscal year 1990.

(B) $175,800,000 for fiscal year 1991.

(4) For the Navy Reserve:

(A) $144,000,000 for fiscal year 1990.

(B) $159,700,000 for fiscal year 1991.

(5) For the Air Force Reserve:

(A) $177,900,000 for fiscal year 1990.

(B) $179,200,000 for fiscal year 1991.

(6) For the Marine Corps Reserve:

(A) $53,800,000 for fiscal year 1990.

(B) $341,000,000 for fiscal year 1991.

SEC. 105. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747) as follows:

(1) $311,400,000 for fiscal year 1990.

(2) $317,700,000 for fiscal year 1991.

SEC. 106. MULTIYEAR CONTRACT AUTHORIZATIONS

(a) AUTHORIZED MULTIYEAR PROCUREMENTS.—Subject to subsection (c), the Secretary of the military department concerned may use funds appropriated pursuant to the authorizations contained in this Act for fiscal years 1990 and 1991 to enter into multiyear procurement contracts in accordance with section 2306(h) of title 10, United States Code, for the following programs:

(1) For the Army:

(A) the M-1 tank program.

(B) the M-2 fighting vehicle program.

(C) the MH-47 helicopter program.

(D) the Family of Heavy Tactical Vehicles.

(2) For the Navy:

(A) the E-2C aircraft program.

(B) the F/A-18 aircraft program.

(C) the Mark-45 Gun Mount and Mark-6 Ammunition Hoist.

(3) For the Air Force, the AGM-65(D) missile program.

(b) DENIAL OF CERTAIN MULTIYEAR PROCUREMENTS.—The Secretary of the military department concerned may not enter into a multiyear procurement contract for any of the following programs:

(1) The DDG-51 Destroyer program.

(2) The SH-60 B/F Helicopter program.

(c) CONDITIONS.—A multiyear contract authorized by this section may not be entered into unless each of the following conditions is met:

(1) The Secretary of Defense certifies to Congress that the current five-year defense program fully funds the support costs associated with the multiyear program.

(2) The proposed multiyear contract provides for production at not less than minimum economic rates given the existing tooling and facilities.

(3) The proposed multiyear contract—

(A) achieves a 10 percent savings as compared to the cost of current negotiated contracts, adjusted for changes in quantity and for inflation; or

(B) achieves a 10 percent savings as compared to annual contracts if no recent contract experience exists.

(4) Paragraph (3)(A) does not apply to programs which are currently under multiyear contract.

SEC. 107. MILESTONE AUTHORIZATION CHANGES

(a) PROCUREMENT PROGRAMS.—Section 106 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180, 101 Stat. 1034) is amended—

(1) in subsection (a)(2)—

(A) by striking out "$976,200,000" in subparagraph (A) and inserting in lieu thereof "$884,719,000"; and

(B) by striking out "$360,000,000" in subparagraph (B) and inserting in lieu thereof "$68,596,000";

(2) in subsection (b)(2)—

(A) by striking out "$158,200,000" in subparagraph (A) and inserting in lieu thereof "$140,873,000"; and

(B) by striking out "$209,000,000" in subparagraph (B) and inserting in lieu thereof "$199,858,000";

(3) in subsection (c)(2), by striking out "$2,215,000,000" and inserting in lieu thereof "$1,915,638,000"; and

(4) in subsection (d)(2)—

(A) by striking out "$437,700,000" in subparagraph (A) and inserting in lieu thereof "$153,114,000"; and

(B) by striking out "$596,300,000" in subparagraph (B) and inserting in lieu thereof "$431,565,000".

(b) RDT&E PROGRAMS.—Section 216 of such Act is amended—

(1) in subsection (a)(2), by striking out "$49,000,000" and inserting in lieu thereof "$44,661,000";

(2) in subsection (b)(2)—

(A) by striking out "$338,300,000" in subparagraph (A) and inserting in lieu thereof "$216,054,000"; and

(B) by striking out "$164,700,000" in subparagraph (B) and inserting in lieu thereof "$70,670,000"; and

(3) in subsection (c)(2)—

(A) by striking out "$23,700,000" in subparagraph (A) and inserting in lieu thereof "$26,475,000"; and

(B) by striking out "$24,000,000" in subparagraph (B) and inserting in lieu thereof "$14,603,000".

SEC. 108. AUTHORIZATION OF APPROPRIATIONS OF ADDITIONAL AMOUNTS FOR PROCUREMENT OF MISSILES

(a) FISCAL YEAR 1990.—Funds are hereby authorized to be appropriated for fiscal year 1990 for procurement of missiles for the Army, Navy, and Air Force as follows:

For the Army, $362,400,000.

For the Navy, $125,100,000.

For the Air Force, $109,300,000.

(b) FISCAL YEAR 1991.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of missiles for the Army and Air Force as follows:

For the Army, $227,500,000.

For the Air Force, $109,300,000.

(c) ADDITIONAL AUTHORIZATION.—Funds authorized to be appropriated pursuant to subsections (a) and (b) are in addition to funds authorized to be appropriated under sections 101, 102, and 103.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 121. M-1 TANK PROGRAM

None of the funds appropriated for the Army for fiscal year 1990 may be obligated to begin the inactivation or deactivation of the Detroit Army Tank Plant.

SEC. 122. RESTRICTION ON FISCAL YEAR 1989 FUNDS FOR 10-TON TRUCKS

Of the funds appropriated or otherwise made available to the Army for fiscal year 1989 for procurement of 10-ton trucks, not more than $29,000,000 shall be available for purposes of procuring and installing an additional 480 tanker/refueler kits on 10-ton trucks.

SEC. 123. PROCUREMENT OF V-22 AIRCRAFT

(a) IN GENERAL.—Funds appropriated or otherwise made available to the Department of Defense pursuant to this or any other Act may not be obligated on or after the date of the enactment of this Act for the procurement of the V-22 aircraft.

(b) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

PART C—STRATEGIC PROGRAM TEST AND REPORTING REQUIREMENTS

SEC. 131. TRIDENT II MISSILE PROGRAM

In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1990, no reduction may be made in the amount of funds available for the Trident II missile program.

SEC. 132. B-1B DEFENSIVE AVIONICS TEST AND EVALUATION PROGRAM

(a) REQUIREMENT FOR PROGRAM.—(1) During fiscal years 1990 and 1991, the Secretary of Defense shall develop and conduct a comprehensive program for the systematic testing of the proposed modifications of the Air Force to the defensive avionics system of the B-1B aircraft described in subsection (f).

(2) Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a detailed plan for such testing during fiscal years 1990 and 1991. Such plan shall include—

(A) the planned test schedule for each of the various components of the defensive avionics system, tested singly and in combination with other components of the defensive and offensive avionics systems;

(B) the objectives of each of the planned tests and the criteria that will be used to determine whether each such test is successful, partially successful, or unsuccessful; and

(C) an explanation of how those scheduled tests can be used to estimate the capability of the B-1B to penetrate Soviet air defenses, including both single and multiple threats.

(b) MODIFICATIONS TO B-1B AIRCRAFT.—(1) Funds appropriated or otherwise made available to the Air Force for procurement of aircraft during fiscal year 1990 may be used to modify not more than six B-1B aircraft to the configuration described in subsection (f).

(2) Such aircraft shall be used to conduct the test program defined by section (a)(2).

(3) No additional B-1B aircraft may be modified to the configuration described in subsection (f) or have radar warning receivers added until the test program has been completed and funding for such additional modifications has been authorized by legislation enacted after the date of the enactment of this Act.

(c) BIMONTHLY STATUS REPORTS.—Beginning February 1, 1990, and every two months thereafter until the completion of the test program required by this section, the Secretary shall submit to the congressional defense committees a report indicating whether the tests to be carried out after the submission of the last report have been carried out as planned and whether, in the case of each such test, the test was successful, partially successful, or unsuccessful. The Secretary shall include in such report an assessment of the capability of the B-1B aircraft to meet—

(1) performance objectives;

(2) technical and fiscal objectives; and

(3) significant test milestones.

(d) INDEPENDENT ASSESSMENT.—(1) Following completion of the test program referred to in subsection (a)(1), the Secretary shall provide for an independent assessment of the capabilities of the B-1B aircraft to penetrate air defenses of potential enemies. The Secretary shall appoint a panel of experts from the private sector to conduct the assessment and shall provide the panel with such resources as are necessary, including technical assistance by private contractors, to assist the panel in conducting the assessment. Individuals appointed to the panel shall be independent of the Air Force and shall have no arrangements with the Air Force that would constitute a conflict of interest.

(2) The panel shall assess the air defense capabilities of the six test aircraft referred to in subsection (b) after they have been modified as provided in subsection (f) and, on the basis of that assessment, determine what the air defense penetration capabilities of the entire fleet of such aircraft would be in all of its mission profiles if every aircraft in the fleet were so modified.

(3) The panel shall estimate the air defense penetration capabilities of the B-1B aircraft against the threats described—

(A) in the 1981 joint Office of the Secretary of Defense/Air Force Bomber Alternatives Study;

(B) in the 1986 Strategic Bomber Force Study; and

(C) in the most current threat baseline established by the intelligence community for estimated Soviet air defenses in the late 1990s.

(4) The Secretary of Defense shall ensure that individuals serving on the panel receive the full cooperation of all components of the Department of Defense in carrying out the functions of the panel under this section.

(5) The Secretary shall submit to the congressional defense committees the report of the panel not more than 180 days after the conclusion of the test program referred to in subsection (a).

(e) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—For purposes of this section, the term "congressional defense committees" means the Committees on Armed Services and Appropriations of the Senate and House of Representatives.

(f) AUTHORIZED MODIFICATIONS.—The modifications referred to in subsection (a) consist of the "core configuration" modification to the ALQ-161 system plus the installation and integration of a radar warning receiver.

SEC. 133. B-2 BOMBER PROGRAM REQUIREMENTS AND LIMITATIONS

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 103(a)(1) for the Air Force for procurement of aircraft for fiscal year 1990, not more than $2,549,374,000 may be obligated for procurement for the B-2 aircraft program.

(b) BLOCK 1 REQUIREMENTS.—(1) Funds appropriated for the Air Force for fiscal year 1990 for procurement of aircraft may not be obligated for the procurement of B-2 aircraft until—

(A) the initial planned Block 1 program of flight testing of the B-2 aircraft, consisting of approximately 75 flight test hours and 15 flights has been conducted;

(B) the Defense Science Board has conducted an independent review of the Block 1 flight test data and reported the results of that review, together with its findings and conclusions, to the Secretary of Defense;

(C) the Director of Operational Test and Evaluation has evaluated the performance of the B-2 aircraft during its Block 1 flight testing with respect to "Critical Operational Issues" and has provided an "Early Operational Assessment" to the Secretary of Defense; and

(D) the Secretary of Defense certifies to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives that—

(i) no major aerodynamic or flightworthiness problems have been identified during the Block 1 testing;

(ii) the performance milestones (including initial flight testing) for the B-2 aircraft for fiscal year 1990 (as contained in the B-2 full

performance matrix program established under section 121 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) and section 232 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456)) have been met and that any proposed waiver or modification to the B-2 performance matrix will be provided in writing in advance to such committees;

(iii) the goals of the cost reduction initiatives established for the B-2 program under section 121 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 and section 232 of the National Defense Authorization Act, Fiscal Year 1989 will be achieved; and

(iv) the quality assurance practices and fiscal management controls of the prime contractor and major subcontractors associated with the B-2 program meet or exceed generally applicable Department of Defense standards.

(2) Any certification by the Secretary under paragraph (1)(D) shall include a description of any savings that will be realized under the initiatives referred to in such paragraph.

(c) BLOCK 2 REQUIREMENTS.—Funds appropriated for the Air Force for fiscal year 1990 for the procurement of aircraft may not be obligated for the procurement of B-2 aircraft before the commencement of Block 2 testing to include low-observables and flying qualities and performance testing in accordance with the approved B-2 Test and Evaluation Master Plan.

(d) INDEPENDENT ASSESSMENT AND CERTIFICATION.—Of the amounts made available for fiscal year 1990 for the procurement of B-2 aircraft, not more than 25 percent may be expended until—

(1) the Low-Observables Panel of the Defense Science Board has conducted an independent review of the early Block 2 test data and reported the results of that review together with its findings and conclusions, to the Secretary of Defense;

(2) within one week of the submission to the Secretary of Defense of the report by the Low Observables Panel, the Director of Operational Test and Evaluation shall also submit to the Secretary his independent evaluation of the results of the Block 2 flight testing to that date; and

(3) the Secretary of Defense certifies to the Committees on Armed Services and Appropriations of the Senate and House of Representatives that—

(A) the results of early Block 2 flight testing, including low-observable and flying qualities and performance, are satisfactory, and

(B) no significant technical or operational problems have been identified during early Block 2 testing.

(e) EFFICIENT PRODUCTION RATE FUNDING.—Funds appropriated for the Air Force for fiscal year 1990 for procurement of aircraft may not be obligated for the procurement of B-2 aircraft until the Secretary of Defense certifies that, in the five-year defense program prepared in conjunction with any amended budget request for fiscal year 1991, the Air Force has included sufficient funding for any increase in the production rate of B-2 aircraft required to attain an efficient production rate following the planned acquisition milestone decision authorizing rate production.

(f) APPLICATION OF PROHIBITIONS.—The prohibitions in subsections (b) through (d) apply only to the three new production B-2 aircraft for which funds for procurement were requested in the President's April 1989 amended budget request for fiscal year 1990.

(g) CERTIFICATION REQUIREMENT.—(1) The Secretary of Defense shall certify annually to Congress that the unit flyaway cost for 132 B-2 aircraft measured in constant 1990 dollars does not exceed $295,000,000 per aircraft.

(2) The certification required by this subsection shall be submitted not later than March 15, 1990, and each succeeding March 15 thereafter until the B-2 procurement program is completed. Such certification shall be submitted to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives.

(3) If the Secretary cannot make the certification required by paragraph (1), the Secretary shall report to Congress the amount that the unit flyaway cost will exceed the amount described in paragraph (1) and submit an explanation of the reasons for such an increase in cost.

SEC. 134. CORRECTION OF DEFICIENCIES CLAUSES IN B-2 AIRCRAFT PROCUREMENT CONTRACTS

(a) The Secretary of Defense shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives two reports on the implementation of the contractor guarantee requirements of section 2403 of title 10, United States Code, with respect to the B-2 aircraft program. Such reports shall include the following:

(1) Copies of correction of deficiency clauses in contracts with the prime contractor of the B-2 aircraft.

(2) The plans for meeting the contractor guarantee requirements of subsection (b) of such section in future contracts for the procurement of B-2 aircraft, including any specific contract clauses that have been proposed by the Air Force or agreed to by the Air Force and the contractor.

(3) The manner in which inspection or acceptance by the Air Force will affect the relative liability of the Government and the contractor—

(A) under the contract clauses referred to in paragraphs (1) and (2) and

(B) under the plans referred to in paragraph (2) for compliance with the contractor guarantee requirements referred to in such paragraph.

(b) The first report required by subsection (a) shall be submitted not later than 30 days after the date of enactment of this Act. The second report shall be submitted in conjunction with the certification required by section 133(b)(1)(D) of this Act.

(c) The reports required by this section shall be submitted in classified and unclassified versions and shall clearly identify any material that contains proprietary information or other source selection information, the disclosure of which is restricted by law or regulation.

(d)(1) The Secretary of the Air Force shall take appropriate steps to ensure that the procurement of all B-2 aircraft authorized for fiscal years 1989 and 1990 shall be subject to a contractor guarantee pursuant to section 2403 of title 10, United States Code, and that the prime contractor for such aircraft shall be required to assume a substantially greater responsibility for the cost of corrective actions required under section 2403(b) of such title than under existing contracts for B-2 aircraft.

(2) Notwithstanding section 2403(g) of such title, the Secretary may not negotiate exclusions or limitations on the prime contractor's financial liability for the cost of corrective action for defects under section 2403(b) of such title for the B-2 aircraft referred to in paragraph (1) that are less than the total of the contractor's actual profits on the production of such aircraft unless the Secretary determines that the specific benefits of such exclusions or limitations substantially outweigh the potential costs.

(3) The Secretary of the Air Force shall notify the Committees on Armed Services of the Senate and the House of Representatives of any determinations under paragraph (2) and shall include in such notification the specific reasons for such determination and copies of any relevant exclusions or limitations.

(4) The Secretary of the Air Force shall describe the steps the Air Force has taken under this subsection in the reports required by subsection (c).

SEC. 135. STUDY OF ALTERNATIVE B-2 AIRCRAFT FORCE STRUCTURES

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall conduct a comprehensive study comparing—

(1) the current plan of the Department of Defense to produce one hundred and thirty two B-2 aircraft, with

(2) two alternative plans, one to produce ninety to one hundred B-2 aircraft and another to produce sixty to seventy B-2 aircraft.

(b) MATTERS TO BE INCLUDED.—In conducting the study under subsection (a), the Secretary of Defense shall determine the implications of adopting the alternative plans described in subsection (a)(2) with respect to each of the following:

(1) The cost of the B-2 aircraft program, including—

(A) annual program costs,

(B) total program costs,

(C) twenty-year life cycle costs, and

(D) unit and flyaway costs; and

(2) The impact on the military posture of the United States, including—

(A) strategic nuclear deterrent capabilities, and

(B) long-range conventional strike capabilities.

(c) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report in both classified and unclassified form containing the results of the study conducted by the Secretary under subsection (a). The Secretary's report shall include such comments and recommendations as the Secretary considers appropriate and shall be submitted not later than January 1, 1990.

SEC. 136. ADVANCED CRUISE MISSILE

Funds appropriated or otherwise made available to the Air Force during fiscal year 1990 may not be obligated or expended for procurement of Advanced Cruise Missiles until—

(1) the Advanced Cruise Missile has achieved a cumulative total of at least 10 successful developmental test flights; and

(2) the Secretary of Defense certifies to the Committees on Armed Services and Appropriations of the Senate and House of Representatives that since June 1, 1989, a minimum of four flight tests of the Advanced Cruise Missile have been conducted and that the percentage of successful test flights in this group is significantly greater than 50 percent.

PART D—PROGRAM TERMINATIONS

SEC. 141. F-14 AIRCRAFT

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense after September 30, 1989, may not be obligated for the procurement of F-14 aircraft.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, F-14 aircraft described in paragraph (2); or

(B) the payment of costs necessary to terminate the F-14 aircraft program.

(2) The F-14 aircraft referred to in paragraph (1)(A) are F-14 aircraft—

(A) that have been acquired by the Navy on or before the date of the enactment of this Act; or

(B) for which funds were obligated for procurement before the date of the enactment of this Act, other than for the procurement of long lead items and other advance procurement.

(c) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

SEC. 142. AH-64 HELICOPTER

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense after September 30, 1991, may not be obligated for the procurement of AH-64 helicopter aircraft.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, AH-64 aircraft described in paragraph (2); or

(B) the payment of costs necessary to terminate the AH-64 helicopter program.

(2) The AH-64 helicopter aircraft referred to in paragraph (1)(A) are AH-64 helicopter aircraft—

(A) that were acquired by the Army before October 1, 1991; or

(B) for which funds have been obligated for procurement before October 1, 1991, other than for the procurement of long lead items and other advance procurement.

(c) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

SEC. 143. AHIP SCOUT HELICOPTER

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense after September 30, 1989, may not be obligated for the procurement of AHIP scout helicopter aircraft.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, AHIP scout helicopter aircraft described in paragraph (2); or

(B) the payment of costs necessary to terminate the AHIP scout helicopter program.

(2) The AHIP scout helicopter aircraft referred to in paragraph (1)(A) are AHIP scout helicopter aircraft (OH-58 helicopter aircraft that have been modified into the configuration specified under the Army Helicopter Improvement Program described in the Selected Acquisition Report on the OH-58 helicopter, dated December 31, 1988)—

(A) that were acquired by the Army before the date of the enactment of this Act; or

(B) for which funds have been obligated for procurement before the date of the enactment of this Act, other than for the procurement of long lead items and other advance procurement.

(c) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

SEC. 144. F-15E AIRCRAFT

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense after October 1, 1991, may not be obligated for the procurement of the F-15E aircraft.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, F-15E aircraft described in paragraph (2); or

(B) the payment of costs necessary to terminate the F-15E aircraft program.

(2) The F-15E aircraft referred to in paragraph (1)(A) are F-15E aircraft—

(A) that are acquired by the Air Force before October 1, 1991; or

(B) for which funds have been obligated for procurement before October 1, 1991, other than for the procurement of long lead items and other advance procurement.

(c) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

SEC. 145. M88A2 RECOVERY VEHICLE

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense after September 30, 1989, may not be obligated for the procurement of M88A2 recovery vehicles.

(b) EXCEPTIONS.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, M88A2 recovery vehicles described in paragraph (2); or

(B) the payment of costs necessary to terminate the M88A2 recovery vehicle program.

(2) The M88A2 recovery vehicles referred to in paragraph (1)(A) are M88A2 recovery vehicles—

(A) that were acquired by the Army before the date of the enactment of this Act; or

(B) for which funds have been obligated for procurement before the date of the enactment of this Act, other than for the procurement of long lead items and other advance procurement.

(c) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

PART E—MISCELLANEOUS PROVISIONS

SEC. 151. REPEAL OF HEMTT TRUCK PROGRAM PROCUREMENT REQUIREMENT

Section 129 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1045) is repealed.

SEC. 152. REPORT ON NAVY AIRCRAFT REQUIREMENTS

(a) IN GENERAL.—The Secretary of the Navy shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report each year which addresses the current and projected aircraft requirements of the Navy and the plans of the Navy for aircraft acquisition and modernization. The report shall cover at least the next ten years and shall specify—

(1) the number of aircraft, by type, required to fully equip the current and projected force structure of the Navy and the Marine Corps;

(2) the current and projected inventory of each type of aircraft;

(3) the current average age of (A) all Navy and Marine Corps aircraft, (B) all Navy and Marine Corps combat aircraft, and (C) all carrier-based combat aircraft; and

(4) a list of planned and programmed aircraft procurement programs and major aircraft modernization programs, specifying the approximate numbers of aircraft involved in each program, the estimated fiscal year in which each program will begin and end, and the estimated total cost for each program.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than February 1, 1990, and each February 1 thereafter.

SEC. 153. EXPANSION OF THE SCOPE OF THE CIVIL RESERVE AIR FLEET ENHANCEMENT PROGRAM

(a) DEFINITIONS.—Section 9511 of title 10, United States Code, is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The term 'passenger-cargo combined aircraft' means a civil aircraft equipped so that its main deck can be used to carry both passengers and property (including mail) simultaneously.";

(2) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The term 'cargo-convertible aircraft' means a passenger aircraft equipped or designed so that all or substantially all of the main deck of the aircraft can be readily converted for the carriage of property or mail.";

(3) in paragraph (8), by striking out clause (A) and inserting in lieu thereof the following: "(A) who owns or controls, or who will own or control, a new or existing aircraft and who contracts with the Secretary to modify that aircraft by including or incorporating specified defense features in that aircraft and to commit that aircraft to the Civil Reserve Air Fleet, or"; and

(4) by adding at the end the following new paragraph:

"(12) The term 'defense feature' means any equipment or design feature included or incorporated in a civil aircraft which ensures the interoperability of such aircraft

with the Department of Defense airlift system. Such term includes any equipment or design feature which enables such aircraft to be readily modified for use as a cargo-convertible, cargo-capable, or passenger-cargo combined aircraft.".

(b) CONTRACT AUTHORITY.—Section 9512 of such title is amended to read as follows:

"§ 9512. Contract for the inclusion or incorporation of defense features

"(a) Subject to the provisions of chapter 137 of this title, and to the extent that funds are otherwise available for obligation, the Secretary—

"(1) may contract with any citizen of the United States for the inclusion or incorporation of defense features in any new or existing aircraft to be owned or controlled by that citizen; and

"(2) may contract with United States aircraft manufacturers for the inclusion or incorporation of defense features in new aircraft to be operated by a United States air carrier.

"(b) Each contract entered into under subsection (a) shall include the terms required by section 9513 of this title and a provision that requires the contractor to repay to the United States a percentage (to be established in the contract) of any amount paid by the United States to the contractor under the contract with respect to any aircraft if—

"(1) the aircraft is destroyed or becomes unusable, as defined in the contract;

"(2) the defense features specified in the contract are rendered unusable or are removed from the aircraft;

"(3) control over the aircraft is transferred to any person that is unable or unwilling to assume the contractor's obligations under the contract; or

"(4) the registration of the aircraft under section 501 of the Federal Aviation Act of 1958 is terminated for any reason not beyond the control of the contractor.

"(c)(1) A contract for the inclusion or incorporation of defense features in an aircraft may include a provision authorizing the Secretary—

"(A) to contract, with the concurrence of the contractor, directly with another person for the performance of the work necessary for the inclusion or incorporation of defense features in such aircraft; and

"(B) to pay such other person directly for such work.

"(2) A contract entered into pursuant to paragraph (1) may include such specifications for work and equipment as the Secretary considers necessary to meet the needs of the United States.".

(c) TECHNICAL AMENDMENTS.—(1) The heading of section 9513 is amended to read as follows:

"§ 9513. Commitment of aircraft to the Civil Reserve Air Fleet"

(2) The table of sections at the beginning of chapter 931 of title 10, United States Code, is amended by striking out the items relating to sections 9512 and 9513 and inserting in lieu thereof the following:

"9512. Contracts for the inclusion or incorporation of defense features.
"9513. Commitment of aircraft to the Civil Reserve Air Fleet.".

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND FUNDING FOR SPECIFIC PROGRAMS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Funds are hereby authorized to be appropriated for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army:

(A) $5,705,898,000 for fiscal year 1990.

(B) $5,717,736,000 for fiscal year 1991.

(2) For the Navy (including the Marine Corps):

(A) $9,916,851,000 for fiscal year 1990.

(B) $8,573,726,000 for fiscal year 1991.

(3) For the Air Force:

(A) $14,629,932,000 for fiscal year 1990.

(B) $9,864,305,000 for fiscal year 1991.

(4) For the Defense Agencies:

(A) $9,474,712,000 for fiscal year 1990, of which—

(i) $294,300,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(ii) $164,500,000 is authorized for the Director of Operational Test and Evaluation.

(B) $4,610,604,000 for fiscal year 1991, of which—

(i) $434,700,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(ii) $160,400,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS OF ADDITIONAL AMOUNTS FOR IMPROVED INFANTRY EQUIPMENT

(a) AUTHORIZATION.—Funds are hereby authorized to be appropriated for fiscal year 1990 for research, development, test, and evaluation to increase the effectiveness of small infantry units through the development of improved weapons and equipment as follows:

For the Army, $18,000,000.

For the Marine Corps, $12,000,000.

(b) ADDITIONAL AUTHORIZATION.—Funds authorized to be appropriated pursuant to subsection (a) are in addition to funds authorized to be appropriated under section 201.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 221. BALANCED TECHNOLOGY INITIATIVE

(a) AMOUNTS AUTHORIZED.—Of the amounts authorized to be appropriated for fiscal year 1990 pursuant to section 201, $296,000,000 shall be available for research and development under the Balanced Technology Initiative program.

(b) DETERMINATION OF SOURCE OF FUNDS.—The Director of Defense Research and Engineering shall determine the amount of funds appropriated to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 that are to be allocated for the Balanced Technology Initiative.

(c) PROHIBITION REGARDING UNDISTRIBUTED REDUCTIONS.—No portion of any undistributed reduction may be applied against the funds allocated under subsection (a) or against any funds made available for the Balanced Technology Initiative that are in addition to the amount specified in subsection (a).

(d) PROHIBITION ON USE OF FUNDS FOR SDI.—None of the funds allocated under subsection (a) may be used in connection with any program, project, or activity in support of the Strategic Defense Initiative.

(e) REPORT.—Not later than March 15 each year the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report containing the following:

(1) A current assessment of the extent to which advanced technologies can be used to exploit potential vulnerabilities of hostile threats to the national security of the United States.

(2) Identification of each program, project, and activity being pursued under the Balanced Technology Initiative, the amount made available for such program, project, or activity pursuant to this section, and the source of such amount.

(3) For each program, project, and activity for which funds are made available pursuant to this section, a 5-year funding plan that (A) provides for the allocation of sufficient resources to maintain adequate progress in research and development under such program, project, or activity, and (B) specifies the major programmatic and technical milestones and the schedule for achieving those milestones.

(4) The status of each program, project, and activity being pursued under the Balanced Technology Initiative.

(5) Identification of other on-going or potential research and development programs, projects, and activities not currently provided for under this section that should be considered for inclusion under the Balanced Technology Initiative in order to improve conventional defense capabilities.

(6) Identification of the most critical technologies for the successful development of existing or potential Balanced Technology Initiative programs, projects, and activities and an assessment of the current status of those technologies.

SEC. 222. ADVANCED RESEARCH PROJECTS

(a) AUTHORITY FOR DARPA COOPERATIVE AGREEMENTS AND OTHER TRANSACTIONS.—(1) Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2370. Advanced research projects: cooperative agreements and other transactions

"(a) The Secretary of Defense, in carrying out advanced research projects through the Defense Advanced Research Projects Agency, may enter into cooperative agreements and other transactions with any person, any agency or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity.

"(b)(1) Cooperative agreements and other transactions entered into by the Secretary under subsection (a) may include a clause that requires a person or other entity to make payments to the Department of Defense (or any other department or agency of the Federal Government) as a condition for receiving support under the agreement or other transaction.

"(2) The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited, to the extent authorized by the Secretary of Defense, to the account established under subsection (e). Amounts so credited shall be merged with other funds in the account and shall be available for the same purposes and the same period for which other funds in such account are available.

"(c) The authority provided under subsection (a) may be exercised without regard to section 3324 of title 31, United States Code.

"(d) The Secretary shall ensure that—

"(1) to the maximum extent practicable, a cooperative agreement or other transaction under this section does not provide for research that duplicates research being conducted under existing programs carried out by the Department of Defense;

"(2) to the extent the Secretary determines practicable, the funds provided by the Government under the cooperative agreement or other transaction do not exceed the

total amount provided by other parties to the cooperative agreement or other transaction; and

"(3) the authority under this section is used only when the use of standard contracts or grants is not feasible or appropriate.

"(e) There shall be established on the books of the United States Treasury an account for support of advanced research projects provided for in cooperative agreements and other transactions authorized by subsection (a). Funds in such account shall be available for the payment of such support.

"(f) Not later than 60 days after the end of each fiscal year, the Secretary of Defense shall submit to the Committees of Armed Services of the Senate and the House of Representatives an annual report on all cooperative agreements and other transactions (other than contracts and grants) entered into under this section in such fiscal year. The report shall contain, with respect to each cooperative agreement and each other transaction the following:

"(1) A general description of the cooperative agreement or other transaction (as the case may be), including the technologies for which advanced research is provided for under such agreement or transaction.

"(2) The potential military and, if any, commercial utility of such technologies.

"(3) The reasons for not using a contract or grant to provide support for such advanced research.

"(4) The amount of the payments, if any, referred to in subsection (b) that were received by the Federal Government in connection with such cooperative agreement or other transaction during the fiscal year covered by the report.

"(5) The amount of the payments reported under subparagraph (4), if any, that were credited to the account established under subsection (e).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"Sec. 2370. Advanced research projects: cooperative agreements and other transactions.".

(b) FUNDING.—Of the funds appropriated pursuant to section 201, not more than $25,000,000 of the funds appropriated for fiscal year 1990 and not more than $25,000,000 of the funds appropriated for fiscal year 1991 shall be available for the support, through the Defense Advanced Research Projects Agency, of advanced research provided for in cooperative agreements and other transactions authorized by section 2370 of title 10, United States Code (as added by subsection (a)). That amount shall be credited to the account established under subsection (e) of such section.

SEC. 223. GRANTS AND CONTRACTS TO COLLEGES AND UNIVERSITIES

(a) IN GENERAL.—Section 2361 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "(a) The" and inserting in lieu thereof "(a)(1) Except as provided in paragraph (2), the"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary of Defense may use procedures other than competitive procedures to award a research and development contract to a college or university as provided in clauses (1) through (4) and (6) of section 2304(c) of this title."; and

(2) in subsection (b)—

(A) by striking out "the date of enactment of this section" and inserting in lieu thereof "September 30, 1989,";

(B) by inserting "or as requiring funds to be made available to a particular college or university by grant or contract" after "provisions of subsection (a)"; and

(C) by striking out "provision of law" and all that follows through the end and inserting in lieu thereof "provision of law—" and the following:

"(1) specifically refers to this section and specifically states that such provision of law modifies or supersedes the provisions of this section; and

"(2) in the case of a requirement to make funds available to a specific college or university, specifically directs the Secretary to award a grant or contract to such college or university and to use procedures other than competitive procedures to do so.".

(b) SEMIANNUAL REPORT.—(1) The Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives a semiannual report on the use of competitive procedures for research and development contracts with colleges and universities. Such report shall list each college and university that received more than $1,000,000 in research and development contracts under procedures other than competitive procedures during the period covered by the report and shall include the cumulative amount of such contracts received during that period for each such college and university.

(2) The reports under paragraph (1) shall cover the six-month periods ending on June 30 and December 31 of each year.

(3) The first report under paragraph (1) shall cover the last six months of 1989, and shall be submitted not later than February 1, 1990.

(4) Except as provided in paragraph (3), each semiannual report shall be submitted within 30 days after the expiration of the period covered by the report.

(5) No report is required under this section for periods beginning after December 31, 1993.

SEC. 224. INTEGRATED ELECTRIC DRIVE PROGRAM

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 201 for the Navy for fiscal year 1990, $58,187,000 shall be available for the Integrated Electric Drive program.

(b) INTEGRATED ELECTRIC DRIVE PROGRAM.—The Secretary of the Navy is authorized to establish an Integrated Electric Drive program by merging the Ship Propulsion System program and the Shipboard System Component program with the Electric Drive program for the purpose of providing Integrated Electric Drive propulsion in the DDG-51 guided missile destroyer program.

SEC. 225. FAST SEALIFT TECHNOLOGY DEVELOPMENT PROGRAM

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 201 for the Navy for fiscal year 1990, $30,000,000 shall be available for the Fast Sealift Technology Development program.

(b) NEW PROGRAM.—The Secretary of the Navy is authorized to establish a Fast Sealift Technology Development program for the purposes of completing, within 24 months of the date of the enactment of this Act, the technology development program described in the January 1989 report to Congress entitled Fast Sealift Program Technology Assessment Report.

SEC. 226. TACTICAL OCEANOGRAPHY PROGRAM

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 201 for the Navy for fiscal year 1990, $3,000,000 shall be available for the Tactical Oceanography program.

(b) NEW PROGRAM.—The Secretary of the Navy is authorized to establish a Tactical Oceanography program to accelerate uses of scientific measurement and data collection devices and processes for the purpose of rapid tactical applications.

SEC. 227. NAVY SHIP DESIGN

Funds appropriated for research, development, test, and evaluation for the Navy for fiscal year 1991 or any subsequent fiscal year may not be obligated or expended for the preliminary design or contract design of any Navy ship.

SEC. 228. BIODEGRADABLE MATERIALS RESEARCH

Of the amounts appropriated for the Army for fiscal year 1990 pursuant to section 201, not more than $100,000 may be obligated for the purpose of continuing the research into the potential use of biodegradable materials in ration packaging designs. The Army Natick Research, Development, and Engineering Center shall be the responsible agency for such research.

SEC. 229. CHEMICAL WEAPONS MONITORING PROGRAM

Of the amount authorized to be appropriated pursuant to section 201 for the Defense Agencies for research, development, test, and evaluation for fiscal year 1990, $15,000,000 shall be available to the Office of the Secretary of Defense for the purpose of conducting a program to develop and demonstrate compliance monitoring capabilities in support of efforts by the United States in the Conference on Disarmament at Geneva to achieve a verifiable convention on the prohibition of chemical weapons.

SEC. 230. SELECTION OF HEAVY TRUCK SYSTEM CONFIGURED WITH PALLETIZED LOADING SYSTEM

Section 259(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1045) is amended by striking out "24 months" in the first sentence and inserting in lieu thereof "30 months".

SEC. 230a. LASER WEAPON VERIFICATION RESEARCH

In awarding contracts for research, development, test, and evaluation in connection with laser weapon verification technology, the Secretary of a military department or the head of a Defense Agency, as the case may be, shall ensure that such contracts are awarded to contractors that have experience in one or more of the following areas:

(1) Development of technologies for cooperative verification of laser weapons.

(2) Expertise in matters related to the propagation of high energy laser beams through the atmosphere.

(3) Ability to verify the testing or deployment of high energy laser beams against satellites in space.

SEC. 230b. MAGNETOENCEPHALOGRAPHY (MEG) AND NEUROMAGNETISM RESEARCH

Of the funds authorized to be appropriate pursuant to section 201 for the Army for fiscal year 1990, not more than $250,000 shall be made available for the joint Army-Department of Energy research project on magnetoencephalography (MEG) and neuromagnetism.

PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 231. FUNDING FOR THE STRATEGIC DEFENSE INITIATIVE FOR FISCAL YEAR 1990

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1990, not more than $4,301,904,000 may be obligated for the Strategic Defense Initiative.

(b) DEFENSE-WIDE MISSION SUPPORT.—Of the amount made available for the Strategic Defense Initiative pursuant to subsection (a), $26,394,000 may be used for defense-wide mission support of the Strategic Defense Initiative.

(c) SDI NATIONAL TEST BED CONSTRUCTION.—The Secretary of Defense may transfer not more than $23,000,000 of the amounts made available for the Strategic Defense Initiative pursuant to subsection (a) to the appropriate military construction account for use only in connection with the construction of the National Test Bed project.

SEC. 232. REPORT ON ALLOCATION OF FISCAL YEAR 1990 SDI FUNDING

(a) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a report on the allocation of funds appropriated for the Strategic Defense Initiative for fiscal year 1990. The report shall specify the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of legislation appropriating funds for the Strategic Defense Initiative for fiscal year 1990.

SEC. 233. ANNUAL REPORT ON SDI PROGRAMS

(a) IN GENERAL.—Not later than March 15, 1990, and March 15 each year thereafter, the Secretary of Defense shall transmit to Congress a report (in both an unclassified and a classified form) on the programs and projects that constitute the Strategic Defense Initiative and on any other program or project relating to defense against ballistic missiles. Each such report shall include the following:

(1) A statement of the basic strategy for research and development being pursued by the Defense Department under the Strategic Defense Initiative, including the relative priority being afforded, respectively, to the development of near-term deployment options and research on longer-term technological approaches.

(2) A detailed description of each program or project included in the Strategic Defense Initiative (SDI) or which otherwise relates to defense against strategic ballistic missiles, including a technical evaluation of each such program or project and an assessment as to when each can be brought to the stage of full-scale engineering development (assuming funding as requested or programmed).

(3) A clear definition of the objectives of each planned deployment phase of the Strategic Defense Initiative or defense against strategic ballistic missiles.

(4) An explanation of the relationship between each such phase and each program and project associated with the proposed architecture for that phase.

(5) The status of consultations with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning research being conducted in the Strategic Defense Initiative program.

(6) A statement of the compliance of the planned SDI development and testing programs with existing arms control agreements, including the Antiballistic Missile Treaty.

(7) A review of possible countermeasures of the Soviet Union to specific SDI programs, an estimate of the time and cost required for the Soviet Union to develop each such countermeasure, and an evaluation of the adequacy of the SDI programs described in the report to respond to such countermeasures.

(8) Details regarding funding of programs and projects for the Strategic Defense Initiative (including the amounts authorized, appropriated, and made available for obligation after undistributed reductions or other offsetting reductions were carried out), as follows:

(A) the level of requested and appropriated funding provided for the current fiscal year for each program and project in the Strategic Defense Initiative budgetary presentation materials provided to Congress;

(B) the aggregate amount of funding provided for previous fiscal years (including the current fiscal year) for each such program and project;

(C) the amount requested to be appropriated for each such program and project for the next fiscal year;

(D) the amount programmed to be requested for each such program and project for the following fiscal year; and

(E) the amount required to reach the next significant milestone for each demonstration program and each major technology program.

(9) Details on what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include—

(A) defending elements of the Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate Soviet shorter range ballistic missiles armed with conventional, chemical, or nuclear warheads;

(B) defending against an accidental launch of strategic ballistic missiles against the United States;

(C) defending against a limited but militarily effective Soviet attack aimed at disrupting the National Command Authority or other valuable military assets;

(D) providing sufficient warning and tracking information to defend or effectively evade possible Soviet attacks against military satellites, including those in high orbits;

(E) providing early warning and attack assessment information and the necessary survivable command, control, and communications to facilitate the use of United States military forces in defense against possible Soviet conventional or strategic attacks;

(F) providing protection of United States population from a Soviet nuclear attack; and

(G) any other significant near-term military mission that the application of SDI technologies might help to accomplish.

(10) For each of the near-term military missions listed in paragraph (9), the report shall include—

(A) a list of specific program elements of the Strategic Defense Initiative that are pertinent to these applications;

(B) the Secretary's estimate of the initial operating capability dates for the architectures or systems to accomplish such missions;

(C) the Secretary's estimate of the level of funding necessary for each program to reach those operating capability dates; and

(D) the Secretary's estimate of the survivability and cost effectiveness at the margin of such architectures or systems against current and projected Soviet threats.

SEC. 234. DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1990, or any fiscal year before 1990, shall be subject to the limitations prescribed in paragraph (2).

(2) Funds described in paragraph (1) may not be obligated or expended—

(A) for the development or testing of any anti-ballistic missile system or component, except for development and testing consistent with the development and testing described in the 1989 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the 1989 SDIO Report.

(3) The limitation provided in paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1990 if the transfer is made in accordance with section 901 of this Act.

(b) DEFINITION.—As used in this section, the term "1989 SDIO Report" means the report entitled, "1989 Report to Congress on the Strategic Defense Initiative," dated January 19, 1989, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives by the Secretary of Defense pursuant to section 231 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1059).

SEC. 235. SDI FUNDS FOR SUPPORT OF MEDICAL FREE ELECTRON LASER PROGRAM

Of the amounts made available pursuant to section 231 for fiscal years 1990 and 1991, not more than $20,000,000 for each such year may be used to support the medical free electron laser program.

SEC. 236. REPORT ON ASYMMETRIES IN UNITED STATES AND SOVIET ABM PRODUCTION AND CAPABILITIES

(a) STUDY.—The Secretary of Defense, in coordination with the Central Intelligence Agency, shall submit to Congress a report on the asymmetry in United States and Soviet near-term capabilities to deploy anti-ballistic missile defenses beyond those permitted under the 1972 ABM Treaty. The study shall include the following:

(1) An assessment of the likelihood of a Soviet breakout of the ABM Treaty in the next five years and the assumptions used for that assessment.

(2) An assessment of the Soviet capability to exploit a non-ABM Treaty limited environment, including a detailed assessment of Soviet production capabilities for space-based ABM launchers and ground-based ABM launchers, interceptors, and battle

management command, control, and communications.

(3) An assessment of the United States production base for space-based and ground-based ABM launchers, interceptors, and battle management command, control, and communications, including an estimate of how quickly the United States could respond to a Soviet breakout in each of the above mentioned areas.

(4) An assessment of the immediate and long-term steps which could be taken to respond to Soviet violations of the ABM Treaty, and other Soviet activities that are either permitted or ambiguous under the terms of that treaty, to redress the asymmetry in ABM Treaty breakout potential. This assessment shall include an evaluation of the measures which would be necessary to support a one-site ABM system allowed under the Treaty or an expanded ABM system in the event of a Soviet breakout of the Treaty. Such evaluation shall specifically address the required actions and associated costs to upgrade and expand the existing United States radar network, dismantled ABM components at Grand Forks, North Dakota, and other required components.

(b) REPORT.—Not later than the date on which the budget for fiscal year 1991 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit in classified and unclassified form to the Committees on Armed Services of the Senate and House of Representatives a report specifying the results of the study conducted pursuant to this section.

(c) 1972 ABM TREATY DEFINED.—In this section, the term "1972 ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitations of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

PART D—STRATEGIC PROGRAMS

SEC. 241. TRIDENT II MISSILE PROGRAM

In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1990, no reduction may be made in the amount appropriated for the Trident II missile program.

SEC. 242. SECURITY AT THE KWAJALEIN TEST RANGE

The Secretary of the Air Force may transfer $5,000,000 from funds available to the Air Force for research, development, test, and evaluation for fiscal year 1990 to the Army for the sole purpose of funding highest priority security improvements at the Kwajalein Test Range. The Secretary of the Army may provide $2,500,000 for the same purpose from funds available to the Army for research, development, test, and evaluation for fiscal year 1990. Funds made available for such purpose by the Secretary of the Army may not be made available from funds otherwise available for the United States Army Kwajalein Atoll Command.

SEC. 243. RESTORATION OF CERTAIN REPORTING REQUIREMENTS RELATING TO CHEMICAL AND BIOLOGICAL WARFARE AGENTS

(a) SPECIFIC REPORTS.—Section 602 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (100 Stat. 1066; 10 U.S.C. 111 note) is amended—

(1) by striking out subsection (g) and inserting in lieu thereof the following:

"(g) PUBLIC LAW 91-121.—The exception provided in subsection (d)(3) applies to the following annual report and notifications relating to chemical or biological warfare agents:

"(1) The annual report required by subsection (a) of section 409 of Public Law 91-121 (50 U.S.C. 1511).

"(2) Notifications required by subsections (b)(4) and (c)(1) of such section (50 U.S.C. 1512(4), 1513(1)).";

(2) by striking out subsection (h) and inserting in lieu thereof the following:

"(h) PUBLIC LAW 91-441.—The exception provided in subsection (d)(3) applies to the following reports:

"(1) The annual report required by section 203(c) of Public Law 91-141 (10 U.S.C. 2358 note), relating to independent research and development and bid and proposal programs.

"(2) Reports required by subsection (d) of section 506 of such public law (50 U.S.C. 1518), relating to the disposal of chemical or biological warfare agents."; and

(3) by adding at the end the following new subsection:

"(v) PUBLIC LAW 95-79.—The exception provided in subsection (d)(3) applies to the notifications required by section 808 of Public Law 95-79 (50 U.S.C. 1520), relating to chemical or biological warfare agents.".

(b) CONFORMING AMENDMENT.—Section 602(d)(3) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 is amended by striking out "(u)" and inserting in lieu thereof "(v)".

PART E—ALLIED COOPERATIVE RESEARCH AND DEVELOPMENT

SEC. 251. ALLIED COOPERATIVE RESEARCH AND DEVELOPMENT

(a) DESIGNATION OF SUBCHAPTERS.—Chapter 138 of title 10, United States Code, is amended—

(1) by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 138—COOPERATIVE AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES

"Subchapter
"I. Acquisition and Cross-Servicing Agreements 2341
"II. Other Cooperative Agreements 2350a

"SUBCHAPTER I—ACQUISITION AND CROSS-SERVICING AGREEMENTS"; and

(2) by adding at the end the following:

"SUBCHAPTER II—OTHER COOPERATIVE AGREEMENTS

"Sec.
"2350a. Allied cooperative research and development.

"§ 2350a. Allied cooperative research and development

"(a) AUTHORITY TO ENGAGE IN COOPERATIVE R & D PROJECTS.—The Secretary of Defense may enter into a memorandum of understanding (or other formal agreement) with one or more major allies of the United States for the purpose of conducting cooperative research and development projects on defense equipment and munitions.

"(b) RESTRICTIONS.—(1) A memorandum of understanding (or other formal agreement) to conduct a cooperative research and development project under this section may not be entered into unless the Secretary of Defense determines that the proposed project will improve through the application of emerging technology the conventional defense capabilities of the North Atlantic Treaty Organization (NATO) or the common conventional defense capabilities of the United States and its major non-NATO allies.

"(2) Each cooperative project entered into under this section shall require sharing of the costs of research and development between the participants on an equitable basis.

"(3) The Secretary may not delegate the authority to make a determination under paragraph (1) except to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition.

"(c) RESTRICTIONS ON PROCUREMENT OF EQUIPMENT AND SERVICES.—(1) In order to assure substantial participation on the part of the major allies of the United States in approved cooperative research and development projects, funds made available for such projects may not be used to procure equipment or services from any foreign government, foreign research organization, or other foreign entity.

"(2) A major ally of the United States may not use any military or economic assistance grant, loan, or other funds provided by the United States for the purpose of making that ally's contribution to a cooperative research and development program entered into with the United States under this section.

"(d) COOPERATIVE OPPORTUNITIES DOCUMENT.—(1)(A) In order to ensure that opportunities to conduct cooperative research and development projects are considered during the early decision points in the Department of Defense's formal development review process in connection with any planned project of the Department of Defense, the Under Secretary of Defense for Acquisition shall prepare a formal arms cooperation opportunities document for review by the Defense Acquisition Board at its formal meetings.

"(B) The Under Secretary shall also prepare an arms cooperation opportunities document for review of each new project for which a Mission Need Statement is prepared.

"(2) The formal arms cooperation opportunities document referred to in paragraph (1) shall include the following:

"(A) A statement indicating whether or not a project similar to the one under consideration by the Department of Defense is in development or production by one or more of the major allies of the United States.

"(B) If a project similar to the one under consideration by the Department of Defense is in development or production by one or more major allies of the United States, an assessment by the Under Secretary of Defense for Acquisition as to whether that project could satisfy, or could be modified in scope so as to satisfy, the military requirements of the project of the United States under consideration by the Department of Defense.

"(C) An assessment of the advantages and disadvantages with regard to program timing, developmental and life cycle costs, technology sharing, and Rationalization, Standardization, and Interoperability (RSI) of seeking to structure a cooperative development program with one or more major allies of the United States.

"(D) The recommendation of the Under Secretary of Defense for Acquisition as to whether the Department of Defense should explore the feasibility and desirability of a cooperative development program with one or more major allies of the United States.

"(e) REPORTS TO CONGRESS.—(1) Not later than March 1 of each year, the Under Secretary of Defense for Acquisition shall submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a report—

"(A) describing the status, funding, and schedule of existing cooperative research and development projects carried out under this section for which memoranda of understanding (or other formal agreements) have been entered into; and

"(B) describing the purpose, funding, and schedule of any new cooperative research and development projects proposed to be carried out under this section (including those projects for which memoranda of understanding (or other formal agreements) have not yet been entered into) for which funds have been included in the budget submitted to Congress pursuant to section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted.

"(2) The Secretary of Defense and the Secretary of State, whenever they consider such action to be warranted, shall jointly submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report—

"(A) enumerating those countries to be added to or deleted from the existing designation of countries designated as major non-NATO allies for purposes of this section; and

"(B) specifying the criteria used in determining the eligibility of a country to be designated as a major non-NATO ally for purposes of this section.

"(f) SIDE-BY-SIDE TESTING.—(1) It is the sense of Congress—

"(A) that the Department of Defense should perform more side-by-side testing of conventional defense equipment manufactured by the United States and other member nations of NATO; and

"(B) that such testing should be conducted at the late stage of the development process when there is usually only a single United States prime contractor.

"(2) The Deputy Director of Defense Research and Engineering (Test and Evaluation) may acquire items of the type specified in paragraph (3) manufactured by other member nations of NATO for side-by-side comparison testing with comparable items of United States manufacture.

"(3) Items that may be acquired by the Deputy Director under paragraph (2) include the following:

"(A) Submunitions and dispensers.

"(B) Anti-tank and anti-armor guided missiles.

"(C) Mines, for both land and naval warfare.

"(D) Runway-cratering devices.

"(E) Torpedoes.

"(F) Mortar systems.

"(G) Light armored vehicles and major subsystems thereof.

"(H) Utility vehicles.

"(I) High-velocity anti-tank guns.

"(J) Short-Range Air Defense Systems (SHORADS).

"(K) Mobile air defense systems and components.

"(4) The Deputy Director shall notify the committees on Armed Services and on Appropriations of the Senate and House of Representatives of his intent to obligate funds made available to carry out this subsection not less than 30 days before such funds are obligated.

"(5) Not later than February 1 of each year, the Deputy Director shall submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a report—

"(A) on the systems, subsystems, and munitions produced by other member nations of NATO that were evaluated during the previous fiscal year by the Deputy Director; and

"(B) on the obligation of any funds under this subsection during the previous fiscal year.

"(g) SECRETARY TO ENCOURAGE SIMILAR PROGRAMS.—The Secretary of Defense shall encourage major allies of the United States to establish programs similar to the one provided for in this section.

"(h) DEFINITIONS.—In this section:

"(1) The term 'cooperative research and development project' means a project involving joint participation by the United States and one or more major allies of the United States under a memorandum of understanding (or other formal agreement) to carry out a joint research and development program—

"(A) to develop new conventional defense equipment and munitions; or

"(B) to modify existing military equipment to meet United States military requirements.

"(2) The term 'major ally of the United States' means a member nation of the North Atlantic Treaty Organization (other than the United States) or a major non-NATO ally.

"(3) The term 'major non-NATO ally' means a country (other than a member nation of the North Atlantic Treaty Organization) designated as a major non-NATO ally for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.".

(b) REPEALS.—Section 1103 of the Department of Defense Authorization Act, 1986 (10 U.S.C. 2407 note), and section 1105 of the Department of Defense Authorization Act, 1987 (22 U.S.C. 2767a), are repealed.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army:
(A) $23,453,700,000 for fiscal year 1990.
(B) $24,589,900,000 for fiscal year 1991.
(2) For the Navy:
(A) $24,358,200,000 for fiscal year 1990.
(B) $24,945,900,000 for fiscal year 1991.
(3) For the Marine Corps:
(A) $1,700,500,000 for fiscal year 1990.
(B) $1,767,500,000 for fiscal year 1991.
(4) For the Air Force:
(A) $22,709,500,000 for fiscal year 1990.
(B) $23,269,300,000 for fiscal year 1991.
(5) For the Defense Agencies:
(A) $7,926,000,000 for fiscal year 1990.
(B) $8,237,900,000 for fiscal year 1991.
(6) For the Army Reserve:
(A) $864,300,000 for fiscal year 1990.
(B) $902,600,000 for fiscal year 1991.
(7) For the Naval Reserve:
(A) $895,700,000 for fiscal year 1990.
(B) $949,900,000 for fiscal year 1991.
(8) For the Marine Corps Reserve:
(A) $77,500,000 for fiscal year 1990.
(B) $79,400,000 for fiscal year 1991.
(9) For the Air Force Reserve:
(A) $981,900,000 for fiscal year 1990.
(B) $1,015,400,000 for fiscal year 1991.
(10) For the Army National Guard:
(A) $1,875,500,000 for fiscal year 1990.
(B) $1,896,300,000 for fiscal year 1991.
(11) For the Air National Guard:
(A) $1,988,400,000 for fiscal year 1990.
(B) $2,104,600,000 for fiscal year 1991.
(12) For the National Board for the Promotion of Rifle Practice:
(A) $4,700,000 for fiscal year 1990.
(B) $5,600,000 for fiscal year 1991.
(13) For the Defense Inspector General:
(A) $96,200,000 for fiscal year 1990.
(B) $97,600,000 for fiscal year 1991.
(14) For the Court of Military Appeals:
(A) $4,000,000 for fiscal year 1990.
(B) $4,200,000 for fiscal year 1991.
(15) For Environmental Restoration, Defense:
(A) $517,800,000 for fiscal year 1990.
(B) $519,900,000 for fiscal year 1991.
(16) For the Goodwill Games, as provided in section 305 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1949), $14,600,000 for fiscal year 1990.
(17) For Humanitarian Assistance:
(A) $13,000,000 for fiscal year 1990.
(B) $13,000,000 for fiscal year 1991.

(b) GENERAL AUTHORIZATION FOR CONTINGENCIES.—There is authorized to be appropriated for fiscal years 1990 and 1991, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs; and

(2) for unbudgeted increases as the result of inflation in the cost of activities authorized by subsection (a).

SEC. 302. WORKING CAPITAL FUNDS

Funds are hereby authorized to be appropriated for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

(1) For the Army Stock Fund:
(A) $97,600,000 for fiscal year 1990.
(B) $141,500,000 for fiscal year 1991.
(2) For the Navy Stock Fund:
(A) $201,400,000 for fiscal year 1990.
(B) $232,100,000 for fiscal year 1991.
(3) For the Air Force Stock Fund:
(A) $306,300,000 for fiscal year 1990.
(B) $319,600,000 for fiscal year 1991.
(4) For the Defense Stock Fund:
(A) $94,100,000 for fiscal year 1990.
(B) $156,300,000 for fiscal year 1991.

SEC. 303. DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT

There are authorized to be appropriated to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2631) the following amounts:

(1) $300,000,000 for fiscal year 1990.
(2) $500,000,000 for fiscal year 1991.

SEC. 304. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—Funds appropriated pursuant to the authorization in section 301 for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of the funds appropriated for fiscal years 1990 and 1991 pursuant to such section for such purpose, not more than $3,000,000 may be used for distribution of humanitarian relief supplies to the non-Communist resistance organization at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to sec-

tion 301 for fiscal years 1990 and 1991 for humanitarian assistance to provide for—

(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation for humanitarian relief provided with funds appropriated pursuant to section 301 for humanitarian assistance shall be provided under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to section 301 for humanitarian assistance shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to section 301 for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

(f) REPORTS TO CONGRESS.—(1) The Secretary of Defense shall submit (at the times specified in paragraph (2)) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report on the provision of humanitarian assistance under the humanitarian relief laws specified in paragraph (4).

(2) A report required by paragraph (1) shall be submitted—

(A) not later than 60 days after the date of the enactment of this Act;

(B) not later than June 1, 1990; and

(C) not later than June 1 of each year thereafter until all funds available for humanitarian assistance under the humanitarian relief laws specified in paragraph (4) have been obligated.

(3) A report required by paragraph (1) shall contain (as of the date on which the report is submitted) the following information:

(A) The total amount of funds obligated for humanitarian relief under the humanitarian relief laws specified in paragraph (4).

(B) The number of scheduled and completed flights for purposes of providing humanitarian relief under the humanitarian relief laws specified in paragraph (4).

(C) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

(4) The humanitarian relief laws referred to in paragraphs (1), (2), and (3) are the following:

(A) This section.

(B) Section 305 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 617).

(C) Section 331 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1078).

(D) Section 303 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1948).

(5) Section 303 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1948), is amended by striking out subsection (f).

PART B—LIMITATIONS

SEC. 321. REPEAL OF LIMITATION ON THE USE OF OPERATION AND MAINTENANCE FUNDS TO PURCHASE INVESTMENTS

Section 303 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1073) is repealed.

SEC. 322. PROHIBITION ON JOINT USE OF THE MARINE CORPS AIR STATION AT EL TORO, CALIFORNIA, WITH CIVIL AVIATION

The Secretary of the Navy may not enter into any agreement that would provide for, or permit, civil aircraft to regularly use the Marine Corps Air Station at El Toro, California.

PART C—BASE CLOSURE AND REALIGNMENT MATTERS

SEC. 331. BASE CLOSURE REPORT

(a) REPORT REQUIREMENT.—Not later than November 15, 1989, the Comptroller General of the United States shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives a report on the methodology, findings, and recommendations of the Commission on Base Realignment and Closure.

(b) CONTENT OF REPORT.—(1) The report shall include an analysis of the following:

(A) The adequacy and accuracy of the information relied upon as a basis for the Commission's recommendations.

(B) The process used in the determination of military missions and requirements and the military value of the bases in meeting such missions and requirements.

(C) The criteria used to select bases to be closed or realigned.

(D) The findings regarding military and civilian personnel reductions and associated relocation and termination expenses.

(E) The findings regarding nonrecurring costs, including expenses such as costs of construction, personnel, and logistics.

(F) The findings regarding long-term, annual savings, including the estimated cost amortization period.

(G) The findings regarding assumed proceeds from property sales for each applicable initiative.

(H) The findings regarding any environmental restoration costs that must be incurred in order to make it possible to sell or transfer excess property.

(2) Where any inaccuracies in the information referred to in paragraph (1)(A) are noted in the report, the Comptroller General shall include in the report an assessment of the effects of such inaccuracies upon the ranking of installations by the Commission within functional categories.

SEC. 332. REPORT ON ENVIRONMENTAL RESTORATION OF JEFFERSON PROVING GROUND, INDIANA

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the environmental contamination at the Jefferson Proving Ground, Indiana, resulting from the activities of the Department of Defense. The report shall include the following:

(1) A description of the nature and extent of the environmental contamination, including any contamination resulting from hazardous materials.

(2) A detailed plan to restore all portions of the Jefferson Proving Ground south of the firing line to full and unrestricted use.

(3) A description of all portions of the Jefferson Proving Ground which the Department of Defense does not plan to make available for full and unrestricted use for reasons of liability, costs of cleanup, or any other reason.

(4) A plan to finance the cleanup of the Jefferson Proving Ground, including estimated costs of the cleanup, identification of the sources of funds for cleanup, and a time schedule for implementation of cleanup measures.

(b) CONSULTATION.—The Secretary shall consult with appropriate State and local officials in preparing the report required by subsection (a).

(c) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than April 15, 1990.

SEC. 333. NOTICE TO LOCAL AND STATE EDUCATIONAL AGENCIES OF ENROLLMENT CHANGES DUE TO BASE CLOSURES AND REALIGNMENTS

(a) NOTICE REQUIRED.—Not later than January 1 of each year in which any activities necessary to close or realign a military installation under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2627) are conducted, the Secretary, in consultation with the Secretary of Education, shall—

(1) to the extent practicable, identify each local educational agency that will experience at least a 5-percent increase or at least a 10-percent reduction in the number of minor dependents of members of the Armed Forces and minor dependents of civilian employees of the Department of Defense enrolled in schools under the jurisdiction of such agency during the next academic year (compared with the number of such dependents enrolled in such schools during the preceding year) as a result of the closure or realignment of a military installation under that Act; and

(2) not later than 30 days after identifying such local educational agency, transmit a written notice of the schedule for the closure or realignment of that military installation to such local educational agency and to the State government education agency responsible for administering State government education programs involving that local educational agency.

PART D—MISCELLANEOUS REPORTING REQUIREMENTS

SEC. 341. REPORT ON MILITARY UTILIZATION OF THE INLAND NAVIGATION SYSTEM

Not later than one year after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report on the potential for obtaining efficiencies, savings, and enhanced mobilization preparedness through increased utilization of the national inland waterway system by the Department of Defense and defense industries.

SEC. 342. REPORT ON ENVIRONMENTAL REQUIREMENTS AND PRIORITIES

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the long-range environmental challenges and goals of the Department of Defense.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) A discussion of major environmental concerns that the Department of Defense will face world-wide in the next decade, and a qualitative and quantitative assessment, where practicable, of each concern.

(2) A status report of current efforts, programs, resources, and policies used to address the concerns identified under paragraph (1).

(3) The projected funding for and schedule of actions under the Department of Defense Installation Restoration Program.

(4) An assessment of Federal, State, and local environmental regulatory requirements and the effects of such requirements on operations and activities of the Department of Defense.

(5) An analysis of all the information described in paragraphs (1) through (3) and a discussion of potential courses of action, priorities, and goals of the Department of Defense.

(6) Such comments and recommendations as the Secretary considers appropriate.

(c) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted not later than two years after the date of the enactment of this Act.

SEC. 343. SOIL AND WATER CONTAMINATION NEAR MEAD, NEBRASKA

(a)(1) Since the United States Army Corps of Engineers is investigating soil and water contamination at the former Nebraska Ordnance Plant near Mead, Nebraska.

(2) Since solvents, polychlorinated byphenals (PCBs), and RDX, and explosive material used in making ammunitions, have been discovered.

(b) Now therefore be it determined that it is the sense of the Senate that the United States Army Corps of Engineers should carry out this investigation as promptly as possible consistent with other environmental cleanup responsibilities, and should continue to keep interested parties, including potentially affected residents in the area, University of Nebraska officials, and State and local government personnel fully advised of developments relating to the study and activities at the site.

SEC. 344. REPORT ON MANPOWER, MOBILITY, SUSTAINABILITY, AND EQUIPMENT

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the readiness of the Armed Forces, in terms of manpower, mobility, sustainability, and equipment, to perform their assigned missions. The report shall be based on the manpower and other resources planned for the Armed Forces in the 1991 budget for the Department of Defense.

(b) MATTERS TO BE INCLUDED IN REPORT.—The Secretary shall include the following in the report required by subsection (a):

(1) A detailed analysis of trends in readiness and sustainability of the military forces of the United States over the five-year period 1986 to 1990 and, based on the current Five-Year Defense Program or other planning document approved by the Secretary, a projection of such trends over the succeeding five-year period.

(2) A detailed evaluation of the readiness and sustainability of the unified combatant commands and the specified combatant commands of the Armed Forces.

(3) A discussion of—

(A) the readiness and sustainability of the military forces of the United States in terms of the standards approved by the Secretary of Defense;

(B) the readiness and sustainability of allied forces of the United States; and

(C) the readiness and sustainability of potential enemy forces.

(4) A list of all improvements that need to be made in the readiness and sustainability of the manpower, mobility, and equipment of the Armed Forces to correct major shortfalls of the unified combatant commands and the specified combatant commands, the relative priority of each such improvement, and the estimated cost of each such improvement.

(5) Such other information regarding the readiness of the Armed Forces, in terms of manpower, mobility, sustainability, and equipment, as the Secretary considers appropriate.

(c) PRIORITY FOR IMPROVEMENTS.—The relative priority of the improvements referred to in subsection (b)(4) shall be determined by the Secretary on the basis of the improvements necessary to ensure the ability of the Armed Forces to perform their assigned missions and the ability of the United States to meet its military commitments.

(d) REPORT DEADLINE.—The Secretary shall submit the report required by subsection (a), together with such comments and recommendations as the Secretary considers appropriate, not later than February 15, 1990.

SEC. 345. REPORT ON IMPACT AID

(a) REQUIREMENT FOR REPORT.—Not later than December 31, 1989, the Secretary of Defense shall submit to the committees named in subsection (b) a report on the feasibility and desirability of restoring to the Secretary of Defense, on or before October 1, 1991, the responsibilities formerly exercised by the Secretary for the administration of impact aid for schools affected by Department of Defense activities.

(b) COMMITTEES.—The Secretary shall submit the report required by subsection (a) to the Committees on Armed Services and on Labor and Human Services of the Senate and the Committees on Armed Services and on Education and Labor of the House of Representatives.

(c) DEFINITION.—As used in this section, the term "impact aid" means payments and other arrangements under the provisions of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) and the Act of September 23, 1950 (Public Law 815, Eighty-first Congress).

SEC. 346. REPORT ON SECOND SOURCE FOR CARBONIZABLE RAYON YARN

Not later than November 30, 1989, the Secretary of Defense will report to the Committees on Armed Services of the Senate and House of Representatives on the progress, timetable, and a time certain for the Department to establish a certified second production source for carbonizable rayon yarn for use on reentry vehicles heat shields and rocket nozzles, applicable to both defense and space programs.

PART E—MISCELLANEOUS PROVISIONS

SEC. 351. ENERGY EFFICIENCY INCENTIVE

Section 736 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 2006; 42 U.S.C. 8287 note), is amended—

(1) in subsection (b), by striking out paragraph (1) and inserting in lieu thereof the following: "(1) One-half of the amount of such savings shall be used for the acquisition of energy conserving measures for military installations. Such measures shall be in addition to any such energy conserving measures acquired for military installations under contracts entered into under title VIII of the National Conservation Energy Policy Act.";

(2) in subsection (c)—

(A) by striking out "end of the first year" and inserting in lieu thereof "end of each of the first five years"; and

(B) by striking out "first-year" after "amount of"; and

(3) in subsection (d)—

(A) by striking out " 'first-year"; and

(B) by striking out "during the first year" and inserting in lieu thereof "during the first five years".

SEC. 352. AUTHORITY TO ACQUIRE RAILROAD TRACK STRUCTURE AND TEMPORARY RIGHT-OF-WAY FOR RAIL LINE

The Secretary of the Army may purchase the railroad track structure and temporary right-of-way for the railroad line known as the Mina Branch, located between milepost 331.12, near Wabuska, Nevada, and milepost 385.00, near Thorne, Nevada, for use in connection with the operation of Hawthorne Army Ammunition Plant, Nevada. The Secretary may use any funds appropriated pursuant to section 301 for the Army for fiscal year 1990 to carry out the purpose of the preceding sentence.

SEC. 353. USE OF CHLOROFLUOROCARBONS AND HALONS IN THE DEPARTMENT OF DEFENSE

(a) CHLOROFLUOROCARBONS EMISSION REDUCTION.—The Secretary of Defense shall formulate and carry out, through the Under Secretary of Defense for Acquisition, a program to reduce the unnecessary release of chlorofluorocarbons and halons into the atmosphere in connection with maintenance operations and training and testing practices of the Department of Defense.

(b) REPORT.—(1) Not more than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and of the House of Representatives a report describing the program the Secretary proposes to carry out pursuant to subsection (a). The Secretary shall specify in the report the reduction goals that are attainable on the basis of known technology, including the use of refrigerant recovery systems currently available. The Secretary shall include in the report a schedule for meeting those goals. The Secretary shall also include in such report reduction goals that can only be met with the use of new technology and assess the technologies and investment that will be required to attain those goals within a five-year period.

(2) Before the report required under paragraph (1) is submitted to the committees named in such paragraph, the Secretary shall transmit a copy of the report to the Administrator of the Environmental Protection Agency for comment thereon.

(c) DOD REQUIREMENTS FOR CFCs.—(1) Not more than 30 days after the date of the enactment of this Act, the Secretary shall appoint an advisory committee to be known as the "CFC Advisory Committee" (hereinafter in this section referred to as the "Committee"). The Committee shall be composed of not more than 15 members, with an equal number of representatives from the Department of Defense, the Environmental Protection Agency, and defense contractors. Members representing defense contractors shall be contractors that supply products or equipment to the Department of Defense that require the use of chlorofluorocarbons.

(2) It shall be the function of the Committee to study the use of chlorofluorocarbons by the Department of Defense and by contractors in the performance of contracts for the Department of Defense and the cost and feasibility of using alternative compounds or technologies for chlorofluorocarbons (CFCs).

(3) Within 120 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that specify the use of CFCs.

(4) Within 150 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that do not specify use of CFCs but cannot be met without the use of CFCs.

(d) REPORT.—Not later than September 30, 1990, the Secretary shall submit to the Committees named in subsection (b) a report containing the results of the study by the Committee. The report shall—

(1) identify cases in which the Committee found that substitutes for CFCs could be made most expeditiously;

(2) identify the feasibility and cost of substituting compounds or technologies for CFC uses referred to in subsection (c)(3) and estimate the timeframe for completing the substitution;

(3) identify CFC uses referred to in subsection (c)(4) for which substitutes are not currently available and indicate the reasons substitutes are not available.

(4) describe the types of research programs that should be undertaken to identify substitute compounds or technologies for CFC uses referred to in paragraphs (3) and (4) of subsection (c) and estimate the cost of the program;

(5) recommend procedures to expedite the use of substitute compounds and technologies offered by contractors to replace CFC uses;

(6) estimate the earliest date on which CFCs will no longer be required for military applications; and

(7) estimate the cost of revising military specifications for the use of substitutes for CFCs, the add-on costs for revision of contracts to provide for the use of substitutes for CFCs, and the cost of purchasing new equipment and reverification necessitated by the use of substitutes for CFCs.

SEC. 354. AUTHORIZATION OF LONG-TERM AIRCRAFT SUPPORT CONTRACT

The Secretary of the Army may enter into a long-term contract pursuant to section 2401 of title 10, United States Code, that includes a lease for the provision of air transportation at Kwajalein Atoll, Republic of the Marshall Islands, if—

(1) the contract does not impose a substantial termination liability on the United States within the meaning of section 2401(a)(1)(B) of title 10, United States Code; and

(2) the contract is made subject to the availability of funds for such purpose.

SEC. 355. AUTHORITY TO LEASE FLEET ELECTRONIC WARFARE SUPPORT AIRCRAFT

Section 328 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1957), is amended to read as follows:

"The Secretary of the Navy may lease aircraft for Fleet Electronic Warfare Support Group activities in accordance with section 2401 of title 10, United States Code, if the cost of leasing, operating, and supporting such aircraft is less than the projected costs of operating and maintaining existing aircraft of the Navy for the same activity.".

SEC. 356. SERVICE CONTRACT TO TRAIN UNDERGRADUATE NAVAL FLIGHT OFFICERS

The Secretary of the Navy may enter into a contract for services to train undergraduate naval flight officers during fiscal year 1992 in accordance with section 2401 of title 10, United States Code, after conducting a competition for such contract for services.

SEC. 357. DEFENSE CONTRACT AUDITORS

The Secretary of Defense, not later than September 30, 1990, shall increase the number of full-time personnel employed by the Defense Contract Audit Agency to 7,457, of which not less than 6,488 shall be auditors.

SEC. 358. ENVIRONMENTAL IMPACT STUDY OF THE SHENANDOAH RIVER

(a) The Secretary of the Army, acting through the Chief of Engineers, will conduct a study to determine the damage and environmental impact on the Shenandoah River by companies under contract to the Department of Defense, and the National Aeronautics and Space Administration.

(b) The study will determine—

(1) the degree, in full, of the pollution effect and the environmental impact to the river, and

(2) the estimated cost and time schedule to restore the water quality of the river to Federal standards.

(c) An interim study report will be due not later than December 31, 1989. A final report is due June 30, 1990.

SEC. 359. TUG AND TOWING SERVICES AT PORT CANAVERAL, FLORIDA

With respect to tug and towing services for the Department of the Navy at Port Canaveral, Florida, the Secretary of the Navy shall personally make any determination required by Part 19.502-2 of the Federal Acquisition Regulation.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS FOR FISCAL YEARS 1990 AND 1991

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

(a) FISCAL YEAR 1990.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1990, as follows:

(1) The Army, 764,021, of which not more than 106,001 may be officers.

(2) The Navy, 591,541, of which not more than 72,443 may be officers.

(3) The Marine Corps, 197,159, of which not more than 20,110 may be officers.

(4) The Air Force, 567,474, of which not more than 102,200 may be officers.

(b) FISCAL YEAR 1991.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1991, as follows:

(1) The Army, 763,721, of which not more than 105,675 may be officers.

(2) The Navy, 591,541, of which not more than 72,263 may be officers.

(3) The Marine Corps, 197,159, of which not more than 20,108 may be officers.

(4) The Air Force, 566,374, of which not more than 102,069 may be officers.

SEC. 402. MAINTENANCE OF ARMY COMBAT FORCE STRUCTURE

(a) IN GENERAL.—The Secretary of Defense may not take any action to reduce the number of active Army ground combat brigades assigned to the 4th Infantry Division (Mechanized) before December 1, 1990.

(b) AUTHORITY TO INCREASE ARMY END STRENGTH FOR FISCAL YEAR 1990.—If, as a result of the prohibition contained in subsection (a), the Secretary of Defense determines that it is necessary to increase the end strength of the Army for fiscal year 1990 above the level authorized under section 401, the Secretary may authorize an increase in the end strength of the Army for fiscal year 1990 of not more than 3,312.

(c) ADJUSTMENT FOR REDUCTION.—If the Secretary of Defense authorizes an increase in the end strength of the Army under subsection (a), the Secretary shall reduce the authorized active end strengths of one or more of the other military services in such amounts as may be necessary to ensure that the combined authorized end strengths for the Army, Navy, Air Force, and Marine Corps does not exceed the total end strengths authorized under section 401.

SEC. 403. TEMPORARY REDUCTION IN NUMBER OF AIR FORCE COLONELS

The number of officers that (but for this section) would be authorized under section 523 of title 10, United States Code, and other applicable provisions of law to be serving on active duty in the Air Force in the grade of colonel during fiscal year 1991 is hereby reduced by 250.

SEC. 404. REASSIGNMENT TO FORT IRWIN, CALIFORNIA

It is the sense of Congress that any combat unit of battalion or squadron size (or larger size) that on the date of the enactment of this Act is stationed at Fort Knox, Kentucky, shall not be permanently reassigned to Fort Irwin, California.

PART B—RESERVE FORCES

SEC. 421. END STRENGTHS FOR SELECTED RESERVE

(a) FISCAL YEAR 1990.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1990, as follows:

(1) The Army National Guard of the United States, 458,000.

(2) The Army Reserve, 321,700.

(3) The Naval Reserve, 153,400.

(4) The Marine Corps Reserve, 44,000.

(5) The Air National Guard of the United States, 116,200.

(6) The Air Force Reserve, 84,900.

(7) The Coast Guard Reserve, 15,000.

(b) FISCAL YEAR 1991.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1991, as follows:

(1) The Army National Guard of the United States, 458,500.

(2) The Army Reserve, 323,100.

(3) The Naval Reserve, 155,000.

(4) The Marine Corps Reserve, 44,100.

(5) The Air National Guard of the United States, 116,300.

(6) The Air Force Reserve, 85,200.

(7) The Coast Guard Reserve, 15,000.

(c) ADJUSTMENTS.—(1) The end strengths prescribed by subsection (a) or (b) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(A) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(B) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

(2) Whenever units referred to in paragraph (1) or individual members referred to in such paragraph are released from active duty during any fiscal year, the end strengths prescribed for the fiscal year for

the Selected Reserve of the reserve component concerned shall be proportionately increased by the total authorized strength of the units and by the total number of the individual members.

SEC. 422. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) FISCAL YEAR 1990.—Within the end strengths prescribed in section 421(a), the reserve components of the Armed Forces are authorized, as of September 30, 1990, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 26,164.

(2) The Army Reserve, 13,680.

(3) The Naval Reserve, 22,708.

(4) The Marine Corps Reserve, 2,301.

(5) The Air National Guard of the United States, 8,517.

(6) The Air Force Reserve, 686.

(b) FISCAL YEAR 1991.—Within the end strengths prescribed in section 421(b), the reserve components of the Armed Forces are authorized, as of September 30, 1991, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 26,514.

(2) The Army Reserve, 14,027.

(3) The Naval Reserve, 23,565.

(4) The Marine Corps Reserve, 2,401.

(5) The Air National Guard of the United States, 8,468.

(6) The Air Force Reserve, 700.

SEC. 423. INCREASE IN NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) SENIOR ENLISTED MEMBERS.—

(1) FISCAL YEAR 1990.—Effective on October 1, 1989, the table in section 517(b) of title 10, United States Code, is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E–9	542	200	224	13
E–8	2,504	425	637	74".

(2) FISCAL YEAR 1991.—Effective on October 1, 1990, that table is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E–9	557	202	231	13
E–8	2,585	429	670	74".

(b) OFFICERS.—

(1) FISCAL YEAR 1990.—Effective on October 1, 1989, the table in section 524(a) of such title is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	3,030	1,065	575	110
Lieutenant Colonel or Commander	1,448	520	476	75
Colonel or Navy Captain	351	188	190	25".

(2) FISCAL YEAR 1991.—Effective on October 1, 1990, that table is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	3,219	1,071	575	110
Lieutenant Colonel or Commander	1,524	520	532	75
Colonel or Navy Captain	364	188	194	25".

SEC. 424. AUTHORIZED STRENGTH OF NAVAL RESERVE OFFICERS IN CERTAIN GRADES

Section 5457(a) of title 10, United States Code, is amended—

(1) in clause (2), by striking out "7" and inserting in lieu thereof "5"; and

(2) by adding after clause (7) the following new clauses:

"(8) Medical Service Corps—1.

"(9) Nurse Corps—1."

PART C—MILITARY TRAINING

SEC. 431. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) FISCAL YEAR 1990.—For fiscal year 1990, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 79,667.

(2) The Navy, 67,224.

(3) The Marine Corps, 21,656.

(4) The Air Force, 39,575.

(5) The Army National Guard of the United States, 19,168.

(6) The Army Reserve, 15,377.

(7) The Naval Reserve, 3,237.

(8) The Marine Corps Reserve, 4,179.

(9) The Air National Guard of the United States, 2,941.

(10) The Air Force Reserve, 1,752.

(b) FISCAL YEAR 1991.—For fiscal year 1991, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 74,760.

(2) The Navy, 66,517.

(3) The Marine Corps, 22,235.

(4) The Air Force, 37,757.

(5) The Army National Guard of the United States, 18,667.

(6) The Army Reserve, 15,963.

(7) The Naval Reserve, 3,259.

(8) The Marine Corps Reserve, 4,178.

(9) The Air National Guard of the United States, 2,939.

(10) The Air Force Reserve, 1,774.

(c) ADJUSTMENTS.—The average military student loads authorized in subsections (a) and (b) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

PART D—CIVILIAN PERSONNEL

SEC. 441. REPEAL OF PROHIBITION OF USE OF CERTAIN PERSONNEL MANAGEMENT CONSTRAINTS

(a) IN GENERAL.—Section 129 of title 10, United States Code, is repealed.

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 3 of such title is amended by striking out the item relating to section 129.

SEC. 442. AUTHORITY TO ACCEPT CERTAIN VOLUNTEER SERVICES

Section 1588(a) of title 10, United States Code, is amended by striking out "museum" and inserting in lieu thereof "museum, natural resources program,".

TITLE V—MILITARY PERSONNEL

PART A—MATTERS AFFECTING THE RESERVE COMPONENTS

SEC. 501. DELAYED ENTRY PROGRAM AND DELAYED ENTRY TRAINING PROGRAM FOR RESERVISTS

(a) DELAYED ENTRY PROGRAM ENLISTMENTS.—Section 511 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) A person with no prior military service who is qualified for enlistment in a regular component of an armed force may (except as provided in paragraph (3)) be enlisted as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve for a term of not less than six years nor more than eight years.

"(2) A person enlisted under this subsection shall, unless sooner ordered to active duty under chapter 39 of this title or another provision of law, be discharged from the reserve component in which enlisted and immediately enlisted in a regular component of an armed force within 365 days after enlistment in the reserve component. During the period beginning on the date on which the person enlists under paragraph (1) and ending on the date on which the person is enlisted in a regular component under the preceding sentence, the person shall be placed in the Ready Reserve of the armed force concerned.

"(3) A person who is under orders to report for induction into an armed force under the Military Selective Service Act (50 U.S.C. App. 451 et seq.), except as provided in clause (ii) or (iii) of section 6(c)(2)(A) of that Act, may not be enlisted under paragraph (1).

"(4) This subsection shall be carried out under regulations to be prescribed by the Secretary of Defense or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.".

(b) DELAYED ENTRY PROGRAM EXEMPTION FROM READY RESERVE TRAINING REQUIREMENTS.—Section 270(a) of title 10, United States Code, is amended by inserting "or 511(e)" after "section 269(b)" in the first sentence.

(c) DELAYED ENTRY TRAINING PROGRAM LONGEVITY FOR PAY.—Subsection (e) of section 205 of title 37, United States Code, is amended to read as follows:

"(e)(1) Notwithstanding subsection (a), a period of service described in paragraph (2) of a member who enlists in a reserve component may not be counted under this section.

"(2) Paragraph (1) applies to—

"(A) service performed while a member of a reserve component under an enlistment under section 511(b) or 511(d) of title 10 before the member begins service on active duty under such section (including a period of initial active duty for training performed before beginning such service on active duty) unless the member performs inactive duty training before beginning such active service; and

"(B) service performed while a member of a reserve component under an enlistment under section 511(e) of title 10.".

SEC. 502. LIMITATION OF ACTIVE GUARD AND RESERVE PERSONNEL TO ACTIVE-DUTY PROGRAM

(a) LIMITATION.—Section 2132(d) of title 10, United States Code, is amended by adding at the end the following new sentence: "However, a person may not receive credit under the program established by

this chapter for service (in any grade) described in subparagraph (B) or (C) of section 523(b)(1) of this title".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, or the date of the enactment of this Act, whichever is later.

(c) REFERENCES TO ADMINISTRATOR OF VETERANS' AFFAIRS.—Chapter 106 of title 10, United States Code, is amended—

(1) by striking out "Administrator of Veterans' Affairs" in sections 2131(b)(4), 2132(c), 2132(d), and 2136(a) and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(2) by striking out "to the Administrator" in section 2132(c) and inserting in lieu thereof "to that Secretary".

(d) OTHER TECHNICAL AMENDMENTS.—(1) Section 2131(b) of such title is amended by striking out "and educational" in the matter preceding paragraph (1) and inserting in lieu thereof "of an educational".

(2) Section 2132(d) of such title is amended by striking out "An individual" and inserting in lieu thereof "A person".

SEC. 503. ANNUAL MUSTER DUTY FOR READY RESERVISTS

(a) ORDER TO ANNUAL MUSTER DUTY.—(1) Chapter 39 of title 10, United States Code is amended by adding at the end the following new section:

"§ 691. Ready Reserve: muster duty

"(a) Under regulations prescribed by the Secretary of Defense, a member of the Ready Reserve may be ordered to muster duty one time each year without his consent. A member on muster duty under this section shall be engaged for at least two hours on the day of muster in the performance of that duty.

"(b) The period which a member may be required to devote to muster duty under this section and to round-trip travel to and from the location of such duty may not total more than one day each calendar year.

"(c) Except as specified in subsection (d), muster duty under this section shall be treated as the equivalent of inactive-duty training for the purposes of this title and titles 37 and 38, including the determination of eligibility for and the receipt of benefits and entitlements provided under those titles for Reserves performing inactive-duty training and for their dependents and survivors.

"(d) Muster duty under this section shall not be credited in determining entitlement to, or in computing, retired pay under chapter 67 of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"691. Ready Reserve: muster duty.".

(b) ALLOWANCE FOR ANNUAL MUSTER DUTY.—(1) Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 433. Allowance for muster duty

"(a) Under uniform regulations prescribed by the Secretaries concerned, a member of the Ready Reserve who is not a member of the National Guard or of the Selected Reserve is entitled to an allowance for muster duty performed pursuant to section 691 of title 10 if the member is engaged in that duty for at least two hours.

"(b) The amount of the allowance under this section shall be equal to the average per diem rate for the United States (other than Alaska and Hawaii) under section 404(d)(2)(A) of this title as in effect on September 30 of the year preceding the year in which the muster duty is performed.

"(c) The allowance authorized by this section may not be disbursed in kind and shall be paid to the member on or before the date on which the muster duty is performed. The allowance shall constitute the single, flat-rate monetary allowance authorized for the performance of muster duty and shall constitute payment in full to the member, regardless of grade or rank in which serving, as commutation for travel to the immediate vicinity of the designated muster duty location, transportation, subsistence, and the special or extraordinary costs of enforced absence from home and civilian pursuits, including such absence on weekends and holidays.

"(d) A member who performs muster duty is not entitled to compensation for inactive-duty training under section 206(a) of this title for the same period.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"433. Allowance for muster duty.".

SEC. 504. REPEAL OF FOUR YEAR RESERVE OFFICER UNIFORM ALLOWANCE

(a) REPEAL OF ALLOWANCE.—Section 416 of title 37, United States Code, is amended—

(1) by striking out subsection (a);

(2) in subsection (b)—

(A) by striking out "(b)";

(B) by striking out "and subsection (a) of this section" in the first sentence; and

(C) by striking out "this subsection" in the second sentence and inserting in lieu thereof "this section".

(b) SAVINGS CLAUSE.—The amendments made by subsection (a) shall become effective on the date of the enactment of this Act, except that in the case of an officer of an armed force who, except for such amendments, would have become entitled to a uniform reimbursement under such section within one year after the date of the enactment of this Act, such amendments shall not become effective until one year and one day after such date of enactment.

SEC. 505. EXTENSION OF CERTAIN EXPIRING AUTHORITIES RELATING TO RESERVES

(a) EXTENSION OF THE AUTHORITY TO REPAY LOANS OF CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1992".

(b) EXTENSION OF GRADE DETERMINATION AUTHORITY FOR CERTAIN RESERVE MEDICAL OFFICERS.—Sections 3359(b) and 8359(b) of such title are each amended by striking "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(c) EXTENSION OF PROMOTION AUTHORITY FOR CERTAIN RESERVE OFFICERS WHO ARE SERVING ON ACTIVE DUTY.—Sections 3380(d) and 8380(d) of such title are each amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(d) EXTENSION OF REQUIREMENTS RELATING TO THE TREATMENT OF SINGLE PARENTS ENLISTING IN RESERVE COMPONENTS.—Section 523(d) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 510 note) is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(e) EXTENSION OF TITLE 10 PROVISIONS RELATING TO COMPUTATION OF YEARS OF SERVICE FOR MANDATORY TRANSFER TO THE RETIRED RESERVE.—Section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note), is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

SEC. 506. SPECIAL UNIT ASSIGNMENT PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE

(a) AUTHORIZATION OF SPECIAL PAY.—Chapter 5 of title 37, United States Code, is amended by inserting after section 308c the following new section:

"§ 308d. Special pay: enlisted members of the Selected Reserve assigned to certain units

"(a) Under regulations prescribed by the Secretary of Defense, an enlisted member who is assigned to a high priority unit of the Selected Reserve of the Ready Reserve of an armed force, as designated under subsection (b) of this section, and who performs inactive duty for training for compensation under section 206 of this title with such unit may be paid compensation, in addition to the compensation to which the member is otherwise entitled, in an amount not to exceed $10 for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least four hours, including any such instruction or duty performed on a Sunday or holiday.

"(b) The Secretary concerned may designate a unit, for the purposes of subsection (a) and under such terms and conditions as the Secretary considers appropriate, as a high priority unit if that unit has experienced, or reasonably might be expected to experience, critical personnel shortages. The Secretary may vacate a designation made under this subsection at any time he considers the designation no longer necessary.

"(c) Additional compensation may not be paid under this section for inactive duty performed after September 30, 1991.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 308c the following new item:

"308d. Special pay: enlisted members of the Selected Reserve assigned to certain units.".

(c) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of the special pay program provided for in section 308d of title 37, United States Code, as added by subsection (a). The Secretary shall submit the report not later than May 1, 1991, together with such comments and recommendations as the Secretary considers appropriate.

PART B—HEALTH CARE MATTERS

SEC. 521. PROHIBITION ON CHARGES FOR OUTPATIENT MEDICAL AND DENTAL CARE

During fiscal years 1990 and 1991, the Secretary of Defense may not impose a charge for the receipt of outpatient medical or dental care at a military medical treatment facility.

SEC. 522. LIMITATION ON CHAMPUS PAYMENTS TO NONINSTITUTIONAL HEALTH-CARE PROVIDERS

(a) IN GENERAL.—Subsection (h) of section 1079 of title 10, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) Payment for a charge for services by an individual health-care professional (or other noninstitutional health-care provider) for which a claim is submitted under a plan contracted for under subsection (a) may be denied only to the extent that the charge exceeds the lesser of—

"(A) the amount equivalent to the 80th percentile of billed charges made for similar

services in the same locality during the base period; or

"(B) the maximum amount payable under this subsection (as in effect on October 1, 1987) for such services in that locality during fiscal year 1988, as increased by the Secretary of Defense from time to time, after consultation with the other administering Secretaries, to reflect economic changes after September 30, 1988.";

(2) in paragraph (2), by striking out "90th percentile" and inserting in lieu thereof "80th percentile";

(3) by adding at the end the following new paragraph:

"(3) The Secretary of Defense may increase the maximum amount referred to in paragraph (1)(B) each time the Secretary of Health and Human Services increases, on the basis of economic changes, the amounts payable to providers of services under part B of title XVIII of the Social Security Act. In increasing such maximum amount, the Secretary of Defense (and the other administering Secretaries) shall consider the same economic information considered by the Secretary of Health and Human Services in adjusting the amounts payable to providers of services under part B of title XVIII of the Social Security Act."; and

(4) by adding after paragraph (2) the following new paragraph:

"(3) For the purposes of paragraph (1)(B), the Secretary of Defense, after consultation with the other administering Secretaries, shall prescribe regulations to apply the appropriate economic index data. Such regulations may permit exceptions to the limitation established by paragraph (1)(B) when justified by special circumstances.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall take effect on October 1, 1989, and shall apply to services provided on or after such date.

SEC. 523. CODIFICATION OF APPROPRIATION PROVISION RELATING TO CHAMPUS

Subsection (c) of section 1074 of title 10, United States Code, is amended by adding at the end the following new sentence: "If the private facility or health care provider providing care under this subsection is a health care provider under the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense, after consultation with the other administering Secretaries, may by regulation require the institutional or individual provider to provide such care in accordance with the same payment rules (subject to any modifications considered appropriate by the Secretary) as apply under that program.".

SEC. 524. ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

(a) DEFINITIONS.—Section 2120 of title 10, United States Code, is amended—

(1) by inserting "and Financial Assistance" after "Scholarship" in paragraphs (1) and (2); and

(2) by adding at the end the following new paragraph:

"(4) The term 'specialized training' means advanced training in a health professions specialty received in an accredited program beyond the basic education required for an appointment as an officer in a health profession.".

(b) SCOPE OF PROGRAM.—Section 2121 of such title is amended—

(1) in subsection (b), by inserting "or of specialized training" after "study"; and

(2) in subsection (c)—

(A) in the second sentence, by inserting "pursuing a course of study" after "of the program"; and

(B) by inserting after the second sentence the following: "Members of the program pursuing specialty training shall serve on active duty in a pay grade, determined in accordance with section 3353, 5600, or 8353 of this title, as appropriate, commensurate with their educational level, with full pay and allowances of that grade for a period of 14 days during each year of participation in the program.".

(c) ELIGIBILITY FOR PARTICIPATION.—Section 2122(a)(1) of such title is amended—

(1) by inserting "or specialized training," after "study"; and

(2) by inserting "or 2120(4), as the case may be," after "2120(3)".

(d) NUMBER OF PARTICIPANTS.—Subsection 2124 of such title is amended by striking out "except that—" and all that follows and inserting in lieu thereof "except that the total number of persons so designated in all the programs authorized by this subchapter shall not, at any time exceed 6,000."

(e) GRANT FOR SPECIALIZED TRAINING.—(1) Chapter 104 of such title is amended by adding at the end the following new section:

"§ 2127a. Grants for specialized training

"(a)(1) A person participating in specialized training for which a stipend is paid under section 2121(d) of this title shall be paid an annual grant of $15,000 in addition to such stipend.

"(2) The amount of the grant shall be increased annually by the Secretary of Defense, effective July 1 of each year, in the same manner as provided for stipends under section 2121(d) of this title.

"(3) The amount of the annual grant paid a person in any fiscal year shall be the amount in effect during the first month the person participates in a program of specialized training.

"(c) Any person who voluntarily terminates participation in a program of specialized training before completing such program shall refund to the United States the total amount of the grants paid such person under subsection (a) for participation in such program.

"(d) A discharge in bankruptcy under title 11 that is entered less than five years after the last payment of a grant under subsection (a) for participation in a program of specialized training does not discharge such person from a debt arising under this section.".

(2) The table of sections at the beginning of chapter 104 of such title is amended by adding at the end the following new item:

"2127a. Grants for specialized training.".

(3) The amendments made by this subsection shall become effective October 1, 1989.

(4) The first annual adjustment under subsection (a)(2) of section 2127a of title 10, United States Code, as added by paragraph (1), shall be made on July 1, 1991.

(f) CLERICAL AMENDMENTS.—(1) The heading of subchapter I of chapter 104 of title 10, United States Code, is amended to read as follows:

"SUBCHAPTER I—HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM FOR ACTIVE SERVICE".

(2) The item relating to such subchapter in the table of subchapters at the beginning of such chapter is amended to read as follows:

"I. Health Professions Scholarship and Financial Assistance Program ..... 2120".

SEC. 525. REVISIONS OF THE EDUCATIONAL LOAN REPAYMENT PROGRAM FOR HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE

(a) EXPANSION OF LOANS QUALIFYING FOR REPAYMENT.—Subsection (a) of section 2172 of title 10, United States Code, is amended—

(1) in clause (2), by striking out "and" after the semicolon;

(2) in clause (3), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(4) a portion of a loan made, insured, or guaranteed through a recognized financial or educational institution which was used to finance basic or advanced health professions education."

(b) EXPANSION OF PROGRAM ELIGIBILITY TO READY RESERVE.—Subsection (b)(1) of such section is amended by striking out "Selected Reserve" and inserting in lieu thereof "Ready Reserve".

(c) INCREASE IN AMOUNTS OF LOAN REPAYMENTS.—Subsection (c) of such section is amended—

(1) in paragraph (2), by striking out "$3,000 for each year of service described in paragraph (1)" and inserting in lieu thereof "$4,500 for each year of Selected Reserve service, or $2,250 for each year of service in the Ready Reserve (other than Selected Reserve service)"; and

(2) in paragraph (3), by striking out "$20,000" and inserting in lieu thereof "$30,000 for Selected Reserve service, or $15,000 for service in the Ready Reserve other than the Selected Reserve".

(d) REPEAL OF TERMINATION PERIOD FOR PROGRAM.—Subsection (d) of such section is repealed.

SEC. 526. REVISED DEADLINE FOR THE USE OF DIAGNOSIS-RELATED GROUPS FOR OUTPATIENT TREATMENT

The regulations required by section 1101(a) of title 10, United States Code, to establish the use of diagnosis-related groups as the primary criteria for the allocation of resources to health care facilities of the uniformed services shall be prescribed to take effect not later than October 1, 1990, in the case of outpatient treatments.

SEC. 527. LIMITATION ON AUTHORITY TO DEFER MANDATORY RETIREMENT FOR AGE OF HEALTH PROFESSIONS OFFICERS

Section 1251(c)(2) of title 10, United States Code, is amended by striking out "67" and inserting in lieu thereof "68".

SEC. 528. RETENTION OF CERTAIN RESERVE PSYCHOLOGISTS IN ACTIVE STATUS

(a) ARMY.—Section 3855(a) of title 10, United States Code, is amended by inserting ", or any reserve officer in the Army Medical Department designated as a psychologist" before the period at the end.

(b) NAVY.—Section 6392(a) of such title is amended by striking out "or biomedical sciences officer" and inserting in lieu thereof "biomedical sciences officer, or psychologist".

(c) AIR FORCE.—Section 8855(a) of such title is amended by striking out "or biomedical sciences officer" and inserting in lieu thereof "biomedical sciences officer, or psychologist".

PART C—PERSONNEL MANAGEMENT

SEC. 531. AUTHORITY TO VACATE PROMOTIONS TO GRADES OF MAJOR THROUGH MAJOR GENERAL AND LIEUTENANT COMMANDER THROUGH REAR ADMIRAL

(a) IN GENERAL.—Section 625 of title 10, United States Code, is amended to read as follows:

"§ 625. Authority to vacate promotions to grades of major through major general and lieutenant commander through rear admiral

"(a) The President may vacate a promotion to the grade of major through major general or to the grade of lieutenant commander through rear admiral in the case of an officer promoted to any such grade under this chapter if the officer has served less than 18 months in the grade to which promoted.

"(b) An officer whose promotion is vacated under this section shall hold the regular grade held by the officer immediately before the promotion vacated under this section if the officer is a regular officer or shall hold the reserve grade held immediately before the promotion vacated under this section if the officer is a reserve officer.

"(c) The position on the active-duty list of an officer whose promotion is vacated under this section is the position the officer would have held had the officer not been promoted.".

(b) TABLE OF SECTIONS.—The item relating to section 625 in the table of sections at the beginning of subchapter II of chapter 36 is amended to read as follows:

"625. Authority to vacate promotions to grades of major through major general and lieutenant commander through rear admiral.".

SEC. 532. NONOPERATIONAL FLYING DUTY POSITIONS

(a) REDUCTION IN NONOPERATIONAL FLYING DUTY POSITIONS.—The Secretary of Defense shall take such action as may be necessary to reduce, by not later than September 30, 1992, the number of nonoperational flying duty positions in the Army, Navy, Air Force, and Marine Corps by a number equal to not less than 5 percent below the total number of such positions in existence on September 30, 1989. The Secretary shall effectuate a reduction of not less than 2 percent by September 30, 1991.

(b) LIMITATION ON INCREASES IN NONOPERATIONAL FLYING DUTY POSITIONS AFTER FISCAL YEAR 1991.—(1) No increase in the number of nonoperational flying duty positions referred to in subsection (a) may be made after September 30, 1991, unless the increase is specifically authorized by law.

(2) As used in this section, the term "nonoperational flying duty positions" means positions in a military department identified by the Secretary of that department as positions that require the assignment of an aviator but that do not include operational flying duty (as defined in section 301a(a)(6) of title 37, United States Code).

SEC. 533. MINIMUM SERVICE REQUIREMENT FOR AVIATORS

(a) IN GENERAL.—Chapter 37 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 653. Minimum service requirement for certain flight crew positions

"(a) PILOTS.—The minimum active duty obligation of any member who successfully completes training in the armed forces as a pilot shall be 9 years, if the member is trained to fly fixed wing jet aircraft, and 7 years, if the member is trained to fly any other type of aircraft.

"(b) NAVIGATORS AND NAVAL FLIGHT OFFICERS.—The minimum active duty obligation of any member who successfully completes training in the armed forces as a navigator or naval flight officer shall be 7 years.

"(c) DEFINITION.—In this section, the term 'active duty obligation' means the period of active duty required to be served after completion of undergraduate pilot training in the case of training as a pilot, completion of undergraduate navigator training in the case of training as a navigator, or completion of undergraduate training as a naval flight officer in the case of training as a naval flight officer.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"653. Minimum service requirement for certain flight crew positions.".

(c) EFFECTIVE DATE.—(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to persons who begin undergraduate pilot training, undergraduate navigator training, or undergraduate naval flight officer training, as the case may be, after September 30, 1990.

(2) The amendments made by this section shall apply to persons who graduate from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the Coast Guard Academy after 1991 and to persons who satisfactorily complete the academic and military requirements of the Senior Reserve Officers' Training Corps program (provided for in chapter 103 of title 10, United States Code) after 1991.

(3) The minimum service requirements provided for in section 653 of title 10, United States Code, as added by subsection (a), shall not apply in the case of any person who entered into an agreement with the Secretary concerned before October 1, 1990, and who is obligated under the terms of such agreement to serve on active duty for a period less than the applicable period specified in section 653 of such title.

(4) For purposes of this subsection, the term "Secretary concerned" has the same meaning provided for such term in section 101(8) of title 10, United States Code.

SEC. 534. REPORT ON AVIATOR ASSIGNMENT POLICIES AND PRACTICES

The Comptroller General of the United States shall conduct a comprehensive study of the aviator assignment policies and practices of the Armed Forces. The Comptroller General shall submit the results of such study to the Committees on Armed Services of the Senate and the House of Representatives not later than February 15, 1990. The Comptroller General shall include in such report an analysis of the effectiveness and efficiency of the aviator assignment policies and practices of the Armed Forces, including an analysis of the policies and practices followed in accommodating the assignment preferences of aviators within operational needs of the Armed Forces.

PART D—TOTAL FORCE POLICY

SEC. 541. TOTAL FORCE POLICY

(a) FINDINGS.—Congress makes the following findings:

(1) Since inception of the Total Force Policy concept by the Department of Defense there has been no singular authoritative study by the Department of Defense on the operation and effectiveness of that policy.

(2) Force mix decisions by the Department of Defense appear to be fragmented and decentralized.

(3) A comprehensive review of the Total Force Policy is long overdue.

(b) STUDY.—The Secretary of Defense shall convene a study group to review the operation and soundness of the Total Force Policy of the Department of Defense and to make recommendations for improvement of such Policy. The review by the study group shall include the following:

(1) A critical examination of the basic tenets of the Total Force Policy with a view to determining whether changes are required to make the policy more effective.

(2) A critical examination of the force mixes in each of the military services that have evolved since the Total Force Policy was established with a view to determining the soundness of the mixes.

(3) A realistic assessment of combat readiness shortfalls and the resources required to correct the shortfalls.

(4) Development of a cogent force mix strategy for dealing with substantially smaller active military forces in the future.

(5) An evaluation of the operational effectiveness of active and reserve force command and control relationships (similar to the ongoing Army study on alternatives to the current Army Reserve command structure).

(6) A proposed system for top level evaluation of force mix decisions on a regular and systematic basis.

(b) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than December 1, 1989, a report containing the results of the review of the study group convened pursuant to subsection (a) together with such comments and recommendations as the Secretary considers appropriate.

PART E—MISCELLANEOUS

SEC. 551. INCREASE IN SERVICE OBLIGATION FOR GRADUATES OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES AND THE SERVICE ACADEMIES

(a) UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SERVICES.—Section 2114(b) of title 10, United States Code, is amended by striking out "seven years" in the fourth sentence and inserting in lieu thereof "10 years".

(b) UNITED STATES MILITARY ACADEMY.—Section 4348(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(c) UNITED STATES NAVAL ACADEMY.—Section 6959(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(d) UNITED STATES AIR FORCE ACADEMY.—Section 9348 of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to persons who are first admitted to the Uniformed Services University of the Health Services or one of the military service academies after December 31, 1990.

SEC. 552. MILITARY APPELLATE PROCEDURES

(a) COMPOSITION OF THE UNITED STATES COURT OF MILITARY APPEALS.—(1) Subsection (a)(1) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended—

(A) in the second sentence, by striking out "three" and inserting in lieu thereof "five"; and

(B) in the third sentence by striking out "two" and inserting in lieu thereof "three".

(2) Notwithstanding the second sentence of section 867(a)(1) of title 10, United States Code, one of the judges appointed to a position added by the amendment made by paragraph (1), shall be appointed for a term

of 7 years and one shall be appointed for a term of 13 years.

(3)(A) Except as otherwise provided in subparagraphs (B) and (C), a judge appointed to a term specified in paragraph (2) is eligible for an annuity as provided in section 867(i) of title 10, United States Code.

(B) The annuity of a judge referred to in subparagraph (A) is computed under paragraph (2) of such section 867(i) only if the judge—

(i) completes the term of service for which he is appointed under such subparagraph;

(ii) is reappointed as a judge of the United States Court of Military Appeals at any time after the completion of such term of service;

(iii) is separated from civilian service in the Federal Government after completing a total of 15 years as a judge of such court; and

(iv) elects to receive an annuity under such section in accordance with the third sentence of paragraph (1) of such section.

(C) In the case of a judge referred to in subparagraph (A) who is separated from civilian service after completing the term of service for which he is appointed as a judge of the United States Court of Military Appeals and before completing a total of 15 years as a judge of such court, the annuity of such judge (if elected in accordance with the third sentence of paragraph (1) of such section 867(i)) shall be—

(i) 7/15 of the amount computed under paragraph (2) of such section if the judge was appointed for a term of 7 years; and

(ii) 13/15 of the amount computed under paragraph (2) of such section if the judge was appointed for a term of 13 years.

(b) REMOVAL OF JUDGES OF THE UNITED STATES COURT OF MILITARY APPEALS.—Paragraph (2) of section 867(a) of title 10, United States Code (article 67(a) of the Uniform Code of Military Justice), is amended by striking out "malfeasance in office" and inserting in lieu thereof "misconduct".

(c) INCAPACITY OF A JUDGE OF THE UNITED STATES COURT OF MILITARY APPEALS.—Subsection (a)(3) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended by striking out "the United States Court of Appeals" and all that follows and inserting in lieu thereof "a United States court of appeals or a United States district court, with the concurrence of the Chief Justice of the United States, the concurrence of the chief judge of such court of appeals or district court, and the consent of the designated judge, to fill the office during the period of disability. Per diem, travel allowances, and other allowances paid to the designated judge in connection with the performance of duties for the United States Court of Military Appeals shall be paid out of the same funds as are available for the payment of per diem and such allowances for judges of such court.".

(d) SENIOR JUDGES OF THE UNITED STATES COURT OF MILITARY APPEALS.—Subsection (a)(4) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(A)" after "(4)";

(2) by striking out ", may occupy" and all that follows and inserting in lieu thereof the following: "and, with his consent, may be called upon by the chief judge of the court to perform judicial duties for the court for any period specified by the chief judge. A senior judge shall be paid for each day on which he performs such duties the daily equivalent of the annual rate of pay provided for a judge of such court. Such pay shall be in lieu of retired pay and any annuity under subsection (i) of this section, subchapter III of chapter 83 of title 5, subchapter II of chapter 84 of such title, and any other Federal Government retirement system for employees of the Federal Government. A senior judge, while performing such duties, shall be provided with such office space and staff assistance as the chief judge considers appropriate and shall be entitled to the per diem, travel allowances, and other allowances provided for judges of such court."; and

(3) by adding at the end the following new subparagraphs:

"(B) For purposes of subchapter III of chapter 83 of title 5 (relating to the Civil Service Retirement and Disability System) and chapter 84 of such title (relating to the Federal Employees' Retirement System) and for purposes of any other Federal Government retirement system for employees of the Federal Government—

"(i) a period during which a senior judge performs duties referred to in subparagraph (A) shall not be considered creditable service;

"(ii) no amount shall be withheld from the pay of a senior judge as a retirement contribution under section 8334, 8343, 8422, or 8432 of title 5 or under any other such retirement system for any period during which the senior judge performs duties referred to in subparagraph (A);

"(iii) no contribution shall be made by the Federal Government to any Federal Government retirement system with respect to a senior judge for any period during which the senior judge performs duties referred to in subparagraph (A); and

"(iv) a senior judge shall not be considered a reemployed annuitant for any period during which the senior judge performs duties referred to in subparagraph (A).

"(C) A senior judge shall be considered an officer or employee of the Federal Government with respect to his status as a senior judge, but only during periods the senior judge is performing duties referred to in subparagraph (A). For the purposes of section 205 of title 18, a senior judge shall be considered a special government employee during such periods. Any provision of law that prohibits or limits the political or business activities of an employee of the Federal Government shall apply to a senior judge only during such periods.

"(D) The United States Court of Military Appeals shall prescribe rules for the utilization and conduct of senior judges of the court. The chief judge of the court shall transmit such rules, and any amendments to such rules, to the Committees on Armed Service of the Senate and the House of Representatives not later than 15 days after the issuance of such rules or amendments, as the case may be.".

(e) APPOINTMENT AND CIVIL SERVICE STATUS OF LEGAL STAFF OF THE UNITED STATES COURT OF MILITARY APPEALS.—(1) Subsection (a) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended by adding at the end the following new paragraph:

"(5) Attorney positions of employment under the United States Court of Military Appeals are excepted from the competitive service. Appointments to such positions shall be made in the same manner as appointments are made to other executive branch positions of a confidential or policy-determining character for which it is not practicable to examine or to hold a competitive examination. Such positions shall not be counted as positions of that character for purposes of any limitation on the number of positions of that character provided in law.".

(2) Section 867(a)(5) of title 10, United States Code (article 67(a)(5) of the Uniform Code of Military Justice), as added by paragraph (1) shall not be applied to change the civil service status of attorneys employed by the United States Court of Military Appeals before the date of the enactment of this Act.

(f) RETIREMENT OF JUDGES OF THE UNITED STATES COURT OF MILITARY APPEALS.—(1) Subsection (i) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended—

(A) in the first sentence of by striking out "the term of service" and inserting in lieu thereof "a term of service"; and

(B) by adding at the end the following new paragraph:

"(9)(A) The Secretary of Defense shall notify the Director of the Office of Personnel Management whenever an election under paragraph (1) is made affecting any right or interest under subchapter III of chapter 83 or chapter 84 of title 5 based on the service of the judge or former judge making the election.

"(B) Upon receiving any notification under subparagraph (1), the Director shall determine the amount of the judge's or former judge's lump-sum credit under subchapter III of chapter 83 or chapter 84 of title 5, as applicable, and shall request the Secretary of the Treasury to transfer such amount from the Civil Service Retirement and Disability Fund to the Department of Defense Military Retirement Fund. The Secretary of the Treasury shall make any transfer so requested.

"(C) In determining the amount of a lump-sum credit under section 8331(8) of title 5 for purposes of this paragraph—

"(i) interest shall be computed using the rates under section 8334(e)(3) of such title; and

"(ii) the completion of 5 years of civilian service (or longer) shall not be a basis for excluding interest.".

(2) The Secretary of Defense shall notify the Director of the Office of Personnel Management of any elections which were made under section 867(i) of title 10, United States Code, before the date of the enactment of this Act. Appropriate amounts shall be transferred from the Civil Service Retirement and Disability Fund to the Department of Defense Military Retirement Fund, based on such elections, in the manner provided for under paragraph (9) of such section 867(i), as added by paragraph (1)(B).

(g) APPELLATE REVIEW OF ARTICLE 69 ACTIONS.—(1) Section 869 of title 10, United States Code (article 69 of the Uniform Code of Military Justice), is amended—

(A) in subsection (a), by striking out the third sentence; and

(B) by adding at the end the following:

"(d) Actions of the Judge Advocate General under this section may be reviewed by a Court of Military Review under section 866 of this title (article 66) in all cases which the Judge Advocate General orders sent to the Court of Military Review.

"(e) Notwithstanding section 866 of this title (article 66), in any case reviewed by a Court of Military Review under this section, the Court shall take action only with respect to matters of law.".

(2) Subsection (e) of such section, as added by paragraph (1), shall apply with respect to cases in which a finding of guilty is adjudged by a general court-martial after the date of the enactment of this Act.

(h) INVESTIGATION OF JUDICIAL MISCONDUCT.—(1) Subchapter I of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by adding at the end the following new section:

"§ 806a. Article 6a. Investigation and disposition of matters pertaining to the fitness of military judges

"(a) The President shall prescribe procedures for the investigation and disposition of charges, allegations, or information pertaining to the fitness of a military judge or military appellate judge to perform the duties of the judge's office. To the extent practicable, the procedures shall be uniform for all armed forces.

"(b) The President shall transmit the procedures prescribed pursuant to this section to the Committees on Armed Services of the Senate and the House of Representatives.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following:

"806a. 6a. Investigation and disposition of matters pertaining to the fitness of military judges.".

(i) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (a) shall take effect on April 15, 1990.

SEC. 553. EXTENSION OF CERTAIN EXPIRING AUTHORITIES

(a) MAKING PERMANENT THE AUTHORITY TO MAKE TEMPORARY PROMOTIONS OF CERTAIN NAVY LIEUTENANTS.—Section 5721(f) of such title is repealed.

(b) EXTENSION OF TEST PROGRAM FOR REIMBURSEMENT OF ADOPTION EXPENSES.—Section 638(h) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (101 Stat. 1108; 10 U.S.C. 113 note) is amended by striking out "October 1, 1989" and inserting in lieu thereof "October 1, 1992".

SEC. 554. TESTING OF NEW ENTRANTS FOR DRUG AND ALCOHOL ABUSE

Section 978(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "or (3)" after "(2)"; and

(2) by inserting at the end the following new paragraph:

"(3) The Secretary concerned may, in lieu of the post-entry testing and evaluation required by paragraph (1), require each applicant for enlistment or appointment to undergo such testing and evaluation before becoming a member of an armed force under the Secretary's jurisdiction.".

SEC. 555. CORRECTION OF MILITARY RECORDS

Section 1552 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) Under regulations prescribed by the Secretary of the military department concerned and approved by the Secretary of Defense, the Secretary concerned may correct any military record of that department announcing the promotion and appointment to an initial or higher grade of an enlisted member of the Army, Navy, Air Force, or Marine Corps if the Secretary concerned considers such action necessary to correct an error or injustice. Under regulations prescribed by the Secretary of Transportation, the Secretary may make such corrections with regard to like military records of the Coast Guard.

"(2) Nothing in this subsection shall be construed to deny a member the right to file a request for correction of records pursuant to subsection (a).

"(3) A correction of an error under this subsection may be made only if the correction is favorable to the member.".

SEC. 556. RELIEF FOR EXPENSES INCURRED BECAUSE OF ERROR IN MANDATORY DIRECT DEPOSIT OF PAY

Section 1053 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ", a member of the National Guard, a member of a Reserve component of an armed force, a former member of the armed forces entitled to military retired pay, or a civilian employee of the Department of Defense" after "armed forces";

(B) by inserting "or allowances" after "pay"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Reimbursement for members of the armed forces under this section shall be made from appropriations available for the pay and allowances of the member of the armed forces concerned. Reimbursements for civilian employees of the Department of Defense under this section shall be made from appropriations available for the pay of the employee concerned.".

SEC. 557. MASTER OF ARTS DEGREE IN LEADER DEVELOPMENT

(a) DEGREE AUTHORIZED.—Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4353a. Master of Arts in Leader Development

"Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy may, upon recommendation by the faculty of the Academy, confer the degree of Master of Arts in Leader Development upon graduates of the Academy who fulfill the requirements for that degree.".

(b) TECHNICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4353a. Master of Arts in Leader Development.".

SEC. 558. TRANSPORTATION FOR POW/MIA FAMILIES

(a) TRANSPORTATION AUTHORIZED.—Chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 403. Transportation for POW/MIA families

"The Secretary of Defense may provide transportation to the next-of-kin of members of the armed forces who have been prisoners of war or missing in action as a result of service during the Vietnam era to attend an annual meeting of the families of such prisoners of war and persons missing in action. As used in this section, the term 'Vietnam era' has the same meaning as provided in section 101(29) of title 38.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"403. Transportation for POW/MIA families.".

SEC. 559. CLARIFICATION OF PROCEDURES REGARDING SOLICITATION AND AWARD OF CONTRACTS FOR POSTSECONDARY EDUCATION SERVICES

(a) EXCEPTION TO PROHIBITION.—Subsections (b) and (c) of section 1212 of the Department of Defense Authorization Act, 1986 (99 Stat. 726; 10 U.S.C. 113 note), are amended to read as follows:

"(b)(1) No solicitation, contract, or agreement for the provision of off-duty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees may limit the offering of such services or any group, category, or level of courses to a single academic institution.

"(2) Nothing in paragraph (1) shall prohibit such actions taken in accordance with regulations of the Secretary of Defense which are uniform for all Armed Forces as may be necessary to avoid unnecessary duplication of offerings at a specific military installation if it is determined, pursuant to such regulations, that the circumstances and conditions existing at that installation would otherwise give rise to unnecessary duplication of offerings at that installation.

"(3) In any case in which an exception is to be made in the case of any installation pursuant to paragraph (2), the specific circumstances and conditions giving rise to the exception shall be set forth in the solicitation or request for proposals for the services concerned.

"(c)(1) Before the issuance of a solicitation for any contract or agreement for the provision of off-duty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees, the Secretary concerned shall—

"(A) submit the terms of the proposed solicitation to the Advisory Board of the Servicemembers' Opportunity College (SOC) or, if at the time there is no duly constituted SOC Advisory Board, to a panel established by the Secretary concerned consisting of an equal number of (i) representatives of national higher education associations representative of public and private institutions granting associate and baccalaureate degrees, and (ii) representatives of the Armed Forces; and

"(B) solicit from the Board or panel, as the case may be, its advice and recommendations regarding the formulation of the proposed solicitation so as to ensure quality, choice, and diversity of instruction.

"(2) No solicitation shall be issued until the Board or panel has submitted its advice and recommendations to the Secretary concerned or 60 days have elapsed after the date on which the proposed solicitation was submitted to the Board or panel by the Secretary, whichever occurs first.

"(3) As used in this subsection, the term 'Secretary concerned' has the same meaning provided for such term in section 101(8) of title 10, United States Code.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contracts entered into after October 1, 1989.

SEC. 560. CIVILIAN FACULTY AT THE UNITED STATES MARINE CORPS UNIVERSITY

(a) IN GENERAL.—Section 7478 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "and the United States Marine Corps University" after "War College"; and

(2) by striking out the heading and inserting in lieu thereof the following:

"§ 7478. Naval War College and United States Marine Corps University: employment of civilian professors; compensation"

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 643 of such title is amended by striking out the item relating to section 7478 and inserting in lieu thereof the following:

"7478. Naval War College and United States Marine Corps University: employment of civilian professors; compensation.".

SEC. 561. COMMERCIAL SALE OF RECORDING OF AIR FORCE SINGING SERGEANTS

The Secretary of the Air Force may enter into an appropriate contract providing for the production and commercial sale of a recording made on April 9, 1989, by the Cincinnati Pops Orchestra and members of the Air Force known as the United States Air Force Singing Sergeants. Any contract entered into under this section shall contain such provisions as the Secretary considers appropriate to protect the interests of the United States.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1990

(a) WAIVER OF SECTION 1009 ADJUSTMENTS.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1990 shall not be made.

(b) INCREASE IN BASIC PAY, BAQ, AND BAS.—The rates of basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are each increased by 3.6 percent effective on January 1, 1990.

(c) INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective January 1, 1990, section 203(c)(1) of title 37, United States Code, is amended by striking out "$525" and inserting in lieu thereof "$543.90".

PART B—INCENTIVE PAY

SEC. 621. AVIATION CAREER INCENTIVE PAY

(a) ENTITLEMENT REQUIREMENTS.—Section 301a(a)(4) of title 37, United States Code, is amended by striking out the first two sentences and inserting in lieu thereof the following: "To be entitled to continuous monthly incentive pay, an officer must perform the prescribed operational flying duties (including flight training but excluding proficiency flying) for 9 of the first 12, and 12 of the first 18, years of his aviation service. However, if an officer performs the prescribed operational flying duties (including flight training but excluding proficiency flying) for at least 10 but less than 12 of the first 18 years of his aviation service, he will be entitled to continuous monthly incentive pay for the first 22 years of his officer service.".

(b) MONTHLY RATES.—(1) The table in section 301a(b)(1) of such title is amended to read as follows:

"Phase I

"Years of aviation service (including flight training) as an officer:	Monthly rate:
2 or less	$125
Over 2	156
Over 3	188
Over 4	206
Over 6	650

"Phase II

"Years of service as an officer as computed under section 205:	Monthly rate:
Over 18	$585
Over 20	495
Over 22	385
Over 25	250".

(2) The table in section 301a(b)(2) of such title is amended to read as follows:

"Years of aviation service as an officer:	Monthly rate:
2 or less	$125
Over 2	156
Over 3	188
Over 4	206
Over 6	650".

(c) INCREASES IN INCENTIVE PAY LINKED TO INCREASES IN BASIC PAY.—Section 301a of such title is further amended by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) Whenever the rates of basic pay of members of the uniformed services is increased pursuant to section 1009 of this title, the President shall immediately increase the rates of monthly incentive pay provided for in subsection (b).

"(2) An increase under this subsection shall have the force and effect of law and shall be effective on the same date as the compensation adjustments in basic pay of members of the uniformed services under section 1009 of this title. The percentage of the increase in any year shall be equal to the overall average percentage increase referred to in subsection (b)(3) of such section for such year.".

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2) and subject to subsection (e), the amendments made by this section shall become effective October 1, 1989.

(2)(A) The Secretary concerned may delay implementation of such amendments with respect to the department of that Secretary, subject to the approval of the Secretary of Defense in the case of a military department, until such time as the Secretary of that department determines that implementation of such amendments is necessary to meet the needs of that department.

(B) If the Secretary concerned delays the implementation of such amendments with respect to his department, the provisions of section 301a of title 37, United States Code, as in effect on September 30, 1989, shall continue to apply, in the case of such department, to the payment of aviation career incentive pay made under such section until such date as the Secretary may prescribe for the implementation of the amendments made by this section and shall continue to apply in the case of such department until such date in the same manner as if the amendments made by this section had not been made.

(e) TRANSITION.—An officer of a uniformed service who has completed 12 years or less of aviation service on October 1, 1989, and has completed his initial operational flying assignment on such date, shall be entitled to continuous monthly incentive pay if the officer performs the prescribed operational flying duties (including flight training but excluding proficiency flying) for 9 of the first 15 years of his aviation service.

(f) DEFINITIONS.—(1) For purposes of subsections (d) and (e), the terms "Secretary concerned" and "uniformed services" have the same meaning provided for such terms in section 101(5) and 101(3), respectively, of title 37, United States Code.

(2) For purposes of subsection (e), the definitions of the terms in section 301a(6) of title 37, United States Code, shall apply to the corresponding terms used in subsection (e).

SEC. 622. AVIATOR RETENTION BONUSES

(a) EXTENSION OF PROGRAM.—Section 611(a) of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1977; 37 U.S.C. 301b note), is amended by striking out "September 30, 1989" and insert in lieu thereof "September 30, 1992".

(b) REPORTING REQUIREMENTS.—(1) Subsection (h) of section 611 of such Act is amended to read as follows:

"(h) REPORTS.—(1) Not later than November 1 each year, the Secretary of each military department, the Secretary of Transportation with respect to the Coast Guard, the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services with respect to the Public Health Service, shall submit to the Secretary of Defense a report analyzing the effect that the aviator retention bonus program provided for under this section has had during the preceding fiscal year on the retention of qualified aviators in the Secretary's department, including a description of the marginal cost of paying bonuses under this section to officers who enter into an agreement referred to in clause (A) of subsection (a)(2) and a description of the marginal cost of paying bonuses under this section to officers who enter into an agreement referred to in clause (B) of such subsection.

"(2) Not later than December 1 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives copies of the reports submitted to him pursuant to paragraph (1) together with such comments and recommendations as the Secretary considers appropriate.".

(2) The first reports required under section 611(h) of the National Defense Authorization Act, Fiscal Year 1989, as amended by paragraph (1), shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives not later than December 1, 1989.

(c) LIMITATION ON OBLIGATIONS.—Section 611 of such Act is further amended by striking out subsections (i) and (j) and inserting in lieu thereof the following:

"(i) The total amount of payments that may be made to Navy officers and Air Force officers under this section during fiscal year 1990 may not exceed—

"(1) $30,000,000, in the case of the Navy; or

"(2) $78,000,000, in the case of the Air Force.".

SEC. 623. INCREASE IN SPECIAL PAY FOR MEDICAL OFFICERS IN THE ARMED FORCES

(a) INCREASE IN RATES OF SPECIAL PAY.—Section 302(a) of title 37, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking out "$1,200" in subparagraph (A) and inserting in lieu thereof "$1,620";

(B) by striking out "$5,000" in subparagraph (B) and inserting in lieu thereof "$6,750";

(C) by striking out "$10,000" in subparagraph (C) and inserting in lieu thereof "$13,500";

(D) by striking out "$9,500" in subparagraph (D) and inserting in lieu thereof "$12,825";

(E) by striking out "$9,000" in subparagraph (E) and inserting in lieu thereof "$12,150";

(F) by striking out "$8,000" in subparagraph (F) and inserting in lieu thereof "$10,800";

(G) by striking out "$7,000" in subparagraph (G) and inserting in lieu thereof "$9,450";

(H) by striking out "$6,000" in subparagraph (H) and inserting in lieu thereof "$8,100"; and

(I) by striking out "$5,000" in subparagraph (I) and inserting in lieu thereof "$6,750";

(2) in paragraph (3), by striking out "$1,000" and inserting in lieu thereof "$1,350";

(3) in paragraph (4)—

(A) by striking out "$9,000" in subparagraph (A) and inserting in lieu thereof "$12,150"; and

(B) by striking out "$10,000" in subparagraph (B) and inserting in lieu thereof "$13,500"; and

(4) in paragraph (5)—

(A) by striking out "$2,000" in subparagraph (A) and inserting in lieu thereof "$2,700";

(B) by striking out "$2,500" in subparagraph (B) and inserting in lieu thereof "$3,375";

(C) by striking out "$3,000" in subparagraph (C) and inserting in lieu thereof "$4,050";

(D) by striking out "$4,000" in subparagraph (D) and inserting in lieu thereof "$5,400"; and

(E) by striking out "$5,000" in subparagraph (E) and inserting in lieu thereof "$6,750".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1989, and shall apply to pay periods beginning on or after that date.

SEC. 624. EXTENSION OF MEDICAL OFFICER RETENTION BONUS

Section 612 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1979; 37 U.S.C. 302 note), is amended—

(1) in subsection (a)(1), by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990";

(2) in subsection (g)—

(A) in the first sentence of paragraph (1)—

(i) by striking out "1988" and inserting in lieu thereof "1989"; and

(ii) by inserting "in fiscal year 1990" immediately before the period at the end;

(B) by striking out "REPORTS.—(1)" and inserting in lieu thereof "REPORT.—"; and

(C) by striking out paragraph (2);

(3) in subsection (h), by striking out the period at the end and inserting in lieu thereof "and the total amount of payments made under this section during fiscal year 1990 may not exceed $36,000,000."; and

(4) by striking out subsection (i) and inserting in lieu thereof the following:

"(i) TERMINATION OF AUTHORITY.—If the report required by subsection (g) is not received by the committees named in such subsection by November 15, 1989, the authority to make payments under this section shall terminate effective December 2, 1989.".

SEC. 625. ACCESSION BONUS FOR REGISTERED NURSES

(a) ACCESSION BONUS AUTHORIZED.—(1) Chapter 5 of title 37, United States Code, is amended by adding after section 302c the following new section:

"§ 302d. Special pay: accession bonus for registered nurses

"(a) ACCESSION BONUS AUTHORIZED.—(1) A person who is a registered nurse and who, during the period beginning on October 1, 1989, and ending on September 30, 1990, executes a written agreement described in subsection (c) to accept a commission as an officer and remain on active duty for a period of not less than four years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

"(2) The amount of an accession bonus under paragraph (1) may not exceed $5,000.

"(b) LIMITATION ON ELIGIBILITY FOR BONUS.—A person is not eligible for a bonus under subsection (a) if—

"(1) the person received financial assistance from the Department of Defense to pursue a baccalaureate degree; or

"(2) the Secretary concerned determines that the person is not qualified as a registered nurse.

"(c) AGREEMENT.—The agreement referred to in subsection (a) shall provide that the individual agrees to accept a commission as an officer with a view toward placement as an officer of the Nurse Corps of the Army or Navy, an officer of the Air Force designated as a nurse, or an officer designated as a nurse in the commissioned corps of the Public Health Service.

"(d) REPAYMENT.—(1) An officer who receives a payment under subsection (a) and who fails to remain licensed as a registered nurse during the period for which the payment is made shall refund to the United States an amount equal to the full amount of such payment.

"(2) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

"(3) An obligation to reimburse the United States imposed under paragraph (1) or (2) is for all purposes a debt owed to the United States.

"(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after October 1, 1989.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302c the following new item:

"302d. Special pay: accession bonus for registered nurses.".

(b) ADMINISTRATION AND IMPLEMENTATION.—Section 303a of title 37, United States Code, is amended by inserting "302d," after "302c," each place it appears.

(c) REPORT ON IMPLEMENTATION.—Not later than March 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the authority provided in section 302d of title 37, United States Code (as added by subsection (a)), is implemented.

SEC. 626. NURSE OFFICER CANDIDATE ACCESSION BONUS

(a) BONUS AUTHORIZED.—Chapter 105 of title 10, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—NURSE OFFICER CANDIDATE ACCESSION PROGRAM

"Sec.

"2130a. Financial assistance: nurse officer candidates.

"§ 2130a. Financial assistance: nurse officer candidates

"(a) BONUS AUTHORIZED.—(1) An individual described in subsection (b) who executes a written agreement in accordance with subsection (c) to accept an appointment as a nurse officer may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus of not more than $5,000. The bonus may be paid in periodic installments, as determined by the Secretary concerned at the time the agreement is accepted.

"(2) In addition to the accession bonus payable under paragraph (1), an individual selected under such paragraph shall be entitled to a monthly stipend of not more than $500 for each month the individual is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title. The continuation bonus may not be paid for more than 24 months.

"(b) ELIGIBLE STUDENTS.—An individual eligible to enter into an agreement under subsection (a) is an individual who—

"(1) has completed the second year of an accredited baccalaureate degree program in nursing and has more than 6 months of academic work remaining before graduation;

"(2) is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title; and

"(3) meets the qualifications for appointment as an officer of a reserve component of the Army, Navy, or Air Force as set forth in section 591 of this title or, in the case of the Public Health Service, section 207 of the Public Health Service Act (42 U.S.C. 209) and the regulations of the Secretary concerned.

"(c) REQUIRED AGREEMENT.—The agreement required to receive the bonus and stipend payable under subsection (a) shall provide that the individual agrees to the following:

"(1) That the individual will complete the nursing degree program described in subsection (b).

"(2) That, upon acceptance of the agreement by the Secretary concerned, the individual will enlist in a reserve component of an armed force;

"(3) That the individual will accept an appointment as an officer in the Nurse Corps of the Army or the Navy or as an officer designated as a nurse officer in the Air Force or commissioned corps of the Public Health Service upon graduation from the nursing degree program.

"(4) That the individual will serve on active duty as such an officer—

"(A) for a period of 4 years in the case of an individual whose agreement was accepted by the Secretary concerned during the individual's fourth year of the nursing degree program;

"(B) for a period of 5 years in the case of an individual whose agreement was accepted by the Secretary concerned during the individual's third year of the nursing degree program.

"(d) REFUND OF PAYMENTS.—An individual shall refund a bonus paid under subsection (a) if the individual—

"(1) fails to complete the nursing degree program in which the individual is enrolled;

"(2) having completed the nursing degree program, fails to accept an appointment, if tendered, as an officer of the Nurse Corps of the Army or the Navy or as an officer designated as a nurse officer of the Air Force or commissioned corps of the Public Health Service; or

"(3) fails to complete the period of obligated active service required under the agreement.

"(e) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section.".

(b) CLERICAL AMENDMENT.—The table of subchapters at the beginning of chapter 105 of title 10, United States Code, is amended by adding at the end the following new item:

"III. Nurse Officer Candidate Accession Program ..... 2130a".

SEC. 627. INCENTIVE PAY FOR NURSE ANESTHETISTS

(a) AUTHORIZATION FOR INCENTIVE PAY.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 302d (as added by section 703) the following new section:

"§ 302e. Special pay: nurse anesthetists

"(a) SPECIAL PAY AUTHORIZED.—(1) An officer described in subsection (b) who executes a written agreement to remain on active duty for a period of one year or more may, upon the acceptance of the agreement by the Secretary concerned, be paid incentive special pay in an amount not to exceed $6,000 for any 12-month period.

"(2) The Secretary concerned shall determine the amount of incentive special pay to be paid to an officer under paragraph (1). In determining that amount, the Secretary concerned shall consider the term of the agreement under that paragraph.

"(b) COVERED OFFICERS.—An officer referred to in subsection (a) is an officer of a uniformed service who—

"(1) is an officer of the Nurse Corps of the Army or Navy, an officer of the Air Force designated as a nurse, or an officer designated as a nurse in the commissioned corps of the Public Health Service;

"(2) is a qualified certified registered nurse anesthetist; and

"(3) is on active duty under a call or order to active duty for a period of not less than one year.

"(c) PAYMENT.—Special pay payable to an officer under subsection (a) of this section shall be paid annually at the beginning of the 12-month period for which the officer is to receive that payment.

"(d) REPAYMENT.—(1) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

"(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after October 1, 1989.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302d (as added by section 703) the following new item:

"302e. Special pay: nurse anesthetists.".

(b) ADMINISTRATION AND IMPLEMENTATION.—Section 303a of title 37, United States Code (as amended by section 703(b)) is further amended by inserting "302e," after "302d," each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1989.

(d) REPORT ON MILITARY USE OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the use of Certified Registered Nurse Anesthetists by the military departments. The report shall include—

(A) a description of restrictions imposed by the military departments on the use of such nurses;

(B) a comparison of such restrictions with restrictions imposed by other entities on the use of such nurses;

(C) a description of the number of persons who annually receive training by the military departments to be Certified Registered Nurse Anesthetists; and

(D) the desirability and cost of expanding the capability of the military departments to provide such training.

(2) The report required by paragraph (1) shall be submitted not later than March 1, 1990.

SEC. 628. SPECIAL PAY FOR RESERVE MEDICAL OFFICERS

(a) IN GENERAL.—Section 302(h)(2)(B) of title 37, United States Code, is amended by striking out "$350" and inserting in lieu thereof "$450".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, and shall apply to pay periods beginning on or after such date.

SEC. 629. INCREASE IN SELECTIVE REENLISTMENT BONUS

Section 308(a)(1) of title 37, United States Code, is amended—

(1) by striking out "six months of the basic pay" and inserting in lieu thereof "ten months of the basic pay"; and

(2) by striking out "$30,000" and inserting in lieu thereof "$45,000".

SEC. 630. EXTENSION OF CERTAIN EXPIRING AUTHORITIES RELATING TO BONUSES AND INCENTIVE PAY

(a) EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES FOR RESERVE FORCES.—Sections 308b(g), 308c(f), 308e(e), 308g(h), 308h(g), and 308i(i) of title 37, United States Code, are amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

(b) EXTENSION OF SPECIAL PAY FOR NUCLEAR QUALIFIED OFFICERS EXTENDING ACTIVE DUTY.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

(c) EXTENSION OF NUCLEAR CAREER ANNUAL INCENTIVE BONUS PROGRAM.—Section 312(c) of title 37, United States Code, is amended—

(1) in subsection (b)(1), by striking out "ending before October 1, 1990"; and

(2) in subsection (e), by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1992".

(d) EXTENSION OF NUCLEAR CAREER ACCESSION BONUS PROGRAM.—Section 312b(d) of title 37, United States Code, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

SEC. 630a. ARMED SERVICE OFFICERS SPECIAL PAY

(a) SPECIAL PAY FOR PSYCHOLOGISTS.—(1) Section 302c(a) of title 37, United States Code, is amended to read as follows:

"(a) An officer who—

"(1) is an officer in the Regular or Reserve Corps of the Public Health Service, an officer in the Army Medical Department, an officer in the Bureau of Medicine and Surgery of the Navy, or an officer of the Air Force,

"(2) is designated as a psychologist, and

"(3) has been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology,

is entitled to special pay, as provided in subsection (b).".

(2)(A) The section heading of such section is amended by striking out "in the Public Health Service Corps".

(B) The item relating to section 302c in the table of sections at the beginning of chapter 5 of such title is amended by striking out "in the Public Health Service Corps".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to pay periods beginning after September 30, 1989.

PART C—TRAVEL AND TRANSPORTATION

SEC. 631. TRAVEL ENTITLEMENT FOR MEMBERS ASSIGNED TO A VESSEL UNDER CONSTRUCTION

(a) AUTHORIZATION FOR TRAVEL ALLOWANCE.—Chapter 7 of title 37, United States Code, is amended by inserting after section 406b the following new section:

"§ 406c. Travel and transportation allowances: members assigned to a vessel under construction

"(a) Under regulations prescribed by the Secretary concerned, a member of the uniformed services who is assigned to permanent duty aboard a ship that is under construction at a location either away from the designated home port of the ship or away from the area where the dependents of the member are residing is entitled to transportation, or an allowance for transportation as provided in section 404(d)(3) of this title for round-trip travel from the port of construction to the home port or to the area where the dependents are residing on or after the thirty-first day, and every sixtieth day after the thirty-first day, after the later of the day on which the ship enters the construction port or after the date on which the member becomes permanently assigned to the ship, whichever is later. However, in no event may the amount of reimbursement for personally procured transportation or allowance for transportation exceed the cost of Government-procured commercial round-trip air travel.

"(b) Transportation in kind, reimbursement for personally procured transportation, or a monetary allowance in place of the cost of transportation as provided in section 404(d)(1) of this title may be provided, in lieu of the member's entitlement to transportation, for the member's dependents from the location that was the home port of the ship before commencement of construction to the port of construction. The total reimbursement for transportation for the member's dependents may not exceed the cost of Government-procured commerce round-trip travel.

"(c) In any case in which a member of the uniformed services assigned to permanent duty aboard a ship that undergoes a change of home port to the port at which the ship is being constructed, the dependents of such

member may be provided the transportation allowances prescribed in subsections (a) and (b) of this section in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.

"(d) Section 420 of this title does not apply with respect to transportation or allowances provided under this section.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 406b the following new item:

"406c. Travel and transportation allowances: members assigned to a vessel under construction.".

(c) CLARIFYING AMENDMENT.—Subsection (c) of section 406b of such title is amended to read as follows:

"(c) In any case in which a member of the uniformed services assigned to permanent duty aboard a ship that undergoes a change of home port to the overhaul or inactivation port, the dependents of the member may be provided transportation allowances prescribed in subsections (a) and (b) of this section in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.".

SEC. 632. REIMBURSEMENT FOR CERTAIN FEES INCURRED IN TRAVEL

(a) IN GENERAL.—Section 404 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(i) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) of this section is entitled to reimbursement for parking fees, ferry fares, and bridge, road, and tunnel tolls actually incurred incident to such travel.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be applicable to travel and transportation commenced after September 30, 1989.

SEC. 633. STUDENT TRAVEL AUTHORIZED FOR DEPENDENTS OF MEMBERS IN ALASKA AND HAWAII

(a) AUTHORIZATION FOR DEPENDENT CHILDREN.—Section 430 of title 37, United States Code, is amended—

(1) in subsection (a)(1), by striking out "United States" and inserting in lieu thereof "continental United States";

(2) in subsection (a)(2), by striking out "oversea";

(3) in subsection (a)(3), by striking out "United States" and inserting in lieu thereof "continental United States";

(4) in subsection (b)—

(A) by striking out "United States" each place it appears and inserting in lieu thereof "continental United States"; and

(B) by striking out "in the oversea area" and inserting in lieu thereof "outside the continental United States"; and

(5) by adding at the end the following new subsections:

"(d) For a member assigned to duty outside the continental United States, transportation under this section may be provided a dependent child as described in subsection (a)(3) of this section who is attending a school in either Alaska or Hawaii.

"(e) The transportation authorized by this section may not be paid in the case of a member assigned to a permanent duty station in Alaska or Hawaii for a child attending a school in the State of the permanent duty station.

"(f) In this section, the term 'continental United States' means the 48 contiguous States and the District of Columbia.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be applicable to travel and transportation commenced after September 30, 1989.

PART D—SURVIVOR BENEFIT PROGRAM

SEC. 641. LEVEL PREMIUM FOR SURVIVOR BENEFIT PLAN ANNUITIES

Section 1452(a)(1) of title 10, United States Code, is amended by striking out "shall be reduced each month—" and all that follows and inserting in lieu thereof "shall be reduced each month as follows:

"(A) If the annuity being providing is a standard annuity—

"(i) in the case of a person who becomes a participant in the Plan on or after the effective date of the Military Survivor Benefit Improvement Act of 1989, the reduction shall be in an amount equal to 6½ percent of the base amount; and

"(ii) in the case of a person who is a participant in the Plan before the effective date of the Military Survivor Benefit Improvement Act of 1989, the reduction shall be in whichever of the following amounts is more favorable to the person providing the annuity:

"(I) An amount equal to 6½ percent of the base amount.

"(II) An amount equal to 2½ percent of the first $300 (as adjusted with respect to that person under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount.

"(B) If the annuity being provided is a reserve-component annuity—

"(i) in the case of a person who becomes a participant in the Plan on or after the effective date of the Military Survivor Benefit Improvement Act of 1989, the reduction shall be in an amount equal to 6½ percent of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan; and

"(ii) in the case of a person who is a participant in the Plan before the effective date of the Military Survivor Benefit Improvement Act of 1989, the reduction shall be in whichever of the following is more favorable to the person providing the annuity:

"(I) The amount applicable to that person under clause (i).

"(II) An amount equal to 2½ percent of the first $300 (as adjusted with respect to that person under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.".

SEC. 642. PROGRAM TO PROVIDE SUPPLEMENTAL SPOUSE ANNUITY FOR MILITARY RETIREES

(a) ESTABLISHMENT OF PROGRAM.—(1) Chapter 73 of title 10, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—SUPPLEMENTAL SURVIVOR BENEFIT PLAN

"Sec.
"1456. Supplemental spouse coverage: establishment of plan; definitions.
"1457. Supplemental spouse coverage: payment of annuity; amount.
"1458. Supplemental spouse coverage: eligible participants; elections of coverage.
"1459. Former spouse coverage: special rules.
"1460. Supplemental spouse coverage: reductions in retired pay.
"1460a. Incorporation of certain administrative provisions.
"1460b. Regulations.

"§ 1456. Supplemental spouse coverage: establishment of plan; definitions

"(a) ESTABLISHMENT OF SUPPLEMENTAL SURVIVOR BENEFIT PLAN.—

"(1) PLAN.—The Secretary of Defense shall carry out a program in accordance with this subchapter to enable participants in the Survivor Benefit Plan who are providing coverage for a spouse or former spouse beneficiary under that Plan to also provide a supplemental annuity for that spouse or former spouse beginning when the participant dies or when the spouse or former spouse becomes 62 years of age, whichever is later, in order to offset the effects of the two-tier annuity computation under the Survivor Benefit Plan.

"(2) NAME OF PLAN.—The program under this subchapter shall be known as the Supplemental Survivor Benefit Plan.

"(b) DEFINITIONS.—

"(1) INCORPORATION OF DEFINITIONS APPLICABLE TO SURVIVOR BENEFIT PLAN.—The definitions in section 1447 of this title apply in this subchapter.

"(2) SUPPLEMENTAL SPOUSE ANNUITY DEFINED.—In this subchapter, the term 'supplemental spouse annuity' means an annuity provided to a spouse or former spouse under this subchapter.

"§ 1457. Supplemental spouse coverage: payment of annuity; amount

"(a) COMMENCEMENT OF ANNUITY.—A supplemental spouse annuity commences on the later of—

"(1) the day on which an annuity under the Survivor Benefit Plan becomes payable to the beneficiary; or

"(2) the first day of the first month after the month in which the beneficiary becomes 62 years of age.

"(b) AMOUNT OF ANNUITY FOR BENEFICIARY OF PERSON PROVIDING STANDARD ANNUITY UNDER SBP.—In the case of a person providing a standard annuity for a spouse or former spouse beneficiary under the Survivor Benefit Plan and providing a supplemental spouse annuity for that beneficiary under this subchapter, the monthly annuity payable to the beneficiary under this subchapter shall be the amount equal to 20 percent of the base amount under the Survivor Benefit Plan of the person providing the annuity. The annuity shall be computed as of the date of the death of the person providing the annuity, notwithstanding that the annuity is not payable at that time by reason of subsection (a).

"(c) AMOUNT OF ANNUITY FOR BENEFICIARY OF PERSON PROVIDING RESERVE-COMPONENT ANNUITY UNDER SBP.—In the case of a person providing a reserve-component annuity for a spouse or former spouse beneficiary under the Survivor Benefit Plan and providing a supplemental spouse annuity for that beneficiary under this subchapter, the monthly annuity payable to that beneficiary under this subchapter shall be determined as follows:

"(1) BENEFICIARY INITIALLY 62 YEARS OF AGE OR OLDER.—If the beneficiary is 62 years of age or older when the beneficiary becomes entitled to the reserve-component annuity under the Survivor Benefit Plan, the monthly amount of the supplemental spouse annuity is the difference between—

"(A) the amount of the reserve-component annuity under the Survivor Benefit

Plan to which the beneficiary would be entitled if that beneficiary were under 62 years of age (as computed under section 1451(a)(2)(A) of this title); and

"(B) the amount of the reserve-component annuity to which the beneficiary is entitled (as computed under section 1451(a)(2)(B) of this title).

"(2) BENEFICIARY INITIALLY UNDER 62 YEARS OF AGE.—If the beneficiary is under 62 years of age when the beneficiary becomes entitled to the reserve-component annuity under the Survivor Benefit Plan, the monthly amount of the supplemental spouse annuity of that beneficiary (commencing on the date specified in subsection (a)(2)) is the amount by which the beneficiary's annuity under the Survivor Benefit Plan is reduced (on the same day) under section 1451(d) of this title.

(3) EXCLUSION OF DIC OFFSET.—Computations under paragraphs (1) and (2) shall be made without regard to any reduction required under section 1450(c) of this title (or any other provision of law) with respect to the receipt of dependency and indemnity compensation under section 411 of title 38.

"(d) ADJUSTMENTS IN ANNUITIES.—

"(1) PERIODIC ADJUSTMENTS (COLAS).—Whenever annuities under the Survivor Benefit Plan are increased under section 1451(g)(1) of this title (or any other provision of law) or recomputed under section 1451(i) of this title, each annuity under this subchapter shall be increased or recomputed at the same time. The increase shall, in the case of any such annuity, be by the same percent as the percent by which the annuity of that beneficiary is increased or recomputed under the Survivor Benefit Plan.

"(2) ROUNDING DOWN.—The monthly amount of an annuity payable under this subchapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(e) TERMINATION OF ANNUITY.—A supplemental spouse annuity terminates effective as of the first day of the month in which the beneficiary dies or otherwise becomes ineligible to continue to receive an annuity under the Survivor Benefit Plan.

"§ 1458. Supplemental spouse coverage: eligible participants; elections of coverage

"(a) COVERAGE.—

"(1) IN GENERAL.—A person who provides an annuity for a spouse or former spouse under the Survivor Benefit Plan may elect in accordance with this section to provide a supplemental spouse annuity for that spouse or former spouse.

"(2) COVERAGE CONTINGENT ON CONCURRENT SBP COVERAGE.—When a person providing a supplemental spouse annuity under this subchapter ceases to be a participant under the Survivor Benefit Plan, that person's coverage under this subchapter automatically terminates.

"(3) ELECTIONS TO BE VOLUNTARY.—A person may not be ordered or required to elect (or to enter into an agreement to elect) to provide a spouse or former spouse with a supplemental spouse annuity under this subchapter. Except as provided in section 1459(b) of this title, in no case shall a person be deemed to have made an election to provide a supplemental annuity for a spouse or former spouse of such person.

"(b) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under this section if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan will be computed under section 1451(e) of this title. However, such a person may waive the right to have that annuity computed under section 1451(e) of this title. Any such election is irrevocable. A person making such a waiver may make an election under this section as in the case of any other participant in the Survivor Benefit Plan.

"(c) ELECTION OF SUPPLEMENTAL SPOUSE ANNUITY BEFORE BECOMING A PARTICIPANT IN SBP.—

"(1) IN GENERAL.—A person anticipating becoming a participant in the Survivor Benefit Plan who has a spouse or former spouse may elect to provide a supplemental spouse annuity under this subchapter for that spouse or former spouse.

"(2) CONDITIONS ON ELECTION.—An election under paragraph (1)—

"(A) must be made before the day on which the person making the election first becomes a participant in the Survivor Benefit Plan; and

"(B) shall be made in the same manner as an election under section 1448 of this title that is available to that person at the same time.

"(3) REQUIREMENT OF SPOUSE ANNUITY UNDER SBP.—If upon becoming a participant in the Survivor Benefit Plan under section 1448 of this title the person is not providing an annuity for the person's spouse or former spouse, an election under this section to provide a supplemental spouse annuity shall be void.

"(4) SPECIAL RULE FOR RCSBP PARTICIPANTS.—For the purposes of this subsection, a person providing a reserve-component annuity under the Survivor Benefit Plan shall not be considered to have become a participant in that Plan until the end of the 90-day period referred to in clause (iii) of section 1448(a)(2)(B) of this title.

"(d) ELECTION OF FORMER SPOUSE AFTER BECOMING ELIGIBLE FOR SURVIVOR BENEFIT PLAN.—

"(1) ELECTION OF COVERAGE.—A person who elects under section 1448(b)(3) of this title to provide coverage under the Survivor Benefit Plan for a former spouse may elect to provide a supplemental spouse annuity for that former spouse. Any such election must be signed by the person and received by the Secretary concerned within one year after the date of the decree of divorce, dissolution, or annulment.

"(2) EFFECTIVE DATE OF ELECTION.—An election under paragraph (1) is effective as of the same day as the election under section 1448(b)(3) of this title.

"(e) NOTICE TO SPOUSE OF FORMER SPOUSE COVERAGE.—If a married person who is eligible to provide an annuity under the Survivor Benefit Plan elects to provide an annuity under that Plan for a former spouse (or for a former spouse and dependent child) and elects under this section to provide a supplemental spouse annuity for that former spouse, the notification to the person's spouse under section 1448(a)(3)(E) or 1448(b)(3)(D) of this title shall include notice of the election under this section.

"(f) IRREVOCABILITY OF ELECTIONS.—

"(1) STANDARD ANNUITY.—An election under subsection (b) to provide a supplemental spouse annuity by a person providing a standard annuity under the Survivor Benefit Plan is irrevocable if not revoked on the day before the date on which the person first becomes a participant in that Plan.

"(2) RESERVE-COMPONENT ANNUITY.—An election under subsection (b) to provide a supplemental spouse annuity by a person providing a reserve-component annuity under the Survivor Benefit Plan is irrevocable if not revoked before the end of the 90-day period with respect to that person referred to in clause (iii) of section 1448(a)(2)(B) of this title.

"(3) FORMER SPOUSE ELECTIONS.—An election under subsection (c) may not be revoked except in accordance with subsection (h).

"(g) REMARRIAGE AFTER RETIREMENT.—

"(1) ELECTION UPON REMARRIAGE.—A person—

"(A) who is a participant in the Survivor Benefit Plan and is providing coverage under that Plan for a spouse (or a spouse and child) but is not a participant in the Supplemental Survivor Benefit Plan;

"(B) who does not have an eligible spouse beneficiary under that Plan; and

"(C) who remarries,

may (subject to paragraph (2)) elect to provide a supplemental spouse annuity under this subchapter for the person's spouse.

"(2) LIMITATIONS ON ELECTION.—A person may not make an election under paragraph (1) if the person elects under section 1448(a)(6)(A) of this title not to provide coverage under the Survivor Benefit Plan for the person's spouse.

"(3) CONDITIONS ON ELECTION.—An election under paragraph (1)—

"(A) is irrevocable;

"(B) shall be made within one year after the remarriage; and

"(C) shall be made in such form and manner as may be prescribed in regulations under section 1460a of this title.

"(h) CHANGE OF FORMER SPOUSE BENEFICIARY TO SPOUSE OR CHILD BENEFICIARY.—If a person who is providing an annuity for a former spouse under the Survivor Benefit Plan and a supplemental spouse annuity for that former spouse under this subchapter elects under section 1450(f)(1) of this title to change the beneficiary of the annuity under the Survivor Benefit Plan in order to provide an annuity under that Plan to that person's spouse or to a dependent child—

"(1) the beneficiary under the supplemental spouse annuity shall be deemed to be changed to that spouse also, if the change under section 1450(f)(1) was to provide the annuity for the person's spouse; and

"(2) participation in the supplemental spouse annuity program shall be terminated, if the change under section 1450(f)(1) of this title was to provide the annuity for a dependent child.

"(i) REINSTATEMENT OF DISCONTINUED ANNUITY UPON REINSTATEMENT OF SBP ANNUITY.—If a person who is providing an annuity for a former spouse under the Survivor Benefit Plan and a supplemental spouse annuity for that former spouse under this subchapter discontinues participation in the Survivor Benefit Plan under any provision of law and subsequently resumes participation in that Plan under any provision of law, the participation of that person in the Supplemental Survivor Benefit Plan under this chapter shall be reinstated effective on the day on which participation in the Survivor Benefit Plan resumes.

"§ 1459. Former spouse coverage: special rules

"(a) DISCLOSURE OF VOLUNTARY WRITTEN AGREEMENT WITH FORMER SPOUSE.—A person who elects under section 1458 of this title to provide a supplemental spouse annuity for a former spouse shall, at the time of making the election, provide the Secretary concerned with a written statement (in a form to be prescribed by that Secretary and

signed by such person and former spouse) setting forth whether the election is being made pursuant to a written agreement previously entered into voluntarily by such person as a part of or incident to a proceeding of divorce, dissolution, or annulment and (if so) whether such voluntary written agreement has been incorporated in, or ratified or approved by, a court order.

"(b) ENFORCEMENT OF VOLUNTARY WRITTEN AGREEMENTS INCIDENT TO DIVORCE, ETC.—

"(1) ELECTIONS DEEMED TO HAVE BEEN MADE.—If a person who is eligible to elect under section 1458 of this title to provide a supplemental spouse annuity for a former spouse voluntarily enters, incident to a proceeding of divorce, dissolution, or annulment, into a written agreement to elect to provide a supplemental annuity for a former spouse and that agreement is incorporated in or ratified or approved by a court order or is filed with the court of appropriate jurisdiction in accordance with applicable State law, and such person then fails or refuses to make the election as set forth in the voluntary agreement, such person shall be deemed to have made the election if the Secretary concerned—

"(A) receives from the former spouse concerned a written request, in such manner as the Secretary shall prescribe, requesting that the election be deemed to have been made; and

"(B) receives (i) a copy of the court order, regular on its face, which incorporates, ratifies, or approves the written agreement of such person, or (ii) a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable State law.

"(2) TIME LIMIT FOR REQUEST TO SECRETARY CONCERNED.—An election may not be deemed to have been made under paragraph (1) in the case of any person unless the Secretary concerned receives a request from the former spouse within one year after the date of the court order or filing involved.

"(3) EFFECTIVE DATE OF DEEMED ELECTION.—An election deemed to have been made under paragraph (1) shall become effective on the first day of the first month which begins after the date of the court order or filing involved.

"§ 1460. Supplemental spouse coverage: reductions in retired pay

"(a) REDUCTION REQUIRED.—The retired pay of a person who elects to provide a supplemental spouse annuity shall be reduced each month as required under regulations prescribed under subsection (b).

"(b) REGULATIONS DETERMINING AMOUNT OF REDUCTION.—Regulations for the purposes of subsection (a) shall be prescribed by the Secretary of Defense. Those regulations shall be based upon assumptions used by the Department of Defense Retirement Board of Actuaries in the valuation of military retirement and survivor benefit programs under chapter 74 of this title (including assumptions relating to mortality, interest rates, and inflation) and shall ensure the following:

"(1) That reductions in retired pay under this section are made in amounts sufficient to provide that the Supplemental Survivor Benefit Plan operates on an actuarially neutral basis.

"(2) That such reductions are stated, with respect to the base amount (under the Survivor Benefit Plan) of any person, as a constant percentage of that base amount.

"(3) That the amounts of such reductions in retired pay of persons participating in the Supplemental Survivor Benefit Plan (stated as a percentage of base amount)—

"(A) are based on the age of the participant at the time participation in that Plan is first effective under this subchapter; and

"(B) are not determined by any other demographic differentiation among participants in the Plan.

"(4) That such reductions are otherwise determined in accordance with generally accepted actuarial principles and practices.

"(c) SUSPENSION OF REDUCTION WHEN THERE IS NO SPOUSE BENEFICIARY.—A reduction in retired pay under this section shall not be made in the case of any person during any month in which there is no eligible spouse or former spouse beneficiary.

"(d) ADJUSTMENTS IN AMOUNT OF REDUCTION.—Whenever the amount of the reduction in retired pay of a participant in the Survivor Benefit Plan is increased under section 1452(h) of this title or recomputed under section 1452(i) of this title, the amount of the reduction in that retired pay under this section shall be increased or recomputed, as the case may be, at the same time and in the same manner as that increase or recomputation.

"(e) ADMINISTRATIVE PROVISIONS.—The provisions of subsections (d) and (f) of section 1452 of this title apply with respect to the participation of a person in the Supplemental Survivor Benefit Plan in the same manner that those provisions apply under the Survivor Benefit Plan.

"§ 1460a. Incorporation of certain administrative provisions

"(a) APPLICABILITY OF CERTAIN PROVISIONS OF SBP LAW.—The provisions of section 1449, 1452(g), 1453, and 1454 of title 10, United States Code, are applicable to a person eligible to make an election, and to an election, under this subchapter in the same manner as if made under subchapter II.

"(b) OTHER APPLICABLE PROVISIONS.—Except to the extent otherwise provided in regulations prescribed under section 1460b of this title, the provisions of subsections (h), (i), and (l) of section 1450 of this title apply to supplemental spouse annuities in the same manner that those provisions apply to annuities under the Survivor Benefit Plan.

"§ 1460b. Regulations

"The President shall prescribe regulations to carry out this subchapter. Those regulations shall, so far as practicable, be uniform for the uniformed services and shall, so far as practicable, incorporate provisions of the regulations in effect under section 1455 of this title.".

(2) The table of subchapters at the beginning of chapter 73 of such title is amended by adding at the end the following new item:

"III. Supplemental Spouse Coverage for Survivor Benefit Plan Participants ..... 1456".

(b) CONFORMING AMENDMENTS.—(1) Section 1331(d) of title 10, United States Code, is amended by inserting "and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter," after "this title".

(2) Section 3101(c)(1) of title 38, United States Code, is amended by striking out "subchapter I or II".

SEC. 643. CORRECTION OF ANNUITY COMPUTATION FOR SURVIVORS OF CERTAIN RETIREMENT-ELIGIBLE OFFICERS DYING WHILE ON ACTIVE DUTY

(a) ANNUITY COMPUTATION BASED ON FINAL BASIC PAY.—Section 1451(c) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) In the case of an annuity provided by a member described in section 1448(d)(1)(B) of this title who first became a member of a uniformed service before September 8, 1980, the retired pay to which the member would have been entitled when he died shall be determined based upon the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death, unless (as determined by the Secretary concerned) the member would have been entitled to be retired in a higher grade.".

(b) ADJUSTMENT OF ANNUITIES ALREADY IN EFFECT.—

(1) RECOMPUTATION.—The Secretary concerned shall recompute the annuity of any person who on the effective date specified in section 7 is entitled to an annuity under the Survivor Benefit Plan by reason of eligibility described in section 1448(d)(1)(B) of title 10, United States Code, and who is further described in subsection (c).

(2) AMOUNT OF RECOMPUTED ANNUITIES.—The amount of the annuity as so recomputed shall be the amount that would be in effect for that annuity on the effective date specified in section 7 if the annuity had originally been computed subject to the provisions of paragraph (3) of section 1451(c) of title 10, United States Code, as added by subsection (a).

(3) EFFECTIVE DATE OF RECOMPUTATION.—An annuity recomputed under this subsection shall take effect as so recomputed on the effective date specified in section 7.

(c) PERSONS ELIGIBLE FOR RECOMPUTATION.—A person is eligible to have an annuity under the Survivor Benefit Plan recomputed under subsection (b) if—

(1) the annuity is based upon the service of a member of the uniformed services who died on active duty during the period beginning on September 21, 1972, and ending on the effective date specified in section 7; and

(2) the retired pay of that member for the purposes of determining the amount of the annuity under the Survivor Benefit Plan was computed using a rate of basic pay lower than the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death.

SEC. 644. OPEN ENROLLMENT PERIOD

(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open enrollment period specified in subsection (f).

(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code, as added by section 642.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a

member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 67 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

(1) STANDARD ANNUITY.—A person making an election under this subsection by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(2) RESERVE-COMPONENT ANNUITY.—A person making an election under this subsection by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(b) ELECTION TO INCREASE COVERAGE UNDER SBP.—A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or (in the case of an eligible member who is married) is providing coverage under the Plan for a dependent child and not for the person's spouse or former spouse may, during the open enrollment period—

(1) elect to participate in the Plan at a higher base amount; or

(2) elect to provide an annuity under the Plan for the person's spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

(c) ELECTION FOR CURRENT SBP PARTICIPANTS TO PARTICIPATE IN SUPPLEMENTAL SBP.—

(1) ELECTION.—A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code, as added by section 642.

(2) PERSONS ELIGIBLE.—Except as provided in paragraph (3), a person is eligible to make an election under paragraph (1) if on the day before the first day of the open enrollment period the person is a participant in the Survivor Benefit Plan and under that Plan is providing an annuity for the person's spouse or a former spouse.

(3) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under this subsection if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan will be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section. Any such election is irrevocable. A person making such a waiver may make an election under this subsection during the open enrollment period as in the case of any other participant in the Survivor Benefit Plan.

(d) MANNER OF MAKING ELECTIONS.—An election under this section must be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(e) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(f) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period is the one-year period beginning on the effective date specified in section 646.

(g) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person's beneficiary under the Survivor Benefit Plan.

(h) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if made under subchapter III of chapter 73 of title 10, United States Code.

(i) DEFINITIONS.—For the purpose of this section:

(1) The term "Survivor Benefit Plan" means the program established under subchapter II of chapter 73 of title 10, United States Code.

(2) The term "retired pay" includes retainer pay paid under section 6330 of title 10, United States Code.

(3) The terms "uniformed services" and "Secretary concerned" have the meanings given those terms in section 101 of title 37, United States Code.

SEC. 645. MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS

(a) IN GENERAL.—Chapter 73 of title 10, United States Code, is amended as follows:

(1) Section 1447 is amended—

(A) in paragraph (5), by striking out "this clause" both places it appears and inserting in lieu thereof "this paragraph"; and

(B) in paragraph (11), by inserting "paid under section 6330 of this title" after "retainer pay".

(2) Sections 1447(2)(C)(i), 1447(3), 1447(4), 1448(a)(4)(A), 1449, and 1450(l)(2) are amended by striking out "or retainer".

(3) Section 1450(f)(3)(B) is amended—

(A) by striking out "before October 1, 1985, or"; and

(B) by striking out ", whichever is later".

(4) Section 1451(c) is amended—

(A) in paragraph (4) (as redesignated by section 5(a)(1)), by inserting "who first became a member of a uniformed service before September 8, 1980" after "of this title"; and

(B) in paragraph (5) (as redesignated by section 5(a)(1)), by inserting "by reason of the service of a person who first became a member of a uniformed service before September 8, 1980" after "of this title".

(5) Section 1451(e)(1) is amended by striking out "plan" in the matter preceding subparagraph (A) and inserting in lieu thereof "Plan".

(6) Section 1451(e)(2) is amended by striking out "(as the base amount is adjusted from time to time under section 1401a of this title)" in subparagraphs (A) and (B).

(7) Section 1452(h) is amended—

(A) by inserting "(or any other provision of law)" after "of this title" the first place it appears; and

(B) by striking out "increased under section 1401a of this title" and inserting in lieu thereof "so increased".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 646. EFFECTIVE DATE

This part and the amendments made by this part (other than the amendments made by section 645) shall take effect on the later of—

(1) October 1, 1989; or

(2) the first day of the third month beginning after the date of the enactment of this Act.

PART E—MISCELLANEOUS

SEC. 651. INCREASE IN EDUCATIONAL ASSISTANCE ALLOWANCE FOR PERSONS WITH CRITICAL SKILL OR SPECIALTY

Section 1415(c) of title 38, United States Code, is amended by striking out "$400" and inserting in lieu thereof "$700".

SEC. 652. AUTHORITY TO USE APPROPRIATED FUNDS TO SUPPORT STUDENT MEAL PROGRAMS IN DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

(a) IN GENERAL.—(1) Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2243. Authority to use appropriated funds to support student meal programs in overseas dependents' schools

"(a) AUTHORITY.—Subject to subsection (b), amounts appropriated to the Department of Defense to operate the defense dependents' education system may be used to maintain the cost to a student of a meal provided by an overseas meal program at a cost equal to the average cost to a student of an equivalent meal under a comparable public school meal program in the United States.

"(b) LIMITATION.—The authority provided by subsection (a) may be used only if the Secretary of Defense determines that Federal payments and commodities provided under section 20 of the National School Lunch Act (42 U.S.C. 1769b) and section 20 of the Child Nutrition Act of 1966 (42 U.S.C. 1789) to support an overseas meal program are insufficient to provide a meal under such program at a cost to a student equal to the average cost to a student of an equivalent meal under a comparable public school meal program in the United States.

"(c) OVERSEAS MEAL PROGRAM DEFINED.—In this section, the term 'overseas meal program' means a program administered by the Secretary of Defense to provide breakfasts or lunches to students attending Department of Defense dependents' schools which are located outside the United States.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2243. Authority to use appropriated funds to support student meal programs in overseas dependents' schools.".

(b) EFFECTIVE DATE.—Section 2243 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1989.

SEC. 653. AUTHORIZATION TO REDUCE UNDER CERTAIN CIRCUMSTANCES THE RATES FOR MEALS SOLD AT A MILITARY DINING FACILITY

Section 1011(a) of title 37, United States Code, is amended—

(1) by striking out "or enlisted members" and all that follows through the period in the first sentence and inserting in lieu thereof "and enlisted members."; and

(2) by adding after the second sentence the following new sentence: "Notwithstanding the preceding sentence, if the Secretary determines that it is in the best interest of the United States, the Secretary may reduce a rate for meals established under this subsection by the amount of that rate attributable to operating expenses.".

SEC. 654. UNIFORM ALLOWANCE FOR CIVILIAN EMPLOYEES

(a) IN GENERAL.—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1592. Uniform allowance for civilian employees

"Notwithstanding section 5901 of title 5, the Secretary of Defense may pay an allowance under this section to any civilian employee of the Department of Defense who is required by law or regulation to wear a prescribed uniform in the performance of official duties. An allowance paid under this section may not exceed $400 annually.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1592. Uniform allowance for civilian employees.".

(c)(1) Section 1606 of such title is repealed.

(2) The table of sections at the beginning of chapter 83 of such title is amended by striking out the item relating to section 1606.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) and the repeal made by subsection (c) shall take effect on October 1, 1989.

SEC. 655. AVIATOR INSURANCE

Not later than December 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a legislative proposal for an accidental death insurance plan for aviators serving on active duty that provides, at no cost to the insured, for the payment of death benefits in the amount of $100,000 for death resulting directly from the performance of operational flying duty (as defined in section 301a(a)(6) of title 37, United States Code).

SEC. 656. SENSE OF CONGRESS REGARDING ESTABLISHMENT OF COMMISSION TO CONDUCT A STUDY ON THE NATIONAL SHORTAGE OF AVIATORS

In view of the critical shortage of qualified aviators in both the Armed Forces and in the commercial airline industry of the United States, it is the sense of Congress that—

(1) the President should establish a commission to study the reasons for such shortages and to consider effective and practicable means of eliminating the shortages;

(2) the President should include among persons appointed to the commission representatives from the commercial airline industry, representatives from the Department of Defense, and representatives from such other sources as the President considers appropriate;

(3) the President should appoint all members of the commission not later than February 15, 1990; and

(4) the commission should be required to submit a report on the results of its study to the President and Congress not later than March 1, 1991, together with specific recommendations for eliminating the shortage of aviators in the United States.

TITLE VII—DEPARTMENT OF DEFENSE MANAGEMENT MATTERS

SEC. 701. IMPLEMENTATION OF DEFENSE MANAGEMENT REVIEW

Not later than February 15, 1990, the Secretary of Defense shall submit to Congress a report regarding actions that have been taken by the Secretary and actions the Secretary proposes to take to implement the July 1989 report of the Secretary of Defense to the President entitled Defense Management. The Secretary shall include in the report to Congress the following:

(1) A discussion of any actions taken, any ongoing actions, and any actions proposed to be taken by the Secretary with regard to such review.

(2) An assessment of the impact that such actions have had or are likely to have on the efficiency of the Department of Defense.

(3) Specific proposals for legislation that the Secretary determines would facilitate implementation of the objectives of the review.

SEC. 702. FUND FOR UNIFIED AND SPECIFIED COMBATANT COMMANDS

Of the funds authorized to be appropriated pursuant to section 301 for the Defense Agencies for fiscal year 1990, $10,000,000 shall be available for the establishment of a fund under the management of the Chairman of the Joint Chiefs of Staff for use in response to the request of a commander of a unified or specified combatant command for supplemental funding of the following activities:

(1) Joint exercises (including foreign country participation).

(2) Force training.

(3) Contingencies.

(4) Selected operations.

(5) Command and control.

(6) Military education and training to military and related civilian personnel of foreign countries.

(7) Personnel expenses of defense personnel for bilateral or regional cooperation programs.

SEC. 703. STRATEGIC AIR DEFENSE ALERT MISSION

Section 713 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1998), is amended—

(1) in subsection (b)(1), by inserting "any component or segment of" after "After"; and

(2) in subsection (b)(2), by striking out "180 days" and inserting in lieu thereof "30 days".

SEC. 704. ESTABLISHMENT OF POSITIONS AT APPROPRIATE LEVELS OF THE EXECUTIVE SCHEDULE

(a) COMPTROLLER OF DEPARTMENT OF DEFENSE.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Comptroller of the Department of Defense.".

(b) GENERAL COUNSELS OF MILITARY DEPARTMENTS.—(1) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"General Counsel of the Department of the Air Force.

"General Counsel of the Department of the Army.

"General Counsel of the Department of the Navy.".

(2) Section 5316 of title 5, United States Code, is amended by striking out the item relating to the General Counsel of the Department of the Air Force, the General Counsel of the Department of the Army, and the General Counsel of the Department of the Navy.

(c) ADDITIONAL SECRETARY OF THE AIR FORCE.—Section 5315 of title 5, United States Code, is further amended by striking out "(3)" after the item relating to the Assistant Secretaries of the Air Force and inserting in lieu thereof "(4)".

(d) CONFORMING AMENDMENT.—Section 703(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 5 U.S.C. 5316 note), is repealed.

TITLE VIII—ACQUISITION POLICY AND MANAGEMENT

PART A—DEFENSE INDUSTRIAL AND TECHNOLOGY BASE

SEC. 801. CRITICAL TECHNOLOGIES PLANNING

(a) IN GENERAL.—(1) Chapter 148 of title 10, United States Code, is amended by inserting at the end thereof the following new sections:

"§ 2508. National critical technologies report

"(a)(1) The Director of the Office of Science and Technology Policy shall establish a panel of experts in advanced technology to prepare and submit the biennial report required by subsection (b).

"(2) The panel shall consist of 13 persons who are experts in science and engineering appointed as follows:

"(A) Three Federal Government officials appointed by the Director of the Office of Science and Technology Policy.

"(B) Six persons from private industry and higher education appointed by the Director of the Office of Science and Technology Policy.

"(C) One Federal Government official appointed by the Secretary of Defense.

"(D) One Federal Government official appointed by the Secretary of Energy.

"(E) One Federal Government official appointed by the Secretary of Commerce.

"(F) One Federal Government official appointed by the Administrator of the National Aeronautics and Space Administration.

"(3) Any vacancy in the membership of the panel shall be filled in the same manner as the original appointment.

"(4) The Director of the Office of Science and Technology Policy shall designate one of the members appointed under paragraph (2)(A) as Chairman of the panel.

"(b) Not later than October 1 of each even-numbered year, the panel shall submit to the President a report identifying the product technologies and process technologies considered by the panel to be the technologies most essential to develop in order to ensure long-term national security and economic prosperity for the United States. The number of the technologies identified in the report may not exceed 30.

"(c) The biennial report shall include, with respect to each technology identified in the report, the following information:

"(1) The reasons for selecting that technology.

"(2) The state of the development of the technology in the United States and in other countries.

"(3) An estimate of the current and anticipated level of research and development effort in the United States, including anticipated milestones for specific accomplishments, by—

"(A) the Federal Government;

"(B) State and local governments;
"(C) private industry; and
"(D) colleges and universities.

"(d)(1) The Secretary of Defense, upon the request of the Director of the Office of Science and Technology Policy, may enter into agreements with the National Academy of Sciences, the National Academy of Engineering, and the National Institute of Medicine from time to time to conduct in-depth studies of selected fields of research and development essential to the development of the technologies identified in the latest biennial report submitted to the President under subsection (b).

"(2) The Secretary may not obligate more than $500,000 for such agreements in any fiscal year.

"(e) The Secretary of Defense shall pay the reasonable expenses, not to exceed $500,000, incurred by the panel in any fiscal year.

"(f) Not later than 30 days after the date on which a biennial report is submitted to the President, the President shall transmit such report, together with any comments that the President considers appropriate, to the Committees on Armed Services of the Senate and the House of Representatives.

"§ 2509. Defense critical technologies plan

"(a)(1) Not later than March 15 each year, the Secretary of Defense, in consultation with the Secretary of Energy, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for developing the technologies considered by the Secretary of Defense and the Secretary of Energy to be the technologies most critical to ensure the long-term qualitative superiority of United States weapon systems. The number of such technologies identified in any plan may not exceed twenty.

"(2) In selecting the technologies to be included in the plan, the Secretary of Defense and the Secretary of Energy shall consider both product technologies and process technologies, including the technologies identified in the latest biennial report submitted to the President under section 2508 of this title.

"(3) The plan shall cover the 15 fiscal years following the year in which the plan is submitted.

"(4) Such plan shall be submitted in both classified and unclassified form.

"(b) Each plan submitted under subsection (a) shall—

"(1) designate priorities for development of the 20 technologies identified in the plan; and

"(2) specify the funding requirements of the Department of Defense, the Department of Energy, and other appropriate departments and agencies of the Federal Government for the development of those technologies for the five fiscal years following the year in which the plan is submitted.

"(c) Each plan submitted under subsection (a) shall include, with respect to each technology included in the plan, the following matters:

"(1) The reasons for selecting such technology, including—

"(A) a discussion of the consideration given to the latest biennial report submitted to the President under section 2508 of this title; and

"(B) the relationship of the technology to the overall science and technology program of the Department of Defense and the long-term funding strategy associated with that program.

"(2) A designation of the lead organization within the Department of Defense or the Department of Energy responsible for the development of the technology.

"(3) A summary description of the lead organization's plan for the development of the technology, including the milestone goals.

"(4) The amounts contained in the budgets of the Department of Defense, the Department of Energy, and other departments and agencies for the support of the development of such technology for—

"(A) the five fiscal years preceding the year in which the plan is submitted; and

"(B) the fiscal year beginning in the year in which the plan is submitted; and

"(C) each fiscal year thereafter for which the Secretary of Defense, with respect to the Department of Defense, and the Secretary of Energy, with respect to the Department of Energy, has prepared a budget.

"(5) A comparison of the positions of the United States and the Soviet Union in the development of such technology.

"(6) The potential contributions that the allies of the United States and other industrialized nations can make to meet the needs of the alliance for such technology.

"(7) A comparison of the extent to which the United States has access to research conducted on such technology in allied nations and other industrialized nations with the extent to which such nations have access to research conducted in the United States on such technology and a discussion of the effects of any imbalance in such access on development of that technology.

"(8) With respect to the development of such technology—

"(A) a comparison of the relative positions of the United States and other industrialized countries that are prominent in the development of such technology;

"(B) the trends in the relevant industrial bases of such countries;

"(C) the competitiveness of the United States industrial base supporting research in, and the development and utilization of, such technology;

"(D) the extent to which the United States should depend on other countries for the development of such technology; and

"(E) the extent to which action should be taken by the Federal Government to maintain and improve—

"(i) research efforts in the United States; and

"(ii) the industrial base supporting such efforts.

"(9) The potential contributions that the private sector can be expected to make from its own resources in connection with the development of civilian applications for such technology.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

"2508. National critical technologies report.
"2509. Defense critical technologies plan.".

(b) FIRST NATIONAL CRITICAL TECHNOLOGIES REPORT.—The first biennial report under section 2508(b) of title 10, United States Code (as added by subsection (a)), shall be submitted not later than October 1, 1990.

(c) REPEAL OF SUPERSEDED PROVISION OF LAW.—(1) Section 2368 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2368.

SEC. 802. CRITICAL INDUSTRIES PLANNING

(a) FUNCTIONS OF THE DEFENSE INDUSTRIAL BASE OFFICE.—Section 2503 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(5) identify the industries most critical for national security applications of the technologies identified in the latest annual defense critical technologies plan submitted under section 2509 of this title.".

(b) REPORT.—(1) Not later than March 15, 1990, the Under Secretary of Defense for Acquisition shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives on the actions taken under section 2503 of title 10, United States Code, for the improvement of the defense industrial base of the United States.

(2) The report shall include the Under Secretary's analysis of the condition of the defense industrial base of the United States, particularly with respect to the financial ability of United States businesses—

(A) to conduct research and development activities relating to critical defense technologies, including the critical technologies referred to in section 2503(5) of title 10, United States Code, as added by subsection (a);

(B) to apply those technologies to the production of goods and the furnishing of services; and

(C) to engage in any other activities determined by the Secretary of Defense to be critical to the national security.

(3) In preparing the analysis required in paragraph (2), the Under Secretary shall consider—

(A) trends in the profitability, levels of capital investment, spending on research and development, and debt burden of businesses involved in research on, development of, and application of critical defense technologies;

(B) the consequences of mergers, acquisitions, and takeovers of such businesses;

(C) the results of current Department of Defense spending for critical defense technologies; and

(D) the likely future level of Department of Defense spending for such technologies during the four fiscal years following fiscal year 1990 and the likely results of that level of spending.

SEC. 803. DEFENSE INDUSTRIAL INFORMATION

Section 2503 of title 10, United States Code, as amended by section 802, is further amended—

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(6) analyze the ability of the defense industrial base of the United States to fulfill the national security needs of the United States.".

SEC. 804. DEFENSE MEMORANDA OF UNDERSTANDING AND RELATED AGREEMENTS

(a) IN GENERAL.—Section 2504 of title 10, United States Code, is amended to read as follows:

"§ 2504. Defense memoranda of understanding and related agreements

"(a) IN GENERAL.—In the negotiation, renegotiation, and implementation of any memorandum of understanding, or any agreement related to a memorandum of understanding, between the Secretary of Defense, acting on behalf of the United States, and one or more foreign countries (or any instrumentality of a foreign country) relating to research, development, or production of defense equipment, the Secretary of Defense shall regularly solicit and consider comments and recommendations from the Secretary of Commerce with respect to the commercial implications of such memorandum of understanding or related agreement and the potential impact of such memorandum of understanding or related agreement on the international competitive position of United States industry.

"(b) REVIEW.—Whenever the Secretary of Commerce has reason to believe that a memorandum of understanding or related agreement has, or threatens to have, a significant adverse impact on the international competitive position of United States industry, the Secretary may request an interagency review of the memorandum of understanding or related agreement. If, as a result of the review, the Secretary determines that the strategic commercial interests of the United States are not being served or would not be served by adhering to the terms of such memorandum or related agreement, the Secretary shall recommend to the President any modification to the memorandum of understanding or related agreement he considers necessary to ensure an appropriate balance of interests.

"(c) LIMITATION.—A memorandum of understanding or related agreement referred to in subsection (a) shall not be entered into or implemented if the President, taking into consideration the results of the inter-agency review, determines that such memorandum of understanding or related agreement has or is likely to have a significant adverse impact on United States industry that outweighs the benefits of entering into or implementing such memorandum or agreement. The President shall consider the results of any inter-agency review of such memorandum or related agreement conducted pursuant to a request under subsection (b).".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 148 of such title is amended by striking out the item relating to section 2504 and inserting in lieu thereof the following:

"2504. Defense memoranda of understanding and related agreements.".

SEC. 805. OFFSETS IN RECIPROCAL DEFENSE PROCUREMENT AGREEMENTS

In the negotiation or renegotiation of any memorandum of understanding between the Secretary of Defense and one or more foreign countries (or any instrumentality of a foreign country) relating to the reciprocal procurement of defense equipment and supplies or research and development, the Secretary of Defense shall make every effort to achieve an agreement with the country or countries concerned that would limit the adverse effects that offset arrangements have on the defense industrial base of the United States.

PART B—ACQUISITION POLICY INITIATIVES

SEC. 821. DEFENSE ENTERPRISE PROGRAMS AND SIMPLIFICATION OF THE DEFENSE ACQUISITION PROCESS

(a) DEFENSE ENTERPRISE PROGRAMS GENERALLY.—Section 2436 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "senior procurement executive" and inserting in lieu thereof "service acquisition executive";

(2) in subsection (b), by inserting after the first sentence the following: "A designation under this subsection shall be subject to the approval of the Secretary of Defense.";

(3) in paragraph (3) of subsection (c), by striking out "senior procurement executive" and all that follows through the period at the end and inserting in lieu thereof "service acquisition executive of the military department concerned."; and

(4) in subsection (d)—

(A) by striking out "senior procurement executive of the military department concerned, with the approval of the Under Secretary of Defense for Acquisition," and inserting in lieu thereof "Under Secretary of Defense for Acquisition or the senior acquisition executive of the military department concerned,"; and

(B) by adding at the end the following new sentence: "The Under Secretary of Defense for acquisition may waive the application of any provision of the Federal Acquisition Regulation, and any provision of the Department of Defense supplement to such regulation, to any program designated under subsection (b).".

(b) MILESTONE AUTHORIZATIONS FOR DEFENSE ENTERPRISE PROGRAMS.—Section 2437 of such title is amended—

(1) in paragraph (2) of subsection (a)—

(A) in clause (A), by striking out "full-scale engineering development stage" and inserting in lieu thereof "concept demonstration validation stage, the full-scale engineering development stage,"; and

(B) in clause (B), by striking out "either" and inserting in lieu thereof "any"; and

(2) in subsection (c)—

(A) by striking out "full-scale engineering development stage" and inserting in lieu thereof "concept demonstration validation stage, the full-scale engineering development stage,";

(B) by redesignating clauses (1) and (2) as clauses (2) and (3), respectively; and

(C) by inserting above clause (2), as so redesignated, the following clause (1):

"(1) proceed into or complete the concept demonstration validation stage;".

(c) REPORT ON PROCUREMENT REGULATORY REFORM.—(1) Not later than February 15, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of all regulatory reform actions taken or planned to be taken in the Department of Defense on the basis of the experience under defense enterprise programs.

(2) The report shall contain any recommendations for legislation that the Secretary considers appropriate in order to enhance the effectiveness of defense enterprise programs or otherwise to simplify the Department of Defense acquisition process.

SEC. 822. ACQUISITION OF COMMERCIAL PRODUCTS

(a) REGULATIONS REQUIRED.—The Secretary of Defense shall prescribe regulations governing the acquisition of commercial products. Such regulations shall include the matters provided in subsections (b) through (d).

(b) CONTRACT AND SUBCONTRACT CLAUSES.—(1) The regulations prescribed pursuant to subsection (a) shall ensure the following:

(A) That a Department of Defense contract for the acquisition of commercial products includes only those clauses that—

(i) are on the list of clauses developed by the Secretary of Defense pursuant to paragraph (2)(A);

(ii) are included in the contractor's standard commercial order or invoice; or

(iii) are essential for the protection of the Federal Government's interest in that particular contract, as determined in writing by the contracting officer.

(B) That a prime contractor under a Department of Defense contract for the acquisition of commercial products is not required to include in subcontracts under such contract any clause other than those clauses that—

(i) are identified by the Secretary of Defense pursuant to paragraph (2)(B); or

(ii) are essential for the protection of the Federal Government, as determined in writing by the contracting officer for such contract.

(2)(A) The Secretary of Defense shall develop a list of clauses required to be included in Department of Defense contracts for the acquisition of commercial products. Such list shall include only those clauses that—

(i) are required by a statute to be included in such contracts; or

(ii) are essential for the protection of the Federal Government's interest in such contracts.

(B) The Secretary shall identify those clauses on the list of clauses required for contracts under subparagraph (A) that are required to be included in subcontracts under such contracts. The Secretary may identify for such purpose only those clauses that—

(i) are required by a statute to be included in the subcontracts; or

(ii) are essential for the protection of the Federal Government's interest in such subcontracts.

(c) MODIFIED INSPECTION CLAUSE AND WARRANTIES.—The regulations prescribed pursuant to subsection (a) shall ensure, to the maximum extent practicable, the following:

(1) That a modified inspection clause is included in each Department of Defense contract for the acquisition of commercial products awarded to a contractor that has a proven record of quality production and offers an appropriate warranty to protect the Federal Government's interest in acquiring a quality product.

(2) That applicable commercial warranties for repair and replacement of commercial products are used by the Department of Defense for any necessary repair and replacement of such products.

(d) COST AND PRICING DATA REQUIREMENTS.—The regulations prescribed pursuant to subsection (a) shall ensure that, pursuant to the exceptions in clauses (1)(A) and (1)(B) of section 2306a(b) of title 10, United States Code, no offeror, contractor, or subcontractor is required to submit certified cost or pricing data in connection with—

(1) any Department of Defense contract, or any subcontract under a Department of Defense contract, for the acquisition of a commercial product, unless the head of the agency awarding such contract determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract, as the case may be;

(2) any Department of Defense contract, or any subcontract under a Department of Defense contract, for the acquisition of a commercial product, for which the price agreed upon is based on adequate price competition, unless the head of the agency awarding such contract determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract, as the case may be; and

(3) any acquisition of a product for which the Administrator of General Services has accepted a certificate of established catalog price that is current.

(e) TRAINING.—(1) The Secretary of Defense shall establish a program for training contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items.

(2) The training program shall provide, at a minimum, for the following:

(A) Training in the requirements of this section, section 2325 of title 10, United States Code, and the regulations prescribed pursuant to those sections.

(B) Training of contracting officers in the fundamental principles of price analysis and other alternative means of determining price reasonableness.

(C) Training of appropriate acquisition personnel in market research techniques and in the drafting of functional and performance specifications.

(f) ENCOURAGING ACQUISITION OF NONDEVELOPMENTAL ITEMS.—The Secretary of Defense shall prescribe regulations to ensure that the head of each contracting activity of the Department of Defense assigns functions relating to the acquisition of nondevelopmental items to a responsible official within the contracting activity. The functions assigned pursuant to such regulations should include the function of promoting the acquisition of nondevelopmental items and the function of challenging barriers to such acquisition, including unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses.

(g) IMPLEMENTATION.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations and contract clauses required by this section or necessary for the implementation of this section.

(h) DEFINITIONS.—In this section:

(1) The term "commercial product" means—

(A) any product that is or has been sold in substantial quantities to the general public;

(B) any component of such a product; and

(C) any modified version of a product or component referred to in clause (A) or (B).

(2) The term "nondevelopmental item" has the same meaning as is provided in section 2325(d) of title 10, United States Code.

SEC. 823. UNIFORM RULES ON DISSEMINATION OF ACQUISITION

Not later than December 31, 1989, the Secretary of Defense shall prescribe a single, uniform regulation for the Department of Defense regarding dissemination of and access to acquisition information.

SEC. 824. TEST PROGRAM FOR USE OF SIMPLIFIED PROCEDURES IN THE COMPETITIVE AWARD OF CERTAIN CONTRACTS ON THE BASIS OF QUALITY FACTORS

(a) TEST PROGRAM.—The Secretary of Defense shall conduct a test program under which the Secretary of a military department or the head of a Defense Agency, notwithstanding section 2305(b)(4)(A)(ii) of title 10, United States Code, may award a contract for the procurement of property or services primarily on the basis of design or technical quality factors after evaluation of competitive proposals without discussions with offerors.

(b) PROCUREMENT OF PROPERTY OTHER THAN COMMERCIAL PRODUCTS.—The Secretary of a military department or the head of a Defense Agency may award a contract for the procurement of property or services, other than commercial items, under the test program as provided in subsection (a) if the Secretary or agency head—

(1) specifically reserves, in the solicitation issued in connection with the procurement, the right to accept an initial proposal without discussions;

(2) evaluates all offers on the basis of the evaluation criteria specified in the solicitation;

(3) awards the contract to the contractor that demonstrates that—

(A) the design and technical features of the property offered by the contractor are superior in quality or performance to the property offered by the other offerors; and

(B) there is a low risk of—

(i) delay in delivery of the property to the military department or Defense Agency concerned;

(ii) increase in the cost of the property to such military department or Defense Agency; and

(iii) failure of the property to meet the performance criteria under the contract; and

(4) determines that—

(i) the price contained in the offer submitted by the contractor awarded the contract is fair and reasonable; and

(ii) the product offered by the contractor at that price represents the best value to the Government in relation to other offers received in connection with the procurement.

(c) PROCUREMENT OF COMMERCIAL PRODUCTS.—The Secretary of a military department or the head of a Defense Agency may award a contract for the procurement of commercial products under the test program as provided in subsection (a) if the Secretary or agency head determines that—

(1) the price contained in the offer submitted by the contractor awarded the contract is fair and reasonable; and

(2) the product offered by the contractor at that price represents the best value to the Government in relation to other offers received in connection with the procurement.

(d) PERIOD OF TEST PROGRAM.—Contracts may be awarded under the test program during a 2-year period prescribed by the Secretary of Defense. Such period shall commence not later than 270 days after the date of the enactment of this Act.

(e) DESIGNATION OF DEPARTMENT OF DEFENSE PARTICIPANTS.—The Secretary of Defense shall designate the organizations within the Department of Defense that will participate in the test program. The Secretary shall designate each organization on the basis of the total dollar value of the procurement actions taken by such organization in the fiscal year ending September 30, 1989, and such other factors as the Secretary considers appropriate. The total dollar value of all procurement actions taken during such fiscal year by all organizations so designated may not exceed the amount equal to 20 percent of the dollar value of all procurement actions taken by the Department of Defense in such fiscal year.

(f) LIMITATION.—(1) No contract for the acquisition of a major system may be awarded under the test program.

(2) As used in the section, the term "major system" shall have the same meaning as is provided in section 2302(5) of title 10, United States Code.

(g) REPORT.—Not later than 270 days after the expiration of the 2-year period prescribed pursuant to subsection (d), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the test program. The report shall include any recommendations for legislation that the Secretary considers appropriate regarding the competitive award of contracts without discussions with offerors.

(h) DEFINITION.—In this section:

(1) The term "commercial product" shall have the same meaning as is provided in section 822(g)(1) of this Act.

(2) The term "discussions" does not include any discussion of an offer with the offeror that is conducted for the purpose of minor clarification.

SEC. 825. ACQUISITION REPORT STREAMLINING

(a) UNIT COST REPORTS.—(1) Subsection (a) of section 2433 of title 10, United States Code, is amended—

(A) in paragraph (2), by inserting "the service acquisition executive designated by" before "the Secretary concerned"; and

(B) in paragraph (4)—

(i) by inserting "the service acquisition executive designated by" before "the Secretary concerned";

(ii) in clause (A), by striking out "unit cost report submitted under subsection (e)(2)(B)(ii) with respect to" and inserting in lieu thereof "Selected Acquisition Report submitted under subsection (e)(2)(B) that includes information on"; and

(iii) in clause (B), by striking out "subsection (e)(2)(B)(ii) with respect to the program during that three-quarter period, the most recent unit cost report submitted under subsection (e)(1) with respect to the program" and inserting in lieu thereof "subsection (e)(2)(B) with respect to the program during that three-quarter period, the most recent Selected Acquisition Report submitted under subsection (e)(1) that includes information of the program".

(2) Subsection (b) of section 2433 of such title is amended—

(A) by striking out "(b) The program manager" and all that follows through the colon preceding paragraph (1) and inserting in lieu thereof the following:

"(b) The program manager for a major defense acquisition program (other than a program not required to be included in the Selected Acquisition Report for that quarter under section 2432(b)(3) of this title) shall, on a quarterly basis, submit to the service acquisition executive designated by the Secretary concerned a written report on the unit costs of the program. Each report shall be submitted not more than 7 days (excluding Saturdays, Sundays, and legal public holidays) after the end of that quarter. The program manager shall include in each such unit cost report the following information with respect to the program (as of the last day of the quarter for which the report is made):"; and

(B) in paragraph (4), by striking out "Selected Acquisition Report" and inserting in lieu thereof "description established under section 2435 of this title".

(3) Subsection (c) of section 2433 of such title is amended—

(A) in paragraph (1)—

(i) by striking out "fiscal-year" in the matter above clause (A); and

(ii) in matter following clause (C)—

(I) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears;

(II) by striking out "(other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year)" and inserting in lieu thereof "(other than the last quarterly unit cost report under subsection (b) for the preceding fiscal year)"; and

(III) by striking out "Secretary concerned" the second place it appears and inserting in lieu thereof "that a service acquisition executive"; and

(B) in paragraph (2)—

(i) in the matter above clause (A)—

(I) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears; and

(II) by striking out "(other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year)" and inserting in lieu thereof "(other than the last quarterly unit cost report under subsection (b) for the preceding fiscal year)"; and

(ii) by striking out "Secretary concerned" each place it appears in clauses (A), (B), and (C) and in the matter following clause (C) and inserting in lieu thereof "such service acquisition executive".

(4) Subsection (d) of section 2433 of such title is amended—

(A) in paragraph (1)—

(i) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears; and

(ii) by striking out "Secretary shall determine" and inserting in lieu thereof "service acquisition executive shall determine";

(B) in paragraph (2)—

(i) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears; and

(ii) by striking out "Secretary concerned shall, in addition to the determination under paragraph (1), determine" and inserting in lieu thereof "service acquisition executive, in addition to the determination under paragraph (1), determine"; and

(C) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) If, based upon the service acquisition executive's determination, the Secretary concerned determines (for the first time since the beginning of the current fiscal year) that the current program acquisition unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (1) or that the current procurement unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (2), the Secretary shall notify Congress in writing of such determination and of the increase with respect to such program within 30 days after the date on which the service acquisition executive reports his determination of such increase in such unit cost to the Secretary and shall include in such notification the date on which the determination was made.".

(5) Subsection (e) of section 2433 of such title is amended—

(A) by striking out "(e)(1)" and all that follows through the end of paragraph (2) and inserting in lieu thereof the following:

"(e)(1)(A) Except as provided in subparagraph (B), whenever the Secretary concerned determines under subsection (d) that the current program acquisition cost of a major defense acquisition program has increased by more than 15 percent, a Selected Acquisition Report shall be submitted to Congress for the first fiscal-year quarter ending on or after the date of the determination and such report shall include the information described in section 2432(e) of this title. The report shall be submitted within 45 days after the end of that quarter.

"(B) Whenever the Secretary makes a determination referred to in subparagraph (A) in the case of a major defense acquisition program during the second quarter of a fiscal year and before the date on which the President transmits the budget for the following fiscal year to Congress pursuant to section 1105 of title 31, the Secretary is not required to file a Selected Acquisition Report under subparagraph (A) but shall include the information described in subsection (g) regarding that program in the comprehensive annual Selected Acquisition Report submitted in that quarter.

"(2) If the percentage increase in the current program acquisition cost of a major defense acquisition program (as determined by the Secretary under subsection (d)) exceeds 25 percent, the Secretary of Defense shall submit to Congress, before the end of a 30-day period beginning on the day the Selected Acquisition Report containing the information described in subsection (g) is required to be submitted under section 2432(f) of this title—

"(A) a written certification, stating that—

"(i) such acquisition program is essential to the national security;

"(ii) there are no alternatives to such acquisition program which will provide equal or greater military capability at less cost;

"(iii) the new estimates of the program acquisition unit cost or procurement unit cost are reasonable; and

"(iv) the management structure for the acquisition program is adequate to manage and control program acquisition unit cost or procurement unit cost; and

"(B) if a report under paragraph (1) has been previously submitted to Congress with respect to such program for the current fiscal year but was based upon a different unit cost report from the program manager to the service acquisition executive designated by the Secretary concerned, a further report containing the information described in subsection (g), determined from the time of the previous report to the time of the current report."; and

(B) in paragraph (3)—

(i) by striking out "(3)" and inserting in lieu thereof the following: "(3) If a determination of a more than 15 percent increase (as determined by subsection (d)) is made by the Secretary and a Selected Acquisition Report containing the information described in subsection (g) is not submitted to Congress under paragraph (1), or if, in the case of a determination of a more than 25 percent increase (as determined under section (d)), the certification of the Secretary of Defense is not submitted to Congress under paragraph (2), funds appropriated for military construction, for research, development, test, and evaluation, and for procurement may not be obligated for a major contract under the program.";

(ii) by striking out "in subsection (d)(3)(B)";

(iii) in clause (A)—

(I) by striking out in "report of the Secretary concerned" and inserting in lieu thereof "Selected Acquisition Report"; and

(II) by striking out "(2)(B)(ii)" and inserting in lieu thereof "(2)(B)"; and

(iv) in clause (B)—

(I) by striking out in "report of the Secretary concerned" and inserting in lieu thereof "Selected Acquisition Report";

(II) by striking out "(2)(B)(ii)" and inserting in lieu thereof "(2)(B)"; and

(III) by striking out "(B)(i)" and inserting in lieu thereof "(A)"; and

(6) Subsection (g)(2) of section 2433 of such title is amended by adding at the end the following new sentence: "The certification of the Secretary of Defense under subsection (e) is not required to be submitted for termination or canceled programs.".

(b) ENHANCED PROGRAM STABILITY.—Section 2435 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "development" in paragraph (2)(B)(iv) and inserting in lieu thereof "production"; and

(2) in subsection (b)—

(A) by striking out "senior procurement executives (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))" in paragraph (1) and inserting in lieu thereof "service acquisition executive"; and

(B) by striking out "90 days" in paragraph (2) and inserting in lieu thereof "180 days".

(c) SELECTED ACQUISITION REPORTS.—Section 2432(b)(2)(A) of title 10, United States Code, is amended by striking out "5 percent change in total program cost" and inserting in lieu thereof "15 percent increase in program acquisition unit cost and current procurement unit cost".

SEC. 826. DELEGATION OF APPROVAL AUTHORITY FOR CERTAIN CONTRACT ACTIONS

Section 2304(f) of title 10, United States Code, is amended—

(1) in paragraph (1)(B)(ii), by striking out "or" after the semicolon;

(2) by redesignating clause (iii) of paragraph (1)(B) as clause (iv);

(3) by inserting after clause (ii) the following new clause (iii):

"(iii) in the case of a contract for an amount exceeding $10,000,000 (but equal to or less than $50,000,000), by the senior procurement executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(3)) or the senior procurement executive's delegate designated pursuant to paragraph (6)(C); or"

(4) in clause (iv), as redesignated by clause (2) of this section, by striking out "$10,000,000" and inserting in lieu thereof "$50,000,000"; and

(5) in paragraph (6)—

(A) by striking out "paragraph (1)(B)(iii)" and inserting in lieu thereof "paragraph (1)(B)(iv)"; and

(B) by adding at the end the following new subparagraph:

"(C) The authority of the senior procurement executive under paragraph (1)(B)(iii) may be delegated to the head of a procuring activity who—

"(i) if a member of the armed forces, is a general or flag officer; or

"(ii) if a civilian, is serving in a position in grade GS-16 or above (or in a comparable or higher position under any other schedule for civilian officers or employees).".

SEC. 827. OPERATIONAL TEST AND EVALUATION AMENDMENTS

(a) INITIAL LOW-RATE PRODUCTION DEFINED.—Section 2366(e) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(9)(A) The term 'low-rate initial production' means production of items at the lowest feasible rate that—

"(i) is necessary for the establishment and maintenance of a single production line for the production of the items;

"(ii) is necessary for production of the minimum quantity of items necessary for initial operational test and evaluation of the items; and

"(iii) will permit an orderly and timely increase in the production rate sufficient to lead to full rate production upon the successful completion of operational testing.

"(B) With respect to naval vessels, such term means production of items at the lowest feasible rate, as determined pursuant to regulations prescribed by the Secretary of Defense.".

(b) OPERATIONAL TEST AND EVALUATION DEFINED.—Paragraph (7) of section 2366(e) of such title is amended to read as follows:

"(7) The term 'operational test and evaluation' has the meaning given that term in section 138(a)(2)(A) of this title. Such term does not mean an operational assessment based exclusively on—

"(A) computer modeling;

"(B) simulation; or

"(C) an analysis of system requirements, engineering proposals, design specifications, or any other information contained in program documents.".

(c) IMPARTIAL PERFORMANCE OF ASSISTANCE.—Section 138 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) The Director shall ensure that a contractor does not assist in the test and evaluation of a weapons system if the contractor participated in, or is participating in, the development, production, or testing of such weapons system for any military department or Defense Agency or any other contractor of the Department of the Defense unless the Director determines that sufficient steps have been taken to ensure the impartiality of the contractor in providing the assistance.".

SEC. 828. MASTER AGREEMENTS FOR ADVISORY OR ASSISTANCE SERVICES

(a) REQUIREMENT FOR TEST PROGRAM.—The Secretary of Defense shall conduct a test program under which the Secretaries of the military departments and the heads of Defense Agencies may enter into master agreements for the procurement of advisory services and assistance services.

(b) SCOPE OF THE TEST PROGRAM.—(1) The Secretary shall, in the regulations prescribed pursuant to subsection (h)—

(A) specify the types of advisory services and assistance services covered by the test program;

(B) establish criteria for determining when the use of a master agreement under the test program is appropriate for a procurement of advisory services or assistance services; and

(C) ensure that advisory services and assistance services are not procured under the test program—

(i) for the performance of an organic governmental function; or

(ii) in a manner or to an extent that is inconsistent with Office of Management and Budget Circular A-120 or any applicable Department of Defense regulations.

(2) Not more than one contracting activity within a military department or Defense Agency may participate in the test program.

(3) The total value of task orders awarded under master agreements by a participating contracting activity in a fiscal year may not exceed the amount equal to 30 percent of the value of all contracts for advisory and assistance services awarded by that contracting activity during fiscal year 1989.

(c) AWARD OF MASTER AGREEMENTS.—(1) Except as provided in section 2304(b)(2) of title 10, United States Code, competitive procedures shall be used for the award of each master agreement under the test program.

(2)(A) Each master agreement shall be awarded to at least three of the contractors that submit offers for the award of such master agreement.

(B) Notwithstanding any other provision of law, a master agreement may not be awarded unless there are at least three qualified offerors for the solicitation.

(d) CONTENT OF SOLICITATION FOR MASTER AGREEMENT.—A solicitation for a master agreement shall specify the following:

(1) The type of services to be ordered under the master agreement.

(2) The range of subjects to be covered by the agreement.

(3) The basic skills and levels of experience required to perform services under the agreement.

(4) The factors to be considered in evaluating the offers for the master agreement.

(5) The relative importance assigned to each evaluation factor.

(e) CONTENT OF MASTER AGREEMENT.—Each master agreement shall contain, at a minimum, the following:

(1) A description of the services to be provided under orders issued pursuant to the master agreement.

(2) The terms and conditions for furnishing services ordered under the master agreement.

(3) The method for determining the price of the services ordered under the master agreement.

(4) The period covered by the master agreement, which may not exceed two years or the period remaining between the date on which the master agreement is awarded and the date on which the test program terminates under subsection (i), whichever is less.

(5) In the case of a master agreement for a period exceeding one fiscal year, a statement that the placement of orders under the master agreement in any fiscal year beginning after the beginning of the period covered by the agreement shall be subject to the availability of appropriations for such fiscal year.

(f) ORDERS FOR SPECIFIC ADVISORY OR ASSISTANCE SERVICES.—(1) The Secretary of Defense shall prescribe by regulation the criteria for determining, in the case of a procurement of specific advisory services or specific assistance services, whether it is more appropriate to procure such services under a master agreement awarded pursuant to this section than to procure such services by other means.

(2) An order for advisory services or assistance services under the test program may not be issued unless all contractors whose master agreements cover the type of services being ordered are given the opportunity to compete for the order. The order shall be issued to the master agreement contractor that submits the offer determined to be the best value for the Government, price and other factors considered.

(3) A contracting activity participating in the test program may not issue a solicitation for any advisory and assistance services unless—

(A) the solicitation contains a statement of work clearly specifying all tasks to be performed under the contract; or

(B) the solicitation is for a master agreement pursuant to this section.

(g) PUBLICATION OF NOTICE.—(1) The procurement notice requirements in section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall apply to solicitations for offers for each master agreement under the test program (without regard to the total expected price of the services expected to be procured under such master agreement) in the same manner and to the same extent as such requirements apply to solicitations for proposals for a contract for services for a price expected to exceed $25,000.

(2) The notice requirements referred to in paragraph (1) shall not apply to the issuance of orders under master agreements awarded pursuant to this section.

(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(i) TERMINATION OF THE TEST PROGRAM.—The test program shall terminate three years after the effective date of the final regulations prescribed to carry out this section.

(j) LIMITATION ON COMMENCEMENT OF THE TEST PROGRAM.—No master agreement may be awarded pursuant to this section before the issuance of the Department of Defense regulations implementing section 8141 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-463; 41 U.S.C. 405b).

(k) DEFINITIONS.—In this section, the term "competitive procedures" shall have the same meaning as is provided in section 2302(2) of title 10, United States Code.

SEC. 829. AVAILABILITY OF FUNDS FOR OBLIGATION FOLLOWING THE RESOLUTION OF A PROTEST

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

§ 2410c. Availability of funds following resolution of a protest

"Notwithstanding section 1552 of title 31, United States Code, or any other provision of law, funds available to the Department of Defense for obligation for a contract at the time a protest is filed in connection with a solicitation for, proposed award of, or award of such contract under subchapter V of chapter 35 of title 31, United States Code, or under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)), shall remain available for obligation for 90 working days after the date on which the final ruling is made on the protest, including days on which the protest is being reconsidered or on appeal.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410c. Availability of funds following resolution of a bid protest.".

SEC. 830. SIMPLIFIED EXECUTION OF DEFENSE TRADE AGREEMENTS

Paragraph (2) of section 2304(f) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of clause (C);

(2) by striking out the period at the end of clause (D), and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new clause:

"(E) in the case of a procurement permitted by subsection (c)(4), but only if the head of the contracting activity prepares a document in connection with such procurement that describes the terms of an agreement or treaty, or the written directions, referred to in that subsection that have the effect of requiring the use of procedures other than competitive procedures.".

SEC. 831. TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS

(a) TEST PROGRAM.—(1) The Secretary of Defense shall establish a test program under which one contracting activity in each military department and Defense Agency is authorized to undertake one or more demonstration projects to determine whether the negotiation and administration of comprehensive small business subcontracting plans will result in simplified administration of the small business subcontracting opportunities provided for small business concerns under Department of Defense contracts.

(2) In developing the test program, the Secretary of Defense shall—

(A) consult with the Administrator of the Small Business Administration; and

(B) provide an opportunity for public comment on the test program.

(b) COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLAN.—(1) In a demonstration project under the test program, the Secretary of a military department or head of a Defense Agency shall negotiate a comprehensive subcontracting plan with a Department of Defense contractor described in paragraph (3).

(2) The comprehensive subcontracting plan—

(A) shall provide for small business concerns to participate as subcontractors in the contracts awarded by the Secretary or agency head to the contractor (or any division or operating element of the contractor) to which the subcontracting plan applies; and

(B) shall apply to the entire business organization of the contractor or to one or more of the contractor's divisions or operating elements, as specified in the subcontracting plan.

(3) A Department of Defense contractor referred to in paragraph (1) is, with respect to a comprehensive subcontracting plan, a business concern that—

(A) during the fiscal year ending on September 30, 1988—

(i) pursuant to at least five Department of Defense contracts, furnished supplies or services (including professional services) to the Department of Defense, engaged in research and development for the Department, or performed construction for the Department; and

(ii) was paid $25,000,000 or more for such contract activities; and

(B) during the fiscal year in which the comprehensive subcontracting plan is negotiated, is voluntarily participating in an annual company-wide plan under the authority of Office of Federal Procurement Policy Letter 80-2 or any policy on the same subject issued by Office of Federal Procurement Policy after the date of such policy letter that supersedes the policy set out in that letter.

(c) WAIVER OF CERTAIN SMALL BUSINESS ACT SUBCONTRACTING PLAN REQUIREMENTS.—A Department of Defense contractor is not required to negotiate or submit a subcontracting plan under paragraph (4) or (5) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)) with respect to a Department of Defense contract if—

(1) the contractor has negotiated a comprehensive subcontracting plan under the test program that includes the matters specified in section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6));

(2) such matters have been determined acceptable by the Secretary of the military department or head of a Defense Agency negotiating such comprehensive subcontracting plan; and

(3) the comprehensive subcontracting plan applies to the contract.

(d) TEST PROGRAM PERIOD.—The test program authorized by subsection (a) shall terminate on September 30, 1993.

(e) REPORT.—(1) Not later than March 1, 1994, the Secretary of Defense shall submit a report on the results of the test program to the Committees on Armed Services and on Small Business of the Senate and the House of Representatives.

(2) Before submitting such report to the committees referred to in paragraph (1), the Secretary shall transmit the proposed report to the Administrator of the Small Business Administration. The report submitted to the committees shall include any comments and recommendations relating to the report that are transmitted to the Secretary by the Administrator before the date specified in such paragraph.

(h) DEFINITIONS.—As used in this section:

(1) The term "small business concern" shall have the same meaning as is provided in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)), and includes a small business concern owned and controlled by socially and economically disadvantaged individuals.

(2) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall have the same meaning as is provided in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)).

SEC. 832. SMALL BUSINESS CERTIFICATE OF COMPETENCY

Section 8(b)(7)(C) of the Small Business Act (15 U.S.C. 637(b)(7)(C)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Except in the case of a small business concern that requests a contracting officer to refer a determination of the small business concern's responsibility to the Administration, a contracting officer shall not be required to refer a determination of responsibility to the Administration if the proposed contract is a small purchase for purposes of section 2304(g)(2) of title 10, United States Code, for an agency listed in section 2303 of such title, or the proposed contract is a small purchase for purposes of section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) for an executive agency other than agency listed in section 2303 of title 10, United States Code. In the case of each such contract, the solicitation shall include a notice that a small business concern may request the contracting officer to refer such a determination to the Administration. Nothing in this paragraph shall require the Administration to process an application for certification if the small business concern to which a referral pertains does not make such a request.".

SEC. 833. SMALL AND DISADVANTAGED BUSINESS PROGRAM

Section 1207(e) of the Department of Defense Authorization Act, 1987 (100 Stat. 3974), is amended by adding at the end of paragraph (3) the following sentence: "The Secretary shall tailor to industry categories the payment of prices exceeding fair market cost to ensure that small-size and medium-size nondisadvantaged businesses are not denied a reasonable opportunity to compete and that the payment of price differentials are not used when there is adequate participation by small and disadvantaged businesses within an industry category.".

SEC. 834. DEFENSE QUALITY IMPROVEMENT PROGRAM

(a) IN GENERAL.—The Secretary of Defense shall take such action as may be necessary to ensure that the Department of Defense quality assurance program is managed in a manner that will result in the production of the highest quality weapon systems, both at the initial acquisition stage and during repair and maintenance of fielded weapons systems.

(b) STRUCTURE OF PROGRAM.—In order to ensure that the quality assurance program of the Department of Defense is effectively structured, the Secretary shall—

(1) assess the status of the Department's program, including the methodology and criteria used for measuring progress and for determining areas for possible improvement;

(2) evaluate the quality training program of the Department of Defense;

(3) evaluate the quality assurance programs of major defense contractors; and

(4) evaluate the means used to motivate defense contractors to improve their quality assurance program and develop innovative techniques to enhance that motivation.

SEC. 835. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 301 for Defense Agencies for fiscal years 1990 and 1991 for operation and maintenance, $9,000,000 shall be available for each of such fiscal years for the purpose of carrying out cooperative agreements under chapter 142 of title 10, United States Code.

(b) SET-ASIDE.—Of the amounts provided for in subsection (a), $600,000 shall be available for each of the fiscal years 1990 and 1991 for the purpose of carrying out programs sponsored by eligible entities named in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas (as defined in subparagraph (B) of section 2411(2) of such title). If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow for effective use of the funds authorized under this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

(c) ASSISTANCE FURNISHED TO CERTAIN INDIAN ORGANIZATIONS.—Section 2414 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out clauses (1) and (2) and inserting in lieu thereof the following:

"(1) in the case of a program operating on a Statewide basis, other than a program referred to in clause (3) or (4), $300,000;

"(2) in the case of a program operating on less than a Statewide basis, other than a program referred to in clause (3) or (4), $150,000;

"(3) in the case of a program operated wholly within one service area of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(1)(D) of this title, $150,000; or

"(4) in the case of a program operated wholly within more than one service area of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(1)(D) of this title, $300,000."; and

(2) in subsection (b), by inserting "or is operated wholly within one or more service areas of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(a)(1)(D) of this title" after "or on less than a Statewide basis".

SEC. 836. REQUIREMENT FOR CERTIFICATE OF INDEPENDENT PRICE DETERMINATION IN CERTAIN DEPARTMENT OF DEFENSE CONTRACT SOLICITATIONS

The Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to provide that—

(1) the exception provided in Federal Acquisition Regulation 3.103-1 for work performed by foreign suppliers outside the United States, its possessions, and Puerto Rico shall not apply in the case of any firm-fixed-price contract awarded by the Department of Defense and any fixed-price contract with economic price adjustment awarded by the Department of Defense; and

(2) the provision set out in Federal Acquisition Regulation 52.203-2 (relating to a certificate of independent price determination) shall be inserted in the contract solicitation for each such contract unless another exception provided in Federal Acquisition Regulation 3.103-1 applies in the case of such contract.

SEC. 837. PARTICIPATION OF FEDERAL PRISON INDUSTRIES IN DEFENSE PROCUREMENT

(a) PROCUREMENT PROCEDURES.—The Secretary of Defense and the Secretary of a military department may obtain products from Federal Prison Industries only in accordance with the provisions of chapter 137 of title 10, United States Code, except as provided in subsections (b), (c), and (d) of this section.

(b) INAPPLICABILITY OF OTHER LAW.—The provision of section 2304(c)(5) of title 10, United States Code, shall not apply to the procurement of products from Federal Prison Industries.

(c) OFFERS SUBMITTED BY FEDERAL PRISON INDUSTRIES.—An offer submitted to the Department of Defense by Federal Prison Industries shall be treated in the same manner as an offer submitted by an offeror that is not a small business concern.

(d) CURRENT MARKET PRICE REQUIRED.—The Secretary of Defense and the Secretary of a military department shall not obtain any product from Federal Prison Industries for a price that exceeds the current market price of such product.

(e) DEFINITIONS.—As used in this section:

(1) The term "current market price" means, with respect to any product, the fair market price of that product, within the meaning of section 15(a) of the Small Business Act (15 U.S.C. 644(a)), at the time that the contract is awarded.

(2) The term "small business concern" means a business concern that meets the applicable size standards prescribed pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)), and includes a small business concern owned and controlled by socially and economically disadvantaged individuals, as defined in section 8(d)(3)(C) of such Act (15 U.S.C. 637(d)(3)(C)).

SEC. 838. CREDIT FOR INDIAN CONTRACTING IN MEETING CERTAIN MINORITY SUBCONTRACTING GOALS

(a) REGULATIONS.—Pursuant to regulations which the Secretary of Defense shall prescribe and subject to subsections (b) and (c), in any case in which a subcontracting goal is specified for a Department of Defense contractor in the implementation of section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) and section 8(d) of the Small Business Act (15 U.S.C. 637(d)), credit toward meeting that subcontracting goal shall be given for each Department of Defense contract awarded to that contractor, and each subcontract awarded by that contractor in connection with a Department of Defense contract, that—

(1) is to be performed on any Indian lands and meets the requirements of paragraph (1) of subsection (b); or

(2) is undertaken as a joint venture that meets the requirements of paragraph (2) of that subsection.

(b) ELIGIBLE CONTRACTS, SUBCONTRACTS, AND JOINT VENTURES.—(1) A contract or subcontract to be performed on Indian lands meets the requirements of this paragraph if—

(A) not less than 40 percent of the workers directly engaged in the performance of the contract or subcontract on the Indian lands are Indians; and

(B) the contractor or subcontractor has a management plan which—

(i) provides for Indians to manage the workforce employed in the performance of such contract or subcontract and, in the case of a contract or subcontract for the construction of facilities, provides for Indians to have an ownership interest in any facilities constructed pursuant to the contract or subcontract; and

(ii) is approved by the tribal government having jurisdiction over such Indian lands.

(2) A joint venture undertaking to perform a contract or subcontract meets the requirements of this paragraph if—

(A) an Indian tribe or tribally-owned corporation owns at least 50 percent of the joint venture;

(B) the activities of the joint venture under the contract or subcontract provide employment opportunities for Indians either directly or through the purchase of products or services for the performance of such contract or subcontract; and

(C) the Indian tribe or tribally-owned corporation manages the performance of such contract or subcontract.

(c) EXTENT OF CREDIT.—(1) The amount of the credit given for a contract or subcontract toward the attainment of any minority subcontracting goal under subsection (a) shall be the percentage of the value of the contract or subcontract designated by the prime contractor to whom the goal applies.

(2) The maximum percentage that may be designated by a contractor—

(A) in the case of a contract or subcontract to be performed on Indian lands, is the percentage equal to one-half of the ratio that the number of Indians performing work under the contract or subcontract on the Indian lands bears to the total number of workers performing such work; and

(B) in the case of a contract or subcontract undertaken by a joint venture referred to in subsection (a)(2), is the percentage of the tribe's or tribally-owned corporation's ownership interest in the joint venture.

(3) A contractor may apply the credit given under this subsection for performance of any contract or subcontract toward a subcontracting goal specified for any other Department of Defense contract or any other subcontract under a Department of Defense contract. A contractor may not, however, receive credit for any contract or subcontract that exceeds 100 percent of the value of the contract or subcontract.

(d) DEFINITIONS.—In this section:

(1) The term "Indian lands" has the same meaning as is provided in section 4(4) of the Indian Gaming Regulatory Act (102 Stat. 2468; 25 U.S.C. 2703(4)).

(2) The term "Indian" means an Indian, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)).

(3) The term "Indian tribe" has the meaning given to such term by section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(4) The term "tribally-owned corporation" means a corporation owned entirely by an Indian tribe.

SEC. 839. UTILIZATION OF SMALL BUSINESS ACT AUTHORITY TO ASSIST CERTAIN DISADVANTAGED SMALL BUSINESS CONCERNS

The Secretary of Defense shall direct the Secretary of each military department to identify, in each of fiscal years 1990 and 1991, not less than 10 construction projects (including repair and alteration of existing facilities) that are suitable for participants in the Minority Small Business and Capital Ownership Development Program of the Small Business Administration and to make use of the authority provided in section 7(j)(13)(D) of the Small Business Act (15 U.S.C. 636(j)(13)(D)) in the award of contracts in connection with each such project.

SEC. 840. PROCUREMENT FROM COUNTRIES THAT DENY ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

It is the sense of Congress that it should be a very important consideration in the procurement of property, services, or technology by the Department of Defense whether such procurement is from—

(1) any person of any country which has been identified pursuant to section 182(a)(2) of the Trade Act of 1974 (19 U.S.C. 2242) as denying adequate and effective protection of intellectual property rights or fair and equitable market access to United States persons that rely upon intellectual property protection; or

(2) any person of any other country that denies adequate and effective protection of intellectual property rights, as determined by the Secretary of Defense on the advice of the United States Trade Representative; or

(3) any person who has a demonstrated pattern of misappropriating United States intellectual property.

PART C—ACQUISITION WORKFORCE

SEC. 841. ALTERNATIVE PERSONNEL MANAGEMENT DEMONSTRATION PROGRAMS

(a) DEFINITIONS.—For purposes of this title—

(1) the term "agency" means an Executive agency (as defined in section 105 of title 5, United States Code), except that such term does not include—

(A) the National Security Agency;

(B) the Central Intelligence Agency;

(C) the Defense Intelligence Agency;

(D) the Federal Bureau of Investigation; or

(E) the General Accounting Office;

(2) the term "employee" means an employee (as defined in section 2105 of title 5, United States Code) whose rate of basic pay would, but for this title, be determined under—

(A) subchapter III or section 5371 of chapter 53 of title 5, United States Code, relating to the General Schedule; or

(B) chapter 54 of title 5, United States Code, relating to the performance management and recognition system; and

(3) the terms "collective bargaining", "collective bargaining agreement", "exclusive representative", "management official", and "supervisor" each has the meaning given such term under section 7103(a) of title 5, United States Code.

(b) DEMONSTRATION PROGRAMS OF ALTERNATIVE COMPENSATION SYSTEMS.—(1) Within 2 years after the date of the enactment of this section, the demonstration programs using alternative compensation systems as provided under this section, shall be implemented by the Office of Personnel Management and—

(A) the head of the relevant agency for any program described under paragraph (2)(A)(i);

(B) the Secretary of Defense for the programs described under paragraph (2)(A)(ii); and

(C) the Administrator of the National Aeronautics and Space Administration for the program described under paragraph (2)(A)(iii).

(2)(A) There shall be implemented under the provisions of this subsection, no less than 6 and no more than 10 demonstration programs using alternative compensation systems, of which—

(i) between 1 and 5 such programs shall be designed and implemented by the head of an agency, after consultation and approval by the Office of Personnel Management;

(ii) 4 such programs shall be developed and implemented within the Department of Defense by the Secretary of Defense, after consultation and approval by the Office of Personnel Management; and

(iii) 1 such program shall be developed and implemented within the National Aeronautics and Space Administration by the Administrator of such Administration, after consultation and approval by the Office of Personnel Management.

(B) Each such program under this subsection shall—

(i) cover a sufficient number of positions within an agency to provide an adequate basis on which to evaluate the desirability of implementing such program on a broader scale within the Government, except that not less than the equivalent of 5,000 full-time positions and no more than the equivalent of 25,000 full-time positions shall be covered in any such program at any time;

(ii) include in the development of such program, prior to implementation, a detailed information gathering plan—

(I) to provide for the evaluation of such program to be developed by the Office of Personnel Management and the head of the relevant agency;

(II) which shall include the total number of employees to participate in such program;

(III) which shall be—

(aa) submitted to the General Accounting Office, at least 60 days prior to program implementation; and

(bb) reviewed by the General Accounting Office which shall report the results of the review to the Senate Committee on Governmental Affairs, the House Committee on Post Office and Civil Service, and the head of the relevant agency; and

(IV) which shall be periodically reviewed with regard to the adherence of such agency to such plan by the General Accounting Office which shall submit reports of such reviews to the relevant congressional committees; and

(iii) within 2 years after the date of implementation under paragraph (1), have the full number of employees participating in such program as provided for in clause (ii)(II).

(C)(i) notwithstanding the provisions of subparagraph (B), no more than 2 programs described under subparagraph (A)(ii) may cover no more than the equivalent of 35,000 full-time positions each.

(ii) Notwithstanding the provisions of clause (i), the total number or equivalent full-time positions combined for the 4 programs described under subparagraph (A)(ii) may cover no more than 100,000 such positions.

(3) Each program under this subsection shall provide that—

(A) the rate of basic pay for an employee participating in any program under this title—

(i) shall be at least equal to the rate of basic pay payable to such employee for the pay period immediately preceding the date of the implementation of such program; and

(ii) may not exceed the rate of basic pay payable for level V of the Executive Schedule; and

(B) the total cost to the Government in carrying out such programs shall not exceed what the total cost to the Government would have been, during the same period, if this Act had not been enacted.

(4)(A) Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code, shall not be included within any program under this section if the program—

(i) would violate a collective bargaining agreement between the agency and the labor organization, unless there is another written agreement with respect to the program between the agency and the organization permitting the inclusion; or

(ii) is not covered by such a collective bargaining agreement, until there has been consultation or negotiation, as appropriate, by the agency with the labor organization.

(B) Employees within any unit with respect to which a labor organization has not been accorded exclusive recognition under chapter 71 of title 5, United States Code, shall not be included within any program under this section, unless there has been agency consultation regarding the program with the employees in the unit.

(5) The Office of Personnel Management, the Secretary of Defense, and the Administrator of the National Aeronautics and Space Administration shall, with respect to each applicable program implemented under paragraph (1)—

(A) publish the plan developed under paragraph (2)(B)(ii) for such program in the Federal Register prior to implementation of such program;

(B) provide notification of the implementation of such program to affected employees and the Congress within 90 days before the date of such implementation; and

(C) provide an annual report to the Congress on such program.

(6)(A) Subject to subparagraph (B), any demonstration program implementing an alternative compensation system under this subsection shall terminate at the earlier date of—

(i) 5 years after the date on which the full number of employees are participating in such program as provided for under paragraph (2)(B)(iii); or

(ii) 7 years after the date of the implementation of such program under paragraph (1).

(B)(i) A program under this subsection may be terminated in accordance with the provisions of clause (ii), if the Office of Personnel Management, in consultation with the head of the relevant agency, determines that such program creates a substantial hardship on, or is not in the best interests of, the public, the Federal Government, or employees.

(ii) If a determination is made under the provisions of clause (i), a program may be terminated by the Office of Personnel Management, after consultation with—

(I) the head of the relevant agency, with regard to a program described under paragraph (2)(A)(i);

(II) the Secretary of Defense, with regard to a program described under paragraph (2)(A)(ii); or

(III) the Administrator of the National Aeronautics and Space Administration, with regard to the program described under paragraph (2)(A)(iii).

(C) If a program is terminated under the provisions of subparagraph (B), the head of the relevant agency shall notify all affected employees of such termination no later than 90 days before the date of such termination.

(c) ALTERNATIVE COMPENSATION SYSTEMS.—(1) Before developing and implementing a demonstration program under subsection (b), the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, and each head of a relevant agency shall consider an alternative compensation system—

(A) under which annual pay adjustments under section 5305 of title 5, United States Code, provide that the total pay and benefits for Government service shall be comparable to the total pay and benefits for individuals at the same levels of work outside the Government;

(B) under which annual pay adjustments under section 5305 of title 5, United States Code, provide that rates of basic pay payable to employees are consistent with rates of basic pay generally payable for the same levels of work outside the Government within the same geographic region;

(C) under which conditions of employment for employees shall be subject to collective bargaining; or

(D) established by the head of the agency involved, which—

(i) may identify separate career categories for employees in positions which are subject to the system;

(ii) shall provide for the rate of basic pay of an employee to be set and adjusted within salary structures based on such factors as the experience and achievements of the employee, position in a pay range, job responsibilities, rates of pay for similar positions outside the government, and (consistent with section 5334 of title 5, United States Code) changes in positions or types of appointments;

(iii) shall provide pay differentials for service as a supervisor or management official (which shall be considered a part of basic pay for purposes of subchapter III of chapter 83, and chapter 84, of title 5, United States Code);

(iv) may authorize special awards (which shall not be considered a part of basic pay for any purpose); and

(v) shall authorize performance recognition in the form of—

(I) a lump-sum payment (which shall not be considered a part of basic pay for any purpose);

(II) an increase in the rate of basic pay of an employee within a pay range or to a higher pay range; or

(III) nonmonetary recognition.

(2)(A) If the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, or any head of an agency implements a program using a system described in paragraph (1)(C), such program shall provide that—

(i) any pay schedules or rates shall be established to provide that an appropriate differential (which shall be considered part of basic pay) is provided for service as a supervisor or management official; and

(ii) only a unit or subdivision of a unit for which an exclusive representative is certified may participate.

(B) For purposes of a program using a system described in paragraph (1)(C), the term "conditions of employment" means—

(i) personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, included under section 4103(a)(14) of title 5, United States Code; and

(ii) personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, relating to classification of positions, leave, pay, or other compensation or benefits;

except that such term does not include policies, practices, and matters relating to life insurance, health insurance, and retirement.

(d) RULE OF STATUTORY CONSTRUCTION.—(1) Except as provided in paragraph (2), in the administration of an alternative compensation system under this section, the provisions of this section shall apply notwithstanding any inconsistent provision of title 5, United States Code.

(2) In the administration of an alternative compensation system under this section, no provision of this section may be construed to waive any inconsistent provision of—

(A) chapters 83 and 84 of title 5, United States Code, relating to retirement;

(B) chapter 87 of title 5, United States Code, relating to life insurance; or

(C) chapter 89 of title 5, United States Code, relating to health insurance.

SEC. 842. PROCUREMENT MANAGEMENT PERSONNEL

Paragraph (2) of section 1621 of title 10, United States Code, is amended to read as follows:

"(2) The term 'procurement command' means any of the following:

"(A) The staffs of the service acquisition executives, program executive officers, and program managers of the military departments.

"(B) The Army Materiel Command.

"(C) The Army Information Systems Command.

"(D) The Army Strategic Defense Command.

"(E) The Navy Weapons Systems Commands.

"(F) The Navy Strategic Systems Program Office.

"(G) The Marine Corps Research, Development and Acquisition Command.

"(H) The Air Force Systems Command.

"(I) The Air Force Logistics Command.

"(J) Any successor organization to any staff, office, or command named in subparagraphs (A) through (I).".

SEC. 843. COMPENSATION FOR CRITICAL PERSONNEL

(a) AUTHORITY TO PRESCRIBE RATES OF PAY FOR CERTAIN CRITICAL POSITIONS.—(1) Notwithstanding section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.), sections 5308, 5382, and 5383(b) of title 5, United States Code, or any other provision of law, the Secretary of Defense may prescribe the rate of pay for a position designated as a critical position by the Secretary of Defense.

(2) Except as provided in paragraph (3), the rate of pay prescribed under paragraph (1) for a critical position shall be the same as the rate or pay provided for a comparable position in a federally funded Research and Development Center.

(3)(A) The rate of pay prescribed under paragraph (1) may not exceed the amount equal to 150 percent of the rate of pay that, except for this section, would otherwise apply to that position, except as provided in subparagraph (B).

(B) If the Secretary determines that the rate of pay described in paragraph (2) is in excess of the amount authorized under subparagraph (A) and that there is an extraordinary need to pay a person in a critical position an amount higher than authorized in such subparagraph, the Secretary may authorize such higher pay in an amount not to exceed the amount equal to 150 percent of the rate of pay applicable for executive level II under the Executive Schedule pursuant to section 5313 of title 5, United States Code.

(b) DEFINITION.—For purposes of this section, the term "critical position" means a scientific or engineering position that the Secretary determines to be critical to the Department of Defense acquisition process.

(c) LIMITATION ON POSITIONS.—The Secretary may designate not more than 500 positions as critical positions under this section.

SEC. 844. POST-EMPLOYMENT RESTRICTIONS

(a) CLARIFICATION.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended—

(1) in subsection (a)(1), by inserting ", except as provided in subsection (c)" before the semicolon;

(2) in subsection (b)(1), by inserting "except as provided in subsection (c)" before the semicolon; and

(3)(A) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively;

(B) by redesignating subsections (j) through (n) as subsections (l) through (o), respectively; and

(C) by inserting after subsection (b) the following new subsection (c):

"(c) RECUSAL.—(1) A competing contractor may contact a procurement official with whom discussions are otherwise prohibited under subsection (a)(1) for the limited purpose of determining whether such official, after obtaining the approval required by paragraph (2), would be interested in engaging in such discussions. If a competing contractor makes such a contact with a procurement official, the procurement official shall promptly notify the official's supervisor and the appropriate designated agency ethics official of the contact.

"(2) A procurement official may engage in discussions with a competing contractor that are otherwise prohibited by subsection (b)(1) if, before engaging in such discussions—

"(A) the procurement official proposes in writing to disqualify himself from the conduct of any procurement relating to contracts of the competing contractor for any period during which future employment or business opportunities for such procurement official with such competing contractor have not been rejected by either the procurement official or the competing contractor and, if determined to be necessary by the designated agency ethics official in accordance with criteria prescribed in implementing regulations, for a reasonable period thereafter; and

"(B) the supervisor of the procurement official, after consultation with the appropriate designated agency ethics official, approves in writing the recusal of the procurement official.";

(4) in subsection (f) (as redesignated by paragraph (3)(A))—

(A) by striking out "No Government official" and inserting in lieu thereof "(1) No Government official";

(B) by striking out "shall—" and inserting in lieu thereof "shall knowingly—";

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(D) by inserting at the end the following new paragraph:

"(2) This section does not apply to the following:

"(A) A subcontract of a subcontractor who is a competing contractor unless—

"(i) the subcontract is for an amount in excess of $5,000,000;

"(ii) the subcontract is for an amount that is at least 5 percent of the amount of the prime contract and is for an amount in excess of $100,000; or

"(iii) the procurement official personally reviewed and approved the award, modification, or extension of the subcontract;

"(B) To actions, as prescribed in implementing regulations, that (i) primarily involve general scientific, technical, or engineering work, budget or policy advice or decisions, advice on the feasibility of contracting out functions, or other similar actions, and (ii) do not involve the development, preparation, or issuance of a procurement solicitation, the preparation or evaluation of bids or proposals, selection of sources, conduct of negotiations, the award, modification, or extension of a contract, or performance of a contract.";

(5) by inserting after subsection (j) (as redesignated in subsection (3)(A)) the following new subsection:

"(k) ETHICS ADVICE.—(1) An employee or former employee of an agency may request advice from the appropriate designated agency ethics official as to whether such employee or former employee is precluded by this section from participating in the performance of a particular contract on behalf of a particular contractor or subcontractor.

"(2) An employee or former employee of an agency who requests advice from a designated agency ethics official pursuant to paragraph (1) shall provide the official with all information reasonably available to the employee or former employee that is relevant to a determination by the ethics official regarding such request.

"(3) Not later than 30 days after the date on which a designated agency ethics official receives a request for advice under paragraph (1) accompanied by the information required pursuant to paragraph (2), the official shall issue a written opinion as to whether the employee is precluded by this section from participating in the performance of the contract at issue.

"(4) An employee or former employee who obtains a written opinion from a designated agency ethics official under this section on the basis of the complete disclosure of information required by paragraph (2) shall not be subject to any penalty under this section to the extent that the employee or former employee reasonably relies upon such opinion.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 27 of such Act is further amended—

(1) in subsection (e) (as redesignated by subsection (a)(3))—

(A) by striking out "(c), or (e)" in paragraph (1)(A)(i) and inserting in lieu thereof "(d), or (f)";

(B) by striking out "(c), or (e)" in paragraph (1)(B)(ii) and inserting in lieu thereof "(d), or (f)";

(C) by striking out "(c), or (e)" in paragraph (2)(A) and inserting in lieu thereof "(d), or (f)";

(D) by striking out "(c), or (e)" in paragraph (3)(A) and inserting in lieu thereof "(d), or (f)"; and

(E) by striking out "subsection (m)" in paragraph (7)(B)(ii), and inserting in lieu thereof "subsection (n)";

(2) in subsection (g)(1) (as redesignated by subsection (a)(3)) by striking out "subsection (m)" and inserting in lieu thereof "subsection (n)";

(3) in subsection (h) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (d)" in paragraph (1) and inserting in lieu thereof "subsection (e)";

(B) by striking out "(b) or (c)" in paragraph (2) and inserting in lieu thereof "(b) or (d)"; and

(C) by striking out "(h) and (i)" in paragraph (3) and inserting in lieu thereof "(i) and (j)";

(4) in subsection (i) (as redesiganted by subsection (a)(3)), by striking out "(c), or (e)" and inserting in lieu thereof "(d), or (f)";

(5) in subsection (j)(1) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (n)" and inserting in lieu thereof "subsection (o)"; and

(B) by striking out "subsection (m)" and inserting in lieu thereof "subsection (n)"; and

(6) in subsection (l) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (b)" in paragraph (1) and inserting in lieu thereof "subsections (b), (c), and (e)"; and

(B) in paragraph (2)—

(i) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b), (c), and (e)"; and

(ii) by striking out "(c) or (e)" and inserting in lieu thereof "(d), or (f)".

(c) DEFINITION.—Subsection (o) (as redesignated by subsection (a)(3)) is amended by adding at the end the following new paragraph:

"(8) The term 'designated agency ethics official' has the same meaning as the term 'designated agency official' in section 209(10) of the Ethics in Government Act of 1978 (92 Stat. 1850; 5 U.S.C. App.).".

(d) AMENDMENT TO TITLE 10.—Paragraph (6) of section 2397a(a) of title 10, United States Code, is amended to read as follows:

"(6) The term 'procurement function' includes, with respect to a contract, any function relating to—

"(A) the administration of the contract;

"(B) the approval of changes in the contract;

"(C) quality assurance, operational and developmental testing, the approval of payment, or auditing under the contract; or

"(D) the managment of the procurement program.".

(e) DEADLINE FOR REGULATIONS.—Not later than 90 days after the date of the enactment of this section, final regulations implementing the amendments made by this section to the provisions of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) shall be issued in accordance with sections 6 and 25 of such Act (41 U.S.C. 405, 421).

SEC. 845. WAIVER OF COMPENSATION PENALTY IN CERTAIN CASES

(a) WAIVER AUTHORITY.—Chapter 81 of title 10, United States Code, is amended by inserting before section 1583 the following new section:

"§ 1581. Waiver of dual compensation provisions

"The Secretary of Defense may waive the applicability of section 5532 of title 5 (relating to dual compensation) in the case of not more than 1,000 employees of the Department of Defense who are in scientific, engineering, professional, or managerial positions designated as critical positions by the Secretary.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting before item relating to section 1583 the following new item:

"1581. Waiver of dual compensation provisions.".

SEC. 846. SCIENTIFIC AND TECHNICAL EDUCATION

(a) FINDINGS.—Congress makes the following findings:

(1) Superior technology is a critical part of the national defense strategy of the United States.

(2) The Department of Defense must employ scientifically and technologically skilled personnel in order to develop and maintain superior technology.

(3) A significant proportion of the military personnel and civilian employees in the Department of Defense are scientists, engineers, and technicians.

(4) Programs of the Department of Defense utilize a significant portion of the entire science and technology workforce of the United States.

(5) Numerous studies have projected a decline in the number of young entrants into the workforce and in the number of people pursuing degrees in science and technology, while at the same time projecting an increase in demand for personnel with scientific and technological training.

(6) Recruitment of both civilian and military personnel by the Department of Defense will become increasingly difficult as the number of potential, qualified entrants decreases.

(7) The Department of Defense could suffer a degradation of the critical capability to respond to technological change as the result of an inadequate supply of qualified engineers and scientists.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the Secretary of Defense should take such actions as may be necessary and appropriate to promote and encourage, at precollege through post-doctoral levels, an increase in the number of citizens and nationals of the United States who pursue courses of study in science, engineering, and other technical disciplines.

SEC. 847. NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS

(a) IN GENERAL.—(1) Part III of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 111—NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS

"Sec.

"2191. Graduate fellowships.

"§ 2191. Graduate fellowships

"(a) The Secretary of Defense shall prescribe regulations providing for the award of fellowships to United States citizens and nationals who agree to pursue graduate degrees in science, engineering, or other fields of study designated by the Secretary to be of priority interest to the Department of Defense.

"(b) A fellowship awarded pursuant to regulations prescribed under subsection (a) shall be known as a 'National Defense Science and Engineering Graduate Fellowship'.

"(c) National Defense Science and Engineering Graduate Fellowships shall be awarded solely on the basis of academic ability and the recipients shall be selected on the basis of a nationwide competition. The award of a fellowship under this section may not in any way be predicated on the geographic region in which the recipient lives or the geographic region in which the recipient will pursue an advanced degree.

"(d) The regulations prescribed under this section shall include the criteria for award of fellowships, the procedures for selecting recipients, the basis for determining the amount of a fellowship, and the maximum amount that may be awarded to an individual during an academic year.".

(2) The table of chapters at the beginning of subtitle A, and at the beginning of part III, of such title are each amended by inserting after the item relating to chapter 110 the following new item:

"111. National Defense Science and Engineering Graduate Fellowships..... 2191".

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated pursuant to section 201 for fiscal years 1990 and 1991, $10,500,000 of the amount appropriated for fiscal year 1990 and $11,000,000 of the amount authorized to be appropriated for fiscal year 1991 shall be available for National Defense Science and Engineering Graduate Fellowships provided for under chapter 111 of title 10, United States Code (as added by subsection (a)).

TITLE IX—GENERAL PROVISIONS

SEC. 901. TRANSFER AUTHORITY

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in titles I, II, and III for any fiscal year between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations for any fiscal year that the Secretary of Defense may transfer under the authority of this section may not exceed $3,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than

the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 902. REDUCTIONS TO REFLECT MANAGEMENT SAVINGS

The total amount authorized to be appropriated for fiscal year 1990 for military personnel and operations and maintenance may not exceed $166,752,900,000, and the total amount authorized to be appropriated for fiscal year 1991 for such purposes may not exceed $171,848,000,000.

SEC. 903. LIMITATION ON RESTORATION OF WITHDRAWN UNOBLIGATED BALANCES

(a) Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2782. Limitation on restoration of withdrawn unobligated balances

"(a) No funds may be restored under section 1552(a)(2) of title 31 to any appropriation account available to the Department of Defense for use in a program, project, or activity unless—

"(1) the total amount restored during a fiscal year to such account for such program, project, or activity is less than $4,000,000; or

"(2)(A) the head of the military department or Defense Agency concerned determines that the amount to be restored is required to pay obligations and make adjustments authorized by a contract described in subsection (b);

"(B) the action to restore the funds is approved by the Secretary of Defense; and

"(C) in an instance in which the total amount to be restored is $25,000,000 or more, not less than 30 days have elapsed after the notice described in subsection (c) is provided to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives.

"(b) A contract referred to in subsection (a)(2)(A) means a contract for the program, project, or activity for which funds were made available from the account to which funds are proposed to be restored.

"(c) The notice referred to in subparagraph (a)(2)(C) means notice of the intent to restore funds under subsection (a) and a description of the legal basis and policy reasons for the action.".

(b) TECHNICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended by adding the following new item:

"2782. Limitation on restoration of withdrawn unobligated balances.".

SEC. 904. REPORT ON CONVENTIONAL ARMS CONTROL VERIFICATION

(a) REPORT.—(1) The President shall submit to the Committee on Armed Services and the Select Committee on Intelligence of the Senate and the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives a report on the types of measures that would be required to verify effectively the proposal for conventional arms reductions in Europe adopted by the member nations of the North Atlantic Treaty Organization (NATO) on May 30, 1989. The President shall include in such report—

(A) a discussion of the necessary types of data that would be exchanged by the parties to such an agreement;

(B) a description of the national technical means, on-site inspections, and other cooperative measures that would be necessary for the parties to such an agreement to detect and verify potential or actual violations of the agreement;

(C) an analysis of the measures that would be required to monitor (i) the withdrawal and demobilization of military personnel, and (ii) the withdrawal and, when required, the destruction of military equipment provided for in any such agreement;

(D) a discussion of the procedures NATO would follow in the event of a violation of such an agreement by a member or members of the Warsaw Treaty Organization; and

(E) a comprehensive analysis of—

(i) the uncertainties in data bases used by the United States with respect to the military forces of the United States, the military forces of the allies of the United States, and the military forces of the Warsaw Pact countries;

(ii) the uncertainties in the estimates of the trends in such forces; and

(iii) the differences in the data bases used by the United States, the allies of the United States, and the Warsaw Pact countries.

(2) The analysis required under paragraph (1)(E) shall address separately the uncertainties in the estimates of the following:

(A) Active forces.

(B) Reserve forces.

(C) Total equipment of such forces.

(D) Indigenous forces.

(E) Forces of a country stationed outside such country.

(b) DEADLINE FOR REPORT.—The President shall submit the report not later than March 1, 1990, together with such comments and recommendations as he determines appropriate. The report shall be submitted in both classified and unclassified versions.

SEC. 905. IMPLICATIONS OF MUTUAL REDUCTIONS IN CONVENTIONAL FORCES IN EUROPE BY NATO AND WARSAW PACT MEMBER NATIONS

(a) COMMENDATION OF PRESIDENT'S CONVENTIONAL ARMS REDUCTION INITIATIVE.—Congress commends and supports the President's conventional arms initiative announced in Brussels on May 29, 1989, in which the President proposed, and the North Atlantic Treaty Organization (NATO) agreed, that NATO expand its negotiating position at the negotiations on Conventional Armed Forces in Europe (CFE) to include substantial reductions by each side to equal ceilings of helicopters and combat aircraft and a reduction to a common ceiling of United States military personnel in Western Europe and Soviet military personnel in Eastern Europe.

(b) PRESIDENTIAL REPORT.—(1) Not later than six months after the date of the enactment of this Act, the President shall submit to Congress an unclassified report, with classified annexes as necessary, on the foreign policy and military implications to NATO and to the Warsaw Pact of significant reductions of conventional forces by NATO and Warsaw Pact countries to a ceiling which is the same for both sides.

(2) The report shall be prepared based upon three different assumptions with regard to the level of reductions in personnel and equipment. Under the first assumption, personnel and equipment would be reduced not less than 10 nor more than 15 percent below current NATO levels. Under the second assumption, personnel and equipment would be reduced 25 percent below current NATO levels. Under the third assumption, personnel and equipment would be reduced 50 percent below current NATO levels.

(3) The report shall include the following:

(A) A comprehensive net assessment of the current balance of NATO and Warsaw Pact forces and of the overall trends in the balance, including an assessment of the trends in active and reserve forces and total equipment holdings in stationed and indigenous forces.

(B) A description of the likely alternative force postures that could be adopted by member nations of both alliances (particularly by the United States and the Soviet Union) under each of the assumptions in paragraph (2), together with a description of the possible effects of restructuring both NATO and Warsaw Pact forces in Europe for defensive purposes.

(C) A statement of the costs (or savings) to the United States, over at least a seven-year period, estimated to be associated with each force posture referred to in subparagraph (A), together with an analysis of how those costs (or savings) were determined.

(D) An analysis of the implications for NATO strategy, security, and military policy under each of the reduction levels referred to in paragraph (2).

(E) An assessment of the effects under each of the reduction levels referred to in paragraph (2) (including the alternative force postures under each assumed reduction level) upon the stability of the conventional balance of forces in Europe.

(F) An assessment of NATO's ability to defend Europe under each of the assumed reduction levels in the event (i) of a short warning attack by the Warsaw Pact against NATO, or (ii) the Warsaw Pact initiates a war against NATO during a crisis in Europe.

SEC. 906. REPORT ON THE DESIRABILITY OF NEGOTIATIONS WITH THE SOVIET UNION REGARDING LIMITATIONS ON ANTI-SATELLITE CAPABILITIES

(a) REPORT BY THE PRESIDENT.—The President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive report regarding the desirability of an agreement to impose limitations on anti-satellite capabilities. The President shall include in such report his determination of whether a ban or other limitations on some or all anti-satellite (ASAT) weapons would be verifiable and, if so, whether such a ban would be in the national interest of the United States.

(b) MATTERS RELATING TO VERIFICATION.—In making the determination referred to in subsection (a), the President shall—

(1) take into consideration the extent to which on-site inspection measures as well as national technical means for verification can increase confidence in the ability of the United States to monitor and verify various agreed upon ASAT limitations;

(2) examine various arms control possibilities, including—

(A) a total ban on ASAT capability;

(B) a ban or other limitations on ASATs with the potential to attack satellites at altitudes above the Van Allen belt;

(C) a ban or other limitations on ASATs that operate only in low-Earth orbit;

(c) MATTERS RELATING TO DETERRENCE AND WARFIGHTING REQUIREMENTS.—In the report required by subsection (a), the President shall also address—

(1) the contribution an ASAT capability can make toward enhancing deterrence;

(2) the contribution an ASAT capability can make toward meeting the war fighting requirements of the United States and how

an ASAT capability enhances force survivability; and

(3) the extent to which meeting the war fighting requirements and deterrence objectives of the United States would be enhanced based upon a net assessment under the following conditions:

(A) A Soviet only ASAT capability.

(B) A total or limited ban on the ASAT capability of the United States and the Soviet Union.

(C) An unrestricted United States and Soviet ASAT capability.

(d) DEADLINE FOR REPORT.—The President shall submit the report required by subsection (a) not later than March 15, 1990. The report shall be submitted in both classified and unclassified versions.

SEC. 907. COMMISSION ON NATIONAL SERVICE

(a) ESTABLISHMENT OF COMMISSION.—(1) There is established a study commission to be known as the "Commission on National Service" (hereinafter in this section referred to as the "Commission").

(b) COMPOSITION.—(1) The Commission shall be composed of nine members as follows:

(A) Three members appointed by the President.

(B) Two members appointed by the majority leader of the Senate.

(C) One member appointed by the minority leader of the Senate.

(D) Two members appointed by the Speaker of the House of Representatives.

(E) One member appointed by the minority leader of the House of Representatives.

(2) The President shall designate one of the members to serve as chairman of the Commission.

(3) The appointments of the members of the Commission shall be made not later than 60 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES; MEETINGS; QUORUM.—(1) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(2) Four members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(d) DUTIES OF THE COMMISSION.—(1) The Commission shall conduct a thorough study of the desirability, need for, advantages, and disadvantages of the establishment of a national service program.

(2) In conducting the study referred to in paragraph (1) the Commission shall address the following questions:

(A) What types of community service needs are there that are not adequately being met by the private sector or by local, State, and Federal governments and could be adequately met through a program of national service?

(B) What are the direct and indirect cost benefits that would likely result from the establishment of a comprehensive national service program under which a variety of social services would be provided?

(C) What are the future military manpower requirements of the United States and to what extent might those requirements be met by a national service program that offers special educational benefits and other incentives to participants in return for military service? In addressing this question, the Commission should take into account projected demographic changes.

(D) Are the benefits of a national service program likely to outweigh the estimated costs of such a program?

(3) In carrying out such study, the Commission shall—

(A) determine the appropriate levels of compensation and other benefits a participant in a national service program should receive for military service and for civilian community service;

(B) assess the existing Federal, State, and local efforts being made to encourage service in the Armed Forces and civilian community service;

(C) assess the opportunities that are available to, and the problems that confront, the youth of the United States and consider how service in a national service program could help participants take advantage of those opportunities and solve those problems; and

(D) evaluate the effectiveness of national service programs conducted in other countries.

(e) REPORT.—(1) The Commission shall submit the results of its study, together with such comments and recommendations as it considers appropriate, to the President and Congress not later than February 15, 1991.

(2) Within 90 days after the Commission submits its report to the President and Congress, the President shall submit his comments and recommendations regarding the report to Congress.

(f) SPECIFIC RECOMMENDATIONS.—If the Commission recommends the establishment of a national service program, it shall include in its report specific recommendations for the implementation of such a program, including recommendations regarding active duty service in the Armed Forces, service in the Reserve components of the Armed Forces, and part-time and full-time community service.

(g) INFORMATION.—The Commission may secure directly from the Department of Defense and any other Federal department or agency such information as the Commission considers necessary to enable the Commission to carry out its responsibilities under this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(h) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(i) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(j) STAFF.—(1) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate the employment of, an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of a staff director shall be subject to confirmation by the Commission.

(2) The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for GS-18 of the General Schedule under section 5332 of such title.

(k) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without payment of reimbursement to the detailing agency. A detail of a Federal employee under this subsection shall not result in the interruption or loss of civil service status or privilege.

(l) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of such title.

(m) APPLICABILITY OF OTHER FEDERAL LAWS.—A member of the Commission appointed under subsection (b) who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee, except for the purposes of—

(1) chapter 81 of title 5, United States Code, relating to compensation for work-related injuries; and

(2) chapter 171 of title 28, United States Code, relating to torts claims.

(n) POSTAL AND PRINTING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(o) MISCELLANEOUS ADMINISTRATIVE AND SUPPORT SERVICES.—The Administrator of General Services shall furnish the Commission, on a reimbursable basis, any administrative and support services requested by the Commission.

(p) TERMINATION OF COMMISSION.—The Commission shall terminate 120 days after the date on which Commission submits its report under subsection (e).

(q) EXPENSES OF THE COMMISSION.—The Secretary of Defense shall pay all expenses incurred in carrying out the study provided for in this section out of funds available to the Department of Defense.

SEC. 908. EXTENSION OF AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

(a) Effective on October 1, 1989, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100) is amended—

(1) by striking out "fiscal years 1988 and 1989" both places it appears and inserting in lieu thereof "fiscal years 1990 and 1991"; and

(2) by inserting "and the Memorandum of Understanding for Operations and Support of the NATO Airborne Early Warning and Control Force, signed by the United States Ambassador to NATO on September 26, 1984, and other follow-on support agreements for the NATO E-3A Cooperative Programme" after "December 6, 1978,".

SEC. 909. PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES

(a) AUTHORITY TO ENTER INTO BILATERAL AND MULTILATERAL ARRANGEMENTS.—Subsection (a) of section 2401a of title 10, United States Code, is amended—

(1) by striking out "an arrangement with the Minister of Defense or other appropriate official of any allied country or with the North Atlantic Treaty Organization (NATO)" and inserting in lieu thereof "a bilateral arrangement with any allied country or allied international organization or may enter into a multilateral arrangement with allied countries and allied international organizations";

(2) by striking out "such country or NATO" and inserting in lieu thereof "the allied country or countries or allied international organization or allied international organizations, as the case may be,"; and

(3) by adding at the end the following new sentence: "The term of an arrangement entered into under this subsection may not exceed 5 years.".

(b) LIQUIDATION OF CREDITS AND LIABILITIES.—Subsection (b) of such section is amended—

(1) by inserting "(1)" after "(b)";

(2) by designating the second sentence as paragraph (3);

(3) by inserting after the first sentence the following new sentence: "Liquidations may be made at such times as the participants in an arrangement may agree upon, but in no case may final liquidation in the case of an arrangement be made later than 30 days after the end of the term for which the arrangement was entered into."; and

(4) by inserting after paragraph (1), as designated by clause (1) of this subsection, the following new paragraph:

"(2) Parties to an arrangement entered into under this section shall annually reconcile accrued credits and liabilities accruing under such agreement. Any liability of the United States resulting from a reconciliation shall be charged against the applicable appropriation available to the Department of Defense (at the time of the reconciliation) for obligation for communications support and related supplies and services.".

(d) DEFINITIONS.—Subsection (d) is amended—

(1) by striking out "In this section, the term 'allied country' means—" and inserting in lieu thereof "In this section:

"(1) The term 'allied country' means—";

(2) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(3) by striking out "; or" at the end of clause (A), as redesignated by clause (2) of this subsection, and inserting in lieu thereof a semicolon;

(4) by striking out the period at the end of clause (B), as redesignated by clause (2) of this subsection, and inserting in lieu thereof "; or"; and

(5) by adding at the end the following:

"(C) any other country designated as an allied country for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

"(2) The term 'allied international organization' means the North Atlantic Treaty Organization (NATO) or any other international organization designated as an allied international organization for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.".

SEC. 910. EXTENSION OF AUTHORITY TO PROVIDE EXCESS DEFENSE ARTICLES FOR THE MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES ON THE SOUTHERN FLANK OF NATO

Section 516(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) is amended by striking out "fiscal years 1987, 1988, and 1989" in the first sentence and inserting in lieu thereof "fiscal years 1987 through 1994".

SEC. 911. EXCHANGE TRAINING

Section 544 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347c) is amended by inserting "and at the United States Army Russian Institute in Garmisch-Partenkirchen, West Germany," after "service academies)".

SEC. 912. PAYMENT OF CERTAIN EXPENSES IN CONNECTION WITH BILATERAL AND REGIONAL COOPERATION PROGRAMS

Section 1051 of title 10, United States Code, is amended—

(1) in subsection (b)(1), by inserting "or in connection with travel to Canada or Mexico" immediately before the period; and

(2) by striking out subsection (g).

SEC. 913. ADMISSION OF TEMPORARY WORKERS FOR COOPERATIVE RESEARCH, DEVELOPMENT, OR COPRODUCTION PROJECTS

Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by inserting at the end thereof the following: "or (iv) who is coming temporarily to the United States (for a period of not more than 10 years with annual extensions permitted thereafter upon petition to the Attorney General) to perform administrative, managerial, or other services as part of a government-to-government agreement administered by the Department of Defense on a cooperative research, development, or coproduction project, whether such services are performed for the duration of the project or agreement or for part of such period of time;".

SEC. 914. ADMIRALTY CLAIMS

Sections 4802(c), 4803(c), 7622(c), 7623(c), 9802(c), and 9803(c) of title 10, United States Code, are each amended by striking out "$10,000" and inserting in lieu thereof "$100,000".

SEC. 915. PUBLICATION OF THE HISTORY OF THE OFFICE OF THE SECRETARY OF DEFENSE

The Secretary of Defense may procure through the Government Printing Office services for the printing, publishing, and sale of Volumes III and IV of the publication entitled History of the Office of the Secretary of Defense and may utilize procurement procedures that exclude sources other than university presses.

SEC. 916. STUDY AND REPORT ON DEFENSE EXPORT FINANCING

(a) STUDY.—The President shall conduct a study of export financing of defense articles. In the course of the study, the President shall—

(1) examine the effect of export financing on the ability of United States industry to compete in the international market for defense products;

(2) determine the extent to which other countries support commercial financing for defense exports through official government credit programs;

(3) determine the extent to which United States private capital is used to support defense exports and the obstacles that United States lending institutions face in providing additional support; and

(4) determine the feasibility and desirability of using existing or new Government export guarantee programs to provide greater private capital support for United States defense exports.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the President shall transmit to the Congress a report on the findings of the study under subsection (a).

SEC. 917. METHODS OF PAYMENT FOR ACQUISITIONS AND TRANSFERS BY THE UNITED STATES

(a) Section 2344(a) of title 10, United States Code, is amended by striking out "or substantially identical nature" and inserting in lieu thereof "value".

(b) LIMITATIONS ON EXCHANGES.—(1) Section 2344 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) The following transfers in exchange for supplies or services are prohibited:

"(1) Transfers in exchange for property the acquisition of which is prohibited by law.

"(2) Transfers of nuclear warheads.

"(3) Transfers of chemical munitions.".

SEC. 918. TRIDENT PROGRAM AND START

(a) REPORTS.—On or before April 1, 1990, the President will submit to Congress a comprehensive report, in both classified and unclassified versions, on the Trident program and START. The report shall address, inter alia, the following issues:

(1) the fleet size objective for the Trident submarine program both with and without a START agreement;

(2) the implications for United States strategic force posture in a START environment of a fleet of 21 or more Trident submarines, each with 192 warheads on 24 ballistic missiles, under two different assumptions:

(i) all such warheads are accountable under START limits;

(ii) the warheads on 1-3 Trident submarines are not accountable under START limits;

(3) a net assessment of the implications for United States security of a START agreement that allowed the Soviets as well as the United States to have an equivalent number of warheads on submarines that would not be accountable under START limits;

(4) the technical feasibility and cost implications of various options for reducing the number of warheads on Trident submarines, including those already built, those under construction, and those yet to be built.

(5) the verification challenges to the United States posed by such options if the Soviet Union were to adopt them in its ballistic missile submarine forces.

(b) FORM OF REPORT.—The President shall submit the report under subsection (a) in both classified and unclassified versions.

(c) WAIVER.—The requirements of subsection (a) may be waived by the President if he has signed a Strategic Arms Reduction Treaty (START) or other agreement with the Soviet Union for the reduction of strategic arms.

SEC. 919. KIDNAPPING OF LIEUTENANT COLONEL HIGGINS

(a)(1) The radical, Lebanese-based terrorist organization which calls itself the "Organization of the Oppressed of the Earth" announced July 31, 1989 that it had executed Lieutenant Colonel William R. Higgins, a Marine seconded to UNTSO, the United Nations Truce Supervision Organization, and

kidnapped in South Lebanon on February 17, 1988.

(2) That Organization claimed to have executed Colonel Higgins in response to the recent capture by Israeli commandos of a radical Muslim Shiite leader, Sheik Abdul Karim Obeid, believed to be associated with that Organization.

(3) That Organization released to certain news agencies a video tape purporting to show Lieutenant Colonel Higgins executed by hanging.

(4) It has not been confirmed that the execution of Lieutenant Colonel Higgins has taken place, nor have any details been provided about the alleged execution.

(5) The kidnapping of Lieutenant Colonel Higgins, who was engaged only in carrying out the legitimate United Nations peacekeeping activities he had been assigned, was wholly unjustified.

(6) It is absolutely clear that the kidnapping of Lieutenant Colonel Higgins and his execution, if it indeed has occurred, are outrageous acts of terrorism which deserve the condemnation of all civilized people.

(7) There is strong evidence that the Government of Iran has supported the Organization responsible for Lieutenant Colonel Higgins's kidnapping and alleged execution, as well as other terrorist and extremist forces inside Lebanon and throughout the Middle East.

(b) It is the sense of the Senate that:

(1) The Senate is outraged by the kidnapping and the reports of Colonel Higgins's execution, and condemns such actions as barbaric, cowardly, and utterly incompatible with the standards of conduct upheld by civilized people.

(2) The President should utilize all available resources of the United States Government, including all available diplomatic and intelligence channels, to determine the identity of those responsible and the details regarding such terrorist acts.

(3) The President should determine whether it would be possible to isolate and bring to justice or retaliate against those responsible in a manner that would reduce the risk to Americans from terrorism.

(4) The President should retaliate as would be appropriate and feasible.

(5) The United States should make clear to the new leadership in Iran that we will not tolerate a continuation of past policies of support of groups which undertake terrorist actions against American citizens or direct assaults on American vital interests in the Middle East or elsewhere, and should such support continue, the United States will hold the authorities in Iran accountable for that support and act accordingly.

(6) The United Nations Secretary General should take all necessary steps to help ensure that Lieutenant Colonel Higgins, if still alive, is safely returned to the United States, and, if dead, that his body is returned to his country and family, and that those responsible for his death be immediately brought to justice.

(7) The President should engage in urgent and continuing diplomatic contacts with the Government of Israel and other governments concerning their policies and actions which might have relevance to the interests of the United States Government or increase the vulnerability of the United States citizens to attacks by terrorists.

(8) the President should consult with other nations to ensure international cooperation and coordination to end terrorist attacks.

SEC. 920. REPORTS ON THE MANPOWER REQUIRED TO CONTROL THE TRANSFER OF MISSILE TECHNOLOGY AND CERTAIN WEAPONS.

(a) AMENDMENT TO NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989.—Section 901(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989, is amended by striking out "February 1, 1988," and inserting in lieu thereof "60 days after the date of enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991,".

(b) REPORT ON MANPOWER REQUIRED TO IMPLEMENT EXPORT CONTROLS ON CERTAIN WEAPONS TRANSFERS.—(1) Not later than February 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) identifying the role of the Department of Defense in implementing export controls on nuclear, chemical, and biological weapons;

(B) describing the number and skills of personnel currently available in the Department of Defense to perform this role; and

(C) assessing the adequacy of these resources for the effective performance of this role.

(2) The report required by paragraph (1) shall identify the total number of current Department of Defense full-time employees or military personnel and the grades of such personnel and the special knowledge, experience, and expertise of such personnel, required to carry out each of the following activities of the Department in implementing export controls on nuclear, chemical, and biological weapons:

(A) Review of private-sector export license applications and government-to-government cooperative activities.

(B) Intelligence analysis and activities.

(C) Policy coordination.

(D) International liaison activity.

(E) Technology security operations.

(F) Technical review.

(3) The report shall include the Secretary's assessment of the adequacy of staffing in each of the categories specified in subparagraphs (A) through (F) of paragraph (2) and shall make recommendations concerning measures, including legislation if necessary, to eliminate any identified staffing deficiencies and to improve interagency coordination with respect to implementing export controls on nuclear, chemical, and biological weapons.

SEC. 921. SENSE OF THE CONGRESS WITH RESPECT TO ACCIDENTAL LAUNCH PROTECTION

(a)(1) The Strategic Defense Initiative (SDI) has made substantial progress in developing technologies to defend the United States from a possible ballistic missile attack, be it deliberate or accidential.

(2) Technological advances in interceptors, sensors, and command, control and communications have been achieved and key elements of the SDI program have recently been combined to form the basic architecture for a possible Phase I defense system to defend the United States against ballistic missile attack.

(3) The Soviet Union maintains the world's only operational ballistic missile defense system and has deployed such a system in the Moscow area.

(4) There exists significant asymmetries in United States and Soviet anti-ballistic missile (ABM) production and capabilities and the ability of the United States to counter a Soviet deployment of a nationwide or more limited ABM system.

(5) Ground-based elements and their associated adjuncts and technologies represent the most mature technologies within the SDI program and should therefore receive priority by the Strategic Defense Initiative Organization.

(6) The United States is a signatory to the 1972 Anti-Ballistic Missile Treaty.

(7) There have been several accidents involving ballistic missiles, including the loss of a submarine of the Soviet Union due to inadvertent missile ignition and the inadvertent landing in China of a test missile of the Soviet Union.

(8) The continued proliferation of offensive ballistic missile forces by non-superpower countries hostile to the United States and our allies raises the possibility of future nuclear threats.

(b) It is the sense of Congress—

(1) that the Secretary of Defense should direct the Strategic Defense Initiative Organization to give priority to the development of technologies and systems for a system capable of protecting the United States from the accidental launch of a strategic ballistic missile against the continental United States;

(2) that such development of an accidental launch protection system should be carried out with an objective of ensuring that such system is in compliance with the 1972 Anti-Ballistic Missile Treaty; and

(3) that the Secretary of Defense should submit to Congress forthwith the report on the status of planning for development of a deployment option for such an accidental launch protection system as required by section 224(c) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1943).

SEC. 922. SERVICE IN NATIONAL GUARD AND RESERVES

(a) The Senate finds that—

(1) American Citizens have taken up arms to defend their homes and communities, and to preserve this nation's independence, from the earliest days of our nation;

(2) The concept of the citizen-soldier has been a keystone of the defense strategy of this nation;

(3) Members of the National Guard and Reserve have served proudly and honorably in every war or conflict involving United States Armed Forces;

(4) The Total Force Policy, by placing significant portions of wartime mission capability and selected day-to-day operations in the National Guard and Reserve, has reinforced the proposition that the Guard and Reserve are essential elements of our national defense;

(5) The Congress and the Department of Defense during the 1980's have demonstrated their increasing reliance and confidence in the National Guard and Reserve by expanding missions, increasing training requirements and providing new state-of-the-art weapons and support equipment;

(6) The National Guard and Reserve represent a very cost-effective arm of the Total Force, preserving combat capability and retaining valuable trained human resources, especially during periods of austere defense budgets;

(7) Participation in the National Guard and Reserve enhances military readiness and demonstrates the resolve of the citizenry to protect and preserve American values; and

(8) Participation in the National Guard and Reserve improves our economy, by pro-

viding individuals with job skills and education.

(b) Therefore be it declared, that the United States Senate reaffirms that service in the National Guard and Reserve is in the highest traditions of military service to the country and acknowledges the valuable contribution that the men and women who serve in the National Guard and Reserve are making to their country; encourages Guard and Reserve participation by all elements of our society; and continues to support fully, reliance on the National Guard and Reserve as full partners in the Total Force.

SEC. 923. PRESIDENTIAL REPORT ON THE VERIFICATION WORK THAT HAS BEEN CONDUCTED WITH REGARD TO MOBILE ICBMs IN A START TREATY

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and the Soviet Union are currently engaged in talks regarding the reduction of strategic nuclear arms.

(2) The United States position at the Strategic Arms Reduction Talks (START) since 1985 has been to ban the deployment of mobile ICBMs within a START regime unless an effective verification regime could be identified and implemented.

(3) The Soviet Union has deployed two mobile ICBM systems, the SS-24 and the SS-25.

(4) President Bush conducted a strategic review upon entering office which was completed prior to the resumption of the START Talks on June 15, 1989.

(5) The President's fiscal year 1990 defense budget to the Congress includes funding for the development of two mobile ICBMs, the Rail Garrison MX missile and the Small ICBM (Midgetman).

(6) The United States must have confidence that any START Treaty will be effectively verifiable.

(b) PRESIDENTIAL REPORT.—The President shall submit to the President of the Senate and the Speaker of the House, and when necessary to protect particularly sensitive information, the chairman of the Senate Select Committee on Intelligence and the chairman of the House Permanent Select Committee on Intelligence, not later than March 31, 1990, a report describing all studies that have been performed between March 1985 and August 1989 by agencies of the United States Government with regard to our capability to monitor and verify a START Treaty which allows mobile ICBMs. The report shall include the following:

(1) A description of all studies conducted by United States Government agencies during the President's strategic review to determine the ability of the United States to verify Soviet mobile missiles in START. These descriptions shall include a summary of conclusions reached.

(2) A description of any Red Team studies conducted between March 1985 with regard to the existence of mobiles in a START regime as well as a summary of conclusions reached.

(3) A description of studies conducted by United States Government agencies between March 1989 and August 1989 to assess the value of various verification options relating to the verification of mobiles, including tagging and designated deployment areas. These descriptions shall include a summary of conclusions reached.

SEC. 924. SENSE OF SENATE ON START TALKS

It is the sense of the Senate that any agreement negotiated by the President to achieve a reduction and limitation on strategic arms (through the strategic arms reduction talks in Geneva or otherwise)—

(1) should not prevent the United States from deploying a force structure under the agreement which emphasizes survivable strategic systems and, in particular, should not in any way compromise the security of the United States ballistic-missile carrying submarine force, and

(2) should not prohibit or limit the deployment of non-nuclear cruise missiles.

SEC. 925. AIRBORNE DRUG TRAFFICKERS

(a) GENERAL AUTHORITY.—(1) The purpose of this provision is to authorize Federal law enforcement agencies to use appropriate force to compel airborne drug traffickers to comply with instructions to land their aircraft.

(2) Whenever any aircraft liable to seizure or examination (on the grounds that narcotics are being transported on the aircraft) by any agency of the United States with responsibility for drug law enforcement does not land on being ordered to do so on being pursued by an authorized aircraft which has displayed identifying insignia prescribed for an authorized aircraft, the person in charge or in command of the authorized aircraft may, after a gun has been fired by the authorized aircraft as a warning signal, fire at or into the aircraft which does not land.

(b) INDEMNIFICATION.—The person in command of an authorized aircraft and all persons acting under that person's direction shall be indemnified from any penalties or actions for damages for firing at or into any aircraft pursuant to subsection (a). If any person is killed or wounded by the firing, and the person in command of the authorized aircraft or any person acting pursuant to their orders is prosecuted or arrested therefor, they shall be forthwith admitted to bail.

(c) DEFINITION.—For the purposes of this section—

(1) the term "authorized aircraft" means an aircraft operated by an agency of the United States with responsibility for drug law enforcement; and

(2) the term "agency of the United States with responsibility for drug law enforcement" means the Coast Guard and Customs Service and the Drug Enforcement Agency.

SEC. 926. RETIREMENT PAY FORFEITURE AND DISQUALIFICATION

The Judiciary Committee is directed to hold appropriate hearings and report back to the Senate by November 1, 1989. The report shall contain the following determinations:

(1) Whether the legislative intent of title 18 United States Code, section 2071(b) was to require the forfeiture and disqualification from "office under the United States" to apply to officers, both active and retired, in the Armed Forces;

(2) Whether the legislative intent of title 18 United States Code, section 2071(b) was to deprive persons convicted under this section from receipt of their Federal pensions;

(3) Whether title 18 United States Code, section 2071(b) applies to other retired government employees, and if not, whether such is equitable;

(4) Whether action on any remedial legislation for Lieutenant Colonel Oliver North, relating to the denial of his pension as a result of his conviction under title 18 United States Code, section 2071(b) is appropriate in lieu of litigation, or whether it is preferable for this issue to be determined in the courts;

(5) Whether remedial legislation for Lieutenant Colonel Oliver North is warranted under the application of title 18 United States Code, section 2071(b) considering the opinion of the General Counsel of the General Accounting Office dated July 31, 1989;

(6) Whether any other legislation relating to the application of title 18 United States Code, section 2071(b) is appropriate.

SEC. 927. FUNDING FOR PROGRAMS UNDER THE ANTI-DRUG ABUSE ACT OF 1988

(a) TRANSFER OF AUTHORIZATION.—Of the unobligated funds available to all departments and agencies of the Executive branch of the Government at the end of fiscal year 1989 from funds appropriated for defense and nondefense discretionary programs, $1,700,000,000, as provided in subsection (b), is authorized to be transferred for the purpose of carrying out during fiscal year 1990 the Anti-Drug Abuse Act of 1988 and the amendments made by such Act.

(b) ALLOCATION OF UNOBLIGATED FUNDS.—The amount authorized to be transferred from the unobligated funds of any department or agency pursuant to subsection (a) shall be an amount which bears the same ratio to $1,700,000,000 as the amount of unobligated funds of that department or agency at the end of fiscal year 1989 bears to the total amount of unobligated funds of all departments and agencies of the Executive branch at the end of such fiscal year from funds appropriated for defense and nondefense discretionary programs.

SEC. 928. REPORT ON THE INTERNATIONAL MILITARY EDUCATION AND TRAINING PROGRAM

(a) FINDINGS.—The Congress makes the following findings:

(1) Military professionals in many developing countries would benefit from training which enhances their ability both to engage in militarily valuable activities and to contribute to nation-building in their countries, including training in such matters as engineering, communications, electronics, maintenance, health care, logistics, management, and military jurisprudence.

(2) Such training of military professionals of developing countries could be coordinated in such a way as to contribute to the total economic and social development of those countries.

(3) The technical activities of the Army Corps of Engineers and the medical departments of the Armed Forces throughout the history of the United States are examples of the use of military skills and personnel to build, and otherwise to benefit, a nation in nonmilitary ways.

(b) REPORT REQUIREMENT.—(1) The Comptroller General of the United States shall prepare a report on the International Military Education and Training (IMET) Program. The report shall contain the following:

(A) A tabulation of the number of students from countries around the world who are currently participating in training under the program.

(B) A description of the content of the courses currently offered military personnel enrolled in the IMET program.

(C) A discussion of the feasibility of refocusing IMET activities to include training in nation-building skills such as engineering, communications, electronics, maintenance, health care, logistics, management, and military jurisprudence.

(D) A discussion of the desirability and feasibility of developing cooperative IMET programs involving the Army Corps of Engineers and the medical departments of the Armed Forces.

(2) The Comptroller General shall transmit the report to the Committees on Armed Services of the Senate and the House of Representatives not later than February 1, 1990.

SEC. 929. COOPERATION WITH NNBIS

(a)(1) The Anti-Drug Abuse Act of 1988 terminated the National Narcotics Border Interdiction System (NNBIS) and placed it under the auspices of the Office of National Drug Control Policy.

(2) The National Narcotics Border Interdiction System (NNBIS) provided valuable information and support to State and local law enforcement agencies involved in drug interdiction activities;

(b) Therefore, it is the sense of the Senate of the United States that the cooperation that existed between State and local law enforcement officials and the Federal agencies participating in NNBIS should, to the extent possible, be continued and enhanced by the Director of the Office of National Drug Control Policy.

SEC. 930. UNITED STATES ONSITE INSPECTORS PROGRAM

(a) FINDINGS.—The Senate recognizes the need for a program designed to establish a database of prospective personnel that would be qualified to participate in the onsite inspection process since the United States is currently engaged in multilateral and bilateral negotiations to reduce or eliminate various military weaponry and manpower. Specifically, the United States is negotiating reductions on strategic forces, conventional armaments and manpower, monitoring regimes for nuclear testing, and the complete elimination of chemical weapons.

(1) Monitoring requirements for these possible treaties will be extensive and stressing on United States national technical means. To complement and support NTM monitoring requirements the United States and Soviet Union have negotiated and are currently employing onsite inspection procedures for the INF Treaty. Similar onsite inspection provisions are being negotiated for possible future treaties and agreements.

(2) The administration, and many in Congress, consider onsite inspection procedures to be an integral part of any future arms control treaty.

(3) During initial implementation of INF Treaty provisions, the United States was not fully prepared for the manpower requirements necessary to conduct onsite inspections. The Director of Central Intelligence has stated that onsite inspection requirements for any Strategic Arms Reduction Treaty (START) will be far more extensive than the INF Treaty. Estimates of possible START onsite locations are approximately two thousand five hundred as opposed to one hundred twenty for the INF Treaty.

(4) Personnel requirements will be extensive, in terms of both numbers and technical and linguistic skills. Since INF Treaty verification requirements are already taxing current personnel resources, START and other requirements may quickly exceed the numbers of verification personnel with requisite technical and language skills.

(5) The Department of Defense organization best suited to establish such a database is the On-Site Inspection Agency. As an agency of the Department of Defense, the OSIA was created to organize and coordinate United States Government efforts to monitor the INF Treaty, which includes all responsibilities for onsite inspections as required by the terms of the Treaty.

(b) REQUIREMENT.—Recognizing these requirements, the On-site Inspection Agency shall establish a database of prospective personnel that could be called upon to conduct onsite inspections of any future arms control agreement that has such provisions as part of the terms of the treaty.

(1) The database shall be composed of individuals with linguistic and technical skills necessary to conduct onsite inspections.

(2) This database shall consist of active military and other government agency personnel and, on a voluntary basis, nongovernment personnel with requisite skills to perform duties, on a full-time or part-time basis, as prospective onsite inspectors.

(c) THE INF TREATY DEFINED.—In this section, the term "INF Treaty" means the Treaty Between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, signed in Washington, DC, on December 8, 1987.

SEC. 931. REVIEW AND REPORT ON DECONTROL OF CERTAIN PERSONAL COMPUTERS

(a) REVIEW.—The Secretary of Defense, in consultation with the Director of Central Intelligence and the Science Advisor to the President, shall conduct a review of the report made by the Secretary of Commerce on the foreign availability of certain personal computers entitled Foreign Availability Assessment: AT-Compatible Microcomputers. In conducting such review, the Secretary of Defense shall, at a minimum—

(1) determine the availability of microcomputers referred to in such report from sources other than member nations of the Coordinating Committee for Multilateral Export Controls or other nations that control the export of such computers; and

(2) assess the military significance of such computers for the Soviet Union and its Warsaw Pact allies.

(b) REPORT.—The Secretary of Defense shall submit to the Committees on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report containing the results of the Secretary's review. The Secretary shall include in such report such recommendations for legislative changes as the Secretary considers appropriate to protect the national security of the United States.

(c) DEADLINE FOR REPORT.—The report required by subsection (b) shall be submitted not later than January 1, 1990.

SEC. 932. EFFECT OF SPACE NUCLEAR REACTORS ON GAMMA-RAY ASTRONOMY MISSIONS

(a) CONGRESSIONAL DECLARATION.—Congress hereby—

(1) notes that gamma-ray astronomy missions provide an important contribution to our understanding of the origin of the universe; and

(2) expresses its concern that the radiation emitted by nuclear reactors of the Soviet Union in Earth orbit has interfered with the operation of gamma-ray detectors aboard scientific satellites operated by the United States and other nations.

(b) PRESIDENT URGED TO CALL UPON SOVIET UNION TO CEASE DEPLOYMENT OF REACTORS IN SPACE.—Congress calls on the President to urge the Soviet Union to reduce its reliance on nuclear reactors in Earth orbit, where possible, in order to reduce the interference of those reactors with the operation of gamma-ray detectors aboard satellites in Earth orbit.

(c) REPORT.—Not later than April 30, 1990, the President shall submit to Congress a report on the potential for interference with gamma-ray astronomy missions that could be caused by the placement in earth orbit of space nuclear reactors presently under development by the United States.

SEC. 933. REPORT REGARDING COORDINATION OF INFORMATION WITHIN THE EXECUTIVE BRANCH ON FRAUD BY CONTRACTORS

(a) IN GENERAL.—Not later than September 30, 1990, the President shall report to Congress on current and planned administrative mechanisms to coordinate information within the Executive branch concerning administrative and judicial actions taken against Government contractors as a result of activities described in subsection (b)(1).

(b) CONTENT OF REPORT.—The report required by subsection (a) shall include the following:

(1) A description of current administrative actions that will ensure that all relevant agencies are advised when there has been an investigation, proceeding, or litigation involving fraud on the part of a contractor (or an agent or employee of a contractor) that has resulted in a judgment against the contractor (or an agent or employee of the contractor), a decision to debar or suspend, or resolved by consent or compromise.

(2) Recommendations to enhance the effectiveness of the procedures described in paragraph (1).

(3) A discussion of the feasibility and desirability of requiring a review or audit of each contract of a value of more than $1,000,000, or if the potential of recovery would justify such follow-up, that such contractor has, or has had, with any Government agency where similar problems may have occurred.

(4) Recommendations for any legislative changes necessary to accomplish the purposes of paragraphs (2) and (3).

(5) The estimated costs of implementing any recommendations described pursuant to paragraph (2).

(b) DEFINITIONS.—For the purposes of the report required by this section the term "fraud" means—

(1) acts of fraud or corruption or attempts to defraud the Government or corrupt its agents;

(2) acts which constitute a cause for debarment or suspension under part 9.406.2(a) or part 9.407-2(a) of the Federal Acquisition Regulation or successor parts of such regulation; and

(3) acts which violate any provision of sections 3729 through 3731 of title 31, United States Code, section 1031 of title 18, United States Code, or the Anti-Kickback Act of 1986 (41 U.S.C. 51-58).

SEC. 934. SALE AND USE OF UNITED STATES DOMESTIC MEAT IN ARMED FORCES FACILITIES IN THE EUROPEAN COMMUNITY

(a) REQUIREMENT TO USE UNITED STATES DOMESTIC MEAT.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2491. Commissary stores and dining facilities: sale and use of United States domestic meat in the European Community

"(a) The Secretary of each military department shall ensure that the meat and meat food products sold in commissary stores of that military department located in any member country of the European Community and the meat and meat food products served in dining facilities of that military department located in any such country are produced and processed in the United States.

"(b) In this section:

"(1) The term 'meat' means meat within the meaning of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

"(2) The term 'meat food product' has the same meaning as provided in section 1(j) of such Act.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2491. Commissary stores and dining facilities: sale and use of United States domestic meat in the European Community.".

(b) GENERAL POLICY.—It is the sense of Congress that the Secretary of each military department should intensify efforts to procure from United States sources the products to be sold in commissary stores of that department, the food products to be served in dining facilities of that department, and the supplies to be used in such dining facilities.

SEC. 935. REPORT ON VERIFICATION PROCEDURES FOR THE DISMANTLEMENT OF NUCLEAR WARHEADS AND FISSILE MATERIAL MONITORING

(a) REPORT.—The Secretary of Defense and Secretary of Energy, in coordination with the Director of Central Intelligence, shall prepare a report for the Congress on—

(1) The onsite monitoring techniques, inspection arrangements, and national technical means, that would be used to verify Soviet dismantlement of nuclear warheads in the event the United States determines that it is in its national interests to agree to a provision in a future strategic arms reduction treaty that would require both parties to dismantle warheads associated with delivery systems eliminated by the terms of the agreement.

(2) The onsite monitoring techniques, inspection arrangements, and national technical means that would be used to verify the end use and purpose of any fissile materials produced or that are recovered from the dismantlement process described under section (a)(1) of this amendment.

(b) PREPARATION AND SUBMISSION OF REPORT.—The report shall be submitted in both classified and unclassified form to the Committee on Armed Services and Select Committee on Intelligence of the Senate and the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives no later than April 30, 1990.

SEC. 936. COOPERATIVE EFFORTS AGAINST ILLEGAL DRUGS

Section 511(e)(3)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(3)(B)), as added by the Asset Forfeiture Amendments Act of 1988, is amended to read as follows:

"(B) will serve to encourage further cooperation between the recipient State or local agency and federal law enforcement agencies.".

SEC. 937. ALLIED DEFENSE BURDENSHARING IN EUROPE

(a) Congress makes the following findings:

(1) Member Nations of the North Atlantic Treaty Organization (NATO), at the initiative of the President, have presented a comprehensive arms reductions proposal to the Nations of the Warsaw Pact for consideration in the negotiations on Conventional Armed Forces in Europe (CFE) which, should the proposal provide the basis for agreement on an eventual CFE treaty, would significantly enhance security and stability in Europe and the cause of peace worldwide.

(2) Unilateral reductions in active duty force levels by individual member Nations of NATO before the attainment of a CFE agreement would undercut NATO's efforts to improve its conventional defense posture, increase its reliance on the threat of the early use of nuclear weapons to deter aggression, and undermine NATO's arms control negotiating posture in CFE.

(3) Nevertheless, several member Nations of NATO are considering making significant reductions over the next few years in the size of their active forces irrespective of developments in the CFE negotiations.

(4) Despite shifts in relative economic power from the United States to some of the major allies of the United States, the costs of mutual defense continue to be borne disproportionately by the United States.

(5) Adjustments in burdensharing are long overdue.

(6) Unilateral cuts in active duty force levels by member Nations of NATO before the successful conclusion of CFE negotiations would exacerbate longstanding burdensharing tensions within the alliance.

(b) BASELINE REPORT.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the defense committees a report showing the following:

(A) The end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO for fiscal year 1989.

(B) The end strength level of allied forces assigned to permanent duty ashore in European member nations of NATO for such fiscal year.

(C) The end strength level of the armed forces of each member nation of NATO assigned to permanent duty ashore in European member nations of NATO in such fiscal year.

(D) The ratio (expressed in terms of a percentage) of the end strength level referred to in subparagraph (A) to the end strength level referred to in subparagraph (B).

(2) The ratio referred to in paragraph (1)(D) is hereinafter in this section referred to as the "baseline ratio".

(c) ANNUAL REPORT.—The Secretary of Defense shall submit to the defense committees not later than April 1 of 1991, 1992, and 1993 a report showing the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO and the end strength of allied forces assigned to permanent duty ashore in such nations in the fiscal year preceding the fiscal year in which the report is submitted. The Secretary shall include in such report the following:

(A) Data showing the U.S.-allied forces ratio for such preceding fiscal year.

(B) A statement indicating whether there has been any change in the U.S.-allied forces ratio for such preceding fiscal year compared with the U.S.-allied forces ratio for the fiscal year immediately before such preceding fiscal year and, if so, the amount of such change and an explanation of the cause for such change.

(C) A discussion of any action taken in the fiscal year preceding the year in which the report is submitted to encourage the NATO allies (other than the United States) to increase the number of allied forces assigned to permanent duty ashore in the European member nations of NATO and a discussion of the results of such action.

(d) LIMITATION ON OBLIGATION OF FUNDS.—If the Secretary determines on the basis of a report referred to in subsection (b) that the U.S.-allied forces ratio for the fiscal year preceding the fiscal year in which the report is submitted is greater than the baseline ratio by more than one percentage point—

(1) the President shall initiate appropriate diplomatic initiatives to persuade the NATO allies to increase allied forces assigned to permanent duty in European member nations of NATO in sufficient numbers so that the U.S.-allied forces ratio no longer exceeds the baseline ratio; and

(2) funds appropriated to or for the use of the Department of Defense may not be obligated or expended to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO for the fiscal year following the fiscal year in which the report is received in any number that would cause the U.S-allied forces ratio in such following fiscal year to exceed the baseline ratio by more than one percentage point.

(e) WAIVER AUTHORITY.—The President may waive this section if the President declares that such action is critical to the national security of the United States and immediately notifies Congress of his action and the reasons therefor.

(f) INAPPLICABILITY.—This section shall not apply in the event of a declaration of war or an armed attack on any NATO member or in the event that a comprehensive arms reduction agreement is signed as a result of the negotiations on Conventional Armed Forces in Europe (CFE).

(g) REPORT COMPLIANCE.—The Secretary shall be deemed to have complied with the report requirements of subsection (b) in any fiscal year if the Secretary includes the information required by such subsection in the report submitted in such year to the defense committees pursuant to section 1002(d) of the Department of Defense Authorization Act, 1985 (98 Stat. 2575; 22 U.S.C. 1928 note).

(h) END STRENGTH PERMANENT CEILING.—Nothing in this section shall be construed to permit the obligation or expenditure of funds to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level in excess of the permanent ceiling specified in section 1002(c)(1) of the Department of Defense Authorization Act, 1985.

(i) DEFINITIONS.—As used in this section:

(1) The term "defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(2) The term "allied forces" means members of the armed forces of member nations of NATO serving on active duty, other than the members of the Armed Forces of the United States.

(3) The term "U.S.-allied forces ratio" means, with respect to a fiscal year, the ratio (expressed in terms of a percentage) of the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO relative to the end strength level of allied forces assigned to permanent duty ashore in such nations in that fiscal year.

SEC. 938. JAPAN'S CONTRIBUTIONS TO SECURITY

(a) FINDINGS.—Congress makes the following findings:

(1) Extraordinary political, economic, and social changes have occurred in Japan since World War II.

(2) As a result of such changes, Japan is capable of assuming increased responsibility for its own security.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) in view of the changes referred to in subsection (a), Japan should assume increased responsibility for its own security;

(2) Japan should offset the direct costs incurred by the United States in deploying military forces for the defense of Japan;

(3) Japan should assume a more significant security role consistent with its economic status by taking the following actions:

(A) Increase expenditures for its Official Development Assistance program and its defense programs so that, by 1992, the level of spending by Japan on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization (NATO) on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(B) Devote any increase in its spending for such Official Development Assistance program primarily to the Republic of the Philippines and to countries in regions of importance to global stability outside of East Asia, particularly to countries in Latin America, the Caribbean area, and the Mediterranean area.

(C) Devote any increase in spending for that program primarily to untied grants and increasing the portion of total expenditures made in that program for those multilateral financial institutions of which Japan is a member.

(D) Designate those nations that are to be recipients of increased development assistance referred to in subparagraphs (A) through (C) after consultation with Japan's security partners.

(E) In consultation with the United States, complete its 5-year defense program for fiscal years 1986 through 1990 and, at the earliest possible date after the completion of that program, fulfill the pledge of Prime Minister Suzuki to defend the territory, airspace, and sea lanes of Japan to a distance of 1,000 miles.

(F) Acquire "off-the-shelf" military equipment from the United States (including completely equipped, long-range early warning aircraft, additional AEGIS weapon systems, refueling aircraft, munitions, and spare parts) in developing the capabilities called for in Japan's current and subsequent 5-year defense programs.

(c) NEGOTIATIONS.—At the earliest practicable date after the enactment of this Act, the President shall enter into negotiations with Japan for the purpose of achieving an agreement under which Japan agrees to make contributions sufficient in value to meet the direct cost of deploying United States forces for the defense of Japan.

(d) NOTIFICATION TO CONGRESS.—In order that Congress may determine whether further action is appropriate, the President shall submit to Congress an initial report, not later than April 1, 1990, on the status and results of the negotiations referred to in subsection (a) and shall submit a second report, not later than one year after the date of the enactment of this Act, on the status and results of such negotiations.

SEC. 939. REPORT ON COSTS ASSOCIATED WITH OVERSEAS DEPENDENTS

(a) REPORT.—The Secretary of Defense shall conduct a study of practicable options available to the Department of Defense to reduce costs associated with maintaining overseas large numbers of dependents of members of the Armed Forces of the United States and dependents of civilian employees of the Department of Defense. In carrying out such study the Secretary shall consider such options and combinations of options as the Secretary considers feasible to achieve a reduction in such costs. The Secretary shall specifically address, at a minimum, the following questions:

(1) Would expansion of incentives for unaccompanied tours of duty overseas be effective in reducing the number of such tours and would such an increase in incentives be cost effective?

(2) Would more frequent rotation of overseas personnel without dependents result in overall savings?

(3) Would an increase in the use of local contractors at overseas stations to provide services currently being provided by Department of Defense personnel result in overall savings to the United States and, if so, what would the cost implications be for United States families at such stations?

(4) What costs associated with the support of overseas dependents would likely result from a reduction in personnel under a conventional forces in Europe (CFE) agreement?

(5) Would the granting of fewer exceptions to the length of overseas duty tours reduce permanent change of station costs?

(6) To what extent can overseas facilities be consolidated and centralized to reduce administrative and overhead costs?

(7) To what extent can reductions in family support services at overseas stations be made without materially affecting the standard of living of the personnel assigned to duty at such stations?

(8) Would reductions in overseas family support costs likely result in increased costs in programs in the United States?

(9) To what extent would dependents be likely to accompany members of the Armed Forces and civilian employees of the Department of Defense to overseas stations in the absence of each of the various types of special assistance and benefits currently provided to overseas dependents?

(10) How would reduction or termination of the various types of the special assistance and benefits for overseas dependents affect combat readiness, morale, and retention?

(b) SUBMISSION OF REPORT.—The Secretary shall submit the report required by subsection (a) to the Committees on Armed Services of the Senate and the House of Representatives not later than February 1, 1990, together with such comments and recommendations for legislation as the Secretary considers appropriate.

SEC. 940. UNITED STATES-REPUBLIC OF KOREA SECURITY RELATIONSHIP

(a) FINDINGS.—Congress makes the following findings:

(1) Since the Korean conflict, the Republic of Korea has made tremendous progress in rebuilding its economic and military strength.

(2) The alliance between the United States and the Republic of Korea has contributed greatly to the security of both countries.

(3) The Republic of Korea has dedicated a large share of its national resources to its security, as manifested by defense expenditures which comprise approximately one-third of its national budget.

(4) The United States has contributed a large amount of its national resources, including approximately 46,000 military personnel, to protecting the security interests that it shares with the Republic of Korea.

(5) In accordance with its obligations under the 1954 Mutual Defense Treaty with the Republic of Korea, the United States remains committed to the security and territorial integrity of the Republic of Korea.

(b) SENSE OF CONGRESS AND REPORT REQUIREMENT.—(1) It is the sense of Congress that—

(A) the United States should reassess the missions, force structure, and locations of its military forces in the Republic of Korea and East Asia;

(B) the Republic of Korea should assume increased responsibility for its own security;

(C) the Republic of Korea should offset more of the direct costs incurred by the United States in deploying military forces for the defense of the Republic of Korea; and

(D) the United States and the Republic of Korea should consult on the feasibility and desirability of partial, gradual reductions of United States military forces in the Republic of Korea.

(2) In order that Congress may determine whether further action is appropriate, the President shall submit to Congress an initial report, not later than April 1, 1990, on the status and results of the consultations referred to in paragraph (1)(D) and shall submit a second report, not later than one year after the date of the enactment of this Act, on the status and results of such consultations.

(c) REPORT.—(1) Not later than April 1, 1990, the President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the military presence of the United States in the Republic of Korea and in East Asia. The President shall include in such report a strategic plan relating to the continued United States military presence in the Republic of Korea and East Asia. The President shall specifically include in the report the following:

(A) An assessment of the implications of recent developments in the Soviet Union and the People's Republic of China for United States and allied security planning in East Asia.

(B) Identification of those changes in the missions, force structure, and locations of United States forces in East Asia that would strengthen the capabilities of such forces and lower the costs of maintaining such forces.

(C) A discussion of ways in which increased defense responsibilities and costs presently borne by the United States can be transferred to the allies of the United States in East Asia.

(D) Identification of the additional actions that the Republic of Korea can take to contribute more to its own security.

(E) A discussion of the feasibility of restructuring United States military forces stationed in Okinawa with the objective of improving civil-military relations and increasing United States training opportunities.

(F) A discussion of the status and prospects of negotiations between the United States and the Republic of the Philippines on the continued use of United States military installations in the Republic of the Philippines.

(G) An assessment of whether a requirement still exists for a regional security role for United States forces stationed in the Republic of Korea.

(2) The President shall also include in the report a five-year plan with respect to the United States military presence in the Republic of Korea. The President shall specifically include in the plan a discussion of the feasibility and desirability of the following:

(A) Restructuring United States military forces in the Republic of Korea with the objective of changing the role of such forces from a leading role in deterring aggression to a supporting role.

(B) Partial, gradual reductions in the number of United States military personnel stationed in the Republic of Korea.

(C) Larger offsets by the Republic of Korea for the direct costs incurred by the United States in deploying military forces in defense of the Republic of Korea.

(D) The redeployment of United States military personnel and facilities within the Republic of Korea that can be made to reduce friction between such personnel and the people of the Republic of Korea.

(E) Changes in the United Nations and United States-Republic of Korea bilateral command arrangements that would facilitate a transfer of certain military missions and command to the Republic of Korea.

(F) Confidence-building measures that could be promoted in northeast Asia to lessen tensions in the region.

(G) Additional actions the Republic of Korea could take to assume more responsibility for its security.

SEC. 941. POLICY REAFFIRMING UNITED STATES/SOVIET EQUALITY IN STRATEGIC FORCES

It is the sense of the Senate that—

(1) the President should seek a START treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union;

(2) the success of the President's efforts to attain such a treaty is dependent upon the maintenance of a vigorous research and development and modernization program as required by a prudent strategic posture; and

(3) no action should be taken under this or any other Act that will obligate the United States to disarm or to reduce or limit the Armed Forces or armaments of the United States, except pursuant to the treatymaking power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States.

SEC. 942. SENSE OF THE SENATE ON PROCUREMENT OF B-2 AIRCRAFT

(a) FINDINGS.—The Senate makes the following findings:

(1) Over the past several decades, the United States has devoted substantial resources to the strategic bomber force, including significant upgrades to B-52 bombers, and the research, development, and procurement of B-1 bombers and air-launched cruise missiles.

(2) The Department of Defense currently estimates that the acquisition cost for a force of one hundred and thirty-two B-2 aircraft will be $70,200,000,000 (then-year dollars), and this estimate is premised on several assumptions, including the achievement of cost-reduction initiatives, not all of which have been contracted for yet.

(3) The lifecycle costs for a force of one hundred and thirty-two B-2 aircraft would be significantly higher than this acquisition cost estimate of $70,200,000,000 (then-year dollars).

(4) The Congress has approved funds for the low rate initial production of eleven B-2 aircraft through fiscal year 1990, but has not decided how many B-2 aircraft should be produced in total.

(5) If the Congress makes a decision not to acquire a large number of B-2 aircraft, the funds available for other military programs could be increased.

(6) Fiscal year 1990 will constitute the fifth consecutive year of real decline in the amount appropriated for budget function 050 (National Security).

(7) The constraints on future defense budgets make it essential that the Nation's defense priorities be carefully analyzed so as to properly fund the Armed Forces, including the various elements of the Nation's strategic forces.

(b) SENSE OF THE SENATE.—In light of the findings in subsection (a), it is the sense of the Senate that:

(1) It is not prudent or possible at this time to commit to the production of B-2 aircraft other than under the low-rate initial production plan.

(2) The contingent authorization of funds in this Act for the low-rate initial production of three additional B-2 aircraft does not constitute a commitment to support the procurement of large numbers of B-2 aircraft, to provide funding in subsequent years for rate production of B-2 aircraft, or to approve a multiyear procurement of B-2 aircraft.

(3) Prior to a commitment to rate production of B-2 aircraft, the President and the Congress should carefully consider the feasibility and desirability, both under a START regime that uses the Reykjavik counting rule or an alternative counting rule for members and in the absence of a START treaty, of—

(A) structuring the strategic bomber force in such a manner that primary reliance would be placed upon bombers carrying cruise missiles rather than bombers having strictly a penetrating role; and

(B) pursuing options for the procurement of significantly fewer than one hundred and thirty-two B-2 aircraft, in the event that a decision is made in the future to procure an operational force of B-2 aircraft, in order to reduce the total acquisition and lifecycle cost of the B-2 program.

SEC. 943. AMERICAN HOSTAGES IN IRAN

It is the Sense of the Senate that the Secretary of Defense and Director of Central Intelligence shall report by September 1, 1989, to the Senate Committee on Armed Services, the House Committee on Armed Services, the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence on efforts to locate American hostages in Lebanon, the resources dedicated to locating these hostages and how additional resources, in terms of funds and personnel, can be effectively utilized to locate these hostages and obtain their release.

SEC. 944. SENSE OF CONGRESS ON PRESIDENTIAL SUPPORT FOR CONTINUED DEVELOPMENT OF THE V-22 OSPREY PROGRAM

(a) FINDINGS.—Congress makes the following findings:

(1) The V-22 tilt-rotor aircraft design is on the leading edge of aerospace technology for short take-off and landing capability.

(2) The V-22 aircraft has the potential of simultaneously conducting helicopter missions farther, faster, and with a larger payload than any rotor-wing aircraft.

(3) The United States Marine Corps has a high priority to modernize its aging CH-46 helicopter fleet.

(4) The V-22 aircraft may be well suited for use by the Special Operations Forces of the Armed Forces.

(5) The V-22 aircraft may have substantial potential for facilitating the accomplishment of essential Army, Navy, and Air Force missions.

(6) There is substantial potential for the technology used in the development and production of the V-22 aircraft to significantly enhance the commercial aviation industry in the United States.

(b) POLICY.—It is the sense of Congress that the President should continue development of the joint services V-22 Osprey program and carry out the comprehensive review of the potential military and civilian uses of the V-22 aircraft as detailed in Senate Report Number 101-81.

SEC. 945. REPORT ON LOSS OF SSI BENEFITS

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the number of members of the Armed Forces who have dependents who are eligible for supplemental security income (SSI) benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.). The Secretary shall include in such report the following:

(1) A statement of the number of dependents of members of the Armed Forces who, as a consequence of members of the Armed Forces being assigned to duty outside the United States, lose their eligibility for supplemental security income (SSI) benefits.

(2) A statement of the total cost of providing SSI benefits to dependents of members of the Armed Forces.

(3) Information indicating whether the Department of Defense provides any benefit for members of the Armed Forces, based upon the blindness or disability of a dependent, similar to SSI benefits provided under title XVI of the Social Security Act.

(4) A discussion of possible programs of assistance that could be established to assist members of the Armed Forces in cases in which dependents lose SSI benefits as a result of accompanying members of the Armed Forces to duty stations outside the United States.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 180 days after the date of the enactment of this Act.

TITLE X—PANAMA CANAL COMMISSION

SEC. 1001. AUTHORIZATION OF EXPENDITURES

(a) IN GENERAL.—The Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments, without regard to fiscal year limitations, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, and improvement of the Panama Canal for fiscal years 1990 and 1991, except that not more than $52,000 for fiscal year 1990 and $56,000 for fiscal year 1991 may be expended for official reception and representation functions, of which—

(1) not more than $12,000 for fiscal year 1990 and $14,000 for fiscal year 1991 may be expended for such purposes by the supervisory board for the Commission;

(2) not more than $6,000 for fiscal year 1990 and $7,000 for fiscal year 1991 may be expended for such purposes by the Secretary of the Commission; and

(3) not more than $34,000 for fiscal year 1990 and $35,000 for fiscal year 1991 may be expended for such purposes by the Administrator of the Commission.

(b) PURCHASE OF PASSENGER MOTOR VEHICLES.—Funds available to the Panama Canal Commission shall be available for the purchase of passenger motor vehicles (including large heavy-duty vehicles) used to transport Commission personnel across the Isthmus of Panama. Such vehicles may be purchased without regard to price limitations prescribed by law or regulation.

SEC. 1002. REPORTING REQUIREMENTS

The Panama Canal Commission shall provide written advance notification to the Committee on Armed Services of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives regarding—

(1) any proposed change in the rates of tolls for use of the Panama Canal;

(2) any payment estimated to be due the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, as provided by section 1341(a) of the Panama Canal Act of 1979 (22 U.S.C. 3751(a)); and

(3) the initiation of any major capital acquisition or construction project exceeding $10,000,000, unless the proposed acquisition or project was included in the budget estimates submitted to Congress for the fiscal year in which the acquisition or project is to be undertaken.

SEC. 1003. GENERAL PROVISIONS

(a) PAY INCREASES.—Funds for the Panama Canal Commission may be obligated, notwithstanding section 1341 of title 31, United States Code, to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the United States in comparable positions.

(b) EXPENSES IN ACCORDANCE WITH LAW.—Expenditures authorized under this title may be made only to the extent they are not prohibited by the Panama Canal Treaties of 1977 and laws implementing those treaties.

(c) This section shall not become effective until the following provisions are enacted into law:

TITLE XI—DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

SEC. 1101. FUNDING OF ACTIVITIES RELATED TO DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

(a) FUNDING.—(1) Of the amounts authorized to be appropriated for the Department of Defense by this Act, $450,000,000 is available from the sources and in the amounts provided in paragraph (2) for carrying out the drug interdiction and law enforcement support activities described in sections 1102 through 1110.

(2) The amounts and sources referred to in paragraph (1) are as follows:

(A) $182,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $28,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $235,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(D) $5,000,000 of amounts appropriated pursuant to Division B for land acquisition and the construction of facilities.

SEC. 1102. LEAD AGENCY FOR DETECTION

(a) IN GENERAL.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide written guidance to the Secretaries of the military departments and to the commanders of the combatant commands on the specific force levels and the specific supporting resources necessary to fulfill the responsibilities of the Department of Defense as the single lead agency for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) GUIDANCE REFERENCE.—The guidance referred to in subsection (a) shall be provided as part of the guidance required by section 113(l) of title 10, United States Code.

(c) FUNDING.—(1) The following amounts from the sources specified shall be available for carrying out the responsibilities referred to in subsection (a):

(A) $160,000,000 of the amounts authorized to be appropriated pursuant to title I for fiscal year 1990.

(B) $5,000,000 of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990.

(C) $109,000,000 of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990.

(2) Not more than $5,000,000 of amounts authorized to be appropriated pursuant to Division B for land acquisition and construction of facilities shall be available for the acquisition of land and the construction of facilities necessary to carry out the responsibilities referred to in subsection (a).

SEC. 1103. COMMUNICATIONS NETWORK

(a) INTEGRATION OF NETWORK.—The Secretary of Defense, in consultation with the Director, National Drug Control Policy, shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to titles I, II, and III for fiscal year 1990, $30,000,000 shall be available for the activities described in subsection (a).

SEC. 1104. DRUG INTERDICTION AND ENFORCEMENT ACTIVITIES OF THE NATIONAL GUARD

(a) FUNDING ASSISTANCE.—The Secretary of Defense shall provide to the Governor of a State who submits a plan to the Secretary under subsection (b) sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of such State used—

(1) for the purpose of drug interdiction and enforcement operations; and

(2) for the operation and maintenance of the equipment and facilities of the National Guard of such State that are used for the purposes described in paragraph (1).

(b) PLAN REQUIREMENTS.—(1) The Secretary shall provide funds under subsection (a) to the Governor of a State who submits to the Secretary a plan specifying how personnel of the National Guard of that State are to be used in drug enforcement and interdiction operations if—

(A) such operations are to be conducted at a time when personnel of a National Guard of the State are under the command and control of the State authority and are not in Federal service; and

(B) participation by National Guard personnel in such operations is service in addition to annual training required under section 502 of title 32, United States Code.

(2)(A) Before funds are provided to the Governor of a State under this section, the Secretary of Defense shall consult with the Attorney General of the United States regarding the adequacy of the plan submitted by the Governor to the Secretary.

(B) If the Governor of a State submits a plan to the Secretary of Defense for assistance under this section, the plan is the same as a plan previously submitted by that State, and funds were provided to the State pursuant to such plan, then funds may be provided to such State under this section without further consultation with the Attorney General.

(c) FUNDING AMOUNTS.—(1) Of the amounts made available pursuant to section 1101, the Secretary shall make available for the purposes of subsection (a)—

(A) $35,000,000 for operations and maintenance of the National Guard; and

(B) $35,000,000 for National Guard personnel.

(2) Amounts made available pursuant to paragraph (1) for the National Guard are in addition to amounts otherwise appropriated for the National Guard for fiscal year 1990.

(d) LIMITATION ON DELEGATION.—The Secretary may delegate the authority of the Secretary under this section only to the Deputy Secretary of Defense, to an Under Secretary of Defense, or to an Assistant Secretary of Defense.

(e) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

(f) EXCLUSION FROM END-STRENGTH COMPUTATION.—Members of the National Guard on full-time National Guard duty for the purposes of administering this section shall not be counted toward the end-strengths authorized in section 422 for members on full-time National Guard duty for the purposes of organizing, administering, recruiting, instructing, or training the reserve components, or toward the strengths authorized in sections 517 and 524 of title 10, United States Code.

(g) DEFINITIONS.—As used in this section:

(1) The term "Governor of a State" means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

(2) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(3) The term "enforcement operations" includes use of National Guard personnel, while not in Federal status, in any law enforcement activities authorized by State and local law and requested by the Governor.

SEC. 1105. MAINTENANCE AND REPAIR OF EQUIPMENT MADE AVAILABLE TO FEDERAL LAW ENFORCEMENT OFFICIALS

(a) IN GENERAL.—The Secretary of Defense shall be responsible during fiscal year 1990 for the maintenance and repair of equipment that has been made available by the Department of Defense to other Federal agencies for use in antidrug efforts or for any use under chapter 18 of title 10, United States Code, because of the potential future utility of such equipment to the Department of Defense. The Secretary shall be responsible for the maintenance and repair of

such equipment to the extent that funds are available pursuant to subsection (b).

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III, $20,000,000 shall be available for fiscal year 1990 for the purposes described in subsection (a).

SEC. 1106. RESEARCH AND DEVELOPMENT

(a) IN GENERAL.—The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies concerned with the detection of illicit drugs and other dangerous and illegal substances concealed in containers.

(b) FUNDING.—Of the amounts authorized to be appropriated pursuant to title II for fiscal year 1990, $20,000,000 shall be available for the purposes described in subsection (a).

SEC. 1107. CIVIL AIR PATROL

(a) IN GENERAL.—The Secretary of Defense shall pay for expenses incurred by the Civil Air Patrol in conducting drug surveillance flights for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) FUNDS.—Of the funds authorized to be appropriated pursuant to title III for fiscal year 1990, $1,000,000 shall be available for purposes described in subsection (a).

SEC. 1108. TRANSPORTATION OF PERSONNEL, SUPPLIES, AND EQUIPMENT RELATING TO DRUG INTERDICTION AND THE ERADICATION OF ILLEGAL DRUGS IN SOURCE COUNTRIES

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Defense shall transport personnel, supplies, and equipment within the United States and from the United States to a foreign country, by aircraft and ships of the Department of Defense, for the purpose of providing assistance to a counter-drug operation to be carried out in a foreign country by the United States or by a friendly foreign country.

(b) CONDITIONS.—The Secretary may transport personnel, supplies, and equipment pursuant to subsection (a) only if—

(1) the transportation of such personnel, supplies, and equipment is consistent with the foreign policy and counter-drug policy of the United States;

(2) the supplies and equipment to be transported are suitable for use in a counter-drug program;

(3) the personnel, supplies, and equipment to be transported are destined for use in a counter-drug program of the United States or of a friendly country; and

(4) the transportation of such personnel, supplies, and equipment will not adversely affect the military preparedness of the United States.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $15,000,000 shall be available for the purposes described in subsection (a).

SEC. 1109. LOAN OF NATIONAL GUARD EQUIPMENT

(a) IN GENERAL.—(1) The Secretary shall authorize the National Guard to loan any item of equipment to any Federal or State law enforcement agency for use by such agency in carrying out drug enforcement activities. Under such regulations as the Secretary may prescribe, items of equipment loaned by the National Guard to any Federal or State law enforcement agency shall be returned promptly to the National Guard if the Chief of the National Guard Bureau determines that the equipment is needed for operational requirements of the National Guard and requests the Federal or State agency concerned to return such equipment to the National Guard.

(2) To the extent that funds are available pursuant to subsection (c), the Secretary shall maintain, repair, and restore any item of equipment made available to any Federal or State law enforcement agency pursuant to paragraph (1).

(b) CONDITIONS.—The Secretary may make the loan of items of equipment referred to in subsection (a) subject to such minimum standards of care and maintenance as the Secretary considers appropriate. The Secretary may also require, with respect to items of equipment loaned to a law enforcement agency under this section, such minimum training and proficiency requirements on the part of the personnel who are to use such items as the Secretary considers appropriate.

(c) FUNDING.—Of the amounts authorized to be appropriated pursuant to title III for fiscal year 1990, $15,000,000 shall be available for the purposes described in subsection (a).

SEC. 1110. EXCESS PERSONAL PROPERTY

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), during fiscal years 1990 and 1991, the Secretary of Defense, in consultation with the Attorney General of the United States and the Director, National Drug Control Policy, may transfer to Federal and State law enforcement agencies such excess personal property of the Department of Defense, including small arms ammunition, as the Secretary determines suitable for use by such agencies in counter-drug activities. Excess property transferred to any such agency under this section may be transferred without cost to the recipient agency.

(b) The Secretary may transfer excess personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense;

(2) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment; and

(3) the Secretary determines that the transfer of the excess property will not have an adverse impact on the military readiness of the United States.

TITLE XII—MILITARY CHILD CARE

SEC. 1201. DEFINITIONS

For purposes of this title—

(1) The term "military child development center" means a facility on a military installation (or on property under the jurisdiction of a military installation) at which child care services are provided for members of the Armed Forces.

(2) The term "family home day care" means home-based child care services provided on a military installation (or on property under the jurisdiction of a military installation) on a regular basis for compensation for members of the Armed Forces.

(3) The term "child care employee" means a civilian employee of the Department of Defense who is employed to work in a military child development center (regardless of whether the employee is paid from appropriated or nonappropriated funds).

SEC. 1202. FUNDING FOR MILITARY CHILD CARE

(a) IN GENERAL.—(1) Of the amounts authorized to be appropriated by this Act for fiscal year 1990, the Secretary of Defense shall make available for military child development centers in fiscal year 1990 funds equal to 75 percent of the estimated nonappropriated funds of the Department of Defense that are used for the purpose of providing child care for members of the Armed Forces in fiscal year 1990.

(2) The Secretary shall make available for military child development centers in each fiscal year after fiscal year 1990 appropriated funds equal to 100 percent of the estimated nonappropriated funds of the Department of Defense that are used for the purpose of providing child care to members of the Armed Forces in the fiscal year concerned.

(3) The Secretary shall give priority to increasing the number of child care employees who are directly involved in providing child care for members of the Armed Forces and to expanding the availability of child care for such members.

(4) Nonappropriated funds referred to in paragraphs (1) and (2) are those funds that are derived from fees paid by the users of military child care services.

(b) REPORTING REQUIREMENT.—Not later than December 31, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on how the Secretary intends to use the funds referred to in subsection (a)(1), including how the Secretary intends to achieve the priority specified in subsection (a)(3).

SEC. 1203. CHILD CARE EMPLOYEES

(a) TRAINING.—(1) The Secretary of Defense shall establish, and prescribe regulations to implement, a uniform training program for child care employees as a condition of employment.

(2) Under those regulations, the Secretary shall require that each child care employee shall complete the training program not later than six months after the date on which the employee begins to work as a child care employee (except that, in the case of a child care employee hired before the date on which the training program is established, the Secretary shall require that the employee complete the program not later than six months after such date).

(3) The training program established under this subsection shall cover, at a minimum, training in the following:

(A) Early childhood development.

(B) Activities and disciplinary techniques appropriate to children of different ages.

(C) Child abuse prevention and detection.

(D) Cardiopulmonary resuscitation and other emergency medical procedures.

(b) PAY.—(1) The Secretary of Defense shall increase the compensation of child care employees of the Department of Defense who are directly involved in providing child care in accordance with paragraph (2).

(2) For the purpose of enabling child care development centers to compete favorably for a qualified and stable civilian workforce, child care employees who are directly involved in providing child care shall be paid compensation competitive with the compensation paid to other employees at the same installation who are drawn from the same labor pool (whether such employees are paid from appropriated or nonappropriated funds). Payment of compensation under this paragraph shall be carried out as a pilot project for a 2-year period. The payment of child care providers shall be paid at competitive levels not later than 6 months after the date of the enactment of this Act.

(c) TRAINING AND CURRICULUM CHILD CARE EMPLOYEES.—(1) The Secretary of Defense

shall require that at each military child development center at least one employee shall be a training and curriculum child care employee. In the case of a military child development center that does not have such a position, such position shall be in addition to existing civil service positions at that center as of the date of the enactment of this Act.

(2) The Secretary shall require appropriate credentials and experience for such employees. The duties of such employees shall include the following:

(A) Special teaching activities at the center.

(B) Daily oversight and instruction of other child care employees at the center.

(C) Daily assistance in the preparation of lesson plans.

(D) Assistance in the center's child abuse prevention and detection program.

(E) Advising the director of the center on the performance of other child care employees.

(3) Each training and curriculum child care employee shall be an employee in a competitive service position.

(d) EMPLOYMENT PREFERENCE FOR MILITARY SPOUSES.—The Secretary of Defense shall provide a preference for qualified spouses of members of the Armed Forces in hiring for, or promoting within, the position of child care employee in a position paid from nonappropriated funds if the spouse is among persons determined to be best qualified for the position. A spouse who is provided a preference under this subsection at a military child development center is not precluded from obtaining another preference, in accordance with section 806 of the Military Family Act of 1985 (10 U.S.C. 113 note), in the same geographical area as the military child development center.

(e) ADDITIONAL CHILD CARE POSITIONS.—In addition to the number of child care development service positions in the Department of Defense as of September 30, 1989, the Secretary of Defense shall make available to the Department, not later than September 30, 1991, an additional 3,700 child care development competitive service positions. The Secretary of Defense shall phase such additional positions into the military child care centers consistent with the increase in funds provided for under section 1202. All such positions shall be verified in accordance with child care staffing documents. Positions for which such personnel may be used include—

(1) training and curriculum child care employees under subsection (c);

(2) child care administrators (including receptionists and operations clerks);

(3) supplemental care administrators;

(4) director of military child development centers;

(5) family day care coordinators; and

(6) supervisory program assistants to perform administrative and direct care of service functions.

(f) COMPETITIVE SERVICE POSITION DEFINED.—For purposes of this section, the term "competitive service position" means a position to which an employee is appointed and paid in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

SEC. 1204. PARENT FEES

The Secretary of Defense shall prescribe regulations on fees to be charged parents for the attendance of children at military child development centers. Those regulations shall be uniform for the military departments and shall require that fees charged to parents for child care be based on total family income.

SEC. 1205. CHILD ABUSE PREVENTION AND SAFETY

(a) ABUSE TASK FORCE.—The Secretary of Defense shall establish and maintain a special task force to respond in the case of allegations of widespread child abuse at a military child development center. The task force shall be composed of personnel (from both within the Department of Defense and outside the Department of Defense) from a variety of disciplines, including medicine, psychology, childhood development, and building safety. The task force shall provide assistance to base commanders and parents in helping them to deal with such allegations.

(b) NATIONAL HOTLINE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall establish and publicize a national telephone hotline for persons to report (anonymously if desired) suspected child abuse or safety violations at a military child development center or family day care home. The Secretary shall establish a mechanism to follow up on complaints and information received over the hotline.

(c) ASSISTANCE FROM LOCAL AUTHORITIES.—The Secretary of Defense shall prescribe regulations requiring that in a case of allegations of child abuse at a military child development center, the commander of the military installation or the task force established under subsection (a) shall seek the assistance of local child protective authorities if such assistance is appropriate.

(d) SAFETY REGULATIONS.—The Secretary of Defense shall prescribe uniform regulations on safety and operating procedures at military child development centers.

(e) INSPECTIONS.—The Secretary of Defense shall require that each military child development center be inspected at least four times a year. The inspections shall be unannounced. At least one inspection a year shall be carried out by a representative of the base that the center is serving, and one inspection a year shall be carried out by a representative of the major command under which the base operates.

(f) REMEDIES FOR VIOLATIONS.—(1) Except as provided in paragraph (2), any violation of a law or regulation (discovered at an inspection or otherwise) of a military child development center shall be remedied immediately.

(2) In the case of a violation that is not life threatening, the commander of the major command under which the base (that the military child development center is serving) operates may waive the requirement for immediate remediation of the violation for a period of up to 90 days beginning on the date of the discovery of the violation. The violation must be remedied at the end of that 90-day period. If the violation is not remedied as of the end of the period, the military child development center shall be closed until it is remedied unless the Secretary of the military department concerned authorizes the center to remain open in a case in which the violation cannot reasonably be remedied within 90 days or in which major facility reconstruction is required.

(3) In the event of a closing of a military child development center under paragraph (2), the Secretary of the military department concerned shall promptly submit to the Committees on Armed Services of the Senate and House of Representatives a report notifying those committees of the closing. The report shall include notice of the violation that caused the closing, the cost of remedying the violation, and the reasons why the violation has not been remedied as of the time of the report.

(g) REPORT ON COOPERATION WITH DEPARTMENT OF JUSTICE.—(1) The Secretary of Defense shall study areas of interdepartmental concern in military child care. Those areas shall include the following:

(A) Improving communication between the Department of Defense and the Department of Justice in investigations of child abuse at military child development centers and in the coordination of the conduct of such investigations.

(B) Eliminating overlapping responsibilities between those departments.

(C) Making better use of government and nongovernment experts in child abuse investigations and prosecutions.

(D) Improving communication between agencies and affected families.

(2) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the study required by paragraph (1). The report shall include recommendations on methods for improving the areas studied.

(3) The study shall be carried out, and the report shall be prepared, in consultation with the Comptroller General.

SEC. 1206. PARENT PARTNERSHIPS WITH CHILD DEVELOPMENT CENTERS

(a) PARENT BOARDS.—The Secretary of Defense shall require the establishment of a board of parents at each military child development center, to be composed of parents of children attending the center. Each such board shall meet periodically with staff at the military child development center and the commander of the base that the center is serving for the purpose of discussing problems and concerns. The board, together with the center staff, shall be responsible for coordinating the parent participation program described in subsection (b).

(b) PARENT PARTICIPATION PROGRAMS.—The Secretary of Defense shall require the establishment of a parent participation program at each military child development center and at each military family day care home.

SEC. 1207. REPORT ON FIVE-YEAR DEMAND FOR CHILD CARE

(a) REPORT REQUIRED.—The Secretary of Defense shall submit to Congress a report on the expected demand for child care by military and civilian personnel of the Department of Defense over the five-year period beginning on the date of the submission of the report.

(b) PLAN FOR MEETING DEMAND.—The report shall include a plan for meeting that demand and shall set forth the cost of implementing that plan.

(c) MONITORING OF FAMILY DAY CARE PROVIDERS.—The report shall also include a description of methods for monitoring family day care programs of the military departments. For purposes of the preceding sentence, a family day care program is a program in which an individual certified by the Secretary of the military department concerned provides child day care in the individual's home.

(d) TIME FOR SUBMISSION.—The report shall be submitted not later than six months after the date of the enactment of this Act.

SEC. 1208. SUBSIDIES FOR FAMILY HOME DAY CARE

The Secretary of Defense may utilize appropriated or nonappropriated funds available for military child care purposes for the support of family home day care so that family home day care services can be provided to members of the Armed Forces at a cost comparable to the cost of services provided by child development centers.

SEC. 1209. EARLY CHILDHOOD EDUCATION DEMONSTRATION PROGRAM

(a) DEMONSTRATION PROGRAM.—Not later than January 1, 1991, the Secretary of Defense shall ensure that 15 percent of all military child development centers are accredited by an appropriate national early childhood accrediting body. Such centers shall be designated as early childhood education programs and shall serve as models for child development centers and family home day care at military installations.

(b) EVALUATION REQUIRED.—The Secretary shall obtain an independent evaluation of the programs provided for in this section to determine the effectiveness of such programs in promoting the development of preschool children. The Secretary shall report the results of the evaluation to Congress together with such comments and recommendations as the Secretary considers appropriate.

(c) PLAN REQUIRED.—Not later than January 1, 1990, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for meeting the requirements of this section.

SEC. 1210. DEADLINE FOR REGULATIONS

Regulations required to be prescribed by this title shall be prescribed not later than 90 days after the date of the enactment of this Act.

AUTHORIZATION FOR NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

The bill (S. 1447) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1990, and for other purposes, was amended by striking out all after the enacting clause, and inserting in lieu thereof the provisions of division C of S. 1352, as amended, as follows:

The corrected text of S. 1447, as passed by the Senate on August 2, 1989, is as follows:

S. 1447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 101. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1990 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,821,270,000, to be allocated as follows:

(A) For research and development, $1,090,670,000.

(B) For weapons testing, $532,600,000.

(C) For production and surveillance, $2,100,097,000.

(D) For program direction, $97,903,000.

(2) For defense nuclear materials production, $1,664,691,000, to be allocated as follows:

(A) For production reactor operations, $578,049,000.

(B) For processing of defense nuclear materials, including naval reactors fuel, $599,609,000, of which $78,744,000 shall be used for special isotope separation.

(C) For supporting services, $282,868,000.

(D) For uranium enrichment for naval reactors, $168,900,000.

(E) For program direction, $35,265,000.

(3) For verification and control technology, $174,146,000.

(4) For nuclear materials safeguards and security technology development program, $82,241,000.

(5) For security investigations, $41,200,000.

(6) For new production reactors, $203,500,000.

(7) For naval reactors development, $562,800,000.

SEC. 102. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1990 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 90-D-101, general plant projects, various locations, $28,130,000.

Project 90-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $1,000,000.

Project 90-D-103, environment, safety, and health improvements, various locations, $10,700,000.

Project 90-D-121, general plant projects, various locations, $30,850,000.

Project 90-D-122, production capabilities for the nuclear depth/strike bomb (ND/SB), various locations, $8,000,000.

Project 90-D-124, high explosives (HE) synthesis facility, Pantex Plant, Amarillo, Texas, $1,800,000.

Project 90-D-125, steam plant ash disposal facility, Y-12 Plant, Oak Ridge, Tennessee, $1,500,000.

Project 90-D-126, environmental, safety, and health enhancements, various locations, $26,700,000.

Project 89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee, $9,200,000.

Project 89-D-125, plutonium recovery modification project, Rocky Flats Plant, Golden, Colorado, $45,000,000.

Project 89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio, $3,500,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,100,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $44,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $94,400,000.

Project 88-D-122, facilities capability assurance program, various locations, $83,099,000.

Project 88-D-123, security enhancements, Pantex Plant, Amarillo, Texas, $5,500,000.

Project 88-D-124, fire protection upgrade, various locations, $5,400,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, $36,000,000.

Project 87-D-104, safeguards and security enhancement, Phase II, Lawrence Livermore National Laboratory, Livermore, California, $7,000,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, $41,200,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $5,200,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $24,025,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, $9,460,000.

(2) For materials production:

Project 90-D-141, Idaho chemical processing plant fire protection, Idaho National Engineering Laboratory, Idaho, $3,500,000.

Project 90-D-142, coal storage facility environmental upgrade, Feed Materials Production Center, Fernald, Ohio, $920,000.

Project 90-D-143, plutonium finishing plant fire safety and loss limitation, Richland, Washington, $800,000.

Project 90-D-146, general plant projects, various locations, $36,802,000.

Project 90-D-149, plantwide fire protection, Phase I, Savannah River, South Carolina, $4,900,000.

Project 90-D-150, reactor safety assurance, Phase I, Savannah River, South Carolina, $12,700,000.

Project 90-D-151, engineering center, Savannah River, South Carolina, $7,000,000.

Project 89-D-140, additional separations safeguards, Savannah River, South Carolina, $10,300,000.

Project 89-D-141, M-area waste disposal, Savannah River, South Carolina, $7,800,000.

Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina, $40,000,000.

Project 89-D-148, improved reactor confinement system, design only, Savannah River, South Carolina, $7,100,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $6,400,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I, II, III, and IV, Feed Materials Production Center, Fernald, Ohio, $55,111,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $40,000,000.

Project 86-D-149, productivity retention program, Phases I, II, III, IV, and V, various locations, $81,780,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $3,164,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $6,181,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho

National Engineering Laboratory, Idaho, $55,000,000.

(3) For verification and control technology:

Project 90-D-186, center for national security and arms control, Sandia National Laboratories, Albuquerque, New Mexico, $1,000,000.

(4) For new production reactor:

Project 88-D-154, new production reactor capacity, various locations, $100,000,000.

(5) For naval reactors development:

Project 90-N-101, general plant projects, various locations, $8,500,000.

Project 90-N-102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $3,600,000.

Project 90-N-103, advanced test reactor off-gas treatment system, Idaho National Engineering Laboratory, Idaho, $200,000.

Project 90-N-104, facilities renovation, Knolls Atomic Power Laboratory, Niskayuna, New York, $3,900,000.

Project 89-N-102, heat transfer test facility, Knolls Atomic Power Laboratory, Niskayuna, New York, $6,500,000.

Project 89-N-103, advanced test reactor modifications, Test Reactor Area, Idaho National Engineering Laboratory, Idaho, $3,100,000.

Project 89-N-104, power system upgrade, Naval Reactors Facility, Idaho, $6,400,000.

Project 88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho, $3,000,000.

(6) For capital equipment not related to construction:

(A) For weapons activities, $288,875,000, including $8,700,000 for the defense inertial confinement fusion program.

(B) For materials production, $104,425,000.

(C) For verification and control technology, $9,732,000.

(D) For nuclear safeguards and security, $4,967,000.

(E) For naval reactors development, $54,000,000.

SEC. 103. FUNDING LIMITATIONS

(a) PROGRAMS, PROJECTS, AND ACTIVITIES OF THE DEPARTMENT OF ENERGY RELATING TO STRATEGIC DEFENSE INITIATIVE.—Of the funds appropriated to the Department of Energy for fiscal year 1990 for operating expenses and plant and capital equipment, not more than $200,000,000 may be obligated or expended for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

(b) INERTIAL CONFINEMENT FUSION.—Of the funds appropriated to the Department of Energy for fiscal year 1990 for operating expenses and plant and capital equipment, not more than $173,700,000 may be obligated or expended for the defense inertial confinement fusion program.

(c) SPECIAL ISOTOPE SEPARATION PROJECT.—The funds authorized for Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, may not be used for construction or for procurement of long-lead materials or equipment. The Secretary of Energy may transfer not more than $10,000,000 from such project to operating expenses for the special isotope separation project. No additional funds may be obligated for construction, including site preparation, in connection with such project until the Secretary has certified to the Committees on Armed Services of the Senate and the House of Representatives that the technology for the special isotope separation project has been proven and that all environmental requirements provided in applicable laws have been met.

(d) LANCE WARHEAD FOLLOW-ON.—(1) Except as provided in paragraph (2), funds appropriated pursuant to the authorization contained in section 101 may not be obligated for design and development of any warhead for the Follow-on To Lance (FOTL) missile.

(2) Funds referred to in paragraph (1) may be obligated for the design of any warhead for the Follow-on To Lance (FOTL) missile if the Nuclear Weapons Council certifies to the Secretary of Energy that such warhead—

(A) is a cost-effective utilization of the W84 warhead, the W85 warhead, or both the W84 and W85 warheads, or the components of such warhead or warheads, as the case may be; or

(B) is incompatible with utilization of the W84 and W85 warheads and their components.

PART B—RECURRING GENERAL PROVISIONS

SEC. 121. REPROGRAMMING

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 122. LIMITS ON GENERAL PLANT PROJECTS

(a) IN GENERAL.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and on the Committees on Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 123. LIMITS ON CONSTRUCTION PROJECTS

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 102 of this title, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 124. FUND TRANSFER AUTHORITY

(a) IN GENERAL.—Funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

(b) SPECIFIC TRANSFER.—The Secretary of Defense may transfer to the Secretary of Energy not more than $100,000,000 of the funds appropriated for fiscal year 1990 to the Department of Defense for research, development, test, and evaluation for the Defense Agencies for the performance of work on the Strategic Defense Initiative. Funds so transferred—

(1) may be used only for research, development, and testing for nuclear directed energy weapons, including plant and capital equipment related thereto;

(2) shall be merged with the appropriations of the Department of Energy; and

(3) may not be included in calculating the amount of funds obligated or expended for purposes of the funding limitation in section 3103(a).

SEC. 125. AUTHORITY FOR CONSTRUCTION DESIGN

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project

exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by section 102, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts and section 121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 128. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated for operating expenses or for plant and capital equipment may remain available until expended.

PART C—DEFENSE ENERGY TECHNOLOGY TRANSFER

SEC. 131. SHORT TITLE

This part may be referred to as the "Department of Energy National Competitiveness Technology Transfer Act of 1989".

SEC. 132. FINDINGS AND PURPOSE

(a) FINDINGS.—Congress finds that:

(1) technology advancement is a key component in the growth of the United States industrial economy, and a strong industrial base is an essential element of the security of this country;

(2) there is a need to enhance United States competitiveness in both domestic and international markets;

(3) innovation and the rapid application of new technology are assuming a more significant role in near-term marketplace success;

(4) the Department of Energy's laboratories and other facilities have outstanding capabilities in a variety of advanced technologies and skilled scientists, engineers, and technicians who could contribute substantially to the posture of United States industry in international competition;

(5) improved opportunities for cooperative arrangements between contractor-managers of certain Department of Energy facilities and the United States private sector, consistent with the program missions at those facilities, particularly the national security functions involved in atomic energy defense activities, would contribute to our national well-being; and

(6) more effective cooperation between those Department of Energy facilities and the United States private sector is required to provide speed and certainty in the technology transfer process.

(b) PURPOSES.—The purposes of this part are to—

(1) enhance United States national security by establishing a national competitiveness mission for certain Department of Energy facilities in order to provide opportunities to utilize the technologies and capabilities residing in those facilities for the United States to enhance its competitiveness; and

(2) enhance collaboration between universities, the private sector, and facilities of the Department of Energy so as to foster the development of technologies in areas of significant economic potential.

SEC. 133. DEFINITIONS

For purposes of this part, the term—

(a) "facility" means the following Department of Energy installations, respectively:

(1) Lawrence-Livermore National Laboratory;

(2) Los Alamos National Laboratory;

(3) Sandia National Laboratory;

(4) Idaho National Engineering Laboratory; and

(5) any other installations that are managed under a contract that includes the provisions referred to in section 134(d) and any government-owned, contractor-operated installations established as Department of Energy multi-purpose laboratories or program-dedicated laboratories that are designated by the Secretary upon request of the contractor-manager; except that term does not include Naval Nuclear Propulsion laboratories or contractors performing work covered under Executive Order 12344, as codified in 42 United States Code 7158;

(b) "Secretary" means the Secretary of Energy;

(c) "contract" means a prime contract between the United States, represented by the Department of Energy, and a contractor to manage and operate a facility;

(d) "contractor-manager" means the entity undertaking the responsibility under a contract to manage and operate a facility;

(e) "cooperative arrangement" means a written agreement between a contractor-manager and one or more collaborative parties, under which the contractor-manager, acting under his contract, provides personnel, services, equipment, or other resources for the conduct of specified developmental or advanced work to assist in creating products of potential commercial value;

(f) "collaborative party" means a party to a cooperative arrangement other than a Federal department or agency or any of their contractors or subcontractors acting in furtherance of their contractual undertakings to the Federal entities;

(g) "program mission" means the work and services constituting the entire scope of work to be performed by the contracting party under the contract, excluding the national competitiveness mission;

(h) "national competitiveness mission" means the contractor-manager's activities under the contract, conducted in partnership with the Department of Energy, consistent with program missions and national security considerations, to provide for the transfer of technology developed at the facility to the United States private sector, including activities performed under cooperative arrangements and intellectual-property licensing activities;

(i) "intellectual property" means patents, trademarks, copyrights, mask works, and other forms of comparable property rights protected by Federal law;

(j) "technical data" means recorded information, regardless of form or characteristic of a scientific or technical nature, excluding computer software;

(k) "computer software" means recorded information, regardless of form or media on which it may be recorded, comprising computer programs or documentation thereof; and

(l) "unlimited rights" means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly or display publicly, in any manner and for any purpose, and to have or permit others to do so.

SEC. 134. NATIONAL COMPETITIVENESS MISSION

(a) Within one hundred and eighty days after the date of enactment of this Act, the Secretary shall—

(1) review all existing laws, regulations, policy guidelines, orders, directives and administrative processes associated with the Department's ability to achieve the purpose of this part;

(2) confer with representatives of United States industry and labor, educational institutions, and contracting parties respecting effective implementation of this part.

(3) advise the Congress of any existing legal obstacles interfering with the Department's ability to achieve the purpose of this part, and make pertinent recommendations; and

(4) publish a comprehensive set of policy guidelines, procedures, and supporting regulations to effectuate the purpose of this part, including:

(A) a procedure for assuring that proposed cooperative arrangements are reviewed and concurred in, required to be modified, or rejected by the Secretary within sixty days after receipt by the Secretary of the proposed arrangement. If action is not taken by the Secretary within this sixty-day period, the Secretary shall—

(i) notify the contractor-manager affected of the date on which action will be taken, not to exceed an additional sixty days from the original deadline; and

(ii) provide a written explanation of the reasons for the delay;

In any case under such procedure in which the Secretary disapproves or requires the modification of any proposed cooperative arrangement submitted under this part, the Secretary shall transmit a written explanation of such disapproval or modification to the contractor-manager affected;

(B) requirements to avoid conflicts of interests, and to govern the use of Government funds for and receipt of funds, due to the national competitiveness mission; and

(C) any other requirements related to the principles stated in subsection (b) of this section.

(b) In taking the steps provided for in subsections (a)(4) and (d) of this section the Secretary shall be guided by the following principles:

(1) The national competitiveness mission shall not interfere with any national security mission for the Department of Energy and shall be complementary to and supporting of the program missions at the facility, and in the overall best interests of the Federal Government.

(2) Classified information and unclassified sensitive information protected by law or regulations shall be safeguarded.

(3) The Secretary's management authority and responsibility with respect to the facility and the conduct of activities under the contract for the operation of the facility shall not be diminished.

(4) The national competitiveness mission shall be conducted in a manner that—

(A) provides fairness of opportunity to participate to entities in the United States private sector and for a fair return on the taxpayer's investment;

(B) includes consideration of small business firms and universities; and

(C) permits, subject to such restrictions, limitations, terms, and conditions as the Secretary considers necessary, temporary exchanges of personnel between any domestic firm or university and a facility subject to this part.

(5)(A) The benefits of technology transfer resulting from the national competitiveness mission shall accrue to United States industry.

(B) In accordance with the principles in paragraphs (2), (4) and (5)(A) of this subsection, entities that are owned, controlled or dominated by a foreign government or foreign entity shall be separately considered in light of the objective of this part to improve United States competitiveness and of national security. In addition, agreements with such foreign entities shall take into consideration whether or not the associated foreign government permits United States agencies, organizations, or other persons to enter into cooperative arrangements and licensing agreements with agencies, organizations, or other persons of such foreign country.

(6) The Secretary shall establish an explicit policy and procedures to govern a contractor-manager's use of Government resources for the national competitiveness mission, royalties or other income from licensing agreements, and receipts of funds by reasons of cooperative arrangements, as well as the maintenance of books and records.

(7) Appropriate march-in rights shall be provided for intellectual property acquired by the contractor-manager, collaborative party or their successors-in-interest to assure commercial utilization of technology developed under cooperative arrangements.

(c) Beginning promptly after the inclusion of the national competitiveness mission in a contract, and continuing thereafter during the course of the national competitiveness mission, the Secretary and the contractor-manager shall periodically confer on—

(1) potential projects for cooperative arrangements;

(2) terms and conditions in cooperative arrangements;

(3) specification of particular inventions and specific technical data or computer software provided for in section 135 of this part; and

(4) progress and problem areas associated with potential or actual cooperative arrangements.

(d) Within sixty days after publication of the guidelines, procedures and regulations under subsection (a)(4), the Secretary shall make available to each contractor-manager of a facility for possible inclusion in the contract appropriate contract provisions that—

(1) refer to this part;

(2) establish the concept of cooperative arrangements as a mission for the government; and

(3) describe the respective obligations and responsibility of the government and a contractor-manager party with respect to the national competitiveness mission.

SEC. 135. PARTICULAR INVENTIONS AND SPECIFIC TECHNICAL DATA OR COMPUTER SOFTWARE

(a) Beginning after the inclusion in a contract of the national competitiveness mission, the contractor-manager shall identify in writing in advance of its use in a contemplated cooperative arrangement or in an amendment to the arrangement—

(1) any particular inventions, conceived or first actually reduced to practice by the contractor-manager in the performance of program missions under its contract; and

(2) any specific technical data or computer software determined to have near-term commercial value, first produced by the contractor-manager in the performance of program missions under its contract.

(b) To the extent that this part is inconsistent with any of the provisions of section 200, title 35 of the United States Code, et seq., the provisions of this part take precedence.

(c) In addition to the exemptions provided by section 202(a) (i), (ii), (iii), and (iv) of title 35, United States Code, for purposes of this part the Secretary may designate special circumstance technologies or inventions for which title shall vest in the Government in the same manner as exceptional circumstance determinations under section 202(a)(ii) of title 35, United States Code. The Secretary may make this designation only where a finding can be made that retention of title by the contractor would not meet the principles of section 134(b) or that public health, safety, energy, or environmental considerations require otherwise. The Secretary's finding shall be processed in the same manner as determinations under subsection 202(b)(1) of title 35, United States Code.

(d) With respect to any inventions conceived or first actually reduced to practice by the contractor-manager in the performance of its contract to manage and operate the facilities:

(1) Notwithstanding section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), section 9 of the Federal Non-nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908), or other provision of law, the Secretary shall dispose of the title to an invention made by a contractor-manager in the same manner as applied to small business and nonprofit organizations under chapter 18 of title 35, United States Code, and as provided by this part.

(2)(A) Whenever a contractor-manager makes an invention to which the Secretary has determined to retain title for exceptional circumstances under section 202(a)(ii) of title 35, United States Code or for special circumstances under subsection (c), title to the invention shall be retained by the Government unless the facility at which the invention is made requests title or an exclusive right to the invention and the Secretary does not notify the contractor-manager of the facility within ninety days after receipt of the request that—

(i) the invention is covered by a determination under section 202(a)(ii) of title 35, United States Code or a special circumstance designation under subsection (c) or has been classified or has been designated sensitive technical information; and

(ii) rejection of the request, in whole or in part, either is justified by the Secretary's original determination to retain title for exceptional circumstances or for special circumstances or is in the best interests of the United States, taking into consideration the matters set forth in subparagraph (C).

(B) Whenever a contracting party makes an invention to which the Secretary has determined to retain title because the invention is made in the course of or under a funding agreement described in section 202(a)(iv) of title 35, United States Code, the title to the invention shall be retained by the Government unless the contractor-manager of the facility at which the invention is made requests title or an exclusive right to the invention and the Secretary does not notify the director of the facility within ninety days after receipt of the request that—

(i) the invention is covered by a determination under subsection 202(a)(iv) of title 35, United States Code, or has been classified or has been designated sensitive technical information, and

(ii) rejection of the request, in whole or in part, is in the best interests of the United States, taking into consideration the matters set forth in subparagraph (C).

(C) In making a determination in accordance with this paragraph, the Secretary shall consider whether any such determination either may result in—

(i) the compromise of the national security;

(ii) the release to unauthorized persons of sensitive technical information (whether classified or unclassified) under any program or activity for which dissemination is controlled under Federal law; or

(iii) a conflict of interest contemplated by Federal statutes and regulations;

or will adversely affect the operation of any other program or activity conducted at any facility. The Secretary may not use export control statutes or regulations as the sole bases for refusing a request for title to an invention.

(D) If the Secretary does not notify the contractor-manager that has requested title to an invention in accordance with this section, the Secretary shall—

(i) notify the contractor-manager of the date on which action will be taken by the Secretary, not to exceed an additional sixty days beyond the original deadline; and

(ii) shall provide a written explanation of the reason for the delay.

(e) With respect to specific technical data or computer software referred to in subsection (a)(2) that the Secretary, upon request of the contractor-manager, determines has near-term commercial value and is necessary for commercialization of technology to be developed under the cooperative arrangement, the cooperative arrangement may provide intellectual property rights to the technical data or computer software; if so protected the technical data or computer software shall not be disclosed to or reproduced for any third party by the Government (except for third parties to which the Government decides it must disclose the technical data or computer software on a restricted basis either for national security purposes, for health, safety and environmental purposes, or to Government contractors in the performance of Government work), the contractor-manager or any collaborative party to the arrangement, for a period of up to three years after completion of the work performed under the arrangement up to a maximum of six years after the technical data or computer software is first produced. Thereafter, or earlier upon permission of the parties, the Government shall have unlimited rights to such intellectual property and technical data or computer software.

(f) Notwithstanding any grant of rights under subsections (d) and (e) of this section, the Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license, to practice or have practiced for or on behalf of the United States throughout the world, to such inventions, to use or have used or create derivative works for or on behalf of the United States throughout the world such technical data or computer software.

SEC. 136. COOPERATIVE ARRANGEMENTS

(a) Notwithstanding any other provision of this part or any other provision of any other law to the contrary, the rights to any inventions conceived or first actually reduced to practice by a collaborating party in performing under a cooperative arrangement shall be agreed to by the parties to the

arrangement, subject to regulations under this part and to the Government's nonexclusive, nontransferable, irrevocable, paid-up license, to practice or have practiced for or on behalf of the United States throughout the world, to that invention.

(b) With respect to technical data or computer software first produced in the performance of a cooperative arrangement that the Secretary, upon request of the contractor-manager, determines has near-term commercial value and is necessary for commercialization of technology to be developed under the cooperative arrangement, may be protected by an intellectual property right; if so protected, the technical data or computer software shall not be disclosed to or reproduced for any third party by the Government (except for third parties to which the Government decides it must disclose the technical data on a restricted basis either for national security purposes, for health, safety, and environmental purposes, or to Government contractors in performance of Government work), the contractor-manager or any collaborative party to the arrangement, without the express written permission of all parties to the arrangement, for a period of up to three years after completion of the work performed under the arrangement up to a maximum of six years after the technical data is first produced, subject to the Government's nonexclusive, nontransferable, irrevocable, paid-up license, to use or have used or create derivative works for or on behalf of the United States throughout the world, such technical data or computer software. Thereafter, or earlier upon permission of the parties to the agreement, the Government shall have unlimited rights to the intellectual property and technical data or computer software.

(c) Technical data or computer software in which collaborating parties have rights established prior to entering into cooperative arrangements shall be accorded appropriate protection.

SEC. 137. OVERSIGHT

The Secretary, the Inspector General of the Department of Energy, and the Comptroller General shall conduct periodic audits of activities under this part.

SEC. 138. LIABILITY

Neither the United States nor the contractor-managers, or any of their officers, employees or agents, may be held liable for injury or damage due to a defect or deficiency in a product or process produced or service performed by a collaborating party or its licensees or assigns that embodies technology developed under a cooperative arrangement under this part.

SEC. 139. COPYRIGHTS AND PATENTS

This part does not contain any new authority for the Department of Energy to obtain a copyright or a patent.

PART D—MISCELLANEOUS PROVISIONS

SEC. 141. PRODUCTION OF THE 155-MILLIMETER ARTILLERY-FIRED, ATOMIC PROJECTILE

Section 1635 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2649), is amended—

(1) in subsection (b), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", not including amounts spent exclusively to ensure the safety and security of the warheads."; and

(2) by adding at the end the following new subsection:

"(d) The Secretary of Energy and the Secretary of Defense shall jointly submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of this section and shall include in such report the number of projectiles referred to in subsection (b) that have been produced and the total amount obligated for the production of such projectiles. Such report shall be submitted at the same time that the President submits the budget for fiscal year 1991 to Congress pursuant to section 1105 of title 31, United States Code.".

SEC. 142. SPECIAL PERSONNEL MANAGEMENT AUTHORITY RELATING TO CERTAIN DEPARTMENT OF ENERGY POSITIONS

(a) AUTHORITY TO DESIGNATE CRITICAL POSITIONS.—(1) The Secretary of Energy may designate not more than 25 positions in the Department of Energy as critical positions. The Secretary may designate a position as a critical position for purposes of this section only if (A) the duties of the position involve significant managerial functions relating to the research, development, production, or processing of nuclear materials, facilities, or technology for defense purposes, and (B) the Secretary determines that sustained exceptional performance of such functions is required in the interest of the national security or the public health and safety of the United States.

(2)(A) The authority of the Secretary to designate a position as a critical position under this section expires three years after the date of the enactment of this Act.

(B) A position designated as a critical position for purposes of this section shall cease to be a critical position three years after the date of the enactment of this Act, except that a position designated as a critical position shall continue to be a critical position for purposes of this section after such three-year period so long as a person appointed to such position before the expiration of such three-year period continues to hold such position.

(b) AUTHORITY TO PRESCRIBE RATES OF PAY.—(1) Notwithstanding section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.), sections 5308, 5382, and 5383(b) of title 5, United States Code, or any other provision of law, the Secretary may prescribe the rate of pay for a critical position at the time an appointment is made to that position.

(2) Except as provided in paragraph (3), the rate of pay prescribed under paragraph (1) for a critical position may not exceed the amount equal to 150 percent of the rate of pay that, except for this subsection, would otherwise apply to that position.

(3) The Secretary may prescribe a rate of pay for a critical position in excess of the limit specified in paragraph (2) if the Secretary determines that there is an extraordinary need to pay a person in that position a rate of pay higher than that limit. However, in no case may the higher rate of pay exceed the amount equal to 150 percent of the rate of pay applicable for executive level II under the Executive Schedule pursuant to section 5313 of title 5, United States Code.

(4) Subject to the limitations provided in paragraphs (2) and (3), the Secretary may from time to time adjust the rates of pay prescribed under this subsection.

(c) INAPPLICABILITY OF DUAL COMPENSATION LIMITATION.—Section 5532 of title 5, United States Code, shall not apply to a person while such person is serving in a critical position.

(d) INAPPLICABILITY OF CERTAIN CONFLICTS-OF-INTEREST LAWS.—(1) Section 207 of title 18, United States Code, shall not apply in the case of a former officer or employee referred to in subsection (a) of such section who furnishes services to or on behalf of a contractor operating a multiprogram laboratory with which the Department of Energy has a contract. This paragraph shall apply only with respect to such services that relate to matters in which the former officer or employee officially participated while such former officer or employee was serving in a critical position.

(2) Section 208 of title 18, United States Code, shall not apply in the case of any person who (A) is serving in a critical position, and (B) is a former employee of a multiprogram laboratory with which the Department of Energy had a contract during the period that the person was employed by that laboratory. This paragraph shall apply only with respect to matters involving that laboratory.

(3)(A) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)) shall not apply to a person referred to in subparagraph (B) with respect to services furnished by such person to a multiprogram laboratory in connection with a competition for, award of, modification of, or extension of a Department of Energy contract for the operation of such laboratory or with respect to performance of work under the contract.

(B) This paragraph applies to any person who, while serving in a critical position, took any action described in section 27(e) of the Office of Federal Procurement Policy Act with respect to a procurement for the operation of the laboratory referred to in subparagraph (A).

(4)(A) Whenever a person, upon separation from employment by the Department of Energy, commences the furnishing of services with respect to which section 207 of title 18, United States Code, or section 27(e) of the Office of Federal Procurement Policy Act does not apply by reason of paragraph (1) or (3), the Secretary of Energy shall transmit to the Office of Government Ethics a notification containing the name of such person, the Department of Energy position in which the person was employed at the time of separation, the contractor to which or on behalf of which such person is furnishing such services, and a description of such services.

(B) Whenever the Secretary of Energy appoints to a position of employment in the Department of Energy any person to whom section 208 of title 18, United States Code, does not apply by reason of paragraph (2), the Secretary shall transmit to the Office of Government Ethics a notification containing the name of such person, the position in which such person was employed while such person was employed in a laboratory referred to in that paragraph, the name of the person's employer while such person was so employed, and the position to which such person is appointed.

(C) Notifications received by the Office of Government Ethics under this paragraph shall be available to the public.

(e) SPECIAL SCIENTIFIC, ENGINEERING, AND MANAGERIAL POSITIONS.—(1) The Secretary may designate not more than 250 scientific, engineering, and managerial positions in the Department of Energy as special scientific positions, special engineering positions, and special managerial positions, respectively.

(2) Section 5532 of title 5, United States Code, shall not apply to a person while such person is serving in a position designated pursuant to paragraph (1).

(f) DEFINITIONS.—As used in this section:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "critical position" means a position designated by the Secretary as a critical position under subsection (a).

SEC. 143. NUCLEAR TEST BAN READINESS PROGRAM

(a) PARTICIPATION OF THE SECRETARY OF DEFENSE.—Section 1436 of National Defense Authorization Act, Fiscal Year 1986 (Public Law 100-456; 102 Stat. 2075; 42 U.S.C. 2121 note) is amended—

(1) in subsection (b), by striking out "Secretary of Energy shall" and inserting in lieu thereof "Secretary of Defense and the Secretary of Energy shall jointly";

(2) in subsection (d)—

(A) by striking out "Secretary of Energy shall" and inserting in lieu thereof "Secretary of Defense and the Secretary of Energy shall jointly"; and

(B) by striking out "the Department of Defense,"; and

(3) in subsection (e), by striking out "Secretary of Energy shall" and inserting in lieu thereof "Secretary of Defense and the Secretary of Energy shall jointly".

(b) ESTABLISHMENT OF PROGRAM.—Subsection (b) of section 1436 of such Act is amended by striking out "deterrent effect" and all that follows through the end of such subsection and inserting in lieu thereof "military effectiveness of its stockpile of nuclear weapons designs and other deterrent systems in the event that a low-threshold or comprehensive ban on nuclear explosives testing is negotiated and ratified.".

(c) PURPOSES OF PROGRAM.—Subsection (c) of section 1436 of such Act is amended—

(1) in paragraph (1), by striking out "existing designs of nuclear weapons" and inserting in lieu thereof "its stockpile of nuclear weapons designs"; and

(2) in paragraph (3), by inserting before the period at the end the following: ", including nuclear effects on other deterrent systems, and can carry out necessary modernization requirements".

SEC. 144. AUTHORIZATION AND FUNDING FOR ROCKY FLATS AGREEMENT

(a) AUTHORIZATION.—(1) Using funds available pursuant to subsection (b), the Secretary of Energy shall make such payments as may be necessary—

(A) to carry out the agreement entered into on June 16, 1989, between the Department of Energy and the State of Colorado with respect to the Rocky Flats Plant; and

(B) to enable the State of Colorado to provide such assistance to the Colorado communities described in paragraph (2) as is necessary to ensure, through testing and related activities, that the drinking water of those communities is safe, pure, and clean.

(2) The Colorado communities referred to in paragraph (1)(B) are those communities whose water supply flows through, runs off, or is otherwise affected by air or water emissions of, the Rocky Flats Plant.

(b) FUNDING.—Of the funds appropriated to the Department of Energy for fiscal year 1990 pursuant to the authorization in this title for environmental restoration and management of defense waste, not more than $3,435,000 may be obligated to carry out such agreement and to provide for testing and related activities authorized under subsection (a)(2).

SEC. 145. REPORTS IN CONNECTION WITH PERMANENT CLOSURES OF DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES

(a) TRAINING AND JOB PLACEMENT SERVICES PLAN.—Not later than 120 days before a Department of Energy defense nuclear facility (as defined in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g)) permanently ceases all production and processing operations, the Secretary of Energy must submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of the training and job placement services needed to enable the employees at such facility to obtain employment in the environmental remediation and cleanup activities at such facility. The discussion shall include the actions that should be taken by the contractor operating and managing such facility to provide retraining and job placement services to employees of such contractor.

(b) CLOSURE REPORT.—Upon the permanent cessation of production operations at a Department of Energy defense nuclear facility, the Secretary of Energy shall submit to Congress a report containing—

(1) a complete survey of environmental problems at the facility;

(2) budget quality data indicating the cost of environmental restoration and other remediation and cleanup efforts at the facility; and

(3) a discussion of the proposed cleanup schedule.

SEC. 146. NATIONAL COMPETITIVENESS MISSION

Section 91(a) of the Atomic Energy Act of 1954 (68 Stat. 936; 42 U.S.C. 2121(a)) is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(3) enhance the economic competitiveness of the United States, to the extent consistent with the national security missions of the Department of Energy, by ensuring that investment in research and development in the military application of atomic energy results, to the extent practicable, in the development of civilian applications for and commercialization of advanced technology (including, but not limited to, advanced technology relating to the safe and efficient handling and disposal of industrial wastes), through appropriate transfers of federally owned or federally originated technology to state or local governments, private industry, and universities or other non-profit institutions.".

PART E—ENVIRONMENT, SAFETY, AND MANAGEMENT

SEC. 151. AUTHORIZATION FOR ENVIRONMENTAL RESTORATION AND FOR MANAGEMENT OF DEFENSE WASTE AND TRANSPORTATION

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1990 for environmental restoration and management of defense waste and transportation, as follows:

(1) For operating expenses, $1,602,639,000, to be allocated as follows:

(A) For environmental restoration, $640,293,000. Such funds may also be used for plant and capital equipment.

(B) For waste operation and projects, $747,167,000.

(C) For waste research, development, and compliance in support of the defense waste cleanup technology program under section 154, $200,338,000.

(D) For transportation management, $11,841,000.

(E) For program direction, $2,950,000.

(2) For plant and capital equipment, $166,966,000, to be allocated as follows:

Project 90-D-170, general plant projects, various locations, $29,036,000.

Project 90-D-171, laboratory ventilation and electrical system upgrade, Richland, Washington, $1,100,000.

Project 90-D-172, aging waste transfer lines, Richland, Washington, $1,300,000.

Project 90-D-173, B plant canyon crane replacement, Richland, Washington, $1,500,000.

Project 90-D-174, decontamination laundry facility, Richland, Washington, $2,800,000.

Project 90-D-175, landlord program safety compliance-1, Richland, Washington, $4,200,000.

Project 90-D-176, transuranic (TRU) waste facility, Savannah River, South Carolina, $3,100,000.

Project 90-D-177, RWMC transuranic (TRU) waste treatment and storage facility. Idaho National Engineering Laboratory, Idaho Falls, Idaho, $5,000,000.

Project 90-D-178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho Fall, Idaho, $6,000,000.

Project 89-D-171, Idaho National Engineering Laboratory road renovation, Idaho, $7,400,000.

Project 89-D-172, Hanford environmental compliance, Richland, Washington, $27,600,000.

Project 89-D-173, tank farm ventilation upgrade, Richland, Washington, $15,400,000.

Project 89-D-174, replacement high level waste evaporator, Savannah River, South Carolina, $9,360,000.

Project 89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $6,440,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $29,100,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $700,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $2,790,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $14,140,000.

(3) For capital equipment not related to construction, $50,126,000.

SEC. 152. MAJOR DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

(a) MAJOR PROGRAM DEFINED.—In this section, the term "major Department of Energy national security program" means a research and development program (which may include construction and production activities), a construction program, or a production program—

(1) that is designated by the Secretary of Energy as a major Department of Energy national security program; or

(2) that is estimated by the Secretary of Energy to cost more than $500,000,000 (based on fiscal year 1989 constant dollars).

(b) REQUIRED REPORTS.—(1) Except as provided in paragraph (3), the Secretary of Energy shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives at the end of each calendar-year quarter a report on each major Department of Energy national security program.

(2) Each such report shall include, at a minimum, the following information:

(A) A description of the program, its purpose, and its relationship to the mission of the national security program of the Department of Energy.

(B) The program schedule, including estimated annual costs.

(C) A comparison of the current schedule and cost estimates with previous schedule and cost estimates, and an explanation of changes.

(3) A report under this section need not be submitted for the first, second, or third calendar-year quarter if the comparison between current schedule and cost estimates and schedule and cost estimates contained in the last submitted report shows that there has been—

(A) less than 5 percent change in total program cost; and

(B) less than a 90-day delay in any significant schedule item of the program.

(c) SUBMISSION OF REPORT.—Each report under this section shall be submitted not later than 30 days after the end of each calendar-year quarter. The first report shall cover the fourth quarter of 1989 and shall be submitted not later than January 30, 1990.

(d) IDENTIFICATION OF PROGRAMS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall submit a report to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives that identifies all programs of the Department of Energy that are major Department of Energy national security programs, as defined in subsection (a).

SEC. 153. FIVE-YEAR BUDGET PLAN REQUIREMENT

(a) PLAN REQUIREMENT.—The Secretary of Energy each year shall prepare a five-year budget plan for the national security programs of the Department of Energy. The plan shall contain the estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the national security programs and shall be at a level of detail comparable to that contained in the budget submitted by the President to Congress under section 1105 of title 31, United States Code.

(b) SUBMISSION OF PLAN.—The Secretary shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives the plan required under subsection (a) at the same time as the President submits to Congress the budget pursuant to section 1105 of title 31, United States Code.

SEC. 154. DEFENSE WASTE CLEANUP TECHNOLOGY PROGRAM

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish and carry out a program for the supervision, direction, and coordination of all research activities of the Department of Energy for the development of technologies useful for (1) the reduction of environmental hazards and contamination resulting from defense waste, and (2) environmental restoration of inactive defense waste disposal sites.

(b) PROGRAM MANAGER.—The Secretary shall carry out the program referred to in subsection (a) through a program manager appointed by the Secretary. The program manager shall supervise and direct all research activities conducted by or for the Department of Energy for the development of technologies referred to in such subsection.

(c) COORDINATION WITH EPA.—(1) In order to ensure nonduplication of research activities by the Department of Energy and the Environmental Protection Agency regarding technologies referred to in subsection (a), the Secretary shall coordinate the research activities of the Department of Energy relating to the development of such technologies with the research activities of the Environmental Protection Agency relating to the same matter.

(2) The Secretary and the Administrator of the Environmental Protection Agency may enter into cooperative agreements for the conduct of research for the development of technologies referred to in subsection (a).

(d) REPORT.—(1) The Secretary shall submit to Congress not later than April 1 each year a report on the research activities of the Department of Energy for the development of technologies referred to in subsection (a). The report shall cover such activities for the fiscal year preceding the fiscal year in which the report is submitted. The Secretary shall include in the report the following:

(A) A description and assessment of each research program being carried out by or for the Department of Energy and the identification of the individual laboratory, contractor, or institution of higher education responsible for the research program.

(B) An assessment of the extent to which (i) there are practical applications of the technologies being researched, and (ii) such technologies will likely facilitate compliance by the Department of Energy with applicable environmental laws and regulations.

(C) An accounting of the funds allocated to each research program and to each laboratory, contractor, or institution of higher education carrying out the research program.

(D) An assessment of the research projects that have been coordinated with the Environmental Protection Agency pursuant to subsection (c).

(2) The first report required by paragraph (1) shall be submitted not later than April 1, 1990.

(e) DEFINITIONS.—As used in this section:

(1) The term "defense waste" means hazardous waste, including radioactive waste, resulting primarily from atomic energy defense activities of the Department of Energy.

(2) The term "inactive defense waste disposal site" means any site (including any facility) which is used for the disposal of defense waste and is closed to the disposal of additional defense waste, including any site that is subject to decontamination and decommissioning.

SEC. 155. BLUE RIBBON TASK GROUP ON ENVIRONMENTAL RESTORATION AND DEFENSE WASTE MANAGEMENT

(a) ESTABLISHMENT OF GROUP.—The President shall establish a Blue Ribbon Task Group on Environmental Restoration and Defense Waste Management to examine the procedures used in establishing requirements, providing necessary resources, planning, and implementing plans for each of the following:

(A) Environmental restoration activities, including corrective actions at, and decontamination and decommissioning of, facilities of the Department of Energy that conduct atomic energy defense activities.

(B) Defense waste management operations and disposal at such facilities.

(C) Compliance with, and enforcement of compliance with, applicable environmental laws at such facilities.

(b) MEMBERSHIP OF GROUP.—(1) The Task Group shall consist of seven members, qualified for service by reasons of experience and education. The President shall appoint three members and shall designate one of those members to act as chairman of the Task Group. The Majority Leader and the Minority Leader of the Senate shall jointly appoint two members and the Speaker and the Minority Leader of the House of Representatives shall jointly appoint two members.

(2) No person may be appointed to the Task Group who is an employee of the Department of Energy, who has a contract with such Department, or who is an employee of any person that has a contract with such Department.

(c) ACCESS TO RECORDS AND EMPLOYEES.—The Secretary of Energy shall ensure that the Task Group has complete and timely access to all records of the Department of Energy pertaining to policies and procedures referred to in subsection (a) and to all employees of the Department who are directly concerned with such policies and procedures.

(d) REPORT BY THE PRESIDENT.—Within 90 days after the date of the enactment of this Act, the President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing (1) the name of each person appointed by the President to the Task Group, (2) a statement of the qualifications of each such person to serve on the Task Group, and (3) a detailed plan for completing the report required by subsection (e).

(e) REPORT BY THE TASK GROUP.—Not later than January 15, 1991, the Task Group shall submit to the President and Congress a report containing its findings and recommendations. Such report shall include any additional or dissenting views that any member of the Task Group may wish to submit. The report shall (in addition to any other matters) include recommendations of the Task Group on the following matters:

(1) Changes needed to improve the policies and procedures referred to in subsection (a).

(2) Improvements in the budgeting, organization, and management policies and procedures that affect environmental compliance and restoration, enforcement, and defense waste activities.

(3) Appropriate policies and procedures for achieving, maintaining, and enforcing compliance with substantive and procedural requirements of Federal and State environmental laws at atomic energy defense facilities of the Department of Energy consistent with the performance of the missions of those facilities, including recommended changes in existing law or existing Federal agency policies necessary for the establishment of (A) the policies and procedures recommended by the Task Group, and (B) consistent government-wide policies on the matters covered by the policies and procedures recommended by the Task Group.

(4) Priorities for implementing such measures for environmental compliance and restoration and defense waste management at atomic energy defense facilities of the Department of Energy as may be necessary to bring such facilities into compliance with applicable Federal and State laws.

(5) Actions to enhance the capability of the Department of Energy to meet program milestones.

(6) The amount of funding needed for long-term environmental restoration at Department of Energy atomic energy defense facilities.

(7) Alternative means for funding long-term environmental restoration at such facilities.

(8) Whether one of the means for funding such long-term environmental restoration should be a trust fund established for purposes of correcting environmental contamination at the Department of Energy atomic energy defense facilities and, if so, what the scope of the trust fund should be, what the sources of revenue for the trust fund should be, and what the criteria should be for determining the priorities for which expenditures from the trust fund should be made.

(9) The adequacy of the five-year plan proposed by the Secretary of Energy to bring the Department of Energy atomic energy defense facilities into compliance with environmental laws.

SEC. 156. EXECUTIVE MANAGEMENT TRAINING IN THE DEPARTMENT OF ENERGY

(a) ESTABLISHMENT OF TRAINING PROGRAM.—The Secretary of Energy shall establish and implement a management training program for personnel of the Department of Energy involved in the management of atomic energy defense activities.

(b) TRAINING PROVISIONS.—The training program shall include instruction in the following areas:

(1) The appropriate management responsibilities and reporting requirements for the operation of atomic energy defense facilities and the conduct of related activities.

(2) Methods of evaluating technical performance.

(3) Federal and State environmental laws and requirements for compliance with such environmental laws, including timely compliance with reporting requirements in such laws.

(4) The establishment of program milestones and methods to evaluate success in meeting such milestones.

(5) Methods for conducting long-range technical and budget planning.

(6) Procedures for reviewing and applying innovative technology to environmental restoration and defense waste management.

SEC. 157. DEFENSE PROGRAM MISSIONS

Section 91(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2121(a)) is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clauses:

"(3) provide for safe storage, processing, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs; and

"(4) carry out research on and development of technologies needed for the effective negotiation and verification of international agreements on control of special nuclear materials and nuclear weapons.".

TITLE II—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 201. AUTHORIZATION FOR THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD

There are authorized to be appropriated for fiscal year 1990, $10,000,000 for the establishment and operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954.

SEC. 202. RADIATION-RISK ACTIVITIES

(a) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall submit to the Committees on Armed Services and Veterans' Affairs of the Senate and House of Representatives a report identifying the numbers of individuals who, while serving on active duty for training, inactive duty training, or as a military technician of the National Guard, participated in radiation-risk activities, but are not covered under provisions of the Atomic Veterans Act, Public Law 100-321.

(b) The report required by subparagraph (a) shall be submitted not later than sixty days after enactment of this Act.

TITLE III—NATIONAL DEFENSE STOCKPILE

SEC. 301. AUTHORIZED CHANGES IN MATERIAL QUANTITIES

The President is authorized to effect the following changes in quantities of materials to be acquired for the National Defense Stockpile provided for under section 3(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(a)):

(1) Aluminum oxide, abrasive grain group, from 638,000 short tons (contained) to 374,000 short tons (contained).

(2) Antimony, from 36,000 short tons to 88,500 short tons.

(3) Asbestos, amosite, from 17,000 short tons to zero short tons.

(4) Bauxite, refractory, from 1,400,000 long calcined tons to 1,240,000 long calcined tons.

(5) Bismuth, from 2,200,000 pounds to 1,060,000 pounds.

(6) Chromite, refractory grade ore, from 850,000 short dry tons to 695,000 short dry tons.

(7) Columbium group, from 4,850,000 pounds (contained) to 12,520,000 pounds (contained).

(8) Diamond, industrial, group, from 29,730,000 carats to 7,730,000 carats.

(9) Fluorspar, acid grade, from 1,400,000 short dry tons to 900,000 short dry tons.

(10) Fluorspar, metallurgical grade, from 1,700,000 short dry tons to 310,000 short dry tons.

(11) Germanium, from 146,000 kilograms to 78,000 kilograms.

(12) Graphite, natural, Malagasy, crystalline, from 20,000 short tons to 14,200 short tons.

(13) Graphite, natural, other than Ceylon and Malagasy, from 2,800 short tons to 1,930 short tons.

(14) Manganese, battery grade group, from 87,000 short dry tons to 50,000 short dry tons.

(15) Mica, muscovite block, stained and better, from 6,200,000 pounds to 2,500,000 pounds.

(16) Natural insulation fibers, from 1,500,000 pounds to zero pounds.

(17) Platinum group metals, iridium, from 98,000 troy ounces to 86,000 troy ounces.

(18) Platinum group metals, palladium, from 3,000,000 troy ounces to 2,150,000 troy ounces.

(19) Quartz crystals, from 600,000 pounds to 240,000 pounds.

(20) Talc, steatite block and lump, from 28 short tons to zero short tons.

(21) Tungsten group, from 50,666,000 pounds (contained) to 70,900,000 pounds (contained).

SEC. 302. AUTHORIZATION OF ACQUISITIONS

During each of the fiscal years 1990 and 1991, the President shall obligate $140,000,000 out of the funds of the National Defense Stockpile Transaction Fund (subject to such limitations as may be provided in appropriations Acts) for the purposes stated in subparagraphs (A) through (E) of section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

SEC. 303. AUTHORIZED DISPOSALS

(a) AUTHORITY.—Notwithstanding section 5(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(b)(2)), effective October 1, 1989, the President may, during fiscal years 1990 and 1991, dispose of the following materials in the National Defense Stockpile that have been determined to be excess to the current requirements of the stockpile:

Material	Quantities
Asbestos, amosite	34,000 short tons
Bismuth	255,400 pounds
Diamond, industrial, crushing bort	8,000,000 carats
Fluorspar, metallurgical grade	15,000 short dry tons
Graphite, natural, Malagasy, crystalline	3,635 short tons
Graphite, natural, other than Ceylon and Malagasy	873 short tons
Mercury	15,000 flasks
Mica, muscovite block, stained and better	10,000 pounds
Silicon carbide	690 short tons
Talc, block and lump	28 short tons
Tin	5,000 metric tons

(b) ADDITIONAL AUTHORITY.—The disposal authority under subsection (a) is in addition to any other disposal authority provided by law.

SEC. 304. STOCKPILE MANAGEMENT

Section 6(a)(4) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(4)) is amended—

(1) by inserting "or technological obsolescence" after "deterioration"; and

(2) by inserting "or more suitable" after "same".

TITLE IV—CIVIL DEFENSE

SEC. 401. AUTHORIZATION OF APPROPRIATIONS

There is hereby authorized to be appropriated $151,535,000 for fiscal year 1990 for the purpose of implementing the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

MILITARY PERSONNEL AUTHORIZATIONS, FISCAL YEARS 1990 AND 1991

The bill (S. 1448) to authorize the end strengths for the Armed Forces for fiscal years 1990 and 1991, to provide for certain matters relating to personnel management, to make certain changes in the pay and allowances and other benefits of members of the uniformed services, and for other purposes, was amended by striking out all after the enacting clause and inserting in lieu thereof the provisions of titles IV, V, and VI of S. 1352, as amended, as follows:

The corrected text of S. 1448, as passed by the Senate on August 2, 1989, is as follows:

S. 1448

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—MILITARY PERSONNEL AUTHORIZATIONS FOR FISCAL YEARS 1990 AND 1991

PART A—ACTIVE FORCES

SEC. 101. END STRENGTHS FOR ACTIVE FORCES

(a) FISCAL YEAR 1990.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1990, as follows:

(1) The Army, 764,021, of which not more than 106,001 may be officers.

(2) The Navy, 591,541, of which not more than 72,443 may be officers.
(3) The Marine Corps, 197,159, of which not more than 20,110 may be officers.
(4) The Air Force, 567,474, of which not more than 102,200 may be officers.
(b) FISCAL YEAR 1991.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1991, as follows:
(1) The Army, 763,721, of which not more than 105,675 may be officers.
(2) The Navy, 591,541, of which not more than 72,263 may be officers.
(3) The Marine Corps, 197,159, of which not more than 20,108 may be officers.
(4) The Air Force, 566,374, of which not more than 102,069 may be officers.

SEC. 102. MAINTENANCE OF ARMY COMBAT FORCE STRUCTURE

(a) IN GENERAL.—The Secretary of Defense may not take any action to reduce the number of active Army ground combat brigades assigned to the 4th Infantry Division (Mechanized) before December 1, 1990.
(b) AUTHORITY TO INCREASE ARMY END STRENGTH FOR FISCAL YEAR 1990.—If, as a result of the prohibition contained in subsection (a), the Secretary of Defense determines that it is necessary to increase the end strength of the Army for fiscal year 1990 above the level authorized under section 101, the Secretary may authorize an increase in the end strength of the Army for fiscal year 1990 of not more than 3,312.
(c) ADJUSTMENT FOR REDUCTION.—If the Secretary of Defense authorizes an increase in the end strength of the Army under subsection (a), the Secretary shall reduce the authorized active end strengths of one or more of the other military services in such amounts as may be necessary to ensure that the combined authorized end strengths for the Army, Navy, Air Force, and Marine Corps does not exceed the total end strengths authorized under section 101.

SEC. 103. TEMPORARY REDUCTION IN NUMBER OF AIR FORCE COLONELS

The number of officers that (but for this section) would be authorized under section 523 of title 10, United States Code, and other applicable provisions of law to be serving on active duty in the Air Force in the grade of colonel during fiscal year 1991 is hereby reduced by 250.

SEC. 104. REASSIGNMENT TO FORT IRWIN, CALIFORNIA

It is the sense of Congress that any combat unit of battalion or squadron size (or larger size) that on the date of the enactment of this Act is stationed at Fort Knox, Kentucky, shall not be permanently reassigned to Fort Irwin, California.

PART B—RESERVE FORCES

SEC. 121. END STRENGTHS FOR SELECTED RESERVE

(a) FISCAL YEAR 1990.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1990, as follows:
(1) The Army National Guard of the United States, 458,000.
(2) The Army Reserve, 321,700.
(3) The Naval Reserve, 153,400.
(4) The Marine Corps Reserve, 44,000.
(5) The Air National Guard of the United States, 116,200.
(6) The Air Force Reserve, 84,900.
(7) The Coast Guard Reserve, 15,000.
(b) FISCAL YEAR 1991.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1991, as follows:
(1) The Army National Guard of the United States, 458,500.
(2) The Army Reserve, 323,100.
(3) The Naval Reserve, 155,000.
(4) The Marine Corps Reserve, 44,100.
(5) The Air National Guard of the United States, 116,300.
(6) The Air Force Reserve, 85,200.
(7) The Coast Guard Reserve, 15,000.
(c) ADJUSTMENTS.—(1) The end strengths prescribed by subsection (a) or (b) for the Selected Reserve of any reserve component shall be proportionately reduced by—
(A) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and
(B) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.
(2) Whenever units referred to in paragraph (1) or individual members referred to in such paragraph are released from active duty during any fiscal year, the end strengths prescribed for the fiscal year for the Selected Reserve of the reserve component concerned shall be proportionately increased by the total authorized strength of the units and by the total number of the individual members.

SEC. 122. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) FISCAL YEAR 1990.—Within the end strengths prescribed in section 421(a), the reserve components of the Armed Forces are authorized, as of September 30, 1990, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:
(1) The Army National Guard of the United States, 26,164.
(2) The Army Reserve, 13,680.
(3) The Naval Reserve, 22,708.
(4) The Marine Corps Reserve, 2,301.
(5) The Air National Guard of the United States, 8,517.
(6) The Air Force Reserve, 686.
(b) FISCAL YEAR 1991.—Within the end strengths prescribed in section 121(b), the reserve components of the Armed Forces are authorized, as of September 30, 1991, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:
(1) The Army National Guard of the United States, 26,514.
(2) The Army Reserve, 14,027.
(3) The Naval Reserve, 23,565.
(4) The Marine Corps Reserve, 2,401.
(5) The Air National Guard of the United States, 8,468.
(6) The Air Force Reserve, 700.

SEC. 123. INCREASE IN NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) SENIOR ENLISTED MEMBERS.—
(1) FISCAL YEAR 1990.—Effective on October 1, 1989, the table in section 517(b) of title 10, United States Code, is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E–9	542	200	224	13
E–8	2,504	425	637	74".

(2) FISCAL YEAR 1991.—Effective on October 1, 1990, that table is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E–9	557	202	231	13
E–8	2,585	429	670	74".

(b) OFFICERS.—
(1) FISCAL YEAR 1990.—Effective on October 1, 1989, the table in section 524(a) of such title is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	3,030	1,065	575	110
Lieutenant Colonel or Commander	1,448	520	476	75
Colonel or Navy Captain	351	188	190	25".

(2) FISCAL YEAR 1991.—Effective on October 1, 1990, that table is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	3,219	1,071	575	110
Lieutenant Colonel or Commander	1,524	520	532	75
Colonel or Navy Captain	364	188	194	25".

SEC. 124. AUTHORIZED STRENGTH OF NAVAL RESERVE OFFICERS IN CERTAIN GRADES

Section 5457(a) of title 10, United States Code, is amended—
(1) in clause (2), by striking out "7" and inserting in lieu thereof "5"; and
(2) by adding after clause (7) the following new clauses:
"(8) Medical Service Corps—1.
"(9) Nurse Corps—1."

PART C—MILITARY TRAINING

SEC. 131. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) FISCAL YEAR 1990.—For fiscal year 1990, the components of the Armed Forces are authorized average military training student loads as follows:
(1) The Army, 79,667.
(2) The Navy, 67,224.
(3) The Marine Corps, 21,656.
(4) The Air Force, 39,575.
(5) The Army National Guard of the United States, 19,168.
(6) The Army Reserve, 15,377.
(7) The Naval Reserve, 3,237.
(8) The Marine Corps Reserve, 4,179.
(9) The Air National Guard of the United States, 2,941.
(10) The Air Force Reserve, 1,752.
(b) FISCAL YEAR 1991.—For fiscal year 1991, the components of the Armed Forces are authorized average military training student loads as follows:
(1) The Army, 74,760.
(2) The Navy, 66,517.
(3) The Marine Corps, 22,235.
(4) The Air Force, 37,757.
(5) The Army National Guard of the United States, 18,667.
(6) The Army Reserve, 15,963.
(7) The Naval Reserve, 3,259.
(8) The Marine Corps Reserve, 4,178.

(9) The Air National Guard of the United States, 2,939.

(10) The Air Force Reserve, 1,774.

(c) ADJUSTMENTS.—The average military student loads authorized in subsections (a) and (b) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

PART D—CIVILIAN PERSONNEL

SEC. 141. REPEAL OF PROHIBITION OF USE OF CERTAIN PERSONNEL MANAGEMENT CONSTRAINTS

(a) IN GENERAL.—Section 129 of title 10, United States Code, is repealed.

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 3 of such title is amended by striking out the item relating to section 129.

SEC. 142. AUTHORITY TO ACCEPT CERTAIN VOLUNTEER SERVICES

Section 1588(a) of title 10, United States Code, is amended by striking out "museum" and inserting in lieu thereof "museum, natural resources program,".

TITLE II—MILITARY PERSONNEL

PART A—MATTERS AFFECTING THE RESERVE COMPONENTS

SEC. 201. DELAYED ENTRY PROGRAM AND DELAYED ENTRY TRAINING PROGRAM FOR RESERVISTS

(a) DELAYED ENTRY PROGRAM ENLISTMENTS.—Section 511 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) A person with no prior military service who is qualified for enlistment in a regular component of an armed force may (except as provided in paragraph (3)) be enlisted as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve for a term of not less than six years nor more than eight years.

"(2) A person enlisted under this subsection shall, unless sooner ordered to active duty under chapter 39 of this title or another provision of law, be discharged from the reserve component in which enlisted and immediately enlisted in a regular component of an armed force within 365 days after enlistment in the reserve component. During the period beginning on the date on which the person enlists under paragraph (1) and ending on the date on which the person is enlisted in a regular component under the preceding sentence, the person shall be placed in the Ready Reserve of the armed force concerned.

"(3) A person who is under orders to report for induction into an armed force under the Military Selective Service Act (50 U.S.C. App. 451 et seq.), except as provided in clause (ii) or (iii) of section 6(c)(2)(A) of that Act, may not be enlisted under paragraph (1).

"(4) This subsection shall be carried out under regulations to be prescribed by the Secretary of Defense or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.".

(b) DELAYED ENTRY PROGRAM EXEMPTION FROM READY RESERVE TRAINING REQUIREMENTS.—Section 270(a) of title 10, United States Code, is amended by inserting "or 511(e)" after "section 269(b)" in the first sentence.

(c) DELAYED ENTRY TRAINING PROGRAM LONGEVITY FOR PAY.—Subsection (e) of section 205 of title 37, United States Code, is amended to read as follows:

"(e)(1) Notwithstanding subsection (a), a period of service described in paragraph (2) of a member who enlists in a reserve component may not be counted under this section.

"(2) Paragraph (1) applies to—

"(A) service performed while a member of a reserve component under an enlistment under section 511(b) or 511(d) of title 10 before the member begins service on active duty under such section (including a period of initial active duty for training performed before beginning such service on active duty) unless the member performs inactive duty training before beginning such active service; and

"(B) service performed while a member of a reserve component under an enlistment under section 511(e) of title 10.".

SEC. 202. LIMITATION OF ACTIVE GUARD AND RESERVE PERSONNEL TO ACTIVE-DUTY PROGRAM

(a) LIMITATION.—Section 2132(d) of title 10, United States Code, is amended by adding at the end the following new sentence: "However, a person may not receive credit under the program established by this chapter for service (in any grade) described in subparagraph (B) or (C) of section 523(b)(1) of this title".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, or the date of the enactment of this Act, whichever is later.

(c) REFERENCES TO ADMINISTRATOR OF VETERANS' AFFAIRS.—Chapter 106 of title 10, United States Code, is amended—

(1) by striking out "Administrator of Veterans' Affairs" in sections 2131(b)(4), 2132(c), 2132(d), and 2136(a) and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(2) by striking out "to the Administrator" in section 2132(c) and inserting in lieu thereof "to that Secretary".

(d) OTHER TECHNICAL AMENDMENTS.—(1) Section 2131(b) of such title is amended by striking out "and educational" in the matter preceding paragraph (1) and inserting in lieu thereof "of an educational".

(2) Section 2132(d) of such title is amended by striking out "An individual" and inserting in lieu thereof "A person".

SEC. 203. ANNUAL MUSTER DUTY FOR READY RESERVISTS

(a) ORDER TO ANNUAL MUSTER DUTY.—(1) Chapter 39 of title 10, United States Code is amended by adding at the end the following new section:

"§ 691. Ready Reserve: muster duty

"(a) Under regulations prescribed by the Secretary of Defense, a member of the Ready Reserve may be ordered to muster duty one time each year without his consent. A member on muster duty under this section shall be engaged for at least two hours on the day of muster in the performance of that duty.

"(b) The period which a member may be required to devote to muster duty under this section and to round-trip travel to and from the location of such duty may not total more than one day each calendar year.

"(c) Except as specified in subsection (d), muster duty under this section shall be treated as the equivalent of inactive-duty training for the purposes of this title and titles 37 and 38, including the determination of eligibility for and the receipt of benefits and entitlements provided under those titles for Reserves performing inactive-duty training and for their dependents and survivors.

"(d) Muster duty under this section shall not be credited in determining entitlement to, or in computing, retired pay under chapter 67 of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"691. Ready Reserve: muster duty.".

(b) ALLOWANCE FOR ANNUAL MUSTER DUTY.—(1) Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 433. Allowance for muster duty

"(a) Under uniform regulations prescribed by the Secretaries concerned, a member of the Ready Reserve who is not a member of the National Guard or of the Selected Reserve is entitled to an allowance for muster duty performed pursuant to section 691 of title 10 if the member is engaged in that duty for at least two hours.

"(b) The amount of the allowance under this section shall be equal to the average per diem rate for the United States (other than Alaska and Hawaii) under section 404(d)(2)(A) of this title as in effect on September 30 of the year preceding the year in which the muster duty is performed.

"(c) The allowance authorized by this section may not be disbursed in kind and shall be paid to the member on or before the date on which the muster duty is performed. The allowance shall constitute the single, flat-rate monetary allowance authorized for the performance of muster duty and shall constitute payment in full to the member, regardless of grade or rank in which serving, as commutation for travel to the immediate vicinity of the designated muster duty location, transportation, subsistence, and the special or extraordinary costs of enforced absence from home and civilian pursuits, including such absence on weekends and holidays.

"(d) A member who performs muster duty is not entitled to compensation for inactive-duty training under section 206(a) of this title for the same period.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"433. Allowance for muster duty.".

SEC. 204. REPEAL OF FOUR YEAR RESERVE OFFICER UNIFORM ALLOWANCE

(a) REPEAL OF ALLOWANCE.—Section 416 of title 37, United States Code, is amended—

(1) by striking out subsection (a);

(2) in subsection (b)—

(A) by striking out "(b)";

(B) by striking out "and subsection (a) of this section" in the first sentence; and

(C) by striking out "this subsection" in the second sentence and inserting in lieu thereof "this section".

(b) SAVINGS CLAUSE.—The amendments made by subsection (a) shall become effective on the date of the enactment of this Act, except that in the case of an officer of an armed force who, except for such amendments, would have become entitled to a uniform reimbursement under such section within one year after the date of the enactment of this Act, such amendments shall not become effective until one year and one day after such date of enactment.

SEC. 205. EXTENSION OF CERTAIN EXPIRING AUTHORITIES RELATING TO RESERVES

(a) EXTENSION OF THE AUTHORITY TO REPAY LOANS OF CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1992".

(b) EXTENSION OF GRADE DETERMINATION AUTHORITY FOR CERTAIN RESERVE MEDICAL OFFICERS.—Sections 3359(b) and 8359(b) of such title are each amended by striking "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(c) EXTENSION OF PROMOTION AUTHORITY FOR CERTAIN RESERVE OFFICERS WHO ARE SERVING ON ACTIVE DUTY.—Sections 3380(d) and 8380(d) of such title are each amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(d) EXTENSION OF REQUIREMENTS RELATING TO THE TREATMENT OF SINGLE PARENTS ENLISTING IN RESERVE COMPONENTS.—Section 523(d) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 510 note) is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(e) EXTENSION OF TITLE 10 PROVISIONS RELATING TO COMPUTATION OF YEARS OF SERVICE FOR MANDATORY TRANSFER TO THE RETIRED RESERVE.—Section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note), is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

SEC. 206. SPECIAL UNIT ASSIGNMENT PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE

(a) AUTHORIZATION OF SPECIAL PAY.—Chapter 5 of title 37, United States Code, is amended by inserting after section 308c the following new section:

"§ 308d. Special pay: enlisted members of the Selected Reserve assigned to certain units

"(a) Under regulations prescribed by the Secretary of Defense, an enlisted member who is assigned to a high priority unit of the Selected Reserve of the Ready Reserve of an armed force, as designated under subsection (b) of this section, and who performs inactive duty for training for compensation under section 206 of this title with such unit may be paid compensation, in addition to the compensation to which the member is otherwise entitled, in an amount not to exceed $10 for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least four hours, including any such instruction or duty performed on a Sunday or holiday.

"(b) The Secretary concerned may designate a unit, for the purposes of subsection (a) and under such terms and conditions as the Secretary considers appropriate, as a high priority unit if that unit has experienced, or reasonably might be expected to experience, critical personnel shortages. The Secretary may vacate a designation made under this subsection at any time he considers the designation no longer necessary.

"(c) Additional compensation may not be paid under this section for inactive duty performed after September 30, 1991.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 308c the following new item:

"308d. Special pay: enlisted members of the Selected Reserve assigned to certain units.".

(c) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of the special pay program provided for in section 308d of title 37, United States Code, as added by subsection (a). The Secretary shall submit the report not later than May 1, 1991, together with such comments and recommendations as the Secretary considers appropriate.

PART B—HEALTH CARE MATTERS

SEC. 221. PROHIBITION ON CHARGES FOR OUTPATIENT MEDICAL AND DENTAL CARE

During fiscal years 1990 and 1991, the Secretary of Defense may not impose a charge for the receipt of outpatient medical or dental care at a military medical treatment facility.

SEC. 222. LIMITATION ON CHAMPUS PAYMENTS TO NONINSTITUTIONAL HEALTH-CARE PROVIDERS

(a) IN GENERAL.—Subsection (h) of section 1079 of title 10, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) Payment for a charge for services by an individual health-care professional (or other noninstitutional health-care provider) for which a claim is submitted under a plan contracted for under subsection (a) may be denied only to the extent that the charge exceeds the lesser of—

"(A) the amount equivalent to the 80th percentile of billed charges made for similar services in the same locality during the base period; or

"(B) the maximum amount payable under this subsection (as in effect on October 1, 1987) for such services in that locality during fiscal year 1988, as increased by the Secretary of Defense from time to time, after consultation with the other administering Secretaries, to reflect economic changes after September 30, 1988.";

(2) in paragraph (2), by striking out "90th percentile" and inserting in lieu thereof "80th percentile";

(3) by adding at the end the following new paragraph:

"(3) The Secretary of Defense may increase the maximum amount referred to in paragraph (1)(B) each time the Secretary of Health and Human Services increases, on the basis of economic changes, the amounts payable to providers of services under part B of title XVIII of the Social Security Act. In increasing such maximum amount, the Secretary of Defense (and the other administering Secretaries) shall consider the same economic information considered by the Secretary of Health and Human Services in adjusting the amounts payable to providers of services under part B of title XVIII of the Social Security Act."; and

(4) by adding after paragraph (2) the following new paragraph:

"(3) For the purposes of paragraph (1)(B), the Secretary of Defense, after consultation with the other administering Secretaries, shall prescribe regulations to apply the appropriate economic index data. Such regulations may permit exceptions to the limitation established by paragraph (1)(B) when justified by special circumstances.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall take effect on October 1, 1989, and shall apply to services provided on or after such date.

SEC. 223. CODIFICATION OF APPROPRIATION PROVISION RELATING TO CHAMPUS

Subsection (c) of section 1074 of title 10, United States Code, is amended by adding at the end the following new sentence: "If the private facility or health care provider providing care under this subsection is a health care provider under the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense, after consultation with the other administering Secretaries, may by regulation require the institutional or individual provider to provide such care in accordance with the same payment rules (subject to any modifications considered appropriate by the Secretary) as apply under that program.".

SEC. 224. ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

(a) DEFINITIONS.—Section 2120 of title 10, United States Code, is amended—

(1) by inserting "and Financial Assistance" after "Scholarship" in paragraphs (1) and (2); and

(2) by adding at the end the following new paragraph:

"(4) The term 'specialized training' means advanced training in a health professions specialty received in an accredited program beyond the basic education required for an appointment as an officer in a health profession.".

(b) SCOPE OF PROGRAM.—Section 2121 of such title is amended—

(1) in subsection (b), by inserting "or of specialized training" after "study"; and

(2) in subsection (c)—

(A) in the second sentence, by inserting "pursuing a course of study" after "of the program"; and

(B) by inserting after the second sentence the following: "Members of the program pursuing specialty training shall serve on active duty in a pay grade, determined in accordance with section 3353, 5600, or 8353 of this title, as appropriate, commensurate with their educational level, with full pay and allowances of that grade for a period of 14 days during each year of participation in the program.".

(c) ELIGIBILITY FOR PARTICIPATION.—Section 2122(a)(1) of such title is amended—

(1) by inserting "or specialized training," after "study"; and

(2) by inserting "or 2120(4), as the case may be," after "2120(3)".

(d) NUMBER OF PARTICIPANTS.—Subsection 2124 of such title is amended by striking out "except that—" and all that follows and inserting in lieu thereof "except that the total number of persons so designated in all the programs authorized by this subchapter shall not, at any time exceed 6,000."

(e) GRANT FOR SPECIALIZED TRAINING.—(1) Chapter 104 of such title is amended by adding at the end the following new section:

"§ 2127a. Grants for specialized training

"(a)(1) A person participating in specialized training for which a stipend is paid under section 2121(d) of this title shall be paid an annual grant of $15,000 in addition to such stipend.

"(2) The amount of the grant shall be increased annually by the Secretary of Defense, effective July 1 of each year, in the same manner as provided for stipends under section 2121(d) of this title.

"(3) The amount of the annual grant paid a person in any fiscal year shall be the amount in effect during the first month the person participates in a program of specialized training.

"(c) Any person who voluntarily terminates participation in a program of specialized training before completing such program shall refund to the United States the total amount of the grants paid such person under subsection (a) for participation in such program.

"(d) A discharge in bankruptcy under title 11 that is entered less than five years after the last payment of a grant under subsection (a) for participation in a program of specialized training does not discharge such person from a debt arising under this section.".

(2) The table of sections at the beginning of chapter 104 of such title is amended by adding at the end the following new item:

"2127a. Grants for specialized training.".

(3) The amendments made by this subsection shall become effective October 1, 1989.

(4) The first annual adjustment under subsection (a)(2) of section 2127a of title 10, United States Code, as added by paragraph (1), shall be made on July 1, 1991.

(f) CLERICAL AMENDMENTS.—(1) The heading of subchapter I of chapter 104 of title 10, United States Code, is amended to read as follows:

"SUBCHAPTER I—HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM FOR ACTIVE SERVICE".

(2) The item relating to such subchapter in the table of subchapters at the beginning of such chapter is amended to read as follows:

"I. Health Professions Scholarship and Financial Assistance Program ..... 2120".

SEC. 225. REVISIONS OF THE EDUCATIONAL LOAN REPAYMENT PROGRAM FOR HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE

(a) EXPANSION OF LOANS QUALIFYING FOR REPAYMENT.—Subsection (a) of section 2172 of title 10, United States Code, is amended—

(1) in clause (2), by striking out "and" after the semicolon;

(2) in clause (3), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(4) a portion of a loan made, insured, or guaranteed through a recognized financial or educational institution which was used to finance basic or advanced health professions education."

(b) EXPANSION OF PROGRAM ELIGIBILITY TO READY RESERVE.—Subsection (b)(1) of such section is amended by striking out "Selected Reserve" and inserting in lieu thereof "Ready Reserve".

(c) INCREASE IN AMOUNTS OF LOAN REPAYMENTS.—Subsection (c) of such section is amended—

(1) in paragraph (2), by striking out "$3,000 for each year of service described in paragraph (1)" and inserting in lieu thereof "$4,500 for each year of Selected Reserve service, or $2,250 for each year of service in the Ready Reserve (other than Selected Reserve service)"; and

(2) in paragraph (3), by striking out "$20,000" and inserting in lieu thereof "$30,000 for Selected Reserve service, or $15,000 for service in the Ready Reserve other than the Selected Reserve".

(d) REPEAL OF TERMINATION PERIOD FOR PROGRAM.—Subsection (d) of such section is repealed.

SEC. 226. REVISED DEADLINE FOR THE USE OF DIAGNOSIS-RELATED GROUPS FOR OUTPATIENT TREATMENT

The regulations required by section 1101(a) of title 10, United States Code, to establish the use of diagnosis-related groups as the primary criteria for the allocation of resources to health care facilities of the uniformed services shall be prescribed to take effect not later than October 1, 1990, in the case of outpatient treatments.

SEC. 227. LIMITATION ON AUTHORITY TO DEFER MANDATORY RETIREMENT FOR AGE OF HEALTH PROFESSIONS OFFICERS

Section 1251(c)(2) of title 10, United States Code, is amended by striking out "67" and inserting in lieu thereof "68".

SEC. 228. RETENTION OF CERTAIN RESERVE PSYCHOLOGISTS IN ACTIVE STATUS

(a) ARMY.—Section 3855(a) of title 10, United States Code, is amended by inserting ", or any reserve officer in the Army Medical Department designated as a psychologist" before the period at the end.

(b) NAVY.—Section 6392(a) of such title is amended by striking out "or biomedical sciences officer" and inserting in lieu thereof "biomedical sciences officer, or psychologist".

(c) AIR FORCE.—Section 8855(a) of such title is amended by striking out "or biomedical sciences officer" and inserting in lieu thereof "biomedical sciences officer, or psychologist".

PART C—PERSONNEL MANAGEMENT

SEC. 231. AUTHORITY TO VACATE PROMOTIONS TO GRADES OF MAJOR THROUGH MAJOR GENERAL AND LIEUTENANT COMMANDER THROUGH REAR ADMIRAL

(a) IN GENERAL.—Section 625 of title 10, United States Code, is amended to read as follows:

"§ 625. Authority to vacate promotions to grades of major through major general and lieutenant commander through rear admiral

"(a) The President may vacate a promotion to the grade of major through major general or to the grade of lieutenant commander through rear admiral in the case of an officer promoted to any such grade under this chapter if the officer has served less than 18 months in the grade to which promoted.

"(b) An officer whose promotion is vacated under this section shall hold the regular grade held by the officer immediately before the promotion vacated under this section if the officer is a regular officer or shall hold the reserve grade held immediately before the promotion vacated under this section if the officer is a reserve officer.

"(c) The position on the active-duty list of an officer whose promotion is vacated under this section is the position the officer would have held had the officer not been promoted.".

(b) TABLE OF SECTIONS.—The item relating to section 625 in the table of sections at the beginning of subchapter II of chapter 36 is amended to read as follows:

"625. Authority to vacate promotions to grades of major through major general and lieutenant commander through rear admiral.".

SEC. 232. NONOPERATIONAL FLYING DUTY POSITIONS

(a) REDUCTION IN NONOPERATIONAL FLYING DUTY POSITIONS.—The Secretary of Defense shall take such action as may be necessary to reduce, by not later than September 30, 1992, the number of nonoperational flying duty positions in the Army, Navy, Air Force, and Marine Corps by a number equal to not less than 5 percent below the total number of such positions in existence on September 30, 1989. The Secretary shall effectuate a reduction of not less than 2 percent by September 30, 1991.

(b) LIMITATION ON INCREASES IN NONOPERATIONAL FLYING DUTY POSITIONS AFTER FISCAL YEAR 1991.—(1) No increase in the number of nonoperational flying duty positions referred to in subsection (a) may be made after September 30, 1991, unless the increase is specifically authorized by law.

(2) As used in this section, the term "nonoperational flying duty positions" means positions in a military department identified by the Secretary of that department as positions that require the assignment of an aviator but that do not include operational flying duty (as defined in section 301a(a)(6) of title 37, United States Code).

SEC. 233. MINIMUM SERVICE REQUIREMENT FOR AVIATORS

(a) IN GENERAL.—Chapter 37 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 653. Minimum service requirement for certain flight crew positions

"(a) PILOTS.—The minimum active duty obligation of any member who successfully completes training in the armed forces as a pilot shall be 9 years, if the member is trained to fly fixed wing jet aircraft, and 7 years, if the member is trained to fly any other type of aircraft.

"(b) NAVIGATORS AND NAVAL FLIGHT OFFICERS.—The minimum active duty obligation of any member who successfully completes training in the armed forces as a navigator or naval flight officer shall be 7 years.

"(c) DEFINITION.—In this section, the term 'active duty obligation' means the period of active duty required to be served after completion of undergraduate pilot training in the case of training as a pilot, completion of undergraduate navigator training in the case of training as a navigator, or completion of undergraduate training as a naval flight officer in the case of training as a naval flight officer.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"653. Minimum service requirement for certain flight crew positions.".

(c) EFFECTIVE DATE.—(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to persons who begin undergraduate pilot training, undergraduate navigator training, or undergraduate naval flight officer training, as the case may be, after September 30, 1990.

(2) The amendments made by this section shall apply to persons who graduate from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the Coast Guard Academy after 1991 and to persons who satisfactorily complete the academic and military requirements of the Senior Reserve Officers' Training Corps program (provided for in chapter 103 of title 10, United States Code) after 1991.

(3) The minimum service requirements provided for in section 653 of title 10, United States Code, as added by subsection (a), shall not apply in the case of any person who entered into an agreement with the Secretary concerned before October 1, 1990, and who is obligated under the terms of such agreement to serve on active duty for a period less than the applicable period specified in section 653 of such title.

(4) For purposes of this subsection, the term "Secretary concerned" has the same meaning provided for such term in section 101(8) of title 10, United States Code.

SEC. 234. REPORT ON AVIATOR ASSIGNMENT POLICIES AND PRACTICES

The Comptroller General of the United States shall conduct a comprehensive study of the aviator assignment policies and practices of the Armed Forces. The Comptroller General shall submit the results of such study to the Committees on Armed Services of the Senate and the House of Representatives not later than February 15, 1990. The

Comptroller General shall include in such report an analysis of the effectiveness and efficiency of the aviator assignment policies and practices of the Armed Forces, including an analysis of the policies and practices followed in accommodating the assignment preferences of aviators within operational needs of the Armed Forces.

PART D—TOTAL FORCE POLICY

SEC. 241. TOTAL FORCE POLICY

(a) FINDINGS.—Congress makes the following findings:

(1) Since inception of the Total Force Policy concept by the Department of Defense there has been no singular authoritative study by the Department of Defense on the operation and effectiveness of that policy.

(2) Force mix decisions by the Department of Defense appear to be fragmented and decentralized.

(3) A comprehensive review of the Total Force Policy is long overdue.

(b) STUDY.—The Secretary of Defense shall convene a study group to review the operation and soundness of the Total Force Policy of the Department of Defense and to make recommendations for improvement of such Policy. The review by the study group shall include the following:

(1) A critical examination of the basic tenets of the Total Force Policy with a view to determining whether changes are required to make the policy more effective.

(2) A critical examination of the force mixes in each of the military services that have evolved since the Total Force Policy was established with a view to determining the soundness of the mixes.

(3) A realistic assessment of combat readiness shortfalls and the resources required to correct the shortfalls.

(4) Development of a cogent force mix strategy for dealing with substantially smaller active military forces in the future.

(5) An evaluation of the operational effectiveness of active and reserve force command and control relationships (similar to the ongoing Army study on alternatives to the current Army Reserve command structure).

(6) A proposed system for top level evaluation of force mix decisions on a regular and systematic basis.

(b) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than December 1, 1989, a report containing the results of the review of the study group convened pursuant to subsection (a) together with such comments and recommendations as the Secretary considers appropriate.

PART E—MISCELLANEOUS

SEC. 251. INCREASE IN SERVICE OBLIGATION FOR GRADUATES OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES AND THE SERVICE ACADEMIES

(a) UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SERVICES.—Section 2114(b) of title 10, United States Code, is amended by striking out "seven years" in the fourth sentence and inserting in lieu thereof "10 years".

(b) UNITED STATES MILITARY ACADEMY.—Section 4348(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(c) UNITED STATES NAVAL ACADEMY.—Section 6959(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(d) UNITED STATES AIR FORCE ACADEMY.—Section 9348 of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to persons who are first admitted to the Uniformed Services University of the Health Services or one of the military service academies after December 31, 1990.

SEC. 252. MILITARY APPELLATE PROCEDURES

(a) COMPOSITION OF THE UNITED STATES COURT OF MILITARY APPEALS.—(1) Subsection (a)(1) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended—

(A) in the second sentence, by striking out "three" and inserting in lieu thereof "five"; and

(B) in the third sentence by striking out "two" and inserting in lieu thereof "three".

(2) Notwithstanding the second sentence of section 867(a)(1) of title 10, United States Code, one of the judges appointed to a position added by the amendment made by paragraph (1), shall be appointed for a term of 7 years and one shall be appointed for a term of 13 years.

(3)(A) Except as otherwise provided in subparagraphs (B) and (C), a judge appointed to a term specified in paragraph (2) is eligible for an annuity as provided in section 867(i) of title 10, United States Code.

(B) The annuity of a judge referred to in subparagraph (A) is computed under paragraph (2) of such section 867(i) only if the judge—

(i) completes the term of service for which he is appointed under such subparagraph;

(ii) is reappointed as a judge of the United States Court of Military Appeals at any time after the completion of such term of service;

(iii) is separated from civilian service in the Federal Government after completing a total of 15 years as a judge of such court; and

(iv) elects to receive an annuity under such section in accordance with the third sentence of paragraph (1) of such section.

(C) In the case of a judge referred to in subparagraph (A) who is separated from civilian service after completing the term of service for which he is appointed as a judge of the United States Court of Military Appeals and before completing a total of 15 years as a judge of such court, the annuity of such judge (if elected in accordance with the third sentence of paragraph (1) of such section 867(i)) shall be—

(i) 7/15 of the amount computed under paragraph (2) of such section if the judge was appointed for a term of 7 years; and

(ii) 13/15 of the amount computed under paragraph (2) of such section if the judge was appointed for a term of 13 years.

(b) REMOVAL OF JUDGES OF THE UNITED STATES COURT OF MILITARY APPEALS.—Paragraph (2) of section 867(a) of title 10, United States Code (article 67(a) of the Uniform Code of Military Justice), is amended by striking out "malfeasance in office" and inserting in lieu thereof "misconduct".

(c) INCAPACITY OF A JUDGE OF THE UNITED STATES COURT OF MILITARY APPEALS.—Subsection (a)(3) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended by striking out "the United States Court of Appeals" and all that follows and inserting in lieu thereof "a United States court of appeals or a United States district court, with the concurrence of the Chief Justice of the United States, the concurrence of the chief judge of such court of appeals or district court, and the consent of the designated judge, to fill the office during the period of disability. Per diem, travel allowances, and other allowances paid to the designated judge in connection with the performance of duties for the United States Court of Military Appeals shall be paid out of the same funds as are available for the payment of per diem and such allowances for judges of such court.".

(d) SENIOR JUDGES OF THE UNITED STATES COURT OF MILITARY APPEALS.—Subsection (a)(4) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(A)" after "(4)";

(2) by striking out ", may occupy" and all that follows and inserting in lieu thereof the following: "and, with his consent, may be called upon by the chief judge of the court to perform judicial duties for the court for any period specified by the chief judge. A senior judge shall be paid for each day on which he performs such duties the daily equivalent of the annual rate of pay provided for a judge of such court. Such pay shall be in lieu of retired pay and any annuity under subsection (i) of this section, subchapter III of chapter 83 of title 5, subchapter II of chapter 84 of such title, and any other Federal Government retirement system for employees of the Federal Government. A senior judge, while performing such duties, shall be provided with such office space and staff assistance as the chief judge considers appropriate and shall be entitled to the per diem, travel allowances, and other allowances provided for judges of such court."; and

(3) by adding at the end the following new subparagraphs:

"(B) For purposes of subchapter III of chapter 83 of title 5 (relating to the Civil Service Retirement and Disability System) and chapter 84 of such title (relating to the Federal Employees' Retirement System) and for purposes of any other Federal Government retirement system for employees of the Federal Government—

"(i) a period during which a senior judge performs duties referred to in subparagraph (A) shall not be considered creditable service;

"(ii) no amount shall be withheld from the pay of a senior judge as a retirement contribution under section 8334, 8343, 8422, or 8432 of title 5 or under any other such retirement system for any period during which the senior judge performs duties referred to in subparagraph (A);

"(iii) no contribution shall be made by the Federal Government to any Federal Government retirement system with respect to a senior judge for any period during which the senior judge performs duties referred to in subparagraph (A); and

"(iv) a senior judge shall not be considered a reemployed annuitant for any period during which the senior judge performs duties referred to in subparagraph (A).

"(C) A senior judge shall be considered an officer or employee of the Federal Government with respect to his status as a senior judge, but only during periods the senior judge is performing duties referred to in subparagraph (A). For the purposes of section 205 of title 18, a senior judge shall be considered a special government employee during such periods. Any provision of law that prohibits or limits the political or business activities of an employee of the Federal Government shall apply to a senior judge only during such periods.

"(D) The United States Court of Military Appeals shall prescribe rules for the utilization and conduct of senior judges of the court. The chief judge of the court shall transmit such rules, and any amendments to such rules, to the Committees on Armed Service of the Senate and the House of Representatives not later than 15 days after the issuance of such rules or amendments, as the case may be.".

(e) APPOINTMENT AND CIVIL SERVICE STATUS OF LEGAL STAFF OF THE UNITED STATES COURT OF MILITARY APPEALS.—(1) Subsection (a) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended by adding at the end the following new paragraph:

"(5) Attorney positions of employment under the United States Court of Military Appeals are excepted from the competitive service. Appointments to such positions shall be made in the same manner as appointments are made to other executive branch positions of a confidential or policy-determining character for which it is not practicable to examine or to hold a competitive examination. Such positions shall not be counted as positions of that character for purposes of any limitation on the number of positions of that character provided in law.".

(2) Section 867(a)(5) of title 10, United States Code (article 67(a)(5) of the Uniform Code of Military Justice), as added by paragraph (1) shall not be applied to change the civil service status of attorneys employed by the United States Court of Military Appeals before the date of the enactment of this Act.

(f) RETIREMENT OF JUDGES OF THE UNITED STATES COURT OF MILITARY APPEALS.—(1) Subsection (i) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended—

(A) in the first sentence of by striking out "the term of service" and inserting in lieu thereof "a term of service"; and

(B) by adding at the end the following new paragraph:

"(9)(A) The Secretary of Defense shall notify the Director of the Office of Personnel Management whenever an election under paragraph (1) is made affecting any right or interest under subchapter III of chapter 83 or chapter 84 of title 5 based on the service of the judge or former judge making the election.

"(B) Upon receiving any notification under subparagraph (1), the Director shall determine the amount of the judge's or former judge's lump-sum credit under subchapter III of chapter 83 or chapter 84 of title 5, as applicable, and shall request the Secretary of the Treasury to transfer such amount from the Civil Service Retirement and Disability Fund to the Department of Defense Military Retirement Fund. The Secretary of the Treasury shall make any transfer so requested.

"(C) In determining the amount of a lump-sum credit under section 8331(8) of title 5 for purposes of this paragraph—

"(i) interest shall be computed using the rates under section 8334(e)(3) of such title; and

"(ii) the completion of 5 years of civilian service (or longer) shall not be a basis for excluding interest.".

(2) The Secretary of Defense shall notify the Director of the Office of Personnel Management of any elections which were made under section 867(i) of title 10, United States Code, before the date of the enactment of this Act. Appropriate amounts shall be transferred from the Civil Service Retirement and Disability Fund to the Department of Defense Military Retirement Fund, based on such elections, in the manner provided for under paragraph (9) of such section 867(i), as added by paragraph (1)(B).

(g) APPELLATE REVIEW OF ARTICLE 69 ACTIONS.—(1) Section 869 of title 10, United States Code (article 69 of the Uniform Code of Military Justice), is amended—

(A) in subsection (a), by striking out the third sentence; and

(B) by adding at the end the following:

"(d) Actions of the Judge Advocate General under this section may be reviewed by a Court of Military Review under section 866 of this title (article 66) in all cases which the Judge Advocate General orders sent to the Court of Military Review.

"(e) Notwithstanding section 866 of this title (article 66), in any case reviewed by a Court of Military Review under this section, the Court shall take action only with respect to matters of law.".

(2) Subsection (e) of such section, as added by paragraph (1), shall apply with respect to cases in which a finding of guilty is adjudged by a general court-martial after the date of the enactment of this Act.

(h) INVESTIGATION OF JUDICIAL MISCONDUCT.—(1) Subchapter I of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by adding at the end the following new section:

"§ 806a. Article 6a. Investigation and disposition of matters pertaining to the fitness of military judges

"(a) The President shall prescribe procedures for the investigation and disposition of charges, allegations, or information pertaining to the fitness of a military judge or military appellate judge to perform the duties of the judge's office. To the extent practicable, the procedures shall be uniform for all armed forces.

"(b) The President shall transmit the procedures prescribed pursuant to this section to the Committees on Armed Services of the Senate and the House of Representatives.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following:

"806a. 6a. Investigation and disposition of matters pertaining to the fitness of military judges.".

(i) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (a) shall take effect on April 15, 1990.

SEC. 253. EXTENSION OF CERTAIN EXPIRING AUTHORITIES

(a) MAKING PERMANENT THE AUTHORITY TO MAKE TEMPORARY PROMOTIONS OF CERTAIN NAVY LIEUTENANTS.—Section 5721(f) of such title is repealed.

(b) EXTENSION OF TEST PROGRAM FOR REIMBURSEMENT OF ADOPTION EXPENSES.—Section 638(h) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (101 Stat. 1108; 10 U.S.C. 113 note) is amended by striking out "October 1, 1989" and inserting in lieu thereof "October 1, 1992".

SEC. 254. TESTING OF NEW ENTRANTS FOR DRUG AND ALCOHOL ABUSE

Section 978(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "or (3)" after "(2)"; and

(2) by inserting at the end the following new paragraph:

"(3) The Secretary concerned may, in lieu of the post-entry testing and evaluation required by paragraph (1), require each applicant for enlistment or appointment to undergo such testing and evaluation before becoming a member of an armed force under the Secretary's jurisdiction.".

SEC. 255. CORRECTION OF MILITARY RECORDS

Section 1552 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) Under regulations prescribed by the Secretary of the military department concerned and approved by the Secretary of Defense, the Secretary concerned may correct any military record of that department announcing the promotion and appointment to an initial or higher grade of an enlisted member of the Army, Navy, Air Force, or Marine Corps if the Secretary concerned considers such action necessary to correct an error or injustice. Under regulations prescribed by the Secretary of Transportation, the Secretary may make such corrections with regard to like military records of the Coast Guard.

"(2) Nothing in this subsection shall be construed to deny a member the right to file a request for correction of records pursuant to subsection (a).

"(3) A correction of an error under this subsection may be made only if the correction is favorable to the member.".

SEC. 256. RELIEF FOR EXPENSES INCURRED BECAUSE OF ERROR IN MANDATORY DIRECT DEPOSIT OF PAY

Section 1053 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ", a member of the National Guard, a member of a Reserve component of an armed force, a former member of the armed forces entitled to military retired pay, or a civilian employee of the Department of Defense" after "armed forces";

(B) by inserting "or allowances" after "pay"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Reimbursement for members of the armed forces under this section shall be made from appropriations available for the pay and allowances of the member of the armed forces concerned. Reimbursements for civilian employees of the Department of Defense under this section shall be made from appropriations available for the pay of the employee concerned.".

SEC. 257. MASTER OF ARTS DEGREE IN LEADER DEVELOPMENT

(a) DEGREE AUTHORIZED.—Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4353a. Master of Arts in Leader Development

"Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy may, upon recommendation by the faculty of the Academy, confer the degree of Master of Arts in Leader Development upon graduates of the Academy who fulfill the requirements for that degree.".

(b) TECHNICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4353a. Master of Arts in Leader Development.".

SEC. 258. TRANSPORTATION FOR POW/MIA FAMILIES

(a) TRANSPORTATION AUTHORIZED.—Chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 403. Transportation for POW/MIA families

"The Secretary of Defense may provide transportation to the next-of-kin of members of the armed forces who have been prisoners of war or missing in action as a result of service during the Vietnam era to attend an annual meeting of the families of such prisoners of war and persons missing in action. As used in this section, the term 'Vietnam era' has the same meaning as provided in section 101(29) of title 38.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"403. Transportation for POW/MIA families.".

SEC. 259. CLARIFICATION OF PROCEDURES REGARDING SOLICITATION AND AWARD OF CONTRACTS FOR POSTSECONDARY EDUCATION SERVICES

(a) EXCEPTION TO PROHIBITION.—Subsections (b) and (c) of section 1212 of the Department of Defense Authorization Act, 1986 (99 Stat. 726; 10 U.S.C. 113 note), are amended to read as follows:

"(b)(1) No solicitation, contract, or agreement for the provision of off-duty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees may limit the offering of such services or any group, category, or level of courses to a single academic institution.

"(2) Nothing in paragraph (1) shall prohibit such actions taken in accordance with regulations of the Secretary of Defense which are uniform for all Armed Forces as may be necessary to avoid unnecessary duplication of offerings at a specific military installation if it is determined, pursuant to such regulations, that the circumstances and conditions existing at that installation would otherwise give rise to unnecessary duplication of offerings at that installation.

"(3) In any case in which an exception is to be made in the case of any installation pursuant to paragraph (2), the specific circumstances and conditions giving rise to the exception shall be set forth in the solicitation or request for proposals for the services concerned.

"(c)(1) Before the issuance of a solicitation for any contract or agreement for the provision of off-duty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees, the Secretary concerned shall—

"(A) submit the terms of the proposed solicitation to the Advisory Board of the Servicemembers' Opportunity College (SOC) or, if at the time there is no duly constituted SOC Advisory Board, to a panel established by the Secretary concerned consisting of an equal number of (i) representatives of national higher education associations representative of public and private institutions granting associate and baccalaureate degrees, and (ii) representatives of the Armed Forces; and

"(B) solicit from the Board or panel, as the case may be, its advice and recommendations regarding the formulation of the proposed solicitation so as to ensure quality, choice, and diversity of instruction.

"(2) No solicitation shall be issued until the Board or panel has submitted its advice and recommendations to the Secretary concerned or 60 days have elapsed after the date on which the proposed solicitation was submitted to the Board or panel by the Secretary, whichever occurs first.

"(3) As used in this subsection, the term 'Secretary concerned' has the same meaning provided for such term in section 101(8) of title 10, United States Code.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contracts entered into after October 1, 1989.

SEC. 260. CIVILIAN FACULTY AT THE UNITED STATES MARINE CORPS UNIVERSITY

(a) IN GENERAL.—Section 7478 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "and the United States Marine Corps University" after "War College"; and

(2) by striking out the heading and inserting in lieu thereof the following:

"§ 7478. Naval War College and United States Marine Corps University: employment of civilian professors; compensation"

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 643 of such title is amended by striking out the item relating to section 7478 and inserting in lieu thereof the following:

"7478. Naval War College and United States Marine Corps University: employment of civilian professors; compensation.".

SEC. 261. COMMERCIAL SALE OF RECORDING OF AIR FORCE SINGING SERGEANTS

The Secretary of the Air Force may enter into an appropriate contract providing for the production and commercial sale of a recording made on April 9, 1989, by the Cincinnati Pops Orchestra and members of the Air Force known as the United States Air Force Singing Sergeants. Any contract entered into under this section shall contain such provisions as the Secretary considers appropriate to protect the interests of the United States.

TITLE III—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 301. MILITARY PAY RAISE FOR FISCAL YEAR 1990

(a) WAIVER OF SECTION 1009 ADJUSTMENTS.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1990 shall not be made.

(b) INCREASE IN BASIC PAY, BAQ, AND BAS.—The rates of basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are each increased by 3.6 percent effective on January 1, 1990.

(c) INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective January 1, 1990, section 203(c)(1) of title 37, United States Code, is amended by striking out "$525" and inserting in lieu thereof "$543.90".

PART B—INCENTIVE PAY

SEC. 321. AVIATION CAREER INCENTIVE PAY

(a) ENTITLEMENT REQUIREMENTS.—Section 301a(a)(4) of title 37, United States Code, is amended by striking out the first two sentences and inserting in lieu thereof the following: "To be entitled to continuous monthly incentive pay, an officer must perform the prescribed operational flying duties (including flight training but excluding proficiency flying) for 9 of the first 12, and 12 of the first 18, years of his aviation service. However, if an officer performs the prescribed operational flying duties (including flight training but excluding proficiency flying) for at least 10 but less than 12 of the first 18 years of his aviation service, he will be entitled to continuous monthly incentive pay for the first 22 years of his officer service.".

(b) MONTHLY RATES.—(1) The table in section 301a(b)(1) of such title is amended to read as follows:

"Phase I

"Years of aviation service (including flight training) as an officer:	Monthly rate:
2 or less	$125
Over 2	156
Over 3	188
Over 4	206
Over 6	650

"Phase II

"Years of service as an officer as computed under section 205:	Monthly rate:
Over 18	$585
Over 20	495
Over 22	385
Over 25	250".

(2) The table in section 301a(b)(2) of such title is amended to read as follows:

"Years of aviation service as an officer:	Monthly rate:
2 or less	$125
Over 2	156
Over 3	188
Over 4	206
Over 6	650".

(c) INCREASES IN INCENTIVE PAY LINKED TO INCREASES IN BASIC PAY.—Section 301a of such title is further amended by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) Whenever the rates of basic pay of members of the uniformed services is increased pursuant to section 1009 of this title, the President shall immediately increase the rates of monthly incentive pay provided for in subsection (b).

"(2) An increase under this subsection shall have the force and effect of law and shall be effective on the same date as the compensation adjustments in basic pay of members of the uniformed services under section 1009 of this title. The percentage of the increase in any year shall be equal to the overall average percentage increase referred to in subsection (b)(3) of such section for such year.".

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2) and subject to subsection (e), the amendments made by this section shall become effective October 1, 1989.

(2)(A) The Secretary concerned may delay implementation of such amendments with respect to the department of that Secretary, subject to the approval of the Secretary of Defense in the case of a military department, until such time as the Secretary of that department determines that implementation of such amendments is necessary to meet the needs of that department.

(B) If the Secretary concerned delays the implementation of such amendments with respect to his department, the provisions of section 301a of title 37, United States Code, as in effect on September 30, 1989, shall continue to apply, in the case of such department, to the payment of aviation career incentive pay made under such section until such date as the Secretary may prescribe for the implementation of the amendments made by this section and shall continue to apply in the case of such department until

such date in the same manner as if the amendments made by this section had not been made.

(e) TRANSITION.—An officer of a uniformed service who has completed 12 years or less of aviation service on October 1, 1989, and has completed his initial operational flying assignment on such date, shall be entitled to continuous monthly incentive pay if the officer performs the prescribed operational flying duties (including flight training but excluding proficiency flying) for 9 of the first 15 years of his aviation service.

(f) DEFINITIONS.—(1) For purposes of subsections (d) and (e), the terms "Secretary concerned" and "uniformed services" have the same meaning provided for such terms in section 101(5) and 101(3), respectively, of title 37, United States Code.

(2) For purposes of subsection (e), the definitions of the terms in section 301a(6) of title 37, United States Code, shall apply to the corresponding terms used in subsection (e).

SEC. 322. AVIATOR RETENTION BONUSES

(a) EXTENSION OF PROGRAM.—Section 611(a) of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1977; 37 U.S.C. 301b note), is amended by striking out "September 30, 1989" and insert in lieu thereof "September 30, 1992".

(b) REPORTING REQUIREMENTS.—(1) Subsection (h) of section 611 of such Act is amended to read as follows:

"(h) REPORTS.—(1) Not later than November 1 each year, the Secretary of each military department, the Secretary of Transportation with respect to the Coast Guard, the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services with respect to the Public Health Service, shall submit to the Secretary of Defense a report analyzing the effect that the aviator retention bonus program provided for under this section has had during the preceding fiscal year on the retention of qualified aviators in the Secretary's department, including a description of the marginal cost of paying bonuses under this section to officers who enter into an agreement referred to in clause (A) of subsection (a)(2) and a description of the marginal cost of paying bonuses under this section to officers who enter into an agreement referred to in clause (B) of such subsection.

"(2) Not later than December 1 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives copies of the reports submitted to him pursuant to paragraph (1) together with such comments and recommendations as the Secretary considers appropriate.".

(2) The first reports required under section 611(h) of the National Defense Authorization Act, Fiscal Year 1989, as amended by paragraph (1), shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives not later than December 1, 1989.

(c) LIMITATION ON OBLIGATIONS.—Section 611 of such Act is further amended by striking out subsections (i) and (j) and inserting in lieu thereof the following:

"(i) The total amount of payments that may be made to Navy officers and Air Force officers under this section during fiscal year 1990 may not exceed—

"(1) $30,000,000, in the case of the Navy; or

"(2) $78,000,000, in the case of the Air Force.".

SEC. 323. INCREASE IN SPECIAL PAY FOR MEDICAL OFFICERS IN THE ARMED FORCES

(a) INCREASE IN RATES OF SPECIAL PAY.—Section 302(a) of title 37, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking out "$1,200" in subparagraph (A) and inserting in lieu thereof "$1,620";

(B) by striking out "$5,000" in subparagraph (B) and inserting in lieu thereof "$6,750";

(C) by striking out "$10,000" in subparagraph (C) and inserting in lieu thereof "$13,500";

(D) by striking out "$9,500" in subparagraph (D) and inserting in lieu thereof "$12,825";

(E) by striking out "$9,000" in subparagraph (E) and inserting in lieu thereof "$12,150";

(F) by striking out "$8,000" in subparagraph (F) and inserting in lieu thereof "$10,800";

(G) by striking out "$7,000" in subparagraph (G) and inserting in lieu thereof "$9,450";

(H) by striking out "$6,000" in subparagraph (H) and inserting in lieu thereof "$8,100"; and

(I) by striking out "$5,000" in subparagraph (I) and inserting in lieu thereof "$6,750";

(2) in paragraph (3), by striking out "$1,000" and inserting in lieu thereof "$1,350";

(3) in paragraph (4)—

(A) by striking out "$9,000" in subparagraph (A) and inserting in lieu thereof "$12,150"; and

(B) by striking out "$10,000" in subparagraph (B) and inserting in lieu thereof "$13,500"; and

(4) in paragraph (5)—

(A) by striking out "$2,000" in subparagraph (A) and inserting in lieu thereof "$2,700";

(B) by striking out "$2,500" in subparagraph (B) and inserting in lieu thereof "$3,375";

(C) by striking out "$3,000" in subparagraph (C) and inserting in lieu thereof "$4,050";

(D) by striking out "$4,000" in subparagraph (D) and inserting in lieu thereof "$5,400"; and

(E) by striking out "$5,000" in subparagraph (E) and inserting in lieu thereof "$6,750".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1989, and shall apply to pay periods beginning on or after that date.

SEC. 324. EXTENSION OF MEDICAL OFFICER RETENTION BONUS

Section 612 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1979; 37 U.S.C. 302 note), is amended—

(1) in subsection (a)(1), by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990";

(2) in subsection (g)—

(A) in the first sentence of paragraph (1)—

(i) by striking out "1988" and inserting in lieu thereof "1989"; and

(ii) by inserting "in fiscal year 1990" immediately before the period at the end;

(B) by striking out "REPORTS.—(1)" and inserting in lieu thereof "REPORT.—"; and

(C) by striking out paragraph (2);

(3) in subsection (h), by striking out the period at the end and inserting in lieu thereof "and the total amount of payments made under this section during fiscal year 1990 may not exceed $36,000,000."; and

(4) by striking out subsection (i) and inserting in lieu thereof the following:

"(i) TERMINATION OF AUTHORITY.—If the report required by subsection (g) is not received by the committees named in such subsection by November 15, 1989, the authority to make payments under this section shall terminate effective December 2, 1989.".

SEC. 325. ACCESSION BONUS FOR REGISTERED NURSES

(a) ACCESSION BONUS AUTHORIZED.—(1) Chapter 5 of title 37, United States Code, is amended by adding after section 302c the following new section:

"§ 302d. Special pay: accession bonus for registered nurses

"(a) ACCESSION BONUS AUTHORIZED.—(1) A person who is a registered nurse and who, during the period beginning on October 1, 1989, and ending on September 30, 1990, executes a written agreement described in subsection (c) to accept a commission as an officer and remain on active duty for a period of not less than four years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

"(2) The amount of an accession bonus under paragraph (1) may not exceed $5,000.

"(b) LIMITATION ON ELIGIBILITY FOR BONUS.—A person is not eligible for a bonus under subsection (a) if—

"(1) the person received financial assistance from the Department of Defense to pursue a baccalaureate degree; or

"(2) the Secretary concerned determines that the person is not qualified as a registered nurse.

"(c) AGREEMENT.—The agreement referred to in subsection (a) shall provide that the individual agrees to accept a commission as an officer with a view toward placement as an officer of the Nurse Corps of the Army or Navy, an officer of the Air Force designated as a nurse, or an officer designated as a nurse in the commissioned corps of the Public Health Service.

"(d) REPAYMENT.—(1) An officer who receives a payment under subsection (a) and who fails to remain licensed as a registered nurse during the period for which the payment is made shall refund to the United States an amount equal to the full amount of such payment.

"(2) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

"(3) An obligation to reimburse the United States imposed under paragraph (1) or (2) is for all purposes a debt owed to the United States.

"(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after October 1, 1989.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302c the following new item:

"302d. Special pay: accession bonus for registered nurses.".

(b) ADMINISTRATION AND IMPLEMENTATION.—Section 303a of title 37, United States Code, is amended by inserting "302d," after "302c," each place it appears.

(c) REPORT ON IMPLEMENTATION.—Not later than March 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the authority provided in section 302d of title 37, United States Code (as added by subsection (a)), is implemented.

SEC. 626. NURSE OFFICER CANDIDATE ACCESSION BONUS

(a) BONUS AUTHORIZED.—Chapter 105 of title 10, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—NURSE OFFICER CANDIDATE ACCESSION PROGRAM

"Sec.
"2130a. Financial assistance: nurse officer candidates.

"§ 2130a. Financial assistance: nurse officer candidates

"(a) BONUS AUTHORIZED.—(1) An individual described in subsection (b) who executes a written agreement in accordance with subsection (c) to accept an appointment as a nurse officer may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus of not more than $5,000. The bonus may be paid in periodic installments, as determined by the Secretary concerned at the time the agreement is accepted.

"(2) In addition to the accession bonus payable under paragraph (1), an individual selected under such paragraph shall be entitled to a monthly stipend of not more than $500 for each month the individual is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title. The continuation bonus may not be paid for more than 24 months.

"(b) ELIGIBLE STUDENTS.—An individual eligible to enter into an agreement under subsection (a) is an individual who—

"(1) has completed the second year of an accredited baccalaureate degree program in nursing and has more than 6 months of academic work remaining before graduation;

"(2) is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title; and

"(3) meets the qualifications for appointment as an officer of a reserve component of the Army, Navy, or Air Force as set forth in section 591 of this title or, in the case of the Public Health Service, section 207 of the Public Health Service Act (42 U.S.C. 209) and the regulations of the Secretary concerned.

"(c) REQUIRED AGREEMENT.—The agreement required to receive the bonus and stipend payable under subsection (a) shall provide that the individual agrees to the following:

"(1) That the individual will complete the nursing degree program described in subsection (b).

"(2) That, upon acceptance of the agreement by the Secretary concerned, the individual will enlist in a reserve component of an armed force;

"(3) That the individual will accept an appointment as an officer in the Nurse Corps of the Army or the Navy or as an officer designated as a nurse officer in the Air Force or commissioned corps of the Public Health Service upon graduation from the nursing degree program.

"(4) That the individual will serve on active duty as such an officer—

"(A) for a period of 4 years in the case of an individual whose agreement was accepted by the Secretary concerned during the individual's fourth year of the nursing degree program;

"(B) for a period of 5 years in the case of an individual whose agreement was accepted by the Secretary concerned during the individual's third year of the nursing degree program.

"(d) REFUND OF PAYMENTS.—An individual shall refund a bonus paid under subsection (a) if the individual—

"(1) fails to complete the nursing degree program in which the individual is enrolled;

"(2) having completed the nursing degree program, fails to accept an appointment, if tendered, as an officer of the Nurse Corps of the Army or the Navy or as an officer designated as a nurse officer of the Air Force or commissioned corps of the Public Health Service; or

"(3) fails to complete the period of obligated active service required under the agreement.

"(e) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section.".

(b) CLERICAL AMENDMENT.—The table of subchapters at the beginning of chapter 105 of title 10, United States Code, is amended by adding at the end the following new item:

"III. Nurse Officer Candidate Accession Program ..... 2130a".

SEC. 327. INCENTIVE PAY FOR NURSE ANESTHETISTS

(a) AUTHORIZATION FOR INCENTIVE PAY.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 302d (as added by section 703) the following new section:

"§ 302e. Special pay: nurse anesthetists

"(a) SPECIAL PAY AUTHORIZED.—(1) An officer described in subsection (b) who executes a written agreement to remain on active duty for a period of one year or more may, upon the acceptance of the agreement by the Secretary concerned, be paid incentive special pay in an amount not to exceed $6,000 for any 12-month period.

"(2) The Secretary concerned shall determine the amount of incentive special pay to be paid to an officer under paragraph (1). In determining that amount, the Secretary concerned shall consider the term of the agreement under that paragraph.

"(b) COVERED OFFICERS.—An officer referred to in subsection (a) is an officer of a uniformed service who—

"(1) is an officer of the Nurse Corps of the Army or Navy, an officer of the Air Force designated as a nurse, or an officer designated as a nurse in the commissioned corps of the Public Health Service;

"(2) is a qualified certified registered nurse anesthetist; and

"(3) is on active duty under a call or order to active duty for a period of not less than one year.

"(c) PAYMENT.—Special pay payable to an officer under subsection (a) of this section shall be paid annually at the beginning of the 12-month period for which the officer is to receive that payment.

"(d) REPAYMENT.—(1) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

"(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after October 1, 1989.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302d (as added by section 703) the following new item:

"302e. Special pay: nurse anesthetists.".

(b) ADMINISTRATION AND IMPLEMENTATION.—Section 303a of title 37, United States Code (as amended by section 703(b)) is further amended by inserting "302e," after "302d," each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1989.

(d) REPORT ON MILITARY USE OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the use of Certified Registered Nurse Anesthetists by the military departments. The report shall include—

(A) a description of restrictions imposed by the military departments on the use of such nurses;

(B) a comparison of such restrictions with restrictions imposed by other entities on the use of such nurses;

(C) a description of the number of persons who annually receive training by the military departments to be Certified Registered Nurse Anesthetists; and

(D) the desirability and cost of expanding the capability of the military departments to provide such training.

(2) The report required by paragraph (1) shall be submitted not later than March 1, 1990.

SEC. 328. SPECIAL PAY FOR RESERVE MEDICAL OFFICERS

(a) IN GENERAL.—Section 302(h)(2)(B) of title 37, United States Code, is amended by striking out "$350" and inserting in lieu thereof "$450".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, and shall apply to pay periods beginning on or after such date.

SEC. 329. INCREASE IN SELECTIVE REENLISTMENT BONUS

Section 308(a)(1) of title 37, United States Code, is amended—

(1) by striking out "six months of the basic pay" and inserting in lieu thereof "ten months of the basic pay"; and

(2) by striking out "$30,000" and inserting in lieu thereof "$45,000".

SEC. 330. EXTENSION OF CERTAIN EXPIRING AUTHORITIES RELATING TO BONUSES AND INCENTIVE PAY

(a) EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES FOR RESERVE FORCES.—Sections 308b(g), 308c(f), 308e(e), 308g(h), 308h(g), and 308i(i) of title 37, United States Code, are amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

(b) EXTENSION OF SPECIAL PAY FOR NUCLEAR QUALIFIED OFFICERS EXTENDING ACTIVE DUTY.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

(c) EXTENSION OF NUCLEAR CAREER ANNUAL INCENTIVE BONUS PROGRAM.—Section 312(c) of title 37, United States Code, is amended—

(1) in subsection (b)(1), by striking out "ending before October 1, 1990"; and

(2) in subsection (e), by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1992".

(d) EXTENSION OF NUCLEAR CAREER ACCESSION BONUS PROGRAM.—Section 312b(d) of title 37, United States Code, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

SEC. 330a. ARMED SERVICE OFFICERS SPECIAL PAY

(a) SPECIAL PAY FOR PSYCHOLOGISTS.—(1) Section 302c(a) of title 37, United States Code, is amended to read as follows:

"(a) An officer who—

"(1) is an officer in the Regular or Reserve Corps of the Public Health Service, an officer in the Army Medical Department, an officer in the Bureau of Medicine and Surgery of the Navy, or an officer of the Air Force,

"(2) is designated as a psychologist, and

"(3) has been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology,

is entitled to special pay, as provided in subsection (b).".

(2)(A) The section heading of such section is amended by striking out "in the Public Health Service Corps".

(B) The item relating to section 302c in the table of sections at the beginning of chapter 5 of such title is amended by striking out "in the Public Health Service Corps".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to pay periods beginning after September 30, 1989.

PART C—TRAVEL AND TRANSPORTATION

SEC. 331. TRAVEL ENTITLEMENT FOR MEMBERS ASSIGNED TO A VESSEL UNDER CONSTRUCTION

(a) AUTHORIZATION FOR TRAVEL ALLOWANCE.—Chapter 7 of title 37, United States Code, is amended by inserting after section 406b the following new section:

"§ 406c. Travel and transportation allowances: members assigned to a vessel under construction

"(a) Under regulations prescribed by the Secretary concerned, a member of the uniformed services who is assigned to permanent duty aboard a ship that is under construction at a location either away from the designated home port of the ship or away from the area where the dependents of the member are residing is entitled to transportation, or an allowance for transportation as provided in section 404(d)(3) of this title for round-trip travel from the port of construction to the home port or to the area where the dependents are residing on or after the thirty-first day, and every sixtieth day after the thirty-first day, after the later of the day on which the ship enters the construction port or after the date on which the member becomes permanently assigned to the ship, whichever is later. However, in no event may the amount of reimbursement for personally procured transportation or allowance for transportation exceed the cost of Government-procured commercial round-trip air travel.

"(b) Transportation in kind, reimbursement for personally procured transportation, or a monetary allowance in place of the cost of transportation as provided in section 404(d)(1) of this title may be provided, in lieu of the member's entitlement to transportation, for the member's dependents from the location that was the home port of the ship before commencement of construction to the port of construction. The total reimbursement for transportation for the member's dependents may not exceed the cost of Government-procured commerce round-trip travel.

"(c) In any case in which a member of the uniformed services assigned to permanent duty aboard a ship that undergoes a change of home port to the port at which the ship is being constructed, the dependents of such member may be provided the transportation allowances prescribed in subsections (a) and (b) of this section in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.

"(d) Section 420 of this title does not apply with respect to transportation or allowances provided under this section.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 406b the following new item:

"406c. Travel and transportation allowances: members assigned to a vessel under construction.".

(c) CLARIFYING AMENDMENT.—Subsection (c) of section 406b of such title is amended to read as follows:

"(c) In any case in which a member of the uniformed services assigned to permanent duty aboard a ship that undergoes a change of home port to the overhaul or inactivation port, the dependents of the member may be provided transportation allowances prescribed in subsections (a) and (b) of this section in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.".

SEC. 332. REIMBURSEMENT FOR CERTAIN FEES INCURRED IN TRAVEL

(a) IN GENERAL.—Section 404 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(i) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) of this section is entitled to reimbursement for parking fees, ferry fares, and bridge, road, and tunnel tolls actually incurred incident to such travel.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be applicable to travel and transportation commenced after September 30, 1989.

SEC. 333. STUDENT TRAVEL AUTHORIZED FOR DEPENDENTS OF MEMBERS IN ALASKA AND HAWAII

(a) AUTHORIZATION FOR DEPENDENT CHILDREN.—Section 430 of title 37, United States Code, is amended—

(1) in subsection (a)(1), by striking out "United States" and inserting in lieu thereof "continental United States";

(2) in subsection (a)(2), by striking out "oversea";

(3) in subsection (a)(3), by striking out "United States" and inserting in lieu thereof "continental United States";

(4) in subsection (b)—

(A) by striking out "United States" each place it appears and inserting in lieu thereof "continental United States"; and

(B) by striking out "in the oversea area" and inserting in lieu thereof "outside the continental United States"; and

(5) by adding at the end the following new subsections:

"(d) For a member assigned to duty outside the continental United States, transportation under this section may be provided a dependent child as described in subsection (a)(3) of this section who is attending a school in either Alaska or Hawaii.

"(e) The transportation authorized by this section may not be paid in the case of a member assigned to a permanent duty station in Alaska or Hawaii for a child attending a school in the State of the permanent duty station.

"(f) In this section, the term 'continental United States' means the 48 contiguous States and the District of Columbia.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be applicable to travel and transportation commenced after September 30, 1989.

PART D—SURVIVOR BENEFIT PROGRAM

SEC. 341. LEVEL PREMIUM FOR SURVIVOR BENEFIT PLAN ANNUITIES

Section 1452(a)(1) of title 10, United States Code, is amended by striking out "shall be reduced each month—" and all that follows and inserting in lieu thereof "shall be reduced each month as follows:

"(A) If the annuity being providing is a standard annuity—

"(i) in the case of a person who becomes a participant in the Plan on or after the effective date of the Military Survivor Benefit Improvement Act of 1989, the reduction shall be in an amount equal to 6½ percent of the base amount; and

"(ii) in the case of a person who is a participant in the Plan before the effective date of the Military Survivor Benefit Improvement Act of 1989, the reduction shall be in whichever of the following amounts is more favorable to the person providing the annuity:

"(I) An amount equal to 6½ percent of the base amount.

"(II) An amount equal to 2½ percent of the first $300 (as adjusted with respect to that person under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount.

"(B) If the annuity being provided is a reserve-component annuity—

"(i) in the case of a person who becomes a participant in the Plan on or after the effective date of the Military Survivor Benefit Improvement Act of 1989, the reduction shall be in an amount equal to 6½ percent of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan; and

"(ii) in the case of a person who is a participant in the Plan before the effective date of the Military Survivor Benefit Improvement Act of 1989, the reduction shall be in whichever of the following is more favorable to the person providing the annuity:

"(I) The amount applicable to that person under clause (i).

"(II) An amount equal to 2½ percent of the first $300 (as adjusted with respect to that person under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.".

SEC. 342. PROGRAM TO PROVIDE SUPPLEMENTAL SPOUSE ANNUITY FOR MILITARY RETIREES

(a) ESTABLISHMENT OF PROGRAM.—(1) Chapter 73 of title 10, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—SUPPLEMENTAL SURVIVOR BENEFIT PLAN

"Sec.
"1456. Supplemental spouse coverage: establishment of plan; definitions.
"1457. Supplemental spouse coverage: payment of annuity; amount.
"1458. Supplemental spouse coverage: eligible participants; elections of coverage.
"1459. Former spouse coverage: special rules.
"1460. Supplemental spouse coverage: reductions in retired pay.
"1460a. Incorporation of certain administrative provisions.
"1460b. Regulations.

"§ 1456. Supplemental spouse coverage: establishment of plan; definitions

"(a) ESTABLISHMENT OF SUPPLEMENTAL SURVIVOR BENEFIT PLAN.—

"(1) PLAN.—The Secretary of Defense shall carry out a program in accordance with this subchapter to enable participants in the Survivor Benefit Plan who are providing coverage for a spouse or former spouse beneficiary under that Plan to also provide a supplemental annuity for that spouse or former spouse beginning when the participant dies or when the spouse or former spouse becomes 62 years of age, whichever is later, in order to offset the effects of the two-tier annuity computation under the Survivor Benefit Plan.

"(2) NAME OF PLAN.—The program under this subchapter shall be known as the Supplemental Survivor Benefit Plan.

"(b) DEFINITIONS.—

"(1) INCORPORATION OF DEFINITIONS APPLICABLE TO SURVIVOR BENEFIT PLAN.—The definitions in section 1447 of this title apply in this subchapter.

"(2) SUPPLEMENTAL SPOUSE ANNUITY DEFINED.—In this subchapter, the term 'supplemental spouse annuity' means an annuity provided to a spouse or former spouse under this subchapter.

"§ 1457. Supplemental spouse coverage: payment of annuity; amount

"(a) COMMENCEMENT OF ANNUITY.—A supplemental spouse annuity commences on the later of—

"(1) the day on which an annuity under the Survivor Benefit Plan becomes payable to the beneficiary; or

"(2) the first day of the first month after the month in which the beneficiary becomes 62 years of age.

"(b) AMOUNT OF ANNUITY FOR BENEFICIARY OF PERSON PROVIDING STANDARD ANNUITY UNDER SBP.—In the case of a person providing a standard annuity for a spouse or former spouse beneficiary under the Survivor Benefit Plan and providing a supplemental spouse annuity for that beneficiary under this subchapter, the monthly annuity payable to the beneficiary under this subchapter shall be the amount equal to 20 percent of the base amount under the Survivor Benefit Plan of the person providing the annuity. The annuity shall be computed as of the date of the death of the person providing the annuity, notwithstanding that the annuity is not payable at that time by reason of subsection (a).

"(c) AMOUNT OF ANNUITY FOR BENEFICIARY OF PERSON PROVIDING RESERVE-COMPONENT ANNUITY UNDER SBP.—In the case of a person providing a reserve-component annuity for a spouse or former spouse beneficiary under the Survivor Benefit Plan and providing a supplemental spouse annuity for that beneficiary under this subchapter, the monthly annuity payable to that beneficiary under this subchapter shall be determined as follows:

"(1) BENEFICIARY INITIALLY 62 YEARS OF AGE OR OLDER.—If the beneficiary is 62 years of age or older when the beneficiary becomes entitled to the reserve-component annuity under the Survivor Benefit Plan, the monthly amount of the supplemental spouse annuity is the difference between—

"(A) the amount of the reserve-component annuity under the Survivor Benefit Plan to which the beneficiary would be entitled if that beneficiary were under 62 years of age (as computed under section 1451(a)(2)(A) of this title); and

"(B) the amount of the reserve-component annuity to which the beneficiary is entitled (as computed under section 1451(a)(2)(B) of this title).

"(2) BENEFICIARY INITIALLY UNDER 62 YEARS OF AGE.—If the beneficiary is under 62 years of age when the beneficiary becomes entitled to the reserve-component annuity under the Survivor Benefit Plan, the monthly amount of the supplemental spouse annuity of that beneficiary (commencing on the date specified in subsection (a)(2)) is the amount by which the beneficiary's annuity under the Survivor Benefit Plan is reduced (on the same day) under section 1451(d) of this title.

(3) EXCLUSION OF DIC OFFSET.—Computations under paragraphs (1) and (2) shall be made without regard to any reduction required under section 1450(c) of this title (or any other provision of law) with respect to the receipt of dependency and indemnity compensation under section 411 of title 38.

"(d) ADJUSTMENTS IN ANNUITIES.—

"(1) PERIODIC ADJUSTMENTS (COLAS).—Whenever annuities under the Survivor Benefit Plan are increased under section 1451(g)(1) of this title (or any other provision of law) or recomputed under section 1451(i) of this title, each annuity under this subchapter shall be increased or recomputed at the same time. The increase shall, in the case of any such annuity, be by the same percent as the percent by which the annuity of that beneficiary is increased or recomputed under the Survivor Benefit Plan.

"(2) ROUNDING DOWN.—The monthly amount of an annuity payable under this subchapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(e) TERMINATION OF ANNUITY.—A supplemental spouse annuity terminates effective as of the first day of the month in which the beneficiary dies or otherwise becomes ineligible to continue to receive an annuity under the Survivor Benefit Plan.

"§ 1458. Supplemental spouse coverage: eligible participants; elections of coverage

"(a) COVERAGE.—

"(1) IN GENERAL.—A person who provides an annuity for a spouse or former spouse under the Survivor Benefit Plan may elect in accordance with this section to provide a supplemental spouse annuity for that spouse or former spouse.

"(2) COVERAGE CONTINGENT ON CONCURRENT SBP COVERAGE.—When a person providing a supplemental spouse annuity under this subchapter ceases to be a participant under the Survivor Benefit Plan, that person's coverage under this subchapter automatically terminates.

"(3) ELECTIONS TO BE VOLUNTARY.—A person may not be ordered or required to elect (or to enter into an agreement to elect) to provide a spouse or former spouse with a supplemental spouse annuity under this subchapter. Except as provided in section 1459(b) of this title, in no case shall a person be deemed to have made an election to provide a supplemental annuity for a spouse or former spouse of such person.

"(b) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under this section if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan will be computed under section 1451(e) of this title. However, such a person may waive the right to have that annuity computed under section 1451(e) of this title. Any such election is irrevocable. A person making such a waiver may make an election under this section as in the case of any other participant in the Survivor Benefit Plan.

"(c) ELECTION OF SUPPLEMENTAL SPOUSE ANNUITY BEFORE BECOMING A PARTICIPANT IN SBP.—

"(1) IN GENERAL.—A person anticipating becoming a participant in the Survivor Benefit Plan who has a spouse or former spouse may elect to provide a supplemental spouse annuity under this subchapter for that spouse or former spouse.

"(2) CONDITIONS ON ELECTION.—An election under paragraph (1)—

"(A) must be made before the day on which the person making the election first becomes a participant in the Survivor Benefit Plan; and

"(B) shall be made in the same manner as an election under section 1448 of this title that is available to that person at the same time.

"(3) REQUIREMENT OF SPOUSE ANNUITY UNDER SBP.—If upon becoming a participant in the Survivor Benefit Plan under section 1448 of this title the person is not providing an annuity for the person's spouse or former spouse, an election under this section to provide a supplemental spouse annuity shall be void.

"(4) SPECIAL RULE FOR RCSBP PARTICIPANTS.—For the purposes of this subsection, a person providing a reserve-component annuity under the Survivor Benefit Plan shall not be considered to have become a participant in that Plan until the end of the 90-day period referred to in clause (iii) of section 1448(a)(2)(B) of this title.

"(d) ELECTION OF FORMER SPOUSE AFTER BECOMING ELIGIBLE FOR SURVIVOR BENEFIT PLAN.—

"(1) ELECTION OF COVERAGE.—A person who elects under section 1448(b)(3) of this title to provide coverage under the Survivor Benefit Plan for a former spouse may elect to provide a supplemental spouse annuity for that former spouse. Any such election must be signed by the person and received by the

Secretary concerned within one year after the date of the decree of divorce, dissolution, or annulment.

"(2) EFFECTIVE DATE OF ELECTION.—An election under paragraph (1) is effective as of the same day as the election under section 1448(b)(3) of this title.

"(e) NOTICE TO SPOUSE OF FORMER SPOUSE COVERAGE.—If a married person who is eligible to provide an annuity under the Survivor Benefit Plan elects to provide an annuity under that Plan for a former spouse (or for a former spouse and dependent child) and elects under this section to provide a supplemental spouse annuity for that former spouse, the notification to the person's spouse under section 1448(a)(3)(E) or 1448(b)(3)(D) of this title shall include notice of the election under this section.

"(f) IRREVOCABILITY OF ELECTIONS.—

"(1) STANDARD ANNUITY.—An election under subsection (b) to provide a supplemental spouse annuity by a person providing a standard annuity under the Survivor Benefit Plan is irrevocable if not revoked on the day before the date on which the person first becomes a participant in that Plan.

"(2) RESERVE-COMPONENT ANNUITY.—An election under subsection (b) to provide a supplemental spouse annuity by a person providing a reserve-component annuity under the Survivor Benefit Plan is irrevocable if not revoked before the end of the 90-day period with respect to that person referred to in clause (iii) of section 1448(a)(2)(B) of this title.

"(3) FORMER SPOUSE ELECTIONS.—An election under subsection (c) may not be revoked except in accordance with subsection (h).

"(g) REMARRIAGE AFTER RETIREMENT.—

"(1) ELECTION UPON REMARRIAGE.—A person—

"(A) who is a participant in the Survivor Benefit Plan and is providing coverage under that Plan for a spouse (or a spouse and child) but is not a participant in the Supplemental Survivor Benefit Plan;

"(B) who does not have an eligible spouse beneficiary under that Plan; and

"(C) who remarries,

may (subject to paragraph (2)) elect to provide a supplemental spouse annuity under this subchapter for the person's spouse.

"(2) LIMITATIONS ON ELECTION.—A person may not make an election under paragraph (1) if the person elects under section 1448(a)(6)(A) of this title not to provide coverage under the Survivor Benefit Plan for the person's spouse.

"(3) CONDITIONS ON ELECTION.—An election under paragraph (1)—

"(A) is irrevocable;

"(B) shall be made within one year after the remarriage; and

"(C) shall be made in such form and manner as may be prescribed in regulations under section 1460a of this title.

"(h) CHANGE OF FORMER SPOUSE BENEFICIARY TO SPOUSE OR CHILD BENEFICIARY.—If a person who is providing an annuity for a former spouse under the Survivor Benefit Plan and a supplemental spouse annuity for that former spouse under this subchapter elects under section 1450(f)(1) of this title to change the beneficiary of the annuity under the Survivor Benefit Plan in order to provide an annuity under that Plan to that person's spouse or to a dependent child—

"(1) the beneficiary under the supplemental spouse annuity shall be deemed to be changed to that spouse also, if the change under section 1450(f)(1) was to provide the annuity for the person's spouse; and

"(2) participation in the supplemental spouse annuity program shall be terminated, if the change under section 1450(f)(1) of this title was to provide the annuity for a dependent child.

"(i) REINSTATEMENT OF DISCONTINUED ANNUITY UPON REINSTATEMENT OF SBP ANNUITY.—If a person who is providing an annuity for a former spouse under the Survivor Benefit Plan and a supplemental spouse annuity for that former spouse under this subchapter discontinues participation in the Survivor Benefit Plan under any provision of law and subsequently resumes participation in that Plan under any provision of law, the participation of that person in the Supplemental Survivor Benefit Plan under this chapter shall be reinstated effective on the day on which participation in the Survivor Benefit Plan resumes.

"§ 1459. Former spouse coverage: special rules

"(a) DISCLOSURE OF VOLUNTARY WRITTEN AGREEMENT WITH FORMER SPOUSE.—A person who elects under section 1458 of this title to provide a supplemental spouse annuity for a former spouse shall, at the time of making the election, provide the Secretary concerned with a written statement (in a form to be prescribed by that Secretary and signed by such person and former spouse) setting forth whether the election is being made pursuant to a written agreement previously entered into voluntarily by such person as a part of or incident to a proceeding of divorce, dissolution, or annulment and (if so) whether such voluntary written agreement has been incorporated in, or ratified or approved by, a court order.

"(b) ENFORCEMENT OF VOLUNTARY WRITTEN AGREEMENTS INCIDENT TO DIVORCE, ETC.—

"(1) ELECTIONS DEEMED TO HAVE BEEN MADE.—If a person who is eligible to elect under section 1458 of this title to provide a supplemental spouse annuity for a former spouse voluntarily enters, incident to a proceeding of divorce, dissolution, or annulment, into a written agreement to elect to provide a supplemental annuity for a former spouse and that agreement is incorporated in or ratified or approved by a court order or is filed with the court of appropriate jurisdiction in accordance with applicable State law, and such person then fails or refuses to make the election as set forth in the voluntary agreement, such person shall be deemed to have made the election if the Secretary concerned—

"(A) receives from the former spouse concerned a written request, in such manner as the Secretary shall prescribe, requesting that the election be deemed to have been made; and

"(B) receives (i) a copy of the court order, regular on its face, which incorporates, ratifies, or approves the written agreement of such person, or (ii) a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable State law.

"(2) TIME LIMIT FOR REQUEST TO SECRETARY CONCERNED.—An election may not be deemed to have been made under paragraph (1) in the case of any person unless the Secretary concerned receives a request from the former spouse within one year after the date of the court order or filing involved.

"(3) EFFECTIVE DATE OF DEEMED ELECTION.—An election deemed to have been made under paragraph (1) shall become effective on the first day of the first month which begins after the date of the court order or filing involved.

"§ 1460. Supplemental spouse coverage: reductions in retired pay

"(a) REDUCTION REQUIRED.—The retired pay of a person who elects to provide a supplemental spouse annuity shall be reduced each month as required under regulations prescribed under subsection (b).

"(b) REGULATIONS DETERMINING AMOUNT OF REDUCTION.—Regulations for the purposes of subsection (a) shall be prescribed by the Secretary of Defense. Those regulations shall be based upon assumptions used by the Department of Defense Retirement Board of Actuaries in the valuation of military retirement and survivor benefit programs under chapter 74 of this title (including assumptions relating to mortality, interest rates, and inflation) and shall ensure the following:

"(1) That reductions in retired pay under this section are made in amounts sufficient to provide that the Supplemental Survivor Benefit Plan operates on an actuarially neutral basis.

"(2) That such reductions are stated, with respect to the base amount (under the Survivor Benefit Plan) of any person, as a constant percentage of that base amount.

"(3) That the amounts of such reductions in retired pay of persons participating in the Supplemental Survivor Benefit Plan (stated as a percentage of base amount)—

"(A) are based on the age of the participant at the time participation in that Plan is first effective under this subchapter; and

"(B) are not determined by any other demographic differentiation among participants in the Plan.

"(4) That such reductions are otherwise determined in accordance with generally accepted actuarial principles and practices.

"(c) SUSPENSION OF REDUCTION WHEN THERE IS NO SPOUSE BENEFICIARY.—A reduction in retired pay under this section shall not be made in the case of any person during any month in which there is no eligible spouse or former spouse beneficiary.

"(d) ADJUSTMENTS IN AMOUNT OF REDUCTION.—Whenever the amount of the reduction in retired pay of a participant in the Survivor Benefit Plan is increased under section 1452(h) of this title or recomputed under section 1452(i) of this title, the amount of the reduction in that retired pay under this section shall be increased or recomputed, as the case may be, at the same time and in the same manner as that increase or recomputation.

"(e) ADMINISTRATIVE PROVISIONS.—The provisions of subsections (d) and (f) of section 1452 of this title apply with respect to the participation of a person in the Supplemental Survivor Benefit Plan in the same manner that those provisions apply under the Survivor Benefit Plan.

"§ 1460a. Incorporation of certain administrative provisions

"(a) APPLICABILITY OF CERTAIN PROVISIONS OF SBP LAW.—The provisions of section 1449, 1452(g), 1453, and 1454 of title 10, United States Code, are applicable to a person eligible to make an election, and to an election, under this subchapter in the same manner as if made under subchapter II.

"(b) OTHER APPLICABLE PROVISIONS.—Except to the extent otherwise provided in regulations prescribed under section 1460b of this title, the provisions of subsections (h), (i), and (l) of section 1450 of this title apply to supplemental spouse annuities in the same manner that those provisions

apply to annuities under the Survivor Benefit Plan.

"§ 1460b. Regulations

"The President shall prescribe regulations to carry out this subchapter. Those regulations shall, so far as practicable, be uniform for the uniformed services and shall, so far as practicable, incorporate provisions of the regulations in effect under section 1455 of this title.".

(2) The table of subchapters at the beginning of chapter 73 of such title is amended by adding at the end the following new item:

"III. Supplemental Spouse Coverage for Survivor Benefit Plan Participants ..... 1456".

(b) CONFORMING AMENDMENTS.—(1) Section 1331(d) of title 10, United States Code, is amended by inserting "and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter," after "this title".

(2) Section 3101(c)(1) of title 38, United States Code, is amended by striking out "subchapter I or II".

SEC. 343. CORRECTION OF ANNUITY COMPUTATION FOR SURVIVORS OF CERTAIN RETIREMENT-ELIGIBLE OFFICERS DYING WHILE ON ACTIVE DUTY

(a) ANNUITY COMPUTATION BASED ON FINAL BASIC PAY.—Section 1451(c) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) In the case of an annuity provided by a member described in section 1448(d)(1)(B) of this title who first became a member of a uniformed service before September 8, 1980, the retired pay to which the member would have been entitled when he died shall be determined based upon the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death, unless (as determined by the Secretary concerned) the member would have been entitled to be retired in a higher grade.".

(b) ADJUSTMENT OF ANNUITIES ALREADY IN EFFECT.—

(1) RECOMPUTATION.—The Secretary concerned shall recompute the annuity of any person who on the effective date specified in section 7 is entitled to an annuity under the Survivor Benefit Plan by reason of eligibility described in section 1448(d)(1)(B) of title 10, United States Code, and who is further described in subsection (c).

(2) AMOUNT OF RECOMPUTED ANNUITIES.—The amount of the annuity as so recomputed shall be the amount that would be in effect for that annuity on the effective date specified in section 7 if the annuity had originally been computed subject to the provisions of paragraph (3) of section 1451(c) of title 10, United States Code, as added by subsection (a).

(3) EFFECTIVE DATE OF RECOMPUTATION.—An annuity recomputed under this subsection shall take effect as so recomputed on the effective date specified in section 7.

(c) PERSONS ELIGIBLE FOR RECOMPUTATION.—A person is eligible to have an annuity under the Survivor Benefit Plan recomputed under subsection (b) if—

(1) the annuity is based upon the service of a member of the uniformed services who died on active duty during the period beginning on September 21, 1972, and ending on the effective date specified in section 7; and

(2) the retired pay of that member for the purposes of determining the amount of the annuity under the Survivor Benefit Plan was computed using a rate of basic pay lower than the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death.

SEC. 344. OPEN ENROLLMENT PERIOD

(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open enrollment period specified in subsection (f).

(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code, as added by section 642.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 67 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

(1) STANDARD ANNUITY.—A person making an election under this subsection by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(2) RESERVE-COMPONENT ANNUITY.—A person making an election under this subsection by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(b) ELECTION TO INCREASE COVERAGE UNDER SBP.—A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or (in the case of an eligible member who is married) is providing coverage under the Plan for a dependent child and not for the person's spouse or former spouse may, during the open enrollment period—

(1) elect to participate in the Plan at a higher base amount; or

(2) elect to provide an annuity under the Plan for the person's spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

(c) ELECTION FOR CURRENT SBP PARTICIPANTS TO PARTICIPATE IN SUPPLEMENTAL SBP.—

(1) ELECTION.—A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code, as added by section 642.

(2) PERSONS ELIGIBLE.—Except as provided in paragraph (3), a person is eligible to make an election under paragraph (1) if on the day before the first day of the open enrollment period the person is a participant in the Survivor Benefit Plan and under that Plan is providing an annuity for the person's spouse or a former spouse.

(3) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under this subsection if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan will be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section. Any such election is irrevocable. A person making such a waiver may make an election under this subsection during the open enrollment period as in the case of any other participant in the Survivor Benefit Plan.

(d) MANNER OF MAKING ELECTIONS.—An election under this section must be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(e) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(f) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period is the one-year period beginning on the effective date specified in section 346.

(g) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person's beneficiary under the Survivor Benefit Plan.

(h) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if made under subchapter III of chapter 73 of title 10, United States Code.

(i) DEFINITIONS.—For the purpose of this section:

(1) The term "Survivor Benefit Plan" means the program established under subchapter II of chapter 73 of title 10, United States Code.

(2) The term "retired pay" includes retainer pay paid under section 6330 of title 10, United States Code.

(3) The terms "uniformed services" and "Secretary concerned" have the meanings given those terms in section 101 of title 37, United States Code.

SEC. 345. MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS

(a) IN GENERAL.—Chapter 73 of title 10, United States Code, is amended as follows:

(1) Section 1447 is amended—

(A) in paragraph (5), by striking out "this clause" both places it appears and inserting in lieu thereof "this paragraph"; and

(B) in paragraph (11), by inserting "paid under section 6330 of this title" after "retainer pay".

(2) Sections 1447(2)(C)(i), 1447(3), 1447(4), 1448(a)(4)(A), 1449, and 1450(1)(2) are amended by striking out "or retainer".

(3) Section 1450(f)(3)(B) is amended—

(A) by striking out "before October 1, 1985, or"; and

(B) by striking out ", whichever is later".

(4) Section 1451(c) is amended—

(A) in paragraph (4) (as redesignated by section 5(a)(1)), by inserting "who first became a member of a uniformed service before September 8, 1980" after "of this title"; and

(B) in paragraph (5) (as redesignated by section 5(a)(1)), by inserting "by reason of the service of a person who first became a member of a uniformed service before September 8, 1980" after "of this title".

(5) Section 1451(e)(1) is amended by striking out "plan" in the matter preceding subparagraph (A) and inserting in lieu thereof "Plan".

(6) Section 1451(e)(2) is amended by striking out "(as the base amount is adjusted from time to time under section 1401a of this title)" in subparagraphs (A) and (B).

(7) Section 1452(h) is amended—

(A) by inserting "(or any other provision of law)" after "of this title" the first place it appears; and

(B) by striking out "increased under section 1401a of this title" and inserting in lieu thereof "so increased".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 346. EFFECTIVE DATE

This part and the amendments made by this part (other than the amendments made by section 345) shall take effect on the later of—

(1) October 1, 1989; or

(2) the first day of the third month beginning after the date of the enactment of this Act.

PART E—MISCELLANEOUS

SEC. 351. INCREASE IN EDUCATIONAL ASSISTANCE ALLOWANCE FOR PERSONS WITH CRITICAL SKILL OR SPECIALTY

Section 1415(c) of title 38, United States Code, is amended by striking out "$400" and inserting in lieu thereof "$700".

SEC. 352. AUTHORITY TO USE APPROPRIATED FUNDS TO SUPPORT STUDENT MEAL PROGRAMS IN DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

(a) IN GENERAL.—(1) Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2243. Authority to use appropriated funds to support student meal programs in overseas dependents' schools

"(a) AUTHORITY.—Subject to subsection (b), amounts appropriated to the Department of Defense to operate the defense dependents' education system may be used to maintain the cost to a student of a meal provided by an overseas meal program at a cost equal to the average cost to a student of an equivalent meal under a comparable public school meal program in the United States.

"(b) LIMITATION.—The authority provided by subsection (a) may be used only if the Secretary of Defense determines that Federal payments and commodities provided under section 20 of the National School Lunch Act (42 U.S.C. 1769b) and section 20 of the Child Nutrition Act of 1966 (42 U.S.C. 1789) to support an overseas meal program are insufficient to provide a meal under such program at a cost to a student equal to the average cost to a student of an equivalent meal under a comparable public school meal program in the United States.

"(c) OVERSEAS MEAL PROGRAM DEFINED.—In this section, the term 'overseas meal program' means a program administered by the Secretary of Defense to provide breakfasts or lunches to students attending Department of Defense dependents' schools which are located outside the United States.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2243. Authority to use appropriated funds to support student meal programs in overseas dependents' schools.".

(b) EFFECTIVE DATE.—Section 2243 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1989.

SEC. 353. AUTHORIZATION TO REDUCE UNDER CERTAIN CIRCUMSTANCES THE RATES FOR MEALS SOLD AT A MILITARY DINING FACILITY

Section 1011(a) of title 37, United States Code, is amended—

(1) by striking out "or enlisted members" and all that follows through the period in the first sentence and inserting in lieu thereof "and enlisted members."; and

(2) by adding after the second sentence the following new sentence: "Notwithstanding the preceding sentence, if the Secretary determines that it is in the best interest of the United States, the Secretary may reduce a rate for meals established under this subsection by the amount of that rate attributable to operating expenses.".

SEC. 354. UNIFORM ALLOWANCE FOR CIVILIAN EMPLOYEES

(a) IN GENERAL.—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1592. Uniform allowance for civilian employees

"Notwithstanding section 5901 of title 5, the Secretary of Defense may pay an allowance under this section to any civilian employee of the Department of Defense who is required by law or regulation to wear a prescribed uniform in the performance of official duties. An allowance paid under this section may not exceed $400 annually.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1592. Uniform allowance for civilian employees.".

(c)(1) Section 1606 of such title is repealed.

(2) The table of sections at the beginning of chapter 83 of such title is amended by striking out the item relating to section 1606.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) and the repeal made by subsection (c) shall take effect on October 1, 1989.

SEC. 355. AVIATOR INSURANCE

Not later than December 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a legislative proposal for an accidental death insurance plan for aviators serving on active duty that provides, at no cost to the insured, for the payment of death benefits in the amount of $100,000 for death resulting directly from the performance of operational flying duty (as defined in section 301a(a)(6) of title 37, United States Code).

SEC. 356. SENSE OF CONGRESS REGARDING ESTABLISHMENT OF COMMISSION TO CONDUCT A STUDY ON THE NATIONAL SHORTAGE OF AVIATORS

In view of the critical shortage of qualified aviators in both the Armed Forces and in the commercial airline industry of the United States, it is the sense of Congress that—

(1) the President should establish a commission to study the reasons for such shortages and to consider effective and practicable means of eliminating the shortages;

(2) the President should include among persons appointed to the commission representatives from the commercial airline industry, representatives from the Department of Defense, and representatives from such other sources as the President considers appropriate;

(3) the President should appoint all members of the commission not later than February 15, 1990; and

(4) the commission should be required to submit a report on the results of its study to the President and Congress not later than March 1, 1991, together with specific recommendations for eliminating the shortage of aviators in the United States.

MILITARY CONSTRUCTION AUTHORIZATION, FISCAL YEARS 1990 AND 1991

The bill (S. 1449) to authorize certain construction at military installations for fiscal years 1990 and 1991, was amended by striking out all after the enacting clause, and inserting in lieu thereof the provisions of division B q S. 1352, as amended; as follows:

The corrected text of S. 1449, as passed by the Senate on August 2, 1989, is as follows:

S. 1449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ARMY

PART A—FISCAL YEAR 1990

SEC. 101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $2,300,000.
Fort McClellan, $2,750,000.
Redstone Arsenal, $18,390,000.
Fort Rucker, $3,600,000.

ALASKA

Fort Richardson, $3,350,000.
Fort Wainwright, $14,800,000.

ARIZONA

Fort Huachuca, $9,900,000.
Yuma Proving Ground, $11,400,000.

CALIFORNIA

Fort Irwin, $4,950,000.
Fort Ord, $2,450,000.
Sacramento Army Depot, $3,900,000.

COLORADO

Fort Carson, $4,700,000.

DISTRICT OF COLUMBIA

Walter Reed Army Medical Center, $11,000,000.

FLORIDA

Key West Naval Air Station, $6,100,000.

GEORGIA

Fort Benning, $12,146,000.
Fort Gordon, $4,000,000.
Fort Stewart, $5,200,000.

HAWAII

Fort Shafter, $9,300,000.
Schofield Barracks, $10,000,000.

ILLINOIS

Melvin Price Support Center, $3,750,000.

INDIANA

Fort Benjamin Harrison, $359,000.

KANSAS

Fort Leavenworth, $5,500,000.
Fort Riley, $12,680,000.

KENTUCKY

Fort Campbell, $30,450,000.
Fort Knox, $14,119,000.

LOUISIANA

Fort Polk, $23,350,000.

MARYLAND

Fort Detrick, $2,300,000.
Fort Meade, $6,200,000.
Fort Ritchie, $630,000.

MASSACHUSETTS

Fort Devens, $3,550,000.

MISSOURI

Fort Leonard Wood, $10,450,000.

NEW JERSEY

Fort Monmouth, $8,600,000.
Picatinny Arsenal, $11,800,000.

NEW YORK

Fort Drum, $70,600,000.

NORTH CAROLINA

Fort Bragg, $32,000,000.

OKLAHOMA

Fort Sill, $17,320,000.
McAlester Army Ammunition Plant, $2,200,000.

PENNSYLVANIA

New Cumberland Army Depot, $14,000,000.

SOUTH CAROLINA

Fort Jackson, $23,000,000.

TEXAS

Corpus Christi Army Depot, $5,200,000.
Fort Bliss, $3,400,000.
Fort Hood, $2,800,000.
Fort Sam Houston, $3,550,000.

UTAH

Dugway Proving Ground, $2,400,000.

VIRGINIA

Fort Belvoir, $23,000,000.
Fort Lee, $1,750,000.
Fort Monroe, $1,100,000.
Fort Story, $3,350,000.

WASHINGTON

Fort Lewis, $770,000.

VARIOUS LOCATIONS

Classified Location, $3,400,000.
Classified Location, $600,000.
Classified Location, $7,500,000.
Classified Location, $3,900,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY

Grafenwoehr, $6,500,000.
Hanau, $14,800,000.
Hohenfels, $9,200,000.
Mainz, $26,400,000.
Stuttgart, $9,400,000.
Vilseck, $8,800,000.
Wuerzburg, $12,000,000.
Various locations, $4,150,000.

KOREA

H-220 Heliport, $4,050,000.

KWAJALEIN ATOLL

Kwajalein, $9,500,000.

PANAMA

Fort Kobbe, $7,200,000.

PUERTO RICO

Fort Buchanan, $690,000.

VARIOUS LOCATIONS

Location 276, $1,950,000.
Classified locations, $6,100,000.

SEC. 102. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section 104(a)(6)(A), at the following installations in the number of units, and in the amounts, shown for each installation:

Helemano, Hawaii, ninety units, $10,322,000.

Hickam Air Force Base, Hawaii, twenty units, $2,500,000.

Kaneohe, Hawaii, forty units, $4,700,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may, using amounts appropriated pursuant to section 104(a)(6)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $1,349,000.

SEC. 103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may, using amounts appropriated pursuant to section 104(a)(6)(A), improve existing military family housing in an amount not to exceed $36,329,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may—

(1) carry out projects to improve one existing military family housing unit at Fort Leavenworth, Kansas, in the amount of $95,900, of which $86,900 is for concurrent repairs; and

(2) carry out projects to improve four units at Fort Sill, Oklahoma, the improvement of which was authorized by the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), in the amount of $178,088.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,170,314,000 as follows:

(1) For military construction projects inside the United States authorized by section 101(a), $495,814,000.

(2) For military construction projects outside the United States authorized by section 101(b), $114,380,000.

(3) For the construction of the Central Distribution Center, Phase III, Red River Army Depot, Texas, as authorized by section 2101 of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $39,000,000.

(4) For unspecified minor construction projects authorized under section 2805 of title 10, United States Code, $11,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United Sates Code, $72,420,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $55,200,000; and

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,377,400,000, of which not more than $319,142,000 may be obligated or expended for the leasing of military family housing worldwide.

(7) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $5,100,000, to remain available until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 105. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1495), authorization for the following projects authorized in section 101 of that Act, as extended by section 2107(b) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012) and section 2105(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1179), and section 2106(a) of the Military Construction Authorization Act, 1989 (Public Law 100-456; 102 Stat. 2087) shall remain in effect until October 1, 1991, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(2) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 603(a) of the Military Construction Act, 1986 (Public Law 99-167; 99 Stat. 961), authorizations for the following projects authorized in sections 101 and 102 of that Act, as extended by section 2105(b) of the Military Construction Authorization Act 1988 and 1989 (division B of Public Law 99-180; 101 Stat. 1179) and section 2106(b) of the Military Construction Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), shall remain in effect until October 1, 1991, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Modified record fire range in the amount of $2,850,000 at Nuernberg, Germany.

(2) Family housing, new construction, six units, in the amount of $596,000 at Fort Myer, Virginia.

(3) Flight simulator building in the amount of $2,900,000 at Wiesbaden, Germany.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), authorizations for the following projects authorized in sections 2101, 2102, and 2103 of that Act as extended by section 2106(c) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Aircraft maintenance hangar in the amount of $7,100,000 at Hanau, Germany.

(2) Family housing, new construction, forty units in the amount of $4,100,000 at Crailsheim, Germany.

(d) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1988 PROJECTS.—Notwithstanding the provisions of section 2171 of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1179), authorizations for the following projects authorized in sections 2101 and 2102 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Child development center in the amount of $1,050,000 at Rheinberg, Germany.

(2) Training exercise facility in the amount of $5,900,000 at Einsiedlerhof, Germany.

(3) Operations Building Modifications in the amount of $5,400,000 at Stuttgart, Germany.

(4) Hardstand/tactical equipment shop in the amount of $2,250,000 at Wiesbaden, Germany.

(5) Servicemember support complex in the amount of $5,700,000 at Fort Rucker, Alabama.

(6) Family housing, new construction, twenty-five units, in the amount of $2,200,000 at Fort A.P. Hill, Virginia.

(7) Family housing, new construction, one hundred six units, in the amount of $11,200,000 at Bamberg, Germany.

(8) Family housing, new construction, one hundred fifty-two units, in the amount of $12,600,000 at Baumholder, Germany.

(9) Troop support facility upgrade in the amount of $4,150,000 in Honduras.

(10) Wartime host nation support in the amount of $4,500,000, in Europe, various locations.

PART B—FISCAL YEAR 1991

SEC. 121. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $34,300,000.

ARKANSAS

Pine Bluff Arsenal, $17,100,000.

OREGON

Umatilla Depot Activity, $45,500,000.

SEC. 122. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,808,280,000 as follows:

(1) For military construction projects inside the United States authorized by section 121, $96,900,000.

(2) For the construction of the Central Distribution Center, Phase III, Red River Army Depot, Texas, as authorized by section 2101 of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $39,000,000.

(3) For unspecified minor construction projects authorized under section 2805 of title 10, United States Code, $12,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $96,530,000.

(5) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,558,750,000, of which not more than $453,884,000 may be obligated or expended for the leasing of military family housing worldwide.

(6) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $5,100,000, to remain available until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 121 of this Act may not exceed the total amount authorized to be appropriated under subsection (a).

TITLE II—NAVY

PART A—FISCAL YEAR 1990

SEC. 201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Mobile, Navy Station, $3,965,000.

ALASKA

Adak, Naval Air Station, $18,870,000.

ARIZONA

Yuma, Marine Corps Air Station, $900,000.

CALIFORNIA

Camp Pendleton, Marine Corps Air Station, $2,100,000.

Camp Pendleton, Marine Corps Base, $57,600,000.

China Lake, Naval Weapons Center, $17,500,000.

Concord, Naval Weapons Station, $5,640,000.

Coronado, Naval Amphibious Base, $7,770,000.

Coronado, Surface Warfare Officers School Command Detachment, $4,360,000.

El Centro, Naval Air Facility, $7,200,000.

Lemoore, Naval Air Station, $2,100,000.

Moffett Field, Naval Air Station, $1,000,000.

Monterey, Fleet Numerical Oceanography Center, $750,000.

Monterey, Naval Post Graduate School, $16,690,000.

North Island, Naval Air Station, $6,160,000.

San Diego, Fleet Anti-Submarine Warfare Training Center, Pacific, $820,000.

San Diego, Fleet Combat Training Center, Pacific, $3,670,000.

San Diego, Fleet Intelligence Training Center, Pacific, $2,500,000.

San Diego, Fleet Training Center, $12,800,000.

San Diego, Integrated Combat Systems Test Facility, $4,100,000.

San Diego, Marine Corps Recruit Depot, $3,070,000.

San Diego, Naval Hospital, $5,000,000.

San Diego, Naval Ocean Systems Center, $1,300,000.

San Diego, Naval Station, $1,000,000.

San Diego, Naval Submarine Base, $10,800,000.

San Diego, Naval Training Center, $4,800,000.

San Diego, Naval Public Works Center, $4,400,000.

San Francisco, Navy Public Works Center, $3,910,000.

Seal Beach, Naval Weapons Station, $9,000,000.

Tustin, Marine Corps Air Station, $2,990,000.

Twentynine Palms, Marine Corps Air-Ground Combat Center, $3,140,000.

Vallejo, Mare Island Naval Shipyard, $6,300,000.

CONNECTICUT

New London, Naval Submarine Base, $24,250,000.

New London, Naval Submarine School, $8,200,000.

New London, Naval Underwater Systems Center, $12,600,000.

DISTRICT OF COLUMBIA

Washington, Commandant, Naval District, $420,000.

Washington, Naval Observatory, $2,500,000.

FLORIDA

Cecil Field, Naval Air Station, $1,970,000.

Jacksonville, Naval Hospital, $2,080,000.

Orlando, Naval Training Center, $18,400,000.

Panama City, Naval Diving and Salvage Training Center, $4,300,000.

Panama City, Naval Experimental Diving Unit, $2,900,000.

Pensacola, Navy Public Works Center, $2,100,000.

GEORGIA

Albany, Marine Corps Logistics Base, $4,550,000.

Athens, Navy Supply Corps School, $1,000,000.

Kings Bay, Naval Submarine Base, $66,689,000.

HAWAII

Kaneohe Bay, Marine Corps Air Station, $13,150,000.

Lualualei, Naval Magazine, $4,600,000.

Pearl Harbor, Naval Submarine Base, $18,600,000.

Pearl Harbor, Naval Submarine Training Center, Pacific, $5,550,000.

Pearl Harbor, Navy Public Works Center, $750,000.

Wahiawa, Naval Communication Area Master Station Eastern Pacific, $8,000,000.

ILLINOIS

Great Lakes, Naval Hospital, $12,270,000.
Great Lakes, Naval Training Center, $15,900,000.

INDIANA

Crane, Naval Weapons Support Center, $4,000,000.
Indianapolis, Naval Avionics Center, $8,000,000.

MAINE

Brunswick, Naval Air Station, $1,000,000.
Brunswick, Naval Branch Medical Clinic, $2,650,000.
Kittery, Portsmouth Naval Shipyard, $1,000,000.

MARYLAND

Annapolis, Naval Academy, $48,000,000.
Indian Head, Naval Explosive Ordnance Disposal Technology Center, $7,700,000.
Indian Head, Naval Ordnance Station, $10,670,000.
Patuxent River, Naval Air Test Center, $17,000,000.
St. Inigoes, Naval Electronic Systems Engineering Activity, $2,950,000.

MISSISSIPPI

Meridian, Naval Air Station, $11,800,000.
Pascagoula, Naval Station, $2,220,000.

MISSOURI

Kansas City, Marine Corps Support Activity, $10,000,000.

NEVADA

Fallon, Naval Air Station, $1,000,000.

NEW JERSEY

Bayonne, Navy Publications and Printing Service Detachment Office, $1,000,000.
Earle, Naval Weapons Station, $14,270,000.

NEW MEXICO

Elephant Butte, Naval Space Surveillance Field Station, $4,700,000.

NEW YORK

New York, Naval Station, $25,640,000.

NORTH CAROLINA

Camp Lejeune, Marine Corps Base, $28,210,000.
Cherry Point, Marine Corps Air Station, $10,750,000.
New River, Marine Corps Air Station, $23,550,000.

OKLAHOMA

Tinker Air Force Base, Naval Air Detachment, $21,500,000.

PENNSYLVANIA

Philadelphia, Naval Shipyard, $10,000,000.

RHODE ISLAND

Newport, Naval Education and Training Center, $8,000,000.

SOUTH CAROLINA

Beaufort, Marine Corps Air Station, $4,920,000.
Charleston, Naval Supply Center, $700,000.
Charleston, Naval Weapons Station, $4,600,000.

TENNESSEE

Memphis, Naval Air Station, $10,000,000.

TEXAS

Ingleside, Naval Station, $19,720,000.
Lackland Air Force Base, Naval Technical Training Center Detachment, $4,500,000.

VIRGINIA

Chesapeake, Naval Security Group Activity, Northwest, $1,300,000.
Dahlgren, Naval Surface Warfare Center, $1,000,000.
Dam Neck, Marine Environmental Systems Facility, $8,000,000.
Little Creek, Naval Amphibious Base, $5,200,000.
Norfolk, Naval Air Station, $4,400,000.
Norfolk, Naval Eastern Oceanography Center, $680,000.
Norfolk, Naval Supply Center, $6,500,000.
Oceana, Naval Air Station, $12,555,000.
Portsmouth, Norfolk Naval Shipyard, $9,700,000.
Quantico, Marine Corps Combat Development Command, $3,450,000.
Williamsburg, Cheatham Annex, Naval Supply Center, $18,500,000.
Yorktown, Naval Weapons Station, $21,420,000.

WASHINGTON

Bremerton, Naval Hospital, $1,000,000.
Bremerton, Puget Sound Naval Shipyard, $19,900,000.
Bremerton, Puget Sound Naval Supply Center, $690,000.
Everett, Naval Station, $11,200,000.
Keyport, Naval Undersea Warfare Engineering Station, $11,850,000.
Oso, Jim Creek Naval Radio Station, $1,200,000.

VARIOUS LOCATIONS

Land acquisition, $21,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

ASCENSION ISLAND

Naval Communication Detachment, $3,500,000.

AUSTRALIA

Exmouth, Harold E. Holt Naval Communication Station, $610,000.

BAHAMAS

Andros Island, Naval Underwater Systems Center, $4,140,000.

GUAM

Camp Covington, Mobile Construction Battalion, $4,300,000.
Fleet Surveillance Support Command, $27,000,000.
Navy Public Works Center, $4,150,000.

ICELAND

Keflavik, Naval Air Station, $7,500,000.
Keflavik, Naval Communication Station, $8,450,000.

ITALY

Naples, Naval Support Activity, $46,600,000.

PUERTO RICO

Roosevelt Roads, Naval Communication Station, $1,300,000.

UNITED KINGDOM

Edzell, Scotland, Naval Security Group Activity, $5,820,000.

VARIOUS LOCATIONS

Classified location, $5,800,000.
Host Nation Infrastructure Support, $1,000,000.

SEC. 202. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Navy may, using amounts appropriated pursuant to section 204(a)(6)(A), construct or acquire family housing units (including land acquisition), at the following installations in the number of units, and in the amount, shown for each installation:

Camp Pendleton, Marine Corps Base, California, one hundred twelve units, $10,150,000.
Long Beach, Naval Station, California, Family Housing Office, $592,000.
San Diego, Navy Public Works Center, California, Family Housing Warehouse, $1,855,000.
San Francisco, Navy Public Works Center, California, three hundred ninety-four units, $28,350,000.
Glenview Naval Air Station, Illinois, one hundred forty units, $15,300,000.
Thurmont, Naval Support Facility, Maryland, eleven units, $1,160,000.
Norfolk, Navy Public Works Center, Virginia, Community Center, $332,000.
Keflavik, Naval Air Station, Iceland, one hundred twelve units, $22,913,000.

(b) PLANNING AND DESIGN.—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 204(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $1,000,000.

SEC. 203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may, using amounts appropriated pursuant to section 204(a)(6)(A), improve existing military family housing units in the amount of $55,448,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units, and in the amount, shown for each installation:

Long Beach, Naval Station, California, forty-four units, $2,208,200.
San Diego, Navy Public Works Center, California, one unit, $79,900.
Great Lakes, Navy Public Works Center, Illinois, two hundred sixty-two units, $17,198,100.
Lakehurst, Naval Air Engineering Center, New Jersey, thirty-two units, $1,946,400.
Lakehurst, Naval Air Engineering Center, New Jersey, one unit, $80,100.
New York, Naval Station, New York, ten units, $842,000.
New York, Naval Station, New York, ten units, $719,100.
Cherry Point, Marine Corps Air Station, North Carolina, two hundred fourteen units, $13,398,000.
Newport, Naval Education and Training Center, Rhode Island, two hundred twenty units, $13,700,000.
Bangor, Naval Submarine Base, Washington, one hundred units, $5,844,200.
Guantanamo Bay, Naval Station, Cuba, one unit, $104,700.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,879,963,000 as follows:

(1) For military construction projects inside the United States authorized by section 201(a), $918,579,000.

(2) For military construction projects outside the United States authorized by section 201(b), $114,240,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $14,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $84,970,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $5,810,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $137,100,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $605,264,000 of which not more than $40,800,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $24,000,000 (the balance of the amount authorized for the construction of the Bancroft Hall Expansion, Naval Academy, Annapolis, Maryland).

SEC. 205. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1179), authorizations for the following projects authorized in section 2121 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Physical security improvements in the amount of $2,460,000 at Naval Air Station, Sigonella, Italy.

(2) Cold-iron utilities support in the amount of $7,480,000 at Naval Support Office, La Maddalena, Italy.

SEC. 206. COMMUNITY SUPPORT CENTER, MARINE CORPS AIR STATION, EL TORO, CALIFORNIA

(a) CONSTRUCTION AUTHORIZED.—Section 2201 of the Military Construction Authorization Act, 1989 (102 Stat. 2093), is amended by striking out "$3,970,000" after "Marine Corps Air Station El Toro," under the heading "California" and inserting in lieu thereof "$5,016,000".

(b) REPEAL OF PRIOR AUTHORIZATION.—Section 2202(a) of such Act is amended by striking out "and eighty mobile home spaces, $10,120,000" and inserting in lieu thereof ", $9,074,000".

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 2205(a)(1) of such Act is amended by striking out "$1,296,450,000" and inserting in lieu thereof "1,297,496,000".

(2) Section 2205(a)(6)(A) of such Act is amended by striking out "$250,770,000" and inserting in lieu thereof "249,724,000".

SEC. 207. CONSTRUCTION OF MILITARY FAMILY HOUSING AT MARINE CORPS AIR STATION, TUSTIN, CALIFORNIA

(a) AUTHORITY TO USE LITIGATION PROCEEDS.—Notwithstanding any other provision of law and subject to subsections (b) through (e), upon final settlement in the case of Rossmoor Liquidating Trust v. United States, filed in the United States District Court for the Central District of California (Case No. CV 82-0956 LEW (Px)), the Secretary of the Navy may use any funds paid to the United States in settlement of such case solely for the construction of military family housing at Marine Corps Air Station, Tustin, California.

(b) UNITS AUTHORIZED.—Not more than 150 military family housing units may be constructed with funds referred to in subsection (a). The units authorized by this subsection are in addition to any units otherwise authorized to be constructed at Marine Corps Air Station, Tustin, California.

(c) PAYMENT OF EXCESS INTO TREASURY.—Any funds referred to in subsection (a) that are not obligated for construction authorized in subsection (b) within 5 years after final payment of such funds is received by the United States shall be covered into the Treasury as miscellaneous receipts.

(d) APPLICATION OF CHAPTER 169 OF TITLE 10.—The construction of new units of military family housing authorized in subsection (b) shall be subject to the applicable provisions of chapter 169 of title 10, United States Code.

(e) LIMITATION.—The Secretary may not enter into any contract for the construction of military family housing authorized by this section until after the expiration of the 21-day period beginning on the day after the day on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report containing the details of the contract.

PART B—FISCAL YEAR 1991

SEC. 221. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ARIZONA

Yuma, Marine Corps Air Station, $3,000,000.

CALIFORNIA

San Diego, Naval Hospital, $1,500,000.

Twentynine Palms, Marine Corps Air-Ground Combat Center, $3,600,000.

FLORIDA

Orlando, Naval Training Center, $17,900,000.

GEORGIA

Kings Bay, Naval Submarine Base, $75,231,000.

NORTH CAROLINA

Camp Lejeune, Marine Corps Base, $3,000,000.

Cherry Point, Marine Corps Air Station, $1,000,000.

TEXAS

Lackland Air Force Base, Naval Technical Training Center Detachment, $11,800,000.

VIRGINIA

Dam Neck, Marine Environmental Systems Facility, $8,000,000.

Little Creek, Naval Amphibious Base, $12,400,000.

WASHINGTON

Everett, Naval Station, $22,150,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GUAM

Fleet Surveillance Support Command, $30,000,000.

ICELAND

Keflavik, Naval Air Station, $1,000,000.

SEC. 222. FAMILY HOUSING

The Secretary of the Navy may, using amounts appropriated pursuant to section 223(a)(5)(A), construct or acquire family housing units (including land acquisition), at the following installations in the number of units, and in the amount, shown for each installation:

New York, Naval Station, New York, one hundred fifty units, $19,600,000.

Keflavik, Naval Air Station, Iceland, one hundred twelve units, $27,200,000.

SEC. 223. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,009,780,000 as follows:

(1) For military construction projects inside the United States authorized by section 221(a), $159,581,000.

(2) For military construction projects outside the United States authorized by section 221(b), $31,000,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $15,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $81,999,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $46,800,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $674,900,000 of which not more than $66,421,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 221 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE III—AIR FORCE

PART A—FISCAL YEAR 1990

SEC. 301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALABAMA

Gunter Air Force Base, $12,100,000.

ALASKA

Clear Air Force Station, $5,000,000.

Eielson Air Force Base, $21,000,000.
Elmendorf Air Force Base, $2,400,000.
King Salmon Airport, $8,000,000.
Shemya Air Force Base, $22,700,000.

ARIZONA

Davis-Monthan Air Force Base, $8,200,000.
Luke Air Force Base, $3,970,000.
Williams Air Force Base, $1,850,000.

CALIFORNIA

Beale Air Force Base, $13,472,000.
Castle Air Force Base, $3,900,000.
Edwards Air Force Base, $18,900,000.
McClellan Air Force Base, $18,230,000.
Onizuka Air Force Station, $14,800,000.
Travis Air Force Base, $9,000,000.
Vandenberg Air Force Base, $11,500,000.

COLORADO

Lowry Air Force Base, $3,550,000.
Peterson Air Force Base, $16,200,000.

DELAWARE

Dover Air Force Base, $8,300,000.

FLORIDA

Cape Canaveral Air Force Station, $89,000,000.
Eglin Air Force Base, $12,100,000.
Eglin Air Force Base, Auxiliary Field 9, $21,900,000.
Homestead Air Force Base, $7,350,000.
MacDill Air Force Base, $7,540,000.
Patrick Air Force Base, $3,800,000.
Tyndall Air Force Base, $7,300,000.

GEORGIA

Robins Air Force Base, $34,050,000.

HAWAII

Hickam Air Force Base, $530,000.

INDIANA

Grissom Air Force Base, $2,150,000.

LOUISIANA

Barksdale Air Force Base, $7,700,000.
England Air Force Base, $10,300,000.

MAINE

Loring Air Force Base, $8,500,000.

MARYLAND

Andrews Air Force Base, $5,550,000.

MASSACHUSETTS

Hanscom Air Force Base, $5,600,000.

MICHIGAN

K.I. Sawyer Air Force Base, $4,300,000.

MISSISSIPPI

Columbus Air Force Base, $1,200,000.

MISSOURI

Whiteman Air Force Base, $47,500,000.

MONTANA

Malmstrom Air Force Base, $32,100,000.

NEBRASKA

Offutt Air Force Base, $1,150,000.

NEVADA

Nellis Air Force Base, $4,800,000.

NEW JERSEY

McGuire Air Force Base, $4,900,000.

NEW MEXICO

Holloman Air Force Base, $17,350,000.
Kirtland Air Force Base, $18,350,000.

NEW YORK

Plattsburgh Air Force Base, $9,900,000.

NORTH CAROLINA

Seymour Johnson Air Force Base, $4,500,000.

OHIO

Newark Air Force Base, $2,980,000.
Wright Patterson Air Force Base, $11,760,000.

OKLAHOMA

Altus Air Force Base, $5,200,000.
Tinker Air Force Base, $56,800,000.

SOUTH CAROLINA

Charleston Air Force Base, $4,650,000.
Myrtle Beach Air Force Base, $2,350,000.
Shaw Air Force Base, $5,700,000.

SOUTH DAKOTA

Ellsworth Air Force Base, $11,350,000.

TEXAS

Carswell Air Force Base, $650,000.
Goodfellow Air Force Base, $3,300,000.
Kelly Air Force Base, $22,030,000.
Lackland Air Force Base, $34,250,000.
Lackland Training Annex, $1,994,000.
Laughlin Air Force Base, $5,350,000.
Randolph Air Force Base, $630,000.
Reese Air Force Base, $4,630,000.

UTAH

Hill Air Force Base, $15,650,000.

VIRGINIA

Langley Air Force Base, $3,300,000.

WASHINGTON

Fairchild Air Force Base, $14,200,000.

WYOMING

F.E. Warren Air Force Base, $104,850,000.

VARIOUS LOCATIONS

United States, $5,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

CANADA

Various Locations, $24,000,000.

GERMANY

Hahn Air Base, $4,120,000.
Mehlingen Communications Annex, $1,100,000.
Ramstein Air Base, $11,600,000.
Rhein-Main Air Base, $3,880,000.
Sembach Air Base, $1,250,000.
Spangdahlem Air Base, $6,450,000.
Zweibrucken Air Base, $6,100,000.

GUAM

Andersen Air Force Base, $6,500,000.

HONDURAS

La Mesa Air Base, $10,200,000.
San Lorenzo Air Base, $4,900,000.

ICELAND

Naval Air Station, Keflavik, $7,400,000.

ITALY

Aviano Air Base, $2,250,000.
San Vito Air Station, $2,750,000.

KOREA

Osan Air Base, $3,100,000.

OMAN

Seeb, $2,200,000.
Thumrait, $23,600,000.

PANAMA

Howard Air Force Base, $7,210,000.

PHILIPPINES

Clark Air Base, $29,310,000.
Wallace Air Station, $4,150,000.

PORTUGAL

Lajes Field, $10,000,000.

TURKEY

Balikesir Radio Relay Site, $3,600,000.
Erhac Air Base, $2,750,000.
Incirlik Air Base, $1,100,000.

UNITED KINGDOM

Bovingdon Radio Relay Site, $400,000.
RAF Alconbury, $1,300,000.
RAF Barford St. John, $490,000.
RAF Bentwaters, $2,450,000.
RAF Christmas Common Radio Relay Site, $210,000.
RAF Fairford, $1,350,000.
RAF Mildenhall, $1,650,000.
RAF Upper Heyford, $5,350,000.

VARIOUS LOCATIONS

Classified location, $740,000.
Classified location, $15,000,000.

SEC. 302. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 304(a)(7)(A), construct or acquire family housing units (including land acquisition) at the following installations in the number of units, and in the amount, shown for each installation:

Kelly Air Force Base, Texas, eleven units, $1,619,000.
Ramstein Air Base, Germany, two hundred units, $18,722,000.
Osan Air Base, Korea, one unit, $117,000.
Beale Air Force Base, California, housing office, $295,000.
Edwards Air Force Base, California, housing office, $327,000.
Scott Air Force Base, Illinois, housing office, $407,000.
England Air Force Base, Louisiana, housing maintenance facility, $226,000.
Tinker Air Force Base, Oklahoma, housing office, $291,000.
Myrtle Beach Air Force Base, South Carolina, housing maintenance facility, $382,000.

(b) PLANNING AND DESIGN.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 304(a)(7)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $8,000,000.

SEC. 303. IMPROVEMENT TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may, using amounts appropriated pursuant to section 304(a)(7)(A), improve existing military family housing units in an amount not to exceed $250,411,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Maxwell Air Force Base, Alabama, eight units, $357,000; eight units, $800,000; one unit, $108,000; thirty-two units, $1,548,000; seven units, $728,000; thirty-five units, $1,879,000.
Elmendorf Air Force Base, Alaska, eighty-eight units, $9,578,000; forty units, $4,451,000.
Eielson Air Force Base, Alaska, fifty-one units, $5,669,000.
Davis-Monthan Air Force Base, Arizona, five units, $200,000.
Eaker Air Force Base, Arkansas, one hundred eighty-eight units, $11,500,000.
Millella Air Force Base, California, fifteen units, $1,004,000.
Travis Air Force Base, California, one hundred forty-two units, $7,691,000; one hundred forty-four units, $7,560,000.

Peterson Air Force Base, Colorado, thirty-two units, $1,438,000.

Bolling Air Force Base, District of Columbia, forty units, $1,683,000.

MacDill Air Force Base, Florida, forty-four units, $2,456,000.

Tyndall Air Force Base, Florida, forty units, $2,441,000.

Scott Air Force Base, Illinois, four units, $250,000; eighty units, $4,076,000.

England Air Force Base, Louisiana, one hundred one units, $4,208,000.

Whiteman Air Force Base, Missouri, fifteen units, $970,000.

Nellis Air Force Base, Nevada, thirty-two units, $1,727,000.

Holloman Air Force Base, New Mexico, one hundred twenty-three units, $5,710,000; one unit, $47,000.

Wright-Patterson Air Force Base, Ohio, twenty-five units, $2,253,000.

Myrtle Beach Air Force Base, South Carolina, one hundred twenty-five units, $5,549,000.

Bergstrom Air Force Base, Texas, two units, $149,000.

Carswell Air Force Base, Texas, one hundred nineteen units, $5,432,000.

Kelly Air Force Base, Texas, seventy-nine units, $3,650,000; thirty-three units, $1,750,000.

Randolph Air Force Base, Texas, one hundred twenty-four units, $4,136,000; one unit, $78,000.

Sheppard Air Force Base, Texas, one hundred thirty-six units, $5,265,000.

Langley Air Force Base, Virginia, eighty-six units, $5,398,000.

Fairchild Air Force Base, Washington, two hundred thirty units, $12,162,000; two hundred two units, $10,759,000.

Ramstein Air Base, Germany, one unit, $137,000; twenty-four units, $2,180,000; thirty-eight units, $2,681,000.

Spangdahlem Air Base, Germany, four units, $302,000.

Andersen Air Base, Guam, two hundred units, $17,817,000.

RAF Alconbury, United Kingdom, one unit, $55,000.

RAF Bentwaters, United Kingdom, eighty-three units, $4,610,000.

RAF Chicksands, United Kingdom, thirty-four units, $3,027,000.

RAF Lakenheath, United Kingdom, fourteen units, $1,153,000; sixty units, $3,408,000.

RAF Mildenhall, United Kingdom, two units, $89,000.

(c) WAIVER OF SPACE LIMITATIONS FOR FAMILY HOUSING UNITS.—(1) To support the United States Air Forces in Europe and Military Airlift Command, the Secretary of the Air Force may carry out improvement projects to add to and alter existing family housing units and, notwithstanding section 2826(a) of title 10, United States Code, to—

(A) increase the net floor area of one family housing unit at Ramstein Air Base, Germany, to not more than 3,045 square feet; and

(B) increase the net floor area of four family housing units at Scott Air Force Base, Illinois, to not more than 2,470 square feet.

(2) To support the Air Force Logistics Command and Pacific Air Forces, the Secretary of the Air Force may, notwithstanding section 2826(a) of title 10, United States Code, carry out new construction projects—

(A) to build five family housing units at Kelly Air Force Base, Texas, to not more than 3,000 square feet; and

(B) to convert one building to a family housing unit at Osan Air Base, Korea, to contain not more than 3,000 square feet.

(3) For purposes of this subsection, the term "net floor area" has the same meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,369,540,000, as follows:

(1) For military construction projects inside the United States authorized by section 301(a), $897,460,000.

(2) For military construction projects outside the United States authorized by section 301(b), $199,825,000.

(3) For the construction of the Large Rocket Test Facility, Arnold Engineering Development Center, Tennessee, as authorized by section 2301(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $66,000,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $24,350,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $106,094,000.

(6) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $3,000,000.

(7) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $280,797,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $760,208,000 of which not more than $96,000,000 may be obligated or expended, for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 305. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECT.—Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 961), authorization for the following project authorized in section 301 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

GEODSS Site 5, Portugal, Composite Support Facility in the amount of $2,250,000 and Spacetrack Observation Facility in the amount of $12,400,000.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECT.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), authorization for the following project authorized in section 2301 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

KC-135 CPT Simulator Facility in the amount of $760,000 at Beale Air Force Base, California.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1988 PROJECTS.—Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1179), authorization for the following projects authorized in sections 2131 and 2132 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) KC-135 CPT Simulator Facility, in the amount of $1,150,000 at Loring Air Force Base, Maine.

(2) Thirty-four family housing units in the amount of $2,530,000 at Holbrook, Arizona.

SEC. 306. GRANT FOR CONSTRUCTION OF A SCHOOL AT ELLSWORTH AIR FORCE BASE, SOUTH DAKOTA

(a) AUTHORITY TO MAKE GRANT.—The Secretary of the Air Force may, subject to subsections (b) through (d), make a grant to the Douglas School District, South Dakota, in an amount not to exceed $7,250,000.

(b) CONDITIONS OF GRANT.—A grant made pursuant to subsection (a) shall be subject to the following conditions:

(1) The grant funds shall be used by the Douglas School District for construction of a middle school primarily for dependents of Armed Forces personnel assigned to duty at Ellsworth Air Force Base, North Dakota.

(2) The balance of any such funds not expended for such purpose shall be returned to the Secretary.

(c) UNUSED FUNDS.—Funds returned to the Secretary pursuant to subsection (b)(2) shall be covered into the Treasury as miscellaneous receipts.

PART B—FISCAL YEAR 1991

SEC. 321. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALASKA

Shemya Air Force Base, $51,500,000.

COLORADO

Falcon Air Force Station, $2,000,000.
Peterson Air Force Base, $1,550,000.

OKLAHOMA

Altus Air Force Base, $7,900,000.

SOUTH CAROLINA

Charleston Air Force Base, $8,740,000.

TEXAS

Lackland Air Force Base, $22,500,000.

WYOMING

F.E. Warren Air Force Base, $6,450,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY

Hahn Air Base, $7,200,000.

PHILIPPINES

Clark Air Base, $5,190,000.

WORLDWIDE CLASSIFIED

Classified location, $5,910,000.

SEC. 322. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,146,996,000, as follows:

(1) For military construction projects inside the United States authorized by section 321(a), $100,640,000.

(2) For military construction projects outside the United States authorized by section 321(b), $18,300,000.

(3) For the construction of the Large Rocket Test Facility, Arnold Engineering Development Center, Tennessee, as authorized by section 2301(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $66,300,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $12,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $114,756,000.

(6) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $835,000,000 of which not more than $138,632,000 may be obligated or expended, for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 321 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 323. AMENDMENT TO SECTION 2301 OF PUBLIC LAW 100-456

(a) INCREASED AUTHORITY.—Section 2301(a), title XXIII, of Public Law 100-456, September 29, 1988 is amended by striking out "Arnold Engineering Development Center, $213,800,000." and inserting in lieu thereof "Arnold Engineering Development Center, $256,800,000.".

(b) RESTRICTION.—This amendment shall not take effect unless and until the requirement for the Large Rocket Test Facility (J-6) has been validated by the Department of Defense and so certified to the Committees on Armed Services of the Senate and the House of Representatives.

TITLE IV—DEFENSE AGENCIES

PART A—FISCAL YEAR 1990

SEC. 401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE LOGISTICS AGENCY

Defense Depot, Tracy, California, $24,000,000.

Defense Reutilization and Marketing Office, Eglin Air Force Base, Florida, $2,750,000.

Defense Fuel Support Point, Searsport, Maine, $2,700,000.

Defense Construction Supply Center, Columbus, Ohio, $26,600,000.

Defense Personnel Support Center, Philadelphia, Pennsylvania, $3,800,000.

Defense General Supply Center, Richmond, Virginia, $6,066,000.

Defense Fuel Support Point, Manchester, Washington, $22,600,000.

DEFENSE MEDICAL FACILITIES OFFICE

Maxwell Air Force Base, Alabama, $1,600,000.

Naval Air Station, Mobile, Alabama, $3,000,000.

Naval Air Station, Adak, Alaska, $18,000,000.

Marine Corps Air Station, Twenty-Nine Palms, California, $38,000,000.

Hurlburt Field, Florida, $6,000,000.

Naval Air Station, Jacksonville, Florida, $2,400,000.

Patrick Air Force Base, Florida, $2,700,000.

Andrews Air Force Base, Maryland, $2,900,000.

Naval Station, Pascagoula, Mississippi, $2,548,000.

Nellis Air Force Base, Nevada, $62,000,000.

Lackland Air Force Base, Texas, $6,000,000.

Naval Station, Ingleside, Texas, $2,300,000.

Portsmouth Naval Hospital, Virginia, $330,000,000.

DEFENSE NUCLEAR AGENCY

Armed Forces Radiobiology Research Institute, Bethesda, Maryland, $900,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, $21,444,000.

OFFICE OF THE SECRETARY OF DEFENSE

The Pentagon, Arlington, Virginia, $3,500,000.

Classified Location, $4,500,000.

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Bethesda, Maryland, $600,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Falcon Air Force Station, Colorado, $123,000,000.

Nellis Air Force Base, Nevada, $6,542,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE MEDICAL FACILITIES OFFICE

Camp Carroll, Korea, $7,900,000.

Camp Garry Owen, Korea, $800,000.

Zaragoza Air Base, Spain, $680,000.

Royal Air Force, Chessington, United Kingdom, $12,200,000.

Royal Air Force, Lanark, United Kingdom, $15,000,000.

DEFENSE NUCLEAR AGENCY

Johnston Atoll, $6,168,000.

DEPARTMENT OF DEFENSE SCHOOLS

Naval Air Station, Bermuda, $4,810,000.

Augsburg, Germany, $6,300,000.

Frankfurt, Germany, $7,101,000.

Grafenwoehr, Germany, $4,186,000.

Hohenfels, Germany, $17,079,000.

Royal Air Force, Bicester, United Kingdom, $6,275,000.

Royal Air Force, Upwood, United Kingdom, $4,175,000.

Various Locations, $6,600,000.

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, $1,155,000.

Roosevelt Roads, Puerto Rico, $6,541,000.

NATIONAL SECURITY AGENCY

Classified Location, $23,000,000.

SEC. 402. FAMILY HOUSING

The Secretary of Defense, may, using amounts appropriated pursuant to section 405(a)(11)(A), construct or acquire three family housing units (including land acquisition) at classified locations in the total amount not to exceed $400,000.

SEC. 403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may, using amounts appropriated pursuant to section 405(a)(11)(A), improve existing military family housing units in an amount not to exceed $200,000.

SEC. 404. CONFORMING STORAGE FACILITIES

Section 2404(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012) is amended to read as follows:

"(a) AUTHORITY TO CONSTRUCT.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987, using not more than $5,000,000 appropriated for fiscal year 1988, using not more than $9,300,000 appropriated for fiscal year 1989, and using not more than $11,000,000 appropriated for fiscal year 1990, carry out military construction projects not otherwise authorized by law for conforming storage facilities.".

SEC. 405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $584,500,000, as follows:

(1) For military construction projects inside the United States authorized by section 401(a), $229,950,000.

(2) For military construction projects outside the United States authorized by section 401(b), $122,670,000.

(3) For military construction projects at Fort Sill, Oklahoma, as authorized by section 2401(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $27,000,000.

(4) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), $53,000,000.

(5) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1495), $16,000,000.

(6) For unspecified minor constructed projects under section 2805 of title 10, United States Code, $13,100,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(8) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $80,480,000.

(9) For conforming storage facilities construction under the authority of section

2404 of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), $11,000,000.

(10) For military family housing functions—

(A) for construction and acquisition of military family housing facilities, $600,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $19,800,000, of which not more than $17,825,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 401 may not exceed—

(1) the total amount authorized to be appropriated under paragraph (1) and (2) of subsection (a); and

(2) $321,500,000 (the balance of the amount authorized under section 401(a) for the construction of a medical facility at Portsmouth Naval Hospital, Virginia).

SEC. 406. PORTSMOUTH NAVAL HOSPITAL, VIRGINIA

The Secretary of Defense may, in advance of appropriations therefor, enter into one or more contracts for the design and construction of the military construction project authorized by section 401 to be accomplished at Portsmouth Naval Hospital, Virginia, if each such contract limits the payments that the Federal Government is obligated to make under such contract to the amount of appropriations available for obligation under such contract, at the time the contract is executed.

SEC. 407. MEDICAL FACILITY, FORT SILL, OKLAHOMA

(a) PROJECT AMOUNT.—Section 2401 of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087) is amended in the items listed under the heading "Defense Medical Facilities Office", by striking out "Fort Sill, Oklahoma, $54,000,000." and inserting in lieu thereof "Fort Sill, Oklahoma, $68,000,000.".

(b) TITLE TOTAL.—Section 2407(b)(2) of such Act is amended by striking out "$27,000,000" and inserting in lieu thereof "$41,000,000".

SEC. 408. CONSOLIDATED MEDICAL FACILITY, NELLIS AIR FORCE BASE, NEVADA

The Secretary of Defense may, in advance of appropriations for the project, enter into one or more contracts for the design and construction of the military construction project authorized by section 401 to be constructed at Nellis Air Force Base, Nevada, if each contract limits the payments that the United States is obligated to make under the contract to the amount of appropriations available for obligation under the contract as of the time the contract is entered into.

SEC. 409. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

(a) EXTENSION OF CERTAIN 1987 PROJECT.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), authorization for the Defense Fuel Support Point, Charleston, South Carolina, in the amount of $5,530,000, in section 2401(a) of that Act shall remain in effect until October 1, 1991, or until the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later.

(b) EXTENSION OF CERTAIN 1988 PROJECTS.—Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1179), authorizations for the following projects authorized in section 2141 of that Act shall remain in effect until October 1, 1991, or until the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Fuel Tankage, in the amount of $9,400,000 at Defense Fuel Supply Point, Key West, Florida.

(2) Connector Warehouse, in the amount of $18,500,000 at Defense General Supply Center, Richmond, Virginia.

(3) Second Echelon Medical Storage Facility, Iraklion, Greece, $340,000.

(4) Composite Medical Facility, Misawa Air Base, Japan, $4,700,000.

PART B—FISCAL YEAR 1991

SEC. 421. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

OFFICE OF THE SECRETARY OF DEFENSE

The Pentagon, Arlington, Virginia, $76,300,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Nevada Test Site, Nevada, $5,350,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, $4,200,000.

SEC. 422. CONFORMING STORAGE FACILITIES

Section 2404(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), as amended by section 2404 of this Act, is further amended by inserting "and using not more than $15,000,000 appropriated for fiscal year 1991," after "fiscal year 1990,".

SEC. 423. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $500,750,000, as follows:

(1) For military construction projects inside the United States authorized by section 421(a), $81,650,000.

(2) For military construction projects outside the United States authorized by section 421(b), $4,200,000.

(3) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), $84,000,000.

(4) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a), $176,000,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $14,200,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(7) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $94,400,000.

(8) For conforming storage facilities construction under the authority of section 2404 of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4012), $15,000,000.

(9) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $21,300,000, of which not more than $18,135,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 421 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

PART A—FISCAL YEAR 1990

SEC. 501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 502 of this Act and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 501 of this Act, in the amount of $462,300,000.

PART B—FISCAL YEAR 1991

SEC. 521. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 522 of this Act and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 522. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 521 of this Act, in the amount of $503,600,000.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

PART A—FISCAL YEAR 1990

SEC. 601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $175,109,000, and

(B) for the Army Reserve, $91,455,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $50,900,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $216,180,000, and

(B) for the Air Force Reserve, $46,200,000.

PART B—FISCAL YEAR 1991

SEC. 621. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $119,500,000, and

(B) for the Army Reserve, $61,900,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $53,300,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $107,200,000, and

(B) for the Air Force Reserve, $38,500,000.

TITLE VII—EXPIRATION OF AUTHORIZATIONS

SEC. 701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—(1) Except as provided in subsection (b)(1), all authorizations contained in part A of each of titles I, II, III, IV, and V for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later.

(2) Except as provided in subsection (b)(2), all authorizations contained in part B of each of titles I, II, III, IV, and V for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1992, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1993, whichever is later.

(b) EXCEPTIONS.—(1) The provisions of subsection (a)(1) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later, for construction contracts, land acquisitions, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

(2) The provisions of subsection (a)(2) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1992, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later, for construction contracts, land acquisitions, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 2702. EFFECTIVE DATE

Titles I, II, III, IV, V, and VI shall take effect on October 1, 1989, or the date of enactment of this Act, whichever is later.

TITLE VIII—GENERAL PROVISIONS

PART A—MILITARY CONSTRUCTION PROGRAM CHANGES

SEC. 801. FAMILY HOUSING RENTAL GUARANTEE PROGRAM

Section 802(b) of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(1) by striking out clause (11) and inserting in lieu thereof the following:

"(11) shall include a provision authorizing the Secretary of the military department concerned, or the Secretary of Transportation with respect to the Coast Guard, to take such action as the Secretary considers appropriate to protect the interests of the United States, including rendering the agreement null and void if, in the opinion of the Secretary, the owner of the housing fails to maintain a satisfactory level of operation and maintenance;";

(2) by striking out the period at the end of clause (12) and inserting in lieu thereof a semicolon; and

(3) by adding after clause (12) the following new clauses:

"(13) may provide that utilities, trash collection, snow removal, and entomological services will be furnished by the United States at no cost to the occupant to the same extent that those services are furnished to occupants of housing owned by the Federal Government; and

"(14) may require that rent collection and operation and maintenance services in connection with the housing be performed under the terms of a separate agreement or by personnel of the Federal Government.".

SEC. 802. LEASING OF MILITARY FAMILY HOUSING

Section 2828 of title 10, United States Code, is amended—

(1) in subsection (b)(2), by striking out "$10,000" and inserting in lieu thereof "$12,000";

(2) in subsection (b)(3)—

(A) by striking out "(A) Except as provided in subparagraph (B), not" and inserting in lieu thereof "Not";

(B) by striking out "$10,000" and "$12,000" and inserting in lieu thereof "$12,000" and "$14,000", respectively; and

(C) by striking out subparagraph (B);

(3) in subsection (e)(1), by striking out the period at the end of the first sentence and inserting in lieu thereof ", adjusted annually for inflation and foreign currency fluctuations occurring after September 30, 1987."; and

(4) in subsection (e)(2), by striking out "38,000" and inserting in lieu thereof "53,419".

SEC. 803. LONG-TERM FACILITIES CONTRACTS

Section 2809 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking out "identified the proposed project in the budget proposal submitted to Congress and has";

(2) in subsection (b), by inserting "and potable and waste water treatment services" after "child care centers"; and

(3) in subsection (c), by striking out "1989" and inserting in lieu thereof "1991".

SEC. 804. IMPROVEMENTS TO FAMILY HOUSING UNITS

Section 2825(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by striking out "limitation contained in paragraph (1)" in paragraph (3), as redesignated by clause (1), and inserting in lieu thereof "limitations contained in paragraphs (1) and (2)"; and

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Secretary concerned may expend funds in any fiscal year for the improvement of not more than three housing units in an amount in excess of the limitation specified in paragraph (1) if the amount expended in excess of such limitation is necessary to make the unit suitable for habitation by a handicapped person. In no event may the cost of the improvements to any such unit exceed $100,000.".

SEC. 805. DOMESTIC BUILD-TO-LEASE PROGRAM

Section 2828(g) of title 10, United States Code, is amended—

(1) in paragraph (8)(C)(ii), by striking out "2,000" and inserting in lieu thereof "4,000";

(2) in paragraph (8)(C)(iii), by striking out "2,100" and inserting in lieu thereof "3,600"; and

(3) in paragraph (9), by striking out "1989" and inserting in lieu thereof "1991".

SEC. 806. TURN-KEY SELECTION PROCEDURES

Section 2862 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out the second sentence; and

(2) in subsection (c), by striking out "1990" and inserting in lieu thereof "1991".

SEC. 807. AUTHORIZED COST VARIATIONS

Section 2853 of title 10, United States Code, is amended to read as follows:

"§ 2853. Authorized cost variations

"(a) Subject to subsection (c), the cost authorized for a military construction project or for the construction, improvement, or acquisition of a military family housing project may be increased by not more than 25 percent of the amount appropriated for such project or by 200 percent of the minor construction project ceiling specified in section 2805(a)(1) of this title, whichever is less, if the Secretary concerned determines (A) that such an increase in cost is required for the sole purpose of meeting unusual variations in cost, and (B) that such variations in cost could not have reasonably been anticipated at the time the project was originally approved by Congress.

"(b) Subject to subsection (c), the scope of work for a military construction project or for the construction, improvement, or acquisition of a military family housing project may be reduced by not more than 25 percent from the amount approved by Congress.

"(c) The limitation on cost increase in subsection (a) or the limitation on scope reduction in subsection (b) does not apply if—

"(1) the increase in cost or reduction in scope is approved by the Secretary concerned;

"(2) the Secretary concerned notifies the appropriate committees of Congress in writing of the increase or reduction and the reasons therefor; and

"(3) a period of 21 days has elapsed after the date on which the notification is received by the committees.

"(d) The limitations on cost increases in subsection (a) do not apply to within scope modifications under an existing contract or to the settlement of a contractor claim under an existing contract if the increase in cost is approved by the Secretary concerned and a written notification of the facts relating to the proposed increase in cost is submitted by the Secretary concerned to the appropriate committees of Congress.".

SEC. 808. CONSTRUCTION AND ACQUISITIONS THROUGH NATO GOVERNMENTS

Section 2343 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Sections 2207 and 2306(b) of this title and section 3741 of the Revised Statutes (41 U.S.C. 22) shall not apply to military construction projects or family housing projects that are constructed or acquired through Governments of the North Atlantic Treaty Organization countries or North Atlantic Treaty Organization subsidiary bodies for elements of the armed forces deployed in Europe and adjacent waters.".

SEC. 809. UNSPECIFIED MINOR CONSTRUCTION

Section 2805 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out "$1,000,000" and inserting in lieu thereof "$1,500,000"; and

(2) in subsection (c)(1), by striking out "$200,000" and inserting in lieu thereof "$300,000".

SEC. 810. LEASE-PURCHASE OF FACILITIES

(a) IN GENERAL.—Chapter 169 of title 10, United States Code, is amended by adding at the end of subchapter I the following new section:

"§ 2812. Lease-purchase of administrative facilities

"(a)(1) The Secretary concerned may enter into a lease for a facility on or near a military installation for the provision of an activity or service named in paragraph (2).

"(2) The activities and services referred to in paragraph (1) are as follows:

"(A) Administrative office space;

"(B) Troop housing;

"(C) Energy production facilities;

"(D) Potable and waste water treatment facilities;

"(E) Hospital and medical facilities;

"(F) Transient quarters; and

"(G) Depot or storage facilities.

"(b) Leases entered into under subsection (a)—

"(1) may not exceed a term of 32 years;

"(2) shall provide that at the end of the term of the lease title to the leased facility (and the land on which the facility is located, if the facility is located on non-federally owned land) shall vest in the United States; and

"(3) shall include such other terms and conditions as the Secretary concerned determines are necessary or desirable to protect the interests of the United States.

"(c) The Secretary concerned may not enter into a lease under this section until—

"(1) the Secretary submits to the appropriate committees of Congress a justification of the need for the facility for which the proposed lease is being entered into and an economic analysis (based upon accepted life cycle costing procedures) that demonstrates that the proposed lease is cost effective when compared with a military construction project; and

"(2) a period of 21 days has expired following the date on which the justification and economic analysis are received by the committees.

"(d) Amounts obligated to be paid in any year under the terms of any lease entered into under this section shall, for budgetary purposes, be considered as expenditures for that year.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end the following new item:

"2812. Lease-purchase of facilities.".

SEC. 2811. HOMEOWNERS ASSISTANCE PROGRAM

Section 2832 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following new subsection:

"(b) Notwithstanding subsection (i) of section 1013 of the Act referred to in subsection (a), the Secretary may transfer, from any funds available for obligation by the Department of Defense, to the fund established pursuant to subsection (d) of that section, such sums as the Secretary determines are necessary to provide assistance under that section to persons eligible for assistance under that section. Any funds so transferred shall be available for obligation and expenditure under the same conditions as funds appropriated to such fund.".

PART B—LAND TRANSACTIONS

SEC. 821. SALE OF LAND AND REPLACEMENT OF CERTAIN FACILITIES, PITTSBURGH, PENNSYLVANIA

(a) IN GENERAL.—Subject to subsections (b) through (f), the Secretary of the Navy may sell and convey all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) located at 4902 Forbes Avenue, Pittsburgh, Allegheny County, Pennsylvania, consisting of approximately 1.29 acres, and at which a Naval and Marine Corps Reserve Center is located.

(b) COMPETITIVE PROCEDURES; MINIMUM SALE PRICE.—(1) The Secretary shall use competitive procedures for the sale and conveyance authorized in subsection (a).

(2) In no event may the real property be sold for less than the fair market value of the property, as determined by the Secretary.

(c) CONDITION OF SALE.—The conveyance authorized by subsection (a) shall be subject to the condition that the purchaser permit the Navy, without consideration, to continue to occupy the property to be conveyed until the Secretary acquires or constructs a replacement facility, except that in no event may the Navy continue to occupy the property pursuant to this subsection more than two years after the date of the conveyance.

(d) USE OF FUNDS.—(1) The Secretary may use the proceeds from the sale of the property referred to in subsection (a) for the acquisition or construction of a replacement facility, including the acquisition of land, for a Naval and Marine Corps Reserve Center in the greater Pittsburgh area and to pay the costs of appraisals and other costs related to the sale of the property.

(2) Any proceeds of the sale not used for such purposes shall be covered into the Treasury as miscellaneous receipts.

(e) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of any real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the sale and conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 822. SALE OF LAND AND REPLACEMENT OF CERTAIN FACILITIES, KAPALAMA MILITARY RESERVATION, HAWAII

(a) IN GENERAL.—(1) Subsections (a) through (e) of section 2332 of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 100 Stat. 1223), are amended to read as follows:

"(a) IN GENERAL.—Subject to subsections (b) through (f), the Secretary of the Army may sell and convey to the State of Hawaii approximately 35.92 acres of real property, together with improvements thereon, at Kapalama Military Reservation, Hawaii, and may replace and relocate the facilities located on such property.

"(b) CONSIDERATION.—In consideration for the real property described in subsection (a), the State of Hawaii shall pay the United States an amount equal to not less than the fair market value of the property to be conveyed, as determined by the Secretary.

"(c) USE OF SALE PROCEEDS.—The Secretary shall use the proceeds received from the sale of property authorized by this section—

"(1) for the cost of the design and construction of suitable replacement facilities to be constructed at Fort Shafter, Fort Kamehameha, Tripler Army Medical Center, and Schofield Barracks, Hawaii; and

"(2) for any cost incurred by the Department of the Army under this section with respect to the sale and relocation of facilities.

"(d) EXCESS AMOUNT.—The Secretary may use any proceeds remaining after paying all replacement and relocation costs referred to in subsection (c) for the implementation of the plan established by the Secretary of the Army on March 1, 1988, for the future use and development of Fort DeRussy, Hawaii, except that such proceeds may not be used to pay for the construction of nonappropriated-fund projects identified in such plan. The Secretary shall deposit any amount not used for such purpose at the end of the ten-year period beginning on the date of the enactment of the Military Construction Authorization Act, 1989, into the Treasury as miscellaneous receipts.".

(2) Subsections (f) and (g) of section 2332 of such Act are redesignated as subsections (e) and (f), respectively.

(b) SAVINGS PROVISION.—The provisions of section 2332 of the Military Construction Authorization Act of 1988 and 1989, as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the sale of any property referred to in such section that was sold pur-

suant to such section before the date of the enactment of this Act.

SEC. 823. LAND CONVEYANCE, FORT KNOX, KENTUCKY

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Army may sell and convey all right, title, and interest of the United States in and to a parcel of land (together with improvements thereon) constituting a portion of Fort Knox, Kentucky, and consisting of a total of approximately 12 acres. Such parcel is contiguous to the corporate limits of the city of Radcliff, Kentucky, and bounded on the east by United States highway 31W, on the south by the Radcliff city park, on the west by residential property, and on the north by Fort Knox.

(b) COMPETITIVE BID REQUIREMENT; MINIMUM SALE PRICE.—(1) The Secretary shall use competitive procedures for the sale of the real property described in subsection (a).

(2) In no event may the property be sold for less than the fair market value, as determined by the Secretary.

(c) USE OF PROCEEDS OF SALE.—The Secretary shall use the proceeds received from the sale of the property referred to in subsection (a) to pay the cost of construction of not more than four units of military family housing at Fort Knox, Kentucky, and use the balance, if any, to pay the cost of repairs or improvements to existing family housing at Fort Knox, Kentucky.

(d) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any sale of real property under this section as the Secretary considers appropriate to protect the interests of the United States.

(f) ADDITIONAL AUTHORITY.—The military family housing authorized under this section is in addition to the military family housing otherwise authorized by law.

(g) APPLICATION OF CHAPTER 169 OF TITLE 10.—The construction of new units of military family housing and improvements made to existing military family housing with funds realized from the sale of property referred to in subsection (a) shall be subject to the applicable provisions of chapter 169 of title 10, United States Code.

SEC. 824. SALE OF LAND AT THE PUBLIC WORKS CENTER, GREAT LAKES, ILLINOIS

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Navy may—

(1) sell and convey all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon), consisting of approximately 14 acres of land, comprising that portion of the Public Works Center, Great Lakes, located south of the intersection of Desplaines Avenue and West Roosevelt Road, Forest Park, Illinois; and

(2) use the proceeds from the sale of such property to construct not more than 35 units of military family housing at the Naval Air Station, Glenview, Illinois.

(b) COMPETITIVE PROCEDURES; MINIMUM SALE PRICE.—(1) The Secretary shall use competitive procedures for the sale of the property described in subsection (a).

(2) In no event may the property be sold for less than the greater of (A) the fair market value of the property, as determined by the Secretary, or (B) the amount necessary to cover the costs of constructing replacement housing and relocating the tenants from such property.

(c) CONDITION OF SALE.—The conveyance authorized by subsection (a) shall be subject to the condition that the purchaser permit the Navy, without consideration, to continue to occupy the property to be conveyed until the replacement housing has been constructed or acquired by the Secretary, except that in no event may the Navy continue to occupy the property pursuant to this subsection more than two years after the date of the conveyance.

(d) USE OF FUNDS.—(1) The Secretary may use the proceeds from the sale of the property described in subsection (a) for payment of the following costs:

(A) The cost of design and construction of not more than 35 units of military family housing to be constructed at the Naval Air Station, Glenview, Illinois.

(B) The cost of relocating the tenants occupying the housing facilities located on the property described in subsection (a)(1) to new housing facilities.

(C) The cost of appraisals and other costs related to the sale of the property.

(2) The Secretary shall deposit in the Department of Defense Military Family Housing Management Account provided for in section 2831 of title 10, United States Code, any proceeds of the sale not used for the purposes specified in paragraph (1). Any amount so deposited shall be merged with other funds in that account and shall be available for use as provided in that section.

(e) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of any real property to be conveyed under this section shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the purchaser.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any sale under this section as the Secretary considers appropriate to protect the interests of the United States.

(g) APPLICATION OF CHAPTER 169 OF TITLE 10.—The construction of new units of military family housing and improvements made to existing military family housing with funds realized from the sale of property referred to in subsection (a) shall be subject to the applicable provisions of chapter 169 of title 10, United States Code.

SEC. 825. MODIFICATION OF REVERSIONARY INTEREST, PORT OF BENTON, WASHINGTON

(a) AUTHORITY TO MODIFY REVERSIONARY INTEREST.—Subject to subsections (b) through (f), the Secretary of the Army shall modify the reversionary interest of the United States in and to approximately 22 acres of land constituting a portion of a larger tract of land conveyed to the Port of Benton, Washington, by quit-claim deed dated June 1, 1964, and more particularly described in subsection (d).

(b) MODIFICATION.—(1) The Secretary shall modify the reversionary interest referred to in subsection (a) in such manner as may be necessary to permit the Port of Benton, Washington, to donate approximately 22 acres of the land conveyed by the deed referred to in subsection (c) to Washington State University for the establishment of a university branch on the donated land.

(2) The modified reversionary interest shall provide that if at any time the Secretary determines that the donated land is not being used for the purpose described in paragraph (1), title to such land shall revert to the United States, the United States shall have the right of immediate entry thereon, and title to the land (including all improvements thereon) shall vest in the United States without compensation by the United States.

(c) DEED DESCRIPTION.—The deed referred to in subsection (a) is the quit-claim deed executed by the Secretary of the Army, dated June 1, 1964, which conveyed to the Port of Benton, Washington, pursuant to section 108 of the River and Harbor Act of 1960 (74 Stat. 486; 33 U.S.C. 578), approximately 290 acres of land owned by the United States.

(d) DESCRIPTION OF PROPERTY.—The 22-acre parcel of land referred to in subsection (a) is bordered on the east by the Columbia River, on the north by First Street, on the south by the Tri-Cities University Center, and on the west by the Port of Benton property that is east of George Washington Way. The exact acreage and legal description of such parcel of land shall be determined by a survey which is satisfactory to the Secretary of the Army. The cost of such survey shall be borne by the Port of Benton, Washington.

(e) AUTHORITY TO EXECUTE DOCUMENTS.—The Secretary may execute and record such documents as he determines necessary or appropriate to carry out the provisions of this section.

(f) ADDITIONAL TERMS AND CONDITIONS.—In carrying out the provisions of this section, the Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 826. LAND CONVEYANCE, NAVAL RESERVE CENTER, KEARNEY, NEW JERSEY

(a) IN GENERAL.—Subject to sections (b) through (d) the Secretary of the Navy may convey to Hudson County, New Jersey, all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon), consisting of approximately 2.9 acres, that comprises a portion of the Naval Reserve Center, Kearney, New Jersey.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized by subsection (a), Hudson County, New Jersey, shall demolish two Naval Reserve Center buildings on the Naval Reserve Center referred to in that subsection, improve the motor vehicle parking facilities on such Naval Reserve Center, and provide additional motor vehicle parking facilities on land adjacent to or near the Naval Reserve Center (and owned by Hudson County) for use by the United States. The additional parking facilities shall be acceptable to the Secretary and shall be provided on such terms and conditions and for such period of time as the Secretary shall prescribe.

(2) If the fair market value of the land to be conveyed under subsection (a) exceeds the fair market value of the consideration received under paragraph (1), as determined by the Secretary, Hudson County shall pay the amount of the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

(c) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by Hudson County, New Jersey.

(d) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with any conveyance under this section as the Secretary considers appropriate to protect the interests of the United States of America.

SEC. 827. LAND CONVEYANCE, FORT BELVOIR, VIRGINIA

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsections (b) through (h), the Secretary of the Army may convey to any grantee selected in accordance with subsection (e) all right, title, and interest of the United States in and to all or any portion of a parcel of land at Fort Belvoir, Virginia, consisting of approximately 820 acres and known as the Engineer Proving Ground.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized in subsection (a), the grantee shall construct such facilities for the Department of the Army and make such infrastructure improvements for the Department of the Army as may be specified by the Secretary in an agreement to be entered into by the grantee and the Secretary in connection with the conveyance.

(2) In no event may the cost of the facilities to be constructed by the grantee for the Department of the Army and the cost of the infrastructure improvements to be made by the grantee for the Department of the Army be an amount less than the fair market value of the real property conveyed to the grantee pursuant to this section. The amount of such costs shall be determined by the Secretary.

(c) CONTENT OF AGREEMENT.—(1) An agreement entered into under this section shall include the following:

(A) A requirement that the grantee develop the real property conveyed to the grantee pursuant to this section as a balanced, mixed-use development.

(B) A requirement that the development of the property include improvements to public transportation systems, utilities, and telecommunications on and off the property, and any other infrastructure improvements that may be specified by the Secretary in connection with such development.

(C) A requirement that the development and all such improvements comply with the specifications of a master plan formulated for the real property by the Secretary and agreed to by the appropriate officials of Fairfax County, Virginia, and the Commonwealth of Virginia.

(D) A requirement that the grantee construct any facilities and make any infrastructure improvements for the Department of the Army that the Secretary determines are necessary for the relocation of Army activities within Washington, D.C., and its environs, including Fort Belvoir.

(E) A requirement that the construction of facilities and infrastructure improvements referred to in subparagraph (D) be carried out in accordance with plans and specifications approved by the Secretary.

(F) Such other terms and conditions as the Secretary and the grantee may agree upon.

(2) The Secretary may provide that the agreement be subject to review and approval by the appropriate officials of the County of Fairfax, Virginia, and the Commonwealth of Virginia.

(d) REPORT AND WAITING PERIOD.—The Secretary may not enter into any such agreement until the expiration of 21 days following the date on which the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report containing the details of the agreement.

(e) SELECTION OF GRANTEE.—The Secretary shall use competitive procedures for the selection of a grantee. In evaluating the offers of prospective grantees, the Secretary shall consider the technical sufficiency of the offers and the cost of constructing the required facilities and making the required infrastructure improvements for the Department of the Army, as contained in the offers.

(f) REVERSION.—If the Secretary determines that a grantee is unable or unwilling to develop the real property conveyed to the grantee under this section in accordance with the agreement entered into by the grantee under this section or is unable or unwilling to construct any facility or complete any infrastructure improvement for the Department of the Army in accordance with such agreement, then, regardless of the reason for such inability or unwillingness, all right, title, and interest in and to the real property conveyed to such grantee in connection with such agreement shall automatically revert to the United States and the United States shall have the right of immediate entry thereon.

(g) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of property to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the grantee.

(h) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions with respect to the conveyance as the Secretary considers appropriate to protect the interests of the United States.

SEC. 828. LAND CONVEYANCE, FORT GILLEM, GEORGIA

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Army shall convey, without consideration, to the State of Georgia (hereafter in this section referred to as the "State") all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) at Fort Gillem, Clayton County, Georgia, consisting of approximately 35.26 acres of land, for use by the State for the administration of the Georgia Department of Defense, the Georgia National Guard, and other Georgia National Guard activities.

(b) CONDITIONS OF CONVEYANCE.—The conveyance authorized by subsection (a) shall be subject to the following conditions:

(1) The property conveyed shall be used for the administration of the Georgia Department of Defense, the Georgia National Guard, and for other official activities of the Georgia National Guard.

(2) The Secretary may reserve to the United States (and shall include in the instrument of conveyance) such easements and other interests in the property conveyed pursuant to this section as the Secretary determines necessary or convenient for the operations, activities, and functions of the United States.

(c) REVERSION.—If the Secretary determines at any time that the property conveyed pursuant to this section is not being used for the purposes specified in subsection (b)(1), all right, title, and interest in and to the property (including improvements thereon) shall revert to the United States and the United States shall have the right of immediate entry thereon.

(d) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the State.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance required under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 829. LAND CONVEYANCE, HICKAM AIR FORCE BASE, HAWAII

(a) AUTHORITY TO CONVEY.—Subject to subsections (b) through (e), the Secretary of the Air Force may convey to the State of Hawaii all right, title, and interest of the United States in and to approximately 22.88 acres of real property, together with improvements thereon, located on the eastern boundary of Hickam Air Force Base, Hawaii.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized by subsection (a), the State of Hawaii shall be required to—

(A) pay for the cost of designing and constructing such facilities described in subsection (c)(2) as the Secretary may specify at Hickam Air Force Base or at such other location in Honolulu, Hawaii, as the Secretary may specify;

(B) pay for the cost of relocating certain designated munition storage facilities situated on the land to be conveyed by the Secretary;

(C) pay for the cost of relocating the existing security fence line to conform with the new boundaries of Hickam Air Force Base after conveyance of the property referred to in subsection (a); and

(D) pay to the United States the difference, if any, between the fair market value of the property conveyed, as determined by the Secretary, and the cost of facilities provided by the State of Hawaii under subsection (c).

(2) Costs incurred by the State of Hawaii in connection with the relocation of facilities referred to in clauses (B) and (C) of paragraph (1) may not be considered as any part of the payment of the fair market value of the property referred to in subsection (a).

(c) REPLACEMENT ACTIVITIES.—(1) The Secretary may accept facilities and improvements designed and constructed by the State of Hawaii equal in value to not less than the fair market value of the property to be conveyed by the Secretary or, in the discretion of the Secretary, to accept payment of the fair market value for the property to be conveyed and to construct facilities referred to in subsection (b)(1).

(2) The facilities to be provided by the State of Hawaii or constructed by the Secretary with funds provided by the State shall be for one or more of the following projects in the order of priority in which they are listed:

(A) A minimum of 120 units of military family housing in or near Honolulu, Hawaii.

(B) A base support center at Hickam Air Force Base, Hawaii.

(C) The upgrading of the water distribution system at Hickam Air Force Base, Hawaii.

(D) A recreation center at Hickam Air Force Base, Hawaii.

(d) VACATING PROPERTY.—(1) Upon execution of an escrow agreement between the parties and deposit by the State of Hawaii in an escrow account of an amount equal to the fair market value of the property to be

conveyed by the Secretary, the Secretary may convey the property described in subsection (a) to the State of Hawaii before construction of the facilities referred to in subsection (b)(1). If the Secretary conveys the property before construction of such facilities, the Secretary shall not be required to vacate the property conveyed until completion of the work described in clauses (B) and (C) of subsection (b)(1) and such work has been approved by the Secretary. Upon such approval, the Secretary shall promptly vacate the property.

(2) In lieu of the deposit of funds into an escrow account, the State may, with the approval of the Secretary, pay to the Secretary an amount equal to the fair market value of the property to be conveyed. Notwithstanding any other provision of law, the Secretary may obligate and expend such funds for construction of the facilities listed in subsection (c)(2).

(e) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the State of Hawaii.

SEC. 830. LAND RELEASE TO MINNESOTA

(a) RELEASE.—(1) Subject to paragraphs (2) through (4), the Secretary of the Army shall release to the State of Minnesota the reversionary interest of the United States over approximately 35.38 acres of land, known as "Area J," conveyed from the United States to the State of Minnesota in the quitclaim deed dated August 17, 1971. The Secretary of the Army shall also release the State of Minnesota from all covenants and agreements contained in the said quitclaim deed, covering the approximately 35.38 acres of land.

(2) CONDITION OF RELEASE.—The release directed by paragraph (1) are conditioned on the State of Minnesota donating approximately 35.38 acres of land to the United States for use by the Department of the Army.

(3) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the land over which the reversionary interest is to be released shall be determined by surveys which are satisfactory to the Secretary of the Army and the State of Minnesota.

(4) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions as he considers appropriate to protect the interests of the United States. The Secretary of the Army may agree to allow the State of Minnesota to retain a reversionary interest in the land described in paragraph (1) conditioned upon the Secretary's use of the land for Army purposes and preservation of the historic structures lying thereon in conformity with Department of the Interior standards for properties on the National Register of Historic Places.

(b) DEED AMENDMENT.—The Secretary of the Army is authorized to execute and file the appropriate documents to reflect the provisions of this section.

SEC. 830a. TINKER AIR FORCE BASE, OKLAHOMA

(a) PURCHASE AUTHORIZED.—Notwithstanding any other provision of law, the Secretary of the Air Force is authorized to acquire a Depot Operations Logistics Facility at Tinker Air Force Base for the sum of $248,900.00. No charge to appropriations shall be required for sums previously expended for site preparation, leasing, installation or other construction.

(b) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 830b. REPORT REGARDING FORT MEADE RECREATION AREA

Not later than thirty days after the enactment of this Act, the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the feasibility of conveying to the State of Delaware a parcel of property known as Fort Meade Recreation Area, formerly Fort Miles, Delaware, containing approximately 95.9 acres.

PART C—MISCELLANEOUS PROVISIONS

SEC. 831. OPERATION AND CONTROL OF THE PENTAGON RESERVATION

(a) IN GENERAL.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2673 the following new section:

"§ 2674. Operation and control of the Pentagon Reservation

"(a) The Secretary of Defense has jurisdiction over and custody and control of the Pentagon Reservation. Except as provided in subsection (d), the Secretary shall be responsible for all matters relating to the operation and control of the Pentagon Reservation.

"(b) The Secretary of Defense may appoint military or civilian personnel or contract employees to perform law enforcement and security functions for property occupied, or under the jurisdiction, custody, and control of the Department of Defense located in the National Capital Region. Such individuals—

"(1) may be armed with appropriate firearms required for personal safety and for the proper execution of their duties, whether on Department of Defense property or in travel status, and

"(2) shall have the same powers as sheriffs and constables to enforce the laws, rules, or regulations enacted for the protection of persons and property.

"(c) The Secretary of Defense may promulgate such rules and regulations that he deems appropriate to insure the safe, efficient, and secure operation of the Pentagon Reservation, including parking and traffic rules. Whoever shall violate any rule or regulation promulgated pursuant to this section shall be fined not more than $50 or imprisoned not more than 30 days, or both.

"(d) The Secretary of the Army shall exercise the authority of the Secretary of Defense with respect to the operation, maintenance, and management of the physical facilities of the Pentagon Reservation.

"(e) The Secretary of Defense shall ensure that Members of Congress who serve on committees of the Senate or the House of Representatives having legislative oversight jurisdiction of the Department of Defense and the professional staff members of such committees have appropriate access to the facilities of the Pentagon Reservation.

"(f) In this section, the term 'Pentagon Reservation' means that area of land (consisting of approximately 420 acres) and improvements thereon, located in Arlington, Virginia, on which the Pentagon Office Building, Federal Building Number 2, the Pentagon heating and sewage treatment plants, and other related facilities are located, including various areas designated for the parking of vehicles but not including the area known as the Lagoon.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2073 the following new item:

"2674. Operation and control of the Pentagon Reservation."

(b) EFFECTIVE DATES.—(1) Jurisdiction, custody, and control over, and responsibility for the operation, maintenance, and management of the Pentagon Reservation is transferred from the Administrator of General Services to the Secretary of Defense effective October 1, 1989, or the first day of the second month following the month in which this Act is enacted, whichever is later. For purposes of this paragraph, the term "Pentagon Reservation" has the same meaning provided for such term in section 2674 of title 10, United States Code, as added by subsection (a).

(2) Section 2674 of title 10, United States Code (as added by subsection (a)), shall take effect on the effective date of the transfer under paragraph (1).

(c) LIMITATION ON CERTAIN PAYMENTS.—After the effective date of the transfer provided in subsection (b), the Secretary of Defense shall pay to the Administrator of General Services only the costs incurred by the General Services Administration in furnishing space, repairs, alterations, maintenance, and other services and facilities to the Department of Defense in the National Capital Region until after renovation of the Pentagon building has been completed or until after September 30, 1999, whichever is earlier. Payments by the Secretary of Defense under the preceding sentence shall be in lieu of the payment of any charges the Administrator of General Services is required to make against the Department of Defense under section 210(j) of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 490(j)).

SEC. 832. COOPERATIVE AGREEMENTS FOR LAND MANAGEMENT ON DEPARTMENT OF DEFENSE INSTALLATIONS

(a) IN GENERAL.—The Act entitled "An Act to promote effectual planning, development, maintenance, and coordination of wildlife, fish, and game conservation and rehabilitation in military reservations" (popularly known as the "Sikes Act"), approved September 15, 1960 (16 U.S.C. 670a et seq.), is amended by inserting after section 103 the following new section:

"SEC. 103a. The Secretary of Defense may enter into cooperative agreements with States, local governments, nongovernmental organizations, and individuals to provide for the maintenance and improvement of natural resources on, or to benefit natural and historic research on, Department of Defense installations.

"(b) A cooperative agreement shall provide for the Secretary of Defense and the other party or parties to the agreement—

"(1) to contribute funds on a matching basis to defray the cost of programs, projects, and activities under the agreement;

"(2) to furnish services on a matching basis to carry out such programs, projects, and activities; or

"(3) to contribute funds (on a matching basis) and to furnish services (on a matching basis).

"(c) Cooperative agreements entered into under this section shall not be considered, nor be treated as, cooperative agreements to which chapter 63 of title 31, United States Code, applies.".

(b) APPROPRIATIONS AND EXPENDITURES.—Section 106 of such Act (16 U.S.C. 670f) is amended—

(1) in subsection (a), by inserting "and cooperative agreements agreed to under section 103a" in the first sentence after "sections 101 and 102";

(2) in subsection (b), by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", and to carry out such functions and responsibilities as the Secretary may have under cooperative agreements entered into under section 103a.".

SEC. 833. DEVELOPMENT OF LAND AND LEASE OF FACILITY AT HENDERSON HALL, ARLINGTON, VIRGINIA

(a) IN GENERAL.—The Secretary of the Navy may—

(1) using funds provided from the Navy Mutual Aid Association, design, supervise, construct, and inspect a multipurpose facility of approximately 62,000 square feet to be located at Henderson Hall, Arlington, Virginia; and

(2) lease, at no cost, to the Navy Mutual Aid Association approximately one-third of the square footage of the facility to be constructed.

(b) TERMS OF LEASE.—The lease entered into under subsection (a) shall—

(1) be for a term of 50 years;

(2) be in full consideration for the funds provided to the Secretary by the Navy Mutual Aid Association pursuant to subsection (a);

(3) provide that in the event the lease is canceled by the Secretary before expiration, the Secretary shall, as determined by the Secretary, provide comparable alternative space or, subject to the availability of funds, reimburse the Navy Mutual Aid Association for the unamortized cost of the building; and

(4) allow, at the discretion of the Secretary, for the Navy Mutual Aid Association to continue to use the space after the initial 50-year term, in compliance with laws and regulations applicable at that time.

(c) CONDITIONS.—(1) Title to the facility described in subsection (a)(1) shall be and remain in the United States.

(2) All construction authorized under this section shall be awarded through competitive procedures.

(3) Any lease or other agreement entered into under the authority of this section shall be subject to such terms and conditions as the Secretary determines appropriate to protect the interests of the United States.

SEC. 834. TRANSFER OF DEPARTMENT JURISDICTION OVER CERTAIN LANDS AT SANDIA, NEW MEXICO

(a) TRANSFER OF JURISDICTION AND CONTROL.—Jurisdiction and control of the real property described in subsection (b) is hereby transferred from the Secretary of Defense to the Secretary of Energy for use by the Department of Energy in providing a location for the Center for National Security and Arms Control. Notwithstanding any other provision of law, no consideration shall be paid for the transfer.

(b) LAND DESCRIPTION.—The real property referred to in subsection (a) is a tract of land located in Bernalillo County, New Mexico, in a portion of section 32, township 10 north, range 4 east, New Mexico principal meridian, and consisting of 5.583 acres, more or less. The exact acreage and land description shall be determined by the Secretary of Defense.

SEC. 835. REIMBURSEMENT FOR COSTS ASSOCIATED WITH HOMEPORTING AT LAKE CHARLES, LOUISIANA

(a) REIMBURSEMENT.—(1) The Secretary of the Navy may—

(A) reimburse the Lake Charles Harbor and Terminal District, Lake Charles, Louisiana, in an amount not to exceed $2,600,000 for actual expenses—

(i) incurred by the District before the date of the enactment of this Act for the construction of utilities and roads to serve the proposed Lake Charles Navy Homeport, which is to be closed pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2626); and

(ii) that will be incurred by the District after the date of the enactment of this Act in connection with the construction of such utilities and roads as a direct result of the closing of the homeport, as determined by the Secretary;

(B) pay to the Lake Charles Harbor and Terminal District an amount not to exceed $1,300,000 for completion of the permanent access road to the proposed homeport from State Highway 384;

(C) take such action as may be necessary to release to the State of Louisiana any funds remaining in the trust account established by the State pursuant to the Memorandum of Agreement between the State and the Navy for use by the Navy in connection with the construction of the Lake Charles Navy Homeport; and

(D) reimburse the State of Louisiana for any funds expended by the Navy from the trust account referred to in clause (C);

(2) The total of the amount of funds that may be released to the State of Louisiana pursuant to clause (C) of paragraph (1) and paid to the State pursuant to clause (E) of that paragraph may not exceed $5,000,000.

(b) SOURCE OF FUNDS.—Payments under this section shall be made from funds appropriated pursuant to Public Law 100-202 (101 Stat. 1329) for the construction of facilities at the proposed Lake Charles Navy Homeport. In no event may the total amount paid under this section by the Secretary exceed the amount appropriated for construction of homeport facilities at Lake Charles and remaining available for obligation after payment of all termination costs resulting from the closure of the Lake Charles Navy Homeport.

(c) LAND CONVEYANCE.—The Secretary shall convey to the Lake Charles Harbor and Terminal District, without consideration, approximately 38 acres of land (together with improvements and the sheet pile materials thereon) constituting the proposed Lake Charles Navy Homeport, Louisiana. Such lands are the same lands that were previously conveyed, without consideration, to the United States by the Lake Charles Harbor and Terminal District by special warranty deed dated March 14, 1988.

(d) CONDITION.—The reimbursements and conveyance provided for in this section shall be made subject to the condition that the agreement entered into by the Lake Charles Harbor and Terminal District, the State of Louisiana, and the United States entitled "Memorandum of Understanding for Donation of Land and Establishment of Homeport", dated June 11, 1986, shall be considered canceled and of no force or effect after such reimbursements and conveyance have been made by the Secretary.

(e) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States of America.

SEC. 836. REQUIREMENTS RELATING TO ENVIRONMENTAL RESTORATION ACTIVITIES AND ENVIRONMENTAL CONTAMINATION

(a) EXPEDITIOUS REPORTING OF INFORMATION.—The Secretary of Defense shall ensure that all information relating to environmental restoration activities at Department of Defense facilities and required to be provided to regional offices of the Environmental Protection Agency, appropriate State authorities, and local authorities under section 2705 of title 10, United States Code, is expeditiously provided to such offices and authorities.

(b) ASSESSMENTS OF ENVIRONMENTAL CONTAMINATION PLANS.—(1) The Secretary of Defense shall ensure that—

(A) all Department of Defense assessments of the Department's environmental contamination plans and of the Department's emergency and remedial actions to abate or mitigate environmental contamination at Department of Defense facilities are carried out in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510; 94 Stat. 2767) and Environmental Protection Agency regulations; and

(B) each such assessment, plan, and action is made available to and carried out in consultation with the Administrator of the Environmental Protection Agency and the appropriate State or local agency.

(2) The Administrator of the Environmental Protection Agency shall submit to the Secretary of Defense and the appropriate committees of Congress such comments and recommendations with regard to any assessment, plan, or action referred to in paragraph (1) as the Administrator considers appropriate.

(c) MONITORING CONTAMINATION.—After discovery of a potential environmental contamination at any Department of Defense facility conducting environmental restoration activities, the Secretary of Defense, in consultation with the Administrator of the Environmental Protection Agency and the head of the appropriate State agency, shall program and install such systems for monitoring contamination at such facility as may be appropriate to ensure that there is no release or exposure of environmental contamination that will pose a risk to public health.

(d) EMERGENCY ACTION.—Nothing in this section shall prevent the Secretary of Defense from carrying out such emergency actions as may be necessary to protect the public health or the environment if the Secretary determines that time does not permit consultation with appropriate regulatory agencies.

SEC. 837. FEASIBILITY STUDY OF LAND TRANSFER FOR USE AS A CORRECTIONAL FACILITY

(a)(1) The Secretary of Defense, in consultation with the Attorney General of the United States, shall conduct a study of the feasibility of selling or otherwise transferring to the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, a parcel of land of approximately one hundred acres not more than one hundred miles from the southern boundary of Arlington County, from the military installations within Virginia which encompass land that may be suitable for use by the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, as a site for a medium security correctional facility for persons sen-

tenced in the courts of Virginia or in the United States District Court in Virginia.

(2) The study required by paragraph (1) shall address, at a minimum, the following issues:

(A) Whether there are parcels of land within those installations of the size described which could be released from Federal control without severely affecting the present mission of such installations.

(B) A description of the parcels of land described in subparagraph (A).

(C) A description of the effects, if any, transfer of such parcels of land from Federal control would have on the ability of the Secretary of Defense to effectively carry out the mission of the Department of Defense.

(D) An analysis of the risk, if any, that might be posed to military personnel and their dependents housed on such installation by the operation of such a correctional facility on the parcels of land described in subparagraph (A).

(E) An estimate of the date on which the parcels of land described in subparagraph (A) would be available for transfer from Federal control.

(b) The report of the study described in subsection (a) shall be delivered to the Committees on Armed Services of the Senate and House of Representatives not later than sixty days after enactment of this Act.

DEPARTMENT OF DEFENSE PERSONNEL MANAGEMENT INITIATIVES

The bill (S. 1463) to provide for certain Department of Defense personnel management initiatives, was amended by striking out all after the enacting clause, and inserting in lieu thereof the provisions of title VIII, part C of S. 1352, as amended; as follows:

The text of S. 1463, as passed by the Senate on August 2, 1989, is as follows:

S. 1463

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ACQUISITION WORKFORCE

SEC. 101. ALTERNATIVE PERSONNEL MANAGEMENT DEMONSTRATION PROGRAMS

(a) DEFINITIONS.—For purposes of this title—

(1) the term "agency" means an Executive agency (as defined in section 105 of title 5, United States Code), except that such term does not include—

(A) the National Security Agency;

(B) the Central Intelligence Agency;

(C) the Defense Intelligence Agency;

(D) the Federal Bureau of Investigation; or

(E) the General Accounting Office;

(2) the term "employee" means an employee (as defined in section 2105 of title 5, United States Code) whose rate of basic pay would, but for this title, be determined under—

(A) subchapter III or section 5371 of chapter 53 of title 5, United States Code, relating to the General Schedule; or

(B) chapter 54 of title 5, United States Code, relating to the performance management and recognition system; and

(3) the terms "collective bargaining", "collective bargaining agreement", "exclusive representative", "management official", and "supervisor" each has the meaning given such term under section 7103(a) of title 5, United States Code.

(b) DEMONSTRATION PROGRAMS OF ALTERNATIVE COMPENSATION SYSTEMS.—(1) Within 2 years after the date of the enactment of this section, the demonstration programs using alternative compensation systems as provided under this section, shall be implemented by the Office of Personnel Management and—

(A) the head of the relevant agency for any program described under paragraph (2)(A)(i);

(B) the Secretary of Defense for the programs described under paragraph (2)(A)(ii); and

(C) the Administrator of the National Aeronautics and Space Administration for the program described under paragraph (2)(A)(iii).

(2)(A) There shall be implemented under the provisions of this subsection, no less than 6 and no more than 10 demonstration programs using alternative compensation systems, of which—

(i) between 1 and 5 such programs shall be designed and implemented by the head of an agency, after consultation and approval by the Office of Personnel Management;

(ii) 4 such programs shall be developed and implemented within the Department of Defense by the Secretary of Defense, after consultation and approval by the Office of Personnel Management; and

(iii) 1 such program shall be developed and implemented within the National Aeronautics and Space Administration by the Administrator of such Administration, after consultation and approval by the Office of Personnel Management.

(B) Each such program under this subsection shall—

(i) cover a sufficient number of positions within an agency to provide an adequate basis on which to evaluate the desirability of implementing such program on a broader scale within the Government, except that not less than the equivalent of 5,000 full-time positions and no more than the equivalent of 25,000 full-time positions shall be covered in any such program at any time;

(ii) include in the development of such program, prior to implementation, a detailed information gathering plan—

(I) to provide for the evaluation of such program to be developed by the Office of Personnel Management and the head of the relevant agency;

(II) which shall include the total number of employees to participate in such program;

(III) which shall be—

(aa) submitted to the General Accounting Office, at least 60 days prior to program implementation; and

(bb) reviewed by the General Accounting Office which shall report the results of the review to the Senate Committee on Governmental Affairs, the House Committee on Post Office and Civil Service, and the head of the relevant agency; and

(IV) which shall be periodically reviewed with regard to the adherence of such agency to such plan by the General Accounting Office which shall submit reports of such reviews to the relevant congressional committees; and

(iii) within 2 years after the date of implementation under paragraph (1), have the full number of employees participating in such program as provided for in clause (ii)(II).

(C)(i) notwithstanding the provisions of subparagraph (B), no more than 2 programs described under subparagraph (A)(ii) may cover no more than the equivalent of 35,000 full-time positions each.

(ii) Notwithstanding the provisions of clause (i), the total number or equivalent full-time positions combined for the 4 programs described under subparagraph (A)(ii) may cover no more than 100,000 such positions.

(3) Each program under this subsection shall provide that—

(A) the rate of basic pay for an employee participating in any program under this title—

(i) shall be at least equal to the rate of basic pay payable to such employee for the pay period immediately preceding the date of the implementation of such program; and

(ii) may not exceed the rate of basic pay payable for level V of the Executive Schedule; and

(B) the total cost to the Government in carrying out such programs shall not exceed what the total cost to the Government would have been, during the same period, if this Act had not been enacted.

(4)(A) Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code, shall not be included within any program under this section if the program—

(i) would violate a collective bargaining agreement between the agency and the labor organization, unless there is another written agreement with respect to the program between the agency and the organization permitting the inclusion; or

(ii) is not covered by such a collective bargaining agreement, until there has been consultation or negotiation, as appropriate, by the agency with the labor organization.

(B) Employees within any unit with respect to which a labor organization has not been accorded exclusive recognition under chapter 71 of title 5, United States Code, shall not be included within any program under this section, unless there has been agency consultation regarding the program with the employees in the unit.

(5) The Office of Personnel Management, the Secretary of Defense, and the Administrator of the National Aeronautics and Space Administration shall, with respect to each applicable program implemented under paragraph (1)—

(A) publish the plan developed under paragraph (2)(B)(ii) for such program in the Federal Register prior to implementation of such program;

(B) provide notification of the implementation of such program to affected employees and the Congress within 90 days before the date of such implementation; and

(C) provide an annual report to the Congress on such program.

(6)(A) Subject to subparagraph (B), any demonstration program implementing an alternative compensation system under this subsection shall terminate at the earlier date of—

(i) 5 years after the date on which the full number of employees are participating in such program as provided for under paragraph (2)(B)(iii); or

(ii) 7 years after the date of the implementation of such program under paragraph (1).

(B)(i) A program under this subsection may be terminated in accordance with the provisions of clause (ii), if the Office of Personnel Management, in consultation with the head of the relevant agency, determines that such program creates a substantial hardship on, or is not in the best interests of, the public, the Federal Government, or employees.

(ii) If a determination is made under the provisions of clause (i), a program may be terminated by the Office of Personnel Management, after consultation with—

(I) the head of the relevant agency, with regard to a program described under paragraph (2)(A)(i);

(II) the Secretary of Defense, with regard to a program described under paragraph (2)(A)(ii); or

(III) the Administrator of the National Aeronautics and Space Administration, with regard to the program described under paragraph (2)(A)(iii).

(C) If a program is terminated under the provisions of subparagraph (B), the head of the relevant agency shall notify all affected employees of such termination no later than 90 days before the date of such termination.

(c) ALTERNATIVE COMPENSATION SYSTEMS.—(1) Before developing and implementing a demonstration program under subsection (b), the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, and each head of a relevant agency shall consider an alternative compensation system—

(A) under which annual pay adjustments under section 5305 of title 5, United States Code, provide that the total pay and benefits for Government service shall be comparable to the total pay and benefits for individuals at the same levels of work outside the Government;

(B) under which annual pay adjustments under section 5305 of title 5, United States Code, provide that rates of basic pay payable to employees are consistent with rates of basic pay generally payable for the same levels of work outside the Government within the same geographic region;

(C) under which conditions of employment for employees shall be subject to collective bargaining; or

(D) established by the head of the agency involved, which—

(i) may identify separate career categories for employees in positions which are subject to the system;

(ii) shall provide for the rate of basic pay of an employee to be set and adjusted within salary structures based on such factors as the experience and achievements of the employee, position in a pay range, job responsibilities, rates of pay for similar positions outside the government, and (consistent with section 5334 of title 5, United States Code) changes in positions or types of appointments;

(iii) shall provide pay differentials for service as a supervisor or management official (which shall be considered a part of basic pay for purposes of subchapter III of chapter 83, and chapter 84, of title 5, United States Code);

(iv) may authorize special awards (which shall not be considered a part of basic pay for any purpose); and

(v) shall authorize performance recognition in the form of—

(I) a lump-sum payment (which shall not be considered a part of basic pay for any purpose);

(II) an increase in the rate of basic pay of an employee within a pay range or to a higher pay range; or

(III) nonmonetary recognition.

(2)(A) If the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, or any head of an agency implements a program using a system described in paragraph (1)(C), such program shall provide that—

(i) any pay schedules or rates shall be established to provide that an appropriate differential (which shall be considered part of basic pay) is provided for service as a supervisor or management official; and

(ii) only a unit or subdivision of a unit for which an exclusive representative is certified may participate.

(B) For purposes of a program using a system described in paragraph (1)(C), the term "conditions of employment" means—

(i) personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, included under section 4103(a)(14) of title 5, United States Code; and

(ii) personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, relating to classification of positions, leave, pay, or other compensation or benefits;

except that such term does not include policies, practices, and matters relating to life insurance, health insurance, and retirement.

(d) RULE OF STATUTORY CONSTRUCTION.—(1) Except as provided in paragraph (2), in the administration of an alternative compensation system under this section, the provisions of this section shall apply notwithstanding any inconsistent provision of title 5, United States Code.

(2) In the administration of an alternative compensation system under this section, no provision of this section may be construed to waive any inconsistent provision of—

(A) chapters 83 and 84 of title 5, United States Code, relating to retirement;

(B) chapter 87 of title 5, United States Code, relating to life insurance; or

(C) chapter 89 of title 5, United States Code, relating to health insurance.

SEC. 102. PROCUREMENT MANAGEMENT PERSONNEL

Paragraph (2) of section 1621 of title 10, United States Code, is amended to read as follows:

"(2) The term 'procurement command' means any of the following:

"(A) The staffs of the service acquisition executives, program executive officers, and program managers of the military departments.

"(B) The Army Materiel Command.

"(C) The Army Information Systems Command.

"(D) The Army Strategic Defense Command.

"(E) The Navy Weapons Systems Commands.

"(F) The Navy Strategic Systems Program Office.

"(G) The Marine Corps Research, Development and Acquisition Command.

"(H) The Air Force Systems Command.

"(I) The Air Force Logistics Command.

"(J) Any successor organization to any staff, office, or command named in subparagraphs (A) through (I).".

SEC. 103. COMPENSATION FOR CRITICAL PERSONNEL

(a) AUTHORITY TO PRESCRIBE RATES OF PAY FOR CERTAIN CRITICAL POSITIONS.—(1) Notwithstanding section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.), sections 5308, 5382, and 5383(b) of title 5, United States Code, or any other provision of law, the Secretary of Defense may prescribe the rate of pay for a position designated as a critical position by the Secretary of Defense.

(2) Except as provided in paragraph (3), the rate of pay prescribed under paragraph (1) for a critical position shall be the same as the rate or pay provided for a comparable position in a federally funded Research and Development Center.

(3)(A) The rate of pay prescribed under paragraph (1) may not exceed the amount equal to 150 percent of the rate of pay that, except for this section, would otherwise apply to that position, except as provided in subparagraph (B).

(B) If the Secretary determines that the rate of pay described in paragraph (2) is in excess of the amount authorized under subparagraph (A) and that there is an extraordinary need to pay a person in a critical position an amount higher than authorized in such subparagraph, the Secretary may authorize such higher pay in an amount not to exceed the amount equal to 150 percent of the rate of pay applicable for executive level II under the Executive Schedule pursuant to section 5313 of title 5, United States Code.

(b) DEFINITION.—For purposes of this section, the term "critical position" means a scientific or engineering position that the Secretary determines to be critical to the Department of Defense acquisition process.

(c) LIMITATION ON POSITIONS.—The Secretary may designate not more than 500 positions as critical positions under this section.

SEC. 104. POST-EMPLOYMENT RESTRICTIONS

(a) CLARIFICATION.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended—

(1) in subsection (a)(1), by inserting ", except as provided in subsection (c)" before the semicolon;

(2) in subsection (b)(1), by inserting "except as provided in subsection (c)" before the semicolon; and

(3)(A) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively;

(B) by redesignating subsections (j) through (n) as subsections (l) through (o), respectively; and

(C) by inserting after subsection (b) the following new subsection (c):

"(c) RECUSAL.—(1) A competing contractor may contact a procurement official with whom discussions are otherwise prohibited under subsection (a)(1) for the limited purpose of determining whether such official, after obtaining the approval required by paragraph (2), would be interested in engaging in such discussions. If a competing contractor makes such a contact with a procurement official, the procurement official shall promptly notify the official's supervisor and the appropriate designated agency ethics official of the contact.

"(2) A procurement official may engage in discussions with a competing contractor that are otherwise prohibited by subsection (b)(1) if, before engaging in such discussions—

"(A) the procurement official proposes in writing to disqualify himself from the conduct of any procurement relating to contracts of the competing contractor for any period during which future employment or business opportunities for such procurement official with such competing contractor have not been rejected by either the procurement official or the competing contractor and, if determined to be necessary by the designated agency ethics official in accordance with criteria prescribed in implementing regulations, for a reasonable period thereafter; and

"(B) the supervisor of the procurement official, after consultation with the appropriate designated agency ethics official, ap-

proves in writing the recusal of the procurement official.";

(4) in subsection (f) (as redesignated by paragraph (3)(A))—

(A) by striking out "No Government official" and inserting in lieu thereof "(1) No Government official";

(B) by striking out "shall—" and inserting in lieu thereof "shall knowingly—";

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(D) by inserting at the end the following new paragraph:

"(2) This section does not apply to the following:

"(A) A subcontract of a subcontractor who is a competing contractor unless—

"(i) the subcontract is for an amount in excess of $5,000,000;

"(ii) the subcontract is for an amount that is at least 5 percent of the amount of the prime contract and is for an amount in excess of $100,000; or

"(iii) the procurement official personally reviewed and approved the award, modification, or extension of the subcontract;

"(B) To actions, as prescribed in implementing regulations, that (i) primarily involve general scientific, technical, or engineering work, budget or policy advice or decisions, advice on the feasibility of contracting out functions, or other similar actions, and (ii) do not involve the development, preparation, or issuance of a procurement solicitation, the preparation or evaluation of bids or proposals, selection of sources, conduct of negotiations, the award, modification, or extension of a contract, or performance of a contract.";

(5) by inserting after subsection (j) (as redesignated in subsection (3)(A)) the following new subsection:

"(k) ETHICS ADVICE.—(1) An employee or former employee of an agency may request advice from the appropriate designated agency ethics official as to whether such employee or former employee is precluded by this section from participating in the performance of a particular contract on behalf of a particular contractor or subcontractor.

"(2) An employee or former employee of an agency who requests advice from a designated agency ethics official pursuant to paragraph (1) shall provide the official with all information reasonably available to the employee or former employee that is relevant to a determination by the ethics official regarding such request.

"(3) Not later than 30 days after the date on which a designated agency ethics official receives a request for advice under paragraph (1) accompanied by the information required pursuant to paragraph (2), the official shall issue a written opinion as to whether the employee is precluded by this section from participating in the performance of the contract at issue.

"(4) An employee or former employee who obtains a written opinion from a designated agency ethics official under this section on the basis of the complete disclosure of information required by paragraph (2) shall not be subject to any penalty under this section to the extent that the employee or former employee reasonably relies upon such opinion.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 27 of such Act is further amended—

(1) in subsection (e) (as redesignated by subsection (a)(3))—

(A) by striking out "(c), or (e)" in paragraph (1)(A)(i) and inserting in lieu thereof "(d), or (f)";

(B) by striking out "(c), or (e)" in paragraph (1)(B)(ii) and inserting in lieu thereof "(d), or (f)";

(C) by striking out "(c), or (e)" in paragraph (2)(A) and inserting in lieu thereof "(d), or (f)";

(D) by striking out "(c), or (e)" in paragraph (3)(A) and inserting in lieu thereof "(d), or (f)"; and

(E) by striking out "subsection (m)" in paragraph (7)(B)(ii), and inserting in lieu thereof "subsection (n)";

(2) in subsection (g)(1) (as redesignated by subsection (a)(3)) by striking out "subsection (m)" and inserting in lieu thereof "subsection (n)";

(3) in subsection (h) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (d)" in paragraph (1) and inserting in lieu thereof "subsection (e)";

(B) by striking out "(b) or (c)" in paragraph (2) and inserting in lieu thereof "(b) or (d)"; and

(C) by striking out "(h) and (i)" in paragraph (3) and inserting in lieu thereof "(i) and (j)";

(4) in subsection (i) (as redesiganted by subsection (a)(3)), by striking out "(c), or (e)" and inserting in lieu thereof "(d), or (f)";

(5) in subsection (j)(1) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (n)" and inserting in lieu thereof "subsection (o)"; and

(B) by striking out "subsection (m)" and inserting in lieu thereof "subsection (n)"; and

(6) in subsection (l) (as redesignated by subsection (a)(3))—

(A) by striking out "subsection (b)" in paragraph (1) and inserting in lieu thereof "subsections (b), (c), and (e)"; and

(B) in paragraph (2)—

(i) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b), (c), and (e)"; and

(ii) by striking out "(c) or (e)" and inserting in lieu thereof "(d), or (f)".

(c) DEFINITION.—Subsection (o) (as redesignated by subsection (a)(3)) is amended by adding at the end the following new paragraph:

"(8) The term 'designated agency ethics official' has the same meaning as the term 'designated agency official' in section 209(10) of the Ethics in Government Act of 1978 (92 Stat. 1850; 5 U.S.C. App.).".

(d) AMENDMENT TO TITLE 10.—Paragraph (6) of section 2397a(a) of title 10, United States Code, is amended to read as follows:

"(6) The term 'procurement function' includes, with respect to a contract, any function relating to—

"(A) the administration of the contract;

"(B) the approval of changes in the contract;

"(C) quality assurance, operational and developmental testing, the approval of payment, or auditing under the contract; or

"(D) the managment of the procurement program.".

(e) DEADLINE FOR REGULATIONS.—Not later than 90 days after the date of the enactment of this section, final regulations implementing the amendments made by this section to the provisions of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) shall be issued in accordance with sections 6 and 25 of such Act (41 U.S.C. 405, 421).

SEC. 105. WAIVER OF COMPENSATION PENALTY IN CERTAIN CASES

(a) WAIVER AUTHORITY.—Chapter 81 of title 10, United States Code, is amended by inserting before section 1583 the following new section:

"§ 1581. Waiver of dual compensation provisions

"The Secretary of Defense may waive the applicability of section 5532 of title 5 (relating to dual compensation) in the case of not more than 1,000 employees of the Department of Defense who are in scientific, engineering, professional, or managerial positions designated as critical positions by the Secretary.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting before item relating to section 1583 the following new item:

"1581. Waiver of dual compensation provisions.".

SEC. 106. SCIENTIFIC AND TECHNICAL EDUCATION

(a) FINDINGS.—Congress makes the following findings:

(1) Superior technology is a critical part of the national defense strategy of the United States.

(2) The Department of Defense must employ scientifically and technologically skilled personnel in order to develop and maintain superior technology.

(3) A significant proportion of the military personnel and civilian employees in the Department of Defense are scientists, engineers, and technicians.

(4) Programs of the Department of Defense utilize a significant portion of the entire science and technology workforce of the United States.

(5) Numerous studies have projected a decline in the number of young entrants into the workforce and in the number of people pursuing degrees in science and technology, while at the same time projecting an increase in demand for personnel with scientific and technological training.

(6) Recruitment of both civilian and military personnel by the Department of Defense will become increasingly difficult as the number of potential, qualified entrants decreases.

(7) The Department of Defense could suffer a degradation of the critical capability to respond to technological change as the result of an inadequate supply of qualified engineers and scientists.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the Secretary of Defense should take such actions as may be necessary and appropriate to promote and encourage, at precollege through post-doctoral levels, an increase in the number of citizens and nationals of the United States who pursue courses of study in science, engineering, and other technical disciplines.

SEC. 107. NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS

(a) IN GENERAL.—(1) Part III of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 111—NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS

"Sec.

"2191. Graduate fellowships.

"§ 2191. Graduate fellowships

"(a) The Secretary of Defense shall prescribe regulations providing for the award of fellowships to United States citizens and nationals who agree to pursue graduate de-

grees in science, engineering, or other fields of study designated by the Secretary to be of priority interest to the Department of Defense.

"(b) A fellowship awarded pursuant to regulations prescribed under subsection (a) shall be known as a 'National Defense Science and Engineering Graduate Fellowship'.

"(c) National Defense Science and Engineering Graduate Fellowships shall be awarded solely on the basis of academic ability and the recipients shall be selected on the basis of a nationwide competition. The award of a fellowship under this section may not in any way be predicated on the geographic region in which the recipient lives or the geographic region in which the recipient will pursue an advanced degree.

"(d) The regulations prescribed under this section shall include the criteria for award of fellowships, the procedures for selecting recipients, the basis for determining the amount of a fellowship, and the maximum amount that may be awarded to an individual during an academic year.".

(2) The table of chapters at the beginning of subtitle A, and at the beginning of part III, of such title are each amended by inserting after the item relating to chapter 110 the following new item:

"111. National Defense Science and Engineering Graduate Fellowships..... 2191".

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated pursuant to section 201 for fiscal years 1990 and 1991, $10,500,000 of the amount appropriated for fiscal year 1990 and $11,000,000 of the amount authorized to be appropriated for fiscal year 1991 shall be available for National Defense Science and Engineering Graduate Fellowships provided for under chapter 111 of title 10, United States Code (as added by subsection (a)).

ACTION TO BE INITIATED UPON RECEIPT FROM THE HOUSE OF H.R. 2461

Mr. NUNN. Mr. President, I ask unanimous consent that when the Senate receives from the House the companion bill, H.R. 2461, all after the enacting clause be stricken and that the text of S. 1352, as amended, be substituted in lieu thereof, that the bill be advanced to third reading and passed, the motion to reconsider the vote be laid on the table, that the Senate insist on its amendment and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees. I ask further unanimous consent that the foregoing occur without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I thank the Chair.

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening.

It is my intention after consultation with the distinguished Republican leader that the Senate will this evening proceed to consider the agent orange legislation, disaster relief legislation, and rural development legislation. There will be no rollcall votes necessary, at least none have been requested on the latter two. There will be a vote on the agent orange legislation tomorrow morning, not earlier than 10:30 and probably sometime around 11 o'clock in the morning.

We will then, upon disposition of that bill, proceed to the oil spill legislation which would be around shortly after 11 a.m. tomorrow morning.

I thank all Senators for their patience in the consideration of the defense authorization bill.

I especially thank the managers for their effort in that regard as well as the distinguished Republican leader for his cooperation.

Mr. LEAHY. Mr. President, will the distinguished majority leader yield to me for a moment?

Mr. MITCHELL. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. LEAHY. Mr. President, as I understand it, the intention is to pass both the disaster relief and rural development bills this evening but I also understand from the distinguished leaders that several people want to make some comments on that tomorrow, and that there will be a short window perhaps tomorrow.

I compliment the Senators on both sides of the aisle who worked on the disaster relief, because by doing this, we will be able to move to a conference with the other body, a conference that probably will not be able to start until toward the end of tomorrow because of the Hastings trial, and the fact that there are conferees, as well as myself, who will be at that conference.

Mr. MITCHELL. The answer to the Senator's question is yes, there will be time allotted during the morning business period tomorrow for such discussion.

There will also be time allotted tomorrow morning to the distinguished Senator from Wyoming, and the Senator from Rhode Island, for the introduction of the President's clean air package, and discussion of that.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Republican leader, Senator DOLE.

Mr. DOLE. Mr. President, I want to acknowledge the outstanding work on the bill just completed, the defense authorization bill, and to acknowledge the efforts of both Senators NUNN and WARNER, other members of the committee on both sides. The Senate action is very important on this legislation because of what some have termed irresponsible action on the House side.

So in my view, Senators NUNN, WARNER, and the others who supported a number of times the committee positions have done a great service I think to the defense of our country.

So I congratulate all Senators on that committee, particularly the chairman, Senator NUNN, and the ranking Republican, Senator WARNER.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California [Mr. CRANSTON].

Mr. CRANSTON. Mr. President, the pending business now is S. 1153, the proposed veterans agent orange matter?

The PRESIDING OFFICER. There is no bill pending before the Senate at this time.

VETERANS' AGENT ORANGE EXPOSURE IN VIETNAM

Mr. CRANSTON. Mr. President, I ask unanimous consent to proceed to the consideration of S. 1153.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1153) to amend title 38, United States Code, to provide for the establishment of presumptions of service-connection between certain diseases experienced by veterans who served in Vietnam during the Vietnam era.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill to amend title 38, United States Code, to provide for the establishment of presumptions of service connection between certain diseases experienced by veterans who served in Vietnam during the Vietnam-era and exposure to certain toxic herbicide agents used in Vietnam; to provide for interim benefits for veterans of such service who have certain diseases; to improve the reporting requirements relating to the "Ranch Hand Study"; and for other purposes, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and insert in lieu of the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989".

SEC. 2. INTERIM PERIOD FOR AWARD OF BENEFITS FOR VIETNAM VETERANS WITH NON-HODGKIN'S LYMPHOMA AND CERTAIN SARCOMAS.

(a) PRESUMPTIVE DISABILITY AND DEATH BENEFITS.—(1) In the case of a veteran—

(A) who served in the active military, naval, or air service in Vietnam during the Vietnam era, and

(B) who has—

(i) non-Hodgkin's lymphoma, or

(ii) a soft-tissue sarcoma,

the Secretary of Veterans Affairs shall, except as provided in subsection (b), pay a monthly disability benefit to the veteran in accordance with this section for any disability resulting from that disease.

(2) If a veteran referred to in paragraph (1) dies from a disease referred to in clause (B) of such paragraph, the Secretary shall, except as provided in subsection (b), pay a monthly death benefit to the survivors of the veteran in accordance with this section.

(b) EXCEPTIONS.—Benefits may not be paid in the case of a veteran under this section with respect to a disease referred to in subsection (a)(1)(B) if—

(1) there is affirmative evidence that such disease was not incurred by that veteran during active military, naval, or air service in Vietnam during the Vietnam era; or

(2) there is affirmative evidence to establish that, between the date of that veteran's most recent departure from Vietnam during such service and the onset of such disease, the veteran suffered an intercurrent injury or disease recognized as a cause of such disease referred to in subsection (a)(1)(B).

(c) DISABILITY BENEFIT.—A disability benefit payable to a veteran under this section for a disability resulting from a disease referred to in subsection (a)(1)(B) shall be paid at the rate at which compensation would be payable under chapter 11 of title 38, United States Code, to that veteran for such disability if the disability were determined to be service connected.

(d) DEATH BENEFIT.—A death benefit payable under this section to the survivor of a deceased veteran who dies from a disease referred to in subsection (a)(1)(B) shall be paid at the rate that would be applicable to such survivor under chapter 13 of title 38, United States Code, if the veteran's death had been the result of a service-connected or compensable disability.

(e) NONDUPLICATION OF BENEFITS.—A benefit may not be paid under this section with respect to a disability or death of a veteran resulting from a disease referred to in subsection (a)(1)(B) for any month for which compensation is payable to that veteran for that disability under chapter 11 of title 38, United States Code, or for which dependency and indemnity compensation is payable for that death under chapter 13 of such title.

(f) TREATMENT OF DISABILITY OR DEATH AS SERVICE-CONNECTED EXCEPT FOR COMPENSATION PURPOSES.—A disability or death from a disease referred to in subsection (a)(1)(B) not otherwise considered service connected for purposes of laws administered by the Department of Veterans Affairs shall be treated for purposes of all laws of the United States (other than the provisions of chapter 11 of title 38, United States Code (except for sections 357, 358, 360, 361, and 362), and chapter 13 of such title) as if such disability or death were service connected. The receipt of a disability benefit under this section shall be treated for purposes of all laws of the United States as if such benefit were disability compensation under chapter 11 of such title. The receipt of a death benefit under this section shall be treated for purposes of all laws of the United States as if such benefit were dependency and indemnity compensation under chapter 13 of such title.

(g) AWARD OF BENEFITS.—Section 3010(g) of title 38, United States Code, shall apply to the award of benefits under this section.

(h) EXPIRATION OF INTERIM BENEFITS.—(1) No benefit may be paid or service provided by virtue of this section for any period beginning after April 15, 1992.

(2) If a joint resolution described in paragraph (3) (relating to the extension of authority to pay benefits under this section or the making of such authority permanent) is introduced in either House of Congress after January 1, 1992, Congressional action on such joint resolution shall, subject to paragraph (8), be subject to the rules set out in this subsection.

(3) For purposes of paragraph (2), the term "joint resolution" means only a joint resolution—

(A) which does not have a preamble;

(B) the matter after the resolving clause of which is—

(i) as follows: "That section 2(h)(1) of the Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989 is amended by striking out 'April 15, 1992' and inserting in lieu thereof ' '.", the blank space being filled with a date that is later than April 14, 1993; or

(ii) as follows: "That paragraph (1) of section 2(h) of the Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989 is repealed";

(C) the title of which is—

(i) as follows: "A joint resolution extending the authority to pay certain benefits relating to military service in Vietnam"; or

(ii) as follows: "A joint resolution making permanent the authority to pay certain benefits relating to military service in Vietnam"; and

(D) in the case of a resolution containing the matter specified in subclause (i) or (ii) of clause (B), is the first such resolution containing that matter introduced after January 1, 1992, in the House in which the resolution originates.

(4)(A) A resolution described in paragraph (3) introduced in the House of Representatives shall be referred to the Committee on Veterans' Affairs of the House of Representatives. A resolution described in paragraph (3) introduced in the Senate shall be referred to the Committee on Veterans' Affairs of the Senate.

(B) A committee to which a resolution has been referred pursuant to subparagraph (A) may not amend such resolution.

(5) If the committee to which a resolution described in paragraph (3) is referred has not reported such resolution (or an identical resolution) within the 60-day period beginning on the date on which such resolution is introduced, such committee shall be discharged from further consideration of such resolution as of the day after the last day of such period, and such resolution shall be placed on the appropriate calendar of the House involved.

(6)(A) On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under paragraph (5)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution (but only on the day after the calendar day on which Member announces to the House concerned the Member's intention to do so). All points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, then, subject to the following sentence, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of. If such resolution has been reported by the committee with an amendment, the resolution shall (without further motion) first be recommitted to the committee with instructions to report forthwith the resolution as introduced without amendment.

(B) Debate on the resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a resolution described in paragraph (3) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (3) shall be decided without debate.

(7)(A) If, before the passage by one House of a resolution of that House described in paragraph (3), that House receives from the other House a resolution described in paragraph (3) with an identical text, then the procedures specified in this paragraph shall apply.

(B) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in subparagraph (C)(ii).

(C) With respect to a resolution described in paragraph (3) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(D) Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(8) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (3), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(i) NOTIFICATION OF THE PROVISIONS OF THIS SECTION.—(1) The Secretary of Veterans Affairs shall take all reasonable actions—

(A) to publicize the provisions of this section, not later than 30 days after the date of the enactment of this Act; and

(B) to provide actual notice of the provisions of this section, not later than 30 days after the date of the enactment of this Act—

(i) to each person described in subsection (a) who, before October 1, 1989, has filed any claim for benefits under programs administered by the Department of Veterans Affairs on the basis of a disease referred to in subsection (a)(1)(B); and

(ii) in the case of a veteran who dies after filing such a claim but before the provisions of this section are publicized, to the surviving spouse, children, and parents of such veteran, if any.

(2) The Secretary shall enclose with at least three distributions of benefits payment checks to each veteran or other person receiving benefits under this section a notice that the authority to pay benefits under this section is temporary. Each notice shall contain the date of the expiration of such authority as provided in subsection (h). The first notice shall be enclosed with the first payment of such benefits to a veteran. The last notice shall be enclosed with the last payment of such benefits. At least one notice shall be enclosed with a payment distributed in approximately the middle of the estimated period during which the authority is to be in effect as provided for in subsections (g), (h), and (k).

(j) DEFINITIONS.—For the purposes of this section—

(1) the term "veteran" has the meaning given such term in sections 101(2) and 401 of title 38, United States Code; and

(2) the terms "child", "parents", and "Vietnam era" have the meanings given such terms in paragraphs (4), (5), and (29), respectively, of section 101 of such title.

(k) EFFECTIVE DATE.—This section, other than subsection (i), shall take effect on October 1, 1989. Benefits shall be paid in accordance with this section for periods beginning on or after such date, but no benefit may be paid for any period before such date by reason of the enactment of this section.

SEC. 3. PRESUMPTION OF SERVICE CONNECTION FOR CHLORACNE.

Section 312 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(d) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, in the case of a veteran who, during active military, naval, or air service, served in Vietnam during the Vietnam era, the disease of chloracne shall be considered to have been incurred in or aggravated by such service in Vietnam, notwithstanding there is no record of evidence of such disease during the period of such service in Vietnam, if such disease or another acneform disease consistent with chloracne became manifest to a 10 percent degree of disability or more within one year after the last date on which that veteran performed such service in Vietnam.".

SEC. 4. PRESUMPTION OF SERVICE CONNECTION FOR DISEASES ASSOCIATED WITH EFFECTS OF EXPOSURE TO CERTAIN HERBICIDE AGENTS.

(a) FINDINGS.—Congress makes the following findings:

(1) It is in the public interest to provide for an independent nonprofit scientific organization which has appropriate expertise and is not connected to the Department of Veterans Affairs to review and evaluate the available scientific evidence regarding associations between diseases and exposure in Vietnam during the Vietnam era to dioxin and other chemical compounds in herbicides and to make judgments on the degree and probability of such associations, because there is no uniform body of scientific literature on such issues.

(2) The standard of proof required for a scientific conclusion of causation is higher than the standard of proof required for justification of a presumption, for purposes of veterans' disability compensation laws, that an adverse health effect is connected, based on sound medical and scientific evidence, to active service in the Armed Forces of the United States.

(b) IN GENERAL.—(1) Subchapter II of chapter 11 of title 38, United States Code, is amended by inserting after section 312 the following new section:

"§ 312A. Presumption of service connection for diseases associated with effects of exposure to certain herbicide agents

"(a)(1) For the purposes of section 310 of this title, and subject to section 313 of this title, in the case of a Vietnam veteran who, during Vietnam service, was exposed to an herbicide agent containing dioxin or 2,4dichlorophenoxyacetic acid or to any other herbicide agent, each disease (if any) listed in regulations prescribed by the Secretary in accordance with this section and identified in such regulations as having positive association with the biological effects of exposure to such herbicide agent shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service.

"(2) For the purposes of this subsection, a veteran who performed Vietnam service and has a disease referred to in paragraph (1) of this subsection shall be presumed to have been exposed during such service to an herbicide agent containing dioxin or 2,4-dichlorophenoxyacetic acid, and may be presumed to have been exposed during such service to any other chemical compound in an herbicide agent, unless there is affirmative evidence to establish conclusively that the veteran was not exposed to any such agent during such service.

"(3) The Secretary may extend the applicability of paragraph (1) of this subsection to the case of any veteran who, during the performance of active military, naval, or air service outside Vietnam, was exposed to an agent of the same type as the herbicide agent referred to in paragraph (1) of this subsection.

"(b)(1) Whenever the Secretary determines pursuant to this section that there is positive association between any disease and the biological effects of exposure to an herbicide agent in Vietnam, the Secretary shall prescribe regulations listing each disease having such positive association. In the case of each disease listed in the regulations, the Secretary shall identify the herbicide agent that causes the biological effects with which the disease has positive association. After the Secretary prescribes regulations pursuant to this paragraph, the Secretary shall periodically revise such regulations, as appropriate, to reflect determinations periodically made pursuant to paragraph (2) of this subsection.

"(2) The Secretary shall periodically (not less often than biennially)—

"(A) determine whether any disease not listed in regulations under this section has positive association with such effects; and

"(B) determine whether any disease listed in such regulations does not have positive association with such effects.

"(3) The Secretary shall make determinations for the purposes of this subsection on the basis of reports received by the Secretary from a contract scientific organization pursuant to this section and all other relevant scientific evidence, information, or analyses available to the Secretary at the time of the determinations.

"(c) In prescribing and revising regulations for the purposes of subsection (b), the Secretary shall obtain, by contract, the determinations and estimates of a contract scientific organization as provided in this section.

"(d)(1) Each contract entered into under subsection (c) of this section shall provide for a contract scientific organization—

"(A) to determine, in the case of each herbicide agent—

"(i) which diseases (if any) have positive association with the biological effects of exposure to such agent, including specifically effects involving porphyrin synthesis, nervous system function, immune function, reproduction, and birth defects, and psychological and psychiatric effects;

"(ii) which diseases (if any) have limited positive association with such biological effects;

"(iii) which diseases (if any) have insubstantial association with such biological effects; and

"(iv) to the extent practicable, the biological basis for the positive, limited positive, and insubstantial associations of diseases referred to in subclauses (i), (ii), and (iii) of this clause with such biological effects; and

"(B) to estimate the extent of the association between each such disease and such biological effects using methods as quantitative and as objective as the relevant available data permit.

"(2) The contract scientific organization shall specifically determine whether there is positive, limited positive, or insubstantial association between the biological effects referred to in paragraph (1) of this subsection and the following diseases:

"(A) Non-Hodgkin's lymphoma.

"(B) Each soft-tissue sarcoma.

"(C) Lung cancer.

"(D) Each other cancer.

"(e)(1) The first contract entered into under subsection (c) of this section shall provide for the contract scientific organization—

"(A) to conduct as comprehensive a survey and evaluation as is practicable of the completed and ongoing scientific studies of, and other scientific evidence or information regarding, the effects that herbicide agents have on humans or other animals that have been exposed to such agents, including an evaluation of the CDC Selected Cancers Study report; and

"(B) make its determinations and estimates on the basis of the results of such survey and evaluation.

"(2) The contract scientific organization shall conduct the survey and evaluation referred to in paragraph (1)(A) of this subsection through a panel composed of recognized experts in toxicology, medicine, epidemiology, statistics, biochemistry, and related fields. The conduct of such survey shall be subject to appropriate peer review.

"(f) A contract entered into under subsection (c) of this section in connection with the Secretary's periodic determinations under subsection (b)(2) of this section shall require a contract scientific organization—

"(1) to conduct as comprehensive a survey and evaluation as is practicable of the scientific studies, evidence, and information referred to in subsection (e)(1)(A) of this section that have become available since the

last such survey and evaluation under this section; and

"(2) make its determinations and estimates on the basis of the results of such survey and evaluation and all other surveys and evaluations conducted for the purposes of this section.

"(g)(1) Each contract scientific organization making determinations and estimates under this section shall transmit to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives a written report regarding its determinations and estimates.

"(2) Each report shall contain—

"(A) the name of each disease (if any) determined to have positive association with the biological effects of exposure to an herbicide agent in Vietnam and the identity of such agent;

"(B) the name of each disease (if any) determined to have limited positive association with the biological effects of exposure to an herbicide agent in Vietnam and the identity of such agent;

"(C) the name of each disease (if any) determined to have insubstantial association with the biological effects of exposure to an herbicide agent in Vietnam and the identity of such agent; and

"(D) with respect to each disease named pursuant to clauses (A), (B), and (C) of this paragraph—

"(i) a discussion of the biological basis for the association;

"(ii) the contract scientific organization's estimate of the statistical significance of the association;

"(iii) the contract scientific organization's estimate of the relative risk for such disease in veterans who, during Vietnam service, were exposed to an herbicide agent; and

"(iv) the probability that the estimates referred to in subclauses (ii) and (iii) are correct.

"(3) Estimates and probabilities are not required under clauses (ii), (iii), and (iv) of paragraph (2)(D) of this subsection when the available data do not permit meaningful estimates and probabilities.

"(4)(A) If a contract scientific organization determines that a disease has positive association with the biological effects of exposure to an herbicide agent used in Vietnam, such organization shall determine whether there is a reasonable basis for concluding that a Vietnam veteran with the highest level of exposure to that herbicide agent in Vietnam was exposed to such agent under the circumstances necessary for such biological effects.

"(B) If a contract scientific organization determines that there is no such reasonable basis, the organization shall state that determination in a report under this subsection and include in such report—

"(i) a description of the evidence that supports such determination;

"(ii) a description of the evidence (if any) that supports alternative conclusions; and

"(iii) a full discussion of the organization's reasons for such determination, including a discussion of the reasons for the organization's determination that the evidence referred to in clause (i) of this subparagraph outweighs the evidence (if any) referred to in clause (ii) of this subparagraph.

"(C) A determination with respect to reasonable basis is not required under subparagraph (A) of this paragraph when the available data do not permit a meaningful determination.

"(5) The first report under this subsection shall be transmitted to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives on or before the later of (A) the date 60 days after the date on which the contract scientific organization obtains a copy of the CDC Selected Cancers Study report, or (B) the date one year after the date of the enactment of the Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989.

"(h)(1) Not later than 60 days after the date on which the Secretary receives the first report under subsection (g) of this section, the Secretary shall—

"(A) for the purpose of subsection (b)(1) of this section—

"(i) determine in accordance with subsection (b)(3) of this section whether there is positive association between any disease and the biological effects of exposure to an herbicide agent in Vietnam; and

"(ii) if so, issue proposed regulations listing each such disease and specifying such agent;

"(B) transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the scientific basis for including each disease listed in such proposed regulations, and

"(C) if any disease listed in the first report under subsection (g) of this subsection as having positive association is not listed in such proposed regulations—

"(i) include in the report to the Committees on Veterans' Affairs a discussion of the scientific basis for not including that disease in the proposed regulations; and

"(ii) publish in the Federal Register a notice that such disease is not listed in the proposed regulations despite the report under subsection (g) and include in such notice a discussion of such scientific basis.

"(2) Not later than 60 days after the date on which the Secretary issues any proposed regulations pursuant to paragraph (1) of this subsection, the Secretary shall issue final regulations under subsection (b). Such regulations shall be effective on the date of issuance.

"(i)(1) Upon receiving a contract scientific organization's report after a periodic survey and evaluation conducted for the purpose of subsection (b)(2) of this section, the Secretary shall—

"(A) determine in accordance with subsection (b)(3) of this section whether—

"(i) any disease named in such report not listed in regulations under subsection (b) of this section has positive association with the biological effects of exposure to an herbicide agent in Vietnam; and

"(ii) any disease listed in such regulations does not have positive association with such effects; and

"(B) promptly transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the Secretary's determinations under clause (A) of this paragraph and the scientific bases for such determinations.

"(2)(A) Not later than 60 days after transmitting a report to the Committees on Veterans' Affairs under paragraph (1)(B) of this subsection, the Secretary shall prescribe or revise regulations, as the case may be, pursuant to subsection (b) of this section as may be necessary to reflect the Secretary's determinations included in that report. The regulations or revisions of regulations, as the case may be, shall take effect 30 days after the date on which the Secretary issues the proposed regulations or revisions, as the case may be.

"(B) If any disease listed in a periodic report under subsection (g) of this section as having positive association is not listed in such regulations or revisions of regulations, as the case may be, the Secretary shall, not later than 60 days after transmitting a report under subparagraph (A) of this paragraph, publish in the Federal Register a notice that such disease is not listed in the proposed regulations despite such report and include in such notice a discussion of the scientific basis for not including that disease in such regulations or revisions.

"(j) Whenever a disease is removed from regulations pursuant to paragraph (2) of subsection (i) of this section as a result of a determination under paragraph (1)(A)(ii) of such subsection—

"(1) any veteran who was awarded compensation for such disease on the basis of the presumption provided in subsection (a) of this section before the effective date of the removal shall continue to be entitled to receive compensation on such basis; and

"(2) any survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from such disease on the basis of such presumption shall continue to be entitled to receive dependency and indemnity compensation on such basis.

"(k) The contract authority provided in this section shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

"(l) Subsections (b) through (i) and (k) of this section shall cease to be effective 10 years after the first day of the fiscal year in which a contract scientific organization transmits to the Secretary the first report under subsection (g) of this section.

"(m) For the purposes of this section—

"(1) the term 'Vietnam veteran' means a veteran who performed Vietnam service;

"(2) the term 'Vietnam service' means active military, naval, or air service in Vietnam during the Vietnam era;

"(3) the term 'herbicide agent' means an agent in an herbicide used in support of United States and allied military operations in Vietnam during the Vietnam era;

"(4) the term 'biological effect', with respect to exposure to an herbicide agent, means—

"(A) each known biological effect of such exposure on humans, including those biological effects resulting from relevant host and environmental factors; and

"(B) each biological effect of such exposure on humans that it is reasonable to infer on the basis of the known biological effects of such exposure on appropriate animal models;

"(5) the term 'positive', with respect to association between a disease and the biological effects of exposure to an herbicide agent in Vietnam, means that the credible evidence for the association is equal to or outweighs the credible evidence against the association;

"(6) the term 'limited positive', with respect to association between a disease and the biological effects of exposure to an herbicide agent in Vietnam, means that the credible evidence against the association outweighs the credible evidence for the association but that there is substantial credible evidence for the association;

"(7) the term 'insubstantial', with respect to association between a disease and the biological effects of exposure to an herbicide agent in Vietnam, means that there is some credible evidence for the association but the evidence is not substantial;

"(8) the term 'relative risk', with respect to a report of a contract scientific organization for the purposes of subsection (g) of this section, shall have the meaning determined by such organization and specified in such report;

"(9) the term 'contract scientific organization', with respect to a contract under this section, means—

"(A) the National Academy of Sciences; or

"(B) in the event that the Secretary determines that the National Academy of Sciences is unwilling to enter into such contract, any other appropriate private nonprofit scientific organization which has appropriate expertise and has no connection with the Department of Veterans Affairs and which the Secretary identifies to the Committees on Veterans' Affairs of the Senate and the House of Representatives in a written notification received by such committees at least 90 days before the date on which such contract is entered into;

"(10) the term 'soft-tissue sarcoma' means any sarcoma other than osteosarcoma, condrosarcoma, Kaposi's sarcoma, and mesothelioma; and

"(11) the term 'CDC Selected Cancers Study report' means the report submitted to Congress by the Secretary of Veterans Affairs that contains the final results of the Selected Cancers Study conducted by the Centers for Disease Control pursuant to section 307 of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 38 U.S.C. 219 note).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 312 the following new item:

"312A. Presumption of service connection for diseases associated with effects of exposure to certain herbicide agents.".

(c) CONFORMING AMENDMENT.—Section 313 of title 38, United States Code, is amended by inserting "or 312A" after "section 312" each place it appears.

(d) INTERIM REGULATIONS.—(1) If the authority to pay benefits under section 2 of this Act expires before the Secretary of Veterans Affairs issues final regulations under section 312A(h) of title 38, United States Code (as added by subsection (b)), the Secretary shall issue emergency regulations, effective upon issuance, providing for the payment of disability compensation under chapter 11 of such title to each veteran, or dependency and indemnity compensation under chapter 13 of such title to each survivor, who on the day before such expiration date is receiving benefits under section 2 of this Act for a disease listed in regulations (if any) proposed by the Secretary under section 312A(h)(1)(A) of such title (as added by subsection (b)).

(2) Payment of disability compensation and dependency and indemnity compensation pursuant to such regulations shall be effective on the date of the expiration of the authority under section 2 of this Act.

(3) The Secretary shall pay disability compensation to a veteran and dependency and indemnity compensation to a survivor pursuant to such regulations without requiring such veteran or survivor to submit an application in addition to the application submitted for benefits under section 2 of this Act.

(e) SPECIAL EFFECTIVE DATE FOR AWARDS OF DISABILITY COMPENSATION.—If the Secretary of Veterans Affairs issues final regulations under subsection (h)(2) of section 312A of title 38, United States Code (as added by subsection (b)), after April 15, 1993, any award of disability compensation under chapter 11, or dependency and indemnity compensation under chapter 13, of such title (in the case of a claim received by the Secretary before the effective date of such final regulations) on the basis of a presumption provided in subsection (a) of such section 312A shall be effective on the later of April 16, 1993, or the date determined under section 3010 of such title. However, benefits may not be paid to any person under chapter 11 or 13 of such title pursuant to this subsection for any period for which benefits are paid to such person under such chapter pursuant to subsection (d).

SEC. 5. RESULTS OF EXAMINATIONS AND TREATMENT OF VETERANS FOR DISABILITIES RELATED TO EXPOSURE TO CERTAIN HERBICIDES OR TO SERVICE IN VIETNAM.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall compile and analyze, on a continuing basis, all clinical data that (1) are obtained by the Department of Veterans Affairs in connection with examinations and treatment furnished to veterans by the Department after November 3, 1981, by reason of eligibility provided in section 610(e)(1)(A) of title 38, United States Code, and (2) are likely to be scientifically useful in determining the association, if any, between the disabilities of veterans referred to in such section and exposure to dioxin or any other toxic substance referred to in such section or between such disabilities and active military, naval, or air service in Vietnam during the Vietnam era.

(b) ANNUAL REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives an annual report containing—

(1) the information compiled in accordance with subsection (a);

(2) the Secretary's analysis of such information;

(3) a discussion of the types and incidences of disabilities identified by the Department of Veterans Affairs in the case of veterans referred to in subsection (a);

(4) the Secretary's explanation for the incidence of such disabilities;

(5) other explanations for the incidence of such disabilities considered reasonable by the Secretary;

(6) the Secretary's views on the scientific validity of drawing conclusions from the incidence of such disabilities, as evidenced by the data compiled under subsection (a), about any association between such disabilities and exposure to dioxin or any other toxic substance referred to in section 610(e)(1)(A) of title 38, United States Code, or between such disabilities and active military, naval, or air service, in Vietnam during the Vietnam era; and

(7) the evaluation of such report submitted by the Director of the Office of Technology Assessment pursuant to subsection (c)(2).

(c) CONSULTATION WITH OTA.—(1) The Secretary of Veterans Affairs shall consult with the Director of the Office of Technology Assessment before compiling and analyzing any information under this section and shall submit each annual report required by subsection (b) to the Director before submitting such report to the committees referred to in such subsection.

(2) The Director of the Office of Technology Assessment shall review each annual report submitted under paragraph (1) and transmit to the Secretary of Veterans Affairs the Director's evaluation of the content of the report.

(d) FIRST REPORT.—The first report under subsection (b) shall be submitted one year after the date of the enactment of this Act.

SEC. 6. TISSUE ARCHIVING SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—For the purpose of facilitating future scientific research on the effects of exposure of veterans to dioxin and other toxic agents in herbicides used in support of United States and allied military operations in Vietnam during the Vietnam era, the Secretary of Veterans Affairs shall establish and maintain a system for the collection and storage of voluntarily contributed samples of blood and tissue of veterans who performed active military, naval, or air service in Vietnam during the Vietnam era. The system may be administered by the Department of Veterans Affairs or under a contract awarded by the Secretary, whichever is more cost-effective.

(b) SECURITY OF SPECIMENS.—The Secretary shall ensure that the tissue is collected and stored under physically secure conditions and that the tissue is maintained in a condition that is useful for research referred to in subsection (a).

(c) AUTHORIZED USE OF SPECIMENS.—The Secretary may make blood and tissue available from the system for research referred to in subsection (a) in a manner consistent with the privacy rights and interests of the blood and tissue donors.

(d) LIMITATIONS ON ACCEPTANCE OF SAMPLES.—The Secretary may prescribe such limitations on the acceptance and storage of blood and tissue samples as the Secretary considers appropriate consistent with the purpose specified in the first sentence of subsection (a).

(e) CONSULTATION REQUIREMENTS.—(1) To the extent provided under any agreement entered into by the Secretary and the National Academy of Sciences, the Secretary shall consult with the National Academy of Sciences regarding the establishment and maintenance of the tissue archiving system under this section, including any limitation to be prescribed under subsection (d).

(2) In the event that the National Academy of Sciences does not enter into an agreement for consultation under paragraph (1), the Secretary shall consult with the Director of the Office of Technology Assessment on the establishment and maintenance of the tissue archiving system under this section, including any limitation to be prescribed under subsection (d).

(f) CONTRACT AUTHORITY SUBJECT TO APPROPRIATION.—The contract authority provided in this section shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

SEC. 7. SCIENTIFIC RESEARCH FEASIBILITY STUDIES PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Veterans Affairs shall establish a program to provide for the conduct of studies of the feasibility of conducting additional scientific research on—

(1) health hazards resulting from exposure to dioxin;

(2) health hazards resulting from exposure to other toxic agents in herbicides used in support of United States and allied military operations in Vietnam during the Vietnam era; and

(3) health hazards resulting from active military, naval, or air service in Vietnam during the Vietnam era.

(b) PROGRAM REQUIREMENTS.—(1) Under the program established pursuant to subsection (a), the Secretary shall, pursuant to criteria prescribed pursuant to paragraph (2),

award contracts or furnish financial assistance to non-Government entities for the conduct of studies referred to in subsection (a).

(2) The Secretary shall prescribe criteria for (A) the selection of entities to be awarded contracts or to receive financial assistance under the program, and (B) the approval of studies to be conducted under such contracts or with such financial assistance.

(c) REPORT.—The Secretary shall promptly report the results of studies conducted under the program to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

(d) CONSULTATION WITH THE NATIONAL ACADEMY OF SCIENCES.—To the extent provided under any agreement entered into by the Secretary and the National Academy of Sciences (1) the Secretary shall consult with the National Academy of Sciences regarding the establishment and administration of the program under subsection (a), and (2) the National Academy of Sciences shall review the studies conducted under contracts awarded pursuant to the program and the studies conducted with financial assistance furnished pursuant to the program. The agreement shall require the National Academy of Sciences to submit to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives any recommendations that the National Academy of Sciences considers appropriate regarding any studies reviewed under the agreement.

(e) AUTHORITY SUBJECT TO APPROPRIATION.—The authorities to enter into contracts and to furnish financial assistance provided in this section shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

SEC. 8. OUTREACH SERVICES.

Section 1204(a) of the Veterans' Benefits Improvement Act of 1988 (division B of Public Law 100-687; 102 Stat. 4125) is amended—

(1) in clause (1), by striking out ", as such information on health risks becomes known";

(2) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(3) by inserting "(1)" after "PROGRAM.—"; and

(4) by adding at the end the following new paragraph:

"(2) The Secretary of Veterans Affairs shall furnish the information described in paragraph (1) to the individuals listed in the Department of Veterans Affairs' Agent Orange Registry. Each year the Secretary shall (A) update that information, and (B) furnish the updated information to such individuals.".

SEC. 9. REPORT RELATING TO RESEARCH ON TREATMENTS FOR EXPOSURE TO DIOXIN AND OTHER TOXIC AGENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing a discussion of the research being conducted to identify and develop treatments for physiological absorption of dioxin and other toxic agents similar to the toxic agents in herbicides used in support of United States and allied operations in Vietnam during the Vietnam era, including research relating to exposure to dioxin and other toxic agents outside Vietnam.

SEC. 10. EXTENSION OF HEALTH-CARE ELIGIBILITY BASED ON AGENT ORANGE OR IONIZING RADIATION EXPOSURE.

Section 610(e)(3) of title 38, United States Code, is amended by striking out "December 31, 1990" and inserting in lieu thereof "December 31, 1993".

SEC. 11. RANCH HAND STUDY AMENDMENTS.

Section 1205 of the Veterans' Benefits Improvement Act of 1988 (division B of Public Law 100-687; 102 Stat. 4126) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(2) by inserting after subsection (b), the following new subsection (c):

"(c) ADVISORY RELATIONSHIP.—The Advisory Committee may consult directly with and provide information and recommendations directly to the Department of the Air Force scientists conducting the Ranch Hand Study, and such scientists may consult directly with and provide information and recommendations directly to the Advisory Committee. No officer or employee of the Federal Government may intervene in or impair direct communication between the Advisory Committee and such scientists under this section except as may be necessary to prevent an inappropriate disclosure of classified information.";

(3) in subsection (d), as redesignated by clause (1)—

(A) by adding at the end of paragraph (1) "The schedule shall provide for the preparation and submission of annual reports and a final report."; and

(B) in paragraph (4), by inserting "in" after "report referred to"; and

(4) in paragraph (1) of subsection (e), as redesignated by clause (1), by striking out "Defense" and inserting in lieu thereof "Health and Human Services".

SEC. 12. DEFINITIONS.

In this Act—

(1) the terms "veteran", "service-connected", "active military, naval, or air service", and "Vietnam era" shall have the meanings given those terms in paragraphs (2), (16), (24), and (29), respectively, of section 101 of title 38, United States Code;

(2) the term "disability" refers to a disability within the meaning of chapter 11 of such title; and

(3) the term "soft-tissue sarcoma" means any sarcoma other than osteosarcoma, condrosarcoma, Kaposi's sarcoma, and mesothelioma.

SEC. 13. EFFECTIVE DATE.

Except as provided in section 2(k), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, it was my understanding that although the original time agreement was for 1 hour and 15 minutes that this could be accomplished in 30 minutes this evening, and it is on that condition that I agreed to bring the matter up because there are two other bills pending with other Senators waiting, each of which will also take 30 minutes.

Would the Senators agree if a unanimous-consent agreement is requested to limit the time on this bill to 30 minutes, and that the vote occur tomorrow morning?

Mr. CRANSTON. If Senator MURKOWSKI can agree to it, I can.

Mr. MURKOWSKI. Mr. President, I agree with 15 minutes on each side.

Mr. PRESSLER. Mr. President, reserving the right to object, I shall not, I would like a chance to speak for about 3 minutes for this bill.

Mr. MURKOWSKI. Mr. President, I would be happy to give the Senator time. I must also advise the Senator that Senator SIMPSON has requested time on this, too.

Mr. MITCHELL. Mr. President, I ask unanimous consent that debate on this bill be limited to 30 minutes with 15 minutes equally divided, and under the control of Senator CRANSTON and Senator MURKOWSKI or their designees.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. I thank the Senators for their courtesy.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. CRANSTON. Certainly.

Mr. LEAHY. I know the understanding was that agent orange would come up. I was not quite sure what the procedure was. Just so I can tell those—along with the two pieces of legislation which are intended to be passed tonight—approximately how long might it go before we could bring up S. 1429 and the other piece of legislation?

Mr. CRANSTON. This is a 1 hour and 50 minute time agreement. We hope to dispose of it in about a half hour.

Mr. LEAHY. I thank the distinguished Senator.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I think Senator SIMPSON on this side wants 15 minutes, and I will probably take about 20; not any more than 20.

Mr. CRANSTON. Mr. President, I say to the Senator from Vermont that I guess I have to correct my statement. It will take somewhat more than a half hour—maybe 45 minutes.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. Who yields time under the agreement?

Mr. CRANSTON. Mr. President, I yield such time as I may need to myself.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

VETERANS' AGENT ORANGE EXPOSURE AND VIETNAM SERVICE BENEFITS ACT OF 1989

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am delighted to urge the Senate to give its unanimous approval to the pending measure, S.

1153, the proposed Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989 which I reported from the committee on July 24.

BACKGROUND

Mr. President, this measure as it comes before the Senate today—which I will refer to as the committee bill—is substantively identical to S. 1153 as introduced on June 8 by Senators DASCHLE and KERRY and myself. The bill is cosponsored by a bipartisan group of 6 other members of the Veterans' Affairs Committee—Senators MATSUNAGA, DECONCINI, MITCHELL, ROCKEFELLER, SPECTER, and JEFFORDS—and by 17 other Senators. The only changes made to the bill as introduced are modifications of a purely technical nature as well as revisions of the provisions under which a proponent of extending the interim benefits provided for in the bill, or making such benefits permanent, would be guaranteed a vote in the full Senate—or in the House—on a joint resolution providing for an extension or permanence. The purpose of these revisions is to eliminate the possibility of requiring multiple votes on either such issue.

S. 1153 as introduced was substantively very similar to legislation—the Daschle-Kerry-Cranston amendment, amendment No. 3681—passed by the Senate last October 18 during consideration of S. 2011. Unfortunately, the House of Representatives was willing to accept only five relatively minor provisions from last year's bill.

Mr. President, Senators DASCHLE and KERRY have worked long, hard, and persistently and creatively in this matter and much of the credit for the fact we have reached this point goes to them. It has been a long, hard struggle to help ensure that serving our Nation in an unpopular war did not unfairly prevent Vietnam veterans from receiving all of the help they deserve. Too many Vietnam veterans and their families have suffered anguish for far too long because of concern over the effects of exposure to agent orange and other herbicides. I recognize the frustrations that many individuals have experienced in working to resolve this difficult, intensely felt, vitally important issue. I am proud to have worked with so many of my colleagues in this fight over so many years and delighted to be bringing this bill before the Senate today.

I believe that this measure addresses the ongoing concerns of Vietnam veterans about agent orange in an appropriate, compassionate, and comprehensive manner. If enacted, S. 1153 will be of great assistance to many Vietnam veterans and their families.

Mr. President, because the various provisions in the committee bill are described in detail in the committee report—Senate Report 101-82—I will at this time just set forth a summary of the provisions and then discuss some selected provisions that I want to highlight. I refer my colleagues and all others with an interest in this important bill to the committee report for more complete information on it.

SUMMARY OF PROVISIONS

Mr. President, S. 1153 as reported has 10 substantive provisions. The committee bill would:

First, provide for the payment of interim—from October 1, 1989, to April 15, 1992—disability benefits for Vietnam veterans with non-Hodgkins lymphoma [NHL] or soft-tissue sarcoma [STS], and survivors' benefits for veterans' deaths from either condition, equal to VA service-connected disability compensation and dependency and indemnity compensation benefits; and provide a mechanism for votes in both Houses after January 1, 1992, but prior to the expiration date of these interim benefits, to extend them or make them permanent.

Second, create a mechanism pursuant to which VA must determine, based on an initial independent scientific review—as updated by biennial followup reviews—of all relevant evidence and on all other available scientific information, whether permanent presumptions for disability benefits should be accorded for NHL, STS, or any other diseases determined to have positive association with exposure to agent orange or other herbicides in Vietnam; and provide that the National Academy of Sciences [NAS] would conduct this scientific review—unless NAS declines in which case another independent scientific entity would do so.

Third, establish a permanent presumption of service connection for chloracne in Vietnam veterans when the disease or another acneform disease consistent with chloracne became manifest within 1 year of Vietnam service.

Fourth, require VA to gather, analyze, and report annually to the two Veterans' Affairs Committees, on data gathered from the records of Vietnam veterans who seek VA treatment for conditions they believe are related to exposure to agent orange or other herbicides in Vietnam.

Fifth, require VA to establish an archiving system to store voluntarily contributed blood and tissue samples from Vietnam veterans for use in future research.

Sixth, require VA to fund appropriate, independent studies which would be designed to determine whether or not future scientific research is feasible on diseases or disabilities which may be related to exposure to agent orange or other herbicides or to health hazards related to Vietnam service.

Seventh, require the Secretary of Health and Human Services to submit a report, within 180 days of enactment, on research being conducted to identify and develop treatments for exposure to dioxin and other toxic agents similar to those in herbicides used in Vietnam.

Eighth, extend, from September 30, 1990, to December 31, 1993, veterans entitlement to or eligibility for VA care based on possible exposure to agent orange or radiation.

Ninth, make technical changes in provisions in Public Law 100-687 which established VA outreach requirements relating to agent orange so as to require VA annually to update agent orange-related information and to provide such information to veterans whose names are in VA's agent orange registry.

Tenth, make technical changes in provisions in Public Law 100-687, which mandated certain reporting requirements for the Air Force on its Ranch Hand study, to authorize direct communication between the scientists working on the Ranch Hand study and the members of the advisory committee overseeing the study and to require the Defense Department to specify dates for the submission of certain reports on the study.

TEMPORARY BENEFITS, SCIENTIFIC REVIEW, AND HEALTH-CARE EXTENSION

Mr. President, in my view, the three most important of the provisions in the committee bill are the ones providing for the payment of interim benefits, for the establishment of independent scientific review procedures, and for the extension of access to health care.

INTERIM BENEFITS

As noted in the summary of provisions, the committee bill would provide for the interim temporary payment of VA benefits—costing $36 million in budget authority and $33 million in outlays for fiscal year 1990—to Vietnam veterans suffering from non-Hodgkin's lymphoma and soft tissue sarcoma. These benefits would be paid from October 1, 1989, until April 15, 1992.

By virtue of a cross reference in the committee bill to section 3010(g) of title 38, if a veteran or a survivor applies for benefits under this interim authority within 1 year of the effective date of this provision—that is, by October 1, 1990—and benefits are awarded, such benefits would be paid retroactive to October 1, 1989.

No benefits would be paid under the temporary presumption after the interim period ends.

VA would be required to take reasonable steps within 30 days of the date of enactment of this measure to publicize the availability of the interim benefits and to contact veterans who had previously applied for compensation for NHL or STS. In addition, to make clear the interim nature of these benefits, the committee bill would require VA to provide notice, along with at

least 3 monthly interim benefit payments—the first, last, and one approximately in the middle of the interim period—about the April 15, 1992, expiration date of the authority to pay the interim benefits.

I noted earlier in summarizing the provisions of the committee bill, this section of the bill includes a mechanism—derived from the Department of Defense base closure legislation, Public Law 100-526—whereby a vote to extend and a vote to make permanent the interim benefits would be ensured in each House if desired by any member prior to the expiration of these benefits.

SCIENTIFIC REVIEW

As I also noted earlier, the committee bill would establish procedures pursuant to which the National Academy of Sciences, or another appropriate, independent scientific body, would evaluate the results of the Centers for Disease Control's selected cancers study and all other appropriate scientific studies and information regarding the health effects of veterans' service and herbicide exposure in Vietnam.

Mr. President, this independent scientific body would be required to determine, with respect to each herbicide used in Vietnam, which diseases, if any, have positive association, limited positive association, or insubstantial association with the biological effects of exposure to any herbicide, including specifically effects involving porphyrin synthesis, nervous system function, immune function, reproduction and birth defects, and psychological and psychiatric effects. "Positive association"—the relationship which is most relevant under the bill—is defined as meaning that the credible evidence for the association beween a disease and the biological effects of exposure to a particular herbicide is equal to or outweighs the credible evidence against such an association. In connection with making this determination regarding association, the scientific organization would have to discuss the biological basis for the association and provide estimations of the statistical significance of the association and of the relative risk for such disease in Vietnam veterans who were exposed to the herbicide in question during their Vietnam service. The organization would have to determine specifically whether there is positive, limited positive, or in- substantial association between exposure to herbicides in Vietnam and NHL, STS, lung cancer, and each other cancer.

Mr. President, if the scientific organization determines that a disease has positive association with the biological effects of exposure to a particular herbicide in Vietnam, the organization would be further required to determine whether there is a reasonable basis for concluding that a Vietnam veteran with the highest level of exposure to that herbicide agent in Vietnam was exposed under circumstances necessary to yield such biological effects. In my view, this last requirement would translate a theoretical, academic determination—whether exposure to any particular herbicide agent which was used in Vietnam could result in some health effect—into a practical finding which can serve as the basis for a decision relating to compensation benefits: Namely, was any Vietnam veteran exposed to the herbicide in question in a way that would yield the health effect?

The scientific organization would be required to submit a report to the Secretary of Veterans Affairs and the two Veterans' Affairs Committees on this initial review and evaluation of the scientific evidence 60 days after the organization obtains a copy of the selected cancers study report or 1 year after the date of enactment of this measure, whichever is later.

Not later than 60 days after receiving the first report from the scientific organization, the Secretary, based on that report and other appropriate scientific information, would determine whether there is positive association between any disease and exposure to herbicides in Vietnam and, if so, issue proposed regulations listing each such disease and specifying the herbicide. If the organization had found an association and the Secretary had not, the Secretary would be required to explain the reasons for the difference. Not later than 60 days thereafter, the Secretary would be required to issue final regulations.

VA would be required to update the initial regulations, utilizing the views of a contract scientific organization, no less often than every 2 years with an identical timetable required for determinations and promulgations of any regulations required.

If the authority to pay interim benefits under section 2 of this measure expires before VA issues the initial final regulations under this section, the committee bill would require the Secretary to issue emergency regulations under which veterans or survivors who were receiving interim benefits for NHL or STS would continue to receive benefits under chapter 11 or 13 of title 38 for these diseases if either or both is listed by VA in the proposed regulations.

HEALTH-CARE EXTENSION

As noted earlier, the committee bill would extend, from December 31, 1990, to December 31, 1993, veterans' entitlement to or eligibility for VA health care based on exposure to agent orange in Vietnam. This provision recognizes that sufficient questions have been raised regarding the effects of human exposure to agent orange to warrant continuation of health-care eligibility for Vietnam veterans until the selected cancers study—now scheduled to be completed in March 1990—is completed and the results analyzed.

Mr. President, these three key provisions, along with the others in the committee bill, will, if enacted, provide a comprehensive package of health care, benefit payments, and scientific review provisions to assist Vietnam veterans in ways that are reasonably related to current scientific knowledge regarding the effects of their exposure during their service.

VA ACTIVITIES

Mr. President, before closing, I want to note the vital, very important role that VA Secretary Ed Derwinski has played in our efforts to address the agent orange matter. His decision, which I described in detail in a statement I made to the Senate on June 1 (on p. S5987 of the RECORD), not to appeal a district court decision invalidating certain restrictive VA regulations dealing with agent orange was a most refreshing change from prior VA responses to agent orange matters.

Although I congratulate Secretary Derwinski for his actions in this regard, I do not agree with the concern that some have expressed that moving ahead on S. 1153 is somehow in conflict with VA's action. Indeed, I see this bill as complementary to VA's efforts. Moving forward on this legislation provides an appropriate expression of the commitment of the Con gress to finding a resolution to the concerns of so many Vietnam veterans and their families while Secretary Derwinski is moving forward within VA.

In short, I see the executive branch and Congress moving concurrently down compatible paths.

Moreover, it is not clear what will be the outcome of VA's efforts, especially inasmuch as the selected cancers study will not be available until next year. In the meantime, our bill, if enacted, will provide interim relief to those Vietnam veterans who are suffering with either NHL or STS.

Finally, I do not view seeking a resolution of agent orange issues as something entrusted to the executive branch alone. If it had been, none of the steps the Federal Government has taken as to health care and large-scale scientific studies would ever have been initiated. Up to this point, the executive branch has provided virtually no leadership on agent orange.

Hence, this issue has been and will continue to be an appropriate one for Congressional policymaking.

CONCLUSION

Mr. President, in closing, I want to take this opportunity to express my appreciation to Senators DASCHLE and KERRY and their hardworking staff members, Laura Petrou and David McKean, for their leadership on developing this legislation. I also note the

strong, bipartisan support this bill has enjoyed on our committee and thank my six cosponsoring colleagues on the committee—and their staffs—for their work on this legislation and in bringing it to the full Senate for a vote in such a timely fashion.

I urge all of my colleagues to join in support of the committee bill to provide agent orange benefits. Vietnam veterans served their Nation when they were called—it is time that we in turn saw to it that they are treated compassionately and fairly and that we take further steps to resolve this very complicated, divisive, intensely felt, and vitally important issue.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI addressed the Chair.

Mr. MURKOWSKI. Mr. President, I yield to the Senator from South Dakota 3 minutes on this bill.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. Senator PRESSLER is recognized for 3 minutes.

Mr. PRESSLER. Mr. President, I rise today to support passage of S. 1153, the Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989. I am proud to be a cosponsor of this legislation, which would significantly expand the provision of disability benefits to veterans suffering from diseases associated with exposure to agent orange.

As a Vietnam veteran who was exposed to agent orange during my service there, I often wonder whether I will be able to receive benefits should I ever come down with one of these diseases. I have never had any ill effects from my exposure, but I sympathize with those who have. It is very hard for Vietnam veterans to prove a relationship between exposure to agent orange and cancer; it is almost impossible to prove there was a causal relationship.

This bill helps that veteran. Soft-tissue sarcoma and non-Hodgkin's lymphoma are rare diseases, but they occur often among Vietnam veterans exposed to agent orange. S. 1153 would provide interim disability benefits to those Vietnam veterans with these diseases. It would also expand disability compensation for Vietnam veterans suffering from chloracne.

Earlier today I met with Secretary of Veterans Affairs Ed Derwinski and discussed the progress his Department is making in revising its regulations regarding compensation for agent orange-related diseases. He reinforced his commitment, made earlier this spring, to loosen the very strict current regulations regarding eligibility for compensation. I am convinced that Secretary Derwinski is committed to this issue and that this legislation will make his job easier.

This country's Vietnam veterans, like those who served before them in other wars, willingly answered their country's call to service. We must not turn our backs on them now. Those who were exposed to agent orange deserve to receive compensation for related disabilities.

Mr. President, I wish to commend the work of Senators DASCHLE, CRANSTON, KERRY, and the other cosponsors of this legislation. I strongly urge its passage.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. I yield 3 minutes to the distinguished Senator from South Dakota who played such a major role in developing this legislation and fighting for it tooth and nail until we reached this point.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, today we pick up where we left off last October when we passed—without a single objection on the Senate floor—an amendment to the veterans' compensation bill to provide interim benefits for veterans suffering from two rare cancers associated with agent orange, and to initiate independent review of the scientific evidence relating to the health effects of agent orange.

This legislation is essentially the same as the amendment offered by Senators KERRY, CRANSTON, and myself last October. That amendment was passed by the Senate, but met the opposition of the chairman of the House Veterans' Affairs Committee in the last days of the 100th Congress. So, here we are again, trying to bring basic justice in a very modest package to victims of agent orange.

I want to thank the distinguished chairman of the Veterans' Affairs Committee, Mr. CRANSTON, for his cooperation on this legislation. He and his staff have played an essential role in bringing this bill to the floor. Of course, I cannot continue without also thanking the Senator from Massachusetts, Mr. KERRY, for all his work. He has been my partner in the Senate since the early stages of this bill, and we could not be here without his efforts. Finally, I want to thank the first Secretary of Veterans Affairs, Ed Derwinski, for his willingness to take a fresh look at this issue. I genuinely hope and believe our legislative and administrative efforts will complement each other, and I look forward to continuing to work with Secretary Derwinski to resolve this issue.

This legislation is necessary to address the legitimate claims and concerns of thousands of veterans still suffering the effects of the Vietnam war. While it is impossible to know exactly how many people were exposed to or harmed by agent orange, there are over 200,000 veterans on the VA's Agent Orange Registry. Over 33,000 veterans have filed claims with the Agent Orange Class Assistance Program. Over 2,000 veterans are suffering from soft-tissue sarcoma and non-Hodgkin's lymphoma alone.

And these are service-connected disabilities. Some in the government have wanted to ignore these disabilities because they are not as obvious as those that show up immediately on the battlefield. But let me assure my colleagues that the veteran who lost his arm as a result of soft-tissue sarcoma is every bit as worthy of compensation as the veteran who lost his arm as a result of a grenade.

S. 1153 would provide interim disability benefits through April 15, 1992, to Vietnam veterans suffering from soft-tissue sarcoma [STS] and non-Hodgkin's lymphoma [NHL], two diseases that scientific studies have linked repeatedly to the chemical components of agent orange. The bill provides for House and Senate votes before expiration of the benefits to determine whether or not to extend or make permanent those benefits.

Although the evidence is not conclusive, there is a strong, growing body of scientific data suggesting a causal relationship between agent orange and both soft-tissue sarcoma and non-Hodgkin's lymphoma. Several studies have found a strong statistically significant association, the compensation standard established by Congress in 1984 (Public Law 98-542) and reaffirmed in a recent Federal district court decision, between these two diseases and exposure to the components of agent orange.

There are other diseases that may well have a statistically significant association, and that fact brings us to the other major provision of this bill. It is impossible for either the Secretary of Veterans Affairs or Congress to make sound compensation decisions without reliable scientific input. Especially in light of the distrust that many veterans, scientists, and Members of Congress have for the Federal Government's treatment of the science, there is very real need for an independent, apolitical mechanism that can both assist Congress and the Secretary in making timely compensation decisions and enhance our understanding of the potential public health and environmental ramifications of exposure to dioxin; 2,4-D; 2,4,5-T; and other toxic chemicals.

S. 1153 would provide for independent, bienniel reviews of all the scientific information relevant to the possible health effects of exposure to dioxin and the other components of agent orange or other herbicides used in Vietnam. There would be five reviews over a 10-year period, and they would be conducted through the National

Academy of Sciences [NAS] unless the NAS declines the contract.

S. 1153 would also:

Establish a permanent presumption of service connection for chloracne in cases where the chloracne became manifest within 1 year after Vietnam service;

Require the VA to gather, analyze, and report annually on medical or scientific information that may be gathered from data from the treatment records of veterans with agent orange-related complaints;

Establish a tissue archiving system from voluntarily contributed blood and tissue samples of Vietnam veterans—via the most cost-effective means available to the VA;

Require the VA to fund independent pilot studies to determine whether or not further scientific research on agent orange or Vietnam service-related disabilities is feasible;

Require the Department of Health and Human Services to submit a report on possible treatments for exposure to dioxin and other toxic agents similar to those in herbicides used in Vietnam;

Extend through December 31, 1993, veterans' eligibility for/entitlement to VA health care based on exposure to agent orange or ionizing radiation; and

Technical changes in the provisions of Public Law 100-687 related to VA outreach, and reporting requirements and scientific input related to the Air Force Ranch Hand Study.

S. 1153 is not the last word on agent orange. It does not go as far as many of us would like. Nevertheless, it is an honest attempt to address to great injustice and some very difficult health questions in a comprehensive manner that provides research, outreach, treatment, and compensation. It incorporates the wisdom of scientists, veterans organizations, and Members of Congress who have been studying this issue for over a decade.

S. 1153 enjoys broad, bipartisan support. It has the endorsement of Vietnam Veterans of America, the American Legion, Veterans of Foreign Wars, the National Vietnam Veterans Coalition, and many other veterans' organizations. It has been cosponsored by Senators KERRY, CRANSTON, JEFFORDS, and 23 of our Senate colleagues. It has been cosponsored by a bipartisan majority of the Senate Veterans' Affairs Committee.

There are those who suggest that we should wait a little longer before acting on this legislation. They say veterans should be more patient. They are tired of this issue.

Mr. President, I think it is safe to say that I am as tired of this issue as anyone on this floor could possibly be. But I get offended when people tell veterans they should wait a little longer. Vietnam veterans have been more than patient. They have been forced to endure a decade of Government ineptitude and insults relating to this issue. They served their country only to face disease and disappointment, and we have an obligation to do what little we can to right that wrong while there's still time. If you think you are tired of this issue, just think of them.

Vietnam veterans did their job. It's time that we do ours.

Because my time is limited tonight, I want to refer my colleagues to the debate on the amendment we passed last October. The debate appears in the October 18, 1988 (S. 2011) and October 20, 1988 (S. 11) issues of the CONGRESSIONAL RECORD, and, since the proposals are virtually identical in their substance, the RECORD will provide useful background information. S. 1153 may not be perfect, but it is a necessary and important step in the right direction, and I hope my colleagues will show their overwhelming support for it.

Mr. MURKOWSKI. addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. Mr. President, the Senator from Vermont, I believe, is requesting 3 minutes. I yield the time from our side.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 3 minutes.

Mr. JEFFORDS. Mr. President, I rise in support of S. 1153, the Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989. This bill will finally begin to address one of the great tragedies of our engagement in Southest Asia—the exposure of American service men and women to agent orange and other herbicides.

This issue has not been without controversy. But I believe that a compromise has been crafted to meet the concerns of both sides. It is not all that I would have hoped for, but it is a substantial step forward.

At the outset, I want to address one of the concerns I have often heard that deserves clarification for I think it is an unwarranted concern. There has been some worry that this bill might in some way detract from or hinder VA Secretary Derwinski's recent decision regarding agent orange.

On May 11, the Secretary, in light of a recent U.S. district court decision regarding agent orange benefits, made two important and noteworthy commitments. First, he indicated that the Department of Veterans Affairs would not appeal the decision and second, he indicated that the Department would implement a more lenient standard of proof in issuing agent orange regulations and disability claims.

I applaud the Secretary for his very forthright decision. It is one which clearly shows the VA's sensitivity to Vietnam veterans. I therefore support Secretary Derwinski's decision as well as this bill because I do not believe that the bill in any way interferes with the VA's policy. Quite the contrary, this bill buttresses the Department's decision with statutory language. It is important to be clear in this matter—the bill complements the Secretary's decision and is not intended to undermine it in any way.

Rather this bill demonstrates an important commitment to our veterans. For nearly a decade, vets have been asking for compensation for consequences of a war that have been both painful and deadly. It has been suspected that agent orange has severely damaged the health of thousands of soldiers who served in Vietnam. But studies mandated by this Congress to investigate the association have resulted in mismanagement and rumors of misconduct.

In 1979, Congress authorized the Veterans' Administration to study agent orange and its effects on the veterans who served in Vietnam. Unfortunately, after years of disorganization and few comprehensive studies it was determined that the VA could not properly conduct the study. Four years later, in 1983 Congress finally assigned the study to the Centers for Disease Control.

In 1987, CDC canceled that study on the pretense of lack of evidence. It concluded that it could not locate enough soldiers who were exposed to agent orange to conduct a thorough study. Meanwhile, the VA was announcing a separate study which indicated that Vietnam veterans have a significantly higher risk of contracting certain cancers that have been associated with dioxin exposure.

Last year the CDC completed a blood validation study testing the blood of 646 soldiers and found only 2 with high levels of dioxin in their blood. But, again the study has been disclaimed as inadequate. Primarily, too few vets were tested and second blood tests have proven to be an inadequate test for dioxin 20 years after exposure.

The end result then is that nearly 15 long years after the end of the war, Vietnam veterans still do not have an answer. While private studies have developed other scientific methods for detecting levels of dioxin in the blood, congressionally mandated studies have been rife with misconduct and questionable scientific methodology.

Vietnam vets do not need federally mandated studies, they have ample proof in their own lives. Their battle has not ended with the war, they continue to fight the relentless battle against cancer and other side effects of agent orange exposure.

After $63 million and 12 years, it is a disgrace that no answer is available.

It is now our duty to ensure equity and fairness to veterans who dutifully served our Nation. In a class action suit brought by veterans who suffered from agent orange exposure against Dow and other chemical companies, U.S. District Court Judge Weinstein came forth with a monumental decision that we should note at this important juncture.

Judge Weinstein in approving a meager settlement stated that the class action suit should not have been shouldered by the veterans. He further noted that the onus should not have been upon the veterans to bring suit but in fact that it is the responsibility of Congress to compensate veterans for the effects of disabilities suffered by exposure to agent orange. He stated:

> The legislative and executive * * * branches of government are far more capable than this court of shaping the larger remedies and emotional compensations plaintifs (in this case the veterans) seek.

Judge Weinstein was right. It is our responsibility to compensate and acknowledge veterans for their sacrifice and dedication to our Nation.

S. 1153 promises to achieve, finally, the recognition and benefits these veterans absolutely need and deserve.

This bill will establish that two relatively rare diseases, soft tissue sarcoma and non-Hodgkins lymphoma, as presumptively service connected for men and women who served in Vietnam. It does so only on an interim basis until the results of scientific reviews are completed. It also provides a mechanism for a vote in each House prior to the expiration date of these interim benefits to extend the benefits.

The bill does not make the presumption permanent. Should studies find no casual link between dioxin and non-Hodgkin's lymphoma or soft-tissue sarcoma, the presumption will be discontinued.

Nor does the bill create irrebutable presumptions with retroactive benefits payable to claimants without medical evidence of disease. It requires that the Veterans' Administration presume, for purposes of medical benefits and compensation, that these two diseases are service-connected diseases resulting from the Vietnam veterans' exposure to dioxin or some other toxic agent contained in the herbicides used in Vietnam.

The bill contains several other important provisions:

First, it sets up a system for independent review on a continuing basis, of all ongoing and completed scientific studies related to the health effects of exposure to dioxin or other toxic agents in herbicides used in Vietnam;

Second, the VA would be required to gather and analyze all clinical data from health records of veterans examined or treated for disabilities related to dioxin or other herbicides; and

Third, the VA would be required to establish a system for collection and storage of voluntarily contributed samples of blood and tissue of Vietnam veterans.

Mr. President, while I know this subject brings up some old controversies, I believe the compromise was crafted in the spirit of cooperation. I know there is a cry for more studies, but Mr. President, the cry I hear is of sick and dying Vietnam veterans and their families. I urge my colleagues to heed their cry also.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I yield 3 minutes to Senator KERRY of Massachusetts, who has been the other leader with passion and dedication on this measure, with a great concern about his fellow veterans.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. Senator KERRY is recognized for 3 minutes.

Mr. KERRY. Thank you, Mr. President. I thank the distinguished Senator from California, the chairman of the committee. I had the pleasure of working with him for some 18 years on veterans' matters and he has been consistent in all of those years in his diligent championship of the plight of not just Vietnam veterans, but veterans of peacetime as well as wartime. I am delighted that it is his leadership that has helped to bring us to the floor at this moment.

Mr. President, this bill is important for a lot of different reasons, but obviously, because it creates a presumption in favor of the veterans with respect to two very rare diseases, non-Hodgkins lymphoma and soft-tissue sarcoma. It does more than that, though. It sets up a process by which we will judge, come 1991, whether or not we should make these permanent benefits.

But far more important than that, it reverses a relationship between the veteran and the VA.

I congratulate Secretary Derwinski for adopting the decision of the Federal court, which said there had been a prejudicial standard applied against veterans in judging whether or not they were entitled to benefits.

What this bill does is go further. It says that the United States Senate and the Congress are intending to also redress that imbalance in the relationship, and that there will not be an adversariness in the effort of veterans to try to seek the service that they are entitled to.

This will set up the process by which we can make a later judgment, an expedited vote on that judgment, when the time comes, and I think it is sensible legislation. It does not open up a Pandora's box of benefits. These are two very rare diseases, but they are diseases where because of what we know about dioxin, what we know about agent orange, there ought to be a presumption in favor of the veteran, rather than saying to the veteran when he comes to the VA, "You have to prove this is connected. You have to prove you served. You have to prove you have the cancer," and so forth. I think that is a very important step, and I am very grateful to the chairman of the Veterans' Affairs Committee for wanting to move it through at this time.

I might say that to Joe Campbell and Jim Kilroy, from my State of Massachusetts, this makes a difference. Admiral Zumwalt's son, who died of cancer at the age of 42, shared the thought before he died—though he could not prove it as a lawyer—that he knew that his cancer was service-connected as a result of his service as a swift boat commander in Vietnam. I wish that for he and others this disability benefit had existed prior to the fact.

The Veteran's Agent Orange Exposure and Vietnam Service Benefits Act of 1989 finally brings justice to those Vietnam veterans who are victims of exposure to agent orange. For the past 3 years Senator DASCHLE and I have introduced similar legislation and I am happy that this year, as was the case last year, we are joined by the distinguished chairman of the Veterans' Affairs Committee, Senator ALAN CRANSTON. We also have the support, as cosponsors, of 24 other colleagues on both sides of the aisle.

We have been a long time in coming to this day. It has been over 25 years since agent orange was first sprayed in Vietnam. It has been 20 years since the spraying of massive amounts of agent orange was first ordered, and it has been over a decade since veterans first began coming to the VA for treatment of illnesses caused by their exposure to the toxic chemicals in agent orange.

Mr. President, this bill is a compromise bill. It is not a giveaway and will not open up the floodgates for compensation. This bill will allow those Vietnam era veterans who can prove that they suffer from one of two rare cancers—non-Hodgkins lymphoma and soft-tissue sarcoma—to receive interim disability benefits through April 15, 1992. It would also provide survivor's benefits for spouses and children through that date. These individuals will be presumed to have contracted the disease as a result of the spraying of agent orange in Vietnam.

Mr. President, this presumption of service-connected disability with regard to these two types of cancer is no more than the presumption we have recognized for the so-called atomic veterans. Last May, the President signed into law a bill which estab-

lishes presumption of service-connection for the payment of disability for certain diseases manifested by veterans after their exposure to ionizing radiation from atmospheric nuclear detonations that occurred from the 1940's to the 1960's, including the explosions at Hiroshima and Nagasaki.

Despite overwhelming evidence of the adverse effects of ionizing radiation on human health, there was much debate over the soundness of the scientific basis for such a decision.

Mr. President, there will always be protestations. Someone will always disagree. There will always be further scientific studies and more evidence. All scientists rarely agree on any subject. There comes a point, however, when there is sufficient scientific data to draw certain conclusions. In this case, as with the atomic veterans, I feel that the benefit of the doubt should be given to the veteran.

By April of 1992, the Center for Disease Control will have issued its selected cancers study and the National Academy of Science will have evaluated the study and any other relevant scientific studies regarding the health effects of veterans' service and exposure in Vietnam to dioxin or other toxic agents used in herbicides.

Our bill will require the VA to use this report and other biennial reports to determine whether permanent disability benefits should be given for non-Hodgkins lymphoma and soft-tissue sarcoma or any other diseases which are determined to have a positive association with exposure to agent orange.

The bill also establishes expedited procedures for votes in both the House and Senate after January 1, 1989, to extend or make permanent the interim benefits.

This legislation is consistent with the decision of a Federal court earlier this year. On May 2, 1989, U.S. District Court Judge Thelton Henderson ruled that the Government has too strictly defined the standard of proof required of veterans claiming injury from agent orange. The court has said that the benefit of the doubt should lie with the veteran, and we agree. So does Secretary Derwinski, who has stated that the Veterans Affairs Department will not appeal the decision. In fact, the Secretary has indicated that the Department will issue new regulations within the next few months that will conform to the spirit of the court decision. This is very good news.

It has been a long struggle for the veteran of Vietnam who returned from war over 14 years ago. The Vietnam veteran returned to a country that didn't seem to value his service. Then came the recognition that the branch of the Government that was supposed to be an advocate for the veteran was not, in fact, willing to speak out on those issues that were really important. The veteran, who once fought the VC was now fighting the VA. Secretary Derwinski has taken a much needed step to repair the image of the Department of Veterans Affairs which has suffered in recent years among Vietnam Veterans.

The Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989 further requires that the VA compile, analyze, and report on a continuing basis, clinical data from the health records of veterans examined or treated for disabilities related to dioxin in herbicides or Vietnam service.

The bill further requires that the Secretary of Health and Human Services submit a report on research being conducted to identify and develop treatment for exposure to dioxin and other toxic agents in herbicides. The VA is also instructed to establish a tissue archiving system of voluntarily contributed blood and tissue samples to facilitate future research, and to gather, analyze, and report annually to the two Veterans' Affairs Committees on data gathered from the records of the Vietnam veterans who seek VA treatment for conditions they believe are related to exposure to agent orange or other herbicides in Vietnam.

This bill will establish a permanent presumption for disability benefits of service connection for chloracne in Vietnam vets if the disease became manifest within 1 year after Vietnam service. It would also extend for 3½ years, until December 31, 1993, veterans' eligibility for VA care based on exposure to agent orange or radiation.

Mr. President, I believe this is an important bill and I hope it passes the Senate as it did last year. This bill represents a compromise, particularly on the issue of interim versus permanent compensation. We cannot wait any longer, however. Our veterans are dying of cancer and are not receiving the help they deserve. I would ask my colleagues as they consider this bill, to put themselves in the position of one who served in Vietnam and now suffers from a rare and potentially fatal cancer. Mr. President, Vietnam veterans should be treated with respect and dignity by their Government. They should no longer be treated as pariahs, as a suspect class of people whose concerns are somehow not considered as legitimate. Joe Campbell and Jim Kilroy are two Vietnam veterans from Massachusetts who are suffering from diseases that they know are agent orange related. They know that they will not be with their families too much longer. They are not concerned for themselves, but they do fear for the welfare of their families after they are gone. They need to buy shoes, and food, and pay for college tuitions. Their last wish is that their families be cared for.

It is my hope that Senate passage of this bill, combined with Judge Henderson's ruling and Secretary Derwinski's willingness to rewrite agent orange regulations, will send a clear message to our colleagues in the House that the time for agent orange compensation is now.

Vietnam veterans gave their country the benefit of the doubt. I hope that we can do the same for them. Let us begin to heal the final wounds of Vietnam. Let us remember those who are still suffering. Finally, let us remember the words of Elmo Zumwalt III, who died of cancer at age 42:

> I am a lawyer, and I don't think I could prove in court, by the weight of the existing scientific evidence, that agent orange is the cause of all the medical problems—nervous disorders, cancer and skin problems—reported by Vietnam veterans or of their children's serious birth defects, but I am convinced that it is.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. How much time is remaining on this side?

The PRESIDING OFFICER. Eleven minutes, six seconds.

Mr. MURKOWSKI. I yield myself approximately 6 minutes, Mr. President.

Mr. President, S. 1153, as reported by the committee, attempts to resolve the questions raised by the possible health effects of exposure to herbicides. I certainly understand the frustration of veterans who believe they are ill because of the use of herbicides in Vietnam.

In response to this frustration, last year I introduced S. 1692. This was the first Senate legislation in the 100th Congress that would have provided interim benefit payments to Vietnam veterans who develop non-Hodgkin lymphoma [NHL]. At the time I introduced that legislation one could have argued that the laws on the books, such as Public Law 98-542, were not working.

When the Senate acted last year we could say we took action when it appeared VA would not.

This year, the situation has been reversed.

On July 17, VA published draft regulations which will lead to scientific consideration of these questions under the ground rules sought by the advocates of compensation payments to Vietnam veterans.

Last year, Senate action substituted for VA inaction. This year, Senate action would preempt VA action.

Senate action at this time will repudiate the provisions of Public Law 98-542. We would place difficult scientific and medical questions in a political forum for resolution at a time when these questions are being revisited in

the forum originally intended by the Congress.

Senate action at this time simply ignores the decisive and courageous action of our new Secretary of Veterans Affairs Ed Derwinski in directing that VA rewrite its procedures.

Obviously, it would be another case of micromanaging. We have named a Secretary of Veterans Affairs. We expect him to dictate policy but now we are proposing to mandate it in law even though he has given his total assurance that he intends to move in the spirit the Senate and the Congress mandated when we passed Public Law 98-542.

Irrespective of our individual views on the scientific merits of the case, I believe the Congress was wise when we passed Public Law 98-542 and established the procedures that are going forward today, procedures which place responsibility for resolution of questions of science and medicine in the hands of scientists and doctors. The Congress can and should establish public policy. We should not place ourselves in a position of resolving scientific questions that, frankly, are beyond our expertise.

I am not going to discuss the relative weight of the scientific evidence supporting or opposing the assertion that veterans have been harmed by their possible exposure to agent orange. I am going to discuss three provisions of this bill which go, unwisely I believe, far beyond the legislation agreed to by the Senate last year.

INTERIM COMPENSATION

As I have noted, the Senate has supported the concept of interim compensation until the results of the Selected Cancer Study [SCS] are available. That study will be published by March 1990. The legislation passed by the Senate last year would have provided interim benefits until the summer of 1990. S. 1153, on the other hand, would extend that compensation until April 1992. I believe interim compensation should only be paid until the Office of Technology Assessment [OTA] and the Congress have an opportunity to evaluate the studies expected to be published within the next year. Payments should then be continued on the basis of actual service connection, or ended, as appropriate.

PRIVILEGED LEGISLATION

This legislation would create a privileged situation in the sense that the bill would make a statutory change in the rules of both Houses of the Congress. This statutory rule would require consideration by the full House and Senate of future legislation which would make the so-called interim benefits permanent. The Committee on Veterans' Affairs would be prohibited from even amending such a bill. All points of order would be waived by law.

The committee's action in reporting this bill, as well as the Senate's action last year, are ample evidence that the Senate will be responsive to the concerns of Vietnam veterans should legislative action be warranted. I see no need to set aside the rules and procedures of the Senate to ensure adequate consideration of whatever legislation will be appropriate in the future.

I am apprehensive that repeated use of such an expedited consideration procedure will defeat the purpose of the committee system in the Senate.

I am concerned that the rules of this body will lose their meaning if we get in the habit of prohibiting their application by law.

EXTENSION OF AUTHORITY FOR PRIORITY MEDICAL TREATMENT

The bill would extend the authorization for priority medical care from December 31, 1990, to December 31, 1993. Under current law, veterans who believe they are ill due to exposure to radiation or herbicides are now eligible for VA medical care on a priority basis. The sunset date for this authority was extended to December 31, 1990, in Public Law 100-687, enacted last year.

This priority for care is based on the policy that VA should provide treatment while questions concerning service connection—which would provide automatic entitlement to care—are being resolved. Studies which will provide weighty evidence on the question of cancer in Vietnam veterans will be published in the spring of 1990.

Congressional action in response to this and other studies, or administrative action by VA, will soon render the rationale for this priority moot.

Veterans will either be service-connected for their illnesses, or a determination will have been made that their illnesses are not related to their service.

In one case this health care priority would become redundant; in the other, it would not be justified.

Some may argue that the priority should be continued in response to residual uncertainty that will probably remain forever in the minds of some. I am, however, concerned that this extension will come at the expense of treatment for other veterans who would, on the basis of income, otherwise have a higher priority for care than the veterans favored by this provision.

SUMMARY

Mr. President, it is clear that this bill will pass. There is no question in my mind. But the point is, the bill ignores what we have done in ensuring that veterans have a voice at the Cabinet level, the highest level in our Government. It ignores the fact that the President has selected his first Veterans Secretary in the person of Secretary Derwinski and the fact that we have the assurance that Mr. Derwinski will carry out the dictate of the Congress. Instead we are proposing to simply mandate it by law.

I believe the bill as reported is a dramatic expansion from the provision passed by the Senate last year. The expansion is justified neither by scientific developments nor VA inaction. I think again, Secretary Derwinski's bold action in revisiting VA procedures for implementing legislation already on the books obviates the need for additional legislation. Enactment of this legislation would also serve to divert VA resources from direct patient care.

Finally, Mr. President, at a time when we are trying to prioritize veterans' care we simply do not have the money to maintain the level of care that we would like. Instead, we are continuing to embark on new programs and the VA, as a consequence, is pressed when it tries to provide quality care because of the additional missions imposed upon it by the mandates and micromanagement of the Congress.

Nevertheless, the reality is that this bill will pass. I believe that we have had in our unanimous-consent agreement time allotted to the Senator from Wyoming and that time is relatively limited now. Whatever remaining time I have I would yield. I might add to the Senator that we have had 15 minutes equally divided.

The PRESIDING OFFICER. The Senator from Alaska has 6 minutes and 12 seconds remaining.

Mr. MURKOWSKI. I yield 6 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming [Mr. SIMPSON] for 6 minutes.

Mr. SIMPSON. Mr. President, under the unanimous-consent request and the order with regard to this bill, I had 15 minutes reserved, and that time was allocated to me myself. I was not here when some new time agreement was pressed into force.

Mr. MURKOWSKI. If I might enlighten the Senator from Wyoming. The majority leader had indicated under his understanding since there were two other bills pending that he would not proceed or indicated he would not unless he got unanimous consent that this be limited to 30 minutes equally divided.

Mr. CRANSTON. Mr. President, if the Senator will yield, I believe we have 9 minutes. I would be glad to yield 3 minutes of that to the Senator from Wyoming.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming for 9 minutes.

Mr. SIMPSON. Mr. President, I will gear down then and appreciate the accommodation of the chairman and the ranking member. It has always been a very fine relationship that I cherish,

because I chaired that committee, and Senator CRANSTON was the ranking member, and then we switched roles, and now Senator MURKOWSKI does a very credible and fine job as the ranking member.

I just want to say that I oppose this legislation. I do not know what I will do tomorrow on the vote, but I have a hunch I will stick with my friend, Senator MURKOWSKI. We've jumped off more cliffs together on veterans' issues than anybody in the building, because you mention the word "veteran" and people just streak in here to vote as fast as they can, hoping that no one will do a number on them when they get home with some of the pretty tough veterans' organizations, and there are some great ones. I am a member, a lifetime member, of the VFW. I know the occupant of the chair is a combat veteran, as are Senator CRANSTON and Senator MURKOWSKI.

But there comes a time when all of the organizations seem to be calling out in a common, unified theme of more, more, more. And they do it regularly, and that's how they actually raise their money, some of them. I call them the professional fundraising veterans organizations. They raise their money through the land by proving that Congress does nothing for them.

The American people ought to sober up on that one. We spend about $30 billion for 28 million veterans and only maybe 3 million or 4 million ever were even near combat and the rest of them howl, and they are very irresponsible. There are some tremendous laws on the books. I have helped put them on there. I do not spend time figuring out how to chop up veterans' legislation.

But here is an example right here of irresponsible legislation. We are going to create another presumption.

I worked closely with ALAN CRANSTON in 1984 when I was chairman. We passed the Veterans' Dioxin and Radiation Exposure Compensation Standards Act. It made substantial procedural improvements in the disposition of veterans' claims for disability compensation based on exposure to agent orange. That bill was intended to ensure that disability compensation would be provided to veterans for conditions—and here is the key—conditions shown by sound medical and scientific evidence to be connected to exposure to this herbicide.

I stated at the time I thought that veterans would expect that that act was a definitive solution to their problems, and it was never intended to be that. It was intended to be a responsible and a reasoned approach to veterans' very serious concerns about their health, which took into account the need to maintain the integrity of the VA service-connected disability compensation program.

I also said at the time that the bill must not be allowed to undermine the principles of service connection, and that is what has happened. That is a principle that is being increasingly eroded as Congress creates more and more presumptions. In the last Congress we added at least 17 conditions to 40 diseases that are already presumed to be service connected, and just this week—and I think it is very topical, and I hope everyone will pay attention to this one—the GAO has released a study showing that 19 percent of the veterans surveyed received service-connected compensation for disabilities caused by diseases that neither were caused by nor aggravated by anything in military service, nothing in military service.

Go look at the list—ulcers, hypertension; you name it. When you look at the list you will see that those things happen to every single person in America. They are not limited to those who have served in the armed services. No cause at all. There is just a presumption.

We have come to this pass because we have all allowed presumptions to take the place of sound medical and scientific evidence. And presumptions are a sign of our frustration and dioxin and agent orange are the epitome of frustration. There have been millions of dollars worth of studies and they have not yet tied it together with a sound medical and scientific evidence linking exposure to agent orange in Vietnam with these diseases.

You may not like that comment, but that is the way it is. That is why the people settled on the court case. They were lucky to get that much. They just put up the kitty and said, "We are going to step out of this."

I can tell you that there is one study that no one ever likes to pay very much attention to, and it is called the ranch hand study. Do you know who the ranch handers were—about 2,300 or 2,400 people, an easy cohort to find—and you know who they were? They were the people who opened the drums of agent orange and squirted it all over the jungle by letting it fly out of the back of the aircraft with the stream from the flight of the aircraft, and they were covered with it every day, absolutely immersed in it, and there is not one part of that cohort that has suffered any different disease than anyone, either Vietnam veteran, combat veteran, or noncombat veteran. That is real.

Now, that is real. But, of course, as I say, it is not an appropriate thing with the ranch hand study to go too far with it because it is so true and it is the people who are most deeply affected.

Well, I have been here before and I have seen what we are doing.

I do not say in any way that any of these veterans who are receiving compensation because of a presumption of service connection are bilking the system. The system was set up to compensate for some ordinary diseases, and it was set up that way in part from frustration, and now we see this compensation for ordinary diseases likely to affect any person from any walk of life. Some of them are tragic and some of them are very disturbing but they do not deserve to fit in a category of service connected disabilities, nor does this.

This legislation is a continuation of a disturbing trend, Mr. President. Veterans who, during their military service, are exposed to conditions and injuries that have a causal connection with diseases or conditions that develop later should have service-connection for those conditions. I have no problem with that.

But today, the question what constitutes a service-connected injury or illness is less clear than it once was. A bullet wound or bayonet puncture is one thing. The hazards of the modern training ground or battlefield are quite another.

We have always recognized our responsibility to care for those whose injuries or illnesses are a consequence of military service. An extraordinarily varied network of veterans' programs and benefits is vivid proof of our regard and commitment for the sacrifices made by men and women in uniform.

The Compensation Program is designed to care for those veterans disabled in the line of duty. The rules and regulations for this program are designed to make certain that no veteran's reasonable claim of disability resulting from military service is overlooked or ignored.

We have everything in place to take care of these people and there is not a question about it. We are deluding what we are supposed to be doing from the frustration of those who pound on us day and night about this issue.

Secretary Derwinski announced in May that the VA will not appeal the ruling in the agent orange case, in which the judge determined that Congress really did not intend that there be a casual relationship between exposure and the disease. I am quite sure that is exactly what we did intend, but never mind. The decision will stand, and the VA has already issued proposed regulations in response to that ruling. The proposed regulations set out the criteria for determining when there is a "significant statistical association between exposure to dioxin or ionizing radiation and specific diseases."

But we are today considering legislation that says we can't wait for the VA to revise its regulations in accordance with the court ruling.

Many veterans believe their ill health today to be the result of exposure to agent orange. That is a very real and pressing concern to them. It is a concern the VA is working to address at this moment, and it seems that we may be hindering resolution with this bill.

This bill provides interim compensation for soft-tissue sarcoma and non-Hodgkins lymphoma until April 15, 1992, long after the Centers for Disease Control will have released its selected cancers study. There is no clear or convincing rationale for extending interim compensation well beyond the date on which Congress will have available the very studies which may either provide justification for continued compensation or may show that continued compensation based on presumptions is not justified.

A related and equally disturbing provision of the bill establishes expedited procedures for consideration of legislation making the interim compensation permanent or extending the interim benefits. There is no reason to believe that legislation extending or making permanent these benefits would not be acted on in a timely manner. There is simply no reason for us to legislatively amend the Senate rules in this manner. The committee system serves its purpose, and there is no reason to expect that either the House or the Senate Veterans' Affairs Committees will not act in a timely manner.

This bill also provides for yet another review of scientific evidence. A review is already provided for in Public Law 98-542, and that review is already going forward. One wonders what proponents of this provision have in mind. The Centers for Disease Control are completing the selected cancers study. Another scientific review is already in progress, and numerous studies have been undertaken. If you don't get the answer you want, I guess you just mandate another study or scientific evidence review until you find one that meets your needs.

Two provisions requiring the VA to collect data and samples are also of concern. The first requires the VA to gather, analyze, and report annually to Congress on data from the records of Vietnam veterans who seek treatment from the VA for conditions they believe to be related to exposure to agent orange. I have to wonder how significant or useful such data would be for any purpose. It cannot be determinative on the larger question of whether there is a scientific and medical causative link between exposure to agent orange and specific diseases, because it is based on data collected from those who think they were exposed to agent orange and who think that such exposure caused their illness.

Another provision requires the VA to maintain an archive of tissue and blood samples voluntarily contributed by Vietnam veterans. The VA is to maintain this archive for research purposes. There is again no requirement that there be any independent verification of actual exposure to agent orange, nor is there provision for any control group. There is also no assurance that a statistically valid sampling will be achieved.

That is the essence of what I want to say. I think that you have to realize that this is an interim compensation for two diseases—soft tissue sarcoma and non-Hodgkin's lymphoma—until April 15, 1992. And we have studies that we are waiting for from the CDC.

So, again, it is hurry up and hurry up and bow to the pressure and then wait for the CDC to come in and we will look at it and then it will be too late, we have already got it in place.

We asked the VA to collect data and samples. We are not even going to wait for those. We are going to go ahead with this fascinating study—there is a marvelous phrase in here. I cannot wait for what we will do with that. We are going to "establish a program to provide for the conduct of studies of the feasibility of conducting additional scientific research."

It is not enough that numerous studies have already been conducted and continue to be conducted? Must we now mandate a program to study the feasibility of further studies?

The committee report on S. 1153 set out an extensive, although not exhaustive list of the studies conducted or in process to date. I commend it to my colleagues who may wish to inform themselves about what we and others have been doing to attempt to resolve this issue.

The Centers for Disease Control have been conducting a series of studies mandated by Congress to determine how the health of veterans exposed to dioxin in Vietnam might have been affected.

The first was the Vietnam experience study, consisting of a mortality study and a morbidity study. The mortality study compared the death rate for veterans who served in Vietnam with veterans of the Vietnam era who did not serve in Vietnam. After the first 5 years, there was no increase in the death rate for Vietnam veterans, except for drug-related deaths. In the first 5 year, there were increased number of deaths among Vietnam veterans, largely attibutable to such factors as suicide and automobile accidents.

The morbidity study was based on telephone interviews and medical and psychological examinations. Although Vietnam veterans interviewed reported more health problems than those who did not serve in Vietnam, the medical examinations did not support that self-analysis.

The CDC also undertook an agent orange study to determine if there were significant differences in the health of Vietnam veterans exposed to agent orange as compared with those who served in Vietnam but were not exposed. Because the CDC found no significant dioxin exposure among the Vietnam veterans studied, it was unable to complete the study as contemplated.

The selected cancers study is the final part of the studies being conducted by CDC. It is designed to determine if there is a significant increase among Vietnam veterans of certain cancers which some studies have linked to dioxin exposure. Its results are due in March 1990.

Other studies have included the CDC birth defects study, the ranch hand study and the VA proportionate mortality study, as well as numerous studies of the effects of herbicides that have been conducted independently or under different sponsorship.

Can anyone truly believe that there is a need to mandate yet more studies and reviews of studies?

We have exhausted ourselves in scientific research on dioxin and we will continue to exhaust everything, including the Federal Treasury, as we go into dioxin. But this is the way we do our business. When they crank up the old blizzard of stuff, we get out of the way, especially if you mention the word "veteran." And I think that is a shame. I am very proud to have worn the uniform of this country, but I am not proud when I see guys who serve 6 months or a year and do not know a mortar tube from either end whack on the Federal Treasury with a gusto that is unbecoming.

This is not an easy issue to address. But many suffer diseases they feel are connected with their exposure. The compensation system was intended to compensate those with conditions that could be scientifically and medically linked to service. The VA is now working hard to resolve the matter, and I question how necessary or useful it would be for us to intervene at this time.

Our first obligation in this country is to take care of the combat veterans—those who have "borne the battle"—and the veterans of a combat theater and the service-connected veterans. I have always believed that.

This is simply not an appropriate measure at this time, and I will vote against it because it seems only logical to permit the VA to carry through with its proposed new regulations and to await the result of the CDC selected cancer study.

The PRESIDING OFFICER. The time controlled by the Senator from Alaska has expired.

The time for the Senator from Wyoming has expired.

The Senator from California has 6 minutes remaining.

Mr. DASCHLE. Will the chairman yield me 3 additional minutes?

Mr. CRANSTON. Yes, I am glad to yield.

The PRESIDING OFFICER. The Senator from South Dakota [Mr. DASCHLE] is recognized for 3 minutes.

Mr. DASCHLE. Mr. President, I thank the chairman for yielding.

Let me just address a few of the points raised by the distinguished Senator from Wyoming. He is well-intentioned. He certainly feels strongly about this issue.

I am one of those who continues to raise the issue. And I must tell him I will continue to raise it until we get the job done. We would not have to raise it each and every year, as we have for the last 10 years, if once and for all we could do for those veterans suffering from agent orange-related disabilities as we have for 54 other presumptive diseases, as the Senator has indicated.

But in this case, we are not even asking for a presumption. We are asking for interim benefits. And we are not asking for interim benefits for common diseases such as colds or ulcers. We are asking for interim benefits of two specific diseases that, by our own definition in Public Law 98-542 and affirmed by the recent court decision, meet the standard of association with exposure to agent orange. So we are not asking for anything beyond that which we have given in many other cases, such as spastic colon in former POW's, cardiac disease in amputees, and many others. In fact, I feel safe in saying that the evidence supporting this compensation is stronger than the evidence supporting some of those cases.

Now, I might say that the pilot studies that he referred to—and even the studies that might follow them—are not going to cost the tens of millions we have already spent learning that the CDC agent orange exposure study could not—or would not—be done validly at CDC.

As for the ranch hand study, the study is not negative as the Senator suggests. In meetings with me, in committee hearings, and in a February 1988 report, the Air Force was acknowledged that the study has serious inadequacies. The Air Force scientists have clearly stated that the study's current exposure index is inadequate and that all the study's data will have to be reassessed when the new index is ready. So there is no way of knowing whether some of the accusations made about those who were exposed to agent orange through the Ranch Hand Program were or were not harmed by their exposure.

But we do know this: we know that that exposure index was inadequate. We know there was an increase in skin cancer among the ranch handers. We know there has been an increase in systemic cancers for the ranch hand enlisted flyers. We know that the ranch handers' children have a higher rate of birth defects. It should be noted, by the way, that the ranch hand study does not have the statistical power to detect increases in soft-tissue sarcoma and non-Hodgkin's lymphoma.

It seems to me that the bottom line is: Who do we give the benefit of the doubt to? Do we give the benefit of the doubt to the chemical companies? Do we give the benefit of the doubt to the VA? Do we give the benefit of the doubt to CDC? Or do we give the benefit of the doubt, even for an interim benefit, to the veterans? That is the question.

Well, I do not think there is any question at all, as this Senator has been on record time and time again. When it comes to this particular issue, we are more than willing once more to see that decisions are based on independent, apolitical expertise and to give the benefit of the doubt in those cases where there is a statistically significant association between exposure and a disability—in those cases—to give it to the veteran. And that is what we are talking about.

Once we do that, I guarantee the Senator from Wyoming that this issue will go away.

I yield whatever remaining time I may have.

The PRESIDING OFFICER. The Senator from California has 2 minutes and 50 seconds remaining on the time controlled by the Senator.

Mr. CRANSTON. Mr. President, I thank the Senator from South Dakota [Mr. DASCHLE] for those remarks. He responded very effectively to the remarks of the Senator from Wyoming. I have nothing further to add.

I think we are prepared to yield back our time. This is a fine measure. The time has come for action on it. I am delighted that it is on the verge of passage by the Senate, although I understand that that will not occur until tomorrow. This will do justice to veterans who have needed justice and attention and care and support.

I yield back my time.

Mr. MATSUNAGA. Mr. President, as an original cosponsor, I rise in support of S. 1153, a bill which would provide interim compensation benefits to Vietnam veterans exposed to agent orange who suffer from non-Hodgkin's lymphoma [NHL] and soft-tissue sarcoma [STS]. S. 1153 establishes a mechanism by which Congress can extend benefits for these cancers. It creates a permanent presumption of service connection for veterans suffering from chloracne and establishes certain data gathering, review, evaluation, and reporting procedures concerning the association of these and other diseases to defoliant exposure. Finally, S. 1153 requires the establishment of a blood and tissue bank for future research purposes.

Contrary to what may have been said by others, this legislation would supplement and parallel actions that are currently being undertaken by the Department of Veterans Affairs [VA]. As my colleagues are aware, Secretary Derwinski recently decided not to appeal a district court ruling that the VA must revise its service-connection standards in determining agent orange claims. The Secretary justifiably received wide praise for his decision, as a consequence of which the VA is weighing new regulations that could result in permanently service connecting certain diseases that are now associated with agent orange exposure. More to the point, the rules change may result in the permanent service connection of the two diseases that are only temporarily service connected under this bill.

Why then the need for this legislation? First, it reinforces the principle that veterans should be given the benefit of the doubt in every possible instance. Second, it provides the VA with substantive guidance on scientific review procedures, a subject on which the administration and Congress have often disagreed. Third, and most important, it provides veterans who suffer from two diseases most closely associated with agent orange exposure with needed benefits between the time the bill is enacted and the new service-connection rules are in place. It would be a travesty, now that the VA has agreed to relax its service-connection standards, if veterans who would have subsequently qualified for benefits under the new VA regulations, were to die or further suffer during the intervening period before the new regulations can become effective.

S. 1153 is similar to legislation approved by the Senate last October. The only difference is that a year has passed and veterans and their families have yet to be compensated for the pain, suffering, and loss of future earning capacity they have endured as a result of agent orange associated cancers. As has been said on another matter close to my heart, "justice delayed is justice denied." Let us finally put this issue behind us and pass this important measure.

Mr. President, in closing I would be remiss in not recognizing the truly sisyphian efforts of Senators DASCHLE, KERRY, and CRANSTON in developing and expediting this carefully crafted bill. No one has toiled and agonized over this difficult issue longer than these three distinguished veterans' rights advocates. I must also recognize the efforts of Senator MURKOWSKI, who, though he may be opposed to the particular approach or timing of this

measure, has done much to raise the consciousness of the Senate about the health effects of agent orange. I salute them and urge my colleagues to support enactment of the pending legislation.

Mr. KERREY. Mr. President, I rise to voice my support for the Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989. I believe it's time we recognized that if dioxin can cause cancer in the United States we must admit it can cause cancer in Vietnam.

I will not take the time here to discuss the scientific studies which have been done to support the need for this legislation. I will leave those arguments to my distinguished colleagues from South Dakota and California who have studied this issue for many years. I will simply state that I believe there is plenty of evidence to support the modest amount of compensation and health care this bill requires.

A few months ago I met briefly with a woman from Iowa who had traveled to Washington to tell the story of her husband, a Vietnam veteran who died of cancer. Her husband served two tours in Vietnam where he was exposed to agent orange. He and his family believe it was this exposure that killed him. Our Government didn't agree. This veteran died believing his country had abandoned him because we did want to admit agent orange was the cause of his disease.

On his deathbed, this veteran asked his wife to do anything she could to prevent his fellow combat veterans from suffering the way he had suffered. In response to his request she flew to Washington to meet with any Member of Congress or congressional aide who would hear her story.

Doctors told his family they did not have any information about agent orange so they did not know what was causing his cancer. The Veterans' Administration never gave him a blood test. A VA doctor told his wife that the VA could not recognize agent orange because it would be too costly.

I am sure all the Members of this body have met with people with similar stories. I am sure we have all told these families we would do what we could to help. Today we have an opportunity to help. We have an opportunity to show our Vietnam veterans they have not been abandoned.

Mr. President, I have been in and out of VA hospitals much of my life. Sometimes all the paperwork they have to push along frustrates me, but the bottom line is I would not be alive today without the unequaled medical care I have received from them. This experience has taught me the importance of quality health care and made me deeply concerned about the availability of health care for veterans and all other citizens.

I believe my own service-connected disability is no more deserving of this excellent medical care than the ailments caused by exposure to agent orange in Vietnam, and I urge my colleagues to support this legislation.

Mr. CHAFEE. Mr. President, I am pleased to be a cosponsor of the Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989, and am pleased that the Senate has taken up this important matter before the August recess.

The bill is based on the agent orange compromise reached last year, which I also cosponsored, and which the Senate approved. It addresses a sad line and lingering problem which has invaded the lives of many Vietnam vets, and which simply cannot wait any longer for a solution. In good conscience, I believe the Senate should approve this bill.

I have met with a number of Vietnam veterans and their families in Rhode Island who have personal experience with the devastating effects of agent orange exposure. The testimony of Mr. Craig Close, veterans contact representative and agent orange program coordinator for the Rhode Island Vietnam Era Veterans Association, is especially compelling. I will ask unanimous consent that a statement by Mr. Close be printed in the RECORD so that other Senators may have the benefit of his firsthand account of the agony of agent orange-related health effects.

Secretary of Veterans Affairs Derwinski has already shown himself to be sympathetic on the agent orange issue. He has announced that the administration does not intend to appeal a recent court ruling against the Veterans' Administration's overly restrictive regulations on agent orange compensation. I applaud the Secretary's sensitivity to this issue of utmost importance to veterans, and look forward to working with him on implementing both the new agent orange compensation regulations and this legislation.

S. 1153 does for Vietnam veterans what the Veterans Radiation Exposure Disability and Death Benefits Act, which was enacted last year, did for veterans of World War II and the U.S. atomic testing program. It would provide disability compensation to veterans with certain illnesses, giving them the benefit of the doubt that their disabilities are the result of agent orange exposure. It would also provide for a comprehensive compilation of all data on the health effects of agent orange exposure.

It is possible that scientific unanimity on the health effects of agent orange will not be achieved for a long time, if ever. In the meantime, Vietnam veterans are falling ill with no means of support for themselves or their families. S. 1153 will help to put an end to the agent orange debate, and complete the homecoming process for Vietnam veterans.

I commend the Senator from Massachusetts and the Senator from South Dakota for the hard work they have put in on this issue over the years. They have developed a bill which I think all Senators can support and that will ease a terrible burden for many veterans. I urge my colleagues to vote yes on this bill.

I ask unanimous consent that the statement to which I referred be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

VIETNAM ERA VETERANS ASSOCIATION,
Providence, RI, April 28, 1989.

AGENT ORANGE

To whom it may concern:

As everyone here knows, approximately 3.5 million veterans served in and around Vietnam during the Vietnam War. Many of these veterans served before the Computerized Herbs Tapes from 1959 thru 1965 and then many more served from 1965 thru 1971. Many of these veterans who served there were exposed to Agent Orange and have many kinds of medical problems after having served in South East Asia and many of these veterans were wounded and were decorated for their many deeds on the battlefield. Yet many of these veterans and their families have been devastated by these medical problems that these veterans have. Many Vietnam veterans have had cancer or have died from cancer. Many other veterans have unexplained skin rashes and skin prob lems caused by their being in Vietnam. Over 270,000 veterans have filed claims in the Class Action Lawsuit against the chemical companies that manufactured Agent Orange for use in Vietnam, most of these veterans will not receive any monies for the settlement because they are able to work and are not 100% disabled. Yet many of these same veterans are being treated by the V.A.M.C. Veterans Administration Medical Centers or by private doctors for their skin disorders but are not receiving any kind of compensation for it. Also there are many Vietnam veterans who have had cancer and have not received any kind of compensation for this either. There are many families where the Vietnam veteran has died from cancer and other illnesses and are not receiving any kind of compensation, and because of the veteran's illness the family has been under a severe financial hardship, especially with children reaching college age, and with only one working parent it is very hard to be able to send these children to college (as today with college costs between $6000.00 and up per year and some of these children are ineligible for scholarships, and about the only financial aid they are able to get is the Pell Grant and Student loan which adds up to about $4500.00 and that is not enough to put someone through college when a minimum amount needed is approximately $6000.00 a year. Usually the wife is in a somewhat lower paying job and in many cases is barely able to make the necessities of life, let alone anything left over to send someone to college.

I presently have 70 Agent Orange Clients; out of that 70 clients 18 have had cancer which equals just a shade over 25% of these clients. Three of these clients died of cancer between August of 1988 and the first week

of January 1989. One of these clients has had Brain Cancer and has had it removed by surgery. He was a police officer for 17 years. I plotted the spraying missions in the area where he served in Vietnam and I have extracted from the Herbs Tapes (computer printout of the spraying missions in Vietnam of Agents Orange, White, and Blue between 1965 to 1971) 65 pages of spraying missions that were in the four grid areas in Vietnam that this client was in during the period he was in Vietnam. There are an average of at least 10 spraying missions per page. This client participated in at least thirteen major operations against the Vietcong in South Vietnam in the areas around Saigon during his tour there. He received the Purple Heart and the Bronze Star while he served in Vietnam. Agent Orange was not the only agent sprayed in the areas where he was at but Agents White and Blue were also sprayed. These were mixtures of organic arsenic and strychnine, two very deadly poisons. This cancer and the financial hardships have devastated the family financially and emotionally. The client had a very hard time getting Social Security disability and it was a three year struggle to get these benefits. The children have had emotional problems because of the agony they have seen their father and mother go through over the past several years.

The children of this family are approaching the age soon to be able to go to college and they will need all the help they can get. This family should be getting compensation for the cancer and the agony they have had to endure because of the cancer and subsequent brain damage caused by the operation to remove the tumor from the father so that he could live. This man cannot work or hold any kind of job because of what he has gone through.

I have another client who served in the Navy for five years, went to Vietnam between 1962 and 1964 but nothing was ever put in his records because of the nature of his job while in the service and security clearances that he had to have. He died of stomach, liver and cancer of the Pancreas in January of this year. His mother is 82 years old and this client died at the age of 45 years old. Other than his mother he has a daughter from a prior marriage of which he has been divorced for several years. His daughter will graduate from high school this June 1989. She is going to college in the Fall. But if this client could have been receiving service connection benefits for this cancer the Veterans Administration could help pay the way for his daughter to go to college. As it stands right now, none of these people that get cancer from Agent Orange are able to receive service connection benefits and/or compensation for receiving cancer as being the cause of their exposure to Agent Orange, etc. The cancer usually does not manifest itself until approximately 20 or more years after exposure to these deadly chemicals. The VA has basically recognized only about 7 of the 100 or more studies that have been conducted here or in other countries such as Sweden.

Dr. Sheila Hoar of the National Cancer Institute did a study on Kansas Farmers that were exposed to 2,4-D, one of the two herbicides found in Agent Orange, suffered a greater degree on non-Hodgkins lymphoma than other farmers that were not exposed.

In closing, my statement is this: that too many Vietnam veterans are dying from too many strange illnesses, cancer, etc. I also believe that 25% of 70 clients is too high a percentage to go unnoticed of cancer and that is only just the ones I know about. Here in the State of Rhode Island there are approximately 1,000,000 people and when you read the death notices each day in the Providence Journal Bulletin, our only local newspaper, and at least a death a week average of a Vietnam veteran having died I think that this is kind of strange that number of veterans at an average age of 42 years is very significant. In Vietnam the medics saved so many lives from combat wounds that was unprecedented in any other war, and to have so many that have died since coming home from illnesses should not be acceptable to the American people. Most of the veterans that I have talked to over the past ten years that are concerned about Agent Orange and the health of Vietnam veterans are quite alarmed about effects the exposure of Agent Orange is having on these veterans and their families. Many Vietnam veterans are worrying about their exposure to Agent Orange and whether or not they will come down with cancer. Some of the stress that Vietnam veterans and their families are having to endure is the fact that veterans may have been significantly exposed to Agent Orange. Out of all 70 of my clients I have only found two clients that I believe were not exposed and both of these veterans went to Vietnam 1970–1971 time frame when most of the spraying had ended.

Very truly yours,

CRAIG H. CLOSE,
Veterans Contact Representative and Agent Orange Program Coordinator.

The PRESIDING OFFICER. All time for debate on this bill having expired, the question now occurs on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Is there a request for the yeas and nays?

Mr. DASCHLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MURKOWSKI. Mr. President, I wonder if there would be any objection to a tabling motion.

Mr. CRANSTON. We prefer to have an up-or-down vote, but the Senator has a right to offer a tabling motion if he wishes.

Mr. MURKOWSKI. Would the Senator object to a tabling motion?

Mr. CRANSTON. No, I do not object.

Mr. MURKOWSKI. Mr. President, I will move to table at the time that is set for the vote tomorrow. I have no idea what that time might be.

The PRESIDING OFFICER. The Chair would remind the Senator that under the order, No. 166, which was modified by the unanimous-consent order by the majority leader this evening but which is otherwise the order for this particular bill, a tabling motion would not appear to be in order.

Mr. MURKOWSKI. The Senator from Alaska stands corrected.

The PRESIDING OFFICER. Is there other business to come before the Senate?

Mr. CRANSTON. What time will the vote occur tomorrow?

The PRESIDING OFFICER. The unanimous-consent order did not specify a particular time.

Mr. MURKOWSKI. I believe the Senator from California expects a rollcall vote tomorrow and therefore I ask unanimous consent that we proceed with the rollcall vote.

Mr. CRANSTON. Yes, at a time to be determined tomorrow morning.

The PRESIDING OFFICER. Final passage of Senate bill 1158 will be considered.

Is there other business to come before the Senate at this time?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the tabling motion be initiated on the agent orange bill we just took up.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. And a vote to be scheduled at a time that meets with the leader's schedule.

I thank the leader and my colleagues.

Mr. President, I move to table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. When the bill is placed on the calendar for final passage, yeas and nays will be required.

Is there further business?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DASCHLE). The Clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF WILLIAM LUCAS

Mr. DOLE. Mr. President, yesterday the Senate Judiciary Committee sent a very ugly message to the minority community in this country. It said that if you don't walk lock-step with the civil rights elite—if you happen to stray off the liberal plantation looking for a bit of fresh air—you run the risk of character assassination and reputation robbery.

This happened to Bill Lucas yesterday, who dared to say during his nomination hearings that he agreed with the Supreme Court and with administration policy. Several years ago, Bill Lucas also dared to leave the Democratic Party—a party that he believed just might not have all the answers to our Nation's problems and to the problems of black America.

Mr. President, can you believe that Mr. Lucas would be so daring? The price of apostasy is very high indeed—particularly in this town.

Two recent Wall Street Journal editorials make these very points.

Mr. President, I ask unanimous consent that both articles be printed in their entirety in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE PRICE OF APOSTASY

What an irony that Howell Heflin dealt the death blow to a black who dared think for himself. Whether Senator Heflin represents the Old South or the New South we are not entirely sure, but the Alabamian joined northern liberals to send a clear message to the William Lucases of the world: Blacks must hew to the party line or be destroyed. Know thy place.

Strom Thurmond of South Carolina understood the significance of the 7-7 Judiciary Committee vote refusing to "give this black man a chance" by not sending his name to the full Senate to be civil-rights chief at the Justice Department. "He's a minority, of course. Years ago minorities didn't have a chance," he said, recalling Jim Crow. "I know."

Joe Biden said Senator Thurmond's accusation of liberal Democrat racism against a black Republican was "a cynical setup." But Mr. Biden, the 76th-place finisher in his law class of 85, made a pure plantation argument why Mr. Lucas must be kept down. Senator Biden said he had "failed miserably to prove that he has some knowledge to compensate for his lack of experience." Teddy Kennedy, whose brother decided Bobby was fully qualified to be attorney general despite no experience at all, declared that Mr. Lucas is "the wrong man for this very important job." No white nominee has ever been rejected for agreeing with the President or saying he'd enforce Supreme Court rulings.

This party-line vote (with Democrat Dennis DeConcini backing Mr. Lucas) against a moderate black with a long history of public service and law enforcement raises the political stakes. Mr. Lucas got smeared partly because he dared to leave the Democratic Party. He's hardly alone. The black police chief of Washington, D.C., just became a Republican. Charles Evers, Mayor of Fayette, Mississippi, and brother of slain civil-rights worker Medgar, switched in May because the Democratic Party "is now a party of liberal ideas and special interest groups."

Attorney General Thornburgh was right to call yesterday's vote "raw politics." But surely this vote goes beyond partisan politics to a broad philosophical confrontation. Mr. Lucas is part of a generation of blacks desperately worried about the deepest issues of civil rights. Crime, drugs and welfare pathologies are all encouraged by misguided government policies that remain liberal icons. Democrats swear fealty to the faith that civil rights is narrower, synonymous with quotas, set-asides and class-action lawsuits. This same dead religion, incidentally, is behind the Democrats' invocation of class warfare to oppose a capital-gains tax cut.

The White House is not powerless. Sources say that the administration is considering Bob Dole's suggestion that Mr. Lucas be made a recess appointment. This would be good for civil-rights enforcement because otherwise the job would be vacant for months given the Senate's snail pace for confirmations. Mr. Lucas would fill the slot through January 1991, when the next Congress begins. This would be an excellent recess-appointment precedent since Mr. Lucas never got to make his case to the full Senate as the Constitution requires.

Most importantly, this would show that President Bush is willing to use his constitutional powers. The Senate has made a mockery of its advice-and-consent power. Senator Heflin earlier distinguished himself as a yahoo when he decided to vote against Robert Bork, because he "had a strange lifestyle" and "I was futher disturbed by his refusal to discuss his belief in God—or the lack thereof."

The administration could also consider other alternatives. Mr. Lucas would make an excellent deputy attorney general. The Democrats have said that it's just this job that Mr. Lucas shouldn't have, that he'd be fine for a job requiring his considerable managerial skills. Whichever route the administration chooses, the important thing is to nip this liberal plantation mentality in the bud.

There is a core civil-rights issue now at stake. If the Bush administration rolls over on the trashing of Bill Lucas, it will send a truly ugly message to America's blacks—one political party insists that they stay on the plantation, and the other party won't fight to liberate them. This would be an ironic disenfranchisement of blacks, whose most basic civil right is the freedom to follow their own political beliefs.

DE FACTO NONSENSE

The latest rationalization for opposing William Lucas is this: Yes, he may have great experience in law enforcement, worked his way through law school, won election and re-election, administered a county larger than most states and lived an exemplary life. But he flunked his orals.

In particular, he was unable to answer when Wisconsin Senator and constitutional scholar Herbert Kohl asked the lollapalooza, "How do you distinguish between the two, and how would you make a judgment on the difference between de facto and de jure, as the Supreme Court has commented?"

So now Mr. Lucas is being hung for the deadly phrase, "I frankly do not understand the rest of the question." This seems to us a perfectly intelligent commentary on the Senator's prose, but the lawyers at the Washington Post and so on profess to take it as proof that a 61-year-old lawyer had never encountered the terms de facto and de jure. Give us a break.

Mr. Lucas's other great mistake is said to be confusing two cases. Ted Kennedy was reading questions from his staff-prepared script, and Mr. Lucas answered as if responding on the Grove City case when the question was about the Bob Jones University decision. The exchange amounted to two brisk sentences, Senator Kennedy didn't seem to care because he didn't even follow up; it wasn't in his script. On rereading, Mr. Lucas played the wrong cassette, which is spontaneous and open-ended hearings can happen to anyone. In fact it also happened to Arlen Specter, supposedly the Senate's great constitutionalist, who confused two cases in asking questions of Mr. Lucas.

Of course, to take all this seriously you have to believe that qualifications are really the issue in the Lucas assault. But wordslips and the like are mostly excuses for folks who have to be on the "right side" of civil-rights issues. In fact, this exercise is all about destroying a man, especially a black man, who doesn't walk in lock step to the agenda of the civil-rights establishment. Ralph Neas and the elite's other lobbyists see a black man thinking for himself, and they can't abide it.

The Senate Judiciary Committee was supposed to vote last week on Mr. Lucas, but it delayed the vote until tomorrow. Senator Alan Simpson noted that this would give his accusers enough time to "get out and gin . . . up" more innuendo. They quickly obliged with a letter from Michael Sussman, an NAACP lobbyist, that Mr. Lucas had telephoned the Justice Department to urge it to drop a 1980 lawsuit charging Birmingham, Michigan, with Fair Housing Act violations. The story was leaked to reporters late Thursday afternoon, making it difficult to rebut and difficult for Mr. Lucas to get out his denials. Mr. Sussman later said he hadn't received the call himself, but his supervisor had. Reached by AP, the supervisor said he couldn't remember any such call from Mr. Lucas.

Denials, of course, never quite catch up to the smears. We suppose high-minded apologists can hide behind pieties about "experience" if they want to but realists know a lynching when they see it.

NEPAL

Mr. HEFLIN. Mr. President, I rise to condemn the actions of the Napalese Government in persecuting gospel preachers.

Recently, I received a letter from one of my constituents alerting me to the serious compromise of basic human rights in that country. Apparently, members of the Church of Christ and other Christian groups in

Nepal have been arrested for preaching the Christian gospel and for being converted to Christianity.

I have received information that at least three Nepalese evangelists, Krishna Gopal Khadgree, Gun Bahadur, and Rama Nada Joshi were arrested along with five others. The charge against them I am told is: "You are preaching the Gospel of Jesus Christ and have disturbed the minds of the Hindus." If they are indeed guilty of teaching that Jesus is the Christ, what is wrong with that? It is my understanding that these gospel preachers are very able servants of Christ and have been responsible for baptizing about 200 souls. I have received information from those whom I hold in high esteem that Krishna Gopal Khadgree has received a 6-year sentence and Gun Bahadur and Rama Nada Joshi each received a 1-year sentence. The information that I have received indicates that some American missionaries have also experienced life threatening situations.

In repressive Nepal, many natives believe the king, who virtually holds all power, to be the reincarnation of the Hindu god. Because of this belief, laws have been written into the Constitution protecting the religious beliefs of the majority. The laws prohibit someone from being converted from the religion into which they were born. This includes Christianity. Because the people of Nepal have deep religious roots, discrimination often occurs against those not of orthodox religions. In Nepal, people are fired from their jobs, harassed, arrested, and subjected to other forms of discrimination if they stray from the prescribed religious norms.

Because of the repressive nature of the Government of Nepal, we should question our continued support of this nation.

The United States Government has given Nepal over $190 in total aid since 1980. The United States has given Nepal over eight-tenths of a million dollars in military aid, over $21 million in economic aid, over $24 million in food assistance, and over $146 million in developmental assistance between 1980 and 1989. I think we need to take a close look at how much money we are giving to this nation.

Nepal receives approximately 50 percent of its moneys in foreign aid from China, Great Britain, India, the Soviet Union, Switzerland, and the United States. Nepal will be wise to heed our request to free those who have been imprisoned for religious reasons and update their laws regarding freedom of religion.

Nepal has already imprisoned persons of their own country and charged Canadians with religious crimes. The Government of Nepal is handing out jail terms to missionaries who are working with American missionaries, individuals such as Jerris Bullard who has been working in Nepal under the oversight of the elders of the Church of Christ in Manassas, VA. I am afraid that it would not be unlikely for Nepal to imprison innocent, dedicated American missionaries for harmlessly promoting their faith.

I call upon officials of the United States Government and particularly the United States Department of State to look into the problems these evangelists are experiencing in Nepal.

I ask the entire Congress to join me in demanding that individuals who have been imprisoned for preaching the gospel of Christ in Nepal be set free immediately.

I urge the entire Congress to join me in my request to have the State Department to look into these matters and provide the Congress with a full and immediate report.

THE 1,600TH DAY OF TERRY ANDERSON'S CAPTIVITY

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today is the 1,600th day that Terry Anderson has been held in captivity in Beirut.

I ask unanimous consent that a Washington Post news analysis which marked the fourth anniversary of Terry Anderson's captivity be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 17, 1989]

HOSTAGE BEGINS FIFTH YEAR—ANDERSON SYMBOLIZES LEBANON'S DESPAIR

(By Nora Boustany)

BEIRUT, March 16.—It was a sunny morning in March four years ago today when American journalist Terry Anderson, shaking off suspicions that he was being observed and followed, decided to go ahead with his tennis game in a city where he felt he belonged.

But within minutes, gunmen intercepted his car, dragged him out and bundled him into a Mercedes with drawn curtains.

After covering the news of tragedies in Lebanon as The Associated Press bureau chief here, Anderson, now 41, became the news himself, as threatening statements from his pro-Iranian captors, the Islamic Jihad, shaped fears and expectations about his fate.

Today, he began his fifth year in captivity as the longest-held foreign hostage in Lebanon. Except for occasional messages, pictures and videocassettes distributed by his captors and containing appeals to the U.S. government and public, Anderson now rarely makes headlines, having become yet another nearly forgotten symbol of Lebanon's despair and chaos.

During his captivity, Anderson's father and a brother have died. A daughter, born shortly after his capture, has never seen him. Four other American hostages have been freed, as have all the French hostages.

One of the released Frenchmen, journalist Jean-Paul Kauffmann, freed last year after being held three years, made an impassioned plea today for rekindled public interest in the hostages, The Associated Press reported from Paris.

In the daily newspaper Le Monde, Kauffmann lamented that the hostages are no longer objects of mass compassion, no longer bargaining chips, no longer even political pawns.

"The truth is that the hostages in Lebanon today have become the damned of the West," he wrote. "Without hope of being saved, imprisoned in silence and darkness, deprived of the sight of the world of the living, forgotten, they no longer represent anything. . . .

"The most tragic thing is that this torment is administered as much from the outside by countries and people indifferent to their fate as on the inside by their captors."

Trapped in an unending game of conflicting interests involving Iran, Syria and local Lebanese groups that specialize in the business of hostage-taking, Anderson and the eight other Americans still held hostage have become the only constant factor—their captivity a kind of insurance policy for their captors.

Although prospects of their release seemed to improve with a cease-fire in the Persian Gulf war last summer, Tehran's crisis with the West over a book many Moslems consider blasphemous to Islam has dashed hopes that Anderson and other hostages will soon be freed.

The controversial book, "The Satanic Verses," by British author Salman Rushdie, led to a reversal of Iran's moves toward rapprochement with western powers. The row over the book, deemed deeply offensive by Moslems, overshadowed the significance of detente between Iran and the West and the importance of the liberation of foreign hostages.

The other Americans still held captive are Thomas Sutherland, kidnaped in June 1985; Frank Herbert Reed, Joseph James Cicippio and Edward Austin Tracy, kidnaped in 1986; Alann Steen, Jesse Jonathan Turner and Robert Polhill, held since 1987, and Marine Lt. Col. William Higgins, kidnaped in 1988. Other hostages include Terry Waite, a representative of the Church of England, seized in 1987.

The kidnaping of Anderson has had a devastating effect on first-hand western press coverage of Lebanon, driving most foreign journalists from the country. The virtual absence now of outside journalists in a country that once served as a window for understanding the forces at play in the Middle East has had grave implications for international understanding and press freedom in the region.

Anderson—and the others—have become casualties in a struggle against a kind of darkness that has set in. In a desperate country that is daily at war or on the brink of war, the cause of absent journalists is fading. Concern over blockades, airport closures, safety and the bare instincts of life and death now predominate.

PRESIDENT BUSH HONORS THE JUNTA PATRIOTICA CUBANA AND DR. CLAUDIO BENEDI

Mr. SYMMS. Mr. President, Dr. Benedi is the author of the Benedi doctrine about the institutional violation of human rights by the totalitarian Communist regimes. In defense of freedom and dignity of human beings, Dr. Benedi during the last three dec-

ades, has been fighting for the security of America and the freedom of Cuba.

Mr. President, I ask unanimous consent that two documents be printed in the RECORD. The first is from President Bush to the Junta Patriotica Cubana dated May 17, 1989. The second is a description of the Benedi doctrine.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, May 17, 1989.

I am delighted to send my warmest greetings to everyone gathered for the ninth annual convention of the Junta Patriotica Cubana.

More than one historian has remarked that the 20th century will be remembered as the century of totalitarianism—a period in human history when fanatical ideologies were coupled with modern technologies to enslave whole nations under the iron fist of an all-powerful state. During this century, the rise of totalitarian powers, of fascist and communist states, has resulted in the persecution and deaths of tens of millions of people.

However, today, the dark cloud of totalitarianism is slowly but surely being pierced by bright shafts of freedom. The longing of a people for liberty and human rights cannot be denied forever, and I believe the history of the 20th century will ultimately be a history of freedom's triumph over totalitarianism.

When that history is written, organizations like yours will claim an honored place in its pages. Throughout your organization's existence, you have struggled nobly to defend America's security, to work for the liberty of your beloved Cuban homeland, and to proclaim the right of all peoples everywhere to self-determination.

No one exemplifies the spirit of your organization more than Dr. Claudio Benedi, and I gladly join you in paying tribute to him. In a thoughtful and powerful fashion, Dr. Benedi has documented the systematic violation of human rights by the Cuban government and other communist regimes, and has encouraged the international community to oppose these assaults on human freedom and dignity. We owe him a great debt.

To all of you, I offer my heartfelt commendation. Your dedicated efforts are helping to pave the way for freedom's continued progress. For that, you have the enduring gratitude of freedom-loving people everywhere.

Barbara joins me in sending best wishes for a productive convention and for every success in the future. God bless you. Viva Cuba Libre!

GEORGE BUSH.

INSTITUTIONAL VIOLATION OF HUMAN RIGHTS

The institutional violation of human rights, has been documented by Dr. Claudio F. Benedi for over twenty years. This effort is recognized in the Americas and Europe as the "Benedi Doctrine", it already has its "naturalization papers".

The violation of human rights documented by Dr. Benedi has two dimensions: The human dimension and the institutional dimension.

The human dimension may be committed by rightist authoritarian regimes or leftist totalitarian regimes. In the first case, it is possible to correct it. In the second case, it can be mitigated, but not eliminated, because it is inherent to the Marxist-Leninist doctrine.

The institutional violation can only be committed by communist regimes. It is committed through their Constitution and Laws, in their Penal Codes, in their Laws of Criminal Proceedings and all of the other laws in force, as it presently happens in Cuba.

The institutional violation is brought about by the total negation of human rights, since the communist system proclaims that the state has all of the rights, and the human person has no rights vis-a-vis the state. But it so happens that the state, for the communist, is represented by the Communist Party, which is managed by a small clique, which in turn is dominated by the tyrant on duty, whether his name be Stalin, Castro, etc. This tyrant becomes "master of lives and properties".

There does not exist the rule of law in those communist regimes where these institutional violations take place, as the Inter-American Commission on Human Rights of the Organization of American States has declared. And where the rule of law does not exist, there cannot be any defense or respect for human rights. Thus, the violations of human rights have been institutionalized as a constituent part of the communist system itself.

What human rights are violated? All of them; not only those which are God given, that are inalienable and imprescriptible, but the very rights to life, liberty, etc., which have been enshrined in the American Declaration of the Rights and Duties of Man, and the Universal Declaration of Human Rights.

Included in the Constitution of the United States of America, which is now in its 200th year, is the Bill of Rights amendment for human rights. Just as Lafayette proposed similar human rights in the French Constitution as compliment to the French Revolution. While in the Soviet Union, in Cuba and all other communist countries, it is precisely those rights which are institutionally violated because in communist regimes, in accordance with the Marxist-Leninist doctrine, the human person, surrenders his rights to the totalitarian state.

Men and women in Cuba, as well as in all other communist subjugated nations, stand helpless vis-a-vis the totalitarian and mighty state. The human person loses his dignity, freedom, individuality and identify as a person, to become a piece owned by the totalitarian state; to become a non-person; the object and not the subject of law. He will be an object of the totalitarian structure: the most despicable destruction of the human personality.

God, even being Himself and Almighty, only limited Himself in the freedom that He gave human beings to freely choose between good and evil, and to make all other decisions that we must make every day, without anyone making them for us. That is the challenge of our time: Human beings in our time are in danger of losing all of the attributes of the human person, their dignity, their freedom and, finally, their lives, in the face of a communist totalitarian state that violates all of their rights, not only in the human dimension, but also in the institutional dimension, since the latter is intrinsic to the system and it could not exist without those violations.

The "Benedi Doctrine" about the institutional violation of human rights has already pierced the Iron and Bamboo Curtains, as you will be able to verify through the two highly important pieces of information enclosed: (1) About the revision of the Soviet Penal Code, to try to mitigate the institutional violations that have been committed against all Soviets who are against the communist regime. Articles 70 and 190-1 of the Soviet Penal Code are evident proof of institutional violations. (2) The same happens with the Cuban Penal Code, plagued by flagrant institutional violations. In view of the denouncements made about it, and due to the "Benedi Doctrine", Moscow has ordered its Caribbean satellite to start mitigating somehow those institutional violations.

Communism has no answer for the "Benedi Doctrine" about the institutional violations of human rights.

TRIBUTE TO J. MILTON QUARLES

Mr. THURMOND. Mr. President, I would like to take this opportunity to pay tribute to a fine American and devoted civic servant, Judge J. Milton Quarles of Edgefield, SC, who recently passed away.

The Quarles family have been longtime residents and outstanding citizens of Edgefield County for almost 200 years. Judge Quarles upheld this family tradition with honor and distinction.

Judge Quarles grew up in Edgefield and for many years was involved in the automobile business with former State senator Frank E. Timmerman. In 1958, he became probate judge, a position he held for almost 20 years. Judge Quarles was widely known as an equitable, judicious, and evenhanded judge.

Two years after his retirement in 1978, Judge Quarles rejoined the ranks of public service when he served as mayor of Edgefield for 1 year. In this post, he performed in an exemplary manner, caring for both the good of the individual citizens of Edgefield as well as the physical town itself.

I had the pleasure of having Judge Quarles as a student while I was teaching and coaching athletics in Edgefield. He was a hard working, conscientious, and dedicated student, and I predicted at that time that he would be a great success in life. I am also proud that Judge Quarles and I were cousins, as my mother was a Strom and he was related to that side of the family. His mother was a Strom.

Judge Quarles will be long remembered for his quiet and distinguished brand of legal scholarship and personal commitment to others. Nancy joins me in extending our deepest sympathy to the entire Quarles family, especially the lovely Mrs. Margaret Quarles, and their fine children, Frances Quarles Hinely and John Milton Quarles, Jr.

Mr. President, I ask unanimous consent that the following editorial from the Citizen News be printed in full in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

Edgefield County lost one of its finest citizens several weeks ago with the death of former Edgefield County Probate Judge and former Edgefield Mayor, J. Milton Quarles. Judge Quarles was, of course, a member of the Quarles family which has inhabited the western regions of our County for nearly two centuries and which has contributed many fine citizens to our County. He grew up in the Town of Edgefield and came of age during the Great Depression. For many years he was associated in the automobile business with former Senator Frank E. Timmerman.

Judge Quarles became Probate Judge in 1958 and served for nearly two decades until 1978 before retiring. Throughout this period of service he was known as a judicious, competent and fair judge. His sound common sense, his keen intellect and his intuitive perception of human motivation combined with a solid knowledge of the law to make him a most effective Judge of Probate. Those many families who embarked on the Probate process during Judge Quarles' tenure and who were recently bereaved will also testify to the quiet sensitivity and comforting manner of Judge Quarles.

The Judge was especially cognizant of his duty as custodian of the very valuable County records which reside in the Office of the Probate Judge. During his tenure, with the assistance of his most capable assistant, the late "Miss Alice" Smith, these records were carefully preserved.

In 1980 Judge Quarles came out of retirement to serve for nearly a year as Mayor of Edgefield. As always, he was keenly interested in the public good. Judge Quarles took particular interest in the appearance of the Town and especially of "Oakley Park", which was of special interest to him.

Judge Quarles was somewhat shy and retiring by nature. Because of this many people who were casually acquainted with him may never have had the opportunity to know him intimately. But those who did know him could not help but be keenly aware that this was one of Edgefield County's finest men. This writer had the opportunity as a young legal clerk to spend many hours researching real estate titles in the Probate Judge's office and thus had many long conversations with Judge Quarles.

The Judge was a keen observer of all that went on in Edgefield County for a half century and more. His understanding of human motivation gave him a unique ability to interpret our recent history. Judge Quarles had a deeply ingrained sense of each person's duty to make the most of themselves. Indeed, he had high standards of performance by which he measured people. But, in fairness, he accorded all those who attempted to realize the potential that God had given them a deep respect which was fully communicated in his quiet manner.

Judge Quarles was a keen intellect. He was well-read and well-informed. His interests spanned business, politics, government, and history. As an observer on our local stage he had few equals. His contributions to our community were enormous. However, it is as a loyal friend, as a kindly mentor to the young, and as an encouraging and inspiring example to all, that he shall be remembered by his many friends.

The management and staff of the Citizen News joins the entire community in extending our sympathy to "Mrs. Margaret" and the Quarles family.

DEMOCRATIC REVOLUTION IN THE EXTERNAL EMPIRE?

Mr. PRESSLER. Mr. President, I would like to share with our colleagues an informative and thought-provoking statement concerning the Communist repression in Czechoslovakia. The speech was written by Vilem Precan, a noted authority on the Czechoslovakian situation. Mr. Precan, who was purged from the Institute of History of the Czechoslovak Academy of Sciences in 1970, is currently the executive director of the Czechoslovak Documentation Center in West Germany. This work sheds greater light on the darkness that exists in Czechoslovakia today.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

DEMOCRATIC REVOLUTION IN THE EXTERNAL EMPIRE?

(By Vilem Precan, executive diretor of the Czechoslovak Documentation Center)

A hundred and forty years on, Marx and Engel's well-known pronouncement about Europe being haunted by the spectre of communism requires some modification: communist Europe is now haunted by the "spectre" of democracy. One can hardly deny that "democracy" is not only the key concept in the political vocabulary of those trying to solve in practice the number one issue facing that part of the world: i.e. the irreversible transcendence of the Soviet-style totalitarian regime. It has become the most frequently used expression even of those who are trying to save the system.

In three countries of the external Soviet empire, Poland, Hungary and Czechoslovakia—also known as eastern central Europe—democracy is quite clearly on the march, although at different pace in each of them. In Poland, the April 1989 agreement—a milestone in the past forty years' history of that country—represents a major step towards renewing society's inner sovereignty vis-a-vis the communist state and paves the way to a parliamentary democracy there (even though some may undoubtedly regard it as a snare prepared by the present communist establishment in order to trap the democratic opposition into sharing in the regime's own demise and discrediting itself through abetting unpopular economic measures).

In Hungary, where the regime does not have a recent history of military rule à la Jaruzelski or Czechoslovak-style normalisation, it looks from the outside as if part of the ruling party leadership was borrowing ideas from the democratic opposition and preparing itself for a political contest under conditions of free elections and a multiparty system. (Perhaps Hungary most aptly fits Zbigniew Brzezinski's analytical observation about the possibility of winning over the communist elite to a more permanent system of national values.)

But even in Czechoslovakia, which would seem to be a European leader in political inertia and where the ruling political establishment continues to resist any idea of dialogue with society and makes known in every possible way its opposition to any genuine shift or change, democracy's cards have been laid on the table. As the leading independent Czech commentator Milan Simečka puts it: There is one thing we can be sure of. Things would be totally different here had our democratic political culture not been destroyed. Our only hope, if we are not to hit rock bottom, is to create it anew; it is the only idea that can lend meaning or purpose to our future.

This idea was worked into a political programme in the "Democracy for All" manifesto brought out in Autumn 1988 by the independent Movement for Civil Liberties. Václav Havel has called that manifesto the most important political card of 1988 as far as this country was concerned, in that the seemingly self-evident truths it contained were set out in a single document, publicly, and as a basis for political activity. For the fact is that the Manifesto is an appeal for society to step into the political arena, seeing that the present rulers—those who are to blame for the moral crisis, the lack of democracy, the limitations on our national and state sovereignty, and our economic and technological decline—are unwilling to abandon their totalitarian style of government. The manifesto explicitly challenges the legitimacy of the so-called leading role of the communist Party and asserts democratic pluralism as the fundamental political principle. This means, according to Havel who was one of the Manifesto's signatories, that everyone has an equal right to compete for political power.

Can this march of democracy come under the heading of "democratic revolution"? This expression which surprises a lot of people and is not very frequent in Europe, has an optimistic ring to it and inspires hope and great expectations. Maybe too great, in fact. Even so, it is a functional enough term—with the following provisos:

1. "Democratic revolution" is used to describe the underlying trend of the times towards democracy, a system based on spiritual, political and economic pluralism and mutual tolerance.

2. The democratic revolution has grown out of the gestation of elements of civil society which have gradually established themselves inside the totalitarian system, but which exist relatively independent of the totalitarian power structures. The democratic revolution commences the moment when that civil society advances the demand for changes in the system on the basis of democracy and freedom and formulates a political programme for achieving them.

3. The democratic revolution, whose progress is one of the fundamental or even key phenomena of the present time in societies under communist rule, is one of the least violent revolutions in history. Cars are not set on fire in the name of democracy, nor bombs exploded. It is not a revolution that rallies the masses beneath banners with demagogic slogans. Its advocates are staunch opponents of violence and civil war. They are open to compromise and to ideas of national or social reconciliation that would break the existing chain of violence that is inherent in Communism.

But the era of democratic revolution is one full of violence and suffering, of course. The threat or actual use of violence varies from country to country and comes from those currently in power—the party of guardians of the status quo and its police, its crack units, and in certain cases, such as in Czechoslovakia, its terrorists from the ranks of the secret police posing as incensed members of the public.

The democratic revolution of the nineteen eighties, which is our topic here, has its historical forerunners or portents. The Kronstadt Mutiny of 1921, the Hungarian Revolution of 1956, the Prague Spring of 1968,

the Solidarity era of 1980-81 (and to a certain extent even the thaw under Khrushchev) all had something in common, in spite of their individual characteristics and particular historical contexts: they all expressed society's desire to attenuate, limit and finally eliminate the totalitarian nature of the communist system.

One distinguished antecedent, possibly the key initial step in the direction of the democratic revolution, was the "moral revolution" which served as the basis for the dissidence of the 1970s: the new concept of human rights emergent from the critique of communist totalitarianism, the cultivation of citizenship, the implementation of the principle of life in the truth, independent culture and samizdat. The achievements of the moral revolution, often ignored or even ridiculed by advocates of "realpolitik", are now becoming plain to see and are being reassessed as civil society enters the arena as a self-assured and sovereign political partner or opponent of the existing political establishment.

The democratic revolution we are now witnessing differs from its predecessors in that it is taking place in the period of "the terminal crisis of communism" of the "progressive decay and the deepening agony of its system and of its dogma", to quote Zbigniew Brezezinski. The crisis is of such magnitude that it cannot be solved by means of piecemeal remedies while leaving the system intact: the belief in the irreversibility of the communist system has been shaken to its foundations. The democratic revolution is a response to that crisis while being at the same time one of the factors of the further deepening of the crisis, above all because it points to a radical solution that goes to the heart of the matter.

The question is sometimes asked whether the reforms undertaken or planned by the present communist establishment are not in fact part of the democratic revolution. To my way of thinking, these are two phenomena which differ in many respects, particularly in terms of their aims, but cannot be entirely separated from each other.

The democratic revolution in the Soviet bloc in the eighties has its own authentic roots and sources of inspiration. It is not derived from any socialist ideology, nor from any discussion about socialism, whether true or false, unsullied or sullied. Nor is it an offshoot of Gorbachovism, even through its dynamism is—in different ways, depending on the country—indirectly influenced by it. The goal of the democratic revolution is not a further attempt to square the circle: i.e. to modernise the communist system and make it more efficient while retaining its essence. The aim is to do away with it once and for all. Democratic revolution is therefore nothing to do with "democratization", but with democracy—free from any further misleading adjectives like "people's" or "socialist". It does not advocate "glasnost" but free speech. It counters the idea of socialist pluralism with a programme of freedom, spiritual, political and economic pluralism, and the emancipation of citizens and civil society from the state.

The democratic revolution's sources of inspiration are not primarily remembrance of a democratic past, even though efforts to draw inspiration form all the spiritual and political roots of democratic thought do play an important role in each of the countries. It derives its legitimacy from the universal applicability of human rights and it substantiates its arguments with an open analysis of the contemporary situation in the individual countries of the Soviet bloc, an analysis devoid of any socialist phraseology.

The democratic revolution is therefore also a reaction to those societies' forty or more years' experience of communist totalitarianism—whether called "socialism", "existing socialism", "socialism with a human face" (or without)—and particularly in the last two decades, since the failure of the latest attempt at reform on the basis of so-called revisionism. Equally it is the outcome of the experience of prosperously functioning democratic systems in Europe and North America, not to mention the successful transition to democracy in Spain, Portugal and elsewhere. In this respect, the global context has seen a positive change. The democratic ideal, scorned and ridiculed in the inter-war years, and even as late as the fifties, is now more favourably placed than at any time this century.

We talk about a "general" or "overall" crisis of communism, but apart from its general features, it also displays very specific characteristics in individual countries. As far as Czechoslovakia is concerned, it is fair to say that no communist party in any other country of the Soviet bloc ever managed to lose moral prestige, confidence and legitimacy in the eyes of society to the same extent as the Communist Party of Czechoslovakia. Twenty years of "normalisation" used it up well and truly. Even its last remaining weapon of any power, the—until recently—much-vaunted "consumer and social guarantees of socialism", is losing in effectiveness in the face of reality. With a certain exaggeration, one might say that the Communist Party of Czechoslovakia has written itself off as a political force capable of generating an alternative to the present establishment.

Apart from a small circle of people who still entertain 1968-vintage reformist illusions, no one in Czechoslovakia believes that the Communist Party [of Czechoslovakia] is capable of any sort of "renewal" or that it embodies any sort of hope for the future. Distrusted and rejected by society, particularly the younger generation, and lacking any intellectual base, it is not capable of following even the Soviet, Polish or Hungarian examples.

And whereas people—not so long ago they were called the "silent majority"—are losing their fear, the establishment is beginning to feel threatened. They are now so isolated that they must instinctively know in themselves that their fate is sealed. Being unable to produce from their midst an alternative political elite—even as a stop-gap measure—capable of initiating a dialogue with society, they are merely treading water, and they regard each additional month they manage to survive as a success. Meanwhile they go on making one mistake after another and strengthening the solidarity and activity of the civil society.

In the course of 1988 we witnessed more social movement in Czechoslovakia than at any time during the previous twenty years; that trend has continued non-stop. People's determination to assert their civil rights is manifesting itself in every possible way: peaceful demonstrations and rallies that have taken place despite threats from the highest places and in spite of the danger of police terror and subsequent judicial persecution; the growth of independent citizens' initiatives, with petition after petition being launched since the beginning of this year. These have gained the signatures of thousands of people from the so-called "official structures", in other words, the cultural, artistic and academic establishment in support of people described by government leaders, in parliament and in the mass media as "provocateurs" and "enemies of socialism".

This eruption of social activity in the form of civil disobedience is by no means economically motivated—the result of a radical decline in the standard of living. It is above all people's reaction to twenty years of lies and humiliation, and their own conformity. It is a chain-reaction sparked off by a yearning for a healthy public life, for plain speaking and for the undistorted truth about what everyone can see with their own eyes.

The most actively involved are young people who find the official cliches and lies intolerable. There are no taboos as far as they are concerned. They are not burdened with ideology, nor does the past weigh on them. They have no sentimental attachment to socialism. They are often surprisingly well-informed, since modern communications media open their horizons to the entire world. And they feel that it is their future—literally their whole lives—that is now at stake.

In addition, the broad current of "civil disobedience" continues to attract the growing support of many members of what is now the older generation—those who backed a loser when they went along with the restored order and now look as if they want to burn their bridges after years of living a lie, years of conformity and dissimulation. And they will undoubtedly be joined even by certain timeservers who forged themselves cosy "collaborationist" careers at the beginning of "normalisation" and who now, as they feel the ship beginning to founder, will want to be on the "right" side again.

An important factor in the political destabilisation of the regime are developments in neighbouring countries: Hungary, Poland—and the Soviet Union. These have done much to alter the political climate in the country by fostering the impression of an overall historical trend, boosting people's self-confidence, and strengthening society's awareness of the inevitability of change while acting as a catalyst in bringing it about.

The regime's stability is also being eroded—in a number of respects—as a result of the end of jamming of Radio Free Europe. Its prompt news reporting from within Czechoslovakia, which is heard throughout the country, combined with the growth of activity on the part of the independent solidarity committees and groups, including those of longer date and a whole number of new ones, has served to attenuate the fear of persecution as immediate retaliation for each and every expression of civic courage. People realise that persecution cannot be an anonymous matter any more and they are no longer isolated individuals at the mercy of the regime. Another encouraging factor, in this respect, is the growth of international solidarity combined with a general interest in Czechoslovakia.

In spite of all the optimism with which we may speak about the present "democratic revolution", despite the fact we can feel it in the air, and although historical analysis indicates that a democratic solution is the only logical outcome, we remain sceptical. Things could still go wrong. The democratic revolution need not achieve its end and its victory might be postponed. There are numerous reasons for such doubts and they have all been analysed.

No one can know just how far the metropolis of the Soviet empire will be prepared to let democratic developments in eastern central Europe go. There is no way of estimating the price it will be prepared to pay at any given moment, which priority will prevail, which loss will be considered the lesser of two evils. But there is an even more fundamental question: what are the chances of a democratic revolution in the Soviet Union itself? Or more to the point: among the Russians themselves? Caught in the throes of "perestroika's" insoluble dilemmas and their fevered pursuit of their own political identity, will the Russians have the time or the opportunity to understand the demand for sovereignty of the nations of the external empire?

The Soviet threat—obviously enough—is not, of course, the only barrier to a victorious democratic revolution in the eastern central European countries. The communist regimes in those countries may well have come into existence as satellites of the Soviet superpower, but they keep themselves alive by their own efforts, using their own resources, and in their own interest. In Czechoslovakia, since January 1989, the whole country, not just a narrow circle of dissidents, has been aware of the sort of brutality that can be expected from the so-called "forces of order". And the entire democratic world must have realised how powerless it was when confronted by a single isolated situation, when it was not yet even an immediate question of survival for the communist establishment. I refer to the political leadership's decision to imprison the country's greatest moral authority and one of the spiritual leaders of Czechoslovakia's democratic revolution: Václav Havel.

However—as Timothy Garton Ash has convincingly demonstrated—the system of power and the interests of the nomenklatura are not the only factors inhibiting the transformation of the communist system into a liberal democracy with a mixed economy. There are also the interests, attitudes and fears of many of the ruled. In each of the countries in question, so many problems have accumulated, particularly in the economic sphere, that they appear virtually insurmountable. It is impossible to predict the role that might be played by the fears and uncertainties of the labour force who will bear the main burden of consequences for overcoming economic stagnation and backwardness. For the most part, the Czechoslovak workers remain silent; fear of their possible reaction is a further source of inertia within the communist leadership.

There are, of course, sources of hope, and these too have all been identified and analysed. On the one hand, the Soviet superpower is preoccupied with itself and on the other, the leading Western democracies now have a better grasp of the situation in eastern central Europe. The greatest source of hope is the progress made by civil society within the crisis-torn communist systems: the spiritual, political and professional/occupational emancipation of individuals and groups, new kinds of civic solidarity, the discovery of new forms of freedom of expression and organisation. More and more capable and willing people are emerging from anonymity, and therein lies the true hope of the process of the democratic revolution.

Czechoslovak optimists and pessimists alike are agreed on one thing: that the existing system is inexorably doomed. They only differ in their estimates of how long it will take. The optimists count in months, the pessimists in years. The optimists add: Our morale is excellent, the only worry we have is the thought of our friends in prison. Only because of them does the time factor matter. Otherwise there would be no need for haste. The regime's delaying tactics will turn against them in the end, because the longer they put off tackling the country's pressing problems, the more difficult it will be to use piecemeal or half-hearted solutions.

However, as yet neither the optimists nor the pessimists have any idea of when or how the stalemate situation in which the political leadership finds itself will end. It could well be that Czechoslovakia's path to democracy will substantially differ from the Polish or Hungarian versions.—May 1989: Written for the National Endowment for Democracy Conference "The Democratic Revolution" held in Washington, D.C., May 1-2, 1989. This is the final authorised version.

HIGHWAY SAFETY

Mr. CHAFEE. Mr. President, on May 16, I introduced S. 1007, the National Highway Fatality and Injury Reduction Act of 1989. What that legislation did was to encourage the States to pass safety belt and motorcycle helmet use laws.

I have long been concerned about the slaughter that takes place on our highways. Forty-three thousand Americans every year die in automobile accidents. Those are the ones that are killed on our highways in the United States; 43,000 a year. That does not deal at all with all the extremely serious injuries that are also incurred on our highways from motorcycle and automobile accidents. There are millions.

That not only has a staggering cost in personal grief to the individuals and to their families, but also a staggering cost in dollars to our Nation.

I read with great interest Ann Landers' column in the July 31, 1989 edition of the Washington Post, which contained two letters that state with great eloquence why S. 1007 should be passed. I hope my colleagues will take time to read them.

One of the letters is from the mother of a young man, a strong young man, active, who was riding his motorcycle without a helmet, severely injured, spinal cord injury, and is left not only physically impaired but mentally impaired as well.

The other letter is from a woman whose husband was wearing his helmet when he was involved in a serious motorcycle accident and is living because he was wearing that equipment.

I ask unanimous consent that the column be printed in the RECORD along with my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 31, 1989]

Dear Ann Landers: With summer upon us, I thought this letter that appeared in the Waterbury Republican was timely. You may want to share it with your readers. I will certainly share it with my students.—C.A.C., Teacher (Waterbury, Conn.)

Dear Teacher: I'm grateful to you for sending one of the most poignant letters I've ever read. I pray that everyone who knows a cyclist will pass it on. It would be a real upper for Donald Lundstrom to know that his accident helped to prevent similar tragedies around the world. Here's his mother's letter:

HELMETLESS CYCLISTS, MEET MY SON

Motorcyclists are lobbying against helmet laws, twisting statistics in their favor. But all you need is one statistic.

As I drive out to visit my 24-year-old son in a nursing home, motorcyclists without helmets pass me. I'd like to say to them, "Slow down and come with me." I would then take them to the Forestville Health and Rehab Center, a facility caring for 60 brain-damaged people. I would introduce them to my son, a nationally ranked karate black belt, who has been in a wheelchair for more than two years, unable to walk, a college student who can't talk; a Mensa member who now reads only TV Guide; a second lieutenant who can't raise his right hand to salute.

Donald had a motorcycle license and was an expert driver. He wasn't drinking or speeding, and he wasn't hit by a car. He had an expensive helmet that he almost always wore, but one day he didn't wear his helmet, and that's the day he totaled his bike and went flying. He was a little bruised and got up and walked into the ambulance.

It was his last walk because his brain was hemorrhaging. He was operated on to remove a huge blood clot. Now when we carry him to the car for a ride, he points to motorcycle riders without helmets and taps his skull.

I told him I would write this letter, and he wants me to send it. He's a statistic. He's my son.—Christine Lundstrom, Northfield, Conn.

Dear Readers: There's a ton of advice in that letter. Please clip this column and send it to your favorite cyclist. Read on for more reinforcer.

Dear Ann Landers: I have been a nurse for 11 years and have taken care of many cyclists who suffered head trauma in an accident because they didn't wear a helmet. I have gone cycling without a helmet myself. Not very smart, considering what I know about the subject.

Last week my husband was involved in a serious motorcycle accident. He is alive today because he was wearing his helmet, along with full gear: boots, jacket, gloves and jeans. He does not remember the accident, which is normal and probably just as well.

I thank the good Lord that I am not a widow today. We are young and, God willing, we have many good years ahead of us.

I might add that my husband is not a typical biker type. He is a full-time student and was on his way to a business appointment when the accident happened.

Although I have always been a proponent of freedom of choice where helmets were concerned, you can bet that I have had a serious change of mind. My message to all riders is this: Don't think it can't happen to you. That blind rationalization is foolish, and it could cost you your life.—A Rialto, Calif., Reader.

PANAMA CANAL: FUTURE POLICY DETERMINATION IV

Mr. HELMS. Mr. President, in remarks in the Senate on August 10, 1988 (Cong. Rec., pp. S11406-11) I quoted a highly illuminating article on the give-away by an illegal treaty of the United States-owned Panama Canal and its indispensable protective frame of the Canal Zone territory.

This article was written by Capt. G. Russell Evans, U.S. Coast Guard (Ret.), and was entitled "Consent to Disaster: 1977 Panama Treaties." Published in the A.S.C.E. Journal of Professional Issues in Engineering, April 1988, it had great impact among students of the Panama problem as well as members of the engineering profession.

Because of the significance of Captain Evans article for the security of the United States and the entire Free World, I included in my introductory remarks an extensive historical summary of the evolution of U.S. Isthmian Canal Policy that traces back to the Age of Discovery—the best site for a canal of the best type for the transit of vessels.

In its July 1989 issue, the A.S.C.E. Journal of Professional Issues in Engineering published an impressive array of discussions of the Evans article by respected leaders, with closing remarks by Captain Evans.

Mr. President, to make the previously mentioned discussions and closing remarks easily available to all Members of the Congress, executive agencies concerned with Isthmian Canal Policy matters, including the tripartite study group now working on the interoceanic canal subject, I ask unanimous consent that the indicated articles be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[Journal of Professional Issues in Engineering, July 1989]

CONSENT TO DISASTER: 1977 PANAMA TREATIES [1]

(DISCUSSION BY GERALD E. ANDERSON) [2]

The inclusion of G. Russell Evans's "Consent to Disaster: 1977 Panama Treaties" in the April 1988 *Journal of Professional Issues in Engineering* is highly appropriate and timely. If it is nothing else, the Panama Canal is a monument to American engineering vision and know-how. To acquiesce in the political contrivance which removes this engine of world commerce from American stewardship is to betray that vision and shirk our professional responsibilities to the future.

Capt. Evans's article is, of course, only the most recent call for review of the unpopular treaties. Indeed, the sheer volume of well-founded negative criticism of these treaties, not to mention the extreme political turbulence in Central America that has erupted in their wake, makes one wonder what our leaders were thinking about at the time of their ratification.

The fact remains, nevertheless, that the internationalists did obtain their giveaway, even though this was accomplished, as Evans documents, through the employment of questionable means and spurious justifications. Even more importantly, there seems to be no indication whatsoever that those responsible for the treaties have had second thoughts as to the wisdom of their actions. An objective observer of these events is forced to conclude that the removal of the canal from American control was regarded as something of an ideological milestone on the road to a "better" world order. But it is precisely here, in the global implications of the canal controversy, that the American engineer has most to be concerned.

To begin with, American engineering must confront the prevailing internationalist bias of American diplomacy and insist on full and fair representation in global matters of engineering interest. A good start would be to determine the present status of plans for a new or improved isthmian canal in Panama, Nicaragua, or elsewhere. As Evans observes (page 213), there has been little apparent movement of well-justified U.S. proposals and projects, such as the Terminal Lake—Third Locks Plan, since the Treaties went into effect. It would be a humiliating experience for America, but one not hard to imagine after 40 years of technology transfer, to find the general contracting for a new canal under the aegis of the Russians or Japanese, of course with the American taxpayer footing most of the bill.

In divorcing the canal from American authority we have greatly damaged the prospects for its development and improvement as an American responsibility. The American engineer is being given short shrift, even though he has been absolutely preeminent, even essential in projects of global scope during the last century or so. Giant dams and bridges, railroad and highway networks, automotive and aerospace technology, even the development of the computer, are part and parcel of our history and culture.

It is perhaps no coincidence that the Canal Treaties transpired during the same decade that witnessed the loss of American heavy industry, deterioration of American transportation and communication nets, truncation of American space and nuclear power programs, and, ultimately, our current crisis in science education, the last of these to which this writer can provide personal testimony. Is there a common historical thread wiich ties together this evidence of technological decline?

The case of the American automotive industry may be particularly instructive in that its troubles began with a diminished engineering presence in management councils. But, considering the global nature of the forces involved and their potential to determine the future, it is necessary that this whole matter be seen in a global, as well as from a national, perspective. This global and historical view was, fortunately, provided to us 60 years ago by Oswald Spengler in the concluding paragraphs of his powerful *Decline of the West*, as follows.

". . . The center of this artificial and complicated realm of the Machine is the organizer and manager. The mind, not the hand, holds it together. But, for that very reason, to preserve the ever-endangered structure, *one* figure is even more important than all the energy of enterprising master-men that make cities to grow out of the ground and alter the picture of the landscape; it is the figure that is apt to be forgotten in this conflict of politics—the *engineer*, the priest of the machine, the man who knows it. Not merely the importance, but the very existence of the industry depends upon the existence of the hundred thousand talented, rigorously schooled brains that command the technique and develop it onward and onward. The quiet engineer it is who is the machine's master and destiny. His thought is as possibility what the machine is as actually . . .

But titanic, too, is the onslaught of money upon this intellectual force. Industry, too, is earth-bound like the yeoman. It has its station, and its materials stream up out of the earth. Only high finance is *wholly* free, wholy intangible. Since 1789, the banks, and with them the bourses, have developed themselves on the credit-needs of an industry growing ever more enormous, as a power on their own account, and they will (as money wills in every Civilization) to be the only power. The ancient wrestle between the productive and the acquisitive economies intensifies now into a silent gigantomachy of intellects, fought out in the lists of the world-cities. This battle is the despairing struggle of technical thought to maintain its liberty against money-thought . . ." (Spengler 1928)

Therefore, the loss of the canal may be viewed, not as an isolated political tragedy, but as only one of many recent and expectable frustrations of American creative potential. The argument is made that American aspirations must be reconciled to our new "interdependent" world. One can counter by warning against "killing the goose that lays the golden eggs" by constraining our country to unnatural international behavior, which undermines its economic well being and national security, not to mention its Constitution and culture.

Just as individual freedom implies a respect for property, so do free nations have essential territorial interests of which they cannot be deprived and still retain their essential identity and integrity. The Panama Canal, which was constructed in the interests of a stronger and more efficient nation, clearly falls into this high category. Therefore, reiterating Evans' quotation of DuVal (page 214), there should be "only one flag over this vital asset—the American flag. This is best for the United States, best for Panama, and best for the users of the Canal." To this should be added, in full confidence of American engineering competence, best for all the world.

APPENDIX. REFERENCE

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DISCUSSION BY MERL BAKER [3]

Readers are persuaded by the author to agree that the United States has drastically reduced its sovereignty over a valuable technological asset as a consequence of the 1977 treaties. No one questions the engineering accomplishments of John F. Stevens and other enginering supervisors in overcoming tremendous obstacles to build the Panama Canal. These accomplishments would have

[1] April, 1988, Vol. 114, No. 2, by G. Russell Evans (Paper 22354).

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been momentous even in the absence of environmental and diplomatic hurdles.

We are aware from earlier published works of Capt. Miles DuVal that he had analyzed the engineering improvements needed during his tenure as Commander of the Port of Balboa. Unfortunately, political controversy prevented the implementation of Capt. DuVal's recommendations for modernization of the canal.

Engineers for civil projects are aware that a clear legal title has to be obtained for land on which improvements are planned before construction can begin; otherwise large investments of resources could be lost. The author contends that the United States, indeed, had a clear title to the canal zone before construction was begun. However, his concern is that modern-day political leaders have given away a valuable technological asset through the treaties with neither due compensation nor assurance of our national defense. From the perspective of an experienced military officer, this position is well understood and fully appreciated. The positions should be of public record.

President Carter, members of Congress, and other responsible officials reasoned that diplomatic advantages gained more than offset the intrinsic military and economic losses which resulted from the treaties. Engineers strive to make decisions on the basis of quantifiable data, but in the 1977 decision on the canal, these desired data were not available. I do not believe that the issue is whether or not the United States had a legal title to the land and canal, but rather the intangible diplomatic losses which would have been incurred if complete control of the land and canal were retained.

Engineers and military officers are commended in defending their positions on public issues within the bounds of their professional expertise. Failure to do so would raise ethical questions. However, political leaders have to evaluate these recommendations in the context of the broad system of which these recommendations are a part. Recommendations of responsible military officers and engineers must be included in the public record to protect the reputation of the individual and the integrity of their professions should future leaders attempt to explain a bad politcal decision on the basis of inadequate professional recommendations of knowledgeable professionals. This is the extent of the professional's responsibility, I believe. Only time will tell whether the 1977 decision-makers made the correct choice or if the author's concern becomes a reality.

Professionals are ethically responsible for making the best possible recommendations in their areas of responsibility and competence, but they should not be held accountable for political disregard of their duly recorded positions on public issues. A design engineer with responsibility for a narrow specialty usually has data to be certain of decisions. As the specialty broadens, data are less quantifiable and decisions cannot always be based on hard data. The decision has to assure public safety through allowances for subjective assumptions which complement hard data. As the system expands into the international realm, decision-makers have to rely on the well-founded recommendations of professionals plus their subjective judgments. We hope that the political decision-makers, indeed, considered the engineering and military issues of concern to the author. Perhaps a follow-up to this paper twenty-five years from now would enable an evaluation of the losses and gains resulting from the 1977 treaties. Whatever may be proved by history, the author is congratulated for stating his position for the public record.

DISCUSSION BY ROBERT P. BAYLESS,[4] FELLOW, ASCE

"Consent to Disaster: 1977 Panama Treaties," By G. Russell Evans, is a very thought-provoking paper. While not able to verify all of the facts pertaining to the treaties referred to in the paper, I would have to agree that with the change of control over the canal, many problems lie ahead for all users of this vital link between the seas. Having been involved in Panama and the canal as an engineer and contractor, I have witnessed a change and deterioration even as partial control has taken place.

In 1980, I was invited to visit Panama as a guest of the government to discuss plans to increase the size and determine a new location for the "Free Port" on the Caribbean side. After briefings in Panama City I was flown to Colón, where I inspected the existing "Free Port," reviewed possible new sites, met with local authorities, saw some of the security problems, and discussed transportation problems within the existing system. For the return to Panama City it was suggested that I use the railway, which would give a complete view of the canal and its operation. This was a very pleasant experience, with clean cars and an on-time schedule. Since my trip was at the end of a workday, there were many commuters using the system. The trip took about the same time as auto travel and was a lot more interesting. It also provided access to the many towns that had developed near each lock.

In 1985 I was involved in the construction of a small ship lift in Colón for the Canal Commission. On one of my trips to the site I wanted to take the train back to Panama City. I was told by our on-site staff that it was no longer safe. The rails were not being maintained, muggings were common-place, and all of the once well-kept, air-conditioned cars were long gone. The reason for the change was that the rail system had been turned over to the Panamanian government. Funds no doubt had been diverted to other "important" projects. The dealings with the Canal Commission took on the same attitudes as the railroad. Maintenance was beginning to become slack, equipment failures frequent, and decisions almost always too long in coming. This once "well-oiled" machine had already begun to deteriorate. All this, while the United States still had some control.

My conclusion from the experience I had is that if, or when, the canal is controlled totally by the present Panamanian government, it will soon become a bottleneck instead of a short-cut "between the seas." If it is not too late, we must change the direction that the canal is headed.

DISCUSSION BY RICHARD J. DALPHIN,[5] MEMBER, ASCE

According to the *General Information* at the beginning of this journal *Journal of Professional Issues in Engineering* presents issues of broad professional interest and diverse views of engineering management as well as professional activities and technical problems. Papers examine the relationships between civil engineering and other disciplines and professions, with emphasis on the engineer's obligations and responsibilities. Other topics include applications of artificial intelligence in civil engineering and recent developments in civil engineering education.

While the author has provided some civil engineering interest by occasionally mentioning the great civil engineering feats involved in the construction and maintenance of the Panama Canal, his paper is a diatribe of a politically extreme view rather than a discussion of a professional issue in engineering. As such, it had no place in this journal.

Furthermore, instructions for discussion state:

Standards for discussions are the same as those for papers. A discussion is subject to rejection if it contains matter readily found elsewhere, advocates special interests, is carelessly prepared, controverts established fact, is purely speculative, introduces personalities, or is foreign to the purposes of the society.

While the paper is not speculative, every other reason for rejection is present. The author wrote a book from which the article was apparently derived. A superficial examination of persons and sources cited in support of the author's hypotheses indicates an extremely conservative, what some would call far-right, viewpoint. The writer counts at least 50 places where statements are made or quotations are used which demand proper documentation, which is largely absent. The author's "Milestone 3," describing the "surrender in 1942 of defense base rights in Panama" controverts established fact. According to one historian (Bemis 1950)

During the Second War consultations between the United States and Panama resulted in the expansion of canal defenses throughout the Isthmian Republic's territory, particularly air bases. The two governments signed a new treaty (May 18, 1942) providing for the lease during the war and for one year thereafter of these new bases and areas already occupied as a result of the previous consultations.

This hardly seems like surrender. While political figures perhaps can be insulted with impunity in politically oriented publications, the writer finds it offensive to find our president and high government officials, senators, and senior military leaders accused of actions which are illegal or disloyal in a professional journal. Last, the paper was foreign to the purposes of the society: "The objective of the Society shall be the advancement of the science and profession of engineering to enhance the welfare of mankind" (ASCE 1988).

A point-by-point rebuttal of the author's paper is impossible due to the length limitations of discussions, but some statements cry for a response.

In discussing Sol Linowitz as one of the "four men most involved in the loss of the Canal" the author writes, "the foregoing information was published in *Human Events* and in other conservative publications over a period of time, and was not denied, constituting in this writer's opinion, disqualifying conflicts of interests." Failure to deny allegations is not an admission that those allegations are true. Failure to deny might be

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an unwillingness to dignify the allegations as worthy of response.

In discussing the concept of dual loyalty of military officers, the author refers to Carter's five-officer Joint Chiefs of Staff by stating "If any one of these military leaders had resigned in protest to surrendering the Canal, the impact could have possibly changed a few votes in the Senate and undoubtedly would have generated more public pressure." The author seems to have alleged that the members of the Joint Chiefs of Staff individually and as a group bowed to political pressure. The fact is that all five supported the treaties. Were these five men cowards, afraid for their jobs, or were they five men who supported the treaties because they thought they were good?

If the members of the House of Representatives had been unconstitutionally bypassed, as the author alleges, the writer feels certain that we would have heard about it long before the author told us about it. Apparently, our elected representatives have a different interpretation of their constitutional rights and duties; if the issue were in real dispute, it would long ago have been before the Supreme Court.

Last, a treaty is the law of the land. Just as a legislature can enact a law changing or nullifying an old law, the President can negotiate and the Senate can ratify a treaty modifying or nullifying an old one. Why was it unconstitutional for a president to announce that he intended to do just that?

The author is entitled to his opinions and he has every right, perhaps the duty, to express them as forcefully as necessary. However, he also has the duty to support completely his allegations of wrongdoing. He weakens his case when he resorts to personal attacks and innuendo.

The society and its publications can be a forum for political opinion if that is what the membership desires. At present, the membership has not expressed that desire. Until they do, the type of paper under discussion has no place here.

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DISCUSSION BY DUANE S. ELLIFRITT [6]

The paper by Captain Evans was interesting to read and it was obvious he had put a lot of time into the subject, but it has no place in a journal purported to be about professional issues in engineering. A political issue, yes; a professional issue, no. I am disappointed in the editor of this usually superb publication for allowing this blatantly political discourse to be published under the umbrella of "professional issues."

DISCUSSION BY JOHN M. HAYES,[7] HONORARY MEMBER, ASCE

The Panama Canal was selected as one of the modern civil engineering wonders by ASCE in its centennial year. Thus, it is of importance to civil engineers. The author has done the civil engineering profession a great service in calling attention to this "Consent to Diaster."

It is vital to the national defense of the United States that it maintain control over the Panama Canal. The author has presented his case well. The writer agrees with the author's statement: "However, if our media and Congress wish to investigate scandal, let us suggest that they turn attention to the allegations on the Panama Canal swindle—called by the late Dr. Charles H. Beecher, 'the worst fraud ever perpetrated on the United States Senate and on the American People.'"

If what the author says is true, and this writer believes it is, some of our elected officials and their political appointees have circumvented the United States Constitution. Something should be done about it. Every member of ASCE should send copies of this paper to their Senators and Representatives.

DISCUSSION BY R. EVAN KENNEDY,[8] FELLOW, ASCE

This paper presents a very compelling discussion of a complex problem very seldom thoroughly understood by engineers. We are usually much too involved with the technical solutions to such problems to allow us to become versed in the diplomatic and political aspects of a huge program such as the Panama Canal.

This paper presents a description of the Panama Canal arrangements now underway, which surely deserve a complete analysis. The paper convincingly states a case that is of great interest to civil engineers because it addresses one of the major civil engineering feats of the world accomplished to date. It is therefore only normal that civil engineers should take a lead in seeing that the United States, for which the engineers designed this masterpiece, fully understands the effects of its proposed use.

According to this paper, that is not now the case. The author clearly makes a case for the claim that the people of this country did not have reasonable input into the decisions that led to the present proposed events, and were not even given a reasonable opportunity to obtain the facts on events that led to the arrangement, much less the time to try to understand the events' ramifications and voice their opinions on their developments and consequences.

It is therefore the responsibility of ASCE to make every effort to see that the American public knows how this civil engineering monument is to be managed and used. As citizens of this country, it surely is the right and duty of ASCE to see that the use of such products is being carried out to the satisfaction of the democratic society which we serve. If engineers feel their products are being misused and that the misuse is contrary to the original purpose for which the engineering product was produced, as well as for the effect its continued use will have on the safety and well-being of their country, then the ASCE as a representative of the civil engineering community should see that the full facts of the proposed use are uncovered and made widely available.

The best way to do this is to see that a full-fledged Congressional investigation into the program currently underway, as created by recent legislation, clarifies all the steps taken in creating that program as well as the process created, which is now being followed. Such an investigation would allow all these conditions described by this paper to be fully exposed and reviewed, and would enable the people of the United States to change the process if they were dissastisfied with the program. Such a step, taken at the urging of ASCE, would establish the society as a body committed to the pursuit of the use of its products in a fashion understood and endorsed by the American people.

ASCE would thus reaffirm its position as a society fully interested in the beneficial use of its professional technical products and concerned with the understanding of the American people of the full impact of this technical achievement. It is an opportunity for ASCE to help the public more fully understand that engineers are aware of the effects of the use of their technology, and concerned with its proper use to benefit fully the society the engineers serve.

DISCUSSION BY CHARLES E. RICE [9]

Captain G. Russel Evans has rendered an important service through his book and his papers exposing the fact that the Panama Canal was given away through a fraud perpetrated on the United States Senate and the American people.

Space prohibits a discussion here of the violation by the Panama Canal Treaty of the exclusive power, conferred on the entire Congress by Article IV, Sec. 3, cl. 2 of the Constitution, to dispose of the property of the United States. The treaty power does not confer on the President and two-thirds of the Senate a power to change this constitutional allocation of powers in any respect.

The major question, however, is not whether the House of Representatives should have consented to the giveway of the canal, but whether there was a valid agreement at all between the United States and Panama. There are two Panama Canal treaties, the Neutrality Treaty, providing for the neutrality and operation of the canal, and the Panama Canal Treaty, providing for the gradual takeover of the canal by Panama, which takeover is to be completed by December 31, 1999. The De Concini Reservation, adopted by the Senate, guaranteed the right of the United States to take action if necessary to protect the canal and its operation. Both instruments of ratification, by Panama and the United States, recite the De Concini Reservation. The Protocol of Exchange of the ratifications specifies that "the Treaties. . . will be applied in accordance with" the Senate's reservations. The Panamanian Instrument on the Neutrality Treaty does state that Panama "will reject. . .any attempt by any country to intervene in its internal or external affiars." But Panama expressly accepted the DeConcini Reservation and the United States Senate, despite the DeConcini Reservation, renounced any "right of intervention of the United States in the internal affairs of Panama."

However, even though the Panamanian understanding discussed by Captain Evans was apparently not technically a repudiation of the Neutrality Treaty, nevertheless its bellicose tone was such that it clearly could have been a material element in the Senate's deliberations had the Senate been made aware of it. Captain Evans well describes the subterfuges employed by the Carter Administration to preclude a clear understanding by the Senate of all aspects of the issue. The process justified Dr. Charles H. Beecher's description as a "swindle." Consider the statement made by Senator Jesse Helms (R.-N.C.) on June 15, 1978:

"Mr. President, when President Carter goes to Panama tomorrow to sign the protocol of ratification for the Panama Canal

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treaties, he will agree to a Panamanian understanding that has not yet been revealed to the American people. It is an understanding of potentially great significance to the defense of the canal; yet the American people will not have any inkling of its language, much less its significance, until after the President has committed the United States to accepting it.

"Moreover, there has been no debate or discussion of the matter in the U.S. Senate about the ramifications of this understanding, and no explanation to the Senate at large. It has been reported to me that the language has been held in the Foreign Relations Committee for a week, but no attempt was made to transmit the text to all Senators, nor even to those who were particularly active in the treaty debates." [124 *Cong. Rec.* 17790-91 (1978) (Statement of Sen. Helms).]

Had the subsequent Panamanian understanding been available to the Senate before it voted on the two treaties, it might well have been construed as a repudiation, at least in spirit, of the right of defense that the Senate asserted in the DeConcini Reservation. Or had the Panamanian understanding been made available to the Senate as soon as the understanding was issued, which was before the treaties became final through the exchange of instruments of ratification, the Senate might have withdrawn its consent to the treaties. As Senator Helms described the meaning of the Panamanian understanding:

"Mr. President, what is the substance of this Panamanian understanding? The substance of it is basically that Panama understands the treaties' obligations to be subject to the United Nations Charter and to the principles of the Organization of American States, and that any actions taken by either party to the treaty to preserve the neutrality of the canal or to reopen the canal will be conducted accordingly.

"What is the significance of this 'understanding'? The significance is to confirm Panama's interpretation of the DeConcini reservation revealed in the Panamanian communique of April 25, 1978. To put it more specifically, the understanding prevents us in the United States from using force to enforce our interpretation of our treaty rights or from using force to maintain the neutrality of the canal when the threat to the neutrality of the canal comes from the internal affairs of Panama.

"Thus, the understanding, when seen in context, actually forbids the United States from doing what is apparently allowed on the surface.

"Mr. President, this Senator from North Carolina has pointed out time and time again, the United Nations Charter and the Organization of American States Charter require all member nations to refrain from force or the threat of force in the settlement of disputes.

"They also require all member nations to refrain from threatening the territorial integrity or the internal affairs of another nation. Therefore, if the threat to the neutrality of the canal comes from the internal affairs of Panama, the United States has no right to intervene, regardless of the intent of this Senate when it approved the DeConcini amendment.

"This official 'understanding' confirms that Panama interprets the essential points of the treaty in a manner diametrically opposed to the interpretation which induced the Senate unwisely, in the judgment of the Senator from North Carolina—to agree to the treaties."

The Panama Canal is probably the greatest single strategic asset ever owned by the United States. The time is like to come when we will regret having given it away. The significance of Captain Evans' book, however, is that it raises the possibility that we never gave the canal away after all. At the very least, the United States should investigate the process by which its consent to the canal treaties was obtained. The Iran-Contra scandal is of considerably less significance than this.

DISCUSSION BY WOODLAND G. SHOCKLEY [10]

The author presents one viewpoint relating to the 1977 Panama Treaties that turn over the Canal Zone and the operation of the canal to the Republic of Panama. As with many controversial issues, this one has other aspects, depending on the viewpoint of the protagonist. Panamanian dissatisfaction with U.S. sovereignty over the Canal Zone goes back many years. Not the least of the problems was rooted in the blatant discrimination by the United States against the Panamanian in the zone, for example, the so-called "silver" and "gold" stores, which rivaled the segregation practices in the deep South prior to the 1960s. This, coupled with small yearly payments for the privilege of operating the canal, and an obvious U.S. military presence, were major incentives to promote Panamanian nationalism and to initiate efforts to turn over the Canal zone and canal operation to the Republican of Panama.

From a military standpoint the past defense of the canal has been based primarily on countering threats from conventional ground- or sea-based operations reminiscent of World War II tactics. A well-directed nuclear warhead launched from an off-shore submarine could easily destroy one of the locks and prevent operation of the canal for many years. Land-based forces in Panama could not stop such a threat. Recognition of the vulnerability of the present canal to nuclear threat was one of the driving forces behind the Interoceanic Canal Studies conducted in the late 1960s.

A sea-level canal through the isthmus of Panama, such as was proposed, would be less susceptible to nuclear attack, and the canal could be put back in operation much sooner, since locks would not have to be reconstructed. However, the sea-level canal project was not carried through for a number of reasons, among them environmental concerns arising from the construction and operation, the possible major dislocation of the Panamanian economy away from the cities of Panama and Colón, and the reluctance of Congress to expend large sums of money on construction.

The author is to be congratulated for bringing some of the aspects of the 1977 Panama Treaties to the attention of interested readers. However, the United States, by its past actions in relation to the Panama Canal and the Canal Zone, must bear much of the burden for the provisions of the treaties as they now stand.

DISCUSSION BY SAMUEL J. STOLL [11]

Two statements in the paper focus on the Panama Canal policy of the United States:

"Civil engineers, as much as any other segment of American society, have a wide interest in the future of the Canal and in the shaping of national policy that affects it (page 200).

"The greatest lesson learned from all Pamana Canal history is that in the formulation of Isthmian Canal policy there is no substitute for responsible experience"—Captain Miles P. DuVal, Jr. (page 214).

How the Panama Canal policy of the United States was formulated and shaped by a political claim of vulnerability of Gatun Dam is told in the following statement by the principal architect of the Panama Canal "Surrender" Treaties of 1977, Cyrus Vance, October 1976, Secretary of State under President Jimmy Carter.

"From the standpoint of both security and continued smooth operation of the Canal. I believe it is necessary to work out a new treaty which is acceptable to the Panamanians. . . . I believe: . . . the Canal is vulnerable to being damaged by the simplest, unsophisticated weapons—one small bomb or dynamite charge exploded in Gatun Lake Dam could put the Canal out of commission for one to two years." (Hard Choices 1983)

President Jimmy Carter concurred, January 16, 1978:

"[The canal is] quite vulnerable to a hand grenade or to a planted explosive. And of course, what we want is the Panama Canal to be open, free for use, free of danger. The best way to ensure that this is the case is to work in harmony with the Panamanians, to form, in effect, a partnership with them, protecting the interests of America, protecting the interests of Panama (Carter 1978:83)."

But is Gatun Dam (or any other Panama Canal dam) really vulnerable to Secretary Vance's "small bomb" or President Carter's "hand grenade"? This is what is said of Gatun Dam by its builder, Col. William L. Sibert, U.S.A., Member, Isthmian Canal Commission:

"Practically all the difficulties connected with a hydraulically filled dam occur during the period of construction when the material is largely in solution and before it has had time to drain and consolidate. If such a dam can be built—and it can be if the slopes be made flat enough—its stability will gradually increase with time. . . .

"The Gatum Lake has been filled to its full height, placing against the dam its greatest pressure without the slightest indication of any weakness. The physical condition of the dam will continue to improve with time and its factor of safety continually increase. There is probably no type of dam that could stand any unusual disturbance, such as earthquake tremors, as well as an earth dam with such flat slopes as those employed on the Gatun Dam."

Here is the commentary of a contemporary of William Sibert, Joseph Bucklin Bishop, Secretary, Isthmian Canal Commission:

"Considered as a single structure, the Gatun Dam is nearly one and one-half miles long, measured on its crest; nearly one-half mile wide at the base; about 400 feet at the water surface; about 100 feet wide at the top, and its crest is at an elevation of 150 feet above mean sea-level. It is in reality a low ridge uniting the high hills on either side of the lower end of the Chagres valley, so as to convert the valley into a huge reservoir. Of the total length of the dam only 500 feet, or one-fifteenth, will be exposed to the maximum water-head of 85 to 87

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feet. . . . The entire dam contains about twenty-one million cubic yards of material. . . .

"The core thus created was carried to a height of ninety-five feet. It is composed of blue clay so impervious that it was very slow to dry out. In its watery condition it flowed into every interstice in the ridges of rock and earth, until the whole mass at the centre of the dam became like a rubble wall, every rock in it cemented to another. The argillaceous sandstone, or blue rock, found everywhere on the isthmus, hard until exposed to air, is formed of such clay; and it is thought probable that in time the core of the dam itself will solidify into such rock."

The vulnerability of the canal to Secretary Vance's "small bomb" or President Carter's "hand grenade" was questioned by General D. P. McAuliffe, U.S.A., Commander in Chief, U.S. Southern Command (one of the few military leaders who supported the Panama Canal "Surrender" Treaties of 1977), (Hearings 1978):

"When you get down to what kind of damage can be done by someone with a grenade or similarly a small explosive force, you have to wonder where he would place it. If he were trying to do some damage to the major locks, or to one of the major dams, or even to one of the so-called saddle dams, the answer is, very little damage at all, in fact, almost negligible. But if you are talking about some of the more sensitive control mechanisms on back a way from the canal and some of the power stations and communications points, then you could do damage and what that would do is not necessarily close down the canal but could limit its operation for maybe several hours or even several days."

The world has long marveled at the epic engineering of the Panama Canal. It will long marvel at the responsible experience, mature judgment, and courageous policy behind the surrender of the Panama Canal under the threat of a hand grenade.

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DISCUSSION BY LEWIS A. TAMBS [12]

Captain Evans has provided us with a most timely article that serves to stress points made in his well researched work of 1986—The Panama Canal Treaties Swindle: Consent to Disaster, a book which should be studied by every concerned citizen and most certainly by all members of Congress.

Captain Evans provides documentary evidence of the successful effort by the Carter Administration to stampede the Senate into ratifying the Panama Canal Treaties. Evans further substantiates the charge that U.S. unilateral defense rights to the canal, which the DeConcini Reservation sought to insure, were nullified by a secret counter-reservation by Panamanian military strongman Omar Torrijos. This three-paragraph counter-reservation by General Torrijos, called by the late U.S. State Department treaty expert Dr. Charles H. Beecher "the most substantial change imaginable," curiously does not appear in the U.S. instruments as customary.

Given the lack of candor concerning the Torrijos counter-reservations, it is not surprising that Mr. Carter's aides were also somewhat less than forthcoming about Panamanian narcotics trafficking. During the early 1970s General Torrijos's brother, Moises, was the Isthmian Republic's leading drug dealer—a fact of such common knowledge that TV Guide featured the story in October 1977. James Mills further documents from DEA sources the involvement of the Torrijos brothers in dope peddling and money laundering in his Underground Empire. The indictment of Omar Torrijos's Chief of Intelligence and successor, Manuel Noriega, by two federal grand juries in Florida in February 1988 has exposed the nefarious narcotics nexus of Panama to Congress and the American people. Meanwhile, as leftist-leaning Noriega builds up the "Battalions of Panamanian Pride" and international brigades armed by Cuba and Nicaragua train in the now-abandoned Canal Zone, and U.S. civilian and military personnel are harassed by Panamanian police, U.S. strategic and commercial interests totter. Concurrently, Panamanian democracy, brutally shoved aside by the National Guard/Panamanian Defense Force in 1968, waits in the wings for a return of U.S. conscience and commitment to civilian rule. One of the most glaring flaws of Carter's Panama policy, as Evans suggests in "Consent to Disaster," was the President's failure to insist on a return to civilian democratic rule in Panama in exchange for the American Isthmian Canal. This lapse, with President Carter's violation of his own admirable human rights policy when he embraced the Panamanian military mafia, are now bearing bitter fruit. The day may be approaching when the United States may be obliged to use military force to defend the canal from the corrupt, Marxist military dictatorship of General Noriega and his Cuban and Sandinista supporters. Should this tragic event occur, we can look to Captain Evans's "Consent to Disaster" as both an explanation of our precarious predicament and a guide to future policy.

CLOSURE BY G. RUSSELL EVANS [13]

First, the writer appreciates this forum, which has generated constructive responses about a significant matter of national defense that affects civil engineers and all Americans; the future of perhaps the world's most strategic waterway, the Panama Canal, "selected as one of the modern civil engineering wonders by ASCE in its Centennial Year," quoting Prof. Emeritus John M. Hayes of Purdue University.

These responses indicate that civil engineers: (1) Are professionally concerned about the management of their projects; (2) are in the real world, which includes national security and constitutional procedures as well as engineering professionalism; and (3) are calling for corrective action to hold onto the Panama Canal; which is not yet transferred. After all, professionalism includes ethics. Ethics includes honesty. And honesty is missing from the 1977 Panama Treaties.

Of the eleven responses, approximately 85% are favorable, which is about the same approval rate experienced by the writer over the past two years in some 75 public appearances (speeches, radio, and television). The writer's responses to discussers follow.

Gerald E. Anderson warns of the technological decline of the West, and makes a strong case for involvement of engineers in management councils which control great projects. As to "second thoughts" of U.S. Senators who voted to surrender the canal, 43 are not longer in the Senate, and 24 of these were defeated for reelection, as compared with two defeats for those against the surrender. The voters spoke.

Merl Baker's observation about "clear legal title" brings to mind the definition given years ago by the University of Minnesota's Dean Everett Frazer: "a right to possession in perpetuity, good against the world." The United States owned the Canal Zone, all 3,598 individual plots purchased in title fee simple to reinforce the 1903 treaty provisions. Potential "diplomatic losses" for holding the canal cannot be defined, but should not supersede national security interests.

Robert P. Bayless's testimony about slack maintenance in canal areas under Panama's control could be a harbinger of the future canal under Panama. Indeed, the canal could become a bottleneck for commerce and a critical obstacle for the U.S. fleet.

Richard J. Dalphin's discussion seems ad hominem; e.g., "political diatribe" and "far right." The writer offers the truth, supported by approximately 800 footnotes in his book, but not fully documented in his paper because of space limitations. Permanent base rights were indeed surrendered in 1942, "effective one year after World War II ended." As for activities of Sol Linowitz and other leaders, facts are stated, using few adjectives. Many elected representatives and constitutional scholars do agree with the writer; four resolutions for abrogating the treaties were introduced into Congress, and a foundation for educating the public is being formed. People are waking up.

Duane Ellifritt calls the issue political. The writer calls it an American issue with professional ramifications.

John M. Hayes, suggests that ASCE members send the paper to their Senators and Representatives. The writer concurs and suggests asking them: (1) Why did the Senate fail to vote on Panama's counter-reservation? (2) what will you do about the unconstitutional treaties? (3) will you cosponsor a resolution to abrogate the 1977 treaties?

R. Evan Kennedy is concerned that Americans had no input into the decision to surrender the canal. Approximately 79% opposed the treaties, and probably still do, when informed. His proposal that the ASCE community oppose misuse of engineering products, and insist on congressional investigation of the canal swindle is timely. ASCE will have an audience.

Charles E. Rice once again confirms his doubts about the Panama Canal Treaties. His legal analysis confirms the conclusions of five other constitutional scholars who reviewed the writer's findings, one of which finding is that the so-called Iran-Contra scandal is considerably less significant than the canal swindle.

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Woodland G. Shockley: The "small monthly payments" were $1,900,000 annually in 1955, and reimbursed Panama for revenue lost from the Panama Railroad. The canal is definitely vulnerable to nuclear attack, as would be a sea-level canal with tidal locks.

Samuel J. Stoll's disposition of the incorrect allegations of President Carter and Secretary of State Cyrus Vance that the canal is vulnerable to a "small bomb" is devastating, and it typifies the research into original sources for his book, *Canalgate: A Panama Canal Brief for the American People,* in which he disproves virtually every misconception about the canal and the treaties.

Lewis A. Tambs's experience as U.S. Ambassador to Central American countries brings incisive observations, e.g., the drug-dealings of the Torrijos brothers during the time of treaty negotiations, and President Carter's bypassing of his own human rights policies in order to get treaties. As for informing Congress, *The Panama Canal Swindle* (published by Signal Books), documenting the unconstitutional Panama treaties, was delivered to all 100 Senators and to 210 Representatives, to the White House, Joint Chiefs of Staff, and news media, in 1987 by the Military Order of World Wars. Congressional leaders are informed. Nonetheless, when asked in November 1988 about hearings on Representative Philip Crane's resolution for abrogating the treaties, Chairman of the House Committee on Foreign Affairs Dante B. Fascell said no, apparently satisfied with "the Administration's . . . unequivocal commitment of the United States to those documents."

The U.S. Senate has a problem in 1989: How to confirm the new Administrator of the Panama Canal Commission (PCC)—an Administrator who must be a Panamanian, but who comes from the illegitimate government of Panama not recognized by the United States and who must be confirmed as an "officer of the United States," since the PCC is a U.S. agency whose officers must swear allegiance to the U.S. Constitution. How can he be a citizen of Panama and an "officer of the United States" at the same time (Art III, para. 3 *Panama Canal Treaty*)?

Some years ago, the Gulf of Tonkin Resolution became the "gospel" for the shameful no-win Vietnam War (55,000 young Americans dead and irreparable damage to our honor and prestige). If the Carter-Torrijos swindle becomes the "gospel" for the Panama Canal, we can be certain of three things: (1) The Soviet bloc will continue its sweep of Central America; (2) we will have surrendered the greatest achievement of our 200-year history, the most meaningful contribution ever made by one nation for the benefit of all nations, and most important, we may have written the final chapter in the history of America's greatness as a world power (Olds 1980); and (3) it will have been done by deliberate violations of the Constitution of the United States.

If the "gospel" stands, Americans will have to use force in future years to achieve legitimate interests. There is a "kinder and gentler" solution: A "kind" abrogation of the 1977 treaties as invalid under the U.S. Constitution (Articles II, IV, VI), Panama's Constitution (Articles 163, 274), and the Vienna Convention on the Law of Treaties (Article 20.2); or, abrogate under the "doctrine of fundamental change" (Article 62, Vienna Convention), or because the treaties are not in the national interests of the United States. The "gentle" part of the solution includes renegotiated treaties to establish a permanent Panama Canal Commission with permanent U.S. control and sovereign rights, with Panama as junior partner—best for the world.

The President and the Congress are aware of the manipulations that produced these dangerous treaties. Many, many Americans have been informed. Either they will or will not demand truth and justice. "It is an affront to treat falsehood with complacence" (Thomas Paine, from Foner 1945).

ACKNOWLEDGEMENT

Phillip Harman, Chairman of the Committee for Better Panama and U.S. Relations, provided valuable information used in this closure.

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JACKSON LABORATORY REQUEST FOR FINANCIAL ASSISTANCE

Mr. HATCH. Mr. President, on May 10, 1989, a fire consumed the Jackson Laboratory in Bar Harbor, ME, and destroyed one of America's most vital genetic research facilities. The total loss to Jackson Laboratory was estimated at $40 million, including the animals lost, building replacement, emergency operations during the recovery process, and lost revenue.

The Jackson Laboratory was an internationally renowned, not-for-profit, independent research institution devoted to mammalian genetics. Study at the facility centered on developing new methods of diagnosing and treating critically important human health problems such as diabetes, arthritis, AIDS, and neurological illness. The laboratory provided a unique and invaluable service to the international scientific community by distributing 2 million genetically developed mice annually for research.

Finding a replacement for Jackson Laboratory is fundamental to maintaining productive biomedical research in the United States. To recover from losses accumulated in the fire, the national biomedical research effort requires a rapid resupply of inbred and mutant mice. It is not feasible to involve multiple distribution sources around the country due to logistical problems, increased financial costs, and the need for uniform health standards. Research scientists can ensure proper quality control and technical procedure only in one sufficiently equipped and constructed facility.

Today, we are considering legislation which would authorize $25 million to be used for constructing a new facility to develop, produce, and distribute inbred and mutant mice used in biomedical research. The contractor and location of this laboratory will be determined through a competitive application process. Public or private nonprofit entities which can meet the requirements of this legislation will be eligible.

As has been noted, it is the feeling of the Labor and Human Resources Committee that paying to replace this lab directly will ensure a quick, efficient, and competitive process. On the other hand, if we don't fund a replacement directly, the Federal Government will still end up indirectly paying the majority of the cost, but the replacement will be slow, less efficient, and noncompetitive.

I hope my colleagues in the Senate will support this legislation, and I urge our colleagues in the House to give it prompt consideration.

NOMINATION OF WILLIAM LUCAS TO BE ASSISTANT ATTORNEY GENERAL FOR THE CIVIL RIGHTS DIVISION

Mr. THURMOND. Mr. President, yesterday, the Senate Judiciary Committee, on a tie vote, failed to favorably report the nomination of William Lucas to the full Senate. On a second vote, which again resulted in a 7-to-7 deadlock, the nomination failed on a motion to report without recommendation. I strongly believe that the Senate should have the opportunity to consider the nomination of Mr. Lucas to this important position.

Briefly, I would like to discuss William Lucas—a man of character, ability, and dedication who is well qualified to be the Assistant Attorney General for the Civil Rights Division.

William Lucas was born in New York City; his parents were Caribbean immigrants. He was orphaned in his early teens and was raised by an aunt in Harlem. He attended public schools in Harlem and the Bronx, ultimately receiving a bachelor's degree from Manhattan College in 1952. After college graduation, he was a social worker and a New York City policeman. While working full time as a policeman, he attended Fordham University Law School at night where he earned his law degree.

In 1963, he came to Washington to work for the Department of Justice and a temporary assignment in the Criminal Division and then moved to the Civil Rights Division. When his temporary assignment expired, he transferred to the Civil Rights Commission. In 1964, he became a special

agent in the FBI, serving in that positin for almost 5 years.

He was appointed undersheriff of Wayne County, MI, in 1968. A year later he was appointed sheriff. At the time of his appointment, Wayne County, MI, was the third largest county in the entire country. The total population exceeded that of 20 of the 50 States of the Union. From 1969 until 1982, Mr. Lucas served as sheriff of Wayne County, a position to which he was elected four times. In 1982, Mr. Lucas was elected to the position of county executive of Wayne County and served until an unsuccessful Republican gubernatorial race in 1986, at which time, he entered the private practice of law.

Mr. President, William Lucas has had an illustrious career. His experience would serve him well if confirmed as head of the Civil Rights Division. His life is a testimony to overcoming odds—succeeding in the face of adversity time after time. I am confident that a majority of my colleagues in this body would agree that Mr. Lucas possesses the necessary qualifications for the position to which he was nominated. That may well be the primary reason why those Judiciary Committee members opposing this nominee chose to prevent full Senate consideration.

Mr. President, a tie vote in the committee—7 to 7—should not prevent the full Senate from the consideration of this nomination. The U.S. Constitution states that the President shall make appointments with the "advice and consent" of the Senate. It does not state with the "advice and consent" of the Judiciary Committee. I am truly disappointed that the Members of this body will not get the opportunity to review the record on Mr. Lucas, and vote on his nomination.

In closing, there are those who constantly demand that minorities are given the opportunity to serve in high positions in the Federal Government. Mr. Lucas is a courageous, competent, and dedicated professional who had that opportunity within his grasp. The President of the United States nominated him because he is a man of outstanding capabilities who has demonstrated his sensitivity to civil rights issues. It is regrettable that some of those who oppose the policies of this administration and yet hold themselves out as leaders in the civil rights arena, were the ones who urged opposition to this nominee, thereby preventing the full Senate from working its will.

Mr. President, I ask unanimous consent that information regarding the background and issues raised during the Lucas nomination be included in the CONGRESSIONAL RECORD; along with two articles from the Wall Street Journal and one article from the Augusta Chronicle.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BACKGROUND

The Committee received the President's nomination of William Lucas for the position of Assistant Attorney General for the Civil Rights Division of the United States Department of Justice on May 1, 1989. A hearing was held on July 19, 1989. The committee vote on the nomination took place on August 1, 1989, after the committee unanimously agreed to delay the vote which was originally scheduled on July 26, 1989.

The nominee's qualifications, background and almost four decades of public service were carefully scrutinized. On June 1, 1989, the Committee submitted a request for documents spanning Mr. Lucas' public and private life. On June 2, June 14, June 15, June 30, and July 13, 1989, documents were submitted on Mr. Lucas' behalf by the Department of Justice. In all, over 80,000 documents were produced. Twenty-four witnesses testified at the confirmation hearings which took place on July 19 and 20, 1989. In addition, Mr. Lucas submitted answers to written questions on July 25 and 31, 1989.

WILLIAM LUCAS' QUALIFICATIONS

William Lucas was born in New York City on January 15, 1928. Mr. Lucas parents were Caribbean immigrants. He was orphaned at an early age, and was raised by an aunt in Harlem. He attended elementary and secondary schools in Harlem and the Bronx. He married his high school sweetheart and received his Bachelor of Science degree from Manhattan College in 1952.

He worked for the New York City Department of Social Services as a caseworker, and then became a New York City Policeman in 1954. While working as a full-time policemen, he attended Fordham University Law School at night where he earned his Law Degree in 1962.

In 1963, he came to Washington to work for the United States Department of Justice, at the invitation of then—attorney General Robert Kennedy. He worked on a temporary assignment in the Criminal Division and then transferred to the Civil Rights Division. When his temporary assignment expired, he transferred to the Civil Rights Commission. In this position, he investigated cases involving segregated schools in Tuskegee, Alabama.

He became a Special Agent in the Federal Bureau of Investigation in 1964. He served for almost five years, as one of the first black Special Agents of the FBI in Cincinnati, Ohio, and then in Detroit, Michigan. He served in Detroit during the racial conflicts that struck that city.

In 1968, Mr. Lucas was appointed Undersheriff of Wayne County Michigan. One year later, he was appointed Sheriff. At the time of his appointment, Wayne county Michigan was the third largest county in the United States, with a population which exceeded 26 of the 50 States of the Union. He was elected Sheriff of Wayne county in 1970, and was re-elected to that post in 1972, 1974, and 1978. In 1982, Mr. Lucas was elected the first County Executive for Wayne County, amassing over 75 percent of the popular vote. Upon his election he established an entirely new governmental structure. In 1986, Mr. Lucas was nominated to be the Republican candidate for Governor of Michigan. Mr. Lucas was the first black man to achieve many of these accomplishments in Michigan.

After an unsuccessful gubernatorial campaign, in 1987, Mr. Lucas entered the private practice of law. He has also been a Harvard Fellow at the John F. Kennedy School of Government, Institute of Politics, and has worked on Minority Outreach programs for the Republican National Committee. In addition, Mr. Lucas is a member of the President's Commission on the Bicentennial of the United States Constitution, and has served on a number of Boards of Director of corporate, charitable and civil organizations including the Detroit Urban League, the World Medical Relief Fund, and the National Sheriffs' Association. He has been on the Advisory Board of Focus Hope, a civil and human rights organization, the Detroit Council of the Boy Scouts of America, and Self Help Addiction Rehabilitation (SHAR HOUSE).

Mr. Lucas has received countless numbers of awards and honors during his career. He received the Leadership award from the Jackson County Michigan Chapter of the N.A.A.C.P; the Exemplary Service Award from the Detroit Urban League; Michiganian of the Year from the *Detroit News;* and the Award of Outstanding Service from the United Steelworkers of America, to name a few. He also earned the N.A.A.C.P. Golden Heritage and Life Membership Award.

Some of Mr. Lucas' accomplishments as Sheriff include leading the effort to build a new jail, professionalizing the police force, instituting extensive training and education programs, integrating all aspects of the force, helping establish the Michigan Law Enforcement Officer's Training Council, and helping to establish the National Organization of Black Law Enforcement Executives (NOBLE). He also served on the Advisory Board of the International Association of Chiefs of Police which published the first manual of effective discipline for law enforcement officers. Mr. Lucas was one of the first Sheriffs to establish an effective policy on the use of deadly force. He is widely recognized as leading the Wayne County Sheriff's Department into becoming one of the most professional law enforcement organizations in Michigan and in the country. He also issued an Officer's Manual with a Code of Conduct, and a formal Internal Security Unit assigned to address any misconduct on the part of officers.

As Wayne County Executive, Mr. Lucas was responsible for a number of accomplishments. As the first County Executive, he established an effective and efficient government. He reduced the County deficit by over $300 million. He established a five-year, 10 point Fiscal Integrity Plan to provide long range financial planning and security for the County. He led the County into operating under balanced annual operating budgets.

Mr. Lucas established emergency food programs for needy citizens which were efficient and effective. He reduced pension costs and negotiated realistic labor agreements. He provided a logical and sensitive Patient Care Management System for the County's indigent patients, utilizing community facilities close to patients' homes, and replaced a fiscally-draining and ineffective system.

In addition, Mr. Lucas consolidated law enforcement efforts and redirected resources to more effectively battle violent and drug-related crimes. He established a focal point for inquiries regarding small, minority and woman-owned businesses interested in taking advantage of the County's set-aside programs, and improved the con-

tracting process to provide equal opportunity to all interested vendors.

Mr. Lucas also established a 35-member Commission to Study Prison Needs in order to confront and address the problem of recidivism in the community.

As the Chief Executive Officer of one of the country's largest municipalities, Mr. Lucas is well aware of the practical aspects on ensuring equal employment opportunities for all persons, and the importance of complying with civil rights laws. While Sheriff, he was responsible for over 5,000,000 prisoner days. His experiences makes him extremely knowledgeable about the difficulties and nuances inherent in the operation of a major jail facility within the framework of limited available County funds. Having been a candidate in six local and state elections, he is fully aware of the importance of preserving every citizen's right to vote. Relevant to this issue, Mr. Lucas stated at his hearings:

"Gentlemen, I can assure you, if a case is brought to me involving—and it could very well be—involving a cross burning on the lawn of a citizen, this is not cold facts to me gentlemen. I have been there. I have smelled the smoke and I have smelled the fear of those people. I also know what it is to have to tell those people, I'm sorry, we can only assign someone here for a week, or two weeks . . ." Transcript of Hearing at 63.

LITIGATION EXPERIENCE

During consideration of this nomination, concerns have arisen regarding the fact that Mr. Lucas has never personally tried a case or argued an appeal. Mr. Lucas has not sought to deny this, acknowledging it in his Questionnaire to the Committee. For several reasons, litigation experience is not, nor should it be, an absolute requirement for this position, particularly in light of the other strengths of this candidate.

First, Robert F. Kennedy, who was recommended by this Committee to be Attorney General, and served with distinction in that position, had no litigation experience.

Second, Jerris Leonard, who served as Assistant Attorney General for Civil Rights from 1969 to 1971, stated in a letter to Chairman Biden:

"Those who would place great emphasis on the need for legal scholarship or courtroom strategies really miss the point, for as desirous as these qualifications may be, they are not the essence of ensuring that minority disadvantaged rights become a reality to the extent the Department of Justice can fulfill these ends."

Third, it is widely known that Assistant Attorneys General for Civil Rights simply do not try cases. In the past, some have argued at the most one or two appellate cases per year.

Fourth, the vast majority of cases handled by the Civil Rights Division are settled without a trial. For example, the Special Litigation Division, which handles cases involving prison conditions under the Civil Rights for Institutionalized Persons Act, resolves almost all matters through negotiated consent decrees.

Finally, the Division employs over 150 of the most talented attorneys in the nation. These attorneys are hired to try cases.

Mr. Lucas' experience and background will suit him well for this position. He has the experience in developing cases under hundreds of local, state and federal laws. As he stated at his confirmation hearing:

"I have also had the experience of doing the one thing that is necessary to present the case, and that is to provide the facts and the evidence that is necessary to move that case forward, which I think is equally important." (Hearing transcript at 120.)

There is no doubt that Mr. Lucas is well equipped and has the strong management skills and experience needed to effectively manage the Civil Rights Division. As Sheriff of Wayne County, he was the chief law enforcement officer, supervising as many as 900 officers. He was the first County Executive for Wayne County after the position was created in a Charter Revision initiative. In that capacity, he supervised 5,000 employees with a budget exceeding $600 million dollars, which included attorneys, and which was ten times the size of the Civil Rights Division in terms of manpower, and over 20 times the size in terms of budget. Mr. Lucas' record amply demonstrates that he is an excellent manager.

COMMITMENT TO CIVIL RIGHTS

Several questions have been raised regarding Mr. Lucas' commitment to civil rights. First, with respect to recent Supreme Court decisions, Mr. Lucas has stated:

"I will not tolerate any retrenchment in civil rights protection for all citizens. I will not tolerate the misuse of any law or court decision to deny rights guaranteed by this nation's civil rights laws. If current laws do not effectively protect our citizens, I will lead the charge for changes.

The Attorney General and I recognize that some people may in fact use the recent Supreme Court decisions in an attempt to discriminate or to challenge legitimate affirmative action and set-aside programs. It is my commitment to investigate and prosecute those individuals or entities and to prevent such efforts to roll back the hard-earned gains of the civil rights movement."

This position is consistent with President Bush's and the Attorney General's well-stated positions.

Second, because Mr. Lucas has not been a vocal leader of the civil rights movement, it has been suggested that he has not demonstrated his commitment to civil rights. Evidence presented to the Committee indicates that Mr. Lucas has indeed demonstrated his commitment, through his actions, rather than his words. He did march in civil rights demonstrations, in order to protect the rights of those who were marching.

Mr. Lucas' commitment and ability to be an effective enforcer of civil rights laws was best voiced by Father William Cunningham, of Focus Hope, a civil and human rights organization founded in 1967 after the riots in Detroit. Its purpose is to invite black and white people to work together to resolve the causes of racism and to remedy its effects. Over a twelve year period, this organization successfully engaged in major Title VII class action litigation. Father Cunningham stated:

". . . as Wayne County Executive, Mr. Lucas helped develop training contracts for minority youth to gain advantage in the highly paid but exclusive white jobs in skilled machinery . . ."

"Mr. Lucas brought critical and major support to the development of our center for children. He has walked in our civil rights marches."

"Focus Hope supports William Lucas as an effective civil rights leader, both as the first black sheriff of Wayne County and as first executive officer of that county. In those elective positions, Mr. Lucas succeeded in conjoining black and white support and in providing significant affirmative appointments and hiring, especially in a previously colonial law enforcement body."

"As a black leader, public servant and experienced manager and successful executive, he has distinguished himself as a role model for the youth of black and white America. Mr. Lucas deserves our deepest respect for his commitment to continue the struggle for human and civil rights in this new national office."

"He is not a marcher; not a carrier of signs. He is a man who is capable of sitting down with a whole group of white people and saying, let's improve this, and getting the action done immediately."

"He is not the kind of person who is going to be the feisty arguer in court for minimum gains. He is the kind of person who quietly will go about making extraordinary advances because of his diplomacy, because of his values, and because of his astute capability and his enormous experience as a suffering member of the minority group, far more than those lacking his talent, lacking his advance, lacking the costs he has gone through, have experience in their own lives."

Congressman John Conyers introduced Mr. Lucas to the Committee on July 19, 1989, and strongly endorsed his nomination. The following day, when Congressman Conyers withdrew his endorsement because he disagreed with Mr. Lucas' view of recent decisions, he still urged the Committee to go forward.

Senator THURMOND. Yesterday in your written statement I believe you said you believe that he is deeply committed to the vigorous enforcement of civil rights laws. Because Mr. Lucas believes these cases are legally sound, that does not mean he will fail to vigorously enforce civil rights laws.

That is your statement yesterday. Don't you believe he will vigorously enforce civil rights laws? And don't you know, further, that the President and the Attorney General are the ones who make the decisions, really, and that whoever is in there will have to carry out their orders or they will not be there?

Mr. CONYERS. Yes, that is why I am not opposing his nomination.

Senator THURMOND. But don't you think down in your heart that he will do all he can from within to try to help civil rights in every way?

Mr. CONYERS. Yes I do.

* * * * *

Senator THURMOND. And I believe you think he will enforce the laws fairly.

Mr. CONYERS. I do.

In summary, there is no doubt that Mr. Lucas is committed to fully and effectively enforcing the civil rights laws of the United States.

TREATMENT OF PRISONERS

As Sheriff of Wayne County, Mr. Lucas was responsible for four major law enforcement divisions: (1) Road Patrol, (2) Jail, (3) Courts, and (4) Airport. When he was first appointed Sheriff, the Jail housed as many as 1,600 prisoners every day, although its capacity was for under 800. This facility was over 50 years old. The Jail was intended to house persons who were awaiting trial. Over the years, it developed into a sentencing facility which was also used to house persons suffering from mental impairments.

The conditions of the Jail were so poor that one of the first actions taken by Mr. Lucas upon becoming Sheriff was to open the Jail up to the public so that the conditions there would be subject to scrutiny. He did this in order to heighten the awareness of the public to the conditions, which he

considered "medieval." By the time he left office, he had led the effort to build a new jail facility and successfully fought to bring the conditions of the old Jail to acceptable levels.

The Office of Sheriff was subject to a number of law suits stemming from the conditions in the jail. Most notably, in 1971, a class action was filed in state court, alleging that the conditions in the jail violated the constitutional rights of inmates. *Wayne County Jail Inmates et al. v. Wayne County, et al.,* Civil Action No. 71-173-217CX. It should be noted that this lawsuit is still pending in the Circuit Court and compliance with the Court's Orders is still not complete. *See* "The Detroit News," July 28, 1989.

The defendants in this litigation included the Wayne County Board of Commissioners, the Wayne County Board of Auditors, and the Sheriff.

It must be noted that Mr. Lucas has never suggested that the conditions in the Wayne County Jail at the time of the lawsuit were acceptable. Indeed, he testified that his concern over these conditions caused him to open the Jail up to public scrutiny, which may have contributed to the filing of the lawsuit.

As Sheriff, Mr. Lucas was responsible for administering the Jail. He did not, however, have independent authority to appropriate or authorize the expenditure of funds for the needed improvements. As a result, the record of this litigation reflects conflict between Mr. Lucas and the Board of Commissioners (which appropriates funds) and the Board of Auditors (which authorizes specific expenditures).

This conflict is apparent from a review of the record in that case:

"The Board of County Auditors shares in this responsibility to conform to the laws against overcrowding by reason of the 'charge and control' which they have over county buildings pursuant to MSA 5.559." Opinion at 101a [emphasis in original]

"The Sheriff described the plumbing and electrical systems having been condemned in the sense that these systems did not meet minimum legal requirements." Opinion at 105a

"The Defendant Board of Commissioners, has the duty under MSA 5.327 '. . . as often as shall be necessary to cause . . . the jail . . . to be duly repaired at the expense of [the] county'; and the duty under MSA 5.291 to 'provide at the county seat . . . a suitable and sufficient jail and to keep the same in good repair. *The defendant, board of Auditors, under MSA 5.559 have the duty' to provide for the maintenance of all county buildings, subject to a proviso of questionable present vitality limiting expenditures on repairs to one-thousand dollars."* Opinion at 106 n. 5 [emphasis in original]

Ultimate compliance with overcrowding laws requires a substantial increase in the dollar amount and the proportion of public revenues used to provide jail inmate housing. Opinion at 111a [emphasis in original]

This conflict continued throughout the litigation. Much debate has centered around the fact that Mr. Lucas was held in contempt in January of 1976 for not fully complying with the Court's Orders. However, as Mr. Lucas stated, his inability to comply was a direct result of lack of funding by the Board of Commissioners and Board of Auditors. Indeed, in the months leading up to this contempt finding, Mr. Lucas had to go to Court to obtain an injunction to restrain the Board of Commissioners from cutting essential medical personnel from the jail, and the Board of Auditors was itself subject to contempt proceedings for its failure to approve alternative living arrangements for inmates.[1]

Mr. Lucas submitted a plan to the court for improvements to the Jail, just thirty days after the Court's initial Order. The Court accepted Mr. Lucas' plan over meager alternatives proposed by the County Commissioners. Mr. Lucas also had to fight with the State Department of Corrections, which sought to limit the plans which Mr. Lucas suggested.[2]

The Circuit Court's decision to hold Sheriff Lucas in contempt stemmed primarily from the overcrowded conditions in the jail. While the Circuit Court's Order essentially prohibited the Sheriff from accepting more than a certain number of prisoners, daily, the Sheriff was served with Writs of Mittimus from courts of equal criminal jurisdiction, which required that specific prisoners be accepted by him. This left Sheriff Lucas in a position of either accepting prisoners, and potentially being in violation of one Court's Order, or letting the prisoners go free, and potentially being in violation of another Court's order.

Judge Victor Baum was a member of the three judge panel which presided over this matter for many years. He testified before the Judiciary Committee regarding Mr. Lucas' nomination. He agreed that Sheriff Lucas was in a difficult position, but felt that it was preferable that Sheriff Lucas violate a court order and allow prisoners to go free.[3] This, of course, would not be acceptable.

Finally, Mr. Lucas stated to the Committee in regards to the jail situation, that he would have preferred any alternative to disputes with the Commissioners, disputes with the Auditors, and having to deal with a situation which he inherited.[4]

Apart from the prisoners class action litigation, concerns were raised regarding a civil rights action filed by a person who alleged he was mistreated and beaten while in custody of the Wayne County Sheriff's Department. *Marchese v. Lucas,* 758 F.2d 181 (6th Cir. 1985) *cert. denied,* 480 U.S. 916 (1987). A civil rights action was filed by a prisoner pursuant to 42 U.S.C. § 1983. Ultimately, a judgement of $125,000 was awarded to the plaintiff against the Sheriff, in his official capacity.

In 1976, the individual Salvatore Marchese, a/k/a Nicholas Joseph Tavaroni had been observed using drugs in a park patrolled by the Sheriff's Department. Upon being approached by a Deputy, the individual pulled out a pistol and repeatedly tried to shoot the arresting officer. Nearby golfers witnessed the event, assisted the officer, and the individual was subsequently arrested. While being temporarily housed at an outlying facility, the suspect claimed that during the night he was physically assaulted by one or more persons acting under the authority of the Sheriff's office.

The Court ruled, in the suspect's favor, based on a finding that the officers involved were not properly trained, nor were they disciplined for this incident.

Prior to this incident, Sheriff Lucas had established an Internal Security Bureau to deal with incidents such as this. He was also a founding member of the Michigan Law Enforcement Training Council, established by state law in 1972. He had established extensive training and disciplinary procedures for all of his staff. During his tenure, discipline was significantly improved. Indeed, Donald Cox, President of the Wayne County Sheriffs' Local 502, National Union of Police Officers, S.E.I.U., AFL-CIO, which represents officers subject to discipline by Mr. Lucas, wrote in a June 9, 1989, letter in connection with the nomination:

"One should recognize that during Mr. Lucas' twelve (12) year tenure as Sheriff, there were literally hundreds of disciplinary actions taken against members of the Department for other various Departmental violations. The Unions' files, under the supervision of Mr. Bommarito, Vice President in charge of discipline, are voluminous with documentation of these actions.

"It should also be pointed out that under Mr. Lucas' administration, the Wayne County Sheriff's Department developed its first written Policy Manual. The manual established Professional Rules of Conduct, as well as, establishing a Disciplinary Procedure. Prior to Mr. Lucas' administration, the Department lacked written guidelines pertaining to individual officer's conduct."

Also, Mr. Lucas was on the Advisory Committee of the International Association of Chiefs of Police, and in that capacity contributed to the organization's development of guidelines for effective discipline of officers.

As the record indicates, neither the victim nor his lawyer took any action to report this incident for investigation under the system established by Mr. Lucas. Instead, the attorney simply mentioned it to a magistrate who was considering the victim's bail application. As Mr. Lucas testified in Court and before this Committee, he was never apprised of the incident until just before he testified at the trial, but had he been so apprised, he would have taken action.

Mr. Lucas' position is borne out by his record on discipline. He was required to go to Court to defend the disciplinary action he imposed as a result of misconduct of officers.[5]

It should also be noted that in this particular case, Mr. Lucas had also been sued in his individual capacity. The United States Magistrate and the United States District Judge dismissed this claim, finding that there was absolutely no evidence of Mr. Lucas' personal involvement in this incident.

Finally, during his tenure as Sheriff, Mr. Lucas was responsible for proper administration of over 5,000,000 prisoner days. The Jail processed approximately 24,000 persons per year. During this time period, according to the records of the United States District Court for the Eastern District of Michigan, a total of 160 "civil rights" cases were filed which named Mr. Lucas. Of these, 34 involved "prisoner civil rights" cases. Of these 34, all but two were dismissed on grounds ranging from "frivolousness," to failure to prosecute, to summary judgement for the Sheriff. Two resulted in judgments, one being the *Marchese* matter, and the other involving a judgement for approximately $1,500.00 based on improper mail screening procedures.

It is clear from his record that Mr. Lucas demonstrated efforts to professionalize the Wayne County Sheriff's Office. As a public official, he had to be named in the suit. However, there is no evidence at all that Mr. Lucas personally participated in or knowingly condoned this sort of behavior.

Footnotes at end of article.

CUSTOMS INCIDENT

In 1985, while returning from a trip to Korea and the Orient, Mr. Lucas and his family were stopped by a Customs officer. In a family declaration, they declared $4,800.00 in goods. A secondary inspection of their property indicated that additional items of jewelry and clothing were not included, bringing the grand total to $8,900.00.

This matter came to the attention of the Committee based upon Mr. Lucas' voluntary disclosure. As the records of the incident indicate, Mr. Lucas was not aware of the items which were undervalued. At no time did he conceal anything, or dispute the conclusions of the Customs Service. In fact, in his original declaration, Mr. Lucas itemized the goods he thought were based on information provided by his family including clothing and jewelry, even though the total was less than that which is required for itemization. There is no evidence that information was withheld in order to avoid customs obligations, and in fact the report indicated that the family was fully cooperative when further disclosures were required. According to the sworn statement submitted by a family member at the time of the incident "Mother failed to show receipt to father because she did not want him to aware of purchase."

OLD COUNTY RESTORATION PROJECT

While County Executive, Mr. Lucas took the initiative to restore the Old City County Building, an historic landmark in Detroit. After the bidding was complete, Mr. Lucas learned that the successful bidder was considering subcontracting part of the project to a company in which Mr. Lucas' Chief of Staff had a 15 percent ownership interest in the potential subcontractor.[6] The matter was painstakingly investigated by Professor Richard Strichartz, of the Wayne State University Law School, at the request of the County Commissioners. He concluded that no violations of any laws occurred. The County Commissioners ratified this finding on March 20, 1986.

NEW YORK BAR APPLICATION

Just prior to the confirmation hearing, the Committee requested and received a copy of Mr. Lucas' Application for Admission to the Bar of New York. In that application, filed in 1981, Mr. Lucas indicated that he had not been a party to or testified in law suits. Although as Sheriff he had been named in many lawsuits, and had testified in his various law enforcement capacities, his answers regarding testifying in law suits was based on his understanding that he was applying and answering as an individual, not as Sheriff of Wayne County. Had he been required to indicate each instance in which he testified as an arresting officer, as an FBI Special Agent, and Undersheriff, and as Sheriff, a complete answer would have been impossible.

Mr. Lucas indicated that his omission of the fact that he had failed the D.C. Bar examination 18 years before applying to the New York bar was simply "an oversight."

Mr. Lucas addressed these matters both at the confirmation hearing, and subsequent to it. He stated, unequivocally, that he never intended to mislead anyone regarding these matters.

The Committee heard from Professor Gillers, an ethics expert from New York. He neither reviewed the application, nor heard Mr. Lucas' testimony. His conclusions, that Mr. Lucas did not have the requisite legal experience and may have violated Disciplinary Rules, are unpersuasive.

FOOTNOTES

[1] *See,* October 20, 1975 *Order to Show Cause Why Auditors' Plan for converting N Building At Wayne County General Hospital Should not Be Implemented* (Commissioners failed to adopt and finance this plan, which everyone else agreed to would result in an additional building to house prisoners); October 30, 1973 *Order Granting Motion to Intervene, and Order Dismissing Motion for Order to Show Cause, and Dismissing Order to Show Cause why Defendant Commissioners Should not be Found in Contempt With Respect to Lighting Standards* (Another example of the Board not appropriating funds to carry out provisions of court order); November 20, 1975, *Order on Motions to Amend Judgment Regarding Population, Overcrowding, Visitation, Recreation, Psychiatric Services, and Reception Diagnostic Center Processing* (Limits jail capacity to 720. Requires submission of plans for alternate housing, and requires payment by county); December 9, 1975 *Temporary Restraining Order* (Sheriff sought and received an Order prohibiting the Board of Commissioners from eliminating certain positions needed in the diagnostic center, including a psychologist; Sheriff sought and received TRO (ex parte) based on Commissioners passing a budget which reduced medical personnel in jail and made it impossible for him to meet requirements of the Order; prevented elimination of items from budget); January 13, 1976, *Opinion re Order to Show Cause by Defendant Auditors, Commissioners, and Treasurer Should Not Be Enjoined from Removing Three Positions in the Reception-Diagnostic Center* (Opinion supporting Temporary Restraining Order 12/9/75. Janaury 16, 1976 *Permanent Injunction* (Order making the TRO above permanent); January 21, 1976 *Order Substituting Parties* (Based on new members of Board of Auditors, changes in name of Board of Commissioners to Supervisors, etc.).

[2] On January 10, 1972 then-Sheriff Lucas wrote to the Court regarding the State of Michigan's criticism of his plan, and recommendations to limit it:

"Our Plan, submitted to the three-judge panel, called for additional personnel, based upon the improvements ordered by the court. While a copy of the pertinent orders from the Court, and my plan, were provided to the Michigan Department of Corrections, I do not believe their review considered all of the Court Orders." at 317a.

"The Correction Review recommends an addition of five psychiatric attendants and our plan calls for seventeen. This appears to be an area where the Correction Review did not look to the Court Orders but to our present operations. . .Our plan calls for 10 attendants covering all shifts. . .This point was discussed with our Medical Department including our psychiatrists and all agree that five persons cannot do the job—even when the population goes down to 813." at 319a.

"The Correction Review has given no attention to our plan in this [inmate property] area . . . Under no circumstances should we return to the former practice [of returning filthy clothing to inmates rather than giving them clean jail clothing]. I just cannot see us giving each arriving inmate a shower, as our plan proposes, and returning his civilian clothing to him, which, in many instances, is filthy, to wear for some indefinite period of time while detained in the Jail.

"No attention was given to our plan in this [Women's division]. Our plan calls for . . . an addition of three policewomen.

"Our plan based on the Court Order [for social services] was ignored . . . by the Correction Review. Our plan calls for a social report on every inmate. With an intake of 70 to 80 inmates per day, I see our need for an additional six Social Investigators for a total staff of 10 . . . The Correction Review recommend . . . a total of six . . . The State Prison at Southern Michigan has a much larger staff for this function and their intake, per day, is lower than ours . . ."

[3] Senator THURMOND. Judge, in your opinion, should he have permitted these felons and potential threats to the citizens of Wayne County back onto the streets?"

Judge BAUM. If a court ordred him to do so, yes—and we would have taken the heat for it.

* * * * *

Senator THURMOND. What is he going to do with those prisoners?

Judge BAUM. Well, if they are not admitted, they are going to be on the street . . .

* * * * *

Senator THURMOND. But you don't favor them being on the streets—you said that, didn't you?

Judge BAUM. It is not a good situation at all . . .

* * * * *

Senator THURMOND. Well, if he had obeyed the court, the felons and the criminals would have gone on the streets, wouldn't they?

Judge BAUM. I know that. . .

Senator THURMOND. But he was in a tough situation, wasn't he?

Judge BAUM. He was in a tough situation.

Transcript, at 259-261.

[4] I would have preferred to have inherited a facility which at least approached acceptable standards when I arrived. I would have preferred not to have to litigate against County Commissioners and Board of Auditors which themselves faced serious financial strains. Virtually all of these problems, as the record reflects, stemmed not from a lack of concern over the welfare of prisoners, but rather from a lack of funds to address the problems.

Mr. Lucas's July 25, 1989 response to written questions from Senator Leahy.

[5] *National Union of Police Officers v. Board of Commisioners,* 286 NW 2d 242 (Ct. Appeals MI 1979); *National Union of Police Officers v. Lucas,* 263 N.W. 2d 7 (Ct. App. MI 1978).

[6] Mr. Lucas saw to it that this company never performed any work on the project.

[From The Augusta Chronicle, July 24, 1989]

LUCAS BATTLE RAGES

Black Rep. John Conyers, D-Mich., withdrew his support Thursday of black Republican William Lucas to head the Justice Department's civil rights division—making his Senate confirmation chances 50-50.

Before he betrayed his fellow Michigan resident in a stunning capitulation to the "civil rights lobby," however, Conyers weighed in with some good punches for the one-time FBI agent at Senate Judiciary Committee hearings.

The congressman nailed Sen. Edward Kennedy, D-Mass., who has been repeating the line that the nominee, who once worked in the civil rights division, "lacks legal experience."

Conyers reminded the Hero of Chappaquiddick that the Senate in 1961 was asked to ignore the fact that the U.S. attorney general-designate had virtually no legal experience.

The nominee? Teddy's brother—Robert F. Kennedy.

Incidentally, Kennedy's hypocrisy knows no bounds when it comes to vilifying Lucas.

Before Lucas switched from Democrat to Republican, the Massachusetts senator praised the one-time Wayne County, Mich., sheriff at a fund-raiser for "his talent and vision" saying, "We need good leaders like Bill Lucas in office."

Because he opted for the GOP banner, though, Lucas is on the firing line. Most Senate liberals appear perfectly willing to smear him, just like they did Robert Bork and John Tower, if that's what it takes to please their constituency.

[From the Wall Street Journal, July 24, 1989]

THE LUCAS ASSAULT

With the Biden-Kennedy-Metzenbaum assault on William Lucas, all black citizens are being told: If you rise to prominence by conservative or Republican routes, we will destroy you. The point of the exercise is to keep blacks down on the liberal plantation.

In the Judiciary Committee hearings on President Bush's nominee for Assistant At-

torney General for Civil Rights, the Senators softened up their target with the usual trivia dredged up by exhaustive FBI background checks; some trouble with the Customs Service, a 1981 failure to reveal having flunked his first bar exam 20 years earlier, etc., etc. The sniping is then dignified with the heavy artillery: The nominee spent his life as an FBI agent, sheriff and county executive of Wayne County; he was not a civil-rights lawyer, and therefore lacks the technical qualifications for the post.

This fastidiousness about legal learning is proffered with a straight face by the same Senators who defeated Robert Bork for the Supreme Court and Brad Reynolds for associate attorney general. We only hope that the Bush administration recognizes that the assault on Mr. Lucas is fast becoming one of its biggest political challenges. It should notice when Ralph Neas, ringleader of the Bork lynching, remarks of Mr. Lucas, "I think the nomination is in serious trouble based on the momentum of the last 48 hours."

Of course, what the Senators, Mr. Neas and the rest of the Washington civil-rights lobbying complex want is to reverse Mr. Bush's election. Assistant Attorneys Generals are chosen by the man who wins the most votes for President, not by the losing political party. Presidents have a right, indeed a duty, to appoint officials who will carry out the policies they offered voters during the campaign.

Mr. Lucas, though, is being criticized for agreeing with the President and the Attorney General who appointed him. Asked about recent Supreme Court opinions, he repeated administration policy, saying he would follow what the Supreme Court has held is the law of the land, and would suggest new legislation only if he thought it was required as cases are brought.

This is not acceptable, we're now told, Senator Biden and Rep. John Conyers withdrew their support, though they surely must have suspected the nominee would follow the administration. We can't recall any previous nominee ever required by Senators to take a disloyalty oath to the superiors who nominated him.

And what are these retrograde opinions held by the President, the Attorney General and the Supreme Court majority? Mr. Lucas said he was drawn to serve under President Bush by his campaign pledge "that every American will be able to play on a level playing field, that any injustice—gross injustice, injustice period—that exists in this country will be corrected." Mr. Lucas does not promise quotas or reverse discrimination; he promises no discrimination.

But of course by now the civil rights establishment views its main task as agitating for special treatment depending on color and sex. Mr. Lucas instead believes civil rights is not a zero-sum game on winners and losers. He says "One of the things I would like to get away from in this whole civil rights agenda is them and us."

Not far under the surface of all the criticism lies the suggestion that while his opinions might be forgiven in a white nominee, they are anathema for a black such as Mr. Lucas. "I was quite frankly surprised, when I asked this black man." Senator Biden said, "if we were moving in the right direction or wrong direction on civil rights, and he didn't have an opinion." And Mr. Lucas is not the only black Bush nominee being targeted for a Bork-like attack. The lobbies are clearly also set to block Clarence Thomas, a scholarly black lawyer Mr. Bush wants to take Mr. Bork's seat on the federal appeals court in Washington.

Lobbyists who live and breathe racial preferences, of course, have a high stake in stigmatizing any black who dissents from their dogma. If they do not speak for all blacks what is the source of their moral authority? Similarly, Democrats have an enormous interest in neutralizing any salience Republicans have established in the black community, keeping a key constituency plus the ability to criticize Republicans as inhospitable to blacks. Yet some of the ablest blacks are moving away from the notion of racial quotas, recognizing that they detract from real achievements. And like Mr. Lucas, at least a few politicians are recognizing the interest of no group is served if one party cannot win its votes and the other party cannot lose them.

The stakes in the Lucas nomination embrace not just a job but a vision of race relations and the future of politics. Above all, they include the issue of whether all Americans have an equal right to think for themselves, or whether blacks cannot advance unless and until they agree with the official lobbying groups. Mr. Neas, and Senators Biden, Metzenbaum, and Kennedy.

[From the Wall Street Journal, Aug. 1, 1989]

DE FACTO NONSENSE

The latest rationalization for opposing William Lucas is this: Yes, he may have great experience in law enforcement, worked his way through law school, won election and re-election, administered a county larger than most states and lived an exemplary life. But he flunked his orals.

In particular, he was unable to answer when Wisconsin Senator and constitutional scholar Herbert Kohl asked the lollapalooza, "How do you distinguish between the two, and how would you make a judgment on the difference between de facto and de jure, as the Supreme Court has commented?"

So now Mr. Lucas is being hung for the deadly phrase, "I frankly do not understand the rest of the question." This seems to us a perfectly intelligent commentary on the Senator's prose, but the lawyers at the Washington Post and so on profess to take it as proof that a 61-year-old lawyer had never encountered the terms de facto and de jure. Give us a break.

Mr. Lucas's other great mistake is said to be confusing two cases. Ted Kennedy was reading questions from his staff-prepared script, and Mr. Lucas answered as if responding on the Grove City case when the question was about the Bob Jones University decision. The exchange amounted to two brisk sentences. Senator Kennedy didn't seem to care because he didn't even follow up; it wasn't in his script. On rereading, Mr. Lucas played the wrong cassette, which in spontaneous and open-ended hearings can happen to anyone. In fact it also happened to Arlen Specter, supposedly the Senate's great constitutionalist, who confused two cases in asking questions of Mr. Lucas.

Of course, to take all this seriously you have to believe that qualifications are really the issue in the Lucas assault. But wordslips and the like are mostly excuses for folks who have to be on the "right side" of civil-rights issues. In fact, this exercise is all about destroying a man, especially a black man, who doesn't walk in lock step to the agenda of the civil-rights establishment. Ralph Neas and the elite's other lobbyists see a black man thinking for himself, and they can't abide it.

The Senate Judiciary Committee was supposed to vote last week on Mr. Lucas, but it delayed the vote until tomorrow. Senator Alan Simpson noted that this would give his accusers enough time to "get out and gin . . . up" more innuendo. They quickly obliged with a letter from Michael Sussman, an NAACP lobbyist, that Mr. Lucas had telephoned the Justice Department to urge it to drop a 1980 lawsuit charging Birmingham, Michigan, with Fair Housing Act violations. The story was leaked to reporters late Thursday afternoon, making it difficult to rebut and difficult for Mr. Lucas to get out his denials. Mr. Sussman later said he hadn't received the call himself, but his supervisor had. Reached by AP, the supervisor said he couldn't remember any such call from Mr. Lucas.

Denials, of course, never quite catch up to the smears. We suppose high-minded apologists can hide behind pieties about "experience" if they want to, but realists know a lynching when they see it.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

REVISION TO THE U.S. ARCTIC RESEARCH PLAN—MESSAGE FROM THE PRESIDENT—PM 58

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

Pursuant to the provisions of the Arctic Research and Policy Act of 1984 (Public Law 98-373, sec. 109(a); 15 U.S.C. 4108(a)), I hereby transmit the first biennial revision (1990-91) to the U.S. Arctic Research Plan.

GEORGE BUSH.

THE WHITE HOUSE, *August 2, 1989.*

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 12:49 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following joint resolution:

H.J. Res. 363. Joint resolution to designate 1989 as "United States Customs Service 200th Anniversary Year."

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES PLACED ON THE CALENDAR

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar.

H.R. 3024. An act to increase the statutory limit on the public debt, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1496. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on a violation of the apportionment by the National Forest System; to the Committee on Appropriations.

EC-1497. A communication from the Acting Administrator, U.S. Agency for International Development, Department of Agriculture, transmitting, pursuant to law, the second quarterly report on progress made in implementing the recommendations of the agricultural trade and development missions; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1498. A communication from the Acting Director of the Defense Security Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Switzerland for defense articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-1499. A communication from the Secretary of Defense, transmitting, pursuant to law, certification that the current 5-year defense program fully funds the support costs associated with both the T-700 helicopter engine and CH-47D helicopter modification multiyear programs; to the Committee on Armed Services.

EC-1500. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notification of the intent of the Navy to offer for lease certain ships to the Government of Peru; to the Committee on Armed Services.

EC-1501. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, a report concerning the effectiveness of civil penalty levels; to the Committee on Commerce, Science, and Transportation.

EC-1502. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments on offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1503. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1504. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1505. A communication from the vice president of the Farm Credit Bank of Springfield, transmitting, pursuant to law, the annual report for the Farm Credit Banks of Springfield retirement plan for the period January 1, 1988 through December 31, 1989; to the Committee on Governmental Affairs.

EC-1506. A communication from the Deputy Assistant Attorney General of the U.S. Department of Justice, transmitting a draft of proposed legislation entitled "Minor and Technical Criminal Law Amendments Act of 1989"; to the Committee on Judiciary.

EC-1507. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the status of the runaway and homeless youth centers; to the Committee on Labor and Human Resources.

EC-1508. A communication from the Assistant Secretary for Health and Director, National Vaccine Program, Department of Health and Human Services, transmitting, pursuant to law, a report on the implementation of the National Vaccine Program; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Special Report entitled "Report of the Committee on Veterans' Affairs Pursuant to Section 302(b) of the Congressional Budget Act (Rept. No. 101-102).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Richard Burleson Stewart, of Massachusetts, to be Assistant Attorney General.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Michelle Easton, of Virginia, to be Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education; and

Herbert D. Kleber, of Connecticut, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Dennis Edward Kloske, of Virginia, to be Under Secretary of Commerce for Export Administration; and

C. Austin Fitts, of New York, to be an Assistant Secretary of Housing and Urban Development.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KENNEDY (for himself and Mr. DODD):

S. 1465. A bill to amend the Domestic Volunteer Service Act of 1973 to expand the National Older American Volunteer Programs to respond to critical national needs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PRYOR (for himself, Mr. BAUCUS, Mr. BOREN, Mr. BREAUX, Mr. BUMPERS, Mr. BURDICK, Mr. COHEN, Mr. DASCHLE, Mr. GLENN, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KOHL, Mr. PRESSLER, Mr. SANFORD, and Mr. SHELBY):

S. 1466. A bill to amend title XVIII of the Social Security Act to make certain modifications in the medicare program with respect to payments made under such program to rural referral centers and high medicare volume hospitals located in rural areas, to improve the delivery of health services to individuals residing in such areas, and for other purposes; to the Committee on Finance.

By Mr. FORD:

S. 1467. A bill for the relief of Geetha Kannan; to the Committee on the Judiciary.

By Mr. ROCKEFELLER:

S. 1468. A bill to suspend temporarily the duty on BPIP; to the Committee on Finance.

By Mr. HEFLIN:

S. 1469. A bill for the relief of Sven O. Spjuth, M.D.; to the Committee on the Judiciary.

By Mr. ROCKEFELLER:

S. 1470. A bill to suspend temporarily the duty on MBEP; to the Committee on Finance.

By Mr. NICKLES (by request):

S. 1471. A bill to eliminate unnecessary economic regulation of oil pipelines and reform any remaining regulations to increase competition and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WILSON:

S. 1472. A bill to provide equity for consumers by allowing them to receive refunds for certain payments to public utilities made excess by the Tax Reform Act of 1986; to the Committee on Finance.

By Mr. D'AMATO:

S. 1473. A bill for the relief of Durmas Yildiz, Melude Yildiz, and Kemal Yildiz; to the Committee on the Judiciary.

By Mr. MURKOWSKI:

S. 1474. A bill to authorize demonstration projects involving oil terminal environmental oversight and monitoring, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KERRY:

S. 1475. A bill to direct the Secretary of the Treasury to promulgate regulations to make the United States currency notes of a denomination of $20 or more traceable by electronic scanning; to the Committee on Banking, Housing, and Urban Affairs.

S. 1476. A bill to establish an Anti Money Laundering Advisory Commission; to the Committee on Banking, Housing and Urban Affairs.

By Mr. LAUTENBERG (for himself, Mr. SPECTER, Mr. MOYNIHAN and Mr. BRADLEY):

S. 1477. A bill to establish Community Education Employment Centers, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SIMON:

S. 1478. A bill to authorize research into the desalting of water; to the Committee on Environment and Public Works.

By Mr. LIEBERMAN:

S. 1479. A bill to amend the National Housing Act to expand the eligibility for mortgage insurance, to amend the Internal Revenue Code of 1986 to allow use of IRA's for downpayments, to establish a program to promote new and innovative technologies in the housing industry, and for other purposes; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. DURENBERGER, Mr. BURDICK, Mr. HATFIELD, Mr. KENNEDY, Mr. KERRY, Ms. MIKULSKI, Mr. PACKWOOD, Mr. PELL and Mr. RIEGLE):

S. 1480. A bill to ensure economic equity for American women and their families by providing equitable pay and employee benefits and enhanced opportunities in business procurement; providing economic and retirement security for women as workers and as divorced or surviving spouses; making quality and affordable dependent care available to all working families; enhancing the long-term health of women and their families through prevention services and assistance to victims of domestic violence; to the Committee on Finance.

By Mr. COCHRAN:

S. 1481. A bill to amend the Tariff Schedules of the United States to make permanent the modification of the tariff treatment on certain disposable surgical gowns and drapes; to the Committee on Finance.

By Mr. CRANSTON:

S. 1482. A bill relating to domestic violence judiciary training grants; to the Committee on the Judiciary.

S. 1483. A bill to amend the Stewart B. McKinney Homeless Assistance Act to authorize the Secretary of Housing and Urban Development to provide assistance for child care services programs for the residents of transitional housing; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN (for himself, Mr. BOSCHWITZ, Mr. LEAHY, Mr. LUGAR, Mr. MITCHELL, Mr. DOLE, Mr. PRYOR, Mr. HELMS, Mr. BOREN, Mr. COCHRAN, Mr. HEFLIN, Mr. MCCONNELL, Mr. CONRAD, Mr. BOND, Mr. FOWLER, Mr. WILSON, Mr. DASCHLE, Mr. KERREY, Mr. GORTON, Mr. BAUCUS, Mr. PELL, and Mr. WARNER):

S. 1484. A bill to amend the Child Nutrition Act of 1966 and the National School Lunch Act to reauthorize child nutrition programs, and for other purposes; placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HELMS (for himself, Mr. RIEGLE, and Mr. DECONCINI):

S. Res. 163. Resolution designating the 50th Anniversary of the Nazi-Soviet Non-aggression Pact of August 23, 1939 as Black Ribbon Day in observance of the illegal annexation of the Baltic States; to the Committee on Foreign Relations.

By Mr. MITCHELL (for Mr. JOHNSTON):

S. Con. Res. 59. Concurrent resolution correcting the enrollment of S. 85; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRYOR (for himself, Mr. BAUCUS, Mr. BOREN, Mr. BREAUX, Mr. BUMPERS, Mr. BURDICK, Mr. COHEN, Mr. DASCHLE, Mr. GLENN, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KOHL, Mr. PRESSLER, Mr. SANFORD, and Mr. SHELBY):

S. 1466. A bill to amend title XVIII of the Social Security Act to make certain modifications in the Medicare Program with respect to payments made under such program to rural referral centers and high Medicare volume hospitals located in rural areas, to improve the delivery of health services to individuals residing in such areas, and for other purposes; to the Committee on Finance.

RURAL HOSPITAL IMPROVEMENTS ACT

Mr. PRYOR. Mr. President, I rise today to introduce the Rural Hospital Improvements Act of 1989. I am pleased to be joined in this effort by my distinguished colleagues Senators BAUCUS, BOREN, BREAUX, BUMPERS, BURDICK, COHEN, DASCHLE, GLENN, JOHNSTON, KASSEBAUM, KOHL, PRESSLER, SANFORD, and SHELBY. This legislation will offer relief to two groups of rural hospitals that serve an important role in the delivery of health care in rural America—rural referral centers and small rural hospitals that have a high volume of Medicare inpatient days.

Rural hospitals across the Nation have been closing at unprecedented levels in recent years. Just last year, three such hospitals in my home State of Arkansas were forced to shut their doors. While some people have argued that many of these hospitals should have closed to make the health care delivery system more efficient, I believe that further closures will significantly and unacceptably threaten access to needed health care in rural areas. To help to ensure that more rural hospitals are not added to the hospital casualty list, we are offering legislation today that would provide modest assistance to those hospitals which have negative Medicare operating margins.

The Rural Hospital Improvements Act of 1989 builds on a bill that I introduced this past May. S. 1060, the Rural Primary Care Incentives Act would provide tax incentives for physicians to practice in medically underserved areas. I believe S. 1060 responds to a critical need and must be signed into law as soon as possible. However, if too many more hospitals close, we will find it is even more difficult to attract and retain needed physicians, nurses, and other health care personnel to rural communities.

It should not be too surprising to learn that the privilege to practice in a hospital ranks among the most important factors that doctors cite when choosing a practice location. Therefore, it is hardly an understatement to say that rural hospitals are literally the glue holding the rural community's health care system together.

CHALLENGES RURAL HOSPITALS FACE

Why are rural hospitals faring so poorly under Medicare's prospective payment system [PPS]? Some underlying characteristics of rural areas may partially answer the question: unemployment is about twice as high in rural areas; poverty is greater in rural areas; and the population is growing more slowly than in urban areas. Moreover, the elderly constitute a greater proportion of the rural population than in urban areas. While the elderly comprise 12 percent of the total population, they account for 25.4 percent of the population in rural communities. These common characteristics of rural areas make Medicare reimbursement policies increasingly important to rural hospitals.

As chairman of the Senate Special Committee on Aging, I am deeply concerned about the impact rural hospitals closures are having on the elderly. Recent studies have found that older Americans living in rural areas are much less likely to want to or have the means to travel far distances to seek needed hospital care.

BACKGROUND AND PROVISIONS OF RURAL HOSPITAL IMPROVEMENTS ACT

The Rural Hospital Improvements Act of 1989 will strengthen rural hospitals in two ways:

First, it will ensure that the rural referral centers (RRCs) continue to receive the payment rate for "other urban" areas until the urban/rural Medicare hospital payment differential is phased out; and

Second, it will provide for additional reimbursement for Medicare-dependent small rural hospitals.

Presently, due to recent changes by the Department of Health and Human Services [DHHS] in RRC eligibility criteria, 43 rural referral centers risk

losing their RRC designation. RRC's receive slightly higher reimbursement rates than their rural counterparts for a variety of reasons including the fact that they serve disproportionately high numbers of severely ill Medicare patients.

Three of the 43 RRC's slated to lose their RRC status are located in Arkansas. They are: Central Arkansas General in Searcy, St. Mary's Hospital in Russellville, and Chickasawba Hospital in Blytheville. I believe that HCFA's new eligibility criteria for RRC designation has not been examined closely enough for us to fully understand the impact de-designations of RRC's would have on rural communities. The bill we are introducing today accomplishes this by prohibiting the Secretary to de-designate any RRC until the Medicare urban/rural hospital reimbursement differential is eliminated.

Another group of hospitals that merit special consideration are Medicare-dependent small rural hospitals. Preliminary reports from the Prospective Payment Commission show that operating margins are inversely related to the share of Medicare volume. As the percentage of hospital days attributable to Medicare increases, the hospital's financial well-being decreases. Moreover, the discrepancy between high and low Medicare volume hospitals continues to escalate, from a 4.6 percentage point difference the first year of PPS to a 13.8 percentage point difference in the fourth year of PPS. Finally, a high proportion of high Medicare hospitals have had consistently negative PPS operating margins.

High Medicare volume hospitals appear to be disadvantaged because they are more vulnerable to payment inaccuracies; less able to "revenue shift" to make up for revenue shortfalls in Medicare reimbursement; and more severely affected by increasingly more stringent payment rates.

As a result, Medicare-dependent hosptials find themselves between a rock and a hard spot. To ease the weight of PPS and aid the ailing small rural Medicare-dependent hopsitals, our bill would provide qualifying hospitals the difference between their reasonable costs and their PPS payment. Rural hospitals qualifying for additional payments are defined as those that have at least sixty percent of their inpatient days covered by Medicare part A reimbursement, have less than 100 beds, and have a negative Medicare PPS operating margin. Preliminary estimates by the Congressional Budget Office project that his bill would assist 375 vulnerable hospitals across the nation, including anywhere between 11 and 23 hospitals in my home State of Arkansas, and cost $52 million in fiscal year 1990.

I am very pleased that many of my colleagues on the Aging Committee and Finance Committee are joining me in introducing this legislation. I look forward to working with them, the Senate Rural Health Caucus, and the remainder of the Finance Committee in assuring that this important measure is enacted into law this session. Mr. President, I ask unanimous consent that the text of the bill be inserted at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1466

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Hospital Improvements Act of 1989".

SEC. 2. ADDITIONAL PAYMENTS FOR INPATIENT HOSPITAL SERVICES FURNISHED BY MEDICARE-DEPENDENT, SMALL, RURAL HOSPITALS.

Section 1886(d)(5) of the Social Security Act (42 U.S.C. 1395ww(d)(5)) is amended by adding at the end the following new subparagraph:

"(G)(i) For discharges occurring on or after October 1, 1989, and on or before September 30, 1994, the Secretary shall provide for an additional payment for each medicare-dependent, small, rural hospital (as defined in clause (ii)).

"(ii) For purposes of this subsection, a 'medicare-dependent, small, rural hospital' is a hospital which is located in a rural area, has no more than 100 beds, and demonstrates to the satisfaction of the Secretary that not less than 60 percent of its inpatient-days during the cost-reporting period immediately preceding the date of the enactment of this subparagraph wer attributable to individuals entitled to benefits under part A.

"(iii) The amount of the additional payment made under clause (i) shall be equal to the amount (if any) by which the hospital's reasonable costs (as determined by the Secretary without regard to the provisions of section 1861(v) and subsection (a)(1) which exclude from the determination of reasonable costs any part of incurred costs found to be unnecessary in the efficient delivery of needed health services) associated with an inpatient hospital discharge exceed the amount of the payment made under this subsection for such discharge without regard to this subparagraph.".

SEC. 3. TREATMENT OF REGIONAL REFERRAL CENTERS.

(a) EXTENSION OF REGIONAL REFERRAL CENTER CLASSIFICATION.—Any hospital that is classified as a regional referral center under section 1886(d)(5)(C)(i) of the Social Security Act as of September 30, 1989, including a hospital so classified as a result of section 9302(d)(2) of the Omnibus Budget Reconciliation Act of 1986, shall continue to be classified as a regional referral center for any cost reporting period beginning on or after October 1, 1989, and ending on or before the last day of the last hospital cost reporting period or fiscal year which ends before the implementation under the medicare program of unified average standardized amounts of allowable operating costs per inpatient hospital discharge for all hospitals participating in such program which are paid for the operating costs of inpatient hospital services under such program under a prospective payment system, regardless of whether such hospitals are located in large urban, other urban, or rural areas.

(b) CONTINUATION OF CURRENT PAYMENT RATE.—In determining the amount that is payable under section 1886(d) of the Social Security Act to a hospital that is classified as a regional referral center for purposes of payment under such section, for a discharge occurring during the period described in subsection (a), Secretary of Health and Human Services shall use the average standardized amount that is applicable to discharges from a hospital that is located in an urban area (other than a large urban area) in the region in which the hospital so classified is located (as such terms are used in such section).

By Mr. HEFLIN:

S. 1469. A bill for the relief of Sven O. Spjuth, M.D.; to the Committee on the Judiciary.

RELIEF OF SVEN O. SPJUTH, M.D.

Mr. HEFLIN. Mr. President, I rise today to introduce a private relief bill on behalf of Dr. Sven Spjuth. Presently, Dr. Spjuth is enrolled in an residency program in the State of Alabama.

Dr. Spjuth is a native of Sweden. In 1972, he graduated from the University of Gothenburg School of Medicine, becoming board certified shortly thereafter. For more than 17 years he has distinguished himself as a first rate physician, specializing in internal medicine. Not only has Dr. Spjuth taught at some of the top medical universities in Sweden, he has also authored various medical textbooks that are currently used in Scandanavian medical schools.

In January 1985, Dr. Spjuth entered the United States on a L-1 visa, became licensed to practice in Florida and became a member of the American Medical Association, eventually becoming the medical director of the American Wellness Laboratories.

Now Dr. Spjuth would like to practice in Wetumpka, AL, taking over the practice of a fine doctor who is retiring. However, Alabama has a residency requirement which must be completed by a foreign medical doctor prior to licensing by the State. The need for a private relief bill arises because Dr. Spjuth's L-1 status has expired and he may be forced to return to Sweden.

Wetumpka is a rural county whose hospital is small and struggling to survive. The loss of a single physician could be devastating to the health care of the whole community. There is no question that the services of Dr. Spjuth are desperately needed in Elmore County. This area has lost three primary care physicians during the past 2 years, leaving them critically short-handed. With only three primary care physicians currently on staff of the Elmore County Hospital, this legislation can help ease a dire situation.

Dr. Spjuth is a professional who is willing to go where the need is great.

It is my hope that my colleagues will support this legislation.

By Mr. NICKLES (by request):

S. 1471. A bill to eliminate unnecessary economic regulation of oil pipelines and reform any remaining regulations to increase competition, and for other purposes; to the Committee on Energy and Natural Resources.

OIL PIPELINE REGULATORY REFORM ACT

Mr. NICKLES. Mr. President, I am pleased to introduce by request the administration's proposal entitled the "Oil Pipeline Regulatory Reform Act of 1989."

For a number of years, the administration has been working with the oil pipeline industry to fashion an appropriate reform bill. This legislation, transmitted this morning by the Secretary of Energy, is virtually identical to S. 2770, which I introduced by request last fall. The new administration has taken a fresh look at S. 2770, and agreed that it represents an appropriate approach.

Although the Committee on Energy and Natural Resources was unable to hold hearings on S. 2770 before adjournment of the 100th Congress, I am hopeful that the committee now will have the opportunity to give this legislation the serious attention it deserves.

The introduction of the Oil Pipeline Regulatory Reform Act of 1989 is a significant step forward in the development of a consensus for reform of the Federal Energy Regulatory Commission's current cost-of-service methodology for determining oil pipeline rates. There has been agreement among objective observers that FERC's cost-of-service rate methodology creates inefficiencies in investments and services in competitive markets. I believe that wherever it is possible to allow competitive forces to determine rates, consumers would benefit from the increased efficiency of those oil pipelines.

Shortly after entering the Senate in 1981, I introduced legislation to decontrol oil pipelines. In the hearings held on that bill, witnesses testified to the significant problems associated with Federal Energy Regulatory Commission regulation of oil pipeline rates. Since these hearings, economic studies, including one in 1986 by the Antitrust Division of the Department of Justice, have indicated that most oil pipelines operate in competitive markets, and thus, can be deregulated without negative rate impacts on consumers or procedures. The Department of Justice study also indicated that there are some markets where there is not sufficient competition to protect the consumer and the shipper from monopolistic pricing, and concluded, therefore, that those pipelines should not be deregulated.

The Oil Pipeline Regulatory Reform Act will serve as a useful starting point for serious and long overdue congressional consideration of oil pipeline regulatory reform. The bill provides a means to eliminate unnecessary regulation in markets where adequate competition exists to protect consumers and also proposes reforms of the regulatory methodology for those pipelines serving the high risk or noncompetitive markets, those which require continued regulation to best serve the public interest.

It is my hope that all interested parties, particularly independent oil producers and nonowner shippers, will carefully review this proposal and develop their comments and recommendations for presentation to the Committee on Energy and Natural Resources.

Mr. President, I ask unanimous consent that the transmittal letter from Secretary of Energy James D. Watkins with a background attachment, the text of the proposed legislation and a section-by-section analysis prepared by the Department of Energy be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1471

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Oil Pipeline Regulatory Reform Act of 1989."

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds and declares that—

(1) oil pipelines are of critical strategic and economic importance to the Nation;

(2) the Nation's interests are best served by encouraging the competitive and efficient operation of oil pipelines;

(3) economic regulation can impose unproductive costs, discourage and distort investment decisions, cause regulatory uncertainty, and often is only partially effective in achieving its goals;

(4) most markets served by oil pipelines are sufficiently competitive that, given application of the antitrust laws, economic regulation of such pipelines in such markets is unnecessary to ensure reasonable rates and adequate service;

(5) for those oil pipeline markets for which competition and antitrust enforcement are not sufficient to ensure their efficient operation, continued economic regulation may be necessary to prevent abuse of significant market power;

(6) where continued economic regulation of oil pipelines remains necessary, such regulation must be reformed to maximize reliance on competition to benefit consumers, reduce regulatory costs, and encourage the efficient use and development of existing and new pipelines;

(7) for those oil pipeline markets for which continued economic regulation is necessary, consumers can be best protected, costs of regulation can be best reduced, and efficiency can be best enhanced by regulating the maximum rates that pipelines may charge and adjusting the maximum rates to reflect price changes in competitive markets, while allowing pipelines freely to discount below such maximum rates; and

(8) such reformed rate regulation in markets in which there is significant market power will provide just compensation to a pipeline if the allowable rate is comparable to what that rate would be if the market were competitive and not subject to market power, as calculated by a method that establishes maximum rates, permits them to be revised if they had been enhanced by market power, and adjusts them over time by an index reflecting pipeline prices in competitive markets.

(b) It therefore is the policy of the Federal Government—

(1) to remove the burden of economic regulation from those oil pipeline markets that operate under competitive circumstances or for which such regulation would not be an effective or efficient remedy to constrain the exercise of market power; and

(2) to provide for continued economic regulation of only those oil pipeline markets for which such regulation will increase economic efficiency and for which the benefits of such regulation outweigh its costs.

REGULATORY REFORM AND DEREGULATION

SEC. 3. The Department of Energy Organization Act (42 U.S.C. 7101-7352) is amended by adding the following new sections 408, 409, 410, and 411:

"SEC. 408. REGULATION OF PIPELINES.

"(a) DEFINITIONS.—As used in this section and sections 409 and 410—

"(1) the term 'pipeline' means any pipeline subject to existing Commission regulation jurisdiction or which would be subject to existing Commission regulatory jurisdiction except for this section: *Provided,* that such term does not include the Trans-Alaska Pipeline authorized by the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.); or any pipeline directly or indirectly delivering oil to the Trans-Alaska Pipeline;

"(2) the term 'existing pipeline' means a pipeline brought into service on or before March 30, 1988, or that was under construction as of March 30, 1988;

"(3) the term 'new pipeline' means a pipeline brought into service after March 30, 1988, and that was not under construction as of March 30, 1988;

"(4) the term 'Attorney General' means the Attorney General of the United States or the Attorney General's designee;

"(5) the term 'existing Commission regulatory jurisdiction' means those functions and authorities transferred by sections 306 and 402(b) of the Department of Energy Organizations Act (42 U.S.C. 7155, 7172(b));

"(6) the term 'Commission rate regulation' means those functions and authorities set forth in section 410;

"(7) the term 'adjudication' means an agency hearing, which may, in the discretion of the Secretary, be a hearing on the record as governed by section 554 of title 5, United States Code;

"(8) the term 'rate' means the price for transportation by pipeline, including all charges that the pipeline requires its customers to pay for the transportation and for any ancillary services set forth as part of that pipeline's tariff on file with the Commission on March 30, 1988, or approved by the Commission on March 30, 1988, or approved by the Commission thereafter; and

"(9) the term 'interested person' means a person whose economic or business interests would be substantially affected by a finding that Commission rate regulation is in the public interest or that a base rate should be revised.

"(b) TERMINATION OF EXISTING COMMISSION REGULATORY STATUS.—

"(1) TERMINATION OF EXISTING COMMISSION REGULATORY JURISDICTION.—Existing Commission regulatory jurisdiction over pipelines shall terminate sixty days after the effective date of the Oil Pipeline Regulatory Reform Act of 1989. On that date, pipelines shall become subject to sections 408, 409, 410, and 411 of this Act.

"(2) PETITION BY THE ATTORNEY GENERAL OR INTERESTED PERSONS.—

"(A) Within 120 days after the effective date of the Oil Pipeline Regualtory Reform Act of 1989, the Attorney General may petition the Secretary for an adjudication of whether Commission rate regulation of an existing pipeline in any market is in the public interest. Upon receipt of such a petition, the Secretary shall conduct an adjudication in accordance with subsection (b)(3). In bringing any such petition, the Attorney General shall be guided by the methods, assumptions, standards, and definitions underlying and set forth in the Report of the United States Department of Justice dated May 1986; *Provided, however,* that none of the findings and conclusions of the Report, and none of the methods, assumptions, standards, and definitions underlying and set forth in the Report shall be binding on the Secretary in any adjudications conducted under this section.

"(B) Within 180 days after the effective date of the Oil Piepline Regulatory Reform Act of 1989, any interested person may petition the Secretary for an adjudication of whether Commission rate regulation of an existing pipeline in any market is in the public interest. Any person filing such a petition shall provide a reasonable basis for the conclusion that Commission rate regulation is in the public interest, and shall serve a copy on the Attorney General and on the pipeline for which Commission rate regulation is sought. Upon receipt of such a petition, the Secretary, for good cause shown, may conduct an adjudication in accordance with subsection (b)(3). The Secretary may consult with the Attorney General in deciding whether to conduct an adjudication, and shall conduct an adjudication in accordance with subsection (b)(3) if the Attorney General so recommends.

"(C) Not later than 270 days after the effective date of the Oil Pipeline Regulatory Reform Act of 1989, the Secretary shall publish a list of all adjudications that the Secretary has determined will be held pursuant to this subsection, identifying in each case the pipeline and the market for which Commission rate regulation is sought. Pipeline rates for service to markets which are not identified in the list published by the Secretary shall no longer be subject to Commission regulatory jurisdiction except as provided in Section 409 of this Act.

"(3) ADJUDICATION BY THE SECRETARY.—

"(A) The Secretary shall find that Commission rate regulation of an existing pipeline in a market is in the public interest only if it is demonstrated that regulation is necessary to constrain the exercise of substantial market power in the supply or demand of products transported by the pipeline in that market. If the Secretary finds that Commission rate regulation of an existing pipeline in a market is in the public interest, Commission rate regulation shall continue. If the Secretary finds that Commission rate regulation of an existing pipeline in a market is not in the public interest, regulation shall terminate at a time the Secretary designates, but in no event shall that regulation continue beyond sixty days after the Secretary issues the finding.

"(B) A finding under subsection (b)(3)(A) shall be issued within one year after the Secretary decides to conduct the adjudication, unless the Secretary, in the event of unusual circumstances, determines that the finding cannot be issued within one year. In such a case, the Secretary shall make specific findings as to the unusual circumstances necessitating the delay, and shall specify a date certain by which the Secretary will issue the finding, but in no event shall the Secretary's finding be issued more than two years after the Secretary decides to conduct the adjudication.

"(C) If parties to an adjudication conducted by the Secretary reach a settlement of the issues prior to the Secretary's finding that Commission rate regulation of a pipeline in a market is in the public interest, it shall bind those parties. If all parties reach such a settlement, the Secretary shall terminate the proceeding by accepting the settlement.

"(c) RECONSIDERATION OF PIPELINE REGULATORY STATUS FOR PIPELINE SUBJECT TO COMMISSION RATE REGULATION.—

"(1) Upon petition of any interested person, the Secretary may conduct an adjudication of whether Commission rate regulation of an existing pipeline in any market subject to that regulation is in the public interest in accordance with subsection (b)(3). The Secretary shall notify the Attorney General of any petition for adjudication or decision to conduct an adjudication under this paragraph and may consult with the Attorney General in deciding whether to conduct an adjudicaiton.

"(2) If the Secretary finds that Commission rate regulation of an existing pipeline in a market subject to that regulation is not in the public interest, Commission rate regulation over that pipeline in that market shall terminate when the Secretary designates, but in no event shall Commission rate regulation continue beyond sixty days after the Secretary issues the finding.

"(d) PARTICIPATION BY THE ATTORNEY GENERAL.—The Attorney General may participate in any adjudication initiated by petition from any interested person under this section, and shall participate upon the request of the Secretary; *Provided, however,* that in so doing the Attorney General shall be guided by the methods, assumptions, standards, and definitions set forth in the Report of the United States Department of Justice dated May 1986.

"(e) NEW PIPELINES.—New pipelines shall not be subject to existing Commission regulatory jurisdiction or to Commission rate regulation, but shall be subject to section 409.

"(f) EXTENT OF COMMISSION JURISDICTION.—

"(1) The termination pursuant to this section of existing Commission regulatory jurisdiction or Commission rate regulation does not apply to products transported before the termination.

"(2) Commisson rate regulation of a pipeline in a market made subject to that regulation under this section shall be prospective only. Products transported by the pipeline before regulation becomes effective under this section shall not be subject to such regulation.

"(3) Existing Commission regulatory jurisdiction terminated under this section, including existing Commission regulatory jurisdiction over new pipelines, shall not revert back to, be delegated to, or otherwise transfer to, the Department of Energy, the Interstate Commerce Commission, or any other agency of the Federal Government.

"(4) Notwithstanding any other provision of law, and except as otherwise provided in section 409 and 410, no state or political subdivision thereof, and no agency of the Federal Government may regulate any pipeline with respect to which existing Commission regulatory jurisdiction or Commission rate regulation has been terminated pursuant to this section, including existing Commission regulatory jurisdiction and Commission rate regulation over new pipelines, to the extent that such regulation is similar in nature to those functions and authorities constituting existing Commission regulatory jurisdiction or Commission rate regulation that are terminated under this section. *Provided, however,* that nothing in this Act shall be deemed to limit any authority vested in any state or political subdivision thereof to regulate pipelines engaged in intrastate commerce. Such provisions include but are not limited to, subsections 5(e) and 5(f) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334 (e) and (f)) and section 28(r) of the Mineral Leasing Act of 1920 (30 U.S.C. 185(r)).

"(g) RULES AND REGULATIONS.—Notwithstanding section 501 of this Act (42 U.S.C. 7191), the Secretary and the Attorney General each may promulgate in accordance with section 553 of title 5, United States Code, rules and regulations necessary or appropriate to carry out their respective responsibilities under this section. Rules and regulations proposed by the Secretary implementing this section or any other actions taken by the Secretary under this section shall not be subject to section 404 of this Act (42 U.S.C. 7174)."

"(h) JUDICIAL REVIEW.—

"(1) Notwithstanding section 502 of this Act (42 U.S.C. 7192), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive original jurisdiction over any petition for judicial review under this section.

"(2) Any action of the Attorney General under this section, including without limitation any decision to petition or not to petition for any adjudication under this section, is an agency action committed to agency discretion by law, and shall not be subject to judicial review in any manner.

"SEC. 409. COMMON CARRIER STATUS; CONTRACTS.

"(a) COMMON CARRIAGE.—In the public interest and the interest of the national defense, notwithstanding any other provision of this Act, pipelines subject to this section shall be required to operate as common carriers, as follows:

"(1) to provide transportation service to all persons upon reasonable demand and upon fair, equitable and non-discriminatory terms and conditions and to establish through routes with other common carrier pipelines, *provided however,* that nothing in this paragraph shall pertain to rates;

"(2) to establish and observe just and reasonable classifications of property for transportation and just and reasonable regulations and practices affecting that transportation, *provided however,* that nothing this paragraph shall pertain to rates;

"(3) to refrain from disclosing to any person, other than the shipper or consignee, without consent of the shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee or routing of any property tendered or delivered.

"(b) PUBLICATION OF TERMS AND CONDITIONS.—Pipelines shall publish and file with the Commission schedules setting forth applicable terms and conditions of carriage, but excluding the rates to be charged for such carriage.

"(c) CONTRACTS.—Contracts between pipelines and other persons on terms and conditions other than those applicable to basic common carriage as filed pursuant to subsection (b) shall conclusively be presumed to be in the public interest as long as, in regulated markets, the regulated service is available at no more than the maximum rate.

"(d) ENFORCEMENT.—The Commission shall enforce compliance with the obligations set forth in this section, and may adopt rules and regulations necessary or appropriate for that purpose.

"SEC. 410. COMMISSION RATE REGULATION.

"(a) MARKET-BY-MARKET REGULATION.—Except as initially established pursuant to section 408(b)(1), rates of pipelines subject to this section shall be regulated only in markets in which the Secretary has found Commission rate regulation to be in the public interest pursuant to section 408.

"(b) RATE CAPS.—Notwithstanding any other provision of law, the rates of any pipeline in any market subject to this section shall be regulated as follows:

"(1) BASE RATES.—The base rates of a pipeline made subject to Commission rate regulation pursuant to section 408(b)(1) upon the termination of existing Commission regulatory jurisdiction shall be—

"(A) Those rates that were in effect and not subject to investigation by the Commission on March 30, 1988, increased or reduced by the percentage change in the Producer Price Index for total finished goods calculated by the Bureau of Labor Statistics (PPI) from that date to the date that Commission rate regulation commences pursuant to section 408(b)(1);

"(B) With respect to rates that were subject to investigation by the Commission on March 30, 1988, which investigation was not terminated as of the termination of existing Commission regulatory jurisdiction pursuant to section 408(b)(1), those rates that were in effect upon the last rate change prior to March 30, 1988, that was not made subject to an investigation by the Commission, or was settled or was finally adjudicated by the Commission, increased or reduced by the percentage change in the PPI from the effective date of that change to the date that Commission rate regulation commences pursuant to section 408(b)(1);

"(C) With respect to rates that were subject to investigation by the Commission on or before March 30, 1988, which investigation was terminated by a final adjudication or a settlement approved by the Commission, prior to the termination of existing Commission regulatory jurisdiction pursuant to section 408(b)(1), those finally adjudicated or settled rates increased or reduced by the percentage change in the PPI from the effective date of the final adjudication or settlement to the date that Commission rate regulation commences pursuant to section 408(b)(1);

"(D) With respect to pipelines not in service on March 30, 1988, those rates initially established by those pipelines.

"(2) ONE-TIME REVISION OF BASE RATES.—

"(A) PROCEEDING SUBSEQUENT TO PUBLIC INTEREST FINDING.—Upon any finding by the Secretary pursuant to section 408(b) that Commission rate regulation of any pipeline in any market is in the public interest ("public interest finding"), the Secretary may consider in a subsequent proceeding, in accordance with the procedures in this paragraph, whether any base rate then applicable for that pipeline in that market should be reduced.

"(B) PETITION BY THE ATTORNEY GENERAL OR INTERESTED PERSONS.—

"(i) Within 120 days after a public interest finding, the Attorney General may petition the Secretary for an adjudication of whether any base rate of that pipeline in that market should be reduced. Upon receipt of such a petition, the Secretary shall conduct an adjudication in accordance with subsection (b)(2)(C).

"(ii) Within 180 days days after a public interest finding, any interested person may petition the Secretary for an adjudication of whether any base rate of that pipeline in that market should be reduced. Such a petition shall provide a reasonable basis for the conclusion that the base rate should be reduced, and shall be served a copy on the pipelines and on the Attorney General. Upon receipt of such a petition, the Secretary, for good cause shown, may conduct an adjudication in accordance with subsection (b)(2)(C). The Secretary may consult with the Attorney General in deciding whether to conduct an adjudication, and shall conduct an adjudication if the Attorney General so recommends.

"(iii) Not later than 270 days after any public interest finding, the Secretary shall publish a list of all adjudications that the Secretary has determined will be held pursuant to this paragraph, identifying in each case the pipeline, the market, and the base rate for which a reduction is sought.

"(C) ADJUDICATION BY THE SECRETARY.—

"(i) The Secretary shall order a reduction if the petitioner demonstrates that the pipeline's market power has resulted in a base rate that is significantly higher than the rate likely would be if the relevant market were not subject to market power. In making this determination, the Secretary shall consider only statistical evidence of rates charged by that pipeline in competitive markets, with appropriate recognition of the effects of factors such as the distance of a movement. For purposes of this paragraph, a base rate shall be deemed significantly higher than the rate likely would be if the relevant market were not subject to market power only if the difference is statistically significant under commonly accepted standards.

"(ii) Any finding under clause (i) shall be issued withn one year after the Secretary decides to conduct an adjudication, unless the Secretary, in the event of unusual circumstances, determines that the finding cannot be issued within one year. In such a case, the Secretary shall make specific findings as to the unusual circumstances necessitating the delay, and shall specify a date certain by which the Secretary will issue the finding, but in no event shall the Secretary's finding be issued more than two years after the Secretary decides to conduct the adjudication.

"(iii) If parties to an adjudication conducted by the Secretary reach a settlement of the issues prior to the Secretary's finding, it shall bind those parties. If all parties reach such a settlement, the Secretary shall terminate the proceeding by accepting the settlement.

"(D) EFFECTIVE DATE OF ADJUSTMENT.—Any adjustment of a base rate ordered under this subsection shall be effective as of the date of the Secretary's finding pursuant to subsection (b)(2)(C)(ii), or one year after the Secretary decides to conduct the adjudication, whichever comes first.

"(E) PARTICIPATION BY THE ATTORNEY GENERAL.—The Attorney General may participate in any adjudication initiated by petition from any interested person under this section, and shall participate upon the request of the Secretary; *Provided, however,* that in so doing the Attorney General shall be guided by the methods, assumptions, standards, and definitions set forth in the Report of the United States Department of Justice dated May 1986.

"(3) MAXIMUM RATES; RATE ADJUSTMENTS; TRANSITION PERIODS; COMPETITIVE PIPELINE PRICE INDEX.—

"(A) The Commission shall calculate, for each rate subject to Commission rate regulation, a maximum rate. Maximum rates shall be adjusted periodically as set forth in this subsection, at intervals of not more than six months except as otherwise provided below.

"(B) Following commencement of Commission rate regulation pursuant to subsection 408(b)(1)—

"(i) For the first period, which shall be from the commencement of Commission rate regulation pursuant to subsection 408(b)(1) until the date of publication by the Secretary of the list of adjudications required by subsection 408(b)(2)(C) the maximum rate shall be the base rate.

"(ii) For each of the next two periods, which each shall be six months, the maximum rate for pipeline rates serving markets which are subject to adjudications shall be the base rate increased or reduced by the percentage change in the PPI from the date upon which the rate utilized as the base rate became effective.

"(iii) For all subsequent periods, the maximum rate shall be the prior maximum rate increased or reduced by the percentage change in the Competitive Pipeline Price Index ("CPPI") during the previous period.

Provided, however, That, with respect to a settlement approved by the Commission after March 30, 1988, which expressly governs maximum rates for any future period, the settlement rate shall be the maximum rate until the conlcusion of that period, at which time the rate in effect shall be the maximum rate to be increased or reduced by the percentage change in the CPPI pursuant to section 410(b)(3)(B).

"(C)(i) The Secretary shall calculate a Competitive Pipeline Price Index ("CPPI") to reflect relative changes in prices charged by pipelines in competitive markets not subject to Commission rate regulation. The CPPI shall be derived from the average revenue per barrel-mile of a sample of pipelines in such markets. The Secretary shall select the sample of pipelines, markets, and revenues to be used in calculating the CPPI, and in the Secretary's discretion, may exclude data from pipelines not subject to Commission rate regulation but whose rates for any reason may not reflect effective competition. The Secretary may require reports from pipelines for the purpose of calculating the CPPI.

"(ii) The Secretary shall initially publish the CPPI one year after the termination of existing Commission regulatory jurisdiction, and shall publish changes in the CPPI at intervals of not more than six months.

"(iii) The Secretary may substitute an appropriate existing index for the CPPI if such substitute index accurately reflects increases in prices in competitive pipeline markets and if the Secretary determines

that calculation of the CPPI would be unduly burdensome.

"(4) LAWFULNESS OF RATES.—

"(A) MAXIMUM RATES.— Any rate subject to Commission rate regulation under this section which does not exceed the maximum rate determined in accordance with subsection (b)(3) shall be presumed conclusively to be lawful and shall not be subject to protest, compliant, suspension, investigation or any other challenge or inquiry under Commission rate regulation.

"(B) RATES BELOW MAXIMUM RATES.—Nothing in this Act shall make it unlawful for a pipeline to charge a rate that is lower than the maximum rate determined in accordance with subsection (b)(3); *Provided, however,* that a pipeline charging such lower rates to any shipper with which it is affiliated by means of common ownership or otherwise shall be required to make such lower rates available to any shipper upon the same terms and conditions of service.

"(5) PUBLICATION AND MAXIMUM RATES.—The Commission shall publish base rates, rate adjustments, and maximum rates determined in accordance with this section and make them available for public inspection.

"(c) ADDITIONAL REQUIREMENT IN REGULATED MARKETS.—A pipeline subject to Commission rate regulation in a market shall not condition pipeline services in that market on entering into any other transaction, or on taking or refraining from any action.

"(d) EXPANDED CAPACITY—

"(1) In any market subject to Commission rate regulation, if a pipeline expands its available capacity, it may petition the Commission for a determination of the pre-existing capacity that will remain subject to Commission rate regulation. If such a determination is made, the additional capacity shall not be subject to Commission rate regulation. Interested persons may participate in the proceeding.

"(2) The Commission may promulgate any regulations necessary or appropriate to ensure that rights to use pre-existing capacity at rates governed by Commission rate regulation are allocated to shippers in a manner that both preserves the efficacy of Commission rate regulation of pre-existing capacity and is consistent with the requirements of section 409 of this Act.

"(e) ENFORCEMENT.—The Commission shall enforce compliance with the obligations set forth in this section, and may adopt rules and regulations necessary or appropriate for that purpose.

"(f) RULES AND REGULATIONS.—Notwithstanding section 501 of this Act (42 U.S.C. 7191), the Secretary and the Attorney General each may promulgate in accordance with section 553 of title 5, United States Code, rules and regulations necessary or appropriate to carry out their respective responsibilities under this section. Rules and regulations proposed by the Secretary implementing this section or any other actions taken by the Secretary under this section shall not be subject to section 404 of this Act (42 U.S.C. 7174).

"(g) JUDICIAL REVIEW.—

"(1) Notwithstanding section 502 of this Act (42 U.S.C. 7192), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive original jurisdiction over any petition for judicial review under this section.

"(2) Any action of the Attorney General under this section, including without limitation any decision to petition or not to petition for any adjudication under this section, is an agency action committed to agency discretion by law, and shall not be subject to judcial review in any manner.

"SEC. 411. REPORT TO CONGRESS.

At the Conclusion of the fifth year after the completion of all adjudications conducted under section 410 of this Act, the Secretary shall provide to the appropriate committees of Congress a report setting forth the findngs and conclusions of the Secretary on the results of the Oil Pipeline Regulatory Reform Act of 1989 and its impact on the public interest. In such report, the Secretary shall make any recommendations that the Secretary deems to be appropriate."

CONFORMING AMENDMENTS

SEC. 4 (a) Section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)), is amended by striking out "There" and inserting in its place "Subject to sections 408, 409, 410, and 411 of this Act, there".

(b) Section 404(a) of the Department of Energy Organization Act (42 U.S.C. 7174(a)) is amended by striking out "section 403" and by inserting in its place "sections 408 and 410".

(c) The Table of Contents of the Department of Energy Organization Act is amended by adding four new items to read: "Sec. 408. Regulation of pipelines.", "Sec. 409. Common carrier status continued; contracts.", "Sec. 410. Commission rate regulation", and "Sec. 411. Report to Congress".

APPLICABILITY OF ANTITRUST LAWS

SEC. 5. All laws of the United States relating to unlawful restraints and monopolies and the combinations, contracts, or agreements in restraint of trade small continue to be applicable to the transportation by pipeline of crude oil or refined oil or other products.

SEPARABILITY

SEC. 6. If any provision of this Act or its application to say person or circumstances is held invalid, neither the remainder of this Act nor the application of the provision to other persons or circumstances shall be affected.

SECTION-BY-SECTION ANALYSIS

SHORT TITLE

The bill's prefatory clause provides that it may be cited as the "Oil Pipeline Regulatory Reform Act of 1989."

FINDINGS AND PURPOSES

Section 2 of the Act contains findings and purposes. These findings and purposes will serve to guide the Secretary of Energy, the Attorney General, the FERC, and the courts in their implementation of the Act.

REGULATORY REFORM AND DEREGULATION

Section 3 of the Act adds new sections 408, 409, 410, and 411 to the Department of Energy Organization Act, Pub. L. 95-91, 42 U.S.C. 7101, et. seq., entitled "Regulation of Pipelines", "Common Carrier Status: Contracts", "Commission Rate Regulation", and "Report to Congress". It is anticipated that these sections will be codified as new sections 7178, 7179, 7180, and 7171 of title 42 United States Code.

SECTION 408 REGULATION OF PIPELINES

Section 408 sunsets existing Commission regulatory jurisdiction and replaces it with new streamlined common carrier obligations contained in new section 409 and—where appropriate—with new competition-based price cap regulation contained in new section 410.

Section 408(a) defines several terms that are used in sections 408, 409, 410.

Section 408(b) reforms basic pipeline regulation and provides for the initial consideration of the regulatory status of all existing pipelines (except for TAPS and TAPS feeder lines).

Section 408(b)(1) sunsets existing Commission regulatory jurisdiction sixty days after the Act's effective date. It also provides that on the day of sunset, the new, streamlined common carrier obligations contained in new section 409 become effective with respect to all pipelines. During the pendency of adjudications, the rates of pipelines subject to those adjudications will be regulated on an interim basis under the provisions of section 410.

Section 408(b)(2) gives the Attorney General and any intersted person the opportunity to petition the secretary for an adjudication that new price cap regulation, termed "Commission rate regulation" and set forth in section 410, of the rates of a particular pipeline in a particular market would be in the public interest. Such petitions must be filed within 120 days of the Act's effective date for the Attorney General and within 180 days for interested persons.

In determining within 120 days of the Act's effective date which pipelines and which markets should be the subject of his petition for an adjudication, the Attorney General will be guided by the methods, assumptions, standards, and definitions set forth in the economic study of the oil pipeline industry dated May 1986. Interested persons will have the opportunity directly to petition the Secretary for an adjudication regarding a particular pipeline in a particular market, as well. Interested persons will not be bound by the methods, assumptions, standards, and definitions set forth in the Department of Justice study in petition for adjudications, nor will the Secretary be bound by the study in the conduct of any adjudications.

In preparing petitions, the Attorney General will have to define relevant markets. The term "market" is not defined in the Act because the definition inherently must be based on the facts of each particular case. The Attorney General will use recognized antitrust standards for defining markets (e.g., as set forth in the Department of Justice Merger Guidelines). Depending on the relative facts (such as availability and price for alternative sources of products), a relevant market could be as large as an entire economic region covering parties of several states or as small as a single jet-fuel terminal at an airport. As noted above, the basic structural methodology of the Department's 1986 Report on Oil Pipeline Deregulation will guide the Attorney General's recommendations under the Act.

Not later than 270 days after the effective date of the Act, the Secretary is to publish a list of all adjudications that he had decided to conduct. For each market for which an adjudication is to be conducted, price cap regulation of the subject pipeline in the subject market will continue in effect while the Secretary conducts the adjudicatory proceeding. If no petition is filed with respect to a particular pipeline in a particular market, or if the Secretary does not find sufficient cause to conduct a petitioned-for adjudication, that pipeline's pricing in that market is deregulated upon publication of the list.

Section 408(b)(3) contains additional provisions regarding the adjudication of a pipeline's regulatory status. Price cap regulation

is to be found in the public interest only if it is demonstrated that "such regulation is necessary to constrain the exercise of substantial market power".

An adjudication of a pipeline's regulatory status is to be completed within one year following the Secretary's decision to conduct it, unless the Secretary determines that unusual circumstances necessitate a delay, in which case the Secretary may take a maximum of two years to issue his finding. However, the Secretary must support the need for delay with specific findings regarding the relevant unusual circumstances. If, after conducting the proceeding, the Secretary finds that price cap regulation of the pipeline in the subject market is in the public interest, such regulation will continue indefinitely. If the Secretary does not so find, price cap regulation will terminate promptly. These provisions would also allow for settlement by contract of disputes regarding whether a particular pipeline should be subject to price cap regulation in a particular market.

Section 408(c) contains provisions for reconsideration, in the light of changed circumstances, whether price cap regulation of a given pipeline in a given market is in the public interest.

Section 408(d) provides for participation by the Attorney General in any adjudicatory proceedings regarding the regulatory status of a pipeline under section 408, and provides that in so doing the Attorney General shall be guided by the underlying definitions and assumptions of the 1986 study.

Section 408(e) provides that new pipelines—those that are not in service and not under construction on March 30, 1988—will not be subject to either existing Commission regulatory jurisdiction or to the new price cap regulation contained in section 410. The term "under construction" is not defined in the bill; it is intended that this term be construed to cover pipelines for which ground has been broken, or which otherwise have progressed under expectation of regulation to the point of preempting the development of an alternative pipeline serving the same markets.

Section 408(f) clarifies that (1) FERC regulation of, and, impliedly, any FERC regulatory proceedings related to, oil or other products transported prior to deregulation of a pipeline will not be affected by that deregulation, (2) price cap regulation of a pioeline will be prospective only and not apply to previous transportation, and (3) FERC pipeline regulation terminated under section 408, including regulation of new pipelines, will not revert back to DOE, the ICC, or any other agency. Section 408(f) further provides that pipeline regulation terminated under section 408 will not revert to any state agency, with the proviso, however, that existing state authority over intrastate pipeline transportation remains unchanged.

Section 408(g) explicitly authorizes the Secretary of Energy and the Attorney General to promulgate any rules and regulations necessary or appropriate to carry out their responsibilities under section 408.

Section 408(h) provides for original, exclusive review in the United States Court of Appeals for the D.C. Circuit of any petition for judicial review of any administrative action taken under section 408. This will expedite to the greatest extent possible such judicial review.

Section 408(h) also provides that any action of the Attorney General under section 408, including without limitation any decision to petition or not to petition for an adjudication of a pipeline's regulatory status, is deemed an action committed to agency discretion and not subject to judicial review.

SECTION 409—COMMON CARRIER STATUS: CONTRACTS

Section 409 contains the new, streamlined common carrier obligations that will be substituted for current, complex non-discrimination regulation under the Interstate Commerce Act when that regulation sunsets sixty days after the effective date of the Act. Section 409 also clarifies the authority of pipelines to enter into contracts for the transportation of oil and oil products.

Section 409(a) establishes the basic common carrier obligations of oil pipelines. It specifically provides that regulatory jurisdiction under this section does not extend to rate matters. While this section requires nondiscrimination as to access, terms and conditions under common carriage, it does not permit review of rates under that guise, in order to avoid "back-door" rate of reregulation. Pipelines will be free to charge different rates to different shippers and may not be found to violate this section for that reason. Pipelines will be free to charge a rate that some shippers may be unwilling to pay, and these shippers may be "excluded" in that sense, but no rights are conferred by this section to change that situation in competitive markets. In competitive markets, customers have competitive alternatives to a particular pipeline; that is the best guarantee against any harm to consumers that might be caused by irrational price discrimination. In markets that are not competitive, price cap regulation will protect shippers. In addition, in all markets normal antitrust remedies remain available for anticompetitive actions.

Section 409(b) requires pipelines to publish and file the terms and conditions (other than rates) that apply to their standard common carriage transportation of oil and oil products.

Section 409(c) governs pipelines' contracts that differ from the standard common carriage terms and conditions. In order to ensure that businesses are free to enter into contracts that best meet their needs, without risk of intrusive regulation or challenges from disgruntled competitors, contracts are essentially removed from common carriage regulation. Common carriage remains as a "fall-back" or "base-line" option for all shippers; they will only use a contract if it better meets their needs.

Section 409(c) provides that in markets in which there is Commission rate regulation, contracts are permitted, but only so long as the regulated service is available at no more than the maximum rate. This limitation is needed in order to prevent evasion of rate cap regulation. By "available" is meant freely available—shippers can obtain the regulated service at no more than the maximum rate, free of capacity or other constraints.

For new pipelines, prospective customers and the prospective pipelines are free to enter into contracts under this provision, since new pipelines will not be subject to Commission rate regulation. Such advance contracting can efficiently ensure that needed new pipelines will be built but will not harmfully exercise substantial market power over shippers, who will have competitive options at the contracting (pre-construction) phase and thus can protect themselves.

Section 409(d) authorizes the FERC to enforce compliance with section 409, and to promulgate any necessary rules and regulations.

SECTION 410—COMMISSION RATE REGULATION

Section 410 sets forth the new "price cap" regulatory scheme that will be substituted for current cost-of-service/rate-of-return regulation under the Interstate Commerce Act when such regulation sunsets sixty days after the effective date of the Act.

Section 410(a) provides that the new simplified price cap regulatory scheme is to be on a market-by-market basis.

Section 410(b) establishes the basics of price cap regulation. Section 410(b)(1) provides the first key component of price cap regulation—"base rates." These are established as recent rates that were not subject to FERC investigation (or that were finally adjudicated or were the subject of a settlement), increased by the Producer Price Index up to the effective date of the new price cap regulatory scheme.

Section 410(b)(2) allows for a one-time reduction of a base rate upon a showing that, due to pipeline market power, the base rate is "significantly higher" than would be predicted under competitive conditions. The Secretary shall only undertake a rate reduction in markets where the difference between the unadjusted base rate and the statistically predicted competitive rate is statistically significant (a commonly accepted standard for significance is that there should be less than a five percent probability that the difference was due to random fluctuations). In markets where rate reductions are appropriate according to ths criterion, the Secretary would bring them in line with the rates that correspond to the statistically significant level (i.e., at 5 percent) rather than the statistically predicted rate.

A base rate adjustment proceeding can begin only after the Secretary has found that a pipeline has substantial market power under section 408. The procedures for such an inquiry parallel the section 408 procedures for determining whether a pipeline market will be subject to Commission rate regulation. Any such revision will be effective on the date the Secretary orders the reduction, or one year after the Secretary decides to conduct an adjudication, whichever comes first.

Section 410(b)(3) provides the other key component of price cap regulation—a new "Competitive Pipeline Price Index" ("CPPI") based on relative changes in pipeline rates in competitive unregulated markets. The Secretary will have discretion to select the data used to calculate the CPPI in order to create an index that accurately represents prices in markets with effective competition. The Secretary may use a substitute index, but only if he determines that calculation of the CPPI is unduly burdensome.

The Commission shall calculate, at least every six months, a maximum rate for each pipeline subject to price cap regulation based on base rates and cumulative changes in the CPPI. During a transition period, from the date of commencement of Commission rate regulation (sixty days after the effective date of the Act) until the date of publication of the list of adjudications required under section 408(b)(2)(C) (two hundred seventy days after the effective date of the Act) oil pipeline rate ceilings shall be frozen at base rate levels. The Producer Price Index will be used as the inflator deflator of base rates for the next year, in order not to rely on changes in the CPPI

during the early stages of deregulation, because such changes may be substantially influenced by an initial reaction to the termination of prior regulation.

Section 410(b)(4) establishes the lawfulness of all rates that do not exceed the maximum rates calculated in accordance with section 410(b)(3). This subsection also makes clear that any lower rate is also lawful. However, if a pipeline makes any such lower rate available to a shipper with which the pipeline is affiliated, then the pipeline is required to make the lower rate available to all shippers on the same terms and conditions.

Section 410(b)(5) requires FERC to publish base rates, rate adjustments, and maximum rates.

Section 410(c) contains an additional limitation on the actions of pipelines subject to price cap regulation in particular markets. This limitation is designed to prevent evasion of price cap regulation. Under this subsection, pipelines may not tie the taking of other products or services to pipeline services. This prevents pipelines from evading rate cap regulation by, e.g., charging an artificially high price for some unregulated good or service as a prerequisite for access to regulated pipeline service.

Section 410(d) provides for the non-regulation of expanded capacity in price-capped markets, in order to encourage such expansion. It also provides the Commission with explicit authority to promulgate regulations regarding allocation of rights to use pre-existing capacity in a manner consistent with effective Commission rate regulation and the common carrier requirements of section 409.

Section 410(e) authorizes the FERC to enforce section 410, and to promulgate any necessary rules and regulations.

Section 410(f) explicitly authorizes the Secretary and the Attorney General to promulgate any rules and regulations necessary or appropriate to carry out their responsibilities under section 410.

Section 410(g) provides for original, exclusive review in the United States Court of Appeals for the D.C. Circuit of any petition for judicial review of any administrative action taken under section 410. This will expedite to the greatest extent possible such judicial review.

Section 410(g) also provides that any action of the Attorney General under section 410, including without limitation any decision to petition or not to petition for a rate reduction, is deemed an action committed to agency discretion and not subject to judicial review.

Section 411 provides for a report to Congress by the Secretary five years after all adjudications under section 410 have been concluded. This is to assure informed oversight by Congress as to the status of oil pipeline regulatory reform.

CONFORMING AMENDMENTS

Section 4 of the act contains certain conforming amendments. It amends section 402(a) of the DOE Organization Act, 42 U.S.C. 7172(2), to clarify that the authorities and functions transferred by section 402(a) are transferred subject to the Oil Pipeline Regulatory Reform Act of 1989. It also amends sections 404(a) of the DOE Organization Act, 42 U.S.C. 7174(a), to clarify that the Secretary may issue regulations implementing the Oil Pipeline Regulatory Reform Act of 1989 without referring the rule to the FERC under section 404.

APPLICABILITY OF ANTITRUST LAWS

Section 5 of the Act clarifies the continuing applicability of the antitrust laws to oil pipelines. The Act is not intended to affect in any manner the applicability of the antitrust laws to transportation of oil or products.

SEPARABILITY

Section 6 of the Act provides for separability should any of the Act's provisions or their application be held invalid.

THE SECRETARY OF ENERGY,
Washington, DC, July 28, 1989.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am pleased to transmit, on behalf of the Administration, a legislative proposal cited as the "Oil Pipeline Regulatory Reform Act of 1989." The enclosed draft bill would amend the Department of Energy Organization Act to reduce and improve the economic regulation of oil pipelines. This proposed legislation is an initiative of the Presidential Task Force on Regulatory Relief.

The Oil Pipeline Regulatory Reform Act of 1989 represents a consensus approach to the reform of oil pipeline regulation. It permits rapid deregulation of most oil pipelines that operate in competitive markets. It creates a fair procedure to determine whether the remaining oil pipelines should be deregulated, but only after an inquiry into their competitiveness. The Act also reforms any residual regulation in a manner that promotes competition and reduces government oversight.

Passage of this legislation would eliminate much of the unnecessary and burdensome economic regulation of oil pipelines and would correct the inefficiencies and distortions of the present regulatory system. At the same time, the bill would maintain some of the procompetitive aspects and shipper protections of the current regulatory system. This regulatory reform would result in the savings of millions of dollars in needless regulatory compliance costs for both consumers and the oil pipeline industry. More importantly, passage of this legislation would result in a more efficient oil pipeline system that will provide consumers with the full benefits of a distribution system that gets the product to the right place, at the right time, and in the most efficient way.

Through strong bipartisan cooperation, we have recently achieved the enactment of legislation to eliminate natural gas price controls. The elimination of natural gas price controls will remove distortions that exist in the gas market today and will help consumers receive an adequate and reliable supply of clean burning natural gas at the lowest reasonable price. Similarly, passage of this proposed legislation to reduce the economic regulation of oil pipelines will result in benefits to consumers and in a more efficient energy distribution system. I urge the prompt consideration and enactment of this legislation and look forward to working with Congress to achieve this goal.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

Enclosures.

OIL PIPELINE REGULATORY REFORM ACT OF 1989

PURPOSE OF THE LEGISLATION

The Oil Pipeline Regulatory Reform Act of 1989 (OPRRA or the Act) is intended to eliminate unnecessary economic regulation of oil pipelines that operate in fully competitive markets. It also would reform in a procompetitive manner any regulation that remains necessary in the public interest. OPRRA would accomplish these goals by ending current Federal Energy Regulatory Commission (FERC) regulatory jurisdiction over all oil pipelines (other than the Trans-Alaska Pipeline System and the pipelines that lead into that system), and substituting new, simplified common carrier obligations and simplified rate regulation where necessary.

BACKGROUND

Oil pipelines have been regulated under the Interstate Commerce Act since 1906, first by the Interstate Commerce Commission (ICC) and, since 1977, by FERC. The original purpose of economic regulation was to simulate a workable competitive environment in an industry that was thought to have natural monopoly characteristics. Consequently, the Interstate Commerce Act instituted both rate and service regulation on oil pipelines to make sure that oil pipelines did not earn more than a competitive rate of return and to ensure nondiscriminatory access to them. Economic regulation at the ICC worked reasonably well for many years; FERC, however, primarily under court direction, altered the method of economic regulation of oil pipelines in the direction of a strict cost-of-service regime.

Cost-of-service regulation is ill-suited to an industry that operates primarily in a competitive environment. Inefficiencies and distortions have developed because of cost-of-service regulation. Investment decisions have been distorted so that the industry operates less efficiently and offers less service. The ultimate losers of the present regulatory system are consumers because the distribution system does not deliver products in the most efficient way.

In 1986, the Department of Justice completed a study that concluded that most oil pipelines operate in competitive markets so that continued economic regulation is not necessary. The study examined the markets in which oil pipelines operate to identify "high risk" markets where regulation would be needed to protect consumers from monopolistic pricing. The study concluded that, with the exception of some markets of a few product pipelines, the industry was competitive and should be deregulated. While the Justice study examined the effects of oil pipeline market power in various markets, it assumed that the present form of cost-of-service regulation would not change. Thus, the report recommended continued regulation of an entire contiguous pipeline if it operated in any of the markets identified as "high risk."

President Reagan proposed the Oil Pipeline Regulatory Reform Act of 1987 to implement the recommendations of the 1986 Department of Justice study. That proposed legislation would have deregulated all pipelines within 120 days of its effective date, unless, after an administrative hearing, continued regulation of a particular pipeline was found to be in the public interest.

Since that bill was proposed, the executive branch has reexamined the assumption that cost-of-service regulation should continue for those oil pipelines that remain regulated

in the public interest. The reexamination led to the conclusion that the present regulatory system was leading to serious distortions in the oil pipeline industry, because under that system oil pipelines are reluctant to make the necessary investments to maintain efficient operations and to expand to meet new supply and demand requirements.

Better results are anticipated by a shift of economic regulation from a pipeline-by-pipeline basis to a market-by-market basis using price cap regulation in the "high risk" markets. Price cap regulation would permit market-by-market regulation, inasmuch as a rate can be established in each market without the cost allocation problems inherent in cost-of-service regulation applied to the entire pipeline. With this shift to a different mode of regulation, more deregulation can occur because only "high risk" markets need be regulated and not the entire pipeline.

THE PRESENT PROPOSAL

The enclosed bill is intended to correct the distortions, inefficiencies, and misallocations of the present regulatory system. It would permit market forces to operate to the maximum extent possible while at the same time protecting shippers and consumers from any residual substantial market power that may exist in some markets in the industry. The bill would establish a procedure administered by the Department of Energy with the full participation of the Department of Justice to distinguish between those pipeline markets that are competitive and those where substantial market power exists. The procedure to be used would assure that all interested persons are given the opportunity to participate in the decisionmaking process, thereby ensuring a fair and open process. Under this procedure, if the Secretary of Energy determines that rate regulation of an existing pipeline in a market is in the public interest, FERC rate regulation would be continued. Future rate regulation, however, would be on a price cap basis for that market, rather than the current cost-of-service basis. The bill establishes a procedure, also open to interested persons, to determine this maximum rate.

In this way all pipelines that operate in competitive markets will be free to charge a competitive rate, while oil pipelines that operate in those few "high risk" markets where substantial market power exists will be regulated under a price cap method of regulation that simulates the competitive environment.

The purpose of the shift to a different form of economic regulation is to eliminate much of the needless and burdensome regulation to which pipelines are now exposed. This regulatory reform is much less burdensome because it would require very little regulatory oversight and could be implemented and maintained in a relatively easy and inexpensive fashion. This regulatory reform would ease the burden on the oil pipeline industry, saving millions of dollars in regulatory compliance, while at the same time relieving FERC from major aspects of its present regulatory costs, saving millions of dollars in government expenditures. New oil pipelines would be free from rate regulation altogether.

In addition to this shift in economic regulation, the bill maintains some of the procompetitive aspects and shipper protections of present economic regulation. Oil pipelines would continue to be common carriers that cannot discriminate on the terms and conditions of service (except rates) among those who use them. This element of regulation has three significant benefits. First, it is virtually cost-free, imposing very limited financial burdens on the industry and the government. Second, it ensures that all users of the pipelines are treated fairly and in a nondiscriminatory manner. Third, in the states that grant eminent domain to entities that have common carier obligations, these obligations also ensure that existing pipelines can expand and that new pipelines can be built by enabling pipelines to avail themselves of the state eminent domain laws.

There are other benefits of this proposed change in regulation besides the monetary savings from regulatory compliance. The elimination of rate regulation for pipelines operating in competitive markets means that regulatory distortions will be eliminated, permitting them to operate and invest in a manner that will lower costs and increase economic efficency. For pipelines whose markets continue to be regulated, the method of regulation will be certain, thereby permitting pipelines to make investment decisions that will increase their operating efficiency and better serve their customers. In the final analysis, a more efficient oil pipeline system means that consumers will realize benefits from a distribution system that gets the product to the right place, at the right time, and in the most efficient way.

By Mr. WILSON:

S. 1472. A bill to provide equity for consumers by allowing them to receive refunds for certain payments to public utilities made excess by the Tax Reform Act of 1986; to the Committee on Finance.

CONSUMER EQUITY ACT

Mr. WILSON. Mr. President, the 1986 Tax Reform Act was truly a landmark piece of legislation, bringing lower tax rates to individuals and businesses throughout our country.

Along with lower rates, the 1986 act removed Federal tax policy as a touchstone for everyday business decisions. No longer would tax policy be the moving force behind a business decision. No longer would the Federal Government try to micromanage every local economic decision.

Yet, in at least one respect, the 1986 Tax Reform Act did reach down to the local level to prohibit the pass-through to consumers of certain tax benefits granted to utility companies. This prohibition violated the spirit of tax reform, and it is certainly unfair to consumers who, because of this provision, must pay higher utility rates.

Mr. President, utility rate setting is a complicated endeavor. One aspect of rate setting involves consideration of the tax liabilities of the utility. Effectively, utilities are permitted to collect from customers money needed to pay future taxes. There are legitimate reasons for this practice. For example, when Congress created accelerated depreciation rates to encourage business investment, it was legitimate for us to require that the tax savings be retained by utility companies to support additional investments. In the 1986 act, we continued this practice with regard to the benefits of accelerated depreciation, but we also did something else.

Mr. President, in the 1986 act, we lowered corporate tax rates from 46 percent to 34 percent. Yet, utilities had been collecting advance taxes in anticipation that taxes would be owed at 46 percent. When the lower rates went into effect, the utilities had in their accounts money collected from customers that were not needed to pay Federal taxes. Effectively, this money constituted overpayments that are now owed in refunds to customers.

Unlike the provision of accelerated depreciation and shortened tax lives for certain equipment, which are intended specifically to spur investment, excess deferred taxes, as they are called, were a true windfall to utilities. The creation of excess deferred taxes was not a reason for enactment of the 1986 act, it was simply a consequence of it.

Nevertheless, the 1986 act prohibits State public utility commissions and other regulatory agencies from determining the best way to refund this money—from determining what is in the best short- and long-term interests of consumers. This was a mistake and needs to be corrected.

It is bad Federal policy to preempt the normal regulatory process that is designed to adequately compensate utilities while protecting consumers—as to the rates they pay, their safety, and the environment in which they live.

We should repeal the preemption contained in section 203(e) of the Tax Reform Act and let consumers have the ability to benefit from the tax reduction granted to utilities 3 years ago. That is what would be accomplished by the bill I am introducing today, S. 1472, the Consumer Equity Act of 1989.

We are not talking about an insignificant amount of money. Indeed, the total level of excess deferred taxes presently held by utilities is at least $15 billion.

While the impact on consumers in each State cannot be projected prior to consideration of rate cases by the myriad utility regulatory agencies, the average consumer could receive $100 over 3 years in the form of lower utility bills.

Some in the utility industry suggest that this is such a small amount of money that a consumer would hardly notice having it refunded in monthly increments. I disagree on two counts. First, for many consumers who live from paycheck to paycheck, having a few dollars each month is important and quite noticeable. Second, if we had been prescient about the lower tax rates that were enacted in 1986, billions of dollars in excess deferred taxes never would have been collected

by utility companies—the money would have stayed with consumers.

The utilities want to keep the excess deferred taxes for an extended period of time, "normalizing" the money over a number of years—in some cases up to 30 years. This may make sense for some utilities, especially those new in financial trouble, but it is presumptuous for us in the Congress to make this decision and require extended normalization on a nationwide basis.

Mr. President, my bill would repeal section 203(e) of the Tax Reform Act of 1986, effective January 1, 1991. The delay in the effective date would allow utilities time to adjust business plans to accommodate refunds to customers.

The bill would also require regulatory agencies, prior to ordering the refunding of excess deferred taxes, to consider a number of important factors, such as the best way to further the near- and long-term interests of residential, small and large business, and industrial customers, the need to improve utility facilities, the need to provide funds for the decommissioning of nuclear powerplants, and the ability of utilities to borrow capital.

Mr. President, I ask unanimous consent that the text of the Consumer Equity Act be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1472

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Equity Act of 1989".

SEC. 2. REPEAL OF PROHIBITION ON EXERCISE OF CERTAIN FEDERAL AND STATE UTILITY RATEMAKING AUTHORITY WITH REGARD TO EXCESS DEFERRED TAXES.

(a) Subsection (e) of section 203 of the Tax Reform Act of 1986 (relating to normalization requirements) is repealed.

(b) Subsection (a) of this section shall be effective on January 1, 1991.

(c) When determining the treatment of the excess deferred tax reserves of utilities, state and federal regulatory authorities shall take into account, as appropriate—

(1) the near term and long term benefits to residential, small and large business, and industrial ratepayers;

(2) rate stability;

(3) the ability of utilities to borrow capital;

(3) needed utility system improvements, including provision of—

(A) exchange carrier equal access, and

(B) acid rain abatement; and

(5) nuclear powerplant decommissioning costs.

By Mr. D'AMATO:

S. 1473. A bill for the relief of Durmas Yildiz, Melude Yildiz, and Kemal Yildiz; to the Committee on the Judiciary.

RELIEF OF YILDIZ FAMILY

Mr. D'AMATO. Mr. President, I rise today to introduce a private bill for the relief of Durmas Yildiz, Melude Yildiz, and Kemal Yildiz. Durmus Yildiz is a citizen of Turkey who came to the United States with his wife, Melude, and their 5-year-old son, Kemal. Kemal is diagnosed as having a severe blood disease known a Cooley's anemia. Treatment of the disease requires blood transfusions every 3 to 4 weeks and nightly doses of a drug called desferal. Treatment is quite expensive as each blood transfusion costs $1,200.

In March 1989, the National Institutes of Health in Bethesda, MD, contacted the Yildiz family in Turkey and offered treatment without charge for Kemal's blood disorder. The family sold all of its personal belongings in order to purchase airfare to come to the United States and to be able to afford room and board while Kemal received treatment.

On completion of the child's treatment at HIH, the family's savings were exhausted and their only recourse was to stay with friends in Brooklyn, NY. The family could not afford the airfare to return to Turkey, and even if they were able to return, they had no insurance with which to pay their son's medical bills since Mr. Yildiz no longer had a job.

While in Brooklyn, the family was able to arrange for temporary treatment at the State University of New York Downstate Medical Center. Through a social worker at the hospital, Kemal was able to receive five blood transfusions free of charge. Kemal was scheduled to receive his last free blood transfusion at the end of July. The doctors have estimated that without another blood transfusion, Kemal can live a maximum of 3 weeks.

The SUNY Downstate Medical Center has stipulated that if Mr. Yildiz can demonstrate that he can legally work in the United States and thus be eligible for medical insurance, they will continue treatment of Kemal. Mr. Yildiz has a job offer pending which will provide medical insurance, but is prohibited from taking it since he and his family are here on tourist visas. My bill grants Mr. Yildiz work authorization so that he can be employed and be eligible for medical insurance.

Mr. President, the life of a 5-year-old boy is at stake here. The only hope that he has at this juncture is for his father to be permitted to work so that the blood transfusions may be continued. The legislation that I am introducing today will help save that boy's life by granting his father, Durmus Yildiz, work authorization. I urge my colleagues to give special attention to the plight of the Yildiz family and act on this legislation.

By Mr. MURKOWSKI:

S. 1474. A bill to authorize demonstration projects involving oil terminal environmental oversight and monitoring, and for other purposes; to the Committee on Environment and Public Works.

OIL TERMINAL ENVIRONMENTAL OVERSIGHT AND MONITORING ACT

Mr. MURKOWSKI. Mr. President, I rise today to introduce the Oil Terminal Environmental Oversight and Monitoring Act of 1989.

Mr. President, this Senator has spent a considerable amount of time since the devastating oilspill caused by the *Exxon Valdez* walking the beaches of Prince William Sound and talking to the people who live in the impacted communities. It is difficult to put into words the impact that this spill has had on the environment inside and outside Prince William Sound and on the lives of the local residents. This body can, and should, do everything it can do to ensure that these people never have to live through this kind of nightmare again.

WHAT BILL DOES

Mr. President, the primary goal of this legislation is oil spill prevention. To the extent that this body adopts legislation that helps to prevent future oilspills, the other legislative matters being discussed by my colleagues concerning oilspill liability and clean up responsibilities become less relevant.

Mr. President, my bill seeks to achieve this goal of prevention by creating a decisionmaking process which provides for local citizen involvement in the process of adopting oil spill contingency plans and monitoring the environmental impact of oil terminal operations. This bill will set up a mechanism for the long-term partnership of industry, government, and local communities in overseeing compliance with environmental and safety concerns in the operation of crude oil terminals.

COMPLACENCY ONE CAUSE OF SPILL

Mr. President, as this body addresses comprehensive oilspill legislation, our efforts will not be complete unless we attack one the primary causes of the *Exxon Valdez* oilspill. Underlying the tragic comedy of errors that occurred on March 24 was one recurrent theme—the industry and government people responsible for monitoring the operation of the Valdez terminal and the vessel traffic in Prince William Sound had become complacent.

In an effort to combat this complacency, my bill involves local citizens, the people who have the most to lose in the event of an oil spill, in the decision making and monitoring process in an advisory capacity. While regulators and industry representatives may grow complacent over time, the people whose way of life depends on the envi-

ronmentally safe operation of the terminal will not.

PATTERNED AFTER SULLOM VOE

Mr. President, the idea behind this legislation is not original. It is patterned after a successful system of citizen involvement in the Shetland Islands—at the Sullom Voe terminal. Because of the effective partnership that has developed at Sullom Voe, Sullom Voe is considered the safest crude oil terminal in Europe.

Mr. President, the advisory system established by this legislation has been proven effective in Europe for over 10 years—there is no reason why this same system cannot work here.

PILOT PROGRAMS IN ALASKA

Mr. President, this bill establishes two pilot programs patterned after Sullom Voe in Alaska. One program will be established in Valdez at the Alyeska terminal and the other on the Kenai Peninsula in Cook Inlet. It will be the responsibility of these two pilot programs to implement the type of decisionmaking process that this bill provides and to further refine the concepts and relationships involved.

It is the intention of the sponsors of this legislation that similar programs should eventually be established in other major crude oil terminals in the United States because the recent oil spills in Texas, Delaware, and Rhode Island indicate that the safe transportation of crude oil is a national problem.

SPECIFIC PROVISIONS OF BILL

Mr. President, it is not necessary at this time to go into detail about the specific mechanical provisions of this bill. The effect of the decisionmaking process that this bill creates is to bring local citizens into the process.

CONCLUSION

Mr. President, I would like to reiterate to my colleagues that in order to do everything we can to ensure that a tragedy like the *Exxon Valdez* never happens again we must learn from the mistakes that caused this spill. One of the underlying causes of the *Exxon Valdez* was that the people charged with the responsibility of overseeing the safe transportation of oil in Prince William Sound had become complacent. The best was to combat this complacency is to involve local citizens in the process in an advisory capacity. This system works in the Shetland Islands and it can work here. Only when local citizens are involved in the process will we begin to build the trust necessary to change the present system from confrontation to consensus.

By Mr. KERRY:

S. 1475. A bill to direct the Secretary of the Treasury to promulgate regulations to make U.S. currency notes of a denomination of $20 or more traceable by electronic scanning; to the Committee on Banking, Housing, and Urban Affairs.

S. 1476. A bill to establish an Anti-Money Laundering Advisory Commission; to the Committee on Banking, Housing, and Urban Affairs.

MONEY LAUNDERING LEGISLATION

Mr. KERRY. Mr. President, today I am introducing two pieces of anti-money-laundering legislation which I believe can significantly contribute to the war on drug trafficking and related crimes.

The first is the Drug and Money Laundering Tracking Act which orders the Department of the Treasury to produce paper money in such a way that the unique serial number on each bill can be identified by an optical scanning device. This plan allows each piece of paper money to be quickly and easily identified by law enforcement authorities ranging from local police forces to the Departments of Justice and the Treasury and the FBI.

This technology represents a powerful new weapon for our law enforcement officials to use to fight drug trafficking and money laundering. It poses a significant threat to the drug trade because it targets large drug trafficking organizations. In addition, with proper planning, this initiative can be expanded for use in identifying counterfeit money.

Law enforcement and drug enforcement officials have expressed support for the implementation of such a scheme. The DEA at one time used to record the serial number—and series number and currency value—of each bill which it used in under cover drug operations. However, this labor intensive practice had to be discontinued, despite its usefulness, because the cost of drug buys went up so high with inflation that the resources were no longer available to record the data and search for matches. The DEA is excited about reintroducing this practice in addition to using coding to expand anti-laundering efforts.

Implementation of this proposal is technically quite simple. Experts from companies like IBM and NCR say that the technology is on-line. The serial number could be placed on the bill using bar code or digitally read numerals. The scanning equipment necessary for such a task is described as off-the-shelf technology. The various scanning machines have different capabilities and strengths. However, a very simple machine light pen linked to a personal computer could cost as little as $3,000. Such machines are already used in grocery stores and video rental outlets nationwide. Various considerations will eventually have to be made concerning the demands upon such a system, but there is no doubt that the technology is currently in place to initiate such a plan.

This proposal does not require altering what our currency looks like; nor does it require very much cost. The application of the code would take place at the time of the printing process. The cost of the application is the cost of the ink which it takes to print the code. The image of the bill would not change except for the small area where the code would be printed. There are codes on items which we handle every day which we do not even notice. On our checks and on our cereal boxes there are codes. Did you know that often the postal service applies a bar code to the front of personal mail in order to speed up the sorting process? These codes have a low profile but provide us with superb and efficient services.

Let us consider the power of this one small adjustment: This legislation will lead to capabilities of tracing drug money, closing flow-routes, and making drug operations in the United States less profitable and more difficult to conduct. Law enforcement personnel can identify drug distributors, drug runners, money launderers, the structural organization of criminal rings, and cash flow-routes through the implementation and utilization of optical scanning technology.

The second piece of legislation which I would like to introduce to you today is an effort to create an anti-money laundering advisory commission to review the 1986 and 1988 drug bills and provide advice on policy for future anti-money laundering efforts. The idea for an advisory commission on money laundering was originally recommended by the American Bankers Association task force on money laundering, and I am pleased that the ABA has assisted me in developing this proposal.

The anti-money laundering advisory commission will accomplish several goals. First, it will tap the experience of individuals with demonstrated expertise in the discovery and prevention of money laundering. The commission, comprised of law enforcement officials, representatives of Federal regulatory agencies, the financial industry, and experts from the private sector will both initiate and evaluate proposals designed to eliminate money laundering. Thus, the panel will provide a forum where the complexities of the financial services industry can be carefully considered and balanced against the needs of the Government to have as many tools as possible to combat laundering.

Second, this commission will greatly aid the charge given to the Director of National Drug Control Policy by the Congress by focusing on one area of the drug war and enabling the drug czar to continue to address the overall policy of eliminating drug use.

The commission will consist of nine members, including a chairman to be elected by the commission. Four of the

members will be appointed by the congressional leadership, and five, by the Director of National Drug Control Policy. All members will have experience with different facets of money laundering detection and control, and will be appointed from the following areas to ensure a broad range of expertise:

Four from financial institutions, or from another segment of the private sector—i.e. car dealers, casinos, real estate agents—covered by money laundering and cash transaction reporting statutes.

One from the Federal Reserve Board, the FDIC, or the Comptroller of the Currency.

One from each of the following law enforcement agencies DEA, Customs, FBI, and IRS.

Two from State and local law enforcement agencies.

This proposal will assist the Director of National Drug Control Policy in the effort to sharply curtail domestic and international money laundering by directly seeking the advice of those best suited to fight this major aspect of the drug problem. I am hopeful that the banking industry, the private sector as a whole, the regulatory agencies, and law enforcement will all agree that the establishment of such an advisory panel will greatly enhance battle against money laundering.

By Mr. LAUTENBERG (for himself, Mr. SPECTER, Mr. MOYNIHAN, and Mr. BRADLEY):

S. 1477. A bill to establish Community Education Employment Centers, and for other purposes; to the Committee on Labor and Human Resources.

COMMUNITY EDUCATION EMPLOYMENT CENTER ACT OF 1989

● Mr. LAUTENBERG. Mr. President, today I am introducing a bill to establish community education employment centers, high schools designed to meet the needs of inner city, low-income youth. The bill would authorize 15 school boards to set up community education employment centers, to demonstrate their ability to provide the education, skills, support services, work experience, and enrichment that inner-city youth need. The goal would be to ensure that poor urban youth have a greatly increased chance of graduation, transition to postsecondary schools, employment, and integration into America's economic mainstream. I am pleased to be joined by Senators SPECTER, MOYNIHAN, and BRADLEY in introducing this bill.

Mr. President, although the Nation is in its seventh year of economic growth, not everyone has shared in the prosperity. Blacks and teens still suffer unemployement rates more than twice the national average. And while suburban and ex-urban areas are booming, many great cities are overwhelmed by unrelenting poverty, homelessness, and joblessness.

At the same time that inner cities struggle to deal with surplus workers, suburban and ex-urban employers are threatened by the specter of labor shortages. While our cities are giving birth to a labor force of uneducated and unskilled young people, the Nation's employers are unable to recruit workers with the education and skills required by today's technologies. While our continued economic expansion is in jeopardy from a growing skills gap, too many inner-city youth fail to graduate from high school, master no skills, and display poor work habits. While our inner cities pay a higher than average proportion of income to support schools, a shrinking tax base and poverty deny them the resources needed to make their schools effective.

Mr. President, how much imagination does it take to see that we have an opportunity, if not an obligation, to utilize surplus inner-city labor to meet the needs of expanding industry?

If inner-city residents are to regularly graduate from high school with the education and skills required by the jobs of today and tomorrow, then means must be provided to compensate for certain disadvantages. For example, inner-city school expenditures fall far below such expenditures in suburban and ex-urban areas; excellent teachers are difficult to attract and retain; students often begin school without early exposure to basic language and mathematical concepts; and large class size prohibits individual attention required.

In terms of the students themselves, broken homes and unfavorable family employment experience deny them desirable role models and exposure to successful employment examples; inadequate family incomes tempt students to drop out to help support themselves and their families; school schedules generate the need for child care, often not affordable by inner-city families; students rarely are exposed to after school or summer enrichment sessions, such as private music lessons or summer camp; and malnutrition, crime, and drugs often rob students of the strength, determination, and desire to successfully complete their lessons and graduate.

Mr. President, this bill is intended to deal with all of these problems simultaneously. It is based on the assumption that unless we attack all these problems, our chances of success are significantly reduced.

Under the bill, community education employment centers [CEEC's] would be established for inner-city areas with especially high concentrations of children from low-income families. Operated by the local school districts in which they are located, CEEC schools would supplement inner-city high schools, if possible utilizing existing buildings, but greatly expanding the usual educational services provided.

CEEC STAFF AND FACILITIES

Under the bill, CEEC teachers and counselors would work in a collegial environment, featuring regular opportunities for training and development, sabbaticals, professional seminars, and participation in decisionmaking. They would be paid time and a half for overtime, and would have the opportunity to work year round.

To be selected for employment in a CEEC, professional staff would demonstrate the highest of academic, teaching, guidance, or administrative standards. In addition, those employed would be expected to display the vision, caring, immagination, and dedication on which community education employment center success would depend.

Each CEEC would employ a full-time parent-community coordinator to facilitate active and informed participation of parents and appropriate community representatives.

And CEEC buildings would provide adequate classroom space, and areas specifically designed as libraries, cafeterias, gymnasiums, auditoriums, and career information—counseling centers. All facilities would meet State codes and be clean, safe, and well equipped.

STUDENTS AND THE CEEC CURRICULUM

CEEC students would be representative of the local community, selected randomly to meet criteria established with the advice of a CEEC board of trustees. Students would be expected to conform to the CEEC code of conduct, also developed with the board's advice, and approved by a majority vote of both students and teachers.

Class size would be kept to 15 or fewer students.

CEEC's would operate year round, minimally between 6 a.m. and 7 p.m., Monday through Saturday.

The CEEC curriculum would offer a broad array of high school coursework, including English, mathematics, history, social studies, science, and computer science; a comprehensive articulated vocational-technical education program; courses in health, nutrition, and parenting; career planning, decisionmaking, employability, interpersonal communications, and entrepreneurship; courses that investigate the global and local economy; and courses which use community agencies as potential educational resources.

Occupational curriculum offerings would be determined after formal consultation with business, labor, and community representatives.

Remedial assistance would be provided, with emphasis on language and speaking competencies.

CEEC's could be organized into two or more programs, specializing in appropriate areas of concentration.

Gifted and talented and special education offerings would be standard curriculum components.

CEEC's would maintain an academic emphasis, regardless of student career objectives.

CEEC's would utilize community resources as support systems for educational activities and services.

Completion of CEEC academic and vocational requirements would lead to award of a high school diploma as required by the State and the local school district.

And CEEC's would provide assistance and training to other schools and agency staffs.

WORK EXPERIENCE AND ENRICHMENT

Each CEEC would include a full-time, on-site job service office. That office would offer a continuous program of labor market information, career and employment counseling by certified/licensed counselors, and job development, career testing and occupational placement services for part-time and summer employment, and full-time employment upon graduation. One full-time job service staff would be assigned for every 200 CEEC students.

Each student would be encouraged to work up to 20 hours per week during the usual school year. When feasible, such paid employment opportunities would be offered within the CEEC grounds.

During the summer, a custom program of work, enrichment, or education would be designed to meet each student's individual needs and interests. Student enrichment sessions would include sports, music instruction, art, dance, computer science, tutorial and study periods, and exploration of community historic sites and other locations of educational and cultural significance.

STUDENT SUPPORT SYSTEM

A CEEC student support system would be established and provide 1 certified guidance counselor per 100 students; access or referral to physicians, psychologists, social workers, mentors, administrators, and school nurses; and an easily accessible family counseling service.

The CEEC would serve students two full meals per day.

Daily transportation to and from school and job sites would be provided by the CEEC.

Day-care services would be provided for the children of CEEC students.

The CEEC would provide local grammar and junior high schools with annual feedback describing entering student levels of competence in academic achievement and performance.

PARENTAL AND COMMUNITY PARTICIPATION

Monthly parent seminars would be conducted to keep parents apprised of CEEC operations, obtain parent input, and provide information on how parents may encourage student performance.

At least three individual parent/student-teacher and/or counselor sessions would be scheduled per year to track student progress and discuss individual needs and plans.

If the CEEC is organized into more than one program, parents would be required to make informed decisions selecting the specialized program of attendance for their children. Such choices would be reviewed on an annual basis.

A CEEC board of trustees would guide annual priorities, programs, and procedures. The board would consist of representatives from the governing local school board, State vocational educational agency, private industry council, the student body, an authorized representative of the local teacher organization, counselors, community-based organizations, and parents. Among its duties, the board would participate in: Designating CEEC school specialization; establishing random student entrance criteria, to ensure that the student body is representative of the community; developing a student code of conduct; selecting the CEEC principal, other administrators, department chairpersons, and teachers; selecting comprehensive assessment tools for continuous evaluation and ongoing diagnosis of student learning progress; selecting curriculum text books and other learning resources and equipment; and coordinating center operations with local economic assessment and development.

A monthly CEEC newsletter, prepared by CEEC students, would highlight accomplishments, activities, and problems, and would be mailed directly to all CEEC student parents, local employers, and appropriate community agencies and organizations.

CEEC EVALUATION

The CEEC would conduct comprehensive and continuous assessment of student learning progress. This evaluation effort would measure the level of student competencies in key academic and vocational areas, dropout rates, job placement and retention, income, and college and other post secondary institution entrance upon graduation.

Funding for CEEC's would be obtained from three sources. First, State and local funds dedicated to usual student education expenses would continue. Second, the States and localities would provide suitable CEEC facilities, including buildings, equipment, and supplies and would cover annual utility and maintenance expenses. And third, the Federal Government would provide the balance of required funding through CEEC grants. It is anticipated that CEEC funding requirements over and above routine State and local support, and building and maintenance charges, may average several thousands of dollars per student. To the extent possible, CEEC's would be encouraged to also utilize funding available from appropriate employment, training, and education programs in the State.

Under this demonstration project, the Secretary of Education would collect data from all CEEC's, adequate to permit a thorough evaluation to provide guidance for the advisability of continuing and expanding center operations. Inner-city local education agencies with large concentrations of children from low-income families would be eligible to apply for grants from a total authorization of $40 million for each of the 5 fiscal years following enactment.

Mr. President, this bill offers hope and assistance to those most in need. Research indicates that by the year 2005 most 18- to 24-year-old entry level workers will come from the public schools of distressed urban districts. If we fail to accept this challenge, unprecedented safety net costs and a severe labor shortage await us. The steps proposed here should help the country fight the establishment of a permanent educational underclass. It should help meet the employment needs of the future. And CEEC's should make an important contribution to development of our once great cities, while meeting the coming labor shortage and skills gap head on.

I know that this bill calls for a new Federal expenditure at a time when we continue to work to reduce our budget deficit. While it may cost several thousands of Federal dollars a year for each of 4 years to turn an inner-city kid into a productive taxpaying citizen, the alternative in all too many cases could be spending over $25,000 a year for many years to house that same individual in prison. In fact, spending to establish CEEC's today is likely to save many Federal dollars in reduced costs of remedial education, welfare, and crime further down the road. In this instance, shifting Federal priorities to balance our inner-city education deficit is a good investment.

The Community Education Employment Center Act of 1989 has already won widespread support from a variety of groups, including the National Urban League, the Center for Law and Education, the American Federation of Teachers, the U.S. Conference of Mayors, the American Vocational Association, the National Association of State Directors of Vocational Education, the American Association for Counseling and Development, the National Career Development Association, the American School Counselor Association, the Interstate Conference

of Employment Security Agencies, the N.J. Federation of Teachers, the N.J. Association of School Administrators, the N.J. Business and Industry Association, Newark Project Schools, and the Business Employment Opportunities Foundation.

Mr. President, I ask unanimous consent that letters of support from these organizations be made part of the RECORD.

I urge my colleagues to support this bill, and ask unanimous consent that the text of the bill be reprinted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1477

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Education Employment Center Act of 1989".

SEC. 2. PURPOSE.

It is the purpose of this Act to establish and evaluate model high school community education employment centers to meet the education needs of inner-city, low-income youth by awarding grants to eligible recipients to establish community education employment centers to provide students with the education, skills, support services, and enrichment necessary to ensure—

(1) graduation from secondary school;

(2) successful transition from articulated vocational and academic programs to a broad range of post secondary institutions;

(3) employment, including military service; and

(4) integration into America's economic mainstream.

SEC. 3. PROGRAM AUTHORIZED.

(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this Act, to make grants to eligible recipients having applications approved pursuant to section 10 to establish and operate not more than 15 community education employment centers nationwide.

(b) GRANT PERIOD.—Grants made pursuant to this section may be for a period of 5 years.

SEC. 4. PROGRAM REQUIREMENTS.

Each eligible recipient receiving financial assistance under this Act shall—

(1) operate each community education employment center year-round, and at least between the hours of 6:00 a.m. and 7:00 p.m., Monday through Saturday in order to make the center easily accessible for study, counseling, and extra-curricular activities;

(2) establish a collegial working environment, with maximum opportunities for—

(A) staff training and development,

(B) sabbaticals pursuant to the provisions of section 10(c)(6),

(C) regular discussion of relevant professional issues, and

(D) decisionmaking;

(3) maintain class sizes of 15 or fewer students;

(4) have the option to organize community education and employment centers into one or more programs, specializing in different areas of study of particular interest and employment potential for the student population;

(5) offer gifted and talented and special education programs for students;

(6) establish occupational curriculum offerings only after consultation with the labor and business representatives of the private industry counsel representing such local educational area, or other appropriate community labor or business representatives, in order to ensure maximum course relevancy and employment opportunities for community education employment center graduates;

(7) offer a broad array of secondary school multicultural coursework, including—

(A) English, mathematics, history, social studies, science, and computer science;

(B) courses that help prepare students to meet local employer occupational requirements and courses which engender appreciation of entrepreneurial abilities and operations, and develop entrepreneural skills;

(C) a comprehensive vocational-technical education program developed through continuing consultation with employer-labor panels, whose members have expertise in occupations in demand, offering strong knowledge of, and experience in, all aspects of the industry and enterprise which the student is preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, and health, safety, and environment issues;

(D) courses in health, nutrition, and parenting;

(E) remedial assistance, with emphasis on language and speaking competencies;

(F) courses in career planning and decisionmaking, employability, and interpersonal communication skills;

(G) courses that investigate the global as well as local economy and alternative strategies for economic development; and

(H) courses which use community agencies as potential educational resources;

(8) maintain an emphasis on the development of academic skills, regardless of student career objectives;

(9) award students a high school diploma, consistent with State and local requirements, upon completion of the academic and vocational requirements of the community education employment center;

(10) provide technical assistance and training to staff from other schools and local education agencies within the State who wish to replicate community education employment center capabilities; and

(11) utilize community resources as support systems for educational activities and services to parents and students.

SEC. 5. BUILDING REQUIREMENTS.

Each eligible recipient receiving financial assistance under this Act shall maintain each community education and employment center building in accordance with State and local building, health, and sanitation requirements. Each such community education employment center shall include areas specifically designed as—

(1) a library;

(2) a cafeteria;

(3) a gymnasium;

(4) an auditorium; and

(5) a career information and counseling center.

SEC. 6. SUPPORT SERVICES REQUIREMENTS.

Each eligible recipient receiving financial assistance under this Act shall establish in each community education employment center a support system, including—

(1) a comprehensive program of confidential guidance counseling, providing—

(A) guidance for problem solving, personal development planning, and post-secondary institution placement;

(B) mentoring and referral to appropriate social services;

(C) access or referral to physicians, psychologists, social workers, school nurses, and student assistance personnel; and

(D) an easily accessible family counseling service, to enable parents to address family problems and to focus on the enhancement of student education;

(2) daily student enrichment, including instruction and participation in—

(A) sports;

(B) music;

(C) art;

(D) dance;

(E) computer science;

(F) tutorial and study sessions; and

(G) community exploration.

(3) an on-site, full-time, job service office to offer students—

(A) continuous career guidance, development, and employment counseling by certified or licensed counselors, providing exploration of a broad range of occupations and alternate career paths;

(B) labor market information, job development, career testing, and occupational placement services for part-time and summer employment, internships, cooperative programs, and part-time and full-time employment upon graduation; and

(C) a part-time paid job for no more than 20 hours per week during the school year;

(4) an individualized summer program of work, education, and enrichment sessions, for each student participating in the program;

(5) transportation to and from the community education employment center and part-time job sites daily;

(6) two full meals per day; and

(7) day care services for children of participating students.

SEC. 7. PARENTAL AND COMMUNITY PARTICIPATION.

(a) IN GENERAL.—Each eligible recipient receiving financial assistance under this Act shall employ a full-time parent/community coordinator and shall provide for the active and informed participation of parents and appropriate community representatives in each community education employment center by—

(1) requiring parents and students to make informed decisions in selecting and annually reviewing the choice of community education employment center programs for their children, if the community education employment center is organized into more than one program;

(2) conducting monthly parent seminars to—

(A) inform parents about community education employment center operations;

(B) obtain parent input; and

(C) disseminate information on how parents can encourage student performance;

(3) providing the parents of each student with an opportunity to meet with counselors, teachers, and the student on at least 3 occasions annually to discuss student progress, plans, and needs;

(4) utilizing parents to check homework, as paid classroom assistants, and as volunteer coordinators of extracurricular activities;

(5) establishing an advisory Board of Trustees (hereinafter referred to as the "Board") consisting of an equal number of representatives from:

(A) the local educational agency (elected by the local educational agency);

(B) the State board for vocational education (elected by the State board for vocational education);

(C) the private industry council, including the executive director (elected by the private industry council);

(D) the student body (elected by the student body);

(E) the local teacher organization (elected by the local teacher organization);

(F) the state's guidance counselors, including the local educational agency's director or coordinator of guidance or the designated representative of such director or coordinator;

(G) community-based organizations (nominated by parents and the local educational agency, and elected by the Board of Trustees); and

(H) parents (elected by parents of students of the community education employment center);

(6) providing elementary and secondary schools within the appropriate local area with feedback concerning entering student levels of competence in academic achievement and performance; and

(7) publishing a monthly newspaper, prepared by community education employment center students, to regularly inform parents, local employers, and others in the community of community education employment center accomplishments, activities, and problems.

(b) FUNCTIONS OF THE BOARD.—

(1) The Board shall—

(A) establish annual community education employment center priorities, programs, and procedures;

(B) participate in the designation of community education employment center program specialization;

(C) establish random student selection criteria, designed only to ensure that the student body is representative of the eighth grade graduate population in the district;

(D) develop a student code of conduct, to be approved by a majority vote of both students and teachers of the community education employment center;

(E) develop programs to encourage parent and employer involvement in community education employment center operations;

(F) participate in the selection of the community education employment center principal, administrators, department chairpersons, and teachers;

(G) assist in the selection and application of comprehensive assessment tools for continuous evaluation of student learning progress;

(H) make recommendations for the selection of curriculum textbooks, software, and other learning resources and equipment;

(I) coordinate community education employment center operations with local economic needs, assessment and development; and

(J) regularly communicate the recommendations of the Board of Trustees to each entity represented on the Board.

(2) Members of the Board shall serve for a 2-year period.

SEC. 8. PROFESSIONAL STAFF.

(a) IN GENERAL.—(1) Each eligible recipient receiving financial assistance under this Act shall only employ professional staff who demonstrate the highest of academic, teaching, guidance, or administrative standards. Professional staff should display the vision, caring, imagination, and dedication on which community education employment center success will depend. Specific indications of meeting such criteria include awards received, inservice professional development completed, superior evaluations, and other similar achievements.

(2) Notwithstanding any other provision of law, teacher and counselor remuneration and employment conditions shall be governed by the appropriate collective bargaining or other applicable agreement except, that compensation for any hours worked in excess of the regular working schedule, applied over a 12-month school year, shall be at no less than one and one-half times the regular rate at which such teacher or counselor is employed. Teachers and counselors may maximize their annual compensation by working selected 6-day weeks and devoting a number of work hours to instruction in extra-curricular subject matter.

(b) TEACHERS.—(1) Each eligible recipient receiving financial assistance under this Act shall only employ community education employment center teachers who—

(A) attend an annual 2-week summer academy sponsored and conducted by the eligible recipient, to be trained in techniques and procedures relevant to the community education employment center, and to discuss significant issues in a collegial atmosphere; and

(B) are licensed to teach in the State in which the community education employment center is located.

(2) Each eligible recipient receiving financial assistance under this Act shall employ in community education employment centers teachers, 50 percent or more of whom have at least 3 years of teaching experience.

(3) Each eligible recipient receiving financial assistance under this Act shall maintain a staff of unassigned teachers, who meet requirements of this section, to serve as substitute teachers in community education employment centers.

(c) ADMINISTRATORS.—(1) Each eligible recipient receiving financial assistance under this Act shall only employ administrators in community education employment centers who—

(A) are licensed school administrators in the State in which the community education employment center is located;

(B) have a graduate degree in school administration; and

(C) have at least 3 years experience in school administration.

(d) DEPARTMENT CHAIRPERSONS.—Each eligible recipient receiving financial assistance under this Act shall only employ in community education employment centers, department chairpersons who—

(A) are licensed to teach in the State in which the community education employment center is located;

(B) have a graduate degree in education; and

(C) have at least 5 years teaching experience.

(e) GUIDANCE COUNSELORS.—(1) Each eligible recipient receiving financial assistance under this Act shall only employ in community education employment centers, guidance counselors who—

(A) are certified or licensed counselors in the State in which the community education employment center is located;

(B) have at least 3 years counseling experience; and

(C) have a graduate degree in counseling.

(2) Each local educational agency receiving financial assistance under this Act shall employ 1 full-time guidance counselor for every 100 students.

(f) CAREER COUNSELORS.—Each eligible recipient receiving financial assistance under this Act only shall employ career counselors who are certified or licensed counselors in the State in which the community education employment center is located.

(g) JOB SERVICE STAFF.—(1) Each eligible recipient receiving financial assistance under this Act shall only employ in community education employment centers, job service staff who—

(A) have a bachelors degree; and

(B) 3 years experience in job service work.

(2) Each local educational agency receiving a grant under this Act shall employ 1 full-time job service staff member for every 200 community education employment center students.

SEC. 9. STUDENT REQUIREMENTS.

(a) SELECTION.—Students admitted to the program shall be selected pursuant to the provisions of section 7(b)(1)(C) and shall be representative of the secondary school population of the area in which such community education employment center is located.

(b) CONTINUED ENROLLMENT.—In order to maintain eligibility for continued enrollment in a community education employment center receiving financial assistance pursuant to the provisions of this Act each community education employment center student shall conform to the code of conduct established pursuant to the provisions of section 7(b)(1)(D).

SEC. 10. ELIGIBILITY AND APPLICATIONS.

(a) ELIGIBILITY.—An eligible recipient is eligible to receive a grant under this Act if such eligible recipient is located in a county in which—

(1) at least 7,500 children are eligible to be counted under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 reside; and

(2) at least 12 percent of population aged 5 to 17 is eligible to be counted under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(b) APPLICATIONS REQUIRED.—Each eligible recipient desiring to participate in the demonstration grant program authorized by this Act, shall prepare and submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(c) CONTENTS OF APPLICATIONS.—Each such application shall—

(1) demonstrate that the inner-city area where the center is to be located has a high concentration of children from low-income families, relative to the county and State as a whole;

(2) describe the activities and services for which assistance is sought;

(3) contain assurances that the State and eligible recipient will through appropriate budgets, or contributions from business or labor organizations, provide suitable community education employment center facilities, including buildings, equipment, supplies, and utility and maintenance expenses;

(4) contain assurances that the State and local educational agency will, in any fiscal year, at least supply the same fiscal effort per student with respect to the free provision of public education to community education employment center students as such local educational agency provides for students attending secondary school in such local educational agency;

(5) utilize funding available from appropriate employment, training, and education programs in the State;

(6) contain assurances that the eligible recipient will provide outstanding community education employment center employees who have been employed in community education employment centers for at least 3 years with 6 month sabbaticals to be used for—

(A) accredited study;

(B) curriculum development; and

(C) structural consultation with staff from other community education employment centers.

which directly involve issues key to community education employment center operations and development;

(7) demonstrate compliance with the provision of this Act;

(8) demonstrate satisfactory progress in student learning as evidenced by improvement in the evaluation criteria set forth in section 11(a);

(9) contain assurances that job service office established pursuant to the provisions of section 6(3) will be operated by the State public employment service; and

(10) provide such additional assurances as the Secretary may reasonably require.

SEC. 11. EVALUATION, INFORMATION AND REPORT.

(a) LOCAL EVALUATION.—Each community education employment center shall submit annually to the Secretary a comprehensive and continuous evaluation of student learning progress, including—

(1) academic and vocational competencies;

(2) dropout rates;

(3) information concerning employment and earnings; and

(4) information regarding post-secondary institution entrance upon graduation.

(b) INFORMATION.—The Secretary shall share the information gathered pursuant to subsection (a), as well as information on successful community education employment center techniques and procedures, with eligible recipients receiving assistance under this Act.

(c) REPORT TO CONGRESS.—The Secretary shall collect the evaluations submitted pursuant to subsection (a) and additional relevant information, and submit 2 reports to the appropriate committees of Congress. The first report shall be submitted no later than 3 years from the date of enactment of this Act and the second report shall be submitted no later than 5 years from the date of enactment of this Act. Such reports shall provide information and recommendations concerning—

(1) the learning progress of community education employment center students,

(2) the impact of community education employment center life on student dropout rates,

(3) the impact of community education employment center life on graduate transition to employment and post-secondary education, including the impact on income,

(4) the strengths and weaknesses of the community education employment center design,

(5) the cost effectiveness of community education employment center operations,

(6) the professional staff turnover and job satisfaction, and

(7) the advisability of continuing and expanding community education employment center operations into other appropriate communities.

SEC. 12. DEFINITIONS.

As used in this Act—

(1) The term "area vocational educational school board" means a body that governs a specialized secondary school used exclusively or principally for the provision of vocational education to individuals who are available for study and preparation for entering the labor market.

(2) The term "eligible recipient" means a local educational agency or an area vocational school board.

(3) The term "hours on which the regular rate of pay is computed" does not include hours spent at home.

(4) The term "local educational agency" has the same meaning given that term by section 1471(12) of the Elementary and Secondary Education Act of 1965.

(5) The term "parent" includes a legal guardian or other person standing in loco parentis.

(6) The term "Secretary" means the Secretary of Education.

(7) The term "secondary school" has the same meaning given such term in section 1471(21) of the Elementary and Secondary Education Act of 1965.

(8) The term "State board for vocational education" means a State board designated or created by State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration of vocational education in the State.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $40,000,000 for fiscal year 1990 and each of the fiscal years 1991, 1992, 1993, and 1994, to carry out the provisions of this Act.

NATIONAL URBAN LEAGUE, INC.,
New York, NY, July 5, 1989.

Hon. FRANK R. LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the National Urban League, Inc., I am pleased to write you in support of the Community Education and Employment Act of 1989. Your proposal to assist urban high schools develop comprehensive support services for students, as well as challenging and relevant academic course offerings is timely and much needed.

Clearly there is a much needed emphasis on vocational education in the proposed legislation. However, we are able to support the proposed program because it emphasizes academic preparation for all students, regardless of their post secondary plans. This program has the potential to "marry" these two areas without sacrificing one for the other.

We are also pleased that you have incorporated our suggestions with regard to parent and community involvement. As an organization, we have been actively involved with the school systems in the cities where our 113 affiliates are located to promote school community collaborations. Because of our work in this area, we recognize the importance of this aspect of the program, and look forward to the opportunity to work with you in support of your efforts to improve the quality of education in our centers.

Sincerely,
STEPHANIE G. ROBINSON, PH.D.,
Director of Education and
Career Development.

CENTER FOR LAW AND EDUCATION, INC.,
Washington, DC, June 29, 1989.

Hon. FRANK R. LAUTENBERG,
Senate Hart Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: The Center for Law and Education wholeheartedly supports the Community Education Employment Center Act of 1989, which you have authored and plan to introduce shortly. This legislation has enormous potential for leading the way toward more effective, comprehensive education programs for low-income youth.

One of the bill's great strengths is its careful attention to detail and to the real substance of education issues. It draws upon the very best of education practice and knowledge. It links aspects of that practice together in a coherent structure which offers real promise of translating Congressional intent into practical reality.

Among the many specifics which deserve special mention for reflecting the best of what we know about quality education are:

A comprehensive approach to quality vocational education, by assuring that students get experience in and understanding of all aspects of the industry they are preparing to enter;

The emphasis on a collegial working environment and on providing staff with the needed time, resources, and training;

Shared decision-making, including a representative board with real authority in important areas, to assure that the program truly has the support of, and reflects the needs of, its constituencies;

The focus on academic expectations for all students, regardless of curriculum track;

Classes which are small enough to really make a difference;

A rich array of supportive student services;

Open student access and the elimination of admissions barriers which exclude students from high quality programs;

Involvement of students in courses that investigate the local economy and alternative strategies for economic development—an important counterweight against the tendency toward passive views of students and communities, particularly in depressed economies where it is not enough to train students for a labor market which produces too few high quality, long-term career opportunities;

Combining of student leadership and communication skills, such as through the development of a student-run community newspaper; and

Last, but certainly not least, a commitment to using these schools as sites for technical assistance and staff development for other schools in the state, which offers much greater hope of replicating success than the more conventional approach of simply funding a model program and hoping that it spreads.

The focus on vocational education programs which provides students with experience in and understanding of all aspects of the industry they are preparing to enter deserves special mention. This avoids the problem of narrowing students' long-term opportunities, because it provides a much stronger basis for integrating academics into vocational education, because it gives students highly transferrable yet concrete skills which will outlast short-range predictions about specific skill demands, and because it allows students to get involved in community development activities which are badly needed in low-income communities in which the existing labor market demand is inadequate.

These features and others make this a unique piece of legislation which truly reflects and supports our best efforts for improving education. You have created the support for schools that would be wonderful places to attend. That is precisely the ideal

for legislating on the schools that serve low-income youth.

Your leadership in this effort deserves high praise. We also commend the fine work of your staff in researching and integrating the many key components of the bill.

Please let us know if we can be of any assistance as the important legislation develops.

Sincerely,

PAUL WECKSTEIN,
Director.

AMERICAN FEDERATION OF TEACHERS,
Washington, DC, July 10, 1989.

Senator FRANK R. LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the American Federation of Teachers and its 700,000 members, I would like to express support of your bill, the Community Education Employment Center Act of 1989.

In addition to a comprehensive educational and vocational program, offered in a highly facilitative environment, the bill features a broad range of student support services and meaningful opportunities for parental and community involvement.

Not only does your bill incorporate many of the provisions which we believe are necessary to meet the needs of inner-city, low income youth, but in establishing a number of demonstration sites it contributes to the federal government's important role of educational leadership.

The AFT will be following the progress of this bill with interest, and we hope to contribute to its refinement and enactment into law.

Sincerely,

GREGORY A. HUMPHREY,
Director of Legislation.

THE U.S. CONFERENCE OF MAYORS,
Washington, DC, June 15, 1989.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR FRANK: I am writing on behalf of the U.S. Conference of Mayors to congratulate you on the development of the Community Education Employment Center Act of 1989 and to assure you of our support for the legislation.

We must find new ways of reaching at-risk youth in our cities and of helping them to complete their education and be ready to enter the work force. Your bill would provide a broad curricula and a comprehensive support system in 15 community-based settings that is not now available to these young people. Clearly these kinds of efforts are needed if we are to respond to the problems of poverty in our cities and to make sure that we have a workforce in the future that can meet the nation's needs.

The Conference of Mayors stands ready to work with you to see this important legislation enacted into law.

Sincerely,

ARTHUR J. HOLLAND,
Mayor of Trenton, President.

AMERICAN VOCATIONAL ASSOCIATION,
Alexandria, VA, June 28, 1989.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: I am pleased to endorse your concept for the Community Education Employment Center Act of 1989, which I understand you will soon introduce in the U.S. Senate. I believe it provides a prototype for comprehensive educational activity within inner-city areas which can begin to transform the theme of "educational excellence and employment opportunity" into a reality for low income youth.

AVA has appreciated the opportunity afforded us to contribute to this bill's development and looks forward to working with you in the months ahead.

Sincerely,

NIEL EDMUNDS,
President.

AMERICAN ASSOCIATION FOR
COUNSELING AND DEVELOPMENT,
Alexandria, VA, June 29, 1989.

Hon. FRANK LAUTENBERG,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: The 57,000 members of the American Association for Counseling and Development enthusiastically support the Community Education Employment Centers (CEEC) bill.

As America prepares for a society filled with greater technology and looks at how best to train its workforce, it is clear that Community Education Employment Centers can be instrumental in meeting these goals. CEEC's are innovative in providing important skills and services necessary in transitioning from school to the world of work.

Our Association is especially supportive of the CEEC's inclusion of the school and employment counselor. We believe that counselors and human development specialists are critical in ensuring that young adults form realistic and positive attitudes about work and, more importantly, the processes involved with lifelong career development.

The members of AACD are encouraged by the CEEC concept, and will work with you in hopes of bringing CEEC's to fruition.

Please let us know if we can be of any future assistance.

Sincerely,

SUNNY HANSEN, PH.D., NCC,
President.

NEW JERSEY ASSOCIATION
OF SCHOOL ADMINISTRATORS,
Trenton, NJ, June 28, 1989.

Senator FRANK R. LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: We have reviewed the Community Education Employment Centers Act of 1989 and believe it outlines a model program that will greatly benefit inner city high school students. We believe that the strengths of this program are numerous but we are particularly encouraged by the requirement that local representatives of business and industry work cooperatively with educators to ensure maximum course relevancy and employment opportunities for graduates.

In addition, the designers of the program have insured that these at risk youngsters will receive necessary support services, including guidance, family counselling and medical referral services, to enable them to overcome existing obstacles to receiving an education. Further, the educational program has strong academic, enrichment and vocational components.

The New Jersey Association of School Administrators heartily endorses this legislation.

Very truly yours,

JAMES A. MORAN,
Executive Director.

METROPOLITAN ECUMENICAL MINISTRY,
Newark, NJ, July 5, 1989.

Senator FRANK LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR: Project Schools helps parents to reduce the overall dropout rate and improve the quality of education for Newark youth. As an agency of the Metropolitan Ecumenical Ministry we believe it's crucial that new ways are sought to help young poeple overcome the barriers to education caused by the cumulative impact of the culture of poverty.

The cycle of poverty is difficult to break without help. In a city like ours children struggle everyday to pursue meaningful lives while grappling with desperate social needs. By almost any civilized standard that is chosen, children raised in Newark are among the neediest in the nation. Near 40% of Newark's population lives below the poverty line and one-third of Newark's families are receiving some form of public assistance. The local Bureau of Health reports that Newark has the highest reported lead poisoning rate in the country, the highest rate of active TB, syphilis, and gonorrhea cases as well as the highest number of infant deaths, low birthweight babies, and adult and pediatric AIDS cases in the state. To further compound the matter, there is a low level of English literacy, and a high percentage of school age children who come from homes of under educated parents. The 52% dropout rate and poor record of student achievement is not surprising when one considers the apathy and despair of childhood in this environment.

We have long awaited a program that would address these many social issues and provide a comprehensive approach which helps students develop the tools to transform their lives. The bill's stress upon enrichment and opportunity is a welcome change from the minimum education goals usually associated with government programs. It is significant that the CEEC program does not track its participants to "bottom of the barrel" or "dead end" jobs. But offers instead ways to achieve meaningful careers. The program places an emphasis on creating the questioning, creative people that communities and commerce need to grow.

Project Schools strongly endorses the Community Education Employment Center Act. Its innovative approach to providing the broad scope of services and conditions which can begin to address the many needs of urban families will force us to rethink our definitions of education reform.

Sincerely,

C. STEPHEN JONES,
Director, Project Schools.

INTERSTATE CONFERENCE OF
EMPLOYMENT SECURITY AGENCIES, INC.,
Washington, DC, May 9, 1989.

Mr. ALAN MOSS,
Congressional Fellow, Office of Senator Frank P. Lautenberg, Hart Senate Office Building, Washington, DC.

DEAR MR. MOSS: The Interstate Conference of Employment Security Agencies, Inc. (ICESA) has reviewed the selected employment initiatives which are being introduced by Senator Lautenberg. As you know, the ICESA Employment & Training and Labor Market Information Committees have analyzed these bills and generally endorse the legislation.

There are some concerns that have been expressed to you verbally by Alan Laffer-

man and Gary Crossley dealing with the issues of funding and duplication of effort, and we must pursue these matters with you.

ICESA appreciates the opportunity to be involved in the review process for these employment and training proposals.

Sincerely,

RICHARD G. FREEMAN,
President.

NATIONAL CAREER DEVELOPMENT ASSOCIATION,
Alexandria, VA, July 1, 1989.

Hon. FRANK LAUTENBERG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: For more than 75 years, the National Career Development Association (NCDA) has worked to ensure that the educational, vocational and employment needs of both youth and adults were met through effective counseling and career information services. We write today with an endorsement for Community Education and Employment Centers.

NCDA salutes you for creating legislation establishing CEECs. We feel that CEECs would provide the services which will help students to overcome those barriers which prevent them from experiencing meaningful employment and a smooth transition from school to the world of work.

CEECs would be an integral component in ensuring that all Americans are provided with the opportunity for lifelong career development.

Senator Lautenberg, our Association is prepared to assist you and, once again, thanks you for introducing a bill creating CEECs.

Sincerely,

DAVID JEPSEN.

AMERICAN SCHOOL COUNSELOR ASSOCIATION,
Alexandria, VA, July 1, 1989.

Hon. FRANK LAUTENBERG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: The American School Counselor Association (ASCA) stands in strong support of your bill authorizing Community Education and Equipment Centers.

ASCA is the largest organized body of school counselors in the world. Our members are working with young people of all ages in dealing with their educational, employment and human development needs.

It is obvious to us that maximizing the career and education potential of young adults is critical to ensuring America's competitiveness.

Also, the need to provide outreach services to economically and educationally disadvantaged students is clearly documented. CEECs would be instrumental in meeting such challenges.

Senator Lautenberg, we salute your effort to initiate legislation authorizing CEECs for we believe it is both timely and necessary that such a concept is brought to function.

ASCA pledges its support to your efforts and looks forward to assisting in whatever way possible.

Sincerely,

DORIS RHEA COY,
President.

NEW JERSEY BUSINESS AND INDUSTRY ASSOCIATION,
Trenton, NJ, June 29, 1989.

Hon. FRANK R. LAUTENBERG,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: The purpose of this letter is to express the support of the New Jersey Business and Industry Association for the Community Education Employment Center Act of 1989.

The future of New Jersey's Labor Force economy will depend on the full participation of every one of New Jersey's citizens. We cannot neglect any segment of society. Such neglect carries a high price in terms of loss of human potential as well as loss of significant opportunities for economic growth.

Sincerely,

DONALD M. SCARRY,
Assistant Vice President.

NATIONAL ASSOCIATION OF STATE DIRECTORS OF VOCATIONAL EDUCATION,
Washington, DC, July 11, 1989.

Hon. FRANK R. LAUTENBERG,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: The National Association of State Directors of Vocational Education shares your concern for the quality of educational opportunity offered within our most economically depressed areas.

Your proposed Community Education Employment Center Act represents a complete package of services needed to assist those at risk of serious economic and educational disadvantage to obtain the intensity of learning, cultural and support services efforts they need. The Association strongly supports this proposal and will work for its passage.

It has been a pleasure to work with you and your excellent staff toward passage of this bill.

Sincerely,

MADELEINE B. HEMMINGS,
Executive Director.

NEW JERSEY STATE FEDERATION OF TEACHERS,
Union, NJ, July 13, 1989.

Hon. FRANK R. LAUTENBERG,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: We have reviewed the final draft of your Community Education Employment Center Act of 1989, and we appreciate the modifications that have been made at our request.

We believe that through pilot programs such as those envisioned in this bill, America may be able to develop comprehensive community approaches to solving the variety of problems that challenge educators and community leaders in our urban centers.

Yours very truly,

RAYMOND A. PETERSON,
Director for Educational Issues and Government Relations.●

By Mr. SIMON:

S. 1478. A bill to authorize research into the desalting of water; to the Committee on Environment and Public Works.

WATER RESEARCH ACT OF 1989

● Mr. SIMON. Mr. President, a few days ago this body approved the fiscal year 1990 energy and water development appropriations bill. I commend Senator JOHNSTON, chairman of the Subcommittee, and Senator HATFIELD, the ranking minority member, for their work on that bill. The committee report of that bill stated "Water is our Nation's most precious and valuable resource. It is evident that water supply in the near future will be as important, if not more so, than energy. There is only so much water available. Water cannot be manufactured. Our Nation cannot survive without water, and economic prosperity cannot occur without a plentiful supply." This is absolutely correct; water cannot be manufactured. However, once used, it can be cleansed and used again. We are all aware of the shortages of water suffered by the States in the desert southwest but many States suffer shortages of clean water in other areas of the country.

Mr. President, today I am introducing legislation, the Water Research Act of 1989 to reinitiate Federal activity in the field of desalting of water. We first started Federal activity in this field over 40 years ago and our Nation was, at one time, the world's leader in the technologies that are used in desalting techniques. However, the work in this field has been basically static for almost 10 years since the Federal Government exited the program.

While difficult to measure accurately, saline or mineralized waters account for approximately 99.5 percent of the water on this globe. Less than 0.5 percent of the Earth's water is directly suitable for human consumption, agricultural, or industrial uses. Increasing municipal, industrial, and agricultural growth indicate that the world will experience increasing demand for fresh water. In fact, according to testimony given to the Senate this year, NASA predicts that if worldwide activities continue as they are now there will be a severe drought before the turn of the century which will severely affect many countries.

The United States uses fresh water at a rate between 375 and 400 billion gallons per day. Approximately one-third of this is consumed and the rest returned to the cycle, but it is often degraded in quality. For example, this degradation comes from urban and agricultural runoff, sewer systems and industrial discharges all of which add wastes and chemicals into rivers and lakes. In arid regions, irrigation practices leach salts from the soil, which raises the salinity of the return flow. It should be obvious that we cannot continue to consume and degrade Federal funding of research and development activities connected with the conversion of saline and brackish water into usable water started with the passage of the Saline Water Act of 1952 (66 Stat. 328). In retrospect, this

act was surprisingly foresighted in providing a stimulus in this field when very few water supply problems were identified. Succeeding Congresses continued legislation in this field, and by the 1960's and early 1970's, the United States was internationally recognized as the leader in this field. However, as part of its efforts to reform the Federal Government and budget, the Reagan administration terminated the emphasis in this program. In the meantime, desalting installations continue to grow nationally and worldwide. The Japanese are now a major international force in desalting technology, and are expanding rapidly in this field. There are over 3,500 desalting plants worldwide, (approximately 800 in the United States) producing over 3 billion gallons of water daily.

This legislation, the Water Research Act of 1989, will restore the Federal emphasis to research in this field and will provide the initiative to restore confidence in the research facilities and industries in this field. This Congress has the opportunity to reinstitute research in this field and to provide substance to the vision that former President John F. Kennedy enunciated back in 1961 when he stated "* * * if we could ever competitively * * * get our water at this rate without initiating some type of recovery and reuse system. Fresh water from salt water * * * it would be in the long-range interests of humanity which would really dwarf any other scientific accomplishments." His 1961 State of the Union message expressed concern that we were neglecting the field of saline water conversion and this was when we had a research and development program in place.

I ask unanimous consent that the full text of the bill be entered into the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1478

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Research Act of 1989".

SEC. 2. DECLARATION OF POLICY.

In view of the increasing shortage of usable surface and ground water in many parts of the world and the importance of finding new sources of supply to meet present and future water needs, it is the policy of the United States to provide for the development of practicable low-cost means of producing from saline or biologically impaired waters, water of a quality suitable for agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive uses and for studies and research related thereto, on a scale sufficient to determine the feasibility of the development of such production and distribution on a large scale, for the purpose of conserving and increasing the water resources of the Nation and the world.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "desalting" means the use of any process or technique for the removal and, when feasible, adaptation to beneficial use, of organic and inorganic elements and compounds from saline or biologically impaired waters, by itself or in conjunction with other processing;

(2) the term "saline water" means sea water, brackish water, and other mineralized or chemically impaired water;

(3) the term "Secretary" means the Secretary of the Interior;

(4) the term "United States" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States; and

(5) the term "usable water" means water of a quality suitable for agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive uses.

SEC. 4. PHASE I—BASIC RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—In order to gain basic knowledge concerning the most efficient means by which usable water can be produced from saline water, the Secretary shall conduct a basic research and development program as Phase I of the water research program established by this Act.

(b) PHASE I ACTIVITIES.—In Phase I of the water research program, the Secretary shall—

(1) conduct, encourage and promote fundamental scientific research and basic studies to develop the best and most economical processes and methods for converting saline water into water suitable for beneficial uses, through research grants and contracts—

(A) to conduct research and technical development work;

(B) to make studies in order to ascertain the optimum mix of investment and operating costs;

(C) to determine the best designs for different conditions of operation; and

(D) to investigate increasing the economic efficiency of desalting processes by using them in dual-purpose "coprojects" with other processes involving the use of water;

(2) engage, by competitive or noncompetitive contract or any other means, necessary personnel, industrial or engineering firms, Federal laboratories and other facilities, and educational institutions suitable to conduct research or other work;

(3) conduct or contract for technical work, including the design, construction, and testing of pilot systems and test beds to develop desalting processes and concepts;

(4) study methods for the recovery of byproducts resulting from the desalting of water to offset the costs of treatment and to reduce environmental impact from those byproducts; and

(5) recommend to Congress authorizations for construction, operation, or participation in demonstration projects for a process that may accomplish the purposes of this Act, the recommendations to be accompanied by reports on engineering, environmental, and economic feasibility.

(c) TARGET DATE.—(1) The Secretary shall endeavor to obtain results in Phase I of the water research program, within 5 years after the date of enactment of this Act, sufficient to support recommendations to Congress pursuant to subsection (b)(5) to commence demonstration activities under section 5.

(2) The Secretary may conduct additional basic research and development under this section concurrently with demonstration activities under section 5.

SEC. 5. PHASE II—DEMONSTRATION.

(a) IN GENERAL.—In order to demonstrate the feasibility of desalting processes at a production level, the Secretary shall conduct a demonstration program as Phase II of the water research program established by this Act.

(b) PHASE II ACTIVITIES.—In Phase II of the water research program, the Secretary shall—

(1) pursue the findings of research and studies authorized by this Act having potential applications to matters other than water treatment to the stage that the findings may be effectively used;

(2) conduct or contract for technical work, including the design, construction and testing of plants and modules to develop desalting processes and concepts to the point of practical demonstration;

(3) study methods for the marketing of byproducts resulting from the desalting of water to offset the costs of treatment and to reduce impact on the environment from those byproducts;

(4) undertake economic studies and surveys to determine present and prospective costs of producing water for beneficial purposes in various locations by desalting processes compared to other methods; and

(5) conduct investigations and explore potential cooperative agreements, including cost-sharing with non-Federal public utilities and State and local governmental and other entities in order to develop recommendations for Federal participation in processes and plants utilizing desalting technologies for the production of water.

SEC. 6. PARTICIPATION BY INTERESTED AGENCIES AND OTHER PERSONS.

(a) COORDINATION WITH OTHER AGENCIES.—(1) Research, development and demonstration activities undertaken by the Secretary under this Act shall be coordinated or conducted jointly, as appropriate, with—

(A) the Department of Commerce, specifically with respect to marketing and international competition; and

(B) as appropriate—

(i) the Departments of Defense, Agriculture, State, Health and Human Services, and Energy;

(ii) the Environmental Protection Agency;

(iii) the International Development Cooperation Agency; and

(iv) other concerned Government and private entities.

(2) Other interested agencies may furnish appropriate resources to the Secretary to further the activities in which they are interested.

(b) AVAILABILITY OF RESEARCH.—All research sponsored or funded under authority of this Act shall be provided in such manner that information, products, processes, and other developments resulting from Federal expenditures or authorities will (with exceptions necessary for national defense and the protection of patent rights) be available to the general public consistent with this Act.

(c) PATENTS AND INVENTIONS.—(1) Subject to paragraph (2), section 9 (a) through (k) and (m) of the Federal Nonnuclear Energy, Research and Development Act of 1974 (42 U.S.C. 5908 (a) through (k) and (n)) shall apply to any invention made or conceived in the course of or under any contract of the Secretary pursuant to this Act, except that for the purposes of this Act, the words "Administrator" and "Administration" in that section shall be deemed to refer to the Sec-

retary and the Department of the Interior, respectively.

(2) Paragraph (1) shall not be construed to affect the application of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) to research under this Act that is performed at a Federal laboratory.

(d) RELATIONSHIP TO ANTITRUST LAWS.—Section 10 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5909) shall apply to the activities of individuals, corporations, and other business organizations in connection with grants and contracts made by the Secretary pursuant to this Act.

SEC. 7. TECHNICAL AND ADMINISTRATIVE ASSISTANCE.

The Secretary is authorized to accept technical and administrative assistance from a State, public, or private agency in connection with studies, surveys, location, construction, operation, research, and other work relating to the desalting of water, and may enter into contracts or agreements stating the purposes for which the assistance is contributed and, in appropriate circumstances, providing for the sharing of costs between the Secretary and such agency.

SEC. 8. MISCELLANEOUS AUTHORITIES.

In carrying out this Act, the Secretary may—

(1) make grants to educational and scientific institutions;

(2) contract with educational and scientific institutions and engineering and industrial firms;

(3) engage, by competitive or noncompetitive contract or any other means, necessary personnel, industrial and engineering firms, and educational institutions suitable to conduct work;

(4) use the facilities and personnel of Federal, State, municipal, and private scientific laboratories;

(5) contract for or establish and operate facilities and tests to conduct research, testing, and development necessary for the purposes of this Act;

(6) acquire processes, data, inventions, patent applications, patents, licenses, lands, interests in lands and water, facilities, and other property by purchase, license, lease, or donation;

(7) assemble and maintain domestic and foreign scientific literature and issue pertinent bibliographical data;

(8) conduct inspections and evaluations of domestic and foreign projects and cooperate and participate in their development;

(9) conduct and participate in regional, national, and international conferences relating to the desalting of water;

(10) coordinate, correlate, and publish information which will advance the development of the desalting of water; and

(11) cooperate with Federal, State, and municipal departments, agencies and instrumentalities, and with private persons, firms, educational institutions, and other organizations, including foreign governments, departments, agencies, companies, and instrumentalities, in effectuating the purposes of this Act.

SEC. 9. WATER AND BYPRODUCTS.

(a) DISPOSITION.—(1) The Secretary shall dispose of water and byproducts resulting from operations under this Act consistent with environmental law.

(2) Notwithstanding any other provision of law, moneys received from dispositions pursuant to paragraph (1) shall be deposited in a separate account in the Treasury, to be known as the "Water Research Fund".

(3) Moneys in the Water Research Fund shall not be available for expenditure by the Secretary until authorized by Act of appropriation.

(b) OWNERSHIP.—Nothing in this Act shall be construed to alter existing law with respect to the ownership and control of water.

SEC. 10. REPORTS.

On the date that is 1 year after the date of enactment of this Act and annually thereafter the Secretary shall make reports to the President and Congress of the actions taken under this Act and of actions planned for the coming year.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

For the purposes of carrying out Phase I of the water research program established by section 4, there are authorized to be appropriated not to exceed $10,000,000 for the fiscal year next following the date of enactment of this Act and each of the 4 fiscal years thereafter, funds to be available until expended.●

By Mr. LIEBERMAN:

S. 1479. A bill to amend the National Housing Act to expand the eligibility for mortgage insurance, to amend the Internal Revenue Code of 1986 to allow use of IRA's for downpayments, to establish a program to promote new and innovative technologies in the housing industry, and for other purposes; to the Committee on Finance.

HOUSING AFFORDABILITY ACT

● Mr. LIEBERMAN. Mr. President, the American dream has always been to own a home, not necessarily a large home and not necessarily an elaborate home, but a piece of property to call one's own. We have always assumed that, if we worked hard and saved diligently, we would be able to purchase a home near where we worked, near our families, in the place of our own choosing. But for many, that American dream is no longer a reality. As housing prices rise and the value of our earnings fall, fewer and fewer Americans are able to find housing they can afford. Saving for the downpayment has become increasingly difficult and making monthly mortgage payments often takes close to 50 percent of a two-earner family's income.

The Northeastern States have been among the hardest hit by skyrocketing housing prices. Employers estimate that 55 to 65 percent of the prospective employees who reject jobs offered by northeastern businesses do so because of the cost of homes in the area. The State of Connecticut already has a growing labor shortage; it cannot afford to lose trained employees because they cannot afford to buy a home in the State. In Connecticut, wages rose by 17.1 percent from 1984 to 1987, but the cost of a house rose by 67.4 percent. In New Haven County, housing prices increased by 78.4 percent from 1985 to 1987.

It is no wonder that far fewer two-earner families in their prime home-buying years are now able to afford homes. Around the country, increases in wages have not kept pace with dramatically rising housing prices. Homeownership rates for those between the ages of 25 and 34 declined by 7.2 percent from 1980 to 1987. And this decline in the ability of young working families to purchase homes will continue unless we develop innovative ways to assist first-time buyers and others who cannot afford to buy a home where they live and work. We cannot, however, just assist those now attempting to purchase homes; we must also attempt to stem the continuing rise in housing prices.

The legislation which I introduce today both assists those homebuyers who are currently attempting to purchase homes, and promotes the introduction of more cost-effective housing materials, designs and construction methods in an attempt to lower housing prices in the future. The Housing Affordability Act adjusts the FHA mortgage criteria to allow the purchase of homes up to 95 percent of the median housing price in the area. Currently, FHA mortgages can only be obtained for up to $101,250. In Hartford, CT, the median price of a home is $165,500; in New Haven it is $166,700; and in Fairfield County it is $181,700. People who wish to purchase a home in Connecticut cannot, therefore, utilize FHA mortgages. The change I propose in the FHA mortgage program will ensure that those who live in high-cost areas around the country have access to FHA mortgages which they have not had in the past.

The Federal Housing Administration lost $452 million last year. These losses have been attributed to mismanagement, ill-advised loans and an increasing default rate. Loans for investment purposes account for an estimated 30 percent of this default rate. While I believe that it is important to increase the maximum loan amount to ensure that entire regions of the country are not prevented from participating in the program, I also believe it is important to place limits on FHA lending to protect it from further financial harm. As noted in a New York Times editorial of July 20, 1989, mortgages on vacation and investment properties "are unrelated to the FHA's mission yet they contribute to its losses." This legislation would limit FHA mortgages to those purchasing principal residences, barring mortgages on vacation homes or investment properties. In addition, I propose to limit accessibility to this program to mortgagors whose income is 200 percent of the median income for the metropolitan area in which the property is located, thereby restricting access to those who could not afford to purchase a home and would not qualify for a mortgage without the FHA program.

This Housing Affordability Act would also allow first-time home buyers to withdraw money from an

IRA to use for the downpayment on a home. They would be required to return the money to the IRA when the home was sold. This provision will aid those families who have been struggling to accumulate a sufficient downpayment to qualify for a mortgage.

Finally, this legislation establishes a public-private cooperative program to foster cost-efficient and energy-efficient technological innovations for home construction, which will help reduce the cost of constructing and operating homes. This cooperative program is designed to encourage the private sector to explore and develop new technologies and to encourage the public sector to use when these new technologies with the private sector's guidance in publicly constructed buildings. The public buildings which utilize these new technologies will serve as demonstration projects illustrating their effectiveness and serving as examples to the private construction industry.

The building industry has a particular problem in adopting new technologies. Unlike most industries, it is decentralized, involving many thousands of participating contractors, most of whom are thinly capitalized and not in a position to sponsor new products and technologies. In turn, new products have to be approved by thousands of State and local building agencies, each of which has its own building code. The resistance to change in this industry, simply because of the way it is structured, has been a serious problem for decades. Since the 1960's, two Presidential Commissions and several Federal agency task forces have decried this problem and the additional building costs it creates, but we have yet to make serious progress in this area. Efforts to introduce such cost-saving technologies as plastic pipe, gypsum wallboard and plywood took decades, even though they are now standard materials. Typically, it takes 15 to 20 years to have new technologies accepted by the building industry. If we are ever going to achieve lower cost housing, new cost-saving technologies must be developed.

This legislation proposes a new approach. It calls on the leaders of the building industry—engineers, architects, product manufacturers, development interests—who have the strongest interest in innovative products to form a consortium to develop and promote product ideas. When this independent consortium develops products, it will present them to the Government agencies that operate Federal building programs for implementation. If the product is found to be a workable, cost-saving technology, complete information will be provided the public and private sectors. I hope government and building industry cooperation on a testing and acceptance process will sharply reduce the time involved in the development and market adoption of cost-saving products. The Government's housing and building programs will be the initial beneficiaries, but the results would be designed to reach into the private sector. This proposal, of course, is not the full answer to the problem of spiraling housing costs, but I believe it can be a part of the answer. Unless the technological problems behind the cost of housing are addressed in a cooperative way by the builders and the Government, the American dream of home ownership will increasingly elude us.

The Housing Affordability Act helps those potential home buyers who have been struggling to cope with rising housing prices, but it also attempts to curtail the dramatic increases in housing prices by encouraging the development and use of new, less costly methods of home construction. As one aspect of a multifaceted approach to the housing problem, I am confident this legislation will help alleviate the crisis caused by the shortage of affordable housing.

I ask unanimous consent that the text of the bill be placed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Housing Affordability Act".

TITLE I—HOMEBUYER ASSISTANCE

SEC. 101. FINDINGS.

The Congress finds that—

(1) the cost of purchasing a home has increased dramatically in the past decade; and many American families are having increasing difficulty affording "the American Dream," a home of their own;

(2) young families can no longer afford housing near where they work or in the same communities in which their parents live;

(3) saving enough money for a downpayment is now difficult even for a two-income family; and for many families making the monthly mortgage payments may take close to half of their monthly earnings;

(4) the Federal Government has an interest in assisting those who are creditworthy and are able to afford mortgage payments to purchase homes;

(5) this goal can be accomplished at a minimal cost to the Federal Government by increasing the amount of an FHA mortgage to keep pace with the rise in the median housing price and to take account of the price differential among the different States and by enabling first-time home buyers to withdraw funds from individual retirement accounts in order to make a downpayment on a home.

SEC. 102. INSURANCE OF MORTGAGES.

(a) IN GENERAL.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709) is amended by striking all through "value in excess of $25,000. For purposes of the preceding sentence", and inserting the following:

"(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed 95 percent of the median sales price of homes for a metropolitan area within a time period designated by the Secretary. The preceding sentence shall apply if the mortgage to be insured covers property on which there is located a residence to be occupied as the principal residence of the mortgagor and the mortgagor's income does not exceed 200 percent of the median income (as determined by the Secretary) for the metropolitan area in which such property is located. For purposes of the preceding sentences.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the expiration of the date which is 6 months after the date of enactment of this Act.

TITLE II—RETIREMENT PLAN INVESTMENTS IN PRINCIPAL RESIDENCES

SEC. 201. CERTAIN RETIREMENT PLANS AUTHORIZED TO MAKE EQUITY INVESTMENTS IN PRINCIPAL RESIDENCES OF PARTICIPANTS.

(a) EXEMPTION FROM PROHIBITED TRANSACTION RULES.—Section 4975 of the Internal Revenue Code of 1986 is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) SPECIAL RULE FOR HOME EQUITY PARTICIPATION ARRANGEMENTS.—

"(1) IN GENERAL.—The prohibition provided in subsection (c) shall not apply to any qualified home equity participation arrangement.

"(2) QUALIFIED HOME EQUITY PARTICIPATION ARRANGEMENT.—For purpose of this subsection—

"(A) IN GENERAL.—The term 'qualified home equity participation arrangement' means an arrangement—

"(i) under which an individual retirement plan distributes amounts to an eligible participant for the acquisition of any dwelling unit which within a reasonable time is to be used (determined at the time the arrangement is entered into) as the principal residence of the eligible participant in exchange for an ownership interest in such residence, and

"(ii) with respect to which the requirements of the other subparagraphs of this paragraph are met.

"(B) OWNERSHIP INTEREST REQUIREMENT.—The ownership interest described in subparagraph (A) shall—

"(i) be a fee interest in such property equal to the percentage which—

"(I) the amount distributed to the eligible participant and invested in the dwelling unit, bears to

"(II) the acquisition cost of the dwelling unit,

"(ii) by its terms requires repayment in full upon the sale or other transfer of the dwelling unit (except in the case of a transfer to a spouse as a result of the death of a spouse), and

"(iii) may not be used as security for any loan secured by any interest in the dwelling unit.

"(C) LIMITATION ON PURCHASE PRICE.—This paragraph shall not apply to an arrangement if the acquisition cost of the dwelling unit exceeds 110 percent of the average area

purchase price applicable to such dwelling unit (as determined under section 143(e)(2) after application of sections 143(e) (3) and (4)).

"(D) LIMITATION ON AMOUNT.—This paragraph shall not apply to any arrangement if the aggregate amounts provided to the eligible participant exceed the greater of—

"(i) $10,000, or

"(ii) the amount which bears the same ratio to $10,000 as—

"(I) the average area purchase price applicable to the dwelling unit (as determined under subparagraph (C)), bears to

"(II) the average purchase price for the United States (as so determined).

In no event shall the amounts so provided exceed the balance in the individual retirement plan immediately before the arrangement is entered into, reduced by 67 percent of the contributions to such plan during the 12-month period ending on the date the arrangement is entered into.

"(3) ELIGIBLE PARTICIPANT.—For purposes of this subsection, the term 'eligible participant' means an individual—

"(A) on whose behalf an individual retirement plan is established, and

"(B) who (and whose spouse) has had no present ownership interest in a principal residence during the 3-year period ending on the date of the acquisition of the dwelling unit to which this subsection applies.

"(4) ACQUISITION; ACQUISITION COST.—For purposes of this subsection—

"(A) ACQUISITION.—The term 'acquisition' includes construction and reconstruction.

"(B) ACQUISITION COST.—The term 'acquisition cost' has the meaning given such term by section 143(k)(3).

"(5) AMOUNT NOT TREATED AS DISTRIBUTIONS.—For purposes of this title, amounts made available under a qualified equity participation arrangement shall not be treated as distributions by, or loans made or secured by, an individual retirement plan or qualified cash or deferred arrangement.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to home equity participation arrangements made after December 31, 1989, in taxable years ending after such date.

SEC. 202. LOANS USED TO ACQUIRE PRINCIPAL RESIDENCES.

(a) INDIVIDUAL RETIREMENT PLAN.—Section 408(e) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(7) LOANS USED TO PURCHASE A HOME BY FIRST-TIME HOMEBUYERS.—

"(A) IN GENERAL.—Paragraphs (3) and (4) shall not apply to any qualified home purchase loan made, or secured, by an individual retirement account.

"(B) QUALIFIED HOME PURCHASE LOAN.—For purposes of this paragraph, the term 'qualified home purchase loan' means a loan—

"(i) made to the individual on whose behalf the individual retirement account is established, but only if such individual is a first-time homeowner,

"(ii) the proceeds of which are used by such an individual as a down payment on a dwelling unit which within a reasonable period of time (determined at the time the loan is made) is to be used as the principal residence of such individual,

"(iii) which is secured by the dwelling unit, and

"(iv) which by its terms requires repayment in full upon the sale or transfer of such principal residence (except in the case of a transfer to a spouse as a result of the death of a spouse or in the case of divorce where one spouse retains ownership).

"(C) LIMITATIONS ON PURCHASE PRICE AND AMOUNT OF LOAN.—A loan shall not be treated as a qualified home purchase loan unless the requirements of subparagraphs (C) and (D) of section 4975(i)(2) are met.

"(D) FIRST-TIME HOMEBUYER.—For purposes of this paragraph, the term 'first-time homebuyer' means any individual who (and whose spouse) has had no present ownership interest in a principal residence during the 3-year period ending on the date of the acquisition of the dwelling unit to which this paragraph applied.".

(b) PROHIBITED TRANSACTION.—Section 4975(d) of the Internal Revenue Code of 1986 is amended by striking out "or" at the end of paragraph (14), by striking out the period at the end of paragraph (15) and inserting "; or", and by inserting after paragraph (15) the following new paragraph:

"(16) any loan that is a qualified home purchase loan (as defined in section 408(e)(7)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to loans made after December 31, 1989, in taxable years ending after such date.

TITLE III—FEDERAL GOVERNMENT COOPERATIVE PROGRAM WITH THE ADVANCED BUILDING CONSORTIUM

SEC. 301. SHORT TITLE.

This title may be cited as the "Advanced Building Consortium Act".

SEC. 302. FINDINGS.

The Congress finds that—

(1) there is a growing shortage of affordable housing for newly formed households, low- and moderate-income families and the homeless;

(2) one significant reason for this critical shortage is the high cost of constructing new housing or renovating existing buildings;

(3) recent technological advances could be applied to the design, construction, maintenance and operations of buildings which could significantly reduce costs;

(4) the unique characteristics of the building industry, which is highly diversified and composed primarily of small businesses that are continually confronted with a wide variety of financial, technical and regulatory uncertainties, make it difficult for those responsible for the design, construction, installation, operation, maintenance and financing of buildings to assume additional uncertainties and risks which they associate with innovative building technologies;

(5) the Federal Government has a responsibility, as the owner and operator of the Nation's largest inventory of buildings in every geographical region, to seek reductions in the costs of constructing and operating buildings;

(6) the Federal Government has expended hundreds of millions of dollars in support of research and development of technologies that could be applied to buildings, but the results of that research are not applied to the Federal Government's buildings because the current procurement system makes it difficult for new building technologies to compete successfully with conventional technologies;

(7) the building industry, which has historically accounted for a significant portion of the gross national product, is now confronted with increasing foreign competition that threatens domestic companies in important market sectors, with corresponding substantial losses in employment;

(8) current institutional constraints impose high costs and require as much as 20 years to obtain the necessary market acceptance of new building technologies and therefore inhibit the private sector of the economy from investing in such worthwhile endeavors;

(9) the development of a cooperative program between the Federal Government and a responsible entity representing leaders of the building industry who are concerned with improving the above described conditions and capable of providing expertise and leadership to provide for the introduction, use and evaluation of cost-saving technological innovations in new and existing buildings owned and operated by the Federal Government, could facilitate the introduction and the early use of such cost saving innovative building technologies by Federal, State and local public agencies and by the private sector of the economy;

(10) while a new cooperative program of the Federal Government and the building industry is needed to facilitate introduction of technological innovations, various private organizations and institutions, private industry, labor, and Federal and other governmental agencies and other entities are presently engaged in building research, technology development, testing and evaluations and information dissemination and these capabilities should be effectively utilized wherever possible and appropriate in the implementation of this Act; and

(11) an authoritative nongovernmental instrumentality needs to be created by the Federal Government to address the problems and issues described in this section, with the advice and assistance of the various sectors of the building community, including labor and management, technical experts in building science and technology and State and local governments.

SEC. 303. CONSORTIUM AUTHORIZATION.

(a) ESTABLISHMENT.—There is established, for the purposes described in section 2, an appropriate nonprofit, nongovernmental instrument to be known as the Advanced Buildings Consortium (hereafter referred to as the "Consortium"), which shall not be an agency or establishment of the United States Government. The Consortium shall be subject to the provisions of this title and, to the extent consistent with this title, to the District of Columbia Nonprofit Corporation Act.

(b) DIRECTORS.—The Consortium shall have a Board of Directors (hereafter referred to as the "Board") consisting of not less than 15 nor more than 21 members who shall be appointed by the Secretary of Housing and Urban Development, in consultation with cooperating Federal agencies, from among senior executives representing the various segments of the building community of the various regions of the country with extensive experience in building industries, including (1) representatives of the building industry, product manufacturers, and experts in health, fire and safety, and (2) members representative of the public interest highly experienced in building technologies, including architects, professional engineers and representatives of consumer organizations. No Federal official shall be a member of the Board. Members of the Board shall not participate in any deliberations of the Board affecting technologies or related matters where they hold a financial interest or membership in, or employment by, or receive other compensation from, any company, association, or other group associ-

ated with the manufacture, distribution, installation, or maintenance of the building products, equipment, systems, subsystems, or other construction materials and techniques associated with the building technology under consideration or with the conventional technology for which the new technology may be a substitute.

(c) NO STOCK.—The Consortium shall have no power to issue any shares of stock or to declare or pay any dividends. No part of the income or assets of the Consortium shall inure to the benefit of any director, officer, employee or other individual except as salary or reasonable compensation for services.

(d) POLITICAL CONTRIBUTIONS.—The Consortium shall not contribute to or otherwise support any political party or candidate for elective public office.

SEC. 304. CONSORTIUM FUNCTIONS AND RESPONSIBILITIES.

(a) IN GENERAL.—The Consortium shall conduct research involving, and take actions to facilitate and promote the use of, new, cost-saving building technologies. In carrying out its activities, the Consortium shall—

(1) select and evaluate new building technologies, including energy cost savings technologies, that conform to recognized performance criteria and meet test standards for maintenance of life, safety, health, and public welfare when used in occupied buildings;

(2) conduct needed investigations in direct support of paragraph (1);

(3) conduct economic analyses of proposed new technologies when produced and installed in buildings at volumes associated with comparable conventional technologies;

(4) in collaboration with cooperating Federal agencies, advise building designers, installers, subcontractors, contractors and supervising officials responsible for buildings in the appropriate design and use of the innovative building technology incorporated in federally owned or operated buildings;

(5) in collaboration with cooperating Federal agencies, monitor and evaluate the performance of new building technologies for at least 1 year after installation and building occupancy; and

(6) assemble and disseminate technical data and other information directly related to activities described in paragraphs (1) through (5) of this subsection.

(b) DELEGATION AND MONITORING.—The Consortium, in exercising its functions and responsibilities described in subsection (a) of this section, shall—

(1) assign and delegate to the maximum extent possible, responsibility for conducting each of the activities described in subsection (a) to private organizations, institutions, agencies, and Federal and other governmental entities that have a demonstrated capacity to exercise or contribute to the exercise of such responsibility,

(2) monitor the performance achieved through assignment and delegation, and

(3) when deemed necessary, reassign and delegate such responsibility.

(c) CONSISTENCY WITH OTHER LAW.—The Consortium, in exercising its functions and responsibilities under subsections (a) and (b) of this section, shall—

(1) assure to the extent possible that its actions and recommendations are consistent with nationally recognized performance criteria, standards, and other technical provisions of Federal, State, and local building codes and regulations and conform with generally accepted community and environmental standards; and

(2) consult with the Department of Justice and other agencies of Government to the extent necessary to insure that the national interest is protected and promoted in the exercise of its functions and responsibilities.

SEC. 305. FEDERAL PARTICIPATION.

(a) COOPERATIVE PROGRAM.—The Secretary of Housing and Urban Development, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Energy, and the Administrator of General Services, and other departments, agencies and establishments of the Federal Government having responsibility for more than 1,000 buildings or for operating buildings at an annual cost of at least $1,000,000 shall participate in a cooperative program with the Consortium to develop and implement programs to incorporate one or more of the recommended new technologies in a new or existing building within each department. The initial selection of the new technology and the specific building project in which the new technology will be incorporated shall be determined jointly by the cooperating Federal agency and the consortium within 1 year after the date of enactment of this Act. The technology selected shall be appropriate to the building selected, and its intended uses, and shall offer maximum opportunity to demonstrate cost savings.

(b) REQUIRED ASSURANCES.—Upon agreement between the Federal agency and the Consortium with respect to the selection of the appropriate technology and the schedule of necessary work, the Consortium shall—

(1) provide the Federal agency with a 5-year guarantee that all necessary corrections to the technology will be made in the design, installation, and maintenance of the technology and that all malfunctions will be repaired without delay and that the Consortium will be responsible for removal of the technology in the event of its failure to perform as required;

(2) provide the Federal agency and its officials responsible for constructing or renovating the buildings utilizing the new technology, as well as the designers, installers, subcontractors and contractors responsible for the design, construction or renovation of the buildings utilizing the new technology with the technical information necessary to assure the most appropriate use of the new technology;

(3) in collaboration with the Federal agency, monitor and evaluate the performance of the new technology; and

(4) prepare reports to be made available to public agencies at all levels of government, to the industry and to the public on the performance of the new technology.

(c) PROCUREMENT WAIVER.—Each Federal agency participating in this program is authorized to waive the applicability of procurement laws or regulations and deem the Consortium to be a sole source of the agreed-upon new technology for the selected building or facility. Competitive bidding for all other work in the selected building or facility shall conform with Federal building procurement regulations.

(d) SET-ASIDE.—Each Federal agency participating in this cooperative program shall set aside special funds in its annual appropriated building construction and renovation budget, in an amount not exceeding $1,000,000 in any fiscal year to provide for the costs of testing, monitoring, and evaluating the new technologies employed in this program.

(e) ANNUAL REPORT.—Each participating Federal agency shall report annually to the Congress or its efforts to implement the purpose of this Act.

SEC. 306. AUTHORIZATION.

There are authorized to be appropriated to the Consortium an amount not to exceed $500,000 for each of the first 2 years of the Consortium's operation. Such funds shall remain available to the Consortium until expended.

SEC. 307. ANNUAL REPORT.

The Consortium shall submit an annual report for the preceding year to the President for transmittal to the Congress within 60 days of its receipt. The report shall be a comprehensive and detailed report of the Consortium's operations, activities, financial condition, and accomplishments under this title and of the extent of the cooperation received from participating Federal agencies, and may include recommendations as the Consortium deems appropriate.●

By Mr. CRANSTON (for himself, Mr. DURENBERGER, Mr. BURDICK, Mr. HATFIELD, Mr. KENNEDY, Mr. KERRY, Ms. MIKULSKI, Mr. PACKWOOD, Mr. PELL, and Mr. RIEGLE):

S. 1480. A bill to ensure economic equity for American women and their families by providing equitable pay and employee benefits and enhanced opportunities in business procurement; providing economic and retirement security for women as workers and as divorced or surviving spouses; making quality and affordable dependent care available to all working families; and enhancing the long-term health of women and their families through prevention services and assistance to victims of domestic violence; to the Committee on Finance.

ECONOMIC EQUITY ACT

Mr. CRANSTON. Mr. President, on behalf of myself and the distinguished Senator from Minnesota [Mr. DURENBERGER], I am pleased to introduce today, S. 1480, the proposed "Economic Equity Act of 1989 [EEA].

We are joined in cosponsoring this legislation by the Senator from North Dakota [Mr. BURDICK,] the Senator from Oregon [Mr. HATFIELD], the Senators from Massachusetts [Mr. KENNEDY and KERRY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Oregon [Mr. PACKWOOD], the Senator from Rhode Island [Mr. PELL], and the Senator from Michigan [Mr. RIEGLE].

The EEA of 1989 is a package of individual legislative initiatives designed to improve the economic status of women. This is the fifth EEA introduced in the Congress since 1981, and like its predecessors it contains a blueprint for the Congress to follow to eliminate many of the road blocks standing in the way of economic equity for millions and millions of American women. The proposed Economic Equity Act of 1989 is being introduced and sponsored in the House

by members of the Congressional Caucus on Women's Issues.

This bipartisan, bicameral bill is a vehicle for individual legislative initiatives that share one common goal: to improve the economic well-being of women. When an initiative is enacted, another initiative takes its place in a subsequent EEA. The EEA has and will continue to provide a congressional agenda for advancing economic equity for women.

It has given me great pleasure to note the successes of past EEA's. Beginning with some modest victories in the 97th Congress, the EEA's first year of introduction, we have made major strides in subsequent Congresses. In the 98th Congress we scored victories with private and pubic pension reform, child support enforcement, and two child care initiatives. The 99th Congress enacted into law six EEA provisions, including health insurance continuation, private and military pension reforms, child care for higher education students, and tax reforms. Four EEA provisions were enacted in the 100th Congress, including equal credit protection for women business owners, and funding for child care in public housing.

The 1989 EEA, divided into four titles—employment, economic security, dependent care, and health care—represents a comprehensive, forward-looking approach to improving the economic well-being of American women and families. It takes into account the differing needs of older women and younger women, wage-earners and homemakers, and single heads-of-household as well as women who own their own businesses. It balances proposals for long-range, fundamental reforms with more immediate, incremental reforms. This diversity and universal applicability of the EEA to women in all walks of life is one of its greatest strengths.

SUMMARY OF THE ACT

Mr. President, I want to summarize the provisions of the 1989 EEA. The bill's four principal parts cover a broad range of issues that impact upon the economic security of women.

EMPLOYMENT

Mr. President, a major focus of the 1989 EEA is fairness in the workplace. This issue directly affects the well-being and economic security of millions of American families struggling to earn a decent living.

I am delighted to see that S. 16, the proposed Pay Equity Technical Assistance Act of 1989 is included in this year's EEA. This is a new measure that Representative OAKAR and I have proposed to support and encourage the voluntary efforts of many employers nationwide, both private and public, who are acting to identify and correct pay inequities faced by women. S. 16 would charge the Department of Labor with the task of helping these employers find out what other employers are doing, what works and what doesn't work, and perhaps stimulating some employers, through the dissemination of information, to take a hard look at their own practices.

Mr. President, pay equity is one of the most important ways to provide economic equity for women. Sex-based wage discrimination has massive consequences for millions of women in the work force and their families. The wage gap between male and female workers continues to exist. In 1985, it was estimated that women earned only 65 percent of what men earned. Although differences between male and female workforce participation patterns account for some portion of this gap, there is little doubt that wage discrimination and the undervaluation of work performed predominately by women contributes significantly to the continuing wage gap.

Other provisions of the EEA that focus upon fairness in the workplace include a measure to provide equity in pension and health coverage for part-time workers—70 percent of whom are women, and a proposal by my good friend and colleague from California, Representative BOXER, to establish a Federal council on women to review, evaluate and propose Federal policy with respect to the economic problems of women in this country.

A new measure in the EEA is a proposal to amend the Small Business Act to give women entrepreneurs greater access to Federal contracts. This measure, which is being introduced by the Senator from Maryland [Ms. MIKULSKI], would also require Federal agencies to solicit women business owners to compete for Federal contracts.

ECONOMIC SECURITY

As in the previous EEA, this year's bill addresses the inequities facing women under the current Social Security benefit structure. It includes the earnings sharing legislation, S. 51 in the Senate, which Representative OAKAR and I have proposed in the past several Congresses. Older women are among the most economically depressed and vulnerable groups in our society, and there is little doubt that the inadequacy of the benefits they receive under the Social Security System contribute substantially to the vast number of older women—approximately 1.8 million—living below the poverty line.

Despite years of contributions to the Social Security System during their years in the work force, many women get little or no return for their Social Security contributions. Earnings sharing addresses this problem by treating family earnings together.

The basic concept underlying earnings sharing is relatively simple: marriage for Social Security purposes should be and would be regarded as a partnership. In order to compute benefits, all the earnings of a married couple would be combined and divided equally between the spouses upon retirement or divorce. Each member of the couple would then have established for himself or herself an individual Social Security account.

Earnings acquired before or after a marriage would go into this individual account along with whatever share each member acquired during marriage. The result of earnings sharing would be a more equitable division of Social Security benefits and more economic security for elderly women.

In addition, the 1989 EEA includes a more immediate Social Security reform—a revision in the stringent disability definition now applied only to surviving spouses. These provisions are derived from legislation to be reintroduced by the Senator from Michigan [Mr. RIEGLE] who has long been a leader in the Senate on Social Security issues.

Two new additions to the EEA would assist displaced homemakers who often are women who have lost their primary source of income and must reenter the work force after years of absence. These women often face tremendous financial hurdles, particularly in providing housing for their families.

The 1989 EEA contains a measure, S.1405, sponsored in the Senate by the Senator from Kansas [Mrs. KASSEBAUM], that would help displaced homemakers and single parents participate in Federal homeownership programs for low- and moderate-income first-time buyers. Another new proposal, to be introduced by the Senator from Connecticut [Mr. DODD], would reserve 5 percent of the annual allotment of section 8 housing certificates and vouchers to help homeless families and families affected by domestic violence to find more permanent housing.

DEPENDENT CARE

Lack of access to adequate child care services is a major barrier to the attainment of economic security for countless families throughout the Nation. The 1989 EEA contains several measures that address the critical need for child care in this country.

The 1989 EEA contains a measure introduced by the Senator from Minnesota [Mr. DURENBERGER], as S.1297 to correct a problem that makes it difficult for some family day care providers to purchase homes or refinance existing homes. Under current law, individuals who use their homes to provide family day care are not eligible for financing from the secondary mortgage market because a family day care usage is not considered "residential" usage. Thus, individuals who wish to provide family day care services may find it very difficult to finance or refinance a home mortgage. The meas-

ure included in this session's EEA is intended to remove this current disincentive to prospective family day care providers who wish to operate out of their homes by changing mortgage financing eligibility rules.

The 1989 EEA includes several provisions aimed at improving access to child care for lower income families. First, it includes a measure, S. 764, reintroduced by the Senator from Michigan [Mr. RIEGLE], which would authorize an increase of $200 million for the title XX social services block grant, the principal source of Federal financial assistance for child care services for lower income families. Title XX funds have been frozen for several years, decreasing the availability of child care assistance for lower income families.

A second bill, S.2681, also reintroduced by Senator RIEGLE, would remove certain restrictions from the use of funding for the 1984 Dependent Care Block Grant Program. Under current law, Federal grants to States for dependent care programs focusing on the needs of school-aged children and resource and referral services for parents seeking child care services are not permitted to be used for operating costs of these programs. These restrictions inhibit many programs from fully developing.

The 1989 EEA also contains a provision sponsored by Representative LOWEY in the House, which I am introducing in the Senate, which would provide for the development of child care services programs for homeless families in transitional housing. By providing adequate day care for the children of homeless families, parents can devote their days to searching for housing and meaningful employment. Such child care services would certainly contribute to the stabilization of these families in crisis.

Another provision contained in the 1989 EEA is a proposal derived from earlier EEA legislation to expand the existing child care tax credit and make it refundable for lower-income families.

I would note that in past years the EEA has contained legislation which I have sponsored in the Senate to establish a program of incentive grants to encourage States to improve the quality of their child care licensing standards and monitoring, as well as to establish a national advisory committee to develop model national child care standards. I am pleased to report that provisions along the lines of those I proposed in legislation introduced in the 101st Congress as S. 18, were included in S. 5, the comprehensive child care legislation approved by the Senate on June 23.

Mr. President, it should be clearly understood that the child care provisions in the 1989 EEA are intended to be complementary to the major child care legislation, S. 5 in the Senate, which is moving forward separately. As a strong supporter and cosponsor of the Act for Better Child Care Services bill [ABC], I am very pleased that we have moved forward on that comprehensive child care measure.

HEALTH CARE

For the first time in the history of the EEA, a title dealing exclusively with the health care needs of women has been included.

The 1989 EEA contains several bills that promote access to maternal health care for low-income women. Two proposals, sponsored by the Senator from Michigan [Mr. RIEGLE] and the Senators from New Jersey [Mr. BRADLEY] and Minnesota [Mr. DURENBERGER] respectively, would prevent infant mortality by increasing funding for the Maternal and Child Health Block Grant. The third bill, S. 339, introduced by Senators BRADLEY and DURENBERGER, would expand Medicaid services for pregnant women and infants. The fourth maternal health bill, which was introduced in the House by my good friend and colleague from California, Representative PELOSI, and will be introduced in the Senate by the Senator from Massachusetts [Mr. KERRY], would establish perinatal health clinics in public housing facilities. These clinics would provide services and basic information on prenatal care to low-income women.

The 1989 EEA also focuses on the very serious issue of domestic violence. It includes a provision sponsored by Representative MORELLA in the House, which I am introducing in the Senate, to amend the State Justice Institute Act to authorize grants to state and local courts, and nonprofit organizations to carry out research and to develop training materials to assist State courts in child custody litigation which involves domestic violence. Another domestic violence bill, to be introduced in the Senate by the Senator from Oregon [Mr. HATFIELD], would reform current immigration laws to allow a waiver of the conditional residency requirement for a battered spouse.

This year's EEA also includes two provisions relating to long-term care volunteers. One bill, also to be introduced by Senator HATFIELD, would amend the Older Americans Act to authorize Demonstration projects using senior citizen volunteers as aides in nursing homes. The second provision, to be introduced by the Senator from Rhode Island [Mr. PELL], would express the sense of the Congress that steps need to be taken to improve the status of long-term care workers.

CONCLUSION

Mr. President, I believe the focus of the 1989 EEA on employment, economic security, dependent care, and health care will provide the attention needed to make significant progress during the 101st Congress on these issues which affect women. I am confident that, as in past years, major provisions of this session's EEA will be enacted and that we will succeed in moving closer to the goal of attaining economic equity for women and their families.

Finally, I ask unanimous consent that the full text of the 1989 Economic Equity Act be printed in the RECORD, along with a list of endorsing organizations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1480

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Economic Equity Act of 1989".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—EMPLOYMENT

Subtitle A—Pay Equity Technical Assistance to Public and Private Sector

Sec. 101. Short title.
Sec. 102. Statement of purpose.
Sec. 103. Program specifications.
Sec. 104. Definition.

Subtitle B—Extension of Benefits to Part-Time and Temporary Workers

Sec. 121. Short title.
Sec. 122. Treatment of employees working at less than full-time under participation, vesting, and accrual rules governing pension plans.
Sec. 123. Treatment of employees working at less than full-time under group health plans.
Sec. 124. Expansion of definition of employee to include certain individuals whose services are leased or contracted for.
Sec. 125. Effective dates.

Subtitle C—Federal Council on Women

Sec. 131. Short title.
Sec. 132. Establishment.
Sec. 133. Duties.
Sec. 134. Membership.
Sec. 135. Staff.
Sec. 136. Powers.
Sec. 137. Annual report.
Sec. 138. Authorization of appropriations.

Subtitle D—Women in Business Procurement Assistance

Sec. 151. Short title.
Sec. 152. Goal setting.
Sec. 153. Reporting.
Sec. 154. Subcontracting.
Sec. 155. Women-in-business specialists.
Sec. 156. Outreach.

TITLE II—ECONOMIC SECURITY

Subtitle A—Earnings Sharing by Married Couples

Sec. 201. Short title.
Sec. 202. Sharing of earnings by married couples.
Sec. 203. Effective date.

Subtitle B—Treatment of Disabled Widows and Widowers
Sec. 212. Repeal of the separate definition of disability presently applicable to widows and widowers.
Subtitle C—Eligibility of Displaced Homemakers for First-Time Homebuyers Assistance
Sec. 231. Short title.
Sec. 232. Eligibility of displaced homemakers and single parents for Federal assistance for first-time homebuyers.
Sec. 233. Definitions.
Sec. 234. Applicability.
Subtitle D—Section 8 Housing Assistance for Domestic Violence Victims
Sec. 241. Short title.
Sec. 242. Reservation of section 8 certificates and vouchers for families affected by domestic violence and homeless families.
Sec. 243. Annual report.
Sec. 244. Applicability.
TITLE III—DEPENDENT CARE
Subtitle A—Dependent Care Tax Credit Expansion
Sec. 301. Dependent care tax credit.
Subtitle B—Mortgage Financing for Family Day Care Centers
Sec. 321. Short title.
Sec. 322. Amendment to Federal National Mortgage Association Charter Act.
Sec. 323. Amendment to Federal Home Loan Mortgage Corporation Act.
Subtitle C—Child Care Services in Transitional Housing
Sec. 341. Short title.
Sec. 342. Child care services in transitional housing.
Subtitle D—Title XX Funding Increase
Sec. 351. Increase in funds available for allotments to States.
Subtitle E—School-Based Child Care
Sec. 361. Short title.
Sec. 362. Operation costs of after school care programs authorized.
Sec. 363. Report by grant recipients.
TITLE IV—HEALTH
Subtitle A—Maternal and Child Health Funding Increase
Sec. 411. Increase in authorization for supplemental resources to enhance the delivery of health services to pregnant women and infants.
Subtitle B—Coordination of Health Services for Pregnant Women
Sec. 415. Additional authorizations of appropriations.
Subtitle C—Infant Mortality
Sec. 417. Phased-in mandatory coverage of children up to 100 percent of poverty level.
Sec. 418. Medicaid coverage of pregnant women and infants.
Sec. 419. Optional coverage of all children up to 100 percent of poverty level.
Sec. 420. Presumptive eligibility and outreach for pregnant women.
Sec. 421. Payment for obstetrical and pediatric services.
Sec. 422. Demonstration projects to improve access to needed physican services by pregnant women, infants, and children.
Sec. 423. Extension of payment provisions for medically necessary services in disproportionate share hospitals to children under 18 years of age.
Sec. 424. Required medicaid notice and coordination with special supplemental food program for women, infants, and children (WIC).
Sec. 425. Maternal and child health toll force phone number.
Subtitle D—Perinatal Services in Public Housing
Sec. 427. Short title.
Sec. 428. Establishment of demonstration program.
Sec. 429. Allocation of assistance.
Sec. 430. Demonstration program requirements.
Sec. 431. Report to Congress.
Sec. 432. Definitions.
Sec. 433. Regulations.
Sec. 434. Authorization of appropriations.
Subtitle E—Domestic Violence Judiciary Training Grants
Sec. 436. Definition; short title.
Sec. 437. Authority to provide funds for research and curriculum development relating to child custody litigation.
Sec. 438. Authorization of appropriations.
Subtitle F—Immigration Reform for Domestic Violence Victims
Sec. 451. Battered spouse waiver of the conditional residency requirement under the INA.
Subtitle G—Long-Term Care Workers Demonstration Projects
Sec. 461. Amendments.
Sec. 462. Effective date.
Subtitle H—Sense of Congress on Caregivers
Sec. 471. Findings.
Sec. 472. Caregivers.
TITLE I—EMPLOYMENT
Subtitle A—Pay Equity Technical Assistance to Public and Private Sector
SEC. 101. SHORT TITLE.
SEC. 102. STATEMENT OF PURPOSE.
SEC. 103. PROGRAM SPECIFICATIONS.
SEC. 104. DEFINITION.
Subtitle B—Extension of Benefits to Part-Time and Temporary Workers
SEC. 121. SHORT TITLE.
SEC. 122. TREATMENT OF EMPLOYEES WORKING AT LESS THAN FULL-TIME UNDER PARTICIPATION, VESTING, AND ACCRUAL RULES GOVERNING PENSION PLANS.

being made in the private and public sectors to reduce or eliminate wage disparities, to the extent that they are based on the sex, race, or national origin of the employee, rather than the work performed and other appropriate factors;

(2) undertake and promote research into the development of techniques to reduce or eliminate wage disparities, to the extent that they are based on the sex, race, or national origin of the employee, rather than the work performed and other appropriate factors; and

(3) develop and implement a program for providing appropriate technical assistance to any public or private entity requesting such assistance to correct wage-setting practices or to eliminate wage disparities, to the extent that they are based on the sex, race, or national origin of the employee, rather than the work performed and other appropriate factors.

SEC. 104. DEFINITION.

For the purpose of this subtitle, the term "other appropriate factors" includes factors such as—

(1) the skill, effort, responsibilities, and qualification requirements for the work involved, taken in their totality;

(2) geographic location and working conditions; and

(3) seniority, merit, productivity, education, and work experience.

Subtitle B—Extension of Benefits to Part-Time and Temporary Workers

SEC. 121. SHORT TITLE.

This subtitle may be cited as the "Part-Time and Temporary Workers Protection Act of 1989".

SEC. 122. TREATMENT OF EMPLOYEES WORKING AT LESS THAN FULL-TIME UNDER PARTICIPATION, VESTING, AND ACCRUAL RULES GOVERNING PENSION PLANS.

(a) PARTICIPATION RULES.—

(1) IN GENERAL.—Section 202(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052(a)(3)) is amended by adding at the end the following new subparagraph:

"(E)(i) For purposes of this paragraph, in the case of any employee who, as of the beginning of the 12-month period referred to in subparagraph (A)—

"(I) has customarily completed 500 or more hours of service per year but less than 1,000 hours of service per year; or

"(II) is employed in a type of position in which employment customarily constitutes 500 or more hours of service per year but less than 1,000 hours of service per year,

completion of 500 hours of service within such 12-month period shall be treated as completion of 1,000 hours of service.

"(ii) For purposes of this subparagraph, the extent to which employment in any type of position customarily constitutes less than 1,000 hours of service per year shall be determined with respect to each pension plan in accordance with such regulations as the Secretary may prescribe providing for consideration of facts and circumstances peculiar to the work-force constituting the participants in such plan.".

(2) CONFORMING AMENDMENT.—Section 204(b)(1)(E) of such Act (29 U.S.C. 1054(b)(1)(E)) is amended by striking "section 202(a)(3)(A)" and inserting "subparagraphs (A) and (E) of section 202(a)(3)".

(b) VESTING RULES.—

(1) IN GENERAL.—Section 203(b)(2) of such Act (29 U.S.C. 1053(b)(2)) is amended by adding at the end the following new subparagraph:

"(E)(i) For purposes of this paragraph, in the case of any employee who, as of the beginning of the period designated by the plan pursuant to subparagraph (A)—

"(I) has customarily completed 500 or more hours of service per year but less than 1,000 hours of service per year; or

"(II) is employed in a type of position in which employment customarily constitutes 500 or more hours of service per year but less than 1,000 hours of service per year,

completion of 500 hours of service within such period shall be treated as completion of 1,000 hours of service.

"(ii) For purposes of this subparagraph, the extent to which employment in any type of position customarily constitutes less than 1,000 hours of service per year shall be determined with respect to each pension plan in accordance with such regulations as the Secretary may prescribe providing for consideration of facts and circumstances peculiar to the work-force constituting the participants in such plan.".

(2) 1-YEAR BREAKS IN SERVICE.—Section 203(b)(3) of such Act (29 U.S.C. 1053(b)(3)) is amended by adding at the end the following new subparagraph:

"(F)(i) for purposes of this paragraph, in the case of any employee who, as of the beginning of the period designated by the plan pursuant to subparagraph (A)—

"(I) has customarily completed 500 or more hours of service per year but less than 1,000 hours of service per year; or

"(II) is employed in a type of position in which employment customarily constitutes 500 or more hours of service per year but less than 1,000 hours of service per year,

completion of 250 hours of service within such period shall be treated as completion of 500 hours of service.

"(ii) For purposes of this subparagraph, the extent to which employment in any type of position customarily constitutes less than 1,000 hours of service per year shall be determined with respect to each pension plan in accordance with such regulations as the Secretary may prescribe providing for consideration of facts and circumstances peculiar to the work-force constituting the participants in such plan.".

(c) ACCRUAL RULES.—Section 204(b)(4)(C) of such Act (29 U.S.C. 1054(b)(4)(C)) is amended—

(1) by inserting "(i)" after "(C)"; and

(2) by adding at the end the following new clauses:

"(ii) For purposes of this paragraph, in the case of any employee who, as of the beginning of the period designated by the plan pursuant to clause (i)—

"(I) has customarily completed 500 or more hours of service per year but less than 1,000 hours of service per year; or

"(II) is employed in a type of position in which employment customarily constitutes 500 or more hours of service per year but less than 1,000 hours of service per year,

completion of 500 hours of service within such period shall be treated as completion of 1,000 hours of service.

"(iii) For purposes of clause (ii), the extent to which employment in any type of position customarily constitutes less than 1,000 hours of service per year shall be determined with respect to each pension plan in accordance with such regulations as the Secretary may prescribe providing for consideration of facts and circumstances peculiar to the work-force constituting the participants in such plan.".

SEC. 123. TREATMENT OF EMPLOYEES WORKING AT LESS THAN FULL-TIME UNDER GROUP HEALTH PLANS.

(a) IN GENERAL.—Part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended—

(1) by redesignating section 211 (29 U.S.C. 1061) as section 212; and

(2) by inserting after section 210 (29 U.S.C. 1060) the following new section:

"TREATMENT OF PART-TIME WORKERS UNDER GROUP HEALTH PLANS

"SEC. 211. (a) IN GENERAL.—A reduction in the employer-provided premium under a group health plan with respect to any employee for any period of coverage solely because the employee's customary employment is less than full-time may be provided under such plan only if the employee is described in subsection (b) and only to the extent permitted under subsection (c).

"(b) REDUCTIONS APPLICABLE TO EMPLOYEES WORKING LESS THAN FULL-TIME.—

"(1) IN GENERAL.—An employee is described in this subsection if such employee, as of the beginning of the period of coverage referred to in subsection (a)—

"(A) has customarily completed less than 30 hours of service per week; or

"(B) is employed in a type of position in which employment customarily constitutes less than 30 hours of service per week.

"(2) REGULATIONS.—For purposes of paragraph (1), whether employment in any type of position customarily constitutes less than 30 hours of service per week shall be determined with respect to each group health plan in accordance with such regulations as the Secretary may prescribe providing for consideration of facts and circumstances peculiar to the work-force constituting the participants in such plan.

"(c) AMOUNT OF PERMISSIBLE REDUCTION.—The employer-provided premium under a group health plan with respect to any employee for any period of coverage, after the reduction permitted under subsection (a), shall not be less than a ratable portion of the employer-provided premium which would be provided under such plan for such period of coverage with respect to any employee who completes 30 hours of service per week.

"(d) DEFINITIONS.—For purposes of this section—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided such term in section 607(1).

"(2) EMPLOYER-PROVIDED PREMIUM.—

"(A) IN GENERAL.—The term 'employer-provided premium' under a plan for any period of coverage means the portion of the applicable premium under the plan for such period of coverage which is attributable under the plan to employer contributions.

"(B) APPLICABLE PREMIUM.—For purposes of subparagraph (A), in determining the applicable premium of a group health plan, principles similar to the principles applicable under section 604 shall apply.".

(b) CONFORMING AMENDMENTS.—

(1) Section 201(1) of such Act (29 U.S.C. 1051(1)) is amended by inserting ", except with respect to section 211" before the semicolon.

(2) The table of contents in section 1 of such Act is amended by striking the item relating to section 211 and inserting the following new items:

"Sec. 211. Treatment of part-time workers under group health plans.

"Sec. 212. Effective date.".

SEC. 124. EXPANSION OF DEFINITION OF EMPLOYEE TO INCLUDE CERTAIN INDIVIDUALS WHOSE SERVICES ARE LEASED OR CONTRACTED FOR.

Paragraph (6) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)) is amended—

(1) by inserting "(A)" after "(6)"; and

(2) by adding at the end the following new subparagraph:

"(B) Such term includes, with respect to any employer, any person who is not an employee (within the meaning of subparagraph (A)) of such employer and who provides services to such employer, if—

"(i) such person has (pursuant to an agreement with such employer or any other person) performed such services for such employer (or for such employer and related persons (within the meaning of section 144(a)(3) of the Internal Revenue Code of 1986)) for a period of at least 1 year (6 months in the case of core health benefits) at the rate of at least 500 hours of service per year; and

"(ii) such services are of a type historically performed, in the business field of the employer, by employees (within the meaning of subparagraph (A)).".

SEC. 125. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall apply with respect to plan years beginning on or after January 1, 1990.

(b) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, subsection (a) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "January 1, 1990" the date of the commencement of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1990; or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1992.

(c) PLAN AMENDMENTS.—If any amendment made by this subtitle requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1991, if—

(1) during the period after such amendment made by this subtitle takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment made by this subtitle; and

(2) such plan amendment applies retroactively to the period after such amendment made by this subtitle takes effect and such first plan year.

A plan shall not be treated as failing to provide definitely determinable benefits of contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this subsection.

Subtitle C—Federal Council on Women

SEC. 131. SHORT TITLE.

This subtitle may be cited as the "Federal Council on Women Act".

SEC. 132. ESTABLISHMENT.

There is established in the legislative branch of the Federal Government a council to be known as the Federal Council on

Women (in this subtitle referred to as the "Council").

SEC. 133. DUTIES.

The Council shall—

(1) collect and evaluate information with respect to any problems that are particular to women in the United States, including information with respect to whether a disproportionate number of women live in poverty;

(2) review and evaluate Federal policy and proposed Federal policy related to any such problems;

(3) coordinate the activities of the council with any similar activities conducted by States, political subdivisions of States, and concerned organizations including State commissions on the status of women; and

(4) make recommendations with respect to actions that should be taken to alleviate any such problems.

SEC. 134. MEMBERSHIP.

(a) APPOINTMENT.—The Council shall be composed of 11 members appointed as follows:

(1) 4 women appointed by the President pro tempore of the Senate after consultation with the Majority Leader of the Senate and the Minority Leader of the Senate. Not more than 2 of the individuals appointed by the President pro tempore may be of the same political party.

(2) 4 women appointed by the Speaker of the House of Representatives after consultation with the Minority Leader of the House of Representatives. Not more than 2 of the individuals appointed by the Speaker may be of the same political party.

(3) 1 woman appointed by the League of Women Voters.

(4) 2 women appointed by the National Association of Women's Commissions.

(b) STATE RESIDENCY REQUIREMENT.—The appointment of members of the council under subsection (a) shall be carried out so that no 2 individuals appointed are, on the date of the respective appointments, residents of the same State.

(c) TERMS.—Except as provided in subsection (d), each member of the Council shall be appointed for a term of 3 years.

(d) VACANCIES.—

(1) Any member appointed to fill a vacancy occurring before the expiration of the term of the predecessor of the member shall be appointed for the remainder of the term of the predecessor.

(2) A member may continue to serve after the expiration of the term of a member until a successor is appointed.

(3) Any vacancy in the membership of the Council shall not affect the power of the remaining members to execute the duties of the Council.

(e) CHAIRPERSON AND VICE CHAIRPERSON.—A majority of the members of the Council shall elect a chairperson and a vice chairperson from among the members of the Council.

(f) QUORUM.—A quorum shall consist of 6 members of the Council.

(g) MEETINGS.—The Council shall meet at the call of the chairperson, the vice chairperson, or a majority of the members. The Council shall meet not less than once every 4 months and may not hold more than 4 meetings during any 12-month period.

(h) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Council may not receive any compensation for service on the Council. Members may, in accordance with chapter 57 of title 5, United States Code, be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Council.

SEC. 135. STAFF.

The Council may appoint and determine the compensation of staff, including a full-time staff director. Staff may not be paid in excess of the maximum rate of basic pay payable for GS-13 of the General Schedule under chapter 51 of title 5, United States Code.

SEC. 136. POWERS.

(a) IN GENERAL.—For the purpose of carrying out the duties of the Council, the Council may hold such hearings and undertake such other activities as the Council may determine to be useful.

(b) USE OF MAILS.—The Council may send franked mail through the United States mails under the conditions described in section 3210 of title 39, United States Code.

(c) OBTAINING OFFICIAL INFORMATION.—Upon the request of the Council, the heads of Federal agencies shall furnish to the Council, any information available under section 552 of title 5, United States Code.

(d) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Council, the Administrator of General Services shall provide to the Council on a reimbursable basis any administrative support services determined by the Council to be useful in carrying out the duties of the Council.

SEC. 137. ANNUAL REPORT.

The Council shall, not later than June 1 of each year, submit a report to the Congress. Each report shall contain a detailed statement of the findings, conclusions, and recommendations of the Council as a result of carrying out its duties under section 133.

SEC. 138. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $350,000 for each fiscal year.

Subtitle D—Women in Business Procurement Assistance

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "Women's Business Procurement Assistance Act of 1989".

SEC. 152. GOAL SETTING.

Subsection (g) of section 15 of the Small Business Act (15 U.S.C. 644) is amended to read as follows:

"(g) The head of each Federal agency shall, after consultation with the Administration, establish goals for the participation by small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals, in procurement contracts of such agency. Goals established under this subsection shall be jointly established by the Administration and the head of each Federal agency and shall realistically reflect the potential of small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadantaged individuals to perform such contracts and to perform subcontracts under such contracts. Whenever the Administration and the head of any Federal agency fail to agree on established goals, the disagreement shall be submitted to the Administrator of the Office of Federal Procurement Policy for final determination. For the purpose of establishing goals under this subsection, the head of each Federal agency shall make consistent efforts to annually expand participation by small business concerns from each industry category in procurement contracts of the agency, including participation by small business concerns owned and controlled by women and small business concerns owned and controlled by socially and economically disadvantaged individuals. The head of each Federal agency, in attempting to attain such participation, shall consider—

"(1) contracts awarded as the result of unrestricted competition; and

"(2) contracts awarded after competition restricted to eligible small business concerns under this section and under the program under section 8(a).".

SEC. 153. REPORTING.

Subsection (h) of section 15 of the Small Business Act (15 U.S.C. 644) is amended to read as follows:

"(h) At the conclusion of each fiscal year, the head of each Federal agency shall report to the Administration on the extent of participation by small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals in procurement contracts and subcontracts of such agency. Such reports shall contain appropriate justifications for failure to meet the goals established under subsection (g) of this section. The Administration shall submit to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives information obtained from such reports, together with appropriate comments.".

SEC. 154. SUBCONTRACTING.

(a) STATEMENT OF POLICY.—Paragraph (1) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)(1)) is amended to read as follows:

"(d)(1) It is the policy of the United States that small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals, shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals.".

(b) CONTRACT CLAUSE.—Section 8(d)(3)(A) of the Small Business Act (15 U.S.C. 637(d)(3)(A)) is amended to read as follows:

"(3) The clause required by paragraph (2) shall be as follows:

"(A) It is the policy of the United States that small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency, individuals contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, small business concerns owned

and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals.".

(c) DEFINITIONS.—Subparagraph (C) of section 8(d)(3) of the Small Business Act (15 U.S.C. 637(d)(3)(C)) is amended to read as follows:

"(C)(i) As used in this contract, the term 'small business concern' shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

"(ii) The term 'small business concern owned and controlled by socially and economically disadvantaged individuals' shall mean a small business concern—

"(I) which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

"(II) whose management and daily business operations and controlled by one or more of such individuals.

The contractor shall presume that socially and economically disadvantaged include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, and other minorities, or any other individual found to be disadvantaged by the Administrative pursuant to section 8(a) of the Small Business Act.

"(iii) The term 'small business concern owned and controlled by women' shall mean a small business concern—

"(I) which is at least 51 per centum owned by one or more women; or in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more women; and

"(II) whose management and daily business operations are controlled by such women.

"The contractor shall presume that women have been subjected to gender based discrimination.".

(d) REPRESENTATIONS.—Subparagraph (D) of section 8(d)(3) of the Small Business Act (15 U.S.C. 637(d)(3)(D)) is amended to read as follows:

"(D) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small business concern, a small business concern owned and controlled by women, or a small business concern owned and controlled by socially and economically disadvantaged individuals.".

(e) PLAN REQUIREMENTS.—Subparagraph (D) of section 8(d)(4) of the Small Business Act (15 U.S.C. 637(d)(4)(D)) is amended to read as follows:

"(D) No contract shall be awarded to any offeror unless the procurement authority determines that the plan to be negotiated by the offeror pursuant to this paragraph provides the maximum practicable opportunity for small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of the contract.".

(f) INCENTIVES.—Subparagraph (E) of section 8(d)(4) of the Small Business Act (15 U.S.C. 637(d)(4)(E)) is amended to read as follows:

"(E) Notwithstanding any other provision of law, every Federal agency, in order to encourage subcontracting opportunities for small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by the socially and economically disadvantaged individuals as defined in paragraph (3) of this subsection, is hereby authorized to provide such incentives as such Federal agency may deem appropriate in order to encourage such subcontracting opportunities as may be commensurate with the efficient and economical performance of the contract. This subparagraph shall apply only to contracts let pursuant to the negotiated method of procurement.".

(g) CONTENT OF PLAN.— (1) Subparagraph (A) of section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)(A)) is amended to read as follows:

"(A) Percentage goals for the utilization as subcontractors of small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals;".

(2) Subparagraph (C) of section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)(C)) is amended to read as follows:

"(C) a description of the efforts the offeror or bidder will take to assure that small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals will have an equitable opportunity to compete for subcontracts;".

(3) Subparagraph (F) of section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)(F)) is amended to read as follows:

"(F) a recitation of the types of records the successful offeror or bidder will maintain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in this plan, including the establishment of source lists of small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals; and efforts to identify and award subcontracts to such small business concerns.".

(h) SMALL BUSINESS ADMINISTRATION RESPONSIBILITIES.—Subparagraph (B) of section 8(d)(10) of the Small Business Act (15 U.S.C. 637(d)(10)(B)) is amended to read as follows:

"(B) review any solicitation for any contract to be let pursuant to paragraphs (4) and (5) to determine the maximum practicable opportunity for small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate as subcontractors in the performance of any contract resulting from any solicitation, and to submit its findings, which shall be advisory in nature, to the appropriate Federal agency; and".

(i) SUBCONTRACT REPORTING.—Paragraph (11) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)(11)) is amended to read as follows:

"(11) At the conclusion of each fiscal year, the Administration shall submit to the Senate Committee on Small Business and the Committee on Small Business of the House of Representatives a report on subcontracting plans found acceptable by any Federal agency which the Administration determines do not contain maximum practicable opportunities for small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of contracts described in this section.".

(j) EXCLUSION.—No business concern shall be deemed eligible for any contract or other assistance pursuant to section 1207 of Public Law 99-661 due solely to the provisions of this section.

SEC. 155. WOMEN-IN-BUSINESS SPECIALISTS.

Subsection (k) of section 15 of the Small Business Act (15 U.S.C. 644(k)) is amended by—

(1) striking out "and" at the end of paragraph (6)(B);

(2) striking out "subsection." at the end of paragraph (7) and by inserting in lieu thereof "subsection; and"; and

(3) by inserting immediately after paragraph (7) the following new paragraph:

"(B) designate an employee of such office to be a Women-in-Business Specialist responsible for the implementation and execution of programs designed to assist small business concerns owned and controlled by women.".

SEC. 156. OUTREACH.

Section 15 of the Small Business Act (15 U.S.C. 644) is amended by adding at the end thereof the following new subsection:

"(p) Each Federal agency having procurement powers shall engage in affirmative efforts to identify and solicit offers from small business concerns owned and controlled by women and small business concerns owned and controlled by socially and economically disadvantaged individuals. To the maximum extent practicable, a representative number of such concerns shall receive solicitation packages for each proposed acquisition for which such concerns may be eligible to compete.".

TITLE II—ECONOMIC SECURITY

Subtitle A—Earnings Sharing by Married Couples

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Social Security Equity Act of 1989".

SEC. 202. SHARING OF EARNINGS BY MARRIED COUPLES.

(a) IN GENERAL.—Title II of the Social Security Act is amended by adding at the end the following new section:

"SHARING OF EARNINGS BY MARRIED COUPLES

"SEC. 234. (a)(1) For purposes of determining the eligibility of an individual and the spouse of such individual for old-age and disability benefits and the amount of such benefits to which each is or may become separately entitled, the combined earnings of such individual and such spouse shall, to the extent that such earnings are attributable to the marriage period of such individual and such spouse (as determined under paragraph (2)), be divided equally between them and shared in accordance with this section.

"(2)(A) Except as provided in subparagraph (B), for purposes of this section, the term 'marriage period' means the period—

"(i) beginning with the first day of the calendar year in which the marriage of an individual and the spouse of such individual occurs, and

"(ii) ending with the last day of the calendar year preceding the earliest calendar year in which such individual or such spouse dies, they are divorced, or one of them files application for old-age or disability insurance benefits.

"(B)(i) No marriage period shall begin for any individual and the spouse of such individual if their marriage occurs after such in-

dividual or such spouse has filed an application for old-age insurance benefits.

"(ii) No marriage period shall include a period for which such individual or such spouse is entitled to disability insurance benefits or the waiting period (as defined in section 223(c)(2)) with respect to such benefits.

"(iii) A marriage period shall include the 'earliest calendar year' referred to in clause (ii) of subparagraph (A) for purposes of recomputations for that year under section 215(f)(2), in any case where an individual or the spouse of such individual dies or they are divorced, unless the survivor (where one of them dies) or either of them (where they are divorced) is remarried later in the same year.

"(b)(1) Except to the extent otherwise provided in subsections (c), (d), and (e), an individual and the spouse of such individual shall each be credited for all of the purposes of this title with wages and self-employment income, for each calendar year for which either of them is credited with any wages and self-employment income without regard to this section during their marriage period, in an amount equal to—

"(A) 50 percent of the combined total of the wages and self-employment income otherwise credited to both of them for that year if (at the close of the month for which the benefit determinations involved are being made) they are both still living, or

"(B) 100 percent of such combined total, up to but not exceeding the maximum amount that may be counted for that year without exceeding the ceiling imposed for that year under section 215(e), if (at the close of such month) one of them has died.

"(2) Nothing in this section shall affect the crediting of wages and self-employment income to any individual for any calendar year not included in a marriage period of such individual; but to the extent that wages and self-employment income are credited pursuant to this section the other provisions of this title specifying the manner in which wages and self-employment income are to be credited shall (to the extent inconsistent with this section) not apply.

"(3) Except where the context requires otherwise, for purposes of this section, the term 'spouse' includes a divorced spouse, a surviving spouse, and a surviving divorced spouse.

"(c) Subsections (a) and (b) shall not apply with respect to the crediting of wages and self-employment income for any calendar year, in the case of any individual and the spouse of such individual, if—

"(1) as a result of the application of such subsections with respect to that year such individual or such spouse would cease to be a fully insured individual (as defined in section 214(a)); or

"(2) such individual or such spouse is applying for disability insurance benefits (or for the establishment of a period of disability) and as a result of the application of such subsections with respect to that year would cease to be insured for such benefits under section 223(c)(1) (or for such a period under section 216(i)(3)).

"(d) Subsections (a) and (b) shall not apply for purposes of determining the amount of the benefit payable to any individual for any month if—

"(1) the total amount of the wages and self-employment income credited to such individual for a marriage period, as determined without regard to this section, is higher than the total amount of the wages and self-employment income credited to such individual's spouse for that period, as so determined; and

"(2) such individual's spouse (taking subsections (a) and (b) into account) has not filed application for old-age or disability insurance benefits by the close of such month.

"(e) Notwithstanding any of the preceding provisions of this section—

"(1) benefits payable under subsection (d) or (h) of section 202 on the basis of the wages and self-employment income of any individual, and benefits payable under subsection (b), (c), (e), (f), or (g) of such section 202 (on the basis of such wages and self-employment income) to any person other than a spouse who has shared in or been credited with a part of such individual's earnings under subsections (a) and (b) of this section, shall be determined as though this section had not been enacted if—

"(A) the application of this section has changed such individual's primary insurance amount from what it would otherwise have been; and

"(B) the crediting of wages and self-employment income to such individual and the spouse of such individual without regard to this section would increase the amount of such benefits; and

"(2) in the application of section 203(a) (relating to maximum family benefits) with respect to benefits payable on the basis of the wages and self-employment income of any individual, where all or any part of the wages and self-employment income of such individual and the spouse of such individual was credited to them in accordance with this section, the primary insurance amount of such individual (and the crediting of such wages and self-employment income) shall be determined in accordance with this section but the benefits payable to any other person on the basis of the wages and self-employment income of such individual shall be determined without regard to this section.

"(f) Notwithstanding any other provision of this title, no wife's, husband's, widow's, or widower's insurance benefit shall be paid to any individual for any month under subsection (b), (c), (e), or (f) of section 202, and no individual shall be entitled to any such benefit, unless—

"(1) the period of such individual's marriage (to the spouse or former spouse on the basis of whose wages and self-employment income such benefit is payable) ended before the effective date of this section;

"(2) such individual is under the age of 62 (and is otherwise entitled to such benefit);

"(3) such benefit is payable without regard to age and solely by reason of such individual's having a child in his or her care; or

"(4) the application of this section to such individual is prevented by subsection (c) or (d) (or by clause (i) or (ii) of subsection (a)(2)(B)).

"(g) For purposes of subsections (a)(2) and (d), an individual's application for old-age or disability insurance benefits shall be deemed to have been filed on the first day of the first month for which (by reason of the operation of section 202(j) or 223(b)) such individual is entitled to such benefits.".

(b) CONFORMING AMENDMENTS.—

(1) Section 202(b)(1) of the Social Security Act is amended by striking out "The wife" and inserting in lieu thereof "To the extent permitted by section 234(g), the wife".

(2) Section 202(c)(1) of such Act is amended by striking out "The husband" and inserting in lieu thereof "To the extent permitted by section 234(g), the husband".

(3) Section 202(e)(1) of such Act is amended by striking out "The widow" and inserting in lieu thereof "To the extent permitted by section 234(g), the widow".

(4) Section 202(f)(1) of such Act is amended by striking out "The widower" and inserting in lieu thereof "To the extent permitted by section 234(g), the widower".

(5) Section 205(c)(5) of such Act is amended—

(A) by striking out "or" at the end of subclause (I);

(B) by striking out the period at the end of subclause (J) and inserting in lieu thereof a semicolon and "or"; and

(C) by adding at the end the following new subclause:

"(K) to reflect any changes in the crediting of wages and self-employment income which may be necessitated by section 234.".

(6) Section 215(b) of such Act is amended by adding at the end the following new paragraph:

"(5) The determination of the wages and self-employment income to be credited to an individual under this subsection shall in all cases be made after the application of section 234.".

SEC. 203. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall apply only to wages and self-employment income payable after December 31, 1990, to an individual who has not attained age 50 on or before such date, and only if—

(1) the spouse of such individual has not attained age 50 on or before such date; and

(2)(A) in the case of a benefit based upon the attainment by the wage earner of age 62, such individual and such spouse attain age 62;

(B) in the case of a benefit based upon the death of the wage earner, such death occurs after December 31, 1990, and the individual claiming such benefit attains age 62; and

(C) in the case of a benefit described in subparagraph (A) or (B) with respect to a divorced individual and spouse, the divorce occurs after December 31, 2003.

(b) BENEFITS BASED ON DISABILITY.—In the case of a disability insurance benefit, and a widow's or widower's insurance benefit based upon disability—

(1) if an individual is entitled to such benefit before January 1, 1991, the provisions of this Act shall not apply—

(A) for the period for which such individual continues to be entitled to such benefit, and

(B) in the case of an individual who continues to be entitled to such benefit until age 62, for the period such individual is entitled to an old-age insurance benefit;

(2) if—

(A) an individual becomes entitled to such benefit after December 31, 1990, and before January 1, 2003; and

(B) the total benefits payable to all individuals on the basis of the wages and self-employment income of the individual upon whose disability such entitlement is based (determined without regard to the provisions of this Act) exceeds the total of benefits payable to all individuals on the basis of the wages and self-employment income of the individual upon whose disability such entitlement is based, and to the spouse of such individual, under the provisions of this Act,

the provisions of this Act shall not apply for the period during which the conditions of subparagraph (B) continue to be met and

during which such individual (i) continues to be eligible for such benefit, or (ii) in the case of such an individual who continued to be eligible for such benefit until age 62, is entitled to an old-age insurance benefit.

Subtitle B—Treatment of Disabled Widows and Widowers

SEC. 212. REPEAL OF SEPARATE DEFINITION OF DISABILITY PRESENTLY APPLICABLE TO WIDOWS AND WIDOWERS.

(a) IN GENERAL.—

(1) Section 223(d)(2) of the Social Security Act is amended—

(A) by striking out "(except a widow, surviving divorced wife, widower, or surviving divorced husband for purposes of section 202 (e) or (f))" in subparagraph (A);

(B) by striking out subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

(2) The third sentence of section 216(i)(1) of such Act is amended by striking out "(2)(C)" and inserting in lieu thereof "(2)(B)".

(b) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(1) Section 226(e) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of an individual described in clause (iii) of subsection (b)(2)(A), any month which occurred before the date of the enactment of this paragraph, and for which such individual—

"(A) was paid a supplemental security income benefit under title XVI on the basis of disability, and

"(B) met all of the requirements for entitlement to widow's insurance benefits under section 202(e) or widower's insurance benefits under section 202(f) on the basis of disability except the requirement of a disability determined under the separate definition contained in section 223(d)(2)(B) (as in effect on the day before the date of the enactment of this paragraph) and the requirement of application,

may at such individual's election (made in such manner and form as the Secretary shall prescribe) be included as one of the 24 months for which such individual must have been entitled to widow's or widower's insurance benefits on the basis of disability in order to become entitled to hospital insurance benefits on that basis.".

(2) Section 223(f) of such Act is amended by inserting after "shall not include any month" in the matter following paragraph (2) the following: "(other than a month described in subsection (e)(5))".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply with respect to monthly insurance benefits under title II of the Social Security Act for months after the month in which this section is enacted.

(2) The amendments made by subsection (b) shall apply with respect to entitlement to hospital insurance benefits under part A of title XVIII of the Social Security Act for months after the month in which this section is enacted.

Subtitle C—Eligibility of Displaced Homemakers for First-Time Homebuyers Assistance

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Displaced Homemakers and Single Parents Homeownership Assistance Act".

SEC. 232. ELIGIBILITY OF DISPLACED HOMEMAKERS AND SINGLE PARENTS FOR FEDERAL ASSISTANCE FOR FIRST-TIME HOMEBUYERS.

(a) DISPLACED HOMEMAKERS.—No individual who is a displaced homemaker may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse.

(b) SINGLE PARENTS.—No individual who is a single parent may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

SEC. 233. DEFINITIONS.

For purposes of this subtitle:

(1) DISPLACED HOMEMAKER.—The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family and for such reason has diminished marketable skills;

(C)(i) has been dependent on public assistance or on the income of a spouse but is no longer supported by such income; or

(ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under a Federal program to assist first-time homebuyers; and

(D) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(2) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means an individual who has never, or has not during a specified period of time, had any present ownership interest in a principal residence.

(3) SINGLE PARENT.—The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

SEC. 234. APPLICABILITY.

This subtitle shall apply to any Federal program to assist first-time homebuyers, unless the program is exempted from this subtitle by a statute that amends this section or explicitly refers to this section.

Subtitle D—Section 8 Housing Assistance for Domestic Violence Victims

SEC. 241. SHORT TITLE.

This subtitle may be cited as the "Family Housing Options Program Act of 1989".

SEC. 242. RESERVATION OF SECTION 8 CERTIFICATES AND VOUCHERS FOR FAMILIES AFFECTED BY DOMESTIC VIOLENCE AND HOMELESS FAMILIES.

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by adding at the end the following new subsection:

"(w)(1) For each fiscal year, the Secretary shall reserve from amounts provided pursuant to section 5 not less than 5 percent of the amount of assistance for subsections (b) and (o) to public housing agencies to provide assistance on behalf of families who have emergency housing needs as a result of domestic violence upon a member of the family and homeless families.

"(2) In carrying out this subsection, public housing agencies shall consult with State, local, and private agencies and organizations responsible for the administration of domestic violence shelters and emergency and transitional housing programs and receiving referrals of families from such agencies and organizations, to determine families that will receive assistance under this subsection.

"(3)(A) In order to assist families subjected to domestic violence and homeless families to share the facilities of a dwelling with others in a manner that effectively and efficiently meets their housing needs and thereby reduces their costs of housing, the Secretary shall permit assistance provided under this subsection to be used in shared housing arrangements in the manner provided under subsection (p). A family receiving assistance under this subsection may not be required to use such assistance in a shared housing arrangement. The Secretary may issue standards for shared housing under this paragraph that vary from standards issued under subsection (p) only to the extent necessary to provide for circumstances of shared housing arrangements under this paragraph that differ from circumstances of shared housing arrangements under subsection (p).

"(B) With respect to a family participating in a shared housing arrangement under this paragraph, the value of any contributions on behalf of other families in the shared housing to the total rent for the shared dwelling shall not be considered for purposes of determining income of such participating family for eligibility for and the amount of assistance provided under any Federal or federally assisted program based on need.

"(4) In allocating assistance under this subsection, the Secretary shall consider, in addition to the requirements under section 213 of the Housing and Community Development Act of 1974, the number of domestic violence shelters and emergency and transitional housing programs in each State and the number of families served by the shelters and programs.

"(5) For each fiscal year, each State shall submit to the Secretary a report, which shall include—

"(A) a list of the domestic violence shelters and emergency and transitional housing programs in the State through which assistance under this subsection has been provided, but the list may not include the street address of any such domestic violence shelter;

"(B) a description of the method for selection of the families assisted under this subsection; and

"(C) an analysis of the successful and unsuccessful aspects of the assistance provided in the State under this subsection.

"(6) For purposes of this subsection—

"(A) the term 'domestic violence shelter' means a supervised publicly or privately operated shelter designed to provide temporary living accommodations for families subject to abuse and violence in their normal living situations;

"(B) the term 'family' means an individual or family;

"(C) the term 'homeless' has the meaning given the term under section 103 of the Stewart B. McKinney Homeless Assistance Act; and

"(D) the term 'emergency and transitional housing program' means a supervised publicly or privately operated program designed to provide temporary or transitional living accommodations for homeless families.".

SEC. 243. ANNUAL REPORT.

The Secretary of Housing and Urban Development shall include in the annual report under section 8 of the Housing and Urban Development Act a summary of the reports required under section 8(w)(5) of the United States Housing Act of 1937.

SEC. 244. APPLICABILITY.

The amendment made by this subtitle shall apply with respect to the 1st fiscal year that begins after the expiration of the 60-day period beginning on the date of the enactment of this Act.

TITLE III—DEPENDENT CARE

Subtitle A—Dependent Care Tax Credit Expansion

SEC. 301. DEPENDENT CARE TAX CREDIT.

(a) DEPENDENT CARE SERVICES.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. DEPENDENT CARE SERVICES.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an individual who maintains a household which includes as a member 1 or more qualifying individuals, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable percentage of the sum of—

"(A) the employment-related expenses paid by such individual during the taxable year; plus

"(B) the respite care expenses paid by such individual during the taxable year.

"(2) APPLICABLE PERCENTAGE DEFINED.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable percentage' means 50 percent reduced (but not below 20 percent) by 1 percentage point for each full $1,000 amount by which the taxpayers's adjusted gross income for the taxable year exceeds $15,000.

"(B) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—In the case of a taxable year beginning in a calendar year after 1989, subparagraph (A) shall be applied by increasing the $15,000 amount contained therein by the cost-of-living adjustment (as defined in section 1(f)(3)) for such calendar year determined by substituting '1989' for '1987' in subparagraph (B) of section 1(f)(3).

"(ii) ROUNDING.—If any increase determined under clause (i) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $15, such increase shall be increased to the next highest multiple of $10).

"(b) EMPLOYMENT-RELATED EXPENSES.—For purposes of this section—

"(1) DETERMINATION OF ELIGIBLE EXPENSES.—

"(A) IN GENERAL.—The term 'employment-related expenses' means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are 1 or more qualifying individuals with respect to the taxpayer:

"(i) expenses for household services; and

"(ii) expenses for the care of a qualifying individual.

Such term shall not include any amount paid for services outside the taxpayer's household at a camp where the qualifying individual stays overnight and shall not include any respite care expense taken into account under subsection (a).

"(B) EXCEPTION.—Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only if incurred for the care of—

"(i) a qualifying individual described in subsection (d)(1); or

"(ii) a qualifying individual (not described in subsection (d)(1)) who regularly spends at least 8 hours each day in the taxpayer's household.

"(C) DEPENDENT CARE CENTERS.—Employment-related expenses described in subparagraph (A) which are incurred for services provided outside the taxpayer's household by a dependent care center (as defined in subparagraph (D)) shall be taken into account only if—

"(i) such center complies with all applicable laws and regulations of a State or unit of local government; and

"(ii) the requirements of subparagraph (B) are met.

"(D) Dependent care center defined.—For purposes of this paragraph, the term 'dependent care center' means any facility which—

"(i) provides care for more than 6 individuals (other than individuals who reside at the facility), and

"(ii) receives a fee, payment, or grant for providing services for any of the individuals (regardless of whether such facility is operated for profit).

"(2) DOLLAR LIMIT ON AMOUNT CREDITABLE.—

"(A) IN GENERAL.—The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

"(i) $2,400 if there is 1 qualifying individual with respect to the taxpayer for such taxable year; or

"(ii) $4,800 if there are 2 or more qualifying individuals with respect to the taxpayer for such taxable year.

The amount determined under clause (i) or (ii) (whichever is applicable) shall be reduced by the aggregate amount excludable from gross income under section 129 for the taxable year.

"(B) REDUCTION IN LIMIT FOR AMOUNT OF RESPITE CARE EXPENSES.—The limitation of subparagraph (A) shall be reduced by the amount of the respite care expenses taken into account by the taxpayer under subsection (a) for the taxable year.

"(3) EARNED INCOME LIMITATION.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

"(i) in the case of an individual who is not married at the close of such year, such individual's earned income for such year; or

"(ii) in the case of an individual who is married at the close of such year, the lesser of such individual's earned income or the earned income of his spouse for such year.

"(B) SPECIAL RULE FOR SPOUSE WHO IS A STUDENT OR INCAPABLE OF CARING FOR HIMSELF.—In the case of a spouse who is a student or a qualified individual described in subsection (d)(3), for purposes of subparagraph (A), such spouse shall be deemed for each month during which such spouse is a full-time student at an educational institution, or is such a qualifying individual, to be gainfully employed and to have earned income of not less than—

"(i) $200 if paragraph (2)(A)(i) applies for the taxable year; or

"(ii) $400 if paragraph (2)(A)(ii) applies for the taxable year.

In the case of any husband and wife, this subparagraph shall apply with respect to only one spouse for any one month.

"(c) RESPITE CARE EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'respite care expenses' means expenses paid (whether or not to enable the taxpayer to be gainfully employed) for—

"(A) the care of a qualifying individual—

"(i) who has attained the age of 15; or

"(ii) who is under the age of 15 but has a physical or mental impairment which results in the individual being incapable of caring for himself,

during any period when such individual regularly spends at least 8 hours each day in the taxpayer's household; or

"(B) care (for not more than 14 days during the calendar year) of a qualifying individual described in subparagraph (A) during any period during which the individual does not regularly spend at least 8 hours each day in the taxpayer's household.

"(2) DOLLAR LIMIT.—The amount of the respite care expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

"(A) $1,200 if such expenses are incurred with respect to only 1 qualifying individual for the taxable year; or

"(B) $2,400 if such expenses are incurred for 2 or more qualifying individuals for such taxable year.

"(d) QUALIFYING INDIVIDUAL.—For purposes of this section, the term 'qualifying individual' means—

"(1) a dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a deduction under section 151(e),

"(2) a dependent of the taxpayer who is physically or mentally incapable of caring for himself, or

"(3) the spouse of the taxpayer, if he is physically or mentally incapable of caring for himself.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) MAINTAINING HOUSEHOLD.—An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for such period is furnished by such individual (or, if such individual is married during such period, is furnished by such individual and his spouse).

"(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and his spouse file a joint return for the taxable year.

"(3) MARITAL STATUS.—An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

"(4) CERTAIN MARRIED INDIVIDUALS LIVING APART.—If—

"(A) an individual who is married and who files a separate return—

"(i) maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual; and

"(ii) furnishes over half the cost of maintaining such household during the taxable year, and

"(B) during the last 6 months of such taxable year such individual's spouse is not a member of such household,
such individual shall not be considered as married.

"(5) SPECIAL DEPENDENCY TEST IN CASE OF DIVORCED PARENTS, ETC.—If—

"(A) paragraph (2) or (4) of section 152(e) applies to any child with respect to any calendar year, and

"(B) such child is under the age of 15 or is physically or mentally incapable of caring for himself,
in the case of any taxable year beginning in such calendar year, such child shall be treated as a qualifying individual with respect to the custodial parent (within the meaning of section 152(e)(1)), and shall not be treated as a qualifying individual with respect to the noncustodial parent.

"(6) PAYMENTS TO RELATED INDIVIDUALS.—No credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual—

"(A) with respect to whom, for the taxable year, a deduction under section 151(e) (relating to deduction for personal exemptions for dependents) is allowable either to the taxpayer or his spouse; or

"(B) who is a child of the taxpayer (within the meaning of section 151(e)(3)) who has not attained the age of 19 at the close of the taxable year.

For purposes of this paragraph, the term 'taxable year' means the taxable year of the taxpayer in which the service is performed.

"(7) STUDENT.—The term 'student' means an individual who during each of 5 calendar months during the taxable year is a full-time student at an educational organization.

"(8) EDUCATIONAL ORGANIZATION.—The term 'educational organization' means an educational organization described in section 170(b)(1)(A)(ii).

"(9) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO SERVICE PROVIDER.—No credit shall be allowed under subsection (a) for any amount paid to any person unless—

"(A) the name, address, and taxpayer identification number of such person are included on the return claiming the credit; or

"(B) if such person is an organization described in section 501(c)(3) and exempt from tax under section 501(a), the name and address of such person are included on the return claiming the credit.
In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(b) CONFORMING AMENDMENTS.—(1) Section 21 of such Code is hereby repealed.

(2) Paragraph (2) of section 129(b) of such Code is amended by striking out "section 21(d)(2)" and inserting in lieu thereof "section 35(b)(3)(B)".

(3) Subsection (e) of section 213 of such Code is amended by striking out "section 21" and inserting in lieu thereof "section 35".

(c) TECHNICAL AMENDMENTS.—(1) The table of sections for subpart C of part IV if subchapter A of chapter 1 of such Code is amended by striking out the item relating to section 35 and inserting in lieu thereof the following:

"Sec. 35. Dependent care services.

"Sec. 36. Overpayments of tax."

(2) The table of sections for subpart A of such part IV is amended by striking out the item relating to section 21.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

Subtitle B—Mortgage Financing for Family Day Care Centers

SEC. 321. SHORT TITLE.

This subtitle may be cited as the "Small Day Care Center Assistance Act".

SEC. 322. AMENDMENT TO FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.

Section 302(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)) is amended by adding at the end the following new paragraph:

"(6) For purposes of this title, the term 'mortgage' includes a mortgage secured by a 1- to 4-family residential property that is occupied as a residence and in which child care service is provided in compliance with all applicable State and local laws, if the mortgage is otherwise eligible for purchase under this title.".

SEC. 323. AMENDMENT TO FEDERAL HOME LOAN MORTGAGE CORPORATION ACT.

Section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended by adding at the end the following new sentence: "The term 'residential mortgage' also includes a mortgage secured by a 1- to 4-family residential property that is occupied as a residence and in which child care service is provided in compliance with all applicable State and local laws, if the mortgage is otherwise eligible for purchase under this title.".

Subtitle C—Child Care Services in Transitional Housing

SEC. 341. SHORT TITLE.

This subtitle may be cited as the "Transitional Housing Child Care Services Act".

SEC. 342. CHILD CARE SERVICES IN TRANSITIONAL HOUSING.

(a) AUTHORITY TO PROVIDE GRANTS.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)) is amended by inserting after paragraph (5) the following new paragraph:

"(6) A grant to establish and operate a child care services program for homeless families as follows:

"(A) A program under this paragraph shall include—

"(i) establishing, licensing, and operating an on-site child care facility for the residents of transitional housing; or

"(ii) making contributions for the child care costs of residents of transitional housing to existing community child care programs and facilities; and

"(iii) counseling designed to inform the residents of transitional housing of public and private child care services for which they are eligible.

"(B) A grant under this paragraph for any child care services program shall not exceed the amount equal to 75 percent of the cost of operating the program for a period of up to 5 years.

"(C) Child care services provided with respect to a child care services program assisted under this paragraph shall meet any appliable State and local laws and regulations.".

(b) PRIORITY.—Section 424(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(b)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by inserting after paragraph (8) the following new paragraph:

"(9) in the case of transitional housing that serves homeless families with children, the extent to which the project fulfills the child care needs of the families by meeting the program criteria described in section 423(a)(6); and".

Subtitle D—Title XX Funding Increase

SEC. 351. INCREASE IN TITLE XX AUTHORIZATION FOR BLOCK GRANTS TO STATES FOR SOCIAL SERVICES.

Subsection (c) of section 2003 of the Social Security Act (42 U.S.C. 1397b) is amended—

(1) by striking out ", and for each succeeding fiscal year other than the fiscal year 1988; and" in paragraph (3) and inserting in lieu thereof a semicolon;

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(5) $2,700,000,000 for the fiscal year 1989;

"(6) $2,900,000,000 for the fiscal year 1990;

"(7) $3,100,000,000 for the fiscal year 1991; and

"(8) $3,300,000,000 for the fiscal year 1992.".

Subtitle E—School-Based Child Care

SEC. 361. SHORT TITLE.

This subtitle may be cited as the "State Dependent Care Grants Amendments Act of 1989".

SEC. 362. OPERATION COSTS OF AFTER SCHOOL CARE PROGRAMS AUTHORIZED.

(a)(1) Section 670D(b)(1) of the State Dependent Care Development Grants Act (hereafter in this subtitle referred to as the "Act") is amended by inserting after "establishment" a comma and the following: "operation".

(2) Section 670D(b)(1) of the Act is further amended by adding at the end thereof the following new sentence: "Amounts so paid to a State and used for the operation of such child care services shall be designed to enable children, whose families lack adequate financial resources, to participate in before or after school child care programs.".

(3) Section 670D(f) of the Act is amended by inserting after "expand" a comma and the following: "operate".

(b) Section 670D(d) of the Act is amended—

(1) by striking out clause (1);

(2) redesignating clause (2) of such section as clause (1);

(3) striking out clause (3);

(4) redesignating clause (4) as clause (2); and

(5) redesignating clause (5) as clause (3).

SEC. 363. REPORT BY GRANT RECIPIENTS.

(a) Section 670E(c) of the Act is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by adding at the end thereof the following new paragraph:

"(2) The chief executive officer of each State shall include in such report—

"(A) the number of children served in before and after school child care programs assisted under the subchapter;

"(B) the characteristics of the children so served including age levels, handicapped condition, income level of families in such programs;

"(C) the salary level and benefits paid to employees in such child care programs;

"(D) the number of clients served in resource and referral systems assisted under this subchapter;

"(E) the characteristics of clients served in resource and referral systems assisted under this subchapter, including age categories (including children and the elderly) and disability categories; and

"(F) the income level of families served by the resource and referral systems assisted under this subchapter.".

(b) Section 370E(c)(1) of the Act (as redesignated by subsection (a) of this section) is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1993".

TITLE IV—HEALTH

Subtitle A—Maternal and Child Health Funding Increase

SEC. 411. INCREASE IN AUTHORIZATION FOR SUPPLEMENTAL RESOURCES TO ENHANCE THE DELIVERY OF HEALTH SERVICES TO PREGNANT WOMEN AND INFANTS.

(a) IN GENERAL.—Paragraph (4) of section 501(a) of the Social Security Act (42 U.S.C. 701(a)(4)) is amended by striking "$561,000,000" and inserting in lieu thereof "$611,000,000".

(b) ALLOCATION AND REQUIREMENTS RELATED TO USE OF FUNDS UNDER NEW PROGRAM.—(1) section 502 of such Act (42 U.S.C. 702) is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection:

"(d)(1) Of the amounts appropriated for a fiscal year in excess of $561,000,000, the Secretary shall—

"(A) retain an amount equal to 15 percent of such amounts in the same manner as the amounts retained in subsection (a); and

"(B) allot an amount equal to 85 percent of such amounts in the same manner and for the same purposes as the amounts allotted under subsection (b).

"(2) The amount retained by the Secretary under paragraph (1)(A) shall be used for carrying out (through grants, contracts, or otherwise) the purpose of section 501(a)(4).

"(3) As a condition of receipt of the amount allotted under paragraph (1)(B), a State shall provide in such State's description of intended expenditures and statement of assurances under section 505—

"(A) a statewide needs assessment (as described in section 505(1)(F)) on maternity and infant care;

"(B) a plan for meeting the needs identified by the assessment;

"(C) a description of how the funds received will be utilized for the coordination and direct provision of services under the plan; and

"(D) an assurance that amounts expended pursuant to this paragraph shall be in addition to any amounts that would have been expended from State funds for programs (including programs under this title) as in effect on the day before the date of enactment of this Act.".

(2) Section 505(1) of such Act (42 U.S.C. 705(1)) is amended—

(A) by striking "and (D)" and inserting in lieu thereof "(D)"; and

(B) by striking "such payments" and inserting in lieu thereof "such payments, and (E) a statewide needs assessment as described in section 502(d)(3) identifying unmet maternity and infant care needs including prenatal care and prevention of low birthweight and infant mortality".

(c) ANNUAL REPORTS.—Section 506(a)(1) of such Act (42 U.S.C. 706(a)(1)) is amended by inserting before the last sentence the following new sentence: "States must submit annual reports describing the extent to which funds met the objectives of the plan provided for under section 502(d)(3), such reports shall fully describe the services provided, including the number of individuals served under this title and the characteristics of such individuals served, as well as statewide statistics related to the percentage of pregnant women who by the third trimester have been provided prenatal care and statistics related to the birthweight distribution and health status of infants.".

(d) CONFORMING AMENDMENT.—Paragraphs (1), (2)(A), and (3) of section 502(c) of such Act (42 U.S.C. 702(c)) are amended by striking "$478,000,000" each place it appears and inserting in lieu thereof "$478,000,000, but not in excess of $561,000,000".

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to services delivered six or more months after the date of enactment of this Act.

Subtitle B—Coordination of Health Services for Pregnant Women

SEC. 415. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended—

(1) by striking "and" after "fiscal year 1988,", and

(2) by inserting ", and $611,000,000 for fiscal year 1990" after "fiscal year 1989".

(b) SET ASIDE.—Section 502 of such Act (42 U.S.C. 702) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) The Secretary shall retain amounts appropriated under section 501(a) for a fiscal year in excess of $561,000,000 for the purpose of carrying out (through grants, contracts, or otherwise) comprehensive State infant mortality initiatives under this subsection and in providing for Federal activities described in paragraph (4).

"(2) The Secretary may not provide assistance under this subsection for a State initiative unless the State provides assurances that—

"(A) either under such initiative or otherwise the State will provide, on a State-wide basis, for—

"(i) a toll-free telephone information and referral system for maternal and child health services, and

"(ii) technical assistance and public awareness activities regarding the maternal and child health handbook disseminated under paragraph (4)(B);

"(B) in all areas of the State (or in such populations, areas and localities in the State as the State identifies under section 505(1)(A) or otherwise as having the greatest need for maternal and child health services), either under such initiative or otherwise, the State will provide for—

"(i) developing and expanding maternal and child health home visiting programs (described in paragraph (6)), and

"(ii) a "one-stop shopping", client-centered program (of the type described in section 1136) under which pregnant women and mothers can apply for a wide range of Government programs (including the maternal and child health program under this title, the medicaid program under title XIX, and the special supplemental food program for women, infants, and children (commonly known as the WIC program) in a coordinated manner at a location at which social and health-related services are made available to pregnant women and infants;

"(C) an evaluation of the impact of such initiative; and

"(D) by the end of a period of not longer than 5 years after the date the initiative is first provided assistance under this subsection, the State will be able to continue such an initiative without assistance under this subsection.

"(3) An initiative under this subsection also may provide for the establishment of such a State coordinating council (including appropriate representation from State and community agencies, State officials, private providers, and advocacy groups) as may be appropriate to provide policy direction for the reduction of infant mortality and morbidity in the State.

"(4) The Secretary shall use not more than $5,000,000 of the amounts retained under this subsection in any fiscal year for the purposes of—

"(A) providing technical assistance to States, including descriptions and evaluations of successful models of home visiting programs described in paragraph (2)(B)(i) and assistance in evaluations of initiatives under paragraph (2)(C);

"(B) disseminating, in coordination with the States and on a nationwide basis (beginning with populations, areas, and localities identified as having the greatest need for maternal and child health services), the maternal and child health handbook (developed by the National Commission to Prevent Infant Mortality) to all pregnant women and new parents;

"(C) establishing, in coordination with State toll-free systems described in paragraph (2)(A)(i), a nationwide, toll-free telephone system providing information on maternal and child health services and referral for such services;

"(D) developing a model, coordinated application and eligibility determination system for use by the States both under the medicaid program under title XIX and under the special supplemental food program for women, infants, and children (commonly known as the WIC program);

"(E) improving the integration and coordination among Federal programs serving pregnant women and children; and

"(F) monitoring and evaluating State initiatives undertaken under this subsection.

"(5) The provisions of paragraph (3) of subsection (a) shall apply to funds made available for State initiatives under this subsection in the same manner as such provisions apply to funds made available under subsection (a). In providing financial assistance for State initiatives under this subsection, the Secretary shall—

"(A) provide priority for those initiatives of States demonstrating the greatest need and an ability to implement such initiatives, and

"(B) take into consideration the need for an equitable distribution of assistance among the States.

"(6) In paragraph (2)(B)(i), the term 'maternal and child health home visiting program' means a client-centered program that provides—

"(A) case management services (including needs assessment and referral and follow-up to other health and social services), health education services (including instruction in the use of the maternal and child health

handbook referred to in paragraph (4)(B)), and related social support services,

"(B) to a pregnant woman or family with an infant in the woman's or family's home,

"(C) through a nurse, social worker, trained volunteer or lay person, or other appropriate personnel, acting (to the extent covered under a State practice act) consistent with such an act,

in order to promote the health of the woman and family.".

(c) CONFORMING AMENDMENT.—Section 502(c) of such Act (42 U.S.C. 702(c)) is amended by adding at the end the following:

"(4) Paragraphs (1) through (3) of this subsection shall only apply to amounts appropriated for a fiscal year in excess of $478,000,000, but only to such excess amounts as do not total more than $83,000,000.".

Subtitle C—Infant Mortality

SEC. 417. PHASED-IN MANDATORY COVERAGE OF CHILDREN UP TO 100 PERCENT OF POVERTY LEVEL.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(10)(A)(i)—

(A) by striking "or" at the end of subclause (III),

(B) by striking the semicolon at the end of subclause (IV) and inserting ", or", and

(C) by adding at the end the following new subclause:

"(V) who are described in subparagraph (C) of subsection (l)(1) and whose family income does not exceed the income level the State is required to establish under subsection (l)(2)(B) for such a family;";

(2) in subsection (a)(10)(A)(ii)(IX), by inserting "or clause (i)(V)" after "clause (i)(IV)";

(3) in subsection (l)—

(A) by amending subparagraph (C) of paragraph (1) to read as follows:

"(C) children born after September 30, 1983, who have attained one year of age but have not attained 18 years of age,";

(B) by striking subparagraph (B) of paragraph (2) and inserting the following:

"(B) For purposes of paragraph (1) with respect to individuals described in subparagraph (C) of that paragraph, the State shall establish an income level which is equal to the minimum percentage provided under subclause (I) or (II) of subparagraph (A)(ii) of the income official poverty line described in subparagraph (A) applicable to a family of the size involved.";

(C) in paragraph (3)—

(i) by inserting ", (a)(10)(A)(i)(V)," after "(a)(10)(A)(i)(IV)",

(ii) by amending subparagraph (A) to read as follows:

"(A)(i) no resource standard or methodology shall be applied to individuals who are eligible for medical assistance because of subsection (a)(10)(A)(i) (IV) or (V), and (ii) application of a resource standard for individuals who are eligible for medical assistance because of subsection (a)(10)(A)(ii)(IV) shall be at the option of the State;";

(iii) by striking subparagraphs (B) and (C);

(iv) in subparagraph (E), by striking "the methodology employed" and inserting "a methodology which is no more restrictive than the methodology employed"; and

(v) in subparagraph (E), by inserting "and except that there shall be disregarded costs for such child care as is necessary for the employment of the pregnant woman or the caretaker relative of the child)" after "(a)(17)".

(D) in paragraph (4)(A), by inserting "and for children described in subsection (a)(10)(A)(i)(V)" after "(a)(10)(A)(i)(IV)";

(E) in paragraph (4)(B), by inserting "or (a)(10)(A)(i)(V)" after "(a)(10)(A)(i)(IV)"; and

(4) in subsection (r)(2)(A), by inserting "(a)(10)(A)(i)(V)," after "(a)(10)(A)(i)(IV),".

(b) OPTIONAL 1 YEAR CONTINUED ELIGIBILITY FOR CHILDREN.—Section 1902(e)(6) of such Act (42 U.S.C. 1396a(e)(6)) is amended by inserting "(A)" after "(6)" and by adding at the end the following new subparagraph:

"(B) At the option of a State, in the case of an individual described in subsection (a)(10)(A)(i)(IV), (a)(10)(A)(i)(V), or (a)(10)(A)(ii)(IX) who, because of a change in income of the family of which the individual is a member, would not otherwise continue to be described in such subsection, the State may nonetheless treat the individual as being an individual described in that respective subsection and subsection (B) or (C) of subsection (l)(1) (as the case may be) without regard to such change of income through the end of the 1-year period beginning on the last date on which the individual was determined to be eligible for medical assistance as an individual described in such subsection.".

(c) APPLICATIONS USING OUTREACH LOCATIONS.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (51),

(2) by striking the period at the end of paragraph (52) and inserting "; and", and

(3) by inserting after paragraph (52) the following new paragraph:

"(53) provide for receipt and initial processing of applications of individuals for medical assistance under subsections (a)(10)(A)(i)(IV), (a)(10)(A)(i)(V), or (a)(10)(A)(ii)(IX) at locations which include locations (such as hospitals or clinics providing covered services to such individuals) which are other than those used for applications for aid under part A of title IV;".

(d) CONFORMING AMENDMENT TO QUALIFIED CHILDREN.—Section 1905(n)(2) of such Act (42 U.S.C. 1396d(n)(2)) is amended by striking "age of 7 (or any age designated by the State that exceeds 7 but does not exceed 8)" and inserting "age of 18".

(e) ADDITIONAL CONFORMING AMENDMENT.—Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by inserting "(a)(10)(A)(i)(V)," after "(a)(10)(A)(i)(IV),".

(f) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as otherwise provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(3) During the period beginning on January 1, 1990, and ending on June 30, 1990, a State may substitute, for the minimum percentage otherwise described in section 1902(l)(2)(B) of the Social Security Act (as amended by this section), any percentage greater than 75 percent (but not more than 100 percent, or, if less, the percentage established by the State under section 1902(l)(2)(A) of such Act).

SEC. 418. MEDICAID COVERAGE OF PREGNANT WOMEN AND INFANTS.

(a) PHASED-IN COVERAGE OF PREGNANT WOMEN AND INFANTS WITH INCOME BELOW 185 PERCENT OF THE POVERTY LEVEL.—Section 1902(l)(2)(A) of the Social Security Act (42 U.S.C. 1396a(l)(2)(A)) is amended—

(1) in clause (ii)—

(A) in subclause (I), by striking "by striking "and" at the end of subclause (I), and

(B) in subclause (II), by striking the period at the end and inserting "or, if greater, the percentage provided under clause (iv),", and

(C) by adding at the end the following new subclauses:

"(III) July 1, 1991, 125 percent, or, if greater, the percentage provided under clause (iv),

"(IV) July 1, 1992, 150 percent, or, if greater, the percentage provided under clause (iv), and

"(V) July 1, 1993, 185 percent."; and

(2) by adding at the end the following new clause:

"(iv) In the case of a State which, as of the date of the enactment of this clause, has established under clause (i), or has enacted legislation authorizing, or appropriating funds, to provide for, a percentage (of the income official poverty line) that is greater than 100 percent, the percentage provided under clause (ii) for medical assistance on or after July 1, 1990, shall not be less than—

"(I) the percentage specified by the State in an amendment to its State plan (whether approved or not) as of the date of the enactment of this clause, or

"(II) if no such percentage is specified as of the date of the enactment of this clause, the percentage established under the State's authorizing legislation or provided for under the State's appropriations.".

(b) FLEXIBILITY IN INCOME METHODOLOGY AND DEDUCTION OF CHILD CARE IN COMPUTATION OF INCOME.—Section 1902(l)(3)(E) of such Act (42 U.S.C. 1396a(l)(3)(E)) is amended by striking "(E)" and inserting the following:

"(E)(i) with respect to an individual described in subparagraph (A) or (B) of paragraph (1), family income shall be determined in accordance with a methodology which is no more restrictive than the methodology employed under the State plan under part A or E of title IV (except to the extent such methodology is inconsistent with clause (D) of subsection (a)(17) and except that there shall be disregarded costs for such child care as is necessary for the employment of the pregnant woman or the caretaker of the infant), and costs incurred for medical care or for any other type of remedial care shall not be taken into account, and

"(ii) with respect to an individual described in paragraph (1)(C),".

(c) PROHIBITING APPLICATION OF RESOURCE TEST.—Section 1902(l)(3) of such Act (42 U.S.C. 1396a(l)(3)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) the State may not apply any resource standard or methodology;",

(2) by striking subparagraphs (B) and (C), and

(3) by redesignating subparagraphs (D) and (E) as subparagraphs (B) and (C), respectively.

(d) MANDATORY CONTINUATION OF BENEFITS THROUGHOUT PREGNANCY OR FIRST YEAR OF LIFE.—Section 1902(e) of such Act (42 U.S.C. 1396a(e)) is amended—

(1) in the first sentence of paragraph (4), by striking "so long as" and all that follows through "the woman remains eligible for such assistance"; and

(2) in paragraph (6)—

(A) by striking "At the option of a State, in" and inserting "In", and

(B) by striking "the State plan may nonetheless treat the woman as being" and inserting "the woman shall be deemed to continue to be".

(e) REPORT AND TRANSITION ON ERRORS IN ELIGIBILITY DETERMINATIONS.—

(1) REPORT.—The Secretary of Health and Human Services shall report to Congress, by not later than July 1, 1990, on error rates by States in determining eligibility of individuals described in subparagraph (A) or (B) of section 1902(l)(1) of the Social Security Act for medical assistance under plans approved under title XIX of such Act. Such report may include data for medical assistance provided before July 1, 1989.

(2) ERROR RATE TRANSITION.—There shall not be taken into account, for purposes of section 1903(u) of the Social Security Act, payments and expenditures for medical assistance which—

(A) are attributable to medical assistance for individuals described in subparagraph (A) or (B) of section 1902(l)(1) of such Act, and

(B) are made on or after July 1, 1989, and before the first calendar quarter that begins more than 12 months after the date of submission of the report under paragraph (1) .

(f) EFFECTIVE DATES.—

(1) HIGHER INCOME STANDARDS.—The amendments made by subsection (a) shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1990, with respect to eligibility for medical assistance on or after such date, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) INCOME METHODOLOGY AND RESOURCE STANDARD.—The amendments made by subsections (b) and (c) shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990, with respect to eligibility for medical assistance on or after such date, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(3) CONTINUATION OF MEDICAL ASSISTANCE.—

(A) INFANTS.—The amendment made by subsection (d)(1) shall apply to individuals born on or after January 1, 1990, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(B) PREGNANT WOMEN.—The amendments made by subsection (d)(2) shall apply to women effective with respect to determinations to terminate eligibility, based on change of income, is made on or after January 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date. For purposes of the previous sentence, in the case of a woman who is provided ambulatory prenatal care pursuant to section 1920 of the Social Security Act during a presumptive eligibility period, the determination that the woman is not eligible for medical assistance (other than under such section) shall not constitute a termination of eligibility.

SEC. 419. OPTIONAL COVERAGE OF ALL CHILDREN UP TO 100 PERCENT OF POVERTY LEVEL.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in subsection (l)(1), as amended by section 2(a)(3)(A) of this Act—

(A) by striking "and" at the end of subparagraph (B),

(B) by adding "and" at the end of subparagraph (C), and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) at the option of the State, children not described in subparagraph (B) or (C) who have not attained 18 years of age (or such lesser number of years of age as the State may specify),";

(2) in subsection (l)(2)(B), as amended by section 2(a)(3)(B) of this Act, by inserting "or (D)" after "subparagraph (C)";

(3) in subsection (l)(3), as amended by section 2(a)(3)(C)(iii), by inserting after subparagraph (A) the following new subparagraph:

"(B) any resource standard or methodology that is applied with respect to an individual described in subparagraph (D) of paragraph (1) may not be more restrictive than the corresponding methodology that is applied under the State plan under part A of title IV;".

(b) OPTIONAL 1 YEAR CONTINUED ELIGIBILITY FOR CHILDREN.—Section 1902(e)(6)(B) of such Act (42 U.S.C. 1396a(e)(6)), as amended by section 2(b) of this Act, is amended by striking "(B) or (C)" and inserting "(B), (C), or (D)".

(c) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as otherwise provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 420. PRESUMPTIVE ELIGIBILITY AND OUTREACH FOR PREGNANT WOMEN.

(a) MAKING PRESUMPTIVE ELIGIBILITY A STATE PLAN REQUIREMENT.—

(1) IN GENERAL.—Section 1902(a)(47) of the Social Security Act (42 U.S.C. 1396a(a)(47)) is amended by striking "at the option of the State,".

(2) CONFORMING AMENDMENT.—Section 1920(a) of such Act (42 U.S.C. 1396r-1(a)) is amended by striking "may provide" and inserting ", in order to meet the requirement of section 1902(a)(47), must provide".

(b) EXTENSION OF PRESUMPTIVE ELIGIBILITY PERIOD TO DATE OF ELIGIBILITY DETERMINATION.—Section 1920(b)(1)(B) of such Act (42 U.S.C. 1396r-1(b)(1)(B)) is amended—

(1) by inserting "or" at the end of clause (i),

(2) by striking clause (ii), and

(3) by redesignating clause (iii) as clause (ii).

(c) FLEXIBILITY IN APPLICATION.—Section 1920(c)(3) of such Act (42 U.S.C. 1396r-1(c)(3)) is amended by inserting before the period at the end the following: ", which application may be the application used for the receipt of medical assistance by individuals described in section 1902(l)(1)(A)".

(d) REQUIRING OUTREACH FOR PREGNANT WOMEN AND INFANTS UNDER THE MATERNAL AND CHILD HEALTH PROGRAM.—Section 505(2)(E) of such Act (42 U.S.C. 705(2)(E)) is amended—

(1) by striking "participate" before clause (i),

(2) by inserting "participate" after "(i)", after "(ii)", and after "(iii)",

(3) by striking "and" at the end of clause (ii),

(4) by striking the period at the end of clause (iii) and inserting ", and", and

(5) by adding after clause (iii) the following new clause:

"(iv) provide, directly and through their grantees and institutional contractors, for outreach services for pregnant women and infants (described in section 1902(l)(5)).".

(e) OPTIONAL COVERAGE OF OUTREACH SERVICES FOR PREGNANT WOMEN AND INFANTS.—

(1) PERMITTING PAYMENT FOR OUTREACH SERVICES FOR PREGNANT WOMEN AND INFANTS AT FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—Section 1903(a)(1) of the Social Security Act (42 U.S.C. 1396b(a)(1)) is amended by inserting "for outreach services for pregnant women and infants described in section 1902(l)(5) or" after "total amount expended during such quarter".

(2) OUTREACH SERVICES FOR PREGNANT WOMEN AND INFANTS DEFINED.—Section 1902(l) of such Act is amended by adding at the end the following new paragraph:

"(5) For purposes of section 1903(a), the term 'outreach services for pregnant women and infants' means, with respect to pregnant women and infants, services to identify individuals described in subparagraph (A) or (B), respectively, of paragraph (1) and, once identified, to assist them in applying for medical assistance under this title.".

(f) EFFECTIVE DATES.—

(1)(A) The amendments made by subsections (a) and (b) apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health

and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a) or (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a regular legislative session of 2 years, each year of such session shall be deemed to be a separate regular session of the State legislature.

(2) The amendment made by subsection (c) shall be effective as if included in the enactment of section 9407(b) of the Omnibus Budget Reconciliation Act of 1986.

(3) The amendments made by subsection (d) shall apply to payments for allotments for fiscal years beginning with fiscal year 1990.

(4) The amendments made by subsection (e) shall apply to outreach services provided on or after January 1, 1990.

SEC. 421. PAYMENT FOR OBSTETRICAL AND PEDIATRIC SERVICES.

(a) CODIFICATION OF ADEQUATE PAYMENT LEVEL PROVISIONS.—Section 1902(a)(30)(A) of the Social Security Act (42 U.S.C. 1396a(a)(30)(A)) is amended by inserting before the semicolon at the end the following: "and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population".

(b) ASSURING ADEQUATE PAYMENT LEVELS FOR OBSTETRICAL AND PEDIATRIC SERVICES.—Title XIX of such Act, as amended by section 303 of the Family Support Act of 1988, is amended by redesignating section 1926 as section 1927 and by inserting after section 1925 the following new section:

"ASSURING ADEQUATE PAYMENT LEVELS FOR OBSTETRICAL AND PEDIATRIC SERVICES

"SEC. 1926. (a)(1) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(30)(A) with respect to obstetrical services (as defined in paragraph (4)(A)), as of July 1 of each year (beginning with 1990), unless, by not later than April 1 of such year, the State submits to the Secretary an amendment to the plan that specifies, by obstetrical procedure, the payment rates to be used for such services under the plan in the succeeding period and includes in such submission such additional data as will assist the Secretary in evaluating the State's compliance with such requirement.

"(2) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(30)(A) with respect to pediatric services (as defined in paragraph (4)(B)) for infants under one year of age, as of July 1 of each year (beginning with 1990), unless, by not later than April 1 of such year, the State submits to the Secretary an amendment to the plan that specifies, by pediatric procedure, the payment rates to be used for such services under the plan in the succeeding period and includes in such submission such additional data as will assist the Secretary in evaluating the State's compliance with such requirement.

"(3) The Secretary, by not later than 90 days after the date of submission of a plan amendment under paragraph (1) or (2), shall—

"(A) review each such amendment for compliance with the requirement of section 1902(a)(30)(A), and

"(B) approve or disapprove each such amendment.

If the Secretary disapproves such an amendment, the State shall immediately submit a revised amendment which meets such requirement.

"(4) In this section:

"(A) The term 'obstetrical services' means services relating to pregnancy covered under the State plan provided by an obstetrician, family practitioner, certified nurse midwife, or family nurse practitioner and does not include inpatient or outpatient hospital services or other institutional services.

"(B) The term 'pediatric services' means services covered under the State plan provided by a pediatrician, family practitioner, or pediatric nurse practitioner to infants under 1 year of age and does not include inpatient or outpatient hospital services or other institutional services.

"(b) For amendments submitted under subsection (a)(1) in 1992 and thereafter, the data submitted under such subsection must include, for the second previous year, at least the following:

"(1) The number of obstetricians, family practitioners, family nurse practitioners, and certified nurse midwives who were licensed in the State in the year and the percentage of such number who provided obstetrical services to medicaid pregnant beneficiaries.

"(2) An estimate of—

"(A) the number of pregnant women who were in the State in the year, and the percentage of such number of women who received, before their third trimester, prenatal services in the State in the year, and

"(B) the number of pregnant women who were medicaid pregnant beneficiaries in the State in the year, and the percentage of such number of women who received, before their third trimester, prenatal services in the State in the year.

"(3) The statewide average payment rates under the State plan for obstetrical services furnished by obstetricians, family practitioners, family nurse practitioners, and certified nurse midwives, by procedure, stated in dollar amounts and as a percentage of the statewide average payment rates for such procedures other than under the State plan.

Information described in paragraphs (1) and (3) shall be provided separately for providers located in each of the urban and rural service areas in the State and the information described in paragraph (2) shall be provided, to the extent practicable, for individuals located in each of the urban and rural service areas in the State. In this subsection, the term 'medicaid pregnant beneficiaries' means women who are pregnant and who are entitled to benefits for obstetrical services under the State plan under this title.

"(c) For amendments submitted under subsection (a)(2) in 1992 and thereafter, the data submitted under such subsection must include, for the second previous year, at least the following:

"(1) The number of pediatricians, family practitioners, and pediatric nurse practitioners who were licensed in the State in the year and the percentage of such number who provided pediatric services to medicaid infant beneficiaries.

"(2) An estimate of—

"(A) the number of infants under one year of age who were in the State in the year, and the percentage of such number of infants who received pediatric services in the State in the year, and

"(B) the number of medicaid infant beneficiaries in the State in the year, and the percentage of such number of beneficiaries who received pediatric services in the State in the year.

"(3) The statewide average payment rates under the State plan for pediatric services furnished by pediatricians, family practitioners, and pediatric nurse practitioners by procedure, stated in dollar amounts and as a percentage of the statewide average payment rates for such procedures other than under the State plan.

Information described in paragraphs (1) and (3) shall be provided separately for providers located in each of the urban and rural service areas in the State and the information described in paragraph (2) shall be provided, to the extent practicable, for infants located in each of the urban and rural service areas in the State. To the extent practicable, information described in paragraphs (1), (2), and (3) with respect to pediatric services shall be provided separately for 'EPSDT' services (described in section 1905(a)(4)(B)) and for other pediatric services. In this subsection, the term 'medicaid infant beneficiaries' means infants under one year of age who are entitled to benefits under the State plan under this title.

"(d) Nothing in this title (including section 1902(a)(30)(A)) shall be construed as preventing a State from establishing payment levels for obstetrical or pediatric services that are higher for those services furnished in rural areas than those furnished in urban areas.".

(c) EFFECTIVE DATE.—The amendments made by this section (except as otherwise provided in such amendments) shall take effect on the date of the enactment of this Act.

SEC. 422. DEMONSTRATION PROJECTS TO IMPROVE ACCESS TO NEEDED PHYSICIAN SERVICES BY PREGNANT WOMEN, INFANTS, AND CHILDREN.

(a) IN GENERAL.—The Secretary of Health and Human Services shall provide for demonstration projects by States to reduce infant mortality and childhood morbidity through improving the access of eligible pregnant women, infants, and children under the medicaid program to obstetricians and pediatricians.

(b) NATURE OF PROJECTS.—Demonstration projects under this section shall incorporate innovative approaches to increasing participation (including participation in a back-up capacity for health centers and public health clinics) of obstetricians, pediatricians, or family practitioners under the medicaid program, by means (other than payment rate adjustments under section 4) such as—

(1) expediting reimbursement and using innovative payment mechanisms, including global fees for maternity and pediatric services (with guaranteed periodic payments);

(2) assisting in securing, or paying for, medical malpractice insurance or otherwise sharing in the risk of liability for medical malpractice;

(3) decreasing unnecessary administrative burdens in submitting claims or securing authorization for treatment; and

(4) covering medical services to meet the needs of high-risk pregnant women and infants.

(c) SUPPLEMENTAL FUNDING.—With respect to the additional expenditures for medical assistance made under a State plan under title XIX of the Social Security Act to carry

out a demonstration project under this section, the Federal medical assistance percentage (otherwise determined under section 1905(b) of such Act) shall be increased by 25 percentage points (but in no case to a percentage greater than 90 percent).

(d) WAIVER AUTHORITY.—(1) Except as provided under paragraphs (2) and (3), the Secretary is authorized to waive the requirements of title XIX of the Social Security Act to the extent necessary to implement demonstration projects under this section.

(2) Except as permitted under section 1915(b)(1) of the Social Security Act, the Secretary may not waive under paragraph (1) the requirements of sections 1902(a)(23) and 1916 of such Act.

(3) The Secretary may not approve a demonstration project under this section, or a waiver under paragraph (1), that reduces the amount, duration, or scope of medical assistance made available under title XIX of the Social Security Act or that results in a loss of eligibility for individuals otherwise eligible for such assistance.

(e) TIMELY ACTION ON APPLICATIONS.—A request to the Secretary by a State for approval of a demonstration project under this section (and any accompanying waiver of a requirement of title XIX of the Social Security Act) shall be deemed granted unless the Secretary, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the State in writing with respect to any additional information which is needed in order to make a final determination with respect to the request. After the date the Secretary receives such additional information, the request shall be deemed granted unless the Secretary, within 90 days of such date, denies such request.

(f) AMOUNTS AND USE OF FUNDS.—The Secretary may not approve demonstration projects under this section that result in aggregate, additional Federal expenditures under title XIX of the Social Security Act that exceed $30,000,000 in fiscal year 1990. Amounts appropriated and obligated to carry out this section shall be available until expended.

(g) REPORT.—The Secretary shall report to Congress, not later than March 1, 1992, on the demonstration projects carried out under this section and on how the results of such projects may be used to lower infant mortality and morbidity through improving the access of indigent pregnant women and infants to needed physician services.

SEC. 423. EXTENSION OF PAYMENT PROVISIONS FOR MEDICALLY NECESSARY SERVICES IN DISPROPORTIONATE SHARE HOSPITALS TO CHILDREN UNDER 18 YEARS OF AGE.

(a) COVERAGE OF MEDICALLY NECESSARY SERVICES FOR CHILDREN.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended, in the subdivision (X) following subparagraph (E), inserted by section 302(b)(1)(B) of the Medicare Catastrophic Coverage Act of 1988, by striking "under one year of age" and inserting "under 18 years of age".

(b) ASSURING ADEQUATE PAYMENT FOR INPATIENT HOSPITAL SERVICES FOR CHILDREN IN DISPROPORTIONATE SHARE HOSPITALS.—Section 1923(a)(2) of such Act (42 U.S.C. 1396r-4), as amended by section 302(b)(2) of the Medicare Catastrophic Coverage Act of 1988, is amended by adding at the end the following new subparagraph:

"(D) If a State plan under this title provides for payments for inpatient hospital services on a prospective basis (whether per diem, per case, or otherwise), in order for the plan to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1990, the State must submit to the Secretary by not later than April 1, 1990, a State plan amendment that provides, in the case of hospitals defined by the State as disproportionate share hospitals under paragraph (1)(A), for an outlier adjustment in payment amounts for medically necessary inpatient hospital services provided on or after July 1, 1990, involving exceptionally high costs or exceptionally long lengths of stay for individuals one year of age or older, but under 18 years of age.".

(c) EFFECTIVE DATE.—(1)(A) The amendment made by subsection (a) applies (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1990, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(2) The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 424. REQUIRED MEDICAID NOTICE AND COORDINATION WITH SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC).

(a) STATE PLAN REQUIREMENTS OF NOTICE AND COORDINATION.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (11), by striking "and" before "(B)" and by inserting before the semicolon at the end the following: ", and (C) provide for coordination of the operations under this title with the State's operations under the special supplemental food program for women, infants, and children under section 17 of the Child Nutrition Act of 1966";

(2) by striking "and" at the end of paragraph (51);

(3) by striking the period at the end of paragraph (52) and inserting "; and"; and

(4) by inserting after paragraph (52) the following new paragraph:

"(53) provide—

"(A) for notifying in a timely manner all individuals in the State who are determined to be eligible for medical assistance and who are pregnant women, breastfeeding or postpartum women (as defined in section 17 of the Child Nutrition Act of 1966), or children below the age of 5, of the availability of benefits furnished by the special supplemental food program under such section, and

"(B) for referring any such individual to the State agency responsible for administering such program.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1990, without regard to whether regulations to carry out such amendments have been promulgated by such date.

SEC. 425. MATERNAL AND CHILD HEALTH TOLL FREE PHONE NUMBER.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall study and develop a design for a national toll free phone number to provide basic health education, information, and referral to health services for pregnant women, new mothers, and other interested individuals. The toll free number shall be developed to also provide a means to collect information on the needs and concerns of women and families regarding prenatal, delivery, and postpartum care. Such toll free phone number shall be developed and in service, no later than January 1, 1990.

(b) REPORT.—The Secretary shall issue a report to the Senate Committee on Finance describing the proposed design for the national toll free number described in subsection (a) no later than January 1, 1990.

(c) EFFECTIVE DATE.—The provisions of this section shall become effective upon the date of enactment of this Act.

Subtitle D—Perinatal Services in Public Housing

SEC. 427. SHORT TITLE.

This subtitle may be cited as the "Public Housing One-Stop Perinatal Service Act of 1989".

SEC. 428. ESTABLISHMENT OF DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program to demonstrate the effectiveness of providing grants to public housing agencies to assist such agencies in providing facilities for making one-stop perinatal services programs (as defined in section 432(1)) available for pregnant women who reside in public housing.

(b) CONSULTATION REQUIREMENTS.—In carrying out the demonstration program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies.

SEC. 429. ALLOCATION OF ASSISTANCE.

(a) PREFERENCES.—In selecting public housing agencies for grants under section 428, the Secretary shall give preference to the following public housing agencies:

(1) AREA WITH HIGH INFANT MORTALITY RATES.—Public housing agencies serving areas with high infant mortality rates.

(2) SECURE FACILITIES.—Public housing agencies that demonstrate, to the satisfaction of the Secretary, that security will be provided so that women are safe when participating in the one-stop perinatal services program carried out at the facilities provided or assisted under section 428.

(b) LIMITATION ON GRANT AMOUNT.—The aggregate amount provided under section 428 for any public housing project may not exceed $15,000.

SEC. 430. DEMONSTRATION PROGRAM REQUIREMENTS.

(a) APPLICATIONS.—Applications for grants under section 428 shall be made by public housing agencies in accordance with procedures established by the Secretary and shall include a description of the one-stop perinatal services program to be provided in the facilities provided or assisted under section 428.

(b) USE OF GRANTS.—Any public housing agency receiving a grant under section 428

may use the grant only for the costs of providing facilities and minor renovations of facilities necessary to make one-stop perinatal services programs available to pregnant women who reside in public housing.

(c) REPORTS TO SECRETARY.—Each public housing agency receiving a grant under section 428 for any fiscal year shall submit to the Secretary, not later than 3 months after the end of such fiscal year, a report describing the facilities provided by the public housing agency under section 428 and the one-stop perinatal services program carried out in such facilities. The report shall include data on the size of the facilities, the costs and extent of any renovations, the previous use of the facilities, the number of women assisted by the program, the trimester of the pregnancy of the women at the time of initial assistance, infant birthweight, infant mortality rate, and other relevant information.

(d) APPLICABLE STANDARDS.—No provision of this subtitle may be construed to authorize the Secretary to establish any health, safety, or other standards with respect to the services provided by the one-stop perinatal services program or facilities provided or assisted with grants received under section 428. Such services and facilities shall comply with all applicable State and local laws, regulations, and ordinances, and all requirements established by the Secretary of Health and Human Services for such services and facilities.

SEC. 431. REPORT TO CONGRESS.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the findings and conclusions of the Secretary as a result of carrying out the demonstration program under section 428. The report shall include any recommendations of the Secretary with respect to the establishment of a permanent program of providing facilities in public housing for making perinatal services available to pregnant women who reside in the public housing.

SEC. 432. DEFINITIONS.

For purposes of this subtitle:

(1) ONE-STOP PERINATAL SERVICE PROGRAM.—The term "one-stop perinatal services program" means a program to provide a wide range of services for pregnant and new mothers in a coordinated manner at a drop-in center, which may include any of the following:

(A) INFORMATION AND EDUCATION.—Information and education for pregnant women regarding perinatal care services, and related services and resources, necessary to decrease infant mortality and disability.

(B) HEALTH CARE SERVICES.—Basic health care services that can be provided without a physician present.

(C) REFERRAL.—Basic health screening of pregnant women and referrals for health care services.

(D) FOLLOWUP.—Followup assessment of women and infants (including measurement of weight) and referrals for health care services and related services and resources.

(E) SOCIAL WORKER.—Information and assistance regarding Federal and State social services provided by a social worker.

(F) OTHER.—Any other services to assist pregnant or new mothers.

(2) PUBLIC HOUSING.—The terms "public housing" and "public housing agency" have the meanings given such terms in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 433. REGULATIONS.

The Secretary shall issue any regulations necessary to carry out this subtitle.

SEC. 434. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

Subtitle E—Domestic Violence Judiciary Training Grants

SEC. 436. DEFINITION; SHORT TITLE.

(a) DEFINITION.—Section 202 of the State Justice Institute Act of 1984 (42 U.S.C. 10701) is amended—

(1) in paragraph (6) by striking "and" at the end,

(2) in paragraph (7) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(8) 'domestic violence' shall have the same meaning as that given 'family violence' by section 309(1) of the Family Violence and Prevention Services Act (42 U.S.C. 10408).".

(b) SHORT TITLE.—This subtitle may be cited as the "State Justice Institute Amendments Act".

SEC. 437. AUTHORITY TO PROVIDE FUNDS FOR RESEARCH AND CURRICULUM DEVELOPMENT RELATING TO CHILD CUSTODY LITIGATION.

Section 206(c) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(c)) is amended—

(1) in paragraph (12) by striking "and" at the end;

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting after paragraph (12) the following:

"(13) conduct not more than 5 projects at an aggregate cost of not to exceed $600,000—

"(A) to carry out research regarding State judicial decisions relating to child custody litigation involving domestic violence;

"(B) to develop training curricula to assist State courts to develop an understanding of, and appropriate responses to, child custody litigation involving domestic violence; and

"(C) to disseminate the results of the research carried out under subparagraph (A), and the curricula developed under subparagraph (B), to State courts; and".

SEC. 438. AUTHORIZATION OF APPROPRIATIONS.

The first sentence of section 215 of the State Justice Institute Act of 1984 (42 U.S.C. 10713) is amended by striking "each of the fiscal years 1989 and 1990" and inserting the following: "fiscal year 1989, $15,600,000 for fiscal year 1990."

Subtitle F—Immigration Reform for Domestic Violence Victims

SEC. 451. BATTERED SPOUSE WAIVER OF THE CONDITIONAL RESIDENCY REQUIREMENT UNDER THE INA.

(a) IN GENERAL.—Section 216(c) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)) is amended by adding at the end the following new paragraph:

"(5) BATTERED SPOUSE WAIVER.—(A) The Attorney General shall remove the conditional basis of the permanent resident status for any alien who fails to meet the requirements of paragraph (1), if the alien demonstrates—

"(i) that the alien entered into the qualifying marriage in good faith; and

"(ii) through credible evidence, that the alien was battered by, or was the subject of extreme mental cruelty perpetrated by, his or her spouse.

"(B) The Attorney General shall (by regulation) establish measures to protect the confidentiality of information concerning any injured alien spouse, including information regarding the whereabouts of such spouse.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any marriage covered by the Immigration Marriage Fraud Amendments Act of 1986 (Public Law 99-639).

Subtitle G—Long-Term Care Workers Demonstration Projects

SEC. 461. AMENDMENTS.

Section 422(b)(9) of the Older Americans Act of 1965 (42 U.S.C. 3035a(b)(9)) is amended—

(1) in subparagraph (A)(ii) by inserting "and" after the semicolon;

(2) in subparagraph (B) by striking the period and inserting "; and"; and

(3) by inserting after subparagraph (B) the following:

"(C) projects furnishing long-term care services to residents of nursing homes.".

SEC. 462. EFFECTIVE DATE.

This subtitle shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

Subtitle H—Sense of Congress on Caregivers

SEC. 471. FINDINGS.

The Congress finds that—

(1) the number of individuals 65 years of age and older has increased by 56 percent during the past 20 years;

(2) in 1986 there were 2,800,000 individuals 85 years of age and older in the United States, and by 2000 the number will increase to nearly 5,000,000;

(3) nearly 50 percent of the individuals in the United States have considered long-term care options for family members in the past, and another 20 percent are expected to face the issue within the next five years;

(4) while more than 20 percent of individuals 85 years of age and older live in nursing homes, at least another 20 percent of such individuals do not live in institutions and need some type of long-term care service;

(5) nearly 1,500,000 long-term care aides are employed in 25,000 nursing homes and 12,000 home health agencies throughout the United States;

(6) long-term care aides provide the personal care (including feeding, bathing, dressing, moving, and administering medication) needed by the frail elderly, disabled adults, neurologically handicapped infants and children, and victims of acquired immunodeficiency syndrome;

(7) while the labor force is 45 percent female, 10 percent Black, and 7 percent Hispanic, long-term care aides are nearly 90 percent female and nearly 38 percent Black or Hispanic;

(8) average starting wages for home health aides is $4.00 to $4.25 per hour and the average for nursing home aides is nearly $4.50 per hour;

(9) many of the aides are the primary wage earners for their families and nearly 40 percent have not completed high school;

(10) many part-time nursing home and home health aides have few or no pension or health benefits and full-time employees may not be able to afford such benefits offered by employers;

(11) annual turnover rates of long-term care aides range from 30 to 70 percent;

(12) the need for more caregivers will grow significantly because the percentage of the population of the United States that is elderly is increasing, medical technology advancements will extend the lives of persons with severe mental or physical disabilities, and the acquired immunodeficiency syndrome epidemic will affect millions of young adults;

(13) major long-term care aide shortage are anticipated by 2020, when the need for caregivers is expected to at least double;

(14) a significant advancement was made to improve the professional status of caregivers with the adoption of training requirements for nursing home aides; and

(15) enactment of a minimum wage increase is another necessary element in efforts to assist caregivers.

SEC. 472. CAREGIVERS.

It is the sense of the Congress that—

(1) recognition and further attention should be given to the professional and personal needs of long-term care aides.

(2) expanded access to health and pension benefits should be provided to long-term care aides;

(3) policy makers should recognize that problems confronting female household heads and minority workers also affect most nursing care aides;

(4) increased and more detailed data collection is needed on the demographics, working conditions, and benefit status of home health and nursing home aides;

(5) expanded recruitment efforts for active older individuals, young people, and new immigrants should be considered to abate the long-term care aide shortage; and

(6) changes should be made in the design of nursing aide positions to ensure integration into the management structure of long-term care agencies and institutions and to enhance the attraction to careers in long-term care.

ORGANIZATIONS ENDORSING THE ECONOMIC EQUITY ACT OF 1989

AFL-CIO,
Amalgamated Clothing and Textile Workers Union,
American Association of Retired Persons,
American Association of University Women,
American Federation of State, County, and Municipal Employees,
American Jewish Committee,
American Nurses Association,
American Psychological Association,
Association of Flight Attendants,
Association of Junior Leagues International,
B'nai B'rith Women,
Catholic Charities, USA,
Center for Women Policy Studies,
Church Women United,
Communication Workers of America,
Displaced Homemakers Network,
Federally Employed Women,
General Federation of Women's Clubs,
International Ladies' Garment Workers Union,
9 to 5, National Association of Working Women,
NA'AMAT USA,
NETWORK: A Catholic Social Justice Lobby,
National Black Child Development Institute,
National Council of Catholic Women,
National Council of Jewish Women,
National Council of La Raza,
National Council of Aging,
National Education Association,
National Organization for Women,
National Urban League, Inc.,
National Woman Abuse Prevention Project,
National Woman's Party,
National Women's Law Center,
National Women's Political Caucus,
Older Women's League,
Organization of Chinese-American Women,
Pension Rights Center,
Service Employees International Union,
United Auto Workers,
United Church of Christ, Office for Church in Society,
United Methodist Church, Women's Division, General Board of Ministries,
Villers Advocacy Institute,
Wider Opportunities for Women, Inc.,
Women in Communities, Inc.,
Women's Equity Action League,
Women's Research and Education Institute.

Mr. DURENBERGER. Mr. President, it gives me great pleasure to join once again with my distinguished colleagues from both the House and the Senate in sponsoring the Economic Equity Act of 1989.

As we introduce the EEA in the 101st Congress, I can't help but reflect on the past decade and the success of the EEA. The eighties has been a decade of change and advancement in many ways for women. The EEA has helped lead the public policy response to eliminating the economic roots of discrimination and adapting to the continued economic and social changes of the 1980's.

The EEA has been remarkably succesful. During the 97th Congress, we saw four major provisions of the EEA signed into law. The Estate Tax Reforms recognized women as an equal partner in building a family farm and small business and protected her interest after her husband died. The EEA also recognized early on the importance of helping low-income families meet their work-family obligations by increasing the support under the dependent care tax credit. It also expanded Individual Retirement Accounts to make all income-earning and homemakers eligible for IRA's. Finally, it eliminated the bias in farm credit that put unmarried women at the bottom of the preference list.

As the 98th Congress came to a close, we were again able to claim victory in several different areas of the EEA. We saw improved child support enforcement mechanisms. We lowered the age of participation and vesting in private pension packages and increased the availability of survivor benefits. And through combined efforts, we enacted increased nonprofit status of dependent care facilities, spousal IRA reform, regulatory reform, and the inclusion of alimony for spousal IRA purposes.

Seven major provisions of the 1985 version of the EEA were signed into law. We were able to decrease the number of years a person must work before a private pension plan can be vested from 10 to 5. The military spouse pension reform now allows divorced military spouses to claim a portion of retirement benefits. The 1986 Tax Reform Act also adopted several EEA provisions, including increasing the standard deduction for single heads of household, expansion of the EITC, and decreasing the amount of pension benefits that can be offset by Social Security. The 1985 version of the EEA was also successful in establishing a grant program to make child care available to low-income college students, and the continuation of employment-based health insurance coverage for widows, divorced spouses and independent children.

Last session, we were again able to continue the successful tradition of the EEA by enacting into law four new provisions of the EEA. The 1987 version of the EEA provided equal credit protection for women business owners. It provided funding for child care centers in public housing. It provided greater pension security for women, and it included spousal impoverishment under the coverage for catastrophic care.

All of these provisions have had an important effect on improving the economic status of women in the 1980's. The trends continue, however, as we continue to see an increasing number of women entering into the workforce. Women will account for two-thirds of the labor force growth during the 1980's and 1990's. And as a society, we must continue to respond to the changing realities of our workforce. The Economic Equity Act of 1989 is not only a reflection of how far we have come in the 1980's but also a reflection of the continued need and the continued challenges ahead in the 1990's and beyond.

Mr. President, I am pleased to say that for the first time the EEA has added an entire section devoted exclusively to the special health needs of women and children in our society. With the recent attention to the specific health needs of women and children in our society, I believe this is an important addition to the package. By now we have all heard that the U.S. rate of infant morality ranks us behind at least 17 other developed countries. We also know that this figure could continue to grow with the increasing number of AIDS and crack babies born each year. Fortunately we also know that assuring access and good prenatal care significantly reduces a women's risk of having a low birth weight baby and thus significantly reducing the incidence of infant death. I think the addition of this section will contribute tremendously to the economic status and well-being of women in this country.

There are several other new provisions included in this year's version of

the EEA that I believe deserve recognition including the Women in Procurement Act, Displaced Homemakers Act, Housing for Family Violence Victims, and Transitional Housing for Child Care Act. All of these bills reflect a continued and changing need in our society.

We have good reasons to celebrate the victories we have achieved over the past 8 years. But equally important is the commitment to moving forward and to keeping up with the continuous changes in our society and the realities of today's workforce. Mr. President, I am confident that working together, we will continue to move closer to the goal of economic equity for all. I urge all my colleagues to join with me in sponsoring this important legislation.

ECONOMIC EQUITY ACT OF 1989

Mr. RIEGLE. Mr. President, I rise today to join with my colleagues in the House and Senate as an original cosponsor of the Economic Equity Act [EEA] of 1989. Since it was first introduced in 1981, this bipartisan legislation has become a cornerstone in the fight for women's rights in the U.S. Congress.

Over the years, individual pieces of the act have been enacted into law, resulting in pension, tax, and credit reforms as well as improvements in dependent care and health care. In the 99th Congress, seven pieces of the EEA were enacted into law, including continuation of employment-based health insurance coverage for widows, divorced spouses and independent children, private and military pension reforms, child care for higher education students, and tax reforms. The 100th Congress enacted into law four provisions of the EEA, including equal credit protection for women business owners and a provision that I sought, funding for child care in public housing. In passing portions of the EEA, we have made significant progress toward economic equity for women.

Despite the progress that has been made in enacting major provisions of the EEA over the past 8 years, additional work needs to be done. Women earn only 64 cents to every dollar earned by men. We have seen the feminization of poverty among female-headed families. Every 15 seconds, a woman in America is battered by her partner. At the same time, women comprise 45 percent of the workforce today and, by the year 2000, they will account for two-thirds of all new workers, according to the Department of Labor. Clearly, Mr. President, economic equity for women is not only a moral imperative but a critical component to the continued economic vitality of this country.

This session's bill focuses on four areas of concern to women: employment, economic security, dependent care, and health care. The health care title is a new addition to the EEA and an important one. Today, over 30 million Americans are uninsured, and more than 10 of every 1,000 babies born in the United States die before their first birthday.

I am pleased that one of the provisions of the package is a bill that I have introduced to increase funding for maternal and child health. The bill, S. 1053, increases State block grant funding by $100 million to reduce infant mortality. The EEA provides for a $50 million increase. In addition, the EEA includes two measures offered by Senator BRADLEY that I have cosponsored. I am the chief cosponsor of S. 339, the Infant Mortality and Children's Health Act. This bill would expand the coverage of services to pregnant women and infants under the Medicaid Program. I am also an original cosponsor of the Healthy Birth Act, which increases funding for demonstration projects for improved coordination of maternal and child health services.

These bills are a good first step toward developing a more comprehensive solution that provides universal access to health care for all Americans.

While the health care title is a new addition to the EEA, dependent care has been on the agenda for some time. As a longtime advocate for addressing the dependent care needs of working families, I am pleased that the Senate, this year, finally passed a comprehensive child care package to address the fundamentals of quality, affordability, and availability.

To complement this package, I have introduced legislation, S. 268, to improve the Dependent Care Block Grant Program to provide greater accessibility for poor children to before and after-school care. I have also requested a restoration of Title XX funds in the Social Services Block Grant Restoration Act, S. 704. The additional $200 million in each of the next 3 fiscal years would be used by the States to fund a variety of social service programs. Typically, States use about 18 percent of these funds for child day care. Other uses for the funds include protective services for children and adults, homemaker/home management, help for juvenile delinquents, and substitute care and placement services for children.

In addition to the health provisions, the EEA also asserts the importance of economic security to women. A bill that I will soon introduce calls for equal Social Security Disability Insurance [SSDI] criteria and benefits for disabled widows and widowers. I am also pleased to be a cosponsor of the Pay Equity Technical Assistance Act, S. 16, sponsored by Senator CRANSTON.

The 1989 Economic Equity Act addresses needs of women from all walks of life whether they be young or old, wage-earners or homemakers. It serves single heads-of-households as well as businesswomen. It is a measured step in the enduring effort to achieve fair and equitable treatment for women under law and within the economy. I urge my colleagues to join me in consponsoring this legislation.

Mr. KERRY. Mr. President, I rise today to join a number of my colleagues on both sides of the Capitol and on either side of the aisle in support of the Economic Equity Act of 1989.

The provisions contained in this act not only recognize the demographic realities of the eighties and beyond, but suggest a vision for sharpening our competivie edge. The reality is that women are a strong and growing presence in our work force. The Economic Equity Act of 1989 strives to reverse some of the inequities which still exist and ensure the independence, dignity, and opportunity of women in this Nation.

The Economic Equity Act is comprised of 26 bills in the following areas: Employment, economic security, dependent care, and health care. Each of these areas are vitally important to address in the ongoing effort to provide working women the opportunity to reach their full potential. Many of these provisions can be considered family bills, helping many Americans to balance the necessity for two incomes and the obligations to provide the best possible situation for their children.

In particular, I am pleased to join with Representative PELOSI as sponsors of the section of this bill on public housing perinatal services. This legislation would make grants available to public housing agencies for the provision of information and education on prenatal care. It would also provide for basic health care services and a referral program for pregnant women and new mothers, who reside in public housing facilities.

Proper prenatal care and preventive health care measures are an important step toward self-sufficiency, lower health care costs, and aid in the battle against welfare dependency. When these types of services are followed up with proper job training and education for the mother, and quality day care and Head Start preschooling for the child, each is provided with an opportunity to reach their potential and become self-sufficient contributors to our society.

Mr. President, we have come a long way toward achieving economic equity for women, but clearly we have a long way to go. I am pleased to be an original cosponsor of this legislation and look forward to working with my colleagues toward its timely consideration and passage.

By Mr. COCHRAN:

S. 1481. A bill to amend the Tariff Schedules of the United States to make permanent the modification of the tariff treatment on certain disposable surgical gowns and drapes; to the Committee on Finance.

TARIFF TREATMENT OF DISPOSABLE SURGICAL GOWNS AND DRAPES

Mr. COCHRAN. Mr. President, today I am introducing a bill to amend the Tariff Schedule of the United States to make permanent the tariff treatment of certain disposable surgical gowns and drapes. It will apply to gowns and drapes made of bonded-fiber fabric, and will treat them on an equitable basis with similar products with which they compete.

The need for this legislation exists because the bonded-fiber fabric, manufactured by a major U.S. corporation, would fall under one subheading of the Tariff Schedule, while similar products made by its competitors fall under another, lower tariff rate subheading.

This bill is identical to H.R. 1997, as introduced in the other body by the gentleman from Mississippi [Mr. WHITTEN].

By Mr. CRANSTON:

S. 1482. A bill relating to domestic violence judiciary training grants; to the Committee on the Judiciary.

DOMESTIC VIOLENCE JUDICIARY TRAINING GRANTS

Mr. CRANSTON. Mr. President, I rise today to introduce legislation, S. 1482, which would generate much needed research and judicial training materials relating to child custody cases which involve domestic violence. This measure, which is similar to legislation introduced in the House by Representative MORELLA, would amend the State Justice Institute Act to authorize up to five demonstration grants to be awarded to State and local courts, and nonprofit organizations. Grantees would be required to conduct research, collect data, and develop training programs to educate and to provide guidance to State court judges who must decide these tragic cases. The provisions of this legislation are also included in the Economic Equity Act of 1989, which is being introduced in both the House and the Senate on August 2.

Mr. President, the scourge of domestic violence is so prevalent in our Nation that in 1984 the Surgeon General declared it to be the single largest cause of injury to women in the United States. The enormity of this problem is graphically illustrated by statistics compiled by the Coalition Against Domestic Violence, which estimates that 3 to 4 million women a year are battered so severely that they require police or medical attention. Statistics show that these women are being beaten in their homes by their husbands, ex-husbands, or boyfriends.

The judicial system frequently fails the victims of domestic violence. A 1982 study by the U.S. Commission on Civil Rights found that battered women are inadequately protected by the police, prosecutors, and courts. In many cases, instances of domestic violence are not given adequate weight in awarding an abusive spouse custody or joint custody of a child. Only a handful of States, including my own State of California, specifically require domestic violence to be considered in making custody awards.

The failure by many courts to give domestic violence adequate consideration overlooks the possible detrimental effect on the child. In a 1985 article in the Hofstra Law Review, Linda Keenan cites compelling evidence of physical and emotional harm to the child as the very real consequences of awarding an abusive spouse custody or joint custody of a child and the need to address this widespread problem.

The legislation I am introducing today would help develop educational materials for State court judges and judicial system personnel on the relevance of domestic violence in the context of a child custody determination. State and local courts could apply for grants from the State Justice Institute to establish demonstration projects to examine and improve their own handling of these cases. This legislation would generate data and research in the area of domestic violence and would result in the development of valuable training materials for the judges and other court officials who are faced with making difficult custody decisions in these cases.

Mr. President, the problem of family violence is nothing new to this body. It was in 1978, that I first introduced the Family Violence and Prevention Services Act, and after 6 years of hard work by many concerned individuals, we were successful in enacting that legislation in 1984 as title III of Public Law 98-457. The legislation I introduce today would go a long way in helping to understand the interrelation between domestic violence and child custody determinations. This measure would also encourage research in an area that we need to learn more about.

Mr. President, I ask unanimous consent that the full text of the State Justice Institute Amendment of 1989 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION; SHORT TITLE.

(a) Section 202 of the State Justice Institute Act of 1984 (42 U.S.C. 10701) is amended—

(1) in paragraph (6) by striking "and" at the end,

(2) in paragraph (7) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(8) 'domestic violence' shall have the same meaning as that given 'family violence' by section 309(1) of the Family Violence and Prevention Services Act (42 U.S.C. 10408).".

(b) This Act may be cited as the "State Justice Institute Amendments Act".

SEC. 2. AUTHORITY TO PROVIDE FUNDS FOR RESEARCH AND CURRICULUM DEVELOPMENT RELATING TO CHILD CUSTODY LITIGATION.

Section 206(c) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(c)) is amended—

(1) in paragraph (14) by striking "and" at the end;

(2) by redesignating paragraph (15) as paragraph (16); and

(3) by inserting after paragraph (14) the following:

"(15) conduct not more than 5 projects at an aggregate cost of not to exceed $600,000—

"(A) to carry out research regarding State judicial decisions relating to child custody litigation involving domestic violence;

"(B) to develop training curricula to assist State courts to develop an understanding of, and appropriate responses to, child custody litigation involving domestic violence; and

"(C) to disseminate the results of the research carried out under subparagraph (A), and the curricula developed under subparagraph (B), to State courts; and".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

The first sentence of section 215 of the State Justice Institute Act of 1984 (42 U.S.C. 10713) is amended by striking "each of the fiscal years 1989 and 1990" and inserting the following: "fiscal year 1989, $15,600,000 for fiscal year 1990."

By Mr. CRANSTON:

S. 1483. A bill to amend the Stewart B. McKinney Homeless Assistance Act to authorize the Secretary of Housing and Urban Development to provide assistance for child care services programs for the residents of transitional housing; to the Committee on Banking, Housing, and Urban Affairs.

TRANSITIONAL HOUSING CHILD CARE SERVICES ACT

Mr. CRANSTON. Mr. President, I am pleased to introduce today, S. 1483, the proposed Transitional Housing Child Care Services Act. Identical legislation has been introduced in the House by Representative LOWEY. This measure is also a provision in the Economic Equity Act of 1989, which is being introduced in both the House and Senate on August 2.

The bill I am introducing today would authorize funding under the Stewart B. McKinney Act for transitional housing programs to provide child care services for their residents. The services provided in this bill are entirely consistent with S. 566, the National Affordable Housing Act, a

major housing initiative I recently introduced in the Senate, which would substantially revise the McKinney Act to help States and localities meet the needs of homeless people more effectively. As we move the National Affordable Housing Act forward, we will explore ways to incorporate the important services targeted in the measure I am introducing today.

Mr. President, as chairman of the Subcommittee on Housing and Urban Affairs, I am well aware that more and more Americans are becoming homeless as a result of a dwindling stock of affordable low-income housing, employment related problems, inadequate services for the mentally ill, family displacement resulting from domestic violence, and an array of other problems.

While the figure on the homeless population are difficult to ascertain, we do know that over one-third of all homeless people are members of families with children. Families are in fact the fastest growing segment of the homeless population. According to a 1988 report by the National Academy of Sciences, an estimated 100,000 American children are homeless.

This presents an intolerable situation for many of this Nation's children. A recent report by the Children's Defense Fund [CDF] confirms what we all know—that the children of homeless families can be found in this country's streets, shelters, bus stations, and welfare hotels. These children are being forced to share emergency accommodations with drug dealers and prostitutes while their parents attempt to seek employment and permanent housing.

Families can be pushed into homelessness, and then remain trapped there by a lack of adequate support services. How can we expect the parents of homeless families to devote their days to obtaining employment and housing without access to safe child care? Why are we surprised when the parents of these children are charged with abuse or neglect when left to makeshift babysitting arrangements while they try to meet the needs of their families? We must break this vicious cycle by providing families in transitional housing with access to safe child care.

The legislation which I am introducing today would amend the Stewart B. McKinney Homeless Assistance Act to authorize the Secretary of Housing and Urban Development to provide assistance for child care services programs for the residents of transitional housing. The bill would specifically amend section 423(a) of the act to authorize the Secretary of Housing and Urban Development to make grants to establish and operate child care services programs for homeless families either by establishing on-site child care facilities for the residents of homeless shelters or provide for child care services to homeless families at existing community child care programs. The legislation would thus explicitly make child care services for homeless families a service under the McKinney Act.

In last year's reauthorization of the McKinney Act we included a new authority to provide employment assistance to these families. It makes sense to provide also for the child care services necessary for the residents of transitional housing to make use of those employment services and remain part of the work force.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Transitional Housing Child Care Services Act".

SEC. 2. CHILD CARE SERVICES IN TRANSITIONAL HOUSING.

(a) AUTHORITY TO PROVIDE GRANTS.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)) is amended by inserting after paragraph (5) the following new paragraph:

"(6) A grant to establish and operate a child care services program for homeless families as follows:

"(A) A program under this paragraph shall include—

"(i) establishing, licensing, and operating an on-site child care facility for the residents of transitional housing; or

"(ii) making contributions for the child care costs of residents of transitional housing to existing community child care programs and facilities; and

"(iii) counseling designed to inform the residents of transitional housing of public and private child care services for which they are eligible.

"(B) A grant under this paragraph for any child care services program shall not exceed the amount equal to 75 percent of the cost of operating the program for a period of up to 5 years.

"(C) Child care services provided with respect to a child care services program assisted under this paragraph shall meet any applicable State and local laws and regulations.".

(b) PRIORITY.—Section 424(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(b)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by inserting after paragraph (8) the following new paragraph:

"(9) in the case of transitional housing that serves homeless families with children, the extent to which the project fulfills the child care needs of the families by meeting the program criteria described in section 423(a)(6); and".

By Mr. HARKIN (for himself, Mr. LEAHY, Mr. LUGAR, Mr. MITCHELL, Mr. DOLE, Mr. PRYOR, Mr. HELMS, Mr. BOREN, Mr. COCHRAN, Mr. HEFLIN, Mr. MCCONNELL, Mr. CONRAD, Mr. BOND, Mr. FOWLER, Mr. WILSON, Mr. DASCHLE, Mr. KERREY, Mr. GORTON, Mr. BAUCUS, Mr. PELL, and Mr. WARNER):

S. 1484. A bill to amend the Child Nutrition Act of 1966 and the National School Lunch Act to reauthorize child nutrition programs; placed on the calender.

CHILD NUTRITION AND WIC REAUTHORIZATION ACT

Mr. HARKIN. Mr. President, I am today introducing the Child Nutrition and WIC Reauthorization Act of 1989. The programs addressed in this reauthorization legislation are unique and of critical importance. They are unique because they are not reauthorized annually but rather for 3- to 5-year periods. They are also unique because much of the $7.5 billion in Federal funds that will be spent on these programs next year is matched by State or private money. They are, of critical importance because they represent the nutritional safety net for millions of our most vulnerable population. These child nutrition programs will help to preserve a most precious natural resource—the good health and well-being of our Nation's youth. At the same time we are strengthening our farm sector by using our agricultural surpluses to support these nutrition programs.

This bill reauthorizes WIC and other Child Nutrition Programs for another 4 years. It also makes a number of refinements and improvements in these programs that have become necessary over the last several years. In introducing this bill I am joined by a number of friends and colleagues who, as cosponsors, make this a truly bipartisan bill. I am joined by the ranking minority member of the Senate Nutrition Subcommittee, Senator BOSCHWITZ; the chairman of the Agriculture, Nutrition, and Forestry Committee, Senator LEAHY; the ranking minority member of the full committee, Senator LUGAR, our majority leader, Senator MITCHELL, and the minority leader, who is also a member of our subcommittee, Senator DOLE. All of the Nutrition Subcommittee and full Agriculture Committee members have cosponsored this bill. Other Senators who have cosponsored this bill include Senators PELL and WARNER. I want to make special note here of my appreciation for the strong leadership, encouragement and support of our committee chairman, my good friend and colleague from Vermont, Senator LEAHY.

To each of those Senators and their staffs who have worked long and tirelessly, I want to extend my heartfelt thanks. I want to make special men-

tion of the long hours spent and diligent efforts made by the full committee staff, directed by Chuck Riemenschnieder, and ably assisted by Janet Breslin, Ed Barron, Laura Madden, and Cynthia Neuwalder. The cooperation and support by the minority staff was substantial as well. These included Dave Johnson, Terri Nintemann, and Stacy Hoffhaus. Many others, too numerous to mention, made substantial contributions. These include staff from other Senate committees, the House Education and Labor Committee, the Departments of Agriculture and Health and Human Services, various congressional support offices such as GAO, CRS, and CBO, and a long list of trade and industry representatives, public interest groups and researchers who provided invaluable input. Finally, I want to thank Mark Halverson and Bob Andros of my own staff.

I realize that in any legislative package there are important issues and many compromises that need to be addressed. This measure is no exception. The fact that it has such strong bipartisan leadership support belies the difficult decisions faced and subsequent choices made. It is a credit to those who worked with me on this bill that we have such a comprehensive measure that addresses so many of these issues. Those who testified before the subcommittee and those who provided data and information on the various issues addressed in this bill did so articulately and with enthusiasm. I respect the views and concerns of all those who shared them with us.

This bill addresses programs that touch and improve the lives of tens of millions of Americans on a daily basis. These program objectives address the very well-being of our society. They have proven themselves as worthwhile, efficient and cost-effective programs that American taxpayers and voters want to continue.

I want to highlight a few provisions of this bill without going into great detail.

First, this bill reauthorizes the Special Supplemental Food Program for Women, Infants and Children, commonly known by the acronym WIC. WIC provides a daily nutritional supplement to 1.8 million needy women, infants and children who are deemed nutritionally at risk by trained health professionals using approved testing techniques. This is accomplished at a cost of only $40 per month per participant. Owing to a competitive bidding amendment which I introduced in a subcommittee mark-up several years ago, States have the ability to seek the best price possible for WIC commodities. I therefore expect this price to drop over the months to come. These cost savings remain in the WIC Program and allow us to serve additional program participants. My own State of Iowa has an excellent cost containment program in place. Iowa currently serves 45,000 WIC Program participants. That includes 6,200 who, without cost containment measures in place would not be participating in WIC today. The bill being introduced today contains an additional cost containment measure designed to save $40 million more thereby adding yet additional women, infants and children to the WIC rolls. I am proud to be associated with these cost containment measures and those WIC directors who have put them in place. It represents the kind of efficiency and cost effectiveness in government that I support and stand for.

The Nutrition Subcommittee, which I chair, received expert testimony from numerous witnesses addressing the adequacy of the WIC commodity package. In general the commodity package received high marks from these experts for reducing iron deficiency anemia and other nutrient deficiencies. However, in light of recent nutrition research, it appears that more can be done to improve the bioavailability of certain nutrients in the WIC commodity package. Researchers suggest that the addition of lean red meat, for example, can increase bioavailable iron and other important nutrients. This bill directs USDA to study this issue and make appropriate changes in its commodity package.

Another provision contained in this bill is a breastfeeding initiative. This would provide additional funds for breastfeeding education and counseling of prenatal mothers. Breastfeeding of infants provides the best and the most economical solution to the high infant mortality rates in this country. I am sure that the $8 million committed to this initiative will be one of our wisest and most profitable investments. At the same time I must express my concern that a current industry trend toward direct advertising of infant formula to consumers could more than offset this WIC breastfeeding initiative. Surgeon General Koop expressed this same concern in subcommittee testimony. Research shows that the United States could make significant improvements in the field of public health if we could encourage higher breastfeeding rates in this country. Even though current container labels state that infant formula is not an adequate substitute for breastmilk, infant formula advertising does little to encourage breastfeeding. It generally provokes the opposite. A decline in U.S. breastfeeding rates could have serious health consequences and increase Federal health expenditures. This is an issue that the Nutrition Subcommittee intends to investigate in greater detail.

Second, this bill reauthorizes the National School Lunch and Breakfast Programs. The School Lunch Program serves 25 million school children on a daily basis; it is offered in 88,000 schools across the country. In Iowa there are 368,000 lunches and breakfasts served daily under this program. Enacted in 1946, the National School Lunch Act seeks to improve child nutrition by guaranteeing a nutritious meal through a program of grants and commodities to participating schools. The School Breakfast Program serves 3.7 million students daily and this measure provides additional funds to expand this program.

The National School Lunch Act, introduced in 1946, contains a congressional declaration of policy which states that it is this program's principal objective to provide school children nutritious meals. Consistent with this objective is the authority to remove nonnutritious foods from the school lunch room and surrounding areas. Although I feel strongly that competing foods that have no nutritional value are a contradiction to the stated objectives of this program, in an effort to arrive at a bipartisan consensus bill, I decided not to insert a provision in this bill granting the Secretary greater authority to restrict nonnutritious competitive foods from the areas surrounding the school lunch rooms.

There are several provisions associated with the School Lunch Program that will improve the nutritional benefit of school lunches. Nutritional guidance for children will be developed by USDA and provided school food service personnel across the country. Also, consistent with recognized nutritional counsel and research, the types of milk to be made available for school lunches under this bill will include fluid low-fat milk. This is interpreted to include skim milk as well as 2 percent milk. This change in the law recognizes the need for all Americans including students to reduce fat consumption. These provisions will help to ensure a healthier population in years to come.

Third, this bill extends the Commodity Distribution Program for another 4 years. This program distributes domestically produced commodities to schools and other charitable organizations for further distribution to the needy. It is also of significant benefit to the farm sector. By purchasing these commodities directly from farmers, 100 percent of the benefits from this program go directly to the farmer. Some of those commodities purchased during the last year include fruits such as apples, cherries, pears and peaches; meats, such as pork, beef, turkey, chicken and fish; dairy products; peanuts; vegetables, such as potatoes, peas, beans, tomatoes and corn; vegetable oils and a wide variety of products made from grains, such as macaroni, spaghetti, grits, wheat flour,

oatmeal and cornmeal. Many Members from farm States no doubt recognize the importance of these purchases of commodities from farmers from their own States. In purchasing these wholesome nutritious commodities, the USDA has been able to help maintain price stability in the agriculture sector.

This bill contains an extension of the cash-in-lieu of commodities—cash—and commodity letter of credit [CLOC] programs till September 30, 1992. I have opposed cash and CLOC consistently and I want to explain my opposition since this was one of the last issues to be resolved in this bill. I oppose cash and CLOC because they provide more processed foods which are higher in sodium and fat than meals prepared from commodities. These meals are therefore less nutritious. I also oppose cash and CLOC because they dilute the funds that would otherwise go directly to farmers. Hence these programs are generally opposed by the commodity groups that represent our Nation's farmers as well. I oppose cash and CLOC because they cost more to administer and operate than the commodity distribution program. Finally I oppose them because they reduce the USDA's ability to remove specific surplus commodities from the marketplace and thereby maintain price stability. It is for these reasons that the American School Food Service Association, USDA, commodity groups, nutritionists and others as well as myself have opposed the extension of these programs. The extension of these programs through fiscal year 1992 represents a compromise. At the conclusion of this time I hope that we will carefully and fully reevaluate the efficiency, economy, and need for these programs.

Fourth, this bill reauthorizes the Child Care Food Program, the Special Milk Program, the Nutrition Education and Training Program, and the Summer Feeding Program, and increases funding for the latter program by $10 million. This bill pays particular attention to the needs of rural areas by expanding the benefits of the Summer Feeding Program to rural areas through private nonprofit organizations. It also permits higher education institutions that participate in the National Youth Sports Program to operate food service programs for children during the academic year, not just during the summer. This will assist them in their extended program which emphasizes drug abuse prevention. The benefits from all of these programs are shared by millions of children daily by several hundred thousand sites across the country providing benefits to program participants.

There are several other provisions in this bill that help improve existing programs by directing further study by USDA, make programs more efficient by removing unnecessary duplication or paperwork, or expand existing services to the needy.

Several additional provisions are worth making special mention of. Many of us no doubt noticed on the front page of the Washington Post recently the story about the high cost of child care among the poor in our country. This bill creates pilot projects in Iowa and Kentucky which provide reimbursement for "for profit" child day care facilities that target low-income areas. These projects thereby extend important child care benefits on an additional level to low-income mothers and families. These projects are statewide and since my own State of Iowa has a number of low-income areas that could test the appropriateness of such facilities, I am eager to see them instituted as soon as possible so that we can determine the appropriateness of this program on a national level.

The budget resolution allocated $15 million for fiscal year 1990, and $20 million for fiscal years 1991 and 1992. The cost of this bill is $15 million in fiscal year 1990, $18 million in fiscal year 1991 and $28 million in fiscal year 1992.

Again, Mr. President let me extend my sincere appreciation to all those who participated in this effort on both sides of the aisle and especially our leadership for their wholehearted support and encouragement.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows.

CHILD NUTRITION AND WIC REAUTHORIZATION ACT OF 1989 SECTION-BY-SECTION ANALYSIS

TITLE I—PROGRAMS UNDER THE NATIONAL SCHOOL LUNCH ACT AND THE CHILD NUTRITION ACT OF 1966

Subtitle A—Programs Under the National School Lunch Act

Sec. 101. Types of Milk to be included in School Lunches

This section requires that schools participating in the School Lunch Program offer students fluid whole milk and fluid unflavored low-fat milk.

Sec. 102. Summer Food Service Program for Children

This section provides that private nonprofit organizations can sponsor summer food service programs under certain conditions. In urban areas, such organizations can serve no more than 2,500 children per day at no more than five sites with no more than 300 children being served at any one site (unless a waiver is granted by the Secretary to serve up to 500 children at any site).

In rural areas, such organizations can serve no more than 2,500 children per day at no more than 25 sites with no more than 200 children being served at any one site (unless a waiver is granted by the Secretary to serve up to 500 children at any site).

However, in both cases such private nonprofit sponsors must use self-preparation facilities to prepare their own food or obtain meals from a public facility (such as a school district or State university) or obtain the meals from a school participating in the National School Lunch Program.

Also such private nonprofit sponsors cannot operate in areas where public entities (a school food authority or local government) have indicated by March 1 that they will operate the Summer Food Service Program. These private nonprofit sponsors must meet all applicable State and local health, safety, and sanitation standards. They also must exercise full control and authority over the program and provide ongoing year-round activities for children or families.

The section also extends the Summer Food Service Program through the end of fiscal year 1993.

In addition, the section allows higher education institutions that participate in the National Youth Sport Program to operate food service programs for children during the academic year, not just during the summer. This will assist them in their extended programs, which emphasize drug abuse prevention. These programs are conducted mostly on weekends during the regular academic year, as well as during the summer.

Section 102 further provides that the Secretary shall implement a special program designed to disseminate information in fiscal years 1990 and 1991 to States for the purpose of conducting informational efforts with regard to this new authority for private nonprofit organizations to sponsor summer food service programs.

The section also requires the Secretary to institute one or more demonstration projects designed to provide year-round food service to homeless children under the age of 6 in emergency shelters. Private nonprofit sponsors shall be eligible to participate in a project if the organizations operate no more than five food service sites for homeless children and serve no more than 300 such children at any one site. The Secretary shall spend not more than $50,000 in fiscal year 1990, and no more than $350,000 in each of fiscal years 1991 and 1992 to carry out these projects. It is expected that the project will not commence operation until some time during fiscal year 1990, which accounts for the lower funding level for that year.

Sec. 103. Extension of Commodity Distribution Program

Section 103 extends the Commodity Distribution Program, in which the Secretary provides commodities to participating schools for use in the School Lunch Program, through September 30, 1993.

Sec. 104. Repeal of National Advisory Council on Child Nutrition

This section repeals the requirement for the 19-person National Advisory Council on Child Nutrition.

Sec. 105. Child Care Food Program

This section provides for reimbursements to eligible organizations in the Child Care Food Program to cover additional expenses for expansion into low-income areas and rural areas.

This section also requires the Secretary to conduct demonstration projects to test innovative approaches to remove or reduce barriers to participation in the program by family day care homes in low income areas.

This section provides that meals served in adult day care programs, which are reimbursed under the program, must provide not less than, on the average, approximately ⅓ of the daily recommended dietary allowance. Also, such adult day care programs must make reasonable efforts to serve meals meeting the special dietary requirements of participants, including efforts to serve foods that are "palatable" to recipients.

Two special pilot projects are required under section 105. The Secretary shall conduct, in Kentucky and Iowa, statewide demonstration projects in which private for-profit organizations providing day care services may participate in the child care food program if no less than 25 percent of the children served by such an organization meet the income eligibility criteria for free or reduced price school lunch meals.

This section also extends, for one year, the Minnesota demonstration project established under the Hunger Prevention Act of 1988, which will otherwise terminate 12 months after the date on which the "project was fully initiated." The project is designed to test the nutritional impact of providing an additional meal to children staying in day care *homes* at least eight hours. (Day care *centers* became eligible under the Hunger Prevention Act for reimbursement for the additional meal.) The project also monitors, among other matters, increases in participation because of the additional meal.

Sec. 106. Meal supplements for children in afterschool care

This section amends the National School Lunch Act (NSLA) to expand eligibility for meal reimbursements to after-school programs in elementary and secondary schools. This provision only applies to schools which operate school lunch programs and have after-school programs as of May 15, 1989. It establishes a program to assist States through grants-in-aid and other means to provide meal supplements to children in after-school care.

The section limits reimbursements in after-school care programs to supplements served to children up to 12 years of age (up to 15 years of age for children of migrant workers or children with handicaps).

The section sets the national average payment rate as follows: free supplements at 40.25 cents; reduced price at 1/2 the rate of free; and paid at 3.75 cents. Eligibility determinations for this program shall be based on the determinations used under the National School Lunch Program (section 9, NSLA). If a child is determined eligible for free or reduced price meals in the school lunch program, such eligibility determination may be applied to the after-school program in the same school, and additional paperwork need not be completed for the child

The content of these meal supplements shall follow the same guidelines as those used in the child care food program.

Sec. 107. Receipt of cash or commodity letters of credit

This section extends the 60, or so, pilot projects in which school districts receive cash or commodity letters of credit instead of donated commodities for the school lunch program. The extension is until September 30, 1992. The section also provides authorization for appropriations to allow the Department of Agriculture to compensate certain school districts for certain alleged lossses if such claims are determined to be valid.

Sec. 108. Food Service Management Institute

Section 107 provides for the establishment and support of a school food service management institute to (1) conduct research designed to assist schools in providing a high quality, nutritious, cost-effective meal service to children; (2) provide training and technical assistance to school food service personnel; and (3) act as a clearinghouse for nutrition and preparation information for schools.

The section authorizes to be appropriated $1 million for fiscal year 1990, and $4 million for each of fiscal years 1991 through 1993.

Sec. 109 Compliance and accountability

This section amends the National School Lunch Act and requires a unified system prescribed and administered by the Secretary for ensuring that local food service authorities comply with the Act.

Under this system, each state educational agency shall require that local school food authorities comply with the Act and shall ensure such compliance through reasonable audits and supervisory assistance reviews. Each state shall coordinate these compliance and accountability activities in a manner that minimizes the imposition of additional duties on local school food authorities.

The Secretary shall cooperate with the state agency, to assist states in monitoring local school food authorities. In addition, the Secretary shall, through managment evaluations, review the compliance of the state agency with the federal regulations and, as needed, monitor local school authorities to determine the extent of their compliance with the regulations.

To carry out these reviews there are authorized to be appropriated $4 million per year for fiscal years 1990 through 1993.

Sec. 110. Information on income eligibility

Requires the Secretary to provide information (to each appropriate state agency participating in the school lunch or child nutrition program) regarding the types of income counted in determining the eligibility of children under the programs. Clarification is specifically required with regard to how self-employment income is determined for family day care providers, including now to handle reimbursements for program purposes.

Sec. 111. Nutrition guidance for school food service programs

Requires the Secretaries of Agriculture and Health and Human Services to jointly develop and approve a publication providing nutritional guidance for distribution to schools participating in certain child nutrition programs. The Secretary of Agriculture shall ensure, to the extent practicable, that meals and meal supplements served in the school lunch and breakfast programs are consistent with the nutritional guidance in the publication.

Subtitle B—Programs Under the Child Nutrition Act of 1966

Sec. 121. Expansion of School Breakfast Programs

The Secretary shall issue regulations to require that State educational agencies provide outreach to school boards and public officials with regard to the benefits of the School Breakfast Program. Each year, the agency shall target informational efforts on the School Breakfast Program to schools that are not participating in the program and in which a substantial portion of school enrollment consists of children from low-income families. The Secretary shall report annually to Congress on the efforts of the Department and the states in this area.

From the sums appropriated under this section, the Secretary shall provide payments on a competitive basis to State educational agencies for startup costs in initiating a new School Breakfast Program in eligible schools. These payments shall be in addition to reimbursement payments states are entitled to for meals served in the School Breakfast Program. "Eligible schools" means those that are attended by a significant percentage of children from low-income families (as determined by the Secretary); and that agree to operate a program for not less than 3 years.

The Secretary shall give a preference regarding this additional financial assistance to States that submit a plan to the Secretary showing that the state will provide technical assistance and funding to schools in the state to initiate such programs, and to states that are in the process of implementing State legislation requiring the expansion of the School Breakfast Program. These funds, however, shall supplement and not replace state funds committed for the school breakfast program.

The Secretary also shall consult the States to ensure, to the extent practicable, that in allocating funds States give preference to schools that demonstrate the greatest need for a breakfast program.

In implementing this section, the Secretary shall use not less that $3 million in fiscal year 1990, $4 million in fiscal year 1991 and $5 million in each of fiscal year 1992 and fiscal year 1993.

Sec. 122. State administrative expenses

This section amends the Child Nutrition Act to ensure that the administrative funds provided for the Child Care Food Program to the agency administering the program within the State if such agency is not the State educational agency.

It also ensures that States provide an appropriate amount of funds for administrative costs to the State agency which administers the distribution of commodities under the programs authorized in the Child Nutrition Act and the National School Lunch Act.

The section provides that in order to receive funds for State administrative expenses (SAE), States must agree to participate fully in studies authorized by the Secretary.

This section also reauthorizes and expands the SAE program through FY 1993.

Sec. 123. Additional activitites and requirements with respect to Special Supplemental Food Program

This section provides that persons who meet the free or reduced price income limits for the School Lunch Program, who are on food stamps or aid to families with dependent children (AFDC), who receive medicaid or are members of a family in which a pregnant woman or an infant receives medicaid, shall be deemed to meet the income limits for the Special Supplemental Program for Women, Infants and Children (WIC).

This section requires States to provide written information concerning food stamps, AFDC, and the child support enforcement program to adults participating in, and to applicants for, WIC. The State shall also provide information to applicants and participants in medicaid, and refer them to medicaid if they appear to have income below the state medicaid income

limits for pregnant women, infants and children. The state shall provide local agencies a fact sheet showing the maximum income limits, by family size, for pregnant women, infants, and children under the state's medicaid program. The States shall also ensure that local WIC agencies make available for distribution a list of local resources on substance counseling and treatment.

Under current law, the state must, in its state plan, describe the state's plans to coordinate with various other programs. Among the programs are alcohol and drug abuse counseling program. This wording of current law would be amended to clarify that alcohol or drug abuse treatment programs are also included. Local breastfeeding promotion programs would be added to the list of such programs, as well.

The state plan provision in current law regarding state outreach efforts would be clarified to indicate that it shall cover efforts to reach eligible non-participants with information on the program, the eligibility criteria for the program, and how to apply, with emphasis on reaching and enrolling pregnant women early in pregnancy and migrant farmworker familes.

The state plan would include a provision concerning efforts to reach unserved infants and children who are in foster care, or are under the care of child protection services or child welfare authorities. This could be satisified by providing the agencies operating these programs with information on WIC. The state nutrition education plan would not also cover breastfeeding promotion activities.

Local agencies operating the WIC Program within a hospital, or in cooperation with a hospital, shall advise potentially eligible individuals receiving inpatient or outpatient prenatal, maternity, or postpartum services, or the individual accompanying a child under age five receiving medical services, of the availability of WIC. To the extent feasible, such agencies shall provide such individuals with an opportunity to be certified for the WIC program in the hospital.

This section further provides that federal poverty guidelines for WIC shall be implemented not later than July 1 of each year, and that a state may implement the new guidelines at the same time as it implements the guidelines for medicaid, so long as that does not occur after July 1 of such year.

Each local WIC agency shall provide information about other potential sources of food assistance in the local area to individuals who apply in person, but who cannot be served because the program is operating at capacity in the local area and individuals in their priority category are not being served.

Also, the State agency shall adopt policies that require each local WIC agency to attempt to contact pregnant women who miss an appointment to apply for WIC, if such appointment was made during an in-person visit to the local agency, in order to reschedule such an appointment.

In addition, local WIC agencies that do not routinely schedule appointments for applicants seeking to apply or to be recertified shall schedule appointments for those individuals who are employed.

There are authorized to be appropriated for WIC such sums as may be necessary for each of the fiscal years 1989 through 1993.

Appropriations to carry out WIC may be made up to one year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States, and shall remain available for the purposes for which appropriated until expended.

This section also is designed to alleviate cash-flow problems experienced by some State WIC agencies. In this regard, the Secretary, in the event that a full-year appropriations law is enacted, shall issue an initial allocation of the funds provided by such law not later than the expiration of the 15-day period beginning on the date of the enactment of such law. Subsequent allocations of the funds provided by the law shall be issued not later than the beginning of each of the second, third, and fourth quarters of the fiscal year.

In the case of a law providing funds for less than a full fiscal year, the Secretary shall issue an initial allocation of funds provided by the enactment of such law not later than the end of the 10-day period beginning on the date of the enactment of such law.

In any fiscal year, unused amounts from a prior fiscal year that are identified by the end of the first quarter of the fiscal year shall be recovered and reallocated not later than the beginning of the second quarter of the fiscal year. Unused amounts from a prior fiscal year that are identified after the end of the first quarter of the fiscal year shall be recovered and reallocated on a timely basis.

The initial allocation of funds provided under a full-year appropriation act shall include not less than ⅓ of the amounts appropriated by the law. The subsequent allocations of funds to be made not later than the begining of the second and third quarters of the fiscal year shall each include not less than ¼ of the amounts appropriated.

This section also requires the Secretary to conduct a study of problems in securing access to WIC experienced by individuals who are members of low-income working families or members of low-income families who reside in rural areas. The Secretary shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the results.

The initial allocation of funds from a continuing resolution (or other part-year appropriation bill) that provides funds for not more than four months shall include the full amount appropriated.

The amount that may be reserved each year by the Secretary for studies, evaluations and pilot projects is increased from $3 million to $5 million.

Upon completion of the 1990 decennial census, the Secretary, in coordination with the Secretary of Commerce, shall make available an estimate, by State and county (or equivalent political subdivision) of the number of women, infants, and children who are members of families that have incomes below the maximum income limit for participation in the WIC program.

The section further requires that for each fiscal year, the Secretary shall make available, from grants appropriated for such year and from amounts remaining from the preceding fiscal year, an amount sufficient to guarantee a national average per participant grant to be allocated among State agencies for costs for nutrition services and administration incurred by State and local agencies in such year.

The amount of the national average per participant grant for nutrition services and administration for any fiscal year shall be an amount equal to the amount of the national average per participant grant for nutrition services and administration for fiscal year 1988, adjusted annually to reflect the percentage change from a base period to the most recent 12-month period for which a final estimate its available in the index for State and local government purchases, implicit weight, as published by the Bureau of Economic Analysis of the Department of Commerce.

For years 1990 through 1993, the Secretary shall allocate to each State agency an amount for costs of nutrition services and administration on the basis of a formula prescribed by the Secretary. Such formula shall be designed to take into account the varying needs of each State, the number of individuals participating in each State; and other factors that serve to promote the proper, efficient, and effective administration of the WIC program.

The section further provides that if a State agency's per participant expenditure for nutrition services and administration for a fiscal year is more than 15 percent higher than its per participant grant for nutrition services and administration for the fiscal year, without good cause, the Secretary may reduce such State agency's operational level for costs of nutrition services and administration.

In any fiscal year, the Secretary may reallocate administrative funds provided to State agencies that would not be spent within the fiscal year by the state agency to which the funds were allocated. When reallocating these amounts, the Secretary may provide additional amounts to, or recover amounts from, a State agency.

This section also establishes a breastfeeding promotion and support program to be conducted by WIC State agencies. In each fiscal year, each State agency shall expend for nutrition education and breastfeeding promotion activities an amount no less than the sum of: 1) ⅙ of the amount expended by the State for nutrition services and administration and, 2) the state's share of $8,000,000, as determined by a formula based on the number of pregnant and breastfeeding WIC participants in each state.

However, the Secretary may authorize a State agency to expend a lesser amount if the State agency so requests and if the request is accompanied by documentation that other funds will be used to conduct such activities at a level commensurate with the level at which such activities would have been conducted if the requisite amount of WIC funds will be expended.

In any fiscal year that a State agency achieves, through use of acceptable measures, participation that exceeds the participation levels estimated for such State agency at the start of the fiscal year, the State agency may convert amounts allocated for food benefits to costs of nutrition services and administration to the extent that such conversion is necessary to cover allowable expenditures in such fiscal year and to ensure that the State agency maintains the level established for the state's per participant grant for the fiscal year for nutrition services and administration.

However, if a State agency increases its participation level through measures that are not in the nutritional interests of participants or not otherwise allowable (such as reducing the quantities of foods provided for reasons not related to nutritional need), the Secretary may refuse to allow the State agency to convert amounts allocated for food benefits to defray costs for nutrition services and administration.

In each fiscal year, each State agency shall provide, from the amounts allocated to such agency for such year for costs of nutrition services and administration, an amount to each local agency for its costs for nutrition services and administration.

This amount provided to each local agency shall be determined under allocation standards developed by the State agency in cooperation with local agencies, taking into account factors considered appropriate to further proper, efficient, and effective administration of the program, such as local agency staffing needs, density of population, number of individuals served, and availability of administrative support from other sources.

The State agency may provide in advance to any local agency amounts for nutrition services and administration considered necessary for successful commencement or significant expansion of program operations during a reasonable period following such events as: approval of a new local agency; a new cost containment measure; or a significant change in an existing cost containment measure.

This section also covers WIC cost containment systems. The section codifies into the authorizing statute the Burdick amendment to the Fiscal Year 1989 agricultural appropriations bill. In addition, the section requires that states either use competitive bidding for the purchase of infant formula or use another cost containment system that is determined (after securing bids under both systems) to save as much or more than competitive bidding. This provision would take effect only as the terms of existing state cost containment contracts end and the contracts come up for renewal or extension. The Secretary shall grant a state a waiver from this requirement if the state satisfies the Secretary that compliance with the requirement would be inconsistent with efficient or effective operation of the program in the state or that the additional amount that would be saved by competitive bidding is sufficiently minimal that the difference in savings would not be significant.

A State agency using cost containment measures may temporarily use amounts made available to such agency by USDA for the first quarter of a fiscal year to defray expenses for costs incurred during the final quarter of the preceding fiscal year. In any fiscal year, any State agency that uses amounts made available for a succeeding fiscal year under the authority of the preceding sentence shall restore or reimburse such amounts when such agency receives payment for such expenses as a result of its cost containment measures.

During the fiscaly year 1990, the Secretary shall conduct a review of the relationship between the nutritional risk criteria established under WIC and the priority system used under WIC especially as it affects pregnant women. In conducting such review, the Secretary shall consult with the directors of State and local agencies that operate the program and with other individuals with expertise in the field of nutrition.

The Secretary shall also take into consideration the preventive nature of the program and examine the risks to individuals eligible for participation in the program, particularly pregnant women, from various conditions (such as homelessness, mental illness, and conditions that pose barriers to receipt of prenatal care) that may be associated with an increased probability of adverse pregnancy outcome of other adverse effects on health.

The Secretary shall report on the results of this review to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

The Secretary shall also review the WIC food package, providing a preliminary report to the Congress by October 1, 1990, and a final report by October 1, 1991, on the foods recommended as eligible for purchase under the WIC program.

Sec. 124. Nutrition education and training

There are authorized to be appropriated, for nutrition education and training, not more than $10 million for fiscal year 1990, not more than $15 million for fiscal year 1991, and not more than $20 million for each subsequent fiscal year.

Subtitle C—Cross-Program Provisions

Sec. 131. Elimination of the 20 percent commodity refusal option

This section eliminates the system whereby schools could refuse up to 20 percent of the commodities made available to them and take instead, to the extent available, other commodities. All States now use the offer and acceptance method of receiving commodities instead of the 20 percent refusal approach. Under the new system schools indicate the amount of a commodity they want delivered and may reject items they do not need or want.

Sec. 132. Determination of total commodity assistance for the school Lunch and Child Care Food Programs.

Section 132 requires the Secretary to base the June 1 estimate of the total value of commodities to be delivered to each school or child care institution in the current year on the number of meals served in the previous school year. At the end of the year, the Secretary would reconcile this with the number of meals actually served. The section requires carryover adjustments for differences between the prior year meal count and the number of meals actually served.

TITLE II—PAPERWORK REDUCTION AMENDMENTS

Subtitle 1—Reduction of Paperwork Under the National School Lunch Act

Sec. 201. Permanency of State-local Agreements for carrying out the school lunch program

This section requires that State-local agreements to carry out the School Lunch Program shall be permanent agreements that may be amended as necessary. However, this shall not be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.

Sec. 202. Income documentation requirements

For the School Lunch Program, an eligibility determination shall be based on the complete application submitted by an adult member of the household. The Secretary, State, or local food authority may verify any data contained in such application. A local school food authority shall undertake such verification of information as the Secretary may by regulation prescribe and, in accordance with such regulations, shall make appropriate changes in the eligibility determination with respect to such application on the basis of such verification.

Any school food authority may certify any child as eligible for free or reduced price lunches, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of such child's status as a member of a household that is receiving food stamps, or as a member of a family that is receiving assistance under the program for aid to families with dependent children under part A of title IV of the Social Security Act.

Sec. 203. Reports to State educational agencies

The National School Lunch Act is amended to provide that the Secretary, when appropriate, may request each school food authority participating in the school lunch program under this Act to report monthly to the State educational agency.

Sec. 204. 2-year applications under Child Care Food Program

The Secretary may permit institutions providing child care that participate in the Child Care Food Program, at the option of the State agency, to reapply for assistance under this section at 2-year intervals so long as the State confirm on an annual basis that the institutions meet State licensing or approval requirements.

Sec. 205. Reduction of paperwork

The Secretary shall reduce, to the maximum extent possible, the paperwork required of State and local educational agencies, schools, and other agencies participating in child nutrition programs under the School Lunch and Child Nutrition Acts.

The Secretary shall review the model application forms for programs under the School Lunch Act and programs under the Child Nutrition Act of 1966.

The Secretary shall simplify the format and instructions for the forms so that the forms are easily understood by individuals who must complete them.

In carrying out this section, the Secretary shall consult with State and local administrators of the School Lunch Program and the child nutrition programs.

Not later than 1 year after the date of enactment of this section, the Secretary shall report to Congress on the extent to which a reduction has occurred in the quantity of paperwork required.

Subtitle B—Paperwork Reduction Under the Child Nutrition Act of 1966

Sec. 211. Agreements for carrying out the Special Milk Program

The State educational agency shall disburse funds paid to the State during any fiscal year for purposes of carrying out the Special Milk Program in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State.

These agreements shall be permanent agreements that may be amended as necessary. However, nothing shall limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.

Sec. 212. Permanancy of State-local agreements for carrying out the School Breakfast Program

The agreements for State-local participation in the School Breakfast Program shall be permanent agreements that may be amended as necessary. However, nothing shall limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.

Sec. 213. Paperwork reduction requirements under the Special Supplemental Food Program

A State agency may provide for the delivery of WIC vouchers to any participant who is not scheduled for nutrition education counseling or a recertification interview through means, such as mailing, that do not require a participant to travel to the local agency to obtain vouchers.

The State agency shall describe, in the plan submitted pursuant to this subsection, any plans for mail issuance of vouchers. The Secretary may disapprove mail issuance of vouchers in specified jurisdictions or parts of jurisdictions within a State if the Secretary finds that such issuance would pose a significant threat to program integrity in such jurisdictions or parts of jurisdictions.

Sec. 214. Updating of plans for nutrition education and training

Each nutrition education and training plan developed as required for the Child Nutrition Act shall be updated on an annual basis.

TITLE III—TECHNICAL AMENDMENTS

Title III, as well as language in Titles I and II, contains a number of technical provisions which eliminate duplicate provisions. In 1986 both the School Lunch and Child Nutrition Amendments of 1986 and the Child Nutrition Amendments of 1986 (as contained in the National Defense Authorization Act for Fiscal Year 1987) contain similar provisions but differing implementation and effective dates. Both bills were enacted which resulted in inconsistent provisions. This bill corrects those technical problems arising in 1986.

Also, the bill eliminates gender specific references in existing law, changes hyphenation, makes grammatical changes and corrects typographical errors.

ADDITIONAL COSPONSORS

S. 497

At the request of Mr. DECONCINI, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 497, a bill entitled the "Copyright Remedy Clarification Act."

S. 570

At the request of Mr. DANFORTH, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 570, a bill to amend the Internal Revenue Code of 1986 to enhance the incentive for increasing research activities.

S. 670

At the request of Mr. ARMSTRONG, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 670, a bill to recognize the organization known as the Retired Enlisted Association, Inc.

S. 714

At the request of Mr. MCCLURE, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 714, a bill to extend the authorization of the Water Resources Research Act of 1984 through the end of fiscal year 1993.

S. 805

At the request of Mr. MCCLURE, the name of the Senator from Connecticut [Mr. LIBERMAN] was added as a cosponsor of S. 805, a bill to amend the Food Security Act of 1985 to permit certain school districts to receive assistance to carry out the school lunch program in the form of all cash assistance or all commodity letters of credit assistance.

S. 814

At the request of Mr. DOMENICI, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 814, a bill to provide for the minting and circulation of $1 coins and for other purposes.

S. 933

At the request of Mr. HARKIN, the names of the Senator from Kansas [Mr. DOLE] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 933, a bill to establish a clear and comprehensive prohibition of discrimination on the basis of disability.

S. 1115

At the request of Mr. EXON, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1115, a bill to amend the Rural Electrification Act of 1936 to permit the prepayment and refinancing of Federal financing bank loans made to rural electrification and telephone systems, and for other purposes.

S. 1224

At the request of Mr. BRYAN, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Rhode Island [Mr. PELL], the Senator from Georgia [Mr. FOWLER], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 1224, a bill to amend the Motor Vehicle Information and Cost Savings Act to require new standards for corporate average fuel economy, and for other pruposes.

S. 1381

At the request of Mr. KASTEN, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1381, a bill to amend the Internal Revenue Code of 1986 to increase to 100 percent and make permanent the deduction for health insurance for self-employed individuals.

S. 1426

At the request of Mr. DODD, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 1426, a bill to revise and extend the programs of the Domestic Volunteer Service Act of 1973, and for other purposes.

S. 1451

At the request of Mr. GLENN, the name of the Senator form Texas [Mr. BENTSEN] was added as a cosponsor of S. 1451, a bill to provide that a Federal annuitant or former member of a uniformed service who returns to Government service, under a temporary appointment, to assist in carrying out the 1990 decennial census of population shall be exempt from certain provisions of title 5, United States Code, relating to offsets from pay and other benefits.

S. 1454

At the request of Mr. DODD, the names of the Senator from Utah [Mr. HATCH], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 1454, a bill to revise and extend the programs established in the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986, and for other purposes.

S. 1455

At the request of Mr. DODD, the names of the Senator from Utah [Mr. HATCH], the Senator from Rhode Island [Mr. PELL], the Senator from Maryland [Ms. MUKULSKI], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 1455, a bill to transfer a certain program with respect to child abuse from title IV of Public Law 98-473 to the Child Abuse Prevention and Treatment Act, and for other purposes.

S. 1462

At the request of Mr. ADAMS, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 1462, a bill to create a Federal nuclear facility environmental response fund, to create an Office of Environmental Management and Remedial Action, to require the Secretary of Energy and the Administrator of the Environmental Protection Agency to cooperate with affected States and Indian tribes, to provide for research and development to address environmental problems at Federal nuclear facilities, and for other purposes.

SENATE JOINT RESOLUTION 59

At the request of Mr. WIRTH, the names of the Senator from Washington [Mr. ADAMS], the Senator from Arkansas [Mr. BUMPERS], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 59, a joint resolution designating January 19, 1990 as "National Skiing Day."

SENATE JOINT RESOLUTION 125

At the request of Mr. REID, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Joint Resolution 125, a joint resolution relating to responsible trade and conservation of tropical forest resources.

SENATE JOINT RESOLUTION 161

At the request of Mr. PRYOR, the name of the Senator from Arizona

[Mr. DECONCINI] was added as a cosponsor of Senate Joint Resolution 161, a joint resolution to designate the week of October 22, 1989, through October 28, 1989, and the week of October 21, 1990, through October 27, 1990, as "National Adult Immunization Awareness Week."

SENATE JOINT RESOLUTION 164

At the request of Mr. NICKLES, the names of the Senator from Montana [Mr. BURNS], the Senator from Idaho [Mr. SYMMS], and the Senator from Washington [Mr. GORTON] were added as cosponsors of Senate Joint Resolution 164, a joint resolution designating 1990 as the "International Year of Bible Reading."

SENATE JOINT RESOLUTION 168

At the request of Mr. MCCLURE, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of Senate Joint Resolution 168, a joint resolution to designate the week of October 2 through 8, 1989, as "America's Gold Week."

SENATE JOINT RESOLUTION 175

At the request of Mr. D'AMATO, the names of the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Washington [Mr. GORTON], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Joint Resolution 175, a joint resolution designating the week beginning September 17, 1989, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 182

At the request of Mr. DOLE, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Dakota [Mr. BURDICK], the Senator from Montana [Mr. BURNS], the Senator from from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from Arizona [Mr. DECONCINI], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Indiana [Mr. LUGAR], the Senator from Georgia [Mr. NUNN], the Senator from Michigan [Mr. RIEGLE], the Senator from Alabama [Mr. SHELBY], the Senator from Virginia [Mr. WARNER], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 182, a joint resolution to commemorate the 50th anniversary of Little League Baseball.

SENATE CONCURRENT RESOLUTION 49

At the request of Mr. GRASSLEY, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of Senate Concurrent Resolution 49, a concurrent resolution to express the sense of the Congress that the States should retain authority to regulate alcohol beverages.

SENATE CONCURRENT RESOLUTION 56

At the request of Mr. MCCAIN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Concurrent Resolution 56, a concurrent resolution relating to the establishment of new comprehensive national aviation policy for the United States.

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. DODD, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Concurrent Resolution 57, a concurrent resolution to express the sense of the Senate regarding the twenty-fifth anniversary of Volunteers In Service To America.

AMENDMENT NO. 446

At the request of Mr. HEINZ, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of amendment No. 446 proposed to S. 1352, an original bill to authorize appropriations for fiscal years 1990 and 1991 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1990 and 1991, and for other purposes.

AMENDMENT NO. 597

At the request of Mr. SPECTER, the names of the Senator from New York [Mr. D'AMATO] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of amendment No. 597 proposed to S. 1352, an original bill to authorize appropriations for fiscal years 1990 and 1991 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1990 and 1991, and for other purposes.

SENATE CONCURRENT RESOLUTION 59—CORRECTING THE ENROLLMENT OF S. 85

Mr. MITCHELL (for Mr. JOHNSTON) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 59

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (S. 85) to authorize the acceptance of certain lands for addition to Harpers Ferry National Historical Park, West Virginia, the Secretary of the Senate is hereby authorized and directed, in the enrollment of the said bill, to make the following correction, namely, in subsection (a)(1) strike "two thousand five hundred and forty acres' and insert in lieu thereof "two thousand five hundred and five acres".

SENATE RESOLUTION 163—RESOLUTION RELATING TO THE 50TH ANNIVERSARY OF THE NAZI-SOVIET NON-AGGRESSION PACT OF 1939

Mr. HELMS (for himself, Mr. RIEGLE, and Mr. DECONCINI) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 163

Whereas on February 16, 1918 Lithuania, on February 24, 1918 Estonia and on November 18, 1918 Latvia declared their independence and became democratic, peaceloving states with membership in the League of Nations and diplomatic representation in the United States;

Whereas on August 23, 1939, emissaries of Adolf Hitler and Joseph Stalin, Nazi German Foreign Minister Ribbentrop and Soviet Foreign Minister Molotov signed an agreement known as the Nazi-Soviet Pact of Non-aggression which contained secret protocols dividing the map of East Europe into spheres of influence with Estonia, Latvia and part of Poland to the Soviet Union and Lithuania and Poland to Nazi Germamy;

Whereas a secret additional protocol was signed on September 28, 1939 under which Nazi Germany turned Lithuania over to the Soviet Union and on January 10, 1941 the Soviet Union paid Nazi Germany 7,500,000 gold dollars for an additional section of Lithuania;

Whereas the Soviet Army invaded Lithuania on June 15, 1940, and both Latvia and Estonia on June 17, 1940;

Whereas on August 23, 1988 hundreds of thousands of Baltic people gathered in the capitals of Tallinn, Riga and Vilnius to memorialize this tragic day in their history;

Whereas the existence of the Nazi-Soviet Pact is finally coming to light in the Soviet Union yet, its illegal consequences remain unaddressed and are in violation of the Baltic States right to exercise their full sovereignty as guaranteed by the Helsinki Final Act and other International Accords.

Whereas both the Federal Republic of Germany's Foreign Ministry and the United States National Archives in Washington contain official, certified microfilm copies of the following documents and that translations of these documents are on permanent record with the Archives of the Senate Foreign Relations Committee:

(1) The Treaty of Non-aggression, Between Nazi Germany and the Union of Soviet Socialist Republics, signed August 23, 1939, by Ribbentrop and Molotov.

(2) Secret Additional Protocol to the Treaty of Non-aggression Between Germany and the Union of Soviet Socialist Republics, signed August 23, 1939, by Ribbentrop and Molotov.

(3) Secret Supplementary Protocol to the German-Soviet Boundary and Friendship Treaty, signed September 28, 1939, by Ribbentrop and Molotov.

(4) Secret Protocol signed January 10, 1941, by Schulenburg and Molotov.

(5) Telegram No. 204 of August 23, 1939, originating in Moscow, signed by Ribbentrop, from the Reich Foreign Minister to the German Foreign Office.

(6) Telephone copy of Telegram No. 204 of August 23, 1939.

(7) Telegram No. 205 of August 23, 1939, originating in Berlin, signed by Kordt, from the German Foreign Office to the Reich Foreign Minister.

(8) Telephone copy of Telegram No. 205 of August 23, 1939.

(9) Telegram No. 360 of September 15, 1939, originating in Berlin, signed by Ribbentrop, from the Reich Foreign Minister to the German Ambassador in the Soviet Union.

(10) Telegram No. 442 of September 25, 1939, originating in Moscow, signed by Schulenburg, from the German Ambassador in the Soviet Union to the German Foreign Office.

(11) Telegram No. 497 of October 4, 1939, originating in Berlin, signed by Ribbentrop, from the Reich Foreign Minister to the German Ambassador in the Soviet Union.

(12) Memorandum by the Reich Foreign Minister for Hitler, June 24, 1940, signed by Ribbentrop: Now, therefore, be it

Resolved, That in observance of the 50th anniversary of the Nazi-Soviet Non-aggression Pact, the Senate—

(1) strongly supports the Baltic people of Estonia, Latvia and Lithuania in protesting the events of 1939-1940 which sealed their fate and led to their illegal annexation into the Soviet Union;

(2) urges the Soviet Union in the spirit of "glassnost" and public denunciations of Stalin to renounce the Nazi-Soviet pact and its secret supplemental protocols;

(3) declares that the Nazi-Soviet Pact of 1939 be determined null and void by the Soviet Union and that the Soviet Union renounce all claims to the Baltic States which are based on its secret protocols;

(4) reaffirms the U.S policy of non-recognition of the forcible incorporation of the Baltic States into the Union of Soviet Socialist Republics;

(5) Supports the demands of the Baltic peoples of Estonia, Latvia and Lithuania, for self-determination which the Soviet government continues to deny them to this day; and

(6) designates August 23, 1989, the 50th anniversary of the Hitler-Stalin Pact, as "Black Ribbon, Hitler-Stalin Pact Denunciation Day", as a symbol of the solidarity between the people of the United States with the people of the Baltic States.

Mr. HELMS. Mr. President, this resolution designates the 50th anniversary of the Nazi-Soviet Non-Aggression Pact of August 23, 1939, as Black Ribbon Day in observance of the brutal annexation of the Baltic States by the Soviet Union.

Mr. President, August 23, will mark the 50th anniversary of the tragic Molotov-Ribbentrop Pact, more commonly known as the Nazi-Soviet Non-Aggression Pact of 1939. On that day, 50 years ago, emissaries of Adolf Hitler's Nazi Germany and Joseph Stalin's Soviet Union met and conspired to destroy Estonia, Latvia, and Lithuania as sovereign, independent, and democratic states. In the interwar period, beginning in 1918, the Baltic States were members of the League of Nations and had full diplomatic ties with the United States.

The tragic legacy of Hitler and Stalin lives on in the Baltic States. The continued illegal incorporation of the Baltic States into the Soviet Union is a grim reminder of the atrocities committed by the 20th century's most feared tyrants. Mr. President, the Baltic people are forced, against their will, to remain under the bondage of Joseph Stalin.

On May 18, in this Chamber, I spoke in detail about the history of the Nazi-Soviet Pact and provided extensive documentary evidence to the Senate.

Mr. President, the Soviet Union for the last 50 years has denied the existence of the Nazi-Soviet Pact and its secret protocols. Yet, official, certified, microfilm copies of all documents relating to the Nazi-Soviet Pact exist in both the Federal Republic of German's Foreign Ministry and the United States National Archives. These documents in certified copies, along with translations prepared by the Library of Congress, are also on file in the archives of the Committee on Foreign Relations.

The secret supplemental protocols of the Nazi-Soviet Pact were the pretext for the Soviet Union to illegally annex the Baltic States. They directly led to the brutal occupation of Estonia, Latvia, and Lithuania by June 1940.

Mr. President, in a never-ending sequence of systematic historical falsification the Government of the Soviet Union has refused to address the illegal consequences of the Nazi-Soviet Pact and its secret protocols. Despite the spirit of glasnost, Mr. Gorbachev has not publicly admitted to the Hitler-Stalin conspiracy of 1939. Mr. Gorbachev knows very well that the contents of the secret protocols clearly show that the Baltic States did not join the Soviet Union voluntarily.

For 50 years the people of Estonia, Latvia, and Lithuania have not been fooled by the Soviet big lie. Valiant nationalist groups have been struggling for years to bring the truth out. Recently, constant pressure has been exerted on the Soviet Union by dedicated members of the mass popular front movements in Estonia and Latvia and the Sajudis movement in Lithuania to publish and publicly admit to the illegal events of 1939.

Mr. President, I would like to commend these freedom groups for their courageous actions. It has only been under such pressure that the Soviet Union has recently begun to hint that the documents may indeed exist.

Mr. President, August 23, 1989, will remain a sad day for the people of the Baltic States. Hundreds of thousands of Estonians, Latvians, and Lithuanians will gather in their capitals to memorialize this tragic day in their history. In addition, the Baltic Council, composed of the three popular front groups, has organized an impressive human chain to reach from Poland to Finland to commemorate Black Ribbon Day on August 23.

The U.S. Congress must not let this day go unnoticed. For this reason that I am introducing this resolution designating August 23, 1989, as Black Ribbon Day, denouncing the Nazi-Soviet Pact on the 50th anniversary of its signature. The resolution simply calls upon the Soviet Union to admit what the free world already knows—that the Baltic States were illegally occupied in 1940 and remain in the Soviet Union against their will, struggling for their national self-determination, independence, and sovereignty.

AMENDMENTS SUBMITTED

NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1990 AND 1991

NUNN (AND OTHERS) AMENDMENT NO. 648

(Ordered to lie on the table.)

Mr. NUNN (for himself, Mr. MURKOWSKI, and Mr. HATFIELD) submitted an amendment intended to be proposed by them to amendments to the bill (S. 1352) to authorize appropriations for fiscal years 1990 and 1991 for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal years 1990 and 1991, and for other purposes, as follows:

In lieu of the matter proposed insert the following:

Nothing in this bill shall become effective until the following is enacted into law.

SEC. 903. OUTLAY LIMITATION FOR FISCAL YEAR 1990

(a) IN GENERAL.—(1) The net amount expended during fiscal year 1990 from covered defense appropriations may not exceed $289,645,000,000. For purposes of the preceding sentence covered defense appropriations are all funds appropriated pursuant to authorizations of appropriations contained in divisions A and B of this Act or appropriated pursuant to any authorization or appropriations enacted before the date of the enactment of this Act (whether specific of indefinite) for Department of Defense-Military (budget function 051).

(2) The Secretary of Defense and the Director of Central Intelligence shall take such steps as may be necessary to ensure compliance with the limitation in subsection (a).

(b) TREATMENT OF TRANSFERS.—Any transfer of outlays from one fiscal year to an adjacent fiscal year that is made pursuant to this section shall be considered a necessary (but secondary) result of a significant policy change as provided in section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffimation Act of 1987 (2 U.S.C. 909(a)).

(c) INAPPLICABILITY OF IMPOUNDMENT CONTROL ACT OF 1974.—The provisions of the Impoundment Control Act of 1974 (2 U.S.C. 618 et seq.) shall not apply with respect to funds appropriated pursuant to this Act or by any Act appropriating funds for the Department of Defense previous to the date of the enactment of this Act to the extent necessary to enable the Secretary of Defense to comply with subsection (a).

(d) AUTHORITY TO DELAY PAYMENTS.—Any payment required to be made by the Department of Defense to a [business concern] that, but for this subsection, would be required to be made during September 1990 may be made during the period beginning on October 1, 1990, and ending on that date that is 30 days after the date on which the payment would otherwise have been required to be made. In determining the amount of any interest penalty under sec-

tion 390 of title 31, United States Code, for failure to make any such payment, any period for which payment is deferred by the Secretary of Defense under the preceding sentence shall not be taken into account.

(e) REPORTS.—The Secretary of Defense shall, on each of the dates specified in paragraph (2), submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report on the implementation of this section. Each such report shall include—

(A) an analysis of cumulative obligations and cumulative expenditures from accounts subject to the limitation in subsection (a) during the period beginning on October 1, 1989, and ending on the last day of the month preceding the month in which the report is to be submitted, including a comparison of such obligations and expenditures with the relevant estimates of outlays made by the Office of Management and Budget and the Congressional Budget Office; and

(B) a description of the specific actions taken by the Secretary to ensure that the Department of Defense meets the requirements of subsection (a).

(2) The reports required by paragraph (1) shall be submitted in 1990 not later than January 15, April 15, September 15, and October 15.

(f) SENSE OF CONGRESS.—It is the sense of the Congress that the differences in estimated outlays for programs for National Defense (budget function 050) for fiscal year 1990 as prepared by the Congressional Budget Office and the Department of Defense, while small in percentage terms, are sufficiently large to have a programmatic impact. It is further the sense of Congress that the Congressional Budget Office and the Secretary of Defense, in consultation with the Committees on Armed Services, Appropriations, and the Budget of the Senate and the House of Representatives, should undertake a comprehensive review of outlay estimation techniques and methodologies as such techniques and methodologies relate to the Department of Defense with the objective of achieving consistent estimates for inclusion in the budget for fiscal year 1991.

(g) PROHIBITION ON ADVANCE OF PAY DATE.—(1) Notwithstanding section 1006(h) of title 37, United States Code, the Secretary concerned may not, for the pay period ending on September 30, 1989, advance the October 1, 1989, payday for the payment of pay and allowances to members of a uniformed service under the jurisdiction of the Secretary. Any order or directive of the Secretary requiring the advancement of the October 1, 1989, military payday to September 29, 1989, shall be null and void.

(2) For purposes of this subsection, the terms "Secretary concerned" and "uniformed services" have the meanings given to those terms in paragraphs (5) and (3), respectively, of section 101 of title 37, United States Code.

NUNN AMENDMENT NOS. 649 AND 650

(Ordered to lie on the table.)

Mr. NUNN submitted two amendments intended to be proposed by him to amendments to the bill S. 1352, supra, as follows:

AMENDMENT NO. 649

In the pending amendment, in lieu of the matter proposed to be stricken, insert the following: This bill shall not become effective until the following provisions are enacted into law:

(a) OUTLAY LIMITATION FOR FISCAL YEAR 1990.—(1) The net amount expended during fiscal year 1990 from covered defense appropriations may not exceed $289,645,000,000. For purposes of the preceding sentence covered defense appropriations are all funds appropriated pursuant to authorizations of appropriations contained in divisions A and B of this Act or appropriated pursuant to any authorization of appropriations enacted before the date of the enactment of this Act (whether specific or indefinite) for Department of Defense-Military (budget function 051).

(2) The Secretary of Defense and the Director of Central Intelligence shall take such steps as may be necessary to ensure compliance with the limitation in subsection (a).

(b) TREATMENT OF TRANSFERS.—Any transfer of outlays from one fiscal year to an adjacent fiscal year that made pursuant to this section shall be considered a necessary (but secondary) result of a significant policy change as provided in section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (2 U.S.C. 909(a)).

(c) INAPPLICABILITY OF IMPOUNDMENT CONTROL ACT OF 1974.—The provisions of the Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) shall not apply with respect to funds appropriated pursuant to this Act or by any Act appropriating funds for the Department of Defense previous to the date of the enactment of this Act to the extent necessary to enable the Secretary of Defense to comply with subsection (a).

(d) AUTHORITY TO DELAY PAYMENTS.—Any payment required to be made by the Department of Defense to a business concern that, but for this subsection, would be required to be made during September 1990 may be made during the period beginning on October 1, 1990, and ending on the date that is 30 days after the date on which the payment would otherwise have been required to be made. In determining the amount of any interest penalty under section 390 of title 31, United States Code, for failure to make any such payment, any period for which payment is deferred by the Secretary of Defense under the preceding sentence shall not be taken into account.

(e) REPORTS.—(1) The Secretary of Defense shall, on each of the dates specified in paragraph (2), submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report on the implementation of this section. Each such reports shall include—

(A) an analysis of cumulative obligations and cumulative expenditures from accounts subject to the limitation in subsection (a) during the period beginning on October 1, 1989, and ending on the last day of the month preceding the month in which the report is to be submitted, including a comparison of such obligations and expenditures with the relevant estimates of outlays made by the Office of Management and Budget and the Congressional Budget Office; and

(B) a description of the specific actions taken by the Secretary to ensure that the Department of Defense meets the requirements of subsection (a).

(2) The reports required by paragraph (1) shall be submitted in 1990 not later than January 15, April 15, September 15, and October 15.

(f) SENSE OF CONGRESS.—It is the sense of the Congress that the differences in estimated outlays for programs for National Defense (budget function 050) for fiscal year 1990 as prepared by the Congressional Budget Office and the Department of Defense, while small in percentage terms, are sufficiently large to have a programmatic impact. It is further the sense of Congress that the Congressional Budget Office and the Secretary of Defense, in consultation with the Committees on Armed Services, Appropriations, and the Budget of the Senate and the House of Representatives, should undertake a comprehensive review of outlay estimation techniques and methodologies as such techniques and methodologies relate to the Department of Defense with the objective of achieving consistent estimates for inclusion in the budget for fiscal year 1991.

(g) PROHIBITION ON ADVANCE OF PAY DATE.—(1) Notwithstanding section 1006(h) of title 37, United States Code, the Secretary concerned may not, for the pay period ending on September 30, 1989, advance the October 1, 1989, payday for the payment of pay and allowances to members of a uniformed service under the jurisdiction of the Secretary. Any order or directive of the Secretary requiring the advancement of the October 1, 1989, military payday to September 29, 1989, shall be null and void.

(2) For purposes of this subsection, the terms "Secretary concerned" and "uniformed services" have the meanings given to these terms in paragraphs (5) and (3), respectively, of section 101 of title 37, United States Code.

AMENDMENT NO. 650

In the pending amendment, strike out all after the first word and insert in lieu thereof the following: This bill shall not become effective until the following provisions are enacted into law:

(a) OUTLAY LIMITATION FOR FISCAL YEAR 1990.—(1) The net amount expended during fiscal year 1990 from covered defense appropriations may not exceed $289,645,000,000. For purposes of the preceding sentence covered defense appropriations are all funds appropriated pursuant to authorizations of appropriations contained in divisions A and B of this Act or appropriated pursuant to any authorization of appropriations enacted before the date of the enactment of this Act (whether specific or indefinite) for Department of Defense-Military (budget function 051).

(2) The Secretary of Defense and the Director of Central Intelligence shall take such steps as may be necessary to ensure compliance with the limitation in subsection (a).

(b) TREATMENT OF TRANSFERS.—Any transfer of outlays from one fiscal year to an adjacent fiscal year that is made pursuant to this section shall be considered a necessary (but secondary) result of a significant policy change as provided in section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (2 U.S.C. 909(a)).

(c) INAPPLICABILITY OF IMPOUNDMENT CONTROL ACT OF 1974.—The provisions of the Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) shall not apply with respect to funds appropriated pursuant to this Act or by any Act appropriating funds for the Department of Defense previous to the date of the enactment of this Act to the extent nec-

essary to enable the Secretary of Defense to comply with subsection (a).

(d) AUTHORITY TO DELAY PAYMENTS.—Any payment required to be made by the Department of Defense to a business concern that, but for this subsection, would be required to be made during September 1990 may be made during the period beginning on October 1, 1990, and ending on the date that is 30 days after the date on which the payment would otherwise have been required to be made. In determining the amount of any interest penalty under section 390 of title 31, United States Code, for failure to make any such payment, any period for which payment is deferred by the Secretary of Defense under the preceding sentence shall not be taken into account.

(e) REPORTS.—(1) The Secretary of Defense shall, on each of the dates specified in paragraph (2), submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report on the implementation of this section. Each such report shall include—

(A) an analysis of cumulative obligations and cumulative expenditures from accounts subject to the limitation in subsection (a) during the period beginning on October 1, 1989, and ending on the last day of the month preceding the month in which the report is to be submitted, including a comparison of such obligations and expenditures with the relevant estimates of outlays made by the Office of Management and Budget and the Congressional Budget Office; and

(B) a description of the specific actions taken by the Secretary to ensure that the Department of Defense meets the requirements of subsection (a).

(2) The reports required by paragraph (1) shall be submitted in 1990 not later than January 15, April 15, September 15, and October 15.

(f) SENSE OF CONGRESS.—It is the sense of the Congress that the differences in estimated outlays for programs for National Defense (budget function 050) for fiscal year 1990 as prepared by the Congressional Budget Office and the Department of Defense, while small in percentage terms, are sufficiently large to have a programmatic impact. It is further the sense of Congress that the Congressional Budget Office and the Secretary of Defense, in consultation with the Committees on Armed Services, Appropriations, and the Budget of the Senate and the House of Representatives, should undertake a comprehensive review of outlay estimation techniques and methodologies as such techniques and methodologies relate to the Department of Defense with the objective of achieving consistent estimates for inclusion in the budget for fiscal year 1991.

(g) PROHIBITION ON ADVANCE OF PAY DATE.—(1) Notwithstanding section 1006(h) of title 37, United States Code, the Secretary concerned may not, for the pay period ending on September 30, 1989, advance the October 1, 1989, payday for the payment of pay and allowances to members of a uniformed service under the jurisdiction of the Secretary. Any order or directive of the Secretary requiring the advancement of the October 1, 1989, military payday to September 29, 1989, shall be null and void.

(2) For purposes of this subsection, the terms "Secretary concerned" and "uniformed services" have the meanings given to those terms in paragraphs (5) and (3), respectively, of section 101 of title 37, United States Code.

SASSER AMENDMENT NO. 651

(Ordered to lie on the table.)

Mr. SASSER submitted an amendment intended to be proposed by him to amendment No. 588 proposed by Mr. NUNN to the bill S. 1352, supra, as follows:

On page 2, line 4, beginning with "OUTLAY", strike all through line 13 on page 6 and insert the following: "PROHIBITION OF COUNTING AS SAVINGS THE TRANSFER OF GOVERNMENT ACTIONS FROM ONE YEAR TO ANOTHER.

"SEC. . Any provision of this Act that has the effect of transferring an outlay, receipt, or revenue of the United States from one fiscal year to an adjacent fiscal year (including a provision delegating authority to reduce outlays to a fixed amount that would cause such a transfer) shall not be treated as reducing the deficit or producing net deficit reduction in any fiscal year for purposes of the Congressional Budget and Impoundment Control Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985."

WILSON AMENDMENT NO. 652

(Ordered to lie on the table.)

Mr. WILSON submitted an amendment intended to be proposed by him to an amendment to the bill S. 1352, supra, as follows:

At the end of the amendment add the following: Notwithstanding any other provision of this Act the figure "$14,629,532" on p. 32 line 4 is deemed to be "$14,529,532".

BOSCHWITZ (AND D'AMATO) AMENDMENT NO. 653

Mr. BOSCHWITZ (for himself and Mr. D'AMATO) proposed an amendment to the bill S. 1352, supra, as follows:

At the appropriate place, insert the following:

SEC. . TERMINATION OF CONGRESSIONAL REPORTING REQUIREMENTS.

(a) TERMINATION.—Effective on January 1, 1991, any requirements imposed by law for the Secretary of Defense, the Secretary of a military department, or any other officer of the Department of Defense to submit a report to Congress (or to any committee of Congress) is terminated.

(b) POLICY CONCERNING EXCEPTIONS.—It is the policy of Congress that any exception to the provisions of subsection (A) will be enacted by law on a case-by-case basis and should only be made if (i) there is a unique and compelling rationale or requirement for requiring the report to be submitted and (ii) efforts to reduce unnecessary or redundant reporting requirements have been made and such a report is still justified.

SIMON (AND OTHERS) AMENDMENT NO. 654

(Ordered to lie on the table.)

Mr. SIMON (for himself, Mr. LAUTENBERG, Mr. BRADLEY, Mr. DIXON, Mr. DECONCINI, and Mr. MCCAIN) submitted an amendment intended to be proposed by them to the bill S. 1352, supra, as follows:

SEC. . COMPTROLLER GENERAL CERTIFICATION ON BASE CLOSURES AND DEPARTMENT OF DEFENSE REPORT.

(a) The Comptroller General of the United States shall certify to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives that no significant errors were made, or to specify where significant errors were made in the Commission's phase one determination of any base selected for closure or realignment. Those bases where such significant errors are found shall not be closed or realigned, until the report required under subparagraph (b) of this section is filed with the appropriate committees of Congress.

(b) The Department of Defense shall assess the Comptroller General's certification, and report to the Committees on Armed Services of the Senate and the House of Representatives on such certification, before those bases where such significant errors are found may be closed or realigned.

(c) The Comptroller General shall submit such certification not later than January 1, 1990, and the Department of Defense shall submit its assessment pursuant to subparagraph (b) of this section within 60 days of the Comptroller General's certification.

(d) DEFINITIONS.—"Significant errors" as defined in this section are those errors made in the Commission on Base Realignment and Closure's phase one analysis that result in a change in the phase one ranking of candidate bases for closure or realignment.

INCREASE IN STATUTORY LIMIT OF THE PUBLIC DEBT

HEINZ AMENDMENT NO. 655

(Ordered to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to the bill (H.R. 3024) to increase the statutory limit on the public debt, and for other purposes, as follows:

At the end of the bill, add the following new section:

SEC. . PHASE OUT OF INCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) CALCULATION OF DEFICITS.—Section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) by inserting "(A)" after "(6)";

(2) by striking "for any fiscal year" in the second sentence, and inserting in lieu thereof "for fiscal years preceding 1992"; and

(3) by inserting at the end thereof the following:

"(B) In calculating the deficit for purposes of comparison with the maximum deficit amount and in calculating the excess deficit, for fiscal years 1992 and 1993, the receipts of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for fiscal year 1991 and the taxes payable under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1986 during fiscal year 1991 shall be included in total revenues for each fiscal year, and the disbursements of each such Trust Fund for fiscal year 1991 shall be included in total budget outlays for each such fiscal year.".

(b) MAXIMUM DEFICIT AMOUNT.—Section 3(7) of the Congressional Budget and Im-

poundment Control Act of 1974 is amended to read as follows:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to the fiscal year beginning October 1, 1985, $171,900,000,000;

"(B) with respect to the fiscal year beginning October 1, 1986, $144,000,000,000;

"(C) with respect to the fiscal year beginning October 1, 1987, $144,000,000,000;

"(D) with respect to the fiscal year beginning October 1, 1988, $136,000,000,000;

"(E) with respect to the fiscal year beginning October 1, 1989, $100,000,000,000;

"(F) with respect to the fiscal year beginning October 1, 1990, $64,000,000,000;

"(G) with respect to the fiscal year beginning October 1, 1991, $28,000,000,000;

"(H) with respect to the fiscal year beginning October 1, 1992, $0;

"(I) with respect to the fiscal year beginning October 1, 1993, $59,000,000,000;

"(J) with respect to the fiscal year beginning October 1, 1994, $39,000,000,000;

"(K) with respect to the fiscal year beginning October 1, 1995, $19,000,000,000; and

"(L) with respect to the fiscal years beginning October 1, 1996, $0.".

(c) CONFORMING CHANGES.—

(1) DEFINITION OF MARGIN.—Section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(A) striking "fiscal year 1992" and inserting "fiscal year 1996"; and

(B) striking "fiscal year 1993" and inserting "fiscal year 1997".

(2) EFFECTIVE DATE.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in paragraph (1), by striking "1993" and inserting "1997"; and

(B) in paragraph (2), by striking "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

● Mr. HEINZ. Mr. President, I am submitting for the consideration of my colleagues the amendment I intend to offer to the debt ceiling bill. This amendment would take the Social Security Trust Funds off budget for purposes of deficit reduction calculations.

Specifically, my amendment: First, leaves the Gramm-Rudman-Hollings targets in place; second, freezes the Social Security surplus at its projected level in the fiscal year 1991—$79 billion—and only this amount can be counted against the deficit through fiscal year 1993; third, removes the Social Security Trust Fund from the "deficit counting game" by revealing the $79 billion additional deficit at the end of fiscal year 1993, and fourth, allows 4 years to eliminate the $79 billion deficit altogether.

This amendment would end the masking of our Nation's Federal deficit, and would achieve truth-in-budgeting.●

AMTRAK REAUTHORIZATION ACT

KASTEN AMENDMENT NO. 656

(Ordered to lie on the table.)

Mr. KASTEN submitted an amendment intended to be proposed by him to the bill (S. 462) to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes, as follows:

The Rail Passenger Service Act is amended by adding thereto the following new Title XI:

TITLE XI

LIABILITY FOR INJURIES

SEC. 1101. DEFINITIONS.—For purposes of this title only, the following terms shall have the meaning specified below:

(1) "Primary entitlement to benefits" means the combined entitlement of any employee of the Corporation to annuities or other benefits under (a) the Railroad Retirement Act of 1974, 45 U.S.C. 231 et seq., (b) the Railroad Unemployment Insurance Act, 45 U.S.C. 351 et seq., (c) the Social Security Act, 42 U.S.C. 301 et seq., (d) any publicly funded benefits program, and (e) any program of retirement, disability, or medical benefits paid for in whole or in part by the Corporation.

(2) "Principal place of employment" of an employee of the Corporation means the state in which the employee normally reported for duty at the time when the events occurred that caused or contributed to the injury or death that is the subject of a work-related claim. Notwithstanding the preceding sentence, if an injury or death giving rise to a work-related claim is caused by cumulative events or is determined to be an occupational disease, the principal place of employment with respect to such claim shall be the state in which the employee normally reported for duty at the time the claim was filed. If there is no single state where the employee normally reported for duty, the principal place of employment shall be the state in which the office of the employee's immediate supervisor was located.

(3) "Railroad" means any railroad, transportation authority or other entity with which the Corporation has contracted for provision of services or use of tracks and facilities, and includes the officers, agents, servants, subsidiaries, and employees of such organizations.

(4) "Work-related claim" means a claim against the Corporation or a railroad by or with respect to an employee of the Corporation for injury, death, or occupational disease arising out of and in the course of the employee's employment.

(5) "Workers' compensation law" means the legal standards and procedures established in a state for handling claims by or with respect to employees in general in that state for injuries or death arising out of and in the course of their employment, but shall not include legal standards or procedures limited to one or more specific industries, trades, or professions.

SEC. 1102. EMPLOYEE INJURIES.—(a) Notwithstanding any provision of law excluding railroad employees from coverage by a state's workers' compensation law or authorizing a railroad employee to bring a tort claim against a railroad, any work-related claim shall be governed by the workers' compensation law of the state in which the employee's principal place of employment is located. An employee shall be entitled to benefits under a workers' compensation law only to the extent that the amount of benefits under such law exceeds his or her primary entitlement to benefits.

(b) The provisions of the Federal Employers' Liability Act (45 U.S.C. 51 et seq.) shall not apply to work-related claims governed by this title, and the applicable state workers' compensation law shall be the exclusive remedy with regard to work-related claims by employees of the Corporation against the Corporation or a railroad.

(c) This title shall apply to (i) all work-related claims caused in whole or in part by activities that occurred in the course of the employment relationship and occurred between October 1, 1989 and September 30, 1992, and (ii) all claims for occupational disease filed during the period commencing with the date of enactment of this title and ending three years after the date of enactment.

(d) Notwithstanding any requirements contained in the workers' compensation law of any state, including requirements for bonding and licensing, the Corporation shall be deemed qualified to self-insure for workers' compensation coverage under the laws of all states, and no states shall deny workers' compensation benefits to an employee of the Corporation based upon a failure of the Corporation to comply with such qualification requirements.

(e) Notwithstanding Section 306(n) of this Act or any other provision of law to the contrary, the Corporation shall be subject to the workers' compensation taxes and assessments of a state in the same manner and to the same extent as any other self-insured entity doing business within the state that is governed by the workers' compensation law of that state.

NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1990 AND 1991

MACK AMENDMENT NO. 657

Mr. MACK proposed an amendment to the bill S. 1352, supra, as follows:

At the appropriate place in Title III, insert the following:

SEC. . TUG AND TOWING SERVICES AT PORT CANAVERAL, FLORIDA.

With respect to tug and towing services for the Department of Navy at Port Canaveral, Florida, the Secretary of the Navy shall personally make any determination required by Part 19.502-2 of the Federal Acquisition Regulation.

NUNN AMENDMENT NO. 658

Mr. NUNN proposed an amendment to the bill S. 1352, supra, as follows:

On page 17, line 16, insert a comma after "aircraft".

On page 63, line 20, strike out "$1,700,500" and insert in lieu thereof "$1,700,500,000".

On page 181, line 21, strike out "3" and insert in lieu thereof "642".

On page 183, line 17, strike out "3" and insert in lieu thereof "642".

On page 185, line 9, strike out "7" and insert in lieu thereof "646".

On page 397, beginning with line 20, strike out all down through line 4 on page 398 and insert in lieu thereof the following:

(c) LIMITATION ON CERTAIN PAYMENTS.—After the effective date of the transfer provided in subsection (b), the Secretary of Defense shall pay to the Administrator of General Services only the costs incurred by the General Services Administration in furnish-

ing space, repairs alterations, maintenance, and other services and facilities to the Department of Defense in the National Capital Region until after renovation of the Pentagon building has been completed or until after September 30, 1999, whichever is earlier. Payments by the Secretary of Defense under the preceding sentence shall be in lieu of the payment of any charges the Administrator of General Services is required to make against the Department of Defense under section 210(j) of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 490(j)).

On page 447, line 20, strike out "5332" and insert in lieu thereof "5532".

On page 271, beginning with line 15, strike all through line 3 on page 273.

RURAL PARTNERSHIP ACT

LEAHY AMENDMENT NO. 659

Mr. LEAHY proposed an amendment to the bill (S. 1036), a bill to improve the economic, community, and educational well-being of rural America, and for other purposes, as follows:

On page 200, between lines 3 and 4, insert the following new section:

SEC. . REVIEW OF PROGRAMS FOR BUSINESS INCUBATOR.

(a) POLICY OF THE UNITED STATES.—It is the policy of the United States that the Federal government should encourage and support the development and operation of business incubator centers as a tool of economic and community development.

(b) ACTION BY SECRETARIES.—The Secretaries of Housing and Urban Development, Health and Human Services, Energy, Defense, Commerce, and Agriculture, and the Administrator of the Small Business Administration shall review existing regulations promulgated by their respective departments and agencies governing grants and loans for purposes of community development, business promotion, research and development, and export promotion and shall take such action as may be necessary to ensure that business incubator centers are eligible for such grants or loans.

(c) REPORT.—Not later than March 1, 1990, the head of each agency or department described in subsection (b) shall prepare and submit, to the appropriate Committees of the House of Representatives and to the Governmental Affairs Committee and other appropriate committees of the Senate, a report containing the findings of its review including—

(1) a description of existing Federal grant or loan programs the purpose of which is community development, business promotion, research and development, or export promotion for which business incubator centers are currently eligible;

(2) recommendations as to changes in existing law needed to make business incubator centers eligible for current Federal grant or loan programs for purposes of community development, business promotion, research and development, or export promotion; and

(3) recommendations for any additional legislation that may be required to foster and support business incubator centers.

(d) CONSULTATION.—In conducting the reviews under subsections (b) and (c), the heads of the agencies and departments shall regularly consult with representatives of incubator operators, officials of State and local government, and others involved in small business promotion and economic development.

(e) AVAILABILITY OF REPORTS.—The Administrator of the Small Business Administration shall ensure that any reports developed as the result of such reviews are made available to interested parties and to the general public.

On page 205, line 14, insert "copper cable electronic equipment associated with telecommunications transmissions," after "complexes,".

On page 200, strike out lines 1 through 8.

On page 207, line 9, strike out "(f)" and insert in lieu thereof "(e)".

On page 207, line 22, strike out "(g)" and insert in lieu thereof "(f)".

On page 209, line 1, strike out "(h)" and insert in lieu thereof "(g)".

On page 209, line 8, strike out "(l)" and insert in lieu thereof "(h)".

On page 209, lines 13 and 14, strike out "rural distance learning partnerships under" and insert in lieu thereof "educational institutions described in".

On page 209, line 23, strike out "section 204(f)" and insert in lieu thereof "subsection (e)".

On page 209, line 24, insert "or through other financing procedures" before the period.

On page 210, strike out line 9 and all that follows through line 11 on page 214, and insert in lieu thereof the following:

(3) DEADLINE IMPOSED ON THE ADMINISTRATOR.—The Administrator shall, not later than 45 days after the receipt of the completed application, respond to such completed application for an expedited telephone loan. The Administrator shall notify the applicant in writing of its decision regarding each such expedited loan application.

On page 214, line 23, insert "literacy," after "mathematics,".

On page 215, lines 2 and 3, strike out "telecommunications partnerships" and insert in lieu thereof "educational institutions described in subsection (c)(1)".

On page 216, strike out line 3 and all that follows through line 9 on page 217, and insert in lieu thereof the following:

(4) USE OF FUNDS.—Grants under this section shall be made available to educational institutions described in subsection (c)(1) to be used by such educational institutions for facilities, equipment, activities, and other uses as described in the approved rural telecommunications plan to achieve the purpose of this section, including—

(A) the development and acquisition of instructional programming;

(B) the development and acquisition, through lease or purchase, of computer hardware and software, audio and visual equipment, telecommunications terminal equipment, telecommunications transmission facilities, or interactive video equipment, and other facilities that would further the purposes of the programs authorized by this section;

(C) providing technical assistance and instruction for the development or use of such programming, equipment, or facilities; or

(D) other uses that are consistent with achieving the purposes of this section as approved by the Administrator.

On page 217, line 14, strike out "programming" and insert in lieu thereof "curriculum development".

On page 217, line 16, insert "or software systems development" after "programming".

On page 217, line 23, strike out "partnership" and insert in lieu thereof "applicant".

On page 218, strike out line 5 and all that follows through line 4 on page 219, and insert in lieu thereof the following:

(c) RURAL EDUCATIONAL OPPORTUNITIES APPLICANTS.—Grants made under this section shall be available to one or more educational institutions, agencies, or organizations with substantial academic and teaching capabilities, such as local education agencies, State education agencies, land grant and other universities, community colleges, and other institutions of higher education.

On page 219, line 11, strike out "partnership" and insert in lieu thereof "applicant".

On page 219, line 15, strike out "partnership" and insert in lieu thereof "educational institution".

On page 220, between lines 9 and 10, insert the following new paragraph:

(4) A description of the proposed technical facilities to be used, and the facilities for which the educational institution is applying, including an analysis and cost comparison regarding alternative or existing technical facilities that can be used for such purpose.

On page 220, line 10, strike out "(4)" and insert in lieu thereof "(5)".

On page 220, line 14, strike out "(5)" and insert in lieu thereof "(6)"

On page 220, line 19, insert "literacy," after "mathematics,".

On page 220, line 22, strike out "(6)" and insert in lieu thereof "(7)"

On page 221, line 4, strike out "(7)" and insert in lieu thereof "(8)"

On page 221, line 7, strike out "(8) Assurances that the partnership" and insert in lieu thereof "(9) Assurances that the educational institution"

On page 221, line 17, strike out "(9)" and insert in lieu thereof "(10)"

On page 221, line 18, insert "instructional" after "and".

On page 221, line 21, strike out "(10)" and insert in lieu thereof "(11)"

On page 221, lines 21 and 22, strike out "educational" and insert in lieu thereof "instructional".

On page 222, line 1, strike out "(11)" and insert in lieu thereof "(12)"

On page 222, strike out line 10 and all that follows through line 23 on page 227.

On page 223, between lines 4 and 5, insert the following new clause:

"(vii) a specialist in literacy training;".

On page 223, line 5, strike out "(vii)" and insert in lieu thereof "(viii)".

On page 223, line 7, strike out "(viii)" and insert in lieu thereof "(ix)".

On page 223, line 9, strike out "(ix)" and insert in lieu thereof "(x)".

On page 223, line 11, strike out "(x)" and insert in lieu thereof "(xi)".

On page 223, line 13, strike out "(xi)" and insert in lieu thereof "(xii)".

On page 223, line 15, strike out "(xii)" and insert in lieu thereof "(xiii)".

On page 223, line 16, strike out "(xiii)" and insert in lieu thereof "(xiv)".

On page 223, line 18, strike out "(xiv)" and insert in lieu thereof "(xv)".

On page 224, between lines 10 and 11, insert the following new sentence: "The Secretary of Education and the Secretary of Agriculture shall ensure that, to the extent practicable, one of the individuals appointed under subparagraphs (A) and (B) shall be knowledgable concerning literacy problems in rural areas.".

On page 227, line 23, strike out "(h)" and insert in lieu thereof "(f)".

On page 229, line 18, strike out "204(i)" and insert in lieu thereof "204(h)".

On page 233, line 1, strike out "204(i)" and insert in lieu thereof "204(h)".

On page 233, line 24, strike out "204(i)" and insert in lieu thereof "204(h)".

On page 236, line 23, strike out the end quotation marks and the second period.

On page 236, after line 23, add the following new paragraph:

" '(6) COORDINATION.—The Secretary shall ensure that the activities of the Extension Service rural economic and business development program established under section 502(g) of the Rural Development Act of 1972 (7 U.S.C. 2662(g)) are coordinated with the Small Business Administration to ensure that there is no duplication of activities in any local area, county or regions.' ".

On page 248, line 11, strike out "$35,000,000" and insert in lieu thereof "$25,000,000".

At the appropriate place in title VI, insert the following new section:

SEC. 6XX. TECHNICAL ASSISTANCE FOR CERTAIN SOLID WASTE MANAGEMENT.

Section 310B(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(b)) is amended—

(1) by inserting "(1)" before "The Secretary"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary may make grants to non-profit organizations for the provision of regional technical assistance to local and regional governments and related agencies for the purposes of reducing or eliminating pollution of water resources and improving the planning and management of solid waste disposal facilities. Grants made under this paragraph for technical assistance shall be made for 100 percent of the cost of such assistance.".

On page 254, line 16, insert "nonprofit organizations specializing in applied research" and "stations".

On page 254, between lines 23 and 24, insert the following new paragraph:

"(2) RURAL TECHNOLOGY TRANSFER AND INNOVATION.—The Secretary shall establish and implement a program to award matching grants to promote technology transfer, innovation, and new product development. Grantees shall include institutions described in paragraph (1) and other nonprofit organizations that have demonstrated capability in technology transfer, applied research, innovation, and new product development that will lead to economic growth and job creation in rural areas. Applicants for grants under this paragraph shall demonstrate the ability to provide, at a minimum, a one-to-one financial match.".

On page 254 line 24, strike out "(2)" and insert in lieu thereof "(3)".

On page 259, between lines 15 and 16, insert the following new sections:

SEC. 7 .NATIONAL RURAL DEVELOPMENT CENTER.

(a) ESTABLISHMENT.—The Tennessee Valley Authority, established under the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.), shall establish a center to be known as the "National Rural Development Center" to carry out subsection (b) and carry out studies, experiments, and demonstrations of the kind authorized in section 22 of the Tennessee Valley Authority Act of 1933 (16 U.S.C 831u).

(b) FUNCTIONS.—

(1) DEMONSTRATIONS.—The National Rural Development Center shall conduct, support, or replicate experimental and innovative demonstrations, including enterprise development, manufacturing development, leadership and community organization development, minority economic development, service sector development, basic skills enhancement, literacy training, waste management, agricultural development, expert trade expansion, and telecommunications as a means for rural distant learning, training, dropout prevention, and economic development.

(2) CONDUCT OF DEMONSTRATIONS WITH OTHER ENTITIES.—Demonstrations under paragraph (1) may be conducted alone or in partnership with other Federal entities, such as the Rural Electrification Administration, the Department of Agriculture, the Cooperative Extension Service, the Appalachian Regional Commission, the Economic Development Administration, the lower Mississippi Delta Commission, States, counties, economic development districts, towns, other public bodies, economic development corporations, and private sector entities.

(3) DISSEMINATION OF RESULTS.—Results of the demonstrations conducted under paragraph (1), and other work conducted by the National Rural Development Center, shall be disseminated widely to rural areas throughout the United States through the National Rural Information Center Clearinghouse established under title V, and through other appropriate means, to any industry, organization, or Federal, State, or local government entity engaged in rural development activities.

(c) FEDERAL AGENCIES.—The heads of other Federal agencies engaged in rural development activities shall cooperate with and may use the services of the National Rural Development Center.

(d) AUTHORIZATION OF APPROPRIATIONS.—All appropriations necessary to carry out the activities described in subsection (b) shall be authorized as provided for in section 27 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831z).

SEC. 7 . GRANTS TO BROADCASTING SYSTEMS.

Section 310B(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary may make grants to Statewide private non-profit public television systems, whose coverage area is predominately rural, for the purpose of demonstrating the effectiveness of such systems in providing information on agriculture and other issues of importance to farmers and other rural residents. Funds available under this paragraph may be used for capital equipment expenditures, start-up and program costs, and other costs necessary to the operation of such demonstrations.".

SEC. 7 . RURAL BUS SERVICES.

(a) SHORT TITLE.—This section may be cited as the "Rural Bus Services Act".

(b) INTERCITY BUS SERVICE.—The Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1601 et seq.) is amended by adding at the end the following new section:

"SEC. 26. INTERCITY BUS SERVICE.

"(a) GRANTS.—The Secretary is authorized to make grants for the initiation, improvement, or continuation of intercity bus service, and for the establishment and maintenance of rural feeder services, for residents of rural areas and residents of urban places designated by the Bureau of the Census as having populations of 5,000 or more that are not within an urbanized area.

"(b) LIMITATIONS.—

"(1) RECIPIENTS.—Grants for the initiation, improvement, or continuation of intercity bus service under subsection (a) of this section shall be made only to States and local public bodies and agencies thereof, only for payment of operating expenses incurred in furnishing such intercity bus service, and shall not exceed 30 percent of the net cost of such an operating expenses project. The remainder of such cost shall be provided in cash from sources other than Federal funds.

"(2) TERMS AND CONDITIONS.—Such grants shall be subject to such other terms, conditions, and requirements as the Secretary may consider necessary to promote the initiation, improvement, or continuation of privately owned and operated intercity bus services.

"(3) DISTRIBUTION.—To the maximum extent feasible, assistance shall be distributed by the Secretary only for privately owned intercity bus companies to subsidize deficit operations considering the profitability of the route as a whole. The determination of profitability shall include all income generated by the route and only direct costs of the operation of the route. In making any such grant with respect to service in a particular general area, the Secretary shall give preference to applications involving a private bus operator which lawfully has provided intercity bus service within that area during the 1-year period preceding the date of application for such a grant, as compared to applications involving proposals for such service by any other operator.

"(c) FEEDER SERVICES.—Grants for the establishment and maintenance of rural feeder services under subsection (a) of this section shall be made only to States and local public bodies thereof in order to provide financial and other incentives for such establishment and maintenance. Such incentives may include—

"(1) supplemental operating assistance to permit daily service;

"(2) extension of authorized operating hours to facilitate connections with bus and railroad services that operate in nationwide interstate commerce;

"(3) subsidization of fares; and

"(4) establishment of a special fund to pay for the marketing of rural connections and rural feeder services.

"(d) DEFINITION.—As used in this section:

"(1) INTERCITY BUS SERVICE.—The term 'intercity bus service' means transportation provided to the public by a private bus operator authorized to transport passengers in interstate commerce by the Interstate Commerce Commission or in intrastate commerce by a State regulatory commission or comparable State agency between—

"(A) one urban place as designated in accordance with subsection (a) and another such urban place;

"(B) such an urban place and an urbanized area; or

"(C) one urbanized area and another urbanized area, through rural areas or such urban places, or both, except that the term does not include local service.

"(2) RURAL FEEDER SERVICES.—The term 'rural feeder services' means transportation provided to the public that is designed to facilitate connections between a rural area and bus and railroad services that operate in nationwide interstate commerce.".

(c) EXPRESS PICKUP AND DELIVERY OF SMALL PACKAGES.—

(1) PILOT PROJECTS.—

(A) ESTABLISHMENT.—The Secretary of Transportation (hereafter in this section referred to as the "Secretary") shall establish pilot projects for the purpose of providing incentives for rural feeder services (as defined under section 26 of the Urban Mass Transportation Act of 1964) to combine ex-

press pickup and delivery of small packages with passenger transportation.

(B) GRANTS FOR PROJECTS.—The Secretary shall, not later than 9 months after the date of enactment of this section, make grants for the projects referred to in subparagraph (A), that shall not exceed 18 months in duration. The grants shall be made only to States and local public bodies and agencies thereof and shall not exceed 20 percent of the net cost of providing such pickup and delivery. The remainder of such cost shall be provided from sources other than Federal funds.

(C) PREFERRED APPLICANTS.—In making grants under this subsection, the Secretary shall, in consultation with the Interstate Commerce Commission, give preference to applicants which—

(i) demonstrate a serious community need for such pickup and delivery, in light of such circumstances as availability and proximity of existing pickup and delivery services; and

(ii) propose services by private bus operators with proven expertise in intercity bus services (as defined under section 26 of the Urban Mass Transportation Act of 1964) which possess a reasonable likelihood of continuing such pickup and delivery after grant assistance under this subsection has terminated.

(D) DEADLINE.—No grant under this subsection shall be made after September 30, 1991.

(E) AMENDMENT TO URBAN MASS TRANSPORTATION ACT.—Section 4(i) of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1603(i)) is amended by inserting, immediately before the period at the end of the first sentence, the following: ", including projects referred to in subsection (c)(1)(A) of the Rural Bus Services Act".

(2) STUDY.—The Secretary shall conduct a study to evaluate the extent to which such pickup and delivery is dependent upon Federal preemption of State regulation. The Secretary shall, not later than 12 months after the date of enactment of this section, report to Congress on the results of such study.

At the appropriate place, insert the following new title:

TITLE —SMALL BUSINESS RURAL REVITALIZATION

SEC. 01. SHORT TITLE.

This Act may be cited as the "Small Business Rural Revitalization Act of 1989".

SUBTITLE A—CAPITAL FORMATION

SEC. 11. DEFINITION OF DESIGNATED RURAL AREA.

Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695) is amended—

(1) in subsection (a), by striking out the last sentence,

(2) in subsection (1), by striking out "needs of rural areas" and inserting "needs of designated rural areas", and

(3) by adding at the end thereof the following new subsection:

"(d) DESIGNATED RURAL AREA.—The term 'designated rural area' means a county or other comparable political subdivision of a State that has been designated by the Administrator of the Small Business Administration as a designated rural area that is—

"(1) a nonmetropolitan county, as periodically defined and classified by the United States Department of Agriculture's Economic Research Service (such counties are the 2,384 of the United States' 3,096 counties (or equivalents), that each have an aggregate urban population of 50,000 individuals or less); or

"(2) a political subdivision of a metropolitan county (or its equivalent) that has an aggregate urban population of 20,000 individuals or less, that has been recommended for such designation by the District Director of the Small Business Administration for the district in which such county is located, and whose recommendation for such designation has been approved by the Administrator of the Small Business Administration, except that such District Director shall make such a recommendation only if—

"(A) through official action, the highest governing authority of such metropolitan county has specifically requested than an identifiable political subdivision of such county be a designated rural area for the purposes of this Act; and

"(B) through official action, the request referred to in subparagraph (A) has been evaluated and concurred in by the department or agency of the State that is primarily responsible for rural economic development programs within the State, and which shall make such designation request to the appropriate District Director of the Small Business Administration.".

SEC. 12. CAPITAL REQUIREMENTS FOR SMALL BUSINESS INVESTMENT COMPANIES OPERATING IN DESIGNATED RURAL AREAS.

Section 302(a) of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended—

(1) by inserting "(1)" after "(a)", and

(2) by inserting after "$500,000" the following: "; and *Provided, further,* That the combined private paid-in capital and paid-in surplus of any company licensed on or after October of 1989 pursuant to subsections (c) and (d) of section 301 shall not be less than $1,000,000."; and

(3) by adding at the end thereof the following new paragraphs:

"(2) In the case of any company licensed pursuant to subsections (c) or (d) of section 301, to assist small business concerns located in designated rural areas (as defined in section 501), such private capital may include contributions by—

"(A) State and local governments if such contributions are not directly or indirectly derived from Federal funds; and

"(B) not-for-profit institutions, if such contributions are not directly or indirectly derived from Federal funds, if—

"(i) in the case of a corporation—

"(I) such contributions do not exceed 49 percent of the corporation's combined paid-in capital and paid-in surplus;

"(II) the aggregate amount of voting stock held by such contributors does not exceed 49 percent of the total issued and outstanding voting stock of such corporation; and

"(III) not less than 60 percent of the members of the board of directors of such corporation are from the private sector; and

"(i) in the case of a partnership—

"(I) such contributions do not exceed 49 percent of the partnership capital; and

"(II) the partnership interest of such contributors is that of a limited partner.".

SEC. 13. STATE DEVELOPMENT COMPANIES.

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 507. RURAL AREA DEVELOPMENT COMPANIES.

"(a) IN GENERAL.—Notwithstanding any other provision of law, a qualified certified development company may issue a debenture that shall be guaranteed by the Federal government pursuant to section 503(a) of this title in an amount that shall not exceed the lesser of—

"(1) $1,000,000; or

"(2) an amount equal to the amount of any matching funds provided by private sector entities.

"(b) DEFINITION.—As used in subsection (a), the term 'qualified certified development company' means a certified development company that—

"(1) is located and operated in a designated rural area (as defined under section 501);

"(2) has been in operation for at least 3 years;

"(3) is in good standing with, and has management abilities approved by, the Administration; and

"(4) has a minimum portfolio of 5 loans approved and disbursed under section 504, of which at least 80 percent are current.

"(c) REVOLVING FUND.—Funds obtained under this section shall be used to establish a revolving fund to make loans to small businesses operating in rural areas in an amount not to exceed $100,000.

"(d) CRITERIA ESTABLISHED BY ADMINISTRATOR.—A development company issuing a debenture guaranteed under this section shall comply with any criteria established by the Administration and not less than 50 percent of the funds of the company shall be from private investors.

"(e) JOBS OBJECTIVES.—For purposes of this section or other sections of title V to which the requirements of section 108.503(b)(1) of title 13, Code of Federal Regulations, apply, the requirements of section 108.503(b)(1) of title 13, Code of Federal Regulations, shall be modified by substituting '$30,000' for '$15,000'.

"(f) DEBENTURES GUARANTEED.—The aggregate amount of debentures guaranteed under this section shall not exceed $25,000,000 annually. Amounts necessary to guarantee such debentures shall be derived from amounts appropriated under section 504.".

(b) CONFORMING AMENDMENT.—The table of sections for title V of the Small Business Investment Act of 1958 is amended by inserting after the item relating to section 506 the following new item:

"Sec. 507. Rural Area Development Companies.".

SUBTITLE B—REGULATORY SIMPLIFICATION; MISCELLANEOUS AMENDMENTS

SEC. 21. DEFINITION OF SMALL BUSINESS IN DESIGNATED RURAL AREAS FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) the term 'qualified designated rural area business' means any small business, as defined by the regulations issued by the Small Business Administration, that is engaged in the active conduct of a trade or business within a designated rural area (within the meaning of section 501 of the Small Business Investment Act of 1958).".

SEC. 22. INTERAGENCY REVIEW AND RECOMMENDATIONS.

(a) INTERAGENCY REVIEW.—The Administrator of the Small Business Administration

shall conduct a review of all Federal economic development programs, and all Federal laws the purposes of which are to promote rural area economic and community development, rural area business promotion, or enhancement of employment opportunities in rural communities.

(b) CONSULTATION WITH FEDERAL OFFICIALS.—The Administrator in conducting the review under subsection (a) shall consult with—

(1) the Secretary of Housing and Urban Development,

(2) the Secretary of Health and Human Services,

(3) the Secretary of Energy,

(4) the Secretary of Defense,

(5) the Secretary of Commerce,

(6) the Secretary of Agriculture,

(7) the Secretary of Labor, and

(8) any other Federal officials, including the General Accounting Office, that the Administrator may consider appropriate.

(c) REPORT.—The Administrator shall, not later than 1 year after the date of enactment of this Act, submit a report to the appropriate committees of the House of Representatives and the Senate containing the findings of the review, including—

(1) A description of existing Federal grant and loan programs, which involve community development, business promotion, and research and development, for which small businesses located in rural areas are currently eligible;

(2) recommendations regarding changes to existing law which may be needed to make small businesses which are located in rural areas eligible for current Federal grant and loan programs; and

(3) recommendations for any additional legislation that may be required to foster and support small businesses in rural areas.

At the appropriate place, insert the following new section:

SEC. . ECONOMIC IMPACT STATEMENTS.

When promulgating regulations concerning rural development activities after the date of enactment of this Act, the Federal agency or department promulgating such regulations shall issue an economic impact assessment concerning the effect of such regulations on rural communities and businesses.

At the end of title VII, add the following new section:

SEC. 7 . INFORMATION CONCERNING FEDERAL FUNDING.

In the case of each program under which funds are allocated by an executive agency to States or political subdivisions of States, or both, under a formula established by Federal law or regulation, the head of the agency shall—

(1) in each fiscal year, identify the goods and services to be procured by such executive agency during such fiscal year that may be procured from one or more commercial sources located primarily in a rural area; and

(2) in each fiscal year, identify the amount of Federal funds and grants that are to be expended on or awarded to colleges, universities, or research firms, for research and development activities during that fiscal year to determine what portion of such funds could be directed to similar institutions in rural areas.

On page 240, line 14, after the "corporations" add the words "or entities".

On page 241, line 6, add the following:

"(ii) in awarding such grants, the Secretary shall consider, among other criteria to be established by the Secretary:

"(a) the extent to which the applicant provides development services in its rural service area; and

"(b) the capability of the applicant to carry out the purposes of this section;".

Old "(ii)" becomes "(iii)".

At the appropriate place in title VII, insert the following new section:

SEC. 7 . NATIONAL RURAL DEVELOPMENT AND FINANCE CORPORATIONS.

Section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note) is amended—

(1) by striking out "to September 30, 1988," wherever it appears therein and inserting in lieu thereof "to September 30, 1991,";

(2) in subsection (a)(4), by striking out "fiscal year ending September 30, 1987," and inserting in lieu thereof "fiscal year ending September 30, 1989, September 30, 1990, and September 30, 1991,";

(3) by adding at the end of subsection (a) the following new paragraphs:

"(6) Notwithstanding any other provision of law, lenders that have provided loans that are guaranteed under this subsection shall have limited reporting responsibilities, as determined by the Secretary, concerning such loans and the National Rural Development and Finance Corporation shall be primarily responsible for the issuance of final reports concerning such loans.

"(7) Notwithstanding any other provision of law, loan guarantees provided under this subsection shall be for a period not to exceed 15 years."; and

(4) by striking out (b)(1)—

(A) by striking out "from funds transferred under paragraph (2)";

(B) by inserting the words "or expanding" after the word "establishing"; and

(C) by adding the following new sentence at the end thereof: "Such grants may also be made directly to affiliated statewide programs if the Corporation certifies to the Secretary that they are able to establish effective, ongoing State programs or rural development and revolving finance."; and

(5) by adding at the end thereof the following new subsection:

"(C) Nonprofit national rural development and finance corporations and affiliated Statewide programs that receive grants under subsection (a) or (b) may use not to exceed 10 percent of this amount of such grants over a 2-year period for program operation and administration costs.".

BUMPERS AMENDMENT NO. 660

Mr. BUMPERS proposed an amendment to the bill S. 1036, supra, as follows:

On page 240, line 14, after the corporation add the words "or entities".

On page 241, line 6, insert:

"(ii) in awarding such grants, the Secretary shall consider, among other criteria to be established by the Secretary:

"(a) the extent to which the applicant provides development services in its rural service area; and

"(b) the capability of the applicant to carry out the purposes of this section.

Old (ii) becomes (iii).

On page 236, line 23, strike out the end quotation marks and the second period.

On page 236, after line 23, add the following new paragraph:

" '(6) COORDINATION.—The Secretary shall ensure that the activities of the Extension Service rural economic and business development program established under section 502(g) of the Rural Development Act of 1972 (7 U.S.C. 3662(g)) are coordinated with the Small Business Administration to ensure that there is no duplication of activities in any local area, county or region.' ".

On page 248, line 11, strike out "$35,000,000" and insert in lieu thereof "$25,000,000".

At the appropriate place in title VI, insert the following new section:

SEC. 6XX. TECHNICAL ASSISTANCE FOR CERTAIN SOLID WASTE MANAGEMENT.

Section 310B(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(b)) is amended—

(1) by inserting "(1)" before "the Secretary";

BAUCUS AMENDMENT NO. 661

Mr. BAUCUS proposed an amendment to the bill S. 1036, supra, as follows:

At the appropriate place, insert the following new title:

TITLE .—MICROBUSINESS LOAN FUND AND MICROBUSINESS TECHNICAL ASSISTANCE FUND

SEC. 01. SHORT TITLE.

This title may be cited as the "Rural Microbusiness Loan Availability Act of 1989".

SEC. 02. FINDINGS.

The Congress finds that—

(1) in almost every major economic respect, in this decade, rural areas have fallen behind urban areas;

(2) each year, in this Nation, more than 500,000 individuals are leaving rural areas;

(3) the unemployment rate in rural areas, which has historically been lower than the unemployment rate in urban areas, is now higher than such rate in urban area;

(4) the per capita income level in rural areas is 35 percent lower than such income level of urban areas;

(5) the poverty rate, in terms of the percentage of individuals which have an income level below the poverty line (established by the Office of Management and Budget), for rural areas is 16.9 percent, as compared to a poverty rate of 12.5 percent in metropolitan areas;

(6) rural communities are in danger of being increasingly isolated from the economic mainstream of the United States as a result of deregulation of banking, communications, and transportation industries, and concomitant reductions in the services provided by such industries to rural areas;

(7) the fact that rural employment is disporportionately concentrated in industries such as agriculture, resource extraction, and low-skill manufacturing also jeopardizes the economic strength of such areas, since such industries have experienced setbacks in this decade and are not likely to experience increases in employment and assets in the foreseeable future;

(8) access to capital is critical to rural areas to enable such areas to develop a diversified economic base, create jobs, and reenter the economic mainstream of this Nation;

(9) managerial and technical assistance should be provided whenever capital is made available to rural businesses with the help of the Federal Government; and

(10) rural communities should become actively involved in economic development at the local level through partnerships between the Federal Government and the private sector, including nonprofit entities located in or near such rural communities.

Sec. 03. PURPOSE.

The purposes of this Act are—

(1) to make small scale loans available to microbusinesses through eligible entities which operate in rural communities, and

(2) to make managerial and technical assistance grants available to microbusinesses which operate in rural communities.

SEC. 04. DEFINITIONS.

For purposes of this title—

(1) ADMINISTRATON.—The term "Administration" means the Small Business Administration.

(2) ELIGIBLE APPLICANT.—The term "eligible applicant" means an eligible entity or a Small Business Development Center, as defined in section 21(a)(1) of the Small Business Act (15 U.S.C. 648).

(3) ELIGIBLE ENTITY.—The term "eligible entity" has the same meaning as in section 101(2) of this Act.

(4) ELIGIBLE MICROBUSINESS.—The term "eligible microbusiness" means a microbusiness—

(A) which is otherwise unable (using reasonable efforts) to secure credit of the scale made available under this title,

(B) which meets the requirements of the economic development workplan submitted by the eligible entity or eligible applicant, and

(C) which is located in the rural community in which the eligible entity conducts loan-related activities or the eligible applicant conducts grant-related activities.

(5) MICROBUSINESS.—The term "microbusiness" means a business which employs no more than 10 full-time (or the equivalent of 10 full-time) employees.

(6) RURAL COMMUNITY.—The term "rural community" means a county or other comparable subdivision of a State which has been designated by the Administration as a rural community, and is—

(A) a county or other comparable political subdivision of a State with a population of not more than 50,000, or

(B) a county or other comparable political subdivision of a State with a population greater than 50,000 which is recommended for designation as a rural community by the District Director of the Administration for the district in which such county or subdivision is located, and with respect to which such designation is approved by the Administration.

SEC. 05. ESTABLISHMENT OF MICROBUSINESS LOAN FUND.

There is established in the Treasury a revolving fund to be known as the "Microbusiness Loan Fund". The captial of the Microbusiness Loan Fund shall remain available until expended. Any profits or income derived from the activities of the Fund less operating expenses incurred in administering such Fund shall be placed in such Fund. The Fund shall be credited with amounts appropriated pursuant to section 20(i)(1) of the Small Business Act. Amounts in the Microbusiness Loan Fund may be used to fund loans to eligible entities selected as loan recipients under section 06 of this title.

SEC. 06. LOANS FROM THE MICROBUSINESS LOAN FUND AND TECHNICAL ASSISTANCE GRANTS.

(a) LOANS FROM THE MICROBUSINESS LOAN FUND.—The Administration shall make loans from the Microbusiness Loan Fund to eligible entities selected as loan recipients and such loans may be used—

(1) to provide loans or loan guarantees to eligible microbusinesses, and

(2) to pay administrative costs in connection with loans and loan guarantees under paragraph (1).

(b) MICROBUSINESS MANAGERIAL AND TECHNICAL ASSISTANCE GRANTS.—The Administration shall make Microbusiness Managerial and Technical Assistance Grants to eligible applicants which have existing programs (or programs scheduled for concurrent funding) which provide managerial and technical assistance (including preparation of business plans, financial analysis, loan servicing, management counseling, marketing analysis, engineering services, and any other assistance necessary for the general operation of a small business enterprise) and program administration. Such grants may be used—

(1) to provide such managerial and technical assistance,

(2) to provide funds to subgrantees who may provide such managerial and technical assistance on behalf of a recipient of a grant awarded under this subsection, and

(3) to provide administrative costs to carry out the purpose in paragraph (1).

(c) LOAN AND GRANT LIMITS.—Not more than $500,000 per loan per fiscal year may be provided by the Administration to fund a loan to an eligible entity from the Microbusiness Loan Fund, and not more than $200,000 per grant per fiscal year may be used to fund a Microbusiness Managerial and Technical Assistance Grant to an eligible applicant.

(d) LOAN REPAYMENT AND INTEREST.—A loan to an eligible entity from the Microbusiness Loan Fund shall be repayable in not more than 15 years after the date that such loan is awarded. The maximum rate of interest for any such loan shall be 5 percent.

(e) LOAN AND GRANT COMPETITION.—(1) The Administration shall conduct a nationwide competition through an application process. In order to be considered for a loan or grant under this section, an economic development workplan shall be submitted to the Administration as part of the application process. The Administration shall select for loans or grants those applicants which best meet the criteria established by the regulations under paragraph (5).

(2) With respect to a loan application for a loan from the Microbusiness Loan Fund, the economic development workplan required under paragraph (1) shall include—

(A) description of the number and types of microbusiness in the rural community from which the eligible entity expects to receive applications for loans or loan guarantees,

(B) the type of support to be provided, including loans or loan guarantees,

(C) an estimate of the number of jobs to be created or retained,

(D) a description of the economic condition of the rural community in which the eligible entity plans to provide loans or loan guarantees, and

(E) a description of the managerial and technical assistance which such eligible entity plans to provide to eligible microbusinesses.

(3) With respect to an application for a Microbusiness Managerial and Technical Assistance Grant, an eligible applicant shall provide—

(A) a description of the existing program (or program schedules for a concurrent program) which the eligible applicant intends to provide,

(B) the type of managerial and technical assistance to be provided (including preparation of business plans, financial analysis, loan servicing, management counseling, marketing analysis, engineering services, and any other assistance necessary for the general operation of a small business enterprise),

(C) sufficient evidence and a certification that such managerial and technical assistance shall be provided,

(D) an estimate of the number of jobs to be created or retained, and

(E) a list of subgrantees and the type of managerial and technical assistance to be provided by such subgrantees.

(4) The Administration shall use its best efforts to ensure that at least one eligible entity from each State that the Administration determines to have a significant rural population receives a loan from the Microbusiness Loan Fund and that at least one eligible applicant from each such State receives a Microbusiness Managerial and Technical Assistance grant.

(5) Not later than 90 days after the date of enactment of this Act, the Administration shall issue regulations establishing criteria for the competition for loans and grants under this section. Such criteria shall take into consideration the quality of the economic development workplans submitted.

(f) APPROVAL OF LOANS AND GRANTS.—(1) LOANS.—If the Administration approves the economic development workplan of an eligible entity selected under subsection (e)(1), then the Administration shall approve a loan for such eligible entity and shall execute a contract stating the terms of such loan with the recipient, including conditions for repayment of such loan.

(2) GRANTS.—If the Administration approves the economic development workplan of an eligible applicant selected under subsection (e)(1), then the Administration shall approve a grant for such eligible applicant and shall execute a contract stating the terms of such grant with the recipient.

(g) MONITORING BY THE ADMINISTRATION.—(1) The Administration shall conduct an annual audit to ensure that any loan or grant awarded under this section is administered in accordance with this section and any other applicable law.

(2) If the Administration determines, upon review of the results of an audit described under pararaph (1), that a recipient is in violation of the terms of a loan or grant awarded under this section, the Administration may recall such loan or grant and require the recipient to repay any funds from such loan or grant.

SEC. 07. DISBURSEMENT OF LOAN FUND BY MICROBUSINESS LOAN FUND RECIPIENTS.

(a) LOCAL REVOLVING FUNDS.—All funds received by a loan recipient for a loan from the Microbusiness Loan Fund shall be placed into a revolving fund to be administered by the loan recipient, in accordance with procedures established by the Administration, and any profits or income derived from the activities of the revolving fund less operating expenses incurred in administering such funds shall be placed in such fund.

(b) LOAN OR LOAN GUARANTEE SIZE LIMITS.—The amount to be provided to an eligible microbusiness from a loan revolving fund described in subsection (a) shall not exceed the lesser of—

(1) 75 percent of the amount of total financing for the investment with respect to which such loan or loan guarantee relates, or

(2) $25,000.

(c) INTEREST.—The maximum rate of interest on any loan made by an eligible entity to a microbusiness shall be legal and reasonable but shall not exceed a rate prescribed and published quarterly by the Administration. The rate of interest prescribed by the Administration shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 percent, and an additional amount as determined by the Administration, but not to exceed 1 percent per year.

SEC. 08. AUTHORIZATION.

Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(i) MICROBUSINESS LOAN FUND LOANS AND MICROBUSINESS MANAGERIAL AND TECHNICAL ASSISTANCE GRANTS.—(1) There are authorized to be appropriated to the Administration for fiscal years 1990 and 1991—

"(A) $25,000,000 for the Microbusiness Loan Fund, and

"(B) $10,000,000 for Microbusiness Managerial and Technical Assistance Grants under section 06 of the Rural Access to Capital Act of 1989.

"(2) Notwithstanding any other provision of law, of the amounts made available to carry out section (7)(i) for fiscal years 1990 and 1991, the Administration shall make available such amounts for each fiscal year to carry out the programs described in paragraph (1).".

On page 123, line 21, strike "and".

On page 123, line 22, strike "(D)" and insert in lieu thereof "(E)".

On page 123, between lines 21 and 22 insert the following new subparagraph:

"(D) the Administrator of the Small Business Administration; and".

On page 123, line 22, strike "two members" and insert in lieu thereof "one member".

Beginning on page 234, line 15, strike all through page 236, line 23.

Beginning on page 240, line 8, strike all through page 241, line 8.

DISASTER ASSISTANCE ACT

LEAHY AMENDMENT NO. 662

Mr. LEAHY proposed an amendment to the bill (S. 1429) to provide disaster assistance to producers who suffered certain losses in the quality of the 1989 crop of a commodity harvested as a result of excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989, and for other purposes, as follows:

On page 194, line 10, insert "or to other non-profit entities that meet the requirements of this section," after "Act".

On page 194, line 12, strike out "by such borrowers" and insert in lieu thereof "as defined in this Act".

On page 195, line 12, insert after the period the following: "Nonprofit entities that are not borrowers under title III shall be considered eligible borrowers for the purpose of this section if such entities are located in a State in which one or fewer electric borrowers are headquartered in such State.".

On page 196, strike out line 14 and all that follows through line 22 on page 197.

On page 197, line 23, strike out "(2)" and insert in lieu thereof "(1)".

On page 198, strike out lines 16 through line 7 on page 199, and insert in lieu thereof the following new paragraph:

"(2) BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall, subject to the limitations contained in annual appropriations Acts, provide funds for the capitalization of the Incubator Fund, and there are authorized to be appropriated amounts not to exceed $10,000,000 annually for such capitalization until the total of such capitalization shall equal $60,000,000. Such amounts shall remain available until expended by the Incubator Fund for the purposes of this section.".

On page 199, line 18, after the first period add the following new sentence: "During each fiscal year, 10 percent of the amount contained in the Incubator Fund shall be made available to nonprofit entities, as provided under subsection (b), that are not borrowers under title III, except that if qualified applications from such entities are not received in an amount or at such times sufficient to utilize such 10 percent amount during each such fiscal year, the Administrator shall make the remainder of such amount available to other eligible borrowers during such fiscal year.".

(1) It is the Sense of the Congress that a National Endowment for Rural Development should be established with the effective use of both public and private funds to maximize development in rural communities in every feasible way.

(2)(a) The Executive Office of the President shall undertake a review of a National Endowment for Rural America, for the purposes of determining the desirability of such an Endowment for rural developments.

(b) That review shall be completed by January 1, 1990 and shall make recommendations to the Congress on appropriate legislation to implement such an Endowment.

(c) These recommendations should focus on, but not be limited to:

(1) the purposes and goals,

(2) the organizational structure with private and public participation.

(3) funding sources for the Endowment.

(4) eligible awardees of endowment.

LEAHY (AND LUGAR) AMENDMENT NO. 663

Mr. LEAHY (for himself and Mr. LUGAR) proposed an amendment to the bill S. 1429, supra, as follows:

On page 3, line 19, after "60 percent", insert the following: "(or, in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent)".

On page 4, strike lines 5 through 12 and insert "to such producers at a rate equal to 65 percent of the established price for the crop for any deficiency in production greater than 40 percent (or, in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act, 35 percent) for the crop."

On page 7, lines 1 and 2, strike "does not exceed" 40 percent of the qualifying amount." and insert "does not exceed"

"(A) in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act, 35 percent of the qualifying amount; and

"(B) in the case of other producers, 40 percent of the qualifying amount.".

On page 7, line 25, strike "55 percent" and insert "50 percent".

On page 8, strike lines 7 through 19 and insert the following:

(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 50 percent for the crop.

On page 10, line 13, after "60 percent", insert the following: "(or, in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent)".

Beginning on page 10, strike line 20 and all that follows through page 11, line 12, and insert the following:

(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the applicable payment level under paragraph (3) as determined by the Secretary, for any deficiency in production greater than—

(A) in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act—

(i) 35 percent for the crop; or

(ii) with respect to a crop of burley tobacco or flue-cured tobacco, 35 percent of the farm's effective marketing quota for 1989; and

(B) in the case of producers who did not obtain crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act—

(i) 40 percent for the crop; or

(ii) with respect to a crop of burley tobacco or flue-cured tobacco, 40 percent of the farm's effective marketing quota for 1989.

On page 15, line 6, strike "soybeans" and insert "soybeans and sunflowers".

On page 15, line 18, strike "55 percent" and insert "50 percent".

On page 16, line 3, strike "55 percent" and insert "50 percent".

On page 16, strike lines 8 through 18 and insert the following:

(B) PAYMENT RATE.—The payment shall be made to such producers at a rate equal to 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 45 percent for soybeans and sunflowers (50 percent for other nonprogram crops) for the crop.

On page 19, line 6, strike "or soybeans" and insert "soybeans, or sunflowers".

On page 36, between lines 8 and 9, insert the following new section:

SEC. 303. FMHA LOANS MADE TO INDIAN TRIBES.

The Act entitled "An Act to provide for loans to Indian tribes and tribal corporations, and for other purposes" (25 U.S.C. 488 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 6. REDUCTION OF UNPAID PRINCIPAL.

"(a) IN GENERAL.—The Secretary of Agriculture may, on the application of the borrower of a loan or loans made under this Act, reduce the unpaid principal balance of such loan or loans to the current fair market value of the land purchased with the proceeds of the loan or loans if—

"(1) the fair market value of the land has declined by at least 25 percent since such land was purchased by the borrower;

"(2) the land has been held by the borrower for a period of at least 5 years; and

"(3) the Secretary of the Interior finds that the borrower has insufficient income to both repay the loan or loans and provide normal tribal governmental services.

"(b) FAIR MARKET VALUE.—

"(1) APPRAISAL.—Current fair market value under subsection (a) shall be determined through an appraisal by an independent qualified fee appraiser, selected by mutual agreement between the borrower and the Secretary of Agriculture.

"(2) COSTS.—The cost of appraisals undertaken under paragraph (1) shall be paid by the Borrower.

"(c) APPEALS.—Decisions of the Secretary of Agriculture under this section shall be appealable in accordance with the provisions of section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b).

"(d) FUTURE APPLICATIONS.—A borrower that had a loan or loans reduced under this section shall not submit an application for another reduction on such loan or loans for a period of 5 years after the initial reduction.".

At the appropriate place in title I, insert the following new section:

SEC. . CALCULATION OF COMMODITIES PRODUCED ON DRY AND IRRIGATED LANDS.

For purposes of determining eligibility for and the amount of disaster assistance made available under this title, the Secretary of Agriculture may separately calculate—

(1) The quantity of a commodity that is produced on a farm on dry land; and

(2) the quantity of the commodity that is produced on the farm on irrigated land.

At the end of subtitle A of title I, add the following new section:

SEC. 110. SUBSTITUTION OF CROP INSURANCE PROGRAM YIELDS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Agriculture may permit each eligible producer (as defined in subsection (d)) of a 1989 crop of a commodity who has obtained multiperil crop insurance for such crop (or, as provided in subsection (c), who obtained multiperil crop insurance for the producer's 1988 crop of such commodity) under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to substitute, at the discretion of the producer, the crop insurance yield for such crop, as established under such Act, for the farm yield otherwise assigned to the producer under this subtitle, for the purpose of determining such producer's eligibility for a disaster payment on the 1989 crop under this subtitle and the amount of such payment.

(b) ADJUSTMENT OF ADVANCED DEFICIENCY PAYMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, if an eligible producer of wheat, feed grains, cotton, or rice elects to substitute yields for such producer's 1989 crop under subsection (a), the producer's eligibility for a waiver or repayment of an advance deficiency payment on such crop under this subtitle shall be adjusted as provided in paragraph (2)

(2) AMOUNT.—The amount of production of such crop on which the producer otherwise would be eligible for waiver of repayment of advance deficiency payments under this subtitle shall be reduced by an amount of production equal to the difference between—

(A) the amount of production eligible for disaster payments under this subtitle using a substituted yield under this section; and

(B) the amount of production that would have been eligible for disaster payments using the farm program payment yield otherwise assigned to the producer under this subtitle.

(c) MULTIPERIL CROP INSURANCE NOT AVAILABLE.—A producer may use the crop insurance yield for the producer's 1988 crop of a commodity for purposes of substituting yields under subsection (a) if the producer demonstrates to the Secretary that, through no fault of the producer, multiperil crop insurance under the Federal Crop Insurance Act was not made available to the producer for the producer's 1988 crop of the commodity.

(d) DEFINITION OF ELIGIBLE PRODUCER.—For purposes of this section, the term "eligible producer" means a producer of the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.

At the end of title VI, add the following new section:

SEC. 604. CROP INSURANCE YIELD COVERAGE.

The Federal Crop Insurance Act is amended by inserting after section 508 (7 U.S.C. 1508) the following new section.

"SEC. 508A. CROP INSURANCE YIELD COVERAGE.

"(a) IN GENERAL.—

"(1) YIELD COVERAGE.—Effective beginning with crops harvested in 1990, the Corporation may implement multiperil crop insurance underwriting rules that ensure that yield coverage, as specified in subsection (b), is provided to producers participating in the Federal crop insurance program.

"(2) APPLICATION.—Such underwriting rules and yield coverage, as specified in subsection (b), shall apply to wheat, feed grains, cotton, rice peanuts, tobacco, and soybeans.

"(b) YIELD COVERAGE.—

"(1) GENERAL COMMODITIES.—

"(A) PLANS.—A crop insurance contract offered to a producer of a crop of wheat, feed grains, cotton, rice, peanuts, or tobacco shall make available to such producer—

"(i) yield coverage based on the producer's farm program yield for the crop established under the program for the commodity involved; or

"(ii) a plan that uses the producer's actual production history for the 5 previous crops, subject to paragraph (3), to determine the yield coverage.

"(B) COMMODITY-BY-COMMODITY BASIS.—A producer may choose between the two alternatives described in subparagraph (A) on a commodity-by-commodity basis.

"(2) SOYBEANS.—A crop insurance contract offered to a producer of a crop of soybeans shall be based on a yield coverage plan that uses the producer's actual production history for the 5 previous crops, subject to paragraph (3), to determine the yield coverage.

"(3) ACTUAL PRODUCTION HISTORY.—

"(A) INADEQUATE DOCUMENTATION.—Under a plan that uses actual production history, as provided for in paragraph (1) or (2), if the producer does not submit adequate documentation of such history for a crop—

"(i) in the case of any commodity other than soybeans, the producer shall be assigned the producer's farm program yield for that crop of the commodity; and

"(ii) in the case of soybeans, the producer shall be assigned a yield equal to 100 percent of the area average yield for that crop of soybeans, as established by the Corporation.

"(B) NOTICE OF AREA AVERAGE YIELDS.—Area average yields applicable to any county shall be posted and available for inspection at the county office of the Agricultural Stabilization and Conservation Service.

"(C) MINIMUM COVERAGE.—In no case may a producer's coverage under such plan that uses equal production history be less than the coverage established using farm program yields, or (for soybeans) 100 percent of the most recent area average yield.

"(c) USE OF YIELD COVERAGE PROVISIONS.—

"(1) NOTICE.—The Corporation shall ensure that, whenever the yield coverage provisions of this section go into effect, producers are given adequate notice of such provisions in advance of the crop insurance sign-up period applicable to the crops to which such provisions first will apply.

"(2) SIGN-UP PERIOD.—To the extent that the provisions are made applicable to the 1990 crops, the Corporation shall ensure that the sign-up period for any 1990 crop does not end earlier than 60 days following the publication of notice of such provisions in the Federal Register."

DOMENICI AMENDMENT NO. 664

Mr. LEAHY (for Mr. DOMENICI) proposed an amendment to the bill S. 1429, supra, as follows:

SEC. . FINDINGS.—The Congress finds that—

(1) The federal government of the Republic of Mexico recently issued new regulations regarding the importation of livestock.

(2) These regulations ban the importation of certain classes of livestock as well as require excessive health restrictions and certification for imported animals

(3) These regulations erect barriers to livestock trade between the two countries

(4) These regulations are not consistent with the General Agreement on Tariffs and Trade which advocates free trade between all nations and the elimination of tariff and non-tariff trade barriers

(5) The Republic of Mexico is a member of the General Agreement on Tariffs and Trade

Now, therefore, it is the sense of the Congress that conditions have recently developed in the livestock trade between the United States and the Republic of Mexico such that the Secretary of Agriculture and the United States Trade Representative should review this grave situation in an expeditious manner and work with the appropriate officials in the Republic of Mexico to achieve free livestock trade between the two nations.

Further, a written request will be made of the Secretary of Agriculture and the United States Trade Representative to resolve this situation.

RURAL PARTNERSHIP ACT

LEAHY (AND OTHERS) AMENDMENT NO. 665

Mr. LEAHY (for himself, Mr. CONRAD, Mr. DASCHLE, and Mr. SANFORD) proposed an amendment to the bill S. 1036, supra, as follows:

On page 132, line 25, strike out "the counties containing the" and inserting in lieu thereof "identified".

On page 138, line 7, strike out "; and" and insert in lieu thereof "or identified rural

areas within a State in which the average per capita income is less than 70 percent of the nationwide per capita income; or".

On page 138, between lines 7 and 8, insert the following new clause:

"(iii) any county where the net migration population loss is at least 5 percent or greater from April 1, 1980, to July 1, 1987, as reported by the Census Bureau of the Department of Commerce; and".

On page 138, line 8, strike out "(E)" and insert in lieu thereof "(F)".

On page 140, strike out lines 1 through 3, and insert in lieu thereof the following:

"(G) that propose to serve a service area—

"(i) whose unemployment or poverty rates exceed the Statewide nonmetropolitan average;

"(ii) with special needs arising from actual or threatened severe unemployment arising from economic dislocation; or

"(iii) that includes any county in which the net migration population loss is at least 5 percent or greater from April 1, 1980, to July 1, 1987, as reported by the Census Bureau of the Department of Commerce.".

On page 141, line 18, insert before the semicolon the following: ", that many include areas with special needs arising from actual or threatened severe unemployment which results from economic dislocation".

NOTICES OF HEARINGS

SUBCOMMITTEE ON GOVERNMENT CONTRACTING AND PAPERWORK REDUCTION

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee's Subcommittee on Government Contracting and Paperwork Reduction has postponed its August 3, 1989, hearing on the Paperwork Reduction Act of 1980. The hearing will be rescheduled for sometime in September. For further information, please call Bill Montalto, Procurement Policy Counsel for the committee at 224-5175, or Laura Abplanalp, of Senator DIXON's staff at 224-5334.

SPECIAL COMMITTEE ON AGING

Mr. PRYOR. Mr. President, I would like to announce for the public that the Senate Special Committee on Aging has scheduled a field hearing on access to health care for the elderly.

The hearing will take place on Monday, August 7, 1989, beginning at 1:30 p.m., at the St. Luke's Midland Health and Wellness Center, 709 6th Avenue, SE., Aberdeen, SD. The hearing will be chaired by committee member, LARRY PRESSLER.

For further information, please contact Mary Schneider at (202) 224-5842.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DIXON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, August 2, 1989, 9:30, to conduct a business meeting pending calendar business. Please note that this meeting could continue throughout the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. DIXON. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on August 2, 1989, beginning at 11:30 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate S. 321, the Buy Indian Act Amendments of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DIXON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, August 2, at 2 p.m., to hold a hearing on State Department and ambassadorial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DIXON. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Wednesday, August 2, 1989, at 9 a.m., to conduct a hearing on the investigation of abuses in the HUD Moderate Rehabilitation Program; and to vote on pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DIXON. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, August 2, at 9:30 a.m., for a hearing on the subject: the Department of Energy's Radiation Health Effects Research Program and working conditions at DOE sites.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. DIXON. Mr. President, I ask unanimous consent that the Subcommittee on Communications, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 2, 1989, at 9 a.m., to hold a hearing on S. 1009, legislation to amend the provisions of the Communications Act concerning the purchase of broadcast time by political candidates.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DIXON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, August 2, 1989, at 2 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. DIXON. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, August 2, beginning at 9:30 a.m., to conduct a hearing on S. 630, a bill to conserve, protect, and to restore the coastal wetlands of the State of Louisiana, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HONORING COL. THOMAS W. WOOD, COMMANDER IN CHIEF, U.S. PACIFIC COMMAND, HAWAII

● Mr. HATCH. Mr. President, today I take great pride and pleasure in honoring Col. Thomas W. Wood who is retiring today as Deputy Director, Public and Governmental Affairs Directorate and Chief Protocol, Commander in Chief, U.S. Pacific Command [USPACOM], Camp H.M. Smith, Hawaii.

Colonel Wood, a native Utahn, has completed a distinguished career including assignments as navigator, instructor navigator, chief base navigator, and military chief of protocol. He has also served as Chief of Weapons System Information Office and Deputy Director of Competition Advocacy at the Ogden Air Logistics Center, Hill Air Force Base, UT; and as air attache, U.S. Defense Attaché Office, American Embassy, Wellington, New Zealand.

Colonel Wood has dedicated his working life to our country's welfare, and I feel it is appropriate at this time for the U.S. Congress to honor and thank him for a job well done and for his service on behalf of our country.●

FEDERAL EMPLOYERS' LIABILITY ACT [FELA] AMENDMENT TO S. 462

Mr. KASTEN. Mr. President, today I am submitting for the RECORD an amendment which I intend to offer to S. 462, the Amtrak reauthorization bill.

My amendment provides for a 3-year study during which Amtrak employees would be compensated for work-related injuries under the no-fault State workers compensation systems rather than under the fault-based Federal Employers' Liability Act [FELA]. The

present FELA system would remain in effect during this time for all other rail employees. Upon the conclusion of the 3-year study, the General Accounting Office would be asked to study the impact of workers' compensation on employee safety, the adequacy of compensation under the State programs, and the cost savings Amtrak would realize by being covered under State workers' compensation programs.

The amendment sunsets at the end of the 3-year test period. Thus, Amtrak would automatically revert to the FELA system unless Congress affirmatively acted to change the law.

By way of background, Mr. President, FELA was enacted in 1908 in response to the then very dangerous working conditions in the railroad industry. At the beginning of this century, the railroad industry was the dominant industrial employer. Because FELA preceded the development of modern no-fault Sate worker's compensation laws, the Congress, in responding to the clear need for a workers compensation law to deal with injuries in the industry, relied upon the existing concepts of tort law in structuring this system. However, concerns on the part of many Members of Congress and others as to the fairness of FELA led shortly after its enactment to continued analysis and study of the system. Thus, the Sutherland Commission was created by the Congress in 1910 to examine the 2-year old FELA system.

In its report to the Congress in 1912, the Commission stated it was:

unanimously of the opinion that the existing system of employers' liability based upon negligence, with the defenses of assumption of risk, fellow servant fault, and contributory negligence, no longer met the requirements of modern industrial conditions; . . . and in the operation resulted in waste, plausible antagonism between employer and employee in giving to a few injured employees large and sometimes extravagant damages, while leaving the great majority to bear the entire burden without any recompense whatsoever.

The Commission recommended that the Congress enact legislation to replace FELA, "putting in the place of it a law based not upon fault but upon the fact of injury resulting from accident in the course of employment. * * *".

Efforts from 1910 through 1939 in the Congress to change FELA to a no-fault based system proved unsuccessful as FELA trial lawyers and some union leaders worked to maintain the fault-driven system. While maintaining the fault-based nature of FELA, changes to the law were enacted in 1939 to make it easier for an injured worker to receive compensation.

From 1939 until last year, when the Commerce Committee's Surface Transportation Subcommittee held a hearing on FELA in relation to Amtrak, the Congress had done nothing further with respect to this law.

In the interim, however, the Supreme Court stepped in on numerous occasions to reshape FELA, increasing to the greatest extent it felt possible the likelihood that injured rail workers would be compensated for their work-related injuries. Despite its many efforts to transform FELA into a better system from the employees' perspective, it was constitutionally precluded from restructuring FELA to follow the no-fault principles underlying State workers' compensation laws. Therefore, FELA remains a system out of synch with the commonly accepted no-fault approach of compensating workers for on-the-job-injuries which has been adopted by all 50 States.

Despite the changes made to the act in 1939, and the Supreme Court's efforts in changing the law, FELA continues to suffer from four specific problems which justify a 3-year study during which Amtrak would be treated like other industries in this country, including the employees of the airlines, truck, and bus industries.

FELA fails to assure that all injured workers are guaranteed fair and prompt compensation when they are injured. Because fault must be established for a worker to recover, some injured railroad workers receive no compensation while others receive rewards far in excess of what would be considered reasonable. In essence, the system produces many unfair and unpredictable results.

FELA guarantees that a small group of specialized FELA trial lawyers will grow rich from representing injured rail workers. These lawyers will take 25 to 40 percent of the amount recovered by an injured worker. In the case of Amtrak, which receives Federal subsidies on the order of $600 million per year, this amounts to an enormous Federal subsidy to trial lawyers.

FELA adversely affects the ability of Amtrak and the freight railroads to compete for business because its competitors' employees are covered under State workers' compensation laws. However, I stress that only Amtrak employees would be affected by this amendment.

FELA continues to stand in the way of improved labor-management relations and increased rail safety. Because recovery can only occur if fault is proven, the employee and management immediately start pointing an accusatory finger at one another rather than working together to determine the cause of the accident that resulted in the injury. Thus contrary to those who argue that FELA promotes safety, FELA acts as an impediment to joint efforts to further improve safety on Amtrak, just as it does in the entire rail industry.

Mr. President, my amendment is a modest and reasonable effort to provide facts upon which future public policy decisions regarding FELA can be made. Right now we just have the arguments of the two sides to this debate. I believe that rail workers would be better off if they were covered under State workers' compensation laws like the employees of other industries, including other transportation industries. During this study, Amtrak employees would not be uncovered, but rather we would be offering these employees equal coverage to that provided to virtually all other workers in this country.

To those who have suggested that FELA serves as a safety statute, I would suggest that the testimony of Amtrak's president, Graham Claytor, which has been presented to the Surface Transportation Subcommittee on several occasions now, and points out the negative effect FELA has on safety, is the demonstrably more logical analysis.

Mr. President, in the last 10 years attorney involvement in FELA cases in the railroad industry has increased from 15 to 32 percent; payments, excluding medical expenses and administrative costs have risen from $296 million to $811 million—a 174 percent increase; and the average payment per claim has increased from $8,004 in 1979 to $37,852 in 1988. All this has occurred while employment has dropped from 487,534 to 259,696. Between 1981 and 1986, railroad employment was down 35 percent, injuries dropped 53 percent, yet FELA lawsuits more than doubled.

In the case of Amtrak, in the last 7 years it has seen its total costs for employee injury cases triple to nearly $54 million.

After 80 years, I believe the situation surrounding the FELA system justifies another approach being explored. That is precisely the purpose of my amendment, which is supported by the National Industrial Transportation League—the Nation's oldest and largest association of shippers—the National Taxpayers' Union, the Railway Progress Institute, the National Association of Railroad Passengers, the American Short Line Railroad Association, the Regional Railroad Association, the Association of American Railroads, Amtrak, and others.

I look forward to the support of my colleagues on this amendment when the Amtrak reauthorization bill comes before this body for consideration.

Mr. President, I ask that the text of the amendment be printed in the RECORD immediately following my remarks.

The amendment follows:

AMENDMENT OF SENATOR KASTEN TO S. 462, THE AMTRAK REAUTHORIZATION BILL

To provide for a 3-year program to resolve Amtrak employee workplace injury claims under State workers' compensation laws rather than under the Federal Employers' Liability Act [FELA]

The Rail Passenger Service Act is amended by adding thereto the following new title XI:

TITLE XI

LIABILITY FOR INJURIES

SEC. 1101. DEFINITIONS.—For purposes of this title only, the following terms shall have the meaning specified below:

(1) "Primary entitlement to benefits" means the combined entitlement of any employee of the Corporation to annuities or other benefits under (a) the Railroad Retirement Act of 1974, 45 U.S.C. 231 et seq., (b) the Railroad Unemployment Insurance Act, 45 U.S.C. 351 et seq., (c) the Social Security Act, 42 U.S.C. 301 et seq., (d) any publicly funded benefits program, and (e) any program of retirement, disability, or medical benefits paid for in whole or in part by the Corporation.

(2) "Principal place of employment" of an employee of the Corporation means the state in which the employee normally reported for duty at the time when the events occurred that caused or contributed to the injury or death that is the subject of a work-related claim. Notwithstanding the preceding sentence, if an injury or death giving rise to a work-related claim is caused by cumulative events or is determined to be an occupational disease, the principal place of employment with respect to such claim shall be the state in which the employee normally reported for duty at the time the claim was filed. If there is no single state where the employee normally reported for duty, the principal place of employment shall be the state in which the office of the employee's immediate supervisor was located.

(3) "Railroad" means any railroad, transportation authority or other entity with which the Corporation has contracted for provision of services or use of tracks and facilities, and includes the officers, agents, servants, subsidiaries, and employees of such organizations.

(4) "Work-related claim" means a claim against the Corporation or a railroad by or with respect to an employee of the Corporation for injury, death, or occupational disease arising out of and in the course of the employee's employment.

(5) "Workers' compensation law" means the legal standards and procedures established in a state for handling claims by or with respect to employees in general in that state for injuries or death arising out of and in the course of their employment, but shall not include legal standards or procedures limited to one or more specific industries, trades, or professions.

SECTION 1102. EMPLOYEE INJURIES

(a) Notwithstanding any provision of law excluding railroad employees from coverage by a state's workers' compensation law or authorizing a railroad employee to bring a tort claim against a railroad, any work-related claim shall be governed by the workers' compensation law of the state in which the employee's principal place of employment is located. An employee shall be entitled to benefits under a workers' compensation law only to the extent that the amount of benefits under such law exceeds his or her primary entitlement to benefits.

(b) The provisions of the Federal Employers' Liability Act (45 U.S.C. 51 et seq.) shall not apply to work-related claims governed by this title, and the applicable state workers' compensation law shall be the exclusive remedy with regard to work-related claims by employees of the Corporation against the Corporation or a railroad.

(c) This title shall apply to (i) all work-related claims caused in whole or in part by activities that occurred in the course of the employment relationship and occurred between October 1, 1989 and September 30, 1992, and (ii) all claims for occupational disease filed during the period commencing with the date of enactment of this title and ending three years after the date of enactment.

(d) Notwithstanding any requirements contained in the workers' compensation law of any state, including requirements for bonding and licensing, the Corporation shall be deemed qualified to self-insure for workers' compensation coverage under the laws of all states, and no state shall deny workers' compensation benefits to an employee of the Corporation based upon a failure of the Corporation to comply with such qualification requirements.

(e) Notwithstanding Section 306(n) of this Act or any other provision of law to the contrary, the Corporation shall be subject to the workers' compensation taxes and assessments of a state in the same manner and to the same extent as any other self-insured entity doing business within the state that is governed by the workers' compensation law of that state.●

TRIBUTE TO THE MOTHER OF "THE FALLEN FIREFIGHTER"

● Mr. SHELBY. Mr. President, I rise today to pay tribute to Mrs. Essie Bradford of Pine Hill, AL. Essie Bradford is an exceptional individual who has dedicated her life to serving her community and the great State of Alabama. A member of the State Democratic Executive Committee and the Pine Hill Town Council, politics is a primary occupation for Mrs. Bradford.

When she does have a spare moment, Essie writes poetry. Recently she was selected by the board of directors of the World of Poetry to receive the prestigious Golden Poet Award. Essie will now join winners from across the country in Washington on September 1, 1989, as a part of the World of Poetry's annual convention.

Mr. President, in addition to being a servant of the community, Essie Bradford is also a dedicated mother. The poem that won her the Golden Poet Award was dedicated to her late son, Randy, and is entitled "The Fallen Firefighter." I would like to share with my colleagues in the Senate this moving testimony of a mother's love for her son.

"THE FALLEN FIREFIGHTER"

(By Essie M. Bradford)

The firebell rang,
Much noise was in the air.
In just a short while,
our hearts were filled with despair.
Much of the town was watching,
in shock and disbelief.
As the huge fire got out of hand,
friends and relatives were stricken with grief.
It's so very hard to console,
little children of our land.
Many have never known death,
and find it hard to understand.
As many watched in sorrow,
hoping the fireman could survive,
A Celestial firetruck was sent
We couldn't see when it arrived.
The fireman had shed the old firesuit,
and a clay vessel he wore.
The new firetruck was waiting
to usher him in the door.
"Well done my faithful servant,
enter the joy of the Lord,"
said the angel guarding the door,
as the fireman got on board.
This new firetruck was purest crystal,
decorated with precious stones.
The driver said, "welcome aboard,"
we've come to take you home.
The fireman was given an award,
Surprised, he looked down to see,
Whatsoever is done to the least of
these is done unto Me.
He then thought of his little children,
whom he had loved so much,
Also the many little problems
when they would need daddy's special touch.
With Excitement! he thought of Heaven,
when he remembered what God had said,
"Of such is the Kingdom of Heaven,"
as He touched a child on the head.
The Fireman's attempt to put the fire out
had not really failed at all!
The fireman was promoted:
he answered a greater call.

Mr. President, I was so touched by this poem "The Fallen Firefighter." It is a moving tribute to Randy and to his commitment to his family, his community, and his fellow man. Essie Bradford's ability to share Randy's life with others through this poem will enable his spirit to live on in the minds of the countless people who will read "The Fallen Firefighter."

Mr. President, I wish to congratulate Essie Bradford on being selected for the Golden Poet Award. I am proud to serve as one of her representatives in Washington and even prouder to call her my friend.●

U.S. FOREST SERVICE

● Mr. McCONNELL. Mr. President, I would like to take this opportunity to commend the representatives of the United States Forest Service who work in the Daniel Boone National Forest in Kentucky. The work of these dedicated individuals was brought to my attention by Mr. Mike Meighan who required their services when his 14-year-old son, Matt, became lost in the Daniel Boone National Forest.

On July 6, 1989, Mr. Meighan and Matt were backpacking on Swift Creek in the forest. Late in the afternoon the two became separated and Matt became lost and confused. Mr. Meighan searched alone for 2 hours but then realized he would need assist-

ance. He contacted a game warden, Mr. Rice, who in turn called Don Fig, who heads the search and rescue team in that area. Mr. Fig within minutes had organized a 20-man search party and after 10 hours of exhaustive searching Matt was found safe and unharmed. Mr. Meighan informed me that not only did Mr. Fig and his search party perform professionally but they showed compassion toward Mr. Meighan during the search and genuine elation when Matt was found.

Don Fig has stated that he was "just doing his job." I can only say that I am very happy to know that the U.S. Forest Service in Kentucky is represented by such dedicated and compassionate men. I thank Mike Meighan for bringing this incident to my attention and I commend Don Fig, Mr. Rice, and the members of the search party for their service.●

● Mr. HATCH. Mr. President, for the past 3 days, Americans have watched in shock, dismay, and outrage at the purported execution of Marine Lt. Col. William R. Higgins. Abducted in February 1988, Colonel Higgins was the commanding officer of United Nations peacekeeping forces in Lebanon. A decorated Vietnam veteran, Colonel Higgins served his country with pride and dedication for over 20 years.

While the news from Beirut still has not been confirmed, the United States has once again been put on notice by the evils of terrorism. Time and again this country has felt the pain from individuals with a callous disregard for human dignity and human life. No country should have to tolerate nor be held hostage to terrorism. Not the United States, not Israel, not any country.

As sovereign countries, we obviously have a right to defend ourselves against these heinous crimes. Yet, we must not look at Israel's security needs in our cultural prisms. Israel lives on the front line in the war against terrorism. These terrorist events can and do occur in Israel. The Israeli people are willing to accept the consequences and risks associated with combating terrorism.

So why should the United States blame Israel for taking action against terrorism? Certainly Israel has no less a right to defend herself—to engage and capture suspect and known terrorists. I do not blame Israel for kidnaping Skeikh Abd El Karim Obeid. This is an individual who directed, planned, and actively participated in a number of terrorist operations including the abduction of Colonel Higgins and the kidnaping of three Israeli Defense Force soldiers. He is part of an organization, Hezbollah, that has proven to be a bloody, deceitful, and extremist terror organization. So far, they have killed over 300 Americans, more than 70 French, and dozens of Israelis.

The Israelis are tough people. They experience something many Americans never know—the constant reality and fear of terrorism which is an integral part of their daily lives. Anyone who has ever visited Israel and seen the young men and women carrying guns will understand.

Israel approaches terrorism differently from the United States. They must act swiftly when necessary and deal when the opportunity is right. For Israel, that is the best, maybe the only approach.

Of course we would like the Israelis to work closely with the United States when our interests are involved. But let us not forget the high stakes involved in any efforts involving terrorists and hostages. The risks are enormous, the variables extreme, and the unknowns plentiful. Given this context, Israel may at times act in her own best interests. She has every right to do so.

Before we criticize Israel's actions, we must remember these deeply rooted differences. We must also not forget Israel shares in the responsibility to end this cycle of violence. Together with the United States and other countries around the world, Israel is actively engaged in the bitter struggle against terrorism. Innocent American and European lives have and will continue to be lost to terrorist activities regardless of Israel's actions. But Israel's actions have and will continue to make a positive contribution to the battle against terrorism.●

EGYPT'S READMISSION INTO THE ARAB LEAGUE

● Mr. DECONCINI. Mr. President, Ulysses S. Grant was one of this Nation's most renowned generals during a time of national crisis. This past President and military leader knew the danger of war and supported all efforts to prevent the catastrophe and carnage that result from armed conflict. He stated:

> There never was a time when, in my opinion, some way could not be found to prevent the drawing of the sword.

It is a sad and unfortunate fact that the recent history of the Middle East tells a story much different from that of President Grant's sage advice. The six wars that have engaged Israel against her Arab neighbors have been seen as lessons in the futility of peace, rather than war. Yet, against the animosity and centuries-old conflict that have embroiled the region, one Arab nation has stood as a shining beacon of hope and has grasped the hand of peace that Israel has long extended to her neighbors. Under the leadership of Anwar Sadat, Egypt began her courageous journey as the lone voyager of peace amid an Arab armada of hostility; a journey that continues to this day with President Hosni Mubarak at the helm.

Mr. President, May 23 of this year was indeed a historic day. For it was on that Tuesday, in Casablanca, when that long and lonely journey came to an end as Egypt was readmitted into the Arab League. The significance of this event, however, does not lie in the logistics of Egypt's return. Instead, it demonstrates the continued resolve of Egypt, its people, and its Government, to not compromise the ideals of peace, and to unsheath the sword. It is this determination, in the face of enormous pressure from the entire Arab world, that is the truly remarkable aspect in Egypt's return to grace in the Arab community of nations.

On March 29, 1979, just 3 days after the historic signing of the Egypt-Israel peace treaty, Egypt was expelled from the Arab League. Almost overnight, Egypt was ostracized by its Arab brethren.

During this time, Egypt's efforts to promote peace in the region did not wane, even after the 1981 assassination of President Anwar Sadat. Despite this great tragedy, Egypt maintained its role as a leading player in the peace process. On September 30, 1982, the Egyptian delegate to the United Nations demonstrated his country's dedication to the peace process and refused to join the other Arab delegates in walking out on a speech given by Prime Minister Shamir.

President Mubarak has continued in the tradition of Anwar Sadat. Throughout the past 8 years he has proven to the world his country's willingness to promote peace in the region. During 1985, President Mubarak met with heads of state from Jordan and Iraq, as well as with PLO leaders, in order to enlist their endorsement for the peace process and to establish an international conference to deal with the Arab-Israeli conflict. He has also met openly with Israeli leaders in 1986 and in 1987. I commend his courage and ability.

In January of last year, Egypt again played a leading role in the peace process by becoming the first Arab nation to offer a peace plan since the beginning of the Palestinian uprising. President Mubarak's five-point plan, which called for an end to the violence in the occupied territories and the convening of an international peace conference, complemented the efforts of then Secretary of State, George Shultz.

Egypt has an historically important role in the Middle East peace process. More often than not, Egypt has demonstrated the requisite courage to work for peace in an often hostile Arab world. This role, however, need not and should not be confined to history. With the Soviet Union and the PLO becoming increasingly involved in

the peace process, reconciliation of the issues dividing the Middle East now appears increasingly possible.

Times in the Middle East are changing. New, untested opportunities are becoming available. From its position of strength as a reconciled member of the Arab League, and as the new president of the Organization of African Unity, Egypt can and should continue its vital role as an actor in this process. Egypt can maintain her integrity and uphold the ideals of peace as it has for the past 10 years. The Egyptian model can indeed be the model for others in the Arab world to follow.

In this most politically sensitive and volatile region, President Mubarak remains the only Arab leader who has continually demonstrated his determination to bring peace to the Middle East. His actions articulate Egypt's strong friendship with the United States and they deserve our applause. Let us hope that the leaders of other Arab nations will soon be able to demonstrate the determination, courage, and character of President Mubarak, and will work with him to bring about a peaceful solution to the Middle East conflict.●

ENVIRONMENTAL AND ENERGY STUDY CONFERENCE ELECTIONS

● Mr. CHAFEE. Mr. President, I want to congratulate our colleagues AL GORE and JOHN MCCAIN, who this moring have been re-elected chairman and vice chairman of the Environmental and Energy Study Conference. This is the second term for both gentlemen.

For the House, Representatives BOB WISE and JAN MEYERS have been elected chairman and vice chair. BOB WISE has served as House vice chairman for the past 4 years. JAN MEYERS has served on the conference's executive committee since coming to Congress.

As a former chairman of the study conference, I am pleased to see the conference in the hands of such experienced and energetic leaders. With congressional attention to environmental and energy issues again high, the conference's contribution to the process is more valuable than ever. Our colleagues' recognition of the value of conference services is clear: this year a record 90 Senators are conference subscribers.

Over the 14 years of its existence, the study conference has done an excellent job of keeping Senators and House members up-to-date on the issues and helping us anticipate emerging public concerns. The conference's objective analyses and its forums and briefings are an important component of the informational foundation we need for our decisionmaking. The conference does not take political positions, enabling all of us to take advanage of its services.

The issues we face are complex. They are increasingly international in scope. The prospect of global warming for example, demands that we develop a new energy policy for ourselves and challenges us to assist in a reordering of energy use globally.

Advances in environmental monitoring capabilities have shown us that the effects of pollution are more pervasive and insidious than we could have imagined. Reason tells us: pollute less.

We have run out of room for our garbage. Reason says: waste less.

As we tackle these fundamental and critical issues, we are fortunate to have the services of the study conference assisting us every step of the way.

My thanks to our colleagues for their fine leadership of the conference during these past 2 years, and my best wishes for their new term of office.●

AID TO POLAND

● Mr. SIMON. Mr. President, I rise today to speak on the $100 million foreign assistance package President Bush promised to the people of Poland. I strongly support this aid, and I believe that we ought to honor the President's commitment.

The $100 million offer cannot begin to cover the problems encountered by the friends of democracy in Poland, who are now struggling to work out a new social and economic compact with the ruling Communist party and the Polish people. Great gains have been made politically in the past few months. But political reforms, important as they are, are but one leg of genuine reform. The aid package will help the other leg of reform in Poland: economic restructuring toward a freer, more responsive and more productive private sector.

This is one of the most crucial periods in recent Polish history. The forces of democracy and private enterprise in responsible positions in the Polish legislature now must ask the Polish people to support reform and accept some necessary sacrifices. Credible reform needs and deserves our support now. Inflation is running about 100 percent. The shops are empty. When stores do carry items, there are long lines, and there are terrific shortages, ranging from toilet paper to flour, sugar and meat.

In the economy at large, the figures are no more encouraging: less than $1 billion in hard currency will come into state coffers this year, but the debt servicing level will be in the neighborhood of $4 billion. Much of this debt is owned to governments, not commercial banks. It's clear, then, that the lion's share of the task ahead for Poland will be to find a long-term rescheduling solution, preferably spread throughout the 1990's. This would include adjustment of government debt payment to the Paris Club member governments beyond 1991 and acceptance of Poland into the Brady plan.

We ought to lead the way with Poland's major creditors, principally Western governments but also the main lending institutions, in finding and initiating a reasonable debt rescheduling plan soon. An early IMF standby program preceding the full development of a reform program would be helpful. And we should urge our friends and allies who have a stake in European stability to help assist Polish recovery with direct aid. But neither of these necessary programs will move very far along if we don't lead the way by honoring the President's commitment. The task at hand right now is for all of us in Congress and the executive branch to find a way to appropriate the $100 million, 3-year aid request.

I suggest that we look at the foreign aid authorization bill to find the sums required. If we take $33 million per year, starting with fiscal year 1990 and making it clear that this is a 3-year program, that ought to be workable. The funding ought to come from the economic support fund account, or preferably from the security assistance account within the bill. But we ought to find the money, and do our part in speeding Poland's economic restructuring.

We also need to keep our attention focused on the development of effective programs for Poland. Policy declarations in Warsaw and Paris are necessary but not sufficient. To ensure effectiveness, we should set up a high level, technical working committee to work with their Polish opposite numbers and our allies in such areas as health, environment, housing and food from private agriculture. If we do this, then I am confident other nations will follow our lead and work with us on the larger problem of Polish external debt.●

ANNIVERSARY OF SOVIET INVASION OF CZECHOSLOVAKIA

● Mr. DECONCINI. Mr. President, as the Vienna followup meeting was coming to a close this past January, Czechoslovakia made headlines by engaging in a sweeping crack-down: in response to week-long demonstrations in Prague, hundreds of people were detained and dozens received criminal sentences for the nonviolent expression of their beliefs. Since then, Czechoslovakia has received scant attention in the West, as events elsewhere in Eastern Europe have seized the stage. On the one hand, Poland and Hungary have renewed our hopes with their breathtaking and challenging reforms. Bulgaria and Romania, on the other hand, have driven us to dis-

gust by the severity of their human rights violations.

Where does Czechoslovakia stand in the middle of all this? Although the Czechoslovak regime has not engaged in abuses of the scope and gravity of those in Romania and Bulgaria, an egregious pattern of intimidation, consisting of detention, house and personal searches, confiscation of property, and imprisonment has nonetheless become the norm for those who dare to speak up for human rights. And yet, amazingly, more and more people in Czechoslovakia are speaking out—not only for themselves, but for others.

For example, in the aftermath of January's crackdown, over 2,000 Czechs and Slovaks signed a petition protesting the heavy-handed actions of the State Security apparatus. Four hundred and thirty persons signed a petition calling on the government to implement its human rights commitments. In February, 670 scientists and research workers added their names to those protesting the January events. Over 1,000 people requested the release from prison of Vaclav Havel, who had been incarcerated in connection with the January demonstrations. Petition campaigns were also organized on behalf other political prisoners, such as Stanislav Devaty and Renata Panoava.

Most recently, over two thousand people have signed their names to A Few Thousand Words. This appeal has already engendered as much support from the population as it has enmity from the authorities, and thus is believed by some to be the most important document issued since the Prague Spring.

All these petitions have two things in common. First, they call on their government to abide by the promises it has made in the field of human rights. Second, they represent an awakening that has grown beyond a small group of activists to include people from every part of Czechoslovakia, and from every type of occupation.

On August 21st, in 1968, St. Wenseslas Square was Czechoslovakia's Tiananmen Square. More than 20 years later, Prague remains a city divided by that legacy. A Few Thousand Words has called for a "genuine dialog within our society," stating that this is "the only way out of the impasse Czechoslovakia finds itself in today." There is no more timely moment to begin such a dialog than now, on the eve of the anniversary of the Soviet-led invasion of Czechoslovakia.●

SECOND ANNUAL FESTIVAL OF THE ARTS AND HERITAGE OF AFRICAN AMERICANS

● Mr. LAUTENBERG. Mr. President, on Saturday, September 16, 1989, the Second Annual Festival of the Arts and Heritage of African Americans will be held in Holmdel, NJ, at the Garden State Arts Center.

The festival was originally created as part of an effort to preserve and promote the rich and diverse culture and heritage of African Americans. In addition, donations from the Festival's proceeds aid the Garden State Cultural Fund. This fund provides free programs to many individuals; including senior citizens, disabled veterans, school children, the blind, and the disadvantaged.

This year's second annual festival promises to be very successful and to attract New Jerseyans from across our State. Artists and exhibitors from Africa, the West Indies and various parts of the United States will participate. And a special art exhibit will be featured, "The Making of the King Mural" and "Achievements of Black American Women."

There will be exhibits depicting African-American culture and ethnic foods, and a variety of performers will include singers, gospel groups, and bands.

I extend my best wishes for another successful festival as the rich heritage of African Americans is celebrated.●

PURSUED BY BAYING YAHOOS

● Mr. SYMMS. Mr. President, I ask that an article in the Washington Times of August 2, 1989, entitled "Pursued by Baying Yahoos," by Patrick Buchanan, be printed in the RECORD. This article says some very well deserved good things about our distinguished colleague, Senator JESSE HELMS.

The article follows:

[From the Washington Times, Aug. 2, 1989]

PURSUED BY BAYING YAHOOS

(By Patrick Buchanan)

The "Senate's most persistent yahoo," bellowed Tom Wicker; "as wily and contemptible a character as one could hope to meet," bayed Jonathan Yardley in The Washington Post.

What's got the boys bananas is an amendment by Sen. Jesse Helms, North Carolina Republican, to ban federal funding, through the National Endowment for the Arts, for "obscene or indecent materials, including . . . depictions of sadomasochism, homoeroticism, the exploitation of children, or individuals engaged in sex acts." Whistled through without dissent, the amendment will become law, if a conference committee does not peel it off the $10.9 billion Interior bill.

Propulsion for Mr. Helms' amendment comes from the now-famous photographic exhibit by the late Robert Mapplethorpe, tossed out of the Corcoran Gallery, which features a little girl with her dress up, one man about to urinate in the mouth of another, an elephantine penis hanging out of a pair of pants, and the "artist's" nude photo of himself, with a bullwhip sticking out of his rectum.

"[T]he artistry is transparent," coos Hank Burchard of The Post: "His eye for the human figure, male and female, is superb, but what is most compelling about his nude studies is the lack of any suggestion that the models are being manipulated."

(Query: If Mapplethorpe's photos are that good, why doesn't The Post publish them?)

Jeffrey Tucker of the Ludwig Von Mises Institute, however, was revolted, especially by "Tie Rack" . . . an icon of the Virgin Mary, desecrated and constructed to hold neckties. Mary's hands were pierced with pins and strung between them was a crucifix. Her mouth was bleeding from both sides. And her halo was changed so that it stabbed her on the side of her bleeding neck."

The photos would "be great stuff for any Bible-belt yahoo to wave in front of the folks back home," mocks Mr. Burchard. But, Swift's "Gulliver's Travels," where the squalid creatures first appear, reveals yahoos to be moral twins of the dead pervert with the bullwhip whose work so enthralled Hank Burchard.

Excuse me, but God bless Jesse Helms!

His retabling of this issue, after the House thought it sidetracked it, with a tiny nick in the NEA budget, is a deliverance.

For the Mapplethorpe exhibit, along with the NEA-underwritten "Piss Christ" (Andreas Serrano's self-titled photo of a crucifix in a vat of his own urine), and the paralysis that has gripped the "arts" crowd, as decent folks demand they condemn such filth, is raising America's consciousness to the moral squalor of so much modern art, and the amorality and cowardice of art "critics" whose duty it presumably was to maintain some standards.

This episode is going to do for the "arts community" what the cave-in to the Filthy Speech Movement and student riots did for the academic community in the '60s; i.e., strip them of respect and make them objects of ridicule.

"Art is the signature of man," said G.K. Chesterton. Sculptor and art historian H. Reed Armstrong adds: "Whether it be the religious fervor of the Middle Ages, the humanism of the renaissance, or the romanticism of the 19th century, the visual artist is the medium who most faithfully reflects the spirit of the age.

"The 'Art' of the twentieth century is a fearful indictment of our culture. It is the fruitless art of 'liberated man,' disunited from the cause of his being . . . the 'artist' of today 'fulfills himself' as does the cancerous cell, in total disregard of the life of the organism which feeds and nourishes it."

T.S. Eliot saw it coming. Culture, he wrote, 50 years ago, is the "incarnation . . . of the religion of a people."

"If Christianity goes, the whole of our culture goes. Then you must start painfully again, and you cannot put on a new culture ready made. You must wait for the grass to grow to feed the sheep to give the wool out of which your new coat will be made. You must pass through many centuries of barbarism. . . . But we can at least try to save something of those goods of which we are the common trustees: the legacy of Greece, Rome and Israel, and the legacy of Europe throughout the last 2,000 years. In a world which has seen such material devastation as ours, these spiritual possessions are in imminent peril."

Barbarism! The precise word, as we observe journalistic yahoos hail poor, pathetic Robert Mapplethorpe for having photographed, for their amusement, the degraded acts by which he killed himself.

What's to be done?

We can defund the poisoners of culture, the polluters of art; we can sweep up the debris that passes for modern art outside so many public buildings; we can discredit self-anointed critics who have forfeited our trust. America is not yet Weimar.

"A whole paradigm shift to New Age paganism has taken over the arts," Reed Armstrong worte me recently; "Conservatives had best become interested in art if they wish to see civilization survive into the 21st century."

This is all-important: Not simply to cut out the rot, but to seek out, to find, to celebrate the good, the true, the beautiful. But, first, tell Jesse to hold the fort; help is on the way.●

CASIMIR KOLASKY, HUD MANAGER OF THE YEAR

● Mr. PELL. Mr. President, Secretary of Housing and Urban Development Jack Kemp recently named Mr. Casimir J. Kolaski as "HUD Manager of the Year." Mr. Kolaski is the manager of the Rhode Island HUD office and his recognition for this honor is well-deserved. Over the years, Cas Kolaski has worked hard to make his office responsive to the housing needs of Rhode Island and to meet the many requests for information he receives from the Rhode Island congressional delegation. His efforts, and the efforts of his staff, have always been greatly appreciated. Mr. President, I ask that a recent article from the Rhode Island Builder Report, describing Mr. Kolaski's recent honor, be reprinted in the RECORD.

The article follows:

KOLASKI NAMED NATION'S HUD MANAGER OF YEAR

Honors came to Rhode Island in an announcement that Secretary Jack Kemp of the U.S. Department of Housing & Urban Development had named Casimir J. Kolaski, mananger of Providence's HUD office, as the nation's HUD Manager of the Year. Nationwide, there are 94 HUD offices.

Mr. Kolaski, a resident of Barrington, has been manager of the Providence office for 10 years.

"Achievement of HUD Manager of the Year reflects the recognition by Secretary Kemp and the 10 regional administrators of a manager whose management and leadership has established the office as a visible and respected public service entity within its jurisdiction," said Harold G. Thompson, deputy regional administrator of the New England Office. "Great value is placed on not only goal performance but outreach activites and public commitment as well."

During the 1988 fiscal year, Mr. Kolaski's office was responsible for investing $14.5 million in new grants, loans and financing guarantees for housing in the state.

In a program for first time home buyers, Mr. Kolaski worked with the R.I. Housing & Mortgage Finance Corp, to provide home ownership over a year's period for nearly 1000 households.

Local housing authorities were helped by the Providence HUD manager to launch their Housing Voucher Programs. Providence and Pawtucket received help to revitalize large public housing developments for families and improve the management/tenant relationship.

Through processing in his office Massachusetts Section 8 subsidy vouchers and rebate requests as assistance to the New England regional office, almost $129-million in subsidy payments to Bay State projects were reviewed. Found were subsidy overpayments exceeding $1.2 million.

Through the office's efforts at working with Massachusetts management agents, a 83% reduction resulted in errors in submissions during the 1988 fiscal year.

Before coming to Rhode Island, Mr. Kolaski was chief of the Boston HUD Area Office's Property Disposition Branch. He is a graduate of Boston University, taking graduate studies at Brandeis University and the University of Massachusetts.●

FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

● Mr. STEVENS. Mr. President, for quite some time, I have been concerned about the health of the Federal Employees Health Benefits Program [FEHB]. It has become clear to many of us that that program is desperately ill. Once one of the most attractive selling points for a career in the Federal service, it is no longer state of the art. A conglomeration of insurance carriers and a confusion of plans, the only choice that it offers today is chaos. Largely because of the adverse selection problems, one of the program's largest carriers, Aetna, recently abandoned it, causing much consternation on the part of those employees it covers and the Federal work force in general.

Mr. President, this situation has forced us to consider giving the Government's health benefits program some immediate first aid—the temporary fix of FEHB's contribution formula—but it is clear that this will not be enough to stop the adverse selection. And unless we are able to stop it, Aetna may only be the first domino to fall. Major reform is needed.

Mr. President, we faced this same sort of situation 4 years ago with civil service pensions, and, with the enactment of the Federal Employees Retirement System [FERS], I think we found the right cure. Today, I would like to propose a similar treatment for FEHB, a new Federal Employee Benefit System [FEBS] that provides a simpler, more flexible approach to health and other forms of insurance. It is explicitly patterned after FERS, and with your permission, I would like to describe it to my colleagues. I will submit a more detailed description for the RECORD.

FEBS may be characterized by a single word—choice. As I envision it, FEBS would operate as a cafeteria benefit plan, as defined by section 125 of the Internal Revenue Code, allowing eligible Federal employees to choose the kind and amount of health insurance coverage best suited to their needs and means. Moreover, because FEBS is expressly intended to fall within existing Tax Code provisions, employee insurance premiums and other appropriate costs associated with health and dependent care (such as insurance deductibles and copayments) would be paid on a pretax basis.

In this regard, just as FERS provides annuity options, FEBS would offer Federal employees three principal health care choices: A single governmentwide core health insurance plan providing basic coverage at relatively low cost; one of four optional governmentwide insurance packages, each providing more extensive coverage than the core health plan (at increasingly greater cost); or an alternative insurance plan, offered on a geographic or agencywide basis. Let me explain each.

The core health insurance plan provides the foundation for this flexible benefit system. Designed to eliminate the adverse selection and risk segmentation that plague FEHB today, that core plan would be offered to all permanent and retired Federal employees (and their dependents) on a governmentwide basis. The core plan would be a standard fee-for-service arrangement carried by a private insurance company, competitively selected every 3 years by the Office of Personnel Management, with basic but comprehensive health benefits specified in law. For example, the core plan might provide for a relatively high medical deductible, 80 to 20 percent coinsurance for various hospital and outpatient services, a fairly high out-of-pocket limit for catastrophic illness, and emergency/accidental injury coverage.

With a government-wide risk pool providing for a more even distribution of claims, the employee's share of premium costs for the core plan should be nominal. However, its final composition and cost will have to be actuarially determined.

The core insurance carriers would also be required to maintain flexible spending accounts for enrolled employees. In accordance with existing provisions of the Revenue Code, employees may contribute to those accounts on a pretax basis, with the proceeds used to reimburse them for health insurance deductibles and copayments and dependent care expenses.

The CORE plan provides a basic level of health care for Federal employees, just as FERS provides them with a basic pension. However, that may not be sufficient for some, and just as FERS provides additional investment options that act to supplement that basic pension, FERS would give an employee the option of upgrading his or her health insurance coverage with the selection of a package of supplemental benefits. I propose four such packages, three of

which would offer progessively better coverage, in the form of lower deductibles, smaller coinsurance percentages, and lower out-of-pocket dollar limits for catastrophic illness. In addition, each such package would provide for progressively more extensive dental, vision, short-term disability, mental health/substance abuse care, and prescription drug coverage.

The fourth package would combine the CORE plan with an HMO option, for those employees who prefer that form of health care delivery. Thus, the CORE would provide a fee-for-service safety net for those claims not otherwise covered by the HMO. In addition, I would offer a Medigap option to annuitants.

Of course, each package would be progressively more expensive, with the CORE/HMO combination likely to be the least costly of the four options. In this regard, an employee would bear an increasingly greater share of the premiums—depending on his or her choice of options—but that premium would be payable on a pretax basis. Moreover, as a general proposition, I would expect that an exployee's share of even the most expensive option will compare favorably with existing FEHB high option premiums.

As with the CORE insurance plan, OPM would competitively select the carriers for these optional insurance packages. That competition would take place every 3 years.

Mr. President, this competition is a key feature of my proposal, intended to insure that premium increases are kept to a minimum. However, given the dynamics of health care and its delivery, the competitive selection of insurance carriers every few years does not go far enough. I believe that further efficiencies can be realized if a more constructive form of competition—in contrast to the kind we have seen under FEHB—is introduced to the provision of health insurance for our Government employees. And more efficiency means better benefits at less cost.

Accordingly, my proposal provides employees a third choice, one that will undoubtedly keep the carriers of the government wide CORE and optional plans on their toes. FEBS would allow a Federal agency or department—or a group of agencies or departments—to make an alternative health insurance plan available to their employees. These alternative plans could be offered on an agencywide basis, or they could cover all Federal employees in a particular geographic area; they could be underwritten by a private insurance carrier—competitively selected, of course—or an agency or group of agencies could self-insure, so long as there is no increase in cost to the taxpayer. In any case, employees covered by an alternative plan would still be able to choose between that plan and the governmentwide insurance plans I have already described.

Mr. President, these alternative plans would have to meet minimum standards, established by OPM, to insure that they provide coverage that is at least as good as the core governmentwide plan. Carriers would also be subject to adequacy standards. However, within those broad parameters, agencies—and their employees—would be free to design a health insurance plan tailored precisely to their needs.

By giving employees freedom to choose the governmentwide plan or an alternative plan, FEBS will insure that both provide competitive rates and coverage. But by confining that freedom to employees within a particular organization or locality, the prospects for a repeat of FEHB's adverse selection and risk segmentation are minimized. Moreover, I believe that over time, this modified freedom of choice will spur a great deal of creativity in the delivery of health care to our employees. In the meantime, in those agencies or areas that do not offer an alternative plan, employees would still have the governmentwide core plan and its optional packages to choose from.

Mr. President, there is a family resemblance between FERS and the flexible benefit system I have outlined today. And I believe that like FERS, my FEBS proposal offers the best chance for a long-term cure for the many afflictions that beset FEHB. And I believe that like FERS, FEBS will provide greater flexibility and overall protection to employees at lower cost to the taxpayer.

I emphasize that this a realistic proposal—it takes into account the extraordinary fiscal constraints that our Government faces while still providing a package of health insurance options that will meet the needs of the Federal employee. Much as I would like to provide maximum health coverage to our Federal employees at no cost, the budget just won't permit it. However, within that budget, the Federal employee benefit system is state of the art, structured to compare favorably with the best that industry can provide.

Mr. President, I don't want to minimize the complexity of this measure, or the emotion that it is sure to engender. Any reform of the Federal Employees Health Benefits Program is bound to stir considerable controversy, and that probably goes double for the fairly radical reform I have described. However, the time has come to take on this challenge, and I urge my colleagues to work with me in seeing it through to a successful conclusion.

A bill will be prepared for introduction by September. I invite any interested Senators to join in this bill, and I invite comments to me and to the staff who work with me on the Subcommittee on Federal Services, Post Office, and Civil Service.

Mr. President, I ask to have reprinted at the end of my remarks a more detailed description of the plan I have outlined.

The material follows:

FEDERAL EMPLOYMENT BENEFIT SYSTEM

OVERVIEW

The proposed Federal Employees Benefit System (FEBS) is a flexible or "cafeteria" health benefit plan, within the meaning of § 125 of the Internal Revenue Code. It is intended to replace the current Federal Employees Health Benefits Program (FEHBP). Its basic structure is patterned after the Federal Employees Retirement System (FERS), with a "core" government-wide health insurance plan providing basic hospital and medical coverage and four optional health insurance packages (standard, intermediate, and high options, plus an HMO option), each upgrading that basic package.

Health insurance benefits provided by these government-wide plans would be specified in law, based on actuarial estimates. Examples are provided below. They compare favorable—in terms of both coverage and cost—with the range of benefits available under FEHB today; however, certain employee expenses related to coverage under FEBS would be payable on a pre-tax basis, in accordance with existing IRS rules.

In addition to these government-wide plans, FEBS permits a third choice. It authorizes an agency or department (or a group of agencies and departments) to establish an alternative insurance plan on an organizational and/or geographic basis (in the case of the Postal Service, alternative plans could be offered on a bargaining unit basis). These alternative plans would be available only to those employees in the particular agency or geographic area offering such a plan, this in order to minimize risk segmentation while still providing some competition for the carriers of the government-wide plans.

All Federal employees and annuitants (and their dependents) would be eligible for FEBS coverage. The government would contribute a fixed amount of money to each permanent employee who elects to enroll in FEBS, with that contribution applied to the premiums of the health insurance option chosen by that employee. Where the premiums of the option selected exceed the amount of the government's contribution, the remainder would be paid by the employee, but on a pre-tax basis. The method for determining the amount of the government's contribution is detailed below.

The entire system would be managed by OPM. It would competitively select government-wide carriers every three years, and it would establish minimum benefit levels, carrier standards, and selection procedures for all alternative plans offered under the system. In addition, OPM would be charged with instituting and enforcing comprehensive cost containment measures by all FEBS carriers. Regional third party administrators (TPAs) could be employed by government-wide insurance carriers. The overall system is described below.

BENEFIT CHOICES

Under FEBS, employees would have three basic choices for health insurance, "spending" the government's contribution (and any additional contribution of their own) to

tailor an insurance package to meet their individual needs and means:

a. Core Insurance Plan.—Basic health insurance would be offered to eligible Federal employees and their dependents on a fee-for-service (FFS) basis by a single, competitively selected insurance carrier. For example, core coverage may consist of out-patient medical care, with a relatively high per person annual deductible; a standard co-insurance arrangement for in-patient and related hospital and physician services; catastrophic illness coverage, with a $5,000 out-of-pocket maximum; and 100% coverage for accidental injury and/or emergency services (these are examples only; the final benefit package will be based on actuarial determinations). Annuitants would be eligible for core coverage; as a general matter, the inclusion of retirees in the risk pool is beneficial because of the Medicare subsidy they introduce to that pool.

b. Flexible Spending Accounts.—All employees enrolled in FEBS will be eligible to establish Flexible Spending Accounts (FSAs) for health insurance deductibles and co-payments and dependent care expenses. These accounts will be managed by the carrier of the core insurance plan and may be supported by a reasonable administrative fee approved by OMP. These accounts will operate in accordance with existing IRS rules, with employees contributing to them on a pre-tax basis through payroll deductions and filing claims with the core carrier for allowed expenses.

c. Optional Insurance Packages.—Employees choosing the core plan would have the option of improving upon it by selecting one of four optional insurance packages (or modules), each containing predetermined kinds and levels of additional coverage. As with the core government-wide plan, the coverages offered by each option would be specified by law, based on actuarial determinations. The "mix" of benefits in each option, and among the various options, would be set so as to minimize adverse selection. The following are examples only.

(1) An improved fee-for-service plan offering standard coverage. It would provide a comprehensive but minimum level of supplemental benefits (to include dental, vision, prescription drug, shorty-term disability, and mental health care/substance abuse coverage). Annual per person medical deductibles would be lower than the core plan, as would the limit on out-of-pocket expenses for catastrophic illness, and the carrier's percentage share of hospital and physician co-payments would be higher than the core plan. Accidental injury and emergency services would continue to be covered at 100%. These improvements, comparable to standard option coverage under FEHB today, would add to the premium cost of the core plan; however, the cost of this option should compare favorably to current FEHB premiums for such standard coverage.

(2) An intermediate fee-for-service plan providing further incremental improvements over basic and standard coverage, to include a moderate level of supplemental insurance benefits (compared to the minimum level offered by the standard option). Annual medical deductibles for this option would be lower than the standard option, as would the limit for catastrophic out-of-pocket expenses; the carrier's share of co-payments would be raised. Premium costs would increase over the standard option as a result of these further improvements.

(3) A fee-for-service plan providing "high option" coverage, to include maximum supplemental insurance benefits, a minimal annual medical deductible (for example, $100 per person), and 100% in-patient hospital and related physician services, including catastrophic coverage. This would be the most expensive of the optional packages, but it should compare favorably with existing FEHB high option premiums.

(4) Basic fee-for-service health insurance under the core plan combined with HMO coverage for those employees who prefer this particular form of health care delivery. Providers would be competitively selected by the core carrier on a local or regional basis (subject to minimum OPM stnadards). This option would provide the comprehensive preventive care offered by an HMO with a fee-for-service "safety net" for those services that it does not ordinarily cover. This combination would likely be the least expensive of the four government-wide optional plans.

Annuitants would be offered an optional "Medigap" plan as well.

Fee-for-service carriers would be competitively selected by OPM every three years. As described above, a complete package of dental, vision, short-term disability, prescription drug, mental health care, and other supplemental benefits are included in each option, with the level of coverage varying by option. Alternatively, separate supplements could be added incrementally to each option.

Each option would be more expensive than core coverage, with some or all of the government's contribution (and an additional pre-tax employee contribution of varying amount) required to pay individual premium costs.

d. Alternative Benefit Plans.—As an alternative to the government-wide plans described above, FEBS would permit employees to choose an alternative health insurance plans, where offered by an agency or group of agencies. Subject to minimum OPM standards, these plans could be established on an agency-wide or geographic (metropolitan area, regional, etc.) basis. The Postal Service would be authorized to establish alternative plans on a bargaining unit basis. Under this option, agencies could self-insure or contract with a private carrier, with the latter competitively selected in accordance with regulations issued by OPM. Only those employees within the particular agency or geographic area offering an alternative plan could choose that plan; alternative plans would not be available to annuitants.

Established at the discretion of a particular agency or agencies, these alternative health plans would compete with government-wide carriers for employees, thus insuring that benefit levels are maintained (or improved) with minimal premium increases. Simply put, if an alternative plan's rates and benefits are not competitive with government-wide plans, it will not survive. However, unlike FEHB, this competition will be controlled to minimize adverse selection, with risk pools established along organizational and/or geographic lines to insure that claims are more evenly spread among the members of those pools. It is expected that labor organizations representing employees in a particular agency or area will be deeply involved in designing alternative plans.

FUNDING

Premium costs under FEBS will be shared by the government. Depending upon whether they elect self-only or family coverage under the core health insurance plan, permanent employees and annuitants will receive a government contribution equal to 66% of the premium cost for such coverage. Remaining premium costs will be borne by the employee or annuitant (on a pre-tax basis), but those individual out-of-pocket costs are expected to be less than that incurred by the average employee under FEHB today.

In addition to the government's share of core coverage, those permanent and retired employees electing an optional government-wide plan will receive an amount equal to 66% of the weighted average of the premiums of the four optional plans (for self-only or family, depending on the employee's status). Employees choosing an alternative plan will receive an equivalent government contribution. If the employee chooses a government-wide option or an alternative plan with premiums that exceed the amount of the government's contribution, the remainder is paid by the employee on a pre-tax basis.

Because of a more evenly distributed risk pool and aggressive cost management, the overall dollar (outlay) cost of FEBS to the Federal government over time is expected to be less than that projected for FEHB. Moreover, the nominal premium costs of core coverage should serve to keep the government's insured population relatively stable.

FEDERAL EMPLOYEES BENEFIT SYSTEM (FEBS)

Employee May Choose Either Government-wide Plan (or) Alternative Plan.

Government-wide plans

Basic Health Plan (core plan)—

Provides basic health coverage at nominal cost to employee.

Includes high deductibles, co-payments, and catastrophic limits; emergency/accidental injury.

Employees may purchase more comprehensive coverage by choosing one of four optional government-wide plans; retirees may choose MEDIGAP.

Option 1 (standard): Standard deductibles, co-payments, and catastrophic limits; minimum supplementals; or

Option 2 (intermediate): Moderate deductibles, co-payments, and catastrophic limits; moderate supplementals; or

Option 3 (high): Minimal deductible, co-payment, catastrophic out-of-pocket dollars maximum supplementals; or

Option 4 (HMO): Plus core coverage or core plus MEDIGAP for retirees only.

Alternative plans—(where available)

Agency: (Coverage at least equivalent to core plan); or

Geographic area: (Coverage at least equivalent to core plan).

NOTES:—1. All plan carriers competitively selected. 2. Optional plan choices are examples only. 3. Supplementals include dental, short-term disability, mental health, vision, prescriptions, etc.●

THE HIDDEN EDUCATION PROBLEM

● Mr. SIMON. Mr. President, illiteracy is the hidden education problem. We are embarrassed to talk about it. But three people with enormous courage told their stories of frustration and triumph—of overcoming learning disabilities to learn to read and write—at hearings I held. I relate those stories in a recent column I wrote for

newspapers in my State. I ask to have it reprinted in the RECORD.

The article follows:

THE HIDDEN EDUCATION PROBLEM

Let me tell you about three courageous people.

The first is Gloria Wattles from Louisville, Ill., population 1,166.

She attended a town meeting I held at Teutopolis, Ill. She stood up and said, "I'm 45 years old and I want to read the first letter I've ever written." She told her story, about her inability to read and write until she reached her mid-40s, about her years of misery, of hiding her inability from others. She told her story so effectively I asked her to come to Washington and tell it to a Senate subcommittee holding hearings on a literacy bill I am sponsoring. She did—and my colleagues in the Senate were as impressed as I had been.

The second person is Dexter Manley, the all-pro Washington Redskins defensive end. On the sidelines when Washington quarterback Joe Theismann broke his leg, Manley asked himself, "What happens to me if I break my leg?" At that point he was making $600,000 a year. He went to the Washington Lab School and said he needed help. They tested him and found he read at the second-grade level—after grade school, high school and four years at Oklahoma State University.

He now reads at the ninth-grade level and is also studying Japanese. He told the Senate subcommittee his moving story.

Mary Blandin of Chicago is the mother of 12 and the grandmother of 22. She read at a second-grade level and her low self-esteem led her to alcohol. At a detoxification center, they told her where she could get help to learn how to read and write. She testified before our subcommittee. She read her testimony—and today has a job and is proud of herself.

All three had learning disabilities that had gone undetected.

All three hid their problem until they finally had the courage, with a little help, to face their deficiency.

How many people are there like that?

The best estimate is about 23 million Americans. They hide their limitations from their neighbors, and often try to hide them from their own families.

I held the first hearings in the history of Congress on this problem eight years ago. I've been able to get some things done: help libraries work on the problem, the establishment of a volunteer Literacy Corps under the VISTA program, some College Work Study funds to get students to help, and a small part of the funding for the homeless to help homeless people who face this problem.

But much more needs to be done.

We need to see that all Americans have the opportunity to learn to read and write, and those who read and write only at the second- or third-grade level must have the opportunity to improve their skills.

It is essential for our country that we do it if we are to be competitive with other nations.

It is essential for these people that we do it if they are to have a sense of pride and self-worth, to be able to help their families as they should, as they want to. (A majority of people who go to prison cannot read and write.)

I've introduced legislation to move much more vigorously on this problem of illiteracy. I have the support of key Senate members, and I have discussed it briefly with the President.

If we can get it through Congress, I'm fairly certain I will have a lobbyist in the White House for the program: Barbara Bush. I have worked with her on illiteracy and she is genuinely committed to doing something.

Why is this so important to the nation?

We read a great deal these days about the trade deficit. We cannot indefinitely buy more from other countries than we sell to them. Some day we will have to pay for this.

There are only two ways to pay for it: Greater productivity by our people, or reduced consumption, which means a reduced standard of living.

The better answer by far is to increase the productivity of our people. Teaching them basic skills is an obvious and major way to do that.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar No. 242; Calendar No. 243; Calendar No. 244; Calendar No. 245; Calendar No. 246; and C. Austin Fitts to be an assistant Secretary of Housing and Urban Development, reported today by the Committee on Banking, Housing, and Urban Affairs.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's actions; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Keith Lapham Brown, of Colorado, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark, to which position he was appointed during the recess of the Senate from October 22, 1988, to January 3, 1989.

Shirley Temple Black, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czechoslovak Socialist Republic.

William H. Taft IV, of Virginia, to be the U.S. Permanent Representative on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Thomas Patric Melady, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Holy See.

Joseph Bernard Gildenhorn, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Switzerland.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

C. Austin Fitts, to be an Assistant Secretary of Housing and Urban Development.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

BILL PLACED ON CALENDAR—S. 1484

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 1484, a child nutrition bill introduced earlier today by Senators HARKIN, LEAHY, LUGAR, MITCHELL, DOLE, and others, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that a statement by Senator HARKIN and a section-by-section analysis be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Statements on the introduction of the legislation and section-by-section analysis are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 174, 175, and 176 en bloc; that the committee amendments, where appropriate, be agreed to en bloc; that the bills be deemed read a third time and passed; and the motions to reconsider the passage of the bills be laid upon the table.

I further ask unanimous consent that the consideration of these items appear individually in the RECORD, as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOOTS AND SADDLES TOUR STUDY ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar item No. 174, S. 560.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 560) to direct the Secretary of the Interior to conduct a study of certain historic military forts in the State of New Mexico, which had been reported from the Committee on Energy and Natural Resources, with amendments as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Boots and Saddles Tour Study Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) historic cavalry forts occupied during the Civil War and Indian campaigns in New Mexico represent a unique time period of American history, the study and interpretation of which can contribute to an understanding of the American frontier;

(2) these forts are deteriorating due to natural weathering, unsupervised human visitation, and lack of maintenance and repair; and

(3) in light of the precarious state of preservation at most of these significant cultural resources and the urgent need to protect and manage them, it is necessary to determine, through a comprehensive study, appropriate means by which the systematic interpretation, stabilization, and restoration of these valuable sites can be provided for.

SEC. 3. STUDY AND REPORT BY THE BUREAU OF LAND MANAGEMENT AND THE NATIONAL PARK SERVICE.

(a) STUDY.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management and the Director of the National Park Service, shall conduct a [study of historic forts] *study of the following historic forts* in the State of New Mexico occupied during the Civil War and Indian [campaigns, including] *campaigns:*

(1) Fort Stanton;
(2) Fort Union;
(3) Fort Sumner;
(4) Fort Craig;
(5) Fort Cummings;
(6) Fort Seldon;
(7) Fort Bayard; and
(8) Fort McRae.

(b) REPORT.—Not later than 1 year from the date that funds are made available for the study referred to in subsection (a), the Secretary shall transmit the study to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(c) STUDY CONTENT.—The study shall develop alternative means of interpreting and preserving the forts referred to in subsection (a) including the feasibility of establishing tour routes for vehicles and horse-mounted visitors which may encompass common themes and link appropriate sites, and such other information as the Secretary may deem necessary.

SEC. 4. APPROPRIATION AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOMENICI. Mr. President, I rise today to urge the Senate to pass S. 560, the Boots and Saddles Tour Study Act of 1989. This bill will direct the Secretary of the Interior to conduct a study of methods for the preservation of eight historic military forts in New Mexico.

Located along the trails that guided thousands of travelers, settlers, and soldiers across the rugged New Mexico terrain, these outposts played a key role in the European settlement of the American frontier, providing way stations on the trail to the West. They also were an essential part of a darker episode of American history—the subjugation of the American Indian.

The dry climate and sparse population of New Mexico has preserved many of these forts and historic trails, leaving remnants of days gone by for the public to view. But, due to the forces of nature and man, these historic landmarks are slowly being obliterated from the New Mexico landscape. These forts should be nationally recognized for their historic significance and their contribution in settling the western frontier.

S. 560 will authorize the Secretary of the Interior, through the Bureau of Land Management and the National Park Service, to conduct a 1-year study of eight historical forts that were used during the Civil War and the Indian campaigns.

The forts to be included in the study are:

Fort Bayard: Now a hospital, this fort, which played a major role in the campaigns against Geronimo, was established as the Nation's original Indian reservation by President Grant, and its cemetery is now a national cemetery.

Fort Craig: Built in 1854 to protect travelers between El Paso and Albuquerque, it was the largest Civil War fort in the West, and the largest Civil War battle in New Mexico occurred just north of the fort.

Fort Cummings: Fort Cummings protected the stagecoach route between San Diego and San Antonio, TX, and was also used as base during the Apache wars.

Fort McRae: The mission of this fort was to prevent the Apache and Navajo from using the Jornada del Muerto Trail.

Fort Seldon: Fort Seldon protected settlers and travelers from the dangers of the frontier and was once home to Douglas MacArthur.

Fort Stanton: This fort was occupied by both Union and Confederate troops during the Civil War, was subsequently used as a staging point by Kit Carson in his campaigns against the Apache and the Navajo, and was once commanded by Black Jack Pershing. It is now a school for the mentally handicapped.

Fort Sumner: An outpost for the U.S. Cavalry during the campaigns to repress Indian resistance to increased American expansion, it is most famous as the site where Sheriff Pat Garrett killed "Billy the Kid."

Fort Union: Fort Union was a major outpost guarding the Santa Fe Trail and was the principal quartermaster depot for the Southwest.

The study will focus on the feasibility of establishing vehicle tour routes and hiking or horsebackriding trails linking the forts. Visitors could reach the forts via existing roadways, or, if more time was available, could hike or ride on horseback along the same trials that travelers used to reach the forts in the 19th century.

This exciting proposal is based upon the Masau Trail that I established last Congress in the El Malpais bill, Public Law 100-225. The Masau Trail is an automobile touring route linking the riches of our many historic, cultural, and natural sites in northwestern New Mexico: Aztec Ruins, Bandelier, El Malpais, El Morro, and Pecos National Monuments, Chaco Cultural National Historical Park, various Indian pueblos, and other important sites.

I am pleased that this innovative concept is being adopted for the interptation of other areas.

I am pleased to join the junior Senator from New Mexico [Mr. BINGAMAN] in this effort, and I commend him for his work on this bill.

I urge all Senators to support this measure.

Thank you, Mr. President.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 560) was ordered to be engrossed for a third reading, was read the third time, and passed, as amended.

S. 560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Boots and Saddles Tour Study Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) historic cavalry forts occupied during the Civil War and Indian campaigns in New Mexico represent a unique time period of American history, the study and interpretation of which can contribute to an understanding of the American frontier;

(2) these forts are deteriorating due to natural weathering, unsupervised human visitation, and lack of maintenance and repair; and

(3) in light of the precarious state of preservation at most of these significant cultural resources and the urgent need to protect and manage them, it is necessary to determine, through a comprehensive study, appropriate means by which the systematic interpretation, stabilization, and restoration of these valuable sites can be provided for.

SEC. 3. STUDY AND REPORT BY THE BUREAU OF LAND MANAGEMENT AND THE NATIONAL PARK SERVICE.

(a) STUDY.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management and the Director of the National Park Service, shall conduct a study of the following historic forts in the State of New Mexico occupied during the Civil War and Indian campaigns:

(1) Fort Stanton;
(2) Fort Union;
(3) Fort Sumner;
(4) Fort Craig;

(5) Fort Cummings;
(6) Fort Seldon;
(7) Fort Bayard; and
(8) Fort McRae.

(b) REPORT.—Not later than 1 year from the date that funds are made available for the study referred to in subsection (a), the Secretary shall transmit the study to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(c) STUDY CONTENT.—The study shall develop alternative means of interpreting and preserving the forts referred to in subsection (a) including the feasibility of establishing tour routes for vehicles and horse-mounted visitors which may encompass common themes and link appropriate sites, and such other information as the Secretary may deem necessary.

SEC. 4. APPROPRIATION AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STUDY ON METHODS TO PAY TRIBUTE TO THE LATE SENATOR CLINTON P. ANDERSON FOR HIS CONTRIBUTIONS TO THE NATIONAL WILDERNESS SYSTEM

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Item No. 175, S. 818.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 818) to authorize a study on methods to pay tribute to the late Senator Clinton P. Anderson of New Mexico for his significant contribution to the establishment of a national wilderness system, which had been reported from the Committee on Energy and Natural Resources, with amendments as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 818

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) Senator Clinton P. Anderson of New Mexico was the leader of the conservation movement in the 88th Congress, which earned the name the "Conservation Congress" for its passage of several landmark conservation measures. Senator Anderson was the guiding sponsor of the Wilderness Act and shepherded it through the 88th Congress, helping secure its passage and enactment on September 3, 1964.

(2) Senator Anderson was influenced by New Mexico conservationist Aldo Leopold, who as a United States Forest Service officer helped establish the Nation's [first designated wilderness] *first administratively-designated wilderness* in 1924, the Gila Wilderness in the Gila National Forest in New Mexico.

(3) Senator Anderson wrote and spoke eloquently about wilderness and his words continue to inspire his colleagues and the public about conservation. In 1963 he wrote:

"There is a spiritual value to conservation, and wilderness typifies this. Wilderness is a demonstration by our people that we can put aside a portion of this which we have as a tribute to the Maker and say—this we will leave as we found it.

"Wilderness is an anchor to windward. Knowing it is there, we can also know that we are still a rich Nation, tending our resources as we should—not a people in despair searching every last nook and cranny of our land for a board of lumber, a barrel of oil, a blade of grass, or a tank of water.".

(4) On the 25th anniversary of the Wilderness Act, Senator Anderson's living legacy is the 474 units in the National Wilderness Preservation System, totaling nearly 91 million acres.

[SEC. 2. AUTHORIZATION OF STUDY

[(a) In recognition of the significant role Senator Anderson played in the enactment of the Wilderness Act, the Secretary of Agriculture is authorized and directed to conduct a study of the most appropriate method of commemorating Senator Anderson's contribution. The study shall include an evaluation of the feasibility of establishing a campground, monument, wilderness museum or other facility bearing Senator Anderson's name. Because of the significance of the Gila Wilderness as the Nation's first administratively designated wilderness, the Secretary shall focus the study on the Gila National Forest in New Mexico.

[(b) The study shall be completed and transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than 6 months after the date on which funds are appropriated for the study.

[SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.]

SEC. 2. DESIGNATION OF OVERLOOK.

In recognition of the significant role Senator Anderson played in the enactment of the Wilderness Act, the Secretary of Agriculture is authorized and directed to rename the existing Copperas Vista, located on the Gila National Forest in New Mexico, as the "Senator Clinton P. Anderson Wilderness Overlook" and to erect appropriate signs, interpretive facilities, monuments, or plaques commemorating Senator Anderson's contribution to the National Wilderness Preservation System.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOMENICI. Mr. President, I rise in support of S. 818, which directs the Forest Service to name a scenic vista in New Mexico as the "Senator Clinton P. Anderson Wilderness Overlook." The purpose of this bill is to provide an appropriate tribute to the late Senator Clinton P. Anderson of New Mexico for his significant contribution to the establishment of a National Wilderness Preservation System.

Senator Anderson served in the U.S. House of Representatives from 1941 to 1945, when he resigned to become Secretary of Agriculture. In 1948, he was elected to the Senate, where he served for 24 years. Senator Anderson left a large legislative legacy, the most famous of which is the Wilderness Act of 1964. It was a distinct honor for me in 1973 to come and serve in the Senate when Senator Anderson retired after a lifetime of service to New Mexico and the Nation.

In 1963 Senator Anderson introduced the bill that was to become the Wilderness Act of 1964. At the time he was chairman of the Senator Interior Committee. Passage of the Act culminated 15 years of study and debate on the preservation of wilderness.

This year marks the 25th anniversary of the Wilderness Act, which established the National Wilderness Preservation System. Earlier this year, I introduced Senate Joint Resolution 67 to commemorate the 25th anniversary of the Wilderness Act by designating the week of September 3-9 as "National Wilderness Week." This measure was approved by the Senate in June.

In May of this year, to celebrate the anniversary of the Wilderness Act and to discuss the future of wilderness in our Nation, I sponsored a Public Lands Forum on Wilderness Issues at the University of New Mexico in Albuquerque.

Stewart Udall, Secretary of the Interior under President John F. Kennedy, once stated, "When Clinton Anderson of New Mexico became chairman of the Interior Committee in 1961, the Wilderness Bill had a tenacious advocate who would not be denied." Senator Anderson's dedication to the wilderness concept arose, in part, from his long friendship with Aldo Leopold, the New Mexico forester who helped designate the Nation's first wilderness—the Gila in New Mexico—in 1924.

Because of the Wilderness Act that Senator Anderson championed, our Nation now has nearly 91 million acres preserved as wilderness in 474 areas, areas "where the Earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain."

I am pleased to have played a role in the designation of approximately 1 million acres of wilderness in New Mexico and the creation of three-fourths of the wilderness areas in the State.

Of course, the Wilderness Act is only the most famous of Senator Anderson's public lands legislation. It is worth remembering that Senator Anderson was a recognized leader of public lands legislation far beyond the Wilderness Act. He understood that

there must be a balance in our public lands management, that we must be guided by the principle of multiple use. He worked to establish the Outdoor Recreation Review Commission, the Multiple-Use Sustained-Yield Act of 1960, and other measures.

The bill S. 818 will rename the Cooperas Vista as the "Senator Clinton P. Anderson Wilderness Overlook." This vista, which is located along the Clinton P. Anderson Highway near Silver City, NM, overlooks the Gila Wilderness in the Gila National Forest. Among other measures, the Forest Service will place a bronze plaque at the site to acknowledge Senator Anderson's efforts on behalf of wilderness. The Forest Service assures me they will mount this plaque permanently on a boulder as fitting tribute to the enduring significance of Senator Anderson's wilderness legacy.

It is worth mentioning that in 1954 we in New Mexico dedicated another vista to the pioneer of wilderness designation, Aldo Leopold. The Aldo Leopold Vista is located on the Gila National Forest along State Highway 180 between Silver City and Glenwood, NM. From this vista one has an unobstructed view into the western and southwestern Gila Wilderness—a view of rugged escarpments with names like Mogollon Baldy and 10 other prominent landmarks.

There is a plaque there that pays tribute to Aldo Leopold. The Forest Service informs me they are currently reworking the site and improving the wilderness interpretation there. About 36 miles to the east, as the crow flys, is Cooperas Vista, now being considered for designation as the "Senator Clinton P. Anderson Wilderness Overlook".

The view of the Gila Wilderness from the overlook is impressive. The Gila is made up of a huge collapsed caldera. From the overlook one can see north, east, and west into the heart of the wilderness. This is a worthy place to remind ourselves of Senator Anderson's contribution.

I am pleased to join with my colleague from New Mexico, Senator BINGAMAN, in this effort. I commend him for his work on this legislation.

In summary, it is fitting that we remember the contribution that this honorable man from New Mexico, Senator Clinton P. Anderson, made to the passage of the Wilderness Act as we celebrate the act's 25th anniversary this year. This bill would provide an appropriate tribute to Senator Anderson. I urge all Senators to support it.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there is no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 818

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) Senator Clinton P. Anderson of New Mexico was the leader of the conservation movement in the 88th Congress, which earned the name the "Conservation Congress" for its passage of several landmark conservation measures. Senator Anderson was the guiding sponsor of the Wilderness Act and shepherded it through the 88th Congress, helping secure its passage and enactment on September 3, 1964.

(2) Senator Anderson was influenced by New Mexico conservationist Aldo Leopold, who as a United States Forest Service officer helped establish the Nation's first administratively designated wilderness in 1924, the Gila Wilderness in the Gila National Forest in New Mexico.

(3) Senator Anderson wrote and spoke eloquently about wilderness and his words continue to inspire his colleagues and the public about conservation. In 1963 he wrote:

"There is a spiritual value to conservation, and wilderness typifies this. Wilderness is a demonstration by our people that we can put aside a portion of this which we have as a tribute to the Maker and say—this we will leave as we found it.

"Wilderness is an anchor to windward. Knowing it is there, we can also know that we are still a rich Nation, tending our resources as we should—not a people in despair searching every last nook and cranny of our land for a board of lumber, a barrel of oil, a blade of grass, or a tank of water.".

(4) On the 25th anniversary of the Wilderness Act, Senator Anderson's living legacy is the 474 units in the National Wilderness Preservation System, totaling nearly 91 million acres.

SEC. 2. DESIGNATION OF OVERLOOK.

In recognition of the significant role Senator Anderson played in the enactment of the Wilderness Act, the Secretary of Agriculture is authorized and directed to rename the existing Copperas Vista, located on the Gila National Forest in New Mexico, as the "Senator Clinton P. Anderson Widerness Overlook" and to erect appropriate signs, interpretive facilities, monuments, or plaques commemorating Senator Anderson's contribution to the National Wilderness Preservation System.

The title was amended so as to read: "A bill to commemorate the contributions of Senator Clinton P. Anderson to the establishment of the National Wilderness Preservation System, and for other purposes."

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTE 66 STUDY ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Item No. 176, S. 963.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 963) to authorize a study on methods to commemorate the nationally significant highway known as Route 66, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment.

On page 3, line 25, strike "submit a report of", and insert in lieu thereof "transmit".

So as to make the bill read:

S. 963

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Route 66 Study Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) United States Route 66, that great two thousand-mile highway from Chicago, Illinois, to Santa Monica, California, played a major role in the twentieth-century history of our Nation;

(2) Route 66, a product of a grassroots effort for better American roads and a prime example of the 1926 National Highway System program, served a similar historical function as many earlier "travel and commerce corridors", such as the Santa Fe Trail;

(3) Route 66 has become a symbol of the American people's heritage of travel and their legacy of seeking a better life;

(4) Route 66 served as a funnel for the twentieth-century westward migration from the Dust Bowl of the Central States;

(5) Route 66 has been memorialized in books, songs, motion pictures, and television programs, and has become a cherished part of American popular culture;

(6) although the remnants of Route 66 are fast disappearing, many structures, features, and artifacts of Route 66 remain, including several segments of the highway that offer excellent insight into the experience of so many who traveled the highway; and

(7) in light of the growing interest by organized groups and State governments in the preservation of features associated with Route 66, the route's history, and its role in American popular culture, a comprehensive evaluation of preservation and tourism options should be undertaken.

SEC. 3. STUDY AND REPORT BY THE NATIONAL PARK SERVICE.

(a) STUDY.—The Secretary of the Interior, acting through the Director of the National Park Service, shall undertake a comprehensive study of United States Route 66. Such study shall include an evaluation of the significance of Route 66, options for preservation and use of remaining segments of Route 66, and options for preservation of features associated with the highway. Private sector initiatives are to be fully evaluated. The study shall include participation by representatives from each of the States traversed by Route 66 and representatives of associations interested in the preservation of Route 66 and its features.

(b) REPORT.—Not later than two years from the date that funds are made available for the study referred to in subsection (a), the Secretary shall transmit such study to the Committee on Energy and National Re-

sources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOMENICI. Mr. President, I would like to comment on the Route 66 Study Act, S. 963. S. 963 has become one of the most interesting pieces of legislation that I have worked on.

Forty-three years ago, a young veteran named Bobby Troup, returning from World War II, departed Chicago and drove down America's Main Street, Route 66. As he was traveling across the heart of the Nation, he was struck by the adventure of modern transportation, and he composed a song that captured the spirit of his journey. The song was called "Get Your Kicks on Route 66."

Mr. President, I promise you that I will not attempt to sing the song, but the words went like this:

If you ever plan to motor west,
Travel my way, take the highway that's best.
Get your kicks on Route Sixty-Six!
It winds from Chicago to L.A.
More than two thousand miles all the way.
Get your kicks on Route Sixty-Six!
Now you go thru Saint Loo-ey and Joplin, Missouri
And Oklahoma City is mighty pretty;
You'll see Amarillo;
Gallup, New Mexico;
Flagstaff, Arizona;
Don't forget Winona, Kingman, Barstow, San Bernadino.
Won't you get hip to this timely tip:
When you make the California trip
Get your kicks on Route Sixty-Six!

Mr. President, I rise today to urge the Senate to pass S. 963, the Route 66 Study Act of 1989. This bill, which I introduced, will direct the National Park Service to conduct a feasibility study to determine the best ways to preserve, commemorate, and interpret America's Main Street, historic U.S. Route 66.

Route 66 represents a bygone era in America—an era when travel was more of a leisurely adventure, when a trip across the country was a journey of discovery from town to town, not interchange to interchange. Route 66 brought America through the heartland and into personal contact with the communities that it linked together. It was given the nickname "America's Main Street" because Route 66 ran through so many small towns across the West.

When most Americans think of Route 66, they probably are reminded of Bobby Troup's song, the Joads of John Steinbeck's "The Grapes of Wrath" escaping the Dust Bowl in their overloaded tin lizzie, and Martin Milner and George Maharis cruising toward the sunset in their Corvette in the television series, "Route 66."

Route 66, however, is more than a detour in American popular culture. It is part of the landscape of modern American history.

At one time, Route 66, stretching over 2,200 miles from the corner of Michigan Avenue and Jackson Boulevard in Chicago to the Pacific Ocean at Santa Monica, was the most famous highway in America. Officially designated in 1926, Route 66 became the first completely paved highway across the Western United States in 1938.

Like a modern-day Santa Fe Trail, it carried hundreds of thousands of migrating Americans to the West. it served as the main route for westward migration from the desperation of the Dust Bowl to the opportunity of California during the Depression.

Up to 500,000 Americans—one quarter of all entrants to California during that era—migrated to California from the Dust Bowl on Route 66 from 1935 to 1940. John Steinbeck captured this era and christened Route 66 the "Mother Road" in the classic novel of the Depression, "The Grapes of Wrath."

After World War II, another generation of Americans trecked across America on Route 66, not to escape despair, but to embrace opportunity on the economically vibrant west coast. This was Bobby Troup's generation, and he expressed their enthusiasm and sense of adventure in his song, "Get Your Kicks on Route 66!"

Route 66 also allowed vacationers to travel to previously remote areas to experience the natural beauty and unusual culture of the Southwest and the Far West. Playing to the American affection for the era of cowboys and Indians—fueled by motion pictures and stereotyped images on Native Americans—campgrounds, curio shops, gas stations, motor courts, motels, and restaurants sporting cowboy and Indian motifs sprung up along the highway to serve tourists.

Route 66 began to decline in significance with the enactment of the Interstate Highway Act in 1956. The interstates replaced roads like Route 66, and Route 66 was abandoned. In 1984, the last federally designated portion of Route 66 was decommissioned when Interstate 40 was completed in Arizona. Fittingly, Bobby Troup sang "Route 66" at the ceremony that marked the end of the road for America's Main Street.

Unfortunately, Route 66 is fast fading from the landscape of America, having been superseded by the superhighways. However, one can still see vestiges of the highway and the gas stations, curio shops, restaurants, motels, and other facilities that were situated along the highway to service travelers.

The idea of preserving Route 66 has generated a great deal of interest across the country. My office has received letters and phone calls from people who have heard about the effort to preserve Route 66 and who want to lend their support. Each of these persons has an interesting personal experience to relate about Route 66, which demonstrates that Route 66 was more than a road, it truly was America's Main Street.

Route 66 preservation organizations have been formed in a number of States. These organizations include the New Mexico Route 66 Association, Save Route 66—based in New Mexico, the Historic Route 66 Association of Arizona, the Route 66 Association of Illinois, and the Route 66 Association—a national group headquartered in Oxnard, CA.

Recently, seven segments of Route 66 within the boundaries of the Kaibab National Forest in Arizona were added to the National Register of Historic Places.

S. 963 will direct the National Park Service to study the significance of Route 66, its history, and its place in American culture, and report on ways to preserve what remains of the highway and the facilities associated with it. The study will examine preservation not only by the Government, but by private sector as well. Each of the eight States along Route 66 will have a representative on the study group.

A number of States have undertaken efforts to protect Route 66. This bill is designed to assist and enhance those efforts.

I am pleased to be joined in this legislation by my distinguished colleagues, Senators BINGAMAN, BOND, BOREN, BRADLEY, CRANSTON, DECONCINI, DIXON, DOLE, MCCAIN, NICKLES, and SIMON.

Mr. President, I am very excited about the prospect of preserving Route 66. Route 66 was America's Main Street in the early days of automobile transportation. This historic highway defines an era of change and discovery that continues to influence our Nation.

So this bill will go to the House, hopefully, to be adopted quickly and will set in motion what I believe will be hundreds of local organizations and entities evaluating how certain aspects of old U.S. Highway 66 can be preserved, maintained, and utilized to help small communities develop economic development ideas around its preservation.

Without an awful lot of public money we are going to have a very exciting preservation endeavor in this country that will be worthwhile for millions of Americans.

I am pleased to have the support of Senators like Senator BRADLEY from New Jersey, who is not even from a State touched by it, but who has indicated that he was born in Missouri and has great memories of U.S. Highway 66 in his then home State of Missouri. He is even speaking of having a social historian writing the history of what is left so as to remind us of what we might keep.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 963) was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR—H.R. 3024

Mr. MITCHELL. Mr. President, I ask unanimoius consent that H.R. 3024, a bill to provide for a temporary increase in public debt limit received today from the House of Representatives be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL TO BE PLACED ON CALENDAR—H.R. 2712

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 2712, the Emergency Chinese Adjustment Status Facilitation Act of 1989 be placed on the calendar when received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTING THE ENROLLMENT OF S. 85

Mr. MITCHELL. Mr. President, on behalf of Senator Johnston, I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 59) relating to the enrollment of the bill S. 85 relating to the Harpers Ferry National Historic Park, WV.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. JOHNSTON. Mr. President, this concurrent resolution corrects an error in the printing of S. 85, a bill to authorize the acceptance of certain lands for addition to Harpers Ferry National Historical Park, WV.

S. 85 was reported unanimously from the Energy and Natural Resources Committee on May 17 of this year and passed the Senate on July 14. Unfortunately, an error was made by the Government Printing Office in the printing of the reported bill which was subsequently passed by the Senate.

The House is expected to pass this measure in the near future without amendment and this concurrent resolution will allow the enrolling clerk to correct this error without requiring that the bill come back to the Senate.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 59) was agreed to, as follows:

S. CON. RES. 59

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (S. 85) to authorize the acceptance of certain lands for addition to Harpers Ferry National Historical Park, West Virginia, the Secretary of the Senate is hereby authorized and directed, in the enrollment of the said bill, to make the following correction, namely, in subsection (a)(1) strike "two thousand five hundred and forty acres" and insert in lieu thereof "two thousand five hundred and five acres".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY FOR COMMITTEES TO FILE LEGISLATIVE AND EXECUTIVE CALENDAR BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that committees may file reported Legislative and Executive Calendar business on Wednesday, August 30, from 12 noon to 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORLD WAR II REMEMBRANCE WEEK

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 221, a joint resolution to designate the week beginning September 1, 1989 as "World War II Remembrance Week," and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 221) to designate the week beginning September 1, 1989, as "World War II Remembrance Week."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

THE PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 221) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. MITCHELL. I move to reconsider the vote by which the joint resolution was passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—REPORT 101-90

Mr. MITCHELL. Mr. President, on behalf of Senator KENNEDY, I ask unanimous consent that Report 101-90 be star printed to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

PLANTING OF ALTERNATIVE CROPS ON PERMITTED ACREAGE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 165, H.R. 2799, a bill to provide for the planting of alternative crops on permitted acreage.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2799) to amend the Agricultural Act of 1949 for the 1990 crops to allow the planting of alternative crops, and so forth.

The PRESIDING OFFICER. Is there objection to be the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2799) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RURAL PARTNERSHIP ACT

Mr. LEAHY. Mr. President, I ask unanimous consent that we move to the consideration of S. 1036.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1036) to improve the economic community and educational well-being of rural America, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I was born and raised in Vermont, one of the most rural States in the country. I know first hand the quality of rural living—a lifestyle of self-sufficiency, neighborliness, and friendliness that is often difficult to find elsewhere.

As chairman of the Senate Agriculture Committee, I have traveled across the country and talked to people living in rural America.

I have seen a rural America that is too often in trouble. I have seen a rural America abandoned by too many of its brightest young because of a lack of jobs. I have seen a rural America with too many mainstreet storefronts emptied by poor economic conditions.

In Vermont, we have certainly felt the economic pinch. While our overall economy is generally strong, far too few of our communities and neighbors have fully shared in this prosperity. A similar condition exists across much of rural America.

We cannot have two Americas—first, a land of opportunity; and a second, rural America, left behind.

Our commitment to rural America must be more than 60-second sound bites in campaign commercials. It has to be more than floats on the Fourth of July extolling the virtues of rural living. We have to do more if rural America is going to have a real future.

It is for these reasons that I introduced the Rural Partnerships Act of 1989. This legislation was reported out of the Senate Agriculture Committee by unanimous vote and has 40 Republican and Democratic cosponsors.

In developing this legislation, the Agriculture Committee went beyond the slogans and the sound bites. We took three basic steps in developing a new agenda for rural America.

First, we agreed to invest in economic growth by creating new businesses and jobs.

Second, we agreed to invest in human resources by improving schools and health care.

Third, we agreed to invest in quality of life by helping rural communities provide safe drinking water and waste disposal.

A 1986 EPA survey found that 70 percent of our Nation's substandard wastewater facilities were in rural areas. In 1984, EPA found that two-thirds of rural water supplies violated Federal drinking water standards.

The rural electric cooperatives would be eligible for a new $200 million fund for water and sewer needs over the next 5 years. Some have raised the question: Why should the cooperatives be eligible for $200 million over the next 5 years in new money? The reason is fairly simple.

If we followed the current EPA and USDA spending schedule, it would take 66 years to bring clean water to rural America. That is far too long. That's simply unacceptable.

In hearings before the committee, it was clear that we needed a number of approaches to help different types of rural communities having problems meeting clean water standards.

One approach was needed for fiscally sound communities that can afford to borrow money, but are not big enough to float bonds or generate capital to fund the improvements. For these communities, the bill establishes a USDA Loan Program so that rural electric cooperatives can borrow the needed capital and manage water and sewer systems.

This activity is already going on in seven States. The legislation also allows the banks for cooperatives to originate loans to small communities which will provide another source of credit to communities that can afford to borrow money.

A second approach is directed at communities too poor to borrow the essential capital. For these communities, the legislation increases the authorization of the Farmers Home Administration Grant Program by $240 million.

The legislation allows both approaches by making it easier to obtain the resources to provide safe drinking water in rural areas.

This legislation, S. 1036, combines a number of bills and initiatives developed by members of the Senate Agriculture, Nutrition, and Forestry Committee. Without their help and efforts, I doubt we would have been successful in developing such a comprehensive package that addresses the needs of rural America.

Senator DAVID PRYOR developed innovative proposals to assist hard-pressed rural hospitals provide quality medical care in rural areas.

Senator DAVID BOREN developed initiatives to provide safe drinking water to rural communities and to provide capital to build new hospitals and prevent existing ones from going out of business.

Senator HOWELL HEFLIN, chairman of the Rural Development Subcommittee, and Senator MITCH MCCONNELL, the subcommittee's ranking minority member, did an outstanding job in providing a leadership role for rural electric cooperatives.

Senator TOM HARKIN developed an important emergency water program to address the emergency needs of rural communities in Iowa and the Nation. This proposal has also been included in the 1989 disaster assistance bill, S. 1429.

Senator KENT CONRAD created the Rural Partnership Program—one of the largest rural development initiatives in the last decade. This provides $300 million in new capital for new and expanding businesses.

Senator WYCHE FOWLER championed his plan to use modern telecommunications to give rural students the opportunity to take specialized courses that their school district may not be able to offer.

Senator TOM DASCHLE proposed legislation to better coordinate USDA's rural development activities. This will ensure that South Dakotans and taxpayers across the country will have better access to existing rural development programs.

Senator MAX BAUCUS developed initiatives for business incubators through rural electric cooperatives. His efforts will provide major new economic development opportunities in both Montana and nationally.

Senator BOB KERREY proposed assistance for rural businesses to ensure that they are able to keep pace in the telecommunications revolution.

Finally, I would like to thank the committee's ranking member, Senator RICHARD LUGAR. I am happy that once again we were able to work closely together to produce landmark legislation. His cooperation and leadership made this legislation possible.

As chairman of this committee, I have traveled across the country and talked to people living in rural America. I am pleased to report that they are not a despondent and depressed group; they are hopeful and optimistic. They are a tough breed, with a strong work ethic and the determination to succeed.

They understand the need to help rural America.

They understand that they cannot pit the interests of farmers against the 90 percent of rural America that does not farm. They understand that we must work together to provide rural America with the appropriate relief it needs.

What we must do here—and what this bill begins to accomplish—is give rural America the tools it needs to build for the future.

Mr. LUGAR. Mr. President, I am pleased to join Chairman LEAHY and members of the Agricultural Committee in support of rural development legislation.

The Department of Agriculture's Economic Research Service recently reported that, despite very low unemployment at the national level, the unemployment rate in rural America remains substantially above the metropolitan rate. Urban unemployment was 5.1 percent in 1988 while unemployment in rural areas was 6.9 percent.

Economic growth in rural areas reflects mostly rehiring of the unemployed rather than an expansion of the labor force. The nonmetropolitan labor force grew only 0.9 percent in 1988 versus a metropolitan growth rate of 1.7 percent. These statistics demonstrate that the need for increased and diversified business and job development in our rural areas is indeed substantial. Indeed, our country is faced with a changing rural America as industry relocates and farms become larger.

S. 1036 provides several benefits to a struggling rural community. The revolving loan fund, and the rural capital access program will increase the amount of credit available to local communities to finance new business development. The sewer and water financing program will increase the level of funding available to rural areas that have serious water and waste disposal problems.

As originally introduced, I raised objections to several aspects of this bill. Many sections of the bill duplicated existing Federal programs and created overlapping regulatory structures that I argued were unnecessary. I suggested several changes in the bill that would avoid administrative duplication. While not all of our concerns were addressed, several changes were made to reduce the level of bureaucracy and simplify the structure of the bill in order to guarantee that assistance has a more direct route to our rural communities. I thank Chairman LEAHY for accommodating my concerns.

A key aspect of the bill is the water and sewer financing mechanism for rural electric cooperatives. Rural communities desperately need financial assistance for water and sewer facilities. As originally introduced, the bill would have established this program as new lending authority in the Rural Electrification Administration. A popular sewer and water program already exists in the Farmers Home Administration and I argued that the existing structure should be utilized. The bill now establishes a special account for use by the rural electric cooperatives within the Farmers Home Administration water and sewer program, thereby assuring the money is not spent to create a duplicative structure at the Rural Electrification Administration.

Some issues in the bill may need further review in conference and I look forward to working with Chairman LEAHY as we proceed to that point. For example, rural electric cooperatives are given several new responsibilities in this legislation. I do not object to the cooperatives participation in these new programs, but it must be noted that they do not serve all rural areas. Further refinements may need to be made in conference to ensure that all electric utilities serving rural customers would be eligible participants in any rural development legislation.

A major part of this bill is dedicated to expanding telecommunication technology in rural areas. I believe this is an important part of economic development efforts, and we should make every effort to utilize the existing infrastructure. In Indiana, we have an outstanding telecommunications network to link State government, educational institutions, and hospitals. In discussions with Indiana telephone organizations, they are very concerned about the limiting factors placed on them in this legislation. A committee amendment will be offered to help address these concerns but additional action in conference may be necessary in order to ensure that existing customers are not removed from that organization's rate base.

I am pleased that this legislation includes the Rural Capital Access Program which I introduced earlier this year. Studies indicate that a major impediment to rural economic development is the lack of available credit for business creation, expansion, and retention. The rural capital access legislation is based upon a successful program in Michigan which makes credit more readily available to businesses by creating a reserve fund for losses that banks can tap when rural economic development loans, made under the program, default.

In conclusion, I wish to thank Chairman LEAHY for his efforts to prioritize rural economic development. While I have noted my concerns with this bill, I agree with the goals that are established in this legislation and will support the bill in order to provide new opportunities for economic development in our rural communities.

AMENDMENT NO. 659

Mr. LEAHY. Mr. President, I ask unanimous consent it be in order to introduce several amendments to S. 1036 and that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes amendments en bloc numbered 659.

Mr. LEAHY. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 200, between lines 3 and 4, insert the following new section:

SEC. . REVIEW OF PROGRAMS FOR BUSINESS INCUBATOR.

(a) POLICY OF THE UNITED STATES.—It is the policy of the United States that the Federal government should encourage and support the development and operation of business incubator centers as a tool of economic and community development.

(b) ACTION BY SECRETARIES.—The Secretaries of Housing and Urban Development, Health and Human Services, Energy, Defense, Commerce, and Agriculture, and the Administrator of the Small Business Administration shall review existing regulations promulgated by their respective departments and agencies governing grants and loans for purposes of community development, business promotion, research and development, and export promotion and shall take such action as may be necessary to ensure that business incubator centers are eligible for such grants or loans.

(c) REPORT.—Not later than March 1, 1990, the head of each agency or department described in subsection (b) shall prepare and submit, to the appropriate Committees of the House of Representatives and to the Governmental Affairs Committee and other appropriate committees of the Senate, a report containing the findings of its review including—

(1) a description of existing Federal grant or loan programs the purpose of which is community development, business promotion, research and development, or export promotion for which business incubator centers are currently eligible;

(2) recommendations as to changes in existing law needed to make business incubator centers eligible for current Federal grant or loan programs for purposes of community development, business promotion, research and development, or export promotion; and

(3) recommendations for any additional legislation that may be required to foster and support business incubator centers.

(d) CONSULTATION.—In conducting the reviews under subsections (b) and (c), the heads of the agencies and departments shall regularly consult with representatives of incubator operators, officials of State and local government, and others involved in small business promotion and economic development.

(e) AVAILABILITY OF REPORTS.—The Administrator of the Small Business Administration shall ensure that any reports developed as the result of such reviews are made available to interested parties and to the general public.

On page 205, line 14, insert "copper cable electronic equipment associated with tele-

communications transmissions," after "complexes,".

On page 207, strike out lines 1 through 8.

On page 207, line 9, strike out "(f)" and insert in lieu therefore "(e)".

On page 207, line 22, strike out "(g)" and insert in lieu thereof "(f)".

On page 209, line 1, strike out "(h)" and insert in lieu thereof "(g)".

On page 209, line 8, strike out "(i)" and insert in lieu therefore "(h)".

On page 209, lines 13 and 14, strike out "rural distance learning partnerships under" and insert in lieu thereof "educational institutions described in".

On page 209, line 23, strike out "section 204(f)" and insert in lieu thereof "subsection (e)".

On page 209, line 24, insert "or through other financing procedures" before the period.

On page 210, strike out line 9 and all that follows through line 11 on page 214, and insert in lieu thereof the following:

(3) DEADLINE IMPOSED ON THE ADMINISTRATOR.—The Administrator shall, not later than 45 days after the receipt of the completed application, respond to such completed application for an expedited telephone loan. The Administrator shall notify the applicant in writing of its decision regarding each such expedited loan application.

On page 214, line 23, insert "literacy," after "mathematics,".

On page 215, lines 2 and 3, strike out "telecommunications partnerships" and insert in lieu thereof "educational institutions described in subsection (c)(1)".

On page 216, strike out line 3 and all that follows through line 9 on page 217, and insert in lieu thereof the following:

(4) USE OF FUNDS.—Grants under this section shall be made available to educational institutions described in subsection (c)(1) to be used by such educational institutions for facilities, equipment, activities, and other uses as described in the approved rural telecommunications plan to achieve the purpose of this section, including—

(A) the development and acquisition of instructional programming;

(B) the development and acquisition, through lease or purchase, of computer hardware and software, audio and visual equipment, telecommunications terminal equipment, telecommunications transmission facilities, or interactive video equipment, and other facilities that would further the purposes of the programs authorized by this section;

(C) providing technical assistance and instruction for the development or use of such programming, equipment, or facilities; or

(D) other uses that are consistent with achieving the purposes of this section as approved by the Administrator.

On page 217, line 14, strike out "programming" and insert in lieu thereof "curriculum development".

On page 217, line 16, insert "or software systems development" after "programming".

On page 217, line 23, strike out "partnership" and insert in lieu thereof "applicant".

On page 218, strike out line 5 and all that follows through line 4 on page 219, and insert in lieu thereof the following:

(c) RURAL EDUCATIONAL OPPORTUNITIES APPLICANTS.—Grants made under this section shall be available to one or more educational institutions, agencies, or organizations with substantial academic and teaching capabilities, such as local education agencies, State education agencies, land grant and other universities, community colleges, and other institutions of higher education.

On page 219, line 11, strike out "partnership" and insert in lieu thereof "applicant".

On page 219, line 15, strike out "partnership" and insert in lieu thereof "educational institution".

On page 220, between lines 9 and 10, insert the following new paragraph:

(4) A description of the proposed technical facilities to be used, and the facilities for which the educational institution is applying, including an analysis and cost comparison regarding alternative or existing technical facilities that can be used for such purpose.

On page 220, line 10, strike out "(4)" and insert in lieu thereof "(5)".

On page 220, line 14, strike out "(5)" and insert in lieu thereof "(6)"

On page 220, line 19, insert "literacy," after "mathematics,".

On page 220, line 22, strike out "(6)" and insert in lieu thereof "(7)"

On page 221, line 4, strike out "(7)" and insert in lieu thereof "(8)"

On page 221, line 7, strike out "(8) Assurances that the partnership" and insert in lieu thereof "(9) Assurances that the educational institution"

On page 221, line 17, strike out "(9)" and insert in lieu thereof "(10)"

On page 221, line 18, insert "instructional" after "and".

On page 221, line 21, strike out "(10)" and insert in lieu thereof "(11)"

On page 221, lines 21 and 22, strike out "educational" and insert in lieu thereof "instructional".

On page 222, line 1, strike out "(11)" and insert in lieu thereof "(12)"

On page 222, strike out line 10 and all that follows through line 23 on page 227.

On page 223, between lines 4 and 5, insert the following new clause:

"(vii) a specialist in literacy training;".

On page 223, line 5, strike out "(vii)" and insert in lieu thereof "(viii)".

On page 223, line 7, strike out "(viii)" and insert in lieu thereof "(ix)".

On page 223, line 9, strike out "(ix)" and insert in lieu thereof "(x)".

On page 223, line 11, strike out "(x)" and insert in lieu thereof "(xi)".

On page 223, line 13, strike out "(xi)" and insert in lieu thereof "(xii)".

On page 223, line 15, strike out "(xii)" and insert in lieu thereof "(xiii)".

On page 223, line 16, strike out "(xiii)" and insert in lieu thereof "(xiv)".

On page 223, line 18, strike out "(xiv)" and insert in lieu thereof "(xv)".

On page 224, between lines 10 and 11, insert the following new sentence:

"The Secretary of Education and the Secretary of Agriculture shall ensure that, to the extent practicable, one of the individuals appointed under subparagraphs (A) and (B) shall be knowledgeable concerning literacy problems in rural areas.".

On page 227, line 23, strike out "(h)" and insert in lieu thereof "(f)".

On page 229, line 18, strike out "204(i)" and insert in lieu thereof "204(h)".

On page 233, line 1, strike out "204(i)" and insert in lieu thereof "204(h)".

On page 233, line 24, strike out "204(i)" and insert in lieu thereof "204(h)".

On page 236, line 23, strike out the end quotation marks and the second period.

On page 236, after line 23, add the following new paragraph:

"'(6) COORDINATION.—The Secretary shall ensure that the activities of the Extension Service rural economic and business development program established under section 502(g) of the Rural Development Act of 1972 (7 U.S.C. 2662(g)) are coordinated with the Small Business Administration to ensure that there is no duplication of activities in any local area, county or region.'"

On page 248, line 11, strike out "$35,000,000" and insert in lieu thereof "$25,000,000".

At the appropriate place in title VI, insert the following new section:

SEC. 6XX. TECHNICAL ASSISTANCE FOR CERTAIN SOLID WASTE MANAGEMENT.

Section 310B(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(b)) is amended—

(1) by inserting "(1)" before "The Secretary"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary may make grants to nonprofit organizations for the provision of regional technical assistance to local and regional governments and related agencies for the purpose of reducing or eliminating pollution of water resources and improving the planning and management of solid waste disposal facilities. Grants made under this paragraph for technical assistance shall be made for 100 percent of the cost of such assistance.".

On page 254, line 16, insert "nonprofit organizations specializing in applied research" after "stations".

On page 254, between lines 23 and 24, insert the following new paragraph:

"(2) RURAL TECHNOLOGY TRANSFER AND INNOVATION.—The Secretary shall establish and implement a program to award matching grants to promote technology transfer, innovation, and new product development. Grantees shall include institutions described in paragraph (1) and other nonprofit organizations that have demonstrable capability in technology transfer, applied research, innovation, and new product development that will lead to economic growth and job creation in rural areas. Applicants for grants under this paragraph shall demonstrate the ability to provide, at a minimum, a one-to-one financial match.".

On page 254, line 24, strike out "(2)" and insert in lieu thereof "(3)".

On page 259, between lines 15 and 16, insert the following new sections:

SEC. 7. . NATIONAL RURAL DEVELOPMENT CENTER.

(a) ESTABLISHMENT.—The Tennessee Valley Authority, established under the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.), shall establish a center to be known as the "National Rural Development Center" to carry out subsection (b) and carry out studies, experiments, and demonstrations of the kind authorized in section 22 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831u).

(b) FUNCTIONS.—

(1) DEMONSTRATIONS.—The National Rural Development Center shall conduct, support, or replicate experimental and innovative demonstrations, including enterprise development, manufacturing development, leadership and community organization development, minority economic development, service sector development, basic skills enhancement, literacy training, waste management, agricultural development, export trade expansion, and telecommunications as a means for rural distant learning, training, dropout prevention, and economic development.

(2) CONDUCT OF DEMONSTRATIONS WITH OTHER ENTITIES.—Demonstrations under paragraph (1) may be conducted alone or in partnership with other Federal entities, such as the Rural Electrification Administration, the Department of Agriculture, the Cooperative Extension Service, the Appalachian Regional Commission, the Economic Development Administration, the Lower Mississippi Delta Commission, States, counties, economic development districts, towns, other public bodies, economic development corporations, and private sector entities.

(3) DISSEMINATION OF RESULTS.—Results of the demonstrations conducted under paragraph (1), and other work conducted by the National Rural Development Center, shall be disseminated widely to rural areas throughout the United States through the National Rural Information Center Clearinghouse established under title V, and through other appropriate means, to any industry, organization, or Federal, State, or local government entity engaged in rural development activities.

(c) FEDERAL AGENCIES.—The heads of other Federal agencies engaged in rural development activities shall cooperate with and may use the services of the National Rural Development Center.

(d) AUTHORIZATION OF APPROPRIATIONS.—All appropriations necessary to carry out the activities described in subsection (b) shall be authorized as provided for in section 27 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831z).

SEC. 7 . GRANTS TO BROADCASTING SYSTEMS.

Section 310B(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary may make grants to Statewide private non-profit public television systems, whose coverage area is predominantly rural, for the purpose of demonstrating the effectiveness of such systems in providing information on agriculture and other issues of importance to farmers and other rural residents. Funds available under this paragraph may be used for capital equipment expenditures, start-up and program costs, and other costs necessary to the operation of such demonstrations.".

SEC. 7 . RURAL BUS SERVICES.

(a) SHORT TITLE.—This section may be cited as the "Rural Bus Services Act".

(b) INTERCITY BUS SERVICE.—The Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1601 et seq.) is amended by adding at the end the following new section:

"SEC. 26. INTERCITY BUS SERVICE.

"(a) GRANTS.—The Secretary is authorized to make grants for the initiation, improvement, or continuation of intercity bus service, and for the establishment and maintenance of rural feeder services, for residents of rural areas and residents of urban places designated by the Bureau of the Census having populations of 5,000 or more that are not within an urbanized area.

"(b) LIMITATIONS.—

"(1) RECIPIENTS.—Grants for the initiation, improvement, or continuation of intercity bus servcie under subsection (a) of this section shall be made only to States and local public bodies and agencies thereof, only for payment of operating expenses incurred in furnishing such intercity bus service, and shall not exceed 30 percent of the net cost of such an operating expenses project. The remainder of such cost shall be provided in cash from sources other than Federal funds.

"(2) TERMS AND CONDITIONS.—Such grants shall be subject to such other terms, conditions, and requirements as the Secretary may consider necessary to promote the initiation, improvement, or continuation of privately owned and operated intercity bus service.

"(3) DISTRIBUTION.—To the maximum extent feasible, assistance shall be distributed by the Secretary only for privately owned intercity bus companies to subsidize deficit operations considering the profitability of the route as a whole. The determination of profitability shall include all income generated by the route and only direct costs of the operation of the route. In making any such grant with respect to service in a particular general area, the Secretary shall give preference to applications involving a private bus operator which lawfully has provided intercity bus service within that area during the 1-year period preceding the date of application for such a grant, as compared to applications involving proposals for such service by any other operator.

"(c) FEEDER SERVICES.—Grants for the establishment and maintenance of rural feeder services under subsection (a) of this section shall be made only to States and local public bodies thereof in order to provide financial and other incentives for such establishment and maintenance. Such incentives may include—

"(1) supplemental operating assistance to permit daily service;

"(2) extension of authorized operating hours to facilitate connections with bus and railroad services that operate in nationwide interstate commerce;

"(3) subsidization of fares; and

"(4) establishment of a special fund to pay for the marketing of rural connections and rural feeder services.

"(d) DEFINITIONS.—As used in this section:

"(1) INTERCITY BUS SERVICE.—The term 'intercity bus service' means transportation provided to the public by a private bus operator authorized to transport passengers in interstate commerce by the Interstate Commerce Commission or in intrastate commerce by a State regulatory commission or comparable State agency between—

"(A) one urban place as designated in accordance with subsection (a) and another such urban place;

"(B) such an urban place and an urbanized area; or

"(C) one urbanized area and another urbanized area, through rural areas or such urban places, or both, except that the term does not include local service.

"(2) RURAL FEEDER SERVICES.—The term 'rural feeder services' means transportation provided to the public that is designed to facilitate connections between a rural area and bus and railroad services that operate in nationwide interstate commerce.".

(c) EXPRESS PICKUP AND DELIVERY OF SMALL PACKAGES.—

(1) PILOT PROJECTS.—

(A) ESTABLISHMENT.—The Secretary of Transportation (hereafter in this section referred to as the "Secretary") shall establish pilot projects for the purpose of providing incentives for rural feeder services (as defined under section 26 of the Urban Mass Transportation Act of 1964) to combine express pickup and delivery of small packages with passenger transportation.

(B) GRANTS FOR PROJECTS.—The Secretary shall, not later than 9 months after the date of enactment of this section, make grants for the projects referred to in subparagraph (A), that shall not exceed 18 months in duration. The grants shall be made only to States and local public bodies and agencies thereof and shall not exceed 20 percent of the net cost of providing such pickup and delivery. The remainder of such cost shall be provided from sources other than Federal funds.

(C) PREFERRED APPLICANTS.—In making grants under this subsection, the Secretary shall, in consultation with the Interstate Commerce Commission, give preference to applicants which—

(i) demonstrate a serious community need for such pickup and delivery, in light of such circumstances as availability and proximity of existing pickup and delivery services; and

(ii) propose services by private bus operators with proven expertise in intercity bus services (as defined under section 26 of the Urban Mass Transportation Act of 1964) which possess a reasonable likelihood of continuing such pickup and delivery after grant assistance under this subsection has terminated.

(D) DEADLINE.—No grant under this subsection shall be made after September 30, 1991.

(E) AMENDMENT TO URBAN MASS TRANSPORTATION ACT.— Section 4(i) of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1603(i)) is amended by inserting, immediately before the period at the end of the first sentence, the following: ", including projects referred to in subsection (c)(1)(A) of the Rural Bus Services Act".

(2) STUDY.—The Secretary shall conduct a study to evaluate the extent to which such pickup and delivery is dependent upon Federal preemption of State regulation. The Secretary shall, not later than 12 months after the date of enactment of this section, report to Congress on the results of such study.

At the appropriate place, insert the following new title:

TITLE —SMALL BUSINESS RURAL REVITALIZATION

SEC. 01. SHORT TITLE.

This Act may be cited as the "Small Business Rural Revitalization Act of 1989".

SUBTITLE A—CAPITAL FORMATION

SEC. 11. DEFINITION OF DESIGNATED RURAL AREA.

Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695) is amended—

(1) in subsection (a), by striking out the last sentence,

(2) in subsection (a), by striking out "needs of rural areas" and inserting "needs of designated rural areas", and

(3) by adding at the end thereof the following new subsection:

"(d) Designated Rural Area.—The term 'designated rural area' means a county or other comparable political subdivision of a State that has been designated by the Administrator of the Small Business Administration as a designated rural area that is—

"(1) a nonmetropolitan county, as periodically defined and classified by the United States Department of Agriculture's Economic Research Service (such counties are the 2,384 of the United States' 3,096 counties (or equivalents), that each have an aggregate urban population of 50,000 individuals or less); or

"(2) a political subdivision of a metropolitan county (or its equivalent) that has an aggregate urban population of 20,000 individuals or less, that has been recommended

for such designation by the District Director of the Small Business Administration for the district in which such county is located, and whose recommendation for such designation has been approved by the Administrator of the Small Business Administration, except that such District Director shall make such a recommendation only if—

"(A) through official action, the highest governing authority of such metropolitan county has specifically requested that an identifiable political subdivision of such county be a designated rural area for the purposes of this Act; and

"(B) through official action, the request referrred to in subparagraph (A) has been evaluated and concurred in by the department or agency of the State that is primarily responsible for rural economic development programs within the State, and which shall make such designation request to the appropriate District Director of the Small Business Administration.".

SEC. 12. CAPITAL REQUIREMENTS FOR SMALL BUSINESS INVESTMENT COMPANIES OPERATING IN DESIGNATED RURAL AREAS.

Section 302(a) of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended—

(1) by inserting "(1)" after "(a)", and

(2) by inserting after "$500,000" the following:

"; and *Provided*, further, that the combined private paid-in capital and paid-in surplus of any company licensed on or after October of 1989 pursuant to subsections (c) and (d) of section 301 shall not be less than $1,000,000."; and

(3) by adding at the end thereof the following new paragraphs:

"(2) In the case of any company licensed pursuant to subsections (c) or (d) of section 301, to assist small business concerns located in designated rural areas (as defined in section 501), such private capital may include contributions by—

"(A) State and local government if such contributions are not directly or indirectly derived from Federal funds; and

"(B) not-for-profit institutions, if such contributions are not directly or indirectly derived from Federal funds, if—

"(i) in the case of a corporation—

"(I) such contributions do not exceed 49 percent of the corporation's combined paid-in capital and paid-in surplus;

"(II) the aggregate amount of voting stock held by such contributors does not exceed 49 percent of the total issued and outstanding voting stock of such corporation; and

"(III) not less than 60 percent of the members of the board of directors of such corporation are from the private sector; and

"(i) in the case of a partnership—

"(I) such contributions do not exceed 49 percent of the partnership capital; and

"(II) the partnership interest of such contributors is that of a limited partner.".

SEC. 13. STATE DEVELOPMENT COMPANIES.

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 507. RURAL AREA DEVELOPMENT COMPANIES.

"(a) IN GENERAL.—Notwithstanding any other provision of law, a qualified certified development company may issue a debenture that shall be guaranteed by the Federal government pursuant to section 503(a) of this title in an amount that shall not exceed the lesser of—

"(1) $1,000,000: or

"(2) an amount equal to the amount of any matching funds provided by private sector entities.

"(b) DEFINITION.—As used in subsection (a), the term 'qualified certified development company' means a certified development company that—

"(1) is located and operated in a designated rural area (as defined under section 501);

"(2) has been in operation for at least 3 years;

"(3) is in good standing with, and has management abilities approved by, the Administration; and

"(4) has a minimum portfolio of 5 loans approved and disbursed under section 504, of which at least 80 percent are current.

"(c) REVOLVING FUND.—Funds obtained under this section shall be used to establish a revolving fund to make loans to small businesses operating in rural areas in an amount not to exceed $100,000.

"(d) CRITERIA ESTABLISHED BY ADMINISTRATOR.—A development company issuing a debenture guaranteed under this section shall comply with any criteria established by the Administration and not less than 50 percent of the funds of the company shall be from private investors.

"(e) JOBS OBJECTIVES.—For purposes of this section, or other sections of title V to which the requirements of section 108.503(b)(1) of title 13, Code of Federal Regulations, apply, the requirements of section 108.503(b)(1) of title 13, Code of Federal Regulations, shall be modified by substituting '$30,000' for '$15,000'.

"(f) DEBENTURES GUARANTEED.—The aggregate amount of debentures guaranteed under this section shall not exceed $25,000,000 annually. Amounts necessary to guarantee such debentures shall be derived from amounts appropriated under section 504.".

(b) CONFORMING AMENDMENT.—The table of sections for title V of the Small Business Investment Act of 1958 is amended by inserting after the item relating to section 506 the following new item:

"Sec. 507. Rural Area Development Companies.".

SUBTITLE B—REGULATORY SIMPLIFICATION; MISCELLANEOUS AMENDMENTS

SEC. 21. DEFINITION OF SMALL BUSINESS IN DESIGNATED RURAL AREAS FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) the term 'qualified designated rural area business' means any small business, as defined by the regulations issued by the Small Business Administration, that is engaged in the active conduct of a trade or business within a designated rural area (within the meaning of section 501 of the Small Business Investment Act of 1958).".

SEC. 22. INTERAGENCY REVIEW AND RECOMMENDATIONS.

(a) INTERAGENCY REVIEW.—The Administrator of the Small Business Administration shall conduct a review of all Federal economic development programs, and all Federal laws the purposes of which are to promote rural area economic and community development, rural area business promotion, or enhancement of employment opportunities in rural communities.

(b) CONSULTATION WITH FEDERAL OFFICIALS.—The Administrator in conducting the review under subsection (a) shall consult with—

(1) the Secretary of Housing and Urban Development,

(2) the Secretary of Health and Human Services,

(3) the Secretary of Energy,

(4) the Secretary of Defense,

(5) the Secretary of Commerce,

(6) the Secretary of Agriculture,

(7) the Secretary of Labor, and

(8) any other Federal officials, including the General Accounting Office, that the Administrator may consider appropriate.

(c) REPORT.—The Administrator shall, not later than 1 year after the date of enactment of this Act, submit a report to the appropriate committees of the House of Representatives and the Senate containing the findings of the review, including—

(1) a description of existing Federal grant and loan programs, which involve community development, business promotion, and research and development, for which small businesses located in rural areas are currently eligible;

(2) recommendations regarding changes to existing law which may be needed to make small businesses which are located in rural areas eligible for current Federal grant and loan programs; and

(3) recommendations for any additional legislation that may be required to foster and support small businesses in rural areas.

At the appropriate place, insert the following new section:

SEC. . ECONOMIC IMPACT STATEMENTS.

When promulgating regulations concerning rural development activities after the date of enactment of this Act, the Federal agency or department promulgating such regulations shall issue an economic impact assessment concerning the effect of such regulations on rural communities and businesses.

At the end of title VII, add the following new section:

SEC. 7 . INFORMATION CONCERNING FEDERAL FUNDING.

In the case of each program under which funds are allocated by an executive agency to States or political subdivisions of States, or both, under a formula established by Federal law or regulation, the head of the agency shall—

(1) in each fiscal year, identify the goods and services to be procured by such executive agency during such fiscal year that may be procured from one or more commercial sources located primarily in a rural area; and

(2) in each fiscal year, identify the amount of Federal funds and grants that are to be expended on or awarded to colleges, universities, or research firms, for research and development activities during that fiscal year to determine what portion of such funds could be directed to similar institutions in rural areas.

on p. 240, line 14, after the "corporations" add the words "or entities".

p. 241, line 6, new (ii)

(ii) in awarding such grants, the Secretary shall consider, among the criteria to be established by the Secretary:

(a) the extent to which the applicant provides development services in its rural service area; and

(b) the capability of the applicant to carry out the purposes of this section.

old (ii) becomes (iii).

At the appropriate place in title VII, insert the following new section:

SEC. 7. NATIONAL RURAL DEVELOPMENT AND FINANCE CORPORATIONS.

Section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note) is amended—

(1) by striking out "to September 30, 1988," wherever it appears therein and inserting in lieu thereof "to September 30, 1991,";

(2) in subsection (a)(4), by striking out "fiscal year ending September 30, 1987," and inserting in lieu thereof "fiscal years ending September 30, 1989, September 30, 1990, and September 30, 1991,";

(3) by adding at the end of subsection (a) the following new paragraphs:

"(6) Notwithstanding any other provision of law, lenders that have provided loans that are guaranteed under this subsection shall have limited reporting responsibilities, as determined by the Secretary, concerning such loans, and the National Rural Development and Finance Corporation shall be primarily responsible for the issuance of final reports concerning such loans.

"(7) Notwithstanding any other provision of law, loan guarantees provided under this subsection shall be for a period not to exceed 15 years."; and

(4) in subsection (b)(1)—

(A) by striking out "from funds transferred under paragraph (2)";

(B) by inserting the words "or expanding" after the word "establishing"; and

(C) by adding the following new sentence at the end thereof: "Such grants may also be made directly to affiliated statewide programs if the Corporation certifies to the Secretary that they are able to establish effective, ongoing State programs or rural development and revolving finance."; and

(5) by adding at the end thereof the following new subsection:

"(c) Nonprofit national rural development and finance corporations and affiliated Statewide programs that receive grants under subsections (a) or (b) may use not to exceed 10 percent of the amount of such grants over a 2-year period for program operation and administration costs.".

Mr. GRASSLEY. Mr. President, my amendment is part of this amendment to the Rural Partnership Act which will make technical corrections to a rural development program created by the Food Security Act of 1985.

Many of my colleagues will recall the state of the rural economy in 1985—there was a need for off-farm jobs, yet there was insufficient capital and technical assistance to provide for the creation of new enterprises.

To address this problem, I offered an amendment to the Food Security Act which set up the Nonprofit National Rural Development and Finance Corporations. The National Nonprofit Corporations were to serve as intermediaries between the Farmers Home Administration, State development entities, and new business ventures.

The objectives of the Rural Development and Finance Corporations were to create new businesses or expand existing ones, diversify rural economies, stimulate innovative business and entrepreneurial practices, provide employment opportunities for displaced farm families, and supplement farm income whenever possible.

Grants and loans made under section 1323 were limited to rural areas and communities under 20,000. The idea was to help build small businesses—not to continue the counterproductive bidding wars between States which had served as economic development. Financial assistance was limited to 75 percent of the project's cost and assistance could not exceed $500,000.

The development of this section was based upon the proven results of the National Rural Development and Finance Corporation which had operated in several States prior to 1985. The use of intermediaries leveraged private sector funds and reduced the administrative role placed upon the Government.

The program is now up and running. Twenty States have affiliated with three separate Nonprofit National Corporations and committed non-Federal funds.

This success comes despite significant foot-dragging by the Farmers Home Administration.

Initially, the FmHA allowed the program's authority to expire before finalizing regulations. After Congress extended the program authorization on the fiscal year 1986 continuing resolution, the FmHA drafted regulations which were contrary to the intent found in both the Food Security Act and the succeeding extension.

It is because of these regulations and because of the difficulty we've had with the Farmers Home that I offer by amendment today.

The amendment I am proposing today will eliminate the unnecessary complexities in the section 1323 program. These reporting requirements and other limitations have inhibited private lender participation and disrupted the coordination between State, local, and community agencies.

First, my amendment will permit State affiliates—those demonstrating an ability to provide technical assistance and operate a revolving loan program—to receive grant funds directly from the FmHA.

Second, the amendment will modify the FmHA's reporting requirements, limiting and consolidating final reports to the FmHA.

Third, the amendment allows a limited portion—less than 10 percent of any grants received over a 2-year period—for program operation and administrative costs. This allows State affiliates and intermediaries to more effectively service the projects they are funding.

Finally, this amendment will provide additional loan guarantee authority to the program for the next 3 years.

I will be the first to admit that I have been frustrated by the delay in getting this program running. These changes, however, coupled with the work that has already been done, will ensure future projects do not have to face endless delays in securing the financial support this program initially intended.

I would urge my colleagues to accept this amendment so that we may continue to utilize existing programs to facilitate rural economic development.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 659) was agreed to.

Mr. LEAHY. I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 660

Mr. BUMPERS. Mr. President, I ask unanimous consent to offer two amendments to be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 660.

Mr. BUMPERS. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 240, line 14, after the "corporations" add the words "or entities".

On p. 241, line 6, new (ii):

(ii) in awarding such grants, the Secretary shall consider, among other criteria to be established by the Secretary:

(a) the extent to which the applicant provides development services in its rural service area; and

(b) the capability of the applicant to carry out the purposes of this section.

Old (ii) becomes (iii).

On page 236, line 23, strike out the end quotation marks and the second period.

On page 236, after line 23, add the following new paragraph:

"'(6) COORDINATION.—The Secretary shall ensure that the activities on the Extension Service rural economic and business development program established under section 502(g) of the Rural Development Act of 1972 (7 U.S.C. 2662(g)) are coordinated with the Small Business Administration to ensure that there is no duplication of activities in any local area, county or region.'"

On page 248, line 11, strike out "$35,000,000" and insert in lieu thereof "$25,000,000".

At the appropriate place in title VI, insert the following new section:

SEC. 6. TECHNICAL ASSISTANCE FOR CERTAIN SOLID WASTE MANAGEMENT.

Section 310B(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(b)) is amended—

(1) by inserting "(1)" before "The Secretary";

Mr. BUMPERS. Mr. President, those two amendments have been cleared on both sides of the aisle.

Mr. LEAHY. That is true.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (No. 660) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR. Mr. President, I wish to clarify that amendments proposed by the Senator from Iowa [Mr. GRASSLEY] are a part of the package that was adopted en bloc.

The PRESIDING OFFICER. The record will so indicate.

Mr. LUGAR. I thank the Chair.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I understand that in the package that has already been agreed to the amendments of the distinguished Senator from Kansas and the distinguished Senator from Iowa were included.

Mr. President, I yield to the distinguished Senator from Montana.

AMENDMENT NO. 661

(Purpose: To amend the Rural Partnership Act of 1989 to create a Microbusiness Loan Fund and a Technical Assistance Fund and a program to administer funds from such funds, and for other purposes)

Mr. BAUCUS. Mr. President, I have an amendment. Essentially the amendment provides for microbusiness loans for small business loans. That is the long and short of this. Many small companies just cannot get loans, loans in the neighborhood of $25,000 for companies with a size of 10 employees.

The reason they cannot get them is because the processing costs for most lending institutions are the same for big loans as for small loans, and the bank can make a lot more profit on the large loans. So they do not make the small loans.

So we are providing for the authority for the smaller loans.

I send the amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 661.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new title:

TITLE —MICROBUSINESS LOAN FUND AND MICROBUSINESS TECHNICAL ASSISTANCE FUND

SEC. 01. SHORT TITLE.

This title may be cited as the "Rural Microbusiness Loan Availability Act of 1989".

SEC. 02. FINDINGS.

The Congress finds that—

(1) in almost every major economic respect, in this decade, rural areas have fallen behind urban areas;

(2) each year, in this Nation, more than 500,000 individuals are leaving rural areas;

(3) the unemployment rate in rural areas, which has historically been lower than the unemployment rate in urban areas, is now higher than such rate in urban areas;

(4) the per capita income level in rural areas is 35 percent lower than such income level for urban areas;

(5) the poverty rate, in terms of the percentage of individuals which have an income level below the poverty line (established by the Office of Management and Budget), for rural areas is 16.9 percent, as compared to a poverty rate of 12.5 percent in metropolitan areas;

(6) rural communities are in danger of being increasingly isolated from the economic mainstream of the United States as a result of deregulation of banking, communications, and transportation industries, and concomitant reductions in the services provided by such industries to rural areas;

(7) the fact that rural employment is disproportionately concentrated in industries such as agriculture, resource extraction, and low-skill manufacturing also jeopardizes the economic strength of such areas, since such industries have experienced setbacks in this decade and are not likely to experience increases in employment and assets in the foreseeable future;

(8) access to capital is critical to rural areas to enable such areas to develop a diversified economic base, create jobs, and reenter the economic mainstream of this Nation;

(9) managerial and technical assistance should be provided whenever capital is made available to rural businesses with the help of the Federal Government; and

(10) rural communities should become actively involved in economic development at the local level through partnerships between the Federal Government and the private sector, including nonprofit entities located in or near such rural communities.

SEC. 03. PURPOSE.

The purpose of this Act are—

(1) to make small scale loans available to microbusinesses through eligible entities which operate in rural communities, and

(2) to make managerial and technical assistance grants available to microbusinesses which operate in rural communities.

SEC. 04. DEFINITIONS.

For purposes of this title—

(1) ADMINISTRATION.—The term "Administration" means the Small Business Administration.

(2) ELIGIBLE APPLICANT.—The term "eligible applicant" means an eligible entity or a Small Business Development Center, as defined in section 21(a)(1) of the Small Business Act (15 U.S.C. 648).

(3) ELIGIBLE ENTITY.—The term "eligible entity" has the same meaning as in section 101(2) of this Act.

(4) ELIGIBLE MICROBUSINESS.—The term "eligible microbusiness" means a microbusiness—

(A) which is otherwise unable (using reasonable efforts) to secure credit of the scale made available under this title,

(B) which meets the requirements of the economic development workplan submitted by the eligible entity or eligible applicant, and

(C) which is located in the rural community in which the eligible entity conducts loan-related activities or the eligible applicant conducts grant-related activities.

(5) MICROBUSINESS.—The term "microbusiness" means a business which employs no more than 10 full-time (or the equivalent of 10 full-time) employees.

(6) RURAL COMMUNITY.—The term "rural community" means a county or other comparable subdivision of a State which has been designated by the Administration as a rural community, and is—

(A) a county or other comparable political subdivision of a State with a population of not more than 50,000, or

(B) a county or other comparable political subdivision of a State with a population greater than 50,000 which is recommended for designation as a rural community by the District Director of the Administration for the district in which such county or subdivision is located, and with respect to which such designation is approved by the Administration.

SEC. 05. ESTABLISHMENT OF MICROBUSINESS LOAN FUND.

There is established in the Treasury a revolving fund to be known as the "Microbusiness Loan Fund". The capital of the Microbusiness Loan Fund shall remain available until expended. Any profits or income derived from the activities of the Fund less operating expenses incurred in administering such Fund shall be placed in such Fund. The Fund shall be credited with amounts appropriate pursuant to section 20(i)(1) of the Small Business Act. Amounts in the Microbusiness Loan Fund may be used to fund loans to eligible entities selected as loan recipients under section 06 of this title.

SEC. 06. LOANS FROM THE MICROBUSINESS LOAN FUND AND TECHNICAL ASSISTANCE GRANTS.

(a) LOANS FROM THE MICROBUSINESS LOAN FUND.—The Administration shall make loans from the Microbusiness Loan Fund to eligible entities selected as loan recipients and such loans may be used—

(1) to provide loans or loan guarantees to eligible microbusinesses, and

(2) to pay administrative costs in connection with loans and loan guarantees under paragraph (1).

(b) MICROBUSINESS MANAGERIAL AND TECHNICAL ASSISTANCE GRANTS.—The Administration shall make Microbusiness Managerial and Technical Assistance Grants to eligible applicants which have existing programs (or programs scheduled for concurrent funding) which provide managerial and technical assistance (including preparation of business plans, financial analysis, loan servicing, management counseling, marketing analysis, engineering services, and any other as-

sistance necessary for the general operation of a small business enterprise) and program administration. Such grants may be used—

(1) to provide such managerial and technical assistance,

(2) to provide funds to subgrantees who may provide such managerial and technical assistance on behalf of a recipient of a grant awarded under this subsection, and

(3) to provide administrative costs to carry out the purpose in paragraph (1).

(c) LOAN AND GRANT LIMITS.—Not more than $500,000 per loan per fiscal year may be provided by the Administration to fund a loan to an eligible entity from the Microbusiness Loan Fund, and not more than $200,000 per grant per fiscal year may be used to fund a Microbusiness Managerial and Technical Assistance Grant to an eligible applicant.

(d) LOAN REPAYMENT AND INTEREST.—A loan to an eligible entity from the Microbusiness Loan Fund shall be repayable in not more than 15 years after the date that such loan is awarded. The maximum rate of interest for any such loan shall be 5 percent.

(e) LOAN AND GRANT COMPETITION.—(1) The Administration shall conduct a nationwide competition through an application process. In order to be considered for a loan or grant under this section, an economic development workplan shall be submitted to the Administration as part of the application process. The Administration shall select for loans or grants those applicants which best meet the criteria established by the regulations under paragraph (5).

(2) With respect to a loan application for a loan from the Microbusiness Loan Fund, the economic development workplan required under paragraph (1) shall include—

(A) description of the number and types of microbusiness in the rural community from which the eligible entity expects to receive applications for loans or loan guarantees,

(B) the type of support to be provided, including loans or loan guarantees,

(C) an estimate of the number of jobs to be created or retained,

(D) a description of the economic condition of the rural community in which the eligible entity plans to provide loans or loan guarantees, and

(E) a description of the managerial and technical assistance which such eligible entity plans to provide to eligible microbusinesses

(3) With respect to an application for a Microbusiness Managerial and Technical Assistance Grant, an eligible applicant shall provide—

(A) a description of the existing program (or program schedules for a concurrent program) which the eligible applicant intends to provide,

(B) the type of managerial and technical assistance to be provided (including preparation of business plans, financial analysis, loan servicing, management counseling, marketing analysis, engineering services, and any other assistance necessary for the general operation of a small business enterprise),

(C) sufficient evidence and a certification that such managerial and technical assistance shall be provided,

(D) an estimate of the number of jobs to be created or retained, and

(E) a list of subgrantees and the type of managerial and technical assistance to be provided by such subgrantees.

(4) The Administration shall use its best efforts to ensure that at least one eligible entity from each State that the Administration determines to have a significant rural population receives a loan from the Microbusiness Loan Fund and that at least one eligible applicant from each such State receives a Microbusiness Managerial and Technical Assistance grant.

(5) Not later than 90 days after the date of enactment of this Act, the Administration shall issue regulations establishing criteria for the competition for loans and grants under this section. Such criteria shall take into consideration the quality of the economic development workplans submitted.

(f) APPROVAL OF LOANS AND GRANTS.—(1) LOANS.—If the Administration approves the economic development workplan of an eligible entity selected under subsection (e)(1), then the Administration shall approve a loan for such eligible entity and shall execute a contract stating the terms of such loan with the recipient, including conditions for repayment of such loan.

(2) GRANTS.—If the Administration approves the economic development workplan of an eligible applicant selected under subsection (e)(1), then the Administration shall approve a grant for such eligible applicant and shall execute a contract stating the terms of such grant with the recipient.

(g) MONITORING BY THE ADMINISTRATION.—(1) The Administration shall conduct an annual audit to ensure that any loan or grant awarded under this section is administered in accordance with this section and any other applicable law.

(2) If the Administration determines, upon review of the results of an audit described under paragraph (1), that a recipient is in violation of the terms of a loan or grant awarded under this section, the Administration may recall such loan or grant and require the recipient to repay any funds from such loan or grant.

SEC. 07. DISBURSEMENT OF LOAN FUND BY MICROBUSINESS LOAN FUND LOAN RECIPIENTS.

(a) LOCAL REVOLVING FUNDS.—All funds received by a loan recipient for a loan from the Microbusiness Loan Fund shall be placed into a revolving fund to be administered by the loan recipient, in accordance with procedures established by the Administration, and any profits or income derived from the activities of the revolving fund less operating expenses incurred in administering such funds shall be placed in such fund.

(b) LOAN OR LOAN GUARANTEE SIZE LIMITS.—The amount to be provided to an eligible microbusiness from a loan revolving fund described in subsection (a) shall not exceed the lesser of—

(1) 75 percent of the amount of total financing for the investment with respect to which such loan or loan guarantee relates, or

(2) $25,000.

(c) INTEREST.—The maximum rate of interest on any loan made by an eligible entity to a microbusiness shall be legal and reasonable but shall not exceed a rate prescribed and published quarterly by the Administration. The rate of interest prescribed by the Administration shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 percent, and an additional amount as determined by the Administration, but not to exceed 1 percent per year.

SEC. 08. AUTHORIZATION.

Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(i) MICROBUSINESS LOAN FUND LOANS AND MICROBUSINESS MANAGERIAL AND TECHNICAL ASSISTANCE GRANTS.—(1) There are authorized to be appropriated to the Administration for fiscal years 1990 and 1991—

"(A) $25,000,000 for the Microbusiness Loan Fund, and

"(B) $10,000,000 for Microbusiness Managerial and Technical Assistance Grants under section —06 of the Rural Access to Capital Act of 1989.

"(2) Notwithstanding any other provision of law, of the amounts made available to carry out section (7)(i) for fiscal years 1990 and 1991, the Administration shall make available such amounts for each fiscal year to carry out the programs described in paragraph (1).".

On page 123, line 21, strike "and".

On page 123, line 22, strike "(D)" and insert in lieu thereof "(E).

On page 123, between lines 21 and 22 insert the following new subparagraph:

"(D) the Administrator of the Small Business Administration; and".

On page 123, line 22, strike "two members" and insert in lieu thereof "one member".

Beginning on page 234, line 15, strike all through page 236, line 23.

Beginning on page 240, line 8, strike all through page 241, line 8.

Mr. BAUCUS. Mr. President, S. 1036 addresses the problem of inadequate capital resources in rural areas. It establishes public/private partnerships to make large-scale loans available to rural businesses.

These partnerships are critical.

They help mitigate some of the inherent risk for rural banks.

But there is another major capital shortage problem which is not addressed in S. 1036.

That problem is the inability of rural banks to make small-scale loans to very small "microbusinesses."

The amendment I am sending to the desk today will help finance and develop small locally owned businesses. The program will provide capital in amounts up to $25,000 for businesses employing 10 or fewer people.

These businesses tend to make up the majority of businesses located in rural areas. In Montana, for example, these businesses constitute 82.5 percent of all enterprises in the State. In addition, they have produced virtually all the job growth in Montana during the 1980's.

But they currently have no institutional source of finance—whether from banks or public programs. The cost of credit investigation and servicing for small commercial loans precludes such financing.

The average loan size for the SBA is over $100,000. And only 38 loans under $25,000 were made by the SBA in the whole United States during 1987.

In a recent survey of Montana banks, 64 percent of those responding indicated that loans below $25,000 are

rarely granted. The survey also indicated that a large market exists in rural areas for these loans. Transaction costs are simply too high to make them.

By encouraging more small loans, we maximize our bang for the buck. Let me give three examples of how small SBA loans produced jobs in Montana.

MONTANA NATURALS INTERNATIONAL, INC.

Denise Hauge of Arlee, MT went to the SBA in March 1980 and asked for a direct loan of $14,500 to start a furniture refinishing business. The SBA took the risk and made the loan. With that loan as a foundation, Denise and her husband, Ron, were able to diversify their business into producing and selling bee pollen derivatives all over the world.

Bee pollen is used a great deal in the Far East as a high energy food supplement.

In 1986, their company, Montana Naturals International, Inc. was able to qualify for a conventional SBA loan of $110,000.

In 1987, Montana Naturals went public. Its stock is now traded on the NASDAQ Exchange.

TORRES CAFE

In August 1980, Josie Torres got a $20,000 loan to open the Torres Cafe in Billings, MT. The Torres Cafe is considered to be a top Mexican family restaurant for authentic Mexican food in Billings.

Last year, Josie Torres was named the District Minority Small Business Person of the Year by the Small Business Administration. The Torres Cafe was selected for this award based on its history of substantial growth and growth potential for the future.

CACTUS RECORDS, INC.

My third example of a successful microbusiness is Cactus Records, Inc. of Bozeman, MT. In 1981, Barbara Allen got a loan of $20,000 to establish a retail records and tapes store. She paid off the loan in 1988. Soon thereafter, she applied for and received a conventional SBA loan of $64,000 with which she bought the business property she had until then been renting.

MICROBUSINESS PROVISION

My amendment will encourage greater use of small loans to start up businesses. To do so, it will establish a $25 million revolving "Microbusiness Loan Fund" at the SBA. The Fund will make loans of up to $500,000 available to public or private nonprofit entities located in rural areas. These entities will make loans or loan guarantees of up to $25,000 available to businesses employing 10 people or fewer.

A typical loan of this scale will be used by a service industry for working capital. Businesses need small loans to buy inventory and put cash in the till. Some businesses will buy computer equipment or a xerox machine.

The amendment will also set up a $10 million "Managerial and Technical Assistance Fund" to make grants of up to $200,000 per year available to nonprofit entities for the purpose of providing managerial and technical assistance to microbusinesses. The nonprofit entity must certify that such assistance is available to microbusinesses in order for it to qualify for a loan. This assistance is critical in order to ensure that the loans are secure and the projects financed are successful.

THESE LOANS ARE IMPORTANT

Clearly, Mr. President, these small-scale loans play a major role in developing rural areas. Once a business gets a small-scale loan, it can grow and provide jobs in communities that desparately need them. Without the small-scale financing, neither the businesses nor the jobs would exist today.

I urge my colleagues to support the amendment.

Mr. HARKIN. Mr. President, I am pleased to support the Baucus amendment. The amendment provides help to start the smallest of small businesses.

The program established in this amendment provides for loans or loan guarantees of $25,000 or less. Nominally, the program is limited to businesses with less than 10 employees. But, I would say that most of these loans are going to be received by those who are self-employed and those who have businesses employing a husband and wife.

Iowa has established a small program that makes loans of up to $5,000 to get people started in their own business. And, I am pleased to say that the program has had a number of real successes. A number of Iowans are self-supporting and are providing a real service to their local communities, all because of a $5,000 loan.

Iowa's program provides for loans of from 0 to 5 percent, the same interest rates provided for in this amendment. Iowa's program provides considerable technical assistance for those that receive these loans. Without receiving that assistance, I believe that we would see a far larger failure rate for these businesses. And, I am very pleased that technical assistance will be an integral part of the Federal program as well.

Mr. President, this program works. I urge that the Senate adopt the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Montana.

The amendment (No. 661) was agreed to.

AMENDMENT NO. 662

(Purpose: To increase the pool of entities who are eligible for rural business incubator funds and otherwise clarify provisions relating to contribution to such funds by entities)

Mr. LEAHY. Mr. President, I have an amendment on behalf of Senator ROCKEFELLER and one on behalf of Senator DOMENICI. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered en bloc 662.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 194, line 10, insert "or to other non-profit entities that meet the requirements of this section," after "Act".

On page 194, line 12, strike out "by such borrowers" and insert in lieu thereof "as defined in this Act".

On page 195, line 12, insert after the period the following: "Nonprofit entities that are not borrowers under title III shall be considered eligible borrowers for the purpose of this section if such entities are located in a State in which one or fewer electric borrowers are headquartered in such State."

On page 196, strike out line 14 and all that follows through line 22 on page 197.

On page 197, line 23, strike out "(2)" and insert in lieu thereof "(1)".

On page 198, strike out lines 16 through line 7 on page 199, and insert in lieu thereof the following new paragraph:

"(2) BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall, subject to the limitations contained in annual appropriations Acts, provide funds for the capitalization of the Incubator Fund, and there are authorized to be appropriated amounts not to exceed $10,000,000 annually for such capitalization until the total of such capitalization shall equal $60,000,000. Such amounts shall remain available until expended by the Incubator Fund for the purposes of this section.".

On page 199, line 18, after the first period add the following new sentence: "During each fiscal year, 10 percent of the amount contained in the Incubator Fund shall be made available to nonprofit entities, as provided under subsection (b), that are not borrowers under title III, except that if qualified applications from such entities are not received in an amount or at such times sufficient to utilize such 10 percent amount during each such fiscal year, the Administrator shall make the remainder of such amount available to other eligible borrowers during such fiscal year.".

(1) It is the Sense of the Congress that a National Endowment for Rural Development should be established with the effective use of both public and private funds to maximize business development in rural communities in every feasible way.

(2) (a) The Executive Office of the President shall undertake a review of a National Endowment for Rural America, for the pur-

poses of determining the desirability of such an Endowment for rural development

(b) That view shall be completed by January 1, 1990 and shall make recommendations to the Congress on appropriate legislation to implement such an Endowment.

(c) Those recommendations should focus on, but not be limited to:

(1) The purposes and goals,

(2) the organizational structure with private and public participation

(3) funding sources for the Endowment

(4) eligible awareness of endowment.

Mr. BINGAMAN. Mr. President, I would like to thank the chairman and ranking member of the committee for including in the committee amendments an amendment on small business incubators which my friend, the Senator from Arizona, and I have offered. We would also like to add Senators ROCKEFELLER, WALLOP, and GRASSLEY as cosponsors of this legislation. They have been very supportive of our efforts from the beginning because this amendment is important to the small business community nationwide, and is a step toward modernizing our attitude toward small business development.

Mr. McCAIN. I share the appreciation expressed by my good friend, the Senator from New Mexico. We first introduced similar legislation in the last Congress, and although the amendment is a modified version of that legislation, it will ensure that small business incubators are made eligible for the economic and community development programs that already exist.

Mr. BINGAMAN. Mr. President, the aim of this amendment is simple: To focus and modernize Federal support for small business incubators, a proven tool for nurturing new companies and fostering economic development.

Small business incubators promote the startup and successful growth of new firms by offering an entrepreneurial environment, affordable office, warehouse and manufacturing space, and shared business services. Most importantly, incubators help small businesses get the management assistance they need in order to survive and the supportive environment they need in order to grow.

Recent experience has shown incubators increase the odds of success for small businesses. So far, there are 317 incubator facilities nationally which have graduated more than 7,000 firms and created more than 29,000 new jobs in over 40 States.

My home State of New Mexico is one where there are a number of successful business incubator facilities. Rural areas as well as urban areas in my State have found incubators to be a useful economic development tool. We have incubators in communities as diverse as Albuquerque, Taos, Los Alamos, Portales, Roswell, and Tucumari. This diversity of successful facilities we have in New Mexico proves the value of incubators in economic development. Clearly, small business incubators are important for all types of communities and all parts of the country.

Even though business incubators are one of the best community and economic development tools, there is no coherent or coordinated Federal policy to support these facilities. While there are numerous business promotion and economic and community development programs, incubators may not always qualify for these programs or qualify only under special circumstances. The heart of the problem is the fact that many of these programs were created before incubators were fully developed as an economic development tool. We need, therefore, to review and update our economic and community development programs to include incubators.

Our amendment is designed to remedy this problem. It directs the Secretaries of Housing and Urban Development, Health and Human Services, Energy, Defense, Commerce, Agriculture, and Labor, and the Administrator of the Small Business Administration to conduct that needed review and take such steps necessary to insure that business incubators are eligible for existing grants and loans for community and economic development, business promotion, research and development, and export promotion. They are also directed to report to Congress on any changes needed in existing law to make business incubator centers eligible for current Federal grant or loan programs.

The amendment also clearly enunciates that it is the policy of the Federal Government to encourage and support the development and operation of business incubators as a tool of economic and community development.

In summary, this amendment will strengthen our economic and community development efforts in rural as well as urban areas. I again thank my colleagues for incorporating it into this legislation.

Mr. McCAIN. Mr. President, I am pleased that the amendment the distinguished Senator from New Mexico and I have offered on behalf of our Nation's small business incubators has been incorporated in the rural development bill we are considering.

Our amendment is a modified version of our original bill, S. 390 and directs the Secretaries of HUD, HHS, Energy, Defense, Commerce, and Agriculture to review their existing community development, business promotion, research and development, and export promotion programs and to open those programs to small business incubators. Our amendment is necessary because small business incubators are not generally eligible for Federal funding through these programs—even though they are one of the most effective economic development tools of the decade.

Small business incubators have graduated over 7,000 new firms. Given the success with which incubators help small businesses grow, and given that small businesses are such an important force in our economy, we should do all we can to ensure that the funds we already have earmarked for economic development, business promotion, et cetera, are available to them. We should provide incubators with the flexibility and support we provide other programs that play parallel roles in these areas. Our amendment does just this, Mr. President.

It also directs those agencies to report back to Congress which laws we must amend to ensure that incubators are eligible for existing programs, and to suggest additional action Congress should take to further bolster growth and efficacy of incubators.

Let me underscore the increasing importance of small business incubators. The National Incubator Association cites that 80 to 93 percent of all businesses that graduate from 317 existing incubators survive. There are literally waiting lists of entrepreneurs who want to avail themselves of incubators, and those lists are growing. Even though over 40 States have incubators, there are simply not enough incubators to serve the thousands of new businesses that are struggling to make it through that first crucial year when 80 percent of new businesses fail.

Moreover, small business incubators have created more than 29,000 new jobs in a wide variety of industries. Each incubator is unique, and as a result, their members range widely in size, numbers of tenants, types of services offered, and levels of control and availability of venture capital. There is no doubt that they are here to stay, and will play a significant role in strengthening our economy.

Mr. President, our amendment recognizes the contribution that small business incubators make to our Nation. I am pleased that our efforts have been fruitful, and I look forward to working with my distinguished colleagues in the future on this issue.

Mr. ROCKEFELLER. Mr. President, I want to commend my distinguished colleagues from New Mexico and Arizona for their leadership in promoting business incubators. I wholeheartedly support efforts to encourage our existing Federal network of community and economic development programs to support the innovative and promising concept of business incubators.

In West Virginia, we have a few incubators already in operation, several in the planning stages, and other communities exploring the potential for future incubator projects. Several years ago, I was proud to sponsor a conference in my State to inform community development officials about the advantages of business incubators

and the experiences to date in areas where they have been set up. Since then, I have been proud to participate in the dedication of an incubator in Vienna, WV, and a groundbreaking for another in Wheeling, WV. Each event brought local officials and business leaders together to encourage new business and job creation—crucial goals in our State.

Not every business that gets started in an incubator will succeed, but an incubator gives first-time entrepreneurs and startup businesses a better chance. An incubator helps to shelter businesses from high startup costs by providing a shared facility and shared services.

I am proud to join with Senator BINGAMAN in calling attention to the business incubator concept. Our Federal agencies need to be attuned to this new, innovative tool for economic development and able to provide vitally needed technical assistance and support to local communities that might benefit greatly from this approach.

Mr. LEAHY. Mr. President, I thank my colleagues from Arizona and New Mexico for their efforts on behalf of the small business community. Their contributions to this bill are worthwhile, and the committee supports those efforts.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 662) was agreed to.

Mr. BOSCHWITZ. Mr. President, I am pleased to offer a small business amendment to S. 1036, the Rural Partnerships Act of 1989. The amendment I offer today is taken from S. 1051, the Rural Revitalization Act of 1989, which I introduced in March, and was the subject of recent hearings in the Small Business Committee. I am pleased that my bill has received strong support from many groups, including the National Association of Development Organizations, the National Association of Development Companies, and the National Association of Small Business Investment Companies.

During my travels across Minnesota, I have discussed rural development at great length with my constituents. I have now completed 43 stops in a planned 62-county tour of rural Minnesota—a repeat of a trip I took last year during the height of the drought. While there is growing awareness of the need to focus attention on rural communities, cost-effective solutions to the plight of rural America have not been readily available. Typically, proposed solutions have dealt primarily with agriculture and have overlooked the plight of small business in rural areas.

Over the past several decades, our country has changed from a nation of farmers into a nation of small businesses. Today, 26 percent of the people in this country live in nonmetropolitan areas, but only 2 percent are directly involved in producing food and fiber. While agriculture will always be a very important part of rural America—and it's a constituency I am proud to represent here in the Senate—my amendment focuses on the contribution small businesses can make in rebuilding and diversifying the economies of our rural communities.

The importance of small business to the economy is well-documented. There are nearly 18 million small businesses in this country, employing 53 percent of the private work force and adding almost 40 percent to the gross national product. The effect is even more pronounced in rural areas where small business often is the only business.

Before I turn to the details of the pending amendment, let me make several brief observations regarding the underlying bill. I am pleased that S. 1036 incorporates a number of ideas for rural development contained in my original bill, S. 1051. For example, the committee bill establishes a fund to make grants and reduced interest loans for the creation and operation of business incubators. I am in favor of the incubator concept because it provides a unique way for new or expanding businesses to access needed technical assistance, in addition to having a roof over their heads.

The bill also contains the rural setaside and rural construction provisions which were contained in S. 1051. I am also very pleased that the committee bill authorizes the rural capital access program, which was proposed originally by Senators LUGAR, DOLE, COCHRAN, and myself as S. 973. RCAP would allow a borrower and lender to agree to self-guarantee a loan by setting aside in reserve up to 3½ percent of the value of the loan. In addition, the borrower could apply to the USDA for an equivalent match. In the event the borrower defaults on the loan, the bank would have a reserve to cover at least part of its losses. If the loan is paid in full, the reserve would be allowed to accumulate, thereby providing the lender with an incentive to make more loans. Mr. President, this program shows great promise, and I am proud to have been one of its original proponents here in the Senate.

Mr. President, I would like to turn now to the pending amendment before the Senate. My amendment expands the existing certified development company program, which is administered by the Small Business Administration. In the current program, the certified development companies provide financing to small businesses for the acquisition of land and buildings, construction, conversion, expansion, modernization, and the purchase of machinery and equipment. Currently 254 or 54 percent of the CDC's are in rural areas.

This amendment would permit qualifying certified development companies to issue an SBA-guaranteed debenture in the amount of $1 million to capitalize a revolving loan fund. The loan fund would be used by the development company to make small business loans of up to $100,000, contingent on a 50-percent match from the private sector. My amendment would permit this change as a pilot program, with funding capped at $25 million. It would be financed by dollars already appropriated under the existing program to ensure the support and participation of community development leaders.

In addition, my amendment would authorize nonprofit economic development authorities to participate in the formation of small business investment companies. The Small Business Investment Company Program is the only one in the Federal Government which seeks to ensure that venture capital is available to small firms for their growth, expansion, and modernization. Venture capital is provided by SBIC's to small businesses in the form of long-term loans, debt securities, and equity securities. Unfortunately, current restrictions on SBIC's make it all but impossible to establish one in a rural area.

Presently, an SBIC can apply to the SBA for leverage loans only after raising and investing at least $1 million of private capital in small businesses. In the event of a business failure, the private capital is lost before the SBA's investment can be jeopardized. Consequently, SBIC's often provide significant managerial assistance to small concerns to avoid business failures.

But the requirement that capital come only from the private sector as a condition of receiving SBA assistance, virtually excludes rural areas from participating. Of the six SBIC's in Minnesota, none are situated in rural areas. Similar stories can be told for North and South Dakota, Iowa, Montana, and other rural States. Not surprisingly, it is very difficult to raise the private capital to establish an SBIC in a rural area. By permitting State or local development organizations to team up with the private sector, I hope to target much-needed capital at rural areas.

Mr. President, this amendment is designed to provide the necessary tools for small businesses to generate jobs and opportunitites in rural areas with minimal Federal intrusion or expense. I am pleased to be offering this amendment and I urge my colleagues to support it.

I yield the floor.

Mr. DASCHLE. Mr. President, I rise in support of S. 1036, the Rural Partnerships Act of 1989.

During the 1970's, the United States experienced a "rural renaissance," which was in large part ignited by the enactment of the Rural Development Act of 1972. This comprehensive legislation directed Federal resources to meet the development needs of rural communities and brought with it a rebirth of local economies. Poverty rates fell; employment opportunities increased; and income levels became more comparable with urban centers. Rural America was competitive again, and many Americans looked to the countryside for new opportunity and a more tranquil quality of life.

Just as the decade of the 1970's injected a breath of fresh air into rural America, the decade of the 1980's brought the harsh winds of Federal budget deficits and Government retrenchment that had a chilling impact on the rural way of life. High interest rates, reduced Federal assistance, and a depressed agricultural sector caused considerable personal hardship and reversed the 1970's demographic trends. In rural America, much of the promise of the 1970's evaporated into a stark struggle for survival at a heavy cost to our Nation's bedrock values.

Mr. President, 17 years after enactment of the Rural Development Act of 1972, we are considering the Rural Partnerships Act of 1989, legislation that attempts to duplicate the successes of the 1970's with a statute updated to accommodate the realities of the 1990's. After a decade of benign neglect, the Rural Partnerships Act of 1989 recommits our Nation to the goal of economic opportunity for both rural and urban America.

S. 1036 acknowledges several distressing realities.

It acknowledges the devastating economic and social cost of the nearly 70 percent reduction in Federal assistance that rural America absorbed over the past 8 years.

It acknowledges that our Nation can no longer afford the hemorraging of human resources in rural America fueled by the diminishment of opportunity and the belief that rural concerns have been discounted by Federal policy makers.

It acknowledges that we cannot consciously allow an entire way of life for a significant sector of our society to wither.

We owe it to the American people to put forth a good faith effort to make rural as well as urban life viable.

Enactment of the Rural Partnerships Act will send a clear message to rural Americans that they are not alone in their daily struggles. It will signal a rededication of the traditional federal commitment to address the needs of all its citizens.

As a Senator from one of the most rural States in the Nation, I am interested in seeing the problems of rural America comprehensively addressed. Its economic struggles during much of the 1980's are an microcosm of the broad condition that S. 1036 seeks to address.

South Dakota is known as the "land of infinite variety." It is also a land with infinite needs. Fifty-five of South Dakota's 66 counties experienced a loss of population ranging from 5 percent to 23.5 percent between 1980 and 1987. Nearly 20 percent of South Dakota's students live in homes with incomes below the poverty level. Small business income has remained flat. And rural hospitals are closing.

The Federal Government has a responsibility to combat these trends.

Rural America, like South Dakota, is diverse. Its needs are diverse. The Rural Partnerships Act recognizes the broad scope of those needs and provides mechanisms to leverage a minimal federal investment to address them. While S. 1036 adds little new budget authority for development efforts that currently exist, it attempts to more effectively target this important investment.

The Rural Partnerships Act signals a new era in rural development. The bill does not simply create new programs and throw money at community problems. Rather, it makes available financial and technical assistance that will give rural residents the tools to help themselves.

S. 1036 focuses attention on three specific areas: telecommunications development, water and waste facility financing, and business financing.

Advanced telecommunications and water and waste water treatment facilities are core infrastructure investments that are critically needed in much of rural America today. Advanced communications make it possible for rural areas to compete with urban centers for jobs being created by the information age. Federal assistance in linking rural areas with the rest of the country through distance learning programs and connection between rural hospitals and major medical centers will provide impetus for expanded public and private communications investments.

Many rural communities' traditional infrastructure needs, especially water and waste water treatment facilities, must be replaced or retrofitted to comply with Federal environmental laws. Most pollution control grant programs are being phased out at a time when the needs of many rural communities are increasing. S. 1036 infuses additional funds into the highly successful Farmers Home Administration programs for rural water needs. In addition, it allows the Rural Electrification Administration to provide some lending to communities able to afford loans at or near market rate.

Finally, the Rural Partnerships Act calls for renewed Federal assistance in developing businesses and jobs in rural America. The business financing mechanisms in S. 1036 differ from most previous Federal programs in that actual business loan decisions are determined at the local level. In both new business assistance programs created under S. 1036, Federal resources account for only a portion of the actual investment. People at the State and local levels will assume a significant portion of the risk of each business loan. At the same time, local economies will be bolstered by the successful investments made in the local communities.

Mr. President, S. 1036 is not perfect. Rural development needs are too expansive to be fully addressed in one bill, particularly in this era of massive Federal deficits. But S. 1036 does set needed standards for rural development and directs measured Federal support to reinforce them. The bill heralds a renewed Federal interest in the condition of rural America, and it sets the stage for improved coordination of development efforts conducted at the local, State, and Federal levels.

Enactment of the Rural Partnerships Act of 1989 will positively impact the direction of development efforts in rural areas. It encourages partnership between the public and private sectors. It also encourages greater partnership and coordination among Federal, State, and local governments.

Partnership is the only way that we can successfully begin to address the challenges facing rural America, and S. 1036 provides a vehicle to forge just such a partnership.

The Rural Partnerships Act is not just an investment in jobs or advanced technologies. It is an investment in people—62 million people who live in rural America. I urge my colleagues to support this bill for rural America's future.

Mr. HEFLIN. Mr. President, the 1980's have not been good times in much of rural America. Our rural people and communities have not shared equally in the longest peacetime economic expansion since World War II.

It is widely accepted that rural economic revitalization efforts must begin with local initiative and be guided by local leadership. It is essential, however, for the Federal Government to help provide an environment in which local efforts can work.

The time has come for the Federal Government to reaffirm its role and responsibility toward our 62 million rural citizens. Instead of regulatory reforms and funding formulas that discriminate against our rural citizens and communities, it is time for the

Federal Government to renew its partnership agreements with rural America.

The Rural Partnership Act of 1989 is an important first step in reaffirming this Federal role and responsibility. The act will build on programs and agencies already working well. It strengthens the Federal partnerships with State and regional economic development programs; with rural electric cooperatives; with landgrant university research and extension programs. It highlights the rural development work of the Tennessee Valley Authority. These renewed partnerships will help improve rural water and sewer systems. They will help increase telecommunications systems use in rural education, health care, and business services. And they will encourage rural banks and other local funding sources to increase job creating investments in rural communities.

Rural Americans do not want handouts, but they do want a helping hand. Our rural citizens do not want a Federal bailout, but they do want a Federal, State, and local partnership. Although it is only a modest beginning, the Rural Partnership Act will yield significant benefits to our rural people and communities, and to the whole Nation.

Mr. LEAHY. Mr. President, I ask unanimous consent that the name of the distinguished Senator from New York [Mr. D'AMATO] be added as a cosponsor of S. 1036.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. Mr. President, I am pleased that the Senate is today considering legislation to revitalize rural America.

I am very concerned about the economic well-being of our rural areas. Prior to the drought, most farmers had been experiencing improved financial conditions. However, Main Streets of many small rural towns are still experiencing hard times. Rural America has simply lagged behind the economic growth in the rest of our country.

There is bipartisan agreement here in the Senate that we must take action this year to help spur economic development in rural areas. Admittedly, in the past, that effort has focused almost entirely on agriculture. In many respects, that's how it should be. As we have seen in my home State of Minnesota, when agriculture is humming, the rural areas tend to do very well. While I am the first to recognize that agriculture is critical to the economic health of rural communities, we must find a way to promote more investment and encourage more business growth and economic diversification in rural areas.

That's why last year I introduced my rural regeneration bill designed to promote increased economic activity in rural America.

The rural development bill reported by the Senate Agriculture Committee establishes a Federal board to provide seed money to local revolving funds to provide loans or guarantees to new or expanding independently owned or cooperatively owned businesses. The Federal funds would be leveraged with private money since there is a local matching requirement. Eligible local revolving funds are nonprofit corporations, public entities such as a State agency, a county, town or township, and non-profit private community development corporations.

The bill also creates a rural capital access program [RCAP]. As a cosponsor of Senator LUGAR's RCAP bill, I was pleased that this proposal was included in the final bill approved by the Agriculture Committee. As I have often been told, one of the primary barriers to rural economic development is the lack of available credit for business creation and expansion. The purpose of this capital access approach is to enable local banks to make loans for business creation in rural areas. The borrower, the local lender, and the Federal Government all make a contribution to a special loan loss fund which is tapped if there is a default on the loan. This is an efficient and fiscally responsible method of leveraging limited Federal dollars for much needed business development in rural areas. This program is modeled after a program in Michigan.

Another section of this bill directs the Rural Electrification Administration [REA] to oversee two new telecommunications programs and a business incubator program. REA would provide grants to telecommunications partnerships to provide access to schools in rural areas, known as the "star schools" provision. REA would also provide grants to improve telecommunications to rural hospitals. REA could make low-interest loans and grants to electric and telephone borrowers for setting up business incubators.

Under this bill, availability of water and sewer loans and grants is increased through the Farmers Home Administration and the banks for cooperatives.

Several amendments were accepted during the Agriculture Committee's consideration of this bill. Two of my amendments ensure that rural areas are given priority in Federal construction projects and give rural businesses greater participation in Federal procurement programs. Another makes local cooperatives eligible to receive assistance from the local revolving fund.

We need to be upfront about the size and scope of this bill. This bill should not be viewed as the answer to all the problems facing rural America. But it certainly is a step in the right direction and provides necessary tools for business creation and expansion in rural areas.

Local input is vital. This approach will simply not succeed without participation by local officials and businesses. Their cooperation and participation is key to the long-term viability of these rural areas.

While agriculture is critical to the economic health of rural communities, rural development does not involve only agriculture and the programs under the jurisdiction of both the Department of Agriculture and the Agriculture Committees here in Congress. As the ranking Republican member of the Senate Small Business Committee, rural development issues have been a priority for me within that committee. I firmly believe that small business plays a crucial role in rural development as well. I will be talking more about this later in the debate on this bill.

Mr. President, I am pleased that we are taking action today on the important issue of rural economic development. We need to get rural America thriving once again. I urge my colleagues to support this rural development legislation.

Mr. DOLE. Mr. President, I wish to offer a few observations on the rural development legislation before the Senate today.

SUPPORT RURAL AMERICA

I have been a supporter of rural America for a long, long time. Last year I introduced the first Senate bill on rural development following a series of conferences with House and Senate Members and midwestern Governors. We conducted meetings in Des Moines, Chicago, and Washington, DC. We felt that rural America needed more diversified economies that could attract new businesses.

However, I have several areas of concern with this bill. When it was introduced the observation was made that although it authorizes up to $300 million per year in new outlays, there was not a single authority granted by this bill that could not be done through existing mechanisms. It requires USDA to establish separate programs for purposes that are already being served.

I am told the six titles in the act contemplated the creation or expansion of numerous programs within USDA. The bill would give the Rural Electrification Administration broad new authorities, including a rural business incubator fund providing $50 million over 5 years, a rural education opportunities program, which provides $115 million over 5 years for Star Schools educational opportunities.

It also encourages the financing of various telecommunications facilities such as the Rural Medical Link Tele-

communications Program. Additional action may be necessary to protect against unnecessary bypass of existing networks.

We should ask, why are we redirecting REA's activities into areas where USDA's other agencies are already active or where REA may not have the capacity to service and how do we serve the broadest geographic area in an efficient manner? Some of these ideas may have merit, but we need to use our funds efficiently without setting up entirely new mechanisms which can compete with existing services.

The bill sets up a new business incubator program even though there are several agencies that currently have incubator programs.

The bill sets up an investment fund to provide lines of credit for eligible entities to establish local revolving funds for making and guaranteeing loans. Unlike FMHA's B&I Program, there would be no capacity to serve even moderately sized projects.

Further, I am told the bill calls for the creation of an assortment of small technical assistance programs, studies of one sort or another, special and annual reports to Congress and the establishment of boards and advisory councils and commissions costing between $20 to $40 million. I am advised that many of these activities are already being done or are unnecessary.

I do agree that we need to provide access to adequate capital in rural America and am aware that several modifications have been made to the original bill to make it more acceptable.

CONCLUSION

Mr. President, I think rural development may be on the scene next year when we take up the farm bill. As of now, the House is just beginning to review this issue. It is my hope that we can get a final bill that will streamline existing efforts and utilize existing mechanisms so that our limited Federal dollars will be used efficiently.

Mr. CONRAD. Mr. President, I am pleased to rise today to express my support for the Rural Partnerships Act of 1989. I commend the majority leader, Senator MITCHELL, on his strong personal commitment for legislation supporting rural America. My appreciation also goes to Senators LEAHY and LUGAR for their continued commitment to rural development. I applaud their follow-up on my suggestion that a rural development task force be formed to craft a rural development bill. The momentum to move this bill forward would not be possible without their strong leadership and the initiatives of the task force.

The needs of rural America have been neglected for too long. As a nation, we have not responded to the needs of millions of people who have been providing food and natural resources for the rest of the country. Rural areas are losing their jobs and their people. They have not been benefiting from the small business growth that urban areas have experienced. This trend can be reversed. We can provide the seed capital to stimulate the change.

Historically, our policies have focused on agricultural issues. And, although agriculture will always be crucial to the rural economy and the security of our country, we must look to the future and begin investing in rebuilding rural America. By injecting capital in rural America, we can bring economic opportunity to these communites, we can stimulate business diversification. And, we can help them remain viable in the 21st century. But, these communities can't do it alone.

It is time for us to join hands at all levels. We need to join together, and form partnerships at the local, State, and Federal level. These partnerships need to be made with the public and private sector. By forming a partnership, we can make an impact on the needs of rural communities.

This legislation is needed to promote public and private partnerships at the local level, infusing rural America with the investment necessary to advance into the 21st century and remain competitive. This bill is a just a beginning to this recovery. It begins the steps to a recovery by investing in job creation, advancement of telecommunications for our schools and hospitals, and water and sewer infrastructure.

The time to invest in our people and their future is now. By carefully and prudently spending the Federal Government's limited resources and joining them with the State and local private sectors, we can make a difference. We can, through this partnership, provide rural communities with the capital they need to remain viable and help the United States remain competitive in the global marketplace.

Mr. BAUCUS. Mr. President, I rise today to express my full support of S. 1036, the Rural Partnership Act of 1989. This bill is the critical first step in bringing rural America back into the economic mainstream.

Rural America needs our help.

Since 1980, agriculture, timber, and mining—the backbone industries of rural America—have been forced to undergo significant change. Quite often that change has meant reductions in jobs and in wages.

By almost every major economic standard, rural America has fallen behind urban America.

MONTANA

Montana has been particularly hard hit.

Since 1980, about 29,000 more people moved out of Montana than moved in.

Paychecks have fallen 25 percent.

And per capita income has decreased to about 80 percent of the national average.

One of the most revealing statistics is the fact that, from 1979 to 1987, Montana's economy generated 14,000 net new jobs.

That is the good news.

The bad news is that if Montana's economy had grown at the same rate as the rest of the Nation, this number would have been 63,000.

IT'S NOT FAIR

America—and Montana—was built on the principle that if you worked hard you would get ahead. The 1980's shattered that principle.

Montanans work hard. Many studies show that they are the best employees in the world. But they are falling behind.

Why? Because they have been starved of virtually every major tool essential for economic growth.

Deregulation of the airlines, banking, communications, railroad, busing and trucking industries has led to vast deprivation in rural America of tools we should be able to take for granted.

Deregulation of the banking industry is draining capital from rural to urban centers, so that small town entrepreneurs can't get a loan to start up—or fix up—their main street businesses.

Deregulation of the airlines has forced rural communities to endure erratic and expensive service getting from here to there and is a major undertaking.

The breakup of AT&T has meant that rural businesses have been unable to take advantage of competing long distance services, digital switching, fax machines and other tools of modern business.

Deregulation of the health care industry has intensified the inequities of resource allocation. The result has led to capital poor rural facilities which are barely able to survive.

SOLUTION

This Congress, I have made rural development one of my highest priorities. I have introduced four bills to help equalize some of the disparaties between rural and urban America.

One brings state-of-the-art telecommunications services to rural areas so that they can join in the "Information Age" of the future.

The second sets up a public/private partnership mechanism to bring more high risk capital to rural areas for business investment.

The third will better enable rural communities to establish business incubators for the purpose of lowering overhead costs.

And the fourth will restore fairness to Medicare's treatment of critical access sole community hospitals and protect them from financial losses

which have forced so many to close their doors.

The first three of these bills have been incorporated in S. 1036, the Rural Partnerships Act of 1989. And the fourth will be taken up during budget reconciliation.

Mr. President, I commend Majority Leader MITCHELL and Senator LEAHY for putting rural development on the front burner so early in the 101st Congress.

Rural America needs our help. We are responding in a positive and cost-effective way. I urge my colleagues to support this critical piece of legislation.

Mr. SPECTER. Mr. President, a number of my constituents have raised concerns about the definition of "rural area" included in the "Rural Partnerships Act of 1989." Specifically, they have expressed concern regarding language contained in the bill that could be interpreted to mean that if the population of any city or town, together with the population of any neighboring urbanized area, is 20,000 or more, that the area would be defined as "urban" and excluded from the benefits of the act.

I would like to ask Senator LEAHY for his views on this critical definition.

Mr. LEAHY. The Senator's constituents need not be concerned. For an area to be considered urban the population of the city or town, itself, must equal or exceed 20,000.

The language is precise—under the bill you do not take into account the population of the neighboring urbanized areas in applying the 20,000 person limit.

Under the bill, the 20,000 limit only applies to the population within the outer boundary of each town or city. Let us consider an example. If there were five towns located next to each other, but no town's population—within the town limits—exceeded 20,000, then the area could not be considered urban. These towns would all be eligible to benefit from the bill.

AMENDMENT TO IMPROVE RURAL BUS TRANSPORTATION

Mr. EXON. Mr. President, I am proud to stand before you today to offer an amendment to S. 1036, the "Rural Partnerships Act of 1989". S. 1036 is designed to promote the growth and economic diversification of rural America as well as to increase business, educational, and employment opportunities in rural America. It is my feeling that this national rural development strategy cannot be complete without the improvement of transportation in the rural areas in this Nation. That is why I am proposing this amendment to improve bus transportation services for residents of rural areas.

Since the Bus Regulatory Reform Act of 1982 which provided carriers with significant market freedoms, many carriers have discontinued low ridership routes. According to an analysis by the Interstate Commerce Commission staff, 3,400 communities lost all intercity bus service between 1982 and 1986. Of these 3,400 communities, nine-tenths were areas with populations of under 10,000. After deregulation of the airline and rail industries, safety net programs were implemented to assist States in preserving efficient air and rail transportation, primarily between smaller cities and communities threatened by the loss of service. Although there was language originally establishing such a program for bus transportation, this language was deleted from the Urban Mass Transportation Act in 1982, and the program has never been implemented. This amendment is designed specifically to provide assistance to States and local communities facing the loss of intercity bus service.

This amendment would enable the Department of Transportation [DOT] to establish a new grant program for the initiation and improvement or continuation of intercity bus service and for the establishment and maintenance of rural feeder services for residents of rural areas and residents of urban places designated by the Bureau of the Census as having populations of 5,000 or more which are not within an urbanized area. I hope that this amendment will provide the necessary incentives for existing transit providers to bring passengers from rural areas to "hub" cities, thereby linking local communities with intercity carriers, as well as expand programs such as the "Rural Connection Program" initiated by Greyhound.

The amendment also gives DOT authority to establish a pilot program to assess the feasibility of combining express pickup and delivery of small packages with passenger transportation in rural areas. Currently, rural transit systems can feed passengers to intercity carriers but are generally prevented from providing package delivery because of barriers established by State regulatory commissions. A requirement of this legislation would be that DOT conduct a study to determine the extent to which this kind of limited pickup and delivery and passenger service is dependent upon Federal preemption of State regulation.

It is my hope that this amendment to the Rural Partnerships Act of 1989 will enhance DOT's ability to provide assistance for transit in rural areas, and increase the mobility of the groups recognized as most dependent on public transportation, the poor, the elderly and the handicapped. I urge my colleagues to join me in support of this amendment to S. 1036.

Mr. FOWLER. Mr. President, I rise today to speak in support of the Rural Star Schools amendment to the Rural Partnerships Act of 1989. I am proud to have joined Senator LEAHY and my colleagues on the Senate Agriculture Committee who did such fine work in developing this legislation and this amendment, because rural areas are a national asset that we have not used to our best advantage. They are essential to our national economy, to our supply of food and raw materials. Yet we have not worked to see that they share in the growth and prosperity, the economic opportunity the rest of the Nation enjoys.

One key to ensuring shared economic growth for our rural areas is to improve rural education. We must make a commitment to improve rural educational opportunities. There are thousands of promising students in rural areas throughout our Nation who have exhausted the coursework in science or foreign language that is available to them in their local high schools. They are ready to move on to more advanced studies, but there is no one to teach them.

But there is hope. The star schools amendment authorizes grants to telecommunications partnerships, to provide satellite video uplinks, to make the most of limited teaching resources in rural areas. In this high-technology age, there is no excuse for having an important segment of our population isolated from knowledge and information—the information that they need to develop careers and economic opportunities for themselves.

We have to strengthen our rural communities. That means we need opportunities for young people in and out of farming, so that they have a real choice of living and raising their families in our small towns and countryside. In order to succeed in this pursuit, all of us must work together—politicians and farmers, educators and businessmen. It will take cooperation and commitment from groups such as our local telephone companies and the local school systems. I look forward to seeing the fruits of such a partnership—a better educated nation.

Mr. President, this legislation offers a beginning for economic growth in rural America. It is a start at developing the infrastructures of credit and education that are essential to develop a healthy and well-rounded rural economy. It will advance our national interests and uphold our national values by strengthening rural communities.

I thank Chairman LEAHY for his outstanding leadership in forging such comprehensive and urgently needed legislation. I urge my colleagues to join me in supporting both the Rural Star Schools amendment and the Rural Partnerships Act of 1989.

Mr. BURDICK. Mr. President, I grew up in rural America, and I think it offers the best way of life in the world. You work hard, but there's a special pride in helping your communi-

ty. Today, many rural communities are in dire straits and need our help.

While select areas are thriving, rural Americans in general have lower incomes, fewer job opportunities, higher unemployment rates, and are more likely to live below the poverty line than their urban counterparts.

When combined with the declining quality of education and health care, the result is a drain on the resources and vitality of rural America. It's time to give investment and economic opportunities to struggling rural communities.

The Rural Partnership Act of 1989, S. 1036, embodies three essential provisions. First, the act promotes growth through creation of new businesses and jobs in rural sectors. Rural areas, such as my home State of North Dakota, offer many of the ingredients fundamental to implementing new industry and businesses. Business startup difficulties can be primarly attributed to lack of capital. This bill will provide the necessary investment to set in motion the process of economic development: Creating jobs, raising incomes, checking the rural exodus, and providing a firmer base for rural business.

Second, rural America has been plagued by inadequate health care and educational systems. Improving health care is critical for rural areas, which have a high percentage of elderly and people involved in hazardous occupations such as farming and mining.

S. 1036 seeks to link rural hospitals to modern medical centers, so rural and teaching hospitals can share data and patient information. Patients could therefore be spared long-distance travel for some specialized treatment.

To give rural students access to the same educational opportunities as urban students, this bill funds "star schools." By using satellites and computers, these schools can offer new courses in math, science, and foreign languages.

Third, adequate drinking water is essential to rural residents, just as it is to people who live in cities. Yet, in 1984, a study found that two-thirds of rural water supplies violated EPA drinking water standards. Another study showed 8 percent of the country does not meet sewage treatment requirements, and 80 percent of the violators are in rural areas. This bill helps rural communities meet Federal safe drinking water and pollution standards.

S. 1297, which I introduced last month, goes even further to help water systems serving fewer than 3,300 people meet their community's water needs. Rural America must improve its basic infrastructure to improve its future.

This bill takes a significant step toward long-term, community-based development in the distressed rural areas of our Nation. North Dakota and other rural States need this bill. America will be stronger if we approve this legislation. Thank you.

Mr. SHELBY. Mr. President, I rise today to announce my support for the Rural Partnerships Act of 1989 and commend by colleagues Senator LEAHY and Senator HEFLIN for their work in this most important legislation.

Rural America represents the very backbone of this country. Our moral foundation and work ethic were established in rural America. However today, the once thriving communities and small towns which make up rural America are in danger of fading into only memories. Droughts and swings in the global economy have wreaked havoc on the economic climate in rural America.

Over the years, we have emphasized urban economic growth instead of promoting rural economic growth, and the result is that the people of rural America have been forgotten. The time has come to reinvest in rural America and provide those individuals who love the independent lifestyle offered in rural communities a better chance to prosper.

Although agriculture is an extremely vital industry for rural America, the most significant growth in rural America results from small businesses. According to the small business data base of the Small Business Administration, small businesses provide most of the job opportunities in my home State—small businesses employ 47.6 percent of Alabama's workforce. In fact in Alabama, small businesses are responsible for employing more people and for creating more new jobs than any single industry in the State. However, fewer new jobs are being created in rural areas than in urban areas and rural incomes remain substantially lower. In 1988, rural unemployment rates were 28 percent higher than rates in urban areas.

I believe that the Rural Partnership Act is a first step toward providing the necessary funding to stimulate economic growth in rural America. One of the main features of this legislation is a revolving loan fund. The Federal Government will provide necessary funding to local agencies which will in turn provide new and struggling businesses with needed capital to create jobs and economic opportunity. This legislation also funds business incubators—facilities designed to house new businesses at reduced start-up costs. Local communities will be able to guide their own economic development efforts, and the Federal Government will become more of an active partner in promoting economic development in rural America.

In my home State of Alabama, I have seen the success of rural incubators. Escambia County was suffering from an 11-percent unemployment rate. To combat the increasing unemployment rate, residents of the county created the Escambia County Industrial Development Authority [ECIDA]—a nonprofit development corporation or rural incubator. Escambia County's rural incubator has enjoyed enormous success. For instance, the ECIDA repaired at a minimal cost an old National Guard armory located in Atmore, AL, and rented it below market value to a local individual who used the site to produce tanks for an oil field. Since that time, Alabama Tank Inc. has grown and now employs 14 individuals with sales exceeding $1 million and an annual payroll of approximately $245,000.

Unemployment is just one symptom of the disease that is eating away at rural America. Other ailments include poorly supported education programs and a lack of necessary funding to keep schools open and accessible. With the implementation of star schools however, children in rural communities entitled to a better education will be able to participate in special courses in mathematics, science, and foreign language being given hundreds of miles away via satellite.

In addition, rural hospitals are feeling the impact of a deteriorating rural America and are closing at an alarming rate—with Alabama leading the Nation in closures per year. Since 1980, over 200 rural community hospitals across the Nation have closed their doors. And, the remaining number of this country's rural hospitals are experiencing such financial stress that closure may be imminent.

Between 1980 and 1987, nine hospitals closed their doors—five of these served rural areas. In 1988, seven more hospitals ceased operation, and four were rural hospitals. Entire communities are being left without adequate local health care forcing rural residents to travel great distances to receive health care—clearly a contributing factor in Alabama's rising infant mortality rate.

Small rural hospitals are the key to a strong rural health care system. In addition to basic acute care, these hospitals often provide other valuable health services to the community such as respite care, nursing care, well-child clinics, preventive care, and the list goes on.

Frequently these hospitals are the largest employers in their communities. As I mentioned earlier, the rural unemployment rate has been consistently higher than in urban areas. When a hospital closes, many jobs are lost, further contributing to an already deteriorating rural economy.

This measure is an effort to strengthen our rural communities by supporting existing programs, by stimulating economic growth, and by ad-

dressing the multifaceted needs of rural America. This legislation is the catalyst for change and will provide the impetus needed to work toward resolving the problems facing rural America.

Although this legislation marks a first step toward recovery for rural America, the road to total economic recovery remains long and uncertain. I urge my colleagues in the House to act quickly on this legislation so that we may send this bill to the President for his signature and send a message to rural Americans that they will not be forgotten.

Thank you, Mr. President. I yield back the balance of my time.

Mr. GORTON. Mr. President, I rise in support of the Rural Partnerships Act of 1989. As a member of the Committee on Agriculture, Nutrition and Forestry, I share the desire and commitment of my colleagues to advance the revitalization of rural America.

Rural America—and I hasten to add, rural Washington State—is unshakeably endowed with the traditional values of this Nation. Fortunately, faith and reliance on family, the strength of community, and the power of commitment—all essential to the revitalization of small and rural communities—are already present in abundance. Leadership is the critical component that must be present to ensure a viable and productive future for the rural communities we represent. I applaud the effects of local leaders—who have done yeomen's work with the tools at their disposal—but believe the Federal Government can do more to provide this leadership.

The economic recovery experienced by much of this Nation has brought mixed blessings to many parts of rural America. Many rural countries in my State of Washington—including Pend Oreille, Okanogan, Klickitat, Ferry, and Skamania—still experience double digit unemployment rates. The bill before us today invests in economic growth by helping States and local economic development agencies provide new and struggling businesses with needed capital to create jobs and economic opportunity.

This bill also helps rural schools, hospitals, and small businesses obtain advanced telecommunications links, providing funds for star schools and for rural hospitals to be linked with modern medical centers. To deal with safe drinking water and wastewater problems in rural communities, the bill makes additional funds available for improving existing sewer and water systems and financing new ones.

Of particular interest, the bill authorizes $10 million annually in economic diversification assistance to timber-dependent communities. The timber sector of our economy was especially hard hit by the recession of the early 1980's, causing severe and long-lasting damage to a number of small communities in my State. In addition, recently submitted national forest plans and ongoing judicial contests will significantly reduce timber harvests. These reductions further threaten the economic stability and viability of the communities dependent upon these national forest resources.

Currently, funds to provide assistance to communities to diversify their local economies are obtained from import duties on plywood and semimanufactured wood products. This bill provides an additional $10 million annually for economic diversification assistance and creates an explicit role for the Forest Service to promote community stability for natural resource dependent areas. While this in no way should be viewed as a substitute for maintaining a strong resource base for these communities, it is welcome assistance, nonetheless.

Mr. President, as I stated earlier, I believe the Federal Government can do more to ensure a viable and productive future for rural America. I believe the Rural Partnerships Act is a positive step in that direction and as such, deserves the support of my colleagues.

REGENERATING OUR ROOTS

Mr. MATSUNAGA. Mr. President, I rise to speak in strong support of S. 1063, the Rural Partnerships Act of 1989, surely one of the most important and innovative bills to be introduced in this session. As an original cosponsor, I hope it will see passage in this Chamber and find equal favor in the House, for it should prove itself to be a major legislative accomplishment of the 101st Congress.

For too long, Mr. President, we have neglected our country's roots: We have neglected rural America. To my mind, S. 1063 represents the first serious, comprehensive piece of Federal legislation to address a demographic fact of life: that only 10 percent of rural Americans live and work on farms. Farmers have been a minority in rural areas for a good many years now, and it is high time to recognize this fact in the search for economic stimulation for nonurban regions. I commend the chairman of the Agriculture Committee, Senator LEAHY, and his committee colleagues for their work in crafting this broad-gauged approach to rural economic development.

I am especially pleased by the provisions of their bill to improve rural schools and hospitals by using telecommunication services to extend course offerings and specialized care. In much the same way that highway legislation of the New Deal and Eisenhower eras brought rural America into the orbit of 20th century life, so too will this legislation bring the information age to the hinterlands, Mr. President.

The case for this legislative prescription is a compelling one, Mr. President, whether one views rural/urban economic indicators, or their comparable social indices. The genius of this bill is that it offers the tools for local initiatives in overcoming disadvantages and undertaking new endeavors. Rather than establishing a national program nationally administered, S. 1036 provides community tools for community application.

As one who was born and reared in rural surroundings on the small island of Kauai, I can fully appreciate what this legislation, and other rural measures now under consideration before various committees, can do to regenerate the rural roots from which this great country of ours has grown, Mr. President. I commend S. 1036 to all my colleagues and urge its immediate passage.

Mr. DURENBERGER. Mr. President today the United U.S. Senate considers the Rural Partnership Act of 1989, a bill that authorizes nearly $300 million of assistance to revitalize and develop rural America. As with many pieces of legislation the Senate considers I support its goals and its passage, however, it does not go nearly far enough.

Rural America is the well spring of the Nation's values and the source of our greatness. One out of four Americans live and 95 percent of our primary products are produced in rural America. Yet, rural America has suffered through three converging trends. Devolution has shifted the burdens of governing to lower levels of government. Deregulation has left small places at the mercy of the law of large numbers. And deflation painfully squeezed the inflation of the 70's out of land values and other inputs. These trends hurt rural America's economic, tax, and governance base, as well as its quality of life. As a result, we have become two Americas: one urban, prosperous, and coastal; and the other an economically stressed heartland.

The trends have led to dramatic economic advances of the Nation as a whole, have left rural America behind. And Mr. President, we simply cannot afford to enter the intense competition of the 1990's without the full competition of all our people. Thus, we must work to revitalize these rural areas. To this we must encourage local government problem-solving, revitalize the intergovernmental partnerships, tie rural America into the global information network, include rural impact analysis in all major policy and budget decisions, provide short-term financial resources to those developing employment opportunities, and finally preserve the national economic policies of low interest rates, low inflation, and high foreign trade.

The Rural Partnerships Act of 1989 that the Senate passed today is a start toward revitalizing rural America. It

provides important financial resources, particularly those that target small businesses, promotes communication development, as well as important infrastructure funding. The legislation also includes my amendment to fund nonprofit organizations that have demonstrated ability in technology transfer, applied research, innovation, and new product development. This will lead to economic growth and job creation in rural areas and is essential for it lays the foundation for the future.

I am hopeful that we can build on and expand this foundation, so we can provide genuine Federal leadership which makes us one strong America.

Mr. SIMPSON. Mr. President, I wish to express my very real concern regarding this legislation, the Rural Partnerships Act of 1989. As you read through the legislation you will discover several references to the Rural Electrification Administration—the education link which would expand star schools program through access to communications technology; the health link to establish communications links between rural hospitals and teaching hospitals; and the business link to establish communications for marketing. The original bill had even proposed that the REA provide water and sewer facility services, but the committee wisely chose to let the Secretary of Agriculture delegate that responsibility to either the REA or the Farmers Home Administration.

One may wonder why this powerful and strong emphasis on REA—especially when that agency, among the very few within USDA, does not now have a field staff or any experts in the Washington office to deal in these highly technical fields. Well—this legislation addresses that as well. This bill authorizes a new assistant administrator within REA to deal with these issues. It also authorizes additional funding to provide technical assistance, financial advice, business planning services or other support by the REA staff. It does appear to me that the very first rural development activity we'll see—should this bill become law—is right here in good old Washington, DC.

While such expertise probably does exist within the bureaucracy now—it most definitely does not exist within the agency charged with delivering rural development funds out where it's needed. Why do it this way? How did such a weird and self-serving proposal come about? If we were really serious about rural development activities, why do we not authorize funding through agencies that are already well equipped to deal in such ventures? The reason is that this grand piece of legislation was drafted by Bob Bergland and his most capable and zealous staff at the National Rural Electric Cooperative Association [NRECA]. What are they up to? Eternal perpetuation would be a guess.

A few years back I stood on this floor and stated that REA had fulfilled its mission—that they had, indeed, electrified rural America. I suggested that we should go and search out those remaining farms and ranches that do not yet have electricity and spend all the money necessary to string the wires right to that place. Because it sure is high time we get the Federal Government out of the business of subsidizing electric generation and transmission to areas that are no longer rural.

I know that the folks at NRECA heard that message. I later visited with Bob Bergland on it at that time. He is a pretty savvy and salty guy—and he is always looking for more bucks for REA. My staff worked with his staff on the new legislation. Now with passage of this legislation, they will have successfully—and very skillfully and with guile and craft I might add—redefined their entire mission.

Now, do not get me wrong. I am not one whit opposed to rural development. I doubt if there is a Senator on this floor who opposes extending to rural areas the necessary expertise and assistance to enable them to live and to survive. Rural communities in this country continue to experience sad and wrenching change. Young people who do not see a future for themselves migrate to the urban areas. Local governments are facing reduced tax bases and deteriorating infrastructure. While many feel that the agricultural economy is now beginning to stabilize, other businesses and services in rural areas—especially medical care—continue to suffer. The Agriculture Committee has defined these needs very well in this legislation. I only question the means they have chosen to get this necessary assistance out to those who actually need it. The delivery system should not be the REA in any of its guises. They have cost us a ton of bucks—especially when they got over their head into nuclear power generation. That was a big dollar electrification of the taxpayers. We don't need more of that.

I am ready to fully help out in an effort to provide such assistance as this government can afford in order to expand opportunities for our rural communities and their young people, working people, and elderly who would wish to remain in those communities if it is at all possible. But let us have the services delivered by agencies that know what they are doing—and have done it before—sometimes poorly—but done it.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

The text of S. 1036, as passed by the Senate on August 2, 1989, is as follows:

S. 1036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Partnerships Act of 1989".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Short title.
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Sec. 3. Findings and purpose.
TITLE I—RURAL BUSINESS AND JOB CREATION
Subtitle A—Rural Partnerships Investment Board
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Sec. 102. Rural Partnerships Investment Board.
Sec. 103. Establishment of Investment Fund.
Sec. 104. Local revolving funds.
Sec. 105. Compliance and enforcement.
Subtitle B—Rural Capital Access Program
Sec. 110. Purpose.
Sec. 111. Definitions.
Sec. 112. Rural capital access.
Sec. 113. Authorization of appropriations.
Sec. 114. Allocation.
Sec. 115. Administration of the program.
Sec. 116. Operation of the program.
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Subtitle C—Rural Economic Development Administered by the Secretary and the Rural Electrification Administration
Sec. 120. Assistant Administrator for Economic Development.
Sec. 121. Deferment of payment on economic development loans.
Sec. 122. Water and waste facility financing.
Sec. 123. Rural economic development.
Sec. 124. Promoting rural development by REA telephone borrowers.
Sec. 125. Review of programs for business incubator.
TITLE II—ENHANCING HUMAN RESOURCES
Sec. 201. Purpose.
Sec. 202. Goals.
Sec. 203. Definitions.
Sec. 204. Provisions relevant to all three telecommunications programs.
Sec. 205. Rural Star Schools Educational Opportunities Program.
Sec. 206. Rural Medical Link Telecommunications Program.
Sec. 207. Rural Business Link Telecommunications Program.
TITLE III—FOCUS ON RURAL AMERICA BY THE DEPARTMENT OF AGRICULTURE
Sec. 301. Extension Service.
Sec. 302. Rural development assistance information and availability.

Sec. 303. Report on coordination of rural development activities.
Sec. 304. Report on data processing feasibility in rural areas.
TITLE IV—RURAL BUSINESS AND EMERGENCY ASSISTANCE
Sec. 401. Local technical assistance grants.
Sec. 402. Rural emergency assistance loans.
TITLE V—NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE
Sec. 501. National rural information center clearinghouse.
TITLE VI—WATER AND SEWER ASSISTANCE
Sec. 601. Water and waste facility grants.
Sec. 602. Emergency community water assistance grant program.
Sec. 603. Sewer and water lending by banks for cooperatives.
Sec. 604. Rural wastewater treatment circuit rider grant program.
Sec. 605. Technical assistance for certain solid waste management.
TITLE VII—MISCELLANEOUS
Sec. 701. Monitoring the economic progress of rural America.
Sec. 702. Historic preservation requirements.
Sec. 703. Loan rates applicable to health care and related facilities.
Sec. 704. Assistance to communities dependent on natural resources.
Sec. 705. Assisting distressed rural hospitals and health care facilities.
Sec. 706. Rural development research assistance.
Sec. 707. Business and industrial loan program applications.
Sec. 708. Priority for rural areas in certain construction projects.
Sec. 709. Rural set-asides in Federal formula funding.
Sec. 710. Analysis by Office of Technology Assessment.
Sec. 711. Sense of the Congress concerning toll rate averaging.
Sec. 712. National Endowment for Rural Development.
Sec. 713. National Rural Development Center.
Sec. 714. Grants to broadcasting systems.
Sec. 715. Rural bus services.
Sec. 716. Economic impact statements.
Sec. 717. Information concerning Federal funding.
Sec. 718. National rural development and finance corporations.
TITLE VIII—MICROBUSINESS LOAN FUND AND MICROBUSINESS TECHNICAL ASSISTANCE FUND
Sec. 801. Short title.
Sec. 802. Findings.
Sec. 803. Purpose.
Sec. 804. Definitions.
Sec. 805. Establishment of microbusiness loan fund.
Sec. 806. Loans from the microbusiness loan fund and technical assistance grants.
Sec. 807. Disbursement of loan fund by microbusiness loan fund loan recipients.
Sec. 808. Authorization.
TITLE IX—SMALL BUSINESS RURAL REVITALIZATION
Sec. 901. Short title.
SUBTITLE A—CAPITAL FORMATION
Sec. 911. Definition of designated rural area.
Sec. 912. Capital requirements for small business investment companies operating in designated rural areas.
Sec. 913. State development companies.
SUBTITLE B—REGULATORY SIMPLIFICATION; MISCELLANEOUS AMENDMENTS
Sec. 921. Definition of small business in designated rural areas for purposes of analysis of regulatory functions.
Sec. 922. Interagency review and recommendations.
TITLE X—EFFECTIVE DATE AND IMPLEMENTATION
Sec. 1001. Effective date and implementation.

SEC. 3. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the economic well-being of rural America is vital to overall national growth and prosperity;

(2) many rural areas suffer from a lack of industrial and business diversity;

(3) rural poverty and unemployment rates are significantly higher than metropolitan rates, and rural per capita income is substantially lower than metropolitan per capita income;

(4) the lack of access to advanced telecommunications in rural areas impedes economic growth; and

(5) a more robust rural economy will make the United States more competitive in world markets.

(b) PURPOSE.—It is the purpose of this Act to promote a national rural development strategy, through procedures flexible enough to allow for regional and local differences, to promote the growth and economic diversification of rural America, to improve rural telecommunications, and to increase business, educational, and employment opportunities in rural America.

TITLE I—RURAL BUSINESS AND JOB CREATION

Subtitle A—Rural Partnerships Investment Board

SEC. 101. DEFINITIONS.

As used in this subtitle:

(1) APPROVED LOCAL BUSINESS.—The term "approved local business" means a local business that is approved to receive assistance from the revolving fund of an eligible entity as provided under the provisions of this subtitle.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A)(i) a nonprofit private corporation or a public entity that is—

(I) the governing body of each public regional organization (such as the governing body of an economic development district) that is chartered or otherwise organized under State law for the purpose of promoting economic development;

(II) the agency of each State that is primarily responsible for rural economic development programs within the State;

(III) the governing body of a county or other political subdivision of a State;

(IV) the governing body of a town or township within a State; or

(V) an incorporated public organization or a nonprofit private community development corporation, or similar nonprofit private organization, that is chartered or otherwise organized under State law for the purpose of promoting economic development; or

(ii) an Indian tribe (as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), any Indian organization or entity chartered under the Act of June 18, 1934 (25 U.S.C. 1001 et seq.), commonly known as the "Indian Reorganization Act", or any tribal organization (as defined in the section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)); and

(B) an entity described in subparagraph (A) that—

(i) possesses the powers reasonably necessary to perform the functions and activities described in this subtitle;

(ii) has a professional staff and management ability (including adequate accounting, legal, and business servicing abilities or experience); and

(iii) meets any other requirements established by the Board to carry out this subtitle.

(3) INVESTMENT BOARD.—The term "Investment Board" or "Board" means the Rural Partnerships Investment Board established in section 102(a).

(4) LOCAL BUSINESS.—The term "local business" means—

(A) a business concern, located in a rural area, that—

(i) is incorporated or otherwise organized under State law so that financial records and accounts are maintained regarding the business concern separate and apart from records and accounts not related to that business concern; and

(ii) is independently or cooperatively (not including borrowers under the Rural Electrification Act of 1936) owned and operated as defined by the Board; or

(B) an individual who plans to organize and operate an entity of the type described in subparagraph (A); and

that meets any additional requirements that are established by the Board to carry out the intent of this Act.

(5) RURAL AREA.—The term "rural area" means all territory of a State that is not within the outer boundary of any city or town, having a population of 20,000 or more based on the latest decennial census of the United States, and any neighboring urbanized area as defined by the Board.

(6) RURAL FUND.—The term "Rural Fund" or "Fund" means the Rural Business Investment Fund established under section 103(a).

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, unless otherwise specified in this Act.

(8) STATE.—The term "State" means each of the 50 States of the United States.

SEC. 102. RURAL PARTNERSHIPS INVESTMENT BOARD.

(a) ESTABLISHMENT.—There is established a "Rural Partnerships Investment Board" to provide lines of credit to eligible entities to enable such entities to establish, maintain, or expand revolving funds that are used to make or guarantee loans, or to make capital investments in new or expanding local businesses in conjunction with loans or investments made by banks (as defined in section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c))), insured savings and loan institutions (as defined in title IV of the National Housing Act, as amended (12 U.S.C. 1724 et seq.)), State owned banks whose deposits are backed by the full faith and credit of the State, or community development credit unions chartered by the National Credit Union Administration under the authority of the Federal Credit Union Act (12 U.S.C. 1751 et seq.).

(b) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The Board of Directors of the Investment Board shall consist of—

(A) the Administrator of the Rural Electrification Administration;

(B) the Administrator of the Farmers Home Administration;

(C) the Administrator of the Extension Service of the Department of Agriculture; and

(D) two members who shall be experienced in rural development and related matters to be appointed by the President with the advice and consent of the Senate, of which each member shall be from a separate political party.

(2) CHAIRPERSON.—The Chairperson of the Board shall be elected by the members of the Board from among the Board members who are Administrators under subparagraphs (A) through (C) of paragraph (1), and shall serve for a 2-year period. Such Chairperson may serve consecutive terms.

(3) VACANCIES.—Vacancies on the Board shall be filled in the same manner as the vacant position was previously filled.

(4) CHIEF EXECUTIVE OFFICER.—A chief executive officer shall be selected by the Board and shall serve at the pleasure of the Board.

(5) QUORUM.—A quorum shall consist of three members of the Board. All decisions made by the Board shall require an affirmative vote of a majority of the members.

(6) COMPENSATION.—Members of the Board—

(A) specified under subparagraphs (A), (B), and (C) of paragraph (1) shall receive reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Investment Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States; and

(B) appointed under subparagraph (D) of paragraph (1) shall receive compensation for the time devoted to meetings and other activities at a daily rate not to exceed the daily rate of compensation prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Investment Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States.

(7) RULES AND RECORDS.—The Board shall adopt such rules and procedures as it may consider appropriate for the transaction of the business of the Investment Board, and shall keep permanent and accurate records and minutes of its acts and proceedings.

(c) POWERS OF THE INVESTMENT BOARD.—The Investment Board shall be a body corporate that shall have the power to—

(1) operate under the direction of its Board;

(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

(3) provide for one or more officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

(4) hire, promote, compensate, and discharge officers and employees of the Investment Board, without regard to title 5, United States Code, except that no such officer or employee shall receive an annual rate of basic pay in excess of the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code;

(5) prescribe by its Board its bylaws, that shall be consistent with law, and that shall provide for the manner in which—

(A) its officers, employees, and agents are selected;

(B) its property is acquired, held, and transferred;

(C) its general operations are to be conducted; and

(D) the privileges granted by law are exercised and enjoyed;

(6) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this subtitle;

(7) enter into contracts and make advance, progress, or other payments with respect to such contracts;

(8) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

(9) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its operations;

(10) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this subtitle;

(11) make such rules and regulations as the Board determines necessary and appropriate to carry out the authority vested in the Board under this Act;

(12) procure the temporary (not in excess of 2 years) or intermittent services of experts or consultants or organizations thereof, without regard to the civil service and classification laws and without regard to section 5 of title 41, at rates not to exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code, including traveltime, and while such individual is away from the home or regular place of business of such individual, travel expenses as authorized under section 5703 of title 5, United States Code; and

(13) exercise other powers as set forth in this subtitle, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this subtitle.

SEC. 103. ESTABLISHMENT OF INVESTMENT FUND.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund for the use of the Board in carrying out the provisions of this subtitle that shall be known as the "Rural Business Investment Fund".

(2) AVAILABILITY.—The Fund established under paragraph (1) shall be available to the Board to provide lines of credit for revolving funds to be operated by approved eligible entities to serve local businesses in rural areas.

(b) USE.—

(1) LINES OF CREDIT.—Amounts contained in the fund established under subsection (a) shall be used by the Board to provide lines of credit in amounts determined appropriate by the Board, but in no event shall any such line of credit exceed $750,000 annually (up to a total amount of $2,250,000) to an approved eligible entity. Each line of credit shall be made available over a period of time established by the Board for each such entity, but in no event shall any such period of time extend beyond the date on which the Investment Board is terminated under section 104(n).

(2) EXCEPTION.—Notwithstanding paragraph (1), if the approved eligible entity is the agency of any State that is primarily responsible for the rural economic development programs within such State, the Board may provide a line of credit to such agency in an amount that shall not exceed $1,250,000 annually (up to a total amount of $3,750,000) in the manner described in paragraph (1).

(3) AMOUNTS DRAWN FROM LINE.—Amounts drawn from each line of credit by each approved eligible entity shall be used solely as provided under this subtitle and shall be drawn only as needed to provide loans, investments, or to carry out a guarantee.

(c) APPLICATIONS OF ELIGIBLE ENTITIES FOR LINES OF CREDIT.—

(1) FEDERAL REGISTER NOTICES.—The Board shall publish notices of solicitations for applications for lines of credit in the Federal Register and such notices shall contain—

(A) the application procedures established by the Board;

(B) the application requirements of paragraph (3);

(C) the deadlines for submission of applications (which in no event shall be less than 150 days after the publication of the applicable notice);

(D) a copy of all available response forms;

(E) a summary of the functions of the Board regarding applications; and

(F) other information determined appropriate by the Board.

(2) SUBMISSION AND CONSIDERATION.—An eligible entity that desires to receive a line of credit under this subtitle shall submit an application to the Board at such time, in such form, and containing such information and documentation, including a description of the areas to be served, as the Board shall prescribe under paragraph (1), and the Board shall consider each such application based on the requirements of this subtitle.

(3) ELIGIBLE ENTITY.—

(A) MATCHING FUNDS OR LETTERS OF INTENT.—In order for an application to be considered for approval by the Board for a line of credit, each eligible entity that submits an application shall—

(i) certify in writing that it shall use such funds as part of a revolving fund to invest in, and make or guarantee loans to, local businesses in accordance with this subtitle; and

(ii)(I) agree to provide matching funds (Federal funds shall not be used to satisfy such matching requirement) in amounts that are at least equal to the amount of the line of credit to be provided by the Board, that shall be in the form of—

(aa) cash or cash equivalents; or

(bb) letters of credit in favor of the eligible entity issued or submitted by banks, savings and loan associations, insurance companies, similar Federally regulated financial institutions, State owned banks, local or State government or private philanthropic foundations, as determined appropriate and acceptable by the Board; or

(II) demonstrate, through procedures determined appropriate and acceptable by the Board, that banks, savings and loan associations, or community development credit unions, as defined in section 102(a), are prepared to participate with the eligible entity in a lending, guarantee, or investment program for the benefit of local businesses, and that the total financial commitment demonstrated by the letters of intent or other doc-

uments is at least equal to the value of the line of credit for which the eligible entity is applying.

(B) EXCEPTION FOR CERTAIN ELIGIBLE ENTITIES.—

(i) LOW PER CAPITA INCOME AREAS.—If the average per capita income level of the identified rural areas served by an eligible entity is less than 70 percent of the national average per capita income for the most recent year for which such information is available, each such eligible entity shall only be required to match 50 percent of the funds provided by the Board in the same manner as described in paragraph (3)(A)(ii) (I) or (II). A list of the average per capita income and population of each county in the United States that contains rural areas, and the national average per capita income for such year, shall be published in the Federal Register and otherwise made available by the Board to the public.

(ii) INDIAN TRIBAL COUNCIL PARTICIPATION.—

(I) IN GENERAL.—Community or tribal development corporations operated by Federally recognized tribal councils that desire to administer a local revolving fund may participate in the program established under this subtitle if such corporations meet the rules and procedures established under this subtitle, that are determined by the Board to be pertinent.

(II) ESTABLISHMENT OF SPECIAL RULES AND PROCEDURES.—

(aa) IN GENERAL.—Not later than 220 days after the date of enactment of this Act, the Board shall establish rules and procedures to enable such community or tribal development corporations serving rural areas located on Federally recognized reservations (including former reservations in Oklahoma) to participate in the program established under this subtitle through the operation of revolving funds used for investing in, and making or guaranteeing loans to, new or expanding local businesses.

(bb) CONTENTS.—Rules and procedures established under item (aa) shall be established to ensure that development corporations that receive Federal lines of credit under this subtitle serve needy reservation areas, including areas that have low per capita income, high unemployment, high poverty rates, depressed or lagging local economies, and other factors determined appropriate by the Board.

(III) MATCHING REQUIREMENTS.—The requirements of subsection (c)(3) and section 104(d) concerning the provision of matching funds and the requirement of partnerships for loans, and any related matching requirements, shall not apply to the development corporations receiving assistance under this clause.

(4) REAPPLICATION FOR LINES OF CREDIT.—

(A) IN GENERAL.—An eligible entity that has received a line of credit under this section may reapply in subsequent years for additional lines of credit if the Board makes a determination that—

(i) the applicant has demonstrated that the funds previously allocated under such line of credit have been substantially obligated and that additional demand for lending, investment, or guaranteed funding exists in the service area of the applicant;

(ii) the applicant will meet the matching requirements under subsection (c)(3); and

(iii) the applicant has administered the revolving fund consistent with this subtitle and has the capacity to administer additional funds in the same manner.

(B) PRIORITY.—Eligible entities qualified to receive an initial line of credit or that will serve a service area not served by another entity shall receive priority over any applicant seeking a second or subsequent line of credit.

(5) MONITORING COMPLIANCE.—The Board shall establish procedures to monitor the compliance of each eligible entity participating in the program authorized by this subtitle with the requirements of this subtitle.

(6) ELIGIBLE ENTITY REVOLVING FUND REQUIREMENT.—To be eligible to receive a line of credit from the Rural Fund, the applicant eligible entity shall—

(A) demonstrate its ability or potential capacity to make sound business, lending, and investment decisions and to provide business counseling and technical assistance;

(B) demonstrate its ability to operate consistent with the requirements of this subtitle and to increase the availability of credit in rural areas to promote the creation or expansion of viable businesses in rural areas;

(C) identify the proposed service area and define a strategy for serving that area that should describe such characteristics as similar industrial, labor, or other markets, similar geographic or socioeconomic conditions, or other related considerations, and, to the extent that such area includes any towns or townships, such towns or townships shall be served in their entirety;

(D) provide an assurance that its service area will consist of—

(i) any or all rural areas within a county where the median household income of each such county is less than the Statewide nonmetropolitan median household income; or

(ii) identified rural areas within a county, in which the median household income of each such county is equal to or greater than the Statewide nonmetropolitan median household income, if the median household income of each rural city, town or township to be served, and each separate contiguous rural area to be served, is less than the Statewide nonmetropolitan median household income or identified rural areas within a State in which the average per capita income is less than 70 percent of the nationwide per capita income; or

(iii) any county where the net migration population loss is at least 5 percent or greater from April 1, 1980, to July 1, 1987, as reported by the Census Bureau of the Department of Commerce; and

(E) provide a notification that an application has been filed with the Board to each county or other local unit of government having jurisdiction over some or all of the proposed service area under procedures developed by the Board.

(7) FACTORS IN APPROVAL OF APPLICATIONS.—In determining which applications to approve, and the maximum amount of funds to be offered in each line of credit, the Board shall grant a preference to eligible entities—

(A) that have experience in serving local credit or equity needs and in making sound business and investment decisions, or that have the ability to serve such needs and make such decisions;

(B) whose boards of directors, or governing bodies if no such board exists, are composed of a cross-section of individuals (such as individuals with business, community development or regional development backgrounds, or individuals who are State, local or county government officials, or individuals involved in banking, financial, or other investment activities);

(C) that are likely to stimulate significant job creation or retention and new business creation or business expansion per dollar of funds provided under this section;

(D) that submit applications that demonstrate the ability and willingness to provide continuing technical and management assistance, training, financial and business guidance, and planning, to local businesses;

(E) that demonstrate that the activities of the eligible entity are consistent with State, county or local goals, whichever is applicable, regarding long-term economic growth and community development;

(F) that submit applications containing a comprehensive investment strategy, developed in consultation with the applicable State, regional council or government, and county or other general purpose unit of local government; and

(G) that propose to serve a service area—

(i) whose unemployment or poverty rates exceed the Statewide nonmetropolitan average;

(ii) with special needs arising from actual or threatened severe unemployment arising from economic dislocation; or

(iii) that includes any county in which the net migration population loss is at least 5 percent or greater from April 1, 1980, to July 1, 1987, as reported by the Census Bureau of the Department of Commerce.

(8) GEOGRAPHIC SPREAD.—

(A) IN GENERAL.—In awarding lines of credit under this section the Board shall attempt, as much as reasonably practicable and consistent with sound financial judgment, to assure that all rural regions of the United States benefit from such awards.

(B) MINIMUM AMOUNT OF FUNDS.—After considering the availability of qualified applications, and if consistent with good investment practices and the other requirements of this subtitle, the Board shall approve the application of at least one eligible entity in each of at least 45 States. The Board shall, to the maximum extent practicable and appropriate, ensure that eligible entities that are approved by the Board in any given State receive at least $750,000 (per State) out of the funds provided under subsection (d). In addition, to the maximum extent practicable the Board shall approve the applications of at least two eligible entities in each State containing an approved eligible entity.

(C) MAXIMUM AMOUNT OF FUNDS.—The total amount of funds provided under this subtitle to eligible entities in any State shall not exceed $10,000,000.

(D) SPECIAL PROGRAM.—

(i) IN GENERAL.—The Board shall issue regulations to establish a program that targets the benefits of the Federal lines of credit provided under this section to those rural areas and residents with special needs.

(ii) LIMITS.—If consistent with sound investment practices, not less than 5 percent, nor more than 15 percent, of the funds appropriated under subsection (d) shall be issued to eligible entities that will serve—

(I) local businesses located in very distressed rural areas, as defined by the Board, that may include areas with special needs arising from actual or threatened severe unemployment which results from economic dislocation; and

(II) local businesses that provide beneficial services to rural residents such as improved medical, hospital, or health care, licensed day care facilities or centers, improved services for the handicapped, the disabled, the elderly or other needy individuals, improved educational opportunities,

improved public transportation services for needy individuals, or other related services as determined appropriate by the Board.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 in fiscal year 1990, $86,000,000 in fiscal year 1991, $67,000,000 in fiscal year 1992, and $47,000,000 in fiscal year 1993 to be made available to the Rural Fund and the Board for the purpose of carrying out this subtitle. Amounts appropriated under this subsection shall remain available until expended or until the Board is terminated.

(e) RELOCATION AND REFINANCING.—The Board shall establish rules and procedures to prohibit eligible entities from using the assistance received under this subtitle for loans and investments, or for issuing guarantees, that would—

(1) facilitate the relocation of a local business from one community to another;

(2) refinance the existing debt of a local business, except that such refinancing may be undertaken with such assistance if it is undertaken in conjunction with a substantial expansion effort by the local business; or

(3) significantly reduce the viability of an existing business engaged in substantially the same business activities in the same community.

SEC. 104. LOCAL REVOLVING FUNDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Each eligible entity approved by the Board to participate in the program established under this subtitle shall establish a local revolving fund account in which to deposit—

(A)(i) amounts received from the Fund under this subtitle;

(ii) any local matching funds described under section 103(c)(3)(A); and

(iii) any profits or income, repayments of loans, proceeds from the sale of equity investments, or other gains or returns on investments or loans, derived from the activities of the revolving fund established under this subsection; less

(B) reasonable operating expenses or losses incurred in administering such fund.

(2) PLACE OF ESTABLISHMENT.—Each local revolving fund established under this subsection may be established in one or more member banks of the Federal Reserve System, any Federally insured State nonmember bank (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), or any State owned bank whose deposits are backed by the full faith and credit of the State, and the funds, except as used as authorized in subsection (b), shall be held in cash and receive interest or be invested in direct obligations of the United States or in obligations guaranteed by the United States or an agency thereof.

(b) USE OF FUND.—Amounts in a local revolving fund may be used—

(1) to provide loans or equity capital, or loan guarantees, to approved local businesses as authorized in this subtitle, under procedures established by the Board;

(2) to cover the costs of providing training, business or financial planning, or management or technical assistance to approved local businesses in amounts that do not exceed amounts or levels described in standards established by the Board;

(3) if financial investments are made in the eligible entity in accordance with section 103(c)(3)(A)(ii)(I) (aa) or (bb), to provide for a return of capital to non-Federal investors in the revolving fund, except that if such revolving fund experiences capital or other losses the share of returned capital under this paragraph shall be proportionately, or otherwise appropriately reduced to reflect such losses, under procedures established by the Board; or

(4) to cover reasonable operating or capital expenses, losses, or for other charges as prescribed in rules or standards established by the Board.

(c) DECISIONS CONCERNING FUNDING.—Eligible entities that receive a line of credit under section 103 shall make case-by-case determinations concerning applications submitted by each local business for loans, equity capital or loan guarantees, under general procedures and requirements established by the Board.

(d) REQUIREMENT OF PARTNERSHIPS FOR LOANS OR INVESTMENTS.—Funds in each local revolving fund shall be loaned, invested, or used to provide a guarantee, only if one or more banks, savings and loan institutions, or community development credit unions, under procedures established by the Board, match each investment or loan made by each such revolving fund to each such local business, on at least a dollar-for-dollar basis, or provide the funds for the loans that are guaranteed by such local revolving fund.

(e) INVESTMENT SIZE LIMITS.—

(1) IN GENERAL.—

(A) AMOUNT PER LOCAL BUSINESS.—The amount of Federal funds provided from any revolving fund for use in making loans or investments, or available regarding each guarantee, shall not exceed $250,000 in any given calendar year, to any single approved local business or to other local businesses that are financially connected or otherwise related to such local business as defined by the Board.

(B) OTHER SOURCES.—The provisions of this subtitle shall not limit the total amount of loans, investments, or guarantees from sources other than eligible entities that each local business may receive.

(C) PROCEDURES.—In implementing this paragraph the Board shall develop procedures to establish, impute, or determine the amount of Federal funds that shall be considered available in the revolving funds created by approved eligible entities.

(2) INELIGIBILITY.—Any local business that employs 100 or more employees shall not be eligible to receive assistance from a local revolving fund that receives assistance under this subtitle.

(f) SUBORDINATED INTEREST OF LOCAL REVOLVING FUND.—If a bank, savings and loan association, or a community development credit union has made an investment or loan in a local business in conjunction with an investment or loan made out of the revolving fund of an approved eligible entity, the amount invested or loaned by such revolving fund in such local business may be subordinated, to any degree, and in any manner.

(g) OTHER INVESTORS.—A bank, savings and loan association, community development credit union, similar Federally regulated financial institution, State owned bank, local or State government, private philanthrophic foundation, or other entity that contributes capital to an eligible entity that receives Federal assistance under this subtitle may establish contractual arrangements with such eligible entity concerning the return of such investments in the local revolving fund consistent with subsection (b)(3).

(h) ADDITIONAL CAPITAL.—The Board shall promulgate regulations that provide each participating eligible entity with a sufficient amount of time to obtain additional capital, lines of credit, or letters of intent, if any investor, pursuant to the contract with the eligible entity under subsection (g), withdraw some or all of its investment.

(i) CONTINUATION OF LINE OF CREDIT.—A line of credit provided to an approved eligible entity under section 103 for use in a local revolving fund shall continue to be available to be drawn upon until the Investment Board is terminated or until the line of credit is canceled, revoked, or suspended by the Board or the Secretary as described in section 105 or subsection (l).

(j) CONTINUATION OF BUSINESS PROMOTION ACTIVITIES.—The Federal assistance provided to each eligible entity under this subtitle shall become the property of each such entity on the termination of the Investment Board if—

(1) the eligible entity that administers the local revolving fund has operated the fund in a manner that is consistent with this subtitle as determined by the Board; and

(2) the eligible entity contracts with the Secretary to continue to provide lending, investment, and guarantee assistance consistent with this subtitle.

(k) DEVELOPMENT OF MONITORING PROCEDURES.—On the date on which the Investment Board is terminated, the Secretary shall act in place of the Board and shall monitor the operations of eligible entities that receive Federal assistance under this subtitle which continue to exist on the date the Board is terminated.

(l) REFUND OF FUNDS.—Notwithstanding subsection (j), and in addition to any actions taken under section 105, if the Secretary finds that the purpose of any eligible entity is no longer to promote business development in a manner consistent with this subtitle, the Secretary shall revoke the approval of the eligible entity, obtain a refund in an amount equal to the amount of funds drawn out of the Federal line of credit issued to the eligible entity together with an appropriate amount of interest on such amount, as determined by the Secretary, and succeed to, or acquire the rights, privileges, assets, investment and payments due from such eligible entity as described in section 105(h).

(m) ANNUAL REPORTS TO THE BOARD.—

(1) IN GENERAL.—Each eligible entity that receives assistance under this subtitle shall annually prepare and submit to the Board, at such time, and in such form as the Board may require, a report describing the financial condition of the eligible entity, and the investments, cash revenues, income from investments, loans made, equity positions taken, guarantees issued, losses sustained or taken, any training, business, or technical assistance, or financial planning provided, operating expenses, loss rates, and such other matters as the Board determines appropriate concerning the eligible entity.

(2) POST TERMINATION.—After the Board terminates under subsection (n), the reports required under paragraph (1) shall be submitted to the Secretary who shall stand in the same position as the Board.

(n) TERMINATION OF BOARD.—The Investment Board established by section 102(a) shall terminate on the last day of the 5th calendar year following the date of enactment of this subtitle and the Secretary shall act in place of such Board.

SEC. 105. COMPLIANCE AND ENFORCEMENT.

(a) REVOCATION OR CANCELLATION OF LINE OF CREDIT AND REFUND.—

(1) GROUNDS FOR REVOCATION.—A line of credit shall be revoked or suspended by the

Board, and a full or partial refund of the Federal investment, together with an appropriate amount of interest, shall be requested by the Board—

(A) for false statements knowingly made in any written statement required under this subtitle, or under any regulation or Federal Register notice issued under this subtitle;

(B) if any written statement required under this subtitle, or under any regulation or Federal Register notice issued under this subtitle, fails to state a material fact necessary in order to make the statement not misleading in the light of the circumstances under which the statement was made;

(C) for willful or repeated violation of, or willful or repeated failure to observe, any provision of this subtitle;

(D) for willful or repeated violation of, or willful or repeated failure to observe, any rule or regulation authorized under this subtitle; or

(E) for violation of, or failure to observe, any cease and desist order issued by the Board under this subsection.

(2) CANCELLATION OF LINE OF CREDIT.—Notwithstanding any actions taken under paragraph (1), the Board may cancel any prospective payments to be made from any approved line of credit under this subtitle if the Board determines that the eligible entity participating in the program established under this subtitle made investments or acted in a manner that was inconsistent with the provision of this subtitle.

(3) CEASE AND DESIST ORDERS.—Where an eligible entity has not complied with any provision of this subtitle, or of any regulation issued pursuant thereto, or is engaging or is about to engage in any acts or practices that constitute or will constitute a violation of such subtitle or regulation, the Board may order such entity to cease and desist from such action or failure to act. The Board may further order such entity to take such action or to refrain from such action as the Board determines necessary to ensure compliance with this subtitle and the regulations issued thereunder.

(4) ORDER TO SHOW CAUSE, CONTENTS, AND HEARING.—

(A) ORDER.—Prior to revoking or suspending a line of credit under paragraph (1) or (2), or issuing a cease and desist order under paragraph (3), the Board shall serve on the eligible entity an order to show cause why an order revoking or suspending the line of credit or a cease and desist order should not be issued.

(B) CONTENTS.—An order to show cause under subparagraph (A) shall contain a statement of the matters of fact and law asserted by the Board and the legal authority and jurisdiction under which a hearing is to be held, and shall state that a hearing will be held before the Board at a time and place stated in the order.

(C) HEARING.—If after a hearing under subparagraph (B), or a waiver thereof, the Board determines on the record that an order revoking or suspending the line of credit, or a cease and desist order should be issued, or an order requiring a refund of the Federal investment in addition to reasonable interest thereon should issue, the Board shall promptly issue such order, which shall include a statement of the findings of the Administration and the reasons for such findings and specify the effective date of the order, and shall cause the order to be served on the entity.

(5) SUBPOENA OF PERSONS, BOOKS, PAPERS, AND DOCUMENTS; FEES AND MILEAGE; ENFORCEMENT.—

(A) SUBPOENA.—The Board may require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to the hearing from any place in the United States.

(B) FEES AND MILEAGE.—Witnesses summoned before the Board shall be paid by the party at whose instance such witnesses were called the same fees and mileage that are paid witnesses in the courts of the United States.

(C) ENFORCEMENT.—In the case of disobedience to a subpoena under this paragraph, the Board, or any party to a proceeding before the Board, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents.

(6) PETITION TO MODIFY OR SET ASIDE ORDER; FILING, TIME AND PLACE, ADMINISTRATION TO SUBMIT RECORD; ACTION OF COURT; REVIEW.—

(A) IN GENERAL.—An order issued by the Board under this subsection shall be final and conclusive unless not later than 30 days after the service thereof the eligible entity appeals to the United States court of appeals for the circuit in which such corporation has its principal place of business by filing with the clerk of such court a petition praying that the order of the Board be set aside or modified in the manner stated in the petition.

(B) FILING.—

(i) LEAVE OF COURT.—After the expiration of the 30-day period referred to in subparagraph (A), a petition may be filed only by leave of court on a showing of reasonable grounds for failure to file the petition prior to the expiration of such period.

(ii) CERTIFICATION.—The clerk of the court shall, on filing, cause a copy of the petition to be delivered to the Board and the Board shall certify and file in the court a transcript of the record on which the order was entered. If prior to the filing of such record the Board amends or sets aside its order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, after providing notice to the Board.

(C) STAY OR SUSPENSION OF ORDER.—The filing of a petition for review under this paragraph shall not of itself stay or suspend the operation of the order of the Board, but the court of appeals in its discretion may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition.

(D) ACTION BY COURT.—The court may affirm, modify, or set aside the order of the Board.

(E) ADDITIONAL EVIDENCE.—

(i) DETERMINATION.—If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the Board to reopen the hearing for the taking of such evidence, in such manner and on such terms and conditions as the court may consider appropriate.

(ii) FINDINGS.—The Board may modify its findings as to the facts, or make new findings, by reason of the additional evidence taken under this subparagraph, and it shall file its modified or new findings and the amendments, if any, of its order, with the records of such additional evidence.

(F) CONSIDERATION OF OBJECTIONS.—No objection to an order of the Board shall be considered by the court unless the objection was argued before the Board or, if it was not so argued, unless there were reasonable grounds for failure to do so.

(G) REVIEW.—The judgment and decree of the court affirming, modifying, or setting aside any such order of the Board shall be subject only to review by the Supreme Court of the United States on certification or certiorari as provided in section 1254 of title 28.

(7) ENFORCEMENT OF ORDER.—If the entity against which or against whom an order is issued under this subsection fails to obey the order, the Board may apply to the United States Court of appeals, within the circuit where the entity has its principal place of business, for the enforcement of the order, and shall file a transcript of the record on which the order complained of was entered. On the filing of the application the court shall cause notice thereof to be served on the entity. The evidence to be considered, the procedure to be followed, and the jurisdiction of the court shall be the same as is provided in paragraph (6) for applications to set aside or modify orders.

(b) INVESTIGATIONS AND EXAMINATIONS.—

(1) AUTHORITY.—

(A) IN GENERAL.—The Board may conduct such investigations as the Board considers necessary to determine whether an eligible entity has engaged in any acts or practices that constitute or will constitute a violation of any provision of this subtitle, or of any regulation issued under this subtitle, or of any order issued under this section.

(B) FILING OF STATEMENTS.—The Board shall permit any individual to file a statement with the Board that is in writing, under oath or otherwise as the Board shall determine, as to all the facts and circumstances concerning the matter to be investigated.

(C) SUBPOENA.—For the purpose of any investigation under this subsection, the Board may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(D) REFUSAL TO OBEY.—In case of contumacy by, or refusal to obey a subpoena issued to, any individual, including an entity or corporation, the Board may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such individual resides or carries on business activity, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents, and such court may issue an order requiring such individual to appear before the Board, to produce records, if so ordered, or to give testimony touching the matter under investigation.

(E) CONTEMPT.—A failure to obey an order of the court under this subsection shall be punishable by such court as a contempt thereof. All process in any such case may be served in the judicial district where such individual is an inhabitant or wherever such individual may be found.

(2) EXAMINATIONS AND REPORTS.—

(A) EXAMINATIONS.—An eligible entity under this subtitle shall be subject to examinations made by the Board through examiners selected or approved by the Board, and the cost of such examinations, including the compensation of the examiners, may in the discretion of the Board be assessed against the entity examined and when so assessed shall be paid by such entity.

(B) REPORTS.—Such entities shall prepare and submit reports to the Board at such

times and in such form as the Board may require.

(3) EXAMINATIONS.—Each eligible entity shall be examined and audited at least once every 2 years, under procedures established by the Board, to determine whether or not such entity has been operated in a manner consistent with this subtitle and in an otherwise lawful manner, except that the Board may waive the examination requirement for up to 1 additional year if, in its discretion, the Board determines that such a delay would be appropriate based on the prior operating experience of the entity, the contents and results of the last examination and the management expertise of the entity.

(c) INJUNCTIONS OR OTHER ORDERS.—

(1) GROUNDS AND JURISDICTION OF COURT.—Whenever, in the judgment of the Board an eligible entity has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of any provision of this subtitle, or of any regulation under this subtitle, or of any order issued under this section, the Board may apply to the proper district court of the United States or a United States court located in any jurisdiction subject to the laws of the United States, for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, rule, regulation, or order. Such court shall have jurisdiction over such actions and, on a showing by the Board that such entity has engaged in or is about to engage in such acts or practices, may issue a permanent or temporary injunction, restraining order, or other order without bond.

(2) EQUITY JURISDICTION OF CORPORATION AND ASSETS.—In any proceeding under this section the court as a court of equity may, to such extent as it considers necessary, declare that such court has exclusive jurisdiction over the entity and the assets thereof, wherever located. Such court shall have jurisdiction in any such proceeding to appoint a trustee or receiver to hold or administer under the direction of the court the assets so possessed.

(3) TRUSTEESHIP OR RECEIVERSHIP.—The Board shall have authority to act as trustee or receiver of an entity under this section. On request by the Board, the court may appoint the Board to act in such capacity unless the court determines such appointment to be inequitable or otherwise inappropriate because of the special circumstances involved.

(d) UNLAWFUL ACTS AND OMISSIONS BY OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS.—

(1) VIOLATION OF SUBTITLE.—Wherever an eligible entity violates any provision of this subtitle or regulation issued under such subtitle by reason of the failure of such entity to comply with the terms thereof, or by reason of such entity engaging in any act or practice that constitutes or will constitute a violation thereof, such violation shall be considered to be a violation and an unlawful act on the part of any individual who, directly or indirectly, authorizes, orders, participates in, or causes, brings about, counsels, aids, or abets in the commission of any acts, practices, or transactions that constitute or will constitute, in whole or in part, such violation.

(2) BREACH OF FIDUCIARY DUTY.—It shall be unlawful for any officer, director, employee, agent, or other participant in the management or conduct of the affairs of an eligible entity to engage in any act or practice, or to omit any act, in breach the fiduciary duty of such individual or such officer, director, employee, agent, or participant, if, as a result thereof, the entity has suffered or is in imminent danger of suffering financial loss or other damage.

(3) DISQUALIFICATION OF OFFICERS AND EMPLOYEES.—Except on the written consent of the Board, it shall be unlawful—

(A) for any individual to take office as an officer, director, or employee of an eligible entity, or to become an agent or participate in the conduct of the affairs or management of an eligible entity, if—

(i) such individual has been convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

(ii) such individual has been found civilly liable in damages, or has been permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust; or

(B) for any individual to continue to serve in any of the above-described capacities, if—

(i) such individual is convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

(ii) such individual is found civilly liable in damages, or is permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust.

(e) PENALTIES AND FORFEITURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), an eligible entity that violates any regulation or written directive issued by the Board requiring the filing of any regular or special report under this subtitle, shall forfeit and pay to the United States a civil penalty of not more than $100 for each and every day of the continuance of the corporation's failure to file such report, unless the entity demonstrates that such failure is due to reasonable cause and not due to willful neglect. The civil penalties provided for in this subsection shall accrue to the United States and may be recovered in a civil action brought by the Board.

(2) EXEMPTION.—The Board may through rules and regulations, or on application of an interested party, at any time previous to a failure under paragraph (1), by order, after notice and opportunity for hearing, exempt in whole or in part, any entity from the provisions of paragraph (1), on such terms and conditions and for such period of time as the Board determines necessary and appropriate, if the Board finds that such action is not inconsistent with the public interest or the protection of the Board. The Board may for purposes of this subsection make any alternative requirements appropriate to the situation.

(f) JURISDICTION AND SERVICE OF PROCESS.—Any suit or action brought under this section by the Board to enforce any liability or duty created by, or to enjoin any violation of, this subtitle, or any rule, regulation, or order promulgated thereunder, shall be brought in the district wherein the eligible entity maintains its principal office, and process in such cases may be served in any district in which the defendant maintains its principal office or transacts business, or wherever the defendant may be found.

(g) SUBSTITUTION OF SECRETARY.—On the termination of the Board, the Secretary shall stand in place of the Board and shall possess all the powers, privileges and rights regarding compliance and enforcement described in this section and in section 104.

(h) REVOCATION, SUSPENSION, OR TERMINATION.—If the approval of any eligible entity to participate in this program is revoked, suspended, or terminated, or if the activities of the eligible entity otherwise end, the Board, or the Secretary, upon the termination of the Board, shall—

(1) possess all the rights and privileges of such eligible entity;

(2) succeed to the assets of such eligible entity to the extent necessary to obtain a refund of any amounts due to the Board, or the Secretary;

(3) be entitled to receive any payments due to such eligible entity from any local businesses on any outstanding loans; and

(4) take over any equity investment held by such eligible entity.

Subtitle B—Rural Capital Access Program

SEC. 110. PURPOSE.

It is the purpose of this subtitle to create a Rural Capital Access Program within the Department of Agriculture to encourage lending institutions to provide loans to certain businesses in rural areas.

SEC. 111. DEFINITIONS.

As used in this subtitle:

(1) FUND.—The term "Fund" means the Rural Capital Access Fund established under section 112(b).

(2) PROGRAM.—The term "Program" means the Rural Capital Access Program established under section 112(a).

(3) RURAL AREA.—The term "rural area" means all territory of a State that is not within the outer boundary of any city or town, or neighboring urbanized area as defined by the Board, having a population of 20,000 or more based on the latest decennial census of the United States.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(5) STATE.—The term "State" means each of the 50 States of the United States.

SEC. 112. RURAL CAPITAL ACCESS.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to be known as the "Rural Capital Access Program" through which the Secretary shall provide incentives to lending institutions to encourage such institutions to provide new loans to certain businesses in rural areas.

(b) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—The Secretary shall establish and maintain a fund to be known as the "Rural Capital Access Fund" that shall serve as a reserve account to protect lending institutions that participate in the Program from losses associated with certain loans.

(2) AMOUNTS IN FUND.—The Fund established under paragraph (1) shall contain amounts received under this Act from the Federal Government, participating lending institutions, and eligible borrowers. The amounts obligated to the Fund shall remain in the Fund until expended.

SEC. 113. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this subtitle there are authorized to be appropriated $15,000,000 in fiscal year 1990, $20,000,000 in fiscal year 1991, $30,000,000 in fiscal year 1992, $40,000,000 in fiscal year 1993, and $60,000,000 in fiscal year 1994.

(b) AMOUNTS NOT TO REMAIN AVAILABLE.—The amounts appropriated during each fiscal year pursuant to paragraph (1), that are not obligated to the Fund during such fiscal year, shall not remain available for use under the Program after the fiscal year for which such sums are appropriated.

(c) ADMINISTRATIVE EXPENSES.—No funds appropriated under this subtitle shall be used for the administrative expenses of

State agencies or institutions participating in the Program.

SEC. 114. ALLOCATION.

(a) IN GENERAL.—Of the amounts appropriated under section 113, the Secretary shall allocate to each State at the beginning of each fiscal year an amount for use under the Program equal to an amount that bears the same ratio to the total amount of such appropriation as the number of individuals residing in rural areas in such State bears to the number of individuals residing in rural areas in all States.

(b) REALLOCATION.—Any portion of the allocation under subsection (a) for use within a State during a fiscal year that the Secretary determines is not obligated to the Fund by June 1 of such fiscal year shall be released by the Secretary for obligation under the Program in connection with loans made in any other State.

SEC. 115. ADMINISTRATION OF THE PROGRAM.

(a) NOTIFICATION AND APPLICATION.—

(1) IN GENERAL.—A State that desires to participate in the Program shall notify the Secretary in writing of its intent to participate, and shall provide such information as the Secretary shall require, including a designation of the State agency or private institution that shall administer the Program within the State.

(2) PRIVATE INSTITUTION.—If a State fails to—

(A) submit a notification to the Secretary within 6 months after the date of enactment of this Act; or

(B) designate a State agency or private institution to administer the Program;

a private institution within such State may apply to the Secretary to participate in the Program on behalf of such State. Within a reasonable period of time following the receipt of such application, the Secretary shall approve such institution for participation in the Program unless good cause exists to reject such application. If more than one such application is received from institutions within the State, the Secretary shall select from among the applicants one institution to participate in the Program.

(3) DUTIES.—The participating State agency or private institution shall—

(A) promote the Program within the State;

(B) recruit lending institutions within the State to participate in the Program;

(C) enter into agreements with participating lending institutions that outline the rights and obligations of such institutions;

(D) encourage participating lending institutions to use the Program to expand the funding activity of such institutions in rural areas and avoid displacing commercial loans that could otherwise be made without the incentives provided under the Program; and

(E) maintain such books and records of its activities under the Program, as specified by the Secretary and grant the Secretary reasonable access to such books and records.

(b) ELIGIBLE LENDING INSTITUTIONS, BORROWERS, AND LOANS.—

(1) ELIGIBLE LENDING INSTITUTIONS.—To be eligible to participate in the Program, a lending institution must be legally able to make loans within rural areas in the State.

(2) ELIGIBLE BORROWERS.—An eligible borrower must be a corporation, partnership, joint venture, sole proprietorship, retail business, cooperative, individual, or any other entity, whether profit or nonprofit, that conducts or is planning to conduct business in a rural area of a State.

(3) ELIGIBLE LOAN.—To be eligible for protection under this subtitle a loan made by an eligible lending institution shall—

(A) be made to an eligible borrower;

(B) be used by the borrower for economic activity that is located in a rural area;

(C) not be used for the construction or purchase of residential property;

(D) not be used to finance any real estate purchase primarily for investment purposes, without developing or improving such real estate, or without intending to use such real estate in connection with the business of the borrower;

(E) not be an existing loan of the lending institution (or an affiliate of such institution) that is not in the Program unless the institution increases the outstanding balance of such loan and places the refinanced loan into the Program only to the extent that the principal of such loan is increased;

(F) not be made to a director, officer, or principal shareholder of the lender or a member of the immediate family of a director, officer, or principal shareholder of the lender; and

(G) not exceed $3,000,000.

SEC. 116. OPERATION OF THE PROGRAM.

(a) LOAN PROCESS.—A lending institution that enters into an agreement with the administering agency or institution may make loans to eligible borrowers and such loans shall be protected by the subaccounts contained in the Fund.

(b) CREATION OF SUBACCOUNTS.—

(1) IN GENERAL.—A subaccount shall be created in the Fund for each lending institution that enters into an agreement with the administering agency or institution that shall contain amounts derived from contributions made by the lending institution, the borrower, and the Federal Government.

(2) CONTRIBUTIONS.—

(A) MINIMUM.—The minimum contributions in connection with any eligible loan to the subaccount of a lending institution under this subsection shall be—

(i) an amount equal to not less than 1.5 percent of the amount of the loan to be paid by the borrower;

(ii) an amount equal to the amount contributed under clause (i) to be paid by the lending institution; and

(iii) an amount equal to the amounts paid under clauses (i) and (ii) to be paid by the Secretary.

(B) MAXIMUM.—The maximum contributions in connection with any eligible loan to the subaccount of a lending institution under this subsection shall be—

(i) an amount equal to not greater than 3.5 percent of the amount of the loan to be paid by the borrower;

(ii) an amount equal to the amount contributed under clause (i) to be paid by the lending institution; and

(iii) an amount equal to the amounts paid under clauses (i) and (ii) to be paid by the Secretary.

(C) DETERMINATION.—The amount of the contribution to be made by a borrower in connection with any eligible loan made under the Program shall be established through an agreement between the lender and the borrower.

(3) INTEREST.—The subaccount of each lending institution shall earn interest at a rate equal to the current average market yield on outstanding marketable obligations of the United States.

(4) WITHDRAWAL.—A lending institution shall only be permitted to withdraw funds from the subaccount of such institution to reimburse such institution for losses suffered on eligible loans made under the Program.

(c) PROCEDURE.—

(1) NOTIFICATION.—After entering into an agreement with the administering agency or institution to participate in the Program, a lending institution shall notify such agency or institution before concluding a loan agreement to provide an eligible loan to any eligible borrower to ensure that the Secretary has sufficient funds available for use in such State to pay the contribution required of the Secretary under subsection (b)(2).

(2) TIME FOR PAYMENTS OF CONTRIBUTIONS.—

(A) LENDING INSTITUTION AND BORROWER.—The lending institution shall pay the required contribution, and collect and pay the required contribution of the borrower, to the administering agency or institution not later than 10 working days after the applicable loan agreement is entered into.

(B) TRANSFER TO SECRETARY.—Not later than 5 working days after the receipt of funds under subparagraph (A), the administering agency or institution shall transfer such funds to the Secretary.

(C) SECRETARY.—As soon as practicable after the administering agency or institution transmits the contributions required under subsection (b)(2) to the Secretary, such contributions and the matching funds required to be provided by the Secretary, shall be deposited by the Secretary into the subaccount of the institution created within the Fund in accordance with subsection (b)(1).

(d) CLAIMS AGAINST THE FUND.—

(1) DETERMINATION OF CHARGE OFFS.—A lending institution shall determine when and how much to charge off on a loan eligible for protection under this subtitle in a manner that is consistent with the normal methods used by such institution for making such determinations concerning its commercial business loans not covered under the Program.

(2) FILING OF CLAIMS.—A lending institution shall file a claim for assistance under this subtitle with the administering agency or institution at the time that such lending institution charges off all or part of an eligible loan.

(3) AMOUNT OF CLAIM.—

(A) IN GENERAL.—A claim filed by a lending institution under this subsection may include the full amount of the principal of the loan that is charged off, any interest accrued on the loan, and any out-of-pocket expenses incurred by such institution in connection with the loan.

(B) LIMITATION.—If the amount of a loan that is protected under this Program is less than the total amount of the loan principal charged off by the lender, the amount of principal and accrued interest that may be included in a claim shall not exceed the principal amount of such loan that is protected under the Program in addition to any accrued interest attributable to such principal.

(4) REVIEW OF CLAIMS.—

(A) IN GENERAL.—A claim submitted under this section shall be promptly delivered by the administering agency or institution to the Secretary who shall, not later than 20 days after the receipt of such claim, review the claim and make a payment to the lending institution from the subaccount of such institution in the amount of the claim.

(B) LIMITATION.—Except as provided in section 118(c), the amount of payment made to a lender on any claim under this Program shall not exceed the total amount that such

lending institution has in its subaccount in the Fund.

(C) GROUNDS FOR DENIAL OF CLAIM.—The Secretary shall only deny a claim submitted under this subsection, or a portion thereof, if the Secretary determines that the lending institution that submitted the claim has knowingly—

(i) violated a provision of this subtitle;

(ii) violated a provision of the agreement of the institution with the administering agency or institution;

(iii) allowed interest to accrue on the loan for an unreasonable period of time after the loan became delinquent without taking prudent action to collect the principal; or

(iv) submitted a false claim.

(e) REVIEW BY THE SECRETARY.—The Secretary may review the operations of any lending institution that participates in the Program under this subtitle.

SEC. 117. INACTIVE LENDING INSTITUTIONS.

If, for a period of at least 24 consecutive months, the amount in the subaccount of a lending institution exceeds the outstanding balance of all loans of such institution protected under this Program, the Secretary may withdraw any such excess amounts so that the amount of funds remaining in the subaccount are equal to 100 percent of the outstanding balance of such loans. Such excess shall be transferred to a general account within the Fund to be utilized by the Secretary for other contributions under section 116(b)(2).

SEC. 118. INITIAL PROGRAM INCENTIVES.

(a) PURPOSES.—To encourage lending institutions to participate in the Program and to make eligible loans during the early stages of the implementation of the Program, the Secretary shall provide two special incentives as provided in subsections (b) and (c).

(b) ADDITIONAL CONTRIBUTION.—The Secretary shall contribute an amount, under section 116(b)(2), equal to 150 percent of the amount of the contributions made by the lending institution and the borrower, in connection with any loan protected under the Program, with respect to the first $2,000,000 of principal on loans made by such institution that are protected under the Program.

(c) PAYMENT OF CLAIMS WITH FUTURE CONTRIBUTIONS.—

(1) AVAILABILITY.—The provisions of this subsection shall only apply to the first $5,000,000 of principal on loans made by a lending institution that are protected under the Program.

(2) INCENTIVE.—If a claim is filed under section 116(d) on a loan that meets the requirement of paragraph (1), and at the time that such claim is made there is not a sufficient amount of funds in the claiming lending institution's subaccount to pay the full amount of such claim, the lending institution may withdraw all of the funds in such subaccount and, to the extent such institution continues to make eligible loans under this subtitle that result in additional contributions to such subaccount, such institution may withdraw such additional funds from the subaccount at the time such funds are deposited as may be necessary to exhaust the full amount of any such claim.

(3) LIMITATION.—The Secretary shall limit withdrawals from the subaccount of any lender under this subsection so that the amount withdrawn by the lending institution to reimburse such institution for a prior claim, shall not exceed 75 percent of the amount in such subaccount immediately prior to such subsequent withdrawal.

Subtitle C—Rural Economic Development Administered by the Secretary and the Rural Electrification Administration

SEC. 120. ASSISTANT ADMINISTRATOR FOR ECONOMIC DEVELOPMENT.

The Rural Electrification Act of 1936 is amended by adding after section 11 (7 U.S.C. 911) the following new section:

"SEC. 11A. ASSISTANT ADMINISTRATOR FOR ECONOMIC DEVELOPMENT.

"(a) APPOINTMENT.—The Administrator shall appoint an Assistant Administrator for Economic Development (hereinafter referred to in this Act as the 'Assistant Administrator') to carry out the programs of the Rural Electrification Administration concerning the involvement of rural electric and telephone systems in community and economic development.

"(b) APPOINTMENT FACTORS.—In appointing an Assistant Administrator, the Administrator shall consider the degree to which candidates possess—

"(1) knowledge of and experience in community and economic development programs and strategies;

"(2) the ability to develop and manage the specific programs and responsibilities of this office, as described in this Act;

"(3) the ability to work effectively with officials of Federal, State, and local governments, private, and other officials of development programs, as well as with borrowers of the Rural Electrification Administration and their associations; and

"(4) other factors as determined by the Administrator to be important in the successful execution of the responsibilities of the office of Assistant Administrator.

"(c) RESPONSIBILITIES AND STANDING.—The Assistant Administrator shall be—

"(1) responsible, unless otherwise provided by law, for the administration of the programs of the Rural Electrification Administration not directly related to the providing of electric or telephone service; and

"(2) compensated at a salary level that is not less than that of the Assistant Administrator for Electric and the Assistant Administrator for Telephone of the Rural Electrification Administration.

"(d) FUNDING.—Not less than 10 percent nor more than 20 percent of the salaries and expenses provided to the Administration during any fiscal year shall be used by the Assistant Administrator in carrying out the responsibilities of the Assistant Administrator as described in subsection (c), and such amounts shall remain available until expended.

"(e) TECHNICAL ASSISTANCE UNIT.—The Administrator shall establish a technical assistance unit to provide advice and guidance to borrowers concerning community and economic development activities permitted under this Act. From the amounts made available to the Assistant Administrator under subsection (d), not less than 1 percent of the salaries and expenses of the Rural Electrification Administration shall be made available to such technical assistance unit established in this section.".

SEC. 121. DEFERMENT OF PAYMENT ON ECONOMIC DEVELOPMENT LOANS.

Section 12 of the Rural Electrification Act of 1936 (7 U.S.C. 912) is amended—

(1) by inserting "(a)" before "The Administrator"; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The Administrator shall permit any borrower to defer the payment of principal and interest on any insured or direct loan made under this Act under circumstances described in this subsection, notwithstanding any limitation contained in section 12(a), except that such deferment shall not be permitted based on the determination by the Administrator of the financial hardship of the borrower.

"(2)(A) In the case of deferments made to enable the borrower to provide financing to local businesses, the deferment shall be repaid in equal installments, without the accrual of interest, over the 60-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred; and

"(B) In the case of deferments made to enable the borrower to provide community development assistance, technical assistance to businesses, or similar community, business, or economic development assistance, the deferment shall be repaid in equal installments, without the accrual of interest, over the 120-month period beginning on the date of the deferment, and the total of amount of such payments shall be equal to the amount of the payment deferred; and

"(3)(A) A borrower may defer its debt service payments only in an amount equal to an investment made by such borrower if community or economic development projects.

"(B) The amount of the deferment shall not exceed 50 percent of the cost of a community or economic development project financed under paragraph (2)&

"(C) The total amount of deferments under this subsection during each of the fiscal years 1990 through 1993 shall not exceed 3 percent of the total payments received during such fiscal year from all borrowers on direct and insured loans made under this Act and shall not exceed 5 percent of such total payments in each subsequent fiscal year.

"(D) At the time of a deferment, the borrower shall make a cushion of credit payment in an amount equal to the amount of the payment deferred. Such payment shall not be reduced by the borrower below the level of the unpaid balance of the payment deferred. Subject to limitations established in annual appropriations Acts, such cushion of credit amounts and any other cushion of credit and advance payments of any borrower shall be included in the interest differential calculation provided by section 313 of this Act.

"(4) The Administrator shall undertake all reasonable efforts to permit the full amount of deferments authorized by this subsection during each fiscal year.".

SEC. 122. WATER AND WASTE FACILITY FINANCING.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by adding after section 306, the following new section:

"SEC. 306A. ADDITIONAL WATER AND WASTE FACILITIES PROGRAM.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make loans to individuals or entities who are borrowers under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.), (hereinafter referred to in this section as the 'borrower') to enable such borrowers to provide water and waste facility services in areas served by such borrowers.

"(2) PROGRAMS.—The loan program established by the Secretary under this section shall be in addition to any programs administered under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.) and

section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926).

"(b) LIMITATION.—Loans made under subsection (a) shall not, unless otherwise specified by law, exceed an amount equal to 10 percent of the total amount of insured loans under the Rural Electrification Act of 1936 authorized during the fiscal year in which such loan is made for rural electrification and telephone purposes, or $40,000,000, whichever is less. Such limitations shall be in addition to the total amount of insured loans authorized for electrification and telephone purposes.

"(c) PRIORITY.—In reviewing applications for loans under this section the Secretary shall consider—

"(1) whether the loan is necessary to enable the communities to be served to comply with applicable Federal or State environmental laws;

"(2) whether the individuals residing in the area for which service is proposed, and any local government entities, are in favor of the borrower providing such services in the area;

"(3) the income, unemployment, and other characteristics of the area to be served;

"(4) the degree of deprivation faced by residents of the area to be served as a result of the lack of safe drinking water, adequate water supplies, sewage treatment and other waste disposal facilities;

"(5) the impact that the availability of safe water supplies, waste disposal and similar services would be likely to have on enhancing the prospects for economic growth within the area to be served;

"(6) the degree to which a loan that may be provided under this subsection is necessary to ensure that water and waste disposal services are available in the area to be served by such loan at costs that do not exceed those charged in other nearby areas;

"(7) the impact of the proposed loan on the retention of the property and service territory of the borrower, or in protecting the security given on outstanding loans provided to the borrower; and

"(8) whether the water and waste facility projects described in the application will duplicate any existing facilities, and whether the borrower will coordinate its water and waste facility operations with similar operations in the area, including efforts to achieve economies of scale through joint billing, collection, or other operations with nearby systems in order to reduce the costs, improve the operations, or otherwise assist such systems.

"(d) COORDINATION.—

"(1) OTHER PROGRAMS AND REQUIREMENTS.—

"(A) OTHER PROGRAMS.—The Secretary shall ensure that the program established under this section is coordinated with the programs authorized and established under section 306, and will attempt to coordinate the lending activities under this section with similar activities conducted by other entities.

"(B) REQUIREMENTS.—Loans made under this section shall be subject, in the same manner as loans made under section 306, to the provisions of section 306(a)(9) and 306(a)(10) (which require approvals by State water pollution control agencies), sections 306(a)(19) (A) and (B), (which include certain requirements in connection with the technical design and choice of materials for water and waste systems), and section 306(b) (which concerns the curtailment or limitation of service).

"(2) ASSIGNMENT OF DUTIES.—The Secretary shall determine whether the Rural Electrification Administration possesses greater expertise, as compared with the Farmers Home Administration, in the areas of utility accounting, utility management and financial analysis, advice and assistance, and other aspects of utility operations and engineering. If the Secretary determines that the Rural Electrification Administration possesses greater expertise in such areas, the Secretary shall require the Rural Electrification Administration to provide technical assistance, and assist in the processing of applications under this section.

"(3) PROHIBITION ON LIMITING ACCESS.—The Secretary shall establish rules and procedures that prohibit borrowers from conditioning or limiting access to, or the use of, any water and waste facility services that are financed under this section. Such rules and procedures shall be based on whether individuals or entities in the area for which such facility is proposed receive, or will accept, electric service from such borrower.

"(e) TERMS.—

"(1) IN GENERAL.—Loans made under this section shall be for the same repayment period as insured loans made by the Administrator of the Rural Electrification Administration to such borrowers under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.) and interest rates on loans made under this section shall not exceed the 5 percent interest rate on such insured loans as described in section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935).

"(2) INTEREST RATE.—The Secretary shall determine the interest rate to be charged on loans made under this section on the basis of—

"(A) ensuring that the cost to consumers for water and waste disposal services financed with loans provided under this section does not, to the extent possible, exceed rates charged in areas that are near the area served by the borrower;

"(B) the income and other characteristics of the individuals to be served through the provision of such loans; and

"(C) encouraging borrowers to obtain private sector capital, as provided for in subsection (f), to supplement loans made under this section.

"(f) PRIVATE SECTOR CAPITAL.—The Secretary shall require borrowers under this section to obtain private sector capital to supplement assistance made available under this section if—

"(1) the Secretary determines that—

"(A) it is appropriate to require use of such private capital, taking into account subparagraphs (A) and (B) of subsection (e)(2); and

"(B) the borrower is able to obtain revenues from the facilities to be financed to recover its cost, including the cost of such private capital; and

"(2) the borrower is able to obtain such private sector capital.

In order to facilitate the obtaining of such private capital, the Secretary may, on a case-by-case basis, reduce the interest rate on loans provided under this section when such reduction is appropriate and will enable the borrower to obtain such private capital.

"(g) APPROPRIATIONS.—The Secretary is authorized to make loans to the extent amounts are appropriated as provided under this section, except that during any fiscal year the amount of such loans, unless otherwise provided by law, shall not exceed 10 percent of the amount authorized for all insured loans under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.), or $40,000,000, whichever amount is less. Funds appropriated under this section shall remain available until expended.

"(h) REPAYMENT.—Appropriations made for purposes of this section shall be placed in a separate account. Advances on loans made under this section shall be made from such account, and payments on such loans shall be returned to the account for use by the account in making advances on future loans.

"(i) FULL USE.—The Secretary shall undertake all reasonable efforts to make full use, during each fiscal year, of any funds held by the account established under subsection (h), subject to limitations that loans for the purpose of this section shall not exceed 10 percent of the amount of loans made under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.) during any fiscal year, or $40,000,000, whichever amount is less, and subject to any other limitations that may be imposed by law, except that any repayments made during each fiscal year shall not be considered in computing such 10 percent or $40,000,000 limit.

"(j) REPLENISHMENT OF WATER AND WASTE FACILITY FUND.—

"(1) CALCULATION OF TOTAL AMOUNT OF LOANS.—At the end of each fiscal year the Secretary shall calculate—

"(A) the total amount of loans extended under this section during such fiscal year; and

"(B) the amount of water or waste facility loans extended to borrowers (as referred to in subsection (a)(1)) under section 306 of this Act.

"(2) TRANSFER OF AMOUNTS.—Notwithstanding the provisions of subsections (g) and (i), if any amounts appropriated under this section remain available at the end of any fiscal year, the Secretary shall transfer such available amounts to the fund used to make water or waste facility loans under section 306, to the extent of the amount of any loans made to borrowers under the Rural Electrification Act of 1936, under such section 306, and any such loan to such borrower made under section 306 shall be subject to the terms, conditions and other requirements of section 306A, and any such section 306 loan shall be repaid to the account established by subsection (h).".

SEC. 123. RURAL ECONOMIC DEVELOPMENT.

The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended by adding at the end thereof the following new title:

"TITLE V—RURAL ECONOMIC DEVELOPMENT

"SEC. 501. ADDITIONAL POWERS AND DUTIES OF REA ADMINISTRATOR.

"The Administrator shall—

"(1) provide advice and guidance to electric borrowers under this Act concerning the effective and prudent use by such borrowers of the investment authority under section 312 to promote rural development;

"(2) provide technical advice, troubleshooting, and guidance concerning the operation of programs or systems that receive assistance under this Act;

"(3) establish and administer various pilot projects through electric and telephone borrowers that the Administrator determines are useful or necessary, and recommend specific rural development projects for rural areas;

"(4) act as an information clearinghouse and conduit to provide information to electric and telephone borrowers under this Act concerning useful and effective rural devel-

opment efforts that such borrowers may wish to apply in their areas of operation and concerning State, regional, or local plans for long-term rural economic development;

"(5) provide information to electric and telephone borrowers under this Act concerning the eligibility of such borrowers to apply for financial assistance, loans, or grants from other Federal agencies and non-Federal sources to enable such borrowers to expand their rural development efforts;

"(6) promote local partnerships and other coordination between borrowers under this Act and community organizations, States, counties, or other entities, to improve rural development;

"(7) review the advice and recommendations of the Rural Educational Opportunities Board as established under section 601(f); and

"(8) administer a Rural Business Incubator Fund (as established under section 502) that shall provide technical assistance, advice, loans, or capital to business incubator programs or for the creation or operation of small business incubators in rural areas.

"SEC. 502. RURAL BUSINESS INCUBATOR FUND.

"(a) ESTABLISHMENT AND USE.—

"(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the Rural Business Incubator Fund (hereinafter referred to in this title as the 'Incubator Fund') to be administered by the Administrator.

"(2) USE.—The Incubator Fund shall be used to make grants and reduced interest loans to electric and telephone borrowers under this Act or to other non-profit entities that meet the requirements of this section, to promote business incubator programs or for the creation or operation of business incubators in rural areas as defined in this Act, and the rate of such loans shall not exceed the 5 percent rate as provided in section 305.

"(3) BUSINESS INCUBATOR.—Any business incubator that receives assistance under this title shall be a facility in which small businesses can share premises, support staff, computers, software or hardware, telecommunications terminal equipment, machinery, janitorial services, utilities, or other overhead expenses, and where such businesses can receive technical assistance, financial advice, business planning services or other support. Business incubator programs that provide assistance of the type described in this paragraph shall be eligible for assistance under this title even when such programs do not involve the sharing of premises.

"(b) APPLICATION FOR ASSISTANCE.—

"(1) ELIGIBILITY TO SUBMIT.—Borrowers under this Act that operate existing business incubators or that desire to operate such incubators or business incubator programs, and that meet the requirements established by the Administrator for obtaining grants or reduced interest loans under this section, may submit applications at such time, in such form, and containing such information as the Administrator shall require, for such grants or loans. Nonprofit entities that are not borrowers under title III shall be considered eligible borrowers for the purpose of this section if such entities are located in a State in which one or fewer electric borrowers are headquartered in such State.

"(2) REQUIREMENTS.—Applications submitted under paragraph (1) shall, at a minimum—

"(A) contain an assurance that any incubator established or operated pursuant to this section will be operated on a not-for-profit basis; and

"(B) contain an assurance that it will be the policy of such incubator to encourage and assist businesses in graduating from the incubator and becoming viable business entities in the community and to inform participating businesses of this policy;

"(3) REVIEW.—In reviewing applications for assistance, the Administrator shall consider—

"(A) how effectively the incubator project will assist in the formation, growth, or improved efficiency of small businesses that will help diversify and develop the local economy; and

"(B) the amount of local support likely to exist for the incubator and the businesses to be assisted by such incubator, taking into account local contributions of business, financial, technical, technological or managerial expertise, and contributions of equipment or materials, local financial assistance, and other factors as determined appropriate by the Administrator.

"(c) FUNDING OF LOCAL INCUBATORS.—

"(1) BY BORROWER ESTABLISHING INCUBATOR.—

"(A) IN GENERAL.—A borrower that establishes or assists a business incubator under this section shall purchase Capital Term Certificates issued by the Incubator Fund in amounts equal to 10 percent of the amount of the grant, or 5 percent of the amount of the reduced interest loan, provided by the Administrator under this section.

"(B) REDEMPTION OF CERTIFICATES.—Each calendar year for the 10-year period beginning on the date that a grant or reduced interest loan is provided under this section, the Administrator shall redeem an amount equal to 10 percent of the Capital Term Certificates purchased by the borrower under subparagraph (A), without any payment of interest.

"(2) BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall, subject to the limitations contained in annual appropriations Acts, provide funds for the capitalization of the Incubator Fund, and there are authorized to be appropriated amounts not to exceed $10,000,000 annually for such capitalization until the total of such capitalization shall equal $60,000,000. Such amounts shall remain available until expended by the Incubator Fund for the purposes of this section.

"(d) REPAYMENTS TO INCUBATION FUND.—All payments made on loans under this section, and all amounts provided under subsection (c), shall be placed in the Incubator Fund established by subsection (a) and shall be available to carry out the purposes of this section.

"(e) FULL USE.—The Administrator shall undertake all reasonable efforts to make full use, during each fiscal year, of any funds contained in the Incubator Fund established under subsection (a), consistent with the requirement that the Incubator Fund redeem Capital Term Certificates as provided by subsection (c). During each fiscal year, 10 percent of the amount contained in the Incubator Fund shall be made available to nonprofit entities, as provided under subsection (b), that are not borrowers under title III, except that if qualified applications from such entities are not received in an amount or at such times sufficient to utilize such 10 percent amount during each such fiscal year, the Administrator shall make the remainder of such amount available to other eligible borrowers during such fiscal year.".

SEC. 124. PROMOTING RURAL DEVELOPMENT BY REA TELEPHONE BORROWERS.

To promote additional rural development by Rural Electrification Administration telephone borrowers, amounts invested by any such borrower for improved rural telecommunications facilities under programs established pursuant to section 205, 206, or 207, or other additional rural development efforts made under subtitle C, shall not be considered dividends or distributions of capital by the Rural Electrification Administration.

SEC. 125. REVIEW OF PROGRAMS FOR BUSINESS INCUBATOR.

(a) POLICY OF THE UNITED STATES.—It is the policy of the United States that the Federal Government should encourage and support the development and operation of business incubator centers as a tool of economic and community development.

(b) ACTION BY SECRETARIES.—The Secretaries of Housing and Urban Development, Health and Human Services, Energy, Defense, Commerce, and Agriculture, and the Administrator of the Small Business Administration shall review existing regulations promulgated by their respective departments and agencies governing grants and loans for purposes of community development, business promotion, research and development, and export promotion and shall take such action as may be necessary to ensure that business incubator centers are eligible for such grants or loans.

(c) REPORT.—Not later than March 1, 1990, the head of each agency or department described in subsection (b) shall prepare and submit, to the appropriate Committees of the House of Representatives and to the Governmental Affairs Committee and other appropriate committees of the Senate, a report containing the findings of its review including—

(1) a description of existing Federal grant or loan programs the purpose of which is community development, business promotion, research and development, or export promotion for which business incubator centers are currently eligible;

(2) recommendations as to changes in existing law needed to make business incubator centers eligible for current Federal grant or loan programs for purposes of community development, business promotion, research and development, or export promotion; and

(3) recommendations for any additional legislation that may be required to foster and support business incubator centers.

(d) CONSULTATION.—In conducting the reviews under subsections (b) and (c), the heads of the agencies and departments shall regularly consult with representatives of incubator operators, officials of State and local government, and others involved in small business promotion and economic development.

(e) AVAILABILITY OF REPORTS.—The Administrator of the Small Business Administration shall ensure that any reports developed as the result of such reviews are made available to interested parties and to the general public.

TITLE II—ENHANCING HUMAN RESOURCES

SEC. 201. PURPOSE.

It is the purpose of this title to provide incentives for local telephone exchange carriers, and for rural schools and universities, hospitals, physicians or primary care centers, or business telecommunications cen-

ters, to improve the quality of phone service, to provide access to advanced telecommunications services and computer networks, and to improve rural educational opportunities, health care, job opportunities, and the rural business environment.

SEC. 202. GOALS.

It is a goal of the Federal government to make affordable advanced telecommunications available to rural residents, including services such as reliable facsimile document and data transmission, multifrequency tone signaling services, 911 emergency service with automatic number identification, interactive audio and visual transmissions, voicemail services designed to record, store, and retrieve voice messages, and other advanced telecommunications services.

SEC. 203. DEFINITIONS.

As used in this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Rural Electrification Administration.

(2) COMMUNICATION SATELLITE GROUND STATION COMPLEX.—The term "communication satellite ground station complex" includes transmitters, receivers, and communications antennas at the Earth station site together with the interconnecting terrestrial transmission facilities (cables, line or microwave facilities) and modulating and demodulating equipment necessary for processing traffic received from the terrestrial distribution system prior to transmission via satellite and the traffic received from the satellite prior to transfer to terrestrial distribution systems.

(3) COMPREHENSIVE RURAL TELECOMMUNICATIONS PLAN.—The term "comprehensive rural telecommunications plan" means a plan submitted by an applicant for a grant under this title. Each such plan shall include—

(A) a detailed explanation of the proposed rural telecommunications system, how such system is to be funded, and a description of the intended uses for grants received from the Administrator under this title;

(B) an explanation of the manner in which such plan complies with any requirements imposed by the Administrator under this title or otherwise imposed under sections 204 through 207;

(C) a listing of the proposed purchases or leases of telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, interactive video equipment, computer hardware and software systems, and components that process data for transmission via telecommunications, computer network components, communication satellite ground station equipment, or any other elements of the telecommunications system designed to further the purposes of title II, that the applicant intends to build or fund using the grant funds;

(D) an explanation of the special financial or other needs of the affected rural communities and of the applicants for such grant assistance;

(E) an analysis of the relative cost-benefit of proposals for leasing or purchasing of facilities, equipment, components, hardware and software, or other items; and

(F) a description of the consultations with the appropriate local telephone exchange carrier or carriers and the anticipated role of such carrier in the proposed telecommunications system.

(4) COMPUTER NETWORKS.—The term "computer networks" refers to computer hardware and software, terminals, signal conversion equipment including both modulators and demodulators, or related devices, used to communicate with other computers to process and exchange data through a telecommunication network in which signals are generated, modified or prepared for transmission, or received, via telecommunications terminal equipment and telecommunications transmission facilities.

(5) DATA TERMINAL EQUIPMENT.—The term "data terminal equipment" refers to equipment that converts user information into data signals for transmission, or reconverts the received data signals into user information, and is normally found on the terminal of a circuit and on the premises of the end user.

(6) END USER.—The term "end user" means—

(A) teachers, other instructors, or students in rural elementary or secondary schools, or such individuals participating in rural adult educational or vocational educational programs or other entities or individuals described in section 205(c)(1)(B) that participate in the rural distance learning telecommunications program established under section 205;

(B) rural hospitals, physicians, primary care centers or facilities, and staff, that participate in the medical link telecommunications program established under section 206; or

(C) business partnerships and individuals using the equipment found in businesses telecommunication or computer centers established under section 207 if such equipment is connected to a telecommunication system.

(7) FIBER-OPTIC CABLE.—The term "fiber-optic cable" means a bundle of optical transmission elements or waveguides usually consisting of a fiber core and fiber cladding that can guide a lightwave and that are incorporated into an assembly of materials that provide tensile strength and external protection.

(8) INTERACTIVE VIDEO EQUIPMENT.—The term "interactive video equipment" refers to equipment used to produce and prepare for transmission audio and visual signals from at least two distant locations such that individuals at such locations can verbally and visually communicate with each other, and such equipment includes monitors, other display devices, cameras or other recording devices, audio pickup devices, and other related equipment.

(9) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(10) TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The term "telecommunications transmission facilities" refers to those facilities that transmit, receive, or carry data between the telecommunications terminal equipment at each end of a telecommunications circuit or path. Such facilities include microwave antenna, relay stations and towers, other telecommunications antenna, fiber-optic cables and repeaters, coaxial cables, communication satellite ground station complexes, copper cable electronic equipment associated with telecommunications transmissions, and similar items as defined by the Administrator.

(11) TELECOMMUNICATIONS TERMINAL EQUIPMENT.—The term "telecommunications terminal equipment" refers to the assembly of telecommunications equipment at the end of a circuit, normally located on the premises of the end user, that interfaces with telecommunications transmission facilities, and that is used to modify, convert, encode or otherwise prepare signals to be transmitted via such telecommunications facilities or that is used to modify, reconvert or carry signals received from such facilities, the purpose of which is to accomplish the mission for which the circuit was established.

SEC. 204. PROVISIONS RELEVANT TO ALL THREE TELECOMMUNICATIONS PROGRAMS.

(a) ADMINISTRATION.—The Administrator shall carry out sections 205 and 206 and the Secretary shall carry out section 207. References to the Administrator in this section shall be considered to mean the Secretary with respect to the program established under section 207.

(b) RULEMAKING.—Not later than 160 days after the date of enactment of this Act, the Administrator shall promulgate final regulations, under the notice and comment rulemaking requirements described in section 553 of title 5, United States Code, that establish the telecommunications programs authorized in this title.

(c) PRIORITY.—The Administrator shall establish procedures to target the benefits of this title to the rural areas and grant applicants that demonstrate the need for such assistance, taking into consideration the relative needs of all applicants, the needs of the affected rural communities, and the financial ability of the applicants to otherwise secure or create the telecommunications systems.

(d) WAIVERS.—If the Administrator determines that a compelling need is present, the Administrator may modify any of the definitions described in section 203.

(e) EXPEDITING COORDINATED TELEPHONE LOANS.—The Administrator shall establish and implement procedures to assure that applications for loans and advances of funds submitted by local exchange carriers under this title—

(1) to enable such exchange carriers to provide advanced telecommunications services in rural areas; and

(2) that contain elements of any telecommunications project approved by the Administrator under this title that will be completed by such local telephone exchange carriers but that is not covered by the grants issued under this title;

shall receive expedited consideration and determination.

(f) GRANT APPROVAL PROCESS.—

(1) MODIFICATIONS.—The Administrator shall have the authority to request modifications or changes in any proposal described in a grant application submitted under this title.

(2) LEVELS OF FUNDING.—

(A) IN GENERAL.—The Administrator may offer to fund grant applications under this title at any levels that the Administrator considers appropriate but not exceeding any percentage levels described in section 205, 206, or 207.

(B) CONSIDERATIONS.—The Administrator shall provide grant funding in amounts based on—

(i) the worthiness of the application;

(ii) the financial needs of the applicant for the grant assistance;

(iii) the need of the affected rural communities for the proposed projects; and

(iv) other factors determined appropriate by the Administrator;

after taking into consideration the nationwide demands for grant assistance and the cost-benefit of any proposed purchases or leases of telecommunications transmission facilities, telecommunications terminal equipment, computer network components, and other equipment or facilities.

(g) JOINT USE OF TELECOMMUNICATIONS TRANSMISSIONS FACILITIES.—In issuing regulations implementing this title, and in requesting changes in, or approving applications for grants, the Administrator shall give a priority to the extent reasonable and appropriate to provide funding for such facilities that can be jointly shared regarding projects established under sections 205 through 207.

(h) EXPEDITED LOANS FOR TELEPHONE TRANSMISSION FACILITIES.—

(1) IN GENERAL.—Grants to cover the costs of installing telecommunication transmission facilities shall not be provided to—

(A) approved educational institutions described in section 205;

(B) approved rural hospitals, primary care centers or physicians under section 206; or

(C) approved partnerships of rural businesses under section 207;

if the local telephone exchange carrier providing telephone service, as defined in section 203(a) of the Rural Electrification Act of 1936 (7 U.S.C. 924), will install such facilities through the use of expedited telephone loans as described in subsection (e) under the conditions and deadlines described in this section or through other financing procedures.

(2) NOTIFICATION OF LOCAL EXCHANGE CARRIER.—Applicants for grants for a rural telecommunications program established under this title shall notify the appropriate local telephone exchange carrier regarding the application filed with the Administrator for assistance under this title and shall attempt to work with such carrier in developing the rural telecommunications project.

(3) DEADLINE IMPOSED ON THE ADMINISTRATOR.—The Administrator shall, not later than 45 days after the receipt of the completed application, respond to such completed application for an expedited telephone loan. The Administrator shall notify the applicant in writing of its decision regarding each such expedited loan application.

SEC. 205. RURAL STAR SCHOOLS EDUCATIONAL OPPORTUNITIES PROGRAM.

(a) PURPOSE.—

(1) IN GENERAL.—It is the purpose of the program established under this section to encourage and improve the use of telecommunications, computer networks, and related advanced technologies, to provide telecommunications access by students and faculty at grade schools, high schools (including vocational education schools, and adult education centers) in rural areas in order to improve educational instruction in the areas of mathematics, literacy, the sciences, computer technology, foreign languages, health sciences, and other areas of study.

(2) GRANTS.—The program established under this section shall make grants available to educational institutions described in subsection (c)(1) to fund up to 100 percent of each comprehensive rural telecommunications plan as approved by the Administrator.

(b) GRANTS.—

(1) GENERAL AUTHORIZATION.—The Administrator is authorized to make grants to accomplish the purposes of the program established under this section in amounts that shall not exceed the levels set forth in paragraph (3).

(2) DISBURSEMENT.—In order to facilitate appropriate planning for, and continuity of the program established under this section, funds appropriated by Congress during a particular year may be committed by the Administrator for disbursement in a subsequent year or years, and funds appropriated and committed during a year may exceed the limitations described in paragraph (1). Funds appropriated pursuant to this section shall remain available until expended.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this title, $10,000,000 in fiscal year 1990, $20,000,000 in each of the fiscal years 1991 and 1992, and $30,000,000 in each of the fiscal years 1993 and 1994. Amounts appropriated under this subsection shall remain available until expended.

(4) USE OF FUNDS.—Grants under this section shall be made available to educational institutions described in subsection (c)(1) to be used by such educational institutions for facilities, equipment, activities, and other uses as described in the approved rural telecommunications plan to achieve the purpose of this section, including—

(A) the development and acquisition of instructional programming;

(B) the development and acquisition, through lease or purchase, of computer hardware and software, audio and visual equipment, telecommunications terminal equipment, telecommunications transmission facilities, or interactive video equipment, and other facilities that would further the purposes of the programs authorized by this section;

(C) providing technical assistance and instruction for the development or use of such programming, equipment, or facilities; or

(D) other uses that are consistent with achieving the purposes of this section as approved by the Administrator.

(5) LIMITATIONS.—

(A) INSTRUCTIONAL PROGRAMMING.—Not less than 25 percent of the funds appropriated under this section in any fiscal year shall be used to fund instructional curriculum development under approved rural telecommunication plans, including programming or software systems development to assist students, instructors or teachers at elementary and secondary schools, and at adult and vocational education and training centers. Partnerships shall review offers to supply such instructional programming from entities that provide such programming, including the National Rural Telecommunications Cooperative.

(B) FEDERAL SHARE.—Any applicant desiring to obtain a grant under this section should work with borrowers under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), other telecommunications entities and the local community in seeking donations of equipment or other hardware to local schools.

(c) RURAL EDUCATIONAL OPPORTUNITIES APPLICANTS.—Grants made under this section shall be available to one or more educational institutions, agencies, or organizations with substantial academic and teaching capabilities, such as local education agencies, State education agencies, land grant and other universities, community colleges, and other institutions of higher education.

(d) APPLICATION FOR GRANTS.—An application for a grant under this section shall be made to the Administrator and shall provide, in addition to the requirements for each comprehensive rural telecommunications plan, the following documentation:

(1) Evidence that the application is submitted by an applicant that meets the requirements under subsection (c).

(2) A statement of the Federal and non-Federal shares of funding for the proposed rural distance learning project, and evidence that the educational institution has worked with or will work with, borrowers under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), or other telecommunication entities, in seeking the assistance of such borrowers or entities in donating telecommunications equipment or other hardware.

(3) A description of the rural elementary or secondary schools, or adult educational or vocational educational programs that will participate in the rural distance learning project, including a description of—

(A) the numbers of students that likely would benefit from each project;

(B) the need for the project taking into consideration other alternatives;

(C) the number of teachers and other instructors to be involved, and the subject matters covered by the project; and

(D) the relative educational need in such area for the program.

(4) A description of the proposed technical facilities to be used, and the facilities for which the educational institution is applying, including an analysis and cost comparison regarding alternative or existing technical facilities that can be used for such purpose.

(5) A description of the types of instructional and other programming that will be developed or acquired as part of the rural distance learning program, and the rationale for developing or acquiring this programming.

(6) A description, based on a survey and analysis of the area to be served, of how the project will substantially increase the educational programs provided by participating schools and the availability of instructional assistance regarding courses of instruction in mathematics, literacy, the sciences, foreign languages, computer sciences, vocational and adult training and education, health sciences and other areas of study.

(7) A description of the teacher training policies that will be implemented to achieve the effective use of the telecommunications facilities or equipment, terminal equipment, computers, hardware and software, audio and visual equipment and monitors, interactive video equipment, and other facilities and programming for which assistance is sought.

(8) A description of the manner in which needy or traditionally underserved students will participate in the benefits of the grants made under this section.

(9) Assurances that the educational institution will encourage participation and involvement by elementary and secondary schools, and, if applicable, other educational institutions, such as institutions of higher education, county extension services, vocational and adult training and education centers, teacher training centers, research institutes, and private industry, in order to ensure that the facilities, equipment, technical assistance, and programming for which assistance is sought will be made available to the broadest extent practical.

(10) Assurances that the facilities, equipment, technical assistance, and instructional programming for which assistance is sought will be made available to the broadest extent practical.

(11) Assurances that, to the extent practical, instructional programming developed or acquired by the applicant with funds provided under this section, will be made available to as many rural communities throughout the United States as practical.

(12) Such additional assurances and reporting requirements as the Administrator may reasonably require.

(e) INFORMATIONAL EFFORTS.—The Administrator shall establish and implement procedures to carry out informational efforts to advise elementary, secondary, and post-secondary schools, and other eligible applicants located in rural areas of each State about the program authorized by this section.

(f) PROGRAM EVALUATION.—

(1) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this title, and each year thereafter, the Administrator, in consultation with the Secretary of Education, shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the program established under this section.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a full description of the projects that have received funds under this section;

(B) a description of the number of schools, students, and others who have participated in such projects;

(C) the specific instructional programming that has been developed under the program established under this section;

(D) an evaluation of the achievements and failures of the program; and

(E) the long range plans to further develop the program.

SEC. 206. RURAL MEDICAL LINK TELECOMMUNICATIONS PROGRAM.

(a) PURPOSE.—It is the purpose of this section to establish a program to improve the use of telecommunications, computer networks and related advanced technologies, between and among rural hospitals, physicians, teaching hospitals, rural primary care centers or facilities, and major medical hospitals through grants and expedited Rural Electrification Administration telephone loans.

(b) ESTABLISHMENT OF PROGRAM.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary shall establish a program, to be administered by the Administrator to make grants available to rural hospitals, primary care centers or physicians, to the extent approved by the Administrator to enable such grant recipients to participate in the program established under this section.

(B) PURPOSE.—The Administrator is authorized to make grants under this section to cover up to 100 percent of the costs of acquiring or leasing telecommunications transmission facilities, subject to the limitations of section 204(h), computer network equipment, telecommunications terminal equipment and other necessary data terminal equipment, that will provide such rural hospitals, centers and physicians with the ability to communicate with teaching hospitals or medical centers to improve health care in rural areas.

(C) LOCAL EXCHANGE CARRIERS.—Under the conditions described in section 204(i), expedited loans may also be provided, to carry out any medical link project, to local exchange carriers providing telephone service, as defined in section 203(a) of the Rural Electrification Act of 1936 (7 U.S.C. 924(a)), to cover the costs of telecommunications transmission facilities.

(2) USE.—Telecommunications terminal equipment, telecommunications transmission facilities, or computer network components acquired under a grant awarded under paragraph (1) shall be used as prescribed in the comprehensive rural telecommunications plan approved by the Administrator to improve the transmission of medical data, diagnostic information, radiographic, x ray, ultrasonic or computerized tomographic images, representations of the results of any other medical scanning or diagnostic testing such as echocardiograms, cineangiograms, real-time scanning, electrocardiograms, electroencephalographs, or to facilitate communications among entities described in subsection (a), in order to improve the diagnosis or treatment of any diseases, disorders, abnormalities, or medical conditions.

(3) LIMITS ON GRANTS.—Grants awarded under this section for an end user shall not be used for the salaries or expenses of an end user and shall not be used for purchasing or leasing standard medical or hospital equipment, data terminal equipment, or computer network components unless such equipment is used exclusively for the medical link program established under this section, or any other equipment that provides input into data terminal equipment unless such equipment has been specifically modified or altered so as to be used to provide input into an approval medical link network.

(b) REGULATIONS.—Not later than 160 days after the date of enactment of this Act, the Administrator shall, in addition to promulgating the regulations described in section 204(b), establish a priority system for awarding grants to hospitals, primary care centers, and physicians located in rural areas that are most in need of enhanced communications to carry out the purposes of this section.

(c) INFORMATIONAL EFFORTS.—The Administrator shall establish and implement procedures to carry out informational efforts to advise hospitals, primary care centers, and physicians located in rural areas of each State, concerning the program authorized by this section, and of the application procedures and deadlines.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 in fiscal year 1990, and $20,000,000 in each of the fiscal years 1991 through 1994. Amounts appropriated under this section shall remain available until expended.

SEC. 207. RURAL BUSINESS LINK TELECOMMUNICATIONS PROGRAM.

(a) PURPOSE.—It is the purpose of this section to establish a program to improve the transmission of marketing, product ordering, inventory management, or other related business data through the use of telecommunications, computer networks, and related advanced technologies between, and among businesses located in rural areas and other businesses or institutions of higher education.

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a program to make grants available to cover up to 50 percent of the approved costs, as determined appropriate and approved by the Secretary, to assist partnerships of rural businesses through the establishment of shared business telecommunications or computer network centers that will serve small businesses or individuals who are starting a small business by making available to such businesses advanced telecommunications transmission facilities (subject to the limitations in section 204(h)), telecommunications terminal equipment, computer network access, and computer services or related equipment. The Secretary shall issue rules to determine how the Federal match shall be allocated regarding telecommunication projects established under section 205 or 206 in conjunction with a rural business link telecommunications program.

(2) FACILITIES AND EQUIPMENT.—Partnerships referred to in paragraph (1) shall make available the facilities and equipment under such paragraph to other small businesses or individuals starting small businesses at reasonable charges.

(3) NONPROFIT.—Partnerships established for telecommunications purposes under paragraph (1) shall be nonprofit.

(c) LIMITS ON GRANTS.—Grants awarded under this section for each business partnership approved to participate in the rural business link program under this section shall not be used for the salaries or expenses of any such partnership and shall not be used for purchasing or leasing any standard business equipment, except for telecommunications terminal equipment, telecommunications transmission equipment (unless such is provided by the local exchange carrier under section 204(h)), data terminal equipment, computer network components, or related equipment, used exclusively for the purposes of this section.

(d) INFORMATIONAL EFFORTS.—The Secretary shall establish and implement procedures to carry out informational efforts to advise businesses located in rural areas concerning the program authorized by this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,000,000 in fiscal year 1990, and $10,000,000 in each of the fiscal years 1991 through 1994. Amounts appropriated under this section shall remain available until expanded.

TITLE III—FOCUS ON RURAL AMERICA BY THE DEPARTMENT OF AGRICULTURE

SEC. 301. EXTENSION SERVICE.

Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by adding at the end thereof the following new subsection:

"(g) RURAL ECONOMIC AND BUSINESS DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary shall establish an Extension Service rural economic and business development program to enable States or counties to employ specialists as Cooperative Extension Service staff of the State or county to assist individuals in creating new businesses, including cooperatives, or to assist existing businesses, and to assist such businesses regarding advanced telecommunications, computer technologies, technical or management assistance, business and financial planning, and other related matters, and to assist community leaders in community economic analysis and strategic planning.

"(2) FUNCTION OF SPECIALISTS.—Specialists employed under paragraph (1) shall provide economic development information and assistance concerning new business creation, business planning and advice, advanced telecommunications, business management, computer operations, and other technical assistance to community leaders and private sector entrepreneurs and cooperatives operating in the State or county that employs such specialists.

"(3) PROCEDURES AND LIMITATIONS.—The Secretary shall establish policies, procedures and limitations that shall apply to States and counties that desire to participate in the program established under this subsection. States and counties shall determine the types of rural economic and business development specialists that are needed by such States and counties. In

States with land-grant colleges and universities eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.), and the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, such eligible institutions shall mutually determine the types of rural economic and business development specialists needed.

"(4) PAYMENT OF SALARY.—The Secretary shall make grants to States and counties that participate in the program established under this section in an amount equal to 60 percent of the total amount of the salary paid to any specialists employed under such program, and the State or county shall provide funds for the remaining 40 percent of such salary. Land-grant colleges and universities eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, shall be exempt from the 40 percent salary matching requirement.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 in fiscal year 1990, $10,000,000 in fiscal year 1991, $15,000,000 in fiscal year 1992, and $20,000,000 in fiscal year 1993 and each subsequent fiscal year, to carry out this section. Amounts appropriated under this section shall remain available until expended.

"(6) COORDINATION.—The Secretary shall ensure that the activities of the Extension Service rural economic and business development program established under section 502(g) of the Rural Development Act of 1972 (7 U.S.C. 2662(g)) are coordinated with the Small Business Administration to ensure that there is no duplication of activities in any local area, county or region.".

SEC. 302. RURAL DEVELOPMENT ASSISTANCE INFORMATION AND AVAILABILITY.

The Rural Development Act of 1972 (7 U.S.C. 2651 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 509. NEED AND AVAILABILITY OF RURAL DEVELOPMENT ASSISTANCE.

"(a) ESTABLISHMENT OF PROGRAM.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish a program to study economically distressed counties in a variety of States that have high concentrations of nonmetropolitan counties with low per capita income or nonmetropolitan counties experiencing high rates of outmigration.

"(b) EVALUATION.—When conducting a study of counties under subsection (a), the Secretary shall evaluate the need of such counties for rural development assistance, the nature of the assistance needed, and the availability of such assistance.

"(c) REPORT.—Not later than September 30, of each of the fiscal years 1990 through 1993, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that contains the results of the studies and evaluations conducted under this section and on any action taken by the Secretary to improve economic conditions in rural counties.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

"SEC. 510. RURAL DEVELOPMENT ASSISTANCE INFORMATION.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program, to be operated in conjunction with the National Rural Information Center Clearinghouse established within the National Agricultural Library, to provide information to local rural communities, nonmetropolitan counties, and rural areas concerning rural development matters and the availability of Federal rural development assistance.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

SEC. 303. REPORT ON COORDINATION OF RURAL DEVELOPMENT ACTIVITIES.

Not later than September 1, 1989, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that contains the recommendations of the Secretary concerning better coordination of the rural development activities of the Farmers Home Administration, the Forest Service, the Soil Conservation Service, the Agricultural Research Service, the Agricultural Stabilization and Conservation Service, the Agricultural Cooperative Service, the Rural Electrification Administration, the Extension Service, and the Office of Transportation.

SEC. 304. REPORT ON DATA PROCESSING FEASIBILITY IN RURAL AREAS.

(a) STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary shall conduct a study that—

(1) assesses the data processing functions administered by the Secretary;

(2) analyzes whether or not the current data processing functions of the Department of Agriculture, and the future processing functions, may be conducted in rural areas at similar or reduced costs; and

(3) assesses any other information that the Secretary determines appropriate to analyze the potential for locating current and expanded data processing jobs in rural areas.

(b) REPORT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that contains the results of the study conducted under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $250,000.

TITLE IV—RURAL BUSINESS AND EMERGENCY ASSISTANCE

SEC. 401. LOCAL TECHNICAL ASSISTANCE GRANTS.

Section 306(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)) is amended to read as follows:

"(11)(A)(i) The Secretary may make grants, not to exceed $15,000,000 annually, to public bodies, private non profit community development corporations or entities, or such other agencies as the Secretary may select to enable such recipients—

"(I) to identify and analyze business opportunities, including opportunities in export markets, that will use local rural economic and human resources;

"(II) to identify, train, and provide technical assistance to existing or prospective rural entrepreneurs and managers;

"(III) to establish business support centers and otherwise assist in the creation of new rural businesses, the development of methods of financing local businesses, and enhancing the capacity of local individuals and entities to engage in sound economic activities; and

"(IV) to conduct regional, community, and local economic development planning and coordination, and leadership development.

"(ii) In awarding such grants, the Secretary shall consider, among other criteria to be established by the Secretary—

"(I) the extent to which the applicant provides development services in its rural service area; and

"(II) the capability of the applicant to carry out the purposes of this section.

"(iii) There are authorized to be appropriated to make grants under this subparagraph, $7,500,000 in each fiscal year.".

SEC. 402. RURAL EMERGENCY ASSISTANCE LOANS.

Section 306(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)) (as amended by section 401), is further amended by adding at the end thereof the following new subparagraph:

"(B)(i) The Secretary shall establish and implement a program to make loans for the benefit of any town or city that—

"(I) has a population of less than 20,000 individuals within its outer boundaries; and

"(II) is financially unable to obtain funds as quickly as needed to correct emergency conditions or situations needing urgent attention.

"(ii) The Secretary shall promulgate regulations—

"(I) targeting the program established under this subparagraph toward needy communities in rural areas;

"(II) setting forth a definition of 'emergency conditions or situations needing urgent attention'; and

"(III) requiring that the Secretary approve or reject applications within 30 days of their receipt.

"(iii) The Secretary shall limit the amount of loans provided to the same borrower under this subparagraph to $50,000, and the term of such loans shall not exceed 2 years.

"(iv) The Secretary may respond to the credit needs of rural towns or cities eligible to participate in the program authorized under this subparagraph by making loans that are eligible for refinancing after the expiration of the 2-year period described in clause (iii), and payments under such loans may be set at a level that is at a sufficiently low level during such 2-year period so that the financially troubled town or city can participate in the program established under this subparagraph. The Secretary shall assist such borrowers in obtaining financing through existing Farmers Home Administration programs so that such borrowers are able to pay the balance due on each loan at the end of such 2-year period.

"(v) There are authorized to be appropriated $2,500,000 for fiscal year 1990, and $5,000,000 for fiscal year 1991 and for each subsequent fiscal year, to carry out the emergency lending program authorized by the program established under this subparagraph.".

TITLE V—NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE

SEC. 501. NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE.

(a) ESTABLISHMENT.—The Secretary shall establish, within the National Agricultural Library, in coordination with the Extension Service, a National Rural Information Center Clearinghouse (hereinafter referred to in this title as the "Clearinghouse") to perform the functions specified in subsection (b).

(b) FUNCTIONS.—The Clearinghouse shall provide and distribute information and data to any industry, organization, or Federal, State, or local government entity, on request, about programs and services provided

by Federal, State, and local agencies and private nonprofit organizations and institutions under which individuals residing in, or organizations and State and local government entities operating in, a rural area may be eligible for any kind of assistance, including job training, education, health care, and economic development assistance, and emotional and financial counseling.

(c) FEDERAL AGENCIES.—On request of the Secretary, the head of a Federal agency shall provide to the Clearinghouse such information as the Secretary may request to carry out the functions specified in subsection (b).

(d) STATE AND LOCAL AGENCIES AND NONPROFIT ORGANIZATIONS.—The Secretary shall request State and local governments and private nonprofit organizations and institutions to provide to the Clearinghouse such information as such agencies and organizations may have about any program or service of such agencies, organizations, and institutions under which individuals residing in a rural area may be eligible for any kind of assistance, including job training, educational, health care, and economic development assistance, and emotional and financial counseling.

(e) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $500,000 for each of the fiscal years 1990 through 1994.

TITLE VI—WATER AND SEWER ASSISTANCE

SEC. 601. WATER AND WASTE FACILITY GRANTS.

Section 306(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)) is amended by striking out "$154,900,000 in any fiscal year" and inserting in lieu thereof "$194,900,000 in each of fiscal years 1990 and 1991, and $204,900,000 in each of the succeeding fiscal years.".

SEC. 602. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Subtitle A of the Consolidated Farm and Rural Development Act is amended by inserting after section 306A (as added by section 122 of this Act) the following new section:

"SEC. 306B. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

"(a) IN GENERAL.—The Secretary shall provide grants in accordance with this section to assist the residents of rural areas and small communities to secure adequate quantities of safe water—

"(1) after a significant decline in the quantity or quality of water available from the water supplies of such rural areas and small communities; or

"(2) when repairs, partial replacement, or significant maintenance efforts on established water systems would remedy an acute shortage of quality water or would remedy a significant decline in the quantity or quality of water that is available.

"(b) PRIORITY.—In carrying out subsection (a), the Secretary shall give priority to projects described in subsection (a)(1), and provide at least 70 percent of all such grants to such projects.

"(c) ELIGIBILITY.—To be eligible to obtain a grant under this section, an applicant shall—

"(1) be a public or private nonprofit entity; and

"(2) in the case of a grant made under subsection (a)(1), demonstrate to the Secretary that the decline referred to in such subsection occurred within 2 years of the date the application was filed for such grant.

"(d) USES.—

"(1) IN GENERAL.—Grants made under this section may be used for waterline extensions from existing systems, laying of new waterlines, repairs, significant maintenance, digging of new wells, equipment replacement, hook and tap fees, and any other appropriate purpose associated with developing sources of, or treating, storing, or distributing water, and to assist communities in complying with the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

"(2) JOINT PROPOSALS.—Nothing in this section shall preclude rural communities from submitting joint proposals for emergency water assistance, subject to the restrictions contained in subsection (e). Such restrictions should be considered in the aggregate, depending on the number of communities involved.

"(e) RESTRICTIONS.—No grant provided under this section shall be used to assist any rural area or community that—

"(1) includes any area in any city or town with a population in excess of 5,000 inhabitants according to the most recent decennial census of the United States; or

"(2) has a median household income in excess of the State nonmetropolitan median household income according to the most recent decennial census of the United States.

Not less than 75 percent of the funds allocated under this section shall be allocated to rural communities with populations that do not exceed 3,000 inhabitants.

"(f) MAXIMUM GRANTS.—Grants made under this section may not exceed—

"(1) in the case of each grant made under subsection (a)(1), $500,000; and

"(2) in the case of each grant made under subsection (a)(2), $75,000.

"(g) FULL FUNDING.—Subject to subsection (e), grants under this section shall be made in an amount equal to 100 percent of the costs of the projects conducted under this section.

"(h) APPLICATION.—The Secretary shall develop a nationally competitive application process to award grants under this section. Such process shall include criteria for evaluating applications, including population, median household income, and the severity of the decline in quantity or quality of water. The Secretary shall make every effort to review and act on applications within 60 days of the date that such applications are submitted.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $25,000,000 for fiscal year 1990, and $10,000,000 for fiscal year 1991, such sums to remain authorized until fully appropriated.".

(b) IMPLEMENTATION.—

(1) REGULATIONS.—The Secretary shall publish—

(A) interim final regulations to carry out section 306B of the Consolidated Farm and Rural Development Act not later than 45 days after the date of enactment of this Act; and

(B) final regulations to carry out section 306B of such Act not later than 90 days after the date of enactment of this Act.

(2) FUNDS.—

(A) OBLIGATION.—The Secretary shall designate 70 percent of the funds made available for the first fiscal year for which appropriations are made under section 306B(h) of the Consolidated Farm and Rural Development Act not later than 5 months after the date such funds are appropriated.

(B) RELEASE.—The Secretary may release funds prior to the issuance of final regulations under paragraph (1)(B) for grants under section 306B(a)(1) of Consolidated Farm and Rural Development Act.

SEC. 603. SEWER AND WATER LENDING BY BANKS FOR COOPERATIVES.

The banks of the Farm Credit System that are authorized to extend credit under title III of the Farm Credit Act of 1971 (12 U.S.C. 2121, et seq.) are authorized to make and participate in loans and commitments, and to extend other technical and financial assistance for the purpose of the installation, expansion, or improvement of waste disposal facilities or drinking water facilities or systems, to any entity that has received or is eligible to receive a loan made or insured by the Secretary of Agriculture under section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)).

SEC. 604. RURAL WASTEWATER TREATMENT CIRCUIT RIDER GRANT PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Farmers Home Administration shall establish a national rural wastewater circuit rider grant program that shall be modeled after the existing National Rural Water Association Rural Water Circuit Rider Program that receives funding from the Farmers Home Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $4,000,000 each fiscal year to carry out the program established under subsection (a).

SEC. 605. TECHNICAL ASSISTANCE FOR CERTAIN SOLID WASTE MANAGEMENT.

Section 310B(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(b)) is amended—

(1) by inserting "(1)" before "The Secretary"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary may make grants to non-profit organizations for the provision of regional technical assistance to local and regional governments and related agencies for the purpose of reducing or eliminating pollution of water resources and improving the planning and management of solid waste disposal facilities. Grants made under this paragraph for technical assistance shall be made for 100 percent of the cost of such assistance.".

TITLE VII—MISCELLANEOUS

SEC. 701. MONITORING THE ECONOMIC PROGRESS OF RURAL AMERICA.

(a) BUREAU OF THE CENSUS.—The Director of the Bureau of the Census shall expand the data collection efforts of the Bureau to enable the Bureau to collect statistically significant data concerning the changing economic condition of rural counties and communities in the United States, including data on rural employment, poverty and income, and other information concerning the rural labor force.

(b) EMPLOYMENT REQUIREMENTS.—The Bureau of the Census shall, to the maximum extent practicable, employ residents of nonmetropolitan counties for the expanded rural data collection operations conducted in fiscal year 1990.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each fiscal year to carry out subsection (a).

SEC. 702. HISTORIC PRESERVATION REQUIREMENTS.

With respect to applications for assistance under this Act, the Secretary of the Interi-

or, in consultation with the Under Secretary of Agriculture for Small Community and Rural Development and the National Trust for Historic Preservation in recognition of its charter duties, shall prescribe and implement regulations concerning projects funded under this Act and their relationship with the provisions of Acts entitled—

(1) "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (16 U.S.C. 470 et seq.); and

(2) "An Act to provide for the preservation of historical and archaeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam", approved June 27, 1960 (16 U.S.C. 469 et seq.).

SEC. 703. LOAN RATES APPLICABLE TO HEALTH CARE AND RELATED FACILITIES.

Section 307(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)) is amended by adding at the end thereof the following new subparagraph:

"(C) Notwithstanding the provisions of subparagraph (A), the Secretary shall establish loan rates for health care and related facilities that shall be based solely on the income of the area to be served, and such rates shall be otherwise consistent with the provisions of such subparagraph.".

SEC. 704. ASSISTANCE TO COMMUNITIES DEPENDENT ON NATURAL RESOURCES.

(a) ADDITIONAL FUNDS FOR THE REFORESTATION TRUST FUND.—Section 303(b)(2) of Public Law 96-451, relating to the Reforestation Trust Fund (16 U.S.C. 1606a(b)(2)) is amended by striking "$30,000,000" and inserting "$40,000,000 (of which, $10,000,000, shall be subject to subsection (e))".

(b) ADDITIONAL PURPOSES FOR WHICH FUND AVAILABLE.—Section 303(d) of such Act (16 U.S.C. 1606a(d)) is amended—

(1) in paragraph (1) by striking out "and" at the end thereof;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) economic diversification assistance to communities which are dependent to a significant degree upon Forest Service resource management decisions for their local economic activity; and".

(c) ASSISTANCE TO COMMUNITIES DEPENDENT ON NATURAL RESOURCES.—Section 303 of such Act (16 U.S.C. 1606a) is amended by adding at the end thereof the following new subsection:

"(e) In each fiscal year $10,000,000 of the amounts transferred to the Trust Fund by the Secretary under subsection (b)(2) shall be expended for purposes described in subsection (d)(2) and any such amount shall be available only as provided for in annual appropriations Acts.".

SEC. 705. ASSISTING DISTRESSED RURAL HOSPITALS AND HEALTH CARE FACILITIES.

The Secretary shall establish and implement a program that is similar to the program established under section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001), except that the debt restructuring and loan servicing procedures shall apply to delinquent community facility program loans (rather than delinquent farmer program loans) made by the Farmers Home Administration to a hospital or health care facility under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 306(a)). Not later than 120 days after the date of enactment of this Act, the Secretary shall promulgate regulations, as modeled after those promulgated under such section 353, that implement the program established under this section.

SEC. 706. RURAL DEVELOPMENT RESEARCH ASSISTANCE.

Section 502 of the Rural Development Act of 1973 (7 U.S.C. 2662) (as amended by section 301) is further amended by adding at the end thereof the following new subsection:

"(h) RESEARCH GRANTS.—

"(1) IN GENERAL.—In addition to the programs already conducted under this section, the Secretary shall also establish and carry out a program to award competitive research grants to land-grant colleges and universities, research foundations, and centers established by land-grant universities, State agricultural experiment stations, nonprofit organizations specializing in applied research, and to all colleges and universities having demonstrable capability in rural development research, as determined by the Secretary, to carry out research to improve economic competitiveness and diversification, support strategic planning for economic investments, improve human resources, and improve the data base for rural development decisionmaking in rural areas.

"(2) RURAL TECHNOLOGY TRANSFER AND INNOVATION.—The Secretary shall establish and implement a program to award matching grants to promote technology transfer, innovation, and new product development. Grantees shall include institutions described in paragraph (1) and other nonprofit organizations that have demonstrable capability in technology transfer, applied research, innovation, and new product development that will lead to economic growth and job creation in rural areas. Applicants for grants under this paragraph shall demonstrate the ability to provide, at a minimum, a one-to-one financial match.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 in each fiscal year to carry out this subsection. Amounts appropriated under this subsection shall remain available until expended.".

SEC. 707. BUSINESS AND INDUSTRIAL LOAN PROGRAM APPLICATIONS.

Section 333A(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(a)) is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding paragraph (1), each application for a loan or loan guarantee under section 310B(a) that is to be disapproved by the Secretary solely because the Secretary lacks the necessary amount of funds to make such loan or guarantee shall not be disapproved but shall be placed in pending status. The Secretary shall retain such pending application and reconsider such application beginning on the date that sufficient funds become available. Not later than 60 days after funds become available regarding each pending application, the Secretary shall notify the applicant of the approval or disapproval of funding for the application.".

SEC. 708. PRIORITY FOR RURAL AREAS IN CERTAIN CONSTRUCTION PROJECTS.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 25. PRIORITY FOR RURAL AREAS IN CERTAIN CONSTRUCTION PROJECTS.

"(a) IN GENERAL.—Under regulations prescribed by the Administrator, the head of each executive agency shall, each fiscal year, in determining the location of new Federal buildings and related construction activities, give equal consideration to rural areas.

"(b) APPLICATION.—Subsection (a) shall apply without regard to any other provision of law.

"(c) DEFINITION.—As used in this section, the term 'rural area' means an area described and approved under section 101(6) of the Rural Partnerships Act of 1989.".

SEC. 709. RURAL SET-ASIDES IN FEDERAL FORMULA FUNDING.

In the case of Federal procurement programs and programs under which funds are allocated by an executive agency to States or political subdivisions of States, or both, under a formula established by Federal law or regulation, the head of the agency shall—

(1) require the agency to work with the Secretary of Agriculture to develop methods for assisting rural areas in participating in, and benefiting from, Federal procurement (civilian and defensive oriented), research projects, and Federally funded construction projects; and

(2) provide flexibility to States or political subdivisions of States, or both, in the administration of the program to provide the greatest possible benefits and assistance in rural areas.

SEC. 710. ANALYSIS BY OFFICE OF TECHNOLOGY ASSESSMENT.

(a) IN GENERAL.—The Office of Technology Assessment shall include, in a study of the effects of information age technology on rural America, an analysis of the feasibility of ensuring that rural citizens in their homes and schools have the ability to acquire, by computer, information in a national library.

(b) CONTENTS.—In conducting the analysis under subsection (a), the Office of Technology Assessment shall—

(1) evaluate, in consultation with the Librarian of Congress, the costs and benefits of establishing a national library whose volumes, periodicals, instructional materials, sound and video resources, and other data are accessible by individuals through their personal computers;

(2) assess the technological, regulatory or other impediments to the establishment of the library and information retrieval system described in paragraph (1), and the length of time required to establish such a library and retrieval system;

(3) describe the potential for the library and information described in paragraph (1) to provide rural citizens the opportunity to study and explore foreign languages, geography, math, science, history or other interests, as well as to exchange scholarly information and ideas with other users, and otherwise to engage in interactive study; and

(4) recommend to the Congress the measures that should be taken to establish the library and retrieval system described in paragraph (1).

SEC. 711. SENSE OF THE CONGRESS CONCERNING TOLL RATE AVERAGING.

(a) FINDINGS.—Congress finds that—

(1) new technologies make it possible for previously isolated rural areas to compete for regional, national, and international business opportunities;

(2) such new business opportunities are made possible by modern communications, telecommunication, and satellite, and radio networks;

(3) the use of uniform averaged rates for toll calls of equal distance, duration, and class of service prevents price discrimination for telephone service to rural areas;

(4) the policy of toll rate averaging has long been recognized by Congress, the Federal Communications Commission, and the telecommunications industry as beneficial to the public interest;

(5) deaveraging may result in extreme price disparities between rural and urban areas due to the high cost of serving sparsely populated areas;

(6) higher rural toll rates could result in rural subscribers leaving the switched network; and

(7) the important relationship between toll rate averaging and universal service needs to be clarified.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that toll rate averaging shall be defined as the cornerstone of universal service and that such policy, being in the public interest, shall be maintained.

SEC. 712. NATIONAL ENDOWMENT FOR RURAL DEVELOPMENT.

(a) It is the sense of the Congress that a National Endowment for Rural Development should be established with the effective use of both public and private funds to maximize business development in rural communities in every feasible way.

(b)(1) The Executive Office of the President shall undertake a review of a National Endowment for Rural America, for the purposes of determining the desirability of such an Endowment for rural development.

(2) That review shall be completed by January 1, 1990 and shall make recommendations to the Congress on appropriate legislation to implement such an Endowment.

(3) Those recommendations should focus on, but not be limited to—

(A) the purposes and goals,

(B) the organizational structure with private and public participation,

(C) funding sources for the Endowment,

(D) eligible awardees of endowment.

SEC. 713. NATIONAL RURAL DEVELOPMENT CENTER.

(a) ESTABLISHMENT.—The Tennessee Valley Authority, established under the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.), shall establish a center to be known as the "National Rural Development Center" to carry out subsection (b) and carry out studies, experiments, and demonstrations of the kind authorized in section 22 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831u).

(b) FUNCTIONS.—

(1) DEMONSTRATIONS.—The National Rural Development Center shall conduct, support, or replicate experimental and innovative demonstrations, including enterprise development, manufacturing development, leadership and community organization development, minority economic development, service sector development, basic skills enhancement, literacy training, waste management, agricultural development, export trade expansion, and telecommunications as a means for rural distant learning, training, dropout prevention, and economic development.

(2) CONDUCT OF DEMONSTRATIONS WITH OTHER ENTITIES.—Demonstrations under paragraph (1) may be conducted alone or in partnership with other Federal entities, such as the Rural Electrification Administration, the Department of Agriculture, the Cooperative Extension Service, the Appalachian Regional Commission, the Economic Development Administration, the Lower Mississippi Delta Commission, States, counties, economic development districts, towns, other public bodies, economic development corporations, and private sector entities.

(3) DISSEMINATION OF RESULTS.—Results of the demonstrations conducted under paragraph (1), and other work conducted by the National Rural Development Center, shall be disseminated widely to rural areas throughout the United States through the National Rural Information Center Clearinghouse established under title V, and through other appropriate means, to any industry, organization, or Federal, State, or local government entity engaged in rural development activities.

(c) FEDERAL AGENCIES.—The heads of other Federal agencies engaged in rural development activities shall cooperate with and may use the services of the National Rural Development Center.

(d) AUTHORIZATION OF APPROPRIATIONS.—All appropriations necessary to carry out the activities described in subsection (b) shall be authorized as provided for in section 27 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831z).

SEC. 714. GRANTS TO BROADCASTING SYSTEMS.

Section 310B(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary may make grants to Statewide private non-profit public television systems, whose coverage area is predominately rural, for the purpose of demonstrating the effectiveness of such systems in providing information on agriculture and other issues of importance to farmers and other rural residents. Funds available under this paragraph may be used for capital equipment expenditures, start-up and program costs, and other costs necessary to the operation of such demonstrations.".

SEC. 715. RURAL BUS SERVICES.

(a) SHORT TITLE.—This section may be cited as the "Rural Bus Services Act".

(b) INTERCITY BUS SERVICE.—The Urban Mass Transportation Act of 1964 (49 APP. U.S.C. 1601 et seq.) is amended by adding at the end the following new section:

"INTERCITY BUS SERVICE

"SEC. 26. (a) The Secretary is authorized to make grants for the initiation, improvement, or continuation of intercity bus service, and for the establishment and maintenance of rural feeder services, for residents of rural areas and residents of urban places designated by the Bureau of the Census as having populations of 5,000 or more which are not within an urbanized area.

"(b) Grants for the initiation, improvement, or continuation of intercity bus service under subsection (a) of this section shall be made only to States and local public bodies and agencies thereof, only for payment of operating expenses incurred in furnishing such intercity bus service, and shall not exceed 30 percent of the net cost of such an operating expenses project. The remainder of such cost shall be provided in cash from sources other than Federal funds. Such grants shall be subject to such other terms, conditions, and requirements as the Secretary may consider necessary to promote the initiation, improvement, or continuation of intercity bus service. When assistance is distributed by the Secretary for privately owned intercity bus companies, such assistance shall, to the maximum extent feasible, subsidize deficit operations considering the profitability of the route as a whole. The determination of profitability shall include all income generated by the route and only direct costs of the operation of the route. In making any such grant with respect to service in a particular general area, the Secretary shall give preference to applications involving a bus operator which lawfully has provided intercity bus service within that area during the 1-year period preceding the date of application for such a grant, as compared to applications involving proposals for such service by any other operator.

"(c) Grants for the establishment and maintenance of rural feeder services under subsection (a) of this section shall be made only to States and local public bodies thereof in order to provide financial and other incentives for such establishment and maintenance. Such incentives may include—

"(1) supplemental operating assistance to permit daily service;

"(2) extension of authorized operating hours to facilitate connections with bus and railroad services that operate in nationwide interstate commerce;

"(3) subsidization of fares; and

"(4) establishment of a special fund to pay for the marketing of rural connections and rural feeder services.

"(d) As used in this section, the term—

"(1) 'intercity bus service' means transportation provided to the public by a bus operator authorized to transport passengers in interstate commerce by the Interstate Commerce Commission or in intrastate commerce by a State regulatory commission or comparable State agency (A) between one urban place as designated in accordance with subsection (a) and another such urban place, (B) between such an urban place and an urbanized area, or (C) between one urbanized area and another urbanized area, through rural areas or such urban places, or both, except that the term does not include local service; and

"(2) 'rural feeder services' means transportation provided to the public which is designed to facilitate connections between a rural area and bus and railroad services that operate in nationwide interstate commerce.".

(c) EXPRESS PICKUP AND DELIVERY OF SMALL PACKAGES.—

(1) PILOT PROJECTS.—

(A) ESTABLISHMENT.—The Secretary of Transportation (hereafter in this section referred to as the "Secretary") is authorized to establish pilot projects for the purpose of providing incentives for rural feeder services (as defined under section 26 of the Urban Mass Transportation Act of 1964) to combine express pickup and delivery of small packages with passenger transportation.

(B) GRANTS FOR PROJECTS.—Grants made by the Secretary for any project established under subparagraph (A) shall not exceed 18 months in duration. The grants shall be made only to States and local public bodies and agencies thereof and shall not exceed 20 percent of the net cost of providing such pickup and delivery. The remainder of such cost shall be provided from sources other than Federal funds.

(C) PREFERRED APPLICANTS.—In making grants under this subsection, the Secretary shall, in consultation with the Interstate Commerce Commission, give preference to applicants which—

(i) demonstrate a serious community need for such pickup and delivery, in light of such circumstances as availability and proximity of existing pickup and delivery services; and

(ii) propose services by private bus operators with proven expertise in intercity bus services (as defined under section 26 of the Urban Mass Transportation Act of 1964) which possess a reasonable likelihood of

continuing such pickup and delivery after grant assistance under this subsection has terminated.

(D) AMENDMENT TO URBAN MASS TRANSPORTATION ACT.—Section 4(i) of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1603(i)) is amended by inserting, immediately before the period at the end of the first sentence, the following: ", including projects referred to in subsection (c)(1)(A) of the Rural Bus Services Act".

(2) STUDY.—The Secretary shall conduct a study to evaluate the extent to which such pickup and delivery is dependent upon Federal preemption of State regulation. The Secretary shall, not later than 12 months after the date of enactment of this section, report to Congress on the results of such study.

SEC. 716. ECONOMIC IMPACT STATEMENTS.

When promulgating regulations concerning rural development activities after the date of enactment of this Act, the Federal agency or department promulgating such regulations shall issue an economic impact assessment concerning the effect of such regulations on rural communities and businesses.

SEC. 717. INFORMATION CONCERNING FEDERAL FUNDING.

In the case of each program under which funds are allocated by an executive agency to States or political subdivisions of States, or both, under a formula established by Federal law or regulation, the head of the agency shall—

(1) in each fiscal year, identify the goods and services to be procured by such executive agency during such fiscal year that may be procured from one or more commercial sources located primarily in a rural area; and

(2) in each fiscal year, identify the amount of Federal funds and grants that are to be expended on or awarded to colleges, universities, or research firms, for research and development activities during that fiscal year to determine what portion of such funds could be directed to similar institutions in rural areas.

SEC. 718. NATIONAL RURAL DEVELOPMENT AND FINANCE CORPORATIONS.

Section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note) is amended—

(1) by striking out "to September 30, 1988," wherever it appears therein and inserting in lieu thereof "to September 30, 1991,";

(2) in subsection (a)(4), by striking out "fiscal year ending September 30, 1987," and inserting in lieu thereof "fiscal years ending September 30, 1989, September 30, 1990, and September 30, 1991,";

(3) by adding at the end of subsection (a) the following new paragraphs:

"(6) Notwithstanding any other provision of law, lenders that have provided loans that are guaranteed under this subsection shall have limited reporting responsibilities, as determined by the Secretary, concerning such loans, and the National Rural Development and Finance Corporation shall be primarily responsible for the issuance of final reports concerning such loans.

"(7) Notwithstanding any other provision of law, loan guarantees provided under this subsection shall be for a period not to exceed 15 years."; and

(4) in subsection (b)(1)—

(A) by striking out "from funds transferred under paragraph (2)";

(B) by inserting the words "or expanding" after the word "establishing"; and

(C) by adding the following new sentence at the end thereof: "Such grants may also be made directly to affiliated statewide programs if the Corporation certifies to the Secretary that they are able to establish effective, ongoing State programs or rural development and revolving finance."; and

(5) by adding at the end thereof the following new subsection:

"(c) Nonprofit national rural development and finance corporations and affiliated Statewide programs that receive grants under subsections (a) or (b) may use not to exceed 10 percent of the amount of such grants over a 2-year period for program operation and administration costs.".

TITLE VIII—MICROBUSINESS LOAN FUND AND MICROBUSINESS TECHNICAL ASSISTANCE FUND

SEC. 801. SHORT TITLE.

This title may be cited as the "Rural Microbusiness Loan Availability Act of 1989".

SEC. 802. FINDINGS.

The Congress finds that—

(1) in almost every major economic respect, in this decade, rural areas have fallen behind urban areas;

(2) each year, in this Nation, more than 500,000 individuals are leaving rural areas;

(3) the unemployment rate in rural areas, which has historically been lower than the unemployment rate in urban areas, is now higher than such rate in urban areas;

(4) the per capita income level in rural areas is 35 percent lower than such income level for urban areas;

(5) the poverty rate, in terms of the percentage of individuals which have an income level below the poverty line (established by the Office of Management and Budget), for rural areas is 16.9 percent, as compared to a poverty rate of 12.5 percent in metropolitan areas;

(6) rural communities are in danger of being increasingly isolated from the economic mainstream of the United States as a result of deregulation of banking, communications, and transportation industries, and concomitant reductions in the services provided by such industries to rural areas;

(7) the fact that rural employment is disproportionately concentrated in industries such as agriculture, resource extraction, and low-skill manufacturing also jeopardizes the economic strength of such areas, since such industries have experienced setbacks in this decade and are not likely to experience increases in employment and assets in the foreseeable future;

(8) access to capital is critical to rural areas to enable such areas to develop a diversified economic base, create jobs, and reenter the economic mainstream of this Nation;

(9) managerial and technical assistance should be provided whenever capital is made available to rural businesses with the help of the Federal Government; and

(10) rural communities should become actively involved in economic development at the local level through partnerships between the Federal Government and the private sector, including nonprofit entities located in or near such rural communities.

SEC. 803. PURPOSE.

The purposes of this title are—

(1) to make small scale loans available to microbusinesses through eligible entities which operate in rural communities, and

(2) to make managerial and technical assistance grants available to microbusinesses which operate in rural communities.

SEC. 804. DEFINITIONS.

For purposes of this title—

(1) ADMINISTRATION.—The term "Administration" means the Small Business Administration.

(2) ELIGIBLE APPLICANT.—The term "eligible applicant" means an eligible entity or a Small Business Development Center, as defined in section 21(a)(1) of the Small Business Act (15 U.S.C. 648).

(3) ELIGIBLE ENTITY.—The term "eligible entity" has the same meaning as in section 801(2) of this Act.

(4) ELIGIBLE MICROBUSINESS.—The term "eligible microbusiness" means a microbusiness—

(A) which is otherwise unable (using reasonable efforts) to secure credit of the scale made available under this title,

(B) which meets the requirements of the economic development workplan submitted by the eligible entity or eligible applicant, and

(C) which is located in the rural community in which the eligible entity conducts loan-related activities or the eligible applicant conducts grant-related activities.

(5) MICROBUSINESS.—The term "microbusiness" means a business which employs no more than 10 full-time (or the equivalent of 10 full-time) employees.

(6) RURAL COMMUNITY.—The term "rural community" means a county or other comparable subdivision of a State which has been designated by the Administration as a rural community, and is—

(A) a county or other comparable political subdivision of a State with a population of not more than 50,000, or

(B) a county or other comparable political subdivision of a State with a population greater than 50,000 which is recommended for designation as a rural community by the District Director of the Administration for the district in which such county or subdivision is located, and with respect to which such designation is approved by the Administration.

SEC. 805. ESTABLISHMENT OF MICROBUSINESS LOAN FUND.

There is established in the Treasury a revolving fund to be known as the "Microbusiness Loan Fund". The capital of the Microbusiness Loan Fund shall remain available until expended. Any profits or income derived from the activities of the Fund less operating expenses incurred in administering such Fund shall be placed in such Fund. The Fund shall be credited with amounts appropriated pursuant to section 20(i)(1) of the Small Business Act. Amounts in the Microbusiness Loan Fund may be used to fund loans to eligible entities selected as loan recipients under section 806 of this title.

SEC. 806. LOANS FROM THE MICROBUSINESS LOAN FUND AND TECHNICAL ASSISTANCE GRANTS.

(a) LOANS FROM THE MICROBUSINESS LOAN FUND.—The Administration shall make loans from the Microbusiness Loan Fund to eligible entities selected as loan recipients and such loans may be used—

(1) to provide loans or loan guarantees to eligible microbusinesses, and

(2) to pay administrative costs in connection with loans and loan guarantees under paragraph (1).

(b) MICROBUSINESS MANAGERIAL AND TECHNICAL ASSISTANCE GRANTS.—The Administration shall make Microbusiness Managerial and Technical Assistance Grants to eligible applicants which have existing programs (or programs scheduled for concurrent funding)

which provide managerial and technical assistance (including preparation of business plans, financial analysis, loan servicing, management counseling, marketing analysis, engineering services, and any other assistance necessary for the general operation of a small business enterprise) and program administration. Such grants may be used—

(1) to provide such managerial and technical assistance,

(2) to provide funds to subgrantees who may provide such managerial and technical assistance on behalf of a recipient of a grant awarded under this subsection, and

(3) to provide administrative costs to carry out the purpose in paragraph (1).

(c) LOAN AND GRANT LIMITS.—Not more than $500,000 per loan per fiscal year may be provided by the Administration to fund a loan to an eligible entity from the Microbusiness Loan Fund, and not more than $200,000 per grant per fiscal year may be used to fund a Microbusiness Managerial and Technical Assistance Grant to an eligible applicant.

(d) LOAN REPAYMENT AND INTEREST.—A loan to an eligible entity from the Microbusiness Loan Fund shall be repayable in not more than 15 years after the date that such loan is awarded. The maximum rate of interest for any such loan shall be 5 percent.

(e) LOAN AND GRANT COMPETITION.—(1) The Administration shall conduct a nationwide competition through an application process. In order to be considered for a loan or grant under this section, an economic development workplan shall be submitted to the Administration as part of the application process. The Administration shall select for loans or grants those applicants which best meet the criteria established by the regulations under paragraph (5).

(2) With respect to a loan application for a loan from the Microbusiness Loan Fund, the economic development workplan required under paragraph (1) shall include—

(A) description of the number and types of microbusiness in the rural community from which the eligible entity expects to receive applications for loans or loan guarantees,

(B) the type of support to be provided, including loans or loan guarantees,

(C) an estimate of the number of jobs to be created or retained,

(D) a description of the economic condition of the rural community in which the eligible entity plans to provide loans or loan guarantees, and

(E) a description of the managerial and technical assistance which such eligible entity plans to provide to eligible microbusinesses.

(3) With respect to an application for a Microbusiness Managerial and Technical Assistance Grant, an eligible applicant shall provide—

(A) a description of the existing program (or program schedules for a concurrent program) which the eligible applicant intends to provide,

(B) the type of managerial and technical assistance to be provided (including preparation of business plans, financial analysis, loan servicing, management counseling, marketing analysis, engineering services, and any other assistance necessary for the general operation of a small business enterprise),

(C) sufficient evidence and a certification that such managerial and technical assistance shall be provided,

(D) an estimate of the number of jobs to be created or retained, and

(E) a list of subgrantees and the type of managerial and technical assistance to be provided by such subgrantees.

(4) The Administration shall use its best efforts to ensure that at least one eligible entity from each State that the Administration determines to have a significant rural population receives a loan from the Microbusiness Loan Fund and that at least one eligible applicant from each such State receives a Microbusiness Managerial and Technical Assistance grant.

(5) Not later than 90 days after the date of enactment of this Act, the Administration shall issue regulations establishing criteria for the competition for loans and grants under this section. Such criteria shall take into consideration the quality of the economic development workplans submitted.

(f) APPROVAL OF LOANS AND GRANTS.—(1) LOANS.—If the Administration approves the economic development workplan of an eligible entity selected under subsection (e)(1), then the Administration shall approve a loan for such eligible entity and shall execute a contract stating the terms of such loan with the recipient, including conditions for repayment of such loan.

(2) GRANTS.—If the Administration approves the economic development workplan of an eligible applicant selected under subsection (e)(1), then the Administration shall approve a grant for such eligible appiicant and shall execute a contract stating the terms of such grant with the recipient.

(g) MONITORING BY THE ADMINISTRATION.—(1) The Administration shall conduct an annual audit to ensure that any loan or grant awarded under this section is administered in accordance with this section and any other applicable law.

(2) If the Administration determines, upon review of the results of an audit described under paragraph (1), that a recipient is in violation of the terms of a loan or grant awarded under this section, the Administration may recall such loan or grant and require the recipient to repay any funds from such loan or grant.

SEC. 807. DISBURSEMENT OF LOAN FUND BY MICROBUSINESS LOAN FUND LOAN RECIPIENTS.

(a) LOCAL REVOLVING FUNDS.—All funds received by a loan recipient for a loan from the Microbusiness Loan Fund shall be placed into a revolving fund to be administered by the loan recipient, in accordance with procedures established by the Administration, and any profits or income derived from the activities of the revolving fund less operating expenses incurred in administering such funds shall be placed in such fund.

(b) LOAN OR LOAN GUARANTEE SIZE LIMITS.—The amount to be provided to an eligible microbusiness from a loan revolving fund described in subsection (a) shall not exceed the lesser of—

(1) 75 percent of the amount of total financing for the investment with respect to which such loan or loan guarantee relates, or

(2) $25,000.

(c) INTEREST.—The maximum rate of interest on any loan made by an eligible entity to a microbusiness shall be legal and reasonable but shall not exceed a rate prescribed and published quarterly by the Administration. The rate of interest prescribed by the Administration shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 percent, and an additional amount as determined by the Administration, but not to exceed 1 percent per year.

SEC. 808. AUTHORIZATION.

Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(i) MICROBUSINESS LOAN FUND LOANS AND MICROBUSINESS MANAGERIAL AND TECHNICAL ASSISTANCE GRANTS.—(1) There are authorized to be appropriated to the Administration for fiscal years 1990 and 1991—

"(A) $25,000,000 for the Microbusiness Loan Fund, and

"(B) $10,000,000 for Microbusiness Managerial and Technical Assistance Grants under section 806 of the Rural Access to Capital Act of 1989.

"(2) Notwithstanding any other provision of law, of the amounts made available to carry out section (7)(i) for fiscal years 1990 and 1991, the Administration shall make available such amounts for each fiscal year to carry out the programs described in paragraph (1).".

TITLE IX—SMALL BUSINESS RURAL REVITALIZATION

SEC. 901. SHORT TITLE.

This title may be cited as the "Small Business Rural Revitalization Act of 1989".

Subtitle A—Capital Formation

SEC. 911. DEFINITION OF DESIGNATED RURAL AREA.

Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695) is amended—

(1) in subsection (a), by striking out the last sentence,

(2) in subsection (a), by striking out "needs of rural areas" and inserting "needs of designated rural areas", and

(3) by adding at the end thereof the following new subsection:

"(d) DESIGNATED RURAL AREA.—The term 'designated rural area' means a county or other comparable political subdivision of a State that has been designated by the Administrator of the Small Business Administration as a designated rural area that is—

"(1) a nonmetropolitan county, as periodically defined and classified by the United States Department of Agriculture's Economic Research Service (such counties are the 2,384 of the United States' 3,096 counties (or equivalents), that each have an aggregate urban population of 50,000 individuals or less); or

"(2) a political subdivision of a metropolitan county (or its equivalent) that has an aggregate urban population of 20,000 individuals or less, that has been recommended for such designation by the District Director of the Small Business Administration for the district in which such county is located, and whose recommendation for such designation has been approved by the Administrator of the Small Business Administration, except that such District Director shall make such a recommendation only if—

"(A) through official action, the highest governing authority of such metropolitan county has specifically requested that an identifiable political subdivision of such county be a designated rural area for the purposes of this Act; and

"(B) through official action, the request referred to in subparagraph (A) has been evaluated and concurred in by the department or agency of the State that is primarily responsible for rural economic development programs within the State, and which

shall make such designation request to the appropriate District Director of the Small Business Administration.".

SEC. 912. CAPITAL REQUIREMENTS FOR SMALL BUSINESS INVESTMENT COMPANIES OPERATING IN DESIGNATED RURAL AREAS.

Section 302(a) of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended—

(1) by inserting "(1)" after "(a)", and

(2) by inserting after "$500,000" the following: "; and *Provided further,* That the combined private paid-in capital and paid-in surplus of any company licensed on or after October of 1989 pursuant to subsections (c) and (d) of section 301 shall not be less than $1,000,000"; and

(3) by adding at the end thereof the following new paragraphs:

"(2) In the case of any company licensed pursuant to subsections (c) or (d) of section 301, to assist small business concerns located in designated rural areas (as defined in section 501), such private capital may include contributions by—

"(A) State and local governments if such contributions are not directly or indirectly derived from Federal funds; and

"(B) not-for-profit institutions, if such contributions are not directly or indirectly derived from Federal funds, if—

"(i) in the case of a corporation—

"(I) such contributions do not exceed 49 percent of the corporation's combined paid-in capital and paid-in surplus;

"(II) the aggregate amount of voting stock held by such contributors does not exceed 49 percent of the total issued and outstanding voting stock of such corporation; and

"(III) not less than 60 percent of the members of the board of directors of such corporation are from the private sector; and

"(ii) in the case of a partnership—

"(I) such contributions do not exceed 49 percent of the partnership capital; and

"(II) the partnership interest of such contributors is that of a limited partner.".

SEC. 913. STATE DEVELOPMENT COMPANIES.

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 507. RURAL AREA DEVELOPMENT COMPANIES.

"(a) IN GENERAL.—Notwithstanding any other provision of law, a qualified certified development company may issue a debenture that shall be guaranteed by the Federal Government pursuant to section 503(a) of this title in an amount that shall not exceed the lesser of—

"(1) $1,000,000; or

"(2) an amount equal to the amount of any matching funds provided by private sector entities.

"(b) DEFINITION.—As used in subsection (a), the term 'qualified certified development company' means a certified development company that—

"(1) is located and operated in a designated rural area (as defined under section 501);

"(2) has been in operation for at least 3 years;

"(3) is in good standing with, and has management abilities approved by, the Administration; and

"(4) has a minimum portfolio of 5 loans approved and disbursed under section 504, of which at least 80 percent are current.

"(c) REVOLVING FUND.—Funds obtained under this section shall be used to establish a revolving fund to make loans to small businesses operating in rural areas in an amount not to exceed $100,000.

"(d) CRITERIA ESTABLISHED BY ADMINISTRATION.—A development company issuing a debenture guaranteed under this section shall comply with any criteria established by the Administration and not less than 50 percent of the funds of the company shall be from private investors.

"(e) JOBS OBJECTIVES.—For purposes of this section, or other sections of title V to which the requirements of section 108.503(b)(1) of title 13, Code of Federal Regulations, apply, the requirements of section 108.503(b)(1) of title 13, Code of Federal Regulations, shall be modified by substituting '$30,000' for '$15,000'.

"(f) DEBENTURES GUARANTEED.—The aggregate amount of debentures guaranteed under this section shall not exceed $25,000,000 annually. Amounts necessary to guarantee such debentures shall be derived from amounts appropriated under section 504.".

(b) CONFORMING AMENDMENT.—The table of sections for title V of the Small Business Investment Act of 1958 is amended by inserting after the item relating to section 506 the following new item:

"Sec. 507. Rural Area Development Companies.".

Subtitle B—Regulatory Simplification; Miscellaneous Amendments

SEC. 921. DEFINITION OF SMALL BUSINESS IN DESIGNATED RURAL AREAS FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) the term 'qualified designated rural area business' means any small business, as defined by the regulations issued by the Small Business Administration, that is engaged in the active conduct of a trade or business within a designated rural area (within the meaning of section 501 of the Small Business Investment Act of 1958).".

SEC. 922. INTERAGENCY REVIEW AND RECOMMENDATIONS.

(a) INTERAGENCY REVIEW.—The Administrator of the Small Business Administration shall conduct a review of all Federal economic development programs, and all Federal laws the purposes of which are to promote rural area economic and community development, rural area business promotion, or enhancement of employment opportunities in rural communities.

(b) CONSULTATION WITH FEDERAL OFFICIALS.—The Administrator in conducting the review under subsection (a) shall consult with—

(1) the Secretary of Housing and Urban Development,

(2) the Secretary of Health and Human Services,

(3) the Secretary of Energy,

(4) the Secretary of Defense,

(5) the Secretary of Commerce,

(6) the Secretary of Agriculture,

(7) the Secretary of Labor, and

(8) any other Federal officials, including the General Accounting Office, that the Administrator may consider appropriate.

(c) REPORT.—The Administrator shall, not later than 1 year after the date of enactment of this Act, submit a report to the appropriate committees of the House of Representatives and the Senate containing the findings of the review, including—

(1) a description of existing Federal grant and loan programs, which involve community development, business promotion, and research and development, for which small businesses located in rural areas are currently eligible;

(2) recommendations regarding changes to existing law which may be needed to make small businesses which are located in rural areas eligible for current Federal grant and loan programs; and

(3) recommendations for any additional legislation that may be required to foster and support small businesses in rural areas.

TITLE X—EFFECTIVE DATE AND IMPLEMENTATION

SEC. 1001. EFFECTIVE DATE AND IMPLEMENTATION.

(a) IN GENERAL.—Unless otherwise provided in this Act, this Act shall become effective on October 1, 1989.

(b) REGULATIONS.—

(1) RURAL PARTNERSHIPS INVESTMENT BOARD.—Final regulations implementing subtitle A of title I shall be issued by the Rural Partnership Investment Board not later than March 30, 1990.

(2) WATER AND WASTE FACILITY FINANCING.—Final regulations, issued after notice and comment, implementing the water and sewer program established under the amendment made by section 122 shall be promulgated not later than 160 days after the date of enactment of this Act.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I thank all Senators for their cooperation. As always, the cooperation and insights of the distinguished Senator from Indiana [Mr. LUGAR], made this legislation possible.

It is a testament to the strong leadership of Majority Leader MITCHELL, that the Senate tonight is passing the strongest rural development legislation in 10 years.

Senator DASCHLE worked tirelessly in the floor tonight and in the leadership councils of the Senate to make this legislation possible.

Senator SASSER, the innovative chairman of the Budget Committee made rural development a priority and found the funds to make this initiative possible.

As always, it was a pleasure to work with my colleague of so many years in the Senate Agriculture Committee in moving this vital bill.

DISASTER ASSISTANCE ACT

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1429, the Disaster Assistance Act.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1429) to provide disaster assistance to producers who suffered certain losses in the quantity of the 1989 freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, farming is part of the basic fabric of American life.

When our farmers suffer catastrophic loss—whether it's due to drought, flood, or other disastrous weather—we must keep our pact with those who work the land. We must help our neighbors in their hour of need.

The bill that we have before us today keeps that pact. It provides disaster payments to all producers of agricultural commodities who have suffered significant, demonstrated loss due to the terrible weather that has plagued parts of our country this year.

This bill helps all farmers. It is not only the right thing to do, it is the fair thing to do. Drought and flooding do not discriminate against farmers by the crops they grow—these disasters hurt everyone.

When the Agriculture Committee first considered disaster relief, some argued that we should only help those who farm program crops and who participate in Federal commodities programs.

The Agriculture Committee rejected that view. And the bill before you today—which has the support of Democrats and Republicans on the committee, including Senators LUGAR and DOLE—rejects that view.

We know that penalizing some farmers—just to help others—is not fair.

If two farmers, living side by side, are both hurt by the drought—is it fair to only help the farmer who grows wheat and not help the farmer who grows hay?

Helping one farmer and not another is like saying we will help our neighbors only if they live in blue houses. It's like saying that those living in red, green, or white houses are out of luck.

That's not fair. That just doesn't make sense.

When the Agriculture Committee began considering disaster assistance, I set our four goals, all of which are accomplished by this legislation.

First, this package provides equitable relief to farmers who need help.

Second, the bill does not unfairly pit the interests of farmers in one State against those of other States; it does not pit those who farm one type of crop against those who grow other types of crops.

The surest way for rural America to lose is for us to pit one part of rural America against another. Rural America can only win when we work together.

Third, the legislation is fiscally sound. It provides fair relief to all who need it for $448 million less—33 percent less—than the estimated cost of the House bill.

Fourth, the package is a quick response to the disaster conditions our farmers face. The Agriculture Committee moved fast—as fast as we did last year. In fact, if final action on the bill is completed before the August recess, winter wheat farmers will get some assistance in time for September planting.

I wish to offer a special thanks to Senator LUGAR. With his steady, solid efforts, the Agriculture Committee generally reports out legislation on a bipartisan basis. This is a tradition I wish to continue. Senators LUGAR, DOLE, and the rest of the minority have worked hard with us in developing a compromise package that provides fair relief to farmers who need it.

I have talked to many of my colleagues here. I know there is a majority of Senators who are ready to pass this legislation.

They are ready because our farmers face tough problems this year.

They are ready because they believe our farmers have a right to know if we in the Senate will stand up for them and do what is fair.

They are ready because they know that time is of the essence.

Time is running short. We must act on this package today.

Mr. LUGAR. Mr. President, I rise in support of the bipartisan compromise on disaster legislation. Much work has gone into the development of this package, and I am pleased that we have successfully developed a fair compromise that will be broadly supported by both sides of the aisle.

I want to commend the chairman of the Agriculture Committee for his hard work in forging the compromise now before us. I also want to express my appreciation to the distinguished Republican leader for this close involvement in this legislation.

Our differences have been substantial, but I believe we have a strong bill to conference with the House of Representatives. This is not, of course, precisely the bill I would have written, and every Senator could say the same. But given the constraints under which we have operated, it strikes a fair balance among all the various crop interests.

Briefly, this compromise will pay program crop participants at the same rates as the committee reported version, with the exception of program crop participants who purchased Federal crop insurance. These producers would be provided a lower loss threshold—35 percent of normal production instead of 40 percent. This favorable treatment is intended to encourage prudent risk management through the Federal Crop Insurance Program.

In addition, the compromise deletes the higher payment rate on catastrophic losses greater than 75 percent. In this regard, all levels of crop losses are paid at an equal rate of 65 percent of the target price for program crops and 65 percent of the market price for other crops.

Finally, producers of nonprogram crops and program crop nonparticipants would be subject to a 50 percent crop loss threshold, instead of 45 percent as in S. 1429. Soybean and sunflower producers would continue to be subject to a 45 percent crop loss threshold.

The net cost of the compromise package is $900 million, or $885 million if we factor the $15 million in fiscal year 1991 savings attributable to an existing provision of the bill which gives farmers greater flexibility for planting canola.

Mr. President, this year's weather problems are not as severe as last year's devastating drought. A few crops such as wheat are suffering in certain regions of the country where the adverse affects of last year's drought lingers. Nevertheless, we expect a bumper harvest of corn, soybeans, and other crops this year. As a consequence, we did not have huge savings from the deficiency payment program to pay for overly generous drought and disaster assistance legislation.

Indeed, if we used the official budget re-estimates prepared by the administration, this bill simply could not be written—the change in farm spending between January and July would not be great enough. Instead, the administration has consented to make a special "current conditions" estimate of agricultural spending, which provides $870 million for disaster relief.

Given the somewhat unpredictable nature of these estimates, the administration gave us a $30 million margin of error, meaning that a bill cost $900 million or less would be acceptable.

The Bush administration and particularly, Secretary Yeutter have been accommodating and cooperative in working with us to achieve disaster relief. The administration's offer for disaster assistance is indeed generous in a year where bumper crops will prevail in most areas.

This bill is superior to the bill passed by the other body, which holds out the prospect of last year's generous payment rates only to prorate payments downward by perhaps 56 percent. Farmers are left with an enormous uncertainty over the level of disaster relief they should anticipate.

Our compromise demonstrates prudence with regard to the budget and compassion for farmers with losses.

Mr. President, I urge the passage of this compromise.

AMENDMENT NO. 663

(Purpose: To modify the disaster payment provisions)

Mr. LEAHY. Mr. President, I send to the desk an amendment in behalf of myself, Mr. LUGAR, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. Leahy] for himself and Mr. LUGAR, proposes an amendment numbered 663.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 19, after "60 percent", insert the following: "(or, in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent)"

On page 4, strike lines 5 through 12 and insert "to such producers at a rate equal to 65 percent of the established price for the crop for any deficiency in production greater than 40 percent (or, in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act, 35 percent) for the crop.".

On page 7, lines 1 and 2, strike "does not exceed 40 percent of the qualifying amount." and insert "does not exceed—

"(A) in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act, 35 percent of the qualifying amount; and

"(B) in the case of other producers, 40 percent of the qualifying amount.".

On page 7, line 25, strike "55 percent" and insert "50 percent".

On page 8, strike lines 7 through 19 and insert the following:

(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 50 percent for the crop.

On page 10, line 13, after "60 percent", insert the following: "(or, in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent)".

Beginning on page 10, strike line 20 and all that follows through page 11, line 12, and insert the following:

(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the applicable payment level under paragraph (3), as determined by the Secretary, for any deficiency in production greater than—

(A) in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act—

(i) 35 percent for the crop; or

(ii) with respect to a crop of burley tobacco or flue-cured tobacco, 35 percent of the farm's effective marketing quota for 1989; and

(B) in the case of producers who did not obtain crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act—

(i) 40 percent of the crop; or

(ii) with respect to a crop of burley tobacco or flue-cured tobacco, 40 percent of the farm's effective marketing quota for 1989.

On page 15, line 6, strike "soybeans' and insert "soybeans and sunflowers".

On page 15, line 18, strike "55 percent" and insert "50 percent".

On page 16, line 3, strike "55 percent" and insert "50 percent".

On page 16, strike lines 8 through 18 and insert the following:

(B) PAYMENT RATE.—The payment shall be made to such producers at a rate equal to 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 45 percent for soybeans and sunflowers (50 percent for other nonprogram crops) for the crop.

On page 19, line 6, strike "or soybeans" and insert "soybeans, or sunflowers".

On page 36, between lines 8 and 9, insert the following new section:

SEC. 303. FMHA LOANS MADE TO INDIAN TRIBES.

The Act entitled "An Act to provide for loans to Indian tribes and tribal corporations, and for other purposes" (25 U.S.C. 488 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 6. REDUCTION OF UNPAID PRINCIPAL.

"(a) IN GENERAL.—The Secretary of Agriculture may, on the application of the borrower of a loan or loans made under this Act, reduce the unpaid principal balance of such loan or loans to the current fair market value of the land purchased with the proceeds of the loan or loans if—

"(1) the fair market value of the land has declined by at least 25 percent since such land was purchased by the borrower;

"(2) the land has been held by the borrower for a period of at least 5 years; and

"(3) the Secretary of the Interior finds that the borrower has insufficient income to both repay the loan or loans and provide normal governmental services.

"(b) FAIR MARKET VALUE.—

"(1) APPRAISAL.—Current fair market value under subsection (a) shall be determined through an appraisal by an independent qualified fee appraiser, selected by mutual agreement between the borrower and the Secretary of Agriculture.

"(2) COSTS.—The cost of appraisals undertaken under paragraph (1) shall be paid by the Borrower.

"(c) APPEALS.—Decisions of the Secretary of Agriculture under this section shall be appealable in accordance with the provisions of section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b).

"(d) FUTURE APPLICATIONS.—A borrower that had a loan or loans reduced under this section shall not submit an application for another reduction on such loan or loans for a period of 5 years after the initial reduction.".

At the appropriate place in title I, insert the following new section:

SEC. . CALCULATION OF COMMODITIES PRODUCED ON DRY AND IRRIGATED LANDS.

For purposes of determining eligibility for and the amount of disaster assistance made available under this title, the Secretary of Agriculture may separately calculate—

(1) the quantity of a commodity that is produced on a farm on dry land; and

(2) the quantity of the commodity that is produced on the farm on irrigated land.

At the end of subtitle A of title I, add the following new section:

SEC. 110. SUBSTITUTION OF CROP INSURANCE PROGRAM YIELDS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Agriculture may permit each eligible producer (as defined in subsection (d)) of a 1989 crop of a commodity who has obtained multiperil crop insurance for such crop (or, as provided in subsection (c), who obtained multiperil crop insurance for the producer's 1988 crop of such commodity) under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to substitute, at the discretion of the producer, the crop insurance yield for such crop, as established under such Act, for the farm yield otherwise assigned to the producer under this subtitle, for the purposes of determining such producer's eligibility for a disaster payment on the 1989 crop under this subtitle and the amount of such payment.

(b) ADJUSTMENT OF ADVANCED DEFICIENCY PAYMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, if an eligible producer of wheat, feed grains, cotton, or rice elects to substitute yields for such producer's 1989 crop under subsection (a), the producer's eligibility for a waiver or repayment of an advance deficiency payment on such crop under this subtitle shall be adjusted as provided in paragraph (2).

(2) AMOUNT.—The amount of production of such crop on which the producer otherwise would be eligible for waiver of repayment of advance deficiency payments under this subtitle shall be reduced by an amount of production equal to the difference between—

(A) the amount of production eligible for disaster payments under this subtitle using a substituted yield under this section; and

(B) the amount of production that would have been eligible for disaster payments using the farm program payment yield otherwise assigned to the producer under this subtitle.

(c) MULTIPERIL CROP INSURANCE NOT AVAILABLE.—A producer may use the crop insurance yield for the producer's 1988 crop of a commodity for purposes of substituting yields under subsection (a) if the producer demonstrates to the Secretary that, through no fault of the producer, multiperil crop insurance under the Federal Crop Insurance Act was not made available to the producer for the producer's 1988 crop of the commodity.

(d) DEFINITION OF ELIGIBLE PRODUCER.—For purposes of this section, the term "eligible producer" means a producer of the 1989 crop of wheat, feed grains, upland cotton, extra long stable cotton, rice, or soybeans.

At the end of title VI, add the following new section:

SEC. 604. CROP INSURANCE YIELD COVERAGE.

The Federal Crop Insurance Act is amended by inserting after section 508 (7 U.S.C. 1508) the following new section:

"SEC. 508A. CROP INSURANCE YIELD COVERAGE.

"(a) IN GENERAL.—

"(1) YIELD COVERAGE.—Effective beginning with crops harvested in 1990, the Corporation may implement multiperil crop insurance underwriting rules that ensure that yield coverage, as specified in subsection (b),

is provided to producers participating in the Federal crop insurance program.

"(2) APPLICATION.—Such underwriting rules and yield coverage, as specified in subsection (b), shall apply to wheat, feed grains, cotton, rice, peanuts, tobacco, and soybeans.

"(b) YIELD COVERAGE.—

"(1) GENERAL COMMODITIES.—

"(A) PLANS.—A crop insurance contract offered to a producer of a crop of wheat, feed grains, cotton, rice, peanuts, or tobacco shall make available to such producer—

"(i) yield coverage based on the producer's farm program yield for the crop established under the program for the commodity involved; or

"(ii) a plan that uses the producer's actual production history for the 5 previous crops, subject to paragraph (3), to determine the yield coverage.

"(B) COMMODITY-BY-COMMODITY BASIS.—A producer may choose between the two alternatives described in subparagraph (A) on a commodity-by-commodity basis.

"(2) SOYBEANS.—A crop insurance contract offered to a producer of a crop of soybeans shall be based on a yield coverage plan that uses the producer's actual production history for the 5 previous crops, subject to paragraph (3), to determine the yield coverage.

"(3) ACTUAL PRODUCTION HISTORY.—

"(A) INADEQUATE DOCUMENTATION.—Under a plan that uses actual production history, as provided for in paragraph (1) or (2), if the producer does not submit adequate documentation of such history for a crop—

"(i) in the case of any commodity other than soybeans, the producer shall be assigned the producer's farm program yield for that crop of the commodity; and

"(ii) in the case of soybeans, the producer shall be assigned a yield equal to 100 percent of the area average yield for that crop of soybeans, as established by the Corporation.

"(B) NOTICE OF AREA AVERAGE YIELDS.—Area average yields applicable to any county shall be posted and available for inspection at the county office of the Agricultural Stabilization and Conservation Service.

"(C) MINIMUM COVERAGE.—In no case may a producer's coverage under such plan that uses actual production history be less than the coverage established using farm program yields, or (for soybeans) 100 percent of the most recent area average yield.

"(c) USE OF YIELD COVERAGE PROVISIONS.—

"(1) NOTICE.—The Corporation shall ensure that, whenever the yield coverage provisions of this section go into effect, producers are given adequate notice of such provisions in advance of the crop insurance sign-up period applicable to the crops to which such provisions first will apply.

"(2) SIGN-UP PERIOD.—To the extent that the provisions are made applicable to the 1990 crops, the Corporation shall ensure that the sign-up period for any 1990 crop does not end earlier than 60 days following the publication of notice of such provisions in the Federal Register.".

The PRESIDING OFFICER. Is there debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 663) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 664

(Purpose: Expressing the sense of the Congress that the Secretary of Agriculture and the United States Trade Representative should investigate recent actions by the Government of Mexico which prohibit free trade of livestock between the United States and the Republic of Mexico and work to eliminate these trade barriers)

Mr. LEAHY. Mr. President, I send to the desk a sense-of-the-Senate amendment to S. 1429 on behalf of Mr. DOMENICI, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. DOMENICI, proposes an amendment numbered 664.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. .

FINDINGS.—The Congress finds that—

(1) The federal governemnt of the Republic of Mexico recently issued new regulations regarding the importation of livestock

(2) These regulations ban the importation of certain classes of livestock as well as required excessive health restrictions and certification for imported animals

(3) These regulations erect barriers to livestock trade between the two countries

(4) These regulations are not consistent with the General Agreement on Tariffs and Trade which advocates free trade between all nations and the elimination of tariff and non-tariff trade barriers

(5) The Republic of Mexico is a member of the General Agreement on Tariffs and Trade

Now, therefore, it is the Sense of the Congress that conditions have recently developed in the livestock trade between the United States and the Republic of Mexico such that the Secretary of Agriculture and the United States Trade Representative should review this grave situation in an expeditious manner and work with the appropriate officials in the Republic of Mexico to achieve free livestock trade between the two nations.

Further, a written request will be made of the Secretary of Agriculture and the United States Trade Representative to resolve this situation.

Mr. DOMENICI. Mr. President, I wish to present my support for this Senate resolution concerning the elimination of barriers to livestock trade between the United States and the Republic of Mexico.

Just recently, the Federal Government of Mexico revised its import regulations for livestock. These new regulations ban the importation of certain classes of livestock. Further, they impose excessive health restrictions and certification for imported animals.

In my State of New Mexico, the impact of these new import regulations is already being felt. Sheep producers in our State have successfully developed a market within Mexico to supply slaughter ewes. These new regulations ban the movement of slaughter ewes into Mexico. In addition, old bucks are not allowed into the country unless they have been castrated—a production practice not common in our State.

Further, nontariff trade barriers have been imposed, such as required tests for blue-tongue, tuberculosis, brucellosis, and other diseases. Flocks in New Mexico are free of these diseases, but the imposition of additional certification impedes trade. Other excessive restrictions have been included which involve scars, bumps, fresh wounds, and ectoparasites.

The consumer in Mexico generally desires a product which is imported on the hoof. Consumer demand in Mexico is met by supplying slaughter ewes. Most shipments from New Mexico are moved during the months of September through November. These trade barriers will negatively influence prices received by our producers and damage business relations between the two countries which have taken years to establish.

The Republic of Mexico is a member of the General Agreement on Tariffs and Trade which advocates the elimination of tariff and non-tariff-trade barriers. These regulations are in conflict with these principles. Relatively strong United States feeder cattle prices, lower duties on steer exports from Mexico and drought conditions in the northern states of Mexico will result in large numbers of steers entering the United States in the coming months. I believe ranchers in the United States should have the opportunity to export freely to Mexico, as imports from Mexico enter the United States.

Mr. President, with this resolution the Congress will ask the Secretary of Agriculture and the U.S. Trade Representative to investigate this situation of grave concern.

Finally, we ask that the Secretary and Trade Representative work, in an expeditous manner, with the appropriate officials in Mexico to resolve this issue.

The PRESIDING OFFICER. Is there debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 664) was agreed to.

Mr. CONRAD. Mr. President, it is with great pleasure that I rise today in support of the disaster relief package before us. It is particularly pleasing to know that this legislation has such widespread support within this Chamber.

I want to express my deep appreciation to Senator LEAHY and his staff for their hard work and dedication in developing a package that we could all support. I know they spent many late nights working to achieve a compromise.

Mr. President, this is a great victory. Some argued that the 1989 disaster bill should cover only crops planted in 1988. Some argued that only program crops should be covered. But, thanks to the persistance of Senator LEAHY and others, all crops will be covered. I am confident that we can further improve this legislation in conference.

There are good reasons for broad support of this bill. This package reflects the needs of the American producer. This bill covers all crops—program and nonprogram crops. It provides assistance to those who have suffered from drought in the Great Plains States and those who have suffered from flooding in the Delta States. We've included crops planted in 1988 as well as 1989 crops.

We have made tremendous strides in this body during the last few weeks to ensure that farmers are treated as fairly and equitably as possible. And we've done so in an extremely reasonable and fiscally responsible manner. This bill actually spends less than the estimated savings occuring in the farm program as a result of weather problems.

Mr. President, I want to take a few moments to explain how important this bill is to North Dakota. As many of you know, nearly half of my State's economy is dependent on agriculture. The drought last year was the worst in half a century. Coming on the heels of the farm depression of the early 1980's, the 1988 drought was devastating to farm families and farm communities throughout North Dakota. The 1988 disaster bill helped to cushion that devastating blow. But in spite of all the help from last year's drought bill, I want to assure my colleagues that no one got rich off of that legislation—net farm income in North Dakota dropped by 49 percent last year.

The 1989 drought is a continuation of the 1988 drought. While it is not quite as severe, the fact that it follows the 1988 drought multiplies its economic effects. This legislation will once again help to cushion the economic blow to my State. I very much appreciate that.

Once again let me express my appreciation to all those who worked so hard to reach a compromise.

I yield the floor.

Mr. PRYOR. Mr. President, the Disaster Act of 1989 has been a long time coming, yet I am certain that it would not have been possible had it not been for the active leadership of Chairman LEAHY and Senator LUGAR. Their role in crafting a suitable compromise cannot be overstated, and on behalf of Arkansas farmers, I am particularly grateful to see this legislation come to the floor. I am now hopeful that all of our colleagues will now be equally supportive in passing the bill so that we may look forward to working with the House of Representatives in conference.

This bill is by no means a perfect bill. Each of us would make a change if we had the opportunity to do so without jeopardizing the passage of the legislation. Some major changes come quickly to mind when I think of the unique problems faced by many of my constituents. Of course, the primary objective of this effort has been to produce a piece in a timely manner so that we can provide assistance to areas that have been devastated by adverse weather conditions. By allowing some of the more controversial topics to wait until the farm bill, we have guaranteed that assistance can be in place for farmers most in need.

Make no mistake Mr. President, this is no windfall for our farmers. After months of heavy rains, rains unlike my State has ever seen in the months of June, July, and August, farmers need something that will simply allow them to remain in business for next year. As a farmer in southeast Arkansas told me, there is no gravy in this bill; there is just enough for the farmer to meet his financial responsibilities within his community. Actually, you could better characterize this bill as a community economic assistance bill, as it will allow farmers to pay their bills and meet other financial responsibilities, thereby providing the community with barely enough cash-flow to look foward to next year.

I am particularly pleased that my colleagues on the Senate Agriculture Committee have agreed to cover crops that have been damaged by any type of adverse weather conditions. To think that we were at one time close to passing a bill that would have directed assistance only to drought stricken areas is a scary thought indeed. Unfortunately, I know tomato farmers, peach farmers, soybean farmers, cotton farmers, and yes, blueberry farmers who have lost crops due to freeze as well as excessive rains. That is why, as a member of the committee, I fought so hard to ensure that no assistance package moved from this body that did not include aid to these farmers. This bill has provided the committee with the opportunity to debate several issues, most of which are sure to be revisited by us in the future as we move into the 1990 farm bill. Perhaps the most obvious issue that is far from resolved is the choice that we face between the Federal Crop Insurance Program and disaster bills each time poor weather befalls us. Of course, we examined the relation of nonprogram crops to program crops, and I am thankful that this committee, and hopefully this body, has shown the wisdom to recognize these crops eligibility and need for assistance. Mother Nature makes no distinction between these crops, and when she treats our farms this way, we should follow suit in the assistance we provide. My feelings remain the same today as they did when we first discussed this with Secretary Yeutter in the committee briefing—nonprogram crops deserve equitable treatment with program crops. In the spirit of compromise, and under the budget constraints we had to work, the distinction we have made between these two types of crops is an acceptable one.

There is another topic that I would be remiss if I did not address on the floor as I have in the committee; the issue producer versus farm number when providing assistance to commodities damaged by adverse weather. In Arkansas, as in some other States in the country, we have a unique problem when farmers are provided assistance by farm number instead of by producer. As assistance is currently provided, farmers are discriminated against in spite of the fact that they have clearly suffered devastating losses. In many cases where more than one farmer rents from a single farm number, if one farmer has suffered losses, yet the other farmer under that farmer number has made a satisfactory crop, he could keep his fellow tenant from being eligible for any benefits. This Mr. President, is an injustice, and I think one that Congress did not intend when it passed similar legislation last year, yet this year we have been kept from doing this by an administration that claims this is too costly of an improvement, regardless of the fairness that such a motion would carry. While I appreciate the cost problems that the administration faces with this, I do hope that I can count on its cooperation in addressing this issue next year in the farm bill. This is not a Democratic problem or a Republican problem, but a policy problem that is our responsibility to correct.

In closing, Mr. President, I again want to thank the chairman of the Agriculture Committee and his staff for the exemplary job they have done in moving this bill to the floor. Considering the fact that the State of Vermont has not been hampered by harsh weather, the commitment and determination Senator LEAHY and his staff have shown has made their effort especially noticeable and certainly appreciated. Also, Mr. President, I offer thanks to my good friend DAVID BOREN, who from the beginning of this process has shown a sensitivity to problems faced by other parts of the Nation, and a genuine willingness to help us address them. Without the co-

operation and compromise of all Senators involved, this moment would not be possible.

Mr. SANFORD. Mr. President, I rise in support of S. 1429, and commend particularly the Agriculture Committee's work in expanding the scope of disaster assistance legislation. Agriculture is a critical industry for many States; it provides a livelihood for many Americans, and a national service to us all. I applaud the committee's moves to extend disaster assistance to all of our Nation's farmers who have suffered from disastrous weather, and not only to those who live in a particular geographic area.

Agriculture is vital to the economy of my home State of North Carolina. All too often it is assumed that tobacco production is the only concern of our agricultural community. It should be noted that North Carolina's major crops also include soybeans, peanuts, cotton, corn, wheat, and apples.

EFFECT ON NORTH CAROLINA

Extreme weather has been harsh on all of our Nation's farmers. North Carolina's farmers have suffered from numerous forms of extreme weather. Drought, heavy rains, and late freezes have taken heavy tolls on our crops.

I met with a group of farmers in eastern North Carolina last April. They told me how they feared the disastrous effect extreme weather would have on their crops. The wheat farmers of the Peidmont section of North Carolina have visited my office here in Washington to show me in great detail how this year's crop is the worst they have had in decades. The apple farmers of western North Carolina have been calling my office daily, desperately seeking relief from the disastrous effects of the heavy rains that have held up the harvest and destroyed their crops in the field. Many have suffered from late freezes. I can speak personally to their plight. I gave a college graduation speech in western North Carolina in May—in the snow. There is not a section of North Carolina that has not been affected by severe weather conditions over the last planting season.

THE NEED FOR BROADER ASSISTANCE

My concern, however, is for all of our Nation's farmers. S. 1429 will be fair to all farmers needing disaster assistance. We must look at the broader picture and not narrow the focus to those who have suffered from a particular form of extreme weather. The hardships endured by a North Carolina apple farmer who has lost his crop to heavy rains and late freezes are as severe as those of a midwestern wheat grower who has lost his crop to drought. Our Nation's farmers need this disaster assistance legislation, and we must be sure to help all of those in dire need.

I am not without my concerns about this type of emergency legislation, Mr. President. Systematic approaches, when they work effectively are preferable. While we do have a Crop Insurance Program, there are problems with it, as many agriculture extension agents in North Carolina will acknowledge. Upon passage of this bill, we must immediately set our sights on revising the Crop Insurance Program to encourage greater farmer participation. At this point, however, we must acknowledge that the existing Crop Insurance Program has proven inadequate to protecting our Nation's farmers from the disastrous effects of extreme weather.

CONCLUSION

I urge the President and my colleagues here in the Senate to support this bill. The American farmer has suffered long enough. We must roll up our sleeves and get the job done.

I wish to commend my colleagues on the Agriculture Committee for their perseverance and dedication to the American farmer. I believe the compromise reached in S. 1429 will protect those farmers who have suffered the most, and will enable them to continue contributing to the important service carried out by America's farms.

Mr. BOREN. Mr. President, I rise in strong support of S. 1429, the Disaster Assistance Act of 1989. This bill provides vital assistance to our agricultural producers who have suffered large yield reductions due to unusually adverse weather conditions. Last year, most of the Nation suffered from one of the worst droughts on record. Congress responded by enacting a disaster relief bill to help farmers overcome the economic hardship caused by the drought.

Unfortunately, that phenomenal drought continued in parts of the Midwest and Southwest, causing severe losses to winter wheat crops planted last fall as well as to crops planted this spring. In addition to these dry conditions, untimely freezes followed by torential rains only added to the lost production. Oklahoma wheat producers watched their statewide yield fall nearly 30 percent from last year's crop. Many Oklahoma wheat farmers suffered complete losses. We also suffered substantial losses to our cotton, soybean, peach, and pecan crops.

This bill is a compromise. It is not a perfect bill or one that I would have written if I had been empowered to write a bill by myself. That is never possible in the legislative process. The members of the Agriculture Committee worked for weeks to fashion a bill that would deliver the most assistance in an equitable manner given our budget constraints. I want to take the time to commend the distinguished chairman and ranking member of the Agriculture Committee for their leadership and assistance in bringing this bill to the floor.

I should also note that the bill contains a very important provision which would allow those producers who enrolled in the 0/92 program to have the option to receive disaster payments. A similar provision was contained in last year's bill. Mr. President, it is very important that we include this option because many producers in Oklahoma, Kansas, Texas, and several other States experienced their losses very early in the year, before there was a sign that Congress would act. These producers made the most prudent business decision available to them at the time and converted their failed acres to conservation use under the 0/92 program. It would be inequitable to preclude these producers from receiving disaster payments simply because they experienced their losses early.

I know that both Senators from Kansas support the inclusion of this option. A similar provision was contained in an earlier bill authored by Senator DOLE, Senator KASSEBAUM, and myself. At this point Mr. President, I would ask unanimous consent that a colloquy between Senator KASSEBAUM and myself be entered in the record.

Finally, I would just like to stress the urgency of this bill. Many winter wheat producers are awaiting this assistance so they can plant their crops this fall. It is imperative that we resolve our differences with the House and pass this bill prior to the August recess. Again, I'd like to thank the distinguished chairman and ranking member of the Agriculture Committee and the minority leader for their leadership in guiding this compromise bill to the floor.

Mr. KASSEBAUM. Mr. President, I have a question for the Senator from Oklahoma. Senator BOREN, does the compromise proposal before us allow those producers who have entered into the so-called 0/92 program the option to receive disaster payments.

Mr. BOREN. I would respond to the Senator from Kansas that I have confirmed with the distinguished chairman of the Senate Agriculture Committee, Senator LEAHY, that the bill does contain a provision giving producers in 0/92 that option.

Mrs. KASSEBAUM. I appreciate that response. As you know, the drought assistance bill which you, Senator DOLE, myself, and other Senators cosponsored, S. 1044, did include a provision for producers who, due to the large extent of failed acres, decided to enroll in 0/92.

Mr. BOREN. Senator, you are correct. I might add for the record that it was the Senator from Kansas, Mrs. KASSEBAUM, that brought this matter to my attention and that of the Senate Agriculture Committee.

Mrs. KASSEBAUM. Thank you, Senator. It is my understanding that

those producers who, prior to enactment of this legislation, elected to devote all or a portion of their permitted acreage to conservation use will have the option of receiving disaster assistance payments. I appreciate the Senator's assurance of the inclusion of the 0/92 provision and thank him for his efforts to bring this bill to the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, last Thursday evening Senator LUGAR and I laid out a compromise proposal to the disaster package, which had passed out of the Senate Agriculture Committee on a 10-to-9 party line vote.

I have been around long enough to know it is hard to pass any farm legislation, and almost impossible if it is partisan in nature.

We have discussed several options and I believe worked out a compromise where both sides can claim some credit and which meets the administration's spending cap of $900 million. We now need to pass this bill and proceed to conference and get a bill on the President's desk by the August recess.

CROP INSURANCE

We felt it was a good idea to send a signal to farmers that they need to seriously consider crop insurance and our proposal would give program crop participants who tried to protect themselves and took out crop insurance a 35-to-65 rate, which is the same rate producers of all program crops received last year.

Many of us feel that we simply cannot have two disaster programs each year—crop insurance and annual bailouts. We hope to make constructive changes in the crop insurance program as part of the 1990 farm bill, because the program needs to attract greater participation and become an affordable option for many farmers. So we have said, in effect, if you take out crop insurance you are going to get a better deal because Congress wants to get a good crop insurance program that is actuarially sound. No more two-track disaster mechanisms.

PROGRAM CROP PARTICIPANTS

Producers of other program crops would have the same rate that was in the Senate Agriculture Committee's proposal of 40 to 65.

We make a distinction between producers of program crops and nonprogram crops. This wasn't necessary last year when we had $4 billion to spend. But this year we have $900 million and our priorities need to reflect the fact that program crops provide the funding mechanism for disaster assistance through unspent deficiency payments.

Program crop participants have to comply with ASCS regulations, person determinations, payment limits, sodbuster, swampbuster and must contribute to the annual exercise of meeting our reconciliation targets. So they should be first in line when funds are scarce.

I ask unanimous consent that two letters be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks. One is from the National Association of Wheat Growers [NAWG] and the second from the National Corn Growers Association [NCGA], which outlines some of the requirements facing program crop participants in greater detail.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. The next distinction is that we would allow producers of soybeans and sunflowers to receive a 45-to-65 rate since they are both tied into program crops. Soybeans have a loan rate and must comply with sodbuster and swampbuster. Sunflowers are substituted on program crop acres in many instances and must compete with program crop for acreage. The sunflower and canola planting flexibility provision is also contributing $10 million to offset the costs of disaster relief.

I am pleased the agreement includes this provision, which I sponsored with Senators KASSEBAUM, BOREN, NICKLES, and others when we introduced a disaster bill, S. 1044, earlier this spring.

Finally, producers of nonprogram crops and nonparticipants who grow program crops would be eligible for the 65-percent payment rate only if they have had a 50-percent loss. Clearly these producers don't face the red-tape, restrictions, and regulations that burden program crop producers. In the case of nonparticipants, they are essentially nonprogram crop producers since they have willingly chosen to give up program benefits and plant outside of the program.

The majority insisted we do away with the catastrophic payment rates to accommodate the 65-percent payment rate for nonprogram crops. I have maintained throughout this debate that we wouldn't be here today discussing disaster relief if it weren't for a documented loss in winter wheat and now cotton. To spread our limited savings to every crop only dilutes the benefits for program crop participants, so it was our feeling we needed to limit money to nonprogram crops.

We will be able to dramatically reduce the number of nonprogram crops available for assistance by upping the loss threshold to 50 percent. This will allow us to pay more to program crop participants on more acres. We have calculated that the 35-percent deductible for those with crop insurance will provide an additional 27 cents per bushel for an average Kansas wheat farm with a 50-percent loss and 19 cents per bushel for an average corn farm with a 50-percent loss.

SENATE APPROACH BEST

So when dollars are tight, these criteria seem to lay out a reasonable set of priorities, help us meet our budget targets and do so without writing a blank check as the House approach attempted to do with their $1.4 billion bill. We've also avoided the prorating scheme set up by the House. I am told under the House plan, producers would receive less than 20 cents on the dollar once payments are scaled back or prorated.

Further, the prorating exercise would require everyone to wait many months until all applications have been submitted before any payments could be calculated. This is unacceptable for winter wheat farmers and their bankers who begin planting in September.

Farmers and bankers in my State are trying to prepare for fall planting, so they will need to know what we are doing for them. I think our proposal will calm some of the anxieties over whether people will be able to hang onto their farms for another year.

ZERO TO 92 PROVISION

I am pleased the Senate bill will include a provision which had been in S. 1044, but was not put into the House bill, which allows those producers who had been forced to declare their failed and prevented planting acres as "0-92" to qualify for disaster payments. This allows producers the option to forgo the "0-92" payments in lieu of disaster payments.

RURAL BUSINESSES

The bill also incorporates another suggestion of S. 1044 which ensures the $200 million loan guarantee program authorized last year for rural businesses hard hit by adverse weather will be utilized by bankers. We will guarantee both the principal and interest up to 90 percent whereas current regulations propose just guaranteeing the interest on the loans. Many businesses are just now feeling the impact of last year's drought, so the provision will be timely and useful.

CONCLUSION

Mr. President, while this bill could be improved upon in several areas, it does contain several modifications from the committee passed bill which reflects priority in providing disaster payments and I would urge all of my colleagues to support it and allow us to proceed to conference in a timely fashion.

EXHIBIT 1

NATIONAL CORN GROWERS ASSOCIATION,
Washington, DC, July 26, 1989.

Hon. BOB DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: Our organization would like to express our support for disaster assistance for various crops that are experiencing production problems from either drought or flooding in the 1989 season. Although the Senate Agriculture Committee

adopted and reported to the Senate a disaster assistance package, we believe that that bill could be improved and refined if it incorporated several provisions that you and Senator Lugar offered in the Agriculture Committee debate on July 25, 1989.

Because of current budget constraints, any disaster assistance for crop production shortfall will come from unused authorized funds from unspent deficiency payments to program crops. Consequently, the program crops suffering from demonstrable loss and damage such as wheat and cotton should have first priority on the receipt of the bulk of these funds. While some non-program crops, if loss or damage can be demonstrable, should be considered for assistance, yet it remains that these crops do not generate unspent funds from which such assistance is made.

With respect to non-participating crop, there are just simply too many such crops—some estimate well over 600 in the United States—over which available funds would be spread for any appreciable disaster assistance. If there were to be such a nationwide drought or other national calamity, then Congress should literally have to enact the necessary emergency legislation with new appropriated funds to provide such assistance.

Although there is serious subsoil moisture and concern about the final outturn of the 1989 corn crop, at this time the development and pollination of the crop is proceeding in a normal fashion. Nevertheless, there remains the risk of drought damage if normal rainfall does not continue during the remainder of July and the critical developmental period of August. But if disaster assistance were to be needed for the 1989 corn crop, the attached papers show the difference in reduced available assistance to a typical corn farmer under the Agriculture Committee package and the proposals offered by you and Senator Lugar.

The National Corn Growers Association has always urged the United States Congress to provide program benefits and assistance to U.S. agriculture on a balanced and equitable basis. On the other hand, it is the program crops that must undertake the various obligations to qualify for income price protection under the deficiency payment system from which funds are available for emergency disaster assistance: annual set-aside requirements; conservation compliance plans; payment limitations; etc. In addition, it is the program crops that always bear the annual burden for funding reductions in the efforts to reconcile the agricultural budget under the requirements of the Gramm-Rudman-Hollings law.

Program crops are planted on an overwhelming percentage of arable land in the United States. Consequently, they provide the program mechanism from which funds can be drawn for annual emergency disaster assistance, and because they carry the annual burden of expenditure reduction under budget reconciliation. We believe the disaster assistance circumstances in 1989 fully justify the proposals and approaches offered by you and Senator Lugar in the Senate Agriculture Committee.

We would urge the United States Senate to consider the disaster assistance proposals offered by you and Senator Lugar in order to enact meaningful and equitable disaster assistance legislation within the prevailing budget constraints to insure presidential signature into law. If this is not achieved, the disaster assistance legislation may be lost to all crop producers suffering from drought, flood and other problems in 1989.

With best regards,

STEVE WENTWORTH,
President.

COMPARISON OF DISASTER RELIEF PROPOSALS FOR TYPICAL FARMS

[Dollars per farm]

Crop	Farm size (acres)	Percent loss (disaster relief in dollars)	
		50	75
40/65:			
Corn	200	3,456	12,095
Wheat	1,000	8,395	29,382
Soybeans [1]	200	1,235	7,412
Cotton	500	10,556	36,945
35/65: [2]			
Corn	200	5,184	13,823
Wheat	1,000	12,592	33,579
Soybeans	200	2,635	7,027
Cotton	500	15,834	42,223
Difference—35/65 minus 40/65:			
Corn	200	1,728	1,728
Wheat	1,000	4,197	4,197
Soybeans	200	1,40	−385
Cotton	500	5,278	5,278

[1] Soybeans at 45/65.
[2] Soybeans factored for ARP and yield differentials.

NATIONAL ASSOCIATION
OF WHEAT GROWERS,
Washington, DC, July 26, 1989.

Hon. ROBERT J. DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: The National Association of Wheat Growers is seriously concerned about the lack of equity which exists in the 1989 disaster assistance package adopted by the Senate Agriculture Committee. Simply stated, in endeavoring to cover all crops which might be subject to a loss, the measure cuts the amount of assistance available to program crops with known disasters.

As you know, 1989 winter wheat crop losses were recorded as early as February of this year, and freeze and drought losses occurred well into May. The outcome of the spring wheat crop has yet to be determined, but it is clear that a portion of the crop has been under severe stress. Clearly, in many areas of the wheat country, this year's disaster will be equally as devastating as the 1988 drought was in the corn belt. Consequently, we feel strongly that wheat growers as well as producers of other program crops should be eligible for the same level of assistance that was made available in 1988.

We understand the Committee's desire to provide disaster coverage to as many crops as possible, but we strongly believe that there is a clear difference between program and non-program crops which is magnified by the finite amount of funding ($870 million) that is available. Producers of non-program crops, by definition, are not subject to the rules and reporting rquirements that growers of program crops must meet. Specifically, they are not subject to costs of complying with acreage set-asides (10 percent of the grower's wheat base in 1989; 27.5 percent in 1988), and they are not subject to conservation compliance standards established by the Congress. Likewise, they are not subject to the "person determination" required of program crop producers to gain eligibility for benefits. Further, unlike non-program crops, wheat producer losses will be appraised against a frozen 1985 yield level which itself represents average yields dating back 12 years. In addition, non-program crops are not presently called on to make substantial savings under the Congressional budget reconciliation process, although they will be beneficiaries of direct government assistance.

The pending package makes a significant change in one of the most equitable concepts contained in 1988 legislation—that assistance should be targeted to those farmers experiencing the greatest loss. The measure has the effect of reducing assistance to farmers with a total loss to help provide assistance for non-program crops.

The result of the lack of equity in the pending plan is that wheat growers will receive significantly less assistance than under those proposals based on the 1988 formulae. On a 1,000 acre farm with a 50 percent crop loss, disaster aid will be $.13 per bushel less, based on total income calculations. On a 1,000 acre farm with a 100 percent loss, assistance will be $.22 per bushel less.

We hope that the imbalances that we have described can yet be addressed in the Senate, or in House-Senate conference sessions.

Sincerely yours,

REGGIE WYCKOFF,
President.

Mr. DOLE. Mr. President, I want to thank the distinguished chairman and the ranking member of the committee and others on the committee for bringing us to this point in this legislation. I think it is important. It is necessary.

I want to underscore three things as I look at this legislation.

First of all, we recognize that those farmers who have crop insurance receive a little better treatment under this bill. That is as it should be.

Second, we recognize—and we have scaled back—we have raised the threshold for nonprogram crops. And we are not covering 600 crops but probably somewhere around 50 or 60.

Finally, and importantly, we have stayed within the budget guidelines suggested by the Secretary of Agriculture, Secretary Yeutter, somewhere around $890 million.

I think it is a good compromise. As I understand, we will have an opportunity to speak tomorrow morning on this.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I rise to commend the distinguished managers of the bill, and also Senator DOLE, from Kansas, for their very hard work and effective work in bringing this bill to the floor for passage this evening.

Mr. President, I support the Disaster Assistance Act of 1989. This bill will provide disaster benefits to many farmers across the Nation who are suffering from the consequences of very adverse weather conditions.

Mississippi has been hit with a deluge of excessive rainfall over the past several months, with many areas receiving more than three times the average rainfall for this time of year. In fact, over 200,000 acres of crop land in my State were under water during the month of July.

Substantial yield reductions for both program and nonprogram crops are expected. It is estimated that cotton and soybeans will have State yield reductions of 30 and 40 percent, respectively. Also, over $400 million are estimated in losses for all crops in Mississippi.

This bill will provide very needed assistance for our Nation's farmers, and I recommend it to my colleagues.

Mr. DASCHLE. Mr. President, I rise today in support of disaster legislation that has been carefully crafted to take into consideration both the pressing needs of our producers and the fiscal imperatives that currently confront the Federal Government. Drafting such a package has not been easy, a fact attested to by recent statements on this floor by Members from both sides of the aisle. However, now that we have come together and reached sufficient consensus to bring this bill to the floor, I urge all my colleagues to get behind the bill and speed it on its way so that we can have disaster legislation on the President's desk without delay.

USDA has already concluded that there are considerable weather-related production losses around the country. Certainly, the experience this year of my own State of South Dakota illustrates the need for this legislation. Following on from the disastrous consequences of last year's drought, we find ourselves with demonstrated loses for many crops, and anticipated loses for many other crops, and considerable stress on our livestock producers.

Already, 36 out of 66 counties in the State have received drought disaster declarations, and the entire State has become eligible for emergency haying and grazing. Crop production levels are drastically down from more normal levels; for example, wheat production is expected to be 28 percent below the 1987 level. Over three quarters of the State's pasture land is in fair to very poor condition, at the same time that over half the State is short or critically short of topsoil moisture and over three quarters of the State is short or critically short of subsoil moisture.

The principal triumph of this legislation is that it has been possible to treat all producers suffering weather-related losses this year in a very equitable manner, given tight budget constraints. Producers of program crops who have participated in the Government program would receive payments to cover 65 percent of the value of their crop for losses in excess of 40 percent, and those producers holding crop insurance would benefit from a slightly lower loss threshold of 35 percent. Nonprogram participants and producers of nonprogram crops would receive the same payment rates, but would be required to meet a higher initial loss level of 50 percent before being eligible for assistance. The loss threshold for soybeans would be 45 percent.

The difference in loss thresholds is the only distinction made between producers in the bill. More than anything else, this distinction actually serves to increase equity between producers. The higher threshold for nonprogram crops recognizes that program crops are penalized in the calculation of disaster payments through the use of program yields which tend to be understated relative to actual average yields. The latter are used in the calculation for nonprogram crop disaster payments.

As we have worked on this legislation many Senators have been tempted at times to pit different groups of producers against each other in an attempt to do what they thought was best for their particular State. The bill that we have today has minimized those pressures, and achieves, to a large degree, the principal objective for which we have strived; namely, to provide assistance to all producers as equitably as possible. Nearly all of the people I have heard from in my own State of South Dakota, from the executive director of South Dakota Wheat and many different individual farmers to the Republican State Secretary of Agriculture, have urged this kind of broad based approach.

Most of the debate regarding this legislation has focused on crop losses, and yet the drought is creating many severe consequences for livestock producers. Therefore, I would also like to emphasize the importance of agreements outside of the bill that have been reached with the administration regarding the Livestock Feed Programs. Willingness by the administration to agree to make certain administrative changes to these programs has minimized the need to include legislative language in the bill we have before us.

Specifically, there is agreement to raise the daily feed allowance in the Livestock Feed Program from 10 pounds of feed grain equivalent per day per animal unit to 12.5 pounds of feed grain equivalent per day per animal unit, eliminate proceeds from crop insurance from the calculation of feed on hand, and also not count pasture as feed on hand for livestock, such as swine, that cannot utilize pasture. I ask unanimous consent that a copy of the letter from Senators on the committee to Secretary Yeutter outlining the agreement be inserted in the RECORD at the end of my remarks.

Additionally, I would urge USDA to pay special attention to the report language urging the administration to make every effort to see that joint participation in the Livestock Feed Program and the Indian Acute Distress Donation Program by eligible Indian livestock producers is made effective as soon as possible, and reflects the changes that will be made to the Livestock Feed Program. As we continue in the second year of widespread drought, these producers should have adequate access to all the programs that were intended for their use.

I am also pleased the Members and the administration have agreed to the inclusion in the bill of language that would provide FmHA with the necessary authority to treat Indian land acquisition loans in the same manner as other farm loans for the purposes of restructuring. This gives USDA and the Department of the Interior the flexibility they need to best serve the interests of both Indian tribes and the Nation's taxpayers as a whole.

In summary, Mr. President, I would reiterate my support for this disaster assistance legislation; it is fair, it is fiscally responsible and represents a measured response to the pressing needs of rural America. Let us move the legislation forward swiftly, so that we can have legislation on the President's desk in time to assist the thousands of farmers who wait eagerly for word of help.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter, dated July 25, 1989, to Secretary Yeutter, from members of the Agriculture Committee.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, DC, July 25, 1989.

Hon. CLAYTON YEUTTER,
Secretary of Agriculture,
Washington, DC.

DEAR MR. SECRETARY: As members of the Committee on Agriculture, Nutrition and Forestry, we have been considering several provisions for inclusion in pending disaster assistance legislation that would mandate certain changes in programs providing emergency feed assistance to livestock producers. Following discussions with Department officials, we understand that certain administrative changes in the program rules would obviate the need for legislation on these points. Accordingly, we have decided not to offer such legislation based on the commitment you have provided us that the Department will make certain changes in these programs.

It is understood that within 30 days from the date of this letter, the Department will have implemented the following changes in its emergency livestock assistance programs:

1. The daily allowances for feed under the emergency livestock assistance programs will be increased from 10 to 12.5 pounds feedgrain equivalent per animal unit.

2. Proceeds from insurance on crops shall not be considered in determining the amount of feed available for a producer's livestock.

3. Pasture shall not be considered as feed available for livestock, such as swine, that cannot utilize it.

To the extent that it is necessary to limit an increase in program costs arising from the above changes, the reimbursement rate for cost-share assistance may be reduced to

not less than 42.5 percent of the cost of the feed purchased by the producer.

We also understand that the Administration does not oppose including in disaster assistance legislation a provision that would allow farmers qualifying for emergency feed assistance to have the option of utilizing grain placed by them under Commodity Credit Corporation price support loans in order to avoid the expense of transporting grain from off the farm. Farmers will be allowed to redeem such grain, or to forfeit and then repurchase such grain, under the existing programs providing for cost share assistance or purchase from CCC at reduced prices.

We further understand that you have agreed to reevaluate USDA policies on counting feed produced in years preceding the disaster year as feed available for livestock in order better to reflect the actual losses suffered from disaster, and to reassess the appropriate levels of feed allowances, including the option of abandoning the animal unit method and establishing feed allowances for different classes of livestock based on available scientific data on feed requirements.

Thank you for cooperation and assistance in making these improvements in the emergency livestock programs.

Sincerely yours,

Pat Leahy, Tom Harkin, Tom Daschle, Kent Conrad, Max Baucus, Howell Heflin, David Pryor, Rudy Boschwitz, Kit Bond, Bob Kerrey, David L. Boren, Mitch McConnell, Wyche Fowler, Jr., Richard G. Lugar.

Mr. LEAHY. Mr. President, if I may, I will speak further on this matter tomorrow. All Senators are tired, and we will not go further tonight. I will make a few points. First, we have taken a considerable amount of money out of the bill as originally passed by the other body. At the time they passed their bill, I think they were not aware of what some of the budget restraints would be here. I think with the usual cooperation from the other body in this matter, we will be able to bring this bill to conference and come out with a realistic amount.

I have said over and over again, and those who supported this bill said over and over again, we will work to keep the bill within budget. We must keep it within budget. We must also have a bill that is fair to all those people who have suffered natural disasters beyond their control, those who produce the food and fiber in this country.

It is a good piece of legislation because very conscientious Senators throughout this body, on both sides of the aisle, have worked very hard to craft one. I urge that those in the other body who share our concerns to work with us to get a bill that can be through both bodies by the end of this week and on the President's desk some time next week.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the Chair for his extraordinary leadership. Senator LEAHY has led the committee once again in a conscientious way on a very complex matter. All parts of the country were represented well. Each of us will have more to say about this tomorrow, but this is a high moment for farmers who have suffered disaster, and it is a good moment for farmers everywhere, who know that the Agriculture Committee of the Senate is able to act responsibly in a bipartisan way, and tonight, obviously, in a unanimous way.

Mr. LEAHY. Mr. President, I ask unanimous consent that an amendment inadvertently left out of S. 1036, the bill passed just before this, an amendment to be offered by myself and Senators CONRAD, DASCHLE, and SANFORD, that it be in order to bring it up now, and if passed, to be included in S. 1036, which has already passed this evening.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

(The text of the amendment, No. 656 is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 665

(Purpose: To clarify the application of certain provisions to areas threatened with sudden and severe economic dislocations)

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be reported.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. CONRAD, Mr. DASCHLE, and Mr. SANFORD, proposes an amendment numbered 665.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 132, line 25, stike out "the counties containing the" and inserting in lieu thereof "identified".

On page 138, line 7, strike out "; and" and insert in lieu thereof "or identified rural areas within a State in which the average per capita income is less than 70 percent of the nationwide per capita income; or".

On page 138, between lines 7 and 8, insert the following new clause:

"(iii) any county where the net migration population loss is at least 5 percent or greater from April 1, 1980, to July 1, 1987, as reported by the Census Bureau of the Department of Commerce; and".

On page 138, line 8, strike out "(E)" and insert in lieu thereof "(F)".

On page 140, strike out lines 1 through 3, and insert in lieu thereof the following:

"(G) that propose to serve a service area—

"(i) whose unemployment or poverty rates exceed the Statewide nonmetropolitan average;

"(ii) with special needs arising from actual or threatened severe unemployment arising from economic dislocation; or

"(iii) that includes any county in which the net migration population loss is at least 5 percent or greater from April 1, 1980, to July 1, 1987, as reported by the Census Bureau of the Department of Commerce.".

On page 141, line 18, insert before the semicolon the following: ", that may include areas with special needs arising from actual or threatened severe unemployment which results from economic dislocation".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment (No. 665) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURDICK. Mr. President, I rise today to offer my support for the Disaster Assistance Act of 1989 and encourage my colleagues to support the bill as well.

I commend my distinguished colleague from Vermont for his efforts to get this bill to the Senator floor. Disaster bills are never easy, and Senator LEAHY has shown again that he is committed to providing relief to farmers who suffer crop losses due to extreme weather conditions.

Under the circumstances, the bill is as fair and equitable as possible. We cannot be as generous in our assistance this year as we were in 1988, due to severe budget constraints. This is unfortunate, but I believe that everyone understands the reality of the situation.

I am pleased the Agriculture Committee included assistance to producers of nonprogram crops. We encourage farmers to diversify into crops not supported by a program, so it is only fair to help those producers when they suffer a disaster.

Last year, farmers in North Dakota suffered through the worst drought since the Dirty 30's. As a result, North Dakota farmers and ranchers received the most assistance under the Disaster Assistance Act of 1988.

We thought it would be different this year. Until early July, our crops were green and our farmers optimistic. Then the temperature rose and the wind began to blow. Neither have let up much since then, and because of the damage caused by this continuing heat wave, we are looking at losses comparable to last year's. Believe me, North Dakota farmers would rather have a crop than receive a disaster as-

sistance check from the Government. But in years such as 1988 and 1989, they are grateful that assistance is available from the Federal Government.

I want to thank my colleagues on the Agriculture Committee for making the difficult decisions and reporting out a bill on about the same timetable as last year. It is important to let farmers and ranchers know that they can expect relief.

Mr. President, I urge my colleagues' support for this legislation, and I thank them on behalf of the people of my State of North Dakota. Thank you.

Mr. President, I ask unanimous consent that my statement be inserted at the appropriate place in the RECORD as if given.

Mr. HARKIN. Mr. President, I believe we are all greatly relieved that an agreement has been reached on the terms of a disaster assistance package.

This bill provides coverage for all crops, including nonprogram crops and soybeans. The bill provides the kind of comprehensive assistance that I promised to work for and yet it stays within the limits imposed by the budget deficit.

Many parts of my State have been getting just enough rain to get by. We could have fairly good crops overall. But other parts of my State have already suffered crop losses. That is why we need this bill—so that there will be assistance ready and available for our farmers who need it.

The bill is consistent with the principles of fairness and equity that should guide farm legislation.

I am pleased that the bill now enjoys bipartisan support.

I especially want to thank Chairman LEAHY for his strong leadership and determination to craft a fair, equitable, and comprehensive bill. And I want to thank Senator LUGAR and Senator DOLE for their willingness to help work out a package that we all can support.

I am pleased that the bill contains several provisions from the disaster assistance bill I introduced last month. These provisions include:

First, the establishment of an Emergency Community Water Assistance Program to provide grants of up to $500,000 in small communities and rural areas for developing water sources, laying lines, extending lines, and so forth;

Second, a change in the Emergency Conservation Program to provide water assistance to livestock in lots and confinement;

Third, assistance for rural businesses affected by natural disaster.

We were also able to obtain agreement from USDA to make several improvements in the emergency livestock feed assistance programs.

And the bill will give farmers until July 1, 1990 to repay advance deficiency payments from the 1988 crop that must be repaid because the farmer received a disaster payment. For Iowa probably $85 to $90 million is involved.

Mr. KERREY. Mr. President, I want to thank Chairman LEAHY and Senator LUGAR for their cooperation in agreeing to include in the committee amendment two amendments that I had intended to offer on my own.

The first of my amendments would simply permit the Secretary of Agriculture to allow producers of program crops; that is, wheat, feed grains, cotton, rice, and soybeans, who have purchased Federal Crop Insurance, to use their proven yield under the Crop Insurance Program to determine their eligibility for disaster payments.

We have all heard a lot about how disaster payments undermine the Crop Insurance Program. My amendment would offer a small reward to that faithful crop insurance participant by allowing him to use his proven yield under the Crop Insurance Program.

In addition, ASCS programs yields have essentially been frozen since 1985. As a result, program yields commonly lag behind the potential yield on each farm by 10 to 15 percent or more. My amendment would address farmers' concern about this issue, at least for those who take out crop insurance and who have suffered a loss on their 1989 crops.

My second amendment follows from the interim report of the Commission for the Improvement of the Federal Crop Insurance Program, which recommended that producers be offered two alternative methods of determining the yields on their farm when purchasing crop insurance.

This amendment would merely make clear that the Federal Crop Insurance Corporation has the authority to implement this recommendation for crop year 1990 and beyond.

The first optional yield plan would allow a farmer to base his yield coverage on a 5-year average of actual production history—or APH. Currently, APH coverage is based on a 10-year average, but many farmers do not have records going back 10 years. Also under current law, if a producer has missing production records for a given year, a transitional yield (T-yield) is used for those years, usually a percentage reduction of from the ASCS county program yield.

The Commission recommends, and this amendment authorizes, the use of the producer's ASCS farm program yield instead of the T-yield for the missing years. In addition, farmers using APH coverage would retain their right to divide their acreage within a county into separate insurance units if they report their most recent year's actual production. For soybeans, FCIC will be directed to establish an area average yield to use to fill in the missing yields.

My amendment would also allow a second optional yield plan that would give the producer yield coverage based on his ASCS farm program yield for the crop involved, rather than the current system of using the ASCS farm program yield reduced by the T-yield factor.

These two amendments, if fully implemented, will be major first steps toward strengthening producers' faith in the fairness and utility of our Federal Crop Insurance Program, and I again thank the chairman and the ranking minority member of their support and cooperation.

Mr. GORTON. Mr. President, I rise in support of the Disaster Assistance of 1989. I share the desire of my colleagues in helping all producers affected by drought, hail, excessive moisture or, as is the case in Washington State, freeze, deserve disaster relief that is both compassionate and fiscally responsible.

The compromise proposal before us today would make payments to all producers regardless of the crop they grow or whether they participate in the Government's farm program. This approach certainly appears to meet the test of compassion for it recognizes that a farmer, regardless of the crop he puts in the ground, deserves assistance should he suffer substantial losses in his production capability.

This bill would provide badly needed assistance to the winter wheat farmers of my State who have been adversely affected by this February's severe arctic freeze. In addition, this proposal would make payments to producers of nonprogram crops, such as tree fruits, berries and hay, which were also affected by freeze in my State.

This bill recognizes that the drought not only affects those who signed up for the program, but effectively covers all crops. It also responds within reason to the budgetary restraints we currently face as well as addressing the critical agricultural problems because of the drought. Finally, I feel the issue of fairness is adequately dealt with in this measure.

Mr. President, I believe the compromise package we have debated here today is reasonable, fair, and deserves our support.

Mr. BOSCHWITZ. Mr. President, last year when we passed legislation to help rural America through the worst drought in 50 years, we all hoped that there would be no need for another bill this year. However, 1989 has turned out to be a "good news/bad news" story. The good news was that the drought had subsided from a large part of the United States; the bad news was that massive flooding damaged crops in many States, and the

drought continued in small pockets in a number of States.

Last year, because of the extent of the drought, the savings to the Government in the farm program were large. Because the drought resulted in higher prices on crops, and thus much lower Government outlays for price support, we were able to craft a disaster package that covered a broad range of crops, both program and nonprogram.

This year, by contrast, the savings are projected to be much less, so we were challenged to craft a package that did not "bust the budget," yet was fair to those truly in need of assistance. After some give and take on both sides, I think we have a good bill that fits within the budget constraints and helps those truly in need.

While my State to this point has fared pretty well in receiving timely rains, our State ASCS director told us this morning that several counties will likely qualify for assistance. The most severe problem we've had to deal with is grasshoppers. Last year's extremely dry conditions allowed huge numbers of grasshopper eggs to survive, and they attacked my farmers' crops with a vengeance this year. I offered an amendment to the drought bill, and it was adopted, to allow the animal plant health inspection service [APHIS] to share the costs of grasshopper control programs with State and local governments. Township and county governments were forced to spend money for grasshopper control on road ditches and rights-of-way. For many townships, the costs represented a huge amount of their annual budget. This provision does not cost any additional money, it merely allows APHIS to use exising funds earmarked for grasshopper control to enter into agreements with local governmental units and share the cost of control programs.

Mr. President, we had all hoped that we would not need to pass another disaster bill. Unfortunately, we had another disaster. Agriculture has been struggling to recover from some very tough times in recent years. This bill is not designed to enrich farmers, merely to allow them to survive into next year, and have another "go" at it. It has my wholehearted support, and I urge its immediate passage.

Mr. DOMENICI. Mr. President, I rise in support of S. 1429, Disaster Assistance Act of 1989, as amended by the substitute offered by the bipartisan committee leadership. I believe this will provide fair compensation for the farmers in the Nation suffering from the financial hardships of drought, freeze, storm, excessive moisture, or related condition in 1989.

In these times of budget deficit and Gramm-Rudman-Hollings, I think it is particularly important to note that this legislation costs approximately $175 million less than legislation passed by the House of Representatives.

As we finalize this disaster assistance legislation, we are setting the stage for the 1990 farm bill debate. To develop an effective farm policy, we should look carefully at costs of production, efficiencies, market opportunities, and international competitiveness. We must keep in mind longrun agricultural policy goals while we prepare a workable farm program. It is critical that we set aside regional and partisan conflicts as we progress.

In my home State of New Mexico, wheat farmers, in particular, were devastated by adverse weather conditions in 1989. Weather problems for this year's winter wheat crop in New Mexico began with drought conditions during late fall and early winter. There was a freeze in midwinter and hail in the early spring. Significant losses have already been demonstrated by winter wheat farmers. Of the 550,000 acres of winter wheat planted in New Mexico, less than half was harvested. Winter wheat yields were at their lowest levels in 15 years, and dryland farm yields averaged 6 bushels per acre.

Other crops produced in New Mexico could also suffer from weather damage this year. Our apple crop was hit by a crippling, early freeze. Hail storms have also hurt production of cotton and hay. Although the State is now receiving much-needed rain, it may be too late for crops such as grain sorghum, cotton, and hay. Some farmers do not have sufficient irrigation water, and yields will be reduced.

On the budget front, Mr. President, I commend the Senate Agriculture Committee leadership for modifying the reported committee bill. This compromise bill costs less than that passed by the House of Representatives. I must, however, point out to you that this compromise legislation is subject to a budget act point of order. It increases direct spending in the current fiscal year and next year above the level assumed in the 1990 budget resolution. CBO esimates that, relative to the CCC baseline assumptions used in February to develop the 1990 budget resolution numbers, this compromise bill would increase spending approximately $465 million in 1990.

However, it is clear that since February, things have changed and if CBO were to reestimate CCC expenditures today, the budget resolution numbers would be lower by $1.5 billion in 1990. The real costs of this legislation, then, reflecting current agriculture conditions is less than the baseline assumptions used in the budget resolution by $0.6 billion in 1990.

I want to make it very clear, Mr. President, the budget resolution for fiscal year 1990 has not been reestimated. The numbers in the resolution remain the benchmark upon which we have and will continue to evaluate all spending legislation coming before this Chamber. And on that basis, a budget act point-of-order exists.

However, because reality in the agriculture sector is something much different today, I would suggest a waiver of the Budget Act for this legislation should one be required. I believe, in fact, this is an obvious case where the procedures for waiving the Budget Act were intended to apply.

DROUGHT AND DISASTER SITUATION IN IDAHO

Mr. McCLURE. Mr. President, I rise today to address the issue of drought and disaster in my State of Idaho, and also to discuss the effect of the current drought disaster assistance bill recently reported by the Senate Agriculture Committee.

First, let me address the issue of drought and freeze damage that has occurred in Idaho. Several counties in Idaho have been suffering for the past 2 years from drought. Even before the nationwide drought in 1988, farmers in southeastern Idaho were still reeling from the effects of a drought in 1987. Crop yields in these parts of Idaho have been affected for 3 years.

Reports from Caribou, Power, Bannock, Oneida, and Franklin Counties during the past 3 years have shown the effects of the drought on crops. Winter wheat farmers in the Arbon Valley last fall did not plant their winter wheat because there was not enough soil moisture to germinate and sprout the wheat. Many waited hopefully throughout the winter for enough rain and snow to fall on their land to give them a chance to plant spring wheat. Many planted spring wheat, hoping to salvage a small crop but knowing that their yields would be significantly reduced from what they would have made if they had been able to plant winter wheat.

Even that small crop was not to be for these farmers. The rains did not come which would have provided life sustaining moisture for their crops. Wheat, barley, and oat crops began to die. On fields which provided up to 49 bushels per acre in a normal year, farmers now expect to harvest only 4 to 4½ bushels per acre. This is an absolute disaster for these dry land farmers; many cannot survive another drought disaster without help.

Adding insult to injury, on the heels of this early drought came a late spring freeze—one of the hardest freezes ever recorded in June in Caribou County. On June 21 and 22 an 18-degree frost devastated crops in several counties. Irrigated and dry land crops were both affected. All crops—potatoes, wheat, barley, sugar beets, fruit, hay, and peas—were damaged by this late frost. Spring wheat in Caribou County was reprorted by the local ASCS office as showing a 40-percent loss. Barley is expected to have at

least a 40-percent loss, as are hay and oats. Potato tops were frozen black by the frost, setting them back by about 3 weeks in growth. This means the size and quality of the potatoes will be affected. Growers were estimating that peas suffered at least a 25-percent loss in yield because of the freeze.

If this was not enough for Idaho farmers to face, the dry conditions returned after the frost, bringing with it high temperatures and hot dry winds. With the combination of drought and freeze, farmers in southeastern Idaho are facing a bleak year. Those who purchased crop insurance will not be compensated enough to cover all their fixed and variable costs of production.

Last year, disaster-affected farmers in all States were helped by the passage of the Drought Disaster Act of 1988. This act provided assistance in varying degrees to most producers affected by drought or other disaster. Payments to farmers were made from savings in the commodity programs. All crops were included. Thus, both program and nonprogram crops and livestock producers were offered assistance to deal with disaster losses suffered in 1988. By most counts, this legislation was helpful to farmers.

The House has passed and the Senate has been debating a new drought disaster program which will assist farmers who have suffered drought or other disaster losses again in 1989. The House of Representatives has passed a bill which gives assistance to a broad range of producers suffering disasters, from drought to flood to frost. The Senate has now before it a similar bill with some differences as to the level of compensation for losses and how much loss a producer must have suffered before becoming eligible for assistance.

I am pleased that the Senate has enlarged its version to include all crops, whether they are program or nonprogram crops, and to cover all producers whether they are in the program or not. In addition, I agree with the Senate version that rewards those farmers who took out Federal crop insurance on their crops. It is important that we give farmers an incentive to purchase crop insurance to cover losses. Congress will never get away from annual disaster bills unless we provide a workable crop insurance program and then quit providing disaster assistance for all farmers for all losses due to weather and acts of God.

Because the Federal Crop Insurance Program does not yet cover all crops to levels sufficient to ensure farmer participation across the board, I am in favor of the legislation before us today. I believe that the only way to fairly treat all farmers who suffered disaster losses in 1989 is to pass a bill which assists all farmers and ranchers who suffered losses. Savings from decreases in program payments are estimated by the Office of Management and Budget to be $900 million. These funds can be used as payments to disaster affected farmers.

Recently, I wrote to the chairman of the Senate Agriculture Committee, Senator LEAHY, to the ranking minority member, Senator LUGAR, and to Senator DOLE of Kansas to express my support for a wide-ranging bill giving assistance to all farmers who have suffered disaster. I told them of my support for a bill which would treat program and nonprogram crops substantially the same.

On July 25, the Senate Agriculture Committee reported a bill which does much of what I suggested. It covers program and nonprogram crops, as well as farmers who did not participate in programs. Although it increases the loss requirement from last year, it will spread the amount of available funds over more eligible farmers. I believe that this is an equitable bill from this standpoint.

In addition, I requested that disaster legislation address an issue of concern to eastern Idaho farmers. In my letter to Senators LEAHY, LUGAR, and DOLE, I mentioned an inequity in the 1988 drought assistance bill which damaged some farmers in States where farmers have a mixture of dry land and irrigated lands. The averaging of dry land yields and irrigated yields to determine the loss of the crop that was not fair to Idaho farmers. With normal or bumper crops of wheat and barley on irrigated acres averaged in with losses in dry land acres, some farmers showed less loss on paper than they actually suffered due to drought. I believe that ASCS should calculate the losses on a field-by-field basis. This will compensate farmers for actual drought losses, not averages. I presented this idea to the committee and requested that it be included in the Senate bill. The additional cost of the amendment, approximately $50 million, made it difficult to place in the bill. Thus the committee made it discretionary. The Secretary of Agriculture is given the authority to implement this section if funds are made available beyond the current expected program savings.

I thank the Senators on the Agriculture Committee for their efforts to bring this bill to the Senate before the August recess. I have urged them to do so, as many farmers need assistance in September and the law needs to be in place to help them. I also want to thank them for working with me on both the scope of the bill and my request dealing with irrigated and nonirrigated lands. I believe that this is as fair a bill as was possible for its authors to write given the constraints placed on them by the limited funds available. I commend the committee and the staff for their hard work.

I urge the Senate to pass this legislation and urge the President to sign it.

Mr. BAUCUS. Mr. President, I am pleased to rise today to support agricultural disaster relief legislation.

This legislation is critical to farmers in my State.

The severe weather problems farmers have experienced this year have not received as much national press attention as last year's drought.

But to some cherry growers and wheat farmers in Montana the weather has been just as bad.

A series of unprecedented freezes and thaws in my State devastated some winter wheat farmers and literally wiped out Montana's cherry crop.

This summer, several Montana counties have faced a drought that threatens the spring wheat crop.

Since Mother Nature extended the drought of 1988, we must extend the drought assistance legislation of 1988.

After several weeks of contentious negotiations, we have arrived at a package that provides assistance to cherry farmers devastated by this winter's freeze and the wheat farmers suffering from this summer's drought.

This bill devotes $3 million to helping cherry farmers that lost their orchard in the freeze replant.

Cherry farmers will also receive payments to cover some of the crop losses they experienced.

Wheat farmers with crop insurance will be given essentially the same treatment they received under last year's drought bill. The bill provides slightly less for those wheat farmers that did not obtain crop insurance.

The distinction based on crop insurance was made to encourage farmers to purchase crop insurance in future years to protect themselves from natural disasters.

Mr. President, I believe we have produced a fair and equitable bill.

A bill that does not pit one commodity against another.

A bill that treats farmers fairly regardless of the crops they grow.

I congratulate Senator LEAHY, Senator LUGAR, and all other members of the Agriculture Committee on this package.

I hope that we can speedily approve this legislation, send it to conference, and put it on the President's desk before the August recess.

Mr. LEAHY. Mr. President, I ask unanimous consent to discharge H.R. 2467, the House companion bill, from the Agricultural Committee and proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2467) entitled the "1988 Disaster Assistance Extension Act".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I further ask unanimous consent that all after the enacting clause be stricken, that the text of S. 1429, as amended, be substituted in lieu thereof, and that the bill be read a third time and passed, that the vote be reconsidered, laid on the table, that the Senate insist on its amendments and request a conference with the House, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion was agreed to; and the Presiding Officer appointed Mr. LEAHY, Mr. PRYOR, Mr. BOREN, Mr. HEFLIN, Mr. HARKIN, Mr. LUGAR, Mr. DOLE, Mr. HELMS, and Mr. COCHRAN conferees on the part of the Senate.

Mr. LEAHY. Mr. President, I ask unanimous consent that S. 1429 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, that is about enough for one evening. I think I will quit while I am ahead. Again, with thanks to the distinguished majority leader and the distinguished Republican leader and, of course, my good friend from Indiana, the distinguished ranking member, for helping us get through this, and all the other Senators, Senator CONRAD, who is sitting here, the distinguished Presiding Officer, Mr. DASCHLE, Senator COCHRAN, who is here, Senator BAUCUS, who is here, and so many others who have worked so hard to get these bills in.

I yield the floor.

Mr. MITCHELL. Mr. President, I thank all the Senators who have been involved in the development and enactment of this important legislation: Senator LEAHY, Senator LUGAR, Senator DOLE, Senator CONRAD, and others.

There will be further discussion of these bills tomorrow morning, but they represent a significant and historic step.

MARION RESERVOIR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 194, S. 1016, a bill to change the name of Marion Lake, located northwest of Marion, KS, to Marion Reservoir.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1016) to change the name of Marion Lake, located northwest of Marion, Kansas, to Marion Reservoir.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maine?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with an amendment.

On page 1, line 5, strike "80-516" and insert in lieu thereof "81-516" so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the lake located northwest of the City of Marion, Kansas, commonly known as "Marion Lake", and adopted and authorized in Public Law 81-516, shall hereafter be known and designated as "Marion Reservoir". Any reference to such lake in a law, map, regulation, document, record or other paper of the United States shall be deemed to be a reference to "Marion Reservoir".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time and passed.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1016) was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY

RECESS

REDUCTION IN LEADER TIME

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Thursday, August 3, and that the time reserved for the two leaders be reduced to 7½ minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS RELATING TO RURAL DEVELOPMENT AND DISASTER ASSISTANCE

Mr. MITCHELL. Mr. President, I further ask unanimous consent that at 9:45 a.m. there be a period for morning business for 45 minutes for statements relating only to the rural development and disaster assistance legislation and that the time be equally controlled and divided between Senators LEAHY and LUGAR.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS RELATING TO CLEAN AIR LEGISLATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 10:30 a.m. there be a period for morning business not to exceed 30 minutes, under the control of Senator CHAFEE, for the purpose of introducing the administration's clean air legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON MOTION TO TABLE S. 1153, AGENT ORANGE

CONSIDERATION OF S. 686, OIL SPILL LIABILITY ACT

Mr. MITCHELL. Mr. President, I now ask unanimous consent that at 11 a.m. tomorrow, a vote occur on the motion to table S. 1153, the agent orange bill, and that upon disposition of the agent orange bill, the Senate proceed to the consideration of S. 686, the Oil Spill Liability Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPUBLICAN LEADER TIME

Mr. DOLE. Mr. President, I ask unanimous consent and wish to have the RECORD reflect that if I am not available in the morning 5 minutes of my leader time should be yielded to my colleague, Senator KASSEBAUM, and I think she has an additional 5 minutes from the allotted time on this side for a total of 10 minutes. I am certain we can accommodate her on that.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M.

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business and if no Senator is seeking recognition, I now ask

unanimous consent that the Senate stand in recess under the previous order until 9:30 a.m. on Thursday, August 3, 1989.

There being no objection, the Senate, at 9:44 p.m., recessed until 9:30 a.m., Thursday, August 3, 1989.

NOMINATIONS

Executive nominations received by the Senate August 2, 1989:

DEPARTMENT OF STATE

JAMES RICHARD CHEEK, OF ARKANSAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SUDAN.

AMBASSADOR

RONALD J. SORINI, OF THE DISTRICT OF COLUMBIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS THE U.S. NEGOTIATOR ON TEXTILE MATTERS.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 2, 1989:

DEPARTMENT OF STATE

KEITH LAPHAM BROWN, OF COLORADO, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO DENMARK, TO WHICH POSITION HE WAS APPOINTED DURING THE RECESS OF THE SENATE FROM OCTOBER 22, 1988, TO JANUARY 3, 1989.

DEPARTMENT OF STATE

SHIRLEY TEMPLE BLACK, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CZECHOSLOVAK SOCIALIST REPUBLIC.

WILLIAM H. TAFT, IV, OF VIRGINIA, TO BE THE U.S. PERMANENT REPRESENTATIVE ON THE COUNCIL OF THE NORTH ATLANTIC TREATY ORGANIZATION, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

THOMAS PATRICK MELADY, OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE HOLY SEE.

JOSEPH BERNARD GILDENHORN, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SWITZERLAND.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

C. AUSTIN FITTS, OF NEW YORK TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Wednesday, August 2, 1989*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We remember in this our prayer, O gracious and loving God, those who look to today and tomorrow with any anxiety or worry or fear. We know that Your power is sufficient for all our needs, and Your peace can give us an assurance of comfort that the world cannot give. May Your grace alleviate the cares of the day and give us that vision of hope which passes all human understanding. Hear our prayer, O God. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. STANGELAND. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. STANGELAND. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 300, nays 105, not voting 26, as follows:

[Roll No. 201]

YEAS—300

Ackerman	Borski	Combest
Akaka	Bosco	Conte
Alexander	Boucher	Conyers
Anderson	Boxer	Costello
Andrews	Brennan	Coyne
Annunzio	Brooks	Crockett
Anthony	Broomfield	Darden
Applegate	Browder	Davis
Archer	Brown (CA)	de la Garza
Aspin	Bruce	DeFazio
Atkins	Bryant	Dellums
AuCoin	Bustamante	Derrick
Barnard	Byron	Dicks
Bartlett	Callahan	Dixon
Bateman	Campbell (CA)	Donnelly
Bates	Campbell (CO)	Dorgan (ND)
Bellenson	Cardin	Downey
Bennett	Carper	Dreier
Bereuter	Carr	Durbin
Bevill	Chapman	Dwyer
Bilbray	Clarke	Dymally
Boggs	Clement	Dyson
Bonior	Coleman (TX)	Early
Eckart	Laughlin	Rinaldo
Edwards (CA)	Leath (TX)	Ritter
Emerson	Lehman (CA)	Robinson
Engel	Lehman (FL)	Roe
English	Leland	Rose
Erdreich	Levin (MI)	Rostenkowski
Espy	Levine (CA)	Roth
Evans	Lewis (GA)	Rowland (CT)
Fascell	Lipinski	Rowland (GA)
Fazio	Lloyd	Roybal
Feighan	Long	Russo
Fish	Lowey (NY)	Sabo
Flake	Luken, Thomas	Saiki
Flippo	Lukens, Donald	Sangmeister
Foglietta	Manton	Sarpalius
Ford (MI)	Markey	Sawyer
Ford (TN)	Martin (NY)	Saxton
Frank	Martinez	Scheuer
Frost	Matsui	Schiff
Gallo	Mavroules	Schneider
Garcia	Mazzoli	Schumer
Gaydos	McCurdy	Sharp
Gejdenson	McDermott	Shaw
Gephardt	McEwen	Shuster
Gibbons	McHugh	Sisisky
Gillmor	McMillen (MD)	Skaggs
Gilman	McNulty	Skeen
Gingrich	Meyers	Skelton
Glickman	Mfume	Slattery
Gonzalez	Miller (CA)	Slaughter (NY)
Gordon	Miller (WA)	Smith (FL)
Gradison	Mineta	Smith (IA)
Gray	Moakley	Smith (NE)
Green	Mollohan	Smith (NJ)
Guarini	Montgomery	Snowe
Gunderson	Moody	Solarz
Hall (OH)	Morella	Spence
Hall (TX)	Morrison (CT)	Spratt
Hamilton	Morrison (WA)	Staggers
Hammerschmidt	Mrazek	Stallings
Hansen	Murtha	Stark
Harris	Myers	Stenholm
Hatcher	Nagle	Stokes
Hawkins	Natcher	Studds
Hayes (IL)	Neal (MA)	Swift
Hayes (LA)	Neal (NC)	Synar
Henry	Nelson	Tallon
Hertel	Nowak	Tauzin
Hoagland	Oakar	Thomas (GA)
Hochbrueckner	Oberstar	Thomas (WY)
Horton	Obey	Torres
Houghton	Olin	Torricelli
Hoyer	Ortiz	Towns
Hubbard	Owens (NY)	Traficant
Huckaby	Owens (UT)	Traxler
Hughes	Pallone	Udall
Hutto	Panetta	Unsoeld
Jenkins	Parker	Valentine
Johnson (CT)	Patterson	Vander Jagt
Johnson (SD)	Payne (NJ)	Vento
Johnston	Payne (VA)	Visclosky
Jones (GA)	Pease	Volkmer
Jones (NC)	Pelosi	Walgren
Jontz	Perkins	Walsh
Kanjorski	Petri	Watkins
Kaptur	Pickett	Waxman
Kasich	Pickle	Weiss
Kastenmeier	Porter	Weldon
Kennedy	Poshard	Wheat
Kennelly	Price	Whitten
Kildee	Pursell	Wilson
Kleczka	Quillen	Wise
Kolter	Rahall	Wolpe
Kostmayer	Ravenel	Wyden
LaFalce	Ray	Wylie
Lancaster	Regula	Yates
Lantos	Richardson	Yatron

NAYS—105

Armey	Bliley	Clinger
Baker	Brown (CO)	Coble
Ballenger	Buechner	Coleman (MO)
Barton	Bunning	Coughlin
Bentley	Chandler	Courter
Bilirakis	Clay	Cox
Craig	Kyl	Schaefer
Crane	Lagomarsino	Schroeder
Dannemeyer	Leach (IA)	Schuette
DeWine	Lewis (CA)	Sensenbrenner
Dickinson	Lewis (FL)	Shays
Dornan (CA)	Lightfoot	Sikorski
Douglas	Machtley	Slaughter (VA)
Duncan	Madigan	Smith (MS)
Edwards (OK)	Marlenee	Smith (TX)
Fawell	Martin (IL)	Smith (VT)
Fields	McCandless	Smith, Denny (OR)
Frenzel	McCollum	Smith, Robert (NH)
Gallegly	McCrery	Smith, Robert (OR)
Gekas	McGrath	Solomon
Goodling	McMillan (NC)	Stangeland
Goss	Michel	Stearns
Grandy	Miller (OH)	Stump
Hancock	Molinari	Tauke
Hastert	Moorhead	Thomas (CA)
Hefley	Murphy	Upton
Herger	Nielson	Vucanovich
Hiler	Parris	Walker
Holloway	Pashayan	Weber
Hopkins	Paxon	Whittaker
Hunter	Penny	Wolf
Inhofe	Rhodes	Young (AK)
Ireland	Roberts	Young (FL)
Jacobs	Rogers	
James	Rohrabacher	
Kolbe	Roukema	

NOT VOTING—26

Berman	Hefner	Rangel
Boehlert	Hyde	Ridge
Burton	Lent	Savage
Collins	Livingston	Schulze
Cooper	Lowery (CA)	Shumway
DeLay	McCloskey	Sundquist
Dingell	McDade	Tanner
Florio	Oxley	Williams
Grant	Packard	

□ 1125

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from California [Mr. CAMPBELL] please come forward and lead the House in the Pledge of Allegiance.

Mr. CAMPBELL of California led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. LUNDREGAN, one of its clerks, announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 57. Joint resolution to establish a national policy on permanent papers.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members

may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 2990, and to include extraneous matter along with tables and charts.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. NATCHER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2990) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Massachusetts [Mr. CONTE] and myself.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER. The question was on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

□ 1129

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2990, with Mr. SHARP in the Chair.

The Clerk read the title of the bill.

By unanimous consent the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Kentucky [Mr. NATCHER], will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, as you know, this bill, H.R. 2990, provides appropriations for the Departments of Labor, Health and Human Services and Education, and also for 17 related agencies.

Mr. Chairman, it has been a distinct honor and a privilege for me to serve on the Appropriations Committee with my friend, the distinguished gentleman from Massachusetts [Mr. CONTE], the ranking minority member on this subcommittee and the ranking minority member on the full Committee on Appropriations.

The same applies to every member of the subcommittee on both sides.

Mr. Chairman, we are friends on this subcommittee, and I want the Members to know that we have never had a vote on the subcommittee, a vote whereby we have had differences of any description in the markup of this bill.

□ 1130

It requires from 11 weeks to 14 weeks to bring this bill out to the full committee. This is a good bill, Mr. Chairman, and we recommend it to the House.

Today we are under our section 302 ceilings in both budget authority and outlays. The bill appropriates $155 billion for the Departments of Labor, Health and Human Services, and Education and related agencies.

Of this amount, only $43,139,000,000 is for discretionary programs. The balance of it is mandatory programs—entitlements. We defer action and hold funds in reserve totaling $2,030,000,000 in this bill, Mr. Chairman, for unauthorized programs, programs that we believe will be authorized sometime during the balance of this calendar year. This includes funds for the child care initiative.

I think we and the other members of the subcommittee did the right thing when we held in abeyance, $2,030,000,000 to protect this bill. Not only that, for the programs that may be authorized in the future.

Mr. Chairman, I have served with my friend, the distinguished gentleman from Mississippi, my chairman [Mr. WHITTEN] on this committee for 35 years. He is also a member of our subcommittee. He always helps us and we appreciate it.

Mr. Chairman, H.R. 2990, which we present to the House today, makes appropriations for the fiscal year 1990 for the Departments of Labor, Health and Human Services, and Education and for 17 related agencies, including the Corporation for Public Broadcasting and the Railroad Retirement Board.

The bill includes appropriations totaling $155,192 million for these departments and agencies, which is $4,301 million over the amounts requested by the President, and $13,398 million over the comparable amounts available for 1989. This amount includes advance appropriations of $16,772 million for fiscal year 1991 for various public assistance entitlements such as Medicaid, aid to families with dependent children, supplemental security income, and black lung benefits.

Entitlement programs, whose funding levels are determined by authorizing legislation, comprise more than 72 percent of the bill's total appropriations. The bill includes $112,053 million for these entitlements, an increase of $2,335 million above the amount requested by the President and $10,676 million above the amounts available for these programs in fiscal year 1989.

For discretionary programs, whose spending is controlled through the annual appropriations process, the bill includes $43,139 million for fiscal year 1990, which is an increase of $1,966 million over the President's budget and $2,722 million above the amount available for fiscal year 1989. In addition to these amounts, consideration of $657 million of budget estimates for 1990 has been deferred because reauthorizations have not yet been enacted for these programs. These unauthorized programs include refugee and entrant assistance, family planning, and the ACTION agency. The committee has reserved funds for these programs, as well as for new program authorizations such as the child care initiative and increased funding for Head Start.

In addition to the amounts appropriated in the bill, large sums are automatically appropriated each year for labor, health and human services, and education programs without consideration by the Congress during the annual appropriations process. The principal items in this category are the unemployment compensation, Social Security, Medicare, and railroad retirement trust funds. Total budget authority for the programs considered in this bill would increase from $566.6 billion in 1989 to $625 billion in 1990, an increase of $58.5 billion, or about 10.4 percent.

Taking into account the reserve established for unauthorized programs, the bill fully utilizes, but does not exceed, its section 302(b) allowances for both budget authority and outlays.

The committee takes very seriously its responsibility to provide for the health and well-being of the country, especially for its vulnerable populations—the children, the disadvantaged, the elderly, and the handicapped. I have often said that if you educate your children and take care of the health of your people, you live in the strongest country in the world. The bill reflects these priorities, providing more than a $1.8 billion increase in function 500 education and training programs above 1989 levels, and more than a $900 million increase for function 550 health programs.

The committee has emphasized programs that enhance the education of our young people. A billion dollar increase has been provided for chapter 1 compensatory education, and Head Start funding has been increased by $165 million over 1989. Education for the handicapped receives a $103 million increase.

The committee has continued its strong support for biomedical research, providing a $534 million, or 7.5 percent, increase for the National Institutes of Health—including AIDS funding—and a $75 million, or 10.3 percent, increase for research conducted by the Alcohol, Drug Abuse, and Mental Health Administration.

The committee has recognized the continuing fundings needs associated with the social problems of homelessness and drug abuse. $180 million is provided for the homeless assistance programs authorized by the Stewart B. McKinney Act, which is an increase of $102 million over 1989 levels. The various drug abuse programs within the bill's jurisdiction receive $1,632 million, which is the same as the 1989 level. In 1989, these programs were increased by $527 million.

Acquired immune deficiency syndrome [AIDS] continues to be a major concern of the committee. When combined with funding provided in other appropriations bills for the Food and Drug Administration and the Indian Health Service, it is expected that AIDS funding will total approximately $1.6 billion in 1990—an increase of 25 percent over 1989. Spending governmentwide for AIDS, including treatment services provided through entitlement programs such as Medicaid and Medicare, is expected to reach $2.9 billion in 1990. Resources targeted to pediatric AIDS in the bill total $125 million, $12 million above the request and $34 million above the 1989 level.

DEPARTMENT OF LABOR

The bill provides a total of $6,713 million for the Department of Labor, including $5,500 million for discretionary programs and $1,213 million for entitlements. The bill exceeds the President's request for discretionary programs at Labor by $138 million and the 1989 level by $284 million, or 5.4 percent. The bill also includes $2,880 million in trust fund transfers, an increase of $98 million over the President's request and $103 million over the 1989 level. Those trust fund transfers are principally for the administrative costs of the State employment security agencies.

The bill includes $3,966 million for programs under the Job Training Partnership Act, an increase of $238 million over the 1989 level. This total includes $810 million for the Job Corps, which is $68 million over last year's level. This amount is sufficient to maintain the 105 current centers and 40,544 training slots. The Dislocated Workers Program receives $450 million, which represents a $166 million increase over last year's rate. Community services employment for older Americans is supported at $354 million, an increase of $10 million over 1989. Trust funds and general funds for State unemployment insurance and employment service operations total $2,056 million, $87 million above the 1989 level.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The bill includes $123,780 million for activities administered by the Department of Health and Human Services. This includes $16,772 million in advance appropriations for fiscal year 1991 for various public assistance entitlements. For discretionary activities, the bill includes $18,341 million, which is an increase of $868 million over the amount requested by the President and $978 million, or 5.6 percent, over the comparable amount available for these programs in 1989. The bill also includes $5,921 million in trust fund transfers, which is $79 million above the request and $309 million above the 1989 level.

HEALTH RESOURCES AND SERVICES ADMINISTRATION

The bill restores the President's proposed reductions in health professions training, providing a total of $209 million in 1990 for these activities, $7 million above last year's level. Within the agency's total AIDS funding of $65 million, $15 million is provided for pediatric health care demonstrations, $20 million is targeted to adult health care demonstrations, and $11 million is designated for a new AIDS initiative at community health centers.

CENTERS FOR DISEASE CONTROL

The bill includes $1,080 million for the Centers for Disease Control, which is $103 million above the 1989 level. Among the increases provided are $7 million above the 1989 funding level for sexually transmitted diseases, and $4 million for the National Institute for Occupational Safety and Health. The agency's AIDS funding increases from $378 to $463 million.

NATIONAL INSTITUTES OF HEALTH

The bill includes $7,679 million for the 20 appropriations which together fund the programs of the National Institutes of Health [NIH], including funding for AIDS research. A separate appropriation account has been created for the new National Center for Human Genome Research. This initiative would receive $62 million in 1990. The total for NIH is $149 million above the administration request and $534 million above the amount available for 1989.

The increase provided above the President's request is targeted to the following areas: partial restoration of funding for biomedical research support grants; an increase in research training slots to 11,200; intramural buildings and facilities; a major upgrade of the NIH supercomputer; an increase of 175 staff positions; and high priority research areas, such as Alzheimer's Disease, diabetes-related kidney disease, and Lyme Disease.

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

Within the amounts provided for this account, the bill includes $10 million to begin the new National Vaccine Program and $20 million for the medical treatment effectiveness initiative.

HEALTH CARE FINANCING ADMINISTRATION

The bill includes $38,616 million for the 1990 program level for the Medicaid Program, which is $1,000 million above the administration request and $4,324 million higher than the 1989 level. $1,620 million is provided for Medicare contractors, including $100 million in contingency funds, which is $81 million above the President's request and $160 million above last year's level. Funding increases are necessary because of anticipated workload increases, including those related to the implementation of catastrophic health insurance. Facility survey and certification activities are increased by $32 million over 1989 in order to meet new legislative requirements and to expand monitoring of clinical laboratories.

SOCIAL SECURITY ADMINISTRATION

The committee recommends that $3,833 million be expended from the Social Security trust funds for administrative costs of the Social Security retirement, survivors and disability program. This is $102 million more than the 1989 amount and the same as the administration request. The committee has directed that no further staffing reductions be made below the level in effect on September 30, 1989. This ends a 5-year downsizing of the agency which has reduced staffing by 17,000 full-time equivalent positions. This downsizing has resulted in annual savings to the trust funds of approximately $580 million.

FAMILY SUPPORT ADMINISTRATION

The bill includes $350 million for the new Job Opportunities and Basic Skills [JOBS] Training Program created in the Family Support Act of 1988. Indefinite budget authority up to the cap of $800 million established in statute has been provided in the event that State costs exceed this estimate. The Low Income Home Energy Assistance Program is funded at $1.4 billion, $17 million above the 1989 appropriation and $300 million above the President's request. Community Services Programs, which the President had proposed to terminate, are provided $372 million.

OFFICE OF HUMAN DEVELOPMENT SERVICES

The bill increases Head Start funding to $1.4 billion, $165 million above the 1989 level. The committee has reserved additional funding in the event that the Head Start authorization is increased beyond the $1.4 billion level. Administration on Aging Programs receive $756 million.

DEPARTMENT OF EDUCATION

For the Department as a whole, the bill includes $23,833 million, an increase of $1,353 million over the President's request and $1,125 million over the 1989 level. The amount for discretionary programs is $18,433 million, which is $877 million above the request and $1,467 million, or 8.6 percent, above the 1989 funding.

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

The bill includes $5,571 million for chapter 1 of the Elementary and Secondary Education Act, which is $1,001 million above the 1989 level and $850 million above the administration request. The amount provided includes $4,461 million for basic grants to local school districts and $496 million for concentration grants. Also included is $30 million for the Even Start Program, and $30 million for capital expenses for private school students. Up to $350 million of these funds may be transferred to initiate President Bush's proposed Merit Schools and Magnet Schools of Excellence Programs only if these programs should become authorized prior to March 1990.

IMPACT AID

The committee bill provides $739 million for Impact Aid, an increase of $6 million over 1989 and $110 million over the budget request. This amount includes $573 million for category A and $125 million for category B payments, the latter of which the budget proposed to eliminate.

BILINGUAL, IMMIGRANT AND REFUGEE EDUCATION

The committee has provided $195 million, an increase of $13 million over 1989 and $7 million above the administration request.

HANDICAPPED EDUCATION/REHABILITATION SERVICES

The bill provides $2,064 million for Education for the Handicapped Programs, which is $103 million above the 1989 level and $50 million above the administration request. The rehabilitation services and handicapped research account is funded at $1,744 million, which exceeds the request by $18 million and the 1989 appropriation by $71 million.

VOCATIONAL AND ADULT EDUCATION

$1,151 million is provided for this account, which is $78 million above the 1989 level and $36 million above the administration request. Within this total, support for adult education activities is increased by $47 million to $209 million.

STUDENT FINANCIAL ASSISTANCE

The bill provides $6,022 million for student financial assistance, which is an increase of $208 million over 1989 levels and $177 million above the administration request. This amount restores $138 million to Perkins loans and $50 million to State student incentive grants, both of which the President proposed to eliminate. The committee bill maintains the maximum Pell grant at $2,300, the same level payable in 1989. The committee report indicates that there is some considerable uncertainty about the cost of the Pell Grant Program. This is a serious problem which the committee will monitor carefully.

GUARANTEED STUDENT LOANS

The bill includes $3,651 million for guaranteed student loans, which is the most recent estimate by the Congressional Budget Office of the funding that will be required for the program under current law. This amount is $459 million above the request, and $416 million below the 1989 appropriation.

HIGHER EDUCATION

$96 million is provided for historically black colleges and universities, an increase of $12 million over the 1989 level and $9 million above the President's request. Special programs for the disadvantaged [TRIO] receive $248 million, an increase of $29 million over 1989 and $20 million over the President's request.

RELATED AGENCIES

The bill includes $865 million for 17 related agencies. This amount is $83 million above the request and $5 million below the 1989 funding level. The total includes $314 million for 1992 funding for the Corporation for Public Broadcasting, including $72 million for the satellite replacement. Full funding of $340 million is provided for railroad retirement dual benefits.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 2990, the Labor, Health and Human Services, and Education appropriations bill for 1990.

Mr. Chairman, when this bill rolls out onto the House floor, all America should stand up and cheer. This is the time when we cut through all the budgetary gobbledygook, all the drudge work, all the long days and hard votes. This is the day when we say—here is what the Congress, the people's branch, can do for our children, for our seniors, for our aspiring young scholars, for our working men and women, for our handicapped, for those in need of health care, and for those hoping the next breakthrough in science will save their lives, or the lives of their loved ones.

Today we go beyond those most basic functions of Government—defense, and trade, and roads and bridges—to prove this Nation, conceived in liberty, remains dedicated, not just to the principle of opportunity, but to the reality of opportunity. This is where we show our commitment, not just to the concept of compassion, but to the demonstration of compassion.

But this is also the time when we scrape at the harsh reality, at the bottom of our fiscal barrel. Certain facts come home to roost, like the fact that, over the past decade, appropriations and discretionary spending have been substantially reduced in real terms at the rate of 2 percent per year, while entitlement spending, interest on the debt, and other uncontrollable spending continue to spiral out of control.

Somehow, we must pick and choose to address those priorities that are most compelling out of that shrinking pool called discretionary spending.

The bill we bring to the floor provides $155.2 billion for job training, health research, the homeless, education, drug abuse prevention and other programs that make up the social safety net. It is $13.4 billion, or 9.4 percent, more than last year, and $4.3 billion over the President's budget request. That sounds like a big increase. I wish it were so.

Of that, the amount of discretionary controllable spending, is $43 billion, or just over a quarter of the bill. That is $2.7 billion, or 6.7 percent over last year, and $1.9 billion more than the President requested. But—get this—some $1.5 billion in the outlay increase was already spoken for by previous year's spending. So the room for increases in this bill was minimal. Like every other appropriations bill this year, we have been faced with an outlay squeeze by the budget resolution. This is a tight, tough bill. But it was all that was allowed by the budget summit, the budget resolution, and the 302(b) allocation.

Nonetheless, we have been able to provide some major increases:

In elementary and secondary education, we provide a major increase, $1 billion, $500 million over the President's budget, for chapter 1 aid to disadvantaged students.

We provide a $256 million increase over last year for Pell grants, for student financial aid.

For Head Start, for disadvantaged 3 and 4 year olds, we provide $1.4 billion, a $165 million increase, with $80 million more in reserve pending authorization.

For AIDS, funding is expected to increase to around $1.6 billion, up from $1.2 billion last year.

For programs for the homeless, funding is at $180 million, compared with $78 million last year, more than double.

For workers losing their jobs due to factory closings, we provide $450 million, up $166 million over last year, and $50 milion over the President. For

the Job Corps, we provide an additional $82 million.

We provide a $100 million increase, $50 million over the request, for handicapped education. We provide a $70 million increase for rehabilitation, and a $78 million increase for vocational and adult education.

There are programs where I wish we could have done more. For the National Institutes of Health, for research in cancer, heart, stroke, diabetes, arthritis, digestive diseases, we provide an increase of $533 million over last year, only $150 million over the President's budget, not enough to keep up with inflation.

For low income energy assistance, a program I practically have to give up my soul to get funded, the bill provides $1.4 billion, $300 million over the President's budget, and $17 million over last year.

For programs to combat drugs, we provided $1.6 billion, maintaining the levels obtained after last fall's drug supplemental, including continuation of the Addiction Medication Development Program.

For mental health research, and this one really hurts, we provide $389 million, the President's request, only a $34 million increase over last year.

There are a few new starts that I am particularly proud of.

There is $3 million to start a Supplemental Security Income Outreach Program to reach the estimated 50 percent of the eligible elderly who are not signed up for this program.

There is $10 million for the National Vaccine Program, $2.5 million for Lyme Disease research and prevention, and $2 million for lead poisoning prevention.

So, Mr. Chairman, we have done a lot in this bill. We've also reserved some $750 million required for unauthorized programs. And we have budget authority in reserve for new programs in child care.

But outlays are the limiting factor, and those are all spent and accounted for. We have done all we can.

This is what the process has come down to. It's not a matter of whether we've met the needs of the American people. It's a question of whether we've met our targets, no matter how arbitrary or unrealistic they may be. Those who pass judgment on our bills now are not the policymakers, but the bean counters.

When I think about the future, the continued expansion of entitlement programs at the expense of discretionary, and the fact that Labor/HHS does not have a superconductor, or a space shuttle, or even a B-2, I worry about the future. I fear that as our fiscal morass deepens, our compassion will lessen.

For now, this bill remains the bellwether of America's compassion and concern. I am proud of what we have been able to accomplish.

There is no one who deserves more credit than BILL NATCHER, the fairest, most respected chairman on the Hill. He is every bit as much an institution here as the House of Representatives. He is a pillar of our democracy. I want to thank him and his staff for all they have done, and all the help they have given me.

I want also to thank all the subcommittee members, including those on my side of the aisle, CARL PURSELL, JOHN PORTER, BILL YOUNG, and that young Turk, VIN WEBER. It's been a team effort, and we do it because we care.

The administration has no major objection to this bill. With that ringing endorsement, I ask for your support.

Mr. Chairman, this bill also funds other programs operated by each of the departments and related agencies.

DEPARTMENT OF LABOR

In the Labor Department, H.R. 2990 provides $6.713 billion, $156.6 million over the fiscal year 1989 level, and $137.9 million over the administration's request. For discretionary programs, that represents a $284.4 million increase over the fiscal year 1989 level, and $137.9 million over the President's request.

One of those increases is a $238 million increase for the programs under the Job Training and Partnership Act which we propose to fund at $3.966 billion. Included in that amount is $709 million for the Summer Youth Program, the same as the fiscal year 1989 level, and $810.5 million for the Job Corps.

One of the largest increases in this account is the new Dislocated Worker Program authorized under last year's trade bill, an increase of $166.2 million for a total of $450 million. In addition, the bill also continues the Trade Adjustment Assistance Program at $284 million.

Other Labor Department programs for which we recommend funding include the title V, Community Service Employment for Older Americans, where we provide $354 million, including an increase of $10.1 million over the fiscal year 1988 level, to cover expected minimum wage increases and expand the number of jobs available. I am also pleased to note to my colleagues that we continue and expand funding for the displaced homemaker's network within the Women's Bureau, and that the bill continues funding for the permanent mass layoffs and plant closings survey conducted by the Bureau of Labor Statistics. And, for Veterans Employment and Training, the bill provides $162.6 million, including an increase of $5.1 million.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Regarding discretionary programs within the Department of Health and Human Services, the leading concerns continue to be increases in funding for AIDS and biomedical research.

For AIDS control, the bill provides $1.6 billion, which is an increase of 24 percent from the fiscal year 1989 level. This bill did not adopt the President's recommendation to consolidate AIDS spending under one account. AIDS affects so many aspects of our health care system that the committee believes that we must have the flexibility in our budget to respond to the rapid advances being made in understanding the virus and its clinical effects.

For the first time, the National Institutes of Health and the Alcohol, Drug Abuse and Mental Health Administration will not have specific funds allocated for AIDS research. NIH and ADAMHA must have the latitude to fund promising new areas of investigation as they arise. With the burgeoning numbers of investigators and grant proposals involved in AIDS, the established peer-review mechanism will continue to allow growth in the number of high quality projects.

We have provided for major increases across all the Institutes to sustain basic biomedical research and to train future scientists and clinicians. We are making tremendous strides in eliciting the secrets to many of the most crippling and fatal diseases known to man.

Let me give an example of how biomedical research is helping people. Until recently, patients with Cooley's anemia, a fatal blood disease, lived only a few years. After years of research and testing, intravenous chelator drugs have been available to remove excess iron from the body. Even with the breakthrough in chelator medications, compliance with the intravenous version is poor. Promising work is now underway to develop an oral drug that would improve patient compliance and still remove excess iron from the body. This potential research will help not only people suffering from Cooley's anemia but those who have other types of anemia as well.

The National Cancer Institute is the world's preeminent center for cancer research. Scientists and physicians at Bethesda and around the country are aggressively seeking the answers to this dreaded disease which has killed millions of Americans over the years. With tremendous progress being made in basic research, it is essential that the NCI continue to grow and sustain its challenging mission. We are providing over $1.65 billion to NCI for fiscal year 1990, an increase of over $6.5 million from the administration's request and over $81 million more than fiscal year 1989. We expect new efforts to be made in determining the mechanisms of several rare tumors, including neurofibromatosis.

Last week I joined President Bush as he signed the proclamation declaring the 1990's as the Decade of the Brain. This exciting new initiative, which I authored, will stimulate and coordinate research into the multitudes of neurological and mental illnesses that afflict millions of Americans. The White House Office of Science and Technology Policy will lead the charge in coordinating the Governmentwide scientific effort for the coming decade.

As the Decade of the Brain progresses, the National Institute of Neurological Disorders and Stroke and the National Institute of Mental Health are the key institutes that will carry out new, bold initiatives in finding the answers to common and rare diseases alike, such as stroke, Huntington's disease, dystonia, and Batten's disease.

At the National Institute of Neurological Disorders and Stroke, we have included over $495 million, $22.8 million more than last year. We are confident that a new national

strategy on head injury will be forthcoming from NINDS next year. In America traumatic brain injury is a leading killer and cause of disability in children and young adults. Every 5 minutes someone is either killed or is permanently disabled from a head injury. It is essential that progress be made in the prevention and treatment of head injuries.

At the National Institute of Diabetes, Digestive, and Kidney Diseases, we have recognized the importance of diabetes-related kidney disease as the leading cause of renal failure in America. The bill provides for over $590 million to NIDDK, a $30 million increase over fiscal year 1989. We have included funds to NIDDK to provide for additional research projects in this burgeoning field.

Regarding the National Institute of Child Health and Human Development, we have allocated $448,493,000, a nearly $23 million increase from fiscal year 1989. The increased appropriation includes funds for the establishment of a third new interdisciplinary research center on learning disabilities. This program is essential in coordinating efforts to determine the causes of learning disabilities and the best avenues of care.

We have increased the funding of the National Institute of Environmental Health Sciences by $8,784,000 from fiscal year 1989's level to $232,479,000. The NIEHS is a leading institute in identifying potential hazards in our environment and finding ways to eliminate their effects upon our health. Additional money has been provided to maintain and expand research at NIEHS facilities around the country, including the Berkshire facility in western Massachusetts.

With the rapid advances being made in imaging technology, we are calling upon the Director of NIH to consider establishing a new intramural research program for diagnostic radiology. It is estimated that medical imaging procedures contribute to the final patient diagnosis in more than 75 percent of all hospital admissions. It is important for NIH to capitalize upon the advances in diagnostic imaging and provide a coordinated research effort.

For the first time the budget of the Centers for Disease Control will surpass $1 billion. This bill provides nearly $103 million more from last year's CDC appropriation to continue epidemic surveillance, control of environmental hazards and improvement of worker safety and health. We have included $463 million for CDC activities against AIDS, an increase of $85 million from fiscal year 1989. We have provided new money to combat Lyme disease, tuberculosis, sexually transmitted diseases, and lead poisoning prevention.

Regarding the ADAMHA programs, we are appropriating over $1.9 billion for research and clinical activities, including $389,110,000 for mental health research, $294,569,000 for drug abuse research and $119,528,000 for alcoholism research.

The National Institute of Mental Health will be a leading institute of research during the Decade of the Brain. As knowledge about the biological basis of behavior grows, strategies can be implemented to prevent and treat many of the diagnosable mental disorders. We will continue to support NIMH's State Human Resource Development Program, which is addressing the work force needs of special populations such as seriously mentally ill people in community-based service systems, jail, or in rural areas.

Furthermore, we are calling upon NIMH to develop a strategy to expand research in child mental health. Nearly one-eighth of America's children suffer from a diagnosable mental disorder, and a great majority do not receive appropriate care. It is essential that we bring to bear many of the advances in genetics, neuropharmacology and imaging to the problem of child mental health, and that we make a maximum effort in providing the best treatment possible.

In the Office of the Assistant Secretary for Health, the bill adds $10 million for a new national vaccine program which will be conducting research and development on new vaccines. Progress in vaccine development may prove successful in preventing widespread incidence of pertussis, influenza, hepatitis B, and other infectious diseases.

With the growing number of children born infected with the deadly virus, it is essential that we make an aggressive effort in stopping mother-to-infant transmission and finding a cure for this terrible disease. We are providing $5 million within OASH for a new research effort in fighting pediatrics AIDS. We are directing the National Institute of Allergy and Infectious Diseases and the National Institute of Child Health and Human Development to set aside funds for research and training programs for pediatric AIDS and to upgrade pediatric AIDS centers. In addition, this bill includes $4,000,000 under the authorization of the Abandoned Infants Assistance Act to support the care of boarder babies—infants who are unable to return home after receiving treatment.

We are calling upon the Public Health Service to consider the report of the National Commission on Orphan Diseases, including its recommendation for a Central Office of Orphan and Rare Diseases be established. Now is the time to address the serious underfunding of rare disease research and the lack of attention to those people who suffer in silence from rare diseases.

The Community Services Block Grant Program provides the States with funds to carry out a variety of basic nutrition, health, education, and housing needs. The administration sought to eliminate this program, but with essential services at stake for millions of Americans we made sure this bill restored $297 million for the Block Grant Program. Regarding the discretionary services of the Community Services Administration, we have provided over $9 million for the National Youth Sports Program which helps our youth to seek productive and fulfilling lives.

Regarding the Supplemental Security Income administration, we have added $3 million for an outreach program to advise elderly people of the benefits that they may be eligible for under the SSI Program. Many elderly citizens are not aware of the benefits they are entitled to and do not apply for SSI. The outreach program is a fresh start in overcoming this shortcoming.

The bill allocates $20 million for research on medical treatment effectiveness. The sum of $15 million will come from a transfer from the Medicare trust fund. This program will provide for research on the clinical effectiveness and patient outcomes regarding new and established treatments. Information learned from this project will be helpful in improving the standards of clinical care across the country.

We are substantially increasing funds to the Head Start Program. We granted $1.4 billion, an increase of $165 million from last year. The bill defers on $85 million of the budget request that has not been authorized at this time. This program is a true American success story. While much work remains to be done in serving more eligible children, over 24,000 Head Start classrooms are already delivering basic education, nutritional, and health services to children. With the funds provided by this bill, nearly a half million children will benefit from Head Start services. Money will be devoted to improving staff salaries and upgrading personnel training.

For years, the Low Income Home Energy Assistance Program was a prime target for the budget choppers. This year is no exception. The administration called for only $1.1 billion for LIHEAP in fiscal year 1990, down from the $1.38 billion we gave in fiscal year 1989. This year the administration cited stable energy prices as a reason for seeking cuts. But as everyone knows, the cost of fuel has already risen at the gas pump and the cost of heating this winter may increase significantly from last year. With low-income people continuing to have problems making ends meet, there is still a critical need for assistance with heating, regardless of fuel prices.

Furthermore, the administration again cited the availability of oil overcharge funds to the States as a justification in cutting LIHEAP. They say that millions of dollars are pouring into the States' coffers and allocated to LIHEAP. But they conveniently ignore the fact that these funds are irregularly distributed with no clear rationale as to where the overcharge money is to be spent or when it is to be delivered. In addition, there is no guarantee that the overcharge money going to the States will be fully devoted to LIHEAP. The legal eagles are already at work in trying to divert overcharge money to other programs.

I have heard from many families who receive help from LIHEAP and they keep telling me that they need this program to keep their children warm and healthy through the winter months. Throughout this bill we have provided for the health, education, and well-being of young and old alike, and I see absolutely no reason to darken the hearths of millions of Americans as the administration would want to do by its budget request.

This bill provides a small increase and is totally reasonable given the current market price of fuel. With this increase we are sending a clear signal to the Senate and the administration that the need for LIHEAP is still strong.

DEPARTMENT OF EDUCATION

For the Education Department, H.R. 2990 provides $23.8 billion, the most we have ever been able to provide. That level is $1.1 billion over the fiscal year 1988 level, and $1.3 billion more than the administration requested.

Included in the chapter 1 increase were two individual increases that matter a great deal to me. The first is the $10 million increase we were able to give the Capital Expenses Pro-

gram, for a total of $30 million for the program that helps to bring chapter 1 services to nonpublic school children. And I am pleased that we were able to give the Even Start Program a $15.1 million increase to a total of $30 million. This program tries to reach the very young and their parents so that the learning experience can begin at home for children of parents whose own education may not have left them literate. I started the funding for both of these programs last year, and am delighted that we were able to increase them this year.

In addition to the compensatory education increases, the bill provides a $6.1 million increase for impact aid over the fiscal year 1988 level. Unfortunately, for the first time, we have not been able to restore the full category "b" level due to the tight outlay situation. There is a decrease of $10.3 million. For the whole account, there is a $6 million increase over fiscal year 1989, and a $110 million increase over the request.

For school improvement programs, the bill is $47.5 million below the fiscal year 1989 level. Included in that total are increases of $286,000 for the Inexpensive Book Distribution Program, $134,000 for Arts in Education, and $134,000 for the National Diffusion Network. H.R. 2990 does not continue funding for the new Star Schools Program which was funded at $14.3 million last year. The bill continues funding for the Comprehensive School Health Education Program authorized and funded for the first time last year, and directs the Secretary to establish the new Office of Comprehensive School Health Education.

One other item in the Secretary's fund for innovation is a new demonstration program that I put in the bill to deal with underachievers or slow learners. I have been concerned that a large number of young people are simply being left by our current educational system. They are passed along from year to year, and eventually become dropouts or have no prospect for college or good jobs if they are able to finish secondary school. The new demonstration program would provide $3 million for a number of projects around the country to find innovative ways of reaching and motivating these young people on an individualized basis.

The bill we are recommending would increase funding by $77.5 million for vocational and adult education programs over the fiscal year 1988 level, and by $36.1 million over the President's request. Handicapped Education and Rehabilitation Services are also slated for increases of $102.5 million and $70.7 million, respectively. I am particularly pleased that we were able to provide a $5.5 million increase in technology assistance. I regret that the bill does not contain funding for captioning and for the new and exciting descriptive video services for the blind, two programs that have been and can be of immense value to hearing and vision impaired Americans, however, the budget situation did not allow for them in the committee's priorities.

In the student aid area, increases are proposed for Pell grants, supplemental grants, and income contingent loans. The outlay limitations that the committee operated under this year resulted in level funding or reductions for college work study, Perkins loans, and State student incentive grants. I had hoped for a greater increase in the SEOG Program, a program targeted on the lowest income students that is free from excesses that may accompany other programs and remains a major factor for students pursuing associate and baccalaureate degrees.

For the categorical higher education programs, I want to point out two recommendations. One is for the Aid for Institutional Development Program—title III—where we provide a $27.7 million increase to a total of $202.3 million. And, for TRIO, we recommend a $28.9 million increase over the fiscal year 1989 level and a $20 million increase over the administration request for this program that does so much to reach out and help disadvantaged young people succeed in school and in college.

One other higher education program I am particularly pleased about is the Foreign Language Studies Program. H.R. 2990 provides a $9.2 million increase for domestic programs, including $1 million for a Critical Languages Program that the Secretary is to develop with the Defense Department. We are way behind the rest of the world in our ability to speak foreign languages, generally, and not even in the game in the critical languages field. These increases will help that situation.

We provide a $69.2 million increase for all of the graduate and professional programs, including a $4.1 million increase over the fiscal year 1989 level for the Graduate Assistance in Areas of National Need Program in order to fund a new cohort of participants.

For College Housing and Academic Facilities, we provide $22.7 million, the same as the fiscal year 1989 level. H.R. 2990 also recommends a $22.1 million increase in support for education research and statistics. I regret that the library programs were reduced below the fiscal year 1989 level because of the outlay squeeze, and hope that we can look to restore these programs as we continue through the process.

Mr. Chairman, this is a good bill. It is responsible to the budget constraints set last year and this year. And it provides every dollar possible to the programs that matter most to the American people.

I strongly support H.R. 2990, and urge my colleagues to do the same.

□ 1140

Mr. NATCHER. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, this bill comes to the floor of the House, having been crafted by the chairman, the ranking member, the gentleman from Massachusetts [Mr. CONTE] and subcommittee members who work very hard together to fund what ought to be some of our highest national priorities.

This bill is the best example of the need for making hard choices. Year in and year out, Mr. Chairman, Chairman NATCHER reports a bill that wins overwhelming support on the floor of the House.

Today's reality is that the budget deficit has imposed the burden of unpleasant choices upon us all. Worse, the deficit is so limiting, that we have few choices to make.

Of all the 13 appropriations bills, this is the one which will determine whether we truly are a kinder and gentler Nation.

For the past several years, I have taken the floor to discuss the unmet needs of our Nation. This year we have been focusing our special efforts on initiatives to help children.

On Sunday and Monday, the Washington Post ran a series about the life of Dooney Waters. The story reminded me of another story that had run in the Post in the early 1980's, "Jimmy's World". That was the story of Jimmy an 8-year-old heroin addict. The story was so shocking it received a Pulitzer prize. It was so shocking, that it wasn't even true. The Pulitzer was revoked. Readers of the story were relieved that Jimmy's world apparently didn't exist.

But a few years later fiction really has become fact. Dooney Waters lives in a crack house. He does not use drugs. In many ways, he is a remarkable little boy, wise beyond his years. At age 6, he has witnessed his mother use crack hundreds of times. He frequently is not allowed to sleep in his own bed and goes without meals. School has been his only refuge. That is where he receives food and the little love that comes his way.

Dooney represents for me all the millions of children at risk in our country today. Dooney lives in my congressional district. Dooney and I live in a county which is in the top 10 percent of per capita income in the country. Dooney and I live in the richest country on the face of the Earth.

The Government cannot do everything for the children at risk. Personal values and personal responsibility are the most critical factors. But, it can do some things, and we know we are not doing enough.

One-fifth of this rich Nation's children—12 million children—live in poverty. We have the highest poverty rate for children among all the developed nations.

Eight million of the children in poverty live in homes where at least one parent is working.

American poor children start out at an extreme disadvantage. We rank 19th in the world in infant mortality. 40,000 American children under age 1 die every year.

Children of the working poor often have no access to health care. More than 30 million Americans are without health insurance. One-third of poor children in working families are without health insurance.

Even if children remain in good health, their prospects for an improved life are dimmed by poor education. Less than one-half of high school

seniors can read well enough to perform moderately complex tasks. One million kids drop out of school every year, and 25 percent of high school dropouts are unemployed.

Our Government has developed some very good, proven, effective programs to help children. But these programs do not serve everyone who is eligible.

On July 12, the subcommittee met to mark up this bill, and we did the best we could to fund very important programs. We found the resources to improve the prospects for many more American children to succeed, because they will have better access to programs like Head Start, Chapter 1 and TRIO.

I want you to know how much progress we have made in the bill:

Head Start is one of the most successful and well-documented Federal programs around. According to the Perry pre-school study tracking children over a 20-year period (in Ypsilanti, MI) low-income children enrolled in Head Start succeed at a greater rate than the population at large.

They have lower absenteeism, higher standardized test scores, lower drop-out and failure rates, and are more likely to continue their education than their peers who do not have access to the program.

Every dollar of Federal funds spent on Head Start saves $6 in lower welfare, special education and worker productivity costs.

Fewer than 20 percent of eligible children have access to this program because of inadequate funding.

The committee bill includes a $165 million increase for Head Start, providing services to between 60,000 and 70,000 additional children.

Chapter 1, Compensatory Education for the disadvantaged, provides States with funds for services to children from low-income families to help provide disadvantaged kids with the basic and supplementary services needed to successfully complete school.

My own Governor argues that, every dollar spent on Chapter 1 saves $7 in remedial and less effective interventions in later years.

Maryland is a prosperous State, but 32,000 eligible children did not participate in Head Start last year because we lack adequate funding. At the national level, there are estimates that only 47 percent of some eligible categories of elementary students receive assistance through Chapter 1.

The committee bill provides an additional $1 billion for Chapter 1 in fiscal year 1990.

Special programs for students from disadvantaged backgrounds, TRIO, prepares qualified low-income students in the first generation of their families to attend college, for a post-secondary education.

TRIO projects operate in 850 post-secondary educational institutions, and serve 450,000 students, helping them overcome the social, academic and cultural barriers to obtaining a higher education.

Dr. Jerry Lewis, the director of the program at the University of Maryland at College Park, is himself a TRIO success story.

In his testimony before the subcommittee, he explained that:

First, only 10 percent of those enrolled in college today are black;

Second, only 6 percent of B.A. degrees are conferred on black Americans;

Third, only 25 percent of black and 46 percent of white students in public colleges in Maryland graduate 8 years after matriculation.

On the other hand:

First, since 1972, 86 percent of the College Park Upward Bound Program graduates entered college.

Second, in 5-year followup studies 62 percent of those TRIO graduates were either in college or had received a baccalaurate degree.

That is tremendous commentary on both JERRY LEWIS' leadership, but more importantly, it is evidence of a program that works.

The committee provided an additional $29 million over the 1989 funding level and $20 million more than the administration requested for TRIO. The Department of Education will provide grants to an additional 35 approved, but unfunded projects, serving several thousand more students.

These programs are an example of why every Member of this body ought to vote for this bill.

But I must admit that that I am frustrated. I am frustrated because this bill represents only a partial victory.

A friend of mine, Marian Wright Edelman, the founder of the children's defense fund, spoke to this point very succinctly.

She said: "We lose about 10,000 children every year to poverty, but where is the outrage."

She also said: "Children cannot eat rhetoric."

Every one in this Chamber knows that we have yet to really face the facts, to make the tough decisions, to give Chairman NATCHER the resources this Nation must make available to our children and families if we are to avoid the free fall into mediocrity that we all fear.

In President Bush's first post-election press conference on November 9, he said, "I think when I talk about investing in our kids, in the many proposals I've made in that area, that would be an indication of how I will pursue this objective of a 'kinder and gentler' Nation."

Mr. Chairman, the distinguished gentlemen from Kentucky, Chairman NATCHER did wonders with what he had, but he did not have enough.

Mr. Chairman, our Nation knows that children can neither eat rhetoric nor be sheltered by promises nor educated by expressions of risk. It will take a commitment of our resources to fully develop our most important resource our children, our youth, our young adults.

The ability of America to compete internationally and insure the improvement of our quality of life at home depends on our willingness to invest now in that objective.

Let me again congratulate Chairman NATCHER, Mr. CONTE and my other colleagues on the subcommittee for again bringing a bill to the floor that deserves the strong support of every Member of this body.

Mr. CONTE. Mr. Chairman, I yield such time as he may consume to my dear friend, the gentleman from Wisconsin [Mr. GUNDERSON], who is one of the hardest working Members for Gallaudet University.

Mr. GUNDERSON. Mr. Chairman, I thank my leader very much for yielding me this time, and I simply wish to rise in strong support of the bill and express my deep appreciation to my good friend, the gentleman from Massachusetts, for his work on the Gallaudet University provisions.

Mr. CONTE. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Florida [Mr. YOUNG.]

□ 1150

Mr. YOUNG of Florida. Mr. Chairman, the legislation before us today provides Federal support for a variety of critically important programs that benefit virtually every American family.

I want to commend the distinguished chairman of our subcommittee, BILL NATCHER, and the ranking member, SILVIO CONTE, for their leadership throughout the hearing process and drafting of this legislation. As with each of the 13 appropriations subcommittees, our Committee faced the difficult task of making important decisions about how to divide up limited Federal resources.

The product before you today provides continuing support for Federal research in the field of health and sciences and will keep the National Institutes of Health at the forefront of international medical research. Specifically, with regard to NIH the Committee has provided funds for several new initiatives including support for the National Bone Marrow Donor Registry.

This program has proven to be an outstanding success since its inception almost two years ago and has become an important national resource for the treatment of diseases of the blood and cancer. Now fully operational, the

bone marrow registry provides hope to the 70 percent of patients in need of a bone marrow transplant but who have no matched sibling donor.

The registry originally was established within the Navy by the Defense Appropriations Committee, on which I also have the privilege of serving. The Navy oversaw the organization and development of this program and celebrated with the rest of us who have been involved with the program when the national registry went on line in December 1987 to bring together the first matched donor and recipient. From that first life saving transplant, the registry has expanded to include more than 40,000 volunteer donors and now conducts an average 15 to 20 transplants per month with a success rate of 70 percent.

At the Committee's direction, oversight of the registry was transferred last year from the Navy to the National Heart, Lung, and Blood Institute, which can more fully develop and broaden research and applications utilizing the registry.

With funds provided in this legislation, the registry will continue to conduct searches and recruit bone marrow donors to increase its donor pool. With the current list of 40,000 donors, there is a 20 to 25-percent chance of finding a compatible donor.

The registry's goal is to expand the donor pool to 100,000 individuals and to include significant representation of minority communities including black, Asian, Hispanic, and native Americans. By achieving this goal, registry officials believe the chances of finding a successful match will increase to 90 percent.

The committee also has included funds to assimilate into the registry a number of independent international registries that will almost double the current donor pool. Finally, the committee has directed the Institute to utilize the registry to develop new applications for this procedure. Currently, bone marrow transplantation is often the treatment of choice for leukemia, but according to the Institute's director, it may one day be used to treat a number of other disorders including sickle cell and aplastic anemia.

This is but one of the many exciting areas of research supported by the bill—a bill which will help save lives. Within the National Institute of Diabetes and Digestive and Kidney Disease, the committee has directed that special attention be given to diabetes and diabetes-related kidney disease. Diabetes is a disease which afflicts all age groups and for which we have no cure. It can cause serious circulation problems, bring on blindness and is the leading cause of kidney disease and kidney failure.

Support also is included in this legislation for the development of a new child health center program by the National Institute of Child Health and Human Development. Child health research has been slowed because there are only a few medical centers equipped to explore the opportunities that exist in this field of research and to apply them directly to the needs of children. The Center Program will provide support for the development of centers of excellence where leading U.S. researchers can focus specifically on the health care needs and problems of our children. Advances developed by these centers will improve the quality of child health care and the prevention of birth defects in the United States and throughout the world.

Also, the Committee has indicated its support in this legislation for the development of a plan of action by the National Institute of Dental Research to help prevent tooth loss and other oral disease in our Nation's elderly population. And we have included funds for the first time to establish a program to care for infants who are the victims of drug addiction and AIDS. These children often are abandoned by their parents and have nowhere to go for the treatment of their special needs. This program would help with the establishment of foster care or group housing programs where they can receive special personalized care.

Our committee also has the responsibility of providing funds for the oversight and administration of the Social Security and Medicare programs which are relied upon by more than 40 million older Americans. Unfortunately, unscrupulous individuals oftentimes attempt to take advantage of these programs and our older Americans by fraudulently signing them up for programs or medical equipment they do not need or which could impair their safety. The committee has increased the manpower and resources of the Department of Health and Human Services to investigate these cases of fraud and to assist the Department of Justice in their prosecution.

Finally, this legislation provides Federal support for the education of our children from preschool, through college, and into later years when new job skills are required. Included are significant increases for the Head Start Program, for education of the handicapped, for support of our State and local school systems, for the development of facilities at our Nation's colleges and universities, and for college financial assistance and student loan programs.

A special education program the committee is proud of and has supported is the National Youth Sports Program. Although it is a small program in terms of the overall budget, it is an important effort to provide summer youth education and sports instruction for 55,000 low-income mostly minority children. For most participants, it is the first opportunity they ever have to be exposed to a college campus. This year, the committee has included additional funds to expand the program to include a year-round drug education effort to provide support and instruction for those youth most at risk from the dangers of drugs and drug-related activities.

Mr. Chairman, as I said at the outset, funds included in this legislation benefit in one way or another virtually every American family regardless of age and I urge the support of my colleagues.

Mr. CONTE. Mr. Chairman, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I congratulate the Appropriations Committee on the bill we have before us and can appreciate the difficult task they faced when determining spending levels for the many and varied programs encompassed by this bill. I also want to thank Mr. NATCHER and Mr. CONTE for their leadership and their ability to make the decisions we all face in this time of fiscal restraint.

I want to take this time, however, to go on the record to register my deep concerns over the funding level of the Guaranteed Student Loan Program. With a funding level of $3.65 billion, many would assume that this is an adequate and generous appropriation in light of the problems of defaults on student loans and the resultant drain on the Treasury's resources. I want to point out to my colleagues, though, that last year's guaranteed student loan appropriation was some $400 million higher than this year's appropriation. The committee claims, theoretically, that this amount represents funding sufficient for current services. In my opinion, the assumptions regarding interest rates are highly questionable. As you may remember, in this year's dire emergency supplemental appropriations bill Congress recently had to appropriate an extra $800 million for the GSL Program for fiscal year 1989. This added appropriation was needed largely because of incorrect interest rate and default rate projections that were made last year. I am afraid we are about to make the same miscalculation again.

In the committee report that accompanies this year's education appropriation bill, it is said that the Department of Education has estimated that more than $1.9 billion of the 1990 appropriation will be required for loan defaults. This is scandalous, and a problem which, in the committee's words, "unduly burdens the Treasury and which undermines basic support for Federal student aid programs." I fully agree with this assessment. The committee goes on to say that they have requested a biannual report on loan

defaults. I endorse this effort as a necessary first step in the process of reducing defaults; but it is nothing more than a first step—and a small one at that.

What we need is legislation that goes to the heart of the problem and takes immediate action to stop the hemmorhaging in a program that is essential to the higher education of many students. I introduced such legislation back in May and would appreciate the support of my colleagues in advancing my bill toward consideration by the Education and Labor Committee. What is also needed is a restructuring of the needs analysis formula used to determine eligibility for the GSL Program. The current methodology in use excludes many qualified students from the program while accepting others that are less in need. To change this we need legislation to plug up the loopholes and create a system that better measures the true need of the student. I have also introduced such legislation and again ask for the support of my colleagues in this effort.

These reforms are needed to allow the truly deserving students, not defaulters, to get an education. Reforms are also needed to increase the average amount of student loans. The average amount of a Stafford student loan is only about $2,600. This is a ridiculously low amount considering the sometimes double digit increase in annual costs for college. If this trend continues we will be dealing middle class students out of an opportunity for higher education.

The legislation I proposed could increase the available funds by reducing defaults and eliminating fraudulent, sham operations that are in business to bilk the Federal Government out of student loan dollars. This measure would then allow responsible students seeking a higher education greater access to Federal funds.

Let there be no mistake about my intentions. I believe that the GSL Program is essential and can become what it was meant to be. I want reform and I want full funding for the program. George Bush wants to be the education President, the student loan default and funding problems need to become the focus of attention. I pledge my support and will do my best to see these reforms take place and I ask my colleagues to join me in pushing for early enactment of student loan reforms.

I look forward to the opportunity of making these changes and will do everything within my power to see that the Student Loan Program regains the respect and admiration of Congress and the Nation that it once enjoyed.

Mr. NATCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. WHITTEN], the chairman of the full committee and dean of the Congress.

Mr. WHITTEN. Mr. Chairman, I appreciate this opportunity to say a word about our chairman of this subcommittee, the ranking member of the Democratic side on the full committee, the gentleman from Kentucky [Mr. NATCHER].

As my colleagues know, he has a wonderful record here of attendance, at voting and all of that, but really it is not how long one serves, it is how well one serves. I do not believe in the history of this Nation we have had anyone who could equal the success of the gentleman from Kentucky [Mr. NATCHER], my friend, in his service to the people of his district, State, and Nation.

Truly, he has done, and does a great job. In the process he has earned the respect and admiration of all Members of this House.

Mr. Chairman, I am proud to be a member of this subcommittee. All members of this subcommittee do a fine job.

The gentleman from Massachusetts [Mr. CONTE], the ranking Republican member of the committee and my friend, and I have worked together very closely in trying to get the Congress to follow what we believe to be sound, on appropriations bills. It is a pleasure to work with him. He does a fine job on this subcommittee and on other subcommittees. The gentleman from Massachusetts [Mr. CONTE] has always been cooperative in working to bring bills before the committee and to the House.

At this time of talking about one world, we must be careful that we do not drop down to their level instead of lifting them to ours. We must look after our people and our country first. We must look after the people's health and education, but in the same breath we must look after the physical health of our own country because it is our country to which we have to look to to take care of all these world commitments that we have.

I would like to point out here that we do look after our country. As chairman of the Committee on Appropriations, having served since 1943, on the Appropriations Committee, I am very proud of what we have done in developing and protecting the physical assets of our Nation. Now that we have serious financial problems today, I fear we are neglecting necessary upkeep of our national assets. I call your attention to the fact that since 1934 when we started meeting local problems with national programs, our wealth has increased 41 times, and since 1941, when I came here, our physical wealth has increased 36 times.

I say to my colleagues, "whatever your age may be, if you look around and remember how conditions were that you first remember and see the progress that we've made, you can realize just how sound a job we have done."

Unfortunately, may I say, we have with time incurred a national debt which is a serious problem today. But whatever the debt is, we need to look after the protection and development of the physical property, our rivers and harbors, our roads and highways, our forests, and our soil, with productive jobs, where we have something of value to show for our effort. It is evident that we face some change as we scale back our military commitment.

To prepare for this change, I introduced H.R. 3029 to restore the jobs bill which worked so well in 1983. I was joined by JACK MURTHA of Pennsylvania in that to meet these changed conditions in the world, we are going to have to realize that we have got to keep productive jobs going, and, when I say "jobs," I mean "productive" jobs.

Some time ago we introduced H.R. 2540 restoring revenue sharing which had a great record, for 14 years, assisting in the growth and well-being of over 3,900 communities, counties, and cities of the Nation.

Again, "never in the history of this country have we had better Members of Congress who have contributed more than the chairman, in ranking member and the members of this subcommittee. I'm proud to be a part of it. I'm proud to say these words because they're true."

I want to mention just a few of the many important programs and projects covered in the bill before us, the details of which have been covered by Chairman NATCHER.

Funds are provided for the National Institutes of Health which include those seen searching for cures for cancer, AIDS, heart and blood diseases, respiratory diseases, and the many other institutions; for education—higher, secondary vocational, and adult; for community and senior colleges, for Head Start, the handicapped and disadvantaged, for nursing education and other special groups; funds for fighting drugs and drug abuse for low-income energy assistance; funds for the Job Corps and job training assistance; for black lung and many, many other programs, all of which were described in detail by the chairman, BILL NATCHER.

Mr. CONTE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I would like to engage the chairman in a colloquy on the importance of The Cancer Information Service within the budget of the National Cancer Institute. As a Member of Congress who has survived breast cancer, an epidemic cancer that killed more than 45,000 women last year, I would like to em-

phasize the many vital services provided by the Cancer Information Service. The Cancer Information Service receives more than 400,000 calls every year on the nationwide toll-free phone line, 800-4-CANCER. Most of these calls come from cancer patients and the general public, but the Cancer Information Service also provides up-to-the minute information on research and referrals for health care professionals around the country, through the physicians data query database. Many cancer deaths could be prevented by early detection, and communications and education are the bridge to improving the odds for early detection. The Cancer Information Service provides the principal public outreach of the National Cancer Institute. Would the chairman agree that funding for the Cancer Information Service serves a vital purpose within the National Cancer Institute?

Mr. NATCHER. The committee supports every effort to deal with the serious problem of breast cancer in this country. We recognize the importance of public education and outreach programs in efforts to control this disease and support increased spending for these programs at the National Cancer Institute.

□ 1200

In addition, I want to commend the gentlewoman in the well at this time for her support and assistance always with our bill. We want her to know that we appreciate it.

Mr. CONTE. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I wish to join in support of the NCI outreach program and Cancer Information Service.

Breast cancer can be cured with early diagnosis and treatment. We are expanding the Cancer Information Center to reach minority and economically disadvantaged women. We will continue to support this important service and hope that all women in America will use it.

Mr. Chairman, I yield 1 minute to my good friend, the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I would like to engage in a colloquy with the distinguished managers of the bill. I have spoken to the two gentlemen to explain to them the situation in my district regarding an upcoming initiative on the November ballot.

Am I correct that no provision of this bill or previous appropriation bills would have the effect of cutting off Federal funding to a school district that adopts a voluntary desegregation policy involving parental choice and open enrollment?

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Washington. I am happy to yield to the gentleman from Kentucky.

Mr. NATCHER. The gentleman is correct. I am not aware of any provision of this bill or previous appropriations bills for the Department of Education which would require or authorize such a cutoff of funds.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Washington. I am happy to yield to the gentleman from Massachusetts.

Mr. CONTE. The gentleman is correct.

Mr. MILLER of Washington. I want to thank the gentlemen, two of the most respected leaders of this body in the field of education, for clarifying congressional intent.

Mr. NATCHER. Mr. Chairman, I yield 1½ minutes to a good member of our subcommittee, the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Chairman, I rise in support of H.R. 2990, the fiscal year 1990 Labor-Health and Human Services-Education appropriations bill. I want to say once again that it is a great privilege and pleasure to work with the distinguished chairman of our committee, WILLIAM NATCHER. He has been extremely fair and has worked exceedingly hard in behalf of programs that are of vital importance to the people of this Nation. I deeply appreciate the consideration he has given me and the programs in which I have a special interest. I would also like to express my appreciation to the ranking minority member, Mr. SILVIO CONTE. It is an honor to serve on the Labor-HHS-Education Subcommittee with these distinguished gentlemen.

Mr. Chairman, the Labor-HHS-Education appropriations bill is certainly one of the most important of the 13 appropriations bills. It determines the quality of life for our citizens and is the foundation for our Nation's health, productivity, and competitiveness. This bill provides for all segments of our society, but particularly those that are most vulnerable—children, the elderly, the disabled, and the homeless.

The entire Nation will benefit from this bill's passage. This bill puts our people to work, maintains and enhances our health, and provides for the education of our children. H.R. 2990 provides $155 billion in fiscal year 1990 for Labor, Health, Human Services, and Education programs.

For the Department or Labor, the bill provides $6.7 billion for fiscal year 1990, including nearly $4 billion for training and employment services. This activity is comprised of programs designed to enhance the employment and earnings of economically disadvantaged and dislocated workers. For the Job Corps, one of the most successful programs in preparing extremely disadvantaged young people for productive lives, the bill includes approximately $797 million for fiscal year 1990, an increase of $55 million over fiscal year 1989. The increase will allow for improvements to deteriorating facilities and program enhancement. As in previous years, the committee also included language that extends the prohibition of Job Corps center closings.

For community service employment for older Americans, the bill includes $354 million, an increase of $10 million over fiscal year 1989. This increase will enable expansion of part-time employment opportunities in community service activities for unemployed, low-income persons aged 55 and over.

State unemployment insurance and employment service operations will benefit from a $2.56-billion appropriation. This is $97.6 million over the administration's request and $87.1 million more than the fiscal year 1989 level. As many of my colleagues are aware, a number of employment offices across the country have already been forced to close and others have been threatened with closure. With the additional funds provided in this bill, there should be no necessity to close these offices.

H.R. 2990 recognizes the need to address the health concerns of our Nation. It provides $123.78 billion for the Department of Health and Human Services. This is an increase of $12.1 billion above 1989 and $2.7 billion over the President's budget. This bill would allow us to continue to mount a national campaign to deal with the scourges of AIDS, homelessness, and substance abuse.

The additional funds provided will allow for expansion of the Department's AIDS effort and homeless programs. For AIDS education and research, the bill provides approximately $1.6 billion, a 25-percent increase over the amount expected to be spent this fiscal year. Also included is a substantial increase of $102 million for programs for the homeless, authorized under the Stewart B. McKinney Act. This would bring the total available for homeless programs in fiscal year 1990 to $180 million. In addition, substance abuse programs within the Departments of Health and Human Services and Education would be maintained at their 1989 high level of $1.6 billion.

Under the bill, the National Institutes of Health would receive $7.6 billion to continue its biomedical research activities in such areas as AIDS, cancer, cardiovascular diseases, infant mortality, and diabetes. Within this amount, $62 million is included to establish the new National Center on Human Genome Research. In addition, mental health research, training, and services supported by the Alcohol,

Drug Abuse and Mental Health Administration would receive an increase of $73.6 million above the fiscal year 1989 level, for a total of $1.9 billion.

At the time when we are facing severe budget constraints, the Appropriations Committee was able to provide needed funds for many health and human services programs that serve the poor, the elderly, and our children. H.R. 2990 provides $38.6 billion for the Medicaid Program, an increase of $4.3 billion over fiscal year 1989 and $1 billion more than the President's request. The bill provides the authority to spend $3.8 billion of Social Security trust funds for administrative costs associated with this program. This is a $102-million increase over 1989. The committee also directed the end of staff reductions at the Social Security Administration. In addition, the bill provides $1.4 billion for low-income energy assistance, an increase of $300 million over the President's request and $17 million over the fiscal year 1989 level.

Mr. Chairman, I am very pleased that the bill includes funds to start a lead poisoning prevention and control program at the Centers for Disease Control. From 3 to 4 million children in the United States have elevated blood lead levels, which in many cases results in mental and intellectual impairment. With $2 million provided in this bill, CDC will be able to get this program underway in fiscal year 1990.

Mr. Chairman, I agree with the high priority given education in this bill. The total of $23.8 billion that would be provided to the Department of Education is a figure that we can be proud of. This includes $18.4 billion for discretionary education programs. This amount is a $1.47 billion increase over 1989 and $877 million over President Bush's request. I am very pleased that compensatory education for the disadvantaged has been given highest priority—an increase of $1 billion over fiscal year 1989.

In higher education, special programs for the disadvantaged, the so-called trio programs, will be able to provide educational opportunities to many more disadvantaged students with the additional $20 million provided under this appropriations bill. This would bring the total for TRIO in fiscal year 1990 to $248 million. I am also pleased that significant increases have been included for title III programs, which seek to strengthen developing institutions and historically black colleges and universities. The bill provides $202 million in support of these institutional development programs, an increase of $28 million over the fiscal year 1989 level.

In recognition of the national need for vocational and adult education programs, the committee has included $1.15 billion for these programs, in increase of over $78 million over fiscal year 1989.

Mr. Chairman, I strongly endorse the passage of the fiscal year 1989 Labor-HHS-Education appropriations bill, and urge my colleagues to support this bill. The bill recognizes the budgetary constraints that we face without sacrificing important safetynet programs. The priorities in this bill make sense for our Nation. A vote in support of this bill is a vote to invest in the short- and long-term future of our Nation. This bill supports programs that ensure the economic and social survival and the international competitiveness of our Nation. We cannot afford to lose ground that we as a nation have gained as a result of our Nation's steadfast commitment to labor, health, human services, and education. Millions of Americans and their families will benefit from passage of this legislation. I strongly urge its adoption.

Mr. Chairman, I would like to engage the chairman in a colloquy in behalf of the gentleman from New York [Mr. RANGEL].

Mr. Chairman, I understand that the subcommittee policy is not to include funding for programs that have not yet been reauthorized.

I am concerned about funding for the State employment services agencies that administer the Targeted Jobs Tax Credit. My understanding is that the subcommittee has not included funding for these agencies as the TJTC Program has not been reauthorized past December 31, of this year.

I would appreciate an understanding from the distinguished chairman that sufficient funds have been reserved by the committee and that should the TJTC Program be reauthorized the House conferees for this legislation would do their best to include adequate funding for the employment services agencies in the final appropriations legislation.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. STOKES. I am happy to yield to the gentleman from Kentucky.

Mr. NATCHER. Yes, that is my understanding. The conferees will make that effort if the program is so reauthorized.

Mr. CONTE. Mr. Chairman, I yield 4 minutes to a very distinguished Member, the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Chairman, members of the committee, I have asked for this time to raise serious questions about the appropriations process itself and, more fundamentally, how we determine our priorities.

On May 10, of this year, there was a devasting fire at the Jackson Laboratory causing $40 million in damages. Jackson Lab, located in Bar Harbor, ME, is internationally renowned for its research facilities, particularly for cancer research.

Jackson Lab fills a unique need in the scientific community. It supplies over 2 million mice annually for biomedical research, drawing from its unmatched collection of 1,700 different strains. Some 11,000 different labs in every State of our Nation receive mice from Jackson Lab, including virtually every medical school, university, and major government laboratory.

What kind of research does this make possible? Cancer research, diabetes, AIDS, arthritis, neurological illnesses, and a host of others. As a committee from the National Cancer Institute said, "Jackson Laboratory is not only important to the national cancer effort but critical to its success."

Unfortunately, some 400,000 mice were destroyed by the May 10 fire, and since no other facility is able to fill the gap caused by that fire, about 1 billion dollar's worth of research has been disrupted. Nobel laureates, medical school directors, scientists, professors, private researchers have all weighed in with their support of the Jackson Lab. In fact, I have received more than 500 responses supporting funding for Jackson Laboratory. A New York Times headline put it most succinctly when it says, "World Research Disrupted By Fire."

That was the situation when I wrote to this subcommittee seeking $25 million in emergency funds to help rebuild the lab's facilities which were destroyed in the fire.

Mr. Chairman, I thought the consequences for human lives in the wake of delayed research were of such magnitude that this request was entirely warranted.

I want to thank the gentleman from Massachusetts for doing everything that he can on behalf of Jackson Laboratory and within the constraints. I was informed by the very respected chairman of the subcommittee, however, that my request could not be granted. No authorization existed for my proposal, so it could not be included in the appropriation subcommittee report. Therefore, I had to tell Jackson Lab officials that the chairman's point was accurate. While disappointed, I respected the chairman's position and his high principles. I accepted that response. in fact, I could not argue it, because I agreed with him. Rules are rules after all, so I would abide by them and seek authorization.

But as we saw last week though, rules may very well be rules, but they apparently do not apply to everybody. On Friday, an amendment was offered to the Treasury, Postal Service appropriation bill by the gentleman from Pennsylvania [Mr. WALKER]. His amendment was directed at funds earmarked for five strategic materials research projects which were not au-

thorized by law. I repeat, not authorized by law. Some of these projects, curiously enough, were represented by a lobbying firm which has gained increasing notoriety in recent weeks for its efforts in behalf of so-called science projects.

Perhaps, then, I should not have been surprised at the vote on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER], not so much as the final tally of 114 in favor, and 293 opposed, but the principal and the overwhelming opposition of the Committee on Appropriations to the Walker amendment.

Mr. Chairman, I offer this vignette as a sort of case study of how the House determines what should or should not be a priority, and it is in no way limited to appropriations or any other committee or issue in the Congress. It is emblematic of how this Congress operates today. In this instance, however, I would find it very difficult to explain this random operation in which the rules apply to some and not to others, to the suffering millions whose only hope of relief lies with the research ongoing in the labs of this Nation, much of which has ground to a halt because of the fire that occurred at Jackson Lab recently.

Mr. CONTE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, could I have the attention of the gentlewoman from Maine?

Mr. Chairman, I want to commend her on her speech and what she is trying to do. Just before starting this debate, I met with all of the people from Jackson Lab in my office and went over this whole thing. I have been trying to do all I can to help the gentlewoman from Maine [Ms. SNOWE] on Jackson Lab, and it looks like right now that Senator HATCH and Senator KENNEDY over in the Senate have passed out a bill out of their committee authorizing Jackson Lab. Hopefully, it will get through the Senate, and hopefully the authorizing committee here in the House will do likewise when we get back here after Labor Day. Then if this bill does not get through by the time that the authorization bill is passed, maybe we can work something out later on. But I want to tell her that I am doing everything I can to help get this lab going.

□ 1210

They did have some insurance up there, about $16 million I found out this morning. So they can go ahead with a temporary building and start working on their mice projects again. So we will do everything we can.

Ms. SNOWE. If the gentleman will yield, I want to thank him for all he has done and appreciate his efforts.

My frustration stems from the fact that this is a very significant facility for the U.S. Government and for all of the people whose lives depend on it, and I was willing to work within the rules until I saw what happened last week on those unauthorized projects. In fact, I understand some of these facilities did not even request this funding.

So it has been very frustrating, given what the Jackson Lab does. So I appreciate what the gentleman has done.

Mr. CONTE. Let me say that was a different subcommittee from this subcommittee. I have been on the subcommittee for many years and on the Appropriations Committee for 31 years.

The gentleman from Kentucky [Mr. NATCHER] has always taken a consistent point of view, that no item would get appropriated if it was not authorized. He has never once deviated from that.

Unfortunately, that was another subcommittee that the gentlewoman refers to.

Ms. SNOWE. If the gentleman will yield further, I wish that other subcommittee chairmen followed the example of the gentleman from Kentucky, because I respect that principle, and I told the director of Jackson Lab that I respected it, and it was difficult to argue because of that. I think everybody should set that example.

Mr. CONTE. The gentlewoman makes a good point. But I do want to defend our subcommittee. We have never deviated from that norm.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 2990, the Departments of Labor, Health and Human Services, and Education, and related agencies appropriation bill for fiscal year 1990. I applaud the subcommittee for successfully meeting the challenge of recommending acceptable funding levels despite overwhelming budget constraints.

I would like to engage the subcommittee chairman, Mr. NATCHER, in a colloquy.

Mr. Chairman, an outstanding proposal has been submitted by Arkansas State University to the Department of Education for funds available through the Endowment Challenge Grant Program funded by title III, part C of the Higher Education Act. This proposal fully comports to all legal requirements. The funds requested will permit the continued institutional development of ASU. This development is vital to the university's ability to respond to the needs of persons living in a severely depressed region of the Nation.

It is my understanding that the committee would expect this application to receive full and fair evaluation in the competition for these funds. Is that correct?

Mr. NATCHER. Mr. Chairman, if the gentleman will yield, the committee is well aware of the interest of the gentleman from Arkansas, in an endowment challenge grant under title III, part C of the Higher Education Act for Arkansas State University. Assuming this application meets all the requirements of the law, the committee would expect this request for funds to be given every consideration for funding by the Department of Education. I, as one Member, hope the gentleman is successful. I know of your interest and the hard work you have expended as far as this project is concerned.

Mr. ALEXANDER. I thank the subcommittee chairman for his words and appreciate his consideration in this important matter.

Mr. Chairman, I will include in the CONGRESSIONAL RECORD at the end of my remarks information concerning Arkansas State University's application.

Mr. Chairman, for a number of programs, this bill may not reach the funding levels that most of us would rather support. But, it does propose amounts that will permit vital programs to survive against increasingly remarkable odds.

As it has in the past, this legislation will provide great benefits for persons living in the northeastern Arkansas district that I represent, as well as in all areas of the country.

Under this bill, low-income, unemployed persons who are 55 and older would have greater employment opportunities because of increased funding for the Community Service Employment Program for Older Americans.

In Arkansas, which ranks fourth among States with the highest percentages of senior citizens, Federal programs for older Americans take on major significance.

For children from low-income families, this bill would provide opportunities for work and training in the Summer Youth Program.

H.R. 2990 proposes increased funding for the maternal and child health block grant for mothers who are determined to be at risk, and their infants.

In five of the Delta counties that I represent, the infant mortality rate ranges from considerably higher to double that of the national average.

Tens of thousands of Arkansas families would receive help with home energy bills through increased funding of the Low-Income Home Energy Assistance Program [LIHEAP].

In 1988, LIHEAP helped more than 72,500 Arkansas households with winter heating costs.

As a member of the House Rural Health Care Coalition, I am all too familiar with the critical relationship between a sound economy and sound health care.

First District residents of all ages would benefit from increased funding for research conducted by the Office of Rural Health Policy. This funding is fundamental to the improvement of health care in remote areas.

This bill reflects the subcommittee's concerns about health manpower shortages in rural and urban areas. H.R. 2990 would increase funding for area health education centers, which were established to draw primary care health professionals to underserved areas.

Another vital program for areas with health manpower shortages is the National Health Service Corps [NHSC]. Funding would be increased for the NHSC, which was established to provide the resources of health professionals where there are shortages of them. And, to reduce the nursing shortage in these areas, the bill proposes to include scholarships and loan repayment for NHSC nurses.

Funding would be increased for each of the 13 research institutes that comprises the National Institutes of Health. The National Heart, Lung, and Blood Institute would receive $1.09 billion. Heart disease has historically been the leading cause of death in Arkansas. It accounted for more than one-third of all deaths in the State in 1987.

The National Cancer Institute would receive $1.65 billion, an $81 million increase over the 1989 appropriation. Cancer is the second leading cause of death in Arkansas.

H.R. 2990 recommends $241.5 million for the National Institute on Aging, which conducts research on Alzheimer's disease, on long-term care and on older Americans in rural areas.

The recently established National Institute on Deafness and Other Communication Disorders would be funded nearly $100 million.

Further, H.R. 2990 recommends $1.9 billion for alcohol, drug abuse, and mental health services. This amount exceeds the 1989 appropriations by $73.6 million. The Alcohol, Drug Abuse and Mental Health Administration [ADAMHA] is comprised of three institutes, including the National Institute on Drug Abuse, the National Institute of Mental Health, and the National Institute on Alcohol Abuse and Alcoholism, and the Office of Substance Abuse and Prevention.

As is health care's relationship to the overall economy, education is equally fundamental to the economy's further development.

More than $5.58 billion is recommended for compensatory education for the disadvantaged. This amount is an increase of more than $1 billion over the 1989 appropriation. Nearly $4.96 billion would be available to local educational agencies as grants to promote the achievement of students who are educationally disadvantaged.

More than $739.2 million would be appropriated to the Impact Aid Program, which reimburses school districts for losses experienced when enrollment and receipt of local revenues are adversely affected by Federal Government activities.

H.R. 2990 recommends $1.17 billion for school improvement programs.

Funding for vocational rehabilitation State grants would be increased by more than $52 million over the 1989 appropriation.

Federal funding of education for the handicapped would exceed $2.06 billion, which is an increase of more than $102 million over the 1989 amount.

Vocational and adult education programs would be increased by more than $77.5 million over the 1989 amount to $1.15 billion.

H.R. 2990 recommends nearly $635 million for higher education programs, an increase of $69.2 million over the 1989 amount. Funding under this recommendation would include $83 million for strengthening developing institutions; $85 million for strengthening historically black colleges and universities; and $11.2 million for strengthening historically black graduate institutions.

This bill recommends $6.02 billion for student financial assistance, an increase of $207 million over the 1989 appropriation.

Mr. Chairman, I encourage my colleagues to support this bill on behalf of millions of Americans who will benefit from its provisions.

CONGRESS OF THE UNITED STATES,
Washington, DC, July 19, 1989.

Hon. WILLIAM H. NATCHER,
Chairman, Subcommittee on Labor, Health and Human Services, and Education, Committee on Appropriations, Washington, DC.

DEAR MR. CHAIRMAN: I wish to bring to your attention an outstanding proposal by Arkansas State University (ASU) for federal assistance. The implications of this undertaking for improving higher education in my congressional district and strengthening its role in improving a chronically depressed economy cannot be overstated.

ASU, located in Jonesboro, Arkansas, has submitted an application to the Department of Education (DoEd) for an Endowment Challenge Grant under a program authorized by Title III of the Higher Education Act of 1986. Under the program DoEd can provide a grant of $2,000,000, which must be matched within 18 months by $1,000,000 from the applicant, to be used as an endowment to enable an institution to continue in its development and eventually achieve financial independence. Even though the application is still pending, ASU officials are very close to securing a benefactor to provide the required matching funds, provided the application is approved.

There are six criteria established by the DoEd for evaluation of applications for the Endowment Challenge Grant. A review of ASU's application and supporting documents clearly demonstrates that it should be awarded the maximum or close to the maximum permissible points under the scoring system. Following is a summary of the criteria and ASU's qualifications under each:

(1) Previous awards of planning or development grants under Title III of the Higher Education Act of 1986—ASU received a planning grant under this title in 1986 and thereby should receive the maximum 10 points under this criterion.

(2) Past history of increasing endowment—During the past four years, ASU has increased its endowment by $332 per student. It would appear, therefore, to qualify for the award of 15 points under this criterion.

(3) Relative increase in endowment—ASU has increased its endowment by 100% within the last four years which would appear to justify a scoring of the 15 points allocated to this factor.

(4) Matching funds from private sources—ASU will obtain all of its matching funds from private sources qualifying it for the 15 points which may be awarded under this standard.

(5) Need for endowment funds—This criterion is based on the support received from federal, state and local sources and tuition income. ASU receives a relatively small amount of the limited federal resources allocated to Arkansas and from the state's own resources ($4,532 per student) making it eligible and highly competitive for the 50 points which may be scored under this measure.

(6) Lack of endowment funds per student—While ASU has been building its endowment over the past several years, the present ratio of $614 in endowment funds per student remains low. 20 points are awarded under this criterion.

ASU serves the whole State of Arkansas, but the majority of its students are residents of First Congressional District which I have the honor of representing. First District is among the poorest in the nation. Eight of the District's counties are experiencing double digit unemployment rates, and have been throughout most of this decade. In 1988, 21 of the 24 counties in First District had annual average unemployment rates that were at least 87 percent higher than that for the nation and 30 percent higher than the Arkansas rate. In many of the delta counties within the ASU orbit, percentages of the population living below the poverty level exceed 30 percent.

Particular suffering and deprivation is being experienced by the minority population in these areas. Several counties within an hour's drive of ASU have extremely high minority populations. A few examples include Crittenden County (43.8%), Cross County (25.1%), Lee County (55.9%), Phillips County (54.1%), St. Francis County (46.7%) and Monroe County (41.6%).

It is imperative that ASU continue its active program of outreach to this region and to these groups. The Endowment Challenge Grant which ASU is seeking would build on that continuing effort by making it possible to establish a Center for Economic Education and to continue a major capital campaign to underwrite planned improvements and new initiatives which will provide improved education and expanded opportunities for the region's students. Moreover, this grant can contribute significantly to ASU's effort to move towards greater financial independence in financing its programs.

I would like to visit with you as soon as possible to discuss this application and seek your assistance and advice on what additional steps might be taken to secure its approval.

With kindest regards, I am

Sincerely,

BILL ALEXANDER,
Member of Congress.

Mr. CONTE. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER], a distinguished member of our subcommittee.

Mr. PORTER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of this bill. Difficult choices had to be made, given our budget problems. With that in mind, the bill represents a continued commitment to funding the NIH at the highest possible level. And to continue our efforts at alcohol, drug abuse and mental health research and preventive efforts within the CDC.

These commitments include important work on diabetes, urologic diseases, chronic fatigue syndrome, arthritis, Alzheimer's, sleep disorders, eating disorders, alcoholism research, cancer, AIDS and many other dread disorders.

And I request that the Budget Committee to take a closer look at the needs of NIH when formulating next year's budget.

Education remains an important priority for our Nation including impact aid a large amount of which—it is important to remember—goes to low-income school districts. Unfortunately, we were not able to do as much for many education programs as we would have liked.

The needs of the refugee programs continue to be severe, as the States grasp with a huge influx of oppressed persons and those needs remain to be addressed as this bill as it moves to the other body, since it is not authorized.

Mr. Chairman, I commend my chairman—Mr. NATCHER—for his excellent leadership on this bill; and my vice chairman—Mr. CONTE—whose concern for these programs is well known. And I commend the efforts of their staffs.

I encourage all Members to support this legislation.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. KILDEE], a member of the Budget Committee, and also a member of the Education and Labor Committee. Mr. Chairman, no Member of this Congress works harder for education than the gentleman to whom I have just yielded time.

Mr. KILDEE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I have always believed that Government's role is to promote, protect, defend, and enhance human dignity, and Mr. NATCHER's bill certainly illustrates that principle very, very well. In my 25 years of public service, I have rarely had the opportunity of voting for a bill of this quality, and I want to thank the gentleman from Kentucky [Mr. NATCHER] personally for his great efforts in these very difficult times to take care of human dignity.

Mr. Chairman, I rise in support of H.R. 2990, the Department of Labor, Health and Human Services, and Education, and related agencies appropriation bill for fiscal 1990.

I particularly want to congratulate Chairman NATCHER and his subcommittee for their efforts on behalf of Head Start, chapter 1, and for the reservation of funds for a new discretionary Child Care Program.

Increases in function 500 for Head Start, education, and funding for a new discretionary child care program were priority assumptions in the fiscal 1990 budget resolution.

I am pleased to see these same priorities reflected in the appropriations measure before us today.

H.R. 2990 appropriates $5.5 billion for Chapter 1, an increase of more than $1 billion for the fiscal year 1989 funding level, and almost $500 million over the President's request.

The legislation appropriates $1.4 billion for Head Start, an increase of $165 million over the fiscal year 1989 level. Funds are also reserved for further increases pending final action on H.R. 1300 which I introduced to increase the fiscal year 1990 authorization for this important program.

Equally important, H.R. 2990 allocates $2,030 million for unauthorized programs including a new authorization for a child care program.

As many members are aware, legislation authorizing a comprehensive discretionary child care program has been reported by the Committee on Education and Labor and is expected to be considered by the full House of Representatives after the recess.

A similar bill also was approved by the Senate on June 27, 1989.

In addition to those I have mentioned, H.R. 2990 funds a number of other programs which offer critically needed assistance to many of those most vulnerable in our society.

I am very pleased that the committee bill includes $5 million for the new Transitional Living Program for homeless youth authorized by the Juvenile Justice and Delinqency Prevention Amendments of 1988. This funding will support local projects providing individual transitional living plans for youth age 16 to 21 as well as appropriate shelter and services for a period of up to 18 months.

The committee bill also includes $1.4 billion for the low-income home energy assistance program, an increase of $16.8 million over the fiscal year 1989 funding level.

This program provides crucial assistance to low-income families to meet the costs of home energy. For the most part, recipients are the working poor, the handicapped, and the low-income elderly.

Finally, I want to thank Chairman NATCHER and his subcommittee for providing a significant increase for job training of dislocated workers under the new Economic Dislocation and Worker Adjustment Assistance Act [EDWAA].

EDWAA, sponsored by Representative BILL FORD and enacted as part of last year's omnibus trade, greatly improved the services provided to dislocated workers under title III of the Job Training Partnership Act.

This bill increases funding for EDWAA by $166 million over last year's level of $284 million, for a fiscal year 1990 total of $450 million.

This increase will allow thousands of additional displaced workers to be served by this program.

Again, I commend Chairman NATCHER for his leadership and support of programs assisting the most vulnerable in our society. H.R. 2990 reflects this concern and I strongly urge its adoption.

Mr. NATCHER. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, I would like to engage the distinguished chairman of the subcommittee in a colloquy.

Mr. Chairman, the committee report specifies that, in response to the President's request, the legislation provides $10 million for new treatment grants for drug abuse for crisis areas. I would ask if this appropriation is made under the authority of section 509(g) of the Public Health Service Act as a demonstration project with a full evaluation component, as required by the statute.

Mr. NATCHER. Mr. Chairman, if the gentleman will yield, the gentleman is correct.

Mr. WAXMAN. Mr. Chairman, if I may continue on another topic. I was concerned by the absence of a table in the committee report to detail how much money for research on AIDS will be spent by the Public Health Service.

I know that the report outlines a general assumption of $1.6 billion, as requested by the President, for AIDS spending.

I would ask you for assurance that the absence of the table and of specific line items does not represent any diminishing of response to the AIDS epidemic.

Mr. NATCHER. The committee remains strongly committed to funding for AIDS research and prevention. As Members are aware, Public Health Service funding for AIDS has risen rapidly—from $61 million in 1984 to $1,289 million in 1989 and to approximately $1,600 million in 1990. The 24-percent increase in this bill is in direct response to the continuing severity of the AIDS crisis. The change in procedures at the National Institutes of Health should not be interpreted as a change in our commitment to fund AIDS research. It merely reflects the committee's view that AIDS funding should go through the same quality control and peer review as non-AIDS funds.

Mr. WAXMAN. Mr. Chairman, I appreciate that assurance about the amount of money that we expect to be spent on the continuing AIDS research program.

I would like that in your work with the other body the chairman reconsider this question of specifying AIDS funding and take every opportunity to make this matter clear so that no one

can suggest that the Congress has been less than fully responsive to the President's budget request.

I thank the gentleman for his tremendous leadership in health care. The AIDS epidemic is creating history in this country, and the history books will reflect clearly the great credit he deserves in leading this body to a response in this national crisis.

Mr. AUCOIN. Mr. Chairman, I rise in the strongest possible support of this bill.

Once again, the subcommittee chairman, the gentleman from Kentucky [Mr. NATCHER], and the gentleman from Massachusetts [Mr. CONTE] have reported an excellent, well crafted appropriations bill that serves the people of this country from coast to coast.

In particular, I would like to commend the chairman of the subcommittee for engaging in a colloquy a few moments ago with the gentleman from California [Mr. WAXMAN] regarding funding for AIDS research. Despite tremendous advances in research, in prevention, and in public education, AIDS still hangs on as the single greatest public health challenge facing the United States of America. Tragically, the epidemic shows few signs of slowing down.

America marked a grim milestone last week when, as the gentlewoman from California [Ms. PELOSI] mentioned, the 100,000th case of HIV infection was reported. More people will die from AIDS in 1992 than have died from 1981 until this moment. What took 8 years to happen so far will be sadly repeated within 15 months when the next 100,000 deaths are reported in this country.

AIDS education and research are the only methods at our disposal to stem the epidemic's tide. This takes dollars, big dollars, but every dollar spent today on AIDS research will save millions of dollars in the future, as the gentlewoman from Maryland [Mrs. MORELLA] indicated, in lost productivity, medical costs, and hundreds of thousands of lives.

No other health issue facing this Nation has the potential for such rapid growth with such devasting effects on the people of this Nation as AIDS. The uniqueness of this crisis requires us to continue providing adequate and secure financial support for AIDS research.

Mr. Chairman, I personally want to thank the chairman of this subcommittee of the Appropriations Committee, the gentleman from Kentucky [Mr. NATCHER], and the ranking Republican, the gentleman from Massachusetts [Mr. CONTE], for recognizing these facts and for acting boldly in providing consistent and strong leadership on this issue. To the gentleman from Kentucky [Mr. NATCHER] I want to indicate to him how pleased I am, as are other Members, at this willingness to investigate the continued need for earmarking AIDS research funds.

□ 1220

Mr. NATCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. LELAND].

Mr. LELAND. Mr. Chairman, I thank the gentleman for yielding time to me, and I wish to say I appreciate the efforts of the chairman for the work he has done. I point particularly to a program of $5 million appropriation to fund the Transitional Living Program for Homeless Youth.

Mr. Chairman, I rise in support of H.R. 2990, legislation providing fiscal year 1990 appropriations for the Departments of Labor, Health and Human Services, and Education. I applaud the efforts of my distinguished colleague, the gentleman from Kentucky, Chairman NATCHER, for his diligent leadership in crafting this legislation.

We are all well aware of the challenges confronted in striking a balance that contains Federal spending and, simultaneously, maintains vital income security for those who are unable to provide for themselves. I believe the bill on which we will soon be casting our votes meets this goal.

I speak today in particular endorsement of a $5 million appropriation to fund the Transitional Living Program for Homeless Youth—legislation I introduced 2 years ago. This program was authorized last year as part of the Juvenile Justice and Delinquency Prevention Act. It will award grants and technical assistance to public and nonprofit agencies providing basic shelter, counseling, mental and physical health care, education and job training services to homeless youths between the ages of 16 and 21.

Although there is already in place a network of programs providing crisis intervention for runaway and homeless youths, these services are only available for a 2-week period. Youths would be eligible to participate in the Transitional Living Program for up to 18 months.

The crisis intervention services are geared toward reuniting homeless children with their families. The primary objective of the Transitional Living Program will be to provide these youngsters with interpersonal skills, building opportunities that will foster their ability to assume responsible positions in our society.

In an ideal world, adolescents live with their families until they reach adulthood and are equipped to venture out on their own. In the real world, life is not always this uncomplicated. Many young people do not have access to a safe environment with relatives, and lack an alternative to life on the streets. They are clearly presented with a problem that cannot be rectified within a few weeks.

The Department of Justice Office of Juvenile Justice and Delinquency Prevention estimates the number of homeless youths to range between 1.4 and 2.4 million.

This is a conservative estimate because it is restricted to those youths who have been reported missing or who have had encounters with the legal system.

In 1988, the U.S. Conference of Mayors conducted a poll of major cities to assess the growth in the homeless population. In the 27 cities surveyed, independent youth comprised close to 5 percent of the homeless population. In Denver, Los Angeles, New Orleans, Providence, San Antonio, San Francisco and San Juan, unaccompanied youths accounted for at least 10 percent of the homeless population.

How extensive will the problem be next year? What fate will befall these children within a year's time?

The funding proposed for the program in H.R. 2990 will not enable us to eradicate the homeless youth problem. It will, however, provide these individuals a foundation on which they can build constructive lives.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. I thank the gentleman for yielding.

Mr. Chairman, as Chair of the House Budget Committee task force on health and human services, I want to thank the chairman of the subcommittee for his continued support for AIDS prevention research and treatment. But I must point out to the gentleman that the Budget Committee did recommend $1.9 billion appropriation because we understand, as the gentleman does, the scourge of this epidemic.

Mr. Chairman, the cities of this country that are seeing this epidemic firsthand are beginning to see their own health infrastructure crumble under this patient load. We have more than 1.5 million people infected with this virus and the ultimate effect of this is going to be a tremendous strain on the health resources of the Nation.

So, Mr. Chairman, I want to thank the gentleman from Kentucky, as one of the people who has been here from the very beginning when he first gave us the funds we needed.

The problem is not going away. We hope the gentleman will be as generous as he can into the future so that we can stop this country from being overrun by this fierce epidemic.

Mr. CONTE. Mr. Chairman, I yield 15 seconds to the gentleman from Arizona [Mr. KOLBE], a member of the committee.

Mr. KOLBE. I thank the gentleman for yielding.

Mr. Chairman, I rise to engage the distinguished gentleman from Kentucky in a colloquy for the purpose of clarifying the intent of the committee with regard to the targeted jobs tax credit.

Considering the past support of the committee for the TJTC, I wish to inquire if the committee intends to fund this program upon reauthorization?

Mr. NATCHER. Mr. Chairman, the gentleman is correct.

Mr. KOLBE. I thank the chairman.

Mr. CONTE. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman and Members, we should recognize that if all appropriation bills that come through the House have growth in them over what was spent last year, we will never balance the budget of the United States.

This proposed appropriation bill contains $155.2 billion for the next fiscal year, $4.3 billion over what the President asked for, $13.4 billion over what was spent last year, a little less than 9-percent increase.

It does not express the sense of any recognition of the fact that this year we are adding $261 billion to the debt of the U.S. Government.

This type of appropriation is leading the Nation to bankruptcy.

I do not mean to disparage or take from the credibility of our chairman, Mr. NATCHER, our ranking minority member, Mr. CONTE, for whom I have the greatest deal of respect. But I will offer an amendment at the end of the bill today that deals with an issue of growing importance in America; namely, whether or not our society will accept and equate homosexuality on a par with the heterosexual life style.

A school district in southern California, the Los Angeles school district, is receiving $465 million in Federal money this year. They have adopted a program called Project 10.

Its specific purpose for being is to instruct children in that school district in the activities of homosexuality. A homosexual newspaper says that Project 10 has singlehandedly become a national resource center for gay youth and that the creator of Project 10 is developing educational materials for schools nationwide and brainstorming political strategies for dealing with the incredible opposition Project 10 continues to generate.

One fundraising letter of Project 10 describes how revenues are being used in expanding to other schools. Project 10 has developed a library of over 500 homosexual books. At the time of the letter they offered a $100 prize for the winner of an essay contest, the subject being "Homophobia and Racism—A Common Thread."

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to my friend from Massachusetts.

Mr. FRANK. I thank the gentleman.

Mr. Chairman, I just wonder, having read the material the gentleman from California put in the CONGRESSIONAL RECORD of June 29, whether the material he put in the RECORD would be illegal under his own amendment.

Mr. DANNEMEYER. I would like to ask the gentleman, if he would give me more time, I would respond.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank Chairman NATCHER AND Chairman WAXMAN for their clarification of the AIDS appropriation issue.

I also commend the gentleman from Kentucky [Mr. NATCHER], and the gentleman from Massachusetts [Mr. CONTE], and the gentleman from Mississippi [Mr. WHITTEN], and all the members of the subcommittee and the full committee for their continued commitment to priority funding for AIDS-related activities at the Public Health Service.

The chairman of the committee and the chairman of the subcommittee must be commended for their ongoing leadership in responding to the AIDS epidemic.

Chairman NATCHER, of course, as Mr. WAXMAN mentioned, when the book on this epidemic is written, will be given a large share of credit for conquering this disease.

One point I would like to make is this: We have sadly just crossed the 100,000 mark of people afflicted with AIDS. As Congresswoman BOXER mentioned, at least 1 million to 1½ million people may be infected with HIV.

We have had extensive hearings, and over and over again we have had experts testify to the need for early intervention.

Yesterday Assistant Secretary Mason and Dr. Fauci testified to the need for early intervention.

Last year Congress authorized "such sums as may be necessary" for a program for early intervention research. A start up program could begin with $25 million. To pay for early intervention for the hundreds of thousands of people who may need such treatment could cost as much as $5 billion. Funding the demonstration program authorized by Congress last year would allow us to better plan how to respond responsibly in the future.

Mr. Chairman, I request that the committee target its limited resources in a way to save money and intervene early for care for these people who are infected with HIV.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Chairman, I rise to discuss the relation of H.R. 2990, to the 1990 budget resolution.

The Budget Committee has provided a "Dear Colleague" to all Members on this appropriations bill. There are no Budget Act waivers required for this bill because it provides budget authority and outlays below the discretionary targets established under the section 302 subdivision assigned to this subcommittee of the Committee on Appropriations.

In total, this bill provides $43,057 million in discretionary budget authority and $48,850 million in discretionary outlays. These amounts are, respectively, $2,030 million below the discretionary budget authority and $387 million below the discretionary outlays included in the section 302 subdivision assigned to this subcommittee. According to the committee report, the Appropriations Committee has reserved these unallocated funds for existing programs requiring reauthorization and for new initiatives including child care and Head Start.

The bill, therefore, is consistent with both the budget resolution and the bipartisan agreement worked out with the administration. For these reasons, there are no budget problems with H.R. 2990.

However, I am concerned about the ability of the committee to provide sufficient funds for a child care initiative within the amounts not yet allocated. If one assumes the remaining 302 allocation for the subcommittee is used to fund existing programs requiring reauthorization at the levels of the President's 1990 budget request, there likely would be no discretionary outlays available for a child care initiative. The budget resolution did assume funding for a child care initiative within its 302 allocation to the Appropriations Committee of $1.4 billion in budget authority and $450 million in outlays. It is my hope that, as the appropriations process continues, savings in this or other appropriations bills can be found to provide sufficient funding for a child care initiative.

Mr. CONTE. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I commend my colleagues on the Appropriations Committee for reporting a bill which abides by both the bipartisan budget agreement and the fiscal year 1990 budget resolution. I know it is no easy task to allocate scarce resources among competing programs.

I would point out, however, that H.R. 2990 leaves virtually no outlays to pay for a discretionary child care bill. After we adjust the appropriations levels set by this bill for appropriations for unauthorized programs, we have around $1.3 billion in budget authority but very little outlays held in reserve under the Labor, Health and Human Services Subcommittee's 302(b) allocation. I understand that Education and Labor reported a child care bill which would cost about $1.8 billion in budget authority and $500 million in outlays.

I think it is important to understand how this shortfall came about. After all, Congress assumed substantial funding for child care in the fiscal year 1990 budget resolution. Although the conference agreement did not specify an amount, the House version

assumed $1.8 billion in budget authority and $550 million in outlays.

It would appear that the balance of outlays reserved for child care has been used up. Outlays from the fiscal year 1989 supplemental use a little over $700 million of the subcommittee's fiscal year 1990 302(b) allocation. In effect, the subcommittee spent the child care money on the supplemental appropriations bill.

Overall, the Appropriations Committee had several opportunities to provide additional funding for child care. First, the full committee could have provided more money in its 302(b) allocation to the Labor, Health and Human Services Subcommittee. Second, the subcommittee could have resisted efforts to spend money on the supplemental. Third, the subcommittee could have shifted funds from less important programs to child care.

Let no one be mistaken, after paying for presently unauthorized programs there is not sufficient left over money to pay for discretionary child care initiatives. Neither the full committee nor the subcommittee have sufficient reserves to pay for child care. Quite simply, there will be no coming back to the appropriations well without breaching the budget.

□ 1230

Mr. CONTE. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I thank the ranking member for yielding time to me. I know the time is very tight.

I wanted to add my voice to congratulate and thank the gentleman from Kentucky [Mr. NATCHER], the chairman of the committee, for his leadership, and the ranking member, Mr. CONTE.

I wanted to add my voice to what has been stated in terms of the fact that we cannot become complacent about AIDS research. Much is conducted right at the National Institutes of Health that I represent, and it is very important that we continue with the research because every dollar that we spend now will save millions in the future in terms of the productivity, medical costs and lives. So I thank the gentleman for his leadership, and the ranking member for the time and his leadership.

Mr. CONTE. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Chairman, I rise in support of H.R. 2990.

Mr. Chairman, I rise in support of this measure and to compliment the chairman, BILL NATCHER, as well as SILVIO CONTE and the other members of the subcommittee for reporting this bill. The programs funded in this bill touch the lives of more Americans than any other piece of legislation we consider. Let me recite for you just a few of the items funded herein: employment and training services, Mine Safety and Health Administration, Centers for Disease Control, National Institutes of Health, Social Security, Medicare, black lung benefits, student aid, aid for the homeless, and AIDS research.

Let's look at black lung benefits for a moment. H.R. 2990 provides over $641 million from the Black Lung Disability Trust Fund in fiscal 1990. This is the full amount of the President's request, and will provide benefits to an estimated 128,000 people. As a member from a coal mining region of the country, I can assure you of the necessity of this program.

The chairman and others have already covered a great deal of information about this bill, and it's a good bill. But, I do have some reservations and concerns about the fact that a large portion of this bill is for entitlement programs—programs that are essentially on automatic pilot and which are impacting on the appropriations for discretionary programs. Over 72 percent of this bill—amounting to over $112 billion—is on automatic pilot. The Appropriations Committee is being put into an ever more difficult, if not impossible, position as the growth in entitlements makes the budget squeeze even tighter.

We've got to get entitlement spending under control. I hope that we can work together in a bipartisan fashion to bring this about. Again, let me congratulate BILL NATCHER and SIL CONTE for the fine work they've done, and I urge an "aye" vote.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. FORD], one of the good members of the Committee on Education and Labor.

Mr. FORD of Michigan. Mr. Chairman, I take this opportunity to enter into colloquy with the chairman.

Mr. Chairman, Public Law 100-328 calls for a second White House Conference on Library and Information Services to be held no later than September 30, 1991. I introduced this legislation which enjoyed extensive bipartisan support of both Houses of Congress.

In June the Congress provided initial funding of $1.75 million for the White House Conference through the supplemental appropriations bill. This amount gave timely assurance to the library community that States could begin to hold local and regional preconference meetings with the reasonable expectation that the national conference would follow.

The fiscal year 1990 appropriations bill we are now considering provides no additional funding for the White House Conference. Yet, the conference is authorized to be funded at a total of $6 million for the duration of the conference.

Mr. Chairman, should the Senate provide funds for the White House Conference on Library and Information Services in their fiscal year 1990 appropriations bill, I would urge you to favorably consider funding this activity.

I yield to the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Chairman, I would like to say to my friend, the gentleman from Michigan, I would like to assure him that I will give every consideration to the request, and all of the other members of the subcommittee. It is a good request.

Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I thank the chairman of the subcommittee, and I want to congratulate him on his work on the people's bill.

As all our colleagues know, there is a tremendous crisis in this country with respect to getting nurses, and one of the things that pleases me about this bill, the very first time we will be giving scholarships to bright undergraduates to go into nursing. As the Members know we talk an awful lot about national service in this country. I think as a result of the chairman's legislation giving scholarships to bright young people to go into nursing, in effect, we almost have a model for the discussion that is going to go forward in this body in the days ahead with respect to national service.

I thank the chairman for his help.

The CHAIRMAN. The gentleman from Kentucky [Mr. NATCHER] has 4 minutes remaining.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I rise in support of H.R. 2990, the Labor, HHS, Education appropriations for fiscal year 1990. This is a very important piece of legislation which funds health, education, and employment programs. The bill contains $1.6 billion in AIDS activities through the Public Health Service in 1990.

First, I would like to express my interest in the colloquy between Chairman NATCHER and Chairman WAXMAN concerning AIDS funding for biomedical research contained in this bill. This vitally important research is conducted through the National Institutes of Health [NIH] and the Alcohol, Drug Abuse and Mental Health Administration [ADAMHA]. If this country is to get a handle on the AIDS epidemic, it is absolutely critical that we adequately fund research efforts to combat this disease.

I would hope that the absence of the earmark for AIDS research which had been contained in previous legislation, is not indicative that we intend to cut our funding for AIDS research, but rather the opposite. Chairman NATCHER has indicated that it is not. We do not intend to cut any funding, and I applaud his commitment and effort in this regard. My sentiment is that, at the least, the full amount of money requested by the administration for

AIDS research should be expended next year by the National Institutes of Health and the Alcohol, Drug Abuse and Mental Health Administration. According to my calculations this means that almost $1 billion in biomedical research should be conducted next year.

It has taken many years for the Government to begin to respond seriously to the AIDS epidemic. Now is not the time to sit back and say that all research, education and prevention is on track and we should let events take their course. This is not a time for complacency, Mr. Speaker. This is not the time to say that AIDS is a disease just like all the rest.

Last week, we surpassed the 100,000th case of AIDS diagnosed in the United States. And just a few weeks ago the General Accounting Office released a report which says that the Government's estimates of those diagnosed with AIDS is dramatically low, and that as many as 300,000 to 485,000 people could become ill by 1991. We need to continue to make AIDS one of our national priorities. I don't believe that the Congress, nor the public, nor the health care providers in this country, have even begun to assess the implications of such a dramatic increase in AIDS cases.

Mr. Chairman, let me end this statement on a personal note. We stand in the well of this House and make speeches about the numbers of AIDS cases—numbers which are mindboggling in their proportions. And that is important. But we should not lose sight of the fact that we are talking about human beings who are ill and caregivers trying to provide desperately needed assistance to people with AIDS. Our communities are stretched very thin trying to provide services, which are not now adequately funded, to those people struggling with this disease. Mr. Chairman, I know individuals who are ill with AIDS and I know individuals in my community in New York who have been working hard to help those who are sick with this extremely debilitating disease. For the sake of these individual human beings, I urge the adoption of this legislation which calls for $1.6 billion for AIDS activities for the Public Health Service next year.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, I rise today to add my support to the comments made by my friend, in reference to the need to specifically earmark funds for AIDS research.

AIDS has reached epidemic proportions in our country. My district has been extremely hard hit by the devastating effects of this disease. Unfortunately, one of the hardest hit groups of this is our children. The number of children being born in certain hospitals, with AIDS, has risen dramatically in the past few years.

We cannot look at such statistics and say that AIDS research can be done on a business-as-usual basis.

The number of AIDS cases has reached 100,000. As we have recently heard, it is estimated by January 1990, there will be 30,000 more reported cases.

Mr. Chairman, it is vitally important to the health and welfare of our Nation that we provide the necessary funding for specific AIDS research. I thank the gentleman from Kentucky, the chairman, Mr. NATCHER, for his commitment to this goal.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the able and distinguished gentleman from Massachusetts [Mr. EARLY].

Mr. EARLY. Mr. Chairman, I thank the gentleman for yielding me this time.

I would like to take this time to rise in support of this bill and to acknowledge the strong work of the subcommittee. I also want to reiterate what the chairman, the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Massachusetts [Mr. CONTE] have said with regard to the National Health Institutes. When both the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Massachusetts [Mr. CONTE] came on the committee, NIH was funded at $77 million, and in this bill we provide $7,600,000,000. But with that money, we are not keeping up with current services in the Institutes, other areas, and in AIDS, as Mr. CONTE mentioned, in AIDS funding, we have gone from $1.2 billion to $1.6 billion, a 33-percent increase. Whereas all the other Institutes in this bill will have the lowest funding they have ever had for pay lines, they will be at the lowest pay lines ever funded at NIH. The award rate will be the lowest award rate of approved science that we have ever had in this specific bill, less than 30 percent in almost every single Institute. We reject, don't fund, 70 percent of the approved science.

In the Health Institutes, because of the actions of the whole subcommittee in its universal opinion, the gentleman from California [Mr. ROYBAL] added some moneys for Alzheimer's, not nearly as much as we need in an area where we spend money to save money. The gentleman from Ohio [Mr. STOKES] added money for minority programs which are progressive and needed, and had universal support.

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The gentleman from Wisconsin [Mr. OBEY] added money for a supercomputer at the NCI which is so needed to address the problems we are not going to solve because of the lack of funding.

I would like to say that the chairman of the subcommittee, the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Massachusetts [Mr. CONTE] have continually suggested that if there was $500 million available, they would increase the funding for NIH.

So, Mr. Chairman, I rise in support of the bill, but I hope that all the Members of the Congress recognize that many of the programs in the National Institutes of Health are underfunded.

Mr. CHANDLER. Mr. Chairman, today we have the opportunity to support funding for a proposal known as the Midcareer Teacher Training Programs.

The Labor-HHS–Education appropriations would fund and initiate a new program of midcareer teacher training grants as authorized by section 502(a) of the Higher Education Act Amendments of 1986.

As my colleagues will recognize, we have a serious shortage of qualified teachers in this country. The shortage is particularly acute in the areas of math, sciences, and foreign language instruction. Failing to correct the situation now could have serious, long-term effects on the economic health of our Nation. Our fundamental economic competitiveness, depends in part on how well we educate our children in these subjects.

Businesses and corporations often take the best and brightest of our college graduates in math and the sciences. Even those in the foreign language fields often go on to other careers. We are left with a shortage of qualified teachers.

We need to look to nontraditional sources for the instructors we put in the classrooms of our elementary and secondary schools. We need to provide more nontraditional avenues to persons seeking to enter the teaching profession.

I believe there are people already secure in their careers who would give just about anything to teach young people. Their skills and education have already been acquired, along with a wealth of life experience. They just need the opportunity, and a limited amount of teacher training.

A few years ago, as a member of the Education and Labor Committee, I introduced the Mid-Career Teacher Training Act. The goal was simple: to enable mid- and late-career people, who already possess backgrounds in math, science, and foreign languages, to become classroom teachers.

Midcareer education provides teacher training to motivated individuals with an educational background and a desire to teach. I have heard of a retired Navy admiral in Boston who began a new career teaching math to kids in an inner city high school. The kids learn, not just from the instructor's knowledge, but from the unique life experiences he brings to the classroom.

It was also in Boston that the concept got its start at the Harvard Graduate School of Education. Harvard has been astounded by the number of applicants and the success of its program. There are already others in several parts of the country.

Many of us, perhaps even Members of this body, will someday decide that it is time to try a new career. Teaching may be a long-held dream for many. Not everyone will have the ability to change careers, but many will. Some even will be eligible for early retirement or voluntary severance plans. Many will have the financial worries—the mortgage payments—the college costs for children—well behind them. Many will need new challenges as much as America needs more specialized teachers.

The Federal role should be to make the teaching option better known and more widely available. To do that, the concept needs to be funded—at least nominally—at the Federal level. The measure before us today includes $2 million for launching this program.

A 2-year program of pilot grants would expand the availability of university midcareer teacher programs. One institution would be selected from each of the 10 Federal regions based upon competitive application. Individuals would need a degree or job experience in mathematics, science, or foreign languages. Institutions chosen would be directed to design a program which includes a screening mechanism to choose individuals who would be likely to succeed as classroom teachers. The active participation of qualified classroom teachers would be required, as well as follow up assistance. Upon completion of study, individuals would become certified teachers. The measure makes no attempt to tamper with State teacher certification laws.

Mr. Chairman, I would like to express my appreciation to Chairman JAMIE WHITTEN, the ranking minority member, SILVIO CONTE, Subcommittee Chairman WILLIAM NATCHER, and other Members for their support of this measure. I urge support for the Labor, HHS, and Education appropriations.

Mr. ROYBAL. Mr. Chairman, I rise in support of the fiscal year 1990 Labor, Health and Human Services, and Education appropriation bill. I would like to commend Mr. NATCHER, chairman of the subcommittee, Mr. CONTE, the ranking member, and my other distinguished colleagues for reporting a bill that provides services for a large number of the citizens of the United States. I feel that the committee has targeted several areas of need, including AIDS research and testing, bilingual education, and programs for the elderly, and allocated funds appropriate to these needs.

In the area of AIDS an additional $5 million was allocated to the Center for Disease Control to increase the number of community based organizations which will receive funds directly for education and prevention activities in minority communities. This method of distributing AIDS education funds will target directly black and Hispanic communities which are experiencing the largest incidence of AIDS cases in comparison to the rest of the population.

This bill also includes funds to initiate a program of universal screening of pregnant women and treatment of babies of infected mothers with the hepatitis B vaccine and immune globulin—300 million persons are chronically infected with hepatitis B virus in the world, resulting in 300,000 deaths a year; 300 of these deaths occur annually in the United States. Hepatitis B infection acquired during childhood has a large likelihood of progressing to chronic liver disease and liver cancer.

Also in the area of Health and Human Services the National Institute on Drug Abuse was given full funding for its programs with the understanding that the moneys would be dispersed between research and research training programs, drug development activities, and the hiring of 362 additional full time positions.

The area of bilingual education is one of growing concern. With the great influx of immigrants flooding our school systems there is an ever increasing need for bilingual education. Under the 1990 funding bilingual education programs will receive an increase of $10 million over the 1989 appropriation. These additional funds will allow the Department to increase its efforts in the areas of developmental bilingual education and family English literacy programs.

I am also pleased that this appropriations bill provides adequate funding for a variety of aging programs such as the Community Service Employment Program, meals and transportation services, as well as research and demonstrations and training. Although I would have preferred to more funds in these programs I feel that our commitment to the elderly of this country still remains strong and unshaken.

Though I pushed and will continue to push much large sums of money for Alzheimer's disease and related disorders research and other special initiatives, I am pleased that the committee, under severe budget constraints, agreed to increase Alzheimer's related funding significantly. At my request, the committee report states that "the majority of funds ($11,038,000) added by the committee be used to expand the National Alzheimer's Education Program and its program of caregiver education, to initiate additional State Alzheimer's Education Program demonstration projects, to increase research on special older populations such as the oldest old and rural and minority elderly, and to support additional Alzheimer's disease projects."

With that commitment and the over $120 million already being spent by the National Institutes on Aging, we can take important steps to address this most onerous of burdens facing millions of Americans and their families. However, we still have a long, long way to go. It is critical that we act now to increase research, education, and service efforts on behalf of Alzheimer's victims and their families. In 1989, Federal funding for Alzheimer's research is about $120 million while societal costs may exceed $79 billion. At the same time, we will spend 4 to 11 times that amount—$600 million to $1.4 billion—on each of the other major diseases—cancer, heart disease, AIDS—whose annual societal costs are similar to Alzheimer's. We are spending only about $1 in research for every $500 in societal costs.

I remain committed as outlined in my Comprehensive Alzheimer's Assistance, Research Act [CARE], H.R. 1490, to a Federal commitment of $500 million in research spending by fiscal year 1992. This bill now enjoys strong bipartisan sponsorship by Representatives WAXMAN and STARK and Senators PRESSLER and HATFIELD.

Our Nation's border areas have been places of great neglect when it comes to health care for lower income people. Many people living in these areas do not have access to the health professionals they so desperately need. In this regard, I am happy to report that the committee has provided $4 million for the new border health education centers program. This program was authorized by Public Law 100-607 and "will fund contracts with schools of medicine and osteopathy to create health education and training centers that will improve the supply and quality of personnel providing health services along the border between the United States and Mexico."

On another health manpower issue, the committee made a number of important commitments with respect to the National Health Service Corps. At the request of myself and other committee members and contrary to the request by the administration, the committee provided $8 million for the National Health Service Corps recruitment activities. Of that amount $4 million will go for scholarships and $4 million will go for loan repayment.

Not only has the committee kept the National Health Service Corps program alive, but it has made major commitments to support nurse training and to help get more nurses into underserved rural and other areas. Again with my support, the committee has committed $3 million of this $8 million to go for nurse scholarships and loan repayments. Further the Corps has been directed by the committee to "promote the availability of the programs and to consider payment mechanisms that combine loan repayment and scholarships."

Mental health research and training is another major area in which the committee supported my requests. The committee, sharing my concern over the proportion of research funds going for research on the elderly, "encouraged the NIMH to ensure that the proportion of funding designed for elderly research is commensurate with both the proportion of elderly in the population and the level of need." Further, the committee agreed to add $4.844 million for clinical training beyond the amount requested by the administration. I am happy to see that these new funds are to be targeted toward increasing the number of mental health professionals who are currently in short supply, including "specialists in geriatric and childhood mental illnesses," and toward increasing the number of minority professionals working in the mental health care field.

With respect to the Health Care Financing Administration [HCFA], the committee supported my request for several research, demonstration and evaluation projects including the development of a statewide program extending Medicare-type quality assurance across all residents and all payers, a study of the availability of mental health services for Medicare and Medicaid beneficiaries, including nursing home, homebound, rural and central city residents; and a study of alternative models for providing ambulatory, emergency medical and hospital services in rural areas.

Finally, I was extremely pleased that the committee supported by recommendation that

the Bipartisan Commission on Comprehensive Health Care be funded in 1990 at a level—$467,000—that will allow them to complete their difficult and critical work. As one who has had a longstanding interest in trying to solve our Nation's problems with 31 to 37 million uninsured Americans and over 200 million underinsured Americans with respect to long-term care, I believe the Commission could be the key to our Nation moving forward on resolving both issues. I hope they will proceed with all due speed and that Congress and that the American people will be able to resolve these issues before the end of the 101st Congress.

I urge all my colleagues to vote for this bill.

Mr. MILLER of California. Mr. Chairman, I rise in support of H.R. 2990, the fiscal year 1990 Labor-Health and Human Services-Education appropriations bill. I especially want to thank Chairman NATCHER of the Appropriations Subcommittee on Labor-HHS-Education and his members for their leadership in expanding important and cost-effective programs for children and their families.

Such leadership is crucial to safeguard the future and protect the Nation's children. This legislation, by funding effective programs for children and families, takes action against illiteracy, juvenile crime, poverty, infant mortality, declining family living standards, family instability, and the spread of AIDS. And in every instance, the programs supported with these resources provide sound investments with high returns. Every dollar invested in programs such as prenatal care, immunization, or Head Start save at least $3 and as much as $10 in averted infant deaths, disability, disease or school failure.

I am pleased that for the following education programs, the bill meets the goals of the Leadership Task Force on the Family, so that we don't abandon children once they enter the schoolhouse door: Chapter 1, Compensatory Education for the Disadvantaged was given the highest priority by the committee with an increase of $1 billion; and, the State Grant Program for the Education of the Handicapped, an $89 million increase. I also applaud the committee's intention to fund, in an expedited manner, the dropout prevention demonstration programs pending their reauthorization.

For many of these children, however, school age is just too late. It is essential to reach vulnerable children in their earliest years.

I commend the committee's efforts to meet the Leadership Task Force on the Family's goals of serving all eligible children over the next several years, for the following programs: Head Start, Preschool Education for the Handicapped, and the Community and Migrant Health Centers' Infant Mortality Initiative.

I would urge my colleagues, however, to consider increased funding for these successful, cost-effective prevention programs, especially for the Maternal and Child Health Block Grant, once the reauthorization is enacted, and for the Childhood Immunization Program, to assure that full and adequate immunization for most at-risk preschoolers. Acting expeditiously is critical for the youngest, most vulnerable children at a time when their health and well-being are in greatest jeopardy:

In 1987, the incidence of low birthweight, the greatest predictor of infant death and disability, increased to 6.9 percent. This is the highest level observed since 1979. The Select Committee on Children, Youth, and Families has documented that low birthweight can be prevented by early, comprehensive prenatal care. Yet, in 1987, the proportion of mothers who began prenatal care in the critical first trimester of pregnancy—almost 1 out of 4—remained unchanged for the eighth year in a row.

A significant proportion of preschood children, as high as 55 percent in some communities, are not adequately immunized against the major childhood illnesses. In 1988, for instance, nearly half of all California 2-year-olds were not fully immunized for diphtheria, tetanus and pertussis. Physicians from the Centers for Disease Control and children's hospitals report that some childhood illnesses, such as measles and whooping cough, which had leveled off or declined are now resurgent.

There are 11 million children, including 4 million below the poverty line, who have no health insurance, and the number has been growing since 1980; 7 million children do not even receive routine medical care. In California alone, as many as 1.6 million children were uninsured in 1986, including 29 percent of all black children and more than a third of all Latino children.

Nationwide, more than 80 percent of low-income preschoolers are denied Head Start services and as many as 500,000 preschoolers with disabilities may not be receiving the quality, early intervention services they so critically need.

Mr. Chairman, even the significant increase proposed by the administration for Head Start would enable fewer than 70,000 additional children ages 3–5 to be served. At this rate, we will be serving less than half of all eligible children by the year 2000.

CHILD CARE

Among the services essential for family economic security and child safety is quality child care. We have made significant progress in this Congress toward enactment of a national child care policy that will fulfill this goal, and I am especially pleased that the committee has reserved funds pending its enactment. As the Select Committee on Children, Youth, and Families has documented, quality child care is essential to families' ability to enter and stay in the workforce, as well as to protect the safety of children and ensure their health development.

I am also pleased that the committee has funded the JOBS Program under the Family Support Act at $163 million to pay for work activities and child care assistance for JOBS participants, and has set aside $13 million for child care standards and licensure grants authorized by the act. The Select Committee on Children, Youth, and Families has documented the importance of ensuring that children, especially those who are most at-risk, are well-cared for and safe in out-of-home care.

FEDERAL SUPPORT FOR DEMONSTRATION PROGRAMS

Mr. Chairman, another important role of the Federal Government is to inspire innovative services through the use of demonstration programs. The bill under consideration today has recognized several shining lights among demonstration efforts.

The first is Temporary Child Care for Handicapped Children and Crisis Nurseries, two important child care demonstration programs: temporary child care for handicapped and chronically ill children, and crisis nurseries to provide short-term child care for young children who are potential victims of child abuse and neglect. These programs are among the most successful and cost-effective child abuse prevention strategies in operation.

In an informal survey conducted by the staff of the select committee at my request, States which received demonstration grants are approaching the challenge with excitement and creativity. The overwhelming sentiment among States, however, was that the resources available through these two programs will fill only a fraction of the enormous need, and that more time is needed to reach the growing number of critically underserved children and families.

This bill includes nearly $5 million for fiscal year 1990. Pending the program's reauthorization, I urge funding at the fully authorized level. The House has already acted in a timely fashion, and I hope my colleagues in the Senate will take prompt action as well.

The second shining light is Comprehensive Child Development Centers, early intervention pilot projects designed to encourage early, continous, and comprehensive support services to low-income infants and young children and their families. The "cradle-to-kindergarten" type services which must be provided include prenatal care, nutritional services, parent education, infant and child health services, child care, early childhood development, and early intervention for infants with, or at-risk of, developmental delay.

As the Select Committee on Children, Youth, and Families has repeatedly documented, these are the very services which, provided in a comprehensive and coordinated fashion, can prevent or reduce the incidence of infant death, disability, ill health, and school failure and stem the tide of adolescent drug abuse and juvenile crime. I am pleased to support the increase to the program's full authorization level of $25 million in fiscal year 1990.

The third is the Transitional Living Program for Runaway and Homeless Youth, designed to assist homeless youth, ages 16 to 21, prepare for independent living. The committee has taken important action by funding this program to offer residential care, inteprersonal skill building, educational and job conuseling and services, and access to mental health care. An estimated 1.2 million youth, 25,000 in my State of Califorina alone, who run away each year mostly from abusive situations, deserve our help before the cycle of abuse and homelessness is perpetuated. I am pleased to see funding of this new program at the authorized level of $5 million included in the bill.

PREVENTING ABUSE AND KEEPING FAMILIES TOGETHER

Between 1980 and 1986 alone, according to the Department of Health and Human Service's own study, the actual incidence of child abuse and neglect rose 64 percent—and using their revised definition, child abuse rose 150 percent during this time period. The National Committee for the Prevention of Child

Abuse recently reported that in 1988, more than 2 million children were reported as abused or neglected—a 3-percent rise just since 1987.

The Select Committee has also documented that the overburdened social services system is contributing to the escalating child abuse tragedy. Now more than ever, families need support to prevent the abuse before it occurs, as well as to provide treatment and ongoing support to the millions of children and their families who experience family violence each year.

I regret that this bill maintains funding for the Child Abuse Prevention, Adoption, and Family Services Act, and the Family Violence Prevention and Services Act at fiscal year 1989 levels. Given the escalating incidence of family abuse, it is critical to fund these programs at their fully authorized level.

In addition, while this bill provides a modest increase of $9 million over the fiscal year 1989 appropriation for Child Welfare Services, this amount falls more than $10 million short of the full authorized level of $266 million and far short of what is needed to prevent a rising tide of children from entering more costly foster care.

DRUG-EXPOSED, HIV-INFECTED BABIES

The committee took another important step in addressing the serious and growing problems of infants and young children exposed to drugs or HIV infection by providing $4,000,000 to begin the implementation of the Abandoned Infants Assistance Act. This demonstration program will provide needed supports to families who are able with assistance to care for their children, as well as foster care and residential care for infants who remain in hospitals because their parents cannot care for them.

FOSTER CARE

The increased funding included in the committee bill to help States meet increased maintenance costs and to provide greater adoption assistance is much needed. The select committee's examination of foster care and child welfare services has documented the increasing numbers and more difficult needs of children entering systems of out-of-home care over the last several years. The committee notes the significant increase in foster care cases, to a projected monthly average of 125,000 by fiscal year 1990, up 15 percent from 109,000 in 1987.

While these increases are needed and welcome, much more still needs to be done at the front end, to prevent the problems from occurring in the first place.

The committee is also to be commended for including funding that will allow settlement of an additional $226 million in outstanding prior year claims from the States to foster care costs. The committee made a major dent in needed repayment in the fiscal year 1989 dire emergency supplemental bill, and the additional funding in the fiscal year 1990 appropriations bill gets us even closer to fulfilling outstanding obligations. Let me also applaud the committee's call for a thorough examination by the GAO of the significant delays that have plagued foster care reimbursements and for recommendation addressing how to correct the problems in the future.

HOMELESS FAMILES

I want to commend Chairman NATCHER for significant increases in the Stewart McKinney Homeless Assistance Act, especially the provisions which most directly affect children. Hearings before my Select Committee on Children, Youth, and Families revealed that as many as 40 percent of the homeless are children and families. These families do not merely go without adequate shelter. They experience social isolation, family stress, poor nutrition, and limited educational opportunities for their children.

This bill provides an increase of $31 million for health care for the homeless and a $2 million increase for the education of homeless children and youth program.

CRITICAL RESEARCH FOR CHILDREN

Mr. Chairman, the committee has included $2 million for child welfare research under the Human Development Services section of the bill. Having initiated the request for this very important funding, I want to express my deep appreciation to the members of the Appropriations Committee and to the other Members who have worked for this appropriation.

As the chairman of the Select Committee on Children, Youth, and Families, I am very much aware of the critical role of research in the formulation of our public policies both in Congress and at the State and local level. The funds provided in this section are specifically intended for research aimed at developing sound child policy initiatives in such areas as child welfare, child care and other topics specified in the report.

Similar, private support for research centers has been provided over the past decade through the Bush Foundation at four leading universities—the University of Michigan, the University of California, the University of North Carolina, and Yale University. The public policy research produced by leading scholars at these prestigious institutions, some of whom have served as fellows in many congressional offices, has made a substantive contribution to the formation of public policy affecting children.

It is gratifying that the House votes today to perpetuate that kind of policy-oriented research through this competitive grant program.

CONCLUSION

Investing in children, Mr. Chairman, is no longer the plaintive cry of a so-called liberal agenda. There is a chorus emanating from former Democratic and Republican Presidents, the Committee for Economic Development, the Council on Competitiveness, the National Commission to Prevent Infant Mortality, the Institute of Medicine, the notable Ford Foundation, and most recently, the House Leadership Task Force on the Family, who all recommend expanding a core group of successful cost-effective prevention programs to ensure that every child has the opportunity for mental and physical health, enhanced social development, and educational readiness.

All of the evidence establishes the wisdom of making selective investments in our youngest children, investments that will pay off for decades, and that will produce lives of productivity rather than lives of dependence. Now is the time to act on that evidence, and I urge my colleagues to support this bill today, and to hasten our efforts to fully fund the most successful early intervention services for the Nation's most needy children.

Mr. STARK. Mr. Chairman, I rise today to discuss a concern I have with the failure of the Social Security Commissioner to implement demonstration outreach projects to make sure homeless persons who are eligible for SSI and other Social Security benefits actually apply for and receive these benefits.

As you know, to establish eligibility for SSI and other benefits under the Social Security Act [SSA], an individual must be interviewed by a claims representative at an SSA district office, provide documentation of income and resources, and in many cases produce medical records, submit to mental and physicial examinations, and participate in follow-up interview at the Social Security office. Given the special problems of the homeless, these steps often present barriers which lead to the denial of benefits, or worse, the failure of many eligible individuals to even apply for benefits.

Recognizing the special needs of the homeless, Congress recently enacted legislation to provide assistance to homeless individuals in establishing eligibility and applying for SSI and other benefits under the Social Security Act. Section 9117 of the 1987 Omnibus Reconciliation Act, Public Law 100-203, authorizes the Secretary of Health and Human Services to make grants to States for projects "designed to demonstrate and test the feasibility of special procedures and services to ensure that homeless individuals are provided SSI and other benefits under the Social Security Act to which they are entitled and receive assistance in using such benefits to obtain permanent housing, food, and health care."

In the House report accompaying the 1989 appropriations bill for the Departments of Labor, Health and Human Services, Education, and Related Agencies, the Appropriations Committee directed the Social Security Administration to provide funding from the Social Security trust funds for administration expenses for the section 9117 demonstration projects.

House Report 100-689, H.R. 4783, contains the following language:

Research and Demonstration Projects.—As authorized under the 1987 Budget Reconciliation Act (P.L. 100-203), the Committee directs the Social Security Administration to provide not to exceed $1 million to establish projects to demonstrate special procedures to ensure that homeless individuals are provided SSI and other benefits to which they are entitled. These projects are intended to be designed to address special problems related to the characteristics of the homeless, such as: homeless individuals are often difficult to locate and contact; they have limited ability to find information needed to make application; and they are often incapable or reluctant to follow through the claims process.

Despite our clear legislative intent and the obvious need to assist the homeless in this area, the Commissioner has not undertaken the concerted effort called for by Congress to establish an effective outreach program to the homeless. I have pressed the Commissioner to undertake the demonstration projects we have called for and urge each Member of Congress to do so as well.

I add that given this express legislative intent to fund the section 9117 demonstration projects in fiscal year 1989 from the SSA administration expenses account coupled with the mandatory terms of the authorizing legislation, it is clear that Congress likewise intends that such funds be made available out of the SSA administrative fund appropriation for fiscal year 1990.

Mr. FAZIO. Mr. Chairman, I rise in strong support of H.R. 2990, the fiscal year 1990 appropriations bill for Labor, Health and Human Services, Education, and related agencies.

I commend the chairman of the subcommittee, WILLIAM NATCHER for the excellent job that he and the ranking member, SILVIO CONTE, did in drafting this legislation. It is never easy putting together this appropriations bill, yet they managed to write a good and fair bill which clearly falls within the 302(b) allocation both in terms of outlays and budget authority as set by the budget summit agreement. The subcommittee staff also deserves recognition for their efforts in this legislation. I know that many hours of hard work were put into the development of this measure.

Despite the severe budgetary restrictions facing us this year, the legislation manages to provide funding increases for many of the vital discretionary programs which serve all segments of our population and are of particular importance to my home State of California. For example, the legislation provides $796.9 million for Job Corps, a highly effective program which has been instrumental in preparing disadvantaged youth to lead productive lives. This funding level, which will provide for 40,544 slots, represents an increase of $35.3 million over the President's budget request and $55.1 million over the current funding level. With the addition of a new site in Cleveland National Forest in San Diego, CA will have seven Job Corps sites serving 2,585 individuals.

H.R. 2990 also includes funding increases for vital health research programs. For example, this measure includes funding for AIDS, which will bring the total fiscal year 1990 funding for the Public Health Services for AIDS to $1.6 billion. This is an increase of more than 24 percent over the current funding level. The National Cancer Institute, another important research body which is spearheading the fight against cancer, would receive $1.65 billion, an increase of $6.59 million over the President's request and $81.7 million over the current funding level. The Alcohol, Drug Abuse and Mental Health Administration would receive $1.91 billion for alcohol, drug abuse and mental health activities for fiscal year 1990. California is expected to receive $83.4 million for these programs.

The bill also contains $557 million for the maternal and child health block grant, another important program which serves high risk mothers, infants and crippled children. Approximately $32 million will go to the State of California to address these problems.

Another program which provides California with invaluable assistance is the State legalization impact assistance grants. The Immigration and Reform Control Act of 1986 established a 4-year program to offset costs incurred by State and local governments in providing certain public assistance, public health assistance, and educational services to aliens legalized under the law. The legislation rejects an administration request to reduce the appropriation by $400,000. California, which receives approximately 58 percent of the funds with an estimated 1.6 million amnesty applicants, is expected to receive $430.7 million.

H.R. 2990 also includes funding increases for important development and education programs. For example, the bill includes $1.4 billion for Head Start, an increase of $165 million over the current level of funding. This important program provides comprehensive support and early childhood development services for children from low-income families. This bill also includes a sizable increase for compensatory education for the disadvantaged by providing $5.58 billion for these programs, an increase of more than $1 billion over the current funding level. California stands to receive approximately $463.4 million. Finally, the legislation includes $366.5 million for drug free schools to develop and implement drug abuse prevention and education programs. California is expected to receive $28.4 million to support these efforts.

Mr. Chairman, I could go on with the positive impact that the programs contained in this bill will have on the United States and my home State of California. Rather, I will close by again commending Mr. NATCHER and the subcommittee for the excellent job that they have done in putting together this bill. I urge my colleagues to join me in supporting this legislation.

Mr. HAWKINS. Mr. Chairman, I rise today in strong support of H.R. 2990, the Labor-Health and Human Services-Education appropriations bill for fiscal year 1990. As my distinguished friend BILL NATCHER, chairman of the subcommittee, would say, "This is a good bill."

It is indeed a good bill given our current fiscal and political circumstances because it targets scarce resources where they can do the most good. It increases chapter 1, compensatory education for the disadvantaged, by $1 billion over last year's level. This is a 22 percent increase and greatly needed because less than one-half of the eligible population is currently served. This increase is consistent with the goals outlined in the Hawkins-Stafford School Improvement Act of 1988.

H.R. 2990 also provides for a 14-percent increase in Head Start, a program, like chapter 1, of proven effectiveness which currently serves less than one in five eligible preschoolers.

The bill also provides increases for the Drug-Free Schools Act, bilingual, immigrant, and refugee education, education for the handicapped, vocational rehabilitation, and for vocational and adult education. These funding increases will strengthen American public education at a time when we must compete more effectively to survive as a world power.

This bill largely maintains, but does not significantly increase, postsecondary student aid programs. This funding decision is intended to call attention to problems such as the high default rates which currently affect student financial assistance. The Education and Labor Committee, in its budget reconciliation submission, has moved aggressively to limit abuse of these programs. I want to assure Mr. NATCHER and all the other Members of this House that the upcoming reauthorization of the Higher Education Act will thoroughly review these issues and we will continue to aggressively weed out waste, fraud, and abuse but will retain our traditional commitment to expanded opportunity and equal access to higher education.

I am pleased that JTPA funding has been increased as has funding for community services for older Americans. The Labor-HHS-Education bill includes funds targeted to break the relationship between drugs and youth gangs, particularly severe problems in my district and other urban areas around the Nation.

I want to note that the report accompanying H.R. 2990 says, "In addition to funding for existing programs, the committee has reserved funds for new initiatives including child care and Head Start." This is consistent with the budget resolution for fiscal year 1990.

I, of course, believe there is ample evidence that supports even larger increases than Mr. NATCHER and the committee provided. I understand, however, that we are operating under budget constraints, which made such increases impossible at this time. I congratulate Mr. NATCHER and his committee for making these tough decisions and producing a bill that is worthy of support by all Members of this House.

Mr. FRENZEL. Mr. Chairman, as usual the chairman and his subcommittee have done a skillful job in putting together its appropriation bill for Health and Human Services. H.R. 2990 is within the subcommittee's 302(b) limits and within the limits of the budget resolution.

After the usual congratulations to the subcommittee, I must point out that the spending called for in this bill is about 9 percent over that of last year. That increase is too much. Our budget resolution provided that all our spending, on the whole budget, increase by only 4½ percent.

This bill's spending increases are nearly twice as great as the overall increases. That rate of spending increase, 9 percent, is unacceptable at a time of huge deficits.

The function in this bill to which I gave the highest priority is education. Oddly, its increase of 5 percent is less than that of the whole bill and only about equal to the rate of inflation. Only title I, aid to the disadvantaged, got what I consider to be a reasonable increase.

If the education component of H.R. 2990 had been responsible for the excessive spending growth, I would have voted for it anyway. Since it was not, I conclude that the spending increases are not prudent policy at a time when deficits and dependence on foreign capital are this country's No. 1 problem.

Mr. PRICE. Mr. Chairman, I have had a longstanding interest in and appreciation for research work in the area of child policy and social development and am gratified to see the bill contains provisions supporting research centers on children and families.

Earlier this summer, I joined several of my colleagues in requesting support for the Bush centers in social development and child policy in the 1990 Labor-HHS-Education appropriations bill. The committee appropriated an additional $2 million over last year's level of research and policy development centers of this

nature. I thank members of the committee for their support of this effort.

For the past 10 years, the Bush Foundation of Minneapolis, MN has sponsored research at four outstanding universities—the University of Michigan, Ann Arbor; the University of California, Los Angeles; Yale University, and the University of North Carolina, Chapel Hill—which has focused on the urgent needs of America's children. These centers are highly respected interdisciplinary programs that provide training in the areas of child development and public policy to leading academicians and students.

The Labor-HHS-Education appropriations bill will enable these centers to sustain their research in the area of child and social development—research that Congress, State and local governments have relied upon for developing and evaluating Federal policies affecting our children. The information these centers provide will help us to avoid policy errors that may negatively affect children and families, and will assist in the development of legislation that will positively shape the future of America and its families.

I thank my colleagues for this appropriation and for permitting research entities, like the Bush centers, to continue their critical work.

Mr. GAYDOS. Mr. Chairman, I rise in strong support of H.R. 2990, the appropriations bill for the Departments of Labor, Health and Human Services, and Education for fiscal year 1990, and I particularly want to commend the gentleman from Kentucky [Mr. NATCHER], the chairman of the Appropriations Subcommittee that prepared this bill, and the gentleman from Massachusetts [Mr. CONTE], the ranking Republican.

I have been chairman of the Subcommittee on Health and Safety in the Committee on Education and Labor for more than 10 years and for the past 8 of those years, I have watched with great concern the weakening of this country's worker protection programs at the hands of the former administration.

During that 8-year period, only the willingness of the two colleagues I have already mentioned and others of us in this and the other body who commit themselves to the safety and health of America's working men and women has prevented the wholesale destruction of the carefully crafted programs carried out by the Occupational Safety and Health Administration [OSHA], the Mine Safety and Health Administration [MSHA], and the National Institute for Occupational Safety and Health [NIOSH].

Time and again, we in the Congress have appropriated more funds than requested by the former administration and have authorized additional positions for inspectors, only to have our efforts ignored.

The clearest signal of the former administration's contempt for the American worker was the budget request for NIOSH for 1990 which, if adopted, would have resulted in a reduction of nearly 33 percent. That cut, Mr. Chairman, would have devastated the very research programs that could have led to fewer workplace deaths, injuries, and illnesses.

Fortunately for us, and for the American worker, the present administration saw the error of its predecessor and reversed the decision.

But, more importantly, the chairman and ranking Republican of the Appropriations subcommittee recognized that more, not fewer or the same, dollars are necessary so the programs for those workers can continue to go forward.

The bill before us today provides an appropriation of $270-plus million for OSHA, a $2.5 million increase over the administration's budget request, and a $22 million increase over the funding level for fiscal year 1989.

We must understand that a large portion of that $22 million increase, nearly $15 million, is directed to assist the State of California's occupational safety and health program which has been reconstituted.

I am particularly pleased that this bill also includes the $2.5 million set-aside for the Bureau of Labor Statistics to redesign the Occupational Safety and Health Statistical Program.

One of the cornerstones for a successful health and safety program is accurate record-keeping by both the employers in this country and the Government.

Up until now, the Government's figures on injuries and illnesses occurring in the workplace have been based on a survey by the Bureau of Labor Statistics. Mind you, a survey, not a direct count. If we are to make progress in designing standards and regulations that save lives and prevent injuries and illnesses, we must have accurate and precise data. This $2.5 million project could go a long way in making OSHA activities more effective.

We haven't heard much about the Mine Safety and Health Administration, MSHA, of late. The reason is not hard to find—coal production is continuing to decline and coupled with that decline is a downturn in the number of mining fatalities.

That is not to say that MSHA can relax and take it easy. It does mean that MSHA can now turn toward other kinds of health and safety problems, such as one the Subcommittee on Health and Safety has been focusing on for the past several weeks—the health hazards faced by miners who are being exposed to particulate matter emitted from diesel-powered equipment.

I support the proposed funding level of $170 million for MSHA for fiscal year 1990. This funding projects a $1 million increase over the administration's budget request, which means that at the very least, inflation costs will be covered, and represents a $7.1 million increase over funding for fiscal year 1989.

That, Mr. Chairman, brings me to the funding for NIOSH, the most important research arm in the area of occupational safety and health.

As I mentioned earlier, NIOSH was singled out by the previous administration as an agency to be destroyed.

Well, that is not going to happen, I am delighted to say. The present administration has already admitted that the 33-percent funding cut was far too much and submitted an alternative budget proposal recommending that NIOSH funding for fiscal year 1990 be continued at the exact same level as that for fiscal year 1989—$70-plus million.

Such a freeze, while sounding good, would really have had a weakening effect because inflationary costs would have eaten into the core of the research and training programs sponsored by the agency.

The subcommittee recognized the importance of the work NIOSH is doing and, instead of freezing its funding, has recommended an increase of more than $3.5 million for its continuing efforts to make America's workplaces safer and healther.

The appropriations subcommittee has determined that two NIOSH programs are of such importance that it has designated funds specifically for them.

One of those set-asides calls for $500,000 for the expansion of programs on agricultural health and safety. Lest anyone forget, agriculture now ranks as one of the three most hazardous occupations, along with mining and construction.

I suggest that every Member of the House read with care the comments in the committee report dealing with agricultural hazards.

The second set-aside would provide $1 million for NIOSH to continue its pilot program of notification of workers in high-risk occupational settings.

As my colleagues probably know, I have again reintroduced my High-Risk Occupational Disease Notification and Prevention Act. The program embodied in my bill would provide for the identification of workers who are at high risk of disease because of exposures to toxic substances, and would provide for NIOSH to notify those workers of their risk and encourage them to enter into medical surveillance programs, and would lead to the prevention of those diseases.

NIOSH has been an active participant in several pilot notification programs and it is important that it continue to work in this area so that it can refine and improve its abilities and capabilities in order to handle future notifications

Mr. Chairman, I believe this appropriations bill is a major step forward and, even though dollars are tight, still meets the health and safety concerns of American working men and women.

I support H.R. 2990 and I urge all of my colleagues to vote for it as well.

Mr. GUNDERSON. Mr. Chairman, I rise in support of H.R. 2990, the Labor, HHS and Education appropriations bill. Under the capable leadership of Chairman NATCHER and ranking minority member CONTE, the committee has reported to us a bill that will go a long way toward empowering America and preparing her for the 21st century.

Specifically, I would like to commend the committee on the appropriation they have set for Gallaudet University, of which I am a trustee. Earlier this year I testified before the subcommittee in support of the President's budget request. Past experience has shown that all of America benefits from the resources we focus on empowering the deaf community. And to my knowledge Gallaudet University—under the capable leadership of my friend, I. King Jordan—is one of the best, if not the best, catalysts which can help us unlock the treasures of the deaf community.

The budget for Gallaudet University includes an increase of just $2 million over 1989. While actively seeking to raise their endowment and

match Federal funding, the university needs our continued support. This sum does not provide new moneys for construction or expansion; it simply allows the university to keep pace with inflationary trends.

Furthermore, I appreciate Chairman NATCHER's foresight in striking the line item appropriation for a comprehensive program evaluation of Gallaudet. The truth is, Gallaudet is constantly studied by various organizations, and will be, I understand, studied again by the Department in conjunction with a general study of all post secondary deaf programs. In times when budgets are tight and educational quality is at variance, I am glad we have returned $500,000 to the Department of Education.

However, may this action serve as a clear signal to the Department that Congress will not tolerate line item appropriations for such an isolated evaluation of Gallaudet in the future. If the Commission on the Education of the Deaf has recommendations for Gallaudet University, I would urge the Commission to share those recommendations directly with Gallaudet rather than attempting to mandate those recommendations via the Department of Education.

Again, may I say thank you to the distinguished chairman from Kentucky and the ranking member from Massachusetts. Gallaudet has been a responsible steward of their budget in the past, and I can assure you they will continue to act responsibly in the future.

Mr. DORGAN of North Dakota. Mr. Chairman, as the House considers H.R. 2990, the fiscal year 1990 Labor, HHS, Education, and related agencies appropriations bill, may I again reiterate my strong support for the U.S. Institute of Peace. It was established to fill a virtual vacuum in national education on peace, conflict resolution, and related topics.

The Peace Institute has made substantial progress since its founding in 1984. It now commands a wide spectrum of respect in scholarly circles, by the general public, and among policymakers. It has achieved this status through hard work, focused research on critical issues by distinguished scholars, and the distribution of grants to major universities.

The institute is not permitted to receive contributions from private sources, which makes it fully dependent on Federal funding. The President requested $6.9 million for fiscal year 1990, which would continue the institutes current funding level. That is the level designated in the committee bill, as well. My own position is that, in view of the institute's growing prominence and importance, a level closer to $9.4 million would more effectively help the institute to meet its mandate.

To put this in perspective, the Federal Government spends some $600 million per year on defense education—through our service academies, the National Defense University, and other activities. Yet we now invest only 1 percent of that amount in the equally important task of peace research and conflict resolution education. We do so in the face of such perplexing problems as seeking the release of hostages held in countries such as Iran and Lebanon, reducing the threat of terrorist attacks, and resolving explosive regional conflicts in Asia, Africa, and Latin America.

Recognizing the tight budget constraints within which the committee is working, I understand why the budget request level was the one approved. In the event that the Senate approves a higher level, I would urge our conferees to support such funding so that the U.S. Institute for Peace can help equip our Nation for the enormous and growing challenges of peacemaking in a troubled world.

May I also encourage my colleagues to review a recent article on the U.S. Institute for Peace which I will include in the RECORD.

The article from the July 12, 1989, Washington Post follows:

[From the Washington Post, July 12, 1989]

PEACE INSTITUTE'S COURSE: A BALANCED APPROACH—AFTER ROCKY START, RESEARCH UNIT WINS PRAISE

(By Brooke A. Masters)

It is an odd combination: an institute to study peace born of a liberal-populist campaign but run by a conservative board of directors.

Nevertheless, the U.S. Institute of Peace, now three years old, has won praise from across the political spectrum for its work sponsoring conferences and funding research projects that relate to the search for peace.

"It's doing very good work and evolving in the right direction," said Stephen Strickland, president of the National Peace Institute Foundation, a watchdog organization set up by groups that originally lobbied for the institute's establishment.

"The record is pretty clear that [Congress] is pleased. They've reauthorized us for at least five years," said board member W. Bruce Weinrod. A House Appropriations subcommittee today will take up the institute's $9.4 million funding request for fiscal 1990—up from $6.9 million in the current fiscal year.

Reaching today's respectability, however, has been rocky for the research institution. It was never loved by the Reagan administration or many conservatives.

Chartered by Congress in 1984, the institute has its roots in a populist drive to establish an undergraduate peace academy as a counterpoint to U.S. military academies.

Conservatives laughed at the idea of a university of peace, but a national commission headed by Sen. Spark M. Matsunaga (D-Hawaii) proposed a successful compromise: an institution that funded research and sponsored conferences but could not grant degress or lobby for specific policies.

"We were [required] not to come rushing in with our solution for Namibia. We weren't to be an intellectual SWAT team," said the Rev. Sidney Lovett, a board member.

Even so, stalling by the Reagan administration helped keep the institution from opening its doors until 1986. The original supporters were dismayed because President Ronald Reagan put a group of conservatives on the board of directors. He selected and the Senate confirmed 11 board members, and the four ex-officio members were part of his administration.

But the board has been non-ideological in the activities it chooses to support, observers and board members said. They agree that the funding process is what one called "scrupulously fair." The board has granted money to the Albert Einstein Institute's program on nonviolent sanctions and to the conservative James Madison Foundation at the University of Virginia. It has sponsored conferences in which pacifists and advocates of "peace through strength" discusses their respective approaches.

The board "has the sense of trying to be an umbrella spreading widely across the ideological spectrum," said institute President Samuel W. Lewis, who was U.S. ambassador to Israel in 1977-85. "We don't really have a point of view except that anything that's really powerful and creative is worth hearing, debating and publishing."

Starting with grants to outside scholars, the institute has steadily added projects, including a visiting scholars program, a research staff, a rapidly growing library, conference series and public outreach programs. For the past two years, it has even sponsored a high school essay contest.

Funding remains a problem because the institute cannot take money from private sources.

The institute recently moved into more spacious quarters at 1150 M St. NW. There, surrounded by pictures of famous peacemaking meetings—from U.S.-Soviet summits to the Camp David accord sessions—30 permanent employees and 11 fellows research and disseminate information about the peacemaking process.

In addition to holding monthly workshops on topics from chemical and biological warfare to American pacifism, the institute sponsors series of six to eight meetings on topics such as low-intensity conflict, Vice President Charles E. Nelson said. It has even helped produce a television program about U.S.-Soviet summits.

The fellows program brings two groups of visiting scholars to the institute. Peach Fellows tend to be academics; Distinguished Fellows, who receive more money, are generally older and have had practical experience in conflict resolution.

During their six-month to one year fellowships, each scholar works on an individual project—although they discuss their work at regular brown-bag lunches. The scholars also make formal presentations of their research to colloquia.

"It's been an extraordinary place to think and work," said John E. Reinhardt, former director of the U.S. Information Agency, who is completing a six-month stint as a ditinguished fellow. He has been studying the way the United States communicates with foreign peoples—as opposed to foreign governments. "Are we a model? Are we feared? Are we revered?" Reinhardt asks. He plans to write several articles evaluating the U.S. ability to communicate through media such as the Voice of America and recommending specific policy changes.

As a peace fellow, Ted Robert Gurr is developing a database of 250 to 300 minority groups around the world that maybe vulnerable to discrimination. "Some of [my work] will be aimed at scholarly journals, but I'm also trying to publish it in places where it will come to the attention of policy makers," he said.

The Institute of Peace as a whole is trying to do the same thing. As it begins to see the results of the 180 grants it has made since 1986, the institute is "getting these kinds of cases boiled down into a form where busy people can use them," Lewis said. "I don't want to have stuff just produced for the library. We need to make an impact."

Said board member Weinrod, a senior fellow at the Heritage Foundation, "We provide some kind of independent outside assessments for people inside the executive branch."

To that end, in February the institute began issuing digests of the conferences and

studies it sponsors. The four-page papers are sent to policy makers on Capitol Hill and in the State Department, said Gregory McCarthy, special assistant to the institute's president.

While the institute cannot grant degrees, it does give money to people who are attempting to develop classes that teach conflict resolution. Hebrew University of Jerusalem this year received $40,000 to help develop courses on "pre-negotiation theory," and Tufts University in Medford, Mass., received $60,000 to analyze existing negotiation courses and develop new curricula.

Just as the Institute of Peace has begun to carve itself a niche, the international scene has changed dramatically, in large part because of changes in the Soviet Union. Traditional projects that focus on the Cold War no longer seem so relevant. As a result, the institute has shifted some of its energy. A majority of the incoming class of fellows will study Third World issues.

Lewis said he is not worried that the easing of East-West tensions will put the institute out of business. "I don't believe the world is going to break out in peach tomorrow," he said. "Conflicts in the Third World are going to continue."

Mr. COOPER. Mr. Chairman, I rise to express my support for the assistance that H.R. 2990 provides for rural health care. I'm pleased that despite severe budgetary constraints, the bill reported by committee funds programs that will help rural health care on several fronts, including promoting research and providing incentives for health care personnel to locate in underserved rural areas.

I'm particularly pleased that new provisions for rural occupational health and safety were included. Farming—an inherently rural occupation—is also the most dangerous. As an article from the July 24 Wall Street Journal noted, "Agriculture has eclipsed mining as the occupation with the highest death rate." Each year 1,600 farmers and farm workers are killed, 170,000 suffer debilitating injuries, and 300 children are killed in farm-related activities.

This year's Labor-HHS appropriations bill incorporates many of the suggestions made by the National Coalition of Agricultural Safety and Health at their conference last fall. For instance, the committee appropriated $500,000 in new funds for CDC's National Institute for Occupational Safety and Health.

The committee report explicitly states that those funds must be used for the expansion of their agricultural safety and health programs, including surveillance, training, and education programs, to reduce the dispropriationate share of farmer and farm worker injuries, disease, and fatalities. Specifically, the NIOSH funding is to be used for special project grants in programs that directly benefit farmers and farm workers.

NIOSH Educational Resource Centers are directed by the committee to create and expand curriculums for programs directed at improving education and training of farm workers and health personnel involved in agricultural safety and health.

The committee also directed the Office of Rural Health Policy to establish a new program of agricultural safety and health. $250,000 is set aside for the office to use to act as coordinator and clearinghouse and to stimulate programs by different Federal agencies to improve farm health and safety.

These initiatives are vital, and I commend the distinguished subcommittee chairman, Mr. NATCHER, and the other members of the committee for including them in this year's appropriations bill.

Mr. ROWLAND of Connecticut. Mr. Chairman, today I rise to express my strong support for H.R. 2990, a bill providing $155.2 billion in fiscal year 1990 for the Department of Labor, Health and Human Services, Education, and related agencies. In particular, I would like to commend the Appropriations Commiteee for providing and increase to educational programs by $1.1 billion over last year's funding level.

Mr. Chairman, our Nation's young people hold in their hands the future of our country and I strongly believe that more must be done to keep our children in school and ensure that they receive a quality education. H.R. 2990 reaffirms Congress' promise to join States and local school districts in enhancing the quality of our Nation's schools.

More specifically, I am pleased that this bill provides an increase of $931 million over last year's funding level to continue the chapter 1 program. This important funding will ensure that local school districts can continue to provide special services to educate low-achieving students in poor areas. This increase will allow for improvements in chapter 1 programs as well as significant expansion of the number of children who can be served.

I would also like to commend the committee for including $30 million for the new Even Start program that was created last year by Public Law 100-297, the "School Improvement Act." This new program will provide assistance to disadvantaged children age 1-7 and their parents who have not earned a high school diploma or equivalent. Even Start represents an important step forward in reaching out to needy children and their families.

In closing, Mr. Speaker, I would like to urge my colleagues to vote in favor of H.R. 2990 today. This important measure will go a long way to ensure that the educational programs for our Nation's children are enhanced.

Mr. RAHALL. Mr. Chairman, I am in strong support of H.R. 2990, a bill making appropriations available for Labor, Health and Human Services, and Education for the fiscal year 1990.

This bill appropriates a total of $155.2 billion for the Labor-HHS-Education Departments and related agencies. This total includes $138.1 billion in fiscal year 1990 appropriations, $16.8 billion in advance fiscal year 1991 appropriations for certain HHS programs, and $314.1 million in advance fiscal year 1992 appropriations for the Corporation for Public Broadcasting.

The bill's total is $13.4 billion—9 percent—more than the fiscal year 1989 appropriation, but is $2 billion less than the target—the 302b allocation—set by the Appropriations Committee for discretionary budget authority pursuant to the fiscal year 1990 budget resolution.

Mr. Chairman, the bill does not include appropriations for certain programs whose fiscal year 1990 authorizations have not yet been enacted. Among them are Refugee Assistance, Family Planning Grants, and the ACTION Agency.

It is important to note that the committee is holding funds in reserve for new initiatives, including Child Care and Head Start. When appropriations are made for these as yet unauthorized programs, the committee expects to use up the $2 billion remaining in its 302b allocation.

Mr. Chairman I would like to make note of selected program appropriations contained in this important appropriations measure.

LABOR DEPARTMENT

Of the $4.7 billion the bill provides for the Employment and Training Administration, $4 billion is for programs authorized primarily by the Job Training and Partnership Act [JTPA], $238 million more than the fiscal year 1989 appropriation. This total includes the following:

Job Training will receive $1.8 billion, equal to the fiscal year 1989 level. This funding will support an average enrollment of approximately 393,700.

Summer Youth Employment will receive $709 million for the summer of 1991, the same as provided in fiscal year 1989 for the 1990 summer. This appropriation will support 652,300 participants, the same as the summer of 1990.

Job Corps will receive $797 million, $55 million more than last year. This amount will support 40,544 slots. The bill also includes $13.5 million for Job Corps center operations for program year 1989, in order to prevent a cutback in the number of slots caused by increasing costs.

Dislocated Workers will receive $450 million for the new Economic Dislocation and Worker Adjustment Assistance Program, which is designed to more rapidly identify dislocated workers and to provide improved and higher quality training than the previous programs provided, $166 million more than the fiscal year 1989 appropriation. This level of funding will support an average enrollment of 127,000 individuals.

Other programs, including Job Training for Native Americans, Migrant Workers, and Veterans, will receive $219 million, $4 million more than last year's level.

To say the least, Mr. Chairman, these programs are of critical importance and concern to the people in my State and my district. Our State continues to make a slow economic recovery, still has next to the lowest per capita income in the Nation—West Virginia ranks 49th—and extremely high unemployment rates due to the decline in the coal mining industry and other plant closings throughout the State.

As a Member of the Education and Labor Committee, I am a strong supporter of increased funding for all of these programs, and particularly for JTPA and Dislocated Workers Programs.

Community Service Employment Programs: I am more than pleased to note that our Community Service Employment Program for Older Americans has received a modest increase of $10 million over last year's funding level, for a total of $354 million. This program provides part-time employment in community service activities for unemployed, low-income people aged 55 and over, and the funding level is expected to support an average enrollment of 67,800 individuals.

For our Trade Act Benefits and Training Programs, the bill includes $284 million for trade adjustment assistance unemployment benefits, permitting about 41,200 workers to receive benefits averaging $181 per week. The total also includes $80 million for trade adjustment assistance training, providing for training, job search, and job relocation allowances to an estimated 35,500 workers adversely affected by imports.

H.R. 2990 contains authority to obligate $641 million from the Black Lung Disability Trust Fund in fiscal year 1990. This fund pays black lung compensation and medical and survivor benefits when no responsible mine operator can be assigned liability or when coal mine employment ended before 1970. The authorization allows obligation of funds to pay all administrative expenses incurred by the Labor and Treasury Departments in operating this program.

Other sections of the bill authorizing payments from this trust fund provide $860 million in fiscal year 1990 for special benefits to coal miners disabled by black lung, and to their widows and children. The bill also includes $215 million in advance funding for fiscal year 1991.

Last but not least, the bill authorizes spending of $163 million from the Employment Security Administration Account of the Unemployment Trust Fund for veterans employment and training programs, an increase of $5 million more than the fiscal year 1989 amount. This total includes $75 million for the Disabled Veterans Outreach Program, $69 million for the Local Veterans Employment Representative Program, $3 million for the National Veterans Training Institute, and $16 million for administration.

HEALTH AND HUMAN SERVICES DEPARTMENT

Mr. Chairman, I am appalled that the bill does not increase funding for Community and Migrant Health Centers. There is appropriated only $415 million, the same as the fiscal year 1989 funding level.

Health care is a basic need of all Americans, and yet only those with money enough to pay the costs, or afford good individual and family health insurance plans, are actually well served. This Nation is one of great wealth. Yet indisputable facts show that that there are between 32 and 37 million people in the United States without any health insurance.

There are a lot of people in this country—and particularly in my State where economic recovery, in its fourth year, is still a struggle and lags behind the rest of the Nation—who are getting poorer.

I was encouraged during House enactment of the fiscal year 1990 budget resolution to note that it cited programs as low income/high priority and recommended, at a minimum, baseline funding for those programs to serve America's poor. The Appropriations Committee, whose job admittedly requires the wisdom of Solomon, in making hard choices I am sure, determined that community health would receive funding at a level not even in pace with inflation. I am advised that the funding level is $20 million short of current services levels and could result in the termination of 250,000 individuals—a half million poor, uninsured, underserved people who will not receive services next year and, in fact, may lead to the closure of 25 health centers nationwide. I can assure you that in West Virginia, the second most rural State in the Union where isolation is the rule rather than the exception, and where 42 out of 55 counties have been designated as health manpower shortage areas, any closure of community health centers will have a devastating effect upon 63 percent of our population.

During the 8 years under the previous administration, community health services lost more than 25 percent of its funding compared with what it had received prior to 1981. Further reductions in funding will exacerbate the problem, which I find unconscionable.

I am deeply saddened that Community Health Centers did not even receive an adjustment for inflation. I can only hope that the Senate Appropriations Committee will provide a modest increase to at least keep these centers open and serving the poor, and that the House conferees will accept a higher level of funding during the House-Senate conference on this bill.

I am pleased, as always, to see funding for the Maternal and Child Health Block Grant Program receive modest increases, as well as programs for Health Professionals, CDC, the National Institutes of Health, Medicaid and Medicare, Alcohol, Drug Abuse and Mental Health. The bill includes funding of $11.7 billion in fiscal year 1990 for Family Support Payments to States, including AFDC, Assistance and Child Support Enforcement Programs. This total includes advance funding of $2.7 billion that was provided in fiscal year 1989, and an advance appropriation of $3 billion for fiscal year 1991.

This total includes $9.3 billion for AFDC, providing 55 percent of the cash benefits provided to such households, and $350 million for the AFDC Work Program, with $31 million earmarked for transitional costs for the WIN Program, and the remainder to be spent on the new JOBS Training Program established by the Family Support Act of 1988.

Head Start is funded at $1.4 billion, $165 million over last year's appropriation, and is expected to serve an estimated 497,000 children, 45,000 more than in fiscal year 1989.

For programs administered by the Administration on Aging, the bill provides a total of $756 million, $8 million over last year's level. This total includes $276 million for support services and senior centers, $357 million for congregate meals, $79 million for home-delivered meals, and $5 million for in-home services for the frail elderly. Again, Mr. Chairman, as a member of the Education and Labor Committee, I am more than pleased to know that these Older American Programs are still accorded the broad bipartisan support of Congress.

Community Services Block Grants: Last but not least of the Health and Human Services Programs contained in the bill, and in which I have an abiding interest, is the Community Services Block Grant Program [CSBG]. I am disappointed in the extreme that the Community Service Block Grant Program has been cut by $5.6 million below last year's funding level. Like community health centers, this makes it almost impossible to serve the poor—and nowhere else in the broad spectrum of Federal programs is there one that serves the poor more effectively, consistently or with greater compassion and caring than the Community Action Agencies [CAA's] who receive funds under the Community Services Block Grant Program.

It is these agencies and their personnel who go out into their communities and help individuals and families find shelter; they run food banks and pantries; they provide access to our Low-Income Home Energy Program to assure that people are able to heat their homes in winter; they hire low-income individuals from their communities so as to provide jobs at modest incomes, allowing the poor themselves to become productive, taxpaying citizens. In times of floods, fires, and other natural as well as manmade disasters, it is the community action agencies who are there first with offers of immediate assistance. I do not know how these agencies will be able to keep their doors open and continue to help with less funding at a time when, at least in many areas of West Virginia, the people are becoming more and more dependent upon community services such as these.

This is a program that has been in existence since Lyndon Johnson declared war on poverty. The Congress agreed, reluctantly I believe, during the previous administration to fold CAA funding into the block grant now known as CSBG. When the block grant was enacted, funding for CAA's was cut across the board by 25 percent. I can assure you that the program has not recovered, based on inflation, since 1981. This is not a time to cut community services block grants. Even if no discernible increase is given, CSBG ought to receive funding at fiscal year 1989 levels, plus an adjustment for inflation—just as I was encouraged to believe would occur when we enacted the fiscal year 1990 budget resolution highlighting low income/high priority programs, assuming baseline funding plus an inflation adjustment.

EDUCATION DEPARTMENT

Mr. Chairman, as a new member of the Education and Labor Committee this year, and one who has always been deeply concerned over education funding, I am pleased to strongly support the level of appropriations for these important programs for the children, youth and adults of this country who desire and seek to become an educated citizenry, and tomorrow's leaders.

In allocating $1.5 billion above the fiscal year 1989 appropriation for the Department, the bill acknowledges education as being as a national priority as adopted by the House in its first concurrent budget resolution for fiscal year 1990.

I strongly commend the committee for the $1 billion increase in the highly successful Chapter 1 Program, providing remedial education for disadvantaged youngsters. Significant increases are also provided for programs such as TRIO, for Disadvantaged High School Students, Historically Black Colleges, Adult Basic Education, Even Start, and Foreign Language Instruction.

I know we can't fund everything we would like. But I am deeply saddened that many other programs, of almost equal importance, were either zeroed out or were recommended

to receive far less funding than in fiscal year 1989.

Among the programs of which I speak are: Star Schools, Library Construction, Math and Science Education, State Student Incentive Grants, and Perkins Loans. Further, I am especially concerned that levels of funding for Pell grants and other need-based student aid programs will seriously restrict access to postsecondary education for hundreds of thousands of low-income students, forcing at risk students to rely on loans whnich they cannot afford, and may result in higher student loan defaults.

I will go on to say that the $1 billion increase in the Chapter 1 Program represents the thinking not only of educators, with regard to its being cost effective and successful in reaching children, but it also reflects the thinking of business and industry interests who have finally concluded that Chapter 1 should receive what we call full funding, that is, sufficient funding to serve all the children who are eligible for Chapter 1 services.

As an advocate of increased partnerships between business, industry, labor and schools, I am glad of the interest of those entities in funding remedial education for children while they are yet in their formative years with respect to their educational potential.

I would be remiss if I did not mention, also, my pleasure with the appropriation of $496 million for distribution under the chapter 1 concentration grant, a program authored by my friend from Kentucky, Mr. CHRIS PERKINS, during last year's consideration of H.R. 5, the Hawkins-Stafford Education Act. This formula-funded concentration grant is one of the first formulas that has served West Virginia because it is targeted to school districts with high concentrations of low-income children.

Another program to receive modest increases of critical importance to my State and district is vocational education, which has been funded at $942 million, $860 million of which is for State basic grants, and is $31 million more than in fiscal year 1989. Also receiving a slight increase is the Consumer and Homemaking Education Act. This popular and successful, family-oriented education program for young people was one I was privileged to take the lead on with respect to reauthorizing it under the Perkins Vocational Education Act this past year.

Adult education is funded at $209 million, an increase of $44 million, over last year, which included $180 million for State grants. This amount includes funding for several literacy programs.

Mr. Chairman, I wish that all of our human services programs could have been fully funded, but I understand how difficult that is when we are trying to reach deficit reduction targets.

I wish my colleagues to know that I strongly support the Labor-HHS-Education appropriation bill, and hope they will join me in voting for its passage.

Mr. WEBER. Mr. Chairman, I would like to express my support for H.R. 2990, a bill making appropriations to the Departments of Labor; Health and Human Services; and Education for fiscal year 1990. I would like to begin my remarks by commending the gentleman from Kentucky, the chairman of the Subcommittee on Labor, Health and Human Services, and Education; and the ranking minority member, the gentleman from Massachusetts for their diligence and exemplary leadership in crafting what I believe is an excellent piece of legislation. It has been an honor and personal pleasure to have served with them on the subcommittee.

Mr. Chairman, I have been proud to represent what is one of the most rural districts in the country for the past 9 years. During that time, I like many of my rural colleagues, have come to understand and work to address the unique needs and problems that face our country's rural communities. Today, I am pleased to speak in favor of this bill, which provides much needed support for programs vital to the health, education, and quality of life of rural Americans.

A number of factors have combined to threaten the availability of quality health care for many rural Americans. In general, our people are older and less prosperous. Our facilities are farther apart and often must serve a spread out population. In addition, our problems are exacerbated by a Medicare reimbursement system which favors urban over rural areas. Without creative and sensible solutions, the availability of quality health care in rural America will continue to deteriorate.

Mr. Chairman, I am pleased to point out to my colleagues three key provisions of this bill which demonstrate the understanding our committee has of the needs of rural America.

First, I would point out that this bill provides an increase in funding for the Rural Transition Grant Program. This program, which was initiated in the Senate by my Minnesota colleague, Mr. DURENBERGER, provides 2-year grants for small rural hospitals for innovative restructuring efforts which promise to bring more efficient and higher quality health care to rural communities.

Second, the bill also provides increased funding for the Office of Rural Health Policy, which has been a top priority for those of us who are members of the Rural Health Coalition. The Office serves as the Department of Health and Human Service's focal point for coordinating national efforts to strengthen and improve the delivery of health services in rural areas.

Finally, Mr. Chairman, the bill includes increased funding for the Low-Income Home Energy Assistance Program. This program provides vital energy assistance to the disproportionate numbers of elderly people in northern rural areas who live on fixed incomes. Without it, I fear many of them would be forced to choose between heating their homes and putting food on the table. This is one of the most important programs to northern rural Americans and I would like to especially thank the ranking minority member, the gentleman from Massachusetts for his efforts in supporting this program.

Again, Mr. Chairman, I strongly support this bill, and believe it starts us in the right direction in terms of improving the quality of life for rural Americans.

The CHAIRMAN. All time for general debate has expired.

The Clerk will read.

The Clerk read as follows:

H.R. 2990

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1990, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $63,193,000 together with not to exceed $53,817,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act, $3,903,562,000, plus reimbursements, to be available for obligation for the period July 1, 1990, through June 30, 1991, of which $58,996,000 shall be for carrying out section 401, $68,540,000 shall be for carrying out section 402, $9,474,000 shall be for carrying out section 441, $2,000,000 shall be for the National Commission for Employment Policy, $3,000,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $5,500,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act; and, in addition, $49,432,000 is appropriated for the Job Corps, in addition to amounts otherwise provided herein for the Job Corps, to be available for obligation for the period July 1, 1990 through June 30, 1993; and, in addition, $10,000,000 is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act: *Provided,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

For Job Corps program operations authorized by the Job Training Partnership Act, $13,492,000, in addition to amounts otherwise provided herein for these purposes, to be available for obligation for the period July 1, 1989, through June 30, 1990.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $276,120,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $77,880,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments

and allowances under part I, and for training, for allowances for job search and relocation, and for related administrative expenses under part II, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended, $284,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided*, That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-491-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 225, 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii), 212(a)(14), and 216(g) (1), (2), and (3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.), $22,000,000 together with not to exceed $2,537,700,000 (including not to exceed $3,000,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1930), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1990, and of which $20,800,000 together with not to exceed $768,900,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1990, through June 30, 1991, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose and of which $193,468,000 shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1990.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1991, $33,000,000.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $75,207,000, of which $6,400,000 for a pension plan data base shall remain available until September 30, 1991: *Provided*, That of the amount appropriated by Public Law 100-202 for a pension plan data base, up to $1,500,000 of unobligated balances as of September 30, 1989 shall remain available for such pension plan data base until September 30, 1990.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1990, for such Corporation: *Provided*, That not to exceed $42,301,000 shall be available for administrative expenses of the Corporation: *Provided further*, That contractual expenses of such Corporation for legal and financial services in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $218,322,000, together with $1,019,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $255,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1990.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $640,326,000, of which $590,486,000 shall be available until September 30, 1991, for payment of all benefits as authorized by section 9501(d) (1), (2), and (7), of the Internal Revenue Code of 1954, as amended, and of which $28,640,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $20,691,000 for transfer to Departmental Management, Salaries and Expenses, and $509,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $270,248,000 including not to exceed $60,633,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $170,039,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed twenty passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $193,771,000, together with not to exceed $49,518,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including $2,540,000 for the President's Committee on Employment of People With Disabilities, $114,732,000 together with not to exceed $285,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $162,623,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-10 and 2021-26.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $41,997,000, together with not to exceed $5,194,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps which was not under such a contract as of September 1, 1984.

SEC. 104. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1990".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

PROGRAM OPERATIONS

For carrying out titles III, VII, VIII, XVI, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, and the Health Care Quality Improvement Act of 1986, as amended, $1,553,465,000, of which $889,000, to remain available until expended, shall be available for renovating the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, of which $4,000,000 shall be available only for the purposes of section 781(f)(1)(A), of which $494,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act and of which $4,300,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of non-acute care intermediate and long-term care facilities for AIDS patients: *Provided,* That notwithstanding section 838 of the Public Health Service Act, not to exceed $10,000,000 of funds returned to the Secretary pursuant to section 839(c) of the Public Health Service Act or pursuant to a loan agreement under section 740 or 835 of the Act may be used for activities under titles III, VII, and VIII of the Act: *Provided further,* That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advances to this appropriation: *Provided further,* That funds made available under this heading shall not be reduced pursuant to sections 638, 704, and 705 of Public Law 100-607.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $21,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH PROFESSIONS GRADUATE STUDENT LOAN FUND

For carrying out title VII of the Public Health Service Act, $25,000,000, to remain available until expended, for payments on defaulted loans for the Health Education Assistance Loan program.

VACCINE INJURY COMPENSATION

For payments from the Vaccine Injury Compensation Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death resolved during the current fiscal year with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act as amended by Public Law 100-203.

For compensation of claims resolved by the United States Claims Court related to the administration of vaccines before October 1, 1988, $74,500,000, of which such sums as may be necessary shall be used to reimburse the Vaccine Injury Compensation Trust Fund for any payment of such claims made from the Trust Fund prior to the current fiscal year.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, XVII, XIX, and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $1,080,180,000, of which $2,000,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided,* That training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further,* That funds appropriated under this heading shall be available for payment of the costs of medical care, re-

lated expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further,* That collections from user fees may be credited to this appropriation: *Provided further,* That amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further,* That in addition to amounts provided herein, up to $19,000,000 shall be available from amounts available under section 2613 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,652,666,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $1,090,930,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental diseases, $138,053,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $590,276,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $495,203,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $845,523,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $692,639,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $448,493,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $240,636,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV of the Public Health Service Act with respect to environmental health sciences, $232,479,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $241,528,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $171,673,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $99,952,000.

RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $356,128,000: *Provided,* That none of these funds, with the exception of funds for the Minority Biomedical Research Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $32,969,000.

NATIONAL CENTER FOR HUMAN GENOME RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $62,000,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $15,579,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $83,311,000.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $106,987,000, including purchase of not to exceed five passenger motor vehicles for replacement only: *Provided,* That $34,000,000 of this amount shall be available only for the purchase of an advanced design supercomputer.

BUILDINGS AND FACILITIES

For construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, $81,600,000, to remain available until expended.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, section 3521 of Public Law 100-690, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $1,917,162,000, of which $198,000 for renovation of government owned or leased intramural research facilities shall remain available until expended.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, $18,000,000, which shall be available in fiscal year 1990 for payments to the District of Columbia as authorized by section 9(a) of the Act: *Provided,* That any amounts determined by the Secretary of Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out titles III, XVII, and XXI of the Public Health Service Act, Public Law 100-505, and subtitle D of title II of Public Law 100-607, $95,345,000, together with not to exceed $1,037,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein, and, in addition, amounts received by the Public Health Service from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided,* That in addition to amounts provided herein, up to $14,681,000 shall be available from amounts available under section 2613 of the Public Health Service Act, to carry out the National Medical Expenditure Survey and the Hospital Studies Program: *Provided further,* That $4,000,000 shall be for Public Law 100-505 and $1,500,000 to remain available until expended shall be for subtitle D of title II of Public Law 100-607.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependent's Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

MEDICAL TREATMENT EFFECTIVENESS

For expenses necessary for the Public Health Service to support medical effectiveness research, $5,000,000, together with not to exceed $15,000,000 to be transferred and expended as authorized by title VIII, subsection E, section 8413 of the Technical and Miscellaneous Revenue Act of 1988 from the Federal Hospital Insurance and Supplementary Medical Insurance Trust Funds referred to therein.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $29,616,497,000, to remain available until expended.

For making, after May 31, 1990, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year

1990 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1991, $10,400,000,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, $36,338,500,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, title XIII of the Public Health Service Act, the Clinical Laboratories Improvement Act of 1988, and section 4005(e) of Public Law 100-203, $101,908,000 together with not to exceed $1,992,159,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance, the Federal Supplementary Medical Insurance, the Federal Catastrophic Drug Insurance, and the Federal Hospital Insurance Catastrophic Coverage Reserve Trust Funds: *Provided*, That $100,000,000 of said trust funds shall be expended only to the extent necessary to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That all funds derived in accordance with 31 U.S.C. 9701 are to be credited to this appropriation.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, $5,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of prepayment premiums and interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $191,968,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $648,862,000, to remain available until expended: *Provided*, That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1991, $215,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, title XI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $9,098,758,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1991, $3,157,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $3,833,389,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further*, That $97,870,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads or meet other costs not anticipated in the budget estimates and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States.

FAMILY SUPPORT ADMINISTRATION

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, section 903 of Public Law 100-628, and the Act of July 5, 1960 (24 U.S.C. ch. 9), $9,007,946,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C., ch. 9) for the first quarter of fiscal year 1991, $3,000,000,000, to remain available until expended.

PAYMENTS TO STATES FOR AFDC WORK PROGRAMS

For carrying out aid to families with dependent children work programs, as authorized by part F and part C (including registration of individuals for such programs, and for related child care and other supportive services as authorized by section 402(a)(19)(G)) of title IV of the Social Security Act, $349,975,000, together with such additional amounts as may be necessary for unanticipated costs incurred for the current fiscal year for carrying out those programs: *Provided*, That the total amount appropriated under this paragraph shall not exceed the limit established in section 403(k)(3) of the Act (as added by section 201(c) of the Family Support Act of 1988): *Provided further*, That a State may not receive more than one-fourth of the amount of its fiscal year 1989 allotment under part C for each quarter in fiscal year 1990 during which part C applies to that State, and a State may not receive more than one-fourth of its annual limitation determined under section 403(k)(2) for each quarter in fiscal year 1990 during which part F applies to that State: *Provided further*, That the quarterly amounts specified in this paragraph shall be the maximum amounts to which the States may become entitled for these purposes.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,400,000,000.

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act and the Stewart B. McKinney Homeless Assistance Act, $371,538,000 of which $20,254,000 shall be for carrying out section 681(a)(2)(A), $4,013,000 shall be for carrying out section 681(a)(2)(D), $2,948,000 shall be for carrying out section 681(a)(2)(E), $9,669,000 shall be for carrying out section 681(a)(2)(F), $236,000 shall be for carrying out section 681(a)(3), and $2,418,000 shall be for carrying out section 681A with respect to the community food and nutrition program.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C., ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, Public Law 100-77, Public Law 100-628, and titles IV and V of Public Law 100-485, $82,431,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,700,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the Child Abuse Prevention and Treatment Act, chapters 1 and 2 of subtitle B of title III of the Anti-Drug Abuse Act of 1988, the Family Violence Prevention and Services Act (title III of Public Law 98-457), the Native American Programs Act, title II of Public Law 95-266 (adoption opportunities), title II of the Children's Justice and Assistance Act of 1986, chapter 8-D of title VI of the Omnibus Budget Reconciliation Act of 1981 (pertaining to grants to States for planning and development of dependent care programs), the Head Start Act, the Comprehensive Child Development Centers Act of 1988, the Child Development Associate Scholarship Assistance Act of 1985, and part B of title IV and section 1110 of the Social Security Act, $2,757,959,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For carrying out part E of title IV of the Social Security Act, $1,556,364,000.

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $80,327,000, of which $19,281,000 shall be available for expenses necessary for the Office of the General Counsel, together with $31,201,000, of which $26,116,000 shall be available for expenses necessary for the Office of the General Counsel, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $49,498,000, together with not to exceed $44,300,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $17,567,000, together with not to exceed $4,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $5,012,000.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 202. None of the funds made available by this Act for the National Institutes of Health, except for those appropriated to the "Office of the Director," may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 203. Appropriations in this or any other Act shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed 2,400 commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 204. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 206. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 207. Amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the activities of the Public Health Service.

SEC. 208. None of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health.

SEC. 209. None of the funds appropriated in this title shall be used to transfer the general administration of programs authorized under the Native American Programs Act from the Department of Health and Human Services to the Department of the Interior.

SEC. 210. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 211. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in the child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 212. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 213. Funds available in this title for activities related to Human Immunodeficiency Virus may be transferred by the Secretary of Health and Human Services between appropriation accounts.

SEC. 214. No funds appropriated under this Act shall be used by the National Institutes of Health, or any other Federal agency, or recipient of Federal funds on any project that entails the capture or procurement of chimpanzees obtained from the wild. For purposes of this section, the term "recipient of Federal funds" includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.

SEC. 215. None of the funds appropriated by this title shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 216. In administering funds made available under this title for research relating to the treatment of AIDS, the National Institutes of Health shall take all possible steps to ensure that all experimental drugs for the treatment of AIDS, particularly antivirals and immunomodulators, that have shown some effectiveness in treating individuals infected with the human immunodeficiency virus are tested in clinical trials as

expeditiously as possible and with as many subjects as is scientifically acceptable.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1990".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, and by section 418A of the Higher Education Act, $5,580,069,000, of which $5,559,177,000 shall become available on July 1, 1990 and shall remain available until September 30, 1991 and of which $290,938,000 shall be available for migrant education activities under subpart 1 of part D, $148,200,000 shall be available for handicapped education activities under subpart 2 of part D, and $34,778,000 shall be available for delinquent and neglected education activities under subpart 3 of part D.

From the amounts appropriated for part A of chapter 1, an amount not to exceed $250,000,000 may be obligated to carry out a new Merit Schools program and an amount not to exceed $100,000,000 may be obligated to carry out a new Magnet Schools of Excellence program only if such programs are specifically authorized in law prior to March 1, 1990.

IMPACT AID

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), $713,670,000, of which $573,316,000 shall be for payments under section 3(a), $125,000,000 shall be for payments under section 3(b), and $15,354,000 shall be for payments under section 2 of said Act.

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), $25,590,000, which shall remain available until expended, shall be for construction and renovation of school facilities as authorized by said Act.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out the activities authorized by chapter 2 of title I, and titles II, III, IV, and V of the Elementary and Secondary Education Act of 1965, as amended; the Stewart B. McKinney Homeless Assistance Act; the Civil Rights Act of 1964; title V of the Higher Education Act, as amended; part B of title III and title IV of Public Law 100-297; section 5051 of Public Law 100-690; section 6115 of Public Law 100-418; and the Follow Through Act, $1,170,527,000, of which $869,382,000 shall become available on July 1, 1990, and remain available until September 30, 1991, and $2,500,000 shall be for evaluation studies of the magnet schools and chapter 2 block grant programs.

BILINGUAL, IMMIGRANT, AND REFUGEE EDUCATION

For carrying out, to the extent not otherwise provided, title VII and part D of title IV of the Elementary and Secondary Education Act, $194,761,000, of which $32,413,000 shall be for part C of title VII.

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, $2,063,827,000, of which $1,564,017,000 for section 611, $252,000,000 for section 619, and $77,205,000 for section 685 shall become available for obligation on July 1, 1990, and shall remain available until September 30, 1991.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, title I of Public Law 100-407, and the Helen Keller National Center Act, as amended, $1,743,973,000, of which $31,994,000 shall be for special demonstration programs under sections 311 (a), (b), and (c) including $15,000,000 for one-time start-up grants to establish a system of regional comprehensive head injury prevention and rehabilitation centers.

SPECIAL INSTITUTIONS FOR THE HANDICAPPED

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), including provision of materials to adults undergoing rehabilitation on the same basis as provided in 1985, $5,537,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $35,553,000, of which $200,000 shall be for the endowment program as authorized under section 408 and shall be available until expended.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), including continuing education activities, existing extension centers and the National Center for Law and the Deaf, $68,350,000, of which $1,000,000 shall be for the endowment program as authorized under section 407 and shall be available until expended.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational Education Act, the Adult Education Act and the Stewart B. McKinney Homeless Assistance Act, $1,151,035,000 which shall become available for obligation on July 1, 1990, and shall remain available until September 30, 1991, of which $26,639,000 shall be for national programs under title IV of the Carl D. Perkins Vocational Education Act including $7,200,000 for research, $15,000,000 for demonstrations, and $4,439,000 for data collection and of which $2,000,000 shall be for national programs under section 383 of the Adult Education Act.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C, D, and E of title IV of the Higher Education Act, as amended, $6,021,960,000, which shall remain available until September 30, 1991: *Provided*, That the maximum Pell grant that a student may receive in the 1990-91 award year shall be $2,300.

GUARANTEED STUDENT LOANS

(LIQUIDATION OF CONTRACT AUTHORITY)

For payment of obligations incurred under contract authority entered into pursuant to title IV, part B, of the Higher Education Act, as amended, $3,651,000,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided for, titles I, III, IV, V, VI, VII, VIII, IX, and X of the Higher Education Act of 1965, as amended, and the Mutual Educational and Cultural Exchange Act of 1961, $634,976,000, of which up to $23,128,000 for endowment activities under section 332 of part C of title III and $22,744,000 for interest subsidies under part D of title VII shall remain available until expended: *Provided*, That $8,479,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a)): *Provided further*, That $1,456,000 of the amount provided herein for subpart 4 of part A of title IV of the Higher Education Act shall be for an evaluation of Special Programs for the Disadvantaged to examine the effectiveness of current programs and to identify program improvements.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $184,904,000, of which $7,458,000 shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98-480) and shall remain available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation: *Provided*, That during fiscal year 1990, gross commitments for the principal amount of direct loans shall be $30,000,000.

For payment of interest on funds borrowed from the Treasury pursuant to section 761(d) of the Higher Education Act, as amended, $5,129,000, to remain available until expended.

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year. For the fiscal year 1990, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE HOUSING LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing loan program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

EDUCATION RESEARCH AND STATISTICS

For necessary expenses to carry out section 405 and section 406 of the General Education Provisions Act, as amended, $100,330,000, of which $6,000,000, to remain available until December 31, 1990, shall be for the rural education program conducted by the regional laboratories.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, III, IV, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and title II of the Higher Education Act, $114,876,000.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $269,946,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $45,178,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $22,000,000.

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the costs of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

SEC. 303. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 304. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 305. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 306. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1990".

TITLE IV—RELATED AGENCIES

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1992, $314,060,000 of which $72,000,000 shall be available for section 396(k)(10) of said Act: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $26,380,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $4,030,000.

NATIONAL COMMISSION ON CHILDREN

For necessary expenses of the National Commission on Children established by section 9136 of the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, $940,000, which shall remain available until expended.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), $750,000.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99-660, $400,000, which shall remain available until expended.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by section 405 of the Rehabilitation Act of 1973, as amended, $1,157,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, $140,111,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, $6,384,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $5,970,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $3,847,000, to be transferred to this appro-

priation from the Federal Supplementary Medical Insurance Trust Fund.

PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1847 of the Social Security Act, $1,500,000, to be transferred to this appropriation from the Federal Catastrophic Drug Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, $3,919,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $340,000,000, which shall include amounts becoming available in fiscal year 1990 pursuant to section 224(c)(1)(B) of Public Law 98-76: *Provided*, That the total amount provided herein shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $63,900,000, to be derived from the railroad retirement accounts: *Provided*, That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further*, That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $14,100,000 shall be apportioned for fiscal year 1990 from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON REVIEW ACTIVITY

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $3,545,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $39,000,000: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $8,500,000, to remain available until expended.

UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE

For necessary expenses of the United States Bipartisan Commission on Comprehensive Health Care established by section 401 of the Medicare Catastrophic Coverage Act of 1988, $467,000, which shall remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $6,916,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

SEC. 512. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1990".

Mr. NATCHER (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Are there points of order against any provisions in the bill?

POINT OF ORDER

Mr. MADIGAN. Mr. Chairman, I make a point of order against the proviso on page 17, beginning on line 7 and ending on line 9, that this is legislation on an appropriations bill and that it changes existing law.

The CHAIRMAN. Does the gentleman from Kentucky [Mr. NATCHER] wish to be heard on the point of order?

Mr. NATCHER. Mr. Chairman, we concede the point of order.

The CHAIRMAN (Mr. SHARP). Accordingly, the point of order is sustained, and the proviso is stricken.

Mr. MADIGAN. Mr. Chairman, sections 638, 704, and 705 of Public Law 100–607 would be overturned by this bill. As such it is prohibited under clause 2 of rule XXI of the House. Clause 2 of rule XXI provides that:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order. * * *"

If passed, the language of this proviso would change the terms of a legislatively established formula for the distribution of appropriated funds. Mr. Chairman, I submit that if an authorizing statute provides that a particular percentage of total funds be allocated to each of several specified areas, a purported limitation which eliminates funds for one of those areas would constitute legislation on an appropriations bill in that it changes a prescribed formula. This is prohibited by the rules of the House. Section 6.2 of chapter 26 of Deschler's Precedents provides that it is not in order on a general appropriation bill to direct that funds therein be distributed in a manner contrary to an allocation formula in existing law.

The CHAIRMAN. Are there any other points of order?

Are there amendments?

Mr. CONTE. Mr. Chairman, I move to strike the last word.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to thank the chairman of the subcommittee, the gentleman from Kentucky [Mr. NATCHER], and the ranking member, the gentleman from Massachusetts [Mr. CONTE], as well as all those who serve on that committee. I want to talk very briefly about two areas.

Certainly, with 75 million functional illiterates in this country, education has to be one of our priorities. We have now discovered and believe and understand that the only way we can deal with illiteracy is if we deal with it as an intergenerational problem. We do deal with it in this bill. We have increased the Even Start money by $15 million, which will help not only to improve the literacy of parents but will also help parents understand what it is that we do with preschool children so that they are reading-ready by the time they get to school.

I also want to make one other point, because I want the chapter 1 community to understand this. What this committee has done is, it has given chapter 1 $1 billion extra. What they have to understand in the chapter 1 community is, however, that I do not want them coming to me and saying that the Secretary took some of the chapter 1 money to do other things, because this committee specifically says, "Here is $100 million that will go directly to chapter 1 beyond an inflation increase." First, they get an inflation increase, then they get another $100 million for chapter 1, and then this committee says, as I said, that there is another $350 million there, and if the Secretary wants to use that for a couple of new projects the President is working for, he can do that if my committee authorizes that before March 30.

So we want to make sure that the chapter 1 community does not come running and saying, "Hey, you took some of our money." They are not authorizing that we take some of their money. They are saying that they are going to get $100 million, they are going to get an inflation increase, more than anybody else around here, and at the same time we are going to allow them to do some extra programs with another $350 million.

Mr. Chairman, again I thank the gentleman from Massachusetts.

Mr. Chairman, I rise in strong support of the bill, H.R. 2990, providing appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for fiscal year 1990.

Frist of all, I want to once again commend and thank Chairman NATCHER, the ranking member Mr. CONTE, and the members of the Labor-HHS-Education Subcommittee, for their leadership in the vital policy and programmatic areas encompassed by this bill.

In particular, I want to thank them for their continued leadership in Federal support for education, which they have displayed by providing a 5-percent increase over the current fiscal year's funding for the Department of Education, and for their very careful, and to the extent possible favorable, consideration of President Bush's educational initiatives. I was pleased to find that they have taken the exceptional step of providing bill language that would permit the initial funding of two key initiatives—Presidential Merit Schools and Magnet Schools of Excellence—if Congress acts to authorize them by early next year. I further noted that even if these two key initiatives were funded by transfers from the fiscal year 1990 funding recommended for ESEA Chapter 1 Basic Grants for LEA's, the amount remaining for the basic grants would still permit real growth in the program which I view as the backbone of the Federal effort to help all disadvantaged students in school. I should add that I also appreciated their finding that one of the President's budget proposals, Education achievement experiments, could be provided with initial funding under existing authorizations.

When I appeared before the Labor-HHS-Education Subcommittee in early May, I requested a substantial increase in the funding of another chapter 1 component, the Even Start Program. I noted then that the Department of Education had received over 1,300 requests for Even Start applications, which I viewed as a clear indication of the program's popularity and potential for expansion. I have since learned that as of the end of May the Department accepted 300 applications, and with the funds made available for the program during this fiscal year, will be able to support about 70. Needless to say, I was very pleased to find that H.R. 2990 recommends doubling Even Start's level of funding for the coming fiscal year, which in turn should permit a substantial expansion of the program throughout the Nation.

When I testified before the subcommittee, last May, I endorsed the Congressional Budget Office's fiscal year 1990 baseline estimate as the most credible level of funding for the Stafford Student Loan [GSL] Program. I am pleased to find that the bill adopted this recommendation. I also find it particularly appropriate that the bill's recommendations for the Pell Grant and Graduate Assistance in Areas of National Need programs afford these key student financial assistance and higher education account components real growth in the coming fiscal year.

In the area of special education, I want to commend the recommendation to double the current fiscal year's level of funding for the Technology Assistance Program established by Public Law 100–407, the Technology-Related Assistance for Individuals with Disabilities Act of 1988. The funding proposed for fiscal year 1990 will substantially accelerate the development of statewide technology-related assistance programs for disabled individuals. As I suggested to the subcommittee, for a disabled individual such technology translates into independence and the opportunity to participate in and contribute to our society.

The committee report on H.R. 2990 informs us that the President's request for $1.485 billion for Head Start could not be considered because a fiscal year 1990 authorization permitting such an appropriation has not yet been enacted by the Congress. The bill has done the next best thing by recommending a $1.400 billion appropriation, just $5 million below the current fiscal year 1990 authorization level. The House, of course, promptly acted on H.R. 1300, which raised the fiscal year 1990 authorization for Head Start to $1.552 billion. The Senate has followed suit, albeit through S. 5, their Child Care vehicle. We can only hope that this increase in the authorization level of a particularly successful program will be cleared before the conference on this bill.

I have often expressed my belief that the Job Corps is one program where we are definitely getting our money's worth. I am consequently very pleased with the recommendation to provide the program with funding that will allow it to improve and expand.

Finally, I very much appreciate the bill's recommendation for a 9-percent increase over this fiscal year's funding level for the Occupational Safety and Health Administration

[OSHA], and more particularly the increase provided for OSHA grants to "State plan" States. The Committee on Education and Labor has often expressed its concern over the continued underfunding of these OSHA grants, and we are encouraged by the increases proposed in this bill.

Mr. CONTE. Mr. Chairman, I would like to engage the chairman of the subcommittee, the gentleman from Kentucky [Mr. NATCHER], in a colloquy.

Am I correct that there are sufficient funds in the bill for the Secretary to conduct a study of the extent of the problem that exists in our schools, with attention deficit disorder?

Mr. NATCHER. Mr. Chairman, if the gentleman will yield, let me state that the gentleman is correct.

Mr. CONTE. Mr. Chairman, would the gentleman join with me in directing the Secretary of Education to conduct such a study and report back to the committee prior to next year's hearings?

Mr. NATCHER. Mr. Chairman, I agree that this is something he should do.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHAW: Page 63, after line 10, insert the following new section:

SEC. 513. (a) FINDINGS.—The Congress finds that—

(1) illegal drug use is a serious problem of our society and educational institutions;

(2) drug use is incompatible with the educational process and destroys an atmosphere conducive to learning;

(3) our educational institutions and their administrators have traditionally been entrusted with the task of transmitting community values to their students who will lead our Nation in the future; and

(4) our educational institutions have the opportunity to enrich the lives of a significant portion of young Americans during their years in college by encouraging the study of values that enable them to distinguish right from wrong and moral from immoral.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that colleges and universities should demand drug-free campuses and should, with the support of parents, students, and the community, enforce strict but fair policies to eliminate drug use by students.

Mr. SHAW (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SHAW. I shall be brief.

What this amendment does is, it expresses the sense of Congress that colleges and universities should demand drug-free campuses and should, with the support of parents, students, and communities, enforce strict and fair policies to eliminate drug use by the students.

Mr. Chairman, it is too seldom that the universities and colleges of our country have an actual stated policy that is made known to their student body. Back in 1987 I wrote to all the major colleges and universities in the State of Florida, including my own alma mater, Stetson University, and the University of Alabama, and I was very pleased with the response that I had indicating that these colleges did have stated drug policies and they were very much concerned about drug abuse on their campuses.

However, I am not sure that that message is getting through to their student bodies, and I would hope, with the passage of this amendment, we could go on record as the Congress of the United States as supportive of this action.

Mr. NATCHER. Will the gentleman yield?

Mr. SHAW. I yield to the subcommittee chairman.

Mr. NATCHER. The gentleman from Florida has been kind enough to communicate with us and give us a copy of his amendment. We have examined the amendment, and we have no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SHAW].

The amendment was agreed to.

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Mr. HENRY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am in strong support of the legislation. I rise for purposes of a colloquy with the distinguished gentleman from Kentucky [Mr. NATCHER], chairman of the committee.

Mr. Chairman, I would like to clarify one item in the Labor, HHS, and Education Appropriations bill, particularly as that item is described in the committee report. The bill includes a total of $73.9 million for the National Institute for Occupational Safety and Health [NIOSH]. One million of that total is set aside, according to the committee report, for a "pilot program of notification of workers in specific high-risk occupational settings, as defined by NIOSH using previously determined criteria."

It is my understanding that the intent of that $1 million set aside is to enable NIOSH to continue and possibly accelerate a program which is already underway, to provide notification to certain individuals who have been part of past NIOSH case control and cohort mortality studies. Dr. Donald Millar, the Director of NIOSH, testified about this program earlier this year before the Health and Safety Subcommittee, and this is his description of progress to this point:

NIOSH has completed a preliminary assessment of 132 NIOSH studies initially identified as potentially warranting notification and have narrowed this group to 34 studies. NIOSH has evaluated five of these and will initiate individual notification for two cohorts in 1989. Of the remaining studies, a NIOSH contractor is presently evaluating 25 studies, using the guidelines from our Board of Scientific Counselors and the NIOSH-prepared prototype evaluations. These evaluations will be completed before 1991. The remaining four studies will be evaluated in 1991. NIOSH policy for all ongoing and future research is to conduct individual notification as an integral component of all epidemiologic research we support.

It is my understanding that the $1 million specifically set aside for this program for fiscal year 1990 would permit NIOSH to increase the number of notifications from the two begun this year to a minimum of five in fiscal year 1990.

Could the chairman confirm that the $1 million is indeed set aside for this program, and that the committee report is not referring to a new or different notification program?

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, the answer to that question is yes. That is the intention of the provision. It allows NIOSH to continue and expand its ongoing worker notification program.

Mr. HENRY. Mr. Chairman, I appreciate the comments of the gentleman from Kentucky [Mr. NATCHER].

Let me also add that my concern is in part caused by the fact that some of the language in the committee report reflects arguments made during the debate in the last Congress on the so-called high risk notification legislation—inferring that the NIOSH worker notification program and the risk notification legislation are essentially the same. They are not, and while many of us have supported the NIOSH notification program, it should be clearly understood that the NIOSH program differs fundamentally from the program envisioned in the broader risk notification legislation.

Mr. Chairman, I appreciate the assistance of the gentleman from Kentucky [Mr. NATCHER].

Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. PURSELL], my colleague.

Mr. PURSELL. Mr. Chairman, I am pleased to support the pending legislation, to make appropriations for the Departments of Labor, Health and Human Services, and Education.

Two of the most important issues in last year's elections were health care and education, and the committee has addressed these concerns in the legislation before the House. For fiscal year 1990, the Department of Health and Human Services [HHS] receives $123.8 billion, a $12.1 billion increase over fiscal year 1989. The Department of Educa-

tion will receive $23.8 billion, $1.1 billion more than in fiscal year 1989.

Throughout my 13-year career in Congress, I have made health care one of my top priorities. I am very pleased that the committee has provided substantial increases for the National Institute of Health [NIH] and the Centers for Disease Control [CDC].

The bill would fund NIH at $7.7 billion for next year, an increase of almost $534 million from fiscal year 1989. Through the efforts of the 13 research institutes and the several other NIH support centers, progress has been made in recent years for many diseases. Incidence rates are down and survival rates are up.

Funding for CDC is set at $1.1 billion, a $103 million increase from the current fiscal year. By working with State and local health authorities, CDC is responsible for fighting the spread of communicable diseases and for helping reduce the incidence of other diseases. Through the efforts of NIH, our medical schools, and other researchers, we have learned an incredible amount in the area of prevention. However, many people continue to die from preventable diseases. For example, many cases of cardiovascular disease and many cases of cancer are often preventable, yet individuals, through lack of knowledge or other reasons, are not taking the necessary preventive measures. I encourage CDC to continue their hard work to use our medical research to this end.

Finally, I concur with the committee's comments regarding AIDS funding. Rather than fund AIDS programs under a single consolidated account, the committee has decided this year to allow NIH to manage this account. Rather than earmark a definite dollar amount for AIDS, the committee believes that Federal AIDS funding has reached a point where AIDS research should be managed by NIH using the same system that it uses to fund other critical illnesses, AIDS funding has increased from $61.4 million in fiscal year 1984, to nearly $1.3 billion in fiscal year 1989.

AIDS funding is still expected to increase for fiscal year 1990, to $1.6 billion. This would be a 24 percent increase over the fiscal year 1989 level.

Finally, I support the significant increase for the Department of Education. Increases are included for chapter 1 programs, education for the handicapped, student financial assistance, and higher education programs. I believe that Federal participation is necessary at all levels of education, from Head Start to postgraduate, and I am pleased that the committee has funded a wide variety of programs in this bill.

I urge my colleagues to support this legislation.

Mr. WEISS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the 100,000th person with AIDS was counted this month and the epidemic, which has raged for a decade, is still out of control. The General Accounting Office estimates a fourfold increase in the number of sick and dying by the end of 1991.

The scientists at the National Institutes of Health have worked tirelessly to find a cure for this tragic disease and progress has been made, but success is yet to come. In the course of their research, they have unlocked secrets that are useful in the pursuit of therapies for other diseases, such as cancer. But there is still much to be accomplished in AIDS research. The House Appropriations Committee has reported a bill that goes a long way toward responding to the epidemic but leaves this unfinished research agenda unprotected and vulnerable.

For the past several years, funding for AIDS research has been a line item in the appropriations bill. The President's budget request contained a separate amount for research. But in the fiscal year 1990 bill before the House today, there is no separate line item. I am concerned that the pressures for additional funding for other purposes will erode even the amount in the President's budget for this critical research mission. I hope that before final adoption of this bill the AIDS research budget will become a line item in the appropriations bill and provide at least as much as the President's budget contained.

Yesterday, Dr. James Mason, Assistant Secretary for Health and head of the U.S. Public Health Service testified before the subcommittee which I chair. I was shocked to hear him say that treatment and care for persons with HIV infection and AIDS are the lowest priority of all the AIDS programs in the PHS. It was clear from his testimony and from the President's budget that the PHS is not responding to the crisis in health care in a way that even approaches adequacy. From one coast to the other the health care systems of this Nation's most heavily affected cities are crumbling under the weight of AIDS. And State, local, and private funding sources are not increasing to meet the growing demand for services.

Early treatment interventions hold out enormous hope to persons whose HIV infection has not reached the stage of fullblown AIDS. But many community health centers and hospitals simply do not have the resources to provide it. As Dr. Mason has said, it is the moral responsibility of the Federal Government to find a way out of this desperate situation.

One often hears Federal officials point to the Medicaid Program as bearing a great financial burden for AIDS care. It is true that 40 percent of all persons with AIDS have received care under Medicaid. But Medicaid has actually covered only 25 percent of the cost of AIDS care; the rest has been subsumed by the hospital or the local jurisdiction as indigent care and a small proportion is covered by private insurance. Moreover, if we look at AIDS payments as a percent of the total Federal Medicaid budget, we find it is only 1.5 percent, and if Medicare and Medicaid are combined, Federal AIDS care amounts to only 0.4 percent of total Federal expenditures.

When pressed as to why there is such limited financial support for early intervention in this bill the PHS argues that the information was developed too late to allow it to be factored in.

It is my most urgent request that together with the Senate, the House conferees can see fit to strengthen the AIDS budget, for light of this new knowledge with a special focus on the neglected areas of treatment and care.

Mr. NATCHER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill, as amended, do pass.

The question was taken, and the Chairman announced that the ayes appeared to have it.

The CHAIRMAN. For what purpose does the gentleman from California [Mr. DANNEMEYER] rise?

Mr. DANNEMEYER. Mr. Chairman, I have a preferential motion. I move to strike the last word.

The CHAIRMAN. The gentleman from California [Mr. DANNEMEYER] is recognized. This is a preferential motion, and the gentleman is recognized for 5 minutes to strike the last word.

Mr. DANNEMEYER. Mr. Chairman and Members, I have listened to my colleagues on this committee describe the necessity of our Nation developing a logical response to control the AIDS epidemic.

For instance, the gentleman from Massachusetts [Mr. EARLY] pointed out that we are increasing the appropriation in this bill, by if I heard him correctly, some $400 million in the next fiscal year, some 1.6 or 1.8 million. It is my hope that we find a cure, that we find a vaccine. Scientists say to us that the probability of that happening is not good.

But what this Nation can do is to adopt and implement routine steps that historically have been pursued to control communicable diseases of any nature, most particularly venereal diseases, which are not being pursued in the major States of America that have the majority of the cases.

□ 1300

Specifically, there are seven States in America today that have about 70 percent of the cases in which traditional public health measures have been discarded and we have stood the health care system on its head in order not to accommodate those who choose to pursue a perverse sexual lifestyle. I am talking about New York and California, which together contribute better than half the cases in this country. We are at this late date

in the epidemic not requiring that persons who are HIV positive be reported in confidence to public health authorities and conduct contact tracing.

The significance of that failure is very simple. The way to stop communicable disease is to intercept the link between those who have it and those who do not want to get it. The current policy in New York State and California is that the civil rights of the affected take precedence over the civil rights of the uninfected. That is nonsense.

One of these days the public in this country is going to figure that out and they are going to be absolutely revulsed at what we see happening in terms of judgment from the leaders of the medical profession, in my State of California, for instance. I give credit to the leaders of the medical profession in the State of New York where the voice of organized medicine has adopted the position that this Member from California is advocating right now, namely, reportability in confidence for HIV positive people and contact tracing.

After I have consumed this 5 minutes under the rule, this Member from California will offer an amendment to this bill, which in effect will say that none of the funds can be used to instruct in homosexuality or bisexuality in any school district that gets money from this bill in this Nation. I am making specific reference to the city school district of Los Angeles, CA, which will receive $465 million in the next fiscal year. They have adopted a project called Project Ten. Its function is premised on the idea that 10 percent, that is the source of the name of the people in America who are homosexuals. It is designed to provide instruction to the kids in that school district into the activities of homosexuality.

Now, think of the absolute absurdity of what this would do, Project Ten in Los Angeles. About 70 percent of the cases of AIDS in America are found in male homosexuals, and yet we are going to have a school district in America that is going to teach children a lifestyle that is so unhealthy that it has resulted in this magnitude of people who are not only sick, but dying.

It is an absurdity that Federal taxpayers dollars would be used for this purpose, and that is what I seek to do by this amendment. It is very simple. It merely says that none of the money appropriated under this measure, none of the $465 million that the school district of Los Angeles City will get can be used for the purpose of instructing in homosexuality or bisexuality.

I expect the chairman of the committee will make a motion when my amendment is offered for the Committee to rise. I intend to ask for a roll call vote.

I am asking my colleagues to vote no on the issue of the Committee rising so that this Member from California will have an opportunity of offering this amendment that I have described.

One of the major political issues of the eighties and the nineties will be whether or not we in our American culture accept and equate homosexuality on a par with a heterosexual lifestyle. That is one of the growing issues in our society.

I will be very candid with my colleagues in the House. Unless the leaders of this country, whether serving in government or business or education, are willing to affirm the heterosexual lifestyle of a foundation of our world, the homosexual movement is going to win.

The CHAIRMAN. The time of the gentleman from California [Mr. DANNEMEYER] has expired.

Mr. DANNEMEYER. Mr. Chairman, I have an amendment at the desk.

Mr. NATCHER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill, as amended, do pass.

The CHAIRMAN. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. NATCHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 279, noes 134, not voting 18, as follows:

[Roll No. 202]

AYES—279

Ackerman	Carr	Espy
Akaka	Chandler	Evans
Alexander	Chapman	Fascell
Anderson	Clarke	Fazio
Andrews	Clement	Feighan
Annunzio	Clinger	Fish
Anthony	Coleman (TX)	Flake
Applegate	Conte	Flippo
Aspin	Conyers	Foglietta
Atkins	Cooper	Ford (MI)
Barnard	Costello	Frank
Bates	Coughlin	Frenzel
Beilenson	Coyne	Frost
Bennett	Crockett	Gallo
Berman	Darden	Garcia
Bevill	Davis	Gaydos
Bilbray	de la Garza	Gejdenson
Boehlert	DeFazio	Gephardt
Boggs	Dellums	Gibbons
Bonior	Derrick	Gilman
Borski	Dicks	Glickman
Bosco	Dixon	Gonzalez
Boucher	Donnelly	Goodling
Boxer	Dorgan (ND)	Gordon
Brennan	Downey	Gradison
Brooks	Durbin	Grandy
Browder	Dwyer	Gray
Brown (CA)	Dymally	Green
Bruce	Dyson	Guarini
Bustamante	Early	Gunderson
Byron	Edwards (CA)	Hall (OH)
Campbell (CO)	Engel	Hamilton
Cardin	English	Harris
Carper	Erdreich	Hatcher
Hawkins	McHugh	Sabo
Hayes (IL)	McMillen (MD)	Saiki
Hayes (LA)	McNulty	Sangmeister
Hefner	Mfume	Sarpalius
Henry	Miller (CA)	Savage
Hertel	Miller (WA)	Sawyer
Hoagland	Mineta	Saxton
Hochbrueckner	Moakley	Scheuer
Horton	Mollohan	Schneider
Houghton	Montgomery	Schroeder
Hoyer	Moody	Schumer
Hubbard	Morella	Sharp
Huckaby	Morrison (CT)	Shays
Hughes	Morrison (WA)	Sikorski
Jenkins	Mrazek	Sisisky
Johnson (CT)	Murphy	Skaggs
Johnson (SD)	Murtha	Skelton
Johnston	Myers	Slattery
Jones (GA)	Nagle	Slaughter (NY)
Jones (NC)	Natcher	Smith (FL)
Jontz	Neal (MA)	Smith (IA)
Kanjorski	Neal (NC)	Smith (VT)
Kaptur	Nelson	Snowe
Kasich	Nowak	Solarz
Kastenmeier	Oakar	Spratt
Kennedy	Oberstar	Staggers
Kennelly	Obey	Stallings
Kildee	Olin	Stark
Kleczka	Ortiz	Stenholm
Kolbe	Owens (NY)	Stokes
Kolter	Owens (UT)	Studds
Kostmayer	Pallone	Swift
LaFalce	Panetta	Synar
Lantos	Parker	Tauzin
Laughlin	Patterson	Thomas (CA)
Leath (TX)	Payne (NJ)	Thomas (GA)
Lehman (CA)	Payne (VA)	Torres
Leland	Pease	Torricelli
Levin (MI)	Pelosi	Towns
Levine (CA)	Penny	Traficant
Lewis (GA)	Perkins	Traxler
Lipinski	Pickett	Udall
Lloyd	Pickle	Unsoeld
Long	Porter	Valentine
Lowey (NY)	Poshard	Vento
Luken, Thomas	Price	Visclosky
Machtley	Pursell	Walgren
Madigan	Quillen	Walsh
Manton	Rahall	Waxman
Markey	Rangel	Weiss
Martin (IL)	Ray	Wheat
Martinez	Richardson	Whitten
Matsui	Roe	Williams
Mavroules	Rogers	Wise
Mazzoli	Rose	Wolpe
McCloskey	Rostenkowski	Wyden
McDade	Rowland (GA)	Yates
McDermott	Roybal	Yatron
McGrath	Russo	Young (FL)

NOES—134

Archer	Emerson	Lukens, Donald
Armey	Fawell	Marlenee
Baker	Fields	Martin (NY)
Ballenger	Gallegly	McCandless
Bartlett	Gekas	McCollum
Barton	Gillmor	McEwen
Bateman	Gingrich	McMillan (NC)
Bentley	Goss	Meyers
Bereuter	Grant	Michel
Bilirakis	Hall (TX)	Miller (OH)
Billey	Hammerschmidt	Molinari
Broomfield	Hancock	Moorhead
Brown (CO)	Hansen	Nielson
Buechner	Hastert	Packard
Bunning	Hefley	Parris
Burton	Herger	Pashayan
Callahan	Hiler	Paxon
Campbell (CA)	Holloway	Petri
Coble	Hopkins	Ravenel
Coleman (MO)	Hunter	Regula
Combest	Hutto	Rhodes
Courter	Inhofe	Ridge
Cox	Ireland	Rinaldo
Craig	Jacobs	Ritter
Crane	James	Roberts
Dannemeyer	Kyl	Robinson
DeLay	Lagomarsino	Rohrabacher
DeWine	Leach (IA)	Roth
Dickinson	Lent	Roukema
Dornan (CA)	Lewis (CA)	Rowland (CT)
Dreier	Lewis (FL)	Schaefer
Duncan	Lightfoot	Schiff
Eckart	Livingston	Schuette
Edwards (OK)	Lowery (CA)	Schulze

Sensenbrenner	Smith, Robert (NH)	Vander Jagt
Shaw	Smith, Robert (OR)	Volkmer
Shumway	Solomon	Vucanovich
Shuster	Spence	Walker
Skeen	Stangeland	Watkins
Slaughter (VA)	Stearns	Weber
Smith (MS)	Stump	Weldon
Smith (NE)	Tauke	Whittaker
Smith (NJ)	Thomas (WY)	Wolf
Smith (TX)	Upton	Wylie
Smith, Denny (OR)		Young (AK)

NOT VOTING—18

AuCoin	Florio	McCurdy
Bryant	Ford (TN)	Oxley
Clay	Hyde	Sundquist
Collins	Lancaster	Tallon
Dingell	Lehman (FL)	Tanner
Douglas	McCrery	Wilson

□ 1323

Messrs. BATEMAN, BUECHNER, HALL of Texas, STANGELAND, and LIGHTFOOT, and Mrs. MEYERS of Kansas changed their vote from "aye" to "no."

Mr. GRANDY changed his vote from "no" to aye."

So the motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. GEPHARDT] having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2990) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes, had directed him to report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONTE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 365, noes 58, not voting 8, as follows:

[Roll No. 203]

AYES—365

Ackerman	Edwards (OK)	LaFalce
Akaka	Emerson	Lagomarsino
Alexander	Engel	Lancaster
Anderson	English	Lantos
Andrews	Erdreich	Laughlin
Annunzio	Espy	Leath (TX)
Anthony	Evans	Lehman (CA)
Applegate	Fascell	Leland
Aspin	Fazio	Lent
Atkins	Feighan	Levin (MI)
AuCoin	Fish	Levine (CA)
Baker	Flake	Lewis (CA)
Ballenger	Flippo	Lewis (GA)
Barnard	Foglietta	Lipinski
Bateman	Ford (MI)	Livingston
Bates	Ford (TN)	Lloyd
Beilenson	Frank	Long
Bennett	Frost	Lowery (CA)
Bentley	Gallo	Lowey (NY)
Bereuter	Garcia	Luken, Thomas
Berman	Gaydos	Machtley
Bevill	Gejdenson	Madigan
Bilbray	Gephardt	Manton
Bilirakis	Gibbons	Markey
Bliley	Gillmor	Marlenee
Boehlert	Gilman	Martin (NY)
Boggs	Gingrich	Martinez
Bonior	Glickman	Matsui
Borski	Gonzalez	Mavroules
Bosco	Goodling	Mazzoli
Boucher	Gordon	McCloskey
Boxer	Goss	McCrery
Brennan	Gradison	McCurdy
Brooks	Grandy	McDade
Broomfield	Grant	McDermott
Browder	Gray	McEwen
Brown (CA)	Green	McHugh
Bruce	Guarini	McMillan (NC)
Bryant	Gunderson	McMillen (MD)
Buechner	Hall (OH)	McNulty
Bustamante	Hamilton	Meyers
Byron	Hammerschmidt	Mfume
Campbell (CA)	Harris	Michel
Campbell (CO)	Hastert	Miller (CA)
Cardin	Hatcher	Miller (OH)
Carper	Hawkins	Miller (WA)
Carr	Hayes (IL)	Mineta
Chandler	Hayes (LA)	Moakley
Chapman	Hefner	Mollohan
Clarke	Henry	Montgomery
Clement	Hertel	Moody
Clinger	Hiler	Morella
Coble	Hoagland	Morrison (CT)
Coleman (MO)	Hochbrueckner	Morrison (WA)
Coleman (TX)	Holloway	Mrazek
Conte	Hopkins	Murphy
Conyers	Horton	Murtha
Cooper	Houghton	Myers
Costello	Hoyer	Nagle
Coughlin	Hubbard	Natcher
Courter	Huckaby	Neal (MA)
Coyne	Hughes	Neal (NC)
Crockett	Hutto	Nelson
Darden	Inhofe	Nowak
Davis	Ireland	Oakar
de la Garza	Jacobs	Oberstar
DeFazio	James	Obey
Dellums	Jenkins	Olin
Derrick	Johnson (CT)	Ortiz
DeWine	Johnson (SD)	Owens (NY)
Dickinson	Johnston	Owens (UT)
Dicks	Jones (GA)	Oxley
Dingell	Jones (NC)	Pallone
Dixon	Jontz	Panetta
Donnelly	Kanjorski	Parker
Dorgan (ND)	Kaptur	Parris
Downey	Kasich	Pashayan
Duncan	Kastenmeier	Patterson
Durbin	Kennedy	Payne (NJ)
Dwyer	Kennelly	Payne (VA)
Dymally	Kildee	Pease
Dyson	Kleczka	Pelosi
Early	Kolbe	Penny
Eckart	Kolter	Perkins
Edwards (CA)	Kostmayer	Petri
Pickett	Schroeder	Tallon
Pickle	Schuette	Tauzin
Porter	Schulze	Thomas (CA)
Poshard	Schumer	Thomas (GA)
Price	Sharp	Thomas (WY)
Pursell	Shaw	Torricelli
Quillen	Shays	Towns
Rahall	Sikorski	Traficant
Rangel	Sisisky	Traxler
Ravenel	Skaggs	Udall
Ray	Skeen	Unsoeld
Regula	Skelton	Valentine
Rhodes	Slattery	Vander Jagt
Richardson	Slaughter (NY)	Vento
Ridge	Slaughter (VA)	Visclosky
Rinaldo	Smith (FL)	Volkmer
Ritter	Smith (IA)	Vucanovich
Robinson	Smith (NE)	Walgren
Roe	Smith (NJ)	Walsh
Rogers	Smith (VT)	Watkins
Rose	Smith, Robert (OR)	Waxman
Rostenkowski	Snowe	Weber
Roukema	Solarz	Weiss
Rowland (CT)	Spence	Weldon
Rowland (GA)	Spratt	Wheat
Roybal	Staggers	Whitten
Russo	Stallings	Williams
Sabo	Stangeland	Wilson
Saiki	Stark	Wise
Sangmeister	Stearns	Wolf
Sarpalius	Stenholm	Wolpe
Savage	Stokes	Wyden
Sawyer	Studds	Wylie
Saxton	Sundquist	Yates
Scheuer	Swift	Yatron
Schiff	Synar	Young (AK)
Schneider		Young (FL)

NOES—58

Archer	Gallegly	Paxon
Armey	Gekas	Roberts
Bartlett	Hall (TX)	Rohrabacher
Barton	Hancock	Roth
Brown (CO)	Hansen	Schaefer
Bunning	Hefley	Sensenbrenner
Burton	Herger	Shumway
Callahan	Hunter	Shuster
Combest	Kyl	Smith (MS)
Cox	Leach (IA)	Smith (TX)
Craig	Lewis (FL)	Smith, Denny (OR)
Crane	Lightfoot	Smith, Robert (NH)
Dannemeyer	Lukens, Donald	Solomon
DeLay	Martin (IL)	Stump
Dornan (CA)	McCandless	Tauke
Douglas	McCollum	Upton
Dreier	Molinari	Walker
Fawell	Moorhead	Whittaker
Fields	Nielson	
Frenzel	Packard	

NOT VOTING—8

Clay	Hyde	Tanner
Collins	Lehman (FL)	Torres
Florio	McGrath	

□ 1342

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to insert into the RECORD at this point a detailed table showing the amounts provided for in H.R. 2990, just passed, with appropriate comparisons.

The SPEAKER pro tempore (Mr. SKAGGS). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The charts follow:

H.R. 2990—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Comparable	Bill vs FY 1990 Request
SUMMARY					
Title I - Department of Labor:					
Federal Funds	$6,556,443,000	$6,575,107,000	$6,713,077,000	+$156,634,000	+$137,970,000
Trust Funds	(2,777,832,000)	(2,782,510,000)	(2,880,510,000)	(+102,678,000)	(+98,000,000)
Title II - Department of Health and Human Services:					
Federal Funds (all years)	111,658,645,000	121,054,021,000	123,780,188,000	+12,121,543,000	+2,726,167,000
Current year	(96,811,645,000)	(104,282,021,000)	(107,008,188,000)	(+10,196,543,000)	(+2,726,167,000)
1991 advance	(14,847,000,000)	(16,772,000,000)	(16,772,000,000)	(+1,925,000,000)	.....
(Unauthorized, not considered)	*(583,551,000)*	*(470,211,000)*	*DEFER*	*DEFER*	*DEFER*
Trust Funds	(5,612,155,000)	(5,842,099,000)	(5,921,086,000)	(+308,931,000)	(+78,987,000)
Title III - Department of Education:					
Federal Funds	22,707,824,000	22,479,805,000	23,833,191,000	+1,125,367,000	+1,353,386,000
(Unauthorized, not considered)	*(15,808,000)*	*(16,345,000)*	*DEFER*	*DEFER*	*DEFER*
Title IV - Related Agencies:					
Federal Funds (all years)	870,559,000	781,636,000	865,065,000	-5,494,000	+83,429,000
Current year	(571,689,000)	(539,576,000)	(551,005,000)	(-20,684,000)	(+11,429,000)
1992 advance	(298,870,000)	(242,060,000)	(314,060,000)	(+15,190,000)	(+72,000,000)
(Unauthorized, not considered)	*(170,420,000)*	*(170,417,000)*	*DEFER*	*DEFER*	*DEFER*
Trust Funds	(69,231,000)	(74,152,000)	(76,711,000)	(+7,480,000)	(+2,559,000)
Total, all titles:					
Federal Funds (all years)	141,793,471,000	150,890,569,000	155,191,521,000	+13,398,050,000	+4,300,952,000
Current year	(126,647,601,000)	(133,876,509,000)	(138,105,461,000)	(+11,457,860,000)	(+4,228,952,000)
1991 advance	(14,847,000,000)	(16,772,000,000)	(16,772,000,000)	(+1,925,000,000)	.....
1992 advance	(298,870,000)	(242,060,000)	(314,060,000)	(+15,190,000)	(+72,000,000)
(Unauthorized, not considered)	*(769,779,000)*	*(656,973,000)*	*DEFER*	*DEFER*	*DEFER*
Trust Funds	(8,459,218,000)	(8,698,761,000)	(8,878,307,000)	(+419,089,000)	(+179,546,000)
TITLE I -- DEPARTMENT OF LABOR					
EMPLOYMENT AND TRAINING ADMINISTRATION					
PROGRAM ADMINISTRATION					
Job training programs	17,439,000	18,540,000	18,540,000	+1,101,000	.....
Employment security	3,495,000	442,000	442,000	-3,053,000	.....
Trust funds	(14,722,000)	(15,289,000)	(15,289,000)	(+567,000)	.....
Financial and administrative management	16,902,000	14,243,000	14,243,000	-2,659,000	.....
Trust funds	(9,298,000)	(10,807,000)	(10,807,000)	(+1,509,000)	.....
Executive direction and administration	3,456,000	3,683,000	3,683,000	+227,000	.....
Trust funds	(2,777,000)	(3,014,000)	(3,014,000)	(+237,000)	.....
Regional operations	16,047,000	12,268,000	12,268,000	-3,779,000	.....
Trust funds	(21,523,000)	(24,707,000)	(24,707,000)	(+3,184,000)	.....
Apprenticeship services	13,613,000	14,017,000	14,017,000	+404,000	.....
Total, Program Administration	119,272,000	117,010,000	117,010,000	-2,262,000	.....
Federal funds	70,952,000	63,193,000	63,193,000	-7,759,000	.....
Trust funds	(48,320,000)	(53,817,000)	(53,817,000)	(+5,497,000)	.....
TRAINING AND EMPLOYMENT SERVICES					
Grants to States:					
Block grant	1,787,772,000	1,787,772,000	1,787,772,000	.....	.....
Summer youth employment and training program	709,433,000	709,433,000	709,433,000	.....	.....
Dislocated worker assistance	283,773,000	400,000,000	450,000,000	+166,227,000	+50,000,000
Federally administered programs:					
Native Americans	58,996,000	58,996,000	58,996,000	.....	.....
Migrants and seasonal farmworkers	68,540,000	57,209,000	68,540,000	.....	+11,331,000
Job Corps:					
Operations	678,676,000	727,192,000	761,031,000	+82,355,000	+33,839,000
Capital, construction and renovation	63,149,000	34,432,000	49,432,000	-13,717,000	+15,000,000
Subtotal, Job Corps	741,825,000	761,624,000	810,463,000	+68,638,000	+48,839,000
Veterans' employment	9,517,000	9,474,000	9,474,000	-43,000	.....
National activities:					
Pilots and demonstrations	30,253,000	30,253,000	30,253,000	.....	.....
Research, demonstration and evaluation	13,429,000	18,429,000	18,429,000	+5,000,000	.....
Other	24,893,000	15,126,000	23,126,000	-1,767,000	+8,000,000
Subtotal, National activities	68,575,000	63,808,000	71,808,000	+3,233,000	+8,000,000
Subtotal, Federal activities	947,453,000	951,111,000	1,019,281,000	+71,828,000	+68,170,000
Total, Job Training Partnership Act	3,728,431,000	3,848,316,000	3,966,486,000	+238,055,000	+118,170,000
Job training for the homeless	9,386,000	13,000,000	10,000,000	+614,000	-3,000,000
Total, Training and Employment Services	3,737,817,000	3,861,316,000	3,976,486,000	+238,669,000	+115,170,000

H.R. 2990—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	FY 1989 Comparable	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Comparable	Bill vs FY 1990 Request
COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS					
National contracts	268,183,000	262,080,000	276,120,000	+7,937,000	+14,040,000
State grants	75,641,000	73,920,000	77,880,000	+2,239,000	+3,960,000
Total	343,824,000	336,000,000	354,000,000	+10,176,000	+18,000,000
FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES					
Trade adjustment	270,518,000	284,000,000	284,000,000	+13,482,000	.....
Other activities	2,000,000	.....	.....	-2,000,000	.....
Total	272,518,000	284,000,000	284,000,000	+11,482,000	.....
STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS					
Unemployment Compensation (Trust Funds):					
State Operations	(1,240,812,000)	(1,274,935,000)	(1,274,935,000)	(+34,123,000)	.....
State integrity activities	(251,532,000)	(250,997,000)	(250,997,000)	(-535,000)	.....
National Activities	(10,029,000)	(6,000,000)	(6,000,000)	(-4,029,000)	.....
Contingency	(152,625,000)	(193,468,000)	(193,468,000)	(+40,843,000)	.....
Subtotal, Unemployment Compensation(trust funds)	(1,654,998,000)	(1,725,400,000)	(1,725,400,000)	(+70,402,000)	.....
Employment Service:					
Allotments to States:					
Federal funds	21,472,000	20,800,000	20,800,000	-672,000	.....
Trust funds	(742,280,000)	(671,300,000)	(768,900,000)	(+26,620,000)	(+97,600,000)
Subtotal	763,752,000	692,100,000	789,700,000	+25,948,000	+97,600,000
National Activities:					
Federal funds	1,087,000	1,200,000	1,200,000	+113,000	.....
Trust funds	(52,678,000)	(43,400,000)	(43,400,000)	(-9,278,000)	.....
Subtotal, Employment Service	817,517,000	736,700,000	834,300,000	+16,783,000	+97,600,000
Federal funds	22,559,000	22,000,000	22,000,000	-559,000	.....
Trust funds	(794,958,000)	(714,700,000)	(812,300,000)	(+17,342,000)	(+97,600,000)
Total, State Unempl. Ins. and Empl. Ser. Opers	2,472,515,000	2,462,100,000	2,559,700,000	+87,185,000	+97,600,000
Federal Funds	22,559,000	22,000,000	22,000,000	-559,000	.....
Trust Funds	(2,449,956,000)	(2,440,100,000)	(2,537,700,000)	(+87,744,000)	(+97,600,000)
ADVANCES TO UNEMPLOYMENT TRUST FUND AND OTHER FUNDS	124,000,000	33,000,000	33,000,000	-91,000,000	.....
Total, Employment & Training Administration	7,069,946,000	7,093,426,000	7,324,196,000	+254,250,000	+230,770,000
Federal funds	4,571,670,000	4,599,509,000	4,732,679,000	+161,009,000	+133,170,000
Trust funds	(2,498,276,000)	(2,493,917,000)	(2,591,517,000)	(+93,241,000)	(+97,600,000)
LABOR - MANAGEMENT SERVICES					
SALARIES AND EXPENSES					
Labor-management relations service	5,730,000	5,883,000	5,883,000	+153,000	.....
Labor-management standards enforcement	25,071,000	25,493,000	25,493,000	+422,000	.....
Pension and welfare benefit programs	41,478,000	43,831,000	43,831,000	+2,353,000	.....
Total, LMSA	72,279,000	75,207,000	75,207,000	+2,928,000	.....
PENSION BENEFIT GUARANTY CORPORATION					
Program Administration subject to limitation (Trust Funds)	(40,737,000)	(42,301,000)	(42,301,000)	(+1,564,000)	.....
Other contractual services not subject to limitation (Trust Funds)	(29,097,000)	(28,053,000)	(28,053,000)	(-1,044,000)	.....
Total, PBGC (trust funds)	(69,834,000)	(70,354,000)	(70,354,000)	(+520,000)	.....
EMPLOYMENT STANDARDS ADMINISTRATION					
SALARIES AND EXPENSES					
Enforcement of wage and hour standards	89,229,000	91,729,000	91,729,000	+2,500,000	.....
Federal contractor EEO standards enforcement	52,030,000	53,434,000	53,434,000	+1,404,000	.....
Federal programs for workers' compensation	57,358,000	59,291,000	59,291,000	+1,933,000	.....
Trust funds	(520,000)	(1,019,000)	(1,019,000)	(+499,000)	.....
Executive direction and support services	13,944,000	13,868,000	13,868,000	-76,000	.....
Total, salaries and expenses	213,081,000	219,341,000	219,341,000	+6,260,000	.....
Federal funds	212,561,000	218,322,000	218,322,000	+5,761,000	.....
Trust funds	(520,000)	(1,019,000)	(1,019,000)	(+499,000)	.....
SPECIAL BENEFITS					
Federal employees compensation act benefits	251,000,000	251,000,000	251,000,000	.....	.....
Longshore and harbor workers' benefits	4,000,000	4,000,000	4,000,000	.....	.....
Total, Special Benefits	255,000,000	255,000,000	255,000,000	.....	.....
BLACK LUNG DISABILITY TRUST FUND					
Benefit payments and interest on advances	633,435,000	590,486,000	590,486,000	-42,949,000	.....
Employment Standards Admin., salaries & expenses	29,847,000	28,640,000	28,640,000	-1,207,000	.....
Departmental Management, salaries and expenses	24,833,000	20,691,000	20,691,000	-4,142,000	.....
Departmental Management, inspector general	509,000	509,000	509,000	.....	.....
Subtotal, Black Lung Disablty. Trust Fund, apprn	688,624,000	640,326,000	640,326,000	-48,298,000	.....

H.R. 2990—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	FY 1989 Comparable	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Comparable	Bill vs FY 1990 Request
Treasury administrative costs (indefinite)	756,000	756,000	756,000	.....	.....
Total, Black Lung Disability Trust Fund	689,380,000	641,082,000	641,082,000	-48,298,000	.....
Total, Employment Standards Administration	1,157,461,000	1,115,423,000	1,115,423,000	-42,038,000	.....
Federal funds	1,156,941,000	1,114,404,000	1,114,404,000	-42,537,000	.....
Trust funds	(520,000)	(1,019,000)	(1,019,000)	(+499,000)	.....
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION					
SALARIES AND EXPENSES					
Safety and health standards	6,670,000	6,957,000	6,957,000	+287,000	.....
Enforcement:					
Federal Enforcement	116,794,000	119,426,000	119,426,000	+2,632,000	.....
State programs	45,684,000	58,133,000	60,633,000	+14,949,000	+2,500,000
Technical Support	17,276,000	17,339,000	17,339,000	+63,000	.....
Compliance Assistance	35,645,000	36,808,000	36,808,000	+1,163,000	.....
Safety and health statistics	19,998,000	22,992,000	22,992,000	+2,994,000	.....
Executive direction and administration	5,920,000	6,093,000	6,093,000	+173,000	.....
Total, OSHA	247,987,000	267,748,000	270,248,000	+22,261,000	+2,500,000
MINE SAFETY AND HEALTH ADMINISTRATION					
SALARIES AND EXPENSES					
Enforcement:					
Coal	82,156,000	84,899,000	84,899,000	+2,743,000	.....
Metal/nonmetal	32,108,000	33,256,000	33,256,000	+1,148,000	.....
Standards development	1,897,000	1,571,000	1,571,000	-326,000	.....
Assessments	2,138,000	2,235,000	2,235,000	+97,000	.....
Educational policy and development	11,925,000	12,121,000	13,121,000	+1,196,000	+1,000,000
Technical support	20,583,000	21,000,000	21,000,000	+417,000	.....
Program administration	12,086,000	13,957,000	13,957,000	+1,871,000	.....
Total, Mine Safety and Health Administration	162,893,000	169,039,000	170,039,000	+7,146,000	+1,000,000
BUREAU OF LABOR STATISTICS					
SALARIES AND EXPENSES					
Employment and Unemployment Statistics	63,455,000	66,354,000	66,954,000	+3,499,000	+600,000
Labor Market Information (Trust Funds)	(45,767,000)	(49,118,000)	(49,518,000)	(+3,751,000)	(+400,000)
Prices and cost of living	71,302,000	73,075,000	73,075,000	+1,773,000	.....
Wages and industrial relations	21,778,000	22,166,000	22,166,000	+388,000	.....
Productivity and technology	5,433,000	5,539,000	5,539,000	+106,000	.....
Economic growth and employment projections	3,336,000	3,400,000	3,400,000	+64,000	.....
Executive direction and staff services	22,269,000	22,637,000	22,637,000	+368,000	.....
Total, Bureau of Labor Statistics	233,340,000	242,289,000	243,289,000	+9,949,000	+1,000,000
Federal Funds	187,573,000	193,171,000	193,771,000	+6,198,000	+600,000
Trust Funds	(45,767,000)	(49,118,000)	(49,518,000)	(+3,751,000)	(+400,000)
DEPARTMENTAL MANAGEMENT					
SALARIES AND EXPENSES					
Executive direction	19,135,000	17,124,000	17,124,000	-2,011,000	.....
Legal services	45,407,000	44,997,000	44,997,000	-410,000	.....
Trust funds	(282,000)	(285,000)	(285,000)	(+3,000)	.....
International labor affairs	6,242,000	6,361,000	6,361,000	+119,000	.....
Administration and management	22,685,000	19,955,000	19,955,000	-2,730,000	.....
Adjudication	11,384,000	12,836,000	12,836,000	+1,452,000	.....
Promoting employment of the disabled	2,438,000	2,540,000	2,540,000	+102,000	.....
Women's Bureau	6,504,000	6,103,000	6,803,000	+299,000	+700,000
Civil Rights Activities	3,687,000	4,116,000	4,116,000	+429,000	.....
Total, Salaries and expenses	117,764,000	114,317,000	115,017,000	-2,747,000	+700,000
Federal funds	117,482,000	114,032,000	114,732,000	-2,750,000	+700,000
Trust funds	(282,000)	(285,000)	(285,000)	(+3,000)	.....
VETERANS EMPLOYMENT AND TRAINING					
State Administration:					
Disabled Veterans Outreach Program	(72,962,000)	(75,167,000)	(75,167,000)	(+2,205,000)	.....
Local Veterans Employment Program	(66,998,000)	(69,250,000)	(69,250,000)	(+2,252,000)	.....
Subtotal, State Administration	(139,960,000)	(144,417,000)	(144,417,000)	(+4,457,000)	.....
Federal Administration	(14,991,000)	(15,606,000)	(15,606,000)	(+615,000)	.....
National Veterans Training Institute	(2,569,000)	(2,600,000)	(2,600,000)	(+31,000)	.....
Total, Trust Funds	(157,520,000)	(162,623,000)	(162,623,000)	(+5,103,000)	.....
OFFICE OF THE INSPECTOR GENERAL					
Audit:					
Federal funds	20,175,000	20,691,000	20,691,000	+516,000	.....
Trust funds	(4,472,000)	(4,127,000)	(4,127,000)	(-345,000)	.....
Investigation:					
Federal funds	5,966,000	6,503,000	6,503,000	+537,000	.....
Trust funds	(1,161,000)	(1,067,000)	(1,067,000)	(-94,000)	.....

H.R. 2990—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	FY 1989 Comparable	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Comparable	Bill vs FY 1990 Request
Office of Labor Racketeering	8,788,000	9,901,000	9,901,000	+1,113,000	.....
Executive Direction and Administration	4,689,000	4,902,000	4,902,000	+213,000	.....
Total, Office of the Inspector General	45,251,000	47,191,000	47,191,000	+1,940,000	.....
Federal funds	39,618,000	41,997,000	41,997,000	+2,379,000	.....
Trust funds	(5,633,000)	(5,194,000)	(5,194,000)	(-439,000)	.....
Total, Departmental Management	320,535,000	324,131,000	324,831,000	+4,296,000	+700,000
Federal funds	157,100,000	156,029,000	156,729,000	-371,000	+700,000
Trust funds	(163,435,000)	(168,102,000)	(168,102,000)	(+4,667,000)	.....
Total, Labor Department	9,334,275,000	9,357,617,000	9,593,587,000	+259,312,000	+235,970,000
Federal funds	6,556,443,000	6,575,107,000	6,713,077,000	+156,634,000	+137,970,000
Trust funds	(2,777,832,000)	(2,782,510,000)	(2,880,510,000)	(+102,678,000)	(+98,000,000)
TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES					
HEALTH RESOURCES AND SERVICES ADMINISTRATION					
HEALTH RESOURCES AND SERVICES					
Health Care Delivery and Assistance:					
Community health centers	414,812,000	414,812,000	414,812,000	.....	.....
Migrant health	45,646,000	45,646,000	47,500,000	+1,854,000	+1,854,000
Infant mortality initiative	20,550,000	32,000,000	32,000,000	+11,450,000	.....
Black lung clinics	3,216,000	3,216,000	3,350,000	+134,000	+134,000
Health care for the homeless	14,820,000	63,600,000	46,000,000	+31,180,000	-17,600,000
National Health Service Corps:					
Field placements	39,866,000	20,000,000	40,000,000	+134,000	+20,000,000
Loan repayments including nurses	7,906,000	7,906,000	4,000,000	-3,906,000	-3,906,000
Scholarships	.....	.....	4,000,000	+4,000,000	+4,000,000
Subtotal, Natl Health Service Corps	47,772,000	27,906,000	48,000,000	+228,000	+20,094,000
Hansen's Disease services (Carville)	18,276,000	18,493,000	18,493,000	+217,000	.....
Pediatric emergency care	2,964,000	.....	.....	-2,964,000	.....
Payment to Hawaii, treatment of Hansen's Disease	3,260,000	2,760,000	3,260,000	.....	+500,000
Rural health research	1,482,000	3,100,000	3,350,000	+1,868,000	+250,000
Home health demonstration grants	2,470,000	.....	.....	-2,470,000	.....
Total, Health Care Delivery & Assistance	575,268,000	611,533,000	616,765,000	+41,497,000	+5,232,000
Health Professions:[1]					
Exceptional need scholarships	6,578,000	6,578,000	6,900,000	+322,000	+322,000
Excellence in minority health education grants	9,396,000	9,396,000	9,396,000	.....	.....
Public health/health administration:					
Public Health capitation	4,698,000	.....	3,000,000	-1,698,000	+3,000,000
Public Health special projects	.....	.....	1,700,000	+1,700,000	+1,700,000
Health Administration grants	1,410,000	.....	1,410,000	.....	+1,410,000
Public Health traineeships	2,819,000	.....	2,819,000	.....	+2,819,000
Health Administration traineeships	470,000	.....	470,000	.....	+470,000
Preventive medicine residencies	1,503,000	.....	1,550,000	+47,000	+1,550,000
Family Medicine	32,142,000	.....	33,500,000	+1,358,000	+33,500,000
General dentistry residencies	2,606,000	.....	4,000,000	+1,394,000	+4,000,000
General Internal Medicine and Pediatrics	17,383,000	.....	18,100,000	+717,000	+18,100,000
Family medicine departments	6,578,000	.....	6,900,000	+322,000	+6,900,000
Physician assistants	4,511,000	.....	4,650,000	+139,000	+4,650,000
Area health education centers	16,912,000	.....	17,900,000	+988,000	+17,900,000
Border health education centers	.....	.....	4,000,000	+4,000,000	+4,000,000
Health professions data analysis	2,679,000	.....	1,879,000	-800,000	+1,879,000
Disadvantaged Assistance	26,897,000	26,897,000	28,000,000	+1,103,000	+1,103,000
Special Projects: (sections 788 and 301)					
Health professions spec ed initiatives	2,349,000	.....	2,500,000	+151,000	+2,500,000
Geriatric training and research	13,772,000	.....	14,300,000	+528,000	+14,300,000
Pacific Basin activities (including Medical Officer training)	1,482,000	.....	.....	-1,482,000	.....
Subtotal, special education initiatives	17,603,000	.....	16,800,000	-803,000	+16,800,000
Special grants to hospitals[1]	1,360,000	.....	.....[1]	-1,360,000	.....
Nurse training:					
Advanced nurse training	17,175,000	.....	13,000,000	-4,175,000	+13,000,000
Nurse practitioner	11,777,000	.....	12,200,000	+423,000	+12,200,000
Special projects (includes sec. 820 (d)(2))	11,972,000	.....	12,400,000	+428,000	+12,400,000
Traineeships	12,759,000	.....	13,200,000	+441,000	+13,200,000
Nurse Anesthetists	784,000	.....	800,000	+16,000	+800,000
Faculty fellowships	1,080,000	.....	.....	-1,080,000	.....
Undergraduate scholarships	.....	.....	4,000,000	+4,000,000	+4,000,000
Subtotal, Nurse training	55,547,000	.....	55,600,000	+53,000	+55,600,000
Less transfers from loan revolving funds	-9,880,000	.....	-10,000,000	-120,000	-10,000,000
Total, Health professions	201,212,000	42,871,000	208,574,000	+7,362,000	+165,703,000

1 FY 1989 funding reflects shift of funds pursuant to P.L. 100-607. FY 1990 funding for "Special grants to hospitals" to be determined after enactment of FY 1990 appropriations for health professions.

H.R. 2990—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	FY 1989 Comparable	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Comparable	Bill vs FY 1990 Request
MCH and Resources Development:					
Maternal & child health block grant	554,268,000	554,268,000	557,000,000	+2,732,000	+2,732,000
Organ transplantation	4,940,000	1,600,000	3,000,000	-1,940,000	+1,400,000
Health teaching facilities interest subsidies	494,000	494,000	494,000	.....	.....
Total, Resources Development	559,702,000	556,362,000	560,494,000	+792,000	+4,132,000
Buildings and facilities	889,000	.....	889,000	.....	+889,000
National practitioner data bank	2,766,000	.....	2,000,000	-766,000	+2,000,000
Program management including AIDS	92,738,000	88,193,000	99,750,000	+7,012,000	+11,557,000
Acquired Immune Deficiency Syndrome (AIDS):[2]					
Training of health personnel	14,640,000	14,820,000	14,820,000	+180,000	.....
Facilities renovation grants	3,903,000	3,952,000	4,300,000	+397,000	+348,000
Pediatric health care demonstrations	7,806,000	7,904,000	15,000,000	+7,194,000	+7,096,000
Adult health care demonstrations	14,692,000	14,875,000	20,000,000	+5,308,000	+5,125,000
Adult health care planning grants	3,904,000	3,952,000	3,952,000	+48,000	.....
AZT State grants (reprogramming)	15,000,000	.....	.....	-15,000,000	.....
Community health care services	.....	10,921,000	10,921,000	+10,921,000	.....
Transfer for consolidated administration	-2,774,000	-3,740,000	-4,000,000	-1,226,000	-260,000
Subtotal, AIDS	57,171,000	52,684,000	64,993,000	+7,822,000	+12,309,000
Total, Health resources and services	1,489,746,000	1,351,643,000	1,553,465,000	+63,719,000	+201,822,000
MEDICAL FACILITIES GUARANTEE AND LOAN FUND:					
Interest subsidy program	21,600,000	21,000,000	21,000,000	-600,000	.....
Loan asset sales	.....	4,364,000	.....	.....	-4,364,000
Subtotal, MFGLF	21,600,000	25,364,000	21,000,000	-600,000	-4,364,000
HEALTH PROFESSIONS GRADUATE STUDENT LOAN FUND (HEAL):					
General funds	.....	21,570,000	25,000,000	+25,000,000	+3,430,000
Offsetting collections from Federal funds	.....	-15,000,000	.....	.....	+15,000,000
Total, HPGSLF	.....	6,570,000	25,000,000	+25,000,000	+18,430,000
VACCINE INJURY COMPENSATION:					
Pre - FY89 claims (appropriation)	.....	.....	74,500,000	+74,500,000	+74,500,000
FY89 / FY90 claims (trust fund)	101,500,000	133,100,000	54,600,000	-46,900,000	-78,500,000
Subtotal	101,500,000	133,100,000	129,100,000	+27,600,000	-4,000,000
Total, Health Resources and Services Administration	1,612,846,000	1,516,677,000	1,728,565,000	+115,719,000	+211,888,000
CENTERS FOR DISEASE CONTROL					
DISEASE CONTROL					
Preventive Health Services Block Grant	84,704,000	113,055,000	89,716,000	+5,012,000	-23,339,000
Prevention centers	1,976,000	.....	2,000,000	+24,000	+2,000,000
Lead poisoning prevention	.....	.....	2,000,000	+2,000,000	+2,000,000
Sexually transmitted diseases:					
Grants	68,172,000	68,172,000	75,000,000	+6,828,000	+6,828,000
Direct operations	10,528,000	10,800,000	10,800,000	+272,000	.....
Subtotal, Sexually transmitted diseases	78,700,000	78,972,000	85,800,000	+7,100,000	+6,828,000
Immunization:					
Grants	126,797,000	126,797,000	126,797,000	.....	.....
Direct operations	8,152,000	8,361,000	8,361,000	+209,000	.....
Vaccine stockpile	3,952,000	.....	.....	-3,952,000	.....
National vaccine program coordination	3,063,000	3,063,000	2,569,000	-494,000	-494,000
Subtotal, Immunization programs	141,964,000	138,221,000	137,727,000	-4,237,000	-494,000
Infectious disease excluding AIDS/TB	41,455,000	37,866,000	39,866,000	-1,589,000	+2,000,000
Tuberculosis grants	6,622,000	.....	10,000,000	+3,378,000	+10,000,000
Chronic & environmental disease prevention	44,681,000	40,564,000	46,025,000	+1,344,000	+5,461,000
Injury control	21,000,000	11,120,000	21,000,000	.....	+9,880,000
Occupational Safety and Health (NIOSH):					
Research	60,260,000	60,260,000	63,300,000	+3,040,000	+3,040,000
Training	10,095,000	10,095,000	10,600,000	+505,000	+505,000
Subtotal, NIOSH	70,355,000	70,355,000	73,900,000	+3,545,000	+3,545,000
National Center for Health Statistics:					
Program operations	45,186,000	44,533,000	44,533,000	-653,000	.....
Program support	3,165,000	3,254,000	3,254,000	+89,000	.....
Subtotal, health statistics	48,351,000	47,787,000	47,787,000	-564,000	.....
Epidemic services	54,787,000	56,217,000	56,217,000	+1,430,000	.....
Buildings and facilities	1,976,000	2,000,000	2,000,000	+24,000	.....
Program management	3,058,000	3,170,000	3,170,000	+112,000	.....
Acquired Immune Deficiency Syndrome (AIDS)[2]	377,592,000	474,022,000	462,972,000	+85,380,000	-11,050,000
Total, Disease Control	977,221,000	1,073,349,000	1,080,180,000	+102,959,000	+6,831,000

2 President's budget requests AIDS funding for FY 1990 under consolidated account.

H.R. 2990—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	FY 1989 Comparable	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Comparable	Bill vs FY 1990 Request
NATIONAL INSTITUTES OF HEALTH (INCLUDES AIDS)					
National Cancer Institute	1,570,943,000	1,646,073,000	1,652,666,000	+81,723,000	+6,593,000
National Heart, Lung, and Blood Institute	1,045,732,000	1,082,497,000	1,090,930,000	+45,198,000	+8,433,000
National Institute of Dental Research	130,834,000	135,796,000	138,053,000	+7,219,000	+2,257,000
National Institute of Diabetes, Digestive, and Kidney Diseases	559,648,000	582,829,000	590,276,000	+30,628,000	+7,647,000
National Institute of Neurological Disorders and Stroke	472,346,000	493,502,000	495,203,000	+22,857,000	+1,701,000
National Institute of Allergy and Infectious Diseases	742,277,000	842,712,000	845,523,000	+103,246,000	+2,811,000
National Institute of General Medical Sciences	654,664,000	682,249,000	692,639,000	+37,975,000	+10,390,000
National Institute of Child Health and Human Development	425,532,000	444,193,000	448,493,000	+22,961,000	+4,300,000
National Eye Institute	231,292,000	239,474,000	240,636,000	+9,344,000	+1,162,000
National Institute of Environmental Health Sciences	223,695,000	230,848,000	232,479,000	+8,784,000	+1,631,000
National Institute on Aging	222,845,000	230,490,000	241,528,000	+18,683,000	+11,038,000
National Institute of Arthritis and Musculoskeletal and Skin Diseases	160,015,000	168,588,000	171,673,000	+11,658,000	+3,085,000
National Institute on Deafness and Other Communication Disorders	94,833,000	99,902,000	99,952,000	+5,119,000	+50,000
Research Resources	358,332,000	307,956,000	356,128,000	-2,204,000	+48,172,000
National Center for Nursing Research	29,132,000	30,969,000	32,969,000	+3,837,000	+2,000,000
National Center for Human Genome Research	27,569,000	100,000,000	62,000,000	+34,431,000	-38,000,000
John E. Fogarty International Center	14,002,000	15,532,000	15,579,000	+1,577,000	+47,000
National Library of Medicine	74,413,000	78,729,000	83,311,000	+8,898,000	+4,582,000
Office of the Director	68,223,000	95,658,000	106,987,000	+38,764,000	+11,329,000
Buildings and facilities	38,492,000	21,600,000	81,600,000	+43,108,000	+60,000,000
Total, N.I.H. funding including AIDS[3]	7,144,819,000	7,529,397,000	7,678,625,000	+533,806,000	+149,228,000
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION					
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH					
Grants to States:					
Consolidated Alcohol, Drug Abuse and Mental Health block grant	805,594,000	800,000,000	805,594,000	.....	+5,594,000
(Set-aside for research & evaluation, non-add)	*(40,280,000)*	*(40,000,000)*	*(40,280,000)*	.....	*(+280,000)*
Grants to States for the homeless	14,128,000	35,028,000	35,000,000	+20,872,000	-28,000
Mental health state planning grants	4,730,000	.....	.....	-4,730,000	.....
Subtotal, grants to States	824,452,000	835,028,000	840,594,000	+16,142,000	+5,566,000
Drug Treatment Grants	75,000,000	25,000,000	25,000,000	-50,000,000	.....
New Treatment Grants, crisis areas	.....	30,000,000	10,000,000	+10,000,000	-20,000,000
Mental Health:					
Research[4]	354,464,000	389,110,000	389,110,000	+34,646,000	.....
Clinical training	12,844,000	8,000,000	12,844,000	.....	+4,844,000
Community Support Demonstrations	25,920,000	19,000,000	26,000,000	+80,000	+7,000,000
Homeless Services Demonstrations	4,594,000	11,500,000	6,100,000	+1,506,000	-5,400,000
Protection and advocacy	12,844,000	10,555,000	12,844,000	.....	+2,289,000
Direct operations[4]	39,229,000	41,628,000	40,628,000	+1,399,000	-1,000,000
Subtotal, mental health	449,895,000	479,793,000	487,526,000	+37,631,000	+7,733,000
Drug Abuse:					
Research[4]	263,539,000	288,489,000	294,569,000	+31,030,000	+6,080,000
Treatment demonstrations	7,000,000	7,000,000	7,000,000	.....	.....
Direct operations[4]	17,914,000	21,544,000	21,544,000	+3,630,000	.....
Subtotal, drug abuse	288,453,000	317,033,000	323,113,000	+34,660,000	+6,080,000
Alcoholism and Alcohol Abuse:					
Research[4]	109,888,000	116,313,000	119,528,000	+9,640,000	+3,215,000
Substance abuse homeless demonstrations	4,545,000	17,000,000	10,000,000	+5,455,000	-7,000,000
Direct operations[4]	9,621,000	10,834,000	10,834,000	+1,213,000	.....
Subtotal, alcoholism	124,054,000	144,147,000	140,362,000	+16,308,000	-3,785,000
Office of Substance Abuse Prevention:					
Prevention programs	41,168,000	42,193,000	42,193,000	+1,025,000	.....
Community youth activity program	15,000,000	15,000,000	15,000,000	.....	.....
New community prevention grants	.....	35,000,000	5,000,000	+5,000,000	-30,000,000
Training	5,000,000	5,300,000	5,300,000	+300,000	.....
Direct operations	8,685,000	9,810,000	9,810,000	+1,125,000	.....
Subtotal, Substance Abuse Prevention	69,853,000	107,303,000	77,303,000	+7,450,000	-30,000,000
Treatment outcome evaluations	2,282,000	7,257,000	2,506,000	+224,000	-4,751,000
Buildings and facilities	198,000	198,000	198,000	.....	.....
Program management, ADAMHA	9,375,000	10,560,000	10,560,000	+1,185,000	.....
Total, Alcohol, Drug Abuse & Mental Health	1,843,562,000	1,956,319,000	1,917,162,000	+73,600,000	-39,157,000
ST. ELIZABETHS HOSPITAL	23,712,000	18,000,000	18,000,000	-5,712,000	.....
Total, Alcohol, Drug Abuse & Mental Health Administration	1,867,274,000	1,974,319,000	1,935,162,000	+67,888,000	-39,157,000

3 President's budget requests AIDS funding for FY 1990 under consolidated account.

4 Includes AIDS. President's budget requests AIDS funding for FY 1990 under consolidated account.

H.R. 2990—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	FY 1989 Comparable	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Comparable	Bill vs FY 1990 Request
ASSISTANT SECRETARY FOR HEALTH					
OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH[5]					
Health Services Research and Technology Assessment:					
Research	17,112,000	12,153,000	12,153,000	-4,959,000	.....
Trust funds	(6,916,000)	(1,037,000)	(1,037,000)	(-5,879,000)	.....
Program support	1,660,000	1,693,000	1,693,000	+33,000	.....
Subtotal including trust funds	25,688,000	14,883,000	14,883,000	-10,805,000	.....
Population affairs: (unauthorized, not considered)					
Adolescent family life	*(9,529,000)*	*(9,529,000)*	*DEFER*	*DEFER*	*DEFER*
Family planning	*(138,320,000)*	*(138,364,000)*	*DEFER*	*DEFER*	*DEFER*
Health initiatives:					
Office of Disease Prevention and Health Promotion	4,446,000	4,496,000	4,496,000	+50,000	.....
Physical fitness and sports	1,481,000	1,503,000	1,503,000	+22,000	.....
Minority health	2,964,000	3,022,000	4,522,000	+1,558,000	+1,500,000
National vaccine program	.....	.....	10,000,000	+10,000,000	+10,000,000
Health Service Management	18,698,000	19,630,000	19,630,000	+932,000	.....
Acquired Immune Deficiency Syndrome (AIDS)[5]	13,270,000	41,348,000	41,348,000	+28,078,000	.....
Total	59,631,000	83,845,000	95,345,000	+35,714,000	+11,500,000
(Unauthorized, not considered)	*(147,849,000)*	*(147,893,000)*	*DEFER*	*DEFER*	*DEFER*
RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS[6]					
Retirement payments	80,561,000	83,973,000	83,973,000	+3,412,000	.....
Survivors benefits	4,658,000	5,017,000	5,017,000	+359,000	.....
Dependent's medical care	12,402,000	13,121,000	13,121,000	+719,000	.....
Contingency	.....	5,000,000	.....	.....	-5,000,000
Military Services Credits	6,694,000	3,090,000	3,090,000	-3,604,000	.....
Total, Retirement pay and medical benefits	104,315,000	110,201,000	105,201,000	+886,000	-5,000,000
MEDICAL TREATMENT EFFECTIVENESS					
Federal funds	.....	24,000,000	5,000,000	+5,000,000	-19,000,000
Trust funds	.....	(28,000,000)	(15,000,000)	(+15,000,000)	(-13,000,000)
Total, Medical treatment effectiveness	.....	52,000,000	20,000,000	+20,000,000	-32,000,000
Total, Public Health Service	11,766,106,000	12,311,788,000	12,628,078,000	+861,972,000	+316,290,000
(Unauthorized, not considered)	*(147,849,000)*	*(147,893,000)*	*DEFER*	*DEFER*	*DEFER*
HEALTH CARE FINANCING ADMINISTRATION					
GRANTS TO STATES FOR MEDICAID					
Medicaid current law benefits	32,762,986,000	35,777,184,000	36,777,184,000	+4,014,198,000	+1,000,000,000
State and local administration	1,529,000,000	1,839,313,000	1,839,313,000	+310,313,000	.....
Subtotal, medicaid program level, FY 1990	34,291,986,000	37,616,497,000	38,616,497,000	+4,324,511,000	+1,000,000,000
Less funds advanced in prior year	-8,000,000,000	-9,000,000,000	-9,000,000,000	-1,000,000,000	.....
Total, current request, FY 1990	26,291,986,000	28,616,497,000	29,616,497,000	+3,324,511,000	+1,000,000,000
New advance, 1st quarter, FY 1991	9,000,000,000	10,400,000,000	10,400,000,000	+1,400,000,000	.....
PAYMENTS TO HEALTH CARE TRUST FUNDS					
Supplemental medical insurance	30,712,000,000	35,925,500,000	35,925,500,000	+5,213,500,000	.....
Hospital insurance for uninsured	493,000,000	378,000,000	378,000,000	-115,000,000	.....
Federal uninsured payment	22,000,000	35,000,000	35,000,000	+13,000,000	.....
Total, Payment to Trust Funds[7]	31,227,000,000	36,338,500,000	36,338,500,000	+5,111,500,000	.....
PROGRAM MANAGEMENT					
Research, demonstration, and evaluation:					
Regular program:					
Federal funds	9,880,000	14,000,000	13,000,000	+3,120,000	-1,000,000
Trust funds	(19,760,000)	(23,000,000)	(21,000,000)	(+1,240,000)	(-2,000,000)
Mandated studies related to catastrophic HI, trust funds	(12,000,000)	.....	.....	(-12,000,000)	.....
Rural hospital transition demonstrations, trust funds	(8,892,000)	.....	(12,000,000)	(+3,108,000)	(+12,000,000)
Subtotal, research, demonstration, & evaluation	50,532,000	37,000,000	46,000,000	-4,532,000	+9,000,000
Medicare Contractors (Trust Funds):					
Operating funds, current	(1,361,588,000)	(1,439,013,000)	(1,520,000,000)	(+158,412,000)	(+80,987,000)
Contingency reserve fund	(98,800,000)	(100,000,000)	(100,000,000)	(+1,200,000)	.....
Subtotal, Contractors	(1,460,388,000)	(1,539,013,000)	(1,620,000,000)	(+159,612,000)	(+80,987,000)
State Certification:					
Medicare certification, trust funds	(63,168,000)	(92,442,000)	(92,442,000)	(+29,274,000)	.....
General program support, federal funds	4,173,000	6,558,000	6,558,000	+2,385,000	.....
Subtotal, State certification	(67,341,000)	(99,000,000)	(99,000,000)	(+31,659,000)	.....

5 Includes AIDS. President's budget requests AIDS funding for FY 1990 under consolidated account.

6 FY 1990 request of $105 million proposed for later transmittal.

7 Excludes legislative savings of $850 million proposed for later transmittal.

H.R. 2990—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	FY 1989 Comparable	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Comparable	Bill vs FY 1990 Request
Federal Administration:					
Federal funds	80,789,000	82,633,000	82,633,000	+1,864,000	.....
Less user fees	-1,538,000	-283,000	-283,000	+1,255,000	.....
Trust funds	(235,496,000)	(246,717,000)	(246,717,000)	(+11,221,000)	.....
Subtotal, Federal Administration	314,727,000	329,067,000	329,067,000	+14,340,000	.....
Total, Program management	1,892,988,000	2,004,080,000	2,094,067,000	+201,079,000	+89,987,000
Federal funds	93,284,000	102,908,000	101,908,000	+8,624,000	-1,000,000
Trust funds	(1,799,704,000)	(1,901,172,000)	(1,992,159,000)	(+192,455,000)	(+90,987,000)
HMO LOAN AND LOAN GUARANTEE FUND	.....	5,000,000	5,000,000	+5,000,000	.....
Total, Health Care Financing Administration:					
Federal funds	66,612,270,000	75,462,905,000	76,461,905,000	+9,849,635,000	+999,000,000
Current year, FY 1990	(57,612,270,000)	(65,062,905,000)	(66,061,905,000)	(+8,449,635,000)	(+999,000,000)
New advance, 1st quarter, FY 1991	(9,000,000,000)	(10,400,000,000)	(10,400,000,000)	(+1,400,000,000)	.....
Trust funds	(1,799,704,000)	(1,901,172,000)	(1,992,159,000)	(+192,455,000)	(+90,987,000)
SOCIAL SECURITY ADMINISTRATION					
PAYMENTS TO SOCIAL SECURITY TRUST FUNDS	93,631,000	191,968,000	191,968,000	+98,337,000	.....
SPECIAL BENEFITS FOR DISABLED COAL MINERS					
Benefit payments	878,656,000	853,000,000	853,000,000	-25,656,000	.....
Administration	6,680,000	6,862,000	6,862,000	+182,000	.....
Subtotal, Black Lung, FY 1990 program level	885,336,000	859,862,000	859,862,000	-25,474,000	.....
Less funds advanced in prior year	-250,000,000	-211,000,000	-211,000,000	+39,000,000	.....
Total, Black Lung, current request, FY 1990	635,336,000	648,862,000	648,862,000	+13,526,000	.....
New advance, 1st quarter, FY 1991	211,000,000	215,000,000	215,000,000	+4,000,000	.....
SUPPLEMENTAL SECURITY INCOME					
Federal benefit payments	11,368,000,000	10,925,613,000	10,925,613,000	-442,387,000	.....
Beneficiary services	13,547,000	13,739,000	13,739,000	+192,000	.....
Research demonstration	2,275,000	2,275,000	5,275,000	+3,000,000	+3,000,000
Administration	1,090,131,000	1,110,815,000	1,090,131,000	.....	-20,684,000
Subtotal, SSI FY 1990 program level	12,473,953,000	12,052,442,000	12,034,758,000	-439,195,000	-17,684,000
Less funds advanced in prior year	-3,000,000,000	-2,936,000,000	-2,936,000,000	+64,000,000	.....
Total, SSI, current request, FY 1990	9,473,953,000	9,116,442,000	9,098,758,000	-375,195,000	-17,684,000
New advance, 1st quarter, FY 1991	2,936,000,000	3,157,000,000	3,157,000,000	+221,000,000	.....
LIMITATION ON ADMINISTRATIVE EXPENSES (Trust Funds)	(3,731,398,000)	(3,833,389,000)	(3,833,389,000)	(+101,991,000)	.....
(Contingency reserve, non-add)	*(97,870,000)*	*(47,870,000)*	*(97,870,000)*	.....	*(+50,000,000)*
Total, Social Security Administration:					
Federal funds	13,349,920,000	13,329,272,000	13,311,588,000	-38,332,000	-17,684,000
Current year FY 1990	(10,202,920,000)	(9,957,272,000)	(9,939,588,000)	(-263,332,000)	(-17,684,000)
New advances, 1st quarter FY 1991	(3,147,000,000)	(3,372,000,000)	(3,372,000,000)	(+225,000,000)	.....
Trust funds	(3,731,398,000)	(3,833,389,000)	(3,833,389,000)	(+101,991,000)	.....
FAMILY SUPPORT ADMINISTRATION					
FAMILY SUPPORT PAYMENTS TO STATES[8]					
Aid to Families with Dependent Children (AFDC)	8,897,874,000	9,345,000,000	9,345,000,000	+447,126,000	.....
Quality control disallowances	-63,000,000	-516,000,000	.....	+63,000,000	+516,000,000
Payments to territories	16,346,000	16,346,000	16,346,000	.....	.....
Emergency assistance, incl. welfare hotel demos[9]	131,200,000	157,200,000	157,200,000	+26,000,000	.....
Repatriation	1,000,000	1,000,000	1,000,000	.....	.....
State and local welfare administration	1,474,600,000	1,599,400,000	1,599,400,000	+124,800,000	.....
Work activities / child care	12,000,000	163,000,000	163,000,000	+151,000,000	.....
Regulatory savings, essential persons	-25,000,000	-55,000,000	-55,000,000	-30,000,000	.....
Subtotal, Welfare payments	10,445,020,000	10,710,946,000	11,226,946,000	+781,926,000	+516,000,000
Child Support Enforcement:					
State and local administration	941,000,000	1,033,000,000	1,033,000,000	+92,000,000	.....
Federal incentive payments	260,000,000	294,000,000	294,000,000	+34,000,000	.....
Less federal share collections	-754,000,000	-846,000,000	-846,000,000	-92,000,000	.....
Subtotal, Child support	447,000,000	481,000,000	481,000,000	+34,000,000	.....
Total, Payments, FY 1990 program level	10,892,020,000	11,191,946,000	11,707,946,000	+815,926,000	+516,000,000
Less funds advanced in previous years	-2,500,000,000	-2,700,000,000	-2,700,000,000	-200,000,000	.....
Total, Payments, current request, FY 1990	8,392,020,000	8,491,946,000	9,007,946,000	+615,926,000	+516,000,000
New advance, 1st quarter, FY 1991	2,700,000,000	3,000,000,000	3,000,000,000	+300,000,000	.....

8 Excludes legislative savings of $350 million proposed for later transmittal.

9 Administration proposed to fund demos under the Office of Human Development Services.

H.R. 2990—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	FY 1989 Comparable	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Comparable	Bill vs FY 1990 Request
PAYMENTS TO STATES FOR AFDC WORK PROGRAMS					
New Jobs Activities program	.....	254,000,000	318,535,000	+318,535,000	+64,535,000
WIN Phaseout	91,440,000	95,975,000	31,440,000	-60,000,000	-64,535,000
Total, AFDC work programs	91,440,000	349,975,000	349,975,000	+258,535,000	.....
LOW INCOME HOME ENERGY ASSISTANCE					
Energy Assistance Block Grant	1,383,200,000	1,100,000,000	1,400,000,000	+16,800,000	+300,000,000
REFUGEE AND ENTRANT ASSISTANCE					
Cash and medical assistance[10]	*(261,820,000)*	*(201,659,000)*	*DEFER*	*DEFER*	*DEFER*
Social services	*(64,906,000)*	*(30,000,000)*	*DEFER*	*DEFER*	*DEFER*
Voluntary agency program	*(15,906,000)*	*(7,659,000)*	*DEFER*	*DEFER*	*DEFER*
Preventive health	*(5,770,000)*	*(3,000,000)*	*DEFER*	*DEFER*	*DEFER*
Targeted assistance	*(34,052,000)*	.....	*DEFER*	*DEFER*	*DEFER*
Total, Refugee Resettlement (unauthorized)	*(382,356,000)*	*(242,318,000)*	*DEFER*	*DEFER*	*DEFER*
STATE LEGALIZATION IMPACT ASSISTANCE GRANTS (non-add)	.....	*(400,000,000)*	.....	.....	*(+400,000,000)*
COMMUNITY SERVICES BLOCK GRANT					
Grants to States for Community Services	318,630,000	.....	297,000,000	-21,630,000	+297,000,000
Homeless services grants[11]	18,918,000	42,000,000	35,000,000	+16,082,000	-7,000,000
Discretionary funds:					
Community economic development	20,254,000	.....	20,254,000	.....	+20,254,000
Rural housing	4,013,000	.....	4,013,000	.....	+4,013,000
Farmworker assistance	2,948,000	.....	2,948,000	.....	+2,948,000
National youth sports, regular activities	6,669,000	.....	9,669,000	+3,000,000	+9,669,000
National youth sports, substance abuse	3,000,000	.....	.....	-3,000,000	.....
Technical assistance	236,000	.....	236,000	.....	+236,000
Subtotal, discretionary funds	37,120,000	.....	37,120,000	.....	+37,120,000
Community Partnerships	*(3,512,000)*	.....	*DEFER*	*DEFER*	*DEFER*
Community Food and Nutrition	2,418,000	.....	2,418,000	.....	+2,418,000
Total, Community services	377,086,000	42,000,000	371,538,000	-5,548,000	+329,538,000
(Unauthorized, not considered)	*(3,512,000)*	.....	*DEFER*	*DEFER*	*DEFER*
PROGRAM ADMINISTRATION					
Federal Administration[12]	77,882,000	73,881,000	76,431,000	-1,451,000	+2,550,000
Research & evaluation	2,750,000	2,750,000	6,000,000	+3,250,000	+3,250,000
Total, program administration	80,632,000	76,631,000	82,431,000	+1,799,000	+5,800,000
Total, Family Support Administration	13,024,378,000	13,060,552,000	14,211,890,000	+1,187,512,000	+1,151,338,000
Current year FY 1990	(10,324,378,000)	(10,060,552,000)	(11,211,890,000)	(+887,512,000)	(+1,151,338,000)
New advance, 1st quarter, FY 1991	(2,700,000,000)	(3,000,000,000)	(3,000,000,000)	(+300,000,000)	.....
(Unauthorized, not considered)	*(385,868,000)*	*(242,318,000)*	*DEFER*	*DEFER*	*DEFER*
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES					
SOCIAL SERVICES BLOCK GRANT (TITLE XX)	2,700,000,000	2,700,000,000	2,700,000,000	.....	.....
HUMAN DEVELOPMENT SERVICES[13]					
Programs for Children, Youth, and Families:					
Head start	1,235,000,000	1,405,000,000	1,400,000,000	+165,000,000	-5,000,000
Unauthorized, not considered	.....	*(80,000,000)*	*DEFER*	*DEFER*	*DEFER*
Child development associate scholarships	1,450,000	1,450,000	1,450,000	.....	.....
Family crisis program:					
Child abuse state grants	11,648,000	.....	11,648,000	.....	+11,648,000
Child abuse challenge grants	*(4,834,000)*	.....	*DEFER*	*DEFER*	*DEFER*
Runaway and homeless youth	26,923,000	.....	26,923,000	.....	+26,923,000
Family violence	8,219,000	.....	8,219,000	.....	+8,219,000
Consolidated request	.....	46,790,000	.....	.....	-46,790,000
Subtotal, family crisis	46,790,000	46,790,000	46,790,000	.....	.....
Dependent Care Planning and Development	11,856,000	.....	11,856,000	.....	+11,856,000
Child welfare assistance	246,679,000	256,053,000	256,053,000	+9,374,000	.....
Subtotal, Children, Youth & Families	1,541,775,000	1,709,293,000	1,716,149,000	+174,374,000	+6,856,000
(Unauthorized, not considered)	*(4,834,000)*	*(80,000,000)*	*DEFER*	*DEFER*	*DEFER*

10 Includes State admin. costs.

11 Administration requested under the Office of Human Developement Services.

12 FY90 request assumes an additional $1,550,000 from user fees.

13 Excludes $20 million for welfare hotel demos. consolidated under Family Support.

H.R. 2990—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	FY 1989 Comparable	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Comparable	Bill vs FY 1990 Request
Programs for the Aging:					
Grants to States:					
Supportive Services and Centers	274,352,000	275,652,000	275,652,000	+1,300,000	.....
Ombudsman activities	988,000	988,000	988,000	.....	.....
Nutrition:					
Congregate meals	356,668,000	356,668,000	356,668,000	.....	.....
Home-delivered meals	78,546,000	78,546,000	78,546,000	.....	.....
Federal Council on Aging	188,000	188,000	188,000	.....	.....
Grants to Indians	10,710,000	7,410,000	12,710,000	+2,000,000	+5,300,000
Frail elderly in-home services	4,834,000	4,834,000	4,834,000	.....	.....
Subtotal, Aging programs	726,286,000	724,286,000	729,586,000	+3,300,000	+5,300,000
Developmental disabilities program:					
State grants	59,774,000	59,774,000	59,774,000	.....	.....
Protection and advocacy	19,760,000	19,760,000	19,760,000	.....	.....
Subtotal, Developmental disabilities	79,534,000	79,534,000	79,534,000	.....	.....
Native American Programs	29,975,000	29,975,000	29,975,000	.....	.....
Human services research, training & demonstration:					
New consolidated request	.....	128,679,000	.....	.....	-128,679,000
Comprehensive child development centers	19,760,000	.....	24,760,000	+5,000,000	+24,760,000
Child abuse discretionary activities	13,647,000	.....	13,647,000	.....	+13,647,000
Runaway youth - transitional living	.....	.....	5,000,000	+5,000,000	+5,000,000
Runaway youth activities - drugs	15,000,000	.....	10,000,000	-5,000,000	+10,000,000
Youth gang substance abuse	15,000,000	.....	12,000,000	-3,000,000	+12,000,000
Temporary childcare/crisis nurseries	4,940,000	.....	4,940,000	.....	+4,940,000
Child welfare training	3,696,000	.....	3,696,000	.....	+3,696,000
Child welfare research	9,315,000	.....	11,315,000	+2,000,000	+11,315,000
Adoption opportunities	6,027,000	.....	6,827,000	+800,000	+6,827,000
Aging research, training and special projects	22,173,000	.....	26,173,000	+4,000,000	+26,173,000
Developmental disabilities special projects	2,901,000	.....	2,901,000	.....	+2,901,000
Developmental disabilities university affiliated programs	12,570,000	.....	12,570,000	.....	+12,570,000
Total, Human services research, training & demonstration	125,029,000	128,679,000	133,829,000	+8,800,000	+5,150,000
Program direction	66,140,000	68,886,000	68,886,000	+2,746,000	.....
Total, Human Development Services	2,568,739,000	2,740,653,000	2,757,959,000	+189,220,000	+17,306,000
(Unauthorized, not considered)	*(4,634,000)*	*(80,000,000)*	*DEFER*	*DEFER*	*DEFER*
PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE					
Foster care	854,233,000	1,161,181,000	1,204,782,000	+350,549,000	+43,601,000
Adoption assistance	111,744,000	125,266,000	125,266,000	+13,522,000	.....
Independent living	*(45,000,000)*	.....	*DEFER*	*DEFER*	*DEFER*
Prior year claims	532,275,000	.....	226,316,000	-305,959,000	+226,316,000
Total, Payments to States	1,498,252,000	1,286,447,000	1,556,364,000	+58,112,000	+269,917,000
Total, Asst. Sec. for Human Development	6,766,991,000	6,727,100,000	7,014,323,000	+247,332,000	+287,223,000
(Unauthorized, not considered)	*(49,634,000)*	*(80,000,000)*	*DEFER*	*DEFER*	*DEFER*
DEPARTMENTAL MANAGEMENT					
GENERAL DEPARTMENTAL MANAGEMENT:					
Federal funds	52,838,000	71,046,000	80,327,000	+27,489,000	+9,281,000
Trust funds	(5,024,000)	(5,085,000)	(31,201,000)	(+26,177,000)	(+26,116,000)
Total, Departmental management	57,862,000	76,131,000	111,528,000	+53,666,000	+35,397,000
OFFICE OF GENERAL COUNSEL:[14]					
Federal funds	16,220,000	19,281,000	.....	-16,220,000	-19,281,000
Trust funds	(25,641,000)	(26,116,000)	.....	(-25,641,000)	(-26,116,000)
Total, Office of General Counsel	41,861,000	45,397,000	.....	-41,861,000	-45,397,000
OFFICE OF THE INSPECTOR GENERAL:					
Federal funds	46,092,000	49,498,000	49,498,000	+3,406,000	.....
Trust funds	(39,520,000)	(43,300,000)	(44,300,000)	(+4,780,000)	(+1,000,000)
Total, Inspector General	85,612,000	92,798,000	93,798,000	+8,186,000	+1,000,000
OFFICE FOR CIVIL RIGHTS:					
Federal funds	15,979,000	17,567,000	17,567,000	+1,588,000	.....
Trust funds	(3,952,000)	(4,000,000)	(4,000,000)	(+48,000)	.....
Total, Civil Rights	19,931,000	21,567,000	21,567,000	+1,636,000	.....

14 Includes funds for FDA and IHS.

H.R. 2990—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	FY 1989 Comparable	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Comparable	Bill vs FY 1990 Request
POLICY RESEARCH	7,851,000	5,012,000	5,012,000	-2,839,000	.....
Total, Departmental management:					
Federal funds	138,980,000	162,404,000	152,404,000	+13,424,000	-10,000,000
Trust funds	(74,137,000)	(78,501,000)	(79,501,000)	(+5,364,000)	(+1,000,000)
Total, Departmental management	(213,117,000)	(240,905,000)	(231,905,000)	(+18,788,000)	(-9,000,000)
Total, Department of Health and Human Services:					
Federal Funds (all years)	111,658,645,000	121,054,021,000	123,780,188,000	+12,121,543,000	+2,726,167,000
Current year FY 1990	(96,811,645,000)	(104,282,021,000)	(107,008,188,000)	(+10,196,543,000)	(+2,726,167,000)
New advances, 1st quarter, FY 1991	(14,847,000,000)	(16,772,000,000)	(16,772,000,000)	(+1,925,000,000)	.....
(Unauthorized, not considered)	*(563,551,000)*	*(470,211,000)*	*DEFER*	*DEFER*	*DEFER*
Trust funds	(5,612,155,000)	(5,842,099,000)	(5,921,086,000)	(+308,931,000)	(+78,987,000)
TITLE III—DEPARTMENT OF EDUCATION					
COMPENSATORY EDUCATION FOR THE DISADVANTAGED					
Grants for the Disadvantaged (Chapter 1):					
Grants to local educational agencies:					
Basic grants	3,853,200,000	3,900,000,000	4,461,300,000	+608,100,000	+561,300,000
Concentration grants	172,900,000	262,988,000	495,700,000	+322,800,000	+232,712,000
Subtotal, grants to LEA's	4,026,100,000	4,162,988,000	4,957,000,000	+930,900,000	+794,012,000
Capital expenses for private school students	19,760,000	19,760,000	30,000,000	+10,240,000	+10,240,000
Even start	14,820,000	14,820,000	30,000,000	+15,180,000	+15,180,000
State agency programs:					
Migrant	271,700,000	280,938,000	290,938,000	+19,238,000	+10,000,000
Handicapped	148,200,000	148,200,000	148,200,000	.....	.....
Neglected and delinquent	31,616,000	34,778,000	34,778,000	+3,162,000	.....
State administration	40,508,000	40,508,000	54,609,000	+14,101,000	+14,101,000
State program improvement	5,686,000	7,557,000	13,652,000	+7,966,000	+6,095,000
Evaluation and technical assistance	7,904,000	12,000,000	12,000,000	+4,096,000	.....
Rural technical assistance centers	3,952,000	.....	.....	-3,952,000	.....
Total, Chapter 1	4,570,246,000	4,721,549,000	5,571,177,000	+1,000,931,000	+849,628,000
Migrant education:					
High school equivalency program	7,410,000	7,410,000	7,410,000	.....	.....
College assistance migrant program	1,482,000	1,482,000	1,482,000	.....	.....
Subtotal, migrant education	8,892,000	8,892,000	8,892,000	.....	.....
Merit schools, proposed legislation	.....	250,000,000	.....	.....	-250,000,000
Magnet Schools of Excellence, proposed legislation[15]	.....	100,000,000	.....	.....	-100,000,000
Total, Compensatory Education programs	4,579,138,000	5,080,441,000	5,580,069,000	+1,000,931,000	+499,628,000
IMPACT AID					
Maintenance and operations:					
Payments for "a" children	558,220,000	578,316,000	573,316,000	+15,096,000	-5,000,000
Payments for "b" children	135,356,000	.....	125,000,000	-10,356,000	+125,000,000
Payments for Federal property (Section 2)	14,820,000	15,354,000	15,354,000	+534,000	.....
Subtotal	708,396,000	593,670,000	713,670,000	+5,274,000	+120,000,000
Disaster assistance (Section 7)	.....	10,000,000	.....	.....	-10,000,000
Construction	24,700,000	25,590,000	25,590,000	+890,000	.....
Total, Impact aid	733,096,000	629,260,000	739,260,000	+6,164,000	+110,000,000
SCHOOL IMPROVEMENT PROGRAMS					
Educational improvement partnerships (Chapter 2):					
State block grants[16]	462,977,000	478,718,000	462,977,000	.....	-15,741,000
National programs:					
National Diffusion Network	11,066,000	11,200,000	11,200,000	+134,000	.....
Inexpensive book distribution (including RIF)	8,398,000	8,884,000	8,684,000	+286,000	.....
National school volunteers	988,000	.....	.....	-988,000	.....
Arts in education	3,458,000	3,582,000	3,582,000	+124,000	.....
Law - related education	3,952,000	3,952,000	5,000,000	+1,048,000	+1,048,000
Blue ribbon schools	889,000	1,100,000	1,000,000	+111,000	-100,000
Subtotal, National programs	28,751,000	28,518,000	29,466,000	+715,000	+948,000
Total, Chapter 2	491,728,000	507,236,000	492,443,000	+715,000	-14,793,000
Drug free schools and communities:					
State grants[16]	287,730,000	297,513,000	297,513,000	+9,783,000	.....
Teacher training	7,000,000	7,238,000	7,238,000	+238,000	.....
National programs:					
Regular programs	59,770,000	61,802,000	60,802,000	+1,032,000	-1,000,000
Urban emergency grants, proposed legislation	.....	25,000,000	.....	.....	-25,000,000
Subtotal, drug free schools and communities	354,500,000	391,553,000	365,553,000	+11,053,000	-26,000,000

15 Requested in President's budget under School Improvement.

16 Forward funded.

H.R. 2990—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	FY 1989 Comparable	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Comparable	Bill vs FY 1990 Request
National Commission on Drug Free School	.....	.....	1,000,000	+1,000,000	+1,000,000
Strengthening teaching and administration:					
Mathematics and science education:					
State grants[17]	128,440,000	132,807,000	96,000,000	-32,440,000	-36,807,000
National program	8,892,000	9,194,000	4,000,000	-4,892,000	-5,194,000
Subtotal, Math & science education	137,332,000	142,001,000	100,000,000	-37,332,000	-42,001,000
Fund for the improvement and reform of schools and teaching:					
Grants for schools and teachers	3,952,000	3,952,000	3,952,000	.....	.....
Family-school partnerships	1,976,000	1,976,000	1,976,000	.....	.....
Subtotal, FIRST	5,928,000	5,928,000	5,928,000	.....	.....
Alternative teacher/principal certification, proposed legislation	.....	25,000,000	.....	.....	-25,000,000
Presidential awards for excellent teachers, proposed legislation	.....	7,600,000	.....	.....	-7,600,000
Territorial teacher training	1,976,000	1,568,000	1,568,000	-408,000	.....
Leadership in Education Administration (LEAD)[17]	4,306,000	3,894,000	3,894,000	-412,000	.....
Christa McAuliffe fellowships	1,892,000	1,956,000	1,956,000	+64,000	.....
Other school improvement programs:					
Magnet schools assistance, regular program	113,620,000	114,620,000	114,620,000	+1,000,000	.....
Fund for Innovation in Education	11,150,000	15,678,000	20,678,000	+9,528,000	+5,000,000
(Transfer of funds) (non-add)	*(4,526,000)*	.....	.....	*(-4,526,000)*	.....
Javits gifted and talented education	7,904,000	7,904,000	7,904,000	.....	.....
Education of homeless children & youth:					
State activities[17]	4,834,000	4,998,000	4,998,000	+164,000	.....
Exemplary activities	.....	2,500,000	2,500,000	+2,500,000	.....
Subtotal, homeless activities	4,834,000	7,498,000	7,498,000	+2,664,000	.....
Women's educational equity	2,949,000	.....	2,949,000	.....	+2,949,000
Training and advisory services (Civil Rights IV-A)	23,443,000	23,443,000	23,443,000	.....	.....
Dropout prevention demonstrations	21,736,000	.....	.....	-21,736,000	.....
General assistance to the Virgin Islands	4,730,000	4,891,000	4,891,000	+161,000	.....
Ellender fellowships[17]	3,458,000	.....	4,000,000	+542,000	+4,000,000
Follow through	7,262,000	.....	7,262,000	.....	+7,262,000
Star schools	14,399,000	.....	.....	-14,399,000	.....
Native Hawaiian Education Act	4,940,000	.....	4,940,000	.....	+4,940,000
Subtotal, other school improvement programs	220,425,000	174,034,000	198,185,000	-22,240,000	+24,151,000
Total, School improvement programs	1,218,087,000	1,260,770,000	1,170,527,000	-47,560,000	-90,243,000
BILINGUAL, IMMIGRANT, & REFUGEE EDUCATION					
Bilingual programs	110,761,000	115,797,000	120,797,000	+10,036,000	+5,000,000
Support services	10,772,000	10,903,000	10,903,000	+131,000	.....
Training grants	30,413,000	30,413,000	32,413,000	+2,000,000	+2,000,000
Immigrant education	29,640,000	30,648,000	30,648,000	+1,008,000	.....
Refugee education	*(15,806,000)*	*(16,345,000)*	*DEFER*	*DEFER*	*DEFER*
Total, authorized	181,586,000	187,761,000	194,761,000	+13,175,000	+7,000,000
(Unauthorized, not considered)	*(15,806,000)*	*(16,345,000)*	*DEFER*	*DEFER*	*DEFER*
EDUCATION FOR THE HANDICAPPED					
Education for the handicapped:					
State grants:					
Grants to States, general	1,475,449,000	1,525,614,000	1,564,017,000	+88,568,000	+38,403,000
Preschool grants	247,000,000	247,000,000	252,000,000	+5,000,000	+5,000,000
Grants for infants and families	69,831,000	72,205,000	77,205,000	+7,374,000	+5,000,000
Subtotal, State grants	1,792,280,000	1,844,819,000	1,893,222,000	+100,942,000	+48,403,000
Special purpose funds:					
Deaf-blind and severely handicapped projects:					
Consolidated program	.....	19,486,000	.....	.....	-19,486,000
Deaf-blind projects	14,189,000	.....	14,189,000	.....	+14,189,000
Severely handicapped projects	5,297,000	.....	5,297,000	.....	+5,297,000
Subtotal	19,486,000	19,486,000	19,486,000	.....	.....
Early childhood education	23,147,000	23,147,000	23,147,000	.....	.....
Secondary and transitional services	7,284,000	7,284,000	7,284,000	.....	.....
Postsecondary programs	5,770,000	5,770,000	5,770,000	.....	.....
Innovation and development	17,026,000	17,026,000	17,026,000	.....	.....
Media and captioning services	13,403,000	13,403,000	15,000,000	+1,597,000	+1,597,000
Special education technology	4,730,000	4,730,000	4,730,000	.....	.....
Special studies	3,594,000	3,594,000	3,594,000	.....	.....
Special education personnel development	67,095,000	67,095,000	67,095,000	.....	.....
Recruitment and information clearinghouses	1,135,000	1,135,000	1,135,000	.....	.....
Regional resource centers	6,338,000	6,338,000	6,338,000	.....	.....
Total, Education for the handicapped	1,961,288,000	2,013,827,000	2,063,827,000	+102,539,000	+50,000,000

17 Forward funded.

H.R. 2990—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	FY 1989 Comparable	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Comparable	Bill vs FY 1990 Request
REHABILITATION SERVICES AND HANDICAPPED RESEARCH					
Rehabilitation services State grants:					
Vocational rehabilitation State grants	1,450,000,000	1,502,123,000	1,502,123,000	+52,123,000	.....
Reappropriation	500,000	.....	.....	-500,000	.....
Supported employment State grants	27,227,000	27,868,000	27,868,000	+641,000	.....
Client assistance	7,775,000	7,959,000	7,959,000	+184,000	.....
Subtotal, State grants	1,485,502,000	1,537,950,000	1,537,950,000	+52,448,000	.....
Service and demonstration projects:					
Special demonstration program:					
Regular grants	17,200,000	16,994,000	16,994,000	-206,000	.....
Comprehensive head injury grants	.....	.....	15,000,000	+15,000,000	+15,000,000
Subtotal, special demonstrations	17,200,000	16,994,000	31,994,000	+14,794,000	+15,000,000
Supported employment projects	9,520,000	9,406,000	9,406,000	-114,000	.....
Model transition grants	475,000	.....	.....	-475,000	.....
Recreational programs	2,620,000	.....	2,589,000	-31,000	+2,589,000
Migratory workers	1,100,000	1,087,000	1,087,000	-13,000	.....
Projects with industry	17,350,000	17,142,000	17,142,000	-208,000	.....
Subtotal, Service and demonstration projects	48,265,000	44,629,000	62,218,000	+13,953,000	+17,589,000
Helen Keller National Center	4,900,000	4,841,000	4,841,000	-59,000	.....
Independent living:					
Comprehensive services	12,678,000	12,977,000	12,977,000	+299,000	.....
Centers	26,000,000	25,688,000	25,688,000	-312,000	.....
Services for older blind	5,700,000	5,632,000	5,632,000	-68,000	.....
Subtotal, Independent living	44,378,000	44,297,000	44,297,000	-81,000	.....
Training	30,500,000	30,134,000	30,134,000	-366,000	.....
National Institute on Disability and Rehab Research	53,525,000	52,883,000	52,883,000	-642,000	.....
Technology assistance	5,150,000	10,650,000	10,650,000	+5,500,000	.....
Evaluation	1,000,000	1,000,000	1,000,000	.....	.....
Total, Rehabilitation services & handicapped res	1,673,220,000	1,726,384,000	1,743,973,000	+70,753,000	+17,589,000
SPECIAL INSTITUTIONS FOR THE HANDICAPPED					
AMERICAN PRINTING HOUSE FOR THE BLIND	5,335,000	5,537,000	5,537,000	+202,000	.....
NATIONAL TECHNICAL INSTITUTE FOR THE DEAF:					
Operations	33,128,000	34,321,000	34,921,000	+1,793,000	+600,000
Endowment grants	198,000	300,000	200,000	+2,000	-100,000
Construction	.....	932,000	432,000	+432,000	-500,000
Subtotal, NTID	33,326,000	35,553,000	35,553,000	+2,227,000	.....
GALLAUDET:					
University programs	44,688,000	46,297,000	46,297,000	+1,609,000	.....
Model secondary school	13,087,000	13,558,000	13,558,000	+471,000	.....
Kendall demonstration school	7,235,000	7,495,000	7,495,000	+260,000	.....
Endowment grant	988,000	1,000,000	1,000,000	+12,000	.....
Evaluation	.....	500,000	.....	.....	-500,000
Subtotal, Gallaudet University	65,998,000	68,850,000	68,350,000	+2,352,000	-500,000
Total, Special Institutions for the Handicapped	104,659,000	109,940,000	109,440,000	+4,781,000	-500,000
VOCATIONAL AND ADULT EDUCATION					
Vocational education:					
New program, proposed legislation	.....	942,239,000	.....	.....	-942,239,000
Basic grants	831,566,000	.....	860,000,000	+28,434,000	+860,000,000
Community - based organizations	8,892,000	.....	9,200,000	+308,000	+9,200,000
Consumer and homemaking education	33,118,000	.....	34,300,000	+1,182,000	+34,300,000
State councils	7,904,000	.....	8,200,000	+296,000	+8,200,000
National program:					
Research	6,965,000	.....	7,200,000	+235,000	+7,200,000
Demonstration	14,594,000	.....	15,000,000	+406,000	+15,000,000
Data[18]	4,446,000	.....	4,439,000	-7,000	+4,439,000
Subtotal, national prorams	26,005,000	.....	26,639,000	+634,000	+26,639,000
Bilingual vocational training	3,771,000	.....	3,900,000	+129,000	+3,900,000
Subtotal, Vocational education	911,256,000	942,239,000	942,239,000	+30,983,000	.....
Adult education:					
Grants to States	136,344,000	160,665,000	160,000,000	+43,656,000	+19,335,000
National programs	1,976,000	2,000,000	2,000,000	+24,000	.....
Literacy training for homeless adults	7,094,000	10,000,000	10,000,000	+2,906,000	.....
Workplace literacy partnerships	11,856,000	.....	11,856,000	.....	+11,856,000
English literacy grants	4,940,000	.....	4,940,000	.....	+4,940,000
Subtotal, adult education	162,210,000	172,665,000	208,796,000	+46,586,000	+36,131,000
Total, Vocational & adult education	1,073,466,000	1,114,904,000	1,151,035,000	+77,569,000	+36,131,000

18 Includes funds for the National Occupational Information Coordinating Committees.

H.R. 2990—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	FY 1989 Comparable	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Comparable	Bill vs FY 1990 Request
STUDENT FINANCIAL ASSISTANCE					
Pell Grants	4,483,915,000	4,740,000,000	4,740,000,000	+256,085,000	.....
Supplemental educational opportunity grants	437,972,000	452,863,000	452,863,000	+14,891,000	.....
Work-study	610,097,000	610,097,000	610,097,000	.....	.....
Income contingent loans	4,940,000	20,000,000	10,000,000	+5,060,000	-10,000,000
Perkins loans:					
Federal capital contributions	183,507,000	.....	137,000,000	-46,507,000	+137,000,000
(Total loans from revolving fund) (non-add)	*(896,000,000)*	*(751,000,000)*	*(888,000,000)*	*(-10,000,000)*	*(+137,000,000)*
Loan cancellations	22,000,000	22,000,000	22,000,000	.....	.....
State student incentive grants	71,889,000	.....	50,000,000	-21,889,000	+50,000,000
Total, Student Financial Assistance	5,814,320,000	5,844,960,000	6,021,960,000	+207,640,000	+177,000,000
GUARANTEED STUDENT LOANS					
Guaranteed student loans[19]	4,066,828,000	3,192,234,000	3,651,000,000	-415,828,000	+458,766,000
Total estimated loans (non-add)	*(12,118,000,000)*	*(13,201,000,000)*	*(13,201,000,000)*	*(+1,083,000,000)*	.....
HIGHER EDUCATION					
Aid for institutional development:					
Strengthening developing institutions	77,459,000	80,093,000	83,000,000	+5,541,000	+2,907,000
Strengthening historically black colleges & univ	73,554,000	76,055,000	85,000,000	+11,446,000	+8,945,000
Strengthening historically black grad institutions	10,868,000	11,238,000	11,238,000	+370,000	.....
Endowment grants:					
Current law	12,696,000	13,128,000	23,128,000	+10,432,000	+10,000,000
Proposed legislation	.....	10,000,000	.....	.....	-10,000,000
Subtotal, Institutional development	174,577,000	190,514,000	202,366,000	+27,789,000	+11,852,000
Program development:					
Fund for the Improvement of Postsec. Education	11,856,000	11,856,000	11,856,000	.....	.....
Mid-career teacher training	.....	.....	2,000,000	+2,000,000	+2,000,000
Minority science improvement	5,307,000	5,487,000	5,487,000	+180,000	.....
Innovative projects for community services	1,454,000	.....	.....	-1,454,000	.....
International education and foreign language studies:					
Domestic programs[20]	25,855,000	25,114,000	35,114,000	+9,259,000	+10,000,000
Overseas programs	5,203,000	5,203,000	5,203,000	.....	.....
Subtotal, International education	31,058,000	30,317,000	40,317,000	+9,259,000	+10,000,000
Cooperative education	13,622,000	.....	13,622,000	.....	+13,622,000
Law school clinical experience	3,952,000	.....	5,000,000	+1,048,000	+5,000,000
Student Literacy Corps	4,940,000	5,108,000	5,108,000	+168,000	.....
Subtotal, Program development	72,189,000	52,768,000	83,390,000	+11,201,000	+30,622,000
Academic facilities:					
Interest subsidy grants	22,744,000	22,744,000	22,744,000	.....	.....
Special grants:					
Assistance to Guam	473,000	.....	473,000	.....	+473,000
Robert A. Taft Institute of Government	709,000	.....	.....	-709,000	.....
Subtotal, Special grants	1,182,000	.....	473,000	-709,000	+473,000
Special higher education projects:					
Urban Education Foundation	1,600,000	1,600,000	.....	-1,600,000	-1,600,000
Aid to Students:					
Special program for disadvantaged (TRIO)	219,257,000	228,168,000	248,168,000	+28,911,000	+20,000,000
Support services:					
Veterans' education outreach	2,838,000	.....	2,838,000	.....	+2,838,000
Legal training for the disadvantaged (CLEO)	1,892,000	1,956,000	2,500,000	+608,000	+544,000
School, college & university partnerships	2,760,000	2,854,000	2,854,000	+94,000	.....
Scholarships and fellowships:					
Robert C. Byrd honors scholarships	8,200,000	8,479,000	8,479,000	+279,000	.....
National Science Scholars, proposed legislation	.....	5,000,000	.....	.....	-5,000,000
Paul Douglas Teacher Scholarships	15,235,000	.....	14,235,000	-1,000,000	+14,235,000
Patricia Roberts Harris Fellows:					
Graduate fellowships	15,711,000	16,245,000	16,245,000	+534,000	.....
Public service fellowships	3,320,000	.....	3,320,000	.....	+3,320,000
Jacob K. Javits Fellowships	7,904,000	5,770,000	6,770,000	-1,134,000	+1,000,000
Minority participation in graduate education	3,476,000	3,594,000	3,594,000	+118,000	.....
Graduate assistance in areas of national need	12,844,000	11,945,000	17,000,000	+4,156,000	+5,055,000
Subtotal, Scholarships and fellowships	66,690,000	51,033,000	69,643,000	+2,953,000	+18,610,000
Subtotal, Aid to Students	293,437,000	284,011,000	326,003,000	+32,566,000	+41,992,000
Total, Higher education	565,729,000	551,637,000	634,976,000	+69,247,000	+83,339,000

19 Excludes amounts related to credit reform and proposed legislation totalling $167.9 million.

20 Includes funds for international business education.

H.R. 2990—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	FY 1989 Comparable	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Comparable	Bill vs FY 1990 Request
HOWARD UNIVERSITY					
Academic program	151,357,000	156,806,000	151,806,000	+449,000	-5,000,000
Endowment grant	1,482,000	2,458,000	7,458,000	+5,976,000	+5,000,000
Reappropriation	494,000	.....	.....	-494,000	.....
Research	4,730,000	4,730,000	4,730,000	.....	.....
Howard University Hospital	20,910,000	20,910,000	20,910,000	.....	.....
Total, Howard University	178,973,000	184,904,000	184,904,000	+5,931,000	.....
COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS					
LOAN LIMITATION:					
Borrowing authority	29,640,000	.....	30,000,000	+360,000	+30,000,000
Interest subsidy payments	1,675,000	5,129,000	5,129,000	+3,454,000	.....
Total, College Housing	31,315,000	5,129,000	35,129,000	+3,814,000	+30,000,000
EDUCATION RESEARCH AND STATISTICS					
Education research	47,079,000	50,960,000	57,010,000	+9,931,000	+6,050,000
Statistics	21,736,000	25,320,000	25,320,000	+3,584,000	.....
National Assessment of Education Progress (NAEP)	9,386,000	12,050,000	13,000,000	+3,614,000	+950,000
Education achievement experiments	.....	13,000,000	5,000,000	+5,000,000	-8,000,000
Total, Education research and statistics	78,201,000	101,330,000	100,330,000	+22,129,000	-1,000,000
LIBRARIES					
Proposed legislation:					
Services to the disadvantaged	.....	91,000,000	.....	.....	-91,000,000
Resource sharing	.....	45,000,000	.....	.....	-45,000,000
Research and assessment	.....	1,200,000	.....	.....	-1,200,000
Subtotal, proposed legislation	.....	137,200,000	.....	.....	-137,200,000
Public libraries:					
Services	81,009,000	.....	81,009,000	.....	+81,009,000
Construction	22,324,000	.....	.....	-22,324,000	.....
Interlibrary cooperation	19,102,000	.....	19,102,000	.....	+19,102,000
Training and demonstrations	709,000	.....	709,000	.....	+709,000
Research libraries	5,675,000	.....	5,675,000	.....	+5,675,000
Library literacy programs	4,730,000	.....	4,730,000	.....	+4,730,000
College library technology	3,651,000	.....	3,651,000	.....	+3,651,000
Total, Libraries	137,200,000	137,200,000	114,876,000	-22,324,000	-22,324,000
DEPARTMENTAL MANAGEMENT					
PROGRAM ADMINISTRATION	250,464,000	271,946,000	269,946,000	+19,482,000	-2,000,000
OFFICE FOR CIVIL RIGHTS, SALARIES AND EXPENSES	41,635,000	45,178,000	45,178,000	+3,543,000	.....
OFFICE OF THE INSPECTOR GENERAL, SALARIES AND EXPENSES	18,619,000	22,000,000	22,000,000	+3,381,000	.....
Total, Departmental management	310,718,000	339,124,000	337,124,000	+26,406,000	-2,000,000
Total, Department of Education	22,707,824,000	22,479,805,000	23,833,191,000	+1,125,367,000	+1,353,386,000
(Unauthorized, not considered)	*(15,806,000)*	*(16,345,000)*	.....	*(-15,806,000)*	*(-16,345,000)*
TITLE IV - RELATED AGENCIES					
Action (Domestic Programs):					
Volunteers in Service to America:					
VISTA operations	*(21,647,000)*	*(23,615,000)*	*DEFER*	*DEFER*	*DEFER*
VISTA Literacy Corps	*(2,838,000)*	.....	*DEFER*	*DEFER*	*DEFER*
Student Community Service	*(1,352,000)*	*(1,352,000)*	*DEFER*	*DEFER*	*DEFER*
Subtotal	*(25,837,000)*	*(24,967,000)*	*DEFER*	*DEFER*	*DEFER*
Citizen Participation and Volunteer Demonstration Programs	*(4,450,000)*	*(2,650,000)*	*DEFER*	*DEFER*	*DEFER*
Older Americans Volunteer Programs:					
Foster Grandparents Program	*(58,928,000)*	*(58,926,000)*	*DEFER*	*DEFER*	*DEFER*
Senior Companion Program	*(25,135,000)*	*(25,135,000)*	*DEFER*	*DEFER*	*DEFER*
Retired Senior Volunteer Program	*(30,862,000)*	*(30,862,000)*	*DEFER*	*DEFER*	*DEFER*
Subtotal, Older Volunteers	*(114,925,000)*	*(114,925,000)*	*DEFER*	*DEFER*	*DEFER*
Program Support	*(25,208,000)*	*(27,875,000)*	*DEFER*	*DEFER*	*DEFER*
Total, Action (unauthorized)	*(170,420,000)*	*(170,417,000)*	*DEFER*	*DEFER*	*DEFER*
Commission on Railroad Retirement Reform	988,000	.....	.....	-988,000	.....
Corporation for Public Broadcasting:[21]					
FY 1992 (current request)	242,060,000	242,060,000	242,060,000	.....	.....
Satellite replacement	56,810,000	.....	72,000,000	+15,190,000	+72,000,000
Total, Corporation for Public Broadcasting	298,870,000	242,060,000	314,060,000	+15,190,000	+72,000,000

21 FY 1989 approp. adv. in FY87 is $226 million.
FY 1990 approp. adv. in FY88 is $232,848,000.
FY 1991 approp. adv. in FY89 is $298,870,000.

H.R. 2990—FISCAL YEAR 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	FY 1989 Comparable	FY 1990 Request	FY 1990 Bill	Bill vs FY 1989 Comparable	Bill vs FY 1990 Request
Federal Mediation and Conciliation Service	25,813,000	25,190,000	26,380,000	+567,000	+1,190,000
Federal Mine Safety and Health Review Commission	4,030,000	4,005,000	4,030,000	.....	+25,000
National Commission on Children	790,000	.....	940,000	+150,000	+940,000
National Commission on Financing Postsecondary Education	790,000	.....	.....	-790,000	.....
National Commission on libraries and Information Science	741,000	770,000	750,000	+9,000	-20,000
National Commission on Migrant Education	1,976,000	.....	.....	-1,976,000	.....
National Commission to Prevent Infant Mortality	494,000	.....	400,000	-94,000	+400,000
National Council on Disability	1,160,000	1,157,000	1,157,000	-3,000	.....
National Labor Relations Board	138,983,000	140,111,000	140,111,000	+3,128,000	.....
National Mediation Board	6,472,000	6,384,000	6,384,000	-88,000	.....
Occupational Safety and Health Review Commission	5,845,000	5,970,000	5,970,000	+125,000	.....
Physician Payment Review Commission (trust funds)	(2,897,000)	(3,722,000)	(3,847,000)	(+950,000)	(+125,000)
Prescription Drug Payment Review Commission (trust funds)	.....	(2,086,000)	(1,500,000)	(+1,500,000)	(-586,000)
(By transfer, trust funds)	*(250,000)*	.....	.....	*(-250,000)*	.....
Prospective Payment Assessment Commission (trust funds)	*(3,495,000)*	*(3,794,000)*	*(3,919,000)*	*(+424,000)*	*(+125,000)*
Railroad Retirement Board:					
Dual benefits payments account[22]	350,897,000	333,000,000	340,000,000	-10,897,000	+7,000,000
Less income tax receipts on dual benefits	-30,157,000	-30,000,000	-30,000,000	+157,000	.....
Subtotal, dual benefits	320,740,000	303,000,000	310,000,000	-10,740,000	+7,000,000
Federal payment to the Railroad Retirement Account	3,100,000	.....	.....	-3,100,000	.....
(Limitation on administration, retirement)	*(59,626,000)*	*(60,550,000)*	*(63,900,000)*	*(+4,274,000)*	*(+3,350,000)*
(Limitation on administration, unemployment) (non-add)	*(13,950,000)*	*(13,450,000)*	*(14,100,000)*	*(+150,000)*	*(+650,000)*
(Limitation on administration, review activity)	*(3,213,000)*	*(4,000,000)*	*(3,545,000)*	*(+332,000)*	*(-455,000)*
Soldiers' and Airmen's Home (trust fund limitation):					
Operation and maintenance	37,248,000	37,573,000	39,000,000	+1,752,000	+1,427,000
Capital outlay	14,820,000	8,500,000	8,500,000	-6,320,000	.....
United States Bipartisan Commission on Comprehensive Health care	1,033,000	.....	467,000	-566,000	+467,000
United States Institute of Peace	6,916,000	6,916,000	6,916,000	.....	.....
White House Conference on Library and Information Services	1,750,000	.....	.....	-1,750,000	.....
Total, title IV, Related Agencies:					
Federal Funds (all years)	870,559,000	781,636,000	865,065,000	-5,494,000	+83,429,000
Current year	(571,689,000)	(539,576,000)	(551,005,000)	(-20,684,000)	(+11,429,000)
Appropriations, 1992	(298,870,000)	(242,060,000)	(314,060,000)	(+15,190,000)	(+72,000,000)
(Unauthorized, not considered)	*(170,420,000)*	*(170,417,000)*	*DEFER*	*DEFER*	*DEFER*
Trust funds	(69,231,000)	(74,152,000)	(76,711,000)	(+7,480,000)	(+2,559,000)
SUMMARY					
Title I - Department of Labor:					
Federal Funds	6,556,443,000	6,575,107,000	6,713,077,000	+156,634,000	+137,970,000
Trust Funds	(2,777,832,000)	(2,782,510,000)	(2,880,510,000)	(+102,678,000)	(+98,000,000)
Title II - Department of Health and Human Services:					
Federal Funds (all years)	111,658,645,000	121,054,021,000	123,780,188,000	+12,121,543,000	+2,726,167,000
Current year	(96,811,645,000)	(104,282,021,000)	(107,008,188,000)	(+10,196,543,000)	(+2,726,167,000)
1991 advance	(14,847,000,000)	(16,772,000,000)	(16,772,000,000)	(+1,925,000,000)	.....
(Unauthorized, not considered)	*(583,551,000)*	*(470,211,000)*	*DEFER*	*DEFER*	*DEFER*
Trust Funds	(5,612,155,000)	(5,842,099,000)	(5,921,086,000)	(+308,931,000)	(+78,987,000)
Title III - Department of Education:					
Federal Funds	22,707,824,000	22,479,805,000	23,833,191,000	+1,125,367,000	+1,353,386,000
(Unauthorized, not considered)	*(15,808,000)*	*(16,345,000)*	*DEFER*	*DEFER*	*DEFER*
Title IV - Related Agencies:					
Federal Funds (all years)	870,559,000	781,636,000	865,065,000	-5,494,000	+83,429,000
Current year	(571,689,000)	(539,576,000)	(551,005,000)	(-20,684,000)	(+11,429,000)
1992 advance	(298,870,000)	(242,060,000)	(314,060,000)	(+15,190,000)	(+72,000,000)
(Unauthorized, not considered)	*(170,420,000)*	*(170,417,000)*	*DEFER*	*DEFER*	*DEFER*
Trust Funds	(69,231,000)	(74,152,000)	(76,711,000)	(+7,480,000)	(+2,559,000)
Total, all titles:					
Federal Funds (all years)	141,793,471,000	150,890,569,000	155,191,521,000	+13,398,050,000	+4,300,952,000
Current year	(126,647,601,000)	(133,876,509,000)	(138,105,461,000)	(+11,457,860,000)	(+4,228,952,000)
1991 advance	(14,847,000,000)	(16,772,000,000)	(16,772,000,000)	(+1,925,000,000)	.....
1992 advance	(298,870,000)	(242,060,000)	(314,060,000)	(+15,190,000)	(+72,000,000)
(Unauthorized, not considered)	*(769,779,000)*	*(656,973,000)*	*DEFER*	*DEFER*	*DEFER*
Trust Funds	(8,459,218,000)	(8,698,761,000)	(8,878,307,000)	(+419,089,000)	(+179,546,000)

22 Legislation will be proposed to fund $83,250,000 of this amount from the Railroad Retirement account.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO SIT DURING THE 5-MINUTE RULE ON TODAY

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be permitted to sit on today, Wednesday, August 2, 1989, while the House is meeting under the 5-minute rule.

The SPEAKER pro tempore (Mr. SKAGGS). Is there objection to the request of the gentleman from Texas?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 3015, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL, 1990

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 221 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 221

Resolved, That during the consideration of the bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes, all points of order against the following provisions of the bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: Beginning on page 5, line 8 through "expended:" on page 5, line 13; beginning on page 6, line 8 through page 9, line 19; beginning on page 11, line 2 through "appropriation:" on page 12, line 4; beginning with *"Provided"* on page 12, line 10 through page 12, line 25; beginning on page 14, line 14 through page 15, line 10; beginning on page 20, lines 11 through 18; beginning on page 22, line 10 through page 26, line 12; beginning on page 26, lines 15 through 21; beginning on page 30, line 1 through page 33, line 16; beginning on page 34, lines 1 through 16; beginning on page 38, lines 3 through 12; beginning on page 40, line 16 through page 41, line 10; beginning on page 44, lines 3 through 9; beginning on on page 44, line 18 through page 48, line 7; beginning on page 48, line 15 through page 49, line 7; beginning on page 50, line 1 through page 53, line 5; beginning on page 53, lines 17 through 25; and beginning on page 54, line 6 through page 55, line 9; and all points of order against the following provision of the bill for failure to comply with the provisions of clause 6 of rule XXI are hereby waived: Beginning on page 11, line 2 through page 12, line 25. In any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph. The text of the amendment printed in section 2 of this resolution shall be considered as having been agreed to in the House and in the Committee of the Whole, and all points of order against the inserted text for failure to comply with the provisions of clause 2 of rule XXI are hereby waived. It shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Bonior of Michigan or his designee, and all points of order against said amendment for failure to comply with the provisions of clause 7 of rule XVI and with clause 2 of rule XXI are hereby waived.

SEC. 2. Insert at the end of the bill the following new section:

"SEC. 335. PERMANENT PROHIBITION AGAINST SMOKING ON SCHEDULED FLIGHTS OF TWO HOURS OR LESS IN DURATION.

"Section 404(d)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1374(d)(1)) is amended by striking subparagraph (C).".

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 221 waives points of order against specified provisions of H.R. 3015, the Department of Transportation appropriations bill of 1990. The rule also specifically makes one amendment in order and incorporates into the bill language concerning smoking on airlines. This rule does not provide for the bill's consideration since general appropriation bills are privileged under rules of the House. The rule also does not contain any provisions relating to time for general debate. Customarily, general debate will be limited by a unanimous-consent request by the floor manager when the bill is considered.

House Resolution 221 waives clauses 2 and 6 of rule XXI (21) against specified provisions of the bill. Clause 2 would prohibit unauthorized appropriations or legislative provisions in general appropriation bills and would restrict the offering of amendments proposing limitations not specifically contained or authorized in existing law. Clause 6 would prohibit reappropriations in a general appropriation bill.

This resolution further provides that in any instance where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision, and not against the entire paragraph.

The provisions for which these waivers are provided are detailed by reference to page and line in H.R. 3015. Generally, the rule provides several waivers of clause 2 of rule XXI (21) in titles I, II, and III of the bill; and one waiver of clause 6 in title I.

The rule further provides that the text of the amendment printed in section 2 of the resolution shall be considered as having been adopted in the House and in the Committee of the Whole, and waives all points of order against the inserted text for failure to comply with clause 2 of rule XXI (21). Again, this clause would prohibit unauthorized appropriations or legislative provisions in general appropriation bills and would restrict the offering of limitation amendments to such bills.

Finally, Mr. Speaker, the rule makes in order the amendment printed in report No. 101-206, accompanying this resolution, if offered by Representative BONIOR or his designee. The rule waives all points of order against the amendment for failure to comply with clause 2 of rule XXI (21) and clause 7 of rule XVI (16); the latter clause prohibiting nongermane amendments.

Mr. Speaker, H.R. 3015 appropriates $11.9 billion for the Department of Transportation and related agencies and this rule will facilitate its consideration. As noted earlier, the rule contains a "self-executing" provision that, with the passage of the rule, would result in the automatic adoption of a provision permanently prohibiting smoking on flights of 2 hours or less duration. This provision is identical to one adopted by a majority in the House of Representatives in 1987.

As further noted, the rule makes one amendment in order if offered by Representative BONIOR or his designee, and waives certain points of order against the amendment. Mr. BONIOR's provision seeks to rename a highway in Michigan in honor of former Representative Jim O'Hara.

Mr. Speaker, I urge adoption of the rule and of the underlying bill.

□ 1350

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on January 3, the day the 101st Congress convened and we voted on the rules we supposedly live by, I took to the well to say that—quote—"this House is experiencing an institutional crisis of profoundly disturbing proportions."

If you have any doubt about the truth of that statement, I would suggest you take a look at this proposed rule. This rule is exhibit A in the chamber of travesties that this House has become. It would seem that there is a contagious disease around here. A bad bill comes before the Rules Committee and the committee then proceeds to write a rule which is as bad as the bill. In this instance, the rule is worse—if that's possible.

H.R. 3015 is loaded with unauthorized projects and legislative language. I will talk in more detail about that in just a moment. But, how then is this rule even worse than the bill? It's worse because it contains a self-executing provision that serves to write even more legislative language into this appropriations bill. Specifically, of course, that language is the Durbin amendment.

Whether you are for or against the Durbin amendment, there are two things wrong with trying to enact the Durbin amendment by using this kind of parliamentary chicanery.

The first thing has to do with time constraints and parliamentary procedure. The only opportunity that opponents of the Durbin amendment will have to do something about it comes during consideration of the rule—right now, in other words. The debate on a rule, which must necessarily cover other topics as well, is limited to only 1 hour. Thus, opponents of the Durbin amendment are effectively gagged and limited in their options to using a procedural vote in order to get it changed.

The second thing wrong with using this kind of gimmickry has to do with the fact that a legislative provision which is enacted by a self-executing rule is, by definition, protected beyond the reach of a motion to recommit. That's just flat out wrong and unfair.

The fact of the matter is, Mr. Speaker, that the Durbin amendment is highly controversial. The division on this issue is very close, and it cuts across party lines. When the Durbin amendment was debated 2 years ago, it passed by a margin of only five votes.

It should also be noted that parliamentary gimmickry was employed the last time the Durbin amendment was debated. The vote wasn't held until late in the evening—nearly midnight—after a grueling day in which multiple rollcall votes had been held. More than 40 Members had already left by the time the amendment was called up.

Indeed, Mr. Speaker, the Durbin amendment would never have come up at all 2 years ago if the Rules Committee had not resorted to tactics so unorthodox as to make a banana republic look good. I'm sure the Members remember it well.

Enough said, Mr. Speaker, about the self-executing provision of this rule. Let's take a look at all the unauthorized projects and language that are protected by this rule.

I'm holding a list of 14 projects—highways, bridges, and airports—that are unauthorized. Nevertheless, they're all in this appropriations bill, and the rule protects them. There are $70 million earmarked for unauthorized highway projects alone.

I have another list—eight specific legislative provisions relating to highways, railroads, and bridges. It's all protected.

I have another list—five specific provisions regarding airlines, airports, and the Federal Aviation Administration. It's all protected.

This bill virtually rewrites significant portions of our national highway and mass transit policies. Major changes concerning aviation issues are written in. But will the Public Works Committee have anything to say about it? Forget it. That's only the authorizing committee. What should they have to do with it?

Before closing, Mr. Speaker, I would like to quote from a letter I received the other day from my good friend, Chairman MOAKLEY. And I don't say "good friend" lightly or unadvisedly. There is no Member of the House for whom I have more respect or affection.

But I wrote the chairman about an amendment I was considering offering on this bill. He wrote back and asked that I hold off on it, saying that, otherwise, the Public Works Committee would be put in—quote—"the strange position of being faced with an effort to discharge the committee from a matter they have never been asked to consider."

I held off on my amendment, and I took the chairman's words to mean that at least some deference would—and should—be made to the committee of jurisdiction, the authorizing committee.

And, indeed, Mr. Speaker, the Rules Committee received testimony from Mr. ANDERSON and Mr. HAMMERSCHMIDT, two of the most senior and distinguished Members of this House. In their respective roles as chairman and ranking Republican on the Public Works Committee, they practically begged the Rules Committee not to preempt or short-circuit the authorization process.

At the very least, they asked the Rules Committee for one thing. If the committee were to write a rule protecting all of these unauthorized projects and legislative provisions against points of order, then at least give the Public Works Committee the right to offer an en bloc amendment striking those unauthorized provisions or projects that are under the committee's jurisdiction.

Once again, the request of a committee chairman and his ranking Republican were turned down cold. And to add insult to injury, the Rules Committee then proceeded to make in order an amendment that throws even more pork on the pile.

I personally cannot—and will not—believe that my friend, Chairman MOAKLEY, is responsible for this. I cannot believe the decision was his to make.

But, in any event, this rule is an abomination. It is the worst rule we have seen thus far this year. It should be defeated outright.

Mr. Speaker, this rule is an abomination. Let me speak to these Republicans on this side of the aisle for a minute. I say to them, "You wait until next year when there comes a self-executing rule on this floor dealing with a major foreign policy issue."

I see it coming. Then they will be able to say, "You Republicans supported this self-executing rule. What is your beef now?"

And then down the drain goes American foreign policy as has happened in the past. That is what is wrong with this rule, and that is why every Member of this House ought to vote no on the rule.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to address the remarks of the gentleman from New York [Mr. SOLOMON], who serves on the Rules Committee and for whom I have a great deal of respect. I have great respect for him individually.

We spent all day yesterday on this rule. We heard numerous Members who came before the Rules Committee, and we worked out what I think is an excellent rule.

As to the matter of the tobacco issue, referring to the 2-hour provision and making that permanent, the gentleman from Illinois [Mr. DURBIN], the author of that amendment, is waiting over here to get up and speak on behalf of the rule that we have presented. So the author of the amendment certainly is not dissatisfied, and not only that, but there is only one Republican that I know of on the Rules Committee, as indicated by the way they voted, who is dissatisfied with it. The senior member, the gentleman from Tennessee [Mr. QUILLEN], was very much in support of it. The gentlewoman from Illinois [Mrs. MARTIN] voted yes on final passage, as did the gentleman from California [Mr. PASHAYAN]. And with all due respect to my friend, the gentleman from New York [Mr. SOLOMON], we had a tweet or two out of him, but he did not raise a ruckus like he raised a few moments ago about the rule. He very meekly said no when we voted, and that was about all there was to it.

So I am just amazed that when we come on the floor today, we hear a tirade and he is flailing the Rules Committee and comparing it with a banana republic and whatnot.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. I will not yield. The gentleman has his own time.

Mr. Speaker, I do not understand the gentleman's action in equating the Rules Committee with a banana republic and one thing and another. These projects that are in the bill are not just Democratic projects, they are Republican projects and Democratic projects, and they are projects that at least the Rules Committee and the Appropriations Committee, although I cannot speak for the Public Works and Transportation Committee, thought were worthwhile projects.

□ 1400

With all due respect, Mr. Speaker, one of the problems that we have here with Members is that it has been traditionally, at least in the last few years; for one reason or another it has been a long time between authorizing bills for these various projects that are needed around the country. Our infrastructure is going to pot. Everyone recognizes that. Members do not have the opportunity on a regular basis to get these matters authorized, and, therefore, it is sometimes necessary. The Committee on Rules does not like the idea of putting authorizing legislation on appropriation bills that much, but sometimes there has to be an exception made, and that is the exception that we made in good faith.

I say to my dear friend, the gentleman from New York [Mr. SOLOMON] "I'm just amazed, just absolutely chagrined, that you would put up so little protest in the committee, and three out of the four Republicans, including the senior Member, the gentleman from Tennessee [Mr. QUILLEN] for the rule, and then to equate us all with a banana republic."

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, now that we have heard from the gentleman from South Carolina [Mr. DERRICK] who is carrying the rule on the other side, who seems to say there is nobody opposed to this rule, I would like to recognize the Democratic chairman of the Public Works Committee, one of the most distinguished Members of this House, and I hope he will give his testimony like he gave it before the committee.

Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I rise in strong opposition to House Resolution 221. This rule waives just about all points of order against consideration of the bill, H.R. 3015, Department of Transportation and related agencies appropriations bill for fiscal year 1990, for failure to comply with rule XXI for a number of matters directly under the jurisdiction of the Committee on Public Works and Transportation.

I oppose the adoption of the rule because it waives unauthorized projects and legislative provisions that relate to the surface transportation and aviation programs within the jurisdiction of the Committee on Public Works and Transportation. Our committee is deeply concerned that many of the provisions in the bill preempt the legislative authority of the authorizing committee.

First, let me start by focusing on the significant number of unauthorized highway projects and legislative provisions in the bill. There is more than $70 million earmarked for specific unauthorized highway projects.

Although several of these projects have received funds in past legislation, the continued appropriation of funds without an authorization is unwarranted. It cannot be said that making funds available for projects in past years commits this Congress or the U.S. Government to continuing their funding. I would point as relevant, that the Public Works Committee has often authorized funds for startup work on highway projects and expressly declared that in so doing, no further commitment of Federal resources was being suggested. It is hard to imagine that State highway projects will be abandoned for the lack of a Federal earmarking. And clearly, with respect to new projects, we must not start down the road of funding work where any argument of a moral commitment for additional moneys could be made next year.

Mr. Speaker, H.R. 3015 also contains several legislative provisions that impact the highway and mass transit programs. In some cases, the legislative provisions provide for major policy changes without consideration of the implications of the proposed policy. This raises a great deal of concern within the Committee on Public Works and Transportation. Significant program policy changes should not be enacted without full disclosure of the effects on the highway and mass transit programs and an opportunity to comment by all interested parties. The enactment of the reauthorizing legislation for the surface transportation programs is the appropriate legislative vehicle for authorizing highway programs and for making policy changes.

Another area of major concern with the bill relates to the provisions in the bill changing existing law on a broad range of aviation issues. Dealing with these types of issues is the responsibility of the authorizing committee, not appropriations. Our committee has been extremely active in aviation and we have always been ready to deal with problems expeditiously, as evidenced by legislation which we reported and the House passed just this week, dealing with one of the provisions protected by the rule.

Rule XXI was designed to preserve the boundaries between authorizing and appropriating committees. In the present situation there has been no showing of an emergency or any other factor which would warrant waiving rule XXI for the aviation legislation in the DOT appropriations bill.

In the DOT bill there are five major aviation legislative provisions as to which we oppose waivers of points of order under rule XXI. The Rules Committee has granted waivers to four out of five provisions. The waivers were provided for a modification to the grant-in-aid for airports program to allocate those funds in a different manner than the authorizing law; a limitation on claims for compensation against the United States; an extension of the authorization to issue letters of intent to fund airport development beyond the period authorized in law; and the transfer of instrument landing systems to the Federal Aviation Administration.

In fact, in the case of section 331 on the instrument landing systems, the Committee on Public Works and Transportation reported, and passed in the House this week, legislation that addresses this very issue. There is no need for the inclusion of section 331 in the appropriations legislation.

The Committee on Public Works and Transportation requested that a rule be reported that would provide for consideration of H.R. 3015 that would not waive any points of order for unauthorized projects and legislative provisions that relate to highway, mass transit, and aviation programs. However, if the rule reported provides for certain waivers, the Public Works Committee requested that the rule also make in order an en bloc amendment that I would offer on the House floor to strike those provisions within the jurisdiction of the Committee on Public Works and Transportation which are in violation of the House Rules.

The Committee on Rules reported House Resolution 221, a rule that did not address the concerns raised by the Committee on Public Works and Transportation.

Mr. Speaker, that is why I rise in strong opposition to the adoption of this rule.

I urge the Members to defeat the rule. It's a bad rule and the Rules Committee should report a rule that safeguards the integrity of the authorization as well as the appropriations process.

As guardian of the Rules of the House of Representatives, the Rules Committee should enforce the House rules by denying waivers of points of order for violation of the House rules.

I urge my colleagues to defeat the rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I rise in strong support of this rule. This rule is not what I asked for before the Committee on Rules. I asked for the Committee on Rules to give this House of Representatives an opportunity to cast this vote and also to make its feelings known on a total ban of smoking on airplane flights. The Committee on Rules did not give us that opportunity, but instead crafted a rule which will at least make the current law banning

smoking on flights of 2 hours or less the permanent law of the land.

Mr. Speaker, the gentleman from New York [Mr. SOLOMON] has spoken about the experience which we had on the floor 2 years ago. I can tell my colleagues that I remember that day and every detail of it. The gentleman bemoans the fact that this issue came late in the day. I can tell the gentleman that I spent 9 hours on the floor waiting for that issue. I would have gladly taken it up earlier in the day, but that is not what happened. I could not control the floor business, and the issue came for a vote late in the day. I will remember that debate for as long as I live. That debate mobilized this House of Representatives in the most extraordinary coalition which I have ever seen. Those people who supported sensible regulation of smoking included not only Democrats from my party, but Republicans from the gentleman's party, liberals, conservatives from every region, every political stripe, and they all came together to support a ban on smoking on flights of 2 hours or less.

Mr. Speaker, when the vote was finally counted, the issue passed narrowly by five votes. During the course of that debate there were many charges made that we were inviting chaos. People said that there would be fighting in the aisles of these airplanes, people would be sneaking into the restrooms to smoke, we would have fires on airplanes. Tobacco prices would plummet.

Mr. Speaker, I ask my colleagues, "Do you know what happened in the year and a half since this law has been on the books?"

Four hundred and fifty million Americans have flown on airplanes and we have had exactly 113 incidents related to this law. And a recent survey of airline passengers found that 80 percent supported the law that we passed, as the gentleman characterized it in the stealth and the darkness of the night.

And guess what? Of the smokers who were asked, by a margin of 2 to 1 the smokers supported our ban.

Mr. Speaker, I cannot think of a thing that we have done on the floor of this House in the last 2 years which has been greeted so positively and warmly by the American people. They were ahead of us on this issue. They were waiting for us to catch up, and now they are waiting for us again.

Mr. Speaker, this rule today continues the policy in place banning smoking on flights of 2 hours or less and makes it permanent law, as well we should. We have heard repeatedly from the National Academy of Sciences, the Surgeon General, the Cancer Society, the Lung Association, the Heart Association, and the EPA that passive smoking is killing American people. At least 5,000 a year lose their lives, not because they smoke, but because they spend their lives around people who do. It causes emphysema. It causes lung disease.

□ 1410

The CHAIRMAN. The time of the gentleman from Illinois [Mr. DURBIN] has expired.

Mr. DERRICK. Mr. Chairman, I yield 2 additional minutes to the gentleman from Illinois.

Mr. DURBIN. What we are voting on is an important health issue. In fact, it is a life and death issue. We will spend hours on this floor, and we already have today, debating life and death issues. Do you know how many Americans will lose their lives from asbestos, not counting those who work in the industry? Each year 3,000 Americans.

Do you know how many will lose their lives from handguns and assault rifles in America each year? About 15,000. It is terrible.

Do you know how many will lose their lives from AIDS? About 25,000 a year. It is growing and it is a terrible epidemic, but about 25,000.

And yet on this issue we lose 390,000 Americans each year to tobacco-related diseases. Tell me a more important health issue. Tell me a more important life and death issue and I will tell the gentleman that it is hard to find one.

I ask the gentleman and everyone in this Chamber who looks to this rule as an important vote that when it comes to questions of life and death and the health of America, there is no more important vote. If we do not take this as a critical vote, a critical vote for those who believe we have to be sensitive to the health needs of America, then we have missed an important point. Until we bring sensible regulation to the use of tobacco in America, we will condemn millions of our children to addiction to this product and 400,000 Americans to death. Until we come to realize more facts, we will not appreciate the gravity of this issue.

Mr. Speaker, I am in strong support of this rule. I urge those who have their differences on jurisdictional grounds to reconsider the importance of the vote that we are taking and to vote for this rule.

Mr. SOLOMON. Mr. Speaker, I yield myself 2 minutes.

Let me just say to the gentleman who left the well, there is no one in this Chamber for whom I have greater respect. At no time during my debate did I question the merits of his legislation. I questioned the technique by which it came to the floor.

However, the gentleman did ask if I knew of any other thing as important as this that affected more lives. Let me cite to these people over there, especially those on the Public Works Committee, the amendment that I sought to offer in the Rules Committee was a very simple amendment which would have required all the States of this Union to require random drug testing and the deprivation of drivers' licenses to people convicted of driving while under the influence of drugs or in the possession of drugs.

There are two cases in this country, one is New Jersey and one is Oregon, where this law is in effect. In the case of New Jersey alone, last year they revoked 9,500 drivers' licenses.

Do you have any idea how many lives that saved? Do you have any idea how many lives that would save across this Nation if we would have adopted my amendment, which says to those States that we will withhold 2 percent of your Federal funds unless you do enact legislation like that? I think that is every bit as important.

I do not put down the gentleman's amendment. I happen to be one of those Americans who 4 years ago quit smoking. I have not had a cigarette in 4 years, and I gained 30 pounds in doing it, I am sorry to say; but I certainly support the gentleman's concept. I know how serious he is about it, but I would just make that point.

Mr. ANDERSON. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California, the chairman of the committee.

Mr. ANDERSON. Mr. Speaker, I thank the gentleman for yielding to me.

I favor a ban on smoking on all domestic airline flights. Under this rule, that is not an option. My committee reported a bill out of committee this past Friday that could come to the floor and could be amended to include even a total ban or better. With this rule, those of us concerned about smoking on airlines may have to settle for less. I respect and admire the efforts of the gentleman from Illinois [Mr. DURBIN] but I think we have to and can do more than we would be settling for under this rule.

Mr. DURBIN. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Speaker, may I say to my colleague, the gentleman from New York, I fully support what the gentleman is doing in relation to drugs. I will be glad to cosponsor and work with the gentleman.

Let us seize the opportunity we have today. It is not what I wanted. I wanted more. I wanted what the gentleman from the Public Works Committee is asking for; but let us not miss this opportunity. We may never have it again.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for his remarks.

Let me just say that if the gentleman's amendment was coming before

the House in the Public Works bill, I would be voting for the gentleman's amendment.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, I rise in strong support of the rule on the fiscal year 1990 Transportation appropriations bill and urge it to be adopted.

Now, Mr. Speaker, we on the Appropriations Committee would just as soon not have to go to our dear friends on the Rules Committee and ask for a rule. Appropriations bills are privileged bills. If everybody met their Gramm-Rudman timetables, their appropriations timetables, their authorization timetables, we would not have to go to the Rules Committee and have a rule, but everybody has not met those schedules. Everybody has not met those timetables, and we have unauthorized programs, so we have to go to the Rules Committee.

Mr. Speaker, this subcommittee has worked like dogs, Chairman LEHMAN has worked hard and the staff has worked hard, to insure that first we have a balanced transportation system, and second, that as many Members as possible on both sides of the aisle and on all sorts of committees are accommodated in their individual projects and their needs.

Let me say, Mr. Speaker, every Member that came to me, I referred them to the authorizing committees. I said, "We cannot do anything unless you have the permission of the authorizing committees." Every single one that came to me I did that to, and I know the chairman did the same thing.

We would rather not have to have a rule, but today we have to have a rule, unless you want to shut down Coast Guard interdiction and rescue, shut down the airways, shut down the railroads, we have to have a bill. The only way we can get a bill is to get a rule.

Mr. Speaker, I urge my colleagues to support the rule so we can get a bill, so we can keep the airlines working, so we can keep the search and rescue and interdiction operations of the Coast Guard going, so we can keep our railroads running, so we can keep our transportation system running, and so that we have a transportation bill passed.

Mr. Speaker, I urge support of the rule.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say I have no deeper respect for anyone than the gentleman from Pennsylvania [Mr. COUGHLIN], my former Marine friend, and for the gentleman from Florida [Mr. LEHMAN]. They have done an excellent job. I just wish they had come straight to the floor without going to the Rules Committee.

Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking Republican member on the Public Works and Transportation Committee.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in strong opposition to the rule for consideration of H.R. 3015 making appropriations for the Department of Transportation for fiscal year 1990.

It is very difficult to state properly sense of dismay that I and many of our committee members action by the Rules Committee in voting to bring to the floor of this body a rule containing almost two dozen provisions that violate the Rules of the House and, yet, are protected against points of order—it is outrageous.

With one or two exceptions, the rule protects all of these provisions even though they fall within the jurisdiction of the Public Works and Transportation Committee and are not in any respect either emergency or timesensitive in nature.

Over the strenuous objections of our committee leadership, who testified on this matter, the Rules Committee allowed the Appropriations Committee to include in its bill what is essentially a minihighway and a miniaviation bill.

The self-executing rule on smoking on airlines provides for the same provision that our Public Works and Transportation Committee passed favorably last week under regular procedures of the House. Following the rules without waivers would allow all Members to vote on this important issue.

Most of the offending provisions provide funding for individual projects that have not been authorized. What that means, in addition to corrupting the legislative process and violating House rules, is that some $60 million will be taken away from the basic transportation programs. The real losers will be the rest of the Members of this House and the funding allocations to their States.

This practice has to stop. This rule should be defeated!

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Speaker, I want to thank the gentleman for yielding me this time, and to begin my remarks by indicating that I find myself in a somewhat difficult position in that I am in disagreement with the chairman of my committee, the Public Works and Transportation Committee, regarding this rule, which I do strongly support. I support it because of the inclusion of the Durbin language which is fundamentally important to me.

I would prefer to think that in fact with the Transportation appropriations bill, as well as the legislation that the gentleman from Minnesota [Mr. OBERSTAR], the chairman of the Aviation Subcommittee has introduced, that essentially we are on a dual track to address the very fundamental health issue that is now pending in this country. I would agree with the chairman's remarks earlier that we do have a bill that has now been reported to the House, and I would hope that it would be acted on very soon after our August recess and that it would be subject to an open rule.

□ 1420

But, nevertheless, we are in a critical situation where we understand from the Surgeon General's report, from over 600 reports that were reviewed by the Surgeon General, that tobacco products are the one product in the United States of America today if used in their proper manner and purpose will kill you. We also now understand clearly that sidestream smoke will also kill you. People flying in planes 20,000 to 30,000 feet over the ground have no choice for their health and for the safety of those who are in the traveling public.

I strongly urge the adoption of the rule.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished Member from the gentleman's side of the aisle, the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, with all due respect again to my friends on the Committee on Rules and the Committee on Appropriations, I rise in strong objection to this rule.

Let me make it clear that this rule prevents this House from doing what it ought to do for the U.S. Coast Guard. If Members think this rule will allow interdiction efforts, forget it. This rule protects the budget, but it denies the Coast Guard the following, and let me tick them off for the Members: patrol boats for drug interdiction, radar for the C-130's, critical to drug interdiction, $5 million of R&D, critical to oil-spill response technology research; it denies for us spare parts for the Falcon jets critical in drug interdiction; it cuts out, in effect, the heart and soul of the Coast Guard's efforts to protect this Nation in its war on drugs.

If Members want to adopt this rule, they might just as soon declare defeat in the war on drugs. The Rules Committee, in effect, by denying us the waivers we needed to give this House a choice to make a choice between some transportation funding, of funding vital Coast Guard needs, has said to this House that we do not have a say-so anymore. It said to our authorizing committee, "You are irrelevant in

regard to providing for Coast Guard needs." It said to every one of the Members with a search-and-rescue station in their district, "Watch out, because Coast Guard funding will be just like last year, short of what is necessary to keep those operations going."

When those stations are closed and the Members come to us asking what they can do to see a search-and-rescue station reopened, when there is not a shallow-draft vessel to rescue someone in their coastal or river district, because shallow-draft vessels are not being built, unfunded in this program, when the VTS is not reestablished in New York and New Orleans, critical to vessel traffic service to keep vessels from colliding, and they come to complain to us, I will remind them of this vote today on the House floor.

Unless we defeat this rule and get an opportunity for this House to debate the needs of the Coast Guard, do not come complaining to us when the Coast Guard funding is short and those stations are closed.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Of course, the fact of the matter is that the Committee on Rules and the Committee on Appropriations are the ones who have protected the Coast Guard. The Committee on Rules did not recommend a waiver on the amendment that the gentleman from Louisiana [Mr. TAUZIN]—sought to offer during consideration of the bill. The amendment would have provided substantial changes in policy priorities, and I emphasize policy priorities, set in the bill as it was reported by the Committee on Appropriations.

We on the Committee on Rules look very closely when someone is trying to micromanage, and that is what this amounts to, the business of one of the agencies in a situation like this, and I would, with all due respect to the gentleman from Louisiana, and I am sure he feels very strongly about it, this is just not the place to do it.

The Committee on Appropriations is opposed to the waiver which would have allowed consideration of this amendment. The Committee on Rules accepts the argument that such changes are properly considered in the course of the authorization process and have no place in consideration of an appropriation bill.

Mr. TAUZIN. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. I will yield 10 seconds to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Speaker, the gentleman wants to point out to the gentleman from South Carolina [Mr. DERRICK] that one of the amendments we sought had nothing to do with micromanagement at all. It simply sought to ensure that the $300 million that is supposed to come from DOD to keep the Coast Guard even below its current operating levels was protected. I am not even allowed to offer that amendment under the waivers the gentleman did not provide for us. That is our complaint with the rule.

Mr. DERRICK. Mr. Speaker, the gentleman's business is with the authorizing committee.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished ranking Republican on the Aviation Subcommittee of the Committee on Public Works and Transportation, the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, everyone in this body who serves on an authorizing committee should vote against this rule, because what is being done today to the Committee on Public Works and Transportation can be done to other Members tomorrow. This is not a partisan issue. There are Members on both sides of the aisle who are speaking against this rule, because they recognize that what we are doing here is doing violence to the time-tested and honored tradition of this House which permits the authorizing committees to do the indepth work, to hold the long, arduous hearings, and to do the kind of research that is necessary if we are going to bring forward a really sensible piece of legislation. This rule does violence to that procedure. It includes a whole host of provisions that represent legislating on an appropriation bill.

Mr. Speaker, a number of these provisions trample, literally trample, Mr. Speaker, on the jurisdiction of the Aviation Subcommittee. Only the most egregious, blatant examples of those was ruled out of order by the Committee on Rules, but all the rest of them are included, and it really is a very, very serious matter.

The most direct one is that they take $100 million out of the AIP fund, which is the aviation trust fund, earmark those funds for security purposes and other purposes. We have over a long period of time developed a formula for the distribution of those funds which has worked well, which has seen to it that the aviation needs across this country are taken care of.

To earmark these kinds of funds out of this fund is just a terrible precedent to set, because it is going to mean that other Members' airports or my airport or airports in other districts will not have available to them what they are rightfully entitled to out of the aviation trust fund.

Mr. Speaker, this is really a bad rule. It deserves the resounding negative vote by every Member, and I urge the Members to vote against this rule.

Mr. DERRICK. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri [Mr. WHEAT].

Mr. WHEAT. Mr. Speaker, I congratulate the gentleman from South Carolina for the excellent work that the Committee on Rules did on this project. I also would like to take this opportunity to commend my colleague, the gentleman from Illinois [Mr. DURBIN], for his work on behalf of this country's air travelers. He has made domestic air travel healthier, safer, and far more pleasant, and I believe his efforts should be applauded.

Mr. Speaker, in 1987 the Members of this body took a historical first step in ensuring that the citizens of this Nation are able to fly in a smoke-free environment. At that time we voted to permanently prohibit smoking on flights of 2 hours or less. Sadly, a permanent prohibition was not sustained in the other body, and today we once again find ourselved having to try to secure a basic right, the right to breathe uncontaminated air during air travel.

It is unfortunate that 25 years after the Surgeon General's report that we still have smokers in this country considering all of the aliments that are created by smoking like asthma, emphysema, coronary heart disease, and other respiratory ailments, but what is more unfortunate is that most of us who do not smoke are subject to the same ailments as a result. That is why the EPA and the National Cancer Institute have conducted studies which demonstrate that where smoking is permitted as on airplanes that the nicotine levels found in nonsmoking sections of the plane are just as high as the nicotine levels in the smoking section of the plane.

Clearly, we still have a way to go to make sure that the rights of nonsmokers are protected. I would like to be able to support a complete, total, and permanent ban on smoking on airplanes. That is not the issue that we have before us.

The reason that that issue is not before us is that the Committee on Rules, in its wisdom, chose to put before us the same issue that the House spoke on 2 years ago, and, yes, that was an extraordinary procedure at the time.

□ 1430

One of the jobs of the Rules Committee in this House of Representatives is to protect the prerogatives of the Appropriations Committee and the authorizing committees. But more importantly, it is to protect the prerogatives of a majority of the House of Representatives, to make sure that a majority of the House has the opportunity on this floor to work its will.

Two years ago when the gentleman from Illinois offered his amendment, that is exactly what this House of Representatives did. This is a continuation and a culmination of that process, and the Rules Committee chose to protect the prerogative of the authorizing committee by insisting to the authorizing committee that any expan-

sion of those rights would come from the authorizing committee, that the Appropriations Committee would not today offer any amendments making it a total, permanent, and complete ban, which I and many other Members of this House of Representatives would like to support.

I would also like to point out that the Rules Committee did protect the prerogatives of the authorizing committee in regard to the construction projects, because each one of the projects that is included in the rule was accompanied by a letter that went to the Appropriations Committee that indicated that at some point in time the authorizing committee had looked upon those projects with some favor, and in fact, many other projects that were being considered were not included in the recommendation from the Appropriations Committee.

Mr. Speaker, I think that the Rules Committee has done an excellent job today. I think that the coalition that was put together by the gentleman from Illinois himself has done an excellent job in forging a compromise, bringing it to the floor of the House of Representatives, so that this floor can work its will, and I urge support.

Mr. DURBIN. Mr. Speaker, will the gentleman yield?

Mr. WHEAT. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Speaker, I would like to say for the record that the effort that has been expended on this issue has been a joint effort with the gentleman from Florida [Mr. YOUNG], a Republican, who has been with me from the start on this issue.

But I want to add my commendation to my colleague, the gentleman from Missouri. His extraordinary help on the Rules Committee made this rule possible and gives us our day in court that we have wanted for so long. I thank the gentleman for all his help and his exceptional work.

Mr. WHEAT. I thank the gentleman from Illinois.

Mr. SOLOMON. Mr. Speaker, I find it strange that the thrust of the gentleman's argument was that he was protecting the rights of the members of the authorizing committee, yet not one member of the authorizing committee has sided with his side of the argument.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylavania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Yes, Mr. Speaker, if we are going to be protected in that manner, save us from the protection.

The fact is that there are so many things wrong with this rule that it is hard to figure out what is right with it, and I think the issue before the Members is how many wrongs ultimately make a right.

We have heard a number of arguments out here today about substantive issues, that the reason why Members ought to be for this rule is because there is an antismoking provision in it. What in the world is the Rules Committee doing having an antismoking provision coming to the floor? That is not the job of the Rules Committee.

If we are going to have this kind of legislating, then why not let the Rules Committee legislate everything? Why not put provisions in for a balanced budget amendment to the Constitution, get a self-enacting rule? We could do all kinds of things around here for the public good, but we know that violates the process. We ought not be acting that way.

It is really amazing to hear the drug arguments here today. Yesterday, yesterday we heard on the floor that we could not consider antidrug money because it has not been properly authorized. So the Appropriations Committee came to the floor yesterday not authorizing drug money.

Today we have a bill on the floor where we are waiving everything in sight so that we can authorize within an appropriation bill, and guess what, when it comes to drug money, though, in the Coast Guard, the Rules Committee would not allow an amendment to help the Coast Guard fight drugs. When the gentleman from New York [Mr. SOLOMON] wanted to offer an amendment to help fight drugs in every State in the Union, he could not offer his amendment.

I would have to suggest that we have a rather strange sense of what is important here. Are we going to protect the authorizing committee and allow them to do what it is they do? We have an antismoking bill that is coming out of the authorizing committee. Why not let that come to the floor under the regular process? Why do we have to do this in the rule? There is no need to do this.

We ought to allow the authorization process and the appropriations process to go forward. We ought not be doing it this way.

Mr. DERRICK. Mr. Speaker, I yield myself just a moment to comment on what the last speaker said.

I did not see that this procedure bothered the gentleman when it came along on the supplemental on section 89.

Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Speaker, I rise in support of this rule. I think the people in this country could care less what the procedure is for getting smoking off airlines. They have had it. They have had it with the stink, the stench, the coughing, the choking, and I think they are tired of somebody telling them we have to wait until there is a study done to prove that it causes cancer. They are saying the discomfort is enough. They have had it.

Now as far as I am concerned 2 hours is minimal, absolutely minimal. Believe me, if jurisdiction is the issue, I will come back in September, in October and help get smoking outlawed on all domestic flights in the public works and transportation bill. But right now is the time, and the piece of legislation and the opportunity that we have to say decisively we want to make permanent a ban that we passed for a short period of time a year or so ago.

So I am supporting the rule. No, I am not crazy about the procedure. But frankly, I do not care what the procedure is. The people in my district, the flight attendants I talk to, the people I sit beside on airlines tell me go do it, get this thing stopped.

Northwest Airlines has completely banned smoking on the flights. Nobody tampers with the smoke detectors in the bathrooms. Nobody complains about it.

My feeling is if somebody is going to have a nicotine fit on an airliner, let them chew nicotine gum; do not make me breathe their smoke.

Let us vote for this rule and make this ban permanent.

Mr. SOLOMON. Mr. Speaker, I recall that my good friend from South Carolina [Mr. DERRICK] said that section 89 was an example of doing the same thing. I would point out to the gentleman that the section 89 that we wanted repealed was in the appropriation bill, which is why we supported it.

Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I wish the question before us was smoking on airlines. I am against smoking on airlines myself.

The question before us is not smoking on airlines, it is whether we are going to uphold the rules of the House, whether we are going to allow legislation on appropriation bills.

In fact, the authorizing committee, the Public Works and Transportation Committee, is going to have before this House right after the August break a bill that will prohibit smoking on airlines, and every Member in this House is going to have a chance to vote on it.

But why do we have the rule against legislating or putting unauthorized appropriations in these bills? It is to protect all of the Members.

The gentleman from South Carolina [Mr. DERRICK] said that the reason they are allowing unauthorized projects is that the authorizing committee is too slow, and that we do not get authorizations very often. We are

all frustrated that the highway bill takes 2 or 3 years to put together. All of us wish we could put together one every 6 months and bring it here to the floor.

But why are they slow? They are slow because we have 435 districts in this country, 435 Members of Congress, each of whom has highway projects, airport projects, bridges, and everything else that we need. The fact is that we try to accommodate all of those Members in a fair, balanced way.

Is it fair that a few Members should be able to go behind the scenes to work their way through the Appropriations Committee to the detriment of everybody else? When those Members go behind the rules, or over the rules, or under the rules, they hurt every other Member in this House.

If we are slow at getting a highway bill, it is only because we are trying to protect people.

I chair a subcommittee that authorizes building for public buildings in all of the different districts. Every day I have Republicans and Democrats come to me and say I need a building in my district. We go through exactly the same process with everyone. That is that we ascertain whether that project is needed, and if it is we help Republicans and Democrats alike.

But if I find that a Member goes behind the scenes, and does not go through the authorization, then I fight that appropriation and I do it because I want to protect all 435 Members of the House.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Florida [Mr. YOUNG].

□ 1440

Mr. YOUNG of Florida. Mr. Speaker, I rise in support of this rule and want to thank the chairman, the gentleman from Massachusetts [Mr. MOAKLEY] and the members of the Rules Committee for including in this rule a special provision to make permanent the current 2-year test program which bans smoking on commercial airline flights of 2 hours or less.

Smoking aboard aircraft has long been a matter of great concern to me. Even before the medical community was able to document the threat to our health caused by the inhalation of secondhand smoke, I introduced legislation in the 92d Congress to mandate the creation of separate smoking and nonsmoking sections aboard U.S. commercial aircraft. Prior to then, nonsmokers were afforded no protection from smokers aboard aircraft. Public support for my legislation grew so fast that soon after its introduction in 1971, one commercial airline after another began voluntarily separating smokers from nonsmokers aboard their flights. Finally, in response to my legislation, the Civil Aeronautics Board in 1973 issued regulations mandating that all airlines provide separate seating for smokers and nonsmokers.

I provide this bit of history because I believe my experience with that legislation 18 years ago has been very similar with our efforts of the past 2 years to ban smoking on commercial flights. Critics of my legislation argued that separate smoking and nonsmoking sections would create problems aboard aircraft and would cause conflict between smokers and nonsmokers. These problems never developed and as we all know, separating smokers and nonsmokers has been a routine procedure at airline ticket counters for the past 16 years.

Two years ago, when my colleague from Illinois [Mr. DURBIN] who is to be commended for his outstanding leadership on this issue, and I offered our amendment to the transportation appropriation bill to ban smoking aboard domestic commercial aircraft, critics again argued that this ban would create havoc at airline gates and aboard aircraft. The fact, is, that in the 15 months since this 2-year test program was begun, the Department of Transportation reports only 113 enforcement actions taken during a time when more than 450 million passengers flew on domestic commercial flights.

The program has been an unqualified success and the procedure we are following today by including this amendment in the rule is testimony to that success. By adopting this rule, we adopt the Durbin/Young amendment—an amendment that even the tobacco industry supported during consideration of this matter last week by the Public Works and Transportation Committee.

Mr. DURBIN and I testified at length yesterday before the Rules Committee in support of this special procedure because without action this year by the Congress, there is a very good chance that this 2-year test program will expire next April before free-standing legislation on this matter makes its way through the House and Senate. If this program should lapse, I would suggest to my colleagues that the flying public will protest vehemently.

There is no question that airline passengers have noticed a substantial increase in the quality of cabin air and in a number of surveys they have expressed their strong support for a permanent ban on smoking aboard aircraft. In fact, the most recent survey, conducted by the American Association for Respiratory Care, found that 84 percent of the 27,000 airline travelers they polled in airports throughout our Nation approve of the smoking ban. Of great interest was the finding that 58 percent of passengers who smoke even approve of the ban.

Passengers are not the only beneficiaries of this legislation. Flight attendants, who must breathe cabin air everyday, have noticed a dramatic improvement in their health since the ban went into effect. They also have noticed greater efficiency in ticketing and boarding passengers who no longer must be concerned about seats in the smoking or nonsmoking section.

Few gave us any chance of getting this legislation through the House, much less the Senate, 2 years ago. We were successful, however, in part because of the growing realization by the American public that nonsmokers forced to inhale secondhand smoke are at just as great a risk as smokers to suffer heart and lung disease. Nowhere is the problem of secondhand smoke greater than in the confined space of an airline cabin. Unlike older aircraft, which brought fresh air into the cabin, newer passenger jets recycle cabin air for all the passengers to breathe. As a result, nonsmokers sitting in the front of the aircraft breathe the same smoke-filled air, and inhale the same tar and nicotine, as smokers in the back of the aircraft.

If you need proof that airplane ventilation systems are unable to adequately filter cabin air and if you really want to see what is in the air that is recycled for all airline passengers to breathe, I would encourage you to ask an airline to show you the filtering system of a commercial jet. Officials of National Airlines, prior to its merger, invited me to Miami to show me the inside of an airline ventilation system—a system that was so clogged with tar and nicotine that the maintenance crew was unable to get it clean. The residue clogging this system is indicative of the quality of air nonsmokers must breathe when confined to a small air space with smokers.

One scientific study after another documents that even though smokers and nonsmokers are separated aboard aircraft, smoke from the rear of the aircraft still endangers the health of all nonsmokers aboard the flight—including passengers and crew members. Most recently, the National Academy of Sciences and the Surgeon General of the United States have endorsed a ban on smoking aboard all commercial flights.

Although our success in establishing the ban on smoking aboard aircraft was the first time Congress ever defeated the tobacco lobby, it is not the first time action has been taken to curtail smoking in public settings. A growing number of local, county, and State governments have banned smoking in public buildings, offices, theaters, and restaurants. In fact, the U.S. House of Representatives has strict rules prohibiting smoking of any kind in this very Chamber.

Elected leaders throughout our Nation recognize that no one should have to be captive to the discomfort caused by someone else's smoke, especially in the limited confines of aircraft cabins. In fact, in the 2 years since our landmark vote on this issue, many of our colleagues who voted against our amendment have come to Mr. DURBIN and me to say that they were wrong about our amendment. They now agree with us that the ban on smoking aboard aircraft has done all we said it would do without any of the consequences suggested by our opponents. This amendment has proven to be good public policy and it has proven to be good for the health of the American people.

Mr. Speaker, I would urge my colleagues to support this rule to reaffirm our action of 2 years ago and make permanent the ban on smoking aboard commercial airline flights of 2 hours or less.

Mr. SOLOMON. Mr. Speaker, the gentleman who just spoke is a member of the Committee on Appropriations and the gentleman from Illinois [Mr. DURBIN] is a member of the Committee on Appropriations. Why did they not put it in in the Appropriations Committee bill? They did not even attempt to do that.

Mr. Speaker, I yield 2 minutes to the chairman of the authorizing subcommittee, the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Speaker, the purpose of the rule is to discern, for Members on the floor, what is appropriations matter and what is legislative authority matter.

In the instant bill the Subcommittee on Transportation Appropriations has undertaken to legislate on certain very important matters in an appropriation bill, and this gentleman and the chairman of the full committee went to the Committee on Rules and said "please do not protect those items." These are matters of policy that are already written in law. If they do not like it, come to the authorizing committee, make recommendations to us, and let us make changes in the law. In fact in one instance we already had voted out of our committee, the House had acted on Monday to pass legislation to deal with one of the matters that was included in this appropriations bill.

I fully accept the role of the Committee on Appropriations in increasing or decreasing amounts of money within programs, or shifting moneys from one to another program. That is their authority, that is their responsibility. But they should not attempt to rearrange the basic fundamental law as has occurred in a number of instances, five of which affecting aviation I objected to, only one of which was left open and subject to a point of order.

But on the, I guess, dominant issue that people are concerned about here, the self-executing rule, that if you vote the rule you vote into place a permanent ban for 2 hours on smoking on board aircraft, and Members are concerned that if we lose the rule then we lose the ban on smoking. We will not lose the ban on smoking.

A new rule will be crafted that will make in order the ability to deal with that issue on its merits alone, not as part of the rule, and maybe there would even be an opportunity for a longer ban on smoking on aircraft if we defeat the rule and report out something that deals with that issue straight up.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Texas [Mr. LELAND].

Mr. LELAND. Mr. Speaker, I thank the distinguished gentleman for giving me this time.

I say to my colleagues that I am not on the Committee on Rules nor am I on the Committee on Appropriations. I am on the Committee on Energy and Commerce and a couple of other committees.

The fact is that on a personal basis I have a real problem on airplanes where there is smoking.

Two years ago when Mr. DURBIN offered his legislation I got up and supported it just on impulse from the floor, had not intended to speak, but got up in the well and pulled out my little spray canister, if you will, to show to my colleagues how serious this matter is to me because I suffer from inhaling smoke in closed compartments.

The air conditioning and other kinds of ventilation that is provided on airplanes is just not enough.

Just not long ago, a few months ago, I sat just in front of the smoking section on an airplane that was very crowded. Having sat there, there were people smoking behind me, and I had forgotten my spray canister.

I had to ask the flight attendant to bring me a glass of water and a napkin in order that I could dip the napkin in the water to hold, for almost 2 hours, that wet napkin over my face in order that I could breathe a little bit.

I think justice must be done; though the Heavens may fall, we must support this rule at all costs.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. I thank the gentleman from New York for yielding me this time.

Mr. Speaker, I really very reluctantly today oppose this rule. I do not think in my 15 years in the Congress I can recall ever coming to this well to oppose any rule of the Committee on Rules.

I regret having to do so today. We are not talking just about process, though that is important. I think the gentleman from California is right. I am also talking about very basic equity for the Coast Guard.

I can see the same thing happening to the Coast Guard as happened to the Coast Guard last year. I think our distinguished chairman of the Coast Guard subcommittee, the gentleman from Louisiana [Mr. TAUZIN], was absolutely right in asking the Committee on Rules to make an exception so he could make an amendment that would protect that $300 million that we expect to come from the Department of Defense.

Now I think it is ludicrous for us to be funding Coast Guard from the Department of Defense, but we are doing that. And all the gentleman from Louisiana [Mr. TAUZIN] wanted to do was to insure that if there is any shortfall that the Coast Guard would receive it from the Department of Transportation so that it can carry its various missions out.

I do not have to tell you that we had half of our medium endurance cutters sitting idle last year. These are the vessels that we utilize in drug enforcement, they were idle because they did not have fuel to carry out their mission. We are closing down bases around this country last year. We just had a major spill in Prince William Sound and we had one in the Delaware River and the Coast Guard did not have the resources because it did not have the equipment, did not have the plans in place, did not have the rapid response teams, because we had cut them out in years past because they do not have the moneys to carry out their many missions.

I urge my colleagues to defeat this rule. Let us get a rule that will protect the Coast Guard.

Mr. DERRICK. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I urge everyone to vote for this rule.

You know, the rule makes permanent the 2-hour ban which most of us support. There is no problem with that.

The matter of the Coast Guard, we all support the Coast Guard, but we just cannot have micromanagement of programs in these appropriations bills and come to the Committee on Rules and ask us to do those things. All of you, if you would look at it and study it, would agree with me and oppose the rule on that basis if we had done otherwise.

There are some projects in here. I point out that the Committee on Public Works and Transportation, through no fault of their own, the excellent chairman that they have—but

the fact of the matter is our members have little opportunity to get these projects in on a regular basis.

There was a 5-year period that we did not have a bill and then the last one we had was in 1987.

So we are trying to take all of those things into consideration. I believe taking all of those things into consideration that we came out with a good rule, one that the House should support, and I ask you to do so.

□ 1450

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, Members have all heard this debate by my good friend, the gentleman from South Carolina [Mr. DERRICK]. He said in the beginning he was chagrined I would be opposed, and he did not think any person in the House would. We have heard a whole parade of people on both sides of the aisle.

However, let me leave Members with one thought: For those Members that really support banning smoking on airplanes, the American Tobacco Institute and the American Tobacco Growers are for this rule. Why? I would urge Members to vote against this rule, and let the authorizing committee work their will. Those people that oppose smoking on airplanes will have their chance to really do something for the nonsmokers in America. I urge defeat of the rule.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. DONALD E. "BUZ" LUKENS].

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, I rise in support of the rule that allows the amendment by the gentleman from Illinois [Mr. DURBIN] in order. This amendment would make permanent the ban of smoking on all airline flights of 2 hours or less. Two years ago we debated the initial smoking ban, a rule we today have come to accept as commonplace. The smoking ban has been very effective, and it is now the time to make this ban permanent.

I feel very strongly on the issue of subjecting nonsmokers to contaminated air. I, myself, have undergone five operations for cancer caused in part by the secondhand smoke of others. The problem of secondhand smoke is especially magnified in the closed and poorly ventilated environment of an aircraft. We must act against this situation which according to the Journal of the American Medical Association "represents another contributor to the cumulative health risk from passive smoking."

Now is the time to act. By passing this amendment, we will be taking action in the best interest of our Nation's cumulative health. There have been numerous reports by the American Medical Association, the American Heart Association, the National Academy of Sciences, the National Cancer Institute, and the Surgeon General, all of which warn of the health risks of smoking on airplanes. To ignore these warnings after we have been so responsible to initiate this ban would be wrong.

Mr. Speaker, I fly weekly back and forth to my district in Ohio. The flights I take are less than 2 hours, thus all are affected by the smoking ban. In my conversations with passengers, they overwhelmingly agree that the ban is a good thing. Even the smokers, I have talked to agree that the ban is not an inconvenience.

Mandating nonsmoking sections in public places is our reasonable attempt to assure the health of the public. We must further consider the special circumstances of aircraft and permanently ban smoking on all flights of 2 hours of less.

The public is now used to the smoking ban, and has come to accept it. The problems of initial implementation are over, leaving us only with the duty of reimplementing an already accepted policy. I strongly urge your support for the Durbin amendment to permanently ban smoking on all flights of 2 hours or less.

Mr. DERRICK. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SKAGGS). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic means, and there were—yeas 259, nays 169, not voting 3, as follows:

[Roll No. 204]

YEAS—259

Ackerman	Costello	Gibbons
Akaka	Coughlin	Gilman
Alexander	Courter	Glickman
Andrews	Cox	Gonzalez
Annunzio	Coyne	Gordon
Anthony	Crockett	Gradison
Aspin	Darden	Grant
Atkins	de la Garza	Gray
AuCoin	DeFazio	Green
Barnard	DeLay	Guarini
Bates	Dellums	Hall (OH)
Beilenson	Derrick	Hall (TX)
Bennett	Dicks	Hansen
Berman	Dingell	Harris
Bevill	Dixon	Hayes (IL)
Bilbray	Donnelly	Hefner
Bliley	Dorgan (ND)	Henry
Bonior	Downey	Hertel
Boucher	Durbin	Hiler
Boxer	Dwyer	Hoagland
Brooks	Dymally	Hopkins
Brown (CA)	Early	Horton
Bruce	Edwards (CA)	Houghton
Bryant	Engel	Hoyer
Bunning	Erdreich	Hubbard
Burton	Evans	Ireland
Bustamante	Fascell	James
Byron	Fawell	Jenkins
Callahan	Fazio	Johnson (SD)
Campbell (CO)	Feighan	Johnston
Cardin	Fields	Jones (GA)
Carr	Flake	Jontz
Chandler	Flippo	Kanjorski
Chapman	Ford (MI)	Kaptur
Clarke	Ford (TN)	Kastenmeier
Clay	Frank	Kennedy
Coble	Frost	Kennelly
Coleman (MO)	Gallegly	Kildee
Coleman (TX)	Garcia	Kolbe
Conte	Gaydos	Kostmayer
Conyers	Gephardt	LaFalce
Lagomarsino	Neal (MA)	Sisisky
Lancaster	Nelson	Skeen
Lantos	Nielson	Skelton
Leath (TX)	Oakar	Slattery
Lehman (CA)	Obey	Slaughter (NY)
Lehman (FL)	Olin	Slaughter (VA)
Leland	Owens (NY)	Smith (FL)
Levin (MI)	Owens (UT)	Smith (IA)
Levine (CA)	Panetta	Smith (NE)
Lewis (CA)	Parris	Smith (NJ)
Lloyd	Pashayan	Smith (VT)
Long	Patterson	Spence
Lowery (CA)	Payne (NJ)	Spratt
Luken, Thomas	Pease	Stallings
Lukens, Donald	Pelosi	Stark
Madigan	Perkins	Stenholm
Markey	Pickett	Stokes
Martin (IL)	Poshard	Swift
Martinez	Price	Synar
Matsui	Pursell	Tanner
Mavroules	Quillen	Thomas (GA)
Mazzoli	Rangel	Torres
McCloskey	Ray	Torricelli
McCrery	Regula	Traxler
McDade	Richardson	Udall
McDermott	Rinaldo	Unsoeld
McHugh	Ritter	Vander Jagt
McMillen (MD)	Rogers	Visclosky
McNulty	Rose	Volkmer
Meyers	Rostenkowski	Watkins
Mfume	Roukema	Waxman
Miller (CA)	Rowland (GA)	Weber
Miller (OH)	Roybal	Weiss
Mineta	Russo	Wheat
Moakley	Sabo	Whittaker
Mollohan	Sangmeister	Whitten
Montgomery	Sarpalius	Wilson
Moody	Sawyer	Wolf
Moorhead	Schaefer	Wolpe
Morella	Scheuer	Wyden
Morrison (CT)	Schneider	Wylie
Mrazek	Schroeder	Yates
Murtha	Schuette	Yatron
Myers	Schumer	Young (FL)
Nagle	Sharp	
Natcher	Shaw	

NAYS—169

Anderson	Gejdenson	McEwen
Applegate	Gekas	McGrath
Archer	Gillmor	McMillan (NC)
Armey	Gingrich	Michel
Baker	Goodling	Miller (WA)
Ballenger	Goss	Molinari
Bartlett	Grandy	Morrison (WA)
Barton	Gunderson	Murphy
Bateman	Hamilton	Neal (NC)
Bentley	Hammerschmidt	Nowak
Bereuter	Hancock	Oberstar
Bilirakis	Hastert	Ortiz
Boehlert	Hatcher	Oxley
Boggs	Hawkins	Packard
Borski	Hayes (LA)	Pallone
Bosco	Hefley	Parker
Brennan	Herger	Paxon
Broomfield	Hochbrueckner	Payne (VA)
Browder	Holloway	Penny
Brown (CO)	Huckaby	Petri
Buechner	Hughes	Pickle
Campbell (CA)	Hunter	Porter
Carper	Hutto	Rahall
Clement	Inhofe	Ravenel
Clinger	Jacobs	Rhodes
Combest	Johnson (CT)	Ridge
Cooper	Jones (NC)	Roberts
Craig	Kasich	Robinson
Crane	Kleczka	Roe
Dannemeyer	Kolter	Rohrabacher
Davis	Kyl	Roth
DeWine	Laughlin	Rowland (CT)
Dickinson	Leach (IA)	Saiki
Dornan (CA)	Lent	Savage
Douglas	Lewis (FL)	Saxton
Dreier	Lewis (GA)	Schiff
Duncan	Lightfoot	Schulze
Dyson	Lipinski	Sensenbrenner
Eckart	Livingston	Shays
Edwards (OK)	Lowey (NY)	Shumway
Emerson	Machtley	Shuster
English	Manton	Sikorski
Espy	Marlenee	Skaggs
Fish	Martin (NY)	Smith (MS)
Foglietta	McCandless	Smith (TX)
Frenzel	McCollum	Smith, Denny (OR)
Gallo	McCurdy	

Smith, Robert (NH)	Stump	Vento
Smith, Robert (OR)	Sundquist	Vucanovich
Snowe	Tallon	Walgren
Solarz	Tauke	Walker
Solomon	Tauzin	Walsh
Staggers	Thomas (CA)	Weldon
Stangeland	Thomas (WY)	Williams
Stearns	Towns	Wise
Studds	Traficant	Young (AK)
	Upton	
	Valentine	

NOT VOTING—3

Collins	Florio	Hyde

□ 1512

Messrs. WILLIAMS, MCMILLAN of North Carolina, KOLTER, and SIKORSKI changed their vote from "yea" to "nay."

Messrs. JOHNSON of South Dakota, FRANK, WHITTAKER, GILMAN, MARTINEZ, and COX changed their vote from "nay" to "yea."

Mr. PENNY changed his vote from "present" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1278, FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT.

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-210) on the resolution (H. Res. 222) waiving certain points of order against the conference report on the bill (H.R. 1278) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1990

Mr. DIXON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3026), making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from New Jersey [Mr. GALLO] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

□ 1515

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3026, with Mr. COOPER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from California, [Mr. DIXON] will be recognized for 30 minutes and the gentleman from New Jersey [Mr. GALLO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is an honor and privilege for me to present to this House the District of Columbia appropriations bill for fiscal year 1990. I want to take this opportunity to express my appreciation and thanks to the hard working Members of the Committee for their diligence and dedication in shaping this bill. I especially appreciate the assistance of the gentleman from New Jersey [Mr. GALLO]. He has been of invaluable assistance and has participated in all of our hearings, and I want him and all of the other members to know how much I appreciate their help.

The funding in this bill consists of two distinct and separate parts: The first part is the appropriation of Federal funds of $532 million to the District government; and the second part is the appropriation of $3.4 billion from the District's treasury for the actual operation of the various programs. The reason I point this out is the make it clear to the Members of this House that 85 percent of the District's budget is financed entirely with local revenues such as taxes, fees and other charges, while only 15 percent is paid for with Federal funds. In 10 years, the Federal Government's percentage has dropped by one-third from 20 percent in fiscal year 1980 to 14 percent this year, and the authorized Federal payment level has not been increased by $1 since fiscal year 1985 when it was set at $425 million.

Mr. Chairman, there is something fundamentally wrong with the system for determining the Federal payment level when you have the President's budget increasing each year but that same budget excludes an increase for the Nation's Capital. The 638 thousand residents who call this city their home probably wonder where that "kinder and gentler" breeze is blowing.

Be that as it may, Mr. Chairman, it is important that Members understand the finances of the District of Columbia government and realize that the Federal payment is not a gift; it is a payment in lieu of taxes to support the many services that are required for this city to function as the seat of the Federal Government—and that Federal funds only make up 15 percent of the District's budget.

It is also important for Members to realize that the District is required by law to have a balanced budget with revenues equal to expenditures. The budget as submitted by District officials and as recommended by the committee is in balance.

RESIDENCY

Mr. Chairman, let me touch on a few items that are of concern to the Members before I speak to the funding levels recommended in the bill.

Until this past March, the District had a residency that required employees of the District government to move into the city. And there was some valid justification for that policy in that it provided an employment base and studies show that people who live in the community where they work take pride in their communities and in the case of public safety employees, are within a short distance of their places of employment in the event they are called out in an emergency or for some other reason. However, Washington, DC should be considered in the context of the entire metropolitan area.

So, in last year's bill, we directed the city government to pass a law allowing non-residents to be hired by the District. The law was passed and became effective March 16, 1989. The regulations were submitted to the city council which sent them back to the mayor who has since resubmitted them to the council where they are awaiting final action.

While these regulations are being promulgated, the District is operating under interim procedures and hiring non-residents, but using a 10 point preference system which is applied after the person passes the required exam and qualifies for the position. So, if two people have the same score on their exams, the one who exercises the "preference" will get 10 additional points added to his score and will be required to live in the District for at

least 5 years. The same applies to promotions.

Because the impact of the District's new hiring system is not known, the committee has included language on page 6 of its report requesting the District government to provide a report by January 1, 1990, explaining the operation of the system prior to and following the issuance of final regulations. The report also requires an assessment of the impact of the preference system on all affected categories of promotions and hires and requests a comparison of the impact of the perference system to the earlier residency requirement.

HOME RULE STUDY

The second item I want to mention concerns a proposal to evaluate the District's home rule institutions to determine whether improvements are warranted.

Mr. Chairman, the District of Columbia is a separate political entity which serves not only as the seat of the Federal Government but also as home to 638 thousand residents. The Home Rule Act, which gave local residents the power to elect their first mayor since 1871, took effect when the newly-elected mayor and 13-member city council took their oaths of office on January 2, 1975. In addition to these elected offices, District citizens have been electing their 11-member school board since 1968 and a nonvoting delegate to this House since 1970.

The District has had its present home rule system nearly 15 years, and the committee is a strong supporter of home rule. With 15 years experience, the committee believes the mayor and council should jointly submit a proposal for an indepth evaluation of the city's structures of government by a nationally recognized independent firm or research organization to determine what is working, what is not working, and what if anything should be modified.

The council chairman himself said that he was thinking about doing a paper on whether his position should be one elected by the voters at-large or by his peers.

I personally feel that the city's corporation counsel should be an elected official rather than appointed by the mayor.

The school board is elected but has no taxing authority and the Mayor and council can only set the total dollars but have no say over how these funds are spent.

The criminal justice system is bifurcated in the sense that the President appoints the local prosecutor and judges but the District is responsible for the corrections system.

Attention has been called recently to the city-manager system of local government versus the present mayor-council structure and the advantages and disadvantages of each.

And when we talk about the Federal Government's financial support of the District government, we find that the Federal payment authorization has not been increased since fiscal year 1985 when it was set at $425 million and the percentage of the District's general fund budget financed by the Federal payment has decreased by one-third, from 20 percent in fiscal year 1985 to 14 percent this year.

Because of all of these things, together with 15 years of experience, we are asking the Mayor and council to submit a joint proposal to the committee with next year's budget setting forth the parameters of an indepth, outside evaluation by an independent research organization or institute of national prominence. We are also asking that the proposal include a program for evaluating the report as well as the estimated cost for possible Federal funding.

Mr. Chairman, the committee emphasizes that this proposal is not to be taken in any way as a retreat on home rule or as a comment for or against statehood, but rather as an effort to determine if improvements should be made.

This is the spirit in which we have asked the locally elected executive and legislative branches to take the initiative in developing the proposal.

FEDERAL FUNDS

Mr. Chairman, as I mentioned a moment ago, in Federal funds we recommend a total of $532 million for fiscal year 1990. This is the same as the budget request but $24.6 million below last year's level. We recommend a Federal payment of $430.5 million—the same level as the city received for fiscal year 1989 and the same as the budget request. We also recommend $34.7 million to pay for water and sewer services furnished to Federal facilities. This amount was included in the President's budget as a non-add item because the administration continues to want the District to set up a bureaucracy to start billing the agencies involved even though the District is prohibited by substantive law from billing and collecting directly. This matter is explained in more detail on page 13 of the committee's report. A contribution of $52.1 million is recommended for the police officers, fire fighters, teachers, and judges retirement funds and $15 million is included as a transitional payment for St. Elizabeth's Hospital in accordance with Public Law 98-621.

DISTRICT FUNDS

Mr. Chairman, we recommended $3.4 billion in District funds for the operation of the District of Columbia during fiscal year 1990. This amount consists of $3.3 billion in operating expenses and $164 million for construction projects. The $3.3 billion in operating expenses is financed with Federal funds and with local revenues such as income taxes, property taxes, fines and fees. The contruction program of $164 million is financed through long/term bonds which the District has been authorized to issue since 1985 at interest rates lower than those it was paying when it had to borrow from the Federal Treasury.

GOVERNMENTAL DIRECTION AND SUPPORT

For Governmental Direction and Support, the bill includes $113 million, an increase of $3 million above the fiscal year 1989 adjusted appropriation. The largest program increase for the 23 activities included in this category is $656,000 for the Office of Financial Management to upgrade computer equipment used for various financial management and accounting functions.

ECONOMIC DEVELOPMENT AND REGULATION

The bill includes $137.9 million, an increase of $14.2 million above last year's adjusted appropriation for the various agencies and departments funded under this appropriation title. For the Department of Public and Assisted Housing, we recommend $29.3 million, which includes an increase of $10.9 million for the Tenant Assistance Program. This increase will provide a total of $21 million to qualified applicants in various housing assistance programs, including housing for the homeless.

PUBLIC SAFETY AND JUSTICE

Under the Public Safety and Justice appropriation, the committee recommends $833 million, an increase of $100 million or 13.7 percent above the fiscal year 1989 adjusted appropriation.

For the Metropolitan Police Department, we recommend $232 million which is $26 thousand above the budget request and $25 million higher than last year's appropriation. Included in our recommendation is an increase of 300 police officers to assist the department in its efforts to combat increased crime and drug use. These 300 additional positions will bring the level of sworn police officers to 4,380, the highest number of uniformed personnel the department has had since 1976, 14 years ago when the force was at 4,750. The Congress has approved an increase of 500 police officers in the past 2 years as District officials mount an intensive effort to reduce crime. The authorization of an additional 700 police officers and Federal funding of $23 million for fiscal year 1990 is being considered in H.R. 1502 which passed the House on June 13 and is pending in the other body.

Mr. Chairman, the committee is concerned with the dramatic increase in violent crime that has accompanied the sharp rise in drug trafficking in the District within the past year; however, the committee knows that the problem is not unique to the District—it is a national problem that requires a

national solution. And until the Federal Government completes its comprehensive plan to win the war on drugs and puts forth the necessary resources, local authorities, whether here in the District of Columbia or back in our home States, will have to take the initiative.

And law enforcement alone is not the answer. We must have a wide community-oriented education program and appeal to traditional family values which make drug use unacceptable. And for those who persist in trafficking or abusing drugs, there has to be swift and sure punishment. And for those who become addicted, it is essential that they be placed in substance abuse programs so they can once again become productive members of society.

We recommend $100 million for the Fire Department, including an increase of $13 million for pay adjustments and overtime as well as to upgrade ambulance personnel and provide paramedic training programs.

The largest increase in dollars and percentage is for the Department of Corrections whose budget is $227 million and reflects an increase of $34 million or 17 percent above the fiscal year 1989 adjusted appropriation. This allowance will fund 655 new correctional officers as well as provide additional funds for D.C. Code violators housed in other facilities. In addition, we have added $20 million in borrowing authority for the new Correctional Treatment Facility which is being constructed in the District. The cost of this $85 million facility is being shared jointly by the Federal Government which is paying $50 million in Federal funds previously appropriated and $35 million in long-term borrowings which the District will repay over a 20-year period.

PUBLIC EDUCATION SYSTEM

For the city's public education system, the bill includes $689 million which is $68 million higher than their 1989 appropriation. Mr. Chairman, for the Board of Education, we recommend $501 million for the operation of the public school system. Since fiscal year 1987, the operating budget for public schools has increased by 26 percent or $104 million—from $397 million to $501 million. In testimony before the committee this year, the Board stated that it is presently reviewing a report by a committee of prominent civic leaders on improving the school system. The report makes several strong recommendations concerning the closing of schools and the elimination of administrative positions as well as the need for additional funds. The Board is debating the proposals and the committee looks forward to receiving the board's evaluation during our hearings on next year's budget.

Mr. Chairman, we have included language on pages 39 and 40 of our report urging the school board to consider allocating $10 million within existing resources toward improving the substandard and unsafe athletic facilities and to provide additional counselors and other school programs that will serve as alternatives to the lure of crime and drugs.

Mr. Chairman, it is my strong belief that when the war on drugs is won—and there is no doubt whatsoever in my mind that we will win—that victory will be due in large part to education. I am convinced of that.

HUMAN SUPPORT SERVICES

We recommend $826 million for the several agencies and programs funded under the Human Support Services appropriation. The largest part of this appropriation is for the Department of Human Services where we recommend $700 million for fiscal year 1990, an increase of $89 million or 14.6 percent above the adjusted appropriation for fiscal year 1989.

Mr. Chairman, we recommend $43 million, which includes increases of $13 million or 43 percent, to cover the costs of board and care, residential placements, education and medical costs in the Foster Care Program. A total of $163 million is recommended for the Medicare-Medicaid charities programs and includes increases of $17 million over the fiscal year 1989 appropriation. For the Commissioner of Public Health, the bill includes $107 million which includes $4 million for an AIDS Intermediate Care Facility and $6 million to expand the AIDS and substance abuse programs.

For the Child and Youth Services Administration, we recommend $16 million of which $4 million is for the Hurt Home for emotionally disturbed children and youth. The bill includes $114 million for the Commission on Mental Health and $32 million for the Alcohol and Drug Abuse Administration of which $20 million is for the Bureau of Drug Treatment Services and $8 million is for the Bureau of Alcoholism Treatment Services, including $375 thousand for pregnant mothers with alcohol problems.

PUBLIC WORKS

For the agencies and activities funded under the Public Works appropriation, we recommend $224 million, an increase of $17 million above last year's allowance of which $14 million is for Metrobus and Metrorail, which will receive a total of $114 million from the District government in fiscal year 1990.

On page 7 of our report, the committee has once again called attention to the physical condition of the District's taxicabs as well as the quality of service and lack of local geography training of many cab drivers. The committee has asked for a report on this matter by September 30, 1989, and quarterly report during fiscal year 1990.

REPAYMENT OF GENERAL FUND DEFICIT

Mr. Chairman, we are committed to reducing the city's accumulated general fund deficit which was $387 million at the end of fiscal year 1980 and has been reduced to $219 million at the end of fiscal year 1988. The committee once again recommends that $20 million be set aside to reduce the deficit in fiscal year 1990. Since fiscal year 1980, the District has been able to reduce its deficit by $15 million to $20 million each year except for fiscal year 1988 when the lower court ruled against the city on its telecommunications tax. The Lower court's decision has been appealed and the city is hopeful that the appellate court will allow the city to collect that tax. The committee has mandated that $20 million in District revenues be set aside each year until the deficit is eliminated.

CAPITAL OUTLAY

A total of $164 million is recommended to finance 25 projects in the District's Capital Outlay Program. The major part of the city's capital program in fiscal year 1990 consists of $92 million for the Department of Corrections to construct a medium security facility and to improve and modernize its existing facilities. The city's inmate population has soared in recent years to the point where there are now 10,000 inmates in the custody of the Department with another 1,300 projected in fiscal years 1989 and 1990. With the emphasis on law enforcement and court orders placing ceilings on the number of inmates housed, the District government is caught between a rock and a hard place and is making an earnest effort to meet the demand for prison space.

GENERAL PROVISIONS

Mr. Chairman, this bill includes most of the general provisions that have been carried for years in the bill with only a few exceptions.

In section 134 we recommend 3 changes to the District's lottery which was set up in 1982 following a city referendum. Certain restrictions were palced in the 1982 D.C. Appropriations Act as to where the lottery could be played and where it could advertise. The first change we recommend will allow advertising on public transportation and at stations and stops. We received testimony that the local Metro transportation system has been accepting advertising from Maryland and New Jersey lotteries, so in fairness, we felt the restriction should be lifted so the District's lottery will be able to advertise on public transportation as other lotteries now do. The second change removes the prohibition so that lottery tickets can be sold in Georgetown. We received letters from individuals and businesses as well

as the city council member who represents Georgetown asking that the restriction be lifted. We have not changed the restriction that prohibitis the playing of the lottery on the Federal enclave. That restriction remains in effect. The third change modifies the language to allow charitable organizations to sponsor activities for their benefit. The lottery has been in operation for 7 years and has been successful in its operations, both from the standpoint of the $278 million in revenues transferred to the District's general fund and its overall administration.

Mr. Chairman, the most divisive issue in our society today is abortions. The recent Supreme Court decision in Webster versus Reproductive Health Services expanded the right of State governments to regulate abortions. The Supreme Court's decision is the law of this country, and until it is changed, we are bound to uphold that law. And that is what we do in this bill. In section 117 we recommend language that only restricts the use of Federal funds for the use of abortions except to save the mother's life, rape, incest and ectopic pregnancies. We are simply complying with the Supreme Court decision. We do not restrict the use of local funds; that is a decision that is to be made by the local government, just as it is in your home State and my home State. All women should be treated equally, and just because their economic circumstances might be such that they cannot afford the financial costs as their more well-to-do sisters can, that should not mean that they are not entitled to the same medical treatment as those who can afford to pay.

All I ask is that this House be fair to all women and allow locally elected officials to decide for themselves and for their constitutents whether or not public funds should be used for abortions.

Those who do not like the Supreme Court's decision should not allow their views to punish the less fortunate simply because of their economic status.

COMPARISON WITH BUDGET RESOLUTION

The bill we bring before you is $23 million below the 302(b) allocation in budget authority and $21 million below in outlays. These amounts are being held in reserve pending the outcome or H.R. 1502 which is pending in the other body and provides $23 million in Federal funds for 700 additional police officers.

APPRECIATION TO MEMBERS

Mr. Chairman, I again want to commend the ranking minority member, Mr. GALLO, for the outstanding job he has done, and I appreicate the conscientious and faithful service of all the members of the subcommittee—

Mr. NATCHER of Kentucky,
Mr. STOKES of Ohio,
Mr. AUCOIN of Oregon,
Mr. HOYER of Maryland,
Mr. CARR of Michigan,
Mr. GREEN of New York, and
Mr. REGULA of Ohio.

And I would be remiss if I did not mention my good friend from Kentucky, Mr. NATCHER. He has served on this subcommittee for 36 years and 17 of those years he served as the chairman. He is, with all due respect, a congressman's congressman. And it is my privilege to serve with the gentleman.

CONCLUSION

Mr. Chairman, this is a good bill and a fair bill.

The budget is balanced with revenues equal to budget authority. And 85 percent of the funds we are appropriating are local revenues rather than Federal funds.

We are below our 302(b) allocations in both budget authority and outlays.

We recommend this bill to the committee and respectfully request that it be accepted as reported.

Mr. Chairman, I reserve the balance of my time.

□ 1520

Mr. GALLO. Mr. Chairman, I yield myself as much time as I may consume.

Mr. GALLO. Mr. Chairman, this bill is a good bill. It is below the 302(b) allocations in both budget authority and outlays with over 80 percent of the appropriation funded from local revenues. The Appropriations Committee recommends this bill and respectfully requests that it be accepted as reported.

My first year as a member of the Committee on Appropriations has been a very educational experience. I would like to thank each and every member of the Subcommittee on the District of Columbia for his assistance as my staff and I became acquainted with the issues.

In particular, I'd like to thank Chairman DIXON for his assistance. Under his leadership, we have worked in a bipartisan manner to get the bill to this point with a maximum of professionalism and civility. Our work on this bill is unselfish—our constituents derive no direct benefit other than the pride we all should feel in our Nation's Capital.

And, I would like to thank the staff—Mr. Miconi, Mr. Shea, and my staff member, Mrs. McMinn.

As Chairman DIXON has pointed out, this bill provides no increase in Federal reserves to the District. There is, in fact, a decrease.

The bill appropriates $532,310,000 in Federal dollars for fiscal year 1990 which is $24 million less than 1989 and well within our 302(b) allocation.

After a decrease in 1987, the basic Federal payment has been held to $430,500,000 for the past 3 years. The remaining Federal moneys are $34,740,000 in payment for water and sewer services to Federal buildings and $15,000,000 as a transitional payment for St. Elizabeths Hospital.

Although I do not like to dwell on negatives, we have to address the fact that too many people in this city are losing their lives because of drugs. Too many citizens of this city are dying violent deaths in the streets; too many babies are being born addicted to crack and too many children are being abandoned by their mothers and fathers.

Recognizing that the ultimate responsibility lies with the voters of the District, the subcommittee looked at ways to encourage increased accountability.

Responding to questions raised about the balance of power between the Mayor and the Council or between the Council and the school board, the subcommittee has proposed a study of home rule issues—not as a comment on home rule itself or on statehood but rather an indepth examination of local municipal government to see what works, what doesn't work and what needs fixing.

Committee members have been disturbed by reports that District officials have not willingly shared arrest and other law enforcement related information and records with Federal and other law enforcement agencies and we noted in the report that we are looking to the Council of the District of Columbia to pass the legislation, that they introduced May 16, 1989, calling for corporation and record sharing among new enforcement agencies.

I am pleased that the members of our subcommittee have provided in this bill an incentive to the Metropolitan Police Department to undergo the accreditation process of the Commission on Accreditation for Law Enforcement Agencies.

As Mr. Fullwood takes over as chief, I believe the time is right to have an independent outside agency help the men and women of the Metropolitan Police Department take a good look at themselves and set some priorities so that they can deal with the serious threats that the citizens of this city are facing.

Mr. Chairman, although the subcommittee and the committee have reported out a bill that we consider to be complete as reported, I know that there will be a number of amendments offered—I would like to comment on two areas.

I anticipate that there will be language offered to impose restrictions on the decisions of the District elected officials to fund abortions.

We have considered variations on this language every year in recent memory and each Member of this body has a clear record on this issue, so the tendency for Members is to vote

on this amendment as they have in the past.

But, Mr. Chairman, I strongly urge my colleagues to listen to this debate and give serious consideration to the fact that this is not the same issue as it was in the past.

Since last year when the Congress voted to deny the elected officials of the District of Columbia that power to use local funds to provide abortion services, the Supreme Court has handed down a major decision which gives all of the people through their local representatives far greater latitude in dealing with the abortion question.

In the words of Chief Justice Rehnquist, "The Constitution does not forbid a State or a city from expressing a preference on the issue of abortion.

Regardless of your position on abortion, one thing should be clear—the people of the District of Columbia have the right to express their preferences.

In the past, a vote to restrict funds was considered a vote on the issue of abortion. But, supporters this year are sending another message to the Nation. Vote yes in 1989 and you are also voting in opposition to self-determination.

When the Court encourages debate, will the Congress say that the citizens of the District of Columbia are not entitled to the same right of free expression that is afforded to the rest of the country?

Supporters of a congressional mandate want to have it both ways—local decisionmaking when it supports a specific outcome, but local restrictions when free expression runs counter to the desired outcome.

If you support the recent Supreme Court ruling, you cannot give some people the right of free expression and then turn around and take it away from other people on a selective basis.

Mr. Chairman, I submit to my colleagues that this year, like it or not, we are playing by new rules. And under those new rules all of the people have a right to free expression on the abortion issue.

Also, Mr. Chairman, there are a number of unresolved questions about whether or not there is a residency requirement for people who want to work for the District of Columbia government or its school system.

Last year, this Congress passed language requiring the District of Columbia government to adopt and implement a preference system that does not preclude the hiring or noncity residents.

Frankly, members of the subcommittee, after listening to testimony by city officials and others, have been unable to tell if the District of Columbia government has complied with congressional directives.

On one hand, testimony has been offered that there is a 10-point preference system that operates not only with new hires but with all promotions. If this is so, the District of Columbia government and school system are using a preference system which, in fact, precludes the hiring of noncity residents. Or, in plainer words, the District still has a residency requirement.

On the other hand, testimony has been offered that there is no system at all because the Mayor and the District council have yet to agree on a workable preference system.

I believe that other subcommittee members have been as frustrated as I have been about the lact of reliable information.

That is why in our report, our subcommittee has directed the District of Columbia government to come back to us by January 1 with an explanation of operations both prior to and following the issuing of final regulations.

Mr. Chairman, although it is my understanding that a number of my colleagues intend to offer amendments to this bill and although I look forward to the debate on these amendment, I believe that our committee has worked hard to produce a workable bill and I urge its passage as reported. Again I want to commend the members of the subcommittee and their staff for their hard work and I reserve the balance of my time.

□ 1530

Mr. Chairman, I reserve the balance of my time.

Mr. DIXON. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, my colleagues, in their recent decision, the Supreme Court stripped women of the fundamental right to control their reproductive systems, and they mandated that authority, that decisionmaking ability, to the States. But with the Dornan amendment, this Congress would go even farther than that, and they would strip elected officials at a State level, and I am talking about the District of Columbia, of the right to make basic public-health decisions for their citizens.

Mr. Chairman, this gets far removed from the people who it most directly affects.

Mr. Chairman, I would like to ask my colleagues if they are aware of the kind of people who are affected or who would be affected by the Dornan amendments. I am talking about poor people; I am talking about minority people, blacks, Hispanics; I am talking about people who are living on $350 a month, in a city whose cost of living is almost as high as my own city, New York City; I am talking about people who have kids, who are single mothers, poor, black, Hispanic, who may be drug addicts, who may be AIDS-afflicted, who are having trouble coping with the complications of life as a single mother, trying to find food, shelter, clothing for their families.

Do we really want to tell a single mother who is AIDS-afflicted, who is going to bear an infant with AIDS or an infant addicted to drugs, who is an infant that is subject to the most horrifying mental and physical disabilities as a cause of AIDS affliction or drug addiction, are we really going to tell that woman that as a matter of law she cannot get help from the District of Columbia that is eager to help her achieve her goals, if the goal is to terminate that preganancy? Are we going to tell her that she must bear an AIDS-afflicted child or a drug-afflicted child, an underweight child who is almost statistically sure of being mentally and physically incompetent to achieve a normal life, a child who will cost society in the first couple of months of his or her life $200,000 or $300,000 or more and will cost society perhaps $50,000 or $75,000 a year over an entire lifetime, a total cost to society of over $1 million in the course of that lifetime, a child who will be a burden on the District of Columbia community because that million-dollar-lifetime cost is not borne by the Federal Government? No way.

□ 1540

It is borne primarily by the citizens of the District of Columbia.

Already unwanted children in the District of Columbia contribute to this city's having the highest infant mortality in America, the highest infant mortality of any city in the developed world, across the length and breadth of Europe, across Japan, South Korea, Hong Kong, Singagpore, Thailand. Nowhere in the developed world is this infant mortality rate matched, and many of these cities in the developing world have far better infant mortality records.

Do we really want to impose this burden on these young, teenage mothers, on single mothers in this District at enormous cost to our society in general and the District of Columbia in particular? Congress has forbade the District of Columbia government to act in the best interests of its people. Congress has made it illegal for the District of Columbia to help its citizens who need the help the most.

In 49 other jurisdictions, the State can help these people, and in 13 or 14 States they do pay for abortions which Medicaid cannot pay by decree of this Congress.

My colleagues, I do not think that this is a role that Congress should play. The Supreme Court upheld the right of States to determine their own funding policies on abortion. Since the District of Columbia is treated as a

State in almost all other matters, there is no logical reason to single out abortion funding as an exception to our policy. The Supreme Court has turned abortion decisions back to the States. Why should not the Supreme Court be turning abortion decisions back to the District of Columbia to let them deal with these agonizingly difficult situations with as much compassion and charity as the District can muster?

This policy, the Dornan amendment, demeans us all. I urge my colleagues to vote against it.

Mr. GALLO. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN], the former ranking member of the District of Columbia Subcommittee.

Mr. COUGHLIN. Mr. Chairman, I rise to support the fiscal year 1990 District of Columbia appropriations bill, but mostly to compliment the distinguished subcommittee chairman, Congressman JULIAN DIXON, and ranking minority member, Congressman DEAN GALLO, on a job well done.

As the ranking minority member on this subcommittee for the past 8 years, I know too well that this bill is a labor of love on the part of the chairman and committee members. Nobody gets anything out of this bill for his or her home district. In fact, the likelihood is that you will get beat up and bloodied by those who want to vent their spleen against the District of Columbia and use this bill to do so. I understand that there may be some spleen venting amendments later this afternoon—and I intend to vote for some of them. However, I think the House needs to recognize that Mr. DIXON and Mr. GALLO go through a lot and get back precious little.

The chairman also serves as chairman of the Ethics Committee which hasn't exactly been inactive this spring. Even without that assignment, being a member of the Defense Appropriations Subcommittee is a full-time job in itself.

The ranking minority member was baptised by fire this spring—coming on the Appropriations Committee for the first time and becoming a ranking minority member. In addition, he serves on the Budget Committee.

All of this is on top of the duties and responsibilities for their individual congressional districts.

Many thanks to Mr. DIXON and Mr. GALLO for taking on a tough job and doing it so well.

Mr. DIXON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from New Jersey, Mr. GALLO, the ranking member of the subcommittee, in his comments talked about the abortion issue and the recent Supreme Court decision in Webster versus Reproductive Health Services, and I would certainly associate myself with his remarks as well as with the remarks of other Members who will speak in opposition to the amendment to be offered by the gentleman from California [Mr. DORNAN].

Let me clarify for Members, during general debate, what the situation is.

The gentleman from California [Mr. DORNAN] and I have reached an agreement. I think this is the most divisive issue in our society today. I have debated this issue with the gentleman from California [Mr. DORNAN] as have other members of our committee, for several years now. I have lost sometimes and I have won other times.

As I understand it, the gentleman from California [Mr. DORNAN] has an amendment that in essence, would amend lines 13 through 22, on page 23 of the bill that would say, "None of the Federal funds provided in this Act shall be used to perform abortions * * *." I am advised by the Parliamentarian that Mr. DORNAN's language may be subject to a point of order. I do not see any reason to raise a point of order because the gentleman from California [Mr. DORNAN] can certainly raise this issue at the end of the bill.

In the interest of time, I will not raise a point of order on that issue.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DIXON. Yes, I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, when the gentleman read there from the bill he talked about "none of the Federal funds." I think it is the intention of the gentleman from California [Mr. DORNAN] to knock out the word "Federal."

Mr. DIXON. I am sorry, the amended language would read "none of the funds,"—there would be no funds of any kind, from any place, at any time in fiscal year 1990 for abortions in the District of Columbia. That would be the thrust of the Dornan amendment, and the gentleman from Pennsylvania is correct.

Mr. WALKER. I thank the Chair.

Mr. DIXON. So at this point we will have general debate on the issue. I would just point out at this time that the new sentence starting in line 19, says, "Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy."

So if we were to accept the Dornan language, and I am not trying to get into the merits at all, the bill would be silent on what we traditionally call birth control.

So just for clarification and to make sure there will be no misunderstanding, the bill would be totally silent on that issue, whereas I read the bill now to allow payments for birth control. It reads, "nor are payments prohibited for," which to me means that payments can be used for those purposes.

So I just wanted to clear that up for all of the Members because I know that this will be a lively debate.

Mr. Chairman, I have no further requests for time and I reserve the balance of my time.

Mr. GALLO. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, let me first start out by saying what I am about to say is no reflection on the chairman of the subcommittee or its ranking member or on the subcommittee. They have to deal with authorizing legislation, and it does not reflect on anything that they have done or the good work that they have done. But Mr. Chairman, I feel very compelled to come to this well and take a minute to reflect on the merits and virtues of our Nation's Capital.

It is with hesitation that I call this city our Nation's Capital; although Washington is undeniably the geographic Capital of our great Nation, its deservedly tarnished and tainted, liberal and corrupt reputation is a disgrace to all Americans.

I am reminded of an apt quotation by Warren Brookes describing the District: its "* * * bloated, mismanaged, and corrupt city governmnent and its highest-in-the-Nation spending is the paradigm for the monumental failures of American liberal social policies," I could not have said it better myself.

The District is a classic example of how simply throwing money at a problem produces no resulting solution. Let me give a few examples:

The District spends approximately $7,800 per year on each of its students in public education—that is nearly 50 percent above the national rate. Its teachers are paid the second highest rate in the Nation. Yet, the dropout rate is 48 percent—the worst in our Nation. SAT scores are the third worst.

□ 1550

The District spends approximately $400 per capita on police and fire protection—compare that to Los Angeles ($180 per capita) or Detroit ($228 per capita). Yet, as we all well know, the District is commonly called the "Murder Capital" of our Nation.

How does the District government effectively fight crime? They instigate a "cattle roundup" of prostitutes and send them headed toward Virginia. How productive. Meanwhile, the night of the infamous prostitute march, look at what happened in the streets of Washington—on July 25th, there was 1 homicide, 22 robberies, 13 assaults, 43 burglaries, 48 larcenies, 61 thefts from autos, 26 stolen cars, 2 stolen tags, and 3 stolen bikes—for a total of 219 radio runs. But no prostitutes.

The District spends approximately 2.1 times the State and local average

on health and hospital care. Nonetheless, it has the highest infant mortality rate in the Nation.

Mr. Speaker, what is going on here? What have we gotten by enacting home rule?

The time has come to really clean up the District of Columbia. Let's either revoke or drastically restructure home rule—let's finally help the unfortunate residents of this festering liberal hellhole.

Mr. DIXON. Mr. Chairman, I yield 6 minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. I thank the gentleman for yielding.

Mr. Chairman, if I might have my distinguished colleague's attention, during the course of this debate we will debate the various amendments on their merits. But I would like to raise one question with my distinguished colleague. That is what was his allusion to liberal? I would frame it in this context: I find it fascinating that the overwhelming majority of my colleagues on both sides of the aisle applauded the young students who risked their lives in Tiananmen Square in Beijing to stand up for democratic principles, the right of people to articulate whatever political point of view they choose to raise.

That is the beauty and the marvelous nature of our political system. This gentleman from California can stand in the well of this body, with a very fragile opportunity to express my political point of view; and the gentleman from Texas can express his. That is what democracy is all about.

In a moment I want to yield to my colleague because I want him to defend his challenge of liberal. What does that mean? Is that liberal and corrupt? Is the gentleman suggesting that because one has a political point of view that is different from the other gentleman, that that is in some way bad, evil? What are we communicating to the American people who observe this debate either in person or on television?

My colleagues who represent over half a billion human beings in this body, we all come here as equals. We all have the right to represent our point of view.

My constituency in the Eighth Congressional District in California is no less American than my distinguished colleagues.

And people can come here with different political views. Please do not shake your head, because we are going to get into a debate.

My constituents can see it as well as yours.

I want to yield to my colleague for whatever time he may consume to tell me why it is in some way negative to have a political perspective that is different from the gentleman's? And why is it that he has to characterize liberal as in some way bad? Is that tarnished? Is that in some way playing the game that we played?

I remember one of the darkest periods of this country's history, the McCarthy era, when we challenged people on the basis of their political perspective.

And I would yield to my colleague.

Mr. DELAY. When?

Mr. DELLUMS. Sir?

Mr. DELAY. When would the gentleman yield?

Mr. DELLUMS. Now.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Texas.

Mr. DELAY. I appreciate the gentleman for yielding.

The gentleman, whenever liberal policies are critized, the gentleman immediately jumps up and yells "red-baiting, red-baiting, it is un-American because you are questioning liberal policies." If the gentleman does not know the definition of liberal, I could spend 30 minutes here talking about policies that throw money heavily at different kinds of programs, programs that keep poople in a culture that do not allow them to come out of that culture because it keeps them tied and dependent on the public dole. That is liberal policies that have been going on in this country for 30 years and did not work and this city is a perfect example that those policies do not work.

Mr. DELLUMS. Mr. Chairman, I will yield back to the gentleman, but I would like to reclaim my time.

The question that I am raising with my colleague is this—and he has not answered the question—is it not appropriate for people to have different political points of view?

Mr. DELAY Absolutely.

Mr. DELLUMS. Is that not what our democracy is all about?

Mr. DELAY. It is absolutely appropriate for people to have different views, as we have always had different views, and I am not questioning the integrity of liberals in their particular view.

What I am making a statement is that liberal policies have failed and we need to try something different.

Mr. DELLUMS. Mr. Chairman, I appreciate the gentleman's clarification: On the question of policy, we can debate, but on the issue of people's rights to have their political perspective, the gentleman suggests there is no debate.

Mr. GALLO. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. I thank the gentleman.

Mr. Chairman, I am very much constrained to get into this recent discussion that my friend from California, the chairman of the committee, had with the gentleman from Texas, I will simply say as an aside: I believe that the genius of the American political system is the efficiency and the accountability that comes with the two-party system. And when the majority stacks the committee memberships around here and when it has 34 years of continuous arrogance of majority power, when it rewrites the rules and utilizes every possible parliamentary maneuver to stifle the rights of the minority, then it has done something to the process.

But that is not the subject of debate for today.

What we are here to talk about today is this bill. Much in this bill is good. I extend my sincere appreciation to the members of this committee for its hard work. But if the historic precedents taught us anything, it would lead us to believe and to expect that there will be, once again, attempts to limit the debate on this measure. We have seen it time after time in this session of the Congress and in the 16 years that I have been around here, where we have motions to rise. There will be at least five, if not more, but at least five important amendments to this bill. We have heard some considerable discussion about an amendment from the gentleman from California [Mr. DORNAN] in regard to abortion. We have heard an allusion by the gentleman from Texas, [Mr. DELAY] to the problems of the ladies of the night. And there will be given the opportunity for what is euphemistically referred to a "hookers on parade" amendment.

We will hear some discussion about the residency requirements and whether that is good or whether that is bad.

We will hear Mr. SMITH suggest that reporting crime statistics and information-sharing is an important part of the criminal penal justice system of this city. And I am told that we will hear an amendment and a debate on an amendment by Mr. BURTON of Indiana on the sense of the Congress that this city is not exactly Camelot at the moment and we ought to look at it in a very difficult, penetrating way to see if we can improve the Nation's capital which we all cherish so very much.

Mr. Chairmam, the one amendment that I would bring to this body for serious consideration, and I sincerely hope that we have that opportunity, is the one on residency.

□ 1600

Mr. Chairman, I would want my colleagues to listen to this debate very carefully because we are going to have to debate not one but two or three motions to rise, in order to have an opportunity to address our intention, as a body, to these important matters. My amendment is exactly the same one that passed last year by a vote of

246 to 163. Almost 60 percent of the Members of this body voted for this same amendment, identical in purpose, almost identical in language last year. I suggest to those Members who may be listening to the leadership on one or the other side of the aisle, it will be rather difficult to explain to somebody why a particular Member voted for it last year and that Member is against it this year, if that is what any Member is going to do.

Let me say this is not a home rule issue. This is an issue of public safety and education. Do not let anyone blow smoke at Members, that we are trying to do something to the District of Columbia that we do not have the authority to do. If Members do not believe that, go read article I, section 8, clause 17 of the Constitution. There is a Constitution right over there.

I thank the chairman very much for his effort. I look forward to this coming debate.

Mr. DIXON. Mr. Chairman, I yield 3 minutes to the gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Chairman, I had not intended to speak during the course of general debate, but inasmuch as we have had a summary given of what we can expect in terms of debate on amendments, I do want to point out that we are now in for a number of arguments that are cute but not correct. Everything that is cute is not correct.

Members will hear arguments that actually we ought to ban the use of local funds by the District of Columbia government for abortions. That is a cute argument, but it is not correct. It is not correct that, particularly after the Supreme Court decision of last month, that there should be an unwarranted interference with States' rights. The people of the District of Columbia have the right to decide what they do with their local money.

The arguments that Members hear are cute but they are not correct. Members will hear that we need to deny District residents the ability to implement a preferential hiring system, one which the Congress itself mandated through the appropriation of last year. That is a cute argument, but it is not correct.

Believe me, those who make these incorrect arguments with cute statements such as that from the gentleman from California only a moment ago in the well, are sincere but they are sincerely wrong. A person can be sincere and sincerely wrong. Hitler was sincere, but he was sincerely wrong. The Ku Klux Klan is sincere, but it is sincerely wrong. Ronald Reagan was sincere when he said that if we give away $750 billion in tax revenue and increase our military spending to $2.3 trillion we can balance the budget. He was sincere, but he was sincerely wrong.

I hope during the course of the action on the amendments, Members will do what is right because it is right, that they will see through all these cute arguments, to act correctly, and that they will dismiss those who are sincerely wrong about the nature of our democracy in this country and about the injustice heaped upon only the residents of the District of Columbia in this entire country with respect to our self-determination.

Mr. GALLO. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I promised our distinguished speaker here who is truly a gentleman and a friend and entitled to all the respect that any colleagues can muster in this House, that we would have a high caliber debate here today.

I know the press had a lot of fun with the trial by trek, the hooker hike, the prosty parade. It broke my heart to see that, as a father of five, three are daughters, grandfather of seven, four are daughters, those are somebody's daughters who marched across the bridge. Some mother put a lot of love in those kids when they were young. Perhaps in some cases they did not get love. The District of Columbia did take a lot of beating, but I did not write the Constitution, and if Virginia had not returned the part of the District diamond shape, they would be marching into another part of Virginia across the river. If we had given back part of Maryland where most of the small homes and apartments are, we would have a Federal enclave and worry about people wanting a vote who are full-time hotel residents in the few apartment buildings interwoven with apartment buildings.

However, my good friend from New York [Mr. SCHEUER], a friend, we have traveled everywhere together from the streets of Hanoi to assess starvation. He said my amendment demeans the District. It does not demean the District. What demeans the District is what President Bush wrote to the distinguished chairman about today, and I know the gentleman from California [Mr. DIXON], I am not reading private mail, but he sent me a copy.

"Dear Julian, the House will soon consider,"—happens to be today, the day the letter is dated—"the District of Columbia appropriations bill for fiscal year 1990. If the bill presented to me permits the use of appropriated funds to pay for abortions, other than those where the life of the mother would be endangered if the fetus were carried to term"—and those are the words I prefer, and Mr. NICKLES in the other body and Mr. HUMPHREY in the other body will take care of that and fix it up, and he goes on to say, "If that is not the case, I will veto the bill. I urge the Congress to vote to protect the lives of America's unborn children."

When I first won a primary in 1976, our beautiful Bicentennial year, I came back here as we do in both parties, to a seminar. Driving to the airport, and hoping to get home for the Fourth of July, on the evening of July 3d, I heard that more babies were aborted in the District than were allowed to be born alive, and that has been an unbroken record of disgrace for 14 years. 1989 will probably make it 15.

The District of Columbia has three times as many abortions prorated than any other municipality in the country. By their own statistical extracts, the District in 1986, before my amendment took effect, aborted 3,599 babies. But that is all right, with private funds. The Goodmacher Institute says another 19,942 were aborted. That is from the front page of USA Today.

Half of the women getting abortions, two more statistics, half of the women getting more abortions in the District have already had one abortion. Almost 20 percent, 19 percent have had 2 or 3 or more abortions. Whether we commingle the funds with Federal money or take out the Federal money, those Members on what we like to choose to call the pro-life side of the issue, believe this is an issue of such overwhelming conscience, that although each side responds to a constituency for Members, it is a deep issue, because we believe human souls are at stake.

The CHAIRMAN. The gentleman from California [Mr. DIXON] has 3 minutes remaining and the gentleman from New Jersey [Mr. GALLO] has 6 minutes remaining.

Mr. DIXON. Mr. Chairman, I yield 2 minutes to the distinguished chairman of the Committee of the Budget, the gentlemen from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, as I have on the other appropriations bill, I want to remark on how the bill meets to targets contained within the budget resolution. This bill, the 11th appropriations bill for fiscal year 1990 be considered by the House. Again, we have provided a "Dear Colleague" letter.

In brief, the bill provides $537 million in discretionary budget authority and $559 million in discretionary outlays as compared with the 302(b). This bill is under those targets by $23 million in budget authority and $21 million in outlays.

The bill, without question, conforms with the targets that were established in the budget resolution in the bipartisan agreement, and therefore, there are no Budget Act points of order against this bill.

I want to commend my colleague, the gentleman from California, for the

work that has been done here, as well as the ranking member on the Republican side for the job they have done in not only bringing this bill to the floor in a timely fashion, but as importantly, meeting the targets laid out in the budget resolution and in the bipartisn agreement.

Mr. Chairman, I rise to address the budgetary status of the District of Columbia Appropriations bill—the 11th appropriation bill for fiscal year 1990 to be considered by the House. In addition, I have provided a "Dear Colleague" to all Members compariing the bill before us today to the budget resolution.

In total, the bill provides $537 million in discretionary budget authority and $559 million in estimated discretionary outlays. As compared with the discretionary 302(b) subdivision for this subcommittee, the bill is under the targets by $23 million in budget authority and $21 million in outlays. This bill, therefore, conforms to the 1990 budget resolution and the bipartisan agreement worked out with the White House. As a result, there are no Budget Act points of order against this bill.

I commend the gentleman from California, the chairman of the subcommittee, for bringing this bill to the floor in a timely fashion and I am pleased to bring this information to the attention of the members.

COMMITTEE ON THE BUDGET,
Washington, DC, July 31, 1989.

DEAR COLLEAGUE: Attached are fact sheets on H.R. 3014, Legislative Branch Appropriations bill; H.R. 2991, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations bill; H.R. 2990, Labor, Health and Human Services, and Education and Related Agencies Appropriations bill; H.R. 3026, District of Columbia Appropriations bill; and H.R. 3015, Department of Transportation and Related Agencies Appropriations for fiscal year 1990. These bills are scheduled for floor action this week, thus completing 12 of the 13 annual appropriations bills before the August district work period.

These bills, as reported, are below the amounts assumed in the 1990 Budget Resolution and the Bipartisan Budget Agreement. I commend the Appropriations Committee for their prompt action on the regular appropriations bills and look forward to working with the Committee on the conference reports.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

Attachments.

[FACT SHEET]

H.R. 3026, DISTRICT OF COLUMBIA APPROPRIATIONS BILL, FISCAL YEAR 1990 (H. REPT. 101-186)

The House Appropriations Committee reported the District of Columbia Appropriations Bill for Fiscal Year 1990 on Thursday, July 27, 1989. This bill is scheduled for floor action on Wednesday, August 2.

COMPARISON TO THE 302(B) SUBDIVISION

The bill provides $537 millllion of discretionary budget authority, $23 million less than the appropriations subdivision for this subcommittee. The Budget Act provides a point of order if the target for discretionary budget authority is breached. Since it is not, there is no such point of order against this bill. The bill is $21 million under the subdivision for estimated discretionary outlays. A detailed comparison of the bill to the spending and credit subdivisions follows:

COMPARISON TO SPENDING ALLOCATION

[In millions of dollars]

	District of Columbia appropiation bill		Appropriations Committee 302(b) subdivision		Bill over (+) under (−) committee 302(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	537	559	560	580	−23	−23
Mandatory						
Total	537	559	560	580	−23	−21

Note.—BA—New budget authority; O—Estimated outlays.

COMPARISON TO CREDIT ALLOCATION

The bill provides no credit activities.

Pursuant to Section 302(b) of the 1974 Budget Act as amended by P.L. 99-177 (Gramm-Rudman-Hollings), the Committees of the House are required to subdivide the spending authority and credit authority allocated to them in the Budget Resolution for Fiscal Year 1990 (shown in H. Rept. 101-50). The Appropriations Committee reported its 302(b) subdivisions on June 21, 1989 (H. Rept. 101-97). These subdivisions are the official scorekeeping targets for appropriations subcommittees.

The following are the major program highlights for the District of Columbia Appropriations Bill for FY 1990, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Federal payment to the District of Columbia	430	430
Federal payment for water and sewer	35	35
Federal contribution to retirement funds	52	52
Transitional payment for St. Elizabthe's Hospital	15	15

Mr. GALLO. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi [Mr. SMITH].

□ 1610

Mr. SMITH of Mississippi. Mr. Chairman, I thank the gentleman for yielding this time to me.

First, Mr. Chairman, I would like to say thank you to the chairman of the committee, the gentleman from California [Mr. DIXON] and the ranking member, the gentleman from New Jersey [Mr. GALLO], for hearing me whenever I testified before the committee on the Duncan ordinance.

I rise today not to chastise anybody but to support the District of Columbia law enforcement agencies and the Federal Bureau of Investigation. Having served 23 years in the criminal justice field and having been a sheriff and a chief of police, I know it is important to exchange criminal justice information.

The District of Columbia is the only place in the Nation that does not forward fingerprints and indentification data to the FBI. I know that the committee worked hard to change this and to put in their language what the law was for, that it was based on a recommendation of the committee that was organized to develop recommendations to address problems that occurred from the use of police arrest records in discrimination. But this is what has happened today: It goes on to say that they were later told that Public Law 99-169 permits Federal law enforcement agencies to get that information. Well, it does not.

Under a District of Columbia court decision in 1975, Utz versus Cullinane, they address that, and they said that although the Duncan ordinance appears on its face to accord adults less protection than it accords juveniles, it nevertheless prevents the routine dissemination of adult arrest records to the FBI.

So we are going to offer an amendment in a few minutes to the District of Columbia appropriation bill, and I hope the members of the committee on both sides will listen to it. Gary Hankins, the president of the Fraternal Order of Police in the District of Columbia, testifying on the Senate side recently, said, and I quote from his Senate testimony:

> In essence, the District has become a sanctuary for drug dealers and felons who are wanted in other States because our city does not share its arrest information with the FBI. We are the only large jurisdiction that does not cooperate with this highly effective branch of the government.

So simply, my amendment deals with the fact that the District of Columbia police department, the police officers in this city, want to be able to send arrest records, fingerprint data and other information to the FBI to be compared with criminals from across the country who commit drug crimes, who commit murders, who commit strings of robberies, bank robberies and other crimes. This is a very simple change in the ordinance.

It has been stated that the District of Columbia just recently, on May 16, brought up an ordinance to repeal the Duncan ordinance, but it has sat there since May 16 with no committee action or anything else.

Mr. Chairman, I simply say to my colleagues on both sides that since May 16 we have had 90 murders in the District of Columbia, I think the citizens in the District of Columbia and the Members of Congress are entitled to be sure that that information can be exchanged.

Mr. GALLO. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Last year when this bill was before the House, we adopted language in this bill that was drug-free workplace language. Ultimately that language was folded into the general govern-

ment provisions, but still, of course, it was provided that the District of Columbia needed to develop written policies for all its employees for a drug-free workplace.

I would like to ask the distinguished chairman of the committee this question: When I looked through the committee report, I saw no report language with regard to the drug-free workplace. There was some language about providing for drug-free schools. I wonder if the gentleman could report to me what the committee knows about the District of Columbia government's compliance with the drug-free workplace provision.

Mr. Chairman, I am glad to yield to the gentleman from California for a reply.

Mr. DIXON. Mr. Chairman, I will say to the gentleman from Pennsylvania [Mr. WALKER] that in the committee we did have testimony on the drug problem in Washington. Quite frankly, we did not ask nor did I ask about the implementation of any specific program. I assumed that the rules and regulations of the D.C. government prohibit the use of drugs or being under the influence of drugs in the workplace, but between now and the time this bill comes back from conference I will inquire specifically as to what they are doing to implement a specific program for a drug-free workplace for district employees.

Mr. WALKER. Mr. Chairman, I appreciate that, and I thank the gentleman for the information, because there are, of course, required to do a number of things under both the provisions of the law in the appropriations bill last year and also under the Omnibus Drug Act. It is my understanding at this point that they may not have implemented those policies, and I would be appreciative of the gentleman's finding out just exactly where we are.

Mr. GALLO. Mr. Chairman, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, the committee-reported D.C. appropriation bill would repeal the pro-life Dornan amendment which was enacted in 1988. To prevent this, the gentleman from California [Mr. DORNAN] is again going to offer his Hyde-type amendment to bar the District of Columbia from using funds appropriated by Congress to fund abortion on demand. Like the Hyde amendment, the Dornan amendment would not prevent funding of emergency treatments for victims of rape, nor does the Dornan amendment prevent operations for tubular pregnancies.

As has been mentioned, President Bush has sent a letter to the chairman of the subcommittee of the Committee on the District of Columbia that states that if the bill is presented to him that permits the use of appropriated funds to pay for abortions other than those where the life of the mother is endangered if the fetus were carried to term, he will veto it. I join the President, and I urge my colleagues to vote to protect the lives of America's unborn children. I ask the Members to support the Dornan amendment.

Mr. AUCOIN. Mr. Chairman, will the gentlewoman yield?

Mrs. VUCANOVICH. I yield to the gentleman from Oregon if I have time.

Mr. AUCOIN. Mr. Chairman, in looking at the language of the Dornan amendment, I see that the exception concerning the safety of the life of the mother is stricken. Does the gentlewoman agree with language that is that severe?

Mrs. VUCANOVICH. I am sorry, but I did not understand the gentleman.

Mr. AUCOIN. There is no protection against instances where the life of the mother is at stake.

The CHAIRMAN. The time of the gentlewoman from Nevada [Mrs. VUCANOVICH] has expired.

Mr. DIXON. Mr. Chairman, I will yield my 1 remaining minute to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mr. SMITH of New Jersey. Mr. Chairman, will the gentlewoman yield?

Mrs. VUCANOVICH. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, I think, regrettably, that the gentleman from Oregon [Mr. AUCOIN] knows very well what game is being played. That is that in order to offer this amendment, a no-life-for-the-mother exception needs to be taken out of the bill. There needs to be no-life-for-the-mother language. We have in the past, with the Hyde amendment and with the Treasury and Postal amendments, and all the other limitation amendments we have offered in the past either put back in conference the language or through a unanimous-consent request put that specific exception in. So I would suggest that even though on its face we are not having a life-of-the-mother exception, it will happen in conference, just like it did last year.

The CHAIRMAN. All time for general debate has expired.

The Clerk will read.

The Clerk read as follows:

H.R. 3026

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1990, and for other purposes, namely:

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1990, $430,500,000: *Provided,* That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date.

FEDERAL PAYMENT FOR WATER AND SEWER SERVICES

For payment to the District of Columbia for the fiscal year ending September 30, 1990, in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, $34,740,000, as authorized by the Act of May 18, 1954, as amended (D.C. Code, secs. 43–1552 and 43–1612).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96–122), $52,070,000.

TRANSITIONAL PAYMENT FOR SAINT ELIZABETHS HOSPITAL

For a Federal contribution to the District of Columbia, as authorized by the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98–621), $15,000,000.

CRIMINAL JUSTICE INITIATIVE

The $50,000,000 previously appropriated under "Criminal Justice Initiative" for the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1989, for the design and construction of a prison within the District of Columbia shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable to entities other than agencies and organizations of the District of Columbia government, and payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison: *Provided,* That construction may not commence unless access and parking for construction vehicles are provided solely at a location other than city streets: *Provided further,* That District officials meet monthly with neighborhood representatives to inform them of current plans and discuss problems: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding the new prison, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the new prison.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current

fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $112,971,000: *Provided,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That notwithstanding any other provision of law, there is hereby appropriated $6,726,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $818,000 shall be derived from the general fund and not to exceed $5,908,000 shall be derived from the earnings of the applicable retirement funds: *Provided further,* That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further,* That of the $150,000 appropriated for fiscal year 1990 for Admission to Statehood, $75,000 shall be for the Statehood Commission and $75,000 shall be for the Statehood Compact Commission: *Provided further,* That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further,* That no part of these funds shall be used for lobbying to support or defeat legislation pending before Congress or any State legislature.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $137,913,000: *Provided,* That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia: *Provided further,* That up to $275,000 within the 15 percent set-aside for special programs within the Tenant Assistance Program shall be targeted for the single-room occupancy initiative.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 130 passenger-carrying vehicles for replacement only for police-type use and 29 additional passenger-carrying vehicles for fire-type use without regard to the general purchase price limitation for the current fiscal year, $833,206,000: *Provided,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That not to exceed $26,000 shall be available solely for an accreditation study of the Metropolitan Police Department by a recognized law enforcement accreditation organization: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1990, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1990, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1985: *Provided further,* That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia government shall also take steps to publicize the availability of that service among the residents of the area surrounding the Lorton prison: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during fiscal year 1990 in relation to the Lorton prison complex. Such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: *Provided further,* That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest: *Provided further,* That the staffing levels of each two-piece engine company within the Fire Department shall be maintained in accordance with the provisions of article III, section 18 of the Fire Department Rules and Regulations as then in effect, until final adjudication by the relevant courts or October 1, 1990, whichever occurs later: *Provided further,* That none of the funds provided in this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986: *Provided further,* That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services which are performed in emergencies by the National Guard in a militia status and which are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further,* That such sums as may be necessary for reimbursements to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and their availability shall be deemed as constituing payment in advance for the emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $689,353,000, to be allocated as follows: $500,579,000 for the public schools of the District of Columbia; $86,300,000 for the District of Columbia Teachers' Retirement Fund; $76,088,000 for the University of the District of Columbia; $18,849,000 for the Public Library; $3,527,000 for the Commission on the Arts and Humanities; $3,440,000 for the District of Columbia School of Law; and $570,000 for the Education Licensure Commission: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1990, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $825,898,000: *Provided,* That $18,611,000 of this appropriation, to remain available until expended,

shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That of the funds provided for the D.C. General Hospital subsidy, $646,000 shall be used to provide health care to homeless persons.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $223,898,000, of which not to exceed $3,600,000 shall be available for the School Transit Subsidy: *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $7,874,000: *Provided,* That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual Convention Center audit.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with an Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of an Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); section 723 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act amendments, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $251,474,000.

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of reducing the $218,872,000 general fund accumulated deficit as of September 30, 1988, $20,000,000, of which not less than $442,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or revenues otherwise available, or both): *Provided,* That if the Federal payment to the District of Columbia for fiscal year 1990 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, approved December 12, 1985), as amended, the percentage (if any) by which the $20,000,000 set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order: *Provided further,* That all net revenue the District of Columbia government may collect as a result of the District of Columbia government's pending appeal in the consolidated case of U.S. Sprint Communications, et al. v. District of Columbia et al., CA 10080-87 (court order filed November 14, 1988), shall be applied solely to the repayment of the general fund accumulated deficit.

SHORT-TERM BORROWINGS

For the purpose of funding interest related to borrowing funds for short-term cash needs, $10,997,000.

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $2,569,000.

ENERGY ADJUSTMENT

The Mayor shall reduce authorized energy appropriations and expenditures within object class 30a (energy) in the amount of $2,000,000, within one or several of the various appropriation headings in this Act.

EQUIPMENT ADJUSTMENT

The Mayor shall reduce authorized equipment appropriations and expenditures within object class 70 (equipment) in the amount of $6,100,000, within one or several of the various appropriation headings in this Act.

PERSONAL SERVICES ADJUSTMENT

The Mayor shall reduce appropriations and expenditures for personal services within object classes 11, 12, 13, and 14 in the amount of $31,550,000, within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

For construction projects, $134,650,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 to 43-1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364); an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, secs. 9-219 and 47-3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec. 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 1-2451, 1-2452, 1-2454, 1-2456, and 1-2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $10,556,000 shall be available for project management and $26,319,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further,* That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That $20,300,000 shall be available solely for the Correctional Treatment Facility: *Provided further,* That $547,000 for the Department of Recreation and $3,080,000 for the Department of Public Works for pay-as-you-go capital projects shall be financed from general fund operating revenues: *Provided further,* That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1991, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1991: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $199,382,000, of which $34,964,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $29,700,000, as authorized by An Act Authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.): *Provided,* That the requirements and restrictions which are applicable to general fund capital improvement projects and are set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title: *Provided further,* That of the $27,085,000 in water and sewer enterprise fund operating revenues for pay-as-you-go capital projects, $1,200,000 shall fund new authority in the fiscal year 1990 capital budget and $25,885,000 shall fund prior year capital budget authority.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for fiscal year 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97-91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $8,600,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the sources of funding for this appropriation title from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Commu-

nications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $1,600,000.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personnel compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1990, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 38,475.

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1991, shall be transmitted to the Congress no later than April 15, 1990.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency, Federalism and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 117. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1989 shall be deemed to be the rate of pay payable for that position for September 30, 1989.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganiza-

tion Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided,* That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency and the District's best interest.

SEC. 128. No later than 30 days after the end of the first quarter of fiscal year 1990, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1990 revenue estimates as of the end of the first quarter of fiscal year 1990. These estimates shall be used in the fiscal year 1991 annual budget request. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 129. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), is amended by striking out "sold before October 1, 1989" and inserting in lieu thereof "sold before October 1, 1990".

SEC. 130. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 131. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided,* That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 132. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided,* That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act which are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 133. None of the funds available to the District of Columbia government shall be used for any purpose involved in billing individual agencies or establishments for water and water services and sanitary sewer services traditionally funded under the account "Federal Payment for Water and Sewer Services" unless and until existing statutes (sections 106 and 212 of the District of Columbia Public Works Act of 1954, as amended, Public Law 364, approved May 18, 1954 (68 Stat. 101; D.C. Code, sections 43-1552 and 43-1612)), are amended to specifically provide for such billing.

SEC. 134. (a) The paragraph under the heading "Lottery and Charitable Games Enterprise Fund" in the District of Columbia Appropriation Act, 1982, approved December 4, 1981 (95 Stat. 1174; Public Law 97-91), is amended—

(1) by striking the 10th proviso; and

(2) in the 11th proviso, by striking "1144, as well as in the Old Georgetown Historic District:" and inserting "1144:".

(b) The 11th proviso referred to in subsection (a)(2), as amended by such subsection, shall not apply with respect to any activity relating to a lottery, raffle, bingo, or other game of chance sponsored by, and conducted solely for the benefit of, an organization which is described in section 501(c)(3), and exempt from tax under section 501(a), of the Internal Revenue Code of 1986.

SEC. 135. No funds appropriated in this Act for the operation of programs, projects, or activities of the government of the District of Columbia for which the Council of the District of Columbia has approved a specific budget increase shall be reprogrammed or reduced prior to 30 days written notice to the Council of the District of Columbia.

SEC. 136. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 137. For the fiscal year ending September 30, 1990, and for every fiscal year thereafter, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

Mr. DIXON (during the reading). Mr. Chairman, I ask unanimous consent that the bill, through line 2 on page 31, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, before my distinguished colleague, the gentleman from California [Mr. DORNAN], offers his amendment and we enter into a debate on a number of amendments that will be offered, I simply want to make a few remarks. Time did not permit me to do that under general debate, so I take this opportunity to strike the last word.

Over the years, in this particular bill, the D.C. appropriations bill has often raised very contentious and sometimes very bitter and often ugly debate. I would like to make a few remarks, hoping that we can circumvent that possibility.

Several of my colleagues have already come into the well to speak about the District of Columbia being the crime capital of America, the violence capital of America, the drug capital of America, et cetera. I would remind my colleagues that just 3 weeks ago the New York Times magazine in one of its cover stories indicated that 464 American people died violently on the streets of America on the first 7 days of the month of May.

□ 1620

Mr. Chairman, they went on to assert that this was a typical week, 464 American people dying violently in America, that this was typical of every single week of every year in America.

The point that I make is that we unfortunately are a violent Nation. This is not simply a problem contained in the District of Columbia, and people who believe violence is in some way isolated in the District of Columbia are living in a never, never land, a very bizarre assertion.

No. 2, Mr. Chairman, is the notion that the District of Columbia is the drug capital of America. Drugs are a problem that is now becoming systemic in this country, and the faster that we begin to realize that this is an American societal problem, the faster we can move to try to deal with it, a problem that also has global dimensions.

Mr. Chairman, children all over America are dying in the streets of this country in every single one of the major 30 metropolitan areas in this country. In a 12-month period between 12 and 400 people dying violently in the streets of America. This is not simply a problem in the District of Columba.

So, Mr. Chairman, if we want to strike a blow at violence, it is not by marching into the well, challenging the District of Columbia residents, because we know that in a body of 435 people we can clobber the residents of the District of Columbia, render impotent their democratic rights and their prerogatives.

I say to my colleagues, "You can't challenge violence in America building strategic missiles. American people are not being killed, and mugged and robbed by the Soviet Union. People in this country." We are not dealing with that.

The problems of drugs: My colleagues cannot go home and say, "I struck a big blow against the problems of drugs by beating up the District of Columbia." My colleagues cannot strike a blow at the problems of health care in this country until we march into this well, Mr. Chairman, Members of this body, and develop a national health policy. The only two industrial nations in the world without a national health policy are the United States and South Africa, a very interesting juxtaposition, and, Mr. Chairman and members of the Committee, we do not strike a blow against poverty by marching into the well to challenge the residents of the District of Columbia, but when we develop a coherent policy to address poverty and unemployment and human misery in this country.

So, Mr. Chairman, let us go forward in this debate. I would say to all of my colleagues on both sides of the aisle that, rather than beating up the District of Columbia, because we can all give cute speeches here, but the reality is that America is in trouble. An entire generation of our children—we are on the brink of losing them—and we do not save those children. We do not guarantee them the future by marching in the well, clobbering the District of Columbia. We do not give children who are studying what we do and the implications of what we do by thwarting precious prerogatives of the citizens of the District of Columbia simply because we can. They only bring forward one Representative, and the sad and tragic commentary is that my distinguished colleague, the gentleman from the District of Columbia [Mr. FAUNTROY] lacks the capacity to even vote on the floor of this body. So, there are 434 of us.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. So, Mr. Chairman, the 434 of us become the supermayor, the super-city council. When we were sent here by our constituencies to deal with national issues, we suddenly see ourselves dealing with the District of Columbia. We start talking about the military budget, and we hear speeches, Mr. Chairman, of micromanaging. Well, are we not micromanaging the lives of the residents of the District of Columbia? But we get uptight when we micromanage the Department of Defense when we say that we do not want any more fraud, waste, and abuse of procurement with micromanaging. But we talk about the rights and the prerogatives of the residents of the District of Columbia. We are not micromanaging the lives and prerogatives of people.

So, let us go forward in this debate with a degree of integrity. Let us push the debate to a much higher level, and let us put the appropriation bill in its proper context, in the context of the broader society of America and in the context of our commitment to principles of fairness to people.

Mr. PARRIS. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Virginia is recognized for 5 minutes.

Mr. PARRIS. Mr. Chairman, I rise to take this time to respond very briefly to the gentleman from California [Mr. DELLUMS], my friend who is the chairman of the Committee on the District of Columbia.

My colleagues may recall that I have the privilege of serving as the vice chairman of that committee, and I listened with great interest to what the gentleman from California [Mr. DELLUMS] has to say, as I always do. He is eloquent and sincere in what he says, and it is important to listen.

However, Mr. Chairman, I suggest to the gentleman from California [Mr. DELLUMS], my friend, that I am not here, although I get increasingly accused of it, to challenge the people of the District of Columbia. I am here to attack a situation that exists in the Nation's Capital. I do not apologize for that at all.

Mr. Chairman, the gentleman from California [Mr. DELLUMS] suggested that this is a nation of violence, and he cited some statistics in terms of the number of persons who are killed or injured in our Nation every day. Let me remind my colleagues that there have been 250 individuals murdered in the District of Columbia in some violent way between January 1 of this year and August 1 of this year which represents a possible annual total, if projected through the balance of the year, of 429 murders, or a rate of death of 1 murder for each 1,400 people in this city which, if extrapolated to the entire Nation, is equivalent to a national total of 582,750 murders.

My colleagues, it that what we want in this country? Is it what we want in this city? Obviously not.

My colleagues, this city needs some help, and it needs it from this Congress who has the responsibility of providing that assistance under the Constitution of the United States.

AMENDMENT OFFERED BY MR. DORNAN OF CALIFORNIA

Mr. DORNAN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN of California: Page 23, line 14, strike "Federal".

Page 23, line 14, strike "except where" and all that follows line 22 and insert a period.

Mr. DORNAN of California. Mr. Chairman, first of all let me say that this is not the language of my preferred amendment, but understanding that those on the other side of my position have to do what they have to do to try and get a winning vote on what I think they realistically hope to achieve is a closer vote, a tighter vote, they, through parliamentary procedure, have restricted me to sparse language here that does not contain the following words that were in my first amendment to the desk. This is my second or backup amendment to get around parliamentary objection. My first amendment would have exempted the words that have been in law for a year, "except where the life of the mother would be endangered if the fetus were carried to term."

Mr. Chairman, I assure my colleagues, as I did in the parliamentary debate several times late at night last year when we did not have the luxury of some of the standard debate that we have today, I assured everyone on this floor that it was my intent to keep "the life of the mother" in the words, that it would be protected by Members of the other body in conference committee, and it would come out as law. My strong promises were kept. My predictions were correct. It has been law for a year, and I make those predictions again so that when we, quote, work on the doors, unquote, for both of our sides of the issue, Members who are not of terribly strong convictions on either side, but respond more to the will of people in their district than they do to their own analysis of this issue, they can be assured that they will be held to an accounting by both sides, if they start switching their votes around because they are not following this debate by electronic national means or if they do not listen to us at the door saying that these words will be put in.

□ 1630

Before I yield to the gentleman from Oregon, let me say something that I know he will appreciate, because this gentleman is a good debating partner of his.

This is the first time I have come to the well on this issue in 12 years where I was not following the lead of one of the greatest Members of this House, the gentleman from Illinois [Mr. HYDE]. He is not only with us in spirit, he is with us by electronic means as the Big Uncle looking over our shoulders, and has assured me that if in need, he will call in plays from the bench. He is on track in his recovery from surgery and will be back after the Labor Day break. He is watching, and I do miss him in this debate. I have spoken not nearly as much as he has around the country, and when anybody has ever applied a description to me as to my conduct on this issue over the past decade plus, I describe myself, not in false humility, but accurately, as a linebacker. I am "HENRY HYDE's linebacker." He is the one who has been in the frontline, taken all the hits and blows, and I

think accomplishing something utterly fantastic for our country since he was elected in 1974, and that is the protection of innocent human life.

A final quick thought. On the news the other night, the distinguished ABC anchorman, Peter Jennings, in talking about the heroes of Tiananmen Square, who were mentioned here earlier, he said, "They have no voice, no choice." Those words struck my wife, Sally. She said, "Remember that in the debate on D.C. and the abortion bill—no voice, no choice."

I understand that the gentlemen and ladies on the other side respond to a call from people who want the primacy of a woman's decision to be above everything else, and you have latched on to that word for about 7 years, I think very wisely, of choice; but the unheard voice of the child in the womb, some of whom are born alive, very few, a small percentage, but it happens.

And remember, since Roe versus Wade, not one doctor in this country, including some who were brought up for trial on manslaughter for strangling a child that they tried to abort dead and came out alive, breathing and crying, one of them in my district got an 11 to 1 hung jury, and then a 10 to 2 hung jury, and the State gave up.

The film that I watched through Ted Turner's financing, called "Abortion for Survival," the most quoted doctor in that film was also brought and convicted for manslaughter for killing a live child after he tried to abort it, and it was overturned by the Massachusetts Supreme Court, but he went through a full trial and the autopsy report said the baby was alive sometime between the time it left the abortion, that is delivery room, and got to the morgue. That is the kind of doctor that they quoted in the film "Abortion for Survival."

Mr. Chairman, Senator DON NICKLES, who offered the amendment in the House/Senate conference committee in September 1988, stated (CONGRESSIONAL RECORD, September 30, 1988, page S 13888):

I want the record to clearly show that the intended legal effect of my amendment is to prohibit any part or subpart of the government of the District of Columbia from expending any funds whatever in furtherance of the performance of abortions, except where the life of the mother would be endangered if the fetus were carried to term.

This language is to be interpreted as prohibiting the D.C. government from expending any funds whatever on abortions, induced surgically or otherwise, or on expenses related to or necessary for an abortion, including laboratory services—preabortion and post-abortion—hospital and nursing services, drugs, anesthetics, and other expenses directly related to an abortion, or administrative expenses directly related to the performance of abortions.

However, these expenses are permitted 'where the life of the mother would be endangered if the fetus were carried to term.' This refers to circumstances in which a physician certifies in writing that a pregnant woman suffers from a grave physical disorder or disease which would, with reasonable medical certainty, cause the death of that woman if an abortion is not performed. All of this is consistent with the well-established scope of the Hyde Amendment to the Labor/DHHS appropriations bill.

I simply want to be sure that the D.C. government does not seek to engage in some attempt to evade the clear intent of this language. It would, for example, clearly violate the intent of my amendment for the D.C. health services program, or any other D.C. government entity, to continue to reimburse providers of abortions with funds obtained from private sources, or from a voluntary tax-checkoff scheme, or whatever, since such mechanisms would obviously require the expenditure of funds which are appropriated within this bill, for administrative expenses and so forth.

FURTHER STATEMENTS OF LEGISLATIVE INTENT FOR FISCAL YEAR 1990 VERSION

Following enactment of the Dornan/Humphrey/Nickles amendment on October 1, 1989, some D.C. officials discussed mechanisms under which D.C. Medicaid Program could continue to provide abortions. For example, both city council Chairman David A. Clarke and city council liaison Richard Clark were quoted in press accounts as suggesting that the city might arrange to have the abortions funded through "private" sources. Although they were apparently persuaded that such action would be inadvisable, if the law is renewed for fiscal year 1990 there may be serious attempts to challenge it. Thus, the fiscal year 1989 legislative history is amended:

Any action taken by agencies, officials, or employees of the D.C. government, to establish any arrangement or system under which abortions would be provided to women with "private" funds, would itself violate the amendment.

Moreover, it would clearly violate the law for the D.C. General Hospital to continue to provide abortions, "except where the life of the mother would be endangered if the fetus were carried to term."

It is possible that some city attorney, uninitiated in abortion-related law, may incorrectly perceive elasticity in the clause "except where the life of the mother would be endangered if the fetus were carried to term." In fact, however, this precise "exception clause" has since 1976 been part of the Hyde amendment, governing the Federal Medicaid Program, which was exhaustively litigated and upheld by the U.S. Supreme Court in 1980. The "exception" applies only to cases in which physicians provide detailed certifications to demonstrate that a pregnant woman suffers from a grave physical disorder or disease which would, with reasonable medical certainty, cause the death of that woman if an abortion is not performed. Under this precise language, the Federal Medicaid Program reimbursed only 84 abortions nationwide during fiscal year 1988. If more than one or two abortions were claimed in a year in a jurisdiction the size of the District of Columbia, it would raise grave questions regarding likely violations of the law.

Mr. AUCOIN. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I yield to my distinguished colleague, the gentleman from Oregon.

Mr. AUCOIN. Mr. Chairman, I appreciate the gentleman yielding to me. I might ask him to yield a couple times, if he would.

Mr. DORNAN of California. Sure.

Mr. AUCOIN. And I would be delighted to give him more time as the various times run out.

It is true, is it not, that under the amendment the gentleman offers to the membership to vote on today that Members have to be recorded, will be recorded, on whether or not under the gentleman's amendment abortions will be denied, funds for abortions will be denied without exception, without exception in the case of the safety and life of the mother, among others; is that correct?

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has expired.

(At the request of Mr. AUCOIN, and by unanimous consent, Mr. DORNAN of California was allowed to proceed for 2 additional minutes.)

Mr. AUCOIN. Mr. Chairman, will the gentleman yield further?

Mr. DORNAN of California. I yield to the gentleman from Oregon.

Mr. AUCOIN. Mr. Chairman, does the gentleman think that is fair?

Mr. DORNAN of California. Number one, the direct answer to the gentleman's question is that I do not know. Last year, the gentleman from California [Mr. DIXON] will recall that I accepted it on a voice vote, so I do not know.

Mr. AUCOIN. Well, I am reading the gentleman's statement.

Mr. DORNAN of California. But if we were to have a recorded vote, the gentleman is absolutely correct. Members would be technically on its face voting on the clean language that is required by parliamentary procedure that no funds for abortion, period.

Mr. AUCOIN. Mr. Chairman, will the gentleman yield further?

Mr. DORNAN of California. I yield to the gentleman from Oregon.

Mr. AUCOIN. Members then, Mr. Chairman, will make a record by their votes on this issue that in voting for an amendment that denies funding for abortions, even without the exception giving protection when the life of the mother is at stake?

Mr. DORNAN of California. May I respond?

Mr. AUCOIN. It is the gentleman's time.

Mr. DORNAN of California. The gentleman is once more correct; however, every prolife voting Member in this House has been called on to do that at least twice before because of parliamentary procedure, and not one of them has ever come up to me and said he was ever called to an account-

ing for that in his district where he was not able to easily dismiss it by saying he knew it would be corrected in conference, and it was.

Mr. AUCOIN. One other question, if I may.

Mr. DORNAN of California. Yes.

Mr. AUCOIN. I am looking at line 19 of the bill, from line 19 to 22 of the bill, which the gentleman also strikes with his amendment. The way I read that, the gentleman strikes funding for contraceptive devices.

So is it also then true that Members in voting for his amendment would be making a personal record that they oppose funding of contraceptive devices; is that not correct?

Mr. DORNAN of California. May I answer with a slight amplification. Technically again, the gentleman is correct, except there is a division in the minds of I believe a majority in this House between an abortifacient and simply a pill that stops conception. We will be debating that, I predict without fear of contradiction, for the rest of our lives in this House. If there is a potential JAMIE WHITTEN in this Chamber who is going to be here for 40 years, we will debate that on foreign aid, on the RU-486 pill from France, only two countries have approved that so far, we will be debating it on the China policy probably into the next century.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has expired.

(At the request of Mr. AUCOIN, and by unanimous consent, Mr. DORNAN of California was allowed to proceed for 1 additional minute.)

Mr. AUCOIN. Mr. Chairman, will the gentleman yield to me one more time?

Mr. DORNAN of California. Yes, I yield to the gentlemen from Oregon.

Mr. AUCOIN. Mr. Chairman, I appreciate the gentleman explaining explicitly what is in his amendment.

I would ask the gentleman only one other question, and that is this. How do the people of this country judge what the Members of this body believe in if not through their votes, by record vote, on language presented to them with the "i's" dotted and "t's" crossed exactly as presented to them? On what fair basis do they have to vote on to be held accountable?

Mr. DORNAN of California. That is a fair question, posed more rhetorically, so for the remainder of the minute I will be glad to yield to my friend, the gentleman from New Jersey, who has worked this abortifacient versus regular birth control issue, which this Member does not care, that is her conscience, but the abortifacient issue is something else.

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, I would ask the gentleman, if he would, and hopefully the gentleman from Oregan [Mr. AUCOIN] and other Members who do not support our position on this, if they would not object to an unanimous-consent request which would restore the life of the mother exception. I would hope the gentleman would make it and nobody on that side of the issue would object. Then we would have a clearup or down vote on the Hyde type language.

Mr. AUCOIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the pending amendment. And I urge my colleagues, for a whole range of reasons that other speakers will get into, to defeat the Dornan amendment.

I just want to say the following things to my colleagues, as they consider this amendment:

This is the first congressional vote on abortion and the right to choose since the Supreme Court decision on the Webster case. The first vote by the House of Representatives, the people's representatives, since the women of American learned that the Supreme Court will no longer be there for them in protecting their right to freely exercise their conscience on the most private, sensitive, and tormenting decision a woman can ever conceivably be called upon to make.

And so a new political era begins right now, friends.

Right now with this debate and with this vote. Those of us who defend a woman's freedom of choice are drawing a line in the sand today, a line of decency, a line of fair play—and a line of serious politics.

We are saying if you cross that line, if you step into the privacy of individuals, if you violate that privacy, if you support the Dornan amendment and amendments like the Dornan amendment that may be offered later in this Congress, it is not a free political ride any more.

□ 1640

If you vote for those amendments, you will be held accountable in ways you have never dreamed possible at ballot boxes all over this country. The prochoice movement is mobilized. And from this day forward it is going to take names and kick ankles.

We recognize that this fight will be a long, tough struggle, but we are in it until every woman in this country has the right to freely choose an abortion or to freely choose not to have an abortion.

It is going to be a war fought in every precinct, in every district, in every State of this Union. And, my friends, it is a war that revolves around one simple question: Who decides? Who decides? Who decides the most personal, the most private, the most tortuous decision a woman could ever possibly encounter?

The author of this amendment, the gentleman from California [Mr. DORNAN], says that the state should decide. The power of the state, he says, should be used to stifle the free exercise of individual conscience on the part of American citizens.

The author of this amendment, the gentleman from California [Mr. DORNAN], has told us that he is the father of three daughters. I am the father of a daughter. And I remember asking one of the antiabortion colleagues of the gentleman from California [Mr. DORNAN], who also is the father of a daughter, what his attitude on abortion would be if, God forbid, his daughter were raped.

Should she be forced to have the rapist's child? Do you know what that Member told me? He said he and his wife would sit down with his daughter, the three of them, and they would make a decision to minimize the pain of her ordeal.

But notice this: He was talking about a private decision on their part, not one most Americans would choose, I daresay, but a personal decision that they would make on that question.

Let us make it clear. The prochoice community and this Member of Congress, who is prochoice and proud of it and profamily as well, the prochoice community would not argue with that antiabortion Member's daughter's choice to produce the rapist's child. We would not argue with that.

The CHAIRMAN. The time of the gentleman from Oregon [Mr. AUCOIN] has expired.

(At the request of Mr. GREEN and by unanimous consent, Mr. AUCOIN was allowed to proceed for 5 additional minutes.)

Mr. AUCOIN. But Mr. Chairman, we do argue with politicians like the gentleman from California [Mr. DORNAN] and others who would impose their view on every woman in America through the use of the power of the state.

Who decides?

Who decides? That is the question.

I want to tell the Members something, that if the nightmare that I just described would ever happen in my family, I would not want my daughter's fate to be decided by the 435 Members of this House of Representatives, or by any State legislature in this country.

The gentleman from California [Mr. DORNAN] does not seem to mind in the case of his own daughter, but I mind very much.

I want my daughter's fate decided by her conscience, by her judgment, by her morality, and by her good sense, and I do not think the Government or

Mr. DORNAN or any of you have any right telling her what to do.

That is the difference. That is the issue.

Those of us who are for a woman's right to choose did not ask for this fight. We did not ask for it. We are willing to let antiabortionists make their own decisions. The trouble is they refuse to let other people make their own private and personal decisions. They insist on the use of the power of the state, the whims of politicans gathered here or gathered in State legislatures, to impose their views on everyone else.

Over the last few years we all know that they have been winning. They might even win today. Maybe so. But mark my words, friends: This is a skirmish. It ain't the war. The war we will win.

It starts today by taking the names on the rollcall vote that is going to follow at the end of this debate. And all across this country the names of antichoice Members will be known, and all across this country the newly energized prochoice movement is going to say to supporters of amendments like this, "If you are antichoice, when we, the voters, go to the ballot box, we will not choose you."

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I am happy to yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I was very much struck by the gentleman's comment that this is the first time we are going to be voting on abortion since the Webster case.

The Webster case was not decided as I would have liked to have seen it decided, but plainly the trend the Webster case was indicating is that the Supreme Court is going to give people at the State level more ability to regulate and deal with the abortion situation. That is why it seems to me that the home-rule aspect of what we are being asked to debate today is so important. Because when the gentleman from California talks about "no voice, no choice," what he is saying is that the people of the District of Columbia shall have no voice and no choice, because we are going to step in and take away their right to make decisions that we promised them they could make under home rule.

I think it is important, whatever a Member's views on the choice issue at large, that antichoice Members recognize that if the trend of the Supreme Court decisions continues as you want it, then you really owe it to the people of the District of Columbia to give them a voice, to give them a choice on this issue by voting down the amendment of the gentleman from California.

Mr. WEBER. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I am happy to yield to the gentleman from Minnesota.

Mr. WEBER. Mr. Chairman, I just wanted to clarify just the gentleman's argument that it is a private choice. I just wondered if the gentleman believes that all moral questions are individual choices.

Mr. AUCOIN. I do not think I need to get into that question.

Mr. WEBER. That is the gist of the gentleman's argument in this case. I just wanted to ask if that is his principle.

Mr. AUCOIN. My point on this is that I may or may not differ with the gentleman on his view of what is generally moral. But on this question of such sensitivity, such debate, such controversy, such division in this country I do disagree with him. The gentleman can take his choice and run with it, impose it on his family if he will. If he believes that way, fine. But he should not push his choice over on me or my daughter or on any other woman in this country who does not happen to agree with him. That is what the issue is.

Mr. WEBER. Mr. Chairman, will the gentleman yield further?

Mr. AUCOIN. The gentleman has my answer. I yield back the balance of my time.

The CHAIRMAN. The time of the gentleman from Oregon [Mr. AUCOIN] has expired.

Mr. DIXON. Mr. Chairman, I, after talking with the gentleman from New Jersey, would ask unanimous consent that on the Dornan amendment, and any amendments thereto, 40 minutes be established for that debate, to be divided equally between the pro and con of that amendment. That would allow 20 minutes on each side.

The CHAIRMAN. The Chair understands that the gentleman from California [Mr. DORNAN] would control the time in opposition.

Mr. DIXON. That is agreeable. I will be beat up on for more time, but that would be agreeable, and the gentleman from New Jersey [Mr. GALLO] would control the 20 minutes over there. The gentleman from California [Mr. DORNAN] would control the time over there.

Mr. GALLO. Mr. Chairman, I would ask that the time be controlled by the proponents of the amendment.

Mr. DIXON. Mr. Chairman, I believe this is agreeable with the gentleman from California [Mr. DORNAN]. I discussed it with him.

The CHAIRMAN. Is there objection to the request of the gentleman from California [Mr. DIXON]?

There was no objection.

The CHAIRMAN. Therefore, all the debate will end on the Dornan amendments and amendments thereto within 40 minutes, equally divided between the gentleman from California [Mr. DIXON] and the gentleman from California [Mr. DORNAN] 20 minutes on each side of the debate.

Mr. GONZALEZ. Mr. Chairman, I have an amendment to the Dornan amendment.

The CHAIRMAN. The Chair does not recognize the gentleman at this point under the time limitation. The gentleman from Texas will be recognized later during the debate.

PARLIAMENTARY INQUIRY

Mr. DIXON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DIXON. Mr. Chairman, I did not know if the Chair ruled on my unanimous-consent request.

The CHAIRMAN. The Chair heard no objection, so the 40-minute time limit is in effect right now.

Mr. DIXON. I thank the Chair.

□ 1650

The CHAIRMAN. The gentleman from California [Mr. DIXON] will be recognized for 20 minutes, and the gentleman from California [Mr. DORNAN] will be recognized for 20 minutes.

PARLIAMENTARY INQUIRY

Mr. PARRIS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. PARRIS. Mr. Chairman, I wonder if the gentleman from Texas has copies of his amendment? We do not have copies on this side of the aisle apparently.

Mr. DORNAN of California. Mr. Chairman, I have a copy and would like to reserve a point of order.

The CHAIRMAN. The Chair would advise the gentleman from California that the amendment has not yet been offered.

Mr. DORNAN of California. Mr. Chairman, I withdraw my point of order.

Mr. PARRIS. I thank the Chair.

Mr. DORNAN of California. Mr. Chairman, I yield myself 30 seconds to open the debate.

Mr. Chairman, during the debate on limiting the use of tobacco on aircraft in the United States, of which I am a strong proponent, the distinguished gentleman from Illinois [Mr. DURBIN] said when it comes to questions of life and death, there is no more important vote. I agree with those words, and that is why I think this is an important debate coming up.

For those people who change on this issue and have had to suffer the results of a drastic change, like the Reverend Jesse Jackson, the gentleman from Missouri [Mr. GEPHARDT], the gentleman from Massachusetts [Mr. MARKEY], Senator GORE, a former colleague of ours, and those are partial changes, or those of my religious denomination like the Governor of New

York, the former Governor of California, Jerry Brown, our former colleague, Gerry Ferraro, or a current Senator, JOSEPH BIDEN, I would ask people in this House to follow the debate carefully and not change.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in behalf of the gentleman from California's amendment. This is a particularly tough issue for everyone, whether we are Democrat or Republican, but particularly tough for those of us who are Democrats, because the national party has made this a fairly strong test of just where we fit into the spectrum of thinking on our side of the aisle.

There was very little sympathy, I guess, extended by the chairman of our party to a letter sent by, among other people, the gentleman from New York [Mr. LAFALCE], asking that there be some debate within our party on this entire issue. We were pretty well told that that was not an option.

So for those of us who are Democrats taking a position on the amendment offered by a Republican is very difficult, but I think the substance here warrants our being for it.

I think all of us would wish that this issue would not come up as often and in the context in which it comes up. It is extremely difficult, but until the Roe versus Wade decision is thoroughly abolished, and until this question is totally returned to the States, this will come up, and we have to grasp this nettle periodically, and today is the day when we have to do it.

I completely agree with what my friend, the gentleman from Oregon [Mr. AUCOIN] said. This is a vote on which we will be scored. Clearly and unequivocably, there will be people at home in our home districts who will know exactly where we stand, clearly.

I think all of us would wish this amendment were more sophisticated in the sense of having an exception for the life of the mother. Unfortunately, parliamentary procedure does not permit it. We have to go the entire prohibition. Once again, I think that could be cured in the context of a conference.

This is the first vote this House will cast, any Federal parliamentary body will cast since the decision of the Supreme Court in the Webster case. It is, therefore, extremely important that the House continues to demonstrate its belief that Federal funds and any funds controlled by Congress ought not be spent to procure abortions, whether it is in a State or whether it is in the District of Columbia, or whether it is in a Federal setting.

This is an issue which divides friends. It is an issue which divides political allies. It is an issue which divides people who are usually together on the issues. However, I think the high level of the debate, and I think the gentleman from California [Mr. DELLUMS], was an important part of that, and the gentleman from California [Mr. DORNAN], this debate is on a high plane and high level and I think, therefore, we can come together once the debate is over.

Mr. Chairman, I just urge the House, and particulary my colleagues on the Democratic side of the aisle to vote for the Dornan amendment. It is certainly a step in the right direction toward protecting life.

Mr. DIXON. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. GONZALEZ] for the purpose of offering an amendment if that is in order at this point.

AMENDMENT OFFERED BY MR. GONZALEZ TO THE AMENDMENT OFFERED BY MR. DORNAN OF CALIFORNIA

Mr. GONZALEZ. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ to the amendment offered by Mr. DORNAN of California:

At the end of the amendment insert the following:

On page 23, line 22, insert after the period: "In addition to any other Federal funds provided in this Act, there is appropriated to the District of Columbia a Federal payment for providing each woman who, because of the first sentence of this section, is unable to obtain an abortion and gives birth to a live child, with a stipend of $1,000 for each month such child is alive and living with the woman, except that no such stipend shall be provided with respect to such child for any month beginning after the date on which the child reaches 18 years of age. The father of any child with respect to whom a payment is made under the previous sentence shall be responsible for contributing to the care and support of the child.".

POINT OF ORDER

Mr. DORNAN of California. Mr. Chairman, I make a point of order because I believe this is legislating on an appropriations bill, and I think it imposes additional duties on the executive branch. It is interesting, and could probably find a different forum and stimulate an excellent debate.

The CHAIRMAN. The gentleman from California has made his point of order. Does the gentleman from Texas [Mr. GONZALEZ] desire to be heard on the point of order?

Mr. GONZALEZ. I certainly do, Mr. Chairman.

In the first place, it is kind of ironical that a point of order should be advanced on the basis the gentleman does, when the very principle involved in an appropriation bill is in advocating this type of an amendment beginning with the first so-called Hyde amendment, is a violation of the rules. It is exercising legislative prerogatives on an appropriation bill.

I remember when this debate first started back in the 1970's, that the rules of the House were set aside because everybody was scared stiff of the Hyde amendment.

Now all I am offering is a perfecting amendment to his amendment. How can it be violative of any form of procedure? All I say is Members ought to realize that Roe versus Wade is still the law of the land. Webster has not superseded Roe versus Wade.

Second, there is an old English saying that says man to man is oft injustice, to woman always. I have seen this illustrated by the charitable remarks made just earlier this afternoon by the gentleman from California about the pitiful sight of these unfortunate street women, paraded by police across the District line. What a horrible blot on our country.

Now all I am saying is all right, if we are going to mandate that the poorest of the poor shall not have the means to exercise the right they have under Roe versus Wade, then by golly if they bear that child, let the State provide $1,000 a month for that child until he or she is 18 years of age. I think that that certainly falls within the rules of common sense, if not the rules of the House.

The CHAIRMAN (Mr. COOPER). The Chair is prepared to rule.

The Chair sustains the point of order made by the gentleman from California [Mr. DORNAN]. The amendment is clearly legislation on an appropriation bill and cannot be considered at this point.

Mr. GONZALEZ. Mr. Chairman, this Member will advise the Chair that he is respectful of the ruling. He will not do what was done yesterday by the minority, and that is appeal the ruling of the Chair.

Mr. DIXON. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I have opposed Federal funding of abortions, and I have consistently voted for this amendment. But today I will oppose this amendment.

For two successive years I have asked the gentleman from California [Mr. DORNAN] one question during this debate, to explain one basic inconsistency.

The gentleman from California opposes the policy of the the District of Columbia government, which allows it to spend its own funds on abortion. Because the District of Columbia spends its own tax revenues on abortion, the gentleman from California seeks to prevent the District of Columbia from receiving any Federal funds.

The purity of the gentleman's argument is suspect, because of one indisputable fact. The District of Columbia

is not the only unit of local government that spends its own funds on abortion. There are 17 States that have the same policy, and they include the gentleman's home State of California.

□ 1700

Despite acknowledging this inconsistency, the gentleman applies this standard to the District of Columbia and not to his home State. I have never heard the gentleman offer a single amendment in the 2 years that we have been debating this, to penalize the State of California or the State of New Jersey or the State of Pennsylvania one penny because they spend their own State funds on abortions.

Now what is the difference between an abortion in California and an abortion in the District of Columbia? I suspect from the gentleman's moral viewpoint, very little. But politically there is a big difference. The District of Columbia is poor, California is not; the District of Columbia is predominantly populated by minorities, California is not; the District of Columbia has no U.S. Senator, no voting Congressman, California has plenty of each; the District of Columbia is not a sovereign State, California is.

So the difference between the two is political and not moral.

Let me add since the Webster decision the new burden of regulating abortions will fall on the shoulders of the States. We can expect an avalanche of State laws prescribing in each jurisdiction the circumstances under which abortion will be allowed.

Until this Congress is prepared to accept the role of final arbiter on each State's response to the Webster decision, until we are prepared to say that if we disagree with each State's decision we will cut off Federal funds in response, I would suggest we stop, think twice and formulate a policy which we can follow in light of Webster.

When the gentleman is prepared to cut off funds to his own home State of California for the same local abortion policy, then I would view his efforts as consistent. Until then I will oppose this amendment. It is discriminatory, morally selective, and a sad commentary on the depths we can reach in Congress in perpetuating a plantation relationship with the residents of the District of Columbia.

Mr. DORNAN of California. Mr. Chairman, controlling the time is a great luxury. I yield myself 30 seconds to respond to my good antismoking colleague from a prolife State.

If the gentleman will help me find a way, fully knowing that the District of Columbia is a Federal enclave where California is 1 of 50 States with full rights thereunder in that same Constitution, if he will help me find a way to stop State funds from killing children whose parents come from any means in the State of California, I will be glad to proceed along that path. And I think he doth know that to be true.

Mr. DURBIN. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from Illinois.

Mr. DURBIN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman will have a chance tomorrow.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has expired.

Mr. DORNAN of California. Mr. Chairman, I yield 5½ minutes to the distinguished gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman from California for yielding time to me.

Mr. Chairman, I rise in support of the Dornan amendment to the D.C. appropriations bill—this amendment simply continues current law as it relates to public funding of abortion.

The language of the amendment which has been approved time and time again by this House, stipulates that no appropriated funds—that is to say, Federal or local city funds—can be used to subsidize abortion.

Prior to enactment of this rider into law last year, the D.C. govenment paid for abortion on demand. In a letter to Senator HUMPHREY dated May 8, 1989, Lee Partridge, chief, office of health care financing for the District said:

> The type of abortion provided is based on the judgment of the medical practitioner. There are no requirements for a recipient to justify her decision to have an abortion.

In 1986, for example, that meant that the city paid $1.6 million to destroy 3,599 unborn babies for any reason whatsoever. Abortion has become so commonplace in the District, that during that same year, 49 percent of the women procuring abortions admitted one previous abortion while 19 percent reported two or more abortions. Clearly, abortion has become, for many, just another form of birth control.

Here in the District, I'm sorry to say, as elsewhere, any number of rich, fat act abortionists earnestly ply their poisons, knives, and curettes in the sordid practice of killing for profit. In 1 year alone, according to D.C. government documents, one abortionist raked in over $41,000 in taxpayer moneys for abortions, while others made $20,000 and more. So-called family planning clinics and hospitals made hundreds of thousands. Today we have the opportunity to at least deny Government largess to these merchants of death.

The District of Columbia, it seems to me, has not one but two outrageously high homicide rates. First there is the killing and maiming in the streets, often drug related, that has attracted nationwide publicity, attention, condemnation, and concern. This senseless violence is recognized for the tragedy that it is. Few there are who will defend it.

But the second homicide rate, the homicide of hundreds of thousands of infants—about 408,476 abortions from 1973 to 1987 according to D.C. government statistics—sadly evokes much less attention, much less concern or condemnation. And some will stand here today and not only turn their backs on these homicide victims, but they will actually demand that the Congress underwrite a portion of the killing. They will tell us that in the name of home rule, we must authorize payment.

It is clear that some are not satisfied with this holocaust of innocents—about half a million young lives snuffed out in our Nation's Capital—they say taxpayers must pay for it. To that, Mr. Chairman, we emphatically say "no." Women, their babies, the family, all deserve more compassionate expenditure of tax dollars that that.

And you know, Mr. Chairman, I truly believe the time is coming when the big lie and a legion of lesser lies cleverly promoted by the abortion industry will be exposed and discarded by Americans. I have little doubt that it will happen. The question is when. Ignorance and deception can only thrive for a season, and the Webster decision has, I believe, helped foster the long awaited debate and intense scrutiny the abortion issue deserves.

We are already seeing the first winds of change, Mr. Chairman. In poll after poll, the American people confirm that they are opposed to abortion on demand, opposed to abortion as a method of birth control, and opposed to using tax dollars for abortion. And yet this is exactly what will happen if the Dornan amendment is defeated.

And Mr. Chairman, it is only logical that as Americans become more aware of abortion methods and practice, of the huge profits reaped by the industry, and of the long-term effects abortion has on mothers, fathers, and the family they will become more vocal in their opposition to abortion as a solution to problem pregnancies. The pendulum is slowly beginning to swing.

To be sure, I am pleased that we are having this debate. I sincerely hope this is only the beginning, and that more debates follow. The more light, the more scrutiny brought to bear on the issue, the better.

Americans, I believe, are a kind, compassionate people who will react with revulsion when they finally confront the gruesome nature of abortion procedures—poison shots that chemically burn and destroy the infant, suction machines with loop-shaped knives

attached that literally pull apart the body of the child, or dismemberment in the D&C or D&E method.

I urge my friends who support the so-called "Right to Choose," especially those who may feel locked in politically, to reconsider what it is you are supporting. To change one's position in light of new or perhaps unfocused upon information or data on the issue is the hallmark of the open-minded and intellectually honest person. And it requires no small measure of courage.

In revisiting this issue, I suggest my colleagues look closer at abortion procedures. After all, that's what it's all about. In many abortions, a loop-shaped knife attached to a high-powered suction device rips and shreds the unsuspecting child to pieces. The body parts are then vacuumed into a bottle and disposed of. This is euphemistically referred to as vacuum aspiration. Most abortions in the District are done this way.

In the dilation and curatage and dialation and evacuation abortion, the child is cut, sliced, and carved by a surgeon's scalpel without even the benefit of anesthesia. One of the most frightening jobs required of assisting nurses is to make a full and thorough accounting of all body parts in a D & C and D & E abortion. I have seen documented pictures of children who have been killed this way—decapitated, ribcages split open, arms and legs a pathetic jumble—and I came away deeply upset. And believe me, I marveled then and now that some Members of this body, Members for whom I have respect and affection, could deny the homicidal nature of abortion and go on to even assert that the extermination of the unborn can somehow be construed to be enlightened, progressive policy?

In saline abortions, Mr. Chairman, usually done in the second trimester, the unborn baby has his or her life purposely snuffed out by an overdose of injected saltwater.

A baby terminated in this way dies a very slow, excrutiating, painful death. After the salt is injected by a hypodermic needle into the infant's amniotic sac, the child breathes in the fluid and gets sick. The salt burns the outer layer of skin on the child. Internally, the baby's bloodstream carries the poison to his or her brain, nervous system, and vital organs. After a 1½ to 2-hour futile struggle, the baby usually dies. A day or two later the mother goes into labor and gives birth to a baby whose appearance resembles a first degree burn victim.

Mr. Chairman, I urge Members on the other side of the issue to reconsider your support of abortion on demand. Even if you don't join us in supporting the Dornan amendment today, please take a fresh look at the issue.

The CHAIRMAN. The gentleman from California [Mr. DORNAN] has 11½ minutes remaining, and the gentleman from California [Mr. DIXON] has 18 minutes remaining.

Mr. DIXON. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, the Republicans say there are too many abortions in the District of Columbia, and I agree. Therefore, I assume the gentlemen support family planning in the District of Columbia. But, no, they strike the language on line 19 and line 20 which permits payments in the District of Columbia for family planning and contraception.

I wonder if the gentlemen understand what an ectopic pregnancy is. It is a pregnancy outside of the uterus, which is extraordinarily dangerous to the mother. The tubes explode, there is massive pain and hemorrhaging. It is excruciating, and it is followed usually by death.

Do the gentlemen feel an exception should be made for that? No. They strike the language that makes an exception on line 21 and line 22. They would not allow funds to be used to terminate an ectopic pregnancy.

I want my colleagues to understand, whatever their view on this, that the gentlemen's amendment is radical. It prohibits not only Federal funds but local D.C. funds for contraception ad abortions, making D.C. the only city in America subjected to big brother ROBERT DORNAN.

□ 1710

It prohibits a woman from getting an abortion even when her life is at stake, even if she has an ectopic pregnancy that results in pain or poison or death. It prohibits abortion in cases of rape, where a woman is forcibly violated by a sick and demented person. It prohibits abortion in cases on incest, where a woman may be a very young woman and is violated by a man that she once trusted. That is a nightmare that Big Brother DORNAN and big Brother SMITH want her to go through.

I do not take the answer that this be fixed in the Senate. We are judged on what we vote. I say, leave the committee hang as it stands. I have to tell Members something, the committee language is to restrictive for me. The gentleman from Illinois [Mr. HYDE] wrote it in 1980. I hope, HENRY, that you are feeling better, because we miss you in this debate.

I say keep this language that the committee has before us. It is prolife of the mother, and that is important, my friends.

Mr. DORNAN of California. Mr. Chairman, this is a point in time when I would yield to the gentleman from Illinois [Mr. HYDE] for a unanimous-consent request to restore his language. Instead, I will yield 1 minute to my other "Big Brother" from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, let me just say that when history records the giants of the 1980's in this House, it will not be people that speak for arms control, it will be to people like the gentleman from California [Mr. DORNAN] and the gentleman from New Jersey [Mr. SMITH], who have waged a very important campaign to bring about respect for human life. I just want to say thanks to them for what they have done.

I know we are going to restore the life-of-the-mother exception in conference. Let me just say to the gentlewoman who just spoke, that very simply, it is a certain thing that the rigors that the unborn child goes through occur on every single abortion that is executed, but that, certainly, the millions of abortions that have taken place have not involved life of the mother being in danger. We know the gerat majority of them have taken place under other circumstances. Many, in fact, take place for convenience.

Mrs. BOXER. Will the gentleman yield?

Mr. HUNTER. I yield to the gentlewoman from California.

Mrs. BOXER. Does the gentleman oppose legislation which would protect the life of the mother?

Mr. HUNTER. The gentleman opposes the millions of abortions that have taken place.

Mrs. BOXER. If the gentleman will further yield, is the answer yes or no?

Mr. HUNTER. Yes. The answer is "Yes."

Mr. DIXON. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Mr. SLAUGHTER of New York. Mr. Chairman, I rise in strong opposition to this amendment. I do not think there is anything worse in this country for women than to watch men in blue suits debating this issue. I think it is very important that the women see some of the female Members of this institution stand up for them.

This amendment is even worse than other amendments that we have on this issue because this one says that the right of women in the District of Columbia shall be abridged simply because they are poor; that they have no right to determine what is best for themselves and for their families. This amendment is just a continuation of the dumping on women, the punishing of women and trying to save the poor thing from herself.

In the United States there are between 500,000 and 750,000 homeless children. Babies are left in garbage cans. Children are living in shelters and foster homes. Children are sleeping in the back of their parents' cars,

searching for that day where a hot meal is going to be served. How unconscionable that we talk about a Federal policy here, ignoring the needs of those children, and yet, take inordinate amounts of pains and care about whether the very essence of a woman's decision or what is best for herself, her family, and indeed, her own reproductive choices.

In pressing this amendment, the only choice that some Members of this House would leave for women is the choice again to go back to the unsanitary, unclean, unspeakable conditions that existed before Roe versus Wade, and make no mistake about it. That is a choice that many of them would make. We are more enlightened than that. We owe more to the women of America than that. The pro-family decision, the pro-family stance here is to also stand up for the rights of parents to decide their fate. I urge the defeat of this amendment.

Mr. DORNAN of California. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. SMITH].

REQUEST TO MODIFY AMENDMENT OFFERED BY MR. DORNAN OF CALIFORNIA

Mr. SMITH of New Jersey. Mr. Chairman, I ask unanimous consent that after the word "abortions" we add the following new language, "except where the life of the mother would be endangered if the fetus were carried to term."

Mr. FRANK. Mr. Chairman, reserving the right to object, I would like to ask this of my friend, the gentleman from Texas, whom I admire greatly, offered an amendment. The gentleman from California raised a point of order against it. If they are now seeking to have the rule set aside so that amendments can be offered even though they are not in order, do they want to extend the same courtesy to the rest of the Members, and to the amendment of my friends, the gentleman from Texas?

I yield to the gentleman.

Mr. SMITH of New Jersey. Mr. Chairman, I make the point to the gentleman that this language is germane to this amendment. The amendment is an amendment to be considered on the Hyde amendment, on this language itself, I would hope, since several Members on that side indicated a concern on this issue.

Mr. FRANK. Mr. Chairman, I take back my time. I ask for regular order, to ask whether or not the courtesy being asked to the non-in order proposal would be extended to the gentleman from Texas?

I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Chairman, I am willing to accept, on a trade, our unanimous-consent request for the Gonzalez amendment.

Mr. FRANK. Mr. Chairman, why did the gentleman object when the gentleman from Texas offered his amendment?

I yield to the gentleman from California.

Mr. DORNAN of California. Because this is the current language, and I think thee dost know that. This is the current language in this bill.

Mr. FRANK. Mr. Chairman, I am struck that my friend's language appears to be regressing to the period of his political thought. So the point I raise is, the gentleman from Texas made a request that was objected to, and it seems to me if people are going to not object at one point, they should not object at the other. Others may want to make objections.

Mr. DORNAN of California. If the gentleman will further yield, we accept. We accept.

PARLIAMENTARY INQUIRY

Mr. DIXON. Mr. Chairman, reserving the right to object, first of all, I have a parliamentary inquiry. I have not seen the amendment. I could not object even if I wanted to. The amendment has not been served on this side.

The CHAIRMAN. Is there consent to modify the amendment? Is there an objection to the unanimous-consent request?

Mr. DIXON. Reserving the right to object, would the gentleman state again the amendment? I have not seen the amendment. I have no knowledge of the amendment.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read the modification, as follows:

Modification offered by Mr. SMITH of New Jersey to the amendment offered by Mr. DORNAN of California: Page 23, line 13, strike "Federal".

Page 23, line 16, strike the semicolon and all that follows through line 22 and insert a period.

Mr. DIXON. Mr. Chairman, reserving the right to object, the gentleman from California [Mr. DORNAN] and I have entered into an arrangement. I think he feels I have abided by this arrangement. He did not offer this language because he knows it is subject to a point of order. Therefore, I object.

The CHAIRMAN. Objection is heard.

The gentleman from California [Mr. DORNAN] is recognized.

Mr. DORNAN of California. Mr. Chairman, let the record show that my distinguished friend objected honorably. Others, honorably, used it as a device.

Mr. Chairman, I yield 2 minutes to a distinguished colleague from the land of my birth, the gentleman from the great State of New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, I think it is unfortunate that we could not have had the amendment before Members that was offered by Mr. SMITH and therefore, if arguments are made against the wording of the Dornan amendment, I think they would have to be viewed by many as very disingenuous.

I would also point out that abortion is and ought not to be a partisan issue. There ought not to be a Democratic perspective on it and a Republican perspective on it. There was not when I started out in politics. I do not think there is in the electorate at large.

□ 1720

Second, I point out that there is a big difference between abortion and the financing of abortions. The Supreme Court rendered its decision on Roe versus Wade in 1973. The same Supreme Court in 1977 discussed and ruled on the issue of the financing of abortions and said there is no fundamental right to the financing of abortions.

What ought the civil law to be? Well, many argue that, first of all, it is beyond the competency of legislative bodies to act in the area of abortion now because of Roe versus Wade, and even if it were within their compentency, legislatures should not, given the divisiveness within our society concerning it. Government, they argue, should be neutral.

If government should be neutral, I would argue that a necessary corollary of that neutrality with respect to abortion should also exist with respect to the financing of abortions. If government is going to refrain from the issue of addressing abortions, it should refrain from the financing of abortions.

A good many individuals have problems with that, but that is simply what the law of the land has been in the United States from 1776 to the present. This has been the law of the land pursuant to votes here in the House of Representatives and the Senate on a rather bipartisan basis. Between one-third and 40 percent of the Democratic Members of the House of Representatives year in and year out have voted in support of an amendment of this nature.

This is nowhere near reflective of the sentiments of the electorate because while the electorate may be fairly split on the issue of abortion, they are not that split on the issue of the financing of abortions. A majority of the electorate is opposed to the financing of abortions, and that is the issue we are discussing right now.

Mr. Chairman, I urge my colleagues, whether Democratic or Republican, to recognize that on this very divisive issue the best approach for government is not to become involved in it and, therefore, not to become engaged in its financing.

Mr. DIXON. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. McDERMOTT].

Mr. McDERMOTT. Mr. Chairman, I rise in strong opposition to the Dornan amendment.

By considering this proposal today, we are meddling in something which is clearly none of our business.

As a physician, I believe we are engaging in the worst kind of public policy. We are talking about the lives and well-being of thousands of women. Decisions on appropriate health care should be made by public health officials in local communities. These decisions should be based on the needs of individual human beings in ways that reflect the values of their local community.

And as a Congressman, I believe we are engaging in the worst kind of politics. The citizens of Washington, DC, deserve the same treatment as citizens in the 50 States. Since the Supreme court held in 1989 that Congress cannot tell the 50 States to stop spending their own money on abortion, we have no right to deny the citizens of Washington, DC, that same right.

Today we have the responsibility to allow local health officials to set policies that address the medical needs of their citizens. Thirteen States, including my State of Washington, have chosen to ensure equity in the administration of their Medicaid Programs. This is an issue of equity in health care—health care which is desperately needed in the District.

I urge my colleagues to oppose this amendment.

Mr. DORNAN of California. Mr. Chairman, again this is another time when I need the "Doctor of Jurisprudence," the gentleman from Illinois [Mr. HYDE], but I have another distinguished gentleman who will carry on for us. Therefore, I yield 1 minute to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I want to answer the gentleman who just stated that this is none of our business. I have here an article to which I call the Members' attention from my home town of San Diego, and the article is entitled "Doctor's Abortion Business Is Lucrative."

According to the article, Doctor Allred, who is an abortionist and who has many clinics and has become a millionaire in San Diego County from performing abortions, has stated, "I love to work very hard," and he said also that he may open a clinic in Calexico to "help stem the Hispanic tide" into the United States.

He has made several statements about the importance of "stemming the Hispanic tide" and fighting "right wing pro-life types."

I want to quote what he said here. He said:

> Take the new influx of Hispanic immigrants. Their lack of respect for democracy and social order is frightening. I hope I can do something to stem that tide; I'd set up a clinic in Mexico for free if I could. Maybe one in Calexico would help. The survial of our society could be at stake.

The CHAIRMAN. The time of the gentleman from California [Mr. HUNTER] has expired.

Mr. DORNAN of California. Mr. Chairman, I yield 30 additional seconds to the gentleman from California [Mr. HUNTER].

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. When I conclude, I will be glad to yield to the gentleman from Texas.

Mr. Chairman, I simply ask my friend who just spoke, what type of consultation does a young Hispanic immigrant wife or mother or young lady have when she enters one of the Dr. Allred's clinics, whether it is in Calexico or in San Diego, where he feels he needs to stem the Hispanic immigration by having abortion clinics operating nearby at ports of entry?

Mr. Chairman, I disagree with the gentleman when he says that this is none of our business.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I just wanted to advise the gentleman that he should disabuse this doctor of any fear. We Hispanics have the birthrate of any who are coming up.

Mr. DIXON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, this debate is about control. The other side cannot control the debt, they cannot control drugs, they cannot control crime, but they have decided they can control women, women in the District of Columbia.

Let us look at the language they are taking out. They are taking out language that would allow women to have birth control pills. They are not saying they think those are abortions, but, yes, they are. In the debate they keep talking about all these other things, but the language they strike is for drugs or devices to prevent implantation. That is an IUD or a birth control pill, or it could even be a morning-after pill, although I doubt that would qualify.

We are not talking about anything that is novel. We are talking about what in every other State in the Union will be perfectly legal. This is an outrage. It also is talking about rape and incest. They do not care about that either apparently. They talk about victims, but they do not care about women as victims.

Let us point out what has been said here before. Many here have been celebrating the Webster case. They say, "Great. Now this decision goes on at the local level," except that here they are trying to say, no, that it cannot go on at the local level if they are not going to agree with us.

So I think we have to look at the very bottom line. It is control. This is the "flat Earth" caucus. They do not want to deal with any kind of family planning. They do not deal straight; they do not tell us that 92 percent of abortions are in the very, very early months.

If they want to talk about doctors getting rich, let me say that there are doctors practicing medicine in all sorts of areas. They keep destructing the whole thing.

America is about choices. America is about options, and they are trying to take away choices and options women have for family planning and for some kind of a future for their families.

Mr. Chairman, I certainly hope that his amendment is defeated.

Mr. DIXON. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, in the Webster decision the Supreme Court has said that States can determine their own funding policies on abortion. They gave the States the power to determine whether State funds would be used to subsidize abortion services for poor women. The District of Columbia is identical to a State for all other purposes under Medicaid. Thirteen States use their own revenues to fund abortion services for poor residents.

If the first action of this body after the Webster decision is to override the will of the duly elected representatives of the District of Columbia and radically outlaw all locally funded abortions, even when the life of the mother is endangered or in cases of rape or incest, where will we stop?

I know the author of the amendment and his supporters want to turn the clock back to halcyon days before 1973 when thousands of women were made sterile and even died, all in criminal abortions. They want to turn the clock back to the days of their youth and that sort of oppression. The people of America want us to vote no on this amendment.

Mr. DIXON. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, this is going to be the first vote in the House of Representatives since the Webster decision. It is a very important vote. It is going to be watched by people from all over the country.

□ 1730

For the first time, Mr. Chairman, every family in America is going to realize what is in store for them when the changes are made that we see heralded by the Webster decision. A massive intrusion into the private lives of every American by State and local governments, a massive, massive unacceptable intrusion, and the word is out.

Who already is listening? The Republican candidate for Governor in Virginia, the Republican candidate for Governor in New Jersey, the Republican Governor of Florida all have heard, all have heard, have seen the handwriting on the wall, and all are retreating from the anti-choice position.

Mr. DIXON. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I rise in opposition to this amendment, and with all due respect to my colleagues who are male in this body, who have spoken out against a woman's right to choose, I have to say to them, and I say this respectfully, "You really don't know what you're talking about. With real respect for you, you couldn't possibly know."

Mr. Chairman, I believe I have real standing on this issue. I have more children than anyone except, I think, the gentleman from New York [Mr. FISH] or the gentleman from Texas [Mr. GONZALEZ]. The gentlewoman from Maryland [Mrs. MORELLA] is always stiff competition.

However, Mr. Chairman, it is from that perspective that I say to my colleagues that we should not even be debating this issue in this Congress for two reasons. First of all, the decision is one that we have said over and over again is a decision of a woman, her doctor and her God. I say to those colleagues, "You don't know what it is to bear a child or not. You don't know how tormenting that decision might be. You are the people of States rights, and yet in this case not States rights for the District."

Mr. Chairman, I also have some standing when it comes to the District of Columbia. My father chaired the Committee on the District of Columbia and fought for home rule for many years. In 1973 we said, "We gave them home rule." Let us respect that.

My time has expired, but I urge my colleagues to vote against this amendment.

Mr. DIXON. I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, first I just want to say a word in defense of the integrity of Dr. Kenneth Edelin who was, I think, unfairly criticized on this floor.

Second, I want to talk about the new standards we have for interpreting votes. We have been told on the other side that they are going to say, "Don't worry how you voted, and don't worry that it says nothing about the right of the mother, and don't worry that it says this because we'll explain that it's all going to be changed in conference."

Contrast that to the Republican Congressional National Campaign Committee.

My colleagues know that for a long time we have had the business in America of collecting garbage. We got a new one: delivering garbage. This is what they do at the Republican National Campaign Committee, and what they do is they say that is exactly how they voted. All of a sudden we have got a new standard. When Members here have voted responsibly, they are subject to the most outrageous distortions, but now Members on the other side say to us, "Vote for something that says you can't stop an ectopic pregnancy. Vote for something that says you can't even have an abortion if your life is in danger because we'll explain it for you."

The Republican Congressional Campaign Committee on the one hand holds to the most unrealistic and unfair literalism, but, on the other hand, these people are going to explain away all these damaging votes.

Mr. DIXON. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise in opposition to the Dornan amendment. This highly restrictive amendment not only further restricts the use of Federal funds for abortion in cases of rape, incest, and even the life of the mother, it also denies the District of Columbia the right to decide how its own revenues should be used, as is the case for the States. The concept of home rule is meaningless if Congress can dictate the allocation of local revenues.

The issue here goes beyond abortion. A major issue is the right of the District to make local decisions about the use of its own revenues. Home rule was established in 1973 by Congress to allow the District to manage its own local affairs. The Supreme Court recently defined matters to be reserved for State and local decisionmaking: "Fire protection, police protection, sanitation, public health, and parks and recreation." To restrict the use of local district revenues for locally funded abortions violates the right of the District government to make its own public health policy. In doing so, Congress is denying District residents the right of self-determination, a right belonging to every other resident of this country.

I urge my colleagues to vote no on the Dornan amendment.

Mr. DIXON. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, today I rise in strong opposition to efforts to deny the District of Columbia authority to use locally raised funds to assist poor women in receiving abortions. The question before us is whether the District of Columbia can use its own locally raised tax dollars as it sees fit to best meet the public health needs of its citizens.

Our job today is not to decide whether the District of Columbia has the right to exercise home rule. That was decided in 1973. Our job today is not to determine whether the District of Columbia has the authority to devise its own Medicaid policy. The District of Columbia has complete control over its Medicaid policy except when it comes to abortion policy. Our job today is not to establish this city's public health policy. And, most importantly, our job today is not to limit a woman's right to choose a safe, legal abortion.

Before 1973, only the wealthy and those few living in States with legalized abortion had access to safe abortions. The Dornan amendment denies women in the District of Columbia the right to determine their own futures and to control their own bodies. I urge my colleagues to join me in opposing the Dornan amendment.

Mr. DORNAN of California. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Chairman, I rise in support of the amendment of the gentleman from California [Mr. DORNAN].

Mr. Chairman, I want to make two points in the 1 minute that I have available to me. First of all, this is not a decision in the abstract about choice or local control. We make decisions in this body all the time to take away choice from individuals and control from local bodies of government precisely on moral issues. When the issue is whether or not someone can discriminate in employment, or housing, or whether or not school districts can set up segregated schools, we do not say it is choice or local control. We say, precisely because it is a high moral issue, that we are going to restrict that choice, take away that control.

Mr. Chairman, that is what the issue is here. The issue is not choice or local control. The issue is abortion.

Second of all, let us understand again why it is that we are in this difficult position on the question of life of the mother and conception. Members on my side of the issue would like to offer an amendment that says that we will allow funding in the case where the life of the mother is threatened and we will allow funding for contraceptions that are not abortifacient. The gentleman on this side of

the issue know perfectly well we cannot offer that amendment under the rules and that we cannot have a unanimous consent request except to make such an amendment in order, and that is why the amendment is worded as it is.

Support the amendment of the gentleman from California [Mr. DORNAN].

Mr. DIXON. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, my message is to the women and the young girls of this Nation.

We read in our text books about those ignorant civilizations that at birth bound the feet of female babies, and we say they were so ignorant. We read in our history books about the women who were sold and treated like chattel, no control over their lives, and we say, "What poor, benighted people."

□ 1740

And then we hear on the floor of this House that it is all right for a woman's life to be sacrificed, rather than to let the people of Washington, DC, use their own money to save that woman's life with an abortion.

Women and girls of this Nation, hear them coming with chains—and rise up and take your choice instead.

Mr. DIXON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the Dornan amendment.

Mr. DORNAN of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, to show that the gentlewoman from Maryland [Mrs. MORELLA] is correct, even though we are different sides of this, that it is bipartisan, I want to let a Member from the other side close debate.

The CHAIRMAN. The gentleman from California [Mr. DIXON] has the right to close the debate.

Mr. DORNAN of California. I meant to close for my side. Of course, I yield to my distinguished colleague, the gentleman from California [Mr. DIXON] on that.

However, we have just talked to the gentleman from Illinois [Mr. HYDE] on this side. I hope that the chairman and cochairman of the Pro-Life Caucus would allow me to yield 1 minute to myself.

I apologize that I am in a blue suit. Many of the abortionist doctors wear white; does not look white to me; it is covered with blood most of the time.

The gentleman from Illinois [Mr. HYDE] said that this is not Government intervention. Government's first duty is to protect the weak from the strong.

He said to this challenge that men should not participate, the gentleman from Illinois [Mr. HYDE] says the death of a human being is never a private matter.

He said that life is the ultimate civil right. He says this right now.

We seek to involve in the circle that society will protect the poor, the aged, the handicapped, and the defenseless preborn.

Mr. Chairman, I just want to say in closing for myself, and then the gentleman from West Virginia [Mr. MOLLOHAN], the cochairman of our Pro-Life Caucus, will close on the other side, I think it is an awful chauvinist argument to say that although I did not suffer the pain of childbirth, as did my wife for five pregnancies and seven for two daughters and a daughter-in-law, I put my hand on the womb and felt the child move. That was life in there, Nancy. No other way to figure it out.

Mr. DIXON. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I yield to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I rise in opposition to the Dornan amendment.

Mr. Chairman, today I rise in strong opposition to the amendment offered by the gentleman of California which would prohibit the use of District of Columbia funds—including funds raised through local D.C. taxes—to pay for abortions.

This amendment would contort a universal right of safe medical care into a right reserved exclusively for economically privileged individuals. Poor women in the District of Columbia would bear the brunt of this indignity. When any government presumes to make a woman's most personal decisions for her, she loses more than her right of choice—she loses control of her body, her fate, and her self-worth.

Forcing any woman to confront a bureaucratic nightmare of arbitrary, government-constructed barriers while coping with an unwanted pregnancy is an unjust and immoral intrusion into her rights under our Constitution. Women must be able to make personal decisions about their own health and well-being, and this includes the option of an abortion in consultation with family and doctor.

A nightmare of bureaucratic bluster which would restrict or deny outright public funding for decent medical care would deny poor women the same peace of mind, the same treatment, the same rights as women who can afford to protect their health without public assistance.

Mr. Chairman, at the center of this debate is whether American citizens have the right to make decisions for themselves. Along with a majority of Americans, I believe that we do.

Mr. FAZIO. Mr. Chairman, I yield to no person in my love of the House of Representatives. I understand our role. We are here to be buffers between those competing interests and points of view in our society; there are no sharper points of interest then on this very issue; but I am annually embarrassed when we bring this amendment to the floor, because it is here only to inflame passions. You know, half the people in this country have access to locally funded, State-funded abortions, and half do not. The half that do not have local decisionmakers who made that choice, but we come to this floor annually to pick on the poor black women of Washington, DC, for fun and political profit, and there is no other way to look at it.

The people in this District make $350 a month, if they are on AFDC, but we will not let them get a Medicaid abortion, because in fact we want to send a message to those people who keep track of our votes and work in the precincts for or against us on this issue. We let our political interests intrude on equity and justice. This is the cheapest antiabortion vote we ever get, and we are a bunch of cowards for involving ourselves in it.

We say at home we are prochoice, we are not for any constitutional amendment, and then we come to Washington and we vote against funding poor people's abortions, and there is no more egregious example of it than we tell the poor black women of the District of Columbia that they cannot control their own destiny through their own local government. We ought to be ashamed of ourselves.

Mr. Chairman, I wish to voice my strong opposition to the amendment offered by my colleague from California.

I would like to begin, however, by offering my sincere appreciation to the chairman of the District of Columbia Appropriations Subcommittee, JULIAN DIXON, for his leadership in providing the citizens of the District the right to choose. Numerous polls taken over the last several months reaffirm the belief held by a majority of Americans that women should have the right to choose whether or not to terminate a pregnancy.

There are many problems with this restrictive amendment. It virtually shuts the door to health care access for poor women who live in the District. Disallowing the District to use its own funds threatens the health, safety, and well-being of women in the District who, without public subsidy, are unable to afford adequate health care for themselves and their families. In fact, it is most incredible to imagine how a poor woman in the District might possibly afford an abortion without public assistance when the average AFDC payment for a family for an entire month in the District is approximately $350. This monthly payment must cover housing, food, and clothing. Yet the average cost of Medicaid-funded abortion in the District is $485.

This situation is discriminatory because in effect, we are saying that if you are affluent, you can have control over your life. But if you are poor and depend on Medicaid for your health care, and you happen to live in the District, then you have no choice and no control.

Furthermore, those poor women who are initially unable to afford abortions but eventually have one place themselves at great risk. Many who eventually secure abortion services are forced to delay the procedure, which increases the risk of death or serious complications.

Regardless of where one stands on the issue of abortion, it is also unconscionable that we should attempt to deny the people of the District the opportunity to determine for themselves how they should be treated.

The amendment violates the District of Columbia Self-Government Act of 1973 enacted by Congress to give residents of the District the same right to determine their local government as all other American citizens. The 1973 legislation also had, as one of its chief purposes, to relieve Congress of the burden of legislating the day-to-day matters of the District.

Making decisions related to public health is one of the most important responsibilities of a local government. The Supreme Court recently defined those areas of government that traditionally have been reserved for State and local decisionmaking to include: Fire protection, police protection, sanitation, public health, and parks and recreation. By denying the District government the power to make public health policy, Congress is denying District residents the right of self-determination that is enjoyed by all other residents of the United States.

In fact, 13 States, which account for roughly half the U.S. population, use local tax revenues to pay for Mediaid abortions. These States are in full compliance with the Hyde amendment. Each of these States made their decision and developed their Medicaid program in accordance with local preference and circumstances. Since the District is identical to a State for all purposed under Medicaid, the District of Columbia government should have that same option relative to abortions without intrusion from the Federal Government.

Mr. Chairman, on the basis of equality and fairness, I strongly urge my colleagues to defeat the Dornan amendment.

Mr. DORNAN of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Chairman, I rise in support of the Dornan amendment.

Mr. CHAIRMAN, the Constitution guarantees the right to life, liberty, and the pursuit of happiness to all Americans. Yet, our country denies this right to its most defenseless citizens, the unborn.

Our Nation was founded on the principles set forth in the Constitution. Abortion is a crack in the foundation of this House of Liberty. We cannot stand by as freedom crumbles beneath our feet and expect our Nation to remain strong.

In the past the common belief among Americans was that all life is sacred. This belief made us stand out among all nations as a beacon of light. We stood in stark contrast to the Communist nations which claimed a life's value is determined by the degree it contributes to society.

Now, our light has become dim and we are beginning to put a conditional value on human life. In many cases an unborn child's life is not valued because it is inconvenient, handicapped or a different sex than its parents desired. I completely disagree with this evaluation of life.

Yet as our Nation wanders away from concern for human life, concern for other life has grown rapidly. As cries of "save the whales" and "animal rights" are ringing in our ears, 4,400 children are aborted everyday. One out of every three children in America is killed by abortion. More children have been killed by abortion since 1973 than all the Americans killed in war since the American Revolution.

Whenever I visit the Arlington Cemetery, I am overwhelmed with sorrow and gratitude for the men and women who have given their very lives for America. And when I consider that if the preborn had crosses, they would be more numerous than the ones in Arlington Cemetery, an even greater sorrow overtakes me. These children never had a chance, their lives were snuffed out before they saw their first day. They were not even given a chance to die a heroic death for their country, and no one can stop by their graves to remember them.

Abortion exists as an enemy of liberty, and we certainly should not pay for it with public funds. Although Congress cannot control what individual States do with their own funds, the Constitution has clearly given us the right and the responsibility for the governing of the District of Columbia. Therefore, I stand in full support of preventing the use of District funds to provide abortions.

As Benjamin Franklin said, "If a sparrow cannot fall to the ground without His knowledge, how can a nation rise to power without His aid?"

If our Nation rose to power because of the blessings of God, it will only remain strong if we remove the curse of abortion from our land.

Mr. DORNAN of California. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Mississippi [Mr. SMITH].

Mr. SMITH of Mississippi. Mr. Chairman, I rise in support of the Dornan amendment.

Mr. Chairman, I want to express my strong support for Congressman DORNAN's amendment. Contrary to popular opinion, this is a very simple issue. It is an issue of life and death. A woman is free to choose the course of her own life, but she is not free to choose the destiny of another. I do not believe that we, as a group of imperfect men and women, have the right to encourage Federal or local funding of an activity that clearly denies a soul the right to live.

I believe that, at the point of conception, a life begins. The life may not have arms or legs, but it has a purpose, a meaning, over which no man or woman has jurisdiction. It would be a crime to use the dollars collected from American citizens to fund the slaughter of innocent lives. It is my moral obligation to protect, at all costs, the lives of innocent Americans, and I join my distinguished colleague, Representative DORNAN, in his opposition to the funding of abortion.

I would also like to express my support for Mr. SMITH of New Jersey in his attempt to temper the language of this bill. It is unfortunate that procedural posture impeded the well-meaning intent of Mr. SMITH's amendment.

Mr. DORNAN of California. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. SMITH].

REQUEST TO MODIFY AMENDMENT OFFERED BY MR. DORNAN OF CALIFORNIA

Mr. SMITH of New Jersey. Mr. Chairman, I once again ask unanimous consent that after the word "abortions", the words, "except where the life of the mother would be endangered if the fetus were carried to term" be included in the Dornan amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. DIXON. Reserving the right to object, Mr. Speaker, I was on my feet. I did not understand nor hear what was said. Perhaps the Clerk could read it.

The CHAIRMAN. The gentleman from New Jersey will repeat his unanimous-consent request.

Mr. SMITH of New Jersey. Mr. Chairman, I ask unanimous consent that after the word "abortions" in the Dornan amendment, we add the new language, "except where the life of the mother would be endangered if the fetus were carried to term."

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. DIXON. Reserving the right to object, Mr. Chairman, I have all the respect for this issue, but I think the gentleman from California [Mr. DORNAN] will agree that we entered into an agreement. We have tried to hold to that agreement.

The understanding, and I am sure the gentleman from California [Mr. DORNAN] understood, is that I could raise a point of order, that is the reason the gentleman phrased it that way. We had that agreement.

Mr. Chairman, I must object.

Mr. DORNAN of California. Mr. Chairman, I honor that agreement. That is why I did not make that unanimous-consent request, but Members must follow the dictates of their own conscience.

The CHAIRMAN. Objection is heard.

Mr. DORNAN of California. Mr. Chairman, in a bipartisan manner, I yield 3½ minutes to the distinguished cochairman of the Pro-Life Caucus, the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, I rise in support of the Dornan amendment.

The issues we debate today are not new. Indeed, this precise amendment was debated by this House of Representatives on June 28 of last year. The question before us today, as then, is a balancing one: Each of us, when we decide how to vote on abortion issues, balances the prerogatives of one individual, the mother, against the rights of the developing baby.

I, and my prolife colleagues, come down on the side of the developing baby. To those who would vote against the Dornan amendment, I pose a question: Do you realize that the Roe v. Wade decision allows mothers today to have an abortion not only within the first week or the first 2 weeks of the pregnancy, but within the first month, the second month, the third month, or up to the seventh month, the eighth month, and even the ninth month?

Several arguments have been advanced against this amendment, and I would like to review a couple.

You can, No. 1, oppose this amendment if you support Government financing of abortions for purely socioeconomic reasons. If that is the basis of your opposition to the amendment, we might as well agree to disagree right now, go head and vote, and save ourselves time.

An argument, on which much of today's debate is based, is the question of home rule. Who are we, opponents of the amendment ask, to presume to speak for the citizens of the District of Columbia? Well, we are the U.S. Congress, which is charged with appropriating every dollar in this bill.

I have respect for home rule, I have repsect for the rights of citizens of the District to govern themselves. I would not place constraints on self-government in the District whimsically or without thought or even without regret. But let's get serious here: Everyone, on both sides of the debate, agrees that abortion is an extraordinarily important public policy question. To base opposition to this amendment on regard for the principles of home rule is to say, in essence, that abortion, as a legislative issue, should be relegated below home rule. It doesn't matter if you are prolife or proabortion: I would have a very difficult time believing that you would view home rule as a more important policy question than abortion.

A corollary to this argument holds that the focus of the Supreme Court's Webster decision was on allowing additional State and local restrictions on abortion and that, consequently, the decision somehow supports the view that the local D.C. government should have absolute jurisdiction over the abortion issue.

In fact, of course, the Webster decision was a big lemon for supporters of abortion and the argument that the decision somehow removes congressional jurisdiction over abortion in the District represents a fairly desperate effort by the amendment's opponents to turn that lemon into lemonade. The Webster decision eased constitutional barriers to any government restrictions on abortion, regardless of whether those restrictions were enacted by a local government, a State government, or the U.S. Congress.

Mr. Chairan, I urge my colleagues to support the Dornan amendment.

□ 1750

Mr. DIXON. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman and Members of the Committee, I rise in opposition to the Dornan amendment because it is first internally conflicting; second, repressive; and, finally, hypocritical. It is entirely conflicting, Mr. Chairman and Members of the Committee, because this amendment is simultaneously antiabortion and proabortion.

To the question of it being antiabortion, my colleague's misstatement of Roe v. Wade notwithstanding, I associate myself with all the eloquent and profound and courageous remarks of all my distinguished colleagues, men and women, who paraded into the well, to speak eloquently to the issue of choice.

Mr. Chairman, it is also proabortion, because it aborts the rights and prerogatives of the residents of the District of Columbia. It aborts democratic principles. It aborts home rule. This amendment is also proabortion.

My colleague said we ought to get serious. How more serious can we get than challenging fundamental rights and prerogatives of fellow citizens of this entire country?

Mr. Chairman, Members of the Committee, it is also repressive. Middle-class and wealthy families are not affected by this amendment, but poor people are affected, Third World people are affected, destitute people, homeless people are affected. This amendment is repressive.

Mr. Chairman, finally, and Members of the Committee, this amendment is fundamentally hypocritical. Proponents of this amendment supported the young students in China who stood up, as the gentleman from California [Mr. DORNAN] said, to challenge no voice, no choice. Yet, we trample on the rights of the residents of the District of Columbia and say no voice, no choice.

Mr. Chairman, Members of the Committee, it is hypocritical because we talk about glasnost in the Eastern bloc countries, yet we trample profoundly on democratic principles.

To summarize, this amendment should be rejected because it internally has its own conflict. But what are we really aborting here? Rights and prerogatives. It is repressive. It is hypocritical.

For all of these reasons, reject the Dornan amendment. Let us walk into the 21st century.

Mr. DIXON. Mr. Chairman, I yield 1 minute to the gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Chairman, once again I must rise before my colleagues in the House to fight for a principle and a practice that no other Member of the Congress ever has to defend on behalf of his or her own constituents: The right of the people of the District of Columbia to determine through their own locally elected officials the appropriate expenditure of locally generated revenues.

I am especially troubled by the reemergence of the amendment offered by my colleague from California, Mr. DORNAN, which would extend the prohibition of the use of public funds for abortions in the District of Columbia to include local as well as Federal funds. In other words, Mr. DORNAN is once again using the District of Columbia's appropriations process as a mechanism to impose a national controversy upon the local and democratic rights of the people whom I represent.

Were this amendment enacted into law, as was a similar amendment to the fiscal year 1989 District of Columbia appropriations bill, it would have the effect of telling the people of the District of Columbia, "you cannot spend your own money on abortion services." No other citizens in the United States can be told that by the Congress. In essence, this amendment would continue through 1990 the gross inequity which the Congress imposed upon the District of Columbia in fiscal year 1989 whereby poor women are denied the option of abortion while women with money may opt for abortion as a matter of personal choice.

I do not deny the ethical and political complexity of the abortion issue. Personally, I am opposed to abortion as a response to unwanted pregnancy, except under very extraordinary circumstances. However, I believe that a woman's decision to have or not to

have an abortion is an extremely private matter best left to the individual in consultation with her family, her doctor, and her religious advisors. Such a personal decision should definitely not be subject to governmental intervention. Consistent with firmly established law, I have thus pursued a legislative agenda to protect individual's rights to make such personal decisions based on their own convictions rather than on government edicts.

Specifically, regarding the language attached to the fiscal year 1989 D.C. appropriations bill, as well as that contained in the amendment currently under consideration for fiscal year 1990, which prohibits the use of locally generated revenues to pay for abortions, I remain adamant that such prohibition by the Congress is a blatant intrusion on the home rule charter as enacted 16 years ago. Indeed, it is an intrusion on the democratic rights of the people of the District of Columbia—rights enjoyed by Americans in every other locality in the Nation.

The moral dilemma associated with abortion is not the issue here. The issue is whether the people of the District of Columbia should have the fundamental democratic right to determine the use of their own locally generated taxes, through their duly elected Mayor and council members. The District of Columbia Self-Government Act, passed by the Congress in 1973, clearly gave the D.C. government the right to enact legislation concerning public health; The Dornan amendment, however, completely supercedes local authority on a public health matter of grave proportions, thus representing a dangerous usurpation of the prerogatives of the District government and the rights of local citizens.

This denial of local funding for abortions is equally indefensible on the basis of cost-effectiveness. Public policy research in the area of family planning has documented that, for every dollar saved from the cutting of public funding for abortions, $3 more must be expended to cover the social costs of unwanted pregnancies and childbirths. In the District of Columbia, those women least able to care for their existing families, let alone another unplanned baby, are those who the fiscal year 1989 and fiscal year 1990 Dornan amendments deny access to the option of abortion.

From testimony received 2 weeks ago by the Joint House/Senate D.C. Approriations Subcommittees, I have learned of tragic cases of impoverished women, many of them homeless and unemployed, often addicted to narcotics and in poor health themselves, whose lives have been directly assaulted by the passage of the fiscal year 1989 Dornan amendment. In the face of physical and economic adversity, these women had made the difficult decision to seek an abortion—but due to the Dornan amendment restrictions enacted last year, the District of Columbia government as unable to provide a safe, dignified, and hmane abortion for any of them, as it would have been able to provide in the past through locally generated funds. Only those fortunate enough to obtain private assistance were able to obtain a legal and safe abortion. Others resorted to dangerous attempts at self-induced miscarriage or went on to have babies suffering from low birth-weight and other health problems. Mr. Chairman, all too many people who so readily cry immorality in the abortion debates are strangely silent about the immorality of public neglect endured by these same innocent babies born into an environment of ill health, poverty, and discrimination. I suggest that we put a stop to the charade of professing morality while we impose discriminatory and inhumane restrictions upon the families whom I represent.

On July 3, 1989, the Supreme Court's 5 to 4 decision in the case of Webster against Reproductive Health Services set the stage for future public policy decisions about abortion services to be determined by the elected representatives of the people of each State. Surely it would be ironic as well as injust if, in the aftermath of Webster, the Congress of the United States would once again deny the citizens of the Nation's Capital authority to determine whether their own local revenues could be used to assist poor women in obtaining safe abortions.

Mr. Chairman, some of my colleagues who are most vociferous about prohibiting the District of Columbia's expenditure of funds for abortions would be outraged if the Congress of the United States ever dared to dictate how their own States or municipalities should spend locally generated revenues. I represent the only citizens in the United States whose local government is subject to the whims and caprices of 535 Representatives and Senators, most of whose true interests and concerns quite understandbly are focused on their own constituents. Because the Congress can pass laws that apply only to D.C. and nowhere else, a Member can vote for restrictions on the District's autonomy that will never apply to his or her own State. This practice of District-bashing in the guise of a moral crusade is transparent and undemocratic.

On behalf of the people of the District of Columbia, I appeal to my colleagues in the House of Representatives to respect my constituents as you would respect your own. District of Columbia citizens must have the right to hold their own locally elected officials accountable for local policies and practices. We in the District of Columbia are asking for nothing more than what all other Americans take for granted.

I urge the Members to defeat the Dornan amendment.

Mr. FLORIO. Mr. Chairman, I am opposed to Mr. DORNAN's amendment to H.R. 3026, the District of Columbia Appropriations for Fiscal Year 1990. The amendment would prohibit the use of locally raised revenues to fund abortion services in the District of Columbia.

Congress is responsible for enacting legislation directing how Federal moneys may be spent in the District of Columbia. Congress gave the District Columbia the responsibility to determine how local funds are raised and spent when it granted home rule over 10 years ago. It is inappropriate now for the Congress to dictate how the District of Columbia should spend its locally raised tax dollars.

In the decision, Harris versus McRae, the Supreme Court stated that the Federal Government does not have the right to determine how a State spends its own resources with regard to abortion. The District of Columbia should not be held to a different standard on this issue than the 50 States.

The District of Columbia, like my own State of New Jersey, has made the decision to fund abortions for poor women. The people of the District of Columbia share my own view that the right to choose an abortion is a hollow right if it applies only to wealthy women. It is wrong for the Congress to impose its will on the people of the District of Columbia when the residents of the District of Columbia, through their locally elected leaders, have made a different decision.

I urge my colleagues to strongly oppose this amendment.

Mr. NELSON of Florida. Mr. Chairman I believe that before the point of viability, government should not interfere with choice. Even beyond that there are circumstances where abortion should not be prohibited: where the woman's life is in danger or there is a threat to her health, or where a doctor determines that the fetus suffers from medical problems so severe that no meaningful life would be possible. In cases of rape and incest, except under very special circumstances, the woman's decision can and should be made in the earlier months of pregnancy—that is, before the point of viability.

I believe there is a real difference between protecting the right to choose and Government financing for the exercise of that choice. For the Government to pay for abortions is for the Government to sanction abortion. But here, too, there is a balance to be struck, exceptions to be made. Public funding should be available to women in cases like rape and incest, danger to life and health, or where a fetus is severely damaged.

I voted against this Dornan amendment because it eliminated public funding for abortions in cases of rape, incest and when the life of the mother is endangered.

Mr. WEISS. Mr. Chairman, I want to express my strong opposition to the Dornan amendment to prohibit the District of Columbia from using locally raised revenues to pay for abortions. The unfortunate enactment of this measure last year set a dangerous

precedent that threatens the health of poor women in the District, and I urge that we take this opportunity today to see that this mean spirited policy is reversed.

This amendment represents not only an attack on the constitutional right of women to control their own bodies, but also a sabotage of local decisionmaking powers granted to the District of Columbia under the right of home rule.

Legal and safe abortions are the right of all American women, not the privilege of a select few. Our Constitution was not designed to guarantee rights only to those who could afford them. Yet antiabortion riders attached to a variety of Federal health care programs and benefits packages have all but eliminated the choice of a safe abortion to millions of American women who could not otherwise afford them. Clearly, these restrictions have a disproportionate impact on poor and minority women.

Under the new public funding restrictions enacted last year, abortion providers in the District of Columbia have witnessed firsthand the gross discriminatory effect of such measures. Clinics have been inundated with women in need of subsidized abortion services. Rosann Wisman, executive director of Planned Parenthood of Metropolitan Washington, testified before a joint Senate-House hearing that the lack of public funding for abortions in the District has resulted in the denial of these services for homeless women, drug addicts, alcoholics and people with AIDS, among others.

But beyond its denial of a fundamental right to a population of American citizens who are in most cases incapable of fighting back, the Dornan measure prohibits a jurisdiction of this Nation from employing its own funds for the purposes for which it sees fit.

Before the enactment of restrictions on local funding last year, the District of Columbia policy was to commit a certain percentage of the funds it raised independently of the Federal Government to poor women seeking abortion. The District was not alone in this policy. Eight States, including my home State of New York, have chosen to use local tax revenues to pay for Medicaid abortions. All jurisdictions are in full compliance with existing Federal restrictions, and each has made its decision and developed its Medicaid Program in accordance with local preferences and circumstances.

The District of Columbia should not be treated differently. To do so is to violate the prerogatives of the District government set forth in the District of Columbia Self-Government Act enacted by this body in 1973. The Dornan measure represents an unwarranted and indefensible Federal intrusion both into the local affairs of our Capital City and into the private lives of American citizens.

The District of Columbia deserves to be reimbursed for the responsibilities it assumes for the revenue losses and costs associated with its role as the Nation's Capital. This is the intention of the bill being considered today. But the restrictions being considered at this time go well beyond this purpose and must be rejected. I urge my colleagues to vote against this amendment.

Mr. SMITH of Mississippi. Mr. Chairman, I want to express my strong support for Congressman DORNAN's amendment. Contrary to popular opinion, this is a very simple issue. It is an issue of life and death. A woman is free to choose the course of her own life, but she is not free to choose the destiny of another. I do not believe that we, as a group of imperfect men and women, have the right to encourage Federal or local funding of an activity that clearly denies a soul the right to live.

I believe that, at the point of conception, a life begins. The life may not have arms or legs, but it has a purpose, a meaning, over which no man or woman has jurisdiction. It would be a crime to use the dollars collected from American citizens to fund the slaughter of innocent lives. It is my moral obligation to protect, at all costs, the lives of innocent Americans, and I join my distinguished colleague, Representative DORNAN, in his opposition to the funding of abortion.

I would also like to express my support for Mr. SMITH of New Jersey in his attempt to temper the language of this bill. It is unfortunate that procedural posture impeded the well-meaning intent of Mr. Smith's amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. DORNAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SMITH of New Jersey. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 206, noes 219, answered "present" 1, not voting 5, as following:

[Roll No. 205]

AYES—206

Annunzio	Buechner	DeWine
Applegate	Bunning	Donnelly
Archer	Burton	Dorgan (ND)
Armey	Byron	Dornan (CA)
Baker	Callahan	Douglas
Ballenger	Clarke	Dreier
Barnard	Clement	Duncan
Bartlett	Clinger	Dyson
Barton	Coble	Early
Bentley	Combest	Edwards (OK)
Bereuter	Conte	Emerson
Bevill	Costello	English
Bilirakis	Courter	Fields
Bliley	Cox	Fish
Boggs	Craig	Gallegly
Bonior	Crane	Gaydos
Borski	Dannemeyer	Gephardt
Broomfield	Davis	Gillmor
Bruce	DeLay	Gingrich
Goodling	McCloskey	Saxton
Goss	McCollum	Schaefer
Grandy	McCrery	Schuette
Grant	McDade	Schulze
Guarini	McEwen	Sensenbrenner
Gunderson	McGrath	Shaw
Hall (OH)	McMillan (NC)	Shumway
Hall (TX)	Michel	Shuster
Hamilton	Miller (OH)	Sikorski
Hammerschmidt	Moakley	Skeen
Hancock	Molinari	Skelton
Hansen	Mollohan	Slaughter (VA)
Hastert	Montgomery	Smith (MS)
Hefley	Moorhead	Smith (NE)
Henry	Murphy	Smith (NJ)
Herger	Murtha	Smith (TX)
Hertel	Myers	Smith, Denny (OR)
Hiler	Natcher	Smith, Robert (NH)
Holloway	Neal (MA)	Smith, Robert (OR)
Hopkins	Nielson	Solomon
Hunter	Nowak	Spence
Hutto	Oberstar	Staggers
Inhofe	Ortiz	Stallings
Ireland	Oxley	Stangeland
Johnson (SD)	Packard	Stearns
Kanjorski	Pallone	Stenholm
Kaptur	Parker	Stump
Kasich	Parris	Sundquist
Kildee	Pashayan	Tallon
Kolter	Paxon	Tauke
Kyl	Penny	Tauzin
LaFalce	Perkins	Thomas (WY)
Lagomarsino	Petri	Traxler
Laughlin	Poshard	Vander Jagt
Leach (IA)	Quillen	Volkmer
Leath (TX)	Rahall	Vucanovich
Lent	Ravenel	Walker
Lewis (CA)	Ray	Walsh
Lewis (FL)	Rhodes	Weber
Lightfoot	Rinaldo	Weldon
Livingston	Ritter	Whittaker
Lloyd	Roberts	Whitten
Lowery (CA)	Robinson	Wolf
Luken, Thomas	Roe	Wylie
Lukens, Donald	Rogers	Yatron
Madigan	Rohrabacher	Young (AK)
Manton	Rostenkowski	Young (FL)
Marlenee	Roth	
Martin (NY)	Rowland (CT)	
Mavroules	Russo	
Mazzoli	Sarpalius	

NOES—219

Ackerman	de la Garza	Hatcher
Akaka	DeFazio	Hawkins
Alexander	Dellums	Hayes (IL)
Anderson	Derrick	Hefner
Andrews	Dickinson	Hoagland
Anthony	Dicks	Hochbrueckner
Aspin	Dingell	Horton
Atkins	Dixon	Houghton
AuCoin	Downey	Hoyer
Bateman	Durbin	Hubbard
Bates	Dwyer	Huckaby
Beilenson	Dymally	Hughes
Bennett	Eckart	Jacobs
Berman	Edwards (CA)	James
Bilbray	Engel	Jenkins
Boehlert	Erdreich	Johnson (CT)
Bosco	Espy	Johnston
Boucher	Evans	Jones (GA)
Boxer	Fascell	Jones (NC)
Brennan	Fawell	Jontz
Brooks	Fazio	Kastenmeier
Browder	Feighan	Kennedy
Brown (CA)	Flake	Kennelly
Brown (CO)	Flippo	Kleczka
Bryant	Foglietta	Kolbe
Bustamante	Ford (MI)	Kostmayer
Campbell (CA)	Ford (TN)	Lancaster
Campbell (CO)	Frank	Lantos
Cardin	Frenzel	Lehman (CA)
Carper	Frost	Lehman (FL)
Carr	Gallo	Leland
Chandler	Garcia	Levin (MI)
Chapman	Gejdenson	Levine (CA)
Clay	Gekas	Lewis (GA)
Coleman (MO)	Gibbons	Lipinski
Coleman (TX)	Gilman	Long
Conyers	Glickman	Lowey (NY)
Cooper	Gonzalez	Machtley
Coughlin	Gordon	Markey
Coyne	Gradison	Martin (IL)
Crockett	Green	Martinez
Darden	Harris	Matsui

McCandless	Pickle	Snowe
McCurdy	Porter	Spratt
McDermott	Price	Stark
McHugh	Pursell	Stokes
McMillen (MD)	Rangel	Studds
McNulty	Regula	Swift
Meyers	Richardson	Synar
Mfume	Ridge	Tanner
Miller (CA)	Rose	Thomas (CA)
Miller (WA)	Roukema	Thomas (GA)
Mineta	Rowland (GA)	Torres
Moody	Roybal	Torricelli
Morella	Sabo	Towns
Morrison (CT)	Saiki	Traficant
Morrison (WA)	Sangmeister	Udall
Mrazek	Savage	Unsoeld
Nagle	Sawyer	Upton
Neal (NC)	Scheuer	Valentine
Nelson	Schiff	Vento
Oakar	Schneider	Visclosky
Obey	Schroeder	Walgren
Olin	Schumer	Watkins
Owens (NY)	Sharp	Waxman
Owens (UT)	Shays	Weiss
Panetta	Sisisky	Wheat
Patterson	Skaggs	Williams
Payne (NJ)	Slattery	Wilson
Payne (VA)	Slaughter (NY)	Wise
Pease	Smith (FL)	Wolpe
Pelosi	Smith (IA)	Wyden
Pickett	Smith (VT)	Yates

ANSWERED "PRESENT"—1

Hayes (LA)

NOT VOTING—5

Collins	Gray	Solarz
Florio	Hyde	

□ 1813

Messrs. FRENZEL, LANTOS, and JAMES changed their vote from "aye" to "no."

Mr. HERGER and Mr. SHAW changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SMITH OF MISSISSIPPI

Mr. SMITH of Mississippi. Mr. Chairman, I offer an amendment.

The Clerk reads as follows:

Amendment offered by Mr. SMITH of Mississippi: "(A) No funds appropriated under this Act may be obligated or expended beyond September 30, 1990 unless the Mayor certifies in writing to the Attorney General that the laws of the District of Columbia provide for the disclosure of Metropolitan Police Department arrest records to the Federal Bureau of Investigation for identification and records checks such that:

(B) Adult arrest records shall be disseminated to:

(1) a member of the court or a law enforcement agent without the authorization of the person to whom the record relates and without cost, provided that these records are used for identification, security checks, the investigation or deterrence of crimes, and that the court member or law enforcement agent comply with applicable federal law and regulations;

(2) an individual or agency which requires criminal history record information to implement a federal or District of Columbia statute or executive order of the President of the United States or Mayor that expressly refers to criminal conduct, and contains requirements and exclusion based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a non-criminal justice agency if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

(3) an individual or agency pursuant to a specific agreement with the Metropolitan Police Department to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and insure the security and confidentiality of the data."

Mr. SMITH of Mississippi (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHARIMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. DIXON. Mr. Chairman, I reserve a point of order on the amendment.

Mr. SMITH of Mississippi. I rise to offer an amendment to the D.C. appropriations bill before us today.

My purpose in doing so is to supplement the fine work that the gentleman from California [Mr. DIXON], chairman of the subcommittee, and the gentleman from New Jersey [Mr. GALLO], the ranking member of the subcommittee, have devoted to this legislation.

As a former sheriff and police officer and chief of police for 23 years, I share the committee's concern about crime and drug use in the District of Columbia.

I too recognize that the problem requires a comprehensive effort to insure the stability and the viability of the District of Columbia government.

In that regard my amendment addresses a serious impediment to coordination of law enforcement efforts between the Federal and the District authorities. This amendment has been drafted to amend the Duncan ordinance to provide for the disclosure of District of Columbia arrest records to the FBI for background and record checks and identification purposes.

□ 1820

Ever since the enactment in 1967, the Duncan ordinace has prohibted the District of Columbia law enforcement officials from forwarding arrest records to the FBI. Since that time, the ordinance has given the District of Columbia the dubious distinction of being the only jurisdiction in the United States which does not routinely furnish arrest information to the central files maintained by the FBI or open arrest files of inquiry by the FBI and to the District of Columbia. So it was originally designed to protect against the potential for employment discrimination during the 1960's.

The Duncan ordinance has an unintended detrimental effect on the District law enforcement effort. In practical terms, the ordinance was hindered law enforcement in a number of ways. While other law enforcement agencies in this country can request information from the District of Columbia on specific cases, there is no automatic matching of data and fingerprints. Without this matching of data and fingerprints, fugitives from other States who are arrested in the District may not be identified because information on the arrest is not shared with other jurisdictions through the FBI. Consequently, courts in our jurisdiction do not have complete arrest records when making decisions on bail and sentencing, nor do they have complete data here in the District of Columbia.

Persons who pose a serious threat to the safety of the President of the United States or other high Government officials are not identified when arrested in the District since arrest information is not routinely made to the FBI.

In addition, Mr. Chairman, in serious cases in other jurisdictions, cases that might have been solved through fingerprint checks, in the District, will not be solved. Mr. Chairman, this amendment has been carefully designed to address only the sharing of arrest history information with the FBI while preserving the privacy concern expressed in law and in Federal statutes.

My amendment does not require disclosure of juvenile arrests of minor offenses. Information on arrests that are more than a year old are not exchanged, until the disposition of the charge is also included. Procedures are in place to enable an individual to obtain a copy of his record so that if necessary, corrections can be made.

This amendment does, however, attempt to correct the settled effects which have had a detrimental effect on the law enforcement efforts of the District of Columbia and of our FBI. Given that attempts have been made for a number of years, the time has come for Congress to remedy the patent defects appearing in the Duncan ordinance.

I believe this type of legislation is a sound, rational proposal which demonstrates to the American people our commitment to supporting a law enforcement effort in the District Columbia.

Mr. Chairman, I would also like to include Mr. Gary Hankins' testimony recently before the Senate side, concerning the problems that the police in the District of Columbia have with the Duncan ordinance, and I would quote from his testimony. This gentleman is the president of the Fraternal Order of Police of the District of Columbia.

In essence, this District has become a sanctuary for drug dealers and felons who are wanted in other states because our city does not share its arrest and identification information with the FBI. We are the only

large jurisdiction that does cooperate with this highly effective branch of the FBI.

I would say further, Mr. Chairman, and I realize that the language that the committee said, that they directed or asked the District of Columbia Council and the council has proposed a change in the ordinances as of May 16, but I think this is something important that needs to be done right away, because since May 16, we have had 90 murders in the District of Columbia. I think it is important that police are able to identify convicted felons and people wanted in other States.

POINT OF ORDER

Mr. DIXON. Mr. Chairman, reserving the point of order, I certainly agree with much of what the gentleman from Mississippi has said. However, he does acknowledge that the city council is working on this at the present time, and has received assurances from the authorizing chairman, the gentleman from California [Mr. DELLUMS], that 1502 will address this issue.

Therefore, Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law, and constitutes legislation in an appropriation bill, and therefore violates clause 2 of rule XXI. The rule states in pertinent part that "No amendment to a general appropriation bill shall be in order in changing existing law."

This amendment, Mr. Chairman, gives affirmative direction, in effect, and imposes additional duties.

The CHAIRMAN. Does the gentleman from Mississippi wish to be heard on the point of order?

Mr. SMITH of Mississippi. Mr. Chairman, I concede the point of order.

The CHAIRMAN (Mr. COOPER). The point of order is conceded and sustained.

(By unanimous consent, Mr. SMITH of Mississippi was allowed to proceed for 1 additional minute.)

Mr. SMITH of Mississippi. Mr. Chairman, am I to understand in talking with the gentleman from California, and others who say in the conference that the Senate language that has been included on the Senate side will be included in conference, to solve this problem?

I yield to the gentleman from California.

Mr. DIXON. The gentleman from California [Mr. DELLUMS] who is chairman of the Committee on the District of Columbia indicated to me earlier that there would be language in the conference agreement on H.R. 1502 to resolve this problem. Now, I cannot say that it will be the identical Senate language, but he will address the problem in the conference on H.R. 1502.

The CHAIRMAN. The clerk will read.

The Clerk read as follows:

This Act may be cited as the "District of Columbia Appropriations Act, 1990".

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

Mr. DIXON. Mr. Chairman, I am reserving a point of order.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 31, after line 2, insert the following new section:

SEC. 138. (a) FINDINGS.—The Congress finds that—

(1) the District of Columbia is seeking from the United States Federal funds totaling $532,310,000, including a Federal payment of $430,500,000, reimbursements for water and sewer services of $34,740,000, contributions to the retirement funds of $52,070,000, and a further payment in transition resources for St. Elizabeth's Hospital of $15,000,000;

(2) the total amount of appropriations recommended by the Committee on Appropriations for the District of Columbia is $3,449,993,000, consisting of $3,285,643,000 for operating expenses and $164,350,000 in capital outlay funds;

(3) the District of Columbia appears unable to meet its obligations with this level of funding, as evidenced by an increase in the general fund deficit for the fiscal year 1988 of $14,279,000, despite a congressional mandate that the general fund deficit, which reached a total of $387,509,000 in 1980, now stands at $218,872,000, and may rise further, be reduced annually by $20,000,000;

(4) the obligations of the District of Columbia with respect to repayment of loans and interest on capital projects will total $251,474,000 in the fiscal year 1990 and represents 58 percent of the Federal payment and 9 percent of the operating expenses, excluding all Federal funds, which is near the upper limits of prudent fiscal management;

(5) the District of Columbia has disregarded Federal laws relating to the implementation of a residency preference law which would not preclude the hiring of noncity residents;

(6) 250 individuals were murdered in the District of Columbia between January 1, 1989, and August 1, 1989, representing a possible annual total of 429 murders, or a murder rate of 1 death per each 1,400 residents, which, if extrapolated to the entire Nation, is equivalent to a national total of 582,750 murders;

(7) a recent study conducted under the auspices of the highly recognized Federal City council of the public school system of the District of Columbia proposed a series of massive and far reaching changes expected to cost an additional $67,000,000 per year for 5 years, which would be paid through an earmarked increase in the Federal payment of $33,000,000 per year, with the District of Columbia paying the remainder of such additional cost;

(8) there is support for such changes as outlined in the study, but serious concerns exist about the capacity of the school system and the administration of the District of Columbia to spend these additional resources wisely;

(9) there continues to be concern over the response capability of the emergency medical services of the District of Columbia, due to continuing accounts of unacceptably slow responses to emergency situations;

(10) the District of Columbia has ignored Federal law requiring that the fire department be equipped with sufficient under water recovery or diving gear; and

(11) the District of Columbia has a higher percentage of adults in jail, compared to its adult population, than any other jurisdiction in the United States, averaging 1,500 individuals incarcerated per each 100,000 residents, which, if extrapolated to the entire Nation, would mean a national total of 3,750,000 prisoners.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that in order to bring about improvements in the government of the Nation's Capital located in Washington, D.C., that—

(1) following upon the general statement of the Committee on Appropriations of the House of Represenatives, the District of Columbia should undertake to examine its form of government, including the efficiency of its management, its financial controls, and its expenditure priorities, with a view to lowering expenses, concentrating governing resources on matters which only government can undertake, and improving the public health, safety, and education;

(3) the District of Columbia should undertake to immediately fulfill the legal mandate and underlying spirit of various Federal laws affecting residency law proposals, fire and rescue facilities and equipment, law enforcement (including personnel and changes in the District of Columbia Good Time Credits Act of 1986, the Duncan Ordinance, subchapter 2 of chapter 13 of title 23 of the District of Columbia Code, relating to bail reform, and laws of the District of Columbia relating to forfeiture), procurement law changes, abortion, and correctional facility construction; and

(3) should the District of Columbia fail to undertake to accomplish these objectives, and fail to report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on the District of Columbia of the House of Representatives, and the Subcommittee on Governmental Efficiency, Federalism, and the District of Columbia of the Committee on Governmental Affairs of the Senate in a timely fashion on its progress on each of the matters contained in this resolution, the Committee on the District of Columbia of the House of Representatives and the Subcommittee on Governmental Efficiency, Federalism, and the District of Columbia of the Committee on Government Affairs of the Senate should consider and report legislation amending the District of Columbia Self-Government and Governmental Reorganization Act of 1973 to establish direct Federal control over public safety, health, education, and public works in the District of Columbia.

Mr. BURTON of Indiana (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

Mr. DIXON. Mr. Chairman, I object.

The Clerk continued the reading of the amendment.

Mr. DIXON (during the reading). Mr. Chairman, now that I have seen the amendment, I withdraw my objec-

tion to the unanimous consent to dispense with the reading.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana that the amendment be considered as read and printed in the RECORD.

There was no objection.

Mr. DIXON. Mr. Chairman, I do reserve my point of order.

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes in support of his amendment.

□ 1830

Mr. BURTON of Indiana. Mr. Chairman, I realize that this amendment would be ruled non-germane and therefore I intend to withdraw it. However, I would like to address some important issues raised by the text of this amendment.

Mr. Chairman, in the administration of the Nation's capitol city, the D.C. government has come up short. There is a long laundry list of problems that must be addressed post-haste by the city:

First, Congress has mandated that D.C.'s deficit be reduced by $20 million annually, instead it has grown;

Second, 50 percent of our Federal payment of $430 million is going to pay loans and interest—an outrageous amount;

Third, congressional legislation against the residency requirement for public servants has been disregarded, endangering public safety;

Fourth, to date this year, 250 murders have been committed in the city, 1 out of every 1400 residents;

Fifth, the crime rate is so bad, there is 1 prisoner for every 67 residents, not to mention the many more still on the streets;

Sixth, the emergency response system is faulty, and there is fire and rescue equipment required by Federal law that D.C. hasn't obtained;

Needless to say, the D.C. educational system and drug enforcement programs are inadequate and need beefing up.

Mr. Chairman, many Members and their staffs pay taxes in this city; we all have to function in this city; our constituents are flying in daily to visit this city; foreign dignitaries must operate out of this city. It is an embarrassment to Congress and the Nation that things are run so inefficiently. We must stand up and demand better.

The text of this amendment is in a concurrent resolution which I will be introducing. The resolution asks that the District conform to congressional mandates and Federal laws concerning public health and safety and report this accomplishment to Congress. These wrongs must be righted, and if the District cannot do it, then perhaps Congress should. I urge my colleagues to support this resolution.

Mr. Chairman, I ask unanimous consent that this amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was not objection.

The CHAIRMAN. The amendment of the gentleman from Indiana [Mr. BURTON] is withdrawn.

Mr. DIXON. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

The question was taken; and the Chairman announced the ayes appeared to have it.

RECORDED VOTE

Mr. PARRIS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 212, noes 207, not voting 12, as follows:

[Roll No. 206]

AYES—212

Ackerman	Foglietta	McDermott
Akaka	Ford (MI)	McHugh
Alexander	Frank	McNulty
Anderson	Frost	Mfume
Andrews	Garcia	Miller (CA)
Annunzio	Gaydos	Mineta
Anthony	Gejdenson	Moakley
Applegate	Gephardt	Mollohan
Aspin	Gibbons	Moody
Atkins	Glickman	Morrison (CT)
AuCoin	Gonzalez	Mrazek
Barnard	Gordon	Murphy
Bates	Gradison	Myers
Bellenson	Gray	Nagle
Bennett	Guarini	Natcher
Berman	Hall (OH)	Neal (MA)
Bilbray	Hatcher	Neal (NC)
Boggs	Hayes (IL)	Nelson
Bonior	Hayes (LA)	Nowak
Borski	Hefner	Oakar
Bosco	Hertel	Oberstar
Boxer	Hochbrueckner	Obey
Brennan	Hoyer	Olin
Brooks	Hughes	Ortiz
Brown (CA)	Johnson (SD)	Owens (NY)
Bruce	Johnston	Owens (UT)
Campbell (CO)	Jones (GA)	Pallone
Cardin	Jones (NC)	Panetta
Carper	Jontz	Payne (NJ)
Carr	Kanjorski	Pease
Chapman	Kaptur	Pelosi
Clay	Kastenmeier	Penny
Clement	Kennedy	Perkins
Coleman (TX)	Kennelly	Pickett
Cooper	Kildee	Pickle
Costello	Kleczka	Poshard
Coyne	Kolter	Price
de la Garza	Kostmayer	Quillen
DeFazio	LaFalce	Rangel
Dellums	Lancaster	Ray
Derrick	Lantos	Richardson
Dicks	Leath (TX)	Rose
Dingell	Lehman (CA)	Rostenkowski
Dixon	Lehman (FL)	Rowland (GA)
Donnelly	Leland	Roybal
Downey	Levin (MI)	Sabo
Durbin	Levine (CA)	Sangmeister
Dwyer	Lewis (GA)	Sarpalius
Dymally	Lipinski	Savage
Early	Long	Sawyer
Eckart	Lowey (NY)	Scheuer
Edwards (CA)	Luken, Thomas	Schroeder
Engel	Manton	Schumer
English	Markey	Sikorski
Espy	Martinez	Skaggs
Evans	Matsui	Skelton
Fascell	Mavroules	Slattery
Fazio	Mazzoli	Slaughter (NY)
Feighan	McCloskey	Smith (FL)
Flake	McCurdy	Smith (IA)
Spratt	Torricelli	Weiss
Staggers	Towns	Wheat
Stark	Traficant	Whitten
Stokes	Traxler	Williams
Studds	Udall	Wilson
Swift	Unsoeld	Wise
Synar	Vento	Wolpe
Tallon	Visclosky	Wyden
Tanner	Walgren	Yates
Thomas (GA)	Watkins	Yatron
Torres	Waxman	

NOES—207

Archer	Hancock	Rahall
Armey	Hansen	Ravenel
Baker	Harris	Regula
Ballenger	Hastert	Rhodes
Bartlett	Hefley	Ridge
Barton	Henry	Rinaldo
Bateman	Herger	Ritter
Bentley	Hiler	Roberts
Bereuter	Hoagland	Robinson
Bevill	Holloway	Roe
Bilirakis	Hopkins	Rogers
Bliley	Horton	Rohrabacher
Boehlert	Houghton	Roth
Boucher	Hubbard	Roukema
Broomfield	Huckaby	Rowland (CT)
Browder	Hunter	Russo
Brown (CO)	Hutto	Saiki
Bryant	Inhofe	Saxton
Buechner	Ireland	Schaefer
Bunning	Jacobs	Schiff
Burton	James	Schneider
Byron	Jenkins	Schuette
Callahan	Johnson (CT)	Schulze
Campbell (CA)	Kasich	Sensenbrenner
Chandler	Kolbe	Sharp
Clarke	Kyl	Shaw
Clinger	Lagomarsino	Shays
Coble	Laughlin	Shumway
Coleman (MO)	Leach (IA)	Shuster
Combest	Lent	Sisisky
Conte	Lewis (CA)	Skeen
Coughlin	Lewis (FL)	Slaughter (VA)
Courter	Lightfoot	Smith (MS)
Cox	Livingston	Smith (NE)
Craig	Lloyd	Smith (NJ)
Crane	Lowery (CA)	Smith (TX)
Dannemeyer	Lukens, Donald	Smith (VT)
Darden	Machtley	Smith, Denny (OR)
DeLay	Madigan	Smith, Robert (NH)
DeWine	Marlenee	Smith, Robert (OR)
Dickinson	Martin (IL)	Snowe
Dornan (CA)	Martin (NY)	Solomon
Douglas	McCandless	Spence
Dreier	McCollum	Stallings
Duncan	McCrery	Stangeland
Dyson	McDade	Stearns
Edwards (OK)	McEwen	Stenholm
Emerson	McGrath	Stump
Erdreich	McMillan (NC)	Sundquist
Fawell	McMillen (MD)	Tauke
Fields	Meyers	Tauzin
Fish	Michel	Thomas (CA)
Flippo	Miller (OH)	Thomas (WY)
Ford (TN)	Miller (WA)	Upton
Frenzel	Molinari	Valentine
Gallegly	Montgomery	Vander Jagt
Gallo	Moorhead	Volkmer
Gekas	Morrison (WA)	Vucanovich
Gillmor	Nielson	Walker
Gilman	Oxley	Walsh
Gingrich	Packard	Weber
Goodling	Parker	Weldon
Goss	Parris	Whittaker
Grandy	Pashayan	Wolf
Grant	Patterson	Wylie
Green	Paxon	Young (AK)
Gunderson	Payne (VA)	Young (FL)
Hall (TX)	Petri	
Hamilton	Porter	
Hammerschmidt	Pursell	

NOT VOTING—12

Bustamante	Davis	Hyde
Collins	Dorgan (ND)	Morella
Conyers	Florio	Murtha
Crockett	Hawkins	Solarz

□ 1854

Messrs. SMITH of New Jersey, DYSON, REGULA, and ROGERS

changed their vote from "aye" to "no."

Messrs. WHEAT, SKELTON, WILLIAMS, and MURPHY changed their vote from "no" to "aye."

So the motion was agreed to.

The result of the vote was announced as above recorded.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. COOPER, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3026) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes, had directed him to report the bill back to the House with the recommendation that the bill do pass.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. DIXON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 251, nays 169, not voting 11, as follows:

[Roll No. 207]

YEAS—251

Ackerman	DeFazio	Hayes (IL)
Akaka	DeLay	Hayes (LA)
Alexander	Dellums	Hefley
Anderson	Derrick	Hefner
Andrews	Dicks	Hertel
Annunzio	Dixon	Hoagland
Anthony	Donnelly	Hochbrueckner
Aspin	Downey	Horton
Atkins	Durbin	Hoyer
AuCoin	Dwyer	Hubbard
Barnard	Dymally	Hughes
Bateman	Early	Hutto
Bates	Eckart	Jenkins
Beilenson	Edwards (CA)	Johnson (SD)
Bennett	Engel	Johnston
Berman	English	Jones (GA)
Bevill	Erdreich	Jones (NC)
Bilbray	Espy	Jontz
Boggs	Evans	Kanjorski
Bonior	Fascell	Kaptur
Borski	Fazio	Kastenmeier
Bosco	Feighan	Kennedy
Boucher	Fish	Kennelly
Boxer	Flake	Kildee
Brennan	Flippo	Kleczka
Brooks	Foglietta	Kolter
Browder	Ford (MI)	Kostmayer
Brown (CA)	Ford (TN)	LaFalce
Bruce	Frank	Lancaster
Bryant	Frost	Lantos
Campbell (CO)	Garcia	Laughlin
Cardin	Gaydos	Leath (TX)
Carper	Gejdenson	Lehman (CA)
Carr	Gephardt	Lehman (FL)
Chapman	Gibbons	Leland
Clarke	Glickman	Levin (MI)
Clay	Gonzalez	Levine (CA)
Clement	Gordon	Lewis (GA)
Clinger	Gradison	Lipinski
Coleman (TX)	Gray	Lloyd
Conte	Green	Long
Conyers	Guarini	Lowey (NY)
Cooper	Hall (OH)	Luken, Thomas
Costello	Hall (TX)	Manton
Coyne	Hamilton	Markey
Darden	Harris	Martinez
de la Garza	Hatcher	Matsui
Mavroules	Pease	Spratt
Mazzoli	Penny	Staggers
McCloskey	Perkins	Stallings
McCurdy	Pickett	Stark
McDermott	Pickle	Stenholm
McGrath	Poshard	Stokes
McHugh	Price	Studds
McNulty	Quillen	Swift
Mfume	Rangel	Synar
Miller (CA)	Ray	Tallon
Mineta	Richardson	Tanner
Moakley	Roe	Thomas (GA)
Mollohan	Rose	Torres
Montgomery	Rostenkowski	Torricelli
Moody	Rowland (GA)	Towns
Morrison (CT)	Roybal	Traficant
Mrazek	Russo	Traxler
Myers	Sabo	Udall
Nagle	Sangmeister	Unsoeld
Natcher	Sarpalius	Valentine
Neal (MA)	Savage	Vento
Neal (NC)	Sawyer	Visclosky
Nelson	Scheuer	Volkmer
Nowak	Schroeder	Walgren
Oakar	Schumer	Watkins
Oberstar	Sharp	Waxman
Obey	Shays	Weiss
Olin	Sikorski	Wheat
Ortiz	Sisisky	Whitten
Owens (NY)	Skaggs	Williams
Owens (UT)	Skeen	Wilson
Pallone	Skelton	Wise
Panetta	Slattery	Wolpe
Parker	Slaughter (NY)	Wyden
Patterson	Smith (FL)	Yates
Payne (NJ)	Smith (IA)	Yatron
Payne (VA)	Solarz	

NAYS—169

Applegate	Henry	Ridge
Archer	Herger	Rinaldo
Armey	Hiler	Ritter
Baker	Holloway	Roberts
Ballenger	Hopkins	Robinson
Bartlett	Houghton	Rogers
Barton	Huckaby	Rohrabacher
Bentley	Hunter	Roth
Bereuter	Inhofe	Roukema
Bilirakis	Jacobs	Rowland (CT)
Bliley	James	Saiki
Boehlert	Johnson (CT)	Saxton
Broomfield	Kasich	Schaefer
Brown (CO)	Kolbe	Schiff
Buechner	Kyl	Schneider
Bunning	Lagomarsino	Schuette
Burton	Leach (IA)	Schulze
Byron	Lent	Sensenbrenner
Callahan	Lewis (CA)	Shaw
Campbell (CA)	Lewis (FL)	Shumway
Chandler	Lightfoot	Shuster
Coble	Livingston	Slaughter (VA)
Coleman (MO)	Lowery (CA)	Smith (MS)
Combest	Lukens, Donald	Smith (NE)
Coughlin	Machtley	Smith (NJ)
Courter	Madigan	Smith (TX)
Cox	Marlenee	Smith (VT)
Craig	Martin (IL)	Smith, Denny (OR)
Crane	Martin (NY)	
Dannemeyer	McCandless	Smith, Robert (NH)
Davis	McCollum	
DeWine	McCrery	Smith, Robert (OR)
Dickinson	McDade	
Dornan (CA)	McEwen	Snowe
Douglas	McMillan (NC)	Solomon
Dreier	McMillen (MD)	Spence
Duncan	Meyers	Stangeland
Dyson	Michel	Stearns
Edwards (OK)	Miller (OH)	Stump
Emerson	Miller (WA)	Sundquist
Fawell	Molinari	Tauke
Fields	Moorhead	Tauzin
Frenzel	Morella	Thomas (CA)
Gallegly	Morrison (WA)	Thomas (WY)
Gallo	Murphy	Upton
Gekas	Nielson	Vander Jagt
Gillmor	Oxley	Vucanovich
Gilman	Packard	Walker
Gingrich	Parris	Walsh
Goodling	Pashayan	Weber
Goss	Paxon	Weldon
Grandy	Petri	Whittaker
Grant	Porter	Wolf
Gunderson	Pursell	Wylie
Hammerschmidt	Rahall	Young (AK)
Hancock	Ravenel	Young (FL)
Hansen	Regula	
Hastert	Rhodes	

NOT VOTING—11

Bustamante	Dorgan (ND)	Ireland
Collins	Florio	Murtha
Crockett	Hawkins	Pelosi
Dingell	Hyde	

□ 1913

Mr. SLATTERY and Mr. STALLINGS changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. AUCOIN, immediately following colloquy between Mr. NATCHER and Mr. WAXMAN in general debate on H.R. 2990 in the Committee of the Whole today.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 57. Joint resolution to establish a national policy on permanent papers; to the Committee on Government Operations and House Administration.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Resolution 363. Joint resolution to designate 1989 as "U.S. Customs Service 200th Anniversary Year."

COMMUNICATION FROM THE HONORABLE TOMMY F. ROBINSON, MEMBER OF CONGRESS

[Inadvertantly omitted from the Congressional Record of Tuesday, August 1, 1989]

The Speaker pro tempore laid before the House the following communication from the Honorable TOMMY F. ROBINSON:

WASHINGTON, DC,
July 28, 1989.

Hon. THOMAS FOLEY,
Speaker of the House, Washington, DC.

DEAR MR. SPEAKER: It is with deep regret that I inform you of my decision to change my party affiliation. Although this has been a difficult, personal decision, I must be true to myself.

Please accept this letter as my official resignation from the Democratic party. As a Republican, I hereby resign from all caucus-appointed positions and committee assignments.

Sincerely,

TOMMY F. ROBINSON,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation from the Select Committee on Aging is also accepted.

There was no objection.

ADJOURNMENT

Mr. DIXON. Mr. Speaker, I move that the House do now adjourn.

PARLIAMENTARY INQUIRY

Mr. PARRIS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. PARRIS. Mr. Speaker, if the House does now adjourn, with the amendment that would be offered to the bill and the bill carried over on tomorrow for third reading and passage and so forth, no more motions of a substantive nature would be in order, would they? Is that correct?

The SPEAKER. If the gentleman will permit, the Chair will state tomorrow morning the unfinished business would be the consideration of the question for engrossment and third reading of the bill. If such question is carried, the question will occur on the passage of the bill. If a properly qualified Member on the minority side wishes to move to recommit, a proper recommital motion would be in order and a vote on that; following that, the bill would proceed to final passage.

Mr. PARRIS. Just one other question, Mr. Speaker: In the absence of success on a motion to recommit, no more substantive amendments would be considered to the legislation?

The SPEAKER. The gentleman is correct. The previous question has been ordered on the bill to final passage.

The question is on the motion to adjourn offered by the gentleman from California [Mr. DIXON].

The question was taken, and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PARRIS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 266, noes 149 not voting 16, as follows:

[Roll No. 208]

AYES—266

Ackerman	Beilenson	Brooks
Akaka	Bennett	Broomfield
Alexander	Berman	Browder
Anderson	Bevill	Brown (CA)
Andrews	Bilbray	Bruce
Annunzio	Bliley	Bryant
Anthony	Boehlert	Byron
Applegate	Boggs	Campbell (CO)
Aspin	Bonior	Cardin
Atkins	Borski	Carper
AuCoin	Bosco	Carr
Barnard	Boucher	Chapman
Bateman	Boxer	Clay
Bates	Brennan	Clement
Coleman (TX)	Jones (NC)	Pelosi
Conte	Jontz	Penny
Conyers	Kanjorski	Perkins
Cooper	Kaptur	Pickett
Costello	Kastenmeier	Pickle
Coyne	Kennedy	Poshard
Darden	Kennelly	Price
Davis	Kildee	Rangel
de la Garza	Kleczka	Ray
DeFazio	Kolter	Richardson
Dellums	Kostmayer	Rose
Derrick	LaFalce	Rostenkowski
Dicks	Lancaster	Rowland (GA)
Dingell	Lantos	Roybal
Dixon	Laughlin	Russo
Donnelly	Leath (TX)	Sabo
Downey	Lehman (CA)	Sangmeister
Durbin	Lehman (FL)	Sarpalius
Dwyer	Leland	Savage
Dymally	Levin (MI)	Sawyer
Dyson	Levine (CA)	Scheuer
Early	Lewis (GA)	Schroeder
Eckart	Lipinski	Schulze
Edwards (CA)	Lloyd	Schumer
Engel	Long	Sharp
English	Lowey (NY)	Shays
Erdreich	Luken, Thomas	Sikorski
Espy	Manton	Sisisky
Evans	Markey	Skaggs
Fascell	Martinez	Skeen
Fazio	Matsui	Skelton
Feighan	Mavroules	Slattery
Fish	Mazzoli	Slaughter (NY)
Flake	McCloskey	Smith (FL)
Flippo	McCurdy	Smith (IA)
Foglietta	McDermott	Solarz
Ford (MI)	McGrath	Spratt
Frank	McHugh	Staggers
Frost	McMillen (MD)	Stallings
Gallo	McNulty	Stark
Gaydos	Mfume	Stenholm
Gejdenson	Michel	Stokes
Gephardt	Miller (CA)	Studds
Gibbons	Mineta	Swift
Gillmor	Moakley	Synar
Gilman	Mollohan	Tallon
Glickman	Montgomery	Tanner
Gonzalez	Moody	Tauke
Gordon	Morella	Tauzin
Gradison	Morrison (CT)	Thomas (GA)
Gray	Mrazek	Torres
Green	Murphy	Torricelli
Guarini	Myers	Towns
Hall (OH)	Nagle	Traficant
Harris	Natcher	Traxler
Hatcher	Neal (MA)	Udall
Hayes (IL)	Neal (NC)	Unsoeld
Hayes (LA)	Nelson	Valentine
Hefner	Nowak	Vander Jagt
Hertel	Oakar	Vento
Hoagland	Oberstar	Volkmer
Hochbrueckner	Obey	Walgren
Horton	Olin	Walsh
Houghton	Ortiz	Watkins
Hoyer	Owens (NY)	Weiss
Hubbard	Owens (UT)	Weldon
Huckaby	Oxley	Wheat
Hughes	Pallone	Whitten
Hutto	Panetta	Wilson
Jacobs	Parker	Wise
Jenkins	Pashayan	Wolpe
Johnson (CT)	Patterson	Wyden
Johnson (SD)	Payne (NJ)	Yates
Johnston	Payne (VA)	Yatron
Jones (GA)	Pease	

NOES—149

Archer	Coleman (MO)	Fields
Armey	Combest	Frenzel
Baker	Coughlin	Gallegly
Ballenger	Courter	Gekas
Bartlett	Cox	Gingrich
Barton	Craig	Goodling
Bentley	Crane	Goss
Bereuter	Dannemeyer	Grandy
Bilirakis	DeLay	Grant
Brown (CO)	DeWine	Gunderson
Buechner	Dickinson	Hall (TX)
Bunning	Dornan (CA)	Hamilton
Burton	Douglas	Hammerschmidt
Callahan	Dreier	Hancock
Campbell (CA)	Duncan	Hansen
Chandler	Edwards (OK)	Hastert
Clinger	Emerson	Hefley
Coble	Fawell	Henry
Herger	Molinari	Shumway
Hiler	Moorhead	Shuster
Holloway	Morrison (WA)	Slaughter (VA)
Hopkins	Nielson	Smith (MS)
Hunter	Packard	Smith (NE)
Inhofe	Parris	Smith (NJ)
Ireland	Paxon	Smith (TX)
James	Petri	Smith (VT)
Kasich	Porter	Smith, Denny (OR)
Kolbe	Pursell	Smith, Robert (NH)
Kyl	Quillen	Smith, Robert (OR)
Lagomarsino	Rahall	Snowe
Leach (IA)	Ravenel	Solomon
Lent	Regula	Spence
Lewis (FL)	Rhodes	Stangeland
Lightfoot	Ridge	Stearns
Livingston	Rinaldo	Stump
Lowery (CA)	Ritter	Sundquist
Lukens, Donald	Roberts	Thomas (CA)
Machtley	Robinson	Thomas (WY)
Madigan	Rogers	Upton
Marlenee	Rohrabacher	Visclosky
Martin (IL)	Roth	Vucanovich
Martin (NY)	Roukema	Walker
McCandless	Rowland (CT)	Weber
McCollum	Saiki	Wolf
McCrery	Saxton	Wylie
McDade	Schaefer	Young (AK)
McEwen	Schiff	Young (FL)
McMillan (NC)	Schneider	
Meyers	Schuette	
Miller (OH)	Sensenbrenner	
Miller (WA)	Shaw	

NOT VOTING—16

Bustamante	Ford (TN)	Roe
Clarke	Garcia	Waxman
Collins	Hawkins	Whittaker
Crockett	Hyde	Williams
Dorgan (ND)	Lewis (CA)	
Florio	Murtha	

□ 1932

So the motion to adjourn was agreed to.

The result of the vote was announced as above recorded.

Accordingly (at 7 o'clock and 34 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, August 3, 1989, at 9 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTION

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 222. Resolution waiving certain points of order against the conference report on H.R. 1278, to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes, and against consideration of such conference report (Rept. 101-210). Referred to the House Calendar.

Mr. ROE. Committee on Science, Space, and Technology. H.R. 3000. A bill to require that certain fasteners sold in commerce conform to the specifications to which they are represented to be manufactured, to provide for accreditation of laboratories engaged in fastener testing, to require inspection, testing, and certification, in accordance with standardized methods, of fasteners used in critical applications to increase fastener quality and reduce the danger of fastener failure, and for other purposes (Rept. 101-211, Pt. 1). Ordered to be printed.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 598. A bill

to amend the Federal Aviation Act of 1958 to prohibit smoking on domestic commercial aircraft flights; with amendments (Rept. 101-212). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEREUTER (for himself and Mr. HOAGLAND):

H.R. 3073. A bill to rename the Caluamus Dam and Reservoir the "Virginia Smith Dam and Reservoir"; to the Committee on Public Works and Transportation.

By Mr. DORGAN of North Dakota:

H.R. 3074. A bill to authorize the acquisition of additional lands containing Indian burial grounds for inclusion in the Knife River Indian Villages National Historic Site, ND, and to provide additional developmental funding for the historic site visitor center; to the Committee on Interior and Insular Affairs.

By Mr. EVANS:

H.R. 3075. A bill to amend title XVI of the Social Security Act to increase from $30 to $50 a month the amount of the personal allowance provided for eligible individuals and eligible spouses in medical institutions, and to adjust such allowance annually to reflect changes in the cost of living; to the Committee on Ways and Means.

By Mr. GOSS (for himself, Mr. JOHNSTON of Florida, Mr. LAGOMARSINO, Mr. KYL, Mr. HANCOCK, Mr. COX, Mr. ROHRABACHER, Mr. HOUGHTON, Mr. BALLENGER, Mr. SMITH of Mississippi, and Mr. RHODES):

H.R. 3076. A bill in support of official and unofficial observer missions for the 1990 national elections in Nicaragua; to the Committee on Foreign Affairs.

By Mr. HAWKINS:

H.R. 3077. A bill to promote through teaching and education respect for human rights and freedoms; to the Committee on Education and Labor.

By Mr. HOCHBRUECKNER (for himself, Mr. DOWNEY, Mr. MRAZEK, and Mr. SCHUMER):

H.R. 3078. A bill to amend the Housing and Community Development Act of 1974 to authorize the Secretary of Housing and Urban Development to impose sanctions for improper conveyance or use of properties under an urban homestead program; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HUGHES (for himself and Mr. TAUKE):

H.R. 3079. A bill to amend title II of the Social Security Act to exempt from the earnings test amounts earned for child care services by individuals who have attained retirement age; to the Committee on Ways and Means.

By Mr. MATSUI (for himself and Mr. VANDER JAGT):

H.R. 3080. A bill to amend the Internal Revenue Code of 1986 to clarify that section 457 does not apply to nonelective deferred compensation; to the Committee on Ways and Means.

By Mr. MILLER of California (for himself, Mrs. BOXER, Mr. DEFAZIO, Mr. GOSS, Mr. LEHMAN of Florida, Mr. LEVINE of California, Mr. LOWERY of California, Mr. MCDERMOTT, Mr. PANETTA, and Ms. PELOSI):

H.R. 3081. A bill to amend the Outer Continental Shelf Lands Act to permit the assessment of civil penalties for certain violations without the requirement of a period for corrective action, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mrs. PATTERSON (for herself, Mr. HARRIS, Mrs. BOGGS, Mr. BOUCHER, Mr. PALLONE, Mr. HERTEL, Ms. PELOSI, and Mr. BILBRAY):

H.R. 3082. A bill to amend the Internal Revenue Code of 1986 to allow individuals to direct that part or all of their income tax refunds be contributed to a Children's Trust Fund established to assist innovative programs for the provision of social services for children; jointly, to the Committees on Ways and Means, Education and Labor, and Energy and Commerce.

By Mr. PORTER (for himself, Mr. PETRI, Mr. NIELSON of Utah, Mr. HASTERT, and Mr. EMERSON):

H.R. 3083. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985 to exclude receipts and disbursements of the Social Security trust funds when calculating maximum budget deficit amounts, and to provide for a study to develop information and recommendations to the Congress relating to redirection of FICA and SECA taxes to individual retirement accounts or annuities or other retirement income arrangements; jointly, to the Committees on Ways and Means and Government Operations.

By Mr. RANGEL:

H.R. 3084. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that the label or labeling of a food state the specific common or usual name and the amount of each fat or oil contained in the food, the amount of saturated, polyunsaturated, and monounsaturated fats contained in the food, the amount of cholesterol contained in the food, and the amount of sodium and potassium contained in the food; to the Committee on Energy and Commerce.

By Mrs. SCHROEDER (for herself, Ms. SNOWE, Mrs. BOGGS, Mrs. BOXER, Mrs. COLLINS, Mrs. JOHNSON of Connecticut, Ms. KAPTUR, Mrs. KENNELLY, Mrs. LOWEY of New York, Mrs. MORELLA, Ms. OAKAR, Ms. PELOSI, Mrs. SAIKI, Ms. SCHNEIDER, Ms. SLAUGHTER of New York, Mrs. UNSOELD, Mr. ACKERMAN, Mr. AKAKA, Mr. ATKINS, Mr. AUCOIN, Mr. BERMAN, Mr. BORSKI, Mr. BROWN of California, Mr. CAMPBELL of Colorado, Mr. CARDIN, Mr. CONYERS, Mr. CROCKETT, Mr. DELLUMS, Mr. DEFAZIO, Mr. DE LUGO, Mr. DIXON, Mr. DYMALLY, Mr. EDWARDS of California, Mr. EVANS, Mr. FASCELL, Mr. FAUNTROY, Mr. FAZIO, Mr. FISH, Mr. FOGLIETTA, Mr. FRANK, Mr. FUSTER, Mr. GILMAN, Mr. GUARINI, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. HOYER, Mr. JONTZ, Mr. KASTENMEIER, Mr. LAFALCE, Mr. LEHMAN of Florida, Mr. LELAND, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LEWIS of Georgia, Mr. MARTINEZ, Mr. MATSUI, Mr. MCCLOSKEY, Mr. MCHUGH, Mr. MFUME, Mr. MILLER of California, Mr. MOODY, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. OBERSTAR, Mr. ROE, Mr. RANGEL, Mr. ROYBAL, Mr. SAWYER, Mr. SCHEUER, Mr. SIKORSKI, Mr. SOLARZ, Mr. STARK, Mr. STUDDS, Mr. TOWNS, Mr. UDALL, Mr. WHEAT, Mr. WILLIAMS, Mr. WYDEN, Mr. LANTOS, Mr. GARCIA, and Mr. WEISS):

H.R. 3085. A bill to ensure economic equity for American women and their families by providing equitable pay and employee benefits and enhanced opportunities in business procurement and vocational education; providing economic and retirement security for women as workers and as divorced or surviving spouses; making quality and affordable dependent care available to all working families; and enhancing the long-term health of women and their families through prevention services and assistance in victims of domestic violence; jointly, to the Committees on House Administration; Banking, Finance and Urban Affairs; Education and Labor; Ways and Means; Energy and Commerce; the Judiciary; and Small Business.

By Mr. SIKORSKI (for himself, Mr. HORTON, Mrs. SCHROEDER, Mr. MCCLOSKEY, Mr. DYMALLY, Mr. HOYER, Mr. GILMAN, and Mrs. MORELLA):

H.R. 3086. A bill to amend title 5, United States Code, to grant appeal rights to members of the excepted service affected by adverse personnel actions, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SLATTERY:

H.R. 3087. A bill to amend the Internal Revenue Code of 1986 to permit an income exclusion for U.S. savings bonds used for the higher education expenses of a grandchild; to the Committee on Ways and Means.

H.R. 3088. A bill to amend the Internal Revenue Code of 1986 to increase the amount of unearned income of a minor child that is not taxed at the marginal rate of the parents; to the Committee on Ways and Means.

H.R. 3089. A bill to amend the Internal Revenue Code of 1986 to provide that the unearned income of children attributable to personal injury awards shall not be taxed at the marginal rate of the parents; to the Committee on Ways and Means.

H.R. 3090. A bill to amend the Internal Revenue Code of 1986 to repeal the age limitation on the one-time exclusion of gain from the sale of principal residence; to the Committee on Ways and Means.

By Ms. SNOWE (for herself and Mr. BRENNAN):

H.R. 3091. A bill to provide for the construction of a facility for breeding certain mice for use in biomedical research; to the Committee on Energy and Commerce.

By Mr. SYNAR (for himself and Mr. FIELDS (both by request), Mr. OXLEY, Mr. BARTON of Texas, Mr. CALLAHAN, and Mr. HASTERT):

H.R. 3092. A bill to eliminate unnecessary economic regulation of oil pipelines and reform any remaining regulations to increase competition, and for other purposes; to the Committee on Energy and Commerce.

By Mr. VISCLOSKY (for himself, Mr. PEASE, Mrs. BENTLEY, Mr. ANNUNZIO, Mr. APPLEGATE, Mr. BROWDER, Mr. BROWN of California, Mr. BRUCE, Mr. BUSTAMANTE, Mr. CARDIN, Mr. COYNE, Mr. DARDEN, Mr. DICKS, Mr. DWYER of New Jersey, Mr. ECKART, Mr. ENGEL, Mr. ERDREICH, Mr. ESPY, Mr. EVANS, Mr. FRANK, Mr. FROST,

Mr. GAYDOS, Mr. HARRIS, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. HERTEL, Mr. JACOBS, Mr. JONTZ, Ms. KAPTUR, Mr. KILDEE, Mr. KOLTER, Mr. KOSTMAYER, Mr. LEVIN of Michigan, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. THOMAS A. LUKEN, Mr. MAVROULES, Mr. MCCLOSKEY, Mr. MOAKLEY, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. MURPHY, Mr. OBERSTAR, Mrs. PATTERSON, Mr. PERKINS, Mr. POSHARD, Mr. RAHALL, Mr. RITTER, Mr. ROE, Mr. SANGMEISTER, Mr. SIKORSKI, Mr. STAGGERS, Mr. TORRES, Mr. TOWNS, Mr. TRAFICANT, Mr. TRAXLER, Mrs. UNSOELD, Mr. WALGREN, Mr. WILLIAMS, Mr. WOLPE, Mr. CAMPBELL of Colorado, Mr. EMERSON, Mr. VENTO, Mr. RUSSO, Mr. MURTHA, Mr. RICHARDSON, Mr. BURTON of Indiana, Mr. MCEWEN, Mr. GUARINI, Mrs. COLLINS, Mr. WALSH, Mr. SHUSTER, Mr. BONIOR, Mr. BEVILL, Mr. COSTELLO, Mr. DURBIN, Mr. FEIGHAN, Mr. FOGLIETTA, Mr. HOYER, Mr. MOLLOHAN, Ms. OAKER, Mr. WISE, Mr. DONALD E. LUKENS, Mr. BILIRAKIS, Mr. CLARKE, Mr. DELLUMS, Mr. DYMALLY, and Mr. KANJORSKI):

H.R. 3093. A bill providing for an interim report to the Congress on the implementation of the steel trade liberalization program; to the Committee on Ways and Means.

By Mr. WALGREN:

H.R. 3094. A bill to amend the Solid Waste Disposal Act to ensure that recycled paper acquired by the United States is permanent paper where appropriate, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WAXMAN (for himself and Mr. DINGELL):

H.R. 3095. A bill to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GILLMOR:

H.J. Res. 384. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation and to allow an item veto of appropriations; to the Committee on the Judiciary.

By Mr. ACKERMAN (for himself, Mr. RICHARDSON, Mr. MANTON, Mr. GILMAN, Mr. SOLOMON, Mr. GUARINI, Mr. LENT, Mr. STAGGERS, Mr. FLAKE, Mr. SOLARZ, Mr. MARKEY, Mr. LANTOS, Mr. WHEAT, Mr. SCHEUER, Mr. TORRICELLI, Mr. BURTON of Indiana, Mr. DANNEMEYER, Mr. WALKER, Mr. MOLINARI, Mr. CRAIG, Mr. GREEN, Mr. DOUGLAS, Mr. DOWNEY, Mr. MILLER of Washington, Mr. GALLO, Mr. DORNAN of California, Mr. GRANDY, Mr. CARDIN, Mr. MONTGOMERY, Mr. PARKER, Mr. DYSON, Mr. SKELTON, Mr. HUTTO, Mr. LEATH of Texas, Mr. LAGOMARSINO, Mr. TORRES, Mr. MORRISON of Connecticut, Ms. PELOSI, Mr. ENGEL, Mr. MCGRATH, and Mr. MCNULTY):

H. Con. Res. 183. Concurrent resolution calling for the extradition from Israel to the United States of Sheik Abdul Obeid in order that he may be brought to justice for the kidnapping and murder of Lt. Col. William Higgins; to the Committee on Foreign Affairs.

By Mr. FORD of Michigan (for himself, Mr. GILMAN, Mr. COSTELLO, Mr. GAYDOS, Mr. TRAFICANT, Mr. HORTON, Mr. DE LUGO, Mr. PALLONE, Mr. MARTINEZ, Mr. KOLTER, Mr. LEVIN of Michigan, Mr. CAMPBELL of Colorado, Mr. ATKINS, Mr. WILSON, Mr. NOWAK, Mr. RANGEL, Mr. TORRES, Mr. BONIOR, Mr. DEFAZIO, Mr. EVANS, Mr. HERTEL, Mr. OWENS of New York, Mr. BALLENGER, Mr. KANJORSKI, Mr. WALSH, and Mr. KILDEE):

H. Con. Res. 184. Concurrent resolution expressing the sense of the Congress that the people of the United States should purchase products made in the United States and services provided in the United States, whenever possible, instead of products made or services performed outside the United States; jointly, to the Committees on Energy and Commerce and Post Office and Civil Service.

By Mr. SOLARZ (for himself, Mr. YATRON, and Mr. ROHRABACHER):

H. Con. Res. 185. Concurrent resolution in support of basic human rights and democracy in Burma; to the Committee on Foreign Affairs.

By Mr. DOUGLAS:

H. Res. 223. Resolution expressing the sense of the House regarding Palestine Liberation Organization terrorism; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. DICKINSON introduced a bill (H.R. 3096) for the relief of Oliver North; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 41: Mr. VENTO and Mr. PALLONE.
H.R. 101: Mr. SANGMEISTER.
H.R. 132: Mr. PALLONE and Mr. BOUCHER.
H.R. 145: Mr. MOAKLEY and Mr. LAGOMARSINO.
H.R. 239: Mr. PACKARD.
H.R. 446: Mr. OWENS of Utah.
H.R. 455: Mr. HERGER.
H.R. 505: Mr. GEPHARDT, Mr. JONES of Georgia, and Mr. WALSH.
H.R. 614: Mr. DELAY.
H.R. 655: Mr. AKAKA.
H.R. 762: Mr. SCHIFF.
H.R. 774: Mr. JENKINS and Mr. FOGLIETTA.
H.R. 979: Mrs. VUCANOVICH.
H.R. 995: Mr. GEJDENSON.
H.R. 1078: Mr. LANCASTER, Mr. ROWLAND of Connecticut, Mr. BRENNAN, and Mr. CARPER.
H.R. 1112: Mr. BATES.
H.R. 1129: Mr. OWENS of Utah.
H.R. 1142: Mr. RAY.
H.R. 1383: Mr. ROYBAL.
H.R. 1387: Mr. MADIGAN.
H.R. 1436: Mr. JAMES and Mr. LAGOMARSINO.
H.R. 1545: Mr. LEACH of Iowa.
H.R. 1582: Mr. HAWKINS and Mr. DIXON.
H.R. 1602: Mr. SOLARZ.
H.R. 1617: Mr. HUBBARD.
H.R. 1622: Mr. CROCKETT, Mr. BERMAN, Mr. BRYANT, Mr. CARDIN, Mr. BOUCHER, Mr. SANGMEISTER, Mr. HUGHES, and Mr. SYNAR.
H.R. 1637: Mr. FISH, Mr. RITTER, Mr. SMITH of New Jersey, and Mr. FRANK.
H.R. 1660: Mr. RUSSO.
H.R. 1730: Mr. BATES.
H.R. 2181: Mr. COOPER and Mr. ROE.
H.R. 2209: Mr. CARR.
H.R. 2213: Mr. PRICE, Mr. BATES, Mr. TOWNS, and Mr. MOODY.
H.R. 2217: Mr. DWYER of New Jersey, Ms. KAPTUR, Mr. ENGEL, Mr. FROST, and Mr. FOGLIETTA.
H.R. 2222: Mr. JOHNSON of South Dakota.
H.R. 2223: Mr. CAMPBELL of California and Mr. JONTZ.
H.R. 2237: Mr. HERTEL and Mr. SMITH of Florida.
H.R. 2322: Mr. RIDGE.
H.R. 2360: Mr. PARKER and Mr. GINGRICH.
H.R. 2405: Mr. ATKINS and Mr. DIXON.
H.R. 2418: Mr. WISE.
H.R. 2549: Mrs. MORELLA.
H.R. 2588: Mr. LEWIS of Georgia, Mr. TOWNS, Mrs. COLLINS, Mr. DIXON, and Mr. EVANS.
H.R. 2732: Mr. PAYNE of Virginia.
H.R. 2756: Mr. ECKART and Mr. RICHARDSON.
H.R. 2760: Mrs. COLLINS.
H.R. 2761: Mr. JONTZ, Mr. KANJORSKI, Mr. GONZALEZ, Mr. BUSTAMANTE, Mr. BILIRAKIS, Mr. WHITTEN, Mr. RITTER, Mr. BROOMFIELD, Mr. MAVROULES, Mr. CONTE, Mr. FISH, Mr. GALLEGLY, Mr. MCDADE, Mr. STAGGERS, Mr. BLAZ, Mr. MCEWEN, Mr. PANETTA, Mr. BOEHLERT, Mr. ROWLAND of Connecticut, Mr. PRICE, Mr. KOLTER, Mr. DE LA GARZA, Mr. AKAKA, Mr. BRYANT, Mr. PAYNE of Virginia, Mr. SMITH of Florida, and Mr. MFUME.
H.R. 2770: Mr. KOLTER.
H.R. 2779: Mr. PRICE, Mr. DYMALLY, Mrs. COLLINS, Mr. JONTZ, Mr. LEWIS of Georgia, Mrs. SAIKI, Mr. COURTER, Mr. ROWLAND of Connecticut, and Mr. LAGOMARSINO.
H.R. 2782: Mr. ROE, Mr. MARTINEZ, Mrs. COLLINS, Mr. BILBRAY, Mr. KOLBE, and Mr. HERTEL.
H.R. 2801: Mr. DANNEMEYER.
H.R. 2919: Mr. ACKERMAN, Mr. BEREUTER, Mrs. BOXER, Mr. DE LUGO, Mr. FAZIO, Mr. GIBBONS, Mr. HORTON, Mr. HUGHES, Mr. MCEWEN, Mr. MARTINEZ, Mr. QUILLEN, Mr. ROE, Mr. ROSE, Mr. ROWLAND of Connecticut, Mr. SMITH of Florida, Mr. SHAW, Mr. VENTO, and Mr. WALSH.
H.R. 2951: Mr. RANGEL, Mr. FAUNTROY, Mr. MCNULTY, Mrs. BOXER, Mr. WALSH, Mr. STARK, Mr. WHEAT, Mr. OWENS of Utah, Mr. CAMPBELL of California, Mr. CROCKETT, Mr. CAMPBELL of Colorado, and Ms. PELOSI.
H.R. 2952: Mr. BEREUTER, Mr. WHEAT, Mr. STARK, Mr. WALSH, Mrs. BOXER, Mr. MCNULTY, Mr. MATSUI, Mr. FAUNTROY, Mr. RANGEL, Mr. OWENS of Utah, Mr. CROCKETT, Mr. CAMPBELL of Colorado, and Ms. PELOSI.
H.R. 2957: Mr. DOWNEY, Mr. MRAZEK, Mrs. COLLINS, and Mr. THOMAS A. LUKEN.
H.R. 2968: Mr. HAYES of Illinois, Mr. BONIOR, and Mr. EVANS.
H.R. 2996: Mr. ROWLAND of Georgia and Mr. FUSTER.
H.R. 3003: Mr. MARTIN of New York.
H.R. 3009: Mr. WALSH, Mr. LEVIN of Michigan, and Mr. FROST.
H.R. 3027: Mr. ROE and Mr. SAXTON.
H.J. Res. 81: Mr. CLINGER and Mr. GALLEGLY.
H.J. Res. 146: Mr. ACKERMAN, Mr. BARNARD, Mr. BENNETT, Mr. BERMAN, Mr. BEVILL, Mr. BOEHLERT, Mr. BOSCO, Mr. BROWN of California, Mr. BRUCE, Mr. BUSTAMANTE, Mr. CAMPBELL of Colorado, Mr. CARPER, Mr. DE LUGO, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. EMERSON, Mr. ENGLISH, Mr. ESPY, Mr. EVANS, Mr. FAUNTROY, Mr. FAZIO, Mr. FOGLIETTA, Mr. FUSTER, Mr. GRANDY, Mr. HARRIS, Mr. HATCHER, Mr. HAWKINS, Mr. HORTON, Mr. HUCKABY, Mr. JOHNSON of

South Dakota, Mr. JONTZ, Mr. JONES of North Carolina, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. LANTOS, Ms. LONG, Mr. THOMAS A. LUKEN, Mr. MARTIN of New York, Mr. MARTINEZ, Mr. MCCLOSKEY, Mr. MCDADE, Mr. MCEWEN, Mr. MCHUGH, Mr. MCNULTY, Mr. MORRISON of Washington, Mr. OLIN, Mr. OWENS of New York, Mr. PANETTA, Mr. RANGEL, Mr. ROE, Mr. ROSE, Mr. ROYBAL, Mr. SARPALIUS, Mr. SCHUETTE, Mr. STAGGERS, Mr. STALLINGS, Mr. TALLON, Mr. VALENTINE, Mr. VOLKMER, Mr. WALSH, Mr. WAXMAN, Mr. WEBER, Mr. WHEAT, and Mr. WYDEN.

H.J. Res. 164: Mr. BARTLETT, Mr. ORTIZ, and Mr. MACHTLEY.

H.J. Res. 199: Mr. RIDGE.

H.J. Res. 214: Mr. DEWINE and Mr. FRANK.

H.J. Res. 231: Mr. BROWN of Colorado, Mr. KLECZKA, Mr. AKAKA, Mr. MONTGOMERY, Mr. SPENCE, Mr. PETRI, Ms. SLAUGHTER of New York, Mr. PERKINS, Mr. KILDEE, Mr. WISE, and Mr. MOLLOHAN.

H.J. Res. 256: Mr. LEHMAN of Florida, Mr. MATSUI, Mr. LAGOMARSINO, Mr. WALGREN, Mr. LEACH of Iowa, Mr. COSTELLO, Mr. JACOBS, and Mr. ATKINS.

H.J. Res. 257: Mr. ROBERT F. SMITH, Mr. SCHEUER, Mr. THOMAS of California, Mr. ROSE, Mr. HUTTO, Mr. WYDEN, Mr. MCCOLLUM, Mr. LANCASTER, Mr. HYDE, Mr. YATRON, Mr. MILLER of Ohio, Mr. FAUNTROY, Mr. SCHUMER, Mr. COYNE, Mr. BOUCHER, Mr. ROBINSON, Mr. RITTER, Mr. CROCKETT, Mr. DANNEMEYER, Mr. DONNELLY, Mr. INHOFE, Mr. CHAPMAN, Mr. JENKINS, Mr. PETRI, and Mr. LEACH of Iowa.

H.J. Res. 320: Mr. BLAZ, Mr. BUECHNER, Mr. CONTE, Mr. DE LA GARZA, Mr. FLORIO, Mr. FOGLIETTA, Mr. FROST, Mr. HERTEL, Mr. LANTOS, Mr. MCDADE, Mr. MCDERMOTT, Mr. MCEWEN, Mr. MCGRATH, Mr. MAZZOLI, Mr. MRAZEK, Mr. NATCHER, Mr. WAXMAN, and Mr. YATRON.

H.J. Res. 327: Mr. PAYNE of New Jersey, Mr. MURPHY, Mr. RAVENEL, Mr. SCHEUER, Mr. SOLARZ, Mr. NELSON of Florida, Mr. STARK, Mr. BEVILL, Mr. NATCHER, Mr. WALGREN, Mr. TRAXLER, Mr. WEISS, Mr. WILSON, Mr. ROWLAND of Georgia, Mr. CONYERS, Mr. HALL of Ohio, Mr. PANETTA, Mr. FOGLIETTA, Mr. FROST, Mr. RAY, Mr. ORTIZ, Mr. MCGRATH, and Mr. GUARINI.

H.J. Res. 338: Mr. GARCIA, Mr. GOSS, Mr. GRAY, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FAUNTROY, Mr. FORD of Tennessee, Mr. DICKS, Mr. ESPY, Mr. HENRY, Mr. DOWNEY, Mr. MINETA, Mr. HAWKINS, Mr. KLECZKA, and Mr. STARK.

H.J. Res. 355: Mr. DE LA GARZA, Mr. MCEWEN, Mr. HEFNER, and Mr. FAZIO.

H. Con. Res. 87: Mr. ROSE, Mr. STENHOLM, Mr. GOSS, Mr. OBERSTAR, Mr. CARDIN, Mr. DE LA GARZA, Mr. MARTINEZ, Mr. HUGHES, Mr. FROST, Mrs. UNSOELD, Mr. SMITH of New Hampshire, Mr. LEHMAN of Florida, and Mr. MCGRATH.

H. Con. Res. 138: Mr. GALLEGLY and Mr. ENGEL

H. Con. Res. 161: Mr. MRAZEK, Mr. EMERSON, and Mr. NOWAK.

H. Con. Res. 172: Mr. BEREUTER, Mr. WHEAT, Mr. STARK, Mr. WALSH, Mrs. BOXER, Mr. MCNULTY, Mr. MATSUI, Mr. FAUNTROY, Mr. RANGEL, Mr. OWENS of Utah, Mr. CAMPBELL of California, Mr. CAMPBELL of Colorado, Mr. CROCKETT, and Ms. PELOSI.

H. Res. 134: Mr. PACKARD.

H. Res. 181: Mr. SMITH of New Hampshire.

H. Res. 191: Mr. KOLTER.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3015

By Mr. TAUZIN:

—Page 6, line 16, delete "$2,228,000,000" and insert "$2,252,000,000";

—Page 6, line 20, delete "$1,928,000,000" and insert "$1,952,000,000".

—Page 7, line 15, delete "$383,800,000" and insert "$423,800,000"; and

—Page 7, line 18, delete "$189,000,000" and insert "$202,100,000"; and

—Page 7, line 16, delete "$88,300,000" and insert "$115,200,000".

EXTENSIONS OF REMARKS

MAIREAD KEANE OFFERS HER PERSPECTIVE ON THE CURRENT SITUATION IN NORTHERN IRELAND

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. MANTON. Mr. Speaker, several weeks ago the Congressional Ad Hoc Committee on Irish Affairs convened to hear the testimony of Ms. Mairead Keane, who serves as director of the women's department of the Irish political party Sinn Fein. This meeting provided an important opportunity for Members of Congress to hear firsthand testimony about the current political situation in Northern Ireland from an active participant in the process.

I commend my colleagues' attention to Ms. Keane's testimony before the Ad Hoc Committee on Irish Affairs. I believe her insight and perspective will be useful to Members who are interested in learning more about the complex problems in Ireland today.

STATEMENT OF MAIREAD KEANE BEFORE THE AD HOC CONGRESSIONAL COMMITTEE FOR IRISH AFFAIRS

Mr. Chairperson, Co-Chairpersons, and members of the Ad Hoc Congressional Committee for Irish Affairs, I am honored to be present here and deeply appreciate this opportunity to speak to you on behalf of Sinn Fein. Gerry Adams, President of Sinn Fein and elected Member of the British Parliament, sends his compliments and wishes he could personally visit with you some day.

As most of you know, my party, Sinn Fein, has been denied access to the American public through a policy of censorship by visa denial in which Sinn Fein elected representatives and prominent spokespersons are systematically denied visas to enter the United States and place their opposition to British rule before the American public. We think that the American public has the right to know all sides of the continuing struggle in Ireland, and we find it intolerable that this practice continues. The very existence of a policy of censorship against Sinn Fein is a tacit admission by the British that if Mr. Adams was given a hearing in the United States, he would attract considerable levels of support among political leaders, press and the American people. Britain fears full and impartial debate because the violence of British crown forces and systematic discrimination necessary to perpetuate British rule are indefensible.

SELF-DETERMINATION

The island of Ireland, throughout history, has been universally regarded as one unit. The historical and contemporary existence of the Irish nation has never been in dispute. The Irish people have never relinquished their claim to the right of self-determination. What has been in contest is the right of the Irish people, as a whole, to self-determination and their freedom to exercise that right.

For centuries, the relationship between the British government and the Irish people has been the relationship between the conqueror and the conquered, the oppressor and the oppressed. The perennial cycle of oppression / domination / resistance / oppression has been a constant feature of the British government's involvement in Ireland and the Irish people's rejection of that government's usurpation of the right to exercise control over their political, social, economic and cultural destiny.

From the late 17th century onwards, that usurpation provoked both revolutionary resistance and—within the narrowest confines of British constitutional legality—constitutional opposition. In the course of the 19th century, British oppression and famine caused the population of Ireland to be halved.

The last occasion when the Irish people nationally exercised their franchise was in the 1918 General Election. Sinn Fein, with a political program demanding complete independence for the unitary state of Ireland, won the election with 69.5% of the vote. Those democratically elected representatives of the Irish people formed Dail Eireann and, on January 21, 1919, enacted the Declaration of Independence.

The Anglo-Irish Treaty of 1922, the partition of Ireland and the Constitution of the Irish Free State were imposed on the Irish people under the threat of "immediate and terrible war." They were not submitted to the Irish people for ratification and their imposition represents a denial to the Irish people of the freedom to exercise their right to self-determination.

The pretext for partition—the wishes of a national minority to maintain British rule—holds no validity against the express wishes of the vast majority of the Irish people. Secession is not the same as self-determination.

Partition perpetuates the British government's denial of the Irish people's right to self-determination. It perpetuates the cycle of oppression/domination/resistance/oppression. In the words of Sean MacBride, winner of the Nobel and Lenin Peace Prizes:

"Ireland's right to sovereignty, independence and unity are inalienable and indefeasible. It is for the Irish people as a whole to determine the future status of Ireland. Neither Britain nor a small minority selected by Britain has any right to partition the ancient island of Ireland, nor to determine its future as a sovereign nation."

SCENARIO FOR PEACE

The ending of partition, a British disengagement from Ireland and the restoration to the Irish people of the right to exercise self-sovereignty, independence and national self-determination remain the only solution to the British colonial conflict in Ireland. The Anglo-Irish Agreement and the processes it involves seek merely to camouflage the fact that the Six-County state is a failed entity, socially, economically and politically. The Treaty does not challenge the constitutional status of the Union but actually reinforces it.

Sinn Fein seeks to create conditions which will lead to a permanent cessation of hostilities, an end to our long war and the development of a peaceful, united and independent Irish society. Such objectives will only be achieved when a British government adopts a strategy for decolonization. It must begin by repealing the "Government of Ireland Act" and publicly declaring that the "Northern Ireland" statelet is no longer part of the United Kingdom.

Furthermore, it must declare that its military forces and its system of political administration will remain only for as long as it takes to arrange their permanent withdrawal. This would need to be accomplished within the shortest practical period. A definite date within the life-time of a British government would need to be set for the completion of this withdrawal. Such an irreversible declaration of intent would minimize any loyalist backlash and would go a long way toward bringing round to reality most loyalists and those of their representatives genuinely interested in peace and negotiation. It would be the business of such negotiations to set the constitutional, economic, social and political arrangements for a new Irish state through a Constitutional Conference.

20 YEARS OF DIRECT OCCUPATION

The present phase of the struggle for democracy in Ireland has lasted 20 years. It is the longest phase in the struggle for self-determination for the Irish people. In the last 20 years, nationalist people in the Six Counties have lived with armed British soldiers on their streets. They have been the victims of a shoot-to-kill policy by lead and plastic bullets. They have lived under emergency legislation and non-jury courts. They have suffered discrimination in employment. Today, 20 years on, nationalists are still 2½ times more likely to be unemployed than loyalists. Sinn Fein supports the MacBride Principles and we would welcome federal legislation to enforce these Principles.

We sincerely hope that you, the representatives of the American people, will inform your constituents about the struggle that we are undergoing in Ireland against the censorship of duly elected representatives of the people; and in America, with the visa denial policy, which in effect denies the American public the right to hear all opinions in the struggle for self-determination in Ireland.

We believe that after 20 years of failed initiatives it is time for the British government to adopt a policy of withdrawal. Therefore, we respectfully request the Ad Hoc Committee for Irish Affairs in this 20th year of direct British military presence in the Six Counties in the northeast of Ireland to sponsor a resolution on British withdrawal from Ireland.

Finally, we sincerely appreciate all your efforts in highlighting the gross inequities in The International Fund for Ireland. Thank you very much for your time and consideration.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ECONOMIC EQUITY ACT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mrs. MORELLA. Mr. Speaker, I am pleased to join a number of my colleagues today as an original cosponsor of the Economic Equity Act, a package of bills to improve the economic and social status of women. During the last Congress, a number of provisions of the Economic Equity Act were approved, and I am confident that we will be even more successful in obtaining approval for these important bills during the 101st Congress.

Among the new proposals in this year's package are four bills which I have introduced. Three of my bills address the crisis of domestic violence: Every 15 seconds, a woman is beaten in her home, and every day at least four women are killed by their batterers. In my own State of Maryland, 19 women were killed by their partners in 1988. Within Montgomery County, MD, alone, the abused persons hotline receives at least 25,000 calls per year, and this number is steadily rising.

The first bill establishes a sense of Congress regarding the pervasiveness of the problem, its effect on our society, particularly on our children, and the need to incorporate evidence of domestic violence in child custody litigation. The second bill provides funding for research grants, administered through the State Justice Institute, to examine our judicial system's response to child custody litigation involving domestic violence. The third bill addresses the critical housing needs of battered spouses who leave their abusers and find themselves homeless. Last month, I introduced the bills with my colleague, Congressman GEORGE MILLER, chairman of the Select Committee on Children, Youth, and Families.

The fourth bill is intended to assist displaced homemakers and single parents to purchase a home. Currently, this group faces difficult obstacles in their efforts to become independent. A lack of a credit history can prevent them from obtaining loans to purchase a home, even though many of them have been cosigners on loans with their spouses. The bill redefines first-time home buyers to include displaced homemakers and single parents, who previously had been part-owners of a home, in order to allow them to be eligible for first-time home buyer assistance.

Mr. Speaker, the Economic Equity Act includes a number of worthy proposals in the areas of employment, economic security, dependent care, and health care. I urge my colleagues to cosponsor this important package of bills, and to work with us to resolve many of the existing inequities which continue to face women in this country.

YASSER ARAFAT PRAISES THE BUTCHERS OF BEIJING

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. LANTOS. Mr. Speaker, Yasser Arafat, head of the PLO, frequently makes statements that are outrageous, but his recent letter of congratulations to the new hard-line head of the Chinese Communist Party—the text of which reported in full by the Chinese news agency Xinhua—sets a new low standard—even for Mr. Arafat. This letter reveals a deep-seated attitude toward violence and terrorism that we have come to associate with the PLO leader, an attitude that raises the most serious questions about the merit of trying to deal with the PLO.

Mr. Jian Zemin was named head of the Chinese Communist Party after his predecessor opposed hard liners in the Chinese leadership who ordered the use of troops in the vicious and bloody suppression of peaceful, nonviolent students in Tiananmin Square.

After Mr. Jian was named party leader, Yasser Arafat sent this message to him:

On behalf of the Arab Palestinian People, their leadership, and myself, I express the warmest, most sincere congratulations to you—dear comrade—on your appointment to General Secretary of the Communist Party of China.

But then Arafat made his most outrageous and appalling statement: I "take this opportunity to express extreme gratification that you were able to restore normal order after the recent incidents in the People's Republic of China." "Extreme gratification?" "Restore normal order?"

Mr. Speaker, the entire civilized world has condemned with revulsion and horror the bloody suppression and murder of unarmed Chinese citizens by Chinese troops. Praise for that terrorist massacre by Yasser Arafat is in stunning contrast to the unanimous condemnation of the Chinese leaders by governments and human rights leaders around the world.

Yasser Arafat's incredible statement, Mr. Speaker, raises extremely serious questions in my mind about our Government's dealings with the PLO, particularly in light of our extensive previous experience with PLO involvement in and sponsorship of terrorism. Mr. Arafat's warm endorsement of the barbarous butchery in Beijing should give our own foreign policy leaders serious second thoughts about doing business with the terrorist from Tunis.

THE DAY THAT AMERICA CRIED

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. YATRON. Mr. Speaker, in light of the Supreme Court's recent decision in the Texas versus Johnson case regarding desecration of the American flag, many throughout the country are calling for a constitutional amendment to enable the States and the Congress to prohibit the wanton destruction of our national symbol. In all of the reading that I have done on this topic, I have not come across a more compelling argument for a constitutional amendment than that offered by the members of the Vietnam Veterans of America Berks County Chapter 131 of Reading, PA. Entitled "June 21, 1989—The Day That America Cried," I submit the thoughts of the members of Chapter 131 to you, Mr. Speaker, and to my colleagues, and hope that all will benefit from its wisdom and insight.

JUNE 21, 1989—THE DAY THAT AMERICA CRIED

On December 7, 1941 our late President Roosevelt spoke to the people of America and proclaimed that day as a "Day of Infamy." Now, almost 48 years later, President Bush once again tells Americans we have experienced yet another "Day of Infamy," June 21, 1989.

On woosy Wednesday, June 21, eight men and one woman, in a 5-to-4 decision, have decreed that the blasphemous physical action of burning the American Flag is an expression of free speech when it is committed as a part of a political protest.

And, that punishment for this dastardly action violates the first amendment to the Constitution: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, * * *"

The flag of the United States historically has been and will always be in the minds and hearts of America—inviolable.

We wholeheartedly agree with the dissenting justices, William H. Rehnquist, John P. Stevens, Byron R. White and Sandra Day O'Connor, who said that Gregory Lee "Joey" Johnson was being punished for conduct, not speech, and that he (Johnson) was free to express his disapproval of national policy in many ways without burning the flag.

Recall what President Woodrow Wilson said on June 14, 1915: "The flag is the embodiment, not of sentiment, but of history. It represents the experiences made by men and women, the experiences of those who do and live under the flag."

Remember, too, Francis Bellamy who in 1888 wrote: "I pledge allegiance to the flag of the United States of America and to the republic for which it stands * * *"

Subsequent to our Nation's most divisive period, Charles Summer, on November 19, 1867, looked at old glory waiving in the breeze and penned: "There is the National flag. He must be cold, indeed, who can look upon its folds rippling in the breeze without pride of country. If in a foreign land, the flag is companionship, and country itself, with all its endearments."

And Henry Ward Beecher in the 1880s noted: "A thoughtful mind, when it sees a nation's flag, sees not the flag only, but the nation itself; and whatever may be its symbols, its insignia, he reads chiefly in the flag the government, the principles, the truths, the history which belongs to the nation that set it forth."

Don't these words means anything any. more?

We believe that the notion that a physical, destructive and harmful deed tied in with a political demonstration is protected by the First Amendment to be unconscionable. Does it follow that within this concept, a group of terrorists claiming their actions

are political demonstrations and exercises of free speech have been given carte blanche authority to do whatever dastardly evil they can conjure?

This is difficult to accept. We think about taking hostages, invading and seizing our embassies, and the ultimate, killing Americans. Could all of this be permitted as an extension or an exercise of free speech?

Thank God that these extensions most likely could never occur. Nonetheless, in this day and age of strange Supreme Court decisions, such as this ruling allowing this most precious symbol of what we are and who we are to be burned by a dissenting person or group under the guise of free speech is terribly frightening.

Linking a destructive and/or harmful physical action or deed to the free speech concept opens a Pandora's box. Where and how does one draw a line?

Can a woosy-headed political demonstrator burn down the White House? Would Johnson get away with yelling "Fire!" in a crowded theater during a political demonstration?

Probably not, but only because of the number of casualties that would ensue. However, if the theater was evacuated without casualties, would the same Justices condone the act as one of free speech?

Free speech has its limits. One can't falsely yell "Fire" when in a crowded theater. If we once again follow what appears to be the reasoning behind the 5-4 decision, the casualties that ensue should not be part of the reasoning process. Therefore, if you have the urge to yell fire in a crowded theater, just make sure you prepare yourself and call it a political-dissent action before you yell.

It is our conviction that the Flag, in the hearts and minds of the American people, transcends the idea that it is a mere symbol or simple piece of cloth.

We proclaim that our "Flag" is a living instrument of our glorious history. It is a living part of what is America.

If you argue that it is not alive—look up there where she waves in the soft breeze nourished by a loving summer kiss of air. Ask yourself what happens when it passes by in a parade, the electricity of life passes from the flag to you who feels it across his/her back in the form of a chill.

There's even more to the flag than life. It is part of our creed. "The American Creed" of William Tyler Page: "I believe in the United States of America as a Government of the people, by the people, for the people; whose just powers are derived from the consent of the governed; a democracy in a republic, a sovereign Nation of many sovereign States; a perfect Union one and inseparable, established upon those principles of freedom, equality, justice and humanity for which American patriots sacrificed their lives and fortunes. I therefore believe it is my duty to my country to love it, to support its Constitution, to obey its laws, to respect its flag, and to defend it against all enemies."

George Pope Morris said it like it is: "the union of hearts—the union of hands—and the flag of our Union forever."

Our past revolutionary leaders truly understood what the flag meant to Americans when they said: "Heaven knows how to put a proper price upon its goods; and it would be strange indeed, if so celestial an article as our flag should not be so highly regarded."

We hear and read that many people are concerned about dangers of a rush for a Constitutional amendment. They tell us we should not yield to the temptation to change this great document because of the precedent it would set: That every time the majority disagrees with a Supreme Court decision it will amend the Constitution.

On this view we are reminded of what Charles William Elliot said in 1869: "In the modern world the intelligence of public opinion is the one indispensable condition of social change."

We believe that public opinion favors respect for the flag, no more, no less. We also believe that public opinion favors punishment for those who desecrate the flag.

History teaches us that the unfailing formula for production of our people's morale is patriotism, self-respect, discipline and self-confidence joined with fair treatment and merited appreciation from without. We know that it will quickly wither and die if the citizens come to believe themselves the victims of indifference or injustice on the part of government, or of ignorance, personal ambitions, or ineptitude on the part of their leaders.

We are concerned because the Supreme Court's indifference to what Americans believe and feel toward their flag may be much more harmful to our citizens than the hazy and almost unidentifiable link of free speech in the shameful action of burning our flag as part of a political demonstration that the five justices are wrongfully protecting.

We support immediate and positive action by the Congress and the Commonwealth of Pennsylvania to start the process of amending the Constitution prohibiting desecration of the American flag.

LEIGH T. TALLAS,
President,
THOMAS REYNOLDS, JR.
2d Vice President,
ALBERT J. BROWN,
Secretary,
DOUGLAS F. DIDYOUNG,
Vice President,
THOMAS L. STOUT,
Treasurer,
DAVID M. CISCON,
Assistant Secretary.

CONCERN OVER THE CASE OF JOHN DEMJANJUK

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. TRAFICANT. Mr. Speaker, today I bring a matter of grave concern to the attention of the entire House. I have risen twice before to express my concern over the case of John Demjanjuk. Today I present documented evidence of wrongdoing on the behalf of our U.S. Government.

In 1981, John Demjanjuk, a Cleveland autoworker was stripped of his United States citizenship and extradited to Israel to stand trial for Nazi war crimes. Mr. Demjanjuk was accused of being "Ivan the Terrible," operator of the gas chambers at the Treblinka death camp. Ivan was responsible for the death of almost 900,000 Jews.

I am in possession of original interview reports from the U.S. Justice Department's Office of Special Investigations [OSI], relative to the matter of John Demjanjuk. The original documents were found in the trash near the OSI offices on K Street in Washington, DC.

On November 14, 1979, the Office of Special Investigations interviewed Otto Horn, a former Nazi prison guard whose testimony was to become a cornerstone in the case against John Demjanjuk. Present at the meeting were Bernard J. Dougherty, George W. Garand, and prosecutor Norman Moscovitz. The documents that were found in the garbage on K Street are memos sent by Dougherty and Garand to Arthur Sinai, Deputy Director of OSI concerning the November 14 meeting.

The information in these memos is directly contradictory to the testimony presented by Otto Horn, under questioning by Norman Moscowitz, in the denaturalization trial of John Demjanjuk. This gross neglect of the truth by the prosecution is magnified when the circumstances surrounding the documents is known.

An April 1987 Freedom of Information Act [FOIA] case brought by the family of John Demjanjuk successfully required the Office of Special Investigations to turn over all papers relating to the case of John Demjanjuk. Apparently, the OSI decided to withhold some information, ignoring a court order to turn over the documents and choosing instead to dump them in a garbage can on K Street.

I recall the comments made by Judge Louis F. Oberdorfer in the April 22, 1987, hearing in the FOIA case of Edward Nishnic versus Department of Justice, that Judge Oberdorfer "would be embarrassed for the United States if this trial in Israel came to a conclusion and sometime in the future historians discovered that there was exculpatory material that was within the reach of the power of this court, and was in the possession of the Department of Justice which was not produced in a timely way." It seems to me that Judge Oberdorfer's fears may one day become a reality if we do not take some action.

I have officially requested an investigation into the actions of the Office of Special Investigations. I have also asked that the Justice Department begin an in-house review of the OSI by their own Office of Professional Responsibility.

This case stinks. John Demjanjuk is presently awaiting his appeal before the Supreme Court of Israel. He faces a death sentence unless quick action is taken. I do not know whether John Demjanjuk is Ivan the Terrible. If he is, I believe that he should die. At this time, however, I have serious doubts as to his guilt. One thing I know for sure, the truth must come out.

The Israeli people are not to blame. Our Government may have misled them. If Ivan the Terrible still lives, he may not be the man in a prison cell in Israel pending appeal. He may be somewhere on the Riviera breathing a sigh of relief.

History cannot show America to be so insensitive, and certainly not allow an agency of our Government to violate the due process rights of an American.

Mr. Speaker, when the rights of one American are violated, the rights of the rest are endangered. I suggest that we find out the truth in this matter, not just for John Demjanjuk, but for all Americans.

HUMAN RIGHTS IN CHINA

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mrs. BENTLEY. Mr. Speaker, the quiet earth of China now turns red with the blood of its students; 1.5 billion people can no longer tolerate such a repressive system.

Tiananmen Square signified the return of China to a feudal and totalitarian rule. The peoples' requests have been denied.

Wuer Kaixi, a prodemocracy student leader, yesterday spoke about what students now face in China. Wuer ranks No. 2 on the list of most wanted people in China and for what—for wanting freedom. Freedom we take for granted in the United States. Wuer claims that over 3,000 people were killed in one sweep because of their desires for democracy.

Wuer is free—but not in China. He looks to the day when he can go home to a country which recognizes its citizens' inalienable rights.

Not too long ago the people of China could see the dawn of a new age; we watched their fragile steps toward democracy become paralyzed by repression. The greatest tragedy is that the Chinese people no longer can even ask for the changes that once seemed possible.

TRIBUTE TO JOE CLAY CRUM

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. SKELTON. Mr. Speaker, it is with great pleasure that I ask my colleagues to join me in honoring a highly respected citizen and outstanding leader in his community, Joe Clay Crum. Joe, who is the clerk for Maries County, MO and a member of the Meramec Regional Planning Commission's board of directors, has recently been elected to represent a four State area on the National Association of Regional Councils. He will serve as the Region VII representative for the States of Missouri, Iowa, Kansas, and Nebraska on the board of NARC, an organization designed to coordinate the work of regional planning commissions across the Nation. Joe will chair the rural section of NARC.

Rural America is privileged and should be proud to have Joe as its representative on the board of directors for NARC. His experience with regional issues will prove valuable to the national assocation and his 14 years of experience as a county clerk also give him insight into the problems facing rural America. I know that Joe, my friend and fellow Missourian, will work toward strengthening regional councils throughout the Nation.

Mr. Speaker, it is my distinct honor to pay tribute to Joe Clay Crum—a truly dedicated citizen and public servant.

THE EXCEPTED SERVICE APPEAL RIGHTS ACT OF 1989

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. SIKORSKI. Mr. Speaker, I rise is support of the Excepted Service Appeal Rights Act of 1989 which I have introduced today with seven other of my colleagues.

The Excepted Service Appeals Rights Act of 1989 is not a new measure. Similar bills were introduced and passed during the 99th and 100th Congress as H.R. 917 and H.R. 3875, respectively. The measure provides certain excepted service employees the right to appeal to the Merit Systems Protection Board [MSPB] decisions made by the excepted service employee's supervisor regarding adverse actions and adverse performance based appraisals. Currently, only members of the competitive service and preference eligible employees have these appeal rights.

Most Federal employees are in the competitive service and are hired only after examination and ranking by the Office of Personnel Management. Other groups of employees, such as attorneys, teachers, scientists, and chaplains, are excepted from the competitive service either because there is no practical way to test these positions or because certain occupations already require certification of a minimum proficiency as a prerequisite to licensing.

Preference eligible veteran or competitive service status affords appeal and other procedural rights which are not available to those in the excepted service. Specifically, before a preference eligible or competitive status employee can be removed or subject to serious disciplinary action, an agency must provide advance notice of the adverse action, an opportunity to respond, a written decision of the agency's reasons for the action and the right to appeal to the Merit Systems Protection Board. The Excepted Service Appeal Rights Act of 1989 would extend these rights to most excepted service employees.

The bill does not extend procedural rights to the following groups of employees:

Presidential appointees, including White House staff and schedule C's;

Reemployed Civil Service or Foreign Service annuitants;

National Guard technicians;

Members of the Foreign Service, because they have their own grievance system which provides comparable rights;

Noncitizens of the United States who work for the Government outside the United States;

Central Intelligence Agency [CIA] employees, because section 102(c) of the National Security Act of 1947 gives the Director clear authority to deal with CIA employees;

General Accounting Office [GAO] employees because the GAO Personnel Act of 1989 set up a GAO personnel appeals board to provide due process rights to GAO employees;

Employees of the Department of Medicine and Surgery of the Veterans' Administration because they have their own peer review system;

Employees other than preference eligibles of the Federal Bureau of Investigation and the National Security Agency, and the Tennessee Valley Authority. In the case of these agencies, we maintained the status quo and thereby avoided eroding the rights of veterans but did not expand the class of covered employees.

Last Congress we passed and the President signed a bill into law—Public Law 100-90—legislation that extended due process notice and appeal rights to postal supervisors who are not preference eligibles. This legislation does not overturn the appeal rights granted in Public Law 100-90.

The Excepted Service Appeal Rights Act of 1989 contains five sections. Section 1 is the short title.

Section 2 deals with a special category of employees, those who hold excepted service positions. It is primarily the text of H.R. 3875, legislation introduced and passed during the 100th Congress, to provide notice and appeal rights to Federal employees who do not now have them because they are in the excepted service. The legislation is also similar to H.R. 917 which passed the House during the 99th Congress. The section grants appeal rights based on adverse actions.

Section 2 also provides appeal and procedure rights for excepted service employees to the Merit Systems Protection Board [MSPB] for actions based on unacceptable performance.

Last year's Supreme Court decision in the United States versus Fausto makes this legislation all the more urgent. In its decision, the Supreme Court cut off an alternative method of judicial review for excepted service employees, saying that Congress, in passing the Civil Service Reform Act of 1978, had intended to deprive excepted service employees, other than those of veterans preference, of the right to challenge adverse actions. This bill explicitly provides those rights.

Section 3 conforms with language in the recently enacted Whistleblower Protection Act of 1989—Public Law 101-12. It allows an employee who is eligible to retire but who the agency wants to fire to take his or her annuity and still challenge the adverse action before the MSPB.

Section 4 requires the MSPB to hold hearings near the employees job site, unless it would cost the Government less to hold it elsewhere in designated regional cities.

Section 5 contains the effective date.

I want to salute the gentleman from California [Mr. DYMALLY] and the gentlewoman from Colorado [Mrs. SCHROEDER] for their continued support and work on this issue. I would also like to thank the other original cosponsors of this bill—Mr. MCCLOSKEY, Mr. HOYER, Mr. HORTON, Mr. GILMAN, and Mrs. MORELLA.

This legislation is vital to the growing number of excepted service employees who serve the Government out of a sense of commitment. These men and women could take their talents elsewhere and into the private sector where they would undoubtedly earn higher salaries. Their dedication to the public should not be penalized by sealing off appeal rights granted to other civil servants. I urge the passage of this bill.

AN AMERICAN CHAMPION

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. LEWIS of Florida. Mr. Speaker, my distinguished colleagues, I would like to take this time to recognize some of the superior achievements of one of my constituents, Mr. Mark Calcavecchia. Earlier this season, Mark successfully kicked off this year's golf tour by capturing the Phoenix and Los Angeles Opens. As I am sure most of you are aware, Mark recently won golf's prestigious British Open. In this, his first victory in one of golf's recognized major championships, Mark is well on his way toward placing his name among the other great American champions of golf.

And, while it is especially sweet for supporters of American golf to have one of our own bring this great championship home from Britain, it is particularly gratifying that Mark exemplifies all the qualities we, as Americans, hold dear. He is an aggressive competitor with a go for broke style and the talent and experience to stand among the best in the game. He is also a gentleman—a family man—with great pride and loyalty to his country. His first thoughts after winning the Open were to thank his parents and wife for their contributions to his success and he has also expressed great hopes that the United States will put forth its best effort in trying to win the Ryder Cup team competition with Europe this year.

I have had the great fortune of watching Mark's career blossom from a young amateur. He moved from the Midwest with his family as a youngster and setled in my hometown of North Palm Beach. It was here that he began to stake his reputation out as a tournament champion in many junior series events. He later attended the University of Florida on a golf scholarship and as an amateur was the Palm Beach County champion. Mark has come a long way since then, and it has not always been easy. At one point Mark's game soured so that he was not playing on tour at all. Rather, he was caddying. But, Mark has the quality of perseverance. He knew he could play well—and in one of golf's great turnaround stories—Mark won the Honda Open in Boca Raton, FL a few years ago—just 1 year after caddying the same tournament for his friend, pro golfer Ken Green. There has been no turning back for Mark since then and today he is recognized as one of the premier players of the game.

Mr. Speaker, I am proud to recognize my friend and constituent, Mark Calcavecchia, for his achievements. He is truly an example of the outstanding American athlete—someone we can all look up to. And, I congratulate him on his fine playoff victory in the British Open over Greg Norman and Wayne Grady.

H.R. 2681

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. SMITH of New Jersey. Mr. Speaker, this morning I testified before the Public Works Subcommittee on Investigations and Oversight regarding the practice of backhauling garbage in food distribution trucks. As many of my colleagues know, I have introduced legislation, H.R. 2681, the Food Contamination Prevention Act, in order to put an end to this abhorrent practice. I was very pleased that the committee took up this matter in such an expeditious fashion and look forward to working with the committee as we both look for solutions.

Mr. Speaker, when I first heard news reports regarding the practice of backhauling garbage in the same trucks which haul food, I immediately thought back to a similar situation I had encountered in 1985. During the Superfund reauthorization, I became aware of a sludge hauler in my district who was land applicating sludge at a sod farm in Monmouth County, NJ, and using the same trucks to haul hazardous wastes. I was concerned about the potential for harm at that time and offered an amendment on this matter which resulted in a report to Congress by the Environmental Protection Agency entitled: "Study of Joint Use of Vehicles for Transportation of Hazardous and Nonhazardous Materials."

The EPA study concluded that the "deregulation of the trucking industry and significant increases in the price of fuel * * * have increased the economic incentive for truckers to haul loads on both an outbound trip and the return trip (known as the backhaul)." The report went on to say that the "* * * competitive pressures within the trucking industry * * * might contribute to joint-use contamination * * * Because avoiding empty back hauls and expensive cleaning procedures are obvious ways to reduce costs, these pressures may increase the potential for contamination." The report also acknowledged that except for poisons and a few other highly hazardous substances, "* * * no cleaning regulations exist and joint-use contamination could result." This is indeed the situation which the Public Works Investigations and Oversight Subcommittee was investigating today.

Mr. Speaker, on June 5 of this year, I first heard about the current practice of backhauling garbage in food distribution trucks, thanks to a radio report and an Associated Press wire story. The source of this news was a small newspaper in central Pennsylvania, the Centre Daily Times, and a dedicated investigative reporter named Barbara Brueggebors. I believe that she deserves a great deal of credit for this entire investigation and I applaud her for this work.

Mr. Speaker, once I had heard these initial reports, I immediately contacted several Federal agencies to ascertain what if any Federal regulations could be used to prevent this abhorrent practice. But after consultation with the Departments of Transportation and Agriculture, the Environmental Protection Agency, the Food and Drug Administration, and the Interstate Commerce Commission, I determined that there was indeed a gap in Federal regulations.

The Department of Transportation has a regulation, 49 CFR 117.841, which prohibits food from being carried with poisons; but this does not cover the practice of backhauling garbage. The FDA, in 21 CFR 110.93, mandates that "Storage and transportation of finished food shall be under conditions that will protect food against physical, chemical, and microbial contamination * * *"; yet this still does not specifically cover the backhauling of garbage. USDA mandates, in 9 CFR 325.1, for meat and poultry only, that any meat or meat food product must be "wrapped, packaged, or otherwise enclosed to prevent adulteration by airborne contaminents * * *"; however, this regulation also does not cover the practice of hauling food and garbage in the same trucks.

Individual State laws which regulate the transportation of food and garbage also do not appear able to prevent this practice, especially due to the interstate nature of the problem. In New Jersey, for instance, all trucks hauling garbage must be registered and licensed by the State; however, this does not prevent them from also transporting food in the same trucks. Over 1,000 trucks are registered to pick up solid waste at New Jersey's transfer stations for out-of-State disposal. However, there are no State regulations which would mandate that certain cleaning procedures be used nor, for that matter, that precautions such as liners be placed inside trucks. Again, although State officials who were contacted decried the practice, they could not point to any specific State laws which would prohibit trucks from hauling garbage on one trip and then food on another. Several officials did concede, however, that they were aware of the practice of backhauling garbage in food distribution trucks.

Mr. Speaker, many people find it hard to believe that this practice actually takes place, so let me just cite a couple of cases which I am aware of. One particular trucker, who I understand has also been in contact with the committee, contacted my office and reported that he, as well as many other truckers, had been engaged in this practice for years. However, he claimed that there was no danger to the public since no epidemics had occurred. This person said, and I'm paraphrasing now, "landfill operators don't care who they ship with" and "that you could take a station wagon to a landfill and get it filled with bales of garbage."

But perhaps the most shocking story about this practice which I have heard came from a county health official in New Jersey who related a story from several years ago. At the time, he was in the business of trucking toxic wastes from the Burnt Fly Bog Superfund site in New Jersey. He said that he was aware of one particular hauler who removed hazardous material from this toxic waste site, to be disposed of in the Midwest, and who returned with trucks full of wheat.

Mr. Speaker, I do want to make one point absolutely clear on this issue. I believe that the majority of truckers do not participate in such foul practices; in fact, I believe just the opposite. It is my belief in talking to food manufacturers, distributors, and truckers, that most of our Nation's food supply is transported in a

safe manner, free from contamination. I am also aware that many haulers of solid waste take precautions to prevent any possible contamination, including the placing of plastic liners in trucks, as well as mandating that the trucks are steam cleaned and then sprayed with disinfectants.

However, as Members of Congress, it is our duty to ensure that, to the best of our ability, every reasonable step has been taken to protect human health and the environment. I also believe that we would actually be helping the majority of hardworking truckers in this country by taking away any incentive for some unscrupulous haulers who are apparently cutting corners. It was for these reasons that I felt it necessary to introduce legislation, H.R. 2681, which would put an immediate end to this practice.

Mr. Speaker, clearly one of the problems in this matter is that the issue of hauling food and garbage in the same trucks seems to cross about five or six Federal jurisdictions. All of the Federal departments and agencies which I contacted would only claim responsibility for limited aspects of this problem, and none indicated any desire to regulate this practice.

I'm certain that these are the type of issues that the Investigations and Oversight Subcommittee will be looking into during its proceedings. I look forward to working with this committee and reviewing all of the committee's findings as we seek the best manner in which to protect the public's health.

SILVER SPRING RESIDENT WRITES SONG ON CONGRESS

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mrs. MORELLA. Mr. Speaker, my constituent, Phyllis G. Brick, of Silver Spring, MD, who has been in public service for 20 years in the fields of education, mental health, public housing, and public administration, has written the lyrics to a song that points up the workings of Congress.

The song describes the interrelationship between Congress and the constituent. It shows the important role which Congress plays in affecting the American people.

Mrs. Brick's collaborator on the song was Bob Tessier, who composed the music. Following is the song, entitled "The Washington Reps".

I've lived in all parts of this country
And I know I can't do it alone
We all need each other in that place we call our home . . .

Did you know that on the east coast
In a raging storm your house could go
When the north wind starts to blow.

And if higher wages your boss won't pay
You could be out the next day . . .

From the hills of Tennessee
We all need someone who can be
There to meet the needs of you and me.

So call your Washington Rep. and he will say
Help will soon be on its way . . .

So move to the warmer south and you know
That your crops could dry, but it won't
Help for you to cry;
And in the midwestern part, to farm and starve—
It's not so smart, you're supposed to
Keep those market prices down, yeah
What if there's not enough to go around . . .

And the schools get crowded and traffic flows
Yet your taxes won't stop because they'll never go . . .

From the hills of Tennessee
We all need someone who can be
There to meet the needs of you and me.

I've lived in all parts of this country
And I know I can't do it alone
We all need each other in that place we call our home . . .

THE WALL STREET JOURNAL'S THOUGHTFUL VIEW ON TERRORISM AND LIEUTENANT COLONEL HIGGINS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. LANTOS. Mr. Speaker, all of us have been saddened, dismayed, and outraged by the latest hostage terrorism in Lebanon involving Lt. Col. William Higgins. The vicious brutality and appalling inhumanity of these kidnapers, as well as their cynical manipulation of the mass media raise the most serious policy questions for our Nation's foreign policy.

Mr. Speaker an excellent editorial which appeared in today's issue of the Wall Street Journal gives some very thoughtful views on this problem and some excellent advice in dealing with the foreign policy implications of terrorism of this type. I ask that the text of this editorial be placed in the RECORD, and I urge my colleagues to read it and give it thoughtful attention.

THE HIGGINS CONFUSION

For at least two reasons, the American people are entitled to be terribly confused about their country's reaction to the presumed execution of Marine Lt. Col. William Higgins by Moslem fanatics:

Every year the U.S. spends about $290 billion on what it calls "defense," and invariably when a terrorist group kills Americans, the country's leadership delivers the same Hamlet-like soliloquy on how little is known, can be done, etc.

The government of Israel captures Sheik Obeid, a self-admitted leader of a group that for years has been torturing and killing hostages, and many in the West, led by the President of the United States, take Israel to task for contributing to the problem.

What are the sources of this confusion and paralysis over terrorist atrocities?

While human decency requires sympathy for the hostages and their families, it has to be said that for years the hostage tail has wagged the larger dog of policy. The world's terrorists know that photographs and TV images of American or European hostages in captivity can neutralize their adversaries' options. Jimmy Carter's presidency shattered from its obsession with the concern-for-the-hostages factor.

No doubt humanitarian concern and the public melodrama of the first days after these incidents pose severe problems for decision-makers. But if that is so, one wonders why the U.S.'s political and military leadership resigns itself to a status quo that allows these situations to recur.

The status quo we have in mind is the confident belief, held by the terrorist groups and their client states, that the West will exact little price for their awful acts. Instead of this policy of irresolution, the U.S. could better protect its people and its interests from future assaults if it periodically held accountable—with bombs or their equivalent—the people who by common agreement commit or support terrorism. Ronald Reagan's bombing of Libya is a paradigm of using military force to deter future assaults on the West and its people. So was Israel's bombing of Iraq's nuclear reactor in 1981. No deterrent action will foreclose all terrorist initiatives, but it places a clear disincentive in the minds of terrorism's planners. If active deterrence didn't work, Israel would be under nonstop terrorist assault.

Western leaders, their own countries in conditions of peace, may flinch from using military assets as a generalized deterrent. But surely the people of the West, if not their leaders, harbor few illusions about the nature of the political actors who need to be deterred. Iran and Iraq's leadership sacrificed hundreds of thousands of lives in their recent war. Iraq's Saddam Hussein then used poison gas on his own Kurdish villagers. Hafiz al-Assad in 1982 leveled the Syrian city of Hama and killed at least 10,000 inhabitants. The terrorists who took TWA flight 847 shot Robert Stethem and threw him on the tarmac. Last December, they blew up 270 people on a Pan Am flight over Lockerbie, Scotland. Col. Higgins's captors gave the world a videotape of a man bound and hanged. What is supposed to deter the next attack?

Israel, a democracy and Western ally living in the middle of all this violence, already has a policy of hitting back hard or launching pre-emptive strikes. The capture of Sheik Obeid reflected that policy, a policy based on simple realism. But we now have the bizarre spectacle of President Bush stating a simple equivalence between Israel's capture of a Moslem gang leader and the gang's constant—and pointless—kidnapping, torture and murder of what are ludicrously called "hostages." It would not have occurred to us that the U.S. could so blithely and backhandedly dismiss a strong friend and ally.

We suspect that after many years of experience with these incidents, the American people are more than a little tired of their government's justifications, produced mainly by the State Department, for doing little or nothing in the face of such assaults. Perhaps it's time for a U.S. administration to level with its own people.

If the State Department thinks it has some complex Middle East agenda that proscribes military strikes against terrorists, let it say so. Since innocent people are being sacrificed to this agenda, most of us would like to know more about it. Official charades of concern after the terrorists do their killing hardly suffice for that purpose.

Current U.S. policy—mainly tough talk ("make no mistake," "let no one doubt," etc.)—is unacceptable because it is so lacking in credibility. The terrorists don't believe it. Nor do their victims. Or their future victims.

THE 159TH ENGINEER COMBAT BATTALION REMEMBERED

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. YATRON. Mr. Speaker, on August 25, 1989, the 159th Engineer Combat Battalion will hold its second reunion since the end of World War II. Of the 600 men who made up the battalion, over 200 were from Pennsylvania. Of those 200, 59 were from Schuylkill County which is in the Sixth Congressional District of Pennsylvania. In light of this gathering, I would like to take this opportunity to recognize the significant contributions that the 159th Engineers made to the Allied victory in World War II.

The 159th Engineer Combat Battalion was one of the most combat active units in the European theater during World War II. It was awarded five Bronze Stars for involvement in five major campaigns: Normandy, northern France, central Europe, the Ardennes, and the Rhineland. The 159th Combat Engineers earned the distinction of being one of the most decorated units in the European theater. Among its decorations are 98 Purple Hearts, 1 Distinguished Service Cross, 12 Silver Stars, 50 Bronze Stars, 1 Cluster to the Bronze Star, and 1 Croix de Guerre with Palm from the Republic of France.

Mr. Speaker, the battle record of the 159th Engineer Combat Battalion is indeed illustrious. This unit played an integral role in the march down the Brittany Peninsula from Utah Beach to Brest, fighting as infantry, removing road blocks and clearing thousands of mines from minefields left by the Germans. In the Battle of the Bulge, the 159th Engineer Combat Battalion was one of the first units to be attacked. Despite being greatly outnumbered and suffering heavy losses, the 159th Engineers held their position until help arrived from Gen. George Patton's 3d Army. The success and heroic efforts of the 159th Engineers in the face of extreme adversity during the Battle of the Bulge received widespread recognition in the United States, including a feature article in Life magazine.

Mr. Speaker, the men of the 159th Engineer Combat Battalion can be justifiably proud of their distinguished service record and the efforts of these courageous men will long be remembered. It is an honor for me to recognize their achievements today and to say thank you on behalf of a nation that will be forever grateful for their commitment to the principles of liberty, justice, and equality—the principles for which the men of the 159th Engineer Combat Battalion fought and died.

TRIBUTE TO IRWIN I. KRETZER

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Attorney Irwin I. Kretzer of my 17th Congressional District on the occasion of his 80th birthday.

Irwin Kretzer was born in Russia on August 15, 1909. In 1923, at the age of 14, he came to the United States and made his home in Youngstown, OH. Irwin worked very hard throughout the following years, attending college and then going on to law school. He graduated from Youngstown College, School of Law in 1934. While he studied at Youngstown College, he was active in many campus organizations, and was elected president of his fraternity, Sigma Delta Beta.

Irwin Kretzer continued to exhibit exceptional citizenship and service throughout his life. In 1954, he was appointed as Youngstown City Prosecutor, a position he retained for the following 6 years. In 1960, he was appointed as referee of the court of domestic relations. He served in this position for 22 years, retiring at the age of 73. Also in 1960, Irwin Kretzer served as president of Temple Emanu-El, as well as president of B'nai B'rith and the Youngstown Zionist District of which he was life member.

Mr. Speaker, on August 15, 1989, Irwin Kretzer will celebrate his 80th birthday. In those 80 years, this outstanding individual has been a model of citizenship and public service. His endless successes and contributions to his community have made him a towering example of leadership. I am truly honored to represent this praiseworthy and generous man.

POLISH NATIONAL DAY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mrs. BENTLEY. Mr. Speaker, I rise today to recognize Poland's National Holiday, which was a few days ago, the 22d of July. And even though it was the anniversary date of the signing of modern, Communist Poland's Soviet-style constitution, I believe that for the sake of all those Poles who are just beginning to discovery the taste of freedom, we need to acknowledge them and their goal of democracy.

Less than a month ago, Poland asked President Bush for America's help in developing their country into a modern industrial democracy. Mr. Speaker, I believe we should help the Polish people as much as possible but only after that Government has taken action to ensure the United States and other Western nations that Poland deserves that aid and that it will be used wisely. True signs of democracy, including newly elected President Jaruzelski's promise to national reconciliation, must be seen before we commit.

The Polish people now have celebrated another national holiday under the oppressive Soviet eye but hopefully they had the chance to enjoy themselves to the fullest possible extent. I am positive that they will continue to do all they can to achieve freedom, and so I ask my fellow Americans to do all that they can to help Poland shed the binding chains of communism and soon celebrate her democratic independence day.

A TRIBUTE TO SISTER CATHERINE DURR

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. BUECHNER. Mr. Speaker, I rise today in tribute to a woman whose commitment to serve God and her fellow human beings has seen her through 25 years presiding over one of Missouri's most prominent hospitals, St. Joseph's in Kirkwood. Sister Catherine Durr of the Sisters of St. Joseph of Carondelet has shown the sort of selfless devotion to the well-being of her community of which any religion and hospital would be proud. As Congressman, we hear almost daily of the inequities of the American health care system, of its excessive fascination with profit, its disregard for the poor, and its repudiation of the personal concern that once marked American medicine. It is with great pride that I share with this assembly an example of health care as it should always have been. August 17 will mark the 25th anniversary of Sister Catherine's tenure as president of St. Joseph's Hospital; I hope that while the community rises to honor her, the world of medicine will learn from her example.

Sister Catherine has been favored with two vocations: the religious life and the care of others. It has been argued that the former best manifests itself through the latter, and that either independent of the other is meaningless. Regardless of one's religious beliefs, we cannot help but be inspired by one such as Sister Catherine who chooses to forego the lucrative aspects of hospital administration in the name of the singularity of purpose the religious life affords. For myself and my neighbors in the St. Louis metropolitan area, her vocation is a blessing to all of us.

Mr. Speaker, there is a certain inadequacy to the moment one has to experience when he attempts to salute a 25 year career of excellence in only a few words, even before such a venerable body as the U.S. House of Representatives. Perhaps it can be a lesson in humility to all of us that even the greatest among us rarely accomplish as much as those few people who dedicate themselves to the service of their fellow man. Sister Catherine has long exemplified the best human nature has to offer: the devotion of one person to the welfare of humanity. Sister Catherine has never asked, "Am I my brother's keeper?". Instead, her life has always proclaimed, "I am my brother's sister."

SECTION 89

HON. LYNN MARTIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mrs. MARTIN of Illinois. Mr. Speaker, last week the House took steps to correct an example of good intentions gone awry. I strongly supported the Rules Committee decision to protect the provision in H.R. 2989 which

would prohibit funding for the enforcement of section 89 for 1 year.

Enacted as part of the Tax Reform Act of 1986, section 89 was designed to encourage employers to provide certain benefits, such as health insurance, to their part-time employees and other uninsured workers. The gaps in health care coverage and in the availability of insurance leave many persons at risk, so not many of us would argue with the intent of section 89.

Illinois business men and women tell me, however, that because of the complexity and costs associated with section 89, compliance will be difficult, if not impossible. Most assuredly, it was not the intent of Congress to reduce employer-provided health insurance by enacting section 89, but, in fact, this onerous rule may have that effect. Many small businesses may be forced to reduce or drop their health insurance plans altogether rather than face stiff tax penalties for noncompliance.

Expanding health-care coverage among the working uninsured is a goal which we want to achieve, but section 89 clearly has not promoted this. Repealing section 89 is supported by a majority in the House and prohibiting expenditures for the enforcement of this law is a step in that direction.

CONGRESS POISED TO CONSIDER PUERTO RICO STATUS VOTE

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. FUSTER. Mr. Speaker, the Senate Committee on Energy and Natural Resources, which is the successor to the former Senate Interior and Insular Affairs Committee, has just concluded its markup of a bill designed to facilitate the making of choices by voters in Puerto Rico on three political status alternatives. The Senate Energy Committee did this after initiating a lengthy legislative process in February, then holding hearings in Washington and San Juan in June and July, concluding with 3 days of markup which ended today.

It has been a remarkable period. The people of Puerto Rico are grateful to the committee chairman, Senator J. BENNETT JOHNSTON of Louisiana, and the ranking minority member, JAMES A. MCCLURE of Idaho. Without their diligent approach to the matter of Puerto Rico's political status, a bill to hold a referendum in the island in 1991 could easily have been sidetracked.

But they and their committee assiduously kept the bill on a legislative fast track, marking it up just before the August recess is scheduled to begin. It will be coming up for full consideration in the Senate some time in the fall and for House consideration soon thereafter.

Mr. Speaker, this legislation has profound, important consequences for Puerto Rico and the United States, not to mention implications in the world community. Congress is on the verge of spelling out to the 3.5 million U.S. citizens in Puerto Rico what it is prepared to offer in terms of statehood or independence or an enhancement of the existing commonwealth status, which I favor. It is a serious matter with far-reaching consequences.

Thus, Mr. Speaker, I ask my colleagues to examine this matter most carefully and to think it through during the upcoming recess. One of the essential aspects of the proposed 1991 plebiscite in Puerto Rico was covered by me in an opposite editorial page column published in the Washington Post on July 31, 1989, and I commend it to the attention of my colleagues:

STATEHOOD COULD RUIN PUERTO RICO'S ECONOMY

(By Jaime B. Fuster)

During the last few months, President Bush and his administration have on several occasions expressed their strong support for statehood for Puerto Rico. Some Puerto Ricans agree with this, many more don't, and while key members of the U.S. Senate are now making a good-faith effort to deal with the question of the island's choice of political status, it doesn't help when administration officials respond in simplistic terms.

That's what happened during hearings by the Senate Energy and Natural Resources Committee on bipartisan bills to hold a plebiscite in Puerto Rico in 1991 among the choices of statehood, independence or—as I favor—an enhancement of the existing commonwealth status.

It is crucial to the plebiscite process that the Congress spell out to the voters of Puerto Rico precisely what it is prepared to offer under each of the three formulas for political status. Otherwise, the whole thing could be an empty gesture. Yet one administration witness after the other urged statehood while declining to offer specifics as to what such a dramatic switch would entail.

Take, for example, testimony of Kenneth W. Gideon, assistant secretary of the Treasury for tax policy. Fiscal autonomy (Puerto Ricans pay all their taxes only to the commonwealth government) combined with federal tax incentives for U.S. corporations doing business in the island—both inherently unavailable under statehood—have driven Puerto Rico's economic progress since the unique commonwealth status was created by Congress in 1952. Energy Committee leaders are considering which of these special arrangements may be preserved under the statehood option.

Yet Gideon said the administration believes enactment of a Puerto Rican plebiscite law should not be "encumbered" by tax and financial considerations.

In 1966 the U.S.-Puerto Rico Status Commission, headed by Sen. Henry Jackson (D-Wash.), said: "Unless an appropriate substitute for Puerto Rico's present economic arrangements can be provided, it is clear that statehood* * *would have severe and probably disastrous consequences.* * *It is not helpful to the people of Puerto Rico to claim that the economic question of statehood is not potentially a very serious one."

That assessment is still valid. No one favoring statehood has yet developed a cogent economic model explaining how to make statehood economically viable for Puerto Rico, an overpopulated island with limited natural resources where unemployment is very high and per capital income low. Statehood advocates in both Puerto Rico and on the mainland limit themselves to crude generalizations such as "no state has ever gone broke" or "political equality will translate into economic progress."

No one has explained what would take the place of the existing tax incentives program that accounts for one of every three jobs in Puerto Rico. No one has explained what would take the place of Puerto Rico's current fiscal autonomy, which has allowed centralized local government to employ hundreds of thousands and to provide extensive public services on a scale that no state government in the United States can afford.

The Bush administration has not addressed at all the potentially explosive language issue. When the United States took over Puerto Rico as war booty in 1898, policy makers in Washington, deeply distrustful of the capabilities of the Puerto Rican people, decided they had to be educated about American institutions before these institutions were transplanted to the island. For 50 years, Americanization meant imposing the English language and casting aside old values; the army, schools, judicial system and labor movement were important tools. This policy was deeply resented and strongly resisted by most Puerto Ricans, and it failed. Thus, after 91 years of intimate association, Puerto Rico remains a separate cultural nationality.

All parties in Puerto Rico want to preserve this distinct personality under any status option. Statehood advocates have adamantly declared that "language is nonnegotiable."

Will the United States accept a new state where 60 percent of the people speak no English, and where most will resist efforts to meld? Should Puerto Ricans be encouraged to vote for statehood when the United States is debating the issue of bilingualism?

The last thing the United States needs to do is create gave instability in an island that plays a crucial role in the important Caribbean Basin. Policy makers must think through their position on Puerto Rico's political status and come to understand better what is in the best interests of both the United States and Puerto Rico.

SALUTE TO LOU WILLIAMS: RETIRING AFTER MANY YEARS OF FINE SERVICE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. RANGEL. Mr. Speaker, when the work of the U.S. House of Representatives is cited, it is often cited in terms of its individual Members, its committees, pieces of legislation, hearings, reports, consideration of budgets, and meetings that make up the workday world here on Capitol Hill.

Behind the scenes, a lot of people contribute to the cause, Mr. Speaker, and they all contribute in a variety of ways. Perhaps among those who tend to get lost in the shuffle more than others are those who are involved in the delicate, tedious, and highly professional process of seeing to it that the official documents of the Congress are printed up in a timely and professional manner.

This week, the Select Committee on Narcotics, and really the entire House of Representatives, is losing one of the best and the brightest of the bunch from the Government Printing Office. Lou Williams came to the Select Committee on Narcotics Abuse and Control as a printer in 1976, the year our

select committee was first constituted, as a detailee from GPO. He came to work for GPO in 1972. His entire professional career, including time spent in the military, was as a printer. Everyone who has had the privilege to observe and review Lou Williams' work has seen firsthand the high level of professionalism and thoroughness with which he has operated.

Lou Williams is now leaving us for good to head off into that sunset we all work for and dream of knowing for ourselves one day—retirement. For him, that is good. But for us, it is a sad occasion.

Mr. Speaker, I can assure you that the very minute Lou Williams leaves to officially begin his retirement, he will be sorely missed by all of the Members and the staff of our committee. There will be a void, no doubt. Unfortunately, today is his last day with our committee.

As is characteristic of Lou Williams, he volunteered to stay with our committee through the first few days of the month of August to help us through a period of back-to-back committee hearings. One would never know that Lou Williams is about to retire, except, Mr. Speaker, for the fact that he has informed us of his plans.

Lou Williams has been more than just a mainstay on the staff of the Select Committee on Narcotics Abuse and Control, Mr. Speaker. He has been a great American.

Lou Williams served for 7 years in the Marines during the last part of World War II and the first part of the Korean War. Most of his tenure at GPO was spent at our select committee. He has served the committee selflessly, giving freely of his time, expertise in a variety of areas, resourcefulness and—I would be remiss not to mention it—his wonderful sense of humor.

Ironically, Mr. Speaker, Lou Williams is a native of your district and maintains family ties there even today. A descendant of Swedish immigrants, he was born in Spokane, WA. He remains a member of the Washington State Club.

Lou Williams and his wife Sylvia will celebrate their 40th wedding anniversary on August 21. He is a proud husband, father, and grandfather—with three fine sons and three grandchildren.

In the community, Lou Williams has worked with the Scouting program. He is on the board of the citizen's association in Lewisdale, his community, and is a member of the citizens advisory board for the Prince Georges County police. He and his wife enjoy square dancing, a hobby of theirs for 27 years. Lou serves as the president of the Jacks and Jills Square Dancing Club.

Mr. Speaker, we wish Lou Williams well in his retirement. He deserves nothing but the best, because that is what he gave to us at the Select Committee on Narcotics Abuse and Control.

TRIBUTE TO THE WASHINGTON POST STAFF

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Washington Post staff members who contributed to the series of articles on Dooney Waters entitled "Victims of Drugs: A Crack House Child." This series appeared in the Washington Post during the week of July 30, 1989.

Dooney Waters is a 6-year-old boy who was forced to live amongst drug dealing, drug using, and prostitution. Dooney was recently taken from his mother and his home. In truth, this was a blessing in disguise, because the place that Dooney called home was none other than a crack house. Dooney Waters, a little boy who did not know how to tell time, could show any of us the process of cooking crack cocaine. He could tell us how to prepare crack for the drug dealers to sell, and he could certainly tell us how to use it. He could tell us all of this because he has seen it a hundred times. Dooney seldom had food to eat or clean clothes to wear because his mother, a crack addict, was too high to properly care for him. If not for the care and help of his teachers and other concerned adults, Dooney might have gone days or weeks without food and affection.

Dooney now has the assistance he needs. Thanks to the staff of the Washington Post, he has also received the recognition needed by him and the thousands of children like him. The staff of the Washington Post is to be commended for the attention and care they gave to Dooney with this series of articles. I would like to commend Michele L. Norris, the staff writer who researched and produced this excellent series. I would also like to commend Dudley M. Brooks, the staff photographer who contributed the exceptional and moving photographs to this project. I would like to recognize as well the staff editors who made possible an ensured the quality and success of this series.

Mr. Speaker, the Washington Post staff deserves a great amount of praise and appreciation for bringing us the touching story of Dooney Waters. I thank the Post staff for its outstanding contributions in the field of journalism, and look forward to its assured future accomplishments.

PROPER FUNDING FOR FISHERIES PROGRAMS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. YOUNG of Alaska. Mr. Speaker, yesterday's debate on H.R. 2991 included discussion of funding for the National Oceanic and Atmospheric Administration [NOAA]. I want to add my plea for proper funding of our Nation's fisheries programs.

Mr. Speaker, each year the Committee on Merchant Marine and Fisheries provides comprehensive recommendations to the Committee on Appropriations for funding fisheries programs administered by NOAA in the Department of Commerce. This year was no exception. Our committee submitted an exhaustive and detailed list of proposals that provided only a cost of inflation increase over last year's appropriation. As the authorizing committee for these programs, we work carefully on a bipartisan basis to insure that basic needs are met. Any increases or new programs are offset by decreases in other programs. In other words, we try to see that money is spent in the right places.

I recognize that the Commerce appropriations bill considered yesterday did not go into detail on fisheries programs because our committee is still finishing work on its authorizing bills. I can assure you that these bills will be completed by the end of the fiscal year. Nevertheless, I want to emphasize again certain requests that our committee made earlier this year.

Our committee received a comprehensive list of items from residents of the Pacific Northwest and Alaska that were made part of our committee recommendations. These included funding for the Regional Fishery Management Councils; for PACFIN; for observer programs; for Bering Sea pollock research; and for increased fisheries enforcement. We found money for these items by reducing or eliminating lower priority programs. It is my hope that when this bill goes to conference, the chairman of the Appropriations Committee will look to our recommendations as guidelines for the House position.

Mr. Speaker, we all have to do our part to keep Federal spending under control. I think that the Committee on Merchant Marine and Fisheries, in making their recommendations, has shown that they can be fiscally responsible. My only request is that the Appropriations Committee recognize our work when they are negotiating with the other body.

THE 75TH ANNIVERSARY OF THE PASADENA POST OFFICE

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to pay tribute to the 75th anniversary of the Pasadena Post Office located in my congressional district in Maryland. On August 8, 1914, when the Pasadena Post Office was founded, one mail carrier served the area. Today, the post office employs 36 carriers who make more than 18,000 deliveries each day. The residents of this community and I salute the carriers and other employees of the post office who have served the community so well for the past 75 years.

I want to especially note the work of Ms. Emma Shramm, a life-long resident of the Pasadena area. She studied maps at the National Archives, consulted residents and local documents to compile maps of old post offices in the region. It was Ms. Shramm, who

has been named the Pasadena historian, who discovered that the Pasadena Post Office was founded in 1914.

The name Pasadena is derived from an Indian term for "valley between two mountains." A member of the Southern Land and Silk Association, which planned to establish a silk production business in Anne Arundel County, named the area Pasadena after the town of the same name in California.

Mr. Speaker, the postal system has changed a lot in three-quarters of a century from the days of horse drawn carriages and when much of the mail delivery was done on foot. But even with the march of technology the postal carriers perform a tremendous task every day, and I hope my colleagues will join me in commending the Pasadena Post Office on 75 years of excellent service.

FOR EQUITABLE AND UNIFORM TREATMENT

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. VANDER JAGT. Mr. Speaker, I am today joining Mr. MATSUI in introducing the Section 457 Reform and Simplification Act of 1989. The legislation is intended to provide equitable and uniform teatment of nonelective deferred compensation under section 457. The legislation would uniformly provide that nonelective deferred compensation is not taxable until paid. Under current law, employees of many tax-exempt organizations and State and local governments are taxed on nonelective deferred compensation before they are entitled to receive it. Taxing such amounts prior to the time when received is inappropriate because it results in current taxation of amounts which—

First. The taxpayer has not received;

Second. The taxpayer never had the right to elect to receive; and

Third. Which the taxpayer may not actually receive.

Congress has already recognized the unfairness of the general rule of current law which provides for taxation of nonelective deferred compensation before it is received. Specifically, Congress has exempted from this harsh and unfair treatment many classes of taxpayers as follows:

First. Employees and independent contractors performing services for taxable employers are not taxed on either elective or nonelective deferred compensation until paid.

Second. Independent contractors performing services for tax-exempt employers are generally not taxed on nonelective deferred compensation until paid.

Third. Employees of tax-exempt employers performing services pursuant to a collective bargaining agreement in existence on December 31, 1987, are not taxed on nonelective deferred compensation until paid. This rule applies even if the employee is hired in the future. In some cases, this represents a permanent exceptioin because certain collective bargaining agreements are permanently considered to be in effect even though subject to amendment.

Fourth. Employees covered by a plan maintained by a church for church employees are not taxed on nonelective deferred compensation until paid.

Fifth. State judges are not taxed on nonelective deferred compensation until paid.

Sixth. Employees covered by a deferred compensation plan of a nonprofit corporation organized under the laws of the State of Alabama with respect to which the Internal Revenue Service issued a ruling dated March 17, 1976, are not taxed on nonelective deferred compensation until paid even if they are employed in the future.

Seventh. Employees covered by a deferred compensation plan with respect to which a letter dated November 6, 1975, submitted the original plan to the Internal Revenue Service, an amendment was submitted on November 19, 1975, and the Internal Revenue Service responded with a letter dated December 24, 1975, are not taxed on nonelective deferred compensation until paid even if they are employed in the future.

Employees of tax-exempt employers not within the various classes set forth above are currently taxed on nonelective deferred compensation. This obvious discriminatory and unfair treatment would be ended by the Section 457 Reform and Simplification Act of 1989 by providing a uniform and equitable rule under which all employees and independent contractors of tax-exempt employers would not be taxed on nonelective deferred compensation until paid. I encourage all of my colleagues to cosponsor this important legislation.

EXPLANATION OF THE BILL

The bill exempts nonelective deferred compensation from the scope of section 457. Thus, nonelective deferred compensation is disregarded in determining whether a plan is an eligible deferred compensation plan. Such benefits also are not subject to the rule which includes such benefits in income when they are not subject to a substantial risk of forfeiture if such benefits are not provided under an eligible deferred compensation plan. Instead, nonelective deferred compensation is taxed when received (or, if applicable, earlier under the general principles of constructive receipt).

The Secretary is to provide a definition of nonelective deferred compensation intended to provide fair rules while preventing abusive situations. For purposes of this definition, the conferees intend that the Secretary create a "safe harbor" definition that makes it clear that any nonqualified deferred compensation plan or arrangement that meets the following criteria be treated as nonelective:

Benefits are provided pursuant to the terms of a written plan or agreement either (a) approved by the employer's board of directors or other governing body (or by a committee of such board or body), (b) authorized by State or local statute, ordinance or regulation, or (c) provided under the terms of a collective bargaining agreement (or other similar agreement generally governing the terms of employees' employment with employer).

The individual (or individuals receiving benefits under the plan or arrangement does not (or do not) vote (except in the case of benefits provided pursuant to collectively bargained agreements) in connection with the decision of the board of directors or other governing body (or by a committee of such board or body) approving such plan or agreement.

The written plan or agreement does not grant the individual (individuals) accruing benefits under the plan or arrangement an option to receive increased current compensation in lieu of plan participation or benefits; and either—

First. The compensation of individuals accruing benefits under the plan or arrangement is not reduced as the result of the establishment or maintenance of the plan arrangement, or

Second. The plan applies to 100 percent of the employees above a compensation level or officer status specified by the employer that do not change frequently over time.

If deferred compensation is provided pursuant to the terms of an individual employment contract entered into by an executive or a managerial employee with his or her employer (as opposed to a written plan or arrangement under which more than one employee participates), the criteria described in paragraph 3 and 4 above will be deemed to be satisfied if deferred compensation provided under the contract is subject to substantial performance conditions (for example, the performance of a minimum of 3 years of service before benefits will be vested). The 3-year service requirement also will be deemed to be satisfied if the employee in question is being provided with deferred compensation income under a contract entered into within the 3-year period preceding his or her termination of service which is in recognition of a period of substantial service to his or her employer.

PERSONAL EXPLANATION

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. DYMALLY. Mr. Speaker, on June 29, 1989, I was unavoidably detained hosting a meeting. I did not vote on the Herger amendment to H.R. 2655 regarding sanctions against India. If I had been present, I would have voted no—against the Herger amendment.

COL. RICHARD M. GOLDBERG HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to an old friend who is being honored upon his retirement from his position as Chief of Staff of the 79th U.S. Army Reserve Command.

Col. Richard M. Goldberg is a Wilkes-Barre native who began his military career as a Distinguished Military Graduate from Dickinson College in 1959. Immediately following his service on active duty, he joined the 79th Army Reserve Command and served in a variety of capacities before his present position

as the Chief of Staff. Next week the Army Reserve Command is honoring Colonel Goldberg at a retirement ceremony to recognize his distinguished career.

The question is often raised whether the military makes the man or the man emerges in his military role. Most often in making that judgment we have the opportunity to view people only from the present looking to the past. However, in this particular instance I have the advantage of having known Dick Goldberg for the past 33 years. From his athletic prowess, his intellectual ability, and his natural leadership, it was evident to all of us at Wyoming Seminary, where Dick and I attended prep school together, that Dick would attain distinction in any field of endeavor. His success in life is not only reflected in his military career, but in his professional career as one of Pennsylvania's most outstanding attorneys. He has been a dutiful father and a respected community leader. Seldom in life does an individual have the opportunity to gain prestige by merely claiming the friendship of another, but to be Dick's friend affords that opportunity.

It is with great pride that I stand as a friend in joining Dick's many admiring colleagues in honoring him upon his retirement from the military. As long as America has sons like Dick Goldberg, it will never want for honor, dedication, and integrity.

TRIBUTE TO MR. NORMAN HODGES

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mrs. MEYERS of Kansas. Mr. Speaker, today I want to pay tribute to an outstanding constituent in the third district, Mr. Norman Hodges, of Kansas City, KS.

Mr. Hodges has been selected as one of five finalists in the 1989 J.C. Penney National Golden Rule Award for his work with an organization in Kansas City called 20 Good Men. The National Golden Rule Award recognizes outstanding volunteers in community service. Mr. Hodges was selected from over 200 community winners from across the country.

The 20 Good Men began in the summer of 1986 in one of Kansas City's oldest and poorest neighborhoods. Many of the residents are unemployed, living on fixed incomes, or over 60 years of age. The main purpose of the group is to involve members of the community in assisting neighbors with minor home repairs. In response to an ad placed in a local newspaper asking for "20 good men" to assist in the repairs, approximately 50 men reported for duty.

The tasks these men perform include cleaning vacant lots, repairing leaky faucets and roofs, painting houses, and installing new pipe work. Most of the material for repairs is donated or purchased through donations given to the organization.

Mr. Hodges is president of this illustrious group of men. He has graciously given his time and energy for the past 2½ years, volunteering over 300 hours per month to improve the underprivileged neighborhoods in Kansas City, KS.

Mr. Hodges accompanied 20 Good Men to Washington, DC two summers ago when the group received the Presidential Volunteer Action Award from President Reagan. In September, he will again be honored in Washington, DC at a reception, where a national winner will be named.

I congratulate Mr. Hodges and 20 Good Men for this prestigious recognition, and thank them for the tremendous contributions they have made to our Kansas City community. This organization has made Kansas City a better place to live for many people.

MOSCOW, IDAHO: CITY WITH A MISSION

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. CRAIG. Mr. Speaker, one of the jewels of northern Idaho is the century-old city of Moscow, the seat of Latah County and the site of the University of Idaho. Located in the First Congressional District and in the heart of the fertile Palouse Country, Moscow has a population of over 17,700, a topnotch school system, an active commercial center and an excellent city administration.

Tradition has it that the name Moscow, adopted in 1875, sprang from an early founder's view that problems of isolation then confronting the community were similar to those of late 19th century Russia. If so, that time has long passed and as we near the 21st century, Moscow has prepared itself well for its role in community, regional, State and international relations. Recently, the city council and mayor of Moscow participated in a retreat to develop a mission statement and to set goals for the city. After soliciting citizen input and holding a public hearing for this purpose, the council adopted a solid, well-structured and farsighted "Statement of Mission" for Moscow.

I congratulate Mayor Gary L. Scott and the city council of Moscow upon their mission statement and commend it as a model for other cities throughout the United States. Mr. Speaker, I would like at this point to have the following statement of mission for Moscow be printed in the RECORD.

MOSCOW: A STATEMENT OF MISSION

The City of Moscow values its identity as an attractive university town in a rural setting. With its century of tradition and unique experience, Moscow has created a sense of community where innovation and citizen involvement flourish, high educational standards are maintained, the streets are clean and safe, the environment is protected and arts and culture thrive.

Continued citizen participation is essential to maintain these characteristics and to further nurture the community's superior quality of life. Moscow welcomes this participation and the contributions of its citizen and community organizations. Also, good relations with our close neighbors on the city limits and in Latah and Whitman counties are important to the achievement of community goals, as are the regional, state and international relationships of Moscow. We are pledged to strengthening them all.

The Council, with its boards and commissions, is committed to remaining close to its fellow citizens and responsive to their ideas and changing needs. Members of the Council are elected to provide positive leadership in creating a sense of mission, ensuring consistency of purpose and encouraging an active, cooperative spirit. They are expected to be open, accessible and flexible, and to demonstrate high levels of integrity. The provision of services required by the community, through effective planning and sound fiscal policies, is the fundamental objective of our city government.

The expectations of the citizens of Moscow govern the standards of staff services for the city, and the staff strives to meet and often exceed the high levels of technical, professional and interpersonal competencies which citizens expect. Effective use of city resources and continuous improvement in the quality of services through innovative methods are constant goals of the Moscow city staff.

TRIBUTE TO BILLIE JACOBS TABB

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. HUBBARD. Mr. Speaker, I want to take this opportunity to pay tribute to a lady who was an outstanding constitutent of mine in Paducah, KY, and whose contributions to her community will never be forgotten.

The individual to whom I refer is Billie Jacobs Tabbs, who died recently at age 51 at Lourdes Hospital in Paducah.

Billie Tabb was a graduate of Paducah Community College and Murray State University with degrees in business and nursing. For 16 years she served as the administrator of Riverfront Terrace Health Care Facility. Her hard work and diligence culminated in 1988 as Billie Tabb was named Kentucky Nursing Home Administrator of the Year.

Billie Tabb was also a Duchess of Paducah, Kentucky Colonel, and a member of Paducah's Central Church of Christ and Business and Professional Women's Club.

My wife Carol joins me in extending our deepest sympathy to Billie's family including her mother, Billie Simmons Jacobs of Paducah; her daughter, Angelia C. Tabb of Paducah; and her two brothers, George Jacobs, Jr., and Archie Jacobs, both of Paducah.

Billie's outstanding father, longtime Paducah leader George Jacobs, Sr., died March 14, 1980.

THE FUTURE PROBLEM SOLVING BOWL

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. BARNARD. Mr. Speaker, in this day when we hear so much about the poor quality of our schools' educational systems, I am

pleased to congratulate three elementary school students in my district for their recent outstanding achievements. These young ladies wrote future scenario stories that were selected as the winning entries in the Georgia Future Problem Solving Bowl. A future scenario is a short story or essay describing how our future world may be affected by current trends and issues. The topics that were studied during the year were energy sources, youth and the law, nutrition, employment, and terrorism.

The first student was Miss Marla Lindsey Scott, daughter of John and Jan Scott of Winterville, GA. The topic that she selected to write about was nutrition. Her story was titled "The Golden Egg." She placed second in the State for the primary division, grades K–3. Miss Scott is in the first grade at Winterville Elementary School.

Miss Ashley Lynn Lankford, daughter of Larry and Terry Lankford, also chose nutrition as her topic. Her scenario, "A Tale of Tom." The story won first place honors in the State for the primary grades. Miss Lankford is in the third grade at Winterville Elementary School.

Miss Ashley Lynn Scott's story was entitled "The Age of Athena Ash" and took first place in the junior division, grades 4–6. It was automatically entered in the international competition which includes all 50 States, 5 Canadian Provinces, and 14 foreign countries. Although Ashley is only in the fourth grade, her scenario placed sixth in the competition. The topic she chose was energy. She is also the daughter of John and Jan Scott, and attends Winterville Elementary School.

I commend their teacher, Ms. Jean Chandler, of Athens, GA, for her efforts to prepare these admirable young people and her supervision of their work. She is the coordinator of the Gifted Student Program at Winterville Elementary School.

Dr. E. Paul Torrance, founder of the University of Georgia's Torrance Center for Creative Studies, which sponsored the Future Problem Solving Bowl, developed the scenario component of the Future Problem Solving Program. The bowl received entries from 293 teams in 136 schools in 42 school systems. He deserves recognition for his commitment to the future of our youths' education.

OUR STAR SPANGLED DEFICITS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. JACOBS. Mr. Speaker, I insert in the RECORD a letter to the editor written by Sid Taylor, research director of the National Taxpayers Union.

As usual, Mr. Taylor's insights and pithy way of putting them are worth the attention of the membership.

NATIONAL TAXPAYERS UNION,
Washington, DC, July 14, 1989.

JAMES SQUIRES,
Editor, "Voice of the People," Chicago Tribune, 435 N. Michigan Ave., Chicago, IL.

DEAR EDITOR: Would you please publish this letter:

Our Star Spangled Deficits:

Everyone knows there are 50 stars in the American flag. Many people do not know how many stripes there are in Old Glory. Answer: 6 white and 7 red stripes. I'm concerned about the 7 red stripes. They have become very meaningful in view of our current national financial condition.

Our last NTU Taxpayers Liability Index (TLI) for 1989 just reached the all-time red ink record for government spending. Our federal Treasury is now in debt, liable for or financially obligated for a total of over $14 trillion. Most of this is "off-the-books." The published, bonded debt, of the U.S. Treasury is only revealed as around $2.8 trillion. This is only the tip of our federal red ink iceberg. In the perspective of our real national debt of $14 trillion, this means that each red stripe in the American flag now reflects an unfunded national liability of $2 trillion.

We not only need to practice patriotism with greater respect for the American flag, we also need to practice capitalism with more respect for the U.S. Treasury and future American taxpayers.

We don't need a Constitutional Amendment to insure respect for the American flag; we need a White House and Congressional commitment to reduce federal deficits (budget and foreign trade). This could be the greatest respect we can give to the American flag and our system of government.

SID TAYLOR,
Research Director.

THE CHILDREN'S TRUST FUND ACT OF 1989

HON. ELIZABETH J. PATTERSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mrs. PATTERSON. Mr. Speaker, I rise to inform the House about legislation which I believe will help address the need for funds for the purpose of improving services for children throughout the Nation.

Recent statistics on the health, well-being, and economic conditions of the children of this Nation are startling. In 1986, more than 1,200 children died from abuse and neglect, an increase of 23 percent from 1985. In the same year, 38,891 infants under the age of 1 died, an infant mortality rate of 10.4 percent. In addition, the economic conditions for children have worsened. In 1987, 16.4 percent of families with children were in poverty, up nearly 35 percent since 1979.

The time for helping our children, our future is now. Today, I will be introducing legislation to create a new source of funding for organizations which help protect our children.

The Children's Trust Fund Act of 1989 will establish a trust fund for the purpose of providing grants and low-interest loans to innovative children's services programs including child nutrition, child health care, foster care, and services for neglected or abused children.

In my State of South Carolina, our children's trust fund received $230,453 from 30,138 returns last year. This type of voluntary participation has encouraged me to introduce a similar bill on the national level which will prove to be no burden to our taxpayers.

My children's trust fund bill will not contribute to the deficit because it will be funded by contributions donated by taxpayers from their Federal income tax refund. They will have the option of checking off a small designated amount or the option of specifying any amount of their refund to the trust fund.

The funds would be awarded by HHS and would not create additional bureaucracy for the delivery of the grants and loans.

While this legislation will not provide a complete solution to the many challenges facing us in dealing with the problem of funding children's services, it will create an additional source of available funds.

I urge you to take the first step in improving the distressing conditions plaguing our children. Join me in cosponsoring this trust fund bill which would establish an additional funding source to address these concerns. The time for helping our children, our future, is now.

OPENING OF APPALACHIAN HIGHWAY MONUMENT TO RURAL DEVELOPMENT

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. JENKINS. Mr. Speaker, the opening recently of the final portion of the Appalachian Highway network through Georgia brings to fruition a dream for rural development in the lower end of the Appalachian Mountain chain.

Completion of this 66-mile, four-lane artery connecting Georgia's beautiful Blue Ridge Mountains and its residents with metro Atlanta reduces the travel time between the two by an hour. The increased accessibility to the region already has brought commercial development along the completed portions of the route and more than 1,000 new jobs.

The credit for the concept of promoting rural development with better transportation routes to attract industry and tourists to an area we all love lies with the designers of the 13-State network of developmental roads proposed in the 1960's during the Johnson administration. My predecessor, the Hon. Phil Landrum, Sr., was one of those designers. They saw the opportunity for tapping the human resources of the area through accessibility. The people of Appalachia could help themselves through development in the area and quicker access to other areas. Highways were one way of realizing this dream.

Even grand designs, such as this Appalachian rural development program, must have executors. Without cooperation from State officials, particularly in the Georgia Department of Transportation, the Appalachian Highway never would have left the drawing board. Through the years of development, Georgia DOT officials Bert Lance, Tom Moreland, and Hal Rives nurtured the project. Georgia DOT board members Tom Mitchell, Steve Reynolds, Troy Simpson, and Doug Whitmire spent countless hours of their time and talents to make the highway system a reality.

While DOT was taking the highway from the drawing boards to the land, other State

agency officials, such as George Berry and Hannah Ledford in the Department of Industry, Trade and Tourism, were working on an overall strategy for rural development in the area.

Cooperation among the agencies was necessary to prepare the area for the increased growth and traffic. Many programs in the Appalachian Regional Commission's jurisdiction provided the vital seed money for water and sewer projects and other basic needs for industries and businesses ready to take advantage of the area's increased accessibility.

Sometimes during the process, the plan had to be reassessed and the primary goals restated. The purpose was not to destroy the home of the natives and the natural beauty of those mountains formed millions of years ago. Successfully, growth has come to the mountains, and the rare endangered ladyslippers and trillum still thrive with the local residents who treasure the land of their ancestors more than 20 years after the grand design was born. Grand designs do take time. It must be our mission now to ensure that our original intent of a better quality of life for Appalachia is not lost.

ACQUISITION OF ADDITIONAL LANDS FOR THE KNIFE RIVER INDIAN VILLAGES NATIONAL HISTORIC SITE

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. DORGAN of North Dakota. Mr. Speaker, today I am introducing a bill to expand the boundaries of the Knife River Indian Villages Historic Site in North Dakota. This bill is the House version of S. 1230 which was introduced in the Senate by the senior Senator from North Dakota, Mr. BURDICK. The bill would authorize the Secretary of the Interior to acquire approximately 465 acres near the Knife River Indian Villages Historic Site. The site needs to be expanded to protect additional archeological findings discovered recently in areas near the present boundaries.

Knife River is unique in that it is the only unit of the National Park Services that was specifically created to commemorate the culture and history of the Plains Indians. The site is the traditional home of the Three Affiliated Tribes: The Siouan-speaking Hidatsas and Mandans and the Caddoan-speaking Arikaras. The Lewis and Clark expedition stopped at this site along the Missouri River in the fall of 1804 and wintered nearby through April 1805.

Just outside the current boundaries of the Knife River site is the Woodland Stanton Mounds which contains cemeteries of the predecessors of the Mandan and Hidatsas people who lived in the Knife River Indian villages during the Woodland period. The prehistoric villagers from the Stanton Mounds area represent a different form of adaptation to the Plains environment. This unique site is currently not represented in the Knife River park. The Stanton Mounds are located in the proposed area that would be acquired under this legislation.

The Stanton Mounds area is on the National Register of Eligible Archeological Sites. Only five and one half of the original eight burial mounds remain. The current owner of this area discovered human remains and the discovery led the attorney general of North Dakota to get involved in protecting the mounds. Purchase by the National Park Service is the best way to prevent damage to these remains. It is essential to point out that the current owner is a willing seller, and the bill provides that any purchase be on a willing buyer/willing seller basis.

The Park Service estimates that acquisition of 465 additional acres and its development for the Knife River site will cost $398,000. The Stanton Mounds will be a valuable addition to the Knife River Indian Villages National Historic Site. The Mounds are venerated by the living descendants of this area. The Mounds will also be a valuable addition to the study of prehistoric Plains Indian culture. I urge my colleagues to support this legislation.

CONGRESS AND THE MAIL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, August 2, 1989, into the CONGRESSIONAL RECORD.

Americans are writing to their Representatives and Senators with unprecedented zeal. Concerned about ethics in Government, upset by recent Supreme Court decisions, and interested in dozens of other issues, citizens have been sending mail to Congress at a record pace. For several weeks this spring, the crush of letters was too heavy that there was a 10-day backlog of unsorted mail at the House Post Office. The House is expected to receive 390 million pieces of mail this year, more than double the 1988 volume. That would be equivalent to four pieces from every household in the country.

My office has seen a similar increase in mail volume. In 1986, I received about 19,000 letters from constituents on legislative issues. This year, if the trend for the first 6 months continues, I could receive 35,000 constituent letters—an average of nearly 700 per week. Mail is delivered to my office four times a day; often, the first bundle is almost too heavy for one person to carry. Responding to this much mail requires my office to be more and more productive and to use an efficient computer system.

This volume reflects a healthy interest in public policy. The citizens of the Ninth District have strong views and are eager to express them. The first amendment to the U.S. Constitution provides that "Congress shall make no law * * * abridging * * * the right of the people * * * to petition the government for a redress of grievances." Letters to Members of Congress are the most popular expression of that right.

There are two primary types of constituent letters intended to influence legislation: those written by individuals and those prompted by interest groups. Both types of mail are useful to me. Mail promoted by national organizations makes up the largest-growing segment of the congressional mail. Some of these groups hire marketing experts to plan mail campaigns and spend hundreds of thousands of dollars to carry them out. These organized campaigns typically generate thousands of identical mailgrams, letters, or postcards, which many congressional offices merely count or weigh.

Mass-mail campaigns can perform useful functions. They can alert Members to issues of particular concern to constituents and can involve individuals for the first time in the process of contacting their elected representatives. Such campaigns can also miss the mark. Sometimes a mass-mail campaign distorts the meaning of legislation or implies that a government program is in danger, when in fact the threat is remote or non-existent. Some campaigns seem designed more to justify a special-interest group's existence to its members than to seriously influence public policy. Congressman may be targeted for a postcard blitz even if their annnounced position is the same as the group's. Members of Congress are particularly skeptical about mail prompted by groups whose primary purpose appears to be raising money. Another technique that occasionally backfires is when a group sends pre-printed postcards or petitions to Congress on behalf of its members. In one case, I received a petition containing the names and addresses of numerous Ninth District residents who had never been asked to sign it.

As the volume of mail from orchestrated campaigns has grown, individual mail has become even more important. Effective letter writers give Members of Congress original ideas or special perspectives on an issue. I am always interested in learning how legislation affects my constituents and their families, either beneficially or adversely. For example, if an individual is experiencing problems with the application of a Federal law or the operation of a Federal agency or program, I would like to know the details. Or if a family has benefited from a particular Government program, a description helps bolster the arguments in favor of the program.

The best letters are concise and to the point. The accuracy of the information often determines how persuasive a letter is. Letters that impugn the integrity or motives of a Member or use pressure and the threat or retaliation are given less weight than those that reflect an understanding of the issue. A cool-headed and thoughtful approach is usually the best one.

When a Member of Congress has a long-stated position or personal expertise on an issue, he or she is generally less likely to be influenced by mail than on issues that are relatively new or about which the Member has little knowledge. The timing of a letter also contributes to its effectiveness. Mail received at an early stage in the legislative process usually is more valuable than that received just before a final vote is taken.

As important as I consider the mail I receive, it is not always an accurate measure of overall opinion in the Ninth District. Studies in-

dicate that a disproportionate amount of congressional mail comes from middle- and upper-income constituents. On some emotional issues, mail is not a good barometer when people on one side have very intense feelings and are more strongly motivated to write than those on the other side. People who oppose legislation or who are not satisfied with the status quo also tend to write more than others. And some constituents who hold strong opinions do not feel comfortable writing letters and prefer to express their views in person. That is why I try to balance the mail with other types of contact, such as public meetings and questionnaires.

I receive all kinds of contacts from constituents. Some write detailed expositions in support of a public policy option; others simply tell me of their support or opposition to a bill. I give particular attention to personal letters. In fact, if a letter is exceptionally knowledgeable or persuasive, it goes into the legislative file I review before voting on a bill.

As the volume of mail grows, citizens need not fear that their message will be drowned out. Mail remains a very important way for a Member of Congress to stay aware of concerns in the district. Correspondence between citizens and legislators remains one of the cornerstones of our democracy. Constituents who understand how this relationship works can give their words maximum impact.

AMERICAN BUSINESS VENTURES IN EASTERN EUROPE

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to draw the attention of my colleagues to a promising development in American business ventures in Eastern Europe. The management consulting firm of Lester B. Knight & Associates, Inc., which is headquartered in Chicago, IL, has opened an international professional services office in Budapest, Hungary.

In the past, Knight has provided consultant services to national rail systems in West Germany, Switzerland and Great Britain. Now they have secured a similar engagement with the Hungarian Government to study and recommend improvements for the Hungarian National Railroad. Knight has also signed a World Bank-financed study on the world-wide competitiveness of the Hungarian glass container industry and commissioned several studies with industries within the private sector of Hungary regarding productivity and quality improvements.

The opening of this new office in Budapest is completely in keeping with the spirit of the Trade Reform Act enacted last year. It is encouraging to see American companies pursue the opening of markets around the world instead of seeking to protect and close our own markets. Knight has placed themselves in an international realm of competition rather than seeking the assistance of the Federal Government to keep them competitive.

Knight's entrance into Eastern European markets is further evidence that there is real progress to be made to draw the international community of nations together economically. I am proud to see a Chicago firm on the forefront of such expansion.

While our trade laws must continue to protect United States interests, innovative and ambitious marketing practices made by American companies themselves will surely ease our current trade deficit.

INTRODUCTION OF PERMANENT PAPER BILL

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. WALGREN. Mr. Speaker, today I am introducing a bill to enable Government procurement regulations to consider the environmental advantage of the use of permanent paper and to require the use of permanent paper for Government documents of enduring value.

As if we do not have enough to deal with, libraries and archives around the country are now seeing a time bomb of disintegration and embrittlement in almost every book and record printed after the 1850's—when the industrial revolution introduced acidic processing to take advantage of new economies of scale. Ironically, works printed before 1850 are in far better shape because acidic paper processing was not used; but we are now realizing everything printed since that time is on paper which becomes too brittle for use after as little as 50 years.

The costs of saving and making new copies of disintegrating books is staggering. The Library of Congress is now spending millions each year to deal with 4 million brittle books that now cannot be used. The cost nationwide will be in the billions. Although we can do little to avoid these costs with respect to books and records already produced, common sense dictates that we do something about what we print from now on.

Fortunately, there is an alternative. We have developed a far more permanent paper, made without acidic processing, that remains usable for hundreds of years. It can be readily made from recycled paper fiber; is biodegradable; equal in cost; and is produced by processes far less harmful to the environment than acidic paper because it does not involve the discharge of acidic wastewater.

Present purchasing guidelines for the Government fail to take any account of the advantage of using permanent, nonacidic paper. My bill would simply require that, when costs are equal, the environmental advantage of using permanent, nonacidic paper be considered.

Second, my bill would require that the Government use permanent nonacidic paper for all documents of enduring value. Failing to print documents of enduring value on permanent paper simply continues to undermine the future with large, unnecessary preservation costs for printed materials, and makes no sense.

U.S. INVOLVEMENT IN NICARAGUAN ELECTIONS

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. CAMPBELL of California. Mr. Speaker, had I the opportunity to vote on whether the United States should provide covert assistance to the political opposition to the Sandinistas in Nicaragua, in an effort to sway the upcoming elections, I would vote no. It is my belief, and strong advice, that the United States not try to dominate the outcome of the elections in Nicaragua, scheduled for February. The Nicaraguan people are entitled to choose their own government without United States interference. I would urge that the United States continue all its pressure to preserve and enhance the condition of human and civil rights in Nicaragua; but it could be counterproductive, as well as intrusive, to try to tell the Nicaraguans whom they should support. But I had no opportunity to vote on the fundamental question.

The only question on which I could vote on June 28, 1989, was if assistance did flow to the Sandinista opposition, should it be reported, in detail, in an unclassified report to the Foreign Affairs Committee, who could choose to make it public? Or should it be reported, as usual, to the Intelligence Committee, which is charged with oversight over our intelligence activities? My concern was that the former reporting method would compromise the aid recipients and possibly jeopardize their political futures and even their lives. American aid would still flow—but its recipients would be placed in serious jeopardy.

Thus, whereas I oppose the policy of America attempting to influence the elections, I was not given a chance to vote on that position. As between a provision that would allow aid, but condemn its Nicaraguan recipients to certain reprisals, possibly even loss of life; and a provision that would allow aid, but require notice to the appropriate congressional committees with adequate security safeguards, I must choose the latter.

INTRODUCTION OF THE ECONOMIC EQUITY ACT

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mrs. LOWEY of New York. Mr. Speaker, I rise to urge all of my colleagues to join me in support of the Economic Equity Act which was introduced today in both the House and Senate. The EEA is a bold and important step in the direction of equality for women.

The EEA is a compilation of initiatives from many Members of Congress, all with the common goal of leveling the playing field. I included a provision in this year's bill which would provide for child care in transitional housing. By establishing a priority for funding transitional housing programs which include

child care and by providing financial assistance to child care programs, my measure recognizes the critical role child care can play in moving people out of the cycle of homelessness and joblessness. I am proud to say that Senator CRANSTON has sponsored this same measure in the other body.

The need for child care among the homeless in indisputable. A 1988 study conducted in California found that 35 percent of that State's homeless are under 18 years of age. The National Academy of Sciences estimated that in the same year 100,000 American children were homeless.

Under the provisions of my bill, the Secretary of Housing and Urban Development would be directed to give priority to funding transitional housing programs that include child care services for their residents. Studies indicate that currently three types of child care services are available to residents of transitional housing—onsite care in transitional housing, additional child care slots set aside for the homeless in mainstream programs, or child care centers established to serve multiple local shelters. A transitional housing program providing any one of these three types of child care services would qualify for priority treatment making them eligible to seek a 75-percent grant for the provision of the child care services.

Homeless families are under extreme stress. There are parents raising their families in homelessness and spending their days searching for housing, employment, and a means to sustain and keep their families together. All too often the stress of trying to meet all of these needs, complicated by the persistent cry for attention on the part of small children, leads to child abuse or neglect. Responding to this basic need is also critical to break the cycle of homelessness by making it possible for the people to seek meaningful employment. One child care program director noted, "There is no way homeless families can make it without child care."

We must assist in providing for this critical need. My bill reinforces the commitment of the Federal Government to ending the homelessness in a very meaningful way. By providing for child care to help homeless children develop intellectually and emotionally, we allow homeless parents to seek permanent housing and employment. Making child care a priority in transitional housing is critical.

Mr. Speaker, I encourage all of my colleagues to join Congresswomen SCHROEDER and SNOWE, myself, and the many other Members who contributed in support of the Economic Equity Act.

A CONGRESSIONAL SALUTE TO THOMAS LYON

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an individual in my district who has spent 35 years helping make the city of Long Beach an outstanding place for people to learn, work, and live. This gentleman, Mr. Thomas Lyon, will be retiring on Wednesday, August 30, 1989. I would like to honor him at this time and express my sincere appreciation for his many years of hard work and outstanding service to the student body at Long Beach City College.

Thomas Lyon has been part of the Long Beach community ever since he was born there on October 13, 1929. He graduated from Long Beach Jordan High School in 1947 followed by 2 years at Long Beach City College, where he eventually served as counselor and dean for 19 years. From 1948 through 1951, Tom took a break in his education to serve his country in the U.S. Air Force. He received an honorable discharge after his service in Japan and Korea.

Upon resuming his education, Tom went on to receive his B.S. degree in physical education and health from the University of Oregon in 1954. Before he went on to earn his M.A. degree in physical education from the California State University, Long Beach, he taught science for 1 year in an Oregon high school, plus coached football, basketball, and baseball.

While working on his master's at CSULB, Tom began his southern California teaching career. He taught at Colton Union High School from 1955 to 1956, then at Excelsior Union High School until 1960, and to La Mirada High School through 1965, teaching subjects including physical education, health and safety, math, biology, anatomy-physiology, senior problems, plus taking an active part in coaching football and track. For 3 of his years at La Mirada, Tom served as department head for life science-health department.

His career took a turn in 1965 which guided him for the rest of his professional life. Tom become a counselor at La Mirada H.S., a position which he held until 1970 and then became a college counselor at Long Beach City College. Tom stayed on board, and henceforth was named head counselor in 1972 and dean in 1974. He also served as interim vice president in 1988.

Throughout his career, Tom worked on his post graduate education in biology and counseling and administration at various universities including UC Berkeley, Sonoma State College, UC Santa Barbara, UCLA, and Pepperdine. He was also active in professional organizations and participated in a variety of educational achievements.

His 19 years employment at LBCC allowed him to see the creation of the financial aid office, child care center, career planning office, psychological counseling, assessment, transfer center, the aerospace jobs center, as well as the planned move of counseling services to new facilities at PCC.

With his career as a professional academe behind him, Tom looks forward to his retirement. He will be able to spend time traveling, golfing, and woodworking as well as spending time with his soon-to-be five grandchildren and his entire family.

Mr. Speaker, my wife Lee, joins me in extending our congratulations to this remarkable man, Thomas Lyon, who devoted his life to the betterment of others. We wish Tom and his wife, Sue, all the best in the years to come.

INTRODUCTION OF THE OIL PIPELINE REGULATORY REFORM ACT OF 1989

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. SYNAR. Mr. Speaker, I am happy to join with my friend and colleague from Texas, JACK FIELDS, in introducing at the request of the administration the Oil Pipeline Regulatory Reform Act of 1989.

My colleagues are no doubt aware that for many years, Congressman FIELDS and I have pressed for legislative action to reform the regulatory structure imposed on the oil pipeline industry. The specific regulatory problems facing this industry have changed over the past decade as a result of a court decision and administrative actions by the Federal Energy Regulatory Commission [FERC]. But it has been evident for just as many years that this area is ripe for congressional oversight and for legislative action to more appropriately conform the nature of the regulation to the realities of the marketplace.

I first became interested in oil pipeline regulatory reform in the early 1980's as a result of a rate case which had been pending before the FERC and its predecessor agency, the Interstate Commerce Commission, without resolution for almost a decade. Although that particular proceeding was unusual in that it involved a transfer of regulatory authority from one agency to another and a judicial proceeding and remand to FERC, I nevertheless found it an affront to fairness and common sense that the parties would ever be subjected to the expense and uncertainty of such a protracted regulatory proceeding. More important, the stringent regulatory structure contemplated for oil and product pipelines as a result of the court decision, seemed intrinsically incompatible with the competitive nature of the industry.

Economic regulation is intended to compensate for the absence of competitive pressures in the marketplace. But when those competitive pressures exist—as they clearly do with respect to oil and product pipelines—they can not comfortably or efficiency coexist with a regulatory framework designed to constrain a monopoly. We have learned enough about regulation of the energy industry to know with certainty that competition is a better arbiter of prices that the Federal Government; and that is precisely the reason Congress has already acted to remove the remnants of price controls on oil and natural gas. It was evident long ago that the same principle should be applied to oil pipeline rate regulation.

In 1981, former Congressman Tom Corcoran and I introduced bipartisan legislation to provide rate deregulation for oil and oil product pipelines. Importantly, that legislation did not alter the obligation of pipelines to provide shippers with nondiscriminatory service, which I felt then and still feel is an essential shipper protection. In the same Congress, JACK FIELDS and then-Congressman JOHN BREAUX also introduced legislation to deregulate this industry.

Hearings were held on those measures in 1982, but some urged further study of the competitiveness of the industry before congressional action on the legislation. As a result, the Department of Justice [DOJ] undertook an exhaustive review of the pipeline industry and pipeline markets. In 1984 the Department issued its preliminary study and solicited public comments on it. In May 1986, DOJ's final pipeline study was issued. The Department concluded that all crude oil pipelines were sufficiently competitive and should be deregulated. With respect to product pipelines, the Department recommended deregulation for virtually all such lines. For five product lines, DOJ suggested some markets on those lines exhibited market power and should remain subject to Federal rate regulation. I would add, parenthetically, that DOJ recommended continued regulation of these five pipeline systems—rather than rate regulation only in the few markets of concern—because it was assumed that traditional cost-of-service regulation would remain in effect, making regulation of specific market areas almost impossible. The Department found that six other product lines had market areas of concern, and suggested further study of them prior to a final recommendation. Finally, DOJ recommended deregulation of all new oil and product pipelines.

With the Justice study completed and publication of several other extensive reviews finding significant competition in the oil pipeline industry, Congressman FIELDS and I introduced yet another oil pipeline regulatory reform bill in 1987. That legislation would have lifted rate regulation from all crude and product pipelines, and outlined an essential, but simplified review process whereby aggrieved shippers could pursue discrimination complaints. And, as did previous bills, it retained the applicability of all relevant antitrust laws.

That same year, as one portion of its omnibus competitiveness package, the administration submitted a separate pipeline deregulation proposal designed to implement the recommendations of the 1986 Justice study. Rather than deregulate all lines, it would automatically have deregulated a pipeline unless it was determined, after administrative hearing, that continued regulation of a particular pipeline was in the public interest. That bill also provided for possible reregulation under changed circumstances, excluded TAPS from deregulation, and exempted all new pipelines from rate regulation.

In March 1988, the Energy and Commerce Subcommittee on Energy and Power held hearings on the two alternative proposals. In a number of ways, that hearing provided a great deal of impetus to the eventual formulation and introduction of this bill.

Importantly, FERC Commissioner Charles Stalon—long perceived as a proconsumer advocate on regulatory matters—explicitly and strongly asserted his view that traditional cost-of-service type regulation was not appropriate for oil pipelines, primarily because of the competitive nature of the industry. Where some form of continued economic regulation is warranted, that is, in market areas not adequately disciplined by competition, he suggested the use of a simplified regulatory model such as price caps. Commissioner Stalon testified, however, that under current law, FERC and the courts could not easily escape the constraints of traditional cost-of-service ratemaking for oil pipelines without the help of legislation. Such legislation, he said, "should make explicit that all forms of cost of service regulation [for this industry] are to be avoided * * *"

Certainly the Justice and Energy Departments agreed, as did many other witnesses, that most pipeline markets could safely be disciplined by competition rather than by Federal regulation, and that any remaining economic regulation should be vastly simplified and less constraining than the various forms of utility style regulation.

At that hearing, Congressman FIELDS and I urged the administration to work with the pipeline industry to try and formulate a compromise measure acceptable to both. At the time, we envisioned a new proposal which could draw on important elements and principles from both bills. Throughout the summer of 1988, such negotiations took place and input was solicited from other interested parties. The result was H.R. 5289, introduced by Congressman FIELDS in September 1988 at the request of the administration.

The legislation we are reintroducing today is, in all but a few technical respects, identical to H.R. 5289. The legislation would not provide for across-the-board economic deregulation of all crude and product lines as JACK and I originally proposed. But it does accomplish the primary goals of this lengthy effort. In brief, the bill would: Simplify common carrier obligations to provide nondiscriminatory terms and conditions for service, and maintain an essential forum for resolution of discrimination complaints; retain application of all relevant antitrust laws; establish a detailed procedure for deregulating fully competitive oil and product pipeline markets, with extensive opportunity for shipper participation in this process; apply, as Commissioner Stalon suggested, a more appropriate price cap methodology to pipeline markets where some form of continued rate regulation is necessary; and exempt new crude and product lines from rate regulation to encourage expansion of and reinvestment in the pipeline industry.

We have had extensive discussions about this proposal with a number of interested groups and have every intention of continuing our efforts to reasonably address any remaining, legitimate objections to the proposal. I am disappointed that we have not yet reached the end of the road in that respect. Nevertheless, the intervening years since introduction of the first bill have dramatically narrowed the issues yet to be addressed. While a final resolution of these matters may involve some major changes in the structure of the proposal, I am absolutely confident that continued good-faith discussions by all parties will soon result in an acceptable end product.

Before closing, I want to express particular thanks to Commissioner Stalon for the personal attention and effort he has devoted to this issue. I also appreciate the interest and support of Admiral Watkins and Deputy Secretary Henson Moore at the Department of Energy, and I look forward to working closely with them as we undertake this final push. Many others at the Departments of Energy and Justice, at OMB, and within the pipeline industry and other groups have tirelessly given their time and attention to this issue, and it is greatly appreciated.

Mr. Speaker, the evidence is overwhelming that utility type regulation of this industry is inherently incompatible with the competitive pressures exerted on oil and product pipelines. Our current regulatory framework ill-serves pipelines, shippers, and consumer alike, and purely and simply is bad public policy. We have an opportunity to reform the regulatory system and correct these inefficiencies, and I urge all my colleagues to support our efforts to move promptly on the issue.

THE OIL PIPELINE REGULATORY REFORM ACT OF 1989

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. FIELDS. Mr. Speaker, today I am pleased to join with my colleague, Representative MIKE SYNAR, in introducing the Oil Pipeline Regulatory Reform Act of 1989. This legislation is the product of long, intense discussions between representatives from the Department of Energy, the Department of Justice, the Office of Management and Budget, the oil pipeline industry and other interested parties.

Countless hours were spent in negotiations last year to achieve an acceptable compromise. Throughout the negotiating process, what was then Vice President George Bush's Task Force on Regulatory Reform provided important assistance and strong support of oil pipeline regulatory reform. The result of those hours of negotiations was the Oil Pipeline Regulatory Reform Act.

Unfortunately, the compromise was reached so late in the 100th Congress that no legislative action occurred on the Oil Pipeline Regulatory Reform Act prior to adjournment.

I am pleased that President Bush is continuing his support for oil pipeline regulatory reform by sending the compromise package to the 101st Congress for enactment.

The introduction of this package is an important step forward in resolving the regulatory quagmire now confronting oil pipelines. In 1906, the Hepburn amendment to the Interstate Commerce Act subjected oil pipelines to Federal regulation. At that time, 10,000 miles of oil pipelines existed, concentrated in the Northeast. Today, over 200,000 miles of oil pipelines crisscross the lower 48 States with many lines competing head to head.

In a 1986 report analyzing the need for continued regulation of crude oil and refined petroleum product pipelines, the Department of Justice concluded that all crude oil pipelines and most product pipelines face effective competition. The Department recommended deregulation of all pipelines except those pipelines which possess significant market power.

The Oil Pipeline Regulatory Reform Act of 1988 follows the basic approach recommended in the May 1986 Justice Department

Report. That is, crude oil and product pipelines which are found to face effective competition would be deregulated; those which are found to have significant market power would remain regulated. However, the rates of pipelines with significant market power would be regulated through the establishment of price caps rather than the traditional rate-of-return regulation originally envisioned in the report.

Instituting price caps on rates instead of cumbersome rate-of-return regulation will protect shippers and consumers while saving millions of dollars in regulatory costs. The price cap regulatory approach was suggested by Commissioner Charles Stalon of the Federal Energy Regulatory Commission. I would be remiss if I did not thank Commissioner Stalon for the benefit of his well-reasoned views.

The Oil Pipeline Regulatory Reform Act deregulates the rates of competitive pipelines. However, deregulation is not total. All crude oil and product pipelines would retain common carrier obligations. Pipelines could not discriminate on the terms and conditions of service provided to its customers.

Why is this bill necessary now? From 1906 until the late 1970's, regulation of oil pipelines by the Interstate Commerce Commission [ICC] worked reasonably well. However, the Department of Energy Reorganization Act transferred authority over oil pipelines from the ICC to the Federal Energy Regulatory Commission [FERC]. Recent judicial decisions have forced the FERC to move toward pervasive, utility style rate regulation which is particularly ill-suited to a generally competitive industry.

I urge my colleagues to give the Oil Pipeline Regulatory Reform Act serious consideration. I welcome comments from my colleagues and from others affected by oil pipeline regulatory reform. This bill is a good product, and I hope it will be the basis for moving forward on oil pipeline regulatory reform. I commend the bill to my colleagues' attention.

WOMEN IN THE MILITARY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mrs. SCHROEDER. Mr. Speaker, Government Executive just completed a survey of top ranking female military officers. I think the results are fascinating:

SURVEY FOR SENIOR WOMEN MILITARY OFFICERS

Government Executive mailed this survey to all women at the 05, 06 and 07 ranks—the highest ranks military women hold—in April 1989. Out of 941 people surveyed, 59 percent responded. Results below may not add up to 100 percent due to rounding.

WOMEN AND THE MILITARY

1. Do you think women in the military:
45% are advancing at a satisfactory rate.
55% are not advancing fast enough.

2. If you think women are not advancing fast enough, to what do you attribute this? [1]
53% the combat exclusion policy.
49% lack of experience of superiors with women officers.
40% exclusion of women from positions not covered by the combat exclusion policy.

3. Do you think there are valid reasons for excluding women from certain military activities such as combat duty?
33% yes. 67% no.

4. Which of the following approaches to promotion of women in the military do you favor?
79% equal assignment opportunities.
30% stronger policy directives against sex discrimination.
23% stiffer penalties for sexual harassment.

5. If more women were represented in the top echelons of the military services and the Defense Department, would the military:
58% stay about the same.
42% become more effective.
0.7% become less effective.

6. Which of the following policy and/or legislative changes on positions available to women in the military do you favor? [1]
78% repeal of service policies limiting opportunities for women.
58% repeal of combat exclusion statute.
33% stricter discipline in sexual harassment cases.

7. Which branch of the military do you think offers the most opportunities for women?
20% Army. 50% Air Force.
0.2% Marines. 12% Navy.
19% all are about the same.

8. At what level do you feel discrimination against women is most prevalent?
31% within enlisted ranks.
31% within officers' ranks.
8% in service academies.
4% from officers toward enlistees.
14% none of the above.
12% other.

9. In comparison with the private sector, do you think the military treats its female employees:
54% more equitably.
14% less equitably.
31% about the same.

10. In comparison with civilian federal agencies, do you think the military treats its female employees:
35% more equitably.
21% less equitably.
45% about the same.

BEING A FEMALE OFFICER

11. Please check questions to which your answer is "yes." [1]
Have you ever:
69% had the impression that your views were not respected as much as they would be if you were a man.
53% felt that your personal life was more closely scrutinized than that of your male colleagues.
51% felt you were denied a job or promotion because you are a woman.
51% felt that a male subordinate resisted taking direction from you because you were female.

12. In your day-to-day work, how aware are you of being a female officer?
30% very aware.
24% somewhat aware.
31% mildly aware.
15% not aware at all.

13. Do you find your job:
54% exciting. 35% satisfactory.
7% routine. 4% dull.

14. What aspects of your job give you the most satisfaction? [1]
78% level of responsibility.
39% opportunity to serve the country.
37% pay and benefits.
34% being one of a few women in my position.

15. Which aspects of your job do you find least satisfactory? [1]
26% too-frequent station changes.
23% attitude of fellow officers.
19% pay and benefits.
19% opportunity for promotion.

16. Have you ever witnessed a female officer being sexually harassed?
37% never. 32% rarely.
28% occasionally. 3% frequently.

17. Have you ever witnessed an enlisted woman being sexually harassed?
35% never. 24% rarely.
37% occasionally. 5% frequently.

18. Overall, during your years in the military, has sexual harassment.
7% increased. 62% decreased.
31% stayed about the same.

19. Do you consider military safeguards and guidelines on sexual harassment to be adequate?
62% yes. 88% no.

OPPORTUNITIES FOR WOMEN

20. Have you ever felt that your success or failure in achieving a specific promotion in a government job has been attributable to your gender? Has being a woman:
12% helped. 30% hurt. 58% neither.

21. When you assumed a command position, did you feel you were adequately trained for managerial responsibilities?
60% yes. 40% no.

22. In your opinion, do women officers generally receive the same command training opportunities as male officers?
32% yes. 68% no.

23. In general, do you think the women who are following you, especially those who attend military academies, will have better chances for promotion than you have?
74% yes. 26% no.

24. If you had it to do over again, would you join the military?
89% yes. 11% no.

25. Have the demands of family life stood in the way of your professional advancement?
4% often. 24% sometimes.
21% rarely. 51% never.

26. Do you favor legislation that would provide job-protected parental leave in all branches of the military?
15% yes, for mothers only.
41% yes, for both parents.
44% no.

27. Would you encourage young men and women to pursue a military officer's career?
5% men. 0.9% women.
92% both. 2% (neither).[2]

28. Would you encourage young men and women to enlist?
10% men. 0.2% women.
86% both. 4% (neither).[2]

29. Overall, would you say that during your time in the military conditions for women have:
48% improved a lot.
39% improved somewhat.
10% stayed the same.
2% worsened.

ABOUT YOU

30. In what branch of the military do you serve? [3]
26% Army. 40% Navy.
32% Air Force. 2% Marines.

31. How long have you been in the military?
17.7 years (average).

32. How many permanent change of station moves have you made in your career?
7.6 (average).

Footnotes at end of article.

33. What is the last academic degree you received?
13% BA/BS. 5% PhD.
59% MA/MS. 24% other.
34. Did you attend a service academy?
2% yes. 98% no.
35. How old are you?
1% under 35. 75% 36-45.
22% 46-55. 2% over 55.
36. What is your marital status?
31% single. 51% married.
16% divorced/separated. 2% widowed.
38. If married, does your husband work for the military?
53% yes. 47% no.
39. Do you have children?
38% yes. 62% no.

FOOTNOTES

[1] Respondents could choose more than one answer. Numbers given represent the percentage of respondents choosing each response. For space reasons, only the most popular responses are listed for some questions.

[2] This option was inadvertently left off the survey, but some respondents wrote it in.

[3] Actual distribution of women officers: Army, 36 percent; Navy, 22 percent; Air Force, 40 percent; Marine Corps, 2 percent.

GOOD BUT NOT GOOD ENOUGH

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. BATES. Mr. Speaker, I was encouraged to hear that Nissan Motor Co., plans to make its car air-conditioners and manufacturing processes free of chlorofluorocarbons by the year 1993. This means that some 1,150 tons of CFC-12 will not be released in the atmosphere each year.

I was also pleased when AT&T recently announced plans to eliminate all emissions of CFC's from its manufacturing processes worldwide. AT&T's manufacturing plant in Westminster released 83,736 pounds of CFC's in 1988.

While I applaud the efforts of Nissan and AT&T, their actions are a drop in the bucket when one considers that over 1.4 million tons of CFC's were produced worldwide in 1985. And this figure is growing.

Mr. Speaker, the clock is ticking. We need further reductions in CFC's, halons and other chemicals that destroy the stratospheric ozone layer. My legislation, H.R. 2699, the Stratospheric Ozone Protection Act of 1989, establishes a reasonable plan to protect our planet. I urge my colleagues to support this vital legislation.

A CONGRESSIONAL TRIBUTE TO HERMAN GORE, SR.

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. ANDERSON. Mr. Speaker, I rise today to bring to my colleagues' attention the long and distinguished career of Rev. Herman Gore, Sr. The Reverend Gore is pastor at the Christ Second Baptist Church in Long Beach. He is retiring after 39 years of service to the church and the Long Beach community.

The church, which was the first black church organized in the entire harbor district, was initially built at 10th and Atlantic Avenue in 1904. The Los Angeles Second Baptist Church granted $600 to the young mission, which was later matched by the local members. After establishing a viable membership, the church became the Second Baptist Church of Long Beach and has prospered to this very day with fine and outstanding religious leadership from its pastors, of which there were 16 before Reverend Gore ascended to that position in 1950.

During Reverend Gore's tenure as pastor of Christ Second Baptist Church, the church has become one of the largest religious institutions in the black community. While he has been serving the church, the membership in Christ Second Baptist has increased from 350 persons to almost 3,200 members.

My wife, Lee, joins me in extending our congratulations to Rev. Herman Gore, Sr. today. He is a remarkable individual who has contributed to the spiritual needs of his church and to the community. On behalf of the entire community, we wish Reverend Gore all the best in the years to come.

OFFSHORE DRILLING CIVIL PENALTY LEGISLATION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. MILLER. of California. Mr. Speaker, today I am introducing legislation to strengthen the enforcement of environmental and safety requirements for offshore oil and gas drilling. I am very pleased that nine of my colleagues have joined me as original cosponsors of this legislation.

This bill is desperately needed to restore integrity to the offshore drilling enforcement program. As chairman of the Interior Subcommittee on Water, Power and Offshore Energy Resources, which has jurisdiction over the offshore drilling program, I will push for rapid enactment of this legislation into law.

An investigation by the Subcommittee on Water, Power and Offshore Energy Resources has revealed that the offshore drilling environmental enforcement program is in serious trouble. The Interior Department has not imposed a single civil penalty for an offshore drilling violation since 1983, despite the fact that over 20,000 violations have occurred since that time.

Because no civil penalties have been assessed in over 6 years the oil industry can routinely violate regulations without any fear of a monetary penalty. This lackadaisical enforcement effort is an invitation to environmental disaster. Tough enforcement is necessary to prevent the devastation that can result from oilspills.

The majority of the 20,000 violations that have occurred over the past 6 years were not serious, and probably did not merit the imposition of a civil penalty. Nevertheless, many of these violations were serious, but no penalties were assessed.

What follows is a partial list of the type of serious violation for which no civil penalty is currently assessed:

Oilspills;

Failure to have approved oilspill response equipment at prescribed location;

Violation which results in personal injury;

Drilling through hydrogen sulfide zone without detection and alarm systems in place;

Drilling without required blowout prevention equipment;

Failure to set casing at approved depth;

Failure to install approved type, weight, or grade of casing; and

Failure to curtain operations (during a storm) in accordance with approved procedures.

The Interior Department stopped imposing civil penalties for drilling violations in 1983, after its civil penalty regulations were overturned by a Federal District Court in Louisiana. Since that time, Interior has done nothing to solve this problem. The decision was not appealed to a higher court, no new regulations have been issued, and no new legislative authority was sought.

The failure to address this problem shows the scrupulous indifference of the Reagan administration and its successor toward environmental law enforcement. By its inaction, the Bush administration has extended the Watt-Hodel lackadaisical approach toward the environmental hazards of offshore drilling.

We cannot afford to wait any longer to solve this problem. Civil penalties are needed in order to provide the oil industry with a strong incentive to comply with the law. That is why I have introduced legislation to close this gaping loophole in the offshore drilling environmental program. The legislation does three things:

1. It gives Interior the authority to immediately assess a civil penalty if the violation presents a serious threat to the environment or health and safety.

2. It doubles the amount of the civil penalty to not more than $20,000 per violation, per day.

3. The Secretary of the Interior is required to increase the top civil penalty amount to account for inflation, at least once every 3 years.

The first provision is necessary because the District Court ruled that Interior can only assess a civil penalty after the responsible party has been given a reasonable period of time to take corrective action, and no corrective action has occurred. I believe that this approach is adequate for minor violations, but is entirely inappropriate for serious violations. Prior to the 1983 ruling, Interior did immediately assess civil penalties for some serious violations.

The immediate assessment of a civil penalty without a period of time for corrective action is a standard environmental enforcement practice. The Environmental Protection Agency has this authority under the Clean Air Act, the Clean Water Act, RCRA, and Superfund. The Nuclear Regulatory Commission has similar authority under the Atomic Energy Act. It is time that the offshore drilling program joined the real world of environmental enforcement and protection.

It is important to note that the civil penalty provision contained in the bill does not require Interior to assess a civil penalty for every serious violation. It simply gives the Interior Department the authority to assess a civil penalty for serious violations. For lesser violations, the legislation retains the current regime of no civil penalties unless the violator fails to correct the violations within a reasonable period of time.

The provision to increase the penalty per violation per day to $20,000 accounts for inflation that has occurred since the $10,000 penalty was established in 1978. Because of inflation $10,000 in 1978 dollars is now worth over $19,000. The inflation adjuster provision will ensure that penalties are not eroded by future inflation.

The Interior Department has made a number of arguments in response to assertions that the lack of civil penalties has significantly weakened the offshore drilling enforcement program. For example, Interior points out that they have on many occasions ordered the shut down of offshore drilling operations because of serious environmental and safety violations.

I support Interior's shutdown actions but do not think they are a sufficient penalty for a serious environmental or safety violation. In the event of a serious violation, both a shutdown and a civil penalty should be imposed. This is exactly what the Interior Department did prior to the 1983 District Court ruling.

The Department also claims the oil industry has been in compliance with Federal drilling laws over 99 percent of the time. This does not obviate the fact that no civil penalty was assessed for even one of the more than 20,000 violations that have occurred since 1983. The current lack of civil penalties sends a message to the oil industry that violations are acceptable.

An Interior Department spokesperson recently stated, "Our goal is to persuade the American public that offshore drilling is safe and environmentally sound." If that is the goal of the Interior Department, then they should support this bill. To date, Interior has made no proposal to address the civil penalty problem. The Department has only stated that "a review of this situation is underway."

Mr. Speaker, the time for review has long past. The Reagan and Bush administrations have had over 6 years to address this problem. They have done nothing. The legislation I have introduced today is a measured solution that will significantly improve the enforcement of Federal offshore drilling laws. I urge my colleagues and the Bush administration to support it.

CONDEMN OUR AGGRESSORS, NOT OUR ALLIES

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. GREEN. Mr. Speaker, once again, America finds herself seemingly helpless in the face of another tragic hostage crisis. For decades, our Nation has been held hostage to the malicious acts of a handful of foreign regimes that support terrorism. Instead of growing stronger in responding to terrorists, we have grown weaker. Today we are in the miserable position of blaming our democratic ally in the Middle East for striking back hard, for standing up to the perverse acts of terrorists. It is folly to criticize an Israeli response to terrorism in the absence of a United States' policy.

As pointed out in the article below, the West has thus far only succeeded in communicating that we will exact little price for the crimes committed by terrorists. That message must change. To the Soviet Union, Iran, Libya, North Korea, Syria, and any other nation who sanctions terrorism, the United States must make it clear that we will not relax tensions with those nations, and we will not permit improved economic relations. We should not kid ourselves. We do indeed have a few weapons at our disposal, and we should use them.

I share the outrage and frustration expressed in the following piece from today's Wall Street Journal, and I call upon the present administration to assail our aggressors and not our allies.

[From the Wall Street Journal, Aug. 2, 1989]

THE HIGGINS CONFUSION

For at least two reasons, the American people are entitled to be terribly confused about their country's reaction to the presumed execution of Marine Lt. Col. William Higgins by Moslem fanatics:

Every year the U.S. spends about $290 billion on what it calls "defense," and invariably when a terrorist group kills Americans, the country's leadership delivers the same Hamlet-like soliloquy on how little is known, can be done, etc.

The government of Israel captures Sheik Obeid, a self-admitted leader of a group that for years has been torturing and killing hostages, and many in the West, led by the President of the United States, take Israel to task for contributing to the problem.

What are the sources of this confusion and paralysis over terrorist atrocities?

While human decency requires sympathy for the hostages and their families, it has to be said that for years the hostage tail has wagged the larger dog of policy. The world's terrorists know that photographs and TV images of American or European hostages in captivity can neutralize their adversaries' options. Jimmy Carter's presidency shattered from its obsession with the concern-for-the-hostages factor.

No doubt humanitarian concern and the public melodrama of the first days after these incidents pose severe problems for decision-makers. But if that is so, one wonders why the U.S.'s political and military leadership resigns itself to a status quo that allows these situations to recur.

The status quo we have in mind is the confident belief, held by the terrorist groups and their client states, that the West will exact little price for their awful acts. Instead of this policy of irresolution, the U.S. could better protect its people and its interests from future assaults if it periodically held accountable—with bombs or their equivalent—the people who by common agreement commit or support terrorism. Ronald Reagan's bombing of Libya is a paradigm of using military force to deter future assaults on the West and its people. So was Israel's bombing of Iraq's nuclear reactor in 1981. No deterrent action will foreclose all terrorist initiatives, but it places a clear disincentive in the minds of terrorism's planners. If active deterrence didn't work, Israel would be under nonstop terrorist assault.

Western leaders, their own countries in conditions of peace, may flinch from using military assets as a generalized deterrent. But surely the people of the West, if not their leaders, harbor few illusions about the nature of the political actors who need to be deterred. Iran and Iraq's leadership sacrificed hundreds of thousands of lives in their recent war. Iraq's Saddam Hussein then used poison gas on his own Kurdish villagers. Hafiz al-Assad in 1982 leveled the Syrian city of Hama and killed at least 10,000 inhabitants. The terrorists who took TWA flight 847 shot Robert Stethem and threw him on the tarmac. Last December, they blew up 270 people on a Pan Am flight over Lockerbie, Scotland. Col. Higgins's captors gave the world a videotape of a man bound and hanged. What is supposed to deter the next attack?

Israel, a democracy and Western ally living in the middle of all this violence, already has a policy of hitting back hard or launching pre-emptive strikes. The capture of Sheik Obeid reflected that policy, a policy based on simple realism. But we now have the bizarre spectacle of President Bush stating a simple equivalence between Israel's capture of a Moslem gang leader and the gang's constant—and pointless—kidnapping, torture and murder of what are ludicrously called "hostages." It would not have occurred to us that the U.S. could so blithely and backhandedly dismiss a strong friend and ally.

We suspect that after many years of experience with these incidents, the American people are more than a little tired of their government's justifications, produced mainly by the State Department, for doing little or nothing in the face of such assaults. Perhaps it's time for a U.S. administration to level with its own people:

If the State Department thinks it has some complex Middle East agenda that proscribes military strikes against terrorists, let it say so. Since innocent people are being sacrificed to this agenda, most of us would like to know more about it. Official charades of concern after the terrorists do their killing hardly suffice for that purpose.

Current U.S. policy—mainly tough talk ("make no mistake," "let no one doubt," etc.)—is unacceptable because it is so lacking in credibility. The terrorists don't believe it. Nor do their victims. Or their future victims.

THE HAZARDOUS AND SOLID WASTE MANAGEMENT AND MATERIALS RECLAMATION ACT OF 1989

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. THOMAS A. LUKEN. Mr. Speaker, I rise to extend an invitation to Members to consider the RCRA Amendments of 1989, entitled "The Hazardous and Solid Waste Management and Materials Reclamation Act of 1989," attached, which I will be introducing shortly.

The Subcommittee on Transportation and Hazardous Materials of the Energy and Commerce Committee, which I chair, has conducted comprehensive hearings for the past 4 months, and we now expect to mark up the legislation in early fall. We will also consider bills introduced by our colleagues ROBERT ROE, GEORGE HOCHBRUECKNER, MATTHEW RINALDO, MARTIN LANCASTER, HOWARD WOLPE, IKE SKELTON, CURT WELDON, RICHARD GEPHARDT, CARDISS COLLINS, DOUG WALGREN, WES WATKINS, BILL RICHARDSON, JOSEPH BRENNAN, OLYMPIA SNOWE, MIKE SYNAR, ESTEBAN TORRES, RON WYDEN, and PAUL KANJORSKI; as well as proposals by Senator MAX BAUCUS, chairman of the Subcommittee on Environmental Protection.

These legislative initiatives deal with the crisis in the United States involving the veritable mountains of municipal garbage and the flood of industrial wastes.

It's time to clean house in America—not just the roof, the chimney, and the surrounding air, but also the ground floor, basement, back yard, and sewer lines. Despite the enactment of the Resource Conservation and Recovery Act [RCRA] in 1976, it is clear there has been massive mismanagement of solid and liquid waste. The attached New York Times article attests to the fact that improper management and disposal of industrial waste, spills, and garbage has led to a public outcry for stronger and more effective antipollution laws.

While the administration's clean air proposals have garnered the lion's share of attention over the past several weeks, it should be our task to ensure that the 101st Congress is remembered for cleaning house in America—and not just cleaning the air we breathe, but cleansing the land and water, too.

According to the Environmental Protection Agency, far more toxic chemicals enter land and water directly, than through air emissions. Specifically, of the 22.5 billion tons of toxic discharges in 1987, only about 12 percent were air emissions.

Unfortunately, the current environmental laws are not adequate to cope with these problems. The Superfund law was an admission that we had temporarily lost the waste management battle and would have to adopt catchup cleanup strategies. Unfortunately, pollution and contamination are still winning, and the public perceives that clean air, water, and land are losing.

If we are to avoid being engulfed by the tide of industrial toxic releases or being drowned in a sea of garbage, we must act now to modernize and augment those tools which RCRA provides to enforce waste management.

Yes, the vast majority of Americans are convinced our antipollution laws are weak, and that no effective cleanup is really taking place.

At the same time, we Americans live in a throwaway society where we generate twice as much trash and pollution per person as the Japanese. We currently landfill over 80 percent of our solid waste, incinerate 9 percent, and recylce 11 percent. Unfortunately these landfills leak, the incinerators can pollute the air and produce ash of dubious character, while the rest is put on trucks and ships and other vehicles for distant destinations.

While we cannot eliminate totally the need for landfills and incinerators, these RCRA amendments provide for State plans which mandate recycling and encourage source reduction.

Waste minimization is the theme.

SUMMARY OF THE PROVISIONS OF THE HAZARDOUS AND SOLID WASTE MANAGEMENT AND MATERIALS RECLAMATION ACT OF 1989

This bill establishes national policy to encourage waste reduction and recycling of solid waste and hazardous waste to the maximum extent achievable, to create and strengthen markets for recycled materials, to provide economic incentives for waste reduction and recycling.

It declares as national policy that the U.S. no longer practice the ethics and economic behavior of a "throw away" society.

It establishes as national policy a materials management system of waste reduction first, then recycling, then treatment (including incineration), and last land disposal.

It requires equity between public and private entities and between onsite and offsite activities.

For solid waste, the bill sets tough requirements for state plans and programs including mandatory recycling, capacity and siting assurance procedures, programs of prior approval and assurances of public notice and comment.

The state plan must include waste reduction provisions at least sufficient to offset any projected growth in the waste generational planning area.

The state plan must provide for several specific waste streams, through separate handling, special collection, prohibitions on landfilling, etc.: household hazardous waste, tires, yard waste, large household appliances.

The bill sets minimum technical standards for municipal incinerator ash, large volume oil and gas waste, large volume mining waste and industrial solid wastes. These standards carry requirements including: monitoring, liners and leachate collection for landfills and some surface impoundments, financial responsibility and closure and post-closure care.

There are hammer provisions in the bill to ensure that the minimum technical requirements are in place as quickly as possible.

The bill provides for citizen suits and civil and criminal penalties for failure to comply with the solid waste provisions.

States with approved plans will be authorized to ban the importation of wastes and states without approved plans will be prohibited from exporting their garbage.

The bill provides for financial assistance to the states in the form of low interest loans and grants, and offers special assistance to our small and rural communities.

It requires regulations for generators of hazardous waste requiring waste reduction and facilitating recyclability, including product redesign, product composition, packaging redesign or limitation, process modification, and materials substitution, and reduction of heavy metals in any waste stream.

It requires regulations for generators of solid waste and packaging requiring waste reduction and facilitating recyclability and protecting human health and the environment, including product redesign, product composition, packaging redesign or limitation, process modification, materials substitution, labeling and the reduction of heavy metals in the waste stream.

The bill requires separate regulations for facilities which recycle or recover materials from hazardous waste. It further requires stream-lining of the process for permitting hazardous waste disposal facilities.

It requires any procurement done with Federal money to give preference to items with the highest percentage of recovered materials practicable and allows for a 10% price preference.

The bill assigns renewed responsibility to the Secretary of Commerce to develop new markets for recovered materials and high recycled content products, and requires the Secretary of Commerce and the U.S. Trade Representative to identify foreign markets for recovered materials.

The bill prohibits export of hazardous waste to any country that does not enter into a bi-lateral agreement with the United States. The bi-lateral agreement must provide, at a minimum, that wastes exported from the U.S. will be managed in as protective a manner as that prescribed by RCRA.

The bill contains provisions to allow the sovereign American Indian Tribes the same status as a State for implementation and enforcement of RCRA.

In conclusion, there is national agreement that our country is on the brink of a waste crisis. Surveys show that the vast majority of Americans believe that our population laws are too weak, and most Americans indicate a willingness to recycle, to reduce their waste loads and to pay more for good, sound waste management. This legislation is strong medicine; but the problems will not be solved otherwise.

[From the New York Times, July 2, 1989]

GRASS-ROOTS GROUPS SHOW POWER BATTLING POLLUTION CLOSE TO HOME

(By Roberto Suro)

HOUSTON, July 1.—A new form of environmental protest is spreading through the country as thousands of people band together in small community groups. Their target is usually pollution by local industrial plants, employers traditionally respected but now reviled as poisoners of the neighborhood.

People with no previous interest in environmental issues or other civic affairs are often the leaders of these grass-roots efforts. Since their targets are frequently smokestacks visible from their front doors, the new protesters include many from the working class in addition to more affluent people who can afford to live farther away.

Gerry Poje, chief environmental toxicologist at the National Wildlife Federation, said: "A reordering of priorities, a rethinking of strategy and tactics is taking place throughout the entire environmental movement because of the increased activism by the very people who are most at risk. Here in Washington it is becoming increasingly obvious that true change will occur at the local level."

REFLECTIONS OF GROWTH

While some of the new groups sputter through only one season of protest and then disappear, others pursue long-term projects.

No formal count has been made of these organizations, which spring up independently and in an uncoordinated fashion, but there are a few clear indicators of how quickly their numbers are growing.

Two years ago 600 names were on the list of community groups regularly in contact with the National Toxics Campaign, a Boston-based organization that offers tech-

nical assistance to grass-roots environmentalists. That list has now grown to about 1,300 names.

Another indicator involves a 1986 Federal law that has made it easier for citizens to get a full profile of the chemical emissions from a particular plant. On June 19 the National Library of Medicine began offering the Toxic Release Inventory on a computer data base accessible by telephone. Within a week there were 225 requests for subscriptions, mostly from community groups and ordinary citizens, said Bruno Vasta, who administers the service.

The new wave of community-based action reflects the general population's growing preoccupation with environmental hazards, as shown in a recent New York Times Poll in which 80 percent of the public agreed with the statement, "Protecting the environment is so important that requirements and standards cannot be too high, and continuing environmental improvements must be made regardless of cost."

But participants in these recently formed groups often explain their interest in the environment by citing very specific local threats to their own health.

LEARNING WHAT WAS GOING ON

Explaining how she came to help found the Lynchburg Area Environmental Committee in a Houston suburb three years ago, Sandra Mayeaux, a homemaker, said: "My mother was living with me at the time, and she died of brain cancer. Not long after that I was talking with a man across the street, and we just got to counting up all the other people we knew right around here who were sick with tumors."

"It was so scary," she said, "that four of us met one Sunday afternoon and decided we had to find out what was going on."

Last year, as a result of lawsuits by Mrs. Mayeaux's group, two nearby toxic waste incinerators were shut down, one of them just a half mile from her tree-shaded street. Both incinerators had been charged with a variety of permit violations in the dispersion of cancer-causing chemicals.

Many of the new community groups are seeking relief through traditional channels like filing suits or petitioning legislative and regulatory bodies. But at the same time new avenues are also being explored, as local organizations try to negotiate directly with the management of individual plants.

Citizens in Berlin, N.J., recently persuaded a glass factory to adopt measures reducing the chances of a toxic spill in the event of an accident. A group in Akron, Ohio, recently won the right to carry out its own inspections of a B.F. Goodrich plant. Elsewhere, demands for similar concessions are being pressed against major installations like an I.B.M. manufacturing plant in San Jose, Calif., and the Exxon Corporation's refinery and petrochemical complex in Baytown, Tex., near Houston.

Despite their occasional successes, many protesters feel isolated in their communities, especially in areas like California's Silicon Valley and Texas refinery towns along Galveston Bay, where the oil industry so dominates the economy that its profitability affects everything from retail sales to teachers' salaries.

"They call me the crazy lady of Texas City, because in Texas City when the air stinks, they still think it's the smell of jobs and money," said Rita Carlson of the Galveston County Environmental Division, a group that purposely chose an official sounding name to make it easier to get information from state agencies.

Like many other grass-roots organizations, Ms. Carlson's group is exerting an influence grossly disproportionate to its size. Although it has only 10 active members, the group has organized a suit on behalf of more than 1,000 people who required medical attention after hydrofluoric acid leaked from a Marathon Oil plant in Texas City nearly two years ago.

"Our proudest achievement," said Ms. Carlson, "is that we cracked the wall between environmentalists and workers, because now workers are calling all the time to tell us what is going on inside their plants."

DIVIDED LOYALTIES

Those tips have proved a potent though often secret weapon for many community groups, as employees of polluting plants conclude that the danger extends beyond the factory gate all the way to houses and schools. Richard Miller, an organizer for the Oil, Chemical and Atomic Workers union in Louisiana, said: "There's a lot of soul-searching going on among the people who work in the petrochemical industry. There are loyalties that are becoming divided over time."

Although in a few cases workers and even union officers have openly joined protests against their employers, they have more frequently functioned behind the scenes as sources of inside information on polluting practices and company policy.

Last week a goup called Baytown Citizens Against Pollution offered reporters copies of a memorandum given to the group by a sympathetic employee at Exxon.

The memorandum, by Ron Embry, the public relations coordinator at the refinery, was dated May 4 and showed how the growing protests are viewed in one executive suite. The document bemoaned the community group's access to information about the plant, noting that twice in recent months its members began complaining about specific pollution-creating accidents even before news of the events had traveled through the refinery's internal communications system.

"I believe we are entering a significantly changed era with much stronger local environmental activism," Mr. Embry wrote. In the past, he said, environmental concerns had been "dormant due to the overriding perception of community benefits from the Exxon presence."

ENVIRONMENTAL WORRY UP

Public support for greater environmental efforts regardless of cost has soared since the Exxon Valdez oil spill in Alaska, a New York Times Poll shows.

Eighty percent of the 1,497 people interviewed by telephone from June 20 through 25 said they agreed with this statement: "Protecting the environment is so important that requirements and standards cannot be too high, and continuing environmental improvements must be made regardless of cost." Fourteen percent said they disagreed. The poll had a margin of sampling error of plus or minus three percentage points.

That statement, asked in New York Times/CBS News Polls since 1981 in an effort to measure unqualified environmental support, had won the agreement of 74 percent of the public in April, shortly after the spill. From 1986 to 1988 polls had recorded ratings in the middle 60 percent range. In September 1981, early in the Reagan Administration, 45 percent agreed and 42 percent disagreed.

SUFFICIENT FUNDS FOR AN ACCURATE CENSUS

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. SAWYER. Mr. Speaker, yesterday the House considered a bill making appropriations for the Departments of Commerce, Justice, State, and the Judiciary for fiscal year 1990. Included in that measure are funds for the conduct of the 1990 decennial census, the Federal Government's largest peacetime activity.

The administration's fiscal year 1990 budget request for the decennial census was approximately $1.8 billion, which represents half of the total cyclical budget for the 1990 census. The funding bill reported by the Committee on Appropriations provided $57 million less for the decennial census than the administration requested.

I am sensitive to the difficult choices the Appropriations Committee must make in order to meet deficit reduction targets. There are many critical and worthy Government programs that vie for an adequate share of the limited resources available.

As with any other Government agency, Census Bureau programs and activities should not be shielded from careful scrutiny by the Congress. The Census Bureau must be able to justify the need for every dollar it requests and demonstrate that the funds are necessary to further an important government purpose.

As chairman of the Subcommittee on Census and Population, I am convinced that the Bureau's request for $1.8 billion to carry out decennial census activities in 1990 is not only justifiable, but critical to the Bureau's ability to conduct an accurate, efficient, and timely enumeration of the population. I fear that the $57 million reduction in the requested amount, approved by the Committee on Appropriations and adopted by the House, will severely hamper the Bureau's efforts in a number of critical areas.

While title 13, United States Code, does not require an annual authorization for specific programs carried out by the Bureau, my subcommittee has reviewed in great detail the planned activities for the 1990 census, to determine whether the Bureau's resources were being allocated and spent in a manner that would best ensure a full and accurate count. Among the items we have reviewed are data collection methods, promotion and outreach programs, recruitment efforts, and wage scales.

The subcommittee focused much attention this year on the Bureau's greatest challenge—recruiting and retaining a qualified work force to carry out the census. In 1980, the Bureau was unable to fill 30 percent of its enumerator positions. Because enumerators work under often difficult conditions for relatively low pay, the Bureau must recruit and test 1.6 million applicants to hire the 470,000 temporary employees it estimates will be needed for peak operations from the fall of 1989 through the fall of 1990.

In order to meet its hiring needs, the Bureau decided to employ geographic wage scales for enumerators, ranging from $5 to $8 per hour. The highest rate will be paid in New York City, where the Bureau anticipates a turnover rate among enumerators of 100 percent. Bureau officials in the New York metropolitan area fear that they will be unable to fill 25,000 clerical and field positions in time for the census next spring, but are hopeful that the higher pay rate will attract more applicants.

The Census Bureau did not request additional funds in order to implement the geographic pay rates. Bureau officials believed that with savings in printing costs from fiscal year 1989 and a higher than expected productivity rate in some processing offices, it could carry out planned activities in fiscal year 1990 within the $1.8 billion request.

However, the proposed $57 million reduction in the decennial census budget will, in my judgment, seriously hurt the Bureau's hiring efforts. Even if it is able to pay higher rates in areas where a high staff turnover is expected, the Bureau may be unable to retain enough employees through the summer months of 1990 to complete field activities in areas which are harder to enumerate, such as minority and low-income communities.

In addition, if the Bureau finds itself running out of funds in the spring and summer of 1990, as it did during the 1980 census, it may be forced to curtail or eliminate altogether certain field procedures designed to improve census coverage following the initial enumeration.

I also am concerned that a lack of sufficient funds during the census year will force the Census Bureau to curtail its critical program of outreach and promotion. It is widely known that certain segments of the population—most notably minority groups, the poor, and the homeless—historically have suffered from a substantial and disproportionate undercount in the census. Too many people either do not understand the benefits of an accurate census count or are not convinced that census information will remain confidential.

For the 1990 census, the Bureau is attempting to reach these hard-to-enumerate groups through an extensive outreach effort, involving a network of religious organizations, schools, civic and philanthropic groups, the business and labor community, and the media. While the Bureau is relying heavily on the volunteer efforts of this national network, it will need sufficient funding to produce and distribute promotional and advertising materials. The Bureau cannot afford to reduce spending in the area of outreach if it hopes to improve cooperation with the census in poor and minority communities.

Mr. Speaker, I urge my colleagues on the Appropriations Committee to consider again the serious consequences of reducing the Census Bureau's budget during the decennial census year, when most activities cannot be postponed until adequate funds are available, and to restore the full budget request of $1.8 billion during conference.

A CONGRESSIONAL SALUTE TO LEE WHITTENBERG

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding individual who has devoted many years of his life to the betterment of the city of Bellflower. Lee Whittenberg will be departing as director of planning for the city of Bellflower after 18 years of service. In recognition of this achievement, the city will be hosting a farewell celebration to be held on August 4, 1989. This occasion gives me the opportunity to express my sincere appreciation for his many years of hard work and unending commitment. Without Lee's guidance, the city could never have developed as effectively as it has.

Lee Whittenberg, a graduate of California Polytechnic University with a B.S. in urban planning, first came to the city of Bellflower in October 1971, to work as assistant city planner. His professional ability and courteous attitude led to his promotion to acting planning director in February 1974. He served in this capacity until August 1974, when he was elevated to planning director. While serving in this capacity, Lee was responsible for general plan and zoning ordinance implementation. His major projects involved the preparation of seismic safety, public safety, and scenic highway elements of the general plan. The ability Lee demonstrated in this position led to additional responsibilities and the job of Director of Planning/Grants Administrator in October 1977, a position he will hold until August 4, 1989.

In addition to Lee's commitment to his career and to the city of Bellflower, his greatest commitment is to his wife of 5 years, Gail, his son, Kevin, and his stepdaughter, Felicia. As if a family and career are not time consuming enough, Lee also devotes time to various professional organizations. He is a member of the American Planning Association, Urban Land Institute, Council on Urban Economic Development, National Association of Housing and Redevelopment Officials, as well as the American Public Works Association.

From my years of service with the House Committee on Public Works and Transportation, I cannot overemphasize the importance of having an effective and competent planning director for a city. There is little that can be done at the Federal level to assist local communities if there are not individuals at the local level that can provide the necessary guidance and supervision to carry these plans and initiatives through. Lee Whittenberg has been this kind of an individual and this kind of a planning director. As many of us have learned so many times in the past, good people are hard to keep. Such is the case with Lee, who will be leaving the city of Bellflower to accept the position of community development director for the city of Seal Beach. He will be missed.

My wife Lee joins me in extending our congratulations to this hardworking and caring man. He is truly a remarkable individual who has devoted his talents and energies to provide a better way of life for the people of Bellflower. We wish Lee, his wife Gail, their children Kevin and Felicia, all the best in the years to come.

COUNTING UNDOCUMENTED ALIENS FOR REAPPORTIONMENT PURPOSES

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. SLATTERY. Mr. Speaker, yesterday the House had the opportunity to debate the issue of whether undocumented aliens should be counted for purposes of reapportioning congressional seats. I recently published in the Washburn Law Journal an article outlining the constitutional issues with regard to this matter. I believe that my colleagues may find it to be of interest:

"THE RIGHT TO GOVERN IS RESERVED TO CITIZENS": COUNTING UNDOCUMENTED ALIENS IN THE FEDERAL CENSUS FOR REAPPORTIONMENT PURPOSES

(By Jim Slattery,* Howard Bauleke**)

I. INTRODUCTION

Current projections indicate Kansas will lose one of its five seats in the United States House of Representatives due to reapportionment following the 1990 federal census.[1] As a result, Kansas will lose both numerical and intangible influence within that body. For example, two Kansas Representatives currently serve on the House Energy and Commerce Committee, a panel with legislative and oversight authority over issues affecting all Kansans, including health care, transportation, energy, telecommunications, and the environment.[2] Two Kansas Representatives serve on the House Agriculture Committee, which has jurisdiction over federal, agricultural, and rural development programs.[3] Kansas Representatives also serve on other major House panels including the Democratic Steering and Policy Committee, the House Select Committee on Intelligence, and the House Committees on the Budget, Science and Technology, Judiciary, and Foreign Affairs.[4] With the loss of a United States House seat, Kansans could not expect to maintain all those committee assignments within their House delegation.[5]

Following the 1980 federal census, several United States House of Representatives' seats were redistributed among the states.[6] As a result of the inclusion of undocumented aliens in the reapportionment census count, one analysis indicated New York[7] and California gained House seats that otherwise would have gone to Georgia and Indiana.[8] A preliminary analysis using projected 1990 population figures indicates Kansas, Pennsylvania, and West Virginia will lose House seats they currently hold, due at least partially to the inclusion of undocumented aliens in the reapportionment count.[9] The inclusion of undocumented aliens in the reapportionment census count will have a substantial impact upon Kansas' numerical representation in the United States House of Representatives.

This article examines the legal issues surrounding the inclusion of undocumented

Footnotes at end of article.

aliens in the reapportionment census count. Part II analyzes the constitutional basis for inclusion of undocumented aliens in the reapportionment census count. While this issue has not been addressed directly by a court, Part III reviews analogous cases as well as case law on basic principles of voting rights. The ability of Congress to set guidelines for the conduct of reapportionment census counts is discussed in Part IV. Finally, the authors conclude inclusion of undocumented aliens in the reapportionment census count diminishes the value of the voting franchise held by American citizens in states that include a relatively insignificant undocumented alien population and, therefore, is unconstitutional. This article reviews possible legislative and judicial remedies available to the people of Kansas to ensure their votes in federal elections carry the same weight as the votes of residents of states that include substantial undocumented alien populations.

II. THE CONSTITUTIONAL BASIS FOR INCLUDING UNDOCUMENTED ALIENS IN THE REAPPORTIONMENT CENSUS COUNT

Supreme Court decisions on congressional districting have been based upon Article I, section 2 of the Constitution which declares:

Representatives . . . shall be apportioned among the several States . . . according to their respective Numbers, which shall be determined by adding on the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three-fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of Years, in such Manner as they shall by law direct.[10]

Additionally, section 2 of the fourteenth amendment reads in pertinent part: "Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed." [11]

Congress has specifically authorized the Department of Commerce and the Bureau of the Census to conduct the decennial census.[12] Under the Census Act, the Secretary of Commerce has the responsibility to conduct the census and to calculate the number of persons in each state for the purpose of the reapportionment of the House of Representatives.[13] This reapportionment is based upon the method of allocating Representatives to the states in the most equal proportion to the actual population of each state.[14] Under the Constitution, however, no state may have less than one Representative despite any substantial decrease in population.[15] In addition to the reapportionment and redistricting of the House of Representatives, the census is used for the reapportionment and redistricting of most state legislative and local governmental bodies.[16] It also has become the basis for the distribution of federal funds allocated to the states for certain federal assistance.[17]

The Constitution refers to "Numbers" twice and to "Enumeration" once without any qualifications regarding those to be counted, with the exception of untaxed Indians and slaves who were counted at three-fifths. On its face, the "whole Number of free Persons" would appear to include aliens in the United States legally or illegally. The Census Bureau always has interpreted this phrase broadly, attempting to count every person residing in a state on census day and the population base for reapportionment always has included all persons, including both legal and undocumented aliens.[18] The records of the Constitutional Convention of 1787 refer to the phrase "whole number of free citizens and inhabitants" as the number taken by the census and used as the basis of the apportionment of Congress.[19] The use of this phrase suggests the authors of the Constitution concluded the census should count both free citizens and any free inhabitants who were not citizens. This phrase was adopted by the Convention and referred to the Committee on Style, which substituted the word "persons" for the phrase "free citizens and inhabitants" and became part of the Constitution without comment or debate.[20]

The fourteenth amendment, while removing the reference to slaves, did not alter the basic emphasis on numbers. When the fourteenth amendment was considered by the House of Representatives, the term "persons" was included in the text of the amendment, because the term always had been the basis for House apportionment in the past and many states elected additional Representatives due to large numbers of alien inhabitants.[21] When the fourteenth amendment was considered by the Senate, it adopted the term "persons," because of another word such as "voters" or "citizens" could have resulted in the reduction of more than two million unnaturalized foreigners from the reapportionment base.[22]

The authors of the Constitution distinguished between citizens and noncitizens with regard to qualifications for the offices of Representative, Senator, and President.[23] The *Federalist Papers* also note the apportionment of Representatives was to be based upon the aggregate number of inhabitants of the states.[24] The constitutional language requiring an enumeration of "persons" is ambiguous, however, and must be interpreted based upon the purpose of the apportionment clause. The context within which "persons" is used in the Constitution varies greatly. A literal translation of "persons" as all biological persons within the United States' borders is inappropriate; even the Census Bureau makes distinctions without regard to biological qualifications. For example, the Census Bureau excludes foreign diplomats and foreign tourists from the census as nonresidents in spite of their biological qualifications as "persons." [25] Likewise, the Census Bureau has chosen to exclude American military and their families stationed abroad from the reapportionment figures regardless of the length of their tour.[26] Also, the Census Bureau does not count corporations as "persons" for apportionment, but the Supreme Court has interpreted "persons" in section one of the fourteenth amendment to include corporations.[27]

Most important, on each occasion when the phrase "whole number of persons" was adopted as part of the Constitution, there was no person who could be an undocumented alien; prior to enactment of the first immigration statute in 1875, all aliens were lawfully present in the United States.[28] Therefore, in determining who must be counted for congressional apportionment purposes, the term "persons" need not be read as embracing those possessing a status that did not exist at the time of constitutional enactment and amendment.

III. JUDICIAL CONSIDERATION OF ALIENAGE ISSUES

The Supreme Court has decided cases bearing upon the rights of aliens and, in the course of doing so, has created analogies and issued dicta pointing to the conclusion that for some purposes of constitutional law all aliens must be counted as "persons." The Court has not, however, determined undocumented aliens must be included in the reapportionment census count and Court decisions and dicta also have indicated valid classifications of alienage may be maintained.

Enforcing the due process and equal protection clauses of the fourteenth amendment on behalf of lawful resident aliens, the United States Supreme Court in *Yick Wo* v. *Hopkins* [29] stated: "These provisions are universal in their application, to all persons within the territorial jurisdiction without regard to any differences of race, of color, or of nationality." [30] Presumably, if "persons" under section one of the fourteenth amendment includes everyone without regard to differences of nationality, "persons" in section two of the fourteenth amendment also could include everyone without regard to nationality. In *United States* v. *Wong Kim Ark*,[31] the Court reemphasized the universal applicability of the fourteenth amendment, regardless of nationality, holding citizenship is to be accorded automatically to children born in the United States to resident alien parents.[32] Fifth amendment due process rights also have been accorded to aliens.[33]

The Supreme Court has found it unconstitutional to deny public benefits such as education to alien children who are in the United States unlawfully.[34] Although recognizing the danger of a "shadow population" and "the spectre of a permanent cast of undocumented resident aliens," the Court quoted *Yick Wo* for the proposition that a state could not draw a line between lawful and unlawful resident alien children when providing public education.[35] Additionally, most federal assistance programs provide benefits to aliens, although distinctions are made with reference to an alien's status in the United States.[36]

Only one major federal case regarding conduct of the census has directly concerned the inclusion of illegal aliens. In *Federation for American Immigration Reform (FAIR)* v. *Klutznick*,[37] legislators and groups concerned with alleged problems posed by the undocumented alien population brought suit challenging the Census Bureau's practice of counting all residents of the United States in the decennial census, which includes legal and illegal aliens.[38] The plaintiffs argued Article I, section 2, clause 3 of the Constitution, directing that the results of the national decennial census be used to apportion congressional representatives, should not be interpreted to include undocumented aliens.[39] The core of the plaintiffs' argument contended the clause's phrase "the whole number of persons" was never intended to include undocumented aliens.[40] The plaintiffs requested declaratory and injunctive relief requiring the Census Bureau to use its best efforts to count undocummented aliens separately, thus exluding them from the apportionment base.[41] The Census Bureau defended that it was required constitutionally to include all persons except for foreign tourists and diplomats and that, as a practical matter, accurate methods to count undocumented aliens did not exist.[42]

The court found the plaintiffs lacked standing to challenge the census process, because they failed to show any plaintiff would likely suffer the loss of at least one national or state representative and would receive fewer federal benefits if undocumented aliens were counted.[43] According to

the court, the plaintiffs failed to demonstrate concrete harm would occur and be suffered by any plaintiff and any relief requested would benefit them personally.[44] Although the plaintiffs estimated the number of congressional seats affected by including illegal aliens, they could only speculate as to which states might gain and lose representation.[45] The court also found the plaintiffs were unable to demonstrate the relief sought would redress the alleged injury.[46]

After addressing the standing issue, the court examined the arguments for equitable relief. The court stated in dicta the plaintiffs failed to establish entitlement to relief.[47] The court found the Census Bureau's interpretation of constitutional language requiring the counting of "the whole number of persons" was bolstered by two centuries of consistent interpretation; the Census Bureau always had attempted to count every person, including legal and illegal aliens, residing in a state on census day.[48] In support, the court quoted United States House Judiciary Committee member Emmanuel Celler's argument to the full House of Representatives that the Founding Fathers intended everyone, including undocumented aliens, to be counted.[49] The court concluded, "[w]e see little on which to base a conclusion that *illegal* aliens should now be excluded." [50]

In *Young v. Klutznick,* [51] the City of Detroit, Michigan, and its mayor sought an order directing the Census Bureau to avoid an undercount of minorities and aliens.[52] The district court cited with approval the dicta in FAIR and issued an order stating it was "the right of every person within the United States of America on April 1, 1980, to be counted in the census." [53] The appellate court reversed, holding any harm that might be suffered as a result of reapportionment by the state legislature following compilation of census figures was speculative only.[54] The court also held a causal connection had not been established between a census undercount and injury to the plaintiffs; the lower court's statement on the right to be counted was not examined on its merits.[55]

Neither *FAIR* nor *Young* serves as a meaningful precedent on the issue of counting undocumented aliens in the census for reapportionment purposes, because the courts did not reach the merits of either case. Conversely, dicta in other Supreme Court holdings suggest constitutionally valid distinctions can be made between alienage classifications. The Supreme Court, upholding the exclusion of short-term resident aliens from Medicare, recognized it is not necessary that "all aliens must be placed in a single homogenous legal classification." [56] Instead, the Court delineated several categories of aliens: overnight visitors, unfriendly agents of a foreign power, resident diplomats, and illegal entrants.[57] The Court also has held states may exclude lawfully admitted resident aliens from certain public offices, reserving for citizens those offices "perform[ing] functions that go to the heart of representative government." [58] When upholding a state discrimination against aliens, the Court declared "the right to govern is reserved to citizens" and acknowledged "the right . . . of the people to be governed by their citizen peers." [59] The Court also upheld California's exclusion of resident aliens from the occupation of peace officer, accepting the argument that, "although citizenship is not a relevant ground for the distribution of economic benefits, it is a relevant ground for determining membership in the political community." [60]

IV. CONGRESSIONAL AUTHORITY TO DETERMINE THE QUALIFICATIONS OF PERSONS INCLUDED IN APPORTIONMENT COUNTS

In *Wesberry v. Sanders* [61], The Supreme Court ordered the Georgia legislature to redistrict the state's congressional districts to eliminate disparities in their populations.[62] The Court found Georgia's apportionment statute grossly discriminated against certain voters, because it contracted the value of some votes and expanded the value of others due to substantial population deviations of the existing congressional districts.[63] The court concluded that under Article I, section 2 of the Constitution congressional districts must be as nearly equal in population as is practicable. "To say that a vote is worth more in one district than another would not only run counter to our fundamental ideas of democratic government, it would cast aside the principle of a House of Representatives elected by the People, a principle tenaciously fought for and established at the Constitutional Convention." [64] "It would defeat the principle solemnly embodied in the Great Compromise—equal representation in the House for equal numbers of people—for us to hold that, within the states, legislatures may draw the lines of congressional districts in such a way as to give some voters a greater voice in choosing a Congressman than others." [65]

It is impossible to mandate truly equal representation by congressional districts in the United States, because Article I of the Constitution assures every state shall have at least one Representative. Counting undocumented aliens for reapportionment purposes, however, contradicts the principle upon which *Wesberry* is based. In testimony before the Senate Governmental Affairs Subcommittee on Energy, Nuclear Proliferation, and Government Processes, Professor John Noonan of the Boalt Hall School of Law at the University of California, Berkeley, offered an instructive example:

In districts where there are large numbers of [undocumented aliens], the vote of those voting in the district counts more than the vote of those voting in districts of identical population where thee are more persons voting. To take extreme examples:

District A: Population 400,000, 200,000 voters, 100,000 undocumented aliens.

District B: Population 400,000, 300,000 voters, no undocumented aliens.

In District A, 101,000 votes are a majority sufficient to elect a Congressman; in district B, 151,000 votes are necessary. A vote in District A is worth more than a vote in District B. There is a dilution of the votes in district B and discrimination against the citizens of District B.[66]

In *Reynolds v. Sims,* [67] which required redistribution of state legislative districts based upon the principle of one person, one vote, Chief Justice Warren, writing for the Court, declared: "To the extent that a citizen's right to vote is debased, he is that much less a citizen." [68] Maintenance of congressional districts with unequal voting populations due to the unequal distribution of undocumented aliens across the United States results in the debasement of the votes of citizens in districts including few undocumented aliens. Analogously, the *Reynolds* decision quotes Thomas Jefferson: "[G]overnment is republican in proportion as every member composing it has equal voice in the direction of its concerns . . . by representatives chosen by himself." [69]

In *Harisiades v. Shaughnessy* [70], Justice Jackson noted: It is pertinent to observe that any policy toward aliens is vitally and intricately interwoven with contemporaneous policies in regard to the conduct of foreign relations, the war power, and the maintenance of a republican form of government. Such matters are so exclusively entrusted to the political branches of government as to be largely immune from judicial inquiry or interference." [71]

Applying the *Reynolds* rule that state legislative electoral districts must be of equal population, the Supreme Court has held states are not required "to include aliens, transients, short-term or temporary residents." [72] Applying the same principle, Congress should determine undocumented aliens should not be counted for federal reapportionment purposes. In fact, Supreme Court decisions regarding congressional districting have adhered more stringently to the one person, one vote doctrine than the Court's decisions regarding state and local legislative bodies.[73]

V. CONCLUSION

The right to vote is related integrally to the first amendment right of free speech, which includes political expression. In addition, maintenance of other constitutionally guaranteed civil rights and liberties depends upon the continuing accountability of public officials to the electorate. For this reason, the Supreme Court has treated the right to vote as fundamental; any inequality in the way in which the right to vote is allocated will be subject to strict scrutiny and will be struck down unless necessary to achieve a compelling state interest.[74] The ability to exercise the right to vote, in short, must be distributed equally.

In addition, counting undocumented aliens for reapportionment purposes devalues American citizenship. Federal naturalization law establishes a class of persons known as lawful aliens who are potential citizens, while undocumented aliens cannot, by definition, qualify for citizenship.[75] Failure to recognize this distinction in the process by which representative authority is distributed renders the citizenship potential of lawful aliens less valuable and confers a legitimacy upon the status of undocumented aliens by giving them significance in a system of governance in which they cannot otherwise participate. As the Supreme Court has observed, exclusions based upon alienage are "not a deficiency in the democratic system but a necessary consequence of the community's process of political self-definition." [76] Because the United States has not been occupied by a hostile, foreign army since the War of 1812, it only can be speculated whether the Census Bureau would count an invading army for reapportionment purposes.

In the 101st Congress, three pieces of legislation have been proposed that would prevent the Census Bureau from including undocumented aliens in the reapportionment census count.[77] In addition, a lawsuit challenging the inclusion of undocumented aliens was filed recently in federal court by forty-one members of Congress and the states of Kansas, Pennsylvania, and Alabama.[78] The suit complains that the results of continuing such an inclusion violates the constitutional requirement of precise numerical equality of lawful inhabitants among congressional districts, thus denying the plaintiffs and other citizens of states which do not have a large population of undocumented aliens the same degree of repre-

sentation as those citizens of states with large populations of undocumented aliens.[79]

The principle of one person, one vote is violated by the practice of including undocumented aliens in the reapportionment census count. As a result, the value of a vote cast for a United States Representative in Kansas, a state with a relatively small population of undocumented aliens, is less than the value of a vote for the same office cast in a state with a greater population of undocumented aliens such as California or New York. Congress and the courts should act swiftly, prior to implementation of the 1990 Federal census, directing the Census Bureau to make the necessary census procedure adjustments to segregate undocumented aliens from the population numbers used to determine congressional reapportionment.

FOOTNOTES

*Member, U.S. House of Representatives (Kansas, Second District). B.S., Washburn University, 1970; J.D., Washburn University, 1974.

**Washington, D.C. Staff Director, U.S. Rep. Jim Slattery. B.A., University of Kansas, 1981; J.D., Georgetown University Law Center, 1984.

[1] D. Huckabee, House Apportionment Following the 1990 Census: Preliminary Projections (Cong. Research Serv. No. 88-567 GOV, Aug. 31, 1988).

[2] During the 101st Congress, Representatives Jim Slattery and Bob Whittaker serve on the Energy and Commerce Committee.

[3] During the 101st Congress, Representatives Dan Glickman and Pat Roberts serve on the Agriculture Committee.

[4] During the 101st Congress, Representative Glickman also serves on the House Judiciary Committee, the Science and Technology Committee, the House Select Committee on Intelligence, and the Democratic Steering and Policy Committee; Representative Roberts also serves on the Committee on House Administration and the Joint Committees on the Library and Printing; Representative Slattery also serves on the Budget Committee; Representative Jan Meyers serves on the Foreign Affairs Committee, the Small Business Committee, and the Select Committee on Aging.

[5] *See generally* I. Chaleff, B. Loomis, G. Serota & J. Thurber, Setting Course: A Congressional Management Guide 35-43 (1988). The number and importance of congressional committees is limited by formulas developed by each political party assigning relative values to various committee memberships. *Id.*

[6] As a result of the 1980 census reapportionment, Arizona, Colorado, Nevada, New Mexico, Oregon, Tennessee, Utah, and Washington each gained one House seat; California gained two seats; Texas gained three seats; and Florida gained four seats. Indiana, Massachusetts, Michigan, and Missouri lost one House seat; Illinois, Ohio, and Pennsylvania lost two seats; and New York lost five seats. *State Politics and Redistricting*, Congressional Q. 3 (1982).

[7] While New York gained a House seat due to the presence of undocumented aliens, the state suffered a net loss of seats as a result of the overall reapportionment process.

[8] D. Huckabee, Adjusting the State Populations Used for Reapportionment to Account for Aliens 2 (Cong. Research Serv. Aug. 3, 1984) (memo prepared for Sen. Walter Huddleston).

[9] J. Williams & D. Huckabee, Proposed Exclusion of Illegal Aliens From the Population Used to Apportion the House of Representatives: A Methodological and Policy Analysis 48-66 (Cong. Research Serv. No. 88-418 GOV, June 17, 1988).

[10] U.S. CONST. art. I, § 2, cl. 3.

[11] U.S. CONST. amend. XIV, § 2.

[12] Title 13 of the U.S. Code relates to the conduct of the census.

[13] 13 U.S.C. § 141(b) (1982).

[14] *See* D. Huckabee, Apportioning Seats in the House of Representatives: The Method of Equal Proportions 1-5 (Cong. Research Serv. No. 88-143 GOV, Feb. 17, 1988).

[15] U.S. CONST. art. I, § 2, cl. 3.

[16] *See e.g.*, Kansas House Concurrent Resolution No. 59043, 1988 Kan. Sess. Laws, ch. 405. This resolution was approved in the November 8, 1988 general election, which called for reapportionment of Kansas legislative districts in 1992, using adjusted 1990 federal census figures.

[17] *See e.g.*, Social Security Act, 42 U.S.C. §§ 302-306 (1983) (relating to grants to the states for old-age assistance and medical assistance to the aged); Community Development Act, 42 U.S.C. § 5301 (1983).

[18] Federation for Am. Immigration Reform (FAIR) v. Klutznick, 486 F. Supp. 564, 576 (D.D.C. 1980), *appeal dismissed*, 447 U.S. 916 (1980).

[19] M. FARRAND, THE RECORD OF THE FEDERAL CONVENTION OF 1787, at 571, 590 (1911).

[20] Turney, Legislative Counsel of the Senate, *Power of Congress to Exclude Aliens from Enumeration for Purposes of Apportionment of Representatives*, 71 CONG. REC. 1822 (1929).

[21] CONG. GLOBE, 39th Cong., 1st Sess. 359 (1866).

[22] *Id.* at 2986-87.

[23] U.S. CONST. art. I, § 2, cl. 2 (qualifications for a Representative); *id.* art. I, § 3, cl. 3 (qualifications for Senator); *id.*, art. II, § 1, cl. 5 (qualifications for President).

[24] THE FEDERALIST No. 54, at 336-41 (A. Hamilton or J. Madison) (Mentor ed.).

[25] Federalism for Am. Immigrations Reform (FAIR) v. Klutznick, 486 F. Supp. 564, 567 (D.D.C. 1980), *appeal dismissed*, 447 U.S. 916 (1980). The Census Bureau considers foreign tourists to be nonresidents and foreign diplomats residing on embassy grounds to be residents of "foreign soil." *Id.*

[26] *But see* 134 CONG. REC. H8443-44 (daily ed. Sept. 27, 1988). This source presents Rep. Mervyn Dymally's statement in support of H.R. 4720, legislation that would include members of the uniformed services, civilian employees of the government assigned to posts of duty outside the United States, and their dependents in census for purposes of the apportionment of Representatives in Congress. *Id.*

[27] Santa Clara County v. Southern Pac. R.R., 118 U.S. 394, 396 (1886).

[28] Act of Mar. 3., 1875, ch. 141, 18 Stat. 477 (1875); *see also* C. GORDON & E. GORDON, IMMIGRATION AND NATIONALITY LAW § 1.1, at 1-3 to -4 (student ed. 1982).

[29] 118 U.S. 356 (1886).

[30] *Id.* at 369.

[31] 169 U.S. 649 (1898).

[32] *Id.* at 693-95.

[33] *See e.g.*, Li Sing v. United States, 180 U.S. 486, 495 (1901) (aliens may not be deprived of liberty or property without due process); Wong Wing v. United States, 163 U.S. 228, 238 (1896) (equal protection of laws applies to all persons within United States regardless of nationality).

[34] Plyler v. Doe, 457 U.S. 202 (1982).

[35] *Id.* at 210, 218-19 (citing Yick Wo v. Hopkins, 118 U.S. 356, 369 (1886)).

[36] *See generally* J. Vialet, Alien Eligibility Requirements for Major Federal Assistance Programs (Cong. Research Serv. No. 86-49 EPW, Mar. 4, 1986).

[37] 486 F. Supp. 564 (D.D.C.), *appeal dismissed*, 447 U.S. 918 (1980).

[38] *Id.* at 565.

[39] *Id.*

[40] *Id.* at 567.

[41] *Id.* at 568.

[42] *Id.* at 567-68.

[43] *Id.* at 568-70.

[44] *Id.* at 570.

[45] *Id.*

[46] *Id.*

[47] *Id.* at 575. Equitable relief was not possible because a "separate head count of illegal aliens would be extremely expensive, delay the census by as much as a year, and likely be ineffective in any case." *Id.*

[48] *Id.* at 576.

[49] *Id.* at 576-77.

[50] *Id.* at 576.

[51] 497 F. Supp. 1318 (E.D. Mich. 1980), *rev'd*, 652 F.2d 617 (6th Cir. 1981), *cert. denied*, 455 U.S. 939 (1982).

[52] *Id.* at 1321.

[53] *Id.* at 1332-33, 1339.

[54] *Young*, 652 F.2d at 625-26.

[55] *Id.*

[56] Matthews v. Diaz, 426 U.S. 67, 78 (1976).

[57] *Id.* at 80. For a discussion of categories of persons not included in the census, see *supra* notes 23-25 and accompanying text.

[58] Sugarman v. Dougall, 413 U.S. 634, 647 (1973) (state statute precluding noncitizens from civil service positions violates 14th amendment due to indiscriminate sweep).

[59] Foley v. Connellie, 435 U.S. 291, 296 (1978) (aliens can be prevented from becoming state troopers).

[60] Cabell v. Chavez-Salido, 454 U.S. 432, 438 (1982) (aliens can be barred from serving as deputy parole officers).

[61] 376 U.S. 1 (1964).

[62] *Id.* at 18.

[63] *Id.* at 7.

[64] *Id.* at 8.

[65] *Id.* at 14.

[66] *Enumeration of Undocumented Aliens in the Decennial Census: Hearing Before the Subcommittee on Energy, Nuclear Proliferation and Government Processes of the Senate Comm. on Governmental Affairs*, 99th Cong., 1st Sess. 49 (1985) (statement of John Noonan).

[67] 377 U.S. 533 (1964).

[68] *Id.* at 567.

[69] *Id.* at 573 n.53.

[70] 342 U.S. 580 (1952).

[71] *Id.* at 588-89 (affirmed deportation of legal resident alien under Alien Registration Act of 1940 because a member of Communist party).

[72] Burns v. Richardson, 384 U.S. 73, 92 (1966) (upholding Hawaii's legislative districting which excluded military transient population).

[73] *Compare* Abate v. Mundt, 403 U.S. 182, 185-87 (1971) (reapportionment plan for county board of supervisors upheld under equal protection clause) *and* Mahan v. Howell, 410 U.S. 315, 323, 328 (1973) (reapportionment upheld despite 10% population variation and adherence to existing political subdivision) *with* Kirkpatrick v. Preisler, 394 U.S. 526, 529-30 (1969) (congressional redistricting included unacceptable, avoidable population variances).

[74] *See, e.g.*, Harper v. Virginia Bd. of Elections, 383 U.S. 663, 666 (1966) (equal protection clause violated by imposition of poll tax).

[75] *See generally* 8 U.S.C. § 1421-1459 (1982) (Aliens and Nationality; Nationality through Naturalization).

[76] Cabell v. Chavez-Salido, 454 U.S. 432, 439 (1982).

[77] H.R. 744, 101st Cong., 1st Sess., 135 CONG. REC. H. 144 (1989) (introduced by Rep. Thomas Petri); H.R. 1468, 101st Cong., 1st Sess., 135 CONG. REC. H. 709 (1989) (introduced by Rep. Bill Goodling); H.R.J. Res. 199, 101st Cong., 1st Sess. (1989).

[78] Ridge v. Verity, No. 88-0351 (W.D. Pa. Feb. 18, 1988).

[79] *Id.*

THE TERRORIST BIND: DOING NOTHING IS APPEASEMENT

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. FEIGHAN. Mr. Speaker, the brutal killing of Col. William Higgins in Lebanon poses serious and troubling questions for the United States on how we handle the problem of international terrorism. A subtext to that discussion has centered on Israel's role in seizing Sheikh Obeid, the head of one of the terrorist groups holding American and Israeli hostages.

In a recent article by Burton S. Levinson and Abraham H. Foxman of the Anti-Defamation League of the B'nai B'rith, the authors point out that in the wake of the Higgins murder, criticism has been hurled at Israel rather than at the perpetrators of this heinous crime. Higgins and the other Western hostages are blameless victims of a terrorist scheme. Israel responded by taking a limited action, highly targeted to the person directly responsible for the kidnaping of their own countrymen.

As Levinson and Foxman point out, "America and Americans should make clear that despite the grief surrounding the death of Colonel Higgins, we won't compound the tragedy

by handing the terrorists a victory which is their real aim—a rift between the two great democracies who are the main foes of terrorism and the main catalysts for democracy and peace in the Middle East."

I commend the article to my colleagues.

THE TERRORIST BIND: DOING NOTHING IS APPEASEMENT

(By Burton S. Levinson and Abraham H. Foxman)

Mr. Levinson is national chairman of the Anti-Defamation League; Mr. Foxman is national director.

What to do about terrorism? The question came up again this week with a ferocity following the murder of Lt. Col. William Higgins by his radical Shiite captors.

There is much lip service paid to the notion that we shouldn't capitulate to the terrorists, that to appease them is to whet their appetite, that to reward their behavior is to cause them to repeat their behavior. Is doing nothing, however, not a form of appeasement? It may not be as blatant as paying money to the terrorists for hostages, but doesn't it amount to much the same thing? Terrorism can go on without sanction, that is the message of passivity.

Israel is the one country that does not merely pay lip service to the anti-terrorist struggle. It takes the splendid ideas formulated by former Secretary of State George Shultz and converts them to a living policy. Shultz said that we must take the offensive against terrorism. He said that we must use our intelligence networks. He said we must identify the terrorists, develop a consensus concerning the terrorist threat, and then take action.

Israel acted last week. Little violence was involved. A major initiator of Lebanese terrorism was seized. Not for revenge, but as a means to obtain the release of Israeli soldiers and Western hostages.

Now Lt. Col. Higgins is dead and some are doing exactly what the terrorists had in mind: directing their anger not at the source of this evil but at our Israeli ally.

How self-destructive can we be? Are we upset with Israel because she has the nerve to take actions that we are reluctant to take?

There is no easy way out of the terrorist bind. If we are not to capitulate, then there are limited ways to act. We can bomb, as we did in Libya. Many criticized us then. We can conduct a commando raid, but how many Entebbes are possible? Or we can look to beat the terrorists at their game, without succumbing to the abandonment of values endemic to terrorism.

Israel took the latter road, surely knowing that there were risks—to Israelis held in Lebanon as well as Americans. They sought, however, the most effective way to impress upon the terrorists that there is a price to be paid for their actions—the loss of their leader—without automatically causing the deaths of those held in captivity (as would have resulted, for example, from Israeli bombing).

Those who criticize Israel apparently want to do nothing or even want to appease the terrorists more directly. They are not interested in national interest. They are not interested in how their appeasement will lead to others being taken hostage. They are simply interested in the here and now—avoidance at all costs of the horrible feeling that came upon all of us with the news of William Higgins' death.

It is a reminder of what appeasement was about in the 1930s. People and governments were ready to do anything to avoid the horrible feeling that could come if there were conflict between Hitler and the democracies. They were ready to condemn Churchill, the leader of the anti-appeasement camp, sooner than Hitler himself. For Hitler the democratic refusal to face hard truths, to take risks, played right into his hands. And then it was too late.

It is legitimate to assess the wisdom of Israel's decision to seize Sheikh Obeid. Such an assessment, however, should not blur the fact that it is Israel above all other countries which is trying to deal in a responsible and serious manner with this scourge of terrorism. America and Americans should make clear that despite the grief surrounding the death of Lt. Col. Higgins, we won't compound the tragedy by handing the terrorists a victory which is their aim—a rift between the two great democracies who are the main foes of terrorism and the main catalysts for democracy and peace in the Middle East.

MAINTAINING A GOOD RELATIONSHIP WITH JAPAN AND IMPROVING OUR TRADE DEFICIT?

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. STARK. Mr. Speaker, as inconceivable as it seems, there is a way of balancing our concern for our economy and our desire to keep a strong friendship with Japan. Trade with Japan has been a troublesome subject for America and its leaders throughout the 1980's. On one hand, Japan has been a strong ally in the Pacific and the international arena for a number of years. On the other hand, the enormous trade deficit has endangered many U.S. industries and angered many of our constituents.

According to a poll conducted by BusinessWeek—Harris, 68 percent of the public feels that the economic threat posed by Japan outweighs the military threat from the Soviet Union. This is probably distressing to those in favor of military boondoggles such as the B–2 bombers but it underscores the public's perception of trade with Japan.

Further compounding the sense of fear is the feeling that Japan is not playing on a level field. Nearly 70 percent of the respondents felt that Japan imposes unfair trade barriers on American products. But should we continue to measure Japan in such familiar terms?

The answer seems to be a resounding "no." As a recent BusinessWeek article recounts, many in the United States are changing their perceptions about trade with Japan. The Japanese system, with its structural barriers and Government intervention, is different from any other in the world, a claim even they are proud to make. Negotiations and threats have proved to be expensive and empty. It is time to make a change in our approach.

The trade deficit has risen to $52 billion annually, over $145 million a day. This is an intolerable rate. Frustration and anger toward Japan is growing, endangering a special friendship with a good ally. Rather than reducing our relationship to angry words, let's strengthen it.

House Joint Resolution 249 will do just that. I first proposed this legislation 4 years ago in an attempt to prevent the present level of the deficit. This bill acts to place a cap on the deficit—see E1341 in the CONGRESSIONAL RECORD of April 25 for a discussion of the issue. Simply put, the cap means that for Japan to sell in the United States, she must buy from the United States.

I hope you will join me in this measure. Trade management and deficit caps may be new terms to many but as more and more people study the issue, the more people reach these conclusions. We must act soon to preserve our friendship and our economy.

Following is a portion of the BusinessWeek article describing the views toward managed United States-Japan trade by a number of trade experts:

REWRITING THE BOOK ON HOW TO DEAL WITH JAPAN

Trade hawks in the U.S. used to occupy a lonely spot on the political landscape. Dismissed as Japan-bashers, scapegoaters, or even crypto-racists, they were pushed to the sidelines during the free-trade years of the Reagan era. Now, however, there's a growing respect.

The hardliners are becoming the intellectual opinion makers of the 1990s. In recent months, several seminal books and articles on Japan have emerged, providing a frame of reference for many American policymakers and opinion leaders to think about how the U.S. might stem its own decline. Among the works are Clyde V. Prestowitz' 1988 book "Trading Places," Karel van Wolferen's "The Enigma of Japanese Power" (1989), and James Fallows' "Containing Japan" cover story in the May issue of The Atlantic.

These authors are increasingly viewed as the triumvirate of revisionism on Japan. They reject the Western tenet that capitalism and democracy are fundamentally similar everywhere. Japan, they say, operates along a different set of economic and political imperatives. New ways must be found to deal with it.

Chalmers Johnson, professor of Pacific international relations at the University of California at San Diego, is revisionism's intellectual godfather. His scholarly 1982 book "Miti and the Japanese Miracle" set forth a model most revisionists now embrace: Japan as a "capitalist developmental state," using the government to formulate and implement industrial policy.

TALK IT OUT

Since World War II, this policy has worked brilliantly to rebuild Japan. But the strategy, these writers argue, has led to a deeply embedded political consensus and economic structure favoring producers over consumers, with minimal reliance on outsiders. It's a system for which free trade has little relevance.

In the words of one revisionist-minded U.S. official: "Before you can solve a problem, you have to name things right." For Prestowitz, that means recognizing that Japan has invented a new type of capitalism more efficient than America's. "Rather than call them crooks and cheats for not buying our supercomputers, why not sit down and talk with them about how many they are going to buy?"

That may sound simplistic. But the message, along with Prestowitz' ideas about how to fix America's woes, have turned the former Commerce Dept. trade negotiator into practically a one-man industry in Washington. His book "Trading Places" has sold 50,000 hardback copies in the U.S., and a paperback version is due in February. He churns out op-ed pieces, lobbies Administration officials, and cultivates journalists. U.S. Trade Representative Carla A. Hills, admits to thinking "very highly" of his ideas, although she rejects his prescription of managed trade.

As a Dutchman who has lived in Japan for 25 years, van Wolferen gives perhaps the most sweeping analysis. He takes on economics, political institutions, and culture, finding less central control at work than do Johnson and Prestowitz. Basic to van Wolferen's analysis is Japan's lack of a political center. The country's "system" is a cluster of power centers and a bureaucracy with a "fabulous institutional memory and motivation." But these power groupings—big business, farmers, mass media, and political parties—are in a constant process of contention and accommodation. The common view shared by bureaucrats comes from their training: Some 80% of all top-level officials are graduates of the citadel of power, Tokyo University Law Dept.

Yet no one interest group has the power or political will to make real changes, says van Wolferen. The Diet is impotent, and citizens have relatively few rights and little political choice. No overriding ideology prevails. The Prime Minister and leading diplomats tell foreigners what they want to hear, with no hope they will be able to fulfill the promises. "If countries find working with Japan impossible, it is because . . . there is no one to deal with on the other side," says van Wolferen.

CONTAINMENT

Journalist Fallows has helped popularize revisionism. He believes that Japan's global economic machine must be contained—for its own good and the world's. The former speech writer for Jimmy Carter says a stay in Japan persuaded him that managed trade is the only option. "I recognize the danger of seeming to pick on Japan," he says. "But it's an unusual economic situation. . . . It's a special case that requires a special policy." His remedy: Fix what's wrong with the U.S.—such as low savings, overconsumption, and bad schools—and adopt managed trade in limited ways.

He's also making high-level Japanese squirm. Perhaps because the Japanese find his articles easier reading than the van Wolferen and Prestowitz books, Fallows is better known in Japan and thus comes in for more scorn. Some senior officials at the Foreign Ministry are known to resent deeply what they see as reckless endangerment of U.S.-Japanese relations. Ministry officials debate the wisdom of engineering some kind of response, but so far the job has been left to Japanese intellectuals.

The revisionists have plenty of critics in Japan and America. Kazuo Nukazawa, managing director of Japan's Federation of Economic Organizations, maintains that "to make a consistent book, they have to throw away facts that are inconvenient." But plenty of Americans who count are otherwise convinced.

FAREWELL TO COMMISSIONER DORCAS R. HARDY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. GILMAN. Mr. Speaker, I wish to call to the attention of our colleagues the outstanding service of the Commissioner of Social Security, Dorcas R. Hardy, and a recent letter I was pleased to receive from the Commissioner summarizing the many accomplishments which she and the administration have accomplished for Social Security.

Over the past few years, the Social Security system has seen an important revitalization, due a great deal to the efforts of Commissioner Hardy. During her tenure, Commissioner Hardy has reestablished public confidence in the Social Security system and developed important changes in public relations. Among these many accomplishments are the availability of the world's largest toll-free telephone network, and a personal earnings and benefit estimate statement to any requesting worker.

Mr. Speaker, those who have worked with Commissioner Hardy can attest to the time and effort she has dedicated to the Social Security Administration. We in Congress are all aware of the significant contributions made by Dorcas Hardy to our Nation. Her work has touched the lives of millions of Social Security participants and the better relationship between the Social Security Administration and the public will benefit us all.

Accordingly, I commend the Commissioner for this informative report. Mr. Speaker, I ask that the full text of the Commissioner's letter be inserted at this point in the CONGRESSIONAL RECORD.

BALTIMORE, MD,
July 27, 1989.

Hon. BENJAMIN A. GILMAN,
House of Representatives, Washington, DC.

DEAR MR. GILMAN: Because of your continuing interest in the Social Security Administration (SSA) and the programs it administers, I have prepared this mid-year status report for you and your colleagues. Since I am leaving office July 31, this report is also something of a farewell message.

I leave SSA with a great deal of satisfaction stemming from the tremendous change and progress that has taken place the last few years. We have reestablished public confidence in Social Security and developed significant innovations in customer service to benefit our 40 million beneficiaries and the 130 million workers who pay Social Security taxes. For example:

SSA can now provide a Personal Earnings and Benefit Estimate statement to any requesting worker. With these statements, Social Security is no longer a mystery for millions of Americans. For the first time, individuals and families can plan their financial futures knowing what they can expect to receive from Social Security. In just a year, more than 10 million people have requested their statements.

We have improved and expanded service by launching the world's largest toll-free telephone network. Our customers now have access to Social Security 24 hours a day, 365 days a year. Now available for 60 percent of the population, this toll-free service will be activated nationwide in October.

We also offer a new service for young families. In cooperation with state governments and local hospitals, parents can secure a Social Security number for their new baby as part of the birth registration process. We expect all 50 states to join in this service by year's end.

We have successfully implemented a massive modernization of our claims and other processing systems. As part of this effort, we have installed 25,000 computer terminals around the country, made significant strides in redesigning our vast software files, upgraded or replaced our main computers, and linked all of our field offices by satellite or fiber-optic cable to our central computers in Baltimore. These steps have led to dramatic improvements in the way the Agency speeds service to the customer.

We have substantially increased the percentage of Social Security beneficiaries choosing to receive their benefits by direct deposit to their financial institutions. We are well on our way to our goal of, by January 1990, having 80 percent of new beneficiaries choosing direct deposit. This service is also being made available to beneficiaries living outside the United States.

SSA continues to make progress in the field of international Social Security (totalization) agreements. Such agreements are now in force with 10 countries.

To ensure that SSA continues to improve service and meet the needs of our current and future customers, we now have a strategic plan in place to chart our course into the 21st century.

SSA is also engaging in several other initiatives to improve the management of our programs:

One is a pilot program that gives our managers new flexibility in running their operations and provides new financial incentives for them and their employees, gives them more autonomy and provides them the freedom to benefit their own operations and SSA as a whole. We expect that most of the pilot-site managers will achieve savings, resulting in "gainsharing" monetary awards for them and their employees.

I have increased financial incentives and tripled award monies for employees deserving special recognition. This fiscal year, we expect to award $29 million to 44,000 employees, with an average award of $710.

SSA management forums, held nationwide, give managers and employees a vehicle to suggest improvements and voice concerns. Last year's forums, involving our 7,000 managers, generated more than 1,000 suggestions. About 90 percent of the high-priority recommendations have been implemented.

Social Security is very proud that these service and management improvements have taken place despite an imposed 20-percent staffing reduction. Productivity has risen 30 percent in the past few years, resulting in a $2 billion savings to the trust funds. In that same time frame, several independent Government surveys show that client satisfaction has increased since 1984.

While we take pleasure in this success, we refuse to be complacent about the future. Much remains to be done.

I do not believe it is sufficient to simply provide good service today. We must also anticipate and prepare for the needs and wishes of tomorrow's customers. Guided by our strategic plan, SSA must make maximum use of technological advancement to provide optimum service delivery, now and

in the future. Telephone services and computer systems must continually be expanded and improved.

In addition to maintaining quality service, much work remains in bolstering America's confidence in the Social Security system. This is particularly true for younger workers, many of whom do not trust their Government to preserve the system for their retirement. They need to be assured that Congress has every intention of preserving and protecting the trust funds that will help finance their retirement needs.

We also need to take advantage of the security given us by the growth in the trust funds to prepare for America's future retirement needs. Social Security was always intended to provide a floor of retirement protection. Today, though, too many Americans are relying on the system to provide the lion's share of their retirement income. We need to determine how best to encourage other means of retirement savings to reduce dependence on publicly-financed programs.

For older workers, the stability of the Social Security system is not an issue. Fairness, however, is. Many retired beneficiaries are discouraged by the penalty for their participation in the workforce beyond age 65. The retirement earnings test, which applies only to earned income, places working beneficiaries at a disadvantage to those with substantial investment incomes. It is an unfair and counterproductive law. It should be eliminated.

I am confident about the future of Social Security, a confidence bolstered by the workforce with whom I have served these last 3 years. Their commitment to public service is unmatched. I believe their efforts and vision will meet the expectations of future beneficiaries and the challenges of the next century. SSA's tradition of quality public service will continue.

Finally, I would like to express my appreciation for your cooperation during my service as Commissioner. We have worked well together for the benefit of Social Security's beneficiaries and taxpayers, and I am confident that Congress and the Administration will continue to work together to meet the future challenges facing Social Security.

Sincerely,

DORCAS R. HARDY,
Commissioner of Social Security.

CASTRO'S EFFORT TO BEGUILE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. LAGOMARSINO. Mr. Speaker, if the United States were to alter our ties with Cuba, what would that mean not only for our national security interests in the region but also for our domestic concerns?

It's important to remember the historical background that has influenced the strained relationship between our two countries. Have circumstances really changed in the past few years or even past few months that merit a change in the way we deal with Castro?

Castro is still exporting revolution, supplying arms, equipment, and manpower to guerrilla forces in the region and elsewhere in the world in an effort to destabilize legitimate democratic governments and reinforce totalitarian regimes. He has made no effort to compensate the expropriation of American businesses valued now at more than $5 billion. His links to drug trafficking continue to be a source of serious concern despite the show trials of last month, and the trampling of human rights and civil liberties demonstrates that Castro has not changed the totalitarian nature of his rule.

Ms. Georgie Anne Geyer discusses these issues in her timely commentary in the August 2, 1989, Washington Times op-ed piece entitled "Castro's Effort to Beguile." I urge my colleagues to consider carefully Ms. Geyer's analysis of Castro's recent actions.

[From the Washington Times, Aug. 2, 1989]

CASTRO'S EFFORT TO BEGUILE

(By Georgie Anne Geyer)

The television talk shows and newspapers ring once again with the sober question: "Can we do business with Fidel Castro?" The question is so ancient that it might have been asked first during the Peloponnesian Wars, but no matter—here it is again.

We know we can do business with Soviet President Mikhail Gorbachev, or so British Prime Minister Margaret Thatcher drolly assures us. But, with Fidel? Many of our esteemed congressmen, such as Rep. Charles Rangel, New York Democrat, and even some officials less smitten by the wily "barbudo," such as New York Mayor Edward Koch, are convinced that Mr. Castro actually means to work with us on drugs. This is a little like trusting Dracula to take your beautiful 16-year-old daughter to her prom on Halloween night.

Think of the amazing chronicle of events in Cuba since early June. First, Mr. Castro accuses his most respected and honorable military officer, Gen. Arnaldo Ochoa, of drug-dealing. Then he brings Gen. Ochoa, looking as if he himself were drugged, into a '30s-style Stalinist show trial where he is surprisingly condemned to death without even the bother of a defense.

Most amusing of all, Gen. Ochoa is condemned for actions "hostile to a foreign power"—that is us, the United States, the country Fidel Castro has dedicated his life to destroying. Finally, Gen. Ochoa is shot at dawn. So much for either Cuban justice or rationality.

Ah, but the best part, unweaving every day now before our too easily engrossed eyes, comes next. Rid of Gen. Ochoa, Supreme Shakespearean actor Mr. Castro becomes a veritable Cuban puppy dog who is desperate to work with Washington now against the scourge of drugs he finds in the Caribbean. Almost tearfully, he even blames us for not warning him of the hideous drug traffic swirling around him while he, presumably, was off watching the cockfights.

Finally, he says that it was a U.S. Customs Service investigation—Operation Greyhound, begun last February—that alerted him to the fact that members of his elite military were indeed in on the drug business.

Customs Commissioner William von Raab, testifying before a Senate foreign-relations subcommittee, said that even though the Cuban leader was just "another piece of narco-trash floating in the Caribbean . . . he has turned to the United States for a life preserver."

Others support this. Mr. Koch went so far as to say on television that although Mr. Castro is a "cruel Stalinist," he is "asking for a new orientation in foreign policy that is not communism but drugs."

Let us look at it in a different way—which happens to be correct. In a country such as Cuba, with its East German-trained praetorian guards, its Soviet-trained intelligence, and Mr. Castro's own intuitive understanding of power, there is no way that Mr. Castro could not have known about drug-smuggling from Colombia for at least these last eight years. He has consistently trained the Marxist-19 guerrillas who guard the drug dealers in Colombia.

Men such as Gen. Ochoa were involved by Mr. Castro in his drug trade as well as in the diamond-and-ivory trade in Angola. So when he wanted to get rid of the loyal Gen. Ochoa, he had created the perfect excuse. Mr. Castro needed to get rid of Gen. Ochoa because Mr. Castro had 57,000 disgruntled and disillusioned troops coming home from Angola, and Gen. Ochoa was their hero. Poor Gen. Ochoa, the excuse for your execution at dawn then becomes the fact that you insulted the United States!

But it is here that the usually clever tactician, Mr. Castro, is not only in trouble but is clearly losing control. On the local level, it was actually his little brother, Raul Castro, who had immediate control over Gen. Ochoa and over the drug trafficking, so Raul had to be protected.

On the international level, Mr. Gorbachev is sick to death with Mr. Castro and has begun slowing supplies to the island, as Mr. Castro himself recently admitted. It is the perfect time for Fidel to look again to his beloved United States and to pretend to want to cooperate on drugs.

For he has outsmarted himself with his machinations this time. By telling the whole world that practically all his government is deep into drugs, he is isolated as never before. He is now not going to Argentina for the inauguration of the new president, Carlos Menem; his planned visit to Spain will not take place; the pope probably will not make the visit to Cuba that was Mr. Castro's most fervent desire.

So if we throw him a preserver, it would ironically be we, the hated United States, who would be falling into the trap of legitimizing him at his worst moment of trouble in his entire 30-year history. We would be giving him the international certificate of good housekeeping that he so desperately needs. Let us hope it is not possible we could be so naive.

A PRIVATE CHOICE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. DORNAN of California. Mr. Speaker, about this Ted Turner propaganda film "Abortion for Survival."

Here are the facts about the abortionist most quoted in that sick video.

Prof. John T. Noonan, Jr., University of California-Berkeley, was regarded as one of America's preeminent legal historians and constitutional scholars when he wrote "A Private Choice" in 1979. The attached chapter describes the Edelin Manslaughter case. Noonan is now a judge on the U.S. Court of Appeals for the Ninth Circuit:

A PRIVATE CHOICE—ABORTION IN AMERICA IN THE SEVENTIES

ON THE FRONTIER OF THE LIBERTY

Did the liberty of abortion entail a liberty to cause the death of a child who was born alive? The question itself might be understood in two ways. Did the liberty include a liberty to inflict injuries within the womb that would be the cause of death after the baby's birth? Did the liberty include a liberty to abandon a baby delivered alive after an abortion so that the baby would die from not being cared for like other newborns? The Abortion Cases did not answer these questions expressly. The cases focused on the privacy of the childbearing woman. What happened after she was rid of her unwanted offspring was not their concern. But if the liberty was to expand, it was necessary that those questions be resolved.

Late in the first year after The Abortion Cases, an investigation was conducted into experiments on unborn children believed to have been carried out at Boston City Hospital. In the course of the investigation the body of a black baby male was discovered in the Southern Mortuary. The medical examiner reported the cause of his death to be anoxia, or lack of oxygen. Dr. Kenneth Edelin, chief resident in obstetrics and gynecology at Boston City Hospital, was identified as the doctor who had delivered the baby. On January 7, 1975, Dr. Edelin went on trial for manslaughter.

The case was tried before a jury and, as is usual in jury trial cases, involved conflicts of testimony and evidences which it would be the duty of the jury, acting under the court's instructions, to resolve. In the next seven paragraphs the case most favorable to the prosecution is summarized; this is followed with a summary of defendant's case:

The evidence most favorable to the prosecution showed that a junior resident had estimated the age of the unborn child to be twenty-four weeks; that a senior doctor had estimated the age to be twenty-one or twenty-weeks; and that Dr. Edelin himself had estimated his age at twenty weeks to twenty-two weeks. In the definition of medically permissible "abortion" by the American College of Obstetricians and Gynecologists, an abortion took place only if the infant expelled weighed 500 grams (1 lb. 2 oz.) or less and was under twenty completed weeks of gestation; that is, the infant had to be under four and one-half calendar months or five lunar months. Even by Dr. Edelin's lower estimate the child was not "under 20 completed weeks of gestation"; and his weight was to turn out to be at least 693 grams (1 lb., 8½ oz.). The child's mother, however, had come for an "abortion," and after three attempts at saline abortion had failed, Dr. Edelin decided on "abortion by hysterotomy."

The incision into the womb was made. The doctor detached the unborn child's placenta from the womb. According to his assistant at the operation, the doctor kept his hand in the womb for at least three minutes by the clock. He then pulled out the baby and placed him in a stainless steel basin held by the scrub nurse. In the course of passing him to the nurse, he felt the boy's chest with his rubbergloved hand for three to five seconds and noticed no heartbeat. The nurse took the basin, which was emptied into the container in "the back room." According to the Commonwealth's experts, examination of the baby's lungs showed he had been born alive. He indubitably was dead at some point before his body was taken to the morgue.

Some infants require stimulation to breathe air after birth, and this is especially so if the mother has been under general anesthesia. The baby's mother had been under general anesthesia for almost forty minutes, and the anesthesia would have made the baby drowsy. Dr. Edelin did nothing to help the baby breathe air.

What did Dr. Edelin do? "After the fetus was removed, I observed it, and in the process of passing it from the operative field to a stainless steel basin . . . I also checked it for a heartbeat by touching the anterior chest . . . looking for a sign of life." This summary of his testimony is taken from his brief on appeal, with the omissions made by his lawyers of what they thought irrelevant. According to this summary, Dr. Edelin's check took "a couple of seconds" or "between three and five seconds." His counsel argued this conduct was not wanton or reckless. But they admitted that one of Edelin's own experts, Dr. Pritchard, had testified that it would take up to ten seconds "to be absolutely certain there was no heartbeat." The Commonwealth produced testimony that "the proper way to determine whether the child had a heartbeat and circulation is to palpate both its chest and the stump of the umbilical cord (Transcript 26, p. 58), that the proper way to palpate its chest is with a stethoscope (Transcript 12, p. 140; Transcript 23, p. 165; Transcript 26, p. 58), and that, in any event palpation of its chest should continue for at least 20 seconds in case the child's heart is intermittently stopping and starting (Transcript 26, p. 58)." Dr. Edelin had only felt the chest with his hand for no more than five seconds.

For all deliveries of preterm infants, the standards of the American Academy of Pediatrics require notification of a pediatrician, the provision of nursing care, and immediate delivery of the baby to intensive-care facilities. In particular, the academy's standards prescribe the following treatment for "infants of low birth weight":

Even the smallest infants should be held down after delivery to promote drainage of amniotic fluid, blood and vaginal mucus from the infant's oropharynx. During or promptly after birth, the mouth and throat should be aspirated gently with a 2-hole Rausch catheter; an ear syringe which can be autoclaved between patients may also be used. . . Procedures such as rapidly drying the infant must be made available in the delivery room to minimize heat loss, which may lead to a fall of the infant's body temperature. Infrared thermal protection must be provided for the infant. . . . The survival, or ultimate functional integrity, of infants admitted to the intensive care room requires highly specialized facilities. . . . Some infants will require the full-time attention of one nurse.

Dr. Edelin did not drain the baby, aspirate him, syringe him, dry him, or give him thermal protection. He did not notify a pediatrician. He did not send the baby to the intensive-care room. The only nurse he provided was the one who deposited him in "the back room."

To prove Dr. Edelin guilty of involuntary manslaughter, the Commonwealth had to prove him guilty of "wanton or reckless conduct," causing death. Such conduct, as the jury was instructed by the trial judge, consisted in "indifference to or disregard of the probable consequences to the rights of others" by one who had a duty to those affected by his indifference. It was the Commonwealth's contention that such conduct could be considered before the baby's birth if it affected the baby after birth. Concretely, if the judge accepted this view of the law, it appeared that the Commonwealth could prevail by satisfying the jury that Dr. Edelin had held the fetus in the womb for three minutes after the placenta had been disconnected, for that action, depriving the unborn child of oxygen from the placenta and keeping him from oxygen in the air, would have been a grave injury capable of causing his subsequent death. Dr. Edelin might be found reckless or wanton in causing such injury. Alternatively, or cumulatively, the Commonwealth could prevail if the jury accepted its contention that Dr. Edelin had been indifferent to the baby after birth. To fail to take the proper steps to determine if life continued to exist after delivery; to fail to aid the baby to breathe; to fail to drain, syringe, aspirate, and warm the baby; to fail to provide facilities and nursing—all of these omissions indispensable to the survival of a preterm infant might be judged as indifference to the baby's rights, as wanton and reckless conduct.

The defendant's case was this: He denied that he had delayed three minutes in extracting the baby, and his experts denied that the three-minute delay would have killed the baby. On this issue the jury was left to choose between conflicting witnesses. As to his conduct after the baby's birth, he testified that he believed the baby was dead; hence there was no need for the procedures appropriate for a live birth. He was supported in this belief by the testimony of his assistant, who saw the baby and thought him dead. On this issue, his experts also challenged the Commonwealth's expert testimony that the baby had been born alive.

On the law, the defendant asked the trial judge to charge the trial jury that it must acquit him "if you find that the fetus in question died in the course of a lawful abortion"; or if you find that he was not born alive as indicated by a functioning circulatory system or by the breathing of air through the lungs; or, "even if you find that the fetus breathed for a moment or moments or had the signs of life," you do not find beyond a reasonable doubt "that the fetus was capable of meaningful life." All of these requested instructions were on the theory that The Abortion Cases immunized what Dr. Edelin had done and not done during and after the delivery. The defense also asked the judge to define abortion to be any medically accepted procedure that would "result in the termination of prenatal life of the fetus or of the fetus' potentiality for life.

The trial judge did not adopt any of these requests but ruled that The Abortion Cases had made the Massachusetts abortion law "null and void" for the entire term of pregnancy; that "abortion" under Roe v. Wade was the termination of pregnancy during the entire term of pregnancy and "that the abortion process and its effectuation must be left to the medical judgment of the pregnant woman's attending physician"; that a person existed only "after birth" and that the jury could convict Dr. Edelin only if "satisfied beyond a reasonable doubt" that he had caused "the death of a person" born alive outside the body of his mother.

By these instructions the judge answered one question not resolved by The Abortion Cases. He decided that an injury inflicted in the womb during an abortion that caused the death of a child after the child's birth was not a prosecutable offense. The result was contrary to the English common law and to the Rulings of four out of the five

American jurisdictions that had considered the matter in the context not of abortions sought by the mother but of injuries inflicted on a fetus against the mother's will. In 1889 Holmes had uttered a dictum that such injury was not manslaughter, but he had spoken in a Massachusetts civil case in which he took the ancient Roman law view that the unborn child was part of the body of his mother. The usual understanding of the common law had been voiced by a commission on Massachusetts law in mid-nineteenth century: "If a child be born alive and then die, in direct consequence of potions administered, or violence done before its birth, or during its birth, it is the killing of a human being." So little doubt existed on the point that the impartial expert for the National Commission for the Protection of Human Subjects advised the commission in 1975 that, if parents consented to, or a physician inflicted, injuries on the unborn child during an abortion and the child was born and died of the injuries, "[T]he most dire consequences for the parents or physician would come under the criminal law, which regards it as murder or manslaughter if prenatal injuries bring about postnatal death." After the trial judge's instructions, no dire consequences could follow for Dr. Edelin because of his conduct prior to the boy's delivery.

With these instructions limiting it to the facts following the baby's birth and requiring that it determine that the baby was actually born alive, the jury returned a verdict of manslaughter. The judge imposed a sentence of probation.

Appeal lay to the Supreme Judicial Court of Massachusetts, a tribunal known for the excellence of its judgments and distinguished at the time of the appeal by numbering among its members two former professors of law at Harvard (Robert Braucher and Benjamin Kaplan) and a judge accorded national recognition as the best appellate judge in the country (Paul Reardon). Those familiar with the court and the Boston-Cambridge ambiance surrounding it predicted in advance where the two Cantabrigians plus Herbert Wilkins, a more recent Harvard graduate, would stand. No good judge can be completely pigeonholed, and Benjamin Kaplan in particular was distinguished by his erudition and his humane sympathies. But no judge is totally immune from his social surroundings. Harvard University is an academic institution whose individual scholars are remarkably free from bias and the highest institutional value is truth, while the community centered on Harvard is dominated by fashionable liberal clichés, and those who live in it are apt to believe the clichés partake of the verities established by scholarship. Those who knew the sympathies and antipathies, the assumptions and fashions of this community could scarcely doubt that the defendant would have at least three friendly hearers of his plea. The votes of the other three (Chief Justice Edward Hennessy, Francis Quirico, and Reardon) could not be so easily guessed. As a seventh judge to fill a vacancy was not appointed in time to hear the argument, a tie was conceivable.

Inferably, a struggle did go on within the bosom of the court—the appeal was argued on April 5, 1976; the court said nothing during the election months when abortion was a national issue; and the opinion, or rather opinions, were handed down only on December 17, 1976. When they finally came, they had the bleak and angry character of a New England winter.

The defense had claimed throughout the case that it was an "abortion case"; that under The Abortion Cases Dr. Edelin should not be prosecuted at all; and that his prosecution was an attempt to discourage abortion. The media had played the case as an abortion case. On appeal, the defense argued that Dr. Edelin's conviction would have a "chilling effect" on the abortion liberty. Eighteen groups filed briefs supporting Dr. Edelin's main contentions. They ranged from the American Ethical Union to Planned Parenthood, and they all put their concern for Dr. Edelin into the context of their concern for the liberty of abortion.

It became plain then what the frontier of the abortion liberty was—liberty of action that went beyond the "privacy" of the pregnant woman on which the liberty of abortion had been grounded in 1973. It was not enough that the gravida be free to "terminate her pregnancy." Her physician must be free to bring about "the termination" of the life of the fetus. He must even be free to abandon the unborn child after birth if that child was not "capable of meaningful life" outside the womb. As the defendant's appeal put it, "prosecution of a physician's judgment in authorizing and effectuating an abortion strikes directly and destructively at the woman's right to have an abortion." The defendant had been convicted of causing the death of a person already born. The defense was determined that he should be freed because all he was convicted of was an act that the abortion liberty should encompass.

Three judges—Braucher, Kaplan, and Wilkins—found that the trial court's instructions excluding testimony on Dr. Edelin's conduct in the womb before delivery had been required by the Constitution as interpreted in The Abortion Cases. Writing for the three, Benjamin Kaplan said that after the Supreme Court's decisions, "the manslaughter statute could take hold only after a live birth and only with respect to acts of the physician in the postnatal period." The trial court had rightly directed the jury to look only at the evidence of what Dr. Edelin had done after the delivery.

As to what happened after birth, the three judges observed that it was essential to the Commonwealth's case to prove that the victim had been born alive. To prove live birth, the Commonwealth had to show more than "some kind of breathing," something more than "fleeting respiratory efforts or gasps." Not finding proof of more than gasps, they voted to acquit Dr. Edelin on the ground that no person had been killed.

Justice Kaplan scarcely disguised where his sympathies lay. He thanked the eighteen organizations submitting briefs on behalf of the liberty of abortion. He dismissed the common law on manslaughter subsequent to an abortion as something for "the curious" to pursue "in the learned briefs of counsel." He took at face value Dr. Edelin's testimony that "he had a personal scruple against abortion of a viable fetus." He consistently referred to the victim as a "fetus," once even describing the subject of an abortion as "the products of conception." He found it prejudicial error to let the jury see a black-and-white photograph of the deceased, which, defense counsel had contended, was "both striking and deceiving" in its resemblance to "a baby which had been born and died." He reweighed the evidence that it was the jury's normal function to weigh and treated the prosecution's case with sharpness and scorn. In the view of Justice Kaplan, the defendant was a reputable physician brought into the criminal court by persons disrespectful of the new liberty decreed by the Supreme Court. Beneath the surface of his elegant and ironic summation against the Commonwealth of Massachusetts, a quiver of anger against the prosecution was detectable.

Different notes were struck by Justice Reardon, writing for himself and Quirico, and Chief Justice Hennessy. None of them thought that that The Abortion Cases immunized Dr. Edelin's conduct in the womb before birth. The Chief Justice did not believe the charge to the jury precluded consideration of evidence bearing on this period. But Reardon and Quirico found that the trial judge, bending over backward to be fair, had created what had to remain as "the law of the case" by his instructions to the jury. As the jury had been told it could not convict on the basis of prenatal conduct, so Dr. Edelin's conviction could not be sustained on that ground on appeal. There were thus five votes for acquittal on the actions occurring before birth.

Justices Reardon, Quirico, and Hennessey, however, all said that the Commonwealth had provided ample evidence from which the jury could conclude the baby was born alive. The autopsy had showed "what was in all respects a normal child with a body weight which was small, to be sure, but with which other children have survived." There was "evidence of respiratory activity" and "of a fetal age which would indicate viability." On the question of a live birth the court divided three to three. A tie meant the conviction was affirmed.

That was not the end of the opinions. There was still the question whether, even if the baby had been born alive, Dr. Edelin could have been found indifferent to his rights. The Chief Justice said that Dr. Edelin's failure to aid or stimulate the child in its weakened condition after birth could have been found by the jury to have been the cause of death and that a finding of recklessness on his part could have been sustained. Reardon and Quirico, however, joined Kaplan, Wilkins, and Braucher to declare, "There should be caution and circumspection in the interpretation of a criminal statute which, as employed here, must necessarily touch on professional practice and constitutional freedoms." Showing such caution and circumspection, this majority of five accepted as a defense to the charge of reckless or wanton conduct Dr. Edelin's "good faith" belief that the baby was dead. That his way of determining this crucial fact might itself have been reckless or wanton was not discussed by the court except for the Chief Justice's comment that Dr. Edelin regarded the death of the fetus as "presupposed." The Chief Justice himself was not satisfied that the jury was properly instructed on Edelin's state of mind, so he was for reversal but not acquittal.

In the narrow terms in which Commonwealth versus Edelin was able to command a majority of the Supreme Judicial Court of Massachusetts, the case stands only for this proposition: When a physician in good faith believes that the baby he has delivered is dead, he has no duty to care for him. In practical terms the case absolved the doctor doing an abortion at any time in pregnancy of any serious obligation to determine whether the baby delivered needed care—a passing glance and a five-second feel were enough to constitute "good faith." The standards of an abortion-oriented delivery became different from those of a delivery directed to normal childbirth.

In ideological terms the case was a great victory for the pro-abortion party. The frontier of the liberty—liberty to commit infanticide—had been almost reached.

STEEL FAIR TRADE REVIEW ACT

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. VISCLOSKY. Mr. Speaker, today, I am introducing the Steel Fair Trade Review Act. I am pleased that more than 85 of my colleagues have joined as original cosponsors. My bill is a response to the Steel Trade Liberalization Program announced by President Bush on July 25, 1989. The Steel Fair Trade Review Act will require the President to report to Congress in March 1991 on the status of the international consensus to eliminate market-distorting practices in the global steel market.

The President's proposal extends the Voluntary Restraint Agreement [VRA] program for steel for 2½ years until March 31, 1992. In the interim, U.S. negotiators will attempt to negotiate an international consensus while conducting parallel bilateral negotiations with individual countries to eliminate unfair trade practices. Deeming the new VRA's to be transitional in nature, the President places considerable emphasis on the success of the multilateral negotiations to achieve an international consensus as to how to eliminate unfair trade practices.

I genuinely hope that it is possible to achieve an international consensus on steel. However, I have several serious reservations regarding the administration's new steel import policy.

First, I am concerned that the President's proposal is lacking a safeguard for the American steel industry in the event that the multilateral negotiations are unsuccessful. There are numerous obstacles impeding this ambitious goal.

Second, I am distubred by the short timeframe that the President has chosen to secure an international consensus. The Uruguay Round of the General Agreement on Tariffs and Trade [GATT] is currently in progress and is scheduled to end at the end of 1990. Following the GATT's mid-term report in December 1988, there was widespread disappointment that the negotiations were proceeding slowly with minimal progress on the toughest issues. The President has the authority to continue with multilateral negotiations after the completion of the Uruguay Round, but subsequent negotiations are likely to encounter similar obstacles.

In addition, I am skeptical of the President's ability to enforce any agreements that may be reached. The GATT does not currently provide for an enforcement mechanism—a fundamental weakness that will be difficult to remedy with 96 member countries.

Rather than gamble the continued revitalization of the U.S. steel industry on obtaining an elusive international consensus, my legislation would require the President to issue a report to Congress in March 1991 detailing the:

Effect of the VRA's on opening the global steel market;

Areas of agreement that have been reached and those still under negotiation;

Enforcement mechanism(s);

Provisions for implementation of the international consensus; and

President's view as to whether the objectives of his Steel Trade Liberalization Program will be achieved in a timely fashion and, if not what other courses of action will be available to the United States.

I believe that my bill represents a prudent mandate. In March 1991 there will still be another year of the extended VRA Program. Furthermore, it would be possible to reevaluate the effect of market conditions on achieving an international consensus in the context of examining the President's report. Many industry analysts predict a downturn in the global steel market. If this were to be the case, demand would be limited, and the VRA's would be even more important to the health of the U.S. steel industry.

If the report indicates that an international consensus is not likely to be forthcoming, there will be enough time to negotiate new VRA's or to exercise other options ensuring that the U.S. steel industry would not be subject to the pernicious effects of unfair foreign trade practices.

I would prefer a full 5-year extension of the current VRA Program to the President's 2½-year proposal. However, given the reality of administration's steel import policy, I am hopeful that by requiring the President to report on the progress in achieving an international consensus, the Steel Fair Trade Review Act will enable the Congress to reasses the conditions affecting the U.S. steel industry with adequate time to remedy any shortcomings. I would encourage my colleagues to consider joining with me as cosponsors of this legislation.

THE AMERICANS WITH DISABILITIES ACT OF 1989

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. OWENS of New York. Mr. Speaker, on May 9 of this year the Americans With Disabilities Act of 1989 was introduced in the House. Since then more than 180 Congressmembers have signed on as cosponsors, and the list is growing; an indication of the Representatives' commitment to at long last establish a clear and comprehensive prohibition of discrimination on the basis of disability.

The measure is moving quickly through both the House and the Senate. An August markup is scheduled in the Senate Labor and Human Resources Committee. The House Subcommittee on Select Education, which I chair, has scheduled a field hearing on the bill for August 28 in Houston, TX.

On July 18, the Select Education Subcommittee and the Employment Opportunities subcommittee held a joint hearing on the measure. In recognition of the similar experiences with discrimination and injustice shared by African-Americans and disabled Americans in the U.S., civil rights leader and former Democratic Presidential candidate Jesse Jackson, and Joseph Rauh, counsel for the Leadership Conference on Civil Rights, testified in support of the Act. Reverend Jackson in particular pointed to the parallels between the African-American civil rights struggles of the sixties and the disability rights and empowerment movement of the eighties, the hallmark of which was the highly successful Gallaudet University mass demonstration last spring for a deaf president and deaf trustees. Various disability rights advocates, notably Justin Dart, chairman of the Task Force on the Rights and Empowerment of Americans with Disabilities, also testified as to the importance of this bill.

Congressional support for the Americans With Disabilities Act of 1989 is an extension of its support for democracy and expanded opportunities for those who have been historically deprived of both, whether by virtue of race, color, physical or mental disability, or political oppression. It means that the Congress understands that the movement to empower disabled Americans is no different from social actions in other parts of the world for "people power."

All over the world—from the townships of South Africa and the shipyards of Poland to the students in Tiananmen Square in China—people who aspire to a better life look to the image of American democracy as their guiding star. As Americans it is our duty to work harder to guarantee that this image more and more becomes a reality. At the same time we must also work harder to maintain our leadership role, to extend the parameters of our democracy, to broaden the scope of civil rights and human rights enjoyed by all of our citizens.

The immediate focus of the Americans With Disabilities Act of 1989 is on the launching of a comprehensive effort to reaffirm, expand, and more explicitly delineate the rights of American citizens with disabilities. And when we resolve to fully use the Federal Government's authority and resources to better protect and expand the rights of any group we stimulate the processes of empowerment within that group. The release and recognition of new skills, talents and new leadership will greatly enrich the fabric of our society. The Nation's wealth of human resources will be greatly increased by this empowerment of people with disabilities.

A civilized and moral government which is also seeking to enhance its own self-interest must strive to maximize the opportunities for the educational development, equal access and productive employment of all of its citizens.

This Americans With Disabilities Act is a far-reaching and complex legislative initiative. Many parts of the Act will require lengthy, technical discussions. In subsequent hearings formidable concepts and proposals will be reviewed; however it should be emphasized that this bill is first and foremost a civil rights initiative, human rights legislation.

There are many who will oppose this Act and condemn its basic thrust as being too far-reaching and too great a burden for Government. We must remember that conservatives

of this same kind opposed the protection of the rights of laborers; they opposed equal rights for women; they fought fiercely against full civil rights for African-Americans. Disability rights leaders understand that their struggle will be no less difficult.

Greater than all of the physical barriers are the barriers of entrenched attitudes and the silent insistence that people with disabilities should be grateful for minimal governmental protection and assistance.

The parallels with the civil rights movement constitute similarities that do not frighten, but inspire the 43 million strong community of people with disabilities residing in every State and spread throughout every congressional district in the Nation. Forty-three million citizens in democratic America do not need to beg for anything.

The Americans With Disabilities Act is the product of a new movement within the disability community. The spirit of the revolution of deaf students at Gallaudet University last spring is embodied in this act. This is a document which does not beg. Strong demands are made here. A noble trumpet is sounding here.

In the months ahead as we fight for the passage of this long overdue legislation we welcome the entitlement of all the soldiers who march under the rainbow banner of human rights. The power, the solidarity, the technical assistance, the negotiating skills and the ability to inspire; these qualities from all who have contributed to the legacy of civil rights and human rights must now come to the aid of the last of those who have been left out. With the effective assemblage and the support of these forces we have no doubt that this legislation can be passed. We shall overcome.

SUPPLEMENTAL SECURITY INCOME—INCREASING THE PERSONAL ALLOWANCE

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. EVANS. Mr. Speaker, today I am introducing legislation to increase from $30 to $50 the personal allowance of individuals who qualify under the Supplemental Security Income [SSI] Program administered by the Social Security Administration. The SSI Program was established in 1974 to provide monthly cash payments in accordance with uniform nationwide eligibility requirements to needy aged, blind, and disabled persons.

The personal allowance provision takes into account those individuals in hospitals or other medical institutions in which a major part of their bill is paid by the Medicaid Program. These individuals receive an allowance to take care of small personal expenses since the cost of maintenance and medical care is being provided through Medicaid.

The Federal SSI benefit is indexed to the Consumer Price Index and by the same percentage as Social Security benefits. In 1974 the regular Federal SSI benefit was $140 for individuals and $210 for couples. Currently, the benefit is $368 for individuals and $553 for couples, almost 2½ times what it was in 1974. The personal allowance, on the other hand, has only been increased once since 1974—in 1987, from $25 to $30. A raise to $50 seems only reasonable.

The cost of living has increased precipitously since 1974. Recognizing that, I feel we need to raise the personal allowance accordingly.

GUIDE TO EMPLOYEE OWNERSHIP

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. ROHRABACHER. Mr. Speaker, employee ownership has always represented a lucrative opportunity for companies, both large and small, and their employees. In the words of Senator Russell Long, "the wealth of our Nation should be more widely held." But as the Senator also pointed out, "broadened ownership will not be the result of a Robin Hood redistribution, but of enlightened, foresighted management which knows that most deals are better if employees share more fully in the rewards." Employee stock ownership plans [ESOP's] in corporations and companies allow American employees opportunities to be included in the operations of their business, while simultaneously obtaining a stake in the company's success. As a result employees become more an integral part of their companies and can amass the capital credit they need to form investments of their own.

The number of ESOP's in the United States is estimated to be approximately 9,000, involving over 9 million employees. Since the 1970's, ESOP's have undergone dramatic growth and expansion. The need for new information sources on ESOP's has never been greater.

A new look, Employee Stock Ownership Plans: Business Planning, Implementation, Law & Taxation, by Robert Smiley and Ronald Gilbert, offers the American entrepreneur a comprehensive text describing the legal and practical ramifications of implementation of employee ownership.

Robert W. Smiley, Jr. is chairman and chief executive officer of Benefit Capital, Inc., headquartered in Los Angeles, CA., which he founded in 1984. Ronald J. Gilbert is the founder and president of ESOP Services, Inc., in Scottsville, VA. Prior to founding ESOP Services, Inc., he was a vice president with Kelso & Co. in San Francisco. Mr. Gilbert serves on the ESOP Association's Legal and Legislative Advisory Committee. Their book, in short, is a monumental work.

Over 850 pages of text illustrate practical, rather than theoretical, considerations. While the book is dedicated "To employees throughout the world * * *" it is written to appeal to everyone involved with ESOP's, whether one seeks guidance as part of a management team wrestling with one of the many complex issues that deal with the feasibility of an ESOP or whether one is acting as legal or tax counsel. It would also be helpful to Members of Congress that want more information on the benefits of employee ownership.

Smiley and Gilbert's book is more complete than anything published before on the subject of ESOP's. It combines the best of both general and technical information. I urge members of the business community and Members of Congress to study the ESOP alternative. Employee Stock Ownership Plans by Smiley and Gilbert offer businessmen and Congressmen a great place to start studying.

TRIBUTE TO PAUL GRANDE, JR.

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. MACHTLEY. Mr. Speaker, I rise today to pay tribute to a dedicated public servant and champion of youth, Mr. Paul Grande, Jr.

Paul began his State service in 1957 and after 32 years, worked his way up to engineering technician III, materials in the Rhode Island Department of Transportation, division of public works. His integrity and determination to his work has been an inspiration to his colleagues.

Paul is a true humanitarian as well. He has been a role model to the youth of Rhode Island for 35 years of involvement with the Little League in the Olneyville/Silver Lake section of Providence. Paul served in many capacities in the league, from umpire and director of minor league teams to president, vice president, and director of the Tee Ball League and Mighty Mites.

Paul also served the youth of Rhode Island as cub master of Pack 96 in Providence as well as scout master of Troop 6 in Providence.

On behalf of the people of Rhode Island, I would like to thank Paul for his years of service to the people of our State. I commend Paul for his distinguished work for the State of Rhode Island and his enduring faith in the youth of America. I wish him all the best in his retirement.

AIDS RESEARCH

HON. HARRY A. JOHNSTON II

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. JOHNSTON of Florida. Mr. Speaker, last week, the 100,000th AIDS case was diagnosed and it is estimated that there are now 1.5 million people in this country who are HIV infected—many of whom are unaware that they are indeed infected.

Since the first AIDS case was diagnosed in 1981, the virus has spread exponentially beyond control. Needless to say, it has only been in the past 4 to 5 years that the Federal Government has appropriated significant funds for research and prevention. While education is key to the prevention and to the control of the spread of AIDS, biomedical research is critical to all the men, women, and children who have contracted AIDS or are HIV

infected. Every day, scientists are coming closer and closer to finding new therapies, and hopefully, a cure. Even though, we have appropriated more funds this year for AIDS, it is of utmost importance that funding for research be considered in the same manner as it has in the past. AIDS is our Nation's No. 1 public health priority.

We cannot afford to falter in our commitment to conquering AIDS. It is crippling thousands of lives and the fiber of our Nation. To this date, there have been 60,000 deaths. My own State of Florida is third in the country in the number of cumulative AIDS cases and it is projected that the number of AIDS cases will quadruple by 1992. I urge that research for this epidemic be given the priority it deserves.

IN SUPPORT OF THE ECONOMIC EQUITY ACT OF 1989

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mrs. UNSOELD. Mr. Speaker, I rise in support of the Economic Equity Act of 1989 [EEA] that was introduced earlier today by members of the Congressional Caucus for Women's Issues. I am a member of the caucus, and I am proud to be an original sponsor of the legislation.

The EEA is not new to the House. The Women's Caucus has been working on its passage for years, and often small parts of the EEA do become law. But we feel strongly about the symbolism of a larger package of proposals to end women's status as an economic underclass.

The bill addresses basic aspects of women's needs, like employment, economic security, dependent care—for children and elderly parents, and health care. EEA avoids a piecemeal approach to equity for women, and addresses the problem from a commonsense angle—that there are many, many ways in which women are held back through our present system.

Pay equity is a good example. It is a statistical fact that women are often paid less than men for performing the same or similar job. That is an outrage, and must be stopped. We have adopted comparable worth in Washington State. Our example should become a model for the Nation. Representative MARY ROSE OAKAR has included her bill, H.R. 41, to study the problem and provide technical assistance to employers to avoid gender bias.

In addition to pay equity, there are provisions to address displaced homemakers, victims of family violence, vocational education needs of women, breast cancer prevention, housing, pension reform, child care, and others. It is an important bill, and I urge my colleagues to lend their names as cosponsors.

ISRAEL CONTINUES TO BE OUR ONLY RELIABLE ALLY IN THE MIDDLE EAST

HON. BILL PAXON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. PAXON. Mr. Speaker, this week's tragic events in the Middle East—with a band of murderous thugs taking credit for the death of Lt. Col. William Higgins, a member of a United Nations peacekeeping force—underscores our need to remember exactly who are our friends in that turbulent region of the world.

Mr. Speaker, in our anger and pain over this barbaric act, let us not condemn the State of Israel, our longtime friend and ally. Israel is the only stable democracy in the Middle East and its people face the constant oppression that life in a war zone brings and are also the target of terrorist attacks each and every day of the year.

Despite the tragic and horrifying events of the past several days, I rise today in strong support of our friends in Israel, who are on the frontlines of a war for their very survival, and who cannot be expected to play by the Marquis of Queensbury rules when their adversaries follow no rules, save the orders of madmen and despots.

SALUTE TO MRS. LENORE M. UNGER

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. THOMAS of California. Mr. Speaker, I would like to take this opportunity to salute Mrs. Lenore M. Unger, a resident in my district, who for over 10 years has assisted displaced families and individuals in Taft, CA, and surrounding areas.

Mrs. Unger has played an invaluable role in the community by filling the gaps in the "safety net" and providing many of life's necessities, often out of her own pocket, to those who are temporarily without food, shelter, or clothing, It is this individual effort and commitment to her fellow residents which has earned her the respect and admiration of her neighbors.

In recognition of her immeasurable service, the Department of Energy has honored Mrs. Unger as a model employee who exemplifies the essence of President Bush's National Service Initiative. Mrs. Unger is one of many unsung heroes in our country who are putting community spirit to work in our Nation.

I would like to publicly congratulate Mrs. Unger on a job well done and encourage others to follow her example. Only through personal sacrifice and commitment to our neighbors can the problems of this country be solved.

A TRIBUTE TO LUCILLA BERTKEN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Ms. PELOSI. Mr. Speaker, I rise today to pay tribute to Lucilla Bertken, on the occasion of her 90th birthday.

Born in San Francisco on August 7, 1899, Lucille O'Dowd Bertken was the youngest of four children born to Katherine M. and Thomas P. O'Dowd. Her early memories of growing up in the city include sleeping under sheet tents in the park near their home at Hayes and Filmore during the days the city was ablaze following the 1906 quake.

Like her brother, the late Paul T. O'Dowd, and her sister, the late Mary F. Collins, she started school at Sacred Heart Grammar School. After 2 years, she transferred to Notre Dame, where she completed grammar school and graduated from high school. Lucilla went on to become an accountant before meeting and marrying W. Kenneth Bertken, a young engineer from Mariposa, CA, whose grandfather had immigrated from Germany to the mother lode country during the early 1850's.

Lucilla's father, a proud son of Ireland, was born in Duash, County Kerry, and immigrated to San Francisco as a young man.

Following the loving example of her parents, Lucilla has championed unselfish causes and civic progress most of her life. A lifetime Democrat, she has been active in local and national politics. However, unlike her father who successfully ran for the San Francisco Board of Supervisors in 1910, Tom O'Dowd's daughter has never sought public office for herself.

Lucilla's primary focus was always on her family, dividing her time and energy successfully between raising two sons, traveling with her engineer husband to wherever in the world his work took him, and taking an active role in school and church affairs. She has been an active member of the Loyola Guild for 47 years, and is a past president of this organization dedicated to serving the needs of St. Ignatius High School, from which her sons graduated, and the University of San Francisco from which her son Ken, graduated in 1948 and embarked on a successful career in marketing. Her younger son Tom, opted for a civil engineering career like his father, earning his degree at Santa Clara University.

At 90 years of age, Lucilla is still active in neighborhood affairs as a long-time member of the Parkside Improvement Club, and in many of the parish activities at St. Gabriel's Catholic Church, where hundreds of her friends and family members will celebrate her 90th birthday this coming Sunday afternoon.

Mr. Speaker, Lucilla Bertken has made, over the last 90 years, a great contribution to our community and I am proud to bring some of her accomplishments to the attention of my colleagues.

ON INTRODUCTION OF H.R. 3095, THE SAFE MEDICAL DEVICES ACT OF 1989

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. WAXMAN. Mr. Speaker, today my distinguished colleague, the chairman of the Committee on Energy and Commerce, Mr. DINGELL, and I are introducing legislation to assure the safety of medical devices in this country.

It must come as an unhappy surprise to many to hear that, in 1989, we have no assurance that the medical devices used in, on, and around our bodies are safe. After all, didn't the Congress enact legislation for precisely that purpose well over a decade ago—the Medical Device Amendments of 1976? Hasn't the Food and Drug Administration enforced that law so that we can rely on the safety of medical devices?

Sadly, and in too many cases, tragically, the answer is no.

Mr. DINGELL has heard repeated testimony to that effect before his Oversight and Investigation Subcommittee. I have heard similar accounts before the Subcommittee on Health and the Environment.

The problems pervade the entire medical device regulatory process, from approval of new devices, to monitoring of devices on the market, to remedies for devices known to be unreasonably unsafe.

The 1976 law established a comprehensive system for assuring that medical devices met high standards. The potentially most dangerous devices were to be approved for safety and effectiveness before they were allowed on the market. No products were permanently "grandfathered"—even old devices that had been marketed for many years were to undergo "premarket" reviews.

But this has not happened.

Instead, a provision intended to allow old devices to remain available until the FDA finished reviewing their safety and effectiveness has been twisted into a serious regulatory loophole. The overwhelming majority of old devices have never been reviewed; indeed, there is not even a timetable for such reviews. Just as worrisome, the vast majority of new devices have been allowed to get onto the market through the same loophole—without having been approved for safety and effectiveness.

Perhaps this would not be a serious threat to the public health if we were confident that the FDA knew about serious problems with devices that were on the market, and took quick action to remedy those problems. The FDA comes up seriously short on both counts.

In 1987, the General Accounting Office documented the severe shortcomings of the FDA's system for learning about devices that malfunction and injure or kill people. Because the FDA assured us that its new system would overcome these problems, we asked the GAO for new information on how well the reporting system is working now. In February of this year we heard the bad news: the system is still not working. FDA is floundering. Only a fraction of medical device firms that would be expected to report problems actually do so. One-third of the firms don't even know that they should report. Many reports that do come in are not being analyzed.

Finally, we have asked GAO to look at the final link in the regulatory chain—the recall of defective and dangerous devices. That investigation is still underway, and we are not ready to release the report. I can say, however, that the early findings are very troublesome, and will be pursued as we enter hearings this fall.

Mr. Speaker, I must note that we should not even be in the position of introducing further legislation with respect to the regulation of medical devices. Throughout the last Congress, we worked closely with representatives of the medical device industry to fashion a compromise bill. Many changes were made in that legislation before H.R. 4640, the Medical Device Improvements Act of 1988, passed.

CIVIL TAX PENALTY REFORM

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. PICKLE. Mr. Speaker, as part of the Ways and Means Committee's action on budget reconciliation, the committee has approved a major, pro-taxpayer initiative: civil tax penalty reform. This legislation was recommended by the Oversight Subcommittee, which I chair, on a bipartisan basis and will provide a fairer, simpler, more effective and rational civil tax penalty system for all taxpayers.

The reform package is the culmination of a series of roundtable meetings the subcommittee held, following four hearings, with representatives from all segments of the tax community, including the Treasury Department, IRS, tax practitioners, tax lawyers, tax accountants, bankers, major corporations, small businesses, and other taxpayer groups. We worked hard. The end result is a consensus reform package that we can all be proud of.

This reform legislation significantly cuts down on the 150 penalties that now exist. It would treat those taxpayers who attempt to comply with the law less harshly than those that do not. It encourages remedial action. It would eliminate the stacking and overlapping of penalties that today can result in penalties imposed that far exceed the tax due. Our reform enhances fairness and simplicity, and eliminates complexity and harshness.

This reform legislation has broad support and continues to receive tremendous reviews from the Treasury Department, IRS, the Small Business Administration, former IRS Commissioners, the American Bar Association, the American Institute of Certified Public Accountants, the National Society of Public Accountants, the American Bankers Association, the Tax Executives Institute, the U.S. Chamber of Commerce, and the National Federation of Independent Businesses, among others.

HONORING REAR ADM. ROBERT B. ABELE, SUPPLY CORPS, U.S. NAVY

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. HUTTO. Mr. Speaker, I rise today in order to honor Rear Adm. Robert B. Abele, Supply Corps, U.S. Navy, who will be retiring on September 30, 1989 after 32 years of outstanding service to the Navy and to our Nation. A distinguished professional, he is credited with implementing numerous initiatives which yielded quantum improvements in logistics readiness.

In this respect, Rear Admiral Abele is responsible for many dramatic improvements in Navy supply and fiscal policy now implemented worldwide. These broad initiatives included measures to ensure full and open competition in the procurement of spare parts and services as well as aggressive and deliberate integration of enhanced technology into the daily operations of the Navy Supply System. Tremendous long-term savings have been produced for the Department of Defense as a result of these efforts. In addition, Rear Admiral Abele's advocacy of the total quality management philosophy has inspired continuous improvement in systemwide quality and productivity. His restructuring and modernization of officer and enlisted training curriculums, as well as the enhancement of career paths for civilian personnel, better prepares these personnel to provide logistics support in today's and the future's austere budget environment. The way of doing business in Navy logistics has been permanently improved as a result of Rear Admiral Abele's exemplary efforts.

During the past several years, Rear Admiral Abele, a proven expert in the fields of Federal acquisition and contracting, has personally participated in some 25 congressional sponsored procurement seminars. In this capacity he has been of great assistance to me, many of my colleagues, and thousands of our constituents.

A gentleman of Rear Admiral Abele's talent and integrity is rare indeed and while his honorable service will be genuinely missed, it gives me great pleasure today to recognize him before my colleagues and to wish him "fair winds and following seas," as he brings to a close his long and distinguished career in the service of the U.S. Navy and his country. God bless you in the days ahead.

THE HOSTAGE SITUATION IN LEBANON

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. WEISS. Mr. Speaker, events in Lebanon over the past few days make one thing perfectly clear. The Government of Iran, despite the change in leadership, remains an outlaw state.

While there are still questions about the fate of Lt. Col. William Higgins, there can be no question about the need to isolate Iran internationally. The killing, or even the purported killing, of an innocent human being, can only be described as barbaric.

What pro-Iranian extremists in Lebanon have done, and by extension what the Government of Iran has allowed, and its Minister of the Interior has encouraged, is morally and politically unforgivable. Mr. Speaker, how can a government use murder and its notoriety and expect to be treated with anything but revulsion and horror? That is what Iran is asking the world to do. It will not succeed.

The United States must do everything in its power to see that Iran is punished, that its behavior is thoroughly rejected, and that it understands that such tactics will only diminish their standing throughout the world.

Mr. Speaker, I stand by President Bush at this difficult time as he attempts to react to Iran with strength and forceful indignation.

THE SECTION 457 REFORM AND SIMPLIFICATION ACT OF 1989

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1989

Mr. MATSUI. Mr. Speaker, I am today introducing along with Congressman VANDER JAGT H.R. 3080, the Section 457 Reform and Simplification Act of 1989.

The legislation that I am introducing today with Congressman VANDER JAGT is intended to provide equitable and uniform treatment of nonelective deferred compensation under section 457. The legislation would uniformly provide that nonelective deferred compensation is not taxable until paid. Under current law, employees of many tax-exempt organizations and State and local governments are taxed on nonelective deferred compensation before they are entitle to receive it. Taxing such amounts prior to the time when received is inappropriate because it results in current taxation of amounts which—

First. The taxpayer has not received;

Second. The taxpayer never had the right to elect to receive; and

Third. Which the taxpayer may not actually receive.

Congress has already recognized the unfairness of the general rule of current law which provides for taxation of nonelective deferred compensation before it is received. Specifically, Congress has exempted from this harsh and unfair treatment many classes of taxpayers as follows:

First. Employees and independent contractors performing services for taxable employers are not taxed on either elective or nonelective deferred compensation until paid.

Second. Independent contractors performing services for tax-exempt employers are generally not taxed on nonelective deferred compensation until paid.

Third. Employees of tax-exempt employers performing services pursuant to a collective bargaining agreement in existence on December 31, 1987, are not taxed on nonelective deferred compensation until paid. This rule applies even if the employee is hired in the future. In some cases, this represents a permanent exception because certain collective bargaining agreements are permanently considered to be in effect even though subject to amendment.

Fourth. Employees covered by a plan maintained by a church for church employees are not taxed on nonelective deferred compensation until paid.

Fifth. State judges are not taxed on nonelective deferred compensation until paid.

Sixth. Employees covered by a deferred compensation plan of a nonprofit corporation organized under the laws of the State of Alabama with respect to which the Internal Revenue Service issued a ruling dated March 17, 1976, are not taxed on nonelective deferred compensation until paid even if they are employed in the future.

Seventh. Employees covered by a deferred compensation plan with respect to which a letter dated November 6, 1975, submitted the original plan to the Internal Revenue Service, an amendment was submitted on November 19, 1975, and the Internal Revenue Service responded with a letter dated December 24, 1975, are not taxed on nonelective deferred compensation until paid even if they are employed in the future.

Employees of tax-exempt employers not within the various classes set forth above are currently taxed on nonelective deferred compensation. This obvious discriminatory and unfair treatment would be ended by the Section 457 Reform and Simplification Act of 1989 by providing a uniform and equitable rule under which all employees and independent contractors of tax-exempt employers would not be taxed on nonelective deferred compensation until paid. I encourage all of my colleagues to cosponsor this important legislation.

EXPLANATION OF THE BILL

The bill exempts nonelective deferred compensation from the scope of section 457. Thus, nonelective deferred compensation is disregarded in determining whether a plan is an eligible deferred compensation plan. Such benefits also are not subject to the rule which includes such benefits in income when they are not subject to a substantial risk of forfeiture if such benefits are not provided under an eligible deferred compensation plan. Instead, nonelective deferred compensation is taxed when received—or, if applicable, earlier under the general principles of constructive receipt.

The Secretary is to provide a definition of nonelective deferred compensation intended to provide fair rules while preventing abusive situations. For purposes of this definition, the conferees intend that the Secretary create a "safe harbor" definition that makes it clear that any nonqualified deferred compensation plan or arrangement that meets the following criteria be treated as nonelective:

Benefits are provided pursuant to the terms of a written plan or agreement either (a) approved by the employer's board of directors or other governing body (or by a committee of such board or body), (b) authorized by State or local statute, ordinance, or regulation, or (c) provided under the terms of a collective bargaining agreement (or other similar agreement generally governing the terms of employees' employment with employer).

The individual (or individuals receiving benefits under the plan or arrangement does not (or do not) vote (except in the case of benefits provided pursuant to collectively bargained agreements) in connection with the decision of the board of directors or other governing body (or by a committee of such board or body) approving such plan or agreement.

The written plan or agreement does not grant the individual (individuals) accruing benefits under the plan or arrangement an option to receive increased current compensation in lieu of plan participation or benefits; and either—

First. The compensation of individuals accruing benefits under the plan or arrangement is not reduced as the result of the establishment or maintenance of the plan arrangement, or

Second. The plan applies to 100 percent of the employees above a compensation level or officer status specified by the employer that do not change frequently over time.

If deferred compensation is provided pursuant to the terms of an individual employment contract entered into by an executive or a managerial employee with his or her employer (as opposed to a written plan or arrangement under which more than one employee participates), the criteria described in paragraphs 3 and 4 above will be deemed to be satisfied if deferred compensation provided under the contract is subject to substantial performance conditions (for example, the performance of a minimum of 3 years of service before benefits will be vested). The 3-year service requirement also will be deemed to be satisfied if the employee in question is being provided with deferred compensation income under a contract entered into within the 3-year period preceding his or her termination of service which is in recognition of a period of substantial service to his or her employer.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, August 3, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 4

9:00 a.m.
Special on Impeachment Committee
To continue evidentiary hearings in the matter relating to the impeachment of Judge Alcee L. Hastings.
SH-216

9:30 a.m.
Joint Economic
To hold hearings on the employment-unemployment statistics for July.
2359 Rayburn Building

1:30 p.m.
Special on Impeachment Committee
To continue evidentiary hearings in the matter relating to the impeachment of Judge Alcee L. Hastings.
SH-216

SEPTEMBER 6

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings on oil spill protection for the Great Lakes.
SD-342

SEPTEMBER 14

9:30 a.m.
Governmental Affairs
To hold hearings on S. 1165, to provide for fair employment practices in the Senate and the House of Representatives.
SD-342

SEPTEMBER 19

9:00 a.m.
Agriculture, Nutrition, and Forestry
Conservation and Forestry Subcommittee
To hold hearings on the protection of water quality.
SR-332

SEPTEMBER 21

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on livestock and poultry.
SR-332

CANCELLATIONS

AUGUST 3

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on wool and honey.
SR-332

POSTPONEMENTS

AUGUST 3

9:30 a.m.
Small Business
Government Contracting and Paperwork Reduction Subcommittee
To hold hearings to review the recent implementation of the Paperwork Reduction Act of 1980 (P.L. 96-511), focusing on small business government contractors.
SR-428A

SENATE—*Thursday, August 3, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Call unto me, and I will answer thee, and shew thee great and mighty things, which thou knowest not.—Jeremiah 33:3.

God of Abraham, Isaac, and Israel, infinite, eternal, and omnipresent, the prophet Jeremiah makes a great offer—we call on Thee, Thou dost show us great and mighty things of which we do not know. When we have exhausted our alternatives, help us, Lord, to look to Thee for ways infinitely beyond our comprehension. We thank Thee for the truism: "Man's extremity is God's opportunity." Forgive us when we refuse to acknowledge our extremity and give Thee opportunity. August recess approaches. The time is short. The demands are great. Do for us and through us, Lord, that which is infinitely beyond our best.

In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The Senate will be in order.

The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning the time reserved to the two leaders has been reduced to 7½ minutes each. At 9:45 there will be a period for morning business for 45 minutes for the purpose of Senators making statements relating only to the rural development and disaster assistance legislation which were passed by the Senate last evening. The time will be equally divided and controlled between Senators LEAHY and LUGAR.

Once that time has been used and no later than 10:30, there will be a 30-minute block of morning business time under the control of Senator CHAFEE for the purpose of introducing the administration's clean air legislation.

At 11 o'clock there will be a rollcall vote on the motion to table S. 1153, the agent orange bill.

Once that bill has been disposed of, the Senate will then begin consideration of S. 686, the Oil Spill Liability Act. Votes are possible, indeed very likely, throughout the day in relation to the oilspill bill.

RURAL DEVELOPMENT

Mr. MITCHELL. Mr. President, the Senate yesterday took what I believe will come to be seen as a historic step in passing S. 1036, the "Rural Partnership Act of 1989."

I commend the chairman and the ranking member of the Senate Agriculture Committee, Senator PATRICK LEAHY and Senator RICHARD LUGAR, for their leadership in bringing this legislation to the floor in a form that garnered such broad, bipartisan support.

It will be of interest at some future date to reflect that the Senate passed this legislation on the same day this body acted on a disaster relief bill for the farmers and ranchers who have suffered significant losses from destructive weather that followed on the heels of a historic drought last summer.

In passing both a rural development bill and a disaster relief bill yesterday, the Senate has charted a new course for rural America, one that rejects the premise that all that is needed for rural America is a good farm program.

Certainly, a strong farm program that provides America's family farms a fair price for their commodities is important, even necessary. That will be a cornerstone of the 1990 farm bill that will be considered next year.

But, consider that only 10 percent of rural Americans live and work on farms.

What is needed for rural America is a comprehensive approach that addresses the entire economy of such areas, including the nonfarm industries and problems that now exist. That is what Democrats said we would do in our legislative agenda. That is the approach embodied in the rural development bill.

Many of my colleagues will speak later this morning about the bleak economic picture that now faces many of the 61 million men, women, and children who live in the thousands of small towns and communities across rural America.

The statistics show the rural-urban disparity for poverty, unemployment, per capita income and job creation are there, and they are so well known to anyone who has taken the time to examine them, I will not repeat them here.

But, to me, the most telling, the most distressing fact which demonstrates, the need for this rural development legislation is that over 400,000 Americans leave rural areas every year in search of jobs and opportunities.

That has been too often the case in my home State of Maine. And this sad reality is not limited to Maine. For too long, rural America's most valuable export was its young people, who feel they must leave their hometowns in order to find jobs. We must make it possible for young people to stay in rural areas without sacrificing their career opportunities. A young person who grows up in a small town and wants to live there ought to be able to live there without sacrificing a career opportunity.

This legislation is the first step in bringing investment and economic opportunity to rural America.

This rural development bill invests in economic growth by helping States and local economic development agencies provide new and struggling businesses with needed capital to create jobs and economic opportunity.

The bill invests in safe drinking water and waste disposal for hundreds of rural communities.

It invests in human resources by helping rural schools, hospitals and small businesses gain access to the state-of-art telecommunications that they must have if they are going to attain equal footing with their urban competitors.

The need is there. In this rural development bill the Senate has approved legislation that responds in a positive and cost-effective way.

America cannot move forward as a nation leaving rural areas behind. I am hopeful the Senate's work on rural development legislation will demonstrate our commitment to the millions of Americans who choose to live outside of urban America, who choose to live in rural America, and who have not given up on the American dream.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

RESERVATION OF LEADERS' TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I also reserve the leader time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the time of the two leaders that was not used will be reserved.

MORNING BUSINESS RELATING TO RURAL DEVELOPMENT AND DISASTER ASSISTANCE

The PRESIDENT pro tempore. Under the previous order, there will now be a period for morning business with Senators permitted to speak therein to extend until the hour of 10:30 a.m., and the time will be controlled by Mr. LEAHY and Mr. LUGAR, equally.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The time will be taken equally from both sides.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I hope I am in order. I ask unanimous consent to speak as in morning business, or are we in morning business?

The PRESIDENT pro tempore. The time is controlled equally until 10:30 a.m., by Mr. LEAHY and Mr. LUGAR. If the Senator would ask unanimous consent that his 5 minutes be charged against Mr. LUGAR's time or equally, the Chair would entertain such a request.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that my time be charged against Mr. LUGAR's time.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 1485 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. Without objection, the time that is consumed by the quorum call will be charged equally to both sides.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I rise under the time agreement to speak on the issue of rural development.

The PRESIDENT pro tempore. Under whose time?

Mr. GRASSLEY. Senator LUGAR's.

The PRESIDENT pro tempore. How much time does the Senator allow himself?

Mr. GRASSLEY. Five minutes.

The PRESIDENT pro tempore. The Senator is recognized for 5 minutes.

THE RURAL PARTNERSHIP ACT OF 1989

Mr. GRASSLEY. Mr. President, although I had some concerns about some of the provisions of the Rural Development bill, I was pleased to add my cosponsorship to this bill put forth by several members of the Senate Agriculture Committee under Senator LEAHY's leadership. Last night, as we all know, the Senate completed a two-year quest for a rural development package that will help eliminate the economic disparities between our urban and rural constituents.

I would like to compliment Senators LEAHY and LUGAR for putting a bill together that addresses many of the significant needs of our rural communities.

I must also thank my colleagues for the cooperation they provided me in getting an amendment accepted which will extend the Nonprofit National Rural Development and Finance Corporations—an economic development program created by the Food Security Act of 1985.

The situation in our rural communities has changed in the years since we began our work on rural development. On the agriculture side, land prices have continued to rise over the past years. As other variables within the agriculture economy have improved, our rural communities have begun to stabilize.

But the problems which have plagued our rural communities still exist. These problems have created a new chicken and egg controversy as those of us with an interest in rural development have struggled to define the problem and devise solutions.

The exodus of people from States like Iowa has made it difficult for businesses to sustain profitability. As more businesses closed, more people left—and the cycle continues today.

The other problem facing our rural communities is the decay or inadequacy of our physical infrastructure. We simply do not have the physical structures necessary to support the growth of our rural areas.

A shrinking tax base in rural areas combined with limited State and Federal funds has meant the further degradation of highways, bridges, rail and/or air service, housing, water and sewer facilities.

The problems are broad and complex. But these problems do have one underlying factor—the lack of adequate capital in rural areas.

I have often contended that rural development is influenced by a combination of macroeconomic factors such as interest rates and deficits and microeconomic factors such as tax incentives and Federal programs.

While this bill does address the latter, our truest form of economic development will still come with a balanced budget and reduced interest rates. To some extent, the creation of new spending programs is counterproductive to the goal of rural development.

Nonetheless, this bill is responsible in view of our budget deficit. I am very pleased limited Federal resources are leveraged by combining these funds with State and local government resources.

The creation of small business—what I see as the goal of the Rural Partnership Investment Board and the Rural Capital Access Program is the first step in providing for jobs as well as improving the quality of rural life.

Before a business can begin building, however, facilities must be in place to allow development and expansion. This legislation addresses the need for water and sewer facilities—one of the many restricting factors in development.

The Rural Partnership Act also places emphasis on improving our communications network. The Star schools, medical link, and business link will help small towns learn more about the technology they need to compete.

Finally, this bill does provide additional authority to the Department of Agriculture so the USDA can expand its ongoing rural development activities. There is a new attitude within the Department that is favorable toward economic development in our rural areas. President Bush has a commitment to rural development—this commitment is reflected in the White House Rural Development Task Force, but more importantly, I believe this commitment will be reflected in the future actions of the USDA.

As I indicated earlier, I have appreciated the Senate's prompt action. And as I pointed out, there are many assets contained within this bill. I do understand, however, that the House of Representatives is just beginning work on rural development legislation. And while I do support the Senate bill, I do hope the House will come up with a package that goes beyond and improves upon our Senate bill. For instance, I shared with the chairman and ranking Republican the deep concerns that Iowa telephone companies have about this bill's telecommunications section. Although some changes

were made additional modifications may be necessary.

Specifically, rural development initiatives need to come from beyond the Agriculture Committee. Early this year, the majority leader formed a bipartisan Task Force on Rural Development. The idea was that we'd have a multijurisdictional approach. While the Ag bill deals with a number of issues, we need a closer look at other issues effecting rural areas. Health care, transportation, and education all deserve more time and attention than what they currently receive under this program.

Second, I do hope the House will look at other vehicles for delivering rural development funds and technical assistance to projects within rural communities.

The debate over rural development brought out a number of companies and organization who realize they have a stake in rural development. These groups want to participate—to work alongside government in rebuilding our communities—but specific authorization seems to be excluded from the Senate bill.

We need to find a way to bring these groups—and the funds they are willing to contribute—into our current rural development program.

Finally, I do feel we lack a clear, concise, strategic planning mechanism. In addition to technical assistance on how to create and sustain new businesses, communities need help in setting long-range plans for growth.

Our committee must decide what their development priorities will be before committing resources. This development must be planned based upon existing infrastructure, available resources, and analysis of expected growth.

This type of analysis, coupled with programs in the Rural Partnership Act, will ensure local commitment to these projects, sustained economic growth, and an improved quality of life for our rural citizens.

The PRESIDENT pro tempore. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that 10 minutes of Senator LUGAR's time be yielded to me.

The PRESIDENT pro tempore. Is the Senator speaking on the subject of disaster assistance?

Mrs. KASSEBAUM. Yes.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Kansas is recognized for 10 minutes.

DISASTER RELIEF

Mrs. KASSEBAUM. Mr. President, I am thankful the Senate has considerd this important legislation, but not nearly as thankful as the people in Kansas who have had their livelihoods seriously affected by extremely hot and dry weather conditions.

There is no doubt about the severity of the drought experienced in Kansas and other major wheat and livestock regions earlier this year. The Kansas wheat crop is the smallest since 1966. The production in Kansas is a little over 200 million bushels. This is less than half of the 450 million bushel projection. It is estimated the loss to Kansas will total $1.6 billion.

The legislation which Senators DOLE, BOREN, myself and others sponsored, S. 1044, was primarily a Winter wheat bill. It provided the same disaster payments as last year's drought relief bill. This year's Winter wheat crop was planted during the dry conditions in the fall of 1988. I believe there is a strong argument for those producers to receive the same benefits as received in other parts of the Farm Belt last year.

As in all legislation, compromises must be reached. This comes before the Senate as a compromise, and I will support the agreement. However, I am disappointed that too many farmers in Kansas, farmers that have experienced no harvest from a crop planted last year, will not receive the full benefits to which they are rightly entitled.

Initially, I had hoped that Kansas would not be substantially affected by last year's drought. Wheat producers in my State received $15 million of the $4 billion disaster relief bill of 1988. However, this year's wheat crop was planted during that same drought stricken period. In Kansas, and I believe other major wheat producing regions, the drought of 1988 was the reason for our disaster of 1989.

Last year, Federal payments were made at two levels depending on the extent of the loss. Those with a 35-percent loss received 65 percent of the target price. On any disaster in excess of 75 percent of the program yield, payments equaled 90 percent of the target price. Unfortunately, the committee package only provides for a 65-percent payment no matter the severity of the disaster.

I understand there are crops other than Winter wheat which have a proven demonstrated loss—cotton for example, due to extensive flooding. I am pleased this compromise proposal provides the same payment formula for these program crops. However, I strongly support treating program crops differently from nonprogram crops.

The money that will pay for this assistance will come from savings from the commodity programs for wheat, corn, rice, and cotton. Farmers growing these crops and participating in the Government programs must follow costly regulations in order to receive any benefits. Those with nonprogram crops do not limit production by having set-aside acres, they are not required to comply with conservation measures, and if disaster payments are received, they will be based on their actual crop yields while yields for program crops have been frozen since 1985.

I thank Senator DOLE for his leadership in making the case for Winter wheat producers, and I thank Chairman LEAHY and others such as Senators LUGAR and BOREN for their efforts in bringing drought assistance legislation to the floor.

DISASTER ASSISTANCE

Mr. President, I would like to speak to two amendments that I had hoped to have accepted on the rural development legislation which was approved last night. One addresses what I think is a very important issue. The Agricultural Credit Subcommittee, under Senator CONRAD, has had some hearings, and it is my understanding in visiting with Senator CONRAD that they are going to continue to look at this issue. It is my hope that when we come back after our recess we can give some attention to this.

What is of concern, Mr. President, is how we handle the sale of farmland that is administered by the Farmers Home Administration. It is being sold at less than fair market value. When disposing or leasing farmland acquired by the Government, the Farmers Home Administration must follow certain guidelines that were mandated by the Agriculture Credit Act of 1987. We, for the best of the intentions, had hoped that we could provide assistance to small farmers to purchase land that was going to be sold under the farm loan credit legislation.

The provisions provide for operators of family-sized farms to receive preference in purchasing this farmland. In addition to the preference given to certain purchasers, there is a requirement that caps the sale price of the property in Farmers Home Administration.

The amendment that I had hoped to attach to the rural development legislation and I hope will be considered at a later date permits the Farmers Home Administration to accept the highest bid when offering such land for sale to family-sized farm operators. It does not change or remove the preference given to family-sized farms. Former owners would have the first option to rebuy their family farms. They would be eligible to purchase at a sale price reflecting the market value or capitalization value, whichever is less. If the owner of the property waives the first right of purchase, the Farmers Home Administration shall offer such land for sale to operators of not larger than family-sized farms at fair market price.

Farmers Home Administration has in its inventory over 1 million acres of suitable farmland for sale. This represents almost 4,000 farms, Mr. Presi-

dent. U.S. farmland values have increased over 6 percent for the second consecutive year. However, under existing law Farmers Home Administration will be required to sell all of its inventoried property at a price averaging 25 percent below the market value. This indicates the problems we have ahead. The Farm Credit Act we hoped would be a solution, but I think it is going to present us with some significant future problems.

This year the Farmers Home Administration will receive Federal subsidies of $6.3 billion. This is more than the entire bailout of the Farm Credit System in 1987. The General Accounting Office estimated the Farmers Home Administration would lose more than $12 billion on its $127 billion farm portfolio, not counting interest. The concern is that with farmland values rising for the past 2 years and considering the increasing cost to the Federal Government to subsidize interest rates to Farmers Home borrowers, should Farmers Home impose a cap, an artificial ceiling on the purchase price of its inventoried property? I do not think it should, Mr. President. That is what I hope the subcommittee and those of us who are concerned will continue to address in the fall.

Another amendment that I had hoped to be able to address is really in many ways a technical amendment which closes a loophole. I will ask that the points of that amendment be included in the RECORD, but I wish to point out that again in an effort to try to assist farmers who are in difficulty and who want to keep their farms, we have allowed the loophole which is not fair. I think if these abuses are allowed to continue, it only jeopardizes the entire borrower rights provision of the Agriculture Credit Act. We must protect the integrity of these provisions by stopping fraud and abuse.

I yield back the remainder of my time, Mr. President.

Mr. THURMOND addressed the Chair.

The PRESIDENT pro tempore. For what purpose does the Senator from South Carolina rise?

Mr. THURMOND. Mr. President, I ask unanimous consent the time I consume be charged to Senator LUGAR.

The PRESIDENT pro tempore. Will the Senator suspend. Senator LUGAR has 8 minutes and the distinguished Senator from South Carolina is requesting the time be charged against Senator LUGAR. How much time does the Senator wish?

Mr. THURMOND. Mr. President, I will probably need about 9 minutes.

The PRESIDENT pro tempore. Is the Senator speaking on the subject of rural development and disaster assistant?

Mr. THURMOND. No.

The PRESIDENT pro tempore. Does the Senator also wish to speak out of order?

Mr. THURMOND. Mr. President, I do.

The PRESIDENT pro tempore. Without objection, it is so ordered.

STAY OF EXECUTION OF RONALD WOOMER AND THE NEED FOR HABEAS CORPUS REFORM

Mr. THURMOND. Mr. President, this Nation is facing a crisis in its criminal justice system. Our Federal judicial system is now overwhelmed with habeas corpus petitions being filed by convicted offenders whose only motivation is often nothing more than a review of issues that have been endlessly considered. The large increases in the number of habeas corpus filings, most of which are frivolous and used as a delaying tactic, require that legislation be enacted to address this problem.

Habeas petitions have grown by vast numbers in recent years. In 1941, State prisoners filed 127 habeas corpus petitions in the Federal district courts. By 1961, that figure had risen to 1,020. Over the years, that number has continued to rise with Federal district courts receiving an incredible 9,880 habeas petitions last year.

The problem of the growing number of habeas petitions is compounded with numerous frivolous claims and the extraordinary delays in habeas corpus filings. According to a Department of Justice study, about 40 percent of habeas petitions are filed more than 5 years after conviction and nearly a third are filed more than 10 years after conviction. I find this totally unacceptable.

Historically, the writ of habeas corpus was only permitted in limited circumstances. Its purpose was to provide prisoners with a procedure to insure that their confinement was legally appropriate. Gradual developments of Federal statutory and case law eventually eroded the traditional restrictions on the scope of habeas corpus, causing the expansion of this once limited right. Habeas corpus petitions now operate as little more than Federal court review of State judgments which have been thoroughly reviewed by State appeals courts. Habeas corpus applications by State prisoners have become a means by which a State prisoner may continue to litigate the validity of his or her conviction or sentence for years despite having had full review of that conviction in the State court system. The problem of delay is particularly acute in capital cases which are characterized by seemingly endless legal maneuvers that postpone the execution of death sentences.

A particular capital case warrants mention. In February of 1979, Ronald Woomer and an accomplice left West Virginia and drove to Myrtle Beach, SC, with the express purpose of robbing people and leaving no victims alive. On February 22, 1979, Woomer and his accomplice, who later committed suicide, went on an 8-hour crime spree in South Carolina. By the time they were finished, four people were murdered.

After robbing the home of John Turner, Woomer killed the 67-year-old man with a single pistol shot to the head. While returning to the motel where they were staying, he and his accomplice robbed another home of some money and firearms. Woomer shot the occupants—a man, woman, and young child—with several shotgun blasts to their heads. Arnie Richardson, his mentally retarded sister-in-law and Earl Dean Wright died from the blasts.

Later that same day, the men took two women hostage after robbing a convenience store at which the women worked. The hostages were told to find a back road where they could be released unharmed; instead, they were both raped. Woomer then ordered them to leave by walking away close together. He prowled behind them and sprayed them with his shotgun, hitting one of the women, Wanda Summers, in the lower side of her head. When the other victim, Della Sellers began to scream, Woomer shot her in the forehead. Woomer left them there to die. Although Mrs. Summers was missing the lower quarter of her face, she regained consciousness and stumbled to a nearby house. Mrs. Sellers died several hours later, yet Mrs. Summers survived to testify at Woomer's trial, carrying with her the physical and emotional scars of that day.

Woomer, who admitted killing the four, was convicted of one of the murders that summer. He was first sentenced on July 18, 1979—over 10 years ago—to die in the electric chair. A year later he was convicted of murder a second time and again sentenced to death. Since his heinous acts, numerous appeals and habeas petitions have been used to prevent the execution of his sentence. Although scheduled to die in the electric chair on June 16, 1989, he was granted a stay of execution by the Supreme Court of the United States as a result of the South Carolina Supreme Court's decision to deny, yet another, habeas petition. This stay will remain in effect until at least October as the justices consider his most recent petition. This will mark the fourth time the case of Mr. Woomer, a man who does not dispute his guilt, has reached the Supreme Court.

The Woomer case is a prime example of the obstruction of justice and

inordinate delay surrounding these habeas corpus cases. This case, and others like it, are examples of the need for reform of Federal habeas corpus. On the first day of this Congress I introduced legislation, as I have since the 97th Congress, which would appropriately address and solve this problem. In addition, the Special Committee of Habeas Corpus Review, which was created by the Supreme Court and is chaired by former Justice Lewis Powell, should soon report its findings and recommendations on the need for habeas reform. As well, the President has his proposal before the Senate.

In summary, the glut of habeas petitions in the Federal system and the unacceptable delay in execution of capital sentences are all evidence of the dire need for reform. The function of the criminal justice system is to seek the truth. Once established, procedures such as habeas corpus must not go on endlessly to prevent the imposition of appropriate and just punishment. Additionally, prisoners must not be allowed to file frivolous claims which do not warrant the time and energy of those charged with the responsibility of handling them, especially when there has been a full and fair review in the State court system.

In closing, we cannot continue to delay action on legislation to correct this growing problem in our judicial system. Criminal cases must be brought to a close. Endless consideration of issues in criminal cases that have no merit and are filed only for purposes of delay must be eliminated from our judicial system. The principles of justice, upon which our criminal justice system is based, demand that we take action. It is imperative that we consider reform legislation in the immediate future.

Mr. President, I yield the floor.

MORNING BUSINESS RELATING TO RURAL DEVELOPMENT AND DISASTER ASSISTANCE

The PRESIDENT pro tempore. All time controlled by Mr. LUGAR has expired.

The Senator from Vermont controls the remaining time until 10:30 a.m.

Mr. LEAHY. Mr. President, I am perfectly willing to yield first to the distinguished Senator from South Dakota who has been a leading architect in disaster relief. I yield him such time as he needs, but I would want to regain the floor in my own right.

The PRESIDENT pro tempore. The Senator from South Dakota is recognized for such time as he may require out of the time controlled by the Senator from Vermont [Mr. LEAHY].

Mr. DASCHLE. I thank the Chairman for his generous courtesy, and I again want to commend him for the fact we are here at all.

We had a debate of sorts last night. Many people did not have the opportunity to express themselves. Frankly, I thought there would be more people who wished to do so this morning. But in any case, were it not for the fact that we had the leadership once more of this chairman both on drought assistance as well as on rural development, not only would those of us who receive direct benefits for our States not be here this morning, but our farmers and those who live in rural areas could not possibly appreciate what may be in store for them as a result of this very productive legislation.

So I commend him, and I commend the ranking Republican member, the distinguished Senator from Indiana, for his cooperation, his work, and also certainly the Republican leader and all of those who are responsible for the fact, at long last, we were able to reach a consensus on what was a very difficult set of negotiations on both rural development as well as on drought.

Let there be no mistake. The drought in many parts of the country is at least as serious as it was last year. Thirty-six out of the sixty-six counties in South Dakota have received drought disaster declarations. Wheat production is expected to be 28 percent below the 1987 level.

Drafting this disaster assistance package has not been easy. It has included a number of negotiations on both sides with the result that we have all had to give a little. But I think it represents the best compromise we can hope to have under these difficult circumstances.

We have succeeded in passing a disaster bill that meets three very important criteria: First, it deals with what we said had to be done; namely, it creates an opportunity for all farmers affected by the drought to obtaining assistance, and makes it available to all types of crops. Second, all crops receive the same payment rate, even though there are different loss thresholds. This is the only difference between crops themselves; the payment rate is the same for all crops. Finally, the bill meets the cost constraints the administration said we had to live with. Under these criteria, we have now arrived at a disaster assistance bill that I think merits the support not only of the U.S. Senate but of the other body, as well.

It is not only important, however, that we mention those things included in the bill; it is also important to note the things that have been agreed to which are not included in the language of the bill, including those programs directly affecting livestock in the upper Midwest and across the country.

The daily feed allowance under the Livestock Feed Program, as a result of our negotiations and an agreement with the administration, will be raised from 10 pounds of feed grain equivalent per day per animal unit to 12½ pounds of feed grain equivalent per day per animal unit. Proceeds from crop insurance will be eliminated from the calculation of feed on hand, and pasture will not be counted as feed on hand for livestock such as swine, that cannot utilize it.

I am pleased that the administration has accepted language that allows the farmers to utilize grain under loan on the farm in the Livestock Feed Program, and also allow Indian tribes to restructure their land acquisition loans in a similar manner to other farm loans.

I might say one thing about a concern I have with regard to a crop that some have suggested may be singled out at some point in the future and actually excluded from disaster assistance. That is the honey crop. South Dakota is one of the largest honey producers in the country. Last year, honey production in the Dakotas was half the normal level and could be substantially reduced again this year. Last year's losses were not covered because of a technical error in the 1988 Disaster Assistance Act. This year's losses should be covered. The language has been corrected to cover honey, and I urge all of those in conference to keep it in the bill where it belongs. It is an important crop—in some cases the only crop for South Dakota producers. It is important, given the ramifications of this year's drought, that this legislation stay intact.

In summary, let me reiterate my strong support for this disaster assistance package and make sure that everybody understands what a difficult process it was and how pleased so many of us are that we have now come to this point.

On the other bill, the rural development bill, very briefly, let me simply say that I believe it is one of the most important bills affecting rural America to be passed this year, along with the disaster legislation I have just addressed. Rural areas have suffered a 70 percent reduction in developmental assistance in the 1980's. Rural poverty rates are 36 percent higher than in similar urban areas.

Over 400,000 people leave rural America on an annual basis. This bill recognizes that. It is a comprehensive approach to solving some of the problems we are facing in rural America today. It deals with business financing. It deals with science and telecommunications. It deals with water and waste facility financing. It deals with creating a better relationship, among those involved than we have ever had before. In other words, it streamlines that partnership between the Federal, State, and local governments. It gives

opportunity to people in rural areas that they simply have not had before.

It is going to take money and persistence and prioritization. But if we have the opportunity to take full advantage of what are very limited resources, I think this bill affords us that opportunity, and I am very pleased to see that at long last, it has now passed the Senate.

With that, Mr. President, let me reiterate my sincere thanks to the chairman for his courtesy.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Vermont, [Mr. LEAHY].

Mr. LEAHY. Mr. President, I thank the distinguished Senator from South Dakota for his kind remarks.

Mr. President, I might say that last night was an extraordinary night for rural America. We passed two major pieces of legislation, the Rural Partnership Act and the Disaster Relief Act. I would notify fellow Senators and Members of the other body will meet this noon on the Disaster Relief Act during the recess of the Hastings trial. I am committed and willing to stay here all night, if necessary, to finish the disaster bill before we go out.

Mr. President, when this all came together last night those two extraordinary pieces of legislation, rural development bill and disaster relief, at the last minute, it looked easy. Everything passed through, voice voted and gone.

But it came about because of extraordinary cooperation and work of a lot of Senators, who I mentioned in my remarks last evening. But most important, Mr. President, it came about because of the work of dedicated, hard-working staff members of the Senate Agriculture Committee, distinguished professionals who literally worked around the clock, worked through their weekend, gave up time, and kept coming back to the table trying to assist Senators on both sides of the aisle to put together a package that is good for this country.

On the rural development bill, for example, I think the staff director of the Senate Agriculture Committee, Chuck Riemenschneider, a true professional, who has put together a team that has worked so closely on this. There is Jim Cubie, chief counsel to the committee, who crafted so much of the rural development bill, making it possible to bring his own roots in rural America—in Graniteville, VT into a piece of legislation that we could all support. Professionals like Ed Barron, Carolyn Brickey, Laura Madden, the new minority staff member, Janet Horton.

These are people who work together, bringing their own specialized expertise to this piece of legislation. And then we were joined when we did the drought relief, disaster relief bill, again by Chuck Riemenschneider, Bob Young, Bill Gillon, Margaret Huessy, Tom Hebert, Patricia Coates, and minority staff members Chuck Conner and Randy Green.

People working together, experts, brilliant staff members made it possible for those of us who are entrusted with the policymaking to present to this body a piece of legislation. Both of these bills, rural development and drought, passed unanimously, not only because Senators were willing to submerge individual differences and work together, but also because Senators on both sides of the aisle knew that they could rely on the expertise of our Senate Agriculture Committee staff. I applaud those members on both the majority and minority staffs who worked so hard on this.

Mr. President, I will be brief. I have to go back to the Hastings trial. I want to speak briefly about rural development. I mentioned the drought bill last night and the fact that we will try to get it through both the Senate and the House before we recess, and it will be able to go to the President's desk. I am assured by the administration that if we can keep it close to the spending level that passed the Senate, the President will sign it.

Let me speak of rural development briefly. I was born and raised in Vermont. It is one of the most rural States in this country and one of the most beautiful States in this country. I look forward to this weekend, being back on my own tree farm in Middlesex, VT, driving down that dirt road to our house and being able to enjoy what is best in rural America.

I know firsthand that the quality of rural living, the lifestyle, self-sufficiency and neighborliness and friendliness, is often difficult to find elsewhere.

As chairman of the Senate Agriculture Committee, I have traveled all across this country staying in the homes of people in rural areas, talking to them and understanding the problems that they face, problems that are in Vermont and every other rural area of this country.

I have seen a rural America that is too often in trouble and I have seen a rural American abandoned by too many of its brightest young men and women because of the lack of jobs. I have seen a rural America with too many main street storefronts emptied by too many economic conditions.

In Vermont we felt that economic pinch, but we are fortunate that we have taken steps and our economy is generally brighter than much of rural America.

But Mr. President, we have a national crisis in rural America. We cannot have two Americas, one a land of opportunity and a second rural America left behind.

Our commitment to rural America has to be more than 60-second bites on television and floats on the Fourth of July extolling the virtue of rural living. We have to do more if rural America is going to have a real future.

That is why we passed the legislation we did last night and why we can say we know rural America is not a despondent group and people of rural America are hopeful and determined and they are a tough breed with a strong determination to succeed and they know that we are giving them the tools in this legislation.

So I would encourage the other body to act quickly on it for the good of that third of America who lives in rural America and the third of America who wants to be able to live in rural America by choice and not forced out of rural America by necessity.

Mr. President, I yield to the junior Senator from West Virginia.

RURAL PARTNERSHIP ACT OF 1989

Mr. ROCKEFELLER. Mr. President, I thank Senator LEAHY for his special efforts to focus attention on the needs of rural America. Representing West Virginia, I appreciate his determination to turn the spotlight on rural issues that have been pushed aside in the past. A quarter of the people in our Nation live in the rural regions of our country, and they deserve far more attention and assistance than they have been getting. This legislation, the Rural Partnership Act, recognizes those challenges and offers new solutions and fresh approaches to address the problems of rural communities.

I am also grateful to Senator LEAHY and his staff for their constructive help on my amendment which was unanimously accepted last night.

My amendment makes modifications to the Rural Business Incubator Loan Fund, one of the new programs established by this legislation. The Incubator Fund, which is designated to be placed within the Rural Electrification Administration, is designed to promote economic development through the creation and expansion of business incubators.

I strongly support the idea of the Rural Incubator Loan Fund, and hope that we will see rural communities and States take full advantage of it. However, after reading the bill, I discovered that a couple of modest changes to the relevant provisions were necessary in order to enable my own State—West Virginia—and several others to have full access to the Fund.

My amendment is simply to expand the eligibility for the Rural Business Incubator Loan Fund to enable the few States which do not have a net-

work of electric cooperatives to participate. West Virginia and other States with just one electric cooperative or those States that do not have any cooperatives would have effectively been shut out of this particular program if the bill were to remain in its current form. My amendment changes that by naming nonprofit entities as a category of qualified applicants in those States that don't have two or more electric cooperatives. These nonprofit entities must meet all the same requirements established in the bill to compete for grant or loan money from the Incubator Fund.

Therefore, my amendment ensures that every State has a chance to participate in this new, innovative program. And I again thank Senator LEAHY for his cooperation in assisting me in making sure that all States—including West Virginia—will be able to participate in this small but important program.

Business incubators are an exciting new tool for economic development in rural America. An incubator is a facility designed to help get new businesses started on the right foot. In an incubator, new, startup businesses share the facility and many overhead costs. By sharing costs for a few years, first-time entrepreneurs have a better chance to become established in their community. Once a business is established, it moves out of the incubator on its own creating an opportunity for another entrepreneur.

Several years ago, I sponsored a conference to make business and government officials in my State more aware of the business incubator approach and how to set one up. I have since been enormously proud to watch the concept spread to communities across the State. There are now several business incubators open and running in West Virginia, and others in various planning stages. Incubators stimulate new business and new hope; they are a worthwhile investment to spur growth and jobs in rural areas throughout the country.

Mr. President, I am pleased that the Senate adopted this special initiative—the Rural Partnership Act—to respond to the unique and diverse needs of rural America. I began my career in public service as a VISTA volunteer 25 years ago in a small, very rural coal town called Emmons, WV. In fact, I got one of my first tastes of politics by petitioning a county school board to pave a dirt road so the school bus could come to Emmons.

During my 8 years as Governor, I struggled constantly to promote economic development and improve the basic infrastructure in our rural communities; building roads, opening rural health clinics and establishing sewage treatment facilities. As Senator LEAHY and so many of my colleagues know, these projects are vital to improving the quality of life, and critical to jobs and economic development in rural America.

Jobs do not come to areas without water and sewage treatment. Companies do not locate on back roads. Families do not move to communities if they lack good schools or nearby health care facilities. Without new investments in basic infrastructure, rural America will continue to be left out of economic prosperity. We cannot allow the people who live in West Virginia and other rural areas to be left behind our urban centers.

The Rural Partnership Act, an ambitious and innovative package, has key provisions to increase funding for sewage treatment and direct that funding to small, needy areas. It includes a very practical circuit rider program for waste water treatment to get specialists into the field to work with small communities on water quality. This initiative is based on a similar successful rural circuit rider program which promotes clean drinking water. Many communities cannot afford to hire an expert to run the local sewage treatment plant, but a circuit rider program would bring needed expertise to them. Circuit riders will be welcomed and needed by countless communities in West Virginia and across the country.

This legislation seeks to strengthen our telecommunications network in rural America with special programs targeted toward schools, hospitals and rural business. Through greater use of modern telecommunication technology, it will be possible to offer calculus, physics and high level courses to rural schools tied into a star school network. Advanced communications can link our rural clinics to university hospitals and medical specialists for advice and immediate consultations. Innovative use of telecommunications has the potential to dramatically expand the educational, health and business options of rural Americans without changing many of the characteristics that lure and keep people in rural areas.

This legislation carves out an expanded role for the Rural Electrification Administration and its cooperatives and the Cooperative Extension Service. Both organizations will have new resources and new responsibilities.

In this regard, I want to emphasize my fervent hope that these entities work closely and collaboratively with the other economic development institutions housed within the Federal Government—particularly the Appalachian Regional Commission, which has a strong history of responsiveness, expertise, and success in helping rural States such as West Virginia to pursue key economic goals. Working together, the network for rural development can expand and be strengthened. Coordination among all groups and at all levels is the key to success for this new legislation, and I urge all the relevant players to work together to respond to the basic needs of rural America.

This bill directs much needed resources toward rural America. It offers creative, innovative and practical solutions to many critical issues. It is an important step forward, and one I support.

Mr. President, I am pleased to receive the support of Senator LEAHY and the Agriculture Committee for my amendment. I genuinely believe this change will make the bill more equitable and effective. I know that it will help West Virginia through opening up another source of assistance for a very promising economic development tool, business incubators.

Mr. KOHL addressed the Chair.

Mr. LEAHY. Mr. President, I see the distinguished Senator from Wisconsin seeking recognition. I yield to him.

The PRESIDENT pro tempore. How much time does the Senator yield to the junior Senator from Wisconsin [Mr. KOHL].

Mr. LEAHY. How much time does the Senator need?

Mr. KOHL. Four minutes.

Mr. LEAHY. I yield 4 minutes, Mr. President, if I still have it.

The PRESIDENT pro tempore. The junior Senator from Wisconsin [Mr. KOHL], is recognized for 4 minutes.

RURAL PARTNERSHIPS ACT OF 1989

Mr. KOHL. Mr. President, last night the Senate passed a piece of legislation vital to the future of rural America. I was pleased to be an original cosponsor of that legislation.

Rural America is this country's foundation. It is our economic strength and our spiritual haven. It is the source of the food that feeds us; it is at the root of our culture.

But, sadly, as a result of neglect, indifference, and misunderstanding, rural America is becoming our Achilles heel.

As this country has urbanized, we have became disturbingly unaware of the fate, and unconcerned about the future, of the small towns we have left behind. We have presumed that those in rural areas can continue to be our providers—of agricultural and forest products, of manufactured goods, of clean water and fresh air—without the benefit of additional resources, or services, or help.

Unfortunately, this indifference has taken a toll. Unemployment is now 28 percent higher in rural areas than in urban areas. Poverty is a third higher. College education is 40 percent lower. Two-thirds of rural water supplies violate EPA drinking water standards. And 190 rural hospitals have closed their door since 1980.

The goal of the Rural Partnership Act is to end that indifference. It recognizes that we cannot afford to ne-

glect the fourth of our population that are the keepers of our economic and spiritual wealth.

It does so by offering rural towns and counties economic tools and technologies that can be used to diversify and strengthen their economic base. It provides Federal loans for rural communities to improve their social services and meet their infrastructure needs. And it does so by fostering partnerships between Federal, State, and local entities that will allow the maximum leverage of the modest Federal resources we have available to us for this purpose.

I would like to commend the managers of the bill—the distinguished chairman of the Agriculture Committee, Senator LEAHY, and the ranking member of the committee, Senator LUGAR—for their bipartisan leadership on this issue. I would also like to thank the managers for agreeing to an amendment offered by Senator SANFORD and myself that will provide needed help to rural communities in addressing their solid waste problems.

The amendment offered by Senator SANFORD and myself authorizes the Secretary of Agriculture to provide grants to regional rural community assistance programs to assist rural communities in the management and planning of solid waste disposal.

It is already clear that, over the next decade, solid waste management will become a major strain on rural budgets. As rural communities struggle to comply with EPA's solid waste disposal regulations, they are finding the costs of closing landfills and developing a solid waste management strategy staggering. For example, the cost of closing a dump has been estimated at between $25,000 and $50,000 per acre. For many small towns, that means a total bill of more than $200,000 just to close a landfill.

Unfortunately, while we have required small towns and communities to meet stringent solid waste disposal standards, the Federal Government has provided no financial assistance to help them meet these mandates. My amendment will help them do so.

This assistance is essential if we are going to assure the safety of our rural drinking water. According to EPA, 63 percent of all rural residents drink contaminated water. In many cases, inadequately managed landfills are the source of the problem.

My amendment will provide rural towns with technical assistance to help deal with these leaking landfills. It will also provide technical and financial assistance to communities to develop ways in which to reduce their solid waste stream.

I am grateful to the managers of the bill for accepting the amendment, and to Senator SANFORD for his willingness to work on this issue with me.

Mr. President, we need to remember that this bill is not the answer to all of rural America's needs. It does not institute needed reforms to our national dairy policy, which would do more to improve the economic viability of Wisconsin's rural communities than anything proposed in this bill. And it does not promote diversification in our agricultural sector, which is also of great importance to Wisconsin.

But those concerns will be addressed next year as part of the 1990 farm bill.

In the interim, this bill will provide rural communities with the financial and technical tools necessary to improve the quality of life in rural America. I hope that the House can take quick action on this bill, so we can make this assistance happen in the near future.

The PRESIDENT pro tempore. The Senator's time has expired.

The junior Senator from North Dakota is recognized for how much time?

Mr. CONRAD. I thank the Chair.

The chairman indicated we have a little less than 6 minutes remaining.

The PRESIDENT pro tempore. The Senator has 3 minutes and 38 seconds remaining.

Mr. CONRAD. I thank the Chair.

Mr. President, last night we accomplished a great deal for rural America. Last night we had the equivalent of two grand slam home runs because last night we passed a bill that will take care of the drought that is sweeping this country in the disaster relief bill and we passed the most significant rural development legislation in over a decade and a half.

DISASTER RELIEF

Mr. President, with respect to the disaster relief bill, this has been a difficult fight. It has gone on for more than 5 weeks. Some wanted to limit this disaster relief bill to just winter crops, those that had been planted in the fall and grew over the winter. Others, myself included, wanted to make sure spring crops were included and we also wanted nonprogram as well as program crops included because mother nature did not create a distinction between the two in terms of the effect of the drought.

Mr. President, if anyone wonders about the need for a disaster relief bill, let me give them the experience of my home State of North Dakota. Last year, Mr. President, North Dakota suffered a drop in net farm income of 49 percent. We are the hardest hit State in the Nation by drought and the effect was devastating.

This year things started out looking much better. It looked as though this would be a good year. In fact, just yesterday I received in the mail from a man from Linton, ND, a sample of his barley and he sent me this note: The "stand looked very good in June but the July heat did it in," and now the elevator will not even buy his crop.

That is the kind of devastation we are experiencing in my State. One quarter of the counties have already lost 60 to 80 percent of their crops this year.

Mr. President, the disaster relief bill we passed last night was critical to survival of rural America.

RURAL DEVELOPMENT

Mr. President, on the rural development bill I want to especially thank the majority leader, Senator MITCHELL, for accepting my suggestion to form a rural development task force in order to get a rural development bill to the floor this year. We have accomplished that and that is a remarkable accomplishment given the difficulty.

Mr. President, I entered statements into the RECORD last night and in the interest of allowing my colleague, Senator SANFORD to have a chance to comment, I will yield the floor at this point.

RURAL PARTNERSHIPS ACT OF 1989

Mr. SANFORD. Mr. President, I rise today in support of the Rural Partnerships Act of 1989 introduced by my distinguished colleague, Senator LEAHY. The passage of this significant legislative package will better the lives of 61 million rural residents by catalyzing business development, investing in human resources, and meeting critical infrastructure needs.

While rural America plays a crucial role in the cultural history of this Nation, it has often been left out of the country's economic prosperity. In recent years, natural disasters, the downturn in many of the commodities markets, and structural changes in the national economy have inhibited rural economic growth. Unemployment and poverty rates have remained high due to declines in agriculture, manufacturing, and mining.

Rural economic problems have been magnified by substandard education, health care, and business facilities which lag behind their urban counterparts in advanced technology and equipment. In addition, many rural communities still lack the basic infrastructure to adequately dispose of water and sewage.

In my home State of North Carolina, the economic divergence between rural and metropolitan communities has been particularly acute. The unemployment rate in rural North Carolina is 44 percent higher than the rate in urban areas of the State, while job growth remains one-third slower. Per capita income is 22 percent lower. In addition, 66 percent more rural residents live in poverty than urban residents. I could go on quoting statistics—and the numbers are deplorable—but simply put: rural counties have fallen behind and the gap is widening.

Senator LEAHY deserves our deep thanks for his tireless efforts on behalf of the residents of rural America. As chairman of the Agriculture Committee, he has brought rural issues to the forefront of the Senate's legislative agenda. For several years he has worked to develop a well-balanced rural development bill that meets the particular needs of rural residents throughout the country.

The Rural Partnerships Act of 1989 attacks the stagnation and despair in rural America. Through a newly created rural business investment fund, this legislation injects capital into rural businesses to encourage economic growth and business diversification. The act also provides advanced technology to rural schools, hospitals, and businesses to encourage the human resource development necessary to sustain growth. In addition, it expands Federal infrastructure assistance and improves data collection on and information distribution to rural America.

I am particularly pleased that the bill utilizes local and State organizations for grassroots rural development efforts. The act generally targets assistance to experienced rural development organizations; it does not create a new, large, and immobile Federal bureaucracy.

However, although this is an excellent bill, I believe it can be improved with respect to three critical subjects that hinder rural development efforts across the country: solid waste management, illiteracy, and severe economic dislocation. To respond to these issues, I have offered three amendments which have been incorporated into the manager's amendment. I thank the chairman and Senator LUGAR for their assistance on these matters.

The management of solid waste poses an expensive and bewildering problem for many rural communities that lack the technical expertise to properly dispose of waste products. The rising costs of new landfill space, the rapid depletion of existing landfills, and the contamination of rural drinking water through improper solid waste disposal require an immediate Federal response.

The Nation currently spends $10 billion a year to dispose of 150 million tons of trash. In the near future these costs could triple with the implementation of strict environmental regulations. Spiraling costs, when coupled with limited tax bases in rural communities, may price safe, effective solid waste disposal beyond the reach of numerous rural communities.

Even as we spend billions of dollars to dispose of solid waste, safe landfill space is becoming increasingly scarce. Of the 100 counties in my home State of North Carolina, for example, 42 nonmetropolitan counties will run out of landfill space during the next decade. Without adequate—and expensive—disposal sites, these counties will be unable to attract new businesses.

In addition to the economic costs, inadequate solid waste management poses a serious health threat to our rural residents. Insufficient and poorly managed disposal sites contaminate an estimated 63 percent of rural drinking water sources. Moreover, a recent EPA report found that over 52,000 people became ill in outbreaks of disease or poisoning from drinking contaminated ground water between 1971 and 1985.

To encourage economic stability and improve water quality in rural communities, my amendment will provide for technical assistance for solid waste management. This assistance will help communities assess current landfill conditions, analyze threats to drinking and ground water, reduce the solid waste stream, remedy landfill inadequacies, and plan for future solid waste needs.

My amendment authorizes the Secretary of Agriculture to make grants to regional nonprofit organizations to provide technical assistance for solid waste management. The provision of technical assistance will be added to the activities of existing law within a pollution abatement program administered by the Farmers Home Administration. As a result there will be no additional authorized cost to the Government.

While this amendment addresses an important infrastructure problem, my second amendment addresses the fundamental human need of literacy. Education experts estimate that 23 million adult Americans are functionally illiterate and lack basic reading skills beyond a fourth-grade level. In my home State of North Carolina, we have over 800,000 illiterate adults. Moreover, in 1988, southern employers and States blamed over $57 billion in unrealized productivity, lost tax revenues, and substandard performance on an estimated 12.1 million illiterate adults. Each of these citizens cost society an average of $4,727.

The Rural Partnerships Act provides an opportunity to curtail the Nation's illiteracy crisis and to develop the human potential of rural citizens. Particularly in rural areas, the Federal Government must help individuals acquire the basic skills, the training, and the leadership to fully participate in the social, intellectual, and economic life of this great nation. A literate population is fundamental to the success of any rural development effort, and this bill must serve as the starting point of Federal efforts in this area.

My amendment highlights literacy instruction in the assistance reviewed by the Rural State Schools Program. It ensures that the advanced technologies provided by the act will be used to meet the most basic educational need of rural residents. Much more needs to be done to address the literacy problems facing the Nation, and I plan to revisit this subject in the upcoming months.

My third amendment is designed to address rural communities that have suffered severe economic dislocation due to plant closings or substantial job loss. Many rural communities across the country—and particulary in my region of the south—are dependent upon one or two companies for their economic security. A plant closing or massive layoff can wreak havoc with the economic stability of these company towns.

In my home State of North Carolina, this type of economic disruption will soon occur in Haywood County—a largely rural county in the western part of the State. Due to a landmark decision by the Environmental Protection Agency, Haywood County will lose 1,000 jobs at the Champion International Corp. facility in Canton, NC. And to make matters worse, Haywood County will lose 343 more jobs due to layoffs at Dayco Products, the county's second-largest employer. These massive layoffs will severely impact the tax base of the county, and the ripple effect throughout western North Carolina and eastern Tennessee is expected to cost the region's economy some $150 million per year.

In response to this severe economic dislocation, Haywood County has banded together as never before to plan for the future. They have formed a group of business, governmental, and civic leaders that has developed an economic adjustment strategy effort to identify and address the critical economic needs of the community. However, even with the best planning, areas such as this will suffer capitol shortages and loss of tax base and may need assistance to diversify their economic base, develop human resources, and provide for basic infrastructure needs. Provisions in the Rural Partnerships Act could provide critical assistance to help meet such needs in eligible areas that suffer sudden and severe job losses.

The amendment I have offered on behalf of areas such as Haywood County will ensure that eligible counties suffering sudden and severe economic dislocation receive attention under the Rural Partnership Act of 1989. The amendment does not weaken current eligibility requirements; it just adds sudden and severe economic dislocation as a factor which must be considered when decisions are made regarding allocation of funds for certain programs established by the bill

In addition, I am pleased that the chairman has recognized that economic data on rural communities may be rapidly collected and submitted by appropriate groups to the Rural Partner-

ships Investment Board. In cases of severe economic dislocation, the immediate transmission of economic data is critical in order to provide effective assistance to affected communities. A community that has been debilitated by a plant closing or a massive layoff cannot wait for 12 to 18 months until census data reaches the board. Instead, it must become eligible for assistance as soon as the appropriate economic data is collected by responsible entities.

I am also pleased that pockets of poverty may be designated as parts of eligible service areas for the rural business investment fund. I note that the distinguished Senator from Vermont [Senator LEAHY] has explained these provisions well. This is particularly important in my State where there are numerous low-income areas that may surround a small high-income area. If the eligibility criteria were rigidly based on counties, towns, or townships alone, some of these pockets of poverty within larger administrative units could be rendered ineligible. By clarifying that contiguous rural areas meeting income or unemployment criteria within townships or other units may be eligible for assistance, even if the entity of the larger unit is not, the chairman has done a great service to the rural poor in North Carolina.

Mr. President, I strongly support the passage of the Rural Partnerships Act of 1989, and I believe it will have a significant impact on rural development needs throughout the Nation. The amendments I have offered ensure that the act will assist communities with solid waste management problems, high illiteracy rates, or substantial economic disruption. They complement the activities of the bill and contribute to a comprehensive Federal approach to rural development.

Rural citizens are not asking for a Federal handout, but for Federal investment in rural businesses, human resources, and infrastructure. I believe that the Rural Partnerships Act of 1989 invests in the future of rural America.

LITERACY AMENDMENT TO RURAL DEVELOPMENT

Mr. SANFORD. Mr. President, I want to thank my distinguished colleague from Vermont—who as chairman of the Agriculture Committee—has agreed to support my amendment bringing attention to this country's problem with illiteracy.

Ignorance, so it has been said, is the only thing more expensive than education. Free compulsory education was originated to make children responsible and educated citizens by teaching them to read and write and to understand American democracy. Over $184 billion a year is now spent on free public education with the aim of making all Americans literate. However, education experts estimate there are 23 million adult Americans who are functionally illiterate and lacking basic skills beyond a fourth-grade level. Another 35 million are semi-illiterate, lacking skills beyond the eighth-grade level.

Illiteracy continues to be one of the most pressing social and economic problems for our Nation—and the South in particular. In my home State of North Carolina we have over 800,000 illiterate adults. In 1988, Southern employers and States blamed over $57 billion in unrealized productivity, lost tax revenues, and substandard performance on an estimated 12.1 million illiterate adults. Each of these citizens cost society an average of $4,727.

The statistics clearly point to a near emergency which must be more aggressively attacked by the Federal Government if the United States is to thrive in our increasingly global economy. With this bill on rural development, the Senate now has the opportunity and the obligation to take the lead in building literacy programs in rural America.

There are small towns throughout America where thousands of workers are annually displaced by declining natural resource industries. Newly unemployed citizens with insufficient reading and writing skills are often left behind, unable to function in the more complicated manufacturing and service jobs which continue to require higher and higher levels of education. The resulting cycle of welfare dependency and agonizing poverty maintains illiteracy as one of the major causes for low living standards and economic dislocation in rural communities. By teaching our citizens to read, write, and communicate effectively in diverse job situations, we can take a giant stride toward rural revitalization.

Americans must adopt a new outlook toward adult illiteracy. We all need to realize that there is enormous support for vigorous initiatives in this area from business, labor, all levels of government, and the public at large. But to make good use of that support, we must form a better understanding of how to approach this complex field. In particular, we must understand that:

Valuable as it is, school reform will not solve the problem of adult literacy—the 20 to 30 million adults with inadequate basic skills are already out of school;

Business alone will not solve the problem—although business, labor, and the public sector working together in partnerships can accomplish a great deal;

There is no single ideal service delivery system for literacy—the national effort is and must be pluralistic;

Technology is not a dehumanizing factor nor is it a substitute for teachers—it is an essential ingredient in any adequate nationwide literacy effort.

Mr. President, as I mentioned earlier, illiteracy is a special problem in North Carolina. But I am proud of all the hard work and dedication of people like Dr. Janice Kennedy Slogan with the North Carolina Department of Community Colleges; Mr. George Autry of the MDC Program and countless others who are trying to help our State tackle this very serious problem. And, there have been success stories.

In 1949, at 15 years of age, Wade Patrick began working for a manufacturing company in Washington County, NC, and his dream of becoming self-sufficent and independent began.

Even though he no longer worried about where his next meal was coming from, he still had to live by instinct. He quickly learned how to combine and use all of his other skills to compensate for his lack of education.

"I'd often find an excuse to have others read for me. I'd say that I'd left my glasses at home and no one ever knew that I couldn't read! They were always willing to read to me."

Today, Wade Patrick is a fine success story. Three years ago Patrick began attending classes at Martin Community College. The world has new meaning for him now as he reads road signs, billboards, newspapers, books, and his Bible. He has advice for others: "I've been there, I know what it's like. You're never too old to learn. Don't be too full of pride or too ashamed. You, too, can overcome."

Thank you, Mr. President.

Mr. SANFORD. Mr. President, I rise in support of S. 1429, and commend particularly the Agriculture Committee's work in expanding the scope of disaster assistance legislation. Agriculture is a critical industry for many States; it provides a livelihood for many Americans, and a national service to us all. I applaud the committee's moves to extend disaster assistance to all of our Nation's farmers who have suffered from disastrous weather, and not only to those who live in a particular geographic area.

Agriculture is vital to the economy of my home State of North Carolina. All too often it is assumed that tobacco production is the only concern of our agricultural community. It should be noted that North Carolina's major crops also include soybeans, peanuts, cotton, corn, wheat, and apples.

Extreme weather has been harsh on all of our Nation's farmers. North Carolina's farmers have suffered from numerous forms of extreme weather. Drought, heavy rains, and late freezes have taken their tolls on our crops.

I met with a group of farmers in eastern North Carolina last April. They told me how they feared the disastrous effect extreme weather would have on their crops. The wheat farm-

ers of the Piedmont section of North Carolina have visited my office here in Washington to show me in great detail how this year's crop is the worst they have had in decades. The apple farmers of western North Carolina have been calling my office daily, desperately seeking relief from the disastrous effects of the heavy rains that have held up the harvest and destroyed their crops in the field. Many have suffered from late freezes. I can speak personally to their plight. I gave a college graduation speech in western North Carolina in May—in the snow. There is not a section of North Carolina that has not been affected by severe weather conditions over the last planting season.

My concern, however, is for all of our Nation's farmers. S. 1429 will be fair to all farmers needing disaster assistance. We must look at the broader picture and not narrow the focus to those who have suffered from a particular form of extreme weather. The hardships endured by a North Carolina apple farmer who has lost his crop to heavy rains and late freezes are as severe as those of a midwestern wheat farmer who has lost his crop to drought. Our Nation's farmers need this disaster assistance legislation, and we must be sure to help all of those in dire need.

I am not without my concerns about this type of emergency legislation, Mr. President. Systematic approaches, when they work effectively are preferable. While we do have a crop insurance program, there are problems with it, as many agriculture extension agents in North Carolina will acknowledge. Upon passage of this bill, we must immediately set our sights on revising the crop insurance program to encourage greater farmer participation. At this point, however, we must acknowledge that the existing crop insurance program has proven inadequate to protecting our Nation's farmers from the disastrous effects of extreme weather.

I urge the President and my colleagues here in the Senate to support this bill. The American farmer has suffered long enough. We must roll up our sleeves and get the job done.

I wish to commend my colleagues on the Agriculture Committee for their perseverance and dedication to the American farmer. I believe the compromise reached in S. 1429 will protect those farmers who have suffered the most, and will enable them to continue contributing to the important service carried out by America's farms.

Mr. THURMOND. Mr. President, I rise today in support of S. 1036, the Rural Partnerships Act of 1989. I am pleased to be a cosponsor of this legislation, which will help to promote economic growth and development in rural America.

I commend the Senate Committee on Agriculture, Nutrition, and Forestry for the hard work to get this legislation passed. Rural America has slowly been becoming more and more isolated from the suburban areas. This legislation is a step in the right direction to help develop and maintain rural areas.

Mr. President, this bill will strengthen Rural America in several ways: it will create business investment funds, capital access programs, business incubators, technical assistance programs, education, business, and health communication links, as well as provide additional support for water and sewer facilities.

I grew up on a farm and taught agriculture, so I understand the problems facing rural America. I think this legislation is a step in the right direction toward giving rural America some self-help.

Mr. BINGAMAN. Mr. President, I rise today in support of the Rural Development Partnerships Act of 1989. I am pleased that the Senate is acting on this important legislation, and I urge all of my colleagues to give their full support to this measure.

This legislation is designed to enhance the quality of life in rural America. For the 61 million Americans who live in one of 14,000 small towns across our country, life is not always as easy as it appears in Norman Rockwell's paintings. On the contrary, rural Americans need to be concerned about the safety of their drinking water, about the quality of their children's education, adequate waste disposal systems, and community businesses, which often are struggling for mere survival in their rural economic environment.

I grew up in Silver City, a small town in my home State of New Mexico, and I understand the unique challenges facing our rural communities. Fortunately, I sense a growing awareness in Congress of the problems facing America's rural communities. This legislation demonstrates that here in the Senate we are ready to confront these problems and work toward legislative solutions.

The Rural Development Partnerships Act of 1989 offers a blueprint for encouraging and expanding economic opportunities that will help forge a strong and competitive rural America. This measure lays the foundation for stimulating job creation by establishing revolving loan funds that will provide new and struggling businesses with needed capital. The act also provides for the development of rural water and sewer infrastructures, the enhancement of rural telecommunications systems, the improvement of medical care, and for a variety of other rural development objectives.

The stark realities of living in rural America clearly evidence the need for this legislation. Only 14 percent of the Americans residing in rural areas have a college degree, compared to 25 percent in urban areas. Medical care lags far behind as well—half of the Nation's hospital closures in 1988 were in rural areas. When we consider the relative safety of drinking water, there is no comparison between rural and urban areas—a 1986 EPA study found that 70 percent of the Nation's substandard wastewater facilities were in rural areas. But the greatest tragedy facing our rural American families may be the shrinking job market and diminishing economic opportunities. Last year, rural unemployment rates were 28 percent higher than urban rates.

It's easy to understand why attention to rural development is urgently needed, but it's much harder to create a viable solution. The Rural Development Partnerships Act—which is supported by every Democratic member of the Senate Agriculture Committee—is a step in the right direction. It provides each State with a minimum of $2 million—and up to a maximum of $10 million—for the establishment of revolving loan funds. In addition, it calls for grants to States for schools, hospitals, and businesses to advance telecommunications technology.

I am especially pleased that this bill also contains a provision which I authored improving funding mechanisms for small business incubators. Earlier this year, I introduced The Small Business Incubator Act, legislation to modernize Federal support for nurturing new companies. Under my proposal, Federal funds would be more readily accessible to assist business incubators. These incubators promote the start-up and growth of new firms by offering an entrepreneurial environment, shared business services, and affordable office, warehouse and manufacturing space. In New Mexico, we are fortunate to already have incubator facilities operating in Taos, Roswell, Tucumcari, Los Alamos, and Albuquerque. I am pleased that the objective of the small business incubator bill has been incorporated into the Rural Development bill.

As you can see, this legislation is especially important to states like New Mexico with large rural populations. At least one county in my State—Rio Arriba—can already vouch for the effectiveness of revolving loan programs, the cornerstone of the bill.

Rio Arriba County has long been one of the poorest counties in New Mexico. Residents rely heavily on livestock, primarily sheep, for their livelihood. But despite a growth in agribusiness, Rio Arribans have found themselves unable to compete economically in the traditional commercial markets. Realizing that change was sorely needed, a few local people formed

Ganados de Valle, an organization that has addressed two serious problems: predation losses and inefficient marketing.

As a result of Ganados de Valle, predation losses dropped sharply with the introduction of Anatolian Shepherd guard dogs. Ganados then tied into a cooperative telephone auctioning marketing system. Ganados gradually expanded its program to include cooperative summer grazing, a loan fund, a livestock shares program, Tierra Wools, and a Churro sheep breeding program.

But Ganados isn't content with its past succeses. Future plans include building an energy-efficient, small-scale scourer to allow growers to wash batches of wool themselves. With the help of a grant from the Ford Foundation, plans are now underway to hire a business analyst to evaluate several other proposed ventures to include a small business incubator.

Ganados del Valle is a not-for-profit economic development corporation, composed of about 60 families. A membership fee and dues are required, and additional funding for the organization comes from individuals, churches, and foundations. The New Mexico Department of Agriculture also has assisted with modest grants.

The foresight of this Rio Arriba group is paying off, and I congratulate them for their accomplishments. Family income is up, and the region has begun to open new market outlets for lamb and sheep products. Tierra Wools now employs 24 people and after 5 years is earning a modest profit. The revolving loan fund has made more than 12 loans of about $500 each to co-op members, enabling weavers and growers to purchase equipment and buy stock. The cooperative feels that the key to their success has been the revolving loan fund and the technical assistance provided to member businesses.

In my view, the Rural Development Act will foster more economic successes like the ones experienced in Rio Arriba County.

The Act will also enhance the quality of education and medical care in rural areas by focusing on the use of telecommunications. The bill increases the Federal investment in the Star Schools program, which I helped initiate in the 100th Congress. By helping to establish a telecommunications network that links rural schools, the program enhances their educational capabilities. Similarly, the bill establishes a program to link rural hospitals to modern medical centers. It also provides funds to the Farmers Home Administration to award loans and grants to rural communities to meet Federal clean water standards.

I know first-hand the tremendous benefits of living in a small, rural community—the peace and quiet, low crime rate, and clean air, just to name a few. I work here in Washington, but it's a small town—Silver City—that I call home. Unfortunately, if we are not careful, other factors like unsafe drinking water, substandard education, and unsuccessful economic development strategies, will undermine the charms and unique quality of life of our small towns. This bill, the Rural Development Partnership Act, will help ensure that doesn't happen.

THE RURAL PARTERSHIP ACT OF 1989

Mr. DOMENICI. Mr. President, I support the efforts of the Rural Partnership Act to help revitalize and strengthen the economic base in rural communities.

One might ask why is rural development needed. The answer is clear after looking at the bleak economic picture in many rural communities. While the national economy is strong, growing and moving ahead, rural economies are stagnant and being left behind. We cannot allow our rural communities to be left behind.

While in most urban areas, the 1980's were years of economic recovery and prosperity, this has not been the case in rural America. In comparison to urban areas, rural unemployment is 31 percent higher, rural per capita income is 25 percent lower, and rural poverty is 33 percent higher. With this kind of economic picture, the need for action is clear and long overdue.

With fewer jobs in rural areas and jobs that pay less than urban jobs, it is no wonder people are leaving rural communities. Recent data indicates that 400,000 people per year are leaving rural America. We need to help stop the largest rural export being its young people who cannot find meaningful employment near their families.

This has too often been the case in my home State of New Mexico. Rural income has not increased as much as urban income. Rural employment decreased while urban employment increased. Unfortunately this economic trend is not limited to New Mexico and it is more often true across the country.

While I am supporting the Rural Partnership Act of 1989, I will acknowledge this bill is less than perfect. Although I cannot change the fundamental approach in this bill, I can at least attempt to improve it by incorporating innovative programs into the Rural Partnership Act.

Mr. President I am offering a sense-of-the-Congress statement to establish a national endowment for rural America. The endowment will be a public private partnership that provides grants and services to rural communities for business development.

As a public private partnership, the endowment will be required to match 100 percent of its public funds with private donations. Communities will help fund the project by getting private donations for the endowment. Contributions to the endowment from individuals and corporations may be deducted from taxable income.

The endowment would work as a clearinghouse to provide the Federal contribution in the form of grants to local communities that proposed broad-reaching development plans and that met certain standards in terms of civic participation and State and local government involvement. Special preference would be given to communities with plans that were pathbreaking in nature and which had potential for use by other rural communities.

Too often communities are compelled to design any economic development effort around the labyrinth of Federal rural and economic development programs rather than developing a plan that is tailored to their own needs and goals. The endowment would act as an alternative to other Federal programs providing funds for programs or physical or social infrastructure that may or may not be suited to the requirements of any existing rural program. The key ingredient would be civic participation and commitment and the extent that such participation exists the endowment would make direct grants even if these grants were to roughly duplicate resources available from other programs.

This is not only consistent with the administration's emphasis on individual, community, and volunteer involvement but it provides a way in which the Federal Government can be helpful.

Mr. ADAMS. Mr. President, I rise to express my strong support for the Rural Partnerships Act of 1989, a bill designed to revitalize America's rural areas through a combination of Federal loan and grant programs with matching funds provided by local and State entities interested in diversifying rural America.

As a cosponsor, I represent many in my own State of Washington who recognize that it is time to bring investment and economic opportunity to the rural counties of this country, to help build for the next century. The theme of economic investment is important to my rural constituents. Next week I will be attending a Washington State centennial celebration that will focus on the impact of international trade on rural portions of Washington State.

Mr. President, as a member of the Labor and Human Resources Committee, I am quite familiar with the employment problems in rural America. In 1988, rural unemployment rates were 28-percent higher than rates in urban areas. Because rural areas like the Washington State counties of Grays Harbor and Yakima are based on traditional industries like timber and agriculture, they are uniquely vul-

nerable to swings in the global economy.

We need alternative economic development mechanisms, and that's what this bill provides. Business incubators, revolving loans and rural telecommunications development all would contribute to diversifying rural America and build for it's future.

Mr. President, I have many friends from Pend Orielle County in the northeast corner of my State, to Pacific County in the southwest. They do not seek handouts Mr. President. What they do seek is a government that will fairly judge their economic needs and respond accordingly. It is my hope that this bill will do just that. Thank you.

Mr. SASSER. Mr. President, I rise in strong support of S. 1036, the Rural Partnerships Act of 1989. The 1990 budget resolution passed by the Senate and agreed to in conference helped provide the necessary funding for this very innovative legislation. I am pleased that Chairman LEAHY, with the strong encouragement of Majority Leader MITCHELL worked so expeditiously on this matter and was able to bring this bill to the floor for action before the August recess.

Mr. President, it is fair to say that while this country has experienced a substantial economic recovery since the 1981-82 recession, all too often rural America has not rebounded as far or as fast from this recession as have urban areas.

Consider the statistics on this point. Rural unemployment rates were 28-percent higher than urban unemployment rates in 1988. Rural per capita income was more than $2,800 less than urban levels in 1986. And currently nearly 17 percent of all rural Americans—more than 9 million individuals—earn less than a poverty income.

Is it any wonder with economic growth lagging, that population outmigration continues to be the order of the day in rural areas. Indeed, the most recent census data on the subject suggests that some 500,000 people are leaving rural areas every year—with the highest outmigration rates being among those with higher educational attainment levels. This means that not only is the rural population decreasing—but also the educational levels of the rural work force are decreasing at the same time—making it ever more difficult to mount concerted economic development efforts in rural areas.

It is against this background that the Senate is considering the Rural Partnerships Act of 1989.

This measure authorizes the spending of some $300 million a year for a number of rural economic development efforts.

Two key provisions of the measure—title I and title VI—provide a variety of low cost small business, economic development, and water and waste water treatment grants and loans to hard pressed rural communities.

I believe that these programs will help stem the downward economic spiral that many rural communities are now facing.

Economic development and small business development programs authorized under this measure will offset the lack of commercial credit that all too often occurs in rural areas as local financial institutions close or are merged with other more distant financial institutions.

The water supply and waste water provisions of the legislation are equally important.

As late as 1984 the Environmental Protection Agency found that two-thirds of rural water supplies fell below EPA safe drinking water standards. It also found that 70 percent of substandard waste water treatment systems are located in rural areas. The new and expanded programs under this act will target scarce Federal funds on small rural areas that often need emergency assistance in repairing or rebuilding local water or waste water treatment systems.

Mr. President, this rural economic development legislation is the result of a lot of hard work by the Agriculture Committee and the product of a great deal of bipartisan cooperation.

The bill is also within the 1990 budget resolution guidelines which specifically noted the need for such legislation. I join my colleagues in their strong support for this measure.

DISASTER RELIEF

Mr. DOLE. Mr. President, just briefly on the disaster relief bill that the Senate passed last evening, there are three basic differences between the Senate approach and the House approach.

One, the Senate bill cost $436 million less. In my view the Senate Agriculture Committee and the Senate itself acted responsibly when it came to the cost of the disaster relief program.

Second, in the Senate, as opposed to the House, we recognize that those farmers who had crop insurance and participated in the farm program and who did the responsible thing should receive better treatment than others who may be eligible for disaster relief. So they have a preference and they have a priority in the Senate-passed legislation.

We also understand the distinction between program and nonprogram crops, and it is fair to say, and I think people should recognize this, even though it is a little late—the bill is passed—that program crops such as wheat, cotton, corn, rice, and the other program crops, have contributed over $200 million to nonprogram crops.

So all the program producers in all our States are going to get less so that we can take care of all the nonprogram crops, and let us keep in mind that nonprogram crops do not set aside acres, they do not have regulations to comply with and, in other words, payments to nonprogram crops will be a gift.

It was my view if you wanted to cover nonprogram crops, we should find other savings. I do not have any quarrel with covering nonprogram crops if that is the will of Congress, but we should have found savings in other areas instead of taking that money from program crops such as winter wheat. I might add the only reason this bill is before the Senate and before the Congress is because of the devastating drought in about six States that produce winter wheat.

So that is another distinction between program and nonprogram crops and also nonparticipants. If they are nonparticipants, then they do not participate in the program and in my view they should not receive as much on the benefit side as program participants when it comes to disaster relief.

So it is my hope that having reduced the cost, having made this distinction between program and nonprogram crops and having understood and made a priority crops that were covered by crop insurance, then I believe we have a package that we can go to conference with and I would hope that we could resolve the conference in a matter of a few hours.

RURAL DEVELOPMENT

Mr. President, with reference to the rural development bill, on the actual bill language there were never any hearings and there are a number of amendments that were never fully considered, but in any event as a courtesy to the chairman of the Agriculture Committee this bill was also passed. I understand it is not supported by the administration, and I believe it will be sometime next year before we have a final rural development bill, but rural development is important, as the chairman pointed out, and other Members pointed out on each side of the aisle.

I conclude by thanking all members of the Senate Agriculture Committee on both sides of the aisle. I know we had some sharp differences, and it seems to me that we were going in the wrong direction, but I think in the final analysis we have done about the best we could. It is a much better bill than the budget-busting House bill and for that I congratulate my colleagues on the committee and the chairman and particularly Senator LUGAR and members of the staff on each side who have been working on this bill, as the chairman pointed out earlier this morning, a matter of weeks.

Mr. FORD. Mr. President, let me congratulate the distinguished chair-

man of the Senate Agriculture Committee, Senator LEAHY, the distinguished senior Senator from Indiana [Mr. LUGAR], the chairman of the Rural Development Subcommittee, Senator HEFLIN, and all of the other members of the Agriculture Committee for their untiring efforts in developing comprehensive rural development legislation.

I also compliment the distinguished majority leader and minority leader, who made this issue a priority at the beginning of the year by establishing the bipartisan task force on rural development, of which I was proud to be a member.

The Rural Partnerships Act of 1989, which passed the Senate last night, is landmark legislation which will create economic growth, enhance educational opportunities, increase health care, and improve the infrastructure in areas where roughly one-fourth of our citizens live.

It is no coincidence that so many are now interested in the issue of rural development. My State is a rural State. Seventy-eight percent of Kentuckians live in towns or communities of less than 20,000 people; 95 of Kentucky's 120 counties are rural counties. When you begin to talk about the many blessings and the many difficulties of rural America, you are talking about my State.

In many ways, the traditional quality of life in our Nation's rural areas has been extremely good. Family and community values, and the sense of identity among rural people have always been very strong. However, the economic growth in this country over the last 6 years has not been distributed evenly. We know that unemployment is greater in many rural areas. Poverty levels are higher in many rural areas. Education and family income levels are much lower in many rural areas. Health care is inadequate in many rural areas. And the infrastructure is in disrepair in many rural areas.

Mr. President, we know that all economic development is ultimately created in the private sector. A dynamic private sector is the strength of our economy. But the Federal Government has a legitimate role to play in stimulating, supporting, and spreading economic growth across all regions of the country. Mr. President, this legislation furthers that role in all three areas.

I again commend all of those that have played a part in developing this legislation. I believe rural development will remain one of the most significant economic issues facing this country for the rest of this century. The Rural Partnerships Act is a step in the right direction, and continues our legitimate role in enhancing economic growth throughout the Nation, including rural America.

Mr. GORE. Mr. President, as an original cosponsor of S. 1036, I am very pleased to have supported the Rural Partnerships Act of 1989.

Like many of my colleagues, I come from a predominantly rural State, and I am particularly sensitive to the problems and needs of rural America. I know how much the people of the rural areas of my State long for good-paying jobs, for new agricultural markets, for better schools, and for some way to stop the economic decline that forces so many of their sons and daughters to leave home to find work.

Throughout the 1980's, rural America has undergone economic changes as dramatic and nearly as severe as those of the Great Depression. In my home State of Tennessee, 9 of 10 farmers gross less than $40,000 a year—and most are lucky to break even. Thousands of farmers have gone bankrupt or have come close to losing their land. Farmers, of course, are not the only ones who suffer. The slowdown has hit shopowners, farm equipment dealers, bankers—everyone in town but the auctioneer.

On both coasts, several States are prospering—while in the Farm Belt, the Rust Belt, and in my home region of the South people are not nearly so well off. Less than a quarter of America's population live in rural communities, yet these areas account for 38 percent of the Nation's poor and two-thirds of the substandard housing.

The policies of the last two administrations haven't helped. Time and again, the last administration tried to destroy the few tools available to us to help small communities grow and prosper—from the Rural Electrification Administration [REA] and the Farmers Home Administration [FmHA] to the Economic Development Administration [EDA] and the Appalachian Regional Commission [ARC].

Some deregulation has come at rural America's expense. Airline deregulation has cut service to smaller communities, consolidated power in the hands of a few companies, and raised troubling questions about air safety. Bus deregulation has virtually eliminated decent rural service. Railroad deregulation has produced a rush of dangerous mergers, and swelled the profits of companies quick to exploit captive shippers of coal and agricultural commodities. And the breakup of our telephone system—the best in the world—has spawned massive consumer confusion, a rash of new rules, and ever-increasing rates for families and small businesses.

It doesn't have to be that way, Mr. President, the legislation we passed last night declares once and for all that we are not going to take the erosion of our rural economies for granted. The fate of rural America is too important for us to wait any longer.

This is a comprehensive piece of legislation—a landmark in rural policy. It takes major and very positive steps by increasing capital access for rural small businesses, providing new funding for desperately needed water and sewer projects, and promoting a variety of initiatives through USDA for increasing employment and improving economic growth in rural America.

I am particularly supportive of provisions which allow enhanced lending authority for the Rural Electrification Administration to provide state-of-the-art telecommunications technology for rural schools, hospitals, and small businesses.

For hospitals, this telecommunications initiative will link rural hospitals to teaching hospitals, advanced medical centers, or specialists. The result will be to improve medical information transmission, speedup diagnostic analyses, and improve the quality of available medical data, all of which will lead to generally improved care. In my State of Tennessee, dozens of rural hospitals have closed or are in danger of closing, and many rural residents are forced to travel far distances for specialized care. This provision is an important step toward closing the gap between urban and rural health care.

I want to commend the distinguished chairman of the Agriculture Committee for his leadership on this issue. His hard work will not be forgotten.

I would also like to applaud my good friend and colleague, the senior senator from Alabama, who chairs the Rural Development Subcommittee. He and I have worked together on an amendment that gives S. 1036 even greater leverage in our region. The amendment draws upon the expertise of the Tennessee Valley Authority, which over the years has offered some of the most successful rural development programs in the country.

The TVA amendment creates a National Rural Development Center at TVA to take advantage of existing rural development activities. Many TVA programs are models that can be replicated throughout the country. For example, TVA is conducting some of the Nation's most innovative experiments with education, literacy, and skills training in rural areas. I am pleased that my colleagues joined me in supporting this amendment

In drafting this important legislation, Chairman LEAHY and members of the Agriculture Committee have succeeded in balancing the desperate economic plight of rural America with the continuing importance of preserving the richness of rural life. I commend them for their efforts.

Additionally, Mr. President, I am pleased to have supported the measures contained in the disaster relief provisions of this bill.

I congratulate my distinguished colleague from Vermont for leading the committee to produce this much needed relief for our farmers. I am very aware of the devastation of wheat and other crops across the Midwestern States due to drought conditions. At the same time, our farmers in Tennessee and the Southeast have been suffering from too much rain. In Tennessee alone, we have tens of thousand of acres that have gone unplanted, uncultivated, and unharvested because of wet conditions.

I know the committee considered providing relief only for farmers suffering from drought. Later the committee considered providing relief only for program crops. I joined with my distinguished colleague and friend, the senior Senator from Tennessee, to strongly urge the committee to provide relief in a consistent and fair manner to all farmers and for all disaster conditions. I am pleased with this legislation, Mr. President, for I feel it provides such equitable treatment.

Mr. President, there is one other item I would like to touch on. Recently, I was approached by a man who was bitter about the Federal Government's spending money on farm programs. I explained to him that the benefit of any money spent on farm programs is realized as much or more in the general economy as by the farmer. Because we have maintained a diversified system of food production in America, we spend a smaller percentage of our income on food than any other country. Our farm programs contribute to this, by giving farmers a price floor for their commodities, and though bills such as this one that help farmers survive when natural disasters strike. Without legislation such as this relief bill we would surely experience a rapid consolidation in the food production sector, risking substantial inflation caused by rising food prices.

The average farmer is not getting rich out there, Mr. President. Over the past 10 years, the price farmers have received for their corp have essentially remained steady, while their taxes and input costs have risen. It is plainly obvious that the 1980's have not been prosperous for the average farmer; nor will a bill of this type make the average farmer rich. Any farmer who is benefited by this bill will have already lost money on this year's crop. The money provided by this bill will simply allow him or her to stay in business one more year; and when that farmer stays in business, rural economies remain intact and all of us enjoy the benefits, financial and socioeconomic, of maintaining a diversified food production system. Truly, Mr. President, money spent in this bill will be an investment in our food industry that will benefit us many times over in the coming years.

In closing, Mr. President, rural Americans are a diverse lot with diverse needs—families living in some 14,000 towns and cities; farmers who depend on outside income to support their families; hundreds of thousands of people in mobile homes, clustered about highway intersections, or strewn along country roads; individuals living in company towns and fishing villages; and the owners of thousands of small businesses critical to the welfare of the Nation.

But when it comes right down to it, these people are only asking for one thing: The chance to shape their own destiny. Mr. President, this legislation gives them that chance.

Mr. BREAUX. Mr. President, I rise to commend the actions of the members of the Agriculture Committee who worked so hard to develop the disaster assistance and rural development bills that the Senate approved last night.

I will start by talking about the disaster assistance legislation. The chairman and members of the committee have overcome great differences to turn out a piece of legislation that treats all of our farmers with a degree of equity and fairness.

As I stated in testimony before the committee on July 13, Louisiana has seen more rain in the last couple of months than we usually see in most years. On May 20, President Bush issued a major disaster declaration for 26 of Louisiana's parishes as the result of severe storms and flooding that occurred on May 5.

Not much later, during the last week of June, Louisiana was again the victim of severe rain and flooding as the result of tropical storm Allison. Since that time, every parish in the State, save one, has either been declared a disaster area by the President or is contiguous to a declared disaster area. That means that 63 of the 64 Louisiana parishes are eligible for Federal Emergency Management Agency [FEMA] assistance. Flooding that resulted from this storm devastated parts of the State for weeks and prevented farmers from replanting crops to replace those lost during the May flooding.

The estimates upon which the President's disaster declarations were based tell us that about 40 inches of rain fell in some parts of the State during the first 3 weeks of June. Affected were 1.2 million acres of soybean; 263,000 acres of cotton; 334,703 of rice; and similarly large areas of sugarcane, wheat, and pastureland. The Louisiana Agricultural Stabilization and Conservation Service has estimated that 2.1 million commodity acres were lost or damaged, solely as the result of June flooding.

What the committee has done is bring us a bill that will extend well-deserved assistance to all kinds of farmers who have had losses, regardless of their geographic location or the specific kind of crop that they grow. Losses due to bad weather are losses plain and simple. Whether that loss is due to drought conditions or flood conditions is irrelevant. The important thing is that we are fair and that we make assistance available to all farmers on an equal basis.

Mr. President, I am not completely happy with the differences in loss requirements and payment levels that exist between different kinds of crops in the proposed agreement. I would prefer to see all crops treated equally. At the same time I recognize the urgent need to get this legislation finished and the kind of time pressure that the committee faced. I commend all of the members who have worked on this issue for their reasonable approach and their willingness to be flexible.

Mr. President I would now like to turn to the subject of the rural development bill. When I addressed the full Senate on this subject on June 23, I noted that economic conditions and the availability of community services in rural areas were lagging seriously behind those of urban areas. While we are being told that it is the best of times in urban America where we have supposedly had one of the longest sustained periods of economic growth in our Nation's history, we have watched our rural areas decay. We have halved Federal support for rural communities and watched unemployment and poverty rates climb.

My home State of Louisiana, which has long depended heavily on oil and agriculture, is suffering greatly because we have not made sufficient efforts in the past to diversify our economy. We are changing that now and have had some notable successes. I strongly believe that we need to pursue this route on a national level.

The Rural Partnerships Act is a good start. It sets up a revolving loan fund that will assist small businesses as they try to get started. It is tough for businesses in rural areas to get the small loans they need. Through a partnership between State and local governments, private banking interests, and the Federal Government we can begin to help with these needs.

The economic conditions that exist in rural areas have led to massive erosion in local tax bases and the resources that communities need in order to keeep their infrastructure in good shape. Even more difficult for small communities is the burden of improving certain services to comply with Federal environmental mandates. The legislation that the chairman of the Agriculture Committee has fought so hard for and which we approved last night will help these communities by making assistance available to com-

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munities who are trying to upgrade their water and sewer needs.

Again, Mr. President, I would like to commend the Agriculture Committee and their chairman for the good work they have done on both the rural development legislation and the disaster assistance bill. The Rural Partnerships Act is the final product of work started 2 years ago when I was on the Agriculture Committee and has been close to the chairman's heart. Disaster assistance was a controversial issue and the agreement that we have reached is commendable. Thank you, Mr. President, I yield the floor.

Mr. BENTSEN. Mr. President, I am pleased that we have finally been able to pass a comprehensive disaster bill. I commend the members of the Senate Agriculture Committee, led by the distinguished chairman of the committee, Senator LEAHY, for their efforts in bringing the bill so far in the face of great difficulties.

Mr. President, I strongly support passage of legislation to provide assistance for all producers who have suffered losses to natural disasters. I have worked for that for many months. It is a needed response to the weather-induced tragedies that were played out on farms all across America's heartland last year, and are unfortunately continuing even as we speak.

I regret that this bill will not provide as much assistance as was given last year. That could not be done for budget reasons. The budget ceilings ratchet down tighter every year, and the bill has to be done within the budget numbers given to us by the administration. There were strong disagreements between proponents of the various commodity groups that had to be worked out by the Agriculture Committee as well.

But, however, imperfect, we finally got a bill passed. And we need disaster assistance desperately out in the countryside. The bill will provide vitally needed help to farmers all across my home State of Texas and all across this Nation. I was born and raised on a farm, and my family still farms, when the weather will let us. I know what it is like to watch a crop wither and die day by day.

When a farmer puts a seed in the ground it is an act of hope and trust. There is a substantial financial investment in that crop, but more than money goes into the ground. Every farmer puts a little piece of himself into that crop. If that crop is lost, the farmer loses more than just money. But hope springs eternal, and the farmer will plant again next year, if his banker will let him.

Last year this Nation's heartland was gripped by a widespread and severe drought. Some parts of Texas were affected as well, although some areas of Texas that are traditionally thought of as prone to violent weather made excellent crops. I joined with a number of other Senators in cosponsoring legislation to extend disaster assistance to these hard-hit farmers. That legislation was enacted into law.

Since then the severe weather patterns of last year have continued. The winter wheat crop from the Texas Panhandle north has been devastated by a continuation of the same drought that led to the passage of disaster assistance legislation last year. Crops and livestock ranges in south Texas have been devastated by drought as well. The central Texas wheat crop looked excellent until April 11, when a late hard freeze destroyed the crop. In the panhandle this spring some areas are too dry to plant, in some areas the crops are washed out and it is too wet and too late to replant, and other farmers have been hailed out as many as three times.

Last year the weather damage was so extensive that there was a substantial decrease in the cost of our farm programs. Last year's disaster assistance legislation was funded by simply using part of those moneys which had already been budgeted for farm price supports.

A similar situation exists this year. Farmers are suffering severe losses. And these are not just the everyday losses which some farmers suffer in any crop year, even a good one. These are massive losses.

Again this year the Federal budget includes funds for deficiency payments that farmers were counting on. Now many farmers may have no crops and no deficiency payments, since those go down as prices go up. I think that we should return a portion of those budget savings to farmers who suffer crop losses, just as we did last year. And there will be substantial savings in the farm programs this year.

I have joined in cosponsoring bills to use those savings, just as we did last year, to provide disaster assistance to farmers who have suffered crop losses.

I joined in introducing that legislation because I thought that the problems facing farmers this year were just as severe as those facing farmers last year. I thought it a simple matter of fairness that we respond in like kind to these needs—whether or not they occur during a Presidential election year.

We have overcome many hurdles, and there are many hurdles yet to be overcome. But we have made a lot of progress and we are very close to having a bill that can be signed into law. We came all the way from the original administration insistence that disaster assistance be provided only to winter wheat farmers who lost their crops to the drought. That would have left out the winter wheat producer who lost his crop to a freeze, or who had an irrigated crop that was destroyed by hail. It would have left out cotton or milo or corn producers who lost crops to drought or hail or whatever. It would have left out the rice farmers who were just hit by a hurricane in the middle of their harvest. My farmers in Texas could not see that distinction, and neither did their bankers.

We have overcome that so far. We have overcome attempts to pit wheat farmers against cotton farmers against feed grain producers. We have overcome attempts to pit farmers hit by drought against those hit by hail or a freeze.

I think that Congress and the administration will ultimately agree that the loss of a crop is equally devastating whether the farmer is in central Texas or the panhandle or Kansas or wherever. I also think that we will finally all agree that the cause of the loss, whether drought or freeze or hail or whatever, does not make the fact of the loss any better or worse, and all should be given fair and equal consideration.

I commend the members of the Senate Agriculture Committee for moving quickly to go to conference with the House on this bill, and I will work with them to send a comprehensive disaster bill to the President before the August recess.

Mr. EXON. Mr. President, passage of the agriculture disaster assistance bill is welcome news for my Nebraska farmers and ranchers. Its quick passage last night belies the difficulty with which it was negotiated and I must first express my sincere appreciation to the members of the committee who worked so hard to see it through. It looked for a time that this bill was going to be mired down by political bickering and I am glad to see we have put that behind us.

Farmers and ranchers in some areas have been hard hit by the drought. Early on this summer I visited several drought-stricken areas of Nebraska. Those visits brought home so clearly why action was needed.

I am particularly pleased that part of the drought bill agreement involves increased feed assistance for livestock producers. Increasing the feed allowance under the livestock feeding program is critical. I have urged the USDA to act on this as quickly as possible and hope they will do so.

I am also pleased this bill provides assistance for winter wheat producers. Wheat growers in Nebraska's southern tier of counties have been hard hit. While this bill will not bring back amber waves of grain or make them whole again, it does address the pain and suffering brought on by the drought.

Critics of drought legislation will always say that crop insurance should have covered these losses. As we all know, however, the crop insurance

safety net has gaping holes. Under our current system it does not begin to address the problem. This bill does and I thank my colleagues for working together to ensure its passage in the Senate.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991

Mr. SANFORD. Mr. President, when the Defense authorization bill was being considered, a colloquy between Senator BAUCUS, Senator CHAFEE, Senator HELMS, Senator NUNN, and myself was inadvertently left out of the RECORD.

I ask unanimous consent that it be put in at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The colloquy follows:

MARINE CORPS AIR STATION, CHERRY POINT, NC

● Mr. SANFORD. Mr. President, I want to express my strong concerns about a serious problem at the Cherry Point Marine Corps Air Station in my home State of North Carolina. At Cherry Point there is an important state-of-the-art electroplating facility, owned by the Department of the Navy, which has not been able to begin operation because it is still awaiting final approval under environmental laws. This $15 million facility will play a major role in addressing the aviation needs of the Marine Corps, as well as other branches of the armed services. It was completed last year. However, although wastes from the facility will undergo several stages of treatment which are expected to eliminate environmental problems, permission to operate under technical provisions of the Solid Waste Disposal Act has not yet been obtained. Further delay will result in significant costs and adverse national security impacts.

My understanding is that the waste effluent from the operation, even after undergoing pretreatment and treatment, may cause sludge in the station's federally owned wastewater treatment works to be considered hazardous even though concentrations of electroplating wastes would meet pretreatment standards. As a result, it would be illegal for the facility to discharge into the station's wastewater treatment works. If the domestic wastewater sludge were not considered hazardous waste, discharge to the treatment works would be acceptable. This is the most viable method of disposal at the Cherry Point Marine Corps Air Station.

Mr. President, I had prepared an amendment that would have addressed this problem by allowing the facility to operate under certain conditions. As my colleagues may know, the House has approved similar provisions, sponsored by Congressman WALTER JONES, as part of H.R. 1056. This legislation is now being considered by the Environment and Public Works Committee. However, I do not intend to offer my amendment at this time.

Mr. President, I believe this problem requires serious attention as soon as possible. I would like to ask the distinguished chairman of the Armed Services Committee, the Senator from Georgia, if he agrees that this situation ought to be resolved expeditiously.

Mr. NUNN. I am aware of this situation, and agree that the agencies in question should address the matter in a timely fashion. The Senator from North Carolina may be assured that the Armed Services Committee will be monitoring this situation with interest.

Mr. SANFORD. I thank the Senator for his attention to this important matter and am pleased to know of his interest. Since the Senate Environment Committee will be considering this issue, I would now like to ask the distinguished Senator from Montana, the chairman of the Subcommittee on Environmental Protection, if he has suggestions to address this problem?

Mr. BAUCUS. Let me say to the distinguished Senator from North Carolina that I fully understand and sympathize with your concerns. I would note that section 3001(f) of the Resource Conservation and Recovery Act presently provides authority to exclude a waste generated at a particular facility from listing as a hazardous waste. I believe that this authority is a way to address the problems at Cherry Point Marine Air Station, and this option may merit further consideration.

I know of the Senator's concern for prompt action in resolving the issue and I share this concern. I urge the Secretary of the Navy and the Administrator of the Environmental Protection Agency to consider using the delisting authority and other statutory options and work together to solve this problem as quickly as possible.

Mr. SANFORD. I want to join the Senator in urging the Secretary of the Navy and the EPA Administrator to act on this issue as soon as possible. My friend and colleague from North Carolina, Senator HELMS, has also been working diligently on this matter, and I would like to ask the distinguished Senator for his views regarding the steps that must be taken regarding the facility.

Mr. HELMS. Mr. President, the junior Senator from North Carolina and I have been working to find an acceptable solution to a difficult problem.

The problem is that the EPA is requiring the Navy to meet RCRA standards as a condition for opening a new electroplating facility. The EPA believes that the rinse water will create hazardous waste under RCRA. However, it is ironic that EPA grants RCRA exemptions to State and municipal wastewater treatment facilities, but no Navy-owned facilities.

I would have preferred to resolve this problem through an amendment. I understand the difficulties in working out an amendment on this bill. So for the time being, I agree that the EPA and the Navy should take prompt action to work out a solution to allow the facility to begin operation as soon as possible.

Mr. SANFORD. I thank the Senator and certainly agree with his remarks. May I ask the Senator from Montana whether he would be willing to work with us on a timely solution to this issue and would he be willing to consider further action on an appropriate vehicle before his subcommittee?

Mr. BAUCUS. I will be happy to do so.

Mr. SANFORD. Let me express my appreciation to my good friend from Montana for his willingness to assist with this situation. I would also like at this time to ask the distinguished ranking member of the Senate Environment Committee, the Senator from Rhode Island, for his views regarding this problem.

Mr. CHAFEE. The Senator from North Carolina has identified an unfortunate problem at the Marine Corps Air Station at Cherry Point, and I can appreciate his concern that an important military function cannot be carried out there unless the Navy and the EPA can arrive promptly at an agreement to allow the newly constructed electroplating plant to initiate operations.

As has been noted already in this discussion, the Resource Conservation and Recovery Act does provide a means for addressing this problem, so long as certain criteria are satisfied. Under the provisions of that act, the Secretary of the Navy can petition EPA to have the facility's waste excluded from the list of wastes considered hazardous for regulatory purposes. If EPA were to determine that the waste satisfies the RCRA delisting criteria, EPA could grant the petition and the problem that is preventing operations at the plant would be eliminated. I hope that the Navy and the EPA will work to determine if this delisting approach is a viable option, and will work diligently to find any other administrative procedures, including expedited permitting under RCRA, which could settle this issue as well.

However, as I am sure we all appreciate, the mere availability of an administrative procedure for resolving the Cherry Point problem does not end this matter. The real concern here, it seems to me, is the speed with which

the cure provided by RCRA, or any other cure, can be accomplished.

Accordingly, I want to join with my colleague on the Environment and Public Works Committee, Senator BAUCUS, in offering assistance to the Senators from North Carolina in resolving this problem, and doing so promptly. I, too, would urge the Secretary of the Navy and the EPA to try to work out a solution, whether through a delisting petition or otherwise, as soon as feasible. Given the serious nature of this problem, I would hope that EPA and the Navy could arrive at a reasoned solution within a very few months.

Mr. SANFORD. I thank my good friend from Rhode Island.

Mr. HELMS. I also appreciate the words of the distinguished ranking member of the Environment Committee, Senator CHAFEE. The Senator has noted that time is of the essence here, and I strongly agree.

Mr. SANFORD. My colleague from North Carolina is correct. We can not afford to let this facility stand idle if operation would not pose hazards. I would inquire of the Senator from Rhode Island whether he would be wiling to work with us to ensure that prompt resolution is, in fact, achieved?

Mr. CHAFEE. I would also be happy to do so. I would hope that the Environment and Public Works Committee would focus its attention on this and other environmental compliance problems at Federal facilities in the very near future. For my part, I intend to press for prompt consideration of these matters in the committee.

Mr. SANFORD. I thank the Senator for his willingness to help in that regard.

Mr. HELMS. I thank the Senator from Rhode Island and the Senator from Montana for their attention to this situation.●

MORNING BUSINESS RELATING TO CLEAN AIR LEGISLATION

The PRESIDENT pro tempore. Under the previous order, the hour of 10:30 a.m. having arrived, there will now be a special order allotting 30 minutes to the control of Mr. CHAFEE, the junior Senator from Rhode Island, for the purposes of introducing legislation.

Mr. CHAFEE. Mr. President, I yield 2 minutes to the distinguished Senator from Mississippi and 4 minutes from my time, following the Senator from Mississippi, to the distinguished Senator from Missouri.

The PRESIDENT pro tempore. The Senator from Mississippi is recognized for 2 minutes.

Mr. COCHRAN. Mr. President, it was with great pleasure that we witnessed the passage of the Disaster Assistance Act by the Senate. It was a very important step for this body to take in view of the widespread devastation that has occurred, not only in the Great Plains area, where winter wheat and other crops were damaged by drought, but also it was so important to include provisions for benefits for those who suffered from widespread flooding and excessive rain.

We had estimates from our State of as much as $400 million in damages that would be sustained this year by commodity producers in Mississippi. Throughout the Southeast there are similar stories of devastation because of excessive rain.

This legislation, while it is not going to fully compensate farmers for all of the losses that have been sustained, is a very sensitive and important disaster relief bill. It will provide many dollars in benefits to those who have suffered so severely.

I commend the distinguished Senators from Vermont and Indiana, Mr. LEAHY and Mr. LUGAR, the chairman and ranking Republican member of the committee, for working so hard with all the members of the committee to put this package together.

Also, the leadership of Senator DOLE, who was especially helpful in getting this package approved.

I thank the Senator from Rhode Island for yielding me this time.

The PRESIDENT pro tempore. The junior Senator from Missouri [Mr. BOND] is recognized for 4 minutes.

Mr. BOND. Mr. President, I thank the Chair. I thank my good friend, the distinguished Senator from Rhode Island for the time.

I ask unanimous consent that I may speak out of order.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BOND. Mr. President, it is with great relief that I make this statement in support of the compromise disaster relief package. The last couple of weeks have been uncharacteristic of the Agriculture Committee—over history, partisan politics have been checked at the door. Agricultural issues are never easy, but somehow we are usually able to draft legislation which is responsible, fiscally sound, and has strong bipartisan support.

Passage of this bill is not a victory for one side or the other; it is a victory for the American farmer, the American consumer, the American taxpayer.

While the committee's differences on disaster legislation have been widely reported, I maintain that our differences were never that great. The bill we have agreed to support is not a substitute for perfect growing conditions. While many areas of the country have been hit hard by some kind of natural disaster, whether it be drought, flood, or freeze, this bill provides equitable, yet limited assistance.

My home State of Missouri has been spared many of the problems of the South or Great Plains. However, nonexistent subsoil moisture now holds much of the State hostage.

As we began to draft this disaster bill, what now seems like months ago, I had several goals in mind:

First. Soybeans must be included.

Second. Program crops must be treated fairly.

Third. Existing livestock feed programs should be revised to better reflect feed requirements and feed onhand calculations.

Fourth. The Emergency Conservation Program needed to be expanded to include small to moderately sized confinement operations.

Fifth. Extending an existing provision which allows producers to plant up to 20 percent of several industrial crops without a corresponding reduction in their crop acreage base.

Sixth. Finally, the final bill must comply with the budgetary guidelines set by the President. Here I might add that the administration showed some flexibility by increasing our spending cap to $900 million.

I am pleased to report that this bill, and appropriate administrative actions, will meet all of these goals.

Let me mention one other important item. It is imperative that we move quickly—I remain hopeful that we can have this bill out of conference by tomorrow and to the President shortly thereafter.

Mr. President, this bill is modest compared to either the bill passed last year, or the bill passed recently by the House. While we cover losses on program and nonprogram crops, and program nonparticipants, most of the loss thresholds have been increased and the payment rates for catastrophic losses have been eliminated. These changes were difficult, but it became clear they were necessary in order to meet the fiscal constraints imposed on us.

In closing, let me say that passage of this bill does not, in any way, reduce our commitment to improve the Federal Crop Insurance Program. I believe strongly that we cannot continue to have a subsidized Crop Insurance Program and annual disaster bills—it must be one or the other—not both. I look forward to working with members of the Agriculture Committee as we work to improve the Crop Insurance Program.

Mr. President, I commend the leaders of the Agriculture Committee, and the distinguished minority leader, for their diligence in arriving at this compromise. I also thank Secretary Yeutter, Deputy Undersecretary Campbell, and the Agriculture Committee staff for their assistance.

The past couple of weeks have been stormy—but I believe we can all be pleased with the outcome. As an old sage once said, "A smooth sail does not make a brilliant sailor."

As I travel home next week, I will do so knowing that Missouri farmers and ranchers would approve of this compromise package. Missouri farmers never expected a government bailout, they simply want a safety net so they can weather the storm.

In closing, I am pleased to support this legislation and wish my colleagues good luck in conference.

Mr. GRASSLEY. Mr. President, I rise today with a great sense of relief. A sense of relief that is shared not only by my colleagues, but more importantly, the agriculture producers in my State who are still uncertain of this year's crop.

Some of my colleagues may recall that I took the floor of the Senate 1 month ago to urge that we work quickly on a comprehensive extension of last year's Disaster Assistance Act. I recognized clearly the restraints we faced as far as available funds, but farmers around the country needed a promise of relief—especially since none seemed to be coming in the form of precipitation.

Last year there was very little question as to whether or not we should have a drought bill. Commodity price increases related to last year's drought saved the Department of Agriculture $8 to $9 billion in expected farm program payments. From that savings, the House, the Senate, and the administration crafted a bill last year that provided roughly $4 billion to producers in the form of disaster relief.

This year, the debate has not been so easy. Unlike last year, the extent of the crop loss and the expected savings is not as clear. The fact that we have fewer dollars has been compounded by those who insisted on stretching these fewer dollars over a wider selection of crops and disasters.

For this reason, I want to extend my thanks to Senator DOLE, Senator LEAHY, and Senator LUGAR for their persistent efforts to reach a compromise.

Although it may not have come as easily this year, the passage of the Disaster Assistance Act of 1989 does prove that we can work in a bipartisan fashion to provide relief when it is necessary.

I know there are a number of schedule conflicts with the Senate's conferees on this bill, but I would like to urge that the work of the conference proceed with great haste.

The Senate worked hard to obtain a delicate compromise among the Senators. I hoped the Senate's Members on the conference can convince our House colleagues of the wisdom of maintaining this compromise.

In some parts of the country, producers are wondering if they will receive relief funds which will help them put in next year's crop. We cannot keep these individuals waiting another month while Congress returns home for the August recess.

DISASTER ASSISTANCE

Mr. BURNS. Mr. President, I rise today to commend the chairman, Senator LEAHY, and the ranking Republican leader, Senator LUGAR, of the Agriculture Committee for their leadership in writing, and then passing both the agriculture disaster relief measure, and a rural development act, through the Senate last night.

Both are timely and needed measures. Winter wheat growers in my State of Montana suffered almost complete losses as a result of extremely cold temperatures last winter. In addition, cherry growers in the western part of the State suffered not only the complete loss of a crop but the death of the cherry trees themselves. The cherry growers of my State face a complete loss of income for between 5 and 10 years until new seedlings can become productive.

I am pleased that the cost of the drought bill falls within the limits of those funds not spent for crops this fiscal year. This is not new money but money already allocated to agriculture.

There are important provisions in the drought measure to provide relief for livestock assistance. The bill provides stored feed grain for livestock feed and contains language to provide water for livestock.

The rural development bill is also a much needed measure. Prosperity in this country is, for the most part, confined to both coasts. More attention needs to be devoted to the heartland of this country. Mr. President, I believe that this measure begins to give rural America the attention to which it is due.

Mr. President, I am hopeful that the House will recede to the Senate on these important measures and that these bills can be quickly sent to the President for his signature.

I yield the floor.

The PRESIDENT pro tempore. The junior Senator from Rhode Island, [Mr. CHAFEE] is recognized.

Mr. CHAFEE. Mr. President, today I am very pleased to introduce comprehensive clean air legislation submitted by the President to the Congress.

Mr. President, in President Bush we have a Chief Executive who recognizes the need for a major overhaul in the Clean Air Act. He has done an excellent job in this legislation which we are introducing today.

His Clean Air Act Amendments of 1989 is indeed a comprehensive bill. What does it do? It mandates 9 million tons of sulfur dioxide reduction by the year 2000.

When you recognize that reduction of a million tons are already taking place, the President's bill means that sulfur dioxide emissions will be reduced by 10 million tons by the end of the century. This is an extraordinary proposal. Coupled with the legislation that the Senate Environment Committee will introduce, it virtually guarantees that the acid rain problem will be addressed in this Congress. Not necessarily this calendar year, but in this Congress, which terminates at the end of 1990.

The President's legislation requires new controls and strategies in areas that exceed the health standards for ozone and carbon monoxide. The President's legislation proposes a new and more efficient program to regulate toxic air pollutants. It establishes a new permit program, along the lines of the program that has worked so well in the Clean Water Act, and it greatly improves the enforcement provisions of the Clean Air Act as it now exists to ensure that those who fail to comply with the law are sanctioned.

Now, Mr. President, obviously in legislation as complex and as far reaching as this, there are bound to be critics. No one is going to like everything in this bill. But I do regret, Mr. President, that instead of President Bush being commended for his initiative, vocal critics have chosen in wild language to characterize this bill as a retreat from existing law and reminiscent of the days of James Watt.

This is astonishing language and totally inaccurate. I might describe what the President has done, in football terms, as this: the President has taken possession of a kickoff deep in his own end zone and he has brought it 70 yards down the field into scoring position.

Instead of being applauded for this extraordinary achievement, he is chastised for not making the remaining 30 yards.

Strident critics minimize the major advances in the bill. As I have mentioned, they minimize the 9-million-ton reduction is SO_2 emissions while emphasizing that it has not reduced the oxides of nitrogen as far as the critics would like. The critics point out a provision that defers for 3 years a new emission standard for diesel buses, but they do not mention the requirement that within 3 years, every new bus in major urban areas must be propelled by alternative fuels that are cleaner than diesel fuel.

These critics do an injustice to the President's contribution to the process of getting a new clear air law.

I would like to remind my colleagues that the introduction of the President's bill is not the end of the process, but it is a major advance in a long march.

The Environment and Public Works Committee has already introduced its own toxic air pollution bill; it is about to introduce nonattainment legisla-

tion, and acid rain, will follow. I expect that significant portions of the President's legislation will be incorporated into the Environment and Public Works Committee bill.

In our hearings, we will solicit comments on the 279 pages of the President's package. That is what it is—279 pages. A weighty measure, I might say. Those of us in Congress have only begun to digest it.

The President's initiative, in my view, is the single most important step toward enacting much-needed amendments to the Clean Air Act, but as I say, the journey is not over. Some of the provisions we will work to improve. Let me mention three: Certain measures relating to motor vehicles; to the ozone nonattainment areas, and to toxic air pollutants.

First, I think we have to go further than the President's bill in reducing emissions from motor vehicles. I think we need to require more than the administration does, both of vehicle manufacturers and of transportation planners and providers.

Manufacturers must be required to build emission controls that function throughout the life of the vehicle. Current levels of emissions from tailpipes, I believe, must be further reduced. Vehicles should, at a minimum, have to do as well nationwide as they are about to be required to do in the State of California. Provisions in current law requiring each and every car to meet emissions standards, I think, should be retained.

No matter how good vehicle emission control systems are, continued growth in the use of vehicles will wipe out emissions reductions achieved by improved technology. Here is our problem. We tighten up on the emissions from vehicles. That is fine, but the trouble is at the same time we are doing that, more and more vehicles are coming on the road and more and more vehicles are being driven more and more miles. So the result is what we achieve by reducing the emissions from each vehicle is overcome by the fact that we have more vehicles traveling more miles; thus, there is little net reduction in emissions in the United States in the short term and increases over the long term.

So what we have to do, Mr. President, is to have innovative policies to encourage the use of public transit and carpools and other alternatives to the growing vehicle use that we are witnessing, as I previously mentioned.

The President's bill promises very substantial reductions in emissions of what are known as volatile organic compounds, VOC's. We are doing this in order to bring the ozone nonattainment areas, those areas of the country that do not meet ozone health standards into compliance with the standards.

A final bill must provide assurances that these reductions that are promised will be achieved, and this will mean, I believe, adding to the President's legislation appropriate deadlines and standards for EPA actions.

For example, deadlines and emission reduction targets should be added to the provision that authorizes EPA to issue regulations to reduce VOC's, volatile organic compounds, from commercial and consumer products.

To help assure that State and local officials make tough decisions about these controls, at least some of the sanctions that, in the President's bill, are discretionary, I believe, should be made mandatory. For example, new legislation should continue to limit use of Federal highway funds to air quality-related or safety projects in those areas that fail to meet or to carry out a proper implementation plan.

Mr. President, while many in Congress do not agree with everything that is in the President's bill, I think we all should congratulate the President for following through on his promises to submit comprehensive clean air legislation. His proposal takes us a long way toward the goal we are seeking to reach; that is, enacting tough new air pollution controls before the end of this Congress.

Finally, Mr. President, I will mention that I am concerned over what I perceive to be political partisanship around this issue. This disturbs me. As far as I can recall, environmentalism is not a Republican or a Democratic issue. The Environment and Public Works Committee, on which I have had the privilege of serving for 13 years, has always taken a bipartisan approach to legislation to protect our environment.

I hope in the weeks and months ahead no Member in either party will seek to exploit the Clean Air Act for political purposes. We have enough problems in getting this legislation through, not only in the Senate but in the conference with the House. It is a complex and demanding challenge. If partisan politics overshadows the merits of the issue, then I fear we are going to lose the best opportunity we have had in many years to renew and strengthen this important environmental law.

Mr. President, I ask unanimous consent that a section-by-section analysis of the Clear Air Act Amendments of 1989 be printed in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF THE "CLEAN AIR ACT AMENDMENTS OF 1989"

TITLE I—PROVISIONS FOR ATTAINMENT AND MAINTENANCE OF AMBIENT AIR QUALITY STANDARDS

Section 101. General Planning Requirements

Section 101(a)(1)

Section 101 of the bill substantially amends section 110 of the CAA. Section 101(a)(1) of the bill replaces current CAA sections 110(a)(1) through 110(a)(3)(A) with new CAA sections 110(a)-(h). Section 110 is overhauled to set out a scheme, generally in chronological order, for State and EPA action following promulgation of new or revised national ambient air quality standards ("NAAQS"), which includes designating areas attainment, nonattainment, or unclassifiable.

CAA Section 110(a)—Initial Plan Elements

After promulgating a new or revised NAAQS, EPA may require any State to submit an initial plan or plan revision that meets any of the requirements of subsection 110(d) (discussed below). These requirements include authority to gather information concerning air quality, which would facilitate the designation process under subsection 110(b) (discussed below).

CAA Section 110(b)—Designations

This subsection sets out the provisions concerning designations, replacing the current CAA section 107(d).

Paragraph (1)—Designations Generally: After EPA promulgates a new or revised NAAQS, each State is required to designate each area within the State as nonattainment, attainment, or unclassifiable (i.e., inadequate information to determine whether attainment or nonattainment) for the new or revised NAAQS. At any other time, a State may designate any area of the State as nonattainment, attainment, or unclassifiable for any standard.

The State must submit the designations to EPA, which must promulgate them, making any modifications that EPA deems appropriate. If EPA intends to make a modification, it must so inform the State prior to promulgating the designation, to give the State an opportunity to respond.

After promulgating a new or revised NAAQS, EPA must promulgate the designations for all areas of the country as expeditiously as practicable, and no later than two years after the promulgation, except that a one-year extension is available if EPA has insufficient information to make the designation.

Areas the EPA has designated under the current CAA section 107(d) retain their current designation.

Paragraph (2)—Procedure: To promulgate a designation or redesignation, EPA must publish a notice in the Federal Register. In the case of initial designations (including initial ozone, carbon, monoxide, and PM-10 designations required under the bill), this notice is not subject to notice and comment, but remains subject to judicial review.

Paragraph (3)—Redesignation: At any time, EPA may notify a State that a redesignation of any area may be necessary. The State must submit any redesignation that it considers necessary within 120 days. EPA must finalize the redesignation within another 120 days, making any appropriate modifications, after first giving the State an opportunity to respond to those modifications.

A State may, on its own motion, redesignate an area and submit the redesignation to EPA. EPA must then approve or deny the redesignation. The mere submission of a redesignation by the State, however, has no effect on the SIP requirements for the area.

EPA can redesignate a nonattainment area to attainment only if (i) the area has attained the NAAQS; (ii) the area has a fully approved plan; (iii) EPA determines that the improvement in the air quality is due to permanent and enforceable reductions in emissions due to implementation of the plan (and federal controls) and other permanent reductions; (iv) the State has submitted, and EPA has approved, a maintenance plan for the area; and (v) the area has met all applicable requirements resulting from any "SIP call" (as described below) (including any SIP call issued under new section 110(e)(4)) to address the area's contribution to air pollution problems in an interstate transport region under section 176).

EPA may not redesignate any nonattainment area as unclassifiable.

Paragraph (4)—New Designations for Ozone, Carbon Monoxide ("CO"), and Particulate Matter ("PM-10"):

Within 120 days of the enactment of the bill, each State must designate, affirm or reaffirm the designation of, or redesignated all areas with respect to ozone and carbon monoxide. Each State must submit the designations or redesignations to EPA, which must promulgate them within another 120 days. EPA may modify the State's designations or redesignations, after first giving the State an opportunity to respond to any modifications the EPA intends to make.

The bill provides specific requirements for PM-10 designations: areas identified at 52 *Federal Register* 29383 (Aug. 7, 1987) as Group I areas (except as modified by EPA prior to the enactment of this bill), and all areas that measured exceedance of the PM-10 NAAQS, are designated nonattainment by operation of law. All other areas are designated unclassifiable for PM-10 until redesignation.

The particulate matter designations made previously by EPA under the particulate matter standards measured in terms of "total suspended particulates" (EPA replaced these standards with the new PM-10 standards in 1987) will remain in effect for a period of time in order to implement the particulate matter prevention of significant deterioration (PSD) "increments" (measured in terms of total suspended particulates) under section 163(d), which is discussed below. These designations will remain in place until EPA determines that they are no longer necessary for that purpose.

Paragraph (5)—Designations for Lead: EPA is authorized, at any time, to require a State to designate any area with respect to lead.

CAA Section 110(c)—Maintenance Plans

This subsection provides that EPA may, but is not obligated to, require any areas designated attainment or unclassifiable to submit a "maintenance SIP" to assure that the standard is not violated for the period EPA determines appropriate. At any time (before or after the expiration of the period covered by the initial maintenance plan), EPA may require a subsequent maintenance plan or plans for additional periods. As determined appropriate by EPA, these maintenance plans may include any of the provisions, including emissions inventories, that are described under subsection 110(d), below. States must submit the required maintenance plans according to reasonable schedules prescribed by EPA.

CAA Section 110(d)—Requirements for All Implementation Plan Submittals

This subsection contains the basic requirements that SIPs must meet, most of which parallel existing section 110(a)(2). First, all SIPs, or SIP revisions must be adopted by the State after reasonable notice and public hearing. Beyond that, the requirements listed in the paragraphs of this subsection (i) apply in whole or in part, as determined by EPA, to initial SIPs required by EPA after promulgating a new or revised NAAQS (as described above under subsection 110(a)) and to maintainance SIPs (as described above under subsection (c)); and (ii) apply in whole to SIPs required for nonattainment areas (as described below under Part D).

The following lists the requirements for SIPs found in the paragraphs of subsection 110(d):

Paragraph (1): The SIP must include enforceable emission limitations, other measures (including economic incentives such as fees or auctions), and schedules and timetables for compliance that are necessary or appropriate to meet the applicable Clean Air Act requirements.

Paragraph (2): The SIP must provide for the establishment and operation of appropriate devices or systems to develop air quality data and for making the data available to EPA.

Paragraph (3): The SIP must provide for the enforcement of the emission limitations and other measures, and regulate stationary sources (including permit programs for attainment and nonattainment areas) as necessary to achieve to NAAQS.

Paragraph (4): The SIP must prohibit any source or other emissions activity from emitting air pollutants that will contribute significantly to nonattainment in another State, or interfere with any other State's program for the prevention of significant deterioration in air quality or the protection of visibility; it also must ensure compliance with interstate and international pollution requirements of the Act.

Paragraph (5): The SIP must provide assurance that the State (or local or regional authority, if designated as the air pollution control agency) has adequate personnel, funding, and authority to carry out the SIP (including a statement from the attorney for the State, local, or regional authority that the State or local laws provide adequate authority); assure that the State complies with Clean Air Act requirements concerning conflicts of interest for members of State boards that approve permits or enforcement orders; and assure that if the State has delegated to a local or regional agency authority to implement the SIP, the State has retained ultimate responsibility for implementation.

Paragraph (6): The SIP must require (i) stationary sources, in accordance with EPA's prescription, to take necessary steps to monitor emissions, and (ii) the State to submit periodic reports concerning such emissions as well as to correlate such reports with emissions requirements. The SIP must also require the State to submit reports on other emissions-related data, in accordance with EPA prescription.

Paragraph (7): The SIP must provide authority, including contingency plans, to restrict emissions of air pollutants that present an imminent and substantial danger.

Paragraph (8): The SIP must provide for revision of the plan as may be necessary to take account of revisions in the NAAQS or improved methods to attain the NAAQS, and to respond to findings by EPA that the plan is substantially inadequate to attain the NAAQS (a "SIP call"). However, the current provision that revisions to the plan are not necessary with respect to exemptions specified under section 110(j)(2) (formerly section 110(a)(3)(C)) (e.g., federal facilities and temporary energy of economic authority) is continued.

Paragraph (9): The SIP must meet the requirements of the nonattainment provisions of the Act (part D), if the area is designated nonattainment.

Paragraph (10): The SIP must meet the requirements, to the extent applicable, of the consultation provisions (section 121), the public notification provisions (section 127), and the provisions related to prevention of significant deterioration in air quality and visibility (part C), of the Act.

Paragraph (11): The SIP must provide for air quality modeling as EPA may prescribe, and submission of such data from such modeling to EPA, upon request.

Paragraph (12): The SIP must include provisions to require stationary sources to pay permit fees to cover the costs of reviewing, acting on, and implementing the permit (except for court costs or the costs of enforcement action), except that those provisions may be superseded by the expanded permit fees requirement under section 402(b)(3) of new Title IV of the Act (concerning permits).

CAA Section 110(e)—EPA Action on Plan Submissions

This subsection contains the requirements for EPA action on SIP submissions, including timetables and the types of actions EPA is authorized to take.

Paragraph (1)—Completeness of Plan Submissions: EPA is required to promulgate minimum criteria for completeness that all plan submissions (except initial SIP elements submitted after promulgation of a new or revised NAAQS) must meet before EPA is obliged to approve or disapprove them. Within 60 days of EPA's receipt of a submission (but no later than 6 months after the date the SIP was due), EPA must determine whether the submission meets those minimum criteria. If EPA determines that the submission does not meet the minimum criteria for completeness, the State is treated as having failed to make the submission, and, in the case of submissions required by Part D (for nonattainment areas) or in response to EPA's SIP calls, EPA must follow the applicable provisions of sections 179 and 180 (concerning sanctions and Federal Implementation Plans).

Paragraph (2)—Deadline for Action: EPA must act on each complete submission within 12 months of its submission, and also act on submissions not subject to the completeness criteria within 12 months of submission.

Paragraph (3)—Full and Partial Approval and Disapproval:

This authorizes EPA to approve a submission in full, disapprove it in full, or approve it in part and disapprove it in part, depending on the extent to which it meets the requirements of the Act.

Paragraph (4)—Calls for Plan Revisions ("SIP calls"): This authorizes EPA to require a State to revise its plan whenever EPA finds that the plan is substantially inadequate to attain or maintain the NAAQS

for any area, to mitigate interstate pollutant transport, or to otherwise comply with any requirement of the Act. EPA may establish a schedule for the State's submission of such a SIP revision. In addition, EPA may, in its discretion, subject the State to the same requirements that applied to the SIP for which EPA issued the finding, to establish appropriate deadlines.

Paragraph (5)—Corrections: This explicitly authorizes EPA on its own motion to correct any errors it may make in taking any action, such as issuing any designation or classification, or approving or disapproving any plan.

CAA Section 110(f)—Plan Revisions

This subsection requires EPA to approve a SIP revision if, but only if, the revision will not interfere with any requirement of the Act (including any reasonable further progress or attainment requirement).

CAA Section 110(g)—Sanctions and Federal Implementation Plans

EPA is authorized, but not obligated, to apply sanctions (the types of which are set out in section 179, described below) or promulgate a federal implementation plan if (i) the State has failed to submit one or more of the elements required for a nonattainment area; (ii) EPA disapproves such an element submitted by the State; (iii) the State has failed to make any other required submission (including a maintenance plan), or EPA has disapproved such other required submission; or (iv) any requirement of an approved plan is not being implemented. However, the highway sanction applies only with respect to (i) and (ii) above. EPA may apply a sanction or promulgate a federal implementation plan with respect to any portion of the State determined appropriate. FIPs are subject to further requirements under section 180.

CAA Section 110(h)—Savings Clauses

In making the transition from the requirements of the current Clean Air Act to the requirements of the Clean Air Act as amended by this bill, certain savings clauses, set out in this subsection 110(h), are appropriate:

Paragraph (1)—Plan Provisions under Existing Standards: Currently approved plan provisions remain in effect, until EPA approves a revision, If a State submits an original SIP for an area not designated nonattainment, to provide for attainment of a NAAQS in effect prior to these amendments (e.g., the lead NAAQS, for which there are no designations at all), that SIP must provide for attainment within 3 years of submittal of the SIP. If a State received a notification (under current section 110(a)(2)(H)(ii), prior to the enactment of these amendments), that its SIP for an area not designated nonattainment is substantially inadequate, then a SIP revision submitted in response to that finding must provide for attainment within 5 years of the finding of inadequacy.

Paragraph (2)—Retention of Construction Moratorium in Certain Areas: Any construction ban currently in place in any area (under section 110(a)(2)(I)) due to failure to submit a new source review permit program, or failure to submit an approvable SIP providing for attainment or maintenance of the sulfur oxides NAAQS by December 31, 1982, remains in place until EPA approves a plan correcting those deficiencies by meeting the requirements of new section 172(c)(5) and subpart 5 of Part D, as applicable.

Section 101(a)(2) Through (a)(11)

Numerous conforming, technical, clarifying, and other changes are made to other subsections of CAA Section 110. Current CAA Sections 110(a)(3)(B) through 110(j) are amended, revised, or repealed, as follows:

Current CAA section—	Is revised as follows—
110(a)(3)(B) (taking steps to reduce fuel burning).	Redesignated as 110(j)(1), with conforming changes.
110(a)(3)(C) (exemptions from SIP revision requirements).	Redesignated as 110(j)(2), with conforming changes.
110(a)(3)(D) (requirement that ozone and CO extension area plans meet basic transportation needs).	Repealed, because revised Part D adequately addresses transportation-related issues.
110(a)(4) (preconstruction review of the location of new sources).	Repealed, because unnecessary given requirements of Parts C and D.
110(a)(5) (indirect source review)	Redesignated as 110(k), with conforming changes.
110(a)(6) (supplemental or intermittent control system).	Redesignated as 110(l).
110(b) (extension of period for plan submission).	Repealed, because new schedule in section 110(e) is adequate for these purposes.
110(c)(1) (promulgation by EPA of federal implementation plan).	Repealed and replaced by new sections 110(g) and 180.
110(c)(2)(A) (study concerning certain transportation control measures).	Repealed as deadwood.
110(c)(2)(B) (parking surcharge regulations).	Redesignated as 110(m)(1), with conforming changes.
110(c)(2)(C) (suspension of regulations concerning parking supply).	Repealed as deadwood.
110(c)(2)(D) (definitions relating to transportation control measures).	Redesignated as 110(m)(2), with conforming changes.
110(c)(2)(E) (requirement for public hearing for certain provisions concerning transportation management).	Redesignated as 110(m)(3), with conforming changes.
110(c)(3) (delegation by EPA to local government of authority to implement federal plan).	Redesignated as 110(m)(4), with conforming changes.
110(c)(4) (temporary suspension of plan provisons concerning retrofits, gas rationing, and parking supply).	Repealed as deadwood.
110(c)(5) (bridge toll and related provisions).	Redesignated as 110(m)(5), with conforming changes.
110(d) (definition of applicable implementation plan).	Redefined as 110(m)(1), with conforming changes.
110(e) (two-year extension of time to attain the NAAQS).	Repealed because new attainment dates adequately address circumstances of the extension.
110(f) (national or regional emergencies).	Redesignated as 110(o).
110(g) (temporary emergency suspensions).	Redesignated as 110(p), with the reference to four-month period replaced by a reference to 12-month period.
110(h) (publication in the Federal Register of SIPs).	Redesignated as 110(q), periods extended from annually to five years after enactment of this bill, and every three years thereafter.
110(i) (limits on SIP revisions)	Redesignated as 110(r), with conforming changes.
110(j) (technological systems of continuous emission reduction).	Redesignated as 110(s).

Section 101(b)

This section of the bill amends Clean Air Act section 118, to explicitly waive immunity for federal facilities from permit fees charged by the States (or political subdivisions thereof) that meet the requirements of section 402(b)(3) of Title IV or that are reasonable service charges, as long as those fees or charges do not discriminate in favor of State and local facilities.

Section 101(c)

This section of the bill amends Clean Air Act section 123, concerning stack heights. The bill amends section 123 to clarify the definition of "dispersion technique" with respect to major sources and the use of merged stacks, and to prescribe the GEP ("good engineering practice") formulas as the proper means for establishing stack height credit for existing sources. The bill would also prescribe that a major source seeking to demonstrate a higher GEP stack height than formula height must meet the applicable new source performance standard limits. New sources would be excluded from coverage.

Section 102. General Provisions for Nonattainment Areas.

In general, this section of the bill amends Part D of the Clean Air Act to include 5 subparts that (i) provide general requirements for all nonattainment areas, (ii), specific requirements for ozone nonattainment areas, (iii) specific requirements for CO nonattainment areas, (iv) specific requirements for PM-10 nonattainment areas, and (v) specific requirements for sulfur oxides, nitrogen dioxide, and lead nonattainment areas.

Section 102(a)(1) Through (a)(2)

This section of the bill amends existing CAA section 171, regarding definitions, and redesignates the section as CAA section 170. The definition of "reasonable further progress" is revised to mean such annual incremental reductions as prescribed by the Clean Air Act or EPA. The definition of "nonattainment area" is revised to mean any area whose designation of nonattainment is promulgated by EPA.

Section 102(a)(3)

This section of the bill adds a new CAA Section 171—Applicability. The generally applicable provisions of part D, subpart 1 apply to all nonattainment areas, except as explicitly provided otherwise under other subparts relating to specific pollutants.

Section 102(b)

This section of the bill substantially amends existing CAA Section 172—Nonattainment Plan Provisions in General.

CAA Section 172(a)—Classifications and Attainment Dates

Paragraph (1)—Initial Classification: After promulgating designation of an area as nonattainment, either soon after promulgating a new or revised NAAQS or at any other time, EPA is authorized to classify nonattainment areas for purposes of imposing different attainment dates and different control requirements. In determining the classifications, EPA may consider the severity of the air quality problem, the feasibility of pollution control measures, and other factors. To announce the classifications, EPA must publish a notice in the Federal Register, which is not subject to notice and comment and is not subject to judicial review. However, EPA's classification may be challenged after EPA takes action on a SIP submittal or imposes sanctions.

Paragraph (2)—Attainment Dates for Nonattainment Areas: For primary NAAQS, a nonattainment area must reach attainment as expeditiously as practicable, but no later than five years from the date of designation to nonattainment. EPA may grant an extension of up to 20 years, depending on the security of the problem and the feasibility of control measures.

For secondary standards, the attainment date is a reasonable time after the date of designation.

The Administrator may grant up to two one-year extensions of the attainment date, upon request by the State, if the State complies with all plan requirements and no more than a minimal number of exceedances of the standard, as determined by EPA, has occurred.

CAA Section 172(b)—Schedule for Plan Submissions

When EPA promulgates designation of an area as nonattainment, it must set a schedule for plan submittal. At the latest, all elements of the plan other than the attainment demonstration must be submitted

within 3 years from the promulgation of the nonattainment designation.

CAA Section 172(c)—Nonattainment Plan Provisions

The nonattainment plan must include the following provisions (in addition to the provisions identified under section 100(d), which generally apply to all SIPs):

Paragraph (1): Reasonably available control measures (including reasonably available control technology ("RACT") on stationary sources), as EPA may require.

Paragraph (2): Requirements for reasonable further progress.

Paragraph (3): Emissions inventions, including periodic updates as may be required by EPA.

Paragraph (4): An identification of expected emissions from new sources and a demonstration that those emissions will be consistent with the projected progress towards atainment and ultimate attainment by the date required.

Paragraph (5): Requirements for permits for new sources, in accordance with CAA section 173 (below). Paragraph (6):

Paragraph (6): Emission limits and other measures necessary for attainment (including, at the State's choice, economic incentives such as fees or auctions).

CAA Section 172(d)—Plan Revisions Required in Response to Findings of Plan Inadequacy

If the State is required to submit a SIP revision because EPA has issued a finding that the SIP is substantially inadequate to provide for attainment or meet any other requirement of the Act, the SIP revision must correct any deficiencies identified by EPA, and meet all other applicable requirements of the Act. EPA is authorized to adjust otherwise applicable dates (for example, the dates the inventory and control measures are due) to the extent necessary to apply those requirements in a consistent fashion.

SECTION 102(c)

This section of the bill amends CAA section 173, concerning permit requirements.

Requirements for New Sources

The current Clean Air Act requirements for new and modified major stationary sources, including permits, are retained, revised, and expanded.

Permit Requirements

The requirement that new sources, under certain circumstances, obtain offsets for their emisisons is retained (although it is limited in the manner discussed below). EPA is given the authority to set the rules for determining the amount of offsets necessary—the "baseline"—(e.g., based on actual or allowable emissions) but this determination must be consistent with the assumptions used in the attainment demonstration. The bill also retains and expands the provision requiring States to analyze possible alternative sites in issuing new source permits.

Sources that emit 100 tons per year or more must obtain case-specific offsets (and cannot rely on any growth allowance in the attainment demonstration), except for sources located in zones targeted by the Department of Housing and Urban Development and EPA for economic development.

Current section 173(4), which is redesignated as section 173(a)(4), is amended to provide that permits cannot be issued under an approved permit program if EPA determines that the State's plan is not adequately implemented.

Technical and clarifying changes are made to the flush language at the conclusion of current section 173 (which, as noted above, is redesignated as section 173(a)).

Prohibition on Use of Old Growth Allowances

A new provision is added which prohibits continued use of growth allowance approved prior to any SIP call. Formerly, such growth allowances could permit construction of new sources or modification of existing sources.

SECTION 102(d)

This section of the bill amends CAA Section 174—Planning Procedures. The planning procedures set out in the current CAA sections 174 (a) and (b) are broadened to ensure that state and local (including regional) authorities share in the development and implementation of the SIP, with some technical revisions to make clear that implementation includes enforcement and to conform this section with revisions in other parts of the Act. In addition, a new subsection (c) is added, which clarifies that when a nonattainment area is included within more than one State, the affected States may jointly undertake these planning procedures.

SECTION 102(e)

This section of the bill amends CAA Section 175—Maintenance Plans. Any nonattainment area seeking redesignation to attainment must submit an approvable maintenance plan showing that the standard will be maintained for at least 10 years. This provision replaces the current section 175, which provides for EPA grants to localities for transportation or air quality maintenance planning responsibilities.

SECTION 102(f)

This section of the bill amends CAA Section 176—Interstate Transport Commissions. This new section authorizes EPA to establish an interstate transport region, consisting of all States or parts of States with a shared air pollution problem.

New CAA Section 176(a)—Authority to Establish Interstate Transport Regions

EPA is authorized, upon its own motion or upon petition from a State, to establish an interstate transport region that consists of all States pollution emission from which contribute to NAAQS violations in any one State. After establishing such a region, EPA may add or remove States from it, based on the same consideration concerning emissions.

New CAA Section 176(d)—Transport Commission

Whenever EPA establishes an interstate transport region, it must establish a commission, consisting of one air pollution official from each State in the region, and a representative of EPA (along with nonvoting representatives from each of the relevant EPA regions). The Commission may recommend that EPA issue a SIP call to certain States, requiring them to include specified measures in their SIPs to solve the interstate transport problem.

New CAA Section 176(c)—Commission Requests

EPA is obligated to act on each of the Commission's recommendations within 18 months, although EPA may disapprove them (i.e., decline to issue the SIP call).

Conforming changes are made to CAA section 106 (authorizing EPA to fund interstate air quality agencies) to authorize EPA funding for transport commissions formed under new CAA section 176.

SECTION 102(g)

This section of the bill adds two new sections to the CAA: Section 179—Sanctions and Consequences of Failure to Attain, and Section 180—Federal Implementation Plans.

New section 179 provides EPA with the authority to impose sanctions on States when EPA finds that the State has committed one of several specified planning failures, and where EPA determines that the State is not using reasonable efforts to cure those failures. This section revises current law to provide a uniform procedure for imposing sanctions, require close and regular EPA scrutiny of State actions, and provide greater EPA flexibility in imposing any sanctions.

New CAA Section 179(a)—Initial Reasonable Efforts Determination

Under the new income, at the time EPA finds that State action is deficient in one or more respects, as described under CAA section 110(g), EPA must publish in the Federal Register a proposed determination of whether the State is making reasonable efforts to cure the failure. If EPA proposes to find that the State is not making reasonable efforts, EPA must, at the same time, propose to apply one or more sanctions (described below). Within the next six months, EPA must finalize the notice, and, if it finds no reasonable efforts, apply one or more of the sanctions. The criteria for applying sanctions are whether it will encourage the State to undertake reasonable efforts and prevent further deterioration of the State's air quality.

New CAA Section 179(b)—Available Sanctions

The sanctions that are available include (i) a ban on the construction or modification of major stationary sources in the nonattainment area (or portion of such area, if the State failure relates exclusively to that portion). In the case of ozone, the ban is also available with respect to the area within 25 miles of the nonattainment boundary; (ii) a moratorium, imposed by the Secretary of Transportation, on the approval of any highway projects, or the award of any highway grants in the area (except that the highway sanction applies only with respect to certain State failures, as described under the summary for section 110(g), above). This highway sanction applies only if EPA believes that attainment and maintenance of a NAAQS cannot reasonably be achieved without the inclusion of transportation control measures in the plan. The Secretary of Transportation may also exempt certain projects from the moratorium. In addition, the highway sanction may be imposed, as to a particular nonattainment area (or portion thereof), located within a particular State, no more than once in any consecutive five-year period beginning with the date of enactment; (iii) a ban on drinking water hookups in the nonattainment area (or portion of such area), except for hookups necessary to correct a public health hazard; and (iv) a withholding of all or part of the air pollution grants that EPA may award under CAA section 105.

New CAA Section 179(c)—Subsequent Reasonable Efforts Determinations

No later than 12 months after publishing a final notice as to whether the State has made reasonable efforts, EPA must publish another proposal on whether the State currently is or is not making reasonable efforts, followed by a final notice within six months. If EPA determines that the State is making

reasonable efforts, EPA must lift any sanctions that had previously been imposed (except as described below, under CAA secton 179(d)). If EPA determines that the State is not making reasonable efforts. EP must keep in place any existing sanctions lease one sanction if none were in place.

New CAA Section 179(d)—Failure to Submit a Reviewable Plan Within 18 Months of the Required Date

Even if the State is making reasonable efforts to submit a complete SIP or SIP revision, if it fails to do so within 18 months of the required due date, EPA must propose to appy at least one sanction. EPA must make that sanction final within six months thereafter (if the failure has continued).

New CAA Section 179(e)—Notice of Failure to Attain

EPA is required to publish a notice in the *Federal Register*, as expeditiously as practicable after the attainment date, identifying areas that failed to attain.

CAA Section 179(f)—Consequences for Failure to Attain

For areas that fail to attain, EPA is authorized to determine additional measures to be implemented—including all feasible measures—and the States are required to submit a SIP revision containing such measures within three years (or sooner, if required by EPA). Areas that fail to attain are granted a new attainment period, starting from the date EPA notified the area of its failure to attain, that is the same as the initial attainment period provided under section 172(a)(2).

New CAA Section 179(g)—Construction Bans

Any area designated nonattainment upon enactment of the bill and that does not receive EPA approval of its construction permit program for major new and modified sources by December 31, 1992, will face a moratorium on the construction of such sources. The same ban will also apply to areas designated nonattainment after enactment if they do not receive EPA approval of such a program within 42 months of the designation.

New CAA Section 180—Federal Implementation Plans

This section on federal implementation plans ("FIPs") effectively replaces the former section 110(c)(1) in order to maintain EPA's opportunity to promulgate a federal plan, but in a more practicable and flexible manner.

New CAA Section 180(a)—General Authority

EPA is authorized to promulgate a FIP at any time it finds the State has failed to submit a SIP, or after EPA disapproves the SIP.

New CAA Section 180(b)—Requirement Following Reasonable Efforts Determination

Although EPA is never required to promulgate a FIP, the Agency must decide, at the time it reviews a previous finding concerning reasonable efforts by the State, and determines that a State is not making reasonable efforts, whether to promulgate one. In determining whether to promulgate a FIP, EPA must consider the practicality of such a plan, the severity of the nonattainment problem, the extent to which the State is making reasonable efforts, costs, and the amount of emissions reductions that would be achieved by the FIP. EPA may not promulgate a FIP unless the FIP will result in significant additional progress toward meeting the requirements of the Clean Air Act. EPA must explain the reasons underlying the decision, and take final action within 6 months of the date of proposal.

CAA Section 180(c)—FIP Obligations

EPA is currently under court order (or has entered into judicial settlement agreements) requiring the Agency to promulgate several FIPs pursuant to the former section 110(c). Subsection 180(c) provides that EPA is not required to promulgate any of these FIPs.

Section 103. Additional Provisions for Ozone Nonattainment Areas.

This section adds a new Subpart 2 to Part D of Title I of the Clean Air Act, consisting of new sections 181 through 185.

New Section 181—Classifications and Attainment Dates

Ozone nonattainment areas are subject to four classifications with attainment dates based on design value, as shown below. EPA must classify ozone nonattainment areas at the time it designates areas as nonattainment. This initial classification is not subject to notice-and-comment or judicial review, although the classification may be challenged after EPA takes action on a SIP submittal or imposes sanctions.

Area classification	Design value	Primary standard attainment date
Marginal	0.13 ppm	Dec. 31, 1995.
Moderate	0.14–0.15 ppm	Dec. 31, 1995.
Serious	0.16–0.18 ppm	Dec. 31, 2000.
Severe	0.19 ppm and above	[1]

[1] As expeditiously as practicable, but no later than Dec. 31, 2010.

Several special rules and adjustments apply with respect to these classifications and attainment dates: (i) Areas currently designated nonattainment, but having a design value of less than .13 ppm, are to be classified as marginal. (ii) EPA may adjust the classification of any area whose design value is within 5 percent of the classification "cut-point". (iii) EPA may allow up to two one-year extensions of the attainment date as long as the State has met all SIP commitments and has not recorded more than one exceedance of the ambient air quality standard in the year preceding the extension year.

New CAA Section 181(b)—New Designations and Reclassifications

Areas subsequently designated nonattainment after the initial designation and classification are given the same time frames to reach attainment as areas initially designated nonattainment. No later than 6 months after the attainment date has passed, EPA must publish a notice identifying each area that failed to attain. EPA must reclassify each such area to the next higher classification, or (if higher) the classification applicable to the area's design value. Areas that are "bumped up" in this respect must begin to meet the requirements of the new classification from the date of reclassification.

New CAA Section 182—Plan Submissions and Requirements

All ozone nonattainment areas are subject to specified planning and control requirements, depending on their classification. Each higher classification must comply with the requirements of the preceding classification, plus additional requirements.

New CAA Section 182(a)—Marginal Areas

States must make the following submissions, with respect to marginal areas:

Paragraph (1):

Within two years after enactment, the State must submit a comprehensive inventory.

Paragraph (2):

The State must submit various SIP revisions, to the extent it has not already done so, to include (i) reasonably available control technology requirements, which EPA has identified in various guidance documents; (ii) corrections to any motor vehicle emission control inspection and maintenance program, as previously required in the area, to assure that the program is the most stringent that is required or already in place for the area; and (iii) requirements that new or modified sources obtain permits and undergo new source review, in the manner provided under EPA guidance.

Paragraph (3):

Each year after the initial inventory is due, the State must submit an updated inventory. In addition, within 2 years after enactment, the State must require all stationary sources (except, under certain circumstances, for sources emitting less than 25 tons per year of VOCs or oxides of nitrogen) to submit emissions statements.

New CAA Section 182(b)—Moderate Areas

States containing these areas must make the same submissions as marginal areas, as well as the following submissions:

Paragraph (1):

These States must submit SIPs within three years of enactment providing for 15% reductions, from 1990 through 1995, from baseline emissions in the year of enactment. Baseline emissions are actual emissions during the year of enactment, except for emissions that are expected to be eliminated under current EPA regulations due to (i) motor vehicle fleet turnover or (ii) regulations concerning gasoline volatility. All emissions reductions are creditable against the 15% requirement, except for reductions due to (i) or (ii) above, and for reductions due to corrections to current SIPs concerning reasonably available control technology and motor vehicle inspection and maintenance. This 15% reduction requirement applies in lieu of any other requirement for reasonable further progress or submission of an attainment demonstration.

Paragraph (2):

States must implement new RACT control measures recommended by EPA, and must apply RACT to sources with the potential to emit 100 tons per year.

Paragraph (3):

Within 2 years after the date of enactment, States must submit a SIP revision requiring owners or operators of gasoline dispensing systems to install and operate a system for gasoline vapor recovery or emissions from the fueling of motor vehicles (known as "State II controls"). These SIP provisions must take effect within 6 months to 2 years of State adoption of the SIP revision, depending on the size of the gasoline dispensing facilities (including retail gasoline stations and fleet fueling facilities) and whether they are newly constructed. EPA is directed to issue guidance as appropriate on the effectiveness of the required State II controls. EPA is authorized to exempt small facilities.

New CAA Section 182(c)—Serious Areas

A State with a serious ozone nonattainment area must meet the same require-

ments imposed with respect to a moderate area, as well as the following:

Paragraph (1)—Attainment and Reasonable Further Progress Demonstrations:

The State must submit, by 1995, an attainment demonstration based on photochemical grid modelling. At the same time, the State must submit a demonstration that the plan provides for emissions reductions of three percent a year, averaged over each three-year period starting in 1996 (on a rolling basis). However, the State may provide for less than three-percent per year if it includes all feasible measures, or if less than three percent is necessary for the area to reach attainment (or if the area controls NOx emissions in accordance with EPA guidance). The three-percent reductions are required to be computed in the same manner as the 15 percent reductions required for the first five years.

Paragraph (2)—Enhanced Vehicle Inspection and Maintenance Program:

Within 2 years of enactment, the State is required to implement an enhanced program of motor vehicle inspection and maintenance, in accordance with EPA guidance. The program must meet a performance standard achievable by a program combining emission testing with inspection to detect tampering with emission control devices or misfueling of all light-duty vehicles subject to section 202. This program must apply for each urbanized area with a population of 200,000 or more. The programs must include computerized emission analyzers, as well as enforcement through vehicle registration denial unless the State can show that the enforcement provisions of an existing program are more effective in assuring that non-complying vehicles are not operated in the area. The programs may not allow waivers for any vehicles covered by the emission control performance warranty under section 207(b) or for tampering-related repairs. If waivers are allowed the programs must require a minimum expenditure of $75 on pre-1981 models and of $200 for the initial waiver period and $75 in an immediately subsequent period for 1981 and later models. These dollar amounts are to be adjusted periodically for inflation.

Paragraph (3)—Clean-fuel Vehicle Program:

The State must submit a SIP revision, for each area covered by the clean-fuel vehicle program prescribed under section 212(b), which includes measures EPA may require to ensure the effectiveness of that program, including all measures necessary to make use of clean alternative fuels in clean fuel vehicles economic from the vehicle owners' standpoint. Each area which seeks voluntary inclusion in the Federal clean fuel vehicle program must also submit a SIP revision. If a State fails to meet this requirement, it may not receive credit in any attainment demonstration or reasonable further progress demonstration for emissions reductions from implementation of the Federal clean-fuel vehicle requirements under section 212.

However, a State may opt out of this requirement, in whole or in part, if, within 30 months of enactment, EPA approves a SIP revision, submitted by the State within 24 months, that will achieve long-term reductions in ozone-producing and air toxic emissions equal to the performance standard prescribed under Section 212(b)(1) or the percentage thereof attributable to the part of the program the State is opting out of, employing measures other than those already required under the bill (either expressly or as necessary to meet requirements for annual percentage reductions). In addition, if EPA approves any fuel-pooling plan applicable to an area, EPA may approve a SIP revision to assure consistency with such plan.

Paragraph (4)—Transportation control:

The State must also submit transportation controls if greater-than-anticipated mobile source emissions occur. These controls must include measures selected from section 108(f) as necessary to reduce vehicle mile and congestion levels. Alternatively, the State may obtain equivalent reductions from other types of transportation or mobile source controls, or controls on other sources.

New CAA Section 182(d)—Severe Areas

A State containing a severe ozone nonattainment area must make the submissions required for serious areas, and must submit a revised attainment demonstration, by December 31, 2000, which includes the sanctions provisions required under CAA section 185 (described below).

New CAA Section 182(e)—Certian Non-self-generating (Non-MSA) Areas

If EPA determines that any nonattainment area outside, and not adjacent to, an MSA or CMSA (if any) does not significantly contribute to ozone nonattainment in that area or another area, the area may be subject to only the requirements applicable to marginal areas, regardless of the air quality.

New CAA Section 182(f)—Reclassified Areas

Areas that are reclassified because they fail to attain must meet the requirements applicable to the reclassification. EPA may adjust dates for submission of SIPs as appropriate. Areas reclassified as moderate are granted an attainment date of December 31, 2000, and must meet the 3% progress requirement that is otherwise applicable only to serious and severe areas.

New CAA Section 183(a)-(b)—Control Techniques Guidelines for VOC Sources, and Alternative Control Techniques Document for NOx

EPA is required to publish seven control techniques documents (CTGs), and prepare an alternative control techniques document for NOx sources, within three years of enactment.

New CAA Section 183(c)—Consumer or Commercial Products

EPA is required to submit, within two years of enactment, a study to Congress concerning emissions of volatile organic compounds from consumer and commercial products. Following submission of this study, EPA is authorized to issue regulations reducing emissions from consumer and commercial products to a level that reflects reasonably available controls. Consumer and commercial products are defined as any article or product the use, consumption, storage, disposal, or destruction of which causes release of volatile organic compounds.

EPA may apply the regulations at only the level of the manufacturer, processor, wholesale distributor, or importer, and may exempt health use products for which there are no suitable substitutes. EPA is given broad discretion in fashioning appropriate regulations, including the use of economic incentives (such as fees or auctions). EPA may retain any funds collected. If the State develops adequate procedures under State law for implementing and enforcing these regulations, EPA, may approve such procedures.

New CAA Section 183(d)—Marine Vessels

EPA is required to promulgate, within four years after the date of enactment of the bill, standards for emissions from loading and unloading marine tank vessels, to take effect after the period EPA finds necessary to permit the development of the requisite technology. The Department within which the Coast guard is operating is required to issue regulations to ensure the safety of the required emission controls. Until EPA promulgates these standards, no State or locality may regulate marine vessel emissions, and after EPA promulgates these standards, any State or locality regulating such emissions must apply standards at least as strict as EPA's.

New CAA Section 183(e)—Ozone Design Value Study

EPA is required to complete, within three years of the date of enactment of the bill, a study on the methodology used to establish the design value for ozone.

New CAA Section 184—Northeast Transport Region and Commission

The bill establishes a Northeast Corridor regional ozone transport commission containing 11 States and the District of Columbia. This commission will convene within six months of enactment.

New Clean Air Act Section 185—Sanction for Severe Ozone Nonattainment Areas for Failure to Attain

SIPs for severe areas are required to impose a fee of $5,000 per ton of VOC on major stationary sources, in areas that fail to attain by the applicable date. The fee applies only to the extent the source fails to reduce its emissions by 20% following the attainment date. The fee begins in the year after the attainment year, and lasts until the area is redesignated attainment (except that the fee does not apply during any of the one-year extensions of the attainment date authorized under section 181). If EPA finds that the State is not collecting the fees properly, EPA may collect them, with interest for the period when the fees were not paid to the State. The amount of the fee is to be adjusted each year beginning with the year after enactment) for inflation.

Areas with a total population under 200,000 that fail to attain the standard by the applicable date, are not subject to sanctions if the State demonstrates that ozone transport is the cause of the nonattainment problem, and if the area otherwise meets all of the Act's requirements.

Section 104. Additional Provisions For Carbon Monoxide Nonattainment Areas

This section of the bill adds a new subpart 3 to Part D of Title I of the Clean Air Act, consisting of new section 186 and 187.

New Section 186—Classification and Attainment Dates

Carbon monoxide nonattainment areas are subject to two classifications with attainment dates based on design value, as shown below.

Area classification	Design value	Primary standard attainment date
Moderate	9.5–16.4 ppm	Dec. 31, 1995.
Serious	16.5 ppm and above	Dec. 31, 2000.

Similar rules as found in the ozone nonattainment area apply with respect to (i) EPA

publication of a notice announcing the classification of carbon monoxide areas; (ii) areas designated nonattainment prior to the enactment of this Act, but showing a design value of under 9.5 ppm; (iii) EPA authority to adjust the classification of nonattainment areas that are close to the cutoff point for another classification; (iv) EPA authority to allow brief extensions of the attainment date; (v) requirements for areas redesignated nonattainment after the effective date of this Act; and (vi) reclassification of areas that fail to attain the ambient air quality standard (the "bump-up").

New CAA Section 187—Plan Submissions and Requirements

As in the case of ozone nonattainment areas, carbon monoxide nonattainment areas must meet requirements that escalate in stringency with the severity of the nonattainment problem.

New CAA Section 187(a)—Moderate Areas

Moderate areas are required to (i) submit an initial inventory, followed by updated inventories; and (ii) assure that pre-1987 requirements for inspection and maintenance of motor vehicles are met, as required for marginal ozone nonattainment areas.

New CAA Section 187(b)—Serious Areas

All serious areas must meet the requirements for moderate areas, as well as (i) submit an attainment demonstration, due by December 31, 1995; (ii) implement an enhanced program for motor vehicle inspection and maintenance, as required for serious ozone nonattainment areas; and (iii) submit provisions to comply with the requirements for transportation control measures, as required for serious ozone nonattainment areas.

In addition, serious areas must submit a SIP revision to include an oxygenated fuels program. This program must require that gasoline available in the Consolidated Metropolitan Statistical Area (or, if none, the Metropolitan Statistical Area) in which the serious area is located be blended with oxygenated fuels during the carbon monoxide season as necessary, in combination with other measures, to provide for timely attainment and maintenance of the carbon monoxide NAAQS. This program must take effect by October 1, 1993. States may opt out of this requirement by demonstrating that the revision is not necessary to provide for timely attainment and maintenance of the carbon monoxide NAAQS.

New CAA Section 187(c)—Reclassified Areas

Moderate areas that are reclassified as serious because they fail to attain must meet the requirements applicable to serious areas. EPA may adjust dates for required submissions as appropriate. Attainment dates may not be adjusted.

New CAA Section 187(d)—Serious Areas that Fail to Attain

Any serious area that fails to attain must submit, within three years of such failure, a SIP revision that includes any additonal measures that EPA may prescribe, considering all feasible measures.

Section 105. Additional Provisions for Particulate Matter (PM-10) Nonattainment Areas

This section adds a new subpart 4 to Part D of Title I of the Clean Air Act, consisting of sections 188 through 190.

New CAA Section 188(a)—Initial Classifications

All PM-10 nonattainment areas will initially be classified as moderate.

New CAA Section 188(b)—Reclassification as Serious

EPA may redesignate to serious those areas which cannot practicably attain by the moderate attainment date. EPA must make these redesignations by the end of 1991 for areas designated nonattainment under section 110(b)(5), and within 18 months of the due date for the SIP submission for areas subsequently designated nonattainment. All moderate areas that fail to attain by the attainment date are automatically reclassified as serious.

New CAA Section 188(c)—Attainment Dates

All areas must attain as expeditiously as practicable, with the following outside dates: Moderate areas designated nonattainment under section 110(b)(4) must attain no later than December 31, 1994; for all other moderate areas, the attainment date is no later than 6 years after designation. Serious areas designated nonattainment under section 110(b)(4) must attain no later than December 31, 2001; for all other serious areas, the attainment date is no later than 10 years after the date of designation to nonattainment.

New CAA Section 188(d)—Extension of Attainment Date for Moderate Areas

Moderate areas may receive up to two one-year extensions of the attainment date, in a manner similar to ozone and carbon monoxide nonattainment areas.

New CAA Section 188(e)—Extension of Attainment Date for Serious Areas

Serious areas may receive an extension of up to 5 years if the otherwise applicable attainment date would be impracticable, the SIP has been fully implemented, the SIP includes the most stringent measures of any other State's SIP that are feasible for the area, and the State submits a demonstration of attainment by the most expeditious alternative date practicable. This subsection lists a number of factors that the Administrator may consider in determining whether or not to grant an extension, and the length of such extension.

New CAA Section 188(f)—Waivers for Certain Areas

EPA may waive any requirement applicable to a serious area, it determines that anthropogenic sources of PM-10 do not contribute significantly to the PM-10 problem in that area. Similarly, EPA may waive the requirement of a specific attainment date where it determines that nonanthropogenic sources of PM-10 contribute significantly to the problem.

New CAA Section 189(a)—Moderate Areas

Moderate areas must submit SIPs that require a new source review permit program, and either a demonstration that the plan will provide for attainment by the attainment date, or a demonstration that attainment by that date is impracticable.

New CAA Section 189(b)—Serious Areas

Serious areas must meet the requirements applicable to moderate areas, impose reasonably available control measures (including the adoption of reasonably available control technology by all major Stationary sources), and either a demonstration that the plan will provide for attainment by the attainment date, or (for those areas for which the State is seeking an extension), a demonstration of attainment by the most expeditious alternate date practicable.

New CAA Section 190—Issuance of RACM Guidance

EPA must issue technical guidance on RACM for urban fugitive dust and emissions from residential wood combustion and prescribed open burning within 18 months of enactment.

Section 106. Additional Provisions for Areas Designated Nonattainment for Sulfur Oxides, Nitrogen Dioxide, and Lead

This section adds a new subpart 5 to Part D of Title I of the Clean Air Act, consisting of new sections 191 and 92. This subpart establishes SIP submittal and attainment dates for areas that need to do additional planning to attain the SO_2, NO_2, and lead standards.

New CAA Section 191—Plan Submission Deadlines

Areas that are newly designated nonattainment for one of these pollutants after enactment of the bill would need to submit a new plan within 18 months of the designation, showing attainment within five years of the designation. Areas that are currently designated nonattainment for SO_2 or NO_2 but which never received full approval of their SIPs under the current law would have to submit corrective SIPs within 18 months of enactment showing attainment within five years of enactment.

New CAA Section 191—Attainment Dates

The corrective SIPs for areas that received (or in the future receive) SIP calls for one of these pollutants must provide for attainment within five years of the date of the call.

Section 107. Provisions Related To Indian Tribes

The section includes a series of provisions authorizing EPA to treat Indian Tribes as States for certain purposes, including, under certain circumstances, allowing tribes to develop implementation plans and receive grants.

CAA Section 301—Authority to Treat Tribes as States

The Administrator is authorized to treat tribes as States for Clean Air Act purposes and for providing financial assistance (although tribes are not entitled to the minimum of one-half of one percent of annual appropriations to which States are entitled under Section 105). EPA may promulgate regulations outlining the circumstances under which treatment as a State is appropriate for tribes and procedures for approving tribal implementation plans. If treatment as a State is inappropriate, the Administrator may devise other means of administering the Clean Air Act on reservations. The receipt of grants is not contingent on the promulgation of regulations so that, until EPA promulgates regulations, EPA may continue to give grants to tribes.

CAA Section 105(a)(1)(B)—Grant Eligibility

Tribes are eligible to receive air grants by including tribal air pollution control agencies in the list of agencies eligible to receive grants. At his discretion, the Administrator may decide which of the eligible tribes shall receive grants.

CAA Section 302(b)—Definition of Air Pollution Control Agency

The definition of air pollution control agencies is broadened to include those of Indian tribes.

New CAA Section 302(q)—Definition of Tribe

Indian tribe is defined similarly to the definition under the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986.

New CAA Section 110(t)—Tribal Implementation Plans

Tribal implementation plans are to be reviewed in the same manner as SIPs. When plans become effective, they shall apply within the exterior borders of the reservation.

Section 108. Miscellaneous

This section includes a number of miscellaneous amendments to Title I of the CAA, including, among others, the following:

Section 108(a)

CAA Section 108—Transportation Guidance

EPA, after consultation with the Secretary of Transportation, must update the transportation-air quality planning guidelines issued in 1978, at the start of the initial Part D planning process. EPA must also update its guidance on various types of transportation controls. The list of controls is refined from the initial list appearing in current section 108.

Section 108(b)

CAA Section 110—State Reports on Emissions-related Data

A new section 110(u) is added, which requires that States submit any reports EPA may require to assess the effectiveness of any SIP or SIP revision.

Section 108(c)

CAA Section 111—New Source Performance Standards ("NSPS")

The time frames for developing proposed and final regulations establishing NSPS are extended. The schedules for completion of the NSPS for source categories that EPA has already listed for regulation, and for revision of existing NSPS, are updated and extended. EPA is authorized to waive review of a standard if review is not necessary in light of readily available information.

Section 108(e)

CAA Section 114—Authority to Obtain Information

EPA's information-gathering authority is broadened to include obtaining information from persons who manufacture control equipment or who may have relevant information necessary for the purposes of section 114.

Section 108(g)

CAA Section 126—Permit Process for Addressing Interstate Effects

Under this provision, a source or plan in an area with a permit program meeting the Title IV requirements, including the requirements to address interstate effects of stationary sources, is not subject to the interstate provisions of section 126.

Section 108 (h) and (i)

CAA Sections 163, 165—PM-10 PSD Increments

These provisions replace the sections 163 and 165 particulate matter prevention of significant deterioration ("PSD") "increments" (which were measured by the former indicator for particulate matter, "total suspended particulates"), with increments of comparable stringency measured by the new PM-10 indicator. The amendments also provide that any previously-established baseline areas and baseline dates shall remain in effect, in order to allow approximately the same amount of growth as would have been permitted had the indicator never been changed. In addition, the total suspended particulates increments and implementing regulation in an applicable implementation plan must remain in effect as to an area in that plan until a PM-10 PSD or new source review plan has been approved by EPA and made effective in the plan for that area. Furthermore, these provisions, and an accompanying amendment to section 302(j), bring coal mines within the coverage of new source review provisions, and allow for an exemption from the class II and class III increments (but not class I increments) with respect to fugitive dust from such mines.

Section 108(i)

CAA Section 166—PSD Increments for Other Pollutants

Subsection (a) is amended so that EPA is no longer obligated to promulgate PSD increments for any pollutants other than particulate matter and sulfur dioxide, although EPA is given the authority to promulgate such increments. This provision also allows EPA to modify the particulate matter increments if it further revises the particulate matter indicator. The new increments would have to be roughly comparable in terms of stringency to the PM-10 increments. EPA is not required to promulgate new particulate matter increments if it promulgates a new particulate matter NAAQS.

Section 108(k)—Definitions

New CAA Section 302(r)—Definition of Federal Implementation Plan

New CAA section 302(r) defines a federal implementation plan as a plan, or a portion of a plan, promulgated by EPA to fill a gap in the SIP, that includes enforceable emission limits or other control measures, but that does not necessarily ensure attainment of the standard.

Section 108(l)

CAA Section 307—Preenforcement Review

CAA section 307(e) is amended to preclude judicial review of regulations or other actions of EPA taken under color of the Clean Air Act, except as provided under the Act. This provision, along with a revision to section 304(e), clarifies that the judicial review provisions in the Act are exclusive, and precludes pre-enforcement review.

Section 108(m)

CAA Section 307—Interpretation of State Implementation Plan

A new subsection (h) is added to CAA section 307, providing that in the case of conflict between a State's and EPA's interpretation of a SIP provision, EPA's interpretation is to be given deference by a court, as long as that interpretation is rational.

Section 108(n)

CAA Section 318—Ethics, Financial Disclosure, and Conflicts of Interest

This section is repealed because its provisions are archaic or superceded by other statutes or by other legislation proposed by the Administration.

Section 108(o)

CAA Section 101—Pollution Prevention

A new subsection (c) is added to section 101 to declare that a primary goal of the Act is to promote Federal, State, and local governmental actions for pollution prevention.

Section 108(p)

New CAA Section 103—General Saving Clause

A general savings clause is provided, under which all regulations and standards issued by EPA as in effect before the date of enactment of this Act remain in effect, except to the extent otherwise provided by the Act, inconsistent with the Act, or changed by EPA.

Section 108(t)

New CAA Section 307(i)—Reports

A new subsection is added to CAA section 307 precluding judicial review of any reports to Congress required by the Act.

Section 109. Conforming Amendments

This section contains conforming amendments.

TITLE II—PROVISIONS RELATING TO MOBILE SOURCES

Section 201. Clean Fuel Requirements

This section deletes existing CAA section 212 and inserts a new section 212—"Clean Fuel Requirements", establishing two programs for increasing the use of vehicles operated on "clean alternative fuel" such as methanol, ethanol, natural gas, propane, electricity or other motor vehicle fuel such as reformulated gasoline if such other fuel has comparably low emissions, as determined by the Administrator.

The first program requires that new urban buses operated primarily in metropolitan areas having a population of over 1,000,000 be capable of operating, and exclusively operated, on clean alternative fuel. The Administrator is to phase in this requirement over the 1991 through 1994 model years. If the Administrator, after consultation with the Secretary of Transportation, finds that delaying the program would substantially increase its benefits or decrease its costs, the requirement may be postponed for up to two years. For diesel-fueled buses sold during the phase-in period, the particulate matter emission standard is set at 0.25 gram per brake horsepower-hour. The Administrator is required to issue regulations implementing the urban bus program within 12 months of enactment of this section.

The second program requires that a specified number of passenger cars and light-duty trucks capable of operating on clean alternative fuel ("clean-fuel vehicles") be sold in the most serious ozone nonattainment areas. Such clean-fuel vehicles are to meet emission standards that will ensure that, when operated on clean alternative fuels, the vehicles emit substantially less ozone-producing hydrocarbon emissions and total air toxic emissions than do conventional gasoline-fueled vehicles meeting applicable emissions standards. So that clean-fuel vehicles are in fact operated on clean alternative fuel, the program also provides that clean alternative fuels be made available in the areas where clean-fuel vehicles are to be sold.

Within 12 months of enactment, the Administrator is to establish performance standards for the clean-fuel vehicle program based on the use of clean alternative fuels formulated to produce maximum reductions in ozone-producing and toxic air emissions. The Administrator is to use these performance standards to judge the adequacy of state and industry plans for opting out of the clean-fuel vehicle program.

Within 18 months of enactment, the Administrator is to promulgate regulations es-

tablishing initial requirements, and subsequently may revise such regulations as necessary, for attainment of the performance standards he establishes for the clean-fuel vehicle program. The regulations are to provide for the manufacture, sale and distribution of clean-fuel vehicles according to the following schedule: 500,000 in model year 1995, 750,000 in model year 1996, and 1,000,000 in each of model years 1997 through 2004. To permit automakers greater flexibility, the Administrator may grant an appropriate amount of transferable credits toward compliance with emission standards or the vehicle sales requirements for selling (1) clean-fuel vehicles that emit less than regulations require, (2) more clean-fuel vehicles than regulations require, and (3) heavy-duty trucks that are capable of operating on clean alternative fuel.

The clean-fuel vehices are to be sold in areas that are designated ozone nonattainment, have a 1988 ozone design value at or above 0.18 parts per million, and had a 1980 population above 250,000. However, any of these areas may "opt out" of all or part of the clean-fuel vehicle program upon approval by the Administrator if the applicable State implementation plan includes measures different from those otherwise required by the Act that achieve long-term environmental benefits equal to the clean-fuel vehicle program performance standard. Conversely, any other area may "opt into" the clean-fuel vehicle program at the request of the governor of the state in which at the area is located if inclusion of the area in the program is appropriate and would result in progress toward attainment of any NAAQS. Clean-fuel vehicle sales are to allocated among participating areas based on population, vehicle sales, and other relevant factors.

The regulations promulgated by the Administrator must also provide for the availability of clean alternative fuels in the areas in which clean-fuel vehicles are to be sold. The Administrator is to determine the clean alternative fuels to be made available based on automakers' projections of clean-fuel vehicle sales and consultations with affected State and local governments. If the Administrator finds (1) that the sale of clean-fuel vehicles has created a demand for clean alternative fuels outside the areas in which such vehicles are sold or (2) that automakers are prepared to sell on a broad basis vehices that are designed to operate exclusively on clean alternative fuels, he may also require that clean alternative fuels be made available along major nationwide transportation corridors. In addition, the Administrator is authorized to grant transferable credits for exceeding applicable requirements and to establish specifications for clean alternative fuels to reduce or eliminate any unreasonable risk such fuels may pose to public health, welfare and safety, or to ensure adequate vehicle performance and maintenance.

The Administrator may make adjustments to the programs under specified circumstances. First, if one or more areas opt into or out of the clean-fuel vehicle program, the Administrator is required to revise the total number of required clean-fuel vehicles sales in proportion to the change in total population covered by the program. Second, the governor of a state containing an area participating in the clean-fuel vehicle program may request that more clean-fuel vehicles be sold in that area than the program would otherwise require. If the request is appropriate and would result in progress toward attainment of any NAAQS, the Administrator is to increase the number of clean-fuel vehicles to be sold in the area by the amount requested. Third, if the Administrator revises the clean-fuel vehicle sales requirement, he is also required to revise as appropriate the clean fuel availability requirements. Fourth, if he finds that delaying the vehicles sales or fuel availability requirements would substantially increase the benefits or lower the costs of the clean-fuel vehicle program, or is appropriate due to the likelihood of a national economic recession, he may postpone the requirements by up to two years and revise the number of clean-fuel vehicles that must be sold as appropriate. Any additional vehicle sales or fuel availability requirements prescribed by the Administrator are to take effect only after such period as he finds necessary for the requisite vehicles or fuels to be made available.

In developing the regulations to implement the bus and clean-fuel vehicle programs, the Administrator is directed to consult with the Secretaries of the Department of Energy and the Department of Transportation. The Administrator is also authorized to obtain information needed to enforce the two programs from manufacturers, distributors and retailers of vehicles and fuels.

Finally, section 202(a)(4) of the current Act is amended to establish that any aspect of vehicle design used to meet requirements prescribed under title II, including new section 212, may not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function.

This section replaces the former section 212 which had established a low emission vehicle board to promote the development of low emission vehicles. The board was abolished in 1980 by Public Law 96-208, 94 Stat. 98.

Section 202. Emissions of Hydrocarbons, Carbon Monoxide, and Oxides of Nitrogen From Passenger Cars

This section phases in tighter passenger car emission standards for nonmethane hydrocarbons and oxides of nitrogen and maintains the current standards for total hydrocarbons (as a cap on methane emissions) and carbon monoxide (CO). Forty and 80 percent of each automaker's 1993 and 1994 model year cars respectively and 100 percent of 1995 and later model year cars are required to meet a nonmethane hydrocarbon standard of 0.25 grams per vehicle mile ("gpm") and an NOx standard of 0.70 grams per mile. For total hydrocarbons and CO, the section sets forth the current numerical standards instead of retaining the percentage requirement language of the current statute.

The Administrator is also directed to revise the regulations to reflect the statutory change of standards within 180 days of the bill's enactment. The section clarifies the Administrator's authority to tighten passenger car standards as needed to protect health and welfare, considering costs.

This section further amends section 202(b)(1) by deleting provisions that specified passenger car standards for model years 1977 through 1980. Since those vehicle are now beyond their statutory useful life (five years or 50,000 miles), the standards are no longer applicable. Also deleted is language referring to the availability of waivers from the 1981 and later model year carbon monoxide standard, since section 202(b)(5) made those waivers available only for 1981 and 1982 model year vehicles. Similarly, the provision permitting the Administrator to relax the 1981 and later model year oxides of nitrogen standard for 1981 and 1982 model year vehicles is deleted.

Section 203. Emissions of Hydrocarbons and Carbon Monoxide From Light-Duty Trucks

This section phases in tighter hydrocarbon and carbon monoxide emissions standards for light-duty trucks on the basis of loaded vehicle weight. For lighter trucks (3,750 lbs. and under), the standards are 0.41 gpm of total hydrocarbons and 4.20 gpm of carbon monoxide. For heavier trucks (over 3,750 lbs.), the emission standards are 0.50 of total hydrocarbons and 5.50 gpm of carbon monoxide. Fifty percent of each automaker's 1994 light-duty trucks and 100 percent of 1995 and later model year light-duty trucks are required to meet the tighter standards.

Since the current Act does not define light-duty trucks, this section also amends section 216 to include the definition of light-duty trucks promulgated by the Administrator under the Act. In addition, it directs the Administrator to revise the regulations applicable to light-duty trucks within 180 days of the bill's enactment to reflect the statutory change in standards. It also specifies the Administrator's authority to tighten light-duty truck standards as needed to protect public health and welfare, considering costs.

Section 204. Carbon Monoxide Emissions At Cold Temperatures

This section adds a new subsection (h) to CAA section 202, providing for a reduction in emissions of carbon monoxide (CO) from passenger cars and light-duty trucks when operated at 20 degrees Fahrenheit. As a first step, the section establishes cold temperature CO emission standards to be met by 1993 and later model year passenger cars and light-duty trucks when tested at 20 degrees Fahrenheit. Specifically, the section directs the Administrator to establish a passenger car cold temperature CO standard of no higher than 10 grams per mile and requires that light-duty trucks meet a standard of comparable stringency.

To provide manufacturers with flexibility in meeting the standards, the section permits the standards to be met on average by each manufacturer's fleet. It also provides for phasing in the standards over the 1993 through 1995 model years; at least 40 percent, 80 percent and 100 percent of 1993, 1994 and 1995 and later model year vehicles, respectively, must meet the standards. Regulations implementing the requirement for cold CO emission reductions must be promulgated within 12 months of the bill's enactment.

For the second step, the Administrator is directed to assess by December 31, 1993, the need for and feasibility of further reductions in cold CO emissions, and is authorized to promulgate regulations applicable to 1998 and later model year vehicles requiring further reductions in cold CO emissions as warranted. In addition, the section authorizes the Administrator to require reductions in cold CO emissions from heavy-duty vehicles, as he deems appropriate.

Section 205. Evaporative Emissions

This section directs the Administrator to issue regulations within 18 months of the bill's enactment requiring reductions in evaporative emissions from all gasoline-fueled vehicles during operation (running losses) and during sustained periods of nonuse, under summertime conditions conducive to the formation of ozone. The regulations are to require the greatest degree of

emissions reduction achievable by means reasonably expected to be available, taking into account cost, safety and energy factors. They are also to take effect as soon as the means for achieving the reductions are available for production.

Section 206. Mobile Source-Related Air Toxics

Under this section, the Administrator is required to complete within 18 months of the bill's enactment a study of the need for and feasibility of controlling toxic emissions which are currently unregulated under title II and associated with motor vehicles and motor vehicle fuels. The section also authorizes the Administrator to regulate mobile-source related air toxics as he deems appropriate based on the study and other information available to him.

Section 207. Emission Control Diagnostics Systems

This section authorizes the Administrator to require that motor vehicles be equipped with computer systems capable of diagnosing problems affecting emission-related systems and alerting vehicle owners to the need for repairs to maintain compliance with emission standards. Specifically, the section requires that emission control diagnostics systems be capable of: 1) identifying emission-related systems malfunctions or deterioration; 2) alerting the vehicle operator to the need for maintenance; 3) storing such information; and 4) providing access to such information for maintenance and testing.

To increase the usefulness of emission control diagnostics systems, the section further authorizes the Administrator to require state inspection and maintenance programs to inspect such systems and to require the repair of any identified malfunctions or deterioration. The Administrator may also require manufacturers to provide information needed to make use of the diagnostics systems to any person engaged in the business of repairing or servicing motor vehicles. To ensure that diagnostics systems operate properly in-use, the Administrator may recall vehicles for the purpose of correcting malfunctions or improper operation of the system. In addition, the section amends section 207 of the Act to extend the warranty coverage provided for emission-related systems to include emission control diagnostics systems.

Section 208. Heavy-Duty Trucks

This section extensively revises section 202(a)(3)(A) to provide the Administrator with greater flexibility in setting emissions standards for heavy-duty vehicles or engines (HDEs). Specifically, the section deletes the statutory standards for HDEs, and instead requires the Administrator to set technology-forcing emission standards, considering cost, energy and safety factors. The window periods for standard-setting and four-year lead time requirement are also deleted. The Administrator may instead tighten standards as he finds appropriate and provide such lead time as he finds necessary to permit the development of the requisite technology (the approach taken by the current Act concerning lead time for all other vehicle emission standards). Section 202(a)(3)(A)(ii) is further revised to clarify that in setting HD standards EPA may differentiate among HDEs based on the type of fuel used.

Finally, the Administrator is authorized to study the impact of heavy-duty engine rebuilding on engine emissions and, if warranted, to regulate rebuilding practices, including promulgation of standards applicable to engines after their typical useful life.

Section 209. Non-Road Engines and Vehicles

This section provides the Administrator with authority to regulate vehicles or engines not used primarily on roads and not regulated under either section 202 or section 111 (authorizing the establishment of new source performance standards) of the Act.

Specifically, the section authorizes the Administrator to promulgate emissions standards applicable to those types of non-road vehicles or engines that he finds cause or contribute to air pollution that endangers public health or welfare, taking costs into account.

The section also follows current section 202(a)(4) in specifying that no emission control device used on non-road engines or vehicles to meet emission standards may present an unreasonable risk to public health, welfare or safety. It further provides that any emission standard promulgated for non-road engines or vehicles be treated like a section 202 (on-road vehicle or engine) emission standard for purposes of determining compliance with and enforcing such a standard.

This section replaces existing section 213 which required the Administrator and the Secretary of Transportation to conduct a fuel economy improvement study. The study has been completed.

Section 210. Vehicle Certification

This section amends section 206 to ensure that vehicles that pass the federal test for determining compliance with emission standards can also pass state inspection and maintenance (I/M) tests. The Administrator is directed to revise the regulations governing the certification of vehicles to include test procedures capable of determining whether properly maintained 1993 and later model year passenger cars and light-duty trucks will pass EPA-sanctioned I/M tests under conditions encountered in the conduct of such tests. EPA's revised test is to reflect reasonably likely I/M test conditions as pertains to fuel characteristics, ambient temperature and short waiting periods before tests are conducted. A manufacturer's vehicles must be able to pass the revised test to receive certificates of conformity.

This section also clarifies the Administrator's authority to permit manufacturers to demonstrate compliance with applicable standards through averaging, trading and banking of emission credits. In addition, it limits the small volume manufacturers' exemption from lengthy testing establishing a vehicle's ability to meet applicable standards over its useful life to original equipment manufacturers.

Section 211. In-Use Compliance—Recall

This section revises section 207 to phase in the passenger car 0.25 gpm nonmethane hydrocarbon standard and the light-duty truck 0.41/0.50 gpm total hydrocarbon standard and 4.20/5.50 gpm carbon monoxide standard as they apply to recall determinations. The phase-in schedule for the passenger car nonmethane hydrocarbon standard is the same as that applicable to cars sold in California, and the phase-in schedule for the light-duty truck standards is similarly patterned after that applicable in California. The section also specifies that the Administrator may require manufacturers to perform recall tests and to audit the effectiveness of repairs performed by dealers pursuant to a recall plan.

Section 212. Compliance Program Fees

This section provides the Administrator with specific authority to assess manufacturers fees to recover the costs associated with operating the motor vehicle compliance and fuel economy programs, including the development and implementation of related policies, procedures and regulations. It grants the Administrator broad discretion in devising a fee schedule and expressly authorizes a fee schedule based on the number of vehicles produced under a certificate of conformity. It also specifies that any fees collected be deposited in a special fund in the U.S. Treasury for use by EPA in carrying out the programs.

Section 213. Information Collection

This section amends section 208 to extend the requirement to maintain records and provide information to manufacturers of new motor vehicle or engine parts or components. It also requires manufacturers of vehicles, engines or parts to perform such tests and provide such data as the Administrator may reasonably require to determine compliance with applicable requirements under the Act and to assist in the development of new regulations. Correspondingly, the section broadens the Administrator's inspection authority so that he may observe required testing or obtain required data. In addition, it provides that authorized contractors acting as representatives of the Administrator may conduct inspections or have access to business sensitive information.

Section 214. Fuel Volatility

This section requires the Administrator to promulgate within six months of the bill's enactment regulations requiring additional reductions in the volatility of gasoline during the high ozone season (approximately the summer months). The section specifies a maximum Reid vapor pressure standard of 9.0 pounds per square inch and requires the Administrator to establish more stringent Reid vapor pressure standards as needed to generally achieve comparable evaporative emissions (on a per vehicle basis) nationwide, taking into account such factors as enforceability, environmental need and costs. The regulations implementing the volatility requirements are to take effect no later than the 1992 ozone season, and may permit gasoline containing at least 9 but not more than 10 percent ethanol (by volume) to exceed the volatility requirements by up to 1.0 pounds per squre inch.

Section 215. Diesel Fuel Sulfur Content

This section requires a reduction in the sulfur content of diesel fuel that will in turn reduce diesel vehicles' emissions of sulfates and ease compliance with the stringent 1994 particulate matter standard applicable to heavy-duty diesel vehicles. Specifically, the section prohibits as of October 1, 1993, the manufacture, sale or transport of motor vehicle diesel fuel having a sulfur content of greater than 0.05 percent (by weight) or a cetane index below 40. It requires the Administrator to promulgate within 12 months of the bill's enactment regulations to implement and enforce the prohibition. It also specifically authorizes the Administrator to require refiners to dye fuel not subject to the sulfur content limitations in order to segregate it from the regulated fuel.

To reflect the change in diesel sulfur content that will occur over the useful life of 1991 through 1993 heavy-duty diesel engines, the section requires that the sulfur content of fuel used to certify diesel engines

for those model years be 0.10 percent (by weight). It further requires that certification fuel used for 1994 and later model year diesel engines comply with the lower sulfur content and cetane index minimum requiremets applicable to motor vehicle diesel fuel after October 1, 1993.

Section 216. Non-Road Fuels

Section 211 of the current Act authorizes the Administrator to regulate motor vehicle fuel and fuel additives as needed to prevent damage to motor vehicle emission controls and to protect public health and welfare. This section expands that authority to include fuel and fuel additives for non-road vehicles and non-road engines, for which section 208 of this bill authorizes the Administrator to establish emission standards.

Section 217. Fuel Waivers

This section amends section 211(f) to clarify that the requirement to obtain waivers for new fuels and fuel additives not substantially similar to the fuels used in vehicle certification applies not only to unleaded gasoline but to all other fuels and fuel additives, including leaded gasoline, diesel fuel, and consumer additives.

Section 218. Market-Based Alternative Controls

Under this section, the Administrator is directed to issue regulations within 12 months of the section's enactment to allow automakers to engage in "emissions trading" and fuel refiners to engage in "fuel pooling" to the maximum extent feasible in ozone nonattainment areas with a 1988 ozone design value at or above 0.18 parts per million and a population above 250,000. The regulations are to establish performance standards for motor vehicles and motor vehicle fuels marketed in those areas based on likely emissions reductions that would be achieved by the control measures for which alternative measures could be substituted. Automakers and fuel refiners could then choose to undertake emission control measures different in type or degree from the prescribed measures they would replace, so long as they demonstrated to the Administrator that the combination of measures they selected would meet the performance standards. Companies could also trade emission reduction credits for use in demonstrating compliance with performance standards. If companies could not demonstrate alternative means of meeting the performance standards, they would be required to comply with the prescribed control measures.

Under this section, the Administration is also authorized to promulgate regulations permitting manufacturers and fuel refiners "trade" and "pool" emissions reductions from the nationwide control measures. It replaces existing section 214 which required a study of particulate emissions from motor vehicles and a report to Congress. The study and report have been completed.

Section 219. Preemption of State Fuel Regulation

This section makes two changes to section 211(c)(4)(A)(ii) regarding the preemption of State fuel regulations by federal rules. First, it clarifies that a federal fuel or fuel additive regulation only preempts a nonidentical State regulation governing the same component or characteristic of the fuel or fuel additive. Second, it further defines the basis on which EPA may approve state implementation plan provisions that regulate motor vehicle fuel or fuel additives in a manner nonidentical with applicable federal regulations. The current Act states that EPA may approve inconsistent State fuel or fuel additive regulations when such regulations are "necessary to achieve" primary national ambient air quality standards. This section defines "necessary to achieve" is meaning that no other reasonable or practicable measures are available to bring about timely attainment.

Section 220. Enforcement

This section broadens and strengthens the Administrator's enforcement authority in several ways. First, the section amends section 203 to conform to new provisions, including new section 212 (relating to clean-fuel vehicles and buses) and amended section 208 (relating to recordkeeping and reporting).

Second, this section further revises section 203 to extend liability for tampering with emission controls to individual vehicle owners and to manufacturers or sellers of devices used to defeat or impair emission controls.

Third, the amendment revises section 205 to raise from $10,000 (set in 1970) to $25,000 to maximum civil penalty that can be levied for a violation of certain vehicle requirements. The section also provides that violations of recordkeeping or reporting requirements may be calculated on a per day basis (as in Title I of the Act) to provide adequate deterrence.

Fourth, new authority is provided to the Administrator to assess administrative penalties for violations of sections 203, 211 and 212 that total up to $220,00 (unless the Administrator and the Attorney General determine that a case involving a larger penalty amount is appropriate for administrative assessment). Any such assessment can only be made after a hearing before the Administrator, and the amount of the penalty is to be based on the weighing of statutorily prescribed factors.

Fifth, the section revises the section 211(d) penalty provision, which currently provides for a mandatory forfeiture of $10,000 per day for violations of section 211 or fuel regulations issued under that section. It replaces the mandatory forfeiture provision with a provision for a civil penalty of up to $25,000 per day for each violation plus the economic benefit of noncompliance. In addition, the section clarifies that in the case of violations of fuels standards based on a multi-day averaging period (such as exists in the lead phasedown program), each day during the averaging period is intended to constitute a separate day of violation. It also provides injunctive authority to restrain violations of fuel regulations, as is already available for violations of vehicle and stationary source requirements.

Sixth, the section adds a prohibition against misfueling. Any person, including an individual, may be held liable for civil penalties for introducing leaded gasoline into vehicles which are designed to operate exclusively on unleaded gasoline. This section replaces existing section 211(g) which stipulated that prior to October 1, 1982, small refiners may not be required to reduce the lead content of the gasoline they produce to the same extent as large refiners. Small refiners have been subject to the same lead content limitations as large refiners, since July 1, 1983, so existing section 211(g) has no continuing effect.

Section 211. Technical Amendments

This section revises various sections of the act to delete outdated provisions and to improve the organization of Title II.

For ease of reference, the definitions that are currently found in section 202 are transferred to section 216 which includes other definitions also applicable to section 202.

The section also deletes the provisions making available waivers from the carbon monoxide standard for 1981 and 1982 model year passenger cars and waivers from the oxides of nitrogen standard for 1981 through 1985 model year cars, since those vehicles are generally past their statutory useful life. The exemption from the tampering prohibition available for fuel system modifications on vehicles manufactured before the 1974 model year is deleted since any such vehicles are long past their useful lives.

The provision requiring a study of aircraft pollutants is deleted because the study has been completed. The section also deletes the provision for an annual report to Congress on the development of emissions control systems needed to meet the standards established in section 202(b) by the 1977 Clean Air Act Amendments, since those systems have been developed and the standards met. It similarly deletes the provision for a study on the feasibility of specified high altitude requirements, since that study has been completed. In addition, the requirement that manufacturers build prototype research vehicles demonstrating new emission control technologies is deleted. The section also removes the requirement that the Administrator publish certification test results in the Federal Register.

TITLE III—HAZARDOUS AIR POLLUTANTS

Section 301. Technology-Based Standards for Hazardous Air Pollutants

General

Title III would replace the existing provisions of section 112 of the Clean Air Act.

A major goal of the bill is to attain a basic level of good control of routine multipollutant emissions by significant sources of hazardous air pollutants. The pollutants to be controlled are listed in section 112. The approach the section takes is to mandate maximum achievable control technology (MACT) based on cost and feasibility considerations for listed source categories.

Another major goal is to increase the role of State and local agencies in implementation and enforcement of air toxics controls. This Title and Title IV provide for implementation of national standards by State and local agencies through an operating permit system supported by permit fees. These agencies would also administer an alternative compliance program under which sources could obtain an exemption from national standards by demonstrating that their emissions cause negligible risk to public health, and could obtain certain credits for voluntary emissions reduction.

New Section 112(a)—Definitions

Major Sources:

A major source is defined as one that emits more than 10 tons per year (tpy) of a single, listed pollutant or 25 tpy of a combination of listed pollutants. For radionuclides, the Administrator will define major sources by regulation, considering radiation dose. For purposes of these definitions, all emissions of listed pollutants are counted from all points within a plant boundary (contiguous property under common ownership). This is to assure that emissions from the facility as a whole are adequately controlled.

EPA has discretion to define major source as one emitting less than 10 tpy or 25 tpy based on the potency or other characteristics such as persistence of an emitted pollut-

ant. Sources could voluntarily reduce their emissions to below the cutoffs to avoid regulation as major sources.

Because there are a variety of methods for measuring and estimating total emissions, EPA would define these methods for regulated source categories. Each source category emission standard should address this so that all sources have the same expectation about how their status will be defined for regulatory compliance purposes.

Area Sources:

Area sources are small point sources (nonmajor) that would be regulated by category just as major sources are. They differ in that the basis for regulating them is the adverse effect of their combined emissions rather than the effect of any single source.

New Source:

A new source is a stationary source the construction, including reconstruction, of which is commenced after proposal of a standard under subsection (d) or (f). The interpretation of "reconstruction" would be as current rules provide under section 111(a).

Electric Utility Steam Generating Unit:

A definition is provided for fossil fuel fired units which will be subject to study and a report to Congress. The study and report concern the hazards that may remain after Title V controls and whether they should be regulated. Until the report is made and considered, these units are not regulated under this section.

Other Terms:

"Stationary Source", "owner or operator", and "existing source" have the meaning the terms currently have under section 111(a).

New Section 112(b)—Hazardous Air Pollutant List

The pollutants to be controlled are listed in subsection (b). There are about 191 chemicals and chemical categories.

The Administrator may add or delete a pollutant from the list on the basis of criteria relevant to whether the pollutant is an air pollutant reasonably anticipated to cause certain chronic or acute health effects. The public may petition for additions or deletions. The Administrator must act on such a petition within 18 months of its receipt.

The list is the basis for identifying the source categories to be controlled. The purpose is to identify and regulate source categories according to their emissions of pollutants on the list.

The Administrator is authorized to use any authority available to him to acquire health effects information when information on health effects is insufficient for a determination on listing a pollutant.

New Section 112(c)—Source Category List

Sources are to be regulated by category. The categories would be made up of sources that are alike in terms of their commercial product and their operational process. Categories could reflect product groupings such as tire manufacturing or butadiene-styrene rubber production, or service groupings, such as dry cleaning, degreasing, or tank farms. Sources are brought into a category by commonality of product, process, or service. The Agency is authorized to subdivide categories into subcategories or smaller units, based on important factors such as size, process, emissions or other circumstances resulting in sources within a category being dissimilar or not amendable to similar controls.

A list of source categories for which emission standards will be considered will be published within 12 months of enactment. This list will be revised periodically in response to comments and new information. The Agency will hold the list open for comment permanently as a continuing agenda.

The list will contain categories and subcategories of major sources of listed pollutants. It will also contain categories and subcategories of area sources designated as warranting regulation because of their aggregate emissions or potential aggregate emissions.

The Administrator may decide not to list a source category or subcategory because its emissions are already adequately controlled under the Clean Air Act or any other Federal statute or regulation. On the other hand, he may list a category or subcategory previously regulated under section 112. The Administrator may withdraw a category or subcategory from the list if the sources present a negligible risk to public health. For instance, if all sources covered would be able to demonstrate, under procedures of section 112(g), that risks associated with their emissions are negligible, it may be unnecessary to promulgate an emissions standard for them.

New Section 112(d)—Maximum Achievable Control Technology Emission Standards (MACT)

The emission standards promulgated for listed source categories would be performance or work practice standards requiring the maximum achievable degree of reduction in emissions by major sources (and designated area sources). The reduction strategies that may be considered include measures to: reduce volume through process change or substitution of material; enclose systems to reduce or eliminate emissions; collect, capture, or treat emissions; utilize work practices that control emissions; or require facility operator training or certification. Combinations of the above may be required.

For a new source standard, MACT will be at least as stringent as the best emissions control achieved in practice by a similar source. For an existing source standard, MACT will be at least as stringent as emissions control typical of the best performing similar sources. MACT for area sources may require use of generally available control technologies, if the Administrator elects this level of control. Standards for radionuclides shall be set based on radiation dose.

The considerations for determining what the maximum achievable degree of reduction is for a source category include cost and feasibility of control, other air quality related health and environmental impacts, and energy requirements. Any relevant measure of cost may be considered in deciding what is achievable, including comparisons of the emissions reduction and the cost of the reduction, and whether the controls are affordable for the sources as a group. In order to efficiently issue standards by the required schedule, the Agency may use a system of generic technical standards. These generic standards would cover the kinds of controls that are common to many source categories.

New sources would be required to be in compliance with a MACT standard upon its effective date. Existing sources would be required to be in compliance on a date required by the Administrator within three years of the effective date.

New Section 112(e)—Schedule for Standards

The Agency is directed to promulgate regulations for ½ of the initially-listed source categories. The source categories to be regulated that are in the remaining ½ of the initial list will be designated within 7 years of enactment, with promulgation to come in two stages. The required schedule for standards will be:

First ½ of the initial list:

10 source categories within 2 years of enactment.

25% of initially-listed categories within 4 years of enactment.

50% of initially-listed categories within 7 years of enactment.

Second ½ of the initial list:

All designated, initially-listed source categories within 10 years of enactment.

Priority of Source Categories For Regulation

The relative priority of the source categories to be regulated mandatorily within 7 years of enactment are to be determined by considering several factors:

1. Quantity and location of emissions.

2. Known or anticipated adverse health effects.

3. Efficiency of grouping categories or subcategories by pollutants emitted or process or technology used.

The administrative efficiency of regulating similar categories at the same time would be taken into account.

New Section 112(f)—Unreasonable Risk Evaluation

Within 7 years after promulgation of a MACT standard, the Administrator will evaluate the risks to the public health remaining after application of the standard.

This evaluation will rely on data maintained about the actual emissions reduction achieved under the MACT standard. The up to 7-year post-promulgation period for performing the evaluation allows time for compliance to occur (up to 5 years for existing sources, if there is a 2-year extension under 112(g)), plus time to measure performance after compliance, and perform the evaluation analysis.

If the Administrator finds that residual risk from a source category or portion thereof presents an unreasonable risk of adverse effects on public health, he is directed to promulgate an additional standard within 2 years of the risk evaluation. The standard would require an additional emissions reduction to protect the public health from the unreasonable risk.

A source that is new after the date of proposal of a standard addressing residual risk must be in compliance with the final standard when it is effective. An existing source must be in compliance on a date no later than 6 years after its effective date as the Administrator requires.

New Section 112(g)—Alternative Emissions Limitations

A State with a program approved under Title IV may issue a permit that authorizes a major source to comply with emissions limitations in lieu of standards under this section if the source demonstrates that complying with these alternative limitations, results in emissions which present a negligible risk to public health.

The Administrator must publish rules within 2 years of enactment establishing criteria for this demonstration. In addition the Administrator must publish guidance and information on methods for assessing risk and evaluating evidence submitted in support of a demonstration.

A State with an approved program may also authorize alternative limitations in two other cases. The first is when any existing

source shows that it has voluntarily achieved a 90% emissions reduction of organics or 95% of particulates within five years prior to proposal of a standard. The emissions limitations resulting from such voluntary action may be permitted in lieu of those required under a section 112 standard.

The second is when a source has installed controls required under certain other numerated Clean Air Act provisions or has voluntarily achieved control equal to those requirements. The permit may authorize the limitations associated with those controls in lieu of compliance with section 112(d) standards, for a period of five years after the compliance date for the 112(d) standards. Provisions to define "voluntary" and conditions for defining the baseline are described. The Administrator must publish rules to carry out these provisions within two years of enactment.

A State with an approved program may also grant an extension of up to 2 years for compliance by existing sources with a section 112(d) standard when additional time is needed to install controls.

If the State in which a source is located does not have a program approved under Title IV, the Administrator may grant any extensions authorized under this subsection for such source.

New Section 112(h)—Pre-construction and Operations Requirements

This subsection conditions construction and operation on compliance with applicable standards.

New Section 112(i)—Technical Assistance

Provisions in this subsection cover technical assistance by the Agency for State and local agencies and research by the Agency.

New Section 112(j)—Presidential Exemption

For reasons of national security the President may exempt any source(s) from requirements of this section for a renewable period of two years.

New Section 112(k)—Savings Provision

This subsection preserves effectiveness of regulations issued under the superceded section 112 language. Regulations under court review on the date of enactment shall be reviewed under the prior language of 112. A standard remanded to the Agency may be considered by the Administrator under terms of either the prior or the amended section.

The subsection states that certain actions are not final agency action for purposes of judicial review.

New Section 112(l)—Appropriations

This subsection authorizes appropriations to carry out the section.

New Section 112(m)—Electric Utilities

The Administrator is directed to perform an assessment of the hazards to public health which may be associated with utilities of pollutants after their implementation of emission controls required under Title V of this Act. The Administrator is directed to report the results of this study to the Congress within three years after enactment. The Administrator shall develop and describe in his report to the Congress, alternative control strategies for emissions from affected sources warranting regulation under this section. The Administrator may not regulate such sources under this section unless he finds such regulation appropriate and necessary considering results of the study.

TITLE IV—PERMITS

Section 401. Permits

This section adds a new title IV to the Clean Air Act to establish a permitting program for certain stationary sources.

New CAA Sec. 401—Definitions

This section defines the central terms used in this title. These include the terms "affected source", "schedule of compliance", and "permitting authority." Other terms are defined by reference to the section of the Act where they are initially used and defined.

New CAA Sec. 402—Permit Programs

In General:

This title requires States or interstate agencies to submit to the Administrator comprehensive permit programs under State law or under interstate compacts for regulating stationary sources that are subject to one or more of the regulatory programs under the Act: State implementation plan (SIP) requirements, new source performance standards, emission standards for hazardous air pollutants, PSD and nonattainment new source review, and acid deposition controls under the new title V. This comprehensive program is patterned generally after the program that now applies to point sources of water pollution under the Clean Water Act. EPA must issue regulations governing the programs, including requirements for adequate State statutory authority and permit fees. The permit fees are required to recoup all direct and indirect costs of administering the air pollution control program related to the permitted sources, including the portion of such costs as emission and ambient monitoring, modelling, and preparation of generally applicable regulations and attainment demonstrations that may be attributed to the permitted sources. A State is required to submit a permit program to the Administrator not later than three years after enactment. If the State fails to submit a completely approvable program, the Administrator has discretionary authority to apply the sanctions that generally apply to failure to submit SIPs, or to promulgate a complete or partial federal permit program for the State. The Administrator may also withdraw approval, or apply sanctions, if a State fails to implement its program.

Partial Programs:

The Administrator may approve partial permit programs covering one of three specific portions of a complete program. Any such partial program must apply all the requirements of that portion. For example, in order to obtain approval of a partial program to control acid deposition, a State would have to show that it had authority to apply to the affected sources all the requirements of title V, but not that it had authority also to apply all requirements of title I. Similar requirements apply to partial approval of programs applying emission standards under section 112, or programs applying title I requirements other than section 112. Approval of a partial program would not relieve a State of the requirement to submit a fully approvable program.

Interim Approval:

Interim approval, for a period not to exceed two years, would be available for programs that substantially meet the requirements of title IV.

New CAA Sec. 403—Permit Applications

Sources required to obtain a permit must submit a permit application and compliance plan within six months after approval of a permit program that applies to them, or six months after they become subject to a permit requirement as a result of promulgation of applicable standards. The State may set an earlier deadline for applications. Submission of a timely and complete permit application protects a source from enforcement for failure to have a permit required under the applicable program until a permit is issued to the source. Permit applications, permits, and monitoring or compliance reports, must be made available to the public, except that if a permit applicant is required to submit confidential business information entitled to protection as a trade secret, the applicant may submit the information in a confidential supplement to its application, which will be handled under section 114 of the Act.

New CAA Sec. 404—Permit Requirements and Conditions

States with fully approved programs must issue permits that apply, and ensure compliance with, all applicable requirements. Permits must also set forth inspection, entry, monitoring, and reporting requirements to assure compliance with regulatory requirements. The Administrator may prescribe methods for determining compliance and for monitoring and analysis of pollutants. The methods would apply to determining compliance generally under the Act, and in particular, to permits and permit applications. Compliance with a permit constitutes compliance with the regulatory requirements of the Act that are covered by the permit program or partial program, except for standards under section 112 based on eliminating an unreasonable risk, and requirements under Title IV that the Administrator identifies by rule.

General Permits:

The permitting authority may issue general permits for numerous similar sources within a geographical area. This provision is designed to reduce the administrative burden of permitting large numbers of similar sources, which may be small individually, but which in the aggregate require control (for example, as area sources regulated under section 112).

Temporary sources:

Some sources requiring permits do not operate at fixed locations. These might include asbestos demolition contractors and certain asphalt plants. This provision allows the permittee to receive a permit allowing operations, after notification to the permitting authority, at numerous fixed locations without requiring a new permit at each site. Any such permit must assure compliance at all locations of operation with all applicable requirements of the Act, including visibility protection and PSD requirements.

Renewal permit conditions:

In general, renewal permits are required to be at least as stringent as the permits they replace. For example, a source that installed reasonably available control technology (RACT) based controls would not be permitted to remove them, even if EPA subsequently issued guidance suggesting that it would accept as a general matter a lower level of control. There are several exceptions to this general rule. For example, offsets or emissions trades may be used to relax controls in permits; mistakes or new information may justify a less stringent limit; or the permittee may have installed controls that were anticipated to meet the earlier limit, but due to circumstances beyond its control failed to meet those limits. These exceptions are available only

to sources that demonstrate compliance with all applicable regulatory requirements in effect at the time of permit reissuance, including ambient standards, progress requirements, and applicable new source and hazardous air pollutant standards.

New CAA Sec. 405—Notification to Administrator and Contiguous States

Except where the Administrator waives review for a permit or class of permits, the permitting State or interstate agency must transmit to the Administrator a copy of each permit proposed to be issued, and must notify each contiguous State of each application for a permit and each proposed action on the application. The Administrator may object to a permit within 90 days after receiving notification if it fails to meet Clean Air Act requirements, including the requirement that emissions from a source in one State not interfere with attainment of standards in another. If the permitting authority fails to respond adequately to the objection, the Administrator may issue or deny the permit. The Administrator may also require a State to modify a permit for cause.

New CAA Sec. 406—Relation to Other Authority

This section clarifies that State authority to establish additional permitting requirements not inconsistent with this Act is preserved. It also specifies that title IV is not intended to authorize any State or the Administrator to modify or revoke any requirement of title V, including allowances granted under that title.

TITLE V—ACID DEPOSITION DEPOSITION CONTROL

Section 501. Acid Deposition Control

This section adds a new title V—Acid Deposition Control—to the Clean Air Act, consisting of new sections 501 through 515.

New CAA Sec. 501—Findings and Purposes

This new section contains the findings and purposes of the acid deposition control program. In summary the findings include that emissions of sulfur dioxide (SO_2) and nitrogen oxides (NO_x) are being transformed into acid deposition that represents a threat to natural resources, ecosystems, materials, visibility and health. Given that non-utility emissions of sulfur dioxide will have declined by over 1 million tons between 1980 and 2000, the purpose of this title is to reduce utility emissions of sulfur dioxide sufficiently to achieve a 10 million ton reduction relative to 1980 levels and to reduce NO_x emissions by 2 million tons from expected levels. It is also the purpose of title V to encourage energy conservation and pollution prevention as a long range strategy for reducing air pollution and other adverse impacts of energy production and use. Emission reductions will be achieved in two phases—phase one reductions are required after December 31, 1995 and phase two reductions are required after December 31, 2000.

New CAA Sec. 502—Definitions

This new section contains the definitions and meanings of key terms used in this title.

New CAA Sec. 503—Allowance Program for Existing Units

This new section describes the emission allowance system proposed as the key implementation vehicle for Title V. To ensure that the emissions reductions contemplated by this Title are met, a limited number of emission allowances will be issued to affected sources for each year based on a statutorily prescribed formula. An allowance is a federal authorization to emit a ton of sulfur dioxide or nitrogen oxides in a calendar year. Holders of these allowances are prohibited from emitting SO_2 or NO_x unless they hold an equivalent number of allowances. In phase I, allowances can be transferred among affected sources within a State and within an interstate utility company. In phase II, allowances may be transferred among affected sources within two multistate regions of the county. Allowances may be transferred and banked according to regulations in both phases. Nitrogen oxide allowances may be traded for sulfur dioxide allowances, and vice versa, at an exchange rate of 1.5 pounds of nitrogen oxides for 1 pound of sulfur dioxide. When existing sources shutdown, they are allowed to keep (and transfer) their allowances. New sources will be required to obtain allowances. EPA will track all emission allowances and transfers.

New CAA Sec. 504—First Phase Sulfur Dioxide Emission Reduction Program

This new section sets forth the first phase SO_2 reduction program. All existing fossil fuel-fired steam electric generating units larger than 100 MWe are required to limit their emissions after December 31, 1995 to the tonnage equivalent of a 2.5 lbs./mmBtu emission rate for SO_2 on an annual average basis. (The tonnage equivalent is determined by multiplying the 2.5 lb/mmBtu rate times the annual average fuel consumption for 1985–1987.)

The phase one reduction requirements may be reassigned to one or more alternative fossil fuel-fired units upon application during the first phase by the owner or operator of the affected units. The Governor of the State where the units are located may prohibit the use of out-of-State coal.

New CAA Sec. 505—Second Phase Sulfur Dioxide Emission Reduction Program

This section sets forth the second phase SO_2 emission reduction program. Fossil fuel-fired steam-electric generating units larger than 75 MWe with emission rates greater than 1.2 lbs/mmBtu will receive SO_2 allowances equal to the product of 1.2 lb/mmBtu multiplied by the unit's historic (1985–1987) annual average fuel consumption. Through the trading program established by section 503, allowances can be transferred among affected sources. Units which are currently limited to an emission rate of less than 1.2 lb/mmBtu and generating units smaller than 75 MWe will be required to emit at a rate no higher than their actual 1985 emission rate.

New CAA Sec. 506—Nitrogen Oxides Emission Reduction Program

This new section contains the reduction requirements for NO_x sources. By rule, the Administrator will establish emission standards for existing coal-fired steam-electric generating units that are sufficient to reduce NO_x emissions by 2 million tons below projected emissions for calendar year 2000.

New CAA Sec. 507—Permits and Compliance Plans

This new section establishes the permits and planning requirements for the acid deposition control program. Sources subject to title V are required to apply for first- and second-phase permits. These will contain, among other things, the schedule of compliance the source will follow to meet the requirements of this program and, if applicable, the number of allowances initially allocated to the source. Permit applications for phase 1 are required no later than 27 months after enactment; phase 2 applications by January 1, 1995. Applicants may submit revisions to their permit applications and compliance plans. Each permit will contain the key enforceable provision that each source is prohibited from emitting sulfur dioxide or nitrogen oxides in excess of the allowances that it holds or rates prescribed for each of those pollutants.

New CAA Sec. 508—Repowered Sources

This new section establishes the availability of a nonrenewable three year extension of the stage two compliance date (i.e., until December 31, 2003) for any unit being repowered with clean coal technologies specified in this title. Such repowered sources would be required to meet a hybrid standard bassed on the rated capacity of the boiler prior to repowering and the new capacity of the boiler once repowered. Such sources would also be exempt from meeting new source performance standards and would be subject to steamlined new source review procedures if their potential emissions are expected to increase.

New CAA Sec. 509—Election for Additional Sources

This new section establishes the terms under which existing utility boilers smaller than 75MWe or with emission rates lower than 1.2 lbs/mmBtu and non-utility sources (e.g., industrial boilers) may elect to participate in the emission allowance transfer system.

New CAA Sec. 510—Excess Emissions

This new section establishes that the owners and operators of sources that emit in excess of their allowances are liable for the payment of an excess emission fee of $2000/excess ton. (This fee is in addition to any penalty liability under other sections of the Act.) The fee is non-discretionary. In addition, units that emitted in excess of their allowances must offset the excess emissions by an equal tonnage amount in the year following the excess.

New CAA Sec. 511—Monitoring, Reporting

This new section establishes the Title V monitoring, reporting, and record keeping requirements. All affected sources will be required to install and operate continuous emissions monitors (CEM) for SO_2, NO_x and opacity or employ a comparably reliable method for continuously monitoring emission and to keep records and provide reports of emissions. This requirement is necessary for verifying actual emissions performance for purposes of ascertaining compliance, the availability of allowances for trade, and the amount of any excess emission fee and offset liability.

New CAA Sec. 512—Compliance with Other Provisions

This new section establishes that compliance with Title V does not exempt or exclude sources from their requirements under an other part of the Act, except that affected sources are exempt from stack height requirements under section 123.

New CAA Sec. 513—Enforcement

This new section establishes the enforceability of the various provisions of the Title.

New CAA Sec. 514—Report to Congress

This new section requires the Administrator to report to Congress on the environmental effects of the emission reductions required under this Title.

New CAA Sec. 515—Clean Coal Technology Regulatory Incentives

This new section provides regulatory incentives to encourage the use of clean coal technologies. The Federal Energy Regulatory Commission (FERC) is required to adopt regulations for a 5-year demonstration program that would include establishment of an incentive rate of return and a 10 to 20 year amortization period for innovation emission control technologies. FERC is also required to develop a process to negotiate a prudent level of investment for clean coal and other innovative technology projects. This section also exempts temporary and permanent clean coal technology demonstration projects from new source review requirements under section 111 and Parts C and D of the Clean Air Act so long as the demonstration project does not increase the original facility's potential to emit for any pollutant regulated under the Act. Finally, States are encouraged to provide additional utility regulatory incentives fo the promotion of clean coal technologies.

TITLE VI—PROVISIONS RELATING TO ENFORCEMENT

Section 601. Section 113 Enforcement

This section amends existing Clean Air Act (CAA) section 113 to accomplish several important goals:

Clarification of 30-day Notice Provisions

Section 113 is amended to clarify and confirm that the 30-day notice period is not a shield to protect sources. Subsection 113(a)(1) is amended to clarify and confirm that the 30-day notice provision is intended solely to allow the states an opportunity to exercise their civil enforcement prerogatives before Federal enforcement action is initiated. Subsection 113(b)(2) is likewise amended to clarify and confirm that a source is liable for penalties for all violations of a SIP, even if the violations pre-date the Notice of Violation. Amendments to subsection 113(a) clarify and confirm that the 30-day notice provision for civil and administrative SIP actions is inapplicable to criminal actions. Furthermore, the amendment clarifies and confirms that, as with all other environmental statutes, the option of proceeding criminally is not excluded by the bringing of an administrative or civil action.

Expanded Administrative Compliance Order Authority

Subsection 113(a)(4) is amended to authorize EPA to issue administrative orders with non-renewable compliance schedules of up to 12 months' duration. This provides EPA with the ability to expeditiously resolve violations administratively, while still protecting against extensions of applicable compliance deadlines. EPA will retain authority to pursue civil penalty actions, contractor lising and other appropriate remedies until compliance is achieved, and the issuance of an order will not insulate a source from criminal prosecution.

Ensuring Full Enforceability of Stationary Source Statutory Requirements

Section 113 is amended to ensure that administrative, civil judicial, and criminal sanctions may be imposed for any violation of any requirement of titles I, III, IV or V of the Act, including any rule, order, waiver, permit, plan or fee requirement promulgated or approved under the Act. This amendment ensures enforceability of new requirements proposed elsewhere in the Administration's bill.

Enhanced Criminal Sanctions Authority

Subsection 113(c), which currently authorizes only misdemeanor-level criminal sanctions for violations of the Act, is amended to authorize felony-level sanctions for certain knowing violations and misdemeanor-level sanctions for certain negligent violations.

The paragraphs in subsection 113(c) are also reordered and recodified. New paragraphs 113(c)(1) and (c)(2) authorize misdemeanor-level criminal sanctions against anyone who knowingly fails to pay a fee owed the government or who negligently violates amended section 112 and thereby places another person in imminent danger of death or serious bodily injury. New paragraphs 113(c)(5) authorizes felony-level sanctions against anyone who knowingly violates amended section 112 or releases of certain specified extremely hazardous substances and toxic chemicals and who knows at the time that another person is thereby placed in imminent danger of death or serious bodily injury.

Existing CAA paragraph 113(c)(2) (new paragraph 113(c)(4)), which establishes criminal liability for knowing false statements and falsification or tampering with monitoring devices, is amended to include liability for: knowing failures to act; knowing omissions of material information; the knowing destruction, alteration, concealment, or failure to maintain documents necessary for CAA compliance; and knowing failures to install necessary monitoring devices. It also increases the maximum term of imprisonment for this category of violation from six months to two years, and the $10,000 penalty cap with a reference to title 18 U.S.C., which provides for maximum fines of $250,000 for individuals and $500,000 for organizations.

Administrative Penalty Authority

The CAA is amended to authorize the EPA to issue administrative penalty orders. This amendment sets a presumptive cap of $200,000 on administrative penalties, and provides that EPA and the Department of Justice may agree to increase the penalty limit for certain cases or categories of cases by entering into memoranda of understanding. These agreements would be especially appropriate for categories of cases which routinely involve multiple violations, each of which may have minor penalties but which total more than $200,000.

The CAA is also amended to authorize EPA to issue "field citations" for minor violations discovered during the course of an inspection and for violations of routine reporting and recordkeeping requirements. The particular categories of cases which may be addressed by field citations will be specified by the Administrator, from time to time, through a memorandum of understanding between the Administrator and Attorney General and will be promulgated in regulations. Civil penalties assessed in a field citation will not exceed $5,000 and the payment of a civil penalty assessed pursuant to a field citation shall not be a defense to further enforcement and penalty liability for violations occurring before or after the date of the violation(s) addressed in the citation. Sources against whom field citations are issued may either pay the civil penalty to an EPA official other than the inspector who issued the citation or request an informal hearing as provided for in regulations. The hearing would not be a formal adjudicatory hearing and would not be subject to 5 U.S.C. sections 554 and 556.

Assessment of civil penalties under either of these new administrative penalty authorities are subject to judicial review in the appropriate United States District Court. Assessments are also enforceable by suit brought by the Attorney General in the appropriate U.S. District Court. The provisions for judicial review and collection of penalties are intended to operate like the comparable provisions for administrative penalties in the Clean Water Act, 33 U.S.C. 1319(g) (8) and (9).

Current subsection 113(d), which allows states and EPA to grant "delayed compliance orders" of SIP requirements past the attainment deadlines, is prospectively repealed. That authority is no longer necessary or appropriate in light of the amendments proposed to subsection 113(a) authorizing 12-month compliance orders, and the revised planning procedures and deadlines proposed in Title I of the Administration Bill. Any delayed compliance orders in effect prior to the repeal of section 113(d) shall, however, remain in effect until expiration or termination as provided therein, and shall not be affected by this amendment.

Penalty Assessment Criteria

A new subsection 113(e) clarifies the criteria to be applied in assessing penalties, and clarifies and confirms that the maximum statutory penalty may be assessed for each day of each violation, including each day of a multi-day averaging period.

Subsection 113(e) also clarifies and confirms that once EPA establishes evidence of a violation using a formal test method, EPA can use other credible evidence to prove additional violations, or that a violation has continued. In addition, subsection 113(e) clarifies and confirms that once EPA has made a *prima facie* case that establishes a period of violation, the burden of proving any intervening days of compliance rests with the source. Sources may then rebut this presumption by proving by a preponderance of the evidence that there were intervening days with no violation or that the violation was not continuous in nature.

Finally, new subsection 113(e) explicitly identifies the factors both a court and the Administrator shall consider in determining the amount of any civil penalty assessed under section 113 or section 304(a) (1) or (3).

Current subsection 113(e), which extended compliance deadlines for certain steel plants up until the end of 1985, is prospectively repealed. That authority is no longer necessary or appropriate in light of the expiration of the deadlines and the very limited number of extensions that were sought by the steel industry.

Informant Rewards

Subsection 113(f) authorizes the Administrator to offer rewards of up to $10,000 to individuals who provide information concerning violations of the Act which lead to criminal convictions or civil or administrative judgments of liability. Funding for rewards would come from general appropriations or from appropriations from the separate fund provided for in section 304 as amended.

Section 602. Reviewability of Administrative Orders

This section amends subsection 307(b)(2) of the CAA to clarify and confirm that orders or notices issued by the Administrator under section 113(a), 167 and 303, administrative subpoenas under section 307(a), and actions under sections 114, 206(c) and

208 of the Act are not final agency action for purposes of judicial review. This section further provides that such orders, notices, subpoenas and actions are not judicially reviewable until an enforcement proceeding is brought under sections 113, 120, 204, 205 or 304 of the Act. This amendment does not alter the provision of subsection 307(b)(2) that precludes challenges in enforcement proceedings to actions that could have been directly reviewed under subsection 307(b)(1). The ability of a violator to contest the validity of an administrative order, notice, subpoena, or investigatory action is preserved as defendants will have the opportunity to challenge the same in the district court enforcement action.

Section 603. Compliance Certification

This amendment clarifies and confirms that EPA has the authority under subsection 114(a) to require enhanced monitoring and submission of compliance certifications, and to require such monitoring and compliance certifications by major stationary sources.

Section 604. Contractor Inspections

This section amends CAA section 114 to clarify and confirm that, as in other environmental statutes, EPA has discretionary authority to use contractors to conduct CAA inspections. The section includes a reference to 18 U.S.C. 1905 providing that contractors are subject to that provision's criminal sanctions for illegal disclosures.

Section 605. Administrative Enforcement Subpoenas

This section amends CAA subsection 307(a) to give EPA express authority to issue administrative subpoenas in support of its enforcement activities under the Act. This expands existing authority to issue subpoenas in support of rulemaking activities. This authority corresponds to the increased administrative enforcement mechanisms proposed in these amendments, and conforms the CAA to other environmental statutes.

Section 606. Enforcement of Administrative Orders

Current subsection 303(b) provides for civil penalties of $5,000 for each day of "willful" violation of an emergency order issued by the Administrator under subsection 303(a), and no criminal penalties. This amendment deletes subsection 303(b) and makes section 303 orders enforceable under the Act's other enforcement authorities, *e.g.* sections 113, 120, 304(a)(1), and 306. The maximum civil penalty for an emergency order violation is thereby raised to $25,000 per day of violation and the requirement of providing "willfulness" for civil actions is eliminated. In addition, criminal sanctions are made available under subsection 113(c) for knowing violations of emergency orders and for knowing endangerment.

Section 607. Scope of Emergency Powers

Section 303 is also amended to authorize injunctive actions and emergency orders for episodes threatening to the environment, in addition to its current authority to safeguard human health. In addition, both the 24- or 48-hour time limitations on the duration of emergency orders, and the prohibition against judicial enforcement of emergency orders unless state and local authorities have not acted, are eliminated. This will allow the Agency to effectively order necessary emergency action and to enforce any order issued without delay, and conforms the CAA to other environmental laws. This amendment preserves the existing section 303 requirement that the Administrator consult with state and local authorities before taking any action.

Section 608. Contractor Listings

Section 306 of the Act is amended to enable the Administrator to exclude from Federal government contracts, grants, or loans any facility owned or operated by a person criminally convicted under subsection 113(c). This expands current authority, which limits the contractor listing action to the particular violating facility. The Administrator is given discretion to limit the scope of the exclusion to the particular violating facility or to a subdivision of the legal entity which owns or operates the facility, as appropriate.

The mandatory listing requirement of subsection 306(a) is expanded to include any violation criminally actionable under subsection 113(c) of the Act, as well as mobile source violations under sections 205(d), 211(d)(3) and 212(e). The amendment also clarifies and confirms that following a conviction under paragraph 113(c)(2) (*i.e.*, false statements, omissions, etc.), not only must the false statement be corrected, but additionally any substantive violation underlying the false statement (*e.g.*, a source in violation of the NSPS for which the defendant falsely submitted complying monitoring information) must be certified as in actual substantive compliance by the Administrator in order for the defendant to be removed from the list.

This section also ensures that the new criminal sanctions for knowing endangerment, negligent violations, and knowing omissions and failures to act result in mandatory listing under section 306.

Section 609. Judicial Review Pending Reconsideration of Regulation

This amendment clarifies and confirms that under subsection 307(b), as under subsection 307(d)(7)(B), a petition for agency reconsideration does not render agency action non-final for purposes of judicial review and does not toll the 60-day time period for seeking judicial review.

Section 610. Citizen Suits

Section 304 is amended to authorize the assessment of civil penalties in citizen suit actions as in the Clean Water Act and the Resource Conservation and Recovery Act. The section provides further for the deposit of citizen suit penalties into a special fund in the U.S. Treasury. The monies would be available for appropriation to EPA for use in air compliance and enforcement activities.

In addition, section 304 is amended to require that copies of complaints and proposed settlements in citizen suit cases be served on the Administrator and the Attorney General, as in the Clean Water Act. The amendment provides specifically that no citizen suit settlement can be entered unless the government is given 45 days notice and an opportunity to comment or intervene in the action. This amendment allows the government to substitute itself as plaintiff with respect to a citizen claim for civil penalties, and clarifies and confirms that the federal government is not bound by a citizen enforcement action to which it is not a party.

Section 611. Enhanced Implementation and Enforcement of New Source Review Requirements

This section clarifies and confirms that operation, as well as construction and modification, of major sources not meeting new source review requirements is prohibited, and that section 167 administrative orders regarding new sources can be directly enforced both civilly and criminally under section 113.

Section 612. Movable Stationary Sources

The definition in section 302 of the Act of the term "stationary source" is amended to clarify and confirm that emissions from movable stationary sources such as mobile asphalt batch mixing trailers and ships at port are subject to the Act's stationary source requirements.

Section 613. Enforcement of New Titles of the Act

This provision expands availability of the section 120 remedy allowing recovery of the economic benefit of noncompliance to cover violations of the new proposed Title IV governing permit programs and Title V regarding acid precipitation.

TITLE VII—MISCELLANEOUS PROVISIONS

Section 701. Grants for Support of Air Pollution Planning and Control Programs

Amends Sec. 105 to allow the Administrator to make grants to air pollution control agencies in amounts up to three-fifths of the cost of implementation. Agencies contributing less than the required two-fifths minimum have three years to attain this minimum funding level.

Requires that, in most cases, no air pollution control agency shall receive a grant during any fiscal year if its current expenditures of non-Federal funds for recurrent expenditures for air pollution control programs is less than expenditures in the preceding year. The Administrator shall also revise the current regulations defining applicable nonrecurrent and recurrent expenditures.

Section 702. Annual Report Repeal

Repeals section 313 of the Clean Air Act.

Section 703. NOx and VOC Study

Within two years of enactment, EPA, in conjunction with the National Academy of Sciences, shall study and report to Congress, the role of ozone precursors in tropospheric ozone formation and control and specifically examine the roles of NOX and VOC emission reductions.

Section 704. Review and Revision of Criteria and Standards

Amends sections 108 and 109 by revising the procedures for periodic review and revision of national ambient air quality standards and the air quality criteria on which they are based. In general, it requires the Administration to determine every five years whether revision of existing standards is appropriate and, if so, to complete appropriate revisions within three years. The section also provides for issuance of criteria and promulgation of standards for pollutants newly listed under section 108 and makes technical and conforming changes.

Section 705. Air Pollutant Release Investigation Board

Establishes within EPA an Air Pollutant Release Investigation Board for the purpose of investigating potentially dangerous accidental releases of air pollutants. The Board would consist of the Secretary of Labor or his designate and four members appointed and convened by the Administrator following a major life-threatening release of an air pollutant or pollutants to investigate the release and report to Congress.

Mr. CHAFEE. I mention, Mr. President, that we have a distinguished list of cosponsors of this legislation. I will briefly mention them, Mr. President.

The Republican whip, Senator SIMPSON, who is soon going to speak, and Senators DURENBERGER, WARNER, JEFFORDS, HUMPHREY, BOSCHWITZ, D'AMATO, DOLE, DOMENICI, EXON, GORTON, HATCH, HATFIELD, KASSEBAUM, MCCAIN, MCCLURE, MURKOWSKI, RIEGLE, RUDMAN, STEVENS, THURMOND, WALLOP, and BREAUX; 24 in all. I thank the Chair

Mr. DURENBERGER. Mr. President, I am pleased to join with other Members of the Senate as a cosponsor of the clean air bill proposed by President Bush.

Some of us have been working to pass acid rain control legislation since 1981. We have never come close. Bills reported by the Environment and Public Works Committee in 1982, 1984, and 1987 have also included provisions on urban pollution and air toxics. But they have never been debated on the floor of the Senate, because of our inability to resolve basic questions on acid rain.

Despite the serious health and environmental threats caused by air pollution and the clear failure of the Clean Air Act to address these threats successfully, it has not been possible to amend and reform the law. Entrenched opposition by the affected industries, by some of the leadership here in the Senate and in the House and by the former President of the United States made reform impossible.

But all of that has changed. Almost everyone agrees that this is the Congress which will rewrite the Clean Air Act. There is one person who is principally responsible for that change in direction—President George Bush.

It is the President's commitment to clean air which will break the decadelong stalemate here in the Congress.

It is the President's commitment which will make it possible to address all three of the major issues—acid rain, urban pollution, and air toxics.

It is the President's commitment which will soon be experienced by all Americans as cleaner air, better health, and safer natural resources.

I am pleased that Senator CHAFEE has decided to sponsor this bill and to give the other Members the opportunity to cosponsor. By putting my name on the bill, I am able in a small way to say thank you to President Bush for his personal commitment to these issues and the vision he has shown in proposing this legislation.

Mr. President, it is important that we also use this occasion to comment on a few of the major issues raised by this legislation to set the course for the legislative debate which will occur this fall.

The acid rain provisions in this bill have an ambitious objective. It is a stronger acid rain control program than any other yet introduced in this Congress. A sulfur dioxide reduction of 10 million tons by the year 2000 is a formula for significant environmental gains. But beyond that, the President has proposed a permanent cap on emissions that will assure the gains are safeguarded once achieved. I am for the cap. I will fight for the cap.

The other aspect of the acid rain proposal which will receive close scrutiny is the emissions trading plan. It is an innovative proposal that deserves consideration. I could support such a plan on two conditions. First, it is said that this trading scheme will focus actual emissions reductions on those plants which do the most damage—the plants which contribute the greatest loading on our sensitive resources and those of Canada. The focus will occur, because reductions are cheapest at those plants. Trading encourages maximum reductions at the sources which are cheapest to control. If it works that way, it would be a big plus for this emissions trading proposal. But I want to see the proof that it works that way.

Second, any trading scheme must be enforceable. A scheme that allows anyone to forego a reduction today for some promised reduction in the future is not enforceable. The chit must be in hand before the offset can be claimed. And load factor shifting between plants that has the effect of increasing actual emissions while producing paper reductions in allowables cannot be tolerated.

The third thing I think we must consider in any acid rain proposal is the role of conservation. Some pollution control technology—especially the scrubber—comes with a big energy and carbon dioxide emissions penalty. And any commitment to retrofit existing coal-fired plants with conventional pollution control technology is a commitment to a less efficient, older combustion technology for a long period of time. I am not prepared to wait for SO_2 reductions, but whatever we can accomplish through conservation now would be a long-run plus for the program and for the environment as a whole.

Mr. President, I believe that we may also need to look at options which would subsidize sulfur dioxide reductions at the plants required to make them. I was especially interested in an editorial recently printed in the Washington Post authored by Congressman PHIL SHARP. His point was that under almost all acid rain control proposals, utility powerplants in the Midwest would be required to make SO_2 emissions reductions disproportionately large when compared to their contribution to the problem. At the same time, SO_2 sources from industry, including petroleum refining, and utility sources already controlled or using low sulfur coal would bear a disproportionately lower share of the cost. I agree.

I have always believed that a tax on sulfur dioxide emissions from all sources—and perhaps nitrogen oxide emissions, as well—with the revenue used to purchase the cheapest possible controls—wherever they might be assigned—would add an element of fairness to an acid rain control program. I continue to believe that a tax and subsidy scheme of that type would address the equity issues which Congressman SHARP has raised.

On the subject of nonattainment, much of the debate on the President's proposal has focused on the mobile source provisions and especially the tailpipe standards and industry averaging that would be allowed in meeting those standards. Many would have us believe that the automobile is the principal reason we have failed to achieve the national ambient air quality standard for ozone. They want much tighter requirements imposed on the auto manufacturers to reduce exhaust emissions of hydrocarbons and nitrogen oxides.

It sounds ironic to say, but it is traffic, not the car, which has kept us from meeting the standards. Today, new cars rolling off the assembly lines of Detroit are much cleaner than the cars produced in 1970 when the Congress first imposed tailpipe standards. Hydrocarbon emissions have been reduced by 96 percent, carbon monoxide by 96 percent and nitrogen oxides by 76 percent. Tailpipe emissions from new cars are one of the great success stories of the Clean Air Act. The engineers and production people of the auto industry have done a good job.

But cars on the road today contribute almost as much to the urban pollution problem as they did in 1970 because there are many more cars, taking many more trips, traveling many more miles under much more congested conditions than existed 20 years ago. Traffic is overwhelming the tremendous clean air gains that have been made by auto technology under the requirements of the Clean Air Act.

Now, some say that means we need to ratchet down on the cars again. And there is some more than can be accomplished by the automakers. We can make significant progress on carbon monoxide by addressing the cold start problem. Onboard canisters can eliminate refueling emissions. Extended useful life can add durability to the emissions control system. Larger canisters and a better purge can reduce running losses and evaporative emissions. And the tailpipe standards can be tightened to some degree.

I must also say that I do not believe that the tailpipe averaging provision contained in the President's bill is necessary. Automakers are already meeting the standard for carbon monoxide

without averaging. California has set an equivalent hydrocarbon and a tighter nitrogen oxide standard without averaging. And it appears that the California program is achievable. The regulatory overseers at OMB have been pushing averaging on EPA for many years now, this bill being the latest manifestation. When EPA opts for an extraordinarily aggressive, technology-forcing standard, averaging for a time might be appropriate. But not for the auto standards contained in this bill.

All of that said, I do not believe that the dramatic cuts in exhaust emissions which have been proposed in the nonattainment bill introduced by Congressman Waxman on the House side make sense. Tailpipe hydrocarbon emissions have already been reduced by 96 percent. The President's proposal tightens the standard further, resulting in a cumulative reduction of 99 percent. The Waxman bill would cut the remaining emissions by another 50 percent.

That final step produces very little environmental gain at great cost. The total hydrocarbon emissions inventory from all sources in the U.S., factories, trucks, cars and consumer products, would be reduced by only three-tenths of one percent by imposing the final phase of tailpipe standards in the Waxman bill. And it is a small gain at a tremendous cost.

It is unclear what technology Detroit would use to meet these standards over 100,000 miles. But assuming that it costs just $100 a car, the actual hydrocarbon emissions reductions in nonattainment areas resulting from imposition of the standard would cost $23,000 a ton. If one makes a more reasonable assumption—that the standards will cost $400 per car—the hydrocarbon reductions come at a cost of $92,000 per ton.

That is extraordinarily expensive, Mr. President. Hydrocarbon emissions reductions made at stationary sources in nonattainment areas average about $2,000 today. The Waxman final phase tailpipe standards would be 46 times more expensive. That stands to reason, since they would be imposed on an emissions source that has already achieved a 99 percent reduction.

The message here is that we need to look to other measures, if we are ever to achieve healthy air quality. And there are other, more promising places to look. Putting the record of Detroit beside the record of governments—Federal, State and local—under the Clean Air Act is an interesting comparison. Detroit, as I have tried to point out, has done quite well. That's not to say that more can't be done. But there is an accomplishment that needs to be recognized.

On the other hand, the record of governments under the Clean Air Act is pretty dismal. States have submitted implementation plans widely known as cheater SIPs because they underestimate growth in emissions and overestimate the effectiveness of controls.

State and local governments haven't even implemented the modest commitments made in those SIPs.

Requirements for reasonably available control technology haven't been imposed on existing stationary sources.

Inspection and maintenance programs exempt the oldest—and dirtiest—cars. In many States cars that fail the I&M test don't have to be fixed, if it would cost more than $50.

EPA has taken 12 years to choose between Stage II and on-board refueling controls and has now been denied its choice delaying action even further.

EPA has not enforced attainment deadlines. When it tried to do so in 1982, a howling complaint from the Congress caused it to reverse

No corrective SIP submitted by a State since that date has been approved.

The litany of errors by governments of all kinds at all levels goes on and on. Looking at the record of governments under the Clean Air Act—setting aside any consideration of industry compliance or recalcitrance—no one could reasonably expect the air to be healthy.

The lesson I learn from this comparison is that we must focus much more closely on the role of government during this reauthorization of the Clean Air Act. The air quality planning process must use much better tools and be less subject to abuse. EPA and the States must have the resources necessary to plan, to implement and to enforce air quality control programs. Progress in reducing air pollution in nonattainment areas must be measurable on an incremental basis with effective contingency requirements and certain sanctions for failure to implement commitments.

We may spend the next several months in a truculent debate on the role of exhaust from autombile tailpipes in producing ozone pollution. But I hope not. What can be accomplished by ratcheting down on automobile hydrocarbon exhaust beyond the levels proposed in the President's bill is a minor consideration compared to air quality improvements that are sacrificed to a planning process that is poorly designed, underfunded and never enforced. Our best efforts and greatest energies need to be focused on the heart of the nonattainment program—the air quality planning process—not perfection of automobile exhaust control systems.

On the subject of air toxics, Mr. President, I have three comments to make. I believe there is now a broad consensus that major sources of a very large number of toxic air pollutants will be required to install best available control technology to significantly reduce routine emissions. That consensus is remarkable considering where this issue stood but a year ago. Everyone in this town was predicting then that air toxics would be quickly dropped from the Clean Air agenda.

A significant part of the progress that has been made is due to the willingness of Lee Thomas, the former administrator at EPA, to step up to this problem and announced that a legislative modification of section 112 is necessary. His decision last summer to join in the discussion of the issues with members of the Senate and the legislative language subsequently produced by EPA turned the corner on this issue. When the political history of this legislation is written, his role in assuring air toxics a place on the agenda must be remembered.

Second, I am most pleased that the President's bill includes an authorization of the chemical safety board to investigate catastrophic releases of air toxics. I am sure a great deal more needs to be done on chemical accidents, but again the bill admits the issue to the agenda for debate and that is a necessary first step.

Third, we should not drop an unadulterated health-based standard from the air toxics program. The current law doesn't work well for air toxics because the health-based standard is the only regulatory option and it is too stringently written for some pollutants. But the failed nature of the existing statute, does not mean that health-based authorities should be abandoned altogether. Technology-based standards won't do the whole job in every case. Where a pollutant causes acute illness—where a cancer risk to the most exposed persons is unacceptable * * * where new technology can be developed to reduce cancer incidence for the general poplulation—where emissions cause significant environmental degredation * * * EPA must have the authority to impose tighter controls to protect health and the environment.

I don't believe that an unreasonable risk standard resolves the dilemma associated with health-based standards under current law. We have an unreasonable risk standard in the Toxic Substances Control Act already. It has been notably unsuccessful as a tool to protect public health. It doubles the proof requirements imposed on the regulator. Not only must the pollutant be demonstrably unsafe, but a second demonstration, showing that the benefits or regulation are greater than the costs, must also be made. Considering the EPA has not had the resources to make one demonstration—the benefit demonstration—under the current section 1123, it is unlikely that they will have the resources to consider the

intersection of two—both cost and benefit.

Mr. President, I would mention one final issue before closing. I will urge the Environment and Public Works Committee to include provision on municipal waste combustion in the clean air legislation which it reported. Almost 200 American communities have committed nearly $17 billion to the incenerator option as a partial solution to their solid waste problems. Yet, issues related to air emissions and ash disposal for these plants remain unresolved. This is an urgent issue.

Incinerators are major sources of criteria pollutants and air toxics. As such, they would likely be regulated under the provision of a reformed Clean Air Act whether addressed directly or not. We would do a service to local government, I believe, by examining the special character of waste combustion facilities and resolving questions of technology and standards with legislative certainty at an early date.

The distinguished Chairman of the Senate Environment and Public Works Committee, Senator BURDICK, has introduced S. 196 which thoroughly addresses the municipal waste combusion issues. I will urge the Committee to include the text of that bill in the markup vehicle which it considers in the fall.

Many people in the executive branch had a hand in preparing the legislation which we introduced today. Bill Reilly and Bill Rosenberg at EPA, Bob Grady at the Office of Management and Budget, and Nancy Maloley at the White House deserve special mention.

But dozens of others, and in particular the staff of the EPA Office of Air and Radiation both here in Washington and at the Ann Arbor lab, can see their efforts reflected in this bill. I congratulate them on the success they have had in turning a vision of cleaner air into a concreate legislative proposal. That is more difficult to do than most people realize. And I congratulate President Bush on his decision to put their experience into a comprehensive rewrite of the Clean Air Act. When all is said and done, it is his commitment which will assure the American people cleaner air in the coming decade.

Mr. BURDICK. Mr. President, as chairman of the Senate Environment and Public Works Committee, I want to briefly comment on the clean air bill of President Bush being introduced today.

I commend President Bush for the major effort that went into this 300-page bill. I have been studying the details, and so far I am very impressed with what this administration has accomplished, especially compared to the previous administration. From what I have seen, particularly the acid rain title, there is very little in this legislation that I cannot support.

The acid rain provisions of this bill will provide a solid base for our deliberations as my committee holds hearings this summer and works on legislation the fall. With the administration's help, I am confident that we can have a clean air package ready later this year that will be acceptable to environmentalists and industrial concerns, and which protects public health. This bill is a big step toward meeting that goal.

Our committee has been trying to draft comprehensive clean air amendments for the last decade, and it looks like we finally have that elusive goal within reach. I, for one, welcome the President's leadership and I intend to work with him in enacting badly needed changes to the Clean Air Act.

Mr. DOLE. Mr. President, I rise today as a cosponsor of the President's clean air proposal—the Clean Air Act Amendments of 1989. Clean air is something we all want for ourselves—and for future generations. In many ways, the President's proposal meets the Nation's challenge to ensure clean air for America.

This proposal will be debated over these next several months by both the House and the Senate. While we all agree clean air is an important goal, the question is: How do we get there?

We spend billions of dollars today in efforts to achieve current clean air standards. Clean air and the high standard of living that America enjoys does not come cheap. I suspect, given the large number of clean air proposals that have been introduced these past 2 years, that there will be some disagreement over how much should be spent and exactly what should be done.

As a matter of fact, Mr. President, I would suggest that there will be more hot air expended in this debate before we get clean air. However, let me say, this will be an important debate and I look forward to it. The President and his staff have done a good job and I look forward to working with them in the weeks and months to come.

Mr. President, I would like to raise one particular issue contained within the President's bill. As you know, for over 20 years I have been a strong supporter of alternative fuels—particularly ethanol and other oxygenated fuels. It is my hope that we can ensure that the final product of congressionally passed legislation will contain a strong oxygenated fuels program.

Mr. President, clean air is part of our heritage. It is something that many of us take for granted, but must be improved in many areas of the United States. It is my hope that the Senate will move expeditiously on this important legislation.

Mr. DOMENICI. Mr. President, today I am pleased to join Senator CHAFEE and others in introducing the administration's Clean Air Act bill.

This is an important moment. President Bush has met his pledge to send to the Congress comprehensive clean air legislation. He has ensured that the administration will be an active and constructive voice in the clean air debate.

The President has sent us a strong bill. It contains a major acid rain cleanup program, a new toxics program that will hopefully move forward our efforts to control air toxics, and a provision to bring nonattainment areas of this country into compliance with health standards.

As with any comprehensive measure, I do not support every single detail of this bill. We are already hearing the first complaints about this bill, and I expect many more. However, the basic framework of the bill is a good one, and it deserves to be included in Senate deliberations.

I would particularly like to spend additional time to review the nonattainment provisions of this bill. The President has proposed some new initiatives that have not been a part of past clean air discussions. Because the nonattainment provisions are so urgently needed, we want to make sure that a final clean air bill contains sufficient measures to ensure that every American will be breathing healthy air.

I welcome the administration playing a constructive role in the clean air debate. Clean air has always been a bipartisan issue. Neither party has a monopoly on this issue. This leads me to make the following, final comments.

Let me express my concern that the clean air debate not be turned into a partisan issue. It has never been before. The last time a clean air bill was on the floor, I, for one, stood side-by-side with that great environmental leader, Senator Muskie, in arguing for the Environment and Public Works Committee bill. It clearly was a bipartisan effort that ensured passage of the bill in 1977.

The Congress has been struggling with the current reauthorization of the Clean Air Act since 1981—we are in our ninth year on this issue, Mr. President. Up until 1987, I was an active member of the Environment and Public Works Committee—which was trying to produce a clean air bill. For 9 years, our efforts have not succeeded.

What is different this year, Mr. President, is that we have an administration that has pledged to work with the Congress. This is an extremely important development.

However, if Members decide to try to divide the Senate into waging a partisan battle on clean air, then we are doomed to failure for another Congress.

All I can say is—for those who want an acid rain program to begin, and for those who understand the need to provide the States with a solution on nonattainment, and for those who want to finally see a toxics program that will be faced with the difficult task of trying to explain to the American people why we once again have failed them.

Mr. JEFFORDS. Mr. President, I am here to support the President's participation in the clean air debate. We have some very tough decisions to make in regard to a national program on clean air, and it is encouraging that President Bush, who ultimately will implement the law, is willing to put forward his suggestions on the issue.

The Environment Committee is working on its package of clean air amendments and we hope to have the components assembled very soon. We're admittedly behind the schedule that we had set for ourselves earlier this year, but we will have a tough bill to offer for debate—one that is credible, effective and that accomplishes the task of assuring healthy, breathable air for all Americans.

Acid rain is the most pressing issue for the people in my State of Vermont. Our more sensitive areas are being devastated by hightly acidic precipitation and dry deposition. If the current trends are not reversed, we face dire prospects of stunted growth and death of timber stands, extermination of acquatic life, and reduced agricultural production—all this through no fault of Vermonters. While it it is no secret that we do not generate large quantities of electricity by means of fossil fuel combustion, the cookers that we do have are equipped with tough control devices. Our State emission standards to toxic air pollutants are among the toughest in the Nation. Last year, State legislators passed strict, new regulations on automobile components for the sake of the environment. There is a simple reason for this—Vermonters recognize the value of a healthy environment and are willing to pay the price of protecting and preserving the environment for their sake and for that of future generations.

It is clear that the price of the next round of clear air legislation will run into a cost of several billion dollars to the economy. This is in addition to the billions that are currently being expended annually. While I am committed to devising a least costly law in reaching our clean air goals, I am not afraid of the price tag and submit that the figures pale in comparison to our gross national product. Taken further, the cost to utility producers is but a fraction of sales; the price to automobile manufacturers fades in comparison to revenues; and the cost to the petroleum industry is a small percentage of expenses. I have not lost sight of the cumulative effect that will eventually be absorbed by consumers—but I believe this investment in our environment is well worth it. A mounting body of evidence indicates that savings in health costs and increased value of agricultural production and wildlife resources more than equals the upfront costs.

The legislation to be reported by the Environment Committee must go further than the administration package in several respects. In order to curb acid rain and urban smog, we need to achieve greater reductions in oxides of nitrogen. These reductions will need to come from both the automobile and utility industries. I don't believe this is any secret, but I do expect great resistance from the affected parties. Nonetheless maximum achievable reductions of nitrogen oxide is of paramount importance to the Northeast and nonattainment areas nationwide.

The administration's proposal for reductions of sulfur dioxide is a commendable beginning, and I am pleased that consideration has been given to sustaining these reductions beyond 2000. However, additional attention must be paid to assuring that the reductions are subject to strict confirmation. In addition, I will be interested in seeing if SO_2 reductions can be even more aggressive.

Currently, Vermont does not have any nonattainment areas, but measurements in certain communities have made the EPA hitchart, mainly due to transportation of airborne pollution. Therefore, seeing upwind cities come into attainment as soon as possible is something that I will push for. Additionally, scientists studying Lake Champlain are suspicious that airborne toxic pollutants are taking a toll on aquatic life and water quality of the lake. I believe thate is a need to include tough language on air toxics in the final package.

My support for the administration's bill is not without certain reservations. However, after more than a decade of a stalemate on clean air, I think it is very significant that President Bush has come forward with a positive approach to the problem. I look forward to working with my colleagues and the administration in crafting the toughest possible bill. Our children's future is dependant upon our successful passage of effective legislation. I do not believe there are any among us who would wish to compromise this most precious resource.

Mrs. KASSEBAUM. Mr. President, I am pleased to join with my colleagues today in cosponsoring President Bush's comprehensive package to clean up our environment. This bill is the second step in an important process of developing effective and realistic clean air controls. The first step was taken in 1970, and it has become apparent that that measure did not go far enough. It is time that the Congress take additional action to protect the environment—even if this means that we must put partisan interests aside.

The need to clean our air is not a new problem. Writing about the environment 20 years ago, noted journalist and pundit Robert Sylvester wrote, "I asked a coughing friend of mine why he doesn't stop smoking. 'In this town it wouldn't do any good,' he explained. 'I happen to be a chain breather.' "

Unfortunately, Sylvester's witticism holds all too true for the millions who live in our Nation's cities. Last year, in more than 100 cities across the country, health officials warned older Americans and pregnant women to stay indoors and told joggers to stay off the streets because of unsafe pollution levels. Thirty-seven cities, ranging from Kansas City, KS, to Dayton, OH, and Poughkeepsie, NY, were added to the list of places that exceeded air pollution standards for ozone. We cannot become complacent about the air we breathe. The solution to our country's and our world's growing environmental problems lies in a cooperative effort to achieve the single goal of a cleaner environment.

It is for these reasons that I want to commend President Bush for proposing this legislation. It is a comprehensive package that attempts to address ways to improve the quality of our Nation's air in an effective and realistic fashion. It provides a method for reducing acid rain which is killing our forests and choking our cities. It sets forth a plan which does not threaten the competitiveness of U.S. utilities and industries, while at the same time cutting emission levels for sulfur dioxide, the major cause of acid rain, by almost half by the year 2000. It also sets up a realistic goal for cities to comply with ozone safety standards by the year 2000 and cuts the number of factories and industries that emit toxic compounds into the air.

Mr. President, while this package is not perfect, I believe it does offer a strong foundation to begin debate on this important issue. The time has come to work in a cooperative spirit to deal with our Nation's air pollution problems. It is clear that the environmental consequences of taking no action to resolve the problems of acid rain and other air pollution will carry an enormous price tag for future generations.

Mr. D'AMATO. Mr. President, it is with great pleasure that I join with so many of my colleagues in cosponsoring President Bush's Clean Air Act amendments.

I firmly believe that the President's clean air plan is a bold step in the right direction. The legislation encompasses among many things restrictions on emissions causing acid rain, curbs

emissions that contribute to urban smog, restricts air toxics emissions, and promotes the use of alternative fuel vehicles.

It has been nearly 20 years since Congress first passed clean air legislation. While the Nation has cleaned up its act considerably since then, there are still an estimated 140 million Americans that live in areas that do not meet the health standards set by the 1970 Clean Air Act.

In 1988, we experienced record high levels of smog in our cities. Nationally, 1988 peak concentration levels for ozone have exceeded 1987 levels by 77 percent. In New York City there were 27 days of unhealthful air between the months of May and August. In 1987, there were 19.2 days of unhealthy air. This legislation addresses this issue and requires that all nonattainment areas must be in attainment for ozone and carbon monoxide by the year 2000. New York is one of the three most polluted areas that have until 2010 to meet clean air standards.

The nonattainment title of the bill includes several measures for reducing the pollutants that cause urban smog. Some of these measures include tightening tailpipe standards by 40 percent, expanding vehicle inspection and maintenance programs in serious nonattainment areas, requiring light duty trucks to meet the same tailpipe standards now required of automobiles, and providing for the use of alternative fuels.

The single largest contributor to the ozone and carbon monoxide problems in New York and the entire Northeast are emissions from mobile sources. Recent analysis shows that in 1987, motor vehicles accounted for anywhere between 50 and 70 percent of the hydrocarbon, nitrogen oxide, and carbon monoxide emissions in the Northeast.

The Alternative Fuel Program contained in this bill presents a partial solution to this serious problem. Specifically, the legislation requires that by 1997, 1 million alternative fuel cars be sold and that by 1992 all new urban buses must run on alternative fuels. Last year I worked with then-Transportation Secretary Burnley and UMTA Administrator Al Dellibovi in starting up the $46.8 million DOT Alternative Fuels Program. Under this program, $35.1 million in Federal funds is available in grants to local transit systems under a $3 Federal to $1 local matching formula. Seven American cities now have 59 methanol buses in service through an UMTA program. Six of these buses are operating in New York City. I firmly believe that alternative fuel vehicles can play a significant role in helping reduce urban pollution while at the same time helping to decrease our dependence upon foreign oil.

Title V of the legislation addresses the problem of acid rain. According to April 1989 EPA figures, New York State belches out 567,117 tons of sulfur dioxide each year.

Acid rain has had a detrimental effect upon New York's forests, crops, lakes, and even its drinking water. The New York State Department of Environmental Conservation completed a study last year which found that over 25 percent of the lakes and ponds in the Adirondack Mountains are so acidic that the vast majority of them can no longer support any fish life. An additional 20 percent of them are so acidic that they are considered endangered.

While the health effects of acid rain are widely debated there is substantial evidence that SO_2 and NO_x emissions can aggravate respiratory problems, especially in asthmatics. Researchers at Harvard University have found that air pollution is statistically associated with 50,000 premature deaths each year.

This legislation contains a two-phase approach requiring a total reduction of 10 million tons of SO_2 by 2000—half of it must be achieved by 1995—and 2 million tons of NO_x by 2000. The highlight of this legislation is that it allows utilities flexibility in determining how best to meet emissions reductions and also grants a 3-year extension to those utilities that employ clean coal technologies.

It is clear that the time has come to take a tough approach to our Nation's clean air problem. We can no longer allow our citizens to breathe dirty air. This legislation will realize these aims by achieving early reductions in emissions, harnessing the power of the marketplace, and by employing innovative technologies.

Mr. MURKOWSKI. Mr. President, I join my colleagues today in cosponsoring President Bush's Clean Air Act Amendments of 1989 and to lend my support for this positive step toward cleaning our Nation's air.

President Bush has made a bold step in attempting to resolve the conflicts between environmental protection and economic growth. By changing from a command and control regulatory scheme to one that lays out the goals and allows American ingenuity to achieve them, we can take advantage of one of the most powerful sources of incentive in our country—the market. We must be sure to retain the spirit of this proposal as it moves through the legislative process.

Of particular concern to Alaskans are provisions to reduce carbon monoxide emissions from motor vehicles; 90 percent of the carbon monoxide in the air of two of our major cities, Anchorage and Fairbanks, results from automobile exhaust during the cold winter months. Without automobiles capable of operating at realistic temperatures for Alaska and many of our Northern States, our cities may never reach attainment standards.

President Bush's clean air package contains a provision that can provide the relief that Alaskan cities need—emission standards established by EPA for cars operated at 20 degrees Fahrenheit. This provision puts us beyond standards that test cars on an average of 75 degrees and gives our northern cities cars that will operate efficiently at the colder temperatures that prevail a good part of the year.

Congress has wrestled with providing valuable solutions to cleaning up the Nation's air since the bill was enacted in 1970. Every Congress we have taken steps toward revising the bill without result. It is time to move forward and resolve our differences for the betterment of our environment. President Bush's proposals provide us with the impetus and momentum to make that move forward. And while I know there is work to be done to perfect his proposals, it is a step in the right direction.

Mr. WARNER. Mr. President, I am pleased to join as an original cosponsor of the President's clean air proposal, entitled the "Clean Air Act Amendments of 1989." This legislation was sent to Congress by President Bush on Friday, July 21, and is being introduced by Senators BURDICK and CHAFEE, the chairman and ranking member of the Senate Committee on Environment and Public Works, a committee on which I am proud to serve.

Mr. President, I cosponsored this legislation because I consider it to be an important first step in enacting much-needed amendments to the Clean Air Act. It is my hope today's introduction of the administration proposal will serve to break the longstanding logjam that has prevented the Congress from reaching agreement on how to deal with the serious problems of ozone and carbon monoxide nonattainment, acid rain, and hazardous air pollution.

Mr. President, in the last few days we have heard several groups and Members of Congress criticize this legislation as too weak. We all recognize this subject is controversial, for we have delayed consideration for years; so now the legislative process will be put to a test.

The administration bill provides for stringent but realistic deadlines to bring sources into compliance, while for the most part, allowing flexibility for those sources to devise the most cost-effective measures. While I and other members of the committee will look at many amendments to further improve and balance this legislation, I consider this bill to be a serious proposal.

Mr. President, I would like to make some initial comments on areas of the bill that I will be looking at during committee and floor consideration of clean air legislation.

First, Mr. President, I will be looking closely at the bill's ozone nonattainment provisions to determine if the proposed measures are indeed adequate to bring nonattainment areas into attainment by the stated deadlines. This issue is of particular concern to me, due to the findings of a recent report by the Office of Technology Assessment, which indicated that, even with additional control measures, some cities, including the Washington, DC, metropolitan area, could not reach attainment in the next 5 to 7 years.

In addition, I intend to consider changes in title V of the bill, dealing with acid deposition control. Specifically, I am concerned about the bill's inclusion of a cap on sulfur dioxide emissions from certain sources installed prior to the date of enactment. This cap, if enacted, would likely raise electric rates for consumers, while at the same time threaten the viability of the Eastern low-sulfur coal industry. I will be considering making changes in this and other provisions to allow utilities freedom to choose low-sulfur coal to meet the bill's proposed sulfur dioxide emission requirements.

Mr. President, there is a lot of work to be done to achieve tough but well-balanced clean air legislation. I look forward to working with the President's proposal as it moves through the Environment and Public Works Committee and onto the Senate floor.

Mr. BAUCUS. Mr. President, it has been 12 long years since Congress has passed major amendments to the Clean Air Act. Its been 8 years since we have had a President who believed in clean air.

Today this will change. Today Senator CHAFEE and others are introducing the President's proposal to clean up the air.

By coming to the table with an initiative, President Bush has altered the landscape regarding clean air. Because of his leadership there is no longer any question that we will enact clean air amendments during this Congress. The only remaining question is the specifics of those amendments.

I'd like to congratulate the President. After 8 long years of intransigence, his interest in clean air is very welcome.

While I welcome his proposal, I do not agree with all of its details. I believe stronger provisions would protect both the public health and the economy.

But the President's participation is welcome and needed. I look forward to working with the administration and other Members of Congress to craft a workable, effective clean air bill that will be a milestone of public health protection.

Mr. GORTON. Mr. President, I would like to take a few moments to discuss the President's Clean Air Act Amendments of 1989. I am pleased to join as an original cosponsor of this legislative effort. The President and his advisers are to be commended for taking on the issue of clean air and presenting Congress with a proposal that is a definite step in the right direction. The administration has offered a deeply complex proposal. It is a proposal which reflects extensive thought and tough choices. Choices on who pays; how much flexibility is allowed; and how far we can push specific requirements that might impact economic growth—represent only a few of the difficult issues dealt with by the administration. The fact is that they have dealt with these choices and stated intentions to keep on wrestling with them.

The goal of cleaner air for all warrants such tough action. While there is room for improvement, the plan would curb three major threats to the Nation's environment and to the health of millions of Americans—acid rain, urban air pollution, and toxic air emissions. I look forward to participating actively in the process this legislation will now go through.

Mr. President, some contend that our environment is indestructible. After all we have endured countless natural disasters and many man-related ones as well. I take issue however, with the theory that our environment is immune from destruction. Recently, the Exxon Corp. grossly tested that theory. It reaffirmed to this Senator the severity and damage that can be caused by one corporation's irresponsible and arrogant actions. Just as our ocean ecosystems need protection from such damage, so does the atmosphere.

Our environment is too often taken for granted, and not taken seriously. And regretfully, in our present day world even if our Nation leads in policies advocating environmental sensitivity, no degree of strength or wealth can protect us from other nations environmental insensitivity. This should not deter us, however, from proceeding with our clean air initiatives—for what is our own democratic society and freedom worth if we are forced to live and breath the undersirable conditions resulting from environmentally insensitive economic growth. It is the responsibility of Congress to now work for both economic growth and living conditions that ensure desirable air quality for not only this generation but future ones as well.

Clean air—not air that merely meets a standard but air that surpasses such environmental standards is an obligation—or rather it should be—and it should not be negotiable. The administration's proposal will take us a large step closer toward that right that we all deserve—one that our lakes, streams, and forests also deserve. I find it troubling that Congress and the administration have wrestled for so long over revising the Clean Air Act when they pass countless measures relating to public lands. Debates over the Clean Air Act were occurring when I served my first term in the Senate and was a member of the Senate Environment and Public Works Committee. I supported strong clean air proposals then, and I do now. Congress preserves pristine areas, it designates wilderness, it appropriates funds to build trails, it funds recreation areas. But, Congress cannot seem to bite the bullet in passing legislation which if not successful, makes all of the other simply moot. One indisputable key element to the value of the many recreation, preservation, and conservation efforts made by Congress is our air—clean air.

The administration's proposal, in this Senator's view, contains commendable provisions, as well as room for improvement. I applaud the administration for taking on the problems of acid rain and toxic air pollutants. I understand the concerns of both those who feel this proposal does not go far enough and those who feel the proposal has gone too far. I am hopeful that this proposal gives Congress a workable starting point to address all concerns. I know the administration has made such a good faith effort, and Congress should continue on that path.

I must, however, take issue with the motor vehicle standards. I am concerned particularly with provisions allowing "emissions averaging," and the delay in stricter tailpipe emission standards for buses. Our goal should be that one day every car should truly be a clean car. The U.S. Environmental Protection Agency recently released final air-quality data for 1986-88 for ozone and carbon monoxide. The data show that 101 areas, mostly major metropolitan areas, failed to meet the ozone standard, an increase of 37 areas over last year's official listing, which covered the period 1985-87. This is unequivocally unacceptable.

Now is the time to get tough with the environmental standards for motor vehicles. Motor vehicles are responsible for approximately 40 percent of the ozone problems facing us today. We must tackle this problem head on. Motor vehicle related provisions are a means in which we all can bear some piece of assistance and responsibility for a cleaner environment. Cars might cost a little more, a ride on the bus might cost a little more. But for those of us that use those forms of transportation we can gauge the cost we incur by the amount we use the ve-

hicle. The fact remains that unless we start driving cleaner cars—the privilege of driving them will soon become meaningless. A healthy environment will be beyond repair.

Another area which I plan to study closely is the concern that air quality in or near our pristine areas does not meet an appropriate standard. I believe the Congress should consider standards for our pristine areas impacted by nitrogen oxide or ozone causing emissions. Washington State has benefited from the passage of many worthy acts of Congress protecting some of our regions finest pristine areas. It is a responsibility of Congress to assure that pristine state.

The proposal introduced today will however, offer much needed improvement for our air quality. This comprehensive program will reduce the pace of pollution reduction. Cities not currently meeting the health standards for ozone and carbon monoxide will be brought into attainment. We will realize reductions of toxic compounds emitted by factories and plants. Sulfur dioxide emissions and nitrogen oxide emissions damaging the health of America, and the quality of air, lakes, streams, and forests will be reduced dramatically.

The administration is to be applauded for working to protect the health of the public and improving our quality of life while employing innovative technologies and the marketplace to minimize the burden of necessary air quality standards on the American economy. Again, I would state that I am pleased to cosponsor such a legislative effort. It is a great step in the right direction, and I look forward to working with all interested parties in seeing that a workable and effective package of amendments to the Clean Air Act become public law.

The PRESIDENT pro tempore. How much time does the Senator yield?

Mr. CHAFEE. I yield whatever time the distinguished Senator from Wyoming needs.

The PRESIDENT pro tempore. The senior Senator from Wyoming [Mr. SIMPSON] is recognized for the remaining time under the order.

Mr. SIMPSON. I thank the Chair for his courtesy. I will save some of the time for Senator THURMOND. I do want to thank Senator CHAFEE. There is just no one who gets into things with more gusto and great interest. He has set out a spirited description of the clean air legislation. It is always marvelous to work with him.

I have been involved in this debate for 10 years. We never get anything done. We labor to craft a bill, and we always fail at the task. Today we are introducing a bill crafted by President Bush that is meant to break the legislative logjam and to be a compromise bill. It will help us, I think, to reverse that negative trend. I applaud President Bush.

I agree with what my friend from Rhode Island has said. The President should be toasted instead of roasted, but the roasting comes from the same old crew, the extreme environmental groups who have blasted us out of the saddle for 10 years. They always demand purity, and so we get nothing.

I know the occupant of the chair is vitally interested in this. As I have served with him in the leadership, I know there is no one who is more interested in seeing a fair bill. I hope the President's bill is a very good start. I want to commend the occupant of the chair, Senator BYRD. He, Senator MITCHELL, and I worked on an acid rain bill last year and came very close to reaching a compromise, but not quite close enough. And now this year, this bill is a new vehicle. We will also have another vehicle in the Environment and Public Works Committee when we finish marking up clean air legislation.

I certainly do not agree with everything in the President's bill, but I support this effort to deal with and to reduce harmful air pollutants—ozone and acid rain-causing emissions.

I, too, along with Senator CHAFEE am troubled that the Democratic response to the President's bill, at least here in the Senate, has been aptly described as lukewarm.

The House Democrats have been marvelous. They have supported the President's measure. Congressman JOHN DINGELL and many others deserve a great deal of credit. They have 56 Democratic cosponsors of the President's bill in the House. Over here we have to labor hard in the vineyards to dig up 2 or 3. I honestly do not know why that is. I do not think it is the Senate leadership. I do not think it is the staff of the Environment and Public Works Committee but it is somebody. I have no possible reason to discern why this should be the case.

Sure, we have some problems with the bill. I have problems. I do not like the emissions cap in the acid rain section. The bill requires SO_2 emissions from new powerplants built or brought into operation after the date of enactment be offset on a ton-by-ton basis by equal reductions at other existing units.

I am concerned because I feel such a cap is unnecessary in the Western United States where we do not yet have the most serious problems with acid rain and that provision could possibly limit the future growth to some extent in that region of the United States.

But it provides for a least cost approach. It has two phases in it. Phase I and phase II tell what we are to expect. One hundred and seven plants must reduce emissions significantly by 1996 in phase I and additional reductions must be made by 2001 in phase II. There is flexibility in all phases and that really is the key because it will allow the use of many different types of coal.

I would not stand here on this floor and say I am involved just because I represent the largest coal-producing State in the United States, which is rather a stunning fact—people have trouble with it sometimes, but Wyoming is now the leading coal-producing State, and it is low-sulfur coal. I am not here solely to speak for that kind of coal. That is not my sole purpose, and yet I must, indeed, protect it.

In 1977, we were bruised by a process which came out of conference called percentage reduction. And percentage reduction was a cruel hoax. Senator Ed Muskie of Maine said it is wrong because it requires powerplants to use smokestack scrubbers whether a plant burns dirty high sulfur coal or cleaner low sulfur coal. How absurd it was when the low sulfur coal was already many percentage points below the high sulfur and to require by law that plants reduce them both regardless of their sulfur content and that provision is now just beginning to hurt the western low sulfur coal interests because it affects plants built after 1977. And another thing that has become very tilted in favor of high sulfur coal is the clean coal technology program where very little, an infinitesimal amount of that money, goes for western low sulfur coal projects. Most of that Federal funding goes to high sulfur coal.

So those are some of the things that concern me. We just cannot ever accept anything again like percentage reduction. I am ready to assist the high sulfur coal States that also often have low sulfur coal in their boundaries to any proper degree of support and assistance I can. I am willing to consider job relocation assistance or job retraining, but not gimmickry in the Clean Air Act. I think we can do this in charity and goodwill and without all the hacking that we have gone through before.

Senator Gary Hart of Colorado was the Chairman of the Clean Air Commission and presented a proposal to us years ago. We should have taken it and enacted it. We should have taken it right then but it was not quite pure enough for those extreme environmental groups who just sit on the edge of the rail around here and throw bombs and ask for everything and get nothing. Gary Hart also used to call that "Mau Mau politics." We should have looked at that. Since then, we have gone 8 years and given birth to nothing. And these groups are still chirping away and cranking out the negative press releases. I say we should not let them get away with it this trip.

Let us formulate a good piece of acid rain legislation, a strong Clean Air Act, dealing with toxic pollutants, dealing with NO_x, dealing with these things that are so critical that people ask us to do. This is the type of measure we present today.

I look forward to seeing the Environment and Public Works Committee conduct its own hearings on the President's bill and to the committee markup process we will have probably in September.

I commend Senator BURDICK. I appreciate his good effort. Senator BAUCUS has worked hard on this issue and will work even harder in his slot as subcommittee chairman. I trust we can all make every effort to get clean air legislation passed this time around in order that the Environmental Protection Agency and the States can get on with the long delayed task of reducing urban air pollution and acid rain. Here is our finest chance in an entire decade to do that.

I yield to my senior colleague from South Carolina.

The PRESIDENT pro tempore. Five minutes remain.

Mr. CHAFEE. Mr. President, I yield 2½ minutes to the Senator from South Carolina.

The PRESIDENT pro tempore. The senior Senator from South Carolina [Mr. THURMOND], is recognized for 2½ minutes.

Mr. THURMOND. Mr. President, I am pleased to rise as a cosponsor of the Bush administration's clean air legislation being introduced today. Last year, the President announced his intention of making the environment a priority in his administration. The introduction of legislation today represents a big step in that direction.

Earlier this year, on June 12, 1989, the President announced a broad outline of his plans to clean up the air of this Nation. The bill being introduced today, which would make the first substantial changes in the Clean Air Act since 1977, contains the specifics of that outline. This legislation addresses three main areas of the environment: Acid rain, ozone and carbon monoxide pollution, and toxic air emissions.

First, the acid rain provisions of this legislation would require a 10-million-ton reduction of sulfur dioxide and a 2-million-ton reduction of nitrogen oxide emissions by the year 2000.

Second, the primary contributors to urban smog—ozone and carbon monoxide—would be sharply reduced by this bill. This legislation would require tougher tailpipe standards, stage II gasoline pump controls to collect vapors, reduced volatility of gasoline, a major new alcohol fuels program, and enhanced car inspection programs—all in an effort to reduce ozone and carbon monoxide pollution.

Third, toxic air emissions from stationary industrial sources would be reduced 75 to 90 percent through the application of new standards.

Mr. President, although this bill has been a long time in the making, it is not a perfect bill. However, I believe it is a good starting point from which to work. I have reservations about some of the provisions as originally drafted. However, I am confident that through the committee process and any subsequent floor debate, there will be ample opportunity to fully air and address these matters. In the end, we must ensure that if a bill is finally adopted, it is one which is reasonable to all involved.

Mr. President, in closing, we must commit ourselves to clean air not only for our health and benefit, but for that of our children and future generations of Americans.

Mr. CHAFEE. Mr. President, I yield 2 minutes to the Senator from Colorado.

The PRESIDENT pro tempore. The Senator from Colorado [Mr. WIRTH] is recognized for 2 minutes.

Mr. WIRTH. Mr. President, one of the most important tasks we will face in this Congress will be to strengthen the Clean Air Act. The simple fact of the matter is that we need to strengthen that act if we hope to succeed in cleaning up the air that we breathe. Cleaning up our air is a necessity. It is a matter of protecting the public health, of protecting our environment, and of protecting the economic well-being of our cities.

Today President Bush's clean air bill will be introduced in the Senate, and all of us should welcome the President's decision to work with the Congress to see that the Clean Air Act is revised and updated. I was at the White House when the President announced that he was going to do that, and I applauded him. That announcement was filled with promise, and just the personal involvement of the President in this issue has been a welcome change from the past.

There is much to be praised in the President's bill. I am particularly pleased that it has taken what I believe to be a very innovative and progressive approach to reducing acid rain.

The President has proposed a program which would reduce sulfur dioxide emissions by approximately 10 million tons. Just as important as the goal, however, is the methodology proposed—a market-driven system to marketable emission permits, under which utilities will have the freedom—and the incentives—to choose the most cost-effective means of reducing the sulfur dioxide emissions which are the cause of acid rain.

Senator JOHN HEINZ and I have championed such an approach, and recommended it to the President in Project 88, a study we commissioned of ways to put the powerful forces of our free-market economic system to work on behalf of cleaning up the environment. I think it can work, and I think the benefits are too important to overlook. The most obvious of these is that by emphasizing cost-effective solutions, it can achieve the same pollution reductions as more traditional regulatory approaches at a fraction of the cost.

I hope that my colleagues will give careful consideration to the President's acid rain proposal, and keep an open mind toward the innovative approach it takes.

Mr. President, I would like to move on to discuss the President's program for reducing the local air pollution that plagues our cities. My own perspective on this issue has been forged through long involvement in the struggle of Colorado's cities to meet the health-based standards of the Clean Air Act.

In Colorado, our biggest challenge has been to find ways to reduce carbon monoxide pollution, a particularly difficult and important problem in high-altitude cities. In the thinner air of mile-high Denver, carbon monoxide is far more toxic than it is at sea level. Unfortunately, that thinner air also causes an increase in the production of carbon monoxide from the burning of fuels.

In Denver, our business community has united in the fight to clean our air, because they realize that air pollution is eating into one of our greatest economic assets—the quality of life that has made Denver such an attractive center for businesses and business men and women to come to.

I am proud of Denver's efforts to clean its air. But those efforts can only succeed if we give our cities the tools they will need to win this fight. In the course of helping chart a path toward clean air, the Denver Metropolitan Air Quality Council and the Colorado Department of Health have studied the effectiveness of every alternative course of action, and have made recommendations for amendments to the Clean Air Act that is broadly supported in Colorado.

Automobiles and trucks are the source of 75 percent of the carbon monoxide pollution in Denver, and they are one of the major contributors to the particulate pollution that is known in Denver as the "Brown Cloud." So it should be no surprise that the recommendations of these groups focus on controlling the pollution from cars and trucks. Their recommendations consist of the following:

First, requiring regulation of the carbon monoxide emissions of cars and light-duty trucks at cold temperatures—20 degrees Fahrenheit—and setting new, strict standards for carbon

monoxide emissions at the temperature.

Second, increasing the useful life of pollution control equipment from 50,000 to 100,000 miles.

Third, lowering the carbon monoxide emission standard for both new cars and light-duty trucks to 1.7 gm/mi.

Fourth, requiring the EPA to establish a high-altitude testing center to test for the continued compliance of vehicles with Clean Air Act standards at high altitude, over the life of those vehicles.

Fifth, requiring the use of oxygenated fuels during the winter in areas that do not meet the standards for carbon monoxide in the air.

Sixth, prohibiting the sale of diesel fuels containing more than 0.05 percent sulfur, or with an aromatic content of more than 20 percent.

Seventh, requiring State transportation plans to be coordinated with local clean air attainment plans and goals.

Mr. President, it is my intent to introduce legislation to accomplish all of these changes, and I hope to do that with the support of many of my western colleagues.

I regret to say, however, that the President's bill stops far short of fully implementing these recommendations. The President's bill does not extend the useful life of pollution control systems so that new cars continue to run clean in the future. It does not require that cars and trucks be tested to make sure that they continue to meet emission standards when they are operated at high altitudes, and it does not lower the emissions standard for carbon monoxide for future cars.

It does include a cold-start testing provision, but that provision sets standards for that test which are well above what is now being achieved in many vehicles.

It does include an oxygenated fuels program, but it fails to specify the level of oxygen which will be required. It provides a diesel fuel sulfur content standard of 0.05 percent, but does not provide for a limit on the aromatic content of diesel fuel. It does require a transportation demand management plan for areas where vehicle miles traveled exceeds the levels that localities planned for in their attainment plans, but it does not put any requirements on such planning.

Mr. President, I urge President Bush and I urge my colleagues on the Committee on Public Works and Environment, to which the President's bill will be referred, to support strengthening this bill by incorporating the measures recommended by the Denver Metropolitan Air Quality Council and the Colorado Department of Health. They are critical to achieving and sustaining clean air in high-altitude cities such as Denver.

In addition, I urge the President and my colleagues to change some provisions of the President's bill which I believe will actually hurt our ability to meet our clean air goals in the West. These provisions actually plot a retreat from the current law and how it operates, a retreat which imperils any further progress toward clean air—and may even undermine the progress we have made so far.

I am particularly concerned about the President's proposal to allow auto manufacturers to escape the requirements of current law that each and every model of car or truck meet a certain emission standard, and replace that with a system under which manufacturers can produce a mix of dirty and clean vehicle models, and only be judged on the average.

The mathematics of this system are tricky, but all the analyses I have seen lead to one result—that an emission standard measured on average can easily result in far more pollution than the same numerical standard applied uniformly to each and every car model.

In addition, averaging assumes that all areas of the country have the same, average mix of vehicles. But that isn't true. The mix of models and types of vehicles in Denver is far different from what it is in New York City. So while an auto manufacturer can average the emissions of all the different vehicles it sells across the entire country, the emissions of the cars it sells in Denver don't have to meet that average. And they probably won't.

In Denver, 40 percent of new vehicle sales are light-duty trucks and vans. And if General Motors were to decide, under the President's proposal, that they will meet the average by producing dirty trucks and cleaner cars, Denver will lose any chance of meeting our clean air goals.

This averaging proposal has been painted as another initiative in using an economically sensitive, market-based approach, like the innovative acid rain control program in the President's bill. But the difference I see is that while the acid rain program meets its goal—reducing acid rain—the averaging program appears to me to hinder, rather than help, meeting the goal of cleaning up the air in our cities. I welcome innovative methods, but they have to meet the bottom line—cleaning up our air.

Mr. President, I will have more to say about this legislation in the future. It is a complicated piece of legislation, addressing a series of complicated issues. But it is imperative that we address it, and that we avail ourselves of this opportunity to ensure that we can provide economic growth and opportunity for our citizens without compromising their health and well-being. I pledge myself to working with my colleagues, and with President Bush, toward this end.

Mr. President, this is a historic moment for Washington and the country. President Bush has truly taken the initiative, and those of us who have been concerned and involved with clean air for a long time appreciate the fact that we are over a watershed, the world has changed and away we go to get a good strong clean air bill.

This bill, Mr. President, as we all understand, has some very innovative and strong sections in it. The section, for example, on acid rain picks up a lot of the very key project 88 ideas that Senator HEINZ and I have been working on, that the Environmental Defense Fund has been working on. It is a very good package that is not punitive to my area of the country, to Senator SIMPSON's area and so on. It makes a great deal of sense.

A second area of the legislation related to auto emissions is a little fuzzier from our perspective in the Rocky Mountain region. First, there are six or seven or eight provisions related to high-altitude emissions which are currently not in the legislation. I intend to be working with my colleagues in the high-altitude counties—there are 144 high-altitude counties—that have specific problems and we want to get those addressed and in the legislation.

We have talked with the administration about those, and I am sure that we all will be working together to achieve the kind of emissions control at high altitude that is imperative.

Finally, I should note that the tailpipe emission issue overall, Mr. President, is a very difficult one. There are some provisions that I do not fully understand yet in the legislation. I have talked to White House and OMB staff about that. We look forward to working with them to assure that has the strong elements that we require.

But overall, I would say, Mr. President, this is a very good start. I am not at this point a cosponsor of the legislation but it is a good start.

Mr. McCLURE. Mr. President, for too long the Congress has been unable to reauthorize the Clean Air Act. For the first time since 1977 an administration has put forth a legislative proposal to put America on a path that guarantees all Americans markedly cleaner air—the air we all breathe—by the end of this century.

With his June 12 proposal President Bush provided the necessary leadership to move the legislative process forward. The President's clean air plan sets forth a comprehensive program to curb the three major threats to our Nation's atmospheric quality: acid rain, urban air pollution, and toxic air emissions.

While I supported the President's June 12 clean air initiative, during the

intervening weeks questions have arisen over whether the bill being introduced today is fully consistent with the President's announced initiative. While these questions persist, I believe that this measure is the appropriate legislative vehicle from which to begin congressional debate. For this reason I am going to cosponsor the bill.

While I do so, I am deeply concerned for broad potential economic and cultural implications of the measure for all Americans. Not only does the measure further federalize air pollution control and abatement but it has serious economic and energy implications for our Nation.

For example, if enacted in their present form, the amendments proposed will have very profound impacts on our Nation's energy future. Yet the amendments do not provide a commensurate role for the Secretary of Energy. Moreover, according to press reports, the President's proposal was written almost entirely by OMB and EPA despite repeated attempt by DOE to participate in the process, particularly on the acid rain issue.

Similarly, the bill's provisions for the control of acid rain applies only to oil- and coal-fired facilities. Effectively, the proposal designates natural gas and nuclear as the fuels of choice for electricity power generation. If this is true, I must question whether it is appropriate for Federal clean air policies to dictate national fuels policy.

For more years than I care to remember, many of us in the Congress have labored to remove artificial constraints on domestic energy markets. Just last week the President signed legislation to remove Federal price controls on natural gas, which have existed since 1954. During the last Congress we repealed the Fuel Use Act which established coal as the fuel of choice for electric power generation. Now we are proposing to once again dictate national fuels policy.

The acid rain title also establishes a requirement that, after the year 2000, all grassroots energy facilities must secure sufficient offsets to achieve zero emissions on a net basis. At this time it is not possible to assess the full consequences of these requirements on our economic growth or even the growth of electricity supplies both regionally and nationally. But the consequences are real.

In closing I also must mention the matter of the DOE Clean Coal Technology Program. After establishing a $5 billion program on the development of retrofit, repowering and new clean coal technologies, the 3-year compliance date extension until the year 2003 in the bill appears to be limited to the repowering of existing facilities, it does not even apply to replacement. As a consequence, many participants in the program will have no incentive to continue to participate in the other major elements of the Clean Coal Program—retrofit and replacement.

I mention these matters only to highlight that there is not a full understanding of the economic consequences of the measure should it be enacted. However, the President's clean air plan is the most appropriate vehicle for enactment of a comprehensive program to provide clean air for all Americans. From this perspective I look forward to working with my colleagues to provide the President with the legislation he seeks; legislation that can be supported by Republicans and Democrats and all Americans.

Mr. RIEGLE. Mr. President, I am proud to join Senator CHAFEE in cosponsoring the Clean Air Act Amendments of 1989. This measure is a positive step toward improving our Nation's air quality. I look forward to working with the environmental community, industry, and the public to assure our common goal of clean air.

For the first time in this decade, we have a bipartisan bill that presents us with a real opportunity to break the clean air impasse, set higher standards, and greatly improve air quality in our country. This bill is not perfect but it is an important starting point. As a cosponsor, I will be able to work with my colleagues to help enact a strong and effective clean air package.

There are many positive aspects of the bill. It would:

Reduce sulfur dioxide emissions by 10 tons annually—2 tons more than any comparable bill. The problem of acid rain will finally be addressed.

Bring an overwhelming majority of our dirtiest cities into compliance with clean air standards over the next decade.

Tighten automobile tailpipe standards to reduce hydrocarbons, nitrogen oxides, and carbon monoxide.

Place new restrictions on light trucks and on evaporative emissions and require new, cleaner fuel vehicles in many nonattainment areas.

Establish tougher enforcement provisions that help assure that we will move aggressively toward our clean air goals.

Require maximum available control technology on plants producing toxic substances and establish even tougher standards for other key sources.

We must enact solutions to our air-quality problems. The President is to be commended for putting forward clean air legislation. As a cosponsor, I will be actively involved with my colleagues to enact a strong workable clean air package. I thank Senator CHAFEE for his leadership and am confident that we will finally take the steps necessary to bring about cleaner air for everyone.

Mr. BREAUX. Mr. President, I rise today to join a number of my colleagues from both sides of the aisle in cosponsoring legislation prepared by President Bush to reauthorize and strengthen the Clean Air Act. I would like to take a few moments to discuss the President's proposal and to acknowledge the very constructive role that I believe this proposal can play in enhancing the likelihood that amendments to the Clean Air Act will become law during this Congress.

My colleagues are certainly aware that the reauthorization of the Clean Air Act has been, and continues to be, a contentious and emotional issue. Special interests on both sides of this issue have been strident and uncompromising, leading to a legislative deadlock that has prevented enactment of reasonable and necessary measures to improve air quality and protect public health and environmental quality. Our esteemed majority leader, Senator MITCHELL, has labored for years to move forward reauthorization of this act. He has my respect for his tireless efforts. The chairman of the Subcommittee on Environmental Protection, Senator BAUCUS, is committed to enactment of amendments to strengthen the Clean Air Act, and he is working hard to achieve that goal. And now the President has placed his own proposal on the table, adding great momentum to the reauthorization process.

The legislation sent to us by President Bush is a comprehensive package of amendments intended to deal with the range of air-quality issues. The bill includes provisions to address the failure of many of our cities to achieve national air-quality standards, to provide a more workable regulatory system to reduce possible health hazards from exposure to toxic air pollutants, and to aggressively reduce pollutants that contribute to acid rain through a flexible and cost efficient program. Overall, I believe the President's proposal to be a solid and constructive contribution to the clean air debate. I applaud his willingness to roll up his sleeves and risk the wrath of those narrow interests who would rather fan the flames for their own benefit than see the Congress enact credible and balanced legislation to resolve these issues for the benefit of the Nation.

Since the President unveiled his proposal it has met with its share of criticism. I am not here today to defend it as a perfect product. But it is certainly a constructive place to begin discussions on the shape of a final legislative vehicle. I believe the President is willing to accept and respond to constructive suggestions for improvement. For example, during May of this year I was joined by Senator DOMENICI and 51 other of my Senate colleagues in writing to the President to urge him to incorporate certain principles in the acid rain control title of the administration bill.

The President heeded these suggestions, and the administration bill offers a cost-effective opportunity to reduce the precursors of acid rain while protecting Louisiana ratepayers from bearing the burden of cleanup for polluters in other States. In addition, the acid rain provisions offer valuable market opportunities for the use of clean burning and abundant Louisiana natural gas, combining important environmental benefits with the addition of economic benefits for the State.

There are a number of provisions, of course, that remain to be improved. I intend to take a long and careful look at the adequacy of mobile source requirements contained in the bill. In particular, the fleet averaging provisions deserve special scrutiny. While automobile manufacturers have done much over the years to reduce auto emissions, mobile sources as a group continue to be the most significant contributor to the failure of our urban areas to attain the national ozone and carbon monoxide standards. Similarly, I believe that the alternative fuels program may have promise, but it raises a number of questions that will require thorough review.

Of all the provisions in the bill, I have the most serious reservations about the air toxics proposal contained in title III. As my colleagues may know, I was one of three members of the Committee on Environment and Public Works designated by the chairman of the Environmental Protection Subcommittee, Senator BAUCUS, to help craft an air toxics control bill for committee discussion and consideration. That bill, S. 816, is an aggressive and far-reaching proposal. It is my view that the President's proposal requires improvement in its handling of hazardous air emissions, and I indend to work closely with the President and my colleagues on the Environment and Public Works Committee to that end.

Mr. President, this bill has been criticized by some who question whether elements of the bill will, in fact, allow us to achieve the air-quality goals enunciated by the President when he initially announced his proposal. It has been criticized by others as harmful to the competitive position of U.S. industry, fostering expensive regulatory approaches without significant air-quality benefits. Many are concerned about who will bear the economic burdens which would result from this bill, and at what cost to our Nation.

Mr. President, I would expect these criticisms to be directed at any serious proposal that attempts to resolve these thorny problems. While the bill is not all I would like to see, I think President Bush has provided us with an impressive attempt to break the impasse on clean air and to provide leadership on this difficult issue. I have my own criticisms of the President's proposal. I do not agree with all of its features. Yet, that is to be expected in a package as detailed as this. That is to be expected in a package that honestly attempts to reconcile the difficult policy choices that arise in this debate. I commend the President for his effort. I support much of what he has tried to accomplish in his proposal. I certainly commit to working with him, as I have to working with my colleagues in the Congress, to resolve issues and see rational and badly needed legislative improvements enacted into law during the 101st Congress.

VETERANS' AGENT ORANGE EXPOSURE AND VIETNAM SERVICE BENEFITS ACT

The PRESIDENT pro tempore. The hour of 11 o'clock having arrived, under the previous order, the Senate will proceed to vote on the motion to table S. 1153, the agent orange legislation, which the clerk will report.

The legislative clerk and as follows:

A bill (S. 1153) to amend title 38, United States Code, to provide for the establishment of presumptions of service-connection between certain diseases experienced by veterans who served in Vietnam, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDENT pro tempore. The question is on agreeing to the motion to lay on the table the Veterans' agent orange exposure in Vietnam bill. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The President pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 8, nays 92, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—8

Bond	Humphrey	Simpson
Dole	Lugar	Wallop
Hollings	Murkowski	

NAYS—92

Adams	Danforth	Helms
Armstrong	Daschle	Inouye
Baucus	DeConcini	Jeffords
Bentsen	Dixon	Johnston
Biden	Dodd	Kassebaum
Bingaman	Domenici	Kasten
Boren	Durenberger	Kennedy
Boschwitz	Exon	Kerrey
Bradley	Ford	Kerry
Breaux	Fowler	Kohl
Bryan	Garn	Lautenberg
Bumpers	Glenn	Leahy
Burdick	Gore	Levin
Burns	Gorton	Lieberman
Byrd	Graham	Lott
Chafee	Gramm	Mack
Coats	Grassley	Matsunaga
Cochran	Harkin	McCain
Cohen	Hatch	McClure
Conrad	Hatfield	McConnell
Cranston	Heflin	Metzenbaum
D'Amato	Heinz	Mikulski
Mitchell	Riegle	Simon
Moynihan	Robb	Specter
Nickles	Rockefeller	Stevens
Nunn	Roth	Symms
Packwood	Rudman	Thurmond
Pell	Sanford	Warner
Pressler	Sarbanes	Wilson
Pryor	Sasser	Wirth
Reid	Shelby	

So the motion to lay on the table was rejected.

Mr. THURMOND. Mr. President, today, we are considering legislation which would grant interim disability benefits to Vietnam veterans suffering from either non-Hodgkins lymphoma or soft-tissue sarcoma. These are two diseases which have a significant statistical association to exposure to agent orange. I expressed concerns earlier this year about certain aspects of this legislation. Even though I still have some concerns, I have decided to vote in favor of this legislation.

Mr. President, the interim benefits mentioned above would be provided until 1993, at which time the Congress would review the matter again to determine whether permanent benefits should be granted. As stated in the Veterans' Affairs Committee report, I believe a more prudent approach would have been to provide interim benefits until the spring of 1990—the time when the Centers for Disease Control is to release its selected cancers study. Additionally, last year I supported the ranking minority member of the Veterans' Affairs Committee, Senator MURKOWSKI, in his effort to provide interim benefits for non-Hodgkins lymphoma. Senator MURKOWSKI's bill wisely offered to provide interim benefits for a shorter period of time—until mid-1990. Although the sunset provision for interim benefits is not perfect, I believe providing interim benefits is important.

As we all know, there continues to be a lack of agreement in the scientific community on the relationship of exposure of agent orange and certain cancers associated with Vietnam veterans. There have been many, many studies, but they all seem to reach different or inconclusive results. Yet, there are veterans in this Nation, whose cancers appear to be closely related to their exposure to agent orange. One provision of this bill would require the National Academy of Sciences to evaluate all relevant evidence and scientific information, and determine whether permanent presumptions should be granted. I believe an impartial review by the Academy will lay many of the questions on this matter to rest—once and for all.

Mr. President, this legislation would also provide a permanent presumption of service connection for chloracne in Vietnam veterans. Chloracne is a severe skin condition which has shown a high association with exposure to agent orange. I support this provision.

This particular provision enjoys bipartisan support, as well as as the support of the Department of Veterans Affairs.

Mr. President, this is not a perfect bill, as I have noted in the committee report. Yet, as previously mentioned, there are some worthy provisions in it. The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, and other service organizations are supportive of this legislation, and I am pleased to vote in favor of it.

Mr. SPECTER. Mr. President, as a longstanding proponent of fair compensation for victims of agent organge exposure, I support the pending measure. I commend the chairman of the Veterans' Affairs Committee, Senator CRANSTON, and others for bringing this important bill to the Senate floor for prompt consideration. I also applaud Secretary of Veterans Affairs Derwinski for his intention to issue new regulations relating to agent orange exposure by October 1989. I believe the Secretary's statements and our action here today indicate that resolution of the agent orange issue is a national priority.

I am an original cosponsor of S. 1153, the Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989, which would provide for the interim temporary payment of VA benefits to Vietnam veterans suffering from non-Hodgkins lymphoma [NHL] and soft-tissue sarcoma [STS]. These interim benefits would be paid from October 1, 1989, until April 15, 1992. To develop a long-term solution to this issue, the bill includes a mechanism to allow for a vote—in each House of Congress if desired by any Member prior to expiration of the benefits—to extend or make permanent the interim benefits.

S. 1153 also would establish procedures under which the National Academy of Sciences [NAS], or another independent scientific body, would evaluate the results of the Centers for Disease Control's [CDC] selected cancers study and other scientific studies regarding the health effects of veterans' exposure to toxic agents contained in herbicides. After expedited review, the Secretary of Veterans Affairs would determine whether there is a positive association between non-Hodgkins lymphoma, soft-tissue sarcoma, or any other disease and exposure to toxic agents in Vietnam. If such an association existed, then a presumption of service connection would be established for these diseases.

Third, S. 1153 would extend from December 31, 1990, to December 31, 1993, eligibility for VA health care based on exposure to agent orange in Vietnam. Such eligibility for health care was first established in the 97th Congress by an amendment offered by Senator CRANSTON, which I cosponsored. It is important that Vietnam veterans continue to have access to adequate health care as the Congress works to resolve the broader compensation issues.

Mr. President, I long have worked on the agent orange issue. In the 97th and 98th Congresses, I introduced legislation—S. 1953 and S. 374 respectively—which would have provided compensation for an ailment caused by exposure to agent orange as established by credible medical opinion. Provisions of my legislation, S. 374, were incorporated into Public Law 98-542 to ensure that no veteran may be required to provide evidence substantiating the veteran's exposure to agent orange beyond the information contained in the veterans' service records. During the 100th Congress, I was an original cosponsor of the Veterans' Agent Orange Disabilities Act of 1987, S. 1787, which would have provided a non-rebuttable presumption of service connection for several diseases determined to be associated with damage to the human immune system resulting from exposure to agent orange.

Mr. President, the pending measure, S. 1153, is intended to provide belated recognition and 'relief to the thousands of brave men and women who suffered physical harm because of their exposure to the defoliant agent orange and other toxic herbicides in Vietnam. I strongly support this bill, and I urge my colleagues to join me in sending a message of hope to the Nation's Vietnam veterans by voting in favor of S. 1153.

Mr. BRADLEY. Mr. President, I rise as a cosponsor of S. 1153, the Agent Orange Exposure and Vietnam Service Benefits Act of 1989. This legislation will provide disability benefits to Vietnam veterans who suffer from soft-tissue sarcoma and non-Hodgkins lymphoma. In addition, this bill will establish an independent mechanism for addressing the long-term scientific issue related to the possible health effects of dioxin and other chemicals used in Vietnam.

Mr. President, I have consistently supported efforts to resolve the debate on agent orange and to help those veterans whose sicknesses and suffering are attributed to exposure to radiation or agent orange while serving our Nation.

We owe a great debt to those men and women who, in the course of serving our country, were exposed to dioxin and radiation and subsequently contracted cancer or other diseases. Our commitment to the veterans and their survivors is longstanding and deep. Throughout our history as a nation we have asked millions of men and women to fight for us. We promised to support them in battle, care for them if wounded, and care for their spouses and children. This bill is one part of fulfilling that promise.

Mr. CONRAD. Mr. President, I rise to express my strong support for S. 1153, the Veterans' Agent Orange Exposure and Vietnam Service Benefits Act.

The agent orange issue is a sad and difficult chapter in our national experience, and in this country's relationship with its veterans. Our Government has long recognized and honored its responsibility to the men and women who served under its flag. We have felt particularly beholden to those injured in the line of duty. And when injury occurs, however inadvertently, at our own hands, there is a compelling obligation to provide a full and just response.

Unfortunately, many Vietnam veterans have been disillusioned by the Government's poor response to their concerns about agent orange exposure. But I am pleased to say today to the more than 20,000 Vietnam veterans in my State, and to veterans around the country, that there are encouraging signs the situation is improving.

Secretary of Veterans Affairs Derwinski is to be applauded for his decision not to appeal a Federal court ruling which struck down the VA's past agent orange regulations. The court found that the Government has been demanding an unduly strict standard of proof in agent orange cases, and ordered the VA to rewrite its regulations governing claims for disability. We all welcome Secretary Derwinski's pledge to issue new regulations by October.

The second piece of good news is the bill we are passing today. This legislation provides interim disability benefits through 1992 for Vietnam veterans suffering from non-Hodgkin's lymphoma and soft-tissue sarcoma—two diseases often linked with agent orange. Should studies confirm the diseases are service-connected, the benefits will become permanent. If no ruling has been made by 1992, Congress will have an opportunity to revisit the issue that year. Another important provision in this bill provides for ongoing reviews by the National Academy of Sciences of studies and data on the effects of exposure to toxic chemicals in Vietnam. We also require the Secretary of Health and Human Services to report on research to identify treatments for exposure.

If there was ever a case when we wished we could turn back the clock, this is it. Sadly, we cannot undo the exposure our veterans have suffered. But we can put our best minds and resources to work on treatment programs, we can provide excellent benefits for soliders and their families, and we can do the scientific studies that could provide answers to families that live daily with the uncertainty and fears resulting from agent orange exposure. We have a long road to travel,

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but this legislation is an important step forward.

VOTE ON S. 1153

The PRESIDENT pro tempore. The question occurs on the passage of the bill, S. 1153. The yeas and nays are ordered.

Mr. CRANSTON addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from California wish recognition?

ORDER TO VITIATE THE YEAS AND NAYS

Mr. CRANSTON. Mr. President, we do not necessarily need the yeas and nays.

Mr. President, I ask unanimous consent that we vitiate the yeas and nays.

The PRESIDENT pro tempore. Is there objection to vitiating the order for the yeas and nays? The Chair hears none. It is so ordered.

The question is, shall the bill pass?

So the bill (S. 1153) was passed.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OIL POLLUTION LIABILITY AND COMPENSATION ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 686, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 686) to consolidate and improve Federal laws providing compensation and establishing liability for oilspills.

The Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with amendments as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That this Act may be cited as the "Oil Pollution Liability and Compensation Act of 1989".]

SECTION 1. SHORT TITLE.—This Act may be cited as the "Oil Pollution Liability and Compensation Act of 1989".

SEC. 2. TABLE OF CONTENTS.—

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.

TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION

Sec. 101. Definitions.
Sec. 102. Liability.
Sec. 103. Uses of fund.
Sec. 104. Financial responsibility.
Sec. 105. Litigation, jurisdiction, and venue.
Sec. 106. State laws and programs.

TITLE II—OIL POLLUTION PREVENTION AND RESPONSE

Sec. 201. Federal responsibility.
Sec. 202. National contingency plan.
Sec. 203. Regional oil spill response teams.
Sec. 204. Oil spill contingency plan development and approval.
Sec. 205. Oil spill research and development program.
Sec. 206. Penalties.
Sec. 207. Study of spill prevention in restricted waters.

TITLE III—CONFORMING AMENDMENTS

Sec. 301. Trans-Alaska pipeline fund.
Sec. 302. Intervention on the High Seas Act.
Sec. 303. Clean Water Act.
Sec. 304. Deep Water Port Act.
Sec. 305. Outer Continental Shelf Lands Act.

SEC. 3. FINDINGS.—The Congress finds that—

(1) oil spills in coastal and inland waters that are not contained and removed promptly and completely can cause serious environmental damage, including contamination of water, fouling of shorelines, and injury to fish, shellfish, and wildlife;

(2) oil spills in coastal and inland waters that are not contained and removed promptly and completely can cause significant economic impacts including damage to commercial and recreational fisheries, loss of recreational opportunities, and declines in tourism and related activities;

(3) oil spills occur on a regular basis in United States coastal and inland waters, with over ten thousand oil spills reported each year between 1973 and 1985;

(4) in March of this year, the largest oil spill in United States history occurred when the tanker Exxon Valdez ran aground in Prince William Sound, Alaska, spilling eleven million gallons of crude oil to the surrounding waters;

(5) the Exxon Valdez spill caused widespread and significant adverse impacts to the marine environment, to fish, birds, marine mammals, and other wildlife, to the commercial fishery of Southeast Alaska and to Native villages and subsistence users, and the cleanup of the spill will cost millions of dollars;

(6) in the several months since the wreck of the Exxon Valdez, three additional major oil spills occurred within a twenty-four hour period in waters off Rhode Island, in the Delaware River, and in the Houston Ship Channel;

(7) there is a need to establish an adequate system of liability and compensation to assure prompt and complete cleanup of spilled oil and to compensate those damaged by such pollution;

(8) it is essential that State oil pollution liability and compensation statutes not be preempted in any manner by Federal law or international protocols;

(9) there is a need to provide clear direction to the President to ensure prompt and proper response to oil spills unless the President specifically determines that a private party is providing such a response;

(10) there is a need to establish minimum Federal standards and requirements for Federal approval in contingency planning to assure the prompt and effective response to oil spills from facilities and vessels;

(11) there is a need to establish an adequate and effective system of response centers storing necessary vessels, equipment, and supplies and housing necessary personnel to assure the prompt and effective response to oil spills from facilities and vessels;

(12) there is a need to provide for full and sustained involvement of local citizens and interested groups including fishing, business, and environmental interests, in the development of oil spill contingency plans and the oversight of operations at major oil facilities and terminals;

(13) there is a need to establish a clear and sufficient structure of penalties to effectively deter those who would discharge oil to the waters of the United States or to punish those who cause such discharges;

(14) there is a need to establish an adequate program of research to develop technologies and practices to clean up oil spills, to understand the environmental impacts of such spills, or to develop the necessary baseline information on the marine environment to understand the long-term effects of such spills; and

(15) it is essential that measures to address the problems associated with prevention, response, cleanup, and compensation relating to oil spills be enacted into law at the earliest possible date.

TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION

DEFINITIONS

SEC. 101. For the purposes of this Act—

(1) the terms "vessel", "public vessel", "owner or operator", "remove" or "removal", "contiguous zone", "onshore facility", "offshore facility", and "barrel" shall have the meaning provided in section 311(a) of the Clean Water Act;

(2) the terms "person", "navigable waters", and "territorial seas" shall have the meaning provided in section 502 of the Clean Water Act;

(3) the term "act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character the effects of which could not have been prevented or avoided by the exercise of due care or foresight;

(4) the term "claim" means a request, made in writing for a sum certain, for compensation for damages or removal costs resulting from a discharge of oil;

(5) the term "claimant" means any person who presents a claim for compensation under this Act;

(6) the term "damages" means damages for economic loss or the loss of or injury to natural resources as specified in section 102(a) of this Act;

(7) the term "deepwater port facility" means an offshore facility which is or was licensed under the Deepwater Port Act of 1974;

(8) the term "discharge" means any emission *other than natural seepage*, intentional or unintentional, into the environment, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping;

(9) the term "environment" means the navigable waters, the waters of the contiguous zone, the ocean waters of which the natural resources are under the exclusive management authority of the United States under the Magnuson Fishery Conservation and Management Act, adjoining shorelines, and the ambient air above such waters and shorelines;

(10) the term "foreign offshore unit" means a structure or group of structures which is located, in whole or in part, in the territorial sea or on the continental shelf of a foreign country and is or was used for one or more of the following purposes: exploring for, drilling for, producing, storing, han-

dling, transferring, processing, or transporting oil produced from the seabed beneath the foreign country's territorial sea or from the foreign country's continental shelf;

(11) the term "Fund" means the Oil Spill Compensation Fund, hereby established under this Act;

(12) the term "guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this Act or section 311(p) of the Clean Water Act;

(13) the term "lessee" means a person holding a leasehold interest in an oil or gas lease on submerged lands of the Outer Continental Shelf, granted or maintained under the Outer Continental Shelf Lands Act;

(14) the term "liable" or "liability" under this Act shall be construed to be the standard of liability which obtains under section 311 of the Clean Water Act;

(15) the term "mobile offshore drilling unit" means a vessel capable of use as an Outer Continental Shelf facility to drill for oil;

(16) the term "natural resources" includes land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson Fishery Conservation and Management Act), any State or local government, or any foreign government;

(17) the term "oil" means petroleum, including crude oil or any fraction or residue therefrom;

(18) the term "Outer Continental Shelf facility" means an offshore facility which is located, in whole or in part, on the Outer Continental Shelf and is or was used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil produced from the Outer Continental Shelf;

(19) the term "owner or operator" means—

(A) with respect to an Outer Continental Shelf facility other than a pipeline or mobile offshore drilling unit, the lessee or permittee of the area in which the facility is located, or the holder of a right of use and easement granted under the Outer Continental Shelf Lands Act for the area in which the facility is located (where the holder is a different person than the lessee or permittee);

(B) with respect to a mobile offshore drilling unit being used as an Outer Continental Shelf facility, from which oil is discharged on or above the surface of the water (or which posed a substantial threat of such a discharge), the owner or operator of the unit, and such unit shall be deemed to be a tanker;

(C) with respect to a mobile offshore drilling unit being used as an Outer Continental Shelf facility—

(i) from which oil is discharged on or above the surface of the water (or which posed a substantial threat of such a discharge), to the extent removal costs or damages exceed the limitation specified in section 102(c)(1)(A), or

(ii) from which oil is discharged below the surface of the water (or which posed a substantial threat of such a discharge),

the lessee or permittee of the area in which the unit is located, or the holder of a right of use and easement granted under the Outer Continental Shelf Lands Act for the area in which the unit is located (where the holder is a different person than the lessee or permittee);

(20) the term "permittee" means a person holding an authorization, license, or permit for geological exploration issued under section 11 of the Outer Continental Shelf Lands Act;

(21) the term "removal costs" means the costs of removal taken after a discharge of oil has occurred or where there was a substantial threat of a discharge of oil, to prevent, minimize, or mitigate oil pollution from that incident, including all costs of completing removal as determined under section 106(d). *Such removal costs are (1) actual costs incurred by the United States, or when under the direction of the responsible Federal official, a State or an Indian tribe, not inconsistent with the National Contingency Plan, and (2) any other necessary costs of response incurred by any other person consistent with the National Contingency Plan;*

(22) the term "tanker" means a vessel constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo; and

(23) the terms "United States" and "State" mean the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction.

LIABILITY

SEC. 102. (a) Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this section, the owner or operator of a vessel or an onshore or offshore facility from which oil is discharged, or which posed the threat of a discharge which causes the incurrence of removal costs, shall be liable for—

(1)(A) all removal costs incurred by the United States Government or a State under subsection (c), (d), (e), (f)(4), or (l) of section 311 of the Clean Water Act or under the Intervention on the High Seas or section 18 of the Deepwater Port Act of 1974; and

(B) any removal costs incurred by any person, including, but not limited to, any State; and

(2) all damages for economic loss or loss of natural resources resulting from such a discharge, including—

(A) any injury to, destruction of, or loss of any real or personal property;

(B) any loss of use of real or personal property;

(C) any injury to, destruction, [of,] *mitigation,* or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss;

(D) any loss of use, including loss of subsistence use, of any natural resources, without regard to the ownership or management of such resources;

(E) any loss of income or profits or impairment of earning capacity resulting from injury to or destruction of real or personal property or natural resources, without regard to the ownership of such property or resources; and

(F) any direct or indirect loss of tax, royalty, rental, or net profits share revenue by the Federal Government or any State or political subdivision thereof, for a period of not to exceed one year.

(b)(1) There shall be no liability under subsection (a) of this section for a person otherwise liable who can establish by a preponderance of the evidence that the discharge or threat of discharge of oil and the damages resulting therefrom were caused solely by—

(A) an act of God;

(B) an act of war;

(C) an act or omission of a third party other than an employee or agent of the defendant, or than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant (except where the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail), if the defendant establishes by a preponderance of the evidence that (i) the defendant exercised due care with respect to the oil concerned, taking into consideration the characteristics of such oil, in light of all relevant facts and circumstances, and (ii) the defendant took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from such acts or omissions; or

(D) any combination of the foregoing paragraphs.

(2) In any case where the owner or operator of a vessel or an onshore or offshore facility can establish by a preponderance of the evidence that a discharge and the damages resulting therefrom were caused solely by an act or omission of a third party in accordance with paragraph (1)(C) (or solely by such an act or omission in combination with an act of God or an act of war), such third party shall be liable under this section as if such third party were the owner or operator of a vessel or onshore or offshore facility from which the discharge actually occurred. Where the owner or operator of a tanker or an onshore or offshore facility which handles or stores oil in bulk or commercial quantities, from which oil is discharged, alleges that such discharge was caused solely by an act or omission of a third party, such owner or operator shall promptly pay to the United States Government, and any other claimant, the costs of removal or damages claimed and shall be entitled by subrogation to all rights of the United States Government or other claimant to recover such costs of removal or damages from such third party under this sub-section.

(c)(1) The liability of an owner or operator of a vessel or an onshore or offshore facility for damages and removal costs under this section for each discharge or incident shall not exceed—

(A) $500 per gross ton or $10,000,000, whichever is greater, of any tanker carrying oil in bulk or in commercial quantities as cargo, including any such barge operating in the navigable waters;

(B) $300 per gross ton or $500,000, whichever is greater, of any other vessel;

(C) [the total of all removal costs under subsection (a)(1) of this section plus $75,000,000] *$100,000,000* for any Outer Continental Shelf facility;

(D) $100,000,000 for any deepwater port facility (including the liability of the licensee for a discharge from any vessel moored at such port, in any case where $100,000,000 exceeds $500 per gross ton of such vessel); or

(E) $100,000,000 for any other onshore or offshore facility.

The liability of an owner or operator under this section for interest (including prejudg-

ment interest) shall not be subject to the limitations of this paragraph.

(2) Notwithstanding the limitations of paragraph (1) of this subsection, the liability of the owner or operator of a vessel or an onshore or offshore facility under subsection (a) of this section shall be the full and total damages and removal costs not offset by any removal costs incurred on behalf of such owner or operator, if (A) the discharge of oil was the result of willful misconduct or gross negligence [within the privity or knowledge of the owner or operator] or of a violation [(within the privity or knowledge of the owner or operator)] of applicable safety, construction, or operating standards or regulations; or (B) the owner or operator fails or refuses to report the discharge where required by law or to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities or to provide removal action upon order of a responsible official. For the purpose of this paragraph, applicable standards or regulations with respect to a vessel shall be those adopted or promulgated by a Federal agency.

(3) Notwithstanding the limitations of paragraph (1) of this subsection or the defenses of subsection (b) of this section, all removal costs incurred by the United States Government or any State or local official or agency in connection with a discharge of oil from any Outer Continental Shelf facility or a vessel carrying oil as cargo from such a facility shall be borne by the owner or operator of such facility or vessel.

(4)(A) The President is authorized to establish by regulation, with respect to any class or category of onshore or offshore facility subject to paragraph (1) (D) or (E) of this subsection, a maximum limit of liability under this section of less than $100,000,000, but not less than $8,000,000, taking into account the size, storage capacity, oil throughput, proximity to sensitive areas, type of oil handled, history of discharges, and other factors relevant to risks posed by the class or category of facility.

(B) The President shall, by regulation, not less often than every three years, adjust the limits of liability specified in paragraph (1) of this subsection to reflect significant increases in the Consumer Price Index.

(5) If any person who is liable for a discharge or threat of discharge of oil from a vessel or onshore or offshore facility fails without sufficient cause to properly provide removal action upon order of the President pursuant to this Act, such person may be liable to the United States for punitive damages in an amount at least equal to three times the amount of any costs incurred by the Fund as a result of such failure to take proper action. The President is authorized to commence a civil action against any such person to recover the punitive damages. Any moneys received by the United States pursuant to this subsection shall be deposited in the Fund.

(6)(A) Any person who receives and complies with the terms of any order issued under paragraph (1) may, within 60 days after completion of the required action, petition the President for reimbursement from the Fund established under this section for the reasonable costs of such action, plus interest. Any interest payable under this subparagraph shall accrue on the amounts expended from the date of expenditure at the same rate as specified for interest on investments of the Fund.

(B) If the President refuses to grant all or part of a petition made under this paragraph, the petitioner may within 30 days of receipt of such refusal file an action against the President in the appropriate United States district court seeking reimbursement from the Fund established under this section.

(C) Except as provided in clause (D), to obtain reimbursement, the petitioner shall establish by a preponderance of the evidence that it is not liable for [response] *removal* costs *and damages* under subsection (f) of this section and that costs for which it seeks reimbursement are reasonable in light of the action required by the relevant order.

(D) A petitioner who is liable for [response] *removal* costs *and damages* under [subsection (f)] of this section may also recover its reasonable costs of response to the extent that it can demonstrate, on the administrative record, that the President's decision in selecting the removal action ordered was arbitrary and capricious or was otherwise not in accordance with law. Reimbursement awarded under this subparagraph shall include all reasonable removal costs incurred by the petitioner pursuant to the portions of the order found to be arbitrary and capricious or otherwise not in accordance with law.

(E) Reimbursement awarded by a court under clause (C) or (D) may include appropriate costs, fees, and other expenses in accordance with subsections (a) and (d) of section 2412 of title 28, United States Code.

(d)(1) In the case of an injury to, destruction of, or loss of natural resources under subsection (a)(2)(C) of this section, liability shall be (A) to the United States Government for natural resources belonging to, managed by, controlled by, or appertaining to the United States, and (B) to any State for natural resources within the State or belonging to, managed by, controlled by, or appertaining to such State, and (C) where subsection (e) of this section applies, to the government of a foreign country for natural resources belonging to, managed by, controlled by, or appertaining to such government. The President, or the authorized representative of any State or of the foreign government, shall act on behalf of the public as trustee of such natural resources to recover for such damages. Sums recovered by the United States Government as trustee under this subsection shall be retained by the trustee, without further appropriation, for use only to restore, replace, or acquire the equivalent of such natural resources. Sums recovered by a State as trustee under this subsection shall be available for use only to restore, replace, or acquire the equivalent of such natural resources by the State. The measure of damages in any action under subsection (a)(2)(C) shall not be limited by the sums which can be used to restore or replace such resources. There shall be no double recovery under this Act for natural resource damages, including the costs of damage assessment or restoration, rehabilitation, or acquisition for the same discharge and natural resource.

(2)(A) The President shall designate the Federal officials who shall act on behalf of the public as trustees for natural resources under this Act. Such officials shall assess damages for injury to, destruction of, or loss of natural resources for purposes of this Act for those resources under their trusteeship and may, upon request of and reimbursement from a State and at the Federal officials discretion, assess damages for those natural resources under the State's trusteeship.

(B) The Governor of each State shall designate State officials who may act on behalf of the public as trustee for natural resources under this Act and shall notify the President of such designations. Such State officials shall assess damages to natural resources for the purposes of this Act for those natural resources under their trusteeship.

(C) Any determination or assessment of damages to natural resources for the purposes of this Act made by a Federal or State trustee in accordance with the regulations promulgated under paragraph (3) of this subsection shall have the force and effect of a rebuttable presumption on behalf of the trustee in any administrative or judicial proceeding under this Act.

(3)(A) The President, acting through the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Administrator of the Environmental Protection Agency, the Director of the Fish and Wildlife Service, and the heads of other affected agencies, not later than two years after the enactment of this Act, shall promulgate regulations for the assessment of damages for injury to, destruction of, or loss of natural resources resulting from a discharge of oil for the purpose of this Act.

(B) Such regulations shall specify: (i) standard procedures for simplified assessments requiring minimal field observation, including establishing measures of damages based on units of discharge or units of affected areas, where damages equal the costs of restoration, replacement, or acquisition of equivalent resources, [plus demonstrated additional lost use value or other damages beyond such costs,] *the diminutions in value of those resources pending restoration;* [and (ii) alternative protocols for conducting assessments in individual cases to determine the type and extent of short and long term injury, destruction, mitigation, or loss. Such regulations shall identify the best available procedures to determine such damages, including both direct and indirect injury, destruction, or loss, and shall take into consideration factors including, but not limited to, replacement value, use value, and ability of the ecosystem or resource to recover.] *and the need for individual assessments. Such regulations shall identify the best available procedures to determine such damages.*

(C) Such regulations shall be reviewed and revised as appropriate every two years.

(e)(1) The recovery of removal costs and damages by (A) persons residing in a foreign country, (B) the government of a foreign country, or (C) any agency or political subdivision of a foreign country, under this Act, shall be exclusively in accordance with this subsection.

(2) A claimant under this subsection must demonstrate that the claimant has not been otherwise compensated for incurred removal costs or damages. Except with respect to paragraph (3)(D) of this subsection, a claimant under this subsection must demonstrate (A) that recovery is authorized by a treaty or executive agreement between the United States and the claimant's country, or (B) that the Secretary of State, in consultation with the Attorney General and other appropriate officials, has certified that the claimant's country provides a comparable remedy for United States claimants.

(3) Where a discharge, or substantial threat of a discharge of oil in or on the territorial sea, internal waters, or adjacent shoreline of a foreign country occurs, claims for removal costs and damages may be made under this subsection if the removal costs or

damages resulted from a discharge of, or substantial threat of a discharge, of oil from—

(A) an Outer Continental Shelf facility or a deepwater port facility,

(B) a vessel occurring in the navigable waters of the United States,

(C) a vessel carrying oil as cargo between two ports subject to the jurisdiction of the United States; or

(D) a tanker that received oil at the terminal of the pipeline constructed under the Trans-Alaska Pipeline Authorization Act for transportation to a port in the United States, the discharge or threat having occurred prior to delivery to that port.

(4) This subsection shall apply only in the case of discharges of oil occurring after the enactment of this Act.

(f)(1) No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from the owner or operator of any vessel or onshore or offshore facility or from any person who may be liable for a discharge or threat of discharge under this section, to any other person the liability imposed under this section. Nothing in this subsection shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this section.

(2) Nothing in this Act, including the provisions of paragraph (1) of this subsection, shall bar a cause of action that an owner or operator subject to liability under this section, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

(g) The owner or operator of a vessel shall be liable in accordance with this section and section 311 of the Clean Water Act, under maritime tort law, and as provided in section 106 of this Act, notwithstanding any provision of the Act of March 3, 1851 (46 U.S.C. 183), or the absence of any physical damage to the proprietary interest of the claimant.

USES OF FUND

SEC. 103. (a) The President shall use the money in the Fund for the following purposes:

(1) all removal costs or other costs of carrying out the purposes of subsections (c), (d), (i), and (l) of section 311 of the Clean Water Act, sections 5 and 7 of the Intervention on the High Seas Act, and section 18 of the Deepwater Port Act, with respect to discharges, or substantial threats of discharges, of oil (as the term "oil" is defined in each respective Act);

(2) payment of any claim for removal costs or damages—

(A) in excess of the amount for which the owner or operator of the vessel or onshore or offshore facility from which oil is discharged is liable under section 102 of this Act;

(B) where the source of the discharge of oil is not known or cannot be identified; or

(C) in any case where the claim has not been satisfied in accordance with subsection (c) of this section;

(3) payment of any claim for removal costs and damages that have resulted from the discharge, or substantial threat of a discharge, of oil from a foreign offshore unit;

(4)(A) payment of costs incurred by any State in responding to a discharge, or substantial threat of a discharge, of oil into the navigable waters or adjoining shorelines from a vessel, an onshore facility, an offshore facility, or a foreign offshore unit, as provided in subsection (d) of this section;

(B) reimbursement to any State for the payment of any claims for removal costs or damages payable under this Act which such State has paid with funds under the control of such State, including payment pursuant to a delegation under subsection (c) of this section;

(5) the costs of assessing both short-term and long-term injury to, destruction of, or loss of any natural resources resulting from a discharge of oil;

(6) the costs of Federal or State efforts in the restoration, rehabilitation, or replacement or acquiring the equivalent of any natural resources injured, destroyed, or lost as a result of any discharge of oil;

[(7) subject to such amounts as are provided in appropriation Acts, the costs of providing equipment and similar overhead, related to the purposes of this Act and section 311 of the Clean Water Act, and of establishing and maintaining damage assessment capability, for any Federal agency involved in strike forces, emergency task forces, or other response teams;]

(7) the costs of establishing and operating the regional oil spill response teams required under section 311(s) of the Clean Water Act, of providing other equipment, personnel, and similar overhead related to the purposes of this Act and section 311 of the Clean Water Act, and of establishing and maintaining damage assessment capability for any Federal agency involved in regional oil spill response teams, strike forces, emergency task forces, or other response teams;

(8) subject to such amounts as are provided in appropriation Acts, the costs of establishing and maintaining the oil spill research and development program required under section 311(u) of the Clean Water Act;

[(8)] *(9)* the costs of a program to identify, investigate, and take enforcement and abatement action against discharges of oil, including the provisions of section 311(j)(1)(C) and (D) of the Clean Water Act; and

[(9)] *(10)* all administrative and personnel costs of administering the Fund and this Act.

(b) The maximum amount which may be paid from the Fund with respect to any single discharge or incident shall not exceed [$500,000,000] *$1,000,000,000.*

(c)(1) The President is authorized to promulgate regulations designating one or more Federal officials who may obligate money in the Fund in accordance with subsection (a) of this section or portions thereof. The President is also authorized to delegate authority to obligate money in the Fund or to settle claims to officials of a State with an adequate program operating under a cooperative agreement with the Federal Government.

(2) The President is authorized to delegate the administration of his duties and authorities under this Act to the heads of those Federal departments, agencies, and instrumentalities which the President determines appropriate.

(3)(A) Notwithstanding section 9509(d) of the Internal Revenue Code of 1954, as revised, the Secretary of the Treasury shall, at the request of the Secretary, advance such sums to the Fund in such amount and at such times as are necessary: Provided, That amounts advanced shall not be greater than $1,000,000,000 per incident: Provided further, That the aggregate amount of repayable advances to the Fund which is outstanding at any one time shall not exceed $1,000,000,000: And provided further, That such advances shall be repaid with interest on or before five years from the date the advance is received into the Fund.

(B) Advances made pursuant to this paragraph shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury. Such interest shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which the interest must be paid to the claimant, as published in the Federal Reserve bulletin.

[(3)(A)] *(4)(A)* The President shall promulgate, and may from time to time amend, regulations for the presentation, filing, processing, settlement, and adjudication of claims for removal costs or damages resulting from the discharge, or substantial threat of a discharge, of oil under this Act.

(B) Whenever the President receives information from any person alleging that a person has incurred removal costs or damages resulting from the discharge, or substantial threat of a discharge, of oil respecting which the owner or operator of a vessel or onshore or offshore facility is or may be liable under section 102 of this Act, the President shall notify the owner, operator, or guarantor or such vessel or facility of that allegation. Such owner or operator or guarantor may, within five days after receiving the notification or presentation of any claim by a claimant, deny the allegation, or deny liability for removal costs and damages for any of the reasons set forth in subsection (b) of section 102 of this Act.

(C) The owner or operator of any vessel or onshore or offshore facility from which oil has been discharged shall provide notice to all potentially injured parties.

(D) No claims may be asserted against the Fund pursuant to subsection (a) unless such claim is presented in the first instance to the owner or operator or guarantor of the vessel or onshore or offshore facility from which oil has been discharged, if known to the claimant, and to any other person known to the claimant who may be liable under section 102. In any case where the claim has not been satisfied within one hundred eighty days of presentation in accordance with this subsection, the claimant may present the claim to the Fund for payment. No claim against the Fund may be approved or certified during the pendency of an action by the claimant in court to recover costs which are the subject of the claim.

(d) The Governor of each State, or any appropriate State official designated by the Governor, is authorized to obligate the Fund for the payment of removal costs in an amount not to exceed $250,000 per discharge or substantial threat of discharge of oil, for the purpose of immediate response, subject only to the requirement that the President be notified within twenty-four hours of any such obligation under the authority of this sentence. In addition, the President shall enter into an agreement with the Governor of any interested State to provide a procedure by which the Governor or designated State official may undertake additional removal action or obligate the Fund for the additional payment of removal costs for response to a particular discharge or substantial threat of discharge, subject to such terms and conditions as may be agreed upon. Payments under subsection (a)(4)(A) of this section, other than as authorized by the first sentence of this subsection, shall be made in accordance with such agreements. The President shall, not later than six months after the enactment of this Act, publish proposed regulations further establishing how the authority of this sub-

section to obligate the Fund or enter into agreements is to be exercised, and, not later than three months after the close of the comment period on such proposed regulations, shall promulgate such regulations.

(e)(1) Payment of any claim by the Fund under this section shall be subject to the United States Government acquiring by subrogation all rights of the claimant to recover the removal costs or damages from the responsible party.

(2) Any person, including the Fund, who pays compensation pursuant to this Act to any claimant for costs or damages shall be subrogated to all rights, claims, and causes of action for those costs and damages that the claimant has under this Act or under any other law.

(3) Upon request of the President, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the Fund to any claimant pursuant to this Act, and, without regard to any limitation of liability with respect to an owner or operator under section 102(c), all costs incurred by the Fund by reason of the claim, including interest (including prejudgment interest), administrative and adjudicative costs, and attorney's fees. Such an action may be commenced against any owner or operator or (subject to section 104(e)) guarantor, or against any other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for the cost or damages for which the compensation was paid. Such an action shall be commenced against the responsible foreign government or other responsible party to recover any removal costs or damages paid from the Fund as the result of the discharge, or substantial threat of discharge, of oil from a foreign offshore unit.

(f) The Fund shall not be available to pay any claim for costs or damages to the extent the discharge or the damages had been caused by the gross negligence or willful misconduct of that particular claimant.

(g) The Comptroller General shall provide an audit review team to audit all payments, obligations, reimbursements, or other uses of the Fund, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered. The Comptroller General shall submit to the Congress an interim report one year after the establishment of the Fund. The Comptroller General shall thereafter provide such auditing of the Fund as is appropriate. Each Federal agency shall cooperate with the Comptroller General in carrying out this subsection.

(h)(1) No claim may be presented under this section for recovery of removal costs after the date six years after the date of completion of all removal action.

(2) No claim may be presented under this section for recovery of damages unless the claim is presented within three years after the date of the discovery of the loss and its connection with the release in question, or in the case of damages under section 102(a)(2)(C), if later, the date on which final regulations are promulgated under section 102(d)(3) of this Act.

(3) The time limitations contained herein shall not begin to run—

(A) against a minor until the earlier of the date when such minor reaches eighteen years of age or the date on which a legal representative is duly appointed for the minor, or

(B) against an incompetent person until the earlier of the date on which such incompetent's incompetency ends or the date on which a legal representative is duly appointed for such incompetent.

(i) Where the President has paid out of the Fund for any removal costs or any costs specified under subsection (a) (5) or (6), no other claim may be paid out of the Fund for the same costs.

(j) Except in a situation requiring action to avoid an irreversible loss of natural resources or to prevent or reduce any continuing danger to natural resources or similar need for emergency action, funds may not be used under this Act for the restoration, rehabilitation, or replacement or acquisition of the equivalent of any natural resources until a plan for the use of such funds for such purposes has been developed and adopted by affected Federal agencies and the Governor or Governors of any State having sustained damage to natural resources within its borders, belonging to, managed by or appertaining to such State, after adequate public notice and opportunity for hearing and consideration of all public comment.

FINANCIAL RESPONSIBILITY

SEC. 104. (a)(1) The owner or operator of any vessel over three hundred gross tons (except a non-self-propelled barge that does not carry oil as cargo or fuel), using any port or place in the United States or the navigable waters or any outer continental shelf facility or deepwater port facility *or the water of the exclusive economic zone to transship or lighter oil destined for a port or place subject to the jurisdiction of the United States,* shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to meet the maximum amount of liability to which, in the case of a tanker, the owner or operator could be subjected under section 102(c)(1)(A) of this Act, or to which, in the case of any other vessel, the owner or operator could be subjected under section 102(c)(1)(B) of this Act, in a case where the owner or operator would be entitled to limit liability under that section. If the owner or operator owns or operates more than one vessel, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

(2) The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States of any vessel subject to this subsection that does not have the certification required under this subsection or the regulations issued hereunder.

(3) The Secretary of the department in which the Coast Guard is operating may (A) deny entry to any outer continental shelf facility, and deepwater port facility, or any port or place in the United States, or (B) detain at such a facility or port or place, any vessel that, upon request, does not produce the certification required under this subsection or the regulations issued hereunder.

(4) Any vessel subject to the requirements of this subsection which is found in the navigable waters without the necessary evidence of financial responsibility shall be subject to seizure by the United States of any oil carried as cargo.

(b) Each owner or operator with respect to an outer continental shelf facility, deepwater port facility, or other offshore facility, shall establish and maintain evidence of financial responsibility sufficient to meet the maximum amount of liability to which the owner or operator could be subjected under section 102 of this Act in a case where the owner or operator would be entitled to limit liability under that section, or, in the case of an Outer Continental Shelf facility, in the amount of $100,000,000. Such evidence of financial responsibility shall be established according to regulations prescribed by the President.

(c) Financial responsibility under this section may be established by any one, or by any combination, of the following methods, which the President determines to be acceptable: evidence of insurance, surety bond, guarantee, letter of credit, qualification as a self-insurer, or other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In promulgating requirements under this section, the President is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary, or which are unacceptable, in establishing such evidence of financial responsibility in order to effectuate the purposes of this Act.

(d) Any claim for which liability may be established under section 102 of this Act may be asserted directly against any guarantor providing evidence of financial responsibility for an owner or operator liable under that section for costs and damages to which the claim pertains. In defending against such a claim, the guarantor may invoke all rights and defenses which would be available to the responsible party under section 102. The guarantor may also invoke the defense that the discharge was caused by the willful misconduct of the owner or operator, but the guarantor may not invoke any other defense that might be available in proceedings brought by the owner or operator against the guarantor.

(e) The total liability of any guarantor in a direct action suit brought under this section shall be limited to the aggregate amount of the monetary limits of the policy of insurance, guarantee, surety bond, letter of credit, or similar instrument obtained from the guarantor by the person subject to liability under section 102 for the purpose of satisfying the requirement for evidence of financial responsibility. Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual, or common law liability of a guarantor, including, but not limited to, the liability of such guarantor for bad faith either in negotiation or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed, interpreted, or applied to diminish the liability of any person under section 102 of this Act or other applicable law.

(f)(1) Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of this section or the regulations issued thereunder, or with a denial or detention order issued under subsection (a)(3) of this section, shall be liable to the United States for a civil penalty, not to exceed $25,000 per day of violation. The amount of the civil penalty shall be assessed by the President by written notice. In determining the amount of the penalty, the President shall take into account the nature, circumstances, extent, and gravity of the violation, the degree of culpability, any history of prior violation, ability to pay, and such other matters as justice may require. The President may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this paragraph. If any person fails to pay an assessed civil penalty after it

has become final, the President may refer the matter to the Attorney General for collection.

(2) In addition to, or in lieu of, assessing a penalty under paragraph (1) of this subsection, the President may request the Attorney General to secure such relief as necessary to compel compliance with this section, including, but not limited to, a judicial order terminating operations. The district courts of the United States shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

(g) Any regulation respecting financial responsibility, which has been issued pursuant to any provision of law repealed or superseded by this Act, and which is in effect on the date immediately preceding the effective date of this Act, shall be deemed and construed to be a regulation issued pursuant to this section. Such a regulation shall remain in full force and effect unless and until superseded by new regulations issued under this section.

LITIGATION, JURISDICTION AND VENUE

SEC. 105. (a) Review of any regulation promulgated under this Act may be had upon application by any interested person only in the Circuit Court of Appeals of the United States for the District of Columbia. Any such application shall be made within ninety days from the date of promulgation of such regulations. Any matter with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or to obtain damages or recovery of response costs.

(b) Except as provided in subsections (a) and (c) of this section, the United States district courts shall have exclusive original jurisdiction over all controversies arising under this Act, without regard to the citizenship of the parties or the amount in controversy. Venue shall lie in any district in which the discharge or injury or damages occurred, or in which the defendant resides, may be found, has its principal office, or has appointed an agent for service of process. For the purposes of this section, the Fund shall reside in the District of Columbia.

(c) A State trial court of competent jurisdiction over similar claims may consider claims under section 102 or State law and any final judgment of such court (when no longer subject to ordinary forms of review) shall be recognized, valid, and enforceable for all purposes of section 102 and section 103 of this Act.

(d) The provisions of subsections (a), (b), and (c) of this section shall not apply to any controversy or other matter resulting from the assessment or collection of any tax, or to the review of any regulation promulgated under the Internal Revenue Code of 1954.

(e) The President may prescribe the necessary regulations to carry out this Act.

(f) No provision of this Act shall be deemed or held to moot any litigation concerning any discharge of oil, or any damages associated therewith, commenced prior to enactment of this Act.

(g)(1) Except as provided in paragraphs (3) and (4), no action may be commenced for damages (as defined in section 101(6)) under this Act, unless that action is commenced within three years after the date of the discovery of the loss and its connection with the release in question, or in the case of damages under section 102(a)(2)(C), if later, the date on which regulations are promulgated under section 102(d)(3) of this Act.

(2) An action for recovery of removal costs referred to in section 102(a)(1) must be commenced within three years after completion of the removal action. In any such action described in this subsection, the court shall enter a declaratory judgment on liability for removal costs or damages that will be binding on any subsequent action or actions to recover further removal costs or damages. Except as otherwise provided in this paragraph, an action may be commenced under section 102 for recovery of removal costs at any time after such costs have been incurred.

(3) No action for contribution for any removal costs or damages may be commenced more than three years after—

(A) the date of judgment in any action under this Act for recovery of such costs or damages, or

(B) the date of entry of a judicially approved settlement with respect to such costs or damages.

(4) No action based on rights subrogated pursuant to this Act by reason of payment of a claim may be commenced under this Act more than three years after the date of payment of such claim.

(5) The time limitations contained herein shall not begin to run—

(A) against a minor until the earlier of the date when such minor reaches eighteen years of age or the date on which a legal representative is duly appointed for such minor, or

(B) against an incompetent person until the earlier of the date on which such incompetent's incompetency ends or the date on which a legal representative is duly appointed for such incompetent.

STATE LAWS AND PROGRAMS

SEC. 106. (a) Nothing in this Act shall be construed or interpreted as preempting any State from imposing any additional liability or requirements with respect to the discharge of oil or other pollution by oil within such State. Nothing in this Act shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to discharges of oil.

(b) Nothing in this Act or in section 9507 of the Internal Revenue Code of 1954 shall in any way affect, or be construed to affect, the authority of any State—

(1) to establish, or to continue in effect, a fund any purpose of which is to pay for costs or damages arising out of, or directly resulting from, oil pollution or the substantial threat of oil pollution; or

(2) to require any person to contribute to such a fund.

(c) A State may enforce, on the navigable waters of such State, the requirements for evidence of financial responsibility applicable under section 104 of this Act.

(d) The President shall consult with the affected State or States on the appropriate removal action to be taken. Removal with respect to any discharge or incident shall be considered completed when so determined by the President and the Governor or Governors of the affected State or States.

(e) Nothing in this Act, the Act of March 3, 1851, as amended (46 U.S.C. 183 et seq.), or section 9507 of the Internal Revenue Code of 1954, shall in any way affect, or be construed to affect, the authority of the United States or any State or political subdivision thereof—

(1) to impose additional liability or additional requirements, or

(2) to impose, or to determine the amount of, any fine or penalty (whether criminal or civil in nature) for any violation of law,

relating to the discharge, or substantial threat of a discharge, of oil.

STUDY OF SPILL PREVENTION IN RESTRICTED WATERS

[SEC. 107. The President shall conduct a study, and report the results of such study to the Congress not later than one year after the enactment of this Act, on improved methods for the prevention of discharges of oil in restricted waters and similar portions of bays, estuaries, and near shore waters. In the conduct of such study, the President shall examine the causes of recent major discharges of oil from vessels in the Delaware River, and consider modifications in tanker construction and operation standards, crew training and locale familiarization requirements, improvements in navigation aids, and other approaches with the potential for reducing the likelihood for discharges of oil in such waters.

FEDERAL RESPONSIBILITY

[SEC. 108. Section 311(c)(1) of the Federal Water Pollution Control Act is amended by striking all that follows after "1976)", and inserting the following in lieu thereof: "the President shall remove or arrange for the removal of such oil or substance at any time. The President is not required to remove or arrange for removal of such oil or substance only if the President finds that such removal will be done properly and promptly by the owner or operator of the vessel, onshore facility, or offshore facility, from which the discharge occurs. Such owner or operator must demonstrate to the satisfaction of the President that such owner or operator has the financial resources and technical capability necessary to effectively remove the oil or hazardous substance."]

TITLE II—OIL POLLUTION PREVENTION AND RESPONSE

FEDERAL RESPONSIBILITY

SEC. 201. (a) Section 311(c)(1) of the Federal Water Pollution Control Act is amended by striking all that follows after "1976)", and inserting the following in lieu thereof: "the President shall remove or arrange for the removal of such oil or substance at any time, unless the President determines such removal will be done properly and promptly by a State or by the owner or operator of the vessel, onshore facility, or offshore facility, from which the discharge occurs. Such owner or operator must demonstrate to the satisfaction of the President that such owner or operator has the financial resources and technical capability necessary to effectively remove the oil or hazardous substance. The President is authorized to order such owner or operator to remove or arrange to remove the oil or hazardous substance and to continue such removal actions until the President determines that such actions are no longer necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches."

(b) Section 311(d) of the Federal Water Pollution Control Act (33 U.S.C. 1321(d)) is amended by striking out that section and inserting in lieu thereof the following:

"(d) SUBSTANTIAL THREAT OF POLLUTION HAZARD.—Notwithstanding subsection (c)(1) of this section, whenever a marine disaster in or upon the navigable waters of the United States has created a substantial

threat of a pollution hazard to the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife, and the public and private shorelines and beaches of the United States, because of a discharge, or an imminent discharge, of oil, or of a hazardous substance, from a vessel or a facility—

"(1) the President shall, acting through the person designated under subsection (c)(2)(L) of this section, coordinate and direct all public and private efforts directed at the removal or elimination of such threat, including direction of the activities of the strike force established by subsection (c)(2)(C) of this section and the regional oil spill response teams established by subsection (s) of this section;

"(2) the President may summarily remove, and, if necessary, destroy such vessel by whatever means are available;

"(3) the President may, if necessary to ensure prompt and proper removal or elimination of such threat, or removal or destruction of such vessel, take any action to achieve such ends without regard to any provisions of law governing competitive bidding, the employment of personnel or the expenditure of appropriate funds;

"(4) each Federal agency, State, owner or operator of a vessel or a facility, or other person shall participate in any efforts under this subsection as required under the National Contingency Plan and as directed by the person designated under subsection (c)(2)(L) of this section, and may be reimbursed for the costs incurred from the Fund established under the Oil Pollution Liability and Compensation Act of 1989 to the extent authorized by that Act and the National Contingency Plan;

"(5) any costs incurred by the United States under this subsection or under the Intervention on the High Seas Act or the convention defined in section 2(3) thereof shall be a cost incurred by the United States Government for the purposes of subsection (f) in the removal of oil or hazardous substance; and

"(6) the person designated under subsection (c)(2)(L) of this section shall consult with the trustees for natural resources designated under the Oil Pollution Liability and Compensation Act of 1989 concerning actions taken pursuant to this subsection.".

NATIONAL CONTINGENCY PLAN

SEC. 202. Section 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321 (c)) is amended by striking paragraph (2) and inserting the following new paragraph in lieu thereof:

"(2) NATIONAL CONTINGENCY PLAN.—Within sixty days after the effective date of this section, the President shall prepare and publish a National Contingency Plan (hereinafter referred to in this paragraph as the "Plan") for removal of oil and hazardous substances, pursuant to this subsection and subsection (d) of this section. Such plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances, and shall include, but not be limited to—

"(A) assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies, including, but not limited to, water pollution control, port authorities, conservation and trusteeship of natural resources;

"(B) identification, procurement, maintenance, and storage of equipment and supplies;

"(C) establishment or designation of a strike force, in addition to regional oil spill response teams consisting of personnel who shall be trained, prepared, and available to provide necessary services to carry out the Plan, including the establishment at major ports as provided under subsection (s) of this section (regional oil spill response teams), to be determined by the President, of emergency task forces of trained personnel, adequate oil and hazardous substance pollution control equipment and material, and a detailed oil and hazardous substance pollution prevention and removal plan, including measures to protect and restore fisheries and wildlife;

"(D) a system of surveillance and notice designed to insure earliest possible notice of discharges of oil and hazardous substances and imminent threats of such discharges to the appropriate State and Federal agencies;

"(E) establishment of a national center to provide coordination and direction for operations by strike forces, the regional oil spill response teams required under subsection (s) of this section, and others in carrying out the Plan;

"(F) procedures and techniques to be employed in identifying, containing, dispersing, and removing oil and hazardous substances;

"(G) a schedule, prepared in cooperation with the States, identifying dispersants, chemicals and other spill mitigating devices, if any, that may be used in carrying out the Plan; the waters in which such dispersants, chemicals and other spill mitigating devices may be used; and the quantities of such dispersant, chemical or other spill mitigating devices which can be used safely in such waters, which schedule shall provide in the case of any dispersant, chemicals and other spill mitigating devices, or waters not specifically identified in such schedule that the President, or his delegate, may, on a case-by-case basis, identify the dispersants, chemicals and other spill mitigating devices which may be used, the waters in which they may be used, and the quantities which can be used safely in such waters;

"(H) a system whereby the State or States affected by a discharge of oil or hazardous substance may act where necessary to remove such discharge and such State or States may be reimbursed in the case of any discharges of oil from a vessel or facility, for the reasonable costs incurred in such removal from the Fund established under the Oil Spill Liability and Compensation Act of 1989;

"(I) procedures to provide equipment that is adequate to minimize damage resulting from a discharge of oil or a hazardous substance and that is appropriate for the environmental features of the area for which it is provided, and to require that all such equipment be certified at least once every three years by the Secretary of the department in which the Coast Guard is operating;

"(J) provisions to assure that the Federal On Scene Coordinator designated pursuant to the Plan takes steps within a minimum amount of time to assume control of a response to a spill or discharge, resolve State and local concerns, and implement approved procedures promptly;

"(K) development and maintenance of a periodically updated international inventory of equipment and personnel to remove discharges of oil and hazardous substances, available to the public, which shall, to the extent of available information list all equipment, whether in private or governmental custody, capable of containing or cleaning up discharges of oil and hazardous substances and specify for such equipment the nature, type, age, manufacturer, precise current location, name of current owner, name and phone number of the individual with authority over its disposition, and list all contractors and other persons qualified in the containment or cleanup of oil and hazardous substance discharges and specify for each such contractor or other persons the number of available personnel and their skills, the nature and capabilities of available equipment, the name of the principal officer, the name and phone number of an individual with emergency response authority, and such other information as the President may require;

"(L) designation of a person who shall be primarily responsible for carrying out the President's authority under this subsection, and who shall direct or coordinate all Federal, State, and private efforts under subsection (d) of this section to prepare for and respond to a substantial threat of a pollution hazard to the public health and welfare, including any such efforts of a strike force established under subparagraph (C) of this paragraph and of the regional oil spill response teams established under subsection (s) of this section;

"(M) establishment of criteria and procedures to ensure prompt and proper identification of, and response to, marine disasters that create a substantial threat of a pollution hazard to the public health or welfare of the United States, as required under subsection (d) of this section;

"(N) establishment of standards and procedures which comply with the provisions of the Oil Pollution Liability and Compensation Act of 1989 for reimbursement from the Fund established under that Act of removal costs incurred under this subsection and subsection (d) of this section by the United States or other persons; and

"(O) establishment of procedures to notify and inform all entities that may be involved in removal of discharges of oil and hazardous substances, including Federal agencies, States, and other persons, of each such entity's duties and rights and of the procedures each such entity shall follow under this subsection and subsection (d) of this section.

The President may, from time to time, as he deems advisable revise or otherwise amend the National Contingency Plan. After publication of the National Contingency Plan, the removal of oil and hazardous substances and actions to minimize damage from oil and hazardous substance discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.".

REGIONAL OIL SPILL RESPONSE TEAMS

SEC. 203. Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended by adding at the end thereof the following new subsection:

"(s)(1) REGIONAL OIL SPILL RESPONSE TEAMS.—The President shall revise the National Contingency Plan prepared and published pursuant to subsection (c)(2) of this section to require establishment, operation, and maintenance of an oil spill response team, including use of existing public or private personnel and equipment, for each region that the President determines is in need of such a response team, including, but not limited to, the regions of Alaska, the Pacific Northwest, California, the Gulf of Mexico, and the south Atlantic coast, New England, the mid-Atlantic coast, and for inland waters that is capable of promptly

and properly removing oil from a worst case discharge, defined as a discharge, in adverse weather conditions, of the largest vessel which is known to transit a given region. Such response teams shall—

"(A) consist of time, dedicated and trained personnel, fully operational vessels and equipment, or have immediate access to use of such personnel, vessels, and equipment, for spill containment, recovery, dispersal, shoreline cleanup and protection and rescue of fisheries and wildlife;

"(B) have continuous twenty-four-hour communications capability to assure rapid notification and coordination with the national center and strike forces established under subsection (c)(2) of this section, State and local officials, and other appropriate entities and ensure that response teams, and all equipment and vessels required for those response teams, are properly and immediately in use upon receiving notice of any discharge of oil;

"(C) conduct training and periodic drills, without prior notice, to demonstrate their continued effectiveness and readiness;

"(D) work with State and local officials to enhance the contingency planning of such officials and assure pre-planning of joint response efforts, including appropriate procedures for mechanical recovery, dispersal, shoreline cleanup and protection and rescue of fisheries and wildlife. Response teams also shall work with State and local officials to obtain agreements for use of dispersants and other mitigating devices as part of regional contingency plans; and

"(E) establish and maintain an inventory of personnel and equipment, in coordination with the international inventory developed under the National Contingency Plan, to support spill response activities, consisting at a minimum of locations, status, and availability of spill response resources and related information.

"(2) FUNDING.—Amounts in the Fund established under the Oil Pollution Liability and Compensation Act of 1989 shall be available, without fiscal year limitation, to establish and maintain the oil spill response teams required under this paragraph.".

OIL SPILL CONTINGENCY PLAN DEVELOPMENT AND APPROVAL

SEC. 204. Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended by adding at the end thereof the following new subsection:

"(t)(1) IN GENERAL.—This subsection applies to (1) operators of all tank vessels (other than public vessels) which carry oil in bulk as cargo or cargo residue or transfer oil in any port located in or upon the navigable waters of the United States and the exclusive economic zone and (2) operators of oil producing, refining, or transportation facilities that due to their location, reasonably could be expected to spill oil into or upon navigable waters of the United States, adjoining shorelines or the waters of the exclusive economic zone.

"(2) OIL SPILL CONTINGENCY PLAN DEVELOPMENT.—The President shall, within one year after enactment of the Oil Pollution Liability and Compensation Act of 1989, issue a final rule requiring owners and operators of vessels and facilities subject to this paragraph to prepare and submit a contingency plan for the prevention, containment and cleanup of oil spills from their vessels or facilities and for the protection of fisheries and wildlife from such spills. Contingency plans required under this subsection shall—

"(A) provide full details of the method of response to a worst case oil spill, defined as a discharge, in adverse weather conditions, of the largest vessel which is known to transit the area covered by the plan;

"(B) if implemented, be capable, in terms of personnel, materials and equipment, of promptly and properly removing any oil spill and minimizing any damage to the environment, to the maximum extent practicable;

"(C) provide a clear and precise, detailed description of how the plan relates to and is integrated into other approved contingency plans prepared by cooperatives, ports, regional entities and States, and regional oil spill response teams, strike forces and Federal agencies under the National Contingency Plan prepared and published pursuant to subsection (c)(2) of this section;

"(D) provide procedures for early detection of oil spills and timely notification of such spills to the Federal On Scene Coordinator, regional oil spill response teams and strike forces under the National Contingency Plan, prepared and published pursuant to subsection (c)(2) of this section, and other authorities;

"(E) state the number, types, operational capacity and availability of the oil spill containment equipment to be provided to implement the plan;

"(F) state the number, training preparedness and fitness of all full-time, dedicated, pre-positioned personnel assigned to direct and implement the plan;

"(G) incorporate periodic training and drill programs to assure that personnel and equipment to be provided under the plan are in a state of operational readiness at all times;

"(H) state the means of protecting and mitigating effects on the environment, including fish, marine mammals and other wildlife, and ensure that implementation of the plan does not pose unacceptable risks to the public or the environment;

"(I) provide a detailed description of equipment and procedures to be used by the crew of each vessel concerned to minimize damage, stop any spilling from the vessel, contain and cleanup the spilled oil promptly and properly, and determine if and when additional equipment and personnel are needed;

"(J) provide arrangements for the pre-positioning of oil spill containment and cleanup equipment and trained personnel at strategic locations from which they can be deployed to the spill site to promptly and properly remove spilled oil;

"(K) provide arrangements for enlisting the use of additional personnel, such as commercial fishermen and other volunteers, to implement the plan; and

"(L) provide for disposal of recovered spilled oil in accordance with Federal, State, and local laws; and

"(M) describe how implementation of the plan will be coordinated with removal efforts by regional oil spill response teams, including the extent to which dedicated and trained personnel, fully operational vessels, and equipment will be made available to such teams.

"(3) INSPECTION.—Subsequent to issuance of the final rule described in paragraph (2) of this subsection, the President shall provide for regular inspection of vessels, equipment, and facilities to ensure compliance with the requirements of the final rule.

"(4) CONTINGENCY PLAN APPROVAL.—In approving the contingency plans required by this subsection, the President shall consider—

"(A) the adequacy of containment and cleanup equipment, personnel, communications equipment, response time and logistical arrangements for coordination and implementation of response efforts to promptly and properly remove oil spills and protect the environment;

"(B) the nature and amount of vessel traffic within the area covered by the plan;

"(C) the volume and type of oil being transported within the area covered by the plan;

"(D) the existence of navigational hazards within the area covered by the plan;

"(E) any history of prior discharges of oil within the area covered by the plan;

"(F) the value and sensitivity of fisheries and wildlife and other natural resources within the area covered by the plan;

"(G) the comments of potentially affected third parties; and

"(H) relevant information on previous discharges contained in On Scene Coordinator reports prepared by the Coast Guard.

No plan shall be approved unless the President determines that such plan meets the requirements of this subsection and subsection (s) of this section and that such plan, if implemented, is capable, in terms of personnel, materials and equipment, of promptly and properly removing any oil spill and minimizing any damage to the environment to the maximum extent practicable.

"(5) NOTIFICATION OF CHANGES.—An owner or operator of a vessel or facility shall immediately notify the President, in writing, of any significant change in any factor set forth under paragraph (5) of this subsection, in order for the President to require changes, if needed, in the plan submitted by such owner or operator.

"(6) STATE APPROVAL OF PLANS.—The President may enter into a cooperative agreement with the chief executive officer of any State to delegate to that State the authority to approve contingency plans consistent with the requirements of this subsection and subsection (t) of this section.

"(7) PROHIBITION.—It shall be unlawful to operate a vessel in or upon the navigable waters of the United States and the exclusive economic zone or to operate a facility that is not in compliance with a contingency plan submitted and approved under this subsection.

"(8) LEGAL EFFECT OF CONTINGENCY PLANS.—The provisions of contingency plans submitted to and approved by the President pursuant to this subsection shall be deemed to be legally binding upon those persons submitting them to the President. The district courts of the United States shall have jurisdiction to restrain a violation of, compel specific performance of, or otherwise enforce such plans upon application by the President or by any State to which the President has delegated authority for approval of contingency plans under paragraph (7) of this subsection. The President, or any State to which the President has delegated authority for approval of contingency plans under paragraph (6) of this subsection, may issue an order requiring compliance with any contingency plan.

"(9) PUBLIC AWARENESS AND PRACTICE DRILLS.—The President shall publish annually an up-to-date description of the contingency plans for oil spills submitted and approved pursuant to this subsection and an inventory of equipment available for responding to such spills. The President shall require practice drills under the contingency plans approved pursuant to this subsection not less than twice each year. The President shall review and publish a report on such

drills, including an assessment of actual response time and available equipment and personnel compared to those listed in the contingency plans, and requirements, if any, for changes in the plans or their implementation. The President shall require such additional drills and changes in arrangements for implementing approved plans as are necessary to ensure their effective implementation.

"(10) Each contingency plan submitted and approved pursuant to this subsection shall be kept on file and readily accessible by the oil spill response teams and other officials designated under the National Contingency Plan, relevant State and local officials, affected vessels or facilities and the owner or operator involved.

"(11) Any owner or operator of a vessel or an onshore facility or an offshore facility and any other person subject to any regulation or any order of the President isued under this subsection who fails to refuses to comply with the provisions of this subsection, or any regulations issued thereunder, shall be liable to a civil penalty of not more than $25,000 for each such violation. Each violation shall be a separate offense. The President may assess and compromise such penalty. No penalty shall be assessed until the owner, operator, or other person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the owner, operator, of other person charged in attempting to achieve rapid compliance after notification of a violation, shall be considered by the President.".

OIL SPILL RESEARCH AND DEVELOPMENT PROGRAM

SEC. 205. Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended by adding at the end thereof the following new subsection:

"(u)(1) ESTABLISHMENT OF PROGRAM.—The President shall establish a research and development program on scientific and operational aspects of spill prevention, response, containment and recovery which shall, at a minimum, give priority to on-water oil recovery and treatment; prevention of loss from and away from vessels, including the use of values for such purposes and onshore and offshore facilities; prevention and mitigation of shoreline impacts; fisheries and wildlife protection, mitigation and recovery; and protection of public health and safety.

"(2) In undertaking such a program, the President shall coordinate research and development efforts with other nations, industry, academia, and private research and development groups.

"(3) FUNDING.—Amounts in the Fund established under the Oil Pollution Liability and Compensation Act of 1989 shall be available, without fiscal year limitation, to establish and maintain the research and development program required under this paragraph not to exceed $25,000,000 annually.".

PENALTIES

SEC. 206. (a) INSPECTION AND ENTRY.—Section 308 of the Federal Water Pollution Control Act is amended as follows:

(1) Subsection (a) is amended by—

(A) adding a new clause (4) providing:

"(4) obtaining information regarding the identification, nature and quantity of materials on a vessel or at a facility,";

(B) adding a new clause (5) providing:

"(5) obtaining information regarding the source or nature or extent of a discharge or threatened discharge of oil or other pollutants from a vessel or a facility,";

(C) adding a new clause (6) providing:

"(6) obtaining information relating to the ability of a person to pay for or to perform cleanup or other remedial action,";

(D) renumbering existing clause (4) as clause (7);

(E) in clause (A), inserting ", vessel, or facility" after the words "point source";

(F) in clause (B)—

(i) replacing subclause (i) with the following:

"(i) shall have a right of entry to, upon, or through any premises, vessel, or facility in which an effluent source is located or from which there is a discharge or threat of discharge of oil or other pollutants into waters of the United States, or in which any records required to be maintained under clause (A) of this subsection are located,";

(ii) in subclause (ii), striking the words "which the owner or operator of such source is required to sample under such clause" and insert in lieu thereof the words "or discharge or threatened discharges of oil or other pollutants,"; and

(iii) adding a new subclause (iii) providing:

"(iii) may at reasonable times enter any premises, vessel, or facility where oil or other pollutants are stored to determine the need for response action, to effectuate response action, or to obtain samples of oil or other pollutants.".

(b) CRIMINAL PENALTIES.—(1) Section 309(c) of the Clean Water Act (33 U.S.C. 1319(c)) is amended by inserting immediately after "308," each time it appears therein the following: "311,".

(2) Section 309(c)(4) of the Federal Water Pollution Control Act is amended by inserting the words "omits material information or" after the word "knowingly".

(c) ADMINISTRATIVE PENALTIES.—(1) Subparagraph (A) of paragraph (1) of subsection (g) of the Clean Water Act (33 U.S.C. 1319(g)(1)(A)) is amended by inserting immediately after "the Administrator" the first time it appears therein the following: "the Secretary of the Department in which the Coast Guard is operating".

(2) Subparagraph (A) of paragraph (1) of subsection (g) of the Clean Water Act (33 U.S.C. 1319(g)(1)(A)) is amended by inserting immediately after "308" the following: "311".

(3) Paragraph (1) of subsection (g) of the Clean Water Act (33 U.S.C. 1319(g)(1)(A)) is amended by inserting immediately after "the Administrator" the third time it appears therein the following: ", the Secretary of the Department in which the Coast Guard is operating, or the".

(4) Subparagraph (A) of paragraph (6) of subsection (g) of section 309 of the Clean Water Act (33 U.S.C. 1319(g)(6)(A)) is amended by inserting a comma immediately before the period at the end thereof, and the following: "except that any action under a State law shall not affect or limit the authority of the Administrator or the Secretary of the Department under which the Coast Guard is operating with respect to discharges of oil or hazardous substances under this subsection or section 311 of this Act".

(d) CIVIL PENALTIES.—(1) Subparagraphs (A) and (B) of paragraph (6) of subsection (b) of section 311 of the Clean Water Act (33 U.S.C. 1321(b)(6) (A) and (B) are deleted and the following inserted in lieu thereof—

"(A) Any owner, operator, or person in charge of any onshore facility, offshore facility, or vessel from which oil or a hazardous substance is discharged in violation of paragraph (3) (i) or (ii) of this subsection shall be subject to a civil penalty in an amount up to $25,000 per day of violation or up to $1,000 per barrel of oil or hazardous substances discharged in violation of paragraph (3) of this subsection, whichever is greater.

"(B) In determining the amount of the civil penalty under this paragraph and paragraph (5), the court shall consider the seriousness of the violation or violations, the economic benefit to the violator, if any, resulting from the violation, any history of prior violations, the nature, extent, and degree of success of any efforts to minimize or mitigate the effects of such discharge, the economic impact of the penalty on the violator, and any other matters as justice may require.

"(C) Where the United States can show that a discharge in violation of paragraph (3)(i) or (ii) of this subsection was the result of willful negligence, willful misconduct or a violation of applicable safety, construction, or operating regulations, the penalty pursuant to paragraph (A) of this subsection shall be no less than $250,000.00.

(D) The Secretary of the Department in which the Coast Guard is operating or the Administrator of the Environmental Protection Agency may request the Attorney General to commence a civil action to recover civil penalties against any person in the district court in the district in which such person is located, resides, or is doing business, and any such court shall have jurisdiction to assess such civil penalty.".

(2) Subparagraph (C) of paragraph (6) of subsection (b) of section 311 is redesignated as subparagraph "(E)".

(3) Subparagraph (D) of paragraph (6) of subsection (b) of section 311 is redesignated as subparagraph (F).

(4) Subparagraph (E) of paragraph (6) of subsection (b) of section 311 of the Clean Water Act (33 U.S.C. 1321(b)(6)(E)) is repealed.

(e) ENVIRONMENTAL EFFECTS.—Paragraph (4) of subsection (b) of section 311 of the Clean Water Act (33 U.S.C. 1321(b)(4)) is amended by inserting immediately after "public health or welfare" the following: "or the environment".

(f) REPORTING.—Paragraph (5) of subsection (b) of section 311 of the Clean Water Act (33 U.S.C. 1321(b)(5)) is amended by deleting all after the first sentence and inserting the following in lieu thereof: "any such person (A) in charge of a vessel from which oil or a hazardous substance is discharged, in violation of paragraph (3)(i) of this subsection or (B) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) of this subsection and who is otherwise subject to the jurisdiction of the United States at the time of the discharge, or (C) in charge of an onshore facility or an offshore facility, who fails to notify immediately such agency of such discharge shall, upon conviction, be fined in accordance with the applicable provisions of title 18 or imprisoned for not more than three years (or not more than five years in the case of a second or subsequent conviction), or both. Notification received pursuant to this paragraph or information that could not have been obtained but for the exploitation of such notification shall not be used against any natural person who gives such notification in any criminal case, except a prosecution for perjury or for giving a false statement. In addition, any such person who knowingly fails to provide

the notice required by this subsection shall not be entitled to any of the defenses to liability set out the Oil Pollution Liability and Compensation Act of 1989.".

(g) USE OF PENALTIES.—Notwithstanding any other provision of law, penalties paid pursuant to section 309(c) or 309(g) of the Federal Water Pollution Control Act as a result of violations of section 311(b) and penalties paid pursuant to section 311(b)(6) of the Federal Water Pollution Control Act shall be deposited in Fund established under the Oil Pollution Liability and Compensation Act of 1989.

STUDY OF SPILL PREVENTION IN RESTRICTED WATERS

SEC. 207. (a) STUDY.—The President shall conduct a study, and report the results of such study to the Congress not later than one year after the enactment of this Act, on improved methods for the prevention of discharges of oil in restricted waters and similar portions of bays, estuaries, and near shore waters. In the conduct of the study, the President shall examine the causes of recent major discharges of oil from vessels in the Delaware River, and consider modifications in tanker construction and operation standards, crew training and locale familiarization requirements, improvements in navigation aids, and other approaches with the potential for reducing the likelihood for discharges of oil in such waters.

(b) REPORT TO CONGRESS.—Section 311(c) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(3) The Administrator, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall submit to the Congress within one year of the date of enactment of this paragraph and biennially thereafter a report assessing the adequacy of provisions of the National Contingency Plan, and any regulations pursuant to subsection (j), concerning discharges of oil. The report shall include a summary of discharges of oil prohibited pursuant to paragraph (b)(3) of this section, an assessment of the actions taken in response to such discharges, and any recommendations for needed improvements to existing statutes, regulations, or programs for preventing and responding to oil spills.".

[TITLE IV] *TITLE III*—CONFORMING AMENDMENTS

TRANS-ALASKA PIPELINE FUND

SEC. [201.] *301.* (a) Section 204(b) of the Trans-Alaska Pipeline Authorization Act is amended, in the first sentence—

(1) by inserting after the words "any area" the words "in the State of Alaska";

(2) by inserting after the words "any activities" the words "related to the Trans-Alaska Oil Pipeline"; and

(3) by inserting at the end of the subsection the following new sentence: "This subsection shall not apply to removal costs covered by the Oil Spill Liability and Compensation Act of [1988.] *1989.*".

Subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act is repealed. The Trans-Alaska Pipeline Liability Fund is abolished. All assets of that fund, as of the effective date of this section, shall be tranferred to the Fund established under this Act. The Oil Spill Compensation Fund shall assure all liability incurred by the Trans-Alaska Pipeline Liability Fund under the terms of subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act.

(c) Trustees and former trustees of the Trans-Alaska Pipeline Liability Fund who were designated by the Secretary of the Interior shall not be subject to any liability incurred by that Fund or by the present and past officers and trustees of that Fund, other than liability for gross negligence or willful misconduct.

INTERVENTION ON THE HIGH SEAS ACT

SEC. [202.] *302.* Section 17 of the Intervention on the High Seas Act is amended to read as follows:

"SEC. 17. The Fund established under the Oil Spill Liability and Compensation Act of [1988] *1989* shall be available to the Secretary for actions taken under sections 5 and 7 of this Act.".

CLEAN WATER ACT

SEC. [203.] *303.* Section 311 of the Clean Water Act is amended as follows:

[(a) Subparagraph (H) of paragraph (2) of subsection (c) amended by striking out "from the fund established under subsection (k) of this section for the reasonable costs incurred in such removal" and inserting in lieu thereof the following: "in the case of any discharges of oil from a vessel or facility, for the reasonable costs incurred in such removal from the Fund established under the Oil Spill Liability and Compensation Act of 1988".]

[(b)] *(a)* Subsection (d) is amended by striking out the last sentence.

[(c)(1)] *(b)(1)* Subsections (f), (g), and (i) of section 311 of the Clean Water Act shall not apply with respect to any discharge of oil resulting in removal costs for which liability is established under section 102 of this Act, *except that natural resource damage assessment regulations, promulgated under section 311(f) of the Clean Water Act shall apply to any such discharges pending the entry into force of such regulations promulgated under section 102 of this Act.*

(2) Paragraphs (2) and (3) of subsection (f) are amended by striking out "under subsection (c) for the removal of such oil or substance by the United States Government" each place it appears and inserting in lieu thereof "under subsection (c) for the removal of such oil or substance by the United States Government and for payments made pursuant to section 103(a)(4)(A) of the Oil Pollution Liability and Compensation Act of [1988] *1989*".

[(d)] *(c)* Subsection (i) is amended by striking out "(1)" after "(i)" and striking out paragraphs (2) and (3).

[(e)] *(d)* Subsection (k) is repealed. Any amounts remaining in the revolving fund established under that subsection shall be deposited in the Fund established under this Act. The Oil Spill Compensation Fund shall assume all liability incurred by the revolving fund established under section 311(k) of the Clean Water Act.

[(f)] *(e)* Subsection (l) is amended by striking out the second sentence.

[(g)] *(f)* Subsection (p) is repealed.

[(h)] *(g)* Section 311 is amended by adding at the end thereof the following new subsection:

"(s) The Oil Spill Compensation Fund, established under the Oil Pollution Liability and Compensation Act of [1988,] 1989, shall be available to carry out subsections (c), (d), (i), and (l) as those subsections apply to discharges, or substantial threats of discharges, of oil. Any amounts received by the United States under this section shall be deposited in such Oil Spill Compensation Fund.".

DEEPWATER PORT ACT

SEC. [204.] *304.* The Deepwater Port Act of 1974 is amended as follows:

(a) In section 4(c)(1) strike "section 18(l) of this Act;" and insert in lieu thereof "section 104 of the Oil Spill Liability and Compensation Act of [1988,] *1989,*".

(b) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), (n), and paragraph (1) of subsection (m) of section 18 are deleted.

(c) Paragraph (3) of subsection (c) of section 18 is amended by striking "Deepwater Port Liability Fund established pursuant to subsection (f) of this section", and inserting in lieu thereof "fund established under the Oil Spill Liability and Compensation Act of [1988] *1989*".

(d) Subsections (c), (k), and (m) of section 18 are redesignated (b), (c), and (d) respectively, and paragraphs (2), (3), and (4) of subsection (m) are redesignated (1), (2), and (3), respectively.

(e) Any amounts remaining in the Deepwater Port Liability Fund, established under section 18(f) of the Deepwater Port Act of 1974, shall be deposited in the Fund established under this Act. The Oil Spill Compensation Fund shall assume all liability incurred by the Deepwater Port Liability Fund.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS

SEC. [205.] *305.* Title III of the Outer Continental Shelf Lands Act Amendments of 1978 is hereby repealed. Any amounts remaining in the Offshore Oil Pollution Compensation Fund established under section 302 of that title shall be deposited in the Fund established under this Act. The Oil Spill Compensation Fund shall assume all liability incurred by the Offshore Oil Pollution Compensation Fund.

[NOTICE TO STATE; INCREASED PENALTIES FOR FAILURE TO REPORT

[SEC. 206. (a) The first sentence of section 311(b)(5) of the Clean Water Act is amended by inserting after "of the United States Government" the phrase "and of any affected State".

[(b) The second sentence of section 311(b)(5) of the Clean Water Act is amended by striking "fined not more than $10,000, or imprisoned for not more than one year, or both" and inserting in lieu thereof "fined in accordance with the applicable provisions of title 18 of the United States Code, or imprisoned for not more than three years (or not more than five years in the case of a second or subsequent conviction), or both".]

The PRESIDENT pro tempore. The Senate will be in order.

The Senate will be in order.

The staff will please take seats in the rear of the Chamber and the Senators will cease conversations.

The Senate will be in order.

ORDER OF PROCEDURE

The PRESIDENT pro tempore. The Republican leader is recognized.

Mr. DOLE. Mr. President, I wonder if I might claim my leader time if it is all right with the majority leader. Is it all right that I claim my leader time?

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDENT pro tempore. The Senator has 7½ minutes and there will be order in the Senate.

Mr. DOLE. Let me first yield briefly to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I thank the able Republican leader.

THE CONGRESSIONAL AWARD PROGRAM

Mr. WALLOP. Mr. President, A popular topic for the 101st Congress has been the idea of increasing voluntarism and national youth service. Since January, a variety of proposals establishing new voluntary service programs have been introduced. The proposals range from programs which require community service to receive college financial assistance to programs which involve voluntary community activities.

I certainly welcome this new focus by the Congress in our most valuable national asset—our youth. I understand that a new compromise bill will be considered by the Labor Committee this week to authorize $300 million to promote voluntary national service. But today, Mr. President, I would like to remind the Senate of the existence and success of an existing national youth service program which I, and many of you, have been deeply involved with over the years—the Congressional Award.

As my colleagues will recollect, on November 16, 1979, the Congress created the Congressional Award Act. The program seeks to give national recognition to the ingenuity, achievements, and leadership of the youth of America. This program aims to challenge young people to demonstrate initiative, originality and excellence through volunteerism and self-motivation.

Young people earn their Congressional Awards by striving and meeting individual goals in the areas of public service, personal development, expedition, and physical fitness. A Congressional Award may be earned by anyone between the ages of 14 and 23 who successfully completes the requirements of any of the award levels. Their efforts and achievements are then recognized with Bronze, Silver, and Gold medals presented to them by Members of Congress. The Bronze Award is for individuals ages 14 to 16; the Silver Award is for participants above 16; and the Gold Award is for those above 19. Each level has an increased time requirement for a limited period in which the services must be completed.

Young people are not chosen for these awards—rather they earn them on a noncompetitive basis.

To receive a Congressional Award, participants have to meet certain standards in the four different areas: public service, personal development, physical fitness, and expedition. Public service goals involve voluntary community service similar to what is being promoted by pending legislation. The purpose is to encourage and support young individuals to take an active role in their community. This benefits both the individual and the community as the participant develops a sense of responsibility, compassion, and importance; while, at the same time, contributing positively to his or her community.

This summer, I have had the good fortune to have a 1989 Gold Medal recipient working in my Washington office. Laura Schmid of Cheyenne, WY, exemplifies the idea of service required to receive the Gold Medal. Laura volunteered in Belize and Costa Rica through Amigos de las Americas to educate villagers on dental care, first aid, English and physical education. As Laura's work demonstrated, the Congressional Award emphasizes voluntary service. Fifty percent of the activity required for a Gold Medal must involve voluntary service.

The expedition requirement aims to give youth a challenge—to make the most out of life and to strive to be the best they can be. It attempts to foster the spirit of adventure, personal achievement, and self-reliance through personal training and travel. The goal of personal development is designed to motivate young people in developing interests which will return great value to the community and the individual. Finally, the purpose of the physical fitness section is to encourage regular participation in some form of physical fitness activity. The Congressional Award is a true incentive to encourage individual development and community service by our youth.

The Congress has set a standard of excellence for this program by designating it as only the second award to bear its name. Until 1979, the only award sanctioned by the Congress was the Congressional Medal of Honor.

In 1979, the Congressional Award joined the Congressional Medal of Honor as a means of recognizing contributions of our citizens, in this case our young citizens, to our country.

Over the past decade, programs have been established in 42 States. Beginning in 1982, when the first medals were awarded, more than 3,200 young individuals have received this honor. The program, which is funded exclusively from the private sector, tolerates no barriers to achievement, whether they be cultural or social, racial, or physical. With the help of adult, volunteer advisers, young people of any background or race, whether handicaped or not, may test themselves as individuals against difficult standards.

Mr. President, before we embark upon new public service programs, I would encourage the Congress and particularly, the Senate, to give thought to utilizing existing resources such as the Congressional Award Program. Because it relies on private funding, the Congressional Award has not burdened the Treasury in these times of fiscal restraint. In light of the fact that the new proposals vary in price from $25 to $300 million annually, the Congressional Award is a real bargain. If the Congress desires to authorize public funding for national youth service, then we do not want to reinvent the wheel, but should rely on existing resources such as the Congressional Award. By expanding the Congressional Award Program, we would provide a unique recognition of voluntary service.

At the very least, Members of Congress should encourage the expansion of private support for the Congressional Award in their home States. The program always has a need for more adult volunteer advisers. And, our youth need to be made aware of this service-oriented program. I strongly believe that it is time to examine whether the Congressional Award Program, if properly expanded, could be the cornerstone of America's national youth service. It is a successful program which can only become better with continued congressional support. I ask unanimous consent that additional materials describing the Congressional Award be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CONGRESSIONAL AWARD

WHAT IS THE CONGRESSIONAL AWARD?

It is the only award the Congress of the United States presents to youth ages 14 through 23 in recognition of their voluntary public service and personal excellence.

WHO CAN EARN THE CONGRESSIONAL AWARD?

All young Americans from 14 through 23—it is for anyone who is motivated by the challenge of voluntary public service and personal development activities.

Disabled American youth have an equal opportunity to earn Congressional Awards.

Awards can be earned in conjunction with your activities in youth or community organizations, or independently.

WHAT DO YOU HAVE TO DO TO GET STARTED?

Contact the local office of your United States Representative or Senator and ask about the Congressional Award Program.

Obtain a Congressional Award Recommendation Form from your local Congressional Award Council.

Ask an adult to advise you in each activity area. You will find interested adults in your school, a church, a club, your neighborhood or youth organization. These advisors verify your achievements and submit your recommendation forms to your local Congressional Award Council.

WHO RECOMMENDS YOU FOR AN AWARD?

A Congressional Award Council consisting of adult volunteers appointed by the Member of Congress to administer the award program in the Congressional district.

CAN YOU BE RECOGNIZED FOR PAST ACHIEVEMENTS?

Yes. In fact, you may already have met the national requirements to earn a Congressional Award, or

You may need additional activity hours in either voluntary public service, personal development or physical fitness and expeditions, or

You can start today and complete all of the necessary activities to earn your Award by setting and achieving activity goals in each of the following three areas:

Voluntary public service

To provide voluntary service to others and to the community.

Personal development

To develop personal interests, social and employment skills.

Physical fitness and expeditions

To improve personal health, fitness and leadership skills.

WHAT HAPPENS AFTER YOU HAVE EARNED YOUR AWARD?

You will receive a letter from the National Board of Directors to inform you that you have earned an Award.

An Award ceremony will be held at which time your member of Congress will present you with your medal and a certificate of achievement.

Bronze and silver Award ceremonies will beheld in your Congressional district or state.

The gold Award ceremony will be held in Washington, D.C.

REQUIREMENTS TO EARN A CONGRESSIONAL AWARD

Bronze

You can be recommended for a bronze Award if:

You are at least 14 years old and have not reached your 17th birthday and if, within one year before the date of recommendation, you have completed 200 activity hours in three areas: voluntary public service, 100 hours; personal development, 50 hours; physical fitness/expeditions, 50 hours.

Silver

You can be recommended for a silver Award if:

You are at least 17 years old and have not reached your 20th birthday and if, within two years before the date of recommendation, you have completed 400 activity hours in three areas: voluntary public service, 200 hours; personal development, 100 hours; physical fitness/expeditions, 100 hours.

Gold

You can be recommended for a gold Award if:

You are at least 20 years old and have not reached your 24th birthday and if, within three years before the date of recommendation, you have completed 800 activity hours in three areas: voluntary public service, 400 hours; personal development, 200 hours; physical fitness/expeditions, 200 hours.

Examples of activities

VOLUNTARY PUBLIC SERVICE

In achieving their goals of providing voluntary service to others and to the community, some Award recipients have chosen to volunteer their time in programs and activities such as these: hospitals, youth agencies, day care centers, community improvement, conservation, crime prevention, public housing services, food service for elderly or homeless, Big Brothers and Sisters, Red Cross, Peace Corps, nursing homes, libraries, teaching and providing CPR training, etc.

Activities must be direct service rather than issue-oriented.

PERSONAL DEVELOPMENT

To develop personal interests, social and employment skills, some Award achievers have become involved in: job training programs, apprenticeship programs, parttime employment while attending school, acts of heroism and bravery, 4-H and Future Farmer programs, public speaking, academic awards, student exchange programs, or fine arts such as photography, music, art, or film.

PHYSICAL FITNESS AND EXPEDITIONS

The goal of improving personal health fitness and leadership skills has led some Award recipients to choose: individual or team sports, water safety instruction, weight training, Outward Bound, President's Council on Physical Fitness programs, camping, outdoor education, or adventure expeditions, etc.

Youth must select activities with sponsors and organizations who allow equal opportunity to all.

Mr. WALLOP. I thank the Chair.

ORDER OF PROCEDURE

The PRESIDENT pro tempore. The Republican leader is recognized.

HUD NOMINATIONS

Mr. DOLE. Mr. President, notwithstanding the crisis in the reform in the Department of Housing and Urban Development which I share, there should be reform.

I wanted to point out again this morning as I did yesterday morning there are four key nominees for Assistant Secretary spots at HUD that continue to languish in the Banking Committee.

In the case of the Weicker nomination the committee has had the nominations since May 16. The others have been there for at least 5 weeks.

The problem is, as I understand it, has nothing to do with the qualifications of these individuals. What it has to do with is insistence on the part of some chairmen that their staffs be permitted to have access to FBI files.

Mr. President, the White House counsel's office has made it clear that committee members should certainly and promptly have access to information on the nominees that are before them. But they do not believe that staff should or need to have that privilege.

Mr. President, it seems to me it is time to get these nominees before us. We can all go out and condemn the Housing and Urban Development policies, past policies. But I would say on behalf of Secretary Kemp, who has indicated publicly he is trying to reform, it is pretty hard to reform when he does not have his key players on board.

I would also add that I spoke with the President this morning about a number of these nominations, over 100 that are here.

I indicated yesterday that the House got off to a slow start, but some of these nominations have been pending for weeks and some for months.

The President asked if I could make one last plea to the chairmen of the various committees that at least the key people could be confirmed, could be dealt with, have the hearings quickly, and have their nominations confirmed between now and the time we go out either Friday or Saturday or sometime next week.

It is important to the President and he asks in a very kinder and gentler way that he would like to have these people confirmed.

So I would hope we could have the cooperation of everyone, and I am certain that will be forthcoming.

The PRESIDENT pro tempore. The time of the Republican leader has expired.

OIL POLLUTION LIABILITY AND COMPENSATION ACT

The Senate continued with the consideration of the bill.

The PRESIDENT pro tempore. Who are the managers of the bill?

Mr. BAUCUS addressed the Chair.

The PRESIDENT pro tempore. The Senator from Montana [Mr. BAUCUS]. Will the Senator inform the Chair as to who is the ranking manager of the bill? The Chair needs to know in the case of a close call on recognition

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. Does the Senator yield for a parliamentary inquiry?

Mr. BAUCUS. I will be happy to yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I appreciate the Chair's inquiry, but it is my understanding there are really two bills that have to be brought to the floor. One has been called upon now. That is the Public Works Committee bill. The second one will be presented here and we are trying to work toward a combination of two bills that have been brought to the floor.

I ask if it is possible to have designated participation by the Senators who are managing both bills here on the floor. I think we accede to the concept that the majority leader has called up the public works bill, that Senator BAUCUS and Senator CHAFEE, if they are the designees, are from the Public Works Committee involved. Senator HOLLINGS and I would like to manage the portions that pertain to the Commerce Committee. I ask if that can be the arrangement.

The PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. I certainly think that is a fair request, providing there

can be agreement on that which the Senator defines as the commerce portion of the bill. I assume the Senator is talking about the bill that came out of the Commerce Committee?

Mr. BREAUX. Will the majority leader yield?

The PRESIDENT pro tempore. The Senator from Montana has the floor.

Mr. BAUCUS. Mr. President, I yield to the Senator from Louisiana.

Mr. BREAUX. Just one comment in response to Senator STEVENS' comment. I think I have been asked by the chairman of the Commerce Committee to handle the majority side for the Commerce Committee portions of the bill.

Mr. STEVENS. Further parliamentary inquiry, Mr. President?

The PRESIDENT pro tempore. Will the Senator yield for a parliamentary inquiry?

Mr. BAUCUS. I yield for a parliamentary inquiry.

Mr. STEVENS. It is this Senator's understanding there is no control of time yet. There will be controlling on the amendments and that will be according to the usual procedure, I assume. I believe the Commerce Committee merely wants to be recognized as having an ongoing role in this process and we will accept the majority leader's designation and minority leader's designation of the principal managers of the pending bill, 686. But we would like to be designated as the participants for the Commerce Committee in consideration of that and how the Commerce Committee bill is to be intertwined and blended with this bill that has come from the Public Works Committee. Is that possible?

Mr. BAUCUS. Mr. President, it is my understanding that the leadership of the Commerce Committee has worked in conjunction with the leadership of the Public Works Committee to work up a package of amendments which the Senator from Louisiana [Mr. BREAUX] will offer on behalf of the Commerce Committee, to deal with those amendments, those provisions of this matter which are the jurisdiction of the Commerce Committee.

Those amendments will also be those in the jurisdiction of the Public Works Committee, but Senator BREAUX plans to offer those on behalf of the Commerce Committee and as a member of the Commerce Committee.

At a later point in this morning's deliberations if we get to a point where there is an amendment which is obviously a Commerce Committee amendment I feel certain we can work out an arrangement where the Senator from Alaska, if he so chooses, or members of the Commerce Committee if they so choose, are the persons who are managing that portion or certainly directing that portion of the debate on that part of the bill.

Mr. STEVENS. Will the Senator yield?

Mr. BAUCUS. I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, that is precisely the contingency we are interested in. There are portions of the bill now that will be blended, S. 686, that came from the Commerce Committee. If they are subject to amendment, we would like to be involved in considering those amendments and would cooperate with the managers of the bill. I accept the fact that there are majority and minority managers of the bill per se, but some of these amendments may deal directly with provisions that came from the Commerce Committee. For that reason we would like to be involved and consulted in the matter.

I am most satisfied with the statement that the Senator from Montana just made.

Mr. President, I am not wont, as the occupant of the chair knows, to be overexuberant about my expressions of appreciation to anyone. But as the senior Senator from the State that, I think, has been most offended by the subject that we are dealing with right now, I want to thank, and most publicly, the majority leader for his consideration. He said last night he has attempted to keep his word as majority leader. I want the Senate to know over a period of weeks now we have had conversations. The majority leader has indicated to me his desire, not a commitment, but a desire and a wish to cooperate by getting the oilspill legislation before the Senate before the August recess. It is here. It is here in time to be passed by the Senate. It is here in a version, now, that I think should have the complete support of the Senate.

There will be some small differences, but I want to congratulate him, and I want to thank him, as a Senator from Alaska, for his consideration of the matters that I have raised on behalf of my State and on behalf of the people of my State to make sure that the lessons we have learned are passed on to others and the problems we continue to have are addressed by this legislation.

I am most grateful to the majority leader for what he has done, and I look forward to this deliberation today.

The PRESIDENT pro tempore. Is the Chair correct in his understanding that the Senator does not make a parliamentary inquiry?

Mr. STEVENS. I made my two inquiries but through the Chair, to the manager of the bill, I take it?

The PRESIDENT pro tempore. May I say that was not a parliamentary inquiry.

Mr. BAUCUS. Mr. President, I yield to the majority leader.

Mr. MITCHELL. Mr. President, I want to thank my friend and colleague from Alaska for his kind comments. No Senator has a greater interest in this legislation than does the senior Senator from Alaska. No State has a greater interest in this legislation than does the State of Alaska. No people have a greater interest in this legislation than do the people of Alaska.

He has been very cooperative, very diligent in advancing and protecting the interests of the people of Alaska. It is my hope that we can proceed today to act on this legislation which I believe will be important to the people of every State all the way from Maine to Alaska.

I thank the Presiding Officer. I thank my colleague, the manager of the bill.

I yield to him to commence the consideration of the legislation.

The PRESIDENT pro tempore. The Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, it has been just over four months since the *Exxon Valdez* struck Bligh Reef and dumped 11 million gallons of crude oil into the pristine waters of Prince William Sound.

Today, the Senate takes up legislation developed by the Environment and Public Works Committee and the Commerce Committee to make sure that we never again allow an oilspill to become an ecological catastrophe like the one that still confronts us in Alaska.

The importance and urgency of this legislation was underscored by the three major spills a month ago that dumped hundreds of thousands of gallons of oil in Rhode Island's coastal waters, the Delaware River, and the Houston Ship Channel.

The consequences of oilspills were brought home to me earlier this week. A 29-car train derailed in northwest Montana. Two 25,000 gallon tanker cars were dumped into Whitefish Lake, one of the most beautiful spots in my State.

That is right. A marine oilspill in Montana. Booms, crews, and divers had to be flown in from Seattle. The spill has been contained, but the extent of the damage to wildlife and the water supply is not yet clear.

So we have all had our fill of oilspills this year.

The legislation we bring before the Senate today is the result of many hearings and much hard work by our respective committees to find out what went wrong in Alaska and elsewhere so that we can prevent future spills and make sure they are cleaned up promptly and properly.

What we found in looking at the spill in Prince William Sound was an unreasonably slow, confused and inadequate response by industry and government that failed miserably in con-

taining the spill and preventing damage.

The contingency plan put together by Alyeska was wildly optimistic about the amount of equipment and personnel that was needed, and that could be mobilized quickly to respond to a 200,000-barrel spill.

There were not enough booms, skimmers, and other equipment on hand in Valdez, and key pieces of equipment that were on hand took many precious hours to get ready.

In the nearly 70 hours of calm weather following the accident, little equipment was added and only 1 percent of the spill, was removed.

We now have all seen the incredibly high environmental and economic costs of careless contingency planning and chaotic response.

S. 686 and the amendment to the bill that will be offered by the leadership of the Environment and Commerce Committees are strong statements that we should never again be caught so unprepared.

This comprehensive bill and amendment seek to ensure that industry and Government are prepared for oilspills, and that they respond quickly and effectively to contain them and minimize damage.

The oil industry is working on creating a response organization to prevent and better handle damage caused by oilspills. I welcome that effort, and I am hopeful that the entire oil industry participates in it.

But S. 686 and the amendments we are about to offer do not solely rely on industry's voluntary efforts, which very well may ebb with time.

To make sure that industry will be able to promptly and properly clean up its spills, our legislation requires ship and facility owners to prepare contingency plans that meet tough standards.

These legally binding plans should make it much more likely that industry has the equipment and trained personnel where they are needed and when they are needed to contain and cleanup spills without delay.

But cleaning up oilspills quickly and effectively is too important for us to put ourselves completely at the mercy of industry.

So S. 686 and the amendments make it clear that the President must take over the cleanup of spills unless he determines that the responsible party will do it promptly and properly.

To make sure that the President can respond promptly and properly when industry does not, our legislation sets up regional oilspill response teams to do the job.

Mr. President, like most Americans I am frustrated and angry that we have had to coax and embarrass Exxon into staying on the job of cleaning up their spill in Alaska; this year, next year, for however long it takes.

S. 686 makes sure that we will never again be placed in this position.

Under our legislation, the President would be empowered to compel companies like Exxon to stay on the job until the cleanup is complete. If they walk away from the mess they have created, like Exxon has seemed ready to do at times, they could be subjected to heavy damages.

S. 686 and the leadership amendment also reflect the lessons we have learned from the three major spills in Rhode Island's coastal waters, the Delaware River and the Houston Ship Channel.

Perhaps to many this series of accidents within a 24-hour period might seem bizarre; a freak occurrence.

But they suggested to me, instead, that spills are too much an accepted cost of doing business for the oil shipping industry.

Many in the industry seem to have decided that it is cheaper to spill and pay for its cleanup than it is to prevent spills and develop effective techniques to contain them.

Consequently, our legislation encourages prevention by imposing new, tougher penalties for those who pollute or fail to comply with contingency plans.

S. 686 also ensures that States can retain and enact unlimited liability laws to encourage responsible industry behavior.

The responses to the three spills were far more prompt and less chaotic than the *Exxon Valdez* effort, but they were not successful in containing the oil.

They clearly show that we are not using—or have not developed—technology capable of containing spills of less than a million gallons, let alone spills the size of the *Exxon Valdez.*

Our legislation supports new research and development efforts to provide us with the technology to prevent spills and contain them quickly.

The three most recent spills clearly show that any oilspill, no matter how quickly we respond to it or how well we contain it, is going to harm the environment—so preventing oilspills is more important than containing and cleaning them up quickly.

Finally, S. 686 ensures that Federal agencies, States, and citizens are compensated for cleanup costs and damages from oilspills.

To pay for these costs, the legislation would make available $1 billion—from a fee on the oil industry—to pay for spills where the polluter cannot be found, is not able to pay, or where liability limits have been reached.

Mr. President, we have heard many promises from industry over the years about oilspills.

We were promised that a catastrophic oilspill could not occur in Prince William Sound.

It did.

We were promised that it would be cleaned up quickly with minimal damage to the environment.

It was not.

We were told that major oilspills are a rarity.

They are not. We had three in the space of 24 hours.

We were promised that the cargo tanks of the *Exxon Valdez* were squeaky clean.

They were not. We wound up with a 10-mile slick off California's coast.

The legislation we have developed replaces these promises and wishful thinking about oilspill prevention and response with a comprehensive measure that addresses the key issues of prevention, cleanup, and compensation.

Senator BURDICK has provided great leadership in moving this legislation through committee quickly so that we are able to take it up today.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc as original text for purposes of further amendments, and that no points of order be waived by this action.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. It is so ordered.

Committee amendments agreed to en bloc.

Mr. BREAUX addressed the Chair.

The PRESIDENT pro tempore. The junior Senator from Louisiana [Mr. BREAUX].

Mr. BREAUX. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. BAUCUS. Will the Senator yield?

Mr. BREAUX. I will be happy to yield.

Mr. BAUCUS. I wonder if before the Senator offers his package of amendments if the ranking manager and majority leader can first make their opening statements, and then we will next proceed to the leadership amendments.

Mr. BREAUX. I have no problem with that. I will withhold until after the opening statements.

The PRESIDENT pro tempore. Will the Senator from Louisiana withhold?

Mr. BREAUX. I withhold the request.

The PRESIDENT pro tempore. The Senator from Rhode Island [Mr. CHAFEE] is recognized.

Mr. CHAFEE. Mr. President, the bill we are now considering, S. 686, the Oil Pollution Liability and Compensation Act of 1989, will significantly improve the Government's ability to respond to oilspills. This legislation is the result of a good deal of hard work on the part of our distinguished majority leader, Senator MITCHELL, the chairman of the Environmental Protection Subcommittee, Senator BAUCUS, Sena-

tor LIEBERMAN, Senator LAUTENBERG, myself, and others.

In addition, this bill includes a substantive amendment from the Commerce Committee, which contains provisions to improve tanker safety, enhance oilspill safety, and require double hulls on certain vessels. The Commerce Committee and the Environment and Public Works Committee have worked together to make sure these bills are compatible. Together they form the basis of comprehensive oilspill legislation which will help us prevent, and better respond to oilspills.

I will address myself to the Environmental and Public Works Committee portion.

This authorizes a billion-dollar fund which can be used by the Federal Government to respond to oilspills, and to compensate victims who suffer economic losses from an oilspill, financed by a 3-cent per barrel fee on all domestic or imported oil.

The legislation will also create, and I think it is important to note, several oilspill response teams, capable of marshalling equipment and personnel on a moment's notice to respond to a major oilspill.

Let me give you the rationale for the location of these different teams and why we are having them.

Recently, as mentioned by the leader of this legislation, Senator BAUCUS, in Narragansett Bay we had a bad oilspill. A tanker, carrying oil, if you can believe it, from Bulgaria, ran aground at the entrance to Narragansett Bay. The equipment to respond to that spill—that is, the booms and the other equipment—had to come from Alabama.

Now, obviously this is unacceptable. We must have oilspill response teams in every major coastal region of the country. This legislation provides for that. The legislation also deals with an area I am particularly interested in and that is providing funds for research and development in order to identify new technologies for cleaning up oilspills.

One of the things we have discovered is that we just do not know how to deal with spills. Oh, yes, we have booms that go out around the vessel, where the spill is identified to be, but these booms are remarkably ineffective. The oil either goes over them or under them.

People talk about skimmers. As perhaps many recall, in the Prince William Sound tragedy, a skimmer came from the Soviet Union, but that was not extremely effective, as I understand, and certainly the skimmers we have in our Nation are not very effective also. So we have to put money into developing new technologies, some research and development, and this legislation provides for that, because indeed hardly any funds have been expended in recent years in discovering new methods of recovering spilled oil.

Our bill will launch an aggressive research and development program which we hope will lead to new technologies to help mitigate these spills.

The penalties for spilling oil are significantly raised in the legislation from $5,000 in current law, up to a maximum of $25,000 per day of violation or $1,000 per barrel.

We are providing under this legislation very strong incentives for companies to take every precaution possible to prevent a spill.

Mr. President, we are interested in cleaning up after spills. Yes, we want to do that, but we would much rather prevent the spills occurring in the first place. The ability to clean up these spills is very limited not only due to the equipment but due to the weather conditions, due to the type of oil.

Certainly, we do not want a situation to occur where a skipper is barred from operating a vehicle due to drunk driving violations but he is permitted to operate a supertanker carrying millions of gallons of oil.

I am delighted, Mr. President, we have this opportunity today to pass this legislation. It will undoubtedly reduce the number of spills which occur in the future. It will significantly improve our ability to cope with these spills, and we owe to the environment, Mr. President, to pass this legislation.

Mr. MITCHELL. Mr. President, In March in the clear waters of Alaska, the *Exxon Valdez* hit a reef causing the largest oilspill in our Nation's history. Damages are expected to be well over $1 billion. This summer, on one weekend, there were spills in Rhode Island, Delaware, and Texas. These were less severe than the Alaska spill but damaging nonetheless.

And just this week, there was a train derailment in Montana. Two train cars carrying diesel fuel plummeted into a lake in the northwestern part of that State. These incidents demonstrate that every part of the country is at risk, inland as well as coastal waters. A national response is needed.

The combination of the bills reported by the Commerce Committee and by the Environment and Public Works Committee that will be presented as committee amendments provide that response. The liability limits that currently apply are increased. Federal authority in the event of a major spill is clarified, and better contingency planning and emergency response capabilities are required.

These are important, needed changes, and I support them.

Equally important is the fact that this legislation does not prevent States from requiring more. States are entitled to maintain or enact oilspill liability and compensation legislation as well as emergency response laws.

In 18 States, including Maine, the decision has been made to impose a standard of unlimited liability on those who cause oilspills. States remain free to adopt this standard if they so choose.

For 8 long years I have struggled to enact oilspill legislation that is protective of the public health and the environment and that does not remove the rights of States to take whatever additional action they believe necessary to protect their waters and their citizens from oilspills.

I am convinced that this is the right position. The Alaska spill reinforces my conviction. No legislation that preempts State laws or blocks full use of State courts is or will be acceptable to me.

This legislation addresses a variety of pressing needs. A national compensation fund is created that will provide no-fault payments to those injured by an oilspill. This limit per incident on compensation is $1 billion, twice the amount endorsed by the Senate in 1986. The fund should promptly pay claims and become a mechanism for providing swift response, not another layer of bureaucratic delay.

The Federal Government should provide clear direction in cases of major spills so there is no uncertainty over who is in charge, especially in the crucial early hours after a spill. Such direction should not serve to defeat the liability of the spiller. Rather, it should only hasten cleanup and minimize damage.

Private parties should be actively involved in contingency planning and emergency response. The Federal Government can direct use of these resources, and it must assure that Federal resources are also available in the event that private efforts are inadequate.

States are expected to be active participants throughout this process. State officials are often the first to learn of a problem and the first to arrive on the scene. Many coastal States have or are developing oil response capability. That capability should be utilized where possible.

The legislation also addresses the important issue of natural resource damage and damage assessments. The bill provides that both State and Federal Governments can be compensated for damage assessment, although no entity could recover twice for the same assessment.

The bill requires regulations to be promulgated by the National Oceanic and Atmospheric Administration. Those regulations should provide for full and prompt compensation of all natural resources. Such compensation should not be limited to the market value of the resources when sold. It

should include their contribution to their ecosystems. We each benefit from the proliferation of species and the protection of natural areas. Loss of these areas is a loss to our quality of life.

Mr. President, I am pleased that the Senate is taking action on this important legislation. Congress is often criticized for being slow and indifferent, but I note that the Senate is about to pass oilspill legislation just 4 months after the tragedy in Alaska.

To move legislation of this complexity so quickly took the dedication, concern, and hard work of many Members who deserve some credit. I cannot name them all but certainly Senators BAUCUS, CHAFEE, HOLLINGS, STEVENS, and BREAUX have played active roles in getting us to this point.

While no legislation can guarantee that there will be no more oilspills, I am confident that this step forward once fully implemented will effectively reduce the risk of oilspills and provide better protection when spills do occur.

Mr. JOHNSTON. Mr. President, I am pleased to join in support of this important legislation addressing the issues of oilspill compensation, liability, prevention, and response. The *Exxon Valdez* disaster has made us all acutely aware of the need for comprehensive reforms in the Nation's statutes, policies, and regulatory framework governing oilspills, strict liability, compensation, tanker operations, contingency planning, and oilspill response capability.

Earlier this Congress, I introduced two pieces of legislation, Senate amendment No. 100, the Prince William Sound Oil Spill Emergency Response Act of 1989, and Senate amendment No. 229, the Gulf of Mexico Oil Spill Prevention and Response Act. Both bills deal with oilspill prevention and response on a regional basis in two areas with particular sensitivity to oilspills, Prince William Sound, Alaska, and the Gulf of Mexico and lower Mississippi River.

The Senate Committee on Energy and Natural Resources conducted hearings on both pieces of legislation. The committee received testimony from the administration, affected States, environmentalists, and industry to solicit their views on the legislation and reforms needed to help ensure that the *Exxon Valdez* tragedy is never repeated.

Mr. President, I am pleased that the measure we are considering today adopts an approach similar to that of Senate amendments No. 100 and 229 on many issues and that it also has application on a nationwide basis.

I believe that S. 686 makes great strides in protecting our Nation from the threat of future spills. I commend the authors of this legislation and add my voice in support of the bill.

Mr. HOLLINGS. Mr. President, I rise in strong support of the pending amendment to S. 686, a bill which was reported from the Environment and Public Works Committee last week and which would establish a comprehensive oilspill liability and compensation system. This amendment will add to S. 686 provisions of S. 1461, the Oil Tanker Navigation Safety Act of 1989, a bill which was ordered reported from the Senate Committee on Commerce, Science and Transportation on June 20, 1989, and which, among other provisions, imposed new requirements on the operations of oil tankers in the United States, and enhanced the authority of the Coast Guard to regulate effectively the conduct of oil tankers and merchant marine personnel.

The amendment that is before us takes the features of S. 1461, melding some provisions with provisions of S. 686 as reported, and leaving intact as separate titles other sections of S. 1461. In particular, both the Commerce Committee bill and the Environment Committee bill contained provisions relating to the preparation and approval of oil spill contingency plans, which were melded into one title. The Commerce Committee bill imposed requirements in this regard on the owners or operators of oil tankers, while the Environment Committee expanded this concept to encompass onshore facilities and offshore production facilities, as well.

Mr. President, it is clear that the problems that surfaced following the *Exxon Valdez* accident were not confined to any one issue. Changes were needed in the way that oil tankers were regulated, merchant marine personnel needed to be monitored by the Coast Guard more closely, and neither the government nor industry was prepared to deal effectively with major oilspills.

Thus, the need for a comprehensive bill, one that lessens the risk of future spills, improves the ability of industry and Government to respond to a spill, and clarifies the liability regime and ensures a compensation system is inescapable. And I believe that if the Senate approves this amendment and the underlying bill, we will have met that need and produced a measure that is truly comprehensive in scope.

We held four hearings in my committee, and had six different bills referred to it. S. 1461 is the product of those hearings and an amalgam of those bills as well as other ideas that surfaced during our deliberations. The bill was reported from the Commerce Committee unanimously, and since it was ordered reported, no one has stepped forward to oppose the measure.

Thanks to the efforts of Senator MITCHELL and others on the Environment Committee, we have been able to draft a bill that combines the best features of both these bills, and one which will present to the House a united and comprehensive position on oilspill prevention and liability. I commend this amendment to my colleagues and urge them to support it.

Mr. BREAUX addressed the Chair.

The PRESIDENT pro tempore. The Senator from Louisiana [Mr. BREAUX].

AMENDMENT NO. 666

(Purpose: To make certain perfecting amendments)

Mr. BREAUX. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] proposes an amendment numbered 666.

Mr. BREAUX. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Is there objection?

Mr. CHAFEE. If I might, Mr. President, I would like to make an inquiry. I would like to reserve my right to object, not to cessation of the reading, but to the original request which was what?

The PRESIDENT pro tempore. The Senator offered an amendment. He did not need a request. He had the floor, and he had a right to offer the amendment. The committee amendments have been agreed to.

So the Senator may object or he may not object to the calling off of the reading of the amendment.

Mr. CHAFEE. I do not object to calling off the reading of the amendment.

The PRESIDENT pro tempore. The Senator must object or not object. He cannot reserve the right to object in the midst of the reading of an amendment.

Mr. CHAFEE. I have no objection to calling off the reading of an amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(The text of the amendment is located in today's RECORD under "Amendments Submitted.")

Mr. CHAFEE. Can I ask a question of the Senator from Louisiana?

Mr. BREAUX. I would be happy to yield to the Senator for a question.

Mr. CHAFEE. I have discussed with Senator STEVENS a problem with the Senator's amendment. That deals with title III, section 302(a). That section deals with a series of very, very specific requirements of who is going to be on the deck, and how often one has to plot one's nautical position.

My position to the Senator from Louisiana is: In submitting the amendment, is it possible for him to restrict that section to the waters of Prince William Sound?

Mr. BREAUX. I would respond to the Senator from Rhode Island that that would certainly be an appropriate amendment to the amendment that is now pending at the desk. I do not know the details of the suggestion of the Senator from Alaska or what it would be, but I think at an appropriate time it would certainly be in order for him to offer a technical correction if indeed that is what it is. It is a major amendment. It is something we can discuss, and maybe it is something we can accept by unanimous consent. I just do not know at this point.

Mr. STEVENS. Mr. President, will the Senator yield?

MR. BREAUX. I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, the question of the Senator from Rhode Island pertains to a requirement in the bill that originally was applicable only to Prince William Sound, and subsequently through the Commerce Committee procedure was extended to become a national section. It is limited because of, one, the definition of pilotage waters which appears at page 16 of the Commerce Committee amendment that Senator BREAUX has presented, and it also has a caveat at the end of the section which once again indicates that the Secretary, in effect the Coast Guard, would have the opportunity to determine the extent to which these regulations would enhance the protection of navigation safety including the protection of the environment.

It is not the intention of that section as it is now presented to apply to all waters of a bay. It would be only those that are pilotage waters and requiring the tanker be under the control of an individual licensed as a first-class pilot except as otherwise provided by the Secretary.

I have no objection to considering the amendment at a later time, to limit it as the Senator from Rhode Island has suggested. I am not sure this is the appropriate time to debate it.

But I say to my friend who is the manager of the bill for the Commerce Committee consideration that we understand in extending to the national scene that it would give the Secretary and, in effect, the Coast Guard, the right to designate areas within the waters of what we call the south 48 that would be subject to the same restrictions that the pilots of Alaska and the Coast Guard deem necessary for the Prince William Sound as a result of the *Exxon Valdez* disaster.

As my old friend, Howard Baker, used to say, "Mr. President, I am not sure I have a dog in this fight," as far as the waters in the south 48. I urge the Senate to allow us to keep in for the Prince William Sound the type of restrictions that our experts have advised us are required to prevent a further occurrence such as we have had.

Mr. BREAUX. If I could respond to the Senator from Alaska, the intent, as I understand our legislation, is to clearly apply to the waters of not only Prince William Sound but, indeed, to all of the waters that come under the jurisdiction of the legislation. The Senator's waters would be covered, as well as the waters in the lower 48, the Gulf of Mexico, the Atlantic, Pacific, or any areas that are under the jurisdiction in Rhode Island, Louisiana—all would be covered by these new requirements including those portions within the State of Alaska.

Mr. President, if I may make a few comments on the legislation that is now pending before the Senate, there has been very few legislative initiatives that have been around as long as this legislation. For at least 10 years the Congress wrestled with the very serious problem of trying to have in place a mechanism that takes care of oilspills no matter where they happen to occur. It seems that we get a little bit closer every time we have a disaster. Perhaps it has taken the *Exxon Valdez* disaster in the State of Alaska to bring the Congress to this point where it seems for the first time in 10 years that the House and the Senate will be able to come to grips with this very serious problem and have in place very, I think, strong rules, regulations, and indeed procedures as to how this country is going to address the question of an oilspill that occurs anywhere in these United States.

This legislation does exactly that. It does so by addressing the question of both what to do when a spill occurs, and with the added legislation coming from the Senate Commerce Committee it takes steps to prevent spills like the *Exxon Valdez* from ever occurring.

It does so by taking a number of steps and restrictions that heretofore were not possible. For instance, the captain of the *Exxon Valdez* could not drive a station wagon on the streets of New York because he did not have a driver's license. It had been revoked. It had been revoked because of repeated offenses of driving under the influence of alcohol. Yet he was able to captain a tanker, a supertanker, fully loaded with oil, in the waters of the United States and indeed in the State waters of Alaska.

This legislation because of the efforts of the Commerce Committee would address that but would establish rules and regulations that allow the Coast Guard to investigate the circumstances under which these captains are in fact operating, which is a major step in the right direction.

But it also goes a long ways toward establishing a vessel tracking service system in those parts of the United States that need them, particularly in Prince William Sound. I would also point out Houston Ship Channel, the Port of New Orleans, a vessel traffic system was removed from the Port of New Orleans because we did not have enough money. We have 20,000 ships that call on the Port of New Orleans every year without a vessel tracking safety system to monitor that traffic. We think it is needed. This legislation would move in that direction as well as establishing some requirements at other ports around the United States. It would also give the Coast Guard the ability to do random alcohol testing on board these ships and on board oil tankers, something that we think is very, very important.

In the area of contingency planning and liability, both of the committee bills, Commerce and the Environment Committees, would have provisions that greatly improve the current system of preparation and approval for having in place techniques and equipment in order to clean up spills.

A bill is pending before the Senate which combines the features of both bills to produce a uniform oilspill contingency plan and regulatory system, which is what is needed. The main thing that occurred in Alaska, which was so damaging after this bill, was we did not know who was in charge. We had testimony, while the spill was actually ongoing, before our committee that said, well, we think the Government is in charge; maybe the State of Alaska is in charge, or maybe the system designed in Alaska to clean up spills was in charge. The problem was that nobody knew who was in charge.

This bill clearly says that the Secretary, meaning the Coast Guard, will be in charge on these major spills, to take charge to go in and coordinate the cleanup activity, so we do not waste valuable time, 2 or 3 days, to try to determine how we are going to in fact respond to such a major spill.

If a spill occurs, this bill creates, for the first time, a $1 billion liability fund to pay for the cleanup, after the individual person responsible for the cleanup has reached their liability limits. This would take care of any known spill that we have anywhere, whether it is from a vessel, a tanker, whether it is from an onshore facility, or whether it is from an offshore facility.

I think that is something that is very important. One of the areas that has hung up this legislation for years has been the question of whether States would be able to have their own oilspill liability funds, in addition to a Federal fund. I have personally preferred having one national fund, in which all moneys would be put into a fund which would preempt States from having another fund at the same time to in effect duplicate what is being done on the national level.

There are those in this body and in the other body who would prefer not exempting States from having this

ability. This legislation takes the approach of allowing the States to have an oilspill liability fund, if that is their desire and wish. They could establish unlimited liability, if they desire, and some States have that. They could devise a system with a tax on oil in their State, if they so desire.

I make the argument to the States that if we have a national fund, there is in fact no need to tax their local citizens additional funds in order to duplicate what is being done on the national level. That is my preference and how I think most States should handle it. But they would certainly, under this legislation, have the prerogative of establishing their own fund, if indeed that is their desire.

The final point that I make with regard to where oil that is being spilled comes from, it is very clear. The National Academy of Sciences pointed out that offshore production, the platforms in the Gulf of Mexico, and off of California, and off of the coast of Alaska have accounted for less than 2 percent of all the oil that finds its way into the oceans. That is not where the problem is. Very candidly, the problem is tankers and industrial runoff. Marine transportation, on the other hand, accounts for 46 percent of the oil that finds its way into the waters of the United States. That is where the real problem is.

I think, Mr. President, the combination of the Commerce Committee's provisions dealing with vessel safety and transportation with the Environment and Public Works Committee, the oilspill liability fund is a major, major legislative endeavor, a major achievement; and I think it is going to take care of the problems that we are facing in this area. Unfortunately, it took the *Exxon Valdez* accident to bring us to this point, but I am glad that we are here.

I have one unanimous-consent request dealing with the amendment. I ask unanimous consent that portions of the section-by-section analysis of S. 1461 be printed in the RECORD at this point.

There being no objection, the portions of the analysis were ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLE

This section states the short title of the bill, the "Oil Tanker Navigation Safety Act of 1989".

SECTION 2—DEFINITIONS

This section contains the definitions of various terms that are used throughout the bill.

a. "Oil tanker" is defined as a self-propelled vessel constructed, converted, or adapted to carry oil in bulk in its cargo spaces.

b. "Affected oil tanker" is defined as an oil tanker operating in waters subject to the jurisdiction of the United States that transfers oil in bulk at ports or terminals of the United States.

c. "Pilotage waters" are waters subject to the jurisdiction of the United States where affected oil tankers are required to be under the direction and control of a First Class Pilot, except as otherwise determined by the Secretary. The Secretary may exempt particular waters from inclusion as "pilotage waters", even if they are waters for which First Class Pilots' licenses are required, if the Secretary determines that there is no need for the special requirements imposed on transit through those waters.

d. "Secretary" is the Secretary of the department in which the Coast Guard is operating.

TITLE I—PROVISIONS APPLICABLE NATIONALLY

SECTION 101—LICENSED PERSONNEL

This section requires the initiation of a rulemaking by the Secretary to impose new requirements for the operations of oil tankers in pilotage waters. The rulemaking would require, subject to certain exceptions, that each affected oil tanker transiting these waters have: (1) at least four persons, including two licensed deck officers, on the navigation bridge of an oil tanker; (2) at least two individuals onboard the vessel holding First Class Pilots' licenses with endorsements for the waters being transited; and (3) one of the persons required to be on the bridge fix and record the vessel's position at specified intervals during the passage through pilotage waters, which records of position would be retained for a period of no more than 60 days.

These provisions are designed to meet concerns which arose subsequent to the *Exxon Valdez* accident. Current regulations permit the operation of oil tankers in pilotage waters and do not specify the minimum number of persons required to be on the bridge. Transits in pilotage waters frequently involve complicated maneuvers and may tax the ability of a single officer to manage the vessel and monitor its course at the same time. For example, the *Exxon Valdez* was under the control of a Third Officer who was assisted by a single lookout and a helmsman. The Committee believes the requirement of additional personnel on the bridge during pilotage transits will enhance the safety of operations and distribute the workload in a more reasonable manner.

The requirement for two individuals to hold First Class Pilots licenses with endorsements for the waters being transited is designed to avoid problems which can occur in pilotage waters. Frequently oil tankers have only one person in the crew who is legally authorized to pilot the vessel in pilotage waters. There is currently no requirement that an individual other than the master possess a pilot's endorsements for the waters being transited. Thus, if the individual holding the proper endorsements for the waters being transited is incapacitated in any way, there would be no one in the crew legally authorized to take command of the vessel in those waters. The Committee believes that to avoid this situation in the future, that is, where an unauthorized and possibly unqualified individual is required to assume control of the ship, a requirement for two persons to hold identical endorsements is reasonable. Both individuals need not be on the bridge at the same time to fulfill this requirement.

The requirement to fix and record the position of the vessel every six minutes will serve two purposes. In the event of an incident, there will be a written record to aid in the investigation of the accident and a reconstruction of events leading to the accident. Secondly, this provision will enhance the ability of the crew to monitor closely the movements of the vessel and to avoid dangerous situations.

These requirements will not be imposed if: (1) the pilotage of the tanker is provided by a qualified pilot who is also licensed by a State; or (2) the Secretary determines that the requirements will not enhance navigation safety. The term "qualified pilot" refers to an individual who is licensed by the Coast Guard pursuant to 46 U.S.C. 7101.

The Committee is informed that the majority of state-licensed pilots in the United States also hold Federal Pilots' licenses. In many cases, State pilot associations require an applicant to possess a Federal license as a condition of receiving a State license. The intent of this exemption provision is to permit the requirements of additional crew on the bridge, two officers with licenses endorsed for transited waters, and navigation plotting to be waived if the oil tanker is under the control of a State pilot who also holds a Federal license. The Committee intends that any such individual who holds a Federal Pilots' license and who is performing duties pursuant to that Federal license would therefore be subject to Coast Guard jurisdiction for enforcement and other purposes.

Unlike foreign traffic, current law permits vessels in coastwise trade to operate without State pilots. They instead may rely upon federally-licensed pilots (who are also typically the masters of the vessels) to control the vessel in and out of its ports of call. Federal licensing and endorsement procedures are different from those imposed on State license applicants, and it is generally acknowledged that State pilots are more familiar with local pilotage waters than Federal pilots with endorsements for a particular area. In light of this circumstance, this section imposes the special requirements of additional personnel on the navigation bridge and the other requirements of this section only if the oil tanker is not under the direction and control of a qualified pilot who is also licensed by a State.

The committee is aware of the existing pilotage regime that exists on the Great Lakes. This regime is the result of negotiated agreements involving the Great Lakes States and Canada. The current regime on the Great Lakes requires a minimum of three first class pilots aboard oil tankers at all times. The personnel in charge of navigation make 80 or more trips per year through Great Lakes pilotage waters, which is in excess of Federal pilotage requirements and the equivalent of the experience gained by State pilots. Further, there is no readily available pool of State pilots on the Great Lakes, since the vessels transit the waters of several States and indeed two nations on a single trip.

Thus, there is neither a need for the extra requirements imposed by this section, nor is there an available pool of State-licensed pilots for affected oil tankers operating in the waters of the Great Lakes. The committee believes that these are appropriate circumstances warranting action by the Secretary to determine, under section 2(5) of the bill, that the waters of the Great Lakes are not "pilotage waters" and the special requirements of the section, therefore, would not apply to affected oil tankers transiting the Great Lakes. The committee expects that these and other circumstances may be present in other areas of the Nation which may also justify the use of the authority granted in section 2(5).

SECTION 102—MOTOR VEHICLE DRIVING RECORDS

Subsection (a) amends the National Driver Register Act of 1982. It will permit the Commandant to gain access to the driving records of any individual applying for, renewing, or holding a merchant mariner's document, license, or certificate of registry to serve on or operate a commercial vessel. This provision is consistent with access to the Register that has been granted in other transportation modes, such as airlines or railroads. The purpose of this section is to ensure that the Coast Guard has the ability to identify those vessel personnel with drunk driving offenses. The committee believes that such information should be available to the Commandant and incorporated into merchant marine licensing procedures for issuing documents, licenses, and certificates of registry.

In recognition of legitimate individual privacy concerns, the use of the information that the Commandant obtains is restricted. Furthermore, the Commandant may not obtain Register information if that information was entered on the Register more than 5 years prior to the date of the request unless a drivers' license revocation or suspension is still in effect at the time the information is requested by the individual. This will ensure that only recent offenses are considered in the personnel licensing, documentation, and certification process.

Subsection (b) provides the Secretary with authority to suspend or revoke a license, certificate of registry, or merchant mariner's document if, among other conditions, the holder has been convicted of a serious criminal offense, or specified motor vehicle driving offenses, or if the holder's motor vehicle driver's license has been denied, cancelled, revoked, or suspended for cause and that cause reflects adversely on the holder's ability to serve as a merchant mariner.

This subsection authorizes, but does not mandate, action; the Secretary is given discretion to determine the appropriate action after consideration and evaluation of the circumstances involved in each particular case. The Committee believes, for example, that the Secretary should consider that the possession and use of alcohol are strictly prohibited on vessels of the inland waterway industry. Under these circumstances, where access to alcohol is denied and abuse of alcohol on the job is effectively precluded, the Secretary should not suspend or revoke a license or document of an individual who has been convicted of drunk driving if there is evidence that the individual is working to solve the problem and there is no evidence that he or she is using alcohol while serving on a vessel.

SECTION 103—ALCOHOL TESTING; ALCOHOL REHABILITATION

Subsection (a) requires the issuance, within 90 days after enactment of this legislation, of a rule to require periodic, random, post-accident, and reasonable cause testing for the use of alcohol by individuals serving on oil tankers. The individuals subject to these requirements will be those who are determined by the Secretary to perform safety sensitive functions. Only individuals holding licenses or merchant mariner documents issued by the Coast Guard, and who serve in such positions, will be subject to the testing provisions.

This provision has been included to address what the Committee believes to be a serious and pervasive problem in the maritime industry. The captain of the *Exxon Valdez* had a blood alcohol level of .06 when tested nine hours after the vessel ran aground. This is in excess of the current Coast Guard regulations which prohibit the operation of a vessel with a blood alcohol content greater than .04. Testimony before the Committee indicated that ships calling at U.S. ports routinely carry alcohol that is available for sale to the crew. The Committee believes that it is beyond dispute that the public has an overriding interest in assuring that oil tanker personnel performing duties which directly affect the safety of a vessel's navigation or operations do so free of the influence of alcohol.

The Committee recognizes that litigation is ongoing regarding the constitutionality of random drug testing, but notes that the Supreme Court has recently held certain other forms of drug testing constitutional. Several lower courts have upheld random testings of certain individuals as not violative of any constitutional rights. The Committee believes that the protection of public health and safety, and the substantial risks posed by alcohol use by oil tanker personnel, constitute a compelling governmental interest that warrants implementation of random alcohol testing for merchant mariners.

In this regard, in 1987, the Committee approved mandatory drug and alcohol testing for the rail, motor carrier, and airline industries (S. Rept. 100-43). Thus, the extension of such testing to oil tankers is consistent with past Committee actions and based firmly on the continuing belief in the effectiveness of testing to deter unlawful consumption.

Also the Secretary issued regulations, on November 21, 1988, for the maritime industry requiring the random testing for drug use, as well as drug testing in the other circumstances previously described, and testing for alcohol consumption in post-accident situations. These regulations further require that drug and alcohol test equipment be carried onboard commercial vessels. The reported bill therefore, is consistent with the current Coast Guard requirements relating to drug use, and procedures adopted to implement the random alcohol testing requirements must be analogous to those established for drug testing.

The Committee believes strongly that serving in safety sensitive positions on oil tankers while impaired by alcohol is wholly incompatible with the need to ensure safe operations. Furthermore, it is clear that the current regulatory framework is incapable of deterring merchant marine personnel in safety sensitive positions from consuming alcohol and occupying safety sensitive positions. This legislation is intended to deter the use of alcohol by requiring the testing of employees in safety-sensitive positions. The Committee believes that increased testing will provide the necessary deterrence. For example, the Coast Guard randomly tests its uniformed personnel. In the first three years of the random testing program, drug and alcohol use declined by more than 60%. Under random testing, safety-sensitive employees will have no advance warning of when they might be tested. Such testing should, therefore, reduce or eliminate their on-duty consumption of alcohol accordingly.

The Committee has given the Secretary the discretion to determine which functions are safety sensitive. This approach is identical to that adopted in the legislation affecting other transportation modes which was reported from the Committee in 1987.

The Committee intends that the Secretary be impartial in imposing these testing requirements on oil tanker personnel. It is important that regardless of the means chosen to select randomly personnel for testing, that selection must be done in an impartial and nondiscriminatory manner so as to minimize the potential for harassment. Further, while it is critical that, in the interest of safety, personnel responsible for the safety of the operations of the vessel be deterred from allowing alcohol to affect their ability to perform, this section should not be treated as an open authorization to test all oil tanker personnel, unless it is determined that they all serve in safety sensitive positions.

Subsection (b) requires the Secretary to conduct a rulemaking to determine whether the Coast Guard should be informed, on a confidential basis, about merchant marine personnel who are undergoing treatment in alcohol rehabilitation programs. If a rule were adopted it would apply only to those with licenses or documents who perform safety sensitive functions as determined by the Secretary. These individuals would be the same as those identified in the testing program discussed above.

The Committee is concerned that this provision not serve as a disincentive to individuals with alcohol-related problems to seek assistance. Any rule that is developed in this regard must ensure that neither the availability nor the effectiveness of treatment programs is diminished. Furthermore, the information must be maintained and treated in a confidential manner to the maximum extent practicable. Only in this way can the incentive to participate in rehabilitation programs be maintained.

This provision is the result of the Committee learning that the master of the *Exxon Valdez* had participated in a company-sponsored rehabilitation program and that the Coast Guard was unaware of his alcohol-related problems. Thus, the Coast Guard was unable to investigate the nature of his problem and the success, or lack thereof, of his rehabilitation during the merchant marine license renewal process.

The Committee believes that an identification program of this nature can succeed only with the active cooperation of the employees or their representatives. For example, the Air Line Pilots Association administers a voluntary alcohol rehabilitation program in which more than 800 commercial pilots have acknowledged and attempted to end their addiction to alcohol. The Federal Aviation Administration is aware of the participants in this program and monitors their recovery process. Pilots entering this program are only allowed to resume flying once they are determined to have been rehabilitated. If a merchant marine treatment identification program is implemented by the Secretary, a similar cooperative effort between the Coast Guard and the representatives of licensees and documented personnel should be established.

SECTION 104—PROHIBITION ON SERVICE

This section establishes a procedure for the immediate suspension and physical possession by the Secretary of a license or merchant mariner's document in certain misconduct cases. The immediate suspension would be followed within 15 days by an expedited hearing by the Secretary. The purpose of this provision is to authorize the Secretary to remove persons from service for reasons that relate to his or her fitness to serve.

In order for the Secretary to take this action, there must be probable cause to believe that the individual: has served on an

affected oil tanker in a safety sensitive position while impaired by alcohol; has been denied a motor vehicle license for cause; has had a driver's license canceled, revoked or suspended; or has been convicted of a specified offense listed in the Register. Currently, the Secretary can suspend licenses or documents only after the completion of a lengthy administrative process. This section will give the Secretary authority to remove from service, at least temporarily, those persons who may be a threat to safe oil tanker operations.

SECTION 105—VESSEL TRAFFIC SERVICES

This section requires the Secretary to submit to the Congress within one year a report which identifies the ports of the United States that are in need of new, expanded, or improved VTS systems. This list should rank the identified ports in order of priority of need. To determine a port's priority, the Secretary is directed to consider the nature, volume, and frequency of traffic, the risk of collisions, groundings, and spills, and the extent to which the risk can be reduced by the installation, expansion, or improvement of VTS systems.

Currently, there are only four major VTS systems in operation in the United States: Prince William Sound; Puget Sound; San Francisco; and Houston. Two major systems, New Orleans and New York, were eliminated by the Coast Guard as a result of budget constraints. Thus, a large number of ports in this country which handle tremendous volumes of oil and other hazardous materials have no vessel traffic monitoring systems whatsoever.

The Committee is particularly concerned that some of the Nation's busiest ports are operating without any traffic monitoring, direction, or control by the Coast Guard. VTS systems are effective in providing the Coast Guard with an overall picture of the traffic in a particular area and with the ability to advise ships of the location and direction of such traffic.

This section does not affect the discretion of the Secretary to determine the type of VTS system appropriate for a particular port area. The Committee expects the Secretary to determine whether a system should be mandatory or voluntary in view of the nature of the traffic in a port, and such other factors that the Secretary considers necessary. The primary goal in developing this list and subsequent installations or improvements of VTS equipment is the enhancement of vessel traffic safety.

The Committee is aware that new navigation assistance technologies are becoming available to the maritime industry. These technologies involve satellites, electronic charting, and other methods of precise tracking. The Committee urges the Secretary to examine all such technologies, including traditional methods such as radar and camera tracking, as well as innovative technologies, in the course of efforts to identify the most effective systems for each port on the list that is submitted to the Congress.

Subsection (b) authorizes the Secretary to establish and implement a system of user fees to partially or completely recover the costs of the VTS systems in operation today and those that will be installed or upgraded in the future. The Secretary is directed to include a schedule of fees in any final rule that may be promulgated. Such fees must be set in accordance with the General User Fee Statute (31 U.S.C. 9701), which will ensure that any fees reflect the actual value of the service received. All users would be subject to any fees for use of the VTS systems under this provision. The receipts from such fees are to be credited and available to the Secretary without regard to fiscal year limitation for use in meeting the costs of construction, installation, improvement, and operation of the VTS systems for which they were paid.

The concept of a fee structure to recover the costs of port navigation systems is not new. Other nations, such as the Netherlands, have implemented such systems quite effectively. The Committee urges the Secretary to investigate such fee systems and to recognize that different types and sizes of vessels pose different navigation safety risks and needs, resulting in different levels of use of VTS systems. The need for use of VTS systems by small fishing boats, for example, is less than the need for use of the systems by supertankers.

Subsection (b)(4) disclaims liability. The liability of the United States is not affected by any fees that may be imposed and collected pursuant to these provisions. The collection of any such fees does not constitute a commitment by the Government to perform any particular service.

Subsection (c) prohibits the Secretary from constructing, improving, expanding, or operating any new VTS systems until the Secretary submits to the Congress the report required by this section. Based upon that report, priorities can be identified, and resources can be devoted to those ports in greatest need of VTS work. Two exceptions to this general prohibition on new activities are made: (1) if funds for the new VTS system activities were obligated on or before the date of enactment of this legislation; or (2) the activities are those authorized in section 203, which relate to the Prince William Sound VTS system.

SECTION 106—POSITION-REPORTING AND IDENTIFICATION EQUIPMENT

This section requires the completion, within one year after the date of enactment, of a rulemaking to determine whether electronic means of vessel position-reporting and identification should be required to be carried onboard all affected oil tankers. There are two elements that must be considered in the course of this determination: (1) whether this equipment should be required on tankers above a certain size and (2) what should be the minimum standards for such equipment.

During its analysis of the *Exxon Valdez* accident, the Committee was informed that current radar systems that are used in VTS systems do not function in the same manner as air traffic control systems. They are passive in nature and do not provide the Coast Guard personnel who monitor the VTS system with the precise location and type of vessel being monitored on the radar screen. For example, a radar signal cannot always provide information that will allow the operator to distinguish between an oil tanker and a fishing boat, since such indentification is affected by the strength of the radar signal, the angle at which the radar signal strikes the vessel, and other factors.

The Committee believes that a system of positive position identification for oil tankers may serve to enhance the ability of the Coast Guard to monitor vessel operations in a port area and inform other vessels when oil tanker traffic is in the area, thereby increasing the safety of oil tanker navigation.

SECTION 107—OIL TANKER CONSTRUCTION AND SIZE

Subsection (a) requires the completion within one year of a rulemkaing to require that all affected oil tankers which are newly constructed be equipped with double hulls and double bottoms. This requirement may be waived by the Secretary if it is determined that either or both the double hull and double bottom will not enhance oil tanker navigation safety or that an equal or greater benefit to such oil tanker navigation safety will be achieved by other structrural requirements.

More than forty oil tankers in operation today in the United States are equipped with double bottoms. The *Exxon Valdez* was not constructed with either a double hull or a double bottom. It was originaly designed as a double-bottomed vessel, but was built with only a single hull. The Coast Guard analysis of the *Exxon Valdez* accident found that, had the *Exxon Valdez* been double-bottomed, the oil outflow from the *Exxon Valdez* would likely have been reduced by 25% to 50%, or 2.75 million gallons to 5.5 million gallons. In addition, the Committee received information from private salvage experts and U.S. Navy personnel that also indicated that the accident would have released less oil into Prince William Sound had the *Exxon Valdez* been constructed with double bottom.

The Committee recognizes that the International Maritime Organization (IMO) adopted tanker design regulations which specifically rejected double bottoms and double hulls. Instead, the current IMO regulations require the use of segregated ballast tanks as an alternative to double hulls and double bottoms. Further, testimony from the U.S. oil tanker industry opposed a legislative mandate for double hulls. At the same time, legislation, in particular S. 839, has been introduced to require double hull construction, and similar measures are pending in the House of Representatives.

The Committee believes that the United States has the right to require certain construction standards for oil tankers that enter waters subject to its jurisdiction for purposes of transporting oil in bulk at a port or terminal. The legislation is prospective in nature. This requirement would not become effective before one year after the date of enactment of this legislation, thereby providing time for consultations with IMO and its member governments. In view of the fact that over forty oil tankers in operation in U.S. waters today have either double hulls of double bottoms in the absence of a statutory or IMO requirement, it seems that the industry itself has recognized the benefits to be gained from this type of design.

The Commission received no substantive information that would support the suggestion that double hulls or double bottoms would have an adverse impact on the safety of oil tanker operations. Other types of tankers, such as natural gas and hazardous chemical carriers, do employ double hull or double bottom constuction with an apparent high degree of success.

The cost differential between a single hull and double hull construction is between 3.5% and 5%, according to figures developed by the Office of Technology Assessment for its report, "Oil Transportation by Tankers: An Analysis of Marine Pollution and Safety Measures", July 23, 1975. This figure was not disputed in testimony at the Committee's hearings and would not be an onerous burden for the industry to bear in light of the apparent protection that such construction would offer.

This subsection permits the Secretary to refrain from requiring double bottoms and

double hulls if oil tanker navigation safety will not be enhanced, or if an equivalent or greater benefit will be gained from a different type of construction or structural feature.

The purpose of this provision is to permit the Secretary to investigate in the course of the one-year rulemaking various types of oil tanker design and construction, the cost and benefits of various types of design, and whether there might be an adverse impact on oil tanker navigation safety by the imposition of such a requirement. The Committee expects that such an investigation will be conducted, and would support a request by the Secretary to enlist the assistance of the National Academy of Sciences and other agencies if that is considered necessary in conjunction with the rulemaking.

This subsection calls for double bottoms and double hulls on newly constructed oil tankers, but the Committee does not expect that the Secretary will find that every new tanker must be built with both a double bottom and a double hull. Rather, the Committee has called for both in recognition of the possibility that the Secretary will find that a double bottom is warranted for some tankers, while a double hull is warranted for others, and both may be warranted for still others, depending upon the size, design, materials, or other factors affecting tanker safety. The Committee expects the Secretary to require one or both, based upon the information gained through public comment and studies, unless the best information available suggests that neither will enhance safety, or that other structural requirements will serve the same purpose equally well or better. In the latter event, the Committee expects the Secretary to require such other structural features by regulation so that newly constructed tankers will be equipped with those features.

The Committee fully intends that the burden fall heavily on the Secretary to implement the requirements unless the evidence against such requirements is both clear and convincing. Such a determination must involve more than cost considerations and cannot be based solely upon foreign policy grounds or the impact of such requirements on U.S. membership in international maritime organizations. The requirements are to be imposed unless the evidence shows they clearly will not enhance safety by reducing the occurrence or extent of oil spills.

This subsection applies to all affected oil tankers, both foreign and domestic, to avoid disproportionate effects upon the U.S. industry. The Committee expects the Secretary to develop a mechanism to identify new tankers and to inspect those vessels for compliance. For purposes of the subsection, the Committee intends "newly constructed" oil tankers to be those the construction of which was commenced one year or more after the date of enactment of this legislation. The Committee further intends that substantial repairs or modifications of the hull or bottom of an existing vessel will result in the Secretary treating such a vessel as newly constructed, if the design, engineering, and construction involved are substantially equivalent to those which would be required to replace the same type of hull or bottom on that vessel.

Subsection (b) requires that the Secretary submit within one year a report describing the size, cargo capacity, and flag nation of oil tankers operating in U.S. waters and specifying changes in size and cargo capacity over the last twenty years. The report is to evaluate the relationship, if any, between those changes and oil tanker incidents, and it is to include any recommendations for limitations on size and cargo capacity that the Secretary considers appropriate.

The Committee discussed at its hearings the increase in the size of oil tankers over the last twenty years. The purpose of this subsection is to provide the Committee with information relating to the growth in oil tanker size, any concurrent increase in the risk to safe oil tanker operations posed by this increase, and an evaluation of whether there is any correlation between the two. This report will provide the Committee with this information, an assessment of whether oil tanker size should be limited, and any other legislative recommendations in this regard that the Secretary deems appropriate.

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SECTION 110—NATIONAL COUNCIL ON OIL SPILL TECHNOLOGY RESEARCH AND DEVELOPMENT

This section establishes the National Council on Oil Spill Technology Research and Development (Council). The Council is to be composed of fifteen members of from government and the private sector. The membership is drawn from all Federal agencies with an interest or expertise in oil spill containment and cleanup, and from private sector interests involved in oil production, transportation, environmental protection, or scientific research in these areas. The Coast Guard representative is to be the Chairman of the Council, which will cease to exist 30 days after submission of the bibliography, report, and recommendations required by subsection (c).

During its analysis of the EXXON VALDEZ accident, the Committee learned that there is no coordinated, continuing, federally-directed research into oil spill containment, and cleanup. The research that is being done is largely a disjointed effort between government agencies and private industry, and there appears to be no firm understanding of the status of research in this area and what deficiencies exist in current oil spill response technologies.

The Committee believes that a continuing effort should be made to develop new techniques of oil spill containment and cleanup. The goal of this research should be containment and cleanup of spills in environmentally sound ways.

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SECTION 112—IMPACT ON OTHER LAW

This section declares that nothing in this legislation shall be construed or interpreted to affect in any way the authority of a State or political subdivision to regulate oil tankers or to provide for liability or response planning and activities in State waters.

SECTION 113—AUTHORITY OF SECRETARY IN U.S. WATERS

This section provides authority to the Secretary to deny an affected tanker the right to enter, exit, or transit U.S. waters if such tanker is operated in violation of provisions of this legislation or a regulation prescribed under it. This authority will ensure that the Secretary has the ability to enforce the provisions of this legislation, including those relating to the preparation of contingency plans.

SECTION 114—PENALTIES

This section establishes civil and criminal penalties for the violation of this legislation and regulations prescribed under it. The civil penalty is $25,000, and if the violation continues, each day of the violation is a separate violation subject to the $25,000 civil penalty. Vessels operated in violation of the legislation or regulations are liable *in rem*. A criminal penalty would be assessed if a person is found to have knowingly and willfully violated the provisions of this legislation or regulations. The criminal penalty consists of a fine not to exceed $50,000, imprisonment for up to five years, or both. Further, this section grants jurisdiction to the district courts of the United States to enjoin violations of the legislation and regulations prescribed pursuant to it.

SECTION 115—REPORT ON USER FEES

This section requires the Secretary to submit to the Congress, within 180 days after the enactment of this legislation, a report on the need to impose additional user fees upon owners and operators of oil tankers. The purpose of these fees would be to recover additional costs that are assumed by the Coast Guard in implementing provisions of this legislation. The report is to contain an evaluation of the desirability and feasibility of assessing and collecting such fees and the need, if any for additional authority in this regard.

TITLE II—PROVISIONS APPLICABLE WITH RESPECT TO ALASKA

SECTION 201—PILOTAGE AT PORT OF VALDEZ

This section directs the Secretary to initiate and put into effect a rulemaking to insure that qualified Federal pilots who are also licensed by the State of Alaska will pilot all tankers while they transit the waters between Bligh Reef and the Port of Valdez. It is the intent of the Committee that the Secretary shall consider the pilots' safety in determining the point of embarkation or disembarkation from the vessel, and shall direct tanker companies to use whatever means are appropriate, including helicopters, to transport the pilots safely to and from the vessels at points beyond Bligh Reef.

SECTION 202—BLIGH REEF LIGHT

This section directs the Secretary to install and ensure the operation of an automated navigation light on Bligh Reef in order to mark this hazard clearly for traffic from all directions.

SECTION 203—PRINCE WILLIAM SOUND VTS

Paragraph (*1*) of this section directs the Secretary of acquire, install, and operate such additional equipment and personnel as are needed to upgrade the capability of the existing VTS system in Prince William Sound, Alaska, so that the persons using the system are able to track oil tankers transiting Prince William Sound between Hinchinbrook Entrance and the Port of Valdez. Further, the upgrade must enable the system to sound an audible alarm to alert the system operators when a tanker departs from its designated navigation route. Paragraph (*2*) directs the Secretary to submit to the appropriate Senate and House committees a report on the feasibility and desirability of instituting a positive vessel control system in Prince William Sound.

Funding for the acquisition and installation of the VTS upgrade is provided in section 205(d) of the bill. The ongoing costs of operating the Valdez VTS may be recovered from vessels using the system under the user fee authority granted to the Secretary in section 105(b) of the bill.

SECTION 204—OIL SPILL RECOVERY INSTITUTE

This section establishes the Prince William Sound Oil Spill Recovery Institute (In-

stitute), which will be located in Cordova, Alaska. The Institute will conduct research and carry out educational and demonstration projects to develop arctic and sub-arctic oil spill response technology, and to determine the long-term effects of the Exxon Valdez spill on the environment and well-being of the inhabitants and natural resources of areas that were affected by the spill.

The Committee intends that the Institute will support a laboratory and other appropriate facilities to host researchers from throughout the Nation. Five million dollars have been provided for the first year in section 205(d) of the bill, and two million dollars in each of the succeeding ten years. The additional funds provided in the first year are intended for use in providing facilities in Cordova and to cover the start-up costs of the Institute.

The Committee believes that the successful operation of the Institute can be enhanced by effective cooperation with local interests and the use of local expertise. Since the Exxon Valdez spill, the newly incorporated Prince William Sound Science and Technology Institute (PWSSTI) has received widespread local support, and the Committee believes that this entity should play a significant role in the work of the Institute. It has come to the Committee's attention that the University of Alaska's Institute for Marine Studies and the PWSSTI have considered arrangements that will allow the PWSSTI to administer the operations ot he Institute while the University's Institute of Marine Studies would provide scientific oversight through chairmanship of the Scientific and Technical Committee established in subsection (d) of this section. Such arrangements are consistent with this section.

The Committee also intends that the scope of the Institute's activities not be limited to Prince William Sound, but rather that it extend to all areas of Alaska that were affected by oil or suffered significant socio-economic disruption as a result of the Exxon Valdez spill.

In appointing representatives to the Advisory Board, the Committee intends that the Federal and State agencies should select persons who have experience with oil spills and their effects, so that the undertakings of the Institute have practical applications in addition to their academic significance. In particular, it is intended that the representative of the Department of the Navy be a person with recent or continuing experience with the Navy's oil spill response efforts.

SECTION 205—TRANS-ALASKA PIPELINE LIABILITY FUND

A considerable amount of public concern and litigation surrounded the design, construction and proposed operation of the Pipeline in the early 1970's. In order to end the controversy and proceed with the Pipeline as a matter of national policy, the Congress enacted specific legislation that imposed burdens on the industry as part of the congressional authorization which allowed construction and operation of the Pipeline. These obligations were part of the balance that Congress struck at the time between public concern for the environment and the national interest in a secure source of oil. The Fund was one of the burdens that Congress placed on the industry to encourage responsible operation of the tankers transporting North Slope oil, and to ensure that adequate compensation was available for cleanup costs and payment of damages in the event of a spill. Just as the capacity of, and risks associated with, the tankers employed in the trade have increased, so too have the burdens upon industry necessary to maintain the balance between the public concern for safety in the transport of oil and the national interest in producing and transporting the oil.

Several lessons have been learned from the EXXON VALDEZ spill, and these are reflected in the modifications made to the TAPAA by this section. Congress sought to strike a balance between protection of the environment and the national interest in energy development with the creation of the Fund, and the changes made are consistent with that goal. Subsequent developments have upset that balance; this section restores it.

Subsection (a) raises the strict liability limit of the Fund to $750 million, raises the limit of liability to $70 million for the individual shipowner, provides that $150 million of the $750 million shall be immediately available to Federal State, and local agencies for cleanup operations in the event of a spill, and directs that claims be proportionately reduced in the event the cost of the spill exceeds $750 million.

At the time the TAPAA was enacted, the $100 million liability level contained in the original Act was thought to be adequate. As the EXXON VALDEZ spill has tragically demonstrated, however, modern tankers have grown far beyond the size of the tankers that were calling at Valdez when the Pipeline was first authorized, and the $100 million liability limit established by Congress is now woefully inadequate. Recognizing that Exxon is expected to spend between $500 million and $1 billion to clean up the spill in Alaska, the Committee believes that raising the strict liability limit to $750 million for the Fund and $70 million for the shipowner is both necessary and appropriate.

One of the primary lessons learned in the aftermath of this tragic spill is the need for quick and decisive action to control and contain a spill. For small spills, this can adequately be done by the tanker operator or contract personnel with government oversight, but in the event of a large spill the Government must and should intervene rapidly to ensure that all possible steps are taken immediately. One of the primary concerns that slowed governmental action in the case of the EXXON VALDEZ spill was the lack of adequate funding with which to respond.

In order to allow government to respond quickly to a spill, subsection (a) also provides that $150 million shall be automatically available to the Federal Government in the event of a spill involving oil transported through the Pipeline, of which up to $50 million can be made available to State and local governments. The $150 million would be made available to cover expenses by government entities as they occur, rather than many months or even years after the fact. The Committee notes that the $150 million would be an advance from the Fund to the Government in recognition of the fact that most cleanup costs would eventually be recovered from the Fund at a later date when proper claims are submitted. This means that proper claims still must be submitted by the governments involved to justify expenses paid by the $150 million advance. To the extent that any of the $150 million is not expended, or that valid claims are not submitted to cover the expenses incurred, the unexpected or invalid sums must be returned to the Fund.

Subsection (a) further provides that expenditures made by the governments, up to the $150 million immediately available, are not subject to proportionate reduction in the event that the total cost of the cleanup and damages exceeds the $750 million liability limit of the Fund. To the extent that governmental costs exceed $150 million, claims submitted by government to the Fund, above the beyond those claims covered by the $150 million advance, are subject to the same proportional reduction that all other claims are subject to in the event that the total claims from all parties exceed the $600 million that remains per incident after the $150 million advance is subtracted.

Subsection (b) provides that claims presented to the shipowner which are not paid within one year may be presented to the Fund for payment. In the event the Fund pays the claim originally filed against the shipowner, the Fund is subrogated to all rights of the claimant, and may seek recovery from the shipowner up to the $70 million limit of liability for the shipowner.

This subsection is intended to assure citizens that legitimate claims will be expeditiously paid in the event that the cost of a spill does not exceed the $70 million limit of liability for the shipowner. Under current law, the Fund is not liable for the payment of any claims until the level of claims exceeds the liability of the shipowner. In the event of a small spill, it is quite possible, and has in fact happened in the case of the 1987 GLACIER BAY spill in Cook Inlet, Alaska, that claims filed with the shipowners and their insurers will not be paid for years after the event. It is the intent of the Committee that claims should be expeditiously paid whenever possible, and that claimants should not be left with the courts as their only recourse in the event that a shipowner proves unable or unwilling to settle claims in an efficient and timely manner. To this end, the Committee included language in subsection (b) to amend the TAPAA so as to enable the claimant to recover from the Fund in the event that legitimate claims are not settled by the shipowner within one year after the claim is filed. The Fund is subrogated to all rights of the claimant for any claims paid, and it is the Committee's intent that the Fund then shall seek recovery from the shipowner, up to the shipowner's limit of liability under this Act. In addition to providing an expeditious remedy outside of the court system, the Committee believes that this provision will also standardize the compensation made available for cleanup costs and damages, which are currently defined for the Fund by regulation, but are less clear in the case of claims filed with the shipowner.

Subsection (d) amends the TAPAA to direct the Fund to provide funds for the Institute established in section 204 of this Act, and to provide funds for the installation of the Bligh Reef Light and the improvements to the Prince William Sound VTS system required by sections 202 and 203, respectively.

When Congress passed the TAPAA, it created the Fund to pay for cleanup costs and damages as a means to reduce the risk to the public of damage from a spill. By creating the Fund, Congress spread the burden of liability for spills among all the operators who transport oil from the Pipeline. The provisions of subsection (d) are consistent with Congress' intent in creating the Fund. The Bligh Reef Light, the upgrade of the VTS system, and the Institute are all measures designed to reduce the risk to the public, either by helping to prevent spills, in

the case of the light and the upgrade, or by reducing the damage that a spill might cause, through research by the Institute.

Congress has often taken steps in the past to regulate all aspects of the oil and shipping industries, and there is no doubt that the modification of the rights and burdens of the parties granted the right-of-way for the Pipeline is well within the legislative authority of Congress. The Committee believes that the public interest in the safe transport of oil from the Pipeline to other parts of the United States outweighs the burden imposed by the expenditures from the Fund that are required by this subsection. The outlay from the Fund required in the amendment made by subsection (d) will not cause a substantive economic impact on the operation of the Fund, nor will it interfere with the reasonable investment expectations of the Fund.

Subsection (e) adds a provision to the TAPPA that states that the term "damages" includes the loss of taxes, fees, royalties, rents, and other revenues sustained by local government entitites as a result of a spill covered by the Fund. This particular section is made retroactive to January 1, 1989.

This subsection is intended by the Committee to clarify that the damages payable by the Fund include lost taxes and other revenues relied upon by local governments in the event that a spill causes the loss of these revenues. Damages are not specifically defined in the TAPAA: thus the exact definition has been left to regulation. In the initial regulations (42 Federal Regulations 31789 et seq.) that were published to govern operation of the Fund, the term "damages" included "[l]oss of tax revenue for a period of one year due to injury to real or personal property" (42 Federal Regulations 31790). In the revised regulations (53 Federal Regulation 3395 et seq.), the definition of "damages" no longer includes specific mention of the loss of tax revenues as an element of damages, though the Committee notes that there is some discussion of this omission in the "Supplementary Information" that is provided as a preamble to the regulations. To avoid any confusion, and to ensure that the interpretation of "damages" includes all of the elements listed in both the initial regulations (42 Federal Regulations 31790) and the revised regulations (53 Federal Regulation 3396), the Committee has included a provision that includes loss of tax and related revenues as one of the elements of "damages."

TITLE III—PROVISIONS APPLICABLE TO MISSISSIPPI RIVER

SECTION 301—RADIO COMMUNICATIONS ON MISSISSIPPI RIVER

This section requires that the Secretary issue regulations within one year after the date of enactment of this legislation to ensure that vessels transiting the Mississippi River have the capability to receive navigation safety warnings and to engage in radio communications on designated frequencies with the Coast Guard, other vessels transiting the Mississippi River, and such stations as may be specified by the Secretary.

During Committee hearings, information was provided which indicated that many vessels operating on the Mississippi River do not have the capability to receive Coast Guard marine warnings. This is apparently due to the fact that the frequency that the Coast Guard uses for its broadcasts is not always available on the equipment carried by vessels operating in that area.

The Committee believes that it is essential that all vessels in this area, due to its heavy congestion, must be capable of communicating with the Coast Guard and with other vessels at all times. The Committee does not intend that the entire Mississippi River be subject to these requirements, but only those areas most in need of a constant ability to receive Coast Guard broadcasts. Nor does the Committee expect that all vessels in the critical areas will be subjected to this requirement. Clearly, however, oil tankers and other vessels posing major risk should be in contact with the Coast Guard. The Secretary is given the discretion to determine the type of equipment and geographic area necessary to achieve the purposes of this section.

Mr. STEVENS addressed the Chair.

The PRESIDENT pro tempore. The Senator from Alaska, Mr. STEVENS.

Mr. STEVENS. Mr. President, I will be very brief. I have already indicated our great interest in this bill. It does have some very subjective provisions that deal with the aftermath of *Exxon Valdez,* but we from Alaska are most pleased that the real target of this bill is prevention.

We have included in the Alaska provisions, for instance, some facilities that are necessary—and we have been advised by experts—to further prevention in the Prince William Sound, a change, a light on Bligh Reef where the *Exxon Valdez* went on shore; new radar for the Coast Guard to be able to track tankers more accurately as they go through the Prince William Sound.

I would like to urge the Senate to learn from the *Exxon Valdez* incident. One of the things we have learned, for instance, is that the National Oceanic and Atmospheric Administration, NOAA, has scientists who have studied oilspills throughout the world and have a very calm way about analyzing the problem, once a spill has occurred.

We have also learned that the Navy, in the salvage efforts, have developed techniques for dealing with spills that in some instances are ahead of the industry, and we should look to those who have spent a great deal of time in dealing with prevention, in terms of tanker safety, for instance, in order to prevent further incidents such as *Exxon Valdez.*

In this case, as the Senator from Louisiana has indicated, we have drug and alcohol testing provisions, and we have debated at length a double hull provision. The Senator from Washington will pursue that further. I would like to pursue, while we are involved in this, the question of whether or not NOAA representatives should not be members of the response team.

We would like to have some clarifications, for instance, of existing law that deal with the damages that have been incurred by local communities. I might point out to the Senate that one of the losses that our small communities have suffered have been the loss of tax revenues, while they, at the same time, have faced increased cuts in terms of law enforcement, pollution control, and just general involvement in trying to protect their areas. They also had a decline in revenues.

We believe that the funds that are available under this bill ought to be available immediately to small communities. Let me point out, Mr. President, that we have a flood coming along a great river in this country. We have all seen the news media coverage of people out putting up sandbags or other attempts to prevent damage to improvements from flooding. In the instance of this large spill that took place in our State, we had communities that had warning for days, and they were trying to get involved to protect their beaches, their harbors, their hatcheries, and we found the mechanisms for allowing those people to come forward and volunteer and help. They knew the area and the problems that were there. Those mechanisms were wanting.

I urge that the Senate consider this. If such a spill, God forbid, would happen in Massachusetts—I see the Senator from Massachusetts here—along Cape Code, and I know that area well, although not as well as he does; the thousands of communities that are along the east coast of the United States between the Canadian border and New York, all could be affected by one supertanker spill. They will want to be involved, I can tell the Senate, immediately, if there is a spill. They will want to be able to go out and try to protect their homes, their beaches, their economy. I believe the emphasis should be on making assistance available to those on the local scene as rapidly as possible. We need national people involved.

We need the coordination of the National Government, but if there is a lesson to be learned from the Alaska spill, it is that you cannot stop this oil once it is on the water, once the control of it has been lost. It is going to continue to hit different places with the ebb and flow of the tide that goes on day after day after day.

As I am speaking today, Mr. President, there are new beaches being affected by the oil that spilled almost 4½ months ago, almost 1,000 miles from where the spill occurred.

You put that in terms of the east coast, and I did this for the President once, and that would be down below Norfolk if the spill had been in Maine.

Unless the Senate understands the complexity of trying to take oil off the water once it has occurred and the fact that those local communities must have a way to in effect put up sandbags to be involved and to harness that volunteer effort that is available immediately, then we face the problem of the increased cost later on, and

that is what Exxon is learning right now.

Mr. President, when the Exxon people first talked to me, I estimated that the cost of that oilspill once the control had been lost over it, and by "control" I mean the ability to sort of corral it so it could be picked off the water rather than off the beaches, I estimated they were going to have a liability in excess of $1 billion. I showed my conservatism because I now believe it is going to be in excess of $2 billion before they are through, 100 percent more than I estimated, and I have to tell you that the Exxon people laughed at me the day I said it would cost them more than $1 billion.

This subject is a very difficult one. I hope that my persistence on the floor today will not prove to be offensive to anyone, but I think we have learned the lessons that we are now trying to convey to the rest of the country and the country has seen the coverage by television, probably the best coverage of a disaster of this type in the history of the world, and it has alarmed and enraged the American public. If another one happens, God forbid, and we are not prepared, the fury that will come from the American public will overwhelm a great many portions of Government. So I hope that we can do the job right today.

Thank you, Mr. President.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KERRY].

Mr. KERRY. Thank you, Mr. President.

I would like to just take a few moments, if I may, because I recessed the national ocean policy study group which has witnesses waiting so I could come over here and the distinguished Senator from Alaska has been present with me as we discuss matters that are linked to this, specifically the Coastal Zone Management Act, and so forth.

But I would like to congratulate the distinguished majority leader and the chairman of the Commerce Committee, Senator HOLLINGS, for their leadership in helping to so quickly get this important legislation to the floor and in fashioning a joint effort between our two committees in order to do so.

Obviously, this legislation has important provisions with respect to liability, compensation, and penalties.

Mr. President, what I would like to say that I am particularly pleased about in addition to those provisions, is the fact that this bill incorporates many of the measures that we had thought about within the Commerce Committee and elsewhere that will make the likelihood of a future spill much less likely.

I am particularly pleased with the compromise reached with respect to the contingency plan development and approval process.

We had a number of hearings in committees on the causes of the *Exxon Valdez* spill, its impact on the environment and how we could reduce those risks in the future.

We heard from Secretary Skinner, Admiral Yost, Mr. Stevens and Mr. Rauls, both from Exxon. We heard from leading environmentalists and others. What became very, very clear is the fact that throughout the testimony there was an absolute letdown with respect to the question of contingency planning. In fact, Mr. President, it became very, very clear that even though there were contingency plans with respect to the *Valdez* incident they were confusing, or they were inadequate, or it was unclear as to which entity would take charge. Everyone blamed the other person. Exxon blamed the State of Alaska. The State of Alaska blamed the Coast Guard. The Coast Guard blamed Alyeska. The Alyeska plan was OK'd by the State but not by the Coast Guard.

In sum, Mr. President, you had chaos. As a consequence the oil was obviously not contained, and that is now a matter of sad record.

It is my sense that this bill adequately provides for the capacity to have those contingency plans and to avoid that kind of disaster, and I am particularly pleased that the Coast Guard is going to be put in charge, and the capacity to take charge at the outset is here.

As we noticed in the Rhode Island spill just a couple weeks ago, it was the capacity of Captain Williams to make that decision within moments that mobilized the forces necessary to guarantee that there was an ordered, orchestrated response, and had he not been willing to take the risk on his own of doing that, as a matter of his command responsibility, without real jurisdiction having been clear, the results of that could have in fact been considerably worse.

The final comment I make is that I am particularly pleased that the role of NOAA in promulgating regulations for assessment of damage has been made clear in this legislation. We need their expertise and their leadership, so that the techniques that are used and the results which we achieved will make sense contrary to experience that we have seen in the recent past where certain approaches have been taken which really distort anybody's best common sense about how one might go about that particular process.

So I am very pleased that the efforts of the ocean policy study group have come to fruition here, and I enjoyed working with the Senator from Alaska and the Senator from Louisiana, Senator BREAUX, in an effort to see that happen, and obviously look forward to the passage of this legislation.

The PRESIDENT pro tempore. The senior Senator from Washingtin [Mr. ADAMS] is recognized.

Mr. ADAMS. Thank you, Mr. President.

Mr. President, I rise in support of this comprehensive oilspill legislation. The managers of the bill, and the distinguished members of both the Senate Commerce and Environment and Public Works Committees are to be commended for bringing to the floor in such a timely manner this important legislation. I would particularly like to thank Senator BREAUX for his help on this bill.

The tragedy of the *Exxon Valdez* awoke this Nation to a new appreciation of the dangers posed to our maritime environment by oilspills. Nearly a decade of good luck had made us complacent. We believed the oil companies when they told us their tankers were safe. We believed the oil companies when they told us that they could respond quickly to a major spill.

Instead, we found that these promises were as empty as the tanks of the *Exxon Valdez* after millions of gallons of oil poured into Prince William Sound. Now we hear that Exxon may renege on its promise to the people of this country to clean up the mess it made of the pristine Alaska coastline. This would be further proof, though none is needed, that the oil industry cannot be trusted to adequately regulate itself in terms of tanker safety and oil spill cleanup. Federal oversight and regulation is a necessity.

Immediately following the *Valdez* disaster, my first thought was for Puget Sound, and the rest of Washington State's marine environment. I investigated the state of preparedness in Puget Sound for responding to a spill, and was shocked to find that we were, and are, unprepared for a major spill, particularly in the open water.

Because of these concerns, I introduced the Puget Sound Tanker Safety Act of 1989. This legislation had three major components. One, a double-hull requirement, is the subject of an amendment I will be offering to this bill, after opening statements have been heard.

Second, my bill required vessels carrying oil in Puget Sound to have individualized vessel spill containment plans identifying measures for effecting repairs, notifying proper authorities of a spill, and making initial containment efforts.

Finally, my bill required all vessels carrying oil in Puget Sound to have contingency plans approved by the Coast Guard. The Coast Guard would be unable to approve a plan unless sufficient equipment was available to deal with a maximum probable spill.

On June 20, the Commerce Committee approved the Oil Tanker Navigation and Safety Act of 1989. This legis-

lation incorporated almost all of the vessel spill containment plan and contingency plan portions of my bill. And on July 27, the Environment and Public Works Committee reported out the Oil Pollution Liability and Compensation Act of 1989, which again included a contingency plan section that parallels the provisions in my bill.

The legislation before us today merges these two bills into a comprehensive package. The contingency plan section of this bill is very strong because it incorporates two basic concepts. First, the oil companies must have federally approved contingency plans in order to do business. Second, in order to get approval of a contingency plan, the company must have sufficient onsite equipment to deal with a major spill. If this bill passes, inclusion of these concepts ensures that in the future oil spill response contingency plans will be solid plans, not just empty pieces of paper. They will be open to public scrutiny and backed up by equipment onsite.

This comprehensive package also incorporates Senator MITCHELL's legislation on oilspill liability and compensation. I cosponsored Senator MITCHELL's original bill on this issue, and believe the bill before us today is an excellent piece of legislation. At the core of the Coast Guard's reluctance to federalize the *Exxon Valdez* spill was the fear of having to pay for Exxon's mess. Without an available pot of money to cover cleanup costs, the Government is always going to be reluctant to federalize oilspills, for fear the responsible company will wriggle off the hook of financial responsibility.

This legislation today resolves that dilemma by creating an industry-financed cleanup fund, and by clearly defining the essential responsibility of the Federal Government to oversee cleanup efforts. This legislation has been debated in Congress for many years. I hope this will be the year we finally pass this long-overdue legislation.

Mr. President, this is an excellent piece of legislation. When I introduced my own legislation earlier this year, my intent was, in part, parochial. Puget Sound is the crown jewel of Washington State, an irreplaceable resource central to the economic prosperity and quality of life we all enjoy. Oil tanker traffic in the sound is steady and increasing. A major spill would devastate us. The legislation I introduced was originally designed to cover only Puget Sound, and provide additional protections for that region. I am very gratified and pleased to see that some of the measures I suggested would now be applied nationwide. The committees have done an excellent job on this bill, and I urge my colleagues to support it.

Mr. MURKOWSKI. I also would join in congratulating those in the Commerce Committee and the Environment and Public Works Committee who fashioned this legislation. I want to indicate my support for the Senator from Louisiana [Mr. BREAUX] for his amendment.

Mr. President, we have learned as a consequence of the disaster of the *Exxon Valdez*, the significance of what can go wrong if there is not a constant state of vigilance associated with an accident. Mr. President, I was on scene at Prince William Sound, along with the Commandant of the U.S. Coast Guard, Admiral Yost, and the Secretary of Transportation Skinner. I was there immediately after the state of the spill was uncontrollable.

Mr. President, the lessons learned from the manner in which the effort to contain took place is something we can all reflect on, as represented in this legislation. The action that occurred on Good Friday—there was a response. The response was inadequate. And, if I can compare with my colleagues: If a Senator's house is on fire, the fire department responds. And they either break the door or chop a hole in the roof, and they immediately begin the process of putting out the fire.

Well, the *Exxon Valdez* accident occurred, the spill began, there was a reaction but it was hardly what we would expect out of a volunteer fire department from even Podunk. Alaskans were led to believe that there was a contingency plan and a containment plan that was adequate. Well, clearly it was inadequate and the tragedy is that the contingency and containment plan, as approved in its entirety, in reality was never totally put into place. For a lot of good reasons by a lot of knowledgeable, well-intentioned people, there simply was not an adequate response nor was there an adequate capability to respond.

Two days were lost, Mr. President, 2 days, when if there had been an adequate contingency capability, containment capability, the disaster might have been reduced substantially.

There is absolutely no excuse for this to have occurred and there is enough blame for everybody, including the Congress of the United States as well. So we are left with the lesson and we are going to be left with the lesson for a long time. That is, indeed, unfortunate.

I think the reference in which the committees have attempted to address concerns such as reasonable response, spill response teams, is meritorious. I am pleased to see that instead of relying on industry, as we did in the past, we are going to be relying on a Government response team. I am pleased to see that, opposed to the recommendation of the American Petroleum Institute where the suggestion was made that Alaska would have to rely on Alyeska. Alyeska has already shown its inability to respond in the first instance.

I would like to comment on a couple of other highlights that I found in the bill as proposed and in the amendment by the Senator from Louisiana.

Oil tanker construction size. When we started out in Alaska, Mr. President, the size of our tankers was about 600,000 tons and the *Exxon Valdez* was substantially more, in the area of 950,000 tons.

This represents a reality associated with maintaining an update on contingency containment plans. It is interesting to note the recommendation on double hull. While this would not have curtailed the extent of the *Exxon Valdez* accident because some 30 feet of reef penetrated that hull, nevertheless, Mr. President, for many accidents, double hulls are practical.

We used to pilot out further than Bligh Reef. We went out to Hitchenbrook. We still require pilots go out that far. There are some grave difficulties with weather conditions and dropping the pilot out in such an exposed area in the wintertime, but truly, Mr. President, considering the alternatives, it is appropriate that it be done.

The light on Bligh Reef, as a former member of the Coast Guard, I can tell you that, in my opinion, the grounding of the *Valdez* is like driving down the highway, taking your car and running it into the gas station and knocking down the gas pump. The area transit for the vessel was about 10 miles wide at that particular point. There is simply no excuse for running aground. Nevertheless, through inattention or other reasons that will be brought out, that did occur.

Mr. President, the merits of an oilspill recovery institute for the long-term analysis of the damage to the environment and the ecology are well worth highlighting because these reflect what we can learn about enhancing the area back into its natural state.

Mr. President, there are many other issues here that will come up in the course of this legislation. The junior Senator from Alaska will be introducing an amendment, and my amendment, Mr. President, will be discussed at greater length a little later, but clearly it is intended to address the issue of prevention by involving the activities of local citizens, citizens from the areas, the Prince William Sound area, the Cook Inlet area.

Let me share with my colleagues one reality when we reflect on why Alaska, why some special consideration for Alaska? Do not forget that approximately 25 percent of the crude oil that is produced in the United States today comes from my State of Alaska. As a

consequence, we feel that we should have a proportional share in the expertise that is being developed to ensure we do not have accidents such as this occur again, as well as the reality of having the assurance because of our great distance from centers where there is on hand equipment and containment capabilities that we have the assurance that we, too, have at hand.

I am very pleased to say, it is my understanding from both the majority and the minority that they are inclined to be supportive of the general terms of involving for Alaska under a pilot program a citizens' advisory council to help rebuild the credibility that has been so damaged as a consequence of this spill covering our two major port areas in Prince William Sound and Cook Inlet.

I am pleased to advise the Senate, Mr. President, after approximately 11 town hall meetings in the various communities that were affected by the spill, that almost unanimously the support of local participation, people who are not employees of the oil industry but rather fishermen, tour operators, those who enjoy hunting, fishing, trapping, use the outdoors, that they will now play a role under the amendment of the junior Senator from Alaska in an advisory capacity working with a partnership of industry to attempt to rebuild the trust, and these people will have an awareness that you cannot expect to have in the conventional industry group that has previously had the responsibility.

Mr. President, again I want to commend those members of both committees, the Environment and Public Works Committee and the Commerce Committee. I think we have a piece of legislation that is just not a reaction but clearly well thought out, and addresses for the long-term some of the exposures that we have seen as a consequence, not just to the Alaska disaster, but those that have occurred on that Saturday, that very, very tragic Saturday on the east coast as well.

Mr. President, I thank the Chair and look forward to an opportunity later on in the day when it is appropriate for me to introduce my amendment.

The PRESIDING OFFICER. Who seeks recognition? The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I am pleased to speak in support of S. 686, the Oil Pollution Liability Compensation Act of 1989. I am an original cosponsor of S. 686, and I am pleased to see the Senate acting so quickly on this important bill.

The need for the legislation is quite clear. The devastating *Valdez* spill in March proved that our existing oilspill response system is wholly inadequate. The liability limits are too low, making it cheaper to spill than to take the necessary precautions. Contingency plans often are not worth the paper they are written on. Drunk drivers who were not legally allowed to drive their cars could be at the helm of 1,000-foot tankers. Too little was being done to ensure that crews were adequately manned or qualified, and the cleanup technology, unfortunately, is still in the dark ages.

The bill the Senate is considering today addresses these problems. It more than triples strict liability for large tankers. It establishes a billion-dollar-per-spill liability fund; it establishes a system of Federal review and approval of contingency plans. It is a provision that I authored so that we are ready when another spill happens.

Consistent with that legislation, it authorizes the Coast Guard to look at the driving records of tanker pilots to help identify potential problems. It addresses the issue of crew training, manning, and responsibility. As I urged, it moves us forward to improve cleanup technology, so we can get beyond the point of having men and women, as I saw them, up in Valdez wiping oil off rocks with paper towels.

Mr. President, I have traveled twice to Valdez since the spill. To those who have not seen it firsthand, it is hard to describe. It is an area of unparalleled beauty now deeply scarred, and the scars are going to remain long after the oil is gone, if that is ever cleaned up.

Seeing the devastation of this invaluable natural resource of Prince William Sound made the mission clear for me. I wanted to make sure that my colleagues and I could work together to do all we can to keep this from happening again, and not just in Alaska, by the way, but on the Delaware River and New York Harbor, the Gulf of Mexico, or off the coast of California. The danger in these areas is clear.

On the Delaware River, for instance, we have had 95 spills in the last 3 years, including the recent *Presidente Rivera*, which spilled 310,000 gallons over a 21-mile stretch.

We just heard from the Senators from Alaska. They treasure that environment; they treasure those resources. They agree we cannot let Exxon off the hook before the job is done. Exxon has a responsibility to see that the cleanup gets done through to the end, no matter how much it costs.

I had a personal commitment from the president of Exxon who visited me in my office after the spill, and he pledged that they would do whatever it took to get the spill cleaned up. And if they will not do it on their own despite the promises, despite the commitments, which apparently they have decided to back off from, then we are going to make them do it.

We have to make sure when someone spills oil, they pay for it. And we have to make sure preventive measures are in place to keep the spills from happening in the first place, as much as we can. This bill goes a long way on both fronts.

Mr. President, I would like to note several provisions in the bill which are based on legislation I introduced.

The *Valdez* spill exposed a major gap in oilspill prevention and response: the adequacy of contingency planning. There, the plan to respond to a spill was hardly worth the paper it was written on. Among other things, it assumed a spill of no more than 200,000 gallons would happen. As we all know, the spill we had was more than 50 times that amount.

We should not have had to wait until the plan failed to find out it was flawed. *Valdez* raised questions about our response capacity elsewhere. For example, how well prepared are we to handle a spill in the waters around my State, New Jersey? Not well enough. According to the Coast Guard, both on the Delaware and in New York, a spill of over 1 million gallons or so would overwhelm our response system. That is about one-tenth of what spilled in Alaska.

Some may say the chances of a spill of that size are slim and none. Well, that is what they said in Alaska.

My legislation, S. 986 and S. 1372, would help make sure we know what is in contingency plans, and make sure we can rely on them. The provision in this bill, based on my legislation, would make the Coast Guard look at a plan like the *Valdez* one, and say "you haven't done enough. You're underestimating the risk, and you've got to do more."

When it comes to spills, an ounce of prevention may be worth 10 millions gallons of oil.

My legislation also put the Federal Government, and not the spiller, in the position of deciding when the cleanup is over. Consistent with the credo that the "polluter pays," my bill would allow the Federal Government to recoup the costs of reviewing and approving contingency plans.

Mr. President, as chairman of the Transportation Appropriations Subcommittee, I am fully aware of the constraints of the Coast Guard budget. While we have been able to increase Coast Guard funding in recent years, we have also given them new responsibilities.

My amendment would make sure that the new responsibilities imposed by section 204 of this bill do not detract from the rest of the Coast Guard's mission. It would allow the President to impose a system of user fees to recoup the costs of administering the contingency plan review and approval process. These fees would be credited to the Coast Guard, to offset the funds expended on this new program.

And if the Government determines that an adequate plan is not in place,

it could deny access to our ports by unprotected ships.

My legislation also addressed another weakness that was made so evident in Alaska—cleanup technology. It is absurd, that in a time when we can send a probe to explore Venus, we have men and women wiping oil off rocks with paper towels. As Secretary Skinner said recently, if the oil industry had put the time and effort into preparing for a spill like this that they put into exploration, we might not be in the mess we are today.

It may be inevitable that spills will happen. If so, we have got to be able to respond to them.

I also introduced S. 987, requiring the Secretary of Transportation to conduct a study of oilspills in New York Harbor, the Delaware River, and adjoining coastal waters off New Jersey. This bill will further our understanding of the nature and cause of spills in my region. This understanding is essential to preventing such spills and lessening their impact when they do happen.

Finally, Mr. President, there was the question of the role alcohol may have played in the *Valdez* spill. The tanker pilot has a history of drunk driving. In fact, his driver's license had been suspended twice previously, and is currently suspended. So, while he could not legally drive down to the local 7-11 for bread and milk, he could be at the controls of a 1,000-foot tanker carrying millions of gallons of oil.

Mr. President, this *Valdez* spill was a preventable accident. The knowledge of the captain's history of drunk driving might have helped its prevention. Unfortunately, that information was not available to the Coast Guard, which has the responsibility for licensing those in control of commercial vessels.

Under current law, the Coast Guard does not have access to the National Driver Register, or NDR. The NDR is a data bank for the collection and distribution of records of serious motor vehicle operator violations. It includes records on drunk driving convictions and driver's license suspensions and revocations resulting from such incidents.

Without access to the NDR, the Coast Guard must rely on license applicants' own admissions of major infractions. That's just not good enough. Previously, it was revealed that thousands of applicants for aviation pilot licenses did not reveal information on drunk driving histories when asked. I introduced legislation, now law, to allow the Federal Aviation Administration access to the National Driver Register in reviewing license applications. Similar authority has since been given to the Federal Railroad Administration with regard to railroad engineers.

My bill would provide the Coast Guard with access to the NDR in considering the licensing of merchant seamen in direction and control of vessels. This legislation is important to improving marine safety. If a person has a history of alcohol abuse and drunk driving, we should know that before he or she is allowed to control a tanker holding millions of gallons of oil.

Second, the bill directed the Coast Guard to promulgate rules to require the disclosure of information in the NDR by applicants. Currently, Coast Guard regulations provide for the denial of a license:

> When information has been brought to the attention of the OCMI [Officer in Charge, Marine Inspection] which indicates that the applicant's habits of life and character are such as to warrant the belief that the applicant cannot be entrusted with the responsibilities of the license or certificate of registry for which application is made. (46 C.F.R. Part 10.205(f)(2).)

However, without access to the information in the NDR, this authority is incomplete. My bill would rectify that.

Mr. President, I am pleased to note that the bill we are about to pass today contains provisions based on the legislation I have cited. I appreciate the cooperation of my colleagues in including these provisions. I commend our distinguished majority leader for his tireless efforts in this area. Mr. President, I urge my colleagues to support this important bill.

Mr. BREAUX. Mr. President, this unanimous-consent request has also been discussed I think with the ranking Republican member and the managing Senator on behalf of the Environment and Public Works Committee. I ask unanimous consent that the Breaux amendment No. 666 be considered adopted as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. I reserve the right to object.

The PRESIDING OFFICER. The Senator from Rhode Island reserves the right to object.

Mr. BREAUX. Mr. President, I point out to the Senator the purpose of this is just to have the amendment, which contains Environment and Public Works Committee and Commerce Committee materials, be at the desk for the purpose of amendment. It would still be amendable. I think most amendments are drafted to that text, and the purpose of having it at the desk in that form is so that the amendments will be to the Breaux amendment.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the unanimous-consent request by the Senator from Louisiana relative to consideration of the amendment which is submitted as the amendment for purposes of further action on this legislation.

Is there objection to that request?

Without objection, it is so ordered.

AMENDMENT NO. 668

Mr. CHAFEE. I send an amendment to the Commerce Committee amendment to S. 686 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 668:
>
> On page 18, line 1 after the word "not" insert the word "substantially".

Mr. CHAFEE. Mr. President, I urge adoption of my amendment.

Mr. BREAUX. Mr. President, I commend the Senator from Rhode Island for offering his amendment. In essence, we have set up a whole series of requirements for tankers to follow while transporting crude oil, or any oil for that matter, to have to follow. We have an exception that says "except when there is a qualified pilot who is also licensed by a State."

The Senator from Rhode Island has some concern that this may really set out a whole series of requirements for really small vessels that perhaps are transporting oil from an island off of a State to another island, transporting fuel oil. For them to have to meet some of these requirements, it would mean adding more people to the crew than they have on the crew already.

I think his amendment makes sense. I think it addresses a potential problem and stops it before it would occur. I support the Senator's amendment.

Mr. BAUCUS. Mr. President, I think it is a good amendment and we are prepared to accept the amendment.

Mr. CHAFEE. Mr. President, I will add just a couple words.

What we are trying to take care of is a situation unlike that of Prince William Sound for mammoth tankers. This legislation is very detailed. For example, it talks about one deck officer and one lookout in the navigation bridge in addition to the mate and helmsman on watch, no less than two individuals on board holding a first-class pilot's license. Those in charge of the vessel must fix and record the position of the tanker on a nautical

chart at least once every 6 minutes. It is extremely detailed. There is a loophole—there is an out, an escape hatch if you would—wherein it says that the Secretary may waive those requirements or modify them if they do not enhance the tanker's navigational safety. And by adding the word "substantially," it means that the Secretary can look over the situation, make these modifications, not just based on the fact that they enhance the vessel's safety, but they have to substantially enhance the vessel's safety.

So I appreciate the Senator from Louisiana and others for accepting this amendment.

I urge its adoption.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (No. 668) was agreed to.

Mr. CHAFEE. I move to reconsider the vote by which the amendment was agreed to.

Mr. BREAUX. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 669

(Purpose: To require double hulls on new tankers operating in U.S. waters)

Mr. ADAMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS] proposes an amendment numbered 669.

On page 27, line 16, through page 28, line 5, strike everything and insert in lieu thereof the following:

"(a) REQUIREMENT FOR DOUBLE HULLS.—(1) This section applies to any newly".

Mr. ADAMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, line 16, through page 28, line 5, strike everything and insert in lieu thereof the following:

(a) REQUIREMENT FOR DOUBLE HULLS.—(1) This section applies to any newly constructed tanker of at least twenty thousand gross tons which carries oil in bulk as cargo or in residue and operates on the navigable waters of the United States, or transfers oil in a port or place subject to the jurisdiction of the United States.

(2) This section shall not apply to a public vessel.

(3) All tankers to which this section applies shall be equipped with a double hull, which includes both double sides and a double bottom fitted throughout the cargo length of such vessel.

Mr. ADAMS. Mr. President, I asked that the first part of the amendment be read so that everyone understands that this is the double-hull amendment.

Mr. President, I want to state at the outset, as I did earlier today, that this is an excellent bill we have before the Senate at the present time. It will do much to protect the environment.

The legislation incorporates many of the concepts that I initially proposed, and I am grateful to the committee for having done this. I made these proposals to ensure that Puget Sound, as well as the other great bodies of water of the United States, are protected, so that, if there is an accident, we are prepared to respond immediately and protect our waters.

We cannot afford to be complacent, Mr. President. It could happen to us. I want to do everything possible to protect Puget Sound, and I think this amendment is an important part of that.

I would like to for a moment take the time of the Senate, and of the American public, to explain why I want more than is in this bill with regard to double hulls on tankers.

The bill before us requires a 1-year rulemaking by Coast Guard on double hulls or double bottoms. I appreciate the committee's inclusion of this provision. I believe it is an improvement on existing law. But I want to state very clearly why in my opinion it does not go far enough. There is some very important and interesting history of what was promised when the Alaska pipeline was built by the companies in terms of tankers. I want to give part of that history as a former Secretary of Transportation who was involved in this issue, and on behalf of my colleague, the late Warren Magnuson, who was also involved as chairman of the Senate Commerce Committee, so that the Senate does not forget what happened 15 years ago.

This amendment mandates that there be double hulls on all new tankers operating in U.S. waters, all tankers over 20,000 deadweight tons. So we are not talking about with barges or very small vessels. All tankers constructed after the date of enactment would have to be built with double bottoms and double sides.

As a former Secretary of Transportation, Mr. President, I have been involved in the debate over double hulls for many years. Fifteen years ago the senior Senator from Washington, my good friend, the late Warren G. Magnuson, introduced legislation to require double bottoms on all tankers engaged in trade with U.S. ports. In 1977 as Secretary of Transportation for President Carter I directed the Coast Guard to negotiate a double bottom requirement with the international maritime organization. Unfortunately the international conference rejected the U.S. approach. And, even more unfortunate, Mr. President, Senator Magnuson's legislation was not enacted in the Senate.

Had these requirements been adopted our ports and harbors would be safer today.

This is not in any way a frivolous amendment. It is not in any way meant to be critical of the committee. But it is meant to cut through the redtape, the inability of the Government to operate on regulations, and to mandate a requirement that is fundamentally sound.

One week before Senator Magnuson's death he wrote testimony in support of my double-hull legislation. I presented this to the Commerce Committee at the time they were having hearings on this bill. Let me quote part of what he said in his testimony because it is part of the history of this institution, and of the Nation on double hulls:

The oil industry recognizes the importance of double hulls. When these corporations were seeking Federal permits for the TransAlaska pipeline from the Nixon administration they promised that all tankers transporting Alaska oil would have double hulls. Unfortunately, they reneged on that assurance. Now it is time to require the oil industry to live up to their promise.

Mr. President, turning for a moment now to studies by the Office of Technology Assessment and the National Transportation Safety Board, both of these studies show that double hulls provide significant protection against accidental oilspills from groundings and collisions. In most accidents only the outer shell would be penetrated, and no oil at all would spill. In cases where the inner hull is ruptured, double hulls provide the added benefit of containing some of the oil spilled between the hulls, and thus slowing the flow of oil giving the response teams a longer period of time to respond and to handle the problems involved with the spill.

Mr. President, an internal Coast Guard study concluded that 25 to 60 percent less oil would have been spilled if the *Exxon Valdez* had been built with a conventional double bottom. Double hulls also provide structural support in cases of catastrophic events such as a severe explosion on the ship. And thus it may help save the ship in things other than grounding.

Last month, in testimony before the Commerce Committee—and I am grateful that they have changed, Mr. President, I really am—Admiral Yost, Commandant of the Coast Guard, stated:

Double bottoms and double sides are the single best thing that can be done to prevent oilspills.

Now, Mr. President, double hulls are not an untested proposal on the drawing board of some naval architect. They are currently required on tankers carrying liquified natural gas and hazardous chemicals.

In addition, I might state parenthetically, almost half of the U.S. oil tanker fleet operating today are equipped with double bottoms.

Mr. President, this is one of those rare instances where as a former Cabinet member, I feel that placing limitations on Secretarial discretion is appropriate. On this issue the facts are clear. Double hulls are a rational safety device which will reduce the danger of oilspills. They will not prevent every oilspill. No safety device is perfect. But in most cases, they can reduce the extent of injury, and that is why we require them. Double hulls are important, and I want to give two real-world examples to you, Mr. President, and to my colleagues, and to the American public.

As stated earlier, double hulls are required for liquified natural gas carriers, in June 1979 the liquified natural gas carrier, *El Paso, Paul Kayser,* ran aground in the Straits of Gibraltar. It was fully loaded with 100,000 cubic meters of liquified natural gas. Even though the whole bottom was ripped open, not 1 cubic meter of gas was spilled.

In December 1980, a second liquified natural gas tanker, the LNG *Taurus,* was stranded in the inland sea of Japan, loaded with 125,000 cubic meters of gas. Forty percent of the bottom was breached, but there was no leakage of gas.

Mr. President, this issue, as I have indicated by the history, has been studied to death. We worked on this 15 years ago. The technology has not changed significantly in the last decade. It is time to act, Mr. President. I think that we can say that the *Exxon Valdez* shook us out of complacency, because for too many years, we relied on assurances from the oil industry that the Coast Guard and our tanker fleet were safe, that spills would be prevented, and they could be cleaned up quickly. The environment was safe. Now we know better.

In light of the Prince William oilspill, we must now act on a new assumption: Any oil tanker can run into trouble, east coast, west coast, wherever. Companies that profit from the production and transportation of oil have a responsibility of ensuring that their activities do not endanger the rest of our maritime environment. It has taken a disaster of this magnitude to show how empty the oil companies' promises are that oilspills can be contained. The Federal Government must now step in, and I urge my colleagues to adopt this amendment.

Mr. President, I ask unanimous consent that the following documents appear in the RECORD following my statement: One, a fact sheet on double hulls. Two, the Coast Guard study of the *Exxon Valdez* with the hypothetical double bottom. Three, the chapter of the OTA study on double bottoms and double hulls. Four, the Marad list of U.S. tankers with double bottoms.

Mr. President, I hope this amendment will be adopted. I think it is an important amendment. It would have saved us a great deal of agony had it been in force long ago. I urge my colleagues to adopt the amendment, and at the appropriate time, Mr. President, we will determine whether or not to ask for the yeas and nays.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OIL TRANSPORTATION BY TANKERS: AN ANALYSIS OF MARINE POLLUTION AND SAFETY MEASURES

(Congress of the United States Office of Technology Assessment, July 1975)

CHAPTER IV. APPROACHES FOR REDUCING POLLUTION AND IMPROVING SAFETY

A. Introduction

This chapter deals with methodologies which address the total tanker transportation systems in terms of system safety and environmental protection. This "systems approach" is considered highly desirable if meaningful improvements are to be made. Specifically, this chapter will discuss the aspects of the four interactive elements which describe the oil transportation system by tanker namely:

The ship and its operational, design, and maintenance characteristics;

The man who operates that ship;

The systems (whether onboard or ashore) which furnish information and control for the man to operate that ship; and,

The environment (in terms of wind, waves, harbor, channel configurations, traffic densities, etc.).

B. Ship Improvements

1. Nature of the Problem

As noted previously, the feature of tanker operations which accounts for the greatest volume of oil discharged into the sea by ships on a continuous, worldwide scale is ballasting and deballasting. Tanker accidents, on the other hand, while accounting for a lesser volume of oil discharges than do the operational discharges, have the distinct disadvantage of being large concentrated discharges often in the more ecological sensitive, near-shore zones. The following sections will describe certain design and construction features which would improve safety and reduce one or both the previously discussed oil pollution sources by varying degrees. The possible improvements of each are also described.

2. The Utilization of Segregated Ballast Spaces for Accident Protection

Although numerous alternatives have been suggested to improve the oil pollution protection of tankers, the one that has received greatest attention is the fitting of double bottoms to prevent or reduce oil spills in the event of grounding accidents.

A. DOUBLE BOTTOMS/DOUBLE HULLS

Double bottom construction had its advent in the early days of iron cargo ships in the latter part of the nineteenth century. It was necessary to provide a smooth deck on which to place the cargo within the hold, because of the cellular construction at the ship's bottom. Since then, double bottoms have been incorporated in passenger ships, naval craft (including Coast Guard vessels), combination carriers, container ships, dry bulk carriers, roll-on, roll-off vessels, etc. Moreover, every chemical tanker and liquefied flammable gas carrier are required both by the respective IMCO (International Maritime Consultative Organization) Codes and U.S. National Regulations, as published by the U.S. Coast Guard, to be provided with double hulls. (The intent here is to protect the hazardous cargoes from side and bottom damage due to collisions and groundings respectively.)

Although neither double hulls nor double-bottom oil tankers have to date been required by regulations, a total of 34 ships so fitted are in operation, under construction, or under contract. These 34 tankers comprise a total of 3,483,000 deadweight tons (see Table IV-1). Of these, 28 tankers, totalling 2,210,000 deadweight tons, are or will sail under the United States flag. As further shown by this same table, a great many of these tankers may enter the Alaska to the West Coast trade.

TABLE IV-1.—DOUBLE BOTTOM TANKERS IN OPERATION OR UNDER CONSTRUCTION OR UNDER CONTRACT, JANUARY 1975

Year built	Number	Deadweight tons (each)	Builder	Owner/operator	Flag	Remarks
1969–73	[1] 6	212,000	Sasebo, Japan	Mobil Shipping	United Kingdom and Liberia	Foreign trade.
1974–76	[2] 3	89,700	NASSCO, San Diego, Calif.	Aeron Marine	United States	Do.
1975–76	4	89,700	do	Third Group	do	Do.
1977	2	89,700	do	Chestnut Shipping	do	Do.
1976	4	89,700	do	Shipmor Association	do	Alaska trade.
1977–78	2	89,700	Todd, San Pedro, Calif.	do	do	Do.
1977	2	89,700	do	Energy Tankers	do	Do.
1979	1	89,700	do	U.S. Lines	do	Do.
1978–79	3	89,700	do	Hawaiian International	do	Foreign trade.
1975–77	6	35,000	FMC, Portland, Oreg.	Chevron	do	Domestic.
1974	1	118,000	Sun Ship, Chester, Pa.	Not available	do	Alaska trade.
Total	[3] 34	3,483,000				
U.S. flag	28	2,210,000				

[1] All in service. 1 is actually 270,000 dwt.
[2] 1 in service.
[3] Mobil Oil Corp. has 7 additional tankers inthe 30,000 to 40,000 range which have partial double bottoms. ***

TABLE IV–2.—U.S. FLAG TANKERS UNDER CONSTRUCTION/CONTRACT, OCTOBER 1974

Company and number	Deadweight tons (each)	Estimated total cost (millions)	Percent subsidy	Owner	Scheduled delivery
Avondale Shipyards, New Orleans, La.: 6	165,000	$400.0	None	Standard Oil of Ohio	1978
Bath Iron Works Bath, Maine: 4	25,000	64.0	None	Marine Shipbearing Corp.	1975
Bethlehem Steel Corp., Sparrows Point, Md.:					
3	265,000	210.2	43	Boston Tankers	1975–76
2	265,000	162.9	41	Gulf Oil	1976
FMC Corp., Portland,Oreg.:					
4 [1]	35,000	64.4	None	Union Bank (Chevron)	1975
2 [1]	35,000	35.0	None	do	1977
National Steel Co., San Diego, Calif.:					
3 [2]	89,700	83.6	43	Aeron Marine	1975
1	38,300	18.2	43	Margate Shipping	1975
4 [2]	89,700	112.8	36	Third Group	1975–76
4 [2]	89,700	120.0	None	Shipmore Associates	1976
3	38,300	65.1	35	Moore-McCormack	1975–6
2 [2]	89,700	65.8	33	Chestnut Shipping	1977
Newport News Shipbuilding & Dry Dock Co., Newport News, Va.:					
2	390,770	277..9	39	VLCC I and II	19078
1	390,770	136.6	39	Zapata	1979
Seatrain Shipbuilding Corp., Brooklyn, N.Y.:					
1	225,000	57.3	3	Polk Tanker	1975
1	225,000	70.6	41	Fillmore Tanker	1976
1	225,000	94.2	39	Pierce Tanker	1977
Sun Shipbuilding & Dry Dock Co., Chester, Pa.: 1 [1]	118,300	49.0	None	Undisclosed	1975
Todd Shipyards Corp., San Pedro, Calif.:					
3	25,000	48.0	None	Marine Ship Leasing	1974
4	35,000	79.4	43	Sea Service Tankers	1975–76
2 [2]	89,700	67.8	None	Energy Tankers Corp.	1977
2 [2]	89,700	67.8	None	Shipmore Associates	1977–78
3 [2]	89,700	116.4	34	Hawaiian International	1978–79
1 [2]	89,700	38.4	None	U.S. Lines	([3])

[1] Tankers with both double bottoms and double sides, 7.
[2] Tankes fitted with double bottoms, 21.
[3] Not available.

NOTE.—Total number under construction, 60; total deadweight tons under construction, 6,842,510 tons.
Source: Maritime Administration, Division of Ship Construction, December 1974/January 1975.

Table IV-2 lists all of U.S. flag tankers under construction or contract for construction as of October, 1974, according to statistics provided by the Maritime Administration. Of the total of 60 tankers under construction or under contract, within the United States 28 are of the double-hull or double-bottom design. In other words, nearly one half of the total number of ships under construction or under contract within the United States as of October, 1974, incorporate either a double hull or a double bottom. (While it is recognized that, due to the current worldwide tanker market "glut", any compilation of this sort is subject to fluctuations, it is especially noteworthy to recognize the order recently placed by two oil companies with NASSCO for 150,000 and 180,000 dwt double bottom tankers.)

Most of the discussion which has centered itself upon the double hull/double bottom issue might be placed in one of the following categories:

Cost;

Effectiveness, from both an operational and accidental point of view;

Safety, and

Salvage.

B. COST OF DOUBLE BOTTOMS AND HULLS

Estimates of the added costs for double hulls over the capital investment required for a conventional single-skin tanker have ranged over the last 5 years from approximately seven percent to 30 percent (or more, in some cases. The additional costs for double bottoms, on the other hand, have ranged from three percent to 22 percent, estimates indicate. (Most of these estimates were usually made on the basis of comparison with older tankers without segregated ballast capacity.)

However, in contrast to these estimates, U.S. shipyards say that, nowadays, double bottom and double hull tankers are being built at differential cost increases of approximately 3 and 5 percent respectively over the capital investment required for equivalent new single-skin tankers.[1]

Table IV-3 is a tabulation of the various estimates which were made between 1971 and 1973, the period immediately preceding the 1973 IMCO Convention. As can be seen from this table, the average of all estimates of the higher costs for double bottoms and double hulls shows differential increases of 12.3 and 17.4 percent respectively. In each case, when compared to actual construction/contractual costs, they are overestimated by a factor of three to four. (In fact, an active study is being pursued, by a Japanese shipbuilding firm for a number of countries, on the costs and feasibility of retrofitting double bottoms on existing tankers which transit the Malacca Straits.)

TABLE IV–5.—ESTIMATED COST INCREASES (IN PERCENT) OF DOUBLE BOTTOM AND DOUBLE HULL TANKER DESIGNS AS COMPARED TO ACTUAL CONSTRUCTION OR CONTRACTUAL COSTS

	Double bottom design cost increase (percent)	Double hull design cost increase (percent)
ESTIMATES		
Tankers and the ecology, SNAME transactions, 1971	9.6	
U.S.A. segregated ballast study for IMCO, 1972–73:		
(a) 21,000 dwt designs	11.9–12.7	16.0–17.0
(b) 75,000 dwt designs	12.2	17.2
(c) 120,000 dwt design		22.9
(d) 250,000 dwt design	6.4–8.7	17.5
(e) 500,000 dwt design		
Ship design aspects of oil pollution abatement, 1971	3.6	8.0–13.1
Segregated ballast tankers, RINA, 1973	13.5–17.8	12.4–16.8
MARAD, economic viability analysis from EDF, et al., vs. Peterson, et al., 1973:	18.6	22.4
(a) 35,000 dwt tankers	18.6	22.4
(b) 89,700 dwt tankers	([1])	7.3
(c) 225,000 dwt tankers	11.1	22.1
(d) 265,000 dwt tankers	21.8	33.4

[1] As reported by the shipyards who are now constructing double bottom and double hull tankers.

TABLE IV–5.—ESTIMATED COST INCREASES (IN PERCENT) OF DOUBLE BOTTOM AND DOUBLE HULL TANKER DESIGNS AS COMPARED TO ACTUAL CONSTRUCTION OR CONTRACTUAL COSTS—Continued

	Double bottom design cost increase (percent)	Double hull design cost increase (percent)
Average of all estimates	12.3	17.4
ACTUAL CONSTRUCTION/CONTRACTS		
212,000 dwt Mobile Pegasus class built by IHI	4.0	
NASSCO, 89,800 dwt designs being built by National Steel and Todd, San Pedro	2.5	
FMC 35,000 dwt design		4.0
Sun Shipbuilding 120,000 dwt design		5.0
NASSCO 150,000 dwt design	3.5	
NASSCO 180,000 dwt design	3.5	

[1] Provided initially with double bottom.

C. EFFECTIVENESS OF POLLUTION PREVENTION

In regard to the effectiveness of any double hull or double bottom design there are a number of factors which must be integrated; namely:

Extent of penetration from historical data;

The oil containment provided by the double bottom in the event of an inner bottom rupture; and

The distribution of oil outflows as a function of the type of accident; i.e., collision, grounding, and rammings;

The smooth wall/bottom feature insofar as it affects tank ballasting and cleaning, clinage and stripping.

Apart from the obvious advantages of providing segregated ballast spaces, double hull/double bottom construction below and along the cargo length can provide "defensive spaces" for the cargo in the event of a collision, grounding, ramming. (See table IV-4.)

TABLE IV–4.—EFFECTIVENESS OF DOUBLE SIDES AND DOUBLE BOTTOMS ACCORDING TO VARIOUS SOURCES

[In percent]

	Double sides	Double bottoms
United States segregated ballast study to IMCO, June 1972 and February 1973	[1] 15–55	60–65.0
United States segregated ballast study to IMCO, June 1972, and February 1973, alternate method of calculating double bottom effectiveness		52
Preliminary analysis of tanker collisions and groundings by Bovet, January 1973	([2])	92
Effectiveness of double bottoms in preventing oil outflow from tanker bottom damage incidents by card, 1975		90
Booz-Allen study for Bethlehem Steel Corp. re Marad Eva in EDF versus Petersen, et al, 1973		37.5
Tankers and the ecology, 1971		73

[1] For double side widths of 1,46 m (4,79 ft) to 6,55 m (21,48 ft).
[2] A complete range is indicated as functions of striking ship mass and velocity; to give an example, however, for striking velocities of 9 knots and less, to have a 90 percent effective double side, its depth would have to be on the order of 7 m (23 ft).

Note:—The above data (except for item 4) was submitted to the 1973 IMCO Pollution Conference but that conference, after much deliberation, did not impose double bottom requirements.

While the double side issue has not been subjected to the exhaustive studies that double bottoms have, a recent and thoroughly study on the effectiveness of double bottoms was conducted by LCDR J. C. Card, U.S.C.G., ("Effectiveness of Double Bottoms in Preventing Oil Out-flow from Tanker Bottom Damage Incidents", Marine Technology, January, 1975.) This study analyzed 30 tanker groundings which occurred in U.S. waters during 1969 to 1973. In short, it concludes that a double bottom height of 2.0 meters would have been effective in 96 percent of the cases with an attendant 11,550 tons of oil pollution prevented; i.e., given a grounding, the probability of penetrating the inner bottom is on the order of 0.04.

In any case, it would appear from the various analyses conducted that double sides and double bottoms can distinctly provide protection, given a collision or grounding respectively. Moreover, in the more severe cases of collisions and groundings where the inner hull may be ruptured, the double hull or double bottoms will provide three valuable characteristics: survivability, containment and time. Survivability prevents a major incident from becoming a catastrophic event. (For instance, some time ago, the 212,000 dwt, double bottom tanker, *Mobil Pegasus*, experienced a severe explosion in Number 1 center cargo tank during the course of tank cleaning/ballast operation [the ship was not inerted]. Her owners have stated that if it were not for the presence of the double bottom, the ship would have probably broken in two and sunk.) Containment of the cargo is also helped by the double hull or bottom. Finally, it will slow down the rate of oil discharge to the sea and thus buy additional time for response.

To learn more about the concepts of oil entrapment within and the effect on double hull outflow rates, a series of model tests were conducted on a tanker of approximately 225,000 dwt with and without a double bottom.[2] While many parameters were varied, such as wave height, ship speed, and tank pressure, in general the report concluded that, given inner bottom damage, the double bottom was "very effective" in preventing pollution; above and beyond its effectiveness in preventing any inner bottom rupture. In general, the amount of oil outflow to the sea was significantly greater for the single bottom version as compared to the double version.

It also showed this same trend both in waves and with variance in tank pressure. This disparity decreases somewhat with increased ship speed and with more water allowed in the double bottom prior to inner bottom rupture. Regardless of the quantitative values, the tests showed that much more oil was entrapped within the double bottom than previously believed (U.S. Reports to IMCO on Segregated Ballast, Parts 1 and 2) and that oil outflow rates are distinctly lower for a double bottom hull than for its single hull counterpart.

The distribution of oil outflows by type of accident (i.e., collision, grounding, or ramming) has also been thoroughly studied. Based on the data available in 1969, and 1970, it had been stated that oil outflows due to groundings exceeded those from collisions and rammings by a factor of three. With an additional three years of data, this same ratio has decreased to something on the order to 7 to 6; or in other words, the outflows are approximately equal.

The additional three years of outflow data coupled with the cost data given in Table IV—3, which shows that the initial projected costs of complete double hulls were grossly overestimated, has supported a shift in the emphasis from double bottoms to double hulls. Thus, In the macroscopic view, it appears that double hulls deserve more consideration that previously given. It should be noted that a view opposing double bottoms is stated in a booklet "Double Bottoms—Yes or No" issued by the American Institute of Merchant Shipping. The principal negative reasons are safety and salvage considerations which are discussed in the following sections.

In addition to providing tankage for the segregated ballast and defensive spaces from collisions, groundings, and rammings, there are some other effects which are derived from the incorporation of a double hull or double bottom design; namely, the smooth tank bottom surface which does not have the usual cellular structure to either obstruct the flow of oil during discharge or provide additional surface area upon which the heavier oils will adhere; i.e., Increases the efficiency of the discharge operation and reduces clingage. Additionally, the double bottom will allow pump suctions to be placed below the tank bottom as opposed to the conventional suction bellmouths which are above the tank bottom. The effect here is that the main cargo pumps can draw suction for a longer period of time, thus minimizing discharge time and, secondly, when the stripping pumps are being used, they can draw suction for a longer period of time, thus allowing more cargo to be delivered.

Overall then, the double hull or double bottom design allows more cargo to be discharged (i.e., an increased payload per voyage), it increases the efficiency of the cargo discharge operation (i.e., reduce turnaround time), and it mitigates the sludge build-up problem due to both the ability to draw off the bottom more efficiently and the lesser amount of clingage. (The net effect of having less sludge build-up is that tank cleaning frequencies and the associated problems of the treatment and disposition of tank cleaning residues can be minimized.)

C. SAFETY OF DOUBLE BOTTOMS AND HULL

Ever since double hulls and double bottoms have been proposed for oil tankers, there has been genuine concern expressed by people as to aspects of these designs which might be counter-productive in terms of safety. For the most part these concerns are: (1) the possibility of the accumulation of flammable vapors in the spaces between the outer hull and the cargo tanks; and (2) the concept of lost buoyancy or added weight which a double hull or double bottom tanker will experience when the outer shell is punctured.

Explosion potential aboard oil tankers has existed from their very inception. Whenever one can introduce an ignition source to a vapor-air mixture within the flammable limits of a product in a confined space, an explosion will occur. Throughout the years, explosion protection has been achieved by precluding any ignition sources from hazardous areas aboard the tankers and in some instances (through an inerting system) by not ever allowing the tank medium to pass through the flammable range.

Insofar as the safety of enclosed spaces adjacent to cargo tanks is concerned, void spaces and pumprooms have always been present aboard oil tankers. Moreover, many classes of vessels, including cargo ships and combination carriers, have operated with bulk flammable liquids above a double bottom or adjacent to a transverse or longitudinal void space; neither have exhibited any explosion record in these spaces. (Also as mentioned earlier, regulatory agencies *require* double hulls on chemical carriers and liquefied flammable gas carriers.) Specifically, during 1973 and 1974, worldwide tankers had an explosion/fire casualty rate of 4.1, while ore/oil carriers and bulk/oil carriers had explosion/fire rates of 4.4 and 8.3 respectively. While at first glance these figures might suggest that the bulk/oil carriers have a high potential for explosions related to their double bottoms, in none of the 13 cases did the explosion occur in the double bottom. According to an article in Motor Ship, June, 1974, the International Chamber of Shipping has indicated that they suspect the cause of the bulk/oil carrier explosions to be due to either static electricity discharge in a slack tank, or ignition by compression due to sloshing. In any case, it is not the double bottom that is the causative factor for the explosions. Moreover, the explosions involve a situation peculiar to the bulk/oil carriers.

Finally, with respect to the explosion potential issue, if there were an accumulation of flammable vapors in the double hull or double bottom, there are much fewer ignition sources present to cause an explosion than in cargo tanks. Moreover, on every ballast voyage, the double hull or double bottom will be "gas-freed" by the infusion of the ballast water to these spaces.

D. SALVAGE CONSIDERATIONS OF DOUBLE BOTTOMS

The issue pertaining to the lost buoyancy of a tanker with a double bottom stems from a basic principle of naval architecture. That is, when a conventional single skin tanker is "holed" in the bottom, oil escapes to the sea and the ship actually rises. * * *

As previously indicated, many other ship types (combination carriers, chemical carriers, cargo ships, etc.) have double bottoms and have not indicated any adverse effects in a grounding due to the presence of the double bottom. In fact, sinking rates due to groundings are less for these types of ships. Secondly, from a salvage point of view, it is more advantageous to keep the ship as firmly aground as possible and then give her sufficient buoyancy and proper trim at the selected moment for refloating. In fact, this was precisely the situation with the *Metula* grounding incident. *Metula* was initially only aground in the forward portion of the

ship and lost some 6,000 tons of oil. However, tides and currents swung *Metula* such that she became totally aground, including the flooding of the engineroom, and subsequently lost an additional 49,000 tons of cargo. The salvors were then faced with the prospect of either discharging oil to the sea to generate the necessary buoyancy or lightering it to another tanker, which was not an easy feat. A tanker with a double bottom, on the other hand, may have been more firmly aground initially and thus precluded the tanker's further movement. It would also have provided more options to the salvors in terms of directly dewatering the double bottoms without oil discharge as well as providing additional compartmentation. As a matter of fact, the office of the Supervisor of Salvage of the U.S. Navy has indicated that the additional compartmentation of a double bottom design along with the more stabilized platform of a more firmly grounded vessel is a distinct advantage. To quote, "I view the probability of a major salvage or pollution incident growing out of the grounding of a large single-bottom tanker an order of magnitude greater than for a double bottom tanker."

3. Controllability Aspects

One of the most discussed facets of tanker operations is controllability. For purposes of discussion herein, ship controllability is defined as the ability of the operator to control the ship according to the ship's inherent hydrodynamic characteristics and as modified by both the local environment in which the ship is operating and any peripheral equipment (either on board or onshore) which furnish information and/or control to the operator. Probably the most widely quoted statistic pertaining to supertanker controllability is its full-throttle-reverse stopping distance at 16 knots. For this maneuver, the supertanker requires about three nautical miles whereas a much smaller tanker (17,000 dwt) requires something less than one nautical mile. One would presume, however, that ships in general, and large oil tankers in particular, will be operating at speeds well below the 16 knots when in congested traffic areas or within the confines of a harbor. In fact, one would expect maneuvering speeds of the order of six knots, wherein the stopping distances are reduced to three-quarters of a nautical mile for a 250,000 dwt tanker and one-quarter of a nautical mile for a small tanker.

While speed regimes, or the limit thereof, narrow the disparity among tanker sizes, the tremendous difference in mass and the decrease in horsepower to displacement ratio of the larger tankers are such that at a given approach speed, the larger tanker will always require more distance and area in which to stop. Basically, stopping performance is governed by ship size, speed of approach, loading condition, astern thrust, time lag in reversing the propeller, added hydrodynamic resistance, added nonhydrodynamic retarding force, and use of tugboats.

As previously indicated, stopping distance increases with both ship size and approach speed; i.e., mass and velocity, the two parameters of kinetic energy. Thus, to minimize stopping distance for a given ship one must consider one or more of the following:

Approach speed reductions;

Ability to deliver more astern thrust;

Ability to deliver astern thrust more rapidly; i.e., more quickly reverse the propeller;

Added hydrodynamic resistance such as might be provided by parachutes and brake flaps;

Added nonhydrodynamic retarding forces such as a rocket motor; and

The use of tugboats.

Given that ship sizes, due to the economies of scale will probably not become smaller and that, after a point, approach speeds can become so low as to generate loss of steerageway, reducing ship size and minimizing approach speeds have limited application. However, in cases where wind and current effects are minimal, some studies indicate that very low (2-3 knots) approach speeds can be maintained by a fully loaded tanker without losing steerageway. Based on improving a ship's stopping distance from slow and moderate speeds, the effectiveness of practical main propulsion alternatives (that will deliver more astern power and deliver it more rapidly is ranked as follows: double astern power, controllable-pitch propeller, slow-speed diesel, and ducted propeller. For improving stopping ability from high approach speeds, the ranking of effectiveness of practical main propulsion alternatives is: controllable-pitch propeller, double astern power, and ducted propeller.

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Washington, DC, June 22, 1989.

Hon. BROCK ADAMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR ADAMS: Enclosed is the *Exxon Valdez* Double Bottom Study that was requested by Mr. Jerome on June 22, 1989.

I would like to reiterate that Designs #1 and #2 are not viable vessels and were included in the report for completeness purposes only. Design #3, while only a preliminary design, would meet existing tank vessel arrangement and stability standards.

Sincerely,

R.S TWEEDIE,
Captain, U.S. Coast Guard, Commanding Officer, U.S. Coast Guard, Marine Safety Center.

Enclosure: (1) *Exxon Valdez* Double Bottom Study dated May 25, 1989.

MAY 25, 1989.

From: Commanding Officer, Coast Guard Marine Safety Center.
To: Commandant (G—M)
Via: Commandant (G—MTH).
Subject: Double Bottom Designs.

1. At your direction the MSC designed three double bottom vessels that had the same hull form, as well as the same cargo and segregated ballast (SBT) capacities as the *Exxon Valdez*. We then attempted to predict the amount of oil outflow if that vessel ran aground in a fashion similar to the *Exxon Valdez*.

2. Designs #1 and #2 were attempts to have the minimum and maximum possible double bottoms. Design #1 had a 6.7 foot double bottom and a pair of large wing ballast tanks whereas design #2 had all the ballast in double bottom tanks. These designs met the arrangement requirements for the SBT draft and trim standards, protectively located SBT, intact stability, oil outflow, and damage stability in the actual *Exxon Valdez* load condition when vessel grounded. The designs did not meet the damage stability standards when the vessel was carrying a full load of cargo. Additionally, there would have been trim problems if a full load of cargo was carried with the density of Alaskan crude. (The actual *Exxon Valdez* arrangement was optimized to meet these standards while carrying a full load of cargo with the density of Alaskan crude).

3. Design #3 used the experience gained in the first two designs. A vessel with a double bottom height of 11.5 feet and two relatively small wing ballast tanks was designed. This design met all the arrangement standards including damage stability in a full load condition. If the *Exxon Valdez* had been designed as a double bottom vessel it is my estimate that it would have looked somewhat like design #3. Additionally, a rough scantling design was done for design #3 using ABS rules.

4. Enclosures (1) and (2) are the reports that were developed depicting the three designs and show some of the trade-offs involved with the use of double bottoms on tankers. Enclosure (3) is a comparison of the scantlings on the *Exxon Valdez* and design #3 with the double bottom.

5. It is recommended that if the estimated outflows are to be used in any studies or testimony that only the information developed from design #3 be considered. That design is by far the most realistic. It shows that double bottoms would have reduced the oil outflow from the *Exxon Valdez* by 25 percent to 60 percent. It is important to note that in the worst case collision scenario that a double bottom design would increase the oil outflow by about 50 percent over the existing *Exxon Valdez*.

R.S. TWEEDIE.

Enclosures: (1) Preliminary Design of *Exxon Valdez* with Double Bottoms Design #1 and #2.

(2) Preliminary Design of *Exxon Valdez* with Double Bottoms Design #3.

(3) Comparison of Scantling for *Exxon Valdez* and Design #3.

MAY 30, 1989.

First endorsement on CO, MSC LTR 1600 DID 25 May 1989
From: Commandant (G-MTH).
To: Commandant (G-M).
Subject: Double Bottom Designs.

1. The Marine Safety Center's double bottom study gives an excellent corparison of the effectiveness of double bottoms in grounding situations. Clearly, double bottoms of at least 2m depth are effective in reducing the potential oil outflow from grounding. Just as clearly, they are less effective than the *Exxon Valdez's* protectively located segregated ballast arrangement for collisions.

2. From this assessment and the damage information received, I do not believe the first pinnacle, which opened the vessel from the fore peak to the aft slop tank bulkhead, would have breached an inner bottom. This appears to have been a sharp pinnacle, 3-5' above the bottom, which opened the ship like a knife. Little damage would have occurred above the pinnacle.

3. The *Exxon Valdez* probably passed over this pinnacle in about one to two minutes, slowing from 12 knots to a stop. The vessel then probably pivoted to starboard going hard aground in the area of #1, #2, and #3 starboard cargo/ballast tanks. In this area more severe damage occurred. In the case of the double bottom designs, I believe crushing damage would have opened up the inner bottom in designs #1 and #3.

4. I concur with the Marine Safety Center's assessment of possible tanks damaged for design #3. The most probable oil outflow is somewhere between the maximum and minimum values shown (200,000-110,000 bbls.)

A significant mitigating factor with the double bottom designs is the slower outflow of oil. Because the bottom is damaged first and has greater damage, water will flow into the empty double bottom tanks more quickly than the oil. The oil leaking in from the damaged inner bottom will float on the water in the tank. Eventually hydrostatic pressure will force the water and then oil out of the double bottoms, but it will be a much slower process.

J.C. MAXHAM.

PRELIMINARY DESIGN OF EXXON VALDEZ DOUBLE BOTTOM: DESIGN #1 AND #2

Two vessels with double bottoms were designed. Design One has 6.7 feet double bottom and a pair of wing ballast tanks. Design Two has a 19 foot double bottom and no wing tanks. The hull shape, cargo capacity, and amount of segregated ballast were kept the same as on *Exxon Valdez*. Tank locations were kept as constant as possible. Note: These are extremely rough designs. Actual designs would be different.

These vessels were designed to meet the MARPOL standards for protectively located segregated ballast, tank length, oil outflow, segregated ballast draft and trim, and damage stability standards (in the "as loaded" condition).

The oil outflows were then calculated as if the vessels ran aground and sustained the damage that the *Exxon Valdez* did. For comparison purposes a worst case collision situation has also been analyzed. Assumptions used in this analysis are attached. As can been seen the wing ballast tanks are better in the event of a collision and double bottoms are better in the event of a grounding from a narrow outflow viewpoint (i.e., not considering salvage prior to vessels breakup, etc.).

Oil outflow calculations for grounding were based on two different conditions. (1) Vessel ran aground and remained at a 56' draft. (2) Vessel ran aground, tide went out, and waterline was 47 feet forward and 54' at stern. (Low tide condition reported on 24 March 1989).

Oil outflow calculations for collision damage were based on the worst case collision occurring at a main transverse watertight bulkhead involving two wing tanks.

[In barrels]

	Grounding—		
	Condition 1	Condition 2	Collision
Exxon Valdez	184,000	273,000	109,300
Design #1	96,000	162,000	134,000
Design #2	0	0	142,200

Grounding Damage Assumptions:

1. All oil in the cargo tanks above the waterline of the vessel would have run out until tank liquids were at equilibrium with the waterline. (This is not completely realistic because some damage was relatively small and oil was pumped out of tank prior to equilibrium being reached. Also oil from some surrounding tanks ran into #2 and #4 ballast tanks when bulkheads were damaged.)

2. Vessel draft did not change due to oil run off. (This is not completely realistic because buoyant part of vessel will rise out of the water causing draft to decrease)

3. Vessel remained at a zero list. (This is not completely realistic because as the tide comes in and out list will change because vessel was aground on the starboard side.)

4. Liquid equilibrium after grounding would have been achieved in the following group of cargo tanks for the indicated designs:

Exxon Valdez—#1 stbd and center cargo tank; #2 center cargo tank; #3 stbd and center cargo tank; #4 center cargo tank; #5 stbd and center cargo tank.

Design 1.—#1 stbd and center cargo tank; #2 stbd and center cargo tank; #3 stbd and center cargo tank.

Design 2.—None.

Notes: (a) The grounding assumptions are highly speculative. It was based on diver reports. Detailed damage survey must wait until vessel is in drydock.

(b) Analysis does not consider the effect of grounding energy being transferred through the metal structure of the double bottoms. This would cause fractures of the tank top which separates the double bottom space and the cargo spaces.

Collision Damage Assumptions:

1. All oil in the tanks would "run out" of the vessel, none would remain in the cargo tank.

2. Side damage penetrated 33 feet in from the side shell.

3. Side damage extended from the turn of the bilge to the main deck.

4. Worst collision situation for the indicated designs:

Exxon Valdez—#2 wing ballast tank; #3 wing cargo tank.

Design #1.—#2 wing cargo tank; #3 wing cargo tank.

Design #2.—#2 wing cargo tank; #3 wing cargo tank.

PRELIMINARY DESIGN OF EXXON VALDEZ DOUBLE BOTTOM: DESIGN #3

Based on experience gained in the first two preliminary designs a third double bottom vessel was developed. Again the hull shape, cargo capacity, and amount of segregated ballast were kept the same as on the Exxon Valdez. The vessel was designed with an 11.5' double bottom, slightly greater than B/15 (11.07'). The vessel meets the segregated ballast (SBT) draft and trim standards, tank length, oil outflow, protectively located SBT and damage stability standards. Additionally, bottom scantlings for the double bottom were developed. Note: The design described above is a first iteration. A final design would go through several more iterations, both in arrangement and scantlings.

The oil outflows were then calculated as if the vessels ran aground and sustained the damage that the Exxon Valdez did. For comparison purposes a worst case collision situation has also been analyzed. Assumptions used in this analysis are attached. As can be seen from an outflow viewpoint the wing ballast tanks are better in the event of a collision and double bottoms are better in the event of a grounding (i.e. not considering salvage prior to vessel breakup, etc.).

Oil outflow calculations for grounding were based on the following scenario: Vessel ran aground, tide went out, and waterline was 47 feet forward and 54' at stern. (Low tide waterline reported on 24 March 1989)

Oil outflow calculations for collision damage were based on the worst case collision occurring at a main transverse watertight bulkhead involving two wing tanks.

Estimated outflows (barrels)

Exxon Valdez:	
Grounding	273,000
Collison	109,000
Design #3 (11.5' double bottom):	
Maximum	200,000
Minimum	110,000
Collision	164,000
Change (percent):	
Maximum	[1] 25
Minimum	[1] 60
Collision	[2] 52

[1] Decrease.
[2] Increase.

Note.—The above estimates are based on this particular casualty. Other grounding scenarios would give higher or lower values.

Grounding Damage Assumptions:

1. All oil in the cargo tanks would have run out until tank liquids were at equilibrium with the waterline. (This is not completely realistic because oil from some surrounding tanks ran into #2 and #4 ballast tanks when bulkheads were damaged.)

2. Vessel draft did not change due to oil run off. (This is not completely realistic because buoyant part of vessel will rise out of the water causing draft to decrease.)

3. Vessel remained at a zero list. (This is not completely realistic because as the tide comes in and out list will change because vessel was aground on the starboard side.)

4. Liquid equilibrium after grounding would have been achieved in the following group of cargo tanks:

Exxon Valdez.—#1 stbd and center cargo tank; #2 center cargo tank; #3 stbd and center cargo tank; #4 center cargo tank; #5 stbd and center cargo tank.

Design 3 (max outflow).—#1 stdb and center cargo tank; #2 stdb and center cargo tank; #3 center cargo tank.

Possible outflow.—#1 stdb cargo tank; #2 stdb and center cargo tank.

Notes: (a) The grounding assumptions are highly speculative. It was based on diver reports. Detailed damage survey must wait until vessel is in drydock.

(b) The first reef caused a scraping and tearing of hull primarily on center and starboard side of vessel. The second reef primarily caused a tearing action in #1 starboard wing tank with the vessel coming to rest on #2 starboard wing tank. This occurred at about high tide. As the tide went out the ground reaction force increased, causing a greater upward force being exerted on hull, which resulted in an upset of the hull of approximately 6' which extended over 30' to 40' of the vessel's length.

(c) The scraping and tearing caused by the initial reef probably would not have caused the cargo tanks of the double bottom design to open up since the damage was primarily a peeling of the steel hull.

(d) The grounding on the second reef caused a large vertical force on the bottom at low tide. It is estimated that a sufficient amount of this force would have been transferred to the double bottom tank top. This would occur primarily at the intersection of the large transverse double bottom floors and the longitudinal bulkhead. (Reason: The inner bottom structure in this region is most resistant to buckling and bending, thus most of the force would be transferred in the tank top). Based on this, it is estimated that oil would have leaked from both #1 starboard and center tanks.

(e) Additionally, the heavy damage done to the #1 starboard wing tank by the second reef would appear to indicate that the #1 starboard cargo tank would have been damaged in the double bottom design.

Collision Damage Assumptions:

1. All oil in the tanks would "run out" of the vessel, none would remain in the cargo tank.

2. Side damage penetrated 33 feet in from the side shall.

3. Side damage extended from the turn of the bilge to the main deck.

4. Worst collision situation for the indicated designs:

Exxon Valdez.—#2 wing ballast tank; #3 wing cargo tank.

Design #3.—#1 wing cargo tank; #2 wing cargo tank.

FACTSHEET ON DOUBLE HULLS

DEFINITIONS

Double Bottom—A ship constructed with two separate and continuous watertight plating structures along the ship's bottom. Double bottoms generally enclose a compartmented space of up to 12 feet in height, and are used as segregated ballast tanks for tankers. For a 150,000 deadweight ton tanker with a 150 foot beam, the conventional double bottom would have a 10 foot height.

Double Hull—A ship with both a double bottom and double sides.

Segregated Ballast—Separate tanks for carrying ballast water only, thus eliminating the need for carrying ballast in cargo oil tanks. Tankers must carry about one third of their capacity in ballast on a return (empty) leg of a voyage. Ballast tanks are empty when the tanker is carrying oil.

BACKGROUND

1. January, 1975, Senator Magnuson introduced a bill to require double bottoms on all U.S. tankers over 20,000 DWT engaged in trade with U.S. ports, constructed after June, 1975.

2. In 1976, President Carter instructed the Coast Guard to develop new regulations that would require, among other things, double bottoms on all new tankers over 20,000 DWT.

3. The President also recommended that a special international conference be convened to consider these new measures. The Tanker Safety and Pollution Prevention Conference was convened under the auspices of the International Maritime Organization in February, 1978.

4. The Conference rejected the U.S. proposal, adopting instead a requirement that all tankers over 20,000 DWT have protectively located segregated ballast tanks covering 45 percent (for tankers up to 200,000 DWT) or 30 percent (for tankers of 200,000 DWT and above) of their cargo area.

5. The Port and Tanker Safety Act of 1978 mandated the international standards as a minimum and the Coast Guard issued final rules implementing the law in 1979. Thus, protectively located segregated ballast tanks were required as a substitute for double bottoms.

CURRENT USE OF DOUBLE BOTTOMS/HULLS

1. According to OTA, double bottoms are required for tankers carrying liquified flamable gases and certain hazardous chemicals.

2. Double bottoms and hulls are frequently fitted on general cargo ships and passenger ships. Over half the tankers built after 1980 and operating in the U.S. fleet are fitted with double bottoms.

ADVANTAGES OF DOUBLE HULLS

1. Oil spill prevention.—A double bottom will provide protection against acccidental oil spills from groundings. Double sides provide similar protection against collisions. In accidents where there is limited penetration, only the outer shell of the tanker would be damaged.

2. Containment.—In cases where the inner hull is ruptured, double hulls provide the added benefit of containing some of the oil spilled between the inner and outer hull.

3. Reduced outflow.—Double hulls also slow the outflow of oil from accidents where the inner hull is damaged, thus providing more time for cleanup response.

4. Structural strength.—There is evidence that double hulls provide additional survivability in cases of catastrophic events, such as severe explosions, by providing additional structural support.

5. Operational effficiency.—With double hulls, structural supports such as longitudinal and web frames can be placed between the inner and outer hulls. In single hull tankers, these structures must be placed inside the cargo tanks. Therefore, the tanks in double hull tankers have smoother surfaces and can be unloaded and cleaned more easily and efficiently.

CRITICISM OF DOUBLE HULLS

1. "A double hull would not have prevented the *Exxon Valdez* accident." While this may be true, preliminary analysis suggests that many of the tanks that were ruptured were penetrated less than the height of a double bottom. An interal Coast Guard study concluded that 25 to 60 percent less oil would have spilled had the *Exon Valdez* been a double bottom tanker. Also, the *Exxon Valdez* was travelling at a speed much greater than the speeds normal for protected waters such as bays, harbors, and sounds. Most groundings and collisions occur in these waters. Several studies indicate that a significant number of oil pollution incidents from groundings and collisions would be prevented or reduced with double hulls.

2. "If oil gets between the hulls, it could create petroleum fumes which could lead to explosions." There has never been an explosion resulting from a ruptured hull in any of the currently operating double hull tankers. The risk of this happening is the same as the risk of an explosion from a ruptured segregated ballast tank in a single hull tanker.

3. "In an accident, a double hull tanker would lose buoyancy from seawater filling the space between the inner and outer hull, and the tanker would become firmer aground." First, loss of buoyancy would also be experienced by single hull tankers, if segregated ballast tanks are ruptured. Second, there are actually advantages in having tankers more firmly aground, rather than having damaged tankers subject to swing and move with tides or heavy seas. According to OTA, "it is more advantageous to keep the ship as firmly aground as possible and then give her sufficient buoyancy and proper trim at the selected moment for refloating." When the *Exxon Valdez* grounded, the Coast Guard warned the captain of the ship not to try and break the ship loose from the rocks, as the ship might then have sunk, or punctured even more tanks.

4. "Segregated ballast tanks provide the same protection as double hulls." Segregated ballast tanks in single hull tankers only cover a maximum of 45 percent of the cargo area; double hulls would provide protection against collisions and groundings for all of the cargo area.

5. "Requiring new tankers to have double hulls will be ineffectual because there are no new tankers being built." Had the Magnuson proposal been adopted 15 years ago, significantly more tankers in the U.S. trade would have double bottoms. Although the Adams' bill would not effect immediate changes in the tanker fleet, over time it will result in a safer fleet.

6. "A U.S. statute requiring double hulls would conflict with international law." The international MARPOL conventions on ship pollution are not "exclusive" and allow coastal states to enact additional regulations. In our tanker safety and environmental laws, the United States retains its authority to adopt standards more stringent than required by international law.

COSTS OF DOUBLE HULLS

1. The OTA compared the actual costs of building single hull tankers with the cost of building double bottom and double hull tankers. They found that double bottom and double hull tankers were being built at cost increases of approximately 3 and 5 percent respectively over the capital investment required for equivalent single hull tankers.

2. While the construction cost of double hull tankers may be higher than single hull tankers, the costs of operating double hull tankers may be less than those of single hull tankers due to the increase in efficiency discussed above.

STUDIES/REPORTS

1. The 1975 OTA report "Oil Transportation by Tankers" concluded that "fitting double bottoms or double hulls on tankers offer a significant degree of protection from oil pollution in the event of grounding and/or collision accidents."

2. A 1975 Coast Guard study of 30 groundings in U.S. waters between 1969 and 1973 concluded that a double bottom height of 2.0 meters would have been effective in preventing penetration of the inner bottom with a 96 percent probability.

3. A 1975 NTSB report of the grounding of the tanker SS *Hilver Brown* concluded that the lack of a double bottoms contributed to the oil pollution caused by that accident to Cold Bay, Alaska. Because of the Coast Guard's opposition to a double bottom requirement, the NTSB recommended that "additional controls should be placed on the movement of tankships without double bottoms." These controls "should ensure that that the risk of oil outflow from tankships without double bottoms is commensurate with tankships outfitted with double bottoms."

4. A 1981 Maritime Transportation Research Board study entitled Reducing Tankbarge Pollution concluded that "double hull construction [of barges] has been shown to prevent the penetration of the cargo space in 88 percent of the grounding incidents and in 90 percent of the collision and ramming incidents involving tankbarges."

There have been no more recent studies on double hulls and comparing their safety record to that of single hull tankers. Discussions with experts in this field suggests that these older reports are still valid.

TELECON—P. JOHNSON, OTA AND H. NORSETH, OFFICE OF DOMESTIC SHIPPING, MARAD, MAY 4, 1989

U.S. Flag Tankers built since 1970 with double bottoms:

	Tons
ARCO Alaska	120,000
ARCO California	188,000
ARCO Prudhoe Bay	70,000
ARCO Sag River	70,000
Atigun Pass	[1] 173,000

	Tons
B.T. Alaska	188,000
B.T. San Diego	188,000
Blue Ridge	42,000
Chesapeake Trader	50,000
Chevron Arizona	35,000
Chevron California	70,000
Chevron Colorado	35,000
Chevron Louisiana	40,000
Chevron Mississippi	70,000
Chevron Oregon	40,000
Chevron Washington	40,000
Coast Range	40,000
Delaware Trader	50,000
Exxon Baytown	58,000
Exxon Charleston	40,000
Exxon Princeton	43,000
Exxon Wilmington	48,000
Exxon Yorktown	43,000
Falcon Countess	[1] 37,000
Falcon Duchess	[1] 37,000
Falcon Princess	[1] 37,000
Gus W. Darnell	30,000
Kenai	123,000
Lawrence Giamella	32,000
Overseas Chicago	91,000
Overseas New York	90,000
Overseas Ohio	91,000
Overseas Washington	91,000
Paul Buck	30,000
Philadelphia Sun	[1] 37,000
Potomac Trader	50,000
Prince William Sound	[2] 123,000
Richard G. Matthiesen	32,000
Samuel L. Cobb	32,000
Sansinema II	70,000
Sierra Madre	40,000
Tonsima	123,000

[1] Partial.
[2] Double hull.

The above (42) US flag double bottom tankers were all built in the 1970s and 1980s. They represent about one half of all US flag tankers built during that period. None of the 65 tankers in the fleet built before 1970 were built with double bottoms.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. STEVENS. The Senator from Washington has stated the history of the past efforts to secure approval of double hulls or, to my memory, double bottoms.

The record of the debate on the Alaska pipeline amendment will show that I offered, on behalf of the former Senator from Washington, Senator Magnuson, his amendment at the time, when he was out of the country. At that time, during the Nixon administration, the then-Vice President, Spiro Agnew, had led the effort to obtain an international standard of double hulls or double bottoms. The administration was very strong on that position, and so was the Senate.

As a matter of fact, my good friend from Washington, Senator Magnuson, who was at that time chairman of the Commerce Committee, sent me to London to be an observer, to see if we could pursue that further and try to attain the Senate's objective.

It was not attained, because the International Maritime Organization [IMO] would not accept it. We in this bill now—and I urge that the Senate look at it—mandate the Secretary, within 1 year, to complete a rulemaking proceeding to require that all affected tankers which are newly constructed be equipped with double hulls and double bottoms, except to the extent the Secretary determines that either or both of such requirements will not enhance all tanker navigation safety, including protection of the environment, or that an equal or greater benefit to such safety would be achieved by other structural requirements.

The testimony of our committee in connection with *Exxon Valdez* was that double bottoms would not have made an appreciable difference in this instance.

Now, I have some problems with that, because that is guesstimate, like a lot of other things. The *Exxon Valdez* was on Bligh Reef. The evidence shows that the captain tried to rock it off the Bligh Reef. You have to imagine a 1.2-million-barrel tanker is sitting on top of a reef, and it has about a 50-foot draft. The reef is, at high tide, about 10 feet below the water. He had really driven this tanker right up on the reef, and the Coast Guard informed us in our hearings that had that been double bottomed or double hulled, it would have slipped off of the reef and would have capsized, under the circumstances.

Now, I still, in my mind, believe that there is a protection to double bottoms and double hulls. I rode the *Manhattan*, when the *Manhattan*, a double-hulled, double-bottomed tanker, went aground through the passage above Canada and went into Barrow Island off the north coast of Alaska to determine whether or not it was possible to have a tanker that tried to send our oil from the North Slope of Alaska around to the east coast without building a pipeline.

Few people know that when it was returning—it was empty—but when it was returning, it hit an iceberg which punctured both hulls. We never heard any more about oil tanker traffic going through that sensitive area of the Canadian waters.

My point is—and it is with great reluctance that I tell the Senator from Washington—that I think our approach in the committee is better than the approach that we have supported for years, and that is double hulls and double bottoms, in that we have instructed the Secretary to require both unless there is a better way.

Mr. ADAMS. Mr. President, will the Senator from Alaska yield for a question?

Mr. STEVENS. I yield.

Mr. ADAMS. We repeated in the Carter administration exactly what happened to the Senator from Alaska in London. I sent the Deputy Secretary over to negotiate to obtain double hulls. What came out of it is what will happen all over again here. They said "We will use segregated ballast instead and this will protect the ship."

It did not work, then and that same pressure to yield will go again on the Coast Guard, if we adopt the Commerce Committee proposal, and I would say to my very dear friend from Alaska who has worked with us on this for many years that we cannot allow the regulatory process to go ahead because it will not work; they will move around us again.

I might state that the Coast Guard testimony with regard to the *Exxon Valez* was if it had a single hull, and if it had slid off that reef, it would have capsized. So it was not double hull or single hull on the *Exxon Valdez* that made the difference.

This is my question: How can we, other than through a piece of legislation such as this, really obtain the result that we all wanted when we built the Alaska pipeline, of having double-hulled tankers for over 20,000 deadweight tons?

What this amendment does is it adds that layer of protection that it just seems to me we cannot afford not to do.

My Deputy Secretary came back just as the Senator from Alaska did from London, and told me that the IMO did not want to adopt this kind of standard.

So the only way we can do it is to put it in a piece of legislation like the one the Senator from Alaska introduced for Senator Magnuson on this floor that says we will have double bottoms. And I might state to the Senator this it not going to hurt anybody because the companies can easily build the new tankers with the double hulls and double bottoms.

I operated, I want to state to the Senator from Alaska, under a set of instructions exactly like the Senator is proposing. We tried to put out regulations, and we tried to go ahead with the regulations and what we ended up with was segregated ballast.

So that is the reason that I, with the experience that I have had on this issue, feel we have to mandate this with legislation; we cannot do it with regulation.

Can the Senator assure me—that is my question—what makes him feel now that we can get this through this regulatory process, which he could not get through his efforts, and I could not get through mine and which we have been trying unsuccessfully to do for 15 years?

I think we have to mandate it.

Mr. STEVENS. Mr. President, the Senator has a real point.

I want to call attention to the committee report that accompanied the Commerce Committee bill. This is the statement that I rely on.

The committee fully intends that the burden fall heavily on the Secretary to im-

plement the requirement unless the evidence against such requirement is both clear and convincing. Such determination must involve more than cost considerations and cannot be based solely upon foreign policy grounds or the impact of such requirement on U.S. membership in international maritime organizations. The requirements are to be imposed unless the evidence shows clearly they will not enhance safety by reducing the occurrence or the extent of oil spills.

Mr. President, I believe in double bottoms. I have sought double bottoms and double hulls since I have been in the Senate. I believe we have mandated it unless there is a better way, and it is up to the Secretary, within a year, to produce that better way, and we will have a chance to determine that.

In my judgment, no vessels other than double bottoms and hulls should enter Prince William Sound. I think we can be subjective in the sense of the position in the committee amendment. The Secretary can be subjective.

There are places in the country off our shores where any potential accident in terms of grounding would not be as dangerous as running on a reef or hitting a rock up in Alaskan waters or in some of the waters that I know of off the State of Washington. We have rocky shoals under our navigable waters where the tanker traffic exists. Other areas have sandy or muddy bottoms, and their problems primarily are collision or the strain on the tankers themselves.

We do have testimony before the Commerce Committee that there is a considerable amount of leakage of oil from tankers caused by the fact that these tankers are now so long that they hit a series of waves as they traverse the oceans instead of the short few that were hit by the old smaller tankers, and we have mandated a study on whether or not the tanker's size should be reduced. That also is part of the problem here.

Mr. ADAMS. Mr. President, will the Senator yield?

Mr. STEVENS. I want the Senator from Washington to know I am for double hulls and I am for double bottoms. They will be effective in meeting the risks that the vessel will be exposed to. These tankers are built for special trades now. I am sure the Senator knows that the Alaska tankers were built specifically for the Alaska trade. They are not going to carry any other oil and they are going through specific waters and the Coast Guard knows what they are.

We believe they should be designed to the utmost of provide the utmost protection for that trade.

Similarly, I think the Senator from Rhode Island has pointed out that some of the problems we face in Prince William Sound are not faced in Narragansett Bay. They ought to have the kind of protections for their area that the Coast Guard deems are needed in view of the size and the frequency of travel through the area and the hazards that are there.

Now, I believe we have done what the Senator from Washington and I have sought for many years.

This bill requires double bottoms and double hulls unless there is a better way. If there is a better way, then they have to come up with it within a year in a rulemaking that we will review.

Mr. ADAMS. Mr. President, will the Senator yield for one further question?

Mr. STEVENS. Yes.

Mr. ADAMS. We have mandated double hulls on liquefied natural gas, because we wanted them safe, and I gave the example of how it saved the two tankers that did have the tremendous accidents.

We both favor the same result. I would just hope that the Senator from Alaska would support the principle that he has been for for so many years and which I am for and that we simply mandate this. I would say that as a former Secretary of Transportation, do not send this down there under regulation or under committee language. Just send down the law and then it will be carried out. But if we send down something less than the law, I am afraid the Senator and I will be standing here again cursing the Secretary or the Coast Guard over another spill and we will both cry over the accident that has occurred. So I would hope that we will not do that.

Mr. STEVENS. The difference between the Senator from Washington and me is not one of goal. It is one of the means to achieve that goal and determining whether there is something that can provide greater protection for the environment than what we seek.

The Coast Guard has appeared now before our committee in the national ocean policy study twice an twice they have presented some reservations to a total mandated double hull, double bottom for all tankers. They want to be subjective. We have given them the opportunity to do that with a full recognition that we mandate double hulls and double bottoms unless what they do provide in their rulemaking has greater protection for the environment than what the Senator from Washington and I support now.

I have to say to my good friend and neighbor, my southern neighbor from Washington, that I have not changed, and 80 percent of the tankers, I am informed, that are going in and out of Prince William Sound now are double-bottomed.

God knows why the decision was made not to put the double bottom on the *Exxon Valdez.*

We want both double bottoms and double hulls. But they are not in and of themselves total protection against the hazards that all tanker construction in the United States will face, and we think the Coast Guard ought to be able to have the rulemaking authority to determine what other protections might replace those two requirements, double hulls and double bottoms, and under what circumstances, and to give us a rulemaking which we will see, and it must be done in a year.

I would say this is the closest we have ever come to attaining what Senator MAGNUSON and I sought in 1971. In terms of this Senate since that time, we have not been able to get this done since that time, and we have support here now. And I will say to my friend, I would hope he would join us.

The Senator said 20,000 tons, I believe.

Mr. ADAMS. If the Senator will yield, that was the original amount that we dealt with back in the 1970's. The technology has not changed.

I would just hope that the Senator from Alaska would join with the Senator from Washington, and we would put right now 100 percent of the tankers going in that Alaska trade into the double-hull category. And I just would plead with the Senator from Alaska that this is the way to do it.

We are closer than we have ever been before. I have praised the committee for that. But this is the way to do it, not through a regulation.

Because they will come up with something. It was segregated ballast, last time. They will come up with some other way that they will not all have double bottoms and my colleague and I will be faced with a spill off of either Puget Sound or Prince William Sound or off Vancouver Island. We all know how bad the waters are up there.

I think we should protect these areas, and I just cannot see any other way. I just think everybody should vote for double hulls and I hope the Senator will join with me in that vote.

Mr. STEVENS. Mr. President, I hope every Member in the Senate will support double hulls as I have and have since I came here. They should support this committee. This says double hulls and double bottoms are mandated except to the extent the Secretary determines either of these requirements will not enhance oil tanker safety or an equal or greater benefit to such oil tanker navigation safety will be achieved by other structural requirements. That is the greatest challenge I think marine architects have had in the history of our country. We are going to have double bottoms and double hulls unless they come up with something better within a year.

I have to tell my colleagues, I think that is better than what we sought in 1971.

Mr. BREAUX. Mr. President, Paul Harvey is a famous radio commenta-

tor. Every night on his program he says: Stay tuned for the rest of the story. And the rest of the story is very important.

My good friend from Washington, former Secretary of Transportation, has made a good argument. But there is another side.

There is another side of Admiral Yost's testimony before our committee as well.

The Senator from Washington quoted half of his statement when he said that, had the *Exxon Valdez* had a single hull and it had run into the reef, it probably would have spilled less oil initially.

But the rest of his statement went on to say:

> The bad news is, had the ship had a double bottom and come off the pinnacle of that reef, it would have probably sunk on the spot. There are a lot of people and a lot of opinions for double bottoms. There are just as many against.

That is the other side of the story. None of us are naval architects, either in this body or in the other body. None of us absolutely know whether double hulls are required in every part of the world, in Alaska as well as in the Gulf of Mexico, which have entirely different bottoms as the Senator from Alaska has accurately pointed out.

I do not think we are totally competent or in any way competent to make an absolute, total decision that in all cases, all tankers of over 20,000 deadweight tons, that there should be a double bottom. Admiral Yost says had it been on the *Exxon Valdez*, the ship would probably have sunk and probably have discharged a lot more than it did had it sunk.

Maybe in some cases a double bottom is needed. In other situations, it may not be.

So, the approach the committee has taken, and the approach that I think is far more preferable, I will not elaborate, it says to the Secretary he should issue rulemaking beginning immediately which would require that all newly constructured tankers be equipped with double hulls and double bottoms except to the extent that he determines—making a determination—that either or both of these requirements will not enhance oil tanker safety, including protection of the environment, or that an equal or greater benefit to such oil tanker navigation will be achieved by other structural requirements.

That is what the legislation does. It is carefully considered. We should support the committee. It may be they will come back with a double hull requirement, a double bottom requirement. It may be they will come back with something better than both. They could come back with a combination of different architectural recommendations.

The simple point is we in the Senate are not capable of making an absolute total architectural decision on the best design for an oil tanker. The committee's approach is appropriate. It is the best approach. Double bottoms are needed in some areas. In some they are not. This approach gives the Secretary, the experts in our Government, the option to make the choice.

At an appropriate time, Mr. President, I think the best approach would be to move to table the amendment of the Senator from Washington. I intended to do that.

I do want to do that only while recognizing his leadership in protecting his area of the country which has truly been outstanding. Had it not been for the Senator from Washington [Senator ADAMS] there are many things in this legislation that would not even be here. He has made a great contribution to coming up with a strong bill. The approach in reaching a double hull solution is just a different approach. I think the committee approach is far better.

If there is no further debate, and I do not know of any other Members wishing to speak, I would say to the other managers of other parts of the bill, perhaps this would be an appropriate time to move to table the amendment of the Senator from Washington.

I so move at this time.

The PRESIDING OFFICER. The motion to table has been made.

Mr. ADAMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BREAUX. Mr. President, I conclude my remarks by saying I am joined in the motion to table the amendment of the Senator from Washington by the distinguished chairman of the full committee, Senator HOLLINGS, and I think there are others who wish to join.

The PRESIDING OFFICER. We are in a nondebatable posture. Does the Senator ask consent to speak?

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate set aside the motion to table indefinitely.

The PRESIDING OFFICER. Is there objection to setting aside the amendment indefinitely?

Mr. ADAMS. Reserving the right to object, I requested the yeas and nays. Were the yeas and nays ordered?

The PRESIDING OFFICER. The yeas and nays were ordered.

Mr. ADAMS. The request now is to indefinitely set aside or to proceed?

Mr. BAUCUS. I revise my unanimous-consent request. I request the motion to table be postponed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, this amendment has been in the jurisdiction of the Commerce Committee. Senators from the Commerce Committee have spoken to it. This bill is being managed by members of the Environment and Public Works Committee in conjunction with members of the Commerce Committee.

I defer to the members of the Commerce Committee who have spoken in opposition to the amendment of the Senator from Washington. I will support the motion to table.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion to table the amendment of the Senator from Washington. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. HUMPHREY] is necessarily absent.

The PRESIDING OFFICER (Mr. SHELBY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—51

Armstrong	Garn	McCain
Baucus	Glenn	McClure
Bentsen	Gramm	McConnell
Bond	Grassley	Mitchell
Boren	Harkin	Murkowski
Breaux	Hatch	Nickles
Burns	Heflin	Packwood
Chafee	Helms	Robb
Coats	Hollings	Roth
Cochran	Inouye	Rudman
Cohen	Jeffords	Shelby
D'Amato	Johnston	Simpson
Danforth	Kassebaum	Stevens
Dole	Kasten	Symms
Domenici	Levin	Thurmond
Exon	Lott	Wallop
Ford	Lugar	Warner

NAYS—48

Adams	Fowler	Mikulski
Biden	Gore	Moynihan
Bingaman	Gorton	Nunn
Boschwitz	Graham	Pell
Bradley	Hatfield	Pressler
Bryan	Heinz	Pryor
Bumpers	Kennedy	Reid
Burdick	Kerrey	Riegle
Byrd	Kerry	Rockefeller
Conrad	Kohl	Sanford
Cranston	Lautenberg	Sarbanes
Daschle	Leahy	Sasser
DeConcini	Lieberman	Simon
Dixon	Mack	Specter
Dodd	Matsunaga	Wilson
Durenberger	Metzenbaum	Wirth

NOT VOTING—1

Humphrey

So the motion to lay on the table amendment (No. 669) was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the motion was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 670

Mr. JOHNSTON. Mr. President, I would tell my friend from Florida we have clearance on this amendment, so it will take just a moment.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself and Mr. BREAUX, proposes an amendment numbered 670.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

The amendment is as follows:

Add at the end to the Act the following:

SEC. . WETLANDS PROTECTION, RESTORATION AND ENHANCEMENT FUND.—(a) Notwithstanding any other provision of this Act, section 302(d)(1) of the Outer Continental Shelf Lands Act shall remain in effect. The Secretary of the Interior shall levy and the Secretary of the Treasury shall collect the fee of 3 cents per barrel authorized by section 302(d)(1) on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of such oil when the oil is produced. Such fee shall be collected commencing immediately upon the date of enactment of this Act. Such fees shall be deposited into the special fund in the Treasury established pursuant to subsection (b) of this section.

(b) There is hereby established in the Treasury of the United States a Wetlands Protection, Restoration, and Enhancement Fund (hereinafter referred to as the "Wetlands Fund").

(c) Funds deposited in the Wetlands Fund shall be used solely to preserve, protect, enhance, restore, or create coastal wetlands. Such funds shall remain available until expended for this purpose: *Provided*, That no expenditure of such funds shall occur until the date of enactment of qualified authorizing legislation. For purposes of this paragraph qualified authorizing legislation means any law specifically referencing the Wetlands Fund and setting forth standards, consistent with the provisions of this paragraph, for the use of the funds contained therein.

Mr. JOHNSTON. Mr. President, this amendment is submitted on behalf of myself and Senator BREAUX. It simply states that the 3-cent-per-barrel fee presently authorized by section 302(1) of the Outer Continental Shelf Lands Act shall remain in effect and be placed in the Treasury of the United States in a Wetlands Protection, Restoration, and Enhancement Fund.

The funds deposited in the wetlands fund shall be used solely to preserve, protect, enhance, restore, or create coastal wetlands. They shall remain available until expended, but further provided that no expenditure of such funds shall occur until the date of enactment of qualifying authorizing legislation. For the purpose of that paragraph, "qualifying authorizing legislation" means any law specifically referencing this wetlands fund and setting forth the standards consistent with the provisions of this paragraph for the use of the fund.

Mr. President, the President of the United States has announced a no-net-loss policy for wetlands. This is very important, particularly for my State, which is losing 60 square miles a year of wetlands. Let me repeat that because my colleagues may not understand the gravity of the situation in my State. We are losing 60 square miles per year of wetlands.

Mr. President, everyone says they want to help wetlands. The President does, all the committees are working on it, and the problem is there is no money with which to preserve wetlands. There are many projects that need financing.

Mr. President, the Environment and Public Works Committee presently has legislation pending submitted by my colleague, Senator BREAUX, of which I am a cosponsor. Our Committee on Energy and Natural Resources has taken a slightly different approach, suffice it to say that there is a lot of cooperative work on trying to deal with this problem of wetlands.

All this does is to take the fee presently authorized by law and apply that, put that in a fund so that when legislation is reported it may use this fund for those purposes.

I would specifically like to assure my friends on the Environment and Public Works Committee that this is not intended to nor does it in any way change the jurisdiction of committees. It is clearly not an attempt to allow this fund to be used by any committee that could not now use it. That is not the intent at all. It is the intent to have a fund ready so that when the Senate and the Congress is ready to deal with the question of coastal wetlands that there will be a fund, there will be some money there rather than just an empty promise.

We have seen this administration time after time where there have been grand promises on drugs, on space stations, on going to Mars, on coastal wetlands, on a host of different subjects, as to why there is no money provided.

This says the money will be provided and we will work out the legislation perhaps in the bill that Senator BREAUX has, Senator MITCHELL has, of which I am coauthor. But we will find the formula to protect it, and this simply preserves the money.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I thank the Senator for his interest in the subject. Obviously it is very important to his State and very important to the Nation. There is a clear and demonstrated need for action to protect and restore wetlands across this country which are being lost at an alarming rate.

As the senior Senator from Louisiana knows, I have introduced legislation with respect to wetlands throughout North America. Senator BREAUX has introduced legislation with respect to wetlands as has the distinguished Senator from Louisiana. I have discussed this with Senator JOHNSTON. I am committed to attempting in the Environment and Public Works Committee to put together comprehensive wetlands legislation.

Senator CHAFEE has been deeply involved in this subject for many years.

I appreciate the Senator's statement regarding jurisdiction, and merely wish to make certain that what we are talking about here is the establishment of a fund, the disposition of which would await action by the appropriate authorizing committee which is the Committee on Environment and Public Works, which will act on such legislation it is my hope sometime this year.

So what we are talking about here is that there is no question that the jurisdiction of the authorizing legislation which will involve the disposition of the money raised in this specific fund is within the jurisdiction of the Environment and Public Works Committee.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, there is no attempt at all in this amendment to change the jurisdiction of the committees to the extent that the Environment and Public Works Committee has jurisdiction of legislation to be reported. I would suggest that the majority leader can be very influential on questions of where jurisdiction lies. There is absolutely no intent to change that.

I am coauthor of legislation in the Environment and Public Works Committee.

The extent to which the other committees have jurisdiction, is not at all affected by this amendmemt. There is not some hidden agenda I can assure the Senator in this amendment.

What I want to do is be sure. I want to solve this problem along with my colleague from Louisiana which is, as I say, not a theoretical problem to Louisiana. Mr. President, 60 square miles of wetlands a year are lost in Louisiana. We want to get soemthing done and we want to be sure that when the Environment and Public Works Committee is able to act on a bill within its jurisdiction, or if any other committee can do something constructive, there wil be some money there for it. It is not for the purpose of letting some-

body else grab the Environment and Public Works' money. I can assure the Senator of that.

Mr. MITCHELL. I thank the Senator.

I just do not want to get into a situation where the committee of appropriate jurisdiction, which is the Environment and Public Works Committee, is not fully capable of acting on account of jurisdictional questions. As the Senator knows, his proposed amendment with respect to this as previously discussed, if introduced to the bill, would have been referred to the Environment and Public Works Committee. We dealt with that.

I do not want to get into a situation where that committee, on which I have been very deeply involved on this subject for some time, finds its ability to authorize but the authority for the disposition of funds rests elsewhere. Otherwise, we are left with the form of authority without the substances of it.

What I understand the Senator to be saying is that the disposition of this fund will be within the jurisdiction of the Environment and Public Works Committee when we act on authorizing legislation setting forth the standards, and other aspects anticipated by this amendment as part of that legislation.

Mr. JOHNSTON. Mr. President, if I may reply to my dear friend, the majority leader, I do not think this is the time to debate the question of jursidiction over various bills. The Environment and Public Works Committee not only has interest, but it has a wide jurisdiction in this area.

I do not want to concede any jurisdiction that my committee may have simply to put in an amendment which does not affect that jurisdiction, and this is not intended to affect the jurisdiction.

I hope I will not be asked to concede away jurisdiction, which we might have or might not have, simply as a price to get an amendment which does not deal with that jurisdiction. This does not at all deal with that question. And it is not my present intention to try to do anything that the Senator from Maine or the Senator from Montana would not go along with. I want a cooperative effort on dealing with wetlands. I want to do something about wetlands.

Now, frankly, if the Environment and Public Works Committee cannot act or will not act—and there is absolutely no indication of that—then we want to use whatever levers there are in this body to get that done, because it is a vitally important issue in my State. Sixty square miles a year, I say, I repeat ad nauseam, but it is a nauseating subject in my State, 60 square miles a year. This has nothing to do with jurisdiction.

Mr. MITCHELL. If I may just say to the Senator, the reason I raised the question is that this amendment, of course, proposes an extraordinary method of dealing with the problem; that is, that we create a fund before we have decided the purpose for which the fund will be used. We have no authorizing legislation, we have no program, we have no policy. Usually the problem we face is the reverse, we create programs, establish policies, and then we try to figure out how to come up with the money to implement them. Now, this is an approach that is unusual—I think the Senator will agree that is a fair characterization of it—in the respect that we are establishing a large sum of money before we have established a policy or program to which to dispense it. I want to make certain that in the process of doing so, the appropriate method of establishing the program and policy would not be altered.

Mr. JOHNSTON. We are not trying to change that at all. For example, we have had hearings on this oilspill legislation. We had another bill to which the Senator referred. We did not attempt to report that bill out. We worked cooperatively with the EPW Committee, and as well with the Commerce Committee, in trying to get some of our ideas and graft it on.

It is safe to say that our action helped to spur action, and I hope to improve the legislation in other committees. That is all we are trying to do here.

Mr. MITCHELL. I thank the Senator for his interest in the subject. I know that Senator CHAFEE and Senator BOSCHWITZ will be as heartened as I am by the growing and spreading interest of doing something about the problem of wetlands in our country. It is a serious, severe problem, and I look forward late this year to a cooperative effort to develop what will be the first truly comprehensive international wetlands policy, not just for our country, but for the entire North American Continent.

I thank the Senator.

I yield the floor.

Mr. CHAFEE. Mr. President, as everyone knows, I am a terrific supporter of wetlands protection and have been over many, many years. As the Senator from Louisiana has stated so well, not only is Louisiana losing these wetlands, but so are other sections of the country—Louisiana at the highest rate. Of course, these ecosystems are some of the most productive and useful land areas in our country.

I have long argued in favor of the early identification of significant wetland areas and for increased Federal funding for the acquisition, protection and enhancement of these areas. As I mentioned, no one disputes that Louisiana has a unique problem.

Now, I am a little confused as to exactly what is going on here. Just yesterday we had a hearing in which the junior Senator from Louisiana presented legislation dealing with wetlands, and now we are having this amendment presented to us that involves a lot of jurisdictional problems, as has previously been mentioned.

Clearly, this is an area in the jurisdiction of the Environment and Public Works Committee, nobody else. We have jurisdiction over wetlands and are addressing the problems associated with wetland losses. Furthermore, there are difficulties that arise from the perspective of the Finance Committee. I mean, we can call this a fee, but others might well call it a tax. Certainly we hve to hear from the members of the Finance Committee, who are involved with that particular area.

Mr. JOHNSTON. Will the Senator yield?

Mr. CHAFEE. Yes.

Mr. JOHNSTON. This is already being levied. See, your bill surrenders that 3 cents. That is why the necessity to act here is that it simply continues that and puts it in this coastal wetlands fund. If your bill did not surrender it, then there would not be the necessity for the amendment.

Mr. CHAFEE. Now, I have a couple questions—and I know that the distinguished majority leader asked these—but first of all, I want to say that it seems to me we are putting the cart before the horse here. We are coming up with a fund before we know what to do with it. Just yesterday, we had a hearing on the legislation of the junior Senator from Louisiana. We were there for over 3 hours, seeking to determine what exactly we should do in order to protect the wetlands. It is not clear, how to proceed. This is not the easiest subject in the world. My questions to you are as follows: The Environment and Public Works Committee has always had sole jurisdiction over wetlands, as you know. I do not think there is any argument on that on this floor. Is it the observation of the senior Senator from Louisiana, and concurrence, that the Environment and Public Work Committee is indeed the sole committee to develop this legislation that I believe you referred to in your amendment as "qualified authorizing legislation"?

Mr. JOHNSTON. Well, all I can tell the Senator is that there is no doubt that the Environment and Public Work Committee has jurisdiction over the Breaux-Johnston bill. We are not trying to affect that jurisdiction in any way.

Now, if the Senator is trying to ask me, is there no other committee that has any jurisdiction over wetlands in any respect, I am not sure about the answer to that. It depends on the bill, but it is not the purpose of this bill to

expand that jurisdiction. As I say, this does not levy a new tax. It just keeps that tax there. If we pass the Breaux bill or if we pass the Mitchell bill or any other bill dealing with coastal wetlands, then where is the money to pay for that?

You see, the problem, to me is, with the bill presently in Environment and Public Works, it takes it out of the Outer Continental Shelflands fund, the so-called Land and Water Conservation Fund, which, by the way, our committee has jurisdiction over. We have not made any complaint about that. But that is where the money in your bill comes from.

The problem is, that bill would be subject to a point of order, because it would create an entitlement on the Budget Act, with no new funds provided.

Second, to the extent it could get by that point of order, it would have to compete with all the other values, all the other priorities, including drugs, national parks, and all the rest. What this does is say that tax presently being collected, rather than surrender that, hold it in place at a time when we can do so without running into problems with the Finance Committee, because it is already in place, and just divert that and hold it until the Senator's committee or other committees of jurisdiction have a chance to act. That is all it does. Believe me, it is not, I repeat not, an attempt to enlarge the jurisdiction of any other committee at the expense of the EPW. It just simply is not.

I do not understand why there is this concern that there is some hidden agenda here that we are trying to grab the Senator's jurisdiction. We are not. I state that explicitly right here.

Mr. CHAFEE. I am sorry that I am guilty of such Machiavellian thoughts that the Senator might touch our jurisdiction, and I apologize for even thinking that.

Mr. JOHNSTON. Look, if the Senator will yield, there are areas where there is an overlap and a gray area which I wish did not exist under the rules. And to the extent it does, the Senator will assert his jurisdiction and we will assert ours.

This amendment, however, does not deal with that in any way, believe me.

Mr. WILSON. Mr. President, will the Senator from Louisiana yield for a question?

Mr. JOHNSTON. I yield.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, if the Senator will yield for a moment, I beg the indulgence of the Senators from Louisiana and Rhode Island.

The distinguished Republican leader in cooperation with myself prepared a resolution on hostages which is timely because of the approaching deadline with respect to an American hostage in the Middle East.

I wonder if the Senators who are involved in this discussion would agree to permit a brief interruption so that we could proceed to consideration of this resolution to be offered by Senator DOLE in his behalf and mine, and then we would ask that any discussion with respect to that resolution be placed in the RECORD so as not to interrupt the record of this.

Will the Senator yield for that purpose?

Mr. JOHNSTON. Yes, of course.

Mr. MITCHELL. I thank the Senator.

Mr. President, I ask unanimous consent that the distinguished Republican leader be recognized to offer a resolution on hostages in his behalf and mine and that the pending matter be set aside to permit the immediate consideration of that resolution and upon disposition of the resolution that the Senate return to the pending matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I thank the majority leader.

RESOLUTION RELATIVE TO AMERICAN HOSTAGES IN LEBANON

Mr. DOLE. Mr. President, I send a resolution to the desk in behalf of the distinguished majority leader and myself and ask for its immediate consideration and I ask that it be read.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

S. RES. 164

Whereas an organization calling itself the Organization of the Oppressed of the Earth claims to have recently executed Lt. Col. William Higgins, an American citizen seconded to the United Nations Truce Support Organization in Southern Lebanon;

Whereas there is no proof as to whether Lieutenant Colonel Higgins is alive or dead;

Whereas eight other Americans, as well as other foreign nationals, are also being held hostage in Lebanon;

Whereas the captors of one of the American hostages, Joseph Cicippio, have threatened to execute him today;

Whereas it is believed that Iran and Syria have influence with the group which claims to have executed Lieutenant Colonel Higgins and the group which is believed to hold Joseph Cicippio: Now, therefore be it

Resolved, That it is the sense of the Senate that:

1. The captors of Joseph Cicippio must not execute this innocent man, and should cease making threats to kill him or setting deadlines for carrying out any such execution.

2. Iran, Syria and all other governments and parties with influence on the groups which hold Joseph Cicippio and which claim to have executed Lieutenant Colonel Higgins should urgently work to:

(a) Prevent the execution of Joseph Cicippio.

(b) Obtain proof as to whether Lieutenant Colonel Higgins is alive or dead, immediately to inform his family, and—if he is dead—insure that his body is immediately returned to his family.

3. Should any further executions of Americans held hostage occur, the Senate will support an appropriate retaliatory action.

4. All groups or individuals holding Americans or other foreign hostages in Lebanon should release those hostages immediately, without precondition.

Mr. DOLE. Mr. President, we often call the matters we deal with in the Senate urgent. I do not think we will ever deal with a matter more urgent than this one. So I will be very brief.

Terrorists holding American citizen Joseph Cicippio have set 3 p.m. today, our time, as a deadline. They have threatened to execute Joseph Cicippio if their demands are not met by that time.

I am under no illusion that Senate adoption of this resolution will make a decisive difference. But I do know that we must speak out—all civilized people must speak out.

We must speak out on behalf of Joseph Cicippio—an innocent and threatened American.

We must speak out on behalf of the other seven Americans still known to be held hostage; and on behalf of the other innocent people held hostage in Lebanon.

We must speak out on behalf of Maj. Robin Higgins, who still waits, tormented, for word on her husband, Lt. Col. William Higgins; who still does not know if he is alive or dead.

We must speak out, finally, to the hostage-holders, and to the nations like Iran and Syria which either support them or tolerate their activities.

This resolution speaks out, on behalf of the Senate but—far more important—on behalf of all Americans.

Mr. President, we look at the clock, with apprehension, with hope. We look at the clock, and we know this above all—that we must speak out now.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, the recent events in the Middle East have placed the United States and indeed the civilized world in a tense, difficult, dangerous, and delicate situation.

Tragically, one American life may have been lost. Eight others are immediately threatened.

This resolution is intended to provide such support as the Senate can give to those families and to those persons who are threatened and to the President.

We seek to make clear our support for appropriate retaliatory action should the President determine that to be necessary.

We simply must, in this country and across the civilized world, unite to reject, condemn, and respond to the acts of terrorism lest they be embol-

dened to engage in further brutal actions.

The murder of Joseph Cicippio would be a savage and barbarous act, and those who contemplate and threaten such action must be prepared to accept the consequences if they act.

In that regard, the Senate and I am confident the American people stand as one.

Mr. President, I yield the floor and thank the distinguished Republican leader, and I thank especially my colleague and friend from Louisiana for permitting this brief interruption.

EXTRADITE OBEID

Mr. HEINZ. Mr. President, the hour is 2:25. In just 25 minutes the kidnapers of my constituent, Joseph Cicippio, intend to make an announcement as to his fate.

I think we have all been horrified by what happended to Colonel Higgins. We do not know exactly what happened to him. We all think he is dead. But there is one thing that is certain and that is somebody closely associated with the kidnaping of both Colonel Higgins and Joe Cicippio is in custody in a country with which we have an extradition treaty. I refer, of course, to Sheik Obeid, and the Nation of Israel with whom we do have an extradition treaty.

We have declared, and it is now law, that kidnaping and any crime visited on the person of a U.S. person overseas, is an extraditable offense. If we can, by legal means, obtain the person of someone we believe to be guilty of either kidnaping or terrorist activities against U.S. persons or property, we may bring them to this country and try them in a U.S. court.

I want it very clear that in my judgment it is very important for our Government, specifically for the Justice Department, to go to Israel now and question Sheik Obeid as to his role in the earlier kidnaping of not only these two United States citizens but any others in which there is any question that his organization might be involved.

I want also to say that there have been some remarks on the floor of the Senate where there was some doubt as to whether or not it was wise for Israel to, in effect, counterkidnap Sheik Obeid.

We know when somebody is guilty of an international crime there is nothing wrong with bringing that person to justice. And at this moment Sheik Obeid remains in Israeli custody and, thanks to the extradition treaty, he could be subject and we could make him subject, with the cooperation of the Israelis, to United States law which will deal harshly, very harshly indeed, with somebody who is adjudged guilty.

Therefore I repeat, Mr. President, I think the Justice Department, the Attorney General should this moment indicate that they are sending a team to question Sheik Obeid in Israel and to determine very rapidly indeed whether we will seek his extradition.

It is my hope in stating this at this time that those who hold Joe Cicippio and others will recognize that we are prepared to take very real action against anybody, whether it is the people who physically hold him right now or anybody who has been involved in his taking and therefore putting him in a position of the loss of life and limb, that we are not just going to talk.

There are actions we can take and, by God, we will take.

I thank the Senate.

Mr. SPECTER. Mr. President, I support this resolution because it makes explicit the Senate's condemnation of the terrorists holding American hostages in Lebanon and our resolve to support a firm response by the United States Government to further acts of barbarous terrorism.

The resolution, introduced by the majority leader, Senator MITCHELL and the Republican leader, Senator DOLE, calls upon Iran, Syria, and any other governments or groups with influence over the captors of Joseph Cicippio to: "prevent the execution of Joseph Cicippio [and to] obtain proof as to whether Lt. Col. Higgins is alive or dead, immediately to inform his family, and—if he is dead—insure that his body is immediately returned to his family." In addition, it clearly states the Senate's intention to support the President in retaliation for further executions of American hostages.

I share the anxiety of all Americans over the fate of Joseph Cicippio and the other hostages. Mr. Cicippio, a Pennsylvanian, was serving as the Deputy Comptroller of the American Embassy in Beirut when he was kidnaped by the Revolutionary Justice Organization almost 3 years ago, on September 12, 1986. I spoke with Joseph's brother, Thomas Cicippio, yesterday morning and am extremely troubled by the anguish that the family is being forced to endure.

I am encouraged by the most recent reports that, in response to President Bush's diplomatic efforts and appeals to third parties, Joseph Cicippio's captors have indefinitely postponed their death threat. I support the President's resolve to leave "no stone unturned" in pursuit of a peaceful resolution of this dilemma and to seek the safe return of Joseph Cicippio and the other eight remaining U.S. hostages.

Our response thus far to this crisis in Lebanon has been severely hampered by a dearth of intelligence information about the various factions of the Hezbollah and the exact whereabouts of our nine American hostages. Yesterday, the Senate agreed to an amendment on this issue which I had offered to the Department of Defense authorization bill. This amendment supports an increased U.S. capability in the area of human intelligence, thus minimizing our dependence on outside and uncertain sources of information. While this legislation will help the United States locate hostages and apprehend their captors in the future, in our present situation we must seek the cooperation of those parties known to possess knowledge of and influence over the terrorists holding Americans in Lebanon.

I appreciate the Senate's expression of support for my constituent, Joseph Cicippio. Through this crisis, the Cicippio family has exhibited a limitless amount of courage and faith which deserves the Senate's commendation. Accordingly, I urge my colleagues to support this important resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 164) was agreed to.

The preamble was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OIL POLLUTION LIABILITY AND COMPENSATION ACT

The Senate continued with the consideration of the bill.

Mr. WILSON. Mr. President, the Senator from Louisiana kindly agreed to yield for a question.

My question is: What is the existing 3 cents per barrel being spent for now?

Mr. JOHNSTON. It goes into a fund for oilspill.

Mr. BREAUX. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. BREAUX. I think an important point to make to the Senator from California is that you will not be losing the 3 cents that goes into the liability fund.

The bill before the Senate right now does two things. It eliminates the 3 cents that is being currently collected, and it establishes a new 3 cents to go into the fund that we are talking about creating today, the $1 billion fund.

The amendment of the Senator from Louisiana merely does not eliminate that 3 cents up front but takes that 3 cents and continues it and puts it into the fund the senior Senator is talking about, so this oilspill liability fund that we are creating today will not be disadvantaged in any way.

The amount of money going into that would continue at 3 cents. The senior Senator's amendment would just create an additional 3 cents that is currently authorized into this trust fund that he is establishing.

Mr. WILSON. I thank my friend from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I will be very brief on this. I do not think it is a jurisdictional argument at all.

The senior Senator's amendment says very clearly that when Congress, through whatever process Congress has, enacts wetland restoration legislation, whether it is out of the Environment Public Works Committee or the Commerce Committee or the Energy Committee, whatever committee in Congress enacts legislation dealing with wetlands, that there will be a source of funding to carry out that legislation. That is my interpretation of the amendment that I have joined the senior Senator in offering.

That money is currently being collected. The bill before the Senate would do away with it. The senior Senator says, by his amendment, let us keep it being collected, let us put it in a special fund in the Treasury so when Congress in our process enacts wetlands restoration legislation, the money to take care of it will be there.

I submit it is not really a jurisdictional argument at all. I am sure our committee will report legislation. This just establishes that there will be a mechanism to pay for it when the committee enacts the proper approach to solving this problem.

Three cents per barrel is not a great deal of money, I would add. It gets the program started, but it is not going to pay for the total cost by any stretch of the imagination. But, it gets it started. I think it is a unique opportunity that the senior Senator has seized upon and I support his effort in that regard.

The PRESIDING OFFICER. The senior Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I ask unanimous consent the Senator from California [Mr. WILSON] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I hope my friends can accept this amendment and work with us cooperatively to report further legislation out of the Environment and Public Works Committee that will appropriately protect wetlands.

Mr. CHAFEE. Mr. President, first of all, there is a little confusion here. As I understand the situation, the current moneys from that fund are not 3 cents, but they are 1.3 cents.

I ask the Senator from Louisiana if that is not correct.

Mr. JOHNSTON. The Senator is not correct. There is another 1.3-cent fund which is levied on all imported oil.

This is a 3-cent fund levied on Outer Continental Shelf oil, which goes into an oilspill fund. I think the collections stop at $200 million. But those are two separate funds.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BREAUX. I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

Mr. BREAUX. Following up on the comments of the Senator from Rhode Island, there is an existing fee. It is 3 cents. It is on the OCS Lands Act; it is currently being collected. That is an existing fee that is contained in the OCS Lands Act right now. That is being collected every day. We have a cap on it, but it is a 3-cent fee.

What we are talking about in the legislation before the Senate is to take 1.3 cents and put it into our oilspill liability fund, and when legislation is completed to establish a new 3-cent fund, that would be the funding we are talking about.

There is a 3-cent fee. It is being collected right now, and that is what the senior Senator's amendment seeks to address.

There is 3 cents. It is being levied. It is being collected. It is in the Outer Continental Shelf Lands Act fund and that is the fee we are talking about keeping and putting into the special fund under the senior Senator's amendment.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

Mr. GRAHAM. Would the Senator withhold?

Mr. CHAFEE. Yes, I would.

Mr. GRAHAM. The Senator from Florida has an amendment which I believe has been cleared by all parties.

I request unanimous consent that we could temporarily set aside the pending business for purposes of offering this amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 671

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself and Mr. LIEBERMAN, proposes an amendment numbered 671.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

To be inserted into the bill in the appropriate place:

That section 24(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1350(b) is amended—

(1) by striking "If any" and inserting in lieu thereof "(1) Except as provided in paragraph (2), if any";

(2) by striking "$10,000" and inserting in lieu thereof "$20,000";

(3) by adding at the end of paragraph (1) the following new sentence: "The Secretary shall, by regulation, not less often than every 3 years, adjust the penalty specified in this paragraph to reflect increases in the Consumer Price Index."; and

(4) by adding at the end the following new paragraph:

"(2) If a failure described in paragraph (1) constitutes a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment, a civil penalty may be assessed without regard to the requirement of the expiration of a period allowed for corrective action.".

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, this amendment addresses civil penalties for violations on Outer Continental Shelf lease operations. I commend my friend and colleague Congressman MILLER for his work in proposing legislation similar to this amendment in the other body on August 2.

The amendment would accomplish three objectives: One, it would increase the current ceiling on civil penalties from $10,000 to $20,000. This increase is in keeping with inflation. Present value of the 1978 $10,000 penalty is $19,000.

Additionally, the Secretary of Interior would be required to adjust the penalty amount at least every 3 years to reflect the increases in the Consumer Price Index.

Third, the Secretary would be authorized to assess an immediate penalty if a violation constitutes a threat of serious, irreparable, or immediate harm or damage to life, including aquatic life, property, mineral deposit, marine, coastal, or human environment.

I emphasize the "or" in outlining the type of threat that could warrant immediate penalty assessment. The authority is provided if the violation constitutes a threat of serious or irreparable or immediate harm or damage.

I also stress that this provision only gives the Secretary discretion in the case of serious harm or damage, but in no way requires immediate penalties to be assessed.

Mr. President, my amendment is necessary to encourage the Department of the Interior to get back on track with its civil penalty assessments for violations on the Outer Continental Shelf. No civil penalties for safety

and environmental violations have been assessed with regard to OCS lease, license, or permit activities since 1983. Yet, since 1985, there have been over 16,000 such violations.

The Department of the Interior points to a 1983 decision in the U.S. District Court for the Eastern District of Louisiana, in which the judge—citing the statutory provision of a reasonable period of time for corrective action prior to assessment—overturned regulations allowing immediate assessment of penalties for OCS violations. The fact that no civil penalties have been assessed since that decision leaves uncertain the actual degree of enforcement regarding these OCS activities.

The Department accurately argues that it currently shuts down facilities where serious violations are found until the violation is corrected. Yet, prior to the decision, Interior was shutting these facilities down and assessing civil penalties to further discourage future violations. Violations have continued that may not be deemed serious enough to shut a facility down, yet pose a serious threat. Nevertheless, no penalties have been assessed in this 6-year period.

We can watch one violation after another occur, let the violator know that it has occurred and that we are watching, and hope that the violator takes corrective action. However, without assessing the authorized penalties for many of these violations, we offer no incentive for preventing further violations.

The message we give is that, if we notice, we will knock on your door and ask you nicely to take care of it. With 16,000 violations occurring without penalty assessment, one can only wonder if DOI's definition of "reasonable period of time" in which to correct the violation is "indefinite."

Mr. President, this is no way to run an enforcement program when safety and environmental protection are at risk. We are in the midst of considering a bill to make producers, handlers, and shippers of oil more responsible, yet we are closing our eyes to enforcement mechanisms to encourage such responsibility. Through enforcement, we can emphasize prevention rather than after-the-fact response to spills or other types of environmental mishaps.

My amendment is intended to give the Department of the Interior the push it needs to renew its enforcement efforts and give the message that we do indeed care about assuring both safety and environmental protection. If we are to look at expanding domestic production of oil, we must build confidence in the program overseeing oil and gas leasing. We must restore the integrity of the OCS program and gain the public trust.

I thank you, Mr. President, and urge my colleagues' support for the amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Reserving the right to object, and I do not intend to object, nor do I have any quarrel with the Senator's effort in connection with this amendment.

I would like to point out that I do not believe there is anyplace in the law, nor do I believe it is, probably, constitutional, to provide that the Secretary would have the right to adjust the penalty in any manner whatsoever.

I think penalties have to be set by statute or by a court. And only can a court set the penalty when we give the court that kind of leeway.

So, although I do not wish to take issue with the thrust of my colleague and friend's amendment, I do wish to point out that I think both the first part of the amendment and possibly even the second part, having to do with assessment of a civil penalty, may not be in accord with what we have a right to do.

Mr. GRAHAM. Mr. President, if I could respond, the current law authorizes civil penalties of not more than $10,000 for each day of the continuance of such violation. That has been the law since 1978. This amendment would authorize that $10,000 maximum to be increased to $20,000.

Mr. METZENBAUM. I have no quarrel with that.

Mr. GRAHAM. The second part would provide that the Secretary of the Department of Interior by regulation, not less often than every 3 years, shall be empowered to adjust the maximum penalty to reflect increases in the cost of living.

Mr. President, I cannot say that I am a sufficient legal scholar to state whether this is a unique addition to American jurisprudence. I am pleased if it is such a novel concept. One of the basic problems with the current law is that it has fallen so far behind the changes in the economic impact of that maximum that it has lost a substantial amount of its disincentive purpose.

The object of this provision in my amendment is to avoid that in the future by providing for periodic increases strictly related to changes in the cost of living.

Mr. METZENBAUM. Further reserving my right to object, I say to my colleague that I am almost certain you cannot do it this way.

The PRESIDING OFFICER. The Senator should be informed that there is no motion to which objection can or cannot be made.

Mr. METZENBAUM. Pardon?

The PRESIDING OFFICER. There is no motion to which the Senator can object.

Mr. METZENBAUM. I thought the Senator from Florida asked for unanimous consent to be recognized at this point and to set aside the pending amendment.

The PRESIDING OFFICER. No, the Senator has spoken. The Senator asked for unanimous consent to put his statement in the RECORD. That was granted, and the Senator from Ohio has the floor.

Mr. METZENBAUM. Then I ask the Senator from Florida, Is the Senator from Florida not offering an amendment at this point?

Mr. GRAHAM. My understanding is I was granted by unanimous consent the right to set aside the pending business for the purposes of offering my amendment. I have offered my amendment. I have made a short but, I hope, persuasive statement on its behalf. I have received unanimous consent that the remainder of my statement be placed in the RECORD so that the full eloquence and power of my argument will be preserved, and I am now awaiting further debate pending a vote on the amendment.

Mr. METZENBAUM. Mr. President, I really do not want to stand in the way of my colleague's amendment, but I would strongly urge him not to offer it, but to withdraw it and come back with it.

I am certain, as sure as I am standing here, that no Secretary has a right to increase the penalty under the law based upon the Consumer Price Index or anything else. I just say to the Senator, I do not care if you raise the amount to $50,000. That is not my issue. The point I am raising with the Senator is I do not think you can do it this way. If he wants to do it that way, I am not going to stand in his way. I am suggesting to the Senator I do not think we should.

Mr. GRAHAM. I will state to my good friend and colleague from Ohio that I will review this matter with him carefully. And if we are attempting to do something here by granting to the Secretary by statute the authority by regulation to make periodic adjustments in the maximum level of the penalty, recognizing that it continues to be the responsibility of the courts to actually determine what is an appropriate fine in any individual instance, then I would reconsider this and recommend to the conference committee modifications.

Mr. METZENBAUM. Either that, or at a later point before this bill leaves the floor, the Senator from Florida might be inclined to do that. I am not going to stand in his way. I do think he should take another look at it.

Mr. GRAHAM. I appreciate the wisdom of my friend and learned colleague. If there is no further debate, Mr. President, I urge the adoption of the amendment.

Mr. BAUCUS. Mr. President, I have looked at the amendment of the Senator from Florida. I think it is a good amendment, and we are prepared to accept it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 671) was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is Amendment No. 670.

The amendment of the Senator from Louisiana?

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that that amendment be set aside until the hour of 3:30 p.m. Senator PACKWOOD wants to be heard on that. We can set it aside until that time and come back to it at 3:30.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 667

(Purpose: To provide for strict liability)

Mr. GORTON. Mr. President, I send an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself, Mr. WILSON, and Mr. METZENBAUM, proposes an amendment numbered 667.

Mr. GORTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, beginning with line 22, strike out all through page 15, line 14, and insert the following:

Be limited by any dollar amount for:

A. any tanker carrying oil in bulk or in commercial quantities as cargo, including any such barge operating in the navigable waters;

B. for any Outer Continental Shelf facility;

C. for any deep-water port facility including the liability of the licensee for a discharge from any vessel moored at such port; or

D. for any other onshore or offshore facility.

On page 16, line 19 strike out all through page 17, line 6.

Mr. GORTON. Mr. President, few environmental catastrophies have so outraged Americans as the disaster wreaked by the *Exxon Valdez*. We watched in horror and disbelief as grebes, sea otters, and their innocent brethren, choked, and shivered to death by the thousands, while Exxon compounded its negligence with incompetence and arrogance.

We asked, why? And we learned that Exxon just did not care enough to prevent this tragedy. Exxon showed us that its corporate sense of responsibility simply did not include due diligence for the protection of the environment, and that, in the alternative, the penalty for failure was simply not great enough to attract corporate attention.

It is painfully obvious that while the public has every right to expect corporations to behave responsibly toward the environment, it can no longer afford blind trust in corporate goodwill.

Before I go further, Mr. President, let me say that I am a staunch defender of free enterprise. I believe devoutly that our economic system has created more benefit for more people than any other system ever devised.

I also support this Nation's longstanding policy that encourages private enterprise responsibly to develop our natural resources. We believe, correctly, that such an arrangement can provide the most efficient means of deriving public benefit from these resources. But private development of public resources is not a private right—it is a privilege bestowed by the public.

And with the privilege to make a profit comes the responsibility to protect.

That is a core American value. It is unalterable. We cannot allow private enterprise the luxury of profiting from the public's natural resources, and leave the public holding the bill damage to the environment caused by those private activities. I believe that to be the ultimate lesson of the *Exxon Valdez* tragedy: If you privatize profit and socialize risk, eventually a private corporation will follow these rules and make the public pay for its carelessness.

Before us today, Mr. President, we have the commendable work of the Senate Committees on Environment and Public Works, and on Commerce, Science and Transportation.

As a member of the Commerce Committee, I participated in the hearings our committee held to examine the causes and determine the response to the spill of the *Exxon Valdez*. Included in this bill are several excellent provisions which have originated from the two committees' study and efforts.

One obvious lesson from our investigation was how woefully inadequate the contingency plans for dealing with a major catastrophe are. Not only had the plan for Alaska never envisioned a spill of this magnitude, but the response equipment was not in place and the response team was out of practice.

I contrast this ineptitude with the professionalism and skill of another group in dealing with an emergency, also of a size that was hard to imagine—the United Airline crash in Sioux City. In this case, a contingency plan was also in place. But instead of chaos and crossed-signals among people trying to decide who was in charge in an emergency, a practiced plan was in place, carried through, and a maximum number of lives were saved. Contingency planning for accidents does work as the emergency response team in Sioux City so brilliantly showed the Nation.

The measure before us today requires oil tankers that transfer oil in bulk to have contingency plans for the prevention, containment and cleanup of oilspills. Plans would have to include notification procedures, training and positioning of equipment, and personnel, containment equipment on board tankers, and the establishment of oilspill response teams. This is a large step in the right direction and we must closely monitor compliance with these provisions.

I was also pleased to see provisions dealing with alcohol abuse. The new bill would give the Secretary of Transportation access to the National Driver Registry to identify people with automobile drunken driving convictions. It would also require alcohol testing for all persons who occupy safety-sensitive positions on oil tankers.

There are many other fine provisions in the Commerce bill, and I wish to compliment my collagues on that committee for their diligence and thoroughness in writing these provisions.

But I remain troubled by a central concept of the Commerce bill, which essentially is adopted in the Environment Committee bill as well. The Commerce Committee proposes to raise the strict liability limits of movers of Alaskan oil from $14 million to $70 million per incident, and to increase the size of the TAPS Fund, which covers costs above the limits of individuals liability, from $100 to $750 million.

In the Environment Committee bill, S. 686, this concept of limited corporate liability coupled with a reserve fund is adopted for the Nation as a whole and made somewhat more uniform.

Let me also say, Mr. President, that I admire and approve much of what the Environment and Public Works Committee has done as well.

It has peered into the dark forest of laws regarding maritime commerce,

natural resource exploitation and environmental protection. It has perceived a confusing, contradictory and antiquated tangle of laws, and it has devised in its place a thorough and reasonable framework. For this, we should be grateful.

But S. 686 also contains a fundamental flaw: It limits the responsibility of private corporations and asks the public to make up the difference. That is wrong. In concept, S. 686 basically adopts the Alaskan oil liability scheme, raises the dollar amounts somewhat, and applies it to the whole Nation.

The environment bill would raise liabilities for tankers to $500 per gross ton with a $10 million minimum. Other vessels, including barges, would be liable for $30 per gross ton but not less than $500,000.

The limits for offshore, onshore, and deepwater port facilities would be set at $100 million. The level for non-OCS facilities could be reduced by regulation to as little as $8 million.

This is the wrong scheme, Mr. President. This is exactly the scheme which led Exxon to take the risk which eventually resulted in the Alaskan oilspill. Worse still in the case of offshore drilling operations on the Outer Continental Shelf, the bill goes backward. It removes the present scheme of strict and unlimited liability, and places limits on operator liability instead.

OCS facilities are invariably located in environmentally sensitive areas. They are located near shores, bays and estuaries. For instance in my own State of Washington, many are concerned about the Department of Interior's lease sale 132 off the shore of Washington and Oregon. Citizens have a right to be concerned. The present structure of lease sale 132 would mean leasing critical areas not only adjacent to Olympic National Park, but also near the mouths of key estuaries and harbors, prime commercial and recreational fishing grounds and sensitive wildlife habitat areas previously identified by the States of Oregon and Washington. The Department of Interior has not adequately addressed the concerns of these two States' delegations. Because of this, should the Department of Interior ever succeed in offering this lease sale, a cap on liability for the Outer Continental Shelf could lead to devastating environmental consequences.

That is unconscionable. By what logic will a justifiably skeptical public be moved to support future OCS exploration or development, if Congress is busy taking the ultimate responsibility for damage out of the corporate boardroom and placing it on the backs of the taxpaying consumer?

I believe simply that limits on liability are bad public policy. I believe that corporations can and will behave responsibly if they know the risks are high enough. And that, after all, is what we should be after: Responsible behavior. Deterrence. Prevention.

I note that the committee report on S. 686 reviews the 24 State laws on oilspill liability and compensation. Seventeen of the twenty-four have no limit on liability. And as the report states: "None of the testimony received by the committee contained evidence that any shipper or producer has avoided these 17 States or has chosen to quit the business." In other words, unlimited liability placing responsibility where it ought to lie does not affect the actual business operations of those companies.

My amendment would simply strike the limits on liability in the bill, and clarify that in all cases, companies or persons will be fully liable for the costs of removal of a spill, and of compensation for damages. This is as simple as what your mother taught you as a young child: you make a mess, you clean it up. All of it. And if you harm someone, you must make amends. Not partially—but totally.

The fund which is created by this bill, like the TAP's fund in the case of Alaska, should be reserved for that kind of liability which by reason of bankruptcy or the like simply cannot be made up for by the responsible party. But if Exxon creates a billion dollar spill, Texaco and other companies and their consumers should not have to pay for it. Exxon should.

I urge my colleagues to favor this basic principle. Prevention is easier and cheaper than cleanup. Unlimited liability is the best way to prevent a spill. It is the private enterprise way, for it provides the incentive to the private party to do the best possible job in preventing accidents. It is fair to the consumer and taxpayer. And it will work far better than limiting responsibility. We have seen unlimited liability prevent catastrophe in offshore drilling, and we have seen caps on liability fail miserably in Alaska.

Mr. President, 11 million gallons of North Slope crude on the waters and beaches of Alaska is evidence enough for this Senator.

I urge the adoption of this amendment.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Will the Senator yield.

Mr. GORTON. Yes.

Mr. METZENBAUM. Will the Senator add the Senator from Ohio as a cosponsor,

Mr. GORTON. The Senator from Ohio has already been listed as a cosponsor on this amendment.

Mr. METZENBAUM. It is a good amendment. I am glad to be in it.

Mr. GORTON. Mr. President, I ask unanimous consent that the Senator from California [Mr. CRANSTON] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, the amendment of the Senator from Washington essentially provides for unlimited liability on tanker owners if there is an oilspill. That is the essential thrust of the amendment. Members of the Senate should be reminded that the bill before the Senate substantially has that result. Let me explain.

In the first place, the limits on liability set in this legislation are generally two- to threefold higher than current law. That is, the limits on a per ton basis for tankers, for other vessels, in addition to OCS potential spills are dramatically increased compared with the current law.

In addition to that, this bill repeals, it eliminates certain defenses that are available to various shipowners in the event there is a spill. Now, what are they?

The first is the 1851 limitation which basically provides—it is a statute passed back in 1985—that liability be limited to the value of the cargo or the vessel. That is often a defense that is used. This legislation repeals that defense. There is no 1851 limit. It is not available.

Second, there is another defense that is often used that is called privity. In current law today, unfortunately, there are many instances where an owner raises the defense of privity; that is, the owner says he was not in complicity with the tanker captain or the master who was negligent. Therefore, he, the owner, is not liable.

This legislation repeals that defense; it makes it very clear that privity is not a defense.

It is no longer available. In addition, this legislation before the Senate today provides that limitation which, by the way, as I mentioned earlier, is increased twofold to threefold under current law. It is no longer available where there is gross negligence, where there is willful misconduct, or where a company fails to prevent such conduct. The limitation is pierced where there is gross negligence or willful misconduct.

I submit, Mr. President, in the case of Alaska there was probably gross misconduct. I am in no way willing to concede that point. I think there was gross willful misconduct. But there is even a more important provision in this bill. That is the provision which very definitely states there is no preemption of State law, which is very definitely provided for in this bill before us. What does that mean? That means that even after Federal liability attaches, States under State law can

enact whatever measures they wish to take, and proceed any way they wish against the company.

Many States have unlimited liability, as the Senator from Washington implied. In fact, he so stated.

So any tanker which spills oil off the coast, say the State of Alaska, the State of Washington, for example, any tanker is subject not only to Federal liability but also to State liability.

This statute, this bill before us, makes it very clear there is no preemption of State law. State law applies. State law is still available. Washington law still applies. The State of Washington law is still available.

So the practical effect of the bill that is currently before us is to provide not only for dramatic increases in liability for all the reasons I have mentioned but also for a practical matter unlimited liability in those States which provide for unlimited liability. Alaska is such a State. The State of Washington is such a State.

So again, as a practical matter, the provisions in this bill already have the practical effect of providing unlimited liability certainly of the coastal waters of those States. It provides for unlimited liability.

So I submit that the provisions of this bill are very good, and it is unecessary. It would be improper for in addition the Federal Government to provide unlimited liability in all cases. I think it depends partly on the State but more importantly the Federal Government should set up a floor and the floor we set in liability which is the Federal liability is very high, dramatically higher than current law. In addition, if the State wants to go further, the State can enact laws to provide for unlimited liability. And that in this legislation makes that provision.

Mr. METZENBAUM. Will the manager of the bill yield for a question?

Mr. BAUCUS. I am happy to.

Mr. METZENBAUM. As I understand without the Gorton amendment, the limitation of this bill today would be $500 per gross ton or $10 million whichever is greater of any tanker carrying oil in bulk or in commercial quantities as cargo including any such barge operating in the navigable waters. There is a second item of $300 per gross ton or $500,000, whichever is greater. Then there is a third item, $100 million for any Outer Continental Shelf facility; and, a fourth item, $100 million for any deep water port facility, and it goes on to spell that out.

Will the Senator explain to us what the $10-million liability is applicable to, what the $500,000-liability is applicable to, when the $100-million limit cranks in, and when the second $100 million or the second and third cranks in? Can he spell out the differences?

Mr. BAUCUS. Essentially, under this legislation, if there is a spill, say over the coast of the State of Washington, the Federal liability provides—if it is a tanker—up to $500 per gross ton as the Senator has stated and for other vessels, basically barges, it is down to $300, and as the Senate stated, for OCS spills it is $100 million liability.

Mr. METZENBAUM. What if the tanker or the barge are in the Outer Continental Shelf? Is the limitation then $10 million? Or is it $500,000 or is it $100 million?

Mr. BAUCUS. It makes no difference where it is. It goes to the vessel. The Outer Continental Shelf provisions that the Senator refers to applies to drilling rigs on the Outer Continental Shelf. It would not apply to spills by tankers.

Mr. METZENBAUM. So what we have is a limitation of $10 million for any individual tanker, $500,000 for any individual——

Mr. BAUCUS. If I might correct that Senator, those are minimums. Those are not maximums.

Mr. METZENBAUM. I think I take issue on that. It says the liability of an owner, then some other language, shall not exceed, and then it says $500 per gross ton or $10 million.

Mr. BAUCUS. Whichever is greater. So it is not a maximum.

Mr. METZENBAUM. But the $10 million is a maximum.

Mr. BAUCUS. But whichever is greater.

Mr. METZENBAUM. Five hundred dollars per gross ton or $10 million, whichever is greater for any tanker.

Mr. BAUCUS. And the $500,000 for gross ton could be greater.

Mr. METZENBAUM. I understand that. And the $300 per gross ton or $500,000, whichever is greater, and my point is is the Senator not indeed providing a limit of $10 million or $500 per gross ton or $500,000 per gross ton with respect to barges and then the $100 million limit has to do with any facility located in the Outer Continental Shelf?

Mr. BAUCUS. That is correct, except those are whatever is the greater, not whichever is the lesser.

Mr. METZENBAUM. I understand. When the Senator yields the floor, I will be prepared to speak.

Mr. BAUCUS. I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. DIXON). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I want to first commend the managers of this bill because I believe that they have recognized a problem and they have sought with sincerity and intelligence to deal with the problem. I think they are aware of the amazing resentment throughout the entire United States because Exxon and its associates, and Alyeska, have not met their responsibility to the people of Alaska. I think they are aware that there is such unbelievable resentment now, now when the *Valdez* was attempting to dock at San Diego, I think it was, and testy concern was shown there as well. So I give them a lot of credit for zeroing in on this subject, and bringing to the floor so promptly a piece of legislation to deal with the concerns of the American people.

But, having said that, let me say there is no reason for a limit. If the damages are more than $100 million, if the damages are more than $10 million in the case of a tanker, if the damages are $500 per gross ton, or if the damages are in excess of $500,00 or $300 per gross ton in connection with any other vessel, which is the language used in the bill, then they ought to pay for the damages they have caused.

Why should we here in the U.S. Senate come to the help of oil companies who have done so much harm to the waters, to the shores, and to the environment? We are not talking about a poverty-stricken company or companies. Every time the Fortune 500 list comes out, you find that the oil companies are right at the top of it. These are not poor companies. This is not a poverty piece of legislation. The poverty problem has to do with those poor people in Alaska who have lost their jobs, their livelihood, their homes, and the beautiful areas in which they live.

So why should we here today have a piece of legislation that provides any limit whatsoever? I give the Senator tremendous credit for bringing this bill to the floor, and I think that he is moving in the right direction.

But here is a company, particularly Exxon—and that is the one we know is the major transgressor; not only have they done great harm in the environment and great harm to the waters and to the shores, but this company had the audacity immediately, immediately after the *Valdez* oilspill occurred, to raise their prices of gasoline for no reason whatsoever, no justification, no particular economic problem, except to place on the backs of the American people the cost of the cleanup, which they knew was going to be great immediately after it occurred.

This company has the wherewithal. This is not a poverty situation. We are not going to drive this company into bankruptcy or anything close to it. This company, if my recollection serves me right, makes something over $5 billion a year. So I say to my colleague that I think the Gorton amendment is right on target. I think the Gorton amendment addresses itself to this issue and speaks out for the American people, and it takes a good bill and makes it that much better

than it is. I hope this body will see fit to adopt it.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I recall some years ago when the question of the liability of the nuclear industry came up, we passed—but not with my vote—what is called the Price-Anderson bill. It was the first time in the Nation's history that we placed a limitation on liability on an industry.

It was unjustified. We would not have, for example, a facility built at Seabrook, NH, if there had not been a limitation on liability. There is just no question, the nuclear industry in this Nation would have been much more careful than it has been.

Now, without the Gorton amendment, well, I believe—and I think I am correct in this, and I would be happy to be corrected by anybody—for the second time in the Nation's history, we will be rewarding an industry with a limitation on liability.

Now, why are we rewarding this industry? I cannot fathom why we are rewarding them. After they have done what they have done to the people of Alaska and the world, really—because you do not confine that kind of an oilspill just to Alaska—for us to come in and say to the oil industry you have done a terrible job in Alaska, but we are going to reward you with a limitation on liability, that just defies logic. Absolutely, we ought to vote for the Gorton amendment and, frankly, while the rest of the bill is a good bill, as far as I know, if the Gorton amendment is not adopted, I am going to have no choice but to vote against this bill.

We should not give a limitation on liability to the oil industry or the automobile industry or the steel industry or any other industry. We should never have done it to the nuclear industry. For example, Exxon, I think has—I do not remember the exact amount of their gross revenue—a multibillion-dollar revenue. To say that your maximum liability in these cases might be $100 million, that is just not sensible.

I hope the Gorton amendment is adopted. For us to do anything else is not to serve the people of this Nation, but to serve the big oil industry, and that is not the direction we ought to go.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I think we better review the bidding here a little bit. First of all, for those who believe there should be unlimited liability, there will be an opportunity for you to support that view when the Wilson amendment comes up dealing with offshore rigs.

Offshore rigs, there was a limitation placed on their liability in this statute that is before us; although, currently, there is no limitation on their liability for cleanup. So the junior Senator from California will present an amendment in connection with that, which I will support, because I do not think there should be a limit on the rigs' liability, because they are sitting on top of unlimited amounts of oil, and thus, there could be an explosion occur that could do untold damage, as the Senator knows, recalling from not only what happened in Santa Barbara, but what happened off the coast of Mexico.

Now we are talking about a different situation, we are talking about tankers. Now, it is all well and good to say, as far as tankers go, that everybody that owns a tanker is Exxon, but that is not the case, or that everyone that owns an onshore facility for dispensing oil, whatever it might be, is Exxon, but they are not. There are some small players in this game, and these small players have to have some limitation in their liability, if they are going to survive in a type of work. The amount of damage they can do is finite. The amount of damage that an offshore oil rig can do is infinite.

Mr. SIMON. Will the Senator yield?

Mr. CHAFEE. Yes.

Mr. SIMON. Can you name me a single industry in Rhode Island that has a limitation on liability given it by the Federal Government?

Mr. CHAFEE. I cannot think of that offhand, but we have a situation here where we are setting up—I cannot name you any industry in Rhode Island that has a billion-dollar fund that is set up by that industry to take care of damages that might occur. So we are trying to balance the equities here, as it were, and we are setting up a billion-dollar fund under this legislation to cover cleanup. There is no such fund that exists now, so this is what we did.

Currently, in the law that does exist, a limitation on liability of tankers is, $150 a ton. That is it. So what we have done is increase that to $500 a ton. In the case of the *Exxon Valdez,* I think that came out to something like $40 million. Or, in the alternative, $10 million, whichever is greater. Then, in addition, there is a fine in the case of gross negligence, as the majority manager of this bill pointed out, a fine of up to $125,000 a day or $1,000 a barrel per day.

Well, it seems to me in this particular case that as far as the tankers go, the balancing act was correct in this legislation. I do not think it was correct in connection with the offshore drills, but we will address that later.

I hope that the Senator from Illinois will support us in removing the liability on the offshore drill. But that is a separate subject at this time.

So I think that the Senator from Washington objects to any limitation on liability for tankers. I think that what we came up with was good. In addition, we can turn to this cleanup fund of $1 billion. That is a lot of money, even for somebody from Washington. I believe that this is a satisfactory solution for a difficult problem. I, at the proper time, will oppose the amendment of the Senator from Washington.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, the Senator from Washington may as well fold up shop and go somewhere else with his amendment. The whole purpose of an oilspill liability fund is to establish a fund, as the Senator from Rhode Island has spelled out, to take care of spills.

This legislation is creating a $1 billion fund paid for by the companies in the oil business to clean up oilspills. That is the purpose of the legislation.

If we had unlimited liability, you do not need a fund. If every company had unlimited liability, there would be no need for a fund. You could just go after the individual company.

The reason you need a fund, of course, is maybe you may not have an Exxon that has an accident; you may have a fly-by-night oil company that cracks up on a reef with no assets. And what does unlimited liability mean for them? Not very much. Their only asset may be the one ship. So what good does it do for us to say we have unlimited liability against the XYZ Company when they have no assets?

So this legislation constructs a liability fund. All of the oil companies pay into it. One billion dollars is sitting there after the limits are reached to take care of cleanup incidentally and automatically. That is the first point.

The second point is it is not just the *Exxon Valdez* as an example because there would be no limitation of liability, I would argue, in the case of *Exxon Valdez* because they were either guilty of gross misconduct, willful negligence, or certainly violation of statutes, regulations, and rules issued by the Coast Guard. All of those things would bring about unlimited liability.

There is no limit on the liability if they are guilty, and it is in the legislation on page 15, notwithstanding the limitations there is no limit if the discharge of the oil was as a result of willful misconduct or gross negligence or a violation of any applicable safety or construction or operating standard or regulation.

That was the cause of the *Exxon Valdez.* In those cases those rules would have pierced the limitation of liability; there would be no limitation.

So what we have here is a fund of $1 billion that takes care of this spill.

If a company is in violation of any of these rules, there is no limitation. That is my first point.

My second point, addressing the point of the Senator from Washington, you need unlimited liability to discourage accidents and spills, that is not correct. There was no limitation of liability in the Alaskan situation. The State of Alaska has a law which calls for unlimited liability on behalf of the State and yet the accident occurred.

If you look at every report from MMS and CRS, Minerals Management Service and the Congressional Research Service, they give as the principal deterrent to oilspills not unlimited liability. It is to rules, it is to regulations, it is to inspections, it is to technology which are the incentives, not to unlimited liability for a company that has no assets and they are not worried about it.

So you cannot say we are going to have unlimited liability and a $1 billion fund. Does it make any sense?

I would suggest that it is not a deterrent.

I would further point out that in the case of the *Exxon Valdez*, with all of the violations they had, all of the limitations would have been pierced. There would be no cap.

We need the fund. We need the $1 billion fund as well as dramatically increasing the amounts of liability. As the Senator from Rhode Island pointed out, with the limitations in the old legislation which is current law, we are not doing anything or giving anybody anything.

The current limitations on vessels are $150 a gross ton. This legislation brings it up to $500 a ton. The total limit used to be $250,000. Now it is $10 million plus a $1 billion fund.

If the amendment of the Senator from Washington is agreed to, I would submit that the bill is no bill. It is a killer amendment and should be rejected.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, my distinguished friend from Louisiana has just said that the Gorton amendment is unnecessary, that the bill as presented to us makes it unnecessary because of the creation of this trust fund, created for the purpose of responding to tanker spills.

Let me just say that I do not think that it is irrefutable logic that it flows as from night to day, because of a trust fund for the purpose of addressing those situations in which perhaps not an Exxon, but a smaller and not a grossly negligent, but a negligent carrier of oil causes a spill that causes great damage.

There is need for the trust fund. We all commend the creation of the trust fund. But recognizing the need for the trust fund in that situation and in many others, why is it necessary to absolve and to exempt Exxon in the case where they have been guilty not of gross negligence, but of the negligence on an order and of the magnitude that results in a very high degree of damage.

I think the answer to that question is there is no necessity, fairness is not required. Fairness does not require it in a very simple illustration the Senator from Washington said as some of us learned at our mother's knees that if you make a mess you clean it up. If you are going to repair the damage, you have done you do it totally; you do not make amends by throwing a quarter in the hat when the bill is much larger as a result of your actions.

So, I join with those who commend the committee for its hard work in bringing forward what is in many respects an improvement, but I must say that I do not buy the logic that if you are going to have a trust fund you no longer need the kind of standard that holds companies accountable for their actions and if the argument is "but we must treat them all alike," well, they are not all alike. We know that. There are some large, some small, some with an excellent record of safety, some with a very highly questionable record.

And the trust fund is not intended, I assume, simply as a convenience for the companies, a means of risksharing, which is the most convenient means for them. It is created for the purpose of addressing oilspills, for the purpose of addressing a public need, not simply the convenience of the companies.

And to argue that by making their contribution through this assessment per gross ton they discharge their full obligation, I think is fallacious on its face. The creation of the trust fund is a desirable thing because it will, in the public interest, permit us to act promptly to address spills that perhaps in no other way might be addressed because of the inadequate resources of the offending company producing the spill.

But why should not the company that has made this mistake not be held accountable? And the answer I think, Mr. President, is that there is not a good reason they should not be held accountable. They are in business to make a profit and to supply an important public need. No one is begrudging them the profit. No one disputes the need for the service. But it is not socialism, God knows, to say that those who conduct business in a way that causes industrial accidents that inflict upon the public a tremendous cost should not be held accountable for making the public whole.

That is what is at stake here. It is no more complex than that. It is a very simple proposition.

The Senator from Washington has addressed it very forthrightly.

So I would say that we do not need to debate it endlessly. We agree that the trust fund is a very good idea and it is a good idea and an equitable idea that companies contribute to it on the basis of an equitable formula. But, number one, it may not be enough. It is entirely possible that with the *Exxon Valdez* spill, looking aside from the question of negligence or gross negligence, with that spill achieving a magnitude that has cost in cleanup already $800 million, a $1 billion fund is not really all that comforting.

It is conceivable that another tanker might produce a spill that costs more than that.

We will get to the business of the potential costs of spills in the magnitude that occur from oil rig blowouts in a moment. But before I get to that I will have to say that my friend from Washington has dealt with all contingencies which is to say tanker spills, rig spills, terminal spills, and he said there should not be a limitation of liberty on cleanup or upon damages. I agree.

And to say that in a way argues against the wisdom or the fairness of the trust fund but to say that if we have the trust fund we must necessarily cap that liability for the offending company makes no sense.

The PRESIDING OFFICER. May I say to the distinguished Senator from Washington that the order here is that we return to amendment 670 by the distinguished Senator from Louisiana at 3:30 and the hour of 3:30 is almost upon us.

Mr. JOHNSTON. Mr. President, I understand we are about to wind down on this amendment, am I correct?

Mr. GORTON. That is correct.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that we lay aside the Johnston-Breaux amendment until the completion of the pending amendment.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Mr. President, reserving the right to object, I have often seen these debates where we just lay it aside because we are almost done. I would like to get to a time certain. Would the mover of the amendment mind saying 10 minutes and let me see where we are then, rather than just laying it aside until we are done?

Mr. MITCHELL. Mr. President, will the Senator yield for a moment?

Mr. PACKWOOD. Yes.

Mr. MITCHELL. Senator GORTON wishes to speak again on his amendment and I would like to address it. I do not think 10 minutes would quite do it. I understand what the Senator is saying—he does not want it to go without limit.

Mr. PACKWOOD. I do not mind if this goes without limit, but I came over to get back to the other amendment that was due to start. I would be happy to go on the other one for a time certain of 10 minutes and let this one go on for the next 2 hours.

Mr. MITCHELL. I understand what the Senator is saying. That would convenience him, but there are others here to address this amendment.

May I suggest that the Johnston amendment be set aside until the hour of 3:45 or until this matter has been disposed of.

Mr. PACKWOOD. Whichever comes first?

Mr. MITCHELL. Whichever comes first.

Mr. PACKWOOD. I agree.

Mr. MITCHELL. It is my hope we will have a vote underway at that time. I assume the Senator would be agreeable with that.

Mr. PACKWOOD. Yes; I thank the Senator.

The PRESIDING OFFICER. Without objection, that is the order.

Mr. GORTON. Mr. President, in speaking on this amendment, the distinguished Senator from Montana outlined four of the fine provisions which are included in the bill as it appears before us.

The first was that we have removed that more-than-a-century-old limitation on liability to the value of a ship that causes an accident. It is a very good provision in this bill. It is not affected by the amendment.

He speaks of removing the defense of privity of contract. That is a very good provision in this bill. It is not affected by this amendment.

He states that there is no limitation if it is shown that the spill was caused by gross negligence or willful misconduct. That is a very good provision in this bill. It is not affected by the amendment.

It is, however, I may say to my dear friend from the State of Montana, a lawyer's paradise. Whatever has view on the willful negligence of the *Exxon Valdez*, a view on which I agree, the lawyers for *Exxon* do not agree on that and there will be years consumed over litigation in that matter, which will be avoided if the amendment I have proposed is adopted.

Finally, he counts as a value of this bill the fact that there is no preemption against those States like my own which have unlimited liability. That is an extremely valuable position in this bill. In fact, if the bill included a preemption clause, those of us from States without any limitation on liability would probably have to vote against the entire bill because of the risk it would impose on our States.

None of the arguments of the Senator from Montana, I may say, go to whether we should remove liability entirely. In fact, it seems to me the fact that liability has been removed in its entirety on large organizations and small for gross negligence or willful misconduct is an argument to go the final step and cause this removal.

My friend from the State of Rhode Island says that we should support unlimited liability with respect to Outer Continental Shelf facilities and will vote that way on an amendment which may come up hereafter. But, he rationalizes for some reason that we should not have unlimited liability to tankers or shore facilities or the like because some of them are operated by small players who need some limit.

Well, if the player is small and the damage is small, the liability will be small. Liability will be limited, even under my amendment, to the amount of damages and the cost of the repair of the oilspill itself. But there is absolutely no rational ground for saying we should have unlimited liability on Outer Continental Shelf facilities and not unlimited liability on Exxon for the operation of its tankers.

Finally, the Senator from Louisiana argues that it is the purpose of the fund to cover these extra expenses and if there is unlimited liability you do not need a fund. Well, of course you need a fund, Mr. President. You need a fund for exactly the purposes he outlined: for the spiller, for the causer of great damages who is judgment-proof—against whom no limitation of liability or lack of limitation of liability will have any effect because that company or person or organization simply cannot meet their rightful obligation to redress damages. That is what the fund is for and that is a very fine purpose of the fund.

But I ask my friend from Louisiana and certainly my friend, the majority leader, why should a fund which is charging 1.3 cents per barrel to every transporter of oil in the United States and thus to every consumer, which 1.3 cents cuts off when the fund has $1 billion in it, be used to cover the simple negligence of Exxon or some other such company? Why should Texaco, why should other shipping lines who ship oil safely, in effect be paying for the negligence of one company in an accident of this sort, and deplete the fund so that the tax goes back into effect? Responsibility should be imposed on the parties responsible for the damage, not on innocent parties.

If 17 States, including Alaska, Mr. President, has been able to operate with unlimited liability laws, and if we are deciding here, as we are deciding quite rightly at the insistance of the majority leader, that those unlimited liability laws be left in place, and if no one has been discouraged from shipping or using petroleum products by those unlimited liability laws, why in the world should we not impose that unlimited liability and simply say whoever is responsible for a spill will pay for that spill to the utmost of the resources which they have?

Mr. MITCHELL. Mr. President, for 8 years, I have been trying to get a national oilspill compensation program enacted. The Senate unanimously passed one in 1986. The Senator from Washington was present at the time. It had liability limits and a per incident cap of $500 million. The Senator from Ohio was present at the time. The Senator from California was present at the time. It passed unanimously.

The bill significantly increases the limit. It permits States to retain their liability laws, 18 of them having chosen to have unlimited liability. There is a superficial appeal to the argument that says: "let's have unlimited liability for everybody; let's sock it to the tanker owners."

The difference before us is whether we are going to make a statement or make a law. I do not wish to make oilspill liability and compensation legislation my life's work. Eight years is long enough for any one issue.

I say to Senators that this legislation is a carefully balanced program that provides dramatically higher compensation funding in a much more effective and efficient manner than is the case under current law and permits States to continue to operate their own schemes, the single most divisive issue that has prevented action on such legislation in this decade.

If Senators are truly interested in getting a meaningful increase in the amount of funds available to clean up oilspills and permitting a much more effective program to prevent oilspills, then we will support this legislation.

I have no question about the sincere and high motives of the Senator from Michigan. But I would say to the Senator, the State of Washington has unlimited liability. No change in that will occur as a result of this legislation. And any other State that wishes to do so, may do so. We are protecting the right of States to act in such manner as they deem necessary to protect their people and their resources.

The compensation and liability mechanism in this legislation goes a long way toward removing the obstacles to getting any liability coverage on owners. And if we permit the defeat of this bill because we could not reach all the way to the Sun we will prevent ourselves from getting to the Moon.

The best is always the enemy of the good. So what my colleague is saying is that this does not do everything perfectly, therefore we will end up doing nothing.

Let me point out that the single largest obstacle now to gaining recovery from owners of vessels is the 1851 law that requires privity as between

the vessel owner and the damage caused.

The courts have ruled, under existing law, that that means that an injured party must establish that the shipowner knew and participated in the act that caused the spill.

If we do not get a bill passed, that continues. And Senators can put in anything they want about other language, there is not going to be liability attaching to vessel owners under those circumstances.

So, help us pass a law that gets us nine-tenths of the way home, that makes a dramatic improvement in current law even though it does not meet the theoretical ideal of unlimited liability, no matter what happens, no matter what the circumstances.

I remind my colleagues that if we eliminate the privity requirement, which this bill does, that means that the limits of liability imposed in the bill can be pierced and exceeded if there is gross negligence involved or if the operation which caused the incident was in violation of any Federal safety construction or operating standards.

So, we take in this bill the most practical measure to deal with the problem and dramatically increase both the amount of liability to which those responsible would be subjected and the total amount of compensation that would be available in the event an incident occurs, as well as eliminating the obstacles to getting any liability attaching to a vessel owner.

So, I strongly urge and encourage my colleagues to support the motion to table, which will be made, because we have to get a bill passed. I say to my colleagues, we have attempted to come up with a careful balance. Every one of my colleagues here, every Senator here who has spoken, voted for a bill in 1986 that had substantially lower levels of liability, substantially greater obstacles to recovery. And we have dramatically improved that.

Join us in supporting this. Let us get a good bill, which this bill is, and pass it into law.

I yield to my colleague for the purpose, I understand, of making the motion to table.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I move to table the amendment of the Senator from Washington.

Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

Mr. LIEBERMAN. Mr. President, I rise to support the amendment offered by my colleague, Senator GORTON.

The total cost of the Exxon cleanup, as estimated by Exxon itself, is over a billion dollars. This, of course, does not include the full extent of natural resource and economic damages. But under the bill as now drafted, according to one estimate, Exxon's liability would be limited to some $55 million.

I believe that these limits are far too low in relation to the extent of damage caused. My concern is that limits on liability will not ensure that companies take measures to prevent a spill from every happening. It is far to easy for companies to view liability limits as a cost of doing business or an expense shared across the industry, which simply increases the price of petroleum products to the consumers without encouraging the oil companies to exercise greater care in the transportation of oil. Unlimited liability sends a clear message that oil companies must prepare to cope with the full consequence if their risky transportation results in disaster. Insulating those responsible for a spill from the full costs of their actions removes this deterrence.

The need for strong laws to prevent spills is particularly important when it comes to oil spills because the experts tell us that the technology for cleaning up a spill is still primitive and remarkably ineffective. The sad fact is that, once a spill occurs, we're doing well if we recover 10 to 20 percent of the spilled oil.

In Long Island Sound, the impact of a spill could be devastating. According to the experts, a petroleum slick in June or July could kill billions of plants and animals, and retard the growth of others. The effects would be felt for years as larger, predatory animals become poisoned with residual toxic oil. The U.S. Coast Guard official who was the chief marine officer for the sound has noted that, no matter how small the spill or how well contained, "the environmental damage is always there."

Those who traffic in hazardous substances such as oil, shipping it in million-gallon tankers along our coasts, are in the best position to minimize the risks their activity creates. Our legal system should ensure that they take every precaution possible to avoid a spill. From my experience as Attorney General, I believe that holding companies fully responsible for their actions is the best way to insure these prevention-related measures take place.

Some will argue that the legislation is protective enough because in essence it establishes a no-fault system through the creation of a large fund created through a fee on the oil companies. But allowing responsible parties to escape the vast majority of costs of their actions through the payment into a fund is not sufficient to create deterrence. We all know that the small fee per barrel set up to fund the fund will simply be passed along to consumers; it will not be a meaningful deterrent.

In contrast, under our Superfund legislation, the strong environmental liability scheme passed by the Congress covering hazardous substances other than oil, those who pollute are required both to be fully responsible for cleanup costs and to pay money into a fund. Administrator Reilly recently told Congress:

> The Superfund liability standard has * * * provided a powerful incentive for businesses, federal facilities and local governments to properly manage their wastes. Additionally, the threat of potential Superfund liability has spurred businesses * * * to remediate environmental problems.

If this country could achieve similar prevention-related results from comprehensive oilspill legislation, we will have learned a true lesson from the Exxon disaster. I can see no reason why the oil industry should not face a liability scheme at least as strong as Superfund.

Finally, it is argued that because State laws are not preempted by this Federal law, the State laws can fill in any gaps in liability in this bill. In my view, we should not rely on whether or not State laws apply to establish this strict scheme of full liability. It is up to us in Congress now to set the standard for liability which will do everything possible to prevent oilspills in the future.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion of the Senator from Montana. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—52

Armstrong	Fowler	Nickles
Baucus	Glenn	Nunn
Bentsen	Gramm	Packwood
Bingaman	Hatch	Pell
Boren	Heflin	Pryor
Breaux	Heinz	Reid
Burdick	Helms	Robb
Burns	Hollings	Roth
Byrd	Humphrey	Sanford
Chafee	Jeffords	Sarbanes
Cochran	Johnston	Sasser
Conrad	Kennedy	Shelby
Danforth	Kerrey	Simpson
Daschle	Levin	Symms
Dodd	McClure	Wallop
Domenici	Mikulski	Warner
Exon	Mitchell	
Ford	Moynihan	

NAYS—48

Adams	DeConcini	Inouye
Biden	Dixon	Kassebaum
Bond	Dole	Kasten
Boschwitz	Durenberger	Kerry
Bradley	Garn	Kohl
Bryan	Gore	Lautenberg
Bumpers	Gorton	Leahy
Coats	Graham	Lieberman
Cohen	Grassley	Lott
Cranston	Harkin	Lugar
D'Amato	Hatfield	Mack

Matsunaga	Pressler	Specter
McCain	Riegle	Stevens
McConnell	Rockefeller	Thurmond
Metzenbaum	Rudman	Wilson
Murkowski	Simon	Wirth

So the motion to lay on the table the amendment (No. 667) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BREAUX. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 670

The PRESIDING OFFICER (Mr. HARKIN). The question is on agreeing to amendment 670.

Who seeks recognition?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Are we back now on the Johnston-Breaux oil fee amendment?

The PRESIDING OFFICER. Will the Senator repeat his question?

Mr. PACKWOOD. Are we back now on the Johnston-Breaux, what I call oil tax amendment?

The PRESIDING OFFICER. The pending question is the Johnston-Breaux amendment 670.

Mr. PACKWOOD. I thank the Chair.

Mr. JOHNSTON. Mr. President, I ask the particular attention of my friends from Louisiana and Oregon, who represent the Finance Committee here, because we are told now, Mr. President, that there is a conflict between this amendment and the jurisdiction of the Finance Committee. We earlier argued about jurisdiction of the Environment and Public Works Committee. I commend the following arguments to my friends.

First of all, Mr. President, what this amendment does is take the 3 cents per barrel fee presently levied by 43 U.S.C. section 812 and keeps that fund in place, putting it in a special account awaiting legislation that will deal with wetlands nationwide. It does not allow the spending of that money until that substantive legislation is reported.

The reason for this is that when you deal with coastal wetlands particularly, it is an expensive matter. There must be serious money to deal with it.

To tell my colleagues of the scope of the problem, in my State, Mr. President, we are losing 60 square miles a year of wetlands, 60 square miles. Over the August recess we will lose 5 square miles of wetlands.

So, Mr. President, with us it is not an academic question about who has jurisdiction over what section of the law. It is our whole State, literally, going into the Gulf of Mexico.

There is much that can be done, but it costs money to do it. We want to do it in the right way, Mr. President. We want EPW to exercise their jurisdiction and report out a bill. We will help them. We will work with them.

What we do not want, Mr. President, is this continued talk such as we get from the administration where they say no net loss of wetlands but not one penny to pay for it. All we want to do is hold this fee in place.

Now, Mr. President, what is the connection between oil drilling and coastal wetlands in Louisiana? According to an EPA study entitled "Saving Louisiana's Coastal Wetlands: The Need for a Long-Term Plan of Action," dated April 1987, the 1982 estimate is that "as much as 90 percent of Louisiana's land loss can be attributed to canals."

Now, why do we have canals? Well, canals were dug for drainage and access.

Today, the greatest share of canalization—

Again I am reading—

is attributed to the oil and gas industry. In 1984, 70 to 80 percent of the coastal management permits issued for canals were for oil and gas activities.

The primary reasons—

I am continuing to read—

for the myriad of canals in the Louisiana coastal zone includes navigation, pipeline routes and access to drilling sites.

There are photographs here. I wish all my colleagues could see them which show the honeycomb.

Is all the wetland loss due to canals? No. According to EPA it is 90 percent. Are all of the canals that are dug due to OCS? The answer is obviously no, because many of these canals were dug for oil drilling in the coastal area. But, as the EPA report points out, much of it was for navigation, and for pipelines.

I wish I had a map here of the coastal zone in Louisiana to show the way it is honeycombed by pipelines which transport. I think we are still the largest natural gas producer in the country. In fact, I am sure we are when you count the OCS gas. It all comes through a huge system of pipelines which comes right through coastal Louisiana; canals dug in order to service the pipelines, in order to lay the pipelines.

Mr. President, it is a direct cause and effect of drilling both onshore and offshore.

Mr. President, can anyone, can I, can the EPA or anyone categorize the percentage? I think the best you can do is to say as EPA has said, that 90 percent of Louisiana's land loss can be attributed to canals, and that in 1984, 70 to 80 percent of the coastal management permits for canals were for oil and gas activities.

Some of those are for navigation to serve OCS, some of those are for pipelines, and some of them are for transporting rigs. The connection is direct.

Mr. President, my colleagues will recall just a few years ago we passed a coastal energy impact fund funded by revenues from the OCS which gave to coastal parishes and counties money in order to clean up the effects or to ameliorate the effects of oil and gas drilling on the OCS—coastal energy impact. The State of Texas received many of those funds. They were principally because of wetland impacts, because the Congress determined at that time that there was a direct connection between drilling on the OCS and impacts in the coastal zone. It is a well-established connection honored by legislation which this Congress has passed.

To be sure that legislation was later repealed, but not because of the lack of connection between the coastal zone and drilling.

Mr. President, there was recently an article done in the magazine Louisiana Life, dated July-August 1989, a cover story which is entitled "Our Marshlands Are Dying, Can Coastal Erosion Be Stopped?"

I wish all my colleagues could see the color photographs in this picture. To say it makes you want to cry is true. One of the paragraphs here I commend to my colleagues. It says:

"The destruction caused by the oil and gas industry is more serious than many people will admit," says Oliver Hout, the professor of environmental law at Tulane University. "At the present time we have 10,000 miles of oil and gas canals laterally eroding the land around them. What the State of Louisiana has done is rape our renewable resources, the wetlands, in exchange for a one-shot nonrenewable resource, the oil industry."

Mr. President, there is not any doubt about oil and gas drilling and what it has done to our wetlands. Much of that was done in ignorance at a time we started drilling out in the coastal area in 1944, if I recall, the first offshore rig. And we have done it for 50 years. We are dependent on it. Our job base, such as is left—we are No. 1 in unemployment in the country right now, but what is left of our job base is still largely dependent on drilling on the OCS.

What is left of our State literally is dependent on what we are going to be able to do here today.

Mr. President, I know what you can make the argument that, well, this is a fee which is turning into a tax because not all of the damage is caused by drilling on the OCS. Some of it is caused by drilling onshore.

I might observe that exactly the same companies, I mean they went like carpet bombing right from onshore to offshore, and nobody would have known the difference except those cartographers who can draw the 3-mile limit offshore. They are the only ones who knew the difference. I mean when Exxon is drilling onshore

in the marshes and 1 mile offshore, 3 miles offshore, it is all the same thing. It is served by the same navigation canals, and the same pipelines that honeycomb our entire coastal area.

So I plead with, I implore my friends from the Finance Committee not to take the narrow view to this. There is all the connection in the world we need here. What we need is somebody to say the coastal wetlands, indeed the wetlands everywhere in this country are a national resource, that we Americans have decided that finally we are going to stand up for the environment.

The coastal area, the wetlands is perhaps the most important of all lands as far as the environment is concerned. They are the breeding ground of most of the fish in the Gulf of Mexico, about $1 billion a year, and we do not eat all that fish in Louisiana, Mr. President. We eat our share. But it goes all over the country. Much of that shrimp catch off of Florida, in fact, most of it is born literally in the coastal wetlands of Louisiana.

I think my colleagues share with me the values which we put in the wetlands. I do not think I have to convince my colleagues of that. What I have to convince my colleagues of is that we should not take the narrow view of protecting a jurisdiction about which the American people I think could care less. I think what they want us to do is put in place a mechanism which will preserve these wetlands. That is all this amendment does. It does not raise a tax or a fee. It just keeps it, and diverts it from one purpose which had to do with the OCS to another one which has to do also with the OCS that has to do with other things as well.

As my friend from Texas knows, and I do not want to impose on his time by keeping him here too long, something we have bills that deal with more than one purpose. I recall my friend from Texas had a bill not too long ago that had some fee in it, and therefore went to his committee. And it had all kind of Energy Committee jurisdiction on it. We did not object. In fact, we helped him out with it because we thought it achieved a good national purpose.

I hope he will take the broader view here, Mr. President, and let us achieve what we have to recognize is a very worthwhile purpose.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I share the very high regard for the Senator from Louisiana, which I know is felt throughout this institution. It is an unusual day when I differ with him, because we share the same point of view on many issues. We share a lot of economic concerns in our two States, and I totally endorse the objective of what he wants to do insofar as protecting the wetlands and marshlands of our country.

I venture to guess that his State probably has more wetlands than any other State in the Union. In the State I represent, we are very close to being second. I have traveled those canals in Louisiana, but I have never found one of them 12 miles offshore. I have never found one of them out on the Outer Continental Shelf.

Now, when he is talking about, perhaps, 90 percent of the erosion of the wetlands and the loss of the wetlands coming from those canals, that may be true, and I would not question that. But I cannot find one barrel that was drilled out in the Outer Continental Shelf, from which that 3-cent tax would be collected, that resulted in a loss of wetlands, or erosion of those marshlands. I do not see the correlation.

That is what you have to look at when you are talking about a fee, as opposed to a tax. There has to be a correlation, a cause and effect. It has to be paid by the person who receives the benefit of a service provided by the Government, or possibly who can be responsible for some damage to the taxpayers of this country. That is the argument that they made that the fee, the 3-cent-a-barrel fee, to take care of oilspills on oil drilling and produced on the Outer Continental Shelf was not a tax.

So I understand his concern. But when he talks about taking the broad view, that is what I am doing. If I took the narrow parochial view to just serve the interest of what I wanted to do for the wetlands and marshlands, then I would go along. But you cannot do that, because we have structured the committees of the Congress to take care of their own jurisdiction, their separate areas of responsibility.

What you want is a correlation of the fiscal responsibility, in one committee. That is the way it has to be done. Otherwise, it would be fragmented in each committee, and you would have a difficult time setting forth the fiscal objectives of our country. That is the reason for tax responsibility is in the jurisdiction of the Finance Committee.

Now, if we concede on this one, then we will have another one coming from another committee and another from another committee. I can go down the list of committees that would resort to that kind of an action. You would fragment the fiscal objectives of our country and the coordination of those objectives. That is why I have to resist. I take no pleasure in it at all.

Mr. JOHNSTON. Will the Senator yield?

Mr. BENTSEN. I did not interrupt the Senator. I will be delighted to yield after I have discussed my concerns. At the appropriate time, I will support a motion to table. I will be sure that the Senator has a full opportunity to make the points he wants to make.

There is another interesting thing that is taking place here. This amendment would create a separate fund, a new fund, a new pot of money. There is no limitation I know on how long the fund would continue or how much money would go into it. What we'd do is create the pot, start collecting the money now, and then say later on, "I want the standard set for this, how it is going to be spent." That is going to be done later. That is not the way we normally do things in committee or in this institution, in the U.S. Senate. We decide on the objective, something we want to accomplish, we set out the standards for it, and we set about figuring out how to finance it. We go to the Finance Committee, and we propose a tax to try to bring that about.

Now, that is the rational way, that is the appropriate way, that is the right way in terms of jurisdiction, procedure, and policy. I am very sympathetic to what he is trying to accomplish, but let us do it the right way and not call something that is obviously a tax something else.

Mr. JOHNSTON. Will the Senator yield?

Mr. BENTSEN. Yes.

Mr. JOHNSTON. First of all, the question of establishing the fund and then coming in later and putting the mechanism, is that not exactly and precisely what was done here on the instant bill? Is it not a fact that the Finance Committee reported a tax of 1.3 cents per barrel, later raised to 3 cents, to fund the instant legislation, which is now setting forth the standards for which that is to be done; is that not a fact?

Mr. BENTSEN. Frankly, I do not remember the precise order of events, but I must say if it was done that way, it was sure wrong. I do not concede that it was done that way, either.

Mr. JOHNSTON. I will tell the Senator that that is the way it is done, and I think it makes sense. You have to get the fund first. The Finance Committee saw the need, established the fund, and counted on these committees to come in here and put together the legislation.

Now, I say to my friend from Texas, he said that he did not see one of those canals dug 12 miles offshore. True. But he does recognize the honeycomb of canals that have been dug in connection with the pipelines that do come offshore, I am sure.

According to a Minerals Management Service study published in January 1988, OCS oil and gas-related activities account for at least 8 to 18 percent of the total coastal wetland lost in Louisiana. So if you take the average between 8 and 18—that is 13 percent—times 60 square miles. If Miner-

als Management Service is correct, then OSC activity is accounting for 7.8 square miles per year loss of coastal wetlands.

Now, my question is, is that not enough to justify this? How much more than 7.8 square miles a year does one need to have a connexity between a fee and cleaning up the problem?

The PRESIDING OFFICER. The Senator from Louisiana has asked a question of the Senator from Texas.

Mr. BENTSEN. I am sorry.

Mr. JOHNSTON. According to a Minerals Management study, dated January 1988, OCS oil and gas-related activities account for at least 8 to 18 percent of the total coastal wetland loss in Louisiana. At 8 to 18 percent, take an average of 13 percent between that times 60 square mile loss; that is 7.8 square miles a year, which according to Minerals Management Service, would be the effect of OCS oil and gas activities; if Minerals Management Service is correct, is not 7.8 square miles a year enough connexity to justify this?

Mr. BENTSEN. I am not going to discuss something that I have not yet had a chance to study, Senator. I would like to look at it to inform myself on the point. You have raised something that I have not looked at.

Mr. PACKWOOD. Mr. President, I join my distinguished chairman, Senator BENTSEN, in moving to table—and we do move to table this bill. There is clearly no significant nexus. When the Senator from Louisiana says, well, 13 percent, 7 square miles a year—maybe from an article.

Here is what has happened. This fee was put in a number of years ago, 3 cents a barrel on the Outer Continental Shelf drilling. They are out there on the Outer Continental Shelf for a specific purpose, to clean up oilspills in the Outer Continental Shelf. There was a direct nexus, as lawyers would call it, a direct connection between the spills in the Outer Continental Shelf and the oil cleanup.

There is next to no connection between the Outer Continental Shelf and the wetlands of any significant amount, but here is an available fund. As a matter of fact, it has not been collected for a number of years. Because the fund is big enough to take care of the oilspills, so somebody looks around and says, "Here is an existing tax, let's transfer it over to a purpose we like." I understand that. I understand why they want to do it.

The Senator from Texas, the chairman of the committee, was very accurate when he said if we are going to do this willy-nilly, let us just give up having any committee that has tax jurisdiction. This is clearly a tax.

But most importantly what is one of the arguments we have been hearing in this deficit balance? Unspent highway trust funds, unspent airport trust funds, collecting all this money building up the reserves to make the deficit appear smaller, and we do not spend it here. We are going to keep this tax.

There is no law on the books authorizing spending it for this purpose. It is one more tax, and that is what it is, to go unspent unless we pass authorizing legislation at some unforeseen time in the future to spend it.

If you want to make the deficit appear smaller, go ahead and collect the tax, but there is no authority to spend it. There is no plan to spend it. There is no program to spend it.

Under normal circumstances, far be it for me to object to a tax on oil companies. I hardly ever met a tax on the oil companies I did not like. But I do object to one committee treading on the jurisdiction of the Finance Committee. If we want to start down that road of legislating on the Senate floor, we can all play the game and we can all tread on each other to no end.

So I hope that when the chairman of the Senate Finance Committee moves to table this amendment, the Senate will join with him.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield to the majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OR PROCEDURE

Mr. MITCHELL. Mr. President, if I could have the attention of the distinguished Republican leader, I thank my colleague from Louisiana for yielding to me.

Mr. President, I have consulted with the distinguished Republican leader and the chairman and ranking member of the Banking Committee to consider the best process for handling the savings and loan conference report.

We have concluded that the best course is for us to proceed to that as soon as possible, to enter into an agreement limiting the time for that discussion, and then to return to this bill.

Accordingly, I am about to propound a unanimous-consent request that will permit us to achieve that objective.

I might say I have talked to the Senator from Louisiana and the Senator from Montana and others, and I understand that we have nearly finished consideration of this amendment.

I see the Senator from Alaska. Does he wish to comment?

Mr. MURKOWSKI. Mr. President, I want to alert the majority leader I have an amendment I believe is acceptable. I do not want to be left out. I want to make sure when the Senate goes back to it, I have an amendment.

Mr. MITCHELL. Everybody will be free to offer an amendment at that time.

Mr. MURKOWSKI. The Senator plans a couple hours; is that correct?

Mr. MITCHELL. Yes, 2 hours and 15 minutes on the conference report. So we should be back on this bill within a couple hours.

Mr. MURKOWSKI. I thank the majority leader.

Mr. MITCHELL. It is my intention to remain until we complete action on this bill this evening which I hope will be early in the evening.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Accordingly, Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may proceed to the consideration of the conference report to accompany H.R. 1278, the Financial Institutions Reform, Recovery, and Enforcement Act, and that it be considered under the following time limitations: 2 hours and 15 minutes overall on the consideration of the conference report divided as follows: 1 hour controlled by Senator GARN, 45 minutes controlled by Senator RIEGLE, and 30 minutes controlled by Senator HOLLINGS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Accordingly, Mr. President, Senators should be aware that a vote is imminent on the pending amendment or within the next several minutes.

Mr. BENTSEN. Mr. President, I am prepared to move to table. I did not want to cut off my distinguished friend from Louisiana.

Mr. MITCHELL. I understand from the Senator he had a few more minutes to wrap up. I have no desire to cut anyone off.

Mr. BENTSEN. I would like to accomplish that.

Mr. MITCHELL. My understanding is debate is about concluded on this. As soon as the Senator from Louisiana makes the motion he wishes to make, a vote is imminent.

Following that vote, assuming the managers are ready and the papers are here, it is my intention to exercise the authority granted in this request and proceed to consideration of the S&L bill and then, immediately upon the disposition of that matter, to return to consideration of the pending oilspill legislation.

Mr. President, I thank my friend from Louisiana, and I yield the floor.

OIL POLLUTION LIABILITY AND COMPENSATION ACT

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Mr. President, I will be very brief and then I will be ready for the question and I hope we could have a vote up or down.

I know the Senator has a right under the rules, but I would shortly yield the floor so we would be ready to vote up or down if they be so inclined.

There are two points, Mr. President. Where did we get this idea? We got it from the Finance Committee. I am looking at the statute here now, title 26, section 4611, dealing with imposition of tax, and subsections (c)(2)(b) sets the oilspill liability trust fund financing rate at 1.3 cents a barrel, and the commencement date is February 1, 1987, or "The first day of the first calendar month beginning more than 30 days after the date of the enactment of qualified authorizing legislation."

My colleagues, if they have been listening very closely, will recognize that phrase, "qualified authorizing legislation," as being part of our amendment because that is where we got the idea.

Senator BENTSEN may think it is a bad idea what he has done and what he is doing this very moment in this piece of legislation. I think it was not only an appropriate thing to do but it is the only way to do it.

Mr. President, the question is very simply proposed by my amendment: Do you want to protect wetlands or do you want to protect a narrow view of jurisdiction in the committees?

I do not know of any other way to protect wetlands except with money. This will give us the fund. It will allow EPW or whatever committee has jurisdiction, and I know they have jurisdiction in this area, and I hope they will report some legislation soon.

This is the way to do it. You can either protect the narrow view of jurisdiction, the very narrow view, or you can do something about wetland loss, and I hope we will do the latter.

Mr. BENTSEN. Mr. President, with all due respect to my friend, I wish he had gone ahead and read the rest of this. He stopped at an appropriate point for his argument.

One of the problems is that we had been assured this was not going to be brought up, and we had not had the opportunity to research it to the extent that he has, but we have been doing some in the last few minutes. If you go on and read the rest of the legislation he referred to, it goes on to say:

* * * which is substantially identical to subtitle (E) of title 6 or subtitle (D) of title 6 of H.R. 5300 of the 99th Congress as passed by the House of Representatives.

It is specific. It refers to a specific piece of legislation.

In addition, it was within our jurisdiction. It was a tax. We recognized it as a tax, and we took action on it accordingly.

The question is not some narrow interpretation of jurisdictional rules. The question is whether you have responsible fiscal policy set by one committee as it is proposed under the rules of the Senate or you have it fragmented among the many committees. That is a major point, a policy point, concerning how we decide to pay for the objectives we are working for today.

So unless there is further comment, I yield.

Mr. BAUCUS. Mr. President, the Environment and Public Works Committee is the committee of jurisdiction handling wetlands legislation.

Members of that committee are at this moment, at least in the last several weeks, have been working on wetlands legislation. We have had a couple hearings. One is on coastal wetlands, precisely the subject the Senator from Louisiana addresses, coastal wetlands legislation.

In addition, we had hearings on wetlands legislation generally. The committee is now working on wetlands legislation.

We are all very sympathetic with the wishes of the Senator from Louisiana, very sympathetic.

The fact is about one-third of the biological diversity of this country, one-third of the species are in wetlands. It is absolutely critical that we protect wetlands. So the committee is working. The committee is very sensitive to the problem.

This is not a narrow issue of the Finance Committee jurisdiction versus other committees' jurisdiction. This is an issue of how do we get the best wetlands protection legislation passed.

The committee of jurisdiction is working on it at the moment. We intend to pass legislation out of the committee protecting wetlands.

So I say to the Members of the Senate we are now faced with an amendment which I did not know of until a few hours ago that comes out of the blue trying to deal with wetlands. Let us be responsible. Let us get a good, responsive solution to the wetlands problem, and I strongly urge the Senate to support the motion about to be made by the Senator from Texas because I think that if we are going to get wetlands legislation that makes sense we should do it in a very responsible, judicious way and our committee is doing that.

Mr. CHAFEE. Mr. President, this, for any of us on the Environment Committee, is an anguishing vote because all of us are deeply involved in the preservation of wetlands and have been for many years in attempting to solve the problem. Indeed, as I mentioned previously, just yesterday we had a hearing on the bill of the junior Senator from Louisiana before the Environment Committee dealing with the preservation of wetlands.

But it seems to me there is a procedure that we ought to go through, there is a method of doing business around here, and it should be carefully considered in the committee.

This is not a jurisdictional squabble. I think it is unfair to label it as: Are we for the preservation of wetlands or are we for preserving committee jurisdiction? It is not that at all.

When we come up with legislation, we want it to be carefully thought out. Just as an example, this legislation that is proposed talks about the preservation, enhancement, restoration, or creation of coastal wetlands. Well, there are more than coastal wetlands involved in this Nation. We are worried about the prairie potholes. We are worried about the inland wetlands that exist, whether they are fresh or saltwater wetlands.

This legislation states enhancing, protecting, creating, nothing about obtaining or purchasing. Clearly any option that is involved in legislation should involve purchasing the wetlands. All of it cannot be done by protecting, preserving, enhancing, restoring.

So that is what we are talking about when we say proceed in a rational manner around here.

There is nobody more dedicated to the preservation, enhancement, protection, creation, and restoration of wetlands than the members of the Environment and Public Works Committee, particularly when we think of the situation in Louisiana, as was clearly pointed out in very moving testimony by the junior Senator from Louisiana and the witnesses he had assembled, with maps showing what was happening to Louisiana. So we are going to do something about it.

But I shall join in the motion to table because I think there is a procedure that should be followed and we will follow it and we will come forward with legislation. Certainly whatever influence I have in the committee will be used in that connection.

Mr. BENTSEN. Mr. President, I move to table the amendment.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas [Mr. BENTSEN], to table the amendment of the Senator from Louisiana [Mr. JOHNSTON]. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 72, nays 28, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—72

Adams	Baucus	Bond
Armstrong	Bentsen	Boren

Boschwitz	Grassley	Moynihan
Bradley	Hatch	Murkowski
Bumpers	Heinz	Nickles
Burdick	Helms	Packwood
Burns	Humphrey	Pell
Byrd	Inouye	Pressler
Chafee	Jeffords	Pryor
Coats	Kassebaum	Reid
Cochran	Kasten	Riegle
Cohen	Kennedy	Robb
Cranston	Kerrey	Rockefeller
Danforth	Kohl	Roth
Daschle	Lautenberg	Rudman
Dodd	Levin	Sarbanes
Dole	Lieberman	Sasser
Durenberger	Lugar	Shelby
Exon	Mack	Simpson
Garn	Matsunaga	Stevens
Glenn	McCain	Symms
Gorton	McConnell	Thurmond
Graham	Mikulski	Wallop
Gramm	Mitchell	Warner

NAYS—28

Biden	Fowler	McClure
Bingaman	Gore	Metzenbaum
Breaux	Harkin	Nunn
Bryan	Hatfield	Sanford
Conrad	Heflin	Simon
D'Amato	Hollings	Specter
DeConcini	Johnston	Wilson
Dixon	Kerry	Wirth
Domenici	Leahy	
Ford	Lott	

So the motion to lay on the table amendment No. 670 was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 1278 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1278) to reform, recapitalize and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes, having met, after full and free conferences, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 1, 1989.)

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. I thank the Chair.

I want to say to my colleagues, as we take up this conference report, it is important to, I think, briefly review at the outset the parliamentary situation that we face here.

We have agreed on a limited time period for debate because there will be a vote that will come at the end of that time period having to do with the on-budget/off-budget financing question.

Depending upon the outcome of the vote, if that vote turns out to not agree with what is in the conference report, then the conference report will be set aside at that point and we will then have to move on to later steps, hopefully a reconvening of the conference at an early time, maybe tonight—that will depend in part on the view of the House—but at the earliest time should that happen.

In the happy event that the Senate wisely chooses to accept the conference report, as is, then we will be in a position to have acted affirmatively in both the House and the Senate today, and be in a position to send the bill down to the President for his consideration and hopeful signature.

In any event, that issue, insofar as I know, the financing question is the only outstanding of any major consequence. There are a lot of other issues that people might raise, myself or others, in terms of aspects of the bill, but in terms of the controversy at this point, it seems now to have centered essentially on that single issue.

Mr. President, I will briefly summarize. The S&L bill we have produced that is incorporated in the conference report tracks virtually precisely with the request and plan submitted to us by the Bush administration. I think this bill in its essential details, the financing issue to the side, comes in with as close to a pinpoint landing on what was asked for as any legislative product that I have seen in the 23 years that I have been here.

In the areas where we have made changes, they have been changes that have strengthened the bill. We have gone further than the administration in certain areas to toughen the bill and to raise the standards. Generally, the reaction that has come back from outside professionals, newspaper commentary, other financial service professionals who are detached is that this is a very strong bill, it is very solid and it deals directly with the problems that face the country in the savings and loan industry.

As a matter of fact, the Treasury Secretary himself, who does not happen to like the financing provision, has said in every other respect the bill is generally an excellent bill. Those are his words, not mine. I appreciate that description of his, and I think in effect it is an accurate description.

There are a number of key provisions in here that involve a crackdown on people who defraud or cheat in the savings and loan industry, much tougher criminal penalties, much higher fines in the future.

We radically change the regulatory structure of the savings and loan industry. We separate off the insurance aspect, as it properly should be separate. We close off the abuse of State powers which has been a major problem in causing the losses in the system up to the present time.

One of the anomalies in this situation is that last year 70 percent of all the losses in the national savings and loan system occurred in just two States, and that is Texas, the overwhelming source of the losses and California being the second one.

So we have acted to move against excessive State powers which have been one of the contributing problems in this area.

We have also required thrift owners to come up with much higher capital standards in the future. It is very important that there be more private sector money at risk which creates a barrier of protection, if you will, between the operations of an individual savings and loan and any ultimate claim on the insurance fund that might burn through and finally reach the American taxpayers. So there are much tougher capital standards.

In the regulatory area, in addition to separating off the insurance fund, we have also taken other steps to impose tough accounting standards, tough auditing standards, other things that will impose a kind of discipline that is badly needed and will be new in many respects to this industry.

I think it is fair to say that this is probably the most sweeping financial services reform package that we have had to put together here at the Federal level since the 1930's. We have done it in record time. I am proud of the bill that is before us. It is roughly a thousand pages of legislation, and any time a bill has to be that long because of its complexity, particularly of a problem of this kind, it speaks for itself, of its far-ranging nature and the difficulty of doing it and doing it on a timely basis and having it right.

Now, this is clearly a crisis problem. The President has said so himself. He asked for us to do this on an expedited basis. We put every other legislative priority aside in the Senate Banking Committee in order to get this done. All the members on both sides and all the staff have worked day and night without any letup or rest to try to get this package done and get it here today in the form that we find it.

It is important that we get it enacted because the losses are mounting. The

estimates are roughly $20 million a day continue to be lost, and those are amounts that we, as taxpayers, and our families and children all must in the end pay. So it is very important that we get this bill enacted and get it enacted as quickly as possible.

I think we have a package at the desk right now that deserves enactment. I regret the fact that the administration has taken such strong exception on the issue of the financing plan, and I will just say a few words about that.

Under the unanimous-consent order that has come in on the debate time, 45 minutes will be under my control as the manager of the bill, an hour will be under the control of Senator GARN on the minority side, and Senator HOLLINGS will have 30 minutes under the agreement because of the very strong feeling he has, which is a feeling that I share, with respect to the financing issue.

Now, as to the financing issue, what are we talking about here? If you have not had the chance to see it, there are a lot of articles that have come out on this, a lot of editorials—New York Times, Wall Street Journal, Washington Post—supporting the on-budget financing plan. Why? Because it is cheaper; it saves about $5 billion over 30 years at a minimum. In fact, it could save far more than that, but it will save at least that. In addition, it is a more straightforward and honest budget presentation.

But as serious observers around the country have looked at it, they have come back supporting that point of view. The most recent one that I have seen is just today, as a matter of fact, from the Dallas Morning News in which the headline is "Wall Street Would Put Thrift Bailout on Budget." It favors having the bailout in the budget.

I ask unanimous consent that this particular newsstory be made a part of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Dallas Morning News, Aug. 3, 1989]

WALL STREET FAVORS BAILOUT IN BUDGET

(By Robert Dodge)

WASHINGTON.—As the House and Senate postured for a Thursday bailout showdown. Wall Street experts expressed support for the House plan to include the costs of the thrift cleanup in the federal budget.

"I think the markets have already coincluded that Gramm-Rudman is a "bad propose," said William Griggs, a principal in the Wall Street advisory firm of Griggs & Santow Inc.

"Putting it on-budget is a more direct way to handle it," said Charles Lieberman managing director of Manufacturers Hanover Securities Corps. "If it is done on-budget, it becomes part of the normal course of Treasury financing."

The preference by Wall Street executives contradicted arguments by Senate Republicans and the Bush administration that the financial markets would be distressed by the House approach because it includes a waiver to Gramm-Rudman deficit-reduction calculations.

The thrift-bailout measure is scheduled to be considered Thursday by the House, but is likely to become snarled in the Senate just as Congress is trying to adjourn for its August recess.

Texas Sen. Phil Gramm, R-College Station, has threatened to raise a point-of order under the Gramm-Rudman deficit-reduction law, because the measure approved by Senate and House negotiators last week includes the exemption. Under the Gramm-Rudman law, any senator can stop a measure with 41 Senate votes.

"At this point, I believe we have the votes," said Mr. Gramm. On June 7, Mr. Gramm sent a letter to the chairman of the Senate and House Banking Committees threatening the parliamentary maneuver. It was signed by 40 other senators.

Mr. Gramm reiterrated that the exemption to the deficit-reduction law will set a precedent for Congress to waive other spending programs.

"What is at issue here is not whether we are on-budget or off-budget." Mr. Gramm said. "What is at issue is the precedent involved in raising the defict and saying that the S&L bill is necessary and therefore we will not count it under Gramm-Rudman."

Mr. Gramm is supported by Federal Reserve chairman Alan Greenspan and Treasury Secretary Nicholas Brady, who may recommend that President Bush veto the S&L measuring if it includes the House financing mechanism.

Wall Street experts said investors who would purchase the notes to finance the S&L bailout prefer the House plan because the bonds would be issued directly by the Treasury.

The Bush plan call for a new independent agency to issue notes. All bonds would be 30-year maturities. Traders and analysts said the market would be forced to absorb $50 billion in 30-year notes. That would push up long-term interest rates and distort the relationship between short- and long-term rates called the yield curve, they said.

The House plan calls for the Treasury to sell both short- and long-term notes. Proponents argued the House plan would save $4.5 billion in interest costs because the Treasury enjoys a preferential borrowing rate in the capital markets.

"This matters a lot to the market," said Jim Winder, a money market economist at Merrill Lynch & Co. in New York. "The financial markets would probably like it on-budget so the financing would be spread out over the yield curve."

William Brachfeld, an executive vice president with the Japanese firm of Daiwa Secucurities, said foreign investors believe the Gramm-Rudman process is "not dead, but they'd say it was impaired." He acknowledged that Japanese investors are concerned about the U.S. budget deficit, but said they also favor the potential interest savings under the House plan.

One executive at another Japanese securities company, who asked not to be identified, said his clients were most worried that Congress solve the S&L mess. He charged that lawmakers were turning one crisis into two by raising the deficit-reduction issue.

"Focusing the debate on Gramm-Rudman is more political than productive," he said.

Such criticisms did not prevent policymakers from engaging in more political maneuvering on the eve of the House vote. During a meeting of the House Rules Committee, members threw their support behind Rep. Henry Gonzalez, D-San Antonio, chairman of the House Banking Committee.

"I would urge you to hang tough on the on-budget, off-budget issue and make Sen. Gramm an honest man," Rep. Martin Frost, D-Dallas, a member of the Rules Committee, told Mr. Gonzalez.

The Rules Committee met to perform the largely procedural task of referring to measures to the full House. There, members asked Mr. Gonzalez if he thought an impasse with the Soviets would delay them from leaving for their vacations.

Mr. Gonzalez replied that he had stopped trying to predict "the weather, women and the Senate."

But on both Capitol Hill and Wall Street, there were warnings that Congress should not adjourn without approving the S&L bailout and sending it to the president.

"That would be the worst of all worlds and could set the stage for a potential crisis," said Richard Mohlers, director of federal agency trading at Salomon Brothers Inc. in New York. He warned that public confidence might be shaken if Congress fails to approve the thrift measure, which could spark deposit runs at insolvent S&Ls.

Rep. Joe Moakley, D-Mass., chairman of the Rules Committee, added: "Congress cannot leave without resolving this situation."

Mr. RIEGLE. The essence of it is that anything that is more straightforward on top of the table, out in the light of day, in the budget and which can be financed directly by the Government at the lowest possible cost is really the only sound and sensible way to try to finance this package.

The other alternative, frankly, is both less honest and far more expensive; that is, to go off-budget and to finance through a separate arm of the Government and try to make it appear as if somehow the Government is not really on the hook for these enormous amounts of money. But in order to do that, we have to pay a financing penalty when we go to the financial markets to raise capital. That is where this $5 billion of premium or extra cost comes from, looking out over the next 30 years.

So what we have done in the conference report, we have put together a package, a financing package, that keeps it on the budget so that the Treasury Department can do the borrowing directly at the lowest cost, and it provides necessarily a waiver from the Gramm-Rudman limits which was contemplated by the original drafting of the Gramm-Rudman-Hollings law because it is such an extraordinary situation and it ought to be seen as such in terms of a problem that requires a direct cleanup.

I want to refer my colleagues to the remarks that I know the Senator from South Carolina will make on this, Senator HOLLINGS of Gramm-Rudman-Hollings, and who I think is as certifiable an expert on this question and the integrity of the budget process

and what makes sense in this financing plan as anybody that will be heard from on this floor today, including the present speaker.

So the financing issue is really the issue that sort of lies at the center of the dispute that continues as we come to the floor at this time.

I will just indicate that supporting the notion that is in the conference report and that I am advocating of having this on budget and financed directly by the Government at the lowest cost is the U.S. Chamber of Commerce, the Shadow Financial Regulatory Committee, the National Taxpayers Union, and many others. And some very interesting other outside experts, noted Republicans like Herb Stein, Martin Feldstein, both former Chairman of the Council of Economic Advisers in Republican administrations; Rudolph Penner, our former CBO Director; market experts like Henry Kaufman, Dave Jones, and Craig Coats, and many others; noted economists Alan Sinai and Franco Modigliani, and the list goes on and on.

So there is a very clear and compelling rationale for the financing approach which is in the conference report which the House ratified earlier today. It is less expensive, it is more straightforward, and it is the way we ought to deal with extraordinary problems of this kind.

Finally, when the appropriate time comes—and this has been discussed ahead of time with the people on the other side of this issue—I will move to waive the Budget Act in the necessary respects in order for this financing plan to be in order and to be able to be passed today in the Senate.

My colleague from Texas, PHIL GRAMM, has made it clear he intends to object to that and he will be heard from later in terms of his point of view on the issue. But we will put that question forward affirmatively. I will seek the waiver. I will ask for a vote on that question, and the Senate will have to express itself on that issue.

If we should fall short in that vote count—and I expect the vote count to be close. I would like to believe I had the votes, but I need some votes off that side of the aisle I am not sure I am likely to get. So in the event we fall short and the point of order is made, that will send the conference report in its entirety down, in which case then we will be forced to go on into a new procedure. Hopefully, the House will agree to go back into a conference with us. It is not simple or an uncomplicated matter and we will try to go forward from that point.

I would caution everybody that there is no certain way of predicting what the end game looks like if we fail to get this waiver and this package goes down at this point. There are some people who feel so strongly about it, particularly in the administration, that they are quite willing to see the whole package go down on that single issue.

I think is a terrible error in judgment. I think it is bad public policy, and I think it is based on weak arguments. That is no disrespect to the people who hold the arguments personally. I think they happen to be wrong.

But if we find ourselves in a situation where we cannot resolve this issue in an orderly way and quickly, I think we face the prospect that we could have unwanted turmoil in financial markets. I think that would be regrettable. We will have mounting losses to the taxpayers which I think is really irresponsible in the extreme. I am not sure, if we start to break this bill apart in any substantial degree, a second time around we will be able to defeat the special interests as effectively as we have with this version. And so if this bill gets opened up in major ways, I think the likelihood is that a lot of time could pass and we would end up with a bill far less valuable and far less sound than the bill that is before this Chamber right now.

And finally this: It is one thing to vote on a budget waiver. Everybody in this Chamber, every Senator at one time or another has voted for at least one budget waiver, at least one budget waiver, in many cases far more than that. I can cite those. I do not take the time to do it now. But we have a situation here that if we take and disrupt this bill in any great degree and weaken it in any great degree, we may well not have the votes on final passage.

So I say to people who want to send this conference report down, you had better think a little bit as well about the question of producing 51 votes later on down the line at some unconfirmed point to actually pass this legislation should it not pass because the votes are not there. And I do not predict that is the case. I certainly hope that will not be the case but there are going to have to be an awful lot of votes on final passage coming off that side of the aisle, and this side of the aisle.

It is very important that we not misunderstand thc situation that we are in. Should we not be able to enact a reform package here, and have these losses continue to mount, I think that would administer a shock to the financial system that would be a very dangerous situation to find ourselves in. We have struggled mightily to avoid that. I do not want to see us get into that situation by accident.

So, Mr. President, I will at the appropriate time send my motion forward to waive the Budget Act. I will reserve doing so until such time as we end the debate period but with the understanding that we have reached on the other side I reserve that right.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. RIEGLE. I yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, I will be very brief. I want to commend the very able, distinguished chairman from Michigan for his extraordinarily skillful and capable leadership in the conference. He chaired the conference, and I think as has been indicated by Secretary Brady himself with the exception of one issue on which there was a disagreement—that is the funding mechanism—the Secretary himself has called this an excellent bill. The fact of the matter is we have a stronger bill here than the bill submitted to us by the President.

This is a difficult problem. We are, in effect, dealing with a mess out in the country. We are trying somehow to straighten it out. Hopefully, this will get us on the right track. This is a very important piece of legislation. My own view, of course, I support the on-budget funding. I expect that issue to be developed in a little more detail as we proceed through this discussion.

But I want to express my strong agreement with the chairman's comments about the difficulty of what we are dealing with here. If we go back to conference and reopen this bill, there is no guarantee what is going to come out. There are all kinds of interests swirling around this bill, trying to alter this part of it, or that part of it. I think the conference did a very good job of resisting that. I think we have a very good bill before us. I have much hope we will be able to move it forward.

I would be remiss if I did not take just a moment to underscore the extremely effective leadership which the chairman of the Banking Committee exercised in the conference.

Mr. RIEGLE. I thank the Senator from Maryland for his very generous personal comments. He has been key to this work right from the very first day. Certainly, any credit that is due is fully shared with him and many others.

I might also just say that a budget waiver is required by either plan. So the fact that we seek a budget waiver for the financing plan in the conference report is no different than the fact that those who have the other alternative in mind will also have to have a budget waiver for their plan.

Mr. SARBANES. Mr President, I ask unanimous consent that editorials from the Baltimore Sun, the Washington Post and the New York Times all endorsing the conference reported measure be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 31, 1989]

FINISHING UP THE S&L BILL

As it emerged from the conference, the S&L reform bill is a remarkable achievment. The administration sent a strong bill up to Congress, and Congress has stengthened it.

One quarrel continues to boil: Should the cost of the cleanup be on the budget or off? That is a minor issue compared to the enormous improvements in financial safety standards that this bill offers, but it could still derail it. The conference put the costs on the budget, requiring an exemption from the Gramm-Rudman limits on the deficit. The White House wants the financing to be off-budget. Any exemption from Gramm-Rudman, it argues, would set a dangerous precedent. That logic would be more compelling if the administration and Congress were not collaborating this summer in the debasement of the Gramm-Rudman process with billions of dollars' worth of gimmicks and evasions to make an oversized deficit look smaller.

On budget is better because it saves money. But on or off, the financing mechanism is not worth delaying final enactment of the bill. The losses of the bankrupt S&Ls are rising at a rate of more than $10 million a day, and it's money that is going to have to come from the taxpayer.

This legislation would impose radical changes on the savings and loan industry. The S&L scandal—the greatest financial scandal in American history—is the result of political meddling in the regulatory system on behalf of certain well-connected operators who got into trouble. As the rules went slack, the thieves and confidence artists arrived like flies at a picnic. The new rigor being demonstrated by the administration and the House Banking Committee is, in some part, penance for the sins of their precessors. But they have chosen the right remedies.

They would insulate future S&L regulators from manipulation by politicians and lobbyists. They would—in a crucial improvement—require S&L owners to put substantial amounts of their own money into their businesses as an incentive to prudence. They would forbid S&Ls to put depositors' money into highly risky investments—junk bonds, for example. They offer credible assurance to the public that the S&Ls will never again be subject to the kind of mismanagement and deliberate looting that the past decade has seen.

In writing this bill, both the administration and Congress have closely followed banking standards. While a good many banks have failed in recent years, the banking system as a whole remains sound, and its deposit insurance fund is solvent—unlike the S&Ls'. As the new requirements take hold, S&Ls will evolve rapidly into institutions that look and behave very much like banks. The sooner President Bush signs this legislation into law, the better for the stability of the economy and the protection of the public.

[From the New York Times, July 31, 1989]

SAVINGS AND LOAN VICTORY, IN SIGHT

The House-Senate conference bill to clean up the savings and loan mess is a clear victory for the public interest over special-interest groups that fought it to the bitter end. The bill now is stronger than what President Bush proposed six months ago. It merits swift approval.

The thrift industry is in crisis because of lax regulation, meddling Congressmen and senators and Reagan Administration indifference, plus rampant incompetence and outright fraud in the industry. Bailing out bankrupt thrifts will cost an estimated $166 billion, but the eventual price could be twice as high. Taxpayers will pay most of it.

President Bush responded to the problem just thirteen weeks after taking office with a courageous proposal for a huge bailout and stiffer regulation. The final conference bill is basically the Bush plan, indeed, Treasury Secretary Brady called it "generally excellent," except for financing.

One key provision, vigorously opposed by the industry, would require owners of S&L's to put up more capital. Other provisions would strengthen regulation under Treasury supervision, increase Federal deposit insurance fees, make thrifts unload investments in high-risk junk bonds and set rigorous penalties for future law-breakers.

This package is no cure-all. It preserves thrifts as a separate industry for which there is no longer a clear need, and it restructures their operations in so many ways that no one can be sure what will evolve. But the bill nonetheless responds conscientiously to a monumental financial crisis.

Prospects for swift enactment remain clouded by continued debate over how to account for the cost. President Bush wants the funds to be recorded "off budget," borrowed by a special new agency. That's a cosmetic contrivance to make it appear that the bailout wouldn't increase Federal spending, because he wants to show that the deficit is shrinking despite bigger borrowing. But at the insistence of House Democrats, the conference bill counts the outlays in the budget, assuring further fireworks.

Republicans will try to defeat this provision in the Senate, claiming it would undermine deficit reduction efforts, and Administration officials rumble that it might be grounds for a veto. But the Democrats' way is more honest, and would cost less in the long run.

A prolonged showdown or a veto on this issue would be folly; every day adds $20 million to the cost, and failure to enact a bill before Congress's August vacation would be an ominous sign that the crisis was not taken seriously. Allowing the bill to founder now would squander a sound achievement.

[From the Baltimore Sun, Aug. 2, 1989]

THINK OF THE TAXPAYERS

We have some advice for members of the Senate as they take up the administration's $50-billion savings and loan bailout bill; think of the taxpayers. Every day's delay in closing 500 insolvent thrifts costs taxpayers $20 million. Failure to approve the S&L conference committee's report this week would add $140 million to the nation's tax bill and would send another signal that Congress is not serious about cleaning up the nation's financial mess.

To avoid such a spectacle, Republicans and the Bush administration must back away from their support of an accounting gimmick. They want to keep the S&L bailout off the federal books by setting up a quasi-private agency so the $50-billion expenditure won't devastate the Gramm-Rudman spending limits. But House Democrats and the conference committee decided that would be a costly deception. The S&L bonds can be exempted from the Gramm-Rudman statute, enabling the Treasury to issue bonds directly. This would save taxpayers, $4.5 billion through lower interest charges. For once, we'd have an honest resolution of the savings and loan crisis.

The hang-up is that Sen. Phil Gramm of Texas is dead set against any money plan that threatens the health of his feeble legislative stepchild. He claims there are enough senators to block any attempt to gain an exemption for the S&L bailout. He'd rather see taxpayers take it on the chin than expose some of the glaring deficiencies of the Gramm-Rudman law.

We think the savings and loan bailout bill is too important for this kind of political gamesmanship. In addition to providing enough money to close over half the insolvent thrifts still operating, the measure would set tough capital requirement for S&Ls, force thrifts to sell off high-risk "junk" bonds, impose tougher accounting standards, increase penalties for fraud and place S&Ls under the control of more watchful federal regulators.

Treasury Secretary Nicholas F. Brady has called this compromise bill "generall an excellent product." His—and the president's—only complaint is the way the plan would be financed. That's not sufficient to oppose the entire bill at this crucial stage. The president and Senate Republicans ought to embrace the savings and loan bailout plan crafted by the conference committee. It would be an important step on the road to straightening out the savings and loan fiasco and ensuring that it will not happen again.

Mr. CRANSTON. Will the Senator yield?

Mr. RIEGLE. I yield.

Mr. CRANSTON. I was going to ask the Senator from Michigan about the same point which he just mentioned, that either way we went, on budget or off budget, we require a budget waiver. So we are not going to avoid that by whatever action is taken at this stage.

I would like to make one related point to that. We are coming up to a weekend when many Senators have plans for travel, for vacations with their families. They have not seen much of their families of late, meeting with their children. Some Senators are going to be leaving. Others of us will stay as long as we have to stay to finish this task. But with some Senators leaving, going off to Europe, or other different places, we may get to the point where under any plan requiring a waiver we will have difficulty getting the 60 votes to grant the waiver.

The point of that remark is that it behooves us all to work as rapidly as we can to wrap this up one way or another, or we may get into a total impasse where we cannot act for some time, and in the meantime we will have a $20 million a day expenditure going on.

So let us resolve this in some way. I favor a resolution as a way before us in the conference report. I hope we can achieve that. If we cannot, we have to look very swiftly for another solution.

Mr. RIEGLE. Mr. President, I am about to yield the floor and reserve the remainder of my time.

I want to thank the Senator from California and the Senator from

Maryland, the other two conferees on the majority side in the conference, for exceptional work, diligence, and without whose leadership we would not be here today.

May I ask how much of the 45 minutes have been consumed?

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator has 24 minutes 50 seconds remaining.

Mr. RIEGLE. I reserve the remainder of my time and yield the floor.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, first of all, let me address the issue of time, the most important issue that will probably not be discussed by others as we get into the financing issue.

Three years ago, just about this time of year, a little bit later, Senator RIEGLE and I sat there in the back of the Chamber trying to get $15 billion of FSLIC recap passed, and without his aid, we would not have been able to do it in the Senate.

At that time there was a GAO study that said that FSLIC was hemorrhaging at the rate of $10 million per day. He and I thought it was rather important to do something about it. Even if you take that low estimate the problem was very serious. Now the estimate is $20 million a day. But even if you take that $10 million a day, that is $300 million a month for 34 months. I feel very bitter about that. I am not going to expand on it. I just feel very bitter and upset that we are here tonight, 34 months later, losing that much money.

More important than any particular issue in this bill is to get the tourniquet on and stop the losses. I am not just bitter. I am angry. I am upset that the American taxpayers are out there being ripped off for 34 months they did not have to be. They continue to be ripped off by, disputes in this bill.

So while I happen to disagree on this one particular issue, it is far more important that we get this bill passed, signed into law, and stop ripping off the American taxpayers. If we really want to stand out here on the floor and talk about being the taxpayers' friends, stop the hemorrhage. Get the tourniquet on. If we have to loosen it or tighten it later, fine, but stop the arterial bleeding.

My point of saying this is if we get the time down to 2 hours and 15 minutes, we can get back to conference tonight. I want to seek if we can arrive at a compromise to settle this issue and get a bill down to the President tomorrow. I hope we will not play games. I hope the House would not say, "Well, it takes us time to appoint conferees. It will take until next Wednesday to go back into conference." If we are all serious about this, despite our differences of opinion on this issue, we can go to work tonight. If it takes all night, so be it. We would be back here tomorrow with a compromise between the administration and this conference report. I cannot expect, let's be blunt about it, that either side is going to cave to the other position.

So that means we have to come up with a compromise. That should be done tonight. The longer we talk out here, the longer it takes, and American taxpayers are paying the bill. We have 2 hours and 15 minutes. So nobody gets angry, so none of my colleagues are offended, no one on either side should ask for any time beyond that 2 hours and 15 minutes. When 2 hours and 15 minutes is over, we are going to vote. So everybody knows we can try to get back to conference tonight, I will object to even a 30-second time extension or 1 minute or anything; 2 hours and 15 minutes is plenty. Everybody knows what the issues are. So we can get back to it.

Mr. President, as I expect everyone in this Chamber knows, I refused to sign the conference report on H.R. 1278, the Financial Institutions Reform, Recovery and Enforcement Act of 1989. No one has worked harder or longer than this Senator to produce responsible legislation to address the immense problems in the savings and loan industry.

I deeply regret the fact that irresponsibility, hypocrisy and intransigence on the part of the House of Representatives left me no choice but to refuse to sign the conference report. To demonstrate what I mean, I want to remind the Senate of some of the history leading up to this conference report.

President Bush sent Congress a comprehensive legislative package on the S&L problems way back on February 22 of this year. At that time, he asked Congress to expedite its consideration of the package and to try to have legislation on his desk within 45 days. The Senate responded with prompt action and was positioned to come close to meeting the administration's timetable.

The story in the House of Representatives was completely different. Blithely ignoring warnings that delay was costing taxpayers up to $20 million a day, the House of Representative brought progress on the legislation to a virtual halt while the bill was referred to various committees and individual members added their extraneous provisions.

I can only describe this as the height of irresponsibility. This example of irresponsibility on the part of the House of Representatives rivals that displayed by the House in 1986 when members of that body blocked a recapitalization of the FSLIC by refusing to drop their extraneous pet provisions.

The House's irresponsibility was matched by its hypocrisy. On the one hand the House professed an overriding concern over minimizing the cost to the taxpayers when the House insisted on its so-called on-budget financing scheme. At the same time that the House was professing this overriding concern over the cost to taxpayers, the House was also insisting on a new extraneous "affordable housing program" that would cost just as much as the alleged savings from the House's on-budget financing scheme.

This new housing program was not the only provision added by the House of Representatives that will increase the cost of this legislation. As a second example, I point to the right-of-first-refusal provisions that will increase the losses on repossessed properties in the hands of insolvent S&L's.

Finally, as I have noted, intransigence also has been a hallmark of the House's actions. Early in the conference on this legislation, the Senate conferees made an extremely generous offer to the House. The Senate offer was so generous, in fact, that the Senate conferees agreed among themselves that to recede any further to the House would constitute a failure to meet our responsibility to the full Senate to defend at least a small number of the Senate provisions in this legislation.

House Banking Committee Chairman GONZALEZ recognized the extent to which the Senate conferees had given in to the House in the initial Senate offer. I want to quote from Chairman GONZALEZ's statement describing the initial Senate offer:

> Clearly the Senate position is to accept the overwhelming majority of House provisions.
>
> The Senate has listed nine areas in which they ask the House to recede. Even within these nine issues, however, the Senate has shown considerable movement toward the House position.
>
> I doubt very much that anyone on this committee can remember an occasion when the Senate moved to accept so much of the House position—most certainly not on a bill of this magnitude.
>
> In short, when the Senate presented their comprehensive offer on Thursday, they in effect agreed to recede on the overwhelming majority of issues. This is a great achievement for this [House] committee.
>
> They [the Senate conferees] generally accept the House provisions in 26 major areas, and insist on their provision for nine areas.
>
> On core issues, our [the House conferees] position prevails 75 or 80 percent of the time.

Mr. President, even though the House recognized that the Senate had already receded on 75 to 80 percent of the core issues, the House conferees insisted on more. This was a level of intransigence that I have never experienced before in a conference with the House.

Nothing better illustrates the intransigence of the House than the conferees' negotiations to resolve the differences between the Senate's funding plan and the House's funding plan. Given all the concessions already made to the House, the Senate conferees initially voted to ask the House conferees to accept the Senate's funding plan.

The House flatly refused. In an effort to break the logjam, Senator CRANSTON offered a compromise funding plan that had been suggested earlier by Congressman WYLIE. Again the House conferees rejected the Senate proposal out-of-hand and demanded total capitulation by the Senate conferees.

Chairman RIEGLE proposed yet another compromise funding plan to put $25 billion of borrowing on-budget and $25 billion off-budget. The House conferees did not even give this idea the courtesy of consideration.

Overall, as I stated at the beginning, in the process leading up to this conference report, the House has been irresponsible in its delay and in its insistence on including pet proposals; the House has been hypocritical in saying that the aim was to save taxpayers money while at the same time insisting on expensive new programs; and the House has been intransigent in refusing to negotiate with the Senate on items in disagreement.

Mr. President, to accept this conference report would set a terrible precedent for the Senate of virtual total capitulation to the House on a major piece of legislation. Ignoring the specifics of this bill, I believe the Senate should insist on its position being defended in conference and on a conference report that gives the Senate its fair share on the items in disagreement.

I now want to turn to the merits of the funding issues.

Today the Senate considers the most significant thrift legislation since the 1930's. The crisis in the S&L industry is one of unprecedented magnitude, and unfortunately so is its cost. No matter what we decide, the taxpayer will be faced with a tremendous burden, one for which we all share responsibility. The manner in which we finance the resolution of insolvent institutions will affect the ultimate cost to the taxpayer, however, and it is with that in mind that I stand here in support of what has become known as the off-budget plan.

To be perfectly honest, the debate we are engaged in is over the lesser of two evils, for both options involve unappealing policy precedents. But as numerous administration officials, including the Secretary of the Treasury, the Director of OMB, the Chairman of the Council of Economic Advisers, and even the President himself, have stated, the off-budget plan is the more reasonable approach. Let me also state at the beginning that this is not a debate over honesty in budgeting—we all know, as do the rest of the country and the financial markets, that the Federal Government will be spending billions of dollars to resolve this crisis. The issue is the longrun implications of our decision. I have stated my position many times before, so I will simply summarize the case for the off-budget plan.

The flaw with the on-budget proposal is its potential to undermine the Gramm-Rudman-Hollings deficit reduction process. While Gramm-Rudman-Hollings is not perfect, it is the most effective way we in the Congress have discovered to maintain fiscal discipline. By setting the precedent of waiving Gramm-Rudman-Hollings, the stage is set for many similar such exemptions. OMB Director Richard Darman is already facing pressure to exempt from Gramm-Rudman-Hollings such programs as drought assistance, catastrophic health insurance, and drug-abuse control. Once such a pattern begins, it will be impossible to stop: where will priority programs end?

Proponents of the House provision claim that due to the premium Refcorp bonds will require, the off-budget financing plan will cost roughly $125 million more per year. Overall, Federal Reserve Board Chairman Alan Greenspan has estimated the cost to have a present value of $1 billion. Yet as Chairman Greenspan has also stated, that would be a small insurance premium to pay in order to preserve the integrity of the Gramm-Rudman-Hollings process.

Furthermore, any perceived erosion of the Federal Government's commitment to reducing the budget deficit could ultimately cost the taxpayer much more than $125 million per year as the capital markets respond with higher interest rates. Although various factors influence interest rates, they did decline after the passage of Gramm-Rudman-Hollings, and in the fall of 1987, when Congress eased Gramm-Rudman-Hollings targets, long-term rates rose more than half a percentage point in less than 3 weeks. Given the size and maturity of currently outstanding Federal debt, a 1 basis point rise in rates would raise annual Federal borrowing costs by $150 million, more than offsetting the extra Refcorp costs. A 10-basis-point rise would increase Federal borrowing costs by $1.5 billion, overwhelming the extra Refcorp costs.

In addition, the nature of the thrift crisis makes the establishment of a separate corporate funding entity using private sector funds appropriate. First of all, the establishment of such a mechanism would be difficult to replicate in the future, thereby making it less likely that the current situation could be used as a precedent for circumventing Gramm-Rudman-Hollings. Second, the outlays authorized in the bill are not new commitments but instead reflect the realization of liabilities that have accumulated over several years due to the Federal Government's pledge to insure deposits.

A final advantage of the Senate financing plan is that it more effectively locks in the thrift industry's contribution to financing the program. Under the off-budget plan, the thrift industry's contribution will be used to purchase zero-coupon Treasury bonds which, when they mature, would be used to pay off Refcorp's obligations. Under the House plan, however, Treasury would be authorized to directly issue bonds for the resolution of the insolvent thrifts and the industry's funds would essentially be held in escrow. This would not preclude the thrift industry from successfully lobbying to get its funds back at some future date. I, for one, want the thrift industry to pay for as much of this mess as they can afford to. The Senate bill ensures this, and in doing so will save the taxpayer money.

Ultimately the Senate must decide what type of precedent it wants to set. We can either put the funding on the budget and exempt it from Gramm-Rudman-Hollings, setting the stage for many repeated such exemptions, or we can demonstrate our commitment to fiscal discipline and adopt the Senate plan. We don't want the S&L bill remembered as the beginning of the end of budget discipline, nor do we want to place any extra burdens on the taxpayers of the country. In the long run, the off-budget plan will be the less expensive and more prudent way to go.

There is no need to take up the time of my colleagues going on and on over speeches they have heard me make for months. They know exactly what my position is. Just to summarize very briefly: I have said this in conference, and I have said it in public. We can stand up here and argue all night about which is the best financing plan. This Senator will repeat it again. Both of them are turkeys.

We are talking about picking the lesser of evils. Neither plan is good. Both plans have been mislabeled. We talk about on budget. This is not an on-budget plan. It is in a way, yes, it places on budget, but then waives Gramm-Rudman-Hollings, so it does not count against the ceilings there. So we violate that. That is gimmicky, too.

On the other hand, the other program by the administration says it is off budget, the principle is off budget; we create a corporation, $50 billion, and we sell the bonds. I think that is good, because that keeps the S&L's on the hook. They are the ones that caused the problem; they ought to pay

as much of the bill as we can possibly force on them. But the interest is all on budget.

You talk about $270 billion, $300 billion, all that interest is on-budget, Federal expenditures. So we are playing games with both of them. The rhetoric you will hear as we go on tonight will mislabel and misconstrue both. So I am supporting off-budget, and I can come up with a list of people who support my position, but I will not take the time to go over them all. I will mention Alan Greenspan's name. Both the chairman and I can produce lists and editorials. That does not mean anything, because we have noted experts on both sides. I just hope that we will get to the end of this debate, and sustain a point of order. The conference report definitely does violate Gramm-Rudman-Hollings. Nobody disputes that. Let us get back to a conference tonight and finish it. Thirty-four months is long enough.

It is time that Congress was responsible. It is time the President of the United States was responsible. It is time we end this process, however it comes out, tonight. Let us do it and get it over with, stop the rhetoric and game playing, and stop talking about different budget methods and do something responsible for once. Let us not drift into next week without resolving the issue.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Mr. President, I have some requests for time on my side, and I was wondering, I was not aware of how long the minority side might go at this point. I know Senator HOLLINGS has his time reserved. Senator METZENBAUM will be among our early speakers on our side. For the time being, let me invite either my conferees, if they want to speak at this time—I take it Senator HOLLINGS prefers to wait and speak at a later time. Let me put in a quorum call at this point. We will have our other speakers come to the floor now.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Mr. RIEGLE. Mr. President, as other speakers come to the floor at time to express their own views on it, I want to add a point or two with respect to the situation we find ourselves in.

I think it is fair to say that in coming down through the weeks and months it has taken us to produce this major reform package, we have worked in the fullest sense in a bipartisan fashion. We have certainly worked that way with the Bush administration, as we have with our Republican colleagues in the Senate Banking Committee. I say this process has been as fair and as evenhanded as I have ever seen it be, and it should be that way, and I am proud of the fact that that is the case.

I want to say to my colleagues on both sides, Democrats and Republicans, as we have some through the process, that that cooperation and bipartisan spirit has been very important. I do not like to see it put in jeopardy at the tail end over a frozen attitude on the financing question. I think that is a very serious mistake on the part of the administration, to draw the battlelines that strongly at this stage.

Obviously, they have to make their own judgment on it. I think it is always good, when you are making those kind of judgments, to not just look at the next step or the step after that, but look at what the end game step is, where you arrive at the end of the succession of steps.

I say that as we meet here right now, this conference report is blown apart, if you will, that the question of what happens in the end is very much up in the air, as is the question of when it happens.

I am very mindful of the fact that it is important to get this legislation enacted now, and that is why we have proceeded with such urgency and why we have proceeded in a fully cooperative bipartisan fashion. So I would hope that we would not lose that here at the 11th hour and find ourselves either going on into next week or the weeks that follow.

I should make it clear that I do not intend to go anywhere. I intend to be here tomorrow and the next day and the week after that, as long as we need to be here, and I am quite happy to be. I am fully expecting that whatever follows here, at least for my part as the chairman of the Banking Committee, I intend to be on deck and ready to work on this.

I think it is also fair to say that just given the longstanding plans of many doing important assignments in their home States, some doing international trips that relate to their work in terms of peace talks and other things, that there is the prospect here, I think, of a very serious disruption for everybody's work schedule. That is just the way it is, but I think everybody has to be on notice that that is the case. It is not a happy event, but nevertheless I do not think anybody should have any illusions about the difficulty of solving this matter, if we just get caught in a mire that does not lend itself any timely solution.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, we had all of these people who wanted to speak, but where they are I do not know. I will take a minute in the interim and, hopefully, they will come to speak. If not, I suggest that the chairman and I put in a quorum call and divide the time equally and let the time run out, if they will not come and speak.

I simply want to compliment the chairman of the Banking Committee. Senator RIEGLE and I have served together for a long, long time on this committee. He was my ranking minority member serveral years ago, during some critical times. He was very helpful to me during this process, as difficult as it has been, and as controversial a bill as this is; and we have a good bill overall. We disagree on this one item, but the rest we have put together in good faith.

I extend that compliment to the entire membership of the Banking Committee. There simply has been no partisanship through the last 6 months. We held more than 21 days of hearings, a lot of caucuses, and we held markups, and we produced a bill in record time, more than 2 months before the House of Representatives did.

So I think it is important that our colleagues understand that despite the differences on this particular issue, that the Republicans and Democrats on the Senate Banking Committee have worked together harmoniously, and it has been a particular pleasure to me to have such a good close working relationship with the chairman in producing this bill.

I yield the floor.

Mr. RIEGLE. Mr. President, I just want to acknowledge those very kind and warm remarks from Senator GARN. We have served together now, and this is our 13th year together on the Senate Banking Committee, and we have an excellent friendship and professional and personal relationship. I think that has been crucial in terms of our ability to fashion this legislation in the time that we have.

So I thank him for his generous comments and his leadership and for all the members of the committee who have worked so hard on that.

I might say one other thing. The question as to when this bill would arise on the floor today has been up in the air all day long. Many people thought it would not come up until later in the evening. There was a decision made to try to bring it up earlier than was otherwise planned so that depending upon the disposition of the budget waiver question that if we had to try to go back into conference there would at least be a period of time this

evening in which to try to do that. So many of our colleagues who had asked to speak expected that they might be speaking later. They are now aware of the fact that the time period has been moved up so they are expected on the floor shortly.

But I must say in their behalf that they were caught a little flatfooted because the decision was made to move ahead and to take down the bill that was on the floor so that might happen.

So in any event, Mr. President, are there any requests for time on our side at this moment?

Seeing none, are there requests on the minority side?

I am about to suggest the absence of a quorum.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. I yield such time as the Senator from Texas desires.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I will start by making it clear that I think it is important that we pass a bill. I think my colleagues on the Banking Committee will remember that I cosponsored the President's proposal. We worked in the committee, I agree with Senator GARN, on a bipartisan basis.

I think we have come down really to two fundamental issues.

I will first address the issues of on-budget/off-budget, and I have to admit that part of my position here is based on the fact that I hate to see terms misused. If government does one thing well, it is that it distorts language to try to affect the outcome of debate. I shall talk about on-budget/off-budget. I then wish to talk about what is the real issue here and then talk about the secondary issue, which I think has been glossed over. It is a vitally important issue in this debate and should be a key element in conference if, in fact, the point of order that I will raise is sustained.

Mr. President, let me first begin by saying that the President's plan is an on-budget plan, 100 percent on-budget. Let me explain why that is so: The President's plan consists of two parts, because in fact this bailout is funded from two sources. One source is the industry itself. The other source is the taxpayer. Quite frankly, I believe the taxpayer is paying too much and the industry is probably paying too little. But the industry does contribute to this bailout, and that is why the President's plan consists of two parts.

The industry borrows $50 billion for their share of the bailout.

In listening to my colleagues talk both before this debate and after I speak, you are going to get the idea that this is somehow a trumped-up house of cards. But, Mr. President, nothing could be further from the truth.

The private sector, the savings and loan industry, borrows $50 billion, and it buys zero coupon bonds with its own resources, $6 billion, that mature in 30 years for $50 billion.

The S&L industry incurs a $50 billion liability. It gives that $50 billion to the bailout and then with $6 billion of its own resources it buys zero coupon Treasury bonds that collateralize the $50 billion and mature on exactly the day that the $50 billion is due.

So this $50 billion is a private liability, in no way a liability of the Federal Government. It is fully collateralized by the savings and loan industry, which has taken its resources and bought a zero coupon bond for $50 billion.

Looking at any test of whether this is an off-budget transaction, is the Federal Government liable? No. The private sector is liable. The savings and loan industry is liable.

Is the Government liable if the savings and loan industry defaults; in other words, is there a contingent liability? No, because the savings and loan industry's $50 billion is 100 percent collateralized with the Treasury bonds.

Mr. President, any home in America that is guaranteed by an FHA loan is more of an off-budget transaction than this transaction. This transaction has no off-budget in it whatsoever. Some clever P.R. person came up with the idea that it is better to be on budget than off, and so they took advantage of the fact that nobody who was writing about it really understood this plan and they used it to try to claim that it was off budget.

Second, the Treasury pays interest on this $50 billion for 30 years. Every penny of interest payment is an outlay of the Treasury. Every penny of the payment of the interest is on budget. Every penny of interest adds to the deficit and, most importantly, every penny of interest payment creating a deficit creates a deficit that is subject to the Gramm-Rudman-Hollings targets for deficit reduction.

Now that is the President's plan. It is 100 percent on budget in every element where the taxpayer is at risk. The private liability is fully collateralized.

Let us look at the alternative, the so-called on-budget plan. The so-called on-budget plan is on budget where it does not count. The so-called on-budget plan has the Treasury rather than the savings and loan industry borrow this $50 billion. And make no doubt about it, that is a liability of the Treasury. "Treasury" is a Washington code word for "taxpayer."

That $50 billion counts as an outlay of the Treasury, so the deficit goes up by $50 billion.

If it ended there, you could say, well, that is an alternative way of doing it. In this case you have the Treasury borrow it, the taxpayer is more at risk, but if it ended there it would be foolish but it would be legitimate. But it does not end there, because the final step tells you the difference. The final step is to say this $50 billion is on budget, but, by the way, when we look at the targets under the Gramm-Rudman-Hollings balanced budget law, we will not count this $50 billion. It is out there, it is a deficit, but you see it was a necessary deficit. It is a good deficit. Those other deficits are bad deficits.

Mr. President, only because the public does not understand the financial policies of America can anyone call that on budget without people laughing in their face. In fact, there is not a single case in American history that I am aware of, under the First Bank of the United States, under the Second Bank of the United States, and under the independent Treasury since 1840, that the President's plan would have ever been called off budget and that this plan would have ever been called on budget.

Who really cares about on-budget versus off-budget? We do, because we use those terms. The media does because they are confused. But now let me get to the heart of the matter. The heart of the matter is this: If this financial mechanism prevails we have raised the deficit by $50 billion, and we have said that we will not count it toward the Gramm-Rudman-Hollings targets. The reason being asserted is that this is a unique situation. This is an emergency.

Mr. President, what is to prevent the Congress from coming in next week and saying, "You know, housing is an emergency." Of course, housing is an emergency. So we will set up a procedure, and we will raise the deficit to fund housing, and we will not count that as part of the deficit for measuring our deficit reduction targets. Is not the war on drugs an emergency? Obviously it is. What about the nuclear cleanup? What about education?

Mr. President, if we set this precedent, we will end up in short order with a balanced budget for the purposes of the Gramm-Rudman-Hollings balanced budget law with a $300 billion deficit.

We can all, as our distinguished ranking Member said, quote experts, but Alan Greenspan puts his finger right on the point. He does it in a letter which has gone to every Member of the Senate. He did it in the hearing this week before the Banking Committee. His point is crystal clear.

The method used by the President does not create a precedent that can be used in the future for other expenditures, whereas the method used

by the House and adopted by the conference does. And, therefore, the adoption of this procedure opens the barn door for deficit increases that do not count in our system of reducing the deficit.

We are going to hear all this talk about, well, it is cheaper if the Treasury borrows the money. Mr. President, let me remind my colleagues, this $50 billion the private sector is borrowing is fully collateralized by a Treasury bond. There is absolutely no risk premium involved.

In fact, the Chairman of the Board of Governors of the Federal Reserve System sums up the whole issue. The issue is simply the size of the market. There is no risk premium difference in the yield that the borrowing of the industry, fully collateralized by a Treasury bond, will produce, versus the Treasury. He concludes with regard to the difference that, "This is a small insurance premium for better budget discipline which would avoid ultimately greater costs." That is Alan Greenspan.

Mr. President, before I yield the floor, I want to bring up a second issue which conveniently everybody wants to forget in this debate. The President's letter did not just talk about the financing mechanism. The President's letter talked about "other provisions that will reduce asset recoveries for the taxpayers and add inappropriate subsidies."

Then he talks about a veto.

Now, what are those? I want to be brief because I want to preserve the time we have. There are two provisions in the House bill that represent piracy of the taxpayer's key assets. I remind my colleagues, under either financial mechanism, the taxpayer puts up a lot of money. The industry puts up money. And then the taxpayer gets the assets of the failed thrifts.

The original plan which I cosponsored, which the Senate adopted, had those assets being sold to the highest bidder and that money being returned to the taxpayer. But what the House did by a two-vote margin, and what is now part of this conference report, is a provision that pirates $2.8 billion of the money that should go back to the taxpayer and use it to subsidize loans to people buying low-income housing. And then another provision devalues these assets. We will probably acquire $500 billion of assets from failed savings and loans, probably $105 billion of residential assets will end up in the Resolution Trust Corporation to be managed.

What this second provision requires is that low-income individuals and housing authorities or individuals who will convert housing to low-income purposes, get the right for 90 days, without any competition, to bid on the resources.

The RTC, the agency that will be handling it, is given the authority to accept lower than market offers. And the net result would be, by giving this first opportunity to buy, giving the power in essence to grant these subsidies, that overall we could see as much as $10 billion taken from the taxpayer, $10 billion by preempting the use of these assets that were supposed to pay the taxpayer back.

Since when did this become a vehicle to create a new housing program, one that has not been authorized, that has not been appropriated?

Mr. President, this is like a guy who has been in an automobile wreck and Dracula is working in the emergency room. You bring the guy in, and he is bleeding to death, and Dracula says: "Bring some blood in, pump some blood in this guy." And then Dracula says, "Well, while I have got him here, I might as well take some of that blood."

Thirteen billion dollars is too much tribute to pay in what is supposed to be a bailout of the savings and loan industry. Those are outrageous provisions, and I defy anybody here today to stand up and defend them. I defy anybody here to explain to the people of America why as much as $13 billion ought to be pilfered, raising the costs to the taxpayer by $13 billion, to create a housing program that nobody authorized, nobody ever appropriated, but a provision that worked its way in here simply because someone saw a train coming along and reached in and took something out of it.

Mr. President, this bill has great problems. The President has said he will veto it based on these two principal problems. I hope my colleagues will reject the motion to waive the Budget Act. If that motion fails, I will raise the point of order. It will be sustained by the Chair, and we will go back to conference, giving us an opportunity to take this asset pilfering out of this bill and also to deal with the financial problems involved.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina has 30 minutes.

Mr. HOLLINGS. Mr. President, I rise advisedly on this matter because I was not party to the savings and loan conference. I am not intimate to all of its provisions. But, I am compelled to address the issue of whether this bill undermines Gramm-Rudman-Hollings.

I was frankly taken aback when I received a letter yesterday from my distinguished colleague, the Senator from Texas, Senator GRAMM, claiming that putting the S&L bailout on budget is a fraud and that it shreds the discipline of Gramm-Rudman-Hollings.

I read Senator GRAMM's letter and reread it. I know my good friend knows better than what he wrote in that letter.

Now, I also know better than to think I am going to change any votes on the other side of the aisle. It has to be acknowledged that this jury is fixed. I wish we could change some of the jurors' minds. But the foreman, the President, said he is going to veto it. And the bailiff, Senator GRAMM, has got this jury together, has already got the necessary 41 votes. So I am already found guilty.

But I cannot go down without a fight because I have been in this budget game a long, long time. I can go back 30 years to when as South Carolina Governor I got a triple A credit rating before most of the States represented on the floor of this Senate ever got a triple A credit rating. I was chairman of the Budget Committee when our colleagues would not yet pronounce the word reconciliation and wondered what it was. So this Senator knows how to cut spending. And in the first 2 years after passing Gramm-Rudman-Hollings we did cut spending. We brought down the deficit rather than increased the deficit. I then got together with my distinguished colleague, the Senator from Texas, on Gramm-Rudman-Hollings, as a matter of necessity. I admire the fellow. He is smart. He knows what he is talking about. And he is very clever. In drafting and passing Gramm-Rudman-Hollings, he had his heart in the right place.

Earlier we attempted to enact a freeze. It is to this side's credit that we froze the budget back in September 1985, and then President Reagan and our good friend Tip O'Neill melted it out from under us. They made a deal. Tip said, I will preserve your defense spending if you will preserve my Social Security spending. So we were totally sold out.

I took the initiative at the State level by cutting straight across the board. We would just get a certificate that the expenditures exceeded the revenues and we proceeded to cut straight across the board. We grafted that concept into Gramm-Rudman-Hollings.

Senator GRAMM taught me the word sequester. He is an economist and I am not. And together with Senator RUDMAN, we came up with Gramm-Rudman-Hollings.

Incidentally, Senator GRAMM wanted to sequester or cut only entitlements. So, when we met I said: "Wait a minute here. You have put Social Security subject to sequester."

He said: "That is right. We must have truth in budgeting. We must make everything subject to sequester."

I said: "Wait, you do not have defense subject to sequester." And Senator GRAMM replied, "Well, you know, we have to really get hold of the enti-

tlements, that is what is causing the deficits."

I said: "Well, we have a good body of thought that says defense is causing the deficits and you and I can fight but unless we can make it even-Steven across the board, we are not going to get anywhere. We will be beat. We have been beaten time and again. We are just whistling Dixie, kidding each other."

He said, "Well, we have to have truth in budgeting, put everything on budget." I said, "All right, let's put Social Security on budget, but it will never be subject to sequester because I am trying to get up the Democratic votes." Incidentally, on 14 separate occasions, I got a majority of Democrats to vote in favor of Gramm-Rudman-Hollings. It is a bipartisan matter here. It was not easy. But we agreed, all right, everything on budget.

I have all the CONGRESSIONAL RECORDS here from December 1985. Senator GRAMM's remarks are replete with references to Joe Sixpack, families balancing their checkbooks at the kitchen, trying to make ends meet; people working overtime, trying to pay the bills, pulling the load for America, and so on. I have been through these homespun references to Joe Sixpack 100 times. Senator GRAMM is great when he gets wound up.

But the cardinal principle is this: put everything on budget. So when I read Senator GRAMM's August 1 letter and it says that off budget financing of the S&L bailout is in consonance with Gramm-Rudman-Hollings, I am bewildered. Then I learned that Senator GRAMM had written to the chairman of the Banking Committee, Senator RIEGLE, warning him not even to think about putting the bailout on budget because Senator GRAMM has 41 votes to sustain a point of order.

And now we get the President's letter promising a veto. So I ask myself, "Why such a frantic display of strong-arm tactics?" And I go back mentally to the beginning of the year, to a meeting with Dick Darman. I said, "Richard, I know about your pledge of no taxes, but without taxes the only way I can conceive of meeting the deficit target is to enact line-item veto authority by March 15. If you do not push for line-item veto authority, I'm going to have to go the revenue route."

Yet here we are near the end of the fiscal year and we still are on "read my lips", and "we do not need taxes." Every day my office fills up with administration officials clammoring for more money. It was Admiral Yost earlier this week saying that we are $600 million short on the Coast Guard; drug czar William Bennett saying that we are several billion short on drugs; the Secretary of Energy saying the nuclear plant in my back yard, Savannah River, is billions short of what is necessary for the cleanup.

And here we have the savings and loan bailout requiring over $300 billion. I did not see how in good conscience we were going to do all these things without revenues.

My distinguished colleague on the Budget Committee, Senator DOMENICI, has said, "We were so smart; we came up with Gramm-Rudman-Hollings." And he asked, "Suppose you were President. How would you solve this?" I thought, conscientiously, that it was incumbent upon me to propose a plan, and I did.

I said I have listened to all nickel-and-dime tax proposals, a little bit on cigarettes, a little on liquor, a little on gas, you pick up $16 billion, but I said that interest costs are jumping in increments of $25 billion a year. Like Alice in Wonderland, we have to run faster and faster just to stay where we are.

Incidentally, I say to the Senator from Utah, he talks about the hemorrhage of this S&L crisis. It is a $20 million-a-day hemorrhage, but look at the cost of interest on the debt, $720 million a day. That is the hemorrhage HOLLINGS has been working on.

And, ye gods, let's not go the way of New York City in the early 1970's, by issuing bonds to hide our budget deficit. There is a great difference between financing through Treasury securities and financing through a nongovernment agency. Yes, we issue bonds—thank heavens, the Japanese are still buying them—but we issue Treasury securities on current expenses, and we keep our accounts current.

If you ever go the route of New York City by issuing off-budget, zero-coupon bonds, then that is a fatal precedent. You will have the drug czar proposing drug-war bonds; you will have Admiral Truly proposing go-to-Mars bonds; you have all the other groups calling for bonds to clean up nuclear waste, provide child care, and so on, and then we really will have just given up the ghost.

That is what destroyed New York City's financial health back in 1975. They were financing 15 percent of their operating costs with off-budget bonds. And that is what Senator GRAMM is arguing for here. He is saying, let's go the off-budget bond route.

We heard that in Budget Committee long ago. Let us capitalize all the defense installations and Federal buildings and forests. Ye gods, we are rich.

Or why not just do this: Put the entire budget off budget and keep only the trust funds on budget, and we will have a whopping budget surplus. I have to wonder, is there any conscience to this whole game? Everybody knows what is going on.

Many times we have voted Gramm-Rudman-Hollings waivers, as Senator RIEGLE has pointed out. I say to the Senator from Texas that we voted a waiver just last week, busting the budget by $4 billion on the energy and water bill for health costs. Instead of giving the Finance Committee a chance, you waived the budget; you exceeded it by $4 billion last week, and now you want to exceed it by $50 billion this week. You have to get a hold of yourself.

I say that in all sincerity. What is the crux of the conference report? It says, No. 1, most important, that we refuse to go the route of New York City by issuing off-budget bonds. Uncle Sam bailed out New York City, but who will bail out Uncle Sam?

The controller of New York City in the mid-1970, was asked, "How did you get into such a mess?" He said, "By masking. By contriving an accounting system that masked the problem and put our expenditures off-budget."

There is no education in the second kick of a mule. We must not repeat New York City mistake. They say that Congress is low in the esteem of the American public. We deserve to be. If a pollster asked me, I would vote that way too, I can tell you that right now.

You would not get Senator GRAMM's off-budget scheme through a State legislature. The State governments, Republicans and Democrats alike, pay their bills. They cannot go this off-budget bonding route.

The distinguished Senator with his orchestrated drive to kill on-budget financing of the S&L bailout engages in doubletalk about who really cares whether it is off-budget or on-budget. The answer is: I do. If you are for truth in budgeting, you must insist on on-budget financing.

I am laying claim to Joe Sixpack now. I am not going to let him go. He understands what I am saying, I can tell you that right now. Good deficits? Heck no, all deficits are bad. There are not any good deficits.

So let us not go the route of New York City. Let us not do exactly what put the S&L's in the soup in the first place, by hiding the problem.

Second, with respect to the conference report, if we adopt it tonight, we issue the Treasury bills next week immediately and we cut off the $20 million-a-day hemorrhage. In contrast, if we finance through Senator GRAMM's quasi-public corporation, you have to get lawyers, you have to get legal opinions, you have to go to the market, and it will be months before the bonds are floated. I can tell you it will take a lot more time. It will extend the hemorrhage.

It has been estimated that over a 30-year period off-budget financing would cost you an extra $5 billion. That is assuming the interest rate stays down,

growth stays up, and so on. It costs you billions more than that extra $5 billion. According to the Comptroller of the U.S. Government, the $50 principal is a minimal figure. Our friend Danny Wall spent $40 billion in 1988 alone, just one month. So it is going to be much more than $50 billion. We will have a second round, if not a third.

We are not solving the problem. Nonetheless, this is a good step. I am for the conference report if it is on-budget. They had to pare down and take advantage of every reasonable hypothesis to get this, and it has taken 7 months. It is the best we can do. But, heavens, do not create a bigger problem by going the off-budget bonding route, because it will cost us much more money and it will be the end of the discipline of Gramm-Rudman-Hollings.

Now, I can tell you how Gramm-Rudman-Hollings has worked. We enacted it in 1985. We cut the deficit in 1986 and 1987. But then we went down to the White House before Christmas in 1987 looking ahead to the 1988 race and we concocted a sweetheart summit agreement; "a deal is a deal." Mum was the word. Just stick with the do-nothing summit deal and we'll all get through the election year of 1988.

That is where he broke the discipline and started the monkeyshine of wonderful 5-percent interest costs, which I have yet to see, and magnificent GNP growth, which you will never see. Yes, in the first 2 years we reduced the deficit from $221 billion down to $150 billion. It did not, by the way, throw us into an economic depression as some had predicted. But then we slipped it a year. And after slipping it a year, then we started monekying with the figures again, and this year we passed another bogus budget, claiming absurdly that it complies with Gramm-Rudman-Hollings.

I said, "Wait a minute. I will offer you a bet." I said it in the Budget Committee and I said it on the floor. "This 1990 budget is nearer $150 billion than to $100 billion, and I will bet you the money, you know it and I know it, and if you really believe in what you are saying, bet me the money, take the odds and let us go with it." No one has ever come with that bet.

So we have slackened the original discipline of Gramm-Rudman-Hollings. And now Senator GRAMM is proposing an off-budget, out-of-sight, out-of-mind financing scheme that will be the death blow to Gramm-Rudman-Hollings. It will set a fatal precedent.

No wonder that Felix Rohatyn and the economists who resurrected New York from bankruptcy are all calling on the phone saying, "Heaven's above, whatever you do—if necessary, let the S&L's keep on bleeding—but don't start bonding your programs in Washington, don't start putting your spending off-budget. Stick with the grand principle of everything on-budget, truth in budgeting."

Of course, the hole in the doughnut in this debate—the great unmentioned—is taxes and spending cuts and doing the dirty work of truly cutting the deficit.

Senator GRAMM wants to mask the full scope of the deficit so there is no pressure for taxes and so we can get through 1992 with the "read my lips" pledge intact. So what if we wreck the Government's finances in the process.

We are deceiving the American public. If you really want to continue with this deceit just to get us by the next election, then you will vote to sustain Senator GRAMM's point of order.

Senator GRAMM's letter distorts the on-budget financing plan. Let us be very clear. By waiving Gramm-Rudman-Hollings, we are waiving only the deficit target, we are expressly not waiving the Gramm-Rudman-Hollings process. The expenditure remains on-budget. It is counted.

We are not trying to precipitate a sequester. The S&L bailout is an emergency. This is exactly the kind of emergency that GRAMM, RUDMAN, and HOLLINGS intended that a waiver be used for. We were socked with a $50 billion bill after the budget had already been adopted. That is a good cause for a waiver, unless you prefer a catastrophic sequester. Even with the waiver, the expenditure remains on-budget, counted, and in the public eye. There is no cheap masking of the problem.

My distinguished friend from Texas has said "take it out of the process, forget about it, sweep it under the rug, out of sight, out of mind." He says, "A deal is a deal, and we can get through next year, get reelected, and the public will never know the difference. Only the children and grandchildren will find out, but we won't be here when that happens."

I reserve the remainder of my time.

The PRESIDING OFFICER (Ms. MIKULSKI). Who yields time?

Mr. GARN. I yield 10 minutes to the Senator from New Mexico.

Mr. DOMENICI. I thank the distinguished Senator from Utah.

Madam President, let me see if I can, in my own way, try to convince the Senate that the issue that is before us is a serious one for the future of this country. Perhaps for those who might think it is just a matter of convincing Members of the Senate whose version of on budget or off budget is right, let me see if I could produce a little history and do a little thinking now.

Madam President, fellow Senators, I call to your attention the fact that the Congressional Budget Office in 1985 issued a 5-year projection for the deficit of the United States. That included a deficit projection for this year, the year we are in, 1989. Madam President, unless there is a Member here who happened to have that report in their office, I do not think anyone here would remember what that number was. I happened to look at it. In February 1985, the Congressional Budget Office estimated the deficit for 1989 at $272 billion and $296 billion for 1990. Madam President, we now have an estimate for 1989. We have heard so many people say Gramm-Rudman-Hollings has not worked; that we have targets and do not meet them. Well, $296 billion was the estimate for next year and, under Gramm-Rudman-Hollings, we are allowed a deficit for 1989 of $146 billion. The deficit is going to turn out to be $149 billion, $3 billion off the mark.

Now we are going to hear, of course, Social Security is counted in that. Now we can invent all kinds of new issues that we want to invent about the fiscal policy of this country. But the truth of the matter is Gramm-Rudman-Hollings intended to use the Social Security in arriving at a zero budget deficit 5 years after its enactment, and we are pretty close to being on target.

Does that mean it works? I would assume that means it is working. I would assume for those who think it is not that maybe they have a better way to get this deficit from an estimated $298 billion to $146 billion. I do not think there is a better way. It is not perfect. I hope we do not have to live under it forever. But it is working.

Madam President, not only is it working here, but people in the world believe it is working. You ask the people who are looking at America's fiscal policy, and they say are you going to meet the Gramm-Rudman targets? When our representatives go to talk to them, that is the question. You say we are going to meet it. We are meeting it. We are very close, and we are going to hit $100 billion for next year, 1990. That is the next target.

There may be some in this body who might say all of that is irrelevant. There may be some who would say you are even hoodwinking them. But the fact is, it is believed. Some people talk as if a few sophisticates on Wall Street look into these on-budget off-budget items with glasses at 1 in the morning and say you are really off a little bit; we do not believe you; the marketplace does not believe the Gramm-Rudman targets, and the actions of the President and the Congress in trying to meet them. But I guarantee you: You openly, publicly throw the Gramm-Rudman targets out the window and you will see the living reality of their validity.

I guarantee you that if you want to vote on the Senate floor tonight to abandon the Gramm-Rudman targets

and add $50 billion in spending, and then say we are not going to count the $50 billion, against the target, I can predict for those who want interest rates to come down, they are going to go up; for those who expect our economy to progress, it is going to come down.

As a matter of fact, we had a black Monday not too long ago. If you trace the history of events before that, they were principally motivated by what people had in their minds, not by any facts. What people have in their minds is that Gramm-Rudman-Hollings is working.

I know enough about budgeting to understand that there are many nuances, many very strange aspects to this policy and this process. But in a rather consistent manner, we have been applying it.

I cannot understand why the President's plan is being called some kind of hoax when the bill before us today says if we spend $50 billion over the Gramm-Rudman targets—get this—do not count it. How in the world is anyone going to believe that Gramm-Rudman is effective when in an open bill we have an alternative that meets the targets, we say we want to do it another way and not count it?

The argument has already been made, and I will just reemphasize it. If you want to find a way to get around Gramm-Rudman-Hollings for every emergency around, do it this way. Pass this one. And then say, do not count it.

People are talking about the President's plan as if it has some kind of phoniness to it. What could be more phony than saying we believe in the Gramm-Rudman targets, we want the world to believe it, but we are just passing a bill here tonight, and acknowledging $50 billion in spending, but do not count it?

I submit that will have a significant deterioriating effect on the American economy. I am not positive, but as sure as I am here it is calculated to render the Gramm-Rudman-Hollings targets and their credibility meaningless. Some might argue there is not a lot of credibility there, but a lot of people believe in them and we are throwing them right out the window.

I ask why? The only answer I get is that somebody is talking about bonds. All of this is financed. Part of it is financed off budget because the industry is obligated to pay for it. That which is on budget is what we are obligated to pay for, which is a pretty logical way to handle it.

The Federal Reserve Board Chairman says, that over 30 years you might save a billion dollars under this finance plan because you are using the full faith and credit of the Treasury, the taxpayers, to back his credit instead of the industry which ought to back it. So, in today's dollars, you might save a billion and a half dollars over 30 years.

But, I call the Senate's attention to the words of wisdom of that Chairman when he called that billion dollars: "a very small insurance policy" for improved fiscal discipline that would result from adhering to the Gramm-Rudman-Hollings targets.

What he is saying is you have rendered the Gramm-Rudman-Hollings targets valueless in exchange for maybe saving $1 billion and letting the Treasury of the United States be responsible for this debt instead of the S&L's of this country.

I cannot make it any plainer than it is a very serious fiscal issue. There is no phoniness involved in this unless one wants to say put $50 billion on budget and then say do not count it. I guarantee you that this will be used next year by those who want to accelerate the time that we must put new taxes on the American people. They are saying here tonight, do not count it but next year they will add it to the Gramm-Rudman-Hollings deficit and say it is off by $50 billion because we are counting it now.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I yield the floor.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. I yield 6 minutes to the Senator from Pennsylvania.

Mr. HEINZ. Madam President, as we consider this conference report, I would like to observe that when the Banking Committee first began consideration of the legislation I, along with a number of others, felt there were two goals that had to be met.

The first goal, the paramount goal, was to fulfill a pledge made by Congress more than 55 years ago to place the full faith and credit of the United States behind federally insured deposits.

The second goal was to maximize the amount paid by the savings and loan industry to resolve this crisis and thereby minimize the cost to the taxpayers. Minimizing the cost to the taxpayers has been the second paramount goal.

I think this conference report has by and large done a good job in meeting the first goal, but the price tag on this legislation is enormous. But the same token, Congress has made a promise to the American people, and it is a promise that we cannot afford to break. The second goal, though, of reducing the taxpayers' burden has, I am sorry to say, not been fully met. Now, we have more than $100 billion at stake in this legislation for openers. The conferees from the House of Representatives have managed to up the ante in this already huge downpayment by insisting on a funding plan that bursts the Federal budget.

The House funding plan will be, I trust, subject to a successful challenge via point of order has taken legislation which was intended to fill a hole in the only wall that keeps the Government's huge budget deficit from spreading and used it to dismantle budget reforms. It is ironic that legislation filled with strict reforms to curb freewheeling spending by savings and loans might be used instead to destroy the reforms put in place to curb freewheeling spending by Congress.

Madam President, the President of the United States, the Secretary of the Treasury, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, Chairman of the Federal Reserve: that is a pretty good lineup. Every single one of them believe that destroying the fiscal discipline mandated mandated by Gramm-Rudman, as this legislation in its present form will do, is just too big a price for the American taxpayers to pay for this legislation, and I wholeheartedly agree.

The House conferees, who insist on shifting the burden of raising $50 billion from the savings and loan industry to the U.S. Treasury, claim that they simply want to save the taxpayers money. Well, Madam President, that is all well and good, but I would like to point out that it is those same House conferees time and again who passed up golden opportunities to lower the cost of this legislation to the American taxpayer.

If saving taxpayers money was their goal, why was a multibillion dollar housing program added to this legislation? How does that save money? The housing program added by the House will drain at least a minimum of $100 million a year and probably a good deal more from the thrift industry that could have been used to pay for the cleanup of insolvent savings and loans. That is not going to save the taxpayers money; it is going to cost the taxpayers that much money.

Madam President, if saving the taxpayers money was the goal of the House conferees, why was the Resolution Trust Corporation, which is responsible for selling assets acquired from these failing S&L's, transformed from an auctioneer, which was directed to get the top dollar, into a quasi-Federal housing agency with authority to sell residential properties at below-market prices, financed to boot with below-market loans? Every dollar that the RTC fails to collect adds to the cost of the S&L crisis, and that is not going to save the taxpayers money; it will cost them money.

If saving the taxpayer money was the goal of the House conferees, why did they strip the Senate bill of strong measures that would have placed the Federal Deposit Insurance Corpora-

tion at the head of the line in recovering funds from those who stole money from the savings and loans? Do you know what their excuse was? "Well, we agree that court made law is right. When assets are still in the S&L, FDIC should be at the head of the line. But when those same assets have been stolen by an officer or director of the savings and loan, the shareholders should have at least equal, if not first, dibs with the FDIC, this in spite of the fact that shareholders were the people who elected those officers and directors." Talk about standing logic on its head.

The PRESIDING OFFICER. The Senator has used his time.

Mr. HEINZ. I ask unanimous consent to proceed for 1½ minutes extra.

Mr. GARN. I yield 2 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator may proceed for an additional 2 minutes.

Mr. HEINZ. I point out, Madam President, that the Senate gave the FDIC the tools it asked for in this regard, the tools it needs to get the taxpayers' money back and to get it back fast. The House of Representatives said "no, that is not for us. We might upset some lawyers who are getting in line along with all other creditors." It is not that I am against creditors, Madam President, but we ought to be for the taxpayers.

Once again, the House conferees refused to adopt measures that could have been used to save the taxpayers money. They have insisted on measures that will cost taxpayers money.

Now, I have to confess, I was a conferee, one of five Senate conferees. There were more than 90 House conferees. I have to say, as I sat and participated in that conference, I witnessed the House insist over and over again, on provisions that increased the cost of this legislation.

It was not their intent, as I have explained, to save the taxpayers money. Now it is time that the Senate insist on its funding plan, insist on our proposals to save money and refuse to grant a multibillion dollar waiver of Gramm-Rudman. Voting to waive Gramm-Rudman will have short-term savings with long-term consequences. And destroying the only constraint on the Federal budget deficit carries a price tag that no American taxpayer can afford.

I yield the floor.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Let it be clear that under both plans the industry is required to pay the same amount of money. That point has been misrepresented in the debate. Under both plans, the industry is called upon to pay exactly the same amount of money, exactly the same amount of money.

I yield 5 minutes to the Senator from Florida.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized for 5 minutes.

Mr. GRAHAM. Madam President, I wish to join with our other colleagues in commending the chairman and the ranking member and other members of the conference committee who worked so hard on this extremely difficult matter.

It, therefore, pains me to have to make the observation that this is not our proudest hour. We are adding another chapter to a book that has many chapters already written and, I suggest, many that are likely to be written.

One of those chapters is a chapter of a continuous policy to attempt to avoid facing reality. Let me bring to the Senate's attention a discussion that went on in the Senate Banking Committee not 36 months ago or 24 months ago, but just a little over a year ago, May 26, 1988. It went on between the Senator from Texas and the Chairman of the Federal Home Loan Bank Board. The discussion went as follows. The Senator from Texas asked, "We could avoid a taxpayer bailout? Can it be avoided?"

The Chairman of the Home Loan Bank Board responded:

> We believe that the numbers are such right now that barring any significant shift in our assumptions in the economy generally we are within striking distance of having dealt with all the problems with the resources available.

The Senator from Texas asked again that—

> We can avoid a taxpayer bailout; is that right?

The chairman stated:

> We believe we have the resources available that, as I say, put us within striking distance of the problem barring any unforeseen shifts in the economy.

It was 11 months later that the Wall Street Journal reported why those kind of statements were made.

Madam President, I ask unanimous consent to have printed in the RECORD a May 1, 1989, Wall Street Journal article entitled "U.S. Intervention in Southwest S&L's Raises Industry Losses, Executives Say."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 1, 1989]

U.S. INTERVENTION IN SOUTHWEST S&LS RAISES INDUSTRY LOSSES, EXECUTIVES SAY

(By Hal Lancaster)

AUSTIN, TX—Recent government intervention in Southwest financial institutions is increasing industry losses and the eventual cost of resolving the thrift crisis, according to thrift executives attending the annual meeting of the Federal Home Loan Bank of Dallas here Friday.

The annual meeting, which featured the last appearance together of members of the soon-to-be-disbanded Federal Home Loan Bank Board, turned into a dark and sometimes bitter gripe session for the beleaguered Southwest thrift industry and its regulators.

Among the most persistent gripes was the cost of government intervention in the thrift debacle. In an interview after his speech, Lewis Ranieri, chairman of United Savings Association, Houston, complained that insolvent institutions placed under Federal Deposit Insurance Corp. control in recent months have been permitted to offer extremely high rates to depositors. With the assurance of government aid on the horizon, Mr. Ranieri explained, the insolvent thrifts feel they have nothing to lose by paying high rates for deposits that can then be gambled on potentially high-paying but risky investments.

But, Mr. Ranieri said, in the meantime, "they're savaging the earnings of healthy institutions." Moreover, he added, the increased rates are pumping up the Texas cost of funds index and will increase the cost of rescuing the Texas thrift industry.

W.W. "Bo" McAllister, chairman of San Antonio Savings Association, which currently is under FDIC conservatorship, said the so-called zombie thrifts aren't entirely to blame for high rates. "The most obnoxious thing going on in Texas is NCNB Corp.," he said. The North Carolina banking company, which acquired the failed banks of First Republic Bank Corp., "is the most predatory pricer in the state," he said. First Republic Bank isn't related to First Republic Bancorp. Inc. of San Francisco.

"They don't care what they pay for funds," he explained, because the federal assistance the banking concern receives increases along with the cost of funds. That is unconscionable, he believes, for an institution that had been 80%-owned by the FDIC until Friday, when NCNB increased its stake to 49%.

Kenneth Lewis, president of NCNB-Texas, added that the money raised has been invested in government instruments that will generate $100 million in profit. "To the extent the FDIC participates in that, we've done the opposite" of increasing FDIC costs. Mr. Lewis said there is very lttle difference in the rates NCNB pays in Texas and North Carolina. "All we're trying to do is serve the consumer market," he said.

But the cumulative effect of these high rates has revived the so-called Texas premium. Roger Martin, who is leaving the Bank Board this week, said that from Feb. 4 to March 28, high rate payers increased the cost of savings in Texas by nearly a full percentage point while Treasury bond rates increased only a quarter of a percentage point.

That reversed many of the gains made last year, when the Bank Board consolidated 88 Texas thrifts under its so-called Southwest Plan, he added. The board has faced mounting criticism for giving away too much to thrift acquirers in tax benefits and federal assistance. In their final appearance together as members of the board, the three members took swipes at their most persistent critics.

M. Danny Wall, chairman and the only board member slated to remain after the Bush thrift-rescue legislation emerges from Congress, labeled as "balderdash" criticism that the board is too easily influenced by

the industry. Mr. Wall added wryly that last week Congress started introducing special-interest exemptions into the Bush package.

Mr. Wall has been under personal attack for his overly optimistic projections of thrift rescue costs and for the 1988 year-end deals. "We did not cry fire in a crowded theater, of that we're guilty," Mr. Wall said. He added, however, that Congress and the White House weren't about to deal with the crisis in an election year. "They gave us a Band-Aid and said take care of it until 1989. That's what we did."

Mr. GRAHAM. Madam President, the Wall Street Journal in that article quotes the same chairman of the Home Loan Bank Board as saying, "We did not cry fire in the crowded theater, of that we're guilty."

That is the chairman's explanation for having made the representations just a shade over a year ago that there was going to be no taxpayer bailout because we had adequate resources within the insurance fund to pay all foreseeable obligations.

That is not crying fire in the midst of a crowded theater. That is standing on the deck of the Titanic and saying, "We haven't really hit an iceberg."

Madam President, we also have the tattered symbol that we are about to pay great homage to today. When the Gramm-Rudman-Hollings program was adopted in 1986, the Federal budget deficit total accumulated debt was $2.12 trillion. Today the Federal budget deficit's accumulated debt is $2.868 trillion. And we will vote before we adjourn to go home this week for a further increase in the Federal debt limit.

This is the proud flag of Gramm-Rudman-Hollings; this is the flag that we are about to honor today. Would someone tell me how this flag is a symbol of victory in the reduction of the Federal debt?

Madam President, a third hypocrisy, neither of these financing plans is honest. Both of these financing plans are going to tell to our children and our grandchildren:

You are going to pay for the reckless actions of our generation. You are going to pay because we had people in responsible positions who represented to the elected Senators of the people of America that we had no problem. Why worry. Be happy. Everything is all right. You do not need to take any action.

And now we come back a few weeks later saying we need to have this enormous bailout at the public's expense which we, this generation, is not willing to pay for, which would be the truly honest approach, but rather we are going to unload for the next 30 years to the year 2019.

But, Madam President, within these hypocrisies I suggest the hypocrisy that is being advocated by the administration is the greater. One hypocrisy is how much the administration purports that the industry is going to pay toward this plan. Their assumptions are a series of wildly unsupportable economic dreams.

The savings and loan industry for the past 2 to 3 quarters has been declining as the run on deposits persists.

The PRESIDING OFFICER. The Senator from Florida has used his time.

Mr. SARBANES. Madam President, I yield to the distinguished Senator 1 minute.

The PRESIDING OFFICER. Is the Senator from Maryland the chairman?

Mr. SARBANES. Yes, I am.

The PRESIDING OFFICER. The chairman has the right to yield such time.

The Senator may proceed.

Mr. GRAHAM. Madam President, I appreciate the additional minute. I will use it as carefully as I can.

Assumptions that underlay the administration plan are that this industry is going to grow by 7 percent a year for the next 10 years. There is no American who has read a newspaper or seen a financial account in the last 6 months who would adopt that assumption. The consequence of that is that the cost to the American taxpayer is likely to be much greater than is currently being projected.

I do not believe this is a question of on-budget/off-budget. I think the question is one of whether we are going to have a very expensive plan for the next 30 years or whether our grandchildren are going to be given a superexpensive plan to pay for over the next 30 years.

By all accounts, the estimated additional interest costs to the American people over the 30-year period of this plan is $4.5 billion plus, $150 million a year.

Madam President, I would suggest that in this book of chapters of hypocrisy that we ought to at least write a small paragraph that says, "Grandchild, we are going to ask you to pay as little as possible for the hypocrisy which we write today."

Thank you, Madam President.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. I yield 2 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas has 2 minutes.

Mr. GRAMM. Madam President, I have listened to our dear colleague from Florida talk about all the mistakes that have been made and talk about Danny Wall and about his misestimates. But I would like to remind my dear colleague that on February 27, 1986, the Reagan administration asked for $15 billion to try to address this problem. On March 10, 1987, I offered an amendment in committee to provide $15 billion, and our dear colleague from Florida voted "no."

Senator GARN offered an amendment providing $10 billion, and our colleague from Florida voted "no."

Finally, we adopted $7.5 billion, half the funds required. Only in conference, when we violated the scope of the conference and went to $10.8 billion, after the House had adopted $5 billion and we had adopted $7.5 billion, did we begin in any way to address this problem.

So I point out to my dear colleague that it is always easy to find fault with someone downtown running an agency. But when our dear colleague voted "no" on providing $5 billion and then voted "no" on providing $10 billion, it is very hard for me to blame someone downtown who was in a tough gunfight with no bullets over the failure of a program when there are many among us who voted consistently not to give him the bullets to do the job.

I reserve the remainder of my time.

Mr. GRAHAM. Madam President, will the Senator from Texas yield for a question?

Mr. RIEGLE. Madam President, we are tight on time, but I yield a minute to the Senator from Florida.

Mr. GRAHAM. I appreciate the courtesy of the chairman and I want to say that I take strong personal offense. We were told not once, because it was not just on May 26 that we were told that we had no problem, but also on September 8 that we were told by the same chairman.

I believe in the past year FSLIC has made significant strides in resolving the crisis and those subject to the vagaries of future economic conditions realistic projections today indicate the FSLIC possesses adequate resources in the near-term to deal effectively with the immediate problems of troubled institutions.

That was less than a year ago that that representation was being made to Members of the U.S. Congress.

With that kind of representation we are subject to criticism because we did not rush forth and take corrective actions. The physician in charge had told us that the patient was well and getting better.

I believe that based on that representation we acted very prudently. I believe that we had a physician who had practiced malpractice.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. I ask for 1 minute.

Mr. RIEGLE. He still has some of the 2 minutes remaining.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I simply want to reiterate the facts, and the facts are that on February 28, 1986, the administration's economic policy committee approved a request for $15 billion to $20 billion for the FSLIC recap. We had an opportunity in the Senate to vote on that on March 10, 1987. I was there when comments were made concerning the resources of the Federal Home Loan

Bank Board. But we had an opportunity to put our money where our mouth was.

My point is that on $15 billion and $10 billion, the Senator from Florida had an opportunity to cast that vote and did not.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Madam President, I say to my friend from Texas that any time anybody wants to aim comments at any other Member on where they were on these issues and so forth and so on, I would urge him to think a little bit about that. Because he is going to take some bullet holes himself on this issue, both in terms of what has happened in his State and also in fighting to keep us from getting the regulatory help that we needed; to have help for the regulator back earlier in time when Senator GARN and I were trying to get the regulatory force beefed up.

I yield 4 minutes to the Senator from Ohio.

Mr. SARBANES. Will the Senator yield for a question at that point? Is the Senator referring to the time we tried to make sure that there was sufficient allocation of resources to strengthen the regulators,

Mr. RIEGLE. That is exactly what I am referring to.

Mr. SARBANES. And we came up against this argument?

Mr. RIEGLE. Gramm-Rudman-Hollings. Exactly.

Mr. SARBANES. That is right. I thank the Senator.

Mr. RIEGLE. I yield 4 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio may proceed for 4 minutes.

Mr. METZENBAUM. Mr. President, I would like to congratulate the conferees and their staffs for their hard work on the savings and loan bill. I voted against the bill, but it has emerged a stronger bill than it began in either the Senate or House or the administration's proposal. It has tougher capital standards, mandatory review of 1988 deals, set-asides for low-income housing public disclosure of lending institutions' community investment practices, and provisions to discourage discrimination in mortgage lending.

These provisions are all extremely important. They are welcome improvements.

The conferees agreed to put the financing of the savings and loan bailout on budget, and that is where it belongs.

This is no minor technical matter. This is not just a concern for economists or accountants. This is a real issue for taxpayers.

By putting the bailout on budget, we are going to save taxpayers at least $5 billion. Some analysts say the savings could go as high as $20 billion. But that is not the only issue.

The real issue has to do with truth in Government. Truth in Government, where we are going to level with the American people.

Whom are we fooling? If you believe that this savings and loan rescue is necessary, then do it fair and do it square and be honest about it and count it on the budget. It is cheaper.

Senator DOMENICI rises to say it is not a matter of throwing Gramm-Rudman-Hollings out, it is conforming with it. I say that is unabashedly incorrect. I think I could use stronger terms.

To say that this is conforming with Gramm-Rudman-Hollings by putting it off and pretending it does not exist is trying to kid the American people. An off-budget approach is nothing more than a cosmetic contrivance.

I have been around here long enough that I have seen all sorts of flimflammery, but this is true flimflammery. To hear the man who was the author of Gramm-Rudman-Hollings come before us and tell us to put this off budget is unbelievable.

How can he possibly stand here and tell us that is the way it ought to work and he is conforming with the law? That is what I call phony-baloney and there is no other description for it. It is kidding the American people.

Justice Stewart, when he was on the Supreme Court, was asked to define pornography. And he said he could not define it, but he knew it when he saw it.

I say that I recognize budget fakery when I see it.

Forcing this off budget should be an embarrassment to the President of the United States; it should be an embarrassment to the author of Gramm-Rudman-Hollings, it should be an embarrassment to the ranking Republican member of the Budget Committee. It is wrong to fool the people this way.

Let us stop dreaming up ways to avoid budget accountability. Let us keep the bailout on the budget and at least walk out of here with our heads held high, even when we suffer the embarrassment of the billions of dollars we lost because the Texas savings and loans and some other savings and loans in this country were not willing to live up to their responsibility.

I yield back to the floor.

The PRESIDING OFFICER. Who yields time?

If time is not yielded, the time that is not yielded will be charged to all three controllers of the time proportionately.

Who yields time?

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Madam President, might I seek unanimous consent for time charged to neither side?

The PRESIDING OFFICER. Will the Senator state his unanimous-consent request?

Mr. CONRAD. I ask unanimous consent for 3 minutes to state my positions which, in fairness to both sides, really does not fit either of the positions that are before us.

Mr. GARN. Reserving the right to object, and I will object. I hesitate to, I say to the Senator, but I announced in my opening remarks that we had 2 hours and 15 minutes, and I put everybody on notice so I would not be considered being rude to my colleagues in cutting them off and announced I would object to any unanimous-consent agreements to the entire body and informed the majority leader of that.

Mr. CONRAD. Let me say to the Senator that I come down on this vote on the side of the Senator from Utah. On that basis I would ask him for time.

Mr. GARN. I would be happy to yield 2 minutes to the Senator on my time, but not to extend the overall time.

Mr. CONRAD. I appreciate the courtesy of the Senator from Utah.

The PRESIDING OFFICER. The Senator from North Dakota may proceed for 2 minutes on the time yielded by the Senator from Utah.

Mr. CONRAD. Madam President, I find myself in a position in which I think both sides are avoiding the hard reality. Those who advocate an off-budget approach, I believe, would be perpetrating a fraud on the American public. This expenditure ought to be on budget. That is the honest way to present what we are doing to the American people.

We should not be shuffling it off into this hidden fund, with the notion that this is not an expenditure that the taxpayers of this country are responsible for. They are. It ought to be on budget.

But, on the other hand, Madam President, I do not feel it is appropriate to waive the Gramm-Rudman-Hollings provisions either. And I feel that strongly as well. Because, Madam President, if we insisted that we had this measure on buget and if we insisted that it was subjected to Gramm-Rudman-Hollings as well, then we would have an opportunity to begin to sober up this institution and the President about the real dimensions of the problem facing this country.

For that reason, Madam President, although it pains me, because I know of the difficulty it will cause if we have further delay, I strongly believe we ought not to waive Gramm-Rudman, and then I strongly believe we ought not to shuffle this off and put it off budget. It ought to be on budget and it ought to be subjected to the Gramm-Rudman restraints.

With that, I yield the floor and thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Utah.

Mr. GARN. Madam President, I yield 5 minutes to the distinguished minority leader.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, the Members of the House and Senate conference on the S&L bill made a number of difficult decisions. The best were keeping tough capital standards in the bill and keeping special interest amendments out of the bill. President Bush won impressive victories in conference when the conferees voted to adopt major portions of the original Bush thrift reform plan in the conference agreement.

A SERIOUS FLAW

Nevertheless, there is a serious flaw in the legislation adopted in conference and subsequently passed by the House. It is a mistake that prompted President Bush to deliver a veto letter to Capitol Hill this morning. The problem is the so-called on-budget funding plan.

Taxpayers should know that there is a critical difference between the funding plan adopted in the House of Representatives and the one endorsed in the Senate and backed by the Bush administration. Both provide the troubled thrift industry with the cash necessary to start shutting down the country's troubled S&L's, and, in both cases, the cash is backed by $50 billion in bonds issued over the next 3 years. But that is where the similarities end.

A MORE HONEST APPROACH

The administration plan does move some costs off budget, and the basis for this decision is the fundamental distinction between payments from the Treasury and those made by the thrift industry. The administration plan counts every dollar that the U.S. Government spends on the bonds in the Federal budget and holds every dollar paid by the S&L industry off the budget.

This is an honest approach because all of the on-budget items will count toward the calculation of the deficit under the Gramm-Rudman-Hollings law. There is no exemption from Gramm-Rudman-Hollings, not this year, not next year, not any year. As an additional benefit, this funding plan locks the S&L industry into paying its fair share of the cost of the crisis, now, and in the future.

THE REAL MOTIVE

The so-called on-budget plan that originated in the House Ways and Means Committee and passed the full House guts the Gramm-Rudman-Hollings law with a $44 billion exemption from the calculation of the deficit. Now, I know that some people don't like Gramm-Rudman-Hollings—that is because it is working. It is bringing the deficit down, holding the line on any more grandiose spending programs, and sending the right signal to our friends overseas. Still, the opponents of Gramm-Rudman-Hollings see an opportunity here to get around the deficit targets with the S&L issue, and then blow it away for every other big ticket item that comes down the pike.

The proponents of the House-backed on-budget plan argue that a vote to put the funding for the S&L bailout on budget is a vote for budgetary truth in advertising, but I ask my colleagues, how is it either on budget or truthful to hide billions of dollars from the calculation of the Federal deficit?

GRAMM-RUDMAN-HOLLINGS

Let us face it, the effect of the House-backed funding proposal would be to cripple Gramm-Rudman-Hollings by removing the threat of an across-the-board sequester. This is not a one-time exemption; it is direct frontal assault on budget discipline in the long and short term. OMB Director Richard Darman has suggested that "a $44 billion exemption would render Gramm-Rudman-Hollings close to meaningless." I couldn't agree more.

Removing budget discipline from Congress will result in higher government spending, higher taxes, and higher interest rates. These additional costs will dwarf the $125 million a year in marginal interest savings claimed by the proponents of the on budget funding plan.

SAVINGS ARE NOT THE REAL ISSUE

Backers of the House funding plan claim that their proposal minimizes the taxpayer cost of the S&L bailout. But, if savings were the real issue, the House leadership would not have dragged the S&L reform bill through a complex maze of congressional committees—five in all—for 4 months while the losses in the industry piled up at the rate of $20 million per day before finally bringing the bill to the House floor for a vote. The fact that the House voted to stick a $150 million a year housing subsidy program—paid for with industry funds rather than using that same money to reduce taxpayer costs—in the original House bill is further evidence that cost containment was not the driving force behind the on budget plan.

THE GRAMM POINT OF ORDER

Those who vote to include the House funding plan in the S&L reform package can expect a tough fight on this floor. Senator GRAMM has circulated a letter signed by 41 Senators opposing the Gramm-Rudman-Hollings exemption.

Those who back the on budget plan have been able to control the debate on this issue by narrowing their focus to costs on this one bill. Their proposal promises nominal savings on borrowing costs. These alleged savings are nothing but loose change when compared to the price tag for unbridled congressional spending under an impotent Gramm-Rudman-Hollings Act.

For those who will cast their votes on this issue, the choice is not as simple as putting the plan on or off budget. The real decision is whether we want to blow a $44 billion hole in Gramm-Rudman-Hollings.

A VOTE FOR THE TAXPAYER

The question each Senator must ask is "How much will this decision cost the taxpayer today, tomorrow, and 10 years from now?" The savings and loan mess is bad enough. It is going to cost roughly $166 billion over the next 10 years. We do not need to add to the burden by gutting Gramm-Rudman-Hollings.

Mr. President, this is a vote for budget discipline. If Senator GRAMM's point of order fails and the Senate goes along with the funding plan adopted in the House of Representatives, the big spenders here in Washington will have won a major victory at the expense of the American taxpayer.

The PRESIDING OFFICER (Mr. CONRAD). Who yields time?

Mr. RIEGLE. Mr. President, am I correct in understanding there are approximately 3½ minutes left on the majority side?

The PRESIDING OFFICER. The Senator is correct.

Mr. RIEGLE. I yield that remaining time to the majority leader.

Mr. GARN. Mr. President, despite the fact the distinguished majority leader is on the other side of the issue, I will also grant him 2 minutes.

Mr. MITCHELL. I thank my colleagues very much, Mr. President. Every Senator who has spoken, including myself, is of course partisan. Statements have been predictable.

I think we ought to look, if we can, for some guidance from someone who has knowledge, someone who does not have the same statement. The Comptroller General of the United States is the chief fiscal officer of this Nation. The present Comptroller was appointed by President Ronald Reagan. He has written today, and I will ask unanimous consent that his letter be printed in the RECORD, to me, a letter which states, among other things:

I am writing to reaffirm the strong support of the General Accounting Office for on-budget financing of the Government's actions to resolve the savings and loan crisis.

* * *

There are two major reasons for an on-budget approach:

It is less expensive because it is based upon Treasury borrowing, which is the least costly method of financing Government programs.

We estimate on-budget financing would save about $4 billion.

It maintains budget discipline. Given the problem with the Federal deficit, it is important to avoid the proliferation of off-budget financing of governmental activity. If this proliferation continues, it will raise grave doubts about the credibility of the Government's reports on its financial operations.

Mr. President, I ask unanimous consent that the Comptroller General's letter supporting the on-budget program and sharply criticizing the off-budget plan be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, DC, August 3, 1989.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate.

DEAR SENATOR MITCHELL: At the request of Senator Cranston, I am writing to reaffirm the strong support of the General Accounting Office for on-budget financing of the government's actions to resolve the savings and loan crisis.

As I have testified on several occasions, thee are two major reasons for an on-budget approach:

It is less expensive because it is based upon Treasury borrowing, which is the least costly method of financing government programs. We estimate on-budget financing would save about $4 billion.

It maintains budget discipline. Given the problem with the federal deficit, it is important to avoid the proliferation of off-budget financing of governmental activities. If this proliferation continues, it will raise grave doubts about the credibility of the government's reports on its financial operations.

Enclosed is a copy of my testimony of last May which explains my views on this matter in greater detail.

Sincerely yours,

CHARLES A. BOWSHER.

Mr. MITCHELL. Mr. President, we heard a lot about budget waivers here. Let us recall a few points. I believe that almost every Senator has at one time or another voted for a budget waiver. If a budget waiver is unclean, there are no clean hands in the United States Senate.

Second, both the on-budget plan and the off-budget plan will require budget waivers. If a budget waiver is unclean, there is no clean plan before the Senate. Those Senators who today vote against the conference report because they say it requires a budget waiver will, if they succeed, have to turn around and vote for a budget waiver when their plan comes before the Senate. Both the on-budget plan and the off-budget plan require a budget waiver.

Therefore, how can anyone argue in opposition to the on budget plan on the principle that it requires a budget waiver and then support the off budget plan? No law or rule says that arguments in the Senate must be logical, but that argument carries illogic to new heights not often seen even in the Senate. And those Senators who intend to vote against the on budget plan because it requires a budget waiver best be careful about their words because if they are successful, in a very short time they are going to have to turn around and act directly contrary to the words they are now uttering.

The on budget plan is a more honest, straightforward statement. Both plans suffer from the same problem. We have an enormous, difficult problem to deal with which requires large expenditures of Government money, taxpayers' money and no one wants the full accounting to be borne in a manner that they think will adversely affect them or the budget process.

But we cannot hide from the American people the fact that these funds will be expended, and if we hide them as the off budget plan does, it costs the taxpayers $5 billion more. We do not by transferring it off budget, trying to call it something else, change its nature.

I have in my hand a glass of water. If I suddenly say that this is an elephant, it does not become one merely because I said it was. And putting this money off budget, where we seek to hide it, is the equivalent of trying to transform this glass of water into an elephant by saying that it is one. We cannot do it. It is a problem. We have to deal with it. It is difficult. We should do it in the most straightforward way, and the way that saves $5 billion.

Even in this body where billions come and billions go with hardly a blink of an eye, $5 billion of taxpayers' money still counts for something. I urge my colleagues, especially those who so fervently plead for budget discipline, do not throw away $5 billion of the American taxpayers' money.

I yield the floor. I thank my colleague from Utah for his courtesy.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, the distinguished majority leader has made a very cogent statement. When you put if off-budget, it is out of sight, it is out of mind. You mask, as the Comptroller has said in that letter, the actual fiscal condition of this country—the need for revenues, taxes to pay the bill. We are confronted with an outrageous shenanigan designed strictly to hide the scope and scale of our budget crisis.

Now, Mr. President, I will agree with the distinguished Presiding Officer, I would prefer not to waive Gramm-Rudman-Hollings, but government is the art of possible. It is the art of possible. You and I know and the majority feel if you go along with the conference report, we do not have the 60-vote requirement.

A strong majority in the House and a good strong majority in the Senate would vote for this conference report, but they have us hung up here on the premise that Gramm-Rudman-Hollings is supposedly working.

Let me go right to the point of the best authority I know, namely, the distinguished Senator from Texas from the debates of October 1985. Senator DOMENICI, from New Mexico, the former chairman of the Budget Committee has just talked at length about how Gramm-Rudman-Hollings is working. But in October 1985, when we had to raise the debt ceiling to $2 trillion, I quote Senator GRAMM: "In bringing this debt ceiling proposal to the floor, we admit to the American people that the budget process has failed and that we have failed."

Now, in bringing in this $3 trillion debt ceiling, as we are going to do in October that is conclusive proof that Gramm-Rudman-Hollings is certainly not working. There is not any question about that.

I ask unanimous consent, Mr. President, to include at this point my letter plus a Robert Kuttner article from this morning's Washington Post, "Drug Bonds: Deficit Spending by Another Name."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

August 3, 1989.

DEAR COLLEAGUE: We recently received a letter from our respected colleague Senator Phil Gramm advocating not only that we exempt the huge cost of the S & L bailout from Gramm-Rudman-Hollings (as the conference report requires), but that we go a giant step further by putting the bailout entirely off budget; out of sight, out of mind. I am astounded that a principal author of the 1985 budget-reduction act is now ready to sabotage the last fragile vestiges of fiscal honesty in this Congress. If there is one cardinal principle to Gramm-Rudman-Hollings, it is "truth in budgeting"—everything on top of the table, everything on-budget where you can count it and deal with it. The S&L conference report is true to this principle. In contrast, through his ploy of raising a point of order to force the bailout off budget, Senator Gramm is abandoning his supporters and engaging in fiscal recklessness.

Yes, the conference includes a waiver provision to segregate the bailout cost from the rest of the deficit. Gramm-Rudman-Hollings expressly provided for such waivers to deal with unforeseen emergencies, and in recent years we have kept the discipline by granting some waivers and refusing numerous others. Yet even in those rare cases where we grant a waiver, the expenditures remain on budget; they remain in sight and very much in mind. We preserve truth in budgeting. Now comes Sen. Gramm with a scheme to put the S & L bailout off budget—out of sight, out of mind. If this virus catches on, it won't be long before we will have drug-war bonds, SDI bonds, go-to-Mars bonds, nuclear-cleanup bonds, you name it (see attached op-ed by Bob Kutner). Perhaps under the Gramm precedent, we could put all the costs of government off-budget; we could leave only the trust funds on budget and overnight achieve a whopping budget surplus.

What's more, don't listen to the Gramm nonsense that this bail-out won't cost the taxpayers anything and therefore should be off-budget. Under both the conference report and the Gramm alternative, it is still going to cost the taxpayers a principal amount of $50 billion: $10 billion in 1989, $25 billion in 1990 and $15 billion in 1991 (and this is just for starters; many believe that a far higher principal will be required in future years). While this sum total is eventually to be paid back by the S&Ls, the taxpayer will have to come up with the lion's share of the total cost cover 30 years of upward to $309 billion (according to CBO). The difference is that, since the conference report uses Treasury securities to finance this initial $50 billion, we will be able to borrow at the lowest possible rate and save nearly $5 billion. The Gramm off-budget borrowing by a quasi-government agency would have to pay interest at a higher rate—which is an acknowledged waste of almost $5 billion.

The waiver necessary on the S&L bail-out is justified both legally and fiscally because this procedure saves billions. The Gramm off-budget shenanigan costs billions more; worse, it destroys the cardinal principle of truth in budgeting of Gramm-Rudman-Hollings and sets a dangerous precedent of bonding the necessary costs of running government.

Over the last two years, we have seen Gramm-Rudman-Hollings adulterated and subverted to the point where it has become more of a shield than a sword. The Gramm ploy would be the last straw. In this emergency we should exempt the S & L bail-out from the Gramm-Rudman-Hollings deficit target but never from the Gramm-Rudman-Hollings process. Please save the last vestige of budget integrity by voting for the waiver.

Sincerely,

ERNEST F. HOLLINGS.

[From the Washington Post, Aug. 3, 1989]

DRUG BONDS: DEFICIT SPENDING BY ANOTHER NAME

(By Robert Kuttner)

What follows is a truly nutty idea, which reveals just how the government can sink. The idea is called "Drug War Bonds."

The drug epidemic is out of control, right? The government has declared a war on drugs, no? But the government can't afford to wage war on drugs just now, because President Bush vowed not to raise taxes while he spends available taxpayer moneys on the Stealth Bomber, the savings-and-loan bailout, "star wars" and a mission to Mars:

Whatever to do? Drug Czar William Bennett and former customs commissioner William von Raab have an ingenious solution. The government will float a special issue of below-market, tax-exempt bonds, to raise $4 billion to fight drugs. These will pay only 4 percent interest, but patriotic Americans will buy them, just as they bought bonds to fight World War II.

Better yet, this new financial instrument, which could give a new meaning to the term "junk bond," is also to be used as an educational tool. The administration envisions programs to encourage schoolchildren to buy antidrug stamps. These could be pasted into just-say-no booklets and then traded in for $25 drug bonds.

Best of all, even the interest payments won't cost the government anything, because the administration plans an arbitrage play. When little Johnny buys his drug bond, paying 4 percent, the Treasury will turn around and place the proceeds into a market-rate bond paying 8 percent. The profit from the spread will then pay the interest on the drug bond.

This program, because of the extraordinary need and the ingenious financing device, is of course not subject to the inconvenience of the Gramm-Rudman law. That law, you may recall, was enacted in order to compel the administration and Congress either to set clearer spending priorities or to raise taxes, or both. But drug bonds neatly wriggle out of that discipline.

Despite the "war bond" label, gentle reader, what we have here is nothing but $4 billion of more deficit spending, clumsily disguised. When the government borrows money to pay for spending, that adds $4 billion to the deficit and $4 billion to the national debt, whether you call the thing Drug War Bonds or Spinach.

In effect, the Bush administration wants to shake down schoolchildren to subsidize the costs of operating the government.

We elect our representatives to make hard choices. If the Bush administration wants to wage war on drugs, it should either spend less money on something else or raise taxes.

But lacking the nerve to confront the real choices, the administration is trying to run the government on the model of the United Way. This is "a thousand points of light" gone berserk.

As the government gets broker and broker, thanks to failure of supply-side tax cuts and failure of leadership, we are seeing a proliferation of idiotic substitutes. Virginia recently revived the colonial idea of private toll roads. The state cannot afford something as basic as the construction of a needed public highway, so it is hiring a private construction firm to build the road and then charge what the market will bear.

Oregon is sponsoring legalized gambling on sports, despite the pleas of professional athletic organizations that they have trouble enough containing gambling already. Nationwide, a number of hard-pressed school districts have permitted television producers to bring commericals into the classroom, brided by the promise of TV equipment.

These dubious bargains, attempting to finance the public business, on bribery or charity of gimmickry, are the unlikely fruits of nine years of "conservative" fiscal leadership. And so desperate are the times that even some politicians who know better have signed on to the drug-bond scheme.

Sen. John Kerry (D-Mass.), for one, is listed as a co-sponsor of the drug-bond bill. A spokesman for Kerry told me that the liberal Senator would have preferred to see the war on drugs financed through higher taxes or a cut in military spending, but if this gimmick was necessary to fight drugs, Kerry would back it. "It is smoke and mirrors," this staffer confided.

At bottom, the Bush administration, lacking the nerve to set public priorities, is running the government via bake sales. And why stop with drug bonds? Why not AIDS bonds, to be subsidized by the friends and families of AIDS sufferers? Or day care bonds, for which we can perhaps shake down employers? Or homelessness bonds, subsidized by home owners inconvenienced by bag ladies sleeping on their lawns? It reminds you why the Founders invented representative government, to set priorities in the first place.

Mr. HOLLINGS. I go right to the analysis made by the majority leader. In both instances—on-budget or off-budget—you need a waiver. In both instances, the money is going to be spent. Usually when you do not agree to a waiver, the money is not spent. But, in this case, we are not going to save money. In fact, it is going to cost us money by not waiving, because the $20 million-a-day hemorrhage will continue. So the issue here is not really to waiver or not to waiver. The issue is not whether we will spend $50 billion, because the money is going to be spent either way.

The issue here is whether we choose to hide the cost, and from whom do you hide it? You certainly do not hide it from the financial markets. You do not hide it from the Comptroller. You just heard his letter. I know from the financial markets and the editorials you do not hide it from the business community. The only group you hide it from is the taxpayers, the voters of America. That is what you are trying to do. And that is exactly what put us into the S&L mess in the first place, by hiding a harsh reality.

So in trying to deal with a problem, Senator GRAMM would take the very same evil, repeat the very same mistakes that we made in the first instance, as a solution. I cannot see grown men and women doing that. I just really cannot understand hiding the costs. And I wonder why they are so adamant to do so.

Two points: One, the $50 billion is not going to do the job. If you can finance this using off-budget bonds, then when they come back to get more, they will says, "Don't worry, it is bonded and it is easy just to keep on bonding." Point Number Two, if we set the precedent of off-budget bonding, then we will have drug-war bonds, the nuclear-cleanup bonds, all kinds of other bonds to meet the needs of Government. We will go the New York City route and create a financial catastrophe.

I repeat: We are not trying to exempt the bailout from the Gramm-Rudman-Hollings process, but only from the Gramm-Rudman-Hollings target. And we do so for a worthy purpose. That is why I vote for it.

The Senator from Texas says let us exempt the bailout from the Gramm-Rudman-Hollings process. Now, that really does, as the Comptroller has just pointed out in his letter, destroy the discipline. Rudy Penner, former Director of the Congressional Budget Office, and all the financial experts have spoken clearly: "Heaven's above, let us not start capitalizing operating costs of Government."

I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. Mr. President, I have heard a lot of arguments on both sides tonight, none of them new, but one thing that bothers me is when we start

talking about honesty, about one plan being more honest than the other, that simply is not correct. Neither plan is honest nor dishonest. Neither plan is hidden. Both of them have been known for months, exactly what they were. Everybody has analyzed them.

So I do not think that is an issue at all. I do think it is important, though, when we talk about a waiver to point out that it has been said here tonight also we have never asked for a waiver before. The Senate often waives points of order under the Budget Act. That is correct, as some of my colleagues have said. But we have never yet broken the fundamental difference of Gramm-Rudman-Hollings law by refusing to count spending on budget targets. So on the one hand we say, put it on the budget, but continue to. If we are going to start saying honest-dishonest, let us not do that. It is gimmickry. There are gimmicks in both, as I said to begin with. Neither is a very good solution.

But the other thing that bothers me is the constant talk about these savings. Let me say for the sake of argument that the $150 million a year is there for 30 years. That is $4.5 billion that the taxpayers will not benefit from. The House of Representatives is taking that and more for a housing program that is hidden within this bill that not very many people are aware of. So do not let any taxpayer think they are going to get that savings even if it is there. It is going into a housing program.

The other issue that the Senator from Kansas mentioned, the minority leader, is first right of refusal. We put a plan into this bill that says certain housing groups when they are disposing of surplus property trying to put money back into the insurance fund will have first right of refusal. If you do not think that will drive down the recovery costs, it will. So there are no savings.

There may be on the one hand, but they will be used up in housing which has first right of refusal. That simply is not an argument.

I encourage my colleagues to vote against the waiver. We have an agreement to go back in conference tonight. If the waiver is defeated, we will be back in conference, and I am confident that we can work out a compromise that will be satisfactory to both sides before the evening is over.

I yield the remainder of my time to the Senator from Texas.

Mr. GRAMM. Mr. President, how much time do I have?

The PRESIDING OFFICER. Three minutes and 40 seconds.

Mr. GRAMM. Mr. President, our distinguished majority leader talks about every Member of the Senate having voted to waive the Budget Act. He is right. In fact, that is why we put waivers into the Budget Act. We recognized that there would be times that it should be set aside. But I remind my colleagues that not all waivers are created equal. Eighty-eight Members of the Senate, this Senator included, voted to waive the Budget Act to bring the Senate S&L bill to the floor. That was a $500 million waiver. We will vote in a moment on a $44 billion waiver.

We have talked and heard talk here about the Gramm-Rudman-Hollings balanced budget law. In a very real sense, I believe we are voting on whether to sustain the life of that law. I would like to remind my colleagues of its history. In December 1985, when it became law, the deficit was $233 billion. The projected deficit by CBO for this year was $298 billion. Today, the actual deficit for fiscal year 1989 is $149 billion, which is exactly by just an accident one-half of what it was projected to be in that cold December when we adopted this law.

We claim now to have adopted a budget that would get the deficit to $100 billion. Most people probably think that is pretty optimistic. But if it made $115 billion, we would have cut the actual deficit in half from the day we started. Federal spending is growing today and has grown for 4 years at half the rate it grew for the 20 years prior to the Gramm-Rudman-Hollings law. Government is now smaller than it was relative to the private sector of the economy the day the law went into effect.

Sometimes you get a clearer view when you are a little further away. I want to read a quote from today's Financial Times of London, which is the most respected financial journal outside of the United States, because what foreigners think about this in their investment plans makes a big difference. They talk about the shortfalls of both programs. But they conclude by saying "The Fed Chairman, Mr. Alan Greenspan, makes a more important point when he warns that a Gramm-Rudman waiver, though it might be appropriate here, could be a very dangerous precedent." Then they go on and in fact talk about the fact that the next emergency would be the war on drugs.

Mr. President, this is an important issue. And I think there is a great distinction to be made here.

Finally, I cannot conclude without going back and making the point once again, a point that clearly is not going to be accepted by those who do not wish to be convinced. The private sector, in this case the savings and loans, will borrow $50 billion, and they will go out today and buy zero coupon bonds that mature in 30 years for $50 billion. Their borrowing is 100 percent secured by Treasury notes, so that the Government is not liable directly or indirectly. That is not a liability of the Federal Government.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from South Carolina has 10 seconds.

Mr. HOLLINGS. Senators, vote to waive the deficit target. But let us not accept Senator GRAMM's proposal to waive the Gramm-Rudman-Hollings process. That is really what is at issue. Do not set that precedent and abandon totally Gramm-Rudman-Hollings.

I thank the Chair.

Mr. SASSER. Mr. President, I rise to address the question of whether we should waive the Budget Act to finance the savings and loan bailout on-budget. In doing so, I hope to clarify many of the misconceptions that have been spread about this issue. Mainly, I'd like to focus on the matter of "budget honesty."

First of all, there have been no truly honest approaches to this problem. All the proposals that have been advanced—I'm referring to three major ones—are evasions of the budget rules. The President proposes to set up a dummy, off-budget entity to finance the bailout. It's off-budget but its sole purpose is to raise funds to be spent by a Federal agency. All the supposedly off-budget agency's actions will be controlled by Federal officials. And most importantly, the Treasury would pay most of the interest on the agency's financing.

Clearly, the President's proposal—the off-budget approach—fails the honesty test. It is simply contrived to get us around Gramm-Rudman-Hollings.

What about other proposals to finance the bailout? The Senate earlier this year considered an on-budget proposal to spend all the $50 billion in fiscal year 1989 and blow the deficit up to a total of $214 billion. Because the spending would be in this fiscal year after the so-called Gramm-Rudman snapshot, the proposal would not have caused a sequester. This proposal took advantage of yet another Gramm-Rudman-Hollings loophole and was another strike against budget honesty.

Indeed, this earlier Senate proposal, while it would have been on-budget in 1989, retained the off-budget vehicle for spending in later years. It was the worst of both worlds—back door spending and smoke and mirrors. I voted against it in committee and on the floor.

Now we have a house on-budget plan incorporated in this conference report. The Ways and Means Committee proposed to put the spending on-budget but to simply exempt it from the calculation of the deficit for purposes of the Gramm-Rudman law. In other words, put it on budget but pretend it is not there.

Now I have heard the sophisticated arguments of some about how this

spending is not inflationary and how we are just recognizing past losses with this legislation. Therefore, so the argument goes, the spending should not be counted in the deficit for Gramm-Rudman purposes. But let us face it, the theory behind this proposal is to put the savings and loan bailout on-budget and pretend it's not there.

So there we have it, three dishonest budget approaches to this crisis.

Mr. President, one might ask why I, as chairman of the Budget Committee, have to come to the floor and decry all three options for financing this debacle. Why do we only have proposals before us that are in one way or the other evasions of rules for sound budgeting?

The real answer is fairly clear, as it has been on any number of budget issues. We simply—the President and the Congress—cannot own up to our liabilities and face the fact that there is not enough income coming in here to pay for everything that needs to be done.

So what is today's answer? Will we borrow the money on-budget or off-budget?

Mr. President, I think we have to pick the option that is cheapest and the one that will get this bill enacted in the quickest time possible. The FSLIC is losing too much money every day for us to labor any longer on this issue.

But, of course, that is easier said than done. The Secretary of the Treasury and the Chairman of the Federal Reserve argue that off-budget is cheaper because it preserves our commitment to deficit reduction. They say exempting this spending from Gramm-Rudman will set too easy a precedent for other spending items to be exempted.

They wonder how we will be perceived by international investors. In particular, Secretary Brady believes very strongly that interest rates could rise the two-one hundredths of a percentage point that he says is all that is necessary to wipe out the savings of the on-budget plan.

Now on the other side we have all the Wall Street analysts telling us that the market has already "digested this information." They say the market has already factored in this on-budget spending to its interest rate calculations.

Thus, according to this school, rates will not go up if the spending is on-budget. And we will save the small premium that must be paid for off-budget borrowing.

So, Mr. President, the economics of this may be a little murky. But there is one thing that is as clear as glass—we have a conference report before us that is one step away from going to the President for his signature.

This bill will stop the up to $30 million per day drain on the taxpayers. It will guarantee the safety of the savings of millions of Americans. It will make vital regulatory improvements in the banking system. And it contains an innovative housing program that offers some glimmer of hope in the face of yet another crisis facing the Nation.

The on-budget plan contained in the bill leaves much to be desired, but it is in all likelihood the cheapest approach for the taxpayers. And there is no other option on the horizon for which it is worth delaying the enactment of this bill. Any delay will cost the taxpayers even more money. This point of order is not worth sustaining.

Mr. President, I urge my colleagues to waive the point of order that has been made against this bill under the Budget Act. I yield the floor.

Mr. DODD. Mr. President, I rise in support of the conference report. I think it represents a reasoned, balanced and comprehensive response to the S and L crisis.

It addresses all the issues that need to be addressed:

Providing money to prosecute the people who defrauded the American public of billion of dollars;

Providing funds to assure that no insured depositor loses a dime and to give the regulators enough money and authority to clean up the mess in the least costly fashion; and

Creating a regulatory framework and new rules governing investments to assure that there will not be a reoccurrence of the problem.

While reasonable people may differ on the best way to address each of these problems, clearly the conference committee adopted rational approaches in each area.

However, the President—while agreeing with the other provisions of the legislation—has stated that he will veto the bill if it comes to him with the so-called on-budget funding mechanism. Frankly, I think the President is correct in identifying this issue as a key one. Unfortunately, I think he has come down on the wrong side.

We have heard many arcane arguments about the appropriate characterization of the President's budget treatment as opposed to the conference report's treatment. But when you strip aside all the rhetoric, the issue is simple: How much is it going to cost the taxpayer?

No matter which approach we follow, the S and L industry is going to pay the same amount. However, if we follow the President's approach of using a non-Government agency to float the securities, we are going to pay more. We will pay more because that agency will not be backed by the full faith and credit of the U.S. Government. The conferees have estimated the cost at 30 basis points, or $4.5 billion over 30 years. But whether the difference is 10 basis points, 30 or 50, it will be more.

Mr. President, that is the nub of the issue and I think we owe it to the American public to choose the cheapest alternative.

I urge adoption of the conference report.

Mr. BENTSEN. Mr. President, I compliment my friend the distinguished Senator from Michigan [Mr. RIEGLE] for his leadership on this bill. As the new chairman of the Senate Banking Committee he has moved quickly and effectively to pass legislation requested by the President to deal with the vast problems in our savings and loan system.

Mr. President, the issue before the Senate is very simple. The issue is how to evade budget discipline, not whether to evade budget discipline.

Those watching or reading this debate should think about sitting down to pay your income taxes and then ask yourself. Is it worth $4.5 billion to spare the President and the Congress from having to publicly support a budget waiver? Do I want to pay $4.5 billion extra to make it look like we are not avoiding the budget limits even though we really are? For this Senator the answer is no.

The conference report now before the Senate is not perfect. No bill ever is. But it is a good bill and it should be passed and passed quickly.

Mr. President, I have heard and read a lot of fuss and fury over the budget treatment of this bill. Someone reading about this or listening to this debate may easily lose track of the issue. They might think that there is great disagreement over this legislation and particularly over the spending of the money. There is not. Frequently the amount of fuss around here is inversely proportional to the true importance of the issue.

Let's simplify things a little by looking at what we agree on. Everyone—the President, the House, the Senate—agrees that we need to pass this legislation in order to keep this Government's longstanding comments to protect depositors through the deposit insurance program. This bill will protect depositors, not shareholders or management.

Everyone agrees that the S&L industry should pay as much as possible, and everyone reluctantly agrees that the taxpayers will have to pay the rest.

The President, the House, and the Senate all agree on that. There are no differences on the amount to be paid by the industry.

Everyone agrees that the spending in this bill will not be counted against the Gramm-Rudman budget targets.

So what ae we arguing about? We are told that we are arguing about

whether this spending should be on-budget or off-budget. That is poppycock. It is absolute rubbish.

The President, the Senate, the House, and now the conference committee have all agreed that the spending under this bill will not count against the budget targets.

The administration and the Congress is not willing to face the painful choices that would entail—the cutting of vitally important programs or the raising of taxes.

I wish that the President and the Congress had the collective will to deal honestly with our budget deficit, to truly put this and many other things on budget in an honest accounting system and then make the tough decisions necessary to deal with our budget deficit. But that will is not there, and it is not here on either side of this coming vote.

The fact is that no matter what we decide on this vote this spending will occur and it will not count against the budget deficit targets.

Where, then, in this tangle of rhetoric about impending cataclysmic recession, is the truth? Where is the heart of the matter? What are we really arguing about?

Mr. President, we are arguing about how not to count this spending against the budget targets. That is all.

The argument is over how to evade true budget discipline, not whether to evade it. For myself, I will choose the option that saves the taxpayers the most money.

Mr. President, it has been my intention all through the process that this mess should be cleaned up at the least possible cost to the taxpayers. I still hold to that view.

What, really, are the choices before us? We can choose not to count this spending by choosing the so-called off-budget route proposed by the President. Under that option $50 billion will be borrowed by a Government-controlled corporation. OMB will score this as being off budget even though the GAO and CBO disagree and so the President and the Congress will be spared from the public embarrassment of voting for a budget waiver. The cost to the taxpayer is $4.5 billion due to higher interest rates.

We are told that this is not Treasury money, that is S&L industry money. That is technically true.

But don't let anyone fool you that the extra money required will come from anywhere but the pockets of the American taxpayer. This little bit of budget trickery requires borrowing at a higher interest rate. Guess who picks up the bill for all the additional expenses of this bill? Mr. and Mrs. Middle Income America, that's who.

The folks who work for their money and pay their income taxes so that their government can play silly games. I don't think that is right.

Under the so-called on-budget option the $50 billion will be borrowed directly by the Treasury. Taxpayers would save $4.5 billion because the Treasury can get a lower interest rate than this corporation can.

However, a direct budget waiver, not a convenient ruling from OMB, would be required under this option.

Is it right for me to ask the citizens of Texas and the United States to pay $4.5 billion to carry out another budget sham? I think that it is not right. Others may disagree, and that is their privilege. But the heart of the matter is right there, and I will vote my conscience.

The opposition to this budget waiver is just like the budget agreement announced by the President last spring. It is smoke and mirrors, and it rests on a bed of quicksand. That's why I did not attend the Rose Garden ceremony announcing that budget agreement, and that is why I am opposing this phony budget maneuvering now.

Do we want to ignore the deficit over at the Postal Service? We'll just move it off budget.

Are we bothered by the farm payments that will add to the budget deficit in fiscal year 1990? We'll pay them early and add to the fiscal year 1989 budget deficit instead. Are there $500 million of unclaimed food stamps—most of them thrown out or lying in someone's drawer? We'll cancel them even though they would never be used—and call that a deficit reduction. Do we want more revenue the easy way? Just assume a booming GNP and declining interest rates—flatly contradictory assumptions.

There may be some sound policy reasons for some of these moves. But they don't reduce the deficit and it's folly to trumpet them as cutting debt.

Think of a family operating the same way. Does it make any difference to call your car payments off-budget? You still have to write out a check. Does it make a difference to pay next year's mortgage off early? It comes from the same bank account.

Do we have an adjustable mortgage and think we can't pay the increase? Just assume interest rates will go down. If our own accountants recommended these ideas to us we'd fire them. Why use them for the Federal Government?

With all those recent examples of smoke and mirrors accounting, and other examples in the past, does anyone seriously think that this proposal is the hole in the dike that will sweep away Gramm-Rudman? Let's get serious.

Let's be realistic about dealing with the budget deficit. Let's save some real money here, and that requires us to vote for the budget waiver.

Liberties are being taken with economics as well as with the budget. It has been said that we will have a recession if we vote to waive the Budget Act.

Mr. President, I spent 16 years in private business. I did a lot of investing.

Does anyone think that a businessman smart enough to make a living on Wall Street is dumb enough to take his eye off the bottom line? They will follow the money, not the rhetoric. As some economists are so fond of pointing out, if the Government borrows money and spends it, then there is less money available for the rest of us who are trying to make a living in business. Whether or not the Government admits it publicly, the money is gone from the capital markets. Businessmen know that. Investors who can prosper on Wall Street are far too savvy to be taken in by these ongoing budget accounting games.

I find it quite interesting that many of the opponents of the budget waiver today were among the leaders last week in voting for a budget waiver which would have added $4.4 billion to our deficit next year.

Where was the threat of a recession last week? I helped defeat that budget waiver.

Now they have switched and instead of waiving the Budget Act in order to add $4.4 billion to the deficit, they want to defend the Budget Act in order to add an additional $4.5 billion to the deficit.

That is consistency of a kind, but it is the kind of consistency that most Americans who are paying the taxes to run this government probably think that they can do quite well without.

Mr. President, there's something new up in the land of my colleagues, Senators MOYNIHAN and D'AMATO. In Times Square, above the hot dog vendors, T-shirt shops and bewildered tourists, is a large electronic scoreboard recording the national debt.

Some people in Texas don't want any part of Times Square, but this scoreboard is something every town should have. It reminds us that the debt is approaching $3 trillion and increasing about $5,000 a second. That each American Family's share of it is now $42,000.

Mr. President, others more eloquent than I can, and probably will, go on at great lengths about the complications allegedly attendant to this supposedly momentous decision on the accounting procedures for this bill. I will not. I am in a hurry to get through here.

It costs $507 to print each page of the CONGRESSIONAL RECORD, so I will stop and let those whose words are more valuable than mine fill up those pages. It is costing about $20 million in additional losses for each day that we delay action on this bill, so I will try to expedite the process by voting for this budget waiver and for this legislation.

Mr. President, I simply want to save the people of Texas and this Nation $4.5 billion in extra interest costs and the $20 million a day of extra costs that are piling up every day that we delay. I will vote for the budget waiver, and I urge my colleagues to do likewise.

Mr. SANFORD. Mr. President, I rise to express my support for the on-budget approach adopted by the conference committee and to urge my colleagues to put aside our differences on this issue so that we can adopt the conference report as quickly as possible. The issue of whether the financing is on-budget as the conference report calls for or off-budget as the President wishes is simply not important enough to spend days debating, as such delays may cost the American taxpayers more than whatever savings we might achieve from either approach.

Indeed, the fighting is really over who will issue $50 billion in bonds that will be used to pay for the 1988 case resolutions. The remaining $225 billion of the total financing package is not an issue. What is also not disputed is that issuing the bonds directly through the Treasury will save lots of money. First, direct Treasury bonds can be sold for a lower interest rate. These interest savings alone are expected to be $4.5 billion. While that may seem like a small sum in comparison to the total $275 billion package, I hope we have all not been in Washington too long to remember that a billion dollars is a lot of money and that any dime that can be saved should be saved.

Second, and very importantly, issuing Treasury bonds will save us money because they can be issued much faster. Again, time is money and we can't afford to waste any more time. Because the mechanism for selling Treasury bonds is all too well established and bond traders know exactly what they are getting when they buy such bonds, we can raise the $50 billion virtually immediately after this bill becomes law if the on-budget approach is adopted. Yet if we accept the Senator from Texas' notion that these bonds should be financed through an off-budget government sponsored enterprise, the bond issuance will undoubtedly take longer, as the financing corporation must be established and traders must be briefed on just what they would be buying or selling when they buy bonds of this new government sponsored enterprise. Those additional costs, whatever they may be, should not be forced on the American taxpayers.

Mr. President, the Senator from Texas has stated that on-budget/off-budget controversy is "a fraud that threatens to unleash a cataclysmic recession." Given the lack of any reaction whatsoever from the markets to the passage of a conference report containing on-budget financing, I see no evidence of this coming catastrophe simply because we finance $50 billion of bonds one way rather than another. The American taxpayers are still responsible for all the interest on these bonds and the S&L industry is responsible for the principal. The issue is a fraud in that, as a practical matter, the taxpayers are equally obligated to pay for this massive bailout, no matter what approach we choose. Given that practical fact, I think it is reprehensible for this Congress not to choose the method that saves the taxpayers all the money that can possibly be saved.

I find it somewhat ironic, Mr. President, that the Senator from Texas has chosen to wage this fight against the conference report over this relatively minor point, given that this bill will result in a direct wealth transfer into the State of texas of somewhere in the order of $150 billion—more than 10 times the $13.3 billion cost of the entire Marshall plan which funded the recovery of all of Europe. Texas has received over 60 percent of the FSLIC funds, yet it shoulders only 6.6 percent of the Federal tax burden. And where has this money come from? It has come from States like North Carolina, which have been tough in their regulation and whose S&L's have kept their house in order. These institutions have been faithfully paying their FSLIC premiums and special premiums and will pay their share of the $50 billion in bonds that will be issued, no matter whether the bonds are issued by Treasury or by a Government-sponsored enterprise. Yet the vast majority of these funds will go into Texas, to pay for losses brought about by fraud, corruption, poor supervision, lax regulation and a downturn in the economy.

There is no question that this bill places an unfair burden on the thrifts in States like North Carolina and a tremendous burden on the taxpayers. We simply must not make matters worse by increasing the costs through more expensive borrowing or lengthy delays simply because of Gramm-Rudman.

The American people know better too. They understand all too well that we continue to engage in dishonest budget accounting and gimmicks to mask the true size of our budget problems and will see this off-budget approach for what it is—an attempt to sweep this problem under the rug and pretend that we don't really owe some of this money, when it is clear that we do. I think the American people have had enough. They know better. All they need to see is our action, which will undoubtedly come soon, to once again raise the national debt ceiling to know that we haven't solved any of our debt problems, that no matter what the size of the alleged deficit is, we continue to raise the national debt by the same figure or more, year after year.

And yet here we are, held up by a potential point of order as advocated by the Senator from Texas, despite the fact that this delay is costing us dearly. And for what? So that this plan, like so many other aspects of our government, can be twisted and manipulated to get around Gramm-Rudman. Indeed, if Gramm-Rudman is working so well, why will we soon be voting to increase the debt ceiling?

The time has come to cut out the gimmicks, to be honest with the American people about the cost of this program and to stop the expensive bickering. I urge my colleagues to vote to waive the point of order.

Mr. SIMON. Mr. President, I rise today to speak to H.R. 1278, the savings and loan bailout bill. This is a massive piece of legislation, that calls for the most comprehensive and costly bailout by the Federal Government in history. This legislation will end up costing over $167 billion, dwarfing the cost of the Chrysler bailout and the bailout of New York City combined.

It is critical that any legislative solution to this crisis be based on certain fundamental principles. First, those individuals responsible for this disaster must be prosecuted to the full extent of the law. Second, the money of the depositors who depend upon the soundness of the Federal insurance system must be fully guaranteed. Third, the regulatory structure of the savings and loan industry must be overhauled so that such a crisis cannot occur again. Fourth, the cost of this project must not be paid disproportionately by the people least able to afford it.

The conference report before us does, in fact, address many of these points. The financing plan of this legislation does send a clear signal to depositors throughout the United States that the Federal Government does stand behind their deposits. The American people still have confidence in the savings and loan industry, thanks in good measure to the knowledge that this bill will protect their deposits. The bill imposes much tougher standards for officer and director liability and imposes much tougher penalties for violations.

The bill also restructures the regulatory apparatus of the industry in a way that will be far more protective of the public interest. The tightening of capital requirements, the tougher quality thrift lender test, the restrictions on self-dealing, speculation, and the overall provisions on safety and soundness all reflect solid and sober judgments of what is necessary to prevent the kinds of abuses that led to this crisis from ever occurring again.

Perhaps most important, the legislation separates the regulatory function of the Federal Home Loan Bank Board from the insurance function of the Federal savings and loan insurance function. The conflict of interest involved in placing the insurer and the regulator in the same institution was a major cause of our problem.

I am also very pleased that the Senate conferees accepted several key provisions of the bill that passed the House. The conference report before us includes provisions that mandate that regional Federal home loan banks make credit available for thrifts to establish community investment programs, to facilitate low and moderate income home lending. The report includes provisions setting aside a portion of regional FHLB profits to establish affordable housing programs in thrifts, to make credit available at below market rates for low-income homeowners.

The report provides low-income, community, and nonprofit organizations the right of first refusal on acquiring assets held by the Resolution Trust Corporation. The report also requires thrifts to engage in much broader disclosure of their lending practices under the Community Reinvestment Act and the Home Mortgage Disclosure Act. The report also prohibits thrifts from investing their depositors money, backed by the Federal Government, in high risk junk bonds. These provisions, all adopted in conference, are major steps toward insuring that the thrift industry adheres to its traditional mission—providing low cost loans to first time home buyers.

I am also very pleased that the Senate accepted the House language on the financing of this legislation. Placing the costs of the bailout on budget will save the American taxpayers billions of dollars. I am aware that many of my colleagues are concerned that placing items on budget and granting them Gramm-Rudman exemptions creates a dangerous precedent. I would remind my colleagues that the budget we passed for 1990 is so full of gimmickry and phony accounting that no one is truly fooled, least of all the careful budget monitors of Wall Street. The reality is that we will save the taxpayers $4.5 billion. That must be our first priority.

Mr. President, there nevertheless are several things that are very, very wrong with the legislation before us.

First, it asks the American taxpayers to shoulder too large a share of the burden. The current crisis in the thrift industry is not the fault of the average American taxpayer. It is the fault of the thrift industry, that engaged in reckless and irresponsible investments at the taxpayers expense. It is the fault of regulatory agencies, who did the bidding of the thrift industry when they should have been protecting the public interest. It is the fault of the administration that set an anything goes climate and stripped the regulatory agencies of staff and resources when they needed them most. And, I say this to my colleagues in both Chambers on both sides of the aisle, it is the fault of us in Congress, who approved numerous measures to deregulate the thrift industry and failed to note the disastrous consequences of this deregulation frenzy until it was too late.

We are all at fault, but the American taxpayer is not. The total cost of this bailout amounts to $1,000 for every man, woman, and child in America. That is simply too high a price to pay.

Second, this bill creates an entity called the Resolution Trust Corporation that will be responsible for disposing of assets taken over from insolvent thrifts. The RTC will have the dual mission of disposing of these assets as quickly as possible and at the best possible price. Estimates of the value of these assets ranges from $300 to $500 billion. The RTC will be poorly staffed, free from normal oversight or accountability and with a mission that is contradictory from the start. It is an invitation to disaster, a scandal of HUD-like proportions waiting to happen. We cannot pass a $160 billion bail out bill today only to establish an institution that will require another bail out of several hundred billion dollars a few years from now.

Third, this bill limits Congress from its duly authorized oversight prerogative. The Government official most responsible for regulating the thrift industry in the last several years, the Chair of the Federal Home Loan Bank Board, will be allowed to maintain his post without Senate reconfirmation. Mr. Chairman, the mail I receive from constituents in Illinois on this issue consistently raise two questions: Why should taxpayers pay for this bail out and why haven't the people responsible been punished? Mr. President, I cannot tell my constituents that this bill passed without offering even an opportunity to reconfirm the Government official most responsible for bringing us to this situation.

I have other concerns also. I am concerned that the bulk of the fraud and abuse took place in States like California and Texas, but States like Illinois, whose thrift industry played by the rules and was not responsible for abusing the public trust, are being forced to pay the tab. I am concerned that institutions that entered into good faith agreements with Federal regulators to acquire unhealthy institutions had the rules of the game changed on them in midstream and now are facing dire consequences.

Most important, Mr. President, is that this bill recognizes fraud and abuse, but asks the taxpayers to pay the tab. It recognizes that the regulatory agencies and the regulators failed in their job, but prevents us from holding them accountable. And the bill carefully addresses all of the abuses that led to this debacle and attempts to address them, but at the same time creates a new institution prone to precisely the same abuses.

Mr. President, I am voting against this legislation. The American people deserve better.

AGAINST WAIVING THE BUDGET ACT

Mr. DURENBERGER. Mr. President, I rise in support of the point of order offered by the distinguished Senator from Texas [Mr. GRAMM].

Mr. President, I first want to commend the House and Senate conferees for crafting a savings and loan restructuring bill that should prevent a repetition of the financial disaster that has occurred in this industry. The citizens of my State and the taxpayers of this country are justifiably outraged at the enormity of the costs associated with this bailout legislation. However, if we are to ensure the integrity of our overall financial system, it is imperative that we adopt legislation that provides sufficient financing to close the hundreds of bankrupt S&L's that should no longer be operating.

While each of us can find some reason to disagree with portions of this conference report, on the whole I believe the legislation represents a fair and balanced compromise. The only issue that divides the Senate is the accounting formula devised for financing the bailout.

To some, it may appear that we are splitting fiscal hairs by jeopardizing this conference report over the issue of whether the bailout should be recorded off-budget as proposed by the President, or whether it should be recorded on-budget along with a budget waiver. I would note that whichever accounting method is ultimately adopted, neither will impose any fiscal or budgetary pain in this fiscal year. Instead of raising taxes to pay for part of the cost of the bailout, or cutting current spending, we have opted to shift the vast majority of the costs of the bailout into the future.

By this action, we are merely perpetuating the process of saddling our children and our children's children with paying the interest on the debts that we have been piling up throughout this decade. The fairest and most honest accounting for the S&L bailout would come if this Congress and the administration were willing to finance the cost of the bailout this year, and not over the next 30 years.

However, the choice confronting us today is not between paying the bailout bill today as opposed to paying the bill off over the next 30 years. Instead the choice is whether the Federal Treasury should bear the complete liability for the cost of the bailout, or

whether the liability burden should be shared by the members of the S&L industry. In my view, the latter alternative is far more responsible.

The administration's proposal locks the S&L industry into paying $50 billion as part of its contribution to the bailout. It segregates S&L resolution financing, allowing for a clear and precise accounting of all public and private funds used in resolving the S&L crisis. By contrast, the on-budget mechanism commingles private and public funds, thereby obscuring taxpayer costs. Moreover, if the entire package is placed on-budget, there is absolutely no certainty that the S&L's will, over the next 30 years, fulfill their contributions to the bailout.

Mr. President, I would also point out that we will completely undercut the integrity of the Gramm-Rudman-Hollings budget reduction process if we blythely exempt the $50 billion cost of the bailout from the Budget Act. If we can waive the Budget Act to finance the S&L bailout, why shouldn't we waive the Budget Act to finance the war on drugs; or the homeless problem; or research on AIDS, or any number of other problems that confront this Nation? Gramm-Rudman has provided us with the fiscal discipline to bring the budget deficit down from $225 to $100 billion. If we abandon the principles of Gramm-Rudman today, we are far more likely to lose all of its discipline tomorrow.

Mr. President, as we consider this issue I think it is worth noting what the Chairman of the Federal Reserve, Alan Greenspan, has to say on this matter. Let me quote from a letter Chairman Greenspan recently prepared: "In my judgment, the Gramm-Rudman-Hollings [G-R-H] budget process has been very useful in exerting discipline on the Federal budget and, more fundmentally, on the Federal Government's claim on economic resources. We should not at this time threaten that process by setting a precedent that might be used in the future to undermine necessary fiscal discipline."

Mr. President, I do not want to belabor this issue. The debate is well-drawn. I urge my colleagues to support the point of order.

Mr. CONRAD. Mr. President, I rise today to discuss H.R. 1278, the Financial Institutions Reform, Recovery, and Enforcement Act [FIRREA] of 1989. I applaud the conference committee for its work. They have labored to deliver to this body a tough piece of legislation that honors the commitment to blameless depositors, and also minimizes the cost to the taxpayer.

As my colleagues know, I was one of only a handful of Senators to vote against final passage of the Senate FSLIC bill. I did so reluctantly because I recognize that we must honor our commitment that deposits are insured by the full faith and credit of the Government. I understand the need to reform the structure of the savings and loan industry to ensure that the crisis does not recur. But the Senate bill failed one crucial test: It did not minimize the cost to the taxpayer.

My overwhelming concern was the off-budget financing in the Senate bill. In the Senate bill, the Resolution Trust Corporation was responsible for liquidating the assets of currently insolvent thrifts and those that become insolvent in the next 3 years. The RTC would have been funded by $50 billion borrowed from the Resolution Funding Corporation, an off-budget entity. This off-budget accounting gimmick would make it look like the Government was not borrowing money when it really was. And it was an expensive gimmick: The off-budget financing would cost the American taxpayer roughly $4.5 billion in the long run.

So, Mr. President, I am very pleased that the conference committee agreed to opt for the on-budget financing that was contained in the House bill. I am a strong supporter of fairness in budgeting—we should not allow the true costs of the savings and loan liquidation to be hidden from the taxpayer. And, more importantly, we must work on-budget to gain the full faith and credit of the U.S. Treasury. We cannot rob the taxpayer of those basis points, which add up to a total of almost $5 billion.

But, Mr. President, I will oppose a waiver of Gramm-Rudman because I believe we must begin to make tough choices in this country. We must force ourselves to take a hard look at the overall priorities revealed in our budgets, and act to reduce the deficit. Our budget process allows us to ignore the choices we must inevitably make.

Let me make one thing clear: I support the on-budget aspect of this conference report, but I also believe we should subject the costs of this bailout to Gramm-Rudman calculations.

We must sober up, Mr. President. Making $50 billion subject to Gramm-Rudman calculations would make this President and this Congress quickly wake up. We would be forced to make tough choices—and make them this year.

I must underscore that I do not—I repeat—do not—oppose a waiver of Gramm-Rudman because of support for the administration plan. I find the argument forwarded by opponents of the waiver without merit. Under the guise of fiscal responsibility, they oppose a waiver of Gramm-Rudman-Hollings; but, their ultimate goal is the implementation of a gimmick-ridden administration proposal that will cost the taxpayer an extra $4.5 billion.

We must refocus the debate, Mr. President. The correct option is to put this bill on budget and subject it to Gramm-Rudman calculations. That is why I intend to oppose the motion to waive Gramm-Rudman. I do so reluctantly only because I realize this means delay of consideration of this conference report. We must work hard to adopt a compromise, one that fulfills all the goals of fairness in budgeting: letting the American people know how much this bailout really costs, minimizing their costs, and forcing tough choices.

Mr. BINGAMAN. Mr. President, I rise today to express my support for the conference report on the Federal Institutions Reform, Recovery, and Enforcement Act. While this is not a perfect bill, it contains significant improvements over the President's original plan. It corrects the most obvious flaws that existed in the industry and improves oversight over regulation of the industry in an effort to prevent another crisis. It makes a firm commitment to prosecuting those cases where fraud led to the downfall of savings and loan institutions. The agreement also forces the industry to pay a significant share of funds needed to restore solvency to their industry and imposes several industry standards that will restore sound business practices.

Most importantly the conference committee has adopted an on-budget financing approach that will save the taxpayers money, almost $5 billion over the next 30 years. I voted for the on-budget approach when the Senate considered this bill in April and I remain convinced that this is the soundest and most honest approach.

The financial markets know what is going on. They know that one way or another we need to borrow $50 billion to make a start at solving the problem of our insolvent thrifts. The real economy will feel the effects of that borrowing. Whether we count this money in our deficit calculations or not, it will crowd out other borrowing and consume private savings just as the rest of the Federal deficit does.

Why then not be honest with ourselves and the taxpayers and put this money out in the open on our Federal balance sheets? Why not indeed when doing so would save the taxpayers almost $5 billion over the next 30 years? The answer of those who favor the off-budget approach is that this would create a bad precedent and we would soon be waiving the Gramm-Rudman deficit targets for other urgent problems, such as the war on drugs or the cleanup of the nuclear weapons complex.

I think the fact is that it is the off-budget approach that would create the bad precedent. If this bill is sent back to conference and we ultimately approve the off-budget approach, I

guarantee that others will attempt to use this action as a precedent. We may have a lot of Resolution Funding Corporations created in the next few years to hide Federal expenditures from the taxpayers and mask our real problems. Then as now the financial markets and the real economy will not be fooled by our accounting gimmicks.

Mr. President, I would certainly have preferred that we never had to ask the taxpayers to bail out the thrift industry's obligations to its depositors. This is the legacy of a failed attempt at deregulation without adequate oversight. But as long as we do have to take this action, let's choose the financing plan that is honest, sound, and more cost effective. Let us keep this cost on-budget.

I urge my colleagues to vote in favor of the conference report and the necessary waiver of the Budget Act. I urge them to reject the off-budget approach.

Mr. MACK. Mr. President, the issue before us is a complex one, but the aspect upon which we should focus is simple. The financing mechanism for the savings and loan plan contained in the conference report is a powerful precedent for budgetary profligacy because it provides an easy way for Congress to breach the Gramm-Rudman budget limits in the future.

In its most basic terms, the conference report obligates taxpayers for the full cost of closing failed savings and loans, acknowledges this by putting the cost directly on budget, but exempts the resulting higher deficit from the Gramm-Rudman limits.

Congress, as we all know too well, is not a bastion of budget discipline. Given the tiniest of opportunities, we will spend money. The conference report is much more than a tiny opportunity; it is a carte blanche. To what extent will we be constrained by Gramm-Rudman if we can always point to the savings and loan precedent and exempt new spending? We know the answer already—there will be no constraints.

Right now, new spending programs have to be judged very carefully, because to pay for them, either taxes have to be raised or other spending has to be reduced. If the conference report precedent is created, immense pressure will develop to exempt new programs from the limits which Gramm-Rudman has, up to now, effectively imposed.

This view is shared by those knowledgeable of the way Congress works. The Director of the Office of Management and Budget, Richard Darman, observed in a letter to Senator GARN:

> Day by day I become more convinced that if we exempt S&L reform from Gramm-Rudman-Hollings, we will, in effect, break the dam. A flood of additional exemptions will follow. Although some advocates of the House-passed financing provisions argue that the precedential effects would be limited, I'm afraid this does not square with the current behavior of many of their colleagues. I am already under considerable pressure from Congressional sponsors to recognize the alleged wisdom of exempting (from G-R-H) expenditures for programs as diverse as drought assistance and drug-abuse control.

Alan Greenspan, Chairman of the Board of Governors of the Federal Reserve System, has had years of experience observing Congress' spending behavior. Alan is widely respected, and part of his respectability stems from his reputation of speaking in a tempered manner after careful thought. His comments to the Senate Banking Committee earlier this week reflect that reasoned approach, but clearly convey the fear that the conference report mechanism is a recipe for budgetary excess:

> It's far more difficult to replicate the * * * [President's plan] * * * than it is to replicate an on-budget with an exemption issue, and to that extent, and only to that extent is the issue very crucially one of fiscal discipline, and my concern is that being on budget with an exemption has a more negative impact on fiscal responsibility than any form of vehicle which would endeavor to replicate the Administration's financing vehicle.

The matter is clear. If we accept the conference report's financing mechanism, we will have dealt a severe blow to budget discipline and ultimately to the taxpayers of the United States.

Mr. BOREN. Mr. President, this legislation to reform and recapitalize the troubled savings and loan industry is long overdue. We have needed stability restored in the financial industry for too long.

I applaud this administration for making the savings and loan crisis its first major domestic legislative initiative and commend Senate Banking Committee Chairman RIEGLE and the other hard-working members for deliberating so quickly earlier this year.

The circumstances which lead to the debacle we have finally addressed with this legislation are indeed sordid. It is my belief that the real culprits of this multibillion-dollar crisis were: a previously ambivalent administration in an era of deregulation; a lax regulatory structure; a shared oversight shortfall by the Congress; rapidly fluctuating interest rates in the late seventies and early eighties; a sagging economy in the Southwest; and a few, criminal thrift operators who have wrongfully scarred the reputation of a viable, nationally important industry.

I have been concerned that this bill should in no way punish the clean, well-managed institutions which have themselves been victims of a depressed economy nor displace an unfair portion of the costs on other institutions or the taxpayers.

Very soon, the Federal Government will become responsible for the management and disposition of nearly $150 billion in real estate related assets. The manner in which we accept this responsibility will probably be the most critical factor in the success or failure of this legislation and subsequent regulation. If the assets are dumped on the market, particularly in States like Oklahoma which are suffering from depressed economies, the results will be disastrous. While I am pleased that antidumping provisions have been added to this legislation, I am still unsure of how they will be implemented to assure sympathy to a soft real estate market.

Mr. President, in Oklahoma, over 90 banks have failed in the past 6 years, and 14 of 50 thrifts were closed last fall under the FHLBB's Oklahoma plan. A great deal of this dislocation is a direct reflection of our poor economy which has been dependent on the energy and agricultural sectors. The economic charts following the energy and/or agricultural sectors are traceable to the decline in the health of our financial industry.

Mr. President, the taxpayers should not endure another $10 million day in which losses in the industry mount. We should not argue on the issue of on budget versus off budget. The fact is, over the life of the bill, it is estimated that off-budget financing will cost an additional $4 billion due to inaccessibility to Treasury interest rates. As the bonding authority is backed by taxpayer funds, and due to the savings it will ensure, the funding should be on budget while being exempted from the budget deficit targets. With a total $155 billion price tag, saving $4 billion is the least we can do for the taxpayer.

Mr. President, I support this legislation as our best chance to stop further losses and delays. However, I believe much in this bill has wrongly gone back on the word of the Federal Government. Many investment groups and institutions poured millions of dollars into buying failing thrifts last year at the solicitation, blessing, encouragement and even enticement of our Federal regulators as a way to avoid huge deposit payoffs from the bankrupt FSLIC. In too many cases, those same groups may find that they will be unable to operate on the new playing field created in this legislation. While I support the aspects of reform and discipline in this bill, I am also a firm believer in fairness and consistency. The Congress' answer to cries for discipline should not be slaps to those who have tried to help the Government remedy this crisis.

Mr. President, as is the case with any compromise, this bill is not perfect. But on balance I do believe that it will adequately address the needs of our financial services industry. Further, I have confidence in most of the regulatory officials who are charged to carry out this bill. Finally, I wish to

commend the able leadership of Chairman RIEGLE and ranking committee member GARN for the endless hours of committee hearings, meetings, and negotiations that have occurred to assemble this landmark legislation.

Mr. RIEGLE. Mr. President, one of President Bush's first acts in office was to declare the savings and loan crisis his top domestic priority and introduce legislation to resolve the crisis. The Senate and the House have responded by moving the President's bill to this stage with historic speed.

President Bush deserves credit for the bill we have before us. Make no mistake about it, except for the on-budget versus off-budget issue, this is the President's bill—with improvements.

This bill would accomplish three critical objectives:

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 would stop the hemorrhaging of losses that have been occurring, increase Justice Department enforcement against wrongdoing in the thrift industry, and help prevent the thrift crisis from occurring again.

First, it would stop the hemorrhaging.

The most important thing this bill would do is to provide $275 billion over 30 years to shut down sick thrifts.

It is a great tragedy that we have to spend that money to close sick thrifts at a time when it is so badly needed for other purposes. But if we don't spend that money today, we will have to spend even more tomorrow. The Federal Government cannot escape its deposit insurance liabilities. And because those sick thrifts are still open, those liabilities are getting bigger every day. The Federal Government is hemorrhaging $20 million a day right out through the doors of these sick thrifts. That has to stop and it will stop with passage of this legislation.

Second, it would help bring those responsible for this mess to justice.

If there is one thing the American people understand about this savings and loan crisis, it is that a lot of crooks took a lot of money and they should not get away with it. Unfortunately, too many of them have already gotten away with too much.

This bill would put a stop to that. It would authorize an additional $65 million per year to the Justice Department for investigation and prosecution of banking crimes, and $10 million per year on top of that for civil proceedings. To ensure that justice is appropriately swift, the bill would also authorize an additional $10 million per year for the Federal judiciary, to help deal with the increase we anticipate in the amount of criminal and civil litigation. And the bill would increase both criminal and civil penalties for bank fraud and make bank fraud a RICO offense. Fines for wrongdoers increase from $5,000 to $1 million and increases jail terms from 5 to 20 years.

Third, it would help keep this mess from happening again.

This bill also contains a lot of measures designed to keep this mess from happening again. Some of them were in the bill the President sent up here. Others were added along the way. I cannot promise they will all work for sure, but I know they will help. Let me describe some of them briefly.

Tough capital standards that require thrift owners to put their own money at risk: If you want to keep thrift owners from gambling with federally insured funds, there is no better way to do it than to make them put some of their own money at risk. The capital standards in the bill will do exactly that. This bill takes the best parts of the capital standards in the House and Senate bills and combines them. It includes the Senate's 1.5 percent tangible capital standard along with the House's leverage limit and risk-based standard. By 1995, thrifts must have 3 percent tangible capital. It also includes the Senate's provision prohibitng all financial institutions—banks and credit unions along with thrifts—from creating goodwill in the future and counting it as capital. And capital will have to be determined for all insured depository institutions according to uniform accounting standards.

Regulatory reform to break up the inappropriate relationship between the thrift industry and its regulators: A lot of people think that one of the reasons the thrift crisis came about is that the Federal Home Loan Bank Board—which up until now has been responsible for chartering, regulating and insuring thrifts—was too loosely tied to the thrift industry. This bill would solve that problem. It would abolish the old Federal Home Loan Bank Board. From now on, thrifts would be regulated by the Office of Thrift Supervision under the oversight of the Treasury Department. Thrift deposit insurance would be administered by the FDIC, an independent agency. And a new agency, the Federal Home Loan Bank Agency, would handle the credit functions of the Federal Home Loan Bank System.

Curbs on risk-taking by State-chartered thrifts: Risky activities conducted by State-chartered thrift institutions have contributed significantly to the crisis in the thrift industry. This bill would limit those activities to ensure that they pose no significant risk of loss to the insurance fund in the future. It would bar State-chartered thrifts from making real estate investments considered unsafe for Federal thrifts. And it would prohibit all thrifts from investing in junk bonds.

Congress considered this bill in a crisis atmosphere.

President Bush has made passage of thrift legislation a top domestic priority. Congress has had to consider this legislation at the President's request on an expedited basis. A major segment of our financial services industry is in crisis. Federally insured depository institutions have been failing in the wake of the greatest regulatory breakdown in American history. Every one of these failures costs the American taxpayers millions and millions of dollars. And each day we delay costs the American taxpayers another $20 million dollars.

RESERVATIONS

It is hard to produce a legislative masterpiece under these circumstances. We have done the best we can. I doubt there is a Member of this Congress who doesn't have some reservations about this bill. As chairman of the Senate Banking Committee, I have expressed to the Treasury Secretary and the FDIC Chairman my concern that the legislation may not provide enough money to resolve the problems in the thrift industry. I have also expressed concern about the administration's plans for the Resolution Trust Corporation. I think the funding may well eventually prove to be inadequate, and I worry that—even with the improvements Congress has made—there are insufficient safeguards against potential abuse in the management and administration of the Resolution Trust Corporation.

Secretary Brady and Chairman Seidman have written to me saying they do not share my concern on the amount of funding. I will insert my letters and their responses in the RECORD. Although we may have to revisit these questions later, this conference report would give the administration essentially what it asked for.

The financing issue is not worth holding up this bill.

And so this bill returns to the Senate floor with only the on/off-budget still in sharp contention.

No matter what you think about that question, this legislation is too important to be delayed by a dispute over the financing mechanism. There should be no doubt in anyone's mind that delay will not only be extremely costly to the taxpayer but may well result in an eventual weakening of this legislation. Some Members of both the House and Senate are already feeling growing pressure to weaken the capital standards at the core of this legislation, to relax the restrictions the bill would impose on excessive risk-taking by state-chartered institutions, and to reduce the amount of assets a thrift institution must devote to housing-related activity. That pressure must be resisted—but could very well become irresistible if there are further delays.

CONCLUSION

Despite these reservations, I think this is the strongest possible bill under the circumstances. We have followed the President's plan, strengthened it and have moved quickly. This bill is a strong, comprehensive response to an urgent problem and further delay will worsen it. The Washington Post calls the bill a "remarkable achievement," in a July 31, 1989, editorial. Treasury Secretary Brady has called it "generally excellent" except for its financing. It represents the best public policy possible within the constraints imposed by this terrible problem. It deserves to become law. I ask my colleagues to give it their support.

I ask unanimous consent that the material to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAY 25, 1989.

Hon. NICHOLAS BRADY,
Secretary, Department of the Treasury, Washington, DC.

DEAR MR. SECRETARY: The thrift industry legislation that has passed in the Senate and is now working its way through the House will go far toward resolving the current crisis and preventing a similar future debacle. Your leadership on this issue has been of critical importance, and I deeply appreciate the close and cooperative working relationship we have established.

As the Administration's point man on this issue, I want to raise with you a growing concern I have as we move toward final enactment of the legislation.

That issue concerns the overall estimated cost of the rescue package and whether the $50 billion being sought by the Administration will really be adequate to deal with the problem.

I have a growing concern, shared by many colleagues here, that new evidence is indicating that the resolution cost may well exceed the $50 billion estimate by a substantial amount.

A report released last week by the FDIC estimates the losses at 212 insolvent thrifts with $73 billion in assets to be $30 billion. There are roughly another 500 institutions with $250 billion of assets that, in 1988, were insolvent or unprofitable or both. While losses at these thrifts will likely be smaller in proportion to assets than those the FDIC has examined, high interest rates, customer withdrawals and other factors are pushing more and more S&Ls toward insolvency.

This concern was sharpened last week when Assistant Secretary Mullins said of the $50 billion available to RTC: "We will not need it [all]." Yet the release of the FDIC estimates a day later have cast doubt on these optimistic predictions, and Chairman Seidman was blunt in saying: "If things get worse and a lot more [associations] go insolvent, it certainly won't be enough." Some doubt whether there is enough money even for those thrifts that are already insolvent.

It is fair to say, I think, that if the American people find that substantially more money is needed from them to resolve the S&L problem within the next one to three years, they will be disillusioned and angry—and with justification. A failure of judgment in this area would reflect poorly on everyone involved in this rescue effort.

Let me therefore suggest the following two steps.

First, I would ask the Treasury Department to take a fresh, updated look at the potential financial exposure here and see if any recent information requires an upward adjustment of the estimated resolution cost. If you were to decide that we should make an upward adjustment in the amount needed, I would undertake to achieve that higher amount in the current legislation.

Second, if the Administration still believes the $50 billion figure to be fully adequate, then I would ask for an indication of what contingency approach would be used, if the estimates prove wrong, and the amount needed were to rise to: (a) $75 billion; (b) $100 billion; (c) $125 billion.

As you and I have discussed many times, it is essential that this legislative package work effectively—once enacted and implemented—and this letter is written in that spirit.

Thank you for considering this request and I look forward to your formal reply within the next two weeks.

Sincerely,

DONALD W. RIEGLE, Jr.,
Chairman.

THE SECRETARY OF THE TREASURY,
Washington, DC, June 23, 1989.

Hon. DONALD W. RIEGLE, Jr.,
U.S. Senate, Washington, DC.

DEAR DON: Thank you for your letter, dated May 25, 1989, concerning the thrift legislation. We appreciate your active leadership on the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Your letter states the concern that the legislation may not provide sufficient funds to deal with the problem. The Administration's plan calls for $50 billion for case resolutions by the Resolutions Trust Corporation (RTC) for thrifts that have been or will be placed in conservatorships or receiverships from January 1, 1989 until three years after the date of enactment. During this period, a $5 billion emergency line of credit from the Treasury will also be available. From October 1991 through 1999, the plan provides an additional $24 billion for case resolutions as well as $8 billion to capitalize the Savings Association Insurance Fund (SAIF). We believe—as does the Federal Deposit Insurance Corporation (FDIC), General Accounting Office and Federal Reserve—that these resources are adequate to do the job.

When the Senate Banking Committee thoroughly examined this issue, both in hearings and at the staff level, the numbers underlying our conclusions and the assumptions that were used were explained in detail. This appeared to satisfy the Committee's concerns at the time, since no amendments were offered to increase the amount of funds for case resolutions and the bill passed by a unanimous vote.

We, too, are familiar with the information contained in a recent FDIC report which you suggest might indicate that the resolution costs for RTC cases over the next three years may exceed $50 billion by a substantial amount. The FDIC's report contains an estimate, based on its on-site examination, of $29.8 billion in losses at 212 thrifts that are currently in receiverships or conservatorships. But, when he released that report, FDIC Chairman Seidman said that "this level of loss is consistent with the Bush Administration's estimate of losses in all insolvent institutions to be handled by the Resolution Trust Corporation."

It is also my understanding that the General Accounting Office, in recent discussions with Banking Committee staff and others, declined to conclude that the amounts provided for under the Administration plan are inadequate.

Finally, our most recent reexamination of thrift data supports our earlier conclusion that $50 billion for RTC cases over the next three years is sufficient.

Based on this broad consensus, I continue to believe that the resources provided by the Administration's plan are adequate. Let me emphasize, however, that this level of resources, no matter how thoroughly researched or widely agreed upon, is still based only on estimates. Uncertainties include the level of interest rates, the strength of the economy, as well as many other factors that could have a significant impact on the size of the problem. As a result, the actual cost of case resolutions could be higher or lower, depending on the actual circumstances. In summary, we feel the resources provided for in the Administration's plan and in both the Senate and the House bills are reasonable given these uncertainties.

Your letter also asks what contingency approach would be used if the size of the problem exceeds $50 billion. as I mentioned above, the RTC has a $5 billion line of credit from the Treasury—and as a practical matter it is doubtful that the RTC could efficiently spend more than $55 billion on resolution costs on RTC cases over the next three years. Furthermore, under both the Administration plan and the Senate bill, $24 billion will be available for thrifts that fail three years from the date of enactment, and this would not affect the build-up of $8 billion to capitalize SAIF by 1999. Finally, the legislation specifically provides the FDIC authority to raise premiums to handle additional cases in the event of extraordinary circumstances.

While we believe these resources are sufficient for all reasonable contingencies, your letter also asks what would happen if the resources were exhausted. In that event, it would be necessary for Congress to revisit the issue. I believe this is appropriate: if circumstances were to change so dramatically, Congress should indeed take a second look. In fact, the Senate Banking Committee took the same view when it voted at the end of the mark-up of S. 774 to cap the ability of SAIF to spend more than $24 billion from 1991 to 1999 without receiving permission from Congress. If your view has changed, however, and you want to ensure that additional contingency resources are available without returning to Congress, the conferees could of course decide to increase RTC's contingency line of credit.

Let me mention one related point, which concerns the House bill's cap on the authority of the RTC to issue notes and guarantees for working capital purposes. I understand the Congressional concern to impose such a cap, particularly in view of last year's experience with FSLIC, where notes and guarantees were issued on the questionable strength of future premium income. I have no objection to a cap that would prevent the RTC from taking similar actions. However, the cap imposed by the House bill is far more restrictive and could create the following anomalous result: the RTC would be forced to seek more funds simply for working capital purposes from Congress as early

as next year, even though it would own substantial amounts of real estate and other tangible assets.

A cap that prevents borrowing on the strength of tangible assets owned—even though the taxpayer would not be at risk—is likely to force Congress to revisit this whole issue prematurely. I urge you to consider this matter very carefully as we approach the conference between the Senate and the House of Representatives. We would be happy to work with you to design a cap that would avoid unintended consequences.

In summary, I continue to believe that, in the absence of strong evidence to the contrary, an appropriate level of resources is included in the Administration's plan, as embodied in the Senate bill.

I look forward to working with you in the conference to produce a strong, bipartisan bill that maintains the essential provisions of the Administration plan.

Sincerely,

NICHOLAS F. BRADY.

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC, June 8, 1989.

Hon. L. WILLIAM SEIDMAN,
Chairman, Federal Deposit Insurance Corporation, Washington, DC.

DEAR MR. SEIDMAN: As we move into the final stages of the S&L Legislative process, there are a couple of issues on which I would like your comments. One issue concerns the size of the RTC's funding needs. With the recent release of the new FDIC loss estimate for thrifts now in conservatorship, you said the "report indicates that the Administration's program is based on realistic loss estimates." However, when the new data are considered along with figures you presented in March 8 testimony to the House Financial Institutions Subcommittee, a different conclusion suggests itself.

In the attached table, you showed two sets of cost estimates, which differ in their assumptions about losses from book values on home mortgages and mortgage securities. Excluding the cost of the 1988 deals (top line) from both columns leaves estimates of $53 and $69 billion, respectively, as the cost of resolutions to be handled by RTC.

Your recent loss estimates imply that these numbers are probably too low. The March estimates for the 217 RAP insolvent and unprofitable thrifts were $23 and $25 billion. The mid-May estimate for 212 RAP insolvent institutions in conservatorship, made after more careful examination, was $30 billion. It seems reasonable to assume that errors on the March estimates for other categories were proportional. Thus if the $25 billion estimate of RAP insolvent losses should have been 20 percent higher, we should raise the $69 billion "Est. Cost #2" by 20 percent to $82 billion. The comparable #1 estimate would be $70 billion.

Even these higher numbers may overstate the adequacy of the $50 billion available to the RTC in the legislation. These cost estimates are present values, but the $50 billion will not be available immediately; it will flow in over a 3-year period. On average, the money will be spent at least a year from now, maybe longer. In the meantime losses will continue to build up. Adding 10 percent to allow for the accumulation of losses produces alternative estimates for the needs of the RTC (ignoring liquidity problems) of $76 and $90 billion.

Viewed in this light, aren't your new loss estimates more consistent with a funding plan for RTC that provides $75 or $100 billion than with the $50 billion plan in the current legislation? Perhaps you have reevaluated prospective losses at RAP-solvent thrifts since March. If not, how do you resolve the apparent inconsistency? If $50 billion likely is not going to be enough perhaps we should do something about it now. I look forward to receiving your comments on this.

Another concern of mine is the interest rate risk at conservatorships. As I understand it, large maturity mismatches are common at thrifts under the FDIC's control. While market yields may continue to decline and, therefore, to reduce the cost of resolutions, the alternative is also quite possible. To help us assess the dangers, I would greatly appreciate some statistical information on interest rate risk at FDIC conservatorships. Using March 31 data, what are the aggregate amounts of assets and liabilities whose yields reprice within 1 year and within 3 years? Please quantify, with at least an estimate the effect of FDIC actions since then? I would also appreciate knowing whether you share my concern. If you do, couldn't the risk be reduced with interest rate swaps or other market hedges?

These issues are both very complicated and deserve thorough examination. Unfortunately time is very short. I would appreciate your response within 2 weeks.

Sincerely,

DONALD W. RIEGLE, JR.,
Chairman.

3RD QUARTER SUMMARY SHEET DATA ON FINANCIAL TROUBLED SAVINGS AND LOANS

[In billions of dollars]

S&L group	Number	Total assets	Total liability	Annual income	Estimated cost no.	Cost to assets	Estimated costs No.	Cost to assets
Handled by FSLIC in 1988	208	$103.2	$120.1	−10.2	$38.9	0.38	$42.9	0.42
Other:								
RAP—Insolvent and unprofitable	217	56.9	65.6	−5.3	22.8	.40	25.0	.044
RAP—Insolvent and profitable	5	2.5	2.5	0.0	0.4	.16	0.6	.24
Subtotal	430	162.6	188.2	−15.5	62.1	.38	67.9	.42
RAP solvent but GAAP—insolvent and unprofitable	72	24.2	23.7	−0.3	3.6	.15	4.8	.20
RAP solvent but GAAP—insolvent and profitable	45	12.1	11.7	0.3	1.6	.13	2.2	.18
Subtotal	547	198.9	223.6	−15.5	67.3	.34	74.9	.38
RAP and GAAP—solvent but tangible insolvent and unprofitable	69	55.1	53.2	−0.5	8.3	.15	10.9	.20
RAP and GAAP—solvent but tangible insolvent and profitable	52	66.4	63.5	0.2	6.8	.10	10.9	.16
Subtotal	668	320.4	340.3	−15.8	82.4	.26	96.7	.30
Marginally solvent but unprofitable	154	101.1	97.6	−0.7	9.6	.09	14.9	.15
Total	822	421.5	437.9	−16.5	92.00	.22	111.6	.26

[1] Estimated Cost No. 1 : Failed-bank cost formula with zero loss assigned to residential mortgages and passthrough securities
[2] Estimated Cost No. 2: Failed-bank cost formula with 10 percent loss assigned to residential mortgages and mortgage pass-through securities.

FEDERAL DEPOSIT INSURANCE CORPORATION,
June 26, 1989.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to respond to your June 8th letter in which you expressed concern regarding the RTC's funding needs and the level of interest rate risk in the institutions under conservatorship.

The FDIC has estimated that RTC may have to deal with S&Ls holding $300 to $500 billion in assets. This assumes that RTC would be responsible for old FSLIC and the transactions previously arranged by FSLIC that require ongoing support. (FDIC has advocated the placement of old FSLIC into RTC, but that is not the structure in either bill.) Such transactions involve about $130 billion in thrift assets, half of which are protected under yield maintenance arrangements. The $50 billion funding however, is not earmarked for prior transactions but for new case resolutions.

No one can predict with certainty whether $50. billion is enough to cover the losses at the S&Ls likely to need resolution over the next three years, since costs depend on predicting the future; e.g., economic conditions, interest rates, and property values. At this time, we believe $50 billion is a reasonable estimate upon which to base legislation.

Another factor in determining how much money will be needed is the number and size of S&Ls going to RTC for resolution. RTC handles failures only during the first three years; failures after that would be handled by SAIF. The earlier FDIC table you referred to provided estimates of the cost of failure of all S&Ls with no tangible capital—including profitable ones—as well as unprofitable S&Ls with less than three percent tangible capital. It is not likely that all of these S&Ls will fail in three years, and some may recover and survive. Thus, it is difficult to project exactly how many S&Ls the RTC will have to handle.

For your information, we have enclosed the latest results of our model which used fourth quarter data to estimate losses for 428 S&Ls that appear most likely to go to RTC. These include all RAP-insolvent, GAAP-insolvent, and unprofitable tangible-insolvent S&Ls. The model suggests these S&Ls with assets of $180 billion could be handled for $44 billion. Note the loss rate for the RAP insolvent and unprofitable S&Ls averaged 37 percent of assets. This appears reasonably in line with the $30 billion or 40 percent loss rate indicated by our on-site reviews of the RAP insolvent and unprofitable S&Ls under conservatorship

Based on our on-site reviews completed thus far, it appears that $50 billion will be enough, though there does not appear to be much of a comfort margin.

The rate at which funding will be necessary is also difficult to predict. It depends on how quickly institution problems can be resolved. We believe your bill makes a reasonable estimate of resolution needs.

While $50 billion appears to be a reasonble estimate of ultimate cost, we want to point out that RTC likely will need considerably more than $50 billion to provide working capital to effect resolutions. To explain, the S&Ls on the enclosed list are funded by about $180 billion in deposits and borrowings, but about half of their assets are either troubled or non-traditional thrift assets. In an ideal world, RTC would find buyers willing to assume all liabilities in return for $50 billion plus all the failed thrifts' assets. That simply is not going to happen. Interested S&L buyers we have talked with thus far have been reluctant to accept anything but traditional assets and cash.

Moreover, depositors may claim their insured deposits at any time, and RTC must have the cash to meet those demands. For some S&Ls, the only viable option will be to pay off all depositors and liquidate the assets. Thus, the RTC will need access to enough funds to satisfy S&L depositors and other liabilities while assets are being liquidated.

RTC must have the ability to raise cash or provide cash-equivalent obligations. To meet these demands, we believe the RTC should be able to issue obligations with the backing of the full faith and credit of the U.S. government. The amount of such federal guarantees should be limited by placing restrictions upon the RTC similar to those the proposed legislation would place on the FDIC. Thus, this limitation would restrict RTC's authority to issue obligations by providing that RTC must have resources available to repay those obligations without further appropriations.

Finally, we share your concern about the interest-rate exposure of S&Ls under FDIC supervision. Substantial exposure does exist. For S&Ls in conservatorship as of April 15, year-end 1988 data indicate that liabilities repricing within one year were about $64 billion, compared with repricing assets of $25 billion. Liabilities repricing within three years were $75 billion, compared with assets of $30 billion. Our policy is to reduce exposed positions as soon as possible; but under current conditions, funding remains short-term, while most assets remain long-term.

Some of the S&Ls have engaged in hedging strategies, and we have encouraged this effort where appropriate. Our present belief is that the expense of hedging may not be justified in many situations. We will continue to monitor rate risk, with a view to reducing interest rate exposure.

Do not hesitate to call if you should want to discuss these issues further.

Sincerely,

L. WILLIAM SEIDMAN,
Chairman.

Enclosure.

YEAR-END 1988 COST ESTIMATES FOR INSOLVENT S&L's 10 PERCENT LOSS ASSUMPTION ON RESIDENTIAL MORTGAGES AND MBS's

[In billions of dollars]

S&L Group	Number	Gross assets [1]	Annual liabilities	Annual income	Cost estimate	Cost to assets
(1) RAP insolvent and unprofitable	232	$75.1	$79.6	−$7.0	$27.7	0.37
(2) RAP insolvent and profitable	5	4.3	4.2		0.7	.16
(3) Total RAP insolvent (1+2)	237	79.4	83.8	−7.0	28.4	.36
(4) Other GAAP insolvent and unprofitable	91	32.4	30.9	−0.5	5.3	.16
(5) Other GAAP insolvent and profitable	36	10.0	9.5		1.6	.16
(6) Total other GAAP insolvent (4+5)	127	42.4	40.4	−0.5	6.9	.16
(7) Total GAAP insolvent (3+6)	364	121.8	124.2	−7.5	35.3	.29
(8) RAP + GAAP tangible insolvent and unprofitable [2]	64	58.1	54.0	−0.6	8.7	.15
(9) Total RAP + GAAP insolvent + tangible insolvent and uprofitable and unprofitable (7 + 8)	428	179.9	178.2	−8.1	44.0	.24

[1] Gross assets include general and specific valuation allowances, loans in process, deferred loan fees and valuation allowances for mortgages held for sale.

[2] Tangible net worth is defined as GAAP capital minus all intangible assets other than mortgage servicing rights.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. We have had a good debate. There certainly could be more debate.

Mr. President, I move, pursuant to Section 904(b) of the Congressional Budget Act of 1974, as amended, to waive any and all points of order in Titles III and IV of the Budget Act that lie against the consideration of the conference report on H.R. 1278, the Financial Institutions Reform Recovery and Enforcement Act of 1989, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair reminds Senators that 60 votes are required in order to waive the Budget Act.

The question is on agreeing to the motion of the Senator from Michigan. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 46, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—54

Adams	Fowler	Metzenbaum
Baucus	Glenn	Mikulski
Bentsen	Gore	Mitchell
Biden	Graham	Moynihan
Bingaman	Harkin	Nunn
Boren	Heflin	Pell
Bradley	Hollings	Pressler
Breaux	Inouye	Pryor
Bryan	Johnston	Reid
Bumpers	Kennedy	Riegle
Burdick	Kerrey	Robb
Byrd	Kerry	Rockefeller
Cranston	Kohl	Sanford
Daschle	Lautenberg	Sarbanes
DeConcini	Leahy	Sasser
Dodd	Levin	Shelby
Exon	Lieberman	Simon
Ford	Matsunaga	Wirth

NAYS—46

Armstrong	Gorton	McConnell
Bond	Gramm	Murkowski
Boschwitz	Grassley	Nickles
Burns	Hatch	Packwood
Chafee	Hatfield	Roth
Coats	Heinz	Rudman
Cochran	Helms	Simpson
Cohen	Humphrey	Specter
Conrad	Jeffords	Stevens
D'Amato	Kassebaum	Symms
Danforth	Kasten	Thurmond
Dixon	Lott	Wallop
Dole	Lugar	Warner
Domenici	Mack	Wilson
Durenberger	McCain	
Garn	McClure	

The PRESIDING OFFICER. On this vote the yeas are 54, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. GRAMM. Mr. President, I make a point of order that the conference report is in violation of section 311(a) of the Budget Act in that it increases outlays in 1989 when the target for 1989 has already been reached.

The PRESIDING OFFICER. The enactment of H.R. 1278 in the form recommended in the conference report would increase by $9.8 billion the amount by which the total budget outlays set forth in the fiscal year 1989 budget resolution are exceeded, in violation of section 311(a) of the Congressional Budget Act.

The point of ordered is sustained.

The conference report fails.

The majority leader.

Mr. MITCHELL. Mr. President, pursuant to the prior consultation with the distinguished Republican leader and others concerned with the issue, it was agreed that the vote that just occurred would be the only vote necessary on this subject and, therefore, no further vote is necessary.

Accordingly, Mr. President, I move that the Senate further insist on its amendments to the bill H.R. 1278, request a conference with the House of Representatives on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. CONARD) appointed Mr. RIEGLE, Mr. CRANSTON, Mr. SARBANES, Mr. GARN, and Mr.

HEINZ conferees on the part of the Senate.

OIL POLLUTION LIABILITY AND COMPENSATION ACT

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, it is my understanding that the business now before the Senate will be the oil spill legislation which the Senate was previously considering; is that correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia.

COMMENDING THE HONORABLE JOHN O. MARSH, JR., FOR HIS DEDICATED AND EXEMPLARY PUBLIC SERVICE

Mr. WARNER. Mr. President, I have a resolution which I am hopeful the Senate will act on at an appropriate time before the Senate goes into recess.

Its purpose is to commend the Honorable John O. Marsh, Jr., for his many years of dedicated and exemplary public service.

Mr. President, I am gratified that some 33 Senators have indicated a desire to cosponsor this resolution. It will be in the possession of our cloakroom should other Senators desire to join them.

Mr. JOHNSTON. Mr. President, if the Senator will yield, I would like to be one of those cosponsors and would like particularly to associate myself with the remarks of the Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished friend and colleague from Louisiana.

I ask that the Senator from Virginia, Mr. ROBB, be added as a cosponsor.

Mr. MITCHELL. Mr. President, to accommodate the distinguished Senator from Virginia, I suggest that we proceed to act immediately on the resolution rather than deferring action, since it has been read. If that is agreeable to him?

Mr. WARNER. Mr. President, that is most agreeable, and I ask unanimous consent that the remainder of the evening be left open for those who desire to be added as original cosponsors.

The PRESIDING OFFICER. Without objection, both requests are agreed to.

Mr. WARNER. Mr. President, I now send the resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 165) commending the Honorable John O. Marsh, Jr., for his dedicated and exemplary public service.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. WARNER. Mr. President, as John Marsh prepares for his "change of command" as he departs the office of Secretary of the Army and returns to private life, it is an honor that we in the Congress salute him for his more than 8 years of dedicated and productive service as Secretary—the longest tenure of any Armed Service Secretary in the Nation's history.

The members of the Committee on Armed Services have had many opportunities to counsel with "Jack" Marsh during committee hearings and at other times on a wide range of matters relating to national security and intelligence. Indeed, our friendship has spanned over nearly a half century, beginning as World War II veterans returning together to Washington and Lee University, Lexington, VA.

At the age of 19, following completion of Officer Candidate School, Lt. Jack Marsh served in Europe with the Army of Occupation. Following this active duty assignment, he continued to serve his country as an officer in the Army Reserve and later as an officer in the Virginia Army National Guard, from which he retired as a lieutenant colonel. During his four terms in Congress as the Representative from the 7th Congressional District of Virginia, Jack Marsh maintained his National Guard service, completed Army airborne training, and voluntarily served a 30-day tour of duty with troops during the Vietnam war.

During President Nixon's administration, Secretary Marsh again entered Government service as Assistant Secretary of Defense for Legislative Affairs. Thereafter he served in President Ford's Office as National Security Adviser and counselor.

This extraordinary public service prepared Jack Marsh well for the dual challenges of defining the Army's needs to Congress and addressing the substantial problems which the Army encountered as it entered the 1980's. Prior to Jack Marsh assuming his responsibilities as Secretary of the Army, recruiting for the Modern Volunteer Army was down in numbers and quality. Equipment modernization was practically nonexistent. In fact, General Myer, the Chief of Staff for the Army at the time, described the Army as "hollow," with many critical units undermanned.

From his very first day as Secretary of the Army, Jack Marsh dedicated himself and the Army to reversing these negative trends. One of his first major decisions was to commit the Army to a steady end strength, while simultaneously emphasizing quality recruiting along with accelerated equipment modernization.

Today, the Army's confident posture and increased readiness can be attributed to Secretary Marsh's emphasis on recruiting and retention. For example, in 1980, only 65 percent of Army recruits were high school graduates; in 1988, 93 percent of recruits had earned high school diplomas. During the same period, the Army National Guard increased its proportion of high school graduates from 61 percent to 87.4 percent. Furthermore, today's Army is becoming increasingly representative of the Nation as a whole. From 1981 to 1988, more than 14,000 women were added and minority officer strength increased from 11.3 percent to 14.7 percent.

In addition to Secretary Marsh's determined and successful efforts to upgrade the quality of Army recruits, he placed great emphasis on maintaining a sense of purpose among personnel and acknowledging that family needs and values have a place in the military environment. Determining that the Army needed a theme around which to rebuild esprit de corps, Secretary Marsh drew on the spirit and heritage of the American Army by directing the attention of all personnel to the pivotal victory at Yorktown, VA, 200 years earlier.

"Yorktown, Spirit of Victory" became the first in a series of Army themes that quickly were accepted throughout the Army and which greatly enhanced morale. In 1982, Secretary Marsh chose physical fitness, a theme which spurred implementation of the most extensive and comprehensive physical fitness program in the Army's history. Jack Marsh, long an advocate and practitioner of fitness, set the example by achieving a perfect score on the Army's rigorous physical fitness test. His personal as well as programmatic achievement in physical fitness was recognized when, in 1988, Secretary Marsh was selected as 1 of 10 American fitness leaders honored by the National Jaycees. Successive Army themes have focused on excellence, 1983; the family, 1984; leadership, 1985; values, 1986; the Constitution, 1987; training, 1988; and, this year, the noncommissioned officer.

In addition to his emphasis on attracting and retaining quality personnel, Secretary Marsh's long and historic tenure provided continuity of leadership during the largest peacetime modernization program in the Army's

history. New weapons systems which were deployed during Jack Marsh's term included: the M-1 Abrams main battle tank, the AH-64 Apache helicopter, the M-2 Bradley fighting vehicle, the Pershing II missile, the Patriot air defense missile, the multiple launch rocket system, and the squad automatic weapon.

Our Congress and the Nation owe Jack Marsh an extra measure of appreciation for his service not only as Secretary of the Army, but also as Assistant Secretary of Defense, Special Operations/Low Intensity Conflict. While maintaining these roles simultaneously, he established and efficiently operated the new antiterrorism office during a 7-month period prior to the appointment and confirmation of a permanent Assistant Secretary. Difficult as it no doubt was to wear two hats, he succeeded in handling both responsibilities with consummate skill.

Mr. President, today's Army represents the best of America's youth and is a direct reflection of Secretary Marsh's ability to orchestrate the major changes responsible for attracting the fine young people who now compose the Active Army and its Reserve and National Guard components. Jack Marsh's long service as Secretary of the Army has benefited not only the Army, but the Nation as a whole. Methodically, with full attention to the business at hand, while keeping fanfare to a minimum, he has prepared the Army for a rapid and effective response to any threat to U.S. national security interests. The marked improvement in Army readiness and morale is a testament to his leadership skills, and his performance has been in the best tradition of the truly dedicated public servant. We, the American people, owe Secretary Marsh our deepest gratitude for his superb and unparalleled service to the Nation.

Mr. KENNEDY. Mr. President, I support the resolution commending John O. Marsh, Jr., for his distinguished service as Secretary of the Army.

Secretary Marsh has served his country almost continuously since he was commissioned an Army lieutenant during World War II. After the war, he served as a judge and town attorney in Strasburg, VA. From 1963 to 1971, he represented Virginia's 7th District in the House of Representatives.

After retiring from the House of Representatives, he moved to the White House first as Vice President Ford's National Security Adviser and then as Counselor to President Ford.

When Ronald Reagan was sworn in as President, it took him less than 2 weeks to bring Jack Marsh into his administration as Secretary of the Army. He has now served in that position longer than any person in our history.

But what distinguishes his service most is not its longevity, but its quality. He has provided the Army with firm, steady, and effective leadership for the past 8 years. As a result of his efforts, the readiness of Army units is at an all-time high, the morale and quality of our service men and women is unequaled and their equipment has never been better.

Secretary Marsh's achievements extend beyond the Department of the Army. Two years ago, when a suitable candidate could not be found for the position of Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, he took on those responsibilities in an acting capacity.

In that role, he broke bureaucratic logjams to bring about the congressionally mandated reorganization of the Special Operations Forces and established a separate budget for special operations activities. As we continue to deal with the threat of terrorism, we will come to appreciate his contributions in this area even more.

I want to conclude on a personal note. I joined the Armed Services Committee in 1983. And in the years since then, it has been a privilege to get to know Secretary Marsh and to work closely with him on many issues. He was always prepared to listen to all sides of an issue. He never lost his good humor, his personal charm, or his good judgment even in the most trying of times. In the end, his decisions always reflected what was best for the Army and for the country.

With his retirement, the Army is losing an outstanding leader, the Congress is losing a valued friend, and the Nation is losing an effective public servant.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 165) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 165

Whereas the Honorable John O. Marsh, Jr. has served as the Secretary of the Army since January 30, 1981, the longest tenure of service of a Secretary of a military department in the history of the Nation;

Whereas John O. Marsh's dedicated and productive service as Secretary of the Army is the apex of a long and distinguished career of service to the Nation, including active and reserve military service, eight years of service in the United States House of Representatives from the seventh district of Virginia, service as the Assistant Secretary of Defense for Legislative Affairs in the administration of Richard M. Nixon, service as National Security Advisor and then Counselor to President Gerald R. Ford, and, while serving as Secretary of the Army, additional service as the Acting Assistant Secretary of Defense for Special Operations and Low Intensity Conflict;

Whereas John O. Marsh's tenure as Secretary of the Army has been marked by the rebuilding of the Army's esprit de corps resulting in the posture and readiness of the Army being at an all time high; and

Whereas John O. Marsh, Jr. is preparing to depart the office of Secretary of the Army to return to private life: Now, therefore be it

Resolved, That the Senate does hereby express its appreciation and thanks on behalf of the Nation to the Honorable John O. Marsh, Jr. for his many years of dedicated and exemplary service to his Nation.

Mr. WARNER. Mr. President, as a final note concerning Secretary Marsh, I currently have serving on my staff two former Army officers, Col. Les Brownlee and Lt. Col. Grayson Winterling, who both worked for Jack Marsh. These two officers have assisted me in authoring this tribute with great pride, as they know personally of their former boss' accomplishments.

Mr. CHAFEE. Mr. President, may I be added as a cosponsor?

The PRESIDING OFFICER. Without objection, the Senator from Rhode Island [Mr. CHAFEE], is added as a cosponsor.

OIL POLLUTION LIABILITY AND COMPENSATION ACT

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Mr. President, is it now in order to offer amendments on the oilspill?

The PRESIDING OFFICER. An amendment is in order.

AMENDMENT NO. 672

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for himself and Mr. BREAUX, proposes an amendment numbered 672.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of amendment be dispensed with.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . COOPERATIVE DEVELOPMENT OF COMMON HYDROCARBON-BEARING AREAS.

(a) AMENDMENT TO THE OUTER CONTINENTAL SHELF LANDS ACT.—Section 5 of the Outer Continental Shelf Lands Act, as amended (42 U.S.C. Sec. 1334), is amended by adding a new subsection (j) as follows:

"(j) COOPERATIVE DEVELOPMENT OF COMMON HYDROCARBON-BEARING AREAS.—

"(1) FINDNGS.—

"(A) The Congress of the United States finds that the unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing geological area underlying the Federal and State boundary may result in a number of harmful national effects, including:

"(I) the drilling of unnecessary wells, the installation of unnecessary facilities and other imprudent operating practices that result in economic waste, environmental damage and damage to life and property;

"(II) the physical waste of hydrocarbons and an unnecessary reduction in the amounts of hyrdocarbons that can be produced from certain hydrocarbon-bearing areas; and

"(III) the loss of correlative rights which can result in the reduced value of national hydrocarbon resources and disorders in the leasing of Federal and State resources.

"(2) The Secretary shall prevent, through the cooperative development of an area, the harmful effects of unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing area underlying the Federal and State boundary.".

(b) EXCEPTION FOR WEST DELTA FIELD.—Section 5(j) of the Outer Continental Shelf Lands Act, as added by this section, shall not be applicable with respect to Blocks 17 and 18 of the West Delta Field offshore Louisiana.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to provide compensation, including interest, to the State of Louisiana and its lessees, for net drainage of oil and gas resources as determind in the Third Party Factfinder Louisiana Boundary Study dated March 21, 1989. For purposes of this section, such lessees shall include those persons with an ownership interest in State of Louisiana leases SL10087, SL10088 or SL10187, or ownership interests in the production or proceeds therefrom, as established by assignment, contract or otherwise. Interest shall be computed for the period March 21, 1989 until the date of payment.

Mr. JOHNSTON. Mr. President, this is an amendment that has been cleared all around. Particularly, it has been cleared by the majority and minority on the Budget Committee, on the Energy Committee, and I believe on the Environment and Public Works Committee.

The amendment is very specific, Mr. President, and the guts of it are stated in section 2 as follows:

The Secretary shall prevent, through the cooperative development of an area, the harmful effects of unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing area underlying the Federal and State boundary.

What this means, Mr. President, is that the rule of capture, which was the old rule in oil law whereby the first person who put his drill stem into a reservoir got the oil, no matter whether the oil came from someone else's ownership of a reservoir; that that rule of capture does not pertain on the Outer Continental Shelf, but rather the Secretary shall enter into cooperative arrangements, which we call unitization, in order that you minimize the number of wells in a given hydrocarbon-bearing area.

It also provides that they are authorized to be appropriated such sums as may be necessary to provide compensation to the State of Louisiana and its lessees for net drainage of oil and gas resources as determined in the Third Party Factfinder study dated March 21, 1989, and undertaken pursuant to Federal law.

So, Mr. President, at a time when we are putting moratoria on drilling for oil around the country, we are saying in those areas, particularly off the coast of Louisiana where it is permitted, that you should minimize those numbers of wells and not drill unnecessary wells. Indeed, two wells which were unnecessary wells recently drilled in the West Delta field both blew out, creating an unecessary hazard. This would prevent that from happening.

This is presented on behalf of myself and the junior Senator from Louisiana [Mr. BREAUX].

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Will the Senator from Louisiana respond to a question?

Mr. JOHNSTON. Yes, indeed.

Mr. METZENBAUM. I understand the first part of your amendment, but the second part with respect to authorizing the appropriation of certain sums for the State of Louisiana and then spelling out who might participate, and then saying: "For purposes of this section, such lessees shall include those persons with an ownership interest in the State of Louisiana leases, SL" and the numbers of three different leases, "or ownership interests in the production or proceeds therefrom, as established by assignment, contract or otherwise. Interest shall be computed for the period March 21, 1989 until the date of payment."

I am not quite clear why the Federal Government is being called upon to pay these dollars when it would appear other individuals would have the primary responsibility, and then even ask the Federal Government to pay for the interest.

Mr. JOHNSTON. Where you have a common reservoir which is partly owned by the State and partly owned by the Federal Government, and the Federal Government puts in wells which drain either the State or private lessees, that is a form of—what do you call it in the common law—conversion.

We commissioned a study by Federal act to, in effect, create a factfinder, a third party factfinder—here is a copy of that study—to determine what was the net drainage. What this does is authorize appropriations to make up for that net drainage.

Mr. METZENBAUM. Is it not the fact that the State, as well as some of the private owners, had some responsibility with respect to causing the drainage problem?

Mr. JOHNSTON. No. The State has sought at all times to prevent it. The State has sought to have unitization. Unitization is where you have a common reservoir; you determine what the percentage of ownership is; you allow the minimum number of wells to be drilled in that reservoir, and you split the oil from it in accordance with a percentage of ownership. That is what ought to be done. That is what used to be done on the OCS. That is what ought to be done, and that is what this amendment would require.

Mr. METZENBAUM. I say to my friend from Louisiana, I have some reservations and concerns. He knows more about the subject than I do. I do not like it, but I am not going to stand here and oppose it. I do not know what the manager of the bill is prepared to do.

Mr. JOHNSTON. I urge the Senator to look into it more carefully. He will like it better.

Mr. METZENBAUM. It may be a little late at this time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. BAUCUS. Mr. President, we have seen the amendment. The Senator from Louisiana has asked us to look at this amendment. We have no problem with it. We accept the amendment.

Mr. CHAFEE. I wonder if the Senator from Louisiana will be good enough to answer a couple of questions. As I understand it, this is a modified amendment from the one that was previously circulated on the same subject, and that the Senator from Louisiana has had a chance to discuss this with the junior Senator from Oklahoma.

Mr. JOHNSTON. The Senator is correct.

Mr. CHAFEE. It is my understanding that the junior Senator from Oklahoma has no objections to this.

Mr. JOHNSTON. That is correct. Initially, we had injunctive relief in it in case there was no agreement, but we have changed that to simply require that they enter into this unitization agreement.

There is no injunctive relief, so the Senator from Oklahoma is now on board with the amendment.

Mr. CHAFEE. We have no objection, Mr. President.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 672) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska, Senator MURKOWSKI.

Mr. METZENBAUM. Will the Senator from Alaska yield for just a minute?

Mr. MURKOWSKI. Without losing my right to the floor.

Mr. METZENBAUM. Mr. President, it is my understanding the Senator from Alaska has two noncontroversial amendments the managers are about to accept, and then I understand Senator WILSON has an amendment that will involve some debate, but he is prepared to agree to an hour time limit.

I wonder whether or not the managers of the bill might be prevailed upon to get a unanimous consent along that line.

Mr. BAUCUS addressed the Chair.

Mr. MURKOWSKI. I yield without losing the right to the floor to the floor manager.

THE PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, the remaining amendment, which will probably take the most time, is the amendment offered by the Senator from California [Mr. WILSON]. It is my understanding that he has now agreed to a time limit of 40 minutes equally divided on that amendment.

In the interest of plans for various Senators for the rest of the evening, I am wondering if the Senator from Alaska would agree either to a very short time limit on his amendments so we can quickly get to the Wilson amendment or, in the alternative, we take up the Wilson amendment at this point so that the Senator from Alaska will have a little longer time to talk on his amendments subsequent to disposition of the Wilson amendment.

But because we are inclined to accept, and I underline the word inclined, the amendments of the Senator from Alaska, I very strongly urge the Senator to agree to, say, 5 minutes equally divided on each of his amendments so we can quickly get to the Wilson amendment.

Mr. MURKOWSKI. The Senator from Alaska will be happy to oblige the floor managers. I may take no more than 10 minutes on both amendments, but I may have 6 minutes on the first one and 4 on the second.

Mr. BAUCUS. Could the Senator, since we are accepting the amendments, knock that down just a little more.

Mr. MURKOWSKI. I will knock it down.

Mr. BAUCUS. How about 6 minutes equally divided for each amendment?

Mr. MURKOWSKI. That is fine.

Mr. BAUCUS. I thank the Senator.

Mr. President, I ask unanimous consent that we take the two Murkowski amendments with 6 minutes equally divided and subsequent to the disposition of the second Murkowski amendment, we turn to the Wilson amendment, and that there be 40 minutes equally divided on the Wilson amendment.

Mr. STEVENS. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Has the Wilson time limitation been checked with the Senator from California?

Mr. CHAFEE. Yes. He told me. It was my clear understanding from the Senator from California that that was agreeable to him. If that was not his understanding, we can change it when he gets here, but that was my clear understanding.

Mr. STEVENS. And the two Murkowski amendments are going to be accepted? If they are, I have no need for time. But if they are not going to be accepted, I would like to be heard.

Mr. MURKOWSKI. I understand they will be accepted.

Mr. CHAFEE. If we understand what they are, which I believe we do.

Mr. BAUCUS. Mr. President, let me modify that to say subsequent to the two amendments of the Senator from Alaska, we take the amendment of the Senator from Wisconsin [Mr. KOHL], another amendment which I think will be accepted. And will the Senator from Wisconsin agree to 2?

Mr. KOHL. Two minutes.

Mr. BAUCUS. Two minutes on his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Since there is evidently some confusion on behalf of the floor managers, I am agreeing under the assumption the amendments that have not been cleared will be cleared.

The PRESIDING OFFICER. Is there objection——

Mr. STEVENS. Reserving the right to object again, is there another amendment that has come in now?

Mr. KOHL. With 2 minutes. I can go right now if need be.

Mr. STEVENS. May I inquire, Mr. President, is that the amendment I have cosponsored?

Mr. KOHL. Yes.

Mr. BAUCUS. Mr. President, I might just modify the request in one more respect and that is there be no second-degree amendments in order to the Wilson amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WILSON. Reserving the right to object, I did not hear the request. May I hear it again?

Mr. BAUCUS. The request once again is that we take up, first, the two Murkowski amendments, which will be accepted, 6 minutes equally divided on each of the two Murkowski amendments; then turn to the Senator from Wisconsin, we take up his amendment on which there will be 2 minutes equally divided. Subsequent to the disposition of that amendment, we take up the amendment offered by the Senator from California, 40 minutes equally divided, and on that amendment no second-degree amendments be in order.

Mr. WILSON. I have no objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 673

(Purpose: To provide for oversight and monitoring of oil terminal operations)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] propose an amendment numbered 673.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE IV—OVERSIGHT AND MONITORING

SEC. 401. SHORT TITLE.

This title may be cited as the "Oil Terminal Environmental Oversight and Monitoring Act of 1989".

SEC. 402. FINDINGS.

The Congress finds that—

(1) the March 24, 1989, grounding and rupture of the fully loaded oil tanker, the EXXON VALDEZ, spilled eleven million gallons of crude oil in Prince William Sound, an environmentally sensitive area;

(2) many people believe that complacency on the part of the industry and government personnel responsible for monitoring the operation of the Valdez terminal and vessel traffic in Prince William Sound was one of the contributing factors to the EXXON VALDEZ oil spill;

(3) one way to combat this complacency is to involve local citizens in the process of preparing, adopting, and revising oil spill contingency plans;

(4) a mechanism should be established which fosters the long-term partnership of industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals;

(5) such a mechanism presently exists at the Sullom Voe terminal in the Shetland Islands and this terminal should serve as a model for others;

(6) because of the effective partnership that has developed at Sullom Voe, Sullom Voe is considered the safest terminal in Europe:

(7) the present system of regulation and oversight of crude oil terminals in the United States has degenerated into a process of continual mistrust and confrontation;

(8) only when local citizens are involved in the process will the trust develop what is necessary to change the present system from confrontation to consensus;

(9) a pilot program patterned after Sullom Voe should be established in Alaska to fur-

ther refine the concepts and relationships involved; and

(10) similar programs should eventually be established in other major crude oil terminals in the United States because the recent oil spills in Texas, Delaware, and Rhode Island indicate that the safe transportation of crude oil is a national problem.

SEC. 403. DEMONSTRATION PROJECTS OF OIL TERMINAL ENVIRONMENTAL OVERSIGHT AND MONITORING PROGRAMS.

There are established two Oil Terminal Environmental Oversight and Monitoring Demonstration Programs (hereinafter referred to as the "Program") in Alaska. One Program shall be responsible for environmental oversight and monitoring of the Alyeska terminal facilities at Valdez in Prince William Sound. The other Program shall be responsible for environmental oversight and monitoring of the terminal facilities on the Kenai Peninsula in Cook Inlet.

SEC. 404. OIL TERMINAL FACILITIES OPERATIONS ASSOCIATION.

(a) There is established an Oil Terminal Facilities Operations Association (hereinafter referred to as the "Association") for each of the Programs established in section 403. Each Association shall be comprised of four individuals. Two individuals shall be designated by the industrial users, owners, and operators of the terminal facilities and shall represent those users, owners, and operators. One individual shall be an employee of the State of Alaska, shall be designated by the Governor of the State of Alaska, and shall represent the State government. One individual shall be an employee of the Federal Government, shall be designated by the President of the United States, and shall represent the Federal Government.

(b) The Association shall be responsible for establishing and reviewing all policies relating to the operation and maintenance of the oil terminal facilities which affect or may affect the environment in the vicinity of the terminal. The Association shall provide a forum between the industrial users, owners, and operators of the terminal facilities and the United States and State of Alaska governments for the discussion and resolution of all permits plans, and site specific regulations governing the activities and actions of the terminal facilities which affect or may affect the environment in the vicinity of the terminal facilities.

SEC. 405. OIL TERMINAL ENVIRONMENTAL ADVISORY COUNCIL.

(a) There is established an Oil Terminal Environmental Advisory Council (hereinafter referred to as the "Council") for each of the Programs established by section 403.

(b) Each Council shall be composed of 16 members as follows:

(1) one cochairman appointed by the President;

(2) one cochairman appointed by the Governor of the State of Alaska;

(3) two representatives selected by the industrial users, owners, and operators of the terminal facilities;

(4) two representatives selected by the fishing industry which depends and relies upon the fisheries resources of the waters in vicinity of the terminal facilities;

(5) one representative from each of the following—

(A) Environmental Protection Agency;

(B) Coast Guard; and

(C) Department of the Interior;

(6) one representative from each of the following State agencies or departments of the State of Alaska—

(A) Department of Environmental Conservation;

(B) Department of Fish and Game; and

(C) Department of Natural Resources or Department of Commerce and Economic Development;

(7) one representative selected by the Alaska Native Corporations and other Alaska Native organizations the members of which reside in the vicinity of the terminal facilities;

(8) one representative selected by the environmental organizations the members of which reside in the vicinity of the terminal facilities;

(9) one representative selected by the mayors of the boroughs and municipalities in the vicinity of the terminal facilities; and

(10) one representative selected by the Alaska State Chamber of Commerce.

(c) In appointing cochairman of the Council, the President and the Governor of Alaska shall seek individuals who have had a long-term relationship with the State of Alaska, a background in the areas of natural resources and environmental sciences, and recognized leadership capabilities.

(D) No individual selected as a member of the Council shall serve on the Association.

(e) The Council shall advise and make recommendations to the Association on all policies, permits, and site specific regulations relating to the operation and maintenance of terminal facilities which affect or may affect the environment in the vicinity of the terminal facilities. In particular, the Council shall—

(1) monitor, through the Monitoring Committee established pursuant to section 406, the environmental impacts of the operation of the terminal facilities;

(2) oversee those aspects of terminal facilities operations and maintenance which affect or may affect the environment in the vicinity of the terminal facilities;

(3) review, through the Oil Spill Committee established pursuant to section 407, the adequacy of oil spill contingency plans for the terminal facilities; and

(4) recommend to the Association—

(A) standards for permits and site specific regulations intended to minimize the impact of terminal facilities operations on the environment in the vicinity of the terminal facilities;

(B) modifications in terminal facilities operations and maintenance intended to minimize the impact of terminal facilities operations on the environment in the vicinity of the terminal facilities;

(C) modifications in terminal facilities operations and maintenance intended to minimize the risk of oil spills; and

(D) modifications to the oil spill contingency plan for the terminal facilities intended to enhance the ability to respond to an oil spill.

SEC. 406. SCIENTIFIC COMMITTEE FOR ENVIRONMENTAL MONITORING.

(a) Each Council shall establish a standing scientific committee (hereinafter referred to as the "Monitoring Committee") to devise and manage a comprehensive program of monitoring of the environmental impacts of terminal facilities operations. The membership of the Monitoring Committee shall be made up of recognized scientific experts selected by the Council.

(b) In fulfilling its responsibilities, the Monitoring Committee shall—

(a) advise the Council on a monitoring strategy that will permit early detection of environmental impacts of terminal facilities operations;

(2) define the requirements of monitoring programs and making recommendations to the Council on the implementation of those programs;

(3) select and contract with universities and other scientific institutions to carry out specific monitoring projects authorized by the Council pursuant to an approved monitoring strategy; and

(4) provide written reports to the Council which interpret and assess the results of all monitoring programs.

SEC. 407. TECHNICAL COMMITTEE FOR OIL SPILL PLANNING AND PREPAREDNESS.

(a) The Council shall establish a standing technical committee (hereinafter referred to as the "Oil Spill Committee") to review and assess the planning and preparation for responding to, containing, and cleaning up oil spills. The membership of the Oil Spill Committee shall be made up of recognized technical experts selected by the Council.

(b) In fulfilling its responsibilities, the Oil Spill Committee shall—

(1) periodically review the oil spill contingency plans for the terminal facilities in light of new technological developments and changed circumstances;

(2) participate in periodic drills and testing of the oil spill contingency plans for the terminal facilities;

(3) study wind and water currents and other environmental factors in the vicinity of the terminal facilities which may affect the ability to respond to, contain, and clean-up an oil spill;

(4) identify highly sensitive areas in the vicinity of the terminal facilities which may require specific protective measures in the event of an oil spill;

(5) monitor developments in oil spill containment, response and cleanup technology; and

(6) provide written reports to the Council outlining its findings and recommendations.

SEC. 408. AGENCY COOPERATION.

On and after the expiration of the 180-day period following the date of the enactment of this title, each Federal department, agency, or other instrumentality shall, with respect to all permits, site specific regulations, and other matters governing the activities and actions of the terminal facilities which affect or may affect the environment in the vicinity of the terminal facilities, consult with the appropriate Council prior to taking substantive action with respect to such permit, site specific regulation, or other matter. Such consultation shall be carried out with a view to enabling the appropriate Association and Council to review such permit, site specific regulation, or other matter and make recommendations with respect thereto.

SEC. 409. RECOMMENDATIONS OF THE COUNCIL.

In the event that the Association does not adopt or significantly modifies before adoption any recommendation of the Council made pursuant to the authority granted to the Council in subsection (e) of section 405, the Association shall provide, in writing within 5 days of its decision, to the cochairmen of the Council notice of its decision and a written statement of reasons for its rejection or significant modification of the recommendation.

SEC. 410. ADMINISTRATIVE ACTIONS.

Appointments, designations, and selections of individuals to serve as members of the Associations and Councils under this title shall be submitted to the Administrator of the Environmental Protecton Agency prior to the expiration of the 120-day period

following the date of the enactment of this title. On or before the expiration of the 180-day period following such date of enactment, the Administrator shall call an initial meeting of each Association and Council for organizational purposes.

SEC. 411. LOCATION; EXPENSES

(a) Each Association and Council established by this title shall be located in the State of Alaska.

(b) No member of an Association or Council shall be compensated for his or her services as a member of such Association or Council, as such, but shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by such Association or Council not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 412. FUNDING.

(a) Not to exceed $3,000,000 the Fund established under the Oil Production Liability and Compensation Act of 1989 shall be available, without fiscal year limitation, to establish subject to section 103(a)(7) of this Act the environmental oversight and monitoring programs established by this title subject to section 103(a)(7) of this Act, and not to exceed $3,000,000 annually to carry out such program, subject to section 103(a)(8) of this Act.

(b) Moneys made available pursuant to subsection (a) shall be used by the Administrator of the Environmental Protection Agency to make grants to the Associations and Councils established by this title to enable them to carry out their functions under this title. Such grants shall be made in such amounts and subject to such conditions as the Administrator shall determine.

SEC. 413. DONATIONS.

Notwithstanding any other provision of law, each Association or Council established by this title is authorized to accept donations and contributions to be used by it in carrying out its functions under this title.

SEC. 414. REPORTS.

(a) Prior to the expiration of the 36-month period following the date of the enactment of this title, each Association and Council established by this title shall report to the President and the Congress concerning its activities pursuant to this title, together with its recommendations.

(b) Prior to the expiration of the 36-month period following the date of the enactment of this title; the General Accounting Office shall report to the President and the Congress as to the effectiveness of the demonstration programs carried out pursuant to this title, together with its recommendations.

SEC. 415. DEFINITIONS.

As used in this title—

(1) "terminal facilities" means the entire oil terminal complex including all buildings, docks, pipes, piping, roads, ponds, tanks, vessesl, vehicles, and other facilities associated with and necessary for the movement of crude oil or petroleum products into and out of the oil terminal complex; and

(2) "vicinity of the terminal" means that geographical area surrounding the terminal facilities the environment of which is directly affected or may be directly affected by the operation of the terminal facilities.

SEC. 416. SAVINGS CLAUSE.

The rights and responsibilities of the United States or of the State of Alaska to preserve and protect the environment through such means as regulation of land, air, and water uses, of safety, and of related development and activity shall not be superseded by anything in this title.

Mr. MURKOWSKI. Mr. President, this Senator has spent a considerable amount of time since the devastating oilspill caused by the *Exxon Valdez* walking the beaches of Prince William Sound and talking to the people who live in the impacted communities. It is difficult to put into words the impact that this spill has had on the environment inside and outside Prince William Sound and on the lives of the local residents. This body can, and should, do everything it can do to ensure that these people never have to live through this kind of nightmare again.

The primary goal of this amendment is oil spill prevention. To the extent that this body adopts legislation that helps to prevent future oil spills, the other legislative matters being discussed by my colleagues concerning oil spill liability and cleanup responsibilities become less relevant.

Mr. President, my amendment seeks to achieve this goal of prevention by creating a decision making process which provides for local citizen involvement in the process of adopting oil spill contingency plans and monitoring the environmental impact of oil terminal operations. This amendment will set up a mechanism for the long-term partnership of industry, government, and local communities in overseeing compliance with environmental and safety concerns in the operation of crude oil terminals.

Mr. President, as this body addresses comprehensive oil spill legislation, our efforts will not be complete unless we attack one of the primary causes of the *Exxon Valdez* oil spill. Underlying the tragic errors that occurred on March 24 was one recurrent theme—the industry and government people responsible for monitoring the operation of the Valdez terminal and the vessel traffic in Prince William Sound had become complacent.

In an effort to combat this complacency, my amendment involves local citizens, the people who have the most to lose in the event of an oil spill, in the decision making and monitoring process in an advisory capacity. While regulators and industry representatives may grow complacement over time, the people whose way of life depends on the environmentally safe operation of the terminal will not.

Mr. President, the idea behind this legislation is not original. It is patterned after a successful system of citizen involvement in the Shetland Islands—at the Sullom Voe terminal. Because of the effective partnership that has developed at Sullom Voe, Sullom Voe is considered the safest crude oil terminal in Europe.

Mr. President, the advisory system established by this legislation has been proven effective in Europe for over 10 years—there is no reason why this same system cannot work here.

This amendment establishes two pilot programs patterned after Sullom Voe in Alaska. One program will be established in Valdez at the Alyeska terminal and the other on the Kenai Peninsula in Cook Inlet. It will be the responsibility of these two pilot programs to implement the type of decision making process that this bill provides and to further refine the concepts and relationships involved.

It is the intention of the sponsors of this legislation that similar programs should eventually be established in other major crude oil terminals in the United States because the recent oil spills in Texas, Delaware, and Rhode Island indicate that the safe transportation of crude oil is a national problem.

I have had the opportunity to speak to many Alaskans in as many as 10 townhall meetings affected by the spill. I personally had an opportunity to meet with over 500 of our Alaskan people. Basically the people of Alaska want citizen involvement—a partnership with industry and the government—with regard to the development of Alaska's resources. I think the *Valdez* spill showed that industry and regulators were truly complacent. We can combat that complacency by involving the local people, the fishermen, the trappers, the people who are out there every day. If indeed they would have had a responsibility, one could assume we might not have had this tragic accident.

The propose, as I have indicated, is for two pilot programs in Alaska. One in Prince William Sound where approximately 24 percent of the crude oil produced in the United States is transferred onto ships.

The other project for Cook Inlet, where our refineries are located. This would be a program, Mr. President, that would be funded initially at $3 million out of the oil spill fund and thereon would be dependent on appropriations. I believe it has been cleared by both sides. I urge acceptance by my colleagues.

Mr. President, I would like to reiterate to my colleageus that in order to do everything we can to ensure that a tragedy like the *Exxon Valdez* never happens again we must learn from the mistakes that caused this spill. One of the underlying causes of the *Exxon Valdez* was that the people charged with the responsibility of overseeing the safe transportation of oil in Prince William Sound had become complacent. The best way to combat this complacency is to involve local citizens in the process in an advisory capacity. This system works in the Shetland Islands and it can work here. Only when local citizens are involved in the process will we begin to build the trust nec-

essary to change the present system from confrontation to consensus.

The PRESIDING OFFICER. Is there additional debate?

Who yields time?

Mr. CHAFEE. Mr. President, I yield myself a minute.

The PRESIDING OFFICER. Does the Senator from Montana yield time?

Mr. BAUCUS. Yes, Mr. President, I yield, a minute to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator is recognized.

MR. CHAFEE. Two points quickly. Three points, I guess.

First, this is for two demonstration projects?

Mr. MURKOWSKI. The Senator is correct.

Mr. CHAFEE. Second, there is a sunset provision of 3 years?

Mr. MURKOWSKI. The Sentor is correct.

Mr. CHAFEE. And third, the amount was $1.5 milion a year for 3 years?

Mr. MURKOWSKI. That has been altered by staff, I have been advised, to be $3 million the first year and then dependent on appropriations thereafter. That is what I had understood the staff's conditions were, and I would be happy to reopen it. It is $1½ million per project, it is not $3 million for each project. It is $3 million for both.

Mr. CHAFEE. Three million dollars total for the first year?

Mr. MURKOWSKI. That is correct.

Mr. CHAFEE. And then appropriations.

Mr. MURKOWSKI. Then by appropriations.

Mr. CHAFEE. Is there a limit on the appropriation?

Mr. MURKOWSKI. Yes.

Mr. CHAFEE. How much?

Mr. MURKOWSKI. Three million dollars.

The PRESIDING OFFICER. The Senator's minute has expired.

Who yields time?

Mr. BAUCUS. Mr. President, I yield myself 1 minute.

Mr. President, the Senator from Alaska has correctly described the agreement and described the modification. Based on that agreement, I am prepared to accept the amendment.

Mr. MURKOWSKI. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Do Senators yield back their remaining time?

Mr. BAUCUS. Mr. President, I yield back my remaining time.

The PRESIDING OFFICER. Does the Senator from Alaska yield back the remianing 39 seconds?

Mr. MURKOWSKI. I do.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska, No. 673.

The amendment (No. 673) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

AMENDMENT NO. 674

(Purpose: To permit Alaska Native corporations to purse claims for damages to natural resources arising from oil spills)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 674.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, line 12, Section 102 add a new subsection (h):

"(h) Solely for the purpose of bringing claims that arise from the discharge of oil, the United States hereby confirms that all right, title, and interest of the United States in and to the lands validly selected but not yet conveyed pursuant to the Alaska Native Claims Settlement Act as amended, 43 U.S.C. section 1601, et seq., or the Alaska National Interest Lands Conservation Act (P.L. 96-487), to Alaska Native corporations, are deemed to have vested in the respective corporations as of March 23, 1989."

Mr. MURKOWSKI. Mr. President, this amendment has also been cleared. It ensures that Native Alaskans can recover damages to their lands impacted by the oil spill. It would allow claims by Natives that have selected their lands under the Alaskan Native Claims Settlement Act, but do not have the lands conveyed at this time. In other words, the Bureau of Land Management has not conveyed title.

Some of these lands have beaches which were oiled. The oil above the high tide area is what we are concerned about. The amendment clarifies that the Native corporations can pursue damage claims for those lands even though the conveyance process is still in order and complete title has not yet been conveyed.

The amendment has been cleared, Mr. President.

The PRESIDING OFFICER. Is there additional debate?

Who yields time?

Mr. BAUCUS. Mr. President, I yield 1 minute to myself.

The PRESIDING OFFICER. The Senator from Montana is recognized for 1 minute.

Mr. BAUCUS. Mr. President, this matter, frankly, is much more in the jurisdiction of another committee, namely, the Energy Committee. I have checked with the chairman of that committee. He does not have any objection to this amendment.

I know of no other objection to this amendment, and I am prepared to accept it.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield a minute to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the situation is the Alaska Natives had agreed to take over this land but the conveyance has not yet been made, and the damage has been done. The present owners of the land, the U.S. Government, is not necessarily going to press for the damages. So that leaves the spoiled land, if indeed it is spoiled, to the Natives, and they want to have that right. It makes sense to me.

I commend the Senator for his amendment, and it is agreeable on this side.

Mr. BAUCUS. I yield the remainder of my time.

Mr. MURKOWSKI. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 674) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the unanimous-consent order, the Chair recognizes the Senator from Wisconsin [Mr. KOHL].

AMENDMENT NO. 675

Mr. KOHL. Mr. President, I send an amendment to the desk on behalf of myself and Mr. LEVIN, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for himself, Mr. LEVIN, and Mr. STEVENS, proposes an amendment numbered 675.

Mr. KOHL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the appropriate place in the bill the following new sections.

SEC. . Report on agreements between the United States and Canada governing liability for potential oil spills in the Great

Lakes and the St. Lawrence Seaway and international contingency plans.

(a) FINDINGS.—The Congress finds that—

(1) The Great Lakes contain 95 percent of the United States' and 20 percent of the world's fresh surface water, providing drinking water for approximately 25 million Americans, supporting 20 percent of all United States manufacturing, providing habitat for thousands of wildlife species, and providing invaluable recreational opportunities and businesses for millions of people;

(2) Last year four United States and twenty-two Canadian tanker vessels carried 81 million barrels of petroleum and hazardous materials through the Great Lakes;

(3) The Great Lakes are particularly vulnerable to oil spills, because they contain fresh water and are a closed system, without a larger sea to help disperse contaminants and reduce retention time;

(4) The potential for a disastrous oil spill on the Great Lakes was recently demonstrated in March 1989, when the Canadian tank barge Scurry narrowly avoided the release of 1.4 million gallons of carbon black feedstock when it ran aground twice on the Detroit River, near the drinking water intakes which serve nearly 3 million people.

(5) The near miss in March of 1989 was not an isolated incident, and hundreds of smaller spills have actually occurred in recent years on the Great Lakes;

(6) Concerns have been raised about inadequate requirements by the United States and Canada on the prevention and remediation of oil spills in the Great Lakes, including questions about measures on double-hulled tankers, double-skinned barges, vessel inspections, pilotage rules, spill notifications, spill contingency plans, containment equipment, wildlife rehabilitation facilities, clean-up procedures and the allocation of liability.

(b) REPORT.—The Secretary of State shall review the international agreements and treaties with the Republic of Canada, including relevant provisions in the Great Lakes Water Quality Agreement of 1978, as amended by the Protocol of 1987, and the Canada-United States Marine Pollution Substances, in order to determine whether amendments or additional international agreements are necessary to resolve complex questions of recovery of damages in the event of an oil spill in the Great Lakes and to ensure the adequacy of measures to prevent and remediate such spills. To the extent possible, the Secretary of State shall consult with the United States Coast Guard, the Environmental Protection Agency, and states surrounding the Great Lakes during this review.

(c) REPORT.—The Secretary of State shall report to the Congress on the results of this review within 30 days of the date of enactment.

SEC. . Agreement between the United States and Canada governing liability for potential oil spills in the Arctic Ocean and international contingency plans.

(a) FINDINGS.—The Congress finds that—

(1) Canada has discovered commercial quantities of oil and gas in the Amalagak region of the Northwest Territory;

(2) Canada is currently exploring alternatives for transporting the oil from the Amalagak field to markets in Asia and the Far East;

(3) One of the options the Canadian government is exploring involves transshipment of oil from the Amalagak field across the Beaufort Sea to tankers which would transport the oil overseas;

(4) The tankers would traverse the American Exclusive Economic Zone through the Beaufort Sea into the Chukchi Sea and then through the Bering Straits;

(5) These waters serve as the kitchen table for Alaska's native people providing them with sustenance in the form of walrus, seals, fish, and whales;

(6) The Beaufort and Chukchi Seas provide important habitat for the bowhead whale, the lifeblood of the Eskimo people of Alaska;

(7) An oil spill in the Arctic Ocean, if not properly dealt with, could have significant impacts on the indigenous people of Alaska's North Slope;

(8) The Canadian Arctic Waters Pollution Act limits recovery of damages incurred as a result of offshore exploration or development to $C40 million and does not apply west of 141 degrees latitude;

(9) The Canadian Government has entered into an agreement with all companies licensed to drill in the Canadian Beaufort mandating liability to United States; claimants for damages suffered west of 141 degrees latitude, but that liability is limited to $C20 million.

(10) There is no international agreement in effect between the United States and Canada outlining legal liability in the event of an oil spill; and

(11) There is no international contingency plans involving our two governments governing containment and cleanup of an oil spill in the Arctic Ocean.

(b) NEGOTIATIONS.—The Congress calls upon the Secretary of State of the United States of America and the Foreign Minister of the Republic of Canada to begin negotiations on a treaty dealing with the complex questions of recovery of damages, contingency plans, and coordinated actions in the event of an oil spill in the Artic Ocean or a tanker accident during the shipment of oil by sea.

(c) REPORT.—The Secretary of State shall report to the Congresss on his efforts toward this end no later than January 1, 1990.

Mr. KOHL. Mr. President, I rise to offer an amendment on behalf of myself, Senator LEVIN, and Senator STEVENS.

This amendment is aimed at improving United States and Canadian cooperative efforts in order to better protect our common waters, including the Great Lakes and the Arctic Ocean.

This amendment is designed to prevent another tragedy like the *Exxon Valdez* incident from occurring in our beautiful Great Lakes, or in the pristine Arctic Ocean.

I understand that the amendment is acceptable to the managers of the bill, and has been cleared on both sides of the aisle.

I want to thank the managers of the bill and their staff for their help and cooperation in the adoption of this amendment.

Mr. President, I am pleased to offer this amendment with my distinguished colleagues, Senator LEVIN and Senator STEVENS, to address the important issue of oilspill liability between the United States and Canada. Senator LEVIN and I have concerns about the potential for oilspills in the Great Lakes, which constitute a significant portion of the common boundary between the United States and Canada. Senator STEVENS has the same concerns regarding potential spills in the Arctic Ocean. The amendment also addresses planning and coordination between the two nations for the prevention and remediation of oilspills.

Americans across the Nation were deeply saddened by the environmental havoc wreaked on the wildlife and the people of Alaska when the Exxon tanker *Valdez* hit a reef in Prince William Sound. But most importantly, Americans were outraged that this unthinkable tragedy could occur in this day and age. We all thought that there were plans and equipment in place to prevent such a spill from taking place. And at the very least, we thought that containment procedures were in place to stop the spread of spilled oil before sensitive coastline areas were smothered in oil. Unfortunately, we were wrong.

Although we cannot go back and undo the tragedy which was inflicted on the coastline of Alaska, we can take every possible step to prevent another spill.

I have heard from hundreds of constituents in Wisconsin who were concerned about the Alaskan oilspill. But the people of Wisconsin are just as concerned about their very own Great Lakes shoreline. The people of Wisconsin know that the Great Lakes are one of our Nation's greatest natural resources.

They know that the Great Lakes are the world's most important source of fresh surface water—important for industry, recreation, wildlife, and drinking water. They know that tankers carrying refined oil products cross the Great Lakes daily, loading and unloading their cargos at ports in the United States and Canada.

The people of Wisconsin and every other Great Lakes State would like to think that the *Exxon Valdez* tragedy could not be repeated in their own back yard, but they have no such assurances.

The fact of that matter is, without adequate prevention and contingency plans, an oilspill in the Great Lakes could have catastrophic consequences. The Great Lakes are extremely vulnerable to oilspills because they are a closed system, without a larger sea to help disperse contaminants. Swift currents in the connecting channels could easily carry a toxic oil slick from one lake to another. Drinking water supplies for millions of Americans and Canadians could be endangered.

The United States and Canada have cooperated for many years in efforts to protect the environmental integrity of the Great Lakes, their greatest shared resource. Through the Great

Lakes water quality agreement and the Canada-United States marine pollution contingency plan for spills of oil and other noxious substances, the two nations have displayed a clear understanding of the need for joint efforts at protection.

But in the aftershock of the *Exxon Valdez*, it's time to take a good look at the status of our contingency plans. We need to know whether or not we are needlessly endangering our coastlines, our people, and our wildlife. In addition, we need to resolve complex questions related to the recovery of damages in the event of an oilspill.

Mr. President, this amendment requires that the Secretary of State review the international agreements and treaties between the United States and Canada to determine whether amendments or additional international agreements are necessary to resolve any problems related to oil spill liability or the adequacy of prevention and remediation plans with respect to the Great Lakes.

The Secretary is directed to review the Great Lakes Water Quality Agreement, the Canada-United States marine pollution contingency plan for spills of oil and other noxious substances, and any other relevant agreements or treaties.

Following this review, the Secretary will report to Congress within 30 days of enactment of this legislation. This report will be extremely helpful to the Subcommittee on Oversight of Government Management, chaired by Senator LEVIN, who is planning to address these issues in hearings later this year.

I wish to thank the managers of this bill for agreeing to accept my amendment to help protect our magnificent Great Lakes and the pristine Arctic Ocean, and I yield the floor.

I urge adoption of the amendment.

Mr. LEVIN. Mr. President, 4 months ago, the *Exxon Valdez* tanker caused the tragic oilspill in Alaska. That incident showed all too clearly how fragile our water resources are—how easily humanity can disfigure them for generations to come. It heightened awareness about the need for us to take strong measures to protect our waters.

In July, Senator KOHL and I included an amendment to the State Department authorization bill to require the United States to review existing agreements with Canada on oilspills in the Great Lakes and to report to the Congress within 30 days of enactment on the need for any improvements to those agreements. We are including the same amendment here to ensure that it becomes law promptly.

The Great Lakes experiences many—sometimes hundreds—of oilspills each year. Most are very minor, but the potential exists for a tragedy similar in scope to the *Valdez* incident. For example, during the same month that the Valdez tanker ran aground, a Canadian tank barge ran aground twice on the Detroit River, narrowly averting the release of 1.4 million gallons of a dangerous product near the water intake for the city of Detroit—a system that supplies drinking water to nearly 3 million people.

As explained in a report of May 23, 1989, by the State of Michigan, an oilspill in that amount could cause serious damage. Unlike the salt waters of the Arctic Ocean, the Great Lakes contain fresh water—the drinking water for millions of Americans and Canadians. An oilspill fouling these waters would threaten not only birds, fish and other wildlife, but also people who depend upon the lakes for their water. It would also threaten fishing and other industries which depend upon the lakes for fresh water to operate. Moreover, since the Great Lakes are a closed system, with a slow rate of turnover in its waters, there is no sea nearby to disperse contaminants or carry the problem out of the immediate area.

Because of the seriousness of the potential threat, the Subcommittee on Oversight of Government Management, which I chair and on which Senator KOHL sits, has begun a detailed inquiry into oilspill problems affecting the Great Lakes. Our preliminary research has raised a host of questions about oilspill prevention and remediation programs. There are questions about differences between Canada and the United States on such matters as requiring that tankers be double hulled and that ships navigating certain areas have experienced Great Lakes pilots onboard. There are questions about the adequacy of existing vessel inspection programs. There are questions about the adequacy of existing oilspill notification systems, contingency plans, cleanup equipment and cleanup techniques. There are questions about the allocation of legal liability in the event of a serious spill. The Subcommittee is looking at all of these issues and is planning hearings for the fall.

The amendment that Senator KOHL and I are offering requires the Secretary of State to undertake a review of existing international agreements and treaties with Canada on the issue of oilspills in the Great Lakes. The *Valdez* incident has shown us that it is time to review them and determine if changes are needed. The Great Lakes provide 95 percent of the fresh surface water in the United States. They are a unique and irreplacable resource and must be protected. I commend Senator KOHL for his work on protecting the Great Lakes, and I hope you will join us in accepting this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield myself a minute.

Mr. President, it is always a good idea to further enter neighborly relations with our neighbor to the north. We recently concluded a trade agreement with Canda. I think it is important to work out a common oilspill solution with our neighbor to the North.

I think it is an excellent idea. It is a good amendment. We are prepared to accept it.

I yield the remainder of my time.

Mr. KOHL. I yield the remainder of my time.

Mr. CHAFEE. Mr. President, the amendment is agreeable to this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (No. 675 was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. Under the order, the Chair recognizes the Senator from California [Mr. WILSON].

Mr. WILSON. Thank you, Mr. President.

AMENDMENT NO. 676

(Purpose: To provide for total removal costs plus $75,000,000)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON], for himself, and Mr. CHAFEE, Mr. LIEBERMAN, Mr. CRANSTON, Mr. GORTON, Mr. GRAHAM, Mr. DURENBERGER, and Mr. ROTH, proposes an amendment numbered 676.

On page 15, beginning with line 5, strike out through line 7 and insert in lieu thereof the following:

(C) the total of all removal costs under subsection (a)(1) of this section plus $75,000,000 for any Outer Continental Shelf facility;

Mr. WILSON. Mr. President, I offer this amendment on behalf of myself, and Senators CHAFEE, LIEBERMAN, CRANSTON, GORTON, GRAHAM, DURENBERGER, and ROTH.

Mr. President, earlier this afternoon we had a spirited debate on an amendment offered by the Senator from Washington [Mr. GORTON]. The amendment that I am offering now will remove the liability cap of $100 million for OCS platform oilspills that is presently contained in the bill as it has come to us from committee, thereby effecting a return to existing law which provides for the unlimited liability of cleanup costs.

Mr. President, it is more than curious that we should be engaged with this bill at this time in this year which marks the 20th anniversary of the notorious Santa Barbara blowout of 1969.

That single event sensitized millions of caring Americans throughout the Nation to the risks, the inherently great risks, of offshore oil and gas exploration, and development.

Grassroots organizations were formed as a result of that spill. One "Get Oil Out," more commonly known as "GOO," continues to this day 20 years after the blowout. But ever since that accident, oil companies have continued to engage in offshore drilling. They have prospered. They have prospered notwithstanding the unlimited liability they face under current law for cleanup costs associated with oil rig blowouts. There has been no demonstration on the record of a need to limit liability in order to permit them to continue operations.

To the contrary, the evidence suggests that without limitation on their liability they have been going forward whenever they have been permitted to do so rapidly as the law allows developing Outer Continental Shelf deposits.

We have not heard from one oil company, not one, that has sought to avoid the risks of liability, unlimited liability, as provided in current law by refusing to develop a promising OCS oil prospect.

Quite candidly, this provision that was put into the bill, an otherwise very good bill, not quite good enough, but a good one, an improvement, but this provision of putting a cap of $100 million on the liability for companies guilty of an oil rig blowout seems, frankly, nothing more than a giveaway to companies wholly unwarranted by any demonstration of need, and frankly it is not something that we should tolerate.

Were the oil industry to appear before us today to tell us of the need to protect them from oilspill cleanup costs I think many of us on this floor would be entitled to be more than just a little bit astonished at the contradiction that they would necessarily assert.

For 6 years now I and many others on this floor have been urging that there be full consideration given to the risks that attend the development of the Outer Continental Shelf; that we look very carefully at the risks in the context of California OCS development or that of the Middle Atlantic States, in the gulf, or in Alaska.

During this time, Mr. President, the oil industry has persistently endeavored to convince me and other Senators, other doubting colleagues, that offshore oil development is, in fact, safe, that the state of the art is such that we need not worry about their ability to contain spills unlikely as those spills may be. Rest easy, they have said, and then of course came Prince William Sound and the tragedy of *Exxon Valdez*.

If it is so safe, Mr. President, then why should we be pressing here for limitation of liability? I will tell you why. It is not safe. The cleanup involved in the *Exxon Valdez* spill in Prince William Sound has already topped $800 million. That is from a tanker, a tanker with finite capacity, not an oil rig which sits atop vastly greater deposits of crude oil.

Offshore development is an inherently risky business. The oil industry knows that. They know it better than anyone and quite naturally they are seeking by this amendment placed in the bill in committee to limit potential liability costs.

Mr. President, unlimited liability serves a valuable purpose.

The first purpose is that it says that those that cause harm will pay for it, not in part, but in full. Now, that is only fair. Again, I want to emphasize the difference between this amendment and that brought earlier by my friend from Washington. His concern was tanker spills, oil rig spills, and terminal spills.

I think he was right to be concerned about all of those things, and indeed, I share his concern and cosponsored his legislation; but this, candidly, is a very different proposal. The concern here is with the infinitely greater risk, if in fact an oil rig blows, the magnitude of that spill is far, far greater.

When *Exxon Valdez* went aground and it tore a jagged hole in its hull streaming out its cargo of crude oil, what it did was to let go some 262,000 barrels. Mr. President, when Ixtop I blew in the Gulf of Mexico, it blew with 20 times that much oil, 20 times.

So what we are talking about is a very different magnitude of threat. What we are talking about is something that clearly cannot be contained by even a billion-dollar expenditure from the trust fund, as is proposed. There is a need for unlimited liability on the part of the company causing that spill. Otherwise, it will not be fully cleaned up, unless, of course, the taxpayers come to the rescue and pick up where the oil company leaves off, which is precisely what Exxon is proposing.

Mr. President, this limitation of liability, which is existing law that we should not change, my amendment will restore; it ensures that when an oil company spends hundreds of billions of dollars required for the establishment of one major oil rig platform, that every reasonable precaution will be taken to ensure that the risk of a platform spill will be minimized, to the greatest extent possible. But even the careful companies, those that do have a good track record, if in fact they cause a spill, should be held accountable, as indeed they are under existing law.

What is proposed in the committee amendment that is before us now is to change existing law, not to keep unlimited liability that is required, in order for justice to be done, so that the polluter pays the full cost of cleanup. Instead, $100 million, one-tenth of that authorized as the full amount of cleanup from the trust fund, which would not be enough or begin even to approach what would be necessary to contain the spill of the magnitude of Ixtoc I, $100 million, less than 10 percent of the cost, would be provided by the company. That is wrong.

Now, the trust fund is a good thing. We have already established that, and I think we can stipulate to that as a result of the debate. Senator GORTON stipulated to that, but why should we exempt the company that causes that kind of harm, and particularly, where it is clear that the trust fund cannot in all likelihood, provide from the maximum allowed, the kind of money that will in fact be necessary for the cleanup, when a spill is occasioned from an OCS rig? This is not the finite capacity of a tanker, but the vastly greater amount of oil that will fill the waters of the ocean and splash onto the beaches and rocks, because we are talking about all the oil that there is, potentially, under that rig. That is very different from the finite, much lesser capacity of a tanker.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 10 minutes, 22 seconds.

Mr. WILSON. Well, Mr. President, without the protections that we are offering here, which I repeat is to restore the unlimited liability for cleanup that is presently required, and without an increase for the damage occasioned to fisheries and to other property, from the present $35 to $75 million, we face the prospect of oilspill tragedies from rigs, offshore, that will make the *Exxon Valdez* spill look like a drop in the ocean.

In the world's most prestigious oilspill of that decade, which I have mentioned before, Ixtoc I, the blowout in the Gulf of Mexico that resulted in the loss of over 5 million barrels of oil over a period of 8 months, I will tell you that $100 million would not have gone very far. It is grossly inadequate. A billion dollars would not have been sufficient, not if a spill one-twentieth of that size can require almost a billion dollars, and it is now over $800 million—that is 80 percent. It is simple arithmetic, Mr. President. The *Valdez* spill, by contrast, involved a tiny, tiny amount of oil.

Now, Mr. President, oil platform accidents happen. Oil companies should have every incentive to ensure that

their OCS rigs are constructed and operated in a fashion as to minimize the possibility of blowouts. They happen. Unlimited liability for cleanup costs is not just an effective tool that we have employed toward providing them incentive, it is also necessary in order that there be adequate cleanup. That has been true for over 20 years. Why are we altering that law at this time when we have seen a rash of spills?

My amendment simply strikes the $100 million liability cap on removal actions, more commonly known as cleanup costs, and restores the existing unlimited liability.

The amendment also raises the cap on potential damages from $35 million, as I have said, to $75 million.

Mr. President, on the 20th anniversary of the Santa Barbara blowout there are lots of people in Santa Barbara who remember it. I hope the rest of us remember it. Perhaps the way for us to honor that unhappy memory is to see to it that we provide incentive that it not happen again, and by providing clearly that if it does, the offending oil company responsible for that spill will clean up all of it and pay for all of it. Nothing less is fairness.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from Louisiana.

Mr. BREAUX. I would like to start off, Mr. President, by just saying to the Members who are here, and those that may be listening on their monitors in their offices, where we are with the legislation.

The bill creates a $1 billion liability fund to pay for cleanup costs of oil that is spilled, whether the oil comes from spills caused by tankers, or whether it comes from inland barges, or whether it comes from onshore facilities, or whether it comes from offshore facilities located in the Outer Continental Shelf. That is not new. That is what we have been fighting for for 10 years in the House and Senate, to get to the point where we can agree that we can establish an oilspill liability fund, not paid by the taxpayers, but by the oil companies, by the producers of the oil.

This legislation is carefully crafted to establish a $1 billion trust fund paid for by the oil companies to clean up oilspills. Along with that is a system of saying that the companies who directly cause the spills will have to pay for the cleanup costs, but there is a ceiling on their limitation or their liability.

The Bush administration, on offshore facilities, suggested it be $75 million. The committee says no, that is not enough, we will set it at $100 million. That is $100 million for onshore facilities, $100 million for offshore facilities, and per ton on tankers.

What the Senator from California wants to do is to undo all of that. He wants to break out and break up the committee's compromise, which can have a chance of passing, and endanger passage of the entire bill. I assure him that is what will happen if we vote for unlimited liability in the one section that is doing a good job.

Is it not interesting that when he points out the great problem that we have with OCS bills, he has to go back 20 years to 1969, the last time we had an OCS bill that reached the shores of the United States, 1969.

Since 1969 we have had an OCS Lands Act which puts in rules, regulations, standards and inspection requirements and penalties if proper procedures are not followed.

Do you know where the oil is coming from in that spill? it is not coming from the OCS. The National Academy of Science has said that less than 2 percent of the oil that is spilled on the oceans come from OCS activities. It is coming from tankers. It is coming from industrial discharges and runoffs from crankcases, as well as spills from tankers.

If you look at the worst accidents in the United States history, not one of them is from the OCS. They are tankers, tankers in Alaska, tankers in California, tankers in Massachusetts, tankers that hit Louisiana, another one that hit Texas, another one that hit Louisiana. That is where the spills are coming from, not from OCS operations.

So it is foolish to say we are going to treat tankers better than we are going to treat OCS facilities. It is ludicrous to suggest that we are going to penalize the one part of the industry that has the best record and give those who have the worst record a break, but that is what the amendment would do.

Then there is the question of unlimited liability. It is even more clear as to what we should be doing in rejecting this amendment. The bill says very clearly that if an offshore facility is guilty of willful misconduct or gross negligence or violates any rule or regulation concerning safety or construction or an operating standard or any regulation that they have to follow then the liability limit will not be in place. It will pierce the liability limit if they are guilty of any of the things that some suggest they are doing. There would be no limitation on liability.

If you want to make it just good for the big guys vote for this amendment. If you want to allow Exxon, Shell, and Texaco to operate in the OCS you should be for this amendment. If you like to encourage smaller companies with greater competition to be able to participate in OCS operations you should vote against the amendment.

Texaco is not worried about unlimited liability, neither is Exxon. But there are literally hundreds of smaller operators in this country who never will be able to participate in OCS drilling operations if they had to face unlimited liability. That is what the Senator's amendment would do.

If you want to take care of the big guys, if you want to take care of the Exxons, stick them with unlimited liability. They are going to be the only ones who will be able to participate. Is that what we want? I would suggest that is not what we want. We want just the opposite.

Some would say, well, if you have unlimited liability it is going to make them do better. That does not wash. There was unlimited liability in the *Exxon Valdez* under the State law of Alaska and the spill still occurred.

This legislation would allow any State to continue to pass a State program. If they wanted to have unlimited liability they can do that. But we should not be protecting, by voting for this amendment, the big guys. We should not be doing something that only Exxon, Texaco, and Shell could live with. We have literally hundreds of small oil companies that would like to also be able to participate and compete and give the big guys competition in the Outer Continental Shelf which this amendment would prevent them from ever being able to do so.

How could a small oil company ever face unlimited liability and say, "I want to go out and give them competition"? The big guys would be the only ones under that particular system that would ever be able to participate.

The clear causes for a better track record are the rules, resolutions, and standards. That is what is making only 2 percent of the oil being spilled come from the OCS operation.

If you look at the size of the spills, in Santa Barbara, there was a bad spill, and it occurred 20 years ago, 70,000 barrels; 260,000 barrels was spilled in the *Exxon Valdez* from a tanker not from an offshore platform.

The average platform produces 180,000 barrels a day. It has blowout preventers and automatic shutoff. If an accident occurred in an OCS platform that produces 180,000 barrels a day, automatic blowout preventers that were not required in 1969 would kick in and shut the well off. Automatic shutdowns would occur on a well that produces an average of 180,000 barrels a day.

So does it make any sense to say that the people who are causing the worst accidents are going to be treated better than the ones who are causing almost no accidents?

Is it right to say we are going to let the Exxons and the Texacos participate in OCS operations, because with unlimited liability that is what we are facing? I think that is something that does not make any sense whatsoever.

I would suggest that we have reached this point because of a careful balance. If we want to stop this legislation from becoming law, as the majority leader said earlier, if we want to make a statement and not make laws, we should vote for this amendment. Exxon would be happy with it. They are going to say;

We are not going to have anybody compete with us in the Gulf of Mexico or off California or Texas or Louisiana because we are the only ones who can handle unlimited liability. There is no problem for us. We will just go ahead and continue to operate as we will.

But for those of us who believe in competition, those of us who believe that everybody ought to have a chance to participate in this process, this amendment should be rejected.

If you want this statute to become law, we should reject this amendment.

The other example that we heard—there were two examples, if you think about it. That is all we heard. Guess what the other one was? Ixtoc.

That is like saying we did not have safe nuclear power plants because one in Chernobyl blew up.

Ixtoc was a Mexican facility operating under Mexican law. In Mexico, they do not have OCS lands acts; they do not have rules, regulations, and standards for blowout preventers and automatic standdown on the Ixtoc facility.

So it is entirely improper to say that we should have unlimited liability for operations in the United States waters because in Mexico when under Mexican law they had a blowout.

The only two examples, one in Mexico and one 20 years ago before any rules were in place, are cited as examples as to why we ought to treat the big guys better than the small oil companies. I tell you, I think that makes no sense whatsoever.

If you look at what the Mineral Management Service and the Congressional Research Service says is the reason why we did not have oilspills in the OCS, it is not laws of unlimited liability. They will tell you more stringent regulations, working training programs, oilspill contingency plans, and inspection programs have reduced the likelihood of blowouts occurring in U.S. waters. That is what is causing a better track record.

So I would submit the amendment should be rejected. For those who feel that we should get a law passed and signed in this Congress, we have tried 10 years the other way and it has not worked.

I would submit we ought to do it a little differently this time and get a law passed, instead of just a statement.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Who yields time?

Mr. WILSON. I yield to the Senator from Rhode Island 3 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 3 minutes.

Mr. CHAFEE. Mr. President, in an otherwise good bill in which in every single instance but one, we increase the liability, that one instance in this legislation dealt with offshore platforms. Let me give you the play. The bill as we originally had it and as we came to markup did not change this particular provision as far as unlimited liability for cleanup goes.

Then the Senator from Louisiana brought forth at the last moment an amendment which was adopted in the committee by a voice vote which changed that unlimited liability for cleanup which platforms currently have, which is a massive step backwards from where we currently are. And that is the situation.

The Senator from Louisiana has pointed out what a wonderful record these platforms have had. Yes, they have had a wonderful record and perhaps the reason is that they have had unlimited liability because of cleanup. They have had to be careful and if they were not careful, they would be subject to this unlimited liability.

So, it seems to me, by pointing to the wonderful record, he is backing up the current law as it is now and the way it ought to remain.

He has pointed out further—and he talks about the little fellows—that unless we have this cap, the little fellows will never be able to go into offshore drilling.

Mr. President, little fellows do not go into the expense of offshore drilling. That is a big boys' game. We all know it. There are no little mom and pop stores out there with those $300 million drilling rigs off the coast. They are the Exxons, the Texacos, and all the rest, and they ought to be subject to unlimited liability for cleanup.

So, I hope that the amendment of the Senator from California will be accepted because it makes sense. It preserves the cleanliness of our oceans from the offshore rigs and it has been a tremendous deterrent to casualness and sloppiness, and the proof of the pudding is in the eating. Just as the Senator said, only two instances of the blowout have been pointed to, so let us continue that record for the future.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be deducted equally.

Mr. WILSON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from California has 5 minutes 7 seconds; the Senator from Montana has 9 minutes 57 seconds.

The Chair recognizes the Senator from Montana.

Mr. BAUCUS. Mr. President, very frankly, the point of the bill before us is to present a balanced way to establish liability for various different facilities. We have vessels, we have tankers, offshore oil platforms and rigs. We are trying to provide a system that is consistent; different limits, different provisions for different facilities, but basically treated in an evenhanded way so one facility is not treated disproportionately differently from some other. That is the reason why we have limits on each of these facilities.

If we were to not have limits on one, one can make the argument, why have limits on any other? Frankly, Mr. President, that was a decision that we already addressed in this body. This body decided that there should be limits.

More importantly, this bill very specifically states that even with respect to Outer Continental Shelf facilities, that State law applies. That is, this bill very specifically states that there is no preemption of State law with respect to Outer Continental Shelf facilities.

So the State of California, the State of Alaska, the State of Louisiana, any State that has offshore oil facilities may pass unlimited liability legislation. That is still available in this law. That is still available in the bill before us.

Frankly, the Senator from California can tell his people in California if the Californians want unlimited liability on offshore oil facilities they may pass such legislation so providing. They will be protected. This bill allows that to happen.

Mr. President, I very firmly believe that this bill is a balanced bill. The Senator from Rhode Island makes a point but frankly nothing is 100 percent clear in life. He makes a couple of points that make sense.

But on balance, this bill was carefully crafted to provide the right levels of liability for different facilities. In addition to that, the State of California, it is perfectly clear under this bill, can enact its own statutes to provide for unlimited liability. So I frankly must say to the Senator we cannot accept his amendment. I frankly urge the Senate to not agree to the amendment.

Mr. JOHNSTON. Will the Senator yield for 1 minute?

Mr. BAUCUS. I yield.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 1 minute.

Mr. JOHNSTON. Mr. President, I support the committee in this matter. It is very difficult, as it is, for independents to be able to drill on the Outer Continental Shelf. It costs a lot of money to drill out there. I do not believe you can obtain insurance in excess of $100 million.

At the time of the TAPS legislation, boat owners could obtain only $14 million. That is the reason we set the li-

ability of boat owners at $14 million and the rest to be paid by the fund.

Mr. President, it is very simple what this amendment would do if it is adopted. It would restrict drilling on the OCS to the majors because the independents, difficult as it is, they do participate now. They could not get insurance. They could not participate. So we might call this amendment—I know it is not intended to be—a major oil company drilling bonanza amendment. That is exactly what it is.

The PRESIDING OFFICER. Who yields time?

Mr. WILSON. Mr. President, I yield the Senator from Rhode Island 1 minute.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 1 minute.

Mr. CHAFEE. Mr. President, there is a flaw in what the senior Senator from Louisiana says. He says the independents are out there now. But he does not note that, and I would call to his attention, the independents, if they are out there now, are operating under the very law that Senator WILSON wishes to return to, namely unlimited liability for cleanup costs. That is the current situation.

So I think it is a bit unfair to say that this amendment favors the big oil companies as opposed to the present situation. If the independents are out there now they are out there under the very situation that the Senator from California is advocating.

I will finish quickly by saying that this amendment of the Senator from California has the active support of the Oceanic Society, the Natural Resources Defense Council, the Conservation Law Foundation, and the National Wildlife Federation.

I also ask unanimous consent a letter from the Sierra Club dated August 3, 1989, be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SIERRA CLUB,
Washington, DC, August 3, 1989.

Re S. 686, Oil Spill Liability Wilson Amendment.

DEAR SENATOR: Sierra Club urges you to support an amendment to be offered today by Senators Wilson, Chafee, Durenberger, Cranston, Graham and Lieberman to S. 686, the Oil Spill Liability legislation. This amendment would restore provisions of existing law to liability provisions for clean-up of offshore oil operations. S. 686, as reported by Committee, is weaker than current law in that regard.

Americans are deeply concerned that oil spills be cleaned up and that those parties responsible for the spills be held accountable. This year, the spills which have so grieved and angered the nation came from tankers, but the next catastrophe could come from a blow-out on an offshore well. Such a tragedy would be compounded if the Senate were to reduce such operators' liability from existing standards.

Sierra Club supports the overall goal of S. 686 to broaden and tighten our federal laws governing spills. But we are opposed to relaxing standards already in place for offshore production. Please support this important amendment.

Sincerely,

MICHAEL FISCHER,
Executive Director.

The PRESIDING OFFICER. Who yields time? The Senator from California has 3 minutes and 45 seconds remaining under his control.

Mr. WILSON. Mr. President, I yield 2 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida [Mr. GRAHAM] is recognized for 2 minutes.

Mr. GRAHAM. Mr. President, I would make just two points. One is the point the Senator from Rhode Island has just made, and that is, by adopting the amendment of the Senator from California, we are not changing any legal or economic circumstance from that which exists today.

If we have a law today which is causing this division, this economic hardship, we should surface that question. There should be information as to the circumstances and the consequences of that. We could consider that as a precise policy matter.

But the fact is, we have had no such evidence of adverse consequence, relative to the discriminatory application of the current law, which is what the Senator from California would maintain.

The second point is relative to the issue of the States having the opportunity to go beyond the Federal law, a principle which I strongly support. But it should be pointed out that many, if not the majority, of these Outer Continental Shelf platforms are not located on State land but are on Federal lands. One of the reasons we have had so much controversy over the Department of the Interior's leasing policy is because they propose to lease Federal lands adjacent to sensitive environmental areas, Federal lands that were outside the control of the States.

As I understand the application of this legislation, those adjacent Federal lands would not be subject to State jurisdiction and therefore States would not be in a position to have a different standard applicable to those particular platforms. For that reason I support a continuation of the current law.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time? The Chair recognizes the Senator from California.

Mr. WILSON. Mr. President, the point just made by the former Governor of Florida is correct. We are talking about unlimited liability as the existing law, and we are talking about Federal waters.

My friend from Rhode Island is right. I listened and my heart almost breaks as I listen to the Senator from Louisiana bleat for the little guy. What little guy?

If there are any independents out there, then they are big guys. These are the Exxons and the Texacos.

If we have not had an OCS spill in 20 years, it is of more than passing interest that this has been the law for 20 years. Maybe we need another 20 years without a spill by keeping the law as it has been during the preceding 20 years.

Why change the law?

If we want to change it to correct the trust fund, I am all for that. The trust fund may very well be adequate for tanker spill cleanup. It may very well be adequate for a terminal spill. It is clearly not adequate for the kind of an OCS spill of the magnitude of *Ixtoc I*, 20 times the magnitude of the spill by the *Exxon Valdez.*

Let us worry about the little guys who are the victims of the spill.

To say this penalizes the little guy is absurd. It is the big guys who are out there. They are the ones who should pay the full costs of the pollution they cause and not someone else. And we dare not look to a trust fund. It clearly will not be adequate. At $1 billion it cannot begin to deal with a spill of the magnitude of that incurred in Santa Barbara, must less that of *Ixtoc I.*

The PRESIDING OFFICER (Mr. KOHL). The Senator from Montana.

Mr. BAUCUS. I yield 2 minutes to the Senator from Louisiana.

Mr. BREAUX. The current law has a $35 million cap for OCS under the Clean Water Act. This legislation increases it to $100 million for damages and removal costs. From $35 million existing law for damages under the Clean Water Act it increases it to $100 million for damages and removal costs. First.

Second, we impose a 3-cent tax to achieve a $1 billion fund.

So we will have a $1 billion fund, plus $100 million, plus any State can enact unlimited liability laws if they so desire in addition to this program. That is the compromise that has been carefully crafted. That is the lack of a compromise that has prevented for 10 years this legislation from ever becoming law.

There are numerous small independent companies that operate in the OCS knowing that they are responsible and have to show financial responsibility for $35 million worth of damages. If you raise it to $100 million, it is going to be a little more difficult for them to meet the test. If you put unlimited liability, they will be thrown out of participating and thrown out of providing the competition which is essential for us to get the best deal for the consumers of this country.

I submit that the bill the committee has produced is a carefully balanced bill and has a chance of becoming law.

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Without the balance that is there, we will make a statement but will not pass a law.

Mr. MITCHELL addressed the Chair.

Mr. BAUCUS. Mr. President, I yield the remaining time to the majority leader.

Mr. MITCHELL. Mr. President, with all due respect to my colleagues who spoke in support of this amendment, their statements are incorrect. There is not now unlimited liability under the law. There is a specific cap of $35 million plus——

Mr. WILSON. Will the Senator——

Mr. MITCHELL. May I finish now? Plus the unlimited cost of removal, but the unlimited cost of removal is not the same thing as unlimited liability, because unlimited liability embraces potentially vast areas of damage beyond the cost of removal.

Mr. WILSON. Will my friend yield for a question?

Mr. MITCHELL. So it is factually incorrect to state——

Mr. WILSON. Will my friend yield?

Mr. MITCHELL. I have a limited amount of time. The Senator has spoken before. I would like to finish my statement.

It is factually incorrect to say that there is unlimited liability now, so this is a dramatic change. It is not the same thing.

With respect to the argument that the facilities are beyond State waters, the fact of the matter is if damage occurs to a State, that creates the basis for the assertion of State jurisdiction. If no damage occurs to the State, then obviously there is not only no basis for jurisdiction, there is no need for concern. So the State unlimited liability laws do apply and are not necessary.

Third, and finally, I ask all Senators to read this legislation as a whole instead of taking each provision and saying, "Can we not increase the liability on this provision? Could we not increase the liability on that provision? Should we not increase the liability on the other provision?" This is a comprehensive whole.

I have been at this for 8 years. This is by far the strongest bill that has ever been proposed in the Congress. It dramatically expands liability; it significantly reduces obstacles to the imposition of liability; and it creates a $1 billion fund for the cleanup of these spills that has not previously been in existence.

Anyone can pick apart an individual provision and make arguments in its favor that totally ignore the other provisions in the bill.

So I urge my colleagues to consider this bill as a whole. This is a dramatic step forward in the effort to cleanup. It imposes for the first time a uniform basis of liability upon all types of facilities, and it creates for the first time a $1 billion cleanup fund that will be immediately available without concern for fault, paid for by the owners of the oil that is transported and, therefore, accomplishes each objective of those who are concerned both with the need for cleanup after spills occur and with the need to prevent spills from occurring.

Finally, as to the liability limits in the bill, that limit can be pierced and set aside if the action which caused the spill results from violation of any applicable Federal safety standard; if there is gross negligence or willful misconduct.

Let us not ignore the fact, as I said earlier, because this argument parallels that on the previous amendment that we voted on to eliminate liability. We have eliminated in this bill the single most important obstacle to the imposition of liability; that is the concept of privity which existed in the prior law.

I wanted to say as one who has been involved in this effort for a long time, who is the author of this bill, who has been the author of every oil spill bill that has been before the Senate in 8 years, let us consider the total implication. This is a very strong bill, and we want to get bill passed. We want to get a law on the books. We do not want to just make statements about unlimited liability; let us just have everybody pay whatever it is, and then have this effort fail. So we have had a lot of statements and no laws.

Mr. President, I strongly urge my colleagues to consider the implications of what it is we are considering doing here, and I hope very much that my colleagues will join me in tabling this amendment. We have dramatically increased the amount for which those who operate such facilities are liable and we have created in the bill for the first time a $1 billion fund to deal with the cleanup. This is significant progress.

I urge my colleagues to join me in tabling the amendment of the Senator from California.

The PRESIDEING OFFICER. (Mr. KOHL). All time is expired.

Mr. WILSON. Will the Senator yield for a question now?

Mr. MITCHELL. Yes.

Mr. WILSON. Will you concede under existing law that there is no limit to the requirement that the company pay cleanup costs?

Mr. MITCHELL. Removal costs are the words in the law. There is no limit.

Mr. WILSON. I rest my case. Let us make a good bill stronger.

Mr. LIEBERMAN. Mr, President, I rise to support the amendment offered by Senators WILSON, and CHAFEE.

My support of this amendment is consistent with my strong reservations about placing limits on the liability of those responsible for a spill. At the very least, we should ensure that those responsible for spills in our most environmentally sensitive areas, such as the Outer Continental Shelf, are fully responsible for all the costs of removal, including restoration of natural resources.

During the Environment Committee's consideration of S. 686, I stated that I believed the limits of liability set forth in the bill are too low in relation to the extent of damage caused. The total cost of the Exxon cleanup, as estimated by Exxon several weeks ago, is over a billion dollars. This, of course, does not include the full extent of natural resource and economic damages. However, under S. 686, Exxon could be liable only for some $55 million.

My concern is that limits on liability will not ensure that companies take measures to prevent a spill from ever happening. It is far too easy for companies to view liability limits as a cost of doing business or an expense shared across the industry, which simply increases the price of petroleum products to the consumers without encouraging the oil companies to exercise greater care in the transportation of oil. Unlimited liability, or at least high liability limits, sends a clear message that oil companies must prepare to cope with the full consequences if their risky transportation results in disaster. Insulating those responsible for a spill from the full costs of their actions removes this deterrence.

The need of strong laws to prevent spills is particularly important when it comes to oilspills because the experts tell us that the technology for cleaning up a spill is still primitive and remarkably ineffective. the sad fact is that once a spill occurs, we're doing well if we recover 10 to 20 percent of the spilled oil.

Spills from offshore OCS drilling rigs may be particularly catastrophic because of the enormous, seemingly unlimited quantities of crude oil which may be involved and the difficulty of controlling a spill which results from the blowout of a well miles beneath the ocean's surface. For example, the 1969 Santa Barbara blowout dispersed oil over 800 square miles of ocean and 100 miles of coastline. The world's most expensive oil spill was another OCS blowout, the Ixtoc I. The loss of oil from that incident was over 5 million barrels—20 times as much oil as was lost in the Exxon disaster, and it took 8 months to contain the spill.

Those who support a $100-million cap on the liability of Outer Continental Shelf facility owners and operators contend that these facilities have a relatively good record in terms of spills when compared to the record of tankers. If this is true, it may well be because, under the old OCS law, the owners and operators knew that if a spill occurred they would be forced to

bear the full costs of cleanup and removal resulting from their actions.

Ensuring full responsibility for cleanup costs by OCS owners and operators is consistent with the entire structure of S. 686. The committee's decision that liability limits for owners and operators of vessels is acceptable in the new Federal law was based, in large part, on the unlimited liability which is available under most State laws. But, unlike other facilities or vessels, OCS rigs may not be subject to these tough State laws because they are outside a State's jurisdiction. Unless we correct it, OCS owners and operators, therefore, are really receiving special treatment under the terms of S. 686.

Under our Superfund law, passed by this Congress in 1980 and strengthened in 1986, owners and operators of facilities are fully liable for all costs of cleanup. Administrator Reilly recently reported to Congress that—

> The Superfund liability standard has * * * provided a powerful incentive for businesses, Federal facilities, and local governments to properly manage their wastes * * * (T)he threat of potential Superfund liability has spurred businesses * * * to remediate environmental problems, not only for hazardous wastes but for environmental problems in general.

The amendment proposed today to S. 686 would create the same liability standard governing cleanup costs for owners and operators of OCS facilities that already apply to generators of hazardous waste under our Superfund law. If this country could achieve similar prevention-related results from comprehensive oilspill legislation, we will have learned a true lesson from the *Exxon Valdez* tragedy.

Mr. GORTON. Mr. President, earlier today we voted on my amendment to strike the limits on liability for oilspill removal and damages. I believe that our laws must clarify that in all cases, companies or persons will be fully liable for the costs of removal of a spill, and of compensation for damages. Unfortunately that amendment was tabled by a vote of 52 to 48. However, I am convinced that through the assistance provided by the amendment's cosponsors, the path is now clearer for another important measure. I am pleased to join Senator WILSON as a cosponsor of his amendment. I can not express strongly enough my view that it is totally unacceptable to weaken present law regarding cleanup costs of spills on the Outer Continental Shelf.

If S. 686 remains in its present form, it will impose on offshore activity a total liability of $100 million, with a fund available for all types of oilspills of $1 billion available for cleanup. This is no substitute for the prevention that is encouraged by the presence of liability. Unlimited liability for OCS spills has worked, and has been accepted by industry and citizens alike. I can find no rationale for changing our present policy.

Invariably, OCS facilities are located in environmentally sensitive areas. They are located near shores, bays, and estuaries. For instance in my own State of Washington, many are concerned about the Department of Interior's lease sale 132 off the shore of Washington and Oregon. Citizens have a right to be concerned. The present structure of lease sale 132 would mean leasing critical areas not only adjacent to Olympic National Park, but also near the mouths of key estuaries and harbors, prime commercial and recreational fishing grounds, and sensitive wildlife habitat areas previously identified by the States of Oregon and Washington. The Department of the Interior has not adequately addressed the concerns of these two State delegations. Because of this, should the Department of the Interior ever succeed in offering this lease sale, in the event a blowout occurs, a cap on liability for drillers on the Outer Continental Shelf could lead to not only devastating environmental consequences, but also to large and unfair demands on consumers and taxpayers alike.

I continue to believe that we need unlimited liability not only for OCS areas but all areas—if we are truly going to deter oilspills and irresponsible corporate behavior—deterrence in the Outer Continental Shelf is imperative.

Mr. President, Senator WILSON's amendment would continue to help prevent potential accidents that the Northwest's environment or any region's environment cannot withstand. Let's not go backwards and forget the lessons we have already learned from OCS facility spills—the Santa Barbara blowout was 20 times the size of the Exxon spill. We can not allow history to repeat itself—it may, without the protection of an adequate liability law for the Outer Continental Shelf.

I urge my colleagues to vote against weakening our policy on OCS liability and vote in favor of this amendment.

Mr. LAUTENBERG. Mr. President, I rise in support of the amendment offered by the Senator from California.

This amendment takes us back to where this bill started on OCS liability, and where we have been for the last 20 years. On review of the situation, I think it is clear that this is the right place to be.

The amendment would impose unlimited liability for cleanup costs associated with an Outer Continental Shelf spill.

Liability for damages, barring a finding of gross negligence or willful misconduct, is capped at $75 million.

This is consistent with Federal policy of the last 20 years, and with the original version of S. 686, the bill we're considering today.

It's appropriate because OCS spills, are different from other types of spills. Because OCS spills occur at the source of the oil, and not from a vessel involved in transporting a finite quantity, the potential impacts can be much greater.

OCS operations are, by nature, in relatively shallow waters, with rich fisheries and fragile ecosystems. Therefore, spills in these areas can have immediate and devastating impacts.

Further, these spills are hard to contain. Experience certainly bears this out.

The massive blowout off Santa Barbara in 1969 went unchecked for weeks, and devastated about 150 miles of California coastline.

In 1977, a rig blew in the North Sea, polluting 4,500 square kilometers.

And in 1979, there was the Ixtoc disaster in the Gulf of Mexico. It was not contained for almost a year.

Close to 5 million barrels were spilled.

That is about 20 times the amount spilled by the *Valdez*.

There have been others. And there will likely be more. This administration wants to declare open season for oil and gas drilling along all our shores.

So, it is only appropriate that we take steps to protect our precious coastal waters from that likelihood.

Imposing an unlimited liability for cleanup costs offers such protection.

And, Mr. President, it is not going to put anybody out of business. This is the same standard they've been facing for almost 20 years.

I urge my colleagues to support this amendment.

Mr. ROTH. Mr. President, I rise, to add my voice for support of the amendment offered by the distinguished Senators from California, Rhode Island and others. By way of background, I was very involved during the Senate deliberations when this provision was considered in 1975 and 1977. It was my original provision which held oil rigs located on the Outer Continental Shelf liable for the cost of cleanup from an oilspill. I was pleased that the committee members at that time approved it.

We are now back at square one. I feel that changing this provision by imposing a liability limit of $100 million is not appropriate. The current provisions must be maintained. I feel as my colleagues do that the cleanup of a spill is important. But nothing is more important than the prevention of an accident. We cannot be complacent, and I feel that liability encourages prevention.

The current provision for OCS facilities works, it works well to prevent spills, and it should remain in effect. I urge my colleagues to support the

amendment which will hold the outer Continental Shelf facilities responsible for all cleanup costs.

I thank the Chair.

The PRESIDING OFFICER. All time has expired.

Mr. MITCHELL. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 34, nays 66, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—34

Baucus	Fowler	Nickles
Bentsen	Glenn	Riegle
Bingaman	Gramm	Robb
Boren	Harkin	Sanford
Breaux	Hollings	Sarbanes
Burdick	Inouye	Sasser
Byrd	Johnston	Shelby
Cochran	Lott	Simpson
Conrad	Matsunaga	Symms
Daschle	McClure	Wallop
Domenici	Mitchell	
Ford	Moynihan	

NAYS—66

Adams	Gore	Mack
Armstrong	Gorton	McCain
Biden	Graham	McConnell
Bond	Grassley	Metzenbaum
Boschwitz	Hatch	Mikulski
Bradley	Hatfield	Murkowski
Bryan	Heflin	Nunn
Bumpers	Heinz	Packwood
Burns	Helms	Pell
Chafee	Humphrey	Pressler
Coats	Jeffords	Pryor
Cohen	Kassebaum	Reid
Cranston	Kasten	Rockefeller
D'Amato	Kennedy	Roth
Danforth	Kerrey	Rudman
DeConcini	Kerry	Simon
Dixon	Kohl	Specter
Dodd	Lautenberg	Stevens
Dole	Leahy	Thurmond
Durenberger	Levin	Warner
Exon	Lieberman	Wilson
Garn	Lugar	Wirth

So the motion to lay on the table amendment No. 676 was rejected.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the motion to table was rejected.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I rise in support of this amendment to strike the language limiting oilspill liability to $100 million. If we have learned anything from the *Exxon Valdez* disaster in Alaska, we have learned that it is tremendously expensive to clean up an oilspill. Mr. President, $100 million is petty cash; $100 million is less than one-sixth of what Exxon has already spent and cleanup is far from done.

Current law provides that an owner or operator of an offshore facility has unlimited liability with respect to the cleanup of spills in the Outer Continental Shelf.

Mr. President, we have very good reason for restraining current policy.

Proponents of the limitation argue that a cap on liability would make the provision consistent with the cap on liability for vessels. This argument is flawed.

When there is a spill from a vessel, there is a finite amount of oil. Usually less than the full cargo is lost because it is compartmentalized. However, when there is a blowout or spill from a rig, the amount of oil can be many times that carried by a tanker.

Moreover, offshore facilities are located close to shore and spills or blowouts invariably impact coastlines, coastal communities, and environmentally sensitive areas.

When such spills occur, they are often catastrophic. A tanker accident may not be.

Finally, spills from offshore facilities can be very difficult and costly to cleanup. Seepage of oil from a blowout can continue for months.

The Department of the Interior has said we can anticipate a major spill in connection with lease sale 91 off the coast of northern California. Interior has also said that it would be difficult if not impossible to clean up a spill in this area. And it undoubtedly would be very expensive.

Mr. President, by capping liability, we are telling the American people that if the disastrous spill in Prince William Sound had been caused by an oil platform rather than the *Exxon Valdez* tanker, Exxon would only have to pay $100 million in cleanup costs. Exxon has already spent over $600 million for cleanup of the *Valdez* spill. According to Exxon's own estimates, the total cost may rule to $1.3 billion.

Not only do I see no justification for changing existing law and limiting liability for cleanup and damages to $100 million, but I believe doing so would be foolish and irresponsible.

I urge my colleagues to support this amendment and retain unlimited liability for cleanup of spills from facilities in the OCS.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment (No. 676) was agreed to.

Mr. WILSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 686.

Mr. BAUCUS. I thank the Chair.

Mr. President, the bill is open for further amendment.

AMENDMENT NO. 677

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 677.

Mr. WALLOP. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, line 21, after the word "or" and before the word "acquire" insert the following: ", as specifically provided in advance in appropriation acts," and

On page 26, line 5, after the word "or" and before the word "acquiring" insert the following: "subject to such amounts as we specifically provided in advance in appropriation acts,".

Mr. WALLOP. Mr. President, I thank the Chair.

Mr. President, this amendment has been worked out with both the majority and the minority and it addresses a concern that I had that in the legislation as drafted quite unintentionally there is power given to—Mr. President, could we have order please?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Wyoming.

Mr. WALLOP. The trustees under this legislation are obliged to restore and rehabilitate damaged land or resources damaged by the spill.

Should the trustee declare those to be unfeasible to restore, it then moves to a second requirement that he must acquire the equivalent, and then if you follow on in the legislation, there was a provision which said that he could go to the Federal Treasury for up to $1 billion, without further appropriation, and acquire equivalent lands.

My problem was not with the acquisition of resources such as fish, caribou or wildlife of any kind. It was the fact that this trustee would have the power of eminent domain to acquire the private lands of Americans to replace this, with no further oversight. Working with the committee, the able managers of the bill and their staffs, this amendment would simply state that in the proposition where property is to be acquired, land is to be ac-

quired, that it would be as specifically provided in advance in the appropriations act.

This gets us out of the realm of takings of property, should it be that an oilspill in Alaska were to be declared unfeasible to restore, that they might acquire lands in any one of the rest of our States, without any oversight at all. The staff has been very able and very accommodating in this; I appreciate it. And insofar as I know, both the majority and minority have agreed to accept this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. BAUCUS. Mr. President, I wonder if the Senator will yield for a question.

Mr. WALLOP. Yes.

Mr. BAUCUS. Mr. President, this amendment was just handed to us. Frankly, it is going to take a few minutes to determine its full impact. As I understand the amendment offered by the Senator from Wyoming, he would like to limit resources acquisition to those cases that are specifically provided for in advance in the appropriations act; is that correct?

Mr. WALLOP. Basically, what I am trying to get away from is the ability of a trustee, without any further oversight, to acquire, through the power of eminent domain, the private lands of Americans, as equivalent resources. We have not hampered their ability to restore or replace salmon, caribou, wildlife, birds, or anything else. It goes really directly to the ability of this trustee to acquire lands without any appropriations process, without any oversight or any further things. It gets us out of the area of takings.

Mr. BAUCUS. If I might ask, Mr. President, another question of the Senator from Wyoming. Is it not true that resource acquisition provision the Senator is referring to is the same resource acquisition provisions that are already provided for in current law in the Superfund bill, for example, as well as the Clean Water Act?

Mr. WALLOP. No, because in view of those of us who were discussing this, your staff, the staff of the Senator from Rhode Island, and mine, that the mandatory provision that he must acquire equivalent resources—now, again I reassure the Senator we are not talking about acquiring fish or wildlife or other things. These are lands. You have a man who has the power, both of the purse and the law, under these things to acquire, without any oversight, and of any dimension, private property of Americans.

We only seek to limit that so there is some judgment that is made on that priority.

Mr. BAUCUS. Mr. President, I ask the Senator another question. I say to the Senator from Wyoming, if he knows that, frankly, a current law, at least in the Superfund bill, does provide for a resource acquisition. I will read the statute.

Mr. WALLOP. It does, but here is a man who has the power to go borrow from the Federal Treasury up to $1 billion and all I am trying to do is put some sense that this Congress does not endorse taking by somebody who is only appointed, not elected, and can wander the whole of America, without restriction, to acquire what is called "equivalence"; and it just seems to me the wrong way to go. We are only trying not to stop the restoration process, not to inhibit it or anything else.

Mr. BAUCUS. I ask the Senator from Wyoming—because there are different forms of resources; there are fish, wildlife, and there is also land as a resource—would the Senator agree to modify his amendment so that it would apply—that is a prior appropriations provision—to land acquisitions, but not to fish, wildlife and other things?

Mr. WALLOP. That is the intent, and I think, in fact, the acquisition of fish, wildlife, would come under the provisions of the bill called "replacement." What we are trying to do is to keep an appointed official from having the power of condemnation over the private property of Americans.

Mr. BAUCUS. Would the Senator agree to insert the word "land" as specifically provided, limit that to land acquisition, on page 19, line 21, after the word resources, insert the following, that is acquisition of land shall be as specifically provided, et cetera? That would make it clear that the intent of the Senator from Wyoming—which is a noble intent, and I understand it—would apply to land acquisitions?

Mr. WALLOP. Will the Senator agree to a short quorum call so that we might discuss this?

It had been my understanding that this would be agreed to, and the complications the Senator seeks here could easily be corrected.

Mr. BAUCUS. To speed up the process, Mr. President, I think we agree on what we are trying to do. If the Senator would agree to that modification, we can certainly make a technical change, if it be necessary, in conference, as long as in good faith we understand and agree to limitation on land acquisitions.

Mr. WALLOP. The Senator would agree to that.

Mr. BAUCUS. I thank the Senator.

Mr. CHAFEE. On that basis, we accept the amendment.

AMENDMENT NO. 677, AS MODIFIED

Mr. WALLOP. Mr. President, I ask unanimous consent that I might be permitted to modify my amendment, as stated by the Senator from Montana.

The PRESIDING OFFICER. The Senator has a right to modify the amendment, but needs to send it to the desk.

Mr. BAUCUS. Will the Senator suspend? I have the amendment here. I send the modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

Mr. BYRD. Can we hear the modification read?

The PRESIDING OFFICER. The clerk will read the modification.

The bill clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment, as modified, numbered 677, to read as follows:

On page 19, line 21, after the word "resources" and insert the following:

"Acquisitor of land or interests therein shall be as specifically provided in advance in appropriation acts," and

On page 26, line 5 after the word "or" and before the word "acquiring" insert the following: "subject to such amounts as are specifically provided in advance in appropriation acts,".

Mr. WALLOP. Mr. President, I ask further of the manager of the bill: It should read "land or interests therein."

Mr. BAUCUS. Mr. President, I agree to that modification.

The PRESIDING OFFICER. The modification is agreed to. Will the Senator repeat that?

Mr. WALLOP. It should read "lands or interests therein."

The PRESIDING OFFICER. The amendment will be so modified.

Mr. BAUCUS. Mr. President, on the basis of this agreement, I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 677), as modified was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada [Mr. REID].

AMENDMENT NO. 678

(Purpose: to express the sense of the Senate that the Committee on Finance should include provisions of S. 771 (the Oil Spill Bill), a bill to disallow deductions for costs in connection with oil and hazardous substances cleanup unless the requirements of all applicable Federal laws concerning such cleanup are met, in Budget Reconciliation legislation for fiscal year 1990)

Mr. REID. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] (for himself, Mr. METZENBAUM, Mr. DECONCINI, Mr. LAUTENBERG, and Mr. KOHL, proposes an amendment numbered 678.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. BREAUX. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued the reading of the amendment.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

The Senate finds:

Oil and hazardous substance discharges cause environmental damage which can last for many years, affect entire ecosystems, local communities, and individual citizens, and

Between 9,000 and 12,000 oil discharges are reported each year that pollute or threaten to pollute United States waters, and

Parties causing discharge often do not clean them up, only partially clean them, or respond to spills very slowly, causing additional damage, and

When cleanup by responsible parties is not satisfactory, public funds and agencies must do the cleanup. Between 1972 and 1987, the Coast Guard recovered only $49,000,000 of the $124,000,000 of public funds spent to cleanup discharges, and

The cost of oil and hazardous substances discharge cleanup are deductible for Federal tax purposes and thus subsidized by ordinary taxpayers, and

The public should not pay for cleaning up discharges of hazardous substances and oil, either directly through cleanup costs or indirectly through Federal tax deductions for parties causing discharges unless the cleanup meets Federal standards, and

At the present time, the costs of spilling and paying for cleanup and damage is not high enough to encourage greater industry efforts to prevent spills and develop effective techniques to contain them: Now, therefore, be it

Therefore, it is the sense of the Senate that the Committee on Finance should include provisions of S. 771 (the Oil Spill Bill), a bill to disallow deductions for costs in connection with oil and hazardous substances cleanup unless the requirements of all applicable Federal laws concerning such cleanup are met, in Budget Reconciliation legislation for fiscal year 1990.

Mr. REID. Mr. President, tonight I am offering an amendment to the Oil Spill Liability and Compensation Act expressing the sense of the Senate that the budget reconciliation bill for fiscal year 1990 include provisions of my legislation S. 771, the oilspill bill. I ask for the immediate consideration of this amendment which has been cosponsored by Senators, METZENBAUM, DECONCINI, LAUTENBERG, and KOHL. As my colleagues know, S. 771 denies a deduction for costs to cleanup an oil or hazardous substance spill in cases where the Federal Government certifies the cleanup has not been peformed to certain Federal standards. My legislation, which is a tax bill, is the perfect complement to S. 686 and—together with this bill—will ensure cleanups are performed quickly and thoroughly.

In testimony before the Senate Finance Committee on June 21, the American Petroleum Institute testified that S. 771 is negative and punitive. This statement is absolutely incorrect. The American Petroleum Institute representative should have said S. 771 is negative and punitive for those taxpayers who do not perform an adequate cleanup. For all others, it is an added incentive to take steps to prevent spills and ensure they thoroughly clean those spills that inevitably will occur. The report accompanying S. 686, in explaining the economic justification for strengthening oil spill liability laws, also provides the best rationale for the incentive approach encompassed by my bill. Page 3 of Senate Report 101-94, states "spills are still too much of an accepted cost of doing business for the oil shipping industry. At the present time, the costs of spilling and paying for its cleanup and damage is not high enough to encourage greater industry efforts to prevent spills and develop effective techniques to contain them. Sound public policy requires reversal of these relative costs." S. 771 and S. 686 both recognize this problem and address it the same way: by threatening the bottom line of polluters. S. 686 places the burden of financing cleanups on the oil industry, while S. 771 places the burden of a failed cleanup on the individual polluter.

Over 4 months ago, the *Exxon Valdez* ran aground in Prince William Sound, AK, and spilled 10 million gallons of oil into this pristine and bountiful environment. Thus far this tragic event has despoiled 730 miles of coastline, killed 27,548 birds, 872 otters, and 108 eagles. It has also completely distorted the economies of the cities and villages around Prince William Sound.

Mr. President, the horror story of 1989 is not the movie Friday the 13th, but rather March 24, when Exxon raped Alaska and the rest of the world. But subsequent to this raping of Alaska and the rest of the world, Mr. President, there were three other tankers that spilled oil on the coast of Rhode Island, the Delaware River, and the Houston Ship Channel. These four, well publicized spills have really outraged the American people and awakened them to the need for strong measures to prevent future spills and mitigating the effects of those spills that will inevitably occur.

The American people have focused most of their anger on Exxon, however. And rightly so. Only a few days after the spill, Exxon officials arrogantly announced that clearing up the spill is an ordinary cost of doing business and would be deducted from their taxes like any other expense. Then, just 2 weeks ago, the Exxon spill manager issued a memo indicating, among other things, that when Exxon halted its cleanup early this fall, when the weather got bad, it would not likely return in the spring to finish the job.

Yesterday, Congressman MEL LEVINE and I granted the 2nd Annual Globerotter Award to Exxon Corp. for this callous disregard of the environment. The Globerotter Award is a device to focus attention on those in our society responsible for major environmental degradation. While this public spotlight is important, it is not in itself a sufficient response. We have a responsibility to take concrete steps to prevent the pollution of our waters, the destruction of our citizens' livelihood, and the degradation of fragile ecosystems.

In a recent poll, Americans were more concerned with how the administration handled the Exxon spill than any other issue. People from all across our Nation have expressed their anger concerning the Exxon spill to me in many ways.

I have received hundreds of letters; many even from oil producing States. I have received a song a citizen wrote about the spill. I have received posters, hand made. And I have received hundreds of these cut-up Exxon credit cards. Some of them are not cut-up. These are only a few I received in the mail. Let there be no mistake, the American people want strong action taken.

Therefore, in this atmosphere, we have a great opportunity to pass S. 686, legislation revising and strengthening our Nation's laws governing the cleanup of polluted waters. S. 686 establishes the oilspill compensation fund. This fund combines the various cleanup funds created under eariler legislation into a single fund and will properly finance that fund. The Finance Committee will address the tax aspects of this fund when it considers Budget reconciliation legislation hopefully in September. My legislation, S. 771, the oilspill bill, should be included in this mechanism, not only to provide an economic incentive ensuring cleanups are performed properly, but also to provide additional moneys for the fund.

The Senate, therefore, can go on record tonight in support of legislation providing economic incentives to cleanup oilspills. It can vote to approve S. 686 and this sense-of-the-Senate resolution and show the American people this body finally intends to address the problem of oilspills in a comprehensive fashion this year.

Mr. President, I have received assurances from members of the Finance Committee and its chairman that the Finance Committee will include the provisions of my oilspill bill and give it every due consideration when the reconciliation legislation is considered.

SENSE OF THE SENATE ON TAX DEDUCTIONS FOR OIL COMPANIES

Mr. LIEBERMAN. Mr. President, I rise to support my friend and distinguished colleague, the Senator from Nevada, and say that I am pleased to join him in support of this resolution.

The events surrounding the oilspill in Prince William Sound are outrageous. The initial act of negligence which led to the devastation in this magnificent piece of previously unspoiled Earth is outrageous. Recently, the State of Alaska completed its report on the Exxon *Valdez* spill. The report concluded, and I quote:

> There were simply arrogant and complacent people at the top levels of Exxon Shipping Company and Alyeska Pipeline Service Company who did not pay attention to their responsibilities.

This arrogant attitude is further demonstrated by Exxon's apparent attempt to walk away from the oilspill cleanup, as recently revealed in an internal company memorandum. Citing the onset of winter, the company said that it would conduct no operations after September 15. Exxon Chairman Stevens further refused to commit to Congressman MILLER in recent hearings that Exxon would finish the cleanup, saying only that the company would follow "reasonable" requests from the Coast Guard, leaving the decision on what was reasonable in Exxon's hands.

The American people are angry. We may not be able to do much more than we are doing to protect the natural resources in Alaska and Prince William Sound, but we can do something through the law to ensure that, in the future, oil companies who fail to comply with the standards of State and Federal law governing cleanup pay a high price.

The provisions of S. 686 address many of the loopholes in our current law. For example, it gives the Federal Government the clear authority to order a company to continue a cleanup until the environment is restored. If a company fails to obey a cleanup order, the government may assess triple the cleanup costs against the company. With these provisions as law, a company like Exxon will think twice before walking away from a cleanup. The bill also ensures that violators of the law face stiff civil and potential criminal penalties.

Senator REID, by this resolution, intends to close perhaps the ultimate outrage, which is that Exxon and other oil companies that destroy our environment and fail to meet cleanup standards can turn around and deduct from their taxes the costs to cleanup the consequences of their actions. Closing this loophole is the least we can do to restore some sense to this process and to make something good come out of this grim event.

I congratulate my friend from Nevada for his leadership and in putting this resolution forward, and I urge its adoption.

Mr. REID. I know of the time constraints of this body and the time constraints this night. Therefore, based upon that, Mr. President, I withdraw my sense-of-the-Senate amendment from further consideration.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment. His amendment is withdrawn.

The amendment was withdrawn.

The Chair recognizes the Senator from Montana.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I am about to propound a unanimous-consent request, which will identify the remaining amendments to the bill with time limits with respect to each amendment. And it will also include an agreement regarding the division of responsibility for the conferees.

If we can get this agreement approved, then it is my intention not to continue further this evening. That would permit us to know how long it would be tomorrow. All together, if all amendments are offered and all time used, there is 180 minutes of time. If votes occur it means about another 4 hours on this bill.

If we cannot obtain this agreement, then it is my intention to simply continue this evening on this bill to deal with more of the amendments that are pending.

Accordingly, Mr. President, I will now propound the agreement.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the following be the only remaining amendments in order to S. 686, that they be first-degree amendments only, and that they be offered under the following time limitations: 20 minutes for debate on the bill, to be equally divided between Senators BAUCUS and CHAFEE.

I will now read the list of amendments with the understanding that the time I state is to be equally divided.

An amendment by Senator KERRY of Massachusetts on an NOAA trusteeship amendment, 30 minutes;

An amendment by Senator METZENBAUM to increase the liability for the trans-Alaska pipeline system, 20 minutes;

An amendment by Senator LAUTENBERG authorizing the collection of fees to recoup costs of reviewing and approving contingency plans, 20 minutes;

An amendment by Senator STEVENS regarding definition of damages, 20 minutes;

An amendment by Senator STEVENS regarding Prince William Sound Oil Spill Institute, 20 minutes; and

An amendment by Senator STEVENS regarding scientific support group, 30 minutes.

Mr. CHAFEE. The Senator is prepared to take 20 on that.

Mr. MITCHELL. Mr. President, I modify my request to change the last stated time to 20 minutes.

An amendment by Senator STEVENS regarding impact on small communities, 20 minutes.

No other motions or amendments to be in order except reconsideration and tabling motions; that no Budget Act points of order to waived by this agreement; that the agreement be in the usual form with respect to the division of time; that after the amendments have been disposed of and the time has been used or yielded back, the Senate, without any intervening action or debate, proceed to third reading the final passage of the bill.

Mr. President, I further ask unanimous consent that representatives appointed from the Environment and Public Works Committee and Commerce Committee shall serve as conferees as follows:

Title I: Environment and Public Works Committee, exclusively.

Title II: Environment and Public Works Committee, principally; Commerce Committee, for purposes of provisions relating to or affecting vessels carrying oil and whenever such provisions are under consideration in other contexts.

Title III, subtitle A: Commerce Committee, exclusively.

Title III, subtitle B: Commerce Committee, principally; Environment and Public Works Committee, for purposes of provisions relating to or affecting the fund established under title I and whenever such provisions are under consideration in other contexts.

Title IV: Environment and Public Works Committee, principally; Commerce Committee for purposes of provisions relating to or affecting the trans-Alaska pipeline and fund and whenever such provisions are under consideration in other contexts.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, reserving the right to object, I would ask the distinguished manager of the bill, Senator MCCLURE was concerned with the provision dealing with qualified authorizing legislation section 406, "this act shall be considered qualified authorizing legislation for the purposes of the Internal Revenue Code."

That would be part of a committee amendment?

Mr. BAUCUS. Mr. President, if I can answer the Senator's inquiry, I wonder if the majority leader could modify his request for two technical amendments, one of which is an amendment addressing that subject matter.

Mr. CHAFEE. Coming from the committee.

Mr. MITCHELL. Mr. President, I modify my request in two respects: first, to add two technical amendments coming from the committee with 5 minutes on each, equally divided. I also advise that Senator KERRY will not offer his amendment, so I ask that my request be modified to eliminate that from the request.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio.

Mr. METZENBAUM. Mr. President, reserving my right to object, but I would ask the majority leader to include an additional amendment from the Senator from Ohio which would be along the lines of the Gorton amendment except for the fact that provisions would be made by reason of the Wilson amendment, and it also would provide a cap. In other words, instead of the Gorton amendment—the Gorton-Metzenbaum amendment, as a matter of fact—which provided for unlimited liability with respect to pipelines, tankers, and facilities, I intend to offer an amendment that would provide along similar lines, except it would not be necessary by reason of the Wilson amendment so we would delete that portion but we would include similar language to that of the Gorton amendment except there would be a maximum cap included.

So I ask 20 minutes be included for that purpose, 10 minutes on a side.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

Mr. BREAUX. I am going to object to that request. Reserving the right to object, this sounds like the same subject we debated earlier this evening. If we are going to put 5 minutes on something that took us 2 hours earlier to debate, that is not a sufficient amount of time to debate the entire substance of the bill.

I am required to object to that request.

Mr. MITCHELL. Well, as I understood the Senator from Ohio, what he intends to offer is an amendment to increase the liability limits under the bill? But to retain a cap on liability as the bill does, merely at a higher level?

Mr. METZENBAUM. The Senator from Maine is correct.

Mr. BREAUX. Mr. President, reserving the right to object, may I inquire of the cap, how much it is going to be?

The PRESIDING OFFICE. The Senator from Ohio.

Mr. METZENBAUM. I am not certain. It is a matter we are discussing at the moment but it is somewhere in the nature of $500 million.

Mr. BREAUX. I object.

Mr. MITCHELL. Then, Mr. President, I withdraw my request for unanimous-consent agreement and the Senate will remain in session to consider these amendments further.

I might ask the Senator from Ohio if he would, at the earliest possible opportunity, prepare the amendment and tell myself and Senator BREAUX and others what it is and at that point, perhaps, we could reach an agreement on limiting amendments.

Mr. METZENBAUM. I would be happy to do that.

Mr. MITCHELL. In the meantime I think we have no alternative but to continue.

Mr. President, I think every Senator here understands exactly what would happen if we leave tonight with no agreement on the number of amendments. We will be back tomorrow with more amendments than we started with today.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MITCHELL. Yes, sir.

Mr. STEVENS. Mr. President, I ask if the unanimous-consent agreement is prepared again that there be a provision for an amendment that I would like to offer that deals with the local hire provisions of the Stafford Act to become applicable to cleanup activities under this fund.

Under the Commerce Committee bill, the Commerce Committee bill made an oilspill a disaster under the Stafford Act. One of the principal effects of that is to bring about an immediate capability to put into effect a local higher provision and also to have the Federal Emergency Management Agency involved.

I understand that there is opposition to the FEMA provision, but I would hope there would not be opposition to the concept that the cleanup under this type of disaster should be the same as the cleanup of a hurricane or flood or an earthquake. This is a similar type of disaster. I would like to see the local hire provisions of the Stafford Act apply to this bill.

Mr. MITCHELL. It is the Stafford Act?

Mr. STEVENS. It is the local hire provisions of the Stafford Act would be applicable to this type of a cleanup.

Mr. MITCHELL. Would the Senator like 20 minutes?

Mr. STEVENS. Twenty minutes would be fine.

Mr. CHAFEE. That makes five amendments.

Mr. STEVENS. I think you are going to accept three of those others.

Mr. MITCHELL. We are making progress, because I am advised one further Senator I listed in the agreement would not offer it now.

Mr. CHAFEE. Can you convey that good news, who it is?

Mr. MITCHELL. May I suggest that the managers now proceed on the bill. In the meantime, perhaps Senator METZENBAUM——

Mr. METZENBAUM. I have just discussed the matter with the distinguished Senator from Louisiana, and I think we might come to a unanimous-consent agreement if he were sure that there would be no time limit with respect to my amendment.

My understanding, in discussing the matter with the Senator from Louisiana, is that the unanimous-consent agreement could be entered into provided there were no time limit with respect to the proposal of the Senator from Ohio.

Mr. MITCHELL. Of course, that defeats the entire purpose of the agreement.

Mr. METZENBAUM. I have a feeling somehow the Senator from Louisiana and the Senator from Ohio will work it out or put it to a vote on a tabling motion, and we will see whether or not we do or do not have the votes.

Mr. CHAFEE. Since everybody else is staying within a relatively modest amount of time, and this issue has been fairly thoroughly explored, it seems to me you can agree on time.

Mr. METZENBAUM. The Senator from Ohio is willing to agree on 20 minutes. The Senator from Louisiana, and I do not mean to be critical, is not willing to agree to a time limit. I appreciate and respect his position, but I have no objection to agreeing to a time limit.

Mr. BREAUX. Reserving the right to object, Mr. President, the point is that with a time agreement under an amendment that really discusses what we already voted on, you also are precluded from offering a second-degree amendment to that amendment. That is not acceptable.

Mr. MITCHELL. May I suggest then, with respect to the Metzenbaum amendment, that we provide that there is no time limit and permit the Senator from Louisiana the opportunity to offer a second-degree amendment to that?

Mr. METZENBAUM. I have no objection.

Mr. MITCHELL. Then the agreement could remain in effect with re-

spect to all other amendments. Would that be agreeable?

Mr. METZENBAUM. It is agreeable to the Senator from Ohio.

Mr. MITCHELL. The Senator from Louisiana?

Mr. BREAUX. I have not seen the amendment that I am now getting ready to agree I will be able to offer a second-degree amendment to. That makes it difficult. As long as there is no limitation on debate and I can offer a second-degree amendment to it, I would not object under those circumstances.

Mr. MITCHELL. Mr. President, I then modify my earlier request in the following respects: First, delete the Lautenberg amendment which was previously listed. Add a Stevens amendment regarding the Stafford Act, 20 minutes equally divided; and add an amendment by Senator METZENBAUM regarding an increase in liability. With respect to the Metzenbaum amendment alone, there will be no time limit and that will be subject to a possible second-degree amendment by the Senator from Louisiana.

Mr. CHAFEE. But the second-degree amendment will have to be relevant and germane.

Mr. BREAUX. It will be.

Mr. MITCHELL. And the second-degree amendment would be relevant and germane to the subject matter of the first-degree amendment. In all other respects, Mr. President, I renew my request.

Mr. BYRD. Reserving the right to object, Mr. President, and I certainly do not want to create any problems for the leadership, but these amendments will have very severe time limitations on them.

As the chairman of the Appropriations Committee, I just want to make sure that there will be no amendment called up here that makes appropriations directly or indirectly. If there are any appropriations involved in the amendments, they should go through the Appropriations Committee.

I do not know what the amendments will do. My staff has had no opportunity to study them. I have just had two occasions in the last 3 or 4 days in which authorizing committees had language in their bills which had the effect of directing that appropriations for certain programs could not be less than a certain amount. In other words, the authorizing committees, in effect, were appropriating the moneys. Here we have amendments listed, and I have no opportunity to know what is in them, my staff has had no opportunity to study them. I want the majority leader, if he will, to include a provision that if there is any amendment of that nature, there will be no time limit on it, and that the time limit for debate on the bill will no longer be effective.

Mr. MITCHELL. Mr. President, the distinguished Senator from Alaska, Mr. STEVENS, is here and the distinguished Senator from Ohio is here.

According to the list I am now looking at, they are the only Senators who have amendments on this list. I have two Metzenbaum and five Stevens amendments. So if I could ask them if they are prepared to respond affirmatively to the distinguished chairman of the Appropriations Committee, that answers the question.

Mr. BYRD. The Senator from Alaska is on the Appropriations Committee, and he will know very well what I have in mind and whether or not any of the amendments would have that effect.

Mr. STEVENS. I might say to my good friend, the amendments I am offering would be to clarify the amendments that have been offered, to put back into them some provisions that primarily affected Alaska that are not in the amendments that have been offered. They deal with a definition of damages; they deal with the powers of the Prince William Sound spill institute; they deal with a scientific support group, that is NOAA, and its role in the response team; they deal with the impact of a fund as created here on small communities; and they deal with the question of whether the provisions of the National Disaster Act that would have been incorporated by the Commerce Committee bill that was reported in the event of an oil spill disaster into the aftermath cleanup of that disaster. That has been left out by virtue of revision of this draft now of the new amendment that is pending before the Senate. None of them would have any impact on the appropriations process.

Mr. METZENBAUM. I understand the question, whether or not the amendments of the Senator from Ohio have anything to do with the appropriations process; the answer is no.

Mr. BYRD. I have no objection.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection? Without objection, the unanimous-consent request is agreed to.

The text of the agreement is as follows:

Ordered, That when the Senate resumes consideration of S. 686, the oil spill liability bill, the only amendments in order be the following listed amendments, that they be first degree amendments only, and that they be considered under the following time limitation, with the time to be equally divided and controlled in the usual form:

Metzenbaum—Increase the liability for the Trans Alaska Pipeline System, 20 minutes;

Metzenbaum—Regarding increased liability;

Breaux—Possible 2nd degree amendment, which must be relevant and germane to the Metzenbaum amendment regarding increased liability;

Stevens—Definition of damages, 20 minutes;

Stevens—Scientific support group, 20 minutes;

Stevens—Impact on small communities, 20 minutes;

Stevens—Relative to the Stafford Act, 20 minutes; and

One committee technical amendment, 5 minutes.

Ordered further, That time for debate on the bill be limited to 20 minutes, to be equally divided and controlled by the Senator from Montana [Mr. BAUCUS] and the Senator from Rhode Island [Mr. CHAFEE].

Ordered further, That no other amendments or motions be in order, except reconsideration and tabling motions.

Ordered further, That no Budget Act points of order be waived.

Ordered further, That after the amendments have been disposed of and all time has been used or yielded back, without any intervening action or debate, the Senate proceed to third reading and passage of the bill.

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening, and there will be many votes tomorrow, as we can see from this list of amendments and other matters before the Senate.

I thank my colleagues for their cooperation and patience. I would consult with the distinguished Republican leader regarding tomorrow's session. It is my intention to start at a reasonably early hour, around 9 or 9:30. Senators should be prepared to vote shortly thereafter.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 679

Mr. STEVENS. Mr. President, I am prepared to offer two amendments that have been cleared.

I send to the desk one amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 679.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, lines 2 through 3, by striking out "University of Alaska Institute on Marine Studies" and inserting in lieu therof, "Prince William Sound Science and Technology Institute".

On page three, line 17, by striking out "Southeast" and inserting in lieu thereof "Southcentral".

Mr. STEVENS. Mr. President, this is a technical amendment. It deals with changing the word southeast to southcentral in one portion of the bill which was a drafting error. The other deals with making certain that the Prince William Sound Science and Technology Institute will be the entity that will administer the program for research, the long-term research, in Prince William Sound that has been initiated by this bill now by virtue of the compromise amendment that has been worked out.

Mr. BAUCUS. Mr. President, we have examined the two amendments mentioned by the Senator from Alaska. They are technical in nature and we are perfectly willing to accept them.

Mr. CHAFEE. We would also accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 679) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 680

Mr. BAUCUS. Mr. President, I have one of the technical amendments referrred to in the unanimous-consent agreement, and I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. BREAUX, proposes an amendment numbered 680.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the Commerce Committee amendment to the bill—

(1) on page 3, line 2, strike "section 311(c)" and insert in lieu thereof "section 311(s)"; and

(2) on page 39, line 23, strike "$2,000,000,000" and insert in lieu thereof "$2,000,000".

Mr. BAUCUS. This is a technical amendment in that there is an error. We are going to strike the figure "$2 billion" and replace it with "$2 million." That is the intent of the legislation as it was originally drafted. I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. CHAFEE. No objections on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 680) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 681

Mr. BAUCUS. Mr. President, I now offer the second of the two technical amendments and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 681.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 76, after line S, insert the following:

"QUALIFIED AUTHORIZING LEGISLATION

"SEC. 406. This Act shall be considered to be qualified authorizing legislation for purposes of section 4611(f)(2)(B) of the Internal Revenue Code of 1986.".

Mr. BAUCUS. Mr. President, this is a technical amendment. It makes it clear that the fee provided for in this bill to provide funds for the compensation fund is a fully authorized mechanism with respect to Finance Committee jurisdiction. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent to withdraw the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Amendment was withdrawn.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I would like to engage the distinguished floor manager, Senator Baucus, in a brief colloquy. The $1 billion per spill fund created through this bill is an important step forward in our efforts to improve this Nation's oilspill prevention and response system. That fund will serve as an essential emergency reserve in cases where liability limits are exceeded, when responsible parties cannot be found, or when an immediate Federal response is necessary.

The fund would also pay for important new or expanded functions of the Federal Government. Section 103 of S. 686 establishes the uses of fund. It is the understanding of this Senator that the fund is to be used for removal costs; payment of claims; natural resource damages; equipment, personnel, and other overhead costs associated with this bill and section 311 of the Clean Water Act; and the establishment of damage assessment capability for Federal agencies involved in regional oilspill response teams, strike forces, emergency task forces, or other response teams.

The bill is clear in specifying that only selected kinds of spending out of the fund shall be subject to appropriation. Those are specified in paragraph 8 of section 103(a).

In section 207, the leadership amendment authorizes the assessment and collection of user fees to cover Federal expenses associated with the review and approval of contingency plans under title 2 of the bill. Similar authority is provided to recover costs associated with the operation of VTS.

The intent of these user fees is to offset Federal costs associated with the implementation of requirements imposed by this bill. It is the understanding of this Senator that the user fee language in section 207 would ensure that the fees collected by the Federal Government, in this case, the Coast Guard, would be scored as negative budget authority and negative outlays for the appropriations bill in which the Coast Guard is funded.

I ask the distinguished Senator if he concurs in this assessment.

Mr. BAUCUS. The Senator is correct in his reading of the intent of the bill. While the bill does authorize new and expanded responsibilities for the Coast Guard, it is the intent of the bill that those new authorities not divert resources from other Coast Guard activities. The user fees authorized in this bill and the separate revenues placed in the fund would accomplish that goal by offsetting any spending that is subject to appropriation.

Mr. LAUTENBERG. I thank the Senator for his clarification, and commend him for his leadership in bringing this important legislation to the floor so quickly.

Mr. SARBANES. Mr. President, I strongly support S. 686, the Oil Pollution Liability and Compensation Act of 1989. I want to commend Senator MITCHELL for bringing this bill to the floor so expeditiously and for his leadership over the years on this important issue.

The rash of oilspills this year beginning with the *Exxon Valdez* disaster on March 24 and continuing with the recent accidents in the Narragansett Bay, Delaware River, and the Houston ship channel, underscored not only the hazards posed to our Nation's waters by the transportation of oil and other hazardous materials, but also the weaknesses in our ability to prevent and deal with such disasters. The oilspills clearly showed the need for a comprehensive program to minimize the likelihood of these accidents; to provide swift, effective cleanup when accidents do occur; to increase liability and penalties for spillers; and provide for compensation for damages and cleanup costs. This is what the oilspill legislation that we are considering today seeks to establish.

We, in Maryland, attach particular importance to the issue of oilspills because the Chesapeake Bay is such a unique, valuable, and vulnerable resource. It is our Nation's largest and most productive estuary. It plays an absolutely fundamental role in our economy, ecology, and quality of life, providing food, jobs, transportation, and recreation. With the bay already under stress from environmental degradation, it is vital that every effort be made to prevent additional sources of pollution.

Each year over 6 billion gallons of oil, diesel fuel, and related petroleum products are shipped up and down the Chesapeake. While most of the oil is transported by barges and not by tankers of the size of the *Exxon Valdez,* an oil or hazardous material spill—even a small one—could still pose a significant threat to the Chesapeake Bay's waters and marine life, due to the inherent sensitive nature of the estuary. Scientific studies have demonstrated that oil spilled in an estuary such as the Chesapeake Bay can cause far greater damage than oil spilled in any other type of marine environment. By its nature an estuary is unable to dissipate or flush out pollutants in the manner that oceans can. The confined waters trap the oil and its toxic components, adversely affecting water quality and causing long-term damage to the bay's already endangered aquatic life.

We have been fortunate that there have been relatively few serious oilspill accidents on the Chesapeake. I think a large part of this could be attributed to the Maryland pilots who do a good job in providing passage for ships in the bay. But navigational errors and equipment failures do occur. With Exxon and Texaco beginning exploration activities in the region, the pressures on the bay are likely to increase dramatically.

The ecological integrity of the Chesapeake Bay and our other coastal and inland waterways must be protected in the face of steady commercial traffic of oil and other environmentally hazardous cargoes. The legislation, S. 686, will help provide that protection. It establishes a comprehensive liability and compensation system for oilspills, including an oil industry financed fund that would provide up to $1 billion per spill for cleanup costs and damages. It places the burden for cleanup costs and damage compensation where it belongs—on the spiller—not on the taxpayer. It requires establishment of eight regional oilspill response teams, development of spill contingency plans for oil facilities and vessels, and toughens Federal requirements to minimize the potential for spills and ensures a cohesive and effective response when they occur. I urge swift enactment of this legislation.

Mr. BURDICK. Mr. President, as chairman of the Committee on Environment and Public Works I join my colleagues in support of this comprehensive oilspill prevention bill. The Oil Pollution Liability and Compensation Act will go a long way to correct many of the problems which have come to light following a series of recent oilspill accidents.

The Committee on Environment and Public Works has a long history of concern with the environmental dangers associated with the transportation, storage, and handling of oil. The committee's jurisdiction on these matters can be traced to extensive committee activity which led to enactment of the Water Quality Improvement Act which amended the Clean Water Act to establish liability for cleanup of spills of oil from facilities and vessels.

I want to commend Senator MITCHELL for his longstanding concern and commitment regarding this issue. He has labored long and hard to make certain oilspill legislation is comprehensive and effective. Mr. BAUCUS, the chairman of the Environmental Protection Subcommittee, has expedited consideration of this vital legislation. I want to thank him for his efforts in this regard and his service to the committee.

I also want to acknowledge the efforts of committee staff in the development of this legislation. Robert Davison and Kate Kimball have worked diligently in assisting the committee in the development of this bill. I am grateful for their efforts.

Mr. President, this legislation is complex, timely, and above all, needed. This bill should reduce the fragmented collection of Federal and State laws providing inadequate cleanup and damage remedies. I urge its passage.

Mr. PELL. Mr. President, I believe the Senate has truly made a major step here today in bringing the Oil Spill Liability and Compensation Act to the floor for debate. Unfortunately, we had to be pushed into acting on this issue by the disastrous events of the last 6 months.

Alaska, Delaware, Texas and, a near-catastrophe I witnessed firsthand, the oilspill off the coast of Rhode Island. Mr. President, I commend the Environment and Public Works Committee and the Commerce Committee for their swift and speedy action on this legislation and for the sweeping changes they have incorporated into this legislation.

This bill addresses many fundamental issues related to the prevention and effective cleanup of oilspills:

Greater financial liability for those who cause spills; tougher criminal penalties for those responsible for oilspills; larger Federal responsibility for cleaning up oilspills; and wider Federal commitment to oilspill prevention research.

All of these changes will go a long way toward protecting our oceans and shores. As a Rhode Islander, I am particularly supportive of language in the bill that directs the President to establish more regional emergency response teams to deal with oilspills. During the recent oilspill in Rhode Island, the closest emergency response team was located hundreds of miles away in a different region of the country. This bill will rectify this situation by establishing an emergency response team in New England and other areas of the country.

Mr. President, I applaud the passage of this bill but I do not believe that we should rest on our laurels. We should continue to constantly examine the issue of how to protect our coasts from oilspills and ways for Congress to be a part of this effort.

OILSPILL LIABILITY AND COMPENSATION

Mr. BIDEN. In 1975, legislation to establish a Federal oilspill liability and compensation system was introduced in the Senate. I was the sponsor of that bill.

Fourteen years later, I am a cosponsor of the bill the Senate is considering to finally establish a Federal program. As Senator MITCHELL has made clear, this has been a long battle, but one that the tragic oilspills of this year will help bring to a close.

At the time of the 1975 bill, I cited the wreck of the *Torrey Canyon* as the clearest evidence of the need for an improved Federal regime. In the intervening years, the list has grown longer

and the case has been made stronger that existing Federal law on oilspills is inadequate. The *Amoco Cadiz* and *Argo Merchant* were reminders that oilspills were accidents we needed to be better prepared for. Many viewed those wrecks as evidence of how much damage could result from oil tanker spills. Others of us were also concerned that they were harbingers of worse to come.

In my State of Delaware, we watched as ships such as the *Grand Eagle, Viking Osprey, Intermar Alliance,* and now the *Presidente Rivera* floundered in the Delaware River, unloading part of their cargo into the river and onto the shoreline. These were not wrecks of national renown and the ship names did not become household words, but to residents of Delaware they were repeated reminders of the threats our coastal economy and environment faced.

Years from now, the name synonymous with the devastation of oilspills will be the *Exxon Valdez.* It is a spill that is almost beyond comprehension, even for those of us who have witnessed many smaller spills. It is a ship that wrecked not only at the worst spot possible, but also at the worst time. Earlier spills had always spurred a flurry of congressional activity on oilspill legislation. The calamity in Prince William Sound meant Congress could hide no more.

After 3 years of efforts, in 1978, Congress almost put a Federal oilspill program in place. However, an odd thing happened. A proposal was made along the way to include cleanup of chemical spills as well as oilspills in the coverage of the bill. Although the House and Senate had passed the needed legislation, differences killed the bill at the end of the session.

The idea of a Federal program to help clean up chemical spills took hold, and 2 years later the President signed into law the Superfund Program. A dramatic jump forward, but, ironically, oilspills were left behind.

After more than a decade of effort, I thought we had again reached a conclusion to this fight in 1986. The House and Senate had passed oilspill legislation, and an international agreement on this issue was waiting in the wings for approval. But close is all we could achieve. The perennial sticking point of preemption of State law once again blocked final approval. It was back to square one.

It was disappointing to be within reach, and to leave with nothing. But the people of Alaska should be thankful Senator MITCHELL so adamantly insisted on allowing States to retain their laws, in particular those laws which allow for unlimited liability in oil spills. Because of his perseverence, Alaska's unlimited liability law is in effect to deal with the *Exxon Valdez* spill.

If the House version of the legislation we considered in 1986 were on the books, the version which preempted State law, Alaskans would have been limited to roughly $500 million in compensation for damages and cleanup costs. Exxon recently announced that more than twice that amount—$1.28 billion and counting—has been set aside to pay for cleanup expenses and damage awards.

A spill causing that amount of damage was considered impossible by most credible observers. It was thought that the series of events that would have to occur for even the $500 million limit to be breached would be so incredible as to be considered impossible. Prior to the *Exxon Valdez,* no spill had come close to $200 million in damages.

The grounding of the *Exxon Valdez* did more than cause the Federal compensation fund to be doubled. It also led to what I believe is a subtle but important shift in attitude among the American public. Prior to the Alaskan oilspill, industry saw a Federal oilspill law as a trade between high, but fixed liability caps, for assured payment of damages.

A reassessment has taken place. A new deal is taking shape. An industry-funded compensation pool will quickly pay for the bulk of damages up to $1 billion, and then the company will pay for more if needed. The principle of "polluter pays" is retained. The Alaska oil spill showed just what was at stake with the preemption of State laws.

The spill also showed the relatively primitive state of cleanup technology. Not only were the tools available inadequate in number, they were inadequate in design. The much smaller spill of the *Presidente Rivera* on the Delaware River was even beyond the capacity of the equipment on the scene. The most effective method to clean the river proved to be people in boats scooping up the globs of oil one by one. It was an unusual type of oil to be sure, but even with more common forms of oil, cleanups, for the most part, consist of hoping the oil goes somewhere else quickly.

It is distressing that after years of assuring the American public that it possessed the technology and trained personnel necessary to handle a major spill, in the aftermath of the Alaska spill, the industry was forced to admit it had neither.

A report from the American Petroleum Institute concluded:

> [The] industry has neither the equipment nor the response personnel in place and ready to deal with catastrophic tanker spills * * * industry can only promise its very best efforts in responding to such spills.

Their "best efforts" are not enough when entire ecosystems and the economies of shoreline communities are at stake.

This is not a recent development. The bill I introduced 14 years ago included a provision establishing a research and development program for new cleanup and containment technologies. The need remains to be filled.

Coastal residents should not have to depend on favorable winds and currents to protect their beaches, wetlands and jobs. That is why I was pleased to see the Environment Committee include a $25 million program in the bill for research and development of improved oilspill technologies.

The contingency plan for Prince William Sound, even if it worked as drafted, expected to recover only half the oil in a major spill. Estimates of actual recovery range from 8 to 15 percent. Increasing the number of skimmers and miles of boom that must be available will help matters some. For our coastal areas to see improvements beyond that margin, a vastly expanded research and development program is crucial. That is what this bill provides for.

Mr. President, the Delaware River is one of the most heavily traveled transportation routes for oil in our Nation. We have not suffered a spill as catastrophic as the one that happened in Alaska earlier this year, but we have had thousands of smaller ones.

According to Coast Guard figures, the Delaware River has been the site of nearly 600 oilspills since 1984. Over 1 million gallons have been dumped in the river and bay in that time period. I will ask unanimous consent that a table prepared by the Coast Guard on oilspills in the Delaware River since 1984 and an article from the Philadelphia Daily News on recent major oilspills be inserted in the RECORD at the end of my remarks. I would note that the Coast Guard table apparently does not include the *Presidente Rivera* spill.

Passage of this legislation will address oil spills from all sides. It increases preventative actions to cut the number of spills. It increases the capability of industry and Government to respond effectively to spills that do occur. And it leaves greater certainty that when disaster strikes, the victims of the spill will be compensated. It is not an ironclad guarantee that spills will no longer visit us, no law could do that, but it does seek to take those steps humanly possible to make them less likely.

I hope the remaining differences can be quickly worked out with the House. Special interests have killed this program too many times in the past. The *Exxon Valdez* catastrophe demonstrates that risk of further delay.

I ask unanimous consent that the material to which I earlier referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Daily News, June 26, 1989]

THE DELAWARE: A MESSY PAST

(By Gloria Campisi)

Saturday's 800,000-gallon oil spill in the Delaware River was the fourth major spill on the river since 1985 and one of the largest ever.

On Sept. 28, 1985, the Panamanian tanker Grand Eagle ran aground near Marcus Hook after its engines failed, dumping 435,000 gallons of crude oil into the river. It took 39 days and cost $1 million to clean the oil from a 15-mile stretch of the river. Thousands of birds and other wildlife were killed.

A second major spill occurred six months later when an estimated 189,000 gallons of crude gushed from the tanker Intermar Alliance after it rammed a pier at a Marcus Hook refinery on March 21, 1986.

On Sept. 10, 1986, about 295,000 gallons of crude spilled into the river from the Viking Osprey when the tanker struck the river bottom and tore a hole in the ship while it was docking in Gloucester County, N.J.

On Jan. 31, 1975, thousands of gallons of crude oil spilled into the river but much of it burned when the Liberian tanker Corinthos, unloading at a Marcus Hook refinery dock, was struck by the American tanker Edgar M. Queeney. The Corinthos exploded on impact and 26 people were killed.

NUMBER OF OILSPILLS AND AMOUNTS FOR DELAWARE RIVER AND DELAWARE BAY

Year	Number of spills	Amount in gallons
1984	52	7,942
1985	42	446,708
1986	140	397,121
1987	156	32,632
1988	161	36,070
1989	37	1,560
Total	588	922,033

Mr. KERRY. Mr. President, I rise in support of passage of the pending oilspill legislation which has been developed in response to the major oilspill by the *Exxon Valdez* in Prince William Sound, AK, as well as three recent tanker spills in Rhode Island, Delaware, and Texas. Let me first commend the able majority leader and Senator HOLLINGS, Chairman of the Commerce Committee for their leadership in crafting this comprehensive and much needed oilspill legislation.

Mr. President, since the initial tragedy in Prince William Sound in March, the Commerce Committee has held several hearings on the incident: what happened; what are the near- and long-term economic and environmental consequences; how can we prevent such an occurrence in the future; and what are the long-term implications for transporting oil.

While the liability, compensation, and penalty provisions of this legislation are critical, I am particularly pleased that this bill incorporates many measures that emanated from our indepth look into the incident in Prince William Sound. Similar to the nuclear power safety legislation that was put into law after the nuclear disaster at Three Mile Island, our legislation from the Commerce Committee, the Oil Tanker Navigation Safety Act of 1989, incorporated into the bill before us today will revolutionize how we transport oil in and around the U.S. waters and it will reduce the likelihood and extent of the oil spills we will experience in the future.

Mr. President, I am particularly pleased with the oilspill contingency plan development and approval process incorporated in this legislation. As vice chairman of the Commerce Committee's National Ocean Policy study, I chaired two days of hearings in which we specifically analyzed the flawed contingency plan for the *Exxon Valdez* spill, its impact on the environment, and how we reduce the risks of such spills in the future. In these hearings we heard from Secretary Skinner, Admiral Yost, Mr. Stevens and Mr. Rawls from Exxon, leading environmental officials from Alaska and many others.

One of the absolutely clear and compelling conclusions of the many hours of testimony before the committee, was that the contingency planning process did not work and it had to be changed. According to testimony there were several contingency plans for the port of Valdez and they all were inadequate and confusing. It was unclear who was in charge. And even if someone was in charge, the plan was still totally inadequate. There were insufficient amounts of boom, skimmers were in drydock, and the chemical dispesants of which there were not enough, were untested and lacked the necessary permit approval to use. Furthermore, the blame of the failed contingency plan could not be assessed, Exxon blamed the State and the Coast Guard and the State blamed Exxon, the Alyeska contingency plan was okayed by the State but not the Coast Guard; basically it was a comedy of some very grave and serious errors. In response I included a contingency planning section into the committee bill. The proposal which I drafted and introduced was passed by the Commerce Committee and will now be incorporated in the measure before us. Every tanker, on-shore and off-shore facility will be required to have fully approved contingency plans on file and readily accessible by oilspill response teams. Mr. President, the sooner these provisions are implemented fully the better. I will only breathe a bit easier when they are fully in effect. And, I will be monitoring this section very closely to assure prompt and complete implementation.

I am also pleased that the bill before us today makes absolutely clear that the Coast Guard will take charge of a situation in the event of an oilspill that endangers the environment or the public's health and safety. In Alaska, it took 3 days after the spill in Valdez before the Coast Guard finally stepped in and took command of a deteriorating situation. The Alyeska plan and Exxon's inability to take charge was so flawed that not 1 gallon of oil was contained. The bungled attempts and human failures to contain the spill resulted in zero oil contained. In fact, more oil evaporated than was picked up. This feeble attempt by man to help nature after we have despoiled her has been a travesty and an embarrassment.

In contrast Mr. President, in Rhode Island, last month a Greek tanker, *World Prodigy* ran aground spilling 2.1 million gallons of oil into Narragansett Bay. Within 30 minutes, the on-sight commander, Captain Williams deemed that it was necessary to place the Coast Guard in complete control in order to ensure adequate cleanup, containment and safety. I commend the captain for his courage and foresight but more importantly to use this example to point out the need for the Coast Guard to assume immediate control in order to prevent the disaster that we witnessed in Alaska.

One final provision of particular interest to me is the role of NOAA in promulgating regulations for the assessment of damages. We need the expertise and leadership of NOAA to be sure that the techniques used and the results achieved make sense. Unfortunately, experience in the recent past has indicated that certain approaches can be taken that totally distort any commonsense notion of "value" held by most Americans.

I am pleased that my legislation to move us in this direction is incorporated in this bill.

Mr. President, it will take several years and perhaps decades to completely understand the impact of the spill in Alaska. What will the economic impact of lost tourism, the impact to the fisheries and the livelihood of the fishermen really be? And let us not forget about the serious death toll of marine mammals, birds, and long term effects to the wildlife overall, for which I believe a price tag cannot be attached.

Furthermore, although a disaster of this magnitude is destructive and should never be allowed to be repeated it has served as warning to us, that humankind is not infallible and must be prepared to deal with the consequences of our current flawed energy policy which leaves us totally dependent on oil. As we move to develop energy conservation and energy efficiency programs, the legislation that we will pass today will offer us some security in insuring that oilspills which will likely still happen, will not be of the overwhelming magnitude of

the spill that has wreaked such havoc on Prince William Sound. Let me simply say at this point that I will continue to monitor the efforts at cleanup by Exxon with great diligence as vice chairman of NOPS. We have, at times, been less than pleased with the degree of commitment by Exxon to the complete cleanup that is required.

I am very pleased to have been able to play a part in this very important effort to plug a very serious hole in our Nation's environmental policy.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

RURAL PARTNERSHIPS ACT OF 1989

Mr. HARKIN. Mr. President, late last night we approved the Rural Partnerships Act of 1989, a very significant and innovative piece of legislation that will provide much-needed help to improve the economies of rural communities and the lives of the people who live, work and raise their families in them.

We on the Agriculture Committee have been working on such legislation for several years, and I am very pleased to see it pass the Senate. I especially want to thank and commend Chairman LEAHY for his strong leadership and great dedication and perseverance in bringing this important legislation this far.

The need for rural revitalization is clear. Small towns and rural areas often lag far behind the rest of our country in economic progress and several measures of quality of life. Across the Nation countless families have watched as their children and grandchildren leave rural communities to pursue better economic opportunities elsewhere. As people move away the lifeblood and future of these communities slips away.

Our National policy has, it seems in recent years, been speeding headlong toward creating a bicoastal economy focused on a handful of large urban centers. Unless new approaches are taken, these policies will eventually result in the rest of our country becoming a vast, forgotten flyover area. This unhealthy trend need not and must not continue. It makes no sense for more and more people to crowd into our urban areas while once vital rural communities wither and perish.

Rural America is resisting this trend, but to revitalize rural communities we need new directions in Federal policy—new directions that help rural communities become part of America's economic mainstream again. Without Federal policies acknowledging the social and economic value of rural communities and assisting to rebuild our rural infrastructure, rural America will continue to decline and a valuable part of our heritage will be lost.

A strong agricultural economy is necessary to the health of rural economies and thus we must ensure that our agricultural policies provide for adequate farm income. But farm income is not by itself sufficient to ensure the economic vitality of rural communities. We need economic diversification and the infrastructure improvement that will support improved business opportunities and a better quality of life.

I very firmly believe that there is a strong national interest in helping our rural communities find and take advantage of opportunities for economic progress. Throughout our history small towns and rural communities have been a tremendous source of social and economic wealth. The right policies will help these communities contribute even more to the strength and well-being of our Nation. The Rural Partnerships Act of 1989 reflects a commitment to the enduring and valued role of rural communities in American life.

This bill focuses on helping to meet some of the most critical needs of our rural communities: capital for business development and expansion; basic water and sewer facilities; bringing new telecommunications capabilities to rural areas to improve education, health care and distribution of business information; facilities and assistance for new businesses; and information and technical assistance to promote rural leadership, business development and rural economic renewal.

I strongly support the key provision of the bill which provides $300 million for State and local revolving loan funds for business development. These revolving funds make loans to new and expanding businesses. The Federal money will be matched dollar for dollar by local lending institutions, thus leveraging the Federal money and fostering involvement of the private sector in the community. When the loans are repaid, the revolving fund can then lend the money to other borrowers.

I also am very pleased that an amendment was adopted that will establish a new program to provide small loans and technical assistance to very small businesses.

The bill also includes provisions that I earlier introduced that will create a new loan program for rural water and sewer systems using the expertise of the rural electric cooperatives. The program will make local REC's eligible for up to $40 million in loans annually to help them provide water and waste disposal services. These loans would be made in areas where community needs are not met by Farmers Home Administration water and waste disposal grants or loans.

And I am pleased that the disaster assistance legislation that we also passed last night incorporates the emergency community water assistance legislation that I introduced earlier this year, and which was also included in this rural development legislation. My emergency community water assistance provisions will establish a program for $45 million in grants of up to $500,000 each to small communities and rural water associations for water line extensions, laying new lines, well digging and other activities related to developing new water sources.

Mr. President, I again want to note the significance of this legislation for the future of our rural communities and express my hope that it will soon be enacted.

IN MEMORY OF JOHN A. MONTGOMERY, FORMER NEWSPAPER REPORTER AND EDITOR

Mr. THURMOND. Mr. President, On July 25, 1989, South Carolinians mourned the death of one of our State's most respected and admired journalists, Mr. John A. Montgomery. Although he will be greatly missed, his personal integrity and professional objectivity will serve as a model for aspiring reporters and editors for years to come.

John Montgomery, who was affectionately called "John A.," began his professional career at the early age of 11 when he sold his first story to Boy's Life magazine. From that point on, this ambitious young man—who would one day be described by his colleagues as "the antithesis of the stereotyped tough-talking, hard-hitting newsman"—was determined to become a journalist.

In 1929, he accepted a position as a cub reporter with The State newspaper in Columbia, SC. Over the next 40 years, John A. would hold almost every editor's position in the paper and cover some of the most important events in the history of our State and Nation. In 1948, John A. managed the coverage of my Presidential campaign against Harry Truman; and in 1954, he covered my write-in election to the U.S. Senate. I always found him to be the epitomy of a professional, and my admiration for his abilities only increased throughout our association.

Charles Prestwick Scott once said:

> The primary office of a newspaper is the gathering of news—comment is free but facts are sacred.

John A. Montgomery's professional career was a testimony to these words. The people of South Carolina will long remember and appreciate his many

achievements and his outstanding contributions to the field of journalism.

I would like to extend my sincere condolences to John A. Montgomery's widow, Mrs. Lottie C. Montgomery; his brother, Mr. Miller Montgomery; his daughter, Mrs. K. Frank Hunt; and his two sons, Mr. John Alexander Montgomery and Mr. Carter Eaves Montgomery. I would also like to ask unanimous consent that the following articles from the State newspaper be included in the RECORD.

The being no objection, the articles were ordered to be printed in the RECORD, as follows:

UNFLAPPABLE JOHN A. WAS A REAL JOURNALISTIC PRO

(By Robert A. Pierce)

John A. Montgomery was not a dynamic editor who barked orders and shouted, "Stop the press." As his obituary noted, he was the antithesis of the stereotyped, tough-taking, hard-hitting newspaperman. He was mild-mannered and calm, yet decisive in both his professional and personal life.

In fact, as I contemplated this piece on the man who hired me to work for The State, I searched my memory for that rare moment when he lost his temper. I doubt he ever did.

John A., as he was known to copy boys, publishers and readers, was a quiet but vital part of the history of The State for more than three decades. He never cut a spectacular figure. He never swam in the vortex of crises nor triggered cataclysmic denouements. But as manager of the newsroom of South Carolina's largest newspaper, he unostentatiously but efficiently made crucial decisions involving coverage of two action packed decades of S.C. and American history.

John A. was the closest to being a journalistic mentor I ever had. By example, he taught the value, if not the virtue, of dogged professionalism, loyalty and, above all, patience.

His old crony, the late Abe Fennell, a former sports editor, used to call him John Asbestos Montgomery. It was an apt description for a man who never raised his voice nor lost his cool, even when the world seemed to be tumbling in on him. He was an unflappable man.

The State was not a great newspaper when John A., who started as a cub reporter for $20 a week in the depth of the Great Depression, took over as managing editor in 1941—the year Pearl Harbor forced him to put out a rare extra edition.

This newspaper coasted blandly through the post-Depression years, hamstrung by a tight budget. It was a comfortable publication that often rested on its hoary laurels and bumbled ahead in paternalistic fashion. But the newspaper very much reflected the community where it was published and unabashedly served as devout town booster and chronicler of record.

John A. had to struggle to hold together a motley wartime and post-war staff that swelled turnover statistics. The staff roll was often packed by assorted eccentrics, eggheads, geniuses and jerks. They were sometimes a rowdy bunch, and he seemed to relish the characters and comics more than the drones and drivers.

Some great talent accompanied the chaff that passed through the newsroom scene during John A.'s time, and many owe him a debt for launching their careers.

John A. served as the guru and lightning rod for these underpaid youngsters, as the whipping boy for his own boss, Editor Sam Latimer, whose decisions he had to defend, and as a willing target for occasional irate readers. He did it all in the same calm way he would have brushed his teeth. During his 20 years as managing editor, he must have endured enormous abuse. And he seldom reaped glory. That never seemed to bother him. He always accepted it as the plight of the M.E. He was ever the gentleman and the patient man. I often wonder how many ulcers he took home to his genial life companion, Lottie.

Perhaps he survived because of his wry and dry sense of humor and his philosophical perspective. He never took himself too seriously.

I always thought his small-town roots, which I shared, helped him better understand not only his state but himself. Indeed, John A., who once served as a school principal and coach, was proud that he grew up at little Greeleyville and went to college at little Presbyterian, which later awarded him an honorary degree.

John A. may have been humble and matter-of-fact, but he was a serious newsman who never became an ivory-tower editor during his days on The State. At one time or another, he held virtually every job in the newsroom. He could move into any post, and he did so when needed. Once when sickness and vacations depleted the copy desk, he moved into the top slot job and put out the newspaper virtually single-handedly. I marveld at how he could carefully but quickly edit copy, trimming it to fit without losing any meat.

Later, after John A. became editor of The Columbia Record—28 years ago—he would return to an earlier love—writing. John A. was a methodical, lucid reporter, as he showed in his book, "South Carolina's Columbia: *History of a City.*"

As a researcher and interviewer, he listened intently, as some editors today do not, and took copious notes. Colleagues were overwhelmed at the volume of copy he could mine from a trip abroad. Years later he might return to his notes, perhaps taken on an almost-forgotten trip to Africa or Europe, and recover a colorful nugget that served as the basis for a column.

I sometimes wondered if John A., one of the most intensely loyal employees The State has ever known, didn't spend half of this life listening—to his editor-in-chief, an irate staffer or an ungrateful public. Indeed, he must have had a hide of asbestos.

In fact, this aspect of John A.'s gentle disposition was perhaps his greatest weakness. He suffered fools as readily he did wise men. Old acquaintances often staggered from the street to talk about old times. Reporters spilled out their personal heartaches. Fellow department heads lamented their plight. John A. always listened sympathetically.

An eccentric from the Midwest, who once tipped The State to a major story and fell in love with the newspaper, for several years spent all his vacations in the newsroom of The State, of all places. During most of that time, he haunted the office of John A., who not only abided him but treated him with the greatest deference.

John A., who devoted most of his career after 1961 to editorials until he retired in 1972, found it difficult to write opinionated pieces as editor of The Record's editorial page. But he did himself an injustice when he told an interviewer, "I'm just not angry enough to be an (editorial page) editor."

Although he was never the consummate crusader, it might better be said of him: He not only was not an angry editor but he was not a mean or spiteful editor—or person.

John A. had the perspective of the newsman who viewed both sides of a man or an issue, who never let bias cloud his view of what he considered to be real values.

John A. never lived in a mansion, drove a Rolls Royce, courted governors nor won a Pulitzer. But, while recording South Carolina's history, he carved a deep personal and journalistic niche to those of us who knew him.

FORMER RECORD EDITOR JOHN MONTGOMERY DIES

John A. Montgomery, who began his newspaper career in 1929 as a reporter for The State and retired in 1972 as the editor of The Columbia Record, died Tuesday.

He served in almost every news editor position with The State and was its managing editor for 20 years. He was named editor of the Record in 1961 by the publisher, Ambrose G. Hampton.

Montgomery, called "John A." by his friends, was the antithesis of the stereotyped tough-talking, hard-hitting newsman. He was mild-mannered, calm and decisive in his professional and personal lives.

He was born in Greeleyville in 1908, finished the local high school in 1924 and went to Presbyterian College in Clinton. He graduated from Presbyterian College in 1928 and later became a trustee. The college presented him an honorary doctor of letters degree in 1986.

Montgomery came to work for The State in 1929 after a brief career as principal and football coach at St. Stephen High School in Berkeley County. At age 11, he had sold a story to Boy's Life magazine and wanted to be a newsman.

He began work as a cub reporter at $20 a week in the depth of the Great Depression. There were five reporters on the staff. He later recalled in an interview that as the Depression worsened, some newspaper employees worked without pay.

Montgomery was a reporter until 1935, when he became sports editor. In 1938 he was named city editor. Three years later he was managing editor—in time to put out The State's extra when the Japanese attacked Pearl Harbor, Sunday, Dec. 7, 1941.

"When the newspaper called me to say the news had come over the wire, I didn't even know where Pearl Harbor was," he told an interviewer. He wasn't the only one, of course. After World War II, he was to also publish news accounts of Americans fighting in other unfamiliar places in Korea and in Vietnam.

Montgomery was a newsman in a colorful part of South Carolina's history. He knew and wrote about 15 governors and legendary political figures such as U.S. Sen. Ellison D. "Cotton Ed" Smith. He covered the National Guard's takeover of the State Highway Department after Gov. Olin D. Johnston declared it in rebellion in 1935. He managed the coverage of Strom Thurmond's Dixiecrat presidential campaign in 1948 against Harry Truman and, in 1954, Thurmond's write-in election to the U.S. Senate.

As a newsroom editor, he was expected to be objective. "My philosophy is to find out what the people want to read and get it from them—and make it right," he once

said. "The simplest emotions make the greatest stories. That's the way it always has been."

But when he moved to the Record's editorial office, where he was expected to write opinionated pieces, he found the difference challenging: "I'm just not angry enough to be an editor, just not angry by training," he explained in a 1972 interview.

The hallmark of his editorials and reportorial writings was reseaarch and factual detail. He was a voracious, studious reader and took extensive notes on the stories he covered. "The easiest part of editorial writing is the writing itself," he said. "The hard part is the reading, study and research that goes on before. . . . People don't realize how hard it is to fill that small amount of space allotted to editorials."

Montgomery traveled widely and reported at length on what he saw and learned. He went on assignments to Europe in 1956, 1958, 1962 and 1963, visiting England, Scotland, France, West Germany, Italy and Iceland. In 1967 he went to Southern Africa and to Japan, Hong Kong, Macao and Israel in 1969.

In retirement, Montgomery continued writing. He wrote the 25th anniversary history of Shandon Presbyterian Church and in 1979 finished a two-year project sponsored by the Greater Columbia Chamber of Commerce, a book titled "South Carolina's Columbia: History of a City."

Montgomery participated in a variety of community organizations. He was Democratic party chairman of Columbia's Ward 15 and in 1960 was an alternate delegate to the Democratic National Convention.

He served on the boards of the S.C. Vocational Rehabilitation agency, Family Service Association of America, Columbia Family Service Association, U.S.O., the Central S.C. Boy Scout Council, the advisory group of the S.C. Regional Medical Program, Rally Support for Vietnam Personnel, and the S.C. Division of the American Cancer Society.

He was also a director of the Richland County Red Cross, the Greater Columbia Chamber of Commerce, the United Way and the Shaw Air Force Base Advisory Council.

He had been an officer of the Lions Club and was a member of The Palmetto Club, the Cotillion Club and Sigma Nu fraternity.

Professionally, he was a lifelong member of the S.C. Press Association, which he led in 1959, and was a member of the American Society of Newspaper Editors.

Born May 15, 1908, in Greeleyville, Montgomery was a son of the late John Alexander and Kate Eaves Montgomery.

He is survived by his widow, Lottie Carter Montgomery; a brother, Miller Montgomery of Columbia, a daughter, Mr. K. Frank (Carole) Hunt of Blythewood, two sons, John Alexander (Al) of Blythewood and Carter Eaves Montgomery of Atlanta; two grandsons; and two granddaughters.

Funeral arrangements will be announced by Dunbar Funeral Home.

UNITED STATES-CANADA—ATITUDES AND RELATIONS

Mr. KENNEDY. Mr. President, last month's edition of Canada's weekly news magazine, Maclean's, was devoted to an examination of the United States-Canada relationship. It included an interesting poll about the attitudes of the citizens of both countries. One thousand Canadians and an equal number of Americans were asked about a variety of issues ranging from crime and health care to their attitudes about their neighbors across the 49th parallel. The results of the poll are interesting, informative, and sometimes surprising.

The poll reflects many differences in attitudes which I expect will come as more of a surprise to Americans than to Canadians, since 78 percent of Americans polled described Canadians as being "mainly the same" or "essentially the same" as themselves, while only 56 percent of Canadians agreed with that assessment.

Pollution is the No. 1 concern of Canadians, while Americans are most concerned about drugs and alcohol. Twenty-four percent of Americans own a handgun compared with only 3 percent of Canadians. Canadians overwhelmingly oppose becoming the 51st State, while almost half of the Americans surveyed would welcome Canada into the Union. Canadians most often describe themselves as "tolerant" while Americans see themselves as "independent-minded." And surprisingly, more Americans than Canadians feel that they can count on Govenment to act in the public interest most of the time.

Unfortunately, the poll reflected that Americans know embarrassingly little about Canada, while Canadians know a great deal about the United States. Thirty-five percent of Canadians know that DAN QUAYLE is Vice President of the United States, but only 11 percent of Americans can name Brian Mulroney as the Prime Minister of Canada.

I believe that this recent poll will be of great interest to my colleagues and everyone interested in United States-Canada relations. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the poll was ordered to be printed in the RECORD, as follows:

A NORTH-SOUTH DIALOGUE

The complete Maclean's poll of 1,000 Canadians and 1,000 Americans was conducted by Toronto-based Decima Research. The results are considered accurate to within 3.3 percentage points 19 times out of 20.

(Numbers have been rounded out and may not add up to 100 per cent.)

(To Canadians) What is the most important problem facing Canada today, the one that concerns you the most?

Pollution/environment 17%
Unemployment 10%
Free trade 9%
Deficit/national debt 9%
Social/moral 9%
Inflation 5%

(To Americans) What is the most important problem facing the United States today, the one that concerns you the most?

Drugs/alcohol 18%
Deficit 16%
Social/moral 6%
Homeless/poverty 6%
Pollution/environment 5%
Economy 5%

Would you be prepared to see either taxes increased significantly or services cut in order to reduce the federal deficit?

	Canada	United States
Yes	48%	54%
No	49%	44%

Quebec residents were significantly less likely than other Canadians to be willing to see their taxes increased or services cut in order to reduce the federal deficit.

Canadian average 48%
Quebec 32%

Do you feel that you can count on business to act in the public interest all of the time, most of the time, hardly ever or never?

	Canada	United States
Never	8%	7%
Hardly ever	38%	37%
Most of the time	48%	54%
All of the time	5%	3%
No opinion	1%	

Do you feel that you can count on government to act in the public interest all of the time, most of the time, hardly ever or never?

	Canada	United States
Never	8%	5%
Hardly ever	36%	32%
Most of the time	51%	60%
All of the time	5%	3%
No opinion	1%	

In times of crisis, do you believe government should or should not have the power to declare a national emergency and remove all civil rights?

	Canada	United States
Should not	49%	56%
Should	48%	41%
No opinion	3%	3%

Quebecers would be less willing than other Canadians to have civil rights removed.

Canadian average 48%
Quebec 37%

Do you view the following as an absolute right that can never be taken away, or as a limited right, one which in certain circumstances can be limited by government?

(a) Job protection for a woman on pregnancy leave

	Canada	United States
Limited right	29%	27%
Absolute right	71%	72%
No opinion		1%

(b) A publicly funded health care system available to all, regardless of financial situation

	Canada	United States
Limited right	29%	46%
Absolute right	71%	52%
No opinion		3%

(c) A guaranteed minimum income for everyone

	Canada	United States
Limited right	37%	47%
Absolute right	62%	51%
No opinion	1%	2%

(d) Child care available to everyone who wants it

	Canada	United States
Limited right	50%	53%
Absolute right	50%	46%
No opinion		1%

Quebecers were much more likely than Ontario residents to say that a guaranteed minimum income is an absolute right.

Canadian average 62%
Metropolitan Toronto 49%
The rest of Ontario 43%
Quebec 75%

British Columbia residents were less likely than residents of any other province to say that child care should be an absolute right.

Canadian average 50%
Metropolitan Toronto 46%
The rest of Ontario 38%
Quebec 68%
British Columbia 39%
Atlantic provinces 49%

Have you ever been robbed or assaulted?

	Canada	United States
Yes	21%	26%
No	79%	74%

Do you own a handgun?

	Canada	United States
Yes	3%	24%
No	97%	75%
No opinion		1%

Are you afraid to walk alone on the streets of your community at night?

	Canada	United States
Yes	24%	31%
No	76%	69%

Young Americans between the ages of 18 and 24 expressed greater fear of walking alone at night in their communities than did Canadians of the same age groups.

Canadian average 24%
Canadians (18 to 24) 18%
U.S. average 31%
Americans (18 to 24) 38%

Have you ever used illegal drugs?

	Canada	United States
Yes	11%	13%
No	89%	86%
No opinion		1%

Young Americans are more likely than young Canadians to have used illegal drugs.

Canadian average 11%
Canadians (18 to 24) 17%
U.S. average 13%
Americans (18 to 24) 31%

Would you favor or oppose shutting down a major company that provided many jobs in your community if it was polluting the environment?

	Canada	United States
Oppose	37%	33%
Favor	60%	64%
No opinion	3%	3%

Prairie residents are more likely to favor shutting down a polluter.

Canadian average 60%
Prairies 71%
Quebec 54%

What do you think is better for Canada/the United States: that new immigrants be encouraged to maintain their distinct culture and ways, or to change their distinct culture and ways to blend with the larger society?

	Canada	United States
Maintain	34%	47%
Change	61%	51%
No Opinion	5%	2%

Young Canadians are more likely than young Americans to say that immigrants should change their customs.

Canadian average 61%
Canadians (18 to 24) 57%
U.S. average 51%
Americans (18 to 24) 34%

Would you be happy, indifferent or unhappy if one of your children married someone from a different racial background?

	Canada	United States
Unhappy	13%	32%
Indifferent	60%	51%
Happy	25%	15%
No opinion	2%	2%

Have you ever been the victim of racial or ethnic discrimination?

	Canada	United States
Yes	12%	18%
No	89%	82%

Residents of Metropolitan Toronto were more likely than other Canadians to have been the victims of racial or ethnic discrimination.

Canadian average 12%
Metropolitan Toronto 24%
The rest of Ontario 10%
Atlantic provinces 5%

(To Canadians) If you had to describe Americans in one word, what would it be?

Snobs 11%
Good 9%
Friendly 8%
Pigheaded 6%
Aggressive 5%
Powerful 5%
Obnoxious 4%
Indifferent 4%
Stupid 3%
Rich 3%
Neighbors 3%
Capitalistic 3%
Don't know 8%

(To Americans) If you had to describe Canadians in one word, what would it be?

Friendly 28%
Nice 9%
Neighbors 6%
Wonderful 5%
Similar 4%
Satisfied 3%
Normal 3%
Delightful 2%
Northerners 2%
French 2%
Don't know 11%

Would you describe Canadians and Americans as essentially the same, mainly the same but with some small differences, mainly different but with some small similarities, or essentially different?

	Canada	United States
Essentially the same	13%	18%
Mainly the same	43%	60%
Mainly different	24%	15%
Essentially different	19%	6%
No opinion		2%

Would you strongly support, support, oppose or strongly oppose Canada and the United States adopting common and identical policy on all matters relating to defence and foreign affairs?

	Canada	United States
Strongly oppose	24%	4%
Oppose	36%	19%
Support	33%	58%
Strongly support	5%	15%
No opinion	2%	3%

Would you strongly favor, favor, oppose or strongly oppose Canada becoming the 51st state of the United States with full congressional representation and rights of American citizenship?

	Canada	United States
Strongly oppose	54%	10%
Oppose	31%	22%
Favor	12%	54%
Strongly favor	2%	12%
No opinion	1%	3%

Quebecers were more likely than other Canadians to favor joining the United States.

Canadian average 14%
Quebec 23%
Metropolitan Toronto 14%
The rest of Ontario 9%

Would you strongly favor, favor, oppose or strongly oppose Canada and the United States adopting a common currency?

	Canada	United States
Strongly oppose	21%	4%
Oppose	28%	19%
Favor	40%	62%
Strongly favor	9%	12%
No opinion	2%	2%

Quebecers were more likely than other Canadians to favor a common currency with the United States.

Canadian average 49%
Quebec 60%

Are you aware that Canada and the United States recently signed a Free Trade Agreement?

	Canada	United States
Yes	97%	57%
No	3%	43%

(To Canadians) Which one of these words, in your view, best describes the ideal Canadian?

Tolerant 38%
Independent-minded 27%
Peaceful 26%
Aggressive 3%
Clean 3%
Sexy 1%
No opinion 1%
(To Americans) Which one of these words, in your view, best describes the ideal American?
Independent-minded 52%
Tolerant 21%
Aggressive 12%
Peaceful 12%
Clean 3%
Sexy 1%
No opinion 1%
(To Canadians) If you had to rate American men/women on a scale of 1 to 10 where 1 was "very unattractive" and 10 was "very attractive," how would you place them?
Mean attractiveness rating: 6.17
(To Americans) If you had to rate Canadian men/women on a scale of 1 to 10 where 1 was "very unattractice" and 10 was "very attractive," how would you place them?
Mean attractiveness rating: 6.31
(To Canadians) Would you like to send your children to the United States to attend university or college?
Yes 41%
No 58%
No opinion 2%
(To Americans) Would you like to send your children to Canada to attend university or college?
Yes 58%
No 39%
No opinion 3%
(To Canadians) Who would you say is Canada's biggest trading partner?
United States 83%
Japan 9%
China 1%
Europe 1%
No opinion 6%
(To Americans) Who would you say is the United States' biggest trading partner?
Japan 69%
Canada 12%
China 3%
U.K./Britian 2%
Soviet Union 2%
Germany 2%
No opinion 6%
(To Canadians) Would you like to live in the United States?
Yes 27%
No 73%
(To Americans) Would you like to live in Canada?
Yes 42%
No 56%
No opinion 2%
(To Canadians) What do you least like about Americans?
Superior attitude 25%
Nothing 10%
Lack of knowledge about Canada 7%
Aggressive 5%
Crime/violence 4%
Loud 3%
Selfish/greedy 3%
Military 3%
Racial discrimination 3%
Pushy 2%
Unfriendly/rude 2%
Don't know 12%
(To Americans) What do you like least about Canadians?
Nothing 37%
Do not know Canadians 18%
Do not know about them 14%
French-speaking 6%
They think they are better 3%
Don't know 4%
Arrogant 2%
(To Canadians) Do you know who the vice-president of the United States is?
Yes, Dan Quayle 35%
No 56%
Yes, other 8%
No opinion 1%
(To Americans) Do you know who the prime minister of Canada is?
Yes, Brian Mulroney 11%
No 81%
Yes, other 8%

CONGRESSIONAL SENIOR CITIZEN INTERN PROGRAM

Mr. PRESSLER. Mr. President, for 14 years I have sponsored a senior citizen intern. I am very proud of the men and women who have served as interns in my office and would like to take this opportunity to recognize them and their communities.

1989: Lucille Stafford, Ipswich, SD.
1988: Morris W. Magnuson, Sioux Falls, SD.
1987: Vernon Ashley, Pierre, SD.
1986: Ivy Nogle, Verdon, SD.
1985: Wilber Foss, Yankton, SD.
1984: Dakota Hildebrand, Wall, SD.
1983: Betty Atkinds, Sioux Falls, SD.
1982: Cecile Monson, Sioux Falls, SD.
1981: Ammrette Deibert, Bison, SD.
1980: Rose Bordeaux, St. Francis, SD.
1979: Ruth Williams, Chester, SD.
1978: Carl Hansen, Parker, SD.
1977: Rose Ewert, Freeman, SD.
1975: E.W. Mueller, Sioux Falls, SD.

The Congressional Senior Citizen Intern Program is a wonderful learning experience. This program gives senior citizens the opportunity to learn firsthand how their Nation's government works. It is a week-long Washington experience that helps older Americans develop a better practical understanding of how public policy affects their lives and how an individual's efforts can significantly affect public policy. The senior citizen interns are actively involved in seminars, briefings, workshops, and onsite study visits throughout our Nation's capital.

This program also helps to educate me and my staff on the concerns and viewpoints of older Americans on a wide variety of issues. Every year we look forward to the arrival of my next senior citizen intern. We have learned much from them and respect their wise advice.

Mr. President, I could describe in much greater detail the advantages of the senior citizens interns and I gain from this program for the interns and myself. However, a report developed by my senior intern this year, Lucille Stafford, states more eloquently than I could the value of this program. I ask that a copy of her report appear in the RECORD following my remarks.

I commend the Senate Special Committee on Aging and the House Select Committee on Aging for their efforts in arranging the Congressional Senior Citizen Intern Program with the Close Up Foundation.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT OF 1989 SENIOR CITIZEN INTERN PROGRAM, MAY 21-27, 1989

(By Lucille Stafford)

My week in Washington, D.C. representing the Senior Citizens of South Dakota in May, 1989 was a very busy and most interesting one. The program was conducted by the Close Up Foundation—well planned and organized. The Instructors and Guides are well trained and knowledgeable and the concerns and courtesies shown us were super. Each staff member gave me a feeling of confidence about myself. (This was my first experience at anything like this, and I anticipated being nervous and afraid to speak out.)

Throughout the week, it was evident that certain wisdom and knowledge gained only through longevity and experience is being recognized as a valuable tool in this fast changing world. Because history repeats itself, the input from the Interns can be very beneficial to those leaders shaping the destiny of our democracy.

This program, in its unique way, helps ordinary citizens, like myself, get involved and take that learning experience back to their own communities and states. We were given a chance to share ideas on current issues with others far removed from our particular part of the country.

By dividing the 200 or more Interns into smaller groups, more individuals were given an opportunity to ask questions and hear the viewpoints from across the nation. Even the handicapped can be involved. One of the Interns was deaf, and some Close Up individual was always with him, translating in sign language every spoken word at the workshops and seminars.

I must say, the highlight of the week was visiting Senator Pressler's office, meeting him and his outlining what I was expected to do as an Intern. I have to admit, I am still somewhat in shock as never in my life did I expect to ever be given such an assignment. I sincerely hope that through this year, I may be able to help people understand how important their views and involvements are in today's troubled times.

The week began May 20, 1989 when I landed at International Airport shortly after 3 p.m. and was met by Mary Schneider, Senator Pressler's Legislative Assistant who invited me to her home to spend the night. I got acquainted with her very friendly companion, "Corky", who gave me a very warm welcome. That dog is delightful, full of vim, vigor and vitality and made me feel right at home since we have two dogs here at the farm.

Mary checked me into the Ramada Hotel Old Town, Alexandria, Va. Sunday afternoon. Registration was in the Cameron Room where I received my ID badge, a packet with information about the program which included a schedule of activities for the week. I was assigned to room 717 and my room-mate, Anita Mandel of Los Angeles arrived shortly.

Before the orientation dinner in the Washington Room at the Ramada, we had an opportunity to mingle with other Interns

and introduce ourselves. At the banquet, the Close Up Foundation introduced their instructors and guides and outlined the basics of the week-long program. We were assigned workshops and bus numbers, which divided us into various groups. Our first workshop was that evening, with groups meeting in various rooms.

Laura was our instructor. She had a unique way of getting us acquainted. Each Intern was given a card with the name of a famous person and we had to interview the person holding the card of the matching celebrity. In turn, we had to introduce that individual to the group telling what we had learned about them.

Following a buffet breakfast every morning, we were transported to the various workshops and seminars. Monday, we went to Capitol Hill to the seminar on the Legislative process where we learned there are three office buildings with the Capitol in the center. Most of the work goes on in these buildings. Senators have personal staffs, with so many assigned to each Senator, according to budget allowances. The staff does legislative work, and they must become very knowledgeable and know what is going on at all times.

The mail, which is a part of the legislative process, is a tremendous workload. The staff executes that and their answers must include the Senators' thoughts and answers. They monitor committees and furnish information so the Congressmen can vote intelligently and be knowledgeable about the issues being voted on.

Mary Schneider met me at this workshop and escorted me to the Senator's office. On Wednesday I had an opportunity to visit his office again and she gave me a tour and introduced me to members of the staff. They briefly explained their duties and responsibilities. They were very outgoing and friendly, and I didn't feel like a stranger at all. With a TV monitor in every compartment, and the magic of modern electronics, it was evident that the most important function is knowing all the state and world affairs and keeping the Senator informed. I was also made aware of the fact that every letter, telephone call or personal visit is answered, filed and microfilmed. With the computer system, all information is at the fingertips of the staff.

The workshops were interesting. It was a lot of information to absorb in a short time, and at our age, things often have to be run past us a few times! I took notes which I have been reviewing as time permits. I did have an opportunity to speak out at the "Aging Committee Overview" at the luncheon seminar at Quality Inn, Capitol Hill Hotel.

I ventured to say that there is a saying: "You get what you pay for, but that isn't necessarily so in South Dakota. We have the same amount taken out of our Social Security checks for Medicare as elsewhere, yet our rural and small hospitals do not get reimbursed the same as others."

The seminar on Catastrophic Health Care was interesting with a lot of input from various Interns. A question and answer period never seems long enough for all who wish to speak or ask questions.

The Budget Activity, conducted in the Regency Ballroom, I believe, was the most enlightening, yet rather frustrating. I know all of us can better appreciate the dilemma of Congressmen in trying to cope with the deficit. Each of us in groups of 8 to 10 at round tables struggled with the "Exercise in Hard Choices" which was a 27 page circular, simulating the kind of give and take that goes on in a Congressional Budget Committee, a conference committee on the budget, or a "summit" trying to put together a budget. It was up to us to either approve or defeat the projections calculated there.

Topical seminars I attended included "Immigration" and "Cry Freedom: The Struggle in South Africa." Two ladies in our group were both foreign born and came to the United State in their youth to gain a better life. They had a lot of input, and stressed that too many take U.S. for granted. They started at the bottom, were naturalized citizens, gained an education and both hold responsible positions. They both stated: "Bloom where you are!" They said anyone can make it here, but they have to WORK! You don't get something for nothing.

We visited the Embassy of South Africa, and Horace Van Rensburg, Counsellor, was the speaker. In relating the many problems they encounter, having riches and resources but unable to develop and cash in on them, reminded me of South Dakota—we produce and have resources too, but have to send them away for processing and then buy them back.

Another workshop I attended was "Poverty and the U.S. Congress: Welfare Reform and Minimum Wage." There was a great deal of input at this meeting from Interns.

The seminar on Child Care was questioned by some. Why should Senior Citizens be involved in this. Was it pitting Senior Citizens against children? Children will eventually become Senior Citizens. Today with both parents working, and so many single parent homes, there are far too many children "latch-key" kids with TV being their baby-sitter. My input would be how this century operates will affect the sunset of their lives. Perhaps industries employing mothers should provide proper child care, which would develop a better sense of values in that generation, consequently their children in turn might have higher ideals and morals than the promiscuity so rampant today in our youths.

The walking workshops on Capitol Hill were interesting. Close Up guides pointed out many places of interest we passed while being transported from place to place. We had a tour of the Jefferson Monument. I was amazed at the size of the various monuments—the tons of marble, Minnesota granite and Indiana limestone, together with the 19 foot statute. This was quite a contrast to the size of what we have—a cement bust of Sitting Bull out at Mobridge, and the figures in "Story Book Land" at Wylie Park in Aberdeen, S.D.

We enjoyed the night tour of Washington. I counted 51 steps up to touch the Lincoln statue at the Memorial. The Vietnam Memorial was a tear-jerker. I did appreciate the 30 minutes we had at Kennedy Center. Friday we toured Arlington National Cemetery, but time did not permit us to see the house of Robert E. Lee. He was a cousin of my aunt's mother-in-law. Small world! I found that out when I met Mary Schneider—she is a cousin of Del Waterbach, an Ipswich resident I know well. Then, Shirley Erstad is a sister of our neighbor's daughter-in-law. That all goes to prove that one should never tell any tall tales when away from home because the truth will always come out!

Friday came all too quickly. I was overwhelmed when I arrived at the Senator's office that afternoon. How wonderful and thoughtful of the staff to have a farewell party for me at which time I was privileged to meet a charming lady, Mrs. Larry Pressler and visit with her.

At the farewell banquet at the Ramada that evening, I wore my great-grandmother's dress which is over 100 years old, in keeping with the South Dakota Centennial. During the week I wore the ID badge, my "Direct Descendant" pin, a South Carolina button and the Centennial logo. (Perhaps some thought that I thought I was some sort of 4-Star general)—but with the costume I had on, I was asked to go to the microphone to tell about my costume. This gave me an opportunity to exploit our State and my home town of Ipswich, since one of our first pioneers was the father of the Yellowstone Trail (Hiway U.S. 12) and Lake Parmley development at Mina.

During the week, many seeing I was from South Dakota, approached me about a news release suggesting Ronald Reagan's face be added to Mt. Rushmore. I only raised my eyebrows with no comment. However, while at the microphone, I opened up a brochure of Mt. Rushmore and asked where was there room for such a face. In jest, I suggested perhaps it would be better to put him with Crazy Horse and let them ride double!

Thank you for listening. If there are any questions, feel free to ask. We did not get to observe the Senate in session, but the procedures were explained at the workshops. I have a lot of notes I didn't cover in this report.

DEATH OF ROBERT "AQQALUK" NEWLIN

Mr. MURKOWSKI. Mr. President, the State of Alaska and the Northwest Arctic Inupiat Eskimos have experienced a great loss. Robert "Aqqaluk" Newlin, Sr., died on Sunday, July 23, 1989, while touring the Soviet Union.

Mr. Newlin served his State and community for many years as the chairman of the board of directors of the NANA Regional Corp., since its inception in 1972. Before that, he was the president of the corporation's nonprofit predecessor, the Northwest Alaska Native Association, from 1968 to 1972. In these official capacities, he has served longer than any other Native leader.

Robert Newlin was not only a leading force in NANA, he also cared deeply about the youth in his community. He was instrumental in creating the Inupiat Ilitquisat—the Spirit Program. A program that was formed to promote the active practice of traditional Inupiat values. This program illustrated Mr. Newlin's commitment to the people of Northwest Alaska and it's traditional values.

He was also a past member of the Northwest Arctic Borough Assembly and the Northwest Arctic Borough School District Board of Directors. Aqqaluk High School in Noorvik is named in his honor. Aqqaluk was Mr. Newlin's Inupiat name.

Mr. Newlin's entire life is a model of service and dedication to his community and his beliefs. Mr. Newlin was born in Noorvik—a small village in Northwest Alaska, and spent his entire life

in this Kobuk River village. He served in the Alaska National Guard, retiring from the Guard with the rank of sergeant first class. For many years, he ran the general store in Noorvik. He worked as a commercial fisherman, and like most of the Inupiat of the region, depended on subsistence hunting and fishing.

Robert Newlin also served as the mayor of Noorvik for many years as well as on the Noorvik city council. He was first elected to the Northwest Alaska Native Association in 1966, as a representative of Noorvik. This association was one of a group of Native organizations that formed the Alaska Federation of Natives to promote the Alaska Native Claims Settlement Act. NANA Regional Corporation was formed as one of the original Native corporations who manage the land and assets under the 1971 Settlement Act.

His leadership and commitment to the Native people of Northwest Alaska will long be remembered. His dedication to traditional values and his proven ability to guide his community into the future will be sorely missed. I express my deepest condolences to the Newlin family and the community of Noorvik.

TRIBUTE TO HON. ALAN WOODS, LATE ADMINISTRATOR FOR THE AGENCY FOR INTERNATIONAL DEVELOPMENT

Mr. LEAHY. Mr. President, the world is a better place today because of the life, the vision, the activism of Alan Woods, the late administrator of the U.S. Agency for International Development. Alan died late last month after a year-long illness, during which he showed tremendous courage and grace. Tragically, he was only 43 years old, at the height of a distinguished career, and he left a wife and two young daughters.

I offer my deepest sympathy to his wife, Cameron, his children, his parents, and to his parents-in-law, who themselves come from Vermont.

To the bitter end Alan was a fighter, a man of strength and of action. A man committed to the well-being of others. While struggling to carry out the duties of his office, Alan never gave in to his illness. He kept working for others, especially the poor, the sick, the disadvantaged, until the end. This was Alan's style. This is what made him so special. His indomitable spirit serves as an inspiration to all of us who had the privilege of working with him in his many years of service to the American people.

Alan brought a high standard of excellence to the Agency for International Development. As administrator, he directed U.S. economic and humanitarian assistance programs in more than 70 developing nations and managed a budget of over $6 billion in an organization of 4,300 people at posts in Washington and around the world. I value our several discussions of U.S. foreign aid policy in the short time since I became chairman of the Foreign Operations Subcommittee. It was a pleasure to talk to Alan about how to improve our foreign aid, and I genuinely looked forward to several years' close association with him in shaping U.S. foreign assistance programs.

Mr. President, I rise today in recognition of Alan's contributions to our Nation's foreign policy and for his friendship to the disadvantaged peoples of Asia, Africa, and Latin America. There are many, many people around the world whose lives are better because of Alan Woods, and I know they share with all Americans, and the Woods family, sorrow at his passing. Few are given the opportunity to do so much to improve the lot of millions of other people in so short a career as that granted to Alan.

Mr. President, Alan Woods began his career in public service 20 years ago as press assistant to President Richard Nixon. He rose rapidly from this position to become Deputy Director of Presidential Personnel in the Ford White House in 1974, civilian chief of staff to the Secretary of Defense in 1975, and then Assistant Secretary of Defense in 1976.

Seeking an opportunity to broaden his Washington experience, Alan accepted the position of vice president of DGA International in 1977, a firm engaged in defense and civil aerospace consulting. He later developed an expertise in international trade while serving as vice president for technology, Sears World Trade and as deputy United States trade representative, responsible for trade negotiations affecting manufacturing, agricultural and service industries.

Alan's greatest challenge, however, came when he was appointed administrator for the Agency for International Development in November, 1987. I came to know Alan best in this capacity, and quickly grew to respect his dynamism and unflagging commitment to Third World growth and alleviation of poverty. Alan's warm, congenial personality easily earned the confidence of his coworkers at AID, and the legions of development activists which make up the community of nongovernmental organizations working in the area of foreign aid. His door always was open to their concerns, his heart was moved by their pleas. I believe we were fortunate, if only for a short time, to have this man at the helm of AID, and to have been touched by his spirit of compassion.

Mr. President, Alan Woods will be remembered for many things. He was an excellent manager, an eloquent spokesman, and an effective implementor of agency programs. Yet, what I believe will stand as his most lasting monument will be the report he authored entitled: "Development and the National Interest: U.S. Economic Assistance into the 21st Century." Released in February of this year, the report has served as a catalyst for a vigorous debate over the future of our country's foreign aid program. With a candor, vigor and style rarely seen in government publications, this report examines the history of United States foreign assistance, its successes and failures, and recommends that steps be taken to improve its effectiveness. As Alan stated:

> Earlier ideas that cast governments or ruling elites as the chief source of human progress are being challenged and sometimes even cast aside. In their place, we see a new understanding of development—one focused on the efforts of individuals working for their own economic and social improvement, with governments expanding their opportunities, investing in people, and encouraging human development that ensures participation by all economic and social classes.

Mr. President, we are fortunate to live in a country which produces men the quality of Alan Woods. He was a true statesman, a man of honor and integrity, an example of excellence in government. I will miss his friendship and wise counsel.

DISASTER ASSISTANCE ACT

Mr. JOHNSTON. Mr. President, the situation in Louisiana is terrible. Over half of my State's parishes have been declared disaster areas. Since April, we have seen more rain during the 3-month period than at any other point in the last half century. We have had tornadoes. We have had hurricanes. We have had such torrential rain and flooding that farmers have been using pirouges to survey their water-covered fields. One thing which these farmers have not had is any type of assistance. They need it and we should see that they get it now.

This was to be a big year for Louisiana agriculture. The Louisiana Agricultural Statistical Service estimated that soybean farmers were planning to increase their soybean planting up to almost 2 million acres. Instead, 25 percent of that amount was not even planted because of the rain and another 400,000 acres were lost or are in questionable condition. The situation for sweet potatoes looked promising as well but is now equally bleak. Increased demand for sweet potatoes and research done in Louisiana in the development of a new strain of the Beauregard sweet potato had resulted in plans to increase sweet potato planting to almost 20,000 acres. These farmers were expecting a bumper crop. Instead they are now digging up potatoes which are rotten and sour after having boiled in rain-saturated ground. The list goes on. Cotton,

wheat, fruits and vegetables—including the peach crop, which is a total, complete loss for the fourth year in a row—all of these crops have sustained damage and will not be meeting their projected yields. There is no questioning of the seriousness of the devastation which has occurred. It is a dire situation. The last disasters of this magnitude for agriculture in Louisiana were the droughts we experienced in 1980 and 1981 and experts are saying that this will probably be far worse.

In light of this, I can think of no better, more responsive congressional action than a speedy passage of this bill, Mr. President. It addresses the needs which face not only Louisiana but the other Southern States who have withstood this disaster and whose farmers need some hope of survival. I am not alone then in my concern over the situation and my interest in seeing rightful assistance go to these individuals who desperately need it. This bill adequately addresses the disaster and the dire situation in which it has placed farmers. We should not delay one more moment in its passage.

As someone who has seen firsthand the destructive effects of the weather on agriculture in my State, I can certainly appreciate the need for assistance being provided to the victims of other weather-related disasters such as the drought. Last year we provided assistance for those farmers who sustained damage because of the drought and we should see through on that commitment. In my opinion, there is little difference between that disaster and ours in Louisiana other than the respective causes. In my State, it was too much rain. In Kansas, it was too little. Both are disasters, however, and deserve to be treated accordingly. And equitably.

I am only requesting that we show the fair and even-handed consideration we have demonstrated in the past on similar problems and which this situation calls for as well. What we have experienced in Louisiana and throughout the South as of late is no less a tragedy for farmers than other disasters in other areas of the country have been. We need to be responsive and demonstrate that we are equally concerned and I think a disaster relief initiative like this one provides us with an excellent oportunity to do so.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, today marks the 1,601st day that Terry Anderson has been held in captivity in Beirut.

I ask unanimous consent that a Christian Science Monitor article on this subject be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Jan. 20, 1988]

HELD CAPTIVE IN LEBANON—SISTER OF HOSTAGE ANDERSON URGES ACTION

(By Clint Jones)

BOSTON.—From her home in Batavia, N.Y. Peggy Say feels a certain closeness today with the family and friends of Anglican Church envoy Terry Waite on the one-year anniversary of his captivity in Lebanon.

She had similar feelings on March 16, 1986, a year after Terry Anderson, her brother and the Associated Press's chief Middle East correspondent, was taken hostage in Beirut. "I don't understand why he [Mr. Anderson] is not home. I don't understand why the others are not home," Mrs. Say says.

It is only a matter of weeks before Anderson's family and friends will solemnly mark the third anniversary of his captivity. Anderson has been a hostage longer than any of the other Americans being held captive in Lebanon.

Say is frustrated that the hostage situation is viewed as a political issue rather than a human rights issue. Say watched the television coverage of Soviet leader Mikhail Gorbachev's visit to Washington and saw the groups of Americans demonstrating and demanding freedom for Soviet Jews. She supports such protests, she says, but wonders why Americans aren't outraged by the treatment of American hostages in Lebanon.

"There are eight Americans that are being deprived of their human rights, living in basements, chained and blindfolded most of the time. I can't understand why there seems to be almost a lack of concern," says Say. She presumes part of the answer is that Americans are simply tired of hostage situations.

Say expresses renewed frustration with the Reagan administration. Before the disclosure of United States arms sales to Iran, Say complained vociferously that the administration wasn't doing anything to free the hostages. After the scandal broke, Say and the families of other hostages were told there was a new policy concerning the hostages.

They were told nothing would be done either overtly or covertly to gain the hostages' release and the families would never again have access to government officials other than through an appointed State Department liaison.

"I'm given bare bones since the Iran-contra scandal." In a soft but firm voice, Say adds, "I didn't sell arms to Iran, nor did I persuade President Reagan to, but I'm certainly being punished as if I had." Say and other relatives of the hostages received hate mail from some Americans who blamed the families for pressuring the administration into the Iran arms sales.

Say says she simply cannot accept the State Department contention that everything that can be done is being done, and that the hostage situation calls for quiet diplomacy. She doubts that would be the case if another plane load of Americans was taken hostage. "I saw the TWA hijacking in 1985 resolved in 17 days," says Say. She notes the terrorists' initial demand in that instance was the same one being made for the release of Anderson and other Americans, the release of 17 terrorists in Kuwait. Eventually the TWA passengers were released, in exchange for Palestinians being held by Israel.

"People don't see this current hostage situation in the context of other hostage situations. No one ever criticized the way the TWA or Achille Lauro were resolved," Say says. In October 1985, Palestinian guerrillas seized the Achille Lauro, and Italian liner, and demanded the release of Palestinian prisoners. One person was killed.

Say wants the administration to negotiate with the terrorists and find some solution that will allow both sides to save face.

CLEAN AIR BILL

Mr. LEVIN. Mr. President, I am cosponsoring the clean air package introduced today by Senator CHAFEE, S. 1490. I am cosponsoring this bill not because I believe that every provision in the bill is right. But because I believe that it is a reasonable starting point for the deliberations on clean air.

There are a number of provisions that I am concerned about. For example, I am concerned about the environmental effects of the emissions of some of the proposed clean fuels.

I hope that my concerns can be resolved. On balance, this bill is a useful step toward cleaner air—an issue that is of great concern to all Americans.

DEATH OF ROBERT J. FARO

Mr. STEVENS. Mr. President, I wish to take a moment to recognize the contributions of a very special Alaskan.

Bobby Faro, Robert J. Faro, has died at the age of 19 from muscular dystrophy. Bobby was an unselfish, caring individual. He served two terms as Alaska's poster child and has traveled throughout Alaska and the country as a goodwill ambassador for the muscular dystrophy efforts.

In his travels, Bobby reached out and touched many lives. Those who knew Bobby personally remember his courage and his spirit. Despite his illness, he continued to strive to meet goals he had set for himself. He graduated from Bartlett-Begich High School and planned a career in broadcasting.

Through his work with the Muscular Dystrophy Association, Bobby is going to be remembered for his positive approach to life and I think he will be an inspiration to all those he worked with. He is going to be remembered by everyone who had the pleasure of working with him because as a tribute to his life and his contributions, the Jerry Lewis Labor Day Telethon now that will be held in Anchorage, AK, this year will be dedicated to the memory of this outstanding Alaskan. I met him. He was a fine young man. I am sorry to see him go.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.,

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2705) relating to the method by which Government contributions to the Federal employees health benefits program shall be computed for 1990 or 1991 if no Governmentwide indemnity plan participates in that year.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1208. An act to amend the Federal Railroad Safety Act of 1970 to provide for drug and alcohol testing for railroad employees;

H.R. 1630. An act to amend title III of the Immigration and Nationality Act to provide for administrative naturalization, and for other purposes;

H.R. 2151. An act to amend the Federal Aviation Act of 1958 to establish a schedule for the installation of certain civil aircraft of the collision avoidance system known as TCAS-II, and for other purposes;

H.R. 2331. An act to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, and solicitations which are offered in terms implying any Federal Government connection or endorsement, unless such matter contains an appropriate conspicuous disclaimer, and for other purposes;

H.R. 2712. An act to facilitate the adjustment of change of status of Chinese nationals in the United States by waiving the 2-year foreign residence requirement for "J" nonimmigrants;

H.R. 2727. An act to amend title 38, United States Code, to establish a retirement and survivor benefit program for judges of the new United States Court of Veterans Appeals, and for other purposes;

H.R. 2773. An act to improve the management of certain public lands in the State of Minnesota;

H.R. 2847. An act to extend by 1 year a program under which the Government is allowed to accept the voluntary services of private-sector executives; and

H.R. 3025. An act to authorize transfers of instrument landing systems to the Federal Aviation Administration, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 154. A concurrent resolution condemning the brutal treatment of, and blatant discrimination against, the Turkish minority by the Government of the People's Republic of Bulgaria.

At 3:20 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1278) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes.

The message also announced that the House has passed the bill (S. 593) to exempt certain activities from provisions of the antitrust laws, with amendments; in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 24. An act to amend the Child Nutrition Act of 1966 and the National School Lunch Act to extend certain authorities contained in such Acts through the fiscal year 1995; and

H.R. 2991. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

ENROLLED BILL SIGNED

At 3:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2705. An act relating to the method by which Government contributions to the Federal employees health benefits program shall be computed for 1990 or 1991 if no Governmentwide indemnity benefit plan participates in that year.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

At 9:26 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 126. Joint resolution commemorating the bicentennial of the United States Coast Guard.

The message also announced that the House further insists upon its disagreement to the amendment of the Senate to the bill (H.R. 1278) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the powers of Federal financial institutions regulatory agencies, and for other purposes; it agrees to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Banking, Finance, and Urban Affairs: Representatives GONZALEZ, ANNUNZIO, FAUNTROY, NEAL of North Carolina, HUBBARD, LAFALCE, VENTO, SCHUMER, FRANK, and MORRISON of Connecticut.

From the Committee on Ways and Means: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. JACOBS, Mr. FORD of Tennessee, Mr. JENKINS, Mr. DOWNEY, Mr. GUARINI, Mr. RUSSO, Mr. PEASE, Mr. ARCHER, Mr. VANDER JAGT, Mr. CRANE, Mr. FRENZEL, Mr. SCHULZE, Mr. GRADISON, Mr. THOMAS of California, and Mr. MCGRATH.

From the Committee on Rules: Mr. MOAKLEY, Mr. DERRICK, Mr. BEILENSON, Mr. FROST, Mr. BONIOR, Mr. QUILLEN, and Mr. SOLOMON.

From the Committee on Government Operations: Mr. CONYERS, Mrs. COLLINS, Mr. ENGLISH, Mr. SYNAR, Mr. WISE, Mr. HORTON, Mr. CLINGER, and Mr. MCCANDLESS.

The message further announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2486. An act to amend title 38, United States Code, with respect to veterans' readjustment appointments authorized by such title; and

H.J. Res. 225. Joint resolution to authorize and request the President to issue a proclamation designating the third Sunday of August 1989 as "National Senior Citizens Day."

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1208. An act to amend the Federal Railroad Safety Act of 1970 to provide for drug and alcohol testing for railroad employees; to the Committee on Commerce, Science, and Transportation.

H.R. 2151. An act to amend the Federal Aviation Act of 1958 to establish a schedule for the installation of certain civil aircraft of the collision avoidance system known as TCAS-II, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2331. An act to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, and solicitations which are offered in terms implying any Federal Government connection or endorsement, unless such matter contains an appropriate conspicuous disclaimer, and for other purposes; to the Committee on Governmental Affairs.

H.R. 2486. An act to amend title 38, United States Code, with respect to veterans' readjustment appointments authorized by such title; to the Committee on Veterans' Affairs.

H.R. 2783. An act to improve the management of certain public lands in the State of

Minnesota; to the Committee on Energy and Natural Resources.

H.R. 2991. An act making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes; to the Committee on Appropriations.

H.R. 3025. An act to authorize transfers of instrument landing systems to the Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 154. Concurrent resolution condemning the brutal treatment of, and blatant discrimination against, the Turkish minority by the Government of the People's Republic of Bulgaria; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

Pursuant to the order of the Senate of August 2, 1989, the following bill, received from the House of Representatives for concurrence, was read the first and second times, and placed on the calendar:

H.R. 2712. An act to facilitate the adjustment or change of status of Chinese nationals in the United States by waiving the 2-year foreign residence requirement for "J" nonimmigrants.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1630. An act to amend title III of the Immigration and Nationality Act to provide for administrative naturalization, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 120. A bill to amend the Public Health Service Act to reauthorize adolescent family life demonstration projects, and for other purposes (Rept. No. 101-103).

By Mr. GLENN, from the Committee on Governmental Affairs with amendments:

S. 1163. A bill to amend the District of Columbia Code to limit the length of time for which an individual may be incarcerated for civil contempt in a child custody case in the Superior Court of the District of Columbia and to provide for expedited appeal procedures to the District of Columbia Court of Appeals for individuals found in civil contempt in such case (Rept. No. 101-104).

By Mr. DeCONCINI, from the Committee on Appropriations, with amendments:

H.R. 2989. A bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1990, and for other purposes (Rept. No. 101-105).

By Mr. REID, from the Committee on Appropriations, with amendments:

H.R. 3014. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1990, and for other purposes (Rept. No. 101-106).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Morris Dempson Busby, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador in his capacity as Coordinator for Counter Terrorism.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Morris D. Busby.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

Julia Chang Bloch, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Nepal.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Julia Chang Bloch.

Post: U.S. Ambassador to Nepal.

Contributions, amount, date, and donee:

1. Self, $10,000, 1985, Republican Eagles; $40, 1985, National Fed. of Republican Women; $15, 1985, National Fed. of Republican Women/Chavez; $100, 1985, National Republican Heritage Grps. Council; $100, 1985, GOPAL; $60, 1985, National Fed. of Republican Women; $60, 1985, Reagan-Bush reunion; $100, 1985, Campaign for GOP Women; $10,000, 1985, Republican Eagles; $10,000, 1987, Republican Eagles; $10,000, 1988, Republican Eagles; $1,000, 1988, Women's campaign fund; $100, 1988, National Republican Heritage Groups Council; $250, 1988, GOPAL; and $100, 1989, National Republican Heritage Groups Council.

2. Spouse, $250, 1985, Republican National Committee; $1,200, 1985, Women's Campaign Fund; $851, 1985, The American Company-WCF; $500, 1985, Connie Mack for Congress Committee; $500, 1985, Steve Symms for Senate Committee; $810, 1986, An Amber Grain/Women's Campaign Fund; $500, 1986, Steve Symms for Senate Committee; $400, 1987, D.C. Committee for Honest Government; $1,000, 1987, Friends of Bob Carr Committee; $1,000, 1987, Laxalt for President Committee; $2,500, 1987, American Resort and Residential Development; $1,000, 1987, Friends of Jim Guest; $100, 1987, Lily Lee Chen for Congress; $100, 1988, Linda Arey for Congress; $1,000, 1988, Dole for President; $1,000, 1988, Bush for President; $2,500, 1988, American Resort and Residential Development Association (ARRDA) PAC; $500, 1988, David Pryor for Senate Committee; $50, 1988, Friends of Luis Acle for Congress; $500, 1988, American Resort and Residential Development Association (ARRDA) PAC; $250, 1988, Hecht Reelection Committee; $1,000, 1989, REAL-PAC; and $2,500, 1989, American Resort and Residential Development Association (ARRDA) PAC.

3. Self and spouse, jointly, $1,000, 1986, Women's campaign fund; and $1,000, 1989, Women's campaign fund.

4. Children and spouses, not available.

5. Parents, mother, Eva Chang, none; father, Fu-yun Chang, none, (deceased).

6. Grandparents, deceased since 1955, none.

7. Brother, Samuel Chang, none.

8. Sisters and spouses, Rhoda Chang and Chiang Hsaio-yu, none.

Raymond Charles Ewing, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Raymond C. Ewing.

Post: Ambassador to Ghana.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Jerelyn P. Ewing, none.

3. Children and spouses, Gregory Paul and Sarah T. Ewing, none; Joyce C. Ewing, none; Edward Thomas Ewing, none; and Lillian May Patten, none.

4. Parents, Thomas D. and Marion A. Ewing, deceased.

5. Grandparents, Mr. and Mrs. James Ewing, deceased. Mr. and Mrs. Andrews, deceased.

6. Brothers and spouses, none.

7. Sisters and spouses, Ann Ewing Bush and Russell Bush, none.

Michael G. Sotirhos, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Greece.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Michael G. Sotirhos.

Post: Ambassador to Greece.

Contributions, amount, date, and donee:

1. Self and spouse, Estelle,

1985: $100, William Green for Congress; $250, People for Pete (Domenici); $1,100, Friends of Senator D'Amato; $250, Geroge Gikas for Congress; $100, Helen Bentley for Congress; $500, Funds for America's Future; $1,000, Republican Inner Circle; $200, National Republican Heritage Groups Council; $400, National Republican Heritage Groups Council; $45, League of Republican Women; $250, Committee to Elect Sue Molinari; $250, Committee to Elect Sue Molinari; and $110, Republican Women's Federal Forum.

1986: $200, National Republican Groups Council; $500, Nikitas for Lt. Gov. (Mass.); $250, 100 Congress Dinner Committee; $50, Congressman George Gekas Reelection; $20, Federal Forum Rep. Women; $500, Andrew Natsios Campaign Comm (Mass.); $35, Metropolitan Rep. Club New York; $100, Governor Sununu Re-election Comm.; $100, Andrew Natsios Campaign Comm.; $500, Congresswoman Helen Bentley Comm.; and $500, Congressman Mike Bilirakis Re-election.

1987: $100, National Republican Century Club; $25, Andrew Natsios (Debt Reduction); $50, American Nationalities Movement (Ohio); $35, Metropolitan Republican Club (N.Y.); $100, Governor Sununu Re-Election Campaign; $30, Republican Women's Federal Forum; $1,000, Republican Inner Circle (RNC); $100, Congresswoman Helen Bentley Re-Elect; and $100, Linda Agrey for Congress.

1988: $100, National Republican Century Club; $100, Congresswoman Helen Bentley Re-Election; $1,000, Inner Circle—Republican National Comm.; $500, Dole for President (Debt Reduction): $100, Republican National Comm.; $250, Congressman Mike

Bilirakis Re-Election; $250, Congresswomen Helen Bently Re-Election; $1,000, Republican Inner Circle; $500, Connie Mack for Senate; $100, Connie Mack for Senate (Debt Reduction), and $50, Maltese for New York State Senate.

1989: $100, Republican Heritage Council Century Club.

2. Children and spouses, Michael and Stacey, none.

3. Parents, George and Catherine, deceased.

4. Grandparents, deceased.

5. Brothers and spouses, Anthony Sotirhos deceased.

6. Sisters and spouses, none.

Alexander Fletcher Watson, of Massachusetts, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be the Deputy Representative of the United Staes of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Nominee: Alexander Fletcher Watson.

Post: Deputy Representative to the United Nations.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Contributions, amount, date, and donee:

1. Self, Alexander F. Watson, none.

2. Spouse, Judith T. Watson, none.

3. Children and Spouses, David F. Watson, Caitlin H. Watson; none.

4. Parents, Fletcher and Alice Watson, none.

5. Grandparents, none.

6. Brothers and spouses, Christopher R. Watson, Jonathan G. Watson, Stephen C. Watson, none.

7. Sisters and spouses, none.

Richard Anthony Moore, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ireland.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Richard A. Moore.

Post: Ambassador to Ireland.

Contributions, amount, date, and donee:

1. Self, $5,000, 1985, Fund for America's Future; $2,500, 1986, Fund for America's Future; $10,000, 1988, Presidential Trust; $5,000, 1988, Republican National Committee; $1,000, 1988, George Bush for President Compliance Committee; and $100, 1988, Dole for President Committee (after his withdrawal).

2. Spouse, Esther J. Moore, $1,000, 1988, George Bush for President Compliance Committee.

3. Children and spouses, Richard A. Moore, Jr. and Anne, $150, 1988, Republican National Committee; $75, 1988, George Bush for President. Matthew S. Moore and Pauline, $250, 1986 Fund for America's Future; $100, 1986, Republican Senate Committee; $100, 1986, Friends of Mattingly for Senator; $100, Friends of Mattingly for Senator; $200, 1987, Senate Republican Committee; $250, 1987, George Bush for President. Joseph F. Moore, none. Kate L. Moore, $1,000, 1987, George Bush for President; $100, 1986, Friends of Mattingly for Senator; $1,000, 1989, Presidential Trust; $50, 1986, Carol Schwartz for Mayor of D.C. Samuel S. Moore and Erica, none.

4. Parents, John D. and Julia Leader Moore, deceased.

5. Grandparents, John J. and Mary Mc Donald Moore, deceased. Richard and Ellen McCarthy Leader, deceased.

6. Brothers and spouses, John D. J. and mary Foote Moore, deceased.

7. Sisters and spouses, Mary Moore Sefton, deceased; and William Sefton, none.

William Lacy Swing, of North Carolina, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of South Africa.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: William Lacy Swing.

Post: Ambassador to the Republic of South Africa.

Contributions, amount, date, and donee.

1. Self, none.

2. Spouse, not applicable, unmarried.

3. Children and spouses Brian Curtis Swing, none.

4. Parents, Baxter Dermot Swing and Mary Frances Swing, none.

5. Grandparents, Bessie Sowers Swing, none.

6. Brothers and spouses, James Bryce Swing and Arlene Swing, ca. $2,000 in 1988 divided among the Republican National Senatorial Committee; Republican Presidential Task Force, and RNC.

7. Sisters and spouses, Anna Swing Leonard and Lawrence M. Leonard, ca. $52 altogether, including $17 to the National Republican Congressional Committee and NFCR; $10 to the RNC; and $10 to the GOP Victory Fund.

Howard K. Walker, of New Jersey, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Howard K. Walker.

Post: Madagascar.

Contributions, amount, date, and donee.

1. Self, none.

2. Spouse, Terry B. Walker, none.

3. Children and spouses, Gregory T. Walker and Wendy M. Walker, none.

4. Parents, W. R. Walker, Mother, deceased.

5. Grandparents, deceased.

6. Brothers and spouses, Ronald R Walker and Dianne Walker, none.

7. Sisters and spouses, none.

Loret Miller Ruppe, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Norway.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Loret Miller Ruppe.

Post: Ambassador to Norway.

Nominated: March, 1989.

Contributions, amount, date, and donee:

1. Self, $1,000, 1985, Fund for America's Future; $100, 1985, Representative Guy Vander Jagt; $75, 1985, Representative Paul Henry; $50, 1985, Senator Chuck Percy; $150, 1986, Rep. Connie Morella; $100, 1986, Rep. Paul Henry; $150, 1986, Rep. Claudine Schneider; $1,000, 1987, George Bush for President; $150, 1988, Rep. Connie Morella; $100, 1988, Rep. Claudine Schneider; $200, 1988, Rep. Connie Morella; and $1,000, 1988, George Bush for President.

2. Spouse, Philip E. Ruppe, $1,000, 1985, Fund for America's Future; $3,000, 1985, Fund for America's Future; $1,000, 1985, Nat'l. Republican Congress Convention; $2,000, 1988, Presidential Trust; $8,000, 1988, Presidential Trust; and $1,000, 1988, Republican Nat'l. Committee.

3. Children, Mary Speed Ruppe, $1,000, 1988, George Bush for President; Katherine Ruppe, none; Loretta Ruppe, none; Adele Ruppe, none; and Antoinette Ruppe, none.

4. Parents, Frederick Miller, deceased; Adele K. M. O'Shaughnessy, 1988, Rep. Jim Moody; 1989, none.

5. Grandparents, *deceased.

6. Brothers, Fred Miller, Jr., deceased; Carl Miler, none.

7. Sisters and spouses, Gail M. Wray, $25, 1987, Engleighter for Senate; $180, 1988, R.P.W. Victory '88; $500, 1988, Victory '88; and $250, 1988, Jan Marsh for Congress; Claire Krause, none; Kate Eck, none; Carlotta Johnson, none; Adele Ridley, none.

Milton James Wilkinson, of New Hampshire, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Deputy Representative of the United States of America in the Security Council of the United Nations, with the rank of Ambassador.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Contributions, amount, date, and donee:

1. Self, none except Federal Income Tax for check-off all years.

2. Spouse, none except Federal Income Tax form check-off all years.

3. Children and spouses, Pamela Wilkinson, none; Hilary Anne Wilkinson, none except federal income tax checkoff.

4. Parents, Ruth and Russ Wilkinson, none.

5. Grandparents, deceased.

6. Brothers and Spouses, none.

7. Sisters and spouses, Beth Wilkinson Cutting, none.

Jonathan Moore, of Massachusetts, to be the Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

Nominee: Jonathan Moore.

Post: U.S. Ambassador to the U.N. for Special Political Affairs.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses, Joan, Jocelyn, Jennifer, and Charles, none.

4. Parents, Adeline N. Moore, none.
5. Grandparents, deceased.
6. Brothers and spouses, Benjamin and Barbara Moore, $75, 1986 and $50, 1988, Sid Yates for Congress.
7. Sisters and spouses, Deborah and Peter Geithner, none, Lydia Dupertuis, $10, 1986, Hoffer for Congress.

Eugene P. Kopp, of Virginia, to be Deputy Director of the United States Information Agency;

Henry E. Hockeimer, of Michigan, to be an Associate Director of the United States Information Agency;

Raymond G.H. Seitz, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Assistant Secretary of State;

Sheldon J. Krys, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Assistant Secretary of State for Diplomatic Security;

Arthur W. Fort, of Virginia, to be an Assistant Secretary of State; and

Richard A. Clark, of Virginia, to be an Assistant Secretary of State.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Foreign Service (minus one name) which was printed in full in the CONGRESSIONAL RECORD of July 20, 1989, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. NUNN, from the Committee on Armed Services:

John W. Shannon, of Maryland, to be Under Secretary of the Army.

By Mr. LEVIN, from the Committee on Armed Services:

John A. Betti, of Michigan, to be Under Secretary of Defense for Acquisition.

By Mr. WARNER, from the Committee on Armed Services:

Michael P.W. Stone, of California, to be Secretary of the Army; and

J. Daniel Howard, of Tennessee, to be Under Secretary of the Navy.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committeee on Armed Services:

The following named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be Lieutenant General

Maj. Gen. Leo W. Smith, II, 480-38-3800FR, U.S. Air Force.

The following named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be General

Lt. Gen. James C. McCarthy, 288-28-9866FR, U.S. Air Force.

The following named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be General

Gen. Thomas C. Richards, 573-36-4941FR, U.S. Air Force.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for himself, Mr. SIMON, Mr. HARKIN and Mr. DIXON):

S. 1485. A bill to grant the consent of Congress to the Quad Cities Interstate Metropolitan Authority Compact entered into between the States of Illinois and Iowa; to the Committee on the Judiciary

By Mr. INOUYE:

S. 1486. A bill to amend the Social Security Act to improve the delivery of health care services by expanding the role of nurse practitioners and clinical nurse specialists in providing health care, and for other purposes; to the Committee on Finance.

By Mrs. KASSEBAUM (for herself and Mr. DOLE):

S. 1487. A bill to provide that certain borrowers who restructure loans made by the Farmers Home Administration under net recovery buy out provisions shall be subject to shared appreciation arrangements; to the Committee on Agriculture, Nutrition, and Forestry

S. 1488. A bill to restrict the availability of the net recovery buyout option as administered by the Farmers Home Administration; to the Committee on Agriculture, Nutrition, and Forestry.

S. 1489. A bill to prohibit the sale of farmland administered by the Farmers Home Administration at less than fair market value; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CHAFEE (for himself, Mr. SIMPSON, Mr. DURENBERGER, Mr. WARNER, Mr. JEFFORDS, Mr. HUMPHREY, Mr. BOSCHWITZ, Mr. D'AMATO, Mr. DOLE, Mr. DOMENICI, Mr. EXON, Mr. GORTON, Mr. HATCH, Mr. HATFIELD, Mrs. KASSEBAUM, Mr. MCCAIN, Mr. MCCLURE, Mr. MURKOWSKI, Mr. RIEGLE, Mr. RUDMAN, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, and Mr. BREAUX):

S. 1490. A bill to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air; to the Committee on Environment and Public Works.

By Mr. DECONCINI (for himself, Mr. D'AMATO, Mr. GRAHAM, Mr. JOHNSTON, and Mr. COATS):

S. 1491. A bill to require the Secretary of Housing and Urban Development to establish a national eviction data center, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WALLOP:

S. 1492. A bill to amend the Anti-Drug Abuse Act of 1988 to eliminate the discretion of the court in connection with the denial of certain Federal benefits upon conviction of certain drug offenses; to the Committee on the Judiciary.

By Mr. COHEN:

S. 1493. A bill for the relief of Roswitha Starins; to the Committee on the Judiciary.

By Mr. JOHNSTON:

S. 1494. A bill to suspend temporarily the duty on pigment red 178; to the Committee on Finance.

S. 1495. A bill to suspend temporarily the duty on DEMPA; to the Committee on Finance.

S. 1496. A bill to suspend temporarily the duty on isoindolenine red pigment; to the Committee on Finance.

S. 1497. A bill to suspend temporarily the duty on pigment red 149 dry and pigment red 149 presscake; to the Committee on Finance.

S. 1498. A bill to suspend temporarily the duty on 2-Ethylanthraquinone; to the Committee on Finance.

S. 1499. A bill to suspend temporarily the duty on certain acid black powder and presscake; to the Committee on Finance.

S. 1500. A bill to suspended the duty on rhodamine 2C base; to the Committee on Finance.

S. 1501. A bill to suspend the duty on polymin P and polymin Phydrochloride; to the Committee on Finance.

S. 1502. A bill to suspend the duty on polymin SNA 60; to the Committee on Finance.

By Mr. KASTEN:

S. 1503. A bill to amend the Internal Revenue Code of 1986 to remove certain limitations on charitable contributions of certain items; to the Committee on Finance.

S. 1504. A bill to amend the Harmonized Tariff Schedule of the United States to correct the classification of 26-inch bicycles; to the Committee on Finance.

By Mr. HATCH:

S. 1505. A bill to amend the Federal Food, Drug and Cosmetic Act to require nutritional labeling on packaged foods, to provide for national uniformity in food labeling, to establish an expert scientific advisory committee, and for other related purposes; to the Committee on Labor and Human Resources.

By Mr. BENTSEN:

S. 1506. A bill to amend the Internal Revenue Code of 1986 to limit the ability of corporations to obtain a refund of taxes by carrying back net operating losses arising from excess interest deductions allocable to transactions reducing corporate equity; to the Committee on Finance.

By Mr. BUMPERS:

S. 1507. A bill to provide special rules for health insurance costs of self-employed individuals; to the Committee on Finance.

By Mr. REID:

S. 1508. A bill to amend Public Law 92-195, relating to the protection of wild free-roaming horses and burros, to increase the penalties for killing or seriously harassing the horses and burros; to the Committee on Energy and Natural Resources.

By Mr. EXON (for himself and Mr. KERREY):

S. 1509. A bill to authorize amendments to certain water service contracts for the Frenchman Unit of the Pick-Sloan Missouri Basin Program; to the Committee on Energy and Natural Resources.

By Mr. THURMOND (for himself, Mr. LEAHY, Mr. HATCH, Mr. GRASSLEY,

Mr. BOND, Mr. COCHRAN, Mr. SIMPSON, Mr. DECONCINI and Mr. HEFLIN):

S. 1510. A bill to assure fairness in the allocation and award of antitrust damages; to the Committee on the Judiciary.

By Mr. PRYOR (for himself, Mr. JEFFORDS, Mr. METZENBAUM, Mr. KENNEDY, Mr. DECONCINI and Mr. BUMPERS):

S. 1511. A bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HOLLINGS (for himself, Mr. KERRY, Mr. BREAUX, and Mr. STEVENS):

S. 1512. A bill to authorize appropriations for the Coast Guard for fiscal years 1990 and 1991, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HUMPHREY (for himself, Mr. DANFORTH, Mr. ARMSTRONG, Mr. NICKLES, Mr. HELMS, Mr. COATS, Mr. GRAMM, Mr. GARN, and Mr. LOTT):

S. 1513. A bill to amend the Internal Revenue Code of 1986 to deny status as a tax-exempt organization, and as a charitable contribution recipient, for organizations which perform or provide facilities for abortions; to the Committee on Finance.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 1514. A bill relating to the financing of certain publicly owned treatment works, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MITCHELL:

S. 1515. A bill to amend the Internal Revenue Code of 1986 of permit private foundations and community foundations to establish tax-exempt cooperative service organizations; to the Committee on Finance.

By Mr. LEVIN:

S. 1516. A bill to amend the Internal Revenue Code of 1986 to repeal the catastrophic supplemental premium, to restore a deduction for two-earner couples and income averaging for farmers, and to increase the maximum individual tax rate to 38.5 percent while lowering the maximum capital gains rate to 28 percent; to the Committee on Finance.

By Ms. MIKULSKI:

S. 1517. A bill to identify certain areas of critical concern with respect to oil and hazardous substances discharges and the environment, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BOREN (for himself and Mr. NICKLES):

S. 1518. A bill to provide for the extension of the Federal Employees Health Benefits Program to certain State employees and annuitants; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN:

S. 1519. A bill to provide for the reappointment of Jeannine Smith Clark as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. MOYNIHAN (for himself and Mr. GARN):

S. 1520. A bill to provide for the reappointment of Samuel C. Johnson as a citizen regent of the board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

S. 1521. A bill to amend Public Law 91-34 relating to the police force of the National Zoological Park of the Smithsonian Institution, and for other purposes; to the Committee on Rules and Administration.

By Mr. ARMSTRONG (for himself, Mr. MOYNIHAN, Mr. D'AMATO, Mr. CHAFEE, Mr. WARNER, Mr. CRANSTON, Mr. WILSON, Mr. DECONCINI, Mr. GORTON, Mr. LAUTENBERG, Mr. HATCH, Mr. ADAMS, and Mr. KASTEN):

S. 1522. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain transportation furnished by an employer; to the Committee on Finance.

By Mr. COATS:

S. 1523. A bill to amend the Internal Revenue Code of 1986 to restrict the partial exclusion from income of interest on loans used to acquire employer securities to cases where employees receive a significant ownership interest in a corporation, and for other purposes; to the Committee on Finance.

By Mr. HUMPHREY (for himself and Mr. RUDMAN):

S. 1524. A bill to amend the Wild and Scenic Rivers Act of 1968 by designating segments of the Pemigewasset River in the State of New Hampshire for study as a National Wild and Scenic River; to the Committee on Energy and Natural Resources.

By Mr. BUMPERS:

S. 1525. A bill to amend the Small Business Investment Act of 1958 to encourage private investment in debentures issued by investment companies financing businesses owned by disadvantaged persons; to the Committee on Small Business.

By Mr. BOREN (for himself and Mr. NICKLES):

S. 1526. A bill to authorize the State of Oklahoma and the Kiowa, Comanche, and Apache Tribes to enter into an agreement regarding the exercise of State jurisdiction over a portion of Indian country located in Comanche County, OK; to the Select Committee on Indian Affairs.

By Mr. LAUTENBERG (for himself and Mr. HATCH):

S. 1527. A bill to provide incentive grants for States that enact legislation aimed at limiting youth access to cigarettes, and for other purposes; to the Committee on Finance.

S. 1528. A bill to provide incentive grants for States that enact legislation aimed at limiting youth access to cigarettes, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. McCLURE (for himself and Mr. DOLE):

S.J. Res. 186. Joint resolution designating the week of March 1 through March 7, 1990, as "National Quarter Horse Week"; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. HUMPHREY, Mr. BENTSEN, Mr. DOLE Mr. STEVENS and Mr. BOSCHWITZ):

S.J. Res. 187. Joint resolution to designate the periods commencing on November 19, 1989, and ending on November 26, 1989, and commencing on November 18, 1990, and ending on November 25, 1990, as "National Adoption Week"; to the Committee on the Judiciary.

By Mr. D'AMATO:

S.J. Res. 188. Joint resolution designating the week of October 23, 1989, through October 29, 1989, as "Eating Disorders Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself and Mr. MITCHELL):

S. Res. 164. Resolution regarding American hostages in Lebanon; considered and agreed to.

By Mr. WARNER (for himself, Mr. DOLE, Mr. NUNN, Mr. THURMOND, Mr. EXON, Mr. COHEN, Mr. LEVIN, Mr. WILSON, Mr. KENNEDY, Mr. MCCAIN, Mr. BINGAMAN, Mr. WALLOP, Mr. DIXON, Mr. GORTON, Mr. GLENN, Mr. LOTT, Mr. GORE, Mr. COATS, Mr. WIRTH, Mr. SHELBY, Mr. DOMENICI, Mr. GRAMM, Mr. FORD, Mr. STEVENS, Mr. PRESSLER, Mr. RUDMAN, Mr. SYMMS, Mr. NICKLES, Mr. HELMS, Mr. ARMSTRONG, Mr. JOHNSTON, Mr. COCHRAN, Mr. CHAFEE, Mr. ROBB, and Mr. BOSCHWITZ):

S. Res. 165. Resolution commending the Honorable John O. Marsh, Jr. for his dedicated and exemplary public service; considered and agreed to.

By Mr. DOLE:

S. Res. 166. An executive resolution to discharge the Lucas nomination; ordered to lie over under the rule.

By Mr. MITCHELL (for Mr. FOWLER (for himself and Mr. HATCH)):

S. Res. 167. Resolution to amend Senate Resolution 128, 101st Congress, relating to the appointment of a committee to hear the articles of impeachment against Judge Walter L. Nixon, Jr., to clarify the authority of the Committee to use the detailed personnel of any Government department or agency; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself, Mr. SIMON, Mr. HARKIN, and Mr. DIXON):

S. 1485. A bill to grant the consent of Congress to the Quad Cities Interstate Metropolitan Authority Compact entered into between the States of Illinois and Iowa; to the Committee on the Judiciary.

CONSENT OF CONGRESS TO THE QUAD CITIES INTERSTATE METROPOLITAN AUTHORITY COMPACT

Mr. GRASSLEY. Mr. President, I rise today with my colleagues from Iowa, Senator HARKIN and my colleagues from Illinois, Senator SIMON and Senator DIXON, to introduce legislation to grant the consent of Congress to the Quad Cities Interstate Metropolitan Authority Compact.

Civic and business leaders in the communities of Rock Island, IL, and Scott County, IA, have been hard at work for over a year on this concept. They have been working very hard to get the concept adopted to create a Metropolitan Authority to deal with issues such as solid waste disposal, transportation, river commerce, recreation, and conservation. This concept grew out of the quad cities' very suc-

cessful "vision for the future" project, which we kicked off last year.

Local leaders have steered substantially identical enabling legislation through the Iowa and Illinois Legislatures. Governor Branstad has signed it, and with a minor change, we expect Governor Thompson to approve it as well. Then it is up to Congress under our Constitution, to consent to the compact.

Mr. President, I hope this congressional approval can be quickly obtained, because this metropolitan authority will provide the structure for a Quad Cities area with a single, unified vision and common voice. The potential for gains in the form of economic development and improved infrastructure is too significant to pass up.

Even though the Mississippi River divides the two States, people on both sides of the river live and work together as if they were a single community. State boundaries do not divide their needs or their ability to cooperate.

The metropolitan authority will primarily get its revenue from fares, tolls, fees, leases, and other user charges, and will also have the ability to issue bonds to fund special projects.

I strongly believe that a metropolitan authority will be a valuable tool to enable the Quad Cities area—an area with a common heritage and common interests—to effectively address pressing mutual concerns.

Mr. President, I would also like to single out for recognition a number of State officials who have worked so hard on this project: Gary Vallem, the executive director of the Bi-State Metropolitan Planning Commission, and the cochairs of the legislative committee, Maggie Tinsman and Stewart Winstein of Iowa and Illinois, respectively. I also commend all those who were a part of the "vision for the future" project in the Quad Cities from whence this idea came.

I look forward to swift approval of this interstate compact in the Senate.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

The Congress hereby consents to the Quad Cities Interstate Metropolitan Authority Compact entered into between the States of Illinois and Iowa, which compact is substantially as follows:

ARTICLE 1—SHORT TITLE

This compact may be cited as the "Quad Cities Interstate Metropolitan Authority Compact".

ARTICLE 2—AUTHORIZATION

The states of Illinois and Iowa authorize the creation of the quad cities interstate authority to include the territories of Scott County in the state of Iowa and Rock Island county in the State of Illinois.

ARTICLE 3—PURPOSES

The purposes of the authority are to provide facilities and to foster cooperative efforts, all for the development and public benefit of its territory. This compact shall be liberally interpreted to carry out these purposes.

ARTICLE 4—CREATION

The authority is created when the secretary of state of Iowa certifies to the secretary of state of Illinois that a majority of the electors of Scott county voting on the proposition voted to approve creation of the authority and the secretary of state of Illinois certifies to the secretary of state of Iowa that a majority of the electors of Rock Island county voting on the proposition voted to approve creation of the authority. A referendum approving creation of the authority must be held before January 1, 1993.

ARTICLE 5—BOARD MEMBERS

The authority shall be governed by a board of not more than sixteen members, one-half of whom are residents of Rock Island county, Illinois, and one-half of whom are residents of Scott county, Iowa. Iowa members shall be chosen in the manner and for the terms fixed by the law of Iowa, Illinois members shall be chosen in the manner and for the terms fixed by the law of Illinois.

ARTICLE 6—BOARD OFFICERS

The board shall elect annually from its members a chairperson, a vice chairperson, a secretary, and other officers it determines necessary.

ARTICLE 7—BOARD OPERATIONS

The board shall adopt bylaws governing its meetings, fiscal year, election of officers, and other matters of procedure and operation.

ARTICLE 8—BOARD EXPENSES AND COMPENSATION

(a) Members shall be reimbursed for reasonable expenses incurred while carrying out official duties.

(b) Members shall be compensated as authorized by substantially identical laws of the states of Illinois and Iowa.

ARTICLE 9—EMPLOYEES

(a) The board shall hire an executive director, a treasurer, and other employees it determines necessary and shall fix their qualifications, duties, compensation, and terms of employment.

(b) The executive director, treasurer, and other employees shall have no pension benefits or rights of collective bargaining other than those authorized by substantially identical laws of the states of Iowa and Illinois.

ARTICLE 10—GENERAL POWERS

The authority has the following general powers:

(1) To sue and be sued.

(2) To own, operate, manage, or lease facilities within the territory of the authority. "Facility" means an airport, port, wharf, dock, harbor, bridge, tunnel, terminal, industrial park, waste disposal system, mass transit system, parking area, road, recreational area, conservation area, or other project beneficial to the territory of the authority as authorized by substantially identical laws of the states of Iowa and Illinois, together with related or incidental fixtures, equipment, improvements, and real or personal property.

(3) To fix and collect reasonable fees and charges for the use of its facilities.

(4) To own or lease interests in real or personal property.

(5) To accept and receive money, services, property, and other things of value.

(6) To disburse funds for its lawful activities.

(7) To enter into agreements with political subdivisions of the state of Illinois or Iowa or with the United States.

(8) To pledge or mortgage its property.

(9) To perform other functions necessary or incidental to its purposes and powers.

(10) To exercise other powers conferred by substantially identical laws of the states of Iowa and Illinois.

ARTICLE 11—EMINENT DOMAIN

(a) The authority has the power to acquire real property by eminent domain.

(b) Property in the state of Iowa shall be acquired under the laws of the state of Iowa. Property in the state of Illinois shall be acquired under the laws of the state of Illinois.

ARTICLE 12—INDEBTEDNESS

(a) The authority may incur indebtedness subject to debt limits imposed by substantially identical laws of the states of Illinois and Iowa.

(b) Indebtedness of the authority shall not be secured by the full faith and credit or the tax revenues of the state of Iowa or Illinois, or a political subdivision of the state of Iowa or Illinois other than the authority or as otherwise authorized by substantially identical laws of the states of Iowa and Illinois.

(c) Bonds shall be issued only under terms authorized by substantially identical laws of the states of Illinois and Iowa.

ARTICLE 13—TAXES

(a) The authority shall have no independent power to tax.

(b) A political subdivision of the state of Iowa or Illinois shall not impose taxes to fund the authority or any of the authority's projects except as specifically authorized by substantially identical laws of the states of Illinois and Iowa.

ARTICLE 14—REPORTS

The authority shall report annually to the governors and legislatures of the states of Iowa and Illinois concerning its facilities, activities, and finances and may make recommendations for state legislation.

ARTICLE 15—PENALTIES

The states of Illinois and Iowa may provide by substantially identical laws for the enforcement of the ordinances of the authority and for penalties for the violation of those ordinances.

ARTICLE 16—SUBSTANTIALLY IDENTICAL LAWS

Substantially identical laws of the states of Iowa and Illinois which are in effect before the authority is created shall apply unless the laws are contrary to or inconsistent with the provisions of this compact. A question of whether the laws of the states of Iowa and Illinois are substantially identical may be determined and enforced by a federal district court.

ARTICLE 17—DISSOLUTION

The authority may be dissolved by independent action of a political subdivision of the state of Iowa or the state of Iowa as authorized by law of the state of Iowa or by independent action of a political subdivision of the state of Illinois or the state of Illinois as authorized by law of the state of Illinois.

ARTICLE 18—SUBJECT TO LAWS AND CONSTITUTIONS

This compact, the enabling laws of the states of Iowa and Illinois, and the authority are subject to the laws and Constitution of the United States and the Constitutions of the states of Illinois and Iowa.

ARTICLE 19—CONSENT OF CONGRESS

The attorneys general of the states of Iowa and Illinois shall jointly seek the consent of the Congress of the United States to enter into or implement this compact if either of them believes the consent of the Congress of the United States is necessary.

ARTICLE 20—BINDING EFFECT

This compact and substantially identical enabling laws are binding on the states of Illinois and Iowa to the full extent allowed without the consent of Congress. If the consent of Congress is necessary, this compact and substantially identical enabling laws are binding on the states of Iowa and Illinois to the full extent when consent is obtained.

ARTICLE 21—SIGNING

This compact shall be signed in duplicate by the speakers of the houses of representatives of the states of Illinois and Iowa. One signed copy shall be filed with the secretary of state of Iowa and the other with the secretary of state of Illinois.

SEC. 2. RESERVATION OF RIGHTS.

The right to alter, amend, or repeal this Act is expressly reserved.

Mr. HARKIN. Mr. President, I am pleased to join as a cosponsor of this bill to allow an interested compact to form in the Quad Cities. All of the members of the area's congressional delegation support this measure. The legislatures in both Iowa and Illinois have passed legislation providing for the establishment of such a compact once the Congress acts and there is a favorable vote of the people of Scott County in Iowa and Rock Island County in Illinois.

The Quad Cities Interstate Metropolitan Compact can go a long way to increase community cooperation throughout the Quad Cities. That can eventually mean improved services and increased economic development.

We could see improved coordination in such areas as solid waste disposal, airports, bridges, and many others. I urge that this measure receive speedy action in the Judiciary Committee and be passed by the Senate.

Mr. DIXON. Mr. President, I rise today to join my distinguished colleagues, Senators SIMON, HARKIN, and GRASSLEY, in introducing the Quad Cities Interstate Metropolitan Authority Act.

The authority will provide for a single areawide entity providing services in a metropolitan area, equally divided between two States joined by the Mississippi River. This area, Rock Island County, IL, and Scott County, IA, where the farming implementation industry blossomed, has battled an economic crisis in the past decade. Mr. President, this crisis has included the loss of 20,000 jobs resulting in the relocation of family, friends, and neighbors. Most importantly, it created a great uncertainty for the future of this once economically vibrant community.

Over 2 years ago, a group of community leaders formed an alliance to address a plan of action to regenerate economic growth. This plan, Quad Cities vision for the future and its steering committee, is dedicated to job development, community rejuvenation, education, labor-management relations, and leadership. I applaud the members of this organization, Mr. President, for their great efforts on behalf of the Quad Cities area.

Although we still await the signature of the distinguished Governor of my State to enact the interstate compact, I trust that this task force will move ahead swiftly, to assure that this bi-State region works in unity promoting the economic reorganization of the Quad Cities.

Mr. SIMON. Mr. President, I am pleased to join my colleagues in introducing legislation granting the consent of Congress to establish the Quad Cities Interstate Metropolitan Authority Compact. This interstate compact between Rock Island County in Illinois and Scott County in Iowa will greatly assist the economic development of this region.

Despite being separated by the Mississippi River, the Quad Cities area is in fact one large community. This compact will help this area move forward together. The Quad Cities will be able to pool resources for progress that would be harder to achieve otherwise. It is part of a continuing effort to better serve this community by enhancing development and establishing municipal facilities.

The compact will soon be signed by the Governor of Illinois and has already been approved by the Governor of Iowa. The actual creation of the authority will occur after it is approved by the voters of Rock Island and Scott Counties. As chairman of the Constitution Subcommittee, which considers all interstate compacts, I look forward to moving this legislation quickly to ensure that the Quad Cities area will soon have the authority necessary to better serve that community.

By Mr. INOUYE:

S. 1486. A bill to amend the Social Security Act to improve the delivery of health care services by expanding the role of nurse practitioners and clinical nurse specialists in providing health care, and for other purposes; to the Committee on Finance.

CERTIFICATION OF NURSE PRACTITIONERS AND CLINICAL NURSE PRACTITIONERS FOR CERTAIN SERVICES

● Mr. INOUYE. Mr. President, today, I am again proposing legislation that would ensure that the services of nurse practitioners and clinical nurse specialists are readily available in nursing homes under Medicare and Medicaid.

Currently, Medicaid law, as modified by OBRA 1987, authorizes nurse practitioners and clinical nurse specialists to perform, in collaboration with a physician, certification and recertification of "medical necessity" in skilled nursing facilities and in intermediate care facilities, as long as these practitioners are not employees of the facility in which the services are being performed. As of October 1, 1990, the requirement of this certification process will phase out.

I was pleased with the enactment of this provision under Medicaid, and I am, today, proposing that this same authority for certification and recertification be given to nurse practitioners and clinical nurse specialists under Medicare law. In addition, the proposed legislation would amend Medicare and Medicaid to allow nurse practitioners and clinical nurse specialists to supervise health care furnished in skilled nursing facilities.

An additional aspect of this legislation would provide for Medicare and Medicaid reimbursement of nursing visits in the same manner as physician visits are reimbursed; that is, when required on a periodic basis by the statute. The Congressional Budget Office [CBO] has indicated that this legislation has no dollar cost, and I am confident that it will provide high quality health care in a cost-effective manner. The Health Care Financing Administration has already assured me that it will cover these services under Medicaid if the individual States make this part of their State plan.

As drafted, this legislation will specifically pay, under Medicare, nurse practitioners and clinical nurse specialists 75 percent of the prevailing charge paid for similar items and services in the same locality. I might point out that this is 5 percent less than what physicians receive. Further, I have required that nurses who receive payment for services cannot charge the beneficiaries an additional amount that is, there is a mandatory Medicare provision assignment. In addition, the proposed legislation would make it clear that nurse practitioners and clinical nurse specialists who perform patient visits be reimbursed for the visits under Medicaid.

I am pleased to acknowledge the formal endorsement of the provisions of this legislation by the American Health Care Association, the National Citizens' Coalition for Nursing Home Reform, and the American Nurses' Association. I believe that this is a clear statement of the vital role nurses play in the delivery of health care to nursing home residents.

The provisions included in the proposed legislation are timely, as the proportion of our elderly population

continues to grow rapidly, and strategies to control increasing costs in long-term health care become critical. This legislation supports the cost-effective and high quality nature of geriatric care delivered by nurse practitioners and clincial nurse specialists.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOWING CERTIFICATIONS AND RECERTIFICATIONS BY NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS FOR CERTAIN SERVICES.

(a) CERTIFICATIONS AND RECERTIFICATIONS FOR SERVICES.—Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended—

(1) in paragraph (2) by striking "(2) a physician" and inserting in lieu thereof "(2) a physician, or, in the case of services described in subparagraph (B), a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician,", and

(2) in the matter following paragraph (7) by striking "a physician makes" and inserting in lieu thereof "a physician, nurse practitioner, or clinical nurse specialist (as the case may be) makes".

(b) SUPERVISION OF HEALTH CARE FURNISHED IN SKILLED NURSING FACILITIES.—Section 1819(b)(6) of such Act (42 U.S.C. 1395i-3(b)(6)) is amended—

(1) in subparagraph (A) by striking "a physician" and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician", and

(2) in subparagraph (B) by striking "a physician" and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician".

(c) DEFINITION PROVIDED.—

(1) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"NURSE PRACTITIONER AND CLINICAL NURSE SPECIALIST

"(mm)(1) An individual shall be treated as a nurse practitioner or clinical nurse specialist if the individual—

"(A) is licensed to practice professional nursing;

"(B) perform such services as such individual is legally authorized to perform (in the State in which the individual performs such services) in accordance with State law (or the State regulatory mechanism provided by State law); and

"(C)(i) is master's prepared in nursing; or

"(ii) holds a masters degree in a related field and is certified or certified eligible by a national professional organization; or

"(iii) has completed a nurse practitioner continuing education program and is certified or certified eligible.

"(2) A nurse practitioner or clinical nurse specialist works in collaboration with a physician where the nurse and physician act pursuant to an agreement that allocates responsibility for decisions and actions, but allows each professional to retain responsibility for their respective actions and engage in such actions independently.".

(2) Section 1861(aa) of such Act (42 U.S.C. 1395x(aa) is amended in paragraph (3)—

(A) by striking "and the term 'nurse practitioner'" and "or nurse practitioner", and

(B) by striking "mean" and inserting in lieu thereof "means".

(3) Section 1861(s)(2)(H) of such Act (42 U.S.C. 1395x(s)(2)(H)) is amended in clause (i) by striking "physician assistant or by a nurse practitioner (as defined in subsection (aa)(3))" and inserting in lieu thereof "physician assistant (as defined in subsection (aa)(3)) or by a nurse practitioner (as defined in subsection (mm)(1))".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date of enactment of this Act.

SEC. 2. MEDICARE COVERAGE OF CERTAIN ITEMS AND SERVICES FURNISHED BY A NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST.

(a) PAYMENT OF BENEFITS.—Section 1833(a)(2)(E) of the Social Security Act (42 U.S.C. 13951(a)(2)(E) is amended—

(1) in clause (i) by striking ", and" and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new clause:

"(iii) items and services described in section 1861(s)(2)(N), the amount paid shall be equal to 100 percent of the amount determined as the reasonable charge for such items and services under section 1842(b)(10); and".

(b) CONTRACTS WITH CARRIERS.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is amended by adding at the end thereof the following new paragraph:

"(14) In providing payment for the items and services described in section 1861(s)(2)(N), each carrier shall require that payment be made in the manner described in paragraph (3)(B)(ii), except that the reasonable charge shall be determined as 75 percent of the prevailing charge paid for similar items and services in the same locality."

(c) DEFINITION.—Section 1861(s)(2) of such Act (52 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (L),

(2) by adding "and" at the end of subparagraph (M), and

(3) by adding at the end thereof the following new subparagraph:

"(N) services furnished by a nurse practitioner or clinical nurse specialist in a skilled nursing facility and services and supplies furnished as an incident to such services;".

(d) CONFORMING CHANGE.—Section 1861(h) of such Act (42 U.S.C. 1395x(h)) is amended by inserting ", and excluding any item or service described in subsection(s)(2)(N)" before the period.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date of enactment of this Act.

SEC. 3. MEDICAID COVERAGE OF ITEMS AND SERVICES FURNISHED BY NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST.

(a) IN GENERAL.—Section 1905(a)(5) of the Social Security Act (42 U.S.C. 1396d(a)(5)) is amended—

(1) by striking "elsewhere, and (B)" and by inserting in lieu thereof "elsewhere; (B)"; and

(2) by adding at the end thereof the following:

"and (C) services furnished in an intermediate care facility or skilled nursing facility by a nurse practitioner or clinical nurse specialist (as defined in section 1861(mm)(1)) working in collaboration with a physician;".

(b) SUPERVISION OF HEALTH CARE FURNISHED IN SKILLED NURSING FACILITIES.—Section 1919(b)(6) of such Act (42 U.S.C. 1396r(b)(6)) is amended—

(1) in subparagraph (A) by striking "a physician" and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician", and

(2) in subparagraph (B) by striking "a physician" and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician".

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to medical assistance provided on or after the date of enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements of the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the additional requirements before the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(d) BUDGET NEUTRALITY.—The Secretary of Health and Human Services shall issue such rules and regulations which will ensure that this Act is implemented in a budget neutral manner. The Secretary of Health and Human Services is authorized to reduce the levels of payments that would otherwise be paid to ensure budget neutral implementation of this Act.●

By Mr. CHAFEE (for himself, Mr. SIMPSON, Mr. DURENBERGER, Mr. WARNER, Mr. JEFFORDS, Mr. HUMPHREY, Mr. BOSCHWITZ, Mr. D'AMATO, Mr. DOLE, Mr. DOMENICI, Mr. EXON, Mr. GORTON, Mr. HATCH, Mr. HATFIELD, Mrs. KASSEBAUM, Mr. MCCAIN, Mr. MCCLURE, Mr. MURKOWSKI, Mr. RIEGLE, Mr. RUDMAN, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, Mr. BREAUX, and Mr. LEVIN):

S. 1490. A bill to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air; to the Committee on Environment and Public Works.

(Statements on the introduction of this legislation appear earlier in today's RECORD.)

By Mr. DECONCINI:

S. 1491. A bill to require the Secretary of Housing and Urban Development to establish a national eviction data center, and for other purposes; to

the Committee on Banking, Housing, and Urban Affairs.

ESTABLISHMENT OF NATIONAL EVICTION DATA CENTER

● Mr. DECONCINI. Mr. President, I raise today to introduce a piece of legislation which addresses one of the most serious problems we have domestically—the drug problem in federally assisted housing.

The sale and use of narcotics have increased to epidemic proportions in recent years. Drugs have invaded communities throughout this Nation.

Yet, nowhere has the drug problem become so severe as in federally assisted housing.

Statistics clearly show that this type of housing has become the shopping center for drug activities throughout our country.

In a survey of more than 8,000 HUD-assisted apartment complexes across this Nation, conducted last year by the Associated Financial Corp., 61 percent of all respondents said that drug use was regularly observed, and often visible at all hours.

Even more tragically, the same survey found that 52 percent of the respondents felt they were personally in danger.

This is in housing owned and operated by the same government which has verbally engaged in a war against drugs.

This survey does not begin to describe the state of siege under which residents of public housing live.

Their lives, and indeed their very freedom, are dictated by the strong-arm tactics of drug dealers in their housing complexes.

Children living in public housing in our Nation's Capital, have said they dream of the day when they can again play outdoors.

Residents are literally trapped in their homes, held hostage by the drug terrorists who traffic their trade on the grounds of the developments.

At a Senate Hearing last week on drugs in public housing, one witness said, "We're taking these buidings back and we're holding them."

The individual was not referring to Beirut or Afghanistan, he was talking about public housing facilities in Chicago.

I strongly believe that we need tough, decisive action to rid our society of these cancerous drug dealers.

Last year, Congress took the first step in that direction, with the adoption of the Anti-Drug Abuse Act of 1988.

This legislation included a provision that allowed the eviction not only of drug users, but a tenant's entire household if any member of the family or a guest, engages in drug-related criminal activity on or near public housing premises.

I wholeheartedly supported this measure because it drew the line for drug dealers.

It sent a loud and clear message, that the Federal Government was no longer going to passively allow drugs in our public housing facilities.

It gave tentants a simple ultimatum—stay away from drugs, or get out.

When I was asked by National Drug Coordinator, William Bennett, to provide a list of antidrug program recommendations, I discovered that housing authority officials in Arizona were in need of additional tools to keep those who have been evicted from public housing from reentering.

Currently, an individual can be evicted from a public housing project in Phoenix, and the next week apply for public housing in Tucson or San Diego, and there would be no way for these officials to know if this individual had ever been evicted in the past.

Current guidelines actually benefit drug users by giving them preferential assistance at the expense of those on the waiting lists.

How can a program effectively deter people from using drugs when it gives them benefits?

It can't.

Mr. President, today I'm introducing, along with Senators D'AMATO, GRAHAM, JOHNSTON, and COATS, a bill which will remedy our current eviction policy, so that it will more effectively deter drug use in federally assisted housing, and keep out those individuals who have abused their privilege to live in this housing.

There are three major provisions in my bill.

First, the Secretary of Housing and Urban Development would establish, under the Assistant Secretary for Public and Indian Housing, a National Eviction Data Center.

This national center would ensure that a permanent record is kept of those individuals who have been evicted from federally owned, operated, or subsidized housing.

This nationwide network would allow public housing officials to keep drug dealers out once they have been evicted for criminal activity.

One established, the National Eviction Data Center will be be required to coordinate with the local housing authorities in the following ways:

Within 10 workings days of finalizing an eviction, the local public housing authority would be required to submit to the National Eviction Data Center the following information:

Name, Social Security number, any aliases, date of birth, reason for eviction, and the last known address.

Within 7 workings day of any local housing authority requesting eviction information, the National Center will provide that housing authority with a printed copy of all relevant eviction data.

A toll-free number would be established, to handle request coming into the National Eviction Data Center.

To assure the information contained in the National Center is kept confidential, each public housing authority would have a specific identification number that would be required before any information was released by the Center.

A criminal penalty would be established against any unauthorized individuals attempting to obtain information to be used for matters other than determining housing eligibility from the National Center.

All local and State public housing authorities would be required to provide the National Center with all evictions they have handed down for the past 2 years from the date of enactment of this bill.

The second provision of my bill would ensure that those who have been evicted from federally assisted housing for having been arrested for one of the offenses or crimes included in the bill, would not be eligible for federally assisted housing for 10 years.

I believe this provision would send a message to those living in federally assisted housing that we are committed to cleaning up Government housing and punishing those who have been evicted.

This bill takes a tough stand against drugs in our Federal housing communities.

If we are going to expedite the eviction process, we must also ensure that housing authorities around the country are able to obtain the information on those who have been evicted.

Over 11 million citizens live in federally assisted housing, and the majority of them are simply seeking a decent way of life, and a safe place to raise their children.

It is our obligation to provide them with the opportunity to achieve these goals—drug-free.

Mr. President.

I want to give special thanks to Chris Coury for his assistance in drafting this bill and statement.●

By Mr. WALLOP:

S. 1492. A bill to amend the Anti-Drug Abuse Act of 1988 to eliminate the discretion of the court in connection with the denial of certain Federal benefits upon conviction of certain drug offenses; to the Committee on the Judiciary.

AMENDING THE ANTI-DRUG ABUSE ACT RELATING TO DENYING FEDERAL BENEFITS UPON CONVICTION OF CERTAIN DRUG OFFENSES

● Mr. WALLOP. Mr. President, last week I introduced S. 1409, a bill to discourage drug use among those least able to afford a drug habit, the economically disadvantaged. The bill, simply, required drug testing for anyone applying for welfare benefits.

If the individual refuses to sign up for a drug treatment program, they will be denied public assistance. The bill would also require periodic testing of welfare recipients to ensure that they are not abusing drugs.

Today, I am introducing a second proposal designed to ensure that taxpayers will not be funding drug abuse. This bill was introduced earlier this year in the House of Representatives by Congressman as H.R. 2523. The bill would mandate the denial of eligibility for certain Federal benefits to anyone convicted of dealing or possessing drugs. As with S. 1409, today's bill is intended to impose some accountability on those who use controlled substances. We will never survive the drug war if drug abusers are not held personally accountable for their actions.

When we passed the Omnibus Drug Act last year, a watered down version of today's proposal was included. It denied some Federal benefits under certain conditions to drug dealers. This was certainly a weak message. Now, the Senate has an opportunity to speak loud and clear about the scourge of illegal drugs. Our message must be that drug dealers will receive no mercy, will not be sanctioned through criminal prosecution and then rewarded with continued eligibility for a whole range of taxpayer-financed benefits.

Specifically, the bill removes the discretionary authority given to the courts by the 1988 Omnibus Drug Act to decide whether those individuals convicted of dealing or possessing illegal drugs. My bill would mandate a denial of eligibility. In addition to the other Federal grants and loans, my bill would also deny eligibility for welfare benefits for those convicted of drug crimes. This bill does not remove eligibility for benefits to which an individual has become entitled through their contributions, such as Social Security retirement benefits.

In September, William Bennett, the drug czar, will announce a national strategy to defeat the drug assault against our people. I would expect that the two bills I have now introduced would be part of this strategy. I look forward to pursuing this issue in the fall, and would urge my colleagues to join in sponsoring both initiatives. I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5301 of the Anti-Drug Abuse Act of 1988 is amended—

(1) in subsection (a)—

(A) by striking "at the discretion of the court," each place it appears;

(B) by striking "any or" each place it appears; and

(C) by striking "up to" each place it appears; and

(2) in subsection (b)—

(A) in paragraph (1)(A), by striking "and at the discretion of the court—" and all that follows through clause (iv) of such paragraph, and inserting "be ineligible for any Federal benefits for one year;";

(B) in paragraph (1)(B)—

(i) by striking "up to"; and

(ii) by striking "as determined by the court"; and

(C) by striking "The court shall continue" and all that follows through "under clause (i).".

(3) in subsection (d)—

(A) in paragraph (1)(B), by striking "welfare,".●

By Mr. KASTEN:

S. 1503. A bill to amend the Internal Revenue Code of 1986 to remove certain limitations on charitable contributions of certain items; to the Committee on Finance.

AMENDING THE INTERNAL REVENUE CODE TO REMOVE CERTAIN LIMITATIONS ON CHARITABLE CONTRIBUTIONS

Mr. KASTEN. Mr. President, I rise today to introduce legislation which would remedy a gross inequity in the Tax Code.

Under current law, an owner of a work of art may donate that work to charity and claim the full market value as a tax deduction. However, if the artist himself donates the same work to a charitable organization, he or she cannot deduct the full value of the work for tax pruposes. The artist can only deduct the value of the materials used in the creation of the work of art. This is more than equitable; it is grossly unfair to artists who want to make donations to charitable organizations.

Let me give an example of just how unfair this element of the Tax Code really is: An artist who chooses to donate one of his paintings to charity can deduct not the true value of the painting, but only such things as the cost of the paint, canvas, and the frame he used in creating the painting. Odder still is that if the artist dies and leaves the painting to his children, they must pay estate taxes on the full market value of the painting.

Mr. President, current law encourages artists to sell their work, not donate it to charity. If we want to encourage the involvement of America's artists in community initiatives, we must take this unfair provision out of the Tax Code. That is what the legislation I am introducing today will do.

My legislation differs from other bills in that it allows charitable organizations to sell donated artworks and use the proceeds for charitable purposes. As the law currently stands, a charitable organization must use a donated artwork for a very specific purpose, the same purpose for which the organization is allowed a charitable exemption. For example, a painting cannot be donated to the YMCA in order to be resold to help fund the YMCA's charitable work.

Mr. President, I'm sure that my colleagues will agree we should not close the "charitable contribution door" of the important national resource we have in our artists. Once the Tax Code is relieved of this unjust provision, I think we'll see a flood of contributions of artworks to our charitable organizations, libraries, and museums.

When charitable organizations auction off the works to private buyers at the market rate, the cash flow to the charities will increase, and so will the benefit to the community at large. Therefore, reshaping this unfair tax law will not only provide equity to the artists; it will also benefit the entire community.

Mr. President, artists should be allowed the same tax deduction the owner of a work of art receives. I am sure my colleagues will see the fairness in that, and I hope they will support this bill.

I ask unanimous consent that the text of the bill be printed following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARITABLE CONTRIBUTIONS OF CERTAIN ITEMS CREATED BY THE TAXPAYER.

Subsection (e) of section 170 of the Internal Revenue Code of 1986 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, OR ARTISTIC COMPOSITIONS.—

"(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

"(i) the amount of such contribution shall be the fair market value of the property contributed (determined at the time of such contribution), and

"(ii) no reduction in the amount of such contribution shall be made under subparagraph (A) or (B) of paragraph (1).

"(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, music, artistic or scholarly composition, any letter or memorandum, or similar property (including prints), but only if—

"(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 1 year prior to such contribution,

"(ii) the taxpayer—

"(I) has received a written appraisal of the fair market value of such property by a person qualified to make such appraisal (other than the taxpayer, donee, or any related person (within the meaning of section 465(b)(3)(C))) which is made within 1 year of the date of such contribution,

"(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal, and

"(III) the appraisal takes into account but is not limited to the factors described in clause (vi),

"(iii) the donee is an organization described in subparagraph (A) of subsection (b)(1),

"(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under subsection (c)),

"(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

"(vi) the written appraisal referred to in clause (ii) includes evidence of the extent to which property created by the personal efforts of the taxpayer is or has been—

"(I) owned, maintained, and displayed by organizations described in subparagraph (A) of subsection (b)(1), and

"(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (within the meaning of section 465(b)(3)(C)).

"(C) MAXIMUM DOLLAR LIMITATION.—The aggregate amount of qualified artistic charitable contributions allowable to any taxpayer as a deduction under subsection (a) for any taxable year shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year.

"(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

"(i) income with respect to the type of property described in subparagraph (B) that is created by the taxpayer, and

"(ii) income from teaching, lecturing, performing, or similar activity with respect to such property or to similar property created by individuals other than the taxpayer.

"(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS BY PUBLIC OFFICIALS.—Subparagraph (A) shall not apply in the case of any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while such individual was an officer or employee of the United States or of any State (or political subdivision thereof) if the writing, preparation, or production of such property was related to, or arose out of, the performance of such individual's duties as such an officer or employee.

"(F) SALE OF PROPERTY BY DONEE.—For purposes of clause (iv) of subparagraph (B), the sale by a donee of property contributed to it shall be treated as a use related to a purpose or function described in such clause if the proceeds of such sale are used for such purpose or function."

SEC. 2. TREATMENT OF EXCESS DEDUCTION FOR PURPOSES OF MINIMUM TAX.

Paragraph (1) of section 56(b) of the Internal Revenue Code of 1986 (relating to adjustments applicable to individuals) is amended by adding at the end thereof the following new subparagraph:

"(F) DEDUCTION FOR CHARITABLE CONTRIBUTION OF ART, ETC. CREATED BY TAXPAYER NOT ALLOWED.—In determining the amount allowable as a deduction under section 170, subsection (e)(6) shall not apply."

SEC. 3 EFFECTIVE DATE.

The amendments made by this Act shall apply to contributions made after December 31, 1988, in taxable years ending after such date.

By Mr. KASTEN:

S. 1504. A bill to amend the Harmonized Tariff Schedule of the United States to correct the classification of 26-inch bicycles; to the Committee on Finance.

CORRECTING THE CLASSIFICATION OF 26-INCH BICYCLES

Mr. KASTEN. Mr. President, I am pleased to introduce today a companion measure to H.R. 1981, offered in the House by my distinguished colleague from Wisconsin, Congressman JIM SENSENBRENNER. This legislation is intended to correct a mathematical error made during conversion to the Harmonized Tariff Schedule [HTS]. This seemingly slight error in coverting inches to centimeters makes a big difference on the duty imposed on 26-inch bicycles. Instead of the 5.5 percent duty originally intended, this error increases the duty to 11 percent. This inadvertent error imposes an impossible financial burden on my constituent, a company that employs over 400 people in Wisconsin.

This unfortunate error would inevitably be passed on to the consumer, who will bear the burden of paying higher prices for these bicycles. Mr. President, conversion to the HTS was not intended to raise duties—it was intended to make tariff systems uniform.

The U.S. Trade Representative acknowledges that an error was made, and has no objection to this technical correction. I hope my colleagues will support this legislation.

By Mr. HATCH:

S. 1505. A bill to amend the Federal Food, Drug and Cosmetic Act to require nutrition labeling on packaged foods, to provide for national uniformity in food labeling, to establish an expert scientific advisory committee, and for other related purposes; to the Committee on Labor and Human Resources.

THE FOOD AND NUTRITION LABELING ACT OF 1989

Mr. HATCH. Mr. President, I am pleased today to introduce legislation entitled the Food and Nutrition Labeling Act of 1989. This legislation follows three basic principles: mandatory nutrition labeling; regulation of health and product characteristic messages; uniformity in food labeling; and a nationwide nutritional education program.

One of the least expensive changes we could make in this country to reduce our health care costs would be to increase our efforts in the area of health promotion and disease prevention. During 1985, Americans spent nearly $438 billion, $1.2 billion per day, for health care. Yet, two of every three deaths in this country were premature. Most of these deaths could have been prevented through appropriate use of preventive services and behavior changes.

Heart disease, cancer, and stroke—our number 1, 2, and 3 causes of death—still take an incredible toll in our society. In 1986, they took an estimated 1.6 million lives and cost $137 billion in medical care and lost productivity. Diet has been implicated as a factor in all three of these diseases as well as a large number of others.

To the extent that the American people do not adopt sound dietary practices, they will not be truly healthy. To the extent that Americans are not healthy, our national economy pays the bill. But, most tragically, millions of Americans die each year.

Our effort to educate consumers on dietary practices, I believe, has been less than adequate. It is now time that we have legislation requiring accurate and uniform nutrition labeling on all processed packaged foods. And, I believe that we should adopt two fundamental principles in developing the legislation. First, we need food labels which contain the type of accurate information the American consumer needs and wants. Second, we need to expand our public education efforts aimed at informing the public how to use those labels. I believe that this will help consumers have the information necessary to make their own informed decisions on dietary habits.

Our current nutrition labeling regulations, which require that a product be labeled if either a claim is made about the nutritional value of a product or a product is fortified, are not adequate for consumers to do comparison shopping. Under our current system, many products will rely on the advertising claims and labeling practices of other companies' products. This free rider effect short circuits consumer demand and industry responses for better labeling. Furthermore, there is confusion about terms that are used when products are advertised as being light or natural or organic. I also believe that we should allow accurate health claims to be made about food. Finally, we need uniformity so that we do not perpetuate the current chaotic situation with respect to food labeling regulation. Consumers do not want 50 different labels and packages. They want one label that they can trust. And, they want to trust it in Utah, in New York, and in California.

Mr. President, this legislation will require that the foods regulated by the FDA must be nutritionally labeled. What appears on the nutrition label must be useful and important to consumers and be based on scientific evidence that such information is impor-

tant to the health of consumers. I have statutorily identified a few essential elements of mandatory nutrition labeling, like protein, calories, and fat; and, the bill also directs the FDA, through the use of expert advisory committees and the public comment process, to determine what are the appropriate and specific components of nutrition labeling.

The label should be accurate, concise, and in terms consumers can understand. We can't very well provide a scientific treatise on the back of every food label and expect many consumers to understand it. Nor can we in Congress dictate precisely what should appear on the label. Ten years ago, we may have passed a bill requiring only that vitamins and minerals should appear on a nutrition label. Today, we may all agree that fats and cholesterol should appear. Yet, 10 years from now, our understanding of diet and its relationship to health may change. Therefore, I urge my colleagues to allow FDA to develop nutrition labeling requirements through rulemaking so that such requirements may be based on the best and most current scientific information available. Through our oversight role, we in Congress can ensure that the labels reflect the needs of our constituents.

Second, I agree that the Food and Drug Administration must establish definitions for the common use of product characteristic claims, like light, high, and organic, and establish understandable parameters for when those claims may be made. And, I believe that consumers should have the benefit of information about foods which relate consumption of food, in the context of a total dietary approach, to specific diseases or conditions. However, our current regulatory approach is confusing, and this legislation will require the Secretary to clarify within 12 months when a health claim may be made.

We also need uniformity in food labeling. This is uniquely, as few others, an issue for the Federal Government not only because most food products travel in interstate commerce, but also because consumers need to have steerage through the maze of confusion. I agree with the statement that health recognizes no borders. And, all American citizens need confidence that what appeared on a food package is accurate.

Mr. President, the major complaint against uniformity is preemption of State regulation. Over the last decade or so, it has been suggested by some that Federal food safety and labeling enforcement is not as vigorous or responsive to the needs and wishes of consumers as it should be. To that allegation, I would say that the answer is not for each State to go about its own way, but for members of Congress, like us here today, to recognize that there is an appropriate level of Federal activity. It is up to us to make order out of chaos in the regulation of food and to give consumers confidence in place of uncertainty. It has not been since the 18th century that we have had thousands of individual and local food markets in this country. Today, we have had a single food supply. Therefore, we need a single, integrated, and coordinated system with an appropriate allocation of regulatory responsibility among the Federal, State, and local governments. And, we need this for one reason: we must have confidence in the safety of our national food supply; and, we must have consumers who can make informed decisions so they can adopt sound dietary practices.

Mr. President, I hope all Members will share my goal: mandatory nutrition and food labeling. Consumers want this information. Consumers need this information. I urge my colleagues to support this legislation. I ask unanimous request that a summary and the complete text of the legislation be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food and Nutrition Labeling Act of 1989."

FINDINGS AND DECLARATIONS

SECTION 1. The Congress finds and declares that:

(a) There is a recognized relationship between diet, nutrition and health;

(b) Health officials agree that consumers need nutrition information about food in order to choose healthy diets;

(c) The nation's public health goals will be enhanced by providing for more nutrition information to be provided to consumers on the labels of packaged food;

(d) Accurate and truthful health messages about food are an important tool for consumers in choosing healthful diets;

(e) A sound nutrition education program is needed to inform consumers about the availability, importance, and usefulness of nutrition labeling and health messages for food;

(f) State and local requirements for food labeling which differ from federal requirements imposed by the Secretary interfere with and frustrate the purposes and objectives of federal regulation under the Federal Food, Drug, and Cosmetic Act; and

(g) The development of sound federal programs for nutrition labeling on foods and for food regulation generally require that the Secretary have access to expert scientific advice and counsel.

MANDATORY NUTRITION LABELING

SEC. 2. (a) Section 403 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end thereof the following new paragraph (q):

"(q) (1) If it is a food for human consumption in package form unless its label bears information concerning its protein, carbohydrate, calorie and fat content and about vitamin, mineral and other dietary properties as the Secretary determines to be, and, after consultation with the advisory committee provided for under section 414 of this Title, by regulation prescribes as, useful and important to inform consumers about the nutritional and other dietary properties of the food and is based on scientific evidence that such information is important to the health of consumers: *Provided,* that, to the extent compliance with the requirements of this paragraph is impracticable, exemptions shall be established in regulations promulgated by the Secretary; and *Provided further,* That, the Secretary shall exempt from the requirements of this paragraph fresh fruits and vegetables, foods which are not a meaningful source of nutrients and for which no nutrition or dietary claim or information is otherwise provided, food that is subject to other similar labeling requirements, and food prepared and sold in a restaurant or other food service establishment for consumption at the place of sale or elsewhere."

(b) The Secretary shall promulgate regulations to establish the nutrition information required under paragraph (1) and the format for such information within two years of the date of enactment of the Food and Nutrition Act of 1989.

(c)(1) The Secretary shall continue to implement and enforce the nutrition labeling regulations in part 101 of Volume 21, Code of Federal Regulations, 1988 edition, until such time as they may be amended by rulemaking and new requirements become effective.

(2) The Secretary shall amend the nutrition labeling regulations in part 101 of volume 21, Code of Federal Regulations, 1988 edition, by rulemaking pursuant to section 554 of title 5, United States Code, to implement section 2 of this Act.

HEALTH AND PRODUCT CHARACTERISTIC MESSAGES

SEC. 3. (a) Section 403 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end thereof the following new paragraph (r):

"(r) if its label or labeling bears any statement which characterizes the nutritional or dietary properties of the food, describes the food in such terms as 'high,' 'light,' or 'organic', or contains any statement which relates the food to any disease or condition unless such statements or terms conform to regulations promulgated by the Secretary."

(b) The Secretary shall promulgate regulations to implement this section within 12 months of date of enactment.

(c) Section 403(r) shall become effective for products labeled two years after the effective date of the regulations promulgated under subsection (b).

HUMAN FOOD SAFETY AND NUTRITION ADVISORY COMMITTEE

SEC. 4. Chapter IV (21 U.S.C. 341 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 413 HUMAN FOOD SAFETY AND NUTRITION ADVISORY COMMITTEE.

"(a) ESTABLISHMENT.—The Secretary shall establish an advisory committee which shall be known as the 'Human Food Safety and Nutrition Advisory Committee' (hereinafter in this section referred to as the 'Advisory Committee').

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Advisory Committee shall consist of 15 members appointed by the Secretary.

"(2) MEMBERSHIP.—In making appointments under paragraph (1), the Secretary shall—

"(A) consult with the Secretary of Agriculture; and

"(B) ensure that the membership of the Advisory Committee includes—

"(i) consumers;

"(ii) representatives of the food industry;

"(iii) experts in the field of food technology and food production;

"(iv) experts in the application of biotechnology to food products;

"(v) experts in the field of nutrition and nutrition education; and

"(vi) experts in the field of food safety.

"(c) DUTIES.—The Advisory Committee shall advise the Secretary and the Commissioner of Food and Drugs on issues involving food for human consumption, including issues relating to—

"(1) food technology and production;

"(2) food research and development;

"(3) biotechnology and food products;

"(4) food safety;

"(5) the relationship between diet, nutrition, and health; and

"(6) health-related claims for food for human consumption.

"(d) TERMS.—A member of the Advisory Committee shall be appointed for a term of 3 years, except that of the members first appointed, 5 members shall be appointed for a term of 1 year, 5 members shall be appointed for a term of 2 years, and 5 members shall be appointed for a term of 3 years, as determined by the Secretary.

"(e) SUPPORT.—The Commissioner of Food and Drugs shall provide the Advisory Committee with such professional and clerical staff and information as may be necessary for the Advisory Committee to carry out this section.

"(f) COMPENSATION; TRAVEL EXPENSES.—

"(1) COMPENSATION.—A member of the Advisory Committee shall be compensated at a rate not to exceed the daily equivalent of the rate in effect for grade GS-18 of the General Schedule established under section 5332 of title 5, United States Code, for each day (including traveltime) that the member is engaged in the performance of duties as a member of the Advisory Committee.

"(2) TRAVEL EXPENSES.—A member of the Advisory Committee, while so serving away from the home or regular place of business of the member, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized under section 5703 of title 5, United States Code, for employees serving intermittently."

NATIONAL UNIFORMITY IN FOOD LABELING

SEC. 5. Chapter VII of the Federal Food, Drug, and Cosmetic Act is amended to add the following new section 710:

"NATIONAL UNIFORMITY IN FOOD LABELING

"SEC. 710. (a) GENERAL. Except as provided in subsection (b), no State or political subdivision thereof may establish or continue in effect any requirement with respect to a food intended for human consumption any requirement respecting the label of, or any labeling for, the food unless—

"(1) such a requirement is also established pursuant to a statute for which responsibility for the administration or implementation has been delegated by law or by the Secretary to the Commissioner of Food and Drugs and

"(2) the State or local requirement is identical to the Federal requirement except as otherwise provided for in this section.

"(b) DEFINITION. As used in this section, the term 'requirement relating to the regulation of food intended for human consumption' shall include—

"(1) any requirement or prohibition relating to the subject matter in any provision of any of the statutes described in paragraph (a)(1); or

"(2) any requirement relating to the dissemination of information about a food intended for human consumption in any manner, such as by posters, public notices, advertising, or other means of communication.

"(b) Upon application of a State, the Secretary may, by regulation promulgated after notice and opportunity for receipt of written views and an oral hearing, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a requirement of such State applicable to the labeling of a food intended for human consumption if the requirement—

"(1) is required by compelling and unique local conditions,

"(2) would not cause the food to be in violation of any applicable requirement under Federal law, and

"(3) would not unduly burden interstate commerce.

"(c) PETITION FOR REGULATION.—A State or political subdivision of a State may petition the Secretary for the adoption, by regulation, of an existing or proposed State or local requirement relating to the labeling of a food for human use, as a Federal requirement.

"(d) CONCURRENT JURISDICTION.—Any State may, consistent with the requirements under Federal law regarding the labeling of food for human consumption, exercise concurrent jurisdiction with the Secretary for the purpose of enforcing any state requirement concerning the labeling of food for human consumption which is identical to the requirements established under Federal law: *Provided, however,* That, before a State exercises such concurrent jurisdiction, it shall consult with the Secretary or his designee at least thirty days before it initiates any enforcement action."

NATIONWIDE NUTRITION EDUCATION PROGRAM

SEC. 6. Chapter IV of the Federal Food, Drug and Cosmetic Act is amended by adding at the end thereof the following new Section 414:

"SEC. 414.—NATIONWIDE NUTRITION EDUCATION PROGRAM.

"(1) The Secretary shall, with the assistance of the Advisory Committees provided for under Section 413 of this Act, develop and implement a nationwide program to educate consumers about the relationship between diet, nutrition and health, and about the proper interpretation and use of nutritional information and health messages on food labels.

"(2) There are authorized to be appropriated $5 million for each fiscal years 1990 through 1992."

EFFECTIVE DATE

SEC. 7. This Act shall take effect on the date of enactment.

SUMMARY OF THE FOOD AND NUTRITION LABELING ACT OF 1989

Section 1: Findings and Declarations.

Section 2: Mandatory Nutrition Labeling.

Requires all processed and packaged foods under the authority of the Food, Drug and Cosmetic Act to be nutritionally labeled. Such label shall include information on proteins, carbohydrates, calories and fat content and any other nutritional information as the Secretary determines to be necessary.

Foods that shall not be required to be labelled include those which would be impractical (generally because of size), fresh fruits and vegetables, foods which have no nutrients, and food prepared and sold in a restaurant or other food service establishment.

Section 3: Health and Product Characteristic Messages.

Requires the Secretary of Health and Human Services to promulgate, within 12 months, regulations prescribing the manner in which a statement may be made relating the food product to a disease or condition.

Section 4: Human Food Safety, Technology and Nutrition Advisory Committee.

Statutorily establishes a Food Advisory Committee to assist the Secretary with various food issues under the jurisdiction of the Food and Drug Administration.

Section 5: National Uniformity in Food Labeling.

Requires uniform labeling requirements in that if a state or local food labeling requirement is different, it is preempted. States are allowed to have a labeling rule that differs from the federal rule if the state can demonstrate the different rule was required by compelling and unique local conditions; wouldn't cause the food to violate federal requirements; and wouldn't unduly burden interstate commerce. It also establishes a procedure through which a state could petition the Food and Drug Administration to adopt local or state labeling requirements.

Section 6: Nationwide Nutrition Education Program.

Requires the Secretary to develop a nationwide education program to educate consumers about the relationship between the nutritional label and other dietary needs.

Section 7: Effective Date.

The provisions of the bill are effective upon date of enactment.

By Mr. BENTSEN:

S. 1506. A bill to amend the Internal Revenue Code of 1986 to limit the ability of corporations to obtain a refund of taxes by carrying back net operating losses arising from excess interest deductions allocable to transactions reducing corporate equity; to the Committee on Finance.

LIMITATIONS ON LOSS CARRYBACK CORPORATE TAX REFUNDS

● Mr. BENTSEN. Mr. President, today I am proposing legislation limiting the so-called carryback tax refund which is designed to assist companies that suffer from sharp cyclical or unexpected business downturns. My bill would limit the ability of corporations to claim tax refunds resulting from LBO's and similar financial engineering transactions involving debt.

For some time now, I have expressed my concern that corporate America has been moving too precipitously toward debt. I have been concerned that the next recession will be longer and deeper and more severe as a result. I believe the problem stems, at least in part, from our tax system which favors debt over equity. I said earlier this year that I would seek to redress an imbalance in our tax system

which rewards debt financing and discourages equity financing.

I also said that any response would not be dramatic. I do not want to go into the marketplace and pick winners and losers in takeover battles, and I don't want to disrupt the markets with a cure worse than the disease. My bill is a careful, measured response, directed to a little known aspect of the tax system that unintentionally has been encouraging these debt-oriented transactions.

Specifically, my bill relates to the tax rules that allow corporations to smooth out the swings in income that can occur from year to year as a result of business cycle fluctuations or simple reverses in fortune. Under these rules, corporations are permitted to carry back their tax losses to recoup taxes paid in the previous 3 years. Corporations also are allowed to carry such losses forward 15 years to offset income in the future.

Because of these rules, the Federal Government has found itself writing tax refund checks to corporations engaging in LBO's and debt recapitalizations. The way this can happen is this: In the typical leveraged buyout transaction, a corporation that has been steadily paying taxes for years will take on a sudden, large new debt burden. The interest deductions generated by this debt often will create a tax loss that can be carried back to recoup the taxes paid in the prior 3 years, for which the corporation can claim a tax refund from the Federal Government.

For example KKR, the leveraged buyout firm, has informed the Finance Committee that 17 of the companies it acquired through LBO's—not counting RJR Nabisco—paid $430 million in taxes the year before the takeovers but received $130 million in net tax refunds under the carryback provision the first year after the takeovers.

This same result can occur when a corporation engages in a restructuring of its capital structure that replaces equity with debt. These restructurings often are undertaken as antitakeover defensive tactics. Such debt restructuring can be accomplished by a debt-financed repurchase of outstanding stock, or by a debt-financed extraordinary dividend to shareholders.

These are not the sorts of events that the tax loss carryback rules were designed to cushion. These situations involve tax losses voluntarily created by the parties to the transaction. My proposal would put a stop to that. I don't think the Federal Government should write checks to corporations that replace equity with debt.

My bill would require corporations to reduce their tax loss carrybacks by the amount of interest expense attributable to these kinds of transactions. It would allow the full amount of the loss to be carried forward against future income, and it would not limit carrybacks arising from unexpected business contingencies. Only a major acquisition or a year of extraordinary distributions would trigger the limitation. I ask that following my statement there be placed in the RECORD this technical explanation prepared by the Joint Tax Committee staff.

I would like to see some new incentives to encourage equity—such as elimination of double taxation of dividends—but with our deficit situation, I am not optimistic about our chances right now. Relief of the double tax on corporate profits would cost billions of dollars in lost tax revenues. On the other side, there are proposals to limit the deductibility of corporate interest that are more dramatic than mine. I have opposed them and will continue to do so. We must not restrict this vital source of financing for America's entrepreneurs.

My bill is a measured and responsible middle ground. It closes a loophole and at the same time raises revenue toward deficit reduction. The Joint Tax Committee estimates that my bill will raise $400 million per year when fully effective—$1.7 billion over the 1990–94 period.

I am introducing my bill now, shortly before the long August recess, in order to let interested parties review, analyze, and comment on the proposal. I welcome constructive suggestions, and I ask unanimous consent that an explanation of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATION OF CORPORATE TAX REFUND RESTRICTION BILL, S. 1506

IN GENERAL

The ability of C corporations to obtain refunds of taxes paid in prior years by carrying back net operating losses would be limited by the bill in cases where the losses were created by interest deductions allocable to certain corporate equity-reducing transactions.

CORPORATE EQUITY REDUCTION TRANSACTION

A corporate equity reduction transaction ("CERT") means either a major stock acquisition or an excess distribution. A major stock acquisition is an acquisition by a corporation (or any group of persons acting in concert with such corporation) of a least 50 percent of the vote or value of the stock of another corporation. All acquisitions made during any 24-month period would be aggregated for these purposes. A major stock acquisition would not include an acquisition where the acquiring corporation has made a section 338 election, or, except to the extent provided in regulations, an acquisition of stock of another corporation which, immediately before the acquisition, was a member of an affiliated group (within the meaning of section 1504(a)), other than the common parent of such group.

An excess distribution is the excess of the aggregate distributions and redemptions made by a corporation during the taxable year with respect to its stock (other than stock described in section 1504(a)(4)), over 150 percent of the average of such distributions and redemptions for the preceding 3 taxable years. The amount of distributions and redemptions made by a corporation during a taxable year would be reduced by consideration (other than stock) received in exchange for stock (other than stock described in section 1504(a)(4)) issued by the corporation during such year. Notwithstanding the above, a distribution or redemption (or series thereof) would not be treated as an excess distribution if it did not exceed 10 percent of the value of the corporation's outstanding stock (other than stock described in section 1504(a)(4)) measured at the beginning of the corporation's taxable year. For these purposes, a redemption would still be treated as a redemption regardless of whether it is also treated as a sale or exchange.

LIMITATION OF NET OPERATING LOSS CARRYBACK

If a C corporation has a net operating loss in the taxable year in which it is involved in a CERT or in the following 2 taxable years, the corporation may be limited in its ability to carry back some portion of those losses. A C corporation would be treated as being involved in a CERT if it is either the acquired or acquiring corporation, or successor thereto (in the case of a major stock acquisition) or the distributing or redeeming corporation, or successor thereto (in the case of an excess distribution). Any portion of a net operating loss that cannot be carried back due to the operation of this provision may be carried forward to the corporation's future taxable years, as otherwise provided under present law.

The portion of the corporation's net operating loss carryback that would be limited is the lesser of (1) the corporation's interest expense that is allocable to the CERT, or (2) the excess of the corporation's interest expense in the loss limitation year over the average of the corporation's interest expense for the 3 taxable years prior to the taxable year in which the CERT occurred. If the lesser of these two amounts is less than $1 million, the provision would not apply.

The Secretary of the Treasury would be authorized to specify the method of allocating a corporation's interest expense to a CERT. Until regulations are promulgated, however, a corporation's indebtedness would be allocable to a CERT to the extent that the corporation's indebtedness could have been reduced if the CERT had not occurred, in the manner prescribed under section 263A(f)(2)(A)(ii) (without regard to clause (i) thereof). The interest expense associated with such allocable indebtedness would be equal to a pro rata portion of the corporation's total interest expense.

For purpose of determining whether a corporation's interest expense exceeds the prior 3-year average, it is expected that regulations would provide that increases attributable solely to fluctuations in interest rates would not be taken into account.

If a corporation has a net operating loss in any of the 2 taxable years succeeding the taxable year in which the CERT occurred, a portion of the corporation's net operating loss carryback may still be limited under the bill. Specifically, the limitation for each of the 2 years would be the lesser of (1) the corporation's interest expense for the current year that is allocable to the CERT that occurred in the prior year, or (2) the excess of the corporation's interest expense for the current year over the average of the corpo-

ration's interest expense for the 3 taxable years prior to the taxable year in which the CERT occurred. The provision would not apply, however, if the amount determined above is less than $1 million.

A special rule would provide that if an unforeseeable, extraordinary and adverse event occurs during a loss limitation year but after the CERT, the corporation's indebtedness first would be allocated to unreimbursed costs paid or incurred in connection with the event, in the same manner as indebtedness is allocated to a CERT under the bill. Any remaining indebtedness would then be allocable to the CERT. In addition, interest expense on indebtedness allocated to such an event would not be taken into account for purposes of determining whether the corporation's interest expense in the loss limitation year exceeds the prior 3-year average.

The Secretary of the Treasury would be authorized to prescribe regulations that would exempt transactions from application of the provision where corporate equity has not been replaced by debt. In addition, the Secretary would be authorized to prescribe regulations for applying the provision where more than 1 corporation is involved in a CERT.

EXAMPLES

The operation of the provision may be illustrated by the following examples.

(1) Profitable corporation P, a calendar year C corporation, is capitalized with $150 million of debt and $50 million of equity. P's annual interest expense has been $15 million for the past 3 years. P has paid a 1% annual dividend to its shareholders, or an average of $.5 million, for each of the past 3 years. On January 1, 1990, P borrows $50 million and distributes the proceeds to its shareholders. Due to increased interest deductions of $5 million, P incurs a net operating loss in 1990 of $4 million.

P was involved in a CERT in 1990 because P made an excess distribution to its shareholders (i.e., the $50 million distribution exceeds 150% of the average $.5 million dividend). The portion of P's $4 million net operating loss that would be limited under the bill would be the lesser of (1) P's interest expense that is allocable to the CERT ($5 million), or (2) the excess of P's interest expense in 1990 ($20 million) over P's average interest expense for the past 3 years ($15 million), or $5 million. Thus, P would not be able to carry back the $4 million net operating loss to any taxable year prior to 1990. In addition, if P has a net operating loss in 1991 and 1992 due to interest deductions allocable to the 1990 CERT, a similar computation would be made in each of those years and P may be limited in its ability to carry back the losses to pre-1990 taxable years. If P has income in subsequent years, however, P would be able to use the net operating losses to offset that income.

(2) Same facts as in Example (1), except that P does not incur any additional borrowing in 1990. Rather, P distributes $50 million from its own reserve to its shareholders. P's annual interest expense remains at $15 million following the distribution. Since the distributed funds no longer generate corporate earnings, however, P incurs a net operating loss in 1990 of $3 million.

P was still involved in a CERT in 1990 because P made an excess distribution to its shareholders. The portion of P's $3 million net operating loss that would be limited under the bill would be the lesser of (1) P's interest expense that is allocable to the CERT ($5 million), or (2) the excess of P's interest expense in 1990 ($15 million) over P's average interest expense for the past 3 years ($15 million), or zero. Thus, P's net operating loss carryback would not be limited under the bill, and P would be able to carry back the $3 million loss to its pre-1990 taxable years, subject to any other restrictions of present law.

In addition, if P's interest expense in the loss limitation year had exceeded the prior 3-year average solely due to an increase in interest rates, it is expected that regulations would exempt P from the provision.

EFFECTIVE DATE AND TRANSITION RULES

The bill generally would apply to CERTs occurring after August 2, 1989, in taxable years ending after that date.

In determining whether a CERT has occurred after August 2, 1989, the following would not be taken into account: (1) acquisitions or redemptions of stock, or distributions with respect to stock, occurring on or before August 2, 1989; (2) acquisitions or redemptions of stock after August 2, 1989, pursuant to a written binding contract (or tender offer filed with the SEC) in effect on August 2, 1989 and at all times thereafter before such acquisition or redemption; or (3) any distribution with respect to stock after August 2, 1989 which was declared on or before August 2, 1989.

If any of the 3 taxable years that comprise the average against which interest expense in a loss limitation year is compared, ends on or before August 2, 1989, a corporation may use the interest paid or accrued (determined on an annualized basis) during the taxable year that includes August 3, 1989 on indebtedness outstanding on August 2, 1989, rather than the 3-year average.

REVENUE ESTIMATE

The preliminary estimate of the impact of the adoption of this proposal on fiscal year Federal budget receipts is as follows:

[Fiscal years—in billions of dollars]

1990	0.2
1991	.4
1992	.4
1993	.4
1994	.3
1990-94	1.8

By Mr. BUMPERS:

S. 1507. A bill to provide special rules for health insurance costs of self-employed individuals; to the Committee on Finance.

PROVIDING RULES FOR HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS

● Mr. BUMPERS. Mr. President, today I am introducing legislation to rectify one of the most egregiously discriminatory provisions in our Federal tax law. This bill will amend the Internal Revenue Code of 1986 to allow self-employed individuals, namely the sole proprietors and partners in millions of America's small businesses, to deduct 80 percent of the cost of health insurance for themselves and their dependents. As Chairman of the Small Business Committee, I believe it is long past time that the self-employed are placed on the same tax footing as employees of large corporations who may enjoy excellent health benefits without any tax liability.

Under the Tax Reform Act of 1986, as under prior law, an employee's contribution to a plan providing health and accident benefits is excludable from an employee's income. No similar exclusion was provided under prior law for self-employed individuals. The self-employed paid tax on their health benefits, for the most part, while employees did not. This unequal treatment cannot be justified. The Tax Reform Act of 1986 included a modest provision to rectify the large inequity in the treatment of self-employed individuals by allowing them to deduct 25 percent of the expense for health insurance for themselves, their spouse, and their dependents, but only through 1989. The Senate tax reform bill, incidentally, allowed a 50-percent deduction for these health insurance costs, while the house bill gave nothing. The conferees split the difference by allowing for a 25-percent deduction which expires at the end of 1989.

At the same time, however, the 1986 Act reduced the tax deduction for personal health expenditures by raising the floor which such expenses must exceed from 5 percent to 7½ percent of a taxpayer's adjusted gross income before becoming allowable as a deduction when determining taxable income. For example, consider the case of a taxpayer who earns $40,000 a year; this taxpayer now must have had $1,000 more medical expenditures in a given year before any of those expenditures would be allowable as a medical deduction. Hence, much of what the Tax Reform Act gave with one hand was taken away by the other hand.

I believe that we must address the need for adequate protection from the potential ravages of health care expenses for the uninsured and underinsured citizens and their families in our country. Thirty-seven million Americans are without any kind of health insurance today. Moreover, there are 14 million self-employed people in this country. How many of those 14 million self-employed are part of the 37 million uninsured because the Internal Revenue Code makes insurance unaffordable is unclear. However, my bill will encourage the purchasing of health insurance by self-employed people. At a minimum, it will eliminate the current tax penalty imposed on self-employed individuals or unincorporated businesses that provide health insurance for these owner-operators and their families, as compared to employees of corporations.

The importance of small business to the American economy cannot be emphasized enough. During our last recession, the smallest businesses, those employing fewer than 20 people, were responsible for creating all of the new, net 1 million jobs from 1981 to 1982, according to the 1984 report of the President on the state of small business. The 1988 report of the President states that 10.5 million new jobs were created during the period from 1980 to

1986, and of that total, 63.5 percent were created by businesses with fewer than 20 employees. Yet, just over one-quarter of the smallest firms feel they can afford to offer health coverage, compared to more than three-quarters of all corporations which do offer such coverage. Undoubtedly, this is in no small part due to the tax deduction incorporated businesses enjoy for providing health coverage for employees. The Treasury is thereby heavily subsidizing the cost of health coverage by providing tax-exempt status, and I do not quarrel with this policy. It is only fair that we demonstrate our willingness to end this discrimination and extend this opportunity to self-employed individuals who play such an active and vital part in the American economy.

According to estimates made by the Joint Committee on Taxation, my proposal to allow self-employed individuals to deduct 80 percent of health insurance costs would reduce Federal budget receipts by a total of $7.4 billion over a 5-year period, costing $800 million in the first year, 1990.

The legislation I am introducing strikes an important balance between the urgent need for this deduction and the cost of providing it. While I agree in principle with other proposals which would provide a 100-percent deduction to the self-employed, my proposal is more economically feasible. A bill calling for a 100-percent deduction would have a price tag of $1 billion in 1990 and $9.2 billion from 1990 through 1994. In the first year alone, 1990, my legislation costs $200 million less to the Treasury.

Let me make it it perfectly clear that this deduction will not line the pockets of the wealthy or create a tax loophole for any wealthy corporation; it will provide a sensible approach to addressing a serious need at a modest price and benefit many of the people who are currently without any type of health coverage.

Mr. President, as as former small business owner and as the chairman of the Small Business Committee, I will continue to fight for this legislation because it is sorely needed and has been unjustly denied to many small business owners for too long. I hope my colleagues will demonstrate their support for the small business community by supporting this legislation.●

By Mr. REID:

S. 1508. A bill to amend Public Law 92-195, relating to the protection of wild free-roaming horses and burros, to increase the penalties for killing or seriously harassing the horses and burros; to the Committee on Energy and Natural Resources.

PROTECTION OF WILD HORSES AND BURROS

Mr. REID. Mr. President, today I am introducing a bill that will amend Public Law 92-195 the Wild Horse and Burro Act of 1971.

Wild horse killings during the recent past few months have made me more aware than ever that we must do more to improve legislation and insist on better management of our Nation's wild horse and burro herds. Stiffer penalties are the first step in deterring those individuals who think it is still their right to harass and kill these animals for pleasure.

About 600 head of horses have been killed in Nevada in the past 20 months and those who have been apprehended have been dealt with as if it is not much of a crime to shoot wild horses. I, for one, want the killings stopped and further, I think this bill will help to be a deterrent to those who would commit such an act.

These animals belong to all Americans. The present law is probably adequate, but it is clearly weak in the area of penalty. I think this weakness has lead to several hundred horses being shot and killed in my home State of Nevada.

My proposed legislation will change the present penalty for killing a wild horse or burro from a lenient gross misdemeanor to the increased penalty of a felony.

Since the present penalty is just a gross misdemeanor, the prosecutors do not want to bother with prosecution, even when solid cases are presented.

Mr. President, passage of this bill is needed to send the message that it is a serious offense to kill the wild horses and burros protected by the existing act, and further provide those involved in the investigations, and prosecutions of these cases with the clear intent of Congress.

Today, I am introducing this bill to make killing of a wild horse or burro a felony and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of Public Law 92-195, relating to the protection of wild free-roaming horses and burros, is amended by—

(1) redesignating subsection (b) as subsection (c); and

(2) striking subsection (a) and inserting the following:

"(a) Any person who maliciously kills or causes the death or harassment of any wild free-roaming horse or burro shall be imprisoned not more than 2 years or fined in accordance with title 18, or both.

"(b) Any person who—

"(1) willfully removes or attempts to remove a wild free-roaming horse or burro from the public lands, without authority from the Secretary;

"(2) converts a wild free-roaming horse or burro to private use, without authority from the Secretary;

"(3) processes or permits to be processed into commercial products the remains of a wild free-roaming horse or burro;

"(4) sells, directly or indirectly, a wild free-roaming horse or burro maintained on private or leased land pursuant to section 4 of this Act, or the remains thereof; or

"(5) willfully violates a regulation issued pursuant to this Act, shall be subject to a fine of not more than $2,000, or imprisonment for not more than one year, or both.

Any person so charged with such violation by the Secretary may be tried and sentenced by any United States commissioner or magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401, title 18, United States Code.".

By Mr. EXON (for himself and Mr. KERREY):

S. 1509. A bill to authorize amendments to a certain water service contracts for the Frenchman Unit of the Pick-Sloan Missouri Basin Program; to the Committee on Energy and Natural Resources.

AMENDMENTS TO THE SERVICE CONTRACT FOR FOR FRENCHMAN UNIT OF THE PICK-SLOAN MISSOURI BASIN PROGRAM

● Mr. EXON. Mr. President, today I am introducing legislation to make amendments to the water service contract for the Frenchman Valley Irrigation District. The bill provides equity for water users in the area and I hope that can be enacted into law very soon. I am pleased to have my Nebraska colleague, Senator KERREY, as a cosponsor.

The Frenchman Valley Irrigation District in southwestern Nebraska was organized in 1911 when it purchased the Culberton Diversion Dam, Culbertson Canal and a distribution system to supply water to about 9,600 acres or irrigable land. In 1944 Congress authorized the Enders Dam, which was completed in 1951.

In 1956, the farmers of the Frenchman Irrigation District entered into a water service contract with the Federal Government to supply water from Enders Dam. Water stored in the dam is released into the Frenchman River and transported about 52 miles downstream to the district's diversion works.

Until about 1973 the district received 20,000 acre-feet of water annually from Enders Reservoir. Since 1974, however, upstream development has reduced the amount of water flowing into Enders Reservoir. Water deliveries to the district since then have ranged between 11,000 and 13,000 acre-feet. Unfortunately, the district must still pay a full share of the operation and maintenance costs for Enders Dam and Reservoir.

This legislation requires amendments to the districts contract with the Federal Government. The change would bring their O&M obligations in line with the actual amount of water

that is used. It is the only fair thing to do and we urge our colleagues to give this legislation their timely approval.

Mr. President, I ask unanimous consent that my letter to Secretary Lujan an this subject be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the Record, as follows:

JULY 1989.

Hon. MANUEL LUJAN, Jr.,
Secretary, Department of the Interior, Washington, DC.

DEAR SECRETARY LUJAN: Today we introduced the enclosed legislation in the United States Senate requiring the renegotiation of the Bureau of Reclamation's water delivery contract with the Frenchman Valley Irrigation District. We are writing to seek your support for this measure.

The Frenchman Valley Irrigation District in southwestern Nebraska was organized in 1911 when it purchased the Culbertson Diversion Dam, Culbertson Canal, and a distribution system to supply water to about 9,600 acres of land.

In 1944 Congress authorized the Enders Dam on the Frenchman River which was completed in 1951. In 1956, the farmers of the Frenchman Irrigation District entered into a water service contract with the Federal Government. Water from the Enders Reservoir flows 52 miles downstream to the district's diversion and distribution system where it supplements the District's direct flow supply.

Until about 1973 the District received 20,000 acre feet of water annually from Enders Reservoir. Since then, however, upstream development has reduced the amount of water flowing into the reservoir. Consequently water deliveries to the District have fallen to between 11,000 and 13,000 acre-feet. Unfortunately the District must still pay a full share of the operation and maintenance costs for Enders Dam and Reservoir. Our legislation would remedy this inequitable situation by requiring the renegotiation of the District's water service contract.

A virtually identical situation existed for the adjoining Hitchcock and Red Willow Irrigation District (H&RW). In 1984, however, Congress approved legislation providing relief. You may recall that debate, as you were one of the senior members of the House Interior Committee at the time who worked for passage of the relief bill. A copy of your remarks during consideration of that bill are enclosed for your convenience.

Your support in 1984 was critical to gaining relief for the Hitchcock and Red Willow Irrigation District. We hope you will approach the Frenchman Valley Irrigation District the same way and lend your support to our bill. It is a fair solution to an unfair situation. We look forward to knowing your thoughts on this issue and hope to hear from you soon.

With best wishes,

JAMES EXON.

[From the Congressional Record, June 18, 1984]

H.R. 3130

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3130. This is a simple bill, supported by the administration, reported by the Interior Committee by voice vote, and unopposed so far as I am aware.

Basically, Mr. Speaker, what H.R. 3130 does is to authorize the amendment of a contract between a Nebraska irrigation district and the United States. The contract now in existence provides for the supply of water by the United States to the district, in return for payment of certain charges by the district to the United States. Unfortunately, the water supply for this project is failing, through no fault of the irrigation district involved. For this reason, it is basically inequitable to require the irrigation district to continue to pay for water it does not receive in a situation where it has been deprived of its water supply and has no legal recourse through which that supply can be recovered. The legislation authorizes an amended contract between the United States and the district. In this amended contract the district will pay as much as it can afford to pay for water it actually receives. Existing charges from which the district is relieved will be repaid to the United States from Pick-Sloan Power revenues. The use of such revenues to support irrigation development seems appropriate in this unusual and exceptional circumstance. As far as I am aware, there is no opposition to this arrangement.

For these reasons, Mr. Speaker, I support H.R. 3130 as a fair resolution of an unfortunate problem. I hope that the Bureau of Reclamation will learn from this experience and take steps to guarantee that this type of difficulty does not recur with respect to its other projects. I also take this opportunity to commend the gentlewoman from Nebraska [Mrs. SMITH] on the quality of her representation of her constituents who are members of the H&RW Irrigation District. She deserves considerable credit for getting this matter resolved.

Mr. KAZEN. Mr. Speaker, in closing, I also want to pay my respects to the gentlewoman from Nebraska [Mrs. SMITH] who did a tremendous job in getting an understanding among all parties involved and guiding this bill to the point where it was considered by the committee and brought to the floor today. She does a wonderful job in representing her constituency and I commend her for a job well done on this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. KAZEN] that the House suspend the rules and pass the bill, H.R. 3130, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to authorize amendments to a certain repayment and water service contract for the Frenchman Unit of the Pick-Sloan Missouri River Basin Program."

A motion to reconsider was laid on the table.●

Mr. KERREY. Mr. President, I rise to join my senior colleague from Nebraska, Mr. EXON, in introducing legislation to amendment the water service contract for the Frenchman Irrigation District. This bill provides equity to water users in the Frenchman District.

The legislation would require amendments to the irrigation district's contract with the Federal Government. Specifically the change will bring their operation and maintenence obligations into line with the actual amount of water used by the district. Senator EXON has given a brief history of the irrigation district's relationship to the Federal Government.

As Senator EXON has pointed out the district is caught in a position of paying a full share of the O&M costs for Enders Dam and Reservoir despite the fact that their allocation has decreased from 20,000 acre-feet of water annually to between 11,000 and 13,000 acre-feet. At $3 per acre-foot that works out to somewhere between $21 and $27,000 per year. This is an awful amount of money to the farmers of the Frenchman District.

I urge our colleagues to give this legislation their timely approval.

By Mr. THURMOND (for himself, Mr. LEAHY, Mr. HATCH, Mr. GRASSLEY, Mr. BOND, Mr. COCHRAN, Mr. SIMPSON, Mr. DECONCINI, and Mr. HEFLIN):

S. 1510. A bill to assure fairness in the allocation and award of antitrust damages; to the Committee on Finance.

ANTITRUST EQUAL ENFORCEMENT ACT

Mr. THURMOND. Mr. President, the Antitrust Equal Enforcement Act of 1989, which we are introducing today, relates to claim reduction in antitrust cases. It provides for the reduction of a plaintiff's total claim against multiple defendants, by the amount of damages attributable to any defendant who settles and, in a horizontal agreement case, that is, a case involving competitors at the same distribution level, by the amount of damages attributable to any coconspirator who was not sued.

Regarding the history of this act, it is no stranger to the Senate. It was introduced as legislation in the 99th Congress as S. 1300, and was approved and voted out of the Judiciary Committee by an overwhelming margin of 16 to 2. It was reintroduced in the 100th Congress as part of S. 635, and was the subject of a hearing on remedy proposals, including Senator METZENBAUM's proposals embodied in S. 1407.

As the committee report on S. 1300 makes clear, claim reduction is designed to more fairly allocate damages in antitrust suits so that antitrust defendants will be more likely to pay their fair share of any damages awarded. It is meant to remedy the abuse of what is commonly known as "whipsaw tactics" by relieving defendants who do not settle, of the liability for injury attributable to defendants who do settle and coconspirators who are not sued. This insures equitable allocation of responsibility among joint violators of the antitrust laws.

In antitrust cases against multiple defendants, a plaintiff has the freedom to choose which parties to sue

and to settle with some defendants, while holding the other defendants jointly liable for the total claim for treble damages. As defendants settle out, the pressure increases on the remaining defendants to settle, and a plaintiff will generally settle with remaining defendants only for amounts disproportionately higher than previous settlements. Such "whipsawing" is undesirable from the standpoint of antitrust policy, since it renders irrelevant the guilt or innocence of the defendants and the degree of harm actually caused by any particular party. Liability may literally be apportioned according to the whims of the plaintiff's attorney, rather than according to any concept of culpability. The companies with the greatest market shares, who would usually benefit most from joint antitrust violations, may escape from private class-action litigation for less than their fair share of damages, while companies with smaller market shares, or small roles in the wrongdoing, face judgments for the bulk of liability for an entire industry.

This escalating settlement pressure can be illustrated by a simplified example. Suppose there is a claim that antitrust violations have occurred in an industry with five companies, each with a 20 percent market share. Suppose also that the estimated damages, if proven, would amount to one dollar for each market share. This would amount to a total of $300 after the actual damages of $100 are trebled. Each defendant would therefore be liable for actual damages of $20, or $60 after trebling. If three of the defendants settle for actual damages, the remaining liability for the two defendants is $300 minus the $60 settlement, or $240. If four of the defendants settle, the remaining one defendant is liable for $300 minus the settlement of $80, or $220, eleven times the estimated actual damages.

No matter how convinced of innocence the remaining defendant may be, the litigation exposure is so large that there is no practical alternative but to settle. This is the settlement "whipsaw," and there is a general consensus that it is unfair.

There are some who have argued that claim reduction will decrease the deterrent force of the private antitrust remedies system. However, the opposite is clearly the case. Claim reduction will help insure that all participants in a conspiracy will be held accountable for at least some damages, and probably damages more closely approximating the proportionate share caused by each conspirator. The current system of incentives that allows some defendants to escape liability entirely, or on the basis of disproportionately low settlements, encourages some defendants to believe that they will not have to pay their fair share. This Act makes it more likely that all antitrust violators will be held accountable for damages, while it also reduces the unfair whipsaw settlement pressure.

The 16 to 2 vote in the Judiciary Committee in the 99th Congress demonstrated strong bipartisan support for a bill that would correct a serious inequity in the calculation of antitrust damages. It is that legislation which we introduce today, and which I urge all my colleagues, in the same bipartisan fashion, to strongly support.

Mr. LEAHY. Mr. President, I am pleased to join Senator THURMOND in introducing the Antitrust Equal Enforcement Act of 1989. This legislation, which in identical form, was favorably reported by the Senate Judiciary Committee in the 99th Congress, would eliminate some of the perverse effects of existing antitrust law by addressing the allocation of antitrust damages and the rights of innocent defendants. The application of current law, which includes the remedy of joint and several liability without claim reduction, has had a perverse "whipsaw" effect on those antitrust defendants who maintain their innocence. That result necessitates prompt Senate action.

Under current law, all defendants are jointly and severally liable for the total amount of an antitrust plaintiff's treble damages. Once the plaintiff settles with any defendant, his remaining claim is reduced only by the amount of the settlement, not by the fair share of the damages allocable to the setting defendant or defendants. The practical effect of this system is to encourage the most active members of an antitrust conspiracy to settle early and cheaply, in what might be termed "sweetheart" deals. The plaintiff can then use the collected settlement as a warchest against the remaining defendants. This often forces innocent defendants who otherwise would pursue their legal and factual claims to trial, to abandon those claims and settle rather than risk treble damages and bankruptcy through a "bet the company" trial.

As the Justice Department said in responding to my questions during 1986 hearings on this legislation:

> The current joint and several liability and other damage rules * * * can indeed induce defendants in an antitrust case to seek early settlements with the plaintiff, in the hope that the plaintiff will accept relatively small amounts, perhaps to finance the litigation or in return for assistance in its prosecution. Both parties to such a settlement realize that under existing law, the plaintiff will be able to shift the burden of paying the rest of the damages attributable to the settling defendant's sales to the remaining defendants. It is reasonable to assume that defendants against whom the plaintiff's case is the strongest, or who are responsible for large portions of the damages, would have the greatest incentives to negotiate early, favorable settlements * * *.
>
> We are informed that the risk of treble damages liability, particularly in large, industrywide class action cases, can be so great as to make a defense on the merits impossible where "sweetheart" settlements have eliminated other defendants as potential co-payors of plaintiff's judgment. Given the inherent uncertainties of litigation, and the fact that damages calculated on the basis of industrywide overcharges may dwarf the net worth of some defendants, claim that firms will settle rather than "bet the company" on even a meritorious defense appear quite credible.

I opposed the original bill (S. 1300) which Senator THURMOND introduced in 1986 because it would have repealed the joint and several liability rule in price fixing cases and reduced deterrence. Such proposals, based on the concept of individual responsibility, tell potential price fixers contemplating an antitrust violation exactly what there companies' liability will be, or gives them a formula for assessing the risk of violating our antitrust laws in advance. This is unacceptable.

In contrast, the compromise legislation we have written retain joint and several liability, while allowing claim reduction to minimize the unfair "whipsaw" effect. This legislation stipulates that when a plaintiff settles an antitrust action with one of two or more defendants, the plaintiff's claim against the remaining defendants will be reduced by the damages allocable to the settling defendant and not just by the amount of the settlement. For example, in a case where five defendants are named and two settle, the claim reduction provisions would reduce the plaintiff's claim by the amount of damages allocable to the two settling defendants. Joint and several liability would still apply to the three remaining defendants. Consequently, once the plaintiff obtained a judgment, he could proceed against any one of the three remaining defendants. This would strike the proper balance of reinforcing deterrence while protecting innocent defendants.

I believe that price fixers and all violators of our antitrust laws should be prosecuted.

No doubt the opponents of this legislation will argue, as they have in the past, that it is a mistake to address the allocation of damages and fairness among price fixers or antitrust violators. That argument ignores a basic tenet of our legal system which grants all defendants their day in court. This bill prevents those defendants who want to pursue their legal and factual claims from being steamrolled into settling just because of the settlement strategy of the other defendants and the plaintiff. At the same time, the threat of joint and several liability remains to deter anticompetitive conduct.

Mr. President, I urge my colleagues to support this legislation.

By Mr. PRYOR (for himself, Mr. JEFFORDS, Mr. METZENBAUM, Mr. KENNEDY, Mr. DECONCINI, and Mr. BUMPERS):

S. 1511. A bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protection given to older individuals in regard to employee benefit plans, and for other purposes; to the Committee on Labor and Human Resources.

OLDER WORKERS BENEFIT PROTECTION ACT[1]

● Mr. PRYOR. Mr. President, on June 23, the Supreme Court handed down its decision in *Public Employees Retirement System of Ohio* v. *Betts*, 57 U.S.L.W. 4931 (June 23, 1989), and, in the words of Justice Marshall, "immunize[d] virtually all employee benefit programs from liability under the Age Discrimination in Employment Act [(ADEA)].* * *" As a result of this decision, older workers who counted on various types of employee benefits for the future can no longer be certain of those benefits.

In response, I am today introducing legislation to overturn the Betts decision and return to the longstanding and accepted interpretation of the ADEA. I am pleased that Senators JEFFORDS, METZENBAUM, KENNEDY, DECONCINI and BUMPERS are joining me in introducing the Older Workers Benefit Protection Act of 1989.

HISTORY OF ADEA BENEFITS PROTECTION

In 1967, when the Senate was considering the bill that would become the Age Discrimination in Employment Act, then Senator Javits offered an amendment with the goal of insuring that employers would not be discouraged from hiring older workers by the fact that the cost of some benefits increases with age. This amendment, which would become section 4(f)(2) of the ADEA, created an exception from the proscriptions of the ADEA for a bona fide employee benefit plan "which is not a subterfuge to evade the purposes of [the Act].* * *" (29 U.S.C. sec. 623(f)(2).)

The Department of Labor (DOL) issued a three paragraph regulation interpreting section 4(f)(2) in 1969. This regulation stated that "[a] retirement, pension or insurance plan will be considered in compliance with the statute where the actual amount of payment made, or cost incurred, in behalf of an older worker is equal to that made or incurred in behalf of a younger worker, even though the older worker may thereby receive a lesser amount of pension or retirement benefits, or insurance coverage." (29 CFR sec. 860.120 (1969).) This "equal benefit or equal cost" standard provided clear guidance on the scope of coverage of this exception to the ADEA.

In 1977, the U.S. Supreme Court decided *United Airlines, Inc.* v. *McMann*, 434 U.S. 192 (1977), in which a retirement plan was forcing the early retirement of older workers. The Court held that "subterfuge" has a plain meaning (a scheme, plan, stratagem, or artifice of evasion), and by definition an employee benefit plan adopted prior to the enactment of the ADEA in 1967 could never be a "subterfuge." The Court therefore ruled that this retirement plan fell within the section 4(f)(2) exception and did not violate the ADEA.

In 1978, Congress reacted to the McMann decision by amending section 4(f)(2) with the phrase "no such * * * employee benefit plan shall require or permit the involuntary retirement of any individual [protected by this Act] because of the age of such individual[.]" (29 U.S.C. sec. 623(f)(2).) Congress also called on the DOL to further clarify its ADEA regulations.

During the Senate debate over the 1978 amendments to the ADEA, Senator Javits essentially endorsed the DOL's interpretation of section 4(f)(2) by clarifying what he had intended with his 1967 amendment:

> The purpose of section 4(f)(2) is to take account of the increased cost of providing certain benefits to older workers as compared to younger workers.
>
> Welfare benefit levels for older workers may be reduced only to the extent necessary to achieve approximate equivalency in contributions for older and younger workers. Thus a retirement, pension or insurance plan will be considered in compliance with the statute where the actual amount of payment made, or cost incurred in behalf of an older worker is equal to that made or incurred in behalf of a younger worker, even though the older worker may thereby receive a lesser amount of pension or retirement benefits, or insurance coverage.

In response to the congressional request, the DOL issued a more comprehensive version of the 1969 regulation. This expanded version was ultimately adopted by the Equal Employment Opportunity Commission (EEOC), which took over enforcement of the ADEA in 1979. In these regulations the EEOC concluded that "[t]he legislative history of this provision indicates that its purpose is to permit age-based reductions in employee benefit plans where such reductions are justified by significant cost considerations." (29 CFR sec. 1625.10(a)(1).) The EEOC then adopted the same equal benefit or equal cost interpretation contained in the 1969 Department of Labor regulation and used by Senator Javits in the 1978 floor debate. Id.

Until the Supreme Court handed down its decision in *Public Employees Retirement System* v. *Betts*, 57 U.S.L.W. 4931 (June 23, 1989), the equal benefit or equal cost test was relied upon as the official interpretation of the section 4(f)(2) exception to the ADEA. In *Betts*, the Supreme Court once again showed its disdain for civil rights by reaching the completely unexpected conclusion that employers are free to engage in age-based discrimination against their employees in the area of employee benefits.

BETTS CASE

June Betts was a public employee in Ohio. At age 61 she became permanently and seriously disabled and had no choice but to retire. Ohio's Public Employee Retirement System (PERS), as enacted in 1933, provides for basic retirement and disability retirement. Disability retirement, however, is limited to employees under 60. In 1976, PERS was amended to provide that disability retirement payments could never be less than 30 percent of the retiree's salary. Under basic retirement, Betts would receive $158.50 per month in benefits, and under disability retirement, she would receive $355 per month.

Betts was not allowed to take disability retirement because she was over 60, and she was forced to settle for basic retirement benefits. She filed suit in Federal court contending that the PERS plan discriminated against older workers in violation of the ADEA.

Using the EEOC's equal benefit or equal cost test, the district court held in favor of Betts, finding the PERS did not qualify for the section 4(f)(2) exception to the ADEA. The United States Court of Appeals for the Sixth Circuit affirmed the district court's decision.

In spite of a friend of the court brief submitted by the Administration is support of the EEOC's regulation, the Supreme Court rejected this longstanding and accepted interpretation of the section 4(f)(2) exception, and instead adopted a "plain meaning" approach to the term "subterfuge."

In doing so, the Court first reaffirmed its 1977 ruling in McMann that an employee benefit plan adopted prior to the enactment of the ADEA in 1967 could not be a subterfuge to evade the purpose of the act. In other words, discriminatory pre-ADEA benefit plans can never be found to be unlawful under the ADEA. However, since PERS was amended in 1976, the Court could not dispose of the case on that basis.

Next, the Court held that a post-ADEA employee benefit plan does not violate the ADEA "so long as the plan is not a method of discriminating in other nonfringe-benefit aspects of the employment relationship. * * *" In other words, it is not a violation of the ADEA for an employee to discriminate against an older worker in terms of employee benefits as long as the benefit plan is not a vehicle for discrimination in other prohibited ways, such as salary, hiring or firing. Further, the Court held that an employee challenging an employee benefit plan under the ADEA has the burden of proving that the plan discriminates in some non-benefit way. Based on these hold-

ings, the Court reversed the lower court decision.

Mr. President, advocates of elderly workers are very concerned about the large loophole left in the ADEA by the Betts decision. In addition, the EEOC is concerned because it has a number of cases pending which could be dismissed based on the Supreme Court's decision. Senators JEFFORDS, METZENBAUM, KENNEDY, DECONCINI, BUMPERS, and I share these concerns and are convinced that if this decision is not legislatively corrected quickly, the consequences could be quite serious for older workers who had counted on employee benefits to protect them from the crippling cost of medical care and to provide them with secure retirements.

LEGISLATIVE RESPONSE

We are therefore introducing today legislation to respond to the Supreme Court's decision to severely limit older worker protection under the ADEA. This bill is narrowly drafted to accomplish the goal of simply returning to pre-Betts law and interpretation.

The bill would amend section 4(f)(2) by deleting the term "subterfuge" and codify EEOC's long-accepted equal benefit or equal cost test. Our goal was to carefully and narrowly draft this provision so as to only return to pre-Betts law and interpretation, and in doing so, not settle pre-Betts debates over the EEOC's interpretation of its regulations. The bill would also assure that pre-1967 employee benefits plans are subject to the provisions of the ADEA, and assure that the 4(f)(2) exclusion is an affirmative defense under the ADEA, and the employer has the burden of proving that defense.

There is no question that this is a complicated issue. We therefore look forward to meeting with interested parties and holding hearings in order to address concerns and strengthen the bill we are introducing today.

Mr. President I want to thank my colleagues who have joined me today in introducing this important legislation. Their cooperation and contributions in the development of this bipartisan package have been invaluable. I hope that the Senate will act quickly to send a message that Congress does not sanction age based discrimination in the area of employee benefits.●

● Mr. METZENBAUM. Mr. President, I am proud to be joining with Senators PRYOR, JEFFORDS and others in introducing the older Workers Benefit Protection Act.

In a stunning decision issued on June 23 of this year, the Supreme Court ruled that employers may deny older workers benefits they provide to younger workers simply because of their age. In Public Employees Retirement System of Ohio versus Betts, the Court held that the age Discrimination in Employment Act of 1967 (ADEA) does not prohibit employers from discriminating on the basis of age when providing employee benefits. The Betts decision is an assault on the rights of millions of older workers. By overturning the Betts ruling, this bill restores the rights of those workers.

As some of my colleagues may know, June Betts is an Ohioan. Mrs. Betts was employed by Hamilton County, OH, as a speech pathologist. At age 61, she became disabled but was denied disability retirement solely because she was above the age of 60. Instead, Mrs. Betts had to accept a greatly reduced level of retirement benefits based on age and service—her benefit was only $158.50 per month, nearly $200 less than she would have received from a disability pension.

The State's only justification for denying disability retirement to Mrs. Betts was her age. But the Supreme Court found the plan to be valid. In a startling reversal of prior law, the Court held that the ADEA does not prohibit discrimination in employee benefit plans unless the employee can prove that the plan also intentionally results in discrimination in the hiring, firing, promotion or wages of the older workers. The Court further held that if the employee benefit plan was established prior to 1967, when the ADEA was enacted, the ADEA does not apply to the plan at all.

This the first time since Congress passed the ADEA that employers have been permitted to discriminate in providing employee benefits. The Betts decision reverses 20 years of settled law, including regulations supported by the Johnson, Nixon, Ford, Carter, Reagan and Bush administrations, and the unanimous judgment of five United States Courts of Appeals.

This bill restores the longstanding bipartisan understanding of the employee benefit plan provisions of the ADEA as it existed prior to Betts. The legislation requires that employers provide older workers with benefits equal to those provided for younger workers, unless the employer can prove that the cost of an equal benefit is greater for an older worker than for a younger one. If such proof is made, the employer may comply with the ADEA by expending equal amounts for the benefit per employee regardless of the level of benefits provided. The bill also makes clear that all benefit plans are covered by the ADEA, including plans that were established prior to the act's passage in 1967.

Mr. President, it is imperative that we move this legislation as soon as possible. Lower courts should not be forced to follow the tortured logic and cruel result of the Supreme Court decision. In addition, the EEOC estimates that it has more than 30 cases now pending in Federal court, worth more than $1 billion to the older workers of this country, that involve allegations of benefits discrimination. Unless we act quickly, we will have broken faith with millions of older workers who believed what Congress said in the ADEA: that age discrimination in the workplace cannot and will not be tolerated.●

● Mr. DOMENICI. Mr. President, most everyone knows about the Supreme Court decision on burning the U.S. flag, but few are aware of another startling decision that the Supreme Court made this summer on age discrimination.

I'll start with just a minute of history. Over the past two decades, we in the Congress have tried to remove the legal barriers against older workers. We eliminated mandatory retirement. We have relaxed the Social Security earnings test. We have made other strides.

We have also tried to ensure that employment-based age discrimination is not legal and will not be tolerated. Such discrimination may be based on a belief—unfounded, of course—that older workers are less productive than younger workers.

Congress passed the Age Discrimination in Employment Act in 1969 and has strengthened it several times subsequently. Now, age discrimination is not the problem it once was. Not only have employers gained a better understanding of the value of older workers, but they know they must comply with the age discrimination laws.

In essence, the Supreme Court in its *Betts* decision has told Congress that it didn't properly write the part of the age discrimination law that deals with fringe benefits. Fringe benefits such as retirement, health, disability, and workers' compensation are important—no, critical—employee compensation to old and young workers alike.

The Supreme Court ruling will make it much easier for firms to deny fringe benefits to older workers simply on the basis of their age. I don't think many firms want to do that, but some could—either maliciously or because they don't understand how valuable older workers are. Congress must not allow this to happen.

I believe that we should act to apply the nondiscrimination rules of the ADEA to employee fringe benefits. This is no big advancement in civil rights, it is just restoring what has been the common understanding for the past decade. The protections older workers now have cannot be left to wither. If we don't act soon, these protections will start to erode.

Senators PRYOR and JEFFORDS are introducing legislation to restore the interpretation of the age discrimination law to that commonly held prior to the Supreme Court decision. I would like to thank Senator PRYOR for taking a leadership role on this issue.

I am not cosponsoring this bill—at least not today, but I certainly do not

agree with its concept. I'm still reviewing all of its technical aspects. Employee benefits legislation is complex and I want to have a better understanding of the subtle effects the law might have.

In spite of the need to be careful, I think the Congress should move with speed to resolve these complexities and protect older workers from discrimination in their employee benefits. We cannot signal the world that Congress intends to sit on its collective hands in light of the Supreme Court decision.

I believe that the Aging Committee, of which I am a member, should have hearings soon after our return in September. Likewise, for the Labor and Human Resources Committee. Let us resolve the difficult technical issues as quickly as possible.●

● Mr. JEFFORDS. Mr. President, I am pleased today to be a cosponsor of the Older Workers Benefit Protection Act, a measure created for the express purpose of reversing the Supreme Court's decision in Public Employees Retirement System of Ohio versus Betts. In that decision the Court ruled that section 4(f)(2) exempts from the ADEA all provisions of a bona fide employee benefit plan unless the plan is a subterfuge for discrimination in the nonfringe-benefit aspects of the employment relationship. I am personally convinced that the Congress which enacted the ADEA had no intention of broadly exempting from coverage so integral a portion of the employment relationship as employee benefits. Thus, I believe that we must open the legislative discussion of the appropriate parameters of interaction between the ADEA and employee benefits. However, until we are able to complete that process the status quo existing prior to the Betts decision must be maintained. This is the objective of the bill we introduce today.

The mechanism which we have chosen to effectuate this purpose is to reinstate the EEOC regulations on the ADEA, which were struck down by the Court, and to embody those regulations in the statute. Our thinking in doing so is that the regulations have been in existence for a number of years and have formed the level playing field for the formulation of employee benefit policy. Thus, our action in reaffirming the regulations should not work any hardship on those maintaining benefit plans because they were always on notice that the regulations were there and had longstanding opportunity to comply with them.

However, in the past few weeks my staff and I have heard from some representatives of the business community that our interpretation of the situation regarding the regulations does not reflect the reality of benefit practice, and that our proposed bill will upset the benefits applecart. Not only were these business representatives concerned about the nature of what we propose, but also they were animated by persistent rumors that once introduced this bill would be immediately moved to the floor of the Seante without the opportunity for hearings. Mr. President, I wish to state unequivocally that no such plan exists for this legislation. This is not a simple issue. There are a number of underlying policy issues regarding the approach taken by the regulations on several benefits issues, including most particularly the issue of benefit integration. The holding of substantial hearings at which all interested parties are afforded full opportunity to air their respective positions on these issues is the only rational way to proceed, and that is exactly what will occur in this instance. I invite the business community, the aging community, organized labor and any other interested groups to martial their evidence and arguments and be prepared to present them at the hearings we will hold on this bill in the fall.

Make no mistake Mr. President, I do wholeheartedly support the objectives of this bill. Age discrimination is intolerable and where it exists it must be eradicated. I believe that our bill is the right response to the decision by the Court. However, I am not so inalterably tied to the precise mechanisms which have been chosen that I cannot be convinced that some alternative manner of proceeding would better accomplish our purpose. For example, I am not totally in accord with the handling of the retroactivity issue as presently drafted. Thus, the hearing process on this measure will be of crucial importance to all concerned.

In the weeks to come we will be asking our colleagues to examine the issues involved in this matter and to give them the serious and determined consideration which they deserve.●

By Mr HOLLINGS (for himself, Mr. KERRY, Mr. BREAUX, and Mr. STEVENS):

S. 1512. A bill to authorize appropriations for the Coast Guard for fiscal years 1990 and 1991, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COAST GUARD AUTHORIZATION ACT

● Mr. HOLLINGS. Mr. President, today I am introducing the Coast Guard Authorization Act of 1989. This bill provides the core authorizations for the Coast Guard for the next 2 fiscal years. The authorization for operating expenses totals $2.31 billion in fiscal year 1990 and $2.38 billion in fiscal year 1991. These figures reflect modest increases—an 9 percent increase from 1989 to 1990 and a 3-percent increase from 1990 to 1991.

As chairman of the Commerce Committee, I must admit that we are asking the Coast Guard—budgetwise—to toe the line and walk a straight and narrow path without swaying. In this regard, the Commandant has reminded us that "we will get what we pay for."

The authorization for capital funding in this bill is equally conservative—totaling $746 million in fiscal year 1990 and $501 million in fiscal year 1991. Capital funding, of course, includes the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft.

In fiscal year 1990, the Coast Guard needs to acquire a new icebreaker. This will increase the icebreaker fleet to three vessels. In the early 1980's, the Office of Management and Budget established an interagency committee to conduct a comprehensive study of the Nation's icebreaking needs. The study concluded that the Coast Guard should maintain a fleet of four icebreakers. We have only two, and they cannot handle present-day requirements. For instance, the attempts to rescue those gray whales from the ice last October were almost a failure. The Coast Guard's icebreakers could not do the job adequately, and in fact, only one could be mobilized to the area in time. If two Soviet icebreakers had not arrived to clear a path, the whales would have died. Certainly, we are grateful to the Soviets for their assistance, but the fact remains—we could not get the job done ourselves. The administration has included $244 million in the Coast Guard's capital funding account to acquire an additional icebreaker. The bill I am introducing today includes this authorization amount.

In addition, retired pay is authorized in this bill. Retired pay provides money to retired military personnel of the Coast Guard, the Coast Guard Reserve and the former Lighthouse Service. Included in this authorization is $421 million for fiscal year 1990 and $451 million in fiscal year 1991.

Other funding authorizations in the bill cover research and development, reserve training, and the boating safety account. In addition, authorizations are provided for end-of-year strengths of 38,199 military personnel for fiscal years 1990 and 1991. The bill also authorizes average military training loads for recruits and special training, flight training, professional training, and officer training.

In addition to authorizations, this legislation contains a number of provisions amending existing law applicable to the Coast Guard. These include:

A section which makes four changes to provisions concerning appointment and promotion of Coast Guard officers;

A section ensuring that the Coast Guard is authorized to continue to

perform all of its essential duties in the event that the service is required to operate as a part of the Navy;

Technical amendments to prevent pollutions from ships;

Technical amendments to provide safeguards for military whistleblowers;

A section establishing both a criminal and civil penalty for failure to comply with a lawful boarding;

A section increasing the civil penalties for violations of section 9308 of title 46, U.S. Code from $500 to $10,000;

A section authorizing funds to upgrade the ground segment of the Search and Rescue Satellite Aided Tracking system [SARSAT]; and

A title that transfers the authority for bridge administration from the Secretary of Transportation to the Secretary of the Army.

Before closing, I must comment on the excellent manner in which the Coast Guard responded to the recent oilspills around the country, in Delaware, Rhode Island, Texas and particularly the one in Alaska. In no uncertain terms, the Coast Guard has been called on to avert potential environmental catastrophes. And in responding to each crisis, the Coast Guard mobilized seamen to the scene either to place booms around the spills, off-load any oil that remained on the vessels, or direct the cleanup operations. Through their prompt response in Alaska, 42 million gallons of oil were removed from the leaking tanker without further incident, thereby preventing the possibility of a much larger spill. Though these oil spills attracted a lot of attention, they served as prime examples of the important work performed by the Coast Guard.

Mr. President, I ask my colleagues to join me in supporting this legislation.●

By Mr. HUMPHREY (for himself, Mr. DANFORTH, Mr. ARMSTRONG, Mr. NICKLES, Mr. HELMS, Mr. COATS, Mr. GRAMM, and Mr. LOTT):

S. 1513 A bill to amend the Internal Revenue Code of 1986 to deny status as a tax-exempt organization, and as a charitable contribution recipient, for organizations which perform or provide facilities for abortions; to the Committee on Finance.

ELIMINATING TAX EXEMPT STATUS OF ABORTION PROVIDERS

● Mr. HUMPHREY. Mr. President, a few weeks ago, I performed a very unpleasant task in my home State. At a dump just outside the city of Concord, workers accidentally discovered amongst the filth and the trash the remains of human infants destroyed by a local abortion clinic. I and others who were saddened and outraged at the discovery held a memorial service for victims of the abortion holocaust and to decry the desecration of their bodies.

As there, here, I come here to plead for an end to the killing of helpless, innocent prenatal infants. I come to plead for an end to the intellectual dishonesty that for the sake of modern convenience dismisses the most obvious and indisputable fact: The offspring of human beings are human beings, and abortion kills human beings.

Mr. President, today on behalf of eight colleagues, and on my own behalf, I am introducing legislation to end tax exemptions for those abortion clinics which now have such exemptions and to end the tax deductibility of contributions to such abortion clinics. This is extraordinarily important legislation. Tax subsidies for abortion clinics are wholly inconsistent with the often reiterated refusal of Congress to provide cash subsidies for abortion clinics.

Abortion is just plain wrong. Let's cut out the sophistry. Abortion kills human beings. That's why it's wrong. The offspring of human beings are human beings, and abortion kills human beings. Some suggest the debate over abortion is a religious debate. That's a suggestion which is intended to remove the debate from politics, since politicans aren't supposed to involve themselves in religious contests. Well, in fact, the debate isn't about religion at all, it's about biology. And you don't have to hold a Ph.D. to know the offspring of human beings are human beings. And you don't have to be a scientist to understand that each and every abortion produces a dead human being.

Let me illustrate by reading an article by Cal Thomas, a nationally syndicated columnist. This article appeared in the Washington Times on May 1, 1989:

WHY'S THE BABY IN THE BOTTLE?

Like many students at this time of year, 12-year-old Carrie Walker prepared a science project for her seventh grade class at Pi Beta Phi Elementary School in Gatlinburg, Tenn. But Carrie's project was different—so different, and so controversial, that while it won a blue ribbon in the pre-exhibit judging, it was ordered removed by the school principal before the fair officially opened to students and the public.

Carrie's science project depicted the development of human life, not with pictures, but with 10 jars containing unborn babies at pregnancy stages ranging from six weeks to 5.5 months, and showed some methods used in abortion.

Carrie's uncle is a pathologist. He supplied the babies, which he said were the result of miscarriages.

Jim Wade, the curriculum director for Sevier County, Tenn., schools, said that "to an untrained eye, the 5.5 months along was definitely a child." (Apparently, it takes a considerable amount of "training" for people to deny the obvious.)

I spoke with Carrie's mother, Donna Walker, who teaches art at her daughter's school. She told me that Carrie had no intention of "taking sides" in the debate over abortion, though she said her daughter opposes the procedure.

"She only wanted to show how babies develop and the methods used in abortion," said Mrs. Walker.

Though Donna Walker felt that the project was instructive for students her daughter's age, she is supportive of the principal's decision to remove the project, agreeing that younger children are too sensitive to confront such an exhibit.

I wonder. Is it the children who are too sensitive, or is it the adults who are so embarrassed when confronted with the reality of abortion, that they must censor the truth in order to believe the lie that what is being done away with is simply a mass of impersonal tissue?

After some second-grade children had seen the display of babies while on their way to lunch in the school cafeteria, their next destination was Donna Walker's art class. She recalled some of their comments.

"Why was the baby in the bottle" asked one.

"Is that baby going to come out and be alive?" asked another.

"Do you kill the baby to put it in a jar?" asked a third student. "How did it die?" "You have 10 human beings in there."

Mrs. Walker says she overheard an eighth-grade girl, who had just seen the project, say, "That was a real little person in there. I never want to get an abortion."

Jim Wade told me he "suspected" teachers answered the children's questions about how the babies died by telling them "the babies had been sick." In the case of these miscarriages, that may have been true. But this science project also illuminates the tragedy of the abortion of millions of babies who were not sick. And some don't want children (or adults) to view the evidence, lest their consciences be pricked and they are forced to reconsider their views.

Recent advertisements in family newspapers have carried pictures of ducks and sea otters covered with oil spilled in Valdez, Alaska. These ads are designed to produce a response from the reader: To donate to help save the wildlife and often to boycott Exxon, whose tanker spilled the oil.

Another ad, with the inflammatory headline "African Chainsaw Massacre," includes pictures of dead elephants "murdered for their ivory" and implores us to "help the elephant" by asking George Bush to declare it an endangered species.

So why not display babies in jars to show precisely what is being aborted? Is this not full disclosure and truth in labeling?

Jim Wade told me, "It is impossible to explain to a child between kindergarten and the third grade the whole issue of abortion."

From an adult perspective, it is impossible to make such an explanation, because the child must deny that which is obvious to him. And what if he suddenly understands that there was a very good chance he might have been floating in a bottle or dumped in an incinerator had his mother exercised her "choice" and denied the child the right to life?

How would an adult answer a question like "Mom, could you have done this to me?"

It is no wonder that the principal ordered the project removed from sight. Nonetheless, out of the mouths of babes in one Tennessee elementary school came the truth.

We all know intuitively that Mr. Thomas is right about explaining abortion to a child—we can't explain it. Even a child knows when he or she is exposed to the hard, cold facts that abortion is the killing of innocent babies.

And, there is something else that we intuitively know can't be explained to a little child: Our Government not only sanctions this ghastly practice, but it subsidizes it as well.

I dare say, that there is somebody else we could not explain this to: The average taxpayer.

Mr. President, there can be no doubt that there is broad social consensus that certain organizations should benefit from tax-exempt status. Churches, synagogues, schools and universities, as well as charities should be exempt from taxation.

Incredibly, those same benefits are extended to organizations whose primary function is the termination of human life.

Our legislation will put an end to this practice.

Mr. President, let me point out that this bill is narrowly drawn as to eliminate the risk that any hospital might be affected by this bill. We have incorporated a threshold test which will exempt from coverage any organization which derives less than 1 percent of its gross receipts from performing abortions.

In other words, an organization that performs abortions would lose its tax exemption only if its income from abortions exceeds 1 percent of its gross receipts from all of its services. While we do not mention hospitals per se in the language, we have deliberately and carefully formulated the language in this bill to exclude hospitals. We have drawn this so tightly that we know of no hospital that would be affected.

Not only would hospitals be excluded from coverage of the bill, but certain other abortion providers would not be touched because they are not tax exempt in the first place. Obviously, you cannot withdraw tax exemption from an organization that has no tax exemption to begin with. For profit abortion clinics are not tax exempt, and would not be affected by this legislation. And likewise government-owned abortion clinics would not be affected by this amendment either since the government does not pay taxes to the Federal Government. But there are many abortion clinics that do enjoy such tax breaks. There are about 3,000 abortion providers in this country, clinics, hospitals, and private physicians.

About 800 of those are abortion clinics of which somewhere between ⅓ and ½ are tax exempt. But it is important to remember for both sides of the argument, I will acknowledge, that 80 percent of the abortions in this country are performed in abortion clinics.

Let me also point out that we are well within the limits of the Constitution. Let us remember that we have repeatedly cut off cash subsidies for abortion. And naturally those cutoffs have been challenged in court a number of times, and the courts have always upheld the right of Congress to cut off these cash subsidies. For as the Supreme Court stated in the case of Taxation With Representation versus Regan—

"[A] legislature's decision not to subsidize the exercise of a fundamental right does not infringe the right * * *

From that same decision—

Both tax exemptions and tax deductibility are a form of subsidy that is administered through the tax system. A tax exemption has much the same effect as a cash grant to the organization of the amount of tax it would have to pay on its income.

Therefore, the question is not the constitutionality of this proposal. It is sound. The question is, will Congress continue to subsidize abortion?

Let us say no to this tax subsidy as we have so many times said no to cash subsidies for abortion. Mr. President, I ask unanimous consent that a text of the bill be reprinted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1513

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DENIAL OF TAX BENEFITS FOR ORGANIZATIONS WHICH PERFORM OR PROVIDE FACILITIES FOR ABORTIONS.

(a) DENIAL OF TAX-EXEMPT STATUS.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) DENIAL OF EXEMPTION FOR ORGANIZATIONS WHICH PERFORM OR PROVIDE FACILITIES FOR ABORTIONS.—

"(1) IN GENERAL.—An organization shall not be treated as described in subsection (a) for any taxable year if for such year such organization received more than 1 percent of its gross receipts from performing abortions or providing facilities for abortions.

"(2) RECEIPTS FROM CERTAIN ABORTIONS EXCLUDED.—In determining gross receipts under paragraph (1), gross receipts from abortions performed when the life of the mother would be endangered if the fetus were carried to term shall not be considered.".

(b) DENIAL OF ELIGIBILITY FOR CHARITABLE CONTRIBUTION.—

(1) INCOME TAX.—Section 170(c) of the Internal Revenue Code of 1986 (defining charitable contribution) is amended by adding at the end thereof the following: "For purposes of this section, such term does not include a contribution or gift to or for the use of any organization which is not treated as an organization described in section 501(a) by reason of section 501(n).".

(2) ESTATE TAX.—

(A) IN GENERAL.—Section 2055 of such Code (relating to transfers for public, charitable, and religious uses) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) DENIAL OF DEDUCTION FOR CONTRIBUTIONS TO ORGANIZATIONS WHICH PERFORM OR PROVIDE FACILITIES FOR ABORTIONS.—No deduction shall be allowed under this section for a transfer to or for the use of any organization which is not treated as an organization described in section 501(a) by reason of section 501(n)."

(B) TECHNICAL AMENDMENTS.—

(i) Subparagraph (E) of section 2106(a)(2) of such Code (relating to transfers for public, charitable, and religious uses from taxable estates of nonresidents not citizens) is amended by striking out "section 2055(e)" and inserting in lieu thereof "subsections (e) and (g) of section 2055".

(ii) Subparagraph (F)(ii) of section 2106(a)(2) of such Code is amended by striking out "section 2055(g)" and inserting in lieu thereof "section 2055(h)".

(3) GIFT TAX.—Section 2522 of such Code (relating to charitable and similar gifts) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) DENIAL OF DEDUCTION FOR CONTRIBUTIONS TO ORGANIZATIONS WHICH PERFORM OR PROVIDE FACILITIES FOR ABORTIONS.—No deduction shall be allowed under this section for a gift to or for the use of any organization which is not treated as an organization described in section 501(a) by reason of section 501(n)."

(c) EFFECTIVE DATES.—

(1) ABORTIONS AFTER DATE OF ENACTMENT.—The amendments made by this section shall take into account only abortions described in section 501(n) of the Internal Revenue Code of 1986 performed after the date of the enactment of this Act.

(2) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

(3) SUBSECTION (b).—The amendments made by subsection (b) shall apply to estates of decedents dying, and gifts made, after the date of the enactment of this Act.●

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 1514. A bill relating to the financing of certain publicly owned treatment works, and for other purposes; to the Committee on Environment and Public Works.

FINANCING OF PUBLICLY OWNED TREATMENT WORKS

● Mr. BRADLEY. Mr. President, all Americans expect and deserve to be able to turn on their water faucets and get safe, drinkable water. All Americans expect and deserve to have oceans, lakes, and rivers they can swim in, fish in, and enjoy. But that won't be possible if our wastewater treatment plants and other environmental facilities continue to age and fall apart because communities can't afford to expand or improve them.

It is apparent to everyone familiar with environmental issues that the funds available from government at all levels are not adequate to meet the needs of today and the future. This is particularly the case with respect to truly capital-intensive programs such

as wastewater treatment. In the State of New Jersey, for example, the wastewater needs in the next 4 years—1989-92—is $1.4 billion. The total funds available from Federal and State sources is approximately $500 million, leaving a shortfall of $900 million.

This is not an isolated example—virtually all of the remaining States have similar alarming statistics. The USEPA estimates that local governments will need to spend $100 billion over the next 15 years simply to comply with current national wastewater standards. It is clear to anyone who knows the issue that the majority of these funds will not be from Federal and State sources. At the same time that local needs are increasing, facilities are aging and new problems are surfacing, the level of Federal assistance is steadily shrinking. Today, the Federal Government's aid to communities is half in real terms than what it was in 1980. And the level of aid is always decreasing.

It is in response to these alarming and desperate facts that I am introducing the Water Treatment Financing Act. I am very pleased today to be joined in this effort by Senator FRANK LAUTENBERG. This legislation gives local governments additional tools to harness the resources of the private sector and use financing innovations to meet some of their environmental infrastructure needs. It is crafted to make sure that the moneys raised will actually be used for important environmental needs by giving the State revolving fund programs oversight responsibilities to ensure that each project only addresses a community's environmental needs. As I said, it does not force communities to use private financing but it removes roadblocks that now prevent them from using it.

As the Federal role in the financing of environmental infrastructure unfortunately and inexorably diminishes, it is important tht the options and alternatives available to localities be expanded, not constricted. Our legislation achieves this without detracting from existing federally involved programs, treatment standards and enforcement.

Current law and regulations now put roadblocks in the way of private financing. Those roadblocks require that before any refinancing can take place, all Federal grants given over the last 20 years to a publicly owned treatment work must be repaid. Our legislation allows refinancing to occur without repayment of any earlier grant funds. Funds raised through such debt leveraging will remain in the community and be used for: construction or rehabilitation of water treatment plants; innovative efforts to stabilize rates paid by local citizens and businesses; or other environmental improvement projects in the community. This latter provision enables communities to look at environmental needs broadly, enabling funding derived from the wastewater project to meet other interrelated needs. State approval is required for proposed local projects to protect the public interests and to insure that only needed projects go forward.

Our legislation will also give expanded options to the State revolving funds. In addition to direct loans for construction or rehabilitation, the bill permits State revolving funds to guarantee local financing for purchase contracts, leases or service agreements. The revolving fund could use a portion of its moneys to purchase bond insurance or a letter of credit to guarantee its obligation to an equipment lessor or facility operator. This might lower the interest rates many localities would have to pay for financing projects. These provisions give more options to fight pollution of our drinking water and streams.

This legislation can be yet another weapon in our fight to keep our beaches unsoiled, our lakes clear, and our drinking wate safe. Unless we make it easier for local governments to improve and rehabilitate their treatment facilities, we are jeopardizing our precious water resources. It is completely unacceptable to pass strict laws, insist on enforcement, call for fines, and not do everything possible to aid local governments in meeting Federal regulations. I've called for strict laws, I've pushed for strong enforcement. But I stand ready to assist—in any way I can—our communities which must face these Herculian tasks. I hope this bill will stand as evidence of our personal commitment to meeting the needs of communities everywhere.

Mr. President, I ask unanimous consent to have the text of the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1514

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINANCING OF PUBLICLY OWNED TREATMENT WORKS THAT HAVE RECEIVED GRANT FUNDS.

(a) IN GENERAL.—Section 201 of the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) (33 U.S.C. 1281) is amended by adding at the end thereof the following subsection:

"(q)(1) Notwithstanding any requirement of this Act, any regulation, or any condition of any grant or financial assistance under this Act, the owner of a publicly owned treatment works may, directly or by means of a public authority created for the purpose, acting in accordance with the provisions of this subsection, issue debt with respect to a publicly owned treatment works that has received financial assistance of any kind under this Act and may pledge, as security for repayment of such debt obligation, revenues realized from the operation of the publicly owned treatment works, subject to the prior payment of the costs of proper operation and maintenance thereof. Such debt issued in accordance with this subsection shall not be considered (A) to commingle Federal and private interests in the publicly owned treatment works; (B) to disturb public use and possession thereof; (C) to improperly dispose of public interests therein; or (D) otherwise to breach the terms of the grant or financial assistance made thereto or to necessitate the repayment of same (or any portion thereof) to the United States Government.

"(2) This subsection shall apply only if at least 95 percent of the proceeds of the debt issuance will be used for: (A) the construction portion of a program for the rehabilitation or expansion of the publicly owned treatment works, provided that such treatment works, as rehabilitated or expanded, will conform to or exceed any design specifications and effluent limitations made applicable to it by any statute, regulation or agreement, including those contained in the original grant agreement and in the permit issued pursuant to section 402 of this Act for such works; (B) the establishment of dedicated funds, trust accounts or other financial mechanisms to subsidize or stabilize rates, provide for equipment repair or replacement or for such other uses as may have demonstrable benefit to the rate payers of the treatment works or to any municipality or public authority directly concerned in the construction or operation of the treatment works; or (C) the financing or securing of the financing of other environmentally designated projects. For the purpose of this subsection, environmentally designated projects are defined to be those projects which are undertaken by the governmental unit that is the owner of the treatment works, for the purpose of improving the natural environment within the jurisdiction of the governmental unit; reducing air or water (including groundwater) pollution within jurisdiction of the governmental unit; or reducing or recycling solid or hazardous waste generated or disposed of within jurisdiction of the governmental unit.

"(3) This subsection shall not apply unless the owner of the treatment works with respect to which debt issuance is contemplated pursuant to this subsection obtains, from the chief administrative officer of the agency or department of the State responsible for administering the State water pollution control revolving fund pursuant to section 603(b) of this Act (hereinafter referred to as the "State Administrator") in the State in which such treatment works is located, a prior determination that such issuance will be in compliance with the requirements of paragraph (2) of this subsection.

"(4) The owner of a treatment work with respect to which debt is issuance is contemplated pursuant to this subsection shall submit for the approval of the State Administrator, a statement describing the project or activities to which the contemplated financing will be applied, in detail sufficient to demonstrate that the contemplated debt issuance will be in compliance with the requirements of paragraph (2) of this subsection. The State Administrator shall give written notice of a determination of compliance or noncompliance within 120 days of receipt of the plan of financing. If no such notice is given by the State Administrator within the prescribed time, the debt issuance shall be deemed to be in compliance with the requirements of paragraph (2) of

this subsection. At the time of giving notice of a determination of noncompliance, the State Administrator shall specify in writing the matters which must be modified in order to achieve compliance with the requirements of paragraph (2) of this subsection. The owner of the treatment works may thereafter file an amended plan of financing to comply with such notice. The State Administrator shall give written notice of compliance or noncompliance with respect to such amended plan of financing within 120 days of the receipt thereof. If no such notice is given by the State Administrator within the prescribed time, the debt issuance as revised shall be deemed to be in compliance with the requirements of paragraph (2) of this subsection.

"(5) The Administrator shall direct the State Administrator of each State to promulgate regulations and procedures to implement paragraph (4) hereof.".

(b) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall become effective on the date of enactment of this Act.

SEC. 2. AUTHORITY OF STATE REVOLVING FUNDS TO GUARANTEE LOCAL DEBT OBLIGATIONS FOR EQUIPMENT TO BE USED ON PUBLICLY OWNED TREATMENT WORKS.

(a) IN GENERAL.—Section 603(d) of the Clean Water Act (33 U.S.C. 138(d)) is amended by deleting the "and" at the end of paragraph (6), deleting the period at the end of paragraph (7), and inserting in lieu thereof a semicolon and the word "and", and by adding at the end thereof the following:

"(8) to guarantee, or purchase insurance or letters of credit for, local obligations for equipment, facilities or plants to be used in conjunction with or in proximity to treatment works in operation at the time such a guarantee is made, provided such equipment, facilities, or plants are procured pusuant to a purchase contract, lease or service contract arrangement with a term at least equal to the estimated life of the subject equipment, facilities, or plants, and the full cost thereof is amortized during said term."

(b) AMENDMENT.—Section 603 of the Clean Water Act (33 U.S.C. 1383) is amended by adding at the end thereof the following:

"(i) Nothing in this Act, or any regulation or any condition of any grant or financial assistance thereunder, shall prohibit the owner of a publicly owned treatment works from granting a security interest in any equipment, facilities, or plants procured pursuant to obligations which have been guaranteed or insured under the authority of paragraph (8) of subsection (d). Arrangements made in compliance with such paragraph (8) shall not be considered (1) to commingle Federal and private interests in publicly owned treatment works; (2) to disturb public use and possession thereof; (3) to improperly dispose or encumber public interests therein; or, (4) otherwise to breach the terms of any grant or other financial assistance (including, without limitation, assistance pursuant to this Act) to publicly owned treatment works of the type hereinabove referred to.".

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall become effective on the date of enactment of this Act.●

By Mr. MITCHELL:

S. 1515. A bill to amend the Internal Revenue Code of 1986 to permit private foundations and community foundations to establish tax-exempt cooperative service organizations; to the Committe on Finance.

TAX-EXEMPT PRIVATE FOUNDATIONS AND COMMUNITY FOUNDATIONS

Mr. MITCHELL. Mr. President, I am introducing legislation today that would amend the Internal Revenue Code to permit private foundations and community foundations to establish common funds for investment purposes.

Under the current law, section 501(f), educational institutions are permitted to organize a tax exempt fund for purposes of pooling their investment assets. This enables educational institutions, without the recources to hire money managers, to obtain more sophisticated investment advice that improve their investment performance.

In response to this legislation, which was enacted in 1974, colleges and universities banded together to form the Common Fund to invest their endowment assets. Today, over 700 educational institutions invest more than $5 billion in assets through the Common Fund.

This pooling arrangement is not available to other nonprofit organizations, such as private foundations and community foundations. Instead, they must invest their assets individually. Smaller foundations, without the substantial assets that justify sophisticated investment advice, have had difficulty earning competitive rates of return on their assets.

Legislation enacted in 1969 requires foundations to distribute each year either all of their investment earnings or a certain portion of investment assets. This creates a tension between the payout rules and the long-term operations of a foundation that make specialized investing necessary.

The legislation I am introducing today would permit foundations to accumulate their assets for investment purposes so that their specialized investment needs can be more professionally managed. This is particularly important for smaller foundations. It would give them the same investment abilities of education institutions and I hope we can get this legislation enacted into law this year.

I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1515

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.—

"(1) IN GENERAL.—For purposes of this title, if an organization—

"(A) is organized and operated solely for purposes referred to in subsection (f)(1),

"(B) is comprised exclusively of members which are exempt from taxation under subsection (a) and are—

"(i) private foundations, or

"(ii) community foundations described in section 170(b)(1)(A)(vi),

"(C) has at least 20 members,

"(D) does not have a member which holds more than 10 percent (by value) of the interest in the organization, and

"(E) is not controlled by a private foundation and does not have a member which is a private foundation which controls another member of the organization,

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.

"(2) TREATMENT OF INCOME OF MEMBERS.—If any member of an organization described in paragraph (1) is a private foundation (other than an exempt operating foundation, as defined in section 4940(d)), such private foundation's proportionate share of the net income of the organization (including capital gains) for any taxable year of the organization shall be treated, for purposes of section 4940, as net investment income of such private foundation for the taxable year of such private foundation in which the taxable year of the organization described in paragraph (1) ends."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

By Mr. LEVIN:

S. 1516. A bill to amend the Internal Revenue Code of 1986 to repeal the catastrophic supplemental premium, to restore a deduction for two-earned married couples and income averaging for farmers, and to increase the maximum individual tax rate to 38.5 percent while lowering the maximum capital gains rate to 28 percent; to the Committee on Finance.

TAX REFORM REFORM ACT OF 1989

● Mr. LEVIN. Mr. President, there comes a time when we have to break through what is clearly the conventional wisdom and pursue what is clearly common sense. It is in pursuit of that goal that I am introducing the Tax Reform Reform Act of 1989.

The American people want deficit reduction. This legislation will do that. The American people want tax fairness. This legislation will do that. The American people want us to correct flaws in tax bills which has recently been enacted. This legislation will do that. It would reduce taxes for 13 milion senior citizens who are currently subjected to the discriminatory supplemental premium surtax as part of the Medicare Catastrophic Health Insurance Program. It would reduce taxes for 26 million two-wage-earner couples, who lost the two-wage-earner deduction as part of the Tax Reform Act of 1986. It would reduce taxes for tens of thousands of farmers. It would

increase taxes on approximately the wealthiest 1 percent of the taxpayers—those filing joint returns with taxable incomes above $162,590 and those filing individual returns with taxable incomes above $97,750. That is only fair because those taxpayers are currently paying a lower marginal income tax rate than some people earning less.

So, taking into account that 26 million two-wage-earner couples represents 52 million Americans and taking into account the 13 million senior citizens who would be relieved of paying the supplemental premium surtax and taking into account the farmers who would again be able to utilize income averaging, this legislation would reduce taxes for about 65 million middle- and low-income taxpayers and increase them for fewer than 2 million of the highest income Americans. By no stretch of the imagination could this legislation be referred to as a general tax increase or a tax increase on average Americans.

This legislation consists of four major elements. First, building upon separate legislation which I have introduced with Senator TOM HARKIN, this bill would repeal the supplemental premium surtax, which currently finances a portion of the recently enacted Catastrophic Health Insurance Program. This surtax is discriminatory because I can think of no other instance in which we offer benefits to a group within society and require one portion of that group to subsidize another portion of that group. Do we require financially well-off veterans receiving service-connected disability compensation—and no other taxpayers—to subsidize less well-off veterans' compensation? No, we don't, and we shouldn't. Why, as a matter of equity, then, should we require 40 percent of our senior citizens—and not other taxpayers—to subsidize the benefits of the other 60 percent of our senior citizens? Senior citizens are willing to share the burden, but they do not want to be singled out because of their age to shoulder the subsidy for other seniors who are involved in this program.

Second, one of the failings of the Tax Reform Act of 1986, which I voted against, was that it repealed the deduction that was available to two-wage earners. This deduction was available to married couples in order to reduce the "marriage penalty tax" under which two working spouses could pay more in taxes than two single individuals making the same salaries. This deduction was designed to reduce this fundamental inequity. Budget constraints make it impossible to fully restore the two-wage-earner deduction to what it was prior to the 1986 Tax Reform Act. However, the legislation that I am introducing today would partially restore that deduction so that working married couples would have a deduction of 5 percent of the lesser earning spouse's income, up to an income of $20,000. This would translate into a tax cut of about $300 to millions of working couples.

Third, this legislation would also restore income averaging for farmers. This provision, which was repealed as part of the Tax Reform Act of 1986, recognized the particular volatility of farm income and the fact that years of shortage on the farm could be followed by a year of surplus. Income averaging had enabled farm families to use the profits resulting from a good year to help them get back on their feet instead of having those profits eaten up by taxes. In 1986, the Senate voted against repealing income averaging for farmers, but it was repealed as part of the conference report on the Tax Reform Act. It is time that income averaging for farmers be restored to the Tax Code, and the legislation that I am introducing today will accomplish that goal.

Fourth, this legislation would finance these changes in the Tax Code—repeal of the supplemental premium surtax, the restoration of a two-wage-earner deduction, and the restoration of income averaging for farmers—by restoring the maximum marginal income tax rate to 38.5 percent, which was the level in 1987. This modification of the marginal income tax rates would not affect any married taxpayers with taxable incomes below $162,590 or any single taxpayers with taxable incomes below $97,950. As such, little more than 1 percent of the taxpayers would experience a tax increase under this legislation. This modification would also eliminate the anomaly under current law which has resulted in those taxpayers who earn the highest incomes actually being taxed at a lower marginal rate than some taxpayers earning less. Furthermore, the maximum marginal rate for capital gains would actually be reduced in this bill from the current level of 33 to 28 percent for assets that are held for more than 1 year. As a result, this legislation would restore a capital gains differential, thereby encouraging investment.

This restoration of the maximum marginal rate to 38.5 percent would not only pay for the other elements of the legislation, but would also reduce the deficit by more than $38 billion from 1990 to 1994. That's deficit reduction of $38 billion without increasing taxes on any middle- or low-income taxpayer and after correcting for a number of unfair tax burdens in the existing Tax Code.

Some people might argue that a proposal such as the one I am making today is unrealistic because the American people do not want to change the income tax rates. I agree that most Americans do not want to modify the income tax rates affecting middle- and low-income taxpayers. However, public opinion poll after public opinion poll suggests that most Amercians by wide margins support increasing the marginal income tax rate for the highest income taxpayers. They cannot understand—and they should not be asked to understand—why somebody making $50,000,000 should pay the same marginal income tax rate as someone making $50,000. In fact, under current law, somebody making $50,000,000 actually pays a lower marginal income tax rate than a family making $100,000. The legislation that I am introducing today would correct these inconsistencies so that the highest marginal income tax rates would apply to the taxpayers with the highest incomes.

Mr. President, I recognize that legislation such as this faces an uphill fight. But, as we consider tax legislation during the next 2 months in the Senate, it is important to set out an outline of legislation which would help to address the continuing issues of unfair tax burdens and deficit reduction.

I ask unanimous consent that a copy of this legislation appear following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1516

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Tax Reform Reform Act of 1989".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—RESTORATION OF CERTAIN PROVISIONS REPEALED BY THE TAX REFORM ACT OF 1986

SEC. 101. RESTORATION OF TWO-EARNER MARRIED DEDUCTION.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deduction for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 221 the following new section:

"SEC. 221. DEDUCTION FOR TWO-EARNER MARRIED COUPLES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to 5 percent of the lesser of—

"(1) $20,000, or

"(2) the qualified earned income of the spouse with the lower qualified earned income for such taxable year.

"(b) QUALIFIED EARNED INCOME DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified earned income' means the excess (if any) of—

"(A) the earned income of the spouse for the taxable year, over

"(B) an amount equal to the sum of the deductions described in paragraphs (1), (2), (6), (10), and (12) of section 62(a) to the extent such deductions are properly allocable to or chargeable against earned income described in subparagraph (A).

The amount of qualified earned income shall be determined without regard to any community property laws.

"(2) EARNED INCOME.—

"(A) IN GENERAL.—The term 'earned income' means income which is earned income within the meaning of section 911(d)(2) or 401(c)(2)(C), except that section 911(d)(2)(B) shall be applied without regard to the phrase "not in excess of 30 percent of his share of net profits of such trade or business'.

"(B) CERTAIN ITEMS NOT INCLUDED.—The term 'earned income' shall not include any amount—

"(i) not includible in gross income,

"(ii) received as a pension or annuity,

"(iii) paid or distributed out of an individual retirement plan (as defined in section 7701(a)(37)),

"(iv) received as deferred compensation, or

"(v) received for services performed by an individual in the employ of his spouse (within the meaning of section 3121(b)(3)(A)).

"(c) INDIVIDUALS CLAIMING BENEFITS OF SECTION 911 OR 931 NOT ELIGIBLE.—No deduction shall be allowed under this section for any taxable year if either spouse claims the benefits of section 911 or 931 for such taxable year."

(b) CONFORMING AMENDMENTS.—

(1) Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) DEDUCTION FOR TWO-EARNER MARRIED COUPLES.—The deduction allowed by section 221."

(2) Section 86(b)(2)(A) is amended by inserting "221," after "135,".

(3) Section 219(g)(3)(A)(ii) is amended by inserting ", 221," after "135".

(4) Section 469(i)(3)(D) is amended by striking "and" at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

"(iv) any amount allowable as a deduction under section 221, and".

(5) The table of sections for part VII of subchapter B of chapter 1 is amended by striking the item relating to section 221 and inserting the following new items:

"Sec. 221. Deduction for two-earner married couples.

"Sec. 222. Cross reference."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 102. RESTORATION OF INCOME AVERAGING FOR QUALIFIED FARMERS.

(a) RESTORATION OF INCOME AVERAGING.—

(1) IN GENERAL.—Section 141 of the Tax Reform Act of 1986 is hereby repealed.

(2) APPLICATION OF THE INTERNAL REVENUE CODE OF 1986.—The Internal Revenue Code of 1986 shall be applied and administered without regard to section 141 of the Tax Reform Act of 1986 (and the amendments made by such section).

(b) INCOME AVERAGING ALLOWED FOR QUALIFIED FARMERS.—

(1) IN GENERAL.—Subsection (a) of section 1303 (defining eligible individual) is amended by inserting "and who is a qualified farmer" after "United States".

(2) QUALIFIED FARMER.—Section 1303 (defining eligible individuals) is amended by adding at the end thereof the following new subsection:

"(e) QUALIFIED FARMER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified farmer' means a taxpayer other than a corporation who is actively engaged in the trade or business of farming (within the meaning of section 2032A(e)(4) and (5)).

"(2) ACTIVELY ENGAGED.—A taxpayer shall be treated as actively engaged in the trade or business of farming only if the taxpayer is involved in the operation of such trade or business on a regular, continuous, and substantial basis.".

(3) CONFORMING AMENDMENTS.—

(A) The heading of part I of subchapter Q of chapter 1 is amended by inserting "FOR FARMERS" after "AVERAGING".

(B) The table of parts for subchapter Q of chapter 1 is amended by inserting "for farmers" after "averaging" in the item relating to part I.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

TITLE II—REPEAL OF SUPPLEMENTAL CATASTROPHIC MEDICARE PREMIUM

SEC. 201. REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM.

(a) IN GENERAL.—Section 111 of the Medicare Catastrophic Coverage Act of 1988 is hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such section (and the amendments made by such section) had not been enacted.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 202. FUNDING OF MEDICARE CATASTROPHIC BENEFITS.

(a) IN GENERAL.—Part C of title XVIII of the Social Security Act (42 U.S.C. 1861 et seq.) is amended by adding at the end thereof the following new section:

"APPROPRIATION OF CATASTROPHIC COVERAGE RECEIPTS

"SEC. 1893. (a) IN GENERAL.—There are hereby appropriated from the catastrophic coverage receipts the following amounts in the following order:

"(1) To the Federal Hospital Insurance Catastrophic Coverage Reserve Fund (hereinafter referred to as the 'Reserve Fund'), 100 percent of the amount of the outlays made under part A attributable to the amendments made by the Medicare Catastrophic Coverage Act of 1988.

"(2) To the Federal Supplementary Medical Insurance Trust Fund (hereinafter referred to as the 'SMI Trust Fund'), the excess (if any) of—

"(A) 100 percent of the amount of outlays made under part B attributable to the amendments made by the Medicare Catastrophic Coverage Act of 1988 (other than outlays described in paragraph (3)(A)), over

"(B) the aggregate catastrophic coverage monthly premiums imposed under section 1839(g).

"(3) To the Federal Catastrophic Drug Insurance Trust Fund (hereinafter referred to as the 'CDI Trust Fund'), the excess (if any) of—

"(A) 100 percent of the amount of outlays made for benefits and administrative costs relating to covered outpatient drugs, over

"(B) the aggregate prescription drug monthly premiums imposed under section 1839(g).

"(4) To the general fund in the Treasury, the outstanding unpaid balance of amounts appropriated pursuant to subsection (b), plus interest on such amounts in such amount as the Secretary of the Treasury determines was lost by reason of such appropriations.

"(5) To the general fund in the Treasury, the balance of catastrophic coverage receipts after application of the preceding paragraphs.

"(b) ADDITIONAL APPROPRIATIONS.—If the aggregate amount to be appropriated under paragraphs (1), (2), and (3) of subsection (a) exceeds the catastrophic coverage receipts, there is hereby appropriated from the general fund in the Treasury the amount of such excess. Such amount shall be appropriated to each of the Trust Funds described in such paragraphs in the same manner as catastrophic coverage receipts.

"(c) ESTIMATES BY SECRETARY.—The amounts appropriated by subsections (a) and (b) shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Reserve Fund, the SMI Trust Fund, and the CDI Trust Fund, respectively, on the basis of estimates by the Secretary of the Treasury of the catastrophic coverage receipts paid to or deposited into the Treasury and on the basis of outlays (specified in subsection (a)). Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the appropriate amounts.

"(d) DEFINITIONS.—For purposes of this section—

"(1) CATASTROPHIC COVERAGE RECEIPTS.—The term 'catastrophic coverage receipts' means the increase in Federal revenues solely by reason of the amendments made by title III of the Tax Reform Reform Act of 1989.

"(2) OUTLAYS AND RECEIPTS.—The term 'outlays' and 'receipts' mean, with respect to any quarter or other period, gross outlays and receipts, as such terms are employed in the 'Monthly Treasury Statement of Receipts and Outlays of the United States Government (MTS)', as published by the Department of the Treasury, for months in such quarter as other periods."

(b) MODIFICATION OF DETERMINATION OF PART B PREMIUM.—So much of subsection (g) of section 1839 of the Social Security Act (42 U.S.C. 1395r(g)) as precedes paragraph (4) thereof is amended to read as follows:

"(g)(1)(A) Except as provided in this subsection, and subsections (b) and (f), the monthly premium for each individual enrolled under this part (without regard to this subsection) shall be increased by the sum of—

"(i) the catastrophic coverage monthly premium, and

"(ii) the prescription drug monthly premium.

"(B) In the case of months beginning in 1989 through 1993, the premiums under subparagraph (A) shall be determined in accordance with the following table:

"In the case of:	The catastrophic coverage monthly premium is:	The prescription drug monthly premium is:
1989	$4.00	0
1990	4.90	0

1991	5.46	$1.94
1992	6.75	2.45
1993	7.18	3.02

"(2)(A) In the case of months in a year after 1993, the catastrophic coverage monthly premium shall be equal to 1/12 of 37 percent of the per capita catastrophic outlays which the Secretary estimates will be incurred for such year, adjusted as provided in subparagraph (B).

"(B) The Secretary shall make proper adjustments in the premium for months in a year to the extent the estimates of any amount for any preceding year were in excess or were less than the appropriate amount (and not otherwise taken into account under this subparagraph).

"(3) In the case of months in a year after 1993, the prescription drug monthly premium shall be determined under rules similar to the rules of paragraph (2); except that—

"(A) any reference to per capita catastrophic outlays shall be treated as a reference to per capita prescription drug outlays, and

"(B) any reference to the catastrophic coverage monthly premium shall be treated as a reference to the prescription drug monthly premium."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1817A(a) of the Social Security Act (42 U.S.C. 1395i-1a(a)) is amended to read as follows:

"(2) There are hereby appropriated to the Reserve Fund amounts described in subsections (a)(1) and (b) of section 1893."

(2) Section 1841(a) of such Act (42 U.S.C. 1395t(a)) is amended by striking all matter following the second sentence and inserting in lieu thereof the following new sentence: "There are hereby appropriated to the Trust Fund amounts described in subsections (a)(2), (a)(5), and (b) of section 1893."

(3) Paragraph (2) of section 1841A(a) of such Act (42 U.S.C. 1395t-1(a)) is amended to read as follows:

"(2) There are hereby appropriated to the Trust Fund amounts described in subsections (a)(3), (a)(5), and (b) of section 1893."

(4) Paragraph (2) of section 1841A(d) of such Act (42 U.S.C. 1395t-1(d)) is amended by striking "and under section 59B of the Internal Revenue Code of 1986".

(5) Section 1841B of such Act (42 U.S.C. 1395t-z) is amended—

(A) by striking "and section 59B of the Internal Revenue Code of 1986," and "and for purposes of section 59B of the Internal Revenue Code of 1986" in subsection (a),

(B) by striking subparagraph (A) of subsection (b)(1) and inserting the following new subparagraphs:

"(A) credited for receipts of the Federal Supplementary Medical Insurance Trust Fund attributable to the amounts described in subsections (a)(2), (a)(5), and (b) of section 1893 and the premiums under section 1839(g) attributable to the catastrophic coverage monthly premium,

"(B) debited for interest paid pursuant to section 1893(a)(4) to the extent not attributable to appropriations to the Federal Catastrophic Drug Insurance Trust Fund, ",

(C) by redesignating subparagraphs (B) and (C) of subsection (b)(1) as subparagraphs (C) and (D), respectively, and

(D) by striking "and under section 59B of the Internal Revenue Code of 1986" in subsection (c)(2).

(6) The last sentence of section 1844(a) of such Act (42 U.S.C. 1395(a)) is amended by striking "or section 59B of the Internal Revenue Code of 1986".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

TITLE III—INCREASE IN MAXIMUM INDIVIDUAL INCOME TAX RATE

SEC. 301. MAXIMUM INDIVIDUAL INCOME TAX RATE INCREASED TO 38.5 PERCENT.

(a) IN GENERAL.—Section 1 (relating to tax imposed) is amended—

(1) by striking out the item beginning "Not over $29,750" and all that follows in subsection (a) and inserting in lieu thereof the following new items:

Not over $32,427	15% of taxable income.
Over $32,427 but not over $78,350.	$4,864, plus 28% of the excess over $32,427.
Over $78,350 but not over $162,590.	$17,722, plus 33% of the excess over $78,350.
Over $162,590	$45,521, plus 38.5% of the excess over $162,590.",

(2) by striking out the item beginning "Not over $23,900" and all that follows in subsection (b) and inserting in lieu thereof the following new items:

Not over $19,456	15% of taxable income.
Over $19,456 but not over $47,033.	$2,918, plus 28% of the excess over $19,456.
Over $47,033 but not over $97,750.	$10,639, plus 33% of the excess over $47,033.
Over $97,750	$27,316, plus 38.5% of the excess over $97,750.",

(3) by striking out the item beginning "Not over $17,850" and all that follows in subsection (c) and inserting in lieu thereof the following new items:

Not over $26,051	15% of taxable income.
Over $26,051 but not over $67,198.	$3,907, plus 28% of the excess over $26,051.
Over $67,198 but not over $137,828.	$15,428, plus 33% of the excess over $67,198.
Over $137,828	$38,735, plus 38.5% of the excess over $137,828.",

(4) by striking out the item beginning "Not over $14,875" and all that follows in subsection (d) and inserting in lieu thereof the following new items:

Not over $16,213	15% of taxable income.
Over $16,213 but not over $39,185.	$2,432, plus 28% of the excess over $16,213.
Over $39,185 but not over $123,790.	$8,864, plus 33% of the excess over $39,185.
Over $123,790	$36,783, plus 38.5 of the excess over $123,790.",

and

(5) by striking out the item beginning "Not over $5,000" and all that follows in subsection (e) and inserting in lieu thereof the following new items:

Over $5,450	15% of taxable income.
Over $5,450 but not over $14,170.	$817, plus 28% of the excess over $5,450.
Over $14,170 but not over $28,371.	$3,258, plus 33% of the excess over $14,170.
Over $28,371	$7,944, plus 38.5% of the excess over $28,371.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (g) of section 1 (relating to phase-out of 15-percent rate and personal exemption) is hereby repealed.

(2) Subsection (j) of section 1 (relating to maximum capital gains rate) is amended—

(A) by striking out ", plus" at the end of paragraph (1)(B) and inserting in lieu thereof a period, and

(B) by striking out paragraph (1)(C).

(3) Subsections (1), (2), (3), and (4) of section 1222 are amended by striking "6 months" and inserting in lieu thereof "one year."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.●

By Ms. MIKULSKI:

S. 1517. A bill to identify certain areas of critical concern with respect to oil and hazardous substances discharges and the environment, and for other purposes; to the Committee on Environment and Public Works.

AREAS OF CRITICAL CONCERN WITH RESPECT TO OIL AND HAZARDOUS SUBSTANCES SPILLS

● Ms. MIKULSKI. Mr. President, today I am introducing legislation to amend the national contingency plan for response to oilspills.

Mr. President, ever since the *Exxon Valdez* ran aground on the rocks of the Prince William Sound, devastating that fragile ecosystem with millions of gallons of crude, America has had to live with the cold truth that oilspills happen. They happen because not all vessels are fit for service. They happen because not all crew are fit for duty. They happen because not all captains make the right decisions. They happen, after all, because bad weather happens.

Mr. President, Congress has looked long and hard at the Valdez spill. Hearings have been held in both Houses in committees of several jurisdictions. We have heard from the Coast Guard, from EPA, from oil companies, from environmentalists. There have been numerous bills introduced that address different aspects of the problem: the cost of cleanup, the penalties, the safety of tankers, and the qualifications of captains, and there have been bills to study the effects of the spill.

Yet, despite the attention of Congress, despite the attention of the President, despite the spotlight of the media, despite the increased awareness by the oil industry and the shipping industry, despite all of this there were three more major oilspills at the end of June—in the Delaware River, in Narragansett Bay, and in Galveston Bay; three spills within 24 hours dumping a million more gallons into America's already oil-fouled waters.

Mr. President, we must do all we can to prevent spills: more inspection of vessels; tighter regulations for vessels; measures to keep intoxicated captains from the bridge; better radar tracking and communications among vessels; and more reliable methods of handling oil in port. I support these measures.

But, Mr. President, even these steps will not prevent all spills, and if we can't prevent all spills from occurring we have to be ready to minimize their damage. The most critical factor in reducing the devastation of an oilspill is quick response and effective containment and removal of the oil. Right now America has a shock-trauma unit for oilspills. It's called the national contingency plan. But the plan, itself,

is in need of resuscitation. The Alaska spill and, more recently, the Delaware spill have proven the plan ineffective and about as clear as crude oil.

Today, I am introducting a bill to amend the national contingency plan. This bill is aimed at reducing the response time to oilspills and at upgarding our existing plan to make sure that contingency plans are worth more than the paper they are written on. This bill is aimed at making sure they work.

This bill directs the U.S. Coast Guard to identify the critical areas at risk of substantial environmental damage from oil or hazardous materials spills with special attention to estuaries and the Great Lakes. Obviously, waterways and harbors that carry frequent shipments are at risk and need specific contingency plans that address the specific needs of each area. That includes the type of vessels that use the waterways, the kinds of oil and hazardous materials they transport, and the specific environmental precautions that might be necessary to safeguard the unique ecosystems in each area. This bill directs the Coast Guard to pay particular attention to estuaries and the Great Lakes because these are areas with high levels of oil shipments and they are areas of critical environmental importance.

The Chesapeake Bay, like the site of one of the June spills, the Narragansett Bay, is an estuary. Estuaries are fragile environments where there are large numbers within species, but very few species. In the Chesapeake we have our famous Maryland blue crabs, the once plentiful oysters, and the endangered striped bass that we call rockfish. These important species are critical to the life of the bay and to the livelihood of the watermen and restaurants of my State. This is the case for all the estuaries along America's coasts. The diversity of species in Prince William Sound may hold the key to its recovery, yet in estuaries like the bay where diversity is small, the loss of a few components would be devastating.

This bill directs the Coast Guard to look at every waterway in the United States where oil is transported and to designate the areas at high risk to oilspills. Once these areas are designated the Coast Guard is directed to determine what Federal, State, and local agencies need to cooperate in each area and this bill authorizes the Coast Guard to enter into agreements of understanding with State and local governments in order to ensure coordination of efforts. In addition, this bill provides that the national contingency plan should be modified to ensure that proper equipment and materials necessary to implement the plan are readily available in each of these areas. It calls for annual inventories to be taken of available equipment and for the establishment of minimum standards for appropriate response times in the event of a spill. Finally, this bill calls for annual testing of the plan.

Mr. President, every year we hold exercises in different parts of the world to test our military defenses and coordination between services. Mr. President, the threat of oilspill needs a defense that is so tested. A paper plan is not enough. We need to put the plan into effect to see if it works. As we learned to our horror in Valdez, an untested plan is worse than no plan at all because it gives us a false sense of security that we are prepared.

Mr. President, this is a simple bill with a simple goal. It is aimed at making sure our national contingency plan works. This is a bill that will help all parts of the country—from the Puget Sound to the Long Island Sound, from the San Francisco Bay to the Chesapeake Bay, from the Mississippi River to the Great Lakes. I urge my colleagues to rise in support of this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 1517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AREAS OF CRITICAL CONCERN.

In the Administration of the provisions of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), the Secretary of the Department in which the Coast Guard is operating (hereinafter referred to as the "Secretary"), within the 90-day period following the date of the enactment of this section, shall review the National Contingency Plan for the removal of oil and hazardous substances and identify those areas which the Secretary, in consultation with the Administrator of the Environmental Protection Agency, determines to be at risk of substantial and critical environmental damage from an oil or hazardous substance discharge, paying particular attention to estuaries and the Great Lakes.

SEC. 2. CRITICAL AREAS.

With respect to the critical areas identified pursuant to section 1, the Secretary shall take such action as may be necessary to modify the National Contingency Plan so as to assure that—

(1) the plan will recognize and identify each Federal, State, and local agency that should be engaged in the coordination of any such contingency plan in the event of an oil or hazardous substance discharge in an area designated as critical pursuant to section 1;

(2) proper equipment and materials necessary to implement the contingency plan in the event of a discharge of oil or hazardous substance in an area of critical concern will be readily available;

(3) at least an annual inventory of available equipment already in place or readily available for use in each such critical area shall be carried out by the Secretary;

(4) minimum standards are established providing for an appropriate response time in the event of any such discharge in a critical area identified pursuant to section 1; and

(5) annual testing of the contingency plan relating to such critical areas is carried out.

SEC. 3. AGREEMENTS.

The Secretary, acting through the Coast Guard, is authorized to enter into agreements of understanding with any State or local government having jurisdiction over an area of critical concern identified pursuant to section 1 for the purpose of insuring the coordination of efforts among the United States, State and local governments in carrying out the contingency plan in the event of an oil or hazardous substance discharge affecting such area.

SEC. 4. REPORT.

The Secretary, on or before March 30 of each calendar year, shall report to the Congress and the President with respect to the administering of the contingency plan as it relates to areas of critical concern identified pursuant to section 1 during the preceding calendar year, together with the Secretary's recommendations.●

By Mr. BOREN (for himself and Mr. NICKLES):

S. 1518. A bill to provide for the extension of the Federal Employees Health Benefits Program to certain State employees and annuitants; to the Committee on Governmental Affairs.

EXTENSION OF FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM TO CERTAIN INDIVIDUALS

● Mr. BOREN. Mr. President, I am introducing today, along with Senator NICKLES, a bill to provide Federal employee health benefits to certain retirees of the Oklahoma Employment Security Commission. I am aware that Public Law 100-238 excludes non-Federal employees from participating in Federal retirement and health benefit programs. However, having examined the history of OESC—provided to me by Lewis Gandy, chairman of R.O.S.E.S. Health Insurance Committee—it is my belief that its long-term employees and retirees should be classified as Federal and should therefore be eligible for Federal employee health benefits.

In 1935, the original Social Security Act was passed which included the establishment of an Unemployment Compensation law and a revised Employment Service System. The law was to be the responsibility of the Social Security Administration and operated by Civil Service employees. However, the law allowed for States, by passing a law in keeping with the Federal one, to have the Unemployment Compensation law operated under their State names. The operations of this law were to be paid for by Congress and supervised by the Social Security Administration, which later became the U.S. Department of Labor. Oklahoma chose to have the group in Oklahoma under its jurisdiction, but events following this decision indicate that Oklahoma considered the Division of Unemployment Compensation and Placement, which later became OESC "too Federal" to be a regular State agency.

The Social Security Administration and then the Department of Labor paid the expenses and supervised all activities of the division. For this reason they were not treated as a State operation by Oklahoma despite the legislation identifying it as such. The relocation of the offices of employees of the division from a new, air-conditioned building to a decrepit one was explained with a note stating that the employees of the division were "too much Federal employees" to occupy the new building.

OESC was specifically excluded from being eligible for health and life insurance that was tied to being a part of the State retirement system. Employment Security in Oklahoma was directed by the Department of Labor in establishing benefits including retirement, life insurance, and health insurance. The benefits were to be patterned after those of the U.S. Department of Labor employees. OESC employees' retirement plan was made with the Travelers Insurance Co. under the rules authorized by the Department of Labor, not the State of Oklahoma. The employees themselves selected their health insurance group, Blue Cross/Blue Shield.

In 1960, the Department of Labor determined that Oklahoma had not provided employees of Employment Security with any fringe benefits. In 1975, the DOL authorized particular improvements to their benefit plans. A letter, written in 1980 by the DOL to the OESC, recognized OESC personnel as Federal employees by adding the same cost-of-living increases to their retirement plan as those given to employees under the Civil Service Plan. In addition, Employment Security is allowed to utilize the franking privilege, the use of which, by law, is the right of Federal agencies only.

As Employment Security employees began to retire, it became apparent that they were also excluded from receiving the income tax credit on all retirement payments which regular State employees could receive. Also, the State of Oklahoma determined that State employees under the State retirement system would not be permitted a salary increase. Instead, retirement contributions were removed from their payroll checks which resulted in an increase in net pay. The State of Oklahoma then provided the funds for the State retirement system in lieu of the employee contributions. These regular State employees had, then, an increase in pay without the normal increase of taxable income for both State and Federal income tax purposes. Employment Security personnel were not entitled to salary increases in some years, and they lost the potential benefit enjoyed by regular State employees.

In 1982, the Department of Labor wanted to get out of the retirement and health insurance business that they had initiated in Oklahoma. DOL required Oklahoma to place new employees hired on or after July 1, 1982, in the State retirement system [OPERS]. The authorization for new Employment Security personnel to have State health insurance meant that those with the group health insurance, Blue Cross/Blue Shield, would be devastated. That group, consisting of 400 plus individuals, would only decrease in size and increase in the average age of individuals within it which would lead to an increase in cost and eventual cancellation of the health program by BC/BS. Employment Security retirees would not be eligible for the State plan and, if BC/BS were cancelled, they would have no health insurance plan.

The Commission did not want to divide its employees into two groups, but new employees of the OESC wanted the ability to enroll in the State retirement system. OPERS was attractive to the new employees because they are basically younger, and the State plan is less expensive. They had little concern for retirement or need of good health insurance.

Because of the needs of the new employees of the Commission, it was decided to adopt legislation to change Employment Security's retirement system, Travelers, to the State system. An open enrollment was established with incentives such as cash rebates (the amounts of which were based upon an individual's length of service under the Travelers retirement system). These rebates could be used to purchase, not work for, extra years of service creditable for calculating retirement pay for future retirement under the State system, OPERS. The retirees were not eligible to participate.

Many employees switched to OPERS, and then the push began for permission to enroll in the State health insurance plan. This will be disastrous for those who are retired or about to retire and who have BC/BS insurance. The Commission is trying to hold out against current law suit and legislative threats which will continue and be successful unless this bill is passed. If the long-term employees and retirees of the OESC were within the U.S. Department of Labor health insurance group, arrangements could be made in Oklahoma to allow the other employees of the Commission to join the State plan without hurting any individual or group of individuals.

I believe the retirees and long-term employees of Employment Security deserve to be in a solid base group at the Federal level. It is important to remember that this would be a one-time transfer. There will never be new entrants added to the private retirement plan of OESC with Travelers Insurance, nor will individuals beyond this group of retirees need to be included in an insurance plan at the Federal level. Following the demise of these individuals, there would no longer be a private retirement plan or private health insurance plan in Oklahoma. This is in accordance with the wishes of the U.S. Department of Labor.

This specific group of the OESC is locked into a health plan which is being phased out. These individuals have been loyal to Oklahoma Employment Security and to the Federal Government which has, throughout the agency's history, supervised and regulated its activities. The Federal Government assumed responsibility for Oklahoma Employment Security employee retirement and health plans in the past. The retirees and long-term employees who worked for OESC under these circumstances trusted the Government with their futures. This specific and finite group deserves to be protected by the Federal Government, not abandoned. I am introducing a bill which I hope will ameliorate this difficult situation and fulfill a promise made by the Federal Government which is in danger of being broken.

Mr. President, I ask unanimous consent that the text of the measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Director of the Office of Personnel Management shall, at the request of the head of a State agency described in subsection (b)(1) made within six months after the date of enactment of this Act, enter into an agreement with such State for the purpose of making available to any person described in subsection (b)(2), health benefits coverage under chapter 89 of title 5, United States Code.

(b)(1) The State agency referred to in subsection (a) shall be any State agency that administers—

(A) an unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act; and

(B) a retirement system plan that is—

(i) funded, in whole or in part by amounts paid under section 302 of the Social Security Act; and

(ii) closed to new participants.

(2) An agreement made pursuant to the provisions of subsection (a) shall apply to any person who, on the date that such agreement is entered into, is a participant in a private health care plan administered by such State agency.

(c) Subject to subsection (d), each agreement entered into under this section shall provide that, to the extent practicable, any health benefits coverage provided pursuant to such agreement shall provide for coverage to be a part of that provided for employees within the Department of Labor and under the same terms and conditions as would apply if—

(1) in the case of a State employee, the individual were an employee within the mean-

ing of section 8901(1) of title 5, United States Code; or

(2) in the case of a former State employee or a surviving beneficiary of a former State employee, the individual were an annuitant within the meaning of section 8901(3) of title 5, United States Code, but without regard to section 8905(b)(1) of such title.

(d)(1)(A) Each agreement under this section shall provide that any individual electing to be covered under a health benefits plan pursuant to the agreement shall pay currently into the Employees Health Benefits Fund, through the Department of Labor, any contributions which would be required from such individual under chapter 89 of title 5, United States Code, if such individual were an employee or annuitant under such chapter, as appropriate.

(B) Any Government contributions which would be required with respect to such individual (if such individual were such an employee or annuitant) shall be paid by the Department of Labor from annual appropriations which are authorized to be made for that purpose.

(2) Under regulations prescribed by the Director of the Office of Personnel Management, the opportunity for an individual to enroll in a health benefits plan pursuant to an agreement under this section shall be provided not later than the first period (described in section 8905(f) of title 5, United States Code) after such agreement is entered into.

(e) The Director of the Office of Personnel Management shall prescribe any regulations necessary to carry out this Act.●

● Mr. NICKLES. Mr. President, today along with my friend and colleague from Oklahoma, Senator BOREN, I am introducing a bill that would provide Federal employee health benefits to a limited number of retirees and long-term employees of the Oklahoma Employment Security Commission.

The U.S. Department of Labor provides funding to the State of Oklahoma to operate the OESC. Because of the confusion caused by the question of who is responsible for this agency's employees?, some employees of this agency have found themselves in a virtual no-mans-land in regard to health benefit plans.

This bill will grant certain long-term employees and retirees of the OESC, the right to enroll in a Federal employee health benefit plan because of their inability to be accepted by the State employee health benefit plan.

The problem for most current employees of the OESC has been solved through their acceptance to the State health benefit program since 1982. But a finite group of older employees and retirees has been overlooked. They are facing increasingly higher costs for their present, costly private health benefit plan and a gradual phasing out of the plan entirely.

Along with Senator BOREN, I want to emphasize that this will be a one-time transfer. There will be no need to add any additional employees to the Federal level health plan. I ask my colleagues to support this bill and assist in its expeditious passage.●

By Mr. ARMSTRONG (for himself, Mr. MOYNIHAN, Mr. D'AMATO, Mr. CHAFEE, Mr. WARNER, Mr. CRANSTON, Mr. WILSON, Mr. DECONCINI, Mr. GORTON, Mr. LAUTENBERG, Mr. HATCH, Mr. ADAMS, and Mr. KASTEN):

S. 1522. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain transportation furnished by an employer; to the Committee on Finance.

TAX INCENTIVES FOR USE OF MASS TRANSIT FACILITIES

● Mr. ARMSTRONG. Mr. President, Americans are in love with their automobiles, so much so that millions of us spend hours every day crawling along in rush hour traffic, all the while pumping plumes of carbon monoxide into the air. If we could reduce the number of cars on the road at rush hour, we would improve the quality of our air and, obviously, we would reduce the pressure on our cities' roadways. A simple way to cut down on rush hour traffic is to encourage the use of mass transit.

A relatively inexpensive way to encourage commuters to use mass transit is through the Tax Code. Right now, however, our Tax Code discourages the use of mass transit by taxing employees on the value of employer-provided benefits such as transit passes and van pools. For example, if a company provides a vanpool to its employees, the cost of providing the vanpool is included in the employee's gross income.

Not only does the Tax Code discourage the use of vanpools and other mass transit, it actually encourages people to drive to work. Under current law, if a company provides free parking as an employee benefit, then the employee need not include the value of the benefit in his or her gross income. In many cities, this benefit is worth up to $4,800 each year. Obviously, if you reduce the cost of driving to work relative to other means of commuting, more people are going to drive, there will be more cars on the road at rush hour, and the air will become more fouled with auto emissions.

I am introducing legislation that will remove some of this bias in our Tax Code against the use of mass transit. Under this legislation, when an employer provides its employees with vanpooling, the value of the benefit would not be included in the employee's gross income. This is not a new idea. Prior to 1986, vanpool benefits were excluded from gross income.

Many employers provide their employees with transit passes and vouchers as an employee benefit. Under current law, an employee may exclude from his or her gross income up to $15 each month for the value of such passes. If the employee receives a penny more than $15 in such benefits, however, the entire value of the pass must be included in the employee's gross income. The employee, in other words, falls off a fringe benefit "cliff."

My legislation would raise the value of transit passes provided to employees that may be excluded from their gross income to $30 per month and it would remove the cliff so that, if an employee received a transit pass worth $31, only $1 would be included in his gross income. By reducing the tax bias against mass transit, many of the Nation's commuters will be drawn out of their personal cars and into vanpools, buses, and trains, thereby reducing automobile pollution and reducing the level of rush hour traffic.

As a matter of fairness, and as a matter of good environmental and transportation policy, I believe it's important that the Congress act on this legislation quickly to treat employee benefits such as vanpools and transit passes that encourage the use of mass transit at least as well as we treat free parking.●

● Mr. MOYNIHAN. Mr. President, I am pleased to join my distinguished colleague from Colorado today in introducing a bill to make our environmental and transportation policy more rational, and restore a measure of fairness to the Internal Revenue Code. Current tax law produces a significant bias against the use of mass transit: an employer can provide free parking to employees without tax consequences to them, but if the same employer wants to provide discounted bus or subway passes, any benefit over $15 a month produces a tax liability for the employee. In short, you get a better deal under the Tax Code if you drive to work.

This makes no sense. Car and truck emissions are the leading cause of the violation of the Clean Air Act's carbon monoxide and ozone standards. In New York City, for example, 90 percent of the carbon monoxide and 50 percent of the ozone fouling New York City's air can be traced to automotive exhaust. Pollution from cars and trucks remains a major reason that many urban areas are unable to meet the requirements of the Clean Air Act. New York City officials estimate that up to one quarter of those who now drive into Manhattan would likely switch to mass transit, if the cap on employer-provided mass transit benefits were removed and their employers provided the benefit.

And the problem grows worse. In 1988, some 100 American cities—harboring half of our population—failed to meet Federal standards for ozone. Mr. President, I repeat. Half of our population. Including denizens of Washington, DC, and most of the eastern seaboard. A recent report by the Office of Technology Assessment con-

cludes that half of the cities now failing to meet clean air standards will continue to have polluted air in the year 2000. As long as the Federal Tax Code discriminates against mass transit, Federal efforts to clean air in our cities will be hampered.

Mr. President, the legislation I cosponsor today is a small step forward toward cleaner air and less traffic. It reduces the current tax bias against the use of mass transit, which flies in the face of rational environmental and transportation policy. It raises from $15 to $30 per month the current cap on the amount of transit benefits that can be provided to an employee without being taxed as compensation. The bill treats mass transit more like free parking, thus helping reduce the tax bias that makes driving more attractive. It also corrects an anomaly in current law that treats vanpools as different from other forms of mass transit by extending tax benefits to vanpools.

More. Current law provides that if an employee receives more than $15 a month in transit benefits, the entire amount becomes taxable. If, for example, an employer provides $20 a month in transit benefits, the employee would pay taxes on the full $20, rather than just the amount over the $15 cap. This "cliff" effect further discourages use of the tax-free transit benefit, and for no good reason. The bill I cosponsor today eliminates the cliff, improving the equity—and common sense—of the Tax Code.

And we do need to consider tax equity. It is simply unfair to allow unlimited tax-free treatment of parking while limiting mass transit benefits to $15. How much is parking worth? Plenty—and particularly so in our large urban areas. The value of off-street parking in New York City's central business district is about $250 a month; in Boston, $245; in Los Angeles, $120. These amounts can be received tax-free. This means that employees driving in New York receive a tax benefit 17 times larger than mass transit riders. In Boston, the benefits are 16 times larger, and in Los Angeles 8 times.

Mr. President, some amelioration of the current tax bias is long overdue. I urge my colleauges to support equal tax treatement for mass transit benefits.●

● Mr. D'AMATO. Mr. President, I rise today as an original cosponsor to the mass transit/vanpool benefit bill introduced by my colleagues, Senators MOYNIHAN and ARMSTRONG. This bill would establish a tax-free $30 per month employer-provided benefit to reimburse train, bus, subway, and vanpooling costs. If an employer provides more than $30 per month, then only the amount over $30 would be taxable income.

Mr. President, this legislation advances two major goals: that of clean air in our Nation's cities and equity in the Tax Code. Though I recognize the increase in the benefit still does not meet the actual cost of commuting, I support this legislation as a step in the right direction toward equity for the working people of my State and this country.

The tax laws clearly discourage the use of mass transit and discriminate against its users. The partner in a law firm who drives to work and parks in the most expensive parking place in America can recover his parking costs tax-free. But, the secretary who commutes by train, bus, or subway most likely receives no subsidy at all either because the amount is so small the employer chooses not to administer a benefit or, when the benefit is utilized and exceeds the $15 then the entire subsidy becomes taxable, voiding any benefit at all.

It is costly to the commuter who can only recover $15 a month in relief from an employer for taking mass transit. The same commuter who chooses to drive to work can receive free parking from his employer 100 percent tax-free. Mr. President, in our Nation's major cities, and especially in major clean air nonattainment cities such as New York, this is tantamount to subsidizing pollution.

Over a period of years my senior colleague from New York, Senator MOYNIHAN has fought long and hard to increase mass transit benefits. Workers in our home State of New York shoulder an enormous financial burden when they commute into New York City. For example, the 276,000 commuters using the Long Island Railroad pay an average of $140 a month or $1,680 a year.

The average cost for parking in New York City is $192 per month. Approximately 102,000 people drive into the central business district each weekday. The city estimates that 43 percent of these drivers receive tax-free employer-provided parking subsidies.

Of these drivers, 16 to 25 percent say they would switch to mass transit if they were given a subsidy. That would mean up to 25,500 fewer cars on the road.

Public transportation is the clean air alternative to the commuter automobile. Any successful effort to improve air quality in our cities must include the goal of reducing transportation related emissions.

Automobiles are the largest single contributor to the ozone and carbon monoxide problems in New York and in the entire Northeast. Recent analysis shows that in 1987, motor vehicles accounted for anywhere between 50 and 70 percent of the hydrocarbon, nitrogen oxide, and carbon monoxide emissions in the Northeast. Each time a commuter chooses mass transit over driving to work he is making a significant contribution to reducing air pollution. With this in mind, it is obvious that we must do more to encourage commuters to use our mass transit systems.

I support this legislation as a move in the right direction. By providing an increased incentive to use public transportation and vanpools we will help in attaining a vital national goal—a nation of clean air.

Mr. President, we are all also concerned about meeting the goals of deficit reduction. Though we don't currently have new estimates on the cost of this benefit, we expect to have them shortly. But we should remember that basic fairness to working people is a goal on par, at least, with deficit reduction. I believe a balance can be reached in the goals of both equity and clean air on the one hand, and deficit reduction on the other hand. I will continue to work for that goal.

I urge my colleagues to join me in this effort.●

● Mr. WARNER Mr. President, I am pleased to rise today as an original cosponsor of a bill introduced by my distinguished colleague from Colorado, Senator ARMSTRONG, which encourages the use of mass transit facilities and vanpools through added tax incentives.

In many communities across the country, transportation has become the number one local issue. Continued economic growth in the form of new houses, offices, and shops has not been complemented by the necessary transportation infrastructure improvements. As a consequence there has been increasing traffic, automobile accidents and a loss of economic productivity in the regions affected.

Here in the Washington area, for example, trips by car have become more and more frustrating. In northern Virginia our streets are jammed with cars and trucks beginning at dawn, with no relief until late morning. This same grueling process is repeated each evening. That translates to innumerable man-hours of lost productivity. Insofar as Federal employees are in these vehicles, that also translates into the U.S. taxpayers getting less for their tax dollars.

Mr. President, further road construction is one solution. Earlier this year, I sponsored the Gridlock Relief for Interstate Programs Act, S. 410, which would expand the capacity of heavily traveled interstate urban corridors. Of course, S. 410 does not even begin to address the funding needs of our States and localities on highways under their jurisdiction. The cost to build and expand the transportation infrastructure in urban and suburban communities is extremely expensive and often very difficult.

Rather than seeking only to build up our real capacity, which seems to fill up with new vehicles almost immediately, we need also to explore ways to reduce the demand by encouraging the use of mass transit and ridesharing arrangements. An excellent first step taken by many businesses and organizations has been to use the Tax Code to encourage expanded employee use of mass transit.

A provision of the Tax Reform Act of 1986 already gives employers the opportunity to provide their employees a $15-a-month tax-exempt benefit to commute, using mass transit or vanpools. The proposal introduced today, which I endorse, will double the exempt benefit to a more realistic $30-a-month, while also eliminating the so-called fringe benefit "cliff" which taxes the entire subsidy when the employer contribution goes beyond the threshold. In addition, this legislation would also expand the exempt benefit to any employer payments made to sponsored vanpools.

As you may recall, I supported an amendment to the Technical and Miscellaneous Revenue Act of 1988 brought to the floor last year by my colleague from New York, Mr. D'AMATO, which pushed for similar tax incentives. As I stated then, I believe this is a fine example of how the Federal Government can work with State and local governments and the private sector to encourage the use of the already established and funded mass transit and organized vanpools.

In the Washington, DC, metropolitan area, 36 percent of all trips made to work use the established mass transit system. And I understand that ridership continues to increase at a steady pace, while the costs of mass transit services have remained relatively stable. But, as our increasingly gridlocked roads show, more can and must be done.

Since passage of the Tax Reform Act 2 years ago, the Washington Area Metropolitan Transit Authority has implemented a program with private industry to encourage use of the $15 dollar-a-month exemption. At this time, it is my understanding over 8,000 employees from 90 different businesses throughout the Washington area have worked together to implement this plan. That's 8,000 fewer cars on our region's roads.

A $15 mass transit benefit is insufficient in this or any other city, and barely covers the average commuting costs for the first 5 days of each month. This legislation will expand this well-thought-out program to more accurately reflect the actual cost of commuting in urban and suburban areas throughout the Nation. Although the bill may not cover the entire monthly commuter costs in some communities, it will certainly encourage many employers and employees to consider the advantages of mass transit and vanpools.

Furthermore, as a member of the Environment and Public Works Committee and an original cosponsor of President Bush's clean air legislation, I see this measure as meeting goals that both the Congress and the administration have established with respect to cleaning up our air in heavily populated areas. Vehicle emissions are a major cause of that air pollution, and any action we can take to encourage fewer vehicles on our Nation's roads will contribute to our air quality.

While the gridlock and environmental benefits of encouraging vanpools appear limitless, this proposal can also improve ridership—not to mention the financial base—of mass transit services in which Federal, State, and local taxpayers spend billions of dollars annually. At the same time, increased use of mass transit and vanpools relieves State and local governments from having to pay for more asphalt and rights-of-way. This bill will reduce the strain on our Nation's roads, whether they are constructed with Federal funds or not.

We all know that budget constraints have forced Congress to make tough choices about spending. Past Congresses have studied the facts and figures, and made the choice of encouraging and implementing mass transit and vanpooling as an alternative to the more traditional single passenger vehicles—including support for the Metrorail here in the Washington, DC, area.

Increasing and expanding this exemption will help encourage wider use of mass transit and vanpooling services. This proposal allows private industry to make a significant contribution to helping State and local governments to address traffic congestion and some of its attendant environmental and safety problems.●

By Mr. COATS:

S. 1523. A bill to amend the Internal Revenue Code of 1986 to restrict the partial exclusion from income of interest on loans used to acquire employer securities to cases where employees receive a significant ownership interest in a corporation, and for other purposes; to the Committee on Finance.

LIMITATIONS ON PARTIAL EXCLUSION OF INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES

● Mr. COATS. Mr. President, today I introduce legislation to improve upon proposals to limit the broad ownership of corporate stock. This bill would specifically aid the establishment and maintenance of employee stock ownership plans [ESOP]. My bill is a response to similar legislation introduced by Senator BENTSEN of Texas, S. 1303. It is also a response to legislation introduced in the House of Representatives, and by Senator DOLE of Kansas, S. 1171, which would repeal Section 133 of the Internal Revenue Code. Senator BENTSEN's bill refocused this year's debate about ESOP's from one focused on how to curtail ESOP creation, to ensuring that the current ESOP law is utilized properly.

Briefly, my legislation would: First require the ESOP to hold at least 20 percent of the corporation's stock before the ESOP lender interest exclusion is available; second limit the ESOP lender interest exclusion, even if the 20 percent threshold is met, to loan proceeds of $100 million or less; and third, allow an exception to the $100 million limit for ESOP's which would hold over 50 percent of the corporation's stock. My legislation does not change the current law on the deductibility of dividends paid on ESOP stock.

Recently the ESOP lender interest exclusion, which is Internal Revenue Code section 133, has come under close scrutiny because of new estimates of the Federal tax revenue lost because of the use of this provision. This provision, referred to as the ESOP lender exclusion, provides that, under certain circumstances a lender to an ESOP, or to an ESOP corporate sponsor, may exclude, from its income for Federal tax purposes, 50 percent of the interest paid on the loan.

Congress enacted this ESOP lender interest exclusion in the 1984 tax bill. Before its adoption, there were approximately 200 to 300 significant leveraged ESOP's in the United States. Five years after its enactment, there are approximately 2,000 to 3,000 significant leveraged ESOP's, nearly all representing employee ownership in strong, growing companies.

Prior to 1989, the revenue estimate for this particular ESOP provision averaged $250 million per year. Recently, however, the revenue estimates have risen dramatically, to an estimated $1.3 billion for fiscal year 1990. This is the reason legislation has been introduced by some to limit ESOP creation. Knowing why the revenue estimates have escalated will point the way to refinements in the ESOP lender interest exclusion that will maintain a policy to encourage employee ownership, at a reasonable cost to the Federal purse.

To understand recent ESOP transactions, it is necessary to review pre-1989 data compared to 1989 data. Before 1989, the number of leveraged ESOP transactions averaged approximately 200 to 300 per year. The amount borrowed for these transactions ranged from $4 to $6 billion per year.

In late 1988, the Polaroid Corporation, executing a long-standing plan to increase employee ownership, funded an ESOP so that it held approximately 14 percent of Polaroid's stock. Shortly thereafter, a group seeking to

acquire Polaroid sued Polaroid in Delaware State court seeking to have the ESOP transaction voided. The Delaware State court refused to void the ESOP in a decision released in early 1989.

Since that decision, many large, publicly traded corporations, incorporated in Delaware, have established new ESOP's, under the guidelines set forth in the Delaware court's opinion in the Polaroid ESOP case.

For example, in the first 6 months of 1989, the National Center of Employee Ownership estimates that of the approximately $19 billion of borrowing for 1989 leveraged ESOP transactions, approximately $18 billion, or 95 percent, involved 80 ESOP transactions. Of these 80 ESOP transactions, only one resulted in an ESOP with over 20 percent of the corporation's stock in the ESOP. On the other hand, there were 250 leveraged ESOP transactions in the first six months of 1989 where the borrowing for the ESOP's was less than $2 billion. Most of these 1989 ESOP transactions involved loans of less than $10 million. These 250 transactions are clearly similar to the vast majority of the ESOP's created before 1989. This ESOP data points us in a clear direction to control the revenue loss from the ESOP lender interest exclusion. Instead of restricting ESOP creation, a better solution is to limit the ESOP lender interest exclusion availability to those situations typical of the pre-1989 ESOP transactions.

Specifically, my legislation would permit the lender to utilize the ESOP lender interest exclusion for those loans for which, immediately after the loan proceeds are used to acquire employee securities, the ESOP holds 20 percent or more of the employer's stock, but only up to $100 million in loan proceeds; for loans of more than $100 million, an ESOP ownership of more than 50 percent is required.

My legislation differs from Senator BENTSEN's bill in three respects: First, his bill, S. 1303, provides for a 30-percent threshold whereas mine has a 20-percent threshold; second, his bill does not cap the amount of the loan—mine would; and his bill also amends the current law on the voting of ESOP stock if the ESOP lender interest exclusion is used—mine does not.

I suggest my approach because many publicly traded companies would have difficulty in establishing a 30-percent or greater ESOP. The reasons being: First, in many cases, gaining a 30-percent stake for the ESOP could only be done at the expense of other employee benefits typically offered by larger companies; second, the expense of financing a transaction to obtain a 30-percent stake would be prohibitive in most cases, particularly since many ESOP's are established in conjunction with stock buy-backs; three, ESOP contribution limits make financing very large transactions less feasible; fourth, "significant" levels of employee ownership can be considerably less than 30 percent in publicly traded companies. Most publicly traded companies do not have any single shareholder with more than a 1- to 10-percent stake; and fifth, an employee ownership program through an ESOP can be a very important aspect of a large, publicly traded corporation's employee relations, economic performance and overall corporate culture.

In fact, experts can identify less than 10 publicly traded corporations with ESOP's holding 30 percent or more of the companies' stock.

On the other hand, like Senator BENTSEN, and our minority leader Senator DOLE, who proposes a total repeal of the ESOP lender interest exclusion in S. 1171, I do not wish to see the ESOP tax incentives used by corporations, incorporated in Delaware, as a defensive weapon in the takeover wars. First of all, such a use does not justify special tax incentives, and the revenue loss from such a use outweighs the employee's benefits.

So, my bill places a 20-percent threshold instead of S. 1303's 30-percent, and adds a $100 million cap.

My approach allows public corporations with significant ESOP's to have access to ESOP-favored interest rates, but still limits the revenue loss for the Treasury.

Ironically, while the 30-percent threshold in S. 1303 effectively limits the use of the ESOP lender interest exclusion by publicly traded corporations, the voting rights requirement in S. 1303 hits only the closely-held corporations, which are primarily small businesses.

To explain, current ESOP law requires that employees of publicly traded corporations vote their allocated ESOP shares on all issues. For employees of the closely-held corporations, the law requires that they vote their allocated shares on questions of any corporate merger or consolidation, recapitalization, reclassification, liquidation, dissolution, sale of substantially all assets of a trade or business, or other similar transaction as set forth in regulations. The only significant issue not requiring that the employees vote allocated ESOP stock in a closely-held corporation is one on the election of the board of directors.

In sum, current ESOP law recognizes the very different corporate culture of a publicly traded corporation, with thousands of share holders, and the traditional family-owned, closely held corporation.

Also, the current law on voting ESOP stock is a minimum requirement. Many small corporations with ESOPs expand the vote on allocated ESOP stock after 5 to 6 years of experience with the ESOP. But S. 1303 will, I'm afraid, stop the creation of ESOP's in many small companies as an owner-founder of a small business may have apprehensions of the election of the board of directors. These are the very companies which have some of the best track records on employee morale, and have been leading in the creation of new jobs in our economy.

Having set forth an explanation of the legislation I introduce today, and having compared it to the bill introduced by Senator BENTSEN, I now turn to a very important aspect of my proposal.

My proposal does not affect the current law permitting a corporation to deduct dividends paid on stock held by the ESOP, if the dividend is paid in cash to employees, or used to pay ESOP debt.

My bill is a clear-cut endorsement of the current ESOP dividend deduction law, which is Internal Revenue Code section 404(k).

It is truly amazing that both the Senate and the House have held many days of hearings on LBO's, mergers, acquisitions, and corporate debt, where witness after witness urged Congress to stop taxing corporate dividends twice, and, yet, out of those hearings comes an effort by some to repeal the ESOP dividend deduction. The ESOP dividend deduction is our only law that eliminated the double taxation of corporate dividends. We should expand this provision, not limit it.

It makes no sense to punish employee-owners by denying them the benefit of dividends on their stock.

While some may say repealing the ESOP dividend deduction, or limiting it, is not a new tax, I believe that taking away dividends from 10,000 employees participating in ESOP's means that they have less wealth because of Federal law. This is the same thing as a new tax. New tax, no dividends, it's all the same—less for the ESOP employees.

The ESOP dividend deduction is very different from the ESOP lender interest exclusion. The ESOP lender interest exclusion is an indirect benefit to ESOP employees, in the form of easier interest payments to the lender. The ESOP dividend deduction is a direct benefit to ESOP employees.

The salient points which establish the need for the Senate to defend the ESOP dividend deduction are: First, the ESOP dividend goes directly to the employees in cash, or in more stock; and second, even with the increased creation of ESOP's, the ESOP dividend deduction revenue costs are only about 25 percent of those arising from the ESOP lender interest exclusion.

In sum, my proposed legislation addresses the ESOP revenue issue, does not impose new voting rights require-

ments which would discriminate against small companies, and establishes support for the deduction of ESOP dividends as under current law.

I only introduce this legislation in order to protect current law which encourages employee ownership. The current laws dealing with ESOP's are sound. But the whole concept of employee stock ownership plans is now under attack in Congress in the name of revenue enhancement. I, therefore, ask my colleagues to give their support to this bill—and to give the employees of America's corporations the opportunity to become owners.●

By Mr. HUMPHREY (for himself and Mr. RUDMAN):

S. 1524. A bill to amend the Wild and Scenic Rivers Act of 1968 by designating segments of the Pemigewasset River in the State of New Hampshire for study as a National Wild and Scenic River; to the Committee on Energy and Natural Resources.

PEMIGEWASSET RIVER STUDY ACT

● Mr. HUMPHREY. Mr. President, on behalf of Senator RUDMAN, and on my own behalf, I am introducing legislation to designate segments of the Pemigewasset River in New Hampshire for study under the National Wild and Scenic River System. Identical legislation is being introduced today in the House by Congressmen CHUCK DOUGLAS and ROBERT SMITH of New Hampshire.

The Pemigewasset River, known as the "Pemi," is one of New Hampshire's most visible rivers. Originating just north of Profile Lake, the northernmost segment of the Pemi flows through the Franconia Notch State Park Mountain Pass. The National Park Service included this river segment on its nationwide rivers inventory list of outstanding rivers published in January 1982. In its description, the Park Service aptly notes that this stretch contains "some of the State's most spectacular landmarks and scenery" including New Hampshire's famed granite outcropping, the Old Man of the Mountains. This bill proposes to study the portion of the Pemi which flows through the Franconia Notch State Park.

The river segment flowing from Thornton to New Hampton has been the focus of an aggressive local effort to clean up and protect. The selectmen from nine towns—Thornton, Campton, Plymouth, Holderness, Ashland, Bridgewater, Bristol, New Hampton, and Sanbornton—have written the New Hampshire congressional delegation urging that the Pemigewasset be designated by Congress for study. Their letters point out the river's scenic and recreational assets, and outstanding natural resources as well as the increasingly high growth rates which threaten the area.

The commitment of the nine towns is evidenced by their considerable efforts to limit development along the river. Six of the towns have adopted rigorous river overlay plans creating waterfront land-use standards to regulate house and septic setbacks, minimum lot sizes, and to prohibit activities which would adversely affect the river. The other towns are working to develop similar plans.

Although the New Hampshire State Legislature recently enacted legislation to initiate a rivers management program, formal recommendations for protective actions will not be made until 1990. The National Park Service has provided invaluable assistance to local communities in their efforts to protect New Hampshire's rivers. I believe that the plan developed through the National Park Service study will complement and guide the State's Nascent River Program.

And, although the new State law prohibits permitting of any new hydroelectric facilities on the Pemi, this law is not sufficient to prevent the Federal Energy Regulatory Commisson [FERC] from proceeding on an application to construct a new dam on the Pemigewasset in the town of Campton. In a December 5, 1988, letter to FERC, the Campton Board of Selectmen stated that the study "to designate the Pemigewasset River as a national wild and scenic river should not be jeopardized by this project."

In fact, FERC's December 28, 1988, "scoping document II for Livermore Falls hydroelectric project" notes that the Livermore Falls area's "combination of geologic features—tilted, excavated, and exhumed strata; dikes and other types of injections; and pothole formations in the river—is not known to exist anywhere else in the region" and "could provide the outstanding resource value category necessary for Federal wild and scenic designation." FERC's report remarks that "much of the land in the Pemigewasset watershed has a high recreational value."

Mr. President, the waters of the Pemigewasset have reflected the dynamic history of the State of New Hampshire. Formed by the receding of the glaciers, the Pemi Valley became a popular tourist spot in the early 19th century as travelers sought to view the Old Man of the Mountain and to breath the fresh White Mountain air. From the mid-1800's on, the forest products industry grew in northern New Hampshire and the Pemi suffered use as a receptacle for papermill effluent. Citizens rallied a campaign to clean up the Pemigewasset in the 1960's and 1970's. Now the Pemi's fast-flowing water and forested banks are used for a variety of recreational activities. Its water quality has improved greatly due to the increasing efforts by local communities to protect the integrity of the Pemi and its shorelines.

Mr. President, in addition to the affected towns, Governor Gregg supports this initiative. The State director of parks and recreation also supports study legislation. As with the recent study of the Wildcat River—in Jackson, NH—it is our intention that the National Park Service pursue a strategy which emphasizes a Federal-State-local government and private landowner partnership to protect the integrity of the river.

I am confident that a thorough study of the Pemigewasset River will lead to development of a long-term protection plan and will highlight the outstanding features of the Pemigewasset. I look forward to working with my colleagues to enact this important legislation.●

● Mr. RUDMAN. Mr. President, I rise today along with my colleague from New Hampshire, Senator HUMPHREY, to introduce legislation directing the National Park Service to study portions of the Pemigewasset River to determine its eligibility for possible designation as a wild and scenic river.

My colleagues may recall legislation enacted in the 100th Congress which designated the Wildcat River in Jackson, NH a wild and scenic river. This action has served as an inspiration to other New Hampshire communities looking for protection of their river resources. In fact, in May of this year, Senator HUMPHREY and I introduced legislation to study the Merrimack River, which flows downstream from the Pemigewasset.

The Pemigewasset River flows from Profile Lake at Franconia Notch in the White Mountains, to the city of Franklin where it combines with the Winnepesaukee River to form the Merrimack River. The Pemigewasset has a number of smaller tributaries, including the Baker, Beebe, Madd, Smith, Squam, and Newfound rivers.

The Pemigewasset River corridor contains remarkable scenic, recreation, fish and wildlife, and geologic values that will be reviewed during a study by the National Park Service. The stunning views of the White Mountains and the New Hampshire countryside from the river have delighted tourists and local residents alike for over a century. The river is used extensively for canoeing and boating, and there are many camping and recreational sites along its banks. The river corridor is home to a wide variety of wildlife species, including river otter, mink and beaver, as well as larger mammals such as white-tailed deer, moose, and bobcat. A large number of birds use the river corridor as a primary habitat, including the osprey and bald eagle.

The Pemigewasset has been identified as a critical habitat for the restoration of Atlantic salmon. Since 1975, 200,000 Atlantic salmon fry and juveniles have been stocked annually in

the Pemigewasset River, as part of the cooperative anadromous fish restoration program conducted by the U.S. Fish and Wildlife Service and the State of New Hampshire.

The Pemigewasset River corridor also contains a number of significant geological values, including Livermore and Sawhegenit Falls, eskers and granite outcroppings.

The Pemigewasset was not always a pleasant place to be, however. For decades the Pemigewasset was polluted with industrial and municipal waste making it unfit habitat for fish and wildlife and causing a variety of discomforts for local residents. It was not until the late 1970's, when pollution was abated, that the river began the slow process of rebirth. Fish and wildlife returned to the river, along with people seeking recreation. It was this increased pressure on the river, and concern over extensive vacation-home development taking place on local lakes, that led to the formation of the Pemigewasset River Council. This group, made up of local leaders and citizens in nine towns along the river, began to seriously review ways of saving their river from increasing development. The primary purpose of the Pemigewasset River Council is to preserve the current character, open space, visual appearance, and water quality of the river corridor.

The Pemigewasset River Council has tirelessly studied river management plans and local ordinances of member towns, consulted with local planning boards, the New Hampshire Office of State Planning, the Lakes Region Planning Commission, and the National Park Service in an effort to design a river overlay plan which would put more limitations on development. Today, six of the nine communities along the river have adopted an overlay plan. Clearly, these communities are serious about protecting their river from the potential adverse effects of development.

In 1987, the towns of Ashland, Bridgewater, Bristol, Campton, Holderness, New Hampton, Plymouth, Sanbornton, and Thornton contacted the congressional delegation requesting introduction of legislation to study the Pemigewasset River for possible inclusion in the National Wild and Scenic Rivers System. Today, following many years of hard work, the dream of wild and scenic designation for the Pemigewasset River is one step closer to becoming a reality. I am pleased to support this legislation. I believe it is an important step in an effort to protect the Pemigewasset for future generations.●

By Mr. BUMPERS:

S. 1525. A bill to amend the Small Business Investment Act of 1958 to encourage private investment in debentures issued by investment companies financing businesses owned by disadvantaged persons; to the Committee on Small Business.

ENCOURAGING PRIVATE INVESTMENT IN CERTAIN BUSINESSES OWNED BY DISADVANTAGED PERSONS

● Mr. BUMPERS. Mr. President, I rise today to introduce legislation which will redouble Federal efforts to promote entrepreneurship among minorities and, at the same time, likely reduce Federal spending. This bill will reform and expand a unique program at the Small Business Administration called Minority Enterprise Small Business Investment Companies, usually referred to by the acronym MESBIC.

These companies, Mr. President, are a special category of Small Business Investment Companies licensed under section 301(d) of the SBIC Act of 1958. MESBIC's are specifically chartered to make equity and long-term debt investments in minority-owned businesses, which face extreme obstacles in access to capital and which are often high-risk ventures. A prospective MESBIC licensee must first invest $1 million in private capital into the company, after which he or she may receive additional financing on favorable terms from SBA.

The MESBIC Program has had a number of notable successes, including Essence magazine and several leading minority-owned telecommunications companies. However, the program has been plagued in recent years by Congress' inability to provide adequate funds to meet demand. The program level has fallen from a high of about $45 million in appropriations to about $35 million in the current year. As Senators know, the outlook for new direct spending is bleak.

In budgetary terms, the MESBIC program has until now required one dollar of direct spending for every dollar leveraged MESBIC's. The licensees are permitted to borrow from SBA by either the sale of preferred MESBIC stock to SBA, or through sale of a debenture to the agency, or both. The preferred stock does not carry a mandatory dividend and, while it has some value, the value is difficult to ascertain. As to debentures, the MESBIC receives the benefit of a 3-percent subsidy on the cost of money for the first 5 years of the instrument.

There simply isn't enough money to go around, and the number of MESBIC's has dropped significantly in recent years because of frustration with the appropriations process. The answer to this problem, which is contained in the bill I am introducing, is to convert the program to guaranteed rather than direct loans. This legislation will do exactly that by allowing MESBIC's access to the regular SBIC's pool of borrowing authority, much of which is going unused by the SBIC's.

SBIC's, under a change in law enacted in 1986, receive financing through the sale of debentures and pools of debentures on Wall Street to private investors. These SBIC securities are fully guaranteed by SBA. This bill will allow MESBIC securities to be sold alongside regular SBIC securities in quarterly offerings. However, SBA will continue to provide the current three-point subsidy for the MESBIC's cost of money by making payments to the fiscal agent for the program. Moreover, the purchase of preferred stock by SBA will still be permitted to the extent that appropriated funds allow.

This new plan should allow MESBIC's access to a much larger pool of credit, since the SBIC guaranty authority provided by the Appropriations Committee has been approximately $240 million, and those companies have used only about one-fourth of this authority in the current year. Investors will be able to purchase a larger volume of these venture capital securities, but they will perceive no difference in their return since SBA funds will be used to pay the interest rate subsidy which is essential for the success of high-risk MESBIC investments.

Mr. President, this bill is the product of almost a year's discussions between the Senate and House Small Business Committee staffs and the MESBIC and SBIC industries. It is strongly supported by those two industries. I would add that Chairman LAFALCE recently introduced similar legislation in the House and he plans to hold hearings soon. I am strongly inclined to offer this bill as an amendment to the Commerce-Justice-State appropriations measure in the Senate in September so that this new program can get underway as soon as possible.

Mr. President, I ask unanimous consent that the bill which I now send to the desk be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1525

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INVESTMENT IN SECTION 301(d) DEBENTURES.

Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended by adding at the end thereof the following new subsections:

"(d) The Administration is authorized to make, and to contract to make, periodic interest reduction payments to the holder of a debenture or to the appropriate fiscal agent of a small business investment company described in section 301(d) to cover the difference, if any, between—

"(1) the amount of interest the company is required to pay on debentures issued by it (other than debentures issued to the Administration), and

"(2) the amount of interest the company would be required to pay on debentures purchased by the Administration, as determined under section 317.

Amounts authorized to make direct purchases of debentures and preferred securities under this title shall also be available to make payments under this subsection.

"(e) Notwithstanding any other provision of law, amounts available for guarantees of debentures issued by small business investment companies may be used for guarantees of debentures issued by companies licensed under section 301(d).".●

By Mr. BOREN (for himself and Mr. NICKLES):

S. 1526. A bill to authorize the State of Oklahoma and the Kiowa, Comanche, and Apache Tribes to enter into an agreement regarding the exercise of State jurisdiction over a portion of Indian country located in Comanche County, OK; to the Select Committee on Indian Affairs.

JURISDICTION OVER CERTAIN INDIAN LANDS

● Mr. BOREN. Mr. President, I am very pleased to introduce today with my colleague from Oklahoma [Mr. NICKLES], a bill that will enable three tribes in Oklahoma to enter into a unique contract with the State that will address the issue of where to house the State's growing prison population as well as providing a much needed opportunity for development for these tribes.

This bill, in effect, serves two purposes. One, it is a great economic development opportunity for the Kiowa, Comanche and Apache Tribes to utilize the buildings and facilities of the old Fort Sill Indian School. The economic pressures facing the southwestern part of my State are staggering, and these tribes have been working diligently to find a workable opportunity to use and develop their joint resources.

The Fort Sill Indian School, located near Lawton, OK, is comprised of more than 115 acres of tribal land and a number of large and small building on the premises. The school, formerly operated by the Bureau of Indian Affairs, was closed and conveyed by the United States to the ownership of the Kiowa, Comanche and Apache Tribes in May of 1981. Since then, they have established the Kiowa-Comanche-Apache Land Use Committee and have been working toward economic self-sufficiency so that they can provide necessary programs and services for their members.

The second purpose that this legislation serves is to enable the State of Oklahoma, the Oklahoma Department of Corrections, to provide a partial solution to the problem of the State's growing prison population. By utilizing the Fort Sill facilities for a minimum security prison which will house about 100 inmates initially, the State can provide a much needed facility to house work crews in the Lawton/Duncan area that the Department of Transportation could and would utilize for work in that area. The prison could eventually house up to 400 persons.

I am pleased to be able to offer this legislation on behalf of the Kiowa-Comanche-Apache Land Use Committee with support from the State department of corrections, Governor Bellmon, the Lawton Department of Commerce, the city council and many others. The funding for renovation of the school for this work station has already been obtained by the Oklahoma Legislature but is dependent on this legislation to enable the contract to be drawn up.

Mr. President, a unique feature of our policies for native American lands is that the individual tribes hold civil and criminal jurisdiction over these lands. Obviously, the State needs to hold jurisdiction in this situation to successfully administer the operations of a prison facility which would include Indian prisoners and Indian employees, and in this case, the tribes want to waive their jurisdiction for the length of the contract. Let me emphasize, however, that the tribes are waiving their civil and criminal jurisdiction both voluntarily and only for the length of the term of the contract. This is in no way intended to do any more. At the expiration of the contract, if it is not mutually renewed, such jurisdiction will return to the United States and the Kiowa, Comanche and Apache Tribes.

Mr. President, this is not the only situation where tribes are using creative ideas to enhance economic development ventures. But this contract is so close, the funding is available, and all that stands in the way is this technicality. Congressman MCCURDY has introduced almost identical language in the House of Representatives, and Senator NICKLES and I are pleased to be working together toward this goal in the Senate. I hope that the Senate will act quickly on this measure.●

By Mr. LAUTENBERG (for himself and Mr. HATCH):

S. 1527. A bill to provide incentive grants for States that enact legislation aimed at limiting youth access to cigarettes, and for other purposes; to the Committee on Finance.

S. 1528. A bill to provide incentive grants for States that enact legislation aimed at limiting youth access to cigarettes, and for other purposes; to the Committee on Labor and Human Resources.

ADOLESCENT TOBACCO PREVENTION LEGISLATION

● Mr. LAUTENBERG. Mr. President, today I am introducing the Adolescent Tobacco Prevention Act in an effort to prevent increasing numbers of adolescents from using tobacco products. The bill would create incentive grants for States that enact and enforce specific laws to limit youth access to tobacco products. I am pleased that Senator HATCH has joined me in cosponsoring this legislation.

Trends in tobacco use reveal that more and more young people are beginning to smoke. According to the Surgeon General's 1989 report, approximately 80 percent of smokers started before the age of 21. One out of four high school seniors who have ever smoked began by sixth grade when they were 12 years old. Half began by eighth grade when they were 14 years old.

These statistics are of concern because we know that the earlier a young person begins using tobacco, the harder it is for them to kick the habit. According to the National Institute on Drug Abuse, more than half of high school seniors who smoke at least half a pack of cigarettes a day have made at least one serious but unsuccessful attempt to quit smoking. Some 47 percent say they would now like to quit. And almost 75 percent of daily smokers in high school still smoke 7 to 9 years later, even though in high school only 5 percent thought they would be daily smokers 5 years later.

It is widely believed in the medical and health community that these trends in adolescent smoking are not coincidental and that an effort is being made to reach youth. Cigarette advertising, for example, is heavy in a number of magazines with large adolescent readerships. One of those magazines is Glamour, which has about one-quarter of its female readers under age 18. Another is Sports Illustrated with about one-third of readers who are boys under age 18.

The Coalition on Smoking or Health maintains that nearly 2 million new smokers are needed annually for cigarette companies to maintain their market. That means some 6,000 children and teenagers have to begin smoking every day in order for the tobacco industry to maintain the status quo.

Former Surgeon General Koop shares this concern about adolescent smoking. In a speech to the National Cancer Institute's Smoking, Tobacco and Cancer Program, he said:

> Most of the industry's current efforts are directed at young people * * * They deny it, but it's true. They are trying to replace the smokers they've lost. And the best candidates are young people.

An aggressive cigarette advertising campaign is underway which undoubtedly impacts on America's adolescents. In 1981 the Federal Trade Commission found that cigarettes are the most heavily advertised and marketed product in America. In constant dollars, expenditures on the advertising and promotion of cigarettes have increased more than fivefold since 1971. In 1986 the six major cigarette companies

spent close to $2.4 billion or over $6.5 million a day on advertising and promotion.

The result is that we are losing the battle to keep our kids from taking up smoking. Too many adolescents think smoking is glamorous. Too many do not know how dangerous tobacco is. Too many are taking a fatal first puff and becoming hooked for life.

But we can tackle this problem. We can prevent nicotine addition among our youth. We need to begin making a concerted effort to limit adolescents' access to tobacco products and by sending children a loud, clear message that smoking kills.

The legislation we are introducing today would help us do that by providing incentives to States to enact laws limiting adolescent access to tobacco products. It would authorize for 5 years $100 million in incentive grants to be distributed through the Preventive Health Block Grants Program for States that enact and enforce three laws. The first law would establish 18 or older as the minimum age for the sale of a tobacco product to a minor. The second would limit the sale of cigarettes in vending machines to places where minors are not permitted. And the third would prohibit the distribution of free samples of tobacco products.

The legislation would also authorize for 5 years $100 million in incentive grants through the chapter II education program for States that enact and enforce three other laws or regulations. The first would prohibit smoking by minors on school grounds and in buildings. A second would prohibit smoking by minors on school buses. And a third would require that authorized use of tobacco products by adults be in areas separate from students and that adequate safeguards are in place to protect students from the impact of passive smoke.

These laws would need to be backed by effective enforcement and substantial compliance. The Assistant Secretary of Health or a designee would promulgate rules to determine the meaning of effective enforcement and substantial compliance on minimum age, vending machine, and free sample prohibition State laws. In the case of vending machines, the Assistant Secretary of Health or a designee would promulgate rules to determine where minors are not permitted. The Secretary of Education, in consultation with the Secretary of Health and Human Services, would promulgate rules to determine the meaning of effective enforcement and substantial compliance on the school smoking prohibitions.

States would be eligible to receive grant money from one or both of the incentive grant programs once it has been determined that the State laws meet the standard. The incentives grants would be distributed according to the formula currently used for distributing chapter II and preventive health block grant funds.

If the Assistant Secretary of Health involved the Commissioner of the FDA with enforcement, it would be consistent with efforts underway in Congress to give the FDA authority to regulate tobacco products. It would complement Senator BINGAMAN's legislation, S. 769, which I have cosponsored. That legislation would create a new chapter in the Food, Drug and Cosmetics Act to authorize Federal regulation of the manufacture, sale, promotion, and distribution of tobacco products, constituents, and additives.

The legislation also includes a provision to enable the Federal Government to do a better job of reaching more people with the truth about the health consequences of smoking. Along these lines, the bill would authorize an additional $2.5 million for the Office on Smoking and Health, which has a current budget of $3.5 million.

It is not enough to tell our adolescents not to smoke and to limit their access to tobacco products. We also need to teach them why smoking is harmful. To that end, the legislation would require the Secretary of Health and Human Services, through the Office on Smoking and Health, to develop a comprehensive outreach program, targeted at minors, to inform them about the health consequences of smoking. An outreach program would ensure that suitable materials to target minors, such as public service announcements and educational material, are available to the States, local governments, and schools.

In addition, the bill would authorize a $0.01 increase in the cigarette excise tax that would be placed into a Tobacco Adolescent Prevention Trust Fund and used to pay for the incentive grants. The $0.01 increase in the cigarette excise tax is not intended to be a substitute for greater increases in the cigarette excise called for in other pending legislation. It is not intended to reflect a sentiment that Congress believes a $0.01 increase in the cigarette excise is the maximum increase necessary. It is merely intended to cover the cost of the incentive grants. I have also introduced a version of the bill that does not include an increase in the excise tax.

Mr. President, the provisions in this legislation are in line with many of the recommendations for Congress and the administration that emerged from a conference sponsored earlier this year by the American Medical Association and the Coalition on Smoking or Health, which is comprised of the American Heart Association, and the American Lung Association, and the American Cancer Society. They reflect the strong belief in the health community that we need to do more to keep American kids away from tobacco products. That is why this legislation has the support of former Surgeon General Koop and the Coalition on Smoking or Health.

Why do we want States to establish at least 18 as the minimum age for the sale of tobacco products to minors? The Department of Health and Human Services has expressed concern for many years about teenage access to tobacco products and has recommended minimum age laws as one method of preventing youth from taking up smoking. In fact, in 1986 former Secretary of Health and Human Services Otis R. Bowen recommended that States establish 18 as the minimum age for the purchase of tobacco products.

Currently, there is no uniformity in State minimum age laws. Forty-four States and the District of Columbia have minimum age laws ranging from 16 to 19. Some States, like Alabama, Alaska, and Utah have gone further by establishing 19 as the the minimum age for the sale of cigarettes and smokeless tobacco. But, 14 States have no minimum age law or a minimum age that is below 18.

We should build on the momentum underway in the States by encouraging States to enact and enforce at least 18 as the minimum age for the sale of tobacco products. Those States that do not have a minimum age law, or have one that is below the age of 18 need to be encouraged to meet the mark. And those with laws on the books need greater incentives to enforce those laws. Some localities are requiring licensing as an approach to enforcement. Some believe enforcement should be placed in the hands of the police. Others say it could be put into the hands of public health agencies. Regardless of the approach, the laws need to be enforced and the States need greater encouragement to enforce them.

Another related issue to enforcement of minimum age laws is vending machines. This legislation would restrict vending machine sales to places where minors are not permitted. If we are going to expect merchants to respect minimum age laws, it doesn't make sense to provide minors with access to tobacco products from vending machines. Now, merchants can point to unrestricted vending machine sales of tobacco products as a reason for continuing to sell tobacco products to a minor. We need to eliminate this disincentive.

According to the National Automatic Merchandising Association, 31 percent of vended cigarette sales are in bars and cocktail lounges, 27 percent are in industrial plants, and 12 percent are in offices. That represents 70 percent of vended cigarette sales. Limiting the vended sale of tobacco products to

places like these if minors are not permitted would help with enforcement of minimum age laws without infringing in a significant way on the ability of adults to purchase tobacco products in vending machines.

There is activity already underway in the States to limit and altogether ban vending machine sales of tobacco products. Utah passed a law in February prohibiting the sale of all tobacco products in vending machines except in bars, adult private clubs, and worksites. A bill pending in the Minnesota Legislature would ban cigarettes sales in vending machines. A similar bill is pending in Maine. Colorado bans the sale of smokeless tobacco products in vending machines.

Another important issue related to youth access to tobacco products is that of free samples. Too often, free samples are ending up in the hands of vulnerable youth. To prevent this from happening, the legislation would encourage States to prohibit all free sampling of tobacco products. So far, cities have taken the lead in restricting the distribution of tobacco product samples. In fact, since 1979, 12 cities have banned the distribution of tobacco product samples. Minnesota is the only State that completely prohibits the distribution of free samples of cigarettes, smokeless tobacco products, cigars, pipe tobacco, or other tobacco products suitable for smoking. While there is some momentum on the issue at the State level, it is clear that States need greater incentives to enact this type of legislation.

And what about students smoking in school? Why do we need to focus attention on schools?

It is appropriate to restrict student smoking on school property as we redouble our efforts to educate adolescents about the harmful effects of smoking. Education about the health consequences of smoking is mandated by law in 20 States and has also been the result of voluntary efforts by individual schools. Senator BRADLEY has introduced legislation that would build on these efforts and incorporate tobacco education into drug and alcohol education programs in schools nationwide. I am a cosponsor of his legislation because I believe we need to do more on the education front as we limit access to tobacco products for adolescents. The prohibitions on student smoking in the Adolescent Tobacco Prevention Act would complement the educational efforts included in Senator BRADLEY's legislation.

We should also give States incentives to ensure that smoking policy on campus is in line with minimum age laws. In some States, for example, it is currently against the law to sell tobacco products to a minor. At the same time, State law may permit schools to designate an area at school for kids to smoke. That just does not make sense. That was the case in my own State of New Jersey, until the legislature recently enacted a law banning all smoking on campuses. If States determine that it is against the law for minors to purchase tobacco products, it should also be against the law for minors to smoke tobacco products on school grounds, in school buildings, and in school buses.

Also, adolescents spend many hours of the day at school. These youngsters are impressionable and susceptible to peer pressure. Unfortunately, peer pressure is often so great that vulnerable kids are unable to resist. It is those adolescents who fall victim to the fatal first puff. If we encourage States to prohibit students from smoking in school buildings and on school grounds, hopefully, we can remove, or at least minimize, an important element of peer pressure for adolescents. And just maybe we can prevent some would be smokers from taking their first puff.

Some States are moving in the direction of completely smoke-free schools. In fact, New Jersey, Utah, and Kansas have laws on the books that prohibit smoking in schools by teachers and students. The Adolescent Tobacco Prevention Act, however, is aimed at minors in general. For that reason the prohibition on smoking on school grounds, in school buildings, and on schoolbuses is limited to minors. States that prohibit adults from smoking on school grounds certainly would qualify for incentive grants as well. But it is not a requirement under this legislation. While the legislation would enable adults to smoke, areas would have to be designated that are absolutely separate from students, and students would have to be protected from the harmful impact of passive smoke. In light of the fact that a 1986 OTA report concluded that "children and people with preexisting lung disease might be more susceptible than healthy adults to some of the effects of passive smoking," this is an extremely important provision.

How are the States currently faring in this area? Currently, 12 States prohibit smoking by students on school property, and permit the designation of enclosed smoking areas for teachers and faculty. Three States prohibit all smoking on school grounds.

Mr. President, cigarette smoking is the single most preventable cause of death and disease in our country. Some 390,000 Americans die every year from cigarette smoking. That is 390,000 too many.

If we are going to prevent these needless deaths, we need to start now by preventing would-be smokers, America's adolescents, from taking up smoking. The legislation we are introducing today would move us in that direction. I urge my colleagues to join Senator HATCH and I in the battle to keep our kids away from tobacco products by cosponsoring this legislation.

I ask unanimous consent that the full text of the bills be printed at the conclusion of my remarks, along with statements of support, and a table outlining State laws on some of the issues covered in this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1527

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Adolescent Tobacco Prevention Act of 1989".

SEC. 2. FINDINGS.

Congress finds that—

(1) cigarette smoking and the use of smokeless tobacco products continue to represent a major health hazard to the American public causing approximately 390,000 premature deaths per year;

(2) cigarette smoking continues to be the single most preventable cause of death and disability in the United States;

(3) tobacco products contain hazardous tobacco additives, gases, and other chemical constituents dangerous to health;

(4) the use of tobacco products cost the United States in excess of $60,000,000,000 in lost productivity and health care costs;

(5) tobacco products contain nicotine, a poisonous drug that the Surgeon General has determined is highly addictive;

(6) 80 percent of smokers start smoking before they are 21 years of age;

(7) the tobacco industry spends over $2,000,000,000 annually to promote and sell its products; and

(8) the Congress of the United States has a major policy-setting role in ensuring that the use of tobacco products among minors is discouraged to the maximum extent possible.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) MINOR.—The term "minor" means an individual under the age of 18.

(2) SCHOOL.—The term "school" means an elementary or secondary school.

(3) TOBACCO PRODUCT.—The term "tobacco product" means cigarettes, cigars, little cigars, pipe tobacco, smokeless tobacco, snuff, and chewing tobacco.

SEC. 4. INCENTIVE GRANTS TO LIMIT YOUTH ACCESS TO TOBACCO PRODUCTS.

(a) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $100,000,000 for each of the fiscal years 1990 through 1994 to enable the Secretary of Health and Human Services to make incentive grants to States, to be distributed in accordance with Part A of Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) as such part exists on the date of enactment of this Act.

(b) LEGISLATIVE REQUIREMENT.—

(1) IN GENERAL.—To receive a grant under this section, a State shall enact legislation that prohibits—

(A) the sale of a tobacco product to a minor;

(B) the sale of a tobacco product in a vending machine, in accordance with regulations promulgated under paragraph (2), unless the presence of minors is not allowed on the premises where such machine is located; and

(C) the distribution of a free sample of a tobacco product.

(2) REGULATIONS.—The Assistant Secretary for Health of the Department of Health and Human Services, or the designee of such Assistant Secretary, shall promulgate regulations that prescribe where tobacco product vending machines may be placed under paragraph (1)(B).

(c) ENFORCEMENT AND COMPLIANCE.—

(1) BY STATE.—A State receiving a grant under subsection (a) shall ensure that the legislation referred to in subsection (b) is effectively enforced to achieve substantial compliance, as determined by the Assistant Secretary for Health of the Department of Health and Human Services, or the designee of such Assistant Secretary.

(2) REGULATIONS.—The Assistant Secretary or designee referred to in paragraph (1) shall promulgate regulations necessary to implement this section.

(d) ADDITIONAL RESTRICTIONS.—A State receiving a grant under subsection (a) may place restrictions on the sale or distribution of tobacco products to minors in addition to the requirements referred to in subsection (b).

SEC. 5. SMOKING EDUCATION AND INFORMATION.

(a) COMPREHENSIVE OUTREACH PROGRAM.—Section 3 of the Comprehensive Smoking Education Act (15 U.S.C. 1341) is amended—

(1) in paragraph (5) by striking out "and" after the semicolon;

(2) in paragraph (6) by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) establish a comprehensive outreach program to inform individuals under the age of 18 about the health consequences of smoking.".

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $6,000,000 to be used by the Office on Smoking and Health, as established by section 3 of the Comprehensive Smoking Education Act (15 U.S.C. 1341), for activities including the comprehensive outreach program established under section 3(7) of the Comprehensive Smoking Education Act.

SEC. 6. INCENTIVE GRANTS TO PROHIBIT STUDENT SMOKING IN SCHOOLS.

(a) IN GENERAL.—There is authorized to be appropriated $100,000,000 for each of the fiscal years 1990 through 1994 to enable the Secretary of Education to make incentive grants, to be distributed in accordance with part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2921 et seq.) as such part existed on the date of enactment of this Act.

(b) LEGISLATIVE REQUIREMENT.—To receive a grant under this section, a State shall enact legislation that—

(1) prohibits smoking by minors on elementary and secondary school buildings and grounds;

(2) prohibits smoking by minors on school buses; and

(3) requiring schools to establish smoking areas for adults that are separate from students, and to ensure adequate safeguards exist to protect students from exposure to smoke .

(c) ENFORCEMENT AND COMPLIANCE.—

(1) BY STATE.—A State receiving a grant under subsection (a) shall ensure that the legislation referred to in subsection (b) is effectively enforced to achieve substantial compliance, as determined by the Secretary of Education in consultation with the Secretary of Health and Human Services.

(2) REGULATIONS.—The Secretary of Education, in consultation with the Secretary of Health and Human Services shall promulgate regulations necessary to implement this section.

(d) ADDITIONAL RESTRICTIONS.—A State receiving a grant under subsection (a) may place restrictions on the use of tobacco products in schools in addition to the requirements referred to in subsection (a). A State receiving funds under this section shall provide assistance under this section only to schools that are subject to State laws of the type described in subsection (b).

SEC. 7. INCREASE IN TAX ON CIGARETTES.

(a) RATE OF TAX.—Effective for each of the fiscal years 1990 through 1994, to provide funds for the Adolescent Tobacco Prevention Trust Fund established under section 8, subsection (b) of section 5701 of the Internal Revenue Code of 1986 (relating to rate of tax on cigarettes) is amended—

(1) by striking "$8" in paragraph (1) and inserting in lieu thereof "$8.50"; and

(2) by striking "$16.80" in paragraph (2) and inserting in lieu thereof "$17.85".

(b) FLOOR STOCKS.—

(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before October 1, 1989, and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARETTES.—On cigagettes, weighing not more than 3 pounds per thousand, $.50 per thousand;

(B) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, $1.05 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on October 1, 1989 to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1986 and shall be due and payable on October 16, 1989, in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on October 1, 1989.

(3) CIGARETTE.—For purposes of this subsection, the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1986.

(4) EXCEPTION FOR RETAIL STOCKS.—The taxes imposed by paragraph (1) shall not apply to cigarettes in retail stocks held on October 1, 1989, at the place where intended to be sold at retail.

(5) FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (19 U.S.C. 81a et seq.) or any other provision of law—

(A) cigarettes—

(i) on which taxes imposed by Federal law are determined, or customs duties are liquidated, by a customs officer pursuant to a request made under the first proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before October 1, 1989, and

(ii) which are entered into the customs territory of the United States on or after October 1, 1989, from a foreign trade zone, and

(B) cigarettes which—

(i) are placed under the provision of a customs officer pursuant to the provisions of the second proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before October 1, 1989, and

(ii) are entered into the customs territory of the United States on or after October 1, 1989, from a foreign trade zone,

shall be subject to the tax imposed by paragraph (1) and such cigarettes shall, for purposes of paragraph (1), be treated as being held on October 1, 1989, for sale.

(c) USE OF REVENUE.—The revenue collected under this section, and the amendments made by this section, shall be deposited in the Adolescent Tobacco Prevention Trust Fund established under section 8.

SEC. 8. ADOLESCENT TOBACCO PREVENTION TRUST FUND.

There shall be established in the Treasury of the United States an Adolescent Tobacco Prevention Trust Fund to be used by the Secretary of Health and Human Services and the Secretary of Education, subject to appropriations Acts, to provide funds for incentive grants covered under this Act and the amendments made by this Act.

S. 1528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Adolescent Tobacco Prevention Act of 1989".

SEC. 2. FINDINGS.

Congress finds that—

(1) cigarette smoking and the use of smokeless tobacco products continue to represent a major health hazard to the American public causing approximately 390,000 premature deaths per year;

(2) cigarette smoking continues to be the single most preventable cause of death and disability in the United States;

(3) tobacco products contain hazardous tobacco additives, gases, and other chemical constituents dangerous to health;

(4) the use of tobacco products cost the United States in excess of $60,000,000,000 in lost productivity and health care costs;

(5) tobacco products contain nicotine, a poisonous drug that the Surgeon General has determined is highly addictive;

(6) 80 percent of smokers start smoking before they are 21 years of age;

(7) the tobacco industry spends over $2,000,000,000 annually to promote and sell its products; and

(8) the Congress of the United States has a major policy-setting role in ensuring that the use of tobacco products among minors is discouraged to the maximum extent possible.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) MINOR.—The term "minor" means an individual under the age of 18.

(2) SCHOOL.—The term "school" means an elementary or secondary school.

(3) TOBACCO PRODUCT.—The term "tobacco product" means cigarettes, cigars, little cigars, pipe tobacco, smokeless tobacco, snuff, and chewing tobacco.

SEC. 4. INCENTIVE GRANTS TO LIMIT YOUTH ACCESS TO TOBACCO PRODUCTS.

(a) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $100,000,000 for each of the fiscal years 1990 through 1994 to enable the Secretary of Health and Human Services to make incentive grants to States, to be distributed in

accordance with Part A of Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) as such part exists on the date of enactment of this Act.

(b) LEGISLATIVE REQUIREMENT.—

(1) IN GENERAL.—To receive a grant under this section, a State shall enact legislation that prohibits—

(A) the sale of a tobacco product to a minor;

(B) the sale of a tobacco product in a vending machine, in accordance with regulations promulgated under paragraph (2), unless the presence of minors is not allowed on the premises where such machine is located; and

(C) the distribution of a free sample of a tobacco product.

(2) REGULATIONS.—The Assistant Secretary for Health of the Department of Health and Human Services, or the designee of such Assistant Secretary, shall promulgate regulations that prescribe where tobacco product vending machines may be placed under paragraph (1)(B).

(c) ENFORCEMENT AND COMPLIANCE.—

(1) BY STATE.—A state receiving a grant under subsection (a) shall ensure that the legislation referred to in subsection (b) is effectively enforced to achieve substantial compliance, as determined by the Assistant Secretary for Health of the Department of Health and Human Services, or the designee of such Assistant Secretary.

(2) REGULATIONS.—The Assistant Secretary or designee referred to in paragraph (1) shall promulgate regulations necessary to implement this section.

(d) ADDITIONAL RESTRICTIONS.—A State receiving a grant under subsection (a) may place restrictions on the sale or distribution of tobacco products to minors in addition to the requirements referred to in subsection (b).

SEC. 5. SMOKING EDUCATION AND INFORMATION.

(a) COMPREHENSIVE OUTREACH PROGRAM.—Section 3 of the Comprehensive Smoking Education Act (15 U.S.C. 1341) is amended—

(1) in paragraph (5) by striking out "and" after the semicolon;

(2) in paragraph (6) by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end therof the following new paragraph:

"(7) establish a comprehensive outreach program to inform individuals under the age of 18 about the health consequences of smoking.".

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $6,000,000 to be used by the Office on Smoking and Health, as established by section 3 of the Comprehensive Smoking Education Act (15 U.S.C. 1341), for activities including the comprehensive outreach program established under section 3(7) of the Comprehensive Smoking Education Act.

SEC. 6. INCENTIVE GRANTS TO PROHIBIT STUDENT SMOKING IN SCHOOLS.

(a) IN GENERAL.—There is authorized to be appropriated $100,000,000 for each of the fiscal years 1990 through 1994 to enable the Secretary of Education to make incentive grants, to be distributed in accordance with part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2921 et seq.) as such part existed on the date of enactment of this Act.

(b) LEGISLATIVE REQUIREMENT.—To receive a grant under this section, a State shall enact legislation that—

(1) prohibits smoking by minors on elementary and secondary school buildings and grounds;

(2) prohibits smoking by minors on school buses; and

(3) requiring schools to establish smoking areas for adults that are separate from students, and to ensure adequate safeguards exist to protect students from exposure to smoke.

(c) ENFORCEMENT AND COMPLIANCE.—

(1) BY STATE.—A State receiving a grant under subsection (a) shall ensure that the legislation referred to in subsection (b) is effectively enforced to achieve substantial compliance, as determined by the Secretary of Education in consultation with the Secretary of Health and Human Services.

(2) REGULATIONS.—The Secretary of Education, in consultation with the Secretary of Health and Human Services shall promulgate regulations necessary to implement this section.

(d) ADDITIONAL RESTRICTIONS.—A State receiving a grant under subsection (a) may place restrictions on the use of tobacco products in schools in addition to the requirements referred to in subsection (a). A State receiving funds under this section shall provide assistance under this section only to schools that are subject to State laws of the type described in subsection (b).

STATE REGULATIONS LIMITING SMOKING ON SCHOOL PROPERTY

State	Students		Faculty	
	Smoking restricted to designated areas	Smoking banned	Smoking restricted to designated areas	Smoking banned
Alabama*				
Alaska	X		X	
Arizona	X		X	
Arkansas		X	X	
California		X	X	
Colorado	X		X	
Connecticut		X	X	
Delaware		[1] X	X	
District of Columbia	X		X	
Florida	X		X	
Georgia*				
Hawaii*				
Idaho	X		X	
Illinois*				
Indiana	X		X	
Iowa		X	X	
Kansas		[2] X		[2] X
Kentucky	[3] X		X	
Louisiana		[4] X		
Maine		X	X	
Maryland*				
Massachusetts		[5] X	X	
Michigan		[6] X	X	
Minnesota	X		X	
Mississippi*				
Missouri*				
Montana*				
Nebraska	X		X	
Nevada*				
New Hampshire	X		X	
New Jersey		[7] X		[7] X
New Mexico*				
New York*				
North Carolina*				
North Dakota	X		X	
Ohio		[8] X	X	
Oklahoma	X		X	
Oregon	X		X	
Pennsylvania		[9] X	X	
Rhode Island	X		X	
South Carolina*				
South Dakota	X		X	
Tennessee*				
Texas		X	X	
Utah		X		[10] X
Vermont*				
Virginia*				
Washington	X		X	
West Virginia		X	X	
Wisconsin	X		X	
Wyoming*				

* Not regulated.

[1] State Board of Education rules prohibit smoking or use of any tobacco products on school property by students.

[2] All tobacco use banned in school buildings. Effective July 1, 1988.

[3] Amended March 1988.

[4] State law prohibits smoking by students on school property or buses. Effective September 1, 1989.

[5] Effective September 1, 1989.

[6] Attorney General opinion prohibits smoking by students on school property. Effective December 15, 1989.

[7] Effective July 20, 1988.

[8] Effective February 9, 1989.

[9] Effective February 9, 1989.

[10] Tobacco use prohibited by faculty during school hours only. Effective July 1, 1989.

STATE AGE RESTRICTIONS FOR SALES OF TOBACCO PRODUCTS

State	Minimum age for	
	Cigarettes	Smokeless
Alabama	19	19
Alaska	19	19
Arizona	18	18
Arkansas	18	18
California	18	18
Colorado	18	18
Connecticut	18	18
Delaware	17	17
District of Columbia	16	16
Florida	18	18
Georgia	17	17
Hawaii	18	18
Idaho	18	18
Illinois	18	18
Indiana	18	18
Iowa	18	18
Kansas	18	18
Kentucky	[1]	[1]
Louisiana	[1]	[1]
Maine	16	16
Maryland	[2] 18	18
Massachusetts	18	18
Michigan	18	18
Minnesota	18	18
Mississippi	18	18
Missouri	[1]	[1]
Montana	[1]	[1]
Nebraska	18	18
Nevada	18	18
New Hampshire	18	18
New Jersey	18	18
New Mexico	[1]	[1]
New York	18	18
North Carolina	17	17
North Dakota	18	18
Ohio	18	18
Oklahoma	18	18
Oregon	18	18
Pennsylvania	16	16
Rhode Island	18	18
South Carolina	18	18
South Dakota	[2] 18	18
Tennessee	18	18
Texas	[3] 18	[3] 18
Utah	19	19
Vermont	17	17
Virginia	16	16
Washington	18	18
West Virginia	18	18
Wisconsin	[2] 18	[2] 18
Wyoming	[1]	[1]

[1] No statewide age limit.

[2] Effective July 1, 1989.

[3] Effective September 1, 1989.

Sources: State departments of health, 1989. "Tobacco-Free America State Component Survey," data received from State offices of the American Cancer Society, American Heart Association, and the American Lung Association, September 1988.

STATEMENT OF ALFRED MUNZER, M.D., ON BEHALF OF THE COALITION ON SMOKING OR HEALTH

Good morning. I am Dr. Alfred Munzer, Director of Critical Care at Washington Adventist Hospital in Takoma Park, Maryland. I appear today on behalf of the Coalition on Smoking or Health, which is comprised of the American Lung Association, American Cancer Society and American Heart Association.

The Coalition on Smoking or Health gladly endorses the legislation announced by Senator Lautenberg to enact the "Adolescent Tobacco Prevention Act of 1989."

Why is this legislation critical?

Children in the United States have easy access to cigarettes, this nation's foremost preventable cause of death and disability. While 44 states and the District of Columbia have laws mandating a minimum age of purchase, only 31 of those states require

that buyers be at least 18 years of age, and none of these laws are adequately enforced. Only five states (Alaska, Idaho, Maine, New Hampshire and Utah) require that the location of cigarette vending machines be restricted in any way. Only three states, including Senator Lautenberg's State of New Jersey, now prohibit smoking on school grounds. A similarly small number of jurisdictions restrict the free distribution of tobacco products on public grounds.

According to the most recent Surgeon General's report, "In marked contrast to the trends in virtually all other areas of smoking control policy, the number of legal restrictions on children's access to tobacco products has decreased over the past quarter century." Not suprisingly, surveys by the National Institute on Drug Abuse show that daily smoking among high school seniors leveled off from 1980 through 1987, following previous years of decline.

Tens of billions of cigarettes are dispensed every year from vending machines. Of the 4 million children between the ages of 12 and 18 who smoke in our country, approximately 1 million buy their own cigarettes and as many as 750,000 of them use cigarette machines.

In addition, in too many elementary and secondary schools around our nation, students are permitted to smoke cigarettes with little or no restriction. This legislation would enable the Secretary of Education to provide needed incentives to states to pass laws barring smoking by minors on school grounds and buses and requiring that teachers who smoke not do so in the presence of students.

Too many of our children will die early and painful deaths because we have allowed them such ready access to tobacco. The Surgeon General reports that approximately 20 percent of high school seniors are daily smokers. Fully 25% of high school seniors who have ever smoked had their first cigarette by the sixth grade, 50% by the eighth grade.

The measure introduced by Senator Lautenberg offers a sensible way to fight teenage tobacco addiction. Other countries, including Great Britain and Canada, have enacted national bans on the sale of tobacco to minors. The Lautenberg bill offers incentives to the states to strengthen and enforce their own laws—to bring closer the day when a 9 year-old will no longer be able to buy a lethal and addictive drug for a few quarters at a gas station, supermarket, bowling alley, bus terminal or local drug store.

STATEMENT OF DAVID GOERLITZ, FORMER MODEL FOR WINSTON CIGARETTES, IN SUPPORT OF THE ADOLESCENT TOBACCO PREVENTION ACT OF 1989

Good morning. My name is David Goerlitz. For six years, I appeared in advertisements for Winston cigarettes. I was R.J. Reynolds' answer to the "Marlboro man." Even today, my face appears on billboards and vending machines.

I am here to raise my voice in support of the "Adolescent Tobacco Prevention Act of 1989" proposed by Senator Frank Lautenberg of my home state of New Jersey. The need for this bill is obvious. Cigarette smoking is killing nearly 400,000 Americans every year, far more than the combined toll from alcohol, AIDS, murders, suicides, car crashes, crack and heroin. The tobacco industry knows this, denies it is true, and continues to encourage the systematic poisoning of millions of our children. Taking this battle to the states with federal incentive grants is an idea whose time has come.

As a cigarette model, I contributed to the problem. But like millions of Americans, I was also a victim. I started smoking Marlboros when I was 14—to build my low self-esteem, to become an adult. During the American Cancer Society's "Great American Smokeout" last November, I finally kicked my 25-year, three-pack-a-day addiction to nicotine, but this was only after my 6-year-old son pleaded with me to quit and after I visited my brother in a cancer ward. My brother did not have lung cancer, but most of the patients in the ward did, and the ones I spoke to had all smoked for years. When I saw those people with tubes in their throats, literally dying before my eyes, it really hit me.

As the "Winston man," I helped one of the largest tobacco companies in the world push nicotine addiction on our young people. It was a terrible mistake, one which I will always regret. One useful thing my experience gave me was direct knowledge of some of the things cigarette companies do to lure children into a lifelong addiction, knowledge which convinces me that Senator Lautenberg's bill is right on the mark.

In many of the 42 ads in which I appeared for Winston, the other models and I were shown on missions to rescue stricken climbers from dangerous mountain tops. Those ads intentionally sought to associate Winstons with life-saving rather than disease-causing activity, and tried to portray risky physical activity in the most positive light—to encourage young people to take risks, in this case by smoking.

When I modeled for Winston, I was told very clearly that young people were the market we were after. The other models and I were depicted as young and daring buddies, and that's what young people relate to at 14 or 15 years-old. At the Winston ad "shoots," we were told that we should try to epitomize the robust and virile man. It was made clear to us that this image was important because kids like to role-play, and we were to provide the attractive role models for them to follow. It worked. Our ad campaign moved Winston from fourth best-seller to second.

Using simulator machines that reminded kids of video games, Winston cigarette marketing specialists tested youngsters' responses to pictures from our ad shoots in shopping mall surveys. The children's responses helped the marketing people choose the most effective photos, from which a few would be selected to appear on billboards and vending machines and in print ads around the country. There was never any question whom the Winston ads were designed to appeal to: children and teenagers.

Over the years, youngsters have often come up to me for autographs, having seen me on billboards and in magazines. I have had children tell me that they smoked Winstons so that they could be just like me. For that, I shall always feel guilty.

The tobacco industry continues to convince literally thousands of kids to start smoking every day. Significant pieces of legislation already have been introduced in Congress by Senator Lautenberg and others to protect children from tobacco. The bill introduced today is an additional, critial component of these efforts. Children are the chief target of an industry that does not care about their health or welfare, but only about profits and the bottom line. The cigarette companies know that children are also the lifeblood of the industry's future. But children are also the lifeblood of our nation, and we must do everything we can to keep them from being swept away by the river of nicotine which now flows from vending machines and free cigarette samples across America.

As a former Winston man who has come to know better, I strongly urge Congress to support this sensible measure on behalf of America's kids.●

By Mr. McCLURE (for himself and Mr. DOLE):

S.J. Res. 186. Joint resolution designating the week of March 1 through March 7, 1990, as "National Quarter Horse Week"; to the Committee on the Judiciary.

NATIONAL QUARTER HORSE WEEK

● Mr. McCLURE. Mr. President, I am pleased to introduce today legislation which would designate the week of March 1 through March 7, 1990, as "National Quarter Horse Week."

The American quarter horse originated in colonial America where he was bred to win the popular quarter-mile races. The quarter horse is still popular for racing in my State of Idaho and across the United States. Quarter horses also gained fame as top mounts for ranch work since their speed, quickness, and natural ability with cattle made them popular with cowboys. In fact, no other horse is as associated with America's western lore as the quarter horse and has contributed as importantly to our western development, culture, and heritage. We in Idaho are proud of the place that the quarter horse had in our past, has in our present, and will have in our future.

Today the quarter horse is the most popular in the world because of its calm disposition and its versatility. It can be found almost anywhere, being used and enjoyed for various activities, including showing, racing, rodeo, trail riding, or recreational riding.

The American Quarter Horse Association was founded on March 15, 1940, by a group of southwestern ranchers to serve as the breed's official registry. Today, 50 years later, the AQHA, with headquarters in Amarillo, TX, has grown to more than 200,000 members; its registry which began with 556 horses is now the largest equine registry in the world with more than 2.8 million quarter horses. And an industry which began with just a few horsemen has grown to include over 1 million owners from all walks of life in more than 60 countries. Next March the AQHA will celebrate its 50th anniversary of service with special ceremonies.

Membership in AQHA is open to any individual, with special emphasis on AQHA's youth organization, the American Junior Quarter Horse Association, which offers competition, scholarship programs, and leadership

opportunities for young horsemen and horsewomen ages 18 and under.

American quarter horses compete in AQHA-approved races and horse shows, both of which are held in my home State of Idaho. Top competitors receive prizes and awards. Over $53 million is distributed in purses annually in quarter horse racing with a purse of over $2.5 million awarded in the All-American Futurity. Over 2,500 AQHA-approved shows are held each year throughout the United States. Show competition includes divisions for youth, amateur, and professional exhibitors who can vie for world championship titles at the AQHA and AJQHA world championship shows. A special novice division also has been established to introduce beginning quarter horse exhibitors to competition.

It gives me great personal pleasure not only to recognize the quarter horse for its unique place in our Nation's history and heart but also to recognize the AQHA on its 50th anniversary and to call on all Americans to do the same.

I urge my colleagues to support this resolution and ask unanimous consent that the resolution be printed at the end of my remarks.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 186

Whereas the American Quarter Horse Association was founded on March 15, 1940, to record and preserve the pedigrees of American quarter horses, and continues to serve such purposes;

Whereas the American quarter horse has played a significant role in the development of the United States and contributed to the western heritage of the Nation;

Whereas the American Quarter Horse Association has developed into the largest equine registry in the world, with more than 2,800,000 American quarter horses and 200,000 individuals located in the United States and 62 foreign countries;

Whereas the American quarter horse industry has become invaluable to the agriculture industry of the Nation, and American quarter horses are enjoyed by more individuals than any other breed of horse in the world; and

Whereas the American Quarter Horse Association celebrates its 50th anniversary in March 1990: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of Amercia in Congress assembled, That the week of March 1 through March 7, 1990, is designated as "National Quarter Horse Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.●

By Mr. HATCH (for himself, Mr. HUMPHREY, Mr. BENTSEN, Mr. DOLE, Mr. STEVENS, and Mr. BOSCHWITZ):

S.J. Res. 187. Joint resolution to designate the periods commencing on November 19, 1989, and ending on November 26, 1989, and commencing on November 18, 1990, and ending on November 25, 1990, as "National Adoption Week"; to the Committee on the Judiciary.

NATIONAL ADOPTION WEEK

Mr. HATCH. Mr. President, it is my privilege to sponsor with Senators HUMPHREY, MATSUNAGA, DOLE, BENTSEN, STEVENS, and BOSCHWITZ the joint resolution proclaiming the week of Thanksgiving as National Adoption Week. For the past 13 years, this week has been designated as such, so this joint resolution would establish Thanksgiving week both in 1989 and 1990 as National Adoption Week.

Adoption is so important to millions of couples and children wanting to have a family of their own. In America today, there are an estimated 36,000 adoptable children who remain in foster care or institutions because of a number of public and private barriers. A majority of these children have special needs such as physical, emotional, or mental handicaps. Or, they may have reached school age, have brothers and sisters, or may be of various ethnic backgrounds. To these children, especially, the need for a family is apparent. But, there remains a lack of awareness among prospective parents that these children desperately need a home.

A recent article in Money magazine, December 1988, "Where Have All the Babies Gone?" tells the stories of a number of children and their struggles to find a permanent home, a forever family. One of those children is Passion, an 8-year-old girl who has a eye-catching smile and a hunger for adult attention. Currently, she is being evaluated for possible problems that may affect her learning abilities. She is in residential placement and attends a class with children who have severe behavioral problems. Passion's behavioral problems seem to stem from rejection by her birthparents, a history of being moved from one foster care family to another, and exposure to violence, drugs, and adult sexual behaviors.

We, in Congress, must remember that Passion is not alone in her need for a permanent, secure, and loving family; and, National Adoption Week is only the beginning in helping them. We must work together to alleviate the barriers that discourage adoptions.

Please join me in celebrating those families who are brought together through adoption, in commending the institutions and individuals working to find permanent homes for all adoptable children, and in bringing awareness of adoption as an option to those looking for a family.

I ask unanimous consent that the complete text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 187

Whereas Thanksgiving week has been commemorated as "National Adoption Week" for the past 11 years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving permanent family as evey child's basic right;

Whereas approximately fifty thousand children who have special needs—school age, in sibling groups, members of minorities, or children with physical, mental, and emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would insure the opportunity for their continued happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas the public and prospective parents must be informed of the availability of adoptive children;

Whereas a variety of media, agencies, adoptive parent and advocay groups, civic and church groups, businesses, and industries will feature publicity and information to heighten community awareness of the crucial needs of waiting children; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and the public in general: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the periods commencing on November 19, 1989, and ending on November 26, 1989, and commencing on November 18, 1990, and ending on November 25, 1990, are each designated as "National Adoption Week", and the President of the United States is authorized and requested to issue proclamations calling upon the people of the United States to observe each such week with appropriate ceremonies and activities.

By Mr. D'AMATO:

S.J. Res. 188. Joint resolution designating the week of October 23, 1989 through October 29, 1989, as "Eating Disorders Awareness Week;" to the Committee on the Judiciary.

EATING DISORDERS AWARENESS WEEK

● Mr. D'AMATO. Mr. President, I rise today to introduce a joint resolution which has been introduced in the House by Congressman FISH. The resolution designates October 23 through October 29, 1989, as Eating Disorders Awareness Week.

The two most common eating disorders are anorexia and bulimia. Anorexia—also known as "starvation sickness"—involves a pattern of excessive dieting over a period of months or even years. Bulimia is a related disorder of compulsive binging and purging. Both are serious emotional disorders that can lead to physical illness and death.

While eating disorders can affect men and women of all ages, they are most prevalent among younger women. A recent Gallup poll projected that roughly 2 million American women between the ages of 19 and 39 are affected by symptoms of bulimia or anorexia. An additional 1 million teenagers also suffer from these disorders.

The causes of anorexia and bulimia remain uncertain. Many studies suggest that social and psychological factors are involved, while research at the National Institutes of Health has shown that biological factors may play a role as well. What is certain is that early treatment is essential to recovery. Without early intervention, eating disorders become more and more entrenched, increasing the chances of serious physical injury.

The hidden nature of eating disorders is the most serious impediment to their early diagnosis and treatment. For this reason it is imperative that we greatly increase the public's awareness of this problem. I hope that by designating an Eating Disorders Awareness Week, it will put an end to the pain and suffering that eating disorders have caused in the lives of so many Americans.

I encourage my colleagues to join me in supporting this joint resolution.●

ADDITIONAL COSPONSORS

S. 43

At the request of Mr. REID, the names of the Senator from Idaho [Mr. SYMMS] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 43, a bill to restore the Medicare and Medicaid law to the provisions in effect before the enactment of the Medicare Catastrophic Coverage Act of 1988 and to establish a Presidential Commission on the Medicare Program.

S. 135

At the request of Mr. GLENN, the names of the Senator from Tennessee [Mr. GORE], the Senator from Alabama [Mr. SHELBY], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 135, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily as private citizens, in the political processes of the Nation to protect such employees from improper political solicitations, and for other purposes.

S. 155

At the request of Mr. ARMSTRONG, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 155, a bill to amend the Impoundment Control Act of 1974 to provide for enhanced recission procedures.

S. 163

At the request of Mr. THURMOND, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 163, a bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax.

S. 658

At the request of Mr. PELL, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 658, a bill to amend the Carl D. Perkins Vocational Education Act of 1984 to authorize appropriations for fiscal year 1990 and succeeding years, and for other purposes.

S. 673

At the request of Mr. BRYAN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 673, a bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1990 and 1991, and for other purposes.

S. 686

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of S. 686, a bill to consolidate and improve laws providing compensation and establishing liability for oilspills.

At the request of Mr. GRAHAM his name was added as a cosponsor of S. 686, supra.

S. 714

At the request of Mr. MCCLURE, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 714, a bill to extend the authorization of the Water Resources Research Act of 1984 through the end of fiscal year 1993.

S. 805

At the request of Mr. MCCLURE, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 805, a bill to amend the Food Security Act of 1985 to permit certain school districts to receive assistance to carry out the school lunch program in the form of all cash assistance or all commodity letters of credit assistance.

S. 874

At the request of Mr. FORD, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Rhode Island [Mr. PELL], the Senator from California [Mr. CRANSTON], the Senator from South Dakota [Mr. DASCHLE], the Senator from Hawaii [Mr. INOUYE], the Senator from Arizona [Mr. DECONCINI], the Senator from North Dakota [Mr. BURDICK], the Senator from Texas [Mr. BENTSEN], the Senator from Washington [Mr. ADAMS], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 874, a bill to establish national voter registration procedures for Presidential and congressional elections, and for other purposes.

S. 931

At the request of Mr. MOYNIHAN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 931, a bill to protect a segment of the Genesee River in New York.

S. 933

At the request of Mr. HARKIN, the names of the Senator from Arkansas [Mr. PRYOR] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 933, a bill to establish a clear and comprehensive prohibition of discrimination on the basis of disability.

S. 993

At the request of Mr. KOHL, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 993, a bill to implement the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction, by prohibiting certain conduct relating to biological weapons, and for other purposes.

S. 1036

At the request of Mr. LEAHY, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1036, a bill to improve the economic community, and educational well being of rural America, and for other purposes.

S. 1062

At the request of Mr. GORE, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 1062, a bill to amend the Earthquake Hazareds Reduction Act of 1977 to improve the Federal effort to reduce earthquake hazards, and for other purposes.

S. 1067

At the request of Mr. GORE, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 1067, a bill to provide for a coordinated Federal research program to ensure continued U.S. leadership in high-performance computing.

S. 1153

At the request of Mr. DASCHLE, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Maine [Mr. COHEN], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 1153, a bill to amend title 38, United States Code, to provide for the establishment of presumptions of service connection between certain diseases experienced by veterans who served in Vietnam era and exposure to certain toxic herbicide agents used in Vietnam; to provide for interim benefits for veterans of such service who have certain diseases; to improve the reporting requirements relating to the

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"Ranch Hand Study"; and for other purposes.

S. 1237

At the request of Mr. GLENN, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1237, a bill to require the Administrator of the General Services Administration to encourage the use of plastics derived from certain commodities, and to include such products in the General Services Administration inventory for supply to Federal agencies, and to establish an Interagency Council on Biodegradable Standards for the development of uniform definitions, standards, and testing procedures for degradable plastic products made from certain commodities, and for other purposes.

S. 1299

At the request of Mr. SPECTER, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1299, a bill to establish a Police Corps program.

At the request of Mr. SASSER, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1299, supra.

S. 1330

At the request of Mr. HELMS, the names of the Senator from Utah [Mr. HATCH] and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 1330, a bill to provide protections to farm animal facilities engaging in food production or agricultural research from illegal acts, and for other purposes.

S. 1346

At the request of Mr. GRAHAM, the names of the Senator from Washington [Mr. ADAMS], the Senator from Nevada [Mr. REID], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 1346, a bill to amend the Communications Act of 1954 regarding the broadcasting of certain political matter, and for other purposes.

S. 1353

At the request of Mr. BAUCUS, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 1353, a bill to enhance drug interdiction in rural areas.

S. 1361

At the request of Mr. FOWLER, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Hawaii [Mr. INOUYE], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 1361, a bill to amend title 38, United States Code, to require that burials be permitted in national cemeteries on weekdays and holidays under certain conditions, and for other purposes.

S. 1411

At the request of Mr. DASCHLE, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Arkansas [Mr. BUMPERS], the Senator from Tennessee [Mr. GORE], the Senator from Alabama [Mr. HEFLIN], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of S. 1411, a bill to amend the Food Security Act of 1985 to encourage the planting of trees on conservation reserve acreage, and for other purposes.

S. 1427

At the request of Mr. BOSCHWITZ, the names of the Senator from Idaho [Mr. MCCLURE], the Senator from Nebraska [Mr. KERREY], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1427, a bill to amend the Federal Meat and the Poultry Products Inspection Act to authorize the distribution of wholesome meat and poultry products for human consumption that have been seized and condemned under such acts to charity and public agencies, and for other purposes.

S. 1428

At the request of Mr. SARBANES the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1428, a bill to provide for certain notice and procedures before the Social Security Administration may close, consolidate, or recategorize certain offices.

S. 1484

At the request of Mr. HARKIN, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1484, a bill to amend the Child Nutrition Act of 1966 and the National School Lunch Act to reauthorize child nutrition programs, and for other purposes.

SENATE JOINT RESOLUTION 102

At the request of Mr. D'AMATO, the names of the Senator from Virginia [Mr. WARNER], the Senator from Nebraska [Mr. KERREY], the Senator from North Dakota [Mr. CONRAD], the Senator from Arizona [Mr. DECONCINI], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Virginia [Mr. ROBB], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 102, a joint resolution designating September 1989 as "National Library Card Sign-Up Month."

SENATE JOINT RESOLUTION 159

At the request of Mr. GORE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of Senate Joint Resolution 159, a joint resolution to designate April 22, 1990 as Earth Day, and to set aside the day for public activities promoting preservation of the global environment.

SENATE JOINT RESOLUTION 164

At the request of Mr. NICKLES, the names of the Senator from Texas [Mr. BENTSEN], and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Joint Resolution 164, a joint resolution designating 1990 as the "International Year of Bible Reading."

SENATE JOINT RESOLUTION 184

At the request of Mr. HATCH the names of the Senator from Tennessee [Mr. SASSER], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Joint Resolution 184, a joint resolution to designate the periods commencing on November 26, 1989, and ending on December 2, 1989, and commencing on November 28, 1990, and ending on December 2, 1990, as "National Home Care Week."

SENATE CONCURRENT RESOLUTION 52

At the request of Mr. HATFIELD, the names of the Senator from Georgia [Mr. NUNN], the Senator from Indiana [Mr. COATS], the Senator from Illinois [Mr. SIMON], the Senator from Washington [Mr. GORTON], and the Senator from Idaho [Mr. MCCLURE] were added as cosponsors of Senate Concurrent Resoultion 52, a concurrent resolution to express the sense of the Congress that science, mathematics, and technology education should be a national priority.

SENATE RESOLUTION 159

At the request of Mr. THURMOND the names of the Senator from Virginia [Mr. WARNER], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Kansas [Mr. DOLE], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Resolution 159, a resolution designating August 14, 1989, as "Social Security Administration Employee Rcognition Day."

SENATE RESOLUTION 164—RELATING TO AMERICAN HOSTAGES IN LEBANON

Mr. DOLE (for himself and Mr. MITCHELL) submitted the following resolution; which was considered and agreed to:

S. RES. 164

Whereas an organization calling itself the Organization of the Oppressed of the Earth claims to have recently executed Lt. Col. William Higgins, an American citizen seconded to the United Nations Truce Support Organization in Southern Lebanon;

Whereas there is no proof as to whether Lt. Col. Higgins is alive or dead;

Whereas eight other Americans, as well as other foreign nationals, are also being held hostage in Lebanon;

Whereas the captors of one of the American hostages, Joseph Cicippio, have threatened to execute him today;

Whereas it is believed that Iran and Syria have influence with the group which claims to have executed Lt. Col. Higgins and the group which is believed to hold Joseph Cicippio: Now, therefore, be it

Resolved, That it is the sense of the Senate that:

1. The captors of Joseph Cicippio must not execute this innocent man, and should cease making threats to kill him or setting deadlines for carrying out any such execution.

2. Iran, Syria and all other governments and parties with influence on the groups which hold Joseph Cicippio and which claim to have executed Lt. Col. Higgins should urgently work to:

(a) Prevent the execution of Joseph Cicippio.

(b) Obtain proof as to whether Lt. Col. Higgins is alive or dead, immediately so inform his family, and—if he is dead—insure that his body is immediately returned to his family.

3. Should any further executions of Americans held hostage occur, the Senate will support an appropriate retaliatory action.

4. All groups or individuals holding Americans or other foreign hostages in Lebanon should release those hostages immediately, without precondition.

SENATE RESOLUTION 165—COMMENDING THE HONORABLE JOHN O. MARSH FOR HIS DEDICATED PUBLIC SERVICE

Mr. WARNER (for himself, Mr. DOLE, Mr. NUNN, Mr. THURMOND, Mr. EXON, Mr. COHEN, Mr. LEVIN, Mr. WILSON, Mr. KENNEDY, Mr. MCCAIN, Mr. BINGAMAN, Mr. WALLOP, Mr. DIXON, Mr. GORTON, Mr. GLENN, Mr. LOTT, Mr. GORE, Mr. COATS, Mr. WIRTH, Mr. SHELBY, Mr. DOMENICI, Mr. GRAMM, Mr. FORD, Mr. STEVENS, Mr. PRESSLER, Mr. RUDMAN, Mr. SYMMS, Mr. NICKLES, Mr. HELMS, Mr. ARMSTRONG, Mr. CHAFEE, Mr. JOHNSTON, Mr. COCHRAN, Mr. ROBB, and Mr. BOSCHWITZ) submitted the following resolution; which was considered and agreed to:

S. RES. 165

Whereas the Honorable John O. Marsh, Jr., has served as the Secretary of the Army since January 30, 1981, the longest tenure of service of a Secretary of a military department in the history of the Nation;

Whereas John O. Marsh's dedicated and productive service as Secretary of the Army is the apex of a long and distinguished career of service to the Nation, including active and reserve military service, eight years of service in the United States House of Representatives from the seventh district of Virginia, service as the Assistant Secretary of Defense for Legislative Affairs in the administration of Richard M. Nixon, service as National Security Advisor and then Counselor to President Gerald R. Ford, and, while serving as Secretary of the Army, additional service as the Acting Assistant Secretary of Defense for Special Operations and Low Intensity Conflict;

Whereas John O. Marsh's tenure as Secretary of the Army has been marked by the rebuilding of the Army's esprit de corps resulting in the posture and readiness of the Army being at an all time high; and

Whereas John O. Marsh, Jr., is preparing to depart the office of Secretary of the Army to return to private life: Now, therefore, be it

Resolved, That the Senate does hereby express its appreciation and thanks on behalf of the Nation to the Honorable John O. Marsh, Jr., for his many years of dedicated and exemplary service to his Nation.

SENATE EXECUTIVE RESOLUTION 166—TO DISCHARGE THE LUCAS NOMINATION

Mr. DOLE submitted the following executive resolution; which was ordered to lie over under the rule:

S. EXEC. RES. 166

Resolved, That the Committee on the Judiciary is hereby discharged from the consideration of the nomination of William Lucas to be Assistant Attorney General of the United States.

SENATE RESOLUTION 167—RELATIVE TO THE APPOINTMENT OF A COMMITTEE TO HEAR ARTICLES OF IMPEACHMENT AGAINST JUDGE WALTER L. NIXON

Mr. MITCHELL (for Mr. FOWLER, for himself, and Mr. HATCH) submitted the following resolution; which was considered and agreed to:

S. RES. 167

Resolved, That section 6 of Senate Resolution 128, 101st Congress (agreed to May 11, 1989), is amended by—

(1) inserting "(a)" after "Sec. 6."; and

(2) adding at the end thereof the following:

"(b) In carrying out its powers, duties, and functions under this resolution, the committee is authorized to, in its discretion and with the prior consent of the Government department of agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.".

AMENDMENTS SUBMITTED

OIL SPILL LIABILITY AND COMPENSATION ACT

BREAUX (AND STEVENS) AMENDMENT NO. 666

Mr. BREAUX (for himself and Mr. STEVENS) proposed an amendment to the bill (S. 686) to consolidate and improve laws providing compensation and establishing liability for oilspills, as follows:

On page 8, lines 15 through 17, strike "fishery conservation zone established by the Magnuson Fishery Conservation and Management Act" and insert in lieu thereof "exclusive economic zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983".

On page 8, lines 19 through 20, strike all and insert in lieu thereof the following:

"(17) the term 'oil' means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;"

On page 10, lines 22 through 24, strike "or when under the direction of the responsible Federal official,".

On page 10, line 25, through page 11, line 1, strike "necessary".

On page 17, line 10, strike "this Act" and insert in lieu thereof "section 311 of the Federal Water Pollution Control Act".

On page 20, line 3, insert "by the same claimant" immediately after "this Act".

On page 26, line 15, strike "of establishing and operating" and insert in lieu thereof ", not to exceed $50,000,000, of establishing".

On page 26, line 20, strike "and maintaining".

On page 26, line 25, immediately after "costs of" insert the following: "operating and maintaining the regional oil spill response teams required under section 311(c) of the Clean Water Act; of maintaining the damage assessment capability for any Federal agency involved in regional oil spill response teams, strike forces, emergency task forces, or other response teams; and of";

On page 28, line 2, strike "1954, as revised" and insert in lieu thereof "1986".

On page 28, line 5, insert "to pay removal costs or damages associated with a discharge or substantial threat of discharge" immediately after "necessary".

On page 28, lines 9 through 11, strike all and insert in lieu thereof "$1,000,000,000 per incident.".

On page 37, line 3, strike "direct action".

On page 40, line 8, strike "1954" and insert in lieu thereof "1986".

On page 42, line 12, strike "1954" and insert in lieu thereof "1986".

On page 43, line 5, strike "1954" and insert in lieu thereof "1986".

On page 45, lines 17 through 18, strike "Notwithstanding" and all that follows and insert in lieu thereof "Whenever a marine disaster in or upon the waters subject to the jurisdiction".

On page 46, between lines 8 and 9, insert the following:

"(2) the coordination and direction of all public and private efforts under paragraph (1) shall include such steps as may be necessary to ensure compliance with and performance of approved contingency plans and shall not affect the determination of the costs of containment and cleanup or damages associated with or resulting from the discharge;".

On page 46, line 9, strike "(2)" and insert in lieu thereof "(3)".

On page 46, line 12, strike "(3)" and insert in lieu thereof "(4)".

On page 46, line 19, strike "(4)" and insert in lieu thereof "(5)".

On page 47, line 4, strike "(5)" and insert in lieu thereof "(6)".

On page 47, line 10, strike "(6)" and insert in lieu thereof "(7)".

On page 47, line 16, through page 53, line 7, strike all and insert in lieu thereof the following:

SEC. 202. Section 311(c)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)(2)) is amended—

(1) by inserting at the end of the first sentence thereof "and subsection (d) of this section" immediately after "pursuant to this subsection" and before the period;

(2) in subparagraph (A) by inserting "and trusteeship of natural resources" immediately after "conservation";

(3) in subparagraph (C)—

(A) by inserting "for hazardous substances and establishment of regional oil spill response teams under subsection (s) of this section" immediately after "strike force"; and

(B) by inserting ", including measures to protect and restore fisheries and wildlife" immediately after "removal plan";

(4) in subparagraph (G)(i) by striking "and other chemicals" and inserting in lieu thereof ", other chemicals and other spill mitigating devices and substances";

(5) in subparagraph (G)(ii) by striking "and chemicals" and inserting in lieu thereof ", other chemicals and other spill mitigating devices and substances";

(6) in subparagraph (G)(iii)

(A) by striking "or chemical" and inserting in lieu thereof ", other chemical or other spill mitigating device or substance";

(B) by inserting "spill mitigating device or substance," immediately after "chemical,";

(C) by striking "and other chemicals" and inserting in lieu thereof ", other chemicals and other spill mitigating devices and substances"; and

(D) by striking "and" at the end;

(7) in subparagraph (H) by striking "from the fund established under subsection (k) of this section for the reasonable costs incurred in such removal." and inserting in lieu thereof "in the case of any discharges of oil from a vessel or facility, for the reasonable costs incurred in such removal from the Fund established under the Oil Spill Liability and Compensation Act of 1989;"; and

(8) by adding at the end following new subparagraphs:

"(I) procedures to provide equipment that is adequate to minimize damage resulting from a discharge of oil or a hazardous substance and that is appropriate for the environmental features of the area for which it is provided, and to require that all such equipment be certified at least once each year by the President as adequate and operational;

"(J) provisions to assure that the person designated under subparagraph (L) of this paragraph takes steps within a minimum amount of time to ensure a prompt and proper response to a spill or discharge, resolve State and local concerns, and implement approved procedures promptly;

"(K) development and maintenance of a periodically updated international inventory of equipment and personnel to remove discharges of oil and hazardous substances, which shall be available to the public;

"(L) designation of a person who shall be primarily responsible for carrying out the President's authority under this subsection, and who shall direct or coordinate all Federal, State and private efforts under subsection (d) of this section to prepare for and respond to a substantial threat of a pollution hazard to the public health or welfare, including any such efforts of a strike force for hazardous substances established under subparagraph (C) of this paragraph or of the regional oil spill response teams established under subsection (s) of this section;

"(M) establishment of criteria and procedures to ensure prompt and proper identification of, and response to, marine disasters that create a substantial threat of a pollution hazard to the public health or welfare of the United States, as required under subsection (d) of this section; and

"(N) establishment of standards and procedures which comply with the provisions of the Oil Pollution Liability and Compensation Act of 1989 for reimbursement from the Fund established under that Act of removal costs incurred under this subsection and subsection (d) of this section by the United States or other persons."; and

(11) by inserting the following new sentence immediately before the final sentence of paragraph (2): "The President shall revise the National Contingency Plan within six months after the date of enactment of the Oil Pollution Liability and Compensation Act of 1989 in accordance with the changes made to this paragraph by that Act.".

On page 53, line 12, through page 55, line 14, strike all and insert in lieu thereof the following:

"(s)(1) REGIONAL OIL SPILL RESPONSE TEAMS.—The President shall establish within six months after the date of enactment of this subsection, operate, and maintain an oil spill response team for each region of the United States, including, but not limited to, Alaska, the Pacific Northwest, California, the Gulf of Mexico and the south Atlantic coast, New England, the mid-Atlantic coast, and for inland waters, for the purpose of ensuring the prompt and proper containment and removal of oil from a worst case discharge, which is defined as the discharge, in adverse weather conditions, of the entire cargo of the largest vessel which is known to transit a particular team's given region. Such response teams shall—

"(A) consist of such trained personnel and operational equipment from the various Federal agencies as are needed to ensure that an adequate capability exists within each team's geographic area of responsibility to respond promptly and properly with private and public personnel and equipment to a worst case discharge, and to meet the requirements of subsection (d) of this section. Each team shall, through arrangements with private contractors, individual owners and operators of facilities or affected vessels, industry oil spill response organizations, and other such parties within the team's geographic region, ensure that the team is familiar with, and able to exercise immediate direction of, the personnel and equipment available from these sources. To the extent that the private resources necessary to satisfy the requirements of subsection (t) of this section are not sufficient to respond promptly and properly to a worst case discharge, each team shall maintain the capability to obtain immediately such additional trained personnel and operational equipment as are needed for prompt and proper containment, recovery, dispersal, shoreline protection and cleanup, and the protection of fisheries and wildlife in the event of such a discharge;

"(B) review those contingency plans required under subsection (t) of this section that affect each team's particular area of geographic responsibility, and recommend to the President any such changes or modifications that may be needed to ensure a prompt and proper response prior to approval of such contingency plans;

"(C) supervise and review, in conjunction with the States and without prior notice, the practice drills required by subsection (t)(9) of this section, and conduct such additional training and drills as are necessary to demonstrate their continued effectiveness and readiness;

"(D) work with State and local officials to enhance the contingency planning of such officials and assure pre-planning of joint response efforts, including appropriate procedures for mechanical recovery, dispersal, shoreline cleanup, and protection and rescue of fisheries and wildlife. Response teams also shall work with State and local officials to obtain agreements for use of dispersants and other mitigating devices as part of regional contingency plans;

"(E) establish and maintain an inventory of personnel and equipment, in coordination with the international inventory developed under the National Contingency Plan, to support spill response activities, consisting at a minimum of locations, status, and availability of spill response resources and related information;

"(F) conduct regular inspections of the vessels, equipment, facilities, and personnel listed by public and private operators in all contingency plans approved by the President for use in their geographic region of responsibility;

"(G) keep on file and readily accessible all approved contingency plans for their geographic region of responsibility; and

"(H) except where provided otherwise by the President, be under the command of a person designated by the President under subsection (c)(2)(L) of this section.

"(2) FUNDING.—Amounts in the Fund established under the Oil Pollution Liability and Compensation Act of 1989 shall be available, without fiscal year limitation, to establish and maintain the regional response teams required under this paragraph.".

On page 53, line 20, strike the comma immediately after "Mexico".

On page 55, line 21 through 24, strike all and insert in lieu thereof the following: "owners and operators of all tank vessels (other than public vessels) which carry oil in bulk as cargo or cargo residue operating in waters subject to the jurisdiction of the United States for purposes of transferring oil in bulk at ports or terminals of the United States and (2) opera-".

On page 56, lines 14 through 15, strike all after "conditions," and insert in lieu thereof "of the entire cargo of any vessel which is covered by the plan;".

On page 56, lines 16 through 20, strike all and insert in lieu thereof the following:

"(B) if implemented, be capable, in terms of personnel, materials, and equipment, of promptly and properly—

"(i) entirely without the active participation of any Federal personnel or equipment, removing oil and minimizing any damage to the environment resulting from a maximum probable spill, which shall be defined by the President as no less than the largest historic spill from an oil tanker of the same class as that to which the contingency plan applies, and

"(ii) to the maximum extent practicable, as defined by the President, without the active participation of any Federal personnel or equipment, removing oil and minimizing any damage to the environment resulting from a worst case discharge of the vessel to which the contingency plan applies;"

On page 58, lines 13 through 14, strike ", such as commercial fishermen and other volunteers," and strike "and" after the semicolon.

On page 58, line 25, insert immediately after "provide" the following: ", through the regional response teams established in subsection (s) of this section and other designated agencies,".

On page 60, lines 9 through 10, strike "to the maximum extent practicable" and insert in lieu thereof "as required by paragraph (2)(B) of this subsection".

On page 70, between lines 12 and 13, insert the following:

USER FEES

SEC. 207. (a) The President shall, within six months after the date of enactment of this Act, prescribe regulations for the assessment and collection of user fees from owners or operators of tankers and facilities subject to the provisions of this title. The President shall assess and collect such fees for services provided to such owners or operators relating to such matters as review and approval of contingency plans, inspection

and evaluation of required equipment and personnel, and practice drills.

(b) Such fees shall be established in accordance with the provisions of section 9701 of title 31, United States Code. Payments of such fees shall be deposited in the general fund of the Treasury as offsetting receipts of the agencies performing such services and ascribed to activities of such agencies under this title.

(c) Nothing in this section shall alter or expand the duties and liability of the United States under existing law for the performance of functions for which fees or payments are collected. The collection of such fees or payments shall not constitute an express or implied undertaking by the United States to perform any service or activity in a certain manner or to provide any service at a particular time or place.

On page 70, line 13, through page 71, line 16, strike all and insert in lieu thereof the following:

TITLE III—OIL TANKER NAVIGATION SAFETY

SUBTITLE A—PROVISIONS APPLICABLE NATIONALLY

DEFINITIONS

SEC. 301. As used in this title, the term—

(1) "affected oil tanker" means an oil tanker operating in waters subject to the jurisdiction of the United States that transfers oil in bulk at ports or terminals of the United States;

(2) "Commandant" means the Commandant of the Coast Guard;

(3) "oil tanker" means a self-propelled vessel constructed, converted, or adapted to carry oil in bulk in its cargo spaces;

(4) "pilotage waters" means waters subject to the jurisdiction of the United States in which affected oil tankers are required to be under the direction and control of an individual licensed as a First Class Pilot, except as otherwise determined by the Secretary;

(5) "Prince William Sound" means all navigable waters within the jurisdiction of the State of Alaska and the United States north of Hinchinbrook Entrance to the Port of Valdez, Alaska; and

(6) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

LICENSED PERSONNEL

SEC. 302. (a) INITIATION OF RULEMAKING PROCEEDING.—Within 60 days after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to require for each affected oil tanker transiting pilotage waters that, except when pilotage of any such tanker is provided by a qualified pilot who is also licensed by a State—

(1) there be one deck officer and one lookout on the navigation bridge in addition to the mate and helmsman on watch, to assist in navigation, communications, and lookout responsibilities;

(2) no less than two individuals on board hold First Class Pilot licenses with endorsements for the waters being transited, as issued by the Secretary under section 7101 of title 46, United States Code; and

(3) no less than one of the personnel required by paragraph (1) to be on the navigation bridge fix and record the position of the tanker on a nautical chart of the area at least once every six minutes and, during a period determined by the Secretary of no more than 60 days, retain and make available the annotated chart for inspection by the Secretary.

(b) EFFECTIVE DATE OF FINAL RULE; WAIVER OR MODIFICATION.—A final rule under the proceeding referred to in subsection (a) shall be in effect within 180 days after the date of enactment of this Act. The final rule may waive or modify any of the requirements specified in subsection (a), to the extent that the Secretary determines such requirement will not enhance oil tanker navigation safety, including protection of the environment.

(c) PILOTAGE REVIEW.—(1) Within 180 days after the date of enactment of this Act, the Secretary shall complete and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a review of the adequacy of current pilotage regulations in minimizing the risk of oil spills, and shall make a determination as to which, if any, additional areas of the navigable waters of the United States, including the waters of Block Island Sound and Narragansett Bay, shall be considered pilotage waters, as defined in this title, the transit of which warrants additional pilotage or other requirements. This determination shall, at a minimum, include consideration of regions adjacent to vessel traffic lanes that present risks of grounding, accident, or collisions, the type of cargo transported, the volume and nature of vessel traffic, and the sensitivity of the environment.

(2) In completing the review required by paragraph (1), the Secretary shall consider—

(A) the history of oil tanker incidents in pilotage waters, including those which have occurred in the waters of Block Island Sound and Narragansett Bay; and

(B) the relationship, if any, between those incidents and possible deficiencies in the current system of pilotage regulation.

(3) The review shall include such recommendations as the Secretary considers appropriate for modifications in the current system of pilotage regulation to enhance the safety of oil tanker navigation in pilotage waters.

MOTOR VEHICLE DRIVING RECORDS OF VESSEL PERSONNEL

SEC. 303. (a) ACCESS TO REGISTER.—Section 206(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by redesignating paragraph (5) (as so designated by section 4(b)(1) of the Rail Safety Improvement Act of 1988) as paragraph (6); and

(2) by adding at the end the following new paragraph:

"(7) Any individual who has applied for or received a merchant mariner's document under section 7302 of title 46, United States Code, a license or certificate of registry under section 7101 of title 46, United States Code, or a renewal of such merchant mariner's document, license, or certificate of registry to serve on or operate a commercial vessel may request the chief driver licensing official of a State to transmit information regarding the individual under subsection (a) of this section to the Commandant of the Coast Guard. The Commandant may receive such information and shall, prior to using such information in any adverse action regarding the merchant mariner's document, license, or certificate of registry of the individual, make such information available to the individual for review and written comment. The Commandant shall not otherwise divulge or use such information, except to verify information required to be reported to the Commandant by an individual applying for such a merchant mariner's document, license, certificate of registry, or renewal and to evaluate whether the individual meets the minimum standards required in order to receive such a merchant mariner's document, license, certificate, or renewal. There shall be no access to information in the Register under this paragraph if such information was entered in the Register more than 5 years before the date of such request, unless such information relates to revocations or suspensions which are still in effect on the date of the request. Information submitted to the Register by States under the Act of July 14, 1960 (74 Stat. 526), or under this title shall be subject to access for the purpose of this paragraph during the transition to the Register described under section 203(c) of this title.".

(b) SUSPENSION AND REVOCATION AUTHORITY.—(1) Section 7704 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(d) If it is shown at a hearing under this chapter that a holder has been convicted of a serious criminal offense, has been convicted within the previous 5 years of an offense described in section 205(a)(3) (A) or (B) of the National Driver Register Act of 1982 (23 U.S.C. 401 note), has had a license to operate a motor vehicle denied, canceled, revoked, or suspended in any jurisdiction of the United States for cause, where that cause would reflect adversely on the holder's fitness to serve, or fails in any way to meet the standards for issuance prescribed in sections 7101 and 7302 of this title, the license, certificate of registry, or merchant mariner's document may be revoked or suspended.".

(2) Section 7704(a) of title 46, United States Code, is amended by inserting, immediately before the period at the end, the following: "and 'serious criminal offense' means a crime so heinous in nature that the commission of such offense would reflect adversely on the offender's character and on the offender's fitness to serve consistent with the the interest of safety at sea".

(c) RULEMAKING PROCEEDING.—Not later than 90 days after the date of enactment of this Act, the Commandant shall initiate a rulemaking proceeding to require that each individual who has applied for or received a merchant mariner's document under section 7302 of title 46, United States Code, a license or certificate of registry under section 7101 of title 46, United States Code, or a renewal of such merchant mariner's document, license, or certificate of registry to serve on or operate a commercial vessel shall—

(1) request the chief driver licensing official of each State in which such individual has within five years applied for or held a motor vehicle operator's license to provide to the Commandant such information as the Commandant may determine appropriate with respect to such individual's driving record; and

(2) make the request authorized in section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) for the transmittal to the Commandant of such information as the Commandant may determine appropriate.

The rulemaking proceeding shall be completed not later than 180 days after the date of enactment of this Act.

(d) CONFORMING AMENDMENTS.—(1) The catchline to section 7704 of title 46, United States, is amended to read as follows:

"§ 7704. Dangerous drugs and other grounds for suspension or revocation".

(2) The item relating to section 7704 in the analysis to chapter 77 of title 46, United States Code, is amended to read as follows:

"7704. Dangerous drugs and other grounds for suspension or revocation.".

ALCOHOL TESTING; ALCOHOL REHABILITATION INFORMATION

SEC. 304.(a) TESTING REQUIREMENT.—The Secretary shall issue a final rule to require the periodic, random, and reasonable cause, as well as post-accident, testing for use of alcohol by those individual who, pursuant to licenses or merchant mariner's documents issued by the Commandant, perform safety sensitive functions (as determined by the Secretary) on affected oil tankers. The final rule shall—

(1) be designed to identify those persons who perform such safety sensitive functions on such an oil tanker while impaired by or under the influence of alcohol;

(2) include provisions, procedures, and safeguards analogous to those set forth in the Final Rule published on November 21, 1988, at pages 47064 through 47082 of the Federal Register; and

(3) be published as a final rule within 90 days after enactment of this Act.

(b) INFORMATION ON INDIVIDUAL'S ALCOHOL REHABILITATION.—The Secretary shall conduct a rulemaking proceeding to determine whether to require that the Coast Guard be informed, on a confidential basis, whenever an individual who was applied for or received a license or merchant mariner's document to perform such safety sensitive functions on a commercial vessel is undergoing treatment in an alcohol rehabilitation program. The proceeding shall consider, among other matters—

(1) which categories of individuals shall be subject to such information on their treatment in an alcohol rehabilitation program; and

(2) which persons, including such individuals, the owners and operators of vessels, and organizations representing masters, pilots, and others licensed or documented to perform such safety sensitive functions, shall provide such information.

PROHIBITION ON SERVICE

SEC. 305. The Secretary shall temporarily suspend and take possession of the merchant mariner's document or license of an individual performing safety sensitive functions (as determined by the Secretary) on an affected oil tanker, pending completion of an expedited hearing under chapter 77 of title 46, United States Code, which shall be commenced within 15 days after such temporary suspension, if there is probable cause to believe that the individual—

(1) has served in such capacity while impaired by or under the influence of alcohol;

(2) has been denied a motor vehicle license by a State for cause within the previous five years;

(3) has had any cancellation, revocation, or suspension of a motor vehicle operator's license by a State for cause within the previous five years; or

(4) has been convicted within the previous five years of an offense described under section 205(a)(3) (A) or (B) of the National Driver Register Act of 1982.

VESSEL TRAFFIC SERVICES

SEC. 306.(a) LIST OF PORTS REQUIRING VTS ASSISTANCE.—The Secretary shall, within one year after the date of enactment of this Act, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives setting forth a list of ports of the United States that are in need of new, expanded, or improved Vessel Traffic Service (VTS) systems. The ports shall be ranked in order of the priority of that need and the Secretary shall determine that priority on the basis of such factors as the Secretary considers appropriate, including the nature, volume, and frequency of vessel traffic into and out of such ports, and the risks of collisions, spills, and damages associated with such traffic that could be reduced or eliminated by installation, expansion, or improvement of a VTS system.

(b) USER FEE SYSTEM.—(1) The Secretary may establish and implement a system for the collection of payments by users of VTS systems in ports of the United States.

(2) Any final rule issued by the Secretary to establish and implement such a system shall include a schedule of fees established in accordance with the provisions of section 9701 of title 31, United States Code.

(3) Any receipts collected by the Secretary from payments by users of VTS systems shall be credited and available to the Secretary without fiscal year limitation to meet the costs of construction, installation, improvement, and operation of the VTS system for which the payments were made.

(4) Nothing in this subsection shall alter or expand the duties and liability of the United States under existing law for the performance of functions or services for which fees or payments are collected. The collection of such fees or payments shall not constitute an express or implied undertaking by the United States to perform any service or activity in a certain manner or to provide any service at a particular time or place.

(c) LIMITATION.—Notwithstanding any other law, except as provided in section 353, the Secretary shall not construct, improve, expand, or operate any new VTS system, unless funds for such construction, improvement, expansion, or operation of the new VTS system were obligated on or before the date of enactment of this Act, until the Secretary has complied with subsection (a).

POSITION-REPORTING AND IDENTIFICATION EQUIPMENT

SEC. 307. The Secretary shall, within one year after the date of enactment of this Act, complete a rulemaking proceeding to determine whether to require that electronic means of vessel position-reporting and identification be carried on board affected oil tankers. Among other matters, the proceeding shall—

(1) evaluate whether such electronic means shall be required only for tankers above a specific size; and

(2) consider the minimum standards suitable for such equipment.

OIL TANKER CONSTRUCTION AND SIZE

SEC. 308.(a) REQUIREMENT FOR DOUBLE HULLS OR DOUBLE BOTTOMS.—(1) The Secretary shall within one year after the date of enactment of this Act complete a rulemaking proceeding to require that all affected oil tankers which are newly constructed be equipped with double hulls and double bottoms, except to the extent the Secretary determines that either or both of such requirements will not enhance oil tanker navigation safety, including protection of the environment, or that an equal or greater benefit to such oil tanker navigation safety will be achieved by other structural requirements.

(2) The Secretary may require other structural or navigational features that the Secretary determines will enhance such oil tanker navigation safety.

(b) REPORT ON TANKER SIZE.—The Secretary shall, within one year after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report describing the size, cargo capacity, and flag-nation of affected oil tankers, specifying changes in such size and cargo capacity over the past 20 years, evaluating the extent to which the risks or difficulties associated with oil tanker navigation, vessel traffic control, accidents, oil spills, and the containment and cleanup of such spills are influenced by or related to an increase in such size and cargo capacity, and containing a specific recommendation as to whether limitations on such size or cargo capacity should be imposed to minimize such risks and difficulties. The report shall also contain a recommendation for such legislation as the Secretary determines necessary.

NATIONAL COUNCIL ON OIL SPILL TECHNOLOGY RESEARCH AND DEVELOPMENT

SEC. 309.(a) ESTABLISHMENT OF COUNCIL.—The Secretary shall establish a National Council on Oil Spill Technlology Research and Development (hereafter in this section refered to as the "Council").

(b) MEMBERSHIP OF COUNCIL.—(1) The Council shall consist of 15 members, comprised of—

(A) one representative each from the Coast Guard, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the Fish and Wildlife Service, the Minerals Management Service, the Federal Emergency Management Agency, the Corps of Engineers, the Department of the Navy, and the Department of Energy; and

(B) six individuals appointed by the Secretary from the private sector, including one each from the following: the oil and gas production industry, the oil shipping industry, maritime labor, nonprofit organizations with an active involvement in marine environmental issues, the scientific research community, and the oil and hazardous materials cleanup and response industry.

(2) The members of the Council shall be knowledgeable in the containment and cleanup of oil spills in the marine environment.

(3) The representative of the Coast Guard shall serve as chairman of the Council.

(4) Appointed members of the Council shall serve until the Council is terminated pursuant to subsection (f).

(c) COUNCIL FUNCTIONS.—(1) The Council shall conduct a comprehensive study of governmental and nongovernmental research on oil spill containment and cleanup. Among other matters, the study shall—

(A) evaluate whether there should be developed in the United States a fleet of large capacity oil skimming vessels;

(B) determine the feasibility of developing new technologies for dispersing or burning spilled oil; and

(C) assess experience from the 1989 marine oil spill at Valdez, Alaska, in terms of modifications of current technology and techniques that may be necessary.

(2) On the basis of the study conducted under paragraph (1), the Council shall, not later than twelve months after its establishment, submit to the Committee on Com-

merce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives—

(A) a bibliography of all existing foreign and domestic research on oil spill containment and cleanup;

(B) a report describing the research and development activities of Federal agencies, State and local governmental entities, foreign governments and corporations, the academic research community, and industry with respect to oil spill containment and cleanup; and

(C) recommendations concerning additional Federal action with respect to such research and development activities.

(d)(1) COMPENSATION AND EXPENSES.—A member of the Council who is not an officer or employee of the United States or a member of the armed forces, when attending meetings of the Council or when otherwise engaged in the business of the Council, is entitled to receive—

(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-18 of the General Schedule under section 5332 of title 5, United States Code, including travel time; and

(B) travel or transportation expenses under section 5703 of title 5, United States Code.

(2) A member of the Council who is an officer or employee of the United States or the armed forces shall not receive additional pay based on the member's service to the Council.

(3) The provisions of this section relating to an officer or employee of the United States or a member of the armed forces do not apply to a member of a reserve component of the armed forces unless that member is in an active status.

(e) STAFFING.—The Secretary shall provide such staffing and other assistance as the Secretary, after consultation with the chairman of the Council, considers necessary for the Council to accomplish its duties.

(f) TERMINATION.—The Council shall cease to exist on the date that is 30 days after the date on which the bibliography, report, and recommendations referred to in subsection (c) are due.

IMPACT ON OTHER LAW

SEC. 310. Nothing in this title shall be construed or interpreted as changing, diminishing, or preempting in any way the authority of a State, or any political subdivision thereof, to regulate oil tankers in State waters.

AUTHORITY OF SECRETARY IN UNITED STATES WATERS

SEC. 311. The Secretary may deny the right to enter, exit, or transit waters subject to the jurisdiction of the United States to any affected oil tanker that is operated in violation of this title or a regulation prescribed under this title.

PENALTIES

SEC. 312.(a) CIVIL PENALTIES.—A person violating this title or a regulation issued under this title is liable to the United States for a civil penalty of not more than $25,000. Each day of a continuing violation is a separate violation.

(b) LIABILITY IN REM.—Each vessel that is operated in violation of this title or a regulation issued under this title is liable in rem for a civil penalty as prescribed in subsection (a) of this section.

(c) CRIMINAL PENALTIES.—A person willfully and knowingly violating this title or a regulation issued under this title shall be fined not more than $50,000, imprisoned for not more than five years, or both.

(d) JURISDICTION.—The district courts of the United States have jurisdiction to restrain a violation of this title or a regulation issued under this title.

REPORT ON USER FEES

SEC. 313. The Secretary shall, within 180 days after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatvies a report on the need, if any, to impose fees upon owners or operators of affected oil tankers or other persons in amounts sufficient to offset the additional costs of implementing this title. The Secretary shall include in the report an evaluation of the desirability and feasibility of assessing and collecting such fees, the adequacy of existing authority for doing so, and recommendations for such additional legislation as the Secretary considers necessary.

SUBTITLE B—PROVISIONS APPLICABLE WITH RESPECT TO STATES OR REGIONS

PILOTAGE AT PORT OF VALDEZ

SEC. 351. The Secretary shall initiate a rulemaking proceeding within 60 days after the date of enactment of this Act to require that all affected oil tankers entering and departing the Port of Valdez, Alaska, embark and disembark a qualified pilot who also is a pilot licensed by the State of Alaska at locations that will ensure that pilotage of all such oil tankers in waters adjacent to and north of Bligh Reef is provided by such pilots. A rule under such proceeding shall be final and in effect within 90 days after the date of enactment of this Act.

BLIGH REEF LIGHT

SEC. 352. The Secretary shall, within one year after the date of enactment of this Act, install and ensure operation of an automated navigation light on or adjacent to Bligh Reef in Prince William Sound, Alaska, of sufficient power and height to provide effective long-range warning of the location of Bligh Reef.

PRINCE WILLIAM SOUND VTS

SEC. 353. The Secretary shall within 180 days after the date of enactment of this Act—

(1) acquire, install, and operate such additional equipment (which may consist of radar, closed circuit television, or shipboard dependent surveillance), train and locate such personnel, and issue such final regulations as are necessary to increase the range of the existing VTS system in the Port of Valdez, Alaska, sufficiently to track the locations and movements of affected oil tankers transiting Prince William Sound, and sound an audible alarm when such tankers depart from designated navigation routes; and

(2) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the feasibility and desirability of instituting positive control by the Coast Guard on movements of affected oil tankers in Prince William Sound with the use of the VTS system, radar, radio telecommunications, and satellite-linked transmitters aboard such tankers.

OIL SPILL RECOVERY INSTITUTE

SEC. 354. (a) ESTABLISHMENT OF INSTITUTE.—The Secretary of Commerce shall provide for the establishment of a Prince William Sound Oil Spill Recovery Institute (hereafter in this section referred to as the "Institute") to be administered by the Secretary of Commerce through the University of Alaska Institute of Marine Studies and located in Cordova, Alaska.

(b) FUNCTIONS.—The Institute shall conduct research and carry out educational and demonstration projects designed to—

(1) identify and develop the best available techniques, equipment, and materials for dealing with oil spills in the arctic and subarctic marine environment; and

(2) complement Federal and State damage assessment efforts and determine, document, assess, and understand the long-term effects of the Exxon Valdez oil spill on the natural resources of Prince William Sound and its adjacent waters, the environment, the economy, and the lifestyle and well-being of the people who are dependent upon them.

(c) ADVISORY BOARD.—(1) The policies of the Institute shall be determined by an Advisory Board composed of—

(A) One representative appointed by each of the Commissioners of Fish and Game, Environmental Conservation, Natural Resources, and Commerce and Economic Development of the State of Alaska;

(B) One representative appointed by each of the Secretaries of Commerce, the Interior, Agriculture, Transportation, and the Navy, and the Administrator of the Environmental Protection Agency, all of whom shall be Federal employees; and

(C) three residents from communities in Alaska that were affected by the Exxon Valdez oil spill who are knowledgeable about fisheries, other local industries, the marine environment, wildlife, public health, safety, or education appointed by the Secretary to serve terms of two years each from a list of nine qualified individuals submitted by the Governor of the State of Alaska.

(2) The representative of the Secretary of Commerce shall serve as Chairman of the Advisory Board.

(3) Such policies shall include the conduct and support, through contracts and grants, on a nationally competitive basis, of the research, projects, and studies to be supported by the Institute in accordance with the purposes of this section.

(d) SCIENTIFIC AND TECHNICAL COMMITTEE.—(1) The Advisory Board shall establish a Scientific and Technical Committee, composed of specialists in matters relating to oil spill containment and cleanup technology, arctic and sub-arctic marine ecology, and the living resources and socio-economics of Prince William Sound and its adjacent waters, from the University of Alaska and elsewhere in the academic community.

(2) The Scientific and Technical Committee shall provide such advice to the Advisory Board as the Board shall request, including recommendations regarding the conduct and support of research, projects, and studies in accordance with the purposes of this section.

(e) DIRECTOR.—The Institute shall be administered by a Director who shall be appointed by the Secretary of Commerce. The Director may hire such staff and incur such expenses on behalf of the Institute as are authorized by the Advisory Board.

(f) EVALUATION.—The Secretary of Commerce is authorized to conduct an ongoing evaluation of the activities of the Institute to ensure that funds received by the Institute are used in a manner consistent with the provisions of this section.

(g) AUDIT.—The Comptroller General of the United States, and any of his or her duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of the Institute that are pertinent to the funds received and expended by the Institute.

(h) STATUS OF EMPLOYEES.—Employees of the Institute shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

(i) TERMINATION.—The authority for establishment, operation, and funding of the Institute shall terminate ten years after the date of enactment of this Act.

RADIO COMMUNICATIONS ON MISSISSIPPI RIVER

SEC. 355. The Secretary shall, not later than one year after the date of enactment of this Act, issue such regulations as are necessary to ensure that vessels transiting the Mississippi River shall have such capability as the Secretary considers necessary to—

(1) receive marine navigation safety warnings; and

(2) engage in radio communications on designated frequencies with the Coast Guard, other vessels on the Mississippi River, and such stations as may be specified by the Secretary.

FUNDING OF ALASKA PROJECTS AND OILSPILL RECOVERY INSTITUTE

SEC. 356. Amounts in the Fund established under this Act shall be available, without fiscal year limitation, to carry out the requirements of sections 352 and 353 of this Act. Of amounts in the Fund, $5,000,000 shall be available upon the date of enactment of this Act, and $2,000,000,000 for each of the nine fiscal years following the fiscal year in which this Act is enacted, to establish and maintain the Prince William Sound Oil Spill Recovery Institute required under section 354 of this Act.

On page 71, line 17, strike "III" and insert in lieu thereof "IV".

On page 71, line 19, strike "301" and insert in lieu thereof "401".

On page 72, lines 8 through 15, strike all and insert in lieu thereof the following:

(b)(1) Subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act is repealed. This repeal shall have no effect on claims against the Trans-Alaska Pipeline Liability Fund that arise from discharges subject to section 204(c) of such Act prior to the date of enactment of this Act. Such claims shall be enforceable against the Oil Spill Compensation Fund in accordance with the terms of such section 204(c), as in effect immediately prior to the date of enactment of this Act. The Oil Spill Compensation Fund shall assume all rights and liabilities of the Trans-Alaska Pipeline Liability Fund. All assets of the Trans-Alaska Pipeline Liability Fund shall be transferred to the Fund established under this Act upon the date of enactment of this Act.

(2) The owners of the oil at the time it is loaded on vessels from the Trans-Alaska Pipeline System shall receive credit against amounts due under section 4611 of the Internal Revenue Code of 1986 (26 U.S.C. 4611). Credit shall be allowed only against that portion of amounts due that is attributable to the Oil Spill Liability Trust Fund rate established by section 4611(c) of that Code. The total of all credits under this paragraph shall be equal to the amount transferred from the Trans-Alaska Pipeline Liability Fund to the Oil Spill Compensation Fund, less any amounts paid in settlement of claims against the Trans-Alaska Pipeline Liability Fund by the Oil Spill Compensation Fund that are not recovered by the Oil Spill Compensation Fund from other parties. Each owner of oil shall receive a pro-rated share of the credit established by this paragraph. Such share shall be determined by dividing the amount contributed by that owner to the Trans-Alaska Pipeline Liability Fund by the total amount contributed by all such owners to that Fund and applying the resulting percentage to the total credit available under this paragraph.

On page 72, lines 17 through 18, by striking "who were designated by the Secretary of the Interior".

On page 72, line 23, strike "302" and insert in lieu thereof "402".

On page 73, line 4, strike "303" and insert in lieu thereof "403".

On page 75, line 2, strike "304" and insert in lieu thereof "404".

On page 75, line 25, strike "305" and insert in lieu thereof "405".

On page 61, line 18, insert "a notice of availability of" immediately after "annually".

On page 61, line 22, insert ", without prior notice," immediately after "require".

GORTON (AND OTHERS) AMENDMENT NO. 667

(Ordered to lie on the table.)

Mr. GORTON (for himself, Mr. WILSON, Mr. METZENBAUM, and Mr. CRANSTON) submitted an amendment intended to be proposed by him to the bill S. 686, supra, as follows:

On page 14, beginning with line 22, strike out all through page 15, line 14, and insert the following:

"be limited by any dollar amount for:

"(A) any tanker carrying oil in bulk or in commercial quantities as cargo, including any such barge operating in the navigable waters;

"(B) for any Outer Continental Shelf facility;

"(C) for any deepwater port facility including the liability of the licensee for a discharge from any vessel moored at such port; or

"(D) for any other onshore or offshore facility.".

On page 16, line 19 strike out all through page 17, line 6.

CHAFEE AMENDMENT NO. 668

Mr. CHAFEE proposed an amendment to the bill S. 686, supra, as follows:

On page 18, line 1 after the word "not", insert the word "substantially".

ADAMS (AND MATSUNAGA) AMENDMENT NO. 669

Mr. ADAMS (for himself and Mr. MATSUNAGA) proposed an amendment to the bill S. 686, supra, as follows:

On page 27, line 16, through page 28, line 5, strike everything and insert in lieu thereof the following:

(a) REQUIREMENT FOR DOUBLE HULLS.—(1) This section applies to any newly constructed tanker of at least twenty thousand gross tons which carries oil in bulk as cargo or in residue and operates on the navigable waters of the United States, or transfers oil in a port or place subject to the jurisdiction of the United States.

(2) This section shall not apply to a public vessel.

(3) All tankers to which this section applies shall be equipped with a double hull, which includes both double sides and a double bottom fitted throughout the cargo length of such vessel.

JOHNSTON (AND OTHERS) AMENDMENT NO. 670

Mr. JOHNSTON (for himself, Mr. BREAUX, and Mr. WILSON) proposed an amendment to the bill S. 686, supra, as follows:

Add at the end of the act the following:

SEC. . WETLANDS PROTECTION, RESTORATION AND ENHANCEMENT FUND.

(a) Notwithstanding any other provision of this Act, section 302(d)(1) of the Outer Continental Shelf Lands Act shall remain in effect. The Secretary of the Interior shall levy and the Secretary of the Treasury shall collect the fee of 3 cents per barrel authorized by section 302(d)(1) on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of such oil when the oil is produced. Such fee shall be collected commencing immediately upon the date of enactment of this Act. Such fees shall be deposited into the special fund in the Treasury established pursuant to subsection (b) of this section.

(b) There is hereby established in the Treasury of the United States a Wetlands Protection, Restoration, and Enhancement Fund (hereinafter referred to as the "Wetlands Fund").

(c) Funds deposited in the Wetlands Fund shall be used solely to preserve, protect, enhance, restore, or create coastal wetlands. Such funds shall remain available until expended for this purpose: *Provided*, That no expenditure of such funds shall occur until the date of enactment of qualified authorizing legislation. For purposes of this paragraph qualified authorizing legislation means any law specifically referencing the Wetlands Fund and setting forth standards, consistent with the provisions of this paragraph, for the use of the funds contained therein.

GRAHAM (AND LIEBERMAN) AMENDMENT NO. 671

Mr. GRAHAM (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 686, supra, as follows:

To be inserted into the bill in the appropriate place:

That section 24(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1350(b) is amended—

(1) by striking "If any" and inserting in lieu thereof "(1) Except as provided in paragraph (2), if any";

(2) by striking "$10,000" and inserting in lieu thereof "$20,000";

(3) by adding at the end of paragraph (1) the following new sentence: "The Secretary shall, by regulation, not less often than every 3 years, adjust the penalty specified in this paragraph to reflect increases in the Consumer Price Index.";

(4) by adding at the end the following new paragraph:

"(2) If a failure described in paragraph (1) constitutes a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine,

coastal, or human environment, a civil penalty may be assessed without regard to the requirement of the expiration of a period allowed for corrective action.".

JOHNSTON-BREAUX AMENDMENT NO. 672

Mr. JOHNSTON (for himself and Mr. BREAUX) proposed an amendment to the bill S. 686, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . COOPERATIVE DEVELOPMENT OF COMMON HYDROCARBON-BEARING AREAS.

(a) AMENDMENT TO THE OUTER CONTINENTAL SHELF LANDS ACT.—Section 5 of the Outer Continental Shelf Lands Act, as amended (42 U.S.C. Sec. 1334), is amended by adding a new subsection (j) as follows:

"(j) COOPERATIVE DEVELOPMENT OF COMMON HYDROCARBON-BEARING AREAS.—

"(1) FINDINGS.—

"(A) The Congress of the United States finds that the unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing geological area underlying the Federal and State boundary may result in a number of harmful national effects, including:

"(I) the drilling of unnecessary wells, the installation of unnecessary facilities and other imprudent operating practices that result in economic waste, environmental damage and damage to life and property;

"(II) the physical waste of hydrocarbons and an unnecessary reduction in the amounts of hydrocarbons that can be produced from certain hydrocarbon-bearing areas; and

"(III) the loss of correlative rights which can result in the reduced value of national hydrocarbon resources and disorders in the leasing of Federal and State resources.

"(2) The Secretary shall prevent, through the cooperative development of an area, the harmful effects of unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing area underlying the Federal and State boundary.".

(b) EXCEPTION FOR WEST DELTA FIELD.—Section 5(j) of the Outer Continental Shelf Lands Act, as added by this section, shall not be applicable with respect to Blocks 17 and 18 of the West Delta Field offshore Louisiana.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to provide compensation, including interest, to the State of Louisiana and its lessees, for net drainage of oil and gas resources as determined in the Third Party Factfinder Louisiana Boundary Study dated March 21, 1989. For purposes of this section, such lessees shall include those persons with an ownership interest in State of Louisiana leases SL10087, SL10088 or SL10187, or ownership interests in the production or proceeds therefrom, as established by assignment, contract or otherwise. Interest shall be computed for the period March 21, 1989 until the date of payment.

MURKOWSKI AMENDMENTS NOS. 673 AND 674

Mr. MURKOWSKI proposed two amendments to the bill S. 686, supra as follows:

AMENDMENT No. 673

At the end of the bill, add the following:

TITLE IV—OVERSIGHT AND MONITORING

SEC. 401. SHORT TITLE.

This title may be cited as the "Oil Terminal Environmental Oversight and Monitoring Act of 1989".

SEC. 402. FINDINGS.

The Congress finds that—

(1) the March 24, 1989, grounding and rupture of the fully loaded oil tanker, the Exxon Valdez, spilled eleven million gallons of crude oil in Prince William Sound, an environmentally sensitive area;

(2) many people believe that complacency on the part of the industry and government personnel responsible for monitoring the operation of the Valdez terminal and vessel traffic in Prince William Sound was one of the contributing factors to the Exxon Valdez oil spill;

(3) one way to combat this complacency is to involve local citizens in the process of preparing, adopting, and revising oil spill contingency plans;

(4) a mechanism should be established which fosters the long-term partnership of industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals;

(5) such a mechanism presently exists at the Sullom Voe terminal in the Shetland Islands and this terminal should serve as a model for others;

(6) because of the effective partnership that has developed at Sullom Voe, Sullom Voe is considered the safest terminal in Europe;

(7) the present system of regulation and oversight of crude oil terminals in the United States has degenerated into a process of continual mistrust and confrontation;

(8) only when local citizens are involved in the process will the trust develop that is necessary to change the present system from confrontation to consensus;

(9) a pilot program patterned after Sullom Voe should be established in Alaska to further refine the concepts and relationships involved; and

(10) similar programs should eventually be established in other major crude oil terminals in the United States because the recent oil spills in Texas, Delaware, and Rhode Island indicate that the safe transportation of crude oil is a national problem.

SEC. 403. DEMONSTRATION PROJECTS OF OIL TERMINAL ENVIRONMENTAL OVERSIGHT AND MONITORING PROGRAMS.

There are established two Oil Terminal Environmental Oversight and Monitoring Demonstration Programs (hereinafter referred to as the "Program") in Alaska. One Program shall be responsible for environmental oversight and monitoring of the Alyeska terminal facilities at Valdez in Prince William Sound. The other Program shall be responsible for environmental oversight and monitoring of the terminal facilities on the Kenai Peninsula in Cook Inlet.

SEC. 404. OIL TERMINAL FACILITIES OPERATIONS ASSOCIATION.

(a) There is established an Oil Terminal Facilities Operations Association (hereinafter referred to as the "Association") for each of the Programs established in section 403. Each Association shall be comprised of four individuals. Two individuals shall be designated by the industrial users, owners, and operators of the terminal facilities and shall represent those users, owners, and operators. One individual shall be an employee of the State of Alaska, shall be designated by the Governor of the State of Alaska, and shall represent the State government. One individual shall be an employee of the Federal Government, shall be designated by the President of the United States, and shall represent the Federal Government.

(b) The Association shall be responsible for establishing and reviewing all policies relating to the operation and maintenance of the oil terminal facilities which affect or may affect the environment in the vicinity of the terminal. The Association shall provide a forum between the inudstrial users, owners, and operators of the terminal facilities and the United States and State of Alaska governments for the discussion and resolution of all permits, plans, and site specific regulations governing the activities and actions of the terminal facilities which affect or may affect the environment in the vicinity of the terminal facilities.

SEC. 405. OIL TERMINAL ENVIRONMENTAL ADVISORY COUNCIL.

(a) There is established an Oil Terminal Environmental Advisory Council (hereinafter referred to as the "Council") for each of the Programs established by section 403.

(b) Each Council shall be composed of 16 members as follows:

(1) one cochairman appointed by the President;

(2) one cochairman appointed by the Governor of the State of Alaska;

(3) two representatives selected by the industrial users, owners, and operators of the terminal facilities;

(4) two representatives selected by the fishing industry which depends and relies upon the fisheries resources of the waters in vicinity of the terminal facilities;

(5) one representative from each of the following—

(A) Environmental Protection Agency;

(B) Coast Guard; and

(C) Department of the Interior;

(6) one representative from each of the following State agencies or departments of the State of Alaska—

(A) Department of Environmental Conservation;

(B) Department of Fish and Game; and

(C) Department of Natural Resources or Department of Commerce and Economic Development;

(7) one representative selected by the Alaska Native Corporations and other Alaska Native organizations the members of which reside in the vicinity of the terminal facilities;

(8) one representative selected by the environmental organizations the members of which reside in the vicinity of the terminal facilities;

(9) one representative selected by the mayors of the boroughs and municipalities in the vicinity of the terminal facilities; and

(10) one representative selected by the Alaska State Chamber of Commerce.

(c) In appointing cochairman of the Council, the President and the Governor of Alaska shall seek individuals who have had a long-term relationship with the State of Alaska, a background in the areas of natural resources and environmental sciences, and recognized leadership capabilities.

(d) No individual selected as a member of the Council shall serve on the Association.

(e) The Council shall advise and make recommendations to the Association on all policies, permits, and site specific regulations relating to the operation and maintenance of terminal facilities which affect or may affect the environment in the vicinity of the

terminal facilities. In particular, the Council shall—

(1) monitor, through the Monitoring Committee established pursuant to section 406, the environmental impacts of the operation of the terminal facilities;

(2) oversee those aspects of terminal facilities operations and maintenance which affect or may affect the environment in the vicinity of the terminal facilities;

(3) review, through the Oil Spill Committee established pursuant to section 407, the adequacy of oil spill contingency plans for the terminal facilities; and

(4) recommend to the Association—

(A) standards for permits and site specific regulations intended to minimize the impact of terminal facilities operations on the environment in the vicinity of the terminal facilities;

(B) modifications in terminal facilities operations and maintenance intended to minimize the impact of terminal facilities opertions on the environment in the vicinity of the terminal facilities;

(C) modifications in terminal facilities operations and maintenance intended to minimize the risk of oil spills; and

(D) modifications to the oil spill contingency plan for the terminal facilities intended to enhance the ability to respond to an oil spill.

SEC. 406. SCIENTIFIC COMMITTEE FOR ENVIRONMENTAL MONITORING.

(a) Each Council shall establish a standing scientific committee (hereinafter referred to as the "Monitoring Committee") to devise and manage a comprehensive program of monitoring of the environmental impacts of terminal facilities operations. The membership of the Monitoring Committee shall be made up of recognized scientific experts selected by the Council.

(b) in fulfilling its responsibilities, the Monitoring Committee shall—

(1) advise the Council on a monitoring strategy that will permit early detection of environmental impacts of terminal facilities operations;

(2) define the requirements of monitoring programs and making recommendations to the Council on the implementation of those programs;

(3) select and contract with universities and other scientific institutions to carry out specific monitoring projects authorized by the Council pursuant to an approved monitoring strategy; and

(4) provide written reports to the Council which interpret and assess the results of all monitoring programs.

SEC. 407. TECHNICAL COMMITTEE FOR OIL SPILL PLANNING AND PREPAREDNESS.

(a) The Council shall establish a standing technical committee (hearinafter referred to as the "Oil Spill Committee") to review and assess the planning and preparation for responding to, containing, and cleaning up oil spills. The membership of the Oil Spill Committee shall be made up of recognized technical experts selected by the Council.

(b) In fulfilling its responsibilities, the Oil Spill Committee shall—

(1) periodically review the oil spill contingency plans for the terminal facilities in light of new technological developments and changed circumstances;

(2) participate in periodic drills and testing of the oil spill contingency plans for the terminal facilities;

(3) study wind and water currents and other environmental factors in the vicinity of the terminal facilities which may affect the ability to respond to, contain, and clean-up an oil spill;

(4) identify highly sensitive areas in the vicinity of the terminal facilities which may require specific protective measures in the event of an oil spill;

(5) monitor developments in oil spill containment, response and cleanup technology; and

(6) provide written reports to the Council outlining its findings and recommendations.

SEC. 408. AGENCY COOPERATION.

On and after the expiration of the 180-day period following the date of the enactment of this title, each Federal department, agency, or other instrumentality shall, with respect to all permits, site specific regulations, and other matters governing the activities and actions of the terminal facilities which affect or may affect the environment in the vicinity of the terminal facilities, consult with the appropriate Council prior to taking sustantive action with respect to such permit, site specific regulation, or other matter. Such consultation shall be carried out with a view to enabling the appropriate Association and Council to review such permit, site specific regulation, or other matter and make recommendations with respect thereto.

SEC. 409. RECOMMENDATIONS OF THE COUNCIL.

In the event that the Association does not adopt or significantly modifies before adoption any recommendation of the Council made pursuant to the authority granted to the Council in subsection (e) of section 405, the Association shall provide, in writing within 5 days of its decision, to the cochairmen of the Council notice of its decision and a written statement of reasons for its rejection or significant modification of the recommendation.

SEC. 410. ADMINISTRATIVE ACTIONS.

Appointments, designations, and selections of individuals to serve as members of the Associations and Councils under this title shall be submitted to the Administrator of the Environmental Protection Agency prior to the expiration of the 120-day period following the date of the enactment of this title. On or before the expiration of the 180-day period following such date of enactment, the Administrator shall call an initial meeting of each Association and Council for organizational purposes.

SEC. 411. LOCATION; EXPENSES.

(a) Each Association and Council established by this title shall be located in the State of Alaska.

(b) No member of an Association or Council shall be compensated for his or her services as a member of such Association or Council, as such, but shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by such Association or Council not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 412. FUNDING.

(a) Not to exceed $3,000,000 the Fund established under the Oil Production Liability and Compensation Act of 1989 shall be available, without fiscal year limitation, to establish the environmental oversight and monitoring programs established by this title, subject to section 103(a)(7) of this Act, and not to exceed $3,000,000 annually to carry out such program, subject to section 103(a)(8) of this Act.

(b) Moneys made available pursuant to subsection (a) shall be used by the Administrator of the Environmental Protection Agency to make grants to the Associations and Councils established by this title to enable them to carry out their functions under this title. Such grants shall be made in such amounts and subject to such conditions as the Administrator shall determine.

SEC. 413 DONATIONS.

Notwithstanding any other provision of law, each Association or Council established by this title is authorized to accept donations and contributions to be used by it in carrying out its functions under this title.

SEC. 414. REPORTS.

(a) Prior to the expiration of the 36-month period following the date of the enactment of this title, each Association and Council established by this title shall report to the President and the Congress concerning its activities pursuant to this title, together with its recommendations.

(b) Prior to the expiration of the 36-month period following the date of the enactment of this title; the General Accounting Office shall report to the President and the Congress as to the effectiveness of the demonstration programs carried out pursuant to this title, together with its recommendations.

SEC. 415. DEFINITIONS.

As used in this title—

(1) "terminal facilities" means the entire oil terminal complex including all buildings, docks, pipes, piping, roads, ponds, tanks, vessels, vehicles, and other facilities associated with and necessary for the movement of crude oil or petroleum products into and out of the oil terminal complex; and

(2) "vicinity of the terminal" means that geographical area surrounding the terminal facilities the environment of which is directly affected or may be directly affected by the operation of the terminal facilities.

SEC. 416. SAVINGS CLAUSE.

The rights and responsibilities of the United States or of the State of Alaska to preserve and protect the environment through such means as regulation of land, air, and water uses, of safety, and of related development and activity shall not be superseded by anything in this title.

AMENDMENT NO. 674

On page 24, line 9, Section 102 add a new subsection (h):

"(h) Solely for the purpose of bringing claims that arise from the discharge of oil, the United States hereby confirms that all right, title, and interest of the United States in and to the lands validly selected but not yet conveyed pursuant to the Alaska Native Claims Settlement Act as amended, 43 U.S.C. section 1601, et seq., or the Alaska National Interest Lands Conservation Act (P.L. 96-487), to Alaska Native corporations, are deemed to have vested in the respective corporations as of March 23, 1989."

KOHL (AND OTHERS) AMENDMENT NO. 675

Mr. KOHL (for himself, Mr. LEVIN, and Mr. STEVENS) proposed an amendment to the bill S. 686, supra, as follows:

Add at the appropriate place in the bill the following new sections.

Sec. . Report on agreements between the United States and Canada governing liability for potential oil spills in the Great Lakes and the St. Lawrence Seaway and international contingency plans.

(a) FINDINGS.—The Congress finds that—

(1) The Great Lakes contain 95% of the United States' and 20% of the world's fresh surface water, providing drinking water for approximately 25 million Americans, supporting 20% of all U.S. manufacturing, providing habitat for thousands of wildlife species, and providing invaluable recreational opportunities and businesses for millions of people;

(2) Last year four U.S. and twenty-two Canadian tanker vessels carried 81 million barrels of petroleum and hazardous materials through the Great Lakes;

(3) The Great Lakes are particularly vulnerable to oil spills, because they contain fresh water and are a closed system, without a larger sea to help disperse contaminants and reduce retention time;

(4) The potential for a disastrous oil spill on the Great Lakes was recently demonstrated in March 1989, when the Canadian tank barge *Scurry* narrowly avoided the release of 1.4 million gallons of carbon black feedstock when it ran aground twice on the Detroit River, near the drinking water intakes which serve nearly 3 million people;

(5) The near miss in March of 1989 was not an isolated incident, and hundreds of smaller spills have actually occurred in recent years on the Great Lakes;

(6) Concerns have been raised about inadequate requirements by the United States and Canada on the prevention and remediation of oil spills in the Great Lakes, including questions about measures on double-hulled tankers, double-skinned barges, vessel inspections, pilotage rules, spill notifications, spill contingency plans, containment equipment, wildlife rehabiliation facilities, clean-up procedures and the allocation of liability.

(b) REPORT.—The Secretary of State shall review the international agreements and treaties with the Republic of Canada, including relevant provisions in the Great Lakes Water Quality Agreement of 1978, as amended by the Protocol of 1987, and the Canada-United States Marine Pollution Substances, in order to determine whether amendments or additional international agreements are necessary to resolve complex questions of recovery of damages in the event of an oil spill in the Great Lakes and to ensure the adequacy of measures to prevent and remediate such spills. To the extent possible, the Secretary of State shall consult with the United States Coast Guard, the Environmental Protection Agency, and states surrounding the Great Lakes during this review.

(c) REPORT.—The Secretary of State shall report to the Congress on the results of this review within 30 days of the date of enactment.

SEC. . Agreement between the United States and Canada governing liability for potential oil spills in the Arctic Ocean and international contingency plans.

(a) FINDINGS.—The Congress finds that—

(1) Canada has discovered commercial quantities of oil and gas in the Amalagak region of the Northwest Territory;

(2) Canada is currently exploring alternatives for transporting the oil from the Amalagak field to markets in Asia and the Far East;

(3) One of the options the Canadian government is exploring involves transshipment of oil from the Amalagak field across the Beaufort Sea to tankers which would transport the oil overseas;

(4) The tankers would traverse the American Exclusive Economic Zone through the Beaufort Sea into the Chukchi Sea and then through the Bering Straits;

(5) These waters serve as the kitchen table for Alaska's native people providing them with sustenance in the form of walrus, seals, fish, and whales;

(6) The Beaufort and Chukchi Seas provide important habitat for the bow head whale, the lifeblood of the Eskimo people of Alaska;

(7) An oil spill in the Arctic Ocean, if not properly dealt with, could have significant impacts on the indigenous people of Alaska's North Slope;

(8) The Canadian Arctic Water Pollution Act limits recovery of damages incurred as a result of offshore exploration or development to $40 million and does not apply west of 141 degrees latitude;

(9) The Canadian Government has entered into an agreement with all companies licensed to drill in the Canadian Beaufort mandating liability to United States; claimants for damages suffered west of 141 degrees latitude, but that liability is limited to $C20 million.

(10 There is no international agreement in effect between the United States and Canada outlining legal liability in the event of an oil spill; and

(11) There are no international contingency plans involving our two governments governing containment and clean-up of an oil spill in the Arctic Ocean.

(b) NEGOTIATIONS.—The Congress calls upon the Secretary of State of the United States of America and the Foreign Minister of the Republic of Canada to begin negotiations on a treaty dealing with the complex questions of recovery of damages, contingency plans, and coordinated actions in the event of an oil spill in the Arctic Ocean or a tanker accident during the shipment of oil by sea.

(c) REPORT.—The Secretary of State shall report to the Congress on his efforts toward this end no later than January 1, 1990.

WILSON (AND OTHERS) AMENDMENT NO. 676

Mr. WILSON (for himself, Mr. CHAFEE, Mr. LIEBERMAN, Mr. CRANSTON, Mr. GORTON, Mr. GRAHAM, Mr. DURENBERGER, and Mr. ROTH) proposed an amendment to the bill S. 686, supra, as follows:

On page 15, beginning with line 5, strike out through line 7 and insert in lieu thereof the following:

(C) the total of all removal costs under subsection (a)(1) of this section plus $75,000,000 for any Outer Continental Shelf facility;

WALLOP AMENDMENT NO. 677

Mr. WALLOP proposed an amendment, which was subsequently modified, to the bill S. 686, supra, as follows:

On page 19, line 21, after the word "resources" insert the following: "Acquisition of land or interests therein shall be as specifically provided in advance in appropriation acts" and

On page 26, line 5 after the word "or" and before the word "acquiring" insert the following: "subject to such amounts as are specifically provided in advance in appropriation acts,".

REID (AND OTHERS) AMENDMENT NO. 678

Mr. REID (for himself, Mr. METZENBAUM, Mr. DECONCINI, Mr. LAUTENBERG, Mr. KOHL, Mr. MCCONNELL, and Mr. STEVENS) proposed an amendment to the bill S. 686, supra, as follows:

At the appropriate place insert the following:

The Senate finds:

Oil and hazardous substance discharges cause environmental damage which can last for many years, affect entire ecosystems, local communities, and individual citizens, and

Between 9,000 and 12,000 oil discharges are reported each year that pollute or threaten to pollute United States waters, and

Parties causing discharge often do not clean them up, only partially clean them, or respond to spills very slowly, causing additional damage, and

When cleanup by responsible parties is not satisfactory, public funds and agencies must do the cleanup. Between 1972 and 1987, the Coast Guard recovered only $49,000,000 of the $124,000,000 of public funds spent to clean up discharges, and

The cost of oil and hazardous substances discharge cleanup are deductible for Federal tax purposes and thus subsidized by ordinary taxpayers, and

The public should not pay for cleaning up discharges of hazardous substances and oil, either directly through cleanup costs or indirectly through Federal tax deductions for parties causing discharges unless the cleanup meets Federal standards, and

At the present time, the costs of spilling and paying for cleanup and damage is not high enough to encourage greater industry efforts to prevent spills and develop effective techniques to contain them: Now, therefore, be it

Therefore, it is the sense of the Senate that the Committee on Finance should include provisions of S. 771 (the Oil Spill Bill), a bill to disallow deductions for costs in connection with oil and hazardous substances cleanup unless the requirements of all applicable Federal laws concerning such cleanup are met, in Budget Reconciliation legislation for fiscal year 1990.

STEVENS AMENDMENT NO. 679

Mr. STEVENS proposed an amendment to the bill S. 686, supra, as follows:

On page 36, lines 2 through 3, by striking out "University of Alaska Institute of Marine Studies" and inserting in lieu thereof, "Prince William Sound Science and Technology Institute".

On page three, line 17, by striking out "Southeast" and inserting in lieu thereof "Southcentral".

BREAUX AMENDMENT NO. 680

Mr. BAUCUS (for Mr. BREAUX) proposed an amendment to the bill S. 686, supra, as follows:

In the Commerce Committee amendment to the bill—

(1) on page 3, line 2, strike "section 311(c)" and insert in lieu thereof "section 311(s)"; and

(2) on page 39, line 23, strike "2,000,000,000" and insert in lieu thereof "$2,000,000".

BAUCUS AMENDMENT NO. 681

Mr. BAUCUS proposed an amendment to the bill S. 686, supra, as follows:

On page 76, after line 5, insert the following:

QUALIFIED AUTHORIZING LEGISLATION

"SEC. 406. This Act shall be considered to be qualified authorizing legislation for purposes of section 4611(f)(2)(B) of the Internal Revenue Code of 1986".

AUTHORIZATION OF APPROPRIATIONS UNDER THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT AND THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

NICKLES AMENDMENT NO. 682

Mr. NICKLES proposed an amendment to the bill (S. 673) to amend the National Traffic and Motor Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal year 1990 and 1991, and for other purposes, as follows:

(1) On page 32, line 13, insert a comma immediately after "seatbelts".

(2) On page 42, line 23, strike "motorcar" and insert in lieu thereof "motor car".

(3) On page 50, line 1, strike "with".

(4) Strike all on lines 3 through 16 of page 51 and redesignate sections 314 through 317 as sections 312 through 315, respectively.

(5) Strike all on page 55, line 11, through page 56, line 16, and insert in lieu thereof the following:

METHODS OF REDUCING HEAD INJURIES

SEC. 314. The Secretary shall initiate, by publication of a Notice of Proposed Rulemaking not later than ninety days after the date of enactment of this Act, a rulemaking to consider methods of reducing head injuries in passenger automobiles and multipurpose passenger vehicles from contact with vehicle interior components, including those in the head impact area as defined in section 571.3(b) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act, by revising the appropriate Federal motor vehicle safety standards. Such rulemaking, and any revision of safety standards, shall be in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

PEDESTRIAN SAFETY

SEC. 315. The Secretary shall initiate, by publication of a Notice of Proposed Rulemaking not later than ninety days after the date of enactment of this Act, a rulemaking to consider the establishment of a standard to minimize pedestrian death and injury, including injury to the head, thorax, and legs, attributable to vehicle components. Any such standard shall be established in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

CONSUMER PRODUCT SAFETY COMMISSION AUTHORIZATION

LAUTENBERG AMENDMENT NO. 683

Mr. MITCHELL (for Mr. LAUTENBERG) proposed an amendment to the bill (S. 605) to authorize appropriations for the Consumer Product Safety Commission, and for other purposes, as follows:

Amend section 11 to read as follows:

CIVIL PENALTIES

SEC. 11. (a) Section 20(a) of the Consumer Product Safety Act (15 U.S.C. 2069(a)) is amended—

(1) by striking "$2,000" and inserting in lieu thereof "$5,000";

(2) by striking "$500,000" each place it appears and inserting in lieu thereof "$1,250,000"; and

(3) by adding at the end thereof the following:

"(3)(A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

"(B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—

"(i) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;

"(ii) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;

"(iii) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and

"(iv) in the case of penalties greater than $200,000, the nearest multiple of $25,000.

"(D) For purposes of this subsection:

"(i) The term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(ii) The term 'cost-of-living adjustment for the preceding five years' means the percentage by which—

"(I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

"(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.".

(b) Section 5 of the Federal Hazardous Substances Act (15 U.S.C. 1264) is amended by adding at the end the following:

"(c)(1) Any person who knowingly violates section 4 shall be subject to a civil penalty not to exceed $5,000 for each such violation. Subject to paragraph (2), a violation of subsections (a), (b), (c), (d), (f), (g), (i), and (j) of section 4 shall constitute a separate offense with respect to each substance involved, except that the maximum civil penalty shall not exceed $1,250,000 for any related series of violations. A violation of section 4(e) shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required by section 4(e); and, if such violation is a continuing one, each day of such violation shall constitute a separate offense, except that the maximum civil penalty shall not exceed $1,250,000 for any related series of violations.

"(2) The second sentence of paragraph (1) of this subsection shall not apply to violations of subsection (a) or (c) of section 4—

"(A) if the person who violated such subsection is not the manufacturer or private labeler or a distributor of the substances involved; and

"(B) if such person did not have either (i) actual knowledge that such person's distribution or sale of the substance violated such subsection, or (ii) notice from the Commission that such distribution or sale would be a violation of such subsection.

"(3) In determining the amount of any penalty to be sought upon commencing an action seeking to assess a penalty for a violation of section 4, the Commission shall consider the nature of the substance, the severity of the risk of injury, the occurrence or absence of injury, the amount of the substance distributed, and the appropriateness of such penalty in relation to the size of the business of the person charged.

"(4) Any civil penalty under this subsection may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated, and in what amount, the Commission shall consider the appropriateness of such penalty to the size of the business of the persons charged, the nature of the substance involved, the severity of the risk of injury, the occurrence of absence of injury, and the amount of the substance distributed. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

"(5) As used in the first sentence of paragraph (1), the term 'knowingly' means (A) having actual knowledge, or (B) the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

"(6)(A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

"(B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in para-

graph (1) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—

"(i) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiply of $1,000;

"(ii) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;

"(iii) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and

"(iv) in the case of penalties greater than $200,000, the nearest multiple of $25,000.

"(D) For purposes of this subsection:

"(i) The term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(ii) the term 'cost-of-living adjustment for the proceding five years' means the percentage by which—

"(I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

"(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.".

(c)(1) Beginning 1 year after the date of enactment of this Act, and every year thereafter, the Consumer Product Safety Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the information specified in paragraph (2) of this subsection. Such information may be included in the annual report to the Congress submitted by the Commission.

(2) The Commission shall submit information with respect to the imposition of civil penalties under the statutes which it administers. The information shall include the number of civil penalties imposed, 'an identification of the violations that led to the imposition of such penalties, and the amount of revenue recovered from the imposition of such penalties.

TRADE AUTHORIZATION ACT, FISCAL YEAR 1990

BENTSEN AMENDMENT NO. 684

Mr. MITCHELL (for Mr. BENTSEN) proposed an amendment to the bill (S. 1164) to authorize appropriations for fiscal year 1990 for the Office of the United States Trade Representative, the United States International Trade Commission, and the United States Customs Service, as follows:

At the end of section 3 of the bill, add the following:

(e) DISPOSITION OF FORFEITED PROPERTY.—

(1) Subparagraph (B) of section 616(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)(1)) is amended to read as follows:

"(B) Transfer any of the property to—

"(i) any other Federal agency;

"(ii) any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property; or

"(iii) the Civil Air Patrol.".

(2) Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a(c)) is amended by adding at the end thereof the following new paragraph:

"(3) Aircraft may be transferred to the Civil Air Patrol under paragraph (1)(B)(iii) in support of air search and rescue and other emergency services and, pursuant to a memorandum of understanding entered into with a Federal agency, illegal drug traffic surveillance. Jet-powered aircraft may not be transferred to the Civil Air Patrol under the authority of paragraph (1)(B)(iii).".

STEVENS AMENDMENT NO. 685

Mr. DOLE (for Mr. STEVENS) proposed an amendment to the bill S. 1164, supra, as follows:

On page 5, after line 23, add the following:

(a) USER FEE FOR CUSTOMS SERVICES AT SMALL SEAPORTS AND OTHER FACILITIES.—

(1) Section 236 of the Trade and Tariff Act of 1964 (19 U.S.C. 58b), as amended by this Act, is further amended—

(A) by inserting ", seaport, or other facility" after "airport" each place it appears in the section other than in paragraphs (1) and (2) of subsection (a),

(B) by inserting ", seaports, and other facilities" after "airports" in subsection (c), and

(c) by inserting "AND OTHER FACILITIES" after "AIRPORTS" in the section heading.

(2) Paragraph (2) of section 13031(e) of Public Law 99-272, as amended by this Act, is further amended by inserting ", seaport, or other facility" after "airport" each place it appears.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, September 12, 1989, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on H.J. Res. 175, legislation to authorize entry into force of the Compact of Free Association between the United States and the Government of Palau, and for other purposes.

For further information, please contact Allen Stayman or Pat Temple at (202) 224-4756.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a field hearing on Thursday, August 17, 1989, at 2 p.m. in Des Moines, IA, to receive testimony on the 1990 Farm bill.

For further information, please contact Bill Gillon or Mark Halverson at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

Mr. BREAUX. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Agricultural Taxation of the Committee on Finance be authorized to meet during the session of the Senate on August 3, 1989, at 2 p.m. to hold a hearing on a bill to provide tax incentives designed to boost domestic energy exploration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing and Urban Affairs be allowed to meet during the session of the Senate Thursday, August 3, 1989, at 10:00 a.m. to continue oversight hearings on the investigation of the financial health of FHA.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on August 3, 1989, beginning at 9:30 a.m., in 485 Russell Senate Office Building, to hold an oversight hearing on legislation to establish an Alaska Native Study Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, TRADE, OCEANS AND ENVIRONMENT

Mr. BREAUX. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Trade, Oceans and Environment of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, August 3, at 9:15 a.m. to hold a hearing on the Paris Economic Summit and the International Environmental Agenda.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, August 3, at 1:30 p.m. to hold a hearing on an ambassadorial nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. BREAUX. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, August 3, 1989, at 2 p.m., to hold a hearing on S. 982, a bill to repeal a provision of Federal Tort Claim Law relating to the civil liability of Government contractors for certain injuries,

losses of property and deaths and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BREAUX. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, August 3, 1989 at 10 a.m. to conduct a hearing on "The Drug Crisis: Treatment and Prevention."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. BREAUX. Mr. President, I ask unanimous consent that the Aviation Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 3, 1989, at 9:30 a.m. to hold a hearing on the shortage of pilots in the civil aviation industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION AND THE NATIONAL OCEAN POLICY STUDY

Mr. BREAUX. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the National Ocean Policy Study, be authorized to meet during the session of the Senate on August 3, 1989, at 9:30 a.m. to hold an oversight hearing on the Coastal Zone Management Act and the Federal role in coastal resource protection.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BREAUX. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, August 3, 1989, at 5:00 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, August 3, at 2:00 p.m. to hold a busines meeting to consider and vote on the nominations listed in the attached agenda.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee will consider and vote on the following business items:

Nominations:

1. Mr. Richard A. Clarke, of Virginia, to be Assistant Secretary of State for Politico-Military Affairs.

2. Mr. Edward Joseph Perkins, of Oregon, to be Director General of the Foreign Service.

3. Mr. Eugene P. Kopp, of Virginia, to be Deputy Director of the U.S. Information Agency.

4. Mr. Henry E. Hockeimer, of Michigan, to be an Associate Director of the U.S. Information Agency.

5. Mr. Sheldon J. Krys, of Maryland, to be Assistant Secretary of State for Diplomatic Security.

6. Mr. Alexander Fletcher Watson, of Massachusetts, to be Deputy Representative of the United States to the United Nations, with the rank of Ambassador.

7. Mr. Milton James Wilkinson, of New Hampshire, to be Deputy Representative of the United States in the Security Council of the United Nations, with the rank of Ambassador.

8. Mr. Morris Dempson Busby, of Virginia, for the rank of Ambassador in his capacity as Coordinator for Counter Terrorism.

9. Mr. Arthur W. Fort, of Virginia, to be Assistant Secretary of State for Administration.

10. Mr. Raymond Charles Ewing, of Virginia, to be Ambassador to the Republic of Ghana.

11. Mr. William Lacy Swing, of North Carolina, to be Ambassador to the Republic of South Africa.

12. Mr. Howard K. Walker, of New Jersey, to be Ambassador to the Democratic Republic of Madagascar and to serve concurrently as Ambassador to the Federal and Islamic Republic of the Comoros.

13. Mr. Raymond G.H. Seitz, of Texas, to be Assistant Secretary of State for European and Canadian Affairs.

14. Mr. Michael G. Sotirhos, of the District of Columbia, to be Ambassador to Greece.

15. Ms. Loret Miller Ruppe, of Maryland, to be Ambassador to Norway.

16. Ms. Julia Chang Bloch, of the District of Columbia, to be Ambassador to the Kingdom of Nepal.

17. Mr. Jonathan Moore, of Massachusetts, to be U.S. Alternate Representative for Special Political Affairs in the United Nations, with the rank of Ambassador.

18. Foreign Service Officers' promotion list, Mr. Allen Lee Sessoms et.al., July 20, 1989.

ADDITIONAL STATEMENTS

THE NOMINATION OF DR. HERBERT KLEBER TO BE DEPUTY DIRECTOR FOR DEMAND REDUCTION OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY

● Mr. KENNEDY. Mr. President, I rise to offer the nomination of Dr. Herbert Kleber to be Deputy Director for Demand Reduction of the Office of National Drug Control Policy. Dr. Kleber's nomination was unanimously approved by the Senate Committee on Labor and Human Resources. Prompt confirmation is essential if he is to participate fully in the completion of Dr. Bennett's recommended national drug policy, which is due in early September.

Dr. Kleber's position is a key command post in the Nation's war on drugs. If we lose the battle of demand reduction, we cannot hope to win the war.

There is no army large enough to seal our borders against illegal drugs. We can never build enough prisons or put enough police on the beat to arrest or lock up all the drug peddlers.

At a time when expenditures for law enforcement and interdiction have risen dramatically, the street price of cocaine has actually been dropping—indicating that more and more drugs are flooding into communities around America.

At a time when our prison population exceeds that of any other Western country, every day brings new reports of clogged courts, over-saturated prisons, and rising drug-related crime.

Interdiction and law enforcement must be vigorous components of our national antidrug effort. The modern merchants of death must never get a free ride. But we will never purge our society of the scourge of drug addiction without a strategy that places at least equal emphasis on prevention and treatment.

Prevention is the best and most cost-effective strategy. Well-designed prevention programs have a track record of success. In the past 3 years alone, the number of students who believe that casual use of cocaine is harmful has increased by 51 percent. As a direct result of that increase, the number of high school seniors using cocaine declined by 19 percent in 1987 and another 23 percent in 1988.

Well-designed local programs can achieve even deeper reductions. The Kansas City school-community program showed a 46-percent decline in heavy marijuana use by junior high school students. A Seattle program for elementary school students showed that fifth-graders with 4 years in the program were 23 percent less likely to use gateway drugs like cigarettes and alcohol.

But the need is still overwhelming. According to surveys, 39 percent of high school seniors, more than 1 million students, used an illegal drug last year. A quarter of a million used cocaine. These levels are almost certainly higher among school dropouts.

In spite of these demonstrable successes, the Federal commitment to school-based prevention through the Drug-Free Schools Program adds up to only a dollar per month per student. Too many of these programs fail to achieve their full potential because

they are not designed to use the best available knowledge.

The Office of Substance Abuse Prevention in the Department of Health and Human Services is getting twice as many approved applications for community-based prevention programs as it can fund. The same is true of the youth gangs program and the runaway and homeless youth program.

It is time to give these prevention programs the priority they need and the funding they deserve.

For millions of Americans, however, prevention is too late. According to the National Institute for Drug Abuse, 6½ million citizens are deeply enough involved with drugs to require help to end their addiction.

Just as with prevention, there is solid evidence that treatment works. Drug addiction is a stubborn, chronic disease. But treatment is a cure for many, and it is highly cost effective.

Studies show that treatment reduces drug use dramatically and that the gains are maintained for as long as 12 years. Similar reductions are found in crime and unemployment. Considering the reduction in crime alone, treatment is cost effective.

Even for cocaine addicts, who currently have no alternative like methadone for heroin, treatment reduces drug use substantially. Finally, treatment is also effective in reducing the spread of AIDS among addicts and their sex partners.

Despite this proven effectiveness, the need for treatment far outstrips its availability. Today we spend only enough to provide treatment to 15 percent of those who need it. Current backlogs cause unconscionable delays for those desperate to cure their addiction.

The Congress went on record on this issue in the 1989 drug bill, which set a goal of treatment on request, and it's time we provided adequate resources to reach that goal.

Dr. Herbert Kleber comes to the post of Deputy Director for Demand Reduction with a proven record of accomplishment. He is professor of psychiatry at the Yale University School of Medicine, director of the substance abuse treatment unit in the Connecticut Mental Health Center, and director of a respected treatment research center at Yale.

He was an impressive witness at our confirmation hearing earlier this week. I know that he will be a strong spokesman for programs of prevention, education, treatment, and will be an invaluable resource for Director Bennett and the whole country. I urge his prompt confirmation.●

VOLUNTEERS OF CALIFORNIA MARINE MAMMAL CENTER

● Mr. WILSON. Mr. President, it is my great privilege to recognize the hundreds of voluntars of the California Marine Mammal Center whose extraordinary service and dedicated voluntarism has earned them the coveted 1989 President's Volunteer Action Award. I do so today in this Chamber of the U.S. Senate and record for posterity their remarkable partnership of activism which has made a positive and lasting environmental impact for this and future generations.

At the heart of this great Nation lies the generous spirit of its people who have, from the moment our country was founded, given of their time and talent in earnest commitment to causes which have enriched, inspired, aided and preserved the quality of American life. Such commitment, when translated into bold action by so many dedicated individuals, as in the case of the Marine Mammal Center, is particularly deserving of recognition and commendation.

I am proud to salute the following fellow Californians for their exemplary individual and collective volunteer service in support of the California Marine Mammal Center and its quest to preserve and protect the sanctity and integrity of our precious marine environment:

Aboulafia, Steve, Adam, Vicki, Adams, Lise, Agostini, Annette, Albinola, Rose, Alling, Fred, Amaya-Sherman, Lynn, Anderson, Lois, Anderson, Susan Janice, Arakaki, JoAnne, Arrigoni, Patricia and Peter, Arminger, Betsy, Aviron Trophy, Bach, Ken, Bailes, Pamela, Bailey, Susan, Baird, Joan and Bill, Bahl, Kenneth and Deisy, Bank, Walter, Baumsteiger, Fred and Rich—Growers Refrigeration, Bartholomew, Jan, Bean, Jeanne C., Beamer, Bob—Clorox Corporation, Beatty, Jan, Beavin, Joan, Behasa, Stephanie.

Bellville, Carole, Bently, Susan, Benton, Deborah, Berns, Susan, Bingham, Jeffery, Bingel, Ellen and Jan, Blaney, Susan, Bowman, Kenneth (Skip), Blawat, Ken and Terri, Bloor, Nadine, Bove, Josie, Bracher, Jeanne, Brady, Patrick, Brady, Philip, Britton, Robert, Brogan, John, Brosseau, Lorrie, Brown, Vi, Bruns, Doris, Bryant, Scott, Burg, Elizabeth, Burke, Phebe, Burnham, Lisa, Butler, Shaun—Tandem Computers, Cahill, Libby A., Callender, Nan, Campbell, Lisa, Campbell-Wood, Susan.

Canale, Lisa, Canoose, Tammi, Caplan, Hugh, Carter, Pat, Cecil, Todd, Chaney, Andrew, Chiavini, Lisa, Chlesa, C. Machelle, Choy, Darlene, Christiansan, Louise, Cole, Jody, Cole, Kimmey, Colona, Brian, Conley, Liz, Connolly, Walter, Conti, John, Cook, Meryl Robina, Cotten, Coral, Covington, Colleen, Cox, Terri L., Creekmore, Wayne, Danz, Diana, Davainis, Nicholas, Davis, Grace, Davis, Herb, Davis, John, Dean, Mary Lou, Delaney, Jeff.

DeMayo, Mary Jane, Demetrios, Michael, Derby, Keith C., DiDomenico, Sally, Dierauf, Leslie, Dillard, Michele, Diernisse, Connie, Dohrmann, Betsy, Douglas, Susan, Duerr, Rebecca Susan, Dunfield, Terri, Dunnett, Linda, Eaton, Sharon, Eckhardt, Pat, Eisenhardt, Roy, Eits, Mitzi, Ellis, Lisa, Ellis, Trish, Epstein, Richard, Falejczyk, Joe and Liz, Fatta, Walter, Feeney, Kerry, Fell, Tammy, Fernandez, John, Fewster, Robyn, Fields, Kim, Firestone, Mark David, Fish, Karen.

Fitton, Douglas, Force, Judy, Foster, Wendy G., Fowler, Murray, Fowler, Rita, Frank, Elaine, Frank, Phil, Fremgen, Carolyn, Frick, Jim, Gallagher, Carol, Gatto, George, Gavette, Charleen, Getten, Mary, Geoffroy, Marcia, Getz, Susan Rankin, Gese, Diana, Giovanni, Gary, Golemibewski, Alicia, Gordon, William, Gortner, Gwen, Grady, Michael Kerry, Graham, Amanda, Granicher, Liz, Greathouse, Debbie, Greensill, Salley, Gregory, Dave—Bear State Printing, Griffith, Frank, Griner, Susan—Smithkline Diagnostics.

Guinard, Jinni, Haas, Eric, Hack, Dr. Richard, Haidet, Tom, Hall, Annie, Hammond, Jeff, Handley, Joanne, Hanson, Patricia Ann, Harris, Cecily, Harding, Nancy, Hayford, George, Healy, Patricia, Hentschel, Rich, Hee, Douglas, Hermes, Bob, Herren, Judith, Herzing, Denise, Hess, Brent, Hetlage, Peggy, Alexeeff, Ellen, Hicks, John T. Jr., Hoover, Joan, Hogg, Patricia, Holden, Helen, Hountalas, Dan and Mary, Howard, Nadine, Howland, Edee, Huntsinger, Julie.

Hutchinson, Steve, Irons, Jeannine, Jacobson, Joan, Janigan, Richard, Jordan, Cindy, Jovanovich, Stefan, Joyner, Nancy, Juve, Janet, Kammermann, Marlene, Katz, Beth, Kazan-Komarek, Marie, Kelly, Sandy, Ketring, Ann, Kincaid, Daryl, Kinoshita, Dale, Kirk, Harriet, Klinedst, Charlie, Knoll, Sharla, Knox, Linda, Kolb, Kristen, Kona, Lisa Jan, Koski, Marilyn, Krida, Jennifer, Lam, Laila, Lannom, John D., Lasky, Linda, Lausier, James Andrew, Lauterbach, Gary.

Lawrence, Rob, Leach, Joe, Leedesta, Legg, John—Golden Gate X-Ray, LeMarr Laura, Leonard, Lindsay, Levy, Leslie, Light, Glenn and Margaret, Light, Starr, Lipscomb, Donald Wayne, Lincoln, Pennie, Louie, Douglas, Low, Alex, Lowenstein, Linda, Lowry, Donald, Lund, Cynthia, Lyle, Virginia, Lynch, Bill, MacGowan-Smith, Liz, Macklin, Marilyn, Maggid, Jenni—Tandem Computers, Mahoney, James, Makaiwi, Terri, Malone, Kathy Marie, Mancia, Trudi, Markowitz, Hal, Marin Rod and Gun Club, Marshall, Winnie.

Massini, Lisa, Mayberry, Joe, Mayberry, Fran, Mazzeo, Jeff, McBride, Joy E., McColgin, Shane, McCreary, Kathleen, McDonald, Dr. Kelly, McDonnell, Jocelyn, McMurry, Patti, McPhail, Bruce—McPhails Bldg. Supply, Meinhardt, Stefanie, Meisner, Rene Ann, Mercer, Mr. and Mrs. Bill, Messinger, Eric, Milhaupt, Mary, Minasian, Stan—Marine Mammal Fund, Mitchell, Dave—Pt. Reyes Light, Mitchell, Marla Ann, Moore, Erin, Moore, Kay, Moraux, Rachel, Moro, Carol, Mulvany, Kathy, Munoz, Alfonso, Murphy, Jane T., Murphy, Virginia J., Naify, Barbara.

Nardo, Angela, Nelson, Bonnie, Nelson, Tracey, Nemura, Margery, Newbert, Chris, Newman, Michael—Perini Investment Properties, Nicolini, Mary, Nichols, Jacqueline, O'Farrel, Kevin, Ofsowitz, Barbara, O'Hara, Peter, Ohara, Peter, Oka, Jane, Olhiser, Jody, Ollila, Dianne, Ollila, John, Oliveira, Heather, Oliver, Dorothy, Olson, Art and Bea, Orner, Gayle Ann, Padula, Cynthia, Paller, Jr., Richard J., Paquette, Denise, Panzer, Doris, Panzer, Dick, Pearce, Arthur Webster, Pelcher, Cybele, Perdue, James, Golden Gate X-Ray.

Peregrina, Ken, Peregrina, Jennifer, Peterson, Paul—Tandem Computers, Petrow, Donna Ellen, Peskin, Susannah, Pianalto, Scott, Plank, Peter, Prochazka, Janet, Proctor, Dr. Diana, Preble, Missy, Purdin, Guthrum Kenneth, Ramstead, Clarissa, Rasmussen, Esther, Radke, David, Rae, Norman, Ramos, George, Reiss, Diana, Risse, Sandy,

Rawlings, Bob, Rein, Toby, Ringseis, James, Rising, Anna, Roberts, Edith, Roberts, Steve M., Rogers, Jane, Rogers, Joe, Rogers, Laurette, Rose, Carl.

Rosen, Penny, Ruiz, Ileana, Russel, Tad Alan, Russell, Clark & Misty, St. Denny, Joan, Sakata, Dr. Matthew, Sadosky, Terre, Salmina, Marie, Sandusky, Nan, Sanders, Mary, Sato, Kent, Sax, Lindy, Schieue, Peter, Schoener, Monica Marie, Schonewald, Jacqueline, Schmit, Elizabeth, Schmit, Joel, Schwiejer, Dona, Schramm, Mary Jane, Searer, Bud, See, Richard, See, Robin, Shaffer, Alexander, Shaw, Bazer, Shipman, Kevin Kent, Silbersher, Erica, Skaar, Butch, Smalley, Lloyd and Gayle.

Smart, Tanya, Smith, Bill, Smith, Diane, Smith, Dina, Smith, Donna, Sotolof, Stan, Stanley, Michael, Stibich, Pete—McPhails Bldg. Supply, Starrs, An V., Steele, Shawn, Stewart, Carol S., Stewart, Carrie Ann, Stewart, Edna J., Stewart, Jan Lynn, Stiefvater, Peggy, Stone, Mike, Stowers, Patricia, Summers Kincaid, Daryl, Sumner, George, Swain, Claire, Swett, Lisa, Taber, Arthur, Tanner, Beverly, Tanner, Kathi, Taylor, Chris E., Taylor, Lori B., Taylor, Peter, Templar, Joseph.

Thurston, Crystal Marie, Thode, Michael, Tokar, Beth and Steve, Vandenbroek, Debbie, Vandierdnock, Sara, Valet, Scott, Van Cleve, Lauren, Varley, Trisha, Vedros, Dr. Neylan, Vilas, Lise, Von Kugelgen, Kirsten, Vuxton, Georganne, Walker, Katherine, Walsh, Janet Marie, Walsh, Pat, Ward, Patrick, Weaver, Patrick Ross, Webber, Lee and Bill, Webber, Mark, Welte, Mark, Wettstein, Joan, Whittlesey, Marjorie, Whitmore, Janeen Dart, Williams, Diane C., Williams, Jason, Williams, Phyllis M., Williams, Tom, Wilson, Robert J., Wilson, Tricia, Winters, Gloria, Winters, Penny, Wolcott, Kathy, Woolsey, Doris K., Wubenhorst, Nancy, Yeary, Bob and Elise—Roberts Impressions, Yee, Robin, Young, Alan, Zalesky, Nancy—Smithkline Diagnostics, Zell, Mell, Zgorecki, Brian, Zgorecki, Mary, Zivnuska, John.●

DEFORESTATION IN POLAND

● Mr. WIRTH. Mr. President, several days ago, I received a report from Richard E. Benedick of the World Wildlife Fund Conservation Foundation on a recent conference on European forests held in Cracow, Poland during June.

Given the recent surge of national and international interest in environmental matters, poignantly demonstrated by the environmental emphasis at the G-7 summit meeting in Paris, I believe this report will be of great interest to my colleagues.

At the Conference on European Forests convened by the Polish Academy of Sciences and the InterAction Council, representatives from governments, national scientific academies and other institutions from throughout world gathered to discuss massive deforestation in south and southwest Poland.

Mr. Benedick's report reveals that vast areas of forest land are dying as a result of air pollution originating from East European coal-fired powerplants. Interestingly, the Poles expressed utter frustration at being unable to engage their Eastern European neighbors in efforts to address transboundary pollution problems.

Mr. President, I urge my colleagues to review this report. It is indicative of the grave and deep environmental problems in Eastern Europe that only now are coming to light. I believe that we must initiate cooperative agreements with the Soviets and others in Eastern Europe to help solve these problems. Environmental degradation does not recognize the boundaries of nations, and does not recognize the Communist and non-Communist worlds. Indeed, environmental systems are the common link to all inhabitants of our fragile planet. In the process of global environmental cooperation, we may find new seeds with which to harvest a more secure and peaceful world.

The report follows:

CONFERENCE ON EUROPEAN FORESTS, CRACOW, POLAND, JUNE 5-7, 1989

(Report by Richard E. Benedick)

Convened by the *Polish Academy of Sciences* and the *InterAction Council* (an organization of former presidents and prime ministers), the meeting was co-chaired by Ola Ullsten, former Premier of Sweden, and Jan Kostrzewski, President of the Polish Academy of Sciences. It comprised about 30 representatives of governments, national academies, and other institutions from Bulgaria, Canada, Czechoslovakia, FRG, GDR, Italy, Norway, Poland, Portugal, Sweden, USSR, and USA, plus the FAO and the UN Economic Commission for Europe. The conference was financed by InterAction Council, Rockefeller Foundation, and the Government of the Netherlands.

The Polish initiative for the meeting arose from growing national concern over massive destruction of forests in the last decade, especially in southern and southwestern Poland. A field trip for participants, conducted by the Polish Forest Service via helicopter and jeep, provided a profound visual impact: vast areas of devastated Silesian forests are affected by air pollution originating from enormous coal-fired power plants located in nearby parts of Poland, Czechoslovakia and East Germany, which were clearly visible from the helicopters. Polish frustration over an inability to engage their neighbors in effective common efforts to reduce emissions evidently played a role in attempting to internationalize the approach through this conference.

Statements by the DDR representative illustrated this syndrome: he attempted to explain the Polish forest loss by factors such as insects, climate, or unsuitable species, while downplaying the impact of acid deposition. This contrasted strongly with the analyses of Soviet and Nordic scientists. An outstanding paper presented by Sten Nilsson (of IIASA and the Swedish University of Agricultural Sciences) summed up the *scientific consensus:*

Comprehensive new models relating air pollution to acid sensitivity of species and soils indicate that potential damage to forests—particularly in Central and Eastern Europe—is much greater than originally estimated.

Critical loads of sulfur and nitrogen compounds are being substantially exceeded in many areas, reinforced by effects of heavy metals, ozone, and other compounds: these conditions render the forests more susceptible to cold, drought, insects, and disease.

The typical pattern is a slow build-up of stress over 20-30 years with little or no visible damage; after a certain threshold, damage becomes evident, and within 6-7 years a rapid collapse ensues.

Ongoing reforestation schemes are in vain; the search for species that can be resistant to these combined onslaughts is illusory.

Existing international agreements are inadequate; current emission reduction plans for SO_x and NO_x will not permit significant improvement of forest conditions.

There is potential for recovery if pollution abatement strategies are changed from generalized to targeted optimal reductions. However, although the technological capabilities are present, existing institutional arrangements and political will have not yet risen to the task.

The meeting agreed upon the *Cracow Declaration on Saving the European Forests.* This document reviews the science summarized above and stresses the need for early action to prevent further massive forest losses, especially in Central and Eastern Europe. In particular, it:

(1) calls for a comprehensive action plan for protecting European forests, including targets for reducing acid deposition, modalities for technology transfer, and financial arrangements;

(2) recommends new energy policies, including energy efficiency, conservation, and development of alternatives to fossil fuels, particularly coal-based power;

(3) emphasizes the need for greater international scientific collaboration and integration of scientists with policy makers;

(4) calls on governments to conclude as early as possible international agreements on emissions standards and reductions, harmonization of national legislation, and provisions for technology transfer and financing; such agreements could initially involve only a few countries, with the goal of gradually expanding them to include more parties—in other words, cooperative actions should not be delayed until an all-inclusive convention can be negotiated;

(5) establishes a *European Forum for Forest Protection,* to be composed of policy makers, scientists, industry, NGOs and multilateral organizations (including non-European participants as observers).

The Forum is deliberately designed to circumvent bureaucratic lines by establishing an informal and nongovernmental structure, heavily weighted with scientists, to debate, analyze and publicize the situation and possible remedial actions. The Forum aims to serve as a catalyst, supplementing the intergovernmental process by providing both scientific and policy inputs and recommendations.

The first Forum will be convened in 1990 at the invitation of the Royal Swedish Academy of Agriculture and Forestry; subsequent meetings are planned annually. The first priority for the 1990 meeting is to determine the elements of a plan of action for governments and international organizations.

RECOMMENDATIONS

WWF was the only nongovernmental organization represented at this meeting. Because of the influence of InterAction Council (Helmut Schimidt is President, members include ex-heads of government/state Callaghan (UH), Trudeau (Canada), Ford (US), Gromyko (USSR), Fukuda (Japan), etc.), the European Forum is likely to become a

major actor in intensified cooperative efforts to preserve the European forests.

I recommend that *WWF-International* continue this link with the new Forum. Interested NOs could attempt to influence national academies and other relevant parties to participate actively in the forthcoming process. (It is worth noting that the UK, France, Netherlands, Denmark and Switzerland were not represented at the Cracow meeting.)

In addition, *The Conservation Foundation* could consider producing some policy-oriented material pertinent to an "action plan" for European forest preservation, drawing on such earlier research efforts as the 1987 book, *The Greenhouse Effect, Climate Change, and U.S. Forests.* Such material, perhaps highlighting short, medium and long-term strategies, could be used in WWF efforts with European institutions in support of the new Forum.●

CZECHOSLOVAK HUMAN RIGHTS ABUSES

● Mr. WALLOP. Mr. President, as we approach the 21st anniversary of the Soviet-led invasion of Czechoslovakia, ending the "Prague Spring," I think it timely to comment on the virtual absence of meaningful progress in human rights in that country. This causes me grave concern. Moreover, as independent activists and citizens of Czechoslovakia prepare to commemorate the anniversary of this event, there exists the distinct possibility that the Czechoslovak regime will use the increased amount of activity to justify further crackdown.

Mr. President, the U.S. Senate is aware of and concerned about the repeated abuse of human rights in Czechoslovakia. As a member of the Helsinki Commission, I am especially concerned about the Czechoslovak Government's continued use of harassment and intimidation to prevent free association and demonstration.

It is appalling to this Senator that, almost concurrent with their agreeing to the Vienna Concluding Document last January, the Czechoslovak regime used water cannon, dogs, and clubs to break up independent demonstrations in the capital city of Prague. The following month—February 1989—the Czechoslovak Federal Assembly doubled the potential fine and prison time one may receive as punishment for the nonviolent expression of one's belief. Such abuse of fundamental human rights—the freedom to express one's thoughts and beliefs in a nonviolent and innocuous manner—is simply inexcusable.

The list of human rights violations over the last 6 months alone, Mr. President, is extensive. This past March, evangelical priests Pavel Hlavec, Zvonimir Sorma, and Pavel Porkorny had their State permits revoked making it a crime for them to freely continue their ministries. Upon appealing, their permits were reinstated, but on a very temporary basis—until the end of 1989. As citizens of the United States of America, it is almost impossible for us to conceive of one of our ministries, rabbis, or priests being told that he or she is no longer able to freely conduct religious services. But this is not a novel event in Czechoslovakia.

Through the use of restrictions on freedom of movement, the Czechoslovak regime wields enormous control over many of its citizens. Last April, four members of the Czechoslovak Helsinki Committee were detained on a train to prevent them from attending a meeting of the International Helsinki Federation in Poland. In May former Czechoslovak Foreign Minister, now dissident, Jiri Hajek was denied permission to leave Czechoslovakia to receive an honorary degree from a New York university. Shortly following this refusal, he was denied permission to attend the Paris CSCE—Conference on Security and Cooperation in Europe—meeting. Within this past month, Jiri Hajek was detained by the police solely in order to prevent him from giving a history lecture in Prague on the events of 1968.

This record, Mr. President, also has affected directly U.S. diplomatic channels. In July of this year, Czechoslovak authorities retaliated for the U.S. expulsion of a Czechoslovak diplomat caught spying by expelling Robert Norman, the human rights officer assigned to the U.S. Embassy in Prague. Without this vital diplomatic link, the United States is further hindered in seeking to affect the incessant human rights abuses in Czechoslovakia.

Yet in spite of the continuing persecution of activists, Czechoslovakia is witnessing an increasing amount of independent opposition activity—due in part to heightened dissatisfaction with a deteriorating economy. And even though this increased activity has been met, on the whole, with increased repression, each day more and more average citizens join the ranks of those who have called for genuine pluralism in Czechoslovakia. A new petition, which is entitled "A Few Sentences" and calls for human rights improvements, has now garnered over 11,000 signatures. That's 11,000 people who are willing to stand up to the regime and demand compliance with the human rights obligations which the Czechoslovak Government has freely undertaken.

Although some may note sporadic improvements in Czechoslovakia's human rights record, these instances represent, at best, the conflict between hard-liners who see no value in promoting human rights, and more pragmatic conservatives who view human rights as a propaganda tool for domestic and international viewers. Whatever the case, the record is clear. Czechoslovakia's poor human rights record is a very real concern of the United States and all those committed to the fundamental freedoms to which all human beings are entitled.●

REMARKS OF JOHN GEORGES, INTERNATIONAL PAPER CO.

● Mr. PRYOR. Mr. President, on June 14 of this year, Mr. John Georges, chairman and chief executive officer of International Paper Co., delivered a speech at the Brookings Institution. Mr. Georges made a number of essential points concerning American industry, Government, and the direction our country is taking into the 1990's.

I recommend Mr. Georges' address to my colleagues and wish to submit it in today's RECORD at this point.

The remarks follow:

CAPITAL INVESTMENT AND COMPETITION IN THE 1990s*

Business leaders must live on a daily basis with the policy decisions that are made by Washington insiders. Frequently, it is very difficult for those in the business world to understand why intelligent, well-intentioned officials so often propose and legislate punitive and excessively complicated laws—particularly tax laws—that make it difficult for corporations and individuals to save and that hinder the growth of the economy. If America is to continue into the next century to enjoy a premier position among the world's nations, the U.S. government must let American industry succeed in "growing" our national wealth.[1]

Nations build wealth by optimizing their use of available natural resources, labor, and capital. America has abundant natural resources, and while the U.S. is not self-sufficient it is more than competitive in natural resources with Japan and Germany, which have very limited resources. This nation also has a willing, productive labor force, although we need to address the training and development of our future workforce. That is a very important issue if we are to compete effectively in the 1990s and into the 21st century.

This brings us to the issue of capital, for without capital, nations cannot make optimal use of their labor and natural resources. To compete successfully in the 1990s and the next century, we must have not only an adequate supply of capital, but also a cost of capital which is competitive with our overseas industrial rivals. Our economic availability of capital to the growth of our economy.

There is not, however, adequate recognition that in the U.S. the cost of capital is too high and that this high cost has become a critical impediment to our being competitive with Japan and Germany.

Underlying these points is a simple premise: growth in the private sector is absolutely necessary to enable the public sector to achieve its goals. Because I don't want my remarks reduced to Calvin Coolidge's now flippant phrase, "The chief business of the American people is business," I'd like to explore this concept of wealth creation [2] further by focusing briefly on three points:

1. Why the creation of wealth is crucial for the nation;

Footnotes at end of article.

2. How this is affected by the fiercely competitive, global environment in which U.S. industries now operate; and

3. What are some specific policies which should be pursued to create wealth.

CREATING NATIONAL WEALTH

We know that throughout history nations have prospered—relative to their rivals—only to the extent that they have been successful in the creation of wealth. In fact, their fortunes declined markedly when they consumed all their current income and were unable to build capital. Rome in the fourth century, Spain and Italy in the 17th century, and perhaps Britain in the 20th century are good examples of this.[3]

The simple fact is that no nation can consume more without producing more. To do so is to court economic stagnation or decline. After all, it is a primary purpose of government to ensure an increasing standard of living for its people. The bottom line is that it is in the interest of both business and government to pursue a vigorous policy of creating wealth in the economy, to enact programs that allow people and corporations to save and invest.[4]

On the surface, it would seem that it should be fairly easy to arrive at agreement on this point, but it isn't. We Americans tend to divide our national life into two separate and—too often—hostile realms: government and politics (which many refer to as the "civic culture") and business and economics (in short hand, the "business culture").[5] Most Americans see public education, mass transit, housing, crime, pollution, civil rights, etc., as the preserve of the government, while the concerns of business are seen as investment, trade, productivity, growth, and unemployment.

That's the benign view. There is also a "darker side" to the divide that frequently separates the civic and business culture. Many Americans, who identify with the civic culture, tend to see businesspeople as only interested in making money, without regard for the environment and oblivious to social needs.[6] Although that is a fairly grim assessment, it is a sentiment reciprocated by those who operate within the business culture. At best, they often treat those within the civic culture with disdain or indifference. At worst, they view them as interfering with the free market, thwarting personal economic liberties, and destroying individual initiative.[7]

Until the last few decades, the nation had always been able to withstand the negative fallout from the difference between these cultures. Such clashes were not very productive, but they did not do much damage as long as the U.S. was relatively a self-contained economic unit. Today, however, we are in a different ball game, a game whose boundary lines are global and whose rules are truly international. We cannot play this game competitively with the civic and business cultures at each other's throat. A "Truce" between these cultures is exactly what the nation needs today.

There has been a drastic change in the relative position of the U.S. in the world economy in the last 20 years. Americans have been bombarded with statistics on every conceivable aspect of this issue. For example, in our domestic market we have witnessed the relentless retreat of "Made in America" labels. In 1969, U.S. manufacturers produced 82 percent of the nation's television sets, 88 percent of its cars, and 90 percent of its machine tools. In 1988, America made hardly any televisions, had lost half of the domestic tool market, and controlled only 30 percent of the auto market.[8] Not only have national barriers to trade fallen, but the actual production process is, in many cases, internationalized—one product processed and shipped through many jurisdictions before taking its final form. We're in a new and different world.

How do companies operate in this "new world?" One significant change is that in the global economy U.S. companies have a choice. They may decide to try to "do it all at home," engaging in the production process from start to finish in the U.S., or they may opt to produce and source globally, choosing the most cost-efficient location. From a competitive point of view, the latter makes the most sense. But this is a good example of how public policy can make it more difficult to choose a particular option.

There is, in fact, a whole thrust to U.S. tax policy which deters American companies' efforts to invest abroad.[9] Arthur Young & Company examined the 1986 Tax Reform Act and concluded that changes in the foreign tax credit area significantly increased the tax cost of conducting operations abroad. Misguided initiatives such as this have negative effects on our domestic economy.

Because we cannot continue to look at the process of creating national wealth as one that can be pursued without any reference to the world beyond our frontiers, it may be helpful to view the process on a comparative basis.

COST OF CAPITAL

First, there is the issue of the cost of capital, which is a critical factor in evaluating policies to promote the creation of wealth. The term "cost of capital" can mean different things to different people. Used here, it may be defined as the amount that any quantity of capital has to earn so that after paying taxes on those earnings there's enough left so the investors have sufficient incentive to keep their savings tied up in that capital. Obviously, the heavier the tax load on a company's earnings, the higher the cost of capital.

One of our main problems in recent years has been that the real cost of capital in the U.S. has been consistently higher than the costs in Japan and West Germany—our principal industrial competitors. Small wonder that our foreign competitors are able to accept lower pre-tax returns than U.S. companies can.

The issue is complex in terms of the factors that go into determining the real cost of capital. Certainly, the U.S. heavily taxes capital and return on capital on the federal, state, and local levels (i.e., taxes on individual and corporate income, dividends, capital gains, property taxes, excise taxes, inventory taxes, the list goes on and on).

One thing, however, remains clear: U.S. companies simply can not be at a disadvantage in terms of cost of capital and remain competitive. Lowering the cost of capital permits a greater allocation of corporate resources to research and development (R&D) and saving. The short-term focus—for which U.S. companies are roundly criticized—results from the high cost of capital.

The impact of a higher cost of capital is pervasive. It means that German companies can invest more capital for machinery that will improve productivity or expand capacity. It means that Japanese companies can invest more for R&D, and because of a lower cost of funds German and Japanese companies can carry higher levels of debt. They also can operate with lower margins, which equate to lower prices for their products.

American businesses are often criticized for being more short-term oriented than our overseas competitors. The most outlandish explanations for this are frequently put forth. Let me suggest that it is not cultural nor genetic, nor is it because America's competitors are better businesspeople. I suspect that is due, in large part, to the fact that they have enjoyed a much lower cost of capital for many years. A lower cost of capital encourages them to take a long-term view of their investment and product development efforts.

INVESTMENT

In a significant way, wealth creation is equivalent to capital formation and investment. And, again, we are not stacking up too well against our competitors in this category. The U.S. investment growth rate, for example, has been one of the lowest in the industrial world during the course of the 1980s—while Japanese growth rates were among the highest in the world. In 1988, the investment growth rate in Japan was 19.5 percent. And projections for Japan in 1989 are estimated to come in around 24 percent.[10] This is about twice the level of the United States' investment growth rate.

The low rate of our investment growth has had an distinctly unfavorable impact upon our productivity, which is an extremely important factor in a nation's effort to create wealth. It is scarcely necessary to underscore America's relatively low rate of productivity improvement over the last decade. Since 1960, U.S. productivity rates have lagged behind every major industrial nation, ranking seventh behind Japan, Italy, France, Germany, Great Britain, and Canada.[11]

SAVING RATES

To increase investment in our industrial base requires strong savings rates, and Americans have been notoriously poor savers in the last decade. In the U.S., net saving by private households and firms declined from 8.9 percent of the net national product in the 1970s to 6.4 percent in the 1980s—although I should point out that U.S. businesses are generally good savers, accounting for over 50 percent of the total net national savings.

The net national savings rate (because of the Federal deficit) has gone from 7.9 percent to 3.3 percent during the same period.[12] This is particularly dismal when compared with major industrial rivals. From 1970 through 1980, net national savings as a percent of net national income in the U.S. ran at 7.6 percent, while Japan was 25 percent, France was 15 percent, Canada and Italy were 12 percent.[13]

One way the government could assist in the creation of a more competitive American economy would be by pursuing policies that remove the roadblocks to saving and investment and the flexibility to source materials from other lands.

A number of studies show that capital investment in the United States is more heavily taxed than one might think. Gone, for instance, are tax incentives to companies that expand capacity. The picture is even bleaker when the new alternative minimum tax is accounted for—the U.S. is dead last among 15 industrialized nations in promoting capital investment.

This means that we need to enact cohesive tax policies that will foster—not inhibit—the creation of national wealth. Specifically, we should follow the lead of most of our in-

dustrialized rivals by halting the practice of taxing corporate income twice: through corporate taxes on earnings and through individual taxes on dividends and capital gains. Most of our global competitors—for example, Germany, France, Canada, and Japan—do not tax capital gains on ordinary income. We do. In these countries, there are a variety of tax approaches, all of which result in some form of tax relief compared with the U.S. treatment of capital gains and other investment income.

Within a broad program, we should seek to provide better capital consumption allowances and to reform the capital gains tax. Further, we should revive the IRA's, which proved to be successful in encouraging personal saving. To reduce the tax bias against saving and investment activities, we need to rely less on income taxes and more on general consumption taxes, which would be neutral in terms of their impact upon saving and consumption. I, for one, would hope we would adopt some sort of consumption tax, which would put consumption and saving on a level playing field.

Such consumption taxes would be marvelous cash machines. But, as we all know, in Washington a cash machine could create a monster—an explosion of public-sector spending. Over the last decade, we've heard a great deal about our federal government having grown. I definitely agree that we need to keep the growth of government to a minimum, but the growth of the U.S. government has been well below that of other industrial nations.

For example, in all industrial nations between 1961 and 1981, total government expenditure—as a percentage of gross domestic product—rose the least in the United States, from 29 percent to 35 percent.[15] While some countries with a value added tax (VAT) saw an veritable explosion of government spending: Italy from 29 percent to 51 percent, the U.K. from 33 percent to 47 percent, France from 36 percent to 49 percent.[16] So, we would probably want to look at some sort of "capital stop" on any kind of consumption tax to keep it from fueling government spending.

CONCLUSION

In the end, the nation's policymakers and businesspeople should keep in mind one important point. Government and business need to join hands in pursuit of a common goal: to add to the nation's wealth, for without the continual creation of national wealth a country cannot remain a major player in the world nor can it provide an increasing standard of living for its people.

It is time that government and business stopped working at cross purposes. We must realize that only by allowing business to grow can policymakers obtain the resources necessary to achieve the honorable goals of the civic culture. The most effective approach that policymakers can take to help business grow and to help the nation accumulate wealth is to remove the roadblocks to saving and investment that they have erected.

With a significantly higher cost of capital, we cannot compete effectively with Japan and Germany. Tax policies that reduce the cost of capital, encourage saving throughout the private sector, and stop penalizing U.S. investment abroad and monetary policies that seek to avert inflation, and having vanquished inflation over the long haul, result in lower interest rates, are key elements in a comprehensive solution.

It is certainly true that businesspeople have a great deal of work to do to improve the competitive position of American companies relative to our overseas competitors. But no business leader can do it, unless government puts in place policies that encourage—rather than discourage—individuals and corporations to accumulate capital. Make no mistake, our future requires a comprehensive set of government policies that will encourage the creation of wealth—a daunting task for policymakers and business leaders alike, but one that simply must be undertaken.

JOHN GEORGES,
Chairman and Chief Executive Officer, International Paper Company.

FOOTNOTES

* This *Economic Policy Bulletin* is adapted from a speech delivered at the Brookings Institution on June 14, 1989 by John Georges, chairman and chief executive officer of International Paper Company.

[1] This is a view that is not easily accepted by government officials, who often display an entirely different perception of wealth. Their perception is based upon the notion that businesses' gain is the civic culture's loss or, in other words, business accumulates wealth at the expense of the nation and its ordinary citizens. In classic studies, a number of scholars have noted the predominance of such a view in nations and regions that have been economically stagnant. (G.M. Foster, *Tzintzuntan* (Boston, 1967); Lucien Nye, *Politics, Personality and National Building* (New Haven, Conn., 1962); Edward Baufield, *The Moral Basis of a Backward Society* (Chicago, 1958).

[2] See Brain Griffins, *The Creation of Wealth* (Donners, Grove, Illinois; InterVarsity Press, 1984), pp. 23-31.

[3] See Carlo Cippola, *The Economic Decline of Empires* (London, Methuen & Co., 1970).

[4] B. Griffins, *op. cit., p. 21.*

[5] For the best recent discussion of "the two cultures," see Robert B. Reich, *The Next American Frontier* (New York, Penguin, 1983), pp. 3-31.

[6] Ibid., p. 4.

[7] Ibid., p. 5.

[8] Timothy D. Schellhadt and Carol Hymowitz, "U.S. Manufacturers Face Big Changes in Years Ahead," *Wall Street Journal*, May 2, 1989.

[9] See, for example, Arthur Young, *The Tax Reform and Multinationals (1987), for an in-dept study of how U.S. tax policy penalizes investment abroad by American Companies.*

[10] Japanese Economic Planning Agency and Industrial Bank of Japan estimates; U.S. Commerce Department survey.

[11] Japan Economic Institute Dataquest Inc.; U.S. Department of Labor, Bureau of Labor Statistics.

[12] *Economic Report of the President, January 1989, Table B-28, p. 340.*

[13] Robert E. Lipsey and Irving B. Kravis, *Savings and Economic Growth: Is the U.S. Really Falling Behind?* (The Conference Board) 1987, p. 29. The saving rates in Japan, France, Canada, and Italy were computed on a slightly different income concept from that used in the United States, but the gross disparity in the U.S. rate from that of the other countries is little affected by this difference.

[14] See, for example, J. Gregory Ballentine's 1988 study (Peat Marwick Main & Co.) and Joseph J. Minarik's (Urban Institute) work in the same year.

[15] B. Griffiths, *op. cit., p. 16.*

[16] *Ibid.*●

THE MINING LAW OF 1872

● Mr. McCLURE. Mr. President, I would like to call attention to a comprehensive monograph entitled: The Mining Law of 1872: A Legal and Historical Analysis. Published last month by the National Legal Center for the Public Interest of Washington, DC, this publication is one of the finest studies, written by experts in the field, to come to public light in recent years.

While the study is too lengthy for reproduction in its entirety, I would like to submit for the record the introduction written by former Secretary of the Interior Donald P. Hodel, and commend to my colleagues thoughtful consideration of this excellent analysis.

The introduction follows:

INTRODUCTION BY DONALD PAUL HODEL, ESQ.

Mining and minerals production are an essential part of our national fabric—as essential as our energy resources and agriculture. Our national security would be jeopardized, and our national economy could not prosper and advance, without minerals. Our earth, particularly our lands in the public domain, is blessed with a treasure trove of minerals basic to our society.

The history of minerals development in the United States is as rich as the minerals themselves. Many of the fundamental principles attending what we call "locatable minerals" grew out of a kind of common law that evolved in the mining camps following the California Gold Rush of 1849. When Congress started to address the regulation of hard minerals on the public lands, it borrowed that body of common law and incorporated it into the Mining Law of 1872. At that time, Congress also gave the Bureau of Land Management's predecessor, the General Land Office, responsibility for most minerals on federal lands. Those principles are as valid today as they were 116 years ago.

The heart and soul of the Mining Law of 1872 are the principles of self-initiation, access to public lands to prospect for and develop valuable mineral deposits, and security of tenure for the duration of mining. These principles reward the individuals or companies making a mineral discovery for their labor and their capital investment; and, in return, the nation benefits, because minerals are the basic stuff from which things are made. A rather simple notion, but one of the best illustrations of why the private sector's role in minerals development is so necessary.

It would be extremely imprudent, not to mention grossly inefficient and cost-ineffective, for the Federal Government to develop an exploration program to determine the location of workable hardrock mineral deposits. A heavily federalized, centrally regulated program would immobilize exploration. A nation that is so dependent on critical and strategic minerals for its national defense, and on other raw materials to fuel its industrial machinery and national economy, could ill afford a costly, cumbersome bureaucracy designed to do what the private sector can do better.

The private sector is better equipped to assess the mineral content of the public lands and to determine which parcels ought to be explored and developed. It also is willing to assume the risks associated with the economic success or failure of its mineral ventures. But absolutely essential to this willing assumption of risk are several other critical elements: a level playing field, *i.e.*, rational rules governing mineral activities on the public lands; access to the public lands to prospect for valuable mineral deposits; the secure right to stake and develop mining claims; and the right to a reasonable profit from those efforts.

Since 1872, the Mining Law has served the nation well. The minerals industry has found new and creative ways to remain competitive in the international metals markets, and minerals taken from the public land have contributed to our standard of living, provided a stronger national economy and

enhanced our national security. Importantly, these achievements have not been at the expense of the environment. The Federal Land Policy and Management Act, along with the rules and procedures administered by the Bureau of Land Management ("BLM")—which today still manages some 600 million acres of federal mineral estate—have created the necessary balance between mineral development and environmental protection, ensuring that all mining claimants avoid unnecessary or undue degradation of the land.

Administration of the Mining Law has not remained static for the past 116 years, it has evolved and adapted to changing national needs. For example, BLM has obtained cooperative agreements with state mining and reclamation agencies, thus creating a single point of contact for approval of operations, and creating joint inspection and compliance programs. In addition, miners are working actively with BLM to restore the land that has been mined and finding ways to consider and protect other resources.

Despite what we believe is a balanced and reasonable approach to minerals development, we continue to hear proposals—both from Congress and from certain constitutent groups—for change. Many of these proposals are in the form of attacks on what the critics call an "antiquated" law that needs modernization. Direct attacks to change the Mining Law have not succeeded thus far, but attention to this matter is expected in the 101st Congress. I believe these attacks are without merit.

The Mining Law of 1872, and its principles of self-initiation and security of tenure, must be preserved. These principles provide the most efficient and cost-effective method for development of certain basic mineral commodities that are vital to our national well-being. The isolated nature and geologic complexity of locatable mineral occurrences, as well as the cost of prospecting for and developing these minerals, do not lend themselves to a federal leasing system as has been suggested by some of the proponents of change. Replacing the Mining Law with a leasing system would seriously hamper the United States' ability to find and produce critical and strategic minerals.

Another front of attack is more indirect, but perhaps far more damaging: mineral withdrawals, the closing of certain areas of public land from mineral location and locking up of multiple-use public lands for single-use management. It comes in the form of litigation (such as *National Wildlife Federation* v. *Burford*) and attempted legislative actions (such as Senator Cranston's California Desert bill, S. 7, proposed in the 100th Congress).

If we prevail in the struggle to preserve the integrity of the Mining Law of 1872, it will be of little comfort if there are continued attempts to close the public lands to entry for minerals prospecting and development. In the California Desert alone, known mineral reserves are valued at more than $360 billion. There are sixty-five known mineral commodities mined from the desert, including 97 percent of the nation's rare earths and 100 percent of the boron minerals. Gold production is climbing dramatically, from 5,000 ounces in 1981 to an estimated 300,000 ounces in 1988.

We should not blindfold ourselves to the rich natural bounty lying beneath our public lands. Nor should we despoil our environment for future generations. The Mining Law of 1872 is living proof that we do not have to choose between mineral development on the one hand and environmental protection on the other. We can have both!

It is absolutely essential, therefore, that we provide access to public lands for prospecting and development of minerals, and that we preserve the essential features of the Mining Law of 1872. The legacy of the old prospectors lives on, stronger than ever. We should endeavor to make the principles of the Mining Law our guideposts for minerals development in the 21st century.●

ENVIRONMENT AND PUBLIC WORKS COMMITTEE ALLOCATIONS PURSUANT TO SECTION 302(b) OF THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

● Mr. BURDICK. Mr. President, the Committee on Environment and Public Works received the following estimated allocations for fiscal year 1990:

	Millions
Direct spending:	
Budget authority	$14,691
Outlays	470
Credit authority	298
Allocations to the subcommittees are as follows:	
Water Resources, Transportation and Infrastructure Subcommittee:	
Budget Authority	14,094
Outlays	178
Nuclear Regulations Subcommittee:	
Budget Authority	653
Outlays	325
Environmental Protection:	
Budget Authority	−56
Outlays	−33●

THE INDISPENSABLE ROLE OF LIBRARIES

● Mr. SARBANES. Mr. President, libraries play an indispensable role in the lives of our communities. From modest beginnings in the mid-19th century, today's libraries provide well-stocked reference centers and wide-ranging loan services based on a system of branches, often further supplemented by traveling libraries serving outlying districts. They promote the reading of books among adults, adolescents and children, and provide material and reference centers where every citizen can obtain reliable information on a vast array to topics.

In light of the importance of our Nation's libraries, I am very pleased to join in sponsoring S. 1291, the Library Services and Construction Act Amendments of 1989, to reauthorize and expand assistance to libraries. The reauthorization of the Library Services and Construction Act [LSCA] is especially important in an age of rapid technological advancement where libraries are called upon to provide not only books and periodicals, but many other things as well. In our modern society, libraries provide audio-visual materials, computer services, facilities for community lectures and performances, tapes, records, videocassettes, and works of art for exhibit and loan to the public. Libraries also provide special facilities for the elderly and handicapped, and in many communities, library services are organized for local schools, hospitals, and prisons.

Of even greater importance, in my view, to a discussion of continued Federal assistance for libraries is that libraries are the only public agencies in which the services rendered are intended for, and available to, every segment of society. Libraries have always been an integral part of all that our country embodies: freedom of information, an educated citizenry, and an open and enlightened society. When the free public library came into its own in America in the 19th century it was, from the beginning a unique institution because it was committed to the same principle of free and open exchange of ideas as the Constitution itself.

It is interesting to note that Thomas Jefferson possessed one of the finest personal libraries in the Nation—one so impressive that after the British burned Washington during the War of 1812, Congress purchased Jefferson's library to provide the core for rebuilding the Library of Congress. Jefferson summarized the concept and importance of libraries very well when he said:

> I have often thought that nothing would do more extensive good at a small expense than the establishment of a small circulating library in every county, to consist of a few well-chosen books, to be lent to the people of the county, under such regulations as would secure their safe return in due time.

Jefferson clearly placed a great premium on the need for a literate and educated citizenry to ensure a sovereign Nation; he also said, "A Nation that expects to be ignorant and free, expects what never was and never will be." During an age in which we are experiencing a vast explosion of information, the wisdom of Jefferson's words has become even more apparent.

Any doubts that our Nation's libraries provide vital services to our citizenry are dispelled by looking at circulation figures published by the American Library Association. According to the ALA, circulation to adults in public libraries was up 9 percent in 1986 compared to 1980, and circulation to children was up 20 percent. The demand for reference and information services continues to grow, with 1986 statistics from public libraries serving populations over 100,000 showing a 9 percent increase over 1984.

As you know, the Federal Government first provided direct financial aid to libraries in 1956 through the Library Services Act. The object of this legislation was to provide public library service to rural areas that had

no such service. That law was replaced in 1964 with the current Library Services and Construction Act. S. 1291 will ensure the continuation of the Library Services and Construction Act for 5 years. Legislative proposals to substantially alter the LSCA, as proposed by the Bush administration, could then be considered in light of further recommendations developed during the second White House Conference on Libraries and Information Services to be held not later than September 1991.

Mr. President, in our society, libraries have always served as more than passive respositories of information—they are also engines of learning and ladders of opportunity for many of our Nation's citizens. During an age in which we are experiencing a vast explosion of information, we must work to ensure the continuation of a stable, reliable source of funding to ensure an acceptable standard of public library service for every American.

We would be wise to remember the words of Archibald MacLeish, appointed as Librarian of Congress in 1939, who said, "Libraries must be active, and not passive agents of the democratic process." I urge my colleagues to support our libraries in this critical mission by taking prompt action to ensure the reauthorization of the Library Services and Construction Act.●

S. 1480, THE ECONOMIC EQUITY ACT OF 1989

● Mr. PACKWOOD. Mr. President, I am pleased to be a cosponsor of the Economic Equity Act of 1989. As this bill is reintroduced, I am inspired to review the long history of this very important legislation. In 1981, Senators DURENBERGER, HATFIELD, and I, along with a number of our distinguished colleagues, first introduced the Economic Equity Act. Our goal was to eliminate economic discrimination against women. The bill was an ambitious proposal, an omnibus bill that addressed pension and tax reforms, child care, elimination of discrimination against women in the Armed Forces, insurance discrimination, and enforcement of alimony and child support laws. The bill was assembled with the advice and assistance of a variety of women's groups, including the League of Women Voters, National Federation of Business and Professional Women, National Women's Political Caucus, Older Women's League, the National Council of Jewish Women, the National Council of Negro Women, and several others.

Two things strike me as I think back to that time in 1981 when we first undertook to remedy economic inequities for women through the reform of Federal laws and regulations. The first and most troublesome thing is that we are unfortunately still fighting some of the same battles that we faced in 1981 and which have been reflected in the Economic Equity Act in every Congress since. Women presently earn only 64 cents to every dollar earned by a man. Households headed by women still represent a shockingly large proportion of those beneath the poverty level in this country.

The second thing that strikes me as I reflect back on the history of the Economic Equity Act, and this is the heartening aspect, is that those women's groups and those of my distinguished colleagues on both sides of the aisle in the Senate and House who have supported this legislation consistently with their hard work and very able advocacy of these issues, have exhibited a wonderful, steady persistence which has served our cause well.

In each session of Congress since the act was first introduced, we have scored victories by passing significant pieces of the package. We have made private pensions more equitable for women, made individual retirement accounts available to married women who do not work outside the home, improved access to pensions and medical care for former military spouses, amended the estate and gift tax so that women are not taxed on gifts or bequests from resources they own jointly with their husbands, and strengthened child support enforcement. As we have made gains in each of these important areas, the act has been revised to add new components so that we are continually moving toward the goal of equal economic rights for women. The Economic Equity Act is a dynamic piece of legislation, and one that is the product of some of the best thinking available from among women's organizations and Members of Congress about what measures will truly advance the cause of economic rights for women.

This year's package contains some excellent proposals. I am very pleased to be a cosponsor of S. 16, the Pay Equity Technical Assistance Act, which would provide a resource to employers to identify and work toward the elimination of wage disparities based on gender. This legislation would benefit not only working women and their families, but also the economy by improving the purchasing power of a great number of American households.

I am also a cosponsor of S. 704, which would increase title XX block grants to the States. Title XX is the major Federal source of support for essential social services, like child care for women in job training, which allow women to become economically self-sufficient.

Each of these bills is a small but important part of the effort. Just as each brick is necessary to a building, each gain we make is critical to our ultimate goal: The elimination of all economic discrimination against women.

Many times during the past years, as I have had the privilege of working toward women's rights, women across the country have expressed their appreciation to me. They have also confided their discouragement that achieving equality is such a long and laborious process. Many have worked very actively for a very long time, and are understandably weary of the struggle to achieve a status they should be able to take for granted.

I understand and sympathize with their concerns. However, I would remind them and myself that Rome was not built in a day. The bias in the law and society that has resulted in the feminization of poverty took more than a few years to build, and it will take more than a few years to correct. Our persistence is being rewarded. The Economic Equity Act has already accomplished a great deal. I believe we can look forward to more success this session.●

WALTER L. "PEANUT" KENNEDY, CHELSEA, VT

● Mr. LEAHY. Mr. President, Walter L. "Peanut" Kennedy of Chelsea, VT, is one of the most colorful and accomplished political figures in modern Vermont history.

It is my pleasure to introduce you to the former house speaker and Republican gubernatorial candidate through this article that appeared in the spring 1989, edition of Vermont Life.

It was written by Tom Davis, who manages the Leahy Senate offices in Vermont, and reflects the love and affection all Vermonters have for this wonderful gentleman.

The article follows:

[From Vermont Life, Spring 1989]

WALTER L. "PEANUT" KENNEDY—THE BEST CAR DEALER IN VERMONT WAS A GOOD POLITICIAN

(By Thomas C. Davis)

As I drove into the yard in Chelsea, I expected to see men working on cars—selling, fixing, polishing, and moving them, and generally doing the things you do with automobiles on Saturday morning at an auto dealership.

It was a warm spring day, so long awaited, so welcome. It was also the first day of the 1964 fishing season, a holiday in Vermont—at least an unofficial one in Chelsea—and no one was in sight.

After investigating, I found the boss, Walter L. "Peanut" Kennedy, along with all the employees of Kennedy's Chrysler-Plymouth dealership, lounging against the back of the main garage with fish poles in hand. Their hats were tilted down to shield their eyes from the bright sun and they were lowering reluctant worms into the stream that tumbled by.

Fishing season arrived the last Saturday in April then, a time when Vermont rivers and streams are usually a muddy brown and brooks charge along at a pace that would frighten a whale, never mind a well-brought-up Vermont brook trout. The boys were fishing in a stream that in the summer

became a quiet, meandering brook, its presence then noted only by an occasional murmur. But on this day the sun was beating down, melting the snow from the storm that had visited a few days before, and one had to shout to be heard over the roar of the water.

Despite this, I wasn't surprised to find virtually the entire staff drowning worms on company time. I had learned that Kennedy's was different, and most unusual of all was the boss himself. As I watched him sitting there with the people who worked for him, it occurred to me that there was nothing he couldn't do as well as any of them—from fixing and selling cars to figuring the finances.

Because of this, it was generally acknowledged in 1964 that Vermont's largest Chrysler-Plymouth dealership was right there in tiny Chelsea, a long drive away from most of the state's motorists.

Kennedy had earned the name "Peanut" when he was growing up in Chelsea, the youngest of the nine boys and girls in the Kennedy clan. I had first met him in the early 1950s, when he was selling used cars by parking eight or 10 of them on the lawn next to a big house on Main Street in the center of Chelsea. I had come over from Barre to look at a car. He had some beauties, and I lusted after a 1951 Ford he had all shined up, but I didn't have the money to buy it.

Kennedy looked much the same then as he does today. Of medium build, he has a roundish face that looks as though it wants to grin—and probably will any minute. His hair is cut short in what we used to call a "German" or "butch" haircut. He wears wire-rimmed glasses. When he takes them off and begins to polish them with the big handkerchief he carries, you can rest assured that he wants to stall and do a little thinking. He uses those glasses the way some men use a pipe.

His distinctive manner made an impression on me, and by 1964 I had graduated from would-be customer to become a sort of part-time salesman for him. A friend and I were selling his cars on a commission basis in Windsor, where I lived then. That spring morning I was returning one that we hadn't sold, and I'd take a different one back that I'd try to sell instead.

I asked how the fish were biting. Since I don't think anyone there believed that any self-respecting worm would wiggle even a little bit in such cold, ugly water, nor did anyone there ever dream that trout would bite in such raging water, the question did little to enhance may stature. They were fishing because it was the first day of fishing season, not because they expected to catch any.

But they knew I was young, and mostly harmless, so they tolerated my impatient ways. Finally I cornered Peanut, found out what I needed to know, and eventually got my business done.

As time went on and I was no longer selling his cars, there was still nothing I liked better than to put two or three of the kids in the car and travel to Chelsea. I'd walk all over the lot and look at everything he had, kick a few tires and, best of all, talk to Peanut.

He had a small office next to the used car lot. At most, it measured six feet square. To get to talk to Kennedy, customers would stand in line in the outer office, which wasn't much larger. Before the days of computers, records were kept on paper—or in somebody's head. Kennedy had that kind of a head. He could carry more information around than any one I ever knew; I suspect it's only recently that the big-system IMBs can begin to compete. We'd sit in his office, knee deep in invoices, National Auto Dealers Association used car guides, contracts, and his extensive political correspondence, and talk about his passions—cars and politics—or just tell stories.

One time I asked him if he ever lied about a car. He looked me right in the eye and said, "No . . . No . . . I never did." Then after a moment of reflection, he said, "But I didn't always tell all I knew!"

It took me a while to figure it out, but the price of Peanut's cars descended as the day went on. I don't think even he knew it. If you went to trade cars in the morning, you could strike a fair, businesslike deal. But if you wanted to soften him up and get the best price of all, you went over and caught him just before closing time and talked first about philosophy, politics, or the weather. He'd begin to appreciate the world he lived in so much, you could get a much better deal.

One day in the early 1970s I was out in front of my house on Eastern Avenue in Barre with my head under the hood of a Toyota that was refusing to heed my command. I don't know what I was looking for as I stared at that engine, or what I would have done if I had found it, but one of the rules that men live by is that you do a little looking before you call the wrecker.

As I backed out from under the hood, wondering what to do next, I saw a shiny black Chrysler Imperial drive up across the street and stop. It was Peanut.

"What's the matter, Tom?" he asked.

"I dunno, damn thing does this every once in a while," I replied.

Shutting his car off and pulling on the brake, he said, "Let me take a look."

As he got out of the car, I realized that he was dressed immaculately in a sharp black suit, crisp white shirt, and black bow tie. He took off his coat, folded it over the back of the seat, and began to roll up his sleeves.

At the time, Peanut was the Republican speaker of the Vermont House of Representatives and I was a member of the cabinet of Democratic Governor Tom Salmon. But Vermont friendships can transcend this sort of thing, and in our case always did.

Peanut came over to the car and listened as I tried to start it. Then he said, "Have you got a paper clip? I think it's the secondary resistor."

Of course I didn't have a clue what a secondary resistor was. Rummaging around, I found a paper clip and gave it to him. "Try it now," he said.

It started, and he had me shut it off while he installed the paper clip more securely!

After the hood was closed, and the Toyota was again behaving, he said, "Those cars have a secondary resistor that can go bad. The dealer will have one—the part costs about $2.40; anybody can install it."

I had too much pride to tell him of the dollars I had spent trying to fix what had seemed unfixable. And I harbored no illusions that I could install it myself. But I let it go; I didn't want to shame myself in front of this automotive genius.

Kennedy started his public career when he was elected as one of Chelsea's selectmen in 1951. He was elected to the Vermont House in 1961. For eight years, from 1969 to 1977, he was moderator of the Chelsea Town Meeting, handling disputes with finesse and humor and deftly side-stepping the kind of bitter debates that sometimes surface at town meeting.

Peanut was one of the best listeners I ever met. As speaker of the House from 1971 to 1974, he listened to one and all with great patience. When someone buttonholed him in the halls of the State House, he'd look them right in the eye, holding his left elbow in his right hand, resting his chin in his left hand, and seem intent on every word. Vermont has had many good House speakers; Peanut was one of the best, and fair to everyone.

In 1974 he decided to run for governor. He'd have been a dandy—and he would surely have made great copy! But he lost to a good man, Tom Salmon, and never complained about it.

Even as speaker, Peanut's well known sense of humor was never absent. During debate on a labor bill, Rep. John Murphy, an ardent supporter of labor causes, stood up to be recognized. Peanut said in mock seriousness that if the member from Ludlow wished to be recognized he should please stand up! Murphy, a short man with a big heart, brought the House down when he replied, "But I am standing, Mr. Speaker!"

Every politician and newspaperman over the age of 40 has his or her favorite Peanut Kennedy story—not all of them suitable for publication, for Peanut could say things that were so outrageous that if anyone else had said them they would have been lynched. But whatever he might say, Kennedy never held malice for anyone or any group, and somehow always conveyed a simple message of honesty.

A small sign rested on his desk when he was speaker that said, "I Hate Peace." Only a man like Peanut could have gotten away with this in the late '60s and early '70s. But everyone knew the sign was a reflection of his Orange County contrariness—a humorous comment on his style of operation—and had nothing to do with the war in Southeast Asia.

A former newspaperman and friend of Peanut's tells of having dinner at Kennedy's home. Peanut had been inquiring about the reporter's health, and the reporter admitted to a medical problem that had been giving him some concern. As is his custom before dinner, Peanut asked that everyone join hands as he said grace. Peanut thanked the Lord for the many blessings bestowed upon those at the table, then he paused a moment before giving thanks for the "fairly" good health those gathered with him enjoyed.

Peanut's Chelsea dealership is closed and Kennedy, now 67, and his wife Sylvia, are living down in Florida for most of the year. He might change Florida—it won't change him. He's still jockeying cars around, and when he returns to spend the summer months in Chelsea, there are people waiting for him to find them one.

Nowadays it's hard to find a car dealership like Kennedy's of 20 years ago. Nothing in this world has changed as much since then as auto dealers, except maybe hospitals. Now they're both managed to death, and their prices have gone out of sight!

Dealers today have management and sales systems designed by some wizard from Detroit (or Tokyo). They've got one guy to show you the car, someone else has to approve the deal, and yet another to arrange the financing. And that's before you own it. After that, if you come back for service, you meet another whole cast of characters, and you may never, ever again see the crowd who sold you the car.

As fishing season approaches, one of the few things to remain as it was on that day

in 1964 is the brook in back of the garage in Chelsea; it will still tumble by, swollen with spring runoff, and, as summer approaches, it will once again flow quietly.

Thomas C. Davis has been pursuing a career as a free-lance writer in addition to managing the Vermont offices of U.S. Sen. Patrick J. Leahy. He is the son of former Gov. Deane C. Davis, also a raconteur and writer.●

NEGOTIATING WITH PLO TERRORISTS

● Mr. WILSON. Mr. President, late last month, the Senate considered and then passed the State Department authorization bill for fiscal year 1990. A great deal of the debate on this bill was spurred by an amendment offered by the Senator from North Carolina [Mr. HELMS] which would have prevented United States officials from negotiating with PLO terrorists who had been involved in terrorist attacks against American citizens.

I cosponsored and supported the Helms amendment simply because I am convinced that America cannot expect to fight an effective war against terrorists by negotiating with and legitimizing terrorists.

In June, the State Department commenced negotiations with Abu Iyad, the PLO terrorist who is widely believed to have ordered the assassination of our Ambassador to the Sudan in 1983. By treating this terrorist as a legitimate diplomat, the State Department unfortunately, if not unintentionally, sent a signal that terrorism can pay. And this is something the Senate cannot allow to occur if our Nation is to conduct a serious war against terrorism.

This very same point was raised by Bruce Herschensohn in an eloquent television commentary broadcast on KABC in Los Angeles on July 21, 1989.

He pointed out that the negotiations being conducted by the State Department with Abu Iyad "provides a tremendous incentive for terrorists." With the United States now again embroiled in a hostage and terrorism crisis, Mr. Herschensohn's remarks may unfortunately prove prophetic.

Mr. President, I hope all Senators will take a moment to review Mr. Herschensohn's remarks, and I ask that a transcript of his commentary be printed in the RECORD at this point.

The transcript follows:

COMMENTARY BY BRUCE HERSCHENSOHN, JULY 21, 1989

To this day if you mention the 1972 Olympics in Munich, one quick image comes to the mind of all those who watched those games on television. The image is one of terrorists from the PLO clad in sweatsuits holding Israeli athletes as hostages and in the end, after twenty hours, eleven of those athletes were killed. It served as the definition of terrorism; people who were killed who were not the military and, in fact, had no involvement in the foreign policy of their country; they were athletes. The person who planned the operation, the founder and leader of the PLO's Black September Group, was Abu Iyad. His name was well known at the time. Since then he's had more public fame. Within a year of that attack, his organization killed an American, an American this time, our Ambassador to the Sudan, Ambassador Cleo Noel. And just last month, June, Abu Iyad, still around, was indicted in Italy on charges that he helped supply arms to the Red Brigades. But that wasn't the key even on Abu Iyad's calendar of June.

The United States Government, last month, was dealing with him as a diplomat. He was representing the PLO in our continuing talks with that organization. The fact that he was negotiating with us provides a tremendous incentive for terrorists. When this came to light, Senator Jesse Helms hit the ceiling. The question was, what are we doing, dealing with someone like that as though he was a recognized diplomat? Senator Helms immediately proposed an amendment to a bill that would prohibit negotiating with any one like that unless the President certifies to Congress that the representative did not take part or conspire in terrorist activity that resulted in "the death, injury or kidnapping of an American citizen." That to me seems more than reasonable. It came to a vote in the Senate yesterday—and it lost!

Just so you know where our two California Senators stood, Senator Wilson agreed with Senator Helms, he voted for the Helms Amendment, Senator Cranston was opposed to the Helms Amendment, he voted against it. There was a substitute amendment passed. This one says that no federal funds may be "made available for the conduct of the current dialogue on the Middle East peace process with any representative of the PLO if the President knows and advises the Congress that that representative directly participated in the planning or execution of a particular terrorist activity which resulted in the death or kidnapping of an American citizen." Sound the same? It isn't. It's one of those congressional tricks. You have to examine every word. It was worded in such a way that all the President has to do is not inform the Congress we're dealing with a terrorist that killed an American, that's all. It doesn't say he has to inform anyone, just that the funds will be cut off if he informs the Congress.

Look, in truth, I believe that the President should have authority in foreign affairs, but as long as the Congress has consistently tied the President's hands so he can't help any number of friendly governments, it consistently has done that with the support of Senator Cranston, I'm glad there are some, in the Congress like Senator Helms who attempts to balance the political direction of the ropes, by ensuring that we can't help an unfriendly organization responsible for the death of an American, as well as being responsible for other acts of terrorism—beyond a shadow of a doubt.●

DEMOCRACY IN AFRICA

● Mr. SIMON. Mr. President, in early May, General Olusegun Obasanjo, former Head of State of Nigeria, gave a speech before a National Endowment for Democracy conference on the democratic revolution. I recommend to my colleagues his speech, entitled "The Democratic Revolution—Aspects From Africa."

I ask that it be printed in the RECORD.

The speech follows:

THE DEMOCRATIC REVOLUTION—ASPECTS FROM AFRICA

Let me express delight for the work of the National Endowment for Democracy in its five years of existence and let me express appreciation for being invited to participate at this conference on "The Democratic Revolution".

I observe that in the focus of the National Endowment for Democracy it is admitted and accepted that the transition from non-democracy to democracy may be an uneven, long and rough process. Let me add to that the problem of having an exactitude shared by all in the definition of democracy. Rather than for us to be bogged down in the quagmire of definition, I will identify certain basic elements that we must accept as minimum standard for democratic principles and practices.

Let me quickly mention a number of elements or factors which must be ingredients present to make for democracy:

Periodic election of political leadership through the secret ballot; popular participation of all adults in the election process; choice of programmes and choice of personalities in the elections; orderly succession; openness of the society; independent judiciary; freedom of the press to include freedom of ownership; institutional pluralism; democratic culture and democratic spirit; and fundamental human rights.

Fundamental human rights should be particularly emphasized because without them there can be no democracy.

Let me go back to the theme of this conference—"The Democratic Revolution". We are far from the stage of a revolution in the democratic process in Africa. And yet democracy is the option which the governed prefer and which is easily denied them by the government. To me that is the hope of those whose lives in democracy all over the world. That the natural instinct of man as a governed animal is for democracy. Democracy will not only survive, it will spread, and it will gather momentum in this spread. It is pertinent to remind ourselves that before the advent of colonialism, we had in sub-national groups democracy which worked.

Democracy unrestrains and releases the total energy of all citizens for development. If we must have development, we must move to democratise. Restraint and repression associated with authoritarian regimes breed resentment and resentment breeds violence.

These three reasons make an evolutionary process of democracy inevitable in our region. The signs are already perceptible. The military and the populace wherever they are ruling have come to realise that military regimes have limitations. The economic situation in Africa had brought the limitation of military regimes vividly home to us all. Economic performance does not obey military command. And what is more, with great respect for my former colleagues in the military all over Africa, economics is normally not a strong point for most of them. As a footnote, I do not think that many political leaders in the West, for that matter, are elected for either their economic knowledge or performance.

How then do we advance the process of democracy in Africa? It is Africans themselves who should be in the vanguard of democracy. Africans who believe in the idea, in the process, in the principles and in the

practice. Without being immodest, the four of us on this panel have, in our own little ways, been working to establish or strengthen democratic processes and practices against heavy odds at times in our different localities. We can do more and we should do more and in fact widen the circle of those who accept the challenge of working for democracy.

What can an organization like the National Endowment for Democracy do? Let me warn against two things that should not be done. You should not expect all of us to have democracy a la United States. For instance a one-party system that allows all the ten elements I mentioned earlier, will not pass the litmus test of US democracy with its multi-party system, but it will be a great advancement from an authoritarian military regime.

You should not appear too over-bearing or too visible in strengthening and assisting democratic processes in our region because it can be counter-productive. But help you must offer like you have been offering and more. We must be partners in the task of advancing democratic processes. We will meet with obstacles and set-backs but we must be undaunted. You must assist us with institution-building, training and exposure of our colleagues to some of your facilities and institutions.

With patience, perseverance and persistence on our part, if we have some assistance with provision of the tools, we will do the job. This is an area where empowerment is required and must be provided.

Let me sound another note of caution to all of us. Poverty and under-development tend not to help the advancement of the process of democracy. In such a situation the populace yearns for strong leadership to take them out of the economic morass. In the end they get a dictator who compounds their poverty and their problems and makes the situation worse. The argument that tribalism or sectionalism breeds non-democratic regimes is false. Democracy is the only integrative glue that can wield and weld our different sub-national groups together into nations with common destiny, equal stake and common identify on a permanent basis.

What we lack mostly are leaders imbued with democratic ideals, democratic orientation and democratic spirit. But we will get them if only in small doses or in stages. Small gains must be consoldiated and the process of democracy must not be destroyed.

Finally, let us examine democracy in different stages of transition in Africa:

Non-military one-man rule; military one-man rule; military turned-civilian one-man rule; one-party rule; and one-party rule in a one-party dominated multi-party environment.

The personal and political instability and insecurity inherent in all types of one-man rule is making almost all of them to seek wider and at times more popular participation of the citizeny in the political process. This must be encouraged and sustained by all believers in democracy. The natural instinct of the governed for the democratic option is the greatest driving force to make the trickle turn into a flow of democratic process in Africa. The prospect for democracy today in Africa is better than it has been since independnce. Democracy is diffusion. But its appeal lies in its pragmatism and realism as a means of guaranteeing individual rights, interests and social justice. It preserves harmony within communities and it promotes prosperity and integrates societies. It promotes peace within nations and between nations. In addition to all these, I am sure that it can also be made to generate growth and development and distribute wealth more equitably. It will then be seen as the necessity of the future in our part of the world, not just a hope.

In conclusion, let me comment on efforts at establishing democracy in my country Nigeria. After thirteen years of military administration, our government, mine and my immediate predecessor's, drew up a four-year stage by stage political programme of returning to elected civilian administration. That programme included drafting a new constitution by a select group of men of diffent political opinion and affiliations, the consideration of the draft constitution by a Constituent Assembly, local government reform and elections into all elective offices. The new civilian administration lasted four years and three months before the military intervened again. The pretext was that the politicians never learnt any lessons and their old habits died hard. Within twenty months, a palace coup ousted the immediate post-second republic military administration. The new administration which came to power in August 1985 promised and prepared yet another political programme. The distinguishing feature of this programme is the blanket ban on politicians who still have grass-root influence and support.

It is yet too early to see how by legislation the grass-roots influence and support will be washed off by the military or how the banned politicans will use their grass-roots influence and support in the unfolding drama of military audacity and political subtety. Will the newbreed learn the old trick by adopting the banned politicans as their godfathers and deal with the military kingmakers when they become kings or are we in for a new era of what we have not seen before? The signs are inauspicious and the environment is unsanitised. It will, in the end, lead to one side having the upper hand. But whoever has the upper hand, will it lead to stability and consolidation and sustenance of democratic process, principles and practice? That is my concern and the challenge facing our nation.●

CORRADA TESTIMONY

● Mr. SIMOM Mr. President, the former Resident Commissioner representing Puerto Rico in Congress, Baltasar Corrada, who also served as mayor of San Juan, PR, recently testified before the Senate Energy and Natural Resources Committee.

His testimony was on the point, and I urge my colleagues to read it.

He rendered great service to Puerto Rico and the United States when he served in Congress, and I hope we will listen to him, now, as we did when he was here.

I ask that his testimony be printed in the RECORD.

The testimony follows:

STATEMENT OF FORMER RESIDENT COMMISSIONER BALTASAR CORRADA IN HEARINGS BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE ON S. 710, S. 711 AND S. 712, JUNE 16, 1989

Mr. Chairman, distinguished members of the Committee, my name is Baltasar Corrada, Resident Commissioner of Puerto Rico in the U.S. Congress from 1977 to 1984 and Mayor of the Capital City of San Juan. From January 14, 1985 to January 9, 1989. From September 1985 to January 30, 1989, I was Presidnet of the New Progressive Party and its gubernatorial candidate in the November 8, 1988 elections. It is an honor and a duty for me to appear before you today to address the most fundamental issue for the people of Puerto Rico: the ultimate solution of its political status.

The introduction in the Senate by Chairman Johnston for himself and Senators McClure and Simon of S. 711 and S. 712 to provide for a referendum on the political status of Puerto Rico was prompted by a letter signed on January 17, 1989 by the leaders of the three main political parties in Puerto Rico and subsequent developments.

I signed that letter of January 17 with great hopes that we were at last beginning the process that would result in the final solution to the dilemma of Puerto Rico's political status. Frankly, I though that Governor Hernández Colón, Senator Berrios and I were sincere and courageous when in that letter we expressed that "the people of Puerto Rico wish to be consulted as to their preference with regards to their ultimate political status and that the will of the people once expressed shall be implemented through an act of Congress which would establish the appropriate mechanisms and procedures to that effect". That is precisely what we all asked for and that is precisely the task this Committee and Congress, with full participation of all major political sectors in Puerto Rico, is facing. I am pleased with the prompt response by Congress and particularly Chariman Johnston and Senator McClure, to this matter.

I. IS "COMMONWEALTH" CONSTITUTIONAL AS DEFINED?

In reviewing S. 711 and S. 712 I find that both statehood and independence are clearly defined in such a way as to meet the goals specified in the January 17 letter. The support by the majority of the people of statehood or independence and the willingness of Congress to grant statehood or independence under the terms of S. 712, as may be reasonably amended, would indeed bring about the ultimate solution to Puerto Rico's political status. However, I am shocked and disappointed with the defintion of "Commonwealth", not because as you all know, I favor statehood, but because under any valid United States constitutional standard, reasonable principles of international law and plain common sense, "Commonwealth" as defined in S. 711 and S. 712 is not and cannot be construed to be an "ultimate" political status or to constitute a permanent union between Puerto Rico and the United States.

Under the Constitution of the United States, in fairness to the fundamental principles of equality and consistent with the basic tenets of American federalism, only states of the Union are in permanent union among themselves and with the United States. This matter has been settled since the case of *Texas* v. *White*, 74 U.S. 700 (1968). The principle of Permanent Union, as defined in that case by the Supreme Court, means that the U.S. federation is composed of equal members sharing a common democratic experience while perfectly united by an indissoluble bond in perpetuity.

Once a new State is admitted by Congress, Congress cannot revoke its own act of admission. Congress has the power to admit

new states but not the power to expel them from the federation.

It is clear that Congress does not have the power to admit a body politic in permanent union with the United States other than a state of the Union. To do so would be to accept that in the federation there could be different categories or classes of states which would undermine the principle of equality and thus the principle of permanency of the relationship. The definition of "Commonwealth" is a blatant exercise of political demagoguery and a constitutionally invidious representation in its attempt to describe the relationship of Puerto Rico, as a body politic, and the United States as "Political autonomy with permanent union with the United States based on the irreversible bond of American citizenship, a common defense, a common market, and a common currency". See. S. 711, Subpart 2, p. 9, lines 2 to 22; S. 712, Subpart 2, p. 43, lines 6 to 18. What is this proposal other than a flagrant effort to include a separate and unequal type of state, clearly a very imperfect union, within the federation? Congress has no constitutional power to accept it and to do so would be a breach of trust and of your duties to protect the right of each of the 50 states in the Union. To ask for privileges and rights that may not be accorded to any of the 50 states in the allocation of powers between the United States and each of the states on a permanent basis is unrealistic, unfair and constitutionally unattainable.

I will not dwell on the details of the specific proposals included in the definition of "Commonwealth" which in the first round of hearings in Washington were already questioned, but I will simply say that any of the proposals which entail, on a permanent basis, giving powers or privileges to Puerto Rico that cannot be granted to the 50 states should be rejected. Furthermore, the powers requested by the proponents of "Commonwealth" in Subpart 4 of both S. 711 and S. 712 entitled "Implementation of Federal Policy" are equivalent to giving the Governor of Puerto Rico a veto power over the applicability of some federal laws and regulations in Puerto Rico and in other instances would provide powers to the President of the United States to determine that a law enacted by Congress is not applicable to Puerto Rico, in violation of the principles of separation of powers between the federal executive and legislative branch. These proposals are tantamount to granting to Puerto Rico powers of nullification similar to what some of the states could do under the ill-fated Articles of Confederation.

The fatal flaws in the definition of "Commonwealth" not only relate to serious U.S. constitutional and federal policy questions. The "Commonwealth" definition does not satisfy well established principles of international law concerning how territories or possessions of a nation may end their colonial relationship. We know that statehood and independence are fully recognized by international law and precedent as ultimate solutions to the problem of political status. The United Nations has recognized a third alternative, "free association", as a valid solution to the status problem. See Resolution 1514 (XV) approved by the General Assembly of the U.N. in its general session of 1960.

However, a review of the standards set forth by the United Nations for "free association" shows that the definition of "Commonwealth" included in S. 711 and S. 712 does not meet the requirements of "free association" as defined by the United Nations. The main elements of "free association" as defined by the United Nations, require (i) the total prior transfer of sovereignty from Congress to Puerto Rico, (ii) the decision by Puerto Rico to delegate to the United States some powers or authority under the terms of a compact mutually agreed to and (iii) the power of both parties under the compact to unilaterally terminate the compact and conclude the relationship. Quite clearly, none of these requirements are met in the proposed definition of "Commonwealth" in the bills before you.

II. THE QUESTION OF SEC. 936

The "possessions tax credit" provisions of the U.S. Internal Revenue Code, including what is currently known as Sec. 936, have existed since 1921 and apply not only to Puerto Rico but also to other possessions of the United States. Important changes were made by Congress in 1976 to cure what was perceived as abuses in the program and more changes were made in 1982 and 1986.

I defended Sec. 936 in 1982 here in Congress and we were successful at that time in reforming it and keeping it for some time. In 1986, Sec. 936 again came under attack by the U.S. Treasury Department and again some changes were made to keep it.

Consistently, the U.S. Treasury Department has sent to Congress negative reports about this controversial tax scheme. There are different views about how good or bad Sec. 936 is and who gets the most benefits out of it. Puerto Rico has a labor force of approximately 1,058,000 workers, of which about 900,000 are working and 158,000 are unemployed. These are average figures for the twelve month period of 1988. Total manufacturing jobs in Puerto Rico, have fluctuated between 140,000 to 160,000 for the last ten years and averaged 154,700 in 1988. About 96,000 of these are direct jobs created by companies operating under Sec. 936. There are estimates about the number of both direct and indirect jobs resulting from Sec. 936 in Puerto Rico that fluctuate between 200,000 to 300,000 jobs. These companies deposit their profits in financial institutions in Puerto Rico deriving further tax exemption from what is called "passive income" from these investments, in addition to the tax exemption of profits resulting from their manufacturing operations.

For some Sec. 936 is a "sacred cow", for others it is a "fat cow" and for others, like people in the U.S. Treasury Department it should be a "dead cow". Well, one thing is sure, Sec. 936 is not "our cow", it is your cow but we milk it. The point I want to make is that companies operating under Sec. 936 are mostly U.S. mainland-based tax exempt firms doing business in Puerto Rico. Thus it is not proper to say that the profits of these corporations are tax-exempt by any kind of "fiscal autonomy" under the "Commonwealth" relationship given the fact that Congress has full powers to tax the income of U.S. mainland based corporations at any time and particularly when profits are repatriated to the parent companies and its stockholders. I believe it would not be wise or desirable for Congress to eliminate the provisions of Sec. 936. I support the provisions of Sec. 16(b) of S. 712, p. 17, lines 1-13 that would allow Sec. 936 to remain in full effect for a number of years under statehood and for a gradual phase out thereafter.

However, my proposal to you is that in fairness to the people of Puerto Rico and in order to allow them to decide their political future on the basis of fundamental questions of democracy, security and freedom, Congress should provide in S. 711 and S. 712 for a uniform tax policy concerning how to deal in the future with Sec. 936 in an equal manner for statehood, commonwealth or independence. Under such tax policy Sec. 936 would remain in full effect for the next ten years and would be gradually phased-out during a period of fifteen years thereafter regardless of the outcome of the plebiscite. If you think the period is too long let us look at it, but be fair and uniform with everybody. Why should Sec. 936 be phased-out faster under statehood than under "commonwealth" when in both instances we are mostly dealing with the same U.S. mainland based corporations and their stockholders? Furthermore, the certainty of preserving Sec. 936 for a number of years followed by an orderly phase-out will eliminate the concern that Congress may eliminate at any time the provision of Sec. 936 by a stroke of a pen, as it certainly can. In addition, the knowledge that after the phase-out period this program will not be available will steer Puerto Rico toward the development of a more balanced economic model not so much dependent of Sec. 936.

III. CITIZENSHIP

One of the fundamental concerns of human beings in any society is to understand the nature of citizenship, its rights and responsibilities. Much has been written and said about citizenship over the centuries. Questions related to basic human, constitutional and civil rights and liberties are deeply ingrained in this essential political concept.

Unfortunately, as far as Puerto Rico is concerned, the concept of United States citizenship has been clouded by constitutional, legal and political uncertainties resulting precisely from the ambiguity and lack of definition of our political status.

On May 5, 1916, one year before enactment by Congress of the Jones Act, 39 State. 951 (1917), 8 U.S.C. sec. 1402, granting United States citizenship to the residents of Puerto Rico, our Resident Commissioner in Washington, the Hon. Luis Muñoz Rivera (father of our first elected Gov. Luis Muñoz Marín) expressed his disappointment about the nature or class of the American citizenship to be granted to us when he said as follows in a speech on the House floor (53 Congressional Record 7472):

"It is true that my countrymen have asked many times, unanimously, for American citizenship. . . . they believed it not only possible but probable, not only probable but certain, that American citizenship was the door by which to enter, not after a period of 100 years nor of 10, but immediately into the fellowship of the American people as a State of the Union. Today, they no longer believe it. From this floor the most eminent statesmen have made it clear to them that they must not believe it. And my countrymen, who, precisely the same as yours, have their dignity and self-respect to maintain, refuse to accept a citizenship of an inferior order, a citizenship of the second class, which does not permit them to dispose of their own resources nor to live their own lives nor to send to this Capitol their proportional representation".

Resident Commissioner Muñoz Rivera went on in that speech on the floor of Congress and said:

"Give us statehood and your glorious citizenship will be welcome to us and to our children. If you deny us statehood, we decline your citizenship, frankly, proudly, as befits a people who can be deprived of their

civil liberties but who, although deprived of their civil liberties, will preserve their conception of honor which none can take from them, because they bear it in their souls, a moral heritage from their forefathers."

Mr. Muñoz Rivera died, in disappointment, later that year and, if alive in 1917, could very well have rejected a U.S. citizenship not enshrined in the promise of future statehood. Today we see the heirs of Muñoz Rivera's political thought willing to perpetuate American citizenship—an irreversible bond they call it—without seeking full equality and dignity as only statehood may provide.

The first Puerto Rican appointed to the federal bench in the U.S. mainland, U.S. District Court Judge José A. Cabranes, General Counsel of Yale University, in his book entitled *Citizenship and the American Empire,* New Haven and London Yale University Press, 1979, originally published as an article in the University of Pennsylvania Law Review, 127 U. Pa. L. Rev. 391 (1978), has carefully researched the legislative history of the United States citizenship of Puerto Ricans.

Judge Cabranes concludes his book, at p. 101, by stating:

"A Congress writing laws for a compliant colonial people in 1917 extended to the Puerto Ricans a citizenship "of the second class" perpetuating their colonial status, and a citizenship that is the root of contemporary hopes and concerns about Puerto Rico's political status. It remains for a new generation of Puerto Ricans, and another Congress, to determine when, and under what circumstances, this anomalous situation will end".

Well, my friends, this is the time to end this anomalous situation. We cannot continue to accept that there can be a separate class of U.S. citizenship in our Nation, a citizenship that does not allow us to vote for the President. A citizenship that does not allow us to have voting representation in Congress. We cannot allow this second class U.S. citizenship to perpetuate discrimination against Puerto Ricans in Medicaid, AFDC and the supplementary security income and other federal programs. We need to remove the cloud of uncertainty over the question of whether or not U.S. citizenship in Puerto Rico may be revoked by Congress as indicated in a memorandum of the Congressional Research Service of the Library of Congress signed by Johnny H. Killian, a constitutional lawyer. We need to reject the intolerable situation of accepting the doctrine of "separate and unequal" established by the Supreme Court of the United States in the so-called "Insular cases" beginning with *Downes* v. *Bidwell,* 182 U.S. 244 (1901) and entrenched since *Balzac* v. *People of Puerto Rico,* 258 U.S. 298 (1922) which say we are nothing but an "unincorporated territory" of the United States. Thus we are separate from and not part of the United States and we do not deserve, under the U.S. Constitution, equal treatment under federal programs enacted by Congress.

Only statehood will guarantee not only that our U.S. citizenship will never be revoked by Congress either retroactively or prospectively, but also that our U.S. citizenship will be a first class citizenship with all its rights and responsibilities.

If we want Puerto Rico to be part of the United States, statehood is the only option, in a federal system that will allow us to continue to exert a considerable degree of self-government at the local level and full participation in the decisions of the federal government. If we want to go our own separate way then independence is the choice. If we want to continue to perpetuate a status of political and economic inferiority, "Commonwealth" would be the choice. As far as Congress is concerned, your duty is (i) to allow for a fair process in these bills to permit the people of Puerto Rico to express their will in a democratic, pacific and valid form, (ii) to define the terms and conditions under which Congress is willing to accept the alternatives available and (iii) to make a commitment to abide by the results of the plebiscite.

Finally, I would like to conclude my statement by addressing the question of what will Puerto Rico contribute to the Nation as a state of Union. We do not want anyone to have the impression that we Puerto Ricans come to you with a "give me" mentality. Each of the political parties representing the three alternatives have proposed a number of concessions, changes or adjustments. However, I would like to emphasize what is it that Puerto Rico as a state would contribute to the Nation:

1. Only under statehood we would pay our fair share in defraying federal expenses.

2. Puerto Rico buys $10 billion per year in goods and products from the U.S. mainland significantly contributing to the Nation's economy and creation of jobs in the 50 states.

3. Puerto Rico's strategic position in the Caribbean, approximately 900 miles southeast of Miami, repesents an important element for the national security of the United States.

4. Puerto Rico and its adjacent waters near Roosevelt Roads Naval Station, the largest U.S. naval station outside the continental United States, represents the best training area in the world for the U.S. Atlantic Fleet.

5. U.S. military forces in Puerto Rico help protect international maritime transportation routes through which more than 40 percent of the Nation's imported oil is moved and other critical strategic materials flow to the United States. Problems in Cuba and Panama as we move to the turn of the century will make Puerto Rico's geopolitical importance even greater.

6. Puerto Rico, with its hispanic heritage and command of the Spanish language, is a natural crossroads and a bridge of understanding with Central America, South America and the Caribbean.

7. Puerto Ricans are proud of their significant contribution to the defense of the Nation and democracy in two world wars, Korea and Vietnam and will continue to do so whenever necessary in the future.

Most recently, in the U.S. strike against Libya's terrorist activities, a Puerto Rican, Capt. Fernando L. Ribas-Dominicci, was killed as he piloted a U.S. plane. Four Puerto Ricans have been awarded the Congressional Medal of Honor, posthumously, for offering their lives as heroes in the defense of the United States.

The true test of being an American is not the language you speak, or the color of your skin. When over one hundred Americans were held hostage in Iran in 1980, one of them, a hispanic named Jimmy Lopez, wrote in a wall of the small room where he was held in captivity, in Spanish, "Viva la roja, blanca y azul". His body was imprisoned but his spirit was free. So, he wrote in Spanish "long live the red, white and blue". The real test of Americanism is our commitment to the fundamental principles of freedom, justice and democracy upon which our Nation is founded. We Puerto Ricans have shown that commitment to those principles and to the United States many times. Perhaps in broken English, but with great pride, as we become the 51st state we also will say: "long live the red, white and blue" and as we turn to our children we will say: "que Dios bendiga a Puerto Rico y a los Estados Unidos".●

SOVIET/ANNEXATION OF LITHUANIA

● Mr. SIMON. Mr. President, I rise today to remind my colleagues that 49 years ago today, the Soviet Union illegally incorporated Lithuania into the Soviet Union. This annexation occurred less than 2 months after the brutal Soviet invasion of the three Baltic republics.

That invasion, which resulted in wartime deportations of more than 32,000 Lithuanians, 33,000 Estonians and 10,000 Latvians to the Siberian gulag, wiped out the Baltic region's dreams and hopes. The Lithuanian people never gave up the struggle for freedom, and that persistence of spirit is beginning to pay off in the powerful reform movement in Vilnius and elsewhere in Lithuania. We ought to do everything we can to promote that movement, and bring about a free and independent Lithuania.

Mr. President, the illegal incorporation of Lithuania into the Soviet Union ought not go unmarked. The best way to commemorate those brave Lithuanian patriots who were killed and deported almost half a century ago is to work for a reborn democracy in Lithuania.●

MR. ROBERT McFARLANE'S VIEWS ON CHINA

● Mr. PELL. Mr. President, some weeks ago Mr. Robert McFarlane, former National Security Adviser and now chairman of McFarlane Associates, published an insightful article in the Los Angeles Times on China, entitled "How Does a Nation Get From Communism to Something Better?"

Mr. McFarlane points out that the transformation of a Marxist totalitarian state has never been done voluntarily. He predicts that ultimately the Chinese students will bring down the Government.

As Mr. McFarlane rightly indicates, the "death-rattle of totalitarianism in China is but a larger scale and tragic expression of what can and likely will happen elsewhere in the Communist world."

I commend Mr. McFarlane for his incisive views. We must continue to condemn the Chinese Government's use of brutal force and we must continue to do what we can to encourage democratic change in China.

One of the principal actions we can take is to support the Chinese stu-

dents now in our colleges and universities. These students will be the ultimate vehicles for change in China.

Mr. President, I wish to take this opportunity to commend Mr. McFarlane for his fine article. Mr. President, I ask that his "Los Angeles Times" article of June 12, 1989, be printed in full at this point in the RECORD.

The article follows:

FROM COMMUNISM TO SOMETHING BETTER?

How does one transform a Marxist, totalitarian state into something else? It has never been done before voluntarily; no one quite knows. The tragedy in Beijing may be a harbinger of events to take place elsewhere as communist leaders from Moscow to Beijing to Budapest to Prague wrestle with the imperative of change. As this inherently unstable process unfolds, incumbent political leaders will attempt to maintain order, relying variously on the threat of force and the negotiated cooperation of opposition leaders.

So far so good in Poland. Realistic Communist Party leaders appear to understand that the specter of Soviet intervention that underwrote their clampdown nine years ago is no longer a viable threat. They seem inclined to accept last Sunday's election as requiring a more generous accommodation with Solidarity than was foreshadowed in their earlier agreement. If so, it will be yet another tribute to the skill of Solidarity leader Lech Walesa and the courage of the Polish people. In Poland and throughout the Communist world, popular pressure will increase and change will accelerate.

In China, the government's use of the army will fail. One of the several ironies being missed in assessing China's current woes is the effect of Deng Xiaoping's gutting of the army in the 1980s—reducing it by 1 million men and turning many of the others into a public-works force. When he needed the army most, it couldn't respond without making matters worse, such is the state of the Chinese military's training, demoralization and divided loyalties. His former defense minister's public stance against the use of force ought to have been a clear signal of trouble ahead for Deng.

China will spend the next weeks and months in traumatic introspection. The government will fall back on appeals to Chinese respect for order, but before long it will begin to respond to the students' criticisms, perhaps by chipping away at a little of the widespread corruption, and by restoring one or two banished journalists to their posts.

But the country's leadership will remain behind the curve. The students, buoyed by an emerging national tide of bitterness, latent in all communist states but catalyzed to action by last weekend's slaughter, will ultimately bring down the government. It will be succeeded by an admixture of scholars, students, military officers, technocrats and other well-meaning people—people with little more than zeal to guide them on what will be a long march toward freedom. It will take a series of governments groping toward an uncertain future before life once more begins to get better in China.

In the end, the death rattle of totalitarianism in China is but a larger-scale and tragic expression of what can and likely will happen elsewhere in the communist world.

This historic tide reaching toward freedom reflects a massive awakening at all levels of most developing countries to the truism that pluralistic political systems and market-driven economies work better in providing for the needs of society—any society. Sensible, self-interested communist leaders are committing their governments to a change of course, being careful in the process to keep an eye on the old guard who have a vested interest in the status quo.

But there is no single formula for how to chart the course. Paul Kennedy defines the task as involving "a sophisticated balancing act, requiring careful judgments as to the speed at which these transformations can safely occur, the amount of resources to be allocated to long-term as opposed to short-term needs, the coordination of the state's internal and external requirements, and . . . last but not least . . . the ways by which ideology and practice can be reconciled."

In Poland, after a stunning national call for sweeping change through the ballot, it was Lech Walesa, the brillant leader of that national victory, who cautioned Poles against succeeding too well too soon. Is there such an heroic figure in China? Should there be? Is China temperamentally more suited to revolution or evolution?

In China, beyond the daunting question of how to get from communism to something better, there is an even more fundamental question at hand. Is modern China governable at all? Scholars point to the impressive growth rates in gross domestic product over the last 10 years and to the probability that China will be the third-largest economy in the world by the turn of the century. But this assessment misses the point on four counts.

China's remarkable growth rate—at least in agriculture, which accounts for most of it—is probably not sustainable. Bear in mind that China will be trying to feed 1.3 billion people—five times the population of the United States—on arable land roughly equal to that east of the Mississippi River. And there are limits to the gains in agricultural productivity.

In business, there is a principle that asserts there is an optimal limit to the size of a firm. Is there not a sociopolitical equivalent to that axiom? Can one central government possibly make sensible, timely decisions for the governance of a society as large and as ethnically and socially diverse as China's? Can effective decentralization be introduced and a semblance of national identity preserved?

What effect will there be on China's development when foreign investors and importers ponder the implications of sustained turmoil? A major retrenchment seems likely, with very damaging effects on China's pace of development.

Finally, concerning corruption: To what extent is better accountability among China's officials—a key demand of the students—compatible with favoring family members, a time-honored tradition in China. Stated another way: To what extent can student demands for policing corruption be met—if at all?

These are questions that few Chinese and probably no Americans can sort out. If that's true, what can we do to be constructive as China's internal anguish worsens? Surely we must be true to our values. President Bush has properly condemned the government's misguided use of brutal force. Those calls should be continued as the violence continues. Suspending military shipments, especially of the kinds of hardware that could be used against the people, also makes sense. Beyond these measures, one can imagine others that focus on isolating China, especially from institutions whose help it needs, such as the World Bank, the Asian Development Bank and others. But it is also useful for us to recall that the students are the key influence for change. And, through our colleges and universities, we have contributed more than 100,000 of them to the struggle. Those students of freedom may be the best contribution we can make.●

LITERACY IS HOT

● Mr. SIMON. Mr. President, today I am printing in the RECORD a thought-provoking article by Nancy Drew McIlvoy that recently appeared in Compass, a magazine published by the Association of Independent Colleges and Schools. The article clearly demonstrates that illiteracy limits both individuals and the growth of our Nation as a whole. The more illiterate individuals are able to overcome their limitation, the greater the contribution they can make—in the workplace, to their families, and the Nation as a whole.

The answer to wiping out illiteracy lies in policy initiatives and a commitment to working together—volunteers, tutors and those in need. The bill I recently introduced, S. 1310, the Comprehensive Illiteracy Elimination Act of 1989, combines our Government's role in eliminating illiteracy with that of tutors and volunteers by providing the funding and focus to aid existing programs and to create new ones where necessary.

Ms. McIlvoy's article takes a close look at the problem of illiteracy and discusses positive important steps we need to take to alleviate it—in schools, volunteer programs, and the Federal Government.

Mr. President, I ask that the article be printed in the RECORD.

The article follows:

LITERACY IS HOT

(By Nancy Drew McIlvoy)

Ignorance, so it's been said, is the only thing more expensive than education. True? Apparently so. By conservative estimates, business and industry are spending $40 billion a year on training for their employees.

Job-related education dominates the field of adult education today, accounting for 80 percent of the courses (Rachal 1988). Adult learners are flocking to programs ranging from intensive technological training to workplace literacy. An interesting shift has occurred on the supply side as the demand for occupational training has increased. With the exception of two-year colleges, public education has not kept its share of the market. Business and industry, on the other hand, have dramatically increased their share. They have had to, to fill a shortfall in skills essential to productivity.

Economic and demographic trends explain the growing emphasis on training: rapid technological change, relentless global competition, fewer young and more older workers, and a rising percentage of workers who are less-well prepared than they need to be—women, minorities, and immigrants. All told, these factors add up to a growing gap between workforce skills and workplace needs.

Although the past two decades have brought considerable diversification and

growth to adult education, its clientele has not changed much (Hill 1987). The typical participant is still an economically and educationally advantaged person seeking self-improvement and advancement. Minorities, individuals with less than a high school diploma, and low-in-income persons tend to be underrepresented. The compensatory courses often needed by these adults—literacy training, basic skills preparation, GED preparation, and English as a Second Language (ESL)—comprise only 5 to 7 percent of adult education programs.

Yet a lot of the $40 billion employers are spending on training goes for remedial education. In DeKalb, Illinois, for example, the Sealy Company had to initiate an English as a Second Language literacy program because 20 percent of the company's production crew did not understand assembly-line procedures or the company's incentive program.

A NATIONAL CRISIS

The problem of illiteracy is more common and less often recognized than either cocaine abuse or alcoholism. Barbara Bush calls the problem "shameful." Publishers Weekly declares illiteracy "a national crisis of barely perceived proportions."

Despite the fact that we boast one of the highest levels of educational attainment in the world (an average of 12.6 years of schooling) and an abundance of educational opportunities and institutions, the United States ranks 49th in literacy level. According to the Business Council for Effective Literacy, educational deficits effectively bar as many as 72 million Americans from full participation in our society. Of this number, 27 million are functionally illiterate (reading below the sixth grade level); the other 45 million are only marginally proficient in basic skills.

Schools are not teaching the basics to all their students. The U.S. Department of Education estimates that a million functional illiterates are being graduated annually. To their number, add a substantial proportion of the 700,000 youth who drop out of school every year. Then blend in an annual influx of 1.3 million immigrants and refugees lacking basic skills in English (and often in their native language as well). The sum is the measure of how fast the pool of functionally illiterate Americans is growing.

Jonathan Kozol points out in his book Illiterate America that the largest number of illiterate adults are white native-born Americans. The highest illiteracy rates, however, are among minorities. Sixteen percent of white adults, 44 percent of blacks, and 56 percent of Hispanics are functionally illiterate. The figures are rising for the younger generation of black adults; 47 percent of black 17-year-olds are functionally illiterate today, and that figure is expected to climb to 50 percent by 1990. Clearly, this situation is untenable.

WHO OWNS THE PROBLEM?

Hill notes that although employers and the public now pay slightly more than half the tab for adult education, there are so many avenues of funding. The federal and state interest, as expressed in legislation, clearly lies with the kind of compensatory programs needed by disadvantaged populations.

Like vocational education, compensatory adult education is guided by federal legislation—specifically, by the Adult Education Act. Most states have companion state legislation. In Illinois, for example, funding to operate local adult education programs is derived from four sources: federal, state, and local education monies, and federal set-asides for public-aid recipients. These funds are administered by the Illinois State Board of Education's Department of Adult, Vocational and Technical Education and do not include federal JTPA literacy funds channeled into volunteer literacy programs.

The Federal Immigration Reform Control Act (IRCA) education funds have also become available, with a portion of IRCA dollars earmarked for ESL and citizenship classes. In Illinois, this means serving an estimated 200,000 legal aliens over the next five years.

To complicate matters further, the Family Support Act of 1988 (federal welfare reform) features a new program called JOBS (Job Opportunities and Basic Skills). JOBS will require many welfare recipients to attend state-sponsored, locally developed basic education and job training programs, for which Congress has authorized up to $7.8 billion by 1996.

By whatever name you call it—literacy, basic skills, or job training—adult education for the 72 million adults shut out of the workforce is one hot property! Everybody wants it, needs it—and there's not enough of it to go around.

In response to employer demand, proprietary vocation-technical schools are hiring adult education specialists to set up basic skills learning centers and work in tandem with vocational instructors. Ranken Technical Institute of St. Louis asserts in the December 1988 Journal of the National Association of Trade and Technical Schools the "vo-tech schools must take action to combat declining basic skills. By failing to do so, private career schools are sentencing themselves to financial ruin as attrition rates increase and sources of student revenues evaporate."

Workplace literacy has become—must become—a vocational education issue.

POLICY DIRECTIONS

Vocational educators cannot operate in a vacuum. Illiteracy is a problem everywhere, but especially in the workplace. Employers have been telling us, over and over again, that they can't make productive employees of people whose basic skills are bad. That's why Title III Part C—Adult Training, Retraining, and Employment Development—was written into the Carl D. Perkins Vocational Education Act of 1984. But Part C was never funded.

The current wave of congressional thinking is to shift workplace training responsibilities and funding mechanisms to other places—to adult education, labor, social services, immigration—perhaps even a new agency to deal with literacy. Vocational education gets only $1 for every $4 that goes to JTPA. Adult education funds are growing by 20-30 percent a year while the vocational education budget remains almost flat.

What Congress is trying to achieve by these methods is precisely what vocational education has always wanted to achieve—the preparation of a productive workforce. The consequence, however, has often been polarization by funding channel and a consequent fragmentation of effort.

We are in a new situation today and must change that. The dynamics of the adult education market are political and fluid. We—all of us—must turn away from polarization and by funding channel and a consequent fragmentation of effort. Adult illiteracy is so critical a factor in workplace performance that the problem belongs to all of us.

TAKING THE INITIATIVE

Collaboration across funding jurisdictions is often hampered by psychological as well as structural inflexibility. Secondary vocational educators feel besieged. "Literacy? We've got our own problems to worry about—reauthorization of the Perkins Act, JTPA revisions nipping at our heels, mandated coordination and collaboration with everybody in the universe, governance issues, declining enrollments, employer dissatisfaction, and dilapidated equipment. We've barely got time to worry about school reforms or increases in college entrance requirements that are scaring some kids away from voc ed."

That's behaving as if nothing has changed while you're surrounded by change. None of those problems is separate from the fundamental issue of preparing a literate workforce. Vocational education cannot separate itself from that issue and survive.

Vocational educators, including those in secondary education, must sail beyond their old universe. As many trailblazers have already demonstrated, there are new stars to steer by:

Diversification. Look to the adult market for students and new sources of funding. Seventy-five percent of the people who will make up the American workforce in the year 2000 are already out of school, and most are working. Many need help in applying basic skills to their jobs.

Collaboration. Extend your hand, wisdom, and talents to others working toward similar goals—in JTPA, literacy, business and industry, adult education, immigration reform, welfare reform. Put your mind to finding out how each can uniquely contribute to the joint solution of problems.

Partnerships. Reach beyond the partnerships you already have. Enter into institutional agreements to share facilities. Mainstream adults in JTPA or Family Support Act JOBS programs into daytime vocational classes. Apply for any and all local and state grant programs that focus on customized training for employers or promote experimental business-education projects. Adopt a small business and provide free skill upgrading for one struggling employee. Work with literacy teachers and volunteers.

Renewal. Nothing is static. Keep up with the changing times by participating in some type of professional growth activity on a regular basis. The combination of a lifelong-learning mindset and a rekindled entrepreneurial spirit appears to be our only trump in the game of international marketplace.

CHOICES

Last January, during the Illinois Employment and Training Association Conference, economist Paul Sultan told a group of JTPA staff members, adult educators, and vocational educators that "the community of Seoul, Korea, has effectively coupled 21st century technology and 19th century wages. We can't even begin to offset this vast differential in labor costs unless we unleash our brains and use them in concert with the silicon chip."

We have a tremendous problem in the workplace—and a tremendous opportunity. The long-predicted demographic demons have arrived. Technology spreads like quicksilver. We know that all American workers—present and future, laborer and manager—must have requisite technical skills and be able to read, write, communicate, compute, and think. We know that our future as educators depends upon the marketability of our product.

The signs are clearly telling us that times have changed for education. We must find the will to break the patterns of our past and the heart to embrace new educational colleagues, environments, and students. If we choose to be deluded by the notion that we can avoid hard choices, we may go the way of the Venetians. As C.P. Snow so aptly warned us in 1964:

I can't help thinking of the Venetian Republic in their last half-century. Like us, they had once been fabulously lucky. They had become rich, as we did, by accident. They had acquired immense political skill, just as we have. A good many of them were toughminded, realistic, patriotic men. They knew, just as clearly as we know, that the current of history had begun to flow against them. Many of them gave their minds to working out ways to keep going. It would have meant breaking the pattern into which they had crystallized. They were fond of the pattern, just as we are fond of ours. They never found the will to break it.●

PRODUCT LIABILITY S. 1400

● Mr. DANFORTH. Mr. President, the tort system must be reformed. The inequities in products liability and medical malpractice are the most visible and compelling arguments for tort reform. Under the current system, accident victims must wait years to be compensated for their injuries, and the most severely injured often are undercompensated for their losses. The tort system is unpredictable, and it does not treat victims fairly. It is a lottery. Only one group benefits consistently from the current system—trial lawyers.

I have joined Senators KASTEN, INOUYE, ROCKEFELLER, and others in sponsoring S. 1400, legislation to reform the patchwork of State products liability laws. This bill will make the product liability system fairer. It will reduce transaction costs and speed the awarding of compensation to victims. The bill also will clarify the scope of liability that product manufacturers face in marketing a product. The current uncertainty causes companies to decline to market valuable new products such as vaccines or asbestos substitutes. These manufacturers believe their products are safe. They decide not to market them due to the fear of open-ended liability. They reason that, even with a safe product, the tort system imposes such excessive costs that such products are not worth the risk incurred when put on the market.

Medical malpractice cases have changed the practice of medicine dramatically. The costs of frivolous lawsuits have affected the quality of health care. Physicians now use less than optimal doses of chemotherapy drugs. They fear the severe side effects of the drugs will cause their patients to sue them. Many obstetricians and gynecologists no longer deliver babies, and surgeons often elect not to perform certain high risk operations, according to studies. Society pays for the inequity of the system. Health care is less available and less affordable as a result. This is not acceptable.

Recently I read an article in the Kansas City Star that stated that the liability crisis has extended to architectural and engineering firms. As a result, many of these firms have elected not to insure themselves. These firms will not insure themselves as long as the scope of their liability is uncertain. They will opt to gamble that they will not be sued. Injured victims will find it very difficult to recover for their losses if one of these firms has no insurance. This is another example of the unfairness of the tort system. Unfortunately, it may be an injured victim that will bear the brunt of this inequity.

Mr. President, Congress has the opportunity to address the inequities of the civil justice system. I support general tort reform. Reforming the products liability system by the enactment of S. 1400 will be a good start. I urge my colleagues to support this bill. I ask that the Star article appear in the RECORD.

The article follows:

WHEN THE GOING GETS TOUGH, THE SMALLER FIRMS "GO BARE"

(By Roxi Taylor)

A growing number of small architectural and engineering firms are solving the problem of costly professional liability insurance by dropping coverage.

But it comes at a time when more clients are demanding such coverage.

A 1989 nationwide survey of architectural firms conducted by the National American Institute of Architects revealed that 52 percent of those firms questioned reported discontinuing liability coverage—known as "going bare."

And a 1988 survey of consulting engineers by the American Consulting Engineers Council disclosed that at least 21 percent of their firms had dropped coverage.

Small firms have become the greatest victims: 58 percent of the architectural companies going bare were one- to four-person firms; 30 percent of the engineering companies were one- to five-person firms.

Liability insurance premiums more than doubled during the early- to mid-1982s. According to Brad Simpson, vice president of the Lockton Insurance Agency, the decline of interest rates in the mid-1980s fueled an increase in insurance rates. That resulted in a lack of competition among insurance carriers.

"In the early '80s there were more than a dozen carriers willing to write insurance," said Simpson, "Based on their costs of writing that insurance, of which a major cost is claims and claims expenses, carriers drastically raised premiums, and you saw many carriers drop out down to two."

Although there has been little relief from high premiums in the last year, premiums have at least stabilized. Liability insurance nabs a substantial slice of the profit pie, with as much as 10 percent of a firm's gross billings paid in insurance premiums.

John Van Deurzen, president of the one-engineer firm of Van Deurzen and Associates, P.A., said his premiums reached $27,000 on $270,000 of billings in 1988.

"It took me a long time last year to decide whether to renew my insurance and whether I could stay in business if I renewed it," he said, "But my personal opinion is I needed protection for the public in addition to myself."

An irony of the premium war is that those firms shouldering a higher percentage of costs-to-billings rarely have had claims filed against them.

"I've heard so much in the last 10 to 15 years (from small firms) that they've never had a claim, but that their premiums continue to escalate," said Bruce Wylie, executive director of the Consulting Engineers Council of Missouri.

When push comes to shove, Wylie said, those firms terminating their liability insurance are still successful.

"There's no correlation between firms going bare and going out of business," said Wylie. "Those going bare are going to watch their 'p's and q's' more. There's very little attrition."

Vernon Reed, owner of Reed Architects and 1988 president of the Kansas City Chapter of the American Institute of Architects, said firms choosing to go bare can actually deter lawsuits.

"Many architects have determined for themselves that it's a very good business judgment to go bare because they become a smaller target, which discourages lawsuits and encourages friendly resolution of disputes," said Reed.

He added that many of the firms that have gone bare end up subcontracting for larger firms that do possess liability insurance.

Architects and engineers may find comfort in the very courtrooms they are being dragged into.

Attorney Brad Smoot, coordinator for the Kansas Coalition for Tort Reform, said the Kansas Supreme Court's decision to uphold a cap on the amount of money award in noneconomic damages to $250,000 is a positive step.

"It makes caps clearly constitutional," he said "It was wonderful. Kansas has done virtually everything it can."

In Missouri, a bill was vetoed by Missouri Gov. John Ashcroft this year that would have prohibited workers injured on a construction site from suing engineering or architectural consulting firms unless the firms has been grossly negligent in their design of a project.

'GOING BARE'

Last year, most of the nation's smallest consulting engineering companies went without liability insurance, according to a study by the American Consulting Engineers Council.

Firm size (employees)	*Percent*
1-5	44.2
6-10	20.1
11-25	15.9
26-100	6.3
101-500	5.8
Over 500	4.8

Source: American Consulting Engineers Council

LOGAN COUNTY SESQUICENTENNIAL

● Mr. SIMON. Mr. President, I rise today to join my friends in Logan County, IL, as they celebrate the sesquicentennial of their county. It has been 150 years this month since the establishment of Logan County locat-

ed in the heart of Illinois. Since then, the population has grown to its current level of nearly 34,000 people.

More than the towns and buildings, it is these people who embody the spirit of community and service that have made the county what it is today. And it is these people and their children who will continue for many years to come in the fine tradition of justice, freedom, and community upon which Logan County was founded 150 years ago.

Again, I would like to congratulate the leaders and citizens of Logan County as they celebrate their 150th anniversary and wish them continued prosperity for the next 150 years. I would also like to insert for the RECORD "A Celebration of Logan County" written by Mr. Paul Gleason, a Logan County historian, to commemorate this celebration:

A CELEBRATION OF LOGAN COUNTY 1839-1989

Since the beginning they have come from all walks of life representing all races and nationalities of people. Some were wealthy. Others were poor. Ages were represented by the old and the spirited young. However, they all had one thing in common as they settled in Logan County over the past 150 years—a dream. A dream—that the lives of their children would be better than that which they had themselves. That dream became the legacy left behind throughout the economic, political, and social development of Logan County.

Throughout the history of Logan County, Illinois, Abraham Lincoln became a symbol of the dream that one could rise from a dirt floor cabin and become someone. To the citizens of Logan County as well as to those throughout the world Lincoln became the symbol of the cause of humanitarianism, justice, freedom, and true democracy—all personified within one person. Perhaps the chief ingredients which became the cornerstone to the heritage of Logan County throughout its history were spoken by Abraham Lincoln in a time of great personal tragedy: Faith, Love, Hope. Those qualities, along with determination and hard work have enabled the citizens to develop Logan County into an entity in which each person can be proud.●

MAKE A FIRM AND MEASURED RESPONSE

● Mr. SIMON. Mr. President, I rise today to say a few words on the hanging of Colonel Higgins by the Shiite Hezbollah faction calling itself the Organization of the Oppressed on Earth in Lebanon. If this atrocity has in fact occurred, then we ought to do everything in our power to find the terrorists directly responsible and make a firm and measured response. There should be no question about U.S. resolve on this point.

And there ought to be no question about who is to blame for this heinous and cowardly murder, whenever it may have occurred. It is not Israel. The Israelis have tried to work out an arrangement to get their three captured soldiers out since 1986, but they have had no success. Several years ago we intercepted an Egyptian aircraft carrying one of the terrorists responsible for the hijacking of a TWA flight and the murder of Robert Stethem. We were justified in doing this in order to bring him to justice. The action taken by the Israeli Government was similarly justified.

The terrorists' hostage taking and threats to kill innocents must end. There can be no excuse for this kind of behavior. Every avenue should be used to press the sponsors of Lebanon's main terrorist groups, Iran and Syria, to eliminate terrorism and release the hostages. And, frankly, the United States and Israel could use the strong, unqualified support of the rest of the Western World, in condemning the murder of Colonel Higgins and calling on the terrorist groups and their sponsors to release all the hostages.

Let us not point a guilty finger at our friends in Israel, who are victims of 40 years of war and senseless terror. Hezbollah's goal is exactly this: To drive a lasting wedge between Washington and Jerusalem. We cannot let this happen. The United States and Israel should work closely together in the weeks and months ahead.

I urge President Bush to work against this occurrence, and to strive toward an understanding with our friends and allies in Europe and Japan in favor of a common policy against this abhorrent terrorism. A united Western World must redouble its efforts to find a speedy solution to the hostage crisis—and it is a crisis both for the families and friends of those being held, as well as a crisis for American Middle East policy.

No stone can be left unturned in the search for an end to the holding of hostages in Lebanon. The indiscriminate terror in Lebanon must end. And if we do nothing else right now, we ought to at least do all we can to move the Governments of Iran and Syria toward basic responsibility and respect for individual human rights.●

THE SUPREME COURT'S DECISION ON BETTS

● Mr. GRASSLEY. Mr. President, I have supported for many years the elimination of age discrimination in employment, in keeping with the purposes of the Age Discrimination in Employment Act of 1967. I initiated legislation which closed a loophole in the protections offered by that act for Americans working abroad for American companies. I initiated legislation which insured that employers would have to accrue pension credits for those employees who continue to work after age 65.

Therefore, I noted with interest the recent decision of the Supreme Court in Public Employees Retirement System versus Betts, handed down on June 23, 1989. That decision asserts that the Congress, in developing the Age Discrimination in Employment Act of 1967, did not intend to prohibit discrimination according to age by employers in employee benefit plans, as long as those employers observe the terms of bona fide benefit plans.

As I understand it, the Court held that plaintiffs alleging age discrimination would have to show that an employer was trying to achieve some nonbenefit-related discriminatory purpose through a benefit plan in order to prevail in an age discrimination dispute with an employer about that employee benefit plan.

According to the Court, the framers of the Age Discrimination in Employment Act were concerned that older employees would be disadvantaged were the act to require equality in provision of benefits. The idea was that certain kinds of benefits cost more for older employees than they do for younger employees. Therefore, employers would be reluctant to hire older workers were those employers required to provide equal benefits.

Mr. President, I do not believe that the Congress should now endorse a policy which condones age discrimination in employee benefits even if, as the Court argued, that was the intention of the Congress when it sent the original legislation to the President.

Furthermore, Mr. President, I believe that it should be possible to put in place a nondiscrimination policy with respect to employee benefits without wholesale disruption in current employee benefit practices, and without creating disincentives to hiring older workers. In fact, it can be argued that the vast majority of benefit plans are currently developed equitably with respect to employee age.

Many of those who believe that this can be accomplished cite the Department of Labor's interpretive bulletin on this subject, now administered and supported by the Equal Employment Opportunity Commission, as the formula by which it can be done. That bulletin narrows the circumstances in which employers may take advantage of the act's exception, with respect to employee benefits, to the act's general prohibition against discrimination in employment on account of age. In effect, it is this bulletin which was overridden by the Court's decision, on the grounds that it is inconsistent with the manifest purpose of the act.

Even though I realize that institutional silence should not be construed as institutional acquiescence, it is interesting that the Congress has known of this interpretive bulletin for some years, since at least 1979—and some argue that the key features of the bulletin were in place as early as 1969—

and has never, to my knowledge, taken issue with it.

Of course, it will come as no surprise to anyone, Mr. President, to learn that the consensus with respect to the foregoing assertions and assumptions is less than complete. Part of the reason for the controversiality of these assertions is that the questions involved are complicated and difficult, as most of my colleagues will have learned through consideration of employee benefit issues over the years.

Therefore, Mr. President, I wish to consider this matter at greater length, and have not joined at this time in the legislative initiative on Betts that Senators PRYOR and JEFFORDS are introducing today. I have followed this initiative carefully, and I believe that it is a serious and responsible effort to come to grips with a perceived problem created by the Supreme Court's Betts decision. As far as I can tell at this time, it is as good a way as any to begin congressional consideration of the Betts decision.

I do believe strongly that we should provide an opportunity for the wide array of interested parties to comment on this legislation.

In like manner, I believe strongly that those whose interests could be affected by this legislation should come forward and share with us their considered views of the Betts decision and legislation responding to Betts. I do not believe that it will do to sit back and say simply that Betts is just fine. Betts has raised deep concerns in many quarters, both inside and outside the Congress, and these concerns need to be thrashed out with the participation of all those with a stake in Betts.●

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 100-297, appoints the Senator from Ohio [Mr. METZENBAUM] and Mr. Wendell N. Rollason, of Florida, to the National Committee on Migrant Education.

EXECUTIVE RESOLUTION DISCHARGING THE LUCAS NOMINATION

Mr. DOLE. Mr. President, as in executive session, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

An Executive resolution (S. Exec. Res. 166) to discharge the Lucas nomination.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. MITCHELL. I object to the immediate consideration of the resolution.

The PRESIDING OFFICER. Objection is heard.

The resolution will go over 1 day under the rule.

RETIREMENT AND SURVIVOR BENEFIT PROGRAM FOR JUDGES OF THE COURT OF VETERANS APPEALS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 171, S. 1243, U.S. Court of Veterans Appeals benefits bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1243) to amend title 38, United States Code, to establish a retirement and survivor benefit program for judges of the new United States Court of Veterans Appeals, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported by the Committee on Veterans' Affairs with an amendment in the nature of a substitute, as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Court of Veterans Appeals Judges Retirement Act".

TITLE I—JUDGES RETIREMENT AND SURVIVOR ANNUITY PROGRAM

SEC. 101. JUDGES RETIREMENT PROGRAM.

(a) RETIREMENT SYSTEM.—Chapter 72 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—RETIREMENT AND SURVIVORS ANNUITIES

"§ 4096. Retirement of judges

"(a) For purposes of this section:

"(1) The term 'Court' means the United States Court of Veterans Appeals.

"(2) The term 'judge' means the chief judge or an associate judge of the Court.

"(b)(1) A judge who meets the age and service requirements set forth in the following table may retire:

"The judge has attained age:	And the years of service as a judge are at least
65	15
66	14
67	13
68	12
69	11
70	10

"(2) A judge who is not reappointed following the expiration of the term for which appointed may retire upon the completion of that term if the judge has served as a judge of the Court for 15 years or more. In order to retire under this paragraph, a judge must, not earlier than 9 months preceding the date of the expiration of the judge's term of office and not later than 6 months preceding such date, advise the President in writing that the judge is willing to accept reappointment to the Court.

"(3) A judge who becomes permanently disabled and as a result of that disability is unable to perform the duties of the office shall retire.

"(c)(1) An individual who retires under subsection (b) of this section and elects under subsection (d) of this section to receive retired pay under this subsection shall (except as provided in paragraph (2) of this subsection) receive retired pay at the rate of pay in effect at the time of retirement.

"(2) An individual who serves as a judge for less than 10 years and who retires under subsection (b)(3) of this section and elects under subsection (d) of this section to receive retired pay under this subsection shall receive retired pay at a rate equal to one-half of the rate of pay in effect at the time of retirement.

"(3) Retired pay under this subsection shall begin to accrue on the day following the day on which the individual's salary as judge ceases to accrue and shall continue to accrue during the remainder of the individual's life. Retired pay under this subsection shall be paid in the same manner as the salary of a judge.

"(d)(1) A judge may elect to receive retired pay under subsection (c) of this section. Such an election—

"(A) may be made only while an individual is a judge (except that, in the case of an individual who fails to be reappointed as judge at the expiration of a term of office, the election may be made at any time before the date after the day on which the individual's successor takes office); and

"(B) may not be revoked after the retired pay begins to accrue.

"(2) In the case of a judge other than the chief judge, such an election shall be made by filing notice of the election in writing with the chief judge. In the case of the chief judge, such an election shall be made by filing notice of the election in writing with the Director of the Office of Personnel Management.

"(3) The chief judge shall transmit to the Director of the Office of Personnel Management a copy of each notice filed with the chief judge under this subsection.

"(e) If an individual for whom an election to receive retired pay under subsection (c) is in effect accepts compensation for employment with the United States, the individual shall, to the extent of the amount of that compensation, forfeit all rights to retired pay under subsection (c) of this section for the period for which the compensation is received.

"(f)(1) Except as otherwise provided in this subsection, the provisions of the civil service retirement laws (including the provisions relating to the deduction and withholding of amounts from basic pay, salary, and compensation) shall apply with respect to service as a judge as if this section had not been enacted.

"(2) In the case of any individual who has filed an election to receive retired pay under subsection (c) of this section—

"(A) no annuity or other payment shall be payable to any person under the civil service retirement laws with respect to any service performed by such individual (whether performed before or after such election is filed and whether performed as judge or otherwise);

"(B) no deduction for purposes of the Civil Service Retirement and Disability Fund shall be made from retired pay payable to

that individual under subsection (c) of this section or from any other salary, pay, or compensation payable to that individual, for any period beginning after the day on which such election is filed; and

"(C) such individual shall be paid the lump-sum credit computed under section 8331(8) or 8401(a)(19) of title 5, or whichever applies, upon making application therefor with the Office of Personnel Management.

"(g)(1) A judge who becomes permanently disabled and as a result of that disability is unable to perform the duties of the office shall certify to the President in writing that such permanent disability exists. If the chief judge retires for such a disability, the retirement of the chief judge shall not take effect until concurred in by the President. If any other judge retires for such a disability, the chief judge shall furnish to the President a certificate of disability signed by the chief judge.

"(2) Whenever the President finds that a judge has become permanently disabled and as a result of that disability is unable to perform the duties of the office, the President shall declare that judge to be retired. Before a judge may be retired under this paragraph, the judge shall be provided with a full specification of the reasons for the retirement and an opportunity to be heard.

"(h)(1) An individual who has filed an election to receive retired pay under subsection (c) of this section may revoke such election at any time before the first day on which retired pay would (but for such revocation) begin to accrue with respect to such individual.

"(2) Any revocation under this subsection shall be made by filing a notice of the election in writing with the Director of the Office of Personnel Management. The Office of Personnel Management shall transmit to the chief judge a copy of each notice filed under this subsection.

"(3) In the case of a revocation under this subsection—

"(A) for purposes of this section, the individual shall be treated as not having filed an election to receive retired pay under subsection (c) of this section;

"(B) for purposes of section 4097 of this title—

"(i) the individual shall be treated as not having filed an election under section 4097(b) of this title, and

"(ii) section 4097(e) of this title shall not apply and the amount credited to such individual's account (together with interest at 3 percent per year, compounded on December 31 of each year to the date on which the revocation is filed) shall be returned to the individual;

"(C) no credit shall be allowed for any service as a judge of the Court unless with respect to such service either there has been deducted and withheld the amount required by the civil service retirement laws or there has been deposited in the Civil Service Retirement and Disability Fund an amount equal to the amount so required, with interest;

"(D) the Court shall deposit in the Civil Service Retirement and Disability Fund an amount equal to the additional amount it would have contributed to such Fund but for the election under subsection (d); and

"(E) if subparagraphs (C) and (D) of this paragraph are complied with, service on the Court shall be treated as service with respect to which deductions and contributions had been made during the period of service.

"(i)(1) Beginning with the next pay period after the Director of the Office of Personnel Management receives a notice under subsection (d) of this section that a judge has elected to receive retired pay under this section, the Director shall deduct and withhold 1 percent of the salary of such judge. Amounts shall be so deducted and withheld in a manner determined by the Director. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Court of Veterans Appeals Judges Retirement Fund. Deductions under this subsection from the salary of a judge shall terminate upon the retirement of the judge or upon the completion of 15 years of service for which either deductions under this subsection or a deposit under subsection (j) of this section has been made, whichever occurs first.

"(2) Each judge who makes an election under subsection (d) of this section shall be considered to agree to the deductions from salary which are made under paragraph (1) of this subsection.

"(j) A judge who makes an election under subsection (d) of this section shall deposit, for service on the Court performed before the election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for the first years, not exceeding 15 years, of that service. Retired pay may not be allowed until a deposit required by this subsection has been made.

"(k) The amounts deducted and withheld under subsection (i) of this section, and the amounts deposited under subsection (j) of this section, shall be deposited in the Court of Veterans Appeals Retirement Fund for credit to individual accounts in the name of each judge from whom such amounts are received.

"§ 4097. Survivor annuities

"(a) For purposes of this section:

"(1) The term 'Court' means the United States Court of Veterans Appeals.

"(2) The term 'judge' means the chief judge or an associate judge of the Court.

"(3) The term 'pay' means salary received under section 4053(e) of this title and retired pay received under section 4096(c) of this title.

"(4) The term 'retirement fund' means the Court of Veterans Appeals Retirement Fund established under section 4098 of this title.

"(5) The term 'surviving spouse' means a surviving spouse of an individual who (A) was married to such individual for at least 2 years immediately preceding the individual's death, or (B) is a parent of issue by the marriage.

"(6) The term 'dependent child' has the meaning given the term 'child' in section 376(a)(5) of title 28.

"(7) The term 'Member of Congress' means a Representative, a Senator, a Delegate to Congress, or the Resident Commissioner of Puerto Rico.

"(b) A judge may become a participant in the annuity program under this section by filing a written election under this subsection while in office. Any such election shall be made in such manner as may be prescribed by the Court.

"(c) There shall be deducted and withheld each pay period from the pay of a judge who has made an election under subsection (b) of this section a sum equal to 3.5 percent of the judge's pay. Amounts so deducted and withheld shall be deposited in the retirement fund. A judge who makes an election under subsection (b) of this section shall be considered by that election to agree to the deductions from the judge's pay required by this subsection.

"(d) A judge who makes an election under subsection (b) of this section shall deposit, with interest at 3 percent per year compounded on December 31 of each year, to the credit of the retirement fund, an amount equal to 3.5 percent of the judge's pay and of the judge's basic salary, pay, or compensation for service as a Member of Congress, and for any other civilian service within the purview of section 8332 of title 5. Each such judge may elect to make such deposits in installments during the judge's period of service in such amount and under such conditions as may be determined in each instance by the chief judge. Notwithstanding the failure of a judge to make such deposit, credit shall be allowed for the service rendered, but the annual annuity of the surviving spouse of such judge shall be reduced by an amount equal to 10 percent of the amount of such deposit, computed as of the date of the death of such judge, unless the surviving spouse elects to eliminate such service entirely from credit under subsection (k) of this section. However, a deposit shall not be required from a judge for any year with respect to which deductions from the judge's pay, or a deposit, were actually made (and not withdrawn) under the civil service retirement laws.

"(e) If the service of a judge who makes an election under subsection (b) of this section terminates other than pursuant to the provisions of section 4096 of this title, or if any judge ceases to be married after making the election under subsection (b) of this section and revokes (in a writing filed as provided in subsection (b) of this section) such election, the amount credited to the judge's individual account (together with interest at 3 percent per year compounded on December 31 of each year to the date of the judge's relinquishment of office) shall be returned to the judge. For the purpose of this section, the service of a judge making an election under subsection (b) of this section shall be considered to have terminated pursuant to section 4096 of this title if—

"(1) the judge is not reappointed following expiration of the term for which appointed; and

"(2) at or before the time of the expiration of that term, the judge is eligible for and elects to receive retired pay under section 4096 of this title.

"(f)(1) If a judge who makes an election under subsection (b) of this section dies after having rendered at least 5 years of civilian service (computed as prescribed in subsection (l) of this section), for the last 5 years of which the salary deductions provided for by subsection (c) of this section or the deposits required by subsection (d) of this section have actually been made (and not withdrawn) or the salary deductions required by the civil service retirement laws have actually been made (and not withdrawn)—

"(A) if the judge is survived by a surviving spouse but not by a dependent child, there shall be paid to the surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (k) of this section; or

"(B) if the judge is survived by a surviving spouse and a dependent child or children, there shall be paid to the surviving spouse an immediate annuity in an amount computed as provided in subsection (k) of this section and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 10 percent of the average annual pay of such judge (determined in accordance with subsection (k) of this section), or

"(ii) 20 percent of such average annual pay, divided by the number of such children; or

"(C) if the judge is not survived by a surviving spouse but is survived by a dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 20 percent of the average annual pay of such judge (determined in accordance with subsection (k) of this section), or

"(ii) 40 percent of such average annual pay, divided by the number of such children.

"(2) The annuity payable to a surviving spouse under this subsection shall be terminated—

"(A) upon the surviving spouse's death; or

"(B) upon the remarriage of the surviving spouse before age 55.

"(3) The annuity payable to a child under this subsection shall be terminated upon the child's death.

"(4) In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving the spouse, the annuity of such child or children under paragraph (1)(B) of this subsection shall be recomputed and paid as provided in paragraph (1)(C) of this subsection. In any case in which the annuity of a dependent child is terminated, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived the judge.

"(g) Questions of family relationships, dependency, and disability arising under this section shall be determined in the same manner as such questions arising under chapter 84 of title 5 are determined.

"(h)(1) If—

"(A) a judge making an election under subsection (b) of this section dies while in office (i) before having rendered 5 years of civilian service computed as prescribed in subsection (l) of this section, or (ii) after having rendered 5 years of such civilian service but without a survivor entitled to annuity benefits provided by subsection (f) of this section; or

"(B) the right of all persons entitled to an annuity under subsection (f) of this section based on the service of such judge terminates before a claim for such benefits has been established,

the total amount credited to the individual account of such judge (with interest at 3 percent per year, compounded on December 31 of each year, to the date of the death of such judge) shall be paid in the manner specified in paragraph (2) of this subsection.

"(2) An amount payable under paragraph (1) of this subsection shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date title to the payment arises, in the following order of precedence:

"(A) To the beneficiary or beneficiaries whom the judge designated in writing filed before death with the chief judge (except that in the case of the chief judge such designation shall be filed before death as prescribed by the Court).

"(B) To the surviving spouse of the judge.

"(C) To the child or children of the judge (and the descendants of any deceased children by representation).

"(D) To the parents of the judge or the survivor of them.

"(E) To the executor or administrator of the estate of the judge.

"(F) To such other next of kin of the judge as may be determined by the chief judge to be entitled under the laws of the domicile of the judge at the time of the judge's death.

"(3) Determination as to the surviving spouse, child, or parent of a judge for the purposes of paragraph (2) of this subsection shall be made without regard to the definitions in subsection (a) of this section.

"(4) Payment under this subsection in the manner provided in this subsection shall be a bar to recovery by any other person.

"(5) In a case in which the annuities of all persons entitled to annuity based upon the service of a judge terminate before the aggregate amount of annuity paid equals the total amount credited to the individual account of such judge (with interest at 3 percent per year, compounded on December 31 of each year to the date of the death of the judge), the difference shall be paid, upon establishment of a valid claim therefor, in the order of precedence prescribed in paragraph (2) of this subsection.

"(6) Any accrued annuity remaining unpaid upon the termination (other than by death) of the annuity of any individual based upon the service of a judge shall be paid to that individual. Any accrued annuity remaining unpaid upon the death of an individual receiving an annuity based upon the service of a judge shall be paid, upon the establishment of a valid claim therefor, in the following order of precedence:

"(A) To the executor or administrator of the estate of that person.

"(B) After 30 days after the date of the death of such individual, to such individual or individuals as may appear in the judgment of the chief judge to be legally entitled thereto.

Such payment shall be a bar to recovery by any other individual.

"(i) When a payment under this section is to be made to a minor, or to a person mentally incompetent or under other legal disability adjudged by a court of competent jurisdiction, the payment may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of such claimant or is otherwise legally vested with the care of the claimant or the claimant's estate. If no guardian or other fiduciary of the person under legal disability has been appointed under the laws of the State of residence of the claimant, the chief judge shall determine the person who is otherwise legally vested with the care of the claimant or the claimant's estate.

"(j) Annuities under this section shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity has accrued. An annuity under this section is not assignable, either in law or in equity, or subject to execution, levy, attachment, garnishment, or other legal process.

"(k)(1) The annuity of the surviving spouse of a judge making an election under subsection (b) of this section shall be an amount equal to the sum of the following:

"(A) The product of—

"(i) 1.5 percent of the judge's average annual pay; and

"(ii) the sum of the judge's years of judicial service, the judge's years of prior allowable service as a Member of Congress, the judge's years of prior allowable service performed as a member of the Armed Forces, and the judge's years, not exceeding 15, of prior allowable service performed as a congressional employee (as defined in section 2107 of title 5).

"(B) Three-fourths of 1 percent of the judge's average annual pay multiplied by the judge's years of allowable service not counted under subparagraph (A) of this paragraph.

"(2) An annuity computed under this subsection may not exceed 50 percent of the judge's average annual pay and may not be less than 25 percent of such average annual pay. Such annuity shall be further reduced in accordance with subsection (d) of this section (if applicable).

"(3) For purposes of this subsection, the term 'average annual pay', with respect to a judge, means the average annual pay received by the judge for judicial service (including periods in which the judge received retired pay under section 4096(d) of this title) or for any other prior allowable service during the period of 3 consecutive years in which the judge received the largest such average annual pay.

"(l) Subject to subsection (d) of this section, the years of service of a judge which are allowable as the basis for calculating the amount of the annuity of the judge's surviving spouse shall include the judge's years of service as a judge of the Court, the judge's years of service as a Member of Congress, the judge's years of active service as a member of the Armed Forces not exceeding 5 years in the aggregate and not including any such service for which credit is allowed for the purposes of retirement or retired pay under any other provision of law, and the judge's years of any other civilian service within the purview of section 8332 of title 5.

"(m) Nothing contained in this section shall be construed to prevent a surviving spouse eligible therefor from simultaneously receiving an annuity under this section and any annuity to which such spouse would otherwise be entitled under any other law without regard to this section, but in computing such other annuity service used in the computation of such spouse's annuity under this section shall not be credited.

"(n) A judge making an election under subsection (b) of this section shall, at the time of such election, waive all benefits under the civil service retirement laws. Such a waiver shall be made in the same manner and shall have the same force and effect as an election filed under section 4096(d) of this title.

"(o) Whenever the salaries of judges paid under section 4053(e) of this title are increased, each annuity payable from the retirement fund which is based, in whole or in part, upon a deceased judge having rendered some portion of that judge's final 18 months of service as a judge of the Court, shall also be increased. The amount of the increase in the annuity shall be determined by multiplying the amount of the annuity on the date on which the increase in salaries becomes effective by 3 percent for each full 5 percent by which those salaries were increased.

"§ 4098. Court of Veterans Appeals Retirement Fund

"(a) There is established in the Treasury a fund known as the Court of Veterans Appeals Retirement Fund.

"(b) Amounts in the fund are available for the payment of judges' retired pay under section 4096 of this title and of annuities, refunds, and allowances under section 4097 of this title.

"(c) Amounts deposited by, or deducted and withheld from the salary and retired pay of, a judge under section 4096 or 4097 of this title shall be deposited in the fund and

credited to an individual account of the judge.

"(d) The chief judge of the Court of Veterans Appeals shall submit to the President an annual estimate of the expenditures and appropriations necessary for the maintenance and operation of the fund, and such supplemental and deficiency estimates as may be required from time to time for the same purposes, according to law.

"(e)(1) The chief judge may cause periodic examinations of the retirement fund to be made by an actuary, who may be an actuary employed by another department of the Government temporarily assigned for the purpose.

"(2)(A) Subject to the availability of appropriations, there shall be deposited in the Treasury to the credit of the retirement fund, not later than the close of each fiscal year, such amounts as may be required to reduce to zero the unfunded liability (if any) of the fund. Such deposits shall be taken from sums available for that fiscal year for the payment of the expenses of the Court.

"(B) For purposes of subparagraph (A) of this paragraph, the term 'unfunded liability', with respect to any fiscal year, means the amount estimated by the chief judge to be equal to the excess (as of the close of that fiscal year) of—

"(i) the present value of all benefits payable from the fund (determined on an annual basis in accordance with section 9503 of title 31), over

"(ii) the sum of—

"(I) the present values of future deductions under sections 4096(i) and 4097(c) of this title and future deposits under sections 4096(j) and 4096(d) of this title, and

"(II) the balance in the fund as of the close of the fiscal year.

"(C) Amounts deposited in the retirement fund under this paragraph shall not be credited to the account of any individual.

"(f) The Secretary of the Treasury shall invest from time to time, in interest-bearing securities of the United States, such portions of the retirement fund as in such Secretary's judgment may not be immediately required for payments from the fund. The income derived from such investments shall constitute a part of the fund.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 72 of such title is amended by adding at the end the following:

"SUBCHAPTER V—RETIREMENT AND SURVIVORS ANNUITIES

"4096. Retirement of judges.
"4097. Survivor annuities.
"4098. Court of Veterans Appeals Retirement Fund.".

SEC. 102. CONFORMING AMENDMENTS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8334(i) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any other provision of law, a judge who is covered by section 4096 of title 38 shall not be subject to deductions and contributions to the Fund, if the judge notifies the Director of the Office of Personnel Management of an election of a retirement annuity under that section. Upon such an election, the judge shall be entitled to a lump-sum credit under section 8342(a) of this title.".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8402 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(f) A judge who is covered by section 4096 of title 38 shall be excluded from the operation of this chapter if the judge notifies the Director of the Office of Personnel Management of an election of a retirement annuity under that section. Upon such election, the judge shall be entitled to a lump-sum credit under section 8424 of this title.".

(c) STANDARDS FOR REMOVAL OF JUDGES.—Section 4053(f)(1) of title 38, United States Code, is amended in the first sentence—

(1) by inserting "or" before "engaging"; and

(2) by striking out "law," all that follows in that sentence and inserting in lieu thereof "law.".

TITLE II—PROVISIONS RELATING TO ESTABLISHMENT OF COURT OF VETERANS APPEALS

SEC. 201. FACILITIES FOR THE COURT.

(a) SPACE IN THE DISTRICT OF COLUMBIA.—The Administrator of General Services shall provide suitable building space in the District of Columbia for the United States Court of Veterans Appeals as the Court's principal place of business. The Administrator shall, if necessary, arrange for temporary space for the Court if permanent space is not immediately available for the Court. The Administrator shall place a high priority on the provision of such temporary and permanent space for the Court.

(b) APPROVAL BY COURT.—Any space to be provided for the Court of Veterans Appeals under subsection (a) must be acceptable to the Court.

(c) ADDITIONAL REQUIREMENT.—Any building space provided to the Court under subsection (a) shall be adjacent to additional building space (in an amount acceptable to the Court) that can be made available to the Court in the future if needed for expansion of the facilities of the Court.

SEC. 202. INTERIM PROVISION FOR FILING NOTICES OF APPEAL.

In the case of a person adversely affected by a final decision of the Board of Veterans' Appeals that is made before the date on which the United States Court of Veterans Appeals has caused to be published in the Federal Register a notice by the Court that it has commenced operations, the period prescribed under section 4066 of title 38, United States Code, within which a notice of appeal must be filed with the Court shall be extended to the end of the 30-day period beginning on the date such notice is published, if the end of that period is later than the date that would otherwise be applicable under such section.

SEC. 203. INTERIM RULES OF THE COURT.

The Federal Rules of Appellate Procedure (28 U.S.C. App.) shall be the interim rules of the United States Court of Veterans Appeals unless otherwise provided by the Court in accordance with chapter 72 of title 38, United States Code. If there is a conflict between a provision of the Federal Rules of Appellate Procedures and the procedures set forth in chapter 72 of title 38, United States Code, the procedures set forth in such chapter shall apply.

SEC. 204. EMPLOYEES OF THE COURT.

(a) EMPLOYMENT AUTHORITY.—Section 4081 of title 38, United States Code, is amended to read as follows:

"§ 4081. Employees

"(a) The Court of Veterans Appeals may appoint a clerk, who shall be subject to removal by the Court. The clerk, with the approval of the Court, may appoint necessary deputies and employees.

"(b) The judges of the Court may appoint law clerks and secretaries in such numbers as the Court may approve.

"(c) The Court may establish such requirements and procedures for the appointment, qualification, classification, and removal of the clerk and other employees of the Court as will promote the efficient operation of the Court without regard to the provisions of title 5. To the maximum extent feasible, the Court and the judges of the Court shall classify and compensate employees in a manner consistent with comparable positions in the judicial branch. Rates of compensation for employees of the Court may not exceed rates of compensation for comparable positions in the judicial branch.

"(d) In making appointments under subsections (a) and (b) of this section, preference shall be given, among equally qualified persons, to persons who are preference eligibles (as defined in section 2108(3) of title 5).

"(e) The Court may procure the services of experts and consultants under section 3109 of title 5.

"(f) The chief judge of the Court may exercise the authority of the Court under this section whenever there are not at least two associate judges of the Court.".

(b) LIMITATION ON CONVERSION OF EMPLOYEES TO COMPETITIVE SERVICE.—Notwithstanding clause (1)(A) of the proviso under the heading "Court of Veterans Appeals" in chapter XI of Public Law 101-45, no employee of the United States Court of Veterans Appeals may be converted to the competitive service without approval of the Court.

(e) EFFECTIVE DATE.—Notwithstanding section 401 of the Veterans' Judicial Review Act, the authority provided by section 4081 of title 38, United States Code, as amended by subsection (a), shall take effect on the date of enactment of this Act.

TITLE III—TECHNICAL CORRECTIONS

SEC. 301. EFFECTIVE DATE FOR NEW RULE FOR REOPENING BOARD OF VETERANS' APPEALS DISALLOWED CASES.

Section 401(d) of the Veterans' Judicial Review Act (Public Law 100-687; 102 Stat. 4122) is amended to read as follows:

"(d) BOARD OF VETERANS' APPEALS.—Sections 202, 203, 205, 206, and 207 shall take effect as of January 1, 1989. Section 204 shall take effect on September 1, 1989.".

SEC. 302. OTHER TECHNICAL AMENDMENTS.

(a) CROSS-REFERENCE TO NEW SECTION.—Section 3301(b)(1) of title 38, United States Code, is amended by striking out "section 4009" and inserting in lieu thereof "section 3009 or 4009".

(b) REVIEW OF COURT DECISIONS.—Section 4092(d)(1) of such title is amended by striking out "statute or".

(c) APPLICABILITY OF AMENDMENTS.—The amendments made by subsections (a) and (b) shall take effect as if included in the Veterans' Judicial Review Act.

(d) REDESIGNATION OF DUPLICATE SECTION NUMBER.—(1) The section 223 of title 38, United States Code, added by section 203(b)(1) of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 509) is redesignated as section 224.

(2) The item relating to that section in the table of sections at the beginning of chapter 3 of that title is revised to reflect the redesignation made by paragraph (1).

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. NONCAREER APPOINTMENTS IN DEPARTMENT OF VETERANS AFFAIRS.

Section 12(c)(2) of the Department of Veterans Affairs Act (Public Law 100-527; 102 Stat. 2642) is amended—

(1) by inserting "(A)" before "any person"; and

(2) by inserting before the period at the end the following: ", or (B) any person to (i) a Senior Executive Service position as a noncareer appointee, or (ii) a position which is excepted from the competitive service, on a temporary or permanent basis, because of the confidential or policy-determining character of the position".

SEC. 402. ACTING CHIEF JUDGE IN EVENT OF VACANCY.

Section 4054 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(d) In the event of a vacancy in the position of chief judge of the Court, the associate judge senior in service on the Court shall serve as acting chief judge unless the President designates one of the other associate judges to serve as acting chief judge, in which case the judge so designated shall serve as acting chief judge.".

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am delighted to urge the Senate to give its unanimous approval to the pending measure, S. 1243, the proposed U.S. Court of Veterans Appeals Judges Retirement Act, which the committee reported on July 25.

BACKGROUND

Mr. President, the measure as it comes before the Senate today—which I will refer to as the committee bill—includes several changes from the bill as introduced Act, which I had described in my introductory statement on June 22, 1989, which appeared in the RECORD beginning on page S 7317. Some of these changes are merely clarifying in nature. Three are substantive: First, section 201 of the bill, providing for initial funding of the Court would be deleted. This provision is unnecessary in light of the enactment of an appropriation of $3.1 million for the court in the fiscal year 1989 Dire Emergency Supplemental Appropriations Act. Second, in response to suggestions made by Chief Judge Frank Q. Nebeker, the committee agreed to revise the court's employment authorities in order to give the court more flexibility and enhance its independence and efficiency. Third, the provision relating to headquarters for the Court was changed in order to make that provision more generic in terms of the direction to GSA to provide appropriate space.

In response to my June 23, 1989, letters, the Directors of the Office of Management and Budget and the Secretary of Veterans Affairs on July 12 submitted the administration's views on S. 1243 as introduced. Subject to certain qualifications and suggestions which we have carefully considered, both the Director and the Secretary expressed the administration's general support for the enactment of the bill.

Mr. President, because the various provisions in the committee bill are described in detail in the committee report—S. Rept. No. 101-86—I will at this time just set forth a summary of the provisions and then discuss some selected provisions that I want to highlight. I refer my colleagues and all others with an interest in more detailed information on this bill to the committee report.

SUMMARY OF PROVISIONS

Mr. President, the committee bill has four titles: Judges Retirement and Survivor Annuity Program; Provisions Relating to Establishment of Court of Veterans Appeals; Technical Corrections; and Miscellaneous Provisions.

TITLE I—JUDGES RETIREMENT AND SURVIVOR ANNUITY PROGRAM

The provisions of title I contain amendments to titles 5 and 38, United States Code, which would establish a retirement and survivors annuity program—modeled primarily on the program for the judges of the U.S. Tax Court—for judges serving on the U.S. Court of Veterans Appeals, the new Article I Court which was established pursuant to division A of Public Law 100-687, the Veterans' Judicial Review Act.

TITLE II—PROVISIONS RELATING TO ESTABLISHMENT OF COURT OF VETERANS APPEALS

Title II contains amendments to title 38 and to the Dire Emergency Supplemental Appropriations Act, 1989 (Public Law 101-45), and freestanding provisions that would:

First, direct the Administrator of General Services, on a priority basis, to make arrangements to secure suitable permanent and temporary building space for the court.

Second, extend the time for filing an appeal to the court, as provided for in section 4066 of title 38, United States Code, to provide that a notice of appeal may be filed by the end of the 30-day period beginning on the date the court causes a notice of its commencment of operations to be published in the Federal Register.

Third, provide for the Federal Rules of Appellate Procedure—to the extent not inconsistent with any provisions of chapter 72 of title 38—to be the interim rules of the court until the court itself adopts rules of practice and procedure pursuant to chapter 72 of title 38.

Fourth, authorize the court to establish its own requirements and procedures for the appointment, qualification, and classification of clerk and other employees without regard to the provisions of title 5, United States Code, but require that court employees be classified and compensated in a manner consistent with comparable positions in the judicial branch; authorize each judge to appoint his or her law clerks and secretaries; require a preference, among equally qualified candidates, for those who are eligible for veterans preference; authorize the use of the services of experts and consultants; and permit the chief judge to exercise the court's employment authorities whenever there are fewer than two associate judges.

Fifth, provide that employees appointed pursuant to the interim employment authority granted by Public Law 101-45 may not be converted to competitive service status without the court's approval.

TITLE III—TECHNICAL CORRECTIONS

Title III would make a series of technical corrections in the provisions of, and title 38 amendments made by, Public Law 100-687.

TITLE IV—MISCELLANEOUS PROVISIONS

Title IV contains amendments to the Department of Veterans Affairs Act (Public Law 100-527) and to title 38 that would:

First, make certain noncareer and excepted service appointments in the Department of Veterans Affairs (VA) exempt from the general prohibition against political tests for VA employees.

Second, provide, in the event of a vacancy in the office of the chief judge, for the most senior associate judge to serve as acting chief judge until the President designates an acting chief judge.

Mr. President, I would like to discuss three aspects of this measure—the retirement program, facilities for the court, and the court's employment authorities.

RETIREMENT AND SERVIVORS ANNUITY PROGRAM

Mr. President, as the 100th Congress drew to a close, the Committees on Veterans' Affairs of the Senate and the House of Representatives reached a compromise concerning the previously controversial issue of judicial review of the denial of veterans' benefit claims. That compromise, embodied in the Veterans' Judicial Review Act, became possible when, after efforts by the Senate over the preceding 10 years to grant veterans the right of access to the courts, the House of Representatives, on October 3, 1988, passed a judicial review bill of its own. The House and Senate Veterans' Affairs Committees—racing against the clock as the 100th Congress wound down—worked swiftly to develop a fair, equitable, and effective compromise. During that process, there was insufficient time to consider fully some of the complexities involved in establishing a retirement system for the judges in the U.S. Court of Veterans Appeals. Accordingly, the Court of Veterans Appeals was created without such a system for its judges other than the Civil Service Retirement System [CSRS] and Federal Employees Retirement System [FERS], under chapters 83 and 84, respectively, of title 5, United States

Code, generally applicable to Federal civilian employees. That left the new Court of Veterans Appeals, together with the U.S. Claims Court, as the only Federal courts lacking a separate retirement system.

Thus, the committee bill is designed to establish for the judges of the new court a retirement and annuity program that would place it on a comparable footing in this regard in relation to other Federal courts; help ensure the long-term ability of the court to attract and retain the quality of judges desired and needed to establish and maintain the Court of Veterans Appeals as a first-class judicial body; and provide a fair and equitable reward for the service rendered by the judges.

In order to fashion a system that would meet these goals, the committee reviewed retirement systems for various article I courts, such as the Court of Military Appeals (10 U.S.C. 867), the U.S. Tax Court (26 U.S.C. 7447 and 7448), and the U.S. Claims Court (5 U.S.C. 8301 et seq. and 8401 et seq.), as well as retirement systems for article III courts, specifically the U.S. District Courts (28 U.S.C. 371) and the bankruptcy courts (28 U.S.C. 377), which operate under the direction of the district courts. As this review progressed, two things became apparent: First, each court has a distinctly different retirement system and, second, every system, except that of the Claims Court, provides more generous benefits than CSRS/FERS.

The proposed retirement system as set forth in the committee bill draws heavily on the features of the Tax Court Program, with modifications primarily to address the differences in size and scope of review between the Tax Court and the Court of Veterans Appeals. For instance, although the Tax Court, as a trial court with jurisdiction over the Federal Government's vast internal revenue enterprise, appears to require a mechanism to recall its retired judges back to the bench for a period of time each year because of its enormous, fluctuating workload, the committee had no basis to foresee that the Court of Veterans Appeals—as a court of up to seven judges reviewing the record of Board of Veterans' Appeals cases—will have such a need. Accordingly, recall and related provisions were not included in this measure.

Retirement System: Section 101 of the committee bill would amend chapter 72 of title 38, United States Code, relating to the U.S. Court of Veterans Affairs, to add a new subchapter V, "Retirement and Survivors Annuity", consisting of three sections: Section 4096, "Retirement of Judges"; section 4097, "Survivor Annuities"; and section 4098, "Court of Veterans Appeals Retirement Fund".

Under new section 4096, judges on the Court of Veterans Appeals who elect to be covered by the court's retirement system and make the required contributions would be eligible to retire after age 65 if they have served at least 15 years. A judge who is over 65 and has at least 10 years of service would be eligible for retirement if the sum of the judge's years of service and age equals 80 or more. Upon retirement, a judge would receive the equivalent of the salary of the office at the time of the judge's retirement for the rest of his or her life.

A judge who serves his or her full term of 15 years and seeks reappointment, but who is not reappointed by the President, would also be eligible for retirement, regardless of age. This provision protects the judge who served an entire term but for whatever reason is not given a reappointment.

Likewise protected is a judge who incurs a permanent disability that prevents the proper execution of the duties of the office. Regardless of age, a disabled judge who has served 10 or more years would receive retired pay equal to the salary of the office at the time of retirement. If the judge who becomes disabled has served less than 10 years, he or she would be entitled to one-half of the salary in effect at the time of retirement.

Although the Court of Veterans Appeals is much too small to fund its own actuarially sound retirement and survivors annuity system and a self-sufficient program would entail very large individual contributions, and the committee recognizes that appropriations will be necessary to keep the retirement fund solvent, the committee also believes that it is conceptually sound and prudent to have the judges make a contribution to their own retirement program, as well as to their survivors' annuities. Having followed the Tax Court system with regard to most other provisions, the committee decided to follow it with regard to contributions, with a modification borrowed from the bankruptcy court system to require a modest contribution by the judges to their own retirement.

Tax Court judges make no contribution to their own retirement, but make a contribution to their survivors' annuity equaling 3.5 percent of their annual salary or retirement pay. Bankruptcy judges contribute to their own retirement 1 percent of their annual salary for their first term of service, which is 14 years, and contribute 5 percent of their salaries and retired pay to their survivors' annuities.

The committee bill would require the judges of the Court of Veterans Appeals to contribute 1 percent of their annual salaries to their own retirement system for the first 15 years of their service, and 3.5 percent of their annual salaries and retirement pay to the survivors annuity system.

Mr. President, as in the case of most other judicial retirement systems, an election to participate in the Court of Veterans Appeals retirement system must be made by the judge prior to leaving office. Accordingly, someone who has been contributing to CSRS or FERS could continue to participate in that program while serving as a judge until enough time has passed to vest in the court's retirement system. This flexibility would allow the judges to tailor their retirement systems to their individual personal circumstances.

Survivors Annuity Program: Mr. President, the survivors annuity plan that would be established by new section 4097 of title 38 is modeled directly on the Tax Court plan. As with the retirement plan, a judge would have to elect to participate in, and make contributions to, the survivors annuity program.

Once a judge made an election to provide a survivors annuity, a deduction of 3.5 percent would be made from the judge's salary and retired pay and the amounts deducted would be deposited in the retirement fund. In addition, the judge would be required to deposit in the retirement fund, with interest, a sum equal to 3.5 percent of his or her previous salary earned for service as a judge, for other Federal civilian service, and for service as a Member of Congress, for which deductions were not currently on deposit under the CSRS or FERS plan. A judge could opt not to make such a deposit, in which case the years of service for which no deposit is made could be counted for purposes of the annuity plan, but the annuity of the surviving spouse would be reduced by an amount equal to 10 percent of the amount of the unmade deposit. The spouse could, however, chose to have that period of service disregarded for purposes of calculating the annuity rather than incur the 10-percent reduction.

The survivors annuity would be payable only after the judge had rendered at least 5 years of service as a judge, other countable Federal civilian service, or service as a Member of Congress and only if the deduction and deposit, as described above, had been made for the last 5 years of service.

Where a deceased judge has met these requirements, the eligible spouse and dependent children would be paid an annuity pursuant to a computation based on the judge's time of service on the court and other prior Federal service—including service as a Member of Congress, up to 5 years of service as a member of the Armed Forces, and up to 15 years as a congressional employee. However, the annuity would not exceed 50 percent, or be less than 25 percent, of the judge's average annual pay—including retired pay—for the

judge's "high-three" years of Federal service. The judge's average annual pay for this purpose would be based on the 3 consecutive years in which the judge received the highest average annual pay from the Federal Government, regardless of whether the 3 years were judicial service or retirement or other allowable service, or a combination thereof.

To ensure that children of a judge are provided for, the survivors annuity provisions would entitle a surviving spouse with a surviving dependent child or children to an annuity immediately upon the judge's death. An additional annuity equal to 10 percent of the judge's "high-3 years" average annual pay would be payable on behalf of a dependent child. If there were more than one dependent child, the additional annuity would be equal to 20 percent of such pay.

If there were no surviving dependent child, the surviving spouse would not be eligible for annuity payments until attaining age 50. A surviving spouse's entitlement to an annuity would terminate if he or she remarried before reaching age 55.

If a judge is survived by a child but not by an eligible spouse, an annuity equal to 20 percent of the judge's "high-three years" average annual pay would be payable for the child. If there were more than one surviving dependent child, the annuity of each child would be equal to 40 percent of such pay divided by the number of children.

The committee bill would entitle a child to an annuity payment until he or she reaches age 18. However, in recognition of the importance of encouraging a child toward higher education by providing support through his or her years of schooling, in the case of a child who is a full-time student, the annuity would be paid until the child reaches age 22. Also, recognizing a parent's extended responsibility for a disabled child, in the case of a child who is incapable of self-support because of physical or mental disability incurred before age 18, the child would be paid an annuity regardless of age.

FACILITIES FOR THE COURT

Section 201 of the committee bill would direct the GSA Administrator, on a priority basis, to secure suitable building space for the court. As noted in the committee report (S. Rept. No. 101-86, p. 28), the committee intends that, in selecting space, both GSA and the court focus on the long-term future and status of the court. This would include finding space with the architectural dimensions and dignity appropriate for courtrooms. Permanent space would be required to be adjacent to space, also acceptable to the court, that would be available for expansion of the court if needed at a later time.

PERSONNEL AUTHORITIES

Mr. President, the House-passed version of this legislation, H.R. 2727, is the same as the committee bill in all respects except for the provisions of section 204 of both bills, which would amend section 4081 of title 38 in order to provide the court with more flexible employment authorities tailored to the court's needs. Despite the differences in the bills in this regard, the basic purpose of each is to provide the court with discretionary authorities to employ personnel outside the competitive service; provide for the compensation of court personnel at levels comparable to those paid to judicial branch employees in comparable positions; and preserve the principles of veterans preference in the employment of court personnel despite their being outside the competitive service.

Because the Senate will ultimately be taking up the House bill and clearing that version for the President's signature, I would like to discuss the differences in the employment provisions and to indicate why I am recommending that the Senate agree to the House provisions.

There are four categories of differences between the bills. First, the committee bill would provide the court with the broad authority to establish "requirements and procedures for the appointment, qualification, classification, and removal" of its employees. The House bill would provide for more specific exemptions from the title 5 provisions relating to appointments in the competitive service and from the following sections of title 5 that pertain to compensation: Chapter 51, relating to the classification of positions in the General Schedule; subchapter III of chapter 53, relating to the rates of pay for General Schedule employees; and section 5373, relating to a limitation on rates of basic pay set by administrative action. In addition, the House bill would exempt court personnel from the Senior Executive Service. It is my understanding, based on discussions with the Office of Personnel Management, that the House provisions in this respect would have the same substantive effects as the Senate provisions in terms of exemption from the competitive service and—subject to certain limits on compensation, which I will next discuss—of providing flexibility in establishing rates of pay.

As noted in the reports of the committees in both Houses (S. Rept. No. 101-86, pages 40-41, and H. Rept. No. 101-189, page 7) other major title 5 provisions would apply, such as compensation for work injuries, retirement, unemployment compensation, and Federal employees' health and life insurance.

Second, both bills would require that, "to the maximum extent feasible," the pay of court personnel be consistent with the pay for comparable positions in the judicial branch. The Senate bill uses the phrase "in a manner consistent with" and the House bill, "at rates consistent with". However, only the Senate bill would specify that the rates of pay for court personnel may not exceed the rates for comparable positions in the judicial branch. I believe that the provisions in the House bill requiring consistency in rates would sufficiently serve the purpose of the Senate limitation by keeping the rates generally in line with comparable judicial branch salary rates.

Third, whereas the Senate bill would provide that the court clerk would be "subject to removal by the Court," the House bill would provide that the clerk would "serve at the pleasure of the Court." Again, based on informal discussions with OPM, I believe that there is no substantive difference in these provisions.

Fourth, both bills would provide that the judges of the court may appoint law clerks and secretaries in such number as the court may approve, but only the House bill would also expressly provide that law clerks and secretaries would serve "at the pleasure of the appointing judge." I believe that the Senate provision implied that same result.

Thus, Mr. President, despite various differences in wording between the two bills, both versions would carry out the basic purposes shared by the two Veterans' Affairs Committees and, in the interest of early enactment of this legislation, I am thus recommending that the Senate agree to the House version.

Mr. President, in closing, I want to express my appreciation to Senator MURKOWSKI, the original cosponsor of this legislation, and Representatives MONTGOMERY and STUMP, with whom we worked closely to develop this bill. I also note the strong, bipartisan support this bill has enjoyed on our committee and in the House, which passed a nearly identical bill on July 31.

I want to note the contributions of, and express deep gratitude to, the staff that worked on this legislation—Elizabeth Buechler, in her last effort before leaving the committee staff, Thomas Tighe, Mike Cuddy, Karen Paul, Bill Brew, and Ed Scott on the Senate majority staff; Al Ptak and Vic Reston, on the Senate minority staff; Mack Fleming, Pat Ryan, and John Brizzi on the House majority staff; and Carl Commonator and Kingston Smith on the House minority staff. I also thank Bob Cover of the House Legislative Counsel's office for his usual excellent assistance with the drafting of this bill.

I am confident that this bill will help enable the Court of Veterans Appeals to carry out its responsibilities as a source of justice for veterans. Ac-

cordingly, I urge all of my colleagues to join in support of it.

Mr. MURKOWSKI. Mr. President, as ranking minority member of the Committee on Veterans Affairs, I rise today, along with the distinguished chairman of the committee, Senator CRANSTON, in strong support of S. 1243, the proposed Court of Veterans Appeals Judges Retirement Act.

The bill would provide disability and retirement benefits for judges of the Court of Veterans Appeals and establish, for them and their families, a retirement and survivors annuity program. It also contains conforming provisions regarding the Civil Service Retirement System, Federal Employees Retirement System, and standards for removal of judges.

A sum of $3.1 million was computed as the amount of funding necessary to establish and begin operations of the court. On June 30, 1989, the President signed into law Public Law 101-45, which among other things provided the $3.1 million in supplemental appropriations for the initial expenses of the court, giving a clear signal to proceed.

The bill directs the Administrator of the General Services Administration to acquire office spaces and courtrooms for the new court in the District of Columbia. It also authorizes the judges to make independent employee appointments without regard to the competitive-service strictures of title 5, United States Code.

Until the court adopts its own rules of practice and procedure, the bill will apply the Federal Rules of Appellate Procedure [FRAP] to the court. The FRAP are a comprehensive system of rules of general applicability in the Federal Court of Appeals. They are the product of many years of experience of the bench and bar, and the interim adoption of these rules will ease the initial administrative burden on the court.

The bill also includes other vital technical corrections and miscellaneous provisions. By establishing for the judges of the new court a retirement and annuity program comparable to that of judges on the other Federal courts, the bill will help to ensure the long-term ability of the court to attract and retain the highest quality judges needed to maintain the court as a first-class judicial body. Furthermore, the courtrooms will be, by design, dignified and gracious in order to enhance the reputation of the court and to gain the confidence of the veterans who will look to its decisions in their own lives.

I urge my colleagues to join me in support of this legislation. I thank the Chair.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1243) was ordered to be engrossed for a third reading and was read the third time.

TO ESTABLISH A RETIREMENT AND SURVIVOR BENEFIT PROGRAM FOR JUDGES OF THE U.S. COURT OF VETERANS APPEALS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House companion, H.R. 2727.

The PRESIDING OFFICER. The bill will be started by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2727) to amend title 38, United States Code, to establish a retirement and survivor benefit program for judges of the U.S. Court of Veterans Appeals, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed and a motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2727) was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 1243 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTOR CARRIER SAFETY ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar 178, S. 819.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 819) to strengthen the enforcement of motor carrier safety laws, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DANFORTH. Mr. President, today the Senate will reconfirm its commitment to safer highways for all American travelers. The passage of the Motor Carrier Safety Act of 1989, S. 819, will improve the safe operation of medium- and heavy-weight trucks and buses.

In 1988, over 6,000 persons were killed in accidents involving these trucks and buses. Eighty percent of those fatalities were passenger car occupants or pedestrians. In that same year, motor carrier accidents accounted for 160,000 injuries. Even if one is fortunate enough never to be involved in a truck accident, our society as a whole suffers the loss of countless millions of dollars in the form of traffic delays and cleanup expenses. Those who travel the Washington, DC, Beltway are all too familiar with the delays that these accidents can cause. This past February, a single truck accident closed the inner loop of the beltway, delaying thousands of morning commuters for more than 3 hours. In May of this year, a single truck accident in Kansas City, MO, closed a major interstate for 9 hours, forcing thousands of motorists to be rerouted.

The need for improved highway safety is not a partisan issue. The Motor Carrier Safety Act of 1989 has strong support from both sides of the aisle. I would like to thank Senator EXON, chairman of the Surface Transportation Subcommittee, for taking the lead on this important safety legislation. In addition, I want to commend Senator KASTEN, the ranking member of the subcommittee, and Senators ADAMS and MIKULSKI, for their role as cosponsors of S. 819.

Mr. President, during the past year, major studies of the motor carrier industry have been completed by the National Transportation Safety Board [NTSB], the Congressional Research Service [CRS], and the Office of Technology Assessment [OTA]. These studies recommend new ways to improve motor carrier safety. These recommendations formed the basis for S. 819.

The motor carrier industry is a major economic force in this country. Employing 3 to 5 million drivers, an estimated 180,000 interstate motor carrier companies operate daily on our Nation's roads. Most of these companies are serious about highway safety. This bill is targeted to those few unsafe operators who refuse to meet their safety responsibilities.

The Department of Transportation [DOT] currently evaluates the safety systems of individual motor carriers. These reviews determine whether the carrier is in compliance with the Federal Motor Carrier Safety Regulations [FMCSR]. After the review is completed, the motor carrier receives a safety fitness rating of "satisfactory," "conditional," or "unsatisfactory." In order to receive an "unsatisfactory" rating, a carrier must lack basic safety control systems required by law. Only an estimated 8 percent of the carriers rated are so unsafe as to earn an "unsatisfactory" rating. Because these "unsat-

isfactory" carriers have the greatest chance of being involved in a serious accident, S. 819 will restrict their operation. Specifically, no carrier with an "unsatisfactory" safety rating will be allowed to operate a passenger bus or transport hazardous materials until the carrier has improved its operations to the point of earning a "satisfactory" or a "conditional" rating. S. 819 will also require DOT to make available to the public an updated list of all carriers with an "unsatisfactory" safety fitness rating.

DRUG-FREE TRUCK STOPS AND REST AREAS

Drug use has become an epidemic in virtually every sector of our society. The trucking industry is no exception. Two recent police undercover operations highlight this danger. In January 1988, the California Attorney General's office concluded an undercover sting operation in which 130 persons were arrested for selling cocaine, methamphetamines, and other drugs to truckdrivers at California truck stops. More recently, the States of Oregon, Washington, and Idaho conducted a joint undercover investigation which led to 94 indictments against 45 people for selling illegal narcotics at truck stops in these three States. Unfortunately, drug dealing at truck stops and other roadside areas is becoming shockingly common.

Drug use in the trucking industry is deadly. All too often, those who die are innocent victims. On October 30, 1988, a truckdriver in a remote area of west Texas went on a 70-mile, hour-long rampage in his tractor-trailer rig. The driver collided with at least nine other vehicles and killed a 48-year-old El Paso woman after her Ford Bronco was forced off the roadway and flipped over. During the subsequent chase, the truckdriver fired several rounds from a 357-magnum pistol at a passenger car and a police officer. He then attempted to run over the wounded officer with his rig. When the driver was finally arrested, witnesses reported that the driver was "disoriented" and apparently "high" under the influence of drugs.

Mr. President, I wish I could tell you that this incident is an isolated case. I cannot. Tragedies such as this one have become more frequent in recent years. In May of last year, a Los Angeles truckdriver was arrested after ramming more than 2 dozen vehicles with his truck. Marijuana and drug paraphernalia were found in his cab. Less than 2 months after the incident near El Paso, police in San Antonio filed drug charges against a truckdriver who had seriously injured 2 people after crashing his huge truck into more than 20 vehicles.

We must stop the flow of drugs in the trucking industry. Roadside locations, such as truck stops and rest areas, are the common places for drug distribution. S. 819 will double the criminal penalties for persons convicted of selling drugs within 1,000 feet of these areas. This drug-free zone is intended to choke off the supply of drugs to truckers, and thereby protect the motoring public.

IMPROVING BRAKES

Mr. President, S. 819 contains many other safety proposals. For instance, NTSB and OTA both found poor braking performance to be a major cause of truck accidents. A 1987 DOT study concluded that "bad" brakes contributed to one-third of all truck accidents. S. 819 requires a DOT rulemaking on motor carrier braking systems. This comprehensive rulemaking will address issues such as antilock brakes and brake compatibility.

These are not new issues. In the mid-1970's, a DOT rule mandating antilocks was nullified by the courts because of mechanical problems with the systems. Since that time, technological advances have led to the development of successful antilock systems. These brakes are so reliable that the European Economic Community will require them on all new trucks and buses in 1991. With these advances, the time has come for DOT to review braking system improvements.

OTHER PROVISIONS

This legislation will also require DOT to: First, initiate a program for reinspecting trucks and buses placed out-of-service for safety violations; second, strengthen its response to carriers found guilty of serious safety violations; third, develop guidelines for suspending carrier operations that pose an imminent hazard to safety; fourth, examine possible improvements in truck visibility; and fifth, increase salaries of Federal Highway Administration inspectors to levels comparable to those of Federal Railroad Administration and Federal Aviation Administration inspectors.

CONCLUSION

The Commerce Committee has worked closely with both industry and safety organizations to draft a bill that improves safety without placing an undue burden on the Nation's truckers. I urge my colleagues to support this important safety legislation and to work with us to ensure quick action in the House.

Mr. EXON. Mr. President, I would like to thank you for scheduling time for the Motor Carrier Safety Act of 1989 to be considered by the full Senate. This legislation continues an effort that has been underway for the last several Congresses to improve motor carrier safety.

Dating back to 1982, as part of the Surface Transportation Assistance Act, Congress authorized creation of the Motor Carrier Safety Assistance Program [MCSAP], widely viewed as a highly successful safety program. MCSAP provides Federal funding to assist States in conducting roadside inspections of commercial trucks and buses. Approximately 1.3 million roadside inspections were conducted in 1988 as a result of MCSAP, compared with 36,000 in 1983, prior to initiation of the program.

With passage of the Motor Carrier Safety Act of 1984, Congress mandated that the Department of Transportation [DOT] issue standards to require more frequent equipment inspections and required that DOT review the safety programs of nearly 185,000 unrated carriers, a process which is continuing. We further established requirements for the uniform single State licensing of commercial drivers, set stiff penalties for individuals who operate trucks or buses under the influence of alcohol or drugs, and significantly increased funding for MCSAP as part of the Commercial Motor Vehicle Safety Act of 1986.

Last year, through adoption of the Truck and Bus Safety and Regulatory Reform Act of 1988, we statutorily eliminated an administrative exemption which had previously allowed commercial trucks and buses to operate in certain metropolitan areas known as commercial zones without being subject to the Federal Motor Carrier Safety Regulations, and developed study and report requirements to improve driver compliance with hours of service requirements, as well as options to improve truck braking performance.

Although the Department of Transportation has taken important steps to improve safety in a number of areas, it is clear that more still needs to be done. With nearly 6,000 highway fatalities and several billion dollars in related economic losses attributed annually to accidents involving trucks and buses, it is clear that more still needs to be accomplished. Just earlier this year in my home State of Nebraska, a federally coordinated 3-day crackdown on truck safety violations placed nearly 32 percent of the 532 trucks inspected out of service. With similar rates of noncompliance of safety regulations being identified around the country, it is imperative that we continue to examine ways to strengthen enforcement of and adherence to motor carrier safety regulations.

This legislation builds on the progress made by previous motor carrier safety legislation. The Motor Carrier Safety Act of 1989 contains a number of important safety-related provisions. Among these are provisions which will call upon DOT to make publicly available the names of all motor carriers that receive an "unsatisfactory" safety rating from the Federal Highway Administration. Currently, this information is difficult, at best, for anyone to obtain. With this new provision we will enable the mar-

ketplace to encourage the use of safety-conscious carriers by identifying those carriers with unsatisfactory ratings. In addition, this provision will prohibit carriers with unsatisfactory ratings from transporting hazardous materials and operating passenger buses.

Other provisions in the Motor Carrier Safety Act of 1989 would seek to discourage drug trafficking at truck stops and drug usage by truck and bus drivers doubling the Federal penalty levels for distributing drugs at truck stops. This builds on the drug-free school zone provisions in last year's omnibus antidrug bill and recognizes that areas frequented by those involved in transportation should be similarly free from drugs.

The Motor Carrier Safety Act of 1989 would also require DOT to develop operational guidelines for suspending the operation of any motor carriers which pose an imminent hazard to safety. Other issues addressed in the bill include a random MCSAP reinspection program for vehicles placed out of service for previous infractions; a rulemaking on whether brake and truck visibility improvements are needed; and an increase in pay for senior field inspectors of the Federal Highway Administration [FHWA] to make their salaries more comparable to inspectors of the Federal Aviation Administration [FAA], and the Federal Railroad Administration [FRA]. According to this legislation, FHWA inspectors would be required to initiate enforcement action against any motor carrier found guilty of a serious safety violation. The FHWA was granted this authority by the Motor Carrier Safety Act of 1984 but has failed to implement it. The need for many of the provisions contained in this bill is well documented in congressionally requested motor carrier studies conducted recently by the Office of Technology Assessment and the Congressional Research Service.

I would especially like to thank Senator DANFORTH, for his continued vigilance with regard to improvements needed in the area of motor carrier safety, as well as other cosponsors, Senators KASTEN, ADAMS, and MIKULSKI for their efforts to gain passage for this legislation. I urge my colleagues to support passage of the Motor Carrier Safety Act of 1989.

Mr. HOLLINGS. Mr. President, I am proud to stand before you today in support of S. 819, the Motor Carrier Safety Act of 1989. Safety on this Nation's highways is a concern of all Americans and efforts have been made by Congress in the last few years to improve safety standards and regulations. In 1982, Congress created the Motor Carrier Safety Assistance Program [MCSAP] which was followed by the Motor Carrier Safety Act of 1984, the Commercial Motor Vehicle Safety Act of 1986, and the Truck and Bus Safety and Regulatory Reform Act of 1988, all of which I strongly supported. While these pieces of legislation have made great strides in improving motor carrier safety, I believe as does Senator EXON who introduced this legislation, that there is further room for improvement. In 1988 alone, there were 6,000 deaths, 160,000 injuries, and countless millions of dollars lost in delays and cleanup as a result of accidents involving heavy and medium trucks and buses.

A National Highway Safety Board study of 189 heavy and medium truck accidents cited brakes and drug and alcohol use as major factors in these accidents. Of the 189 accidents examined, 32 were a result of inadequate braking systems, and 26 were drug and alcohol related. The Office of Technology Assessment [OTA] study which focused on the current state of motor carrier safety in the United States found a need for improvements in both truck braking systems and truck visibility. Also in 1988 the Commerce Committee requested the Congressional Research Service [CRS] to examine the efforts of the Federal Highway Administration [FHWA] in the area of motor carrier safety. According to CRS, the FHWA's current policy of emphasizing education and technical assistance over enforcement actions has failed to provide the adequate level of incentive needed to ensure greater motor carrier compliance with Federal safety regulations. CRS recommended that the FHWA take a more vigorous enforcement posture in order to promote safety compliance. These studies and the recommendations provided within provided the basis for many of the provisions included in S. 819.

According to S. 819, the Department of Transportation [DOT] would be required to publish a list of all motor carriers who have received an unsatisfactory rating from the FHWA. Any motor carrier who has received an unsatisfactory safety rating would be prohibited from carrying hazardous materials and operating passenger buses until that rating has been upgraded. Currently 1,200 motor carriers with unsatisfactory ratings are carrying hazardous materials and 84 passenger bus companies are operating with unsatisfactory ratings.

Since truck stops and rest areas are the primary locations where drugs are distributed to truckdrivers, these areas would become drug free zones under the provisions of S. 819 with the penalties for distributing drugs in these areas doubling due to the unique threat truckdrivers operating under the influence of illegal drugs pose to other motorists as well as to themselves. DOT would also be required to issue a rulemaking on the need for improved brake standards and the need to increase truck visibility, both of which were recommended by OTA.

S. 819 requires DOT to take a tougher stand on the enforcement of Federal safety regulations. DOT would be required to take enforcement action against motor carriers who are guilty of serious safety violations. Under the Motor Carrier Safety Act of 1984, DOT was granted the authority to place out of service a motor carrier who poses an imminent hazard to safety, but DOT has neither used this authority nor established guidelines for its implementation. DOT in addition would be required to create a system where vehicles placed out of service would be randomly reinspected. According to recent studies approximately 10 percent of the trucks and 18 percent of the drivers who have been placed out of service return to the highways without correcting these cited violations. These provisions have been designed to serve as a deterrence to such noncompliance with Federal safety regulations.

Currently the FHWA is having difficulty in keeping their senior inspectors in the field due to their levels of pay as compared with the higher salaries in administrative positions as well as those of field inspectors of the Federal Aviation Administration and Federal Railroad Administration. This bill would increase the pay scale for these inspectors to the GS-12 level in order to maintain an experienced work force within the FHWA's inspection program.

Mr. President, I believe motor carrier safety is an issue no one can or should ignore and I would urge my colleagues to join me in support of S. 819, the Motor Carrier Safety Act of 1989.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 819) was passed, as follows:

That this Act may be cited as the "Motor Carrier Safety Act of 1989".

MOTOR CARRIER SAFETY RATINGS

SEC. 2. (a) Not later than one year after the date of enactment of this Act, the Secretary, in consultation with the Interstate Commerce Commission, shall issue a final rule amending the Federal motor carrier safety regulations contained in subchapter B of chapter III of title 49, Code of Federal Regulations, to—

(1) establish a system to make readily available to the public, and to periodically update, the safety ratings of motor carriers

which have been assigned safety ratings determined by the Secretary to be unsatisfactory; and

(2) provide that, in any case in which a motor carrier has been assigned a safety rating determined by the Secretary to be unsatisfactory and has submitted a written request to the Secretary for a reassessment of the rating, the Secretary shall, to the extent practicable, conduct the reassessment within nine months after receipt of the request.

(b) The Secretary shall, not later than one year after the date of enactment of this Act, issue a final rule providing that any motor carrier that receives a safety rating determined by the Secretary to be unsatisfactory shall be prohibited from operating a commercial motor vehicle which meets the description set forth in section 204(1) (B) or (C) of the Motor Carrier Safety Act of 1984 (49 App. U.S.C. 2503(1) (B) or (C)) until such motor carrier has received a safety rating determined by the Secretary to be conditional or satisfactory.

IMMINENT HAZARDS TO SAFETY

SEC. 3. (a) Not later than January 1, 1990, the Secretary shall develop and submit to Congress operational guidelines for taking actions under section 521(b)(5) of title 49, United States Code, with respect to any violation, or combination of violations, that poses an imminent hazard to safety. The guidelines, which shall be effective on January 1, 1990, shall specify the criteria for determining when such action shall be taken.

(b) Not later than January 1 of 1991, 1992, and 1993, the Secretary shall submit to Congress a report describing the actions taken under the operational guidelines required by subsection (a).

DRUG VIOLATIONS AT TRUCK STOPS AND REST AREAS

SEC. 4. (a) The Congress finds that—

(1) the illegal use of controlled substances by operators of commercial motor vehicles represents an enormous threat to the safety of all motorists and their passengers on the Nation's roadways; and

(2) as indicated by numerous studies, congressional hearings, and investigations, individuals often use the areas surrounding roadside truckstops and roadside rest areas as sites for the distribution of these controlled substances to the operators of commercial motor vehicles.

(b)(1) In light of the findings in subsection (a), part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting immediately after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) punishable—

"(1) by a term of imprisonment, or fine, or both, up to twice that authorized by section 401(b) of this title; and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving five grams or less of marihuana.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) a term of imprisonment of up to three times that authorized by section 401(b) of this title for a first offense, or a fine up to three times that authorized by section 401(b) of this title for a first offense, or both; and

"(2) at least three times any term of supervised release authorized by section 401(b) of this title for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' has the meaning given that term in part 752 of title 23, Code of Federal Regulations, as in effect on the date of enactment of this section; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) with the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act.".

(2) Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by striking "or 405B" each place it appears and inserting in lieu thereof "405B, or 409".

(3) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting, immediately after the item relating to section 408, the following:

"Sec. 409. Transportation safety offenses.".

(c)(1) Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by this section, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(B) in no event less than level 26.

(2) If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

(3) The guidelines referred to in paragraph (1), as promulgated or amended under such paragraph, shall provide that an offense that could be subject to multiple enhancements pursuant to such subsection is subject to not more than one such enhancement.

IMPROVED BRAKE SYSTEMS FOR COMMERCIAL MOTOR VEHICLES

SEC. 5. (a) Section 9107 of the Truck and Bus Safety and Regulatory Reform Act of 1988 (Public Law 100-690, subtitle B of title IX; 102 Stat. 4530) is amended—

(1) by striking "report on" in the heading;

(2) by inserting "(a) REPORT.—" immediately before "Not later than"; and

(3) by adding at the end the following new subsection:

"(b) RULEMAKING PROCEEDING.—The Secretary shall initiate a rulemaking proceeding not later than February 1, 1991. Such proceeding shall concern the need to adopt methods for improving braking performance standards for commercial motor vehicles and shall include an examination of antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing. Any rule which the Secretary determines to issue as a result of such proceeding regarding improved brake performance shall take into account the necessity for effective enforcement of such a rule. The Secretary shall conclude the proceeding required by this subsection not later than October 30, 1991.".

(b) The table of contents contained in section 9101(b) of the Truck and Bus Safety and Regulatory Reform Act of 1988 (102 Stat. 4527) is amended by striking "Report on improved" in the item relating to section 9107 and inserting in lieu thereof "Improved".

SAFETY INSPECTOR GRADE LEVELS

SEC. 6. Notwithstanding any other provision of law, the position held by a fully experienced and qualified senior or journeyman motor carrier safety specialist working primarily in the field and employed by the Department of Transportation shall be classified in accordance with chapter 51 of title 5, United States Code, at grade GS-12 of the General Schedule.

PROCEDURES TO ENSURE TIMELY CORRECTION OF SAFETY VIOLATIONS

SEC. 7. (a) The Secretary shall, within nine months after the date of enactment of this Act, issue a final rule establishing procedures to ensure the proper and timely correction of commercial motor vehicle safety violations noted during inspections funded with monies authorized under section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) to carry out the Motor Carrier Safety Assistance Program.

(b) Such final rule shall establish a verification program, including all States participating in the Motor Carrier Safety Assistance Program, to ensure that commercial motor vehicles and operators thereof found in violation of safety requirements have subsequently been brought into compliance with such safety requirements. The final rule shall, among other things, institute—

(1) a nationwide system for random reinspection of the commercial motor vehicles and operators thereof that have been declared out-of-service as a result of such safety violations, the main purpose of which system shall be to verify that the violations have been corrected on a timely basis;

(2) a program of accountability for correcting all safety violations, which shall provide that—

(A) the operator of a commercial motor vehicle for which a safety violation has been noted shall be issued a form prescribed by the Secretary;

(B) the making of the repairs necessary to correct such violation and the date, location, and time of such repairs shall be certified on such form by the person making such repairs;

(C) the motor carrier responsible for such commercial motor vehicle or operator shall certify on such form that, based on the knowledge of the carrier, the repairs neces-

sary to correct such violations have been made; and

(D) appropriate State penalties shall be assessed for false statements on such forms or for failure to return such forms to the appropriate State entity; and

(3) a system for ensuring that appropriate State penalties are assessed for failure to correct any such safety violation.

SERIOUS SAFETY VIOLATIONS

SEC. 8. (a) The Congress finds that—

(1) the present system for ensuring compliance with Federal motor carrier safety laws and regulations needs improvement;

(2) relying primarily upon voluntary compliance methods has not resulted in an acceptable level of commercial motor vehicle safety; and

(3) improvements in the existing enforcement authorities are required to bring about greater safety.

(b) In light of the findings in subsection (a), section 521(b)(1) of title 49, United States Code, is amended—

(1) by redesignating the existing text as subparagraph (A); and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall, not later than January 1, 1990, establish operational procedures to require a highway safety specialist or other appropriate representative of the Secretary to initiate, at the time of a safety review, compliance review, or other inspection or audit activity, or within a reasonable time thereafter, an enforcement action whenever any of the offenses referred to in paragraph (2)(A) and (B) can be documented, except recordkeeping violations not specified by the Secretary as serious. The procedures shall—

"(i) specify those serious recordkeeping violations for which an enforcement action shall be initiated, including instances in which the falsification of records of duty status or drivers' medical certificates is required or permitted, and such other recordkeeping violations as the Secretary determines to be serious; and

"(ii) authorize, but not require, initiation of an enforcement action for recordkeeping violations not specified by the Secretary as serious.".

TRUCK VISIBILITY

SEC. 9. Not later than 60 days after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding on the need to adopt methods for making trucks more visible to motorists so as to reduce accidents, particularly at night, taking into consideration such factors as truck illumination and truck color. Such proceeding shall be completed within two years after the date of enactment of this Act.

DEFINITIONS

SEC. 10. As used in this Act—

(1) the term "commercial driver's license" has the meaning given such term in section 12019(4) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2716(4));

(2) the term "commercial motor vehicle" has the meaning given such term in section 204(1) of the Motor Carrier Safety Act of 1984 (49 App. U.S.C. 2503(1));

(3) the terms "conditional" and "unsatisfactory" have the meanings given those terms in part 385 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act;

(4) the term "Secretary" means the Secretary of Transportation; and

(5) the term "truck" means a commercial motor vehicle that meets the description set forth in section 204(1) (A) or (C) of the Motor Carrier Safety Act of 1984 (49 App. U.S.C. 2503(1) (A) or (C)).

DIRECTING THE SENATE LEGAL COUNSEL TO BRING A CIVIL ACTION TO ENFORCE SUBPOENA OF THE IMPEACHMENT TRIAL COMMITTEE ON THE ARTICLES AGAINST JUDGE ALCEE L. HASTINGS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 195, Senate Resolution 162.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 162) directing the Senate legal counsel to bring a civil action to enforce subpoena of the impeachment trial committee on the articles against Judge Alcee L. Hastings.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, the Impeachment Trial Committee on the Articles Against Judge Alcee L. Hastings has reported by the unanimous vote of its 12 members an original resolution to direct the Senate Legal Counsel to bring a civil action to enforce the committee's subpoena to William A. Borders, Jr. Mr. Borders is the now disbarred Washington, DC, attorney with whom Judge Hastings is alleged to have conspired to solicit a bribe to modify the sentence of two defendants in a case that was tried before Judge Hastings.

Mr. Borders appeared before the committee on July 24 and 27, 1989, but refused to answer the committee's questions. The committee's report, Senate Report 101-98, sets forth for the Senate's consideration the objections raised by the witness and the committee's carefully considered reasons for overruling them. The committee subpoenaed Mr. Borders on its own initiative after concluding, as its report states, "that the effort to find the truth, whoever may be favored by it, would be aided by hearing from the one person other than the respondent who has personal knowledge of it." By adopting this resolution, the Senate will endorse and ratify the committee's determination that its subpoena is an appropriate means of fulfilling its responsibility to report the evidence in this impeachment to the Senate.

Under the civil enforcement statute, the Senate Legal Counsel will apply to the U.S. District Court for the District of Columbia for an order to enforce the committee's subpoena. If the court issues an order to direct the witness to testify before the committee, but the witness refuses to obey the order, the Senate Legal Counsel will be authorized under section 1 of the resolution to apply to the district court for the imposition of civil sanctions to induce compliance.

Section 2 of the resolution provides that until final disposition by the Senate of the Articles of Impeachment the Impeachment Trial Committee is authorized to continue this action to enforce the subpoena to Mr. Borders, and to hear and report his testimony to the Senate. The committee will also be authorized to report further resolutions to the Senate on the enforcement of the subpoena to Mr. Borders, including a resolution to certify the witness contempt to the U.S. Attorney for the District of Columbia for prosecution as a criminal contempt of Congress.

I urge the adoption of the resolution.

Mr. BINGAMAN. Mr. President, on May 17, 1989, the Impeachment Trial Committee on the Articles of Impeachment Against Judge Alcee L. Hastings adopted two rules to govern aspects of its pretrial proceedings. Those rules were published in the CONGRESSIONAL RECORD on June 7, 1989.

An additional rule has been adopted by the Impeachment Trial Committee. This rule concerns the taking of testimony from Mr. William A. Borders, Jr., who was subpoenaed to appear as a witness by the Impeachment Trial Committee but has, to date, refused to testify. The committee has recommended that the Senate authorize a civil enforcement action at this time. It has advised Mr. Borders that although it anticipates that the taking of testimony of the parties' witnesses will be completed by August 4, 1989, it will be prepared to hear his testimony both during the August recess and thereafter. This rule implements the committee's decision that the taking of Mr. Borders' sworn testimony during the recess may proceed before a quorum of one member. Some or all of the other members of the committee may, of course, also be present.

I hereby submit that rule and ask that it be printed in the RECORD, as follows:

There being no objection, the rule was ordered to be printed in the RECORD, as follows:

RULE 3—QUORUM FOR TAKING TESTIMONY OF WILLIAM A. BORDERS, JR., DURING RECESS

During the recess or adjournment of the Senate one member of the Committee shall constitute a quorum for the purpose of examination of Mr. William A. Borders, Jr., at which sworn testimony is heard and evidence taken.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 162) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, are as follows:

S. RES. 162

Whereas William A. Borders, Jr., appeared before the Impeachment Trial Committee on the Articles Against Judge Alcee L. Hastings ("Impeachment Trial Committee" or "Committee") on July 24 and 27, 1989, pursuant to the Committee's subpoena;

Whereas, on July 24, 1989, the Chairman of the Impeachment Trial Committee communicated to William A. Borders, Jr., an immunity order that had been issued by the United States District Court for the District of Columbia pursuant to 18 U.S.C. §§ 6002 and 6005 (1982), but on July 24, 1989 and again on July 27, 1989, William A. Borders, Jr., refused to answer the Committee's questions to him about facts pertinent to the Articles of Impeachment;

Whereas under sections 703(b) and 705 of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(b) and 288d (1988), the Senate Legal Counsel shall bring a civil action under 28 U.S.C. § 1365 (Supp. V 1987) to enforce a subpoena of a Senate committee when directed to do so by the adoption of a resolution by the Senate; and

Whereas the Senate will have a continuing interest in the testimony of William A. Borders, Jr., until its final disposition of the Articles of Impeachment: Now, therefore, be it

Resolved, That the Senate Legal Counsel shall bring a civil action in the name of the Impeachment Trial Committee on the Articles Against Judge Alcee L. Hastings to enforce the Committee's subpoena to William A. Borders, Jr., and the Senate Legal Counsel shall conduct all related civil contempt proceedings.

SEC. 2. Until the final disposition by the Senate of the Articles of Impeachment against Judge Alcee L. Hastings, the Impeachment Trial Committee is authorized to continue this action to enforce the Committee's subpoena to William A. Borders, Jr., to hear his testimony, to report that testimony to the Senate, and to report to the Senate any further resolution for the civil or criminal enforcement of the Committee's subpoena to him.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHILD NUTRITION PROGRAMS REAUTHORIZATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 199, S. 1484, the child nutrition programs reauthorization bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1484) to amend the Child Nutrition Act of 1966 and the National School Lunch Act to reauthorize child nutrition programs, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HARKIN. Mr. President, yesterday I introduced S. 1484, The Child Nutrition and WIC Reauthorization Act of 1989. The programs addressed in this reauthorization legislation are vital to the nutritional well-being of millions of Americans daily. They include the WIC Program, the School Lunch and Breakfast Programs, the Child Care Food Program, the Summer Feeding Program, and the Nutrition Education and Training Program. For many program participants, they represent the nutritional safety net for millions of our most vulnerable population. These child nutrition programs will help to preserve a most precious natural resource—the good health and well-being of our Nation's youth. At the same time by reauthorizing the commodity distribution program, we are strengthening our farm sector by purchasing surplus commodities to support these nutrition programs.

This bill does more than reauthorize WIC and the other child nutrition programs for another 4 years. It strengthens and improves these programs. It makes our tax dollars work harder than ever by getting more goods and services for less money. WIC cost containment procedures implemented several years ago are now recognized as the means by which millions of dollars have been saved and hundreds of thousands of additional needy women, infants, and children can receive WIC benefits at no additional cost to the Federal Government. As the person who introduced these initial cost containment procedures several years ago, I am pleased with their results and proud to be associated with the cost containment efforts contained in this bill we are discussing today.

I want to make special note of the cooperation and support I have received in crafting this legislation. This is a truly bipartisan consensus bill. I want to thank Senators BOSCHWITZ, LUGAR, and DOLE and their staffs. I am especially grateful to Senator LEAHY and his fine staff. Senator LEAHY is not just the chairman of our Agriculture Committee, he is a true friend and leader and one whose wise counsel and advice I appreciate. All of the Nutrition Subcommittee and full Agriculture Committee members have cosponsored this bill. Other original cosponsors of this bill include Senators MITCHELL, PELL, and WARNER. To each of these Senators and their staffs who have worked long and tirelessly, I extend my sincere thanks.

In any legislative package there are important decisions and many compromises that need to be addressed. This measure is no exception. It required many painful decisions and hard choices concerning the best use of scarce resources to meet the tremendous needs these programs seek to address. These programs represent one of the best investments the Federal Government makes because they are an investment in human growth and development. Many of these programs are cost-sharing programs; others not only represent cost-shared arrangements, they accomplish multiple objectives at the same cost to the Government.

The WIC program, for example, costs only $40 per month per participant. It does not pay for nutritional supplements to women, infants, or children unless they are both needy and at nutritional risk. When these criteria are met, it does not pay for all of the recipient's food bill. It only provides those additional nutritional supplements necessary to ensure good health and nutritional well-being. For every dollar spent on the WIC program, the Federal Government saves $3 in subsequent medical costs.

The school lunch program is another example of Government efficiency in action. This program was designed to guarantee a nutritious meal for schoolchildren. The Federal Government requires that participating schools offer a nutritious meal, as defined by USDA standards, to school children. In return for which the USDA provides the school 26 cents per meal served. About half of this is a cash grant and the other half is USDA commodities. This 26 cents generally represents only 20 percent of the cost of the lunch. The student pays the rest. For poor students, of which there are 11 million, the contribution increases based on relative need. Again the Federal Government has only paid the minimum amount necessary to accomplish its objectives. In the process it has saved subsequent medical expenses and invested in its own enhanced future. Research shows that hungry children do not learn as well as healthy children. In this respect, the school lunch program pays for itself.

Another benefit of the school lunch program is that the commodities provided by USDA are commodities that USDA has purchased from American farmers in an effort to stabilize farm prices. This may mean that Iowa corn, Michigan cherries, or Idaho potatoes are purchased directly in the market and then distributed through the commodity distribution program to the schools. Hence this program accomplishes several important objectives for which it requires a minimal cost. Many of us who represent agricultural interests realize the importance of this kind of intervention in the marketplace. These child nutrition and related programs are the kind of programs

we can all be proud to be associated with.

Again, Mr. President, let me extend my sincere appreciation to all those who participated in this effort on both sides of the aisle and, especially, our leadership for their wholehearted support and encouragement.

Mr. LEAHY. Mr. President, our children are our Nation's future. They are the resource that will take America far into the 21st century.

To make sure that our children have the good nutrition they need to contribute to that future, we established our child nutrition programs. The Child Nutrition and WIC Reauthorization Act of 1989 is essential legislation to further these goals.

This bill will continue our vital school lunch, breakfast, and summer feeding programs as well as extend the special supplementary food program for pregnant women, infants, and children [WIC].

Let me first say a few words about WIC.

Mr. President, each day, thousands of American infants are born underweight and malnourished. Many are in need of intensive hospital care.

For many of these babies, this is the difficult beginning of a hard life defined by poor diet, illness, and learning difficulties. From the very first day, these children are robbed of a healthy start on life—their most basic and critical need.

And despite the economic gains of the 1980's, the number of American children living in poverty is greater than ever. Today, one out of every five is born to poverty.

In this country of great wealth, when so many babies are born to such cruel circumstances, there is a social and moral responsibility to help.

WIC gives poor youngsters a chance. It helps feed poor mothers, infants, and children and teaches them about nutrition and health care. It offers supplemental food, nutrition education, and health care assessments to those who need it.

In short, WIC works. It is widely praised as one of the Nation's most effective social programs. Study after study shows that WIC helps ensure larger, healthier babies from birth on through the first vulnerable years. Study after study shows each WIC dollar saving multiple dollars in health care and hospitalization costs.

For example, a Harvard School of Public Health study found that each dollar spent on the prenatal component of WIC saves $3 in hospital costs for low-birthweight babies. A Missouri Department of Health study shows that during a newborn's first 45 days, each WIC dollar saves almost 50 cents in Federal Medicaid costs by dramatically reducing the need for emergency intensive care.

Unfortunately, WIC reaches only half of all eligible poor women and children. The other half—over 3 million nutritionally at-risk women and children—remain vulnerable because WIC is not fully funded. This underfunding does not make social or economic sense.

Republicans and Democrats alike have called for expanding the reach of WIC. Last fall, former Presidents Gerald Ford and Jimmy Carter both recommended full funding for WIC over the next several years.

President Bush has also praised WIC, calling for increased spending "so that women, infants and children in need receive the care they need."

I am proud that this bill not only extends WIC, but includes an important provision that will allow WIC to serve up to 80,000 more children each year at no additional cost to the taxpayer.

This provision is but one of the many important advances incorporated in this bill.

Mr. President, the legislation we are introducing today is a bipartisan bill. It keeps with my own conviction that hunger is not a partisan issue, but is rather a moral challenge.

This bill reflects the hard work and commitment of both Republicans and Democrats on the Agriculture, Nutrition, and Forestry Committee.

First, I want to thank TOM HARKIN for his deep devotion to America's children. His work, determination and drive, to provide them the food and nutrition they need, cannot be equaled in the Congress.

TOM is a fighter. He never gives up when it comes to getting good food to needy mothers and their babies. He is an excellent chairman of the Nutrition Subcommittee.

His ranking minority member, RUDY BOSCHWITZ, has also been a diligent and hard working member of the Nutrition Subcommittee. He takes the time to sit down and learn these complicated programs and his suggestions are always helpful.

The past ranking member of the subcommittee, BOB DOLE, is always a strong force on all of these issues. We worked together well when we both served on the Nutrition Subcommittee and I am glad that this good relationship continues to this day.

I also want to thank Senator MITCH MCCONNELL. Earlier this year he introduced three bills on child nutrition. We have incorporated many of his ideas in this legislation and I personally appreciate his efforts on this and other legislation before our committee.

Finally, but certainly not least, I want to thank two other Senators who have been critical in the formation of the bill. Senator JIM SASSER, chairman of the Senate Budget Committee, provided the additional funds for nutrition in the budget resolution. Senator DICK LUGAR, once again, has been indispensable in bringing a true bipartisan spirit to all of our work on nutrition issues.

Mr. President, all of the members of the committee are deeply committed to these child nutrition programs. And they are supported by a dedicated staff that has put in endless hours of work to make this bill possible.

I want to thank the minority staff who have worked so hard on this bill: Dave Johnson with Senator LUGAR, Terri Nintemann with Senator BOSCHWITZ, Stacy Hoffhaus with Senator DOLE, Cheryl Howie with Senator COCHRAN, LeeAnn Jerome with Senator BOND, and Tamara Somerville, Jeff Hall, and Suzy Johnson all with Senator MCCONNELL.

On the majority side, I want to thank Bob Andros and Mark Halverson with Senator HARKIN.

I especially want to thank my own staff on the Agriculture Committee. Janet Breslin, the deputy staff director, Ed Barron, the deputy chief counsel, and Laura Madden have worked together to make this bill work. I also appreciate the efforts of Mary Kinzer, Marc Carrell, Pat Rita, Valerie Callands, and Bob Sturm.

Ed Barron, in particular, deserves praise. His endurance and dedication are legendary. While he is the consummate staff expert, he is also a devoted father to his two young sons: James Williams who was born 2 years ago while Ed was hard at work on the Farm Credit bill and Stephen Edward who was born earlier this year as we began work on the child nutrition legislation.

Mr. President, the bill we have before us today reflects the unanimous bipartisan support of the entire Agriculture Committee. This broad-based support itself is a major achievement and reflects, as I said before, the commitment of the committee to all of our child nutrition programs.

Mr President, I would like to briefly summarize some of the key provisions of this bill:

First, the bill reauthorizes five important child nutrition programs for an additional 4 years. The programs are: WIC [Women, Infants and Children Feeding Program], the Summer Food Service Program, the Nutrition Education and Training [NET] Program, the Commodity Distribution Program, and the State Administrative Expense [SAE] Program.

These program extensions will help millions of children: 24 million children a year participate in the school lunch program, 3.7 million participate in the school breakfast program, 1.3 million in the child care food program, 1.8 million in WIC, and 1.6 million in the summer food program.

A major component of this bill is the expansion of the summer food program for low-income children.

Only 13 percent of low-income children receiving free or reduced price school lunches during the regular school year are now served by the summer food program.

Thus, 10 million low-income children are not reached by the Summer Food Service Progam. In the 15 most rural States, only 5.7 percent of these low-income children are reached by the summer food program. In many rural areas the schools close for the summer and thus cannot participate in the summer food program. In my home State of Vermont less than 1 percent of these low-income children are reached by the summer feeding program. This bill will greatly assist Vermont since it will allow private nonprofit groups—churches, community action groups, and others—to participate in the summer food program.

The bill will allow private nonprofit organizations to receive a Federal reimbursement for meals served to low-income children if they serve no more than 2,500 children per day and meet certain other criteria. As I mentioned, this will greatly help in rural areas where public schools traditionally close for the summer.

These newly eligible private nonprofit groups—churches, YMCA's, boy's clubs, and girl's clubs—will be able to operate in areas where public entities—schools, local, city or county governments—will not operate a summer food program.

In addition to expanding the summer food program, the bill also will increase the number of low-income children reached by the school breakfast program.

Almost 90 percent of school lunch participants are children from low-income families. However, over 50,000 schools that participate in the school lunch program do not participate in the breakfast program. The school participation rates are especially low in rural areas. These rates are low in Vermont. Under current law, schools might not be able to afford the extra expenses involved in initiating a breakfast program. This bill will help schools in Vermont, and in the Nation, by helping with these costs.

The bill will provide incentives—financial assistance—to cover nonrecurring expenses in starting a breakfast program.

The costs of expanding both of these programs is $13 million next year and about $50 million over the next 3 years. However, spending this money on needy poor children is money well spent.

Also, the bill requires State educational agencies to provide information to school boards and public officials about the benefits of the program and to target informational efforts each year on selected nonparticipating schools.

The bill also extends a one-State pilot project designed to test the nutritional need to provide an additional meal or snack to children staying in day care homes 8 hours a day or longer. This will provide Congress an opportunity to get more information on this approach.

The bill also expands the family day care food program by financially assisting child care providers to expand operations into low-income or rural areas.

In addition, the bill requires the Secretaries of Agriculture and Health and Human Services to jointly develop nutrition guidance for the school food service programs. The Secretary of Agriculture shall follow such guidance in administering the school lunch and breakfast programs.

Another important provision sets up a special breast-feeding promotion program to encourage WIC mothers to breastfeed their infants. Breast-feeding rates among WIC participants are low.

However, studies have shown that breast-feeding counseling and follow-up efforts can increase the percentage of women that breastfeed.

In fact, the Surgeon General of the United States, Dr. C. Everett Koop, advised the committee that immunologic advantages of human milk, which "cannot be duplicated in infant formula," make it clear that effective breast-feeding promotion programs represent a "decisive way to promote child health in the U.S."

In this regard I want to point out that the Secretary of Agriculture spends several hundred million dollars per year on the purchase of infant formula for the WIC program. This may partially explain why WIC participants are much more likely to use formula than breastfeed their infants.

To remedy this situation, the bill requires additional efforts on the part of States to conduct breast-feeding promotion efforts. The bill earmarks $8 million per year to be used by States, based on the number of pregnant and breast-feeding women in each State in relation to the national numbers, to promote breast-feeding among WIC participants.

Other provisions in the bill correct WIC administrative funding and cash-flow problems.

At the request of the National Association of WIC Directors, the bill provides for Federal funding for nutritional assessments, nutrition education and other administrative and nonfood costs on a per participant basis. The current system provides that States can use 20 percent of Federal funds for the costs of administration and nutrition services. However, infant formula rebate systems have greatly reduced food costs and increased participation, squeezing the ability of States to fund the nutrition assessments and meet other program requirements.

Also, the bill improves the system of reimbursing States during the course of each year which should alleviate cash-flow problems experienced by some States.

I would now like to discuss in more detail some of the provisions of this bill.

SUMMER FOOD PROGRAM EXPANSION

The summer food program is designed to continue the school lunch program for poor children during summer months when school is not in session. Many poor children are not reached by the program, however, especially in rural areas where few summer feeding programs are found. According to a recent USDA study, only 13 percent of the low-income children receiving free or reduced price school lunches during the regular school year are now reached by the summer food program.

One reason for such low participation is that only schools, public agencies, or residential camps are permitted to operate the program. All charitable and voluntary organizations—such as YMCA's, boys' clubs and girls' clubs, settlement houses, churches and the like—are excluded. Thus, the types of organizations that often operate emergency food pantries or soup kitchens—and that are frequently lauded for their voluntarism—are prohibited from operating summer food programs. They are precluded from operating a summer food program even if no school or public entity in the area is willing to run the program, and poor children are left unserved as a result.

When the program was initially established, such organizations were allowed to operate summer food service programs. In some large cities, nonprofit organizations developed that served tens of thousands—in some cases, hundreds of thousands—of children and that contracted with private food service companies for the delivery of the meals. Some of these organizations were not ongoing community organizations, but rather were operations whose sole function was to operate summer food programs. In some of these large operations, fraud and abuse were found.

The need to clean up this problem came at the same time as the large budget reductions of 1981. The result was that all agencies other than public agencies, schools, and residential camps were removed from the program. Established community organizations that served manageable numbers of poor children, cooked their own meals, had excellent track records, and no history of abuse were

terminated, along with those groups that had abused the program.

The hope at the time was that this action would not disadvantage low-income children, and that schools and public agencies would step forward to fill the gaps in areas where nonprofit, charitable, or religious organizations had been carrying the load.

In some areas, this did occur. But in many other areas, it did not. The greatest gaps were created in rural areas.

The following discussion relies on USDA data, and particularly USDA's recently issued evaluation of the summer food program, to document these gaps. It also outlines how this bill remedies this problem at modest cost while protecting program integrity and ensuring that the program is not again made vulnerable to fraud or abuse.

Census data show that from 1980 to 1987, the number of poor children rose by 1.5 million. However, during this period, the number of children reached through the summer food program fell by about 350,000, or 18 percent.

USDA's recent study of the program found that in 39 States, the number of low-income children served through the summer food program is less than 15 percent of the number of low-income children who receive free and reduced-price school meals during the regular school year.

For the Nation as a whole, the number of low-income children served in the summer food program equals just 13 percent of the number of children receiving free or reduced-price school meals.

The study found especially low participation in rural areas. It found that while 31 percent of the children with incomes below 175 percent of the poverty line lived in rural areas, only around 20 percent of the children in the summer food program were residents of rural areas. Rural areas were thus found to be heavily underrepresented in the summer program.

This is further shown by an examination of the participation levels in rural States. In every one of the 15 most rural States, the number of children served by the summer program was less than 15 percent of the number of children receiving free or reduced-price school lunches during the school year.

In fact, in 12 of the 15 most rural States, the number of children reached in the summer food program equalled less than 10 percent of the number of children receiving free or reduced-price school meals. This was also true in 4 of the 15 most urban States.

In the urban States, too, the gaps in the summer food program are large and participation is quite low. In the 15 most urban States, the number of children served in the summer food program averaged just 15.8 percent of the number of children receiving free or reduced-price school meals. But in rural States, participation is still lower. In the 15 most rural States, the number of children receiving summer meals averaged just 5.7 percent of the number of children receiving free or reduced-price school meals.

Participation is also especially low in certain regions of the country. In the Plains and Rocky Mountain States and in the Southwest, the summer food service program reaches fewer than 6 percent of the children receiving free and reduced-price school meals during the school year. In the Midwest, the figure is 11.5 percent. In the West and the Southeast, it is 13 percent. In the Mid-Atlantic region, it stands at 16 percent. Only the Northeast, with a 28 percent rate, is substantially higher.

In a report issued last year on rural health and nutritional issues, "Patterns of Risk: The Nutritional Status of the Rural Poor," Public Voice for Food and Health Policy examined barriers to participation in the summer food program in rural areas. Part of the study consisted of surveying State child nutrition directors throughout the country.

The survey results showed that the restrictions barring all private charitable organizations from operating summer food programs resulted in a "built-in bias against rural areas. Prior to 1981, rural programs in particular depended heavily on community action agencies and nonprofit organizations such as churches, boys' clubs, and girls' clubs to sponsor summer food programs."

The Public Voice study found that rural schools are generally reluctant to open during summer months in order to run the program. "The costs of opening [rural school] facilities and preparing food onsite with only limited reimbursement are disproportionately prohibitive in rural areas," the study reported. "Overhead and indirect costs of the program including lighting and kitchen facilities are spread over many fewer participants in rural areas. Without nonprofit sponsors, the program is not cost-effective in rural areas and the children suffer as a result."

The study also noted an anomaly: Those community action agencies that are officially part of the county government are permitted to operate the program—while those community action agencies that have independent nonprofit status are not, even though they generally have comparable resources and staff.

The Public Voice study observed: "The prohibition of private nonprofit organizations from the summer feeding program contrasts sharply with their involvement in other critical government programs. For example, private nonprofit organizations deliver commodities through the Temporary Emergency Food Assistance Program and are praised for these efforts."

Helping to fill these gaps would be desirable. But care also needs to be taken to guard against a return of the problems that occurred in the 1970's. How can this be done?

The key is to distinguish those types of nonprofit and charitable organizations that were associated with abuse in the 1970's from those that were clean. Those categories of organizations that included the abusers should remain barred from the program. Only those types of organizations that were not beset with problems should be allowed in.

A review of audits from the 1970's makes clear there were distinguishing characteristics of the nonprofit organizations that experienced serious problems. Nearly all serious fraud or abuse cases included private nonprofits that contracted with commercial vendors for the preparation and delivery of meals. Usually, these were nonprofit organizations serving meals to large numbers of children at large numbers of feeding sites. On some occasions, these were organizations that performed no other community function than serving summer meals.

The USDA Inspector General repeatedly noted in the late 1970's that such organizations were the source of the program's serious problems. In a semiannual report to Congress in November 1979, the Inspector General stated:

> We remain convinced that the greatest obstacle to the successful operation of the Summer Feeding Program is the continued participation of large private sponsor/private vendor combinations. They are the source of the worst abuses, and we continue to support legislation to remove time.

In his next semiannual report to Congress, in May 1980, the Inspector General reiterated this point.

> It is our view that schools and sponsors that prepare meals on site have had the best programs, and large private sponsors using meals prepared by a commercial vendor have had the most problems.

These findings led us to the proposed remedy. To help fill the gaps in the program and reach more poor children, certain nonprofit charitable organizations are permitted to operate the program, while all others would remain barred. The organizations allowed into the program would be those that meet all of the following criteria:

They either prepare their own meals or obtain meals from a school or other public facility. No nonprofits obtaining meals from private vendors would be allowed in the program.

They are small-scale operations only—for example they would be re-

stricted to serving no more than 2,500 children a day.

They serve only areas in which neither a school nor a public agency will operate a program

They are organizations that provide ongoing, year-round services for children or families.

They demonstrate adequate management and fiscal capacity and exercise full control and authority over the operation of the program at all sites under their sponsorship.

They meet all applicable State and local health, safety, and sanitation standards.

The current bill is based on this approach.

For the information of my colleagues I have attached a summary of the participation rates of certain States.

STATES WITH ESPECIALLY LOW PARTICIPATION IN THE SUMMER FOOD PROGRAM

This chart notes the percentage of those children receiving free or reduced price lunches as compared to the numbers participating in the summer food program.

	Percent
Alabama	13.2
Alaska	0.3
Arizona	6.5
Arkansas	1.0
California	14.5
Colorado	8.4
Georgia	12.2
Hawaii	9.6
Idaho	1.2
Illinois	10.3
Iowa	5.7
Kansas	4.7
Kentucky	6.5
Louisiana	9.4
Maine	2.1
Minnesota	10.7
Massachusetts	10.0
Mississippi	14.8
Missouri	6.1
Montana	9.6
Nebraska	4.2
Nevada	3.3
New Hampshire	5.9
New Mexico	12.3
North Carolina	8.9
North Dakota	6.7
Ohio	7.0
Oklahoma	2.9
Oregon	6.4
South Dakota	12.0
Tennessee	7.8
Texas	3.8
Utah	1.6
Vermont	0.9
Virginia	8.3
West Virginia	8.3
Washington	4.4
Wisconsin	5.9
Wyoming	0.3

I would note that under this legislation nonprofit organizations can serve an average of up to 2,500 children a day at no more than 5 urban sites, or an average of up to 2,500 children a day at no more than 25 rural sites. It is conceivable, of course, that a nonprofit organization could operate in an area along the demarcation line between a rural and an urban area. The legislation is not intended to limit such an organization either to the urban country only or to the rural area only. However, the organization would be limited to 2,500 children for its urban and rural sites combined.

The legislation also mandates that the Department shall conduct one or more demonstration projects under which the summer food service program is operated on a year-round basis for homeless children under the age of 6 in emergency shelters. These are children who are too young to go to school and receive school lunches or breakfasts, and whose parents generally cannot afford to send them to child care institutions that participate in the Child Care Food Program. This pilot project is an excellent idea, and was recommended to us by the U.S. Catholic Conference.

The project would commence during fiscal year 1990 and run through the end of fiscal year 1992. We have modestly budgeted $50,000 in fiscal year 1990 and $350,000 in each of fiscal years 1991 and 1992 for this project. I expect the Secretary to use these full amounts, which we have included in our mandatory spending totals, for these projects. I would also note that since these homeless children would, under this bill, already be able to be served through the summer food program during the months of May through September, the additional amounts provided for the pilot project are for program costs in other months of the year. What is being tested is the extension of summer programs for these children to the other months of the year.

The bill also assists the National Youth Sports Program, at the request of the Senator from Arkansas [Mr. PRYOR], in its drug counseling and rehabilitation efforts. Colleges and universities participating in the National Youth Sports Program [NYSP] currently are eligible to serve as feeding sites under the Summer Food Service Program for Children [SFSP]. However, section 13(c) of the National School Lunch Act, 42 U.S.C. 1761(c), limits payments under the SFSP to meals served during the months of May through September, "except in the case of service institutions that operate food service programs for children on school vacation at any time under a continuous school calendar."

Last year, Congress appropriated funds under the Anti-Drug Abuse Act of 1988 for enhanced NYSP drug abuse prevention activities. As part of that effort participating institutions will operate extended NYSP projects during the 1989-90 academic year, in order to maintain contact with the at-risk disadvantaged youths served by the program. The bill amends the Summer Food Service Program to allow these institutions to provide meals through the SFSP to NYSP participants during the extended program.

In addition to the summer food service changes the bill amends section 6(a)(3) of the National School Lunch Act by eliminating the system whereby schools may refuse up to 20 percent of the commodities available to them. Recent improvements in the commodity distribution programs have made this provision unnecessary. The Commodity Distribution Reform Act and WIC Amendments of 1987, which Senator DOLE and I introduced in 1987, in combination with a number of USDA initiatives, has significantly improved the variety and packaging of available commodities.

In addition, that commodity reform legislation requires States to offer the full range of commodities available to all school food authorities to the extent that they can be delivered efficiently. As a result, States have opted to operate under an offer and acceptance system instead of the 20 percent refusal system. Under the offer and acceptance system, schools indicate the amount of an available commodity they wish to have delivered and reject items in which they have no interest or cannot use. This has eliminated the need for the refusal system. Elimination of this obsolete provision will not result in any decrease in the level of service received by States or recipient agencies.

Section 132 would amend section 6(e)(1) of the National School Lunch Act, 42 U.S.C. 1755(e)(1), by requiring that the Secretary base the June 1 estimate of the total value of commodities to be delivered to schools in the current year on the number of meals served in the previous school year. It would also amend section 17(h)(1) of the National School Lunch Act, 42 U.S.C. 1766(h)(1), by basing the total amount of commodities to be provided to child care institutions on the number of meals served during the prior school year. In both cases, at the end of the school year, the Secretary would reconcile this with the number of meals actually served. This change would provide for carryover adjustments for differences between the prior year meal count and the number of meals actually served. Thus, there would be no change in the amount of commodity support to which States were entitled, but this support would be provided in a manner that is much easier for USDA to administer.

I should briefly note that the bill also sets forth new provisions on the Federal review of compliance with regulations implementing the School Lunch Act by State educational agencies. How this Federal review system is conducted is of critical concern to school food service authorities, and to the school lunch program. It is important that the Department solicit

public comment, through rulemaking, on how this Federal review is to be designed and implemented.

SCHOOL BREAKFAST

The school breakfast provisions of the bill also merit some discussion. I am proud of these provisions as well.

First, the bill requires States to provide information to school boards and public officials concerning the benefits and availability of the program. Twice in recent years, Congress raised school breakfast reimbursement rates to improve the nutritional quality of breakfasts and to facilitate the entry of more schools into the program. We are not sure, however, if many school boards and other local officials are aware of these enhanced reimbursement rates, or of the severe need reimbursement rates for which some schools can qualify.

We also are not sure if these school boards and officials know of other relevant changes made in the breakfast program in recent years, such as the "offer versus serve" provision. And we want to be sure information is provided on the availability of startup funds in some States, which are also provided for under this legislation. Finally, it is important that local school and other relevant public officials know of the benefits of the program to children.

Accordingly, we are directing that State agencies provide this information.

In addition, the bill requires special targeted informational efforts on the breakfast program to be conducted by the States and aimed at schools in which a substantial portion of the children are eligible for free or reduced-price meals. Each year, the State would select schools that would be targeted that year for informational efforts.

The bill also provides startup funds to assist and encourage schools to institute school breakfast programs. The Secretary is required to make $3 million in grants to States for startup funds in fiscal year 1990, $4 million in fiscal year 1991, and $5 million in each of fiscal year 1992 and fiscal year 1993. These funds would be taken off the top of the funds appropriated for the school breakfast program each year and would be in addition to the reimbursement funds to which States are entitled for meals served under the school breakfast program.

These startup funds would not be spread among all States, but rather would be distributed on a competitive grants basis. Preference would be given to States that either: First, have a State-level action plan to expand the breakfast plan that includes the provision by the State of technical assistance and State financial support for breakfast expansion; or second, are in the process of implementing a State law requiring certain types of schools to operate the breakfast program.

The legislation also includes a reallocation provision, so that if a State agency has a significant amount of unexpended funds after a reasonable period of time—such as a year—has elapsed, the Secretary would recover the funds and reallocate them to other States. The funds from a prior fiscal year that are recovered and reallocated are in addition to the amount that the legislation requires to be distributed by the Secretary in the fiscal year in question.

CHILD CARE FOOD PROGRAM

The legislation also contains several improvements in the Child Care Food Program. It provides for family and group day care sponsoring organizations to receive startup funds to expand into low-income or rural areas. It also directs the Secretary to conduct demonstration projects to test innovative approaches to removing or reducing barriers to participation faced by family or group day care homes that operate in low-income areas or that serve primarily low-income children.

As part of these demonstration projects, the Secretary may test the effect of providing grant funds to sponsoring organizations. The Secretary may also test the effect of modifying the administrative reimbursement rate structure for sponsoring organizations. The goal, which it is the purpose of the demonstration projects to attain, is to find approaches that result in the program reaching more low-income children who receive care in group or family day care homes.

WIC

I would also like to discuss several of the WIC provisions in the bill. These provisions are designed to foster more effective program operation.

First, I would like to note that under current law and regulations, States may set WIC income eligibility limits no lower than the poverty level and no higher than 185 percent of the poverty line. Nothing in the bill is intended to change this requirement. The small number of States that now elect to set WIC income levels below 185 percent of the poverty line would continue to be free to do so.

Second, the bill calls for WIC State agencies to provide local agencies with materials (a simple fact sheet should suffice) showing the State's maximum Medicaid income limits, by family size, for pregnant women, infants, and children up to age 5. Individuals applying or being recertified for WIC would be given information about Medicaid and referred to that program if they aren't currently participating in Medicaid and appear to have income below these Medicaid income limits. I would emphasize that we do not intend that USDA require WIC agencies to document in each WIC participant's or applicant's file whether a Medicaid referral was made. That would be unduly burdensome. I would also note that the Medicaid screening-and-referral system now in place in WIC agencies in North Carolina provides one model for implementation of this provision.

Similarly, the bill calls for providing information on food stamps and AFDC to adult participants and applicants. This could be achieved simply by providing, at certification and recertification interviews, a factsheet with basic program information and the address and phone number of the local food stamp and welfare offices. It is not intended that WIC caseworkers be required to discuss the eligibility rules of these programs or to document in individual casefiles whether these factsheets were distributed. Simply having the factsheets and handing them out at the interview would be sufficient. This applies as well to the provision of the bill calling for the provision of information about other sources of food assistance to people who come to the local WIC agency to apply but cannot be served because the local program is not certifying people in their priority category.

In keeping with our desire to keep requirements limited, the provision governing followup of pregnant women who miss appointments applies at the initial certification interview only. It does not apply to missed appointments for picking up WIC vouchers or to missed appointments at recertification. The purpose is to help get pregnant women into WIC as early as possible in their pregnancies, since medical research shows that WIC has a much greater effect on pregnancy outcomes when WIC begins to be provided at least 6 months before delivery.

Included in the bill's WIC provisions is a study on access problems experienced by rural poor and working poor families. The Secretary is directed to consult with State and local agencies, as well as low-income organizations, in undertaking this study.

The bill contains a number of provisions dealing with administrative funding for WIC. The bill provides for administrative funds to be based on a national average per participant grant that is adjusted for inflation each year. The bill now before us uses the fiscal year 1988 national average per participant grant as a base. I would note that until a few days ago, we had intended to use fiscal year 1987 as the base year, as the House Education and Labor Committee has done. In the last few days, USDA has produced some very rough, preliminary data which indicate we need to study further the fiscal impact of this matter. We have thus changed the fiscal year 1987 base year to fiscal year 1988 simply so that the Senate and House provisions

would not be identical—and so that there may be time to study this issue in more detail before the conference. I want to emphasize that this is in no way a decision on our part that fiscal year 1988 is the preferable base year to use. Fiscal year 1987 was the last year before cost containment systems were implemented, and thus may be the most appropriate year. Moreover, there are questions about the rough USDA data; these data need further work. We have taken this action only so that more careful analysis can be conducted.

Another part of the administrative cost problems in the bill allows the Secretary to reduce a State's administrative funding if the State's per participant expenditure on administrative costs for a fiscal year is more than 15 percent higher, without good cause, than its established per participant grant for the year. This adjustment would be made only after the fiscal year is over.

Still another administrative cost provision allows States to convert food to administrative dollars in certain circumstances. The bill also notes that there are circumstances in which the Secretary could disallow such conversion of funds. These are circumstances in which a State increases its participation level through measures not in the nutritional interest of participants.

An example would be an across-the-board reduction in the quantities of WIC foods provided to participants, without regard to whether some participants need the full WIC food package.

On another front, the bill calls for USDA to review how different nutritional risk factors affect the assignment of WIC applicants to the program's priority categories. Recently, concern has been expressed by some State and local agencies about USDA guidance in this area, especially as it affects pregnant women. Accordingly, the bill calls for the Department to conduct a review of this matter.

The review would be conducted during the coming year. Consultation with State and local WIC directors and public health experts is called for in the conduct of the review.

The results of the review are to be presented to Congress. We would note that this is not intended to require USDA to present us with a formal, printed study.

We would expect that the results of the review would be used by USDA in developing any policy changes on this matter. We would expect that any changes the Department did make would be made after comment and rulemaking.

Finally, the bill includes an important provision designed to strengthen infant formula cost containment systems so that they result in even larger savings than at present.

I would note that the States have done an outstanding job in the past 2 years in implementing cost containment systems. I wish program administrators in other programs would do as well. Now we have an opportunity to build on the States' efforts and take a logical next step.

The provision has two parts. First, it basically codifies in the authorizing statute Senator BURDICK's amendment to the fiscal year 1989 agriculture appropriations bill. That provision requires States to implement a cost containment system for purchasing WIC infant formula, unless such measures are infeasible, would not lower costs, or would interfere with the provision of WIC foods. Under that amendment, States have been required to submit feasibility plans to USDA indicating their plans to comply with the amendment. Barring a USDA finding that a State has not complied, States will have already satisfied this part of the provision and will not need to take further action under it. I would note that there are a few States, however, which will not have implemented any cost containment system by the start of fiscal year 1990. These States will need to move expeditiously to undertake cost containment or they will be out of compliance with these provisions.

The second part of the provision effectively requires that State agencies adopt the form of infant formula cost containment that would yield the largest savings. The provision requires that a State providing WIC foods through retail stores either use a competitive bidding system or use another cost containment system that is found, after the State secures bids under both systems, to generate equal or greater savings. Over the past year and a half, a number of States have used this latter approach—these States have issued an RFP or invitation-to-bid, have secured bids under both systems at the same time, and have determined which system would yield the greatest savings.

Currently, about 20 States either use competitive bidding, to select the single company offering the lowest price, or, in the case of one State, Arkansas, use another cost containment system selected as producing equal or greater savings when the State secured bids under both systems and compared them. In these States, the average rebate in July 1989 exceeded about $1.20 per can.

In about 20 other States, the State negotiated contracts with two or more companies without securing bids at the same time under competitive bidding procedures, and comparing the bids under the different cost containment systems. In these States, the rebates averaged about 90 cents per can in July.

This legislation is designed to bridge this gap by requiring that as current contract terms expire, all States are either to use competitive bidding outright or follow the types of procedures used by those States that secured bids under both systems at the same time and then compared them to determine whether another cost containment system would yield equal or greater savings than competitive bidding.

I would note that in comparing savings under various cost containment systems, other cost factors—in addition to rebate bids and projected rebate savings over the full term of a contract—may also be taken into account. These other cost factors may include the proportion of infants who would not reasonably be expected to use contract brand formula under a competitive bidding system, the amount of formula for which no rebate would be provided under an open market system—because the company in question declined to provide a rebate—and differentials in the administrative costs of implementing or converting to a new cost containment system. For example, a State could incur a cost in converting a computer system to implement a particular form of cost containment. Once cost containment systems have been implemented, ongoing operating costs of various systems should generally be similar, although this is a matter for the Secretary to examine.

In developing the regulations, the Secretary would be expected to examine such cost factors as those just mentioned in States that have implemented various forms of cost containment. This should provide information for regulatory purposes on the types and levels of costs that can reasonably be expected to be incurred.

This provision affects States in which WIC foods are purchased at retail stores. In States in which retail stores are used to deliver WIC foods in one part of the State and another delivery system is used in another part of the State, the provision applies only in the part of the State with a retail system.

I would note that this provision would not affect contracts currently in effect. The provision would take effect only as current contract terms expire and the contracts came up for renewal, extension, or renegotiation. The earliest date at which any such contracts expire is March 31, 1990. Thus, all States will have significant lead-time.

I would also note that in a few States with more than one contract, the current contracts expire at different times. In these States, the provision becomes effective on the latest expiration date of a contract in effect on the date of enactment of this legislation. The State would be able to

renew those contracts expiring at an earlier date until the latest date on which any of its contracts which were in effect on the date of enactment expired.

The provision also contains waiver authority under which a State could seek exemption from these requirements. It stipulates that the Secretary shall waive these requirements if a State demonstrates to the satisfaction of the Secretary that compliance with the provision would interfere with efficient or effective operation of the program or would have such a minimal effect that the difference in savings would not be significant. The Secretary would prescribe the terms under which waivers could be considered and granted.

The provision also recognizes that certain cost containment activities such as competitive bidding may not be feasible for small Indian State agencies. While such agencies would be expected to undertake activities that were feasible for them, they would not be required to undertake activity that is not feasible. If the Secretary finds that for some or all categories of small Indian agencies, application of this provision would not be feasible, he could exempt these agencies from further cost containment activities other than implementation of the feasibility plans they have already submitted under Senator BURDICK'S amendment.

The bill requires the Secretary to issue regulations governing this provision by December 15, 1989. We believe this is critical. It is essential that States with expiring contracts know what the ground rules are several months before their current contracts expire. Failure to provide adequate leadtime could be disruptive.

Over time, we expect this provision to generate some millions of dollars of new savings and to result in thousands of additional low-income pregnant women, infants, and children being able to be served.

I would also note that the legislation contains a provision stipulating that the provisions in section 123 of the bill—the WIC section—may not result in new USDA requirements to place more paperwork in individual participant casefiles. For example, while we regard the requirements governing referral of WIC participants to Medicaid as very important, a Medicaid referral slip need not have to be filled out and placed in each participant's file.

There are other, less onerous ways to monitor compliance with this provision, including checking to see whether the provisions are properly reflected in the State procedures manual that is provided to all local WIC agencies, whether the State has provided the Medicaid income eligibility factsheets to local agencies, whether local agencies have distributed the factsheets to caseworkers, and whether training has been provided to caseworkers in the area. These items can generally be monitored as part of the normal State review of local agencies and normal USDA management evaluations of States' agencies.

I would note that the provision in the bill precluding new casefile documentation requirements would not affect the provision regarding the content of certain notices of termination. The requirement for the notice is not new, has been in WIC regulations for years, and is a basic due process requirement under the Constitution. The provision included here merely clarifies what information needs to be included in the notice in certain circumstances. Whatever the current requirements are regarding these notices and their relationship to casefiles would remain unchanged.

We also expect the Department to consider carefully any new paperwork burdens resulting from requirements not mandated by statute. We would like to see paperwork burdens eased, not increased. I would note that one of the "cross-program" provisions of the bill requires USDA to seek to reduce paperwork burdens in several programs, including WIC, to consult with WIC directors over the coming year in undertaking this action, and to report back to us in a year on the actions the Department is taking to ease such burdens.

Last, as far as WIC is concerned, I would note that there are two provisions included in the House bill that I concur with but that we did not think necessary to write into the statute. One directs the Department to correct inconsistencies in current regulations regarding the time of the month in which certification period expire. The other directs the Secretary to see whether there is a way to use census data to update the State-by-State figures used in the WIC allocation formulas more often than once every 10 years. The Department preferred that these provisions not be in the statute, and I concur that it is not necessary to incorporate them into legislation. I do expect the Department to address these matters, however.

I would like to discuss one final issue. The Senate bill includes language taken from the House-passed child nutrition bill on the computation of cash compensation for certain school districts.

I would like to point out that the Senate bill contains an authorization of appropriations regarding these alleged amounts due certain school districts. This provision, recommended by Senator COCHRAN, would allow the Congress to appropriate funds for the Department of Agriculture to make restitution if any of these claims are determined valid.

Mr. SASSER. Mr. President, I rise to express my strong support for S. 1484, the Child Nutrition and WIC Reauthorization Act of 1989.

The child nutrition programs and the Women, Infants, and Children [WIC] Feeding Program have always been among my highest priorities. What more important service can our Government provide than helping to meet the basic nutritional needs of our country's children? The health and development of our children—and therefore the future of this Nation—depend on adequate funding of these programs.

As chairman of the Senate Budget Committee, I am more aware than most Senators of the resource constraints of our Government. However, there are certain responsibilities we must meet and priority areas that require some additional funding. That is why I have worked with the two primary authors of this legislation—Senator LEAHY and Senator HARKIN—to ensure that the Agriculture Committee had sufficient funding in the 1990 budget resolution to write a strong child nutrition bill.

Consequently, the 1990 budget resolution provided an additional $15 million in entitlement authority to expand services to low-income children through the Summer Food Program and the School Breakfast Program. These expansions are included in S. 1484, the bill currently under consideration.

This bill is an example of how much impact a modest $15 million can have when used effectively. These funds will allow an additional 100,000 low-income children to receive food service during the summer. Normally, these children would only have access to meals during the school year.

These funds will also allow an additional 350 schools to participate in the School Breakfast Program during the school year. Approximately 34,000 additional children will now be able to start their day with a nutritious meal, a prerequisite to success in school.

I would also like to commend the distinguished Senator from Vermont and the distinguished Senator from Iowa for two other important provisions in this bill. First, the bill authorizes the establishment of a national food service training institute to prepare standardized nutritional curriculum and assist school districts in managing their food service programs. I recently testified before the agriculture committee in support of such an institute modeled after a program currently operated by the Memphis School District.

Second, this bill includes cost-containment provisions that will decrease the costs of infant formula purchased through the WIC Program. I am proud that Tennessee was the first

State to recognize the cost savings associated with competitive bidding and am glad that Congress is now following suit. By implementing these cost savings measures, the WIC Program will be able to increase the number of women and children served without adding to Federal expenditures.

Mr. HEFLIN. Mr. President, today I rise to support one of the most crucial pieces of legislation this legislative body will address this year, the Child Nutrition and WIC Reauthorization Act 1989.

This bill would reauthorize five nutrition programs that would have expired in September 1989. These programs will be extended 4 more years. Nutrition programs included in this reauthorization include: WIC [Women, Infants and Children Feeding Program], the Summer Food Service Program, the Nutrition Education and Training [NET] Program, the Commodity Distribution Program, and the State Administrative Expense [SAE].

These program extensions will help millions of children: 24 million children a year participate in the School Lunch Program, 3.7 million participate in the School Breakfast Program, 1.3 million in the Child Care Food Program, 1.8 million in WIC, and 1.6 million in the Summer Food Program.

Research by the U.S. Department of Agriculture has demonstrated that the WIC Program has reduced the late fetal death rate by 20 to 33.33 percent. WIC has significantly increased the head size of infants whose mothers received WIC foods during pregnancy. Head size is an indication of brain growth. This same USDA study found that women who participated in WIC had longer pregnancies leading to fewer premature births. There was a 23-percent decrease in prematurity among white women with less than a high school education and a 15-percent decrease among black women with less than a high school education.

In my own State of Alabama, we have one of the highest rates of infant mortality in the country. A rate more indicative of a Third World country than of America. I believe that the WIC Program is the key to reducing Alabama's unacceptably high rate of infant mortality. Our State health officer, Dr. Earl Fox, is to be commended for his work toward increasing Alabama's WIC participation. Dr. Fox's efforts along with the efforts of the Senate Agriculture, Forestry, and Nutrition Committee are essential in the fight against infant mortality.

Mr. LEAHY. Mr. President, as you know this bill is being taken to the floor without committee markup. Members of the committee have worked together to handle this important legislation in this manner. We had worked out certain understandings that would have been put in a report had the committee needed to hold markup on the bill. The following remarks include language that we worked out and represent some of the committee views on the intent of the legislation.

The bill requires that schools participating in the School Lunch Program shall offer students fluid whole milk and fluid unflavored lowfat milk with lunch. I note that the term lowfat milk could include skim milk.

Section 102 establishes a demonstration project to provide year-round food service to homeless children in emergency shelters. The committee intends that these shelters would meet applicable State or local health, fire and safety standards.

Regarding the Child Care Food Program, the committee notes that monitoring of child care institutions should be handled differently than it is now being handled. Federal regulations should be revised, if necessary, to require that states monitor institutions—referred to in section 17 of the National School Lunch Act, subsection (a)—not fewer than three times per year if the institutions are schools, and not fewer than six times per year if they are private nonprofit organizations.

Under section 105, Child Care Food Program sponsors are allowed to use startup funds for encouraging more day care homes to locate in low-income or rural areas. We expect in issuing regulations that the Department would not preclude more than one sponsor from getting these new expansion funds solely because the sponsors covered the same or similar geographic areas.

Also under section 105 the Secretary is required to conduct demonstration projects to encourage day care homes to locate in low-income areas or to serve low-income children. The difficulty with conducting a pilot project in which the administrative reimbursement rate is reduced is that those sponsors would be adversely affected. Using grant money to conduct these pilot projects would avoid this problem.

Section 111 concerns the provision of nutrition guidance for the School Breakfast and School Lunch Programs. The committee does not intend that quantitative limits or restrictions be set by this guidance. We also expect that such general guidance would be updated as necessary based on new scientific information.

One part of section 121 requires State education agencies to provide information to school boards and public officials about the School Breakfast Program. Only appropriate categories of public officials, as determined by the State education agency, would—in addition to school boards—have to be given this information.

Further, the language requiring the Secretary to reallocate and recover amounts provided for targeted outreach for the School Breakfast Program should be interpreted in a reasonable fashion, and efforts to quickly recover small balances would not be appropriate. Since funds under the child nutrition account are normally appropriated for 2 years, it may be reasonable for unspent funds to be recovered after the end of the fiscal year for which they have been appropriated and reallocated at the beginning of the second year. Further, I note that the Federal startup funds are to supplement, not replace, State funding for expansion of the School Breakfast Program.

Regarding new language on the Federal review system for the School Lunch Program, I would like to note how important the proper operation of this program is to the Department and to the school food service authorities. The Department should make certain that its implementation of that language does not impose undue burdens on States or school food service authorities.

I have noted earlier regarding the Special Supplemental Food Program for Women, Infants and Children (WIC) that States, even in light of section 123, are allowed to set income eligibility limits below the amount set for free and reduced price meals under the School Lunch Act unless the WIC applicant fits into one of the categories listed in section 123—for example, receives food stamps, AFDC, or Medicaid.

Regarding the provision under section 123 concerning advance payments for commencement or expansion of nutrition services or administration, I note that some States provide advances, if necessary, to cover normal program operations. The new language should not be interpreted to preclude that practice.

Section 123 requires that written information about the Food Stamp Program, AFDC, and child support enforcement be provided to adult participants and applicants. These provisions are not intended to be overly burdensome for State agencies. If a one-page fact sheet providing basic information on these programs, including where to apply locally for assistance, were simply handed out to applicants and participants at certification and recertification interviews, this would suffice. We do not intend that local agencies be required to document in participants' casefiles that they were provided these fact sheets.

Similarly, local agencies are required by the legislation to develop, and to distribute as appropriate, a listing of local resources for substance abuse counseling and treatment. Here, too, the compilation and distribution of a one-page fact sheet should suffice, without any requirements for docu-

mentation in casefiles that particular applicants or recipients were given this listing.

Another provision in section 123 requires States to indicate in their annual State plans how they can serve infants and children who are under the care of foster parents or protective services and who are not being served by WIC. We expect that State or local WIC agencies will contact foster care and protective service agencies and provide them with written information on WIC, so that those agencies may inform their own caseloads. We do not expect onerous paperwork or reporting requirements to be imposed on State WIC agencies because of this provision.

Under section 123, local agencies will be required to attempt to contact pregnant women who miss appointments to apply for WIC benefits in order to reschedule the appointments. I would like to note that a reasonable attempt would mean a phone call or a postcard or letter. In addition, the committee wants to make clear that additional recordkeeping not be required of either local agencies or State agencies.

Another provision in section 123 calls for a review of the nutritional risk criteria and the priority system for WIC. The committee does not expect a formal printed study. The committee intends that the Department conduct a review of this issue and submit the results to Congress.

Section 123 requires that local agencies provide written information about sources of food assistance in the local area to individuals who apply in person for WIC benefits but cannot be served because the local agency is operating at full capacity. The committee does not intend this provision to require excessive documentation or verification. For example, requiring a signature of each individual acknowledging receipt of the written material should not be required under this provision.

Another provision in section 123 changes the way that grants for nutrition services and administration are calculated. This bill uses 1988 as a base year in setting the national average per participant grant for nutrition services and administration. We are not certain at this point whether 1987 or 1988 is the more appropriate base year to use and wish that further analysis of this matter be conducted between now and the conference. Accordingly, since the House bill uses 1987 as the base year, we wrote 1988 into our bill so that this issue will not be closed and so that further analysis can proceed. The inclusion of this provision in our bill should not be construed as an indication or statement that we have reached a conclusion that 1988 is a more fitting base year.

One of the more significant provisions in the bill regards infant formula cost containment systems in the WIC program. States currently receive higher average rebates than other States if they use competitive bidding, or use another cost containment system that has been determined to save as much or more than competitive bidding when bids are secured under both systems and compared.

Accordingly, the bill requires States to use either competitive bidding or another infant formula cost containment system that is found to save as much or more than bids under both systems are secured and compared. A waiver procedure is also included.

This new cost containment provision may not prove feasible for some small Indian agencies, which may not be able to secure competitive bids. The Department should assist these agencies to achieve the maximum cost containment savings possible, but should not require these small Indian agencies to do what proves to be infeasible for them.

Regarding the Nutrition Education and Training Program, the committee notes that section 19(d)(1)(c) of the Child Nutrition Act of 1966 authorizes nutrition education activities in child care institutions, and encourages this activity.

Section 131 eliminates a provision at the recommendation of the Department. This provision eliminates the 20-percent commodity refusal option. As a word of caution, the committee fully intends that the Department continue the system of allowing school food authorities to make decisions about which foods they want and when they need them. The committee has heard favorable reports about improvements in the commodity distribution program stemming from the enactment of the Commodity Distribution Reform Act and WIC Amendments of 1987.

Concerning section 201, the committee does not intend for this language to prevent States from following State requirements which limit the duration of contracts.

Section 202 establishes a system whereby children may be determined eligible for the School Lunch Program by the school food authority if they learn that the child's family is on food stamps or AFDC. For religious or other reasons some parents might not want their children to participate. The committee intends that the schools honor the express wishes of the parents or guardians in this regard.

Section 213 allows agencies to provide WIC vouchers through mail issuance under certain conditions. Specifically, mail issuance is allowed in months when a participant is not scheduled to come to the WIC office for nutrition education or a recertification interview—although USDA may disapprove use of mail issuance in areas where the Secretary finds this would pose a significant threat to program integrity. We wish to underscore that this provision for mail issuance does not apply in those months in which nutrition education is scheduled. The program's strong emphasis on nutrition education needs to be maintained.

The committee bill directs the Department of Agriculture to report on the appropriateness of foods eligible for purchase in the WIC Program. In particular, the bill directs that the Department address how effectively WIC provides foods that are rich in protein, calcium, and iron. Those are foods of particular importance to the WIC target population. The bill also directs that the Department address nutrient density in its review of the appropriateness of WIC foods since obesity remains a leading dietary concern.

Furthermore, the Department should report on the appropriateness of WIC foods in providing nutrients for which the target population is most vulnerable to deficiencies. Evidence has been presented to the committee that thiamin, riboflavin, vitamin A, and zinc are nutrients that the target population tends to consume at levels well below the recommended dietary allowance.

The Department should look beyond the nutrient composition of foods. Bioavailability of such nutrients should be considered. For example, testimony delivered to the committee indicates that bioavailability may greatly influence the effectiveness of various options for addressing the iron needs of the WIC population.

Furthermore, testimony delivered to the committee indicates that the delivery of biovailable nutrients through the WIC commodity package may be enhanced through the addition to certain commodities such as lean red meats. The Department should address these issues in its report.

We also urge the Department to review its "Buy American" regulations to ensure that products purchased with Federal assistance are American grown or produced as well as American processed commodities.

We also request that USDA review its summer feeding regulations and consider whether it is appropriate to include the "offer versus serve" provisions currently applied to the School Lunch Program.

There are a number of technical changes made by title III. Such technical changes are not intended to alter the status quo but are made to clean up certain programs arising from the enactment in 1986 of two bills with very similar, or identical, provisions, but with differing implementing dates. Also, hyphenation and typograghical errors are being corrected.

I would like to ask the ranking minority member of the committee if he

agrees with these statements concerning committee intent.

Mr. LUGAR. Yes, I thank the chairman for his remarks concerning various committee understandings regarding the Child Nutrition and WIC Reauthorization Act of 1989.

Mr. HARKIN. Pursuant to USDA regulations (7 CFR part 250), school food management, processing, warehousing and delivery contracts are limited to periods of 1 year. Based on subcommittee research, I have determined that multiyear contracts can reduce administrative expenses and paperwork and increase the efficiency of both the State agencies and the public or private entities involved. With the passage of this bill we are requesting the Department to reconsider its current resolutions so that States are not restricted from entering into multiyear contracts with public or private entities where it is deemed appropriate to do so. In accordance with OMB guidelines, multiyear contracts for goods and services must be based on competitive bidding practices and yield reduced costs over 1-year contracts. This proposal was supported by the National Association of State Agencies for Food Distribution [NASAFD].

Mr. LEAHY. That is correct; I understand that this change was called for in one of NASAFD's 1989 resolutions as well.

Mr. BOND. I would like to commend the work of the distinguished chairman and his staff in bringing the Child Nutrition and WIC reauthorization bill to fruition so quickly. These are vitally important programs to the children of our Nation. While I have not objected to this bill being brought up so quickly without committee or floor debate, I do, nevertheless, have some concerns about certain provisions in this bill. I would like to draw the attention of my colleagues to the WIC Program, in particular, for a few moments.

Mr. LEAHY. Certainly.

Mr. BOND. When the WIC Program began in 1972, 10 percent of funds were to be used for administrative costs, and 90 percent for the food itself. In 1974, USDA permitted additional moneys to be used for administration because of the necessity and cost of providing medical examinations to participants. In 1975, Congress provided for 20 percent of appropriated funds under WIC to be used for administrative costs, including the medical evaluation. Since 1975, I am told by our State WIC Director, "the paperwork and documentation requirements for the program have grown at a geometric level. The result is that the services to women and children which have made the program so successful and well liked by clients have eroded to levels which damage the effectiveness of WIC." He goes on to list 54 additional regulatory requirements of the State that have been added since then, though none of these were funded. In all those years, only two regulatory requirements have been deleted.

The change in the formula included in this year's reauthorization bill from an 80–20 percent breakdown to a cost per participant basis will go a long way toward alleviating the administrative burden on State WIC programs. However, this year's reauthorization contains seven new regulatory requirements.

I believe it is time to put a stop to ever-increasing regulatory requirements which, however well-intentioned, are driving the administrative costs of this program through the ceiling.

We will all go back to our constituencies congratulating ourselves for gaining an additional $115 million in appropriations for the WIC Program. We should try to be sure that as much of that money reaches women and children in need as possible.

There comes a time when we have to draw the line on what we are going to require of the States in administering a particular program. In one sense, it is testimony to WIC's success at reaching populations most in need that some of these additional requirements are made of the program. If we have the ear of an expectant mother, it is not unreasonable to make available information about other kinds of programs and counseling that might help her better to provide for her unborn child. But I believe, and I think the WIC directors share this concern, that there comes a point when additional demands, however well-meaning, undermine the effectiveness and the original intent of the program. At the very least, we should begin monitoring the costs of the additional mandates to determine exactly where this money is going.

Mr. LEAHY. I am sympathetic to the concerns of the Senator from Missouri, and I commend him for raising them. I believe the legislation before us begins to address those concerns, in large part because of his perserverance. First, while this legislation does include some new requirements, it also eases or eliminates a number of existing requirements. For example, the provisions that permit a client's participation in AFDC, food stamps or Medicaid to satisfy the WIC income test will eliminate the need for WIC agencies to conduct income eligibility determinations for a sizable portion of the caseload. This represents a major paperwork reduction.

Also, paperwork is reduced by new provisions on nutrition education, allowing the use of mail issuance of WIC vouchers, and permitting States to conduct review of local agencies every other year, instead of annually. These provisions were all recommended by the States and should ease adminstrative costs and burdens. I hope that we have achieved a fair balance between new requirements and the reduction in old requirements.

Second, to help make sure that the provisions of the bill representing new requirements do not lead to new paperwork burdens, we have included a provision, at the Senator's urging, that precludes USDA from imposing new requirements to place more paperwork in participant casefiles.

Third, we have included a provision, also at the Senator's request, directing USDA to conduct a review of both the administrative costs of the new requirements and of the administrative-cost savings from the requirements that have been eased or dropped. The review will help us develop an accurate picture of the situation.

Finally, we have included provisions directing USDA to work to reduce paperwork requirements in both WIC and the school food programs, to consult with State and local administrators on this, and report back to us in a year on the paperwork reductions that have been achieved.

Mr. BOND. I thank the distinguished chairman of the committee and his staff for their willingness to work with me on this issue.

Mr. DOLE. Mr. President, I am pleased to support the Child Nutrition and WIC Reauthorization Act of 1989. This bill revises and extends through fiscal year 1993 the child nutrition programs that expire at the end of this fiscal year. These programs include the Special Supplemental Food Program for Women, Infants and Children, known as WIC, the Commodity Distribution Program, the Summer Food Service Program, the Nutrition Education and Training Program and the State Administrative Expense Program. The bill also makes certain changes in the entitlement child nutrition programs.

I thank the distinguished chairman of the Senate Agriculture Committee, the distinguished chairman of the Nutrition Subcommittee, as well as Senator LUGAR, Senator BOSCHWITZ and other members of the Committee for their efforts on this legislation. I commend Senator MCCONNELL for the work he has done to improve access to the School Breakfast Program.

Mr. President, what we are doing in this bill is fine tuning these nutrition programs, not making fundamental changes in them. There is bipartisan recognition that these programs effectively contribute to the well-being of the Nation's children, especially those who are poor. I would cite in particular the WIC Program, which is not only one of the most popular nutrition programs, but also one of our most successful domestic assistance pro-

grams. Its benefits are well-targeted, its effectiveness well documented.

As someone who has been actively involved in the development of WIC over the years, I take great pride in the program's accomplishments. The provisions included in this year's bill to encourage breastfeeding by WIC mothers and to improve WIC's coordination with other public assistance programs should further strengthen the program.

Of the provisions in the measure that apply to meal service programs, one of the most significant would allow private nonprofit sponsors to participate again in the Summer Food Service Program. Congress excluded these organizations from the program in 1981, partly in response to documented abuses by certain large vendors. In some parts of the country, however, public agencies have not been able to fill the void left by private sponsors. As a result, many low-income children have gone unserved, especially in rural areas.

In reopening the program to private nonprofit sponsors, we have included restrictions on the numbers of children and sites that can be served and the types of operations that qualify. These safeguards should prevent abuse from recurring; however, Congress clearly will need to exercise diligent oversight in this area.

Mr. President, I compliment the Members of the Senate Agriculture Committee on working together to craft a balanced, constructive bill. I hope this measure will receive strong support and speedy consideration.

Mr. LUGAR. Mr. President, I rise today to join my colleagues in urging the passage of the Child Nutrition and WIC Reauthorization Act of 1989. This legislation has been cosponsored by every member of the Senate Agriculture Committee.

This bill would reauthorize five child nutrition programs. They are the Summer Food Service Program, the Commodity Distribution Program, State Administrative Expenses, the Nutrition Education and Training Program and the Special Supplemental Food Program for Women, Infants and Children.

Two programs would receive significant funding increases under the bill. First, private nonprofit organizations would be eligible to participate, in certain circumstances, in the Summer Food Service Program. This program acts as a substitute for the school lunch program when school is not in session. Because of documented fraud and abuse by some nonprofit organizations operating in large cities, private nonprofit organizations were eliminated from participating in the program early in this decade.

The elimination of all private, nonprofit organizations left gaps in the areas covered by the summer program. This bill would attempt to close those gaps by allowing established community organizations that serve manageable numbers of poor children and meet other requirements to participate in the program. The committee intends that the limitations imposed on these organizations would prevent abuse in the future.

All of us recognize the relationship of adequate nutrition and the ability of children to learn. As Senator McCONNELL pointed out in the committee, a hungry child cannot learn. For that reason, this legislation would also provide competitive grants to State educational agencies for eligible schools for startup costs in implementing new school breakfast programs. Eligible schools are those attended by a significant percentage of children from low-income families.

Mr. President, I want to express my appreciation to Senator McCONNELL for focusing the attention of the Agriculture Committee on child nutrition earlier this year. On May 2, 1989, Senator McCONNELL introduced three bills regarding the School Breakfast Program, the Child Care Food Program and the Summer Food Service Program. Elements of all three bills have incorporated into this legislation. I congratulate the Senator from Kentucky for his foresight in the area of child nutrition.

I urge my colleagues to support this bill.

Mr. COCHRAN. Mr. Chairman, I support the Child Nutrition and WIC amendments of 1989, and I am particularly pleased that it includes the authorization of the National School Food Service Management Institute.

In response to mounting financial pressures on school food-service authorities and increased parental awareness of health and nutrition, the Institute would provide assistance to schools in developing cost-effective methods to deliver high-quality meals to students. The Institute would be a national center for the development of effective and efficient management principles. It would also provide education and training assistance to food service managers and personnel and engage in research to improve the efficiency of food service deliverers.

I am grateful to the committee for approving this authorization.

Mr. McCLURE. Mr. President, I rise today in support of the Child Nutrition Reauthorization Act. This is a necessary and important piece of legislation. I commend all the members of the Senate Agriculture Committee for their dedicated work on putting this legislation together and moving it to the floor in an expeditious manner. I would also like to commend Senator COCHRAN and his staff for their work on a section to this bill which extends the cash and commodity letter of credit school lunch sites. I believe that these two alternatives to the Commodity School Lunch Program provide a good yardstick by which to judge the Commodity Program. The House has also included the same language in their bill, thus no conference agreements need be made to this program extension.

Let me give a little background on this matter. From 1981 to 1985, 66 school districts in the United States were invited to participate in a congressionally mandated study of two alternatives to the Commodity Distribution School Lunch Program. One alternative was called the "Cash Program, because it deals only with cash in contributing to the local school lunch program, and the other called Commodity Letter of Credit or [CLOC] because it delivers letters of credit to school districts instead of commodities.

The study sites changed their programs in response to the request to try cash and CLOC. Many of these school lunch programs found that their expenses were less and the food served to children was more readily utilized. They liked the program so well that they came back to Congress and requested that they be allowed to remain on their own program—either cash or CLOC.

These 60 districts that remain on the alternative programs have requested that they be allowed to stay on their program because they believe that the alternatives better serve the purpose of both the School Lunch Program and the use of agricultural products. These school districts are asking to be grandfathered into the Child Nutrition Reauthorization Act.

They do this in spite of the fact that the USDA study showed that CLOC and cash sites receive 3 cents less per meal in Federal moneys than schools receiving commodities. They believe that the cash and CLOC alternatives are so much better they are willing to lose this 3 cents.

I would like to outline eight major benefits the alternative to commodity sites provide:

First, it increases income to schools—the Federal dollars the CLOC and cash sites receive, buys more value than the commodities yield, and provides more purchases through local companies.

Second, it lowers the costs for storage and delivery charges—according to the USDA study, CLOC school districts have reduced inventory by 85 percent; these school districts no longer have to rent storage.

Third, fairer to the local farmer and food companies—27 States are represented by the CLOC and cash sites. With the CLOC and cash alternatives local farmers and local companies in all 27 States are receiving price sup-

port by the school districts purchasing locally.

Fourth, the CLOC system meets the objective of the commodity system—to stabilize agricultural markets and improve farm incomes. The big advantage is that the small farmer, across this country reaps the benefits, versus a select few large farmers.

The CLOC system is designed to closely mirror the Commodity Program. The tables below summarizes the overall operations of the two systems. Below I have given a short explanation of how the commodity system works and how the CLOC system works.

THE COMMODITY SYSTEM

USDA makes an announcement of intent to purchase a commodity.

USDA accepts or rejects bids for a commodity which represents a percent of the purchase plan for the year.

USDA buys commodities and ships them to States, processors, or school districts.

States distribute commodities to school districts not receiving direct delivery.

School district receive commodities and keep records of commodities inventory for future orders.

CLOC SYSTEM

A CLOC alert is issued to inform districts of possible CLOC issuance.

If bids are accepted, a CLOC is issued authorizing districts to spend entitlement moneys on the commodity. The amount of money allowed is the same percent of entitlement as the USDA purchased is of the purchase plan.

Purchases made with CLOC moneys for the commodities cannot be made before the date of the USDA buy. Purchases cannot be made after the expected delivery date to the States.

Allowed delivery dates of CLOC products are tied to the amount of time it takes States to distribute commodities.

School districts send documentation of CLOC purchases to monitor approval before funds can be drawn down. As you can see these systems operate in similar ways.

Fifth, the cost of producing and serving lunch is less for CLOC/cash school districts—in 1979, Kansas State University, independent of USDA, did a thorough study of the costs associated with preparing and serving a school lunch—comparing the cost to schools receiving commodities with eight school districts receiving cash. This study showed that the food cost for a lunch was 6 cents less per meal in the school districts receiving an alternative—today this would translate into considerably more per meal.

The Federal outlay for commodities does not begin to show the real costs associated with the use of donated commodities. State and local costs for storage, transportation, and administration are not included and according to even the USDA study, when all the costs are considered, "the end cost of purchased food items—by the school district—is the same or lower than the end cost of comparable donated food items."

Sixth, it allows for the distribution of commodities in the most advantageous form—the CLOC system allows school districts to purchase the foods USDA has decided to distribute to schools participating in the National School Lunch Program in the form they can best use. It still allows for the Commodity Credit Corporation to distribute those products in storage as "bonus products."

Seventh, these alternatives are more efficient—unskilled labor, shortage of labor, and increased cost in labor make it impossible for some school districts to continue with preparing food using raw ingredients. This is particularly true in some urban areas. Commodity alternatives allow those districts to take advantage of USDA funding that otherwise they would have had to refuse.

And eighth, these alternatives have shown an increased use of commodity foods—foods purchased have better student acceptability—the students eat more of the food.

There are groups who argue that a dual commodity system would not work. Let me address this matter on an issue by issue basis.

Timeliness of purchases—at the December 13, 1984, briefing on the congressionally mandated [USDA] study, the group reported "the magnitude of the differences in the timing of commodity acquisitions that result from the cash and letter-of-credit system is too small to have an effect on market prices for those commodities." The farmers would receive relief in times of overproduction, maintaining the link between farm surpluses and purchases to remove surpluses.

Administrative costs—they would not increase with a dual system if the State distribution agencies adjusted staffing to workload and used the CLOC school districts' share of school administration and education [SAE] funds to pay for a contractor to monitor all CLOC sites.

No insurance cost of storage and distribution—since most States' distribution agencies have contracted out the storage and distribution of commodities to commercial distributors in their States, the decreases in quantity of commodities to be delivered should not have a noticeable effect; the volume delivered would stay about the same—more purchased but less in bulk commodity form. CLOC covers only entitlement commodity foods and CLOC sites still receive bonus commodities in the same form as any other school districts.

Other Federal food programs have options—for example, child care summer feeding and senior nutrition programs receive their allocation in either cash or commodity, this shows that a dual system can work. Thus there is precedence for allowing schools to have alternatives.

Emergency needs could be met—since most State distribution agencies require school districts to use and pay commercial companies for storage and distribution, these States really do not have a distribution system of their own in place. In case of an emergency, the same companies that the schools purchase food from would or could become the system of distribution.

No difference in purpose—between the commodity food distribution system and the CLOC system. The purpose of both is to support domestic agriculture through timely purchases of surplus food. The CLOC sites will continue to receive the truly surplus food known as bonus commodities.

Domestic products are purchased—the CLOC moneys must be spent on specific generic categories of domestic food items, which support designated farm surpluses or price support for certain commodities. Documentation is submitted to the clearinghouse to support purchases made. CLOC school districts' reports—including delivery tickets—are audited to help ensure that domestically grown and processed foods are purchased with CLOC moneys.

State supervisors perform administrative reviews on schools participating in the national school lunch program and this includes a check of commodities in storage. This check could be of products purchased with CLOC money. As a result of purchasing the domestic foods with CLOC money, the CLOC sites have become more conscious of origin and tend to purchase not only domestic foods with CLOC money, but more domestic foods in general.

I would like to address the report results which were announced at the end of the pilot project study.

I believe that the USDA used selective quotes to try to prove the alternatives to commodities did not work. The report on the study was greatly influenced by USDA. At the request of Congress, the General Accounting Office—[GAO]—examined the results of the USDA study. GAO reported that the study was "* * * too small and not randomly selected," and that USDA had overstated three major operating cost components—labor, transportation, and storage—for cash and CLOC participants. This obviously would cause the cash and CLOC sites to be less advantageous. I firmly believe that the USDA did everything possible to undermine the study and this is I question its validity.

According to GAO, the impacts on nutrition, feasibility, and consequence "* * * are minor and based primarily upon empirical information or observations not statistical date or information obtained from the project participants."

In summary, I should like to state that even though I feel strongly that alternatives to the Commodity Program of food distribution to schools should be allowed throughout the country, I am not pressing for this. I support the extension of being an alternative site to those school districts which were on the pilot project and that want to remain on their particular alternative.

This view has been expressed by the association of schools for an alternative to commodities. This group represents the 60 school districts which are asking Congress to grandfather the alternatives to commodities. These school districts need to be able to do long-term planning in their programs with some certainties. Returning to commodities would cause major adjustments for the school districts, and some could not make the necessary changes.

The provisions in this bill, the Child Nutrition Act, will be reauthorized for a full 4 years. The Senate Agriculture Committee has reauthorized the cash and CLOC sites until 1992. My legislation, introduced earlier this year makes cash and CLOC sites permanent if the district so desires. While I am not happy with this limitation, I am willing to accept it as a minimum length of time. I urge the Senate to hold firm to this position in the upcoming conference.

I also want to share my support for another provision of the bill which would reimburse school districts for the money lost when USDA made changes during the study. In January 1983, in the middle of a school year, the administration of USDA broke the contract with the CLOC and cash sites, by discontinuing CLOC and cash for projected bonus commodity items. At this late date, bonus commodities had been ordered by State commodity distribution agencies, and the CLOC and cash school districts did not receive the commodities, nor CLOC or cash that they were entitled to—and 50 of the school districts still have not been reimbursed. It is critical that these school districts be made whole again. Changes in the pilot project program criteria at the whim of the USDA not only skewed the study results but financially damaged these school lunch programs. I support reimbursement of these damaged schools.

Finally, I would like to thank the chairman and ranking member of the Senate Agriculture Committee and their staffs who worked long and hard to complete this bill. They have assisted me and my staff in working out problems with this section of the bill. I would also like to thank Senator COCHRAN for his support of this provision and for his willingness to bring this before the committee. I would also like to thank the cosponsors of the cash and CLOC extension bill I introduced earlier this year. They have been very supportive of this legislation and have helped to bring it to the attention of the committee. The following Senators are cosponsors of the bill: Senators SIMON, SYMMS, MITCHELL, HOLLINGS, GORE, GORTON, ADAMS, HEINZ, LIEBERMAN, and SPECTER. I want to thank them for their support of the cash and CLOC alternatives to the Commodity School Lunch Program.

Mr. McCONNELL. Mr. President, I wish to join my colleagues as an adamant supporter of this bill to amend the Child Nutrition Act of 1966 and the National School Lunch Act to reauthorize child nutrition programs which benefit our Nation's most treasured resources, our children. As the father of three children, I know firsthand how important it is to provide the best for our children and I believe that most parents would want no less than the best for their own children.

It was nearly 3 months ago that I stood on this floor and introduced three pieces of legislation that would benefit millions of children nationwide, by providing them with nutritious meals. Those bills, S. 880, S. 881, and S. 882 were designed to enhance and expand the National School Breakfast Program, the Child Care Food Program, and the Summer Food Program. I am pleased to say that virtually all parts of my bills were incorporated into the bill that was introduced today.

Oftentimes, the people of this country are cynical of what happens in the Capitol and I suppose that is sometimes justified, but I firmly believe that these child nutrition programs are among the most rewarding and responsible pieces of legislation that could ever pass through Congress. For many of this Nation's children the meal they receive through the various nutrition programs is the only nutritious meal they eat all day. These nutritious meals help to develop healthy bodies that can determine a lifetime of physical and mental well-being.

There are economic benefits that can be achieved through the child nutrition programs. According to the Committee for Economic Development every dollar spent in early intervention saves $5 in remedial education, welfare, and crime control. Mr. President there are not many investments that can return $5 for every $1 spent and I believe that we are not fully utilizing this investment vehicle.

While 99 percent of public schoolchildren have access to the School Lunch Program, only one-third of children living in poverty have access to the School Breakfast Program. The School Breakfast Program is one of the most beneficial, but yet the most underutilized Federal nutrition program. Many children do not eat breakfast, but whatever the reason it is the child that bears the consequences of not being fully prepared to face the morning ahead. A hungry child cannot learn. This is the emphasis of S. 880, the bill that I introduced and which major portions have been incorporated into section 121 of this bill.

I believe that the School Breakfast Program is vitally important to our children's nutritional well-being and educational development. Study after study indicates that a child that has a nutritious breakfast will achieve more academically, be more attentive in class, and be less of a discipline problem.

Ninety percent of the children participating in the School Breakfast Program are from low-income households and while it is the poor and disadvantaged children that benefit the most, it is clear that children from all income levels can benefit. Providing a breakfast program in more schools will give all students the opportunity to receive a nutritious breakfast. By providing the schools with startup funds it helps defray the cost of beginning a program and that is a major incentive.

These same nutritional benefits can also be achieved by providing meals to children in child care centers. Since the Child Care Food Program began in 1975 it has experienced substantial growth, benefiting all children who participate, but particularly those children from low-income households. S. 881 addresses those needs and parts of my bill do appear in section 105 of this bill

Kentucky currently has 60 for-profit centers participating in the Child Care Food Program. They serve an average of 2,800 children per day, well over one-half of these children are from low-income families. According to U.S. census figures, one in every five American children live in poverty, and for those children the only nourishment they receive in a day is from programs such as the Child Care Food Program. I would like to see these programs expanded further.

Under current legislation, for-profit child care centers may participate in the Child Care Food Program only if 25 percent of the enrolled children are funded by title XX of the Social Security Act. A for-profit center may be serving low-income children who are funded from other sources but be ineligible to participate in the Child Care Food Program because less than 25 percent of the children are title XX funded. In many States, particularly in Kentucky the title XX funds for child care are frozen. The waiting lists of low-income families seeking finan-

cial assistance in the title XX are very long, sometimes with a 1- or 2-year waiting list. Mr. President these long waiting lists must be shortened, so that children can receive the desperately needed assistance.

Within this bill is the authorization for a demonstration project to determine how many additional low-income children can be served with the eligibility change in regard to the title XX funding. This project is also designed to determine what outreach methods are most effective.

The third of my three bills, S. 882, which I am happy to say appears in a section of this bill, focuses on the Summer Food Program. Again, children primarily from low-income families receive much-needed assistance. In 1981 private nonprofit organizations such as churches, community service organizations, and other private charitable organizations were prohibited from participation in the Summer Food Program. Under this legislation private nonprofit organizations can sponsor summer food services under certain provisions. According to U.S. Department of Agriculture data, these private nonprofit groups accounted for one-fourth of the summer food sponsors before they were declared ineligible. There is no reason why any community action group, church, or others who wish to serve needy children should not be permitted to do so.

Mr. President, these nutrition programs are easily justifiable based on the merits of helping our children alone, but the economic benefits to all families prove even more assuredly that all of society will reap bountiful rewards from the passage of this bill. The Women, Infants, and Children Program is yet another case where the efforts of this body actually do help people. The WIC Program provides supplemental food, nutrition education, and improved access to health care to low-income pregnant women, new mothers, and young children at nutritional risk.

Medical studies have documented the success of WIC as a preventive program. Society may spend as much as $400,000 to care for a premature infant whereas, it costs only $400 to provide prenatal care. Again, it is the children from low-income families that are at the most risk and are twice as likely to be born at low birthweights. This condition increases the likelihood of death during infancy by 20 times. It is sad to say, but the infant mortality rate in the United States places us 19th among industrialized nations. That does not reflect sufficient effort and we owe it to our citizens to do a better job of providing adequate care for our children.

In Kentucky, almost 80,000 women, infants, and children are served by this program. The fastest growing segment of poor in my State is women and children in female-headed households. Fifty-six percent of these families with preschool children live below the poverty line. The need is there and it must be met. We are moving in the right direction and I believe we must continue to make progress.

The speed with which this bill was handled is an example of the extensive support that exists. I want to commend the Chairman, Mr. LEAHY, and the ranking member of the Senate Agriculture Committee, Mr. LUGAR, for their efforts in the reauthorization of this bill. I would also like to mention the efforts of two Kentuckians that provided me with valuable information on the three bills that I introduced in May. Both Linda Locke of Community Coordinated Child Care and Paul McElwain with the Kentucky Department of Education are tireless advocates for the children of Kentucky.

Mr. President, I am pleased to have played a role in the reauthorization of these vital programs and I yield the floor.

Mr. BOSCHWITZ. Mr. President, I am pleased to join in this bipartisan effort to further improve Federal child nutrition programs.

As the ranking Republican on the Nutrition Subcommittee, I want to thank my colleagues on the Senate Agriculture Committee and their staff for their cooperation and hard work in formulating this bill. In particular, I appreciate the efforts of Senator TOM HARKIN, chairman of the Nutrition-Subcommittee, Senator PAT LEAHY, chairman of the Agriculture Committee, and Senator DICK LUGAR, ranking minority member of the Agriculture Committee. In addition, Senator BOB DOLE has provided valuable leadership not only on this bill but on nutrition issues over the years. I must also commend Senator MCCONNELL for his initiatives to expand the School Breakfast Program.

The nutrition programs have a very bipartisan tradition here in the Senate. Another Minnesotan, Hubert Humphrey, is widely regarded as the founder of the WIC program. Indeed, Hubert Humphrey and Senator BOB DOLE began many of the nutrition programs. In the Agriculture Committee and the Nutrition Subcommittee, we continue that bipartisan approach on nutrition issues.

Since joining the Nutrition Subcommittee in 1983, I have worked closely on the child nutrition programs. These existing Federal nutrition programs have provided vital nutritional assistance to our Nation's children. For example, millions of school children receive breakfast and lunch every school day through the School Lunch and School Breakfast Programs. The Child Care Food Program provides nutritious meals and snacks to children cared for in child care centers and day care homes. The Summer Food Service Program provides meals to low-income children during the summer when school is not in session.

Most importantly, our bill reauthorizes the five expiring child nutrition programs through fiscal year 1993. These programs are: The Special Supplemental Food Program for Women, Infants, and Children, better known as WIC; the Summer Food Service Program; the Commodity Distribution Program; the State Administrative Expense Program; and the Nutrition Education and Training Program.

This bill allows certain nonprofit organizations to take part in the Summer Food Service Program. Under current law, public entities like schools or local governments can provide meals to low-income children in the summer when school is not in session. Nonprofits previously has been allowed to participate in the Summer Food Service Program but were excluded in 1981 because of problems with fraud and abuse. We have included restrictions in our bill to safeguard against these problems in the future. Allowing private nonprofit organizations to participate will be a big help in rural areas where many nonprofits are eager to get involved in the program.

Our bill also provides funding to schools for one-time expenses in establishing a school breakfast program. I've been a long-time supporter of the School Breakfast Program and have been strongly encouraging more schools to offer breakfast for their students. Last year I pushed hard for an increase in school breakfast reimbursement, and I was pleased that the Hunger Prevention Act enacted last year provided a modest increase for school breakfast.

Under our bill, child care food program sponsors may use startup funds to encourage day care homes to locate in low-income or rural areas. I've been a strong supporter of the Child Care Food Program, and I believe that we need to further encourage and expand the home provider system. I've also often heard from for-profit child care centers that would like to participate in the Child Care Food Program. We set up a pilot project in this bill which would make it easier for these centers to take part in the food program.

I must add that I am disappointed that our bill does not allow for reimbursement for an extra meal or snack for day-care homes nationwide. Last year in the Hunger Prevention Act, we provided the payment for an additional meal or snack for child care centers, but not all day care homes. I will continue to push for that change in the future.

While the School Lunch Program is permanently authorized, we took a close look at this program as well. When I'm back in Minnesota, I really

enjoy visitng schools, so I've eaten my share of school lunches, and they're pretty good. Most importantly, they meet high nutritional standards.

Education of our Nation's youth cannot begin without good health and nutrition. As many teachers have told me, hungry children do not learn. I've always believed that the Federal Government plays an important role in ensuring that school children receive a nutritional lunch.

We have included several provisions in our bill which are important to school food service directors and workers. Our bill requires the Department of Agriculture and the Department of Health and Human Services to prepare a nutrition guidance publication for distribution to schools participating in the school lunch and breakfast programs. This publication will be helpful in guiding schools in serving nutritious meals and ensuring that school lunches and breakfasts contribute to overall healthy eating patterns for schoolchildren.

I have heard concerns from many food service directors about Federal reviews. Our bill better coordinates the system between the Federal Government and the States for auditing school lunch claims.

Because more attention is being focused on the relationship between proper nutrition and good health, our bill increases the authorization for the Nutrition Education and Training [NET] Program. This will enable the NET Program to continue to provide valuable information and training on nutrition. The earlier in life that nutrition education is provided to children, the more impact it will have down the road.

I also want to comment briefly on the WIC Program. WIC is a proven program. Many studies have shown the effectiveness—higher birthweights, fewer premature births, better diets for infants and WIC moms, and less anemia in low-income children. We need to continue to work to reach more of those eligible for WIC.

Our bill better coordinates WIC with food stamps, AFDC, and Medicaid. I've long believed that we should work to better coordinate and simplify the myriad of assistance programs that are available to low-income families and individuals. In the long run, this will benefit both the recipient and the caseworker. Our bill also simplifies the procedures for determining the funding of administrative and nutrition services for WIC. The current system for allocating this funding can be cumbersome and complex.

On a final note, Mr. President, I intend to keep working hard to improve programs that provide nutritonal assistance to our Nation's children. Our bill strengthens the existing child nutrition programs and provides modest increases for school breakfast promotion and expansion of the Summer Food Service Program. I am very pleased that we were able to work so quickly in completing action on this bill here in the Senate.

Mr. GORTON. Mr. President, I rise in support of the child nutrition bill. The benefits to the children of our Nation's low-income families are enormous and well-documented. By providing children with proper nutrition early in life, we give them a chance: A chance to be healthy now, a chance to avoid illness in the future, a chance to learn. All our children deserve this chance and I encourage my colleagues to support this bill.

Mr. CONRAD. Mr. President, I am extremely pleased to join my colleagues today in support of the Child Nutrition and WIC Reauthorization Act of 1989.

The legislation before us goes a long way in ensuring that the children in this country will have continued access to vital nutrition programs. In my State of North Dakota alone, passage of this legislation means that the 110,000 children participating in the entitlement programs can be assured of continued nourishment. Over 2.5 million meals were provided to recipients across North Dakota in fiscal year 1988. And expansion of the programs, such as school breakfast, in the reauthorization measure today will enable even more students from low-income families to participate.

Our bill encourages more schools to develop a school breakfast program and disseminate information about the benefits of this and other programs. It also directs the Departments of Agriculture and Health and Human Services to provide greater dietary guidance to school officials in the purchase and preparation of meals for school food programs.

Reauthorization of the Nutrition Education and Training Program means continuation of special promotion, awareness, and training services for schools. Last year, North Dakota's Department of Public Instruction initiated a highly successful nutrition information campaign—the "I Heard it Through the Lunchline" effort—to heighten student awareness of the need for a healthy nutrtious diet.

Finally, efforts to expand the scope of the Summer Food Program will mean more distribution sites and greater access for rural children.

All of the entitlement programs have been upgraded to better serve eligible participants while satisfying reconciliation requirements. I commend Senators LEAHY and LUGAR, as well as Senator HARKIN who serves as chairman of the Agriculture Subcommittee on Nutrition, for successful packaging program improvement within budget limits.

In addition to the entitlement titles of the bill, our measure also reauthorizes the Special Supplemental Food Program for Women, Infants, and Children. WIC serves over 15,000 women and children in North Dakota. Nationwide, about 1.8 million participants are served by this program.

And I am pleased that through the efforts of many in Congress, some 250,000 additional pregnant women, children, and infants may be served next year. As reported out by the Appropriations Committees of each Chamber, WIC is scheduled to receive $118 million above current services for fiscal year 1990. This plenary funding will enable more eligible clients to be served.

Again, I would like to express my congratulations to the key architects of this legislation—Chairman LEAHY of the Senate Agriculture Committee, Senator LUGAR, the ranking minority member of the committee, and Senator HARKIN, all of whom have diligently crafted this measure and marshaled overwhelming bipartisan support for its passage.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time, and passed; as follows:

The text of S. 1484, as passed by the Senate on August 4, 1989, is as follows:

S. 1484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Child Nutrition and WIC Reauthorization Act of 1989".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROGRAMS UNDER THE NATIONAL SCHOOL LUNCH ACT AND THE CHILD NUTRITION ACT OF 1966

Subtitle A—Programs Under the National School Lunch Act

Sec. 101. Types of milk to be included in school lunches.
Sec. 102. Summer food service program for children.
Sec. 103. Extension of commodity distribution program.
Sec. 104. Repeal of National Advisory Council.
Sec. 105. Child care food program.
Sec. 106. Meal supplements for children in afterschool care.
Sec. 107. Receipt of cash payments or commodity letters of credit under the school lunch program.
Sec. 108. Food service management institute.
Sec. 109. Compliance and accountability.
Sec. 110. Information on income eligibility.
Sec. 111. Nutrition Guidance for School Food Service Programs.

Subtitle B—Programs Under the Child Nutrition Act of 1966
Sec. 121. Expansion of school breakfast program.
Sec. 122. State administrative expenses.
Sec. 123. Additional activities and requirements with respect to special supplemental food program.
Sec. 124. Nutrition education and training.
Subtitle C—Cross-Program Provisions
Sec. 131. Elimination of 20 percent commodity refusal option.
Sec. 132. Determination of total commodity assistance for the school lunch and child care food programs.
TITLE II—PAPERWORK REDUCTION AMENDMENTS
Subtitle A—Reduction of Paperwork Under the National School Lunch Act
Sec. 201. Permanency of State-local agreements for carrying out the school lunch program.
Sec. 202. Income documentation requirements.
Sec. 203. Reports to State educational agencies.
Sec. 204. 2-year applications under child care food program.
Sec. 205. Reduction of paperwork.
Subtitle B—Paperwork Reduction Under the Child Nutrition Act of 1966
Sec. 211. State-local agreements for carrying out the special milk program.
Sec. 212. Permanency of State-local agreements for carrying out the school breakfast program.
Sec. 213. Paperwork reduction requirements under the special supplemental food program.
Sec. 214. Updating of plans for nutrition education and training.
TITLE III—TECHNICAL AMENDMENTS
Subtitle A—Amendments to the National School Lunch Act
Sec. 301. Apportionments to States.
Sec. 302. Direct Federal expenditures.
Sec. 303. Payments to States.
Sec. 304. State disbursement to schools.
Sec. 305. Nutritional and other program requirements.
Sec. 306. Miscellaneous provisions and definitions.
Sec. 307. Summer food service program for children.
Sec. 308. Repeal of obsolete provision relating to temporary emergency assistance.
Sec. 309. Commodity distribution program.
Sec. 310. Election to receive cash payments.
Sec. 311. Child care food program.
Sec. 312. Pilot projects.
Sec. 313. General amendments.
Subtitle B—Amendments to the Child Nutrition Act of 1966
Sec. 321. Special milk program authorization.
Sec. 322. School breakfast program authorization.
Sec. 323. Regulations.
Sec. 324. Appropriations for administrative expense.
Sec. 325. Miscellaneous provisions and definitions.
Sec. 326. Special supplemental food program.
Sec. 327. Nutrition education grants.
Sec. 328. Nutrition education and training.

TITLE I—PROGRAMS UNDER THE NATIONAL SCHOOL LUNCH ACT AND THE CHILD NUTRITION ACT OF 1966

Subtitle A—Programs Under the National School Lunch Act

SEC. 101. TYPES OF MILK TO BE INCLUDED IN SCHOOL LUNCHES.

(a) ELIMINATION OF DUPLICATE PROVISIONS.—Section 9(a) of the National School Lunch Act (42 U.S.C. 1758(a)), as similarly amended first by section 322 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-361), later by section 322 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-364), and later by section 4202 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

(b) GENERAL AUTHORITY.—Paragraph (2) of section 9(a) of the National School Lunch Act (as amended by subsection (a) of this section) (42 U.S.C. 1758(a)(2)) is amended to read as follows:

"(2) Lunches served by schools participating in the school lunch program under this Act shall offer students fluid whole milk and fluid unflavored lowfat milk.".

SEC. 102. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

Section 13 of the National School Lunch Act (42 U.S.C. 1761) is amended—

(1) in subsection (a)—

(A) by amending subparagraph (C) of paragraph (3) to read as follows:

"(C)(i) conduct a regularly scheduled food service for children from areas in which poor economic conditions exist;

"(ii) conduct a regularly scheduled food service primarily for homeless children; or

"(iii) qualify as camps; and";

(B) in paragraph (4)—

(i) by striking "and" at the end of subparagraph (D);

(ii) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(iii) by inserting after subparagraph (E) the following new subparagraph:

"(F) private nonprofit organizations eligible under paragraph (7).".; and

(C) by amending paragraph (7) to read as follows:

"(7)(A) Private nonprofit organizations, as defined in subparagraph (B) (other than organizations already eligible under subsection (a)(1)), shall be eligible for the program established under this section under the same terms and conditions as other service institutions.

"(B) As used in this paragraph, the term 'private nonprofit organizations' means those organizations that—

"(i)(I) serve a total of not more than 2,500 children per day at not more than five sites in any urban area, with not more than 300 children being served at any one site (or, with a waiver granted by the State under standards developed by the Secretary, not more than 500 children being served at any one site); or

"(II) serve a total of not more than 2,500 children per day at not more than 25 sites in rural areas, with not more than 300 children being served at any one site (or, with a waiver granted by the State under standards developed by the Secretary, not more than 500 children being served at any one site);

"(ii) either use self-preparation facilities to prepare meals or obtain meals from a public facility (such as a school district, public hospital, or State university) or a school participating in the program under section 4;

"(iii) operate in areas where a school food authority or the local, municipal, or county government has not indicated by March 1 of any year that such authority or unit of local government will operate a program under this section in such year;

"(iv) exercise full control and authority over the operation of a program under this section in such year;

"(v) provide ongoing year-round activities for children or families;

"(vi) demonstrate that such organizations have adequate management and the fiscal capacity to operate a program under this section; and

"(vii) meet applicable State and local health, safety, and sanitation standards.

"(C) As used in this paragraph, the term 'rural area' means—

"(i) any area in a county that is not a part of a metropolitan statistical area; or

"(ii) any area within a metropolitan statistical area that, at the option of the State agency and with the concurrence of the Secretary, is determined to be geographically isolated from urban areas.";

(2) in section (c), by striking "calendar." and inserting: "calendar and higher education institutions participating in the National Youth Sports Program that operate food service programs for children during the academic year. Payments shall be made to such institutions of higher education for meals served under such Program during the academic year, as well as during the months of May through September.";

(3) in the first sentence of subsection (l)(1), by inserting "(other than private nonprofit organizations eligible under subsection (a)(7))" after "Service institutions";

(4) in subsection (p), by striking "For" and all that follows through "1989," and inserting "For fiscal year 1978, and each succeeding fiscal year through fiscal year 1993,";

(5) by redesignating subsection (p) (as amended by subsection (b) of this section) as subsection (q); and

(6) by inserting after subsection (o) the following new subsections:

"(p) During fiscal years 1990 and 1991, the Secretary and State agencies shall carry out a program to disseminate information to potentially eligible private nonprofit organizations concerning the amendments made by the Child Nutrition and WIC Reauthorization Act of 1989 regarding the eligibility of private nonprofit organizations for the program established under this section.

"(q)(1) Notwithstanding subsection (c), the Secretary shall use sums made available to carry out this section to institute one or more demonstration projects designed to provide year-round food service to homeless children under the age of 6 in emergency shelters (as defined in section 321(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351(2)).

"(2) Private nonprofit organizations (as defined in subsection (a)(7)(B)) shall be eligible to participate in the project instituted under this subsection if the organizations operate no more than five food service sites for homeless children and serve no more than 300 such children at any one site.

"(3) The Secretary shall expend no more than $50,000 in fiscal year 1990, and no more than $350,000 in each of the fiscal years 1991 and 1992, to carry out the projects instituted under this subsection.

"(4) Projects under this subsection shall commence operations prior to September 30, 1990, and terminate on September 30, 1992.".

SEC. 103. EXTENSION OF COMMODITY DISTRIBUTION PROGRAM.

(a) GENERAL AUTHORITY.—Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking "1989" and inserting "1993".

(b) ELIMINATION OF DUPLICATE PROVISIONS.—

(1) IN GENERAL.—Section 14(g) of the National School Lunch Act (42 U.S.C. 1762a(g)), as similarly added first by section 363 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-368), later by section 363 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-371), and later by section 4403 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), and as then amended by section 2 of Public Law 100-356, is amended to read as if only the amendment made by section 4403 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987, was enacted.

(2) COMPUTATION OF CASH COMPENSATION TO DISTRICTS UNDER PUBLIC LAW 100-356.—

(A) IN GENERAL.—Paragraph (3) of section 14(g) of the National School Lunch Act (as amended by paragraph (1) of this subsection) (42 U.S.C. 1762a(g)) is amended—

(i) by adding at the end of subparagraph (A) the following new sentences: "The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the actual amount of assistance received by such school district under this Act for the school year ending June 30, 1982, including—

"(i) the value of assistance in the form of commodities provided in addition to those provided pursuant to section 6(e) of this Act; and

"(ii) the value of assistance provided in the form of either cash or commodity letters of credit.

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than May 1, 1988. The Secretary shall complete action on any claim submitted under this subparagraph not later than November 15, 1990."; and

(ii) in subparagraph (B), by striking "$50,000" and inserting "such sums as may be necessary".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect as if such amendments had been effective on June 28, 1988.

(c) COMPUTATION OF CASH COMPENSATION TO DISTRICTS.—The matter following clause (ii) of section 14(g)(3)(A) of the National School Lunch Act (as amended by subsection (b) of this section) (42 U.S.C. 1762a(g)(3)(A)) is amended to read as follows:

"The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than 1 year after the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989. The Secretary shall complete action on any claim submitted under this subparagraph during the 45-day period beginning on October 1, 1990.".

SEC. 104. REPEAL OF NATIONAL ADVISORY COUNCIL.

Section 15 of the National School Lunch Act (42 U.S.C. 1763) is repealed.

SEC. 105. CHILD CARE FOOD PROGRAM.

(a) IN GENERAL.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—

(1) in subparagraph (C) of subsection (f)(3)—

(A) in the first sentence, by inserting before the period the following: "and expansion funds to finance the administrative expenses for such institutions to expand into low-income or rural areas";

(B) in the second sentence, by inserting "and expansion funds" after "start-up funds";

(C) in the third sentence, by inserting "and expansion funds" after "Start-up funds";

(D) in the fourth sentence, by inserting "and expansion funds" after "start-up funds";

(E) in the fifth sentence, by inserting "and expansion funds" after "start-up funds"; and

(F) by inserting after the first sentence the following new sentence: "Institutions that have received start-up funds may also apply at a later date for expansion funds.";

(2) in subsection (l)—

(A) by inserting "(1)" after "(l)"; and

(B) by adding at the end the following new paragraphs:

"(2) The Secretary shall conduct demonstration projects to test innovative approaches to remove or reduce barriers to participation in the program established under this section regarding family or group day care homes that operate in low-income areas or that primarily serve low-income children. As part of such demonstration projects, the Secretary may provide grants to, or otherwise modify administrative reimbursement rates for, family or group day care home sponsoring organizations.

"(3) The Secretary and State agencies shall provide training and technical assistance to assist family and group day care home sponsoring organizations in reaching low-income children."; and

(3) in subsection (p), by adding at the end the following new paragraphs:

"(6) Lunches served for which any institution referred to in paragraph (1) is reimbursed under this section shall not provide less, on the average, than approximately ⅓ of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. Such institutions shall make reasonable efforts to serve meals that meet the special dietary requirements of participants, including efforts to serve foods in forms palatable to participants.

"(7) The Governor of a State or other appropriate official of a State may designate to administer the program established under this subsection a State agency other than the agency that administers the child care food program established under this section.".

(b) PILOT PROJECTS.—Section 17 of such Act is amended by adding at the end the following new subsection:

"(q)(1) From sums made available to carry out this section, the Secretary shall carry out, in the States of Kentucky and Iowa, statewide demonstration projects in which private for-profit organizations providing nonresidential day care services shall qualify as institutions under this section, if no less than 25 percent of the children served by each such organization meet the income eligibility criteria for free or reduced price meals under section 9.

"(2) Under such project, the Secretary shall examine the budgetary impact of the change in eligibility being tested, the extent to which additional low income children can be reached as a result of such change, and which outreach methods are most effective.

"(3) Such project shall commence not earlier than May 1, 1990, and terminate on September 30, 1992.".

(c) FAMILY OR GROUP DAY CARE HOME DEMONSTRATION PROJECT.—Section 503(e) of the Hunger Prevention Act of 1988 (Public Law 100-435; 102 Stat. 1673; 42 U.S.C. 1766 note) is amended by striking "not later than 12 months after the date on which the project was fully initiated" and inserting "September 30, 1990".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall become effective on July 1, 1990.

(2) PILOT PROJECTS.—The amendment made by subsection (b) shall become effective on May 1, 1990.

(3) FAMILY OR GROUP DAY CARE HOME DEMONSTRATION PROJECT.—The amendment made by subsection (c) shall become effective on the date of enactment of this Act.

SEC. 106. MEAL SUPPLEMENTS FOR CHILDREN IN AFTERSCHOOL CARE.

The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by inserting after section 17 the following new section:

"SEC. 17A. MEAL SUPPLEMENTS FOR CHILDREN IN AFTERSCHOOL CARE.

"(a) IN GENERAL.—

"(1) PROGRAM.—The Secretary shall carry out a program to assist States through grants-in-aid and other means to provide meal supplements to children in afterschool care in eligible elementary and secondary schools.

"(2) ELIGIBLE SCHOOLS.—For the purposes of this section, the term 'eligible elementary and secondary schools' means schools that—

"(A) operate school lunch programs under this Act;

"(B) sponsor afterschool care programs; and

"(C) are participating in the child care food program established under section 17 on May 15, 1989.

"(b) ELIGIBLE CHILDREN.—Reimbursement may be provided under this section only for supplements served to children—

"(1) who are not more than 12 years of age; or

"(2) in the case of children of migrant workers or children with handicaps, who are not more than 15 years of age.

"(c) ADMINISTRATION.—

"(1) PAYMENT RATES.—For purposes of this section, the national average payment rate (as adjusted pursuant to section 11(a)(3))—

"(A) for free supplements shall be 40.25 cents;

"(B) for reduced price supplements shall be ½ the rate for free supplements; and

"(C) for paid supplements shall be 3.75 cents.

"(2) ELIGIBILITY FOR SUPPLEMENTS.—Determinations with regard to eligibility for free and reduced price supplements shall be made in accordance with the income eligibility guidelines for free lunches and reduced price lunches, respectively, established under section 9.

"(d) CONTENT OF MEAL SUPPLEMENTS.—The requirements that apply to the content of meal supplements served under child care food programs operated with assistance under this Act shall apply to the content of meal supplements served under programs operated with assistance under this section.".

SEC. 107. RECEIPT OF CASH PAYMENTS OR COMMODITY LETTERS OF CREDIT UNDER THE SCHOOL LUNCH PROGRAM.

Paragraph (1) of section 18(e) of the National School Lunch Act (42 U.S.C. 1769(e)) is amended by striking "December 31, 1990" and inserting "September 30, 1992".

SEC. 108. FOOD SERVICE MANAGEMENT INSTITUTE.

The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

"SEC. 22. FOOD SERVICE MANAGEMENT INSTITUTE.

"(a) IN GENERAL.—The Secretary may establish and maintain a food service management institute to—

"(1) conduct research necessary to assist schools in providing high quality, nutritious, cost-effective meal service to the children attending such schools;

"(2) provide training and technical assistance through the establishment of a national network of trained professionals to present training programs and workshops for school food service personnel utilizing training materials developed by the institute; and

"(3) act as a clearinghouse for research, studies, and findings related to all aspects of the operation of school food service programs, including activities carried out with assistance provided under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788).

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for fiscal year 1990, and $4,000,000 for each of the fiscal years 1991 through 1993.".

SEC. 109. COMPLIANCE AND ACCOUNTABILITY.

The National School Lunch Act (as amended by section 108 of this Act) (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

"SEC. 23. COMPLIANCE AND ACCOUNTABILITY.

"(a) ESTABLISHMENT.—There shall be established a unified system prescribed and administered by the Secretary for ensuring that local food service authorities that participate in the school lunch program established under this Act comply with this Act.

"(b) DUTIES OF STATE EDUCATIONAL AGENCIES.—

"(1) IN GENERAL.—Under the system described in subsection (a), each State educational agency shall—

"(A) require that local food service authorities comply with this Act; and

"(B) ensure such compliance through reasonable audits and supervisory assistance reviews.

"(2) MINIMIZATION OF ADDITIONAL DUTIES.—Each State educational agency shall coordinate the compliance and accountability activities described in paragraph (1) in a manner that minimizes the imposition of additional duties on local food service authorities.

"(c) DUTIES OF SECRETARY.—In carrying out this section, the Secretary shall—

"(1) cooperate with the State educational agency, if mutually agreeable, to assist States in monitoring programs conducted by local food service authorities; and

"(2) through management evaluations of the State educational agency conducted by the Secretary—

"(A) review the compliance of the State educational agency with regulations issued under this Act; and

"(B) as needed, monitor programs conducted by local food service authorities to determine the extent of compliance with regulations governing such programs.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out the compliance and accountability activities referred to in subsection (c) $4,000,000 for each of the fiscal years 1990 through 1993.".

SEC. 110. INFORMATION ON INCOME ELIGIBILITY.

The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by sections 108 and 109 of this Act) is amended by adding at the end the following new section:

"SEC. 24. INFORMATION ON INCOME ELIGIBILITY.

"(a) IN GENERAL.—In the case of each program established under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), the Secretary shall provide to each appropriate State agency—

"(1) information concerning what types of income are counted in determining the eligibility of children to receive free or reduced price meals under the program in which such State, State agency, local agency, or other entity is participating, particularly with respect to how net self-employment income is determined for family day care providers participating in the child care food program (including the treatment of reimbursements provided under this section); and

"(2) information concerning the consideration of applications for free or reduced price meals from households in which the head of the household is less than 21 years old.

"(b) ADMINISTRATION.—The Secretary shall provide—

"(1) the information required by subsection (a) before the expiration of the 90-day period beginning on the date of the enactment of this section; and

"(2) as necessary, revisions of such information.".

SEC. 111. NUTRITION GUIDANCE FOR SCHOOL FOOD SERVICE PROGRAMS.

The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by sections 108, 109, and 110 of this Act) is amended by adding at the end the following new section:

"SEC. 25. NUTRITION GUIDANCE FOR SCHOOL FOOD SERVICE PROGRAMS.

"(a) DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary of Agriculture and the Secretary of Health and Human Services shall jointly develop and approve a publication to be entitled 'Nutrition Guidance for School Food Service Programs'.

"(2) DISTRIBUTION.—The Secretary shall distribute such publication to school food service authorities and other institutions and organizations participating in the school lunch program established under this Act and the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

"(b) IMPLEMENTATION.—In carrying out the school lunch program under this Act and the school breakfast program under the Child Nutrition Act of 1966, the Secretary shall ensure, to the extent practicable, that meals and meal supplements served under such programs are consistent with the guidance provided in the publication developed under subsection (a).

"(c) REVISION.—The Secretary and the Secretary of Health and Human Services may jointly update and approve the publication developed under subsection (a), as warranted by scientific evidence.".

Subtitle B—Programs Under the Child Nutrition Act of 1966

SEC. 121. EXPANSION OF SCHOOL BREAKFAST PROGRAM.

Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1733) is amended—

(1) in subsection (f)—

(A) by inserting before the subsection the following new heading:

"EXPANSION OF PROGRAM";

(B) by inserting "(1)" after "(f)";

(C) by striking the last sentence; and

(D) by adding at the end the following new paragraph:

"(2)(A) A State educational agency shall—

"(i) provide information to school boards and public officials concerning the benefits and availability of the school breakfast program; and

"(ii) select each year, for informational efforts concerning the program, schools in the State—

"(I) in which a substantial portion of school enrollment consists of children from low income families; and

"(II) that do not participate in the school breakfast program.

"(B) The Secretary shall report annually to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the efforts of the Secretary and the States to increase the participation of schools in the program."; and

(2) by adding at the end the following new subsection:

"STARTUP COSTS

"(g)(1) From amounts appropriated pursuant to subsection (a) for the purpose of carrying out this section, the Secretary shall use not less than $3,000,000 for fiscal year 1990, $4,000,000 for fiscal year 1991, and $5,000,000 for each of the fiscal years 1992 and 1993, to make payments on a competitive basis to State educational agencies in a substantial number of States for distribution to eligible schools to assist such schools with nonrecurring expenses incurred in initiating a school breakfast program under this section. Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b).

"(2) As used in this subsection, the term 'eligible school' means a school—

"(A) that is determined by the Secretary to be attended by children of whom a significant percentage are members of low-income families; and

"(B) that agrees to operate any school breakfast program established with assistance under this subsection for a period of not less than 3 years.

"(3) In making such payments, the Secretary shall provide a preference to State educational agencies that—

"(A) submit to the Secretary a plan to expand school breakfast programs conducted in the State, including a description of the manner in which the agency will provide technical assistance and funding to schools in the State to expand such programs; or

"(B) are in the process of implementing State laws requiring the expansion of the school breakfast program.

"(4) The Secretary, in consultation with the State educational agency, shall ensure, to the extent practicable, that the State

educational agency, in allocating funds within a State, gives preference to schools that demonstrate the greatest need for the initiation of a school breakfast program.

"(5) The State educational agency shall ensure that assistance received by any school under this subsection shall supplement, and not supplant, amounts received from non-Federal sources for maintenance of food programs for children at such school.

"(6) The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency under this subsection that are not used by such agency within a reasonable period.

"(7) The Secretary shall issue regulations establishing standards for eligibility for assistance under this subsection.".

SEC. 122. STATE ADMINISTRATIVE EXPENSES.

Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting after the first sentence the following new sentence: "If an agency in the State other than the State education agency administers such program, the State shall ensure that an amount equal to no less than the funds due the State under this paragraph is provided to such agency for costs incurred by such agency in administering the program, except as provided in paragraph (5)."; and

(B) by adding at the end the following new paragraph:

"(7) In accordance with regulations issued by the Secretary, a State shall ensure that the State agency administering the distribution of commodities under programs authorized under this Act and the National School Lunch Act (42 U.S.C. 1751 et seq.) is provided, from funds made available to the State under this subsection, an appropriate amount of funds for administrative costs incurred in distributing such commodities. In developing such regulations, the Secretary may consider the value of commodities provided to the State under this Act and the National School Lunch Act.";

(2) in subsection (g), by inserting before the period at the end the following: ", and that agree to participate fully in any studies authorized by the Secretary"; and

(3) in subsection (h), by striking "For" and all that follows through "1989," and inserting "For fiscal year 1978, and each subsequent fiscal year through fiscal year 1993,".

SEC. 123. ADDITIONAL ACTIVITIES AND REQUIREMENTS WITH RESPECT TO SPECIAL SUPPLEMENTAL FOOD PROGRAM.

(a) IN GENERAL.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) in subsection (d), by amending paragraph (2) to read as follows:

"(2) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of persons for participation in the program. Any individual at nutritional risk shall be eligible for the program under this section only if such individual—

"(A) is a member of a family with an income that is less than the maximum income limit prescribed for free and reduced price meals under section 9(b) of the National School Lunch Act (42 U.S.C. 1758(b));

"(B)(i) receives food stamps under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

"(ii) receives assistance under the program for aid to families with dependent children established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(C)(i) receives medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

"(ii) is a member of a family in which a pregnant woman or infant receives such assistance.";

(2) in subsection (e)—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by designating the third through fifth sentences of paragraph (1) as paragraph (2);

(C) in paragraph (2) (as so designated)—

(i) in the first sentence, by inserting "and breastfeeding promotion and support" after "nutrition education services,";

(ii) in the second sentence, by inserting "and breastfeeding promotion and support" after "nutrition education"; and

(iii) in the third sentence, by inserting "and breastfeeding promotion and support" after "nutrition education" each place it appears; and

(D) by adding at the end the following new paragraphs:

"(4) The State agency shall—

"(A) ensure that written information is provided to all adult participants in and applicants for the program established under this section concerning—

"(i) food stamps provided under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

"(ii) the program for aid to families with dependent children established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

"(iii) the child support enforcement program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.);

"(B) provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 5 under the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

"(C) provide individuals applying for the program under this section, or reapplying at the end of their certification period, with information concerning such medical assistance program, and refer such individuals to such program or to agencies authorized to determine presumptive eligibility for such program, if such individuals are not participating in such program and appear to have family income below the applicable maximum income limits for such program.

"(5) The State agency shall ensure that each local agency shall maintain and make available for distribution a list of local resources for substance abuse counseling and treatment.";

(3) in subsection (f)—

(A) in subparagraph (C) of paragraph (1)—

(i) in clause (iii)—

(I) by inserting "local breastfeeding promotion programs," after "immunization programs,"; and

(II) by inserting "and treatment" after "alcohol and drug abuse counseling";

(ii) by striking clause (vii) and inserting the following new clause:

"(vii) a plan to provide program benefits under this section to eligible persons most in need of the benefits and to reach eligible persons not participating in the program with information on the program, the eligibility criteria for the program, and how to apply for the program, with emphasis on reaching and enrolling eligible women in the early months of pregnancy, including provisions to reach and enroll eligible migrants;";

(iii) in clause (viii)—

(I) by striking "clause (h)(5) of this subsection" and inserting "subsection (h)(4)"; and

(II) by striking "and" at the end;

(iv) by redesignating clause (ix) as clause (xi); and

(v) by inserting after clause (viii) the following new clauses:

"(ix) a plan to provide program benefits under this section to unserved infants and children under the care of foster parents, protective services, or child welfare authorities, including infants exposed to drugs perinatally;

"(x) a plan to provide nutrition education and promote breastfeeding; and";

(B) by adding at the end of paragraph (8) the following new subparagraph:

"(D) Each local agency operating the program within a hospital and each local agency operating the program that has a cooperative arrangement with a hospital shall—

"(i) advise potentially eligible individuals that receive inpatient or outpatient prenatal, maternity, or postpartum services, or accompany a child under the age of 5 who receives well-child services of the availability of program benefits; and

"(ii) to the extent feasible, provide an opportunity for such individual to be certified for such participation within the hospital.";

(C) in paragraph (9)—

(i) by inserting "(A)" after "(9)"; and

(ii) by adding at the end the following new subparagraph:

"(B) Any State agency that must suspend or terminate benefits to any participant during the certification period of the participant due to a shortage of funds for the program shall first issue a notice to such participant. Such notice shall include, in addition to other information required by the Secretary, the categories of participants whose benefits are being suspended or terminated due to such shortage.";

(D) in paragraph (14)(A), by inserting ", breastfeeding promotion" after "nutrition education"; and

(E) by adding at the end the following new paragraphs:

"(18)(A) Except as provided in subparagraph (B), a State agency may implement income eligibility guidelines under this section at the time the State implements income eligibility guidelines under the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

"(B) Income eligibility guidelines under this section shall be implemented not later than July 1 of each year.

"(19) Each local agency participating in the program established under this section shall provide written information about other potential sources of food assistance in the local area to individuals who apply in person to participate in the program established under this section, but cannot be served because the program is operating at capacity in the local area.

"(20) The State agency shall adopt policies that—

"(A) require each local agency to attempt to contact pregnant women who miss appointments to apply for participation in the program established under this section, if such appointment was made during an in-person visit to the local agency, in order to reschedule such appointments; and

"(B) in the case of local agencies that do not routinely schedule appointments for individuals seeking to apply or be recertified for participation in the program established under this section, require each such local agency to schedule appointments for each employed individual seeking to apply or be recertified for participation in such program so as to minimize the time each such individual is absent from the workplace due to such application or request for recertification.";

(4) in subsection (g)—

(A) by amending paragraph (1) to read as follows:

"(1) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1989 through 1993. As authorized by section 3 of the National School Lunch Act (42 U.S.C. 1752), appropriations to carry out this section may be made up to 1 year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States, and shall remain available for the purposes for which appropriated until expended.";

(B) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(C) by inserting after paragraph (1) the following new paragraphs:

"(2)(A) Notwithstanding any other provision of law, unless a law is enacted in express limitation of this subparagraph, the Secretary—

"(i) in the case of a law providing funds through the end of a fiscal year, shall issue—

"(I) an initial allocation of funds provided by the enactment of such law not later than the expiration of the 15-day period beginning on the date of the enactment of such law; and

"(II) subsequent allocations of funds provided by the enactment of such law not later than the beginning of each of the second, third, and fourth quarters of the fiscal year; and

"(ii) in the case of a law providing funds for a period that ends prior to the end of a fiscal year, shall issue an initial allocation of funds provided by the enactment of such law not later than the expiration of the 10-day period beginning on the date of the enactment of such law.

"(B) In any fiscal year—

"(i) unused amounts from a prior fiscal year that are identified by the end of the first quarter of the fiscal year shall be recovered and reallocated not later than the beginning of the second quarter of the fiscal year; and

"(ii) unused amounts from a prior fiscal year that are identified after the end of the first quarter of the fiscal year shall be recovered and reallocated on a timely basis.

"(3) Notwithstanding any other provision of law, unless a law is enacted in express limitation of this paragraph—

"(A) the allocation of funds required by paragraph (2)(A)(i)(I) shall include not less than ⅓ of the amounts appropriated by the law described in such paragraph;

"(B) the allocations of funds required by paragraph (2)(A)(i)(II) to be made not later than the beginning of the second and third quarters of the fiscal year shall each include not less than ¼ of the amounts appropriated by the law described in such paragraph; and

"(C) in the case of the enactment of a law providing appropriations for a period of not more than 4 months, the allocation of funds required by paragraph (2)(A)(ii) shall include all amounts appropriated by such law except amounts reserved by the Secretary for purposes of carrying out paragraph (5).";

(D) in paragraph (5) (as redesignated by subparagraph (B) of this paragraph), by striking "$3,000,000" and inserting "$5,000,000"; and

(E) by adding at the end the following new paragraphs:

"(6)(A) The Secretary shall conduct a study of problems in securing access to the program established under this section experienced by individuals who are members of low-income working families or members of low-income families who reside in rural areas.

"(B) The Secretary shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate with respect to the results of the study required by subparagraph (A).

"(7) On the completion of the 1990 decennial census, the Secretary, in coordination with the Secretary of Commerce, shall make available an estimate, by State and county (or equivalent political subdivision) of the number of women, infants, and children who are members of families that have incomes below the maximum income limit for participation in the program established under this section.";

(5) by amending subsection (h) to read as follows:

"(h)(1)(A) Each fiscal year, the Secretary shall make available, from amounts appropriated for such fiscal year under subsection (g)(1) and amounts remaining from amounts appropriated under such subsection for the preceding fiscal year, an amount sufficient to guarantee a national average per participant grant to be allocated among State agencies for costs for nutrition services and administration incurred by State and local agencies for such year.

"(B)(i) The amount of the national average per participant grant for nutrition services and administration for any fiscal year shall be an amount equal to the amount of the national average per participant grant for nutrition services and administration issued for fiscal year 1988, as adjusted.

"(ii) Such adjustment, for any fiscal year, shall be made by increasing the national average per participant grant for nutrition services and administration for fiscal year 1988 by the percentage change between—

"(I) the value of the index for State and local government purchases, implicit weight, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30, 1987; and

"(II) the best estimate available as of the start of the fiscal year of the value of such index for the 12-month period ending June 30 of the previous fiscal year.

"(C) In any fiscal year, amounts remaining from amounts appropriated for such fiscal year under subsection (g)(1) and from amounts appropriated under such subsection for the preceding fiscal year, after carrying out subparagraph (A), shall be made available for food benefits under this section, except to the extent that such amounts are needed to carry out paragraphs (4) and (5) of subsection (g).

"(2)(A) For each of the fiscal years 1990 through 1993, the Secretary shall allocate to each State agency from the amount described in paragraph (1)(A) an amount for costs of nutrition services and administration on the basis of a formula prescribed by the Secretary. Such formula shall—

"(i) be designed to take into account—

"(I) the varying needs of each State;

"(II) the number of individuals participating in each State; and

"(III) other factors that serve to promote the proper, efficient, and effective administration of the program established under this section;

"(ii) provide for each State agency—

"(I) an estimate of the number of participants for the fiscal year involved; and

"(II) a per participant grant for nutrition services and administration for such year; and

"(iii) provide for a minimum grant amount for State agencies.

"(B)(i) Except as provided in clause (ii) and in subparagraph (C), in any fiscal year, the total amount allocated to a State agency for costs of nutrition services and administration under the formula prescribed by the Secretary under subparagraph (A) shall constitute the State agency's operational level for such costs for such year even if the number of participants in the program at such agency is lower than the estimate provided under subparagraph (A)(ii)(I).

"(ii) If a State agency's per participant expenditure for nutrition services and administration is more than 15 percent higher than its per participant grant for nutrition services and administration without good cause, the Secretary may reduce such State agency's operational level for costs of nutrition services and administration.

"(C) In any fiscal year, the Secretary may reallocate amounts provided to State agencies under subparagraph (A) for such fiscal year. When reallocating amounts under the preceding sentence, the Secretary may provide additional amounts to, or recover amounts from, any State agency.

"(3)(A) Except as provided in subparagraph (B), in each fiscal year, each State agency shall expend for nutrition education and breastfeeding promotion and support an amount not less than the sum of—

"(i) ⅙ of the amounts expended by the State for costs of nutrition services and administration; and

"(ii) an amount equal to a proportionate share of $8,000,000, with each State's share determined on the basis of the number of pregnant and breastfeeding women in the program in the State as a percentage of the number of pregnant and breastfeeding women in the program in all States.

"(B) The Secretary may authorize a State agency to expend an amount less than the amount described in subparagraph (A) for purposes of nutrition education and breastfeeding promotion and support activities if—

"(i) the State agency so requests; and

"(ii) the request is accompanied by documentation that other funds will be used to conduct such activities at a level commensurate with the level at which such activities would be conducted if the amount described in subparagraph (A) were expended for such activities.

"(C) The Secretary shall limit to a minimal level any documentation required to demonstrate compliance with the requirement established by subparagraph (A).

"(4)(A) Subject to subparagraph (B), in any fiscal year that a State agency achieves, through use of acceptable measures, participation that exceeds the participation level estimated for such State agency under paragraph (2)(A)(ii)(I), such State agency may convert amounts allocated for food benefits for such fiscal year to costs of nutrition

services and administration to the extent that such conversion is necessary—

"(i) to cover allowable expenditures in such fiscal year; and

"(ii) to ensure that the State agency maintains the level established for the per participant grant for nutrition services and administration for such fiscal year.

"(B) If a State agency increases its participation level through measures that are not in the nutritional interests of participants or not otherwise allowable (such as reducing the quantities of foods provided for reasons not related to nutritional need), the Secretary may refuse to allow the State agency to convert amounts allocated for food benefits to defray costs of nutrition services and administration.

"(C) For the purposes of this paragraph, the term 'acceptable measures' includes use of cost containment measures, curtailment of vendor abuse, and breastfeeding promotion.

"(5)(A) In each fiscal year, each State agency shall provide, from the amounts allocated to such agency for such year for costs of nutrition services and administration, an amount to each local agency for its costs of nutrition services and administration.

"(B) The amount to be provided to each local agency under subparagraph (A) shall be determined under allocation standards developed by the State agency in cooperation with local agencies, taking into account factors considered appropriate to further proper, efficient, and effective administration of the program, such as—

"(i) local agency staffing needs;

"(ii) density of population;

"(iii) number of individuals served; and

"(iv) availability of administrative support from other sources.

"(6) The State agency may provide in advance to any local agency any amounts for nutrition services and administration considered necessary for successful commencement or significant expansion of program operations during a reasonable period following approval of such events as—

"(A) the establishment of a new local agency;

"(B) the establishment of a new cost containment measure; or

"(C) a significant change in an existing cost containment measure.

"(7)(A) No State may receive its allocation under this subsection unless, on or before August 30, 1989 (or a subsequent date established by the Secretary for any State), such State has—

"(i) examined the feasibility of implementing cost containment measures with respect to procurement of infant formula (and, to the extent practicable, other foods necessary to carry out the program) under this section; and

"(ii) initiated action to implement such measures, unless the State demonstrates, to the satisfaction of the Secretary, that such measures would not lower costs or would interfere with the delivery of formula or foods to participants in the program.

"(B)(i) Except as provided in subparagraphs (C) and (D), in carrying out subparagraph (A), any State that provides for the purchase of foods under the program at retail grocery stores shall, with respect to the procurement of infant formula, use a competitive bidding system or any other cost containment measure that yields savings equal to or greater than the savings generated by a competitive bidding system.

"(ii) In determining whether a cost containment measure other than competitive bidding yields equal or greater savings, the State, in accordance with regulations issued by the Secretary, may take into account other cost factors (in addition to rebate levels and procedures for adjusting rebate levels when wholesale price levels rise), such as—

"(I) the number of infants who would not be expected to receive the contract brand of infant formula under a competitive bidding system;

"(II) the number of cans of infant formula for which no rebate would be provided under another rebate system; and

"(III) differences in administrative costs relating to the implementation of the various cost containment systems (such as costs of converting a computer system for the purpose of operating a cost containment system).

"(C) In the case of any State that has a contract in effect on October 1, 1989, or on the date of enactment of this paragraph, whichever is later, subparagraph (B) shall not apply to the program operated by such State under this section until the term of such contract expires. In the case of any State that has more than one such contract in effect on such date, subparagraph (B) shall not apply until the end of the term of the contract with the latest expiration date.

"(D)(i) The Secretary shall waive subparagraph (B) in the case of any State that demonstrates to the Secretary that—

"(I) compliance with subparagraph (B) would be inconsistent with efficient or effective operation of the program operated by such State under this section; or

"(II) the amount by which the savings yielded by an alternative cost containment system would be less than the savings yielded by a competitive bidding system is sufficiently minimal that the difference is not significant.

"(ii) The Secretary shall prescribe criteria under which a waiver may be granted pursuant to clause (i).

"(iii) The Secretary shall provide information at 6-month intervals to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on waivers that have been granted under clause (i).

"(E)(i) The Secretary shall provide technical assistance to small Indian State agencies carrying out this paragraph in order to assist such agencies to achieve the maximum cost containment savings feasible. Such agencies shall be required to undertake cost containment activities to the extent such activities are feasible for the agencies.

"(ii) The Secretary shall also provide technical assistance, on request, to State agencies that do not have large caseloads and that desire to consider a cost containment system that covers more than one State agency.

"(F) Not later than December 15, 1989, the Secretary shall prescribe regulations to carry out this paragraph. Such regulations shall address issues involved in comparing savings from different cost containment measures, as provided under subparagraph (B).

"(8) For purposes of this subsection:

"(A) The term 'cost containment measure' means a competitive bidding, rebate, direct distribution, or home delivery system implemented by a State agency as described in its approved plan of operation and administration.

"(B) The term 'competitive bidding' means a procurement process under which a State agency selects the single source offering the lowest price, as determined by the submission of sealed bids, for the product for which bids have been sought.";

(6) in subsection (i)—

(A) in paragraph (1), by striking "funds provided in accordance with this section" and inserting "amounts made available for food benefits under subsection (h)(1)(C)";

(B) in subparagraph (D) of paragraph (3)—

(i) by striking "approved cost-savings strategies as identified in subsection (h)(5)(A)" and inserting "cost containment measures (as defined in subsection (h)(7))"; and

(ii) by striking "at the discretion of the Secretary, up to 5 percent" and inserting "not more than 3 percent"; and

(C) by adding at the end the following new paragraph:

"(7) In addition to any amounts expended under paragraph (3)(A)(i), any State agency using cost containment measures (as defined in subsection (h)(7)) may temporarily use amounts made available to such agency for the first quarter of a fiscal year to defray expenses for costs incurred during the final quarter of the preceding fiscal year. In any fiscal year, any State agency that uses amounts made available for a succeeding fiscal year under the authority of the preceding sentence shall restore or reimburse such amounts when such agency receives payment as a result of its cost containment measures for such expenses.";

(7) in subsection (j), by striking "each year" and inserting "every other year"; and

(8) in subsection (k)(1)—

(A) in the first sentence, by striking "twenty-three" and inserting "24"; and

(B) in the second sentence, by inserting after "the Secretary;" the following: "one member shall be an expert in the promotion of breastfeeding;".

(b) REVIEW OF PRIORITY SYSTEM.—

(1) IN GENERAL.—During the fiscal year 1990, the Secretary of Agriculture shall conduct a review of the relationship between the nutritional risk criteria established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) and the priority system used under the special supplemental food program for women, infants, and children carried out under such section (hereinafter in this section referred to as the "program"), especially as it affects pregnant women. In conducting such review, the Secretary shall—

(A) consult with the directors of State and local agencies that operate the program and with other individuals with expertise in the field of nutrition;

(B) take into consideration the preventive nature of the program; and

(C) examine the risks to individuals eligible for participation in the program, particularly pregnant women, from conditions, such as homelessness, mental illness, and conditions that pose barriers to receipt of prenatal care, that may be associated with an increased probability of adverse pregnancy outcome or other adverse effects on health.

(2) REPORT TO CONGRESS.—The Secretary shall report on the results of the review conducted as required by paragraph (1) to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) REPORT ON WIC FOOD PACKAGE.—

(1) IN GENERAL.—The Secretary of Agriculture shall review the appropriateness of

foods eligible for purchase under the special supplemental food program for women, infants, and children carried out under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(2) FACTORS.—In conducting such review, the Secretary shall take into consideration such factors as—

(A) how effectively protein, calcium, and iron are provided to participants;

(B) nutrient density of foods; and

(C) the extent to which nutrients, for which program participants are most vulnerable to deficiencies, such as iron, thiamin, riboflavin, vitamin A, and zinc, are effectively provided to participants.

(3) REPORTS.—The Secretary shall provide to Congress—

(A) a preliminary report on such review no later than October 1, 1990; and

(B) a final report on such review no later than October 1, 1991.

(d) REPORT ON COSTS FOR NUTRITION SERVICES AND ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall review the effect on costs for nutrition services and administration incurred by State and local agencies of this section and section 213 and the amendments made by such sections (including the effect of both increases and decreases in requirements imposed on such agencies).

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report on the results of the review conducted under this subsection.

(e) PAPERWORK REDUCTION.—In implementing this section and the amendments made by this section (other than the amendment made by subsection (a)(1) to section 17(d)(2) of the Child Nutrition Act of 1966), the Secretary of Agriculture shall not impose any new requirement on a State or local agency to place additional paperwork in, or otherwise additionally document, a case file maintained by such agency.

SEC. 124. NUTRITION EDUCATION AND TRAINING.

Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) by amending subparagraph (B) to read as follows: "(B) training school food service personnel in the principles and practices of food service management, consistent with information and materials provided by any food service management institute established as authorized by section 22 of the National School Lunch Act, and"; and

(ii) in subparagraph (C), by striking "schools and child care institutions" and inserting "schools, child care institutions, and institutions offering summer food service programs established under section 13 of the National School Lunch Act (42 U.S.C. 1761)";

(B) in paragraph (2), by striking "the National Advisory Council on Child Nutrition;"; and

(C) in the first sentence of paragraph (4), by inserting before the period the following: ", in coordination with the activities authorized under section 22 of the National School Lunch Act";

(2) in subparagraph (C) of subsection (h)(3), by striking "the National Advisory Council on Child Nutrition,"; and

(3) in subsection (i)(2)—

(A) in the first sentence, by striking "1989" and inserting "1993"; and

(B) in the second sentence, by striking "and not more than $5,000,000 for each subsequent fiscal year" and inserting "not more than $5,000,000 for fiscal year 1989, not more than $10,000,000 for fiscal year 1990, not more than $15,000,000 for fiscal year 1991, and not more than $20,000,000 for each subsequent fiscal year".

Subtitle C—Cross-Program Provisions

SEC. 131. ELIMINATION OF 20 PERCENT COMMODITY REFUSAL OPTION.

(a) IN GENERAL.—The matter following paragraph (3) of section 6(a) of the National School Lunch Act (42 U.S.C. 1755(a)) is amended by striking the sentence that begins "Any school participating".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective on July 1, 1989.

SEC. 132. DETERMINATION OF TOTAL COMMODITY ASSISTANCE FOR THE SCHOOL LUNCH AND CHILD CARE FOOD PROGRAMS.

(a) SCHOOL LUNCH PROGRAM.—Section 6(e) of the National School Lunch Act (42 U.S.C. 1755(e)) is amended—

(1) in paragraph (1)—

(A) by designating the first, second, and third sentences as subparagraph (A);

(B) by designating the fourth and fifth sentences as subparagraph (B);

(C) by designating the sixth and seventh sentences as subparagraphs (D) and (E), respectively; and

(D) by inserting after subparagraph (B) (as so designated) the following new subparagraph:

"(C) For each school year, the total commodity assistance or cash in lieu thereof available to a State for the school lunch program shall be calculated by multiplying the number of lunches served in the prior school year by the rate established by subparagraph (B). After the end of each school year, the Secretary shall reconcile the number of lunches served by schools in each State with the number of lunches served by schools in each State during the prior school year and increase or reduce subsequent commodity assistance or cash in lieu thereof provided to each State based on such reconciliation."; and

(2) in paragraph (2), by striking "Each State agency" and inserting "To the maximum extent feasible, each State agency".

(b) CHILD CARE FOOD PROGRAM.—Section 17(h)(1) of such Act (42 U.S.C. 1766(h)(1)) is amended—

(1) by designating the first and second sentences as subparagraphs (A) and (B), respectively;

(2) in subparagraph (B) (as so designated), by striking "during that school year" and inserting "during the prior school year";

(3) by designating the third and fourth sentences as subparagraph (D); and

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) After the end of each school year, the Secretary shall—

"(i) reconcile the number of lunches and suppers served in participating institutions in each State with the number of lunches and suppers served by participating institutions in each State during the preceding school year; and

"(ii) increase or reduce subsequent commodity assistance or cash in lieu thereof provided to each State based on such reconciliation.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on July 1, 1989.

TITLE II—PAPERWORK REDUCTION AMENDMENTS

Subtitle A—Reduction of Paperwork Under the National School Lunch Act

SEC. 201. PERMANENCY OF STATE-LOCAL AGREEMENTS FOR CARRYING OUT THE SCHOOL LUNCH PROGRAM.

Section 8 of the National School Lunch Act (42 U.S.C. 1757) is amended—

(1) by designating the first through seventh sentences as subsections (a), (c), (d), (e), (f), (g), and (h), respectively; and

(2) by inserting after subsection (b) (as so designated) the following new subsection:

"(b) The agreements described in subsection (a) shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.".

SEC. 202. INCOME DOCUMENTATION REQUIREMENTS.

(a) ELIMINATION OF DUPLICATE PROVISIONS.—Section 9(b) of the National School Lunch Act (42 U.S.C. 1758(b)), as similarly amended first by section 323 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-361), later by section 323 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-364), and later by section 4203 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

(b) INCOME DOCUMENTATION REQUIREMENTS.—Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended—

(1) in subsection (b)(2), by amending subparagraph (C) to read as follows:

"(C)(i) Except as provided in clause (ii), each eligibility determination shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, State, or local food authority may verify any data contained in such application. A local school food authority shall undertake such verification of information contained in any such application as the Secretary may by regulation prescribe and, in accordance with such regulation, shall make appropriate changes in the eligibility determination with respect to such application on the basis of such verification.

"(ii) Subject to clause (iii), any school food authority may certify any child as eligible for free or reduced price lunches, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of such child's status as a member of—

"(I) a household that is receiving food stamps under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

"(II) a family that is receiving assistance under the program for aid to families with dependent children established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

"(iii) School food service authorities shall only use information obtained under clause (ii) for the purpose of determining eligibility for participation in programs established under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).";

and

(2) in subsection (d)(2)—

(A) by amending subparagraph (A) to read as follows:

"(A) appropriate documentation relating to the income of such household (as prescribed by the Secretary) has been provided to the appropriate local school food authority so that such authority may calculate the total income of such household;";

(B) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(C) by adding at the end the following new subparagraph:

"(C) documentation has been provided to the appropriate local school food authority showing that the family is receiving assistance under the program for aid to families with dependent children established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).".

SEC. 203. REPORTS TO STATE EDUCATIONAL AGENCIES.

Paragraph (1) of section 11(e) of the National School Lunch Act (42 U.S.C. 1759a(e)) is amended by striking "Each school" and all that follows through "State educational agency" and inserting the following: "The Secretary, when appropriate, may request each school food authority participating in the school lunch program under this Act to report monthly to the State educational agency".

SEC. 204. 2-YEAR APPLICATIONS UNDER CHILD CARE FOOD PROGRAM.

Subsection (d) of section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(d)"; and

(3) by adding at the end the following new paragraph:

"(2)(A) The Secretary shall permit institutions that apply directly to a State agency to participate in the program established under this section, at the option of the State agency, to reapply for assistance under this section at 2-year intervals.

"(B) Each State agency that exercises the option authorized by subparagraph (A) shall confirm on an annual basis that each such institution is in compliance with the licensing or approval provisions of subsection (a)(1).".

SEC. 205. REDUCTION OF PAPERWORK.

Section 19 of the National School Lunch Act (42 U.S.C. 1769a) is amended to read as follows:

"SEC. 19. REDUCTION OF PAPERWORK.

"(a) IN GENERAL.—In carrying out functions under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), the Secretary shall reduce, to the maximum extent possible, the paperwork required of State and local educational agencies, schools, and other agencies participating in child nutrition programs under such Acts.

"(b) FORM SIMPLIFICATION.—The Secretary shall—

"(1) review the model application forms for programs under this Act and programs under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

"(2) simplify the format and instructions for the forms so that the forms are easily understood by individuals who must complete them.

"(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with State and local administrators of the school lunch program and the programs authorized under sections 13 and 17 of this Act and sections 4 and 17 of the Child Nutrition Act (42 U.S.C. 1773 and 1786).

"(d) REPORT.—Not later than 1 year after the date of enactment of this section, the Secretary shall report to Congress on the extent to which a reduction has occurred in the quantity of paperwork required under each program referred to in subsection (c).".

Subtitle B—Paperwork Reduction Under the Child Nutrition Act of 1966

SEC. 211. STATE-LOCAL AGREEMENTS FOR CARRYING OUT THE SPECIAL MILK PROGRAM.

(a) ELIMINATION OF DUPLICATE PROVISION.—Section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)), as similarly amended first by section 329 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-365) and later by section 4209 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the later amendment was enacted.

(b) STATE-LOCAL AGREEMENTS.—Subsection (a) of section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) (as amended by subsection (a) of this section) is amended by adding at the end the following new paragraph:

"(10)(A) The State educational agency shall disburse funds paid to the State during any fiscal year for purposes of carrying out the program established under this section in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State.

"(B) The agreements described in subparagraph (A) shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.".

SEC. 212. PERMANENCY OF STATE-LOCAL AGREEMENTS FOR CARRYING OUT THE SCHOOL BREAKFAST PROGRAM.

Section 4(b)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)(A)) is amended—

(1) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) by inserting "(i)" after "(A)"; and

(3) by adding at the end the following new clause:

"(ii) The agreements described in clause (i)(I) shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.".

SEC. 213. PAPERWORK REDUCTION REQUIREMENTS UNDER THE SPECIAL SUPPLEMENTAL FOOD PROGRAM.

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) (42 U.S.C. 1786) is amended—

(1) in subsection (e) (as amended by section 123(a)(2) of this Act), by adding at the end the following new paragraph:

"(6) Each local agency may use a master file to document and monitor the provision of nutrition education services (other than the initial provision of such services) to individuals that are required, under standards prescribed by the Secretary, to be included by the agency in group nutrition education classes."; and

(2) in subsection (f) (as amended by section 123(a)(3)(C) of this Act)—

(A) in paragraph (7)—

(i) by inserting "(A)" after "(7)"; and

(ii) by adding at the end the following new subparagraph:

"(B) A State agency may provide for the delivery of vouchers to any participant who is not scheduled for nutrition education counseling or a recertification interview through means, such as mailing, that do not require a participant to travel to the local agency to obtain vouchers. The State agency shall describe, in the plan submitted pursuant to this subsection, any plans for mail issuance of vouchers. The Secretary may disapprove mail issuance of vouchers in specified jurisdictions or parts of jurisdictions within a State only if the Secretary finds that such issuance would pose a significant threat to program integrity in such jurisdictions or parts of jurisdictions."; and

(B) by adding at the end the following new paragraph:

"(22) Each State agency shall conduct monitoring reviews of each local agency at least biennially.".

SEC. 214. UPDATING OF PLANS FOR NUTRITION EDUCATION AND TRAINING.

Section 19(h)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(h)(3)) is amended by adding at the end the following new sentence: "Each plan developed as required by this section shall be updated on an annual basis.".

TITLE III—TECHNICAL AMENDMENTS

Subtitle A—Amendments to the National School Lunch Act

SEC. 301. APPORTIONMENTS TO STATES.

The National School Lunch Act is amended by inserting before section 4 (42 U.S.C. 1753) the following new heading:

"APPORTIONMENTS TO STATES".

SEC. 302. DIRECT FEDERAL EXPENDITURES.

Section 6 of the National School Lunch Act (42 U.S.C. 1755) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "his" and inserting "the Secretary's";

(B) in paragraph (2), by striking "him" and inserting "the Secretary";

(C) in the matter following paragraph (3)—

(i) by striking "him" and inserting "the Secretary";

(ii) by striking "(50 Stat. 323)" and inserting "(15 U.S.C. 713c)"; and

(iii) by striking "(49 Stat. 774), as amended" and inserting "(7 U.S.C. 612c); and

(2) in subsection (e)(1)(D) (as designated by section 132(a)(1)(C)), by inserting before the period at the end the following "(which may include domestic seafood commodities and their products)".

SEC. 303. PAYMENTS TO STATES.

(a) INSERTION OF SECTION HEADING.—The National School Lunch Act is amended by inserting before section 7 (42 U.S.C. 1756) the following new heading:

"PAYMENTS TO STATES".

(b) CORRECTION OF TYPOGRAPHICAL ERROR.—Paragraph (2) of section 7(a) of such Act (42 U.S.C. 1756(a)) is amended by striking "the the" and inserting "the".

SEC. 304. STATE DISBURSEMENT TO SCHOOLS.

Subsection (d) of section 8 of the National School Lunch Act (42 U.S.C. 1757) (as designated by section 201 of this Act) is further amended—

(1) by striking "persons" and inserting "individuals";

(2) by striking "to be mentally or physically handicapped" and inserting "to have one or more mental or physical handicaps"; and

(3) by striking "for mentally or physically handicapped" and inserting "for individuals with mental or physical handicaps".

SEC. 305. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.

(a) ELIMINATION OF DUPLICATE PROVISION.—Section 9(e) of the National School Lunch Act (42 U.S.C. 1758(e)), as similarly added first by section 324 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-361), later by section 324 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-364), and later by section 4204 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

(b) MISCELLANEOUS TECHNICAL AMENDMENTS.—Section 9 of the National School Lunch Act (as amended by sections 101 and 202 of this Act and subsection (a) of this section) (42 U.S.C. 1758) is amended—

(1) by striking "family-size" each place it appears and inserting "family size"; and

(2) in subsection (c)—

(A) in the first sentence, by striking "School-lunch" and inserting "School lunch";

(B) in the third sentence, by striking "(49 Stat. 774), as amended" and inserting "(7 U.S.C. 612c)"; and

(C) in the fourth sentence, by striking ", as amended," each place it appears.

SEC. 306. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

(a) MISCELLANEOUS TECHNICAL AMENDMENTS.—Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended—

(1) in subsection (b), by striking "his" each place it appears and inserting "the Secretary's";

(2) in paragraph (5) of subsection (d), by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986"; and

(3) in subsection (g), by striking "his" and inserting "personal".

(b) ELIMINATION OF DUPLICATE PROVISIONS.—

(1) DEFINITION OF SECRETARY.—Section 12(d)(8) of the National School Lunch Act (42 U.S.C. 1760(d)(8)), as similarly added first by section 373(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-369), later by section 373(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-372), and later by section 4503(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

(2) USE OF SCHOOL LUNCH FACILITIES FOR ELDERLY PROGRAMS.—Section 12(i) of the National School Lunch Act (42 U.S.C. 1760(i)), as similarly added first by section 326 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-361), later by section 326 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-365), and later by section 4206 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

SEC. 307. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

Section 13 of the National School Lunch Act (as amended by section 102 of this Act) (42 U.S.C. 1761) is amended—

(1) in subsection (d), by striking "July 1," and inserting "July 1";

(2) in the third sentence of subsection (f), by striking "prescribed" and inserting "prescribe"; and

(3) in the first sentence of subsection (g), by striking ": *Provided*" and all that follows through "respectively".

SEC. 308. REPEAL OF OBSOLETE PROVISION RELATING TO TEMPORARY EMERGENCY ASSISTANCE.

Section 13A of the National School Lunch Act (42 U.S.C. 1762) is repealed.

SEC. 309. COMMODITY DISTRIBUTION PROGRAM.

Section 14(d) of the National School Lunch Act (42 U.S.C. 1762a(d)) is amended by striking the first sentence of the matter following paragraph (5).

SEC. 310. ELECTION TO RECEIVE CASH PAYMENTS.

The National School Lunch Act is amended by inserting before section 16 (42 U.S.C. 1765) the following new heading:

"ELECTION TO RECEIVE CASH PAYMENTS".

SEC. 311. CHILD CARE FOOD PROGRAM.

(a) MISCELLANEOUS TECHNICAL AMENDMENTS.—Section 17 of the National School Lunch Act (as amended by sections 105, 132, and 204 of this Act) (42 U.S.C. 1766) is amended—

(1) in the second sentence of subsection (a), by striking "handicapped children" and inserting "children with handicaps";

(2) in the second sentence of subsection (d)(1) (as designated by section 204 of this Act), by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(3) in subsection (f)—

(A) in paragraph (1), by striking "day-care" and inserting "day care"; and

(B) in paragraph (2)(B), by striking the second period;

(4) by striking subsection (k); and

(5) by subsections (l) through (p) as subsections (k) through (o), respectively.

(b) ELIMINATION OF DUPLICATE PROVISION.—Section 17(e) of the National School Lunch Act (42 U.S.C. 1766(e)), as similarly amended first by section 361 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-367), later by section 361 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-370), and later by section 4401 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

SEC. 312. PILOT PROJECTS.

Section 18 of the National School Lunch Act (42 U.S.C. 1769) (as amended by section 107 of this Act) is amended—

(1) by striking subsections (a), (b), and (c); and

(2) by redesignating subsections (d) and (e) as subsections (a) and (b), respectively.

SEC. 313. GENERAL AMENDMENTS.

The National School Lunch Act (as otherwise amended by this Act) (42 U.S.C. 1751 et seq.) is amended—

(1) by striking "school-lunch" each place it appears and inserting "school lunch";

(2) by striking "reduced-price" each place it appears and inserting "reduced price"; and

(3) by striking "special-assistance" each place it appears and inserting "special assistance".

Subtitle B—Amendments to the Child Nutrition Act of 1966

SEC. 321. SPECIAL MILK PROGRAM AUTHORIZATION.

Section 3(a) of the Child Nutrition Act of 1966 (as amended by section 211 of this Act) (42 U.S.C. 1772(a)) is amended—

(1) in the first sentence of paragraph (1), by striking "he" and inserting "the Secretary";

(2) in paragraph (4), by striking "he" and inserting "the Secretary"; and

(3) in paragraph (5), by striking "their" and inserting "its".

SEC. 322. SCHOOL BREAKFAST PROGRAM AUTHORIZATION.

Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)), as similarly amended first by section 330(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-366) and later by section 4210(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the later amendment was enacted.

SEC. 323. REGULATIONS.

The first sentence of section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1779) is amended by striking "he" and inserting "the Secretary".

SEC. 324. APPROPRIATIONS FOR ADMINISTRATIVE EXPENSE.

(a) INSERTION OF SECTION HEADING.—The Child Nutrition Act of 1966 is amended by inserting before section 14 (42 U.S.C. 1783) the following heading:

"APPROPRIATIONS FOR ADMINISTRATIVE EXPENSE".

(b) ELIMINATION OF GENDER-SPECIFIC POSSESSIVE PRONOUN.—Section 14 of such Act is amended by striking "his" and inserting "the Secretary's".

SEC. 325. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

Section 15 of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended—

(1) in subsection (b), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by redesignating subsections (a) through (f) as paragraphs (1) through (6), respectively;

(3) in paragraph (3) (as redesignated by paragraph (2) of this section), by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986"; and

(4) in paragraph (6) (as redesignated by paragraph (2) of this section)—

(A) by striking "to be mentally or physically handicapped" and inserting "to have one or more mental or physical handicaps"; and

(B) by striking "for mentally or physically handicapped" and inserting "for individuals with mental or physical handicaps".

SEC. 326. SPECIAL SUPPLEMENTAL FOOD PROGRAM.

(a) ELIMINATION OF DUPLICATE PROVISIONS.—

(1) STATE ELIGIBILITY FOR WIC FUNDS.—Section 17(c)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)(4)), as similarly amended first by section 342(a) of the School Lunch and Child Nutrition Amend-

ments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-367) and later by section 4302(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if the later amendment had not been enacted.

(2) BIENNIAL REPORT.—Section 17(d)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(4)), as similarly amended first by section 343(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-367) and later by section 4303(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if the later amendment had not been enacted.

(b) MISCELLANEOUS TECHNICAL AMENDMENTS.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) (as amended by sections 123 and 213 of this Act and subsection (a) of this section) is amended—

(1) in the third sentence of subsection (c)(3), by striking "section 1304 of the Food and Agriculture Act of 1977" and inserting "section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note)";

(2) in subsection (f)—

(A) in paragraph (7)(A) (as designated by section 213 of this Act), by striking "persons" each place it appears and inserting "individuals";

(B) in paragraph (8), by striking "persons" each place it appears and inserting "individuals";

(C) in paragraph (10)—

(i) by striking "person" each place it appears and inserting "individual"; and

(ii) by striking "person's" and inserting "individual's"; and

(D) by moving the margin of paragraph (17) to the left, so that the left margin of such paragraph is indented and is aligned with the margin of paragraph (16);

(3) in subsection (m)(11)(A), by striking "a person" and inserting "an individual"; and

(4) in subsection (n)(1), by striking "the end of the 6-month period beginning on the date of enactment of this Act" and inserting "May 19, 1989".

SEC. 327. NUTRITION EDUCATION GRANTS.

Section 18 of the Child Nutrition Act of 1966 (42 U.S.C. 1787) is repealed.

SEC. 328. NUTRITION EDUCATION AND TRAINING.

Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended—

(1) in subsection (d)—

(A) in the first sentence of paragraph (4)—

(i) by striking "(12 Stat. 503, as amended;"; and

(ii) by striking "(26 Stat. 417, as amended;"; and

(B) in paragraph (5)—

(i) by striking "(12 Stat. 503, as amended;"; and

(ii) by striking "(26 Stat. 417, as amended;"; and

(2) in subsection (h)(3)(E)—

(A) by striking "(12 Stat. 503;"; and

(B) by striking "(26 Stat. 417, as amended;".

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 24, the House companion measure.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 24) to amend the Child Nutrition Act of 1966 and the National School Lunch Act to revise and extend certain authorities contained in such acts, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of H.R. 24, the House companion measure, and that the Senate proceed to its immediate consideration; that all after the enacting clause be stricken and the text of S. 1484 be inserted in lieu thereof; that the bill be read for the third time, passed, and that a motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF VOLUNTARY SERVICES PRIVATE-SECTOR EXECUTIVES PROGRAM

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2847, a bill to extend by 1 year a program under which the Government is allowed to accept the voluntary services of private sector executives just received from the House of Representatives.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2847) to extend by 1 year a program under which the Government is allowed to accept the voluntary services of private-sector executives.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2847) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 121, S. 673, the National Highway Traffic Safety Administration authorization bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 673) to amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1990 and 1991, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "National Highway Traffic Safety Administration Authorization Act of 1989".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "multipurpose passenger vehicle" and "passenger automobile" shall have the meaning given such terms by the Secretary; and

(2) "Secretary" means the Secretary of Transportation.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

GENERAL AUTHORIZATIONS

SEC. 101. (a) Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $65,424,000 for fiscal year 1990, and $68,433,000 for fiscal year 1991.".

(b) Section 111 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1921) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $336,000 for fiscal year 1990, and $351,000 for fiscal year 1991.".

(c) Section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $2,384,000 for fiscal year 1990, and $2,493,000 for fiscal year 1991.".

(d) Section 417 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990g) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $640,000 for fiscal year 1990, and $669,000 for fiscal year 1991.".

(e) Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by striking "and" the second time it appears; and

(2) by inserting immediately before the period at the end the following: "not to exceed $5,315,000 for fiscal year 1990, and

not to exceed $5,559,000 for fiscal year 1991".

COMMUNITY EDUCATION PROGRAM

SEC. 102. In order to carry out a national program of community education regarding (1) drunk driving prevention and (2) the use and effectiveness of airbag technology, the Secretary may derive an additional amount not to exceed $10,000,000 from unobligated balances of funds made available for highway safety programs under section 408 of title 23, United States Code. Of the funds allocated to such efforts, not less than one-half shall be used for educational efforts related to airbags. Such amounts shall remain available until expended.

TITLE II—SIDE IMPACT PROTECTION AND CRASHWORTHINESS DATA

SIDE IMPACT PROTECTION

SEC. 201. (a) The Secretary shall, not later than twelve months after the date of enactment of this Act, issue a final rule amending Federal Motor Vehicle Safety Standard 214, published as section 571.214 of title 49, Code of Federal Regulations. The rule shall establish performance criteria for improved protection for occupants of passenger automobiles in side impact accidents.

(b) Not later than sixty days after the date of enactment of this Act, the Secretary shall issue a notice of proposed rulemaking to extend the applicability of such Standard 214 to multipurpose passenger vehicles. The Secretary shall, not later than two years after such date of enactment, issue a final rule on such extension, taking into account the performance criteria established by the final rule issued in accordance with subsection (a).

AUTOMOBILE CRASHWORTHINESS DATA

SEC. 202. (a)(1) The Secretary shall, within thirty days after the date of enactment of this Act, enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation regarding means of establishing a method for calculating a uniform numerical rating which will enable consumers to compare meaningfully the crashworthiness of different passenger automobile and multipurpose passenger vehicle makes and models.

(2) Such study shall include examination of current and proposed crashworthiness tests and testing procedures and shall be directed to determining whether additional objective, accurate, and relevant information regarding the comparative crashworthiness of different passenger automobile and multipurpose passenger vehicle makes and models reasonably can be provided to consumers by means of a crashworthiness rating rule. Such study shall include examination of at least the following proposed elements of a crashworthiness rating rule:

(A) information on the degree to which different passenger automobile and multipurpose passenger vehicle makes and models will protect occupants across the range of motor vehicle crash types when in use on public roads;

(B) a repeatable and objective test which is capable of identifying meaningful differences in the degree of crash protection provided occupants by the vehicles tested, with respect to such aspects of crashworthiness as occupant crash protection with and without use of manual seatbelts fuel system integrity, and other relevant aspects;

(C) ratings which are accurate, simple in form, readily understandable, and of benefit to consumers in making informed decisions in the purchase of automobiles;

(D) dissemination of comparative crashworthiness ratings to consumers either at the time of introduction of a new passenger automobile or multipurpose passenger vehicle make or model or very soon after such time of introduction; and

(E) the development and dissemination of crashworthiness data at a cost which is reasonably balanced with the benefits of such data to consumers in making informed purchase decisions.

(3) Any such arrangement shall require the National Academy of Sciences to report to the Secretary and the Congress not later than nineteen months after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall, to the extent permitted by law, furnish to the Academy upon its request any information which the Academy considers necessary to conduct the investigation and study required by this subsection.

(4) Within sixty days after transmittal of the report of the National Academy of Sciences to the Secretary and the Congress under paragraph (3) of this subsection, the Secretary shall initiate a period (not longer than ninety days) for public comment on implementation of the recommendations of the National Academy of Sciences with respect to a rule promulgated under title II of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger automobiles and multipurpose passenger vehicles.

(5) Not later than one hundred and eighty days after the close of the public comment period provided for in paragraph (4) of this subsection, the Secretary shall determine, on the basis of the report of the National Academy of Sciences and the public comments on such report, whether an objectively based system can be established by means of which accurate and relevant information can be derived that reasonably predicts the degree to which different makes and models of passenger automobiles and multipurpose passenger vehicles provide protection to occupants against the risk of personal injury or death as a result of motor vehicle accidents. The Secretary shall promptly publish the basis of such determination, and shall transmit such determination to the Congress.

(b)(1) If the Secretary determines that the system described in subsection (a)(5) of this section can be established, the Secretary shall, subject to the exception provided in paragraph (2) of this subsection, not later than three years after the date of enactment of this Act, promulgate a final rule under section 201 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger automobiles and multipurpose passenger vehicles. The rule promulgated under such section 201 shall be practicable and shall provide to the public relevant objective information in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger automobiles and multipurpose passenger vehicles so as to contribute meaningfully to informed purchase decisions.

(2) The Secretary shall not promulgate such rule unless (A) a period of sixty calendar days has passed after the Secretary has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a summary of the comments received during the period for public comment specified in subsection (a)(4) of this section, or (B) each such committee before the expiration of such sixty-day period has transmitted to the Secretary written notice to the effect that such committee has no objection to the promulgation of such rule.

(c) If the Secretary promulgates a rule under subsection (b) of this section, not later than six months after such promulgation, the Secretary shall by rule establish procedures requiring passenger automobile and multipurpose passenger vehicle dealers to make available to prospective passenger automobile and multipurpose passenger vehicle purchasers information developed by the Secretary and provided to the dealer which contains data comparing the crashworthiness of passenger automobiles and multipurpose passenger vehicles.

TITLE III—MISCELLANEOUS PROVISIONS

STANDARDS COMPLIANCE

SEC. 301. Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following new subsection:

"(j)(1) The Secretary shall establish a schedule for use in ensuring compliance with each Federal motor vehicle safety standard established under this Act which the Secretary determines is capable of being tested. Such schedule shall ensure that each such standard is the subject of testing and evaluation on a regular, rotating basis.

"(2) The Secretary shall, not later than six months after the date of enactment of this subsection, conduct a review of the method for the collection of data regarding accidents related to Federal motor vehicle safety standards established under this Act. The Secretary shall consider the desirability of collecting data in addition to that information collected as of the date of enactment of this subsection, and shall estimate the costs involved in the collection of such additional data, as well as the benefits to safety likely to be derived from such collection. If the Secretary determines that such benefits outweigh the costs of such collection, the Secretary shall collect such additional data and utilize it in determining which motor vehicles should be the subject of testing for compliance with Federal motor vehicle safety standards established under this Act.".

INVESTIGATION AND PENALTY PROCEDURES

SEC. 302. (a) Section 112(a)(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1401(a)(1)) is amended by adding at the end the following: "The Secretary shall establish written guidelines and procedures for conducting any inspection or investigation regarding noncompliance with this title or any rules, regulations, or orders issued under this title. Such guidelines and procedures shall indicate timetables for processing of such inspections and investigations to ensure that such processing occurs in an expeditious and thorough manner. In addition, the Secretary shall develop criteria and procedures for use in determining when the results of such an investigation should be considered by the Secretary to be the subject of a civil penalty under section 109 of this title. Nothing in this paragraph shall be construed to limit the ability of the Secretary to exceed any time limitation specified in such timetables where the Secretary determines that addi-

tional time is necessary for the processing of any such inspection or investigation.".

(b) Section 109(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1398(a)) is amended by adding at the end thereof the following: "The Secretary shall establish procedures for determining the manner in which, and the time within which, a determination should be made regarding whether a civil penalty should be imposed under this section. Nothing in this subsection shall be construed to limit the ability of the Secretary to exceed any time limitation specified for making any such determination where the Secretary determines that additional time is necessary for making a determination regarding whether a civil penalty should be imposed under this section.".

TRAFFIC SAFETY FOR HANDICAPPED INDIVIDUALS

SEC. 303. (a) The Congress finds that—

(1) a number of States fail to recognize the symbols of other States for the identification of motor vehicles transporting individuals with handicaps that limit or impair the ability to walk; and

(2) the failure to recognize such symbols increases the likelihood that such individuals will be involved in traffic accident incidents resulting in injury or death, posing a threat to the safety of such individuals as well as the safety of the operators of motor vehicles and others.

(b)(1) After the date that is eighteen months following the date of enactment of this Act, the Secretary shall require that each State provide for the implementation of a uniform system for handicapped parking designed to enhance the safety of handicapped and nonhandicapped individuals. If a State fails to meet such requirement, the funds that would otherwise be apportioned to the State under section 402 of title 23, United States Code, shall be reduced by 2 percent, until such time as the Secretary determines that the requirement is being met.

(2) For purposes of this subsection, a uniform system for handicapped parking designed to enhance the safety of handicapped and nonhandicapped individuals is a system which—

(A) adopts the international symbol of access (as adopted by Rehabilitation International in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled) as the only recognized symbol for the identification of vehicles used for transporting individuals with handicaps which limit or impair the ability to walk;

(B) provides for the issuance of license plates displaying the international symbol of access for vehicles which will be used to transport individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

(C) provides for the issuance of removable windshield placards (displaying the international symbol of access) to individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

(D) provides that fees charged for the licensing or registration of a vehicle used to transport such individuals with handicaps do not exceed fees charged for the licensing or registration of other similar vehicles operated in the State; and

(E) for purposes of easy access parking, recognizes licenses and placards displaying the international symbol of access which have been issued by other States and countries.

(c) Beginning not later than twenty-four months after the date of enactment of this Act, the Secretary shall annually evaluate compliance by the States with the requirement established by the Secretary under subsection (b). The Secretary shall submit to Congress an annual report regarding such evaluation.

MULTIPURPOSE PASSENGER VEHICLE SAFETY

SEC. 304. (a) The Congress finds that—

(1) multipurpose passenger vehicles have become increasingly popular during this decade and are being used increasingly for the transportation of passengers, not property; and

(2) the safety of passengers in multipurpose passenger vehicles has been compromised by the failure to apply to them the Federal motor vehicle safety standards applicable to passenger automobiles.

(b) In addition to the rulemaking requirements applicable to multipurpose passenger vehicles under other provisions of this Act, the Secretary shall initiate (not later than sixty days after the date of enactment of this Act) and complete (not later than twelve months after such date of enactment) a rulemaking to revise, where appropriate, in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms—

(1) Federal Motor Vehicle Safety Standard 216, published as section 571.216 of title 49, Code of Federal Regulations, to provide minimum roof crush resistance standards for multipurpose passenger vehicles;

(2) Federal Motor Vehicle Safety Standard 108, published as section 571.108 of title 49, Code of Federal Regulations, to provide for a single, high-mounted stoplamp on multipurpose passenger vehicles; and

(3) Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations, to extend the requirements of outboard front seat passive restraint occupant protection systems to multipurpose passenger vehicles.

(c) In accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms, the Secretary shall, not later than twelve months after the date of enactment of this Act, complete a rulemaking—

(1) to review the system of classification of vehicles with a gross vehicle weight under ten thousand pounds to determine if such vehicles should be reclassified;

(2) to revise Federal Motor Vehicle Safety Standard 202, published as section 571.202 of title 49, Code of Federal Regulations, to provide for head restraints for multipurpose passenger vehicles; and

(3) to consider establishment of a Federal motor vehicle safety standard to protect against unreasonable risk of rollover of multipurpose passenger vehicles.

Any reclassification pursuant to paragraph (1) shall, to the maximum extent practicable, classify as a passenger automobile every motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motorcar or other motor vehicle principally designed for the transport of persons under heading 8703 of the Harmonized Tariff Schedule of the United States. Nothing in this section shall prevent the Secretary from classifying as a passenger automobile any motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor vehicle for the transport of goods under heading 8704 of such Harmonized Tariff Schedule.

REAR SEATBELTS

SEC. 305. (a) In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall complete, within twelve months after the date of enactment of this Act, a rulemaking to amend Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations, to provide that the outboard rear seat passengers of all passenger automobiles, except convertibles, manufactured on or after September 1, 1989, shall have lap and shoulder seatbelt protection, and that the outboard rear seat passengers of all multipurpose passenger vehicles and all convertible passenger automobiles manufactured on or after September 1, 1991, shall have lap and shoulder seatbelt protection.

(b) Notwithstanding any other provision of law, not less than 10 percent of the funds authorized to be appropriated under section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) in fiscal years 1990 and 1991 shall be utilized to disseminate information to consumers regarding the manner in which passenger automobiles may be retrofitted with lap and shoulder rear seatbelts.

CERTIFICATION OF BUMPERS

SEC. 306. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting after section 102 the following new subsection:

"DISCLOSURE OF BUMPER IMPACT CAPABILITY

"SEC. 102A. (a) The Secretary shall promulgate, in accordance with the provisions of this section, a regulation establishing passenger motor vehicle bumper system labeling requirements. Such regulation shall apply to passenger motor vehicles manufactured for model years beginning more than one hundred and eighty days after the date such regulation is promulgated, as provided in subsection (c)(2) of this section.

"(b)(1) The regulation required to be promulgated in subsection (a) of this section shall provide that, before any passenger motor vehicle is offered for sale, the manufacturer shall affix a label to such vehicle, in a format prescribed in such regulation, disclosing an impact speed at which the manufacturer represents that the vehicle meets the applicable damage criteria.

"(2) For purposes of this subsection, the term 'applicable damage criteria' means the damage criteria applicable under section 581.5(c) of title 49, Code of Federal Regulations (as in effect on the date of enactment of this section).

"(c)(1) Not later than ninety days after the date of enactment of this section, the Secretary shall publish in the Federal Register a proposed initial regulation under this section.

"(2) Not later than one hundred and eighty days after such date of enactment, the Secretary shall promulgate a final initial regulation under this section.

"(d) The Secretary may allow a manufacturer to comply with the labeling requirements of subsection (b) of this section by permitting such manufacturer to make the bumper system impact speed disclosure required in subsection (b) of this section on the label required by section 506 of this Act

or section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(e) The regulation promulgated under subsection (a) of this section shall provide that the information disclosed under this section be provided to the Secretary at the beginning of the model year for the model involved. As soon as practicable after receiving such information, the Secretary shall furnish and distribute to the public such information in a simple and readily understandable form in order to facilitate comparison among the various types of passenger motor vehicles. The Secretary may by rule require automobile dealers to distribute to prospective purchasers any information compiled pursuant to this subsection.

"(f) For purposes of this section, the term 'passenger motor vehicle' means any motor vehicle to which the standard under part 581 of title 49, Code of Federal Regulations, is applicable.".

CHILD BOOSTER SEATS

SEC. 307. (a) In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall conduct a rulemaking to amend Federal Motor Vehicle Safety Standard 213, published as section 571.213 of title 49, Code of Federal Regulations, to increase the safety of child booster seats used in passenger automobiles. The rulemaking shall be initiated not later than thirty days after the date of enactment of this Act and completed not later than twelve months after such date of enactment.

(b) As used in this section, the term "child booster seat" has the meaning given the term "booster seat" in section 571.213 of title 49, of Code of Federal Regulations, as in effect on the date of the enactment of this Act.

AIRBAG REQUIREMENT FOR FEDERAL PASSENGER VEHICLES

SEC. 308. The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies, shall establish a program requiring that all passenger automobiles acquired after September 30, 1990, for use by the Federal Government be equipped, to the maximum extent practicable, with driver-side airbags and that all passenger automobiles acquired after September 30, 1993, for use by the Federal Government be equipped, to the maximum extent practicable, with airbags for both the driver and front seat outboard passenger seating positions.

STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

SEC. 309. Part A of title III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1961 et seq.) is amended by adding at the end the following new section:

"STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

"SEC. 304. (a) The Secretary shall, within thirty days after the date of the enactment of this section, enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the effectiveness of State motor vehicle safety inspection programs in—

"(1) reducing motor vehicle accidents that result in injuries and deaths; and

"(2) limiting the number of defective or unsafe motor vehicles on the highways.

"(b)(1) The study shall include an evaluation of the implementation, inspection criteria, personnel, budgeting, and enforcement of all types of State motor vehicle inspection programs or periodic motor vehicle inspection programs, including inspections of motor vehicle brakes, glass, steering, suspension, and tires.

"(2) If warranted by the study, the National Academy of Sciences shall develop and submit to the Congress recommendations for an effective and efficient State motor vehicle safety inspection program.

"(c) The study shall also consider the feasibility of use by States of private organizations to conduct motor vehicle safety inspection programs of combining safety and emission inspection programs.

"(d) Appropriate public and private agencies and organizations, including the Secretary, the Administrator of the Environmental Protection Agency, affected industries and consumer organizations, State and local officials, and the motor vehicle insurance industry should be consulted in conducting the study required under this section.

"(e) The study required by subsection (a) shall be completed and transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives within nineteen months after the date of enactment of this section.".

RECALL OF CERTAIN MOTOR VEHICLES

SEC. 310. (a) Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items of equipment being returned for remedy, the Secretary may direct the manufacturer to send a second notification in such manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertaining to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may by regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the twelve months preceding the date of the notification.".

(b) Section 154 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item of replacement equipment only if—

"(1) the defect or failure to comply with has been remedied in accordance with this section before delivery under such sale or lease; or

"(2) in the case of notification required by an order under section 152(b), enforcement of the order has been restrained in an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicle or item of equipment.".

STUDY OF DARKENED WINDOWS

SEC. 311. The Administrator of the National Highway Traffic Safety Administration shall conduct a study of the use of darkened windshields and window glass in passenger automobiles. In particular, the study shall consider the effects of such use on the safe operation of passenger automobiles, as well as on the hazards from such use to the safety of law enforcement personnel. In conducting such study, the Administrator shall consult with appropriate industry representatives, officials of law enforcement departments and agencies, and consumer representatives. The Administrator shall submit the results of such study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives not later than six months after the date of enactment of this Act.

PETITIONS REGARDING CORPORATE AVERAGE FUEL ECONOMY STANDARDS

SEC. 312. Section 502(d)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(d)(1)) is amended by striking "1980. Such application" and inserting in lieu thereof the following: "1980, or for any model year after model year 1991. Any application seeking such modification".

JUDICIAL REVIEW OF ACTIONS ON CERTAIN PETITIONS

SEC. 313. Section 124(d) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1410a(d)) is amended by adding at the end the following: "The denial of such petition is final agency action subject to judicial review as provided in section 706 of title 5, United States Code.".

BUMPER STANDARD

SEC. 314. (a) Not later than one year after the date of enactment of this Act, the Secretary shall amend the bumper standard published as part 581 of title 49, Code of Federal Regulations, to ensure that such standard is identical to the bumper standard under such part 581 which was in effect on January 1, 1982. The amended standard shall apply to all passenger automobiles manufactured after September 1, 1990.

(b) Nothing in this section shall be construed to prohibit the Secretary from requiring under such part 581 that passenger automobile bumpers be capable of resisting impact speeds higher than those specified in the bumper standard in effect under such part 581 on January 1, 1982.

GRANT PROGRAM CONCERNING USE OF SEATBELTS AND CHILD RESTRAINT SYSTEMS

SEC. 315. (a) Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 411. Seatbelt and child restraint programs

"(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement seatbelt and child restraint programs which include measures described in this section to foster the increased use of seatbelts and the correct use of child restraint systems. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for seatbelt and child restraint programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section.

"(c) No State may receive grants under this section in more than three fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the seatbelt and child restraint program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) Subject to subsection (c), the amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) of this section shall equal 20 percent of the amount apportioned to such State for fiscal year 1990 under section 402.

"(e) A State is eligible for a grant under this section if such State—

"(1) has in force and effect a law requiring all front seat occupants of a passenger automobile to use seatbelts;

"(2) has achieved—

"(A) in the year immediately preceding a first-year grant, the lesser of either (i) 70 percent seatbelt use by all front seat occupants of passenger automobiles in the State or (ii) a rate of seatbelt use by all such occupants that is 20 percentage points higher than the rate achieved in 1989;

"(B) in the year immediately preceding a second-year grant, the lesser of either (i) 80 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 35 percentage points higher than the rate achieved in 1989; and

"(C) in the year immediately preceding a third-year grant, the lesser of either (i) 90 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 45 percentage points higher than the rate achieved in 1989; and

"(3) has in force and effect an effective program, as determined by the Secretary, for encouraging the correct use of child restraint systems.

"(f) As used in this section, the term 'child restraint system' has the meaning given such term in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(g) There are authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, to carry out this section, $10,000,000 for the fiscal year 1990, and $20,000,000 for each of the fiscal years 1991 and 1992.".

(b) The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"411. Seatbelt and child restraint programs.".

METHODS OF REDUCING HEAD INJURIES

SEC. 316. The Secretary shall initiate (not later than sixty days after the date of enactment of this Act) and complete (not later than two years after such date of enactment) a rulemaking to revise the appropriate Federal motor vehicle safety standards, in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms. Such rulemaking shall consider methods of reducing head injuries in passenger automobiles and multipurpose passenger vehicles from contact with vehicle interior components, including those in the head impact area as defined in section 571.3(b) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

PEDESTRIAN SAFETY

SEC. 317. The Secretary shall initiate (not later than six months after the date of enactment of this Act) and complete (not later than two years after such date of enactment) a rulemaking to consider the establishment of a standard to minimize pedestrian death and injury, including injury to the head, thorax, and legs, attributable to vehicle components. Any such standard shall be established in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

Mr. BRYAN. Mr. President, I am extremely pleased that the Senate is considering S. 673, the reauthorization of the National Highway Traffic Safety Administration, or NHTSA, in a timely fashion. As the new chairman of the Consumer Subcommittee, I am particularly gratified to see one of my first initiatives receive the overwhelming support of the Commerce Committee and the Senate.

The issues addressed in this bill are literally a matter of life and death to those who use the highways, and time is of the essence. I foresee no objection to passage of this bill today, and I am hopeful that the House of Representatives will take up these issues with the same high level of priority that has been present in the Senate.

Since its creation, NHTSA has had considerable success in reducing the death rate on our highways. However, almost 47,000 people are killed on U.S. highways each year, and many more are injured, so much work remains to be done. Moreover, testimony at the hearing held by the Consumer Subcommittee on this bill provided a troubling account of NHTSA's inactivity in recent years with respect to certain important safety issues. S. 673 is, in part, a necessary response to that inactivity. Its intent is to recognize the vital nature of NHTSA's work, and to ensure that its work is completed with the efficiency that is warranted by its serious purpose.

Several of the issues addressed by the bill were passed by the Senate in the 100th Congress, although they were not enacted into law. These include improved protection in side impact crashes, an issue that was first addressed by NHTSA in the 1970's and that all parties agree needs improvement. The bill would require that an improved standard be completed within 1 year. The bill also would mandate NHTSA's consideration, within fixed time limits, of the application of certain passenger care safety standards to multipurpose vehicles such as light trucks, jeeps, and minivans. These vehicles are now commonly used for carrying passengers and constitute one-third of new passenger vehicle sales. Yet they are not required, as passenger cars are, to have head restraints, front seat passive restraints, or to meet roof crush resistance standards. The bill would remedy this situation.

S. 673 also addresses important issues which were not covered in prior legislation, which we have examined in detail in the 2 years since the Senate last considered NHTSA legislation. The bill will require NHTSA to address two additional matters with respect to multipurpose vehicles—improved side impact protection, and prevention of rollover. Both issues are critical to the safety of those who use these vehicles, and yet no standard currently exists in either area.

Additionally, S. 673 requires a rulemaking to ensure that child booster seats are as safe as possible. It requires a return to the bumper standard rescinded amid considerable controversy in 1982, so that bumpers will withstand damage to the safety features of the vehicle, and sustain only limited damage to the bumper, at 5-miles-per-hour crashes. Since this standard was changed, there is little evidence that the consumer savings anticipated by the agency have been realized. However, there is considerable evidence that vehicles now incur significant levels of preventable damage to safety-related features and unnecessary repiar costs which the bill should help to eliminate.

The bill also addresses two other new matters. It establishes a grant program to assist States in encouraging the correct use of seat belts and child restraints. It also encourages manufacturers to install airbags by requiring that passenger cars purchased for the Federal fleet be airbag-equipped if economically feasible.

Last, but far from least, the bill authorizes funding for NHTSA for 1990 and 1991 at the levels requested by the Bush administration. In this regard, I should note that the agency's funding has been losing ground in the last decade. For example, in constant dollars the research budget for 1989 is one-half of what it was in 1977. Needless to say, research is a vital component of NHTSA's work and must receive continuing support. I am hopeful that the Appropriations Committee will ensure that NHTSA receives funding commensurate with the importance of its mission.

I thank my colleagues for their support of this important effort, and particularly the chairman and ranking republican member of the Commerce

Committee for their diligent efforts over the years in the cause of highway safety. I look forward to the Senate's favorable action on S. 673, and to working our colleagues in the House to ensure that NHTSA authorization legislation becomes law in the 101st Congress.

Mr. HOLLINGS. Mr. President, today the Senate considers reauthorization of the National Highway Traffic Safety Administration, or NHTSA, an agency with an extremely important responsibility to the users of American highways. Unfortunately, despite diligent efforts by the Commerce Committee and the full Senate, the agency has not been reauthorized since 1982. As an original cosponsor of this legislation, I am gratified at the support it has received in both the Commerce Committee and the full Senate. I am hopeful that, through the expeditious action by the Senate on this bill, we will be able to achieve what we have tried without success in prior years, and enact an authorization bill into law.

Reauthorization of NHTSA is important for several reasons, not the least of which is to send a clear message to those inside and outside NHTSA who work on highway safety. The message is that Congress recognizes the importance of continued diligence in this area, and is committed to providing both the support and the oversight necessary to insure that this diligence is present.

Additionally, this legislation will provide guidance to the agency on Congress' priorities in the area of improved safety standards for vehicles that carry passengers on our highways. It reflects the continuing concern of the Commerce Committee, along with others, that NHTSA has not been as vigilant as it should have been in past years to insure that safety standards are improved in a timely fashion.

It is in this vein that the bill includes, among other important provisons, requirements that NHTSA address, within fixed time limits, improved safety standards to protect against side impact crashes and improved safety standards for multipurpose vehicles such as minivans. In addition, this bill addresses such important issues as the requirement of lap and shoulder belts in rear seats, more stringent bumper standards, reduction of head injuries and predestrian injuries, and encouragement of the use of seat belts, child restraints, and airbags.

Multipurpose vehicles are of particular concern as they are being increasingly used for passenger transportation instead of cargo. In this regard, 19 members of the Commerce Committee wrote to Secretary Skinner of the Department of Transportation earlier this year to urge him to use his current authority to address the multipurpose vehicle issue. In his response, Secretary Skinner indicated that some rulemakings in this area are underway, and that he expects to begin discussions with the administration within the next 3 months on additional actions to be taken. While I certainly appreciate his willlingness to address these issues, his letter did not assure the committee that this work actually will be completed within the time limits set out in our legislation. Thus, enactment of these provisions remains necesssary and important.

I believe this legislation is significant and overdue. I also believe that through its enactment Congress can foster a productive partnership from NHTSA. It is no exaggeration to say that this agency's responsibility is, quite literally, to save lives. I urge my colleagues to join me in expeditious enactment of this bill, to encourage NHTSA's efforts in carrying out its important responsibilities.

Mr. DANFORTH. Mr. President, we are taking an important step to improve highway safety today. The National Highway Traffic Safety Administration Authorization Act of 1989, S. 673, contains a number of measures that, if fully implemented, could reduce the approximate annual toll of 47,000 Americans killed in highway crashes.

Safety is not a partisan issue. This important legislation has strong bipartisan support. I want to congratulate Senator HOLLINGS, chairman of the Commerce Committee, Senator BRYAN, chairman of the Consumer Subcommittee, and Senator GORTON, ranking member on the Consumer Subcommittee, for their hard work in bringing this legislation to the floor.

Mr. President, the National Highway Traffic Safety Administration [NHTSA] is supposed to play the lead role in promoting highway safety. For many years, however, it has done little to improve safety. This reauthorization legislation will set a schedule for NHTSA action on a number of important safety improvements.

The improvements we are seeking are not luxury items. They are basic protections that every family deserves. I believe many auto purchasers would be shocked to learn that the vehicles they are buying lack these basic protections. For example, NHTSA has known for over a decade that the existing standard for side impact protection is inadequate, but it has not acted to improve this protection. Our bill requires improved side impact protection. Moreover, since a 1978 General Accounting Office report, it has been known that light trucks and minivans lack important safety features that have long been required for passenger cars. Our bill requires a NHTSA rulemaking on applying passenger car safety standards to light trucks such as a minimum roof crush resistance, head restraints, high center-mounted brake lights, and passive restraints.

Mr. President, we do not need to wait another 10 or 15 years for NHTSA action in these and other areas. Let me summarize the areas in which S. 673 would require action.

SIDE IMPACT

Mr. President, each year 9,000 Americans are killed in side impact crashes. In 1979, the National Highway Traffic Safety Administration [NHTSA] recognized that the current passenger car side impact standard, which requires a door beam, does little to protect occupants in car-to-car crashes. NHTSA closed its side impact rulemaking in 1982 and did not reopen it until 1988. Our bill would require NHTSA to write an improve side impact standard within 12 months of enactment.

CRASHWORTHINESS RATINGS

NHTSA studies have shown that consumers like the idea of Government safety ratings for new vehicles. Crashworthiness ratings would provide valuable information to the American family buying a vehicle and needing to know how its safety compares with that of other vehicles. Our bill instructs NHTSA and the National Academy of Sciences to work together to develop such a rating system.

MULTIPURPOSE VEHICLES

The family vehicle of the 1980's is not the station wagon. Instead families are buying record numbers of multipurpose vehicles [MPV's], which include pickups, minivans, and four-wheel drive vehicles. These vehicles now account for about one-third of passenger vehicles sold in the United States. MPV sales have mushroomed because these relatively inexpensive vehicles are now being used as passenger cars.

Unfortunately, the family that takes a pickup or minivan to get groceries or pick up the kids is using a vehicle that lacks many basic safety features. Although MPV's compete directly with passenger cars, NHTSA has exempted them from many of the passenger car safety standards.

The consequences of inadequate safety protections can be deadly. MPV fatalities are rising steadily. In 1987, there were 7,200 deaths and in 1988 fatalities jumped to over 8,300.

Today's bill requires NHTSA to take six steps to improve MPV safety. Five of these steps were in NHTSA legislation previously passed by the Senate.

The first step NHTSA must take is to require head restraints for MPV's. These devices, which present head and neck injuries, have been required in passenger cars since 1968. Head restraints in MPV's are not required, even though, for example, a small truck passenger's head may be only inches from the rear window.

The second step would be to require high center mounted rear brake lights. These lights have been effective in preventing rear end collisions in passenger cars and they can also help present such collisons in MPV's.

The third step would apply the passive restraint rule to MPV's. According to an Insurance Institute for Highway Safety [IIHS] study, a major cause of death in MPV crashes is passenger ejection during roll-over. IIHS found passenger ejection was the cause of death in 46 percent of single vehicle crashes involving small utility vehicles. In contrast, 16 percent of small car single vehicle accidents involve ejection. Applying the passive restraint rule's requirement of either automatic seat belts or airbags would help present these ejections.

A fourth safety improvement, which is new in this year's NHTSA bill, is a MPV roll-over prevention standard. Many MPV's, particularly sport utility vehicles, have high centers of gravity, which can cause them to roll-over. For example, NHTSA reports that 64 percent of all single-vehicle Suzuki Samurai accidents involve roll-over. The roll-over rate for full-sized sedans is only 8 percent. The problems with the Samurai were highlighted in tests conducted by the Consumers Union, publishers of Consumer Reports. Consumers Union said that it had "never before come across a vehicle so vulnerable to rolling over" in its 25 years of vehicle testing. In addition, this spring NHTSA opened an investigation into roll-over accidents involving Ford Bronco II's. Our legislation would require NHTSA to establish a standard for MPV stability in order to prevent roll-over problems.

A fifth safety need, which is related to the MPV roll-over standard, is minimum roof crush resistance. Passenger cars have had this standard since 1971. MPV's should have this standard because when roll-over occurs, MPV passengers need assurance that the vehicle's roof will not collapse.

Finally, NHTSA would be required to conduct a rulemaking to review its system of classification of vehicles under 10,000 pounds. The changing use pattern of MPV's and the recent controversy surrounding tariff treatment of sport utility vehicles both demonstrate the need for a clearer definition of what is an MPV and what is a passenger car.

CHILD BOOSTER SEATS

A booster seat is a small car seat without a back or sides that is used for a child too big to fit into a toddler safety seat. Generally, booster seats are recommended for children between 30 and 60 pounds.

Booster seats are designed to elevate children so that they are in the proper position to use lap and shoulder belts. Until 1984, these seats were designed with an upper body harness and tether strap to protect children in seating positions without shoulder belts. Many parents used these seats without installing the tether. Seats installed this way often failed during crashes. As a result, all but one booster seat manufacturer discontinued production of boosters using the tether.

When the upper body restraint was discontinued, manufacturers supplemented the seat with an abdominal shield that is supposed to hold a child in the seat during a crash. A study conducted for NHTSA shows that many of these shields place extreme pressure on the abdomen during a crash.

Our bill requires a solution to this problem. First, it requires that rear seat belts have shoulder harnesses that can be used with booster seats. Moreover, it requires NHTSA to modify its child safety seat standard to ensure the effectiveness of booster seats.

BUMPER IMPROVEMENTS

Mr. President, another area in which action is long overdue is better automobile bumpers. Our bill requires DOT to raise the bumper collision standard to 5-miles-per-hour (mph). NHTSA lowered this standard to 2.5 mph in 1982. Since that time, automobile manufacturers have been able to equip the vehicles with decorative bumpers that offer little protection to the vehicle.

Before the bumper standard was lowered by NHTSA, the IIHS conducted a study and found that the Ford Escort sustained no damage in a series of 5-mph crashes. Recently, the IIHS conducted the same tests on 34 different cars. Equipped with the new, weaker bumpers, the 1989 Ford Escort incurred nearly $1,500 worth of damage. Indeed, all 34 cars suffered damage in the 5-mph bumper test. Repair costs varied from $434 to just under $3,500, with 28 of the vehicles incurring damages over $1,000. Clearly, the bumper issue is one on which NHTSA has not only failed to move forward, but has moved backwards. With passage of this bill, we can restore the 5-mph standard and protect the American consumer from unnecessary repair expense.

In addition, this legislation requires NHTSA to write a rule requiring automakers to label their bumpers so that consumers will know the maximum speed at which the bumper can prevent structural damage to the vehicle. NHTSA promised to establish this information system 7 years ago, but has yet to take any action in this area.

AIR BAGS IN FEDERALLY PURCHASED VEHICLES

Mr. President, air bags are the most effective technology for preventing injuries and fatalities in frontal crashes. When used with a seat belt, an airbag can prevent serious injury in all but the most severe accidents.

Under DOT's passive restraint rule, all cars manufactured in model year 1990 and beyond must be equipped with passive restraints. To comply with the passive restraint rule, manufacturers have the choice of equipping their cars with either airbags or automatic seat belts.

Mr. President, I am pleased that many automakers have chosen air bags to comply with the passive restraint rule. Chrysler has made driver side airbags standard on all its models. Ford has announced plans to put driver side airbags in 1 million cars in modelyear 1990, including models in the lower price ranges. Finally, General Motors has announced plans to install 3 million driver side air bags model year 1992. All these manufacturers also have plans to install passenger side airbags as well.

Mr. President, the Federal Government has had great success with the 6,500 driver side equipped Ford Tempos it purchased between 1985 and 1987. One hundred and twenty-six of these vehicles have been involved in crashes severe enough to deploy the airbags. None of these deployment crashes have resulted in death and only three of these crashes have seriously injured the car's driver. Airbags have not only prevented death and injury, they have saved the Government payments for medical treatment, hospitalization and survivors' and disability benefits.

Mr. President, beginning with model year 1991, our bill would require the Federal Government, to the extent practicable, to purchase vehicles with driver side airbags. Beginning with model year 1994 vehicles, federally purchased vehicles would have both driver and passenger side airbbags.

DRUNK DRIVING EFFORTS

Mr. President, in recent years, we have taken a number of steps to combat drunk driving, including raising the drinking age to 21 and providing incentives to States that give tough suspensions to drunk drivers or which use administrative license suspension. These measures and tougher State and local enforcement have had some effect, but in 1988 alcohol was still involved in almost half of the total fatalities (23,352). This bill would authorize up to $5 million in funds for community programs to prevent drunk driving. Grass root efforts to fight drunk driving have been essential to the progress we have made and we should support these efforts.

SEAT BELT AND CHILD SAFETY SEAT INCENTIVES

Mr. President, increasing seat belt use is critical to better highway safety. A recent University of Illinois-Chicago study of 1,304 trafic crash victims found that, when victims wore seat belts, their hospital admissions decreased 65 percent. Similarly, another recent study found that North Caroli-

na's mandatory seat belt law will annually prevent 1,100 severe and fatal injuries in that State.

Currently, 31 States have mandatory seat belt laws, but belt use ranges between 27 percent and 68 percent in these States. States without mandatory belt laws have use rates as low as 15 percent. Experience demonstrates that the keys to increasing belt use include a strong belt use law accompanied by extensive publicity, effective organizing by community groups, and a strong enforcement program.

Like seat belts, child safety seats are important to safety. All 50 States have laws requiring the use of child car seats, and between 1981 and 1988 their use rose from 23 to 83 percent. Unfortunately, about 30 percent of safety seats are grossly or partially misused. This greatly reduces their value in reducing death and injury.

Mr. President, our bill would provide States incentives to achieve high belt use rates and encourage proper child safety seat use. To qualify for an initial grant a State would have to: One, establish a child safety seat education program and; two, achieve either 70-percent belt use or a 20-percent increase in belt use from the previous year. Additional grants would require further increases in belt use.

PEDESTRIAN SAFETY

Between 7,000 and 9,000 Americans are killed annually in pedestrian crashes. Our bill would require NHTSA to conduct a rulemaking on vehicle design changes that could help reduce the number of pedestrian deaths and injuries.

PREVENTING HEAD INJURIES

The National Head Injury Foundation estimates that 350,000 Americans suffer head injuries in automobile crashes each year. The human toll of these injuries cannot be overstated. Moreover, the cost of these injuries to society is substantial. A Missouri survey of 6,200 head and spinal cord injuries found that private insurance only covers half the cost of head injuries. Taxpayers paid 27 percent of the costs of these injuries and 22 percent of the costs were never paid.

Although an airbag can eliminate head injuries resulting from frontal impacts, we need to do more to eliminate head injuries occurring in rollover and side impact crashes. Additional padding to the interior of the car might reduce some of these injuries. Our bill would require a NHTSA rulemaking on these improvements.

CONCLUSION

Mr. President, I urge my colleagues to support this important legislation and to work with us to ensure quick House consideration.

Mr. GORTON. Mr. President, each year, 47,000 Americans die in highway crashes. That is on average, 130 deaths every day. Highway accidents are the leading cause of death for young people between the ages of 1 and 34.

It is tragic that so many people, particularly young people, are killed in highway crashes. These tragedies are difficult to accept because many of them are preventable. Our action today on the National Highway Traffic Safety Administration [NHTSA] Authorization Act of 1989, S. 673, is a step toward eliminating many of these highway deaths.

NHTSA is the agency with the lead Federal role in improving highway safety. Unfortunately, in recent years, it has become a "backwater" where important safety initiatives are started and then disappear. This authorization bill would establish a schedule for NHTSA action on many of the most important safety needs. For example, it would require NHTSA to finish the improved side impact protection standard that has been pending before the agency for 10 years. In addition, our bill would improve the safety of small trucks and minivans by making sure that they have basic safety protections such as minimum roof crush resistance, head restraints, high center mounted brake lights, and passive restraints. Our bill would also ensure that vehicles have sufficient stability so that they are not prone to roll over. Finally, it would require shoulder straps for rear seat safety belts just as they have been required for front seat safety belts since 1968.

NHTSA also has a mandate to help those who purchase vehicles, under the Motor Vehicle Information and Cost Savings Act. One of NHTSA's responsibilities under this act is the establishment of minimum standards for bumpers. In 1982, NHTSA lowered its bumper standard from 5 miles per hour to 2.5 miles per hour. At the time, it promised to develop a rating system to inform consumers about the strength of automobile bumpers, but it never developed such a system.

We never should have allowed the bumper standard to be lowered. Each year the Insurance Institute for Highway Safety [IIHS] conducts crash tests with bumpers. More than 80 percent of the 1989 models IIHS tested had damages of over $1,000 in the 5-mile-per-hour test. The 2.5-mile-per-hour standard is unacceptable. With the ever-increasing cost of automobile insurance and higher deductible levels, car owners cannot afford to drive vehicles equipped with tissue paper bumpers that offer no protection from low-speed collisions.

Our bill would address the bumper issue in two ways. First, it would require NHTSA to return to its 1982 5-mile-per-hour bumper standard. Second, it would require auto makers to inform consumers of the maximum speed at which a vehicle's bumper can prevent damage to the vehicle.

In conclusion, I congratulate my colleagues for their support of this important legislation, and I urge our House counterparts to give it early consideration.

AMENDMENT NO. 682

(Purpose: To make amendments relating to head injuries and pedestrian safety, and for other purposes)

Mr. DOLE. Mr. President, on behalf of Senator NICKLES, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. NICKLES, proposes an amendment numbered 682.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 32, line 13, insert a comma immediately after "seatbelts".

(2) On page 42, line 23, strike "motorcar" and insert in lieu thereof "motor car".

(3) On page 50, line 1, strike "with".

(4) Strike all on lines 3 through 16 of page 51 and redesignate sections 314 through 317 as sections 312 through 315, respectively.

(5) Strike all on page 55, line 11, through page 56, line 16, and insert in lieu thereof the following:

METHODS OF REDUCING HEAD INJURIES

SEC. 314. The Secretary shall initiate, by publication of a Notice of Proposed Rulemaking not later than ninety days after the date of enactment of this Act, a rulemaking to consider methods of reducing head injuries in passenger automobiles and multipurpose passenger vehicles from contact with vehicle interior components, including those in the head impact area as defined in section 571.3(b) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act, by revising the appropriate Federal motor vehicle safety standards. Such rulemaking, and any revision of safety standards, shall be in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring the Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

PEDESTRIAN SAFETY

SEC. 315. The Secretary shall initiate, by publication of a Notice of Proposed Rulemaking not later than ninety days after the date of enactment of this Act, a rulemaking to consider the establishment of a standard to minimize pedestrian death and injury, including injury to the head, thorax, and legs, attributable to vehicle components. Any such standard shall be established in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 682) was agreed to.

Mr. METZENBAUM. I am a supporter of S. 673, which contains important provisions to advance the goal of highway safety. However, I am concerned about the amendment proposed by Mr. NICKLES, which would delete a provision related to corporate average fuel economy, or CAFE, standards.

The provision would require that any petition for a reduction in the CAFE standards be filed at least 24 months in advance of the model year to which it applies. I believe this time limit would be very valuable in insuring that reductions in CAFE standards are granted only when absolutely necessary, and that the automakers pursue every available means to meet those standards.

Since I feel strongly that such a provision is an important addition to the current CAFE law, I would like to ask my colleagues, Senators BRYAN and GORTON, about their future intentions regarding this provision.

Mr. BRYAN. I thank my colleague, Senator METZENBAUM, for his support of S. 673 and for his interest and leadership in the area of fuel conservation. I, too, believe that achievement of maximum fuel economy must be a primary national goal, and that a time limit on petitions for reduction is important to that effort. However, as Senator METZENBAUM properly recognizes, S. 673 is primarily a highway safety bill, rather than a fuel economy bill.

I have recently introduced S. 1224, a bill to increase the current CAFE standards beginning in 1995, which is cosponsored by my friend Senator GORTON. A time limit on petitions for reduction of the standards is a part of that bill. I chair the subcommittee to which that legislation has been referred. I would assure the Senator that I will make every effort, through my subcommittee chairmanship and otherwise, to advance S. 1224 through the Senate as quickly as possible. However, since S. 673 is ready for final passage by the Senate, I am prepared to accept Mr. NICKLES' amendment in the interest of expedited action on this bill. His amendment in no way will reduce my efforts to pass separate legislation to improve fuel economy.

I would invite Senator METZENBAUM to join me in this effort as a cosponsor of S. 1224, and I welcome his participation in the consideration of the CAFE issue before my subcommittee. I know that the Senator from Ohio has introduced his own CAFE legislation, and I look forward to working with him as we fashion the most effective measure possible. I intend to hold hearings on my legislation sometime this fall, and I would appreciate Senator METZENBAUM's participation in that hearing. He has been deeply involved with this issue for many years, and I know that he will remain an active partner in promoting the prompt passage of CAFE legislation.

Mr. GORTON. As an original cosponsor of both S. 673 and S. 1224, and as ranking Republican member of the subcommittee to which these bills are referred, I would like to assure Senator METZENBAUM of my commitment to highway safety and to maximization of fuel economy. I agree with Senator BRYAN that S. 673 is an important part of the effort to save lives on the highways, and that it should be enacted as quickly as possible. In furtherance of that end, I also am prepared to accept Senator NICKLES' amendment.

However, I, too, assure Senator METZENBAUM that I will make every effort to obtain passage of S. 1224, with the time limit at issue, as quickly as possible. I share his belief in the importance of increased fuel economy both for our Nation's energy security and environmental quality. I look forward to working with my colleagues Senators BRYAN and METZENBAUM in this effort.

Mr. METZENBAUM. I thank my colleagues and assure them that I will continue to work with them toward the passage of strong CAFE legislation. Based on their statements here today, I join them in urging immediate passage of S. 673 as amended, a bill which will save lives on the highways.

The PRESIDING OFFICER. The bill is open to further amendment. If there is no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and was passed, as follows:

S. 673

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Highway Traffic Safety Administration Authorization Act of 1989".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "multipurpose passenger vehicle" and "passenger automobile" shall have the meaning given such terms by the Secretary; and

(2) "Secretary" means the Secretary of Transportation.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

GENERAL AUTHORIZATIONS

SEC. 101. (a) Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $65,424,000 for fiscal year 1990, and $68,433,000 for fiscal year 1991.".

(b) Section 111 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1921) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $336,000 for fiscal year 1990, and $351,000 for fiscal year 1991.".

(c) Section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $2,384,000 for fiscal year 1990, and $2,493,000 for fiscal year 1991.".

(d) Section 417 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990g) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $640,000 for fiscal year 1990, and $669,000 for fiscal year 1991.".

(e) Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended)—

(1) by striking "and" the second time it appears; and

(2) by inserting immediately before the period at the end the following: "not to exceed $5,315,000 for fiscal year 1990, and not to exceed $5,559,000 for fiscal year 1991".

COMMUNITY EDUCATION PROGRAM

SEC. 102. In order to carry out a national program of community education regarding (1) drunk driving prevention and (2) the use and effectiveness of airbag technology, the Secretary may derive an additional amount not to exceed $10,000,000 from unobligated balances of funds made available for highway safety programs under section 408 of title 23, United States Code. Of the funds allocated to such efforts, not less than one-half shall be used for educational efforts related to airbags. Such amounts shall remain available until expended.

TITLE II—SIDE IMPACT PROTECTION AND CRASHWORTHINESS DATA

SIDE IMPACT PROTECTION

SEC. 201. (a) The Secretary shall, not later than twelve months after the date of enactment of this Act, issue a final rule amending Federal Motor Vehicle Safety Standard 214, published as section 571.214 of title 49, Code of Federal Regulations. The rule shall establish performance criteria for improved protection for occupants of passenger automobiles in side impact accidents.

(b) Not later than sixty days after the date of enactment of this Act, the Secretary shall issue a notice of proposed rulemaking to extend the applicability of such Standard 214 to multipurpose passenger vehicles. The Secretary shall, not later than two years after such date of enactment, issue a final rule on such extension, taking into account the performance criteria established by the final rule issued in accordance with subsection (a).

AUTOMOBILE CRASHWORTHINESS DATA

SEC. 202. (a)(1) The Secretary shall, within thirty days after the date of enactment of this Act, enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation regarding means of establishing a method for calculating a uniform numerical rating which will enable consumers to compare meaningfully the crashworthi-

ness of different passenger automobile and multipurpose passenger vehicle makes and models.

(2) Such study shall include examination of current and proposed crashworthiness tests and testing procedures and shall be directed to determining whether additional objective, accurate, and relevant information regarding the comparative crashworthiness of different passenger automobile and multipurpose passenger vehicle makes and models reasonably can be provided to consumers by means of a crashworthiness rating rule. Such study shall include examination of at least the following proposed elements of a crashworthiness rating rule:

(A) information on the degree to which different passenger automobile and multipurpose passenger vehicle makes and models will protect occupants across the range of motor vehicle crash types when in use on public roads;

(B) a repeatable and objective test which is capable of identifying meaningful differences in the degree of crash protection provided occupants by the vehicles tested, with respect to such aspects of crashworthiness as occupant crash protection with and without use of manual seatbelts, fuel system integrity, and other relevant aspects;

(C) ratings which are accurate, simple in form, readily understandable, and of benefit to consumers in making informed decisions in the purchase of automobiles;

(D) dissemination of comparative crashworthiness ratings to consumers either at the time of introduction of a new passenger automobile or multipurpose passenger vehicle make or model or very soon after such time of introduction; and

(E) the development and dissemination of crashworthiness data at a cost which is reasonably balanced with the benefits of such data to consumers in making informed purchase decisions.

(3) Any such arrangement shall require the National Academy of Sciences to report to the Secretary and the Congress not later than nineteen months after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall, to the extent permitted by law, furnish to the Academy upon its request any information which the Academy considers necessary to conduct the investigation and study required by this subsection.

(4) Within sixty days after transmittal of the report of the National Academy of Sciences to the Secretary and the Congress under paragraph (3) of this subsection, the Secretary shall initiate a period (not longer than ninety days) for public comment on implementation of the recommendations of the National Academy of Sciences with respect to a rule promulgated under title II of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger automobiles and multipurpose passenger vehicles.

(5) Not later than one hundred and eighty days after the close of the public comment period provided for in paragraph (4) of this subsection, the Secretary shall determine, on the basis of the report of the National Academy of Sciences and the public comments on such report, whether an objectively based system can be established by means of which accurate and relevant information can be derived that reasonably predicts the degree to which different makes and models of passenger automobiles and multipurpose passenger vehicles provide protection to occupants against the risk of personal injury or death as a result of motor vehicle accidents. The Secretary shall promptly publish the basis of such determination, and shall transmit such determination to the Congress.

(b)(1) If the Secretary determines that the system described in subsection (a)(5) of this section can be established, the Secretary shall, subject to the exception provided in paragraph (2) of this subsection, not later than three years after the date of enactment of this Act, promulgate a final rule under section 201 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger automobiles and multipurpose passenger vehicles. The rule promulgated under such section 201 shall be practicable and shall provide to the public relevant objective information in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger automobiles and multipurpose passenger vehicles so as to contribute meaningfully to informed purchase decisions.

(2) The Secretary shall not promulgate such rule unless (A) a period of sixty calendar days has passed after the Secretary has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a summary of the comments received during the period for public comment specified in subsection (a)(4) of this section, or (B) each such committee before the expiration of such sixty-day period has transmitted to the Secretary written notice to the effect that such committee has no objection to the promulgation of such rule.

(c) If the Secretary promulgates a rule under subsection (b) of this section, not later than six months after such promulgation, the Secretary shall by rule establish procedures requiring passenger automobile and multipurpose passenger vehicle dealers to make available to prospective passenger automobile and multipurpose passenger vehicle purchasers information developed by the Secretary and provided to the dealer which contains data comparing the crashworthiness of passenger automobiles and multipurpose passenger vehicles.

TITLE III—MISCELLANEOUS PROVISIONS

STANDARDS COMPLIANCE

SEC. 301. Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following new subsection:

"(j)(1) The Secretary shall establish a schedule for use in ensuring compliance with each Federal motor vehicle safety standard established under this Act which the Secretary determines is capable of being tested. Such schedule shall ensure that each such standard is the subject of testing and evaluation on a regular, rotating basis.

"(2) The Secretary shall, not later than six months after the date of enactment of this subsection, conduct a review of the method for the collection of data regarding accidents related to Federal motor vehicle safety standards established under this Act. The Secretary shall consider the desirability of collecting data in addition to that information collected as of the date of enactment of this subsection, and shall estimate the costs involved in the collection of such additional data, as well as the benefits to safety likely to be derived from such collection. If the Secretary determines that such benefits outweigh the costs of such collection, the Secretary shall collect such additional data and utilize it in determining which motor vehicles should be the subject of testing for compliance with Federal motor vehicle safety standards established under this Act.".

INVESTIGATION AND PENALTY PROCEDURES

SEC. 302. (a) Section 112(a)(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1401(a)(1)) is amended by adding at the end the following: "The Secretary shall establish written guidelines and procedures for conducting any inspection or investigation regarding noncompliance with this title or any rules, regulations, or orders issued under this title. Such guidelines and procedures shall indicate timetables for processing of such inspections and investigations to ensure that such processing occurs in an expeditious and thorough manner. In addition, the Secretary shall develop criteria and procedures for use in determining when the results of such an investigation should be considered by the Secretary to be the subject of a civil penalty under section 109 of this title. Nothing in this paragraph shall be construed to limit the ability of the Secretary to exceed any time limitation specified in such timetables where the Secretary determines that additional time is necessary for the processing of any such inspection or investigation.".

(b) Section 109(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1398(a)) is amended by adding at the end thereof the following: "The Secretary shall establish procedures for determining the manner in which, and the time within which, a determination should be made regarding whether a civil penalty should be imposed under this section. Nothing in this subsection shall be construed to limit the ability of the Secretary to exceed any time limitation specified for making any such determination where the Secretary determines that additional time is necessary for making a determination regarding whether a civil penalty should be imposed under this section.".

TRAFFIC SAFETY FOR HANDICAPPED INDIVIDUALS

SEC. 303. (a) The Congress finds that—

(1) a number of States fail to recognize the symbols of other States for the identification of motor vehicles transporting individuals with handicaps that limit or impair the ability to walk; and

(2) the failure to recognize such symbols increases the likelihood that such individuals will be involved in traffic accident incidents resulting in injury or death, posing a threat to the safety of such individuals as well as the safety of the operators of motor vehicles and others.

(b)(1) After the date that is eighteen months following the date of enactment of this Act, the Secretary shall require that each State provide for the implementation of a uniform system for handicapped parking designed to enhance the safety of handicapped and nonhandicapped individuals. If a State fails to meet such requirement, the funds that would otherwise be apportioned to the State under section 402 of title 23, United States Code, shall be reduced by 2 percent, until such time as the Secretary determines that the requirement is being met.

(2) For purposes of this subsection, a uniform system for handicapped parking designed to enhance the safety of handicapped and nonhandicapped individuals is a system which—

(A) adopts the international symbol of access (as adopted by Rehabilitation International in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled) as the only recognized symbol for the identification of vehicles used for transporting individuals with handicaps which limit or impair the ability to walk;

(B) provides for the issuance of license plates displaying the international symbol of access for vehicles which will be used to transport individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

(C) provides for the issuance of removable windshield placards (displaying the international symbol of access) to individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

(D) provides that fees charged for the licensing or registration of a vehicle used to transport such individuals with handicaps do not exceed fees charged for the licensing or registration of other similar vehicles operated in the State; and

(E) for purposes of easy access parking, recognizes licenses and placards displaying the international symbol of access which have been issued by other States and countries.

(c) Beginning not later than twenty-four months after the date of enactment of this Act, the Secretary shall annually evaluate compliance by the States with the requirement established by the Secretary under subsection (b). The Secretary shall submit to Congress an annual report regarding such evaluation.

MULTIPURPOSE PASSENGER VEHICLE SAFETY

SEC. 304. (a) The Congress finds that—

(1) multipurpose passenger vehicles have become increasingly popular during this decade and are being used increasingly for the transportation of passengers, not property; and

(2) the safety of passengers in multipurpose passenger vehicles has been compromised by the failure to apply to them the Federal motor vehicle safety standards applicable to passenger automobiles.

(b) In addition to the rulemaking requirements applicable to multipurpose passenger vehicles under other provisions of this Act, the Secretary shall initiate (not later than sixty days after the date of enactment of this Act) and complete (not later than twelve months after such date of enactment) a rulemaking to revise, where appropriate, in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms—

(1) Federal Motor Vehicle Safety Standard 216, published as section 571.216 of title 49, Code of Federal Regulations, to provide minimum roof crush resistance standards for multipurpose passenger vehicles;

(2) Federal Motor Vehicle Safety Standard 108, published as section 571.108 of title 49, Code of Federal Regulations, to provide for a single, high-mounted stoplamp on multipurpose passenger vehicles; and

(3) Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations, to extend the requirements of outboard front seat passive restraint occupant protection systems to multipurpose passenger vehicles.

(c) In accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms, the Secretary shall, not later than twelve months after the date of enactment of this Act, complete a rulemaking—

(1) to review the system of classification of vehicles with a gross vehicle weight under ten thousand pounds to determine if such vehicles should be reclassified;

(2) to revise Federal Motor Vehicle Safety Standard 202, published as section 571.202 of title 49, Code of Federal Regulations, to provide for head restraints for multipurpose passenger vehicles; and

(3) to consider establishment of a Federal motor vehicle safety standard to protect against unreasonable risk of rollover of multipurpose passenger vehicles.

Any reclassification pursuant to paragraph (1) shall, to the maximum extent practicable, classify as a passenger automobile every motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor car or other motor vehicle principally designed for the transport of persons under heading 8703 of the Harmonized Tariff Schedule of the United States. Nothing in this section shall prevent the Secretary from classifying as a passenger automobile any motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor vehicle for the transport of goods under heading 8704 of such Harmonized Tariff Schedule.

REAR SEATBELTS

SEC. 305. (a) In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall complete, within twelve months after the date of enactment of this Act, a rulemaking to amend Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations, to provide that the outboard rear seat passengers of all passenger automobiles, except convertibles, manufactured on or after September 1, 1989, shall have lap and shoulder seatbelt protection, and that the outboard rear seat passengers of all multipurpose passenger vehicles and all convertible passenger automobiles manufactured on or after September 1, 1991, shall have lap and shoulder seatbelt protection.

(b) Notwithstanding any other provision of law, not less than 10 percent of the funds authorized to be appropriated under section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) in fiscal years 1990 and 1991 shall be utilized to disseminate information to consumers regarding the manner in which passenger automobiles may be retrofitted with lap and shoulder rear seatbelts.

CERTIFICATION OF BUMPERS

SEC. 306. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting after section 102 the following new subsection:

"DISCLOSURE OF BUMPER IMPACT CAPABILITY

"SEC. 102A. (a) The Secretary shall promulgate, in accordance with the provisions of this section, a regulation establishing passenger motor vehicle bumper system labeling requirements. Such regulation shall apply to passenger motor vehicles manufactured for model years beginning more than one hundred and eighty days after the date such regulation is promulgated, as provided in subsection (c)(2) of this section.

"(b)(1) The regulation required to be promulgated in subsection (a) of this section shall provide that, before any passenger motor vehicle is offered for sale, the manufacturer shall affix a label to such vehicle, in a format prescribed in such regulation, disclosing an impact speed at which the manufacturer represents that the vehicle meets the applicable damage criteria.

"(2) For purposes of this subsection, the term 'applicable damage criteria' means the damage criteria applicable under section 581.5(c) of title 49, Code of Federal Regulations (as in effect on the date of enactment of this section).

"(c)(1) Not later than ninety days after the date of enactment of this section, the Secretary shall publish in the Federal Register a proposed initial regulation under this section.

"(2) Not later than one hundred and eighty days after such date of enactment, the Secretary shall promulgate a final initial regulation under this section.

"(d) The Secretary may allow a manufacturer to comply with the labeling requirements of subsection (b) of this section by permitting such manufacturer to make the bumper system impact speed disclosure required in subsection (b) of this section on the label required by section 506 of this Act or section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(e) The regulation promulgated under subsection (a) of this section shall provide that the information disclosed under this section be provided to the Secretary at the beginning of the model year for the model involved. As soon as practicable after receiving such information, the Secretary shall furnish and distribute to the public such information in a simple and readily understandable form in order to facilitate comparison among the various types of passenger motor vehicles. The Secretary may by rule require automobile dealers to distribute to prospective purchasers any information compiled pursuant to this subsection.

"(f) For purposes of this section, the term 'passenger motor vehicle' means any motor vehicle to which the standard under part 581 of title 49, Code of Federal Regulations, is applicable.".

CHILD BOOSTER SEATS

SEC. 307. (a) In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall conduct a rulemaking to amend Federal Motor Vehicle Safety Standard 213, published as section 571.213 of title 49, Code of Federal Regulations, to increase the safety of child booster seats used in passenger automobiles. The rulemaking shall be initiated not later than thirty days after the date of enactment of this Act and completed not later than twelve months after such date of enactment.

(b) As used in this section, the term "child booster seat" has the meaning given the term "booster seat" in section 571.213 of title 49, of Code of Federal Regulations, as

in effect on the date of the enactment of this Act.

AIRBAG REQUIREMENT FOR FEDERAL PASSENGER VEHICLES

SEC. 308. The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies, shall establish a program requiring that all passenger automobiles acquired after September 30, 1990, for use by the Federal Government be equipped, to the maximum extent practicable, with driver-side airbags and that all passenger automobiles acquired after September 30, 1993, for use by the Federal Government be equipped, to the maximum extent practicable, with airbags for both the driver and front seat outboard passenger seating positions.

STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

SEC. 309. Part A of title III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1961 et seq.) is amended by adding at the end the following new section:

"STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

"SEC. 304. (a) The Secretary shall, within thirty days after the date of the enactment of this section, enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the effectiveness of State motor vehicle safety inspection programs in—

"(1) reducing motor vehicle accidents that result in injuries and deaths; and

"(2) limiting the number of defective or unsafe motor vehicles on the highways.

"(b)(1) The study shall include an evaluation of the implementation, inspection criteria, personnel, budgeting, and enforcement of all types of State motor vehicle inspection programs or periodic motor vehicle inspection programs, including inspections of motor vehicle brakes, glass, steering, suspension, and tires.

"(2) If warranted by the study, the National Academy of Sciences shall develop and submit to the Congress recommendations for an effective and efficient State motor vehicle safety inspection program.

"(c) The study shall also consider the feasibility of use by States of private organizations to conduct motor vehicle safety inspection programs of combining safety and emission inspection programs.

"(d) Appropriate public and private agencies and organizations, including the Secretary, the Administrator of the Environmental Protection Agency, affected industries and consumer organizations, State and local officials, and the motor vehicle insurance industry should be consulted in conducting the study required under this section.

"(e) The study required by subsection (a) shall be completed and transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives within nineteen months after the date of enactment of this section.".

RECALL OF CERTAIN MOTOR VEHICLES

SEC. 310. (a) Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items of equipment being returned for remedy, the Secretary may direct the manufacturer to send a second notification in such manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertaining to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may by regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the twelve months preceding the date of the notification.".

(b) Section 154 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item of replacement equipment only if—

"(1) the defect or failure to comply has been remedied in accordance with this section before delivery under such sale or lease; or

"(2) in the case of notification required by an order under section 152(b), enforcement of the order has been restrained in an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicle or item of equipment.".

STUDY OF DARKENED WINDOWS

SEC. 311. The Administrator of the National Highway Traffic Safety Administration shall conduct a study of the use of darkened windshields and window glass in passenger automobiles. In particular, the study shall consider the effects of such use on the safe operation of passenger automobiles, as well as on the hazards from such use to the safety of law enforcement personnel. In conducting such study, the Administrator shall consult with appropriate industry representatives, officials of law enforcement departments and agencies, and consumer representatives. The Administrator shall submit the results of such study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives not later than six months after the date of enactment of this Act.

BUMPER STANDARD

SEC. 312. (a) Not later than one year after the date of enactment of this Act, the Secretary shall amend the bumper standard published as part 581 of title 49, Code of Federal Regulations, to ensure that such standard is identical to the bumper standard under such part 581 which was in effect on January 1, 1982. The amended standard shall apply to all passenger automobiles manufactured after September 1, 1990.

(b) Nothing in this section shall be construed to prohibit the Secretary from requiring under such part 581 that passenger automobile bumpers be capable of resisting impact speeds higher than those specified in the bumper standard in effect under such part 581 on January 1, 1982.

GRANT PROGRAM CONCERNING USE OF SEATBELTS AND CHILD RESTRAINT SYSTEMS

SEC. 313. (a) Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 411. Seatbelt and child restraint programs

"(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement seatbelt and child restraint programs which include measures described in this section to foster the increased use of seatbelts and the correct use of child restraint systems. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for seatbelt and child restraint programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section.

"(c) No State may receive grants under this section in more than three fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the seatbelt and child restraint program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) Subject to subsection (c), the amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) of this section shall equal 20 percent of the amount apportioned to such State for fiscal year 1990 under section 402.

"(e) A State is eligible for a grant under this section if such State—

"(1) has in force and effect a law requiring all front seat occupants of a passenger automobile to use seatbelts;

"(2) has achieved—

"(A) in the year immediately preceding a first-year grant, the lesser of either (i) 70 percent seatbelt use by all front seat occupants of passenger automobiles in the State or (ii) a rate of seatbelt use by all such occupants that is 20 percentage points higher than the rate achieved in 1989;

"(B) in the year immediately preceding a second-year grant, the lesser of either (i) 80 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 35 percentage points higher than the rate achieved in 1989; and

"(C) in the year immediately preceding a third-year grant, the lesser of either (i) 90 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 45 percentage points higher than the rate achieved in 1989; and

"(3) has in force and effect an effective program, as determined by the Secretary, for encouraging the correct use of child restraint systems.

"(f) As used in this section, the term 'child restraint system' has the meaning given such term in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(g) There are authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, to carry out this section, $10,000,000 for the fiscal year 1990, and $20,000,000 for each of the fiscal years 1991 and 1992.".

(b) The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"411. Seatbelt and child restraint programs.".

METHODS OF REDUCING HEAD INJURIES

SEC. 314. The Secretary shall initiate, by publication of a Notice of Proposed Rulemaking not later than ninety days after the date of enactment of this Act, a rulemaking to consider methods of reducing head injuries in passenger automobiles and multipurpose passenger vehicles from contact with vehicle interior components, including those in the head impact area as defined in section 571.3(b) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act, by revising the appropriate Federal motor vehicle safety standards. Such rulemaking, and any revision of safety standards, shall be in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

PEDESTRIAN SAFETY

SEC. 315. The Secretary shall initiate, by publication of a Notice of Proposed Rulemaking not later than ninety days after the date of enactment of this Act, a rulemaking to consider the establishment of a standard to minimize pedestrian death and injury, including injury to the head, thorax, and legs, attributable to vehicle components. Any such standard shall be established in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSUMER PRODUCT SAFETY COMMISSION AUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 75, S. 605, a bill to authorize appropriations for the Consumer Product Safety Commission.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 605) to authorize appropriations for the Consumer Product Safety Commission, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Consumer Product Safety Commission Authorization Act of 1989".

QUALIFICATIONS OF MEMBERS OF THE COMMISSION; QUORUM

SEC. 2. (a) Section 4(a) of the Consumer Product Safety Act (15 U.S.C. 2053(a)) is amended by inserting immediately after the first sentence the following: "In making such appointments, the President shall consider individuals who, by reason of their background and expertise in areas related to consumer products and protection of the public from risks to safety, are qualified to serve as members of the Commission.".

(b)(1) Section 4(a) of the Consumer Product Safety Act (15 U.S.C. 2053(a)), is amended by striking "five" and inserting in lieu thereof "three".

(2) Section 4(c) of the Consumer Product Safety Act (15 U.S.C. 2053(c)) is amended by striking "three" and inserting in lieu thereof "two".

(3) Section 4(d) of the Consumer Product Safety Act (15 U.S.C. 2053(d)) is amended by striking "three" and inserting in lieu thereof "two".

(4) For the purpose of applying the amendment made by paragraph (1) of this subsection, the office of Commissioner of the Consumer Product Safety Commission whose term expires on October 26, 1990, and the office of Commissioner whose term expires on October 26, 1993, shall cease to exist on the date of enactment of this Act.

APPOINTMENT OF CERTAIN PERSONNEL

SEC. 3. (a) Section 4(g)(1) of the Consumer Product Safety Act (15 U.S.C. 2053(g)(1)) is amended to read as follows:

"(g)(1) The Chairman, subject to the approval of the Commission, shall appoint an Executive Director, a General Counsel, an Associate Executive Director for Engineering Sciences, an Associate Executive Director for Epidemiology, an Associate Executive Director for Compliance and Administrative Litigation, an Associate Executive Director for Health Sciences, an Associate Executive Director for Economic Analysis, an Associate Executive Director for Administration, an Associate Executive Director for Field Operations, a Director for Office of Program, Management, and Budget, and a Director for Office of Information and Public Affairs. Any other individual appointed to a position designated as an Associate Executive Director shall be appointed by the Chairman, subject to the approval of the Commission. The Chairman may remove an individual from any position specified in paragraph (1) of this subsection only with the approval of the Commission. The Chairman may appoint only an individual who is an attorney as the Associate Executive Director for Compliance and Administrative Litigation. No individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.".

(b) Section 4(g) of the Consumer Product Safety Act (15 U.S.C. 2053(g)) is amended by adding at the end the following:

"(5) No individual may be appointed on an acting basis to any position specified in paragraph (1) of this subsection for a period in excess of ninety days unless such appointment is approved by the Commission.".

PRIORITIES

SEC. 4. (a) Section 4 of the Consumer Product Safety Act (15 U.S.C. 2053) is amended by adding at the end the following:

"(j) At least thirty days before the beginning of each fiscal year, the Commission shall establish priorities for its actions pursuant to the Acts under its jurisdiction. Before establishing such priorities, the Commission shall conduct a public hearing on the priorities and shall provide reasonable opportunity for the submission of comments.".

(b) The amendment made by subsection (a) of this section shall apply with respect to fiscal years which begin more than one hundred and eighty days after the date of enactment of this Act.

DISCLOSURE TO CONTRACTORS

SEC. 5. Section 6(a)(8) of the Consumer Product Safety Act (15 U.S.C. 2055(a)(8)) is amended by striking "officers or employees" and inserting in lieu thereof "officers, employees, or representatives of the Commission (including contractors)".

PETITION REGARDING VOLUNTARY STANDARDS

SEC. 6. (a) Section 9 of the Consumer Product Safety Act (15 U.S.C. 2058) is amended by adding at the end the following:

"(i) The Commission shall approve or deny any petition requesting the Commission to initiate a rulemaking under section 553(e) of title 5, United States Code, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for approving or denying such petition. The Commission may not deny any such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.".

(b) Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended by adding at the end the following:

"(j) The Commission shall approve or deny any petition requesting the Commission to initiate a rulemaking under section 553(e) of title 5, United States Code, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for approving or denying such petition. The Commission may not deny any such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.".

(c) Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended by adding at the end the following:

"(k) The Commission shall approve or deny any petition requesting the Commission to initiate a rulemaking under section 553(e) of title 5, United States Code, within

a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for approving or denying such petition. The Commission may not deny any such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.".

TIME LIMITATIONS FOR PROPOSED RULES

SEC. 7. Section 9(c) of the Consumer Product Safety Act (15 U.S.C. 2058(c)) is amended by adding at the end the following: "Any proposed consumer product safety rule shall be issued within twelve months after the date of publication of an advance notice of proposed rulemaking under subsection (a) of this section relating to the product involved, unless the Commission determines that such proposed rule is not likely to eliminate or reduce the risk of injury associated with the product. The Commission may extend the twelve-month period for good cause. If the Commission extends such period, it shall immediately transmit notice of such extension to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. Such notice shall include an explanation of the reasons for such extension, together with an estimate of the date by which the Commission anticipates such rulemaking will be completed. The Commission shall publish notice of such extension and the information submitted to the Congress in the Federal Register.".

VOLUNTARY CONSUMER PRODUCT SAFETY STANDARDS

SEC. 8. (a)(1) Section 9(b)(2) of the Consumer Product Safety Act (15 U.S.C. 2058(b)(2)) is amended by inserting immediately before the period the following: ", except that the Commission shall terminate any such proceeding and rely on a voluntary standard only if such voluntary standard is in existence".

(b)(1) Section 9(b)(2) of the Consumer Product Safety Act (15 U.S.C. 2058(b)(2)), as amended by subsection (a)(1) of this section, is further amended by adding at the end the following: "Prior to relying upon any voluntary consumer product safety standard, the Commission shall afford interested persons (including manufacturers, consumers, and consumer organizations) who were not involved in the development of such standard a reasonable opportunity to submit written comments regarding such standard. The Commission shall consider such comments in making any determination regarding reliance on the involved voluntary standard under this subsection.".

(2) Section 3(g)(2) of the Federal Hazardous Substances Act (15 U.S.C. 1262(g)(2)), as amended by subsection (a)(2) of this section, is further amended by adding at the end the following: "Prior to relying upon any voluntary standard, the Commission shall afford interested persons (including manufacturers, consumers, and consumer organizations) who were not involved in the development of such standard a reasonable opportunity to submit written comments regarding such standard. The Commission shall consider such comments in making any determination regarding reliance on the involved voluntary standard under this subsection.".

(c)(1) Section 7(b) of the Consumer Product Safety Act (15 U.S.C. 2056(b)) is amended—

(A) by inserting "(1)" immediately after "(b)"; and

(B) by adding at the end the following:

"(2) The Commission shall devise procedures to monitor compliance with any voluntary standards—

"(A) upon which the Commission has relied under paragraph (1) of this subsection;

"(B) which were developed with the participation of the Commission; or

"(C) whose development the Commission has monitored.".

(2) Section 3(g) of the Federal Hazardous Substances Act (15 U.S.C. 1262(g)) is amended by adding at the end the following:

"(3) The Commission shall devise procedures to monitor compliance with any voluntary standards—

"(A) upon which the Commission has relied under paragraph (2) of this subsection;

"(B) which were developed with the participation of the Commission; or

"(C) whose development the Commission has monitored.".

(3) Section 4(h) of the Flammable Fabrics Act (15 U.S.C. 1193(h)) is amended by adding at the end the following:

"(3) The Commission shall devise procedures to monitor compliance with any voluntary standards—

"(A) upon which the Commission has relied under paragraph (2) of this subsection;

"(B) which were developed with the participation of the Commission; or

"(C) whose development the Commission has monitored.".

COST-BENEFIT ANALYSIS

SEC. 9. (a) Section 12 of the Consumer Product Safety Act (15 U.S.C. 2061) is amended by adding at the end the following:

"(f) Nothing in this section shall be construed to require the Commission, in determining whether to bring an action against a consumer product under this section, to prepare a comparison of the costs that would be incurred in complying with the relief that may be ordered in such action with the benefits to the public from such relief.".

(b) Section 15 of the Consumer Product Safety Act (15 U.S.C. 2064) is amended by adding at the end the following:

"(h) Nothing in this section shall be construed to require the Commission, in determining that a product distributed in commerce presents a substantial product hazard and that notification or other action under this section should be taken, to prepare a comparison of the costs that would be incurred in providing notification or taking other action under this section with the benefits from such notification or action.".

(c) Section 15 of the Federal Hazadous Substances Act (15 U.S.C. 1274) is amended by adding at the end the following:

"(g) Nothing in this section shall be construed to require the Commission, in determining that an article or substance distributed in commerce presents a substantial product hazard and that notification or other action under this section should be taken, to prepare a comparison of the costs that would be incurred in providing notification or taking other action under this section with the benefits from such notification or action.".

NOTIFICATION

SEC. 10. Section 15(b) of the Consumer Product Safety Act (15 U.S.C. 2064(b)) is amended—

(1) in paragraph (1), by striking "; or" and inserting in lieu thereof "or with a voluntary consumer product safety standard upon which the Commission has relied under section 9;";

(2) in paragraph (2), by striking the comma and inserting in lieu thereof "; or";

(3) by inserting immediately after paragraph (2) the following:

"(3) creates an unreasonable risk of serious injury or death,";

(4) by striking "comply or of such defect," and inserting in lieu thereof "comply, of such defect, or of such risk,"; and

(5) by striking "defect or failure to comply." and inserting in lieu thereof "defect, failure to comply, or such risk.".

CIVIL PENALTIES

SEC. 11. (a) Section 20(a) of the Consumer Product Safety Act (15 U.S.C. 2069(a)) is amended—

(1) by striking "$2,000" and inserting in lieu thereof "$5,000"; and

(2) by striking "$500,000" each place it appears and inserting in lieu thereof "$1,250,000".

(b) Section 5 of the Federal Hazardous Substances Act (15 U.S.C. 1264) is amended by adding at the end the following:

"(c)(1) Any person who knowingly violates section 4 shall be subject to a civil penalty not to exceed $5,000 for each such violation. Subject to paragraph (2), a violation of section 4 (a), (b), (c), (d), (f), (g), (i), and (j) shall constitute a separate offense with respect to each substance involved, except that the maximum civil penalty shall not exceed $1,250,000 for any related series of violations. A violation of section 4(e) shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required by section 4(e); and, if such violation is a continuing one, each day of such violations shall constitute a separate offense, except that the maximum civil penalty shall not exceed $1,250,000 for any related series of violations.

"(2) The second sentence of paragraph (1) of this subsection shall not apply to violations of subsection (a) or (c) of section 4—

"(A) if the person who violated such subsection is not the manufacturer or private labeler or a distributor of the substances involved; and

"(B) if such person did not have either (i) actual knowledge that such person's distribution or sale of the substance violated such subsection, or (ii) notice from the Commission that such distribution or sale would be a violation of such subsection.

"(3) In determining the amount of any penalty to be sought upon commencing an action seeking to assess a penalty for a violation of section 4, the Commission shall consider the nature of the substance, the severity of the risk of injury, the occurrence or absence of injury, the amount of the substance distributed, and the appropriateness of such penalty in relation to the size of the business of the person charged.

"(4) Any civil penalty under this subsection may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the Commission shall consider the appropriateness of such penalty to the size of the business of the person charged, the nature of the substance involved, the severity of the risk of injury,

the occurrence or absence of injury, and the amount of the substance distributed. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

"(5) As used in the first sentence of paragraph (1), the term 'knowingly' means (A) the having of actual knowledge, or (B) the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.".

(c)(1) Beginning one year after the date of enactment of this Act, and every year thereafter, the Consumer Product Safety Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the information specified in paragraph (2) of this subsection. Such information may be included in the annual report to the Congress submitted by the Commission.

(2) The Commission shall submit information with respect to the imposition of civil penalties under the statutes which it administers. The information shall include the number of civil penalties imposed, an identification of the violations that led to the imposition of such penalties, the amount of revenue recovered from the imposition of such penalties, and the effect (if any) of inflation on the amount provided by statute for civil penalties under the statutes which the Commission administers.

CHRONIC HAZARD ADVISORY PANEL

SEC. 12. Section 28(b)(1) of the Consumer Product Safety Act (15 U.S.C. 2077(b)(1)) is amended by inserting immediately after "States" the following: "(other than employees of the National Institutes of Health, the National Toxicology Program, or the National Center for Toxicological Research)".

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. Section 32(a) of the Consumer Product Safety Act (15 U.S.C. 2081(a)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting in lieu thereof a semicolon; and

(3) by inserting immediately after paragraph (9) the following:

"(10) $34,500,000 for the fiscal year ending September 30, 1989, together with such sums as may be necessary for increases in pay and retirement benefits provided by law;

"(11) $36,500,000 for the fiscal year ending September 30, 1990, together with such sums as may be necessary for increases in pay and retirement benefits provided by law; and

"(12) $38,179,000 for the fiscal year ending September 30, 1991, together with sums as may be necessary for increases in pay and retirement benefits provided by law.".

REAUTHORIZATION OF THE CONSUMER PRODUCT SAFETY COMMISSION

Mr. BRYAN. Mr. President, I am pleased that the Senate is considering S. 605, legislation to authorize funds to be appropriated for the Consumer Product Safety Commission [CPSC]. This bill contains a number of provisions that will address some of the serious concerns surrounding the CPSC.

An authorization bill was last enacted for the CPSC during the reconciliation process in 1981. Congress has been unable to move a bill through the entire legislative process since that time, but I am hopeful that we will be able to produce a bill during this Congress. When I assumed chairmanship of the Consumer Subcommittee earlier this year, this reauthorization was the first bill that I undertook.

It is important that we get to work on this bill now because the CPSC is a beleaguered agency. Beset by internal squabbles and demoralized staff, the CPSC has been sending the message that it's open hunting season on consumers and their interests. But it is not just the American consumer who is harmed by this message. American business as well suffers when an agency as important as the CPSC is mired in inactivity and inconsistency, for then our businesses do not know what to expect from the very unit of the Federal Government that is charged with overseeing their activities regarding products.

In September 1987, the Consumer Federation of America testified before the Consumer Subcommittee that the creation of Federal safety agencies like the CPSC has contributed to a significant decline in injuries and deaths. This and other evidence shows that the CPSC is too important an agency to permit it to wither and die. Americans use products every minute of each day, and it is essential that we act to stop this erosion of public confidence in the Federal Government's product safety activities.

Having said this, I am aware that Congress established the CPSC in 1972 with the knowledge that it is not appropriate or practical for Congress to exercise day-to-day supervision of the quality of items in the marketplace. Rather, it is desirable to have a Federal entity with expertise in consumer products and safety actively oversee product safety. But if we have entrusted our safety to the CPSC, then we need to ensure that the agency will do its job. I am not interested in micromanaging the CPSC; I am interested in spurring it on to act on behalf of all of us in fulfilling its statutory mandate. The bill as reported attempts to provide this impetus in several ways.

ADMINISTRATION AND STRUCTURE

First, it addresses the administration and structure of the CPSC. Anyone familiar with the recent history of the CPSC knows that it has been a contentious time at that agency, with allegations of abuse of administrative authority and countercharges of subversion and lack of collegiality. This does not advance the public safety; it hinders is progress, and needs to be eliminated. We need a CPSC that will work together on behalf of product safety. But how does one legislate responsibility and discretion? The short answer is that we cannot. Instead, we should seek to appoint individuals who are aware of safety issues and dedicated to furthering them. That is why this legislation requires the President, in making appointment to the CPSC, to consider individuals with experience relevant to the CPSC's mission

When the Consumer Product Safety Act [CPSA] was enacted in 1972, it was envisioned that a collegial body would exchange ideas and suggest alternative solutions to safety problems. That objective has succeeded to a limited extent. I continue to believe that the basic premise behind that legislative determination is valid: several minds are better than one. However, to address some of the internal difficulties that have recently affected the CPSC, this amendment also provides that the heads of all major departments at the CPSC shall be appointed by the Chairman of the CPSC, with the approval of the full Commission. Likewise, these department officials would also be subject to removal only by the full Commission, to avoid any employee from feeling that disagreement with a particular commissioner or point of view will bring retribution.

Finally, I note that the CPSC is currently limited to three members by appropriations constraints. The bill as reported provides that three members shall constitute the CPSC, rather than the five members originally provided for the agency. In addition, two members of the CPSC shall constitute a quorum for the transaction of business. This quorum change is particularly important. Current law requires that three of five members must be present for action to occur. In the event of illness or other absence of one of the three members for which there are sufficient appropriations, the CPSC is unable to act. Today, in fact, if there were a major safety threat that required immediate action, the CPSC would be unable to respond because there is an insufficient number of members since the resignation earlier this year of the former Chairman. We must address these matters. The bill also makes a conforming change regarding party affiliation, to ensure that the members of the CPSC reflect diversity in political background. The bill as reported recognizes the reality of the current funding situation, and enables the CPSC to meet to carry out its reponsibilities.

SUBSTANTIVE RESPONSIBILITIES

Second, we must consider the question of how the CPSC approaches its substantive responsibilities. In 1981, the Congress required the CPSC to defer to a voluntary standard developed by industry whenever the CPSC determined that substantial compliance with the standard was likely and that compliance with the standard would eliminate or adequately reduce the risk of injury involved. This authority was restricted to situations in which the CPSC had already under-

taken action with regard to a problem by commencing an advance notice of proposed rulemaking. It has been suggested that the law has been misapplied and/or misperceived as an indication that the CPSC cannot or should not act to address safety matters. Some industries have been forthcoming and active participants in the development of voluntary standards; other have not succeeded as well.

This legislation addresses the issue of voluntary standards by requiring that, when parties file a petition for rulemaking with the CPSC under section 553(e) of title 5, United States Code, the CPSC act within a reasonable time on that petition, and state the reasons for approving or denying the petition. If the CPSC denies the petition on the basis of a voluntary standard, the CPSC must determine that the standard is likely to produce an elimination or adequate reduction in the risk of injury involved, and will be complied with by industry. The relevant industry will still have the opportunity to suggest voluntary action after a rulemaking is commenced under section 9 of the CPSA. However, if the CPSC has determined that the petition should be denied because of a voluntary standard, the amendment would require the CPSC to have conducted some review of its adequacy and compliance.

Under this provision, the CPSC could not deny such a petition on the basis of a voluntary standard unless the standard is actually "in existence at the time of the denial of the petition." To satisfy this requirement, a voluntary standard need not be final and in effect. I recognize that the voluntary standards process often involves several layers of review, which may be quite time-consuming even though they rarely result in major changes in the standard's provisions. Where a standard is still undergoing review by oversight groups within the standard-setting organization, the CPSC could determine that the standard is "in existence" if an acceptable draft has been prepared and adopted by the working committee of technical experts. In such a situation, it is likely that the draft standard will ultimately be approved and, accordingly the CPSC would not initiate rulemaking proceedings.

In addition, the bill as reported requires that the CPSC defer to a voluntary standard pursuant to section 9 of the CPSC only where the standard actually exists. This should preclude even the appearance that the CPSC is to defer to a mere hope or promise that an industry will take some action. Also, the committee amendment requires that interested persons have the opportunity to comment on a voluntary standard before the CPSC defers to it.

Finally, the bill as reported provides that the CPSC will establish a system to monitor compliance with the voluntary standards which are used by industry, to ensure that these standards are being met.

This legislation also would require the CPSC to conclude any rulemaking proceeding within 1 year after it is begun by the publication of an advance notice of proposed rulemaking. In those circumstances where the CPSC requires more time to develop a rule—for example, because of complex subject matter—the bill permits an extension, with notice to Congress as to the reasons for the extension and the anticipated date of rulemaking completion. Testimony produced at Consumer Subcommittee hearings suggested that some rulemakings take as long as 3 or 4 years to be completed. This provision ensures that the CPSC will act expeditiously to conclude its formal rulemaking process.

In recent years, there have been suggestions that the CPSC has used analysis of costs and benefits from corrective action to justify inaction, and even in some cases to secondguess an industry determination to improve a product. The bill as reported addresses cost-benefit analysis by not forbidding its use, but clarifying the current law that such analysis is not required in all instances. In other words, the CPSC retains the discretion to utilize this analysis where it is appropriate.

Finally, under section 15(b) of the CPSA, a manufacturer must notify the CPSC when it obtains information that its product violates a safety rule or is defective in such a manner that a substantial product hazard is created. Many sources have indicated to the Consumer Subcommittee that underreporting of product hazards is prevalent, despite the importance attached by the CPSC to section 15 reports. For example, in its guidelines for manufacturers, importers, distributors and retailers on reporting under section 15, the CPSC notes that, although it relies on sources other than company reports to identify substantial product hazards, reporting by companies under section 15 provisions is "invaluable because firms often learn of product safety problems long before the Commission does." Thus, section 15 serves as a kind of early warning system for the CPSC.

The bill as reported adds two additional situations in which manufacturers must report under section 15(b)—namely, where information is received that reasonably supports the conclusion that a product either: First, fails to comply with a voluntary standard on which the CPSC has relied under the CPSA; or second, creates an unreasonable risk of injury or death. With regard to the first element, it is not my intent that all deviations from such a standard would be reportable. Rather, reporting obligations would arise only where a product fails to conform to the portions of the voluntary standard on which the CPSC has based its decision not to proceed with mandatory safety requirements under section 9. I recognize that voluntary standards include numerous provisions which may not be critical to the CPSC's decision to accept the standard in lieu of further rulemaking. I anticipate that, at the time the CPSC accepts a voluntary standard, it will designate the particular standard provisions to which it is deferring in lieu of issuing a mandatory standard. Thereafter, only violations of these provisions must be reported under section 15(b), as amended. However, manufacturers may, if they choose, inform the CPSC of noncompliance with other provisions of the standard.

The second instance of notification is where a manufacturer receives information which reasonably supports the conclusion that a product creates an unreasonable risk of serious injury or death. The concept of "unreasonable risk" is already embodied in section 7 of the CPSA, which authorizes the CPSC to adopt prospective safety standards and bans. I expect that the "unreasonable risk" standard will continue to be most relevant in the context of rulemaking under section 7. There may be some situations, however, where reporting will be necessary under the new "unreasonable risk" standard imposed by the bill, as amended, but not under the current version of section 15(b). It is my expectation that, by establishing this additional criterion for reporting, the bill will encourage reporting by some firms who might now conclude that section 15(b) does not apply.

It is my intent that, in implementing the new reporting requirement, the CPSC will rely on the legislative history and case law construing the "unreasonable risk" concept under section 7. The House report on the original CPSA contained the following discussion:

> It is generally expected that the determination of unreasonable hazard will involve * * * balancing the probability that risk will result in harm and the gravity of such harm against the effect on the product's utility, cost and availability to the consumer. An unreasonable hazard is clearly one which can be prevented or reduced without affecting the product's utility, cost, or availability; or one in which the effect on the product's utility, cost or availability is outweighed by the need to protect the public from the hazard associated with the product.

H. Rept. No. 92-1153, 92d Cong., 2d Sess., at 33 (1972). A similar discussion appeared in the Senate report. S. Rept. No. 72-749, 92d Cong., 2d Sess., at 14-15 (1972). Court decisions construing section 7 of the act have relied on this legislative history in construing the "unreasonable risk" concept.

We expect that both the legislative history of the original CPSA and existing case law will play a key role in determining when information will be reportable under section 15(b).

Also, the bill increases the amount of civil penalties to counter the effect of the erosion in their value since they were enacted in 1972, and to add penalties to the Federal Hazardous Substances Act. The absence of such penalties was demonstrated recently in the case of lawn darts. Senator LAUTENBERG has an amendment regarding the amount of these penalties.

AMENDMENT NO. 683

(Purpose: To index certain penalties for inflation)

Mr. MITCHELL. Mr. President, on behalf of Senator LAUTENBERG I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. LAUTENBERG, proposes an amendment numbered 683.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend section 11 to read as follows:

CIVIL PENALTIES

SEC. 11. (a) Section 20(a) of the Consumer Product Safety Act (15 U.S.C. 2069(a)) is amended—

(1) by striking "$2,000" and inserting in lieu thereof "$5,000";

(2) by striking "$500,000" each place it appears and inserting in lieu thereof "$1,250,000"; and

(3) by adding at the end thereof the following:

"(3)(A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

"(B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—

"(i) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;

"(ii) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;

"(iii) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and

"(iv) in the case of penalties greater than $200,000, the nearest multiple of $25,000.

"(D) For purposes of this subsection:

"(i) The term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(ii) The term 'cost-of-living adjustment for the preceding five years' means the percentage by which—

"(I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

"(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.".

(b) Section 5 of the Federal Hazardous Substances Act (15 U.S.C. 1264) is amended by adding at the end the following:

"(c)(I) Any person who knowingly violates section 4 shall be subject to a civil penalty not to exceed $5,000 for each such violation. Subject to paragraph (2), a violation of subsections (a), (b), (c), (d), (f), (g), (i), and (j) of section 4 shall constitute a separate offense with respect to each substance involved, except that the maximum civil penalty shall not exceed $1,250,000 for any related series of violations. A violation of section 4(e) shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required by section 4(e); and, if such violation is a continuing one, each day of such violation shall constitute a separate offense, except that the maximum, civil penalty shall not exceed $1,250,000 for any related series of violations.

"(2) The second sentence of paragraph (1) of this subsection shall not apply to violations of subsection (a) or (c) of section 4—

"(A) if the person who violated such subsection is not the manufacturer or private labeler or a distributor of the substances involved; and

"(B) if such person did not have either (i) actual knowledge that such person's distribution or sale of the substance violated such subsection, or (ii) notice from the Commission that such distribution or sale would be a violation of such subsection.

"(3) In determining the amount of any penalty to be sought upon commencing an action seeking to assess a penalty for a violation of section 4, the Commission shall consider the nature of the substance, the severity of the risk of injury, the occurrence or absence of injury, the amount of the substance distributed, and the appropriateness of such penalty in relation to the size of the business of the person charged.

"(4) Any civil penalty under this subsection may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated, and in what amount, the Commission shall consider the appropriateness of such penalty to the size of the business of the person charged, the nature of the substance involved, the severity of the risk of injury, the occurrence or absence of injury, and the amount of the substance distributed. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

"(5) As used in the first sentence of paragraph (1), the term 'knowingly' means (A) having actual knowledge, or (B) the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtained upon the exercise of due care to ascertain the truth of representations.

"(6)(A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

"(B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—

"(i) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;

"(ii) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;

"(iii) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and

"(iv) in the case of penalties greater than $200,000, the nearest multiple of $25,000.

"(D) for the purpose of this subsection:

"(i) The term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(ii) The term 'cost-of-living adjustment for the preceding five years' means the percentage by which—

"(I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

"(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.".

(c)(1) Beginning 1 year after the date of enactment of this Act, and every year thereafter, the Consumer Product Safety Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce in the House of Representatives the information specified in paragraph (2) of this subsection. Such information may be included in the annual report to the Congress submitted by the Commission.

(2) The Commission shall submit information with respect to the imposition of civil penalties under the statutes which it administers. The information shall include the number of civil penalties imposed, an identification of the violations that led to the imposition of such penalties, and the amount of review recovered from the imposition of such penalties.

Mr. LAUTENBERG. Mr. President, this is a simple, straightforward amendment that I understand has been cleared by both sides.

The amendment would establish a mechanism to periodically adjust the maximum level of civil penalties under the Consumer Product Safety Act and the Federal Hazardous Substances Act to account for inflation. Its language is based on free-standing legislation I introduced earlier this year to index CPSA penalties, S. 542, the Consumer Product Safety Enforcement Act of 1989.

Mr. President, the Consumer Product Safety Act and the Federal Hazardous Substances Act are designed to

protect the public from unreasonably dangerous products. Each year, consumer products are involved in an estimated 30,000 deaths and 30 million injuries. Many of these victims are children.

Mr. President, the effectiveness of the CPSA and the FHSA in protecting consumer safety depends on the ability of the CPSC to enforce the laws' safety standards. Perhaps the most important means of securing compliance is through the use of civil penalties—to deter violations, and to punish those who break the law.

Under the Consumer Product Safety Act, any person who knowingly violates its provisions is subject to a civil penalty not to exceed $2,000 per violation, except that the maximum civil penalty for any related series of violations may not exceed $500,000.

These penalty levels were established in 1972, when the CPSA was originally enacted. However, because of inflation, the real value of the penalties has declined substantially.

Since 1972, consumer prices have almost tripled. Yet penalty levels have remained the same. As a result, lawbreakers are enjoying a needless windfall, the deterrent effect of these sanctions is shrinking, and the Government is losing revenue.

The bill before us today would increase CPSA penalties to levels appropriate in light of inflation since the law was originally enacted. Under the legislation, the $2,000 civil penalty would be raised to $5,000 and the $500,000 maximum total would be raised to $1,250,000. These revised levels are similar to the levels I proposed in legislation introduced earlier this year, the Consumer Product Safety Enforcement Act of 1989—S. 542. I applaud the committee for including this long-overdue increase in penalty values.

The amendment I am offering today is designed to prevent a similar dilution of penalty values in the future. Under the amendment, civil penalty levels under the Consumer Product Safety Act and the Federal Hazardous Substances Act would be adjusted every 5 years based on increases in the Consumer Price Index. Adjusted penalty amounts would be published in the Federal Register at least 1 month before becoming effective.

Mr. President, over the first 6 months of this year, prices increased at a seasonally adjusted annual rate of about 6 percent. That's too high, though we've seen much worse. After all, it was only 9 years ago that the country experienced an annual inflation rate of 13.5 percent. I'm hopeful that we can avoid a repeat of that situation. But even much lower annual price increases translate into significant reductions in the deterrent value of civil penalties in only a few years.

Mr. President, history has shown that Congress often goes many years without adjusting penalty levels—even when important public goals are at stake. CPSA penalties have been on the books for about 17 years. OSHA penalties have remained untouched for about 19 years. Other penalties on the books have not been adjusted in almost 200 years.

Given this history, it is simple common sense to ensure that Congress's intent in setting penalty values is maintained regardless of inflation. In effect, Mr. President, penalty values are now on an arbitrary, unpredictable automatic pilot. My amendment would take policy off this unstable automatic pilot and keep it on the course set by Congress.

Clearly, Mr. President, the welfare of consumers depends on strong CPSA sanctions. But consumers are not the only beneficiaries of effective product safety standards. Honest businesses also stand to gain. After all, complying with CPSA standards may require significant investments of money. Honest businesses are making these investments. But sometimes their competitors are not. And with weakened sanctions, they are getting away with it.

We have an obligation to the honest business. An obligation to make sure that its competitors can't exploit weakened sanctions to gain an unfair competitive advantage. Maintaining the value of CPSA penalties will help us meet that obligation.

I would note that several groups have been active in efforts to adjust consumer product safety civil penalties to account for inflation. In particular, I want to acknowledge the Consumer Federation of America and US PIRG, which last year produced a useful and enlightening study that documented the need for inflation adjustments, entitled "The Deterrence Gap: How Inflation Has Taken the Bite Out of Health and Safety Penalties." I also appreciate the support of Public Citizen, which testified in favor of indexing civil penalties at hearings of the Governmental Affairs Subcommittee on Oversight of Government Management last year.

I urge my colleagues to support the amendment.

Mr. BRYAN. I know of no objection to this amendment. I believe it is acceptable to both sides of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 683) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONCLUSION

Mr. BRYAN. I should note that the bill does not address "product-specific" initiatives. This should not be construed as an indication that these matters are not important. In fact, it is my intention to consider these issues later in this Congress. For now, it is enough that we redirect and reinvigorate the CPSC across the board.

We have an obligation to ensure that America's products are safe, and that consumers can use them with confidence. Children, the most vulnerable portion of our population, are especially in need of this protection. Moreover, our products cannot be competitive in the marketplace if they are unsafe and if our citizens cannot rely on their construction. The CPSC has an extremely important function to perform, and this legislation is intended to motivate the CPSC toward that goal by making it a more vital and consistent agency. Enactment of this legislation will leave the CPSC strengthened, and with clearer direction as to its responsibilities. I urge my colleagues to support S. 605, as amended.

Mr. HOLLINGS. Mr. President, I support S. 605, legislation reported from the Senate Commerce Committee regarding the Consumer Product Safety Commission [CPSC]. I complement Senator BRYAN, the chairman of the Consumer Subcommittee, on bringing this bill to the floor so early in this session of Congress.

The importance of this action is obvious: The CPSC has been without an authorization from the Congress since the last enactment of such a bill in 1981, and during that time, the CPSC has become less and less effective. The information functions of the agency, its investigation and enforcement responsibilities, and even its existence have been threatened during the past 8 years. This assault runs counter to Congress' reasons in creating the CPSC in 1972. At that time, Congress stated that the public should be protected against unreasonable risks of injury associated with consumer products, and determined that an independent CPSC was the entity to fulfill that function. We need to act now to reaffirm that congressional determination, and this authorization bill is one way to do just that.

I am hopeful that this bill will revitalize the CPSC and help it to fulfill the purposes Congress set out for it in the organic legislation. I urge my colleagues to join in supporting the bill.

Mr. DANFORTH. Mr. President, I am pleased to support S. 605, authorizing legislation for the Consumer Product Safety Commission [CPSC]. The Congress has not authorized the CPSC since 1981. Passage of this bill will reestablish the focus and purpose of the Commission.

This legislation gives the CPSC direction and authority to protect the public welfare. It does not mandate any decisions or adjudications with respect to specific products, and it preserves the prerogative of the Commission to act where appropriate. Congress must give the Commission direction on how to protect the public, but it is important that the Commission have discretion to act as it sees fit and to defer to voluntary industry standards where appropriate.

S. 605 establishes the CPSC as a three-member Commission, with two members needed for a quorum. The Appropriations Committee has provided funding for only three members in recent years, despite the fact that the Commission is authorized to have five members, with three constituting a quorum. Currently there are only two members. Consequently, the Commission is unable to take formal action until a new Commissioner has been confirmed. This bill reauthorizes the Commission, acknowledging the budgetary constraints which have created this impasse.

S. 605 also requires the CPSC to complete rulemaking procedures within 12 months after the publication of an advance notice of proposed rulemaking. The Commission may extend this time limit only for good cause after notifying the Senate Commerce Committee and the House Energy and Commerce Committee. Our committee received testimony indicating that rule makings were taking on average more than 4 years to complete. This provision requires CPSC to act without unnecessary delay. It enhances the Commission's ability to address safety issues in a timely fashion.

Mr. President, the CPSC has been subjected to much criticism in recent years. Critics contend that the Commission has failed to address important safety issues. This legislation will strengthen the Commission and provide it with the resources and authority to carry out its mission effectively. I urge my colleagues to support this bill.

Mr. GORTON. Mr. President, today the Senate will consider S. 605, legislation to reauthorize the Consumer Product Safety Commission [CPSC]. As the ranking Republican Member of the Consumer Subcommittee, I am pleased to support this bill as reported by the Commerce Committee, and I wish to express my thanks to Consumer Subcommittee Chairman BRYAN for his leadership on this legislation.

CPSC currently is unable to take any official action because there are ony two Commissioners in place due to the resignation of the past Chairman. By law CPSC must have three members for a quorum to be present. This bill acknowledges that the Appropriations Committee will not provide funding for five Commissioners, the number that is presently authorized. S. 605 establishes CPSC as a Commission of three members, with two constituting a quorum. This will allow the Commission to get back into business and not be crippled should one Commissioner resign unexpectedly. In addition, the bill requires that the appointment of top-level personnel by the chairman be done with the concurrence of the other Commissioners, and it requires that the Director of the Office of Compliance be an attorney.

Section 6 of the bill addresses the issue of petitions regarding voluntary standards. Under current law, any interested party may petition CPSC to commence a rulemaking proceeding within a reasonable time. The bill directs CPSC to state the reasons for approving or denying such a petition due to the existence of a voluntary standard. A denial is permissible only if the voluntary standard is in fact in existence, if the CPSC has determined that the voluntary standard is likely to produce an elimination or sufficient reduction in the risk of injury involved, and if it is likely that the industry will be in substantial compliance with the standard.

This bill requires CPSC to complete rulemaking procedures within 12 months of the publication of an advance notice of proposed rulemaking. The Commission may extend this time limitation for good cause, and it must notify the Senate Commerce Committee and the House Energy and Commerce Committee of such an extension. The Commerce Committee received testimony from CPSC indicating that the average rulemaking procedure takes over 4 years. Four years is too long for the development of a mandatory standard.

Voluntary safety standards are an important regulatory tool for CPSC. Deference to industry-developed voluntary standards allows CPSC to apply its limited resources most efficiently. The use of such standards should not be an excuse for nonaction, however. Section 8 of the bill limits CPSC's ability to defer to a voluntary standard to those instances when the voluntary standard actually exists. It no longer will be sufficient to point to a proposed or intended voluntary standard. This clarifies the original intent of the 1981 amendments, which some have interpreted as allowing deferral authority when one agrees to submit to a voluntary standard. This section of the bill also establishes a system for monitoring compliance with voluntary guidelines to ensure that industry is obeying the voluntary guidelines.

Section 15(b) of the Consumer Product Safety Act requires a manufacturer, distributor or retailer to notify CPSC when it has reliable information indicating that its product fails to comply with a product safety rule or contains a defect which could pose a substantial hazard for consumers. This process is designed to alert CPSC to potential problems that may require further action. This bill adds two situations in which manufacturers must notify CPSC: if a product either fails to comply with a voluntary standard or it creates an unreasonable risk of injury or death. These changes will encourage reporting to the CPSC, and the Commission will receive these reports in a timely fashion.

Mr. President, the CPSC has an important mission. The protection of consumers from dangerous products is very important and it is an appropriate regulatory role for the Federal Government. I believe that this bill is very important for the CPSC. Many have criticized the CPSC in recent years as ineffective. This authorization bill will provide the direction the Commission needs to carry out its mission. I urge my colleagues to support this bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 605), as amended, was passed, as follows:

S. 605

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Product Safety Commission Authorization Act of 1989".

QUALIFICATIONS OF MEMBERS OF THE COMMISSION; QUORUM

SEC. 2. (a) Section 4(a) of the Consumer Product Safety Act (15 U.S.C. 2053(a) is amended by inserting immediately after the first sentence the following: "In making such appointments, the President shall consider individuals who, by reason of their background and expertise in areas related to consumer products and protection of the public from risks to safety, are qualified to serve as members of the Commission.".

(b)(1) Section 4(a) of the Consumer Product Safety Act (15 U.S.C. 2053(a)), is amended by striking "five" and inserting in lieu thereof "three".

(2) Section 4(c) of the Consumer Product Safety Act (15 U.S.C. 2053(c) is amended by striking "three" and inserting in lieu thereof "two".

(3) Section 4(d) of the Consumer Product Safety Act (15 U.S.C. 2053(d)) is amended by striking "three" and inserting in lieu thereof "two".

(4) For the purpose of applying the amendment made by paragraph (1) of this subsection, the office of Commissioner of the Consumer Product Safey Commission whose term expires on October 26, 1990, and the office of Commissioner whose term expires on October 26, 1993, shall cease to exist on the date of enactment of this Act.

APPOINTMENT OF CERTAIN PERSONNEL

SEC. 3. (a) Section 4(g)(1) of the Consumer Product Safety Act (15 U.S.C. 2053(g)(1)) is amended to read as follows:

"(g)(1) The Chairman, subject to the approval of the Commission, shall appoint an Executive Director, a General Counsel, an Associate Executive Director for Engineering Sciences, an Associate Executive Director for Epidemiology, an Associate Executive Director for Compliance and Administrative Litigation, an Associate Executive Director for Health Sciences, an Associate Executive Director for Economic Analysis, an Associate Executive Director for Administration, an Associate Executive Director for Field Operations, a Director for Office of Program, Management, and Budget, and a Director for Office of information and Public Affairs. Any other individual appointed to a position designated as an Associate Executive Director shall be appointed by the Chairman, subject to the approval of the Commission. The Chairman may remove an individual from any position specified in paragraph (1) of this subsection only with the approval of the Commission. The Chairman may appoint only an individual who is an attorney as the Associate Executive Director for Compliance and Administrative Litigation. No individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.".

(b) Section 4(g) of the Consumer Product Safety Act (15 U.S.C. 2053(g)) is amended by adding at the end the following:

"(5) No individual may be apponted on an acting basis to any position specified in paragraph (1) of this subsection for a period in excess of ninety days unless such appointment is approved by the Commission.".

PRIORITIES

SEC. 4. (a) Section 4 of the Consumer Product Safety Act (15 U.S.C. 2053) is amended by adding at the end the following:

"(j) At least thirty days before the beginning of each fiscal year, the Commission shall establish priorities for its actions pursuant to the Acts under its jurisdiction. Before establishing such priorities, the Commission shall conduct a public hearing on the priorities and shall provide reasonable opportunity for the submission of comments.".

(b) The amendment made by subsection (a) of this section shall apply with respect to fiscal years which begin more than one hundred and eighty days after the date of enactment of this Act.

DISCLOSURE OF CONTRACTORS

SEC. 5. Section 6(a)(8) of the Consumer Product Safety Act (15 U.S.C. 2055(a)(8), is amended by striking "officers or employees" and inserting in lieu thereof "officers, employees, or representatives of the Commission (including contractors)".

PETITION REGARDING VOLUNTARY STANDARDS

SEC. 6. (a) Section 9 of the Consumer Product Safety Act (15 U.S.C. 2058) is amended by adding at the end the following:

"(i) The Commission shall approve or deny any petition requesting the Commission to initiate a rulemaking under section 553(e) of title 5, United States Code, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for approving or denying such petition. The Commission may not deny any such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.".

(b) Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended by adding at the end the following:

"(j) The Commission shall approve or deny any petition requesting the Commission to initiate a rulemaking under section 553(e) of title 5, United States Code, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for approving or denying such petition. The Commission may not deny any such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.".

(c) Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended by adding at the end the following:

"(k) The Commission shall approve or deny any petition requesting the Commission to initiate a rulemaking under section 553(e) of title 5, United States Code, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for approving or denying such petition. The Commission may not deny any such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.".

TIME LIMITATIONS FOR PROPOSED RULES

SEC 7. Section 9(c) of the Consumer Product Safety Act (15 U.S.C. 2058(c)) is amended by adding at the end the following: "Any proposed consumer product safety rule shall be issued within twelve months after the date of publication of an advance notice of proposed rulemaking under subsection (a) of this section relating to the product involved, unless the Commission determines that such proposed rule is not likely to eliminate or reduce the risk of injury associated with the product. The Commission may extend the twelve-month period for good cause. If the Commission extends such period, it shall immediately transmit notice of such extension to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. Such notice shall include an explanation of the reasons for such extension, together with an estimate of the date by which the Commission anticipates such rulemaking will be completed. The Commission shall publish notice of such extension and the information submitted to the Congress in the Federal Register.".

VOLUNTARY CONSUMER PRODUCT SAFETY STANDARDS

SEC. 8. (a)(1) Section 9(b)(2) of the Consumer Product Safety Act (15 U.S.C. 2058(b)(2)) is amended by inserting immediately before the period the following: ", except that the Commission shall terminate any such proceeding and rely on a voluntary standard only if such voluntary standard is in existence".

(b)(1) Section 9(b)(2) of the Consumer Product Safety Act (15 U.S.C. 2058(b)(2)), as amended by subsection (a)(1) of this section, is further amended by adding at the end the following: "Prior to relying upon any voluntary consumer product safety standard, the Commission shall afford interested persons (including manufacturers, consumers, and consumer organizations) who were not involved in the development of such standard a reasonable opportunity to submit written comments regarding such standard. The Commission shall consider such comments in making any determination regarding reliance on the involved voluntary standard under this subsection.".

(2) Section 3(g)(2) of the Federal Hazardous Substances Act (15 U.S.C. 1262(g)(2)), as amended by subsection (a)(2) of this section, is further amended by adding at the end the following: "Prior to relying upon any voluntary standard, the Commission shall afford interested persons (including manufacturers, consumers, and consumer organizations) who were not involved in the development of such standard a reasonable opportunity to submit written comments regarding such standard. The Commission shall consider such comments in making any determination regarding reliance on the involved voluntary standard under this subsection.".

(c)(1) Section 7(b) of the Consumer Product Safety Act (15 U.S.C. 2056(b)) is amended—

(A) by inserting "(1)" immediately after "(b)"; and

(B) by adding at the end the following:

"(2) The Commission shall devise procedures to monitor compliance with any voluntary standards—

"(A) upon which the Commission has relied under paragraph (1) of this subsection;

"(B) which were developed with the participation of the Commission; or

"(C) whose development the Commission has monitored.".

(2) Section 3(g) of the Federal Hazardous Substances Act (15 U.S.C. 1262(g)) is amended by adding at the end the following:

"(3) The Commission shall devise procedures to monitor compliance with any voluntary standards—

"(A) upon which the Commission has relied under paragraph (2) of this subsection;

"(B) which were developed with the participation of the Commission; or

"(C) whose development the Commission has monitored.".

(3) Section 4(h) of the Flammable Fabrics Act (15 U.S.C. 1193(h)) is amended by adding at the end the following:

"(3) The Commission shall devise procedures to monitor compliance with any voluntary standards—

"(A) upon which the Commission has relied under paragraph (2) of this subsection;

"(B) which were developed with the participation of the Commission; or

"(C) whose development the Commission has monitored.".

COST-BENEFIT ANALYSIS

SEC. 9. (a) Section 12 of the Consumer Product Safety Act (15 U.S.C. 2061) is amended by adding at the end the following:

"(f) Nothing in this section shall be construed to require the Commission, in determining whether to bring an action against a consumer product under this section, to prepare a comparison of the costs that would be incurred in complying with the relief that may be ordered in such action with the benefits to the public from such relief.".

(b) Section 15 of the Consumer Product Safety Act (15 U.S.C. 2064) is amended by adding at the end the following:

"(h) Nothing in this section shall be construed to require the Commission, in determining that a product distributed in commerce presents a substantial product hazard and that notification or other action under this section should be taken, to prepare a comparison of the costs that would be incurred in providing notification or taking other action under this section with the benefits from such notification or action.".

(c) Section 15 of the Federal Hazardous Substances Act (15 U.S.C 1274) is amended by adding at the end the following:

"(g) Nothing in this section shall be construed to require the Commission, in determining that an article or substance distributed in commerce presents a substantial product hazard and that notification or other action under this section should be taken, to prepare a comparison of the costs that would be incurred in providing notification or taking other action under this section with the benefits from such notification or action.".

NOTIFICATION

SEC. 10. Section 15(b) of the Consumer Product Safety Act (15 U.S.C. 2064(b)) is amended—

(1) in paragraph (1), by striking "; or" and inserting in lieu thereof "or with a voluntary consumer product safety standard upon which the Commission has relied under section 9;";

(2) in paragraph (2), by striking the comma and inserting in lieu thereof "; or";

(3) by inserting immediately after paragraph (2) the following:

"(3) creates an unreasonable risk of serious injury or death,";

(4) by striking "comply or of such defect," and inserting in lieu thereof "comply, of such defect, or of such risk,"; and

(5) by striking "defect or failure to comply." and inserting in lieu thereof "defect, failure to comply, or such risk.".

CIVIL PENALTIES

SEC. 11. (a) Section 20(a) of the Consumer Product Safety Act (15 U.S.C. 2069(a)) is amended—

(1) by striking "$2,000" and inserting in lieu thereof "$5,000";

(2) by striking "$500,000" each place it appears and inserting in lieu thereof "$1,250,000"; and

(3) by adding at the end thereof the following:

"(3)(A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

"(B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—

"(i) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;

"(ii) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;

"(iii) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and

"(iv) in the case of penalties greater than $200,000, the nearest multiple of $25,000.

"(D) For purposes of this subsection:

"(i) The term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(ii) The term 'cost-of-living adjustment for the preceding five years' means the percentage by which—

"(I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

"(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.".

(b) Section 5 of the Federal Hazardous Substances Act (15 U.S.C. 1264) is amended by adding at the end the following:

"(c)(1) Any person who knowingly violates section 4 shall be subject to a civil penalty not to exceed $5,000 for each such violation. Subject to paragraph (2), a violation of subsections (a), (b), (c), (d), (f), (g), (i), and (j) of section 4 shall constitute a separate offense with respect to each substance involved, except that the maximum civil penalty shall not exceed $1,250,000 for any related series of violations. A violation of section 4(e) shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required by section 4(e); and, if such violation is a continuing one, each day of such violation shall constitute a separate offense, except that the maximum civil penalty shall not exceed $1,250,000 for any related series of violations.

"(2) The second sentence of paragraph (1) of this subsection shall not apply to violations of subsection (a) or (c) of section 4—

"(A) if the person who violated such subsection is not the manufacturer or private labeler or a distributor of the substances involved; and

"(B) if such person did not have either (i) actual knowledge that such person's distribution or sale of the substance violated such subsection, or (ii) notice from the Commission that such distribution or sale would be a violation of such subsection.

"(3) In determining the amount of any penalty to be sought upon commencing an action seeking to assess a penalty for a violation of section 4, the Commission shall consider the nature of the substance, the severity of the risk of injury, the occurrence or absence of injury, the amount of the substance distributed, and the appropriateness of such penalty in relation to the size of the business of the person charged.

"(4) Any civil penalty under this subsection may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated, and in what amount, the Commission shall consider the appropriateness of such penalty to the size of the business of the persons charged, the nature of the substance involved, the severity of the risk of injury, the occurrence or absence of injury, and the amount of the substance distributed. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

"(5) As used in the first sentence of paragraph (1), the term 'knowingly' means (A) having actual knowledge, or (B) the presumed having a knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

"(6)(A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

"(B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—

"(1) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;

"(ii) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;

"(iii) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and

"(iv) in the case of penalties greater than $200,000, the nearest multiple of $25,000.

"(D) For purposes of this subsection:

"(i) The term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(ii) The term 'cost-of-living adjustment for the preceding five years' means the percentage by which—

"(I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

"(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.".

(c)(1) Beginning 1 year after the date of enactment of this Act, and every year thereafter, the Consumer Product Safety Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the information specified in paragraph (2) of this subsection. Such information may be included in the annual report to the Congress submitted by the Commission.

(2) The Commission shall submit information with respect to the imposition of civil penalties under the statutes which it administers. The information shall include the number of civil penalties imposed, an identification of the violations that led to the im-

position of such penalties, and the amount of revenue recovered from the imposition of such penalties.

CHRONIC HAZARD ADVISORY PANEL

SEC. 12. Section 28(b)(1) of the Consumer Product Safety Act (15 U.S.C. 2077(b)(1)) is amended by inserting immediately after "States" the following: "(other than employees of the National Institutes of Health, the National Toxicology Program, or the National Center for Toxicological Research)".

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. Section 32(a) of the Consumer Product Safety Act (15 U.S.C. 2081(a)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting in lieu thereof a semicolon; and

(3) by inserting immediately after paragraph (9) the following:

"(10) $34,500,000 for the fiscal year ending September 30, 1989, together with such sums as may be necessary for increases in pay and retirement benefits provided by law;

"(11) $36,500,000 for the fiscal year ending September 30, 1990, together with such sums as may be necessary for increases in pay and retirement benefits provided by law; and

"(12) $38,179,000 for the fiscal year ending September 30, 1991, together with sums as may be necessary for increases in pay and retirement benefits provided by law.".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRADE AUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. 1164, a bill authorizing appropriations for the U.S. Trade Representative, the United States International Trade Commission, and the U.S. Customs Service.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1164) to authorize appropriations for fiscal year 1990 for the Office of the U.S. Trade Representative, the U.S. International Trade Commission, and the U.S. Customs Service.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 684

(Purpose: To allow property forfeited under the customs laws to be transferred to the Civil Air Patrol)

Mr. MITCHELL. Mr. President, on behalf of Senator BENTSEN I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. BENTSEN, proposes an amendment numbered 684.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 3 of the bill, add the following:

(e) DISPOSITION OF FORFEITED PROPERTY.—

(1) Subparagraph (B) of section 616(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)(1)) is amended to read as follows:

"(B) Transfer any of the property to—

"(i) any other Federal agency;

"(ii) any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property; or

"(iii) the Civil Air Patrol.".

(2) Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a(c)) is amended by adding at the end thereof the following new paragraph:

"(3) Aircraft may be transferred to the Civil Air Patrol under paragraph (1)(B)(iii) in support of air search and rescue and other emergency services and, pursuant to a memorandum of understanding entered into with a Federal agency, illegal drug traffic surveillance. Jet-powered aircraft may not be transferred to the Civil Air Patrol under the authority of paragraph (1)(B)(iii).".

Mr. BENTSEN. I am proposing an amendment to the Finance Committee's original bill, S. 1164, authorizing appropriations to the U.S. Customs Service, the U.S. Trade Representative, and the U.S. International Trade Commission.

Under current law, the Customs Service has authority to transfer forfeited property to other Federal agencies and to State and local law enforcement agencies that participated directly or indirectly in the seizure or forfeiture of the property. My amendment would also allow, but not require, Customs to share forfeited property with the Civil Air Patrol [CAP]. It would provide that aircraft transferred to the CAP is intended for use in support of CAP search and rescue missions and other emergency services, as well as drug surveillance missions pursuant to a memorandum of understanding with a Federal agency. No jet powered aircraft could be transferred to the CAP.

The CAP has a proud tradition of providing emergency air services on a volunteer basis. Since 1986, it has also aided Customs by flying air surveillance missions in aid of drug enforcement activities. The CAP needs aircraft to support those missions, but current law does not clearly allow Customs to transfer forfeited property to the CAP. My amendment would fill this gap in the law and promote the cooperative efforts of the Federal Government and the CAP.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 684) was agreed to.

AMENDMENT NO. 685

(Purpose: To extend the user fee provisions for certain small airports to include small seaports)

Mr. DOLE. Mr. President, I send an amendment to the desk for the Senator from Alaska and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. STEVENS, proposes an amendment numbered 685.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, after line 23, add the following:

(a) USER FEE FOR CUSTOMS SERVICES AT SMALL SEAPORTS AND OTHER FACILITIES.—

(1) Section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b), as amended by this Act, is further amended—

(A) by inserting ", seaport, or other facility" after "airport" each place it appears in the section other than in paragraphs (1) and (2) of subsection (a),

(B) by inserting ", seaports, and other facilities" after "airports" in subsection (c), and

(C) by inserting "AND OTHER FACILITIES" after "AIRPORTS" in the section heading.

(2) Paragraph (2) of section 13031(e) of Public Law 99-272, as amended by this Act, is further amended by inserting ", seaport, or other facility" after "airport" each place it appears.

Mr. STEVENS. Mr. President, I would like to thank Senators BENTSEN and PACKWOOD for their assistance in working out my amendment to S. 1164, the fiscal year 1990 Customs Service authorization.

My amendment would permit the current user fee airport program to benefit small seaports and other facilities, as well as small airports. I want to emphasize that this amendment will incur no cost to the Federal Government; it will simply authorize user fees to support the provision of customs services at seaports and other facilities, as well as airports.

This amendment will make possible the stationing of customs inspectors at locations such as the Kenai Peninsula in Alaska where an inspector is needed to cover not only the Kenai Airport, but also the seaports at Seward, Homer, and Nikiski and the trucking facilities at Soldotna.

I thank the chairman and ranking member of the Finance Committee for their cooperation.

The PRESIDING OFFICER. If there be no further debate, the ques-

tion is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 685) was agreed to.

Mr. BENTSEN. Mr. President, I rise today on behalf of the Committee on Finance, which has reported an original bill, S. 1164, providing fiscal year 1990 authorization of appropriations for three international trade agencies—the U.S. Customs Service, the Office of the U.S. Trade Representative [USTR], and the U.S. International Trade Commission [ITC].

Trade is one of the most important challenges facing this country. While recently the merchandise trade deficit has been coming down, our international current account, which measures the full range of our international transactions, has gotten worse. And many economists fear worse trade performance in the future.

In this critical situation, we need to get an effective trade policy in place. We in Congress took an important first step in that process last year by enacting the Omnibus Trade and Competitiveness Act of 1988.

However, that law still has to be implemented. In the Finance Committee, we have conducted an extremely active program of oversight this year, including hearings, classified meetings with our key trade negotiators, and meetings with leaders of foreign nations with whom we have disputes in the trade field. Furthermore, we have moved quickly the nominations the President has sent to us for the key positions in his trade team.

Most of the implementation responsibility, however, rests with the executive branch. They must conduct the negotiations, prepare the reports, make the key decisions, and follow up on our trade priorities. In the Uruguay round, the administration is facing the most complex trade negotiations ever—bar none. And at the same time, they have to supervise the implementation of the new Free Trade Agreement with Canada, the implementation of the new harmonized system of tariff nomenclature, and the requirements of the new trade law.

Under these circumstances, the Finance Committee was concerned that the trade agencies subject to annual authorization—the Customs Service, the USTR and the ITC—have the funds they need to meet these challenges. What we found was that the budgets for these agencies as recommended by the administration needed improvement if the agencies are to carry out the job.

Here is what we have done:

For the Customs Service, the committee's bill authorizes a total appropriation of slightly over $1.2 billion. Of this, $128 million is to fund the operations and maintenance of the air drug interdiction program. This is identical to the amount requested by the President for that program.

The remaining authorized amount, $1,075 billion, is dedicated to salaries and expenses. This is an increase of $53.8 million over the President's budget request for fiscal year 1990.

Let me explain how the committee built the budget authorization figure for salaries and expenses. We began with the amount requested by the administration, $1.021 billion, which would essentially maintain Customs at the level of services of fiscal year 1989. To this, we added $25 million to cover the cost of the January 1989 pay raise, which the President's budget would have required Customs to absorb. Next, we included $28.8 million in funds previously authorized in last year's omnibus drug bill, but not appropriated.

The additional authorizations from the drug bill would cover hiring an additional 435 drug enforcement personnel and funding two research and development projects for machine readable passports and cargo container drug enforcement. While adding drug enforcement personnel in this manner, we also allocated funds between commercial and noncommercial operations so as to reject a proposed transfer of 396 personnel from commercial positions to a cargo container drug enforcement initiative.

The Customs authorization contains three additional provisions. One clears up confusion over the authority of the Customs Service to be reimbursed for services it provides at a foreign trade zone connected with a small user fee airport. The bill clarifies that the services are covered by the same user fees paid with regard to customs services at the airport. Another provision requires additional equipment and facilities to be provided at a border port in New York in order to make it a full-service commercial center under the Customs Service's Northern Border Enhancement Program.

The third of these provisions is very important. The committee's bill would make the Commissioner of Customs subject to Senate confirmation. Currently, the Commissioner is appointed by the Secretary of the Treasury without Senate confirmation.

The reason for requiring Senate confirmation of the Commissioner is to increase the accountability of the Commissioner to the Congress and to enhance the ability of the Congress to oversee the activities of the Customs Service. The Commissioner holds a broad range of responsibilities, not only for trade facilitation and enforcement, but for drug interdiction and border enforcement of a variety of domestic laws. In addition, he heads a revenue collection agency that accounted for over $17 billion in duties, taxes and fees collected in fiscal year 1988. These duties fully justify making the Commissioner answerable to the Congress for his actions and policies.

Moreover, the requirement of confirmation will tend to focus greater awareness by the administration, the public and the Senate on the President's choice of a nominee and that person's views.

Finally, making the Commissioner subject to confirmation is consistent with the treatment of comparable Federal officials—in the revenue area, the Commissioner of Internal Revenue Service. In the trade area, other officials at the head of trade agencies—the U.S. Trade Representative and three Deputy U.S. Trade Representatives and the Commissioners of the ITC—must undergo review and approval by the Senate.

There is some concern that, by making the Commissioner the appointee of the President rather than the Secretary of the Treasury, we may make him an independent power base within the Department of the Treasury, no longer answerable to the Secretary. The committee bill responds to this concern by providing that the Commissioner is to have only those duties prescribed by the Secretary and that he is to report to the Secretary through such subordinate officials as the Secretary may require.

For the USTR, the committee's bill authorizes an appropriation of $19.651 million for fiscal year 1990. This represents an increase of approximately $4.4 million over the fiscal year 1990 appropriation to USTR, and an increase of approximately $2.8 million over the amount requested for USTR in the President's fiscal year 1990 budget proposal.

The committee has authorized a higher level of funding for USTR than that requested by the President because it does not find the proposed funding level to be adequate. The USTR is the President's chief trade adviser, coordinator of U.S. trade policy, and negotiator of multilateral trade agreements. In fiscal year 1990, the USTR will be faced with the combined demands of implementing the Omnibus Trade and Competitiveness Act of 1988 and the United States-Canada Free Trade Agreement at a time of intensive discussions in the Uruguay round of multilateral trade negotiations. The USTR must have adequate resources to carry out these responsibilities effectively.

The committee bill also authorizes to be appropriated to USTR $1,492,000 for the United States share of the expenses of binational panels and extraordinary challenge committees convened pursuant to chapter 19 of the United States-Canada Free Trade agreement. Chapter 19 provides a mechanism for settling disputes relating to the application of the antidumping and countervailing duty laws.

Contrary to congressional intent, the President's budget proposals call for these funds to be appropriated to the Department of Commerce. In the implementing legislation for the agreement, such funds were appropriated to USTR in order to assure that USTR, the agency responsible for selecting U.S. individuals eligible to serve as panelists and committee members, consults on the selections with the appropriate congressional committees. These panels, rather than United States courts, will be reviewing agency decisions in antidumping and countervailing duty cases involving Canadian products; therefore, the committee considers such consultations essential. To assure that they occur, the committee believes strongly that funding for expenses associated with such panels and committees should be appropriated to USTR, the agency responsible for selecting panelists and committee members.

For the ITC, the committee bill authorizes an appropriation of $39,943,000 for fiscal year 1990. This is the level of funding requested by the ITC. It amounts to an increase of $3,985,000 over the ITC's appropriation in fiscal year 1989. The increase is intended to cover nondiscretionary cost increases and to allow the ITC to reach its currently authorized staffing level.

Similar to the USTR, the ITC's workload is likely to increase in fiscal year 1990 because of enactment of the Omnibus Trade and Competitiveness Act of 1988 and the entry into force of the United States-Canada Free Trade Agreement. The committee believes that the ITC should be funded at the requested level in order to assure that it can effectively carry out its statutory functions in addition to these new responsibilities.

I urge the Senate to act favorably on S. 1164.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) IN GENERAL.—Paragraph (1) of section 141(g) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended—

(1) by striking out "1988" in subparagraphs (A) and (B) and inserting in lieu thereof "1990",

(2) by striking out $15,172,000" in subparagraph (A) and inserting in lieu thereof "$19,651,000", and

(3) by striking out "$69,000" in subparagraph (B)(i) and inserting in lieu thereof "$89,000".

(b) PANELS AND COMMITTEES UNDER CANADA FREE TRADE AGREEMENT.—Paragraph (1) of section 406(b) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112, note) is amended by striking out "1989 such sums as may be necessary" and inserting in lieu thereof "1990, $1,492,000".

SEC. 2. UNITED STATES INTERNATIONAL TRADE COMMISSION.

Paragraph (2) of section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330)(e)(2)) is amended—

(1) by striking out "1988" and inserting in lieu thereof "1990", and

(2) by striking out "$35,386,000" and inserting in lieu thereof "$39,943,000".

SEC. 3. UNITED STATES CUSTOMS SERVICE.

(a) IN GENERAL.—Subsection (b) of section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)) is amended—

(1) by striking out "fiscal year 1989" each place it appears and inserting in lieu thereof "fiscal year 1990",

(2) by striking out "$440,504,000" in paragraph (1) and inserting in lieu thereof "$418,822,000",

(3) by striking out "$615,247,000" in paragraph (2) and inserting in lieu thereof "$656,468,000",

(4) by striking out "$142,262,000" in paragraph (3) and inserting in lieu thereof "$128,128,000", and

(5) by striking out paragraph (4).

(b) APPOINTMENT OF THE COMMISSIONER OF CUSTOMS.—

(1)(A) The position of Commissioner of Customs is hereby abolished.

(B) The first section of the Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2071) is amended to read as follows:

"SECTION 1. There shall be in the Department of the Treasury a service to be known as the 'United States Customs Service'.".

(C) The provisions of subparagraph (A), and the amendment made by subparagraph (B), shall take effect on the date of enactment of this Act.

(2) Any reference to the Commissioner of Customs in any provision of law other than this subsection shall be treated, only on the date of enactment of this Act, as a reference to the Secretary of the Treasury.

(3)(A) Section 1 of the Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2071), as amended by paragraph (1)(B), is further amended by striking out the period at the end thereof and inserting in lieu thereof the following: "and a Commissioner of Customs. The Commissioner of Customs shall be appointed by the President and with the advice and consent of the Senate. The Commissioner of Customs shall—

"(1) have such duties and powers as may be delegated to the Commissioner of Customs by the Secretary of the Treasury, and

"(2) report to the Secretary of the Treasury through such other officials as the Secretary of the Treasury may prescribe.".

(B) The amendment made by subparagraph (A) shall take effect on the day after the date of enactment of this Act.

(c) FOREIGN TRADE ZONES AT SMALL AIRPORTS.—

(1) Paragraph (2) of section 13031(e) of Public Law 99-272 (19 U.S.C. 58c(e)(2)) is amended—

(A) by striking out "This subsection" and inserting in lieu thereof "(A) This subsection", and

(B) by adding at the end thereof the following new subparagraph:

"(B) Subparagraph (C) of paragraph (6) shall not apply with respect to any foreign trade zone or subzone that is located at, or in the vicinity of, an airport to which section 236 of the Trade and Tariff Act of 1984 applies.".

(2) Section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b) is amended at the end thereof the following new subsection:

"(f) For purposes of this section, customs services provided in connection with, or with respect to, any foreign trade zone or subzone that is located at, or in the vicinity of, any airport described in subsection (a) or designated under subsection (c) shall be considered to be customs services provided at such airport.".

(d) NORTHERN BORDER ENHANCEMENT PROGRAM.—The Commissioner of Customs shall provide the facilities, equipment, and staff at the port of entry at Chateaugay, New York, that are necessary to make the port of entry at Chateaugay, New York, a commercial center under the Northern Border Enhancement Program administered by the Commissioner of Customs.

(e) DISPOSITION OF FORFEITED PROPERTY.—

(1) Subparagraph (B) of section 616(c)(1) of the Tariff Act of 1980 (19 U.S.C. 1616a(c)(1)) is amended to read as follows:

"(B) Transfer any of the property to—

"(i) any other Federal agency;

"(ii) any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property; or

"(iii) the Civil Air Patrol.".

(2) Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a(c)) is amended by adding at the end thereof the following new paragraph:

"(3) Aircraft may be transferred to the Civil Air Patrol under paragraph (1)(B)(iii) in support of air search and rescue and other emergency services and, pursuant to a memorandum of understanding entered into with a Federal agency, illegal drug traffic surveillance. Jet-powered aircraft may not be transferred to the Civil Air Patrol under the authority of paragraph (1)(B)(iii).".

(f) USER FEE FOR CUSTOMS SERVICES AT SMALL SEAPORTS AND OTHER FACILITIES.—

(1) Section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b), as amended by this Act, is further amended—

(A) by inserting ", seaport, or other facility" after "airport" each place it appears in the section other than in paragraphs (1) and (2) of subsection (a),

(B) by inserting ", seaports, and other facilities" after "airports" in subsection (c), and

(C) by inserting ", AND OTHER FACILITIES" after "AIRPORTS" in the section heading.

(2) Paragraph (2) of section 13031(e) of Public Law 99-272, as amended by this Act, is further amended by inserting ", seaport, or other facility" after "airport" each place it appears.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NEGOTIATED RULEMAKING ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent the Senate

turn to the consideration of Calendar 187, S. 303, a bill to establish a framework for the conduct of negotiated rulemaking by Federal agencies.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 303) to establish framework for the conduct of negotiated rulemaking by Federal agencies.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following: with amendments as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Negotiated Rulemaking Act of 1989".

FINDINGS

SEC. 2. The Congress finds that—

(1) Government regulation has increased substantially since the enactment of the Administrative Procedure Act.

(2) Agencies currently use rulemaking procedures that may discourage the affected parties from meeting and communicating with each other, and may cause parties with difficult interests to assume conflicting and antagonistic positions and to engage in expensive and time-consuming litigation over agency rules.

(3) Adversarial rulemaking deprives the affected parties and the public of the benefits of face-to-face negotiations and cooperation in developing and reaching agreement on a rule. It also deprives them of the benefits of shared information, knowledge, expertise, and technical abilities possessed by the affected parties.

(4) Negotiated rulemaking, in which the parties who will be significantly affected by a rule participate in the development of the rule, can provide significant advantages over adversarial rulemaking.

(5) Negotiated rulemaking can increase the acceptability and improve the substance of rules, making it less likely that the affected parties will resist enforcement or challenge such rules in court. It may also shorten the amount of time needed to issue final rules.

(6) Agencies have the authority to establish negotiated rulemaking committees under the laws establishing such agencies and their activities and under the Federal Advisory Committee Act (5 U.S.C. App.). Several agencies have successfully used negotiated rulemaking. The process has not been widely used by other agencies, however, in part because such agencies are unfamiliar with the process or uncertain as to the authority for such rulemaking.

NEGOTIATED RULEMAKING PROCEDURE

SEC. 3. (a) Chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter.

"SUBCHAPTER IV—NEGOTIATED RULEMAKING PROCEDURE

"§ 581. Purpose

"The purpose of this subchapter is to establish a framework for the conduct of negotiated rulemaking, consistent with section 553 of this title, to encourage agencies to use the process when it enhances the informal rulemaking process. Nothing in this subchapter should be construed as an attempt to limit innovation and experimentation with the negotiated rulemaking process or with other innovative rulemaking procedures otherwise authorized by law.

"§ 582. Definitions

"For the purposes of this subchapter the term—

"(1) 'agency' has the same meaning as in section 551(1) of this title;

"(2) 'consensus' means unanimous concurrence among the interests represented on a negotiated rulemaking committee established under this subchapter, unless such committee—

"(A) agrees to define such term to mean a general but not unanimous concurrence; or

"(B) agrees upon another specified definition;

"(3) 'convenor' means a person who impartially assists an agency in determining whether establishment of a negotiated rulemaking committee is feasible and appropriate in a particular rulemaking;

"(4) 'facilitator' means a person who impartially aids in the discussions and negotiations among the members of a negotiated rulemaking committee to develop a proposed rule;

"(5) 'interest' means, with respect to an issue or matter, multiple parties which have a similar point of view or which are likely to be affected in a similar manner;

"(6) 'party' has the same meaning as in section 551(3) of this title;

"(7) 'person' has the same meaning as in section 551(2) of this title;

"(8) 'negotiated rulemaking committee' or 'committee' means an advisory committee established by an agency in accordance with this subchapter and the Federal Advisory Committee Act (5 U.S.C. App.) to consider and discuss issues for the purpose of reaching a consensus in the development of a proposed rule;

"(9) 'rule' has the same meaning as in section 551(4) of this title; and

"(10) 'rulemaking' has the same meaning as in section 551(5) of this title.

"§ 583. Determination of need for negotiated rulemaking committee

"(a) An agency may establish a negotiated rulemaking committee to negotiate and develop a proposed rule, if the head of the agency determines that the use of the negotiated rulemaking procedure is in the public interest. In making such a determination, the head of the agency shall consider whether—

"(1) there is a need for a rule;

"(2) there are a limited number of identifiable interests that will be significantly affected by the rule;

"(3) there is a reasonable likelihood that a committee can be convened with a balanced representation of persons who—

"(A) can adequately represent the interests identified under paragraph (2); and

"(B) are willing to negotiate in good faith to reach a consensus on the proposed rule;

"(4) there is a reasonable likelihood that a committee will reach a consensus on the proposed rule within a fixed period of time;

"(5) the negotiated rulemaking procedure will not unreasonably delay the notice of proposed rulemaking and the issuance of the final rule;

"(6) the agency has adequate resources and is willing to commit such resources, including technical assistance, to the committee; and

"(7) the agency, to the maximum extent possible consistent with the legal obligations of the agency, will use the consensus of the committee with respect to the proposed rule as the basis for the rule proposed by the agency for notice and comment.

"(b)(1) An agency may use the services of a convenor to assist the agency in—

"(A) identifying persons who will be significantly affected by a proposed rule; and

"(B) conducting discussions with such persons to identify the issues of concern to such persons, and to ascertain whether the establishment of a negotiated rulemaking committee is feasible and appropriate in the particular rulemaking.

"(2) The convenor shall report findings and may make recommendations to an agency. Upon request of the agency, the convenor shall ascertain the names of persons who are willing and qualified to represent interests that will be significantly affected by the proposed rule. The report of the convenor and any recommendations shall be made available to the public upon request.

"§ 584. Publication of notice

"(a) If, after considering the report of a convenor or conducting an assessment, an agency decides to establish a negotiated rulemaking committee, the agency shall publish in the Federal Register a notice which shall include—

"(1) an announcement that the agency intends to establish a negotiated rulemaking committee to negotiate and develop a proposed rule;

"(2) a description of the subject and scope of the rule to be developed, and the issues to be considered;

"(3) a list of the interests which are likely to be significantly affected by the rule;

"(4) a list of the persons proposed to represent such interests and the person or persons proposed to represent the agency;

"(5) a proposed agenda and schedule for completing the work of the committee, including a target date for publication by the agency of a proposed rule for notice and comment;

"(6) a description of administrative support for the committee to be provided by the agency, including technical assistance;

"(7) a solicitation for comments on the proposal to establish the committee, and the proposed membership of the negotiated rulemaking committee; and

"(8) an explanation of how a person may apply or nominate another person for membership on the committee, as provided under subsection (b).

"(b) Persons who will be significantly affected by a proposed rule and who believe that their interests will not be adequately represented by an person specified in a notice under subsection (a)(4) may apply for, or nominate another person for, membership on the negotiated rulemaking committee to represent such interests with respect to the proposed rule. Each application or nomination shall include—

"(1) the name of the applicant or nominee and a description of the interests such person shall represent;

"(2) evidence that the applicant or nominee is authorized to represent parties related to the interests the person proposes to represent;

"(3) a written commitment that the applicant or nominee shall actively participate in good faith in the development of the rule under consideration; and

"(4) the reasons that the persons specified in the notice under subsection (a)(4) do not adequately represent the interests of the person submitting the application or nomination.

"§ 585. Establishment of committee

"(a) The agency shall provide for a period of at least 30 calendar days for the submission of comments and applications under section 584.

"(b)(1) If after considering comments and applications submitted under section 584, the agency determines that a negotiated rulemaking committee can adequately represent the interests that will be significantly affected by a proposed rule and that it is feasible and appropriate in the particular rulemaking, the agency may establish a negotiated rulemaking committee. In establishing and administering such a committee, the agency shall comply with the Federal Advisory Committee Act (5 U.S.C. App.) with respect to such committee, except as otherwise provided in this subchapter.

"(2) If after considering such comments and applications, the agency decides not to establish a committee, the agency shall promptly publish notice of such decision and the reasons therefor in the Federal Register.

"(c) The agency shall limit membership on a negotiated rulemaking committee to 25 members, unless the agency head determines that a greater number of members is necessary for the functioning of the committee or to achieve balanced membership. Each committee shall include at least one individual representing the agency.

"(d) The agency shall provide appropriate administrative support to the negotiated rulemaking committee, including technical assistance.

§ 586. Conduct of committee activity

"(a) Each negotiated rulemaking committee established under this subchapter shall consider the matter proposed by the agency for consideration and shall attempt to reach a consensus concerning a proposed rule with respect to such matter and any other matter the committee determines is relevant to the proposed rule.

"(b) The person or persons representing the agency on a negotiated rulemaking committee shall participate in the deliberations and activities of such committee with the same rights and responsibilities as other members of such committee, and shall be authorized to fully represent the agency in the discussions and negotiations of the committee.

"(c)(1) Notwithstanding section 10(e) of the Federal Advisory Committee Act (5 U.S.C. App.), an agency may nominate either a person from the Federal Government or a person from outside the Federal Government to serve as a facilitator for the negotiations of the committee, subject to the approval by consensus of the committee. If the committee does not approve the nominee of the agency for facilitator, the agency shall submit a substitute nomination. If a committee does not approve any nominee of the agency for facilitator, the committee shall select by consensus a person to serve as facilitator. A person designated to represent the agency in substantive issues may not serve as facilitator or otherwise chair the committee.

"(d) A facilitator approved or selected by a negotiated rulemaking committee shall—

"(1) chair the meetings of the committee in an impartial manner;

"(2) impartially assist the members of the committee in conducting discussions and negotiations; and

"(3) manage the keeping of minutes and records as required under sections 10 (b) and (c) of the Federal Advisory Committee Act (5 U.S.C. App.), except that any personal notes and materials of the facilitator or of the members of a committee shall not be subject to section 552 of this title.

"(e) A negotiated rulemaking committee established under this subchapter may adopt procedures for the operation of the committee. No provision of section 553 of this title shall be applicable to the procedures of a committee.

"(f) If a committee reaches a consensus on a proposed rule, at the conclusion of negotiations the committee shall transmit to the agency that established the committee a report containing the proposed rule. If the committee does not reach a consensus on a proposed rule, such committee shall transmit to the agency a report specifying any areas in which the committee reached a consensus. The committee may include in a report any other information, recommendations, or materials that the committee considers appropriate. Any committee member may include as an addendum to the report additional information, recommendations, or materials.

"(g) In addition to the report specified by subsection (f), a committee shall submit to the agency the records required under sections 10 (b) and (c) of the Federal Advisory Committee Act (5 U.S.C. App.).

§ 587. Termination of committee

"A negotiated rulemaking committee shall terminate upon promulgation of the final rule under consideration, unless the committee's charter contains an earlier termination date or the agency, after consulting the committee, or the committee itself specifies an [alternate] *earlier* termination date.

"§ 588. Services, facilities, and payment of committee member expenses

"(a)(1) An agency may employ or enter into contracts for the services of an individual or organization to serve as a convenor or facilitator for a committee under this subchapter, or may use the services of a government employee to act as a convenor or a facilitator for a committee.

"(2) An agency shall determine whether a person under consideration to serve as convenor or facilitator of a committee under paragraph (1) has any financial or other interest that would preclude such person from serving in an impartial and independent manner.

"(b) For purposes of this subchapter, an agency may use the services and facilities of other Federal agencies and public and private agencies and instrumentalities with the consent of such agencies and instrumentalities, and with or without reimbursement to such agencies and instrumentalities, and may accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31. *Federal Mediation and Conciliation Service may provide services and facilities, with or without reimbursement, to assist agencies under this subchapter, including furnishing convenors, facilitators, and training in negotiated rulemaking.*

"(c) Members of *a* negotiated rulemaking committee shall be responsible for their own expenses of participation in such committee, except that an agency may, in accordance with section 7(d) of the Federal Advisory Committee Act (5 U.S.C. App.), pay for a member's reasonable travel and per diem expenses, expenses to obtain technical assistance, and a reasonable rate of compensation, if—

"(1) such member certifies a lack of adequate financial resources to participate in the committee; and

"(2) the agency determines that such member's participation in the committee is necessary to assure an adequate representation of the member's interest.

"(d) A member's receipt of funds under this section or section 589 shall not conclusively determine the purposes of sections 202 through 209 of title 18 whether that member is an employee of the United States Government.

"§ 589. Role of the Administrative Conference of the United States

"(a) An agency may consult with the Administrative Conference of the United States or other public or private individuals or organizations for information and assistance informing a negotiated rulemaking committee and conducting negotiations on a proposed rule.

"(b) The Administrative Conference of the United States, in consultation with the Federal Mediation and Conciliation Service, shall maintain a roster of [individuals] *individuals* who have acted as or are interested in serving as convenors or facilitators in negotiated rulemaking proceedings. The roster shall include individuals from government agencies and private groups, and shall be made available upon request. Agencies may also use rosters maintained by other public or private individuals or organizations.

"(c)(1) The Administrative Conference of the United States shall develop procedures which permit agencies to obtain the services of such convenors and facilitators on an expedited basis.

"(2) Payment for convenor or facilitator services shall be made by the agency using the services, unless the Chairman of the Administrative Conference agrees to pay for such services under subsection (f).

"(d)(1) The Administrative Conference of the United States shall compile and maintain data related to negotiated rulemaking and shall act as a clearinghouse to assist agencies and parties participating in negotiated rulemaking procedures.

"(2) Each agency engaged in negotiated rulemaking shall provide to the Administrative Conference of the United States a copy of any reports submitted to the agency by negotiated rulemaking committees under section [585] *586* and such additional information as necessary to enable the Administrative Conference of the United States to comply with this subsection.

"(3) The Administrative Conference of the United States shall review and analyze the reports and information received under this subsection and shall transmit a biennial report to the Governmental Affairs Committee of the Senate and the appropriate committees of the House of Representatives that—

"(A) provides recommendations for effective agency use of negotiated rulemaking; and

"(B) describes the nature and amounts of expenditures made by the Administrative

Conference of the United States to accomplish the purposes of this subchapter.

"(e) The Administrative Conference of the United States is authorized to provide training in negotiated rulemaking techniques and procedures for Federal personnel either on a reimbursable or nonreimbursable basis. Such training may be extended to private individuals on a reimbursable basis.

"(f) The Chairman of the Administrative Conference of the United States is authorized to pay, upon request of an agency, all or part of the expenses of establishing a committee and conducting a negotiated rulemaking. Such expenses may include, but are not limited to—

"(1) The costs of convenors and facilitators;

"(2) The expenses of committee members determined by the agency to be eligible for assistance under section 588(c); and

"(3) training costs.

Determinations with respect to payments under this section shall be at the discretion of such Chairman in furthering the use of negotiated rulemaking by Federal agencies.

"(g) The Administrative Conference of the United States may apply funds received under section 575(c)(12) of this title to carry out the purposes of this subchapter.

"§ 590. Judicial review

"Any agency action relating to establishing, assisting, or terminating a negotiated rulemaking committee under this subchapter shall not be subject to judicial review. Nothing in this section shall bar judicial review of a rule which is otherwise provided by law. A rule which is the product of negotiated rulemaking and is subjected to judicial review shall not be accorded any greater deference by a court than a rule which is the product of other rulemaking procedures.".

(b) The table of sections of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER IV—NEGOTIATED RULEMAKING PROCEDURE

"Sec. 581. Purpose.
"Sec. 582. Definitions.
"Sec. 583. Determination of need for negoiated rulemaking committee.
"Sec. 584. Publication of notice.
"Sec. 585. Establishment of committee.
"Sec. 586. Conduct of committee activity.
"Sec. 587. Termination of committee.
"Sec. 588. Services, facilities, and payment of committee member expenses.
"Sec. 589. Role of the Administrative Conference of the United States.
"Sec. 590. Judicial review.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. To carry out this Act, and notwithstanding section 576 of this title, there are authorized to be appropriated to the Administrative Conference of the United States not in excess of $500,000 for each of the fiscal years 1990, 1991, and 1992.

SUNSET AND SAVINGS PROVISIONS

SEC. 5. (a) Subchapter IV of title 5, United States Code, is repealed, effective 6 years after the date of the enactment of this Act.

(b) That portion of the table of sections relating to subchapter IV for chapter 5 of title 5, United States Code, is repealed, effective 6 years after the date of the enactment of this Act.

(c) Notwithstanding the repeal under this section, the provisions and amendments of this Act shall continue in effect after 6 years after the date of the enactment of this Act with respect to then pending negotiated rulemaking proceedings which, in the judgment of the agencies which are convening or have convened such proceedings, require such continuation, until such negotiated rulemakings terminate pursuant to this Act.

Mr. LEVIN. Mr. President, the matter now before the Senate is S. 303, the Negotiated Rulemaking Act of 1989. This bill, which I introduced in January, is cosponsored by Senators COHEN, GRASSLEY, RIEGLE, DECONCINI, and ROTH. On July 13, 1989, after adopting an amendment, the Governmental Affairs Committee reported the bill to the full Senate on a unanimous voice vote. I urge my colleagues to join me today in voting for passage of this bill.

CONSIDERATION OF S. 303

The purpose of S. 303 is to improve the Federal regulatory process by encouraging agencies to use negotiated rulemaking where appropriate. As its name implies, negotiated rulemaking employs negotiation techniques to develop Federal regulations. The basic approach is straightforward. An agency that has decided to develop or revise a Federal regulation can invite those who will be affected by this action to join the agency in forming an ad hoc committee to devise a mutually acceptable draft regulation. If the affected parties agree to participate and the committee is able to reach a consensus, the committee presents a draft regulation to the agency. The agency reviews the draft, makes any needed adjustments, and then publishes it in the Federal Register as a proposed rule for public notice and comment under existing rulemaking procedures.

Currently, Federal agencies conduct negotiated rulemakings on an ad hoc basis, without any Federal guidelines. S. 303 would, for the first time, establish a Governmentwide framework for the conduct of negotiated rulemaking by Federal agencies. Its provisions would help ensure that these rulemaking proceedings are open, fair and conducted in a way which will maximize their opportunities for success.

Last year, the predecessor to S. 303 passed the Senate by unanimous consent and was sent to the House for consideration. Unfortunately, in the press of last minute business, the subcommittee of jurisdiction did not mark up the bill. This year, the House subcommittee has already held a hearing on the companion bill and promised further action. So I am hopeful that, if the Senate acts promptly, the act will become law during this Congress.

S. 303 is very similar to the negotiated rulemaking bill that passed last year. The major changes are as follows:

First, FACA provision. S. 303 simplifies and strengthens the language requiring agencies that sponsor negotiated rulemaking committees to comply with the Federal Advisory Committee Act.

Second, codification. It places the key provisions of the bill in title 5 of the United States Code, in the chapter on administrative rulemaking. This technical change required the sections to be renumbered and, in some cases, reworded.

Third, judicial review. Language was added to the section on judicial review to make it clear that regulations which are the product of negotiated rulemaking procedures are to be accorded no greater deference by a court than regulations which are the product of other rulemaking procedures.

Fourth, Federal notice. Language was added to the section requiring agencies to publish a notice in the Federal Register of an intent to establish a negotiated rulemaking committee. A new paragraph requires the notice to explain how a person may apply, or nominate another person, for membership on the committee.

Additional minor changes in the wording of certain provisions were made to clarify, but not change, their meaning.

During markup, the Governmental Affairs Committee approved an amendment which made additional minor changes in the bill including correcting typographical errors, making conforming word changes, and making it clear that the Federal Mediation and Conciliation Service has authority to assist other Federal agencies conduct negotiated rulemakings. The committee then approved the bill, as amended, on a unanimous voice vote.

WHY A STATUTE IS NEEDED

Negotiated rulemaking, called "reg neg" by veteran users, has been used by a number of agencies, including the Environmental Protection Agency, the Labor Department, and the Transportation Department, to develop regulations on such varied issues as wood burning stoves, pesticides, MDA exposure limits, and working hours for airline pilots. Numerous parties have participated in the process, including industry, labor, environmental groups, consumers, and others.

Witnesses in hearings before Senate and House committees have testified that negotiated rulemaking has proven itself to be not only viable, but a very effective process when properly employed. Praise for it has included statements that, when used in the proper circumstances, negotiated rulemaking has resulted in agency rules that are more effective, less costly, fairer in impact, quicker in achieving final status, and less subject to challenge in court. In response to this success, provisions have begun to appear on an ad hoc basis in various bills directing agencies to use reg neg proce-

dures when developing regulations in certain areas. One example is H.R. 5, the Elementary and Secondary School Improvement Act, now Public Law 100-297, which directs the Education Secretary to use reg neg to develop regulations required by the act.

Some may wonder, if agencies are already successfully using reg neg and Congress is already incorporating it into legislation, why a statute is needed at all. There are a number of compelling reasons. First, some agencies have decided, despite what other agencies are doing, that they lack the authority to try negotiated rulemaking. A statute is needed to remove any doubt about these agencies' authority to use the process and to serve as Congress' endorsement of negotiated rulemaking activities.

Second, agencies which have never tried reg neg need guidance on how to proceed. It is not obvious, for example, how an agency should conduct a negotiated rulemaking so that it is consistent with other laws governing Federal administrative practice, such as the Administrative Procedure Act and the Federal Advisory Committee Act. Deciding whom to include on a rulemaking committee, how to handle requests for additional members, how to notify the public of the committee's existence and activities, and other procedural issues are equally difficult. Agencies without reg neg experience currently face a daunting task in designing their first project—they must individually search the literature, locate the experts, identify the issues, and develop their own reg neg program. A statute is needed to ease the initial learning curve and the procedural complexities by gathering key information in one place, resolving the major procedural issues in ways proven effective, and providing specific means to obtain additional expert advice. Legislation that takes these steps will make it easier for agencies to try reg neg for the first time and make it more likely that they will do so.

A third reason for enacting a statute is that even experienced agencies would benefit from a document which collects the wisdom of reg neg experts and presents general rules on how to conduct a negotiated rulemaking fairly and effectively. For example, while most agencies recognize that their rulemaking committees must comply with the Federal Advisory Committee Act, they may not realize that such compliance means their committees should represent all the interests that will be significantly affected by the regulation under consideration. There are also, for example, committee termination rules that are appropriate for reg neg committees but not other advisory committees, and those rules should be articulated and made applicable. A reg neg statute which spells out the most appropriate ways to establish, operate and terminate rulemaking committees is needed to ensure that agencies handle the key matters uniformly in the most fair and effective ways yet devised.

Finally, given that Congress is beginning to employ reg neg in legislation, a statute reflecting the collected wisdom on how best to use this process is needed to serve a as common reference.

SUMMARY OF BILL

S. 303 has undergone many refinements to incorporate the collected wisdom of the reg neg community. A summary of its provisions follows.

Voluntary procedure. The bill makes it clear that negotiated rulemaking is a voluntary process. No agency is forced to use it in any particular circumstance; no person who would be affected by a rule is required to participate on a rulemaking committee. The bill thus preserves reg neg's consensual nature.

When to use it. The bill provides guidance on when to use the negotiated rulemaking process. For example, an agency which is deciding whether to use reg neg in a particular setting is required to consider certain specific factors, such as whether there is a limited number of readily identifiable interests, whether a consensus is likely to be reached, and whether the agency is willing to use the consensus position as the basis for a proposed agency rule. Experience has shown that careful analysis of when to use the process is vital to the success of a negotiated rulemaking, and the bill provides tested standards and procedures for making that decision. The bill also authorizes an agency to hire a convenor, with expertise in evaluating rulemaking situations, to determine whether reg neg would work.

Public notice. The bill requires agencies to publish plans to use reg neg in the Federal Register and to solicit public comments on the proposed issues and membership for the rulemaking committee. It is only after these comments are reviewed that an agency may make the final decision on whether to use the negotiated rulemaking process.

Committee functions. The bill provides basic procedures on how to establish, operate and terminate a rulemaking committee. The bill explains, for example, how to form a rulemaking committee in compliance with the Federal Advisory Committee Act, and how to conduct proceedings in conformance with the Administrative Procedures Act's requirements for informal rulemaking. The bill explicitly authorizes agencies to hire "facilitators" to help rulemaking committees conduct their deliberations and keep required records. Committees are required to negotiate over the rules assigned to them. In connection with these deliberations, it is recognized that committees may examine a wide range of issues. Committees are cautioned, however, not to take up matters that are so far afield from the issues described in their Federal Register notices that the public could complain that they failed to receive fair notice of their deliberations. At the conclusion of a committee's work, the bill requires the committee to file a written report to the agency on any areas in which consensus was reached.

Reg Neg assistance. The bill contains a number of provisions to make reg neg expertise accessible to agencies. For example, it explicitly authorizes agencies to consult with "convenors" to determine whether reg neg will work in a particular setting and "facilitators" to help conduct committee business. The bill assigns the Administrative Conference of the United States the responsibility to act as a clearinghouse for information and assistance on reg neg issues and to oversee reg neg training courses.

Committee expenses. The bill authorizes agencies to pay for the expenses of committee members who would be otherwise financially unable to participate in a negotiated rulemaking. Many reg negs require the participation of public interest groups with limited funds. By targeting agency funds to such committee members, the bill seeks to ensure that agencies are able to conduct rulemakings which require the participation of representatives with limited financial resources. The bill also authorizes the Administrative Conference to provide funds to agencies to pay for such committee members. This provision is designed not only to encourage agencies to try the process for the first time, but also to encourage them to try reg neg in novel areas, where an agency with limited resources might be otherwise reluctant to experiment.

Judicial review. The bill resolves issues involving the proper role of Federal courts in the negotiated rulemaking process. In essence, the bill precludes judicial review of agency actions taken to convene, administer or terminate rulemaking committees, while permitting judicial review otherwise authorized by law of any resulting agency rules. That means, for example, that persons cannot sue to stop agencies from using reg neg, but can challenge any resulting regulations. The purpose of this provision is to allow agencies to use negotiated rulemaking without the delays and procedural problems that might arise if judicial review of intermediate agency actions were available, while also continuing the tradition in Federal administrative law of permitting judicial review of agency rules at the time those rules are promulgated.

Appropriations. The bill authorizes a 3-year appropriation of $500,000 annu-

ally for expenses incurred by the Administrative Conference in serving as a reg neg clearinghouse.

Sunset. The bill contains a sunset provision to ensure a comprehensive review after 6 years.

The potential benefits of the negotiated rulemaking process are clear. Instead of affected parties spending their time and resources litigating a regulation drafted and imposed by an agency, the affected parties and the agency spend their time and energies constructively developing a proposed rule together. The potential result is not only a rule which will become effective in less time, but also a rule which will be better substantively, since it will reflect the involvement of the interests who will be significantly affected by it.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 303) was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDING SENATE RESOLUTION 128 RELATIVE TO THE IMPEACHMENT OF JUDGE WALTER L. NIXON, JR.

Mr. MITCHELL. Mr. President, on behalf of Senators FOWLER and HATCH, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 167) to amend Senate Resolution 128, 101st Congress, relating to the appointment of a committee to hear the articles of impeachment against Judge Walter L. Nixon, Jr., to clarify the authority of the Committee to use the detailed personnel of any Government department or agency.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 167) was agreed to.

The resolution reads as follows:

S. RES. 167

Resolved, That section 6 of Senate Resolution 128, 101st Congress (agreed to May 11, 1989), is amended by—

(1) inserting "(a)" after "Sec. 6."; and

(2) adding at the end thereof the following:

"(b) In carrying out its powers, duties, and functions under this resolution, the committee is authorized to, in its discretion and with the prior consent of the Government department of agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATING THE PERIOD OF SEPTEMBER 16 THROUGH OCTOBER 9, 1989, AS "COASTWEEKS '89"

Mr. MITCHELL. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 166, designating the period of September 16 through October 9, 1989, as "Coastweeks '89" and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 166) to designate the period of September 16 through October 9, 1989, as "Coastweeks '89".

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The joint resolution (S.J. Res. 166) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 166

Whereas the coastal zone of the United States, including the coastal zone of the Great Lakes, is a varied area of rocky shores, sandy beaches, steep bluffs, productive estuaries and salt marshes, urban ports and small harbors, tidal flats, and many islands;

Whereas the coastal zone is the source of a rich scenic, cultural, recreational, and historical heritage;

Whereas the natural resources of the coastal zone include some of the most valuable economic resources of the United States, such as the coastal marine environment which supports an active fishing industry;

Whereas coastal landforms, especially barrier beaches, provide significant protection from storms, flooding, and erosion;

Whereas the Nation's estuaries provide valuable spawning grounds and migratory waterfowl habitat, which safeguard rare and endangered plant and animal species;

Whereas global warming may result in a sea level rise causing a loss of natural resources such as beaches, dunes, estuaries, wetlands, and the salinization of drinking water, thus creating a growing need to plan for sea level rise;

Whereas the proper disposal and recycling of wastes is important to protect the coastal zone from accumulated debris; and

Whereas the United States is strongly committed to the wise management of the coastal zone so as to ensure that the environmental and economic values of the coastal zone will be sustained into the future: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period of September 16 through October 9, 1989, is designated as "Coastwise '89"; within that timeframe, September 16, 1989, is designated "National Estuaries Day" and September 23, 1989, is designated "National Beach Cleanup Day". The President is requested to issue a proclamation calling on the people of the United States to observe such period with appropriate ceremonies, activities, and beach cleanups nationwide.

DESIGNATING THE MONTH OF NOVEMBER 1989 AS "NATIONAL ALZHEIMER'S DISEASE MONTH"

Mr. MITCHELL. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 16, designating the month of November 1989 as "National Alzheimer's Disease Month" and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 16) designating the month of November 1989 as "National Alzheimer's Disease Month."

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The joint resolution (S.J. Res. 16) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 16

Whereas more than two and one-half million Americans are affected by Alzheimer's disease, which is a surprisingly common disorder that destroys certain vital cells of the brain;

Whereas Alzheimer's disease is the fourth leading cause of death among older Americans;

Whereas Alzheimer's disease is responsible for 45 per centum of all nursing home admissions, at an annual cost of more than $80,000,000,000;

Whereas in one-third of all American families one parent will succumb to this disease;

Whereas Alzheimer's disease is not a normal consequence of aging; and

Whereas an increase in the national awareness of the problem of Alzheimer's Disease and recognition of national organizations such as the Alzheimer's Disease and Related Disorders Association and the American Health Assistance Foundation may stimulate the interest and concern of the American people, which may lead, in turn, to increased research and eventually to the discovery of a cure for Alzheimer's disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1989 is designated as "National Alzheimer's Disease Month". The President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

CORRECTION OF ENGROSSMENT OF S. 1036

Mr. MITCHELL. Mr. President, on behalf of Senator LEAHY I ask unanimous consent that the engrossment of S. 1036 be corrected to include the following modifications which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modifications are as follows:

On page 13 Amendment 661, strike lines 6-18.

On page 9, line 13 of amendment 659, strike "23" and insert in lieu thereof "22".

On page 9, of amendment 659, strike out lines 14-15 and all that follows through line 9 on page 11.

On page 16, of amendment 659, strike lines 21-25 and all that follows through line 24 on page 21 and insert in lieu thereof:

SEC. 7. RURAL BUS SERVICES.

(a) SHORT TITLE.—This section may be cited as the "Rural Bus Services Act.".

(b) INTERCITY BUS SERVICE.—The Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1601 et seq.) is amended by adding at the end the following new section:

"INTERCITY BUS SERVICE

"SEC. 26. (a) The Secretary is authorized to make grants for the initiation, improvement, or continuation of intercity bus service, and for the establishment and maintenance of rural feeder services, for residents of rural areas and residents of urban places designated by the Bureau of the Census as having populations of 5,000 or more which are not within an urbanized area.

"(b) Grants for the initiation, improvement, or continuation of intercity bus service under subsection (a) of this section shall be made only to States and local public bodies and agencies thereof, only for payment of operating expenses incurred in furnishing such intercity bus service, and shall not exceed 30 percent of the net cost of such an operating expenses project. The remainder of such cost shall be provided in cash from sources other than Federal funds. Such grants shall be subject to such other terms, conditions, and requirements as the Secretary may consider necessary to promote the initiation, improvement, or continuation of intercity bus service. When assistance is distributed by the Secretary for privately owned intercity bus companies, such assistance shall, to the maximum extent feasible, subsidize deficit operations considering the profitability of the route as a whole. The determination of profitability shall include all income generated by the route and only direct costs of the operation of the route. In making any such grant with respect to service in a particular general area, the Secretary shall give preference to applications involving a bus operator which lawfully has provided intercity bus service within that area during the 1-year period preceding the date of application for such a grant, as compared to applications involving proposals for such service by any other operator.

"(c) Grants for the establishment and maintenance of rural feeder services under subsection (a) of this section shall be made only to States and local public bodies thereof in order to provide financial and other incentives for such establishment and maintenance. Such incentives may include—

"(1) supplemental operating assistance to permit daily service;

"(2) extension of authorized operating hours to facilitate connections with bus and railroad services that operate in nationwide interstate commerce;

"(3) subsidization of fares; and

"(4) establishment of a special fund to pay for the marketing of rural connections and rural feeder services.

"(d) As used in this section, the term—

"(1) 'intercity bus service' means transportation provided to the public by a bus operator authorized to transport passengers in interstate commerce by the Interstate Commerce Commission or in intrastate commerce by a State regulatory commission or comparable State agency (A) between one urban place as designated in accordance with subsection (a) and another such urban place, (B) between such an urban place and an urbanized area, or (C) between one urbanized area and another urbanized area, through rural areas or such urban places, or both, except that the term does not include local service; and

"(2) 'rural feeder services' means transportation provided to the public which is designed to facilitate connections between a rural area and bus and railroad services that operate in nationwide interstate commerce.".

(c) EXPRESS PICKUP AND DELIVERY OF SMALL PACKAGES.—

(1) PILOT PROJECTS.—

(A) ESTABLISHMENT.—The Secretary of Transportation (hereafter in this section referred to as the "Secretary") is authorized to establish pilot projects for the purpose of providing incentives for rural feeder services (as defined under section 26 of the Urban Mass Transportation Act of 1964) to combine express pickup and delivery of small packages with passenger transportation.

(B) GRANTS FOR PROJECTS.—Grants made by the Secretary for any project established under subparagraph (A) shall not exceed 18 months in duration. The grants shall be made only to States and local public bodies and agencies thereof and shall not exceed 20 percent of the net cost of providing such pickup and delivery. The remainder of such cost shall be provided from sources other than Federal funds.

(C) PREFERRED APPLICATIONS.—In making grants under this subsection, the Secretary shall, in consultation with the Interstate Commerce Commission, give preference to applicants which—

(i) demonstrate a serious community need for such pickup and delivery, in light of such circumstances as availability and proximity of existing pickup and delivery services; and

(ii) propose services by private bus operators with proven expertise in intercity bus services (as defined under section 26 of the Urban Mass Transportation Act of 1964) which possess a reasonable likelihood of continuing such pickup and delivery after grant assistance under this subsection has terminated.

(D) AMENDMENT TO URBAN MASS TRANSPORTATION ACT.—Section 4(i) of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1603(i)) is amended by inserting, immediately before the period at the end of the first sentence, the following: ", including projects referred to in subsection (c)(1)(A) of the Rural Bus Services Act".

(2) STUDY.—The Secretary shall conduct a study to evaluate the extent to which such pickup and delivery is dependent upon Federal preemption of State regulation. The Secretary shall, not later than 12 months after the date of enactment of this section, report to Congress on the results of such study.

S. 1352 TO BE PRINTED AS PASSED

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 1352, the defense authorization bill, be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL SENIOR CITIZENS DAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of House Joint Resolution 225, a joint resolution to designate August 19, 1989, as National Senior Citizens Day.

The PRESIDING OFFICER. The joint resolution will be stated.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 225) to authorize and request the President to issue a proclamation designating the third Sunday of August of 1989 as "National Senior Citizens Day."

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the first and second time by title.

Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution (H.J. Res. 225) was considered, ordered to a third reading, read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 281, 282, 283, 284, 286, 290, 291, 293, 294, 295, and all nominations placed on the Secretary's desk in the Coast Guard.

I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table en bloc, that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF COMMERCE

Rockwell Anthony Schnabel, of California, to be Under Secretary of Commerce for Travel and Tourism.

Janice Obuchowski, of Virginia, to be Assistant Secretary of Commerce for Communications and Information.

John A. Knauss, of Rhode Island, to be Under Secretary of Commerce for Oceans and Atmosphere.

EXECUTIVE OFFICE OF THE PRESIDENT

D. Allan Bromley, of Connecticut, to be Director of the Office of Science and Technology Policy.

FEDERAL TRADE COMMISSION

Janet Dempsey Steiger, of the District of Columbia, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1988.

DEPARTMENT OF TRANSPORTATION

Gilbert E. Carmichael, of Mississippi, to be Administrator of the Federal Railroad Administration.

IN THE COAST GUARD

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral:

Paul A. Welling.

Walter T. Leland.

DEPARTMENT OF JUSTICE

Richard Burleson Stewart, of Massachusetts, to be an Assistant Attorney General.

DEPARTMENT OF EDUCATION

Michelle Easton, of Virginia, to be Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education.

OFFICE OF NATIONAL DRUG CONTROL POLICY

Herbert D. Kleber, of Connecticut, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD

Coast Guard nominations beginning Jeffrey R. Guyon, and ending James F. Story, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 11, 1989.

NOMINATION OF DR. JOHN A. KNAUSS

Mr. HOLLINGS. Mr. President, I am here today to discuss the nomination of Dr. John A. Knauss to become Under Secretary of Commerce for Oceans and Atmosphere. This is a position of particular interest to me because the Under Secretary also serves as Administrator of the National Oceanic and Atmospheric Administration [NOAA]. As head of the Nation's leading civil ocean and atmospheric research and service agency, the NOAA Administrator is responsible for establishing and administering programs related to coastal zone management; fishery conservation and management; geodetic surveys; weather services and research; environmental satellite, data, and information services; and other atmospheric and oceanic matters. The position of Administrator has become particularly sensitive in recent years because of annual administration proposals to slash funding for NOAA programs. Each year, we in the Congress must work to restore adequate funding for those programs.

Because the administration has failed to fully support NOAA, it is very important that the agency itself has strong leadership. NOAA got off to a fine start in 1970, under the guidance of Dr. Robert White, and I have invariably sought to ensure the high standard set by his appointment. In Dr. John Knauss, I am confident that the President has nominated an individual who will meet that standard. I would like to provide the members with a brief summary of his background.

John A. Knauss is a professor of oceanography and marine affairs at the University of Rhode Island. He holds a B.S degree from the Massachusetts Institute of Technology, an M.A. degree from the University of Michigan, and a Ph.D. from the Scripps Institution of Oceanography. Dr. Knauss began his career with the U.S. Navy Electronics Laboratory in San Diego in 1947, and later joined the Office of Naval Research as an oceanographer. In 1954, he moved to the Scripps Institution of Oceanography where he completed his doctorate and worked as a staff member. He left Scripps in 1962 to become dean of the Graduate School of Oceanography at the University of Rhode Island. He added the additional title of vice president of Marine Programs in 1982. In 1987, he resigned his administrative duties although he still maintains his position as professor of oceanography.

Even more important than his professional qualifications, Dr. Knauss has been a leader in marine research and policy for almost 40 years. He was a member of the Stratton Commission, whose sweeping insights have guided the development of our Nation's ocean policy for the past two decades. In 1969, the commission called for the formation of a new Federal agency, the National Oceanic and Atmospheric Administration. That recommendation, of course, was implemented 1 year later in Presidential Reorganization Plan No. 4. Now President Bush has called upon Dr. Knauss to lead the agency which he helped to create, and to chart NOAA's course for the years and decades to come.

Dr. Knauss and I have watched NOAA for almost 20 years now. We participated in the excitement of planning new programs in the sixties. We saw the implementation and expansion of innovative new programs like Sea Grant and Coastal Zone in the seventies. And in the eighties, we worked to maintain those programs in the fact of a disinterested administration and growing Federal budget deficits.

Over that period, the environmental concerns which motivated us clearly have not been resolved. Millions of Americans continue to move to coastal areas, and the problems created by overdevelopment have not been alleviated. Preventing our estuaries and coastal waters from contamination by runoff and sewage has become a greater and greater challenge. In recent years, we have been shocked and deeply disturbed by the *Exxon Valdez* oilspill, by discarded syringes and medical wastes washing up along our coastlines, by unexplained die offs of dolphins and other marine life, and by the growing number of "closed" signs on our public beaches. In addition, we have recognized the seriousness of the threat posed by global environmental change. Greenhouse warming, world climate shifts, sea level rise, and ozone depletion could cause serious loss of life and substantial property damage worldwide.

In the context of these concerns, many of the missions which we assigned to NOAA in 1970 may be more critical today than they were when the agency was formed. The time has come to reexamine NOAA's role in dealing with global environmental problems. We must take a thoughtful look at where the agency has been, and where it should be going. I can think of no individual more able to lead that effort than the nominee before us today, Dr. John Knauss.

CONFIRMATION OF GILBERT CARMICHAEL

Mr. COCHRAN. Mr. President, it is with much pleasure that I recommend to the Senate that Gilbert Carmichael of Meridian, MS, be confirmed as Federal Railroad Administrator.

He is one of my State's finest citizens. He has been a very active contributor to the civic, political, and economic life of Mississippi for about 30 years.

He is also my friend. I am happy to be able to congratulate him publicly on his appointment by President Bush to this very important position in our Government.

He is very well qualified for this job, having served with distinction in vari-

ous assignments involving transportation issues at the State and national level.

One of our best newspaper writers, Lloyd Gray, discussed the career of Gil Carmichael and his unique place in the political history of Mississippi in an article that was carried on the editorial page of the Jackson Clarion-Ledger on March 26, 1989. I invite the attention of my colleagues to this fine tribute to our new Federal Railroad Administrator.

I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Jackson Clarion-Ledger, Mar. 26, 1989]

CARMICHAEL FINALLY GETTING JUST REWARD WITH JOB IN BUSH ADMINISTRATION

(By Lloyd Gray)

His legacy to Mississippi politics was turning the focus of campaigns to policy issues.

Gil Carmichael has been part of the Mississippi political scene for so long it's hard to believe he's never actually been elected to anything or served in government full time.

That will change soon when the Meridian businessman takes over as head of the Federal Railway Administration. President Bush appointed Carmichael after recommendations from U.S. Sens. Thad Cochran and Trent Lott and 3rd District U.S. Rep. Sonny Montgomery.

It's an appropriate job for Carmichael, whose consuming private and public sector interest over the years has been transportation. He has been a leading voice in Mississippi touting a good transportation system as essential to economic development.

An automobile dealer for nearly 30 years, Carmichael has actively supported the major highway improvement programs in Mississippi. He served on a federal transportation advisory board during the Nixon and Ford administrations.

Carmichael was one of the first political leaders in Mississippi to push for a more coordinated state transportation policy, including creation of a state governemnt umbrella department to include highway, rail, air and water transportation. It has yet to happen, but it's a typical example of Carmichael's visionary thinking.

That mode of thinking is one of Carmichael's lasting legacies in Mississippi politics. When most other state politicians were running the same old personality-based campaigns and spouting the same tired generalities, Carmichael was focusing on detailed approaches to policy issues. As early as his first race for governor in 1975, for example, he spoke repeatedly of the need for a new state constitution.

His campaign formula never succeeded. That 1975 race represented the peak of his political influence. He lost it to the vague and empty promises of the neo-populist Cliff Finch.

When the history of the modern-day Mississippi Republican Party is written, Carmichael's name will be up there among those who did the most to get the GOP off the ground. He began working in the Republican vineyards in the 1960s. He was driven by a belief that Mississippi's one-party system hurt the state politically and economically.

Then the party needed a sacrificial lamb for the 1972 U.S. Senate race against Jim Eastland, he played the role. He was so articulate and attractive when juxtaposed against the gruff and unpolished Eastland that he drew nearly 40 percent of the vote that year.

That relatively impressive showing paved the way for his gubernatorial campaign in 1975. But in 1976, Carmichael—a moderate by national standards—backed incumbent Gerald Ford for the Republican presidential nomination against challenger Ronald Reagan. That drove a lasting wedge between Carmichael and the state GOP's more conservative faction.

In 1979, some Republicans were determined that Carmichael wouldn't be their gubernatorial nominee, and they ran Clarksdale businessman Leon Bramlett as a self-professed "conservative alternative" in the GOP primary. Carmichael squeaked by with the nomination, but emerged as a much-weakened standard-bearer. He lost decisively to Democrat William Winter in the fall.

Carmichael always had a different vision from many of his fellow party members of what the Mississippi Republican Party should be. Unlike some, he didn't join the party out of opposition to the Democrats' pro-civil rights stance. In fact, he saw the necessity of making the Republicans a racially and economically inclusive party if a true two-party system were to emerge in Mississippi. That didn't sit well with some GOP movers and shakers.

By 1983, Carmichael's base of support within the party had so eroded that he ran for lieutenant governor as an independent. The entire focus of that campaign was the need for a new state constitution.

Carmichael wrestled again with running in 1987, but decided against it. Campaigning is hard work. It takes a lot of time and money, and it isn't fun to lose.

But Carmichael's contribution to his state will be measured in ways other than elections won. He was a political pathfinder, a reformer and idea-generator, a man who made it less difficult for others to succeed after him. His place in Mississippi political history is secure.

And now, at least, he is getting his political reward.

LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMBASSADORS CONFIRMED DURING CHARTER ADMINISTRATION

Mr. DOLE. Mr. President, I would like to include in the record at this point a list of ambassadors confirmed during the beginning of the Carter administration. The list includes the date each nomination was received in the Senate, the date they reported out to Foreign Relations Committee, the confirmation date, the total number of Senate session days, the number of days the nominations were held on the calendar prior to being confirmed.

Needless to say, each Ambassador was reported out of committee and confirmed by the Senate with the consent of the Foreign Relations Committee including the distinguished Senator from Maryland, Senator SARBANES.

I have noted some with asterisks who were career and others who were political nominees.

Mr. President, I ask unanimous consent that the list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

AMBASSADORS CONFIRMED DURING THE BEGINNING OF THE CARTER ADMINISTRATION

The following is a list of the majority of the Ambassadors confirmed by the Senate during the beginning of the Carter administration. The list includes the date each nomination was received in the Senate, the date they were reported out of the Foreign Relations Committee, the confirmation date, and the total number of Senate session days the nominations were held on the Calendar, prior to being confirmed. Needless to say, each Ambassador was reported out of committee and confirmed by the Senate, with the consent of all members of the Foreign Relations Committee, including the then junior Senator from Maryland, Senator SARBANES.

In researching this information, I found that financial disclosure statements were not required to be placed in the RECORD. Instead, the Foreign Relations Committee only made them available to the members of the committee, if requested. They were then kept in file with the committee during the tenure of the nominee's service as Ambassador, then sent to the National Archives, thus making them unavailable for our immediate use.

Name/title	Date received	Date reported	Date confirmed	Session days held
Evan Dobelle—(Chief of Protocol).	Feb. 9, 1977	Mar. 1, 1977	Mar. 2, 1977	0
Richard Parker—Lebanon [1].	Feb. 4, 1977	Feb. 10, 1977.	Feb. 10, 1977.	0
Patrick Lucey—Mexico.	May 19, 1977.	May 24, 1977.	May 25, 1977.	0
Ronald Spiers—Turkey [1].	Apr. 15, 1977.	do	do	0
Frederick Irving—Jamaica [1].	May 19, 1977.	do	do	0
Marvin Weissman—Costa Rica.	do	do	do	0
Philip Kaiser—Hungary.	June 22, 1977.	June 28, 1977.	June 30, 1977.	1
Leonard Woodcook—Peking.	June 20, 1977.	do	do	1
Louis Lerner—Norway	July 1, 1977	July 12, 1977.	July 13, 1977	0
William Schaufele—Greece [1].	June 23, 1977.	do	do	0
Frank Ortiz—Barbados and Grenada [1].	June 29, 1977.	do	do	0
Lawrence Pezzullo—Uruguay [1].	July 1, 1977	do	do	0
W. Howard Wriggins—Sri Lanka.	June 30, 1977.	do	do	0
William Jones—Haiti [1].	July 26, 1977.	Aug. 2, 1977	Aug. 3, 1977	0
Rodney Kennedy—Minott (Sweden).	do	do	do	0
Andrew Killgore—Qatar [1].	do	do	do	0
George Landau—Chile [1].	Sept. 14, 1977.	Sept. 20, 1977.	Sept. 21, 1977.	0
Frank Devine—El Salvador [1].	Sept. 7, 1977.	Sept. 28, 1977.	Oct. 7, 1977	6
David Newsom—Philippines [1].	Sept. 27, 1977.	Oct. 19, 1977.	Oct. 20, 1977.	0
Thomas Boyatt—Upper Volta [1].	June 15, 1978.	July 12, 1978.	July 14, 1978	1

Name/title	Date received	Date reported	Date confirmed	Session days held
Raymond Gonzalez—Ecuador [1]	June 2, 1978	do	do	1
Geri M. Joseph—Netherlands.	June 15, 1978.	do	do	1
Mary Olmsted—Solomon Islands [1].	June 27, 1978.	Aug. 22, 1978.	Aug. 25, 1978.	2

[1] Foreign Service.

Mr. HELMS. Mr. President, the distinguished Republican leader is absolutely right. During the last Democratic administration, the Senate moved expeditiously to confirm President Carter's appointments.

Moreover, in recent weeks there has been a lot of exaggeration about the pattern of ambassadorial appointments by President Bush. Aspersions have been cast upon distinguished nominees, and now some Senators are placing holds upon certain nominees simply because they are noncareer nominees who are distinguished not only for their personal accomplishments, but also for their civic work in the field of politics.

For example, during the course of discussions in the Committee on Foreign Relations about the nominations of Joseph Zapalla, Mel Sembler, Della Newman, and others, it was asserted that President Bush had departed from historic patterns of appointment. The distinguished Senator from Maryland [Mr. SARBANES] stated concerns that President Bush, in his view, was nominating a disproportionate number of persons who were not members of the career Foreign Service.

Specifically, the Senator stated that the President had nominated only 14 career members of the Foreign Service to be Ambassadors, as opposed to 30 noncareer nominees. He stated that this was a proportion of 32 percent career versus 68 percent noncareer—a virtual reversal of past practice.

However, it was subsequently pointed out that President Bush had made a decision to allow sitting career Ambassadors to finish out their 3-year terms, while recalling immediately most sitting noncareer Ambassadors. Under this count, President Bush presently has 92 career Ambassadors in place or proposed, and a total of 49 noncareer Ambassadors in place or proposed. Thus, the ratio is in actuality 65 percent career versus 35 percent noncareer.

It should be noted that statistics on career versus noncareer Ambassadors vary according to the month. The exact percentages change as Ambassadors are nominated, confirmed, resign, or are recalled. The variations from month to month or administration to administration are not significant.

Mr. President, statistics supplied by the Department of State show that the current ratio in the Bush administration, for example, compares favorably to ratios in the Kennedy administration. The Bush appointees are approximately 65 percent career, as against 35 percent noncareer. In 1962, the Kennedy administration had 64 percent career, as against 36 percent noncareer. The Kennedy ratio slightly less favorable to the career service, although one must admit that the difference is statistically meaningless.

There is nothing to suggest that, when the current sitting career Ambassadors are replaced at the end of their respective terms, the ratios will be any different from historic practice.

Mr. President, I ask unanimous consent that a list of official statistics which show the career versus noncareer ratio of the ambassadorial appointments going back to 1961 be printed in the RECORD at the conclusion of my remarks. These provide an annual snapshot of such ratios for 1 month of each year.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HISTORICAL COMPARISON

[Ambassadors serving at bilateral missions]

Year	Career		Noncareer	
	Number	Percent	Number	Percent
1961 Kennedy	67	72	26	28
1962	63	64	35	36
1963 Kennedy/Johnson	66	65	36	35
1964 Johnson	74	73	27	27
1965 (Nov.)	79	72	30	28
1966	80	75	26	25
1967	73	71	30	29
1968	71	66	36	34
1969 Nixon	68	68	32	32
1970	72	68	34	32
1971	73	68	34	32
1972	72	73	27	27
1973 (July)	72	71	29	29
1974 Nixon/Ford	80	69	36	31
1975 Ford	80	72	32	28
1976	82	70	35	30
1977 Carter (Aug.)	86	78	24	22
1978	92	75	30	25
1979 (Dec.)	91	75	30	25
1980	94	76	30	24
1981 Reagan (Jan.)	90	78	26	22
1982	85	69	38	31
1983	86	67	42	33
1984 (May)	84	66	43	34
1985 (Apr.)	85	70	37	30
1986 (Aug.)	82	65	44	35
1987 (Apr.)	85	65	45	35
1988 (Feb.)	86	64	48	36
Starting with 1989, figures include multilateral ambassadors:				
1989 Bush (Jan.)	87	62	54	38
1989 (June)	92	65	49	35

Yearly statistics were taken from October with the exception of those years with the month in parentheses.

Mr. HELMS. Mr. President, there is no constitutional requirement, and there can be no legal requirement, that the President must follow any particular ratio of appointments, or even that he must take any nominees whatsoever from the Foreign Service. The President needs no defense for the pattern of nominees he has sent to the Senate.

The Foreign Service is composed of able, dedicated men and women who have devoted their careers to the pursuit of public service and foreign policy. No country could be without the services of a distinguished and elite corps of skillful and experienced professionals. Every modern President has responded to this need by choosing the majority of Ambassadors from among the ranks of the Foreign Service.

Nevertheless, foreign policy is not a science, but an art. A specific President's foreign policy will be shaped not only by the events and opportunities which are offered, but also by the President's moral and philosophical analysis of the options available, and by the ability to rally public support. For that reason, all Presidents have also included within the ranks of their Ambassadors some of their key political advisers and supporters. Although other countries may rely almost entirely on a professional, technical corps of diplomats, no other country in the world has our practical systems of separation of powers and checks and balances. For this reason, U.S. Presidents always have, and always will, leaven their diplomacy by bringing in talented noncareer professionals.

ORDERS FOR FRIDAY

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:15 a.m. on Friday, August 4, 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE LEADERS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time reserved for the two leaders be reduced to 7½ minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUME CONSIDERATION OF S. 686

Mr. MITCHELL. Mr. President, I further ask unanimous consent that at 9:30 a.m. the Senate resume consideration of S. 686, the Oil Spill Liability Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROCEED TO THE CONSIDERATION OF H.R. 2989

Mr. MITCHELL. Mr. President, I now ask unanimous consent that upon disposition of S. 686, the Senate proceed to the consideration of H.R. 2989, the Treasury, Postal Service appropriations bill for fiscal year 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Senators, rollcall votes are anticipated tomorrow morning on or in relation to the oilspill legislation and throughout the day on other legislation.

RECESS UNTIL 9:15 A.M.

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business, and if no Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess under the previous order until 9:15 a.m., Friday, August 4.

There being no objection, the Senate, at 10:50 p.m., recessed until 9:15 a.m., Friday, August 4, 1989.

NOMINATIONS

Executive nominations received by the Senate August 3, 1989:

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

STEPHEN READ HANMER, JR., OF VIRGINIA, TO BE DEPUTY DIRECTOR OF THE UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY, VICE GEORGE F. MURPHY, JR., RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

ARMY

To be lieutenant colonel

WILLIAM D. ARCHER, xxx-xx-xxxx
PAT L. LICHTENBERGER, xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

*TIMOTHY J.H. WEBB, xxx-xx-xxxx

ARMY

To be major

*ERIC L. CLARK, xxx-xx-xxxx
STUART P. DRURY, xxx-xx-xxxx

MEDICAL CORPS

To be major

*DAVID M. CHENEY, xxx-xx-xxxx
*TERRI J. PHIPPS, xxx-xx-xxxx

CONFIRMATIONS

Executive nominations confirmed by the Senate August 3, 1989:

DEPARTMENT OF COMMERCE

ROCKWELL ANTHONY SCHNABEL, OF CALIFORNIA, TO BE UNDER SECRETARY OF COMMERCE FOR TRAVEL AND TOURISM.

JANICE OBUCHOWSKI, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR COMMUNICATIONS AND INFORMATION.

JOHN A. KNAUSS, OF RHODE ISLAND, TO BE UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE.

EXECUTIVE OFFICE OF THE PRESIDENT

D. ALLAN BROMLEY, OF CONNECTICUT, TO BE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

HERBERT D. KLEBER, OF CONNECTICUT, TO BE DEPUTY DIRECTOR FOR DEMAND REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY.

FEDERAL TRADE COMMISSION

JANET DEMPSEY STEIGER, OF THE DISTRICT OF COLUMBIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF SEVEN YEARS FROM SEPTEMBER 26, 1988.

DEPARTMENT OF TRANSPORTATION

GILBERT E. CARMICHAEL, OF MISSISSIPPI, TO BE ADMINISTRATOR OF THE FEDERAL RAILROAD ADMINISTRATION.

DEPARTMENT OF JUSTICE

RICHARD BURLESON STEWART, OF MASSACHUSETTS, TO BE AN ASSISTANT ATTORNEY GENERAL.

DEPARTMENT OF EDUCATION

MICHELLE EASTON, OF VIRGINIA, TO BE DEPUTY UNDER SECRETARY FOR INTERGOVERNMENTAL AND INTERAGENCY AFFAIRS, DEPARTMENT OF EDUCATION.

IN THE COAST GUARD

THE FOLLOWING OFFICERS OF THE UNITED STATES COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

PAUL A. WELLING WALTER T. LELAND

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING JEFFREY R. GUYON, AND ENDING JAMES F. STORY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 11, 1989.

HOUSE OF REPRESENTATIVES—*Thursday, August 3, 1989*

The House met at 9 a.m.

The Reverend J. Winfred Stenholm, retired Lutheran minister, Wichita, KS, offered the following prayer:

Almighty God, our help in ages past, our hope for years to come, we render to You our thanks and praise. Bless, we pray You, all in authority in our land, especially this legislative body assembled here this morning. As these chosen people discharge their duties, guide them in the decisions they make. May Your guiding light so pervade every mind that love, peace, and justice may reign supreme in our land and throughout the world. Preside in the councils of world leaders to adjust in friendly fashion all differences that separate nations. May they choose peace instead of war. Restrain every effort of those who would sow seeds of hatred and ill will among nations. To You, O God, we render our thanks and praise. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. PARRIS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. PARRIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 285, nays 111, answered "present" 1, not voting 34, as follows:

[Roll No. 209]

YEAS—285

Ackerman	Barnard	Borski
Akaka	Bartlett	Bosco
Alexander	Bateman	Boxer
Anderson	Bates	Brennan
Andrews	Beilenson	Brooks
Annunzio	Bennett	Broomfield
Anthony	Bereuter	Browder
Applegate	Berman	Brown (CA)
Archer	Bevill	Bruce
Aspin	Bilbray	Bryant
AuCoin	Bonior	Bustamante
Byron	Hoyer	Perkins
Callahan	Hubbard	Petri
Campbell (CA)	Hughes	Pickett
Campbell (CO)	Hutto	Pickle
Cardin	Jenkins	Poshard
Carper	Johnson (CT)	Price
Carr	Johnson (SD)	Rahall
Chandler	Johnston	Rangel
Chapman	Jones (GA)	Ray
Clarke	Jones (NC)	Regula
Clement	Jontz	Richardson
Coleman (TX)	Kanjorski	Rinaldo
Combest	Kaptur	Robinson
Conte	Kastenmeier	Roe
Conyers	Kennedy	Rose
Cooper	Kennelly	Rostenkowski
Costello	Kildee	Rowland (CT)
Coyne	Kleczka	Rowland (GA)
Darden	Kolter	Roybal
de la Garza	Kostmayer	Russo
DeFazio	LaFalce	Sabo
Dellums	Lancaster	Saiki
Derrick	Lantos	Sangmeister
Dicks	Laughlin	Sarpalius
Dingell	Lehman (CA)	Savage
Dixon	Lehman (FL)	Sawyer
Donnelly	Leland	Saxton
Dorgan (ND)	Levin (MI)	Scheuer
Dornan (CA)	Levine (CA)	Schiff
Downey	Lewis (GA)	Schneider
Durbin	Lipinski	Schulze
Dwyer	Livingston	Schumer
Dymally	Lloyd	Sharp
Dyson	Long	Shumway
Early	Lowey (NY)	Shuster
Eckart	Luken, Thomas	Sisisky
Edwards (CA)	Manton	Skaggs
Engel	Markey	Skeen
English	Martinez	Skelton
Erdreich	Matsui	Slattery
Espy	Mavroules	Slaughter (NY)
Evans	Mazzoli	Slaughter (VA)
Fascell	McCloskey	Smith (IA)
Fazio	McCurdy	Smith (NE)
Feighan	McDade	Smith (NJ)
Fish	McDermott	Smith (VT)
Flake	McHugh	Snowe
Flippo	McMillen (MD)	Solarz
Foglietta	McNulty	Spence
Ford (MI)	Meyers	Spratt
Ford (TN)	Mfume	Staggers
Frank	Miller (CA)	Stallings
Frost	Miller (WA)	Stark
Gallo	Mineta	Stenholm
Gaydos	Moakley	Stokes
Gejdenson	Mollohan	Studds
Gephardt	Montgomery	Swift
Gibbons	Moody	Synar
Gillmor	Morella	Tallon
Gilman	Morrison (CT)	Tanner
Gingrich	Morrison (WA)	Tauzin
Glickman	Mrazek	Thomas (GA)
Gonzalez	Murtha	Torres
Gordon	Myers	Torricelli
Gradison	Nagle	Towns
Grant	Natcher	Traficant
Gray	Neal (MA)	Unsoeld
Green	Nelson	Vander Jagt
Guarini	Nowak	Vento
Gunderson	Oberstar	Visclosky
Hall (OH)	Obey	Volkmer
Hall (TX)	Olin	Walgren
Hamilton	Ortiz	Walsh
Harris	Owens (NY)	Watkins
Hatcher	Owens (UT)	Waxman
Hayes (IL)	Packard	Weiss
Hayes (LA)	Pallone	Weldon
Hefner	Panetta	Whitten
Henry	Parker	Williams
Hertel	Patterson	Wise
Hoagland	Payne (NJ)	Wyden
Hochbrueckner	Payne (VA)	Wylie
Horton	Pease	Yates
Houghton	Pelosi	Yatron

NAYS—111

Armey	Hefley	Penny
Baker	Herger	Quillen
Ballenger	Hiler	Ravenel
Barton	Holloway	Ridge
Bentley	Hopkins	Roberts
Bilirakis	Hunter	Rogers
Bliley	Inhofe	Roth
Boehlert	Ireland	Roukema
Brown (CO)	Jacobs	Schaefer
Buechner	James	Schroeder
Bunning	Kolbe	Schuette
Burton	Kyl	Sensenbrenner
Clay	Lagomarsino	Shaw
Clinger	Leach (IA)	Shays
Coble	Lent	Sikorski
Coleman (MO)	Lewis (CA)	Smith (MS)
Coughlin	Lewis (FL)	Smith (TX)
Cox	Lightfoot	Smith, Denny (OR)
Craig	Lowery (CA)	Smith, Robert (NH)
Crane	Lukens, Donald	Smith, Robert (OR)
Dannemeyer	Machtley	Stangeland
Davis	Madigan	Stearns
DeLay	Marlenee	Stump
DeWine	Martin (IL)	Sundquist
Dickinson	Martin (NY)	Tauke
Douglas	McCandless	Thomas (CA)
Duncan	McEwen	Thomas (WY)
Emerson	McGrath	Upton
Fawell	McMillan (NC)	Vucanovich
Fields	Michel	Walker
Frenzel	Miller (OH)	Weber
Gallegly	Molinari	Wheat
Grandy	Moorhead	Whittaker
Hammerschmidt	Murphy	Wolf
Hancock	Nielson	Young (FL)
Hansen	Oxley	
Hastert	Parris	
Hawkins	Pashayan	

ANSWERED "PRESENT"—1

Wolpe

NOT VOTING—34

Atkins	Goss	Rhodes
Boggs	Huckaby	Ritter
Boucher	Hyde	Rohrabacher
Collins	Kasich	Smith (FL)
Courter	Leath (TX)	Solomon
Crockett	McCollum	Traxler
Dreier	McCrery	Udall
Edwards (OK)	Neal (NC)	Valentine
Florio	Oakar	Wilson
Garcia	Paxon	Young (AK)
Gekas	Porter	
Goodling	Pursell	

□ 0925

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Missouri [Mr. SKELTON], come forward and lead the House in the Pledge of Allegiance?

Mr. SKELTON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill and a joint resolution of the House of the following titles:

H.R. 2799. An act to amend the Agricultural Act of 1949 for the 1990 crops to allow the planting of alternative crops on permitted acreage and to amend the provisions regarding the designation of farm acreage base as acreage base established for oats; and

H.J. Res. 221. Joint resolution to designate the week beginning September 1, 1989, as "World War II Remembrance Week."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2467. An act entitled the "1988 Disaster Assistance Extension Act."

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2467) "an act entitled the '1988 Disaster Assistance Extension Act'.", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LEAHY, Mr. PRYOR, Mr. BOREN, Mr. HEFLIN, Mr. HARKIN, Mr. LUGAR, Mr. DOLE, Mr. HELMS, and Mr. COCHRAN, to be the conferees on the part of the Senate.

REV. J. WINFRED STENHOLM

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, my colleagues, this morninig it is a distinct pleasure for me to have the opportunity to introduce our guest chaplain, my uncle, J. Winfred Stenholm from Wichita, KS, retired Lutheran pastor, the only other individual in this Chamber right now that was born in Ericksdahl, TX, graduated from Stamford High School. From there we part, he went to Texas Lutheran College, then to Bethany in Lindborg, KS, graduating from Augustina Seminary at Rock Island, IL.

He has preached in Colorado, in Kansas, in New Jersey, and in Illinois. He and his wife Marjorie now reside in Wichita, KS, with their three sons and their daughter.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. It is a distinct pleasure for me to welcome my uncle and to now yield to my colleague, the gentleman from Kansas [Mr. GLICKMAN], who counts among his constituents my uncle and his family.

Mr. GLICKMAN. I thank my colleague for yielding.

Mr. Speaker, I would say it is a pleasure to welcome my constituents here. The gentleman's uncle and aunt are fine people, and I can see where the gentleman gets his fine legislative character and integrity. He comes from good stock.

We are glad to have them in Kansas and hope that they continue to influence the gentleman in the right way.

THE DRUG WAR MAZE, DAY 12

(Mr. SMITH of Mississippi asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Mississippi. Mr. Speaker, I now wish to call attention to the House Merchant Marine and Fisheries Committee, as it relates to the war on drugs. Again, here is another committee that has jurisdiction over the Nation's drug-control efforts, and the work of the President's drug czar. Here is another part of the maze of more than 80 committees, subcommittees and select committees that the drug czar must pass through to arrive at a national drug-control strategy.

Mr. Speaker, if Bill Bennett has to face this nightmare of congressional oversight for approval of his program, due out September 5, then he'd do just as well to spend his days circling the Capital Beltway. It would take him well into 1990 to testify before all the panels he must answer to. This is no way to plan and implement a drug-control strategy. This is no war on drugs.

The war on drugs will never be more than a public relations campaign, as long as Congress wages its war by choir and not by troop.

I urge my colleagues to support bills in the House and Senate to create a single committee that could spearhead a true war on drugs.

□ 0930

SUCCESS FOR AMTRAK

(Mr. JONES of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Georgia. Mr. Speaker, as a weekly commuter to and from Atlanta, my love affair with trains has been greatly enhanced by the pleasure I have had riding Amtrak's "Crescent."

Train travel is safe, clean, efficient, and environmentally wise. Passenger rail usage decreases our dependence on foreign oil, reduces carbon monoxide emissions, and complements our highway and air networks.

The "track record" of Amtrak is equally compelling. During the past year, Amtrak earned a record $1.1 billion in revenue, an 81-percent increase since fiscal year 1981. At the same time, Amtrak's dependence on Federal assistance has decreased from $896 million in fiscal year 1981 to $584 million in fiscal year 1989. In this period, Federal capital funding for Amtrak has been reduced by 91 percent. If other recipients of Federal funding could reduce their subsidy needs to the same extent as Amtrak, the United States would not now face a deficit.

Now, however, Amtrak is badly in need of capital funding to replace the rolling stock it inherited in 1971. With this new equipment, Amtrak can meet the rapidly increasing demand of new ridership, increase frequencies, and start profitable new services. This investment now will enable Amtrak to decrease even further its reliance on Federal operation support.

I thank the distinguished chairman and the Transportation Subcommittee of Appropriations for their wisdom and vision in support of rail travel, our past and future strength.

RETALIATION DETERS TERRORISM

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, billions for defense, but not 2 cents to defend American citizens. Over 500 Americans have been murdered by State sponsored terrorism during this decade, yet we still have not learned the lesson of Lybia: That massive retaliation deters terrorism; that while we may lose some lives by responding, in the long run we will save many lives.

As a member of the Intelligence Committee, I can tell you that we know where terrorist targets are, from the Bekka Valley to the sources, and it's time we told these animals that America is adopting a firm, new policy: Harm one hair on the head of an American citizen and you can count on massive retaliation. It's time we take the long view and muster up the courage to defend our citizens.

FIGHT FIRE WITH FIRE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, terrorists have killed Lt. Col. William Higgins. Today they promised to kill Joseph Cicippio.

Mr. Speaker, who is next? These terrorists must be stopped. Now, if Israel can do it, America can do it. However, while we are building billion dollar bombers, they are simply taking hostages and killing them one at a time. It is time that we start fighting fire with fire. It has gotten to the point that America has turned the other cheek so many times, these terrorist bums must believe we have developed military arthritis.

I say, Mr. President, there are going to be casualties, and we hate to see it. However, it is time these terrorists know America is prepared to spend that $300 billion when anyone takes an American hostage, let alone kills them.

MISREPRESENTATION BY ABORTION ADVOCATES

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, Members were grossly misled yesterday by proabortion advocates, so I will set the record straight.

The Dornan amendment has no effect whatsoever on contraceptives. On Wednesday, during the rollcall on the Dornan amendment to the D.C. appropriations bill, Members opposed to the amendment circulated a handout which stated that the Dornan amendment disallows contraception. Many Members were misled by this gross misrepresentation. In fact, approval of the Dornan amendment is necessary to preserve the prolife policy enacted into law last year. The Dornan amendment has been in effect since October 1, 1988, and has had no effect, whatsoever, on contraceptives.

Under both the Hyde and the Dornan law, congressionally appropriated funds continue to pay for oral contraceptives, IUD's, condoms and other methods of family planning. Thus, the Dornan amendment was grossly distorted by the opponents.

I urge Members today, to vote "no" on the D.C. appropriations bill because of this chicanery.

INTRODUCTION OF SCHOOL DROPOUT PREVENTION ACT

(Mr. SANGMEISTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANGMEISTER. Mr. Speaker, one out of every four American teenagers never finishes high school. In contrast, fewer than 5 percent of Japanese students become high school dropouts. As Asian teens slowly prod through core curriculum, our teen dropouts are sprinting toward the finish line only to discover the world of unemployment, drug addiction, and in many cases prison. When we permit these students to fall through the cracks, we diminish our ability to compete in a global society. It is time for effective, innovative solutions to help improve the lives of these teens and put America back in the competitive arena.

To this end, today I am introducing legislation that provides an incentive for students to stay in school. My bill, "The School Dropout Prevention Act of 1989," calls on the States to enact programs which would prevent teens from dropping out by taking away a popular privilege—their driver's license. Three States have already enacted legislation of this kind and 12 others have similar bills pending. The results have been astonishing. In less than 1 year, the State of West Virginia has lowered its dropout rate by one-third. Obviously this legislation includes a hardship provision for those teens who clearly must use a vehicle to get to work.

I want to emphasize this bill is not a panacea for the problem of high school dropouts. It is a modest proposal with targeted incentives for teens. Driving is a privilege—not a right. Let us help our teenagers recognize the importance of a high school education by connecting it to the privilege they deem necessary and important: a license to drive a car.

DO SOMETHING ABOUT TERRORISM

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, recently we have witnessed several terrorist attacks on our citizens in foreign countries. The most recent act involved U.S. Lt. Col. William Higgins who was allegedly hanged by the Revolutionary Justice Organization, a group which is linked to Iran, and now the life of Joseph Cicippio is endangered by the Lebanese Shiite Moslems. When will these ridiculous acts end? According to an FBI study, 50 percent of the international terrorist incidents since 1968 have been directed at Americans.

We cannot continue to allow our citizens abroad to be in constant danger from terrorism. Americans would be disturbed to know that the U.S. Government continues to extend official most-favored-nation [MFN] preferential trade status to nations that actively support terrorism.

Our State Department already lists those nations which are known to be consistent supporters of international terrorism. This list includes Libya, Syria, and Iran. Why do we continue to give these countries trade preferences when their governments condone and support terrorist attacks aimed at Americans?

I, along with my distinguished colleague, Mr. MO UDALL, and over 100 cosponsors introduced H.R. 1515, the Anti-Terrorism Act of 1989. This bill would deny MFN status to those nations that support terrorism, as identified by the U.S. State Department.

The United States cannot continue to support terrorist countries. I urge your cosponsorship of this much needed legislation.

LET'S NOT ACCUSE ISRAEL OF WRONGDOING

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, there are Members of Congress on both sides of the Capitol who are blaming Israel for the apparent murder of Lt. Col. William Richard Higgins.

Arguments that Israel is to blame for taking on the terrorists are ridiculous.

Members of Congress are saying that Israel is responsible for the death of Colonel Higgins because Israel seized a Shiite Moslem cleric who is believed to have been a super terrorist who has kidnaped and held hostages there in Lebanon.

Actually, Israel acted in their own interests, since the group to which Sheik Obeid belongs is holding two Israeli soldiers.

Israel actually acted in the interests of Great Britain, France, and the United States—nations whose citizens have been kidnaped, held hostage, and terrorized by these crazy Shiite Moslems.

So let's not accuse Israel of wrongdoing.

Let's give Israel credit—they had the guts to do what our own Government won't do—go after these malicious Shiite Moslems who, weirdly enough, call themselves the Party of God.

□ 0940

ARIZONA LAW ENFORCEMENT OFFICERS ACTIVE IN WAR AGAINST DRUGS

(Mr. KYL asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, I want to compliment my colleague, the gentleman from Mississippi [Mr. SMITH] for his series of 1-minute speeches drawing attention to the drug problem and offering good ideas on how to attack it.

Mr. Speaker, I rise today to recognize two rural police departments in the White Mountain area of Arizona that are also making a difference in the war on drugs.

Police Chief Bruce Overson of the St. Johns Police Department, and Police Chief John Corder of the Show Low Police Department, have implemented the Drug Abuse Resistance Education, or DARE Program, in their local elementary schools.

The DARE Program educates children about the horrors of illegal drugs, about decision-making skills, about resisting peer pressure, and about alternatives to drug use. Perhaps most importantly, the DARE

Program teaches kids to respect the police—and themselves.

William Bennett, the Director of the Office of National Drug Control Policy, endorses the DARE Program and believes it fits in very well with his vision of a drug-free America. Bennett has said:

We believe that DARE has been very effective in bringing together various components of the community, and in educating youngsters about the harmful effects of drug use. Students seem to pay particular attention to law enforcement officials who bring to the classroom firsthand knowledge of dangerous drugs, and can attest to their disastrous effects.

Bill Bennett recognizes, as do Chiefs Overson and Corder, that drug prevention begins in the schools and communities of America.

Again, I commend the efforts of Chiefs Overson and Corder, and all of the fine police officers and educators that are working together to make Show Low and St. Johns, AZ, drug free.

HOW THE WESTERN WORLD MUST DEAL WITH TERRORISM

(Mr. ENGEL asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, the events of the past few days shows us that terrorism must be stricken down wherever it raises its ugly head. Rather than condemning the Israelis, we ought to be complimenting them and taking a page from their book.

The Western World must make a concerted effort to get at the source of terrorism. Many of our hostages have been under siege for more than 4 years. We have tried the nice, quiet diplomatic approach. In fact, we have tried more diplomatic niceties than Imelda Marcos has shoes, and it has not worked.

What we need to do is do what the Israelis do. If they can find where terrorists are, we ought to go and find where the terrorists are. If it means that we have to bomb terrorists bases, then so be it. If it means that we have to rescue our hostages, then so be it. The United States must stop being pushed around by these murderous terrorist thugs with blood dripping off their hands.

Mr. Speaker, I know that those of us in the U.S. Congress will not sit idly by and allow our U.S. citizens to be kidnaped, to be captured, and to be left alone. We must take action against terrorism now.

A PRIVATE BILL TO PROTECT PENSION RIGHTS FOR COLONEL NORTH

(Mr. DICKINSON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DICKINSON. Mr. Speaker, let us give Oliver North back his pension. Today I have introduced a private bill for the relief of Col. Oliver North.

The Navy, in a controversial decision, reluctantly endorsed by the General Accounting Office, revoked Lieutenant Colonel North's military pension based on a very vague and ambiguous statute. The issue is far from resolved, as the General Counsel for the Navy, after asking for a ruling from GAO, said that North should be denied his pension, and it was as of July 5 of this year. But the Judge Advocate of the Navy says it should not be effective, and does not apply under the statute so being levied.

Mr. Speaker, we have here a marine who has given over 20 years of his life in dedicated service. He has given his blood and risked his life in support of you and me and the freedom of his country. He is willing to give his life if need be, but he does not want to give up the security of his family. I think it is reprehensible that we would take his pension away that he has earned by a decision made by people whose pensions are secure.

Mr. Speaker, I have introduced this bill, and since it is a private bill, it cannot be cosponsored. But if anyone wants to support it, if they would notify me, we will sign a joint letter to the Judiciary Committee.

PROPOSED CHANGES IN COMMODITY FUTURES LAWS

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, yesterday the U.S. attorney in Chicago announced indictments against 46 individuals rising out of felonious activities on the Chicago futures exchanges.

I want to bring to the attention of my colleagues and the American people the fact that the Committee on Agriculture yesterday, under the leadership of its chairman, the gentleman from Texas [Mr. DE LA GARZA], and the gentleman from Oklahoma [Mr. ENGLISH], approved the most sweeping antifraud and proenforcement provisions ever made to our Nation's commodity futures laws. For the first time, insider trading will be specifically prevented under Federal law, and floor traders on the futures exchanges will be barred in most instances from dual trading, a practice which has led to many problems on our futures exchanges. The bill also increases penalties on fraud and wrongdoing.

Mr. Speaker, many people use our futures markets, our farmers, ranchers, bankers, and business people make extensive use of our futures markets. We must make sure that these markets operate fairly, openly, and honestly. This bill which the Committee on Agriculture has passed out and which will be on the floor some time next month will help to address that issue and achieve that goal, and it will help public confidence in believing that our futures markets can in fact work well.

DR. SUSAN LaFLESCHE PICOTTE, FIRST NATIVE AMERICAN FEMALE PHYSICIAN IN THE UNITED STATES

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, the great State of Nebraska has produced many noteworthy individuals. The list of illustrious Nebraskans who have contributed to the life of the State and the Nation is very lengthy indeed. Nurtured by the spectacular beauty of the Plains and emboldened by the special challenges to our pioneers of isolation and harsh weather, Nebraskans past and continuing to the present have developed their gifts and talents to enrich the lives of all Americans.

Dr. Susan LaFlesche Picotte was the first female Native American in the United States to receive a medical degree 100 years ago next Saturday. Born an Omaha Indian in Thurston County, NE, she was the daughter of Mary Gale and Joseph LaFlesche, Jr.,—Chief Iron Eye—the last recognized chief of the Omaha Indian Tribe. Upon her graduation on August 5, 1889, from the Women's Medical College of Pennsylvania in Philadelphia, she began a career of service not only to the Omaha Indian people but also to non-Indians in northeast Nebraska as well.

Dr. Picotte was more than a healer. She recognized that her responsibilities as a physician were more challenging because many of her patients did not understand the importance of sanitation and personal hygiene. Thus she undertook to educate them about the dangers of using the community drinking cup at public fountains, and she sought ways to inform her people about the disease-carrying common fly. She fought against the intemperate use of alcohol, which she saw as compounding poverty and dispair and eroding the strength of the traditional Indian ways. And she was the central activist in the successful effort to build a hospital on the reservation which would serve all the people in the area, regardless of race or creed.

Dr. Picotte's message, through her activism, was one of hope and determination. She represented and fought for a better future for her community. She came from a family who recognized that Indian people could no longer live apart from their white neighbors, and that their own accomplishments were the means to bridge the cultural and economic gulf that threatened to divide the Indian and non-Indian residents of Thurston County.

It is a fitting and joyful occasion that 100 years later the communities in and around Walthill and Macy, in Thurston County, NE, have come together to honor Dr. Picotte and celebrate her tremendous contributions to medicine and community life. The rehabilitation of the Susan LaFlesche

Picotte Hospital as a multicultural learning center which preserves the history of the area is a tribute to this remarkable woman who crusaded for all the citizens of Thurston County. Her lifetime of achievement and public accomplishments is a reminder that color and culture are no barriers to success and respect. Her life continues to inspire and excites us yet today.

This Member, by these comments before the House, pays enthusiastic tribute to the life of Dr. Picotte and to the Thurston County community that honors her achievements.

INTRODUCTION OF QUAD-CITIES DEVELOPMENT AUTHORITY

(Mr. EVANS asked and was given permission to address the House for 1 minute.)

Mr. EVANS. Mr. Speaker, I am today joining with my colleague, Representative JIM LEACH, in introducing legislation to grant the consent of Congress to the Quad-Cities Metropolitan Development Authority.

I applaud State Senator Denny Jacobs and other local leaders for taking the initiative to promote this new economic development tool. It will build upon the cooperative efforts in our area that have created economic progress and help to spread opportunity to every citizen in our area.

The Quad-Cities area has been hard hit by the economic unheaval of the past few years. But the area and its citizens have fought back and made great strides to renew and rebuild our local economy.

The development authority is representative of the vision and foresight the area possesses. It is a positive step that will help meet needs that have been overlooked and create opportunities that fulfill our citizens' strength and determination.

Representative LEACH and I are proud of what the area has accomplished and will continue to accomplish. This legislation will help build upon the successes our area has achieved.

CHARLESTON, SC, PRESS JOINS IN CRITICISM OF SECRETARY OF COMMERCE MOSBACHER

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, here is what the Charleston Evening Post has to say about President George Bush and his gutless Secretary of Commerce Robert Mosbacher:

George Bush campaigned for the Presidency as a stalwart environmentalist—unfortunately, an order last week by the Secretary of Commerce raises questions about the administration's dedication to wildlife conservation.

Secretary Mosbacher has suspended * * * hard-fought new regulations requiring shrimpers to use turtle excluder devices on their trawling nets. The devices keep sea turtles * * * from being trapped and drowned.

TED's do the job for which they were designed. In the few weeks their use was required, the numbers of dead turtles found on beaches in South Carolina declined 90 percent.

Mosbacher's decision came after shrimpers staged protests in which they blocked waterways. What kind of message is Mr. Mosbacher sending when his response rewards that kind of illegal action?

Shame on you Robert Mosbacher. Shame on you.

CLARIFYING DORNAN AMENDMENT TO D.C. APPROPRIATIONS BILL

(Mr. MOLLOHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOLLOHAN. Mr. Speaker, a real credibility issue hangs over the D.C. appropriations bill as it now exists before this House.

As Members poured into the Chamber to vote on the Dornan amendment yesterday the opponents of that prolife amendment handed out copies of this paper. It's difficult to believe that a 15-word announcement can convey so many falsehoods. I am going to comment on just one this morning.

Opponents of the amendment argued and this handout alleges that the amendment—quote—disallows contraception. Mr. Speaker, it does no such thing. On its fact it does not do that, and in practice it does not do that. How can I be so sure? Because the Dornan language is right now the law in the District of Columbia, and Mr. Speaker, it in no way prohibits funding for contraception. I repeat: It has no impact on funding for IUD's or any other contraceptive procedure.

Mr. Speaker, yesterday's vote was swayed by gross misinterpretations of the Dornan amendment's purpose and effect. The result, unfortunately, is that a lot of our colleagues voted for taxpayer funding of abortion—something that an awful lot of their constituents strongly oppose.

□ 0950

MY REASONS FOR VOTING AGAINST THE D.C. BILL TODAY

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, how many in this body think the District of Columbia Government does a good job? Raise your hand.

One person.

Mr. Speaker, this man must be doing something with his brain. No disrespect intended.

How many people think that the streets are in good shape, that we have good law enforcement?

One man.

Mr. Speaker, I think he is a plant.

Let me just say that if my colleagues were to drive across the 14th Street bridge, they would know the streets are terrible. If they know anything about the crime situation here, they know it is the murder capital of America, the drug capital of America.

And yet do my colleagues realize that in order to get on the D.C. Police Department they only have to get a score of 40 percent? High school students and grade school students have to get 70 percent to pass, but someone can become a policeman in this town with a score of 40 percent, and they can admit to using hard drugs as many as 15 times and become a policeman in this city.

Now yesterday there was a residency requirement amendment that the gentleman from Virginia [Mr. PARRIS] offered, and we could not get a vote on it in this place.

Mr. Speaker, if my colleagues are concerned about their own safety and that of their staffs in this city, they ought to do something about it: Vote against the D.C. bill today.

EXTRADITE SHEIK OBEID TO UNITED STATES TO STAND TRIAL

(Mr. ACKERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ACKERMAN. Mr. Speaker, the news this morning comes from the Israeli interrogation of the terrorist thug, Sheik Abdul Obeid. This killer commando in cleric's clothing has said that his greatest fear is that he will be extradited to the United States.

Mr. Speaker, let us turn Sheik Obeid's greatest fear into reality. Let us make his nightmare come true, just as Sheik Obeid and his fanatic terror gang, Hezbollah, is bringing fear and nightmares to the families of Joseph Cicippio and the other hostages; just as Obeid brought fear and nightmares to the hundreds of Americans aboard TWA flight 847; just as Obeid and the murderous Hezbollah brought fear and nightmares to the families of our 241 brave marines and take responsibility for their killing in Lebanon.

Mr. Speaker, let us make his worst fear come true. Let us extradite him to the United States to stand trial for these crimes and for the kidnapping, torture, and possible murder of Lt. Col. William Higgins.

Let me say:

Forty of my colleagues, liberal and conservative, Republican and Democrat, from DORNAN to DOWNEY, have joined in sponsoring my resolution calling upon the President to initiate extradition proceedings with Israel, and I urge all my colleagues to join me in this effort.

Mr. Speaker, let us make this coward's worst fears come true.

VOTE AGAINST THE D.C. BILL

(Mr. WEBER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEBER. Mr. Speaker, the House broke up last night in confusion without passing the D.C. appropriations bill. Today the House should defeat the D.C. appropriations bill. Apparently the committee was embarrassed last year when the House took several actions that they did not agree with on the D.C. appropriations bill, so this year they simply decided not to permit us to vote on those issues.

The House has in the past stated its opposition to the D.C. residency requirement for police officers. They would do so again, if afforded the opportunity to vote on it, but we could not vote on it this year. The Committee did not want us to vote on it.

The House stated its position in the past that it is opposed to the funding of abortions in the District of Columbia, except where necessary to save the life of the mother, but the committee did not want us to vote on that, and so they forced us into a position where Members were misled into believing they were casting a vote on contraception. They were not casting a vote on contraception, and so serious is the issue that the President has pledged to veto this proabortion D.C. funding bill.

Mr. Speaker, we should not permit this bill to pass the House without the Members being permitted to work their will on this bill. This is a proabortion, anti-law-enforcement bill on which the membership has not been permitted to work its will.

Mr. Speaker, the House should defeat the D.C. appropriations bill today.

SCIENCE AND TECHNOLOGICAL LITERACY ACT OF 1989

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE. Mr. Speaker, I rise today to introduce the "Science and Technological Literacy Act of 1989." Designed to help improve the scientific, mathematical, and technical skills of our citizens, this act will provide funding through the National Science Foundation for the development and dissemination of a new generation of science curricula and a broad range of innovative technologies for literacy instruction. In addition, it provides for the establishment of a technician training program to utilize more fully the potential of our community college system.

The need for this legislation is manifest in the slipping test scores of our students and our deteriorating position in the world enonomy. Facing increased competition from abroad and a declining ratio of active to retired workers, we simply must improve the productivity of our workforce. The first step toward doing so is to ensure that our work force can read and can understand basic scientific and mathematical concepts, and that it includes the advanced technicians needed to staff the more sophisticated factories and laboratories of tomorrow.

The Science and Technological Literacy Act of 1989 would bring the authority of the Federal Government's principal scientific organization directly to bear on our Nation's literacy crisis. The bill is cosponsored by a bipartisan group of leaders from the Science Committee and the Sunbelt Caucus and others active in the cause of workplace literacy, and we invite colleagues to join us in this initiative.

NO EXCUSE FOR CONTINUED THREATS AGAINST JOSEPH CICIPPIO

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, I rise once again today to condemn the barbaric, demented threats still pending against my constituent Joseph Cicippio and the other Americans held hostage by the depraved miscreants of the Hezbollah in Lebanon.

Yesterday, following a variety of efforts to contact all possible sources who may have an ability to influence events in Lebanon, President Bush opted to move United States warships to the seas around Lebanon and Iran. The President did not deploy these vessels with bellicose intentions. Rather, he took a prudent course in preparing our Nation for any contingency. To this day, Iran has hundreds of its Revolutionary Guards in Lebanon, training the Hezbollah in their gruesome terror tactics.

Mr. Speaker, I know that all of my colleagues join me in calling on the Iranian Government, which exercises significant influence with the Hezbollah terrorists, to take immediate action to forestall any further loss of life. This is the only possible first step that can be taken if Iran is interested in promoting a peaceful resolution of this crisis.

Yesterday Iranian President Ali Akbar Hashemi Rafsanjani, the commander-in-chief of Iran's Armed Forces and the Revolutionary Guards, condemned acts of violence in connection with the events in Lebanon. I telexed Mr. Rafsanjani yesterday in care of the Iranian Ambassador to the United Nations, to press him on this matter by urging him to exercise his influence immediately to stem the further flow of blood in Lebanon. If the Iranian leader was serious, his remarks represent a useful initial response to the latest events.

It remains to be seen whether Mr. Rafsanjani is willing or able to translate his words into actions. Two things, however, are certain: Iran will never resume its place among the community of nations if it fails to change its ways and insists on supporting further strife, mayhem, and terror. And if Mr. Cicippio or the other Americans held hostage are harmed, Iran will certainly be held accountable.

LET'S GET MOVING AND TAKE SOME ACTION IN THE MIDDLE EAST

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, I am sick to death of this situation in the Middle East, and I am mad as hell. (I want you to put that down there.)

Mr. Speaker, Colonel Higgins was hung. That was one of the most heinous and cowardly acts that I have ever seen, and now they threaten Joseph Cicippio to execute him today.

Yes, they gave him a stay of a couple of hours, but we do not know what these people are going to do.

Mr. Speaker, my first emotion when I heard about the hanging of Colonel Higgins was to bomb the S.O.B.'s, however, overt military action is not what we need to take now. It is easy to demagog these things, but I think what we have to do is give the President a chance to negotiate, but, if not, I have two recommendations.

First, we ought to get the United States to bring its economic guillotine down on the heads of these people, exercise our economic might, get our friends to participate in this with us and cut them off at the pass. If we cannot do that, we have lost our way as the leader of the Free World, and, if we cannot do that, then what we ought to do is go to the next best thing: take CIA covert action, move in, and, if our CIA does not have at least some kind of direction in this, then we better disband them.

But we better get moving, Mr. Speaker.

□ 1000

UNITED SERVICES ORGANIZATION'S 50TH ANNIVERSARY COMMEMORATIVE COIN

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, on February 4, 1991, the United Services Organization will celebrate its 50th Anniversary. In honor of this anniversary and the work the USO has done over the past 50 years, on June 27, I, along with 15 of my colleagues, introduced H.R. 2761, the "United Services Organization's 50th Anniversary Coin Act" which would require the Secretary of the Treasury to mint coins in commemoration of the anniversary. This legislation currently has 74 cosponsors and is endorsed by 15 veterans' organizations.

During World War II, six different service organizations were working to meet the morale and welfare needs of American soldiers, and, at times, they overlapped in this effort. To better use the resources and knowledge of these organizations, President Roosevelt met with Prescott Bush and three other businessmen to consolidate the organizations and form one, the United Services Organization. The services the USO performed during World War II, Korea, and Vietnam will never be forgotten by the soldiers, but the work of the USO continues today. The USO is ever developing programs to meet the unique needs of the over 800,000 military personnel and their families stationed abroad.

At more than 160 locations worldwide, the USO meets the needs of the military community through 5 different programs. Airport Centers provide information about travel connections, hotel arrangements, emergency assistance, missing baggage locations and translations. Fleet Centers help sailors whose ships finally come into port after a long deployment on sea vessels, and their families with travel arrangements, currency exchange, translation and emergency communications. Family and Community Centers help military families adjust to life in a new environment, both overseas and in the United States. Orientation and Intercultural Programs acquaint military families with the culture of their new country. And Celebrity Entertainment reminds troops stationed abroad that America has not forgotten them and does care.

I would like to urge my colleagues to join me in the effort to commemorate the fine work the USO has done over the past 50 years, and to recognize their ongoing efforts to meet the offduty needs of today's military personnel by cosponsoring H.R. 2761.

HUD MOD-REHAB SCANDAL

(Mr. PAYNE of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to take a moment to discuss the recent developments surrounding the HUD section 8 moderate rehab program.

Mr. Speaker, the program was originally designed to help the poor who had to break the grasp of exploitation by the housing industry in order to establish independent living status. However, as we know, the previous administration at HUD did just the opposite. Under the Reagan administration, a disporportionate amount of money went to States or districts that had comparatively little demand for low-income housing and to developers who had hired consultants that were paid outrageous sums of money merely on the basis of who they knew.

One of the clearest examples of this is in my home State of New Jersey. In Upper Deerfield Township, a relatively affluent area, millions of dollars of taxpayers' money and subsidies were steered into the township, and most of it was elicited by influence peddling, as compared to my district of Newark or, better yet, my hometown of Newark, NJ, where relatively little mod rehab money went even though there is a high percentage of poverty and need.

Mr. Speaker, moreover, it is ironic that an administration that has sought to eliminate programs for the truly needy has found that it truly helped the really greedy.

Let us bring the program back to its original intent in helping people find housing.

UPCOMING VOTES ARE CRITICALLY IMPORTANT

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, in uncharacteristic behavior contrary to my usual shy and timid self, I modestly last evening impeded the processes of the House and called for some recorded votes. I took that action, Mr. Speaker, not because the amendment I advocated had lost, but because under the processes utilized by the majority leadership in this House, the House itself was never permitted to work its will.

Last year an identical amendment received a 60-percent vote of Members of this House on both sides of the aisle. This year we were denied the right to even vote on that amendment, and that is not representative government.

We will have additional votes this morning. We will have a motion to recommit with instructions. We will give the Members an opportunity to correct the outrage that occurred last evening.

This is not a home-rule vote. This is a question of law and order and the improvement of the situation of crime in the Nation's Capital.

I urge my colleagues, after these 1-minutes are over, to pay close attention to the proceedings of the floor. It will be complicated and furious, but I think critically important.

CLEAN WATER AND UNPOLLUTED LAND—JUST AS IMPORTANT AS CLEAN AIR

(Mr. THOMAS A. LUKEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS A. LUKEN. Mr. Speaker, after 4 months of hearings, our Subcommittee on Transportation and Hazardous Materials is ready to introduce legislation, the Hazardous and Solid Waste Management Materials Reclamation Act of 1989, or RCRA reauthorization.

What this means to the country is that clean water and unpolluted land is just as important as clean air. We are rightly preoccupied with clean air around this House, this Congress, but we should remember that far more toxic chemicals enter the land and the water directly than through the air. If we are going to avoid being engulfed by a tide of industrial toxic releases and being drowned in a sea of garbage, we are going to have to come up with a sensible waste-management system. Unfortunately, the landfills we have leak, the incinerators pollute the air and produce a very dubious kind of ash, while the rest is put on trucks and sent out to distant destinations.

This bill which we are introducing includes recycling, includes eliminating hazardous waste.

Waste minimization is the theme.

TRIBUTE TO MRS. LOUELLA THOMPSON

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, my district lies at the crossroads of this great Nation. Amid this rich farmland, are located "All American" cities of Middletown and Hamilton. The eighth district has some of the hardest working and most generous citizens in the country. One of the most special is Mrs. Louella Thompson.

Each month, Mrs. Thompson donates 1 week of her salary to feed the hungry of Middletown. She earns this money in a hair salon business that

she has in her home. Her money and her effort make it possible for 580 to 800 people to receive meals. Yet, this is not the end of her effort. She also serves take-out meals to those less fortunate.

Mrs. Thompson is also a recipient of Middletown's All American Committees "Citizen Award" for 1989. This award, given during Middletown's All American weekend, is given to that person who most exemplifies what America stands for.

I would also like to applaud the Middletown City Commission. Through their generosity, Mrs. Thompson has been able to receive additional money to supplement her effort.

Mrs. Thompson is truly a great American. I hope she continues to do her work, and I hope she continues to serve as an example to Americans everywhere.

WE MUST STAND TOGETHER FOR THE S&L BILL

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, when this Congress passed the Gramm-Rudman law a few years ago, it had a noble intent, and that intent was to help us bring the costs of the deficit down, and now as we reach the end of this part of our session, something out of Alice in Wonderland is happening led by the Senator from Texas, the very Senator who passed the Gramm-Rudman law.

Mr. Speaker, he is using the Gramm-Rudman law to increase the deficit, because of his quest, in his quest to hold up this S&L bill by a parliamentary maneuver, he is going to cost the taxpayers between $4 billion and $40 billion more.

Gramm-Rudman should be used to reduce the deficit. Gramm-Rudman should not be used to increase the deficit, the very thing that the Senator from Texas is doing.

If we in this Chamber stay steadfast in our position to keep the S&L bill on budget, we will win. We will win because it is cheaper. We will win because it is more honest. We will win because the large majority in this body and a smaller majority in the other body agrees with us. We must not back off and allow the Senator from Texas to stand the intent of this law on its head.

VOTE TODAY TO RECOMMIT D.C. APPROPRIATION BILL

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERSON. Mr. Speaker, on Wednesday, yesterday, the Pro-Life Caucus chairman, the gentleman from New Jersey [Mr. SMITH], made two attempts to include the standard life-of-the-mother exemption in the Dornan amendment. However, abortion proponents twice blocked these moves by raising the point of order that such an exception violates the House rules against legislating on an appropriation bill.

Incredibly, opponents of the Dornan amendment then attacked the Dornan amendment for lacking the life-of-the-mother exception which they themselves had blocked. This is a familiar proabortion tactic which has been used in the past against the Hyde amendment and other prolife amendments.

The life-of-the-mother exception will be restored in the conference committee as it has been since 1976, and we should today vote to recommit or defeat the D.C. appropriation bill.

Indeed, the President has promised to veto the bill if the proabortion stance is included. Our colleagues can certainly discern by yesterday's votes that a veto is eminently sustainable.

VOTE YESTERDAY WAS PROFAMILY PLANNING

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I just wanted to take the well to set the record straight.

We have heard a lot of people talking about this vote. This vote is very different than it is being cast by people. They are not talking about a proabortion vote. We are talking about profamily planning.

The language that they wanted to knock out in their motion that we defeated was language that would defeat any expenditures for birth control pills, for IUD's, for rape and incest, and for life of the mother. They then attempted to put back the life-of-the-mother, but they would not put back family planning. They would not put back the portions dealing with rape and incest, and they want to elevate this to a very highly charged, emotional issue.

□ 1010

As I said yesterday, this is an issue of control. They want to control women, they want to control the District of Columbia.

I hope Members do not buy into this line, because they are not getting the whole truth.

ABORTION

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I am sorry the gentlewoman is confused. There is not one prolifer in this House who cares about restricting birth control or IUD's. That was not our intent here. They won by inadvertent deception at the doors with a false handout.

I want to congratulate the 206 hardcore life votes. I apologize to about 10 Democrats that we lost. I will fight to get the life of the mother in. I will not play that game.

Please, please come home when we try to defeat the D.C. vote today. Come home on my side, KOLBE, PORTER, COLEMAN, BATEMAN, REGULA. Come home on this other side, FLIPPO, BENNETT, GIBBONS, NELSON, DARDEN, JENKINS, LIPINSKI, DURBIN, SLATTERY, HUBBARD, HUCKABY, BILBRAY, Reverend FLAKE, HEFNER, OAKAR, OWENS, CHAPMAN, and KLECZKA. Come home and we will win this prolife vote.

Do not let black babies be killed in their mothers' wombs on your votes today. Please, we will win it.

SAVINGS AND LOAN BAILOUT BILL

(Mr. OBEY asked and was given permission to address the House for 1 minute.)

Mr. OBEY. Mr. Speaker, I would simply like to add my comments to those of the gentleman from New York [Mr. SCHUMER] on the savings and loan bailout bill which we will be voting on later today or tomorrow.

It is crucial that we stick with the House position, keep that S&L bill on the budget in order to save $4.5 billion.

There is already a huge amount in that savings and loan bill, a huge bill to the taxpayers which results from activities of irresponsible Texas S&L operations. That bill is already paying a very large amount of money to Texas. There is no reason to add $4.5 billion more to the cost of the bill just to preserve a bookkeeping monument for a Senator from Texas.

CONGRESS MUST TRULY FIGHT THE DRUG WAR

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, for 28 days, the gentleman from Mississippi [Mr. SMITH] has been rising and will rise to point out that this House has not yet entered the drug war. In fact, we are not even fighting a good skirmish yet.

We have 28 standing committees and 46 subcommittees spread over this so-called drug war. I just wanted to praise the gentleman from Mississippi for pointing out that by the time we get back here in September and Mr.

Bennett gives us his action plan for that drug war, it is going to be fanned out over so many committees nothing is going to be done.

If World War II had been fought that way, one committee would deal with helmets, one committee would do tanks, one would do jeeps, another would do uniforms, and we would probably still be fighting World War II.

I think it is obvious that we need one committee, as the gentleman from Mississippi has pointed out. He is one of the few Members who has actually had to fight the drug war when he served as sheriff, and I think we ought to listen to him, and we ought to act, and we ought to make this House streamlined so that we can enter the drug war rather than pretend we are fighting the drug war.

KEEP THE S&L BILL ON BUDGET

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, I think the public ought to be aware of what this S&L issue is about, and let us just put it in the starkest terms. It is whether Members are for honesty in accounting or not.

The House has passed a position that says the S&L bailout should be on budget. Many Members have also demanded that it be included in Gramm-Rudman and that is the ultimate honesty. We were not able to get that, but we were able to get it on budget. The result is savings of at least $4 to $5 billion at a minimum, at the minimum to the Federal taxpayer, and perhaps much more.

But there are those in the other body who would put it off budget, and thus disguise the cost of this bailout.

Mr. Speaker, nobody likes a bailout, but it has got to be done. But let us be honest.

The irony to me is that this House has spent a lot of time passing truth-in-lending laws. Now let us pass a truth-in-spending law, and that truth-in-spending law is the House position to put the S&L restructuring plan on budget.

I urge every Member to stick with the House position.

DIVISIVE POLITICS ON THE ABORTION ISSUE

Mr. GRAY. Mr. Speaker, I am slightly disturbed this morning because one of our colleagues came to the floor and talked about an issue with regard to abortion. I understand that gentleman's position on this issue.

However, he did something which I found objectionable, and that is that as he talked about the need to protect life, he referred only to one set of human beings. He referred to African-American babies.

I would hope that as we debate issues around here that we would talk about everybody in America, not one group of Americans. Life is something that speaks to all humanity and all human beings, whether they be white, black, or any other color.

I hope that we will not allow ourselves to get into this kind of debate, that somehow voting on Washington, DC, is a vote on black people or African-American people alone. There are other people who live here. Despite the negative politics of some of my colleagues who try to use Washington, DC, as a whipping post for divisive politics and fear mongering on ethnicity, I would hope we would avoid that.

Let me say today when Members vote on final passage, it is not a vote that we ought to politicize. We ought to give to the people of the District of Columbia the same respect that we would give to the people in the towns and cities that we represent.

I submit that some of the things we say, some of the things we do, on this floor we would not dare say or do back in the cities and the towns we represent, because we believe that they have the right to govern themselves.

So I hope we refrain from such divisive politics and negative politics on the floor of the House. If Members are so-called pro-life than they are for all children regardless of the color of their skin.

S&L DEAL LETS WRONGDOERS OFF SCOT-FREE

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, this morning a good deal has been said about whether the savings and loan bill that we are going to be debating should be on or off budget. This is probably the most important bill in the 101st Congress. However, I am opposed to this bill for other reasons.

I would like to ask Members on this floor to read the fine print before they vote today. Two years from now this bill will be viewed by the public as the biggest fiasco ever voted on by Congress.

When the American people find out that this will cost $284 billion, but lets the wayward S&L's managers off the hook, the American people are going to be most irate.

The American people want a solution to this problem, but this bill is only a bailout without any real reform to make sure this doesn't happen again. This bill provides a direct line from the taxpayers' pocketbooks to the bankrupt S&L's which have caused this problem.

But the worst thing about this bill, as I see it, is the failure to pursue the 10,000 cases of fraud which have been reported to the Justice Department. The people who perpetrated this fraud will walk away from this mess scot-free, and this bill asks our hard-working men and women of America, the taxpayers, to pay the costs of the misdeeds in these wayward S&L's.

I say, "No way." I say we have to read the fine print and vote against this legislation.

MINORITY OF OTHER BODY SHOULD NOT BE ALLOWED TO HOLD UP S&L BILL

(Mr. FRANK asked and was given permission to address the House for 1 minute.)

Mr. FRANK. Mr. Speaker, I first want to agree with the gentleman from Wisconsin [Mr. ROTH] that the Justice Department under the current and previous Republican Presidents has been deficient in their enforcement of the law regarding the S&L's. I congratulate him for making that point.

The key question comes as to whether or not a minority of Members of the other body ought to cut off this bill, because they disagree with an aspect of it. Members can debate on and off budget. That is legitimate. I think on budget would save money.

We are told that this is an important bill, and it is. We all know that it costs us money every day the bill is not enacted.

The Congress has now passed a bill, and this House should be proud of a bill that is tougher than the one the President sent us on the S&L's, that is tougher than the regulatory standards, that is tougher on capital standards, and it is also more compassionate in doing something about moderate- and low-income housing, and we think it is more fiscally responsible.

Because of one aspect that a minority in the other body disagrees with, we are told they are going to hold up the bill. They got out-voted. This is not a majority, it is a minority.

This is not a bill, by the way, that was passed for Massachusetts or for Wisconsin. Texas will be the major beneficiary. Texans should not be holding it up.

□ 1020

LET US SEND A MESSAGE TO THE DISTRICT OF COLUMBIA

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I agree with my colleague from Pennsylvania, if you are prolife you are prolife for all races, prolife for all people.

I think it is extremely important that we understand that as we vote on all of these issues around here.

I would suggest, however, that when we look at the D.C. bill, we also look at the fact of who the people are who live in the District of Columbia and what the concerns are.

I am one of those people who, when I am in Washington, lives in Washington, DC. I am concerned about what I see going on in the city where I live part of each month.

I think it would be a very responsible vote to send a message to the District of Columbia that we are not happy with what we see by voting "no" on the D.C. appropriation bill.

HOLDING UP S&L BILL WILL COST AN ADDITIONAL $20 TO $30 BILLION

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, we are told that 40-some Senators, a distinct minority of that body, are planning to hold up the S&L bill on the grounds of off budget, on budget. Others here have talked about the hypocrisy of taking it off budget.

I would like to focus for a second on the costs.

The cost of creating a quasi-government agency off budget would not be the amounts, staggering as they are, of postponing the bill, but far, far greater. The estimation is that if we take it off budget it will cost us 50 basis points interest rate, which totals between $20 and $30 billion during the life of the bailout.

So before the Senators or before anyone considers derailing this bill on the grounds of off budget, on budget, they should recognize that by far and away the most expensive and, I might add, the least honest way of doing this, would be to take it off budget.

We must keep it on budget.

TRIBUTE TO SIDNEY AND NANCY PIPKIN, CARL AND SHIRLEY MICHAEL, AND THE PONTOTOC BEAUTIFICATION COMMITTEE

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITTEN. Mr. Speaker, in these times of domestic problems and disturbing news in many areas, it is a real pleasure to note many good things which are happening. I ask my colleagues to join me in taking note of what has happened in Pontotoc County in the first district, my district of Mississippi.

Last week, Sidney and Nancy Pipkin and Carl and Shirley Michael visited the White House, at the invitation of President Bush, because of their successful effort in the Take Pride in America contest.

It was my pleasure to visit with them in their visit to Washington.

I would like to take this opportunity today to pay tribute to them and the Pontotoc Beautification Committee from Pontotoc County, MS, on being selected our State winner and a national semifinalist in the Take Pride in America competition.

The beautification effort in Pontotoc County has made great strides since being organized in 1982 under the direction of chairman Nancy Pipkin and chamber of commerce executive director Carl Michael.

Mobilizing volunteers throughout the county, this organization conducted its first Clean Sweep Day in 1988 and collected 20,000 pounds of garbage and litter countywide. This year, they increased that number to 38,000 pounds.

The Beautification Committee in Pontotoc County includes representative volunteers from all municipalities including Pontotoc, Ecru, Sherman, Toccopola, Thaxton, and Algoma.

May I say, also, that clean sweep days has not been the organization's only activities. They have renovated buildings, demolished older buildings, provided for new town signs in smaller towns, cut grass and weeds on vacant lots, redone parks, planted flower beds, reworked and relocated trash cans, and sponsored other worthwhile projects.

Pontotoc County was also the pilot program on an innovative Adopt-A-Highway Program in Mississippi. Under the program, 30 civic clubs, churches, and businesses have joined in the effort to improve our highways.

Mr. Speaker, I would like to congratulate my friends in Pontotoc County for the example they set for our State and the Nation.

MR. PRESIDENT, WHY DON'T WE PAY WHAT WE MUST PAY FOR—KEEP S&L ON BUDGET

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the President sent us a letter that is curious indeed. He said that if we adopt the savings and loan bailout plan that keeps it on budget he would veto it.

Now what is this on-budget, off-budget issue for people who do not work on the Hill?

Off budget, which is what the President wants to do, is to somehow take it out of the system of the budget cycle and pretend it does not exist. It is just a continuation of the last 8 years of pretending.

The President says:

> Let's spend $5 billion additional taxpayers' dollars so that we can pretend. If we take it off budget, somehow the American people won't understand that, won't know that, and that will make us all feel better about the budget deficit.

Well, that is hypocrisy. That makes no sense.

Why do we not start doing things the right way, why do we not pay what we must pay for, put it on the budget, tell the American people and do it the right way.

Mr. President, do not do this to us, do not tell us to spend the $5 billion more in money in order to take it off budget so we can pretend we are hiding it from the American people. They are smarter than that.

That is not good public policy, and it is certainly not responsible leadership.

Join us in doing something that is right and fair for a change.

OUR DRUG LEGISLATION IS ONE OF OUR STRENGTHS

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, I am a little concerned over some of the debate I hear on the floor in 1-minutes about the drug policy here in the Congress. The gentleman from New Hampshire, a new Member of Congress, suggests that when the drug czar, the director of drug policy, reports to the Congress and the Nation on a drug strategy that in some way the legislation would get bogged down in the House because we have so many committees that have some jurisdiction over aspects of drug policy.

Mr. Speaker, I would like to remind some of our Members that we passed a major antidrug initiative in 1986 in about 3 months; and in 1988 we again passed a major antidrug initiative that cut across all jurisdictional lines. It was the leadership of the House, the Speaker and our majority leader and the minority leader and the whips on both sides that put together the strategy that enabled us to cut across all lines.

Mr. Speaker, it is a nonproblem.

Moreover I say to my colleagues one of the great strengths of this Congress is the fact that we have developed the kind of expertise in various committees that enabled us to pass that kind of legislation in the Congress. That is not a weakness, that is a strength of the Congress.

I would hope my colleagues would put that in some prespective; I know you will.

We passed a lot of important drug legislation and we will continue to do so as the need arises.

What we need, however, at this point is leadership at the Federal

level, somebody to pull that policy together to cut through the duplication and the overlap that exists in our agencies.

We also need to be a true partner with the State and local units of government. That is where we need to spend a lot of our resources. We have not done that. Mr. Speaker, until we do that, until we commit the necessary resources, and until we commit this Nation to carrying out a coordinated and comprehensive drug policy, we are not going to begin to solve this crisis.

UNITED STATES SIGNS $1 MILLION DEBT-FOR-NATURE SWAP WITH MADAGASCAR

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, we all know the facts—every second of every day a tropical forest the size of a football field is destroyed, as developing countries struggle to generate foreign exchange to pay their crushing debt burden of over $1.3 trillion. But today the United States moved beyond these facts. This morning I joined officials of the United States Agency for International Development and the World Wildlife Fund to sign a $1 million "debt-for-nature" swap with Madagascar. The debt will be used to fund conservation programs such as protection of tropical forests, and species such as lemurs that are unique to Madagascar.

I developed debt-for-nature mechanisms in the Tropical Forest Protection Act (H.R. 1704), and feel that with an external debt of over $3 billion and one of the fastest rates of deforestation in the world, Madagascar is a classic example of how the twin crises of debt and deforestation can be linked productively.

Mr. Speaker, today the United States has exchanged a debt that was not being serviced in the long-term interest of a sound global environment. I believe that protection of tropical forests is a fair swap.

MORE ON THE ABORTION ISSUE

(Mr. AUCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AUCOIN. Mr. Speaker, our colleague, the gentleman from California [Mr. DORNAN] took the floor a moment ago and said there was a misrepresentation yesterday in the debate on a woman's right to choose an abortion.

Inasmuch as this vote may be revisited today, let me refer Members to the language of his amendment and the language of the bill.

The gentleman is wrong when he says that his amendment did not strike funding for contraception. I want to refer Members to line 19 in section 117 of the bill, which he struck.

The language lines says, "Payments for drugs or devices to prevent implantation of the fertilized ovum." He strikes that.

The language he strikes provides funds for contraception. That was one of the reasons why he lost yesterday.

Other reasons why he lost were that he provided no exception for the life of the mother to be protected, no exception for victims of rape or incest.

Now after 24 hours, after a stinging defeat, I can understand why the gentleman might want to kind of fuzz what happened yesterday. But I've told you what his amendment did. That is why his amendment was defeated.

If it is revisited today, it will be the same issue and I urge my colleagues to stand by what they voted for yesterday.

Constituents are not going to easily understand a 24-hour conversion, a flip-flop on Members of Congress who will vote for a woman's right to choose one day and deny it the next.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1990

The SPEAKER. The unfinished business is the engrossment and third reading of the bill (H.R. 3026) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes.

The Clerk read the title of the bill.

PARLIAMENTARY INQUIRY

Mr. PARRIS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. PARRIS. Mr. Speaker, is a vote on the engrossment and third reading of this bill in order under the rules of the House if requested by a Member of the House?

The SPEAKER. Does the gentleman mean a recorded vote?

Mr. PARRIS. A recorded vote, yes.

The SPEAKER. A recorded vote is in order if the House sustains such a request.

Mr. PARRIS. Is the question of engrossment and third reading a divisible question so that there perhaps could be two recorded votes if requested?

The SPEAKER. In the opinion of the Chair, the question on engrossment and third reading of the bill is not divisible.

□ 1030

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SKEEN

Mr. SKEEN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. SKEEN. In its present form, I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SKEEN moves to recommit the bill (H.R. 3026) to the Committee on Appropriations with instructions to report the bill back to the House forthwith with the following amendment:

Page 31, after line 2, insert the following:

Sec. 138. None of the funds appropriated or otherwise made available by this Act may be used to pay the salary or expenses of any officer, employee, or agent who is engaged in implementing, administering, or enforcing any District of Columbia residency requirement under the District of Columbia Comprehensive Merit Personnel Act of 1978 (sections 1-608.1(e) and 1-609.1(d), D.C. Code; sections 801 and 801A of D.C. Law 2-139) or the Residency Preference Amendment Act of 1988 (D.C. Law 7-274).

Mr. SKEEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. DIXON. Mr. Speaker, I reserve a point of order on the motion offered by the gentleman from New Mexico.

The SPEAKER. The gentleman from California [Mr. DIXON] reserves a point of order on the motion to recommit.

The gentleman from New Mexico [Mr. SKEEN] is recognized for 5 minutes in support of his motion to recommit.

Mr. SKEEN. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, the instructions on this motion to recommit deal with the residency requirement for appointment of public officials in this city. The residency requirement is like an invisible Berlin Wall. What it does is it keeps those people in the city who want to leave it, and it prevents those people outside the city who can make a positive contribution to the city's public safety crisis, from entering into this city.

Members will recall earlier this year the House approved 700 new police officers for the District of Columbia. In the motion to table the motion to recommit, and the appealing of the Chair, we will have déjà vu that we had Wednesday, earlier this week. If the motion to table passes, who is the District going to hire for their police department? Before Members vote on

the motion to table, consider this: The officer who got shot at 5 o'clock this morning in a gunfight in Southeast died about an hour ago; the next time a murder occurs, or a child or other innocent victim is killed by a stray bullet in this town; and the next time a baby is born because its mother is addicted to crack; the next time a person dies because the ambulance gets lost, then think about it. If Members vote for the motion to table, Members may become part of that problem.

During last year's appropriation bill in the District of Columbia, the House voted 246 to 163. Sixty percent of the Members voted for this amendment to abolish a residency requirement. That means if a person lives in the city, to work here, the person should have to live here. It is just that simple.

The Congress gave the city until January 1 of this year to adopt a preference system. That is all right. If there are two equal applicants, there ought to be a preference for a city resident. When they adopted the preference system downtown, they made it worse than the residency requirement. Any employee hired since 1980 is presumed to have claimed preference and is required to live in the city for 5 years. If there is a reduction in force in the police department, a 5-year cop is fired, and a new cadet is hired and kept. A resident is given a 10-point preference on examinations for promotions. Not just hiring, but for promotions, but makes it statistically impossible for nonresidents to even compete. How much do Members think that adds to the retention of qualified police officers? The District of Columbia has knowingly, deliberately, and intentionally ignored the mandate of this Congress adopted last year.

What is the result? The District of Columbia's ability to attract qualified job applicants has been severely handicapped, and the personnel pool of D.C. residents is simply inadequate for the city's needs. We do not have any choice, ladies and gentlemen. We must prohibit, once again, residency requirements. Why? Because there has been a 42-percent increase in the murder rate in one year. Because the D.C. police department is taking applicants who get 60 percent of entrance questions wrong. Because 99.5 percent of the police force are eligible to retire, and indicate they will within 5 years. The retention of qualified police officers is critical because D.C. has the highest high school dropout rate in the Nation.

In addition, over the next 4 years, 40 percent of the current teaching staff is eligible to retire, and 73 percent of them, when surveyed, say it is difficult, if not impossible, to locate affordable and acceptable housing in this city. That view is supported by the D.C. Committee on Public Education, made up of a number of leading figures, including the president of American University, the president of Howard University, the president of the University of the District of Columbia. They all say that.

We need to abolish residency requirements because last year, Members will recall, the Mayor agreed to hire 100 additional emergency ambulance paramedics. Members remember the jokes about 911? They could not find their own fire department. They have hired one. One additional paramedic in 1 year. As of today, the regular firefighters are routinely used to man ambulances.

This is a law in order vote. Members voted for this amendment last year, Members must vote for it this year because the need is even more critical.

Mr. DIXON. Mr. Speaker, I continue to reserve a point of order, and I rise in opposition to the motion to recommit.

The SPEAKER. The gentleman from California [Mr. DIXON] continues to reserve his point of order and is recognized for 5 minutes.

Mr. DIXON. Mr. Speaker, I would like to attempt to clarify, from a different perspective, the issues that the gentleman from Virginia [Mr. PARRIS] is addressing here.

First of all, as Members may recall, in last year's bill we directed the District government to pass a law by May 1, 1989 that would allow the hiring of noncity residents, and to implement that law by September 30, 1989. They did indeed pass such a law. It was D.C. Law 7-203, which became effective March 16, 1989, after the required 30-day layover review period in Congress. The bill was referred to the Committee on the District of Columbia of which the gentleman from Virginia [Mr. PARRIS], is the ranking member.

After the congressional layover review period, the Mayor submitted the regulations to implement this law to the council. The council returned those regulations to the executive, obviously, because the council was not satisfied. The executive is now in the process of rewriting these regulations.

In the interim, the gentleman is correct, there is existing, on a temporary status, a 10-point preference for District residents as it relates to employment entry, and as it relates to promotion. The gentleman from New Jersey [Mr. GALLO] and I are not satisfied with that. We have joined together with other Members who are concerned about this issue to talk to the Mayor and the city council about the implementation of their permanent regulations. This has nothing to do with the police officer who died this morning in Washington, DC. I do not know if he was a resident or a nonresident, and I do not think that question is pertinent to this issue. It is a tragic loss of life regardless of where he lived.

The second issue that Mr. PARRIS addressed is the issue of the employment of police officers in the District of Columbia. In the bill we provide funding for 300 additional police officers, and there is a bill, H.R. 1502, that has passed out of this House and is now pending in the Senate, that provides funding for 700 additional police officers. The attrition and retirement rate of police officers last year was about 200. We are all concerned with the police in this city. If Members take the numbers of officers who have retired and anticipate the passage of H.R. 1502 and the 300 that we are talking about funding in this bill, the District of Columbia next year will have to employ 1,200 new police officers.

□ 1040

Mr. Speaker, why do I raise that point? Because over the short term the residency requirement for entry is not relevant at all. If the District has the funds to hire 1,200 additional police officers, everyone who passes the entrance test, regardless of where they are from, I dare say, will be hired.

Second, the gentleman from New Jersey [Mr. GALLO] and I have pledged to work with District officials as to the implementation of their permanent regulations. So I say to my good friend, the gentleman from Virginia [Mr. PARRIS] that I understand his concern with the issue, but it is not relevant to this bill at this time.

POINT OF ORDER

Mr. DIXON. Mr. Speaker, I, therefore, make a point of order against the motion to recommit with instructions because it includes a limitation and it is not in order under clause 2, rule XXI. Under the precedents of the House, it is not "competent" for the House to amend the bill in the manner proposed because it is not in order for the House to instruct the committee to do what the House itself could not do.

Mr. Speaker, I quote from the Precedents of the House of Representatives:

It is not in order to do indirectly by a motion to commit with instructions what may not be done directly by way of amendment (HINDS': Vol. 5, paragraph 5529).

Also, Mr. Speaker, a point of order was sustained on a motion to recommit with instructions because, and I quote:

It is clear that the amendment offered by way of matter contained in the motion to recommit . . . would not have been in order if offered as an amendment . . . (CANNON'S: Vol. VIII, paragraph 2705).

Mr. Speaker, the gentleman's motion to instruct includes a limitation not specifically contained or authorized in existing law and not considered in the Committee of the Whole pursuant to clause 2(d) of rule XXI.

I ask for a ruling from the Chair.

The SPEAKER. Does the gentleman from Virginia [Mr. PARRIS] wish to be heard on the point of order?

Mr. PARRIS. Mr. Speaker, I just wish to make a statement and ask the question in the nature of a parliamentary inquiry.

As I understand the situation in the House at the moment, Mr. Speaker, we have revisited history represented by the deja vu of 48 hours ago, on Wednesday of this week, when the Speaker ruled, in accordance with his responsibilities, that funding limitations on motions to recommit were in fact subject to a point of order. Am I correct in my assumption that we are essentially exactly back to where we were just several days ago?

The SPEAKER. Without pronouncing a ruling on the point of order, the gentleman states correctly that the circumstances seem to be the same.

Mr. PARRIS. I thank the Speaker.

The SPEAKER (Mr. FOLEY). The Chair is ready to rule.

Mr. SKEEN of New Mexico moves to recommit the bill (H.R. 3026) to the Committee on Appropriations with instructions to report the bill back to the House forthwith with the following amendment:

Page 31, after line 2, insert the following:

Sec. 138. None of the funds appropriated or otherwise made available by this Act may be used to pay the salary or expenses of any officer, employee, or agent who is engaged in implementing, administering, or enforcing any District of Columbia residency requirement under the District of Columbia Comprehensive Merit Personnel Act of 1978 (sections 1-608.1(e) and 1-609.1(d), D.C. Code; sections 801 and 801A of D.C. Law 2-139) or the Residency Preference Amendment Act of 1988 (D.C. Law 7-274).

The amendment in the nature of a motion to recommit is in the form of a limitation on the use of funds in a general appropriations bill, and, therefore, the Chair's ruling of Tuesday, August 1, is controlling in this case, and the point of order is sustained.

Mr. PARRIS. Mr. Speaker, on that ruling, I respectfully appeal the ruling of the Chair.

Mr. GEPHARDT. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER. The gentleman from Missouri [Mr. GEPHARDT] moves to lay the appeal on the table.

The question is on the motion offered by the gentleman from Missouri [Mr. GEPHARDT] to lay on the table the appeal of the ruling of the Chair.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. PARRIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 248, nays 178, not voting 5, as follows:

[Roll No. 210]

YEAS—248

Ackerman	Glickman	Oakar
Akaka	Gonzalez	Oberstar
Alexander	Gordon	Obey
Anderson	Gray	Olin
Andrews	Green	Ortiz
Annunzio	Guarini	Owens (NY)
Anthony	Hall (OH)	Owens (UT)
Applegate	Hall (TX)	Pallone
Aspin	Hamilton	Panetta
Atkins	Harris	Parker
AuCoin	Hatcher	Patterson
Barnard	Hawkins	Payne (NJ)
Bates	Hayes (IL)	Payne (VA)
Beilenson	Hayes (LA)	Pease
Bennett	Hefner	Pelosi
Berman	Hertel	Penny
Bevill	Hoagland	Perkins
Bilbray	Hochbrueckner	Pickett
Boggs	Hoyer	Pickle
Bonior	Hubbard	Poshard
Borski	Huckaby	Price
Bosco	Hughes	Rangel
Boucher	Hutto	Ray
Boxer	Jacobs	Richardson
Brennan	Jenkins	Rose
Brooks	Johnson (SD)	Rostenkowski
Browder	Johnston	Rowland (GA)
Brown (CA)	Jones (GA)	Roybal
Bruce	Jones (NC)	Russo
Bryant	Jontz	Sabo
Bustamante	Kanjorski	Sangmeister
Campbell (CO)	Kaptur	Sarpalius
Cardin	Kastenmeier	Savage
Carper	Kennedy	Sawyer
Carr	Kennelly	Scheuer
Chapman	Kildee	Schroeder
Clarke	Kleczka	Schumer
Clay	Kolter	Sharp
Clement	Kostmayer	Sikorski
Coleman (TX)	LaFalce	Sisisky
Conyers	Lancaster	Skaggs
Cooper	Lantos	Skelton
Costello	Laughlin	Slattery
Coyne	Leath (TX)	Slaughter (NY)
Crockett	Lehman (CA)	Smith (FL)
Darden	Lehman (FL)	Smith (IA)
de la Garza	Leland	Solarz
DeFazio	Levin (MI)	Spratt
Dellums	Levine (CA)	Staggers
Derrick	Lewis (GA)	Stallings
Dicks	Lipinski	Stark
Dingell	Lloyd	Stenholm
Dixon	Long	Stokes
Donnelly	Lowey (NY)	Studds
Dorgan (ND)	Luken, Thomas	Swift
Downey	Manton	Synar
Durbin	Markey	Tallon
Dwyer	Martinez	Tanner
Dymally	Matsui	Thomas (GA)
Dyson	Mavroules	Torres
Early	Mazzoli	Torricelli
Eckart	McCloskey	Towns
Edwards (CA)	McCurdy	Traficant
Engel	McDermott	Traxler
English	McHugh	Udall
Erdreich	McMillen (MD)	Unsoeld
Espy	McNulty	Valentine
Evans	Mfume	Vento
Fascell	Miller (CA)	Visclosky
Fazio	Mineta	Volkmer
Feighan	Moakley	Walgren
Flake	Mollohan	Watkins
Flippo	Montgomery	Waxman
Foglietta	Moody	Weiss
Ford (MI)	Morrison (CT)	Wheat
Ford (TN)	Mrazek	Whitten
Frank	Murtha	Williams
Frost	Nagle	Wilson
Garcia	Natcher	Wise
Gaydos	Neal (MA)	Wolpe
Gejdenson	Neal (NC)	Wyden
Gephardt	Nelson	Yates
Gibbons	Nowak	

NAYS—178

Archer	Hefley	Ridge
Armey	Henry	Rinaldo
Baker	Herger	Ritter
Ballenger	Hiler	Roberts
Bartlett	Holloway	Robinson
Barton	Hopkins	Rogers
Bateman	Horton	Rohrabacher
Bentley	Houghton	Roth
Bereuter	Hunter	Roukema
Bilirakis	Inhofe	Rowland (CT)
Billey	Ireland	Saiki
Boehlert	James	Saxton
Broomfield	Johnson (CT)	Schaefer
Brown (CO)	Kasich	Schiff
Buechner	Kolbe	Schneider
Bunning	Kyl	Schuette
Burton	Lagomarsino	Schulze
Byron	Leach (IA)	Sensenbrenner
Callahan	Lent	Shaw
Campbell (CA)	Lewis (CA)	Shays
Chandler	Lewis (FL)	Shumway
Clinger	Lightfoot	Shuster
Coble	Livingston	Skeen
Coleman (MO)	Lowery (CA)	Slaughter (VA)
Combest	Lukens, Donald	Smith (MS)
Conte	Machtley	Smith (NE)
Coughlin	Madigan	Smith (NJ)
Cox	Marlenee	Smith (TX)
Craig	Martin (IL)	Smith (VT)
Crane	Martin (NY)	Smith, Denny (OR)
Dannemeyer	McCandless	Smith, Robert (NH)
Davis	McCollum	Smith, Robert (OR)
DeLay	McCrery	Snowe
DeWine	McDade	Solomon
Dickinson	McEwen	Spence
Dornan (CA)	McGrath	Stangeland
Douglas	McMillan (NC)	Stearns
Dreier	Meyers	Stump
Duncan	Michel	Sundquist
Edwards (OK)	Miller (OH)	Tauke
Emerson	Miller (WA)	Tauzin
Fawell	Molinari	Thomas (CA)
Fields	Moorhead	Thomas (WY)
Fish	Morella	Upton
Frenzel	Morrison (WA)	Vander Jagt
Gallegly	Murphy	Vucanovich
Gallo	Myers	Walker
Gekas	Nielson	Walsh
Gillmor	Oxley	Weber
Gilman	Packard	Weldon
Gingrich	Parris	Whittaker
Goodling	Pashayan	Wolf
Goss	Paxon	Wylie
Gradison	Petri	Yatron
Grandy	Porter	Young (AK)
Grant	Pursell	Young (FL)
Gunderson	Quillen	
Hammerschmidt	Rahall	
Hancock	Ravenel	
Hansen	Regula	
Hastert	Rhodes	

NOT VOTING—5

Collins	Florio	Roe
Courter	Hyde	

□ 1103

Mr. PAXON changed his vote from "yea" to "nay."

So the motion to lay on the table the appeal of the ruling of the Chair was agreed to.

The result of the vote was announced as above recorded.

MOTION TO RECOMMIT OFFERED BY MR. SKEEN

Mr. SKEEN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. SKEEN. I am opposed to the bill in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SKEEN moves to recommit the bill, H.R. 3026, to the Committee on Appropriations with instructions to that committee to

report the bill back to the House forthwith with the following amendment:

On page 27, strike out lines 17 through 22.

Mr. SKEEN. Mr. Speaker, I yield to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, if I cannot appeal to your reason and to your logic and to your conscience, let me just say this. If you do not think law and order can be a big issue, go ahead and vote against the motion to recommit. Make Lee Atwater's day.

Mr. SKEEN. Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I rise to urge this body not to vote for the motion to recommit and to vote for final passage of the bill.

I support the gentleman from Virginia [Mr. PARRIS] and he has got a good cause, believe me. The residency requirement in the District of Columbia as far as the police, the firefighters, and teachers is a mess and should be cleaned up.

□ 1110

People in surrounding communities, in Maryland and Virginia, if they are qualified, should be given the opportunity to take these examinations and to be appointed as firemen, policemen, or teachers.

I voted for the Dornan amendment, and I hear a lot of talk around here, especially on my side of the aisle, that if Members do not vote for the motion to recommit and if Members do vote in favor of this bill, it is going to be interpreted as a prochoice vote. That is a lot of baloney. Nobody, nobody in this House can challenge me on my stand on the abortion issue. I take a second seat to no one. Many, many years ago when the gentleman from Illinois [Mr. HYDE] offered the first abortion amendment, we took it to conference, and the gentleman from Kentucky [Mr. NATCHER] and I stood up to the Senate for 12 solid weeks in conference on that issue, and it was my amendment in conference that provided for an exception where the life of the mother is endangered. The language was adopted, and it broke that impasse.

Nobody, nobody can honestly interpret the motion to recommit on final passage as a prolife vote.

Mr. SMITH of New Jersey. Will the gentleman yield?

Mr. SKEEN. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Speaker, noboby questions the gentleman's credentials on prolife, and I have great respect for the gentleman from Massachusetts. But the fact of the matter is that if the language that is in the bill now goes into law, the District of Columbia will fund abortion on demand for any reason whatsoever. That is the law.

Mr. CONTE. I reclaim my time, Mr. Speaker.

This is the 11th appropriation bill to be considered by the House this year, and there is another issue involved here. A couple of years ago, we had a large, omnibus continuing resolution. Everyone was very upset with the Committee on Appropriations. They were ready to tar and feather us, because we presented the House with an omnibus continuing resolution.

This year, the Committee on Appropriations has worked hard, worked hard to bring 11 bills to the floor, and tomorrow we will bring the defense bill, and we will consider the transportation bill here this afternoon, completing consideration of the 13 regular appropriation bills. If we knock this bill down, what have we accomplished? We are going to revisit these same issues that we have been fighting over for 2 days.

I was on the side of the gentleman from Virginia [Mr. PARRIS], and I was on the side of the gentleman from California [Mr. DORNAN]. By defeating this bill, we are not going to accomplish anything, not a thing, except delaying this appropriation bill, forcing a continuing resolution. No one wants that option.

I urge everyone to vote against recommittal and to vote for passage of this bill.

Mr. SKEEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. Mr. Speaker, I could not agree more with the gentleman from Massachusetts. There has been a great deal of debate on this floor. I am sorry the gentleman from Virginia was not able to have his amendment heard, as I did support that, but I think that the chairman, the gentleman from California [Mr. DIXON], and myself will certainly talk directly with the D.C. officials, because it is a very important issue and one that has to be resolved.

I feel that the work that was done on this by the committee, we worked hard on this particular piece of legislation, and I believe it deserves your support.

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that the motion to recommit be withdrawn.

The SPEAKER. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. SKEEN

Mr. SKEEN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. SKEEN. Mr. Speaker, I am opposed to the bill in its present form.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SKEEN moves to recommit the bill, H.R. 3026, to the Committee on Appropriations.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

PARLIAMENTARY INQUIRY

Mr. PARRIS. Mr. Speaker, under the appropriate rules of the House, would a request for a recorded vote lie at this point on the motion to recommit?

The SPEAKER. The gentleman can request the yeas and nays. If the House orders the yeas and nays, it will be taken.

Mr. PARRIS. I thank the Speaker.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. PARRIS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 238, nays 189, not voting 4, as follows:

[Roll No. 211]

YEAS—238

Ackerman	Dellums	Hertel
Akaka	Derrick	Hoagland
Alexander	Dicks	Hochbrueckner
Anderson	Dingell	Horton
Andrews	Dixon	Houghton
Annunzio	Dorgan (ND)	Hoyer
Anthony	Downey	Hubbard
Aspin	Durbin	Hughes
Atkins	Dwyer	Jacobs
AuCoin	Dymally	Jenkins
Barnard	Early	Johnson (CT)
Bates	Eckart	Johnson (SD)
Beilenson	Edwards (CA)	Johnston
Bennett	Engel	Jones (GA)
Berman	Erdreich	Jones (NC)
Bevill	Espy	Jontz
Bilbray	Evans	Kanjorski
Boehlert	Fascell	Kaptur
Boggs	Fawell	Kastenmeier
Bonior	Fazio	Kennedy
Borski	Feighan	Kennelly
Bosco	Flake	Kildee
Boucher	Flippo	Kleczka
Boxer	Foglietta	Kolter
Brennan	Ford (MI)	Kostmayer
Brooks	Ford (TN)	Lancaster
Browder	Frank	Lantos
Brown (CA)	Frost	Lehman (CA)
Bruce	Gallo	Lehman (FL)
Bryant	Garcia	Leland
Bustamante	Gaydos	Levin (MI)
Cardin	Gejdenson	Levine (CA)
Carper	Gephardt	Lewis (GA)
Carr	Gibbons	Lipinski
Chapman	Gilman	Long
Clarke	Glickman	Lowey (NY)
Clay	Gonzalez	Machtley
Clement	Gordon	Manton
Coleman (TX)	Gradison	Markey
Conte	Gray	Martin (IL)
Conyers	Green	Martinez
Cooper	Guarini	Matsui
Coughlin	Hamilton	McCloskey
Coyne	Harris	McCurdy
Crockett	Hatcher	McDermott
Darden	Hawkins	McHugh
de la Garza	Hayes (IL)	McNulty
DeFazio	Hefner	Meyers

Mfume	Pursell	Staggers
Miller (CA)	Quillen	Stark
Miller (WA)	Rangel	Stokes
Mineta	Richardson	Studds
Moody	Roe	Swift
Morella	Rose	Synar
Morrison (CT)	Rostenkowski	Tanner
Morrison (WA)	Roukema	Thomas (GA)
Mrazek	Rowland (GA)	Torres
Murtha	Roybal	Torricelli
Myers	Sabo	Towns
Nagle	Saiki	Traficant
Natcher	Sangmeister	Traxler
Neal (NC)	Savage	Udall
Nelson	Sawyer	Unsoeld
Oakar	Scheuer	Upton
Oberstar	Schiff	Valentine
Obey	Schneider	Vento
Olin	Schroeder	Visclosky
Owens (NY)	Schumer	Walgren
Owens (UT)	Sharp	Waxman
Panetta	Shays	Weiss
Patterson	Sikorski	Wheat
Payne (NJ)	Sisisky	Whitten
Payne (VA)	Skaggs	Wilson
Pease	Slaughter (NY)	Wise
Pelosi	Smith (FL)	Wolpe
Perkins	Smith (IA)	Wyden
Pickett	Smith (VT)	Yates
Pickle	Snowe	Yatron
Porter	Solarz	
Price	Spratt	

NAYS—189

Applegate	Hastert	Pashayan
Archer	Hayes (LA)	Paxon
Armey	Hefley	Penny
Baker	Henry	Petri
Ballenger	Herger	Poshard
Bartlett	Hiler	Rahall
Barton	Holloway	Ravenel
Bateman	Hopkins	Ray
Bentley	Huckaby	Regula
Bereuter	Hunter	Rhodes
Bilirakis	Hutto	Ridge
Bliley	Inhofe	Rinaldo
Broomfield	Ireland	Ritter
Brown (CO)	James	Roberts
Buechner	Kasich	Robinson
Bunning	Kolbe	Rogers
Burton	Kyl	Rohrabacher
Byron	LaFalce	Roth
Callahan	Lagomarsino	Rowland (CT)
Campbell (CA)	Laughlin	Russo
Campbell (CO)	Leach (IA)	Sarpalius
Chandler	Leath (TX)	Saxton
Clinger	Lent	Schaefer
Coble	Lewis (CA)	Schuette
Coleman (MO)	Lewis (FL)	Schulze
Combest	Lightfoot	Sensenbrenner
Costello	Livingston	Shaw
Cox	Lloyd	Shumway
Craig	Lowery (CA)	Shuster
Crane	Luken, Thomas	Skeen
Dannemeyer	Lukens, Donald	Skelton
Davis	Madigan	Slattery
DeLay	Marlenee	Slaughter (VA)
DeWine	Martin (NY)	Smith (MS)
Dickinson	Mavroules	Smith (NE)
Donnelly	Mazzoli	Smith (NJ)
Dornan (CA)	McCandless	Smith (TX)
Douglas	McCollum	Smith, Denny (OR)
Dreier	McCrery	Smith, Robert (NH)
Duncan	McDade	Smith, Robert (OR)
Dyson	McEwen	Solomon
Edwards (OK)	McGrath	Spence
Emerson	McMillan (NC)	Stallings
English	McMillen (MD)	Stangeland
Fields	Michel	Stearns
Fish	Miller (OH)	Stenholm
Frenzel	Moakley	Stump
Gallegly	Molinari	Sundquist
Gekas	Mollohan	Tallon
Gillmor	Montgomery	Tauke
Gingrich	Moorhead	Tauzin
Goodling	Murphy	Thomas (CA)
Goss	Neal (MA)	Thomas (WY)
Grandy	Nielson	Vander Jagt
Grant	Nowak	Volkmer
Gunderson	Ortiz	Vucanovich
Hall (OH)	Oxley	Walker
Hall (TX)	Packard	Walsh
Hammerschmidt	Pallone	Watkins
Hancock	Parker	Weber
Hansen	Parris	Weldon
		Whittaker
		Williams
		Wolf
		Wylie
		Young (AK)
		Young (FL)

NOT VOTING—4

Collins	Florio
Courter	Hyde

□ 1131

Mr. PICKLE changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RESIGNATION AS MEMBER OF COMMITTEE ON EDUCATION AND LABOR

The SPEAKER laid before the House the following resignation as a member of the Committee on Education and Labor:

HOUSE OF REPRESENTATIVES,
Washington, DC, August 2, 1989.

Hon. THOMAS FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER, I hereby resign my position as a member of the Committee on Education and Labor.

Sincerely,

DICK ARMEY,
Member of Congress.

The SPEAKER. Without objection the resignation is accepted.

There was no objection.

ELECTION AS MEMBERS TO CERTAIN STANDING COMMITTEES

Mr. MICHEL. Mr. Speaker, I offer a privileged resolution (H. Res. 224) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 224

Resolved, That the following named Members be, and they are hereby elected to the following standing committees of the House of Representatives:

Committee on Government Operations: Representative Armey of Texas (to rank below Mr. Nielson of Utah).

Committee on Education and Labor: Representative Robinson of Arkansas.

Committee on Post Office and Civil Service: Representative Robinson of Arkansas.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 3026, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1278, FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 222 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 222

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 1278) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. PASHAYAN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 222 is the rule providing for the consideration of the conference report on H.R. 1278, the Financial Institution Reform, Recovery, and Enforcement Act.

Under the rules of the House conference reports are privileged and are considered in the House under the 1-hour rule.

Mr. Speaker, all points of order against the conference report and against its consideration in the House are waived. In addition, the conferfence report is to be considered as having been read when called up for consideration.

Mr. Speaker, I would like to commend the gentleman from Texas, Chairman GONZALEZ and the gentleman from Ohio, Mr. WYLIE for their tremendous effort in getting this conference agreement to the floor before the August recess.

The conferees are to be commended for reporting a bill that requires thrifts to have 3 percent core capital; of which half must be tangible, creates a new Office of Thrift Supervision which will supervise State chartered thrifts, strengthens the qualified lender standards that will require the saving and loan industry to focus on home loans, which was the original purpose of the industry.

Mr. Speaker, with respect to financing, the bill provides $50 billion for the

closing of insolvent or nearly insolvent thrifts. The conferees agreed to put the financing on budget, but not to count the spending when calculating for the Gramm-Rudman antideficit law.

Finally, Mr. Speaker, in regard to the housing provisions in the bill, the conferees retained the housing set asides for low income housing mortgages and provided for nonprofit agencies a right of first refusal to acquire low income housing units the Government receives from failed thrifts.

Mr. Speaker, while there may be differing views over certain provisions in the conference report on H.R. 1278, I am not aware of any opposition to this rule which waives point of order against it.

I urge my colleagues to adopt this rule.

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 222 is the rule under which the House will take final action on legislation to reform and recapitalize the Federal Deposit Insurance System, salvage the savings and loan industry and make good on the Nation's commitment to protect individual depositors from loss.

The rule waives all points of order against the conference report on the bill H.R. 1278 and it waives all points of order against its consideration later today.

The rule provides that the conference report shall be considered as having been read when called up for consideration.

Mr. Speaker, this is an ordinary rule for a conference report. This is an ordinary rule for an extraordinary bill.

The conferees on the part of the House and the Senate have exceeded the scope of the matters committed to conference. To avoid a point of order this rule must be adopted.

The conference report was filed in the House on Tuesday and the rules of the House require a 3-day layover prior to consideration. To avoid delay this rule must be adopted.

Mr. Speaker, this is unquestionably the most important financial legislation to come before the Congress in the last 50 years. If the House is to consider the conference report today, this rule must be adopted.

The conference agreement made in order by this rule addresses not only the current problems facing the savings and loan industry in this Nation but it also enables strong institutions to continue to meet the financial needs of their communities.

The conference agreement made in order by the rule provides for Treasury bond financing of $50 billion to shut down and to sell off about 500 currently insolvent savings and loan institutions. These are the costs the Nation has to assume in order to make good on the full faith and credit of the United States.

The U.S. Government has guaranteed savings depositors against loss of their deposits, even those who deposited their savings in institutions that were poorly managed or they made high-risk investments.

Mr. Speaker, the Nation's depositors have benefited from the long-term financial stability created by the deposit insurance system, and this conference agreement will make sure that those depositors will not lose their savings.

□ 1150

Since the President announced his S&L reform plan in early February, the Federal Deposit Insurance Corporation has seized more than 200 insolvent thrifts. The Government cannot actually close those insolvent institutions down, however, since we do not have enough cash to pay off the insured depositors.

Mr. Speaker, the conference agreement made in order by this rule abolishes the weak, and ineffective regulatory system that failed to deal with the problem of poorly managed savings and loans. The conference agreement creates an Office of Thrift Supervision and gives the Office some flexibility in applying the new, tougher capital requirements called for the bill. The Office of Thrift Supervision will be the new chartering and supervisory agency for savings and loan institutions. The Federal Home Loan Bank Board is abolished.

Mr. PASHAYAN. Mr. Speaker, as a member of the Rules Committee, I have taken a great interest in the bill we are now considering, and I should like to make a few points regarding its capital, affiliate transactions, and qualified thrift lender provisions.

First, with regard to the new capital requirements, I am pleased that the focus of the Congress and of the committees involved has been on tangible capital. I think that is appropriate, since only tangible capital can provide a satisfactory cushion against potential losses by the new thrift insurance fund. For that reason, I think it important for the thrift regulator to understand our intent that in administering the capital requirements, he should give primary attention to an institution's tangible capital. Thus, as institutions submit business plans and apply for exemptions from restrictions under the legislation, it should be clearly understood that insitutions that meet their tangible capital requirements but fail some other capital requirement of the bill should receive far better treatment than institutions that are not in compliance with the tangible standards.

Second, I am pleased that the conferees have clarified that the thrift regulator will have considerable flexibility in promulgating capital standards under the legislation. Although the risk-based capital standards may be materially no less stringent overall than the capital standards for national banks, individual standards may vary considerably from those of the Comptroller of the Currency. Thus, if the thrift regulator should wish to allow subordinated debt to count without limitation toward the tier 2 requirements of the risk-based standards, he shall be free to do so—so long as the thrift standards in their entirety shall provide protection comparable to the Comptroller's. The Federal Home Loan Bank Board, in fact, has proposed standards that would accord such treatment to subordinated debt. In view of the protection to depositors that is provided by that element of capital, this aspect of the proposal seems fully justified.

Third, I think it is appropriate that the bill allows supervisory good will—and only supervisory goodwill—to count toward core capital. That was the line drawn by the bill as reported by the House Banking Committee, and I am pleased that the committee's provision has survived the conference. Since it was that committee that developed the provision, it is that committee's definition of "supervisory" that should be looked to in interpreting the term. The definition appropriately requires that for goodwill to be considered supervisory, the Federal Home Loan Bank Board must have approved the institution's accounting treatment of the goodwill. We intended that the new thrift regulatory agency should allow after-the-fact acceptance by the Bank Board of the accounting treatment to be considered approval for purposes of this requirement. I should urge, however, that the regulator should insist on some written documentation that such acceptance has occurred.

Fourth, on the matter of affiliate transactions restrictions, the bill's "sister bank" exemption from such restrictions for transactions between depository institutions owned by the same bank holding company should be read broadly. Since a "member bank" is necessarily also a "bank," the only reasonable interpretation of the bill's new section 11(a)(2) of the Home Owner's Loan Act is that transactions between all depository institutions—whether bank-to-bank, thrift-to-thrift, bank-to-thrift, or thrift-to-bank—that are owned by the same bank holding company are exempted from the restrictions. Moreover, the Federal Reserve is permitted and, as far as this Member is concerned, encouraged to extend the exemption immediately to transactions between depository institutions that are not owned by a bank holding company. The Federal Reserve's authority to exempt by regula-

tion should not be viewed as constrained in any way by this statutory exemption.

Finally, with regard to the qualified thrift lender test, I think the conferees have reached a reasonable compromise between the two bills on this issue. I was happy to see included in that compromise a separate 5-percent-of-assets "basket" for consumer and educational lending in the list of qualified assets. It should be emphasized that the existence of that "basket" in no way restricts an institution's authority to treat consumer loans in excess of 5 percent as qualified assets if those loans fit under another qualified asset category of the bill. In particular, loans for the purposes of home repair and home improvement, if they can be documented directly or through statistical sampling techniques, may be treated as qualified without limitation regardless of whether the consumer "basket" has been filled by other consumer loans.

Mr. Speaker, I believe that this legislation responds effectively to one of the greatest financial crises in our history. I congratulate those who played a leading role in constructing the response, particularly the administration and the leaders of the concerned committees. I have appreciated the opportunity to be involved in supporting their efforts, and I look forward to continued involvement in congressional oversight of the legislation.

The conference agreement calls for $50 billion to be raised by the Treasury, issue bonds directly. This method of financing places the full burden of this additional debt on the Federal budget. This on-budget financing would, of course, exceed the budget deficit targets called for in the budget resolution, thereby triggering the automatic spending cuts called for in Gramm-Rudman-Hollings.

Therefore, the conference report provides an exemption from the Gramm-Rudman-Hollings, will require a separate vote in the Senate.

Mr. Speaker, whether the Senate will enforce the Senate rule that requires a vote on this waiver is not for Members here to decide. Mr. Speaker, I strongly support this rule, and I strongly support the conference report that it makes in order. The gentleman from Texas, the chairman of the Committee on Banking, [Mr. GONZALEZ] and the gentleman from Ohio, the ranking Republican member, [Mr. WYLIE] have done a superb job. Any future delay will only add to the overall costs. It is estimated that the currently insolvent thrifts are losing some $10 million to $20 million per day. The sooner the House shall act and shall send the conference report to the Senate, the better for all. To that end, I urge the adoption of this rule.

Mr. Speaker, I yield 4 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I rise in opposition to the conference report to H.R. 1278 and S. 774.

President Bush has sent a letter to Congress this morning stating that he will veto the conference agreement in its present form. I agree with the President's position, and I would associate myself with his reasons for opposing the report as it is currently drafted.

I take a back seat to no one in this Congress when it comes to trying to call attention to the S&L crisis we now face. For over 4 years, I have publicly stressed the need to address the problems within the S&L industry, the Bank Board, and the Federal Savings and Loan Insurance Corporation.

The time is now—and it is long overdue—to resolve this crisis once and for all. But this is not the bill with which to do it.

There are some good points to this conference report. For example, the capital requirements in the conference agreement are tougher than the President's original proposal, as well as the House- or the Senate-passed bills. I applaud the efforts to strengthen and enhance the capital requirements and accountability of Federaly insured financial institutions—it is long overdue.

The bill also contains some beneficial changes in the organization and process of the regulatory system.

But in my view, the arguments against this bill outnumber those in favor of it.

Six months ago, the President presented Congress with a plan to resolve the FSLIC crisis. We had an opportunity to work with the President's proposal by crafting a clean bill that solely focused on cleaning up the S&L situation.

But in the 6 months that the Congress has been considering this legislation it has encumbered the President's proposal with extraneous and unrelated provisions that have nothing to do with resolving the financial crisis at hand.

I am referring, in part, to provisions that deal with the Community Reinvestment Act and those which would, in effect, establish a new housing agency of the Federal Government.

I have been in the Congress a long time and I, too, have projects and interests that I would like to see enacted through legislation. But this bill should not be a Christmas tree upon which certain Members attach their special interest provisions of choice.

This thrift crisis is the most costly financial crisis this country has ever faced, and I feel strongly that this legislation should be treated for what it is—an emergency measure.

One of the most disturbing elements of these extraneous provisions is the movement toward federally mandated extensions of credit. There are provisions in this bill that dictate where and to whom an institution must provide credit. I find this to be a disturbing precedent, and a further unwarranted intrusion of the Federal Government into the private marketplace. In addition the funds authorized are clearly inadequate to accommodate the resolution costs.

Early on in this process, President Bush stated that he would reject any S&L bill that contained extraneous provisions that do not relate to resolving the thrift crisis.

The President's original plan provided for off-budget financing, but the bill has been changed to place the funding mechanism on budget while waiving the restrictions of Gramm-Rudman. If for no other reason, I find this disturbing because on-budget financing could enable the S&L industry to avoid paying its fair share of the resolution cost.

The off-budget financing scheme proposed by the President would effectively lock the industry contribution in place and ensure that the thrift industries contribution goes to pay for a problem that it helped create. My constituents are demanding that the industry pay its share, and so do I.

The time is long overdue for resolving the S&L crisis, but this is not the bill. In my view, the extended consideration and tortured legislative process under which this bill was crafted, as well as the inclusion of some of its provisions, has rendered it inadequate and obsolete.

I would urge my colleagues to reject the conference agreement and work to bring a clean, tough, and responsible conference report to the President.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of the conference report on H.R. 1278, the Financial Insitutions Reform, Recovery, and Enforcement Act. This measure is needed to restore stability to our savings and loan industry and to maintain the confidence of the American people in this important segment of financial institutions and the U.S. economy. As reported by the conference, H.R. 1278 will move us toward these important objectives.

Mr. Speaker, when the House completed its consideration of the legislation on June 15, we acted on a bill worthy of support and enactment. The House/Senate conference has agreed. On almost every major issue the strong House measure prevailed. While the Senate sometimes modified our efforts, their input did not significantly change the work product that the House had produced. This is due in good measure to the quality of our product and the work of Chairman GONZALEZ, Congressman WYLIE, and their staff. Their hard work has re-

sulted in a strong new S&L law and policy.

The House insisted on strong capital standards. The Senate receded to the House position. The House voted to end junk bonds in S&L's portfolios, the Senate receded to our position. The House restored a priority for housing, especially low-income housing. Once again, the Senate agreed. To save the taxpayer billions of dollars, the House put the cost of the bailout on budget. After lengthy debate, the Senate agreed.

When the House of Representatives considered this legislation, the focus of the debate was the level of tangible private capital that we required savings and loans to maintain. The committee and House finally rejected weakening amendments by an overwhelming majority. The House adopted the tough, fair standards contained in the Banking Committee bill and the Vento/Schumer et al. amendment. In that action, the House said clearly, loudly, "Enough is enough. It is past time to get the S&L industry and the administration's regulators houses in order."

By defeating the weakening amendments, the House rejected the phony bookkeeping, the house of cards, which glossed over bankrupt institutions, bad mergers, and business deals, which have sadly been the operating administration procedure for the past 10 years.

The capital standards established by the House and retained in this bill are a total repudiation of the Reagan administration's failed deregulation laissez faire policies. By imposing tough specific capital standards, Congress has seized the initiative in the S&L industry bailout and has set in place meaningful reform. The best written law, however, is badly frustrated by improper or incompetent administration and execution of the letter and the spirit of the law. Congress has every right to expect good faith implementation of these reforms and revised financial institution policies. There can be no excuses about inadequate authority or dollars to accomplish what is needed. Congress can't ensure common sense or provide immunity from special interests, but surely the appointed officials should uphold such standards and not yet again, in light of the history, become captives of the special interests at the price of betraying the American people.

I am especially pleased that the Senate was accepting of the House provision that creates a cash advance window for affordable housing that will subsidize loans for affordable housing. This provision, in tandem with the establishment of a right of first refusal for the acquisition of single- and multifamily-residential assets by low-income families and nonprofit organizations will help to redirect the savings and loan industry back to their roots—providing credit for the housing of all Americans. Additionally, the conference agreement to language that will disclose the information collected by CRA and HMDA to prevent discriminatory lending, will vastly improve the accountability of thrifts in the communities around our Nation.

Mr. Speaker, I urge my colleagues to join me in supporting this conference agreement.

□ 1150

Mr. PASHAYAN. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, the final version of this savings and loan bill is a $284 billion ticket straight into a financial "black hole." Two years from now, this will be seen as the biggest, most expensive fiasco passed by Congress. This is not a solution to the savings and loan mess, it is a prescription for disaster. Passing this bill is like dumping more oil off Alaska; it only makes things worse.

The American taxpayers do not know yet what is in this bill. When they find out, they will condemn the Congress for sticking them with the tab, while letting the thrift industry off the hook without any real reform. The American people want a solution to this problem so it never happens again. If this bill passes, we will be back in the soup again in 2 years. So this bill is just a bailout—the biggest in history.

On February 6, President Bush gave us three goals: restore the deposit insurance fund, reform the regulatory system, and punish the crooks.

He demanded action in 45 days and said "never again." Now, 6 months later, what have we done? We have: shot the reforms full of holes, set up the biggest distress sale in history, and let most of the 10,000 crooks walk away, leaving the taxpayer holding the bag.

The President has now asked us to start over, and I urge my colleagues to defeat this bill, wipe the slate clean and let us do a better job for the President and for the American people.

If enacted, this bill will set a new standard for legislative tragedy. By comparison, the Medicare catastrophic insurance plan looks brilliant. Two years from now, the new agency—the RTC—will be a scandal so large that HUD will seem like a lemonade stand gone sour.

There are many problems with this bill. But the thing that sums it up is that Congress is giving a new job to the chairman of the bank board, who worked diligently to hide the true dimensions of this scandal from the Congress and the public, until it was too late to avoid a massive taxpayer rescue. Keeping him in office is like promoting the captain of the *Exxon Valdez* to admiral and giving him an aircraft carrier.

Undeniably, Congress must take action to restore the Federal deposit insurance system, but the magnitude of this plan requires that the expenditure of public funds be accompanied by stringent reforms that ensure we will not face this problem again. Although on the surface this agreement appears to include strong reforms, in their detail each "reform" is encumbered and undercut by exceptions, loopholes, and special deals that have the cumulative effect of continuing many of the risky and imprudent practices that led the thrift industry into this financial quagmire.

When our committee began work on this bill, I said that we must be prepared to make the toughest decisions in the interests of the taxpayer. When the committee reported the bill to the House, I reluctantly supported that version with the goal of seeking improvements in conference. I raised several concerns about the House bill. These concerns have not been met in this final bill.

We know that while most of our 3,000 savings and loans are well managed and sound, we do have some 600 institutions which must be closed. The insured accounts of many thousands of Americans can be covered only by the Government raising billions to fill the shortfall in the deposit insurance fund. Inevitably, this will be done. However, we must pay equal attention to strengthening the capital reserves required as a first line of defense against loss. The final conference agreement delays this capital requirement by several years, leaving the taxpayer vulnerable.

Assets from the thrifts that are shut down will be taken over by a new Federal agency, the Resolution Trust Corporation, and sold. Despite every indication that this is a weak link in the plan, the conference agreement contains the seeds of a major scandal in coming years. The Congress seems to have learned too little from the failures at the Federal Asset Disposition Agency and the Department of Housing and Urban Development.

The conference also rejected a key reform to require federally insured institutions to have an annual outside audit and to submit an annual report on their compliance with safety and soundness rules. This reform was supported by the General Accounting Office and the Treasury Department, but was opposed by some lobbyists for the banking industry. Failure to include this provision in the final bill leaves the deposit insurance fund vulnerable to the weak management that characterizes the 800 banks that did not have any audits in the most recent

reporting period. The Congress will rue the day that this reform was defeated.

In sum, this bill reminds me of last year's Medicare catastrophic insurance legislation. Hailed at the time as a breakthrough, it is now understood to be a disaster for the Nation's senior citizens, which must be reopened. Similarly, I believe this savings and loan bill will not produce a stronger deposit insurance system, or a more viable thrift industry. Instead, the taxpayer is given a huge bill to pay for the next decades, and the Congress is sure to have to revisit this legislation in the near future.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I shall not take my entire 2 minutes, but let me make a couple of very quick observations.

First of all, I would say to the Members that what is coming to the floor is the rule making in order the conference report to be considered under the able leadership of the chairman and the ranking minority member of the committee from the House side of the conference, the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Ohio [Mr. WYLIE].

They have brought back a product with a couple of things in it that I want to underscore. First, there is the issue of junk bonds. The issue of junk bonds was resolved in this conference in a way that is very satisfactory. We prohibit institutions with deposits that are insured by the Federal Government from purchasing high risk junk bonds. We ended up with 303 votes in favor of that position.

The second thing I want to point out very briefly is this: The President apparently says he is going to veto the legislation if it is on budget. I want to remind the President and the Members again that this is not a numbers game. This is the process of government. The American people are not fooled by some process of taking it off budget. By leaving it on the budget, we save $5 billion. Why on Earth would we want to waste the taxpayers money by taking this so-called off budget? Nobody is fooled by that. Nobody in the entire world is fooled by that. That is a position that is, in my judgment, absolutely irresponsible. What we do should be on budget, up front and honest.

Again, Mr. Speaker, this is not a game. This is not a numbers game. It is the process of governing, and we ought to do it the right way.

Mr. PASHAYAN. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to the rule and to the conference report which it makes in order.

In this case, despite the very good intentions of the esteemed chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ], I really believe that most Members who participated in the conference would agree with me that the conference turned out to be a fiasco. The Members had very little imput in the decisions that were made there. Many things were inserted by staff without contemplation or discussion at all, and even to this day I think there were many of us who served on that conference who do not know what is contained in the conference report, and we have not had a chance to see it or review the notes of staff.

One of the key problems in this bill is the direction it takes in regard to capital. I think most of us agree that there needs to be tougher capital requirements for the savings and loan industry. But in this case we have given our S&L's 120 days in which to meet the new 1.5 percent tangible requirements. That period of time, I think, is just unworkable, and it is going to saddle the thrifts with an obstacle that may prove unmeetable for many of them and subsequently result in their demise.

We also have taken some very severe action, in my estimation, regarding junk bonds in this conference report. Thrifts are already precluded from diversifying their income by investing in high yield bonds. I think the effect of this is going to limit diversification of the portfolios in the thrift industry, and that in turn will hinder their ability in the marketplace to raise the necessary capital we are asking them to raise. I think in this regard the junkyard bond provision is typical of the kind of micromanagement Congress has imposed upon the industry in this bill.

□ 1200

Essentially we have taken away from the regulators the discretion which they have had to flexibly apply requirements to thrifts and to treat them on a one-by-one basis. In my estimation this represents a misplaced emphasis in favor of strictures and penalties, and that in turn, I think, will bode very poorly for the well-being of the industry.

Mr. Speaker, I am concerned about the financing mechanism. We have heard from the administration and from the Federal Reserve Chairman Greenspan that they want the off-budget financing of the bill. In fact, many believe that the waiver of the Gramm-Rudman discipline will be far worse than any additional expense entailed by putting it off budget. If indeed placing the financing on the budget increases the Government's average cost of borrowing ability, that is a likely result. If it increases as much as five one-thousandths of 1 percent, the entire theoretical savings of some $4 to $5 billion of financing would be wiped out.

Mr. Speaker, just a summary let me say that this bill, I think, is very generous with housing policy. It is designed to aid the poor and the underserved, and no doubt those are needs, and we try to address them each year in our housing bill, but I would suggest that the bill is very stingy with reference to tools and mechanisms that will help the industry. It reflects in large part the unmitigated seal that many Members have to punish the industry and to do so by restrictions and limits.

Mr. Speaker, this is not the solution that I envisioned, not the solution suggested by the administration. It is not the solution that will be lasting and effective.

I think, therefore, this conference report should be voted down by the House today.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I rise today in support of the rule and in support of the conference report.

I am going to take issue with my colleague, the gentleman from California [Mr. SHUMWAY], who has just spoken.

Mr. Speaker, I sat as one member of the conference for hour after hour, for day after day, week after week, going through issue after issue. I felt that whether we were on a particular task force for jurisdiction or not, we had the opportunity to have our voices heard.

I think the House has taken a good S&L legislative proposal from the President earlier this year, and we have made it better. We have strengthened supervision of our financial institutions. We have strengthened capital requirements. We have increased the resources that are made available for enforcement of these provisions. We have toughened the penalties for violation of those provisions.

Mr. Speaker, one major question that still divides us today is the issue of how to finance this massive proposal. We are saying on the one hand that the industry has to help out. We are increasing almost three-fold the amount of insurance premiums that the remaining thrift industry will have to pay in the foreseeable future. The healthy part of the industry that survives will be required to help pay for the tab. We are also saying to our taxpayers that we, unfortunately, are going to have to assist as well.

Mr. Speaker, there are three options that we have to choose from in deter-

mining how the Federal contribution in this bill is to be financed. One of those is the off-budget option proposed by the President. It is a clever gimmick, a convenient fig leaf, to get around the Gramm-Rudman deficit targets.

The second option, Mr. Speaker, is the one that the House has adopted. It is an option that says, "Let's do this on budget, raise the money that we need through the sale of U.S. Treasury obligations, but waive the Gramm-Rudmand deficit requirements."

The third option is to put the financing on budget, to do it honest, up front, and to say that we either have to raise revenues or cut other spending in order to meet our Gramm-Rudman requirements.

Mr. Speaker, I favored the third option. I beleive it is the most responsible and also the least expensive approach of the three. We voted on that approach in the House when we voted on the amendment of the gentleman from New York [Mr. LAFALCE]. Regretably, a majority of us did not vote in favor of that amendment, and, as a result, we are left with really two options, option 1 and 2. I call it a Hobson's choice because neither of them frankly are the ones I would have us take.

The off-budget proposal endorsed and embraced by the President, however, is indeed the most expensive option of the three. It is going to cost us billions of dollars more if we choose that particular approach. Conversely, the on-budget approach unfortunately sets a precedent, one that I am not entirely comfortable with, that may lead to future attempts to waive Gramm-Rudman.

Let me just say that I think the administration's protestations that we are somehow weakening the Gramm-Rudman discipline, those protestations fall and should fall on deaf ears, or at least skeptical ears. This administration and its predecesser have been guilty, along with many in the Congress overestimating revenues, underestimating interest rates, underestimating what is likely to be the rate of inflation, and having a fire sale on government assets in order to try to generate instant cash so that we can call it revenue. I would just say, Mr. President and my colleagues, regretably the discipline of Gramm-Rudman has already been undermined."

Mr. ANTHONY. Mr. Speaker, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from Arkansas.

Mr. ANTHONY. Mr. Speaker, I would like to congratulate the gentleman from Delaware [Mr. CARPER] for his statement because he has outlined exactly what my position was. I voted that way in the committee. I lost in the committee. It was obvious we were going to lose on the floor, so, although I did not vote for option 2, I did so because it was very clear we were going to go to option 2.

As between option 1 and option 2 the issue has been resolved very clearly in my mind. No. 1, I am going to vote for what is the least costly for the taxpayers. That is option 2. That is to put it on budget.

Mr. Speaker, I am also going to vote for what is the most honest way to deal with the taxpayers' money, and that is to put it up front so everybody can see it and tell the world about it. To think that economists and investors from abroad cannot look and see the charade we would be playing if we took it off budget is to think folly.

So, Mr. Speaker, I want to congratulate the gentleman from Delaware [Mr. CARPER]. I want to associate myself with his remarks.

Mr. CARPER. Mr. Speaker, I appreciate the remarks of the gentleman from Arkansas [Mr. ANTHONY].

Mr. PASHAYAN. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I rise in support of House Resolution 222 providing for the consideration of the conference report on H.R. 1278.

Given the complexity and the urgency of this legislation, a rule waiving all points of order is necessary. It is necessary because of the 3-day layover provision in the House rules, because of possible Budget Act points of order, and appropriating in an authorizing statute. This will be an authorizing bill, and we have some so-called backup funding in here for the savings association insurance fund which could be, I guess, technically said to be an appropriation. Also, backup funding for the FSLIC resolution fund and some backup funding for FDIC; specifically the Treasury line of credit of $5 billion.

Mr. Speaker, the conference reported bill is not perfect, but it is a good bill in the overall. I would strongly have preferred off-budget funding, as recommended by the President. I generally would have favored deleting what I regard as other extraneous provisions in the bill such as the housing provision, the Home Mortgage Disclosure Act provision, and the Community Reinvestment Act provision.

Mr. Speaker, the legislation with these exceptions closely tracks the administration's bill which was submitted on February 6, and, except for the funding mechanism, this is truly a bipartisan bill, and we have involved ourselves in a truly bipartisan process with the distinguished chairman of the Financial Institutions Subcommittee, the gentleman from Illinois [Mr. ANNUNZIO], who held extensive hearings, and we worked closely together as well with the distinguished chairman of the full committee, the gentleman from Texas [Mr. GONZALEZ].

I think overall the conference has produced a good bill. The capital requirements are both strong and equitable. The regulatory restructuring and enhanced enforcement provisions should go a long way toward ensuring that the crisis we are dealing with today is not repeated in the future.

We have been working virtually around the clock on this critical legislation, and it is to the credit of the gentleman from Texas [Mr. GONZALEZ] that he held the first hearing of the Committee on Banking, Finance and Urban Affairs back on January 4, just 1 day after the 101st Congress was sworn in.

Mr. Speaker, I think it is time to move this critical legislation through the final stage of the congressional process to the President's desk, and I respectfully urge adoption of the rule.

Mr. PASHAYAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, I appreciate this time to speak.

I would like to take this time to discuss several provisions that were agreed to by the conferees, and that I fully support, relating to the new capital requirements and the new qualified thrift lender test of the legislation. With regard to the capital standards, I want to emphasize that one of our primary objectives in this legislation has been to raise thrift capital requirements and, in particular, requirements for tangible capital. It is tangible capital that best protects an insurance fund, and it was the considered judgment of the conference that thrift tangible capital must be increased. The joint statement of managers appropriately recognizes that the thrift regulator's focus in administering the new capital requirements should be on an institution's tangible capital. Thus, in reviewing business plans and request for exemptions under the bill, the regulator typically should accord an institution that meets its tangible capital requirements but fails some other capital standard more favorable treatment than an institution that fails its tangible capital requirements. As the statement notes, the institution that has adequate tangible capital typically should not be penalized at all. If this principle is understood, it will encourage institutions to increase their tangible capital even when they are unable to satisfy all of the bill's capital standards.

In our consideration of capital standards over the past few months, we have devoted considerable attention to the treatment of supervisory goodwill and subordinated debt as elements of capital. I am happy with our resolu-

tion of these issues. We have excluded both of these capital components from tangible capital, but we have allowed them to count toward the attainment of other capital standards. Supervisory goodwill is permitted to count toward the intangible portion of the leverage limit over the next 5 years, after which time it will be totally phased out of that standard. The regulators should consider goodwill as supervisory only if it satisfies the definition of the term as stated in the House Banking Committee report on the legislation. That definition contemplates that the requirement of Bank Board approval of the accounting treatment in question can be satisfied either by approval by the Board at the time of the transaction or by subsequent approval of that treatment, as demonstrated by repeated review and approval by the Board of an institution's financial statements over the years.

As for subordinated debt, we appropriately have excluded such debt from both the tangible and intangible portions of the leverage limit, but not from the risk-based standards of the bill. In promulgating risk-based standards, the thrift regulator is free to allow subordinated debt to be considered as tier 2 capital without limitation—even if the Comptroller of the Currency imposes limitations on its treatment—if it can be determined that the thrift capital standards are no less stringent than the Comptroller's overall. This provision follows the thrust of the Graham-Sanford amendment, which the Senate Banking Committee adopted and which was included in the Senate bill. It is also in keeping with an amendment I submitted to the House Banking Committee but withdrew in the hope that language such as the Graham-Sanford amendment would be included in our final product. I am pleased that it has been.

With regard to the qualified thrift lender test, I am delighted that the bill specifically includes both home improvement loans and home repair loans as qualified assets under the new test. These loans are of great benefit to homeowners, and their status as qualified assets will assure that an adequate supply of such loans will continue to be available at reasonable rates. In the course of our deliberations on the qualified thrift lender provisions, some suggested that in light of the difficulty of determining which loans in a thrift portfolio are used for home improvement or home repair purposes, such loans should not be included as qualified assets. The conferees did not accept that position, in part because the Federal Home Loan Bank Board, which has administered the test over the years, believes that these loans can be adequately identified and documented. On this point, some of us found persuasive a T Memorandum issued by the Bank Board in its implementation of the qualified thrift lender test of the Competitive Equality Banking Act of 1987. I therefore wish to incorporate that memorandum into the legislative history of this bill.

In the memorandum, dated January 12, 1988, the Board's staff indicated that if an institution could show with adequate documentation that certain consumer or commercial loans in its portfolio were housing related, it could include those loans as qualified assets under guidelines specified in the memorandum. One of the guidelines was that "management must adequately document, and retain for supervisory review, the housing related nature of such loans". Another was that "[s]uch documentation could include the use of statistical sampling techniques for large portfolios of consumer loans". It was my intent, and I believe that of the conferees, that these guidelines of the 1988 T Memorandum will govern the treatment of home improvement and repair loans under the new test to the same extent as they did under the old. In other words, management will be expected to continue to document that its loans are in fact used for home improvement or home repair, but such documentation can include statistical sampling techniques when large portfolios of consumer loans are involved. The T Memorandum represents good policy for the new test, as it did for the CEBA test, and I would hope to see it or some version of it continue in effect.

Before concluding, Mr. Speaker, I would like to clarify two matters involving the affiliate transactions provisions of the bill. First, the conferees agreed to exempt from certain affiliate transactions restrictions in sections 23A and 23B of the Federal Reserve Act transactions between depository institutions owned by the same bank holding company. I want to make clear that our intention was to include under that exemption bank-to-thrift, thrift-to-bank, and thrift-to-thrift transactions and to exempt these transactions to the same extent as bank-to-bank transactions are exempted under current law. In specifying that thrifts should be treated as member banks under sections 23A(d)(1) and 23B of the Federal Reserve Act, we intended to indicate that they should also be treated as banks, since every member bank is necessarily also a bank. It is my understanding that such an interpretation of these terms is consistent with the substantive result we intended to achieve.

Second, although the exemption is confined to depository institutions owned by a bank holding company—at least until 1995—it should be emphasized that the Federal Reserve remains free to extend the exemption by rule to institutions owned by thrift holding companies. It was not our intent to restrict the Federal Reserve's options in this area in any way. On the contrary, I would encourage the Federal Reserve to consider a rulemaking on this subject and, if it determines that transactions between thrift subsidiaries or thrift holding companies should be treated on a par with the transactions we are exempting by statute, to provide by regulation that they shall also be exempted. I, for one, would strongly support such a regulation.

□ 1210

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Speaker, I rise today in support of the conference report on H.R. 1278, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, urgently needed legislation to fulfill our Federal commitment to protect depositors at our Nation's financial institutions.

This conference report is the culmination of months of hard work by the House Banking Committee. I salute Chairman HENRY GONZALEZ and the ranking Republican, CHALMERS WYLIE, for their leadership on this legislation and working with members on both sides of the aisle to improve President Bush's original proposal.

I support this conference report because it maintains the tough capital standards developed by the House, places restrictions on the RTC's ability to obligate taxpayer funds, guarantees tough future regulation of the thrift industry, and ensures the investigation and prosecution of S&L operators who have engaged in fraudulent behavior. I am also pleased to see included in the final package provisions I worked on—provisions which guarantee the political independence of the FDIC, require the disclosure of assisted transactions to make certain they are cost effective, and place strict limits on the ability of both the FDIC and the RTC to obligate the Federal Government without congressional and executive branch approval. I believe as a whole this bill is an important step in restoring the solvency of the savings and loan insurance fund and ensuring that these problems never occur again, and I urge my colleagues to support it.

I also support strongly the provision in the legislation putting the S&L plan on-budget. This makes the plan more straightforward, and it is estimated that it will save the taxpayers of this country over $5 billion in reduced interest costs. And, as Senator SARBANES and our colleague BILL GRADISON eloquently articulated during the conference, with good and astute money management, the savings could be even more substantial.

It is incomprehensible to me that the administration would even consider a veto over a truth-in-budgeting provision that saves our Nation's taxpayers money. It is ridiculous to delay a bill over this point when any further delay will cost us $20 million a day.

We have heard many pieties about evading Gramm-Rudman discipline. But what greater evasion could we imagine than the administration's position, which would put the funding off budget entirely, pretending it doesn't exist?

I recognize fully that this bill will not resolve all the problems created during the last 8 years of lax regulation and insufficient oversight. The House, and the House Banking Committee, need to continue to be leaders in tough regulation and aggressive oversight. I also have some concerns about the economic assumptions used by the President in estimating the costs of the plan and the asset disposition responsibilities of the Resolution Trust Corporation [RTC]. But, overall, this is a responsible solution to a horrible problem. At this stage, there is nothing to be gained by delay in either body or by the President. Let's pass this bill now and stop costing taxpayers even more money with mindless and unconstructive delay.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I rise in support of this rule and this bill, and congratulate those who have labored long and hard on it. There are many points I could make, but I want to stress my strong support for the truth-in-budgeting provision that is included in this bill. It is so essential that we report the truth about the budget to the American people. It has been said that the cost of this bill would be enormous. To take the cost of this bill off budget would add to the complications that already exist, which is the practice of not reporting much of the cost of the deficit of this Government to the American people.

In fact, I have a Truth-in-Budgeting Act that I have circulated among Members that would report all the truth-in-budgeting to the American people.

The real deficit that faces the American people is about $100 billion more than we are told. Instead of $155 billion in deficit, the real deficit is about $254 billion.

I will circulate this bill again, and I hope that the Members will support truth-in-budgeting, and I ask the Members to support it.

One thing is certain—the method now used for hiding a large portion of the Federal deficit has not served the American people well.

When I cosponsored the proposal that became the Congressional Budget and Impoundment Act of 1974, I believed passage of the law would bring about three primary results. The first was that Presidential administrations and Congresses would deal openly and truthfully with real deficit, the Federal funds deficit. The second was that the same set of economic and budget assumption rules would apply to budgetary decision making at all levels. And, the third was that Congress would institute a practice of handling Federal program funding within boundaries established by a budget resolution adopted by the Congress.

Despite the well-intentioned efforts of the last decade and a half, none of these results have been wholly achieved and the Committees on Appropriations are being held to a higher standard of accountability than the other groups of budget decision makers impose on themselves. At the root of this, I believe, is the reluctance to grapple with the challenge of directly addressing the Federal funds deficit. In 1974, the Federal funds deficit was $20.1 billion. At the end of fiscal year 1988 it was $252.9 billion. But, under the deficit accounting method which has been, and still is being, used the unified budget deficit which most Americans know about was $6.1 billion in 1974 and $155.1 billion in 1988. To get to those unified budget deficit figures, the revenues collected by the Social Security and other trust funds which are not required to pay trust fund obligations for that year are subtracted from the Federal funds deficit.

The current budget deficit calculation method is dangerous. It threatens the ability of the trust funds, including those which support Social Security pension programs, to pay their bills in the future. It erodes the ability of the Nation to bring about urgently needed increases in personal and national savings rates. It endangers Federal Government's ability to respond constructively to continuing future needs of the people. The American people must be told the truth about the real deficit, the Federal funds deficit. I have proposed legislation, the Truth-in-Budgeting Act, to help bring this about through changing the budget deficit arithmetic by forbidding use of Social Security and other trust fund revenues to calculate the deficit.

There is a growing mismatch between the Federal funds deficit and the unified budget deficit. The following table illustrates this gap with data from the fiscal year 1969 through 1988 period.

[Dollars in billions, + surplus, − deficit]

Fiscal year	Federal funds deficit	Social Security	Other trust funds	Unified budget deficit
1969	−$4.9	+$3.7	+$4.4	+$3.2
1970	−13.2	+5.8	+4.5	−2.8
1971	−29.9	+3.0	+3.8	−23.0
1972	−29.3	+3.0	+2.9	−23.4
1973	−25.7	+.5	+10.3	−14.9
1974	−20.1	+1.8	+12.2	−6.1
1975	−60.7	+2.0	+5.4	−53.2
1976	−76.1	−3.2	+5.6	−73.7
1977	−63.1	−3.9	+13.4	−53.7
1978	−71.9	−4.3	+17.0	−59.2
1979	−58.5	−2.0	+20.3	−40.2
1980	−82.6	−1.1	+9.9	−73.8
1981	−85.8	−5.0	+11.8	−78.9
1982	−134.2	−7.9	+14.2	−127.9
1983	−230.8	+.2	+22.9	−207.8
1984	−218.2	+.3	+32.6	−185.3
1985	−266.4	+9.4	+44.8	−212.3
1986	−283.0	+16.7	+45.1	−221.2
1987	−222.3	+19.8	+53.1	−149.7
1988	−252.9	+38.8	+59.0	−155.1

Note: The "other trust funds" column includes surpluses from the following trust funds: Medicare, Military Retirement, Civilian Retirement, Unemployment, Highway and Airport and Airways.

Data source: Budget of the United States: Historical Tables, fiscal year 1990, submitted to the 101st Congress by President Ronald Reagan.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, I rise in strong support of the rule and this measure, and in strong support of the concept that the cost of this bailout should be on-budget

I would just observe, Mr. Speaker, that any suggestion that this is somehow going to undermine the Gramm-Rudman law, which I have supported, is just absolutely ridiculous.

The fact of the matter is that Gramm-Rudman is law, and the only way that law can be amended is with the President's signature. So for the Secretary of the Treasury, for the President of the United States to suggest that somehow this body is going to undermine that law by the passage of this bill suggests that they are somehow afraid of themselves, because we cannot amend Gramm-Rudman further without their signature. So any suggestion this is going to undermine Gramm-Rudman is just patently ridiculous.

Mr. Speaker, I would observe that we should pass this measure as quickly as possible. I am frankly very disappointed that the President and the Secretary of the Treasury would threaten to veto this measure to prevent it from being on budget. It seems to me that the gentleman who spoke earlier just pointed out that to take this off budget is the ultimate flaunting of the Gramm-Rudman law.

I would like to have the S&L bailout on budget and subject to the Gramm-Rudman limitations, and pay for it now and save $100 billion for the taxpayers over the period of the next 25 years; but I understand that is not po-

litically possible, so the fallback position, Mr. Speaker, is to do the next responsible thing, that is to put it on budget, exempt it from Gramm-Rudman and save the taxpayers of this country at least $5 billion.

So, Mr. Speaker, I rise in strong support of the rule and in support of the conference committee report.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentlewoman from Ohio [Ms. OAKAR.]

Ms. OAKAR. Mr. Speaker, today the House votes on the conference report to H.R. 1278 which reforms, recapitalizes and consolidates the Federal Deposit Insurance System. In addition, this conference report installs stringent, harsh criminal and civil penalties for those individuals charged with fraudulent, unscrupulous behavior. The intent of these penalties which I support and the taxpayer deserves, are to make anyone contemplating this activity think twice.

Mr. Speaker, this conference report is the result of hours of hearings, hundreds of amendments and lots of hard work. I commend my distinguished chairman, HENRY GONZALEZ and the chairman of the subcommittee on financial institutions FRANK ANNUNZIO, for their leadership, fairness and openness throughout this legislative process. The conference report before the House today, is the largest banking committee bill in over 50 years and the largest private sector financial aid package in the history of this country. Within this omnibus legislative package is upwards of 50 separate substantial bills which will help shape the financial services industry in this country for many years to come.

Mr. Speaker, this conference report had a series of contentious issues which both House and Senate conferees anguished over for several weeks. However, like any conference report, not all provisions are palatable. But in the timely spirit of compromise and in the interest of the taxpayer, the conferees moved forward to an agreement. I now urge my fellow House members adopt this agreement without further delay and added cost to the taxpayer.

Mr. Speaker, within the conference report are specific items of interest which deserve attention. One provision which is the actual guts of this omnibus legislation is the capital standards. These new capital standards will take effect 120 days after enactment of the bill. Essentially, institutions will be required to maintain a leveraged limit of at least 3 percent of total assets; a tangible capital requirement of 1.5 percent of total assets; and last, meet a risk-based capital standard. Institutions not meeting these standards on their effective date will have 60 days to file a business plan with the Director of the Office of Thrift Supervision.

Mr. Speaker, strong capital standards are key to averting another multibillion dollar bailout down the road. In addition, by requiring thrift owners to put up more hard cash and maintain a tangible core capital requirement, the insurance fund will be shielded from further losses and the taxpayer protected.

In addition to this crucial capital provision, my amendment would allow bank holding companies to merge savings associations into a bank subsidiary upon acquisition. I am exceedingly proud of this language as it is and always was intended to utilize private capital from the bank holding companies to bolster the SAIF fund and provide buyers for thrifts whose fortunes may reverse in the next couple of years. But most importantly, this provision attempts to protect against having to return to the taxpayer in the next couple of years and admit that we have not exhausted all possible resources. The language I worked many months to have included in this bill does all the above and does it fairly. Bank holding companies may acquire a thrift and merge or consolidate its assets and liabilities into an existing bank subsidiary if and only if the bank holding company pays SAIF premiums for 5 years—the duration of the moratorium—on the deposits of the acquired thrift plus a 7-percent growth increment each year. Many of you may be aware that the current average growth rate of deposits in the thrift industry is only 3 percent. What my amendment does is provide much-needed incentives for the banking industry to consider acquisitions of thrifts, which in our recent memory, they have not been inclined to do.

My amendment within the conference report, hopefully gives the correct incentive (which has been sorely lacking up until now) to the banks to put their capital behind the SAIF fund. The benefits will be considerable as banks, upon acquisition of savings associations, are required to bring the thrift's capital up to bank capital standards immediately. This bill has put a huge burden on the regulatory agencies, in particular the FDIC, to close down insolvent thrifts. Closing down a savings association is an expensive task and helps no one. If the Congress can encourage banks to handle some of these problems without using taxpayer money, we accomplish much.

From its inception, as we briefed staffs of the Senate Banking and House Banking Committees and they in turn, briefed their members, support for the amendment grew. This was due to the benefit to taxpayer and to the SAIF fund. But also to care with which the amendment has been drafted. There were no hidden agendas, seeking new securities powers, no new more liberal rules on interstate banking, no new insurance authority or anything of the kind.

The amendment is drafted to provide the maximum benefit to the Treasury in terms of bringing private capital to the thrift industry, instead of taxpayer money. The amendment is thus drafted simply to give a bank holding company the chance to make an intelligent, logical business decision on whether the acquisition of a thrift is a wise market decision. The amendment accomplishes this by way of the one incentive contained within it—the ability to consolidate a savings association into an existing bank subsidiary that produces cost efficiencies which can make the acquisition viable in bottomline terms. To substantiate this claim I would refer my colleagues to a Booz-Allen study of February 1989 detailing the cost savings accruing from "Intra-Industry consolidations."

Bank holding companies who do conclude that the thrift acquisition under this amendment makes sense for their institution will pay the SAIF system double the amount of premiums that the thrift, had it continued in its form, would have been required to pay. They will achieve no new powers, no liberalization of McFadden and Douglas, no step up in the insurance arena and will be subject to the moratorium restrictions, the exit and entrance fee requirements and will not have left the SAIF system for purposes of the thrift acquired. This is the type of language which I am proud to have sponsored, and I know, from the months of briefings and explanations which went into working on this amendment that my colleagues agreed throughout that this was more than worthy of inclusion in this bill we pass through Congress today.

Third, Mr. Speaker, the conference report contains uniform appointment and payfixing authorities for the newly formed office of thrift supervision, the Federal Housing Finance Board, the Resolution Trust Corporation, the O.C.C., and the National Credit Union Administration. This language provides consistency regarding compensation levels within the Federal banking regulatory agencies. In addition, the provision clarifies the scope and authority of each relevent agency as it pertains to setting compensation and benefits. For instance, while the office of thrift supervision and the Office of Comptroller of the Currency are under the consultative framework of the Treasury, the intent of payfixing and appointing is to have these entities run autonomously and efficiently.

Mr. Speaker, all parties agree that having consistent and uniform employment guidelines will help to acquire and retain talented professionals in examining and supervising our Na-

tion's financial institutions. But most of all, Mr. Speaker, these provisions within the conference report will go a long way in preventing this crisis from recurring. The Congress can legislate all the tough capital standards it wants, but, if talented examiners and supervisory staff are not in place, these tough measures will be meaningless.

Again, I commend the distinguished chairman of the Banking Committee, Mr. GONZALEZ, and the chairman of the subcommittee on financial Institutions, Mr. ANNUNZIO for their leadership and urge my fellow colleagues to adopt this conference report.

□ 1220

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Speaker, legislating is the art of compromise, and that is what we have here. We can nitpick this bill to death. There are a lot of things in this bill that possibly I would not necessarily endorse or support, but it is here, and I am supporting it, because it is a bill that we have compromised out.

I would like to just impress, I hope, the Members of this Congress that this is a serious, serious matter. We have depositors of institutions out there expecting this Government and this Congress, because we have pledged the full faith and credit of this Government behind their deposits, and they are looking to us to salvage their deposits.

We have talked about on budget, off budget; we have talked about a lot of aspects of this bill, but the most important thing is to give the depositors of this country confidence that we are going to stand behind those deposits.

I feel that the product of many, many months' work, the product of many, many hours of conference with the Senate, many, many Members of the House participating, I think that we have as good a product as we can get under the circumstances.

There are still a lot of unanswered questions out there. We will be readdressing this time and time again in the year to come, but, my friends, the time is now. This is the product. We should support it. We should support the rule, which is a good rule, the only appropriate rule in these circumstances, and I must say that we need to support this bill.

I would say, on top of that, the on budget, off budget issue has been fairly and at long length discussed. This Congress, by a great majority, has supported the on-budget process. Let us get on with it. Let us get on with the important job of saving the savings and loan industry.

Let us pass this conference report and this rule.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PARRIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 348, nays 74, answered "present" 1, not voting 8, as follows:

[Roll No. 212]

YEAS—348

Ackerman	DeFazio	Hatcher
Akaka	Dellums	Hawkins
Alexander	Derrick	Hayes (IL)
Anderson	DeWine	Hefley
Andrews	Dicks	Hefner
Annunzio	Dingell	Henry
Anthony	Dixon	Herger
Applegate	Donnelly	Hertel
Aspin	Dorgan (ND)	Hiler
Atkins	Downey	Hoagland
AuCoin	Duncan	Hochbrueckner
Barnard	Durbin	Horton
Bartlett	Dwyer	Houghton
Bateman	Dymally	Hoyer
Bates	Dyson	Hubbard
Beilenson	Early	Huckaby
Bennett	Eckart	Hughes
Bereuter	Edwards (CA)	Hunter
Berman	Edwards (OK)	Hutto
Bevill	Engel	Inhofe
Bilbray	English	Ireland
Bilirakis	Erdreich	Jacobs
Bliley	Espy	Jenkins
Boehlert	Evans	Johnson (CT)
Boggs	Fascell	Johnson (SD)
Bonior	Fazio	Johnston
Borski	Feighan	Jones (GA)
Bosco	Fish	Jones (NC)
Boucher	Flake	Jontz
Boxer	Flippo	Kanjorski
Brennan	Foglietta	Kaptur
Brooks	Ford (MI)	Kasich
Broomfield	Ford (TN)	Kastenmeier
Browder	Frank	Kennedy
Brown (CA)	Frenzel	Kennelly
Bruce	Frost	Kildee
Bryant	Gallo	Kleczka
Bunning	Garcia	Kolbe
Bustamante	Gaydos	Kolter
Byron	Gejdenson	Kostmayer
Callahan	Gephardt	LaFalce
Campbell (CA)	Gibbons	Lagomarsino
Campbell (CO)	Gillmor	Lancaster
Cardin	Gilman	Lantos
Carper	Gingrich	Laughlin
Chandler	Glickman	Leath (TX)
Chapman	Gonzalez	Lehman (CA)
Clarke	Goodling	Lehman (FL)
Clay	Gordon	Leland
Clement	Goss	Lent
Clinger	Gradison	Levin (MI)
Coleman (MO)	Grandy	Levine (CA)
Coleman (TX)	Grant	Lewis (GA)
Conte	Gray	Lipinski
Conyers	Green	Livingston
Cooper	Guarini	Lloyd
Costello	Gunderson	Long
Coyne	Hall (OH)	Lowery (CA)
Crockett	Hamilton	Lowey (NY)
Darden	Harris	Luken, Thomas
de la Garza	Hastert	Machtley
Madigan	Patterson	Smith (FL)
Manton	Paxon	Smith (IA)
Markey	Payne (NJ)	Smith (NE)
Martin (IL)	Payne (VA)	Smith (NJ)
Martinez	Pease	Smith (TX)
Matsui	Pelosi	Smith (VT)
Mavroules	Penny	Snowe
Mazzoli	Perkins	Solarz
McCloskey	Pickett	Solomon
McCrery	Pickle	Spence
McCurdy	Poshard	Spratt
McDade	Price	Staggers
McDermott	Pursell	Stallings
McEwen	Quillen	Stark
McGrath	Rahall	Stenholm
McHugh	Rangel	Stokes
McMillan (NC)	Ravenel	Studds
McMillen (MD)	Ray	Swift
McNulty	Regula	Synar
Mfume	Rhodes	Tallon
Michel	Richardson	Tanner
Miller (CA)	Ridge	Tauzin
Miller (WA)	Rinaldo	Thomas (CA)
Mineta	Roberts	Thomas (GA)
Moakley	Robinson	Thomas (WY)
Mollohan	Roe	Torres
Montgomery	Rohrabacher	Torricelli
Moody	Rose	Towns
Moorhead	Rostenkowski	Traficant
Morella	Roukema	Traxler
Morrison (CT)	Rowland (GA)	Unsoeld
Morrison (WA)	Roybal	Valentine
Mrazek	Russo	Vander Jagt
Murphy	Sabo	Vento
Murtha	Saiki	Visclosky
Myers	Sangmeister	Volkmer
Nagle	Sarpalius	Walgren
Natcher	Savage	Walsh
Neal (MA)	Sawyer	Watkins
Neal (NC)	Scheuer	Waxman
Nelson	Schiff	Weiss
Nielson	Schneider	Weldon
Oakar	Schroeder	Wheat
Oberstar	Schuette	Whittaker
Obey	Schumer	Whitten
Olin	Sharp	Williams
Ortiz	Shays	Wilson
Owens (NY)	Sikorski	Wise
Owens (UT)	Sisisky	Wolf
Oxley	Skaggs	Wolpe
Pallone	Skeen	Wyden
Panetta	Skelton	Wylie
Parker	Slattery	Yates
Parris	Slaughter (NY)	Yatron
Pashayan	Slaughter (VA)	Young (FL)

NAYS—74

Archer	Gekas	Rowland (CT)
Armey	Hall (TX)	Saxton
Baker	Hammerschmidt	Schaefer
Ballenger	Hancock	Schulze
Barton	Hansen	Sensenbrenner
Bentley	Holloway	Shaw
Brown (CO)	Hopkins	Shumway
Buechner	James	Shuster
Burton	Kyl	Smith (MS)
Coble	Leach (IA)	Smith, Denny (OR)
Combest	Lewis (CA)	
Coughlin	Lewis (FL)	Smith, Robert (NH)
Cox	Lightfoot	
Craig	Lukens, Donald	Smith, Robert (OR)
Crane	Marlenee	
Dannemeyer	McCandless	Stangeland
Davis	McCollum	Stearns
DeLay	Meyers	Stump
Dickinson	Miller (OH)	Sundquist
Dornan (CA)	Molinari	Tauke
Douglas	Nowak	Upton
Dreier	Packard	Vucanovich
Emerson	Petri	Walker
Fawell	Porter	Weber
Fields	Ritter	Young (AK)
Gallegly	Roth	

ANSWERED "PRESENT"—1

Martin (NY)

NOT VOTING—8

Carr	Florio	Rogers
Collins	Hayes (LA)	Udall
Courter	Hyde	

□ 1243

Mr. OXLEY and Mr. FRENZEL changed their votes from "nay" to "yea."

Mr. MARTIN of New York changed his vote from "nay" to "present."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 3072, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-214) on the resolution (H. Res. 225) waiving certain points of order against consideration of the bill (H.R. 3072) making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 1278, FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989

Mr. GONZALEZ. Mr. Speaker, I call up the conference report on the bill (H.R. 1278) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to House Resolution 222, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday, Aug. 1, 1989, at p. H4714.)

The SPEAKER pro tempore. The gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes.

Mr. LEACH of Iowa. Mr. Speaker, may I ask if the two gentlemen are both in favor or opposed to the bill?

The SPEAKER pro tempore. Are the gentlemen both in favor of the bill?

The gentlemen are both in favor.

Mr. LEACH of Iowa. Mr. Speaker, as a Member in opposition, I would ask that the time be divided.

The SPEAKER pro tempore. The time will now be divided 3 ways: The gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes, the gentleman from Ohio [Mr. WYLIE] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have returned with a conference report on H.R. 1278 that maintains the positions of the House on the key issues in the rescue, restructuring and reform of the savings and loan industry.

The conference report, like the legislation passed by the House on June 15, provides the means to clean up the savings and loan mess and the safeguards to ensure that never again will the fastbuck artists so easily walk into the vaults of the U.S. Treasury.

As we agreed in the House, the conference report estabishes tough capital standards—tough but fair. The standards clearly shift the burden of risk from the taxpayer and the insurance fund to the owners and the operators of the institutions. No longer do public moneys bear the first dollar of risk.

The bill contains airtight regulatory provisions and an overhauled supervisory machinery to ensure that the corrupt and the incompetent never again will have keys to the U.S. Treasury.

The bill restores the role of the Home Loan Bank System as a generator of mortgage credit, and ensures that low and moderate income families will benefit from the provisions.

The bill ensures that the public—which will pay most of the cost—will not be freely discriminated against and neighborhoods redlined by the institutions rescued by the legislation.

In keeping with the 2-to-1 vote in the House, the conference report provides funding on budget—a provision that will assure the money will be available earlier to close sick thrifts and that the costs will be cheaper. It also assures that the facts about the costs will be laid clearly before the American people and not hidden in some high cost off-budget gimmick.

Above all else, the bill restores the integrity of Federal deposit insurance and bolsters confidence in the U.S. financial system.

I want to commend my fellow conferees on the Banking Committee, not only for their hard work during the conference, but for the long hours that they have devoted to this legislation since the beginning of this session. It is a team effort that has involved everyone, from the senior members to the most recent additions to the committee—on both sides of the aisle. It is a full committee, bipartisan effort. I also want to pay tribute to the conferee from Committees on Ways and Means, Rules, Judiciary and Government Operations who helped develop areas of the conference report in which they shared jurisdiction. These joint efforts worked extremely well and protected the positions of the House.

The legislation, I am convinced, represents a new day for financial legislation. Both the House and Senate committees clearly placed the public interest ahead of the pressures of the industry. It took the cooperation of everyone—the House and Senate and the administration—Members of both parties willing to work the long hours and to make some truly tough decisions.

It is a good bill. It deserves the support of the House.

With that, Mr. Speaker, if it is in order, I should like to yield such time as he may consume to the ranking majority member of the committee, the chairman of the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, the gentleman from Illinois [Mr. ANNUNZIO]. It is his subcommittee that had comprehensive hearings and markup on the bill to begin with.

□ 1250

Mr. ANNUNZIO. Mr. Speaker, I rise today in support of the conference report on H.R. 1278.

While I have some concerns about certain aspects of the legislation, I feel that on balance the good outweighs the bad.

I want to compliment the chairman of the Banking Committee, the gentleman from Texas [Mr. GONZALEZ] for the tireless effort that he has shown in moving this legislation through the House.

I also want to compliment the gentleman from Ohio [Mr. WYLIE], who serves as both the ranking Republican on the full Banking Committee and on the Financial Institutions Subcommittee which I chair.

And, I also want to compliment all of the members of the Banking Committee for their efforts on this legislation. It is the most difficult piece of financial legislation to come through our Banking Committee in the 25 years that I have been a Member of this body, and I consider the performance of our committee to be an outstanding one.

I feel that this legislation corrects many of the abuses that have led to the savings and loan problems that we face today. I am proud that many of its corrective provisions are ones that I authored in the legislation.

In 1980, Congress voted to begin deregulation of the financial institutions industries. I was a member of the conference committee that wrote that legislation. I refused to sign the conference report, and voted against the conference report on the floor of the House because I felt deregulation of the financial institutions, particularly the thrift industry, would cause grave problems. One of the biggest problems with the deregulation of the thrifts

was that we were taking the emphasis away from housing loans and allowing thrifts to go into a multitude of other ventures. Many of these ventures, such as commercial lending, have been directly responsible for hundreds of thrift failures.

Prior to 1980, savings and loans financed 80 percent of all of the new homes in America. Today that figure has been reduced to 40 percent. As savings and loans have moved away from housing and into more speculative areas, there has been a direct increase in the number of failures.

H.R. 1278, with the inclusion of the Annunzio amendment dealing with the qualified thrift lender test [QTL], halts the deregulation spiral and places the savings and loans industry squarely back in the home financing business. The Annunzio amendment requires that savings and loans must have 70 percent of their assets in housing-related investments. It further provides that 55 percent of its assets must be in such hardcore housing activities as residential lending and mobile home lending. My amendment provides latitude for savings and loans to engage in other legal investments such as consumer and educational loans, but it makes certain that a vast majority of the loans must be for housing purposes.

I am particularly proud of that portion of my amendment, dealing with starter homes, that is part of the final package. There was a time in this country when we had a housing ladder. Young people on a tight housing budget were able to start the climb up the housing ladder by purchasing a starter home. This might be a small bungalow-type home or an older home in need of repairs. In most cases, the homes sold below the local selling price average. The young people would live in these homes for a few years and, after fixing them up, would sell the home at a profit and move to the next higher rung of the ladder. After several such transactions over a period of a number of years, the couple would be able to afford their dream house. But that dream house ladder does not exist today. In fact, the ladder has only one rung—the top rung. And if you cannot afford your dream house from the beginning, then you are priced out of the homeownership market.

I am hopeful that all of that will change because of the new QTL test dealing with starter homes. Under my provisions, a savings and loan which makes loans for or develops homes classified as starter homes, will receive double credit toward meeting the QTL test. Thus, if a savings and loan has 5 percent of its assets in a starter home development, it will be given 10 percent toward meeting the QTL test.

A starter home is defined as one that does not cost more than 60 percent of the average cost of similar housing in a community. If the average cost of a townhouse is $100,000 in a community, then you qualify as a starter home, and the selling price could be no more than $60,000.

The entire QTL test will not only take savings and loans out of highly speculative ventures, but will make more mortgage money available and will lower mortgage rates. Since savings and loans under present law can make massive investments in nonhousing items, there is a competition for the dollars available for savings and loan investments among housing investments.

In short, if a savings and loan puts most of its money in commercial real estate, for example, there is a minimum amount of funds available for residential real estate. And since there is a shortage of those funds, the interest rates to borrowers will be higher. If savings and loans are required to have 70 percent of their investments in housing activities, then they will need to place millions more in mortgage loans. Instead of competition among the borrowers, it will be among the lenders, and interest rates will fall. This competition will be even greater in the starter home area since double credit is involved.

In the next 2 years when the new QTL test goes into effect, there could well be a massive drop in interest rates on starter homes.

I am also proud of the enforcement penalties provided in this legislation. On the floor of the House I was successful in putting back into the bill the $1 million a day fine for crimes involving financial institutions. At the committee level I was successful in getting some $60 million placed in the bill to beef up the Justice Department's prosecution of financial institution crooks.

This legislation is put together to close institutions that have been ruined by crooks and bad management. The crooks and bad managers are not going to get anything out of this legislation except hopefully long prison terms. The bill is necessary to pay off the innocent depositors of those closed institutions. If the institutions were closed today, there is no money in the insurance fund to pay off depositors.

It has been estimated that it is going to cost every person in this country between $500 and $1,000 to close those current insolvent institutions. Taxpayers are rightfully concerned. But without this legislation, millions of Americans would lose their lifesavings and there would be economic chaos in the country.

Currently, there are between 500 and 1,100 savings and loans in this country that are open, operating, and I might add most importantly, are profitable. But this legislation establishes capital standards with a timetable which is so unrealistic that institutions will not be able to meet the new requirements.

"Who cares if several more savings and loans fail," might be the response. But a better answer is that everyone should care, because when these institutions are closed, their depositors will have to be paid off, and there is no money in the current insurance fund, and none in this legislation to do the job.

The institutions in this new category, in many cases, are victims of their own generosity. Their capital, which for simple definition's sake, is the difference of what is left on the books after liabilities are deducted from assets. When the Government closed a sick institution there was no money to pay off depositors. So instead of closing the institution it was merged with a profitable thrift. In most cases the Federal Government pleaded with merger partners to take over sick thrifts, but since most of these sick thrifts were in such bad financial shape, the resulting merger dragged down the financial structure of the acquiring thrift. In order to help these arrangements, the Federal Government allowed the new company to carry an item on its books as supervisory goodwill so that the capital account of the new company would meet accounting requirements.

Certainly, this is an accounting gimmick, but it is one that the Federal Government chose to use to save the Government billions of dollars. The legislation before us today virtually wipes out supervisory goodwill. And it means that those institutions that came to the rescue of the Federal Government will now have to be shut down and their depositors paid off. But since there is no money in the fund or in this bill to do that job, new sources will have to be found.

There is no way, in my opinion, that we can prevent another savings and loan bailout bill in the next year or two because of the supervisory goodwill problem. Had we chosen to allow these institutions to continue to operate and to grow out of the problem, we would not need to reconsider this legislation. But shortly, perhaps in even a matter of months, we will have to return and ask the taxpayers for more money.

I bring this out today so that it will not come as a shock when it happens down the road. When we have to come back and ask the taxpayers for additional money or to float additional bonds, I want the media and those Members of Congress who have spoken out against any help for the supervisory goodwill issue to be willing to step up and take the blame for this second assault on the taxpayers.

I am sure the media had a good time attacking the supervisory goodwill issue, but when it comes time to pay for that fund, the media must be willing to take its share of the blame. The blame must also extend to Members of the Congress who blocked any attempt to resolve the supervisory goodwill issue.

Passage of this legislation, without helping thrifts who are profitable yet below capital standards, will mean that Congress will have to revisit this issue.

I would like to ask the distinguished chairman of the Committee on Banking, Finance and Urban Affairs an important question concerning the status of savings and loans that apply for capital exemptions under this legislation.

Under this legislation, the capital standards for savings and loans will be those established for national banks by the Office of the Comptroller of the Currency. Under this legislation, savings and loans that do not meet the capital requirements can file a business plan with the Office of Thrift Supervision, and apply for an exemption to the capital standards as long as they are following that business plan. The Office of the Comptroller of the Currency also has a procedure under which a national bank that fails to meet the capital standards can file a plan to meet those capital requirements.

By regulation (12 CFR part 3, paragraph 3.7), the Comptroller states, "a bank in compliance with an acceptable plan to achieve the minimum capital ratio will not be deemed to be in violation of the minimum capital ratio."

In addition, the FDIC, which will be responsible for administering the insurance fund of savings and loans, has issued similar rules with regard to the conversion of State-chartered savings banks from mutual to stock ownership. The FDIC has stated that as long as the institution is in compliance with the capital—business—plan, "it shall be deemed for all purposes of the rules, regulations and policy of the FDIC to have at least the minimum required primary capital ratio, and total capital ratio as may be required by the FDIC from time to time for well-managed banks."

I ask the gentleman from Texas, is it the intention of the conference committee that savings and loans that file an acceptable business plan are to be treated, for purposes of capital compliance, the same as national banks under the terms of the Office of the Comptroller of the Currency regulations and by the FDIC in its regulations for savings bank conversions? In short, are savings and loans which have acceptable business plans deemed to be in compliance with the capital requirements for all rules, regulations standards and reporting requirements of the banking agencies and any other Government agency exercising authority over such savings and loans?

Mr. Speaker, I yield to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I would like to assure the gentleman from Illinois [Mr. ANNUNZIO], that is exactly what the committee had in mind and has in mind, and that the S&L will have the same treatment as the banks with respect to capital treatment, including the capital treatment that follows the filing of a so-called approved business plan.

Mr. ANNUNZIO. Mr. Speaker, I thank the gentleman from Texas [Mr. GONZALEZ] for his explanation.

I want to once again urge all the Members of this House, Members have heard the President, Members have heard the chairman of the full committee, Members will hear from the gentleman from Ohio [Mr. WYLIE] as chairman of the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, that went through this bill for over 3 weeks, day and night, with all of the amendments. I want to urge all of the Members of this Congress, we do not want, as the President said, we do not want this situation to continue to haunt Members. Every day we delay we lose $20 million of the taxpayers' money.

Therefore, I urge all Members to vote for the legislation. Let Members get on with the business, send the bill to the Senate, and let them worry about off or on.

As far as I am concerned, we got a good bill.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 1278, the Financial Institutions Reform, Recovery and Enforcement Act of 1989. Not since the major banking reforms of the New Deal era has the Congress faced banking legislation this critical to the continued health of our Nation's financial system.

The evidence is clear that insolvent S&L's are losing $10 to $20 million a day—perhaps even as much as $1 billion per month. The primary purpose of this bill is to provide the resources necessary to shut down failed, in some cases brain dead, institutions—to stop the mounting losses. I think it deserves to be repeated: none of the money provided by this bill will go to bail out management or stockholders. The $50 billion provided in the bill will go to pay off depositors in those institutions which have already been judged as having failed so they can be closed down.

The bill overall is an excellent bill. It provides for new capital standards so that thrift operators will be required to invest some of their own cash up front at risk and not be allowed to use the Federally-insured money of their depositors to speculate in risky ventures for their own financial gain.

Tough new enforcement provisions calling for strong criminal penalties for abuse, misuse, and criminal wrongdoing have been included. The Justice Department will receive $75 million to go after some of the crooked operators who have violated their public trust, and there is strong language directing the Attorney General of the United States to be more aggressive in this regard.

The bill would require thrifts to put more money into home lending—their traditional role. The structural reforms and the enhanced enforcement powers provided to the regulators should go a long way toward ensuring that we are not faced with this crisis all over again—several years down the road.

In short, this bill as proposed by President Bush just 18 days after his inauguration, will both fund and fix the problem.

This is not to suggest that the conference-reported bill is perfect. I strongly prefer off-budget funding as recommended by the President. Such an approach would preserve the integrity of Gramm-Rudman, the only remaining force for fiscal discipline in the Congress. But to me the thrift crisis is overriding.

I also would have favored deleting other matters which I regard as extraneous to emergency legislation to resolve the thrift crisis—in particular, the housing, right of first refusal, and the HMDA/CRA provisions. I believe the House made a mistake when it included these provisions in a bill intended to resolve the thrift crisis.

With reference to the HMDA/CRA provisions, they will add burdensome new reporting requirements of limited value whose cost will ultimately be borne by all consumers. We are all opposed to redlining and discrimination in the granting of credit, but these provisions will not solve either problem.

The only consolation I have is that the regulators are given great discretion in implementing the HMDA/CRA provisions. While certain conferees many have opinions on how these provisions are implemented, the regulators must look only at the plain language of the statute to promulgate regulations for the equitable and efficient implementation of the HMDA/CRA statutory provisions.

Moreover, I fear that the so-called right of first refusal will both increase the costs and delay the disposition of real estate assets held by the Resolution Trust Corporation. And, of course, any additional costs will ultimately be borne by the taxpayers. The affordable housing program included in Title VII of the bill is also troublesome. We all support the goal of af-

fordable housing, but I can't help but believe that the additional funds we are taking from the Federal Home Loan Banks to support this program should more appropriately be directed to resolving the thrift crisis.

But with these reservations in mind, I nevertheless support the bill reported by the conference. This has been a truly bipartisan effort and I am pleased to say that Chairman GONZALEZ and others worked constructively with Members on this side of the aisle to improve these provisions. In the case of HMDA/CRA, the provisions requiring the reporting of the origin of deposits were dropped and an exemption from the new requirements was included for depository institutions with assets of less than $30 million. Further, the right of first refusal provision was modified to provide separate treatment for single family and multifamily properties. The original House provision required that nonprofit organizations, public agencies, and lower income families be given a 90-day right of first refusal to purchase eligible residential properties.

Although the conference report maintains a 3-month right of first refusal for the purchase of single-family properties, the conference report provides some flexibility by increasing the income limit to homebuyers whose income does not exceed 115 percent of area median income and who intend to live in the house as their principal residence. For multifamily properties, the class of eligible qualifying purchasers was expanded to include profit motivated purchasers; however, such purchasers would not be eligible for any of the special financing arrangements. Finally, the time limit on the offer to purchase is more flexible than the House provision by allowing eligible purchasers 45 days from the time the property is eligible for sale to make a bona fide offer.

The conference report also includes the House's affordable housing program with modifications. Suspension of Home Loan Bank contributions to the program is authorized if such contributions would impact negatively on the safety and soundness of the banks. Moreover, I commend the bipartisan compromise which expressly allows both homeownership and multifamily housing under the program.

This bill will create a new Resolution Trust Corporation to liquidate or merge over 300 S&L's that are currently insolvent and those that become insolvent over the next 3 years. An independent oversight board composed of the Secretary of the Treasury, the HUD Secretary, the Federal Reserve Chairman, and two Presidential appointees will supervise the FDIC, who will carry out the actual work, and a Presidentially appointed Inspector General will review their work.

The plan provides for $50 billion to cover these costs. Substantial additional sums will be contributed by the industry itself—including $3 billion from the retained earnings of the Federal Home Loan Banks and deposit insurance premiums paid by S&L's which will be increased.

Perhaps more importantly, the bill also includes the following elements that should ensure that the problems of the past are not repeated:

Tough new capital standards that will require the owners of savings and loans to put a substantial amount of their own money at risk up front. Fast and loose operators will no longer be able to engage in risky speculative ventures with the federally insured money of their depositors. In short, the heads they win, tails the Federal Government picks up the losses approach to business will no longer be possible.

Within 120 days from enactment, all S&L's will be required to have 1½ percent tangible—or real capital and 3 percent core capital which may include some partial credit for so-called goodwill.

Speculative activities that present undue risk to the Federal deposit insurance funds generally will be required to be conducted only in separately capitalized subsidiaries. For example, S&L's will no longer be able to directly invest in or hold so-called junk bonds. Instead, all junk bonds must be moved to a separately capitalized affiliate or subsidiary within 5 years.

S&L's that do not meet the new capital requirements will be subject to prudent growth and activities limitations to ensure that additional risks are not incurred by the Federal deposit insurance fund and ultimately the taxpayers. Moreover, for institutions that are capital deficient but being operated in a safe and sound manner, the conferees permit an exemption from sanctions other than growth restrictions. Under this exemption, an institution that operates in conformity with an approved business plan will not be deemed to be out of compliance with regulatory capital standards. This will allow adequate regulatory control over the institution without changing the institution's ability to raise new capital.

The bill greatly improves the FDIC's ability to handle conservatorships and receiverships in an effective and efficient manner. This will reduce the cost to the taxpayer of case resolution and protect the insurance funds in the future. For example, Title II includes a provision codifying the FDIC's current practice, which has been upheld by the courts, with respect to the valuation of claims against financial institutions in default. This provision embodies the very simple and straightforward principle that creditors of an insolvent institution are entitled to only their pro rata share of the value of a failed institution's assets. The bill also recognizes that for purposes of carrying out its statutory mission of maintaining confidence in the stability of the banking system, the FDIC may pay from its own resources additional funds to arrange for the assumption of all deposits and other liabilities. Moreover, under section 912, the FDIC is specifically authorized to take enforcement actions against any savings association based on an examination of the association by the Corporation. Thus, it clearly is contemplated that the Corporation has the authority to examine any savings association to the extent the Corporation deems appropriate in order to exercise its enforcement authority and insure safety and soundness. These provisions greatly improve the bill.

A complete restructuring of the way the savings and loan industry is regulated. The regulatory and insuring functions will be split. Under current law, the Federal Home Loan Bank Board charters and regulates S&L's. The Federal Savings and Loan Insurance Corporation [FSLIC], which is part of the Bank Board, insures the deposits at S&L's. Under this bill, both the Bank Board and FSLIC will be abolished. The new S&L regulator—the Director of the Office of Thrift Supervision—will be an official of the Treasury Department. This official will both charter Federal S&L's and be the primary Federal regulator. The S&L insurance function will be transferred to the Federal Deposit Insurance Corporation which currently insures deposits at commercial banks. The S&L insurance fund will be maintained separately from the commercial bank insurance fund, but will be administered by the FDIC.

Tough new enforcement provisions are included to give the regulators the tools they need to take action before problems get out of control. Civil and criminal penalties for financial institution fraud have been dramatically increased—in some cases up to $1 million per day. Easier standards for the regulators to prove that losses have occurred in an institution, which is frequently a prerequisite to taking action, have been included as well as much broader authority to remove officers and directors guilty of wrongdoing. And, as noted earlier, the bill includes $75 million a year over the next 3 years for the Justice Department to establish a special strike force to go after those guilty of criminal wrongdoing.

Finally, I am pleased that the conferees failed to adopt the Senate's proposal for establishing loan to value ratios. These statutory ratios were found to be unworkable and flatly rejected by the conferees. The confer-

ence-reported bill places absolutely no requirements on the regulators to issue regulations mandating loan to value ratios. The conferees intend to preserve current law whereby the regulators would have discretion to promulgate such guidelines.

Mr. Speaker, after months of virtually around-the-clock work we are now close to moving this critical legislation through the final stages. Through those months I worked closely with the administration on this legislation. The administration got at least 90 percent of what it wanted. Indeed, we produced a much stronger bill than many believed possible. The big hangup now is the funding mechanism—whether the funding should be on-budget or off-budget. As I said, I strongly prefer the off-budget approach, but I don't want to see this bill fail over the funding question. To me, the thrift crisis is the overriding concern. We cannot wait another day to pass this critical legislation, but we can always revisit the budget issue. We owe it to the taxpayers to get this bill to the President. We owe it to the millions of Americans who have relied on the pledge of the Congress that the money they have deposited in our Nation's banks and thrifts is safe. And we must assure the world that our financial system is safe and sound.

Mr. Speaker, I urge an aye vote on the conference report.

Mr. LEACH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I rise in opposition to the conference report on the savings and loan bailout legislation.

The bill that the conference committee has reported is certainly a significant improvement over the administration's original proposal. But, in my view, the bailout legislation remains unfair to the American taxpayer. There are several problems with the proposal including:

First. The financing mechanism: The conference report adopts the House on-budget, off-Gramm Rudman financing plan. Much debate has focused on this issue. Yet, the fundamental question is not whether the financing should be on- or off-budget, but whether we should borrow at all. Under either approach, we are borrowing to pay for this bailout, and placing the huge interest costs associated with that borrowing on the taxpayer.

Borrowing under these circumstances is both fiscally and morally irresponsible. We will clearly be spenders. The issue is whether we will tax and spend, or borrow and spend and then eventually tax our children and grandchildren. I believe it is far more appropriate and defensible to tax ourselves than our progeny.

Borrowing is appropriate for the funding of capital expenditures—investments in the future. However, fiscal responsibility dictates that we not borrow to cover present consumption, and certainly not to cover past consumption, which is exactly what we are doing here.

The on-budget or Treasury borrowing approach saves at least $4.5 billion in comparison to the borrowing of an off-budget entity, and for that reason alone is preferable to the administration's financing mechanism. But borrowing in any form is a much higher cost solution than a direct infusion of funds. We could save the taxpayer as much as $150 billion over the next 30 years if we made some hard choices and paid for this bailout now. Instead, we are foisting higher costs than would otherwise be necessary onto future generations. That is unjust.

We must also be attentive to the degree to which Government borrowing crowds out other borrowers in U.S. capital markets. Other borrowers are already disadvantaged because of the high level of Government debt. The bailout program will fuel this problem. Increasingly greater amounts of money that could be turned toward productive investment will be deflected toward ongoing debt repayment.

Second. The level of funding: The administration's projections regarding the overall level of funding required and the source of that funding are based on a series of overly optimistic and implausible assumptions. The plan contemplates a far greater drop in interest rates than many economic experts anticipate; projects 7 percent annual deposit growth in thrifts, resulting in steady premium inflow, when deposits are in fact declining; minimizes the number of insolvent thrifts while imposing requirements that will threaten the viability of a large portion of the industry and reduce the value of the thrift charter. Already the administration is reexamining some of these assumptions, with an attendant increase in costs.

Each time any of these implausible assumptions proves incorrect, it is the taxpayer's potential liability that increases. If interest rates are higher, or deposit growth in savings associations is lower, or the premium inflow from surviving thrifts decreases, it is the taxpayer that will bear the additional costs.

Other elements of the plan also suggest that the taxpayer obligation will eventually be much higher than is now being anticipated. Proceeds from asset liquidation are to provide a major source of income to defray taxpayer costs under the plan. But too rapid sale of assets will destabilize local real estate markets, compounding the problem. Should liquidation proceeds lag, taxpayer money will have to make up the difference. In addition, both the FSLIC Resolution Trust and the SAIF fund are seriously underfunded. Both will require substantial additional infusions of taxpayer dollars.

It is only the taxpayer's obligation under this bill that is indeterminate, and the structure of the bailout program makes the taxpayer our last recourse for any increased financial burden. Additional costs will be placed at his door.

Third. The impact on healthy thrifts: The structure of the legislation is premised on the need for and viability of an independent thrift industry. Yet the bill makes it virtually impossible for the healthy thrifts which could form the core of a revitalized industry to survive.

Increased premiums will place a heavy financial burden on healthy thrift institutions that their competitors will not have to bear. At the same time, their dividends will be reduced because of the heavy costs imposed on the Federal Home Loan Banks. Banks in the Northeast and Midwest will suffer the most as their resources will be depleted to subsidize the contributions to the bailout costs some of their sister institutions may well prove unable to make.

It was the inability to diversify that originally put the thrift industry into such jeopardy. Yet we are again putting the industry into a straitjacket, forcing healthy thrift institutions into marginally profitable areas of activity while largely foreclosing areas of activity, such as consumer and commercial lending, which could enhance profitability and provide the diversification so essential to safety and soundness.

Some degree of consolidation will be essential to solving industry problems. While the legislation alleviates some restrictions on investment and acquisition so as to bring more capital into the industry, too many such restrictions remain. In fact, the legislation may well more effectively foster the acquisition of healthy thrifts that might have survived as independent community institutions than it will draw investors to capital-starved institutions. Few incentives for investment in weakened institutions are apparent, particularly given the reduced value of the thrift charter. The regulators will increasingly be forced to cashout the problems of insolvent institutions, increasing the drain on the resources provided in this bailout and taxpayer costs.

Fourth. The Resolution Trust Corporation: The responsibilities confronting the RTC are massive and unprecedented. The RTC is to manage and dispose of the assets of insolvent S&L's. That responsibility could involve the disposition of $300 to $500 billion in a wide variety of assets. Yet the structure of the organization is ill-defined, its policies and procedures are left to its own devising, and its accountability to the public is negligible.

The Resolution Trust Corporation will necessarily find itself in an anomolous situation as it tries to fulfill its asset disposition responsibilities. A major portion of its income is to come from the proceeds of asset disposition. However, the RTC cannot dispose of assets too quickly without adversely affecting local real estate markets, destabilizing local and regional economies, and jeopardizing now-healthy S&L's. Nor can it hold the assets for any extended period of time, since the expense of warehousing the assets is not a cost accommodated in the bill.

Only weeks ago, the administration was describing the RTC as a thinly-staffed body with broad oversight responsibilities. Now, Chairman Seidman is indicating he may need as many as 1,000 additional employees to handle the operational responsibilities the FDIC will now undertake as exclusive manager of the RTC. This additional staffing is yet another cost that the bill does not accommodate.

In the short term, an understaffed and underfunded organization under enormous pressure will be trying to quickly handle the disposition of billions of dollars in assets, largely through outside contractors and real estate speculators, with little public oversight of day-to-day operations. It is a recipe for disaster.

Fifth. Absence of a State contribution: To a significant degree, it was State-chartered institutions with a very broad array of powers op-

erating under lax State supervision that broke the Federal insurance fund. As a result, we are now engaged in a fundamental restructuring of our dual banking system involving massive Federal assistance. The States have obligations as well as rights under that system; and the duality of that system should be reflected in some sharing of the costs.

There should be some regional equity in bearing the financial burden of this bailout. The legislation we are considering involves a massive transfer of resources from the Northeast and Midwest to the Southwest. The Northeast-Midwest region is responsible for less than 10 percent of the estimated total cost of FSLIC resolutions, but would pay 45 percent of the tax portion of the bailout package.

Certainly, the Federal regulators are culpable, and Federal taxpayers will bear the largest portion of this burden. But where lax supervision by State regulators of State-chartered institutions contributed to the problem, the States involved should at least make some modest contribution to the solution.

In effect, we are engaged not in a depositor payout, but in a massive restructuring effort designed to preserve institutions and the stability of communities. The States and the Federal Government should rightfully share responsibility for that effort.

Sixth. Conference procedure: I do not in any way question the good faith of the conference committee proceedings or underestimate the difficult task of producing such complex legislation in so tight a time frame. However, to be required to deliberate and make decisions in terms of general concepts, without benefit of statutory language, on such a complex and highly technical matter as the restructuring of the thrift industry is a highly unusual, and in my view, unduly risky approach to take.

Certainly, quick action is called for. But we will accomplish nothing by passing legislation that may well create more problems than it will solve. I urge my colleagues to oppose the conference report.

Mr. LEACH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, it is with great reluctance that I rise to oppose this conference report. But I must.

I am reluctant because I think so highly of my colleagues on the Banking Committee, and I know how hard we have all worked on this matter over the last several months.

I have the highest possible regard for Chairman ANNUNZIO and Chairman GONZALEZ, and I commend them for the absolutely outstanding job they did during the long process of hearings and markup on this bill. They were both completely open, fair, and responsive. It wouldn't have been possible for anyone to conduct the affairs of the committee in a more democratic and effective way.

I also want to praise the outstanding job done by Senator RIEGLE and the other Senate conferees who worked so diligently. Senator RIEGLE was especially impressive as he demonstrated an outstanding command of the issues while conducting the conference in a dignified and statesmanlike way.

Unfortunately, though, despite the best intentions, the bill before us will not solve the savings and loan problem. In fact, it virtually assures that we will be called upon sometime soon to deal with this problem again. This bill sets the stage for an entirely new crisis down the road.

Although there is much good in the bill, Mr. Speaker, the conference committee has loaded the savings and loan industry down with so many restrictions that the result will be an industry that won't be able to make money. If the industry can't make money, it can't attract capital. If it can't attract capital, it can't survive. And if it can't survive, it will be back to Congress looking for more taxpayer money.

Mr. Speaker, during our conference committee deliberations I argued against many of these restrictions that will hinder the savings and loan industry's ability to make money. But on most of these issues, I lost.

Again, I have the highest regard for the judgment of my colleagues, and I hope that they are right. But I really believe that the bill we are now considering is based on a fundamental misunderstanding of the nature of what caused the savings and loan fiasco and what should be done about it.

In addition, since we refuse to pay the cost of this bill over a reasonable timeframe and instead insist on borrowing, the cost to the taxpayers will be at least $100 to $200 billion more than it should. The significance of "read my lips" becomes clear. Our refusal to pay our bills will cost us well over $100 billion.

Because we do not provide adequate guidelines and antifraud provisions for the Resolution Trust Corporation [RTC], we run the risk of massive scandal.

Because the insurer of savings and loans, the Federal Deposit Insurance Corporation [FDIC], will not be the regulator of State-chartered savings and loan institutions, we reduce accountability and again raise the specter of unwarranted costs to taxpayers.

As if this were not enough, I also must observe that the bill is based on very shaky economic assumptions, assumptions which in numerous ways understate the real cost of this bill to taxpayers.

As I said, Mr. Speaker, there is also much that is good in H.R. 1278:

We went beyond President Bush's recommendations in insisting on even tougher capital standards. I strongly supported these provisions to force thriftowners to put more of their own money at risk. Almost everyone agrees, that adequate capital is the essential requirement for a healthy industry. In this bill we establish the payer principle of risk-based capital.

The bill will give the FDIC broad new oversight and enforcement powers. Regulation will improve; many of the crooks will go to jail.

Putting the costs of this bill on budget is honest and will save taxpayers at least $4.5 billion.

Requiring the savings and loan industry to pay all they can is a basic principle necessary to limit the cost to taxpayers as much as possible.

The bill will wisely limit the use of brokered funds by troubled thrifts.

A study of the deposit insurance system, provided for in the bill, is long overdue.

Clearly, Mr. Speaker, the bill has many good features, but my conclusion, on balance, is that we could have produced a much better bill.

Mr. Speaker, please let me continue to spell out some of my most serious concerns.

I am very worried about the creation of the so-called Resolution Trust Corporation, which will be charged with disposing of hundreds of billions of dollars worth of property acquired by the Government from failed S&L's.

There will be countervailing pressures—to hold property, so as not to depress the market, or to dispose of it to reduce the cost of the bailout. Proponents promise that the RTC will be lean. But if it were to employ the same ratio of employees per million dollars of assets as the FDIC, it would need 250,000 people.

The conference committee rejected the Kanjorski amendment, which would have provided some sensible antifraud, accountability guidelines for those running the RTC. We should be taking more precautions to ensure that the RTC does not go the way of the Federal Asset Disposition Agency, created earlier to deal with this problem, which failed because of scandal, mismanagement, and ineffectiveness. The RTC, as presently structured, has the potential to produce the greatest scandal in our Nation's history.

My next concern is the erroneous premise that has permeated deliberations on the bill: The idea that thrifts should be forced back into a narrow range of activities, specifically home mortgage lending, because this is their traditional role and, further, because it is too risky for an S&L to hold a diversified portfolio of higher yielding assets. This is a serious misunderstanding of the problem.

H.R. 1278 will impose new limitations on the S&L's diversity and profitability. These include the new qualified thrift lender test, new limits on direct investments, additional limits on commercial—nonresidential—lending, new limits on consumer loans, and the prohibition of investments in high

yield bonds. Taken together, these restrictions channel thrifts into less profitable areas of business and expose them to more interest rate risk.

Safety comes from diversity. Diversity is the bedrock of any intelligent investment strategy. H.R. 1278 severely limits diversity. Because so many different entities offer mortgage loans, profit margins on home mortgage lending are so thin today that thrifts will not be profitable enough to pay a competitive return to investors and hence won't be able to raise capital. This bill puts a straitjacket on the thrift industry and virtually assures that it will return to Congress seeking more money.

The $100 million or so per year that the industry will be required to contribute to low-income housing will also erode the solvency of the thrift industry. Clearly the Banking Committee should act to meet housing needs, but it should do so in regular order, by authorizing money from the general fund, not by taxing the beleaguered S&L industry.

The bill should, but does not, permit the FDIC to be the primary Federal regulator for State-chartered thrifts. Instead, it gives this role to the new Office of Thrift Supervision, created by the bill. Although the FDIC has a right and responsibility to protect the insurance fund, and has the most to lose if regulation is inadequate, the FDIC must yield to an agency that has less stake in good regulation because it neither charters nor insures State thrifts.

Furthermore, State-chartered thrifts will now have to report to three regulators, which is a waste of scarce resources.

The new Community Reinvestment Act and Home Mortgage Disclosure Act requirements, and other provisions intended to protect consumers, also will make it more expensive to do business and therefore harder to attract capital to the financial services industry.

Mr. Speaker, for all these reasons and more, I must vote against this bill.

Mr. LEACH of Iowa. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I wish to direct my remarks to section 1201 of the conference report, the GAO study of the credit union system, and particularly regarding the conferees' intent concerning the study of the taxation of credit unions.

Mr. Speaker, in reconciling different versions of the U.S. General Accounting Office study of the credit union system, House and Senate conferees agreed that this study should not include the issue of credit union taxation. This issue was not discussed in any fashion between the administration and Congress in developing this legislation. It also was not raised during hearings or markups in either the House or Senate. In fact, when discussing the original administration proposal to have credit unions writeoff their 1 percent deposit with the NCUSIF, Members were quick to point out that the issue being addressed concerned reform of the Federal deposit insurance system and not credit union taxation. Clearly, the issue of credit union taxation does not belong within the context of this legislation.

The House Banking Committee report accompanying H.R. 1278 states that the committee has a responsibility "to ensure to the taxpayer that credit unions and their insurance fund remain solvent and well managed." An objective GAO study of the credit union system will greatly assist the committee in carrying out this responsibility. The conference report language provides a clear and comprehensive mandate for such a study without including an issue—credit union taxation—that has no relevance to the National Credit Union Administration's regulation of the credit union system.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with the greatest reluctance that I rise to oppose the bill in its present form.

Last February the President of the United States courageously took the lead and acknowledged governmental responsibility for the greatest legislative and regulatory mistake of the century. He outlined an approach requiring greater accountability in the industry and more disciplined regulatory oversight. The operating assumption was that crooks would be put in jail, legislators would shake their cozy ties to the industry, and the industry would shape up its books so that "never again" would this issue be revisited.

The bill before us represents a significant step forward in accomplishing these objectives, but I am constrained to dissent—not because the legislation should necessarily be vetoed by the President, but because of my profound disappointment that Congress did not do better. Rather than "never again," the approach we have crafted assures a revisiting of the same issue with the same cost implications in the not-too-distant future, most likely in the next 18 to 36 months.

While $50 billion in new resources added by this bill to the insurance fund will help protect savers and make possible the liquidation of badly insolvent thrifts, the industry discipline called for and the resources provided are insufficient to cope with the true depth of the problem. It must be understood by this body that near-term liabilities of the thrift industry are in the 11-, note 11-figure range. With interest, the cost to every man, woman, and child in America will exceed a thousand dollars. Now is not the time for a red-eared Congress to play games with the taxpayer and give in to industry and special-interest concerns.

Here, let me relate an event of tragicomedy proportions that happened this spring in my State. In Ames, IA, a starting forward on the Iowa State University basketball team and a potential star defensive back on the football team walked into the campus Burger King with rifles, without masks, and asked the kids at the counter to clean out their cash registers. The picture of the basketball player was on the wall. One young girl is alleged to have called out to the basketball player as he came up to the counter: "Hi Sam." To which he is said to have responded: "It is not me." Shortly thereafter the police arrived and punctured the escapees with bullets to their legs. The potential of two young men hangs in the balance.

Today we are revisiting the scene of another crime—the largest bank heist in history, one that goes beyond the vaults of financial institutions and picks the pocket of every American. To paraphrase Pogo: "The robber is Us." None of us can say "it is not me." Our pictures are on the wall. It is Congress, after all, that passed the loose laws that led to the loose regulation that set loose the high-fliers in the S&L industry. Pin-striped crime cannot be battled with pin-striped laws.

In this context, it is impossible not to reflect profound disappointment about the following provisions of the bill:

First, the over-leveraging of other people's money by mismanaged savings and loans is the root of the problem before us. Yet the 1½ percent capital requirement called for in this bill—3 percent in 5 years, while stiffer than exists today, cannot be considered overly rigorous in this cooked-book industry. And the forebearances authorized for institutions with good business "plans" can only be considered incredulous. For the taxpayers to be protected, the industry should either be forced to raise massive amounts of real, tangible capital or face the music and shrink. Yet this bill envisions a greater-than-inflation, 7 percent annual industry growth and no contraction for institutions with minimal net worth.

A more realistic target for capital standards would have been 3 percent in 1 year and 5 percent in 3. A more realistic regulatory model would have been that of Bank of America. Five years ago, banking regulators recognized that the largest bank on the west coast teetered on insolvency. They ordered the raising of greater private-sector capital or shrinkage of assets. Bank of America did both. It shrunk by almost a third and diluted its shareholder's holdings by raising more capital. Because of these prudential undertakings, the bank last year earned almost $1 billion and today is

no longer a likely candidate for taxpayer defense of its insured deposits. Why does the thrift industry think it is so privileged as to be above the prudential standards of America's commercial banks?

Second, the bill before us is presented as if the resources—as staggering as they are—are adequate to right the current insolvency in the industry. The fact is:

First, the losses of the grossly insolvent thrifts are greater than was estimated just a few months ago.

Second, preliminary indications are that the second-tier problem institutions in the industry, many of which are rated will by the Federal Home Loan Bank Board, pose another $40 to $50 billion problem.

Third, the costs involved in liquidation or getting outside parties to assume the risks of taking over sick thrifts are larger than originally projected.

Fourth, the added costs imposed on the industry by this bill through the housing provisions of the Gonzalez amendment have multimillion-dollar implications for the taxpayer; in addition, the obligations implicit in the Frank "first-option" amendment potentially portend multi-billion-dollar costs for the same taxpayers. The social case for housing may be compelling, but the cost implications of the social engineering in this legislation cannot be ducked.

Fifth, the assumptions upon which industry revenue streams are projected may be overly optimistic. No consideration is given to the possibility that the economy might suffer a significant downturn, be subject to renewed dollar inflation, or housing-asset deflation. An even keel is projected at a time when choppy waters loom on the horizon.

Alas, it would seem improvident not to authorize an additional $25 to $50 billion contingency draw on the Treasury, perhaps in the context of an on/off budget compromise involving the placement of part of the bonds sold on budget and off Gramm-Rudman and another part off budget and on Gramm-Rudman.

Here it should be stressed that the on/off budget issue is a close call, one which is amenable to compromise but even if not, one which should not produce partisan, institutinal or philosophical rancor. What is impressive is not how far apart the sides are, but how close together the positions remain.

Both the Republican and Democratic positions, after all, involve the same amount of money and the principle of long-term bonding. The Democratic approach has the advantage of offering greater bond term flexibility and perhaps lower-cost Treasury, as opposed to agency, issuances. The Republican approach has the advantage of forcing greater discipline on Congress through the Gramm-Rudman process. It neither sets an unhappy Gramm-Rudman exclusion precedent nor causes other Treasury offerings to be subject to possible higher pricing because of taking S&L bonds off Gramm-Rudman. My personal perference, by a narrow margin, is for the administration approach because it is tougher on Congress. It implies accountability; it forces us to instill greater budget discipline in recognition of the fact that it is we in Congress who have made extraordinary legislative mistakes and that these mistakes are not cost-free.

The Democratic approach at first glance appears more honest because it is declarative up front with regard to the deficit. But there is no discipline that goes with the declaration. Perhaps the way out of an impasse that is more psychological than economic is to authorize, as mentioned above, a hybrid approach to bond sales, part to be sold off Gramm-Rudman through Treasury offerings, part on Gramm-Rudman through agency issuances, with a substantial back-up line of credit authorized at the Treasury which would be on budget and off Gramm-Rudman. The really important issue, however, is not which way we go, but that we move off the precipice. It matters less whose views prevail than that public confidence in the safety and soundness of the financial system is restored.

Third, in his February statement, the President asserted that white-collar criminals must be held accountable. Yet given the size of the crime, this bill provides minimal resources to the FDIC and the Justice Department to investigate and prosecute wrongdoers. Incredulously, an amendment I offered in committee to establish and fund a special thrift-fraud task force at the Justice Department was beaten back on jurisdictional grounds and opposed by the Justice Department. The American people are not going to countenance using taxpayer resources to protect depositors if criminals are not forthrightly pursued and deprived of ill-gotten gains.

Fourth, it is indefensible that in the panoply of American finance, a category of institutions—certain savings banks—are separated out and given privileged status. Not only are they exempted from the Qualified Thrift Lender [QTL] provisions of this statute—arguably defensible—they, unlike commercial banks and thrifts, will be allowed to double-count investments for regulatory capital purposes and be authorized to make direct investments, the very practice that got so many S&L's in trouble. Only a sophist can argue the merits of such a privileged position for this industry.

Fifth, in contrast with the Senate, the House originally adopted a provision I authored to give the FDIC primary responsibility to regulate State-chartered thrifts. This amendment was designed above all else to re-establish regulatory accountability and break the too-cozy relationship between the regulated and the regulator which has developed over the past several decades in the thrift industry. Unfortunately, the Senate position keeping the same people and the same leadership in place prevailed despite the fact that this is a leadership that frittered away billions in the December deals and hundreds of millions, if not several billion, in keeping one thrift—Lincoln—afloat despite regional bank recommendations to close.

Sixth, the bill not only does not adopt the approach I pushed to force greater capitalization of Government-Sponsored Enterprises [GSE's], it weakens public oversight of Freddie Mac by giving private stockholders control of the board. The prospect that it and Fannie Mae may become taxpayer dependents at the same time they spin dividends to private-sector shareholders is unfortunate. There is simply no excuse that both of these secondary-market thrifts not be subject to prudential capital standards. With both being larger than Citicorp, there is no excuse that they should be pampered with special legislated dispensations.

Seventh, as in so many compromises in the conference, taxpayer concerns were considered secondary to industry concerns when the issue of industry contributions to the insurance fund was de-indexed for inflation. The House position was designed to call on the industry first to support the insurance fund. In succumbing to Senate reservations the taxpayer implicitly will be asked to take a greater hit.

Eighth, the tough conflict-of-interest rules applicable to the Resolution Trust Corporation [RTC], which were adopted by the House, were dropped in conference. At the moment, the ethics rules for the new institution are in limbo, weaker than those that apply to HUD.

Ninth, the requirement advanced by the House that all federally insured financial institutions above a given size be required to undergo annual certified audits was dropped by the conference. Suggested by the GAO and proposed by the distinguished gentleman from Wisconsin [Mr. ROTH], such requirements strike me as a particularly appropriate prerequisite to granting institutions the right to offer Federal deposit insurance.

Tenth, under the Administration's bill, the new thrift regulator (the Office of Thrift Supervision) was intended to come under Treasury supervision. Based on amendments stemming from the Senate, a more independent status has been carved out.

For those of us who are concerned with the lack of rigor of Federal thrift oversight, the case for giving the new director of the OTS (the chairman of the old Federal Home Loan Bank Board) more independent status than the Comptroller of the Currency is questionable.

Eleventh, while the majority of the most-egregious special-interest provisions have been deleted from the bill, it still is galling to note that a prominent insurance company that owns a thrift is exempt from the QTL test; that report language exempts Sallie Mae's thrift from the conversion moratorium; that a Memphis thrift is exempted from the same moratorium; and that exceptions are made to the capital-deduct requirements for certain institutions.

Twelfth, one problem that was hardly referenced in Congressional consideration of root problems in the thrift industry is the need for deposit insurance reform. The case at a minimum for restricting insurance to a single $100,000 deposit per depositor would appear overwhelming, but even minimalist deposit-insurance reform has been passed over. Lacking the will to reform the insurance system, Congress has a particular responsibility to establish firm regulation. The only way to protect the taxpayer if institutions become too big or too weak to fail is to insist they not become too big or too weak to regulate.

As for specific provisions of the conference report, the record should be clear on the following items:

First, that provisions of this act that permit thrifts to be converted to banks are not intended to allow banks resulting from such conversions to establish, retain, maintain, or operate branches that do not comply with the laws relative to establishment and operation of bank branches or offices in the respective States where such banks are operated. In other words, the Douglas or McFadden Acts are not intended to be circumvented or modified by this statute.

Second, that in regard to the application of the conversion moratoriums of this act to thrift institutions that are exempt from the present moratorium on FSLIC-to-FDIC conversions imposed by the Competitive Equality Banking Act of 1987, it is my understanding that thrifts that were grandfathered under section 306(h)(2) of the CEBA would lose their ability to switch insurance funds under the pending legislation if they did not convert to FDIC insurance prior to enactment, because the 5-year conversion moratorium provisions of this act do not contain an exception for these institutions. This would be the case even if a thrift had applied to convert, had received an approval to convert or was involved in litigation with any of the Federal regulators regarding a dispute over its grandfathered status before the bill was enacted, because in determining whether a proposed conversion is permissible, the Government would be obligated to look to the law in effect at the time the conversion transaction was consummated, not what the law was when the application or lawsuit was filed or an approval was received.

Third, that under section 912, the FDIC is specifically authorized to take enforcement actions against any savings association, based on an examination of the association by the Corporation. Thus, it clearly is contemplated that the Corporation has the authority to examine any savings association to the extent the Corporation deems appropriate in order to exercise its enforcement authority and to ensure safety and soundness.

Fourth, that in regard to a provision in section 912 that allows the FDIC to consider providing assistance to institutions prior to the appointment of a conversator or a receiver when certain conditions are met, proving that the institution has negative tangible capital, it is this Member's understanding that the granting of such assistance is within the complete discretion of the FDIC, even if the institution meets the outlined conditions.

Fifth, that title II also includes a provision codifying the FDIC's current practice, which has been upheld by the courts, with respect to the valuation of claims against financial institutions in default. This provision embodies the very simple and straightforward principal that creditors of an insolvent institution are entitled only to their "pro rata" share of a failed institution's assets. The bill also recognizes that if for purposes of carrying out a statutory mission and maintaining confidence in and the stability of the banking system, the FDIC may pay from its own resources additional funds to arrange for the assumption of all deposits and other liabilities.

Sixth, that language in the manager's statement of the conference report, which appears to mandate that different institutions with equivalent tangible capital levels be treated equally by the FDIC even though one may meet the required total capital standards, does not reflect this Member's view. Obviously, the supervisory response to any capital-deficient institution will be determined not only by its tangible capital level but, among other things, by the capability of its management, the strength of its earnings, the riskiness of its activities and the quality of its assets. It may well be appropriate to treat one institution more stringently than another, based on these, or other, factors.

Finally, as a Member of the minority, I feel compelled to comment on the process under which the bill has been developed. The chairman of the full committee—the gentleman from Texas [Mr. GONZALEZ]—and the chairman of the relevant subcommittee—the gentleman from Illinois [Mr. ANNUNZIO]—deserve credit for instituting a process of exhaustive open hearings in which an extraordinary number of perspectives were allowed to be aired on a timely basis. There is no doubt the House bill was more carefully crafted than the more hastily put-together Senate counterpart. A contrast of the two work products vindicates the biases of those who believe that closed doors hide closed minds, and that the public spotlight has a salubrious effect on legislative decision-making.

There may, from time to time, be a place for closed discussion in the legislative process, particularly in the security arena, but to paraphrase Woodrow Wilson, open laws openly arrived at are preferable to laws negotiated in the dark.

Procedurally, however, the House did itself less credit when the bill came to the floor and the Rules Committee precluded the right of Members to offer amendments on a number of controversial subjects, some of which represent reasons for my opposition to this bill at this stage of congressional consideration. In addition, the conference methodology advanced by the House represents a civics lesson in how not to approach a serious negotiation.

The designation of one of the largest, if not the largest, number of conferees in the history of the House coupled with the breaking down of the conference into unmanageable, philosophically packed subsection had the effect of stultifying House capacities to deal with a five-man Senate contingency bent upon deciding a large number of thorny issues in closed, rather than open, settings.

The Senate's stonewalling of the House's intent to proceed more lugubriously precipitated a conference decision to reverse gears and centalize decision-making on each side among the chairmen and ranking member of the two principal committees of jurisdiction. It has the secondary effect of asserting the primacy of staff deliberation in closed settings, where activist concerns of a few individual members came to play a too-forceful, and sometimes mischievous, role.

If there is a procedural lesson to be quarried, it is that a reasonably sized, disciplined conference committee operating in open session is preferable either to the cumbersome dimensions of the initial conference or the too-small, two-to-two approach which the Senate craftily maneuvered the House into adopting.

In bills in which the devil lurks in the detail, procedure too easily dictates result. In this case, the sum total of small decisions has produced a tentative step forward when bold strides

were called for. Under the circumstances a good bill is not good enough. The House should direct a return to the conference table. In so doing, it should understand that not only is the bailout we are contemplating larger than New York City to Chrysler times a factor of 10 but that the legislative scandal we are attempting to right is the equivalent of Teapot Dome to Abscam times a factor of a hundred.

The first title of this bill should be about campaign reform and the last title should be about ethics in Government. Each is missing.

So is my vote.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, first let me praise the many Members who worked on this bill, including the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ], the chairman of the subcommittee, the gentleman from Illinois [Mr. ANNUNZIO], the ranking minority member, the gentleman from Ohio [Mr. WYLIE], and both committees. They have all done an exemplary job, and this is a bill of which Congress and the American people can be proud.

Mr. Speaker, when this bill first began to wind its way through Congress, every observer predicted that we would fold, fold to the special interests, fold to those who wanted a weak bill, and fold to those who wanted to repeat the mistakes of the past. Instead, I say to my colleagues that Congress has done the American people proud. Unlike the gentleman from Iowa, who got many of his amendments in the bill, let me say that this is in my opinion a tough bill, a tougher bill than anyone ever expected, and as it winded its way through the legislative process, it got tougher and tougher and tougher.

□ 1310

Mr. Speaker, it tells the thrift industry, "You can't play with depositors' money. You must put your own money up front." It tells the regulators they must cut their ties to the industry and the political interests, and it tells those who committed misdeeds that they are going to go to jail, not for 6 months, but more likely for 6 years.

Mr. Speaker, it is as tough a bill as anyone could expect, and it is a strong bill.

There is one final provision that hangs in the balance, and that is on/off budget. My colleagues, we must stick with the on-budget procedure. For the President of the United States to ask the American people to pay billions more so that he can hide his budget deficit is nothing short of obscene, and I say to the President, "We will stay here today, we will stay here tomorrow, we will stay here Saturday through the weekend and for weeks to protect the taxpayers' interests so that we stay on budget, do the thing honestly, appropriately and more cheaply."

We are not going to back off in this House. We are going to stick with the conference report, and we are going to support this tough bill.

Mr. WYLIE. Mr. Speaker, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I certainly add my congratulations to the chairman of the conference, the ranking Republican member, and even to those in the other body who helped us in fashioning an excellent conference report. I must tell my colleagues here, and particularly those on my side of the aisle, that in many respects this is a far better bill than the one we passed earlier in the House. In most respects it is a far stronger bill on the important issues of capital standards from the Senate-passed bill. The Senate came a long way toward, not a pristine bill, but a far more pristine bill than we could have ever contemplated. For people on my side of the aisle, I wish to tell them that the capital standards in this bill are stronger than the President originally recommended in his bill. That should be remembered because capital standards, and phantom accounting and goodwill were the heart of the problem that led us to this sad state of affairs. Oh, yes, there was fraud and dereliction of responsibility on the part of the regulators. I shall address my remarks to those issues later.

Now, I am going to restrict my comments to the question that has come up before us, much to my surprise, that the President has laid before us. I have got to tell my colleagues that I think the President has been ill-advised at this point in time with all the merits in this bill including, low income housing set asides and extensive subsidies. These provisions are far better than when they passed in this House. We compromised on those issues. But for the President now at this point in time to focus on one issue, not capital, not restructuring, not supervision, not asset disposition, but only on budget/off budget, I think again, to repeat, he is ill-advised to do that. In either case, on-budget/off-budget, we are circumventing Gramm Rudman, and the financial markets know it!

Mr. Speaker, we are jeopardizing, jeopardizing and perhaps inviting an 11th-hour collapse of a very good bill.

Be that as it may, I do want to address in some detail the very good elements of this bill and which strongly argue in favor of passage.

First, I want to take this opportunity to congratulate the members of the House conference for the work they did on this bill. I especially wish to compliment the chairman of the Banking Committee and our ranking member for the long hours they toiled on this effort and for the strong support they gave to the House position on this rescue and reform legislation.

This bill improves the House passed bill. It lays a solid foundation for prompt, responsible action to resolve the savings and loan crisis and most importantly, to insure a strong, viable and well capitalized thrift industry for the future.

This measure is comprehensive and deals with every aspect of the thrift crisis.

The bill consists of much needed regulatory reform which places greater responsibility within the FDIC to take over insolvent thrifts and to close or merge them and dispose of their assets through a Resolution Trust Corporation.

The bill requires greater industry investment in the financing of the rescue effort through increased premiums for all S&L's. The bill also puts into motion, through my amendment, a system of risk-based premiums which would require institutions to pay higher, or lower premiums, depending on the risk weighting of the investments they engage in.

H.R. 1278 mandates increased supervision and examination of the industry, and, expands the policing and enforcement provisions of the law. It increases the civil and criminal penalties which can be levied against former S&L officials who have perpetrated fraud and other illegal schemes.

The bill retains the House-passed ban on junk bonds, restates the traditional definition of a junk bond and provides a 5-year phase-out of current holdings.

H.R. 1278 contains three provisions for low- and moderate-income housing.

The bill also creates a Refinancing Corporation (Refcorp) which will raise funds through the sale of bonds to help pay for the resolution of the crisis. The Refcorp was placed on budget which creates a more realistic recognition of the commitment to the problem and will allow the Government to incur lower interest rates on the bonds issued. This will save the taxpayer at least $4.5 billion over the term of the bailout. The administration, in opposing this provision invites an 11th hour collapse that will leave open the prospect of continued losses of $20 million per day during a delay.

Finally, we come to the very heart of this legislation—the capital standards established by the Banking Committees. Some key points which played a role in our decisions included the fact that the thrift industry collectively had not been adequately capitalized and that inadequate capital created incentives for institutions to engage in unsafe and unsound practices because

the thrifts officers had nothing to lose.

The committee felt, and the Senate conferees to their credit agreed, that without sufficient private capital at risk and up front, the deposit insurance fund simply would not work.

Accounting gimmicks, such as goodwill were not real money and could no longer be permitted to be counted as tangible capital over a long period of time.

The conferees agreed that tough but fair and workable capital standards were absolutely essential to the success of this overall effort. Nearly two-thirds of the thrift industry already meet these standards but the remainder needed to be forced to meet the same standards or forfeit the right to operate as a thrift.

On February 1, 1990, all thrifts must attain a 3-percent core capital standard. At least 1.5 percent of their assets must be tangible capital. This figure climbs to 3 percent by 1995.

Through the efforts of many, those thrifts which fail to comply with the standards will, unlike in previous cases, be permitted to continue to operate. There are very specific conditions provided to the regulators which must be met before a profitable, well managed thrift can be placed under supervision. And the thrifts themselves must present a business plan which outlines how they intend to reach the capital standards.

The current crisis has shown that an industry with weak capital standards and institutions using accounting techniques which count phantom capital as real capital is in itself a weak industry. Without these tough standards, the public will not believe the industry has been reformed and that the Congress has once again dropped the ball in seeking to protect the thrift depositor as well as the American taxpayer.

During the evolution of this critical emergency legislation, there has been considerable attention paid to certain issues which fall within the jurisdiction of the Housing Subconference. These concerns included the HMDA and CRA provisions, the asset disposition procedures under the RTC, and the affordable housing program under the Federal Home Finance Board.

First, with regard to the HMDA and CRA provisions, I believe the House made a mistake by attaching these provisions to the bill. As I stated on the House floor during our debate on the HMDA amendment, I have been, and always will be, firmly against redlining. However, this HMDA provision requires triple reporting of race, gender, and income—three unnecessary factors which will add substantial costs and paperwork burdens which ultimately are passed on to prospective homebuyers. The CRA provision requires that depository institutions report on geographic origins of deposits. This provision was entirely unclear and bore no relation to the original CRA objectives.

However, I must credit Chairman GONZALEZ and Representative KENNEDY for their willingness to move from their original positions. By dropping the reporting requirement for geographic origins of deposits and including on HMDA exemptions for depository institutions with $30 million or less in assets, the chairman and the gentleman from Massachusetts helped speed the progress of this conference. Representative BARLETT also put great effort into refining these provisions, and I hope that future hearings on these issues will be conducted to further address Representative BARTLETT's remaining concerns.

My second concern focuses on the adoption of certain asset disposition procedures by the RTC. Although the original "right of first refusal" provision in the House bill has been modified, the compromise language does not eliminate the possibility that the remaining restrictions on asset disposition will increase the overall costs of this bill to the taxpayers. The overly complex mechanisms established by the conference agreement may block timely, effective disposition of eligible properties.

In addition, the RTC has been given discretionary authority to reduce sales prices and offer favorable financing arrangements to attain the occupancy goals specified in the conference report. I sincerely hope that the RTC will balance its authority to provide below-market rate financing and reduced sales prices to qualifying purchasers with the more pressing need to obtain maximum advantage from the resources available to it under this act—the $50 billion from Refcorp plus the proceeds from property disposition.

My third and final concern centers on the affordable housing program under title VII. In keeping with the paramount importance of making the $300 million in payments to Refcorp, I applaud the modification which authorizes the suspension of contributions to the affordable housing program, should the contribution increase the financial instability of the Federal Home Loan Banks. I also commend the bipartisan efforts at compromise which expressly allow both homeownership and multifamily housing under the affordable housing program.

I urge support for this conference report.

Mr. LEACH of Iowa. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, almost 6 months ago the President sent this bill up to the Congress. For those who are worried about losing $10 million or $20 million a day, they may well contemplate the fact that we have been working on it almost 6 months in order to bring it out now.

As one previous speaker indicated, one item remains in dispute. This bill is likely to flounder on a point of order in the other body on the financing system. The Senate preferred the administration plan. The House insisted on an on-budget off-Gramm-Rudman, dishonest financing plan.

Mr. Speaker, the fact is there is only one argument in favor of the House plan. That is the alleged twenty-basis-point advantage in the sale of the bonds when they are sold by the Federal Government. The counter to that is of course that they become the obligation of the Federal Government instead of, in the administration plan, the obligation of the industry. If my colleagues do not like what the administration tells us about the financing plan, which is what Alan Greenspan, the chairman of the Fed, said, and I quote:

> The financing proposed by the administration, and largely incorporated in the Senate bill, poses less risk than on-budget financing, with an exemption from Gramm-Rudman-Hollings, that budgetary discipline will be weakened in the future.

He goes on to say that the extra billion that it will cost "is a small insurance premium for better budget discipline, which would avoid ultimately greater costs."

Gramm-Rudman is not a wonderful piece of legislation, but it is the only spending restraint we have in this Congress. Punching a hole in it through the House financing system would be a worrisome precedent and a risk that we should not take and we cannot take, and, therefore, my vote on this bill today is going to be an indication of my support for the adminstration's financing plan which is likely to be restored in the other body and, hopefully, ultimately adopted in this body.

BUDAPEST, *July 12, 1989.*

Hon. HENRY B. GONZALEZ,
House of Representatives, Washington, DC.

DEAR HENRY: As the Conference Committee begins deliberations on the Financial Institutions Reform, Recovery and Enforcement Act of 1989, I continue to feel strongly about a number of issues that the conference will be addressing and on which my Administration has expressed specific views. In particular, I want to reiterate my position on the financing provisions of the legislation. I strongly support the approach adopted in the Senate bill, which is identical to my Administration's original proposal.

The financing plan in my Administration's proposal and the Senate bill maintains the fiscal discipline of Gramm-Rudman-Hollings and most effectively locks in the thrift industry's contribution to the financing program. As the Secretary of the Treasury recently stated, the thrift legislation should not become the vehicle for undermining the spending discipline established by the Gramm-Rudman-Hollings law, which is our only statutory bulwark for fiscal discipline.

Maintaining bipartisan efforts to control our budget process is a critical objective to continuing a positive domestic and international economic climate.

I appreciate the efforts of the House and Senate to develop legislation designed to protect our financial markets from instability and also to avoid unnecessary costs. However, the cost of resolving this problem continues to rise inexorably, and we cannot begin reducing these ongoing costs until the Congress takes final action.

I look forward to working with you in the final stages of the legislative process to enact responsible legislation to resolve the current savings and loan crisis and to insure that this situation will not be repeated.

Sincerely,

GEORGE BUSH.

[From the Wall Street Journal, July 11, 1989]

NO TIME TO WAIVE GRAMM-RUDMAN

(By Nicholas F. Brady)

After years of bad investments, poor business practices, fraud and abuse, the savings and loan industry is about to enter a new era of responsible regulation and management, sound business practices and fiscal solvency. This era will dawn thanks to the combined efforts of the Bush administration and Congress to resolve the thrift industry's financial problems and create a system that will ensure that the excesses that have plagued the industry in the 1980s will not occur again. In all likelihood, by the middle of this month Congress will send the president a bill that could be signed into law.

Congress has ignored the pressures of the S&L lobby and refused to lower the capital standards that will place the industry on a sound financial footing. With considerable amounts of their own capital at risk, S&L operators will think twice before taking excessive risks or engaging in unsound activities.

Congress has acted wisely in this respect. But in its eagerness to resolve the S&L crisis expeditiously and economically, Congress is in danger of adoping a financing plan that will set a precedent that, in the long run, will place a far greater burden on the taxpayers than will the S&L solution. The financing plan contained in the House version of the bill has two serious flaws. First, it shifts to the government ultimate responsibility to contribute funds that should come from the thrift industry. Second, and most important, it exempts this substantial increase in government spending from the Gramm-Rudman-Hollings deficit-reduction limits.

PRESERVE G-R-H DISCIPLINE

In contrast, President Bush's plan fulfills the government's obligation to stand behind deposit insurance while requiring that the S&L industry shoulder directly as much of the financial burden of the solution as it is able to bear. The Bush plan also fulfills an equally important obligation to taxpayers—the preservation of the G-R-H fiscal discipline essential to the reduction of the deficit.

It is essential the public understands that the underlying principle at stake here is not how best to finance the S&L plan, but whether to allow the S&L legislation to become the vehicle by which the fiscal discipline placed on government spending by G-R-H is destroyed.

A simple comparison of the two plans reveals the essence of the issue. Both provide $50 billion to handle institutions that are, or wil become, insolvent during the period beginning Jan. 1, 1990, and extending three years after enactment of the legislation. There is broad agreement that the $50 billion will be sufficient. The Bush administration, the Federal Deposit Insurance Corporation, the Federal Reserve and both the House and Senate have subscribed to the $50 billion figure. It is over the way to raise the $50 billion that the administration and some members of Congress differ.

The Bush plan creates the Resolution Funding Corporation (REFCO), a private corporation capitalized by the contributions of S&L industry funds. To finance the resolutions of insolvent thrifts REFCO will issue bonds. These REFCO bonds will be backed by U.S. Treasury bonds purchased solely with the S&L industry's contribution to REFCO. When the Treasury bonds reach maturity, their value will be $50 billion, the amount required to pay off the principal of the REFCO bonds. Thus, by the purchase of Treasury bonds with industry funds, the S&Ls' contributions are locked into REFCO; they cannot escape and the industry's participation in the financial plan is assured. In addition, industry funds will be used to pay a portion of the interest on the REFCO bonds, with the government picking up the shortfall.

Under the House plan the $50 billion is raised by the Treasury issuing bonds directly, while the industry contribution is in effect held in escrow by the government. Consequently, industry funds are not locked in and there is no guarantee that the S&L industry will not succeed in reclaiming these funds for its own uses in future years.

Given the effectiveness of the S&L lobby, this is a real possibility. The Farm Credit System was similarly financed in 1987, but in 1988 the member banks persuaded Congress to allow them to reclaim a substantial portion of their funds. Nevertheless, proponents of the House approach claim it is preferable because direct-issue Treasury bonds will carry an interest rate as much as one-quarter of one percentage point lower than the REFCO bonds. It is true that REFOC bonds will pay a slightly higher interest rate to compensate investors for the fact that they are not issued by the Treasury directly.

For this reason, proponents of the House plan claim it will save the taxpayers at least $25 million a year over 30 years. But they are extremely short-sighted to base their calculations on these savings alone. The financing of the S&L plan cannot be addressed in a vacuum; it must be placed in the larger context of the federal budget and deficit, and it is in this respect that the House plan's creators have failed to think through the consequences of their proposal. By issuing Treasury bonds for direct government financing, the House plan places the full burden of the $50 billion on the federal budget, thereby exceeding the G-R-H deficit-reduction target. To make their plan work they will seek a waiver from the G-R-H provisions. Proponent claim this is a "more honest" approach than the Bush plan.

This is sophistry. The Bush plan counts every dollar of taxpayer funds spent on its S&L plan in the budget deficit and against the G-R-H targets. There is no waiver of future G-R-H targets. The point that opponents of the Bush plan attempt to obfuscate is that the $50 billion raised under the Bush plan comes from private, not taxpayer, funds. The Bush plan keeps these private funds out of the budget deficit—as it should. In contrast, the House plan puts these funds in the budget deficit and then uses a waiver to slide this inflated deficit out from under G-R-H.

The House plan sets a precedent of seeking an exemption from G-R-H for every new spending program that finds its way through Congress. A waiver granted to the S&L financing plan will be no less than a license for the inevitable demands for exemptions for costly new legislation on everything from nuclear-waste cleanup to the war on drugs. And if these waivers are granted, they will make a mockery of the G-R-H process and our commitment to deficit reduction. By contrast, the Bush financing plan will make it for more difficult for a program to claim the S&L solutions as a precedent for federal funding. To qualify under the standards the administration sets, a project would have to provide substantial, up-front private funds. And thus, the discipline of G-R-H will remain in place.

It is fashionable in some quarters to belittle G-R-H, to call it a sham, to disregard its impact on the U.S. economy. But those who take this attitude do so at our peril. While it is not perfect, G-R-H is our chosen, established mechanism for reducing the deficit. The financial markets and our international trading partners take our adherence to G-R-H very seriously. Lest anyone doubt that the world pays attention to G-R-H simply consider what occurred in the fall of 1987. On Sept. 23, Congress passed a bill that eased the G-R-H targets and moved them off into the future. In less than three weeks long-term interest rates rose by more than half a percentage point.

Because the G-R-H waiver is masked as part of the S&L legislation, it may take a little time for the financial markets to fully realize its magnitude and effect. But once they do, interest rates are likely to respond. When this happens, the central rationale for the House financing plan—the $125 million a year in savings—disappears. An increase of only 1 1/100th of a percentage point on all short- and intermediate-term federal debt (a total of $1.5 trillion) would increase treasury borrowing by $150 million a year. If interest rates increase by one-tenth of a percentage point Treasury borrowing costs would rise by 1.5 billion per year. This dwarfs the $125 million extra annual cost associated with the Bush plan. These simple calculations show the House financing plan for what it is—penny wise and pound foolish.

International Credibility

It would be equally foolish to ignore the damage we will do to our international credibility if we begin exempting new spending programs from G-R-H. Our trading partners are very concerned about our deficit. Their main barometer of our fiscal resolve is G-R-H. If we begin to waive G-R-H and waver on our commitment to fiscal responsibility we lose both credibility and our ability to press for improvements in trade imbalances with these countries.

As the House financing plan demonstrates, it would be easy to speak the language of fiscal restraint while laying the groundwork for vast amounts of new spending. But it is not words that wil convince the financial markets, our trading partners and the American public that we are serious about reducing federal spending. Ultimately, our deeds, not the rhetoric in which we cloak them, will speak for us. If we are to maintain a strong domestic economy and

remain a credible world leader, the message our actions must carry is that we are committed to relating in government spending and living by the standards of fiscal discipline we have set for ourselves. By adopting the Bush financing plan in conference Congress can send forth this message.

BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
Washington, DC, July 12, 1989.

Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

Dear Senator: I am responding to your request of July 11 for my views on the method of financing of the savings and loan rescue plan—in particular, whether I favor the House or Senate budgetary treatment provision. Let me begin by saying that I have and continue to support the position of the Administration on this matter as expressed recently by Secretary Brady. In other words, I favor the Senate version.

In my judgment, the Gramm-Rudman-Hollings (G-R-H) budget process has been very useful in exerting discipline on the federal budget and, more fundamentally, on the federal government's claim on economic resources. We should not at this time threaten that process by setting a precedent that might be used in the future to undermine necessary fiscal discipline. The outlays authorized in this bill are not a new commitment. Rather, they reflect the realization of liabilities that have been accumulating over several years in association with the federal government's pledge to preserve the balances of insured depositors. Thus, I do not believe that financing these outlays through private industry borrowing violates the spirit of G-R-H.

The financing proposed by the Administration, and largely incorporated in the Senate bill, poses less risk than on-budget financing, with an exemption from G-R-H, that budgetary discipline will be weakened in the future. The establishment of a separate corporate funding entity using private sector funds would be difficult to replicate should there be an attempt to circumvent G-R-H budgetary discipline in the future. In contrast, treating such financing on-budget with an exemption could easily be followed again and would be more of a temptation for those who wish to avoid the hard budgetary choices that must be made.

Little more than $1 billion invested in U.S. Treasuries will finance through interest and amortization the expected nominally higher interest cost on REFCORP bonds relative to on-budget Treasury obligations. This is a small "insurance" premium for better budget discipline, which would avoid ultimately greater costs.

I should also mention that the Administration's off-budget financing plan ensures that the S&L industry will shoulder a continuing share of the cost of clean-up. It has been rather widely agreed that the industry should appropriately be expected to contribute to the resolution of the problem, with the size of the industry's contribution limited by what it can reasonably afford. The details of the Adminstration's plan reflect this understanding and ensure that industry resources remain committed to this purpose. Thus, there is no danger that this portion of the resolution costs will in the end be shifted to the taxpayer as there is under the House approach in which the industry's contribution could be given back to the industry.

I hope that you find these comments to be helpful as you attempt to complete work on this most important piece of legislation.

Sincerely,

ALAN GREENSPAN.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, July 21, 1989.

Hon. DONALD W. RIEGLE, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR RIEGLE: My views on the financing of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 are reflected in Statements of Administration Policy dated April 17, 1989 and June 14, 1989 (copies attached). I gather, however, that some have suggested I might feel less strongly than the Statements clearly suggest. In order to avoid any possible confusion, please let me be unequivocal: I fully support the Administration position as advanced in the Statements and repeated by Administration spokesmen (including myself). That position states that the President's senior advisors would recommend veto of a final bill that includes the House financing plan.

Indeed, please let me add: Day by day I become more convinced that if we exempt S&L reform from Gramm-Rudman-Hollings, we will, in effect, break the dam. A flood of additional exemptions will follow. Although some advocates of the House-passed financing provisions argue that the precedential effects would be limited, I'm afraid this does not square with the current behavior of many of their colleagues. I am already under considerable pressure from Congressional sponsors to recognize the alleged wisdom of exempting (from G-R-H) expenditures for programs as diverse as drought assistance and drug-abuse control.

Imperfect though it be, Gramm-Rudman-Hollings is the only serious protection of fiscal discipline we have at the moment. Allowing a $44 billion exemption would render G-R-H close to meaningless. It would, indirectly, amount to a repeal. The costs to be associated with both the perception and the reality of a breakdown in what remaining fiscal discipline we have strike me as costs far in excess of the marginal difference in the financing costs of REFCORP bonds vs. Treasuries.

I respectfully urge you to hold to the Senate-passed provisions in the Conference.

With best regards,

RICHARD G. DARMAN.

THE CHAIRMAN OF THE COUNCIL OF ECONOMIC ADVISERS,
Washington, July 13, 1989.

Hon. JAKE GARN,
U.S. Senate, Washington, DC.

DEAR SENATOR GARN: Thank you for your inquiry concerning my views on the economic and financial implications of alternative approaches to financing the savings and loan (S&L) plan.

First, however, I want to congratulate you and your colleagues for moving expeditiously to resolve the problems in the savings and loan industry. I especially congratulate the Congress on the increased capital standards in the S&L financing plan, which will help to assure that we will not face such a crisis again.

I am, however concerned with proposals which are intended to save the Treasury money by financing the plan on budget and exempting it from Gramm-Rudman-Hollings (GRH). This financing proposal will not save the Treasury money: by breaking the discipline of GRH it will probably increase financing costs.

If this legislation is financed on budget with an exemption, it will undermine the fiscal discipline of GRH. Although GRH is not perfect, it is one of the major reasons we have been able to reduce the federal deficit as a share of GNP from about 5½ percent in FY 1985 to about 3 percent, and is an essential ingredient to moving to budget balance by FY 1993.

It is important not to undercut the discipline of Gramm-Rudman-Hollings with the S&L plan. I very much believe that to include the financing of the plan on budget, yet exempt it from GRH, would allow such exemptions to be repeated over and over again for other programs.

In fact, the S&L financing is quite different from other spending. It is federal payment for liabilities already incurred as a contingent obligation of the government to ensure depositors' funds. Off-budget financing through the private capital markets for this obligation would not set a precedent for most programs. It would be difficult to arrange such financing for other outlays.

There would be a small increase in the direct financing cost by arranging financing through REFCO—an estimated $125 million per year. However, it is important to realize that the financing discipline of GRH helps to convince capital markets that the Federal Government remains committed to deficit reduction, which in turn helps to lower interest rates. Obviously, many factors in turn helps to lower interest rates. Obviously, many factors affect interest rates, but interest rates did decline by several percentage points following the original passage of Gramm-Rudman-Hollings. In contrast, in the fall of 1987, Congress eased the GRH targets, and in less than three weeks long-term interest rates rose by more than half a percentage point.

Given the current size and maturity of the outstanding federal debt, a one basis point rise in interest rates (1/100th of a percentage point) would raise annual federal borrowing costs by $150 million. Even this small rise would more than offset the extra costs of financing through REFCO. A rise of ten basis points (1/10th of one percentage point) would raise annual federal borrowing costs by $1.5 billion, swamping the $125 million extra cost of financing through REFCO.

In addition to keeping the discipline of GRH, financing the plan through REFCO would lock in the savings and loan industry's contribution and assure their participation in the plan. The S&L industry's contribution will be used to purchase Treasury bonds which, when they mature, would be used to pay off REFCO's obligations. Under the House plan, the Treasury would directly issue bonds to pay for the resolution of insolvent thrifts, and the industry's funds would in effect be held in escrow. However, if the past is any guide, the industry may be able to lobby the Congress to reclaim some of these funds for their own use in the future.

I encourage you to keep these points in mind as you work with your colleagues toward passage of the S&L legislation. If I may be of further assistance to you or your colleagues, please do not hesitate to give me a call.

Sincerely,

MICHAEL J. BOSKIN.

U.S. SENATE,
Washington, DC, June 7, 1989.

Hon. DONALD RIEGLE, Jr.,
Chairman, Senate Committee on Banking, Housing and Urban Affairs, Washington, DC.

Hon. HENRY B. GONZALEZ,
Chairman, House Committee on Banking, Finance and Urban Affairs, Washington, DC.

DEAR MR. CHAIRMAN: We, the undersigned, are opposed to the proposal contained in the House version of the FSLIC recapitalization bill which would raise the deficit by $50 billion but exclude this enormous increase from calculation of the deficit under the Gramm-Rudman-Hollings Act.

The practice of raising the deficit but exempting the increase from the only mechanism in place to control the deficit is fraudulent. It undermines every effort Congress has made to move toward a balanced budget and to sustain the economic expansion and it shatters our fragile credibility with the public.

If the Senate/House conference committee agrees to this proposal, we will vote to sustain a budget point of order against the conference report.

Since the timely enactment of the FSLIC recapitalization bill is vital to the taxpayer and to the health of the economy, we urge you to adopt the Senate funding mechanism.

Yours respectively,

Jake Garn, Phil Gramm, Arlen Specter, Pete V. Domenici, Bob Dole, Al Simpson, Connie Mack, Orrin G. Hatch, Trent Lott, Conrad Burns, Kit Bond, Dick Lugar, Bill Armstrong, Malcolm Wallop, Bob Kasten, Steve Symms, Chuck Grassley, John Heinz, Warren B. Rudman, Rudy Boschwitz, Al D'Amato, John H. Chafee, Dave Durenberger, Gordon Humphrey, Jesse Helms, Slade Gorton, Dan Coats, John McCain, Pete Wilson, Don Nickles, Thad Cochran, Frank H. Murkowski, Nancy Landon Kassebaum, Ted Stevens, Bill Roth, Jack Danforth, Mitch McConnell, Jim Jeffords, Strom Thurmond, James A McClure, Bill Cohen.

Mr. LEACH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I rise in support of this conference report on behalf of the Committee on the Judiciary.

I want to address the decision of the conference committee to delete certain provisions in section 214 of the Senate bill, S. 774, that were not in the House bill. The Judiciary Committee conferees, in particular, believed strongly that these provisions were inappropriate and the conference committee agreed to reject the Senate position, thereby deleting this provision.

Of most concern to the conferees was that portion of section 214 of S. 774 that would have added a new subsection (o) to section 11 of the FDIC Act. Paragraph (1) of the proposed subsection (o) would have given the FDIC priority in claims against directors, officers, attorneys, and other third party agents of a failed savings institution over shareholders, depositors, and creditors.

The conferees rejected this absolute "priority" provision for a number of reasons. This provision received no careful study by the Congress and because it appeared on its face to be fundamentally unsound as a policy matter. The provision was not in the administration bail-out proposal sent to Congress, was not in the House bill, and not in the Senate bill as introduced. No hearings were held on the priority matter in either the House or Senate. The issue was mentioned only in passing when the provision was added to the Senate bill in committee.

More importantly, as the Judiciary conferees pointed out at some length, giving the FDIC an absolute priority would undermine fraud enforcement, would be potentially unfair to private plaintiffs who were innocent victims of wrongdoing, and would be at cross purposes with the thrust of the savings and loan legislation.

If the FDIC was granted an absolute priority, private parties would have little chance of recovery and as a result would no longer bring fraud suits against bank officers and others guilty of wrongdoing. As several of the conferees noted, the Securities and Exchange Commission [SEC], in a amicus brief filed in a pending case in the eleventh circuit on this matter, has argued persuasively that granting such a priority would therefore have a serious adverse impact on enforcement efforts. Private actions, the SEC stated, are a necessary supplement to the enforcement efforts of the SEC and the Department of Justice, which do not have the resources to enforce the law on their own.

The debate in the conference made clear that there were other policy reasons as well to drop the Senate priority provision. A number of Judiciary Committee conferees stated that the provision was unfair in allowing the FDIC to intervene at any stage in a case and stay the proceedings, even if a private party had been litigating a claim for years. Other conferees insisted that there was no evidence that a priority would benefit the American taxpayers in any meaningful way, especially in view of the likelihood of increased fraud. Finally, concern was expressed that enactment of a priority would be a disincentive to investment in savings institutions, since an investor would have no recourse if his investment was procured through fraud.

The Judiciary Committee conferees—on a bipartisan basis and supported by Banking Committee conferees—insisted that all of proposed new subsection (o), including the priority provision, be deleted from the final legislation. The Senate conferees thereafter agreed to recede and the provision is not included in the conference report.

Mr. LEACH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, when H.R. 1278 was before the House Committee on Rules I sought to have an amendment made in order which was designed to ensure that Canadian trust companies could be included as part of our savings and loan financing solution. It would have, under certain circumstances, allowed Canadian trust companies to acquire U.S. savings and loans. Most of my concerns have been addressed in the bill and I appreciate the work of the conferees.

The bill reenacts section 408(h) of the National Housing Act, transferring to the Director of the Office of Thrift Supervision the authority to issue rules, regulations, and orders to carry out the purposes of the holding company provisions of the act. I believe the conferees intended that the Director would retain the flexibility needed to respond to the wide variety of situations which may airse in addressing holding company issues by adopting rules and regulations to address recurring situations and orders to deal with specific cases. And I further understood that the use of this authority to issue orders granting waivers or exemptions from requirements of the holding company regulations may only be granted upon the showing of good cause, and the demonstration that such a waiver would not adversely affect the safety or soundness of the savings association involved.

When I proposed my amendment, Chairman GONZALEZ wrote to say he opposed it as unnecessary in part and, in its remainder, a departure from the case-by-case approach used in the past to consider foreign acquisitions, an approach he favored and which the conference report retains. The continued authority of the new thrift regulator to approve foreign acquisitions in the same manner that the Bank Board could do previously is an acceptable result to me. Mr. Speaker, I insert the chairman's letter to me at this point in the RECORD.

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC, June 8, 1989.

Hon. NORMAN D. DICKS,
U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR COLLEAGUE: I have had my Staff analyze the Dicks/McDermott amendment at your request. I regret to say that I will not be able to support the amendment myself for several reasons.

First, two of the three concerns raised by the representatives from Royal Trust to the Bank Board last fall, and more recently to us, about certain provisions of the Savings and Loan Holding Company Act, have already been taken care of by the bill (in both the House and Senate versions). I am referring specifically to the requirements that certain levels of debt he approved by the regulator and the prohibition against holding voting shares of other S&Ls and S&L holding companies.

Second, their third concern, the reporting and disclosure requirements, have been taken care of in every other case involving foreign companies during direct negotiations with the Bank Board on a case-by-case basis. This seems to me to be the best approach, rather than the blanket exemption provided in your amendment.

I appreciate the opportunity to have worked on this and regret not being able to support your request.

Sincerely,

HENRY B. GONZALEZ,
Member of Congress,
Chairman.

Mr. LEACH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman from Iowa [Mr. LEACH] for yielding this time to me.

Mr. Speaker, I am opposed to this legislation because, when all is said and done, the bill is just a big taxpayers' bailout.

We hear some argue that this legislation has tough reforms. But I ask my colleagues to read the fine print. It is tough talk, but there are too many compromises, too many loopholes, and too little reform.

My colleagues, back in Wisconsin we have a saying, "Talk is cheap; it costs money to buy whiskey." Well, here we have a lot of talk, but the taxpayers are picking up the tab, without the tough reforms that are needed to make sure this does not happen again. I do not think it is fair to the taxpayers.

Analyze this bill carefully. For every man, woman, and child in the United States of America this is going to cost at least $1,000.

When we pass legislation of this magnitude, should we not have tough teeth to justify the taxpayers' commitment? Yes, we must. Where are the teeth in this legislation?

To give one example, the conference deleted a House provision to require audits of federally insured institutions.

GAO found 800 banks in the United States that had no audits in the most recent reporting period. Thirteen of these banks each have more than $1 billion in assets. Yet the supporters of this bill ask us to take taxpayers' money, and continue to underwrite these financial institutions. How is that showing "We're tough"?

Mr. Speaker, this bill is a sham. This bill is not going to be well received by the American taxpayers. Two years from now when we are back in the same soup because this bill did not solve the problem, the American taxpayers are going to be irate. They are going to add this to the list of congressional failures like the Medicare catastrophic bill and the pay raise, and the public reaction we have seen so far is mild compared to the reception we are going to get after this legislation.

We already have before us the scandals involving HUD, but that is small compared to what is coming under this bill. When you read this legislation, you will find that the bill sets up a new corporation, the RTC, with $400 billion in assets that must be sold off.

This is going to be rife with scandal, because the bill leaves this wide open for abuse.

Mr. Speaker, there are many problems with this bill, but the thing that sums it up is that this bill would give a new job to the Chairman of the Bank Board. Now the current Chairman of the Bank Board came before Congress many times and always downplayed the problem. First it was a few billion dollars, then $15 billion, then $40 billion. All the while, he claimed it was manageable under current law. Keeping this man in charge is like promoting the captain of the *Exxon Valdez* to admiral and then putting him in charge of an aircraft carrier. I urge my colleagues to vote no on this legislation on behalf of the taxpayers. We can do better, and we must do better. If this bill passes as is, this problem will be back in 2 years.

□ 1320

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. HILER].

Mr. HILER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the conference report, and I do not rise in support of the conference report because I think this is the best bill that has ever been written or because I am happy about it. The fact is that we are in this tragic situation because we have a major problem out there. We have billions of dollars of depositors' money that if we do not provide this bill, those depositors are not going to have their deposits safe and secure.

Now, we can go back 50 years ago and say whether that was a good idea or not, but the fact is the full faith and credit of the U.S. Government stands behind those depositors' deposits. That is why we are passing this bill today.

Now, this is not an optional bill. I have heard the analogy to the catastrophic health care bill. That was an optional bill. We could pass it or not pass it. This we have to pass. If we do not pass it today, we have to pass it tomorrow; if not tomorrow, on Saturday. We have to pass this bill.

Now, is it going to make everyone happy? No.

Are the taxpayers going to be happy with it? No. They are going to have to fork up money to pay for it, but that does not relieve us of our responsibility to pass a bill.

It does not have everything in there that I like. It has some things in there that I dislike a great deal. But will we get a better bill if we go back and start from scratch? I do not think so. This is the product of 7 months of talk and negotiations.

What are the ramifications of this bill? Do we accurately know what is going to happen if we pass this bill? No. We cannot put this bill into a computer model and program it and come up with what is going to happen 6 months, 6 years or 60 years down the line; but this is our best guess, our best estimate with the information we have at our disposal today with mere mortal minds to try to digest.

I think we will be back looking at this issue again. We may be back to fine tune it. We may be back to make major modifications, but if anyone is going to vote for this bill or vote against this bill because they think we can do something in one shot, they are entirely mistaken. We should vote for this bill today because it is the best product that this conference and this Congress can come up with at this time. We need this bill. Vote for the conference report.

Mr. Speaker, I rise today in support of the Conference report. While not perfect, this conference report is badly needed legislaton. The liabilities of the bankrupt Federal Savings and Loan Insurance Fund continue to grow by over $1 billion per month. This hemorrhaging of the financial system must be stopped. We have a crisis in the financial industry that Congress has not faced since the 1930's. The legislation we are considering is the first step in responding to this crisis. We must move expeditiously to pass the conference report.

I applaud President Bush for responding quickly to this crisis by sending Congress a legislative package during the first month of his Presidency. I also commend committee Chairman GONZALEZ, subcommittee chairman ANNUNZIO, and Congressman WYLIE for the work they have done moving the President's savings and loan reform package through the House.

The leadership of both the House and Senate Banking Committees have produced a conference report that represents a first step towards alleviating this crisis. However, it should not be considered as anything more than a first step. Great uncertainty exists as to the consequences of many of the decisions made in this conference report. Congress must closely watch the results of this legislation and be prepared to revisit these issues in the near future. We have made historic decisions in this legislation that Congress must be prepared to critically evaluate upon full implementation.

There are many positive features of the conference report. The efforcement title gives the regulators and the Department of Justice greatly enhanced authority to fight fraud and abuse in the financial services industry. The enforcement title is based upon legislation that I have cosponsored during the past two Congresses. It is the toughest measure to combat malfeasance in the financial services industry that Congress has passed in the last 10 years.

I believe the conferees have taken positive steps to enable banks holding company acquisitions of thrift institutions. The bill makes it clear that Congress wants more capital in the thrift industry and that bank holding companies would be an excellent source for such capital. To stimulate investment by bank holding companies, the bill encourages the integration of acquired thrifts into the holding company operations. For example, tandem restrictions are removed and exemptions for transactions between sister banks and thrifts under sections 23A and 23B of the Federal Reserve Act are added. The conferees intend that the Federal Reserve Board liberally use its exemptive authority under sections 23A(e) and 23B(e) when enforcing these provisions.

While section 106 of the Bank Holding Company Act was not amended, the authority of the Federal Reserve under that section to permit bank holding companies and all their

subsidiaries and affiliates to link certain products and services and to vary terms and conditions of those products and services, remains intact. I believe that broad utilization by the Federal Reserve of its authority to grant such permission under section 106 would serve the purposes of this bill by integrating acquired thrifts more fully within the operations of bank holding companies, would provide benefits to large numbers of customers of hundreds of financial institutions, and would be consistent with the intentions of Congress. The Federal Reserve should be encouraged to promptly and fully make use of its authority under that section and permit bank holding companies to link together and vary terms and conditions of core banking products, that is, deposits, loans, trust services and discounts.

The bill greatly streamlines the regulatory system and improves the authority of the FDIC to protect the deposit insurance fund. Many anomalies of law concerning the FDIC have been cleared up and I believe the Corporation as well as the entire bank regulatory system will function more effectively and efficiently after the enactment of this bill.

The conferees should be praised for the improvements they made to the Federal Home Loan Bank System including the privatization of the Federal Home Loan Mortgage Corporation Board. These steps should serve to increase the availability of affordable housing in our country.

Additionally, I commend the conferees for rejecting certain well intentioned, but inappropriate regulatory initiatives that appeared in either the House or Senate bills including mandated audits, statutory loan-to-value ratios and the mandated acceptance of State examination reports by the FDIC. While conceptionally appealing, these amendments would have had adverse consequences upon implementation.

I am also pleased that the conferees have made it clear that where the bill considers housing provisions that they intend for this to include manufactured housing. This interpretation is entirely consistent with current law.

These above-mentioned items are some of the more progressive aspects of the bill and I believe that the conferees should be applauded for their hard work to enact them. However, several areas in the conference report are problematic and I continue to be troubled by their resolution. While recognizing that hard decisions needed to be made, I am concerned that some of the conferees' decisions may in the short term exasperate the problem. I greatly fear that Congress will have to revisit certain issues in the very near future.

First, I am greatly concerned with the new tougher capital standards reported out of the conference. The capital standards of the conference report are harsher than those of either the House or Senate bill and are clearly tougher than bank capital standards. I strongly favor enacting thrift capital standards that are equivalent to bank standards. However, I am concerned that in moving to bank capital standards, Congress is abrogating certain contracts that thrift institutions made with their Government regulators. Congress should recognize that bank capital standards are a drastic change and accordingly adopt prudent transition rules.

Instead, the conference has indicated that its tougher standards will go into effect 120 days after enactment. I believe this is an unreasonably short time to enact an impractical standard. While an adequate tangible capital standard should be the conferee's goal, I would prefer to reach that point through orderly amortization schedules rather than harsh deductions from capital made virtually upon the bill's enactment.

I am also concerned that the affected institutions receive adequate due process. I have been assured by the regulators that upon a notice of capital deficiency that institutions will be able to respond to such a charge at a hearing on the record, subject to judicial review, before each step of the regulatory process. However, I am still concerned whether the thrifts will receive adequate due process in practice. I encourage the regulators to move quickly after the bill is enacted to amend their rules of practice to ensure that necessary procedural protections exist.

I am encouraged that the conferees have made clear their intent that an institution will not be out of compliance with capital standards if the institution is in compliance with a business plan approved by the regulators. This should permit regulatory control while still allowing an institution access to the capital markets.

Capital is only one measure to judge an institution's viability and I believe that this bill overemphasizes capital standards without fully recognizing the role competent management, liquidity, asset quality, and earnings play in operating a safe and sound institution. I greatly fear that these tougher capital standards will cause more institutions to become insolvent and drive up the price of resolving this crisis. I feel Congress may have to revisit this issue soon.

Second, the bill also adopts a new qualified thrift lender [QTL] test for institutions to receive advances at Federal Home Loan Banks. The test includes higher penalties for institutions who do not comply with QTL standards. The new QTL test discourages diversification and may drive institutions back to the days of the late 1970's where the thrift industry was subject to extreme interest rate risk. I believe it is inappropriate to initiate these changes in the QTL test when the industry is under tremendous pressure to raise capital. Estimates indicate that over 1,000 institutions will fail the new QTL test and be denied housing credit from the Federal Home Loan Banks. In the end, this change in QTL could cause more damage to solvent, profitable institutions even than the capital standards. This again could drive up the cost of the crisis to the taxpayers and cause Congress to revisit this issue.

Third, the RTC is a great unknown in the solution to this crisis. Estimates indicate that the RTC will be managing anywhere from $300 to $800 million in assets. Prior Federal efforts at asset management have failed in the past and we have hamstrung this effort with an unnecessary right of first refusal for certain groups favored by Congress. This is contrary to market practices and will ultimately drive up the cost of asset disposition. I am concerned that the RTC's asset disposition policies may need significant review by Congress on an ongoing basis.

Fourth, I was disappointed that the conferees decided to allow the current Chairman of the Federal Home Loan Bank Board to assume the position of Director of the Office of Thrift Supervision without Senate confirmation. The Federal Home Loan Bank Board has had a controversial record the last several years and I believe it is important for Congress to review this record and evaluate the Chairman's accountability. I am particularly troubled by the Bank Board's recent approval of Home Federal of San Diego, the Nation's eighth largest thrift, application to leave the FSLIC and convert to FDIC status only days before this report's possible enactment and after the report had been closed. I believe the Chairman should answer questions on this decision and why such a decision does not adversely affect the new SAIF insurance fund.

I also am troubled by the Bank Board's regulation of Lincoln Savings and Loan of Phoenix, AZ. The Bank Board was pressured by certain powerful politicians from Western States to be more lenient with this institution and I believe that it would be highly appropriate for Congress to investigate this situation through confirmation hearings. Congress must closely watch the Director of the Office of Thrift Supervision as he assumes his new role.

Fifth, I object to the unnecessary and burdensome social programs tacked on to this bill based on certain legislators' individual agendas. The Federal Home Loan Bank housing tax and the CRA/HMDA provisions are unnecessary, burdensome and costly for an industry seeking to raise capital. Congress should review these requirements and evaluate the effect these requirements have on bringing new capital to the industry.

Sixth, I continue to be concerned that the $50 billion allocated by the Bush plan for savings and loan reform may not be sufficient. Many estimates for industry cleanup are much higher and I do not believe anyone has adequately estimated the effect of the new capital standards and new QTL test on the funding. Thus, I fear that Congress may have to face more funding for this problem in the not too distant future.

Last, I feel the House conferees made a drastic mistake by insisting that the funding for the President's plan be on budget with a Gramm-Rudman waiver. This approach sends the wrong signal to financial markets and erodes whatever budget discipline Congress has left. The administration offered a creative and credible financing plan and I believe that in the end we will cost the taxpayer more by not adopting this approach.

Summarizing, I support passage of the conference report. While not perfect, it is a necessary first step to handle this crisis. Congress must be diligent in overseeing the implementation of the proposal and be prepared to revisit issues when experience under the bill dictates their review. However, we must act at this time and I urge my colleagues to pass the conference report.

Mr. LEACH of Iowa. Mr. Speaker, I yield 2 minutes to the distinguished minority leader of the House of Representatives, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, it is my intention at the appropriate time to offer a motion to recommit this conference report with instructions, and since that motion is nondebatable, I am obliged to take a few minutes to inform the Members of the substance of my motion to recommit, and I have no illusions that my motion will be adopted, but I hope with a substantial vote that it will help us get a piece of legislation signed by the President prior to our recess. That is our ultimate goal. No one in this town wants the issue to linger for the next 40 days at a cost of, as has been mentioned, better than $10 million a day.

The President has advised us of his intent to veto this legislation in its current state. There are several issues involved, but the primary issue is that of the on-budget condition of the financing package.

The House, on the other hand, has done a good job, a good bipartisan job of directing the problem and producing sound solutions. The work has been hard, but the cooperation has been good and it has been largely successful.

Both sides have legitimacy, voting strengths, political viability, and a fair degree of stubborn willpower.

This is not the time for stalemate. Now is the time to compromise one more time. Even if you feel you have gone the extra mile, which Republicans and Democrats alike believe they have done, you cannot deny the value and the legitimacy of further compromise.

I am not asking you to give the President everything he wants, but I am asking that you not insist on everything you want on this issue of on- or off-budget.

I believe there is room for the President and for this body to come together. I have to believe that from the discussions I have heard of attempts to compromise in telephone conversations over here in the Rayburn room of missed meetings.

We are going back to conference, one way or another. The other body will get us back there even if we adopt this conference report within the hour. Let us go back to the conference with an open mind and a willingness to resolve this issue this week, and avoid a battle for a political win and achieve consensus that will give us good policy in the end.

Mr. Speaker, may I read the motion to recommit without the fanfare, with instructions that the managers on the part of the House agree to a financing mechanism which is properly within the scope of the conference and which will allow the bill to be signed into law as quickly as possible. That is all.

Mr. Speaker, I would urge Members to support my motion at the appropriate time.

Mr. GONZALEZ. Mr. Speaker, I yield 1½ extra long minutes to the distinguished chairman of the Ways and Means Committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], who had charge of the sequential referral.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in strong support of this conference report.

I want to commend President Bush for his leadership on this serious savings and loan problem and for recommending a proposal which is the basis for this legislation. I further commend the Committee on Banking, Finance and Urban Affairs, and particularly Chairman GONZALEZ, for all of their hard work on this measure. This was not an easy task.

Mr. Speaker, the Ways and Means Committee adopted several provisions within its jurisdiction which are included in this legislation. The conference agreement repeals immediately several special tax benefits for financially troubled savings and loan institutions and banks that are scheduled to expire on January 1, 1990. The committee took this action, which the administration supports, because these special tax rules have been subject to abuse in the recent past—particularly in last year's "December deals."

The direct outlay program for assisting these institutions contained in H.R. 1278 represents a far more efficient means of assistance than does the use of special tax benefits. In addition, by our repeal of these rules, the American taxpayer will save over $1.4 billion during the 6-year period 1989 to 1994.

Mr. Speaker, the conference agreement also incorporates the Ways and Means Committee's amendment concerning on-budget financing. The Ways and Means Committee on-budget amendment was approved by an overwhelming 2 to 1 margin when the House considered the bill in June. However, this financing issue has become far more controversial than I believe is necessary.

The Ways and Means Committee decided to move the financial assistance plan on budget primarily for one good reason—it saves the American taxpayer money. According to CBO's projections, the committee's proposal for direct Treasury borrowing will reduce borrowing costs by more than $600 million over the next 5 years, and by approximately $5 billion over the next 30 years. These additional interest savings will significantly reduce the burden on the American taxpayer.

Several experts have testified before Congress that the ability of the Treasury Department to manage the maturity of its debt, flexibility which Refcorp would not have, and the compounding of the extra interest costs of $5 billion means that off-budget borrowing will cost tens of billions of dollars more than on-budget financing. The American taxpayers—our constituents—expect and deserve better from us.

Mr. Speaker, as Members of Congress, it is our responsibility to provide financially troubled institutions with the necessary assistance in the most efficient and least costly manner possible—in a manner that minimizes the financial burden of the American taxpayer. Our constituents are mad enough about the savings and loan problem without adding insult to injury by increasing their financial burden under the assistance plan. The on-budget treatment of the financial assistance plan is directly responsive to those concerns of the American people.

Mr. Speaker, this is a good conference report on a very difficult issue. I urge its support by my colleagues, and prompt approval by the President.

Mr. WYLIE. Mr. Speaker, I yield 2 accordionized minutes, along the lines of the previous speaker, to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I plan to vote for the conference report when it comes up in a few moments, and urge my colleagues to do so.

The House conference report, the FSLIC report, does resolve the pending crisis. It does so in an orderly way, while making substantial reforms in the industry so as to avoid this ever occurring again.

I would note that the FSLIC conference report does have some remaining problems that do need to be resolved, and thus I plan to vote for the motion to recommit that would require the conferees to sit back down one more time to resolve the remaining issues on affordable housing, the right of first refusal, and most importantly, the on-budget off-budget disagreement.

I would note for the record that the on-budget off-budget financing disagreement is far less consequential than any of the parties are making it.

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Both sides would in fact borrow about $50 billion, put it into Refcorp, guarantee it by the Treasury, and keep it off of Gramm-Rudman.

Beyond that, the differences between the two sides are substantially inconsequential.

Why do I urge the Members to vote for the FSLIC conference report? One reason is because it gets the job done. It has the basics in it. It will close the insolvent thrifts which need to be closed. It will close them in a way by refinancing the FSLIC and requiring the industry to pay back most of the costs of the original bonds. It reforms the system so that it increases capital standards, strengthens the FDIC, requires tangible assets, strengthens the hands of the regulators to insist that

this never happen again, and it sells the assets of the insolvent thrifts in an orderly manner that will put the assets back into the marketplace and, at the same time, be certain that the proceeds of those assets are used to pay back the bonds.

I urge a vote for the conference report. I also want to urge those who will then be appointed to the conference to sit down in a low-key, cool-headed manner and resolve the remaining and rather modes differences and reach a compromise so that we can pass the bill and avoid the crisis.

Mr. LEACH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, I rise today in strong opposition to this conference report. Frankly, it's hard for me to support a bill that places such a huge burden—upwards of $200 billion—on the taxpayer.

For the past several weeks, one of the central issues surrounding this legislation has been the question of whether to finance the plan off-budget as the President proposed, or on-budget and exempt from Gramm-Rudman deficit targets, as proposed by the conference committee. However, I feel that both these alternatives are irresponsible, because both plans require us to borrow huge sums of money and place the burden of the resulting interest expense onto the backs of our taxpayers.

Several weeks ago, I was pleased to support an amendment to H.R. 1278 offered by the gentleman from New York [Mr. LAFALCE]. The gentleman's amendment was an intelligent and fiscally responsible approach to an admittedly undesirable problem. Specifically, the amendment would have placed the cost of the legislation on-budget and under Gramm-Rudman. Although the gentleman's amendment would have required us to make some tough choices in the short run, it would have saved U.S. taxpayers as much as $150 billion over the next 30 years. Unfortunately, the gentleman's amendment failed, and today we stand ready to "pass the buck" on to our future generations and once again avoid the difficult decisions our constituents elected us to make. Because we are too afraid to grapple with this issue right now and bring it to a solution, our children and grandchildren will pick up the check.

I urge my colleagues to oppose the conference report.

Mr. LEACH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I want to take a moment to make certain that the record is absolutely clear with respect to certain provisions that were in the Senate version of the savings and loan legislation and were of particular concern to the members of the House Judiciary Committee. These provisions, in section 214 of S. 774, were not in the House version of the bill, and are not included in the conference report.

Of particular concern to myself and the other Judiciary conferees was that part of section 214 of S. 774 that would have amended section 11 of the Federal Deposit Insurance Act (12 U.S.C. § 1821) by adding a new subsection (o). Paragraph (1) of new subsection (o) would have provided that claims of the FDIC against bank officers, directors, accountants, attorneys, and other employees would have priority over the claims of any other persons—shareholders, depositors, or creditors—against such bank personnel or professionals.

The House Judiciary conferees were concerned about this provision for a number of policy and procedural reasons. First, although the provision clearly would affect the rights of thousands of individuals and the issues involved were complex and far-reaching, there had been no careful study of the priority proposal by Congress. The proposal was not in the draft savings and loan legislation sent to Congress by the administration. No hearings were held on the matter in either the House or the Senate. The provision was not in the House bill, nor in the Senate bill as introduced. Although the language was added by Senator HEINZ at the request of the FDIC during committee consideration, there was virtually no discussion about a priority in committee and no debate on the Senate floor. In short, there had been no meaningful study of this matter by Congress.

Second, the Judiciary conferees believed that enactment of a priority would represent fundamentally bad policy. Because in most cases there would be no chance of recovery for private parties if the FDIC had a priority, private plaintiffs would simply no longer bring fraud suits against bank officers and others guilty of wrongdoing. This would dramatically undercut enforcement efforts and lead to more fraud. Private parties have the most incentive to bring fraud suits, and these suits augment the enforcement efforts of the SEC and the Department of Justice, which do not have the resources to do the job on their own. As a number of my colleagues on the Judiciary Committee pointed out during the conference debate on this matter, the SEC, in an amicus brief filed in a pending case on the priority issue in the U.S. Court of Appeals for the 11th Circuit, made precisely this argument in opposing an FDIC priority.

Third, many of us believed the priority proposal on its face was manifestly unfair. Enactment of such a priority would mean that the FDIC could decide at any stage to intervene in a case, stay the action, and deplete the assets of the defendants—even if a private plaintiff had been litigating the matter for years. No other Federal agency has been granted such broad power to prejudice the rights of individuals.

Fourth, the Judiciary conferees did not believe that the limited evidence available supported the proposition that an FDIC priority would benefit the American taxpayers. Because a priority would be a disincentive to private fraud suits and harm the enforcement scheme, it would lead to more fraud and ultimately cost the taxpayers more money. Moreover, in 1987, the FDIC recovered only $59 million in lawsuits against bank officers, directors, lawyers and others, representing only about 2 percent of the losses to the insurance fund. And it cost the FDIC $54 million to litigate these cases, for a net gain of only $5 million—hardly a worthwhile tradeoff for substantially decreased enforcement.

Finally, the Judiciary conferees pointed out that enactment of a priority would be at cross-purposes with the savings and loan legislation. By leaving potential investors in savings institutions with no recourse if their investment was obtained by fraud or misrepresentation, a priority would discourage, not encourage, investment. This, of course, is exactly what is not needed given the higher capital standards required by the conference report.

The FDIC supported the priority provision and Senator HEINZ argued in favor of its adoption by the conference committee. The Judiciary Committee conferees—on a bipartisan basis—strenuously argued against the provision as inappropriate for the policy reasons I have just outlined. After the House conferees voted overwhelmingly to insist that the priority provision not be included in the conference report, the Senate agreed to recede and the provision was deleted.

Mr. LEACH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, I rise to speak regarding H.R. 1278.

Mr. Speaker, one of our primary objectives in this legislation has been to raise thrift capital requirements and, in particular, the requirements for tangible capital. Tangible capital best protects an insurance fund, and it was the considered judgment of the conference that thrift tangible capital must be increased. The joint statement of managers appropriately recognizes that the thrift regulator's focus in administering the new capital requirements should be on an institution's tangible capital. Thus, in reviewing business plans and request for exemptions under the bill, the regulator typically should accord an institution that meets its tangible capital requirements but fails some other capital standard more favorable treatment than an institution that fails its tangible capital requirements. As the statement of managers notes, the institution that has adequate tangible capital typically should not be penalized at all. If this principle is understood, it will encourage institutions to increase their tangible capital even when they are unable to satisfy all of the bill's capital standards.

In our consideration of capital standards over the past few months, we have devoted considerable attention to the treatment of supervisory goodwill and subordinated debt as elements of capital. I am happy with our resolution of these issues. We have excluded both of these capital components from tangible capital, but we have allowed them to count toward the attainment of other capital standards.

We have appropriately excluded subordinated debt from both the tangible and intangible portions of the leverage limit, but not from the risk-based standards of the bill. In promulgating risk-based standards, the thrift regulator is free to allow subordinated debt to be consid-

ered as tier 2 capital without limitation—even if the Comptroller of the Currency imposes limitations on its treatment—if it can be determined that the thrift capital standards are no less stringent than the Comptroller's overall. This provision follows the thrust of the Graham-Sanford amendment, which the Senate Banking Committee adopted and which was included in the Senate bill. It is also in keeping with an amendment I submitted to the House Banking Committee but withdrew in the hope that language such as the Graham-Sanford amendment would be included in our final product.

Supervisory goodwill is permitted to count toward the intangible portion of the leverage limit over the next 5 years, after which time it will be totally phased out of that standard. The regulators should consider goodwill as "supervisory" only if it satisfies the definition of the term as stated in the House Banking Committee report on the legislation. That definition contemplates that the requirement of Bank Board approval of the accounting treatment in question can be satisfied either by approval by the Board at the time of the transaction or by subsequent approval of that treatment, as demonstrated by repeated review and approval by the Board of an institution's financial statements over the years.

With regard to the qualified thrift lender test, I am delighted that the bill specifically includes both home improvement loans and home repair loans as qualified assets under the new test. These loans are of great benefit to homeowners, and their status as qualified assets will assure that an adequate supply of such loans will continue to be available at reasonable rates. In the course of our deliberations on the qualified thrift lender provisions, some suggested that in light of the difficulty of determining which loans in a thrift portfolio are used for home improvement or home repair purposes, such loans should not be included as qualified assets. The conferees did not accept that position, in part because the Federal Home Loan Bank Board, which has administered the test over the years, believes that these loans can be adequately identified and documented. On this point, some of us found persuasive a "T Memorandum" issued by the Bank Board in its implementation of the qualified thrift lender test of the Competitive Equality Banking Act of 1987. I therefore wish to incorporate that memorandum into the legislative history of this bill.

In the memorandum, dated January 12, 1988, the Board's staff indicated that if an institution could show with adequate documentation that certain consumer or commercial loans in its portfolio were housing related, it could include those loans as qualified assets under guidelines specified in the memorandum. One of the guidelines was that "management must adequately document, and retain for supervisory review, the housing related nature of such loans." Another was that "[s]uch documentation could include the use of statistical sampling techniques for large portfolios of consumer loans." It was my intent, and I believe that of the conferees, that these guidelines of the 1988 T Memorandum will govern the treatment of home improvement and repair loans under the new test to the same extent as they did under the old. In other words, management will be expected to continue to document that its loans are in fact used for home improvement or home repair, but such documentation can include statistical sampling techniques when large portfolios of consumer loans are involved. The T Memorandum represents good policy for the new test, as it did for the CEBA test, and I would hope to see it or some version of it continue in effect.

Before concluding, Mr. Speaker, I would like to clarify two matters involving the affiliate transactions provisions of the bill. First, the conferees agreed to exempt from certain affiliate transactions restrictions in sections 23A and 23B of the Federal Reserve Act transactions between depository institutions owned by the same bank holding company. I want to make clear that our intention was to include under that exemption bank-to-thrift, thrift-to-bank, and thrift-to-thrift transactions and to exempt these transactions to the same extent as bank-to-bank transactions are exempted under current law. In specifying that thrifts should be treated as "member banks" under sections 23A(d)(1) and 23B of the Federal Reserve Act, we intended to indicate that they should also be treated as "banks," since every "member bank" is necessarily also a "bank." It is my understanding that such an interpretation of these terms is consistent with the substantive result we intended to achieve.

Second, although the exemption is confined to depository institutions owned by a bank holding company—at least until 1995—it should be emphasized that the Federal Reserve remains free to extend the exemption by rule to institutions owned by thrift holding companies. It was not our intent to restrict the Federal Reserve's options in this area in any way. On the contrary, I would encourage the Federal Reserve to consider a rulemaking on this subject and, if it determines that transactions between thrift subsidiaries or thrift holding companies should be treated on a par with the transactions we are exempting by statute, to provide by regulation that they shall also be exempted. I, for one, would strongly support such a regulation.

Mr. LEACH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, it is with great reluctance that I rise in opposition to the conference report. I would like to extend congratulations to the distinguished chairman of the full Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ], the chairman of the Financial Institutions Subcommittee, the gentleman from Illinois [Mr. ANNUNZIO], our ranking member, the gentleman from Ohio [Mr. WYLIE], the gentleman from Iowa [Mr. LEACH], and all of those who have been involved in this process, because many of us have spent almost this entire decade working on this and other issues relating to the savings and loan industry.

It is frustrating, because it was just 2 years ago right now that we were here debating as to whether or not we would provide $5 billion or $15 billion to recapitalize the industry. We all knew then that would not be enough. We all knew then that would not be enough, and I see my good friend from Delaware nodding that maybe I was wrong on that issue, but I have to say that we did make an attempt at that time, and we are here again. We are here again providing what still may not be enough. In fact, some have quipped that this may be the first time we voted $157 billion that is going to be vetoed by the President.

I will tell the Members that there are many aspects of this bill which are very important as outlined by my friend from Texas just a few moments ago, and I think there are some positive aspects. We need to take action now, because we know it is costing from somewhere between $10 million, and a lot of people are saying up to $40 million a day, $1 billion a month. We have to take action.

Mr. Speaker, I am very concerned about what some people are saying is lunacy, our bookkeeping game in which we are not recognizing the fact that we should try to keep this thing on budget. Mr. Speaker, I was a reluctant, and I underscore the word reluctant, supporter of the Gramm-Rudman legislation back in 1985. I did not like passing on to the Office of Management and Budget the responsibility to deal with our responsibility right here.

It is because of the Gramm-Rudman waiver and the package that we have before us that I am going to vote against this conference report.

Mr. LEACH of Iowa. Mr. Speaker, I yield 2 minutes to another distinguished colleague, the gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Speaker, first, I would like to thank our chairman and our subcommittee chairman, the gentleman from Ohio [Mr. WYLIE], our ranking minority member, and the staff that worked literally hundreds of hours on weekends to produce what we have here today, and while I am critical of the structure and the procedure of the conference, I want to commend the conference for their efforts.

However, in all earnestness, I cannot support the conference report. There are portions of the conference report that have my strong support. There are portions that should not be a part of this legislation, and there are portions of this bill that are just plain wrong.

On-budget treatment of $50 billion of Refcorp borrowing is wrong. Proponents of the on-budget say the U.S. Treasury can borrow the money at slightly lower cost, estimated to be 25 basis points or one-quarter of a percent. That estimated savings is $150 million per year. Ladies and gentlemen, that savings is an illusion. If the

financial markets, and believe me they will, they will, if the financial markets adversely react to Congress' repudiation of Gramm-Rudman and the interest rates go up as little as one-tenth of 1 percent, it will cost the taxpayers an extra $280 million a year to service the national debt. That would mean that on-budget would cost the taxpayers an extra $8.4 billion over the next 30 years. There is no saving there.

In addition, no one can accurately predict what it would cost to add another $50 billion to the national debt over a 30-year period. If interest rates go up, and believe me they will if we repudiate Gramm-Rudman, the cost of on-budget will greatly exceed the supposed saving. Therefore, on-budget is a gamble with the taxpayers' money.

We should fix the cost of the Refcorp borrowing up front. We should know what that cost is going to be. The use of private-sector money should be off budget, and until this flaw is corrected, the conference report should be rejected.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, we use disposable crystal balls around here to predict the effectiveness of our legislation. Anyone who gazes into theirs and believes that this bill is a panacea, that it will correct everything for all times, and that we will not be back again to make adjustments, understands neither the complexity of the problem nor its financial magnitude.

Anyone who gazes into their crystal ball and concludes that rejection of the conference report is the appropriate course of action makes a more grievous miscalculation.

I say to you that the process has worked, that, in balance, this measure is worthy of support, and its rejection is wrong if not folly.

Mr. Speaker, I rise in support of the conference report on H.R. 1278. Before I comment on why this conference report deserves the support of my colleagues, I want to congratulate the chairman and the ranking member for their fine work and I want to state for the record that no two individuals and their respective staffs have worked harder to refine and improve such a complex piece of legislation. They and their staffs are a credit to this institution. Regardless of an individual Member's view on the product before us, they should acknowledge the energy with which these gentlemen and women undertook this most difficult task.

Like many of my colleagues, my support for this conference report is not without reservations. But, on the whole, this legislation achieves most of the goals set by President Bush in February. It will provide the funds and the mechanism to deal with the current crisis. It provides reforms, in terms of enforcement and regulation, that are required to prevent a recurrence of the crisis. It requires that savings and loans maintain adequate, tangible capital to provide an economic cushion for the insurance fund and the taxpayer. And, it spreads the burden, as proposed by the President, between all those who benefit from deposit insurance; namely, the industry and the taxpayer.

In terms of paying for the current crisis, I remain unconvinced that direct Treasury borrowing which places the financing onbudget is so threatening to interest rates or to the integrity of Gramm-Rudman to warrant spending an additional $4.5 billion. I sympathize with Bush administration concerns with the potential for Congress to use the inflated deficit numbers as fuel for a tax increase. However, the American taxpayer deserves honest numbers with regard to our budget deficit and should be aware that we continue to defer the burden of past and current consumption on future generations.

Many of my constituents have demanded that the crooks and the thrift industry should bail themselves out of this problem. While I share their outrage about this ludicrous situation and a desire to spare hard-earned taxpayer dollars, an industry self-bailout is not possible. The losses are of such magnitude that the losses in the unhealthy institutions could not be covered without destroying so many of the healthy institutions that the cost-benefit of a self-bailout does not work. Unfortunately, most of the crooks are gone or are being prosecuted. In this bill, we increased criminal prosecution and civil penalties and included very tough seizure and forfeiture provisions. The bill includes an additional $75 million for Justice Department actions and makes sure that crooked officials will not return to the industry.

The financing plan contained in this conference report is, for the most part, what was proposed by the administration. The industry, both thrifts and banks, will pay through record insurance premiums to be as high as 23 basis points for thrifts and 15 basis points for banks. The district Home Loan Banks will forfeit $3 billion in retained earnings and a minimum of $300 million in annual earnings. They will also contribute hundreds of millions for an affordable housing fund to subsidize affordable rental housing and homeownership for needy Americans. Even with these contributions, the taxpayer will be asked to pay $150 billion or more. One of my biggest concerns with this plan is that the taxpayers burden appears to be indeterminate. But, arguments that the industry can afford to pay for more or all of this crisis simply don't hold water. The burden must be shared and, unfortunately, the cost is so astronomical that the taxpayers bear most of the burden. Ignoring the sobering facts would only increase the final cost and undermine the soundness of a financial system.

The conference report includes essential provisions including a minimum leverage ratio of 3 percent core capital to asset and a minimum ratio level of 1.5 percent tangible capital to assets by 120 days after enactment. Goodwill acquired in supervisory transactions will be phased out by 1995. The legislation calls for risk-based capital standards to be no less stringent than the capital standards prescribed for national banks. On the surface, this may not appear impressive. But, when you consider how many thrifts have negative net worth due to intangibles or phantom capital, this standard is a giant leap forward. As an advocate for risk-based standards in the Financial Institutions Subcommittee markup, I am very pleased that risk-based standards, standards that recognize that different levels of capital should be required based on the risk associated with the asset, were adopted in the final conference report.

This step toward requiring adequate capital, the elimination of most intangibles as capital and near parity in capital requirements between banks and thrifts are clearly some of the most positive ingredients in this legislation. But, significant problems remain in terms of a transition and in terms of regulator flexibility. Specifically, I am concerned that the 5-year phaseout of goodwill is too ambitious and will result in the liquidation or FDIC-subsidized sale of viable institutions. I agree that supervisory goodwill, must be phased out in order to reach our goal which is for institutions to have a tangible net worth of 3 percent. However, most of these institutions acquired this goodwill at the behest of Federal regulators and with an agreement to phase out the goodwill over a specified period of time which ranged from 10 to 40 years. Many of these most viable institutions have been writing off this goodwill, which requires raising real capital or generating earnings, according to the agreed-upon schedule. Now, this timetable is compressed to 5 years which is even more ambitious than the President's original plan. I might be more receptive to the 5-year phaseout were it not for the potential unnecessary costs affiliated with shutting down or the sale of institutions that have real capital, continue to raise capital and are profitable. The ultimate result may be an unnecessary firesale of institutions that may have survived.

The solution to this problem is not to grandfather goodwill or permit supervisory goodwill to remain on the books. And, certainly the Congress is not equipped to draw a line with

regard to which thrift institutions with supervisory goodwill should survive. But, FDIC or the new Office of Thrift Supervision should have the flexibility to review, on a case-by-case basis, and either assist or provide limited exceptions for institutions when this step may be the least cost alternative. Recognizing the need for flexibility, the conference report adopted provisons for institutions to seek temporary exemptions from the capital standards. Institutions may seek an exception by submitting an acceptable business plan for meeting the capital standards. But, this positive step toward flexibility ignores some basic business realities that may pose future problems. Most importantly, institutions under asset growth restrictions or deemed to not be in compliance cannot be expected to raise capital in public markets. I am hopeful, but remain concerned, that we are not increasing the eventual cost of the crisis by hampering institutions competing for scarce capital available for a troubled industry.

A couple of other specific problems were unaddressed with regard to raising capital. Most importantly, certain institutions that were provided net operating loss [NOL] carryforwards as part of a regulator-assisted acquisition continue to be hampered in their drive to raise capital by changes made in the Tax Reform Act of 1986. The 1986 tax legislation changed to threshold at which a change in controlling stockholders represented a change in control of the institution and, with the loss of control, the value of NOL carryforwards are greatly diminished or wiped out. The ultimate result is that several large thrifts that received NOL's as part of a transaction in the early 1980's cannot raise sufficient capital to meet the new requirements without losing control and thus the value of the NOL's. This disincentive to raising capital should have been corrected but was ignored because it applied to only a few institutions and was therefore deemed to be a special interest problem. My colleagues, sometimes we should recognize that solving some special interest problems is in the public interest.

Another concern is over the treatment of mortgage servicing rights. I can agree to the compromise on purchased mortgage servicing rights based on standards set by the Corporation with what is referred to as a 90-percent haircut. However, it seems that it makes no sense to ignore the value of retained mortgage servicing rights. I understand that retained servicing rights do not have the advantage of having the market set values. However, retained mortgage servicing rights do, obviously, have value and this bill should make some provision for the Corporation to consider the value of retained as well as purchased mortgage servicing rights. Certainly, in this bill we created a much larger market for the trading of mortgage servicing rights and the advantage of this decision escapes this Member of Congress.

In my view, this bill provides dramatic improvements in our approach to thrift regulation. The changes are overdue and cannot be overstated. Specifically, I refer to the separation of the chartering agency and the insurance fund. At all times, the insurance fund must be in an independent position to protect itself. This bill provides the FDIC, now the insurer of both banks and thrifts, with expedited authority to terminate insurance for what is deemed to be unsafe and unsound practices and with the ability to limit the powers of State-chartered institutions with insured deposits. On the issue of primary regulator of State-chartered thrifts, the House had wanted the FDIC to assume this authority along with its insurance authority. The Senate argued that the insurance and regulatory functions should be separate. I was pleased that the House receded to the Senate position on this important issue for several reasons. First, the FDIC has sufficient powers to protect the fund without becoming the primary regulator. Second, the Office of Thrift Supervision [OTS] will inherit much of the progress and the new qualified personnel that has been attracted to the bank system in the past couple of years. Although bank system regulation most certainly failed, we cannot be so behind the curve not to recognize that tremendous improvements have been achieved. Also, I am concerned about the ability of the FDIC to virtually do it all, be the insurer, coordinate the Resolution Trust Corporation and take on the regulation of State-chartered thrifts, in such a short span of time. Third, splitting the regulation function would, unnecessarily, greatly increase the cost of examinations for Federal thrifts at a time when controlling costs must be a priority. The solution in this case is to have the Office of Thrift Supervision regulate State-chartered thrifts but with the closest congressional scrutiny possible. If the OTS does not meet expectations, then Congress should take very quick corrective action.

As a member of the enforcement subconference, I can say that considerable agreement existed between the House and Senate on these provisions. The final provisions take several very important steps: First, expand the definition of persons subject to enforcement to "institution-affiliated party"; second, it expands the authority for the agencies to issue cease and desist orders and clarifies their authority to issue restitution or reimbursement; third, it authorizes the banking agencies to go after culpable parties even after separation from the institution within 6 years; fourth, criminal penalties are increased to as high as $1 million and 5 years in prison for those who demonstrated the intent to deceive or defraud and civil money penalties reach as high as $1 million; fifth, public disclosure of enforcement actions; and sixth, an improved process for administrative hearings and procedures.

The housing and bank system subconference on which I served had considerably more disagreement than the enforcement subconference but was able to find reasonable compromise. With regard to Resolution Trust Corporation [RTC], we did our best to set out procedures for the RTC, to set out the powers and duties of the RTC board, to structure the RTC and to anticipate problems with the disposition of assets. This is a difficult, if not impossible task, for the legislative branch and I expect that Congress will have to revisit this section for corrections once the RTC is established. But, with the RTC oversight board and other provisions, we are hopeful that all that is possible to make sure that the disposition of real estate assets is orderly and does not disrupt local markets.

In committee, I opposed the establishment of a Federal Home Financing Board which is established in this legislation. I did so not because I do not think that more should be done to provide affordable housing or that the thrift system could not do more to make housing financing available. I opposed this provision because I believe that, if the district banks system had excess funds, those funds should go to relieve the taxpayer's bill for this legislation. The provision will provide $75 million to subsidize specific affordable housing projects through a credit advance window. I am pleased that most of the district bank presidents have indicated that this program is workable from an administrative point of view.

I did support efforts to allow low-income individuals, nonprofits, and public agencies that provide public housing, to have certain advantages with regard to the purchase of residential properties. The key was to provide advantages which will increase the supply of affordable housing at a critical time without significant disruption to the orderly disposition of properties and without delays significantly increasing the cost to the taxpayer. The compromise reached in the subconference, in my view, achieves that important balance with the early look provision replacing an absolute right of first refusal.

The Community Reinvestment Act and Home Mortgage Disclosure Act provisions were substantially improved in conference. I would argue, however, that both of these laws should be re-

visited for additional improvements. Specifically, I would argue that satisfactory CRA ratings should provide financial institutions with a safe harbor period of time in which no further challenges to applications could be made unless significant new information comes to light. Second, it is my contention that institutions that make a substantial, which must be defined, commitment to a Community Development Corporation or capitalize a Community Development Bank should also receive a safe harbor status. While the Congress has indicated its desire to monitor the commitment of banks to their communities, it could better approach the effort through incentives for real commitments to community activism rather than through protests and confrontation. Unfortunately, the regulators have not taken a leadership role in this area and Congress desperately needs to have comprehensive hearings and discussion on this important subject.

I want to review several other areas of concern briefly. First, I am concerned that this bill ignores some of the advantages of diversification. The much tougher, in terms of requiring thrifts to hold mortgages and mortgage-related instruments, qualified thrift lender test was adopted with the philosophy that mortgage lending is safe and diversification is not. My colleagues, a review of history beyond the past couple of years does not substantiate that conclusion. Many of the institutions with supervisory goodwill from the early 1980's received that goodwill by acquiring institutions in trouble due to interest rate problems. The full deregulation of interest rates will not entirely solve the problems presented when regional or even the national economy slows dramatically. Some diversification could be a proper hedge to real estate decline. I supported the elimination of junk bonds and supported the conference compromise on that issue. Additionally, I am pleased that Congress has limited the use of brokered deposits for any institution that does not meet the capital requirements. But, Congress must be careful not to ignore the obvious business advantages of diversification. I'm not sure this legislation found the proper balance and this may be an area that deserves future hearings and discussion.

Another area that deserves future discussion and review is whether some reforms are necessary in the credit union system. I did not support the administration position regarding assessments for credit unions. But, I am pleased that this bill will require that credit unions be part of the deposit insurance study. Certainly, most of the credit unions that I am familiar with look solid. However, I am concerned that some of the larger credit unions may be overextending themselves into new, more adventurous activities. The problem may not exist. But, Congress has learned that it must have more vigorous oversight of all Federal regulation.

Mr. Speaker, now that I have enumerated much of the positive and negative aspects of this bill, I want to reiterate my support for this omnibus legislation. Time is of the essence and at a cost of approximately $30 million per day. This legislation, overall, meets the goals of President Bush in terms of dealing with the current crisis and preventing a recurrence in the future. It is the product of much study and difficult negotiations. It deserves your support.

Mr. LEACH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Speaker, I rise today actually with a heavy heart, because I know how hard the chairman of the Committee on Banking, Finance and Urban Affairs and the chairman of the Subcommittee on Financial Institutions and all of my colleagues on the Committee on Banking, Finance and Urban Affairs worked to put this conference report and this bill before the House, but there are some things that are more important to us all than just going along with the hard effort and almost a complete job, and that is that finally we have to resolve questions of conscience.

Mr. Speaker, despite the excellent work by the conferees on many sections of this important legislation, I rise to explain why I did not sign the conference agreement, and why I cannot vote for it.

Before I outline the two fatal flaws of this conference agreement, however, I want to point out a few of the significant conference decisions which I do support. I commend the decisions to separate deposit insurance from chartering and supervision, to require thrift owners to invest more capital in their institutions, to reign-in permissive and unwarranted State powers, to beef-up both enforcement and supervision, to increase the maximum penalties for financial fraud to $1 million and 20 years in jail, and to finance the resolution on budget instead of through an off-budget "blue smoke and mirrors" operation.

Mr. Speaker, when President Bush sent the first draft of this legislation to the Congress his watch words were "never again." "Never again," the President told us, should the American taxpayers have to bail-out our deposit insurance fund; "never again" should taxpayers have to pay for fraud and corruption.

As one member of the House Banking Committee who spent a great deal of time investigating the illegal creation of the Federal Asset Disposition Association [FADA], and subsequent abuses at FADA, I enthusiastically supported the President's pronouncement that this kind of abuse should "never again" be allowed to occur.

As a member of the Housing Subcommittee which asked HUD's inspector general to investigate influence-peddling at HUD over 3 years ago, I cheered the President's declaration that "never again" would the American taxpayers have to pick up the tab for fraud and abuse.

Imagine my surprise, therefore, when at the eleventh hour of the thrift conference, the President's emissaries successfully pleaded with the conferees to gut the ethics requirements imposed on the Resolution Trust Corporation by the House bill.

As a result of the last minute handiwork by the administration's spokesmen, we can sadly now be absolutely assured that there will be problems at the RTC. Instead of saying "never again," the President has followed the advice of his predecessor to "never say never" again.

This is the first fatal flaw of this bill.

If the RTC was to be a small, minor, Government agency which did most of its work through Government employees, this might not create significant problems. Unfortunately, however, the RTC will be in charge of disposing of hundreds of billions of dollars of assets from failed thrifts, and most of the work of the RTC will be done through private contractors and independent consultants, rather than Government employees. As a result the opportunities for fraud, abuse, and mismanagement are massive.

Despite the President's loud proclamation of "never again," administration officials spent a great deal of time throughout the consideration of this legislation trying to gut many of the safeguards placed in the House bill to try and prevent the types of scandals at FADA and HUD from reappearing at the RTC.

Despite six-figure salaries as high as $250,000 at FADA and five-figure bonuses as high as $75,000, the administration lobbied against salary caps on the RTC, and against congressional review and approval of salary increases at the RTC.

Despite the fact that the RTC will clearly be owned lock, stock and barrel by the U.S. Government, the administration lobbied to have it designated a "mixed ownership" Government corporation rather than a "wholly owned" Government corporation. In point of fact, there is nothing at all "mixed" about the ownership of the RTC. The designation of the RTC as a "mixed ownership" corporation is a fiction designed to exempt it from a host of Federal laws and safeguards which apply to "wholly owned" corporations.

Administration officials also fought to limit the number of individuals who work directly or indirectly for the RTC who will be subject to the ethical requirements and criminal sanctions imposed by title 18 of the U.S. Code. They also specifically fought to exempt a whole host of individuals who work for or on behalf of the RTC from the provisions of title 18 which prohibit acts affecting a personal financial interest (18 U.S.C. 208), which prohibit receipt of commissions or gifts for procuring loans (18 U.S.C. 215), which prevent "revolving-door" situations (18 U.S.C. 207), and which allow the voiding of transactions which violate any part of title 18 (18 U.S.C. 218).

My colleagues, I can virtually assure you that as a result of the administration's successful lobbying efforts we will have serious ethical problems at the RTC which will cost taxpayers billions of dollars, perhaps even tens of billions.

The RTC has the potential to be the biggest scandal in the history of the U.S. Government.

The RTC can make the Teapot Dome scandal, look like a mere tempest in a teapot.

When these problems occur we will hear a great outcry as an outraged public, and indignant Members of Congress demand to know how such a travesty could have been allowed to occur, and why the guilty parties cannot be prosecuted and thrown in jail.

Sadly, the answer to that question will be that here today, at the insistence and pleading of the administration, we failed to make these acts criminal violations, and we failed to make it clear that everyone who is involved in the disposition of assets for the RTC is, or should be, a Federal employee for the purposes of conflict of interest, revolving door, and other ethics laws.

I should note, Mr. Speaker, that we are already hearing from the administration that it may not be able to prosecute anyone for the recent scandals at HUD. Yet today, what we are doing at the request of this same administration, is making the ethical laws which apply to the RTC and its employees even weaker than those which apply to HUD and its employees.

Mr. Speaker, I sincerely hope that my premonitions about what will happen at the RTC are wrong. I fear, however, that they are not and that as a result we may well be back here in 5 years or less asking for another infusion of taxpayer funds to resolve the problems of the deposit insurance system.

An administration which has no concern about passing the cost of this bill onto the backs of our children and grandchildren by paying for it over the next 30 years, may not care what happens in 5 years. They may have succeeded in pushing this problem into the next administration.

The second fatal flaw in this legislation is the way the bailout is financed. It does not apportion the costs in accordance with the way in which the problem was created. Instead of making those who created this mess in the first place pick up the greatest portion of the cost of the bailout, it taxes everyone the same amount. The innocent will end up paying just as much as the guilty.

This is particularly unfair when the record clearly demonstrates that just a handful of State chartered thrifts, primarily in Texas and California, are responsible for over two-thirds of our problem to date. The legislatures and regulators in these States failed to fulfill their duties and consequently they should pick up a major portion of the cost of this legislation. Unfortunately for the taxpayers of Pennsylvania and every other State, the administration bill we are passing today lets these negligent States off the hook completely. They do not have to pay a dime, even though they are responsible for the vast majority of our losses.

I attempted to correct this defect in the financing mechanism by offering an amendment in committee, along with the gentlewoman from Ohio [Ms. KAPTUR]; and again on the floor along with the gentleman from Michigan [Mr. WOLPE], the gentleman from New York [Mr. HORTON], and others, but each time our efforts were rebuffed by the administration and its allies in the Congress. As a result innocent taxpayers will be paying far more for this bailout than they should be. Members who wish to see how much the taxpayers of their State will be paying for the mistakes of others, may wish to review the additional views I included in the House Banking Committee's original report on H.R. 1278.

I cannot, in good conscience, vote for legislation which requires the taxpayers of my State, and most other States, to pay hundreds of billions of dollars for mistakes made by State legislatures and State regulators. Nor can I, in good conscience, vote for legislation which leaves gaping ethical loopholes for enterprising shysters, political hacks, and opportunists to exploit, particularly when these loopholes may cost U.S. taxpayers even more billions of dollars. Consequently, despite all of the good provisions in this conference agreement, I believe we have a moral and fiduciary responsibility to the taxpayer to vote against this conference agreement.

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Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. GARCIA] for the purposes of a colloquy.

Mr. GARCIA. Mr. Speaker, first I want to make it very clear that I rise in strong support of this bill, and I congratulate our colleague, the gentleman from Ohio [Mr. WYLIE], who is the ranking member and, of course, the gentleman from Texas [Mr. GONZALEZ], our chairman, who have worked tirelessly. This is the first time I ever remember a document coming through a committee for the purposes of legislation and leaving that committee even tougher than when we received it.

I would like to enter into a colloquy with my colleague, the gentleman from Texas and chairman of the committee.

Mr. Speaker, it is my understanding that section 303, which imposes a new qualified thrift lender test, does not supercede existing Federal Home Loan Bank regulations until July 1, 1991, the effective date of the new QTL test. This means that thrifts in Puerto Rico will remain qualified thrift lenders under existing rules between the date of enactment and July 1, 1991. At that time, the new provisions of section 303 will take effect.

Mr. GONZALEZ. If the gentleman from New York will yield, nothing in this bill supersedes those regulations, that is correct.

Mr. GARCIA. I thank the Chair.

Mr. Chairman, I rise in support of the conference report on H.R. 1278, the Financial Reform Recovery and Enforcement Act of 1989. I want to commend the very capable management of the bill by Chairman HENRY GONZALEZ, as well as the hard work by all House conferees. I also want to recognize the time and effort made by the various committee and member staff that helped make this final report come to fruition. This is a bill that we can all be proud of. Compared to the President's original proposal, the bill contains stronger capital standards and other safeguards that will help prevent a similar thrift industry crisis in the future. The bill is not perfect by any means, but it goes a long way and cannot be delayed.

I am happy to say that the bill also makes housing finance the primary objective for the saving and loan industry. It also creates new community reinvestment and home mortgage disclosure requirements. None of us got everything we wanted, but in the spirit of compromise, without diluting the strength and objectives of the bill, we have legislation that deserves swift approval of both Houses of Congress and by the administration.

Mr. Chairman, I urge my colleagues to vote in favor of this bill. We can go home to our districts knowing we have not left this job undone.

INCIDENTAL ACTIVITIES

I would like to make a statement concerning the scope of incidental activities to be allowed the Federal home loan banks by section 709 of the act. It is my understanding, as author of this provision, that the amendment is intended to permit the Federal home loan banks to engage in activities incidental to their express

statutory powers, and that Congress contemplated this incidental power to be broadly read.

Congress intended the amendment to allow a wide variety of incidental activities. These would include, for example, the collection and settlement of checks and related services, courier and custody services. The Federal home loan banks can also provide services like the reconciliation of customer accounts, servicing of payrolls and other corresponding banking services. Incidental services would extend to the analysis and data processing and transmission of information related to all of these services. Just as is the case under the existing statute, Congress intended that these services may be provided to members and to any entity eligible to make application to become a member of the banks, as well as to affiliates of those entities.

The reason that the banks' incidental power was intended to be viewed broadly is that it supports the primary purpose of the banks; namely, housing finance. It also permits the Federal home loan banks to help their members to control operating costs and interest rate and credit risk.

Under the current statute, it is possible to construe the home loan banks' incidental activities more narrowly than those permitted for national banks. Section 709 is intended to clarify this point. It is my understanding that the incidental activities of national banks and the home loan banks should now be viewed as similarly broad.

Incidental activities do not need to be strictly necessary to the home loan banks' exercise of their express powers. Neither are they limited to activities that only the banks can engage in, or services only they can perform. The amendment is intended to ensure that the banks may provide a variety of products and services. This variety makes membership in the banks appealing to eligible institutions. By sustaining membership, the banks are better able to meet the financial obligations that the act imposes on them.

I understand the amendment to permit a broader range of incidental credit transactions between the banks and their members and affiliates. Members and their mortgage banking affiliates may obtain advances from the banks, but access remains subject to the same eligibility restrictions of the act as if the advances are being made directly to the member.

Finally, let me clarify that the amendment was intended to allow the banks to exercise their overline capability. This permits them to assist members in loan participation programs, particularly for low- and moderate-income projects where the member cannot or will not extend all of the credit needed for the project.

ACCESS TO INFORMATION

As author of section 716 of H.R. 1278 from which section 719 of the FIRRE Act originated, I rise to clarify the purpose of section 719, which is intended to ensure that the Federal home loan banks and the Federal Housing Finance Board continue to have access to important information concerning member institutions. Congress contemplates by this section that the Treasury Department, the Comptroller of the Currency, the Federal Reserve Board, the Office of Thrift Supervision, and the Federal Reserve Banks make available to the Board and to the home loan banks reports, records, and other information concerning the condition and ownership of the member institutions. The intension behind this section is to continue what has been the practice to date. The Federal home loan banks have traditionally had prompt access to this information, and they should continue to receive this information in the future. Moreover, their access to this information is intended to remain as prompt as it is now.

In stating that the information will be made available upon request by a Federal home loan bank, there is no intention to require an individual request in connection with each transmission of information. Instead, a bank may make a standing request to receive designated information on a regular basis.

By passing section 719, Congress also contemplates maintaining the banks' prompt access to all the regular financial reports that these regulators require the member institutions to file. This has enabled, and will continue to enable, the Federal home loan banks to gather and publish cost of fund indices and other financial or statistical information on the members' activities for the public's use, as well as for the use of the members themselves.

This information includes all the monthly and quarterly financial reports that the institutions submit to their regulators. The banks are also intended to have access to any examination reports or other information that the regulators prepare regarding these institutions. And like the information on ownership and condition, it is Congress' intent under the act that the Federal home loan banks receive these reports just as promptly as they have been receiving them to date, which is to say as soon as the regulators can confirm their accuracy.

The ready access by the Federal home loan banks to all of this information is essential to their safe operation, and to the soundness of the housing finance system.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Speaker, I would ask the gentleman from Texas, [Mr. GONZALEZ], chairman of the subcommittee, to answer a question for the purposes of clarifying the RECORD.

Mr. Chairman, under section 912 of H.R. 1278, which several of us, including yourself, the gentleman from Indiana [Mr. HILER], the gentleman from Ohio [Mr. WYLIE], and myself offered in title IX, the FDIC may take enforcement actions against savings associations based on FDIC examinations. I would like to state for the RECORD that it was the clear intention of the Committee on Banking, Finance and Urban Affairs that the FDIC have the authority to examine any savings association, to the extent that the FDIC deems it appropriate and necessary in order to exercise its backup enforcement authority over savings associations and ensure safety and soundness. Otherwise, the FDIC would not be able to carry out its responsibilities under section 912. This examination authority belonging to the FDIC is in addition to their special authority to conduct examinations of savings associations under paragraph (3) of section 10(b) of the FDIC Act, as amended by section 210 of the bill. That was our intention, was it not?

Mr. GONZALEZ. If the gentleman will yield, that is correct.

Mr. BARNARD. I thank the Chair and I feel good about the bill, inasmuch as so many have come to the well of this House and complemented many of its provisions, only identifying maybe one or two that they did not like, and of course, principally the on-budget, off-budget issue. But I have been very much interested in the distinguished gentleman from Iowa's enumeration of all of the things wrong with this bill.

Every one of these items was debated in the committee and in the conference, and we came to a compromise on them. So I want Members to know that these items were discussed, they were considered, and we came up with the product that we have.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [KLECZKA].

Mr. KLECZKA. Mr. Speaker, I rise in strong support of the legislation and thank the gentleman from Texas [Mr. GONZALEZ], chairman of the committee, for his leadership on this important issue.

Mr. Speaker, today the House is considering the most important piece of financial legislation in more than 50 years—the FSLIC bailout bill.

Taxpayers are being asked to face the music in the FSLIC disaster. Federal guarantees of deposits leave little other alternative.

Well, taxpayers are facing the music. Through this bill, however, they're asserting their right to call the tunes.

Some of the tunes the thrift industry will hear in the coming years as a result of this legislation will not be familiar.

First, the legislation ends the cozy relationship the industry has nurtured with its Federal regulator, the Federal Home Loan Bank Board. Regulatory functions are transferred to the Treasury. Insurance functions go to the FDIC.

Second, thrift operators are required to put up their own capital when they take risks. The creative accountants will have to ply their trade elsewhere.

Third, the bill authorizes increased appropriations for the investigation and prosecution of thrift industry wrongdoers. The days of winks, nods, and the old boys network are over.

Some in the thrift industry may not like the sound of this new music.

But, it sounds pretty sweet to me.

Members of this House should be proud of the role this body played in devising this tough legislation. Make no mistake about it: the FSLIC bill sent by President Bush to the Hill did not have tough capital standards. The

reason they are part of this final legislation is because the House demanded it.

It could not have occurred without the able leadership of HENRY B. GONZALEZ, chairman of the Banking Committee.

Whenever those of us on the committee moved to make the bill tougher, we could always look to him as an ally. Fortunately for us, he sat in the most important chair in the room. He never failed us. For that, we can all be proud.

Mr. Speaker, I urge support for the conference report on H.R. 1278.

Further, this legislation deserves the support of this House for several reasons.

First, it provides the funds necessary to protect the accounts of depositors at federally insured savings and loans. Without these funds, thousands of depositors at bankrupt S&L's, through no fault of their own, would lose their money.

Second, the bill toughens Federal rules to require S&L owners to risk their own money—not depositor funds. The long overdue supervisory overhaul sharply increases the powers of regulators and curtails the influence of industry.

Third, the bill provides $75 million a year for Federal prosecution of S&L industry wrongdoers. Moreover, it allows $1 million per day penalties for certain financial offenses.

Delayed action on these questions has already cost the taxpayers billions. Opposition to a tough S&L bill, while in the interest of those who oppose industry reform or who fear vigorous Federal prosecution, is not in the taxpayer's interest.

I have long been an advocate of the merger of the various Federal deposit insurance funds, and have introduced legislation (H.R. 1531) to that effect. I am especially pleased that this conference report lays the groundwork for that merger. The bill would bring the insurance funds for banks and thrifts under the jurisdiction of the FDIC, a merger de facto, if not de jure. In addition, it equalizes premium assessments for banks and thrifts, effective in 1998. If banks and thrifts are following the same rules—and they will be by that time—and paying the same premium, there will be little incentive to retain separate funds. As the debate on the Leach amendment during conference consideration of H.R. 1278 indicated, there is little congressional sympathy for retaining chartering and insurance powers in the same agency. If the chartering and insurance functions for credit unions are separated, as now seems likely, banks, thrifts, and credit unions, should in my view, be insured by a single deposit insurance fund.

The conference report also breaks new ground in the area of consumer representation on Federal regulatory boards. Specifically, one of the seats on the newly created Federal Housing Finance Board must be held by someone who has worked in an organization with more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections. In addition, at least two appointive directors on the boards of the various Federal Home Loan Banks must come from similar backgrounds. The old boys network is about to break up. From now on, when decisions are made regarding mortgage finance and the thrift industry, consumers will have a seat at the table. It is my hope that this action will serve as a precedent for changes in other Federal financial regulatory entities.

In attempting to clean up one disaster, Congress must be careful not to set the stage for another. The bill creates a Resolution Trust Corporation, an agency charged with the disposition of $200 to $400 billion in assets held by insolvent thrifts.

If the Federal Asset Disposition Association is any indication, the RTC may be an accident waiting to happen. We don't need another billion dollar boondoggle. I will be among those in the Congress who will be watching every move this new entity takes to ensure the interests of the taxpayer. Those interests are, of course, protected as well by a vigorous and inquiring press. I am especially pleased that the managers statement on the conference report reflects my view that existing exemptions in the Freedom of Information Act regarding the regulation and supervision of financial institutions will not apply to the RTC. While the RTC is an agency for purposes of title V of the United States Code, it will not act as a supervisor or regulatory of insured depository institutions. Accordingly, exemptions from FOIA under subsection (b)(8) of the act will not apply. Sunshine is usually a big factor in good government. In the case of the RTC, it is essential.

Finally, as a member of the Banking Committee who helped draft what came to be known as the "exit fee" provisions of the Competitive Equality Banking Act [CEBA], I am particularly interested in the tough provisions in the conference report aimed at preventing an exodus of thrifts from the Savings Association Insurance Fund [SAIF] to the Bank Insurance Fund [BIF]. The bill generally prohibits a member of the SAIF fund from changing its status to a BIF fund member for a period of 5 years from enactment. It is my understanding that those institutions expempted from the present moratorium on conversions, initiated originally under CEBA, would lose their ability to switch insurance funds if the conversion to FDIC insurance did not take place before enactment of this legislation. The conference report contains no exemption from the 5-year moratorium for thrifts originally exempt from the CEBA moratorium. Accordingly, those institutions which were exempt from the CEBA moratorium on departures will now be subject to the 5-year moratorium on conversions. Thrifts which switched funds prior to the enactment of this legislation will not be affected by this legislation. Those which have not completed the conversion process will be subject to the 5-year moratorium.

Mr. Speaker, I urge support for the conference report.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the distinguished gentleman from the State of Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Speaker, I thank the gentleman for yielding time and for his leadership.

This is a good bill. It deserves support.

The President is wrong. Should he veto this bill, he is undercutting one of the best legislative products that has been put together on a tough issue. We need to say no to the President on this and require him to do his job, to sign this bill, and get the savings and loan industry back on the proper footing.

We have strong capital requirements, people have to put up their own money. We have outlawed junk bonds so they cannot be going in the financial markets at great risk. We have helped the housing industry both through the S&L industry and through relief through the Federal Home Loan Bank system, and by keeping this on budget we save up to $40 billion over the next 30 years for our taxpayers, $40 billion. That is computed based on the interest calculations in the budget of President Bush.

President Bush, sign this bill. Sign this bill and save the taxpayers $40 billion.

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. LEACH of Iowa. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as a conferee on H.R. 1278, the Financial Institutions Reform, Recovery and Enforcement Act of 1989, I am aware there are many important, positive reforms in the regulatory and operational scheme outlined in this bill.

I am pleased about the tough capital standards, standards which will reduce the likelihood of the failure of surviving thrifts and will increase the investor's stake in the safe and sound operation of these institutions and will be our first line of defense for the safety of the depository insurance funds. Accountability for the actions by the investors, owners, and managers will provide the depositors and Uncle Sam with confidence in the financial system.

I am also pleased about the basic restructuring of the insurance funds. The inclusion of risk-weighted capital, tied with risked-based premiums, will force those who pursue riskier activities to pay insurance premiums proportionate to that risk.

I am proud of the strengthened enforcement and penalty provisions for future violations of fraud, mismanagement, or negligence that have been crafted into this bill. Current law provides no recourse for many of the abuses by some in the industry which have come to light as we studied the problems in the industry in recent years.

I am also very pleased that S&L's will have the capability to provide

demand deposits to both individuals and businesses for the first time. This is an important provision because it provides thrifts with a low-risk source of funds at a time when many of their income-producing streams have been eliminated.

However, while I am in favor of the bonding finance mechanism provided for in this bill, I have difficulty with the decision to go on budget and encourage a vote for the motion to recommend. Though this has been advocated as a way to save tax dollars, I feel it can only increase the cost of funds to the Treasury across the board by as much as 25 basis points and thereby increase the national deficit. Further, it is quite evident that the financing will be inadequate and we will have to revisit this issue again.

I must say, however, that I am very disturbed by the inadequacy of provisions to help those institutions left in the industry to have the sources to raise capital to the standards called for in this legislation. This bill requires the S&L's to adhere to an unrealistic and onerous qualified thrift lender test [OTL]. By placing thrifts in this type of straitjacket, this legislation will seriously diminish the ability of these institutions to diversify and protect themselves from the whims of the business cycle. Furthermore, though it is important to regulate and keep control over different thrift activities, without allowing the diversification of thrift activities, we will find ourselves in the same sort of situation that precipitated this crisis.

The failure of the conference committee to allow thrifts a practical mechanism to transfer existing subsidiaries doing businesses like real estate and insurance to a thrift holding company instead of forcing the sale of these often highly profitable businesses to a third party was a serious mistake. This proposed mechanism would have protected the insurance funds by insulating the thrift from any potentially risky activities and would have given the parent holding company a solid stream of income essential in many cases to the ultimate survival of the savings and loan itself.

The mechanism created to dispose of the billions of dollars of real estate and other assets that the Government will own after liquidating these failed institutions, the Resolution Trust Corporation, is an unwieldly structure and woefully inadequate despite the best efforts to deal with this problem.

I have outlined just a few of the problems in this legislation and unfortunately I have concluded that I cannot support H.R. 1278 in its present form despite the good features I have outlined.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I commend the chairman and the ranking member. This is a very good bill. I agree with the gentleman from Pennsylvania, it is not the ultimate panacea, it is not even the penultimate panacea, it is just a very good bill.

We are told the on/off budget is a problem, and some gentlemen have said if we put this on budget interest rates will drop. We had a conference committee, and we voted to put it on budget, and now what happened? The prime rate went down the next day. I do not suggest that was causality, but when the prime rate goes down when we put it on budget, by what calculation have we driven interest rates up?

The President of the United States makes a grave error. He is snatching defeat from the jaws of victory. He sent us a bill, the basic outlines of which we have conformed to. We have improved it in some ways. He does not like it that we have low-income housing, and shame on him for that. But in general it is a bill that very much looks like the one he sent us with some improvements.

Now we have a problem, pride of authorship from the Secretary of the Treasury and the Senator from Texas, and minor quibbles. The gentleman from Texas [Mr. BARTLETT], was right. There are no major differences here.

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The President of the United States has the constitutional right to act like a spoiled child. We are under no obligation to indulge him.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. I thank the gentleman from Ohio for yielding.

Mr. Speaker, I rise in support of the conference report to accompany the bill H.R. 1278, and commend the chairman of the House Banking Committee, Mr. WYLIE, Mr. ANNUNZIO, and our colleagues on both sides of the aisle, for their hard work on this difficult task.

If I might, I would like to engage my distinguished chairman in a colloquy to clarify a matter pertaining to section 321 of the conference report.

This section of the conference report applies the provisions of sections 23A and 23B of the Federal Reserve Act to transactions between a savings association and an affiliated company. Under this section, a savings association is to be treated in the same manner and to the same extent as if it were a member bank. These two sections of the Federal Reserve Act give the Federal Reserve Board the authority to regulate the size of affiliate transactions and to prohibit such transactions deemed unsafe or unsound, and are therefore one of the most important safeguards in Federal banking law.

Now, it is my understanding that the Federal Reserve Board is the proper body to interpret the applications of these sections of the Federal Reserve Act.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. CARPER. I yield to the chairman of the committee.

Mr. GONZALEZ. I thank the gentleman for yielding.

Mr. Speaker, that is correct.

Mr. CARPER. Mr. Speaker, it is my further understanding that exemptions granted by the Federal Reserve Baord from the limits imposed by sections 23A or 23B should be consistent with prior Board exemptions, including those orders exempting covered transactions undertaken as part of a corporate reorganization, consolidation, or conversion of branches of an affiliate into branches of a bank, subject to appropriate safety and soundness considerations.

I would ask if that is correct also?

Mr. GONZALEZ. That is also correct.

Mr. CARPER. Mr. Speaker, would the gentleman from Texas care to add anything further?

Mr. GONZALEZ. Just merely to say that the record shows that the gentleman from Delaware [Mr. CARPER] has been in the forefront of the section 23 business. I commend him for his hard work in this respect.

Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the chairman for yielding.

Mr. Speaker, the conference report is silent on the definition of supervisory goodwill. Is it the chairman's intent that supervisory goodwill be defined as it was defined by the House Committee Report 101-54 part 1?

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the chairman.

Mr. GONZALEZ. I thank the gentleman for yielding.

Mr. Speaker, that is correct, we did intend that more or less to define supervisory goodwill.

Mr. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the delegate from the District of Columbia.

Mr. FAUNTROY. I thank the gentleman for yielding.

Mr. Speaker, I too want to commend the chairman, and the gentleman from Ohio [Mr. WYLE], as well as the gentleman from Illinois, [Mr. ANNUNZIO], for their leadership in bringing this conference to a close in this manner. I urge support of the conference report. This is not a perfect bill, but it is a comprehensive effort to provide a framework for resolving the problems confronting the thrift industry, by reforming its regulatory structure, by

providing a funding plan for liquidation of insolvent S&L's and establishing a financial structure for a viable and ongoing insurance fund.

So please support it and let us get on with our work.

Mr. Speaker, I rise this morning to speak on the issue of passage of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, a bill which attempts to resolve the nation's most expensive financial debacle: the S&L crisis. But before I begin, I would be remiss if I did not single out for special recognition the critical role which the distinguished chairman of the House Banking Committee, HENRY GONZALEZ, has played in ensuring that this legislation was accorded the highest priority and ushering it through a difficult House-Senate conference committee. My compliments to the chairman and his staff.

In finalizing this legislation to solve this crisis, the House Banking Committee has put forth a comprehensive framework for resolving the problems confronting the thrift industry by reforming its' regulatory structure, providing a funding plan for liquidating insolvent S&L's and establishing the financial structure for a viable and ongoing insurance fund. This landmark bill replenishes funds in the insolvent Federal Savings and Loan Insurance Corporation, overhauls banking and thrift industry regulations, and requires S&L's to risk more of their own capital before FSLIC insurance bails out depositors at an insolvent institution. The bill would also tighten the lending and accounting restrictions to which thrifts must adhere, while at the same time expanding ways for thrifts to become banks or to be purchased by banks.

Key provisions of the bill include:

Minimum capital, or the cash cushion for thrifts, would be 1.5 percent of assets. The greater the risk to a thrift's assets, the greater must be its capital base.

The Federal Home Loan Bank Board would become an arm of the Treasury. Bank regulators and the Treasury would oversee the Resolution Trust Corporation which will sell or merge insolvent thrifts and their assets using $50 billion during the next 3 years.

Deposit insurance premiums would be raised for banks and thirfts.

Bankholding companies would be permitted to acquire healthy thrifts immediately, which was prohibited under current law.

Investments in high-yield junk bonds and other risky activities would be prohibited or allowed only in separately capitalized affiliates.

Thrifts would be required to invest more in home mortgages.

Federal Home Loan Banks would be required to contribute a percentage of their earnings toward low-income homebuyers.

The point immediately at issue in this bill is how to raise the enormous sum of money which may be needed over the next decade to honor insured deposits backed by bad loans. Should this be raised by the Federal Government, with a waiver to exclude the sum from Gramm-Rudman deficit limits—House approach—or by allowing RefCorp (a special corporation proposed by the President) to borrow in the markets. The House believes that a Federal guarantee would enable the Government to borrow the money more cheaply. The administration argues that world markets would be badly shaken by any Gramm-Rudman waiver, and so the cost of all Government borrowing would be raised.

To raise $50 billion that would be used to close or merge hundreds of insolvent savings and loan institutions, the administration's plan calls for using industry bonds, which would not be included on the Federal budget, thus not increasing the budget deficit. However the interest of more than $100 billion, to be paid mostly by the taxpayer, would be on budget. But using industry bonds would increase the cost by more than $5 billion over 30 years, because they would carry a higher interest rate than Treasury bonds.

The House approved a plan to raise the money using Treasury bonds, and include the spending on budget. The ultimate costs are lower, but it would require a waiver of the Gramm-Rudman deficit reduction law, a precedent the administration views as the first step in eroding the Gramm-Rudman budget discipline.

For all the administration's fine rhetoric that every new expenditure be balanced by an offsetting revenue source, there logic for funding the S&L bailout is tarnished by more than a touch of deceit. No one believes that $50 billion will handle the cleanup. My fellow colleagues you should cast aside the administration's warnings of a veto and insist that the financing of this rescue program be held to the same budgetary standard as programs for the poor, the elderly and the homeless. The President prevailed on almost every important issue thus making this bill too important and too costly to veto. When delay is said to cost $20 million a day, it is a bit silly to veto a bill designed to tackle a major financial scandal which was allowed to slide for years—like the HUD scandal—under a former Republican administration over which he presided.

Mr. Speaker, I close by asking each of my colleagues to search their souls and their hearts and vote to meet Secretary of the Treasury Brady's plea—when he delivered this bill to Congress in February—that first, never again should we allow a Federal insurance fund that protects depositors to become insolvent; second, never again should we allow insolvent federally insured deposit institutions to remain open and to operate without sufficient private capital at risk; third, never again should we allow risky activities permitted by the States to put the Federal Deposit Insurance Fund in jeopardy; and fourth, never again should we allow fraud committed on financial institutions or depositors to be anything but a serious white-collar crime.

My fellow colleagues I urge you to vote "yes" on H.R. 1278.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Iowa [Mr. LEACH] has one-half minute remaining.

Mr. LEACH of Iowa. I thank the distinguished Speaker.

Mr. Speaker, I would only like to comment briefly about the chairman of the full committee whose decency I thing we all should congratulate at this time.

In so doing, I would like to make one comment about a previous statement. Frankly, the President of the United States is not a "spoiled child" as the gentlemen from Massachusetts suggested and all of us ought to understand this.

Congress has been caught with its hand in the cookie jar and the President like a good father is asking for nothing less than responsible discipline.

We can agree or disagree whether this is the best approach, but let us recognize that the President has wrought exceptional leadership on this issue.

Mr. GONZALEZ. Mr. Speaker, I yield one-half minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, the moment of truth is here. This is tough medicine. But we should bite the bullet.

If you want to win a popularity contest, then vote against the bill. If you want to unravel a conference committee and a conference report that has spend countless hours on a very responsible bill, sure there are parts that some of us do not like about it. But the responsible vote is to support the bill and to support the bill now.

Mr. Speaker, with respect to the off-budget, on-budget financing, let us take a look at it. We estimate, and this is our budget office estimate, that we will save $250 million per year which buys us a lot of programs.

Vote for the conference report now.

Mr. Speaker, today, the House votes on the conference report to H.R. 1278 which reforms, recapitalizes and consolidates the Federal Deposit Insurance System. In addition, this conference report installs stringent, harsh criminal and civil penalties for those individuals charged with fraudulent, unscrupulous behavior. The intent of these penalties which I support and the taxpayer deserves, are to make anyone contemplating this activity think twice.

Mr. Speaker, this conference report is the result of hours of hearings, hundreds of amendments and lots of hard work. I commend my distinguished chairman, HENRY GONZALEZ and the chairman of the Subcommittee on Financial Institutions FRANK ANNUNZIO, for their leadership, fairness, and openness throughout this legislative process. The conference report before the House today, is the largest Banking Committee bill in over 50 years and the largest private sector financial aid package in the history of this country. Within this omnibus legislative package is upward of 50 separate substantial bills which will help shape the financial services industry in this country for many years to come.

Mr. Speaker, this conference report had a series of contentious issues which both the House and Senate conferees anguished over for several weeks. However, like any conference report, not all provisions are palatable. But in the timely spirit of compromise and in the interest of the taxpayer, the conferees moved forward to an agreement. I now urge my fellow House Members adopt this agree-

ment without further delay and added cost to the taxpayer.

Mr. Speaker, within the conference report are specific items of interest which deserve attention. One provision which is the actual "guts" of this omnibus legislation is the capital standards. These new capital standards will take effect 120 days after enactment of the bill. Essentially, institutions will be required to maintain a leveraged limit of at least 3 percent of total assets; a "tangible" capital requirement of 1.5 percent of total assets; and lastly, meet a risk-based capital standard. Institutions not meeting these standards on their effective date will have 60 days to file a business plan with the Director of the Office of Thrift Supervision.

Mr. Speaker, strong capital standards are key to averting another multibillion dollar bailout down the road. In addition, by requiring thrift owners to put up "more hard cash" and maintain a "tangible" core capital requirement, the insurance fund will be shielded from further losses and the taxpayer protected.

In addition to this crucial capital provision, my amendment would allow bank holding companies to merge savings associations into a bank subsidiary upon acquisition. I am exceedingly proud of this language as it is and always was intended to utilize private capital from the bank holding companies to bolster the SAIF fund and provide buyers for thrifts whose fortunes may reverse in the next couple of years. But most importantly, this provision attempts to protect against having to return to the taxpayer in the next couple of years and admit that we have not exhausted all possible resources. The language I worked many months to have included in this bill does all the above and does it fairly. Bank holding companies may acquire a thrift and merge or consolidate its assets and liabilities into an existing bank subsidiary if and only if the bank holding company pays SAIF premiums for 5 years—the duration of the moratorium—on the deposits of the acquired thrift plus a 7-percent growth increment each year. Many of you may be aware that the current average growth rate of deposits in the thrift industry is only 3 percent. What my amendment does is provide much-needed incentives for the banking industry to consider acquisitions of thrifts, which in our recent memory, "they have not been inclinded to do."

My amendment within the conference report, hopefully gives the correct incentive—which has been sorely lacking up until now—to the banks to put their capital behind the SAIF fund. The benefits will be considerable as banks, upon acquisition of savings associations, are required to bring the thrift's capital up to bank capital standards immediately. This bill has put a huge burden on the regulatory agencies, in particular the FDIC, to close down insolvent thrifts. Closing down a savings association is an expensive task and helps no one. If the Congress can encourage banks to handle some of these problems without using taxpayer money, we accomplish much.

From its inception, as we briefed staffs of the Senate Banking and House Banking Committees and they in turn, briefed their members, support for the amendment grew. This was due to the benefit to taxpayer and to the SAIF fund. But also to care with which the amendment had been drafted. There were no hidden agendas, seeking new securities powers, no more new liberal rules on interstate banking, no new insurance authority or anything of the kind.

The amendment is drafted to provide the maximum benefit to the Treasury in terms of bringing private capital to the thrift industry, instead of taxpayer money. The amendment is thus drafted simply to give a bank holding company the chance to make an intelligent, logical business decision on whether the acquisition of a thrift is a wise market decision. The amendment accomplishes this by way of the one incentive contained within it—the ability to consolidate a savings association into an existing bank subsidiary that produces cost efficiencies which can make the acquisition viable in bottomline terms. To substantiate this claim I would refer my colleagues to a Booz-Allen study of February 1989 detailing the cost savings accruing from "Intra-Industry Consolidations.

Bank holding companies who do conclude that the thrift acquisition under this amendment makes sense for their institution will pay the SAIF System "double" the amount of premiums that the thrift, had it continued in its form, would have been required to pay. They will achieve no new powers, no liberalization of McFadden and Douglas, no step up in the insurance arena and will be subject to the moratorium restriction, the exit and entrance fee requirements and will not have left the SAIF System for purposes of the thrift acquired. This is the type of language which I am proud to have sponsored, and I know, from the months of briefings and explanations which went into working on this amendment, that my colleagues agreed throughout that this was more than worthy of inclusion in this bill we pass through Congress today.

Third, Mr. Speaker, the conference report contains uniform appointment and payfixing authorities for the newly formed Office of Thrift Supervision, the Federal Housing Finance Board, the Resolution Trust Corporation, the OCC, and the National Credit Union Administration. This language provides consistency regarding compensation levels within the Federal banking regulatory agencies. In addition, the provision clarifies the scope and authority of each relevant agency as it pertains to setting compensation and benefits. For instance, while the Office of Thrift Supervision and the Office of Comptroller of the Currency are under the "consultative," framework of the Treasury, the intent of payfixing and appointing is to have these entities run autonomously and efficiently.

Mr. Speaker, all parties agree that having consistent and uniform employment guidelines will help to acquire and retain talented professionals in examining and supervising our Nation's financial institutions. But most of all, Mr. Speaker, these provisions within the conference report will go a long way in preventing this crisis from recurring. The Congress can legislate all the tough capital standards it wants, but, if talented examiners and supervisory staff are not in place, these tough measures will be meaningless.

Again, I commend the distinguished chairman of the Banking Committee, Mr. GONZALEZ, and the chairman of the Subcommittee on Financial Institutions, Mr. ANNUNZIO, for their leadership and urge my fellow colleagues to adopt this conference report.

Both the conference report and the President's proposal would require $50 billion in borrowing. The conference report contains the House on-budget financing. The Senate's proposal would be off-budget.

Because the borrowing in the conference report will be at lower interest rates than under the Senate plan we will save between $150 and $250 million per year in reduced interest costs.

The following are Federal programs that could be fully funded with the savings we realize in interest costs:

Federal programs in the $150-$200 million range—1990 appropriations (House-reported or House-passed)

[In millions of dollars]	*Amount*
Mine Safety and Health Administration (DOL)	170
DOE Bilingual education program	195
Bureau of Labor Statistics (DOL)	194
Bureau of Mines (Interior)	162
Rural water and waste disposal grants (USDA)	209
Watershed and flood prevention operations (USDA)	182
Agricultural conservation program (USDA)	185
Bureau of the Public Debt	219
Special benefits for coal miners (DOL)	211
Employment Standards Administration, salaries and expenses (DOL)	218
Vaccine improvement programs (HHS)	129
National Institute of Dental Research (HHS)	138
National institute of Arthritis and Musculoskeletal and Skin Diseases (HHS)	172
HHS Departmental management	152
Appalachian Regional Commission	150
Bureau of Land Management firefighting	137
Refuges and Wildlife (Interior)	166
Abandon mine reclamation fund (Interior)	192
Forest research (USDA)	142
DOE Low-income weatherization	161
SPRO facilities, operations, and management	195
National Endowment for the Arts	170
National Endowment for the Humanities	126
VA Post-Vietnam era veterans education	165
VA Medical and prosthetic research	211
NSF Science education	210
HUD rental rehabilitation grants	130
Emergency shelter grants (HUD)	125
FEMA emergency food and shelter program	134
Agricultural commodity food purchase program (USDA)	170

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report, I commend the chairman, the ranking member, and the chairman of the subcommittee for their leadership and wish to engage the chairman in a colloquy.

Mr. Chairman, it is my understanding that there are no statutory provisions or regulations that require State-chartered institutions insured by FSLIC to belong to the Federal Home Loan Bank System and that this legislation makes no change to the statutory provisions governing membership in the Federal Home Loan Bank System for such State-chartered FSLIC-insured institutions. Is that the gentleman's understanding?

Mr. GONZALEZ. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentlewoman for yielding.

Mr. Speaker, the gentlewoman is correct, that is my understanding.

Ms. PELOSI. I thank the chairman.

Mr. Speaker, I rise today in support of the conference report on H.R. 1278, the Financial Institutions Reform, Recovery and Enforcement Act.

I commend Chairman GONZALEZ for his hard work and diligence on this important legislation. As a member of the House Banking Committee, I have firsthand experience of the commitment and energy which Chairman GONZALEZ applied to crafting this product which we have before us today. Chairman GONZALEZ did an outstanding job in a situation of less than optimum conditions, including intense public scrutiny, intense press scrutiny, and intense political pressure and time constraints.

The bill originally sent to Congress by the White House had serious flaws, only some of which were addressed by the administration's subsequent submission of over 400 technical amendments. The members of the House Banking Committee succeeded in strengthening the bill's capital standards and prevailed in virtually all of the bill's critical provisions in the House-Senate conference.

As a member of the conference subpanel on housing and throughout committee and floor consideration of H.R. 1278, I worked for the development of programs and provisions to return the savings and loan industry to its original mandate—housing. I support this conference report because the bill contains some important provisions which will assist in resolving the Nation's housing crisis.

The establishment of the community investment program and the affordable housing program will provide a new source of funds available for low- and moderate-income housing. Through a system of special cash advances, these programs will increase the availability of mortgage credit for low- and moderate-income Americans. While I am disappointed that the amount of money to be made available through these cash advance programs was reduced in the negotiations with the other body, I still support the conference report. The community investment program and affordable housing program can be used to promote innovative public-private partnerships and will leverage a significant amount of funds to help house low- and moderate-income Americans.

I urge my colleagues to approve this conference report. H.R. 1278 has some good features. It contains strong capital standard requirements and it strengthens the regulation and enforcement of the industry. Through the Community Reinvestment Act [CRA] and Home Mortgage Disclosure Act [HMDA] disclosure provisions, it will make publicly insured institutions more accountable to the public and it returns savings and loans to their original purpose, mortgage lending, including for low- and moderate-income people. Thank you.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida. [Mr. GIBBONS].

Mr. GIBBONS. I thank the gentleman for yielding.

Mr. Chairman, this conference report should be adopted. The motion to reconsider should be rejected. We owe it to the American people to save as much on this transaction as possible. It is a transaction that no one really likes. It in effect is having to carry out our own dirty garbage.

We ought to save as much money as we can on it. If we keep it on budget, there would be a lot better supervision from the Congress, there would be a lot better supervision from the public, and a lot better supervision from the press as to what goes on.

This is going to be a tough, dirty business and I think we should reject the motion to reconsider and we should pass the conference report.

Mr. WYLIE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I stated earlier this is a good conference report on a very difficult matter. Passage of this bill will give the regulators the tools and resources they need to shut down hundreds of brain-dead thrifts which are costing the taxpayers millions of dollars every day they remain open.

The bill is not perfect, but it is a far stronger bill than most believed could ever be produced by a conference report or by the Congress.

After months of exhaustive work, it is now time to act.

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Let Members stop the mounting losses now. Let Members protect the insured depositors, the life savings of millions of Americans now. Let Members vote to pass the bill now. I urge an aye vote on the conference report.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Speaker, I thank the committee chairman.

Mr. Speaker, we are allowing the greatest swindle in the history of this Nation to continue its forward movement toward the sanctity of the law. On February 22, 1989, President Bush proposed a monstrous $157 billion bill to bail out failing savings and loan associations [S&L's]. At present, as reported by the House and Senate conference, the bill is expected to cost $166 billion. However, the final price tag could climb to an estimated $375 billion. The House passed the bill on June 15, 1989, and the Senate passed it on June 21, 1989. For many weeks, a conference committee composed of House and Senate members met and deliberated to resolve all differences in the bill. At long last, the work has been completed on H.R. 1278 and it should reach the President before the August 4 recess of Congress. This long deliberation process cost the taxpayers approximately $20 million a day. Mr. Speaker, it is important to again alert the American people to the dangers of the contents of this unprecedented legislation.

As legislators searched to find ways to correct the thievery and corruption that crippled the Nation's thrifts, they neglected to act upon several desirable alternatives.

On several occasions, I, along with many members of the Populist Caucus proposed to Members on the House Banking Committee that payments by the taxpayers to rescue the insolvent S&L's be limited to the legal obligation of $100,000 per person per thrift. Deposits above this legal obligation amount would be solely the responsibility of the depositor. It is important that we do only what we are legally obligated to do—and no more. This course of action which is all that we are required to do by law will cost only $100 billion and thus save the taxpayers an additional $200 billion. All of the expenditures beyond the amount needed to guarantee insured depositors is a subsidy to Arab sheiks, other foreign investors, and big shot speculators.

My colleague, Mr. LAFALCE, proposed an amendment which put the rescue on budget with a direct appropriation of $50 billion over 3 years. This proposal would not create a necessity for revenue increases or spending cuts. Placing this expenditure on budget would foster honesty in budgeting and keep this boondoggle in full view of the American people. This action will not increase the deficit. It will decrease the secrecy that has permitted excessive collusion between the Government and corrupt elements of the finance private sector.

Another desirable alternative, the Kanjorski/Kaptur amendment required each State to help pay the cost of the failed institutions within the State. Yet, the final version of H.R. 1278 will cause 36 States and the District of Columbia to pay more than they take in from the bailout, while 14 States will receive far more than they pay.

For example, the State of Texas is expected to receive the largest amount of aid—over $25 billion. Although, Texas pays about 6.6 percent of national taxes, its insolvent thrifts account for 65 percent of the total bailout cost. As it stands now, Texas is expected to pay just $1.8 billion. But in the Northeast-Midwest region of the country which includes my home State of New York, it is estimated that taxpayers will pay $12.5 billion of the costs. In the Northeast-Midwest region, failing savings and loans account for just $3.7 billion of the total damage.

In 1976 when New York City faced a financial crisis, only 3 out of 24 members of the Texas delegation supported a New York City rescue plan—a bailout based upon Federal loan guarantees that did not cost the taxpayer a single dime. Mr. Speaker, New York City

repaid that loan. How will Texas repay the American taxpayer?

In the case of Texas, the State is both responsible and able to pay. According to the Federal Home Loan Bank Board, 90 percent of the costs of FSLIC actions in 1988 in Texas were to close or merge State-chartered institutions. The State's inadequate regulation of these State-chartered thrifts will cost taxpayers across the Nation tens of billions of dollars in the years to come.

Mr. Speaker, it is quite simple. The S&L's have failed because owners have stolen the money, or they have been incompetent and have managed the money badly. Still, the administration is prepared to let the American taxpayer be the fall guy for these people many of whom should be investigated for possible criminal conduct. How many of the bankers who have been involved in creating this unprecedented swindle will be tried and forced to face prison sentences? According to the National Association of Attorneys General, fraud costs the Nation $100 billion a year. In a year, the Justice Department will investigate and prosecute less that 5 percent of those cases involving white-collar wrongdoing. This figure includes S&L criminal investigations.

And now, conferees have voted to allow the FDIC to manage the new funding organization [RTC] and allow the current chairman M. Danny Wall to inherit the thrift rescue job. When the S&L's were failing, it was Mr. Wall and his gang who insisted that the problem could be handled through the Federal insurance fund for S&L's. He failed to look at the problem realistically then, and now he is casually handed the job to oversee the rescue. If Mr. Wall's instinctive guidance remains the same as it was when he was at the [FHLBB], not only will future generations be stuck with the S&L bill but it will take roughly 30 years to pay it off.

And finally, Mr. Speaker, the most devastating results of the passage of this bill will be its impact on all other vitally needed programs. The S&L bailout legislation will cost taxpayers at least $166 billion over the next 10 years—or an average of $16.6 billion a year. What could we buy with $16.6 billion per year? In 1 year we could:

Fully fund chapter 1—serve all 8.5 million eligible children—$4.3 billion.

Provide section 8 housing vouchers to all underserved very low-income households—2.2 million families with income less than the 50 percent median—$11.1 billion.

Extend Medicaid coverage to all pregnant women and children under 8 with incomes less than 200 percent of poverty—$1.2 billion. Total—$16.6 billion.

In conclusion, Mr. Speaker, as this bill advances toward the status of becoming the law of the land, nothing new has been revealed to lead me to alter my original conclusion that we are engaged in perpetuating a giant swindle against the American taxpayers. I voted against the original bailout bill because it goes far beyond the simple steps needed to pay off insured depositors. I will again vote no on the conference report. It is still my firm belief that the passage of this bill by Congress represents a surrender of some of the best and the brightest minds in the Nation to some of the most cynical, most corrupt and the slimiest minds in the Nation.

Mr. GONZALEZ. Mr. Speaker, I yield such time as she may consume to the gentlewoman from South Carolina [Mrs. PATTERSON].

Mrs. PATTERSON. Mr. Speaker, I rise in support of the bill.

Mr. Speaker, I rise in support of the conference report on H.R. 1278. I commend Chairman GONZALEZ and the ranking minority member, Mr. WYLIE, for bringing us a conference report that addresses the difficult problems of the savings and loan industry and ensures that those who engaged in criminal activity that contributed to this situation will be punished.

I am pleased with many portions of this bill. The bill includes tough capital standards. It imposes new criminal and civil penalties for improper and illegal activities. None of the money in this bill will go to the criminals. It prohibits investment by savings and loan institutions with junk bonds in a way that endangers the deposit insurance system. These provisions are the result of many months of hard work and compromise between the Congress and the administration.

I do have concerns about this legislation, however, I know that everyone hoped that we would pass legislation that would solve this problem once and for all—that we would never have to address this subject again. I have serious doubts that this legislation will solve all the problems and I fear that it may even create new problems.

My most serious concern is with the Resolution Trust Corporation which is created in this legislation to handle the troubled assets of insolvent institutions. When the President's plan came to Congress, there was only the vaguest outline of the structure and responsibilities of the RTC. Our committee improved the section some and the administration added additional details during the conference committee's deliberations.

But, the fact is that the RTC will be responsible for the handling of $400 billion in assets over the next few years. This is a situation ripe for fraud and misconduct on a staggering scale. There are people out in the country who see this as a chance to make a lot of money in a way that will leave the taxpayers holding the bag.

A second problem with the bill is that it is based on flawed and overly optimistic economic assumptions. This legislation lacks adequate resources to resolve the hundreds of cases pending before the regulators. Those of you who know me, know that I am not a supporter of increased levels of Federal spending, But, if we must spend the money to protect the depositors, let's do it right. It will only be more expensive in the future.

There are a number of other problems with the bill that we know about. In all likelihood, there are problems in the bill we don't know about. We are sailing in uncharted waters with this legislation. We will have to revisit the provisions of this bill time and time again over the next few years.

Mr. Speaker, there is one thing we do know. Delay costs money. Every day we wait costs the American taxpayers millions. This bill is not perfect, but it is workable.

I hope that the President will not delay this bill. By placing the financing of this plan on budget, we save the taxpayers billions of dollars in lower interest costs. I find it difficult to understand why the President is being so insistent on making the taxpayers pay more than is necessary.

Mr. Speaker, we cannot delay any longer. Despite my doubts, further delay is the worst thing that can happen. I urge my colleagues to support the conference report.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Speaker, I rise in support of the conference report.

I would like to rise in support of this legislation, and to commend my colleagues on the Banking Committee for their hard work and dedication in working out a compromise on this issue. As a member of the committee and conferee, we spent many hours reviewing the intimate details of the Bush legislation as it was sent to us, and we worked long and hard in the subcommittee and the full committee to find a workable solution.

I believe the bill goes a long way in reforming the savings and loan industry. We have made major strides in calling for the thrifts to invest more of their own money as capital, and by doing away with some of the phony accounting techniques which led many of the thrifts into bankruptcy. Oversight and regulation has been greatly improved, and thrifts are being directed to return to their original mission—to support the development and growth of affordable housing in this country.

While the measure reflects many significant accomplishments, as in every major piece of legislation there are aspects which I believe could be improved. It is important to keep in mind that this bailout—while caused by a few poorly managed, poorly regulated, and poorly financed thrifts—is being supported by the majority of healthy thrifts which serve as the backbone of the industry. Not only are they being asked to pay higher premiums in order to shore up the FSLIC fund, but they are being restricted in areas in which they have historically been most profitable and successful.

We have to be careful in regulating the industry not to create a system which is prohibitively burdensome, or serves as a disincentive to profit for well-operated thrifts. Particularly in the area of direct investment, I believe these healthy thrifts should be given enough flexibility in how they must divest to reflect sound and reasonable business decisions. Also, many of the activities prohibited under this bill have been the bread and butter of some of the most safely operated thrifts in this country. The objective of this legislation should not be to punish those institutions which have maintained sound and prudent business practices, but to weed out those organizations which have played fast and loose with depositors' funds.

Some other issues to consider which may not have been adequately addressed by this legislation is the size and operation of the Resolution Trust Corporation. This quasi-gov-

ernment entity will have one of the most overwhelming management tasks in history—disposing of billions of dollars' worth of assets without disrupting local economies or creating another FDA situation. In light of the recent HUD scandals, the potential for future abuses must be prevented. Oversight of the RTC must be stringent, and any indication of lax management or lack of adequate accountability should be quickly addressed.

I have a similar concern regarding the amount of responsibility which has been assigned to the FDIC. Under the bill's regulatory restructuring, the FDIC's authority has been considerably expanded. The question is, Have we provided enough resources to the agency to adequately fulfill its oversight functions? While the agency has been commendable in the past for its regulatory control over banks, it is not without flaws. We risk exacerbating these weaknesses by adding to the FDIC's responsibility without providing the staffing and guidance needed to make a smooth transition. It will be important to watch in the future to ensure that the FDIC is up to the task.

The major shortcoming of this measure may be the fact that it does not provide enough money to solve the problem. Most of us have been hesitant to look down the road and see what the result might be—an endless drain on the taxpayer and the resources of the healthy thrifts. It may be inevitable that we will at some time in the future have to revisit this issue. I can only hope that we will be able to look back on our efforts here today and be proud of the fact that we accomplished what we set out to do. Through stronger oversight, stiffer capital requirements, and better enforcement we were able to stem the tide of S&L failures, and reinstate an industry devoted to housing finance. The groundwork is there, only some of the tools may be lacking.

Mr. GONZALEZ. Mr. Speaker, the House should stick with its 2-to-1 vote for on-budget financing of the savings and loan legislation for three big reasons:

First, on-budget financing saves the taxpayers billions of dollars.

Second, on-budget financing allows funds to be immediately available to close sick savings and loans that are draining the Federal deposit insurance fund by $20 to $30 million each day. Off-budget financing would mean that the hemorrhaging would continue while Refcorp is organized, the bonds prepared, issued, and studied by the bond markets—a long process. It means billions of dollars of new losses if we wait.

Third, on-budget financing tells the American people the truth about the costs they will bear rather than hiding them in some high cost off-budget gimmick.

Mr. Speaker, there are some who talk about a savings of $4 or $5 billion as if it meant nothing. The American people do not agree. The American people don't want to pay billions of dollars just to keep budget myths alive.

The American people do not want the resolution of the savings and loan mess delayed. And off-budget financing and the complexities of bond financing will do just that—delay and cost the insurance funds more and more.

The delay not only costs the insurance fund more, but it continues the serious drain of confidence in the financial system. Every depository institution, insured by the Federal Government, suffers indirectly if we delay a resolution. We need the money out and the rescue started now. That can be accomplished only if we move with on-budget financing.

Let's vote for the cheapest method possible and the quickest method possible. Let's vote "no" to budget gimmicks. We're in this savings and loan mess now because for too many years we let this industry operate on fake accounting and funny money. The off-budget gimmicks are first cousins to the savings and loans Alice-in-Wonderland accounting.

Vote no on the motion to recommit.

Mr. LAFALCE. Mr. Speaker, I rise in opposition to the conference report on the savings and loan bailout legislation. In my view, the bailout legislation remains unfair to the American taxpayer. There are several problems with the proposal, including:

First. The financing mechanism: The fundamental question is not whether the financing should be on- or off-budget, but whether we should borrow at all. Under either approach, we are borrowing, and placing the huge interest costs associated with that borrowing on the taxpayer.

Borrowing under these circumstances is both fiscally and morally irresponsible. I believe it is far more appropriate and defensible to tax ourselves than passing on higher costs than are necessary to future generations.

Borrowing in any form is a much higher cost solution than a direct infusion of funds. We could save the taxpayer as much as $150 billion over the next 30 years if we made some hard choices and paid for this bailout now.

Second. The level of funding: The administration's projections regarding the overall level of funding required and the source of that funding are based on a series of overly optimistic and implausible assumptions. Each time any of these implausible assumptions proves incorrect, it is the taxpayer's potential liability that increases. It is only the taxpayer's obligation under this bill that is indeterminate. If interest rates are higher, or deposit growth in savings associations is lower, or the premium inflow from surviving thrifts decreases, additional costs will be placed at his door.

Third. The impact on healthy thrifts: The structure of the legislation is premised on the need for and viability of an independent thrift industry. Yet the bill makes it virtually impossible for the healthy thrifts which could form the core of a revitalized industry to survive. Increased premiums will place a heavy financial burden on healthy thrift institutions that their competitors will not have to bear. At the same time, their dividends will be reduced because of the heavy costs imposed on the Federal Home Loan Banks.

It was the inability to diversify that originally put the thrift industry into such jeopardy. Yet we are again putting the industry into a straitjacket, forcing healthy thrift institutions into marginally profitable areas of activity while largely foreclosing areas of activity which could enhance profitability and provide the diversification so essential to safety and soundness.

Fourth. The resolution trust corporation: The responsibilities confronting the RTC are massive and unprecedented. Yet the structure of the organization is ill-defined, its policies and procedures are left to its own devising, and its accountability to the public is negligible.

The Resolution Trust Corporation will necessarily find itself in an anomalous situation as it tries to dispose of the $300 to $500 billion in assets it will handle. A major portion of its income is to come from the proceeds of asset disposition. However, the RTC cannot dispose of assets too quickly without adversely affecting local and regional economies. Nor can it hold the assets for any extended period of time, since the expense of warehousing the assets is not a cost accommodated in the bill.

In the short term, an understaffed and underfunded organization under enormous pressure will be trying to quickly handle the disposition of billions of dollars in assets, largely through outside contractors and real estate speculators, with little public oversight of day-to-day operations. It is a recipe for disaster.

Fifth. Absence of a State contribution: To a significant degree, it was State-chartered institutions with a very broad array of powers operating under lax State supervision that broke the Federal insurance fund. The States have obligations as well as rights under our dual banking system; and that should be reflected in some sharing of the costs.

There should be some regional equity in bearing the financial burden of this bailout. This legislation involves a massive transfer of resources from the Northeast and Midwest to the Southwest. The Northeast-Midwest region is responsible for less than 10 percent of the estimated total cost of FSLIC resolutions, but would pay 45 percent of the tax portion of the bailout. Where lax supervision by State regulators of State-chartered institutions contributed to the problem, the States involved should at least make some modest contribution to the solution.

Sixth. Conference procedure: I do not in any way question the good faith of the conference committee proceedings or underestimate the difficult task of producing such complex legislation in so tight a timeframe. However, to be required to deliberate and make decisions in terms of general concepts, without benefit of statutory language, on such a complex and highly technical matter as the restructuring of the thrift industry is a highly unusual, and in my view, unduly risky approach to take.

Certainly, quick action is called for. But we will accomplish nothing by passing legislation that may well create more problems than it will solve. I urge my colleagues to oppose the conference report.

Mr. BEREUTER. Mr. Speaker, I rise today in support of the conference report on H.R. 1278, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

I know that many of us today give our qualified support for this legislation with a heavy dose of reluctance, apprehension, and skepticism. One could, I suppose, list a hundred reasons for not voting for this conference report. Many of those excuses would be plausible, and certainly politically more popular than an "aye" for this bill.

While no bill of this size, complexity, or cost will ever be satisfactory to meet everyone's approval, the House and Senate conferees have attempted to take the best provisions from each bill and include them in the conference report. I would note that in almost every instance, the House positions prevailed in conference.

During my tenure in the House, few pieces of legislation have been subjected to as much debate and discussion as H.R. 1278. Under the new chairmanship of the Banking Committee, and the Financial Institutions Subcommittee, members were given every opportunity to raise issues and offer amendments. Controversial issues were discussed in great depth throughout the Banking Committee's markups, the debate on the House floor, and during the House-Senate conference.

There are aspects of the conference report which everyone can and should support. H.R. 1278 imposes new and tougher capital requirements for the savings and loan industry, it separates the insurance and regulating functions of the Federal Home Loan bank Board, and it gives regulators new enforcement powers to prevent the types of fraud and abuse that have occurred in many thrift institutions.

However, many members find it inconceivable to vote for any legislation that could ultimately cost over $150 billion or more. While the cost of this bill is extraordinarily high, ever attempt has been made to minimize the cost to the taxpayer, and place as much of the burden as possible on the S&L industry itself. Higher insurance premiums will be imposed on both the commercial banks and savings and loans, and the assets and resources of the Federal Home Loan Bank System will be leveraged to pay for a substantial portion of the cost of this bill. Also, the conference report retains the House requirement that places the financing of the Federal Government's portion on this bill on budget.

For members who were also concerned that the Resolution Trust Corporation [RTC] did not have enough accountability, the bill creates a 5-member oversight board consisting of the Secretary of the Treasury, Secretary of HUD, Chairman of the Federal Reserve, and two individuals from the private sector who must be approved by the Senate.

While some contend that accountability and oversight are still not sufficient in light of the cost of this bill, I would remind my colleagues that it is Congress that has the ultimate oversight on how this bill is implemented, and the operation of the RTC. The House and Senate Banking Committees must dutifully and responsibly conduct regular and thorough oversight hearings to monitor the implementation of H.R. 1278.

Many have tried to absolve the responsibility of Congress by looking elsewhere for scapegoats. Certainly, there are enough to share the blame for the current situation:

Double-digit inflation rates in 1979–80 which placed the S&L industry in individually great jeopardy thus necessitating a broadened grant of powers;

Rapid growth in speculative investments by savings and loans;

Poor management and insider abuse and fraud by the S&L industry;

An inappropriate ideological preoccupation with financial deregulations by the previous administration and an unwillingness to push for legislation of this type in the 1987–88 period when it was obviously needed;

Inadequate supervision by regulators;

An inherently incestuous relationship between the Federal Home Loan Bank Board and the institutions it was supposed to be regulating;

An Increase in deposit insurance from $40,))) to $100,000 which spurred the growth by S&L's in speculative investments with federally-insured deposits; and

Extremely broad and permissive grants of power under State statutes for State-chartered thrift institutions especially in the States of Texas, California, and Florida.

Regrettably, this legislation does not require those same States and their taxpayers to pay a larger share of the costs for this crisis. Certainly Texas should pay more since an estimated 65 percent of the total FSLIC disaster can be attributed to that State.

While all of these factors contributed to the current S&L crisis, another equally culpable partner in this fiasco is Congress itself.

Especially culpable are certain former key congressional leaders. Ironically, these once prominent and powerful congressional leaders —who delayed legislative action and brought undue pressure on regulators for parochial or congressional campaign committee advantage—are no longer Members of this House. This legislation is the sad legacy to their leadership which too often was directly controlled and influenced by unscrupulous elements within the S&L industry.

We can continue to bemoan the costs of this bill, or assign fault and blame for how we got into this mess, or conjure potential flaws of the bill, but to what end? Will we produce a better, or less expensive bill? That outcome is unlikely. The longer we continue to delay the passage of this bill, the higher the cost of ultimately resolving this financial crisis. The Congress has learned an expensive lesson that it can neither ignore, nor forget. We must move forward and pass this legislation today with the commitment to be vigilant in never letting this type of crisis happen again.

Mr. BUNNING. Mr. Speaker, I rise today in support of the conference report.

My fellow colleagues, we have come a long way on this issue since the 101st Congress has convened. As a member of the Banking Committee, I participated in many hearings and engaged in 80-some hours of markup. I was a member of an oversized and mismanaged conference that finally reported an end product here today on the floor.

It is interesting today that the major point of contention left in this bill is whether or not the funding should be reflected on the Federal budget.

Those who support putting the plan on budget have stated the great savings that we will have if it goes on budget.

I think the figure that is being tossed around is a savings of about $4 billion.

As I have pointed out continuously during this process, every hour we in Congress have delayed this bill, it has cost the American taxpayer millions of dollars.

Where were the great savers of the taxpayers' dollars then?

Early on in this process, the agencies estimated that the problem for the entire industry was growing by about $40 million daily.

During the markup in the full committee, Richard Breeden estimated that, with respect to the brain dead thrifts alone—those that have no chance of surviving—their problem was growing by $300 million monthly.

That means since we convened, with respect to the brain dead thrifts, the problem has increased by over $2 billion and the overall figure has ballooned by over $8 billion.

Where were the on-budget gurus when we appointed the largest conference in the history of the Congress? A process that didn't help, but hinder this bill.

Mr. Speaker, I didn't sign the conference report, because as with most of us on the conference, I didn't get the chance to participate. One hundred two conferees were appointed and no progress was made until the four principals went behind closed doors. And I'm not complaining.

If Chairman GONZALEZ had not reduced the conference from 102 members to 4, we would still be there arguing over this bill.

He should get an oscar for his starring role in, "Honey, I shrunk the conference."

Mr. Speaker, we have a better bill than when we started back in March. But if we really cared about saving some money, this bill should have been law well before now.

Mr. BUECHNER. Mr. Speaker, discussions of the savings and loan legislation have rightly focused on raising capital. However, the situation of approximately 1,600 mutual savings and loans, more than half the industry, had been largely ignored. In fact in some States, such as Missouri, mutuals constitute upwards of 75 percent of the thrift industry.

It is often said that there is no way for mutuals to raise external capital without going through the difficulties of a stock conversion or being acquired. One exception, however, is the mutual capital certificate. Public Law 96–221, March 31, 1980, first authorized mutual institutions to issue mutual capital certificates that closely resemble preferred stock; they carry a dividend and are available to offset losses that may occur at a given institution. Unfortunately, mutual capital certificates, as they are currently structured, have not lived up to their expectations as a capital-raising technique for mutual institutions.

To address this situation, I proposed an amendment to the savings and loan legislation—H.R. 1278—that would clarify two aspects of current law and regulation applicable to mutual capital certificates:

One, that mutual capital certificates, issued pursuant to regulations of the Office of Thrift Supervision, would count as core capital for

meeting the tangible net worth requirements; and,

Two, that the issuance of mutual capital certificates would not constitute an ownership change, change in control or reorganization for purposes of the tax laws or the laws governing changes in control of financial institutions.

Because of the emergency nature of this legislation, only a limited number of amendments were able to be considered during floor debate. Nevertheless, I am very pleased to note that the distinguished chairman of the Banking Committee and the ranking minority member, who have done such an outstanding job in processing this highly complex legislation, provided assurance during the floor debate that the treatment of mutual institutions would be given due consideration during the House-Senate conference on this bill.

In this regard, I would like to acknowledge the leadership role which my colleague from Missouri, Mr. VOLKMER, has played in helping to focus the attention of the Congress on the special circumstances that pertain to mutual S&L's as the thrift industry seeks to make the adjustment to the higher capital standards called for by this legislation.

The amendments on mutual capital certificates which were included in the conference bill before us today will go far toward enhancing this capital-raising device for mutual institutions. As the author of these amendments, I wish to state that the amendments are intended to provide mutual institutions with the widest latitude in designing capital instruments to satisfy the higher capital requirements, and that the Office of Thrift Supervision, the Treasury Department and other Federal Government agencies should adopt regulations to facilitate the widest possible use of mutual capital certificates.

Under the terms of these amendments, mutual capital certificates may be counted as either core tangible capital or supplemental capital, depending on their features. The intent is that the Office of Thrift Supervision be guided, in adopting its regulations, by the definitions of capital promulgated by the other Federal bank regulators, bearing in mind, of course, that some differences will be necessary in light of the fact that the institutions involved are mutuals as opposed to stock commercial banks.

The second purpose of the amendments is to make clear the intent of Congress is that the provisions of general and tax law not inhibited the use of mutual capital certificates in any of the forms to be permitted by the Office of Thrift Supervision regulations. It is the expectation of Congress that the issuance of the certificates by a mutual institution in a form in accordance with applicable regulations would not, per se, constitute an ownership change, a change of control or a reorganization. While mutual capital certificates represent capital to the institution, their issuance is not a shift of equity in the institution, and the institution remains in the control of its depositor/members.

In conclusion, I would like to express my sincere appreciation to the distinguished chairman and ranking minority member for honoring their commitment to make every effort to accommodate the special needs of mutual institutions seeking to come into compliance with the legislation's highest capital requirements.

Mr. ORTIZ. Mr. Speaker, I seek to clarify the intent and effect of prospective application of the proposed bill. I understand that this bill would redefine and augment the powers of the Federal Deposit Insurance Corporation when that Corporation serves as a receiver for a failed financial institution. The powers set forth in this bill are, in many respects, new, and there is no intent that such powers be applied to receiverships that have been established prior to the enactment of this bill.

Mr. LIGHTFOOT. Mr. Speaker, I rise in opposition to the conference report of H.R. 1278, the Financial Reform, Recovery, and Enforcement Act of 1989.

The goal of this bill is to correct past abuses and to prevent another Government bailout of the savings and loan industry. Unfortunately, this bill does little to eliminate potential troubles for the Federal Savings and Loan Insurance Corporation [FSLIC] and ultimately the American taxpayer.

I supported President Bush's bill before it was amended by the House of Representatives and the U.S. Senate. The original bill was changed dramatically by last minute amendments that were added on the House floor as well as in the House Banking Committee. Additionally, changes were made by the House and Senate conferees who limited their meetings to just four Members of Congress, who met essentially in secret.

The critical issue is not on or off-budget financing, or the qualified thrift lender test. Mr. Speaker, the critical issue is capital requirements. President Bush recommended savings and loans meet the same capital requirements as commercial banks, that being 6 percent. I supported that requirement. Instead, the U.S. Congress bowed once again to thrift industry pressure and lowered the capital requirement to 1.5 percent tangible capital and 1.5 percent non-cash capital. The latter is nothing but an accounting gimmick used primarily by large savings and loans around the country.

If a financial institution has adequate capital, it significantly reduces the chances the Government will have to bailout the FSLIC in the future. Plain and simple, these low capital requirements are unfair to the American taxpayer. Not only is the taxpayer stuck with a $157 billion tab, this bill in no way guarantees that the taxpayer won't be called on in the near future to again bailout the thrift industry. A member of the conference committee stated he wouldn't be surprised at all if Congress were back in 18 months trying to bailout the thrift industry again. The Members of this Congress had the opportunity to fix this problem once and for all, but instead passed a short-term, temporary, band-aid piece of legislation.

Mr. Speaker, the reduction of capital requirements from the original proposal of 6 percent to essentially 1.5 percent is an insult to the American taxpayer. Once again, thrift managers will be allowed to gamble on risky investments knowing if the investment goes sour, the U.S. Government and ultimately the American taxpayer will be there to cover the losses. I urge may colleagues to oppose this conference report and send it back to the House and Senate conferees for reworking.

The SPEAKER pro tempore (Mr. MURTHA). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MICHEL. Under the rule, I am obliged to say that I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MICHEL of Illinois moves to recommit the Conference Report to accompany the bill, H.R. 1278, to the committee of conference with instructions that the Managers on the part of the House agree to a financing mechanism which is properly within the scope of the conference and which will allow the bill to be signed into law as quickly as possible.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MICHEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote, by electronic device, if ordered, will be taken on the question of agreeing to the conference report.

The vote was taken by electronic device, and there were—yeas 170, nays 250, answered "present" 3, not voting 8, as follows:

[Roll No. 213]

YEAS—170

Archer	Dannemeyer	Hammerschmidt
Armey	Davis	Hancock
Baker	DeLay	Hansen
Ballenger	DeWine	Hastert
Bartlett	Dickinson	Hefley
Barton	Douglas	Henry
Bateman	Dreier	Herger
Bentley	Duncan	Hiler
Bilirakis	Edwards (OK)	Holloway
Bliley	Emerson	Hopkins
Boehlert	Fawell	Horton
Broomfield	Fields	Houghton
Brown (CO)	Fish	Hubbard
Buechner	Frenzel	Hunter
Bunning	Gallegly	Inhofe
Burton	Gallo	Ireland
Callahan	Gekas	James
Campbell (CA)	Gillmor	Johnson (CT)
Chandler	Gilman	Kasich
Clinger	Gingrich	Kolbe
Coble	Goodling	Kyl
Coleman (MO)	Goss	Lagomarsino
Combest	Gradison	Leach (IA)
Conte	Grandy	Lent
Coughlin	Grant	Lewis (CA)
Cox	Green	Lewis (FL)
Craig	Gunderson	Lightfoot
Crane	Hall (TX)	Livingston

Lowery (CA)
Lukens, Donald
Machtley
Madigan
Marlenee
Martin (IL)
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Paxon
Petri
Porter
Pursell
Quillen
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schiff
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (MS)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stearns
Stump
Sundquist
Tauke
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NAYS—250

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clarke
Clay
Clement
Coleman (TX)
Conyers
Cooper
Costello
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Gray
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Hoyer
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Richardson
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

ANSWERED "PRESENT"—3

Martin (NY)
Sisisky
Tanner

NOT VOTING—8

Andrews
Collins
Courter
Dornan (CA)
Florio
Hyde
Rowland (GA)
Udall

□ 1421

Mr. KENNEDY and Mr. CAMPBELL of Colorado changed their vote from "yea" to "nay."

Mr. PAXON changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 199, answered "present" 6, not voting 5, as follows:

[Roll No. 214]

AYES—221

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
Barnard
Bartlett
Beilenson
Bereuter
Berman
Bilbray
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bryant
Bunning
Bustamante
Cardin
Carper
Chandler
Chapman
Clarke
Clay
Coleman (TX)
Conyers
Cooper
Coyne
Darden
de la Garza
Derrick
DeWine
Dicks
Dingell
Dixon
Downey
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Engel
English
Espy
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Grandy
Gray
Green
Guarini
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hiler
Hoagland
Hochbrueckner
Houghton
Hoyer
Huckaby
Hutto
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Kastenmeier
Kennedy
Kildee
Kleczka
Kolbe
Kostmayer
Kyl
Lancaster
Lantos
Laughlin
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Manton
Markey
Martinez
Matsui
Mavroules
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Nelson
Nielson
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Panetta
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Pickle
Price
Pursell
Quillen
Rangel
Ravenel
Ray
Richardson
Ridge
Rinaldo
Roe
Rogers
Rostenkowski
Roukema
Rowland (GA)
Roybal
Sabo
Saiki
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Shays
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Solarz
Spratt
Staggers
Stallings
Stenholm
Stokes
Studds
Swift
Synar
Tauzin
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Unsoeld
Valentine
Vento
Visclosky
Walgren
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wylie
Yates

NOES—199

Archer
Armey
AuCoin
Baker
Ballenger
Barton
Bateman
Bates
Bennett
Bentley
Bevill
Bilirakis
Browder
Brown (CO)
Bruce
Buechner
Burton
Byron
Callahan
Campbell (CA)
Campbell (CO)
Carr
Clement
Clinger
Coble
Coleman (MO)
Combest
Conte
Costello
Coughlin
Cox
Craig
Crane
Crockett
Dannemeyer
Davis
DeFazio
DeLay
Dellums
Dickinson
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Dreier
Dymally
Dyson
Edwards (OK)
Emerson
Erdreich
Evans
Fawell
Fields
Flippo
Frenzel
Gallegly
Gallo
Gaydos
Gekas
Gingrich
Goodling
Goss
Gradison
Grant
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Hefner
Henry
Herger
Hertel
Holloway
Hopkins
Horton
Hubbard
Hughes
Hunter
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kolter
LaFalce
Lagomarsino
Leach (IA)
Leath (TX)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Machtley
Marlenee
Martin (IL)
Mazzoli
McCandless
McCollum
McCrery
McEwen
McGrath
Miller (CA)
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison (WA)
Murphy
Myers
Neal (NC)
Nowak
Owens (NY)
Oxley
Packard
Pallone
Parker
Parris
Perkins
Petri
Porter
Poshard
Rahall
Regula
Rhodes
Ritter
Roberts
Robinson
Rohrabacher
Rose
Roth
Rowland (CT)
Russo
Sangmeister
Savage

Saxton	Smith, Robert (NH)	Upton
Schaefer	Smith, Robert (OR)	Vander Jagt
Schiff	Snowe	Volkmer
Schneider	Solomon	Vucanovich
Schuette	Spence	Walker
Schulze	Stangeland	Walsh
Sensenbrenner	Stark	Watkins
Shaw	Stearns	Weber
Shumway	Stump	Weldon
Shuster	Sundquist	Whittaker
Sikorski	Tallon	Williams
Skeen	Tauke	Wolf
Slaughter (VA)	Thomas (CA)	Wolpe
Smith (MS)	Thomas (WY)	Wyden
Smith (NJ)	Towns	Yatron
Smith (TX)	Traficant	Young (AK)
Smith (VT)	Upton	Young (FL)
Smith, Denny (OR)	Vander Jagt	

ANSWERED "PRESENT"—6

Madigan	Michel	Sisisky
Martin (NY)	Pickett	Tanner

NOT VOTING—5

Collins	Florio	Payne (NJ)
Courter	Hyde	

□ 1430

Mr. TOWNS changed his vote for "aye" to "no."

Mr. TRAXLER and Mr. RINALDO changed their vote from "no" to "aye."

Mr. MADIGAN changed his vote from "no" to "present."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the conference report on H.R. 1278, just agreed to.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Texas?

There was no objection.

FIRST BIENNIAL REVISION TO THE U.S. ARCTIC RESEARCH PLAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science, Space, and Technology.

(For message, see proceedings of the Senate of Wednesday, August 2, 1989.)

GENERAL LEAVE

Mr. LEHMAN of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 3015), making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes, and that I may be permitted to include tables, charts, and other extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. LEHMAN of Florida. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes; and pending that motion, Mr. Speaker, asks unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania [Mr. COUGHLIN] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. LEHMAN].

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from California [Mr. PANETTA] as Chairman of the Committee of the Whole, and requests the gentleman from New Jersey [Mr. HUGHES] to assume the chair temporarily.

□ 1435

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3015, with Mr. HUGHES (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Without objection, the bill is considered as having been read the first time.

There was no objection.

The CHAIRMAN pro tempore. Under the unanimous consent agreement, the gentleman from Florida [Mr. LEHMAN] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. COUGHLIN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is a pleasure to submit for the consideration of the Committee of the Whole House the bill, H.R. 3015, making appropriations for the Department of Transportation and related agencies for fiscal year 1990.

Before I get into the details of this particular bill, I want to express my appreciation to the Members who serve on the transportation appropriations subcommittee. Our majority whip, the gentleman from Pennsylvania [Mr. GRAY], the gentleman from Michigan [Mr. CARR], the gentleman from Illinois [Mr. DURBIN], the gentleman from New York [Mr. MRAZEK], and the gentleman from Minnesota [Mr. SABO] all provided insight and perspective during the 3-month in-depth review we gave to Federal transportation programs and policies during our hearing process. It is my privilege to serve with them.

The subcommittee minority members have been equally diligent. They never made enough adjectives to describe the gentleman from Massachusetts [Mr. CONTE]. He is a great combination of compassion and courage spiced with marvelous humor. The gentleman from Virginia [Mr. WOLF] and the gentleman from Texas [Mr. DELAY] both have determination, spirit, concern, and the commitment to a safe and effective transportation system for this Nation.

I want to make special mention of the ranking minority member, the gentleman from Pennsylvania [Mr. COUGHLIN], who spent long and grueling hours in committee hearings and has a great and comprehensive understanding of our transportation programs and policies. I pay tribute to his knowledge, dedication, and character, and I want him to know of my great appreciation for his sound judgment and cooperation. He is my special friend and makes my job more manageable. As in past years, we have tried to work as a team on this bill, rather than on a partisan basis. And I think that has been to the benefit of this country.

I must also recognize our extraordinary staff who have worked long and hard to develop a reasonable bill within extraordinary constraints. They are Tom Kingfield, Greg Dahlberg, Linda Muir, and Sceleato Rice of the committee staff, Bob Gibson for the minority, and Lucy Hand and Kenny Kraft of the associate staff.

Mr. Chairman, in preparation for this bill the committee developed a hearing record contained in seven volumes amounting to 7,499 pages. Testimony was received from more than 275 witnesses and requests were received from about 170 Members of this body.

SUMMARY OF THE BILL

Mr. Chairman, first off, to those concerned about air safety, let me say the bill increases appropriations for the FAA by over 13 percent without adverse and serious reductions in other transportation programs. Over the last 10 years, total FAA spending has increased by over 121 percent. That is, I believe, a higher growth rate than our defense programs or any other programs have sustained.

In total, the bill before you provides spending for Federal transportation programs of about $27.207 billion—of which approximately $11.878 billion is new budget authority and $15.329 billion is comprised of various limitations on contract authority obligations.

In terms of new budget authority, the bill is $960.7 million above the amount provided for similar activities in fiscal year 1989. In terms of the total amount of funding controlled by this bill—new budget authority and obligation limitations—the bill is $1.268 billion or 4.9 percent over the amounts provided last year.

BUDGET RESOLUTION TARGET

I think the Members would also be interested to know that this bill is $47 million under our section 302(b) allocation for budget authority. As the Members know, under the Budget Act, the Budget Committee provides a lump sum allocation to the Appropriations Committee pursuant to section 302(a), and the Appropriations Committee then subdivides that among its 13 subcommittees.

BUDGET REQUEST

Mr. Chairman, I think the administration's fiscal year 1990 transportation budget deserves a special word at this point. Even though we are under our section 302(b) budget authority allocation, the bill we are considering today is $2.8 billion over the administration's budget request. That budget request is really a legacy of the Reagan years, and once again, lopsided, unrealistic, and damaging to transportation. The administration did respond to public and Congressional concerns about air safety and drugs by proposing unusually large increases for aviation and Coast Guard programs. That is good. But the cost was wholly unrealistic cuts to the surface transportation programs of the Department of Transportation, programs that may not be as glamorous, but are just as essential. In sum, the result was an 18-percent reduction in total highway, mass transit, and railroad funding—cuts of over $3 billion from last year's level.

Mr. Chairman, the executives downtown have a serious responsibility to plan for and manage the limited resources available for these important programs. The citizens of this country certainly deserve better than this year's whimsical, unbalanced transportation budget plan. We must reject the assumption and attitude that only two segments of our transportation system are worthwhile and important. All segments of our transportation system are vital to the economic prosperity of this country. The bill before you recognizes the real world and corrects these shortfalls—particularly in the surface transportation sector.

It was not easy to accomplish this. We had to scrape a lot of barrels to find sufficient funding. And I want to thank especially our full committee chairman, the gentleman from Mississippi [Mr. WHITTEN] for his efforts on our behalf. As he so often reminds us, our Nation's public works represent the real and lasting wealth of this country. Our first-rate transportation system has served our country well—and we must continue to preserve and enhance it.

SELECTED MAJOR RECOMMENDATIONS

With respect to the major recommendations in this bill, I would call the attention of the Members to pages 2 and 3 of the report. A table comparing the bill to fiscal year 1989 and the President's request appears beginning on page 150 of the report. The major highlights of this bill include:

A 13.5-percent increase in total FAA funding—$862 million more than last year's level;

A provision providing for obligations of not to exceed $12,463,500,000 for Federal-aid highways, and increase of $463.5 million over fiscal year 1989;

A continuation of funding for the existing urban mass transportation formula grant program at a level of $1.775 billion, an increase of $100 million over last year's level;

The appropriation of $615 million for grants to the National Railroad Passenger Corporation [Amtrak], an increase of $13 million over fiscal year 1989—somewhat above the flat zero in the administration's budget request;

A provision providing for obligations of not to exceed $1.5 billion for airport development and planning grants—$150 million over fiscal year 1989;

The appropriation of $1.732 billion for facilities and equipment of the Federal Aviation Administration—a 25-percent increase over fiscal year 1989—because our new generation of technology is coming on line;

A provision providing for obligations of not to exceed $1.07 billion for the discretionary grants program of the Urban Mass Transportation Administration, excluding funding for section 9(B) formula grants;

The appropriation of $185 million for the research, engineering, and development activities of the Federal Aviation Administration, $25 million over last year's level; and

A continuation of funding for the construction of the Washington, DC metrorail system at the level of $100 million.

OFFICE OF THE SECRETARY OF TRANSPORTATION

Mr. Chairman, for salaries and expenses of the Office of the Secretary of Transportation, the bill provides a total of $77.957 million. In addition, office-by-office dollar breakdowns are specified in the bill as has been done in the past. The bill also provides $12.4 million for payments to air carriers, $6.2 million for transportation planning and research, and $4.5 million for the working capital fund.

PAYMENTS TO AIR CARRIERS

With respect to the payments to air carriers appropriation, the committee has tried to strike a fair balance between the transportation needs of rural America and the need to rid this program of the clear excesses that have been taking place. The bill includes $12.4 million to continue service to the communities that have demonstrated some capacity to use this service. In addition, the bill funds service to any community that is more than 100 miles from an alternative service airport, and all service in Alaska and the Northern Marianas. In total, it would continue subsidies to 48 of the 110 communities in the continental United States that currently are receiving subsidies. Those communities are listed on pages 13 and 14 of the report.

COAST GUARD

With respect to the Coast Guard, we recommend a total program level of $3.155 billion, which includes $300 million contained in the Defense Appropriations bill. This total level is $47.7 million more than the total Coast Guard program level for fiscal year 1989. We appreciate the help received from our colleagues on the defense Appropriations Subcommittee, particularly the chairman, the gentleman from Pennsylvania [Mr. MURTHA].

The bill also requires that a minimum of $567 million be made available for drug enforcement operating expenses, $75 million, or 15 percent more than last year's level. I invite the Members' attention to pages 17–19 of the committee report regarding drug interdiction.

OPERATING EXPENSES

For Coast Guard operating expenses, the bill provides a program level of $2.228 billion for fiscal year 1990—assuming that $300 million is provided in the DOD 1990 appropriations bill. This total amount is $109.9 million, or 5.2 percent more than the amount appropriated for similar activities in fiscal year 1989. It is also $24.2 million below the budget request. The reduction from the budget is primarily comprised of reductions in GSA rental payments and reduced dollar needs due to normal slippages in the operational dates for new vessels, shore facilities, and other equipment. We also are calling on the Coast Guard to be more aggressive in seek-

ing reimbursement from the customs forfeiture fund for its drug interdiction costs. The operating expense funding level of $2.228 billion will support the full budget request of 37,048 military positions and 4,632 civilian positions.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For acquisition, construction, and improvements, we are recommending an appropriation of $383.8 million, and a total program level of $429.2 million for fiscal year 1990. The total program level is comprised of $133.7 million for vessels; $62.8 million for shore facilities; $189 million for aircraft; $13.2 million for command, control and communications, and related systems; and $30.5 million for administration. This level should provide sufficient funding to continue the large procurement projects that have been initiated in prior years.

ALTERATION OF BRIDGES

The bill also includes $2.33 million to alter or remove bridges that may be unreasonable obstructions to the waterborne commerce of the United States. This sum will support the continued alteration of a railroad bridge over the Mississippi River at Hannibal, MI.

RETIRED PAY

The sum of $420.8 million, as requested in the 1990 budget, would be appropriated for the pay of retired military personnel of the Coast Guard and Coast Guard Reserve. This is based on an average of 25,606 personnel on the retired rolls.

RESERVE TRAINING

For reserve training, $71.8 million is recommended. This will provide for a ready reserve of 18,000, including a selected reserve of 12,500.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

The bill includes $18.8 million for the basic and applied scientific research, development, test, and evaluation projects necessary to maintain and expand the technology required for the Coast Guard's operational and regulatory missions. This amount is the same as the fiscal year 1989 level.

BOAT SAFETY

For the State recreational boating safety assistance program, we have included $30 million, which is $15 million above the budget request.

FEDERAL AVIATION ADMINISTRATION

For the Federal Aviation Administration, we are recommending a total program level of $7.263 billion, including a $1.5 billion limitation on the use of contract authority for fiscal year 1990. This is $862 million—or 13.5 percent—more than the fiscal year 1989 level. I think this large increase is absolutely necessary to continue the restoration of the air traffic control system, continue modernization of the national airspace system, improve our airports, and continue important safety regulatory and research initiatives.

AVIATION TRUST FUND

Mr. Chairman, there has been much discussion of late about the adequacy of FAA funding to do its important job. The focus has been on the large balance in the aviation trust fund. But that is the wrong standard against which to judge the adequacy of FAA spending.

What many don't fully understand is the fact that about 50 percent of total FAA outlays over the last 10 years have been derived from the general fund, not the trust fund. And when we look at the total amount of FAA spending authority provided, we find that the FAA has increased by over 120 percent over the last 10 years—including the funds in this bill. We have increased the controller workforce by 25 percent—about 3,500 people—between fiscal year 1985 and fiscal year 1990, and have increased the number of safety inspectors by about 25 percent in last 4 years. Mr. Chairman, in short, the need has been there, and Congress has responded to that need. I hope the Members will take the time to read pages 41-43 of the report, which presents a more balanced perspective of FAA funding patterns than what has been espoused in certain quarters.

Operations: For FAA operations, we recommend a total program level of $3.846 billion, including $10 million derived by transfer. This represents an increase of $389.4 million over the fiscal year 1989 program level. This would provide for 50,181 positions, including 22,604 controllers, supervisors and support personnel for air traffic centers and towers, and 4,372 flight service station personnel.

Controller staffing: Under the committee recommendation, actual air traffic controller end-of-year employment would increase to the requested level of 17,495 personnel by September 30, 1990. This is 695 controllers above the level projected for September 30, 1989.

Our committee remains concerned about air traffic controller work force staffing. The Secretary has told us the FAA, for the second straight year, will not be able to meet the statutory minimum full performance level [FPL] staffing level of 10,832 by the end of the fiscal year 1989. Their current 1989 FPL goal is only 10,300—more than 500 short of the goal. Part of this shortfall is due to definition issues—there are another 900 highly qualified controllers but who technically aren't classified as "FPL". Another reason is the high retirement rate that has plagued the FAA for years, largely because of the continuing friction between controllers and FAA management. Let me quote from an open letter written by the President of the controllers' union to FAA Administrator Busey, which was published in the July 1989 National Air Traffic Controllers Association newsletter:

. . . Admiral Busey, you have serious problems with the Controller work force that often are not being dealt with at the regional and local level.

You and I can have the best working relationship, but that can mean absolutely nothing to a Controller working the boards or ground traffic a few or a thousand miles from headquarters.

At many facilities, they have seen no appreciable change in the way management treats them. The good will from the Administrator's office does not trickle down to their level.

. . . You have some first-rate but also some very bad managers. And those that are bad are horrid. They are so far removed from the work force that they have no idea that a problem exists, or they do not want to see the problem. No manager should ever claim ignorance; it is an unpardonable sin.

. . . The list of grievances and Unfair Labor Practices continue to mount at an alarming rate. Many of these complaints should never have reached the grievance stage. Two reasonable individuals committed to finding a solution could have easily cut that number by half, if not two-thirds.

However, you have too many managers who will not budge an inch. They will not listen to a Controller, let alone a union rep. We are told that NATCA is nothing more than PATCO II, or that a manager's facility is his castle. Forget about Partners in Problem Solving. To these individuals, the only problem is that there is another union. We are the enemy, pure and simple.

Mr. Chairman, these are the same old problems that were first documented in a 1970 study. Without assessing blame, because I think there's enough to go around, it is very discouraging to read such strongly worded accusations in 1989 when various FAA Administrators and Transportation Secretaries have told us repeatedly that improving controller-management relationships has been a top priority. It appears as if nothing's changed since 1970. This problem must be addressed, for the good of all. FAA management must do a much better job. And the leaders of the controllers' organization must refrain from impulses to fan the flames with inflammatory rhetoric.

Penalty clause: Moving on to trust fund contributions, of the $3.846 billion provided for FAA operating expenses in fiscal year 1990, the bill specifies that only $816.5 million or 21 percent of the total will be derived from the Airport and Airway Trust Fund. This is about $900 million less than it should be, but all that is permitted by the ill-conceived penalty clause in authorizing law. The penalty clause is one of the causes for the high trust fund balance that we currently have. It causes the users to pay less than their fair share at the expense of the general taxpayers. This penalty clause is bad legislation and ought to be repealed. I call the Members' atten-

tion to pages 41-43 of the report, which discusses this problem.

Facilities and equipment: For facilities and equipment, the bill contains $1.732 billion for fiscal year 1990—an increase of $347.47 million over fiscal year 1989. This account finances the multiyear, $16 billion National Airspace System plan to modernize and automate our air traffic control system. This level will continue NAS plan implementation at the pace that the FAA had demonstrated that it can efficiently use these funds. I want to stress that, although the NAS Plan is behind schedule, those delays are due to technology and contractor deficiencies—not to lack of funding. As the equipment is developed and ready to purchase, the funds will be provided. And our record proves this. In fiscal year 1987, the amount appropriated for F&E was $805 million. In 1988, we appropriated $1.108 billion. Last year—$1.385 billion. This year—$1.732 billion. That's a 115-percent increase over 4 years.

Research, engineering, and development: With respect to FAA research, engineering, and development, we recommend $185 million, which is an increase of $20 million over the budget request and $25 million over fiscal year 1989.

Airport improvement program: The bill also includes a $1.5 billion obligation limitation for airport development and planning grants. This is the highest funding level ever provided for this program. The bill would also provide a special $100 million discretionary set aside for airport access security and capacity projects. These are two of the highest priorities under this program and this set aside is the most efficient way to target those needs.

Aircraft purchase loans: We also recommend continuing the FAA's authority to borrow from the Treasury to pay defaulted aircraft purchase loans be limited to $50 million. Testimony indicates that the FAA has paid approximately $180 million as a result of defaulted loans. The amount of these defaults is alarming and we believe that the FAA should fully explore other alternatives with the creditors, such as rolling over the loan or extending the payment period before it agrees to pay for a default.

FEDERAL HIGHWAY ADMINISTRATION

Under the Federal Highway Administration, the bill provides for a total fiscal year 1990 program level of $14.131 billion in highway aid. This includes a limitation on Federal-aid highway contract authority obligations of $12,463,500,000. That is $463.5 million over last year's level.

Mr. Chairman, this program is one of the most, if not the most, important transportation program that we have. Over 90 percent of total interstate passenger-miles and 20 percent of total interstate freight ton-miles move on the Nation's highway system. I think the administration's proposal, which would have cut total highway spending by over 8 percent—about $1.127 billion—is misguided and unacceptable. It is important to our continued economic development and to our national defense to maintain a first-class highway system.

Highway trust fund balance: With regard to highway trust fund expenditures, under the provisions and assumptions in this bill, we estimate that fiscal year 1990 outlays attributable to the highway account of the trust fund will be about $13.8 billion. This compares to estimated fiscal year 1990 direct user fee income credited to the highway account of approximately $13.5 billion. In addition, the highway account of the trust fund is expected to receive general fund interest payments of $800 million. A comparison and discussion of highway spending versus trust fund revenues is found on pages 76-77 of the report.

Federal-aid highways: Mr. Chairman, the most important item in this program is the "Federal-aid highways" obligation limitation. We are recommending a ceiling of $12,463,500,000 for this account. A table prepared by the Federal Highway Administration comparing their best estimates of State-by-State obligation ceiling allocations under this bill versus the enacted fiscal year 1989 level is found on page 80 of the report.

Administrative expenses: Mr. Chairman, the bill also provides a total of $222.6 million for FHWA administrative expenses, $5.6 million below the budget request.

Miscellaneous highway programs: The bill also contains an appropriation of $15 million for railroad-highway crossings demonstration projects in four different cities. For highway-related safety grants, an obligation limitation of $9.405 million is recommended, the same as the fiscal year 1989 limitation. We also recommend an appropriation of $6.08 million for highway safety research and development, and appropriations totaling $126.90 million for a number of specific highway projects.

Motor carrier safety: For motor carrier safety, the bill includes $32.19 million, the same as the budget estimate, to continue the activities of the Office of Motor Carrier Safety. This would provide for an additional 150 safety inspectors and 35 clerical positions. The bill also provides $52 million to liquidate past contract authority obligations and a $60.2 million limitation on obligations for the motor carrier safety grant program.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

For the National Highway Traffic Safety Administration, the bill includes a total program level of $230 million for operations and research. This is $5.35 million more than last year's level and $5.205 million less than the budget request.

Light truck and van research: Mr. Chairman, the bill also reserves $2 million to continue important light truck and van safety research and analysis. The subcommittee expects to continue its support of this vital research until better safety standards are set for these increasingly popular vehicles. I call the Member's attention to pages 100-103 of the report, which discusses this subject.

State and community highway safety grants. We also recommended a limitation on obligations for the State and community highway safety grant program of $115 million, the same as the budget request.

Alcohol safety grants: For the alcohol safety incentive grant program, we have established a limitation on obligations of $11 million in fiscal year 1990. This is $2.5 million less than the budget request.

FEDERAL RAILROAD ADMINISTRATION

Mr. Chairman, for the Federal Railroad Administration, major recommendations include a program level of $31.9 million for railroad safety, $9.6 million for railroad research and development, and $14.4 million for Office of the Administrator expenses. The $31.9 million funding level for railroad safety will provide for the requested increase of 40 new positions to administer new regulations mandated by the Rail Safety Improvement Act of 1988.

Amtrak: We are recommending $615 million for Amtrak operating and capital expenses in fiscal year 1990. Of course, the President again proposed deleting all Amtrak funds even though Congress has overwhelmingly rejected this proposal year after year. This funding level will provide for the purchase of 50 new "Viewliner" cars that are critical to Amtrak's future success. Bill language is also included continuing the statutory conditions for rehabilitating and operating a new route between Philadelphia and Atlantic City, and establishing a 60 percent Federal match for the Westside connector project in New York City.

In addition, the bill includes $19.6 million for Northeast corridor capital improvements and a loan of $3.5 million for track work in Illinois. These sums also will be of direct benefit to Amtrak.

URBAN MASS TRANSPORTATION ADMINISTRATION

For the Urban Mass Transportation Administration, a total program level of $3.167 billion is recommended for fiscal year 1990. This is $1.602 billion more than the budget request, and $11.9 million more than the fiscal year 1989 program level.

Formula grants: Under the formula grant program, we recommend an appropriation of $1.705 billion, including

$5 million for section 18(h) rural transportation grants. In addition, another $70 million would be made available for the formula grant program under the new section 9(B) program. The President's budget did not request any new general fund appropriations for the national transit program in fiscal year 1990. Instead, the budget assumed enactment of legislation to establish a new formula transit grant program limited to funds from the mass transit account of the highway trust fund. I think the President's approach amounts to almost a complete abandonment of mass transit in this country. I hope the administration will recognize the fact that we will never again see new urban freeways being built in this country to the degree we had in the 1960's and 1970's, and that we must upgrade our mass transit systems out of necessity to keep our cities liveable and productive.

Operating assistance: The operating assistance component of the formula grant appropriation is authorized by the Surface Transportation and Uniform Relocation Assistance Act of 1987. We unfortunately believe it is necessary to limit these funds to $780 million to meet our outlay target. This is $24.69 million below the 1989 level, but $660.49 million more than the budget estimate.

Discretionary grants: The bill also includes language limiting obligations for transit discretionary grants and section 9(B) formula grants to $1.14 billion. This is the same as the fiscal year 1989 limitation. This account is financed from the mass transit account of the highway trust fund. I invite the Members' attention to pages 123 through 130 of the report for a detailed description of how these funds are to be distributed.

Interstate transfer—transit: The bill also includes $180 million for transit projects that have been substituted for interstate highway projects. Of this amount, 50 percent is to be distributed on a formula basis and 50 percent on a discretionary basis. The discretionary funds will be distributed as outlined on page 131 of the report.

Washington Metro: The bill appropriates $100 million as authorized by Public Law 96-184, the Stark-Harris legislation, to continue construction of the Washington, DC Metrorail system.

R&D/administrative expenses: The bill also provides a total of $41.8 million for research and administrative expenses of UMTA.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The bill includes an appropriation of $11.75 million from the harbor maintenance trust fund to finance operations and maintenance of the Saint Lawrence Seaway.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

For the Research and Special Programs Administration, the bill contains appropriations of $27.125 million, $264,000 less than the budget request. Of this amount, $10.325 million is provided to continue pipeline safety operations, research and development, and State grants-in-aid. This includes a continuation of the grant program at last year's level of $4.4 million, and an additional $750,000 to support demonstration grants for one-call notification systems.

INSPECTOR GENERAL

For the Office of the Inspector General, the bill includes an appropriation of $32.1 million. This is $275,000 less than the budget request.

TITLE II—RELATED AGENCIES

Title II of the bill contains $134.123 million in new budget authority for six transportation-related agencies and commissions. This is $280,000 below the total budget requests, and $1,394,000 above last year's level.

More specifically, we recommend $1.95 million for the Architectural and Transportation Barriers Compliance Board, $26.6 million for the National Transportation Safety Board, $44.335 million for the Interstate Commerce Commission, $10.05 million for the Department of the Treasury to rebate Saint Lawrence Seaway tolls, and $51,663,569 for the Federal share of interest payments for the bonded indebtedness of the Washington Metropolitan Area Transit Authority.

TITLE III—GENERAL PROVISIONS

Mr. Chairman, there are several general provisions in this bill that will be of interest to the Members, including section 330, which prohibits funds for establishing a vessel traffic safety fairway less than 5 miles wide in the Santa Barbara-San Francisco area.

CLOSING

Mr. Chairman, the bill before this body is a fiscally responsible bill which I believe provides adequate funding for our transportation programs. I say again that it is under the section 302(b) ceiling for budget authority. I ask for its favorable consideration and approval.

□ 1440

Mr. Chairman, I reserve the balance of my time.

Mr. COUGHLIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, once again, the Transportation appropriations bill is proof that miracles really do happen. Otherwise, how could one explain the superhuman feat of accommodating so many competing requests for transportation funds within so limited a pot of money. In fiscal year 1990, as in past fiscal years, the Transportation Appropriations Subcommittee received many more requests for assistance than are within the realm of the possible. And in fiscal year 1990, as in past fiscal years, our distinguished chairman, Congressman BILL LEHMAN from Florida has somehow found a way to assist all of the members on both sides of the aisle. BILL is the most enthusiastic, hard-working, and dedicated chairman I know. The hearings may be long and grueling, but he conducts them at a lively pace. The budget requests may not always include funds for every mode of transportation, but he ensures we have a balanced system. The number of requests for projects from individual members may be great, but he will always offer a compromise instead of turning someone down with a flat "no." It is a great treat to know BILL LEHMAN and see him work—even if it takes some degree of effort just to keep up with him.

I congratulate Chairman LEHMAN and the rest of the members of the subcommittee on what I believe is a good bill. All subcommittee members, Republican and Democratic, believe in a balanced transportation system for the United States. Despite personal interests and regional needs, subcommittee members have worked as a team to keep the country afloat, on the rails, on the roads, and in the air. I salute the gentlemen from Massachusetts, Mr. CONTE, Virginia, Mr. WOLF, Texas, Mr. DELAY, my next door neighbor from Pennsylvania, Mr. GRAY, Michigan, Mr. CARR, Illinois, Mr. DURBIN, New York, Mr. MRAZAK, and Minnesota, Mr. SABO. I also compliment the staff on their good work: Tom Kingfield, Greg Dahlberg, Lucy McLelland Hand, Linda Muir, and Sceleato Rice for the majority, and Kenny Kraft and Bob Gibson for the minority.

The bill provides $11,678,249,569 in budget authority. This is $1.8 billion over the budget and $960 million over current year. According to the Congressional Budget Office, this bill is at exactly its section 302(b) outlay level.

COAST GUARD

In operating expenses, $1,928,000,000, plus an additional $300 million from the Defense appropriations bill for a total program level of $2,228,000,000. This is $24.2 million less than the budget request and $109.884 million more than the current year.

Not less than $567,000,000 is to be spent on drug interdiction efforts. I call your attention to the report, pages 17 to 19. Marijuana seizures are down while cocaine seizures are up. However, data from the National Institute on Drug Abuse shows that there is no noticeable effect on availability. It is impossible to measure how successful the Coast Guard is at stemming the flow of drugs. The cost per seizure to the Coast Guard was over $432,000 in fiscal year 1988. This is a 35-percent

increase from fiscal year 1986. While the committee still believes that interdiction is important, the long-term solution is to reduce demand not supply.

Acquisition, Construction, and Improvements; the procurement account, is funded at $383,800,000. Deferred without prejudice is $242,500,000 for a new polar icebreaker. We feel there is a need to coordinate with the National Science Foundation—also requesting funds for a new icebreaker—before proceeding.

FAA

The FAA is a 13.5 percent [+ $862,170,000] increase over current year; $3,846,000,000 is recommended for operations. This will fully fund: First, 695 new air traffic controllers, bringing the total to 17,495; second, 174 general aviation safety inspectors; and third, 126 air carrier safety inspectors, bringing the total inspectors to 2,798.

Facilities and Equipment is $1,732,000,000, a 25-percent increase over current year. Of the $30 million for microwave landing systems [MLS] $18 million has been deleted. This is development and production money. The remaining $12 million is for a demonstration program. This system is years behind schedule and we need to finish the demonstration first before going to procurement. The sum of $51 million was added over the budget request for a system capacity initiative to enhance capacity for short- and mid-term. It will be used to buy and install instrument landing systems [ILS] and runway visual range equipment. Finally, the $102 million for radar for the new Denver Airport has been passed over until the city and county of Denver and the principal users are closer to an agreement on financing the new airport.

The AIP Program is set at a $1.5 billion limitation on obligations. This includes $100 million which is fenced for capacity and security projects. There is a list of priority airports in the report and there is enough money for the first grant to the new Denver Airport should the Secretary of Transportation want to make it.

FHWA

The bill recommends a limitation on obligations of $12,463,500,000 for highways. This is $1,153,500,000 over the budget and $463,500,000 more than fiscal year 1989.

The bill contains three types of highway demonstration projects: first, those already authorized; second, those not authorized but on-going, and where it would seem foolish to stop; and third, those not authorized but having clearance from the authorizing committee at some time or another.

FRA

In the rail area, the bill provides 40 new rail safety inspectors, $19.6 million for the Northeast Corridor Improvement Program [NECIP], and $615 million for Amtrak. Included in the Amtrak number is $85 million for capital projects, which will allow the purchase of 50 "viewliner" cars.

UMTA

The sum of $1.7 billion is provided for section 9 formula grants. This is $100 million over current year.

The sum of $1.14 billion is provided for section 3 discretionary grants. It is earmarked as follows: $132,500,000 for bus, $430,000,000 for rail modernization, and $422,500,000 for new starts.

Washington Metro is funded at $100 million plus payment of interest on their bonds.

EAS

The bill proposes to limit the number of cities which would qualify under the Essential Air Service program. Subsidies would be available only to those communities meeting the following criteria: Subsidies are equal to or lower than Amtrak's per-passenger subsidy of $25 per passenger; or are more than 100 miles away from an alternative service airport; or are in the State of Alaska or the Commonwealth of the Northern Marianas. There was no budget request for payments to air carriers and the bill provides $12,400,000.

In conclusion, I urge that the House pass the fiscal year 1990 Transportation appropriations bill—accommodating Members and providing for a balanced transportation system.

□1450

Mr. Chairman, I reserve the balance of my time.

The CHARIMAN pro tempore. The gentleman from Pennsylvania [Mr. COUGLIN] has consumed 7 minutes.

Mr. LEHMAN of Florida. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Mississippi [Mr. WHITTEN], the chairman of the full committee.

Mr. WHITTEN. Mr. Chairman, the Subcommittee on Transporation, of which I am a member, is one of the most important of our 13 subcommittees; for transportation, the means of transportation, and the safety of transportation, have contributed to the development of our Nation. Together with communications it has been perhaps the greatest factor in the development of our 50 States into a nation—from the original individual colonies and then the individual States. For the American people move around. Where a man grows up doesn't have anything to do with where he might now live.

This year, as seemingly always, we have conflicts of views with our colleagues on the authorizing committees—who are among the best Members in the Congress. I have always tried to pull the two groups together.

But this subcommittee does a great job. I rise here to say that I was here when we first started this annual authorization, and Mr. Carl Vinson handled the appropriations and he began authorizing every year so as to keep up in the middle of things. He was a great friend of mine, and he did a great job. But it has reached a time when the authorizations are every 4 years primarily, and it just is not often enough to meet changing conditions.

I would just like to say here that we need to get our good friends on the authorizing committee, and may I say we have worked overtime trying to cooperate with them, and they have worked overtime to cooperate with us and with the subcommittee, but I am just saying here now I hope we can figure out some way where that authorization comes through on time so that we can proceed, because this is a changing world. Just look at the amount of travel that we have. You sit and listen to testimony and you wonder how in the world they handle these airports or they handle the highways with the speeds that we have.

So I just want to compliment this committee for the great job it does, and to urge our friends on the legislative committees to speed up the authorization and do it more often so that we can meet the changing conditions in a hurry. We do not like this thing of aruging about jurisdiction and responsibility. We want to work with them. And may I say we have had lots of help from their side despite the conflicts we have had, and I know our committee has tried our best to cooperate fully with them.

Further that with developments in the last few years, we must seriously consider a return to the former airline regulations. With everyone trying, flying has become dangerous.

With our current national debt and restrictions on expenditures, we are neglecting roads and bridges, the safety of our rivers and harbors.

On a local matter, that of highways, I appreciate the $12,000,000 carried in the bill which is provided for continuation of the current plan of rights of way acquisition, engineering, design, and construction for demonstration projects in Mississippi. Since this is investment spending, we hope to expedite the construction in the future.

Again, I congratulate everybody on the subcommittee for a job well done, as well as the authorizing committee, and I hope we can come around so that we can move fast enough to have the maximum results.

Mr. COUGHLIN. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Massachusetts [Mr. CONTE], the ranking member of the full Committee on Appropriations.

Mr. CONTE. Mr. Chairman, I rise in vigorous support of H.R. 3015, the Transportation appropriations bill for

fiscal year 1990. The chairman of the Transportation Subcommittee, my most able friend, BILL LEHMAN, and the ranking Member, my very good friend, LARRY COUGHLIN, have performed another acrobatic balancing act on this bill, and I congratulate them both for their excellent work.

The bill they have brought to the floor manages to maintain funding for most accounts, prioritize increases where they will have the greatest benefit, and still stay within the 302(b) allocations. All that, and we only had to pass the hat around once to help out.

That is a tremendous accomplishment. If you stop to consider the ever greater demands for safer and less congested air travel, for building new bridges and highways while maintaining existing ones, for expanding mass transit to reduce pollution and traffic, and for protecting our shores from oilspills and the flow of drugs, then you will grasp the scope of this bill.

It is big and it is basic. It is the infrastructure of our Nation, the vital cog to our economy. The challenge is finding the proper balance amongst all the needs, and I believe we have done so.

We've increased funding for the Federal Aviation Administration by $961 million over fiscal 1989. Those funds are going to hire new air traffic controllers and safety inspectors. They are going to increase airport capacity and improve security. They are going to continue to modernize the air system so flying becomes safer and less congested.

We have put $464 million more into the Federal-aid highways program than last year.

With 60 percent of our highways in need of repair, and with 40 percent the Nation's bridges either obsolete or structurally deficient, those funds are absolutely necessary.

We have given Amtrak the capital it needs to purchase new equipment so it can continue to improve service, increase revenue, and reduce dependence on Federal support. We have held the line on mass transit funding by cutting into big city operating subsidies while squeezing in an extra $100 million for capital needs.

And we've done well on my No. 1 priority, the Coast Guard. I've heard Members trash this bill, saying that it cuts the Coast Guard. Baloney. This bill increases Coast Guard funding by $57 million. Let there be no mistake about it: this bill increases funding—it is not a cut.

I would not be here supporting the bill if it did not take care of the Coast Guard. No one has worked harder to give the Coast Guard the funding it needs to perform its mission.

I went to the Defense Subcommittee and took $300 million for the Coast Guard. I pushed to get them the $105 million increase in operating expenses that's in this bill. I fought for the $4.8 million increase in the Coast Guard Reserve, which will give them 400 new positions. I added another $5.8 million for motor lifeboat replacement in full committee—I might add those lifeboats are being made in Louisiana.

The Coast Guard will do well with what we've got in this bill. No search and rescue stations will be shutdown, no Marine Safety offices will be closed, no drug patrols will be halted. Those howls of protest you're hearing are all just cries of wolf.

This is a good bill, Mr. Chairman. It balances the transportation needs and sets the right priorities. I urge every one of my colleagues to support it.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 4½ minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I rise in support of the Transportation and related agencies appropriation bill for fiscal 1990, and I commend Mr. LEHMAN, Mr. COUGHLIN, and the other members of the subcommittee for their fine work on this bill.

H.R. 3015 is the very best it can be in light of the budgetary constraints faced by all the appropriations subcommittees this year.

However, I believe Congress must work for new and innovative ways to direct more resources to the Nation's transportation infrastructure.

In rural and urban America alike, tremendous needs are going unmet.

For example, consider the need for instrument landing systems at general aviation airports in my home State of Arkansas. Roughly $2 million a year is available in Arkansas for ILS systems; however, ILS applications pending before the FAA for general aviation airports in Arkansas total $28.6 million in requests for assistance.

In urban America, travelers creep at a snail's pace along congested highways that hold more traffic than they were designed to achieve. If they are creeping toward a hub airport, they may have quite a wait for their flight when they get there.

In rural America, lack of adequate highway and air transportation is an impediment to economic growth and development, and motorists risk their lives driving over wornout, obsolete bridges.

H.R. 3015 will make a dent in these problems, but everyone should be on notice that vast sums will have to be spent on transportation in the next few years if America is to be economically competitive in the 21st century.

I would like to engage the distinguished chairman of the subcommittee, Mr. LEHMAN, in a colloquy concerning a matter of importance to the community of Batesville, AR.

In 1988, the Federal Aviation Administration approved a grant of $117,000 to the Batesville Regional Airport for the cleaning and sealing of joints and application of seal coat to runway 7-25, and for acquisition of aviation easements.

The grant money has not been claimed, and the work has not commenced, because the Batesville Airport Commission has determined that certain work not specified in the grant agreement must be done.

Specifically, the commission believes that the increasing number of corporate jets using the Batesville airport has made it necessary to strengthen the entire runway with a 1-inch application of bituminous hot mix seal.

The airport commission now seeks to modify the terms of grant so that the $117,000 can be applied to the cost of sealing the entire runway.

Would the chairman of the subcommittee be able to provide any assistance in bringing the Batesville Airport Commission and the FAA together on this matter?

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the chairman of the subcommittee.

Mr. LEHMAN of Florida. I thank the gentleman for yielding.

Mr. Chairman, I will be glad to do what I can to help the gentleman facilitate discussions between the FAA and the Batesville Airport Commission, and I hope a resolution can be found that will be acceptable to all parties.

Mr. ALEXANDER. I thank the distinguished chairman for his help.

Mr. COUGHLIN. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 3015, the Transportation appropriations bill. I want to commend my chairman, BILL LEHMAN, my ranking member, LARRY COUGHLIN, and my subcommittee colleagues for producing such a good bill.

This bill adequately meets the needs of the various components of our national transportation system. The concerns and funding requirements of the FAA, the Coast Guard, UMTA, the Federal Highway Administration, the National Highway Transportation Safety Administration, and the Federal Railroad Administration have been listened to and met.

I particularly want to commend the committee for including funding for the Houston Metro System. This bill appropriates $60 million for the Houston Metro's light rail system. A comprehensive public transportation plan for Houston has been needed in our growing city and is widely supported by the local population; additionally, the committee has consistently supported the development of the efficient Houston Metro System as a model for other cities to follow. I greatly appreciate this support and

urge the other body to retain this level of funding as well.

I urge my colleagues to favorably consider H.R. 3015.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. I thank the chairman for yielding.

Mr. Chairman, if I may have a colloquy with the distinguished gentleman from Florida [Mr. LEHMAN], the chairman of the Subcommittee on Transportation Appropriations.

Mr. Chairman, recently there was a terrible train derailment involving hazardous cargo in Freeland, MI, which is in my district. My request is as follows: Would the Transportation Subcommittee assist me in directing the National Transportation Safety Board to provide a report regarding the most frequent recommendations made by the Board to the Federal Railroad Administration for improving the safety of transporting hazardous toxic cargo.

□ 1550

Second, advise the committee as to what action may have been taken on the recommendations.

Further, ask the committee to assist me in directing that the Federal Railroad Administration do report to the committee what action may have been taken on the most frequent recommendations made by the National Transportation Safety Board for improving the safety of shipping hazardous toxic cargo by rail. Also, advise as to the basis for not acting on any of these recommendations.

I yield to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Chairman, my good friend and colleague has a reasonable request. I agree with the gentleman from Michigan's [Mr. TRAXLER] concern about the transportation of hazardous cargo by rail. We will do all we can to assist my good friend and colleague in obtaining the requested information from the agencies in a factual and timely manner.

Mr. TRAXLER. Mr. Chairman, I thank the distinguished gentleman for his assistance.

Mr. COUGHLIN. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, I rise in support of the fiscal year 1990 Transportation appropriations bill and I want to commend the chairman, Mr. LEHMAN, and the ranking member, Mr. COUGHLIN, for their hard work in crafting this bill.

A balanced and efficient transportation network is vital to our economy and our Nation. This bill provides necessary funding for an effective national transportation system and I believe the committee has done an outstanding job in balancing competing interests for limited funds.

Again, I want to commend Mr. LEHMAN and Mr. COUGHLIN and all the members of the subcommittee for their outstanding effort on this bill and I also want to express my appreciation to the subcommittee staff, Tom Kingfield, Greg Dahlberg and Linda Muir for their hard work.

Mr. GLICKMAN. Mr. Chairman, this bill appropriates increased funding to the Institute for Aviation Research at the Wichita State University to a level of $2 million. As you can imagine, the university is grateful to have the continued confidence of the Federal Government and their continued financial assistance.

When I testified before the chairman's Transportation Appropriation Subcommittee on behalf of the Institute for Aviation Research, I indicated they were interested in securing Federal funding to allow the institute to continue to provide this Nation with the highest quality aviation research and development. At the time of my testimony, I indicated that sustained Federal assistance would be helpful for this fine aviation research institute to work on a number of projects, which I listed in my written testimony to the subcommittee.

However, the language included in the report that accompanies this appropriation appears to provide funding exclusively "to expedite the development of a prototype electronic data base and automated system to identify civil aviation aircraft, track modifications, and distribute airworthiness materials to owners/operators."

Such a specific designation is detrimental for several reasons. First, the institute was granted $500,000 last year for this same project, for which they are still negotiating with the FAA to secure the funding. If they do not receive this money, appropriated for this fiscal year, from the FAA within the next few months, there will be no reason to provide an additional $2 million for the next fiscal year for that same project. I would encourage, and hope the chairman would join me, in encouraging the institute and the FAA to complete the contract negotiations for this first phase of the aviation data project.

Further, regardless of whether last year's funding is secured by the Institute for Aviation Research, the FAA requested only $1.6 million for the project in this fiscal year. Directing the Institute for Aviation Research to spend $2 million on this one project is excessive and not the most prudent use of available funds.

Mr. Chairman, I yield to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Chairman, I thank the gentleman for the explanation, and I do encourage the FAA and the Institute for Aviation Research to work out the negotiations at the earliest possible date. Certainly I agree if all of the recommended funds are not required for this project that the institute should be permitted to spend them on other aviation research projects.

Mr. GLICKMAN. Mr. Chairman, to ensure that this happens may I suggest that you consider adding the following language to the conference report: "In order to advance aviation safety research, the Committee provides $2,000,000 in additional funding to the Institute for Aviation Research at Wichita State University, Wichita, KS, within the FAA budget for aviation safety research programs, studies on aging aircraft, crashworthiness and human factors in aviation research. Available funds should also be used, as needed and at the discretion of the Institute, for continued development of a prototype electronic data base and automated system to identify civil aviation aircraft, track modifications, and distribute airworthiness materials to owners/operators."

Mr. Chairman, I yield to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Chairman, I do not object to the language proposed by my colleague from Kansas, and I will attempt to include it in the statement of managers on the conference report.

Mr. GLICKMAN. Mr. Chairman, I thank the chairman for taking the time for this clarification, and thank him for his understanding.

Mr. LEHMAN of Florida. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. HUGHES). The gentleman from Florida reserves his 8 minutes. The gentleman from Pennsylvania has 16 minutes remaining.

Mr. COUGHLIN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. DAVIS].

Mr. DAVIS. Mr. Chairman, I thank the gentleman for yielding time to me, and I rise to engage the chairman and ranking member in a colloquy.

I have frequently discussed the possible closing of the Marquette, Flight Service Station and its consolidation into a central flight service station with my colleagues on the Appropriations committee. The purpose of this colloquy is to inquire into the intent of the committee on the future of the Marquette station.

Mr. Chairman, I yield to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Chairman, I recognize that the Michigan Department of Transportation, which has supported other consolidation efforts around the State, has strongly objected to a Marquette FSS consolidation, citing critical geographic, economic, and meterological factors.

For this and other reasons, we will ask the FAA to delay the Agency's proposed consolidation of the flight service at Marquette, MI.

Mr. DAVIS. I thank the gentleman, and I wonder, is this the position of the minority, as well?

Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, let me say to my distinguished friend and colleague, the minority supports the FAA's consolidation of flight service stations. In this case, however, a compelling argument has been made to keep the Marquette Flight Service Station open and operating at its present level.

Located on Lake Superior, Marquette is subject to frequent and sudden weather changes. There is a strong air flow from the north which produces a large amount of snowfall called lake effect. This can happen almost instantly when conditions are right and often times not forecasted.

The committee believes it is necessary to delay the flight service station in Marquette, and requests the FAA to do so.

Mr. DAVIS. Mr. Chairman, I agree with the decision of the committee. The committee's direction to delay the Marquette Flight Service Station is a step in the right direction.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1½ minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I would like to commend the chairman of the committee for a job well done. I am only frustrated that the Coast Guard level is not as much as many Members hoped it would be. Clearly, that is the impact of the administration's budget policies as seen here. When we are looking at an agency being asked to be on the frontline of fighting drugs, and the frontline of cleaning up the oilspill in Alaska, and if there is anything we have learned from that Alaska oilspill, is that we do not have the technology on how to clean up major oilspills.

While we continue to ask the Coast Guard to fulfill larger and larger responsibilities, I would hope that we would try to provide additional funding. I believe there will be amendments of that nature for the Coast Guard. When we look at all the responsibility that they are given, it is clear that we need to give them more than tools they need to accomplish their job.

I thank the chairman for his time, and the great job he has done. I only wish he would have put a little more money in this account.

Mr. COUGHLIN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I'd like to ask about a particular action the committee took on H.R. 3015.

During subcommittee consideration, didn't the gentleman from New York [Mr. MRAZEK] offer an amendment to require the Secretary of Transportation to study for 3 years the Alaskan North Slope oil transportation system and to reassess possible future oil leasing in Alaska, particularly in the Arctic National Wildlife Refuge, as part of this 3-year review of the oil transportation system?

And wasn't that amendment voted down in subcommittee?

I yield to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. The gentleman is correct.

Mr. YOUNG of Alaska. Didn't the gentleman from New York request during full committee action that the committee report on H.R. 3015 contain language discussing the subject matter of his amendment?

And didn't the full committee overwhelmingly reject the request for report language?

I yield to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Flordia. The gentleman is correct.

Mr. YOUNG of Alaska. Didn't the gentleman from Florida receive a letter from the gentleman from North Carolina [Mr. JONES], the chairman of the Merchant Marine and Fisheries Committee urging that the amendment be rejected because it constituted legislation on an appropriation bill and because the authorizing committee was already developing legislation addressing this subject?

I yield to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. The gentleman is correct.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman. I commend the committee for rejecting this proposed amendment. Clearly the provision was legislation on an appropriation bill. As such, it would be subject to a point of order for violation of House rule 21.

The CHAIRMAN pro tempore. The Chair would advise that the gentleman from Florida [Mr. LEHMAN] has 7 minutes remaining, and the gentleman from Pennsylvania [Mr. COUGHLIN] has 12 minutes remaining.

Mr. COUGHLIN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I thank the gentleman for yielding time to me. I rise in strong support of H.R. 3015, the 1990 Transportation appropriations.

First of all, I would like to commend the gentleman from Florida [Mr. LEHMAN] and the gentleman from Pennsylvania [Mr. COUGHLIN] for their foresightedness in addressing the inadequate funding for aviation research.

Specifically, the Federal Aviation Administration budget request for aviation research was increased $20 million by the committee to a more reasonable $185 million.

Public Law 100-591, the Aviation Safety Research Act of 1988, which I introduced, mandates a long-term aviation research program at the FAA.

Research on fire safety, aging aircraft, human factors, airport security, and other issues are required. The products of this research will provide safety improvements from now well into the 21st century.

The increase provided in this legislation is important because it will enable the FAA to aggressively pursue their research program.

Mr. Chairman, the recent accident in Sioux City once again brought the dramatic reality of airline safety to the forefront.

While the FAA is to be commended for its work in attempting to understand the reasons for this and other accidents, we must work to stop accidents before they happen.

In my view, the Federal Aviation Administration, with adequate funding, will have a research program that will replace this tombstone technology with technology that will prevent accidents before they happen.

This appropriations bill is a step in the direction of providing adequate aviation safety research and I urge my colleagues to support it.

Again, I want to congratulate Mr. LEHMAN and Mr. COUGHLIN for their leadership in this area and I would like to express my appreciation for their support of the Aviation Research Program.

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Mr. LEHMAN of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, what I wish to speak to the Members about today is the budget implications again related to the appropriations bill that is before the House. As I have done with the other bills, I have directed a "Dear Colleague" letter to all Members on this specific bill.

There are no Budget Act waivers required by the bill because it provides budget authority below the discretionary target established under the section 302 subdivision assigned to the subcommittee.

This bill provides approximately $11.4 billion in discretionary budget authority and $27.4 billion in discretionary outlays. These amounts are respectively $64 million below the discretionary budget authority and equal to the discretionary outlays that have been included in the 302 subdivision. Therefore, there is no question but

that this bill, as with the other bills that have come to the floor from the Appropriations Committee, meets the targets that have been established in the budget resolution and the budget agreement, and I would urge the Members of the House to stand with those targets as we proceed through the debate on the bill.

There are no budget problems with this bill. I congratulate my colleague, the chairman of the subcommittee, the gentleman from Flordia [Mr. LEHMAN], and the ranking minority member, as well as all the members of the subcommittee, for providing a good bill, one that meets the targets and provides a good balance in terms of meeting the transportation needs of the country and that, more importantly meets the targets and the terms of the agreement established under the budget resolution.

Mr. Chairman, I rise to discuss the relation of H.R. 3015 to the 1990 Budget Resolution.

The Budget Committee has provided a "Dear Colleague" to all Members on this appropriations bill. There are no Budget Act waivers required for this bill because it provides budget authority below the discretionary target established under the section 302 subdivision assigned to this subcommittee of the Committee on Appropriations.

In total, this bill provides $11,436 million in discretionary budget authority and $27,450 million in discretionary outlays. These amounts are, respectively, $64 million below the discretionary budget authority and equal to the discretionary outlays included in the section 302 subdivision assigned to this subcommittee.

The bill, therefore, is consistent with both the budget resolution and the bipartisan agreement worked out with the administration. For these reasons, there are no budget problems with H.R. 3015.

I congratulate my colleague, Chairman LEHMAN and his subcommittee members, for providing a good bill. I think it provides a good balance among our many transportation funding needs.

COMMITTEE ON THE BUDGET,
Washington, DC, July 31, 1989.

DEAR COLLEAGUE: Attached are fact sheets on H.R. 3014, Legislative Branch Appropriations Bill; H.R. 2991, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill; H.R. 2990, Labor, Health and Human Services, and Education and Related Agencies Appropriations Bill; H.R. 3026, District of Columbia Appropriations Bill; and H.R. 3015, Department of Transportation and Related Agencies Appropriations for Fiscal Year 1990. These bills are scheduled for floor action this week, thus completing 12 of the 13 annual appropriations bills before the August district work period.

These bills, as reported, are below the amounts assumed in the 1990 Budget Resolution and the Bipartisan Budget Agreement. I commend the Appropriations Committee for their prompt action on the regular appropriations bills and look forward to working with the committee on the conference reports.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

[FACT SHEET]

H.R. 3015, TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1990 (H. REPT. 101-183)

The House Appropriations Committee reported the Transportation and Related Agencies Appropriations Bill for Fiscal Year 1990 on Wednesday, July 26, 1989. Floor consideration is scheduled for Thursday, August 3, subject to a rule being adopted.

COMPARISON TO THE 302(B) SUBDIVISION

The bill provides $11,436 million of discretionary budget authority and $27,450 million of discretionary outlays, $64 million in budget authority below and equal in outlays to the subdivision for this subcommittee. The Budget Act provides a point of order if the target for discretionary budget authority is breached. Since it is not, there is no such point of order against the bill. A detailed comparison of the bill to the spending and credit allocations follows:

COMPARISON TO SPENDING ALLOCATION

[In millions of dollars]

	Transportation and related agencies appropriations bill		Appropriations Committee 302(b) subdivision		Bill over (+)/ under (−) 302(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	11,436	27,450	11,500	27,450	−64	
Mandatory [1]	456	459	456	459		
Total	11,892	27,909	11,956	27,909	−64	

[1] Conforms to budget resolution estimates for existing law.
Note.—BA—New budget authority; O—estimated outlays.

The direct loan levels in the bill are equal to the discretionary subdivision for this subcommittee. There are no primary guarantees in the bill. A detailed comparison follows:

COMPARISON TO CREDIT ALLOCATION

[In millions of dollars]

	Transportation and related agencies appropriations bill		Appropriations Committee 302(b) subdivision		Bill over (+)/ under (−) 302(b) subdivision	
	DL	LG	DL	LG	DL	LG
Discretionary	46		46			
Mandatory [1]						
Total	46		46			

Note.—DL—New direct loan obligations; LG—new loan guarantee commitments.

Pursuant to Section 302(b) of the 1974 Budget Act as amended by P.L. 99-177 (Gramm-Rudman-Hollings), the Committees of the House are required to subdivide the spending authority and credit authority allocated to them in the Budget Resolution for Fiscal Year 1990 (shown in H. Rept. 101-50). The Appropriations Committee reported its 302(b) subdivisions on June 21, 1989 (shown in H. Rept. 101-97). These subdivisions are the official scorekeeping targets for appropriations subcommittees.

Following are the major program highlights for the Department of Transportation and Related Agencies Appropriations bill for FY 1990, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Department of Transportation:		
Coast Guard operations	1,928	[2] 1,556
Coast Guard acquisition, construction and improvement	384	42
Federal Aviation Administration:		
Operations	3,836	[3] 3,376
Facilities and equipment	1,732	208
Research and engineering	185	111
Airport Improvement Program (obligation ceiling)	(1,500)	240
Amtrak	615	554
Urban Mass Transportation Administration:		
Formula grants	1,705	595
Interstate transfer grants	180	4
Washington Metro	100	2
Discretionary grants (obligation ceiling)	(1,140)	27
Federal-Aid Highways:		
(Obligation ceiling)	(12,464)	2,252
(Programs exempt from obligation ceiling)	1,418	250

[2] Includes $30 million in budget authority to be derived from the boat safety account. An additional $300 million in budget authority is expected to be included in the Department of Defense Appropriations Bill for 1990.
[3] Excludes an additional $10 million in budget authority to be derived by transfer.

Mr. COUGHLIN. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I would like to commend the chairman of the Transportation Subcommittee of the Appropriations Committee, the gentleman from Florida [Mr. LEHMAN] and the ranking member, the gentleman from Pennsylvania [Mr. COUGHLIN] for their leadership on transportation issues. I would like to engage them in a brief colloquy concerning airport improvement projects at the Allentown-Bethlehem-Easton—or ABE—Airport.

Mr. Chairman, as the gentlemen know, this airport has had ongoing projects for the past couple of years, and A-B-E Airport has been listed in the subcommittee report in the past. I would like to ask the gentleman from Florida [Mr. LEHMAN], and the gentleman from Pennsylvania [Mr. COUGHLIN], if in their view the Federal Aviation Administration and the Department of Transportation should give favorable consideration to ongoing projects such as those at A-B-E Airport in allocating airport discretionary funds during fiscal year 1990.

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. RITTER. I yield to the gentleman from Florida.

Mr. LEHMAN of Florida. Mr. Chairman, the gentleman is correct. I would hope that FAA/DOT would give careful consideration to the request from your constituent airport during fiscal year 1990.

Mr. COUGHLIN. Mr. Chairman, if the gentleman from Pennsylvania will yield, I appreciate the help of my distinguished chairman. I am convinced of the merits of the projects at A-B-E-airport and I am sure that FAA will give them full and careful consideration when the fiscal year 1990 appropriations process is complete.

Mr. RITTER. Mr. Chairman, I thank my colleagues for their interest in these projects. I commend the chairman, the ranking member and the entire Transportation Appropriations subcommittee for their fine work on this legislation.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I thank the gentleman from Florida for yielding this time to me.

Mr. Chairman, let me first commend the chairman of the subcommittee, the gentleman from Florida [Mr. LEHMAN], and the ranking minority member, the gentleman from Pennsylvania [Mr. COUGHLIN], for the efforts they have made on behalf of the Coast Guard in this bill.

I wish I could tell the Members that those efforts have been complete. I must report, however, that we could do better. Let me first tell the Members that I deeply appreciate the work of the gentleman from Massachusetts [Mr. CONTE], the gentleman from Washington [Mr. DICKS], and others, who were very helpful in assuring that there would be $300 million in the DOD for the Coast Guard again this year, but let me point out that the administration itself has indicated strong opposition to that practice and has indeed called for the full funding of the Coast Guard within the transportation budget.

But let me also at the same time tell the Members that the subcommittee has been put under extraordinary constraints with regard to this request for full funding when in the transportation budget requested by the administration transportation funds have been zeroed out. We are in a catch 22. What do we do?

What we have done is to, I think, in adequately provide in those circumstances for the Coast Guard. Let me be specific. This bill does not fully fulfill the President's budget request for operating accounts. We are $12 million short. Let me make it clear. This bill calls for the Coast Guard to absorb $40 million in pay increases, and it calls for the Coast Guard to receive $20 million that we have already reprogrammed in the DOD bill. It is gone. This bill in effect calls for the Coast Guard to fall short of what is needed to operate at current levels.

I spoke to the Commandante just a few minutes ago. His words to were:

> If we get the $300 million, we may not have to shut down search and rescue stations, but we most assuredly will have to curtail drug enforcement activities.

The Vice Commandante, testifying before our subcommittee, reported to us with these words: "With this budget, the Coast Guard cannot cope."

That is why I am asking for help on the floor today. The 302(b) authorization for the subcommittee allows the subcommittee $64 million more in budget authority. I am asking in two amendments later on that we allocate that $64 million to the Coast Guard. That is within the Budget Act, and points of order do not lie against it on the floor. Points of order would, however, lie against increasing outlays in the Senate.

What this means in effect is if the Members will go along with the request I will make of this House, that we add the $64 million of budget authority first to bring back the operating accounts to the full budget request, and, second, to correct that $20 million error in reprogramming and take care of another area with $17 million of surveillance equipment needed in the war on drugs, as reprogrammed to the FRAM rebuilding program of the heavy endurance cutters, if Members will help me to do that, it tests the stage for us to go into the conference committee and help the Coast Guard, and yet we would live within the budget.

Mr. COUGHLIN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, I would like to engage in a colloquy with the distinguished ranking minority Member of the Appropriations Subcommittee on Transportation, Representative COUGHLIN.

Mr. Chairman, the report language to accompany the Transportation Appropriations bill requests that the Secretary of Transportation give priority consideration to Aurora, IL Municipal Airport in making grants through the Airport Improvement Program [AIP].

At the present time an Environmental Impact Statement [EIS] is being prepared for the project and has yet to be finalized. To date no FAR150 study has been undertaken to consider noise limitations and the potential impact of increased traffic. In addition, sensitive negotiations are ongoing among the city of Aurora, which owns the airport, the Village of Sugar Grove where the airport is located, and other neighbors. The purpose of the negotiations is to determine what specific changes and improvements should be made to enhance air safety, control noise and generally ensure an undiminished quality of life for all area residents. As of this time no such agreement has been reached.

Mr. Chairman, may I ask the gentleman from Pennsylvania if it is his understanding that there is no intention on the part of the Committee or Congress to interfere with those ongoing negotiations?

Mr. COUGHLIN. Mr. Chairman, if the gentleman will yield, let me say that the gentleman is correct.

Mr. HASTERT. Mr. Chairman, may I further inquire of the distinguished gentleman from Pennsylvania if it is his understanding that the Committee and Congress intends that a successful conclusion of those negotiations be required before any funds would be released?

Mr. COUGHLIN. The gentleman is correct.

Mr. HASTERT. Mr. Chairman, I appreciate the gentleman's willingness to help in clarifying those points.

Mr. LEHMAN of Florida. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. COUGHLIN. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. SAXTON].

□ 1530

Mr. SAXTON. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. COUGHLIN] for yielding.

I just wanted to say a few words here this afternoon to first commend the committee for doing what I consider to be an admirable job in most of this bill. The funds that are provided for transportation needs of the country are as best we can provide them, and we will allocate, as far as I can see, on this bill, but on their journey through the process of putting in place funds as the committee saw appropriate, when their journey reached the point of the Coast Guard, they took the wrong turn. That turn, I believe, was a very, very desperate mistake.

The gentleman from Massachusetts [Mr. CONTE] pointed out, and I think correctly, that there is a $57 million increase in this budget for the Coast Guard, however let me point out that my calculator tells me that is about a 1½-percent increase, and while the administration requested the figure well over $300 million more than that, and considering, of course, that the DOD is going to provide another $300 million; while those facts are all true, there is something else that is true as well because this House, right here on this floor, we have throughout the last year, and the year before that, added new jobs, job after job, that the Coast Guard has to perform. Whether it has to do with new requirements involving the enforcement of sludge dumpers and sludge dumping rules that we have on the books, whether it has to do with enforcement of medical waste provisions and the marine plastic debris that we have so much concern about, whether it has to do with oilspills, something I know that is of great concern to all the Members of this House, or whether it has to do with the traditional jobs of being the policemen of the coastlines and providing safety mechanisms for our shipping and traffic, the Coast Guard has got its plate full, fuller this year than ever before.

This bill provides a 1½-percent increase for the Coast Guard to take

care of all those jobs, so I am here today to say that while for the most part this is a good bill, it provides funding that is necessary for the Department of Transportation. When it comes to the Coast Guard, it falls far short.

Mr. COUGHLIN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Chairman, with all due respect to the gentleman from Florida [Mr. LEHMAN] and the ranking member, the gentleman from Pennsylvania [Mr. COUGHLIN] and the hard-working members of the Appropriations Transportation Committee, I, too, rise with great concern over the decreased funding for the U.S. Coast Guard as reported by the Committee on Appropriations. Others, Mr. Chairman, I think have adequately, and I hope, I might add, addressed the role of the Coast Guard regarding defense readiness, drug interdiction, fisheries enforcement, search and rescue and environmental emergencies like the *Exxon Valdez* oilspill in Prince William Sound that they have been helping with.

The continuing resolution for fiscal year 1988 reduced funding for the U.S. Coast Guard, as we know, by $150 million. The Coast Guard was forced to close bases, decommission ships, severely reduce routine search and rescue missions and cut its drug interdiction efforts because many of us expressed our great concern to James Burnley who was then the Secretary of Transportation, and to the Committee on Appropriations' chairman, the gentleman from Mississippi [Mr. WHITTEN] last year, Congress approved an emergency supplemental for the Coast Guard, and yet today, Mr. Chairman, we stand ready to approve a reduction in its funding.

As one of the founding members of the House Coast Guard Coalition, and on their behalf, I urge my colleagues to support amendments which will be offered to this appropriations measure. First, I urge the support of the amendments of the gentleman from Louisiana [Mr. TAUZIN] which will appropriate some $64 million to restore the Coast Guard's operating expenses and $40 million for the acquisition, construction and improvement account. Another amendment offered by the gentleman from Michigan [Mr. DAVIS] will prohibit the Secretary of Transportation from using any of the appropriated funds from closing any search and rescue stations.

Mr. Chairman, the Coast Guard is an integral part of our war on drugs and all the other matters that I have already mentioned, and I urge my colleagues to join me and the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from Michigan [Mr. DAVIS] in providing additional funding for the Coast Guard.

Mr. COUGHLIN. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. COUGHLIN] for yielding the time to me.

Mr. Chairman, I want to join in with the words that have been expressed here today by the gentleman from New Jersey [Mr. SAXTON] and the gentleman from Florida [Mr. BILIRAKIS] about the cuts in the Coast Guard budget. I, too, basically support the Transportation Department's bill and the work of the gentleman from Florida [Mr. LEHMAN] and the gentleman from Pennsylvania [Mr. COUGHLIN], but I have to say we went through this last year with the Coast Guard when we cut them by $105 million, and this year cutting out $630 million is just too much.

As has been said here, and it cannot be expressed too many times, the Coast Guard's missions are multifaceted, and it is the Congress that is placing more and more responsibility upon that agency. Oilspill cleanup and drug interdiction are only two of the missions which are consuming a vast amount of the Coast Guard's resources, and it does not end there. By cutting the Coast Guard's budget, as we are doing, the committee is asking the American people to accept the Coast Guard's reduced participation and involvement in commercial vessel documentation and inspection, as well as recreational boating safety and search and rescue.

The budget cuts being imposed on the Coast Guard by the Committee on Appropriations are unjust, unreasonable, and unwarranted, and I urge my colleagues also to support the amendments that will be introduced here today to restore the money.

Mr. COUGHLIN. Mr. Chairman, I yield myself the remaining minute.

Mr. Chairman, I want to say that the bill provides $3 billion 265 million to the Coast Guard in fiscal year 1990. This is not a cut. It is an increase of $57 million over fiscal year 1989. The bill provides $202 billion 228 million for operations. This is $105 million above 1989. This includes a $302 million transfer from defense.

Now let us get it straight. We have not cut the Coast Guard. It has been increased, as we have done year, after year, after year. Certainly the distinguished ranking member of the full committee, the gentleman from Massachusetts [Mr. CONTE] would never let us cut the Coast Guard in this bill.

Mr. GILMAN. Mr. Chairman, I rise in support of the fiscal year 1990 Department of Transportation appropriations, H.R. 3015. This legislation appropriates a total of $11.9 billion for the Department, including a desperately needed $3.2 billion for Coast Guard activities.

The Coast Guard plays a critical role in our Nation's efforts to interdict drugs. Too often we have underfunded the Coast Guard and not provided sufficient funds for operation and maintenance. If we are to make headway in this war against drugs we cannot leave our Coast Guard ships sitting in port and their highly trained personnel with no mission to complete. We must provide the resources to allow them to continue to perform their most important and difficult task: Interdicting drugs on the high seas.

The people of this Nation are demanding increased antidrug efforts. Too many citizens have already lost their lives because of drug abuse or drug-related crime and violence. We cannot make progress if we do not provide support for the agencies leading the fight against drugs. The Coast Guard and the Department of Transportation deserves our support. Accordingly I urge my colleagues to fully support H.R. 3015.

Mr. DARDEN. Mr. Chairman, today, the House of Representatives will vote to approve the conference report on legislation to restructure the savings and loan industry. After careful consideration, I will vote in favor of this report.

While some aspects were troubling, I believe the conference agreement was the best we could achieve at this time. The President had expressed his strong support for this measure, and had impressed upon many Members the urgency of finding an immediate solution to the problem. Committee members spent months considering the President's proposal and its possible impact on both healthy and failing institutions. Further bickering over the political implications of certain provisions would only compromise our ability to contain the damage already done by inept and unscrupulous thrift managers and insufficient regulation by the FSLIC.

I was disappointed that many Members, even those in the President's own party, have chosen the path of least resistance in voting against a bill it was widely believed should pass comfortably. We cannot afford to delay action on the savings and loan crisis. This situation already has cost the taxpayers billions of dollars; if left unchecked, mismanagement and fraud will continue to eat away at depositors' money, and Government insurance will be unable to compensate for the millions of dollars lost to poor investment and criminal activity.

Each day that passes without corrective legislation raises the costs of solving the problem by several million dollars. While the bill is costly, and some provisions could be strengthened, the time for debate is past. Congress must assume the burden of addressing the savings and loan crisis before it becomes unmanageable. Because I believe we must act promptly and responsibly on this issue, I support the conference agreement, and will continue to work to alleviate the problems in the savings and loan industry.

Mr. GALLO. Mr. Chairman, as a member of the House Appropriations Committee, I support this $27.3 billion transportation funding package that provides full funding for Federal highway authorizations, increased funding to Amtrak, continues stable funding to most

mass transit programs and inceases funding for airport improvement projects.

With this bill, I believe that we can assure the traveling public that their money is being wisely spent at a time of budgetary restrictions.

Because a large portion of transportation funding is provided directly by travelers through payment of the Federal gasoline tax and related fees which are contained in the Highway Trust Fund and the Aviation Trust Fund, we have a special responsibility to ensure that our transportation systems operate safely and effectively.

For this reason let me say again that I oppose efforts to divert highway and aviation trust fund moneys for debt reduction, as proposed on several occasions by the Ways and Mean Committee.

As a former member of the Public Works and Transportation Committee, I am pleased that we were able to provide $12.3 billion in appropriations to the Federal Aid Highway Program, representing the full funding authorization in this category.

New Jersey's share of these highway funds will be $280 million in fiscal year 1990.

And, Amtrak will receive $615 million, a $31 million increase over fiscal year 1989, to upgrade equipment and make other capital improvements.

This bill holds mass transit capital funds relatively stable at $869 million nationally and $69 million for New Jersey.

While this bill provides less in mass transit operating funds than last year's budget, the appropriations committee has restored most of the operating fund cuts proposed earlier.

In the House, we have restored $761 million in cuts that would have devastated New Jersey's mass transit program.

I am still concerned by the negative effects of a $25 million cut nationally in mass transit operating assistance that remains a part of this bill.

This is a $2.5 million funding loss for New Jersey and comes at a very bad time for NJ Transit, which has already taken a significant budget hit at the State level. I am hopeful that the Senate will be able to restore those funds.

The bill also provides $19.6 million for improvements to the Northeast rail corridor, the same as last year; $1.070 billion in urban mass transit assistance grants, up from $1.035 billion in 1989.

Funding for airport improvement grants in the bill is $1.732 billion, a 25-percent increase over the 1989 funding level of $1.4 billion.

Overall, I believe that this is a positive proposal to meet our transportation needs for the coming year.

Mr. Chairman, I urge my colleagues to support H.R. 3015.

Ms. LONG. Mr. Chairman, I rise in support of H.R. 3015, the Transportation Appropriations Act for Fiscal Year 1990. I am particularly interested in the passage of this act because it places Baer Field Airport, located in Fort Wayne, IN, on the Federal Aviation Administration [FAA] priority funding list.

I want to take a moment to point out to the membership that Baer Field has been determined by the FAA to be in serious need of repairs. In fact, two taxiways have been closed to aircraft with over 30 passenger seats. Two airlines have plans to stop servicing the airport with their Boeing 737 equipment because of the condition of the pavements. Takeoffs and landings at Baer Field have more than doubled over the past 10 years which has resulted in considerable wear and tear on the airport. In addition, half of the buildings were constructed during World War II and some of the pavement hasn't been resurfaced since it was laid more than 40 years ago.

Recently, the FAA approved $4.1 million in funding for runway improvements to Baer Field. This money includes a grant in the amount of $500,000 with the remaining funds in accelerated payments of airport and airway trust funds due to Baer Field for the years 1989 through 1991. Although I am pleased that these funds will bring us closer to fixing some of the problems at Baer Field, they will not solve all our problems.

Mr. Chairman, the legislation we are considering today would aid in allowing Baer Field to be brought up to post-World War II standards. I cannot emphasize enough the impact this airport has on the economic development of northeast Indiana and northwest Ohio. Many businesses in the Fort Wayne area are dependent on the accessibility to northeast Indiana provided by Baer Field. A loss of businesses and jobs could result if major airlines continued to cease service into Baer Field.

I commend the gentleman from Florida [Mr. LEHMAN], and the gentleman from Pennsylvania [Mr. COUGHLIN] for including Baer Field Airport on the priority list for airport funding contained in this legislation. I urge all of my colleagues to support the bill.

Mrs. ROUKEMA. Mr. Chairman, I rise in support of this legislation. As the Appropriations Committee has stated, this bill is appropriately within budget. And, while the bill is downright lean in most areas, it does include substantial but justifiable increases in FAA funding.

I am particularly pleased that the committee has decided to beef up funding for FAA aviation safety and aviation security programs. Specifically, I applaud the committee's recommendation of $14.7 million for the development of plastic explosive detection systems to prevent and deter terrorism within the civil air transportation system.

These are funds which I strongly believe will be well spent. As the hostage drama unfolding this week in the Middle East proves yet again, terrorism is rampant, and, more often than not, Americans are the targets. And, as we all know, the bombing of Pan Am Flight 103 proves that U.S. airlines are not invulnerable to incidents of terrorism.

Pan Am flight 103 blew up over Scotland last December because a music box containing a bomb was able to escape detection. Clearly, this heinous terrorist act proves the need to accelerate the delivery of antiterrorism equipment to the Nation's airports. However, I would submit that technology is not the only answer. The families of victims of Pan Am 103 and indeed the general public have more questions and deserve more answers. And, this is despite a number of congressional hearings following the bombing.

Why, for example, did prior warnings of terrorist threats against Pan Am 103 go undetected by the FAA and the State Department? Or, why did U.S. Foreign Service officials know of the threat when innocent citizens were permitted to board Pan Am 103 at risk? Or, why were so many seats empty on that fateful flight on that fateful night? Or, should there be limited public dissemination of credible threats against an airline?

As many of my colleagues know, I have sponsored legislation to provide for a full independent investigation of the Pan Am 103 bombing. I had planned to offer an amendment to the bill today to earmark funds for this independent panel, but due to parliamentary objections from the Public Works Committee, I withdrew the amendment. However, I would again call on the Public Works Committee to hold hearings on this bill and take expeditious action on this legislation. With the answers that only a complete investigation can provide, the United States will be able to put in place the necessary statutory safeguards to prevent Pan Am 103 from occurring again.

The only opposition I have noted to an independent investigation is that in some way it would interfere with the FBI's criminal investigation of the bombing. But, yesterday's New York Times editorial entitled, "Wanted: A Strong Lead on Terrorism," said it best, "The administration knows who was responsible, yet say nothing." The argument is moot. The fact is this panel would only concentrate on the legitimate policy questions the Pan Am bombing raises and would not in any way, shape, or form take on a who dunnit focus.

In conclusion, I believe the only way we will be able to wage a real war on terrorism, and in particular aviation terrorism, is for this Congress to have the courage to face the truth and learn from our past mistakes. Without such resolve, our response to terrorism will only continue to please the terrorists.

Mr. FAZIO. Mr. Chairman, I rise today in strong support of the Transportation appropriations bill for fiscal year 1990. I would like to take this opportunity to commend the Chairman, Mr. LEHMAN, and the ranking minority member, Mr. COUGHLIN, and the staff for their hard work in crafting this bill.

H.R. 3015 provides $11.8 billion for the programs of the Department of Transportation and related agencies. This represents an increase of $952 million over the amount appropriated for fiscal year 1989. There are many provisions in this bill that are of interest to all of our constituents, hence, I would like to comment on a few of them.

H.R. 3015 provides a 13.5 percent increase over the fiscal year 1989 level for the Federal Aviation Administration; $3.8 billion is slated for FAA programs which include: operations on a 24-hour daily basis of the national air traffic system; establishment and maintenance of a national system of aids to navigation; establishment and surveillance of civil air regulations to assure safety in aviation; development of standards, rules and regulations governing the physical fitness of airmen as well as the administration of an aviation medical research program; administration of the research and development program; and administration of the federal grants-in-aid program for airport construction.

Also, the bill provides $1.92 billion for the operations of the Coast Guard, $41 million

more than the fiscal year 1989 program level. The Coast Guard certainly deserves an increase in funding as its responsibilities have grown considerably over the past few years. The allocated moneys will be used for search and rescue, navigation aids, marine safety, marine environmental protection, enforcement of laws and treaties, marine science and ice operations, drug interdiction, and military readiness.

In addition, I want to mention my continued support for Amtrak funding. I am pleased that the bill recommends a total funding level of $614 million in fiscal year 1989. Since 1981 Amtrak has made substantial improvement in its financial performance, especially as it relates to reducing the cost of providing national rail service. Amtrak has increased its revenues, its revenue passenger miles, and the quality of its service despite steadily decreasing levels of Federal financial support.

I would now like to turn my attention to two items in H.R. 3015 which directly affect the Fourth Congressional District of California.

The bill directs the FAA to study the airspace management in the Sacramento region in order to address the noise problem as well as accommodate growth at the Sacramento Metropolitan Airport. I am certain that the FAA recommendations will ensure that Sacramento retain its quality-of-life and its quality airport.

The second issue I would like to mention is the bill's commendation of Sacramento Regional Transit System. The existing 18-mile light railline that opened 1987 is already experiencing peak hour ridership which exceeds the original projections. Systems planning will prioritize those rail corridors most likely for expansion. When SRTD seeks Federal support for expansion next fiscal year, I am certain Congress will favorably consider their request.

Mr. Chairman, this bill is fiscally responsible and recommends appropriate funding levels for some of our most important governmental responsibilities. I urge my colleagues to support H.R. 3015.

Mr. ASPIN. Mr. Chairman, as we consider today H.R. 3015, the Transportation appropriations bill for fiscal year 1990, I ask my colleagues to join me in strong support of the amendments for increased appropriations for the U.S. Coast Guard. This money is crucial for the Search and Rescue Operations at Coast Guard stations across the country, and especially for Chicago's Glenview Coast Guard Station, which serves my district in southeastern Wisconsin. Search and rescue operations from Glenview serve the boaters and anglers from southeastern Wisconsin. These operations provide safety and security to the many people who fish and boat on Lake Michigan. Both commercial and recreational boaters depend on the Search and Rescue operations provided by Glenview. These operations have not only saved millions of dollars of property, but hundreds of lives.

However, due to the recent budget climate, many necessary Federal programs may be either severely cut back or eliminated altogether. In particular, Coast Guard officials have also mentioned to me their concerns about budget cutbacks and the effect these reductions could have on Search and Rescue operations at Glenview. Should the Coast Guard not receive sufficient funding, it is possible that Glenview's Search and Rescue operations would be cut, and southeastern Wisconsin would be dependent on the Traverse City, Michigan Coast Guard station, which is approximately 250 miles northeast of the Racine-Kenosha area.

For these reasons, I am now urging my colleagues to vote for the amendments that include increased appropriations for the Search and Rescue section of the fiscal year 1990 Coast Guard budget, as well as increased funding for the Acquisition, Construction, and Improvement account. In addition, I would also urge my colleagues to support the amendment to prohibit the Transportation Secretary from using any of the funds appropriated in H.R. 3015 to close any Coast Guard Search and Rescue stations. This amendment would force the Coast Guard to keep open the search and rescue stations, which are the lifeblood of the Coast Guard. As H.R. 3015 sets the funding ceiling for the Coast Guard budget, it is crucial that this bill contain sufficient funding to keep Coast Guard stations like Glenview operating through fiscal year 1990 and beyond.

Mr. LIGHTFOOT. Mr. Chairman, I must take this opportunity to voice my opposition to H.R. 3015, the fiscal year 1990 Transportation Appropriations Act. For one, I wish to express my continued frustration with the monkeying around with the Aviation Trust Fund revenues. Not only does this appropriations measure contain authorizing language, but it again tampers with funds to be used in a predesignated manner. The Aviation Trust Fund is financed by taxes imposed on aviation users, and the funds are to be used solely for that purpose. Under law, there is a predetermined formula for how those trust funds will be used. Each program and project must compete fairly with others for distribution of these precious funds. It is wrong to give special exemptions for either aviation or highway projects to be funded by the highway trust fund, particularly when we are unable to get even a reasonable amount of these funds released for their intended purpose.

I also must object to efforts in this legislation to enact authorizing language on a permanent 2-hour smoking ban on airline flights. This issue has already been extensively debated and decided by the full Public Works and Transportation Committee. While I voted to extend the current ban, expanding it to all flights, I cannot abide by the efforts of the Appropriation Committee to decide this issue independent of the Public Works and Transportation Committee's actions.

These are not the only areas where the will of the Public Works Committee has been violated. If the Appropriations Committee continually takes such action, why do we have an authorizing committee? I agree we have many needs currently unmet. But these issues will have to be decided by the authorizing committee, and funded properly by the release of trust funds.

I would also like to take this opportunity to voice my objections on a related matter—the recent action taken by the House Ways and Means Committee to divert $1 billion from the Aviation Trust fund to meet its deficit reduction goal. If the integrity of the trust fund continues to be violated, I cannot support continued collection of aviation user taxes. This practice is misleading and unfair to the people and entities from whom those taxes are collected.

Let me close by stating once again my opposition to H.R. 3015 in its current form, and expressing my hope that in the future we will achieve greater cooperation on the authorization and funding of public works programs.

Mr. DORGAN of North Dakota. I rise to support the Essential Air Service Program and Amtrak, which serve as lifelines to rural America. The Bush administration has proposed to kill both of these vital programs and I want to urge my colleagues to resist that shortsighted maneuver and draconian requirements for EAS eligibility proposed in the committee bill.

Air service to rural areas is no trivial matter. Timely and reasonably priced air transportation is the lifeline to many rural communities. Many towns and cities are too far away from the nearest airport to arrange alternative passenger service or freight shipments—particularly during winter months. It's simply impractical or even unsafe to contemplate roundtrip journeys of almost 200 miles or 4 hours during severe weather conditions.

I would also point out that Congress is presently looking at new Federal programs to spur economic development in rural areas. We might as well forget such initiatives if rural communities lack the transportation links which are essential to their growth and development. We would be better served by leaving in place current law on Essential Air Service.

Two North Dakota communities would suffer injury if the proposed legislation were to become law. Citizens in Devils Lake would be compelled to drive nearly 100 miles to an alternative airport and the region's substantial tourism industry would dwindle without immediate access by air. Jamestown's economic development would be imperiled if it did not have accessible air cargo service and passenger service—particularly as they relate to defense contract work.

I raise these concerns to illustrate that legislative changes in the Essential Air Service Program are complex and consequential. That is why I favor the thoughtful and comprehensive consideration that the authorizing committee can—and has—given to this issue. And, therefore, I would reiterate my view that an appropriations bill does not provide the proper vehicle for addressing this issue. I respectfully urge the Chair to sustain the request of Chairman ANDERSON to strip the new requirements for EAS payments in the committee bill, as I have stated to the Rules Committee.

May I also ask my colleagues to reject the Walker amendment, which would totally strip the Federal support for Amtrak. Amtrak is now on the road to success. Its management has made enormous strides in putting it on a firm financial footing. But withdrawing the modest Federal support Amtrak now receives, would bring this progress to a screeching halt. It would also jeopardize service to small towns and cities across the Nation.

An effective national transportation policy requires balance. If we shortchange rural America, then all of America will suffer the consequences. So I urge my colleagues to

support strong programs for both Essential Air Service and Amtrak.

Mr. SHAW. Mr. Chairman, today I rise in support of H.R. 3015, the Department of Transportation appropriation for fiscal year 1990. I would like to bring to my colleagues' attention a project contained in this bill that is of tremendous importance to the people of the city of Fort Lauderdale.

The project to which I refer is a tunnel that would be constructed under the Intracoastal Waterway in Fort Lauderdale. Presently there is a drawbridge that spans the Intracoastal Waterway, but it is no longer adequate. This drawbridge is one of the most heavily traveled crossing points over the Intracoastal in the Fort Lauderdale metropolitan area, and the traffic is only getting worse.

Due to the expansion of nearby Port Everglades—the second largest port for cruise ships in this country—and because of plans to break ground for a new convention center in this area, traffic can only become more intolerable in the future. On top of all this, the drawbridge frequently has to be raised because it is the busiest entry and exit point for the Intracoastal Waterway in Fort Lauderdale. All of these factors add up to an incredible gridlock.

Two years ago, Congress acknowledged the problem by authorizing and appropriating funds for a Federal study to examine alternatives. As a result of that process, a consensus emerged among those who were knowledgeable about this situation that a tunnel was the best, most sensible, and realistic course of action.

The city of Fort Lauderdale, Broward, County, and the State of Florida have each committed to provide funds for the worthy project. Unlike other Federal highway projects, the city, county, and State propose to raise their commitments to 50 percent. As it is, the amount of money to be appropriated here is small, to provide initial funds for planning and engineering. There is no opposition to this project on its merits.

Procedurally, it would have been preferable to go through the normal authorization process, but that simply was not feasible this year. After extensive consultation with other Members, and the leadership of the respective authorizing and appropriating committees, I succeeded in persuading the Appropriations Committee that this project was so important and timely that some limited, initial funding was imperative.

My good friend and colleague, BILL LEHMAN, has been of great assistance and agrees that this is a meritorious project. I support his bill, and strongly urge approval of this legislation. Thank you for your consideration of my remarks.

Mr. KOSTMAYER. Mr. Chairman, I rise today to commend the Committee on Appropriations and in particular the chairman of the Transportation Subcommittee, Mr. LEHMAN, for their outstanding work in bringing before the House the fiscal 1990 Transportation appropriations bill.

As usual, Mr. LEHMAN has been able to strike a balance between the limitations imposed by current budget constraints and the needs of our Nation's transportation system.

In particular, I want to thank the committee for including $1,600,000 to fund vital preliminary environmental studies and right-of-way assessments along the U.S. Route 202 corridor between Doylestown and Montgomeryville, PA.

My district, which consists of Bucks and the eastern portions of Montgomery County is among the fastest growing areas in the Nation. Both Bucks and Montgomery Counties are accessible to New York as well as Philadelphia business centers and are becoming increasingly popular among workers from both metropolitan areas.

This tidal wave of development now is beginning to endanger the very qualities that have brought so many people and businesses to relocate there. The issue of traffic, overdevelopment, loss of open space, and environmental protection have vaulted to the top of the list of concerns of the majority of my constituents. The infrastructure of the region, in particular our transportation system, is in peril.

Mr. Chairman, nowhere has this problem reached greater dimensions than it has in the U.S. 202 corridor, a portion of which runs from Doylestown, PA, in my district to Montgomeryville, PA, which lies in Mr. COUGHLIN's district. The traffic volume on the existing roads between the two communities has swelled to dangerous levels. Long delays in the area are commonplace. Many of my constituents have complained that what used to be a 10-minute trip to the grocery store now takes a half-hour or more. The current Route 202 is a two-lane road, and the lack of shoulders and turning lanes creates an extremely hazardous situation. In addition, congestion in the area clearly adds to air pollution in the surrounding communities. What's more, response time for emergency vehicles has been slowed dangerously.

In the early 1970's, the Pennsylvania Department of Transportation recognized the need for a route to take commuters around the local traffic which burdens the existing artery of U.S. 202. In 1972, PennDOT commissioned engineering drawings for a new U.S. 202 freeway that would carry motorists quickly and safely from central Bucks County to eastern Montgomery County. The need for additional traffic capacity was confirmed in a second study conducted by the Delaware Valley Regional Planning Commission in 1984. Unfortunately, the cost of the proposed project, about $160 million, prevented any action on the original plan.

In 1987, with the need for a new roadway growing, PennDOT, along with Bucks and Montgomery Counties, commissioned the Delaware Valley Regional Planning Commission to prepare a second examination of ways to manage traffic in the U.S. 202 corridor.

This study has been released in draft form and reiterates many of the agency's earlier findings regarding the need for an improved road system. The study concludes that:

Without an increase in capacity in the corridor, traffic will continue to increase to highly congested levels on parallel area highways, including Route 202, Upper State and Lower State Roads.

Traffic is sufficient to justify a new road on new right-of-way. Simulations of future conditions suggest that up to 40,000 vehicles a day will use the new road.

Although it may be possible to build the additional needed capacity into the existing roads, the physical improvements such as widening and the high traffic levels on these roads would change their character to the loss of the community. Furthermore, speeds on these roads would be less than on a new road and the safety would also be inferior.

Because of the cost associated with a freeway, the new study also recommends the construction of controlled access arterial roadway, a move that the DVRPC estimates would cut the eventual cost of the project from $160 million to approximately $70 million.

Mr. Chairman, along with traffic relief and safety, a well-constructed arterial roadway could provide increased recreational opportunities and protection for certain historical sites that are part of both Bucks and Montgomery Counties. For example, the 300-foot right-of-way envisioned by the DVRPC plan would pass near the General Hancock House in Montgomery Township as well as the Glen Garry Farm in Warrington. The proposed buffer zoning around the road would provide protections against encroaching development for both of these historic properties.

Recreational opportunities that might be created in the right-of-way include trail activities such as jogging and bicycling. Such trails have already been incorporated in portions of the Blue Route Highway in Delaware County, PA.

A broad right-of-way can also serve as a buffer to current and future development, an advantage to the driver who sees a natural and rural environment and to residents who will be somewhat protected from the noise and activity of the road. The building of an arterial roadway, because it will be designed to meet the needs of the local communities, may not create the development pressure provided by a freeway.

I would also like to point out that time is of the essence in this matter, Mr. Chairman. Several aspects of the Route 202 project are time-sensitive. For instance, Montgomery Township has acquired a significant portion of the right-of-way for the new road under an agreement which would allow the lands to revert to the donor if construction is not begun in the near future. Similarly, the right-of-way proposed in the DVRPC plan remains open and accessible in most areas, a situation that is likely to change as development continues in the area, a situation that we are bound to see repeated in more and more communities around the Nation.

In conclusion, Mr. Chairman, for all of these reasons: the time-sensitive nature of the project, the need for increased safety and decreased traffic congestion in the area, the recreational and historic preservation opportunities which the project presents, as well as the potential buffer against runaway development, I believe that the proposed U.S. 202 arterial roadway makes a worthy Federal highway demonstration project. I thank the committee for showing the foresight to include funding for this project in the bill before us today. Thank you for agreeing to my request.

Mr. AUCOIN. Mr. Speaker, I rise in strong support of this well-crafted bill and wish to commend my good friends BILL LEHMAN, and

LARRY COUGHLIN for reporting another excellent Transportation appropriations bill.

With this bill, we have made significant investments in building and maintaining our Nation's valuable infrastructure.

Transportation is America's lifeblood. Our Nation's historical tapestry is covered by a weave of roads, canals, bridges, airports, and railroads.

It now becomes our obligation to build on our successes and act on our visions for the future. This bill addresses both of these needs.

Without these efforts, our Nation faces the threat of a neglected transportation policy that leads to an overemphasis on automobiles, resulting in the sprawl of metropolitan areas which are fed by an increasingly overburdened highway system.

Transit programs provide cities clean, economical alternatives to more cars and highways.

An excellent example of a transit program hard at work is the MAX system in Portland, OR. The MAX system has been supported by this committee and UMTA for a number of years. Since its opening in September of 1986. MAX demonstrated the operating efficiences of light rail. In its first couple of years. MAX has carried twice as many passengers as had been projected. All of the system's success has come after the project finished under budget and ahead of schedule.

The experience in places like San Francisco and Atlanta has shown that the impacts of a rail line on community development are not generally realized until at least 5 years after the line is in place.

Indications of MAX's influence on development are very encouraging. By the time the system opened, private investment equivalent to its $214 million construction cost had already been committed to development along the line. Now, 2 years later, $325 million more is planned or under construction.

This year we're investing in MAX in a way that will continue to revitalize the business district of northeast Portland, study the feasibility of extending the system to the western suburbs and continuing the nationally spotlighted "Project Breakeven."

This is only one example of the hard work we've accomplished with the help of Mr. LEHMAN, and his excellent staff—but I think it well represents the efforts we are making to ensure the continued growth in the State of Oregon.

In addition to investments made in MAX and other transportation projects in the State of Oregon funded in this bill. I want to call attention to the fiscal year 1990 status of the U.S. Coast Guard.

In my district the Coast Guard is the first line of defense against coastal drug smuggling and plays a lifesaving role at sea and in my State's rivers and lakes.

In fiscal year 1988 the Coast Guard has a real problem. With shortfalls in their budget, they cut patrols and closed stations. They didn't have any choice.

Because of these cuts, drug interdiction efforts were cut by 55 percent; 52 stations were closed, including 2 on the coast of Oregon; cutters lay idle in port for lack of essential spare parts.

This type of shortfall is a national tragedy. So I'm pleased to say that in this bill the Coast Guard is no longer being strangled.

I again commend this bill and urge your support.

Mr. RAHALL. Mr. Chairman, I strongly support H.R. 3105, fiscal year 1990 appropriations for the Department of Transportation and related agencies and would like to take this opportunity to highlight several of the programs funded in this measure that are especially important to my home State of West Virginia.

The bill provides $706 million for the Federal Railroad Administration, including $615 million for Amtrak operating and capital expenses. I am pleased that the committee has yet again rejected the administration's shortsighted attempt to zero out funding for Amtrak. Once again we in the House of Representatives are demonstrating that we, unlike the current and past administrations, have not forgotten those who rely so heavily on Amtrak, many of whom are elderly and handicapped and have limited means of transportation. In West Virginia, the Cardinal not only supplies an important link in our transit system for West Virginians, it also brings people from throughout the country to enjoy the beautiful scenery and many recreational opportunities in our great State.

H.R. 3015 also provides funding for programs administered by the Urban Mass Transportation Administration which were not requested by the administration. The measure appropriates $1.7 billion for the formula grant program which provides mass transportation capital and operating assistance to both urban and nonurban areas. This program is heavily depended upon by West Virginia's rural and urban transportation systems and provides the bread and butter for systems such as the Tri-State Transit Authority in Huntington. I commend the committee for including $100 million over the fiscal year 1989 appropriation level for the formula grant program. This increase in funding will allow the restoration of funds to transit systems unintentionally docked last fiscal year. It is my understanding that approximately $200,000 in capital and operating expenses will be restored to West Virginia to make up for fiscal year 1989's shortfall.

The bill provides $10 million for research, training, and human resources programs under UMTA and, importantly for West Virginia, redirects the research and technical assistance program to emphasize, among other things, improving rural transit services. I am also pleased that the committee retained $5 million for the section 18(h) rural transportation assistance program. Among its many worthwhile functions, this program helps to enable people in rural systems to attend important training programs and to implement Federal regulations, which, as we all know, sometimes takes quite a bit of doing.

Also of great importance to the State of West Virginia is the $12.4 million appropriated in this legislation for the Essential Air Service Program, another program for which the administration requested no funding. Under this measure, four communities in West Virginia will receive EAS funding. Two of these areas, Beckley and Bluefield, are located in my congressional district, and I can personally attest to the vital need for EAS support in these communities. Without the assistance provided by the EAS, the continuation of air service in southern West Virginia would be in severe jeopardy. At a time when we in the State are working so hard address our poor economic situation and broaden our industrial and economic base, some of our greatest hopes lay with our growing tourism industry. The discontinuation of any air service in the State would be a severe blow to that budding industry.

Finally, I would like to mention the funds—a total of $14.1 billion—included in H.R. 3015 for the Federal Highway Administration. The sum of $180 million is appropriated for fiscal year 1990, an increase over both the fiscal year 1989 level and the administration's apparent request. The bill also authorizes the release of $12.5 billion from the Highway Trust Fund for Federal highway grants to assist States in the construction and repair of the interstate highway system and secondary roads and bridges. West Virginia and the other States are dependent on this assistance to maintain and improve this Nation's highway system which is the best in the world. Even so, much remains to be built, and I am encouraged that the committee has seen fit to authorize the release of $463.5 million more from the Highway Trust Fund than last fiscal year, although still falling short of the level set by the Public Works and Transportation Committee in the last highway bill. These funds are also used to enforce Federal standards in relation to interstate motor carriers and the highway transport of hazardous materials.

To close Mr. Chairman, I urge my colleagues to support this DOT appropriations measure which is of such importance to the transportation needs of all Americans.

Mr. LEHMAN of Florida. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

The amendment printed in section 2 of House Resolution 221 is considered as having been adopted.

The text of the amendment is as follows:

SEC. 2. Insert at the end of the bill the following new section:

"SEC. 335. PERMANENT PROHIBITION AGAINST SMOKING ON SCHEDULED FLIGHTS OF TWO HOURS OR LESS IN DURATION.

"Section 404(d)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1374(d)(1)) is amended by striking subparagraph (C).".

The CHAIRMAN. Pursuant to the rule, it shall be in order to consider the amendment printed in House Report 101-206, by, and if offered by, the gentleman from Michigan [Mr. BONIOR] or his designee.

The Clerk will read.

The Clerk read as follows:

H.R. 3015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transporta-

tion and related agencies for the fiscal year ending September 30, 1990, and for other purposes, namely:

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

IMMEDIATE OFFICE OF THE SECRETARY

For necessary expenses of the Immediate Office of the Secretary, $1,090,000.

IMMEDIATE OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Immediate Office of the Deputy Secretary, $470,000.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $6,250,000.

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Policy and International Affairs, $8,595,000.

OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

For necessary expenses of the Office of the Assistant Secretary for Budget and Programs, $2,290,000, including not to exceed $35,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental Affairs, $2,300,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration, $24,700,000.

OFFICE OF THE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Public Affairs, $1,290,000.

EXECUTIVE SECRETARY

For necessary expenses of the Executive Secretary, $835,000.

CONTRACT APPEALS BOARD

For necessary expenses of the Contract Appeals Board, $450,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $1,315,000.

OFFICE OF COMMERCIAL SPACE TRANSPORTATION

For necessary expenses of the Office of Commercial Space Transportation, $645,000.

OFFICE OF ESSENTIAL AIR SERVICE

For necessary expenses of the Office of Essential Air Service, $1,127,000.

OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

For necessary expenses of the Office of Small and Disadvantaged Business Utilization, $3,500,000, of which $2,600,000 shall remain available until expended and shall be available for the purposes of the Minority Business Resource Center as authorized by 48 U.S.C. 332: *Provided*, That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, and university research and internships, to remain available until expended, $6,200,000.

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $131,000,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriations Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation; and including, for necessary expenses associated with the development of the Departmental Accounting and Financial Information Systems, $4,500,000, to remain available until expended.

PAYMENTS TO AIR CARRIERS

For payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $12,400,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, none of the funds appropriated by this Act shall be used to pay compensation under section 419 of the Federal Aviation Act of 1958, as amended, except that—

(a) compensation shall be paid under section 419(a)(4) that does not exceed $25 per passenger, based upon compensation levels authorized by Department of Transportation orders issued at least 90 days before the beginning of the fiscal year and passenger levels for the most recent fiscal year for which the Department of Transportation has complete data;

(b) compensation shall be paid under section 419(a)(4) for a point that is more than 100 highway miles from the nearest airport that has scheduled air service without compensation; and

(c) compensation shall be paid under section 419(a)(4) for points in Alaska and the Northern Mariana Islands.

□ 1540

POINT OF ORDER

Mr. ANDERSON. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ANDERSON. Mr. Chairman, I make a point of order against the paragraph entitled "Payments to Air Carriers" on page 5, beginning with the proviso at the end of line 13 through page 6, line 7 of H.R. 3015, on the grounds that such provision violates clause 2 of rule XXI of the rules of the House of Representatives, that it constitutes legislation in a general appropriations bill.

The CHAIRMAN. Does the gentleman from Florida wish to comment on the point of order?

Mr. LEHMAN of Florida. Yes, Mr. Chairman. I would like to be heard on the point of order.

Mr. Chairman, I am afraid the debate over this program has reached a point where emotionalism and symbolism have overtaken the reality of the problem. This is not an urban versus rural issue. This is not a big guys versus small guys issue. It is simply an issue of a well-intentioned program that has gotten out of control and now encompasses gross cases of waste and abuse.

Over 45 percent, or 50 of the 110 communities in the continental United States currently receiving subsidies, enplane less than 5 passengers a day under this program. I have a hard time believing, and I think most Members would agree, that planes flying one, two, and three passengers a day to and from these communities are providing meaningful, or essential transportation service, that justifies millions of dollars in Federal subsidies.

For instance, can anyone explain why the taxpayers should be paying $245,000 a year to fly planes into Parsons, KS, to haul an average of 0.6 passengers a day? That is 0.3 in and 0.3 out. That is less than one a day, especially when an alternative airport is only 60 miles away. Or can anyone justify paying $270,000 per year to fly planes into Lewiston, ME, to haul 0.9 passengers a day, especially when another airport is 35 miles away?

Unfortunately, these examples are more the rule than the exception.

We have several debates on this program in the full committee, and I want to say that I listened to the words of our distinguished committee chairman, the gentleman from Mississippi [Mr. WHITTEN] to try to strike a balance between the real needs of rural and smalltown America, and the need to eliminate the worst abuses of this program. We saved any service to a community that was over 100 miles from an alternate airport. We also saved any service that cost less than $25 per passenger. These criteria are reasonable and fair to rural Americans.

I think the gentleman's point of order ultimately will do more harm than good. It adds back the chaff to the wheat in the bill, and once again makes this program indefensible.

Mr. Chairman, I would hope that the point of order would be withdrawn in the name of cutting government waste.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

Mr. OBERSTAR. Mr. Chairman, I would like to be heard on the point of order.

Mr. Chairman, the issue is not as the chairman of the subcommittee has

portrayed it, as rural or urban or abuse of funds.

Under section 419 of the Federal Aviation Act, that is current law, there are no criteria that limit subsidies to cities whose subsidy need is less than a specific amount per passenger or which are more than a certain number of miles from the nearest airport which does have scheduled air service.

The provision in the pending DOT appropriations bill does have the effect of adding these criteria to existing law.

In addition, the provision requires the Secretary of Transportation to make new determinations not required by existing law, such as the subsidy needs of cities and their distance from nearby airports. That is the reason we object to the language.

The Appropriations Committee is attempting to legislate in an appropriations bill. If they do not like the subsidies, if they do not like the programs' size, they can as they properly have done in this bill reduce it from previous year appropriations levels. We are not arguing about the overall level of appropriations. We are saying that the committee has attempted to add criteria that are not in existing law and to require determinations of the Secretary that are not in existing law. That exceeds the authority of the Committee on Appropriations, and that is why we make this point of order.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

Mr. HAMMERSCHMIDT. Mr. Chairman, I want to associate myself with the remarks of the chairman of the Aviation Subcommittee, the gentleman from Minnesota [Mr. OBERSTAR].

Under section 419 of the Federal Aviation Act there are no criteria limiting subsidies to cities whose subsidy need is less than a specific amount per passenger, or which are more than a certain number of miles from the nearest airport that has scheduled air service. The provision in the pending DOT appropriations bill has the effect of adding these types of criteria to existing law. In addition, the provision would require the Secretary of Transportation to make new determinations not required by existing law, such as the subsidy needs of cities and their distance from nearby airports. For these reasons, the provision constitutes legislation in an appropriations bill and violates clause 2 of rule XXI.

The CHAIRMAN (Mr. PANETTA). Does any other Member wish to be heard on the point of order? If not, the Chair is prepared to rule.

The rule as adopted protects the first part of the paragraph, entitled "Payments To Air Carriers," but does not protect the proviso language to the end of that paragraph. The proviso language, by establishing new criteria for the Secretary of Transportation, constitutes clearly legislation on an appropriation bill and, therefore, is a violation of clause 2, rule XXI.

The Chair sustains the point of order.

Mr. LEHMAN of Florida. Mr. Chairman, I shall insert a table into the record at this point that was prepared by the Department of Transportation. It lists the subsidies we are currently paying and the passenger loads for each of these communities. I think this shows clearly that many of these subsidies are wasteful.

SUBSIDIZED ESSENTIAL AIR SERVICE [EAS]

Subsidized EAS point	Miles between EAS and community and alternate service airport	Average daily enplanements at EAS community (1988)	Total subsidy	Subsidy per passenger [1]
Alabama:				
Anniston	63	26.3		
Gadsden	30	2.8	$183,137	$104.47
Arizona:				
Kingman	100	8.2	263,591	51.35
Page	137	13.5	177,443	21.00
Winslow	58	1.8	237,047	180.70
Arkansas:				
El Dorado/Camden	66	8.9	717,766	128.84
Hot Springs	71	4.1	507,407	197.67
Harrison	53	4.9	544,432	177.51
Jonesboro	71	1.7	260,273	244.62
California:				
Blythe	103	2.5	354,336	226.41
Crescent City	80	6.2	154,660	39.85
Merced	38	26.5	310,521	18.72
Colorado:				
Alamosa	121	36.2		
Cortez	57	15.9	138,210	13.89
Lamar	120	3.8	244,317	102.70
Georgia:				
Athens	82	70.1		
Moultrie/Thomasville	39	2.1	462,756	351.91
Illinois:				
Mount Vernon	40	4.6	307,772	106.87
Sterling/Rock Falls	60	3.0	248,011	132.06
Indiana:				
Elkhart	19	11.6	249,591	34.37
Kokomo	53	2.0	401,175	320.42
Iowa:				
Clinton	35	1.1	203,708	295.66
Ottumwa	85	2.3	238,498	165.62
Kansas:				
Dodge City	156	7.6	244,317	51.35
Garden City	209	13.5	244,317	28.91
Goodland	190	2.7	244,317	144.57
Great Bend	79	4.5	244,317	86.73
Hays	94	13.1	244,317	29.79
Hutchinson	53	0.8	244,317	487.66
Parsons/Independence/Coffeyville	60	0.6	244,317	649.78
Liberal, KA/Guymon, OK	162	9.0	244,317	43.36
Maine: Lewiston/Auburn	35	0.9	269,755	479.14
Massachusetts: New Bedford	36	64.7		
Michigan:				
Battle Creek	20	(*)	159,080	
Benton Harbor	32	10.5	249,591	37.97
Iron Mountain	47	16.3	182,799	17.91
Ironwood/Ashland	85	7.4	182,799	39.46
Manistee/Ludington	59	7.1	201,286	45.28
Menominee/Marinette	54	6.2	403,409	103.94
Jackson	39	1.2	159,080	211.82
Minnesota:				
Fairmont	98	4.4	303,427	110.18
Mankato	75	5.3	179,600	54.13
Worthington	62	3.2	179,600	89.67

SUBSIDIZED ESSENTIAL AIR SERVICE [EAS]—Continued

Subsidized EAS point	Miles between EAS and community and alternate service airport	Average daily enplanements at EAS community (1988)	Total subsidy	Subsidy per passenger [1]
Mississippi: Laurel/Hattiesburg	69	43.7		
Missouri:				
Fort Leonard Wood	87	17.6	168,983	15.34
Kirksville	74	9.4	235,637	40.05
Montana:				
Glasgow	282	4.9	168,229	54.85
Glendive	222	2.9	131,515	72.46
Havre	113	2.9	190,495	104.96
Lewistown	108	1.7	190,495	179.04
Miles City	146	3.6	131,515	58.35
Sidney	128	7.1	315,815	71.05
Wolf Point	222	4.2	168,229	63.99
Nebraska:				
Alliance	75	2.4	222,727	148.29
Chadron	104	1.8	222,727	197.63
Columbus	85	1.2	218,079	290.38
Grand Island	98	(8.3)	457,977	(88.14)
Hastings	26	2.9	222,727	122.71
Kearney	42	8.3	222,727	42.87
McCook	70	3.7	222,727	96.17
Norfolk	111	3.8	218,079	91.67
North Platte	138	(5.1)	274,222	(85.88)
Scottsbluff	176	(7.7)	274,222	(56.89)
Sidney	76	1.7	222,727	209.33
Nevada: Ely	188	7.3	359,194	78.60
New Hampshire: Laconia	52	3.9	249,786	102.33
New Mexico:				
Alamogordo	83	9.4	165,766	28.17
Clovis	100	9.8	133,651	21.79
Hobbs	72	10.4	85,690	13.16
Santa Fe	59	18.0	132,314	11.74
Silver City	95	7.3	169,390	37.07
New York:				
Massena	137	14.1	166,289	18.84
Ogdensburg	127	15.9	166,289	16.71
Plattsburgh	77	(17.7)	166,289	(15.01)
Saranac Lake/Lake Placid	125	(11.1)	166,289	(23.93)
Watertown	70	26.9	166,289	9.88
North Carolina: Rocky Mount/Wilson	54	69.2	180,492	[3] 4.17
North Dakota:				
Devils Lake	90	6.6	294,396	71.25
Jamestown	94	12.4	294,396	37.93
Williston	128	16.4	315,815	30.76
Ohio: Mansfield	67	4.3	383,527	142.47
Oklahoma:				
Enid	85	1.3	178,235	218.96
McAlester	91	1.8	228,799	203.02
Ponca City	92	4.1	178,235	69.43
Oregon: Salem	47	5.3	113,705	34.27
Pennsylvania: Oil City/Franklin	55	33.6	128,504	6.11
Puerto Rico: Ponce	65	14.7	265,058	28.80
South Dakota:				
Brookings	57	6.8	108,938	25.59
Huron	91	9.6	108,938	18.13
Mitchell	68	3.3	108,938	52.73
Pierre	159	(18.4)	371,165	(32.22)
Yankton	79	1.9	218,079	183.41
Tennessee: Clarksville/Ft. Campbell, TN/Hopkinsville, KY	47	1.5	307,772	327.77
Texas:				
Brownwood	77	4.9	285,898	93.22
Paris	105	2.1	228,799	173.99
Temple	16	11.7	357,307	48.79
Utah:				
Cedar City	54	(12.8)	190,642	(23.79)
Moab	110	3.0	172,930	92.08
Vernal	171	5.9	203,784	55.18
Vermont: Montpelier/Barre	37	2.2	235,391	170.94
Virginia:				
Danville	46	41.8	217,856	[3] 8.33
Hot Springs	77	4.7	[2] 150,017	74.93
Washington: Ephrata/Moses Lake	64	11.2	164,336	23.44
West Virginia:				
Beckley	59	44.4	55,123	[3] 1.98
Clarksburg/Fairmont	34	(9.4)	128,830	(21.89)
Elkins	50	3.1	263,096	135.55
Morgantown	75	(16.3)	128,830	(12.63)
Princeton/Bluefield	96	47.6	55,123	[3] 1.85
Wisconsin:				
Beloit/Janesville	16	1.0	259,000	413.74
Manitowoc	39	2.6	393,296	241.58
Wyoming: Worland	92	4.1	352,655	137.38

[1] Numbers in parentheses refer to service to the subsidized hub only.
[2] Seasonal service from April 1 through November 30.
[3] The carrier is providing more service to the subsidized hub than we are subsidizing. We have included the total passengers carried on all of the flights, both subsidized and nonsubsidized, in the subsidy per passenger figure.
[4] No service.

Mrs. SMITH of Nebraska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate having this opportunity to address you and my other colleagues today on a transportation bill that will provide funds vital for the mobility of this Nation.

I have had the honor of serving on the Appropriations Committee now for nearly 13 years, and during that time I have had the privilege of working side by side with some of the most respected, dedicated, hard-working Members of this body. I know for a fact that each year, after hundreds of hours of hearings and hundreds of witnesses, every effort is made to bring the best possible appropriations bills to the floor, and nearly always those efforts are successful.

This year and this bill are no exception. The Transportation Appropriations Subcommittee, headed by my good friends Chairman LEHMAN and the ranking member, Mr. COUGHLIN, have worked diligently to come up with a fiscally responsible and viable

bill. And I plan to vote yes on passage of H.R. 3015.

Notwithstanding the respect I have for the subcommittee chairman and all the good work that has gone into this Transportation appropriations bill, I must rise today, Mr. Chairman, to object in the strongest terms to the bill's treatment of a program that provides a vital transportation link in rural America.

The bill before us now cuts by more than 60 percent the funding for the Essential Air Service Program. This is nothing short of devastating.

And had the language establishing a new formula for spending the Essential Air Service funds not just been struck from the bill on a point of order, I am afraid the program would have been damaged well beyond repair.

No one will get an argument from me about the need for this Congress to face up to the tough budget decisions that must be made to bring Federal spending under control. I have no doubt that nearly every Federal program or project could be cleaned up some and tightened up by eliminating abuses and waste.

I want to remind my colleagues that we eliminated the worst abuses in the Essential Air Service Program in the supplemental appropriations bill enacted this past June. So do not let anyone sway you against the program by talking about communities receiving per passenger subsidies of $400, $500, or $600, because they do not.

The supplemental appropriations bill capped the per passenger subsidy at $300. This provision is now law. And the new law has eliminated the six most expensive communities and saved the program nearly $2 million—$1,881,320—or more than 6 percent each year.

I think the Transportation Appropriations Subcommittee probably made a sincere effort to further clean up the Essential Air Service Program. Unfortunately, the results of the subcommittee's effort to scale back the program would actually gut the program by eliminating those communities most in need of assistance.

Let me switch gears at this point to remind my colleagues just how far reaching this program is. Essential Air Service serves 39 States and Puerto Rico; 68 Members have Essential Air Service communities in their districts.

I also want to remind my colleagues that nearly every Member of this body is on record in support of Essential Air Service. The program was reauthorized for 10 years in 1988.

You voted an overwhelming 385 to 14 for this program.

And last year, when the issue of funding Essential Air Service surfaced on this floor on this appropriations bill, the vast majority of this body supported the program.

You voted an overwhelming 333 to 74 to retain the program's funding.

I will not offer an amendment today to restore some of the Essential Air Service funds. To offer such an amendment without pushing the bill above its 302(b) budget allocation, I would also have to offer an amendment to offset the increase by taking the funds from some other program, and I do not want to trigger an urban versus rural battle today in which there would be no real winner.

But I want my Nebraska constituents and all rural taxpayers to know that this is only strategy; it is certainly not surrender.

Rather than an amendment today, I have been working long and hard behind the scenes. And I want to thank subcommittee Chairman LEHMAN and ranking member, Mr. COUGHLIN; Appropriations Committee Chairman JAMIE WHITTEN; concerned members in the Senate; and others for taking the time to sit down and talk to me during the past few days about the future of Essential Air Service and rural transportation.

They have been very patient, helpful, and understanding. From my conversations with them, I feel assured they will make every effort to compromise fairly and productively in conference.

But I will not simply leave the fate of Essential Air Service to the fate of the conference committee. I will continue to work both sides of the Hill to get a fair shake for rural transportation. Any of my colleagues with Essential Air Service communities in their districts should join me in this effort, as should any of my colleagues with any sense of real fairness.

Let me give you just a couple of simple facts on the point I make about fairness.

First, this bill before us today, H.R. 3015, appropriates $11.9 billion. Essential Air Service needs only $19 to 20 million in additional funds to be fully funded. In other words, rural America is only asking for an additional two-tenths of 1 percent of the money in this bill.

Second, on more general terms, I hope my colleagues realize that rural America, home to more than one-fourth of the country's population, receives only $1 in Federal mass transportation funds for every $28 in mass transportation funds spent in urban America.

The language appropriately struck from the bill just now was authorizing language on an appropriation bill—not only did it try to rewrite the eligibility for participation in the Essential Air Service Program, but it does so in an illogical and unfair manner.

I urge my colleagues to abandon this formula once and for all; do not resurrect it in conference.

The subcommittee language, just struck, proposed that air service subsidies would be provided only for those communities which are more than 100 miles from alternative air service or those communities which have a per-passenger subsidy of less than $25.

Of 11 Essential Air Service communities in Nebraska this proposed formula eliminated 7—7. It would have eliminated air service from communities in my district that are a 2- to 3-hour drive from a hub airport.

In Kansas, the subcommittee would have eliminated two of six communities now receiving air service subsidies. All three of Oklahoma's Essential Air Service communities would be lost under the subcommittee formula, as would all three in Minnesota. Two of three in North Dakota would be lost.

Look at a map, my colleagues, these are some of the Nation's most rural States. The result of the subcommittee's attempt to scale back the program would not be fair. It is a formula that must be abandoned.

And Essential Air Service is a program that must be sufficiently funded and saved.

Garden City, KS, more than 200 miles from alternative service; Glasgow, MT, more than 280 miles; Scottsbluff and McCook, NE, both more than 250 miles; Pierre, SD, more than 150 miles from a hub. Do not send the message to these communities that they can no longer have air service.

I urge my colleagues to restore Essential Air Service funds in conference. I will be making every effort to help.

□ 1550

Mr. OBERSTAR. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I am happy to yield to my good friend, the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I compliment the gentlewoman from Nebraska on the efforts she has made over the years on behalf of Essential Air Service, recognizing that it is a vital component for rural areas as it is for major metropolitan areas.

I want to point out to our colleagues that deregulation most likely would not have happened if we had not provided for Essential Air Service in the basic law. That was the compromise.

The CHAIRMAN. The time of the gentlewoman from Nebraska [Mrs. SMITH] has expired.

(At the request of Mr. OBERSTAR and by unanimous consent, Mrs. SMITH of Nebraska was allowed to proceed for 30 additional seconds.)

Mr. OBERSTAR. Mr. Chairman, if the gentlewoman will continue to yield, that was an essential component of the agreement to provide a continu-

ity of air service for those communities that surely would have been left behind.

I certainly would not have in the Committee on Public Works and Transportation supported deregulation without this protection for smaller sized communities and for this guarantee of continuity of service.

What is at stake is not whether, but only how much, funding should be provided for Essential Air Service, and I join the gentlewoman in that effort.

Mr. PANETTA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time for the purposes of engaging in a colloquy with the chairman.

Mr. Chairman, I would like to engage the gentleman from Florida [Mr. LEHMAN] in a colloquy to address the urgency of the construction of two projects in my district.

As you know, the two-lane stretch of Highway 101 which passes through the Salinas Valley near Prunedale has posed a threat to traffic safety for years. Studies conducted by the State of California show an accident rate on this part of the road 20 percent higher than the State average. Because of the serious problems associated with this stretch of the highway, the Committee on Transportation designated a freeway project to bypass the Prunedale area as a priority primary route in the Surface Transportation Act of 1982.

Unfortunately, this project has met frequent delays and has not been given the priority status that it was intended. Similar delays continue to postpone construction of another much-needed bypass project in my district. California Highway 156 has become a major transportation artery, connecting Interstate 5 in the Central Valley with U.S. 101 and California Highway 1 along the Pacific coast. The route is heavily traveled, particularly by trucks, throughout the year. This heavy vehicle traffic places a particular strain on the portion of 156 which passes through the center of the city of Hollister. The proposed Hollister bypass would alleviate much of this congestion.

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Florida.

Mr. LEHMAN of Florida. Mr. Chairman, I certainly understand the frustration of the gentleman from California. As chairman of the Subcommittee on Transportation, I have become acutely aware of the serious budget constraints that is producing a stranglehold on our Nation's transportation network. As chairman of the Committee on the Budget, I know that you are also aware of these realities. However, these constraints must not jeopardize the truly needed projects such as the Prunedale and the Hollister 156 bypasses. The necessary funding for the completion of these programs must be maintained. I am also concerned with the safety and intense traffic congestion in these areas.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of Florida. I yield to the gentleman from California.

Mr. PANETTA. I greatly appreciate hearing your thoughts on these two projects and your support for a commitment to their completion. We need to continue to provide the necessary support behind these worthy projects to ensure that they are completed as soon as possible. These are two dangerous situations that need to be resolved at the earliest possible timetable. It is my hope that Caltrans will make every effort to expedite the completion of these two important projects.

Mr. LEHMAN of Florida. I share your hope that the construction of the bypasses will be expedited. These are two high priority projects that deserve full attention. I will certainly keep these projects under consideration and will seriously examine the need for further congressional action.

The CHAIRMAN pro tempore (Mr. HARRIS). The Clerk will read.

The Clerk read as follows:

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; $2,228,000,000 is authorized to be appropriated, derived by transfer, or otherwise provided in "in kind" commodities and services for Coast Guard operating expenses in fiscal year 1990; of which $1,928,000,000 is hereby appropriated, of which $30,000,000 shall be expended from the Boat Safety Account: *Provided,* That of the funds provided for operating expenses for fiscal year 1990, in this or any other Act, not less than $567,000,000 shall be available for drug enforcement activities: *Provided further,* That the number of aircraft on hand at any one time shall not exceed two hundred and fourteen, exclusive of planes and parts stored to meet future attrition: *Provided further,* That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation.

AMENDMENT OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offer by Mr. COUGHLIN: On Page 7, line 10: strike the "." and insert in lieu thereof ": *Provided further,* That none of the funds appropriated under this Act shall be used by the Secretary of Transportation to close any Coast Guard search and rescue stations."

Mr. COUGHLIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. COUGHLIN. Mr. Chairman, this is an amendment which has been agreed to, I believe, by the Chairman, so that it would not affect the closure of search and rescue stations, and the Chairman is aware of it.

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I am happy to yield to the gentleman from Florida.

Mr. LEHMAN of Florida. Mr. Chairman, I am aware of the amendment, and I thoroughly support the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. COUGHLIN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: Page 6, line 16, delete "$2,228,000,000" and insert $2,252,000,000";

Page 6, line 20, delete "$1,928,000,000" and insert "$1,952,000,000".

Mr. TAUZIN. Mr. Chairman, the ranking minority member during the general debate indicated that we should have no doubt that the Coast Guard's budget has not been cut, but it has been increased. Actually that is technically true, a 1.8-percent increase.

Let me be specific. The Coast Guard's budget has been increased every year for a decade, and every year it has been increased at a rate below the rate of inflation. At this rate, if we continue to help our Coast Guard with increases below the rate of inflation, we will increase them into extinction. That is the problem we face today.

Let me also be clear, while the Coast Guard budget technically says it increases the Coast Guard by 1.8 percent, it double counts $20 million that we have already reprogrammed in DOD accounts and, second, it also assumes that the DOD appropriation of $300 million will be made available to the Coast Guard.

I hope that $300 million comes. It it does not, I guarantee the Members whether they like it or not there will be closures of operations not only in search and rescue, but there will be

closures of operations of vital Coast Guard services across America.

□ 1600

The $300 million is essential. But assuming we get it, the Coast Guard is still in serious jeopardy with the numbers we provide for it in this bill.

Do we have an option? Yes.

Members of the committee, I am joined today in offering this amendment with my Merchant Marine and Fisheries chairman, the gentleman from North Carolina, [Mr. JONES]. The amendment, if approved, will add $24 million in unused budget authority to the Coast Guard operating expenses account. This is one of two amendments. The second will add $40 million to its AC&I account.

Together, that $64 million of unused budget authority would be allocated to the Coast Guard with this two-amendment process.

The first amendment deals with operating funds. The Coast Guard is our first line of defense in the war on drugs. It is the Nation's primary law enforcement agency on the high seas and territorial waters which we depend upon, not just to protect our families and neighbors at sea and on our waterways, but we count on them to keep drugs off the streets of every American city and town.

Mr. HUTTO. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I am happy to yield to my friend, the gentleman from Florida, and former chairman of the subcommittee.

Mr. HUTTO. Mr. Chairman, is it not true that for 6 years the Coast Guard has had no real growth, and during this period we have continually mandated missions that the Coast Guard has to carry out. In addition to the normal rescue missions that they perform, we have many other missions. The gentleman mentioned drugs, and port security, aids to navigation, maritime defense zones, all of these things that we have given to the Coast Guard, and how are they going to carry it out?

The question I would like to ask of the gentleman is if we do not pass his amendment, are we not going to have to have some more Coast Guard facilities closed like we did, or are we not going to have to cut down on the normal patrolling by the Coast Guard that was cut by 55 percent a year or so ago? And if we do not give them some money to operate, are not some of these things going to take place? Are we not going to have a cutback again in the routine patrolling and in the drug efforts, and in the things that the Coast Guard does, and closing of some of the facilities?

Mr. TAUZIN. The gentleman is correct in this respect: The appropriation numbers assume a cutback already of 37 more military personnel to the Coast Guard. There are a thousand billets unfilled in the Coast Guard today because we have failed to give it even a cost-of-living increase for the last 6 years, and the Commandant today on the phone told me if we do not get this increase in operating funds, even assuming we get the $300 million from the Defense Department, there will be a cutback in the drug interdiction program. Where they will be cut back I cannot tell the gentleman.

Will there be SAR's closing, search and rescue closings? He indicates if he gets the full $43 million he probably will not have to cut the SAR's program, but there will be other programs cut back. We cannot continue to provide the Coast Guard with a funding level less than inflation for 6 years in a row, give them new obligations such as the war on drugs, such as coastal protection and oilspill liability, and expect them then to do their job.

The gentleman is correct, they are going to cut back somewhere, and it just may be in the most vital program Members have going on in their districts.

Mr. HUTTO. If the gentleman will yield further, the American people I believe support our U.S. Coast Guard. I have heard that time and time again. Give the Coast Guard some money to do the job.

Congress has been very supportive of the Coast Guard. I think some Members may not know the consequence. Those who had facilities that were to be closed know. But I think some of them do not, and I do hope to give the Coast Guard the funding that it needs to carry out these missions and that the Members will vote for the amendments that you as chairman of the Coast Guard Subcommittee have proposed here today.

The CHAIRMAN pro tempore (Mr. HARRIS). The time of the gentleman from Louisiana has expired.

(By unanimous consent Mr. TAUZIN was allowed to proceed for 2 additional minutes.)

Mr. TAUZIN. I thank the gentleman for his comments. This bill guarantees, as it is now written, that there will be fewer Coast Guard personnel next year than are currently funded. If that is not bad enough, the bill does not anticipate the new responsibilities the Coast Guard must take on under oilspill legislation coming before this House, and the leadership in the war on drugs that the Coast Guard must exercise. It does not provide for the increased modernization in this incredible war on drugs, and if we do not do that little thing here today, $24 million of unused budget authority, how much are we really committed to that war?

I urge the members of the committee to adopt this amendment and the one that follows. It does not fix it all up, but it puts us in better shape when we go to conference with the Senate to at least keep the Coast Guard whole against inflation where we can keep operating accounts whole.

Mr. WYDEN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would urge all of our colleagues to support the Tauzin amendment, because I think dollar for dollar it is one of the most cost-effective expenditures that we could possibly make.

Any way we slice it, the demands that we have placed on the Coast Guard over the last few years have exceeded the available resources. Look for example at the Pacific Northwest. We have a major new problem where we have ships of four nations in effect strip-mining our ocean through these drift nets. The gentlewoman from Washington [Mrs. UNSOELD] and myself had the pleasure of hosting Chairman TAUZIN in Oregon recently so that our constituents could in particular offer their specific views. We heard about the problems of drug interdiction, search and rescue, environmental protection, and the list goes on and on.

Mr. Chairman, it would seem to me that these are essentially national security expenditures, particularly as it relates to drug interdiction. We know that we are going to have to make some very tough choices with respect to the Federal budget on this floor in the days ahead. I would hope that a vote for the Tauzin amendment would be one of those choices, because dollar for dollar I think it is one of the best expenditures we can make.

Mr. LEHMAN of Florida. Mr. Chairman, I rise in opposition to the amendment. This amendment would add $24 million for operating expenses of the Coast Guard. I oppose this amendment for two reasons. First, the amount we have recommended along with the $300 million contained in the recently reported Department of Defense appropriations bill provides adequate funding for the Coast Guard to carry out the agency's missions in fiscal year 1990.

While this level is 1 percent below the budget request, it represents an increase of 5 percent over the fiscal year 1989 level. At a time when our subcommittee's 302(b) outlay allocation was below the current services level, we are providing an increase for the Coast Guard operating expenses which exceeds the current services level.

Second, and listen carefully—especially you members of the Budget Committee—I oppose this amendment because it would cause the outlays in this bill to exceed our 302(b) outlay allocation. The bill, as reported, contains discretionary outlays of $27.45 billion, which is identical to our 302(b) outlay allocation.

Mr. Chairman, our committee strongly supports the Coast Guard. Over the past 8 years, we have added nearly $1.5 billion over the President's budget requests for the Coast Guard. A significant portion of these increases has been for additional drug interdiction efforts—we recommend a 15-percent increase this year. We have provided these increases to permit the Coast Guard to expand its drug interdiction efforts without reducing the agency's other important missions.

Our bill includes a minimum spending level for drug interdiction of $567 million. This is $75 million more than last year. If this level is reached—as the law requires—there shouldn't be any reduction in drug interdiction patrols.

I believe we have been more than fair to the Coast Guard this year as we have been in past years. There simply is no realistic justification for adding more money this year.

Mr. Chairman, this amendment breaks our outlay budget allocation and I urge that it be defeated.

Mr. DAVIS. Mr. Chairman, I move to strike the last word.

□ 1610

I thank the gentleman for yielding.

Mr. Chairman, I am certainly not here to in any way criticize the chairman of the subcommittee, the gentleman from Florida [Mr. LEHMAN], or the ranking member, the gentleman from Pennsylvania [Mr. COUGHLIN].

They have a very, very difficult job and probably one of the most difficult jobs on the Committee on Appropriations, that of the Subcommittee on Transportation Appropriations which involves so many of us and so many people that it is always difficult to decide where the money ought to go.

I simply rise to point out some things about the Coast Guard that we have asked them to do but, really, we assign them new missions constantly and we never give them the resources to carry out those new missions.

We assign them a big part of the responsibility in the drug trafficking program. We did give them some money, but the result is that some of the money that was used in other areas, search and rescue, et cetera, at one time was put into the drug program, which meant that some of those other programs suffered.

Now one of the things—and I compliment both the chairman and the ranking member for putting in an amendment which tells the Coast Guard that they can use no appropriations out of this bill to close any search and rescue stations. You may remember the battle we had some years ago on the search and rescue stations.

So I compliment them for adding that particular amendment.

You know, we authorized the Coast Guard to have 38,000 Coast Guard personnel and 5,500 civilians. They are approximately 1,000 below that particular level, about 800 I think in the Coast Guard personnel and about 200 civilians.

So in other words, they ought to have another 1,000 people. We said to them, "We want you to have another 1,000 employees or personnel to carry out your missions," but we did not give them the money.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding.

Let me first thank the gentleman who serves with me on the Coast Guard authorizing subcommittee so well for all of his efforts on behalf of the Coast Guard and also for his efforts to put into this bill language that would guarantee that no stations are closed, no search and rescue stations; they must stay open.

But the point must be made, if we command the Coast Guard not to close the search and rescue stations and they are still short of funds, they have got to do something else. Something else gets closed and it might be the best drug interdiction program we have got going right now.

Mr. DAVIS. That is right.

Now an area that relates to the personnel issue, we have not allowed them $45 million for pay increases. Now this is what we have done with all the other branches of service so the Coast Guard cannot complain about the $45 million that we did not give them. But how do they make up for that?

Well, how they are going to make up for that is they are not going to be able to hire, once again, those thousand new people we authorized them to hire sometime ago. By not hiring a thousand new people that they did not have last year and will not have this year, they will save $36 million of the $45 million.

I guess the only point that I want to make is that we have to make decisions, tough decisions on where the money should be allocated. I think the subcommittee has done what they consider to be the best way to do that.

Now it is up to the Members on the House floor to decide whether or not in fact we want to add any money to the Coast Guard.

I just close by making one more comment, reiterating the fact that we continue to give the Coast Guard new missions. We want them to do this, we want them to do that, but we do not give them the money to carry out their missions.

Mr. JONES of North Carolina. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

Mr. Chairman, I am, to say the least, disturbed about the level of funding for the Coast Guard in this Appropriations bill. Even with these amendments and $300 million from DOD, this bill falls $246 million short of the President's request. Every night the network news reports on national problems that demand a Coast Guard response. The war on drugs and oilspills are both high on the national agenda, and the Coast Guard plays a central role in these tasks. In the wake of the most serious oilspill in U.S. history, and several other spills around the country, it is inconceivable to me that we are financially crippling the Coast Guard.

The funding level in this bill will lead to severe cuts in Coast Guard operations. Such as: the grounding of planes and reduced operations of vessels used in the war on drugs; the closing of Coast Guard stations necessary to protect the lives of those who live and work on the oceans, Great Lakes, and waterways of our Nation; less protection against coastal pollution, and spills of oil and other hazardous cargoes; cutbacks in port safety and security activities that protect against accidents, smuggling, and terrorism; reductions in the ability to review criminal records of applicants for maritime licenses.

I hate to compare the Coast Guard with the other agencies in this bill; all the funded agencies perform important work. However, I am dismayed that the Coast Guard seems to be the only one taking it on the chin. Assuming the Coast Guard receives an additional $300 million from the Department of Defense appropriation, the Coast Guard will have a mere 2.2 percent increase over 1989. Other agencies are receiving substantially more. While the increases of 4 and 6 percent appropriated to other agencies are modest, they are indeed significant when we realize the Coast Guard has been underfunded for a number of years and is facing more peacetime duties than at any point in its 200-year history. It is terribly sad that as we celebrate the bicentennial of the Coast Guard tomorrow, August 4, we are forced to pass on an appropriations bill that does the Coast Guard such a disservice.

The increased funding provided for by this amendment is well below what the Coast Guard needs to fulfill its missions. Unfortunately, it's the best we can do right now. The $64 million will fund the operating expenses account of the Coast Guard at the level the Merchant Marine Committee and the administration have recommended. The remaining $40 million for acquisition, construction, and improve-

ments will permit the Coast Guard to keep their aircraft in the skies fighting the war on drugs.

When we want to solve problems, we turn them over to the Coast Guard. But it takes more than the Coast Guard's can do spirit to stop drugs, save lives, and prevent oilspills—it takes money. We have an obligation to provide the necessary resources. I urge my colleagues to join me in supporting these amendments.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. JONES of North Carolina. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I just want to commend the chairman on his excellent statement. It goes right to the heart of the matter.

Mr. Chairman, I rise today in support of the amendments offered by my colleagues Mr. TAUZIN and Mr. DAVIS, chairman and ranking minority member of the Merchant Marine and Fisheries Subcommittee on Coast Guard and Navigation to H.R. 3015 and to express my concern about a serious deficiency in this transportation appropriations legislation. Though I support many provisions of this legislation, increased funding for the Federal Aviation Administration to increase the safety of our aviation industry and continued funding for Amtrak, H.R. 3015 reduces funding for the U.S. Coast Guard for fiscal year 1990. This is $625 million less than the President's request. This despite the fact that we are expanding the Coast Guard's mission and giving them greater responsibilities.

My colleagues may point out that on paper, this bill includes an increase of $47 million over the funding level from the previous fiscal year. This is, in reality, a budget cut. We have expanded the responsibilities of the U.S. Coast Guard and as a result, have so stretched the limits of their resources that the Coast Guard is severely limited in its ability to function.

In March, 1989, all will agree that we experienced an environmental crisis in the Prince William Sound. 11 million gallons of crude oil spilled from the *Exxon Valdez* into one of America's most pristine coastlines. This spill has proven to be the Nation's worst oilspill. Crude oil has spread into a slick covering more than 1,600 square miles and fouling more than 800 miles of shoreline. This massive oilspill has killed thousands of sea otters, birds, fish, marine life, has injured countless more and has disrupted the lives of all those who live and work near the Prince William Sound.

As my colleagues will recall, the Coast Guard has been given responsibility to coordinate the cleanup of this spill, and yet this appropriations bill only provides $150,000 for research and devleopment on marine environmental protection, $340,000 less than the amount appropriated for fiscal year 1989, which will further hamper the ability of the Coast Guard to effectively continue.

In the early 1980's President Reagan proposed to close down the Coast Guard research and development center in Groton, CT which has been a leader in the research and development for oilspill prevention and cleanup. The administration also proposed to scale back the budget for the Coast Guard's work on oil cleanup and spill prevention. We are now finding that we were woefully unprepared to deal with a spill of this magnitude. But instead of trying to remedy this situation, this legislation proposes to, for all intents and purposes, cut the Coast Guard's budget. If there had been a different type of disaster, there would be proposals for new resources and new funds for oilspill prevention and cleanup technology. Instead, it appears, we are not going to learn our lesson. We will muddle through and the next time there is a disaster, everybody will be wondering why we did not learn anything.

In coastal States, like my home State of Connecticut, we have become increasingly dependent upon the Coast Guard to protect the health and safety of our residents. In Connecticut, we have seen a drastic increase in boat traffic. As of the summer of 1987, there were more than 85,539 boats registered in Connecticut, representing an increase of more than 15,000 boats since 1982. Yet the budget of the Coast Guard is reduced, potentially endangering the lives and property of those who use Connecticut's waterways and the Long Island Sound and those living near its coastlines.

Mr. Chairman, in last year's drug bill we placed significant responsibility for fighting the war on drugs on the Coast Guard. The Congress gave the Coast Guard responsibility for drug interdiction to prevent illegal drugs from coming into this country. However, rather than expanding its drug interdiction activities, the Coast Guard will be forced to reduce the number of routine patrols that they are able to perform. Historically, the Coast Guard's interdiction trends show that they can find the drugs and the drug traffickers when they are out in force and aggressively searching for drug traffickers. The decline in the number of routine partrols will have a significant impact on the number of drug seizures as most drug interdiction activities are a result of routine cutter and aircraft patrols. They will not be able to catch traffickers if they do not have the resources to continue the patrols.

The issue here is one of priorities. We continue to give the Coast Guard new responsibilities, yet we do not give them the resources to carry out that ever-expanding mission.

Mr. Chairman, since the Coast Guard was founded 200 years ago this week, the base of authority and the responsibilities of the Coast Guard has expanded to cover many new areas. We have asked the Coast Guard to protect our shores, to protect the marine environment, to assure the safety of ports, waterways and shoreside facilities, to protect the health and safety of the American people, to assure the safety and security of maritime transportation, and to defend us in times of war. Just since 1970, the Coast Guard has been given responsibility for enforcement of: the National Environmental Policy Act, the Water Quality Improvement Act, the Port and Waterways Act, the Coastal Zone Management Act, the Federal Boat Safety Act, the Marine Protection, Research and Sanctuaries Act, the Oil Pollution Act, the Fisheries Conservation and Management Act, the Clean Water Act, the Executive Drug Law Enforcement and Oil Pollution Initiatives, the Maritime Defense Zone Compact and the Anti-drug Abuse Act.

If we, in the Congress are going to be giving the Coast Guard increased responsibility for oilspill cleanup, for fighting the war on drugs, for patrolling our shores, for ensuring the safety of our oceans and waters, for enforcing the environmental regulations that we pass, and if we going to continue to posture about the important role they play, we need to make a commitment to the Coast Guard. We need to give the Coast Guard the kind of support and resources they need to do the job.

I urge my colleagues to join me in beginning to support the Coast Guard, not just in words but in action, lets give the Coast Guard the resources that they need.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Chairman and members of the committee, I compliment the gentleman from Florida [Mr. LEHMAN], chairman of the subcommittee, and the gentleman from Pennsylvania [Mr. COUGHLIN], for their work. This is a very difficult task. I agree with the gentleman from Michigan [Mr. DAVIS] and the chairman of the full committee, the gentleman from North Carolina [Mr. JONES], the gentleman from Louisiana [Mr. TAUZIN], who is the chairman of the subcommittee, the authorizing subcommittee, for their comments about the Coast Guard.

Frankly I do not know where the money is. We have made a big mistake because the Coast Guard is under the Department of Transportation under this bill because at one time the Coast Guard's main responsibility was navigation for the transportation of the ships in the channels, to transport our goods abroad and within inland waters.

But as the gentleman from Michigan mentioned, in the following years and even in the years that I have served in this body, we have given the Coast Guard task after task after task, such as drug interdiction, refugee interdiction, oil spill legislation, cleanup, plastic legislation to clean up plastics, to patrol our seas, high-speed fish interceptions so that we can take care of the pirates from Taiwan. But we have not funded them.

This is not just the past 6 years. I have been under five Presidents, and the Presidents have come down with their budgets—and I will say in defense of the present President he has asked for $246 million more than they have been able to authorize in this committee.

But we have a little thing called Gramm-Rudman. So what I am sug-

gesting to this committee today is this amendment is proper, it is correct, but it is not the fault of the Committee on Appropriations. We have to start either taking some of the responsibilities away from the Coast Guard and put them in the Defense Department, such as the drug war, or maybe in some of the areas of navigation, or maybe even in the oilspill legislation.

□ 1620

To require an agency, a stepchild of the Transportation Department, to fulfill the mission that we have charged them with is wrong, if we do not provide them with the money.

Look what we are asking them to do. In my State alone, which is heavily Coast Guard-oriented—we have more coastline than the rest of the United States put together, 3½ times the size of Texas, bigger than Louisiana—when we ran out of money last time in the Coast Guard we had to cut down the patrols to keep the high-sea bandits off our oceans. They were, frankly, plundered. We have just had the biggest oilspill in the history of the United States. Who is the main agency in charge right now? The Coast Guard. They are spending their money, and yes, they will be reimbursed. We will make sure of that, from the responsible party. In the meantime, their flow of dollars is being diminished.

This $24 million of this budget is a very small amount. I am going to support the amendment, and in deference to my chairman of the Committee on Appropriations, I hope it passes. However, it is not the solution. What we have to do is to address the problem of the missions we have charged the Coast Guard with. If we do not, then we have to come in as a body, not just the authorizing committee under the Gramm-Rudman, as a body, and say, listen, this is a frontline offensive, as far as the agencies that we serve with, in the battles we are fighting that face this Nation: drugs, pollution, navigation, pirates, and oilspills that we must address. It is time that we, as a body, start giving them the money to do their job.

Mr. BRENNAN. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, as a member of the Subcommittee on Coast Guard and Navigation, and a strong supporter of efforts in regard to our Coast Guard, I rise in support of the gentleman from Louisiana [Mr. TAUZIN'S] amendment to increase Coast Guard operating expenses by $24 million. This money is needed by an agency which performs many valuable functions such as leading the war against drug smuggling, fishery enforcement, and saving lives through search and rescue missions.

The Coast Guard is an agency that every Member around here seems to like. They simply do not want to fund it. We have a continuing struggle across America with the problem of drug abuse. As the previous speaker said, a frontline agency in the fight against smuggling of drugs is the Coast Guard. To meet the demand for drug interdiction patrols, the Coast Guard needs operating funds to carry out their very important mission. The Tauzin amendment will help make sure that the Coast Guard does not have to sound retreat in any way in the fight against drugs. The Tauzin amendment will help make sure that Coast Guard cutters again will not be left at any dock in the fight on drugs. Our Coast Guard serves a very vital role in the war against drugs, and we can support them today by granting this modest increase in operating expenditures and meeting the request level that was sent here by the President.

Let Members establish our priorities and reaffirm our commitment to the Coast Guard in their efforts against drug smugglers. I hope this House will support the Tauzin amendment.

Mr. WALKER. Mr. Speaker, I move to strike the requisite number of words.

I do not serve on any committee that has anything to do with the Coast Guard. My district is not on the coastline, so I do not have any coast stations. I do not particularly have a record around here of spending a lot of money and adding money onto things. Yet I am rising in favor of the Tauzin amendment.

I will tell Members why. I think it is high time that we back up the commitments we made in fighting the war on drugs. It is that simple. Now, the gentleman from Louisiana [Mr. TAUZIN] had hoped to come to the floor with an amendment, en bloc amendment, that struck the money out of other areas of the bill and put it into the Coast Guard. I would have preferred that. I would have preferred that we did not have to do this as an add on. That is what he went to the Committee on Rules and asked for, and the Committee on Rules denied him the ability to come to the floor and do that. I think that is a shame. Otherwise, we would have gotten even more resources for the Coast Guard.

His amendment was to provide even more resources than this amendment does. However, we could not do that. The Committee on Rules would not permit it. Therefore, instead we have this amendment. It is the step in the right direction to prove that we are going to fulfill that commitment. We cannot pass omnibus drug bills and then not support the agencies that are there to back up those drug bills. We cannot go on and say that we are going to fund the FBI and the DEA and all those agencies, and then never authorize the money for those programs. We simply cannot go on like this and have any citizen believe that we are serious about fighting the war on drugs.

The Tauzin amendment simply says that we are serious in this case, that we are willing to actually add some money so that the Coast Guard has some money to conduct that war. I would think that this amendment should pass almost unanimously in the House. It is right down the line of what we have said over and over again, that we want to be doing.

Mr. Speaker, I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding to me, and thank him for the strong and fine statement. I use this time to point out that this is not the only amendment.

We will follow it with another, a second amendment, that will take the other $40 million of unused budget authority and apply it to critical areas. Let me name them: spare parts for the Falcon jets which were cut out, which fly surveillance missions; increased moneys to provide for the enhanced television surveillance that makes the tapes that we use in court, at nighttime, to convict drug dealers; these help also in locating people that are lost at sea, by television enhancement imagery of a material that is used on life rafts, to identify people at night. Indeed, to help Americans in that effort, as well as in the drug interdiction effort.

To restore the $17 million, which the committee took out of a place that we put it in earlier, the acquisition of radar equipment. It is the kind of surveillance work that this committee earlier had authorized, at a level of $40-something million, to put $17 million back there, where it belongs. The gentleman is abundantly correct. What we are trying to do is to give this U.S. Coast Guard, which is so heavily burdened, a little bit of a chance to do the job we commissioned it to do in this great frontline effort against drugs.

I commend the gentleman for his strong support of the amendment.

Mr. WALKER. Mr. Speaker, I thank the gentleman for his statement, and I urge my colleagues to vote for both the amendments from the gentleman from Louisiana.

Mr. HERTEL. Mr. Speaker, I move to strike the requisite number of words.

It is not the committee or the subcommittee's fault that we are here today. They worked very hard in this area, and as the chairman and ranking member said, they are very concerned about the Coast Guard.

The problem is what has gone on for the last decade. Over the last 8 years the defense budget was doubled. I think a vast majority of the American

people assume since we are increasing the funds so greatly for the Air Force, the Army and the Navy, that we did something for the Coast Guard. Yet it is pointed out again that over those 8 years, the Coast Guard has increased every year by less than the inflation rate. Less than the inflation rate, even though we have given them more jobs on a monthly and yearly basis, even though they are saving lives, every single day, out in the field.

Last week, last week this House voted $305 billion for the defense of this country. Now are we arguing on an amendment for only a $24 million increase. Think of the difference: $305 billion for defense, $24 million for a little bit more for the Coast Guard to do their daily job of defending our shores and saving lives.

A majority of this House, by a high number, decided we should go ahead and build a B–2 bomber. We have already spent over $20 billion on it. It will cost well over $500 million a plane, and we are arguing this afternoon over $24 million for the Coast Guard to protect our country.

The Coast Guard is having such a hard problem as far as spare parts, as far as housing for their personnel, any type of recreation for the personnel and their families, equipment that they need and cannot get because their budget is so low that they operate, basically, from week to week with the financial problems that they have. I think if the American people knew how little they have been funded over this period of time, that they would be with Members on this amendment and take charge of the priorities of this Congress and put them in perspective with the priorities of this country and the American people.

□ 1630

If Members are concerned about oilspills, they should vote for this amendment. If they are concerned about pollution, they should vote for this amendment. If they are concerned about crime, they should vote for this amendment. If they are concerned about illegal immigration, they should vote for the amendment. If they are concerned about safety at sea, they should vote for it. If they are concerned about protecting wildlife, they should vote with us. If Members are interested in saving lives that are in danger, we ask that they vote for this amendment to give the Coast Guard that little bit more money.

I know that the committee and the subcommittee would like to join us in doing more for the Coast Guard not only this year but in past years too. I think what we have to do is send a message that we are going to do better for the Coast Guard in funding them, because of their responsibilities, and we are going to find extra money.

For today, Mr. Chairman, let us just give them the $24 million that the gentleman is asking for.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment and the other two amendments that will be offered on this same subject by the chairman and the ranking member of the Coast Guard and Navigation Subcommittee to restore operating funds and funds for acquisition, construction and improvements in the Coast Guard budget and to prevent the closure of Coast Guard search and rescue stations.

As a Representative of a coastal district in which the Coast Guard does provide essential search and rescue, fisheries, safety, vessel control, oilspill prevention and cleanup, and drug interdiction operations, I know just how crucial these services are. In each of the past 2 years we have given the Coast Guard new responsibilities and in some cases new equipment to carry out those responsibilities. Unfortunately, the appropriations bill now before us does not include enough money to operate that equipment and perform these mandated services.

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Florida.

Mr. LEHMAN of Florida. Mr. Chairman, on the statement the gentleman just made about the closing of the Coast Guard facilities, my understanding of the amendment offered by the gentleman from Pennsylvania is that it would preclude station closures during fiscal year 1990; is that not correct? I will ask the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, if the gentleman will yield, let me say that that is correct.

Mr. LAGOMARSINO. Mr. Chairman, I will, then, amend that part of my statement. I am pleased that we do not have to do that.

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield further?

Mr. LAGOMARSINO. I yield to the gentleman from Florida.

Mr. LEHMAN of Florida. Mr. Chairman, my understanding from the Secretary of Transportation is that assuming we have $300 million from the Defense Department, according to what he said to me today, he does not anticipate the need for additional funds to maintain the rescue stations, and there would be no closings.

Mr. LAGOMARSINO. Reclaiming my time, Mr. Chairman, we need in effect to put our money where our mouth is and provide the Coast Guard with adequate funds to perform its duties. We can hardly stand in the well of this House and protest against the flood of drugs streaming into our country and our cities and our schools without also standing up on the floor and voting to providing the Coast Guard with the necessary resources to act. And we cannot complain about tanker collisions and oilspills and search and rescue capability without backing up our words with deeds.

Mr. Chairman, I urge my colleagues to vote for these vital amendments and give our Coast Guard the money it needs to perform its duties.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I want to point out that the chairman of the Subcommittee of the Appropriations Committee is correct, that the Secretary of Transportation has indicated that if they get the full $300 million, they may not have to close any search and rescue stations, but I want to point out that on the Senate side there are some real difficulties now in getting those assurances.

Second, if we get the $300 million from Defense, which is a strange way of doing business, to begin with, even if we get the $300 million from Defense, the Commandant informs me that we can rest assured that at least the drug interdiction operations will be curtailed, and if we can suffer that in the middle of a war on drugs, I suggest that we would just as soon give up on that war.

Mr. ECKART. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is a rare occasion that I rise in support of the comments of my colleagues, the gentleman from Pennsylvania, the gentleman from Alaska, and the gentleman from Louisiana [Mr. TAUZIN], but very simply put, with the options that the committee had, as hard fought as they were as they wrestled with them in the course of their deliberations, we do not take issue with them, because unfortunately they have been asked to choose among their children, and that is not a pleasant choice for any of us.

But to govern ultimately means to choose, and to choose sometimes means one has to say, no. What they have done in the course of having to choose among their children is to say, no, to a wide variety of worthy causes. These are worthy causes expressing problems that need to be corrected, and we believe this can be corrected by the adoption of the amendment offered by the gentleman from Louisiana.

The simple fact, as I perceive it, is that we have become a country of champagne taste with a beer wallet. We want the best. We want that Miller-Highlife, but I say, folks, we are just not prepared to pay for it.

As my friend, the gentleman from Michigan also said, and as re-echoed

by the gentleman from Pennsylvania, we have to be willing to choose the priorities of what the budget ought to reflect. Therefore, this philosophical, geographical coalition, if you will, comes together on the floor of the House, but if we really mean what we said about a real war, if we really mean what we said about protecting the integrity of our environment and the sanctity of our shores, if we really do believe in our need to control our country's own destiny and to control our own borders, we should realize that this is a Congress and in some respects an administration that is a lot of will but very little wallet. The Tauzin amendment today matches some of our wallet with a lot of our will.

Mr. Chairman, I joined the gentleman in his fight on these matters in previous years. I think we can all understand that we face some tough fiscal choices. But what this amendment reflects for all of us is the general reality of realizing that we cannot save someone's life from drowning by throwing him a 302 allocation, and we cannot hold out an illegal immigrant by electing a wall of budget outlays.

No one understands that we authorized but did not appropriate. They do know that there are bilges being emptied in pristine waterways. They do know that we have loaded that donkey with one brick too many and then complained that he did not deliver the whole load.

The Coast Guard has been asked to do an awful lot. All it asks of us today is to adopt the Tauzin amendments and put a little bit of our wallet behind our wills, wills that we know reflect the demands, needs, and desires of the American people.

Mr. COUGHLIN. Mr. Chairman, I move to strke the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, here we are again. This is a budget buster. This is the amendment that says that we are going to take money and take budget authority and appropriate it and take care of outlays and go right over our budget ceiling. That is what it does. It takes our outlays right over our budget ceiling.

This busts the budget. It is easy to write an amendment like this. Everyone of us has our own special interests. We have special interests in the Coast Guard, as we have heard. We have special interests in aviation, we have special interest in highways, and we have special interests in mass transportation. All of those things are worthy causes. Yet what this subcommittee has to do is try to take all of those special interest in all of those areas in the transportation bill and balance them and put them in a bill that provides for a balanced system and gives us a balance among the various competing interests for our transportation dollars.

The funding for the Coast Guard that is in here for their operating expenses this year, as we have said from time to time, is up over last year, as it has been every year.

When we say it is up over last year, the funding for the Coast Guard is up over last year, including the extra money we appropriated in the supplemental appropriation bill with extra money for drugs. Members may have forgotten that. At the end of last year we put extra money for drug interdiction into the Coast Guard. We appropriated it at the end of last year, so that last year's figure was substantially above the figure for the previous years, because we put that extra money in for drug interdiction.

This year we put that much more in for Coast Guard expenses and for drug interdiction. We cannot have it all ways. We cannot go around and say it is easy to appropriate more money here that busts the budget, because that goes right through the top. We cannot say that we are not increasing funding for the Coast Guard for drug interdiction and for search and rescue, because the facts are there. The amount of money has been increased.

□ 1640

Mr. Chairman, it is larger than last year. I urge my colleagues who are looking at all of the problems of transportation, and all of the problems in the transportation bill and all the forms of transportation that we have in this great country of ours to try and look at providing a balance in that. That is what this subcommittee has tried to do.

Mr. Chairman, I do not quarrel with the motivation of the people who support this amendment. I understand their interest in their particular project. However we have got to look at all the projects. We have to look at the whole transportation system. We have to look at all the transportation needs, safety in aviation, new highways, mass transit, all of those things.

And we have to look at the Coast Guard, and we have looked at the Coast Guard, and we have done better by the Coast Guard than we have before.

Mr. Chairman, I urge my colleagues to reject this amendment, to support the balanced approach the committee is bringing at this time, and not to bust the budget.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of the gentleman from Louisiana [Mr. TAUZIN].

I heard the last speaker, and I have to say that, more than any other function that I can think of, the function of the Coast Guard really serves the general interest rather than any special interest of any particular district.

We talk about search and rescue, we talk about drug interdiction, we talk about environmental concerns and the ocean pollution problems that face our coastlines. All these are very serious problems, and although there might be some increase in relative terms or overall terms in the Coast Guard budget this year, or even the previous year, the bottom line is that it is not enough. I can tell because just in my own State, off the coast of New Jersey, I have repeatedly over the last few years talked to the Commandant and different Coast Guard officials, and I found out that with regard to environmental concerns the Coast Guard performs few of the functions that are assigned to it.

It has been mentioned that in the last few years the Coast Guard has taken out a lot more concern with regard to ocean pollution. We know right now that there is a problem off the coast of New Jersey, and it affects New York and New Jersey with regard to ocean pollution because of shore dumping that is taking place with barges that are dumping sludge at the 106-mile site, but they have been found to be short-dumping on the way out there, and it is only if the Coast Guard is out there in increased numbers, in increased boats, that they are going to be in a position to deal with that problem.

I know it has been mentioned that we will not be closing any Coast Guard station this year, however I have to tell my colleagues that one of my Coast Guard stations was closed, and it had a devastating effect on the local economy, not only with regard to environmental concerns which could not be performed practically, but also with regard to drug interdiction, with regard to fisheries jurisdiction, with regard to search and rescue. None of these things can be performed if we do not have adequate funding for the Coast Guard.

Mr. Chairman, I really cannot think of any function right now that affects so directly the coastline and affects the lives of individuals and that is needed if we are going to carry out the authority that we have given the Coast Guard.

I really think that the amount of money that is suggested in the amendment by the gentleman from Louisiana [Mr. TAUZIN] is certainly helpful, but actually we need significantly more money, but this is certainly a step in the right direction, and I support the amendment.

Mr. COBLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, not unlike the gentleman from Pennsylvania [Mr. WALKER], I am not known as a reckless spender.

I am rather known as a frugal fiscal conservative, but I rise in support of the amendment.

Unlike most of my colleagues in this Congress, I am a veteran of the U.S. Coast Guard, so I have some knowledge whereof I speak. I recall some years ago at my first assignment it became readily apparent quickly that much of the gear and equipment that we were using on a day-to-day basis had been abandoned by our sister services, the Navy for the most part; in some instances the Army. We had equipment and gear that they did not want.

Mr. Chairman, there is a saying down home which says, "When you get only what is left, you take the crumbs and the leavings." Mr. Chairman, we were taking the crumbs and the leavings. We were a second-hand service. We were a hand-me-down service.

I do not intend that to be disparaging. I intend it rather as a statement of fact. The Coast Guard is indeed ubiquitous. The Coast Guard is indeed all things to all people.

Oilspill prevention? Oh, that is the Coast Guard's duty.

Oilspill cleanup? Oh, the Coast Guard will handle that. Get them on the phone.

Distressed sailors at sea? Call the Coast Guard is the immediate response. They are the search-and-rescue people.

Interdiction of illegal drugs? Oh, that is the Coast Guard's bailiwick. Get them on the phone. They will handle that for us.

Icebreaking to assure that shipping lanes are open and safe? Oh, the Coast Guard's responsibility is icebreaking. They will attend to that, no matter that only two polar icebreakers are in the fleet and four are needed.

Aids to navigation to promote shipping and boating safety? Oh, the Coast Guard will do that. They are the always-ready service. They are the Semper Paratus service I am told.

My colleauges, if the Coast Guard is to continue to dignify that time-honored motto, they must have additional muscle inserted into its arm, and we can do that today.

Mr. Chairman, I am not being critical to my friends on the Appropriations Subcommittee, nor was the distinguished gentleman from New Jersey [Mr. SAXTON] earlier when he said that the Appropriations Subcommittee took the wrong turn when it came to the Coast Guard. I do not say that critically, but I think the gentleman from New Jersey [Mr. SAXTON] was right.

My colleagues, there is still time to bring this old ship about. There is still time to set her on the right course as far as the Coast Guard is concerned. I urge passage of the two amendments that will be before us.

Mr. SLATTERY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I regret that I have to rise in opposition to the amendment of the gentleman from Louisiana [Mr. TAUZIN], my good friend. We are seldom on opposite sides of issues, but on this occasion I must rise in opposition to his amendment as a budget-busting amendment.

Mr. Chairman, I think it is important for us to realize that what we are talking about doing is adding $64 million in additional budget authority to this subcommittee appropriation bill. The net effect of this will be that the outlay target will be breached by some $24 million. That probably does not sound like a lot of money to some people, but the reality is that we are setting a precedent, we are breaking the budget, we are exceeding the outlay limitation set for this subcommittee.

I would observe that we have been very consistent so far in living within the budget limitations set by the Committee on the Budget, and the Committee on Appropriations should be commended for the good work that they have done this year in living within the budget, and I think we should be consistent in asking that it be adhered to.

I would observe that my good friend, the gentleman from Ohio [Mr. ECKART] made the point earlier that government and governing is about making choices. That is what we have to do in this body, and that is what we do every day. We have to make choices between whether we are going to spend more money to take care of urgent needs in the areas of education, health care. Some of the constituents are concerned about drought assistance. All of those kinds of urgent needs must be addressed; no question about it.

Today I think it is important for us to recognize that the committee has done a decent job. They are living within the budget resolution. They are living within the outlays that they have to work with. They should be commended for that.

Mr. Chairman, I think that we should defeat the amendment that is being offered.

Bottom line: The committee is basically recognizing that the appropriations provided for and asked for by the President are close to being reasonable, and when we look at the budget I think it is obvious that the major difference, the major item that is not in this bill that the administration has requested, is $24 million for a third polar icebreaker. I doubt if that icebreaker is going to be needed for the urgent drug battle that is being talked about.

□ 1650

So Mr. Chairman, I would observe that we are talking about a budget-breaking amendment, albeit $24 million; but Mr. Chairman, I think we should oppose it. We should continue to do what we have done with earlier appropriation bills, and that is to commend the committee for living within the outlay limitations that they have to work with and to support the committee when they have done that.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. SLATTERY. I am delighted to yield to my good friend, the gentleman from Louisiana, for a few short minutes.

Mr. TAUZIN. Mr. Chairman, I thank my good friend from coastal Kansas for yielding to me.

Mr. SLATTERY. Reclaiming my time, Mr. Chairman, I must observe that those of us who come from the heartland have an urgent interest in the coastland also.

Mr. TAUZIN. Well, we are having fun.

I just asked the gentleman to yield only because I wanted to point out that we did not like to be in this box, but we are here because the Rules Committee would not permit us the authority to offer amendments that would take from here and give to there within the budget outlays of the committee, so we are here asking for the right to use the budget authority that is still unused, $64 million of unused budget authority, knowing full well that all this does is give us a shot in the conference of working something out with the Senate.

I know the gentleman's objections. I know why he makes them. I accept them in good faith. I only ask that the gentleman will consider that we were given no choice. This is the only procedure by which we can help the Coast Guard. That is why we have taken it.

Mr. SLATTERY. I deeply appreciate the position of my friend. I will just observe that similar arguments could be made for other very urgent priorities also. It is my unenviable task, I suppose, to defend the position of the Budget Committee and urge my colleagues to live within the outlay limits that we have agreed upon and the budget authority limits also.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a very difficult position for me to stand here and oppose the amendment. For 31 years on the Appropriations Committee I have dealt with the Coast Guard.

I heard that valedictorian speech by the gentleman from North Carolina.

It was our committee under Vaughn Gary, when the Coast Guard was under the Treasury Department, that we said, "Hey, look, we're sick and

tired of the Coast Guard being the orphan of all the other services, getting all the hand-me-downs, the helicopters, the destroyer escorts or an old plane. It would come to the Coast Guard.

We said no, we are going to stop that.

At that time, there was no authorizing committee. I will give you a lesson in history. There was no authorizing committee in the Coast Guard. It was just the Appropriations Committee and the Coast Guard. We turned that thing around.

I remember going to Kodiak with Vaughn Gary some 28 years ago when we looked over that naval station up there and said, "Man, this will be a beautiful Coast Guard station, and we bought it. We bought it and it turned out to be one of the finest Coast Guard stations in the world, the largest of all the Coast Guard stations.

Things went along fine until this Congress here changed the rules. We had all this reform, must have been some of the young ones coming in, they always have reform ideas, and they formed the Transportation Department and they took the Coast Guard out of Treasury, which had a long history beginning with Customs. That is how they got handled.

The gentleman from Massachusetts [Mr. STUDDS] here is a historian and he knows. It was handled that way. Alexander Hamilton founded the Coast Guard, and it was under the Secretary of the Treasury.

They had a long distinguished history, but they always got the hand-me-downs. They were the orphans, and we turned that thing around.

For a good period of time they got along fine. Then they were brought in with the Transportation Department. I was not happy at that time and I am not happy now. I wish they were back with the Treasury. I think that is where they belong, not in Transportation.

They are vying and competing, ever since Gramm-Rudman, with mass transit, they are competing with the FAA, they are competing with a lot of other agencies that maybe have a little more wallop and a little more power and a little more pull in that committee.

However, no one listens to me. I have said it. I have told the Commandant many times, "Your best bet is to get the heck out of Transportation. Get over back in the Treasury and you will do a lot better."

Well, when Gramm-Rudman came along and the squeeze started, then I got the idea that maybe I could steal some money off of defense, and I did. I stole $100 million, with the help of Senator STEVENS over in the Senate.

We have done that now for about 5 years. This year, the gentleman from Pennsylvania [Mr. MURTHA] calls me the godfather of the Coast Guard.

We have $300 million in that budget for the Coast Guard. In our Transportation Committee, headed up by our good chairman, the gentleman from Florida [Mr. LEHMAN] we put $105 million more for operating expenses over last year. We put in an additional $4.8 million, that I put in myself, for the Reserves, which would give us 400 more Reserves. I put $5.8 million more in there for the motorboat replacement.

Incidentally, may I say to the gentleman from Louisiana [Mr. TAUZIN], I wish I came from Louisiana. They are going to be boating in Louisiana, and I really could use that $5.8 million in the Berkshires right now. We have an employment problem over there.

So we did our best under the constraints that we are under.

Now, if you adopt the Tauzin amendment, you are saying, "The heck with fiscal responsibility." You are going over outlays by $20 million.

Now, as I said, I did not vote for Gramm-Rudman. I was on this floor fighting that, begging the Democrats not to vote for it, and yet a majority of Democrats voted for it. Now you are going to say, "Hey, we're going to violate it."

I think this is wrong. If you do, it is the opening of the dike and there is no end to it.

If you want to do something, and I heard a lot of conservatives up here today, I got a real chuckle out of them, they are always up there beating the drums about the balanced budget amendment, the constitutional amendment, all of which I am against, they are up there beating the drums every day and they are up here today wanting to break the budget. That is fiscal irresponsibility any way you want to look at it.

The CHAIRMAN pro tempore (Mr. HARRIS). The time of the gentleman from Massachusetts [Mr. CONTE] has expired.

(By unanimous consent, Mr. CONTE was allowed to proceed for an additional 5 minutes.)

Mr. CONTE. Mr. Chairman, I am just getting started.

I wish they would join the drumbeat. I have got a bill in there for a $25 user's fee. All you have to do if it goes through is go down to the post office, lick it and put it on your boat and it will raise $150 million. I say to the gentleman from Louisiana [Mr. TAUZIN], not $20 million, but $150 million, and it goes into the operating expenses for the Coast Guard.

All these brave guys up here today saying, "Hey, we've got to have this money for the Coast Guard," how many of them joined me? I go up to that committee and I get ridiculed. I had 300 boatowners behind me hissing me.

Why, it costs more to buy a bottle of scotch than $25 for a stamp, and what do they get for it?

If your car breaks down on the highway, you call a wrecker and he charges you to hitch your car and tow it. The Coast Guard is out there like an insurance policy 24 hours a day, hovering over you with their endurance cutters out there, their patrol boats, making sure that nothing happens to you. Their helicopters are up there. They not only get that insurance, they got the inland waterways. How much did that cost to build?

You go down to Florida, if you are a little guy like myself for 1 or 2 weeks a year, you have to wait 3 and 4 hours for one of those drawbridges to go up. Who pays for that?

And they are fighting me on a lousy $25, ridiculing me, writing nasty letters to me every day. Shame on them.

If they want to help the Coast Guard, I say to the gentleman from Louisiana [Mr. TAUZIN], tell them to get behind my bill, let the gentleman from Louisiana get behind my bill, and the Coast Guard will not have any trouble.

Mr. Chairman, defeat the Tauzin amendment.

□ 1700

Mrs. UNSOELD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the two amendments by the distinguished chairmen from North Carolina and Louisiana. I am not the expert on all of these issues. I have to speak of what I have seen.

In the Northwest we are seeing our salmon and our steelhead being decimated by foreign pirates—driftnets 30 miles, 40 miles long—on any given day 30,000 miles of net in the ocean, sweeping up our marine resources. The Coast Guard does not have adequate means to be able to police this activity, and is forced to rely on even decomissioned vessels.

Another example—Puget Sound, one of the finest waterways in the United States. We have vessel traffic going in and out all the time. We recently got to visit the control room for the Coast Guard for monitoring all of the traffic on Puget Sound. Here is a radar screen, and the blip going round and round marking the vessels. How do they keep track of them? I am no expert on technology, but I know this is not the most modern technology, because they have a map on the wall and 3 by 5 cards that represent the vessels they are trying to keep from hitting each other.

Let us give the Coast Guard additional means of doing the jobs we have given them.

Mr. TAUZIN. Mr. Chairman, will the gentlewoman yield.

Mrs. UNSOELD. I am happy to yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentlewoman for her statement. I would like to ask if maybe we could focus on the issues that were raised by the previous speaker here for a second, that in fact somebody else ought to be paying the tab other than the general public for the cleanup of our spills and the war on drugs and point out that currently under a bill passed by the former chairman, the gentleman from Florida [Mr. HUTTO], that if one is stranded on the water, there is a private towing service available. The Coast Guard calls that private service, and you pay that bill. That is what happens today. Why? Because we have not had the funds to fully fund the search and rescue, and the point being that, indeed, we cannot ask recreational boaters to pick up the cost of the war on drugs or the spills in Puget Sound or in Alaska or on the gulf coast of Louisiana. This is a job for America to undertake, not just for one segment of our population.

I commend the gentlewoman for her support of this effort.

Mrs. UNSOELD. Reclaiming my time, I thank the distinguished chairman for his role in taking the leadership on this.

Mr. SMITH of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the ranking Member, the gentleman from North Carolina [Mr. JONES], and the gentleman from Louisiana [Mr. TAUZIN] and their amendment on the Coast Guard.

I remember last year at this time in running to become a freshman Member of the U.S. House of Representatives that I do not recall any political talk that I made, whether it was at a Rotary Club, at a Lions Club, at a church group, or whatever, that I talked about the fact that last year the U.S. Congress had reduced the funding of the Coast Guard some $100 million. As a result of that, during last year's campaign, four drug patrol boats in Puerto Rico sat in port because they did not have fuel to go out on patrol.

Around this country, Coast Guard cutters sat without fuel to go out and patrol against drug smugglers bringing tons and tons of marijuana and cocaine into this country.

I sat in my office a while ago listening to this debate as it started, and the gentleman from Louisiana [Mr. TAUZIN] spoke on his amendment. I had to come over and stand and speak on that a few minutes today, because I could not go back home after this recess and say that I did not come to the floor of this House of Representatives and support these gentlemen in their amendment to see that we truly have a drug war, not just a public relations campaign, but a true drug war.

The gentleman from Louisiana [Mr. TAUZIN] stood in the well a little while ago and talked about the spare parts for the Falcon jets, the enhanced TV surveillance, and enhanced radar.

I think for the Members to know how important that is they would have to go look at the new Customs-Coast Guard intelligence center in Miami that opened a few months ago, and the President of the United States went down for that opening, our Customs-Coast Guard intelligence centers in Mississippi and Texas and other parts of this country, to know what that enhanced radar surveillance and monitoring ability does, to sit and watch one of those videotapes that the Coast Guard takes of a drug-laden plane that has left Central America, coming back to the United States, and that they can fly around and videotape them when they land that aircraft on the ground and videotape them unloading it, and loading it in cars and suspects out there.

But would we today in this Congress not adequately fund the U.S. Coast Guard to continue to do that, we would be wrong in coming back to the floor of the House of Representatives and telling people that we truly supported a war on drugs in this country, because that would be untrue.

I want to say, as other Members have said, that I commend the Subcommittee on Appropriations on their work, but that is the reason we come to the House floor today, and these gentlemen have the opportunity to offer their amendments, because we, as Representatives, can come and offer what we hear in our community and what we all recognize and the people of this country recognize as the No. 1 problem, not the budget deficit, not anything but crime and drugs, crime and drugs, the No. 1 problems.

I think we would be remiss in leaving here today and not voting for the amendment as presented by these gentlemen. I urge my colleagues on both sides of the aisle to support them.

Mr. AUCOIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, Commandant Paul Yost of the Coast Guard is fond of saying that the Coast Guard has a lot of friends but it does not have many people who will bleed for it. I am proud to be one of those Members of the House who the commandant has said has bled for the Coast Guard. I have supported the Coast Guard consistently.

I used to be a member of the Subcommittee on Transportation Appropriations, and from that seat I consistently supported the Coast Guard.

This committee, the Committee on Transportation Appropriations probably gets one of the rawest deals of all when it comes to 302 budget allocations for the subcommittees of Appropriations. When we think of all that they are obligated to deal with, it is amazing to me that they are able to do what they do with the limited resources that they have been left with under the 302 allocations. The FAA, the whole range of those expenses, the Coast Guard, a whole bunch of those things that this subcommittee has struggled mightily to meet the investment needs that are needed across the board in all of those agencies.

I now serve on the Subcommittee on Defense Appropriations, and in 5 different fiscal years I can recall being one of the key agents in the Subcommittee on Defense in transferring funds from the Department of Defense, because we know about the Coast Guard problems that so many of my colleagues have cited. We know about those problems, and it is because we have recognized them that we have transferred this year yet again for the fifth time now a major amount of funding to the Coast Guard. This year's transfer, which I worked on as a member of the Subcommittee on Defense, is $300 million.

I would like to ask the gentleman from Florida [Mr. LEHMAN] if that does not make a substantial difference in the Coast Guard's operations.

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I am happy to yield to the gentleman from Florida.

Mr. LEHMAN of Florida. Mr. Chairman, the gentleman has made a substantial difference over the years that he has been on Defense Appropriations. I hope he will continue to help us with the Coast Guard. With the $300 million this year, we will be able to fund the Coast Guard so they will not have to close any bases. But in the final analysis, everybody here is trying to outlove each other as to who loves the Coast Guard the best. It is not a question of whether the authorizing subcommittee loves the Coast Guard better than the Appropriations Subcommittee loves them. The bottom line is this: This is a budget-busting amendment, and we are going to break the dam that holds back our budget restraints. If we break it here, there is no restraint anywhere else, and we can do it on any other bill.

Mr. Chairman, I hope that we realize that this is not about who loves the Coast Guard the best, but who wants to hold the budget in line the most.

Mr. AUCOIN. Reclaiming my time, I will say that I have shown that I will virtually walk over broken glass virtually for the Coast Guard.

□ 1710

I have enormous respect for the gentleman from Louisiana [Mr. TAUZIN], a colleague of mine and a friend of

mine, and I understand what he is doing. He wants $24 million more, but it is because of the heavy lifting that we have done on the Defense Committee that we are even close to the level of funding he wants.

I do not think the chairman of the transportation subcommittee likes it very much that it has been because of these Defense Department transfers that we have gotten even this close to adequate funding for the Coast Guard. He would rather have a better 302 allocation. I think he ought to have a better 302 allocation. But at least we have made those transfers, and if Members think we have problems in the Coast Guard now, I want to tell them, the sky would be falling for the Coast Guard if it had not been for these Defense Department transfers I have worked to provide.

What we cannot do, my friends, is break the budget on the outlays. And that I am afraid is what is going to happen if we adopt this amendment.

I am speaking to Members as somebody who has done they heavy lifting in the Defense Committee, with my friend, the gentleman from Massachusetts [Mr. CONTE] who is one of the best friends the Coast Guard has. We have done the heavy lifting. We did not like to have to do it. The leadership of the subcommittee did not like to have to have us do it, but we did it because the Coast Guard needed it.

The sky is not going to fall on the Coast Guard. Life is not going to be gravy, but the sky is not going to fall on the Coast Guard. I wish we could do more.

The CHAIRMAN pro tempore (Mr. HARRIS). The time of the gentleman from Oregon [Mr. AUCOIN] has expired.

(By unanimous consent, Mr. AUCOIN was allowed to proceed for 1 additional minute).

Mr. AUCOIN. I will say this to the gentleman from Florida, chairman of the subcommittee, if in the process of moving along the Defense appropriation bill it is possible for us to squeeze additional sums from the Department of Defense to help deal with this problem, the remaining bit of this problem that has been identified, I will do so. I think I can say that with some credibility. For 5 years we have delivered more than just a couple of million dollars. It has been $300 million this year alone.

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I yield to the gentleman from Florida.

Mr. LEHMAN of Florida. Mr. Chairman, the gentleman does indeed have deep pockets.

Mr. AUCOIN. I appreciate the gentleman's comments.

Mr. GOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise not to make love on the Coast Guard today. I come to talk about a serious problem we have that the Coast Guard is integrally involved in, and that of course is the war on drugs. We all know it is serious. We also all know that the Coast Guard plays a very vital role in that war.

I am informed, and I think I am informed accurately, from the Commandant of the Coast Guard that the present budget that we are coping with, without the Tauzin amendment, will lead to a cutback in Coast Guard surveillance of drug activity, and that scares me. That scares me a lot.

I am from Florida. We have lots of coastline in Florida, and it takes a lot of patrolling. I am sorry to say that there a lot of drugs getting through even now. I think it is fair to say that we really are losing the war on drugs.

The local sheriffs in those coastal counties in Florida every year come in and ask for more and more dollars for local law enforcement, and they get them, because the communities are scared. Every year the price tag for drug-related crime goes up, and we all know it, and every year the statistics on drug-related deaths goes up and up, and we live in the Nation's Capital and see that here every day in the newspapers and every night on TV before we go to bed.

I think that we have gotten ourselves into a very simple proposition which is are we going to treat the war on drugs as the priority that we all know the people of this Nation want us to give it? I would certainly like to say there are very many other special projects out there. I have listened to my colleagues, who I hold in the highest esteem, the gentleman from Florida, who is chairman of the committee, and the gentleman from Pennsylvania who is the ranking member, for whom I am a great admirer, all of the arguments they have made are very compelling. They are very, very persuasive. Yes, this is a special interest. There is no question about it. The special interest is the war on drugs.

My question is this: If we are not going to have the Coast Guard do this, who are we going to ask to undertake this mission? If we are not going to give them the tools, how are we going to expect them to do it?

I think those are fair questions. I think this is where that amendment goes.

I do not want to bust the budget either, not in any way. But I honestly believe that there are other things in this budget that are a lower priority and that the funds should be committed back, as the Tauzin amendment proposes.

Mr. LEHMAN of Florida. Mr. Chairman, I wonder how many more speakers we have on this amendment? Perhaps we could limit the time.

I ask unanimous consent that the debate on this amendment, and all amendments thereto, be limited to an additional 20 minutes.

Mr. STUDDS. I object, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard.

Mr. LEHMAN of Florida. Mr. Chairman, I ask unanimous consent that the time be limited to 30 additional minutes for this amendment and all amendments thereto.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MRAZEK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to just respond to the very cogent comments from my colleague from Florida who spoke about the special priority that the Coast Guard represents when it comes to drug interdiction, and I would just like to comment for a moment on the fact that I recall when Admiral Yost came before our subcommittee I asked the Admiral what percentage of the cocaine coming into the United States is being interdicted on the basis of your spending hundreds and hundreds of millions of dollars in a concerted effort to interdict, and interdict that cocaine before it comes into the United States of America.

The Commandant said to me that he throught it was between 3 and 4 percent. And I said, "Admiral Yost, can you tell me what we would have to spend to interdict 50 percent of the cocaine coming into the United States of America," and he said, "Congressman, there is not enough money in the budget."

I would submit that it is important for us to continue the interdiction effort, and within the available budget constraints that our subcommittee has to work with. We think we have done a good job in increasing the Coast Guard budget 5 percent over last year and making sure that that is a significant component in the overall drive that we have to undertake to remove drugs as a menace from our society.

Interdiction and interception of traffic is only one part of the problem, and Admiral Yost would be the first one if he was standing here to say that education programs and treatment programs are just as important if not more important than interdiction efforts.

But that is the role of the Coast Guard. They will do their best. But we do have budget constraints that we have to work under, and that is why it cannot be what everyone would want it to be, because to interdict even 50 percent would be far more than we can afford as a Nation.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hesitate to say this, but I think the situation we are confronting is something of a fraud. This reference is not to the amendment or to its author or to the committee or its distinguished chair and ranking member.

Does any Member of this House really believe that the United States cannot afford the bare essentials for the Coast Guard, I seriously doubt that. But do Members realize that the amendment which the gentleman from Louisiana sought unsuccessfully to offer earlier was denied essentially on that premise, because if that amendment had been in order, the only way we could have funded the Coast Guard adequately would have been to take it out of mass transit or Amtrak, or air safety.

I do not know about other Members of this House, but I reject, I emphatically reject the proposition that the United States of America cannot afford to do what must be done with respect to the Coast Guard, with respect to air safety, with respect to mass transit, and with respect to every other function which a broad bipartisan public consensus believes to lie legitimately within the responsibility of the Federal Government.

But we are all operating under a set of rules that says that is not true, and those rules are called Gramm-Rudman, they are called budget summit agreements, and they are called "read-my-lips" promises. When we put them all together, this Congress is in a straitjacket, and what is worst of all is that is that it is a straitjacket of our own making.

□ 1720

A majority of both parties of this House voted for what Mr. CONTE rightly calls "Grimm-Rudman." I do not know quite who participated in the budget summit. I did not. I suspect most of us did not. But are told we have to play by its rules.

I do not know how many Members have taken for themselves the "read my lips, no new taxes" promise, but my guess is that probably a majority of both sides. But put them together and you cannot fund the Coast Guard, at least not without unfunding air safety, not without unfunding mass transit or health care or education or something else. That is an abomination and it is a fraud. It is not true, but it is the basic premise of all the budgetary debates in this Congress.

I do not think there are many Members who in the privacy of their offices believe it for one minute. But it is the straitjacket with which we have bound ourselves and we cannot act.

It is ludicrous to suggest that we cannot fund the Coast Guard to fight drugs or we cannot fund it to conduct search and rescue. Anybody had any mail recently on the Alaskan oil spill? Anybody had any mail recently on the concern about adequate Coast Guard aircraft and vessels? Anybody ever heard about drugs from their constitutents?

Let me suggest to you that we cannot solve any of those problems with speeches. I am going to support the amendment of the gentleman from Louisiana, but remember one thing, if it is adopted and becomes law, if the $300 million, which Mr. CONTE and others seek from the Defense appropriations becomes law, guess what, the Coast Guard will still be funded at a level less than the request of a fellow named George Bush.

And the last time this happened, which was last year, a fellow named Reagan and a transportation secretary named Burnley attacked the Democrats in this House for cutting the Republican request for the Coast Guard. There is and there ought to be nothing partisan about the Coast Guard. But let me warn for a minute the Members on my side of the aisle: If we adopt all of the pending amendments and if Mr. CONTE and Mr. AUCOIN and others are successful in getting the $300 million from the Department of Defense, we are still going to face charges from this administration that we cut the Coast Guard.

Do you know why? Because the administration has no money for mass transit in this budget, no money for Amtrak, and they knew perfectly well that this year, like every other year, the Congress would find that unacceptable.

What we ought also to find unacceptable is the fundamental rules of the game which are both of our making and of the President's making.

Shame on him and shame on us for meekly accepting those rules. At the very least we should adopt this amendment.

Mr. BAKER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the gentleman's amendment.

I feel there is an observation which has not yet been made which is important in the consideration of Members' vote on this matter.

When we talk about the war on drugs on the southern perimeter of the United States and its openness to those who are drug runners from central and South America, it is important to realize the investment this country has made to block the actions of those who try to bring illicit drugs into this country. From the expensive investment of C^3I in Miami, which is a $33 million facility which has an extensive marine and air network in place to monitor the movement of vessels and ships, through the Aerostat deployment in the Southwest where we track those who try to cross the Mexican border into our country, we have done and are doing an excellent job in stopping the illicit flow of drugs. But the facts are we do not have that capability in the central Gulf of Mexico, along the east Texas-Louisiana-Mississippi border.

The facility we have engaged in Gulf Port, MI, called Operation Blue Lightning, is a wonderful facility, but it is intended primarily for surveillance of marine movement, not for low-flying aircraft.

The truth of the matter is we do not have the capability to stop those low-flying planes from coming in across the coastal regions of our country and bringing with them those huge payloads of drugs.

The information that I have from others involved in monitoring this activity is clearly that the influx of drugs into the central Gulf is on the rise because you are doing an excellent job of stopping the flow elsewhere. Is this just a matter of parochial concern? Are those from Louisiana and Mississippi the only ones to be affected?

Those planes land in our States, but the drugs do not stay there. They come to your neighborhoods. They go to your school children and they make their profit out of your back yard.

I hope, not that we stand alone in the battle against drugs, but that we all join together from C^3I in Miami to Aerostat in Southwest United States and that we give the Coast Guard the ability to stop the flow of drugs that are killing our children.

Is $24 million too much to give to the Coast Guard for that purpose? I hope not.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first I want to say that I reluctantly appear in the well to support the amendment because frankly I support the budget process and I do not want to see us exceed the budget outlays.

The gentleman from Florida [Mr. LEHMAN] and the ranking Republican, Mr. COUGHLIN, do a good job. I understand the problems the gentlemen have with the 302(b) allocation.

But the fact of the matter is we hear year in and year out how many friends the Coast Guard has. I have never seen an agency have so many friends and lose so much ground. Every year the Coast Guard has lost ground. It was just last year that we had half of our mid-endurance cutters idle in south Florida because the Coast Guard did not have the fuel to pursue its drug interdiction mission. Half of our fleet was idle.

Remember just a couple of years ago when we had to borrow an icebreaker from the Soviet Union because the

Coast Guard did not have one available for operations. We had to borrow an icebreaker from our friends to the north, Canada, because we did not have one available on a second occasion.

About a month and a half ago the Coast Guard was on the Delaware River with pitchforks trying—after securing fishing boats and personnel—to pick up oil out of the water. We did not know how to clean up the oil because we had cut, in our research and development area, a few years ago and we did not do the research to develop the technology to clean up spills such as the heating oil that spilled into the Delaware River.

We had a major spill in Prince William Sound. We did not have in place the quick response teams to clean up that spill promptly. As a result, a billion—plus, who knows—in damages to Alaska because it took too long of a time for us to respond to that spill.

How did that happen? It happened because we did not have the resources. We did not support the missions of the Coast Guard in previous years and they were forced to cut their readiness.

You know, it is interesting that we have to take $300 million from the Department of Defense to fund the Coast Guard. Why do we have to have the Department of Defense, really, financing Coast Guard missions? Have you thought about that?

What happens once again if DOD does not come up with the $300 million? Well, I will tell you—the Coast Guard will have another shortfall.

And guess what. Once again we have more base closings, we have to find more places to cut, more vessels will not be hauled out for maintenance and readiness will suffer again.

It has only been a few years ago, that we faced the same situation. Guess what we started doing then? We started cutting out the programs and personnel at the Coast Guard training centers. At the Coast Guard Academy in Connecticut we started cutting courses because we did not have the money to provide the curriculum for the officers who represent our future corps.

That is a sad commentary on a country as affluent as ours—that we cannot provide the resources for this vital agency to do its job. It is shameful that we have not done so. I say to my colleague from Florida, I know he has worked very hard, but the gentleman from Louisiana [Mr. TAUZIN] wants to restore a little bit of equity to an underfunded agency that protects our country and its citizens.

But more importantly than the $64 million in total funding is the fact that we need to begin paying more attention to the Coast Guard missions and the Coast Guard budget.

Mr. Chairman, I thank my colleagues for listening, and I hope they will support the gentleman's amendment.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, on this late summer afternoon in the last year of this decade, it seems to me from listening to what has been extraordinary debate that times, they are a'changing.

□ 1730

I have found near unanimity among fiscal conservatives and liberals that if an agency of the Federal Government is to carry out the work that it is mandated to do by this Congress, it needs appropriate funds. I have not heard that since my first term 11 years ago. In all those intervening years, we mandated that agencies carry out important work of this Government, but then we did not appropriate the money. The genius at that hat trick was former President Reagan.

However, maybe times they are a'changing. Maybe it took the Coast Guard, of all agencies, to get Members to realize that if we are serious about trying to get those more than 80 percent of America's children, who are eligible for Head Start but cannot receive the services intended for them, we ought to properly fund Head Start. Perhaps the next time the Head Start appropriation bill comes up, we will remember how we treated the Coast Guard on this late afternoon in the last year of this decade.

It is true, the Coast Guard needs this money. It is also true that this amendment is a budget buster, but if we do not do it for the Coast Guard, and we do not do it for NIH AIDS research, and we do not do it for Head Start, we are going to bust this country.

My friends, we ought to stop allowing the artificial parameters set at budget summits, and I have been a summiteer, and we ought not to allow the artificial, although legal parameters set by Gramm-Rudman from preventing America from getting on with its business. The logic that we are using today for the Coast Guard applies to agency after agency after agency of the Federal Government. Maybe today, times they are a'changing.

Mr. LAUGHLIN. Mr. Speaker, I move to strike the requisite number of words.

I was born in a coastal county of Texas. I was raised in a coastal county of Texas. I represent six coastal counties of Texas. It is true that I have a special interest in the Coast Guard.

I would submit to my friends, the Members from the heartland of America, these Members, too, should have a special interest in the Coast Guard. There are people throughout this country that suspect we are only fighting a phony war on this war on drugs that we have declared. I tell Members, it is true, in my part of the country. Just in July, alone, on several occasions we had numerous plastic bags of cocaine wash ashore on the gulf coast of Texas. That is a phony war when that happens. No Coast Guard, no Navy, no U.S. Marines, no law enforcement agency had anything to do with the interdiction of these plastic bags of cocaine. They got there in phony war.

It is time that we have the courage to support the Tauzin amendment and give the Coast Guard the money that it needs to fight a real war. Mr. Speaker, historically, the Coast Guard has been asked to do much with little. We ask them to patrol our waterways. We ask them to clean up the oilspills. We ask them to interdict the overwhelming flow of drugs into our country. I say yes, to my friends from the heartland of America, after they pass through the coastal areas, they, too, end up in the heartland, in your schools, and our neighborhoods, just like they do in the coastal county schools and neighborhoods.

We have imposed upon the Coast Guard new burdens and responsibilities. Yet we have only provided them with a fraction of the money they need to wage this war. I urge all Members to support the Tauzin amendment so our Coast Guard can get on with fighting a real war, and our citizens will not accuse Members of encouraging to fight only a phony war.

Mrs. LOWEY of New York. Mr. Speaker, I strike the requisite number of words.

I rise in support of the amendment of my distinguished chairman, the gentleman from Louisiana [Mr. TAUZIN]. I am absolutely perplexed at what I am hearing this morning. As a new Member of Congress, I have heard more today about budget busting and fiscal responsibility on the $24 million. Yet I have sat in this Chamber and hear billions of dollars given for B-2 bombers, billions of dollars for SDI. I am also a member of the Select Committee on Narcotics Abuse and Control, and I want to tell Members I do not see any foreign troops invading our shore next week, next year, or even in 5 years.

We have met with the President. We met with Secretary Baker. We met with Attorney General Thornburgh. Everyone is talking about being serious about the war on drugs. Yes, education is important. Yes, boot camps are important. It is important if we are really serious about getting drugs out of our communities, out of our families, out of our lives, but everyone has testified that we also have to deal with stopping the drugs from coming into our country.

We are talking about $24 million is going to bust the budget?

Mr. Speaker, I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Speaker, we just today debated putting the whole S&L bailout bill where—off budget. The whole S&L bailout bill. Millions of dollars. Billions and millions that literally will take Members where? Into fiscal oblivion. We are not going to put that under Gramm-Rudman or put it on budget. Apparently, take it off budget. We are talking about a little tiny 1 percent of the Coast Guard.

Mrs. LOWEY of New York. Mr. Speaker, just less than half a billion for one B-2 bomber.

Let me just say in conclusion, I would hope that my esteemed colleagues would think seriously, and stop the rhetoric about the war on drugs and really give the Coast Guard the funds they need so we can go back to our communities and look at those youngsters whose lives are being destroyed by drugs, and at least feel that we have done our job.

I want to congratulate my distinguished chairman. We support the gentleman in this amendment. I would hope that my esteemed colleagues would also support it.

Mr. DELAY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I reluctantly rise in opposition to the amendment by the gentleman from Louisiana, to my neighbor to the south from Texas who represents all those coastal counties. I, too, represent a coastal county. I have a port that is about to be one of the deep water ports of this country. I have a great need for the Coast Guard and the services the Coast Guard provides.

I, too, represent what, unfortunately, is becoming a gateway for drug entry into the United States. We need that interdiction by the Coast Guard. The Coast Guard does a wonderful job for citizens on the coast of Texas, and I do not think any Member here is more of a supporter of the Coast Guard than I am.

However, Mr. Chairman, we have to be fiscally responsible. I think Members have to understand that we on the committee are not cutting the Coast Guard. We are cutting the President's request for the Coast Guard. The Coast Guard is getting a 5 percent, I repeat, a 5 percent increase in spending over last year. So, we are not devastating the Coast Guard. They are getting more money. They are getting money over and above what inflation dictates, and they are getting what they need at the present time to perform their services.

Now, Members just cannot come down and offer an amendment to a bill that has been massaged, and worked, and priorities have been made. This committee and this chairman and ranking member have worked very, very hard to take our 302(b) allocation and make sure that as many of those needs are taken care of as possible. If Members take this $24 million and give it to the Coast Guard, from where are Members going to get it? Are Members going to take it out of Amtrak? Are Members going to take it out of UMTA? Out of highway projects? Or are Members going to take it out of their projects? Where are Members going to get it?

□ 1740

The Coast Guard is getting plenty of money for their needs at this time. If they need more money in the future, we will take that under consideration. But we have the budget constraints that we have to live by, and this committee has taken a very responsible attitude.

The Coast Guard is getting a 5-percent increase, and this amendment will bust that budget because it exceeds the budget outlay allocation by over $20 million. So if Members are going to be responsible, if we are going to live within Gramm-Rudman, if we are going to live within the budget summit agreements, I ask the Members to please vote with the subcommittee and please consider what is happening here when we are just grabbing out of the air $40 million and sticking it in a bill.

Mr. Chairman, I ask the Members to oppose the Tauzin amendment and vote no.

Mr. CARPER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. MILLER of Washington. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I am happy to yield to the gentleman from Washington.

Mr. MILLER of Washington. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in favor of the amendments by our colleague, Mr. TAUZIN. One amendment will increase the appropriation for the Coast Guard's operating expenses by $24 million. The other will increase the acquisition, construction, and improvements portion of their budget by $40 million.

Mr. Chairman, we need the Coast Guard and the Coast Guard desperately needs the funds these amendments will provide.

Mr. Chairman, supporting the Tauzin amendment is not an exercise in fiscal excess. As a member of the Merchant Marine and Fisheries Committee, I have seen first hand the fine work the Coast Guard does. We rely on the Coast Guard to protect our coasts from drug smugglers and oilspills. We expect the Coast Guard to rescue merchant seamen, fishermen and recreational boaters. We are outraged at illegal fishing operations. We expect the Coast Guard to fight drugs and to respond to every crisis instantly. To the credit of the men and women of the Coast Guard, they do what they are asked to do with skill and with courage. We do them a disservice in denying them the funds they need to do their job.

We should provide the Coast Guard with the resources it needs to perform its mission of protecting our coasts, our oceans and our citizens every day and every night.

Mr. CARPER. Mr. Chairman, the gentleman from Texas [Mr. DELAY], who just spoke, called on the House to do the fiscally responsible thing.

Earlier this week, when the gentleman from Louisiana [Mr. TAUZIN], the gentleman from North Carolina [Mr. JONES], the gentleman from New Jersey [Mr. SAXTON], and the gentleman from Michigan [Mr. DAVIS], and I went to the Rules Committee, we asked for a chance to do what I think we all agree is the responsible things: We asked for a rule to let the House decide whether to move money from several programs within this appropriation bill to the Coast Guard. We have been denied the opportunity to make that kind of truly fiscally responsible move. I think that decision is regrettable.

I just want to reflect for a moment back on 7 years ago, when I first came here. Let us think about the kind of things we asked the Coast Guard to do then, and to consider the kind of things we are asking the Coast Guard to do today.

Seven years ago, we asked the Coast Guard to provide search and rescue services to boaters around our country. We also expected the Coast Guard to provide assistance on aids to navigation, whether it was buoys or whether it was loran stations that needed to be operated and maintained. We expected the Coast Guard to play some role in our coastal defenses. We expected the Coast Guard to play a role in protecting fishing rights and generally keeping poachers outside our 200-mile limit.

We did not expect the Coast Guard to do nearly so much in terms in interdicting the flow of drugs 7 years ago. We did not expect them to police the dumping of plastics, which is now illegal within the coastal waters of our country. We did not expect them to do that 7 years ago. We did not expect the Coast Guard 7 years ago to chase down those who would dump sewage sludge, and medical wastes in our coastal waters. We expect the Coast Guard to do that today.

We did not expect them to do as much in terms of preventing oilspills, and we did not expect them to do so much in terms of cleaning up and shepherding the cleaning up of those oilspills, But we do expect them to do that today.

Let me say in conclusion that the Tauzin amendment, even if the Coast Guard receives the $300 million tomorrow in the Defense appropriation bill, even if it receives the money in the

amendment offered by the gentleman from Louisiana [Mr. TAUZIN], the Coast Guard will still fall short by over $200 million of the amount the President has requested for the Coast Guard in fiscal year 1990. We will not provide real growth in the Coast Guard budget. In terms of real growth, we are looking at about a 2-percent cut for the Coast Guard.

Mr. Chairman, given the tough choices that we have to make, the choice I would make and the choice I would urge my colleagues to make is to support the Tauzin amendment today.

The CHAIRMAN pro tempore (Mr. HARRIS). The Chair wishes to inform the Members that there are 6 minutes left, and we reserve 4 minutes for the Members who stood.

The Chair recognizes the gentleman from Florida [Mr. SHAW] for 2 minutes.

Mr. SHAW. Mr. Chairman, I rise in strong support of this amendment.

I have been listening to the debate. I listened to a very fine statement by my good friend, the chairman of the subcommittee, the gentleman from Florida [Mr. LEHMAN], with regard to this amendment. It was a statement that makes us think. Those of us who are not on the Approrpiations Committee may sometimes think that the budget is all fun and games, but it is not. It takes a great deal of discipline. I recognize that, and I compliment the members of that committee for making some of these hard choices.

But it is very difficult for those of us who live and work closely in the coastal areas not to recognize the extraordinary needs of the Coast Guard. We have Coast Guard cutters that are sitting, and have been in the past, unrepaired because the funds are not available for their repair. We have them sitting in ports because there is not fuel available for them to go out and perform their most important duties. Right in Fort Lauderdale, FL, at Port Everglades, the Coast Guard takes hand-me-down furniture from the Homestead Air Force Base for the members of the Coast Guard. This simply is not right. We cannot treat the Coast Guard as a stepchild.

I recognize that fiscally conservative Members are asking us to take a responsible position and exercise some self-control. They are quite correct in asking for that, but this is an area where I think it is most important that we spend the extra money.

Mr. Chairman, I urge support of the Tauzin amendment.

The CHAIRMAN pro tempore. The Chair recognizes the chairman of the subcommittee, the gentleman from Florida [Mr. LEHMAN], to close out the debate.

Mr. LEHMAN of Florida. Mr. Chairman, this issue has taken over 2 hours of debate today. Apparently, it would seem that most of the problems of our country could be solved by providing an additional $24 million for the Coast Guard.

We have lots of problems in this country. We have education problems, we have pollution problems, we have housing problems, we have crime problems, and we have illegal immigration problems. We have hundreds of problems, and all of them will not be resolved by this $24 million. In fact, the drug problem will not be helped very much, if any, and in fact, even the Coast Guard, which we fund adequately and have funded very responsibly over many years, may not be helped. The problems of the Coast Guard, as well as the problems of other agencies of Government, will not be solved by accepting this amendment.

The easy vote today on this amendment is to throw more money at the drug problem and add money to the beloved Coast Guard. Everybody loves the Coast Guard. It is a wonderful service.

The tough vote today on this amendment is the fiscally responsible vote—a vote not to bust the budget. It is a hard vote, but I am asking my colleagues to vote against the Tauzin amendment and for the budget process that we have in the House of Representatives.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LEHMAN of Florida. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 218, noes 198, not voting 15, as follows:

[Roll No. 215]

AYES—218

Ackerman	Clarke	Evans
Anderson	Clement	Feighan
Annunzio	Coble	Fields
Anthony	Coleman (MO)	Fish
Applegate	Costello	Flake
Archer	Cox	Foglietta
Aspin	Craig	Ford (MI)
Baker	Crane	Frank
Ballenger	Darden	Frost
Bartlett	Davis	Gallegly
Barton	de la Garza	Garcia
Bateman	DeFazio	Gejdenson
Bentley	Dellums	Gibbons
Bilbray	DeWine	Gillmor
Bilirakis	Dickinson	Gilman
Boggs	Donnelly	Gingrich
Borski	Dornan (CA)	Gonzalez
Bosco	Douglas	Goss
Brennan	Downey	Grandy
Brooks	Dreier	Grant
Broomfield	Duncan	Guarini
Bryant	Dymally	Hall (TX)
Bunning	Dyson	Hammerschmidt
Burton	Eckart	Hancock
Byron	Edwards (OK)	Hansen
Callahan	Emerson	Hayes (LA)
Campbell (CO)	Engel	Henry
Carper	English	Herger
Hertel	McDermott	Shays
Hoagland	McEwen	Shumway
Hochbrueckner	McNulty	Sisisky
Holloway	Miller (WA)	Skelton
Hopkins	Molinari	Slaughter (NY)
Horton	Moorhead	Smith (FL)
Hubbard	Morrison (CT)	Smith (MS)
Huckaby	Morrison (WA)	Smith (NJ)
Hughes	Neal (NC)	Smith (TX)
Hunter	Nelson	Smith (VT)
Hutto	Nowak	Smith, Denny (OR)
Inhofe	Oakar	Smith, Robert (NH)
Ireland	Oberstar	Smith, Robert (OR)
James	Ortiz	Snowe
Jenkins	Packard	Solarz
Johnson (CT)	Pallone	Solomon
Jones (NC)	Parker	Spence
Kaptur	Pashayan	Spratt
Kennedy	Paxon	Stallings
Kennelly	Payne (NJ)	Stangeland
Kildee	Pickett	Stearns
Kostmayer	Pickle	Studds
LaFalce	Poshard	Swift
Lagomarsino	Quillen	Tallon
Lancaster	Rangel	Tanner
Lantos	Ravenel	Tauzin
Laughlin	Rhodes	Torricelli
Leath (TX)	Ridge	Traficant
Lent	Rinaldo	Unsoeld
Lewis (FL)	Ritter	Upton
Lipinski	Robinson	Vander Jagt
Livingston	Roe	Vucanovich
Lowery (CA)	Rose	Walgren
Lowey (NY)	Roth	Walker
Luken, Thomas	Rowland (CT)	Walsh
Machtley	Saiki	Weiss
Manton	Sarpalius	Weldon
Markey	Saxton	Williams
Marlenee	Schaefer	Wyden
Martin (NY)	Scheuer	Yatron
Matsui	Schiff	Young (AK)
Mavroules	Schneider	Young (FL)
McCandless	Schuette	
McCollum	Schumer	
McCrery	Sharp	
McCurdy	Shaw	

NOES—198

Akaka	Erdreich	Levine (CA)
Alexander	Espy	Lewis (CA)
Andrews	Fascell	Lewis (GA)
Armey	Fawell	Lightfoot
Atkins	Fazio	Lloyd
AuCoin	Flippo	Long
Barnard	Ford (TN)	Lukens, Donald
Bates	Gallo	Madigan
Beilenson	Gaydos	Martin (IL)
Bennett	Gekas	Martinez
Bereuter	Gephardt	Mazzoli
Berman	Glickman	McCloskey
Bevill	Goodling	McDade
Bliley	Gordon	McGrath
Boehlert	Gradison	McHugh
Bonior	Gray	McMillan (NC)
Boucher	Green	McMillen (MD)
Boxer	Gunderson	Meyers
Browder	Hall (OH)	Mfume
Brown (CA)	Hamilton	Michel
Brown (CO)	Harris	Miller (CA)
Bruce	Hastert	Miller (OH)
Buechner	Hatcher	Mineta
Bustamante	Hawkins	Moakley
Campbell (CA)	Hayes (IL)	Mollohan
Cardin	Hefley	Montgomery
Carr	Hefner	Moody
Chandler	Hiler	Morella
Chapman	Houghton	Mrazek
Clay	Hoyer	Murphy
Clinger	Jacobs	Murtha
Coleman (TX)	Johnson (SD)	Myers
Combest	Johnston	Nagle
Conte	Jones (GA)	Natcher
Cooper	Jontz	Neal (MA)
Coughlin	Kanjorski	Nielson
Coyne	Kasich	Obey
Dannemeyer	Kastenmeier	Olin
DeLay	Kleczka	Owens (NY)
Derrick	Kolbe	Owens (UT)
Dicks	Kolter	Oxley
Dixon	Kyl	Panetta
Dorgan (ND)	Leach (IA)	Parris
Durbin	Lehman (CA)	Patterson
Dwyer	Lehman (FL)	Payne (VA)
Early	Leland	Pease
Edwards (CA)	Levin (MI)	Penny

Perkins	Sawyer	Thomas (CA)
Petri	Schroeder	Thomas (GA)
Porter	Schulze	Thomas (WY)
Price	Sensenbrenner	Torres
Pursell	Shuster	Traxler
Rahall	Sikorski	Valentine
Ray	Skaggs	Vento
Regula	Skeen	Visclosky
Richardson	Slattery	Volkmer
Roberts	Slaughter (VA)	Weber
Rogers	Smith (IA)	Wheat
Rohrabacher	Smith (NE)	Whittaker
Rostenkowski	Staggers	Whitten
Roukema	Stark	Wilson
Rowland (GA)	Stenholm	Wise
Roybal	Stokes	Wolf
Russo	Stump	Wolpe
Sabo	Sundquist	Wylie
Sangmeister	Synar	Yates

NOT VOTING—15

Collins	Florio	Tauke
Conyers	Frenzel	Towns
Courter	Hyde	Udall
Crockett	Pelosi	Watkins
Dingell	Savage	Waxman

□ 1806

Mr. TORRES and Mr. SKAGGS changed their vote from "aye" to "no."

Messrs. LAFALCE, SCHUMER, and HANCOCK changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $383,800,000, to remain available until September 30, 1994, of which $88,300,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment; $189,000,000 shall be available to acquire new aircraft and increase aviation capability; $13,200,000 shall be available for command, control and communications and related systems; $62,800,000 shall be available for shore facilities and aids to navigation facilities; and $30,500,000 shall be available for personnel, survey and design, and related costs: *Provided,* That the Secretary of Transportation shall issue regulations requiring that written warranties shall be included in all contracts with prime contractors for major systems acquisitions of the Coast Guard: *Provided further,* That any such written warranty shall not apply in the case of any system or component thereof that has been furnished by the Government to a contractor: *Provided further,* That the Secretary of Transportation may provide for a waiver of the requirements for a warranty where: (1) the waiver is necessary in the interest of the national defense or the warranty would not be cost effective; and (2) the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries of the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirements: *Provided further,* That the requirements for such written warranties shall not cover combat damage.

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: Page 7, line 15, delete "$383,800,000" and insert "$423,800,000"; and

Page 7, line 18, delete "$189,000,000" and insert "$202,100,000"; and

Page 7, line 16, delete "$88,300,000" and insert "$115,200,000".

□ 1810

Mr. TAUZIN. Mr. Chairman, this is the second of the two amendments that are both designed together.

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I am happy to yield to the gentleman from Florida.

Mr. LEHMAN of Florida. Mr. Chairman, this is a parallel amendment basically with the previous amendment. The House has worked its will. We will accept the amendment.

The CHAIRMAN. Is there any other debate on the amendment?

The question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $2,330,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C., ch. 55), $420,800,000.

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $71,800,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $18,800,000, to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

OFFSHORE OIL POLLUTION COMPENSATION FUND

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations in such amounts and at such times as may be necessary to the extent that appropriations are not adequate to meet the obligations of the Fund: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $60,000,000 in fiscal year 1990 for the "Offshore Oil Pollution Compensation Fund".

DEEPWATER PORT LIABILITY FUND

The Secretary of Transportation is authorized to issue, and the Secretary of the Treasury is authorized to purchase, without fiscal year limitation, notes or other obligations in such amounts and at such times as may be necessary to the extent that available appropriations are not adequate to meet the obligations of the Fund: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $50,000,000 in fiscal year 1990 for the "Deepwater Port Liability Fund".

BOAT SAFETY

(LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred for recreational boating safety assistance under Public Law 92-75, as amended, $30,000,000 to be derived from the Boat Safety Account and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $30,000,000 in fiscal year 1990 for recreational boating safety assistance.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, purchase of four passenger motor vehicles for replacement only, $3,836,000,000 of which $816,500,000 shall be derived from the Airport and Airway Trust Fund: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities and for issuance of airmen and aircraft certificates, including processing of major repair and alteration forms: *Provided further,* That none of these funds shall be available for new applicants for the second career training program or for a pilot test of contractor maintenance: *Provided further,* That the immediately preceding proviso shall not prohibit the augmentation of the existing field maintenance work force if it is determined to be essential for the safe operation of the air traffic control system: *Provided further,* That the unexpended balances of the appropriation "Federal Aviation Administration, Headquarters Administration" shall be transferred to and merged with this appropriation: *Provided further,* That section 5532(f)(2) of title V, United States Code, is amended by striking "December 31, 1989" and inserting "December 31, 1990" in lieu thereof: *Provided further,* That section 8344(h) of title V, United States Code, is amended by striking "December 31, 1987" in paragraph (2) and inserting "December 31, 1988" in lieu thereof: *Provided further,* That

is the event that the Federal Aviation Administrator employs annuitants subject to section 8344(h) of title V, United States Code, not to exceed $10,000,000, to be derived from the unobligated balance of any appropriation available for obligation by the Federal Aviation Administration as of the effective date of this Act, shall be available through December 31, 1990, for the purpose of funding such employment: *Provided further,* That any such funding shall be reported to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further,* That, of the funds available under this head, $3,400,000 shall be made available for the Federal Aviation Administration to enter into contractual agreement with the Mid-American Aviation Resource Consortium in Minnesota to operate an air traffic controller training program.

POINT OF ORDER

Mr. FORD of Michigan. Mr. Chairman, I raise a point of order against the language beginning with the word "Provided" on page 12, line 4, through the word "thereof" on page 12, line 10.

The CHAIRMAN (Mr. PANETTA). Does any other Member wish to be heard on the point of order?

If not, the point of order is sustained. It constitutes legislation on an appropriation bill. That proviso will be stricken from the bill.

The Clerk will read.

The Clerk read as follows:

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1994, $1,732,000,000: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further,* That none of the funds under this head shall be available for the Secretary of Transportation to enter into grant agreements with universities or colleges for any capital project the Federal share of which is in excess of 50 per centum of the total cost of such project.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301-1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant, $185,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91-258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $1,190,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $1,500,000,000 in fiscal year 1990 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982, as amended: *Provided further,* That, of the amount available for obligation under this head, $100,000,000 shall be made available, in addition to amounts otherwise provided by law, for the purchase of airport access control systems and for the planning and execution of programs under section 507(c)(2) of the Airport and Airway Improvement Act of 1982, as amended.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7, 1957, Public Law 85-307, as amended (49 U.S.C. 1324 note). None of the funds in this Act shall be available for the implementation or execution of programs under this head the obligations for which are in excess of $50,000,000 during fiscal year 1990. Such obligations shall be redeemed by the Secretary from appropriations authorized by this section. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purpose for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, and research of the Federal Highway Administration, not to exceed $222,600,000 shall be paid in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided,* That not to exceed $30,580,000 of the amount provided herein shall remain available until expended: *Provided further,* That, notwithstanding any other provision of law, there may be credited to this account funds received from States, counties, municipalities, other public authorities, and private sources, for training expenses incurred for non-Federal employees.

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

(HIGHWAY TRUST FUND)

For necessary expenses in carrying out the provisions of sections 307(a) and 403 of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, $6,080,000.

HIGHWAY-RELATED SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, $9,405,000, to be derived from the Highway Trust Fund: *Provided,* That not to exceed $100,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": *Provided further,* That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $9,405,000 in fiscal year 1990 for "Highway-related safety grants".

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended, $15,000,000, of which $10,000,000 shall be derived from the Highway Trust Fund.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $12,463,500,000 for Federal-aid highways and highway safety construction programs for fiscal year 1990.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $13,660,000,000, or so much thereof as may be available in and derived

from the Highway Trust Fund, to remain available until expended.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

During fiscal year 1990 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $42,500,000.

MOTOR CARRIER SAFETY

For necessary expenses to carry out the motor carrier safety functions of the Secretary as authorized by the Department of Transportation Act (80 Stat. 939-940), $32,190,000, of which $1,282,000 shall remain available until expended.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of section 402 of Public Law 97-424, $52,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $60,200,000 for "Motor carrier safety grants".

BALTIMORE-WASHINGTON PARKWAY

(HIGHWAY TRUST FUND)

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970 for the Baltimore-Washington Parkway, to remain available until expended, $12,000,000, to be derived from the Highway Trust Fund and to be withdrawn therefrom at such times and in such amounts as may be necessary.

INTERMODAL URBAN DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For necessary expenses to carry out the provisions of section 124 of the Federal-Aid Highway Amendments of 1974, $10,000,000, to be derived from the Highway Trust Fund.

HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

For necessary expenses to carry out construction projects as authorized by Public Law 99-500 and Public Law 99-591, $12,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway improvements in the vicinity of Pontiac and East Lansing, Michigan, that demonstrates methods of enhancing safety and promoting economic development through widening and resurfacing of highways on the Federal-aid primary system and on roads on the Federal-aid urban system, as authorized by Public Law 99-500 and Public Law 99-591, $11,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY-RAILROAD GRADE CROSSING SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway-railroad grade crossing separations in Mineola, New York, that demonstrates methods of enhancing highway-railroad crossing safety while minimizing surrounding environmental effects, as authorized by Public Law 99-500 and Public Law 99-591, $9,500,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY WIDENING DEMONSTRATION PROJECT

For necessary expenses to carry out a demonstration project to improve U.S. Route 202 in the vicinity of King of Prussia, Pennsylvania, as authorized by Public Law 100-202, $2,000,000, to remain available until expended.

BRIDGE IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project in the vicinity of Jacksonville, Florida, for the purpose of demonstrating methods of reducing traffic congestion and improving efficiency in the trans-shipment of military and civilian cargo by construction of a bridge to Blount Island, widening State Highway 105 (Heckscher Drive) and constructing an interchange at the intersection of Heckscher Drive and the new Blount Island Bridge, $4,000,000, to remain available until expended.

HIGHWAY WIDENING AND IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project between Paintsville and Prestonsburg, Kentucky, that demonstrates the safety and economic benefits of widening and improving highways in mountainous areas, $5,000,000, to remain available until expended.

HIGHWAY CAPACITY IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to improve U.S. Route 231 between U.S. Route 90 and the City of Campbellton in Jackson County, Florida, for the purpose of demonstrating methods of expanding a two-lane segment of a U.S. highway to four lanes, $100,000, to remain available until expended.

CLIMBING LANE SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project on U.S. Route 15 in the vicinity of Tioga County, Pennsylvania, for the purpose of demonstrating methods of improved highway and highway safety construction, $2,500,000, to remain available until expended.

INDIANA INDUSTRIAL CORRIDOR SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary for the construction of an improved route between Wabash and Huntington, Indiana, for the purpose of demonstrating the safety and economic benefits of widening and improving rural highways, $2,400,000, to remain available until expended.

OKLAHOMA HIGHWAY WIDENING DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to widen Oklahoma State Route 53 from Interstate Highway 35 east to the entrance of the Ardmore Regional Industrial Airpark for the purpose of demonstrating methods of improved highway and highway safety construction, $2,500,000, to remain available until expended.

ALABAMA HIGHWAY BYPASS DEMONSTRATION PROJECT

For 80 percent of the expenses necessary for the construction of a highway bypass project in the vicinity of Jasper, Alabama, for the purpose of demonstrating methods of improved highway and highway safety construction, $8,300,000, to remain available until expended.

KENTUCKY BRIDGE DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to replace the Glover Cary Bridge in Owensboro, Kentucky, for the purpose of demonstrating methods of improved highway and highway safety construction, $5,000,000, to remain available until expended.

VIRGINIA HOV SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to construct High Occupancy Vehicle lanes on Interstate Route 66 between Interstate Route 495 and U.S. Route 50 for the purpose of demonstrating methods of increasing highway capacity and safety by the use of highway shoulders to construct HOV lanes, $4,650,000, to remain available until expended.

URBAN HIGHWAY CORRIDOR DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to improve and upgrade the M-59 urban highway corridor in southeast Michigan, $4,500,000, to remain available until expended, for the purpose of demonstrating methods of improving congested urban corridors that have been neglected during construction of the Interstate system: *Provided*, That of the funds available under this head, $3,000,000 shall be available for a bicycle transportation demonstration project in Macomb County, Michigan.

URBAN AIRPORT ACCESS SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to improve and upgrade access to Detroit Metropolitan Airport in southeast Michigan, $5,000,000, to remain available until expended, for the purpose of demonstrating methods of improving access to major urban airports.

EBENSBURG BYPASS DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to construct the Ebensburg, Pennsylvania bypass as authorized by Public Law 100-17, $13,740,000, to remain available until expended.

BRIDGE REHABILITATION DEMONSTRATION PROJECT

For not to exceed 80 percent of the expenses necessary to rehabilitate a bridge in the vicinity of Chester, Illinois, $350,000, to remain available until expended.

HIGHWAY DEMONSTRATION PROJECTS—PRELIMINARY ENGINEERING

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for certain highway projects that demonstrate methods of improving safety, reducing congestion, or promoting economic development, $12,400,000, to remain available until expended.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended) and the National Traffic and Motor Vehicle Safety Act, $71,684,000, of which $34,690,000 shall remain available until expended.

OPERATIONS AND RESEARCH
(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under chapter 4, title 23, United States Code, to be derived from the Highway Trust Fund, $32,316,000, to remain available until expended: *Provided*, That, of the funds available under this head, $2,000,000 shall be available for light truck and van safety research and analysis.

HIGHWAY TRAFFIC SAFETY GRANTS
(LIQUIDATION OF CONTRACT AUTHORIZATION)
(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 402, 406, and 408, and section 209 of Public Law 95-599, as amended, to remain available until expended, $132,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $115,000,000 in fiscal year 1990 for "State and community highway safety grants" authorized under 23 U.S.C. 402: *Provided further*, That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $11,000,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: *Provided further*, That not to exceed $4,900,000 shall be available for administering the provisions of 23 U.S.C. 402: *Provided further*, That notwithstanding any other provision of law, none of the funds in this Act shall be available for the planning or execution of programs authorized under section 209 of Public Law 95-599, as amended, the total obligations for which are in excess of $4,750,000 in fiscal years 1982 through 1990.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $14,400,000, of which $1,425,000 shall remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided further*, That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: *Provided further*, That such additional sums as may be necessary, for payment on the first deed of trust, may be advanced by the Administrator from unobligated balances available to the Federal Railroad Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $31,900,000, of which $1,175,000 shall remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $9,600,000, to remain available until expended.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.) and the Rail Safety Improvement Act of 1988, $19,600,000, to remain available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565, to remain available until expended, $615,000,000: *Provided*, That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further*, That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1990: *Provided further*, That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements prohibited by this Act or not expressly provided for in an appropriations Act shall be deemed a violation of 31 U.S.C. 1341: *Provided further*, That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e): *Provided further*, That none of the funds in this or any other Act shall be made available to finance the rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between Atlantic City, New Jersey, and the main line of the Northeast Corridor, unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Federal sources: *Provided further*, That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not operate rail passenger service between Atlantic City, New Jersey, and the Northeast Corridor main line unless the Corporation's Board of Directors determines that revenues from such service have covered or exceeded 80 per centum of the short-term avoidable costs of operating such service in the first year of operation and 100 per centum of the short-term avoidable operating costs for each year thereafter: *Provided further*, That none of the funds provided in this or any other Act shall be made available to finance the acquisition and rehabilitation of a line, and construction necessary to facilitate improved rail passenger service, between Spuyten Duyvil, New York, and the main line of the Northeast Corridor unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Amtrak sources.

RAILROAD REHABILITATION AND IMPROVEMENT
FINANCING FUNDS

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That no new loan guarantee commitments shall be made during fiscal year 1990: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Transportation shall sell securities or promissory notes with a principal value of at least $50,000,000 that are held by the Department of Transportation under authority of sections 502, 505-507, 509, and 511-513 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, by no later than September 30, 1990: *Provided further*, That such securities or promissory notes authorized to be sold in the immediately preceding proviso shall be sold only for amounts greater than or equal to the net present value to the Government of each loan as determined by the Secretary of Transportation in consultation with the Secretary of the Treasury: *Provided further*, That the Secretary of Transportation shall transmit a written certification to the Committees on Appropriations of the Senate and House of Representatives before the consummation of each sale certifying that the amount to be realized is equal to or greater than the net present value to the Government of each loan: *Provided further*, That, notwithstanding any other provision of law, for fiscal year 1989 and each fiscal year thereafter all amounts realized from the sale of notes or securities sold under authority of this section shall be considered as current year domestic discretionary outlay offsets and not as "asset sales" or "loan prepayments" as defined by section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That any underwriting fees and related expenses shall be derived solely from the proceeds of the sales.

REGIONAL RAIL REORGANIZATION PROGRAM

For the settlement of promissory notes pursuant to section 210 of the Regional Rail Reorganization Act of 1973 (Public Law 93-236), as amended, $94,932,979, to remain available until expended, together with such sums as may be necessary for the payment of interest due to the Secretary of the Treasury under the terms and conditions of such notes.

CONRAIL COMMUTER TRANSITION ASSISTANCE

For necessary capital expenses of Conrail commuter transition assistance, not otherwise provided for, $5,000,000, to remain available until expended.

AMTRAK CORRIDOR IMPROVEMENT LOANS

The Secretary is authorized to provide $3,500,000 in loans to the Chicago, Missouri

and Western Railroad to replace existing jointed rail with continuous welded rail between Joliet, Illinois and Granite City, Illinois: *Provided*, That any loan authorized under this section shall be structured with a maximum 20-year payment at an annual interest rate of 4 per centum: *Provided further*, That the Federal Government shall hold a first and prior purchase money security interest with respect to any materials to be acquired with federal funds: *Provided further*, That any such loan shall be matched on a dollar for dollar basis by the State of Illinois.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and 23 U.S.C. chapter 1, in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $31,809,000.

RESEARCH, TRAINING, AND HUMAN RESOURCES

For necessary expenses for research, training, and human resources as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $10,000,000: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for training.

FORMULA GRANTS

For necessary expenses to carry out the provisions of sections 9 and 18 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $1,700,000,000, together with $5,000,000 to carry out the provisions of section 18(h) of the Urban Mass Transportation Act of 1964, as amended, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, of the funds provided under this Act for formula grants, no more than $780,000,000 may be used for operating assistance under section 9(k)(2) of the Urban Mass Transportation Act of 1964, as amended, of which not to exceed $485,213,394 shall be available for areas with a population over 1,000,000.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs in excess of $1,140,000,000 in fiscal year 1990 for grants under the contract authority authorized in section 21 (a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.).

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out section 21 (a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), administered by the Urban Mass Transportation Administration, $900,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

INTERSTATE TRANSFER GRANTS—TRANSIT

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, $180,000,000, to remain available until expended.

WASHINGTON METRO

For necessary expenses to carry out the provisions of section 14 of Public Law 96-184, $100,000,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $11,750,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, and for expenses for conducting research and development, $16,800,000, of which $1,645,000 shall remain available until expended: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training and for aviation information management.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

For expenses necessary to conduct the functions of the pipeline safety program and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, $10,325,000, to be derived from the Pipeline Safety Fund, of which $5,875,000 shall remain available until expended.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $32,100,000.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $1,950,000.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), $26,600,000, of which not to exceed $500 may be used for official reception and representation expenses.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $1,500 for official reception and representation expenses, $43,860,000: *Provided*, That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such.

PAYMENTS FOR DIRECTED RAIL SERVICE

(LIMITATION ON OBLIGATIONS)

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed $475,000 for directed rail service authorized under 49 U.S.C. 11125 or any other Act.

PANAMA CANAL COMMISSION

PANAMA CANAL REVOLVING FUND

For administrative expenses of the Panama Canal Commission, including not to exceed $10,000 for official reception and representation expenses of the Board; not to exceed $4,000 for official reception and representation expenses of the Secretary; and not to exceed $25,000 for official reception and representation expenses of the Administrator, $49,842,000, to be derived from the Panama Canal Revolving Fund: *Provided*, That none of these funds may be used for the planning or execution of non-administrative and capital programs the obligations for which are in excess of $452,005,000 in fiscal year 1990: *Provided further*, That funds available to the Panama Canal Commission shall be available for the purchase of not to exceed forty-eight passenger motor vehicles, of which forty-five are for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama, the purchase price of which shall not exceed $15,000 per vehicle).

DEPARTMENT OF THE TREASURY

REBATE OF SAINT LAWRENCE SEAWAY TOLLS

(HARBOR MAINTENANCE TRUST FUND)

For rebate of the United States portion of tolls paid for use of the Saint Lawrence Seaway, pursuant to Public Law 99-662, $10,050,000, to remain available until expended and to be derived from the Harbor Maintenance Trust Fund, of which not to exceed $250,000 shall be available for expenses of administering the rebates.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

For necessary expenses for interest payments, to remain available until expended, $51,663,569: *Provided*, That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96-184 and the Initial Bond Repayment Participation Agreement.

TITLE III—GENERAL PROVISIONS

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and air-

craft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. Funds for the Panama Canal Commission may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law that are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

SEC. 305. None of the funds for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year nor may any be transferred to other appropriations unless expressly so provided herein.

SEC. 308. None of the funds in this or any previous or subsequent Act shall be available for the planning or implementation of any change in the current Federal status of the Transportation Systems Center, and none of the funds in this Act shall be available for the implementation of any change in the current Federal status of the Turner-Fairbank Highway Research Center.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing executive order issued pursuant to existing law.

SEC. 310. (a) For fiscal year 1990 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1989, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction that have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1990, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses, the Federal lands highway program, the strategic highway research program and amounts made available under sections 149(d), 158, 159, 164, 165, and 167 of Public Law 100-17.

(d) The limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1990 shall not apply to obligations for emergency relief under section 125 of title 23, United States Code; obligations under section 157 of title 23, United States Code; projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, subsections 131 (b) and (j) of Public Law 97-424, section 118 of the National Visitors Center Facilities Act of 1968, section 320 of title 23, United States Code; projects authorized by Public Law 99-500, Public Law 99-591 and Public Law 100-202; or projects covered under subsections 149 (b) and (c) of Public Law 100-17.

(e) Subject to paragraph (c)(2) of this General Provision, a State which after August 1 and on or before September 30 of fiscal year 1990 obligates the amount distributed to such State in that fiscal year under paragraphs (a) and (c) of this General Provision may obligate for Federal-aid highways and highway safety construction on or before September 30, 1990, an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 103(e)(4) of such title,

which are not obligated on the date such State completes obligation of the amount so distributed.

(f) During the period August 2 through September 30, 1990, the aggregate amount which may be obligated by all States pursuant to paragraph (e) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 103(e)(4) of such title,

which would not be obligated in fiscal year 1990 if the total amount of the obligation limitation provided for such fiscal year in this Act were utilized.

(g) Paragraph (e) shall not apply to any State which on or after August 1, 1990, has the amount distributed to such State under paragraph (a) for fiscal year 1990 reduced under paragraph (c)(2).

SEC. 311. None of the funds in this Act shall be available for salaries and expenses of more than one hundred and twenty political and Presidential appointees in the Department of Transportation.

SEC. 312. Not to exceed $400,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 313. None of the funds in this or any other Act shall be made available for the proposed Woodward light rail line in the Detroit, Michigan area until a source of operating funds has been approved in accordance with Michigan law: *Provided*, That this limitation shall not apply to alternatives analysis studies under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended.

SEC. 314. The limitation on obligations for the Discretionary Grants program of the Urban Mass Transportation Administration shall not apply to any authority under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended, previously made available for obligation.

SEC. 315. Notwithstanding any other provision of law, none of the funds in this Act shall be available for the construction of, or any other costs related to, the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan.

SEC. 316. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 317. Within 14 calendar days of the obligation date, the Urban Mass Transportation Administration shall publish in the Federal Register an announcement of each grant obligated pursuant to sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended, including the grant number, the grant amount, and the transit property receiving each grant.

SEC. 318. None of the funds appropriated in this Act may be used to prescribe, implement, or enforce a national policy specifying that only a single type of visual glideslope indicator can be funded under the facilities and equipment account or through the airport improvement program: *Provided*, That this prohibition shall not apply in the case of airports that are certified under part 139 of the Federal Aviation Regulations.

SEC. 319. Notwithstanding any other provision of law, funds appropriated in this or any other Act intended for studies, reports, or research, and related costs thereof including necessary capital expenses, are available for such purposes to be conducted through contracts or financial assistance

agreements with the educational institutions that are specified in such Acts or in any report accompanying such Acts.

SEC. 320. The Secretary of Transportation shall permit the obligation of not to to exceed $4,000,000, apportioned under title 23, United States Code, section 104(b)(5)(B) for the State of Florida for operating expenses of the Tri-County Commuter Rail Project in the area of Dade, Broward, and Palm Beach Counties, Florida, during each year that Interstate 95 is under reconstruction in such area.

SEC. 321. (a) Notwithstanding any provision of this or any other law, none of the funds provided by this Act for appropriation shall be available for payment to the General Services Administration for rental space and services at rates per square foot in excess of 100 percent of the rates paid during fiscal year 1989; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1989 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act.

(b) Notwithstanding any other provision of law, fiscal year 1990 obligations and outlays of "General Services Administration, Federal Buildings Fund" are reduced by an amount equal to the revenue reduction to such Fund pursuant to subsection (a).

SEC. 322. Notwithstanding any other provision of law, section 144(g)(2) of title 23, United States Code, shall not apply to the Virginia Street Bridge in Charleston, West Virginia.

SEC. 323. MASS TRANSIT CAPITAL FUND (LIQUIDATION OF CONTRACT AUTHORIZATION) (HIGHWAY TRUST FUND).—Funds appropriated under this heading in the Department of Transportation and Related Agencies Appropriations Act, 1988, shall be available for payment of obligations incurred in carrying out section 317(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

SEC. 324. (a) The Federal Aviation Administration shall satisfy the following air traffic controller work force staffing requirements by September 30, 1990:

(1) total air traffic controller work force level of not less than 17,495;

(2) total full performance level air traffic controllers of not less than 12,725; and

(3) at least 70 percent of the air traffic controller work force, at each center and level 3 and above terminal shall have achieved operational controller status.

(b) The Secretary may waive any requirement of this section by certifying that such requirement would adversely affect aviation safety: *Provided,* That such a waiver shall become effective 30 days after the Committees on Appropriations of the Senate and the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirement.

SEC. 325. Notwithstanding any other provision of law, the Secretary of Transportation shall make payment of compensation under subsection 419 of the Federal Aviation Act of 1958, as amended, only to the extent and in the manner provided in appropriations Acts, at times and in a manner determined by the Secretary to be appropriate, and claims for such compensation shall not arise except in accordance with this provision.

SEC. 326. The authority conferred by section 513(d) of the Airport and Airway Improvement Act of 1982, as amended, to issue letters of intent shall remain in effect subsequent to September 30, 1992. Letters of intent may be issued under such subsection to applicants determined to be qualified under such Act: *Provided,* That, notwithstanding any other provision of law, all such letters of intent in excess of $10,000,000 shall be submitted for approval to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 327. The Secretary of Transportation is authorized to transfer funds appropriated for any office of the Office of the Secretary to any other office of the Office of the Secretary: *Provided,* That no appropriation shall be increased or decreased by more than 4 per centum by all such transfers: *Provided further,* That any such transfer shall be submitted for approval to the House and Senate Committees on Appropriations.

SEC. 328. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act.

SEC. 329. Section 149 (a)(30)(D) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (23 U.S.C. 202) is amended—

(a) by striking out the heading "CALUMET PARK" and inserting in lieu thereof "VILLAGE OF ALSIP"; and

(b) by striking out all that follows after "reconstruction" and inserting in lieu thereof "of 127th Street between Illinois Route 83 and Kostner Avenue in Alsip, Illinois.".

SEC. 330. None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 331. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration instrument landing systems (along with associated approach lighting equipment and runway visual range equipment), the purchase of which was assisted by an airport improvement program grant. The Federal Aviation Administration shall accept such equipment and it shall thereafter be operated and maintained by the Federal Aviation Administration in accordance with agency criteria.

SEC. 332. Section 329 of the Department of Transportation and Related Agencies Appropriations Act, 1989 is hereby repealed.

SEC. 333. Notwithstanding any other provision of law, the Secretary shall reimburse the State of California for the Federal share of the fair market value of right of way incorporated into one or more of the following projects and conveyed to the State by the City of Irvine, the City of Tustin, and/or the County of Orange for the construction of the Barranca Parkway/State Route 133 interchange, the Tustin Ranch Road/Interstate Route 5 interchange, the Bake Parkway/Interstate Route 5 interchange, and the improvements to the confluence of Interstate Route 5 and Interstate Route 405 in Orange County, California, upon application by the State of California for reimbursement. The fair market value of the right-of-way shall be established as determined by the Secretary of Transportation.

Mr. LEHMAN of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 55, line 6, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

POINT OF ORDER

Mr. ANDERSON. Mr. Chairman, I make a point of order against the paragraph entitled "Formula Grants" on page 35, beginning with the proviso at the end of line 16 through line 22, of H.R. 3015 on the grounds that such provision violates clause 2 of rule XXI of the Rules of the House of Representatives. It constitutes legislation in a general appropriations bill.

The CHAIRMAN. Does any other Member wish to be heard with regard to the point of order?

Does the gentleman confine his point of order to the proviso or to the entire paragraph?

Mr. ANDERSON. Mr. Chairman, to the proviso, to the proviso beginning on line 16.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

If not, for the reasons stated by the gentleman from California, the point of order is sustained. This constitutes legislation on an appropriations bill.

Are there any other points of order?

If not, are there any amendment?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 30, beginning on line 1, strike all that follows through page 31, line 25.

Mr. WALKER. Mr. Chairman, during the last debate we heard a lot of talk about why can we not find the money to meet the priorities that we all know are there. Why can we not find money for the Coast Guard?

A week ago I came to the floor and asked the question, "Why can we not find money for things like the space station and to do the kind of advanced R&D that this country needs?" One of the reasons why we cannot find the money is because we continue to fund things like 19th century technology. One of the reasons why we cannot find the things that we need to address the future is because we keep subsidizing the past.

I would suggest that we have an opportunity here on the floor this evening to find some of the money we need for high priorities by defunding a project that the administration has told us over and over again does not deserve Federal subsidies, namely, Amtrak.

I would suggest to the Members that while that sounds harsh to cut out the entire subsidy for Amtrak, I am not

certain but what we would not end up with a better rail system if we did it. We know, for instance, that there are places in this country where one can operate a passenger rail system profitably, but they are not operated profitably because this railroad is operated for subsidies. It is aimed at trying to increase the subsidies rather than trying to increase the passenger traffic.

□ 1820

In most places in the country when a businessman gets up in the morning, for instance in Lancaster, PA, he does not say to himself, "I have business in Los Angeles, I think I'll take the train." What he does is make a rational judgment. If he has business to do, he takes an airplane flight.

Now if he is going to New York City, he gets up and he says, "Yes, the train is a realistic option." And guess what, those kinds of routes make money.

It is the long-haul routes that do not make any money. Members will say, "Well, gee whiz, if I want to take my kids or my grandkids on a train ride across the country and out over the long haul, I wouldn't have any chance to take them on that excursion across the country." That is not true, because someone would soon figure out, just as the cruise ship industry figures out, that you could run excursion trains that would take care of exactly that purpose. We used to have regularly scheduled cruise ships that went across the ocean. There are no more regularly scheduled cruise routes, but we do have a lot of cruise ships, and in fact those cruise ships employ more people in that industry today than when we had those regular routes crossing the ocean at their peak.

We can get passenger rail systems that make sense if we stop subsidizing what does not make sense, and that is what the administration has come to the conclusion of on several occasions. They sent a budget to this Congress that said that we did not need the $165 million being spent on Amtrak. This committee decided to ignore what the administration had said, and instead to use this priority at the expense of other priorities.

Members wonder why the Coast Guard does not get money. Look at the $615 million that is being spent on Amtrak. They wonder why we have to cut the space station by $1 billion. Some of it is wrapped up in the fact that we are spending $615 million on Amtrak. They wonder why we cannot get tranportation into our cities for mass transit. It is because we are spending $615 million for Amtrak.

If Members are going to do that, let us understand that we are not helping the poor, we are not helping the downtrodden with that $615 million. We are subsidizing $60 per ticket on Amtrak. My colleagues know who gets it, do they not? It is fairly wealthy people who can afford to take those excursion rides, and who can afford to take the train up and down through the Northeast corridor. Those are not people who could not afford to pay the full fare of a ticket. They are not people who are suffering from physical or from fiscal destitution. They are people who could well afford to pay.

So this is not a subsidy that goes to help the poorest of the poor. This is a subsidy that goes to fairly well off people.

I would suggest that tonight we can make a correction. We can redirect our priorities. We can find some money to fund what we know are priorities for the present, and we can find some of the money we need to address the future by completely eliminating the subsidy for Amtrak.

I would urge my colleagues to vote for the amendment.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I just wanted to ask the gentleman how he would then fund, if Amtrak were to be zeroed out, the severence pay obligations to the Amtrak employees which are fixed by statute? That severance pay obligation that would be triggered by the gentleman's amendment would amount to $2.6 billion, roughly four times the amount of the current subsidy to Amtrak.

Mr. WALKER. I would say to the gentleman that one of the problems that we have is that that is exactly the way we lock subsidizing the past. We made a terrible mistake when we wrote the law that put those kinds of obligations on the Federal Government.

We would have to find the money to meet our obligations, no doubt about that. But at least we would not have this burden hanging onto us for years in the future.

I think it makes a terrible argument to suggest that because we made some terrible mistakes we ought to continue to subsidize things that do not need to be subsidized.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. THOMAS A. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. THOMAS A. LUKEN. Mr. Chairman, on the point that the gentleman just raised that the wealthy are the ones who are being subsidized, I have before me a survey taken by Amtrak. It shows that 30 percent of the long-haul passengers have family incomes under $20,000, 51 percent under $31,000. It also shows of the long-haul passengers 48 percent are 55 years old, 28 percent 65 or older.

So it appears that we are helping those who are in the lower income brackets and the elderly.

Mr. WALKER. It makes absolutely no reference as to whether or not there are other kinds of transportation available to them that would be just as inexpensive, and why they might be taking the train at that point. I mean that just is not a very rational argument for continuing a $615 million subsidy. That is a tremendous amount of money coming out of the pockets of the taxpayers of this country.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I would like to point out one other fact to the gentleman, and I appreciate the purpose of his amendment. Ordinarily I like to save spending on the budget.

I just want to point out to the gentleman that having a national rail transportation service is a very important asset that this Nation enjoys. The amount of current subsidy is roughly half of what it was just a decade ago.

I wanted to point out to the gentleman also that 17,000 people every day just between New York City and Washington take Amtrak service.

Mr. WALKER. Let me say to the gentleman that is absolutely correct, but that line operates profitably. That is a line that we could spin off, and it could operate profitably as a private enterprise. That is exactly this gentleman's point. Why do we not do that? Why do we not make certain that the rail transportation that is being run for passengers in this country is in fact profitable? Why do we continue to run a system where we are subsidizing terribly unprofitable routes with the profitable corridors like in the Northeast?

Mr. LENT. Will the gentleman yield again?

Mr. WALKER. I am glad to yield to the gentleman from New York.

Mr. LENT. I want to point out that No. 1, we have no buyers for this kind of a service, and there are 17,000 people every day who depend on it.

Mr. LEHMAN of Florida. Mr. Chairman, I rise in opposition to the amendment. I think it is extremely unfortunate that these amendments keep coming up.

The House has voted repeatedly to sustain Amtrak. And each time we have this fight, it creates a little uneasiness in the private financial markets—which Amtrak is using more and more to finance its capital improvements.

Amtrak is the sixth largest transportation corporation in America. It will

carry 40 million passengers next year. It is the leading passenger carrier in the Northeast corridor—bar none. It's becoming that way in the LA-San Diego corridor as well. They have standing-room-only on many trains. Their revenue-cost ratio has increased from 48 percent in 1981 to 70 percent in 1989.

It's a major carrier providing important service. It has made massive strides in the 1980's to improve its efficiency.

There is no passenger railroad in the world that is meeting all of its costs. Amtrak is certainly among the worldwide leaders in recovering its costs.

The appropriation before us is lean and fair. It assumes a $25 million cut in operating subsidies and a $57 million increase in capital expenses. That increase is necessary to buy 50 new cars that are desperately needed.

Amtrak's appropriation is within the overall budget allocation.

I urge the amendment be defeated.

Mr. Chairman, we have heard all of these arguments before, and I ask unanimous consent that further debate on this amendment, and all amendments to it, be limited to 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Mr. Chairman, reserving the right to object, is the gentleman saying all other amendments to my amendment?

Mr. LEHMAN of Florida. The gentleman is correct.

Mr. WALKER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for 2 minutes each.

The Chair recognizes the gentleman from Kansas [Mr. WHITTAKER].

Mr. WHITTAKER. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Pennsylvania, because of the grievous harm it would inflict on our national transportation system. Amtrak now carries more passengers on the east coast corridor than all the airlines combined. It is easy to imagine what this would do to already gridlocked roads in that region if Amtrak were suddenly terminated.

Outside the Northeast, Amtrak serves hundreds of thousands of passengers. With the virtual demise of intercity bus service in many areas of the country, Amtrak has assumed an even more critical role as an alternative and a supplement to air travel. Indeed, Mr. Speaker, the Bush administration is now embarked on the formulation of a comprehensive national transportation policy, under the guidance of Secretary Skinner. It certainly makes no sense to undercut a balanced policy that addresses all modes of transportation—a policy now in its formative stages—by summarily ending passenger service in the United States at a single blow.

Even if denying funds to Amtrak were not bad transportation policy, it would still be bad, indeed counterproductive fiscal policy. Amtrak now receives about $600 million annually from the Federal Government—$615 million under the present bill. If Amtrak were to cease all operations on September 30 as this amendment would require, the indebtedness immediately incurred would be over $2 billion, $700 million in the first year alone, without a single train running. This results from the directive, imposed by the Congress in section 405 of the Rail Passenger Service Act, that Amtrak confer on its employees an entitlement to 1 year of severance pay for each year worked, up to a maximum of 6 years. That obligation would actually cost the Government as much money as almost 4 full years of Amtrak operations at current funding levels. Mr. Speaker, that is no bargain, either from the perspective of transportation policy or the Federal budget.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. Mr. Chairman, I rise in opposition to the amendment, and I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. I thank the Chairman.

Mr. Chairman, the gentleman from Pennsylvania raises the prospect in his amendment of subsidy, the rallying cry for all those who fight against excessive spending and waste. But indeed what is the subsidy of which we speak with Amtrak? It is a subsidy for clean air to get people out of automobiles and into public transportation. In our part of the country, in the Northeast, it is a subsidy of communities, the poeple in Pennsylvania, New Jersey, New York, Delaware, indeed across the country so that they can create a web to keep their communities in the national life.

It is a subsidy against congestion so that people are off the highways, out of our crowded airways and into trains.

Amtrak is part of the economic and social fiber of this country. Does it cost money? Yes. But are the dividends there for families, for communities, for clean air, for the environment? They are.

Amtrak is an investment that makes sense.

Is it the only transportation subsidy that we provide in America? Not at all.

For the businessman, for the travelers who use our airports, they receive subsidy every day and we vote for it.

In the Committee on Science, Space and Technology Mr. WALKER joins with me in massive subsidies for research for an aerospace plane, to provide a next generation of transportation. Nothing is different about Amtrak than what Mr. WALKER and I do for the aerospace plane, what we do in this Congress for airports and airlines, what we do for highways.

The only difference is it is important for our cities, it is important for the northeast. Amtrak makes sense.

I urge Members to defeat the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana [Mr. BURTON].

The Chair recognizes the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, 15 or so years ago when Amtrak was in its infancy, it might have been more properly characterized as a source of shame rather than as a source of pride. A lot has changed in those 15 years. Today I think we can all regard Amtrak with pride as Americans. We have been to walk a few blocks from where we are this evening to Union Station, to visit that station and other stations up and down the northeast corridor, to see the kind of changes that have been made in our Nation's passenger railroad system.

Mr. Chairman, I have in my hand the report for the appropriation bill before us. A couple of numbers I think are well worth considering. First of all, let us consider the year 1981, 8 short years ago. For every dollar spent in operating costs for Amtrak then, for every dollar that was spent, only 48 cents was raised from the farebox. For every dollar that we spent, we raised 48 cents from the farebox. This year, for every operating dollar that Amtrak spends, it will raise 71 cents from the farebox.

If we go back to 1981, we found total revenues were about $600 million. This year total revenues for Amtrak will exceed $800 million, a real increase of 30 percent during that period of time.

When we look at passenger miles for Amtrak we look to 1981 and we find fewer than 5 million miles this year, over 6 million passenger miles will be completed.

When we look at the total Federal support as a percentage of the United States budget, we actually see that having dropped in real terms by 50 percent, by 50 percent over the course of the last 8 years.

I would just say that rather than trying to cut, to eliminate entirely the budget for Amtrak, this is the time that we might more appropriately say to the people who work for Amtrak, who run Amtrak, "Thank you. Thank you for a job well done."

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I want to echo the comments of the gentleman from Delaware.

As a member of this committee we have heard the testimony of Amtrak and I want to tell you they are doing an excellent job. The service is improving, they are in fact demonstrating they can bring real efficiency to America's rail system. In fact, in 1979, in comparison to this year we are spending 57 percent less in real dollars over what we spent in Federal support for Amtrak.

Now it surprises me that the gentleman from Pennsylvania, who often takes this floor to call for massive spending on space projects, wants now to deny this rather modest subsidy in comparison to Amtrak service.

The gentleman would spend billions of dollars for a space station to the stars, but deny railroad service for people traveling to work. He would spend millions to go to the moon but deny railroad service to America's families. He would spend millions more for a journey to Mars but deny railroad service to the thousands of college students who rely on Amtrak.

This is not a visionary amendment; it is a reactionary amendment.

Amtrak is essential as a part of America's transportation system. This amendment is a rickety old caboose pointed in the wrong direction.

Cut it loose, keep Amtrak rolling.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I rise in opposition to the amendment, and I yield the balance of my time to the gentleman from Ohio [Mr. THOMAS A. LUKEN].

The CHAIRMAN. The Chair recognizes the gentleman from Ohio, [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Chairman, it is odd that the gentleman should pick this timing for this amendment in view of the fact, as has overwhelmingly been testified to by other Members, Amtrak is a success story today.

This amendment in the past has been rejected overwhelmingly, and properly so.

Between the end points of New York and Washington, Amtrak handled over 4,200 of the 11,600 daily New York to Washington air and rail passengers.

Where would we find the airspace if we got rid of Amtrak?

□ 1840

Where would we find the air space if we got rid of Amtrak? It would be impossible. It would be bad for safety. It would certainly be very harmful to the needs of the passengers in that Northeast corridor.

Today, Amtrak provides a nationwide system of passenger service over 24,000 miles of track. Last year, Amtrak carried over 21 million intercity passengers, and 14 million commuter passengers.

Over the years, Amtrak has demonstrated sure and steady progress in reducing costs and increasing revenues. As has already been stated, in 1981, Amtrak paid 48 percent of their own costs. That trend is up. By 1988 Amtrak earned more than $1.1 billion in revenues and paid 70 percent of their own costs. At the same time, Amtrak carried a record number of passengers, 21 million.

In summary, Amtrak is carrying more passengers, earning more revenue, and requiring a smaller proportion of Federal subsidies than ever before. Over the last 8 years, the Federal subsidies have been cut in half. This is in real dollars and constant dollars. In 1981, $900 million; in 1989, it is down to approximately $430 million. We are moving toward a balanced budget here.

The fact is, eliminating funding for Amtrak would do other things that have not been mentioned: It would throw the railroad into bankruptcy and force the immediate discontinuance of all passenger rail service in the United States, all passenger rail service in the United States, and traumatic implications for transportation in this country, especially for Amtrak's 23,000 employees, and for the taxpayer. Other consequences: In addition to 23,000 employees who would lose their jobs, it would have a catastrophic impact on Federal railroad unemployment and retirement programs, resulting in a significantly increased cost to freight and commuter railroads or to the Federal Government. Elimination would result in enormous capital waste. Approximately $3.3 billion in modern passenger locomotives, other equipment, and specialized maintenance shops would have to be scrapped. There would simply be no market for these assets. If the operations are eliminated, thousands of passengers who now use the rail between New York, Washington, and other places would have to use the airlines. A 36-percent increase in air passengers would occur.

Yes, Amtrak is a success story. Amtrak is moving in the right direction. This is the time to congratulate Graham Claytor, a competent, expert railroad person who has brought Amtrak to this point, and is continuing, as the Committee on Appropriations would testify, and as our committee, the Committee on Energy and Commerce would testify, it is moving in the right direction. We should keep it moving that way.

The CHAIRMAN. The gentleman from New York. [Mr. LENT] is recognized for 2 minutes.

Mr. LENT. Mr. Chairman, I rise to oppose the amendment also, offered by the gentleman from Pennsylvania, for three reasons.

First of all, this amendment would deprive the Nation, and particularly the Northeast, of a vitally needed transportation service. Second, as was pointed out earlier, termination of funding would actually aggravate, not help, our current fiscal situation. This is due to a provision in the existing law that says if the rail labor is laid off due to a cessation of service, that the Government would have to pay them their salaries for quite a period of time. The amount of this liability is $2.6 billion. That is $700 million in the very first year that would be paid out over a number of years. So this indebtedness would bring the public no transportation service in return, and it is actually equal to 4 or 5 years of Amtrak service at current funding levels. Finally, Mr. Chairman, the proposals to cut Amtrak fail to consider that its elimination would force a number of commuters and freight users to absorb over $115 million in costs, in addition to those they already pay. These agencies are listed in the committee document. They affect the MDOT of Maryland, the SEPTA in Pennsylvania, the New Jersey Transportation, the Massachusetts BTA, and Conrail. Totally, these come up to about $117 million.

So if Members represent any of those States, the Members certainly ought to look very carefully at this amendment before they give it their support. Mr. Chairman, I urge rejection of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. ANDERSON] for 2 minutes.

Mr. ANDERSON. Mr. Chairman, I yield my 2 minutes to the gentleman from Georgia [Mr. JONES].

Mr. JONES of Georgia. Mr. Chairman, I spent the first 18 years of my life in railroad yards. In a railroad yard, in a freight yard, in a section house, and this amendment reminds me of early memories of my youth in the morning, walking to school and seeing the old steam engines firing up. I saw a lot of huffing and puffing, and that is what this amendment is.

Amtrak has a remarkable record. This past year, in revenue, it brought it $1.1 billion. That is an 81-percent increase since fiscal year 1981. That is a success story. Amtrak is right now at a point where it badly needs capital improvement. Every time we have given it capital improvements, it has shown

it can do the job, and they decrease their dependency on Federal funding.

Let Amtrak roll. Let the train roll. Defeat this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. COUGHLIN] for 2 minutes.

Mr. COUGHLIN. Mr. Chairman, I think everyone recognizes that passenger railroad transportation is a vital part of an integrated transportation system. That is what Amtrak is, part of our national transportation system.

Every nation in the free world, and I daresay, every nation in the non-free world, as well, has a passenger rail service, and provides government support for it. We provide Government support for passenger railroad service the same way we do for passengers in automobiles on our highways, on our aircraft, on our waterways.

Under the brilliant leadership of Graham Claytor, Amtrak has done a remarkable job, as had been pointed out. The present support for Amtrak represents a 50-percent reduction in Federal support; since 1979, a 57-percent reduction. If any Members have ridden Amtrak, as I do, and as I have frequently done, those Members know the service is better than it has ever been before. It is a remarkable improvement.

The chart on page 116 of our report shows that Amtrak is increasing revenues; revenue passenger miles, and the quality of service. Amtrak has done all of this at the same time it has decreased their reliance on Federal support. I certainly urge defeat of this amendment and support of our national rail passenger system.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WALKER] is recognized for 2 minutes.

Mr. WALKER. Mr. Chairman, Members offer an amendment to save real money. It really does bring out a lot of silly arguments. We have heard a lot of silly arguments, starting with the assumption that if Members do not have Amtrak, Members do not have rail service in the country.

If all of these people are riding the railroads, someone will see the profit in having a rail system that they make money off of, with all those people riding. That is the free enterprise system. Perhaps Members have heard about it. It is one of the things that we take pride in in this country. If all of these passengers are riding, someone will make some money out of that. That would be a benefit for the taxpayer.

I hear this argument that the air travelers get subsidies, the automobile gets subsidies. Yes, and they pay taxes for it, direct taxes. The automobiles pay it in fuel taxes. The air travelers pay it in ticket taxes. That is the way we fund it. Do Members want the Amtrak passengers to pay a ticket tax that does the subsidies?

That is something again, but no Member suggested that. That is a silly argument. The other silly argument is to do as a couple of my colleagues did, just to attack me, personally, that does not get Members very far here. Why not take a look at the point that I was making: Are we going to continue to subsidize the past? Or should we invest in the future?

One of my colleagues says, yes, we are putting money into things like national aerospace plane and aerospace station. Sure, because we are creating the high technology that creates the jobs of the future. That is what we should be about in this country. We should be investing in the R&D, in the research and development, in the sciences and technology, that creates a future.

□ 1850

Mr. Chairman, that is where the American people want our money to go. But in these cases what we do is we continue to subsidize the past just because it has always been there. It has always been like this. So, if it is in danger, we ought to have a Government subsidy.

Mr. Chairman, I congratulate Amtrak for some of the advances they made. I think we ought to build off that, but let us build on it in the private enterprise. Let us get rid of these silly union contracts that the gentleman said could bankrupt us. Yes, they could bankrupt us because we have signed into them as the Federal Government. Let us get rid of these.

Mr. Chairman, the only way to get rid of them is to cut the subsidy. Do it now. Save some real money.

Mr. LEHMAN of Florida. Mr. Chairman, I rise in opposition to the amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 43, noes 372, not voting 16, as follows:

[Roll No. 216]

AYES—43

Archer	Gillmor	Neal (NC)
Armey	Hancock	Nielson
Bartlett	Hefley	Porter
Barton	Holloway	Quillen
Bilirakis	Hunter	Rogers
Callahan	Kasich	Rohrabacher
Combest	Kennedy	Schaefer
Cox	Kolbe	Sensenbrenner
Crane	Kyl	Smith, Robert (NH)
Dannemeyer	Lewis (CA)	Stallings
DeLay	Lowery (CA)	Sundquist
Dornan (CA)	McCandless	Upton
Dreier	McCrery	Walker
Duncan	Miller (OH)	
Fields	Moorhead	

NOES—372

Ackerman	Feighan	Lloyd
Akaka	Fish	Long
Alexander	Flake	Lowey (NY)
Anderson	Flippo	Luken, Thomas
Andrews	Foglietta	Lukens, Donald
Annunzio	Ford (MI)	Machtley
Anthony	Ford (TN)	Madigan
Applegate	Frank	Manton
Aspin	Frost	Markey
Atkins	Gallegly	Marlenee
AuCoin	Gallo	Martin (IL)
Baker	Garcia	Martin (NY)
Ballenger	Gaydos	Martinez
Barnard	Gejdenson	Matsui
Bateman	Gekas	Mavroules
Bates	Gephardt	Mazzoli
Beilenson	Gibbons	McCloskey
Bennett	Gilman	McCollum
Bentley	Gingrich	McCurdy
Bereuter	Glickman	McDade
Berman	Gonzalez	McDermott
Bevill	Goodling	McEwen
Bilbray	Gordon	McGrath
Bliley	Goss	McHugh
Boehlert	Gradison	McMillan (NC)
Boggs	Grandy	McMillen (MD)
Bonior	Grant	McNulty
Borski	Gray	Meyers
Bosco	Green	Mfume
Boucher	Guarini	Michel
Boxer	Gunderson	Miller (CA)
Brennan	Hall (OH)	Miller (WA)
Brooks	Hall (TX)	Mineta
Broomfield	Hamilton	Moakley
Browder	Hammerschmidt	Molinari
Brown (CA)	Hansen	Mollohan
Bruce	Harris	Montgomery
Bryant	Hastert	Moody
Buechner	Hatcher	Morella
Bunning	Hawkins	Morrison (CT)
Burton	Hayes (IL)	Morrison (WA)
Bustamante	Hayes (LA)	Mrazek
Byron	Hefner	Murphy
Campbell (CA)	Henry	Murtha
Campbell (CO)	Herger	Myers
Cardin	Hertel	Nagle
Carper	Hiler	Natcher
Carr	Hoagland	Neal (MA)
Chandler	Hochbrueckner	Nelson
Chapman	Hopkins	Nowak
Clarke	Horton	Oakar
Clay	Houghton	Oberstar
Clement	Hoyer	Obey
Clinger	Hubbard	Olin
Coble	Huckaby	Ortiz
Coleman (MO)	Hughes	Owens (NY)
Coleman (TX)	Hutto	Owens (UT)
Conte	Inhofe	Oxley
Cooper	Ireland	Packard
Costello	Jacobs	Pallone
Coughlin	James	Panetta
Coyne	Jenkins	Parker
Craig	Johnson (CT)	Parris
Darden	Johnson (SD)	Pashayan
Davis	Johnston	Patterson
de la Garza	Jones (GA)	Paxon
DeFazio	Jones (NC)	Payne (NJ)
Dellums	Jontz	Payne (VA)
Derrick	Kanjorski	Pease
DeWine	Kaptur	Pelosi
Dickinson	Kastenmeier	Penny
Dicks	Kennelly	Perkins
Dingell	Kildee	Petri
Donnelly	Kleczka	Pickett
Dorgan (ND)	Kolter	Pickle
Douglas	Kostmayer	Poshard
Downey	LaFalce	Price
Durbin	Lagomarsino	Pursell
Dwyer	Lancaster	Rahall
Dymally	Lantos	Rangel
Dyson	Laughlin	Ravenel
Early	Leach (IA)	Ray
Eckart	Leath (TX)	Regula
Edwards (CA)	Lehman (CA)	Rhodes
Edwards (OK)	Lehman (FL)	Richardson
Emerson	Leland	Ridge
Engel	Lent	Rinaldo
English	Levin (MI)	Ritter
Erdreich	Levine (CA)	Roberts
Espy	Lewis (FL)	Robinson
Evans	Lewis (GA)	Roe
Fascell	Lightfoot	Rose
Fawell	Lipinski	Rostenkowski
Fazio	Livingston	Roth

Roukema	Smith (IA)	Torricelli
Rowland (CT)	Smith (MS)	Towns
Rowland (GA)	Smith (NE)	Traficant
Roybal	Smith (NJ)	Traxler
Russo	Smith (TX)	Unsoeld
Sabo	Smith (VT)	Valentine
Saiki	Smith, Denny (OR)	Vander Jagt
Sangmeister	Smith, Robert (OR)	Vento
Sarpalius	Snowe	Visclosky
Sawyer	Solarz	Volkmer
Saxton	Solomon	Vucanovich
Scheuer	Spence	Walgren
Schiff	Spratt	Walsh
Schneider	Staggers	Weber
Schuette	Stangeland	Weiss
Schulze	Stark	Weldon
Schumer	Stearns	Wheat
Sharp	Stenholm	Whittaker
Shaw	Stokes	Whitten
Shays	Studds	Williams
Shumway	Stump	Wilson
Shuster	Swift	Wise
Sikorski	Synar	Wolf
Sisisky	Tallon	Wolpe
Skaggs	Tanner	Wyden
Skeen	Thomas (CA)	Wylie
Skelton	Thomas (GA)	Yates
Slattery	Thomas (WY)	Yatron
Slaughter (NY)	Torres	Young (AK)
Slaughter (VA)		Young (FL)
Smith (FL)		

NOT VOTING—16

Brown (CO)	Florio	Tauzin
Collins	Frenzel	Udall
Conyers	Hyde	Watkins
Courter	Savage	Waxman
Crockett	Schroeder	
Dixon	Tauke	

□ 1908

The Clerk announced the following pair:

On this vote:

Mr. Frenzel for, with Mr. Tauzin against.

Mr. SHAYS and Mr. WALGREN changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. MRAZEK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wish to engage the chairman of the subcommittee, the gentleman from Florida [Mr. LEHMAN] in a colloquy.

The March 24 tragedy of the *Exxon Valdez* in Prince William Sound, AK, shows that the production/transportation system by which Alaska crude oil is extracted and transported to U.S. ports is inadequate to maintain vessel safety and environmental protection. It is apparent that assurance made by the Federal Government and the oil and shipping industries prior to construction of the Trans-Alaska Pipeline System [TAPS] have not been carried forth, and such assurances were probably inadequate at the time Congress approved the pipeline legislation in 1973. As you know, I attempted to attach language to this bill to discuss the transportation problems of Alaskan oil, but the amendment was not accepted by the committee.

□ 1910

Mr. LEHMAN of Florida. Mr. Chairman, if the gentleman will yield, I would agree with him and the substance of his efforts. Both the likelihood and the size of a major oil spill were underestimated in Prince William Sound. Our Nation is poorer as a result. And the Nation needs to incorporate the painful lessons of Prince William Sound into our transportation system.

Mr. MRAZEK. Reclaiming my time, Mr. Chairman, I would suggest proposed operations north of Prudhoe Bay, in Bristol Bay, and in the Arctic National Wildlife Refuge are also subject to environmental assessments and contingency plans based on similar or even more optimistic estimates of potential transportation calamity.

Mr. YOUNG of Alaska. Mr. Chairman, the Committee is out of order. I cannot hear what he is trying to do to Alaska, and it always concerns me when I figure that he is trying to do something that truly should not be discussed on this legislative package. I want to hear what the chairman says in answer.

The CHAIRMAN. The gentleman from New York has the time.

Mr. MRAZEK. Mr. Chairman, thank you.

Mr. YOUNG of Alaska. Mr. Chairman, I still cannot hear the gentleman from New York.

The CHAIRMAN. The gentleman from New York has the time.

Mr. YOUNG of Alaska. The committee is not in order, Mr. Chairman. I cannot hear him. Until I can hear him, we will not proceed with our business.

The CHAIRMAN. If the gentleman will withhold, the gentleman will be able to listen. The gentleman from New York is recognized.

Mr. MRAZEK. Mr. Chairman, it is not coincidental that the pipeline system and Port of Valdez were constructed using an environmental impact statement which the courts had found inadequate but which was declared sufficient by Act of Congress. It is now tragically apparent that the Federal Government has never regulated Alaskan oil transport under a system of regulations based on a true picture of the risk probability and magnitude of environmental harm.

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. MRAZEK. I am happy to yield to the gentleman from Florida.

Mr. LEHMAN of Florida. That would certainly appear to be the case, especially after *Exxon Valdez.*

Mr. MRAZEK. Among the controversial proposals to lease, explore, develop and transport oil from other areas of arctic Alaska, both on- and offshore, perhaps the most intense controversy involves the future of the coastal plain of the Arctic National Wildlife Refuge, an area of pristine wilderness in northeast Alaska.

It is apparent that the problems of marine transport in Prince William Sound have not been addressed in the proposal to open the Arctic Refuge to oil development, the so-called 1002 report. If the Federal Government is operating under inadequate information regarding safe transportation under the existing TAPS production/transportation system, then any proposals to extend the system over a greater distance and/or a longer operating period are similarly flawed for assuming environmental adequacy in the existing system. Indeed, extending the TAPS system over time and space may create additional environmental problems, which have never been investigated by Congress.

Since the 1002 report does not address transportation impacts and new information unveiled since the report was submitted to Congress in 1987 indicates that environmental impact for North Slope oil operations in Prudhoe Bay and Alaska pipeline was similarly underestimated, we also have new reports from the EPA of solid waste disposal problems at Prudhoe Bay and the inadequacies of the recommendations go beyond transportation concerns to problems with land-based developments as well. I think the administration should use this period when Congress is reexamining oil development policies to reassess their recommendations to develop the Arctic Refuge and incorporate new information in its findings.

If the administration will not act, it falls on Congress to direct the administration to withdraw development plans and produce the information to enable Congress to make wise decisions on the fate of the Arctic Refuge and other sensitive wild habitat.

As the gentleman foresees his efforts, I pledge my assistance, Mr. Chairman.

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. MRAZEK. I am happy to yield to the gentleman from Florida.

Mr. LEHMAN of Florida. This is a multijurisdictional problem for both the executive and legislative branches, with issues concerning transportation, energy policy, and management of our valuable lands and waters. That makes our efforts toward resolving the issues cumbersome procedurally. Nevertheless, I hope to be able to assist you also.

Mr. MRAZEK. I thank the distinguished Chairman of the subcommittee.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 334. Funds appropriated in this Act for "Intermodal Urban Demonstration Project" shall remain available until expended.

Pursuant to section 2 of House Resolution 221, the following new section is considered as having been adopted, as follows:

"SEC. 335. PERMANENT PROHIBITION AGAINST SMOKING ON SCHEDULED FLIGHTS OF TWO HOURS OR LESS IN DURATION.

"Section 404(d)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1374(d)(1)) is amended by striking subparagraph (C).".

AMENDMENT OFFERED BY MR. BONIOR

Mr. BONIOR. Mr. Chairman, pursuant to House Resolution 221, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BONIOR: Page 55, insert after line 3 the following new section:

SEC. 335. The segment of Michigan Highway 59 beginning at the intersection of such highway with Michigan Highway 53 in the vicinity of Utica and ending at the intersection of such highway with Gratiot Avenue in the vicinity of Mount Clemens shall be known and designated as the "James G. O'Hara Memorial Highway", and any reference in a law, map, regulation, document, record, or other paper of the United States to such segment shall be deemed to be a reference to the "James G. O'Hara Memorial Highway".

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I am happy to yield to my friend, the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. The chairman of the subcommittee if familiar with the amendment, and he supports the amendment and has no problem with the amendment.

Mr. BONIOR. Reclaiming my time, I thank my friend and colleague from Florida.

Mr. Chairman, I do ask, and I know that it is late, and I know Members would like to proceed with business of the House, but the amendment that I am offering, I think, has some special meaning to many Members in this Chamber, because what we are doing is naming a road after a very special person who served here for 20 years, former Congressman James G. O'Hara.

Mr. Chairman, by renaming this road after James G. O'Hara, the Congressman who I succeeded in Congress, and we are providing, I think, a very small gesture for a man whose spirit still resides in this Chamber and whose good works and spirit will live forever in the memory of those people I represent.

This amendment would designate M-59—a corridor serving a thriving Michigan community—the James G. O'Hara Memorial Highway.

It's a small gesture for a man whose spirit still grows in this Chamber and in the district he represented in Michigan.

Jim O'Hara was a man whose convictions of justice and honor didn't allow him to hide behind rhetoric or search for short-cuts. He was a responsible man who took all his commitments seriously.

When Jim O'Hara died on March 13, this institution lost a valuable friend. His wife, Susan, and their seven children lost one of the most loving family men I've ever known.

This stretch of road—from Utica to Harrison—is living testament to the full and rich life that Jim led.

Utica, where the road begins, was Jim's home.

It was where he raised his children before moving to Washington, DC.

It was where he learned and practiced the values of community service.

As a young man fresh out of the University of Michigan law school in 1955, Jim provided legal representation to the poor, working out of the Holy Trinity Catholic Church. Later, he took these experiences with him to Washington where he started Federal legal services programs.

From Jim's hometown of Utica, M-59 continues on past Macomb County Community College, a special institution for Jim.

Jim's dedication to the students of this country is well known here in the House, where he chaired the Postsecondary Education Subcommittee. Last March education professionals everywhere lamented his passing.

Jim founded the college workstudy program which has been so successful since its inception. He was one of the crafters of the Higher Education Amendments of 1975. He worked hard to enact title 9 to require equal treatment of women in college athletics.

At the Macomb County Community College, Jim witnessed the fruits of his efforts here in the Congress.

From the Community College the proposed James G. O'Hara Highway extends on to Gratiot Avenue where it ends close to Lake St. Clair.

It was on the waters of Lake St. Clair where Jim developed another lifetime passion—sailing.

There was nothing that pleased Jim more than filling a boat with his children and racing off across the choppy waters.

The lake is an appropriate destination for the highway that traces the rich and full life of James G. O'Hara.

For the 110 Members here today who served with Jim O'Hara, I ask you to remember the ways that Jim touched you.

For those of you who never had the opportunity to meet him, I ask you to remember his groundbreaking work on civil rights, his reform initiatives for this institution, his leadership on environmental issues as a member of the Interior Committee, his protection of the American worker, and his commitment to democracy.

Jim O'Hara was a great man and this is a fitting tribute.

□ 1920

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to my dear friend, the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I want to join the gentleman in the well and associate myself with his remarks.

Mr. Chairman, I rise to join my colleague, DAVID BONIOR, in tribute to James O'Hara—a great man and a great friend.

We're naming a highway after him with this amendment. That's an honor that will keep his memory of outstanding service alive amongst his constituents.

For 18 years, Jim O'Hara devoted his life to the people of Michigan as a Member of Congress. I knew him well as a man of integrity and honesty. Jim fought for what he believed in, never faltering, no matter what obstacles crossed his path.

Whenever called upon for anything, great or small, Jim was always there.

In 1959, he and I became Members of the U.S. House of Representatives. We walked the Halls of Congress together as freshmen legislators. He remained in Congress nearly 20 years.

During that time, he established himself as a leader in word and deed, and we developed a lasting friendship.

I will forever remember Jim as a skillful legislator on the House Education and Labor Committee, and for his diligent efforts to help draft key portions of the Civil Rights Act of 1964.

After Jim lost his Senate bid in 1976, his deep-seated desire to serve the public continued to pull at his heart. So, he served from 1978 to 1981 on the Federal Minimum Wage Study Commission.

Jim did much for the people of his State, leaving a distinct mark on history. The loss caused by his death is immeasurable.

There are not enough words to effectively describe the sadness one feels with the loss of a good friend and close colleague. I cannot walk through the marble hallways of the Capitol without being reminded of Jim and the years we spent together here.

I can only say that I am proud to be able to call Jim O'Hara my friend. I am proud to have worked with him. His memory will be forever etched in the history books and in the minds of the hundreds of men and women who worked with him in this great Chamber.

Jim touched many lives with his warmth and kindness. He was a wonderful man, respected and well loved by all who had the good fortune to know him. We pay fitting tribute with this amendment, and I am glad we can do so on our bill.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, I also had the privilege of serving with Jim O'Hara. He was a fine Member and a devoted Member of this body, and I certainly congratulate the gentleman on his amendment.

Mr. FORD of Michigan. Mr. Chairman, it is with great pleasure that I rise in support of the gentleman from Michigan's amendment to honor the memory of our colleague, James G.

O'Hara. Representative Jim O'Hara's distinguished service to his country, as a soldier fighting in the Pacific during the Second World War and for 18 years as a Member of Congress, was a model for all of us. Few have served with more effectiveness, integrity and energy than Jim O'Hara, and no one has served with a more outstanding combination of compassion and intellect.

The amendment is especially appropriate because the section of highway to be named after Representative O'Hara runs through the congressional district he loved and represented so ably. This is a modest tribute to a great man, and I urge my colleagues to give it their support.

Mr. DINGELL. Mr. Chairman, I am pleased and honored to rise for the seond time in this first session of the 101st Congress to honor my dear and beloved deceased former colleague, James G. O'Hara. I am equally pleased and honored to offer my full support for Mr. BONIOR'S amendment to designate Michigan Highway 59 as the "James G. O'Hara Memorial Highway" after this great American and fine public servant. It is important that all of us recognize the enormous contributions Jim O'Hara made to this body and to this great Nation, both of which he loved, so as to understand the true significance of this amendment.

Jim cared a lot about his fellow man and he pursued all his endeavors both in the Congress and in the community with this very thought in mind. Jim was a tenacious advocate for President Johnson's Great Society programs and had a terrific mind for parliamentary procedure. In fact, I could recite ad infinitum the tremendous accomplishments of the late Jim O'Hara, but I believe it necessary to include this one personal point. I will always admire Jim's perseverance for progressive political reform and his deep commitment to equality for all. With all of Jim O'Hara's lifetime achievements and enduring friendships, it is only fitting that we designate this stretch of Michigan highway after my good and decent friend, Jim O'Hara, whose memory will always remain deep in my heart.

Mr. BONIOR. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. BONIOR].

The amendment was agreed to.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this will not take very long. Due to the noise in the committee, I was unable to hear the gentleman from New York [Mr. MRAZEK] and the gentleman from Florida [Mr. LEHMAN] in the colloquy.

But at this time, after reading the colloquy, I would like to address a question to the chairman of the committee who has authorization over the legislation concerning construction, and the legislation necessary to open the Arctic wildlife range.

Is it not true, if the chairman will please respond, is it not true at this time that we are considering legislation that would address the major issues brought up by the gentleman from New York?

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Chairman, all of the issues just discussed by Mr. MRAZEK are currently before the Committee on Merchant Marine and Fisheries. The committee has held a total of seven hearings over a 2-year period on the question of oil and gas leasing in the Arctic refuge. Moreover, we have held numerous hearings on the recent rash of oilspills and have examined in depth the movement of tankers through Prince William Sound. In addition to reporting out of committee last month comprehensive oilspill liability legislation, the committee has been reviewing additional legislative options for upgrading tanker operational safety standards. Accordingly, and with all due respect, I believe that legislation from the Committee on Merchant Marine and Fisheries and not the appropriations bill is the appropriate vehicle to decide what additional studies, if any, are warranted regarding the production and transportation of oil from Alaska.

Mr. YOUNG of Alaska. I thank the gentleman for responding. As long as the committee of jurisdiction has the jurisdiction over the legislation of the gentleman from New York, I am perfectly satisfied, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1990".

AMENDMENT OFFERED BY MR. BOSCO

Mr. BOSCO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The clerk will report the amendment.

Mr. LEHMAN of Florida. Mr. Chairman, I reserve a point of order on the amendment.

The Clerk read as follows:

Amendment offered by Mr. Bosco: Page 55, after line 9, insert the following new section:

SEC. 355. None of the funds made available to the Secretary of Transportation by this Act may be used to approve the sale, transfer or lease of authority to serve any point in foreign air transportation. For the purposes of this section, the term "foreign air transportation" has the meaning such term has under section 101 of the Federal Aviation Act of 1958.

Mr. BOSCO. Mr. Chairman, is the Chair going to rule on the point of order?

Mr. LEHMAN of Florida. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

PARLIAMENTARY INQUIRY

Mr. BOSCO. Mr. Chairman, I rose to present an amendment. Then, as I recall, the gentleman from Florida [Mr. LEHMAN] made a point of order. What happened to that point of order?

The CHAIRMAN. The gentleman from Florida has made a preferential motion that the Committee rise and report the bill back to the House with sundry amendments in lieu of making a point of order, since the amendment is in the form of a limitation.

Mr. BOSCO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I greatly regret the decision to rise. With all due respect to the chairman of the subcommittee, who is a dear friend, I intended to offer an amendment to remedy a problem that I think we are going to have very soon in this country, and that relates to the dismantling of major airlines and the use of property that is owned by the United States, by the people of the United States as assets in the process of dismantling airlines.

Our country owns certain foreign air routes that we achieved by bilateral agreements with other countries. We give those free of charge to airlines based on their ability to operate those routes for consumers and other qualifications that those airline carriers have to have.

Unfortunately, with the dismantling of some of these airlines, and in particular we are going to see this with Eastern Airlines, these routes that are the property of the Government are being sold to other people for hundreds of millions of dollars and used to pay off creditors, and in this case bankruptcy creditors. This proposal that I would like to offer, and apparently will not be able to, would put a moratorium on the sale of these routes until such time as the Congress can determine whether it is appropriate for private parties to sell, especially in bankruptcy proceedings, assets that are owned by the people of the United States.

I think it has relevance to our entire country's air transportation system. To me it is unimaginable that we would allow hundreds of millions of dollars to pass between hands, between people who have proven they cannot even operate those routes, or do not even care to run that airline, and who somehow use them to raise cash for themselves. I would vey much have liked for the Congress to be able to take up this amendment. In fact, I think the majority of the Members here would be sympathetic to it.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. BOSCO. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman raises a matter of the very highest significance to aviation, and particularly of the very highest significance in one of the most critical issues in aviation today, and that is Eastern Airlines.

The Subcommittee on Aviation will hold hearings on this matter following the August Labor Day recess. We will dig into this issue. We intend to act upon legislation.

I wish the gentleman would be able to offer his amendment this afternoon. It would deal in a very expeditious way in the interim with the problem, sending a signal to the parties involved that the Congress is deeply concerned about this transfer of assets and this piecemeal dismantling of Eastern Airlines, robbing the traveling public in this country of a very important element in our Nation's air transportation system and in the competitive environment of this deregulated airline industry.

□ 1930

The CHAIRMAN. Does the gentleman from Florida [Mr. LEHMAN] wish to renew his motion to rise?

Mr. LEHMAN of Florida. Mr. Chairman, I sympathize and understand the problem that the gentleman from California is undertaking, but I insist on my motion that the Committee do now rise and report the bill.

The CHAIRMAN. The gentleman will restate his motion.

Mr. LEHMAN of Florida. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GRAY) having resumed the chair, Mr. PANETTA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The amendment printed in section 2 of House Resolution 221 is considered to have been adopted.

Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 366, nays 50, not voting 15, as follows:

[Roll No. 217]

YEAS—366

Ackerman	Derrick	Hopkins
Akaka	Dickinson	Horton
Alexander	Dicks	Houghton
Anderson	Dingell	Hoyer
Andrews	Dixon	Hubbard
Annunzio	Donnelly	Huckaby
Anthony	Dorgan (ND)	Hughes
Applegate	Downey	Hutto
Aspin	Durbin	Inhofe
Atkins	Dwyer	Ireland
Baker	Dyson	Jacobs
Ballenger	Early	James
Barnard	Eckart	Jenkins
Bateman	Edwards (CA)	Johnson (CT)
Bates	Edwards (OK)	Johnson (SD)
Beilenson	Emerson	Johnston
Bennett	Engel	Jones (GA)
Bentley	English	Jones (NC)
Bereuter	Erdreich	Jontz
Berman	Espy	Kanjorski
Bevill	Evans	Kaptur
Bilbray	Fascell	Kastenmeier
Bilirakis	Fawell	Kennedy
Bliley	Fazio	Kennelly
Boehlert	Feighan	Kildee
Boggs	Fish	Kleczka
Bonior	Flake	Kolter
Borski	Flippo	Kostmayer
Bosco	Foglietta	LaFalce
Boucher	Ford (MI)	Lagomarsino
Boxer	Ford (TN)	Lancaster
Brennan	Frank	Lantos
Brooks	Frost	Laughlin
Broomfield	Gallegly	Leach (IA)
Browder	Gallo	Leath (TX)
Brown (CA)	Garcia	Lehman (CA)
Brown (CO)	Gaydos	Lehman (FL)
Bruce	Gejdenson	Leland
Bryant	Gephardt	Lent
Buechner	Gibbons	Levin (MI)
Bustamante	Gillmor	Levine (CA)
Byron	Gilman	Lewis (CA)
Callahan	Gingrich	Lewis (FL)
Campbell (CA)	Glickman	Lewis (GA)
Campbell (CO)	Gonzalez	Lipinski
Cardin	Gordon	Livingston
Carper	Goss	Lloyd
Carr	Gradison	Long
Chandler	Grandy	Lowery (CA)
Chapman	Grant	Lowey (NY)
Clarke	Gray	Luken, Thomas
Clay	Green	Lukens, Donald
Clement	Guarini	Machtley
Clinger	Gunderson	Madigan
Coble	Hall (OH)	Manton
Coleman (MO)	Hamilton	Markey
Coleman (TX)	Hammerschmidt	Marlenee
Conte	Hansen	Martin (IL)
Cooper	Harris	Martin (NY)
Costello	Hastert	Matsui
Coughlin	Hatcher	Mavroules
Cox	Hawkins	Mazzoli
Coyne	Hayes (IL)	McCloskey
Craig	Hayes (LA)	McCollum
Darden	Hefley	McCrery
Davis	Hefner	McCurdy
de la Garza	Hiler	McDade
DeFazio	Hoagland	McDermott
DeLay	Hochbrueckner	McEwen
Dellums	Holloway	McGrath
McHugh	Quillen	Solarz
McMillan (NC)	Rahall	Spence
McMillen (MD)	Rangel	Spratt
McNulty	Ravenel	Staggers
Meyers	Ray	Stallings
Mfume	Regula	Stangeland
Michel	Rhodes	Stark
Miller (CA)	Richardson	Stearns
Miller (OH)	Ridge	Stokes
Miller (WA)	Rinaldo	Studds
Mineta	Ritter	Sundquist
Moakley	Robinson	Swift
Molinari	Roe	Synar
Mollohan	Rogers	Tallon
Montgomery	Rose	Tanner
Moody	Rostenkowski	Tauzin
Morella	Roth	Thomas (CA)
Morrison (CT)	Roukema	Thomas (GA)
Morrison (WA)	Rowland (CT)	Thomas (WY)
Mrazek	Rowland (GA)	Torres
Murphy	Roybal	Torricelli
Murtha	Russo	Towns
Myers	Sabo	Traficant
Nagle	Saiki	Traxler
Natcher	Sangmeister	Unsoeld
Neal (MA)	Sarpalius	Upton
Nelson	Sawyer	Valentine
Nowak	Saxton	Vander Jagt
Oakar	Schaefer	Vento
Oberstar	Scheuer	Visclosky
Obey	Schiff	Volkmer
Olin	Schneider	Vucanovich
Ortiz	Schroeder	Walgren
Owens (NY)	Schuette	Walsh
Owens (UT)	Schumer	Weber
Oxley	Sharp	Weiss
Pallone	Shaw	Weldon
Panetta	Shays	Wheat
Parker	Sikorski	Whittaker
Parris	Sisisky	Whitten
Pashayan	Skeen	Williams
Paxon	Slaughter (NY)	Wilson
Payne (NJ)	Slaughter (VA)	Wise
Payne (VA)	Smith (FL)	Wolf
Pease	Smith (IA)	Wolpe
Pelosi	Smith (MS)	Wyden
Perkins	Smith (NE)	Wylie
Pickett	Smith (NJ)	Yates
Pickle	Smith (TX)	Yatron
Porter	Smith (VT)	Young (AK)
Poshard	Smith, Robert (OR)	Young (FL)
Price	Snowe	
Pursell		

NAYS—50

Archer	Hancock	Rohrabacher
Armey	Henry	Schulze
Bartlett	Herger	Sensenbrenner
Barton	Hertel	Shumway
Bunning	Hunter	Shuster
Burton	Kasich	Skelton
Combest	Kolbe	Slattery
Crane	Kyl	Smith, Denny (OR)
Dannemeyer	Lightfoot	Smith, Robert (NH)
DeWine	McCandless	Solomon
Dornan (CA)	Moorhead	Stenholm
Douglas	Neal (NC)	Stump
Dreier	Nielson	Tauke
Duncan	Packard	Walker
Fields	Patterson	
Gekas	Penny	
Goodling	Petri	
Hall (TX)	Roberts	

NOT VOTING—15

AuCoin	Dymally	Savage
Collins	Florio	Skaggs
Conyers	Frenzel	Udall
Courter	Hyde	Watkins
Crockett	Martinez	Waxman

□ 1952

The Clerk announced the following pairs:

On this vote:

Mr. Dymally for, with Mr. Frenzel against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SKAGGS. Mr. Speaker, I was present in the House Chamber for final passage of H.R. 3015, the transportation appropriations bill, and intended to vote "aye" on that bill and believed that I had. The official tally does not reflect that vote.

I would like the RECORD to reflect my support of the bill on final passage, and I ask that this statement appear immediately following rollcall No. 217.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

AUTHORIZING THE CLERK TO MAKE TECHNICAL AND CONFORMING CHANGES IN H.R. 3015, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. LEHMAN of Florida. Mr. Speaker, I ask unanimous consent that the Clerk may be authorized to make technical and conforming changes in H.R. 3015, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

REFERRAL OF H.R. 2943 TO SUNDRY COMMTTEES

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the bill, H.R. 2943, to improve the administration and management of the Department of Defense school system for dependents in overseas areas, be referred jointly to the Committees on Education and Labor, Merchant Marine and Fisheries, and Post Office and Civil Service.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERSONAL EXPLANATION

Mr. ROWLAND of Georgia. Mr. Speaker, today I had the satisfaction of attending the organizational meeting of the National Commission on AIDS. As a cosponsor of the enacting legislation and as a member of the Commission, I feel the event was a significant milestone at the beginning of our mission.

The meeting was away from the Capitol Grounds. Unfortunately, while I had my beeper with me, it evidently was not working properly and failed to alert me to one of the votes which occurred on the House floor. The vote in question was on the motion to recommit the conference report on the savings and loan reform and recapitalization bill. Since this measure and the problems facing the S&L industry are of such importance to our citizens, I felt it necessary to explain my absence and also to state that I would have voted against recommitting the conference report.

Mr. Speaker, I ask unanimous consent to insert in the permanent RECORD immediately after the vote my statement of explanation.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

AUTHORIZING MEMBER TO ADD COSPONSORS TO H.R. 2273

Mr. HOYER. Mr. Speaker, I ask unanimous consent that I may be authorized to sign and submit requests to add the names of the following Members to the list of cosponsors on H.R. 2273:

Tom Bevill, Nita M. Lowey, Sam Gibbons, Ron Wyden, Stephen L. Neal, Philip R. Sharp, Ben Nighthorse Campbell, Peter Hoagland, Michael A. Andrews, Frank Annunzio, Les Aspin.

Austin J. Murphy, Dan Glickman, Carl C. Perkins, Ike Skelton, Vin Weber, Nancy Johnson, J. Roy Rowland, David E. Price, Steve Gunderson, Harley O. Staggers, and John Edward Porter.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

PERSONAL EXPLANATION

Mr. PAYNE of New Jersey. Mr. Speaker, earlier today, when H.R. 1278, the Financial Institutions Reform, Recovery and Enforcement Act of 1989 was voted on, I was unavoidably detained. Had I been present, I would have voted "aye" on this legislation.

I ask unanimous consent that the permanent RECORD include my statement of explanation.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3030

Mr. CRAIG. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3030.

The SPEAKER. Is there objection to the request of the gentleman from Idaho?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1078

Mr. SMITH of New Hampshire. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1078.

The SPEAKER. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

PROVIDING PROCEDURES FOR FURTHER CONSIDERATIONS OF CONFERENCE REPORT ON H.R. 1278, FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that if and when the Clerk receives a message from the Senate indicating that that body has insisted on its amendment to the bill H.R. 1278 and requested a further conference with the House, that the House be deemed to have insisted on disagreement to the amendment of the Senate and agreed to the further conference asked by the House, and that the Speaker be authorized to appointed conferees.

Mr. WYLIE. Reserving the right to object, I would observe that the Senate has just acted, Mr. Speaker, on the issue of the waiver of Gramm-Rudman. The vote as 54 to 46, and they are in the process of appointing conferees as we speak.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON H.R. 1278, FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989, TODAY OR ANY DAY THEREAFTER

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that it shall be in order at any time on today, or any day thereafter, to consider the conference report on the bill (H.R. 1278), Financial Institutions Reform, Recovery and Enforcement Act of 1989.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was objection.

APPOINTMENT OF CONFEREES ON H.R. 1278, FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989

Mr. WYLIE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WYLIE moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill H.R. 1278, be instructed to agree to all matters contained in the conference report on H.R. 1278 filed on August 1, 1989, with the exception of those provisions relat-

ed to funding contained in title V of the conference reported bill.

The SPEAKER. The gentleman from Ohio [Mr. WYLIE] is recognized for 30 minutes in support of the motion.

Mr. WYLIE. Mr. Speaker, what this motion does is to say that the conferees to be appointed on H.R. 1278 may only consider the issue of funding, whether the funding mechanism will be on budget, off budget or some compromises thereof on that issue. All other provisions which were in the conference report and passed by the House earlier today are not going to be considered by these conferees.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, in essence what the gentleman from Ohio [Mr. WYLIE] is saying is that the conferees, when and if appointed, will go on the single issue of on budget/off budget?

Mr. WYLIE. Mr. Speaker, the gentleman from Texas [Mr. GONZALEZ] is correct.

Mr. GONZALEZ. I thank the gentleman from Ohio [Mr. WYLIE].

Let me add a number of additional items before we conclude.

There will need to be a change made in section 603 which covers passive investments by companies controlling grandfathered nonbank banks. We will need to delete a clause referring to a savings and loan holding company. The deletion should not be construed as affecting in any way the scope of section 4(f)(2)(A)(ii) of the Bank Holding Company Act as it presently stands. In other words, the deletion is not intended to change current law.

In addition, I want to clarify that the conference report provides that savings associations that are owned by bank holding companies may take advantage of the so-called sister bank exception under section 23A for transactions with a bank or savings association that is 80 percent owned by the same bank holding company.

The conference report also establishes a general rule permitting savings associations owned by savings and loan holding companies to take advantage of the sister bank exception in section 23A after 5 years. The Federal Reserve Board would, of course, continue to have full authority to grant exceptions to the provisions of sections 23A and 23B, either individually, or by regulation, that would be consistent with the purposes of sections 23A and 23B. For example, it would be consistent with the provisions of this conference report for the Board to determine during the 5-year waiting period that it is appropriate to grant the sister bank exception to savings associations that are fully capitalized and operating in a safe and sound manner, whether or not the savings association is owned by a bank holding company.

Under section 912, the FDIC is specifically authorized to take enforcement actions against any savings association based on an examination of the association by the Corporation. Thus, it clearly is contemplated that the Corporation has the authority to examine any savings association to the extent the Corporation deems appropriate in order to exercise its enforcement authority and ensure safety and soundness.

One of the purposes of the waiver authority provided to the FDIC in the cross guarantee provisions of section 206 is to give the FDIC sufficient flexibility to facilitate the acquisition of a financially distressed bank by a bank holding company. For example, this authority could be used by the FDIC to provide a waiver from the cross-guarantee provision in connection with a transaction in which a bank holding company is proposing to acquire, without FDIC assistance, another bank holding company which is experiencing serious financial problems.

Under the provisions of the bill, the FDIC may, in its discretion, exempt any insured depository institution from the cross-guarantee provision if it determines the exemption is in the best interests of the BIF or the SAIF, subject to the conditions of that section.

The conference report reenacts section 408(h) of the National Housing Act, transferring to the Director of the Office of Thrift Supervision the authority to issue rules, regulations, and orders to carry out the purposes of the holding company provisions of the act. The conferees intend that the Director will retain the flexibility needed to respond to the wide variety of situations which may arise in addressing holding company issues by adopting rules and regulations to address recurring situations and orders to deal with specific cases. The use of this authority to issue orders granting waivers or exemptions from requirements of the holding company regulations may only be granted upon the showing of good cause, and the demonstration that such a waiver would not adversely affect the safety or soundness of the savings association involved.

Mr. WYLIE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio [Mr. WYLIE].

The motion was agreed to.

The SPEAKER. The Chair appoints the following Members as conferees on the part of the House on H.R. 1278, Financial Institutions Reform, Recovery and Enforcement Act of 1989:

From the Committee on Banking, Finance and Urban Affairs: Messrs. GONZALEZ, ANNUNZIO, FAUNTROY, NEAL, HUBBARD, LAFALCE, VENTO, SCHUMER, FRANK, MORRISON of Connecticut, TORRES, KLECZKA, WYLIE, LEACH of Iowa, HILER, MCCANDLESS, SAXTON, Mrs. SAIKI, Messrs. BAKER, and BARTLETT.

From the Committee on Ways and Means: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, RANGEL, STARK, JACOBS, FORD of Tennessee, JENKINS, DOWNEY, GUARINI, RUSSO, PEASE, ARCHER, VANDER JAGT, CRANE, FRENZEL, SCHULZE, GRADISON, THOMAS of California, and MCGRATH.

From the Committee on Rules: Messrs. MOAKLEY, DERRICK, BEILENSON, FROST, BONIOR, QUILLEN, and SOLOMON.

From the Committee on Government Operations: Mr. CONYERS, Mrs. COLLINS, Messrs. ENGLISH, SYNAR, WISE, HORTON, CLINGER, and MCCANDLESS.

Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

NATIONAL SENIOR CITIZENS DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 225) to authorize and request the President to issue annually a proclamation designating the third Sunday of August of 1989 as "National Senior Citizens Day" and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. GILMAN. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Florida [Mr. SMITH], who is the chief sponsor of House Joint Resolution 225, authorizing and requesting the President to issue annually a proclamation designating the third Sunday of August as "National Senior Citizens Day."

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding to me and for allowing me this opportunity to speak about a resolution which I have introduced and which will shortly come before this Chamber for a vote. This resolution, House Joint Resolution 225, marks August 20, 1989, as National Senior Citizens Day to acknowledge America's senior citizens and their contributions to our Nation.

Our senior citizens epitomize those characteristics of hard work, ingenuity, and accomplishment on which our Nation was founded and continues to flourish. It is imperative that we acknowledge this group of people who are living history, unending sources of warmth, ideas, and experience.

Our senior population is growing. In 1986, one out of every five persons was 55 years or older, and one out of every

eight persons was 65 or older. During the last two decades the elderly population grew twice as fast as the rest of the population. This phenomenon is due to a number of factors, including longevity, advanced medical technology, and the coming of age of the post-World War II baby boomers.

Mothers are recognized on Mother's Day and fathers receive their credit on Father's Day; now it is time that we let the mothers and fathers of our Nation know that we recognize and appreciate the contributions they have made to our society.

I hope that you will support House Joint Resolution 225, and make August 20, 1989, National Senior Citizens Day for the second time.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his remarks. I want to commend the gentleman from Florida [Mr. SMITH] for honoring the seniors throughout our Nation, carrying on the best traditions of the former gentleman from Florida, Mr. Claude Pepper.

Mrs. MORELLA. Mr. Speaker, as a member of the Select Committee on Aging, I feel it is fitting that we designate the third Sunday of August as "National Senior Citizens Day."

Approximately 12 percent of our Nation today are older Americans who continue to be productive members of our society. They continue to share their expertise and energies by working and volunteering in their communities and by assisting others who are less fortunate. Our senior citizens possess a wealth of knowledge and experience that should not be allowed to idle. They are diverse and productive and are a valuable part of our society.

Older Americans have made our country the great Nation it is today. Designating a day each year to be recognized as "National Senior Citizens Day" will give us an opportunity to recognize and honor our older senior citizens and thank them for their leadership and contributions.

Mr. Speaker, we can all learn from the accomplishments of our "seniors," not only from their past efforts but their present endeavors as well.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 225

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue annually a proclamation designating the third Sunday of August of 1989 as "National Senior Citizens Day", and calling upon the people of the United States to observe such day with appropriate ceremonies and activities in honor of the contributions to the United States of individuals more than 55 years of age.

AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAWYER: Page 1, beginning on line 3, strike "annually".

The SPEAKER. The question is on the amendment offered by the gentleman from Ohio [Mr. SAWYER].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SAWYER: Amend the long title so as to read: "To authorize and request the President to issue a proclamation designating the third Sunday of August of 1989 as "National Senior Citizens Day'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF REPLACEMENT CONFEREE ON H.R. 1278, FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989

The SPEAKER. Without objection, the Chair appoints as a replacement conferee for the gentleman from New York [Mr. PAXON], the gentleman from Texas [Mr. BARTLETT] on the bill, H.R. 1278.

There was no objection.

The SPEAKER. The clerk will notify the Senate of the change in conferees.

COMMEMORATING THE BICENTENNIAL OF THE U.S. COAST GUARD

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 126) commemorating the bicentennial of the U.S. Coast Guard, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. GILMAN. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Louisiana [Mr. TAUZIN], who is the chief sponsor of House Joint Resolution 265, commemorating the bicentennial of the U.S. Coast Guard.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, today we bring to the floor a commemorative resolution of some real significance. Today we recognize the contributions of the Coast Guard to our Nation for the past 200 years.

It is significant that today this House voted so strongly in support of the Coast Guard in its appropriations.

We also rise today on this occasion to thank the men and women of the U.S. Coast Guard for 200 years of vigilant service to our Nation.

The Coast Guard's total personnel is less than the police force of New York City, and yet we have asked the Coast Guard to perform so many incredibly difficult tasks over the years of its service to America.

Today the Coast Guard is our guardian of the waterways and of our populace against the in-flow of drugs to our Nation, it guards hazardous waste movements upon the waterways and shipments of dangerous chemicals and oil.

Our Coast Guard protects our fishermen.

Our Coast Guard provides aids to navigation, navigation which keeps the lanes of navigation open in the country.

Our Coast Guard in fact does so many valuable services for America that it is a wonder how they do it with so little resources.

Today we rise to commemorate them for 200 years of service.

Mr. GILMAN. Mr. Speaker, reserving the right to object, I rise in support of the resolution designating the period August 4, 1989, through August 4, 1990, in commemoration of the bicentennial of the U.S. Coast Guard. I wish to commend the gentleman from Louisiana [Mr. TAUZIN], for introducing this measure, and I wish to recognize also our distinguished minority sergeant at arms, Mr. Walter Kennedy, for his devoted interest in this legislation.

Mr. Speaker, I am pleased to be a cosponsor and strong supporter of this resolution which recognizes the longstanding shared commitment of Coast Guard men and women in protecting our Nation's shorelines. August 4, 1990, will mark the 200th anniversary of the act of August 4, 1790, by which Congress authorized 10 revenue cutters requested by Alexander Hamilton for the purpose of interdicting violators of the customs laws, a service they have been performing to this very day. The seagoing service which began with these vessels was the forerunner of our modern day Coast Guard service.

Since that time, the U.S. Coast Guard has served our Nation with honor and distinction both in times of war and in times of peace. We are well familiar with the vital safety mission which the Coast Guard fulfills through the performance of air-sea rescue operations, the maintenance of aids to navigation, and the regulation of safety standards aboard individual vessels. Unfortunately, however, in the modern age, our Coast Guard service

is now increasingly called upon to protect our shores from the devastating scourge of drug trafficking and other crimes of the sea which threaten to violate our coastal territories. These more recent requirements of Coast Guard operations are not unlike the initial mission established for those first 10 cutters almost 200 years ago.

Mr. Speaker, despite its small size, it is evident that the U.S. Coast Guard has performed a variety of significant functions with efficiency and courage. It is abundantly clear that the requirement for heroism and courageous effort shall challenge Coast Guard service men and women for some time to come, but I am confident that they shall continue to discharge their obligations with honor and conviction. It is appropriate that we observe the bicentennial of the U.S. Coast Guard with the adoption of this resolution.

Accordingly, I invite my colleagues to join with us in support of this measure.

Mr. Speaker, under my reservation, I yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I rise in support of Senate Joint Resolution 126, designating the period of August 4, 1989, through August 4, 1990, as a year to commemorate the bicentennial of the U.S. Coast Guard.

August 4, 1990, will mark the 200th anniversary of the act that authorized 10 cutters for the purpose of interdicting violators of the custom laws. The seagoing service which began with those first 10 cutters lives on in the form of the service now known as the United States Coast Guard. Today, the Coast Guard is vested with varying responsibilities. These include drug interdiction, search and rescue procedures, inspecting fishing vessels to ensure that they meet safety regulations, general boating safety, and assisting in the cleanup of oilspills in our Nation's bodies of water.

During times of both war and peace, the Coast Guard has served our Nation well, defending the country against foreign enemies and against the use of the sea for crimes against the Nation.

Finally, Mr. Speaker, I want to commend Congressman TAUZIN for his efforts in getting this resolution to the floor today.

Mr. RIDGE. Mr. Speaker, I would like to state my strong support for Senate Joint Resolution 126 and House Joint Resolution 265, commemorating the bicentennial of the U.S. Coast Guard. As a representative from a district which borders Lake Erie, I have a high regard for the work of the Erie Coast Guard Station No. 236.

Our Coast Guard station plays a vital role in our community and communities throughout the country. While many stories on the fine work of the Coast Guard generate from the Atlantic and Pacific coastlines, we in Erie have stories of our own.

Chief Petty Officer Hildreth informed me that our Coast Guard ran over 250 rescue operations last year. This year, there have been over 160—and we are in the height of the season for recreational boaters and swimmers. In addition, our Coast Guard is actively involved in the war on drugs. They seized the motor vessel *Journey* carrying 1,700 pounds of marijuana and have investigated four pollution cases.

Their work does not stop there—they have brought safety messages into our community and into our schools. Through tremendously long hours, through professionalism and proficiency in their efforts, Erie's Coast Guard is a source of pride in our community and throughout the country. I would like to extend my sincere congratulations to our Coast Guard and the Coast Guard units throughout the country on their bicentennial.

Mr. JONES of North Carolina. Mr. Speaker, I rise to urge my colleagues to support Senate Joint Resolution 126, which commemorates the U.S. Coast Guard's bicentennial.

A strong force is at work in the world today. Its motto is "Always Ready." On an average day, the force saves 16 lives, seizes more than 3,500 pounds of marijuana and 35 pounds of cocaine, helps clean up hazardous chemical and oilspills, investigates marine casualties, and removes unseaworthy vessels from the water.

The force started on August 4, 1790 when Congress granted Treasury Secretary Alexander Hamilton's request for 10 revenue cutters to interdict rum runners. Almost 200 years later, we know the force as the U.S. Coast Guard—38,000 strong, underpaid, overworked, but always ready.

The resolution has two purposes. It is designed to thank the men and women of the Coast Guard for 200 years of impressive service to the United States. It also should make the Nation aware of what this small but dynamic force has contributed to safety, law enforcement, and the national defense.

Coast Guard people do many jobs. For example, a ship may enforce the law, search for a missing vessel, rescue the crew of a downed aircraft, replace a buoy, and deploy a large oil pollution boom—all on the same patrol. Likewise, an aircraft may search for and rescue the survivors of a sunken ship, detect an oil slick, and spot a vessel smuggling drugs—all during one operation.

In addition to all of this, the Coast Guard, the smallest of the five armed services, maintains its military capability and readiness.

Despite perennial underfunding and understaffing, the Coast Guard goes on fulfilling its multimissions and showing us that no matter what, if there's a job to be done the Coast Guard can do it. When the oilspill in Prince William Sound got out of hand, the President designated the Coast Guard as the lead Federal agency to coordinate the cleanup effort. When we declared war on drugs, the Coast Guard—ever present on the seas and in the air—simply expanded its mission to do yet another task.

I urge all Members to join me in recognizing the Coast Guard's ability to do so much with so little by voting for the resolution.

Mr. DAVIS. Mr. Speaker, just 14 years ago the United States celebrated its 200th birthday with magnificent fireworks and festivities held across the length and breadth of this land. Today I want us to join in recognizing the bicentennial of one of the few organizations that is almost as old as our Nation, the U.S. Coast Guard.

Since August 4, 1790, the Coast Guard has been here to protect our shores. This organization does not ask us for fireworks or marching bands; it asks simply to be appreciated for the unselfish and dedicated job it has been doing for us since its inception. When a mariner at sea neared a dangerous navigation point, he knew he could rely on the lighthouse service to have that beacon shining to guide him to safety. With little thought for their own welfare, the members of the Coast Guard have built a solid tradition devoted to going to the aid of those in distress on the water. To that history they have added the dedicated patrols on hazardous seas for fisheries enforcement to protect our valuable fishery stocks, and for drug interdiction to guard against the deadly influx of illegal drugs. To that foundation have been added the missions of pollution response, maintenance of aids to navigation, and coastal defense in time of national emergency.

Repeatedly the Coast Guard has demonstrated its willingness to take on new tasks with little support funding, and has successfully met whatever challenges we have given it. There is not a single other agency that is as versatile or ready to accept those challenges with the can do attitude of the Coast Guard. It is time for us to honor these young men and women with the recognition they deserve on the 200th anniversary of their service.

Please join with me in supporting Senate Joint Resolution 126, commemorating the Coast Guard bicentennial.

Mr. TAUZIN. Mr. Speaker, today I led some 244 of my colleagues in asking for the passage of Senate Joint Resolution 126. This bill proudly commemorates 200 years of outstanding service by our U.S. Coast Guard.

As members of our Nation's oldest continuous sea service, the men and women of the U.S. Coast Guard have dedicated themselves, to carrying out their multimission responsibilities with a strong sense of duty and pride, in living up to their motto, Semper Paratus—always ready.

In its two centuries of service to the American people, the Coast Guard has worked diligently to keep our Nation's ports and harbors secure and open, to rescue mariners in times of need, to provide for the safe navigation of our waters, and led our Nation's war on drugs.

In recognition of 200 years of dedication and sacrifice, Senate Joint Resolution 126 has been introduced to celebrate August 4, 1989 to August 4, 1990 as the bicentennial year of the U.S. Coast Guard.

Those of us who know these important facts about the Coast Guard marvel at its ability to do so much with so little. Our goal is to pay tribute to this remarkable dedication and make sure that people across the country come to appreciate the force as well.

I stand before you today to ask you, my fellow Members of the House, to grant this year of recognition to our friends in the U.S. Coast Guard.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 126

Whereas August 4, 1990, marks the 200th anniversary of the Act of August 4, 1790, by which Congress authorized 10 revenue cutters requested by Alexander Hamilton for the purpose of interdicting violators of the customs laws;

Whereas the seagoing service which began with those first 10 cutters lives on in the form of the service now known as the "United States Coast Guard";

Whereas the Coast Guard has served this Nation well, in war and peace, in both the defense of this Nation against foreign enemies and against the use of the sea for crimes against the Nation;

Whereas the Coast Guard has also served this Nation well in protecting against the perils of the sea, by rescuing those in danger at sea, maintaining aids to navigation and regulating the safety of vessels;

Whereas the Coast Guard, despite its small size, has served the Nation in these and in many other areas with efficiency and gallantry;

Whereas the Coast Guard's present-day battle against the importation of drugs by sea reminds us of the origins of the Coast Guard with those first 10 cutters 200 years ago, and of the other essential services performed by the Coast Guard; and

Whereas the bicentennial of the Coast Guard will be commemorated during the period beginning August 4, 1989, and ending August 4, 1990: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States hereby gives recognition to the two centuries of service by the United States Coast Guard and authorizes and requests the President to issue a proclamation calling upon the people of the Nation to share in the pride and satisfaction enjoyed by the dedicated and committed members of the United States Coast Guard during the commemoration of this bicentennial.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL LIBRARY CARD SIGN-UP MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 231) designating September 1989 as "National Library Card Sign-Up Month" and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. GILMAN. Reserving the right to object, Mr. Speaker, I do not object, but simply would like to inform the House that the minority has no objection to the legislation now being considered, and I yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I am pleased to rise in support of House Joint Resolution 231 to designate the month of September 1989, as "National Library Card Sign-Up Month."

Education is fundamental to the maintenance of our free society. Our Nation's libraries are a necessary link in the chain between education and knowledge. Libraries enable us to heighten our awareness of the world and are a stimulant to the minds of our Nation's youth.

It has been shown that regular use of libraries is essential to stimulate the intellectual development of our children. The passage of this resolution will assist the national campaign that has been launched by the U.S. National Commission on Libraries and Information Science and the American Library Association to ensure that all school age children will have, and be encouraged to use, a library card.

I would like to point out that library cards can never be outgrown. These cards are good for a lifetime of learning and enjoyment.

Finally, Mr. Speaker, I want to commend my good colleague from New York, Congressman OWENS, for all of his efforts in getting this resolution to the floor today.

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Mr. GILMAN. I thank the gentleman for his remarks.

Mr. OWENS of New York. Mr. Speaker, last year the American Library Association and the National Commission on Libraries and Information Science began a campaign to encourage every school age child to obtain a library card as soon as they were eligible. By designating the month of September as "National Library Card Sign-Up Month," NCLIS and ALA hope to reinforce the campaign's message to parents, educators, and students that maintaining their library card should be an integral part of annual back-to-school preparations. It is our intention that by coordinating the campaign's message to focus on the month of September, activities and events throughout all of our local communities can reinforce each other, and call greater attention to this national effort.

Many years ago, Thomas Jefferson said:

Nothing would do more extensive good at small expense than the establishment of a small, circulating library in every county, to consist of a few well-chosen books, to be lent to the people of the county, under such regulations as would secure their safe return in due time.

I could not agree with Mr. Jefferson more.

In this Nation we have more than 9,000 public libraries such as the ones Mr. Jefferson envisioned so long ago. These libraries have become the basic cornerstones of our free information society. Through their neighborhood libraries, children, and adults of all ages can pursue their educational and informational interests at their own pace.

It is recognized in the education community that the library has an indispenable role in the education process. Studies show that independent reading and the regular use of libraries by children is critically important to their performance in school and overall intellectual development. Educators believe that every child should acquire and maintain their own library card as early as possible.

In recent years, we have been witness to the decline of educational achievements and an increase in delinquent behavior in many of our Nation's youth. Just as preschool and Head Start for disadvantaged children has been shown to dramatically improve later educational achievements, frequent library use and more time spent reading has not only been shown to enhance the academic achievements of children, but also provides the means for keeping many of our children off the streets and involved in constructive activities as they mature into their teenage years.

However, in this age of ever-advancing technology, too many of our children are being raised on TV, movies, and video games instead of books. Too many children never see the inside of a library unless required to do so in their later school years. Too many children grow up not knowing the joy of getting lost in a good book and only view books as the tools through which the punishment of homework is doled out by unrelenting teachers.

Mr. Speaker, I thank all of the cosponsors who supported us in this effort. This September, there will be thousands of parents across the Nation who will hear the campaign's message and who will realize, as they may not have realized before, that a library card can open the doors of wonderful worlds for their children. As it is said in proverbs, "A library is a repository of medicine for the mind." Through this body's support of this resolution, we will help our Nation's children expand their minds to the wonders and the knowledge that books have to offer.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 231

Whereas American libraries of all kinds (public libraries, school library media centers, academic and research libraries, and special libraries) are essential to national literacy, lifelong learning, and a productive economy;

Whereas children who are read to in their homes at an early age and who grow up regularly using libraries perform better in school and are more likely to continue to be library users as adults;

Whereas the United States National Commission on Libraries and Information Science and the American Library Association have launched a national campaign to

ensure that every school-age child in the Nation will have, and will be encouraged to use, a library card;

Whereas a library card cannot be outgrown and is good for a lifetime of learning and enjoyment;

Whereas parents and schools are important partners in the effort to give the wonderful gift of a library card to every child in the Nation; and

Whereas a library card is an essential resource for every child's education and September is the month during which children return to school: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 1989 is designated as "National Library Card Sign-Up Month", and the President is authorized and requested to issue a proclamation calling upon the libraries, schools, and people of the United States to observe such month with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolutions just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. HALLEN, one of its clerks, announced that the Senate rules the conference report to the bill (H.R. 1278) "An Act to reform, recapitalize, and consolidate the Federal Deposit Insurance System, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes," out of order.

The message also announced that the Senate further insists upon its amendment and requests a conference with the House on the disagreeing votes of the two Houses thereon, to the above-entitled bill, and appoints Mr. REIGLE, Mr. CRANSTON, Mr. SARBANES, Mr. GARN, and Mr. HEINZ to be the conferees on the part of the Senate.

ANNOUNCEMENT RELATIVE TO CONFERENCE ON H.R. 1278, FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute.)

Mr. GONZALEZ. Mr. Speaker, I wish to announce that the Senate conferees will be meeting with the House conferees with respect to the conference on H.R. 1278 in the Banking Committee hearing room, Rayburn 2128, at 8:30.

I thank the Chair.

APPOINTMENT OF REPLACEMENT CONFEREES ON H.R. 1278, FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989

The SPEAKER. Without objection, the Chair announces that with respect to the conference on H.R. 1278, the gentleman from California [Mr. MCCANDLESS] is replaced by the gentleman from Pennsylvania [Mr. RIDGE] and the gentleman from Louisiana [Mr. BAKER] is replaced by the gentleman from New York [Mr. PAXON].

There was no objection.

The SPEAKER. The Clerk will notify the Senate of the change in conferees.

ORDER OF BUSINESS

Mr. DOUGLAS. Mr. Speaker, I ask unanimous consent that the special orders for 60 minutes by the gentleman from California [Mr. DORNAN] the gentleman from Indiana [Mr. BURTON] earlier agreed to for today, be vacated.

The SPEAKER. Is there objection to the request of the gentleman from New Hampshire?

There was not objection.

ORDER OF BUSINESS

Mr. DOUGLAS. Mr. Speaker, I ask unanimous consent that the 60-minute special orders of the gentleman from California [Mr. DORNAN] and the gentleman from Oklahoma [Mr. EDWARDS] earlier agreed to for today, be reversed.

The SPEAKER. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

THE AMERICANS WITH DISABILITIES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I rise to note the fact that H.R. 2273, the Americans with Disabilities Act, this week was endorsed by the President of the United States. And also has reached the point where there are 220 cosponsors in the House.

Mr. Speaker, on February 9 the President said, and I quote, "Disabled Americans must become full partners in America's opportunity society."

The Senate committee approval and the President's endorsement have propelled us much farther along the road to completing the work started over 20 years ago with the enactment of the 1964 Civil Rights Act. The Americans with Disabilities Act will provide long-awaited civil rights to disabled Americans.

Mr. Speaker, furthermore, we must remember that the Federal Government currently spends up to $75 billion with reference to those who are disabled. However, much of the money is being spent supporting people who want to work but who cannot surmount the barriers of ignorance, prejudice, and inaccessibility that confront them far too often. In fact, Mr. Speaker, fully two-thirds of the working-age disabled persons who are unemployed say they want to work.

Mr. Speaker, the Americans with Disabilities Act would make it possible for those individuals to lead productive lives. This bill was, and is, currently sponsored by our colleague from California, TONY COELHO, who himself overcame a disability and has shown so many Americans suffering from epilepsy that that is not, in fact, a disabling physical impairment. That if America accepts those who are disabled as challenged in a special way but able to perform in many ways as well as any, then our country will be better off.

I am pleased to be joined by the gentleman from California [Mr. MINETA] as a cosponsor of the Americans with Disabilities Act.

Mr. Speaker, I yield to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, today the Americans With Disabilities Act went over the top! A majority of the House, 220 Members in all, have now indicated strong support for this legislation, H.R. 2273, and the list promises to grow.

The increasing support for this legislation in the House of Representatives comes at a significant time. The other body has acted on their version of the act and President Bush has indicated his support for the bill adopted yesterday by the Senate Committee on Labor and Human Resources. I applaud the passage of the Senate bill, S. 933, by the Senate Committee on Labor and Human Resources.

We are now one important step closer to implementing comprehensive civil rights protections for more than 37 million disabled citizens in the United States.

At the core of this legislation is fairness and equity. The Americans With Disabilities Act is a civil rights measure which addresses the barriers of ignorance, prejudice, and inaccessibility that individuals with disabilities confront each day of their lives.

The approval of the Senate committee and the endorsement by the White House helps us increase the momen-

tum we need to pass this landmark measure in the House.

Americans believe that the time is now for clear, decisive and consistent protections against the strain of discrimination which individuals with disabilities must endure on a daily bais. The House of Representatives owes it to the American people to act quickly and effectively on the legislation now pending before us.

I am hopeful that the Americans With Disabilities Act will be brought to this Chamber for a vote in September and I urge my colleagues to join us in this effort.

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Mr. HOYER. Mr. Speaker, it is now incumbent upon us to take that additional step, to make sure that those who suffer a disability through no fault of their own do not suffer the continuing disability of having a society which is not fully open to them, and fully providing of opportunities to participate in our society.

A 21,390 PETITION TO PROHIBIT FLAG-BURNING

The SPEAKER pro tempore (Mr. ENGEL). Under a previous order of the House, the gentleman from New Hampshire [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of New Hampshire. Mr. Speaker, on June 21, the U.S. Supreme Court ruled by a 5-to-4 vote that a Texas statute imposing penalties for the desecration of an American flag violated the first amendment. That decision shocked and outraged the people of America.

I have here 21,390 petitions, circulated by the Union Leader newspaper in Manchester, NH, and received from granite State residents who want to save our flag. The response to the petition drive, sponsored by Union Leader publisher Nackey S. Loeb, was overwhelming. The paper received all these signatures in less than 3 weeks.

The petitions indicate, Mr. Speaker, that desecrating the American flag does not sit well with the people of New Hampshire.

The petition states that "we, the people of New Hampshire, call upon Congress to take whatever action necessary to stop desecration of the flag and make it a Federal crime." The actual petitions and signatures from my constituents are symbolic of the feelings of millions of people across America who feel the same way. They have asked me to tell Congress that they are angry, and that is why I have asked for the floor tonight.

Let me quote, Mr. Speaker, from a few of these New Hampshire patriots: "Outraged," was how one citizen, Marcia Roberts, described her feelings after hearing of the decision. "I didn't want my gandchildren to grow up believing the flag their great-grandfather, grandfather, father, and uncle fought to protect could be burned, trampled, or otherwise disgraced," Mrs. Roberts wrote.

Eleanor Walsh, of Groveton, NH, whose birthday falls on Independence Day, said that when she was small, she remembered learning never to let the flag touch the ground.

"Please don't let anyone burn our flag," Eleanor pleaded.

Borrowing from Franklin D. Roosevelt, Arthur Sullivan, or North Conway called the decision a "dastardly act."

"Our flag is not simply a symbol, it is a banner of honor and glory of our country. It has been carried into battle nearly all over the world in the name of freedom and justice," Mr. Sullivan wrote.

The flag is in a revered position in America. It even has a spot of honor behind your desk, Mr. Speaker. But it is not just this reverence or not just the goose bumps we get when we see a weathered veteran carrying the flag in a July Fourth parade, that have sparked my involvement in this issue. For me it is also something personal.

My father died in a service-related plane crash at the end of World War II. My mother was presented with an American flag in his honor. I do not want his honor to be diminished by burning that flag.

Have you ever asked yourself, Mr. Speaker, why it is that although the Soviet Union's constitution has "more freedoms" in it than the U.S. Constitution, they don't have more freedom than the United States? It is because they do not place the same values on their constitution as we do on ours.

The flag is not merely pieces of dyed cloth that are sewn together, as the Court might have us think. Just as the Constitution is not merely a piece of paper, or a Purple Heart isn't just metal. It is what value we place on that cloth, or that paper, or that piece of metal. It is what we back it with.

The act of burning the flag is an insult to all those that share the ideals set forth by our Founding Fathers. The Supreme Court decision is particularly repugnant to our Nation's veterans. They suffered and sacrificed for that flag and what it represents. Some were maimed, some were wounded, some died, and many are still missing. They do not deserve this.

We, as a Congress, must do something and do it now.

A recent poll in Newsweek magazine indicates that more than 70 percent of the American people support a constitutional amendment to ban desecration of the flag. President Bush has also called for a constitutional amendment. The American people are calling for that constitutional amendment.

But Congress is stalling. The House Judiciary Committee recently voted to go with a statute as opposed to a constitutional amendment. My colleague from New Hampshire, CHUCK DOUGLAS, stood tall in opposition to a statute and in favor of an amendment.

First of all, a statute will be unconstitutional. In a discussion I had yesterday with Judge Robert Bork, he agreed. He said that a statute is merely "putting the issue off." The only purpose of a statute is to prevent desecration. But the Court just said you can't do that. This will be declared unconstitutional under the same ruling on Texas versus Johnson that was just made. The only way to overturn the Court is a constitutional amendment.

That is what 21,000 people want. That is what Americans want. Why does Congress want to thwart their will?

To those critics that say an amendment will only "clutter up the Constitution," I say—I don't think prohibiting desecration of the flag is "cluttering." We have had constitutional amendments before and the Court has been wrong before.

In 1857, Dred Scott, a black slave, sued for his freedom. Justice Tanney ruled he could not sue because he was property. Surely the Court was in error when they said a man was not a man. The Court was wrong in declaring blacks had no rights because they were just property, and they eventually overturned it. Thus, we have the 13th amendment.

The Court was wrong on June 21 with the decision on the flag and it also should be overturned. Thus we should have the 27th amendment.

Our Constitution is a living, flexible document. It is designed to be amended and interpreted. It was amended 10 times with the bill of rights. That is the beauty of it. We cannot restrict ourselves and let flag burning continue, by using the excuse of "cluttering" the Constitution.

Judge Bork said to me yesterday that he does not believe prohibiting desecration of our Nation's most valuable symbol is cluttering. Well, Mr. Speaker, neither do I. And neither do the 21,390 New Hampshire citizens who, through the good efforts of the Union Leader have today expressed their sentiments to the U.S. Congress.

A 21,390 PETITION TO PROHIBIT FLAG BURNING

The SPEAKER pro tempore. Under a previous order of the House the gentleman from New Hampshire [Mr. DOUGLAS] is recognized for 5 minutes.

Mr. DOUGLAS. Mr. Speaker, I want to join my colleague, the gentleman from New Hampshire, Mr. BOB SMITH, and the 21,390 people of New Hampshire who have spoken loud and clear about flag desecration. I think that

our State is well known as the "live free or die State," the "granite State," and also the State that is obviously a believer in the values of the flag.

Some people have said to me why not protect the Declaration of Independence, why not protect the copies of the Constitution, the little booklets and so forth under the same kind of law or amendment? The answer is very well stated in a document that I am going to insert in the RECORD by the Committee to Save the Flag, and it is sponsored by the American Legion, the Amvets, and the Paralyzed Veterans of America. They answer the question very well, as follow:

As venerated as those documents are, it is the flag alone that symbolizes and unifies our Nation as a whole. Unlike documents, the flag transcends literary and language barriers, it is the flag that school children pledge allegiance to every day, it is the flag that inspired our National Anthem, it is the flag that drapes the coffins of our fallen heroes and of our military veterans, and in an increasingly pluralistic society, it is the flag alone that represents the American people as a whole, and we believe there is a compelling governmental interest in preserving that glorious symbol.

That is why 21,000 people from New Hampshire who took the time to fill out this petition understand that. But unfortunately, the House Judiciary Committee does not understand that, and later tonight we are going to talk about rules and the abuse of rules in this body that keep the people from having their voice heard in this so-called people's house.

What the Judiciary Committee has come out with is what I call the sham and a shame. It is H.R. 2978, and it is a joke for several reasons.

First of all, it actually creates a defense to burning the flag. Now you can take any soiled flag, you can even defile the flag yourself and burn it, and it is a defense under this new Federal law.

The second problem with it is it cannot be enforced by local police. All 50 States will now have to pass their own separate statutes, and that is why I think the States are going to take the lead away from us.

I have the resolution here from the State of California, the assembly and the senate of the State of California who have petitioned us here. I will quote from the document. They memorialize the Congress of the United States to, "propose an amendment to the United States Constitution specifying that Congress and the States shall have the power to prohibit the physical desecration of the flag."

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States are starting to call on us to do our job. And when we are faced with that, I think we have the initiative, we have the ability; we just lack the will to go ahead and propose a one-sentence amendment to the 50 States.

Some say, and I will conclude with this, that, "Well, if you do that, it is going to take a lot of time, each State has to act on the amendment."

Well, that is fine; each State will now have to pass their own flag law because H.R. 2978 is only a change in a Federal statute.

If you are a police officer in California or New Hampshire or Iowa, that statute is meaningless to you. You cannot make an arrest under it because you are a State police officer or a local police officer.

The answer is a constitutional amendment.

The people of New Hampshire know that, and I think at some point even the Members on this side of the aisle will learn that that is the only answer and that is what the people want.

ANSWERS TO 14 COMMON QUESTIONS CONCERNING A CONSTITUTIONAL AMENDMENT TO SAVE OUR FLAG

Q: Why do we need a constitutional amendment to protect our flag?

A: On June 22nd, in a case called *Texas v. Johnson*, the Supreme Court ruled that Gregory Johnson, a self-proclaimed member of the Revolutionary Communist Youth Brigade, was protected by the First Amendment and could not be convicted of burning the American flag under a Texas law—an offense for which he had been arrested during the 1984 Republican National Convention in Dallas. The Court ruled that his actions were a form of "political expression" and thus were protected speech. The Court was closely divided 5-4 in this ruling. In effect, the Court ruling means that all laws protecting the flag are constitutionally invalid.

Q: Hasn't the Supreme Court always considered flag desecration a form of protected "speech?"

A: No. That is a misconception based on previous Court rulings concerning the flag that do not involve desecration. Even some of the most liberal justices in history, such as Hugo Black, Abe Fortas, and Earl Warren, have stated that the flag, as a unique symbol of our nation, enjoys special protection and that the First Amendment was never intended to prevent the American people from protecting the flag.

Q: Why should the flag be singled out for special protection? If we are going to give special protection to the flag, why not to copies of the Constitution or the Declaration of Independence or even the Bible?

A: As venerated as all those objects are, it is the flag alone which symbolizes and unifies our nation as a whole. Unlike other documents, the flag alone transcends literacy and language barriers. It is the flag that school children pledge allegiance to every day. It is the flag, specifically, that inspired our national anthem. It is the American flag that drapes the coffins of our fallen heroes. In an increasingly pluralistic society, it is the flag alone that represents the American people as a whole, and we believe there is a compelling government interest in preserving that glorious symbol.

Q: Why can't we just pass a law that the Supreme Court would find acceptable and protect the flag that way?

A: There are some legislators who believe this is possible, but the vast majority of constitutional scholars and legal officials believe otherwise. Noted liberal constitutional scholar Floyd Abrams, Judge Robert Bork, former Solicitor General Charles Fried, Attorney General Richard Thornburgh, and President George Bush are all strongly of the opinion that a mere statute would immediately be overturned by the courts. This leaves the constitutional amendment route as the only sure method of protecting the flag. In addition, proposing federal legislation to overturn the Court decision would do nothing to ensure the constitutionality of the flag statutes that are now on the books in 48 states. These 48 state statutes deserve protection. Only a constitutional amendment accomplishes that goal.

Q: Wouldn't a flag amendment be like amending the Bill of Rights?

A: Absolutely not. Up until this decision, the Constitution was clearly understood to allow state and federal laws to protect our flag. With this decision a new doctrine has been invented, a doctrine which protects the most vile of acts in the name of free "speech." This proposed amendment to the Constitution—not the Bill of Rights—would merely "amend" this pernicious new doctrine.

Q: What would a flag protection amendment look like?

A: There have been a number of variations offered in Congress to date. The one that has the largest number of co-sponsors and the broadest level of support was introduced in the House of Representatives on July 6, 1989, by Republican Minority Leader Robert Michel of Illinois and Democratic Chairman of the House Veterans Committee Sonny Montgomery of Mississippi. The same amendment was introduced in the Senate by Minority Leader Robert Dole of Kansas and Democratic Deputy Whip Alan Dixon of Illinois on July 18, 1989. The Flag Amendment reads as follows: "The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States." The Flag Amendment also has the support of President Bush, Attorney General Thornburgh, dozens of Congressman of both parties and many of our national veterans organizations.

Q: Isn't it difficult to get a constitutional amendment passed?

A: Normally, it is. Over the past 200 years, there have been thousands of constitutional amendments offered in Congress. Only 33 have passed Congress and only 26 have been ratified by the states and become Amendments to the Constitution. A constitutional amendment must be passed by a two-thirds vote in both houses of Congress and then be ratified by three quarters of the States. Citizens must want the Flag Amendment enough to work through this process. Rather than be afraid of the amendment process, we should celebrate the founding fathers' wisdom in providing this demanding part of our system of checks and balances.

Q: What exactly does the Flag Amendment do? Does it outlaw burning the American flag?

A: The amendment itself merely gives authority to Congress and State legislatures to enact legislation to restrict actions that desecrate the flag. Such legislation could include banning the mutilating, burning, trampling upon, or otherwise physically defiling the flag, and set the penalties for these crimes. Of course, this type of legislation existed in 48 states and in federal law prior to the recent court decision.

Q: Why would we want to allow 50 states to have 50 different laws? If the flag is the unifying symbol of our country, shouldn't we have just one federal law?

A: The proposed amendment reflects the system of government we have. The Constitution sets forth what the founding fathers specifically designed which is a federal system of government giving power both to Congress and the states to make laws. This allows different laws to be enacted or not be enacted by the people in the various states, thus preserving the unique identities of the 50 states. The people in some states may not want to make it a state offense to desecrate the flag. This amendment would allow them that choice—a choice that two states have previously made.

Q: Isn't the word "desecrate" too vague a term to be part of our Constitution?

A: No more so than the word "liberty." Would we want our Constitution to exclude "liberty" because it's too vague? Of course not. The Flag Amendment specifically addresses the physical desecration of the flag. The common understanding of this phrase includes the contemptuous material destruction or defiling of the flag through such actions as burning, mutilating, trampling, or other clearly physical and intentional acts of obvious disrespect. Once ratified by the American people, no court is going to have trouble understanding what this amendment means.

Q: The proper way to dispose of an old and tattered flag is to burn it. Would this amendment lead to making that a crime?

A: Of course not. Prior to the court's ruling, no one was ever arrested for showing proper respect for the flag by burying or burning old tattered flags. There is absolutely no basis to assume that when we overturn the Court's ruling through this amendment, laws protecting the flag would or could be used to prohibit respect for the flag. By definition, desecration is not respect.

Q: Isn't all this hoopla over the flag just one side trying to get a political advantage over the other side? Isn't this just politics?

A: Again, this is an allegation made most often by people who do not think the Court's decision was wrong. The Flag Amendment has strong bipartisan support in both houses of Congress. When the President announced his support for the amendment he made it very clear that this was not a partisan issue. Indeed, public opinion polls show widespread support for an amendment regardless of party affiliation. In practical terms, a constitutional amendment could not be ratified without strong bipartisan support.

Q: What can I do to help?

A: 1. Make your voice heard. It is vital that Congress know how strongly Americans feel about this amendment. Call or write your Senators and Representatives right now. Write or Call: Congressman ——— Washington, D.C. 20510 (202)-225-3121; and Senator(s) ——— Washington, D.C. 20515 (202)-224-3121.

2. Talk to your state legislators. Demand that your state legislature vote on a resolution calling for Congress to pass the Flag Amendment. Make it clear that you want your state to be one of the first states to ratify the amendment.

3. Display your flag with pride. Encourage neighbors and local businesses to do the same. Patriotism and public unity have never been more important. Veterans organizations can be very helpful in putting together a march or parade.

4. Spread the word. Express your outrage in your local newspaper's opinion page. Radio talk shows are always bringing up this issue, and the defenders of the flag must be heard. It is very important that you become involved. This amendment process could take years, and the sooner we get to work the sooner our flag will be protected.

Q: Where can I get more information?

A: Contact your local veterans organizations. You may also call or write The Committee To Save Our Flag:

Phone: (703)-684-7638.

Address: 309-C Cameron Street, Alexandria, VA 22314.

Telefax: (703)-684-8057.

COL. "RICH" HIGGINS, NOBEL LAUREATE

The SPEAKER pro tempore. Under a previous order of the House the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker and my colleagues, I would like this evening to talk a little bit about Colonel Higgins. In short orations earlier on the flag it made me think of something I read in the newspaper the other day about Col. Bill Higgins, known to his friends as "Rich."

There came a moment as the commander of the United Nations unit in Lebanon, the peacekeeping unit, when it was discussed whether or not the various units should display their national emblems, their flags. Somebody suggested to Rich Higgins that he not wear the American flag on his shoulder. His answer was terse and typical of a gung ho marine. He simply said, "I will wear the flag."

The day he was captured, on his Marine combat sweater was a camouflaged version of the American flag. He wore it proudly.

He was commissioned in 1967 and served two tours in Vietnam. He was a highly decorated combat officer. And as each day goes by since his purported hanging, new words come to me that increase the enormity of this crime against civilization.

We often refer to the United States of America as a global village. Can you imagine a small village in some frontier area where peace is hard fought for, the message spreading around that the sheriff has been kidnaped, and terror goes through the small little city. And then they see the sight at the end of the street, the sheriff has been lynched. Law and authority has been challenged, degraded, and attacked.

All the words that we learned as young people in America about the rough-and-tumble days of the West keep coming back to me and it becomes harder and harder to assimilate this atrocity in the Middle East.

A necktie party for an innocent Marine officer trying to bring peace to a troubled area. They strung him up, they lynched an American. Any American, a Marine officer, a man who was there dedicating a part of his career to an expression right out of the beatitudes of Jesus Christ, ringing clearly. It has been quoted many times on this House floor. In 12 years I have used it myself, that when I was speaking for a strong defense or some strong point of defense I never wanted to be challenged that I did not feel as strongly for peace as anybody in this room, for my five children, who are fortunate as I was, even though I was combat-trained, to be born between wars on a cycle that puts you between wars and that window of opportunity in your youth when some are called to service. I do not want any of my grandchildren to ever have to kill another mother's son.

That simple beatitude is, "Blessed are the peacemakers for they shall see God."

In his high school yearbook Rich Higgins wrote, "I want for my family to be proud of me."

His wife, Robin, is certainly proud of him. She was a little hurt last year when the unified force in Lebanon was awarded the Nobel Prize for Peace and this was their commander.

So I come back to the horror of this atrocity against authority and justice and peace.

William Richard Higgins was a Nobel Laureate, he was a holder of the Nobel Peace Prize, just as is President Oscar Arias of Costa Rica or Henry Kissinger at the end of the Vietnam war.

They hung a Nobel Peace Prize Laureate. This is a staggering thought. And if his body was dead when they hung him, it was a mock hanging, which is what some suspect, and I happen to believe, it was still an atrocity because it was defiling the body of someone that maybe had been beaten or tortured to death as was our CIA station chief William Buckley, tortured to death painfully over months and breathing his last gasp in front of a hostage, the last to be released over 2½ years ago, who is an Orange County constituent of mine and who believes—I am speaking of David Jacobson—that he heard Bill Buckley draw his last painful breath suffering from pneumonia, from the chest poundings and beatings that he had taken.

I want everyone to know that here is my voice, that our President is spending every waking hour, exhausting every possibility, from calls to every world leader including Pope John Paul II in Rome, to try the diplomatic option to stop this madness, that an American citizen, an elderly gentleman who was one of the professors captured from the American University at Beirut, Joe Cicippio, who is under a constant death threat every 3 or 4 hours; they extended the death threat. The people who are threatening his life should come to their senses and listen to the words of their prophet Mohammed.

If I may just close with this one sentence, Mr. Speaker. The prophet Mohammed said, speaking in the name of Allah, God, "The captive is your brother. It is by the grace of God, of Allah, that he is in your hands and working for you. Since he is at your mercy, insure that he is fed and clothed as well as you are." It says nothing about lynching him, torturing him, or shooting him in an alley as they did our librarian Peter Kilbourn at age 64.

Mr. DOUGLAS. Mr. Speaker, I join in support of this suit because I believe the so-called gentlemen's agreement in the bipartisan accord on Central America is a clear violation of article I of the Constitution.

Any one of eight of our colleagues has the power to stop previously voted humanitarian aid to the Contras in November simply by doing nothing.

Letters of approval are supposed to be sent to Secretary of State Baker to keep an act of Congress in effect after November. If even one of the specified Members does not send a letter of approval, the aid is terminated. This is a legislative veto by nine Members and is simply unconstitutional.

The Supreme Court has rejected this type of arrangement in both the Bowsher versus Synar and the Immigration and Naturalization Service versus Chadha cases. The Court stated in its decision in Synar, "Once Congress makes its choice in enacting legislation, its participation ends. Congress can thereafter control the execution of its enactment only indirectly—by passing new legislation."

If Congress chooses to enact legislation which will provide discretionary funds to the President it clearly may do so. It could then pass legislation terminating those funds if it felt so inclined.

By precedent, the Supreme Court is on our side. In 1983, the U.S. Supreme Court decided the case of Immigration and Naturalization Service versus Chadha. In striking down a one House veto the Court said:

It is not disputed that this choice to delegate authority is precisely the kind of decision that can be implemented only in accordance with the procedures set out in article I . . . Congress' original choice to delegate to the Attorney General the authority to make that decision involves determinations of policy that Congress can implement in only one way; bicameral passage followed by presentment to the President. (p. 34 of slip opinion).

The Court continued by saying:

Finally, we see that when the framers intended to authorize either House of Congress to act alone and outside of its prescribed bicameral legislative role, they narrowly and precisely defined the procedure for such action. There are but four provisions in the Constitution, explicit and unambiguous, by which one House may act alone with the unreviewable force of law, not subject to the President's veto;

(a) The House of Representatives alone was given the power to initiate impeachments. Art. I, sec. 2, cl. 6;

(b) The Senate alone was given the power to conduct trials following impeachment on charge initiated by the House and to convict following trials. Art. I. sec. 3, cl. 5;

(c) The Senate alone was given final unreviewable power to approve or to disapprove Presidential appointments. Art. II, sec. 2, cl. 2;

(d) The Senate alone was given unreviewable power to ratify treaties negotiated by the President, Art. II, sec. 2, cl. 2.

Clearly, when the draftsmen sought to confer special powers on one House, independent of the other House or on the President, they did so in explicit, unambiguous terms." (P. 35 of slip opinion).

A study by the Congressional Research Service has concluded:

The breadth of the Court's ruling appeared to invalidate every variety of legislative veto: one-House, two-House, *and committee* (emphasis added). That conclusion is reinforced by the Court's action on July 6, 1983, when it affirmed two lower court holdings that had struck down a two-House veto of a Federal Trade Commission regulations *(Consumers Union, Inc.* v. *FTC)*, and a one-House veto directed against a Federal Energy Regulatory Commission Rule *(Consumer Energy Council of America* v. *FERC.* 463 U.S. 1216 (1983).

Likewise, 3 years ago, the provision allowing an appointee of Congress, the Comptroller General, to trigger part of the Gramm-Rudman-Hollings deficit control law was struck down by the U.S. Supreme Court. Because Congress could remove the Comptroller General—or a committee chair—"at any time" the law was void, said the Court:

In light of these precedents, we conclude that Congress cannot reserve for itself the power of removal of an officer charged with the execution of the laws except by impeachment. To permit the execution of the laws to be vested in an officer answerable only to Congress would, in practical terms, reserve in Congress control over the execution of the laws. * * *

The structure of the Constitution does not permit Congress to execute the laws; it follows that Congress cannot grant to an officer under this control what it does not possess. *Bowsher* v. *Synar*, 106 S. Ct 3181 at 3188 (1986).

Accordingly, if one House cannot have veto power over something like a continuation of aid, it would clearly be unconstitutional to do so with nine Members acting alone.

Each of us in the House represents half a million people. When next November arrives and it is time to vote to continue Contra aid, only a handful of us will be participating. The people of my State and district will be disenfranchished in November as a duly enacted law of Congress is amended.

All of us were elected to make these kinds of difficult decisions—we should not turn this responsibility over to just a handful of Members. To do so violates the Constitution we took an oath to support and defend. This suit comports with that oath.

S&L NEGOTATIONS—ON BUDGET, OFF BUDGET

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Nebraska [Mr. HOAGLAND] is recognized for 5 minutes.

Mr. HOAGLAND. Mr. Speaker, and colleagues, I would like to address all of you this evening on an issue that is particularly appropriate at this moment in that it is now 8:37 and about 7 mimutes ago the conferees convened over in the Rayburn Building to carry on once again negotiations over the appropriate method of financing the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

The on-budget approach chosen first by the House of Representatives and then agreed to by the conference is, in my opinion, clearly the most cost-effective and also the most honest, the approach most likely in the long run to result in debt reduction and therefore the approach that we here in the House and, hopefully, the Senate will come to support.

Let me first explain the difference between the on-budget and the off-the-budget approaches.

The administration's proposal proposed by President Bush would set up a quasi-public/quasi-private corporation to issue 30-year bonds to give the Federal regulators the funds that they need to sell or liquidate the 500 or so failed thrifts in our Nation.

Now because the funds are raised by a quasi-private corporation and not the U.S. Treasury, they do not officially constitute part of the deficit for 1990 or 1991.

Now a convenient result of that is that it avoids direct confrontation with the budget-balancing requirements of Federal law by going around them.

□ 2040

The problem is that it costs more to do that. It costs more because quasi-private corporations that will have to pay a quarter of a percent or half a percent more than the U.S. Treasury would, to raise those funds. Those additional costs have been estimated from $5 billion over the 30-year-life of the bonds, on up. Those $5 billion, of course, could be better applied, in my opinion, to debt reduction, to education, to problems involving housing and the homeless, to the rest of our national agenda.

In the House of Representatives we reason, why not put it on budget, why not have a borrowing done by the U.S. Treasury so that we could deliberately save at least $5 billion? Now, that approach is also more honest. Let me explain why. I know both sides to this dispute say that, and say their side is more honest, but I genuinely believe the House approach of putting it on budget is more honest and more straightforward. That is because those funds, if we have to borrow them, will be shown directly as part of the Federal deficit. It will not be hidden in a footnote somewhere as attributable to a quasi-private corporation. It is more open.

In the end, ironically, it will thereby have the effect of encouraging quicker compliance with Gramm-Rudman because it will put more pressure on all Members to reduce the deficit when the full extent of the deficit, or I should say a fuller extent of the deficit is out there for public scrutiny. Therefore, the on-budget approach is more honest. It acknowledges a real cost of a bailout. It does not matter, from a point of view of skirting Gramm-Rudman, whether we go on budget or off budget, because the truth of the matter is that we do it either way.

Now, I think clearly that the most honest and most cost effective approach of all would be to place the appropriation on budget without exempting the appropriation from Gramm-Rudman. I favor that. The gentleman from New York [Mr. LAFALCE] offered an amendment on the floor which gathered over 100 votes, the night we debated it. That clearly is a preferable way to go. That method would involve appropriating about $24 billion in the 1990 budget, another $24 billion in the 1991 budget, paying for it now, by revenue enhancement or by budget reduction elsewhere, or a combination of both. That would be clearly the least expensive. The total bill on that case would be about $48 billion instead of the $150 billion on up figures that we are hearing, should we be required to borrow the money over a 30-year period. Unfortunately, there was insufficient support for the gentleman from New York, Mr. LAFALCE's approach.

Given that, the next best thing, in my opinion, clearly is to put it on budget so we can minimize the cost for the taxpayers. The conference, at this very moment, is considering this issue. They are talking among themselves, and not listening to these words, but I certainly hope that they will recognize the virtue, No. 1, of the LaFalce approach. Failing that, the virtue of putting the entire amount on budget, where it can be seen, and not off budget, where it will be hidden from public scrutiny.

A RESPECTFUL TRIBUTE TO THE FLAG

The SPEAKER pro tempore (Mr. ENGEL). Under a previous order of the House, the gentleman from New York [Mr. HORTON] is recognized for 5 minutes.

Mr. HORTON. Mr. Speaker, The Supreme Court's decision in the case of Texas versus Johnson has touched off a firestorm of controversy over the extent of first amendment freedoms and more specifically, the proper treatment of Old Glory. I, as an American who fought in this Nation's defense during World War II, have had a hard time understanding this decision and, more importantly, explaining it to my constituents, especially the younger ones.

While the Supreme Court has determined that the flag is political kindling, many of my constituents hold a different view and would quarrel with Justice Brennan's statement in the opinion that "[n]o reasonable onlooker would have regarded [the defendant's] generalized expression of dissatisfaction with the policies of the Federal Government as * * * an invitation to exchange fisticuffs." Having represented the 29th District of New York for 27 years, I can honestly attest that the overwhelming majority of the Court's critics who live there are reasonable and that a fair number of them would have felt compelled to physically defend the flag had they been present in Dallas in 1984.

It goes without saying that the American flag has long been respected by citizens of all ages in my district. In June, before the furor arose over the recent decision, I had the privilege of attending the Flag Day observance at the Webster Fairport B.P.O Elks Lodge. The celebration was jointly hosted by the Rochester and Webster Fairport Elks lodges, led by exalted ruler Rochester Elks John Tracey and exalted ruler Webster Fairport Elks Thomas Jayne.

The ceremony included a presentation on the history of the flag from the Pine Tree Flag, the colonies' first flag in 1775, through the present day flag. Explorer Troop 333 made this outstanding presentation. Explorer Scouts Steve Bucci, Lynn Fischer, Tom Lieberman, Mollie O'Brien, Bobby Gallo, Maryann Sciolino, Michael Arengi, and Jack Gosh made up the honor guard for the ceremony. Troop 333 is headed by their able leaders Ginny and John McConnell.

The ceremony also included the recognition of three sixth graders who won an essay contest, the theme of which was "What the American Flag and My Country Mean to Me." Each of the winners—Dana Yip, the daughter of Kwok and Gee-ying Yip; Matthew Willmann, the son of Ronald and Barbara Willman; and Jonathan Lundberg, the son of Sue and John Lundberg, all of Webster, NY, were asked to recite their essays. I was moved by the depth of thought and appreciation which these young authors showed. I had promised Dana, Matthew, and Jonathan that I would insert their compositions into the CONGRESSIONAL RECORD. In light of the recent decision, I find it more appropriate than ever.

I want to thank Ms. Carol Francis of the Klem Road Elementary School in Webster for all of her help with the essay context. It is through the dedicated and inspired efforts of teachers like Ms. Francis that students like Dana, Matthew, and Jonathan are enabled to learn beyond the confines of textbooks and the classroom. These essays are prime examples of thoughtful self-expression, telling us as much about the authors as they do about the flag. It gives me a great deal of pleasure to include these compositions in the CONGRESSIONAL RECORD for all to read.

"MY FLAG AND MY COUNTRY—WHAT THEY MEAN TO ME"

(By Jonathan Lundberg)

Red and white * * * bloodshed and purity. Red and white * * * courage and unselfishness. Fifty stars and fifty states * * * we fought for them from the Revolution to Vietnam. The flag flies for those who died for our country, and those who live for it. Our country stands for human rights, democracy, and all we worked for. I'm proud to live where freedom prevails. Our country stands as a world symbol of freedom. Red, white, and blue, fifty stars, and our country; it's our glory!

WHAT THE AMERICAN FLAG AND COUNTRY MEAN TO ME

(By Dana Yip)

As I watch and read news throughout the world, I see many people risking their lives for something that in America, we take for granted—democracy. What is democracy? It is equal rights, opportunities, and justice to all the people. During the past week, I noticed how courageous people are in a Communistic nation, fighting for democracy, when they know that they could be arrested and be put into prison. In United States of America, we have that freedom, guaranteed in the Bill of Rights. We have everything we could desire, but people sometimes forget the true meaning of it. Why do immigrants come here? They seek the freedom that we have, and when they get it, they will treasure this freedom, because they already know how significant this is.

My sister and I are the first generation in our family to be born here as citizens. My parents always remind us that we are lucky, and we shouldn't misuse the opportunities that we have now. This nation offers us so much to be thankful for. Take the education, for example. In some countries, having an education is a privilege. Here, everybody is provided a chance to read and write, no matter your color, status, and religion. When I visited my roots in China, I saw that my grandmother was illiterate. In the village where my father was born, everything was so austere. There was no toilet, no television, no telephone, and not even one car. That was when I realized how fortunate I really am. Our American flag displays the wonderful opportunities that we have. Flag Day is when we celebrate our liberty, but we should be grateful every day. I wish that people will realize that United States of America is a place where dreams come true.

"WHAT THE AMERICAN FLAG AND MY COUNTRY MEAN TO ME"

(By Matthew Willman)

The stars on the American flag, to me, stand for fifty states that are bound together to form one great powerful nation. The thirteen stripes remind me of the first Americans who fought for our independence from Great Britain. This was of their own free will. To me, the red stripes symbolize the blood these people shed for the future of America. The field of blue symbolizes the vast ocean we Americans traveled to come here from Europe, Africa, and Asia. The white stripes, to me, stand for our unity from all other countries.

To me, my country means liberty, justice, and freedom. We as Americans, have the right to vote, to live where we want, to have the religion of our choice, and to speak out for what we believe in. We also have the right to run for positions in the government. In some countries the people living there have none of these privileges. We are lucky to live in a place like America. To me, America is the one place on earth where people from all lands can live together in peace and harmony. This is what the American flag and my country mean to me.

COMPLAINT FILED ON BIPARTISAN ACCORD ON CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, first I would like to congratulate my colleagues from new Hampshire who spoke on the flag earlier. I thought they did an outstanding job of stating the position of most Members in this House.

I congratulate the gentleman from California [Mr. DORNAN] on his talk on the atrocity which took place in Lebanon recently.

I am here tonight, Mr. Speaker, to talk about a lawsuit which was filed in court recently by two gentlemen from New Hampshire, Mr. SMITH and Mr. DOUGLAS, the gentleman from Illinois, Mr. CRANE, and myself. At this point I will include a copy of the complaint.

COMPLAINT FOR DECLARATORY JUDGMENT

(Dan L. Burton, Chuck Douglas, Philip M. Crane, and Robert C. Smith, Members of Congress, Plaintiffs, v. James A. Baker III, Secretary of State, Department of State, and George H. W. Bush, President of the United States, The White House Defendants.)

1. Jurisdiction of this Court is founded on 28 U.S.C. 1332, the Declaratory Judgment Act (28 U.S.C. 2201), and the existence of a federal question (28 U.S.C. 1331).

2. This action arises under Article I, Section 7, of the U.S. Constitution, as hereinafter more fully appears.

3. Plaintiffs are duly elected and serving members of the U.S. House of Representatives in the 101st U.S. Congress.

4. Plaintiffs who are similarly situated, bring this action for the reasons set forth herein, and in furtherance of their statutory oaths under 5 U.S.C. 3331; I, 128, to "support and defend the Constitution of the United States", as well as their Constitutional oaths under Art. VI, cl. 3 of the U.S. Constitution.

5. Plaintiffs Burton and Crane voted for, and Plaintiffs Douglas and Smith voted against Public Law 101-14 (April 18, 1989) which provides up to $49,750,000 to provide humanitarian assistance to the Nicaraguan Resistance through February 28, 1990, funds for transportation in providing such assistance, and up to an additional $5,000,000 to meet necessary administrative expenses through March 31, 1990.

6. On April 21, 1989 Defendant Bush notified Congress that Executive Order 12513 (May 1, 1985) declaring a national emergency to deal with the threat to the national security and foreign policy of the United States would continue in effect beyond May 1, 1989, "Because the actions and policies of the Government of Nicaragua continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States".

7. During debate on H.R. 1750, which became Public Law 101-14 certain leaders in Congress and defendants entered into a side agreement which was included in the records of the House Foreign Affairs Committee, as a precondition to enactment of Public Law 101-14.

8. The agreement provides that Defendants will not obligate funds appropriated in Public Law 101-14 after November 30, 1989, unless Defendants receive unanimous consent in writing from each of the chairmen of four separate committees of Congress and five Congressional leaders.

9. Plaintiffs allege and verily believe that the side agreement violates Article I, Section 7 of the Constitution in that the agreement is a legislative act amending Public Law 101-14 without following Consitutional procedures requiring consideration by the entire House membership and Senate and presentment to the President.

10. As a result Plaintiffs and their colleagues who are similarly situated have suffered injury in fact in that their votes for Public Law 101-14 have been rendered ineffective and substantially nullified, and the Plaintiffs have been inhibited in their performance of their Constitutional duties and deprived of their right under Article I to participate in the legislative process related to amending Public Law 101-14. Furthermore, the people in Plaintiffs' respective Congressional Districts have been disenfranchised and denied their Constitutional right to representation in Congress in this matter.

11. Plaintiffs further allege that the facts set out herein show they have standing to bring this lawsuit; that the issues involved herein are ripe for review; that this case presents a Constitutional question, not a political question; that there are no prudential considerations involved which would make this lawsuit non-justiciable; that this case presents a case and controversy in accordance with Article III of the Constitution; that no other legislative or legal remedies are available to them; that there is no textually demonstrable Constitutional commitment of the issue to a coordinate political department; that there is no lack of judicially discoverable and manageable standards for resolving the issue; that resolution of the matter by the Court will not express a lack of respect due coordinate branches of government; that there is no need for unquestioning adherence to a political decision already made; that there is no basis for the Court to invoke the "equitable discretion" barrier to consideration of this case on the merits; and that there is no potentiality of embarrassment from multifarious pronouncements by various departments of government on the one question this case involves, to wit, whether the side agreement included in H.R. 100-23, par. 1, p. 4, House of Representatives, 101st Cong. 1st Sess., April 11, 1989 on H.R. 1750 is an act of legislation amending Public Law 101-14 in violation of the Constitutional design for the separation of powers underlying the bicameral requirements of Art. I, par. 1, and 7, cl. 2, and the Presentment clauses in Art. I, par. 7, cls. 2 and 3 and is therefore null and void.

12. For the above reasons Plaintiffs demand judgment against Defendants declaring that the side agreement between them and the leaders in Congress violates Article I, Section 7, and is therefore null and void and of no effect.

[From Rept. 101-23]

DRAFT LETTER FROM SECRETARY OF STATE TO CHAIRMAN OF HOUSE AND SENATE AUTHORIZATION AND APPROPRIATION COMMITTEES AND SENATE AND HOUSE LEADERSHIP

DEAR MR. CHAIRMAN: Pursuant to the bipartisan agreement on Central America between the Executive and the Congress, the Congress has now voted to extend the current humanitarian assistance at current levels to the Nicaraguan resistance through February 28, 1990. This assistance has been authorized and appropriated but will not be obligated beyond November 30, 1989, except in the context of consultation among the Executive, the Senate Majority and Minority leaders, the Speaker of the House of Representatives and the Minority leader, and the relevant authorization and appropriation committees and only if affirmed via letter from the Bipartisan leadership of Congress and relevant House and Senate authorization committees and appropriation subcommittees.

This bipartisan accord on Central America represents a unique agreement between the Executive and the Legislative Branches. Thus, it is the intention of the parties that this agreement in no way establishes any precedent for the Executive or the Legislative Branch regarding the authorization and appropriation process.

SECTION-BY-SECTION ANALYSIS

Section 1—Policy

Section 1 sets as the purpose of this act the implementation of the Bipartisan Accord on Central America signed on March 24, 1989 by the President and the Congress.

Section 2—Additional humanitarian assistance

Section 2(a) authorizes the President to transfer to the Agency for International Development:

(1) $49,750,000, to provide humanitarian assistance to the Nicaraguan Resistance, to remain available through February 28, 1990;

(2) such funds as may be necessary to provide transportation for such assistance; and

(3) $5,000,000 to meet administrative expenses of the Agency for International Development in carrying out this act.

Section 2(b) defines the term "humanitarian assistance" as:

(1) food, clothing, and shelter;

(2) medical services, medical supplies, and nonmilitary training for health and sanitation;

(3) nonmilitary training of the recipients with respect to their treatment of civilians and other armed forces personnel, in accordance with internationally accepted standards of human rights;

(4) payment of such items, services, and training;

(5) replacement batteries for existing communications equipment; and

(6) support for voluntary reintegration of and voluntary regional relocation by the Nicaraguan Resistance.

Section 3—Transportation of humanitarian assistance

Section 3(a) gives the Agency for International Development sole responsibility for transportation in a manner consistent with the March 24 Bipartisan Accord on Central America.

Section 3(b) prohibits transportation of any military assistance.

Section 4—Medical assistance

Section 4 authorizes the transfer of $4,166,000, for the provision of medical assistance for the civilian victims of the Nicaraguan civil strife to be transported and administered by the Catholic Church in Nicaragua. Current law authorizes a level of $5 million.

Section 5—U.S. policy concerning economic assistance for Central America

Section 5 carries forward the policy language on U.S. economic assistance to Central America as found in section 9009 of title IX of Public Law 100-463. It provides that, as part of an effort to promote democracy and address on a long-term basis the eco-

nomic causes of regional and political instability in Central America—

(1) in recognition of the recommendations of groups such as the National Bipartisan Commission on Central America, the Inter-American Dialogue, and the Sanford Commission,

(2) to assist in the implementation of these economic plans and to encourage other countries in other parts of the world to join in extending assistance to Central America, and

(3) in the context of an agreement to end military conflict in the region,

the Congress encourages the President to submit proposals for bilateral and multilateral action—

(A) to provide additional economic assistance to the democratic countries of Central America to promote economic stability, expand educational opportunity, foster progress in human rights, bolster democratic institutions, and strengthen institutions of justice;

(B) to facilitate the ability of Central American economies to grow through the development of their infrastructure, expansion of exports, and the strengthening of increased investment opportunities;

(C) to provide a more realistic plan to assist Central American countries in managing their foreign debt; and

(D) to develop these initiatives in concert with Western Europe, Japan, and other democratic allies.

Section 6—Source of funds; deferral of appropriations

Section 6(a) identifies the appropriations accounts from which funds may be transferred to carry out this Act:

(1) Missile procurement, Army 1988, $3,500,000.

(2) Procurement of weapons and tracked combat vehicles, Army 1987, $12,739,000.

(3) Other procurement, Army 1988, $761,000.

(4) Aircraft procurement, Army 1987, $3,408,000.

We have recently introduced a complaint for declaratory judgment concerning the constitutionality of the bipartisan accord on Central America which allows for humanitarian aid to the Nicaraguan democratic resistance through February of 1990. We would like to emphasize that this complaint is in no way an attack on President Bush or his administration. The complaint raises a constitutional question which we all agree should supersede partisanship and bickering between the legislative and executive branches.

As you will recall, on April 13, 1989, Congress passed a law which provided $50 million in humanitarian assistance to the Nicaraguan Resistance through February 1990. Opponents of aid to the Nicaraguan Resistance, without following the legislative processes required by the Constitution under article 1 section 7, persuaded eight individual leaders in Congress and the White House to evade the Constitution and usurp the law which provided humanitarian assistance by requiring a side agreement that the President cannot carry out the law after November 30, 1989, without unanimous written approval of each of these congressional leaders. In essence this arrangement allows these eight Members of Congress to act as Secretary of State and President. Nicaraguan Dictator Daniel Ortega can now negotiate with these individuals rather than President Bush. The all powerful eight in essence have a de facto legislative veto over the President's implementation and congressional intent of the humanitarian-aid law.

This unconstitutional arrangement has literally disenfranchised the people of our respective congressional districts which we have the honor and privilege of representing in the U.S. Congress. The voices of the 6th District of Indiana, the entire State of New Hampshire, and the 12th District of Illinois have been effectively silenced. When November 30 comes around we will not be voting on the continuation of aid to the Nicaraguan Humanitarian Resistance, the powerful eight will be making our decisions for us.

A very dangerous precedent has been set by allowing this side agreement to stand. For instance, a recent article in the Legal Times asserts that Members of Congress are already contemplating the same type of side agreement in El Salvador which they used in the bipartisan accords. I am not willing to sit back and allow eight Members of Congress to usurp the votes of my constituents. What if these Members decided to use the same type of agreement in domestic legislation that they used in the Bipartisan Accords? Farm programs and other domestic programs could ultimately be jeopardized by allowing these Members to cut deals with the President. Unless a court decision corrects the precedent which has been set by the side agreement and the all powerful eight, I fear for the future and credibility of the U.S. Congress.

The power given to these eight Members would make the Founding Fathers turn in their graves. They are crystal-clear examples of the administrative tyrants which the Founding Fathers warned against. They are voting for us and representing us as diplomatic leaders of our country. According to the U.S. Constitution, if that document is still considered germane to the business of the House of Representatives, this is completely out of line.

As Members of Congress we have sworn to support and defend the U.S. Constitution, an obligation we take very seriously, because it is a requirement spelled out in the Constitution itself.

To carry out our pledge we have filed a complaint in Federal court requesting that this so-called side agreement be declared null and void because it is an unconstitutional evasion of the Nicaraguan Resistance humanitarian assistance law enacted by Congress. In our judgment this outrageous side agreement is the most profound assault on the separation of powers principle, which is the bedrock on which the U.S. Constitution is founded, that has occurred in the last half century. In order that my colleagues be better informed I have inserted into the record a copy of the complaint which was filed in the U.S. District Court for the District of Columbia.

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DESIGNATING THE CALAMUS DAM IN NEBRASKA FOR CONGRESSWOMAN VIRGINIA SMITH

The SPEAKER pro tempore (Mr. ENGEL). Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, yesterday my colleague from Nebraska's Second Congressional District, PETE HOAGLAND, and this Member introduced a bill to name the Calamus Dam and Reservoir in Nebraska for our distinguished colleague from the Third Congressional District, the Honorable VIRGINIA SMITH. This measure is the companion to a bill introduced earlier in the week by our Senate counterparts from Nebraska.

As my colleagues in this body know, the distinguished gentlelady from Nebraska has announced her intention to retire at the end of her term next year. This gentleman recognizes that it would be premature to talk about her retirement when there is no doubt that Congresswoman SMITH intends to make her last term in office the most active period in her legislative career. VIRGINIA SMITH is known for the energy and tenacious effectiveness she brings to her service in this House. This Member is confident that those qualities will be as visible during the next 1½ years as they have been throughout her service in Congress.

The decision to introduce the bill naming the Calamus River Dam and Reservoir on her behalf should, therefore, not be viewed as a retirement tribute to the gentlelady from Nebraska. It is an early but timely recognition of the commitment and dedication that Congresswoman SMITH has given to one of the most important water resource projects in the State of Nebraska. The Calamus Dam and Recreation project reflects the importance of agriculture and resource conservation to the State of Nebraska.

On the first floor of the U.S. Capitol near this Chamber, a quote from Daniel Webster is painted on one of the hallways. It says: "When tillage begins, other arts follow, farmers therefore are the founders of human civilization."

This quote is certainly true of the Calamus Dam and North Loup River

Valley because it was the river and the fertile land in that valley which first attracted settlers to that region of Nebraska over a 100 years ago. Like most of Nebraska, the history of this valley is the history of the development of agriculture and its natural resources.

During the hard times of the late 1920's and the dry years of the 1930's the one idea which gave hope to the people of this valley was the use of the North Loup River and its tributaries for irrigation. The realization of this project has not been easy. False hopes and false promises have been constant impediments to the completion of this project.

Through most of this battle, the energetic leadership of the distinguished gentlelady from Nebraska, [Mrs. SMITH] has been untiringly displayed. She has helped turn those promises into reality.

The North Loup project, of which the Calamus Dam and Reservoir is the primary feature, has been under construction since 1976. It was dedicated on July 4, 1986, and this Member was pleased to participate in the prededication dinner ceremonies.

Congresswoman SMITH has served on the House Appropriations Committee since 1977 and has worked hard and effectively to turn a dream into reality. She has worked aggressively to secure some $265 million in Federal funds for the North Loup project. She has battled bureaucrats who have tried to kill the project in spite of commitments that had been made. She has taken her battle to the floor of the House when necessary, and won. And, she will undoubtedly work tirelessly until the day she leaves office to make sure that the funding promised long ago will not be side-tracked by those who wish to pursue a different agenda.

Mr. Speaker, there will be a time as we near the end of this Congress when we will have an opportunity to focus on the many achievements of this remarkable woman. And, before the end of her term next year, I expect that there will be many more accomplishments we will want to add to the list.

But, today it is fitting and appropriate to call my colleagues' attention to the bill to rename the Calamus Dam and Reservoir the "Virginia Smith Dam and Reservoir." It will stand as a visible monument to our distinguished Nebraska colleague, VIRGINIA SMITH, the individual who more than anyone, made it a reality.

Mr. Speaker, I yield to the gentleman from Nebraska [Mr. HOAGLAND], my colleague from the Third Congressional District.

Mr. HOAGLAND. Mr. Speaker and colleagues, as our senior Senator from Nebraska, JIM EXON stated on floor of the United States Senate earlier this week, the end of this 101st Congress will mark the end of an era in the history of Nebraska's public servants.

Several weeks ago our colleague VIRGINIA SMITH, of our Third Congressional District in Nebraska shocked many of us when she announced that she would not seek reelection to the 102d Congress in 1990. She is making a decision that none of us can quarrel with. She and her husband Haven, after many long years of public service, will be returning to Nebraska, as Senator EXON indicates, "to enjoy the good life on a full time basis."

Senator EXON, for weeks searched to discover fitting tribute to honor her many years of fruitful and productive service to Nebraska, and earlier this week introduced a bill to name the Calamus Dam and Reservoir, in the beautiful hills of Loup and Garfield Counties in central Nebraska, after her.

Senator EXON offered a bill, which Congressman BEREUTER and I introduced yesterday, to rename that project the "Virginia Smith Dam and Reservoir," so that her name will become etched in Nebraska geography, so that she may be remembered by generations to come for her wonderful works for our State, as is fitting and proper.

The dam and reservoir is located in one of the magnificent regions of our State. In the 1880's, Nebraska's pioneers settled in the rolling green hills, the endless fields of corn and wheat, and the mighty cattle country that composes much of Nebraska's Third Congressional District. We are part of the breadbasket of America; productive lands, magnificent produce, and people.

Since January 1975, VIRGINIA, as she is so well known by everyone in Nebraska, has represented three-quarters of the land mass in our State. And she has been reelected to each succeeding Congress by huge margins. She is very well liked here in Congress by Members on both sides of the central isle. We will miss her very much.

This dam and reservoir, soon we hope to become the Virginia Smith Dam and Reservoir, is the primary feature of the North Loup project and will serve Nebraska agriculture for years to come. As Senator EXON has pointed out, that is VIRGINIA has done so well during her years of public service; she has served Nebraska agriculture during her years in the House.

I am proud to be joining Senator EXON and his most distinguished and able colleague from Nebraska, former Gov. BOB KERREY, in this endeavor.

It is an opportunity for us to thank you, VIRGINIA, on behalf of all Nebraskans, for your service to our great Nation. We will miss you.

SIXTEEN YEARS AGO: CONGRESS ACTS TO END THE NIXON-KISSINGER ILLEGAL BOMBINGS OF CAMBODIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, in the coming weeks we will be celebrating a major anniversary in the history of the Congress and the defense of the Constitution. The date of the anniversary is August 15, 1973. Many may now ask what is the significance of August 15? This was the effective date of a vote by the Congress to end the United States' bombings of Cambodia in 1973. When the smoke over Cambodia finally cleared, 16,527 United States Air Force sorties had dropped 383,851 tons of bombs on Cambodia.

These bombings were carried out in secret, only the President, Henry Kissinger, a few dozen colonels at the Pentagon and a few sympathetic and powerless Members of Congress knew of the bombings. Dr. Robert Seamans, Secretary of the Air Force was kept in the dark. It was said that since he was not in the chain of command he did not need to know. Gen. John Ryan, Chief of Staff of the Air Force was not informed, nor were the Office of Strategic Research and Analysis or the proper congressional committees that recommend appropriations and give Congress the ability to fulfill its constitutional power to authorize and fund wars. The pilots of the B-52's carrying the bomb payloads did not even know where their targets were until they were well inside of Vietnam.

In order to usurp the power of Congress to wage war, Nixon needed an entirely new chain of command that would bypass the offices that were likely to blow the whistle on such a clandestine operation. Known as Operation Menu, the targets were first suggested by the Joint Chiefs of Staff. If they gave the signal, then missions in Vietnam were begun. After the B-52's took off, they were rerouted from the ground once over Vietnam to targets inside of Cambodia. This way only Nixon, Henry Kissinger, a few other people in Washington and ground control in Vietnam knew ahead of time where the planes were to drop their loads. Information about the missions was on a strict need to know basis.

Former Maj. Hal Knight was one of the first to expose the secret, unconstitutional chain of command Nixon and Kissinger set up to hide the bombings of Cambodia. Knight's role was that of ground-based radar guide for the B-52's once they reached Vietnam. When Knight rerouted planes in midflight to Cambodia, he understood and accepted the military logic of bombing Cambodia but in his heart he knew it was wrong. What finally pushed Knight to expose the bombings to the Senate Foreign Relations Committee, in 1973, was the fact that falsifying flight records to cover the bombing was opposed to everything he had learned as a soldier. Accurate documentation of events was "pretty near sacred." Knight was especially concerned that Nixon and Kissinger were forcing him to violate article 107 of the Military Code of Justice, which provides that anyone "who, with intent to deceive,

signs any false record, return, regulation, order or other official document, knowing the same to be false * * * shall be punished as a court martial may direct." Knight felt that the new system compromised the maintenance of discipline within the military. Knight was ignorant about who exactly was giving the orders to deceive, but he did recognize the ghastly power placed in his hands.

After the missions were discovered, both Nixon and Kissinger claimed that complete secrecy was necessary in an effort to protect Prince Sihanouk of Cambodia, who had allegedly agreed to the bombings. They also asserted that there was no risk to civilian populations in the area. Both of these assertions were deliberate lies. The bombings were hidden from the Congress, which would never have authorized such actions and from the American public which would deplore such actions. In 1976, Kissinger stated that as long as the areas targeted were not populated by Cambodians, Sihanouk had said that he would not notice. On the dates that the missions were carried out this was known to be untrue. When Kissinger made these statements he knew that he was lying. With reference to the first statement, did Sihanouk really have a choice in the matter? Sitting in the drivers seat Nixon could have extended the bombings as far into Cambodia as he wished. According to William Shawcross's book "Sideshow Nixon, Kissinger and the Destruction of Cambodia," in April 1969, the Joint Chiefs informed the Nixon administration "that many of the (North Vietnamese) sanctuary areas were populated by Cambodians who might be endangered by bombing raids. The White House was to ignore this reservation."

Operation Menu was broken up into several separate aerial campaigns. Base area 353, known as Breakfast, had a population of 1,640 Cambodians, 1,000 of that group were thought to be peasants by the Joint Chiefs. Base area 609, Lunch, had a population of 198 peasants. Base Area 351, Snack, had an estimated 383 Cambodians, 303 were thought to be peasants. Base Area 352, Dinner, had a Cambodian population of 770 and 700 were assumed to be peasants. Base Area 350, Dessert, had an estimated population of 120 peasants. This data was given to the White House before it gave the approval for the missions and refutes the claim by Kissinger that the administration thought that there were no civilians living in the targeted areas. The months of bombings did little to disrupt the Communist military activities going on inside of Cambodia. The Communists simply moved deeper into Cambodia and the area targeted for bombing expanded with them.

In 1973, when the Congress was trying to sort out how the bombings were carried out without their knowledge, the administration again lied and left the blame at the feet of "unidentified junior officers in the field * * * blamed for being 'overzealous'." This was another premeditated lie. The decision to bomb Cambodia came straight from the White House.

During his farewell address to the White House staff Nixon claimed that the United States had "scrupulously respected" Cambodia's neutrality through the preceding 5 years and had not "moved against" Communist sanctuaries in Cambodia. Nixon continued to tell the same premeditated, deliberate, and blatant lies even while the truth was rapidly unfolding. The day after giving this address, relating to the rule of Prince Sihanouk, he said "We made no effort to change it. We were surprised by the development—the coup that toppled Sihanouk after the bombings had begun. One reason why we showed such great restraint against the base areas was in order not to change this situation." Even to those with just a minimal amount of intelligence, dropping 383,000 tons of bombs on a neutral nation can hardly be viewed as acting with the slightest finesse. By bombing Cambodia, Nixon and Kissinger were trying to scare the North Vietnamese to the bargaining table. Nixon had an intense desire to create a niche for himself in American history, so that he would not be forgotten. Well, he has certainly accomplished that.

Nixon had a habit of introducing himself by stating that he would "rather be a one-term President and do what I believe is right than to be a two-term President at the cost of seeing America become a second rate power and to see this Nation accept the first defeat in its proud 190-year history." It is evident Nixon had a disturbingly warped sense of "what is right." Nixon compared his actions during the Vietnam war with the " 'great decisions' made by Woodrow Wilson in the First World War, Franklin Roosevelt in the Second, Eisenhower in Korea, and Kennedy during the missile crisis." Nixon viewed Vietnam as a rigorous test of the American will and character. Did the United States have the will to stand up to the combined forces of the Viet Cong, North Vietnam, Moscow and Beijing, who were acting in concert to flout the President's will? In spite of all that Nixon spouted about the crisis in Southeast Asia, there was no crisis. "Cambodia was a test, a trial which Nixon was putting the American people, let alone the Cambodians, so that if a real crisis did come one day the world would beware. (Shawcross.)" Nixon refused to admit the fact that he and Kissinger were responsible for extending the war in Vietnam and creating the constitutional crisis that followed, contrary to every promise he ever made to the American public and to the Congress.

What is particularly disturbing is the fact that Nixon and Kissinger's credibility has remained intact in spite of his ultimate responsibility for the constitutional crisis he created through his actions as president. Nixon cultivated this administration on a bed of lies and deceit. Nixon and Kissinger deliberately misappropriated authority they did not possess in an attempt to further a war they mistakenly believed the American people advocated. In their usurpation of power, they misread the causes of domestic opposition to the Nixon administration "Both Kissinger and Nixon were convinced that it was the draft, not the long bleeding on Indochina that was arousing most of domestic opposition [to the administration]. If American combat troops could be withdrawn as Vietnamese battalions were developed, an appearance of progress toward peace could be created. (Shawcross.)" Air raids on Indochina were cheaper, required less coordination and placed a number of American soldiers in jeopardy. Through expanded bombings, which received less press than troop actions, Nixon and Kissinger were able to deceive the public into believing that they were acting to wind down the American presence in Vietnam. In reality just the opposite was occurring.

In an attempt to justify his usurpation of the congressional power to wage war, Nixon assigned Assistant Attorney General William Rehnquist, whom he later promoted to the Supreme Court, to conceive the justification. Nixon's unimpressive claim, written by Rehnquist, was that as Commander in Chief the Constitution vested in him "a grant of substantive authority" that allowed him to engage troops with foreign powers on his own initiative. The clause cited by Nixon only gave the President as much power to engage as a non-Presidential commanding officer would have. Rehnquist wrote that the invasion was only a slight assertion of Presidential perogative. Yet in 1964, Adlai Stevenson went before the United Nations to condemn Britain for assaulting a Yemini town used as a base by insurgents attacking Aden. Today, Israel is routinely criticized by the United States for attacks on enemy bases outside its own territory.

Watergate is the child of the secret bombings of Cambodia. The machinations of Nixon and Kissinger began with the Cambodian bombings. When information about them began to leak out just months into Nixon's first term he became obsessed with trying to plug the leaks. Warrantless taps were placed on the phones of newsmen and White House aides at the suggestion of Henry Kissinger. Nixon's attempt to "nail" Daniel Ellsberg was another improper activity to stem from the original coverup. The same people hired to get Ellsberg were also charged with the task of spying on the Democrats. This was merely the final and most famous chapter in the lurid tale that was the Nixon administration.

The coverup of the bombings of Cambodia began Nixon's steady slide downhill. It is only fitting that we, the Congress of the United States, the body charged with the task of removing the cancerous growth that Nixon became, remember August 15, 1973 as the day we acted to begin to restore the Constitution to its rightful place at the head of our governmental processes.

This was the day that we ended the illegal and unconstitutional bombings in Cambodia. May history place Nixon and Kissinger to rest in the shame they deserve.

EUROPEAN COMMUNITY 1992 AND ITS IMPACT ON UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, in just 3 years, the 12 nations of the European Community will join together to form one common market. Although many in this country may not realize it yet, the European Community is well on its way to completing its project 1992 which will have revolutionary effects on the entire world economy. United States financial institutions may very soon be challenged by a

new, large market based on a universal or one-stop shopping system of banking.

Under the European Community 1992 plan, all barriers restricting the movement of goods, services, people, and capital within the European Community will be eliminated. Capital will move across European national boundaries much more easily. A single banking license will permit, for example, a British bank to branch or offer services in France or any other European Community country, thus greatly increasing the bank's potential customer base. Ultimately, it is likely that the European Community will institute a single central bank which will oversee a single currency, much like our Federal Reserve System does.

The facts behind this incredible plan speak for themselves. European experts predict that Europe will see more than $200 billion in growth, as well as lower prices for goods and services as a result. Some 5 million new European jobs will be created and the European Community's total gross domestic product will rise by 7 percent.

These tremendous new economic changes are destined to have far-reaching effects on U.S. financial institutions, even if the means and extent are not yet clear.

Because the European Community is standardizing rules and regulations for banks for its 12 member countries, U.S. banks will face much more streamlined regulation throughout the European Community. United States financial institutions operating in the European Community will be subject to home country control. A United States bank with a subsidiary in London could open branches in any of the other European Community countries, but all of that United States bank's European Community operations would be subject to British supervision. Streamlined regulation, along with the European Community's tendency to favor competition over government intervention, will be coupled with increased bank powers—compared to those powers permitted banks in the United States—and increased capacity for geographic and product expansion. As a result of 1992, United States banks in the European Community will be permitted to enter into businesses in which they were previously prohibited, but at the same time they will also be supervised more efficiently.

There are still many aspects of the 1992 program, however, which have not been finalized. One of the most important of these for the United States is how the European Community will deal with countries outside of their market. Originally, the European Community considered a system of mirror image or reciprocal treatment. Such a system would create irreconcilable differences between the deregulated and concentrated banking system of the European Community and the more regulated and diffuse banking systems of nations such as the United States. Under the European Community's most recent proposal, however, the European Community would operate with a policy of national treatment, which would allow equal and nondiscriminatory access between the European Community and non-European Community countries. American banks will be permitted to branch and offer services throughtout Europe, provided that the European banks are allowed "market access and competitive opportunities" in the United States that are comparable to those offered in the European Community.

We must be prepared to address these economic events in Europe. Other non-European Community nations are already taking steps to encourage their own industries to prepare for the more competitive post-1992 environment.

Japan is even using the European Community's December 31, 1992 target date to expedite the deregulation of its own financial markets and to repeal its laws separating banking activities from security underwriting. This could leave the United States alone as the major Western nation maintaining separations between the bank and securities industries.

In the European private sector, companies are developing strategic plans based on the creation of a unified European market. One result already has been a wave of intra-European mergers and acquisitions.

The United States must develop a national financial services strategy in order to face the post-1992 economic market in Europe and the changes it will bring for global financial services. Many United States financial Institutions have already begun to develop such strategies. We must seek assurances that a fortress Europe will not develop, whereby we are unable to maintain our growing relationships with the individual nations in Europe.

To maintain a healthy U.S. economy and global competitiveness Congress must keep abreast of events throughout the world. The European Community, as a bloc, is the largest trading partner of the United States. Congress must pay careful attention to the development and implementation of the European Community's 1992 program, as well as the program's implications for the United States and its financial institutions. As chairman of the Financial Institutions Subcommittee, I want to assure my colleagues that the subcommittee will monitor global developments and will do all possible to keep United States financial service providers fully competitive with the European Community and the rest of the world.

INTRODUCTION OF THE HUD EQUITY RESTORATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. HOCHBRUECKNER] is recognized for 5 minutes.

Mr. HOCHBRUECKNER. Mr. Speaker, today I am introducing legislation in response to a very unfortunate situation in my district. The legislation, entitled the "HUD Equity Restoration Act," is intended to rectify problems created by housing program abuses involving the U.S. Department of Housing and Urban Development and the town of Brookhaven, NY.

The abuses involve Brookhaven's Save-a-House Program, an unorthodox version of the HUD urban homesteading program. The HUD urban homesteading program was designed by Congress to enable low-income Americans to own a home for a nominal fee provided that they remain as residents in the home for at least 3 years.

On July 12, 1989, a grand jury indicted 13 individuals in connection with the Brookhaven Save-a-House scandal. These indictments followed a 2-year investigation by the Suffolk County, NY, district attorney's office.

Of the 18 HUD properties handled under the Save-a-House program, 14 went to developers, not to low-income families as required by Federal law. After this abuse was initially discovered, New York regional HUD officials fined Brookhaven Town a mere $500 per house. No subsequent action was taken by HUD either to investigate the Save-a-House Program or to recover the houses.

On June 28, 1989, I joined with colleagues TOM DOWNEY and BOB MRAZEK in writing HUD Secretary Jack Kemp to urge an investigation of the Brookhaven Save-a-House Program. A copy of our letter follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, June 28, 1989.

Hon. JACK F. KEMP,
Secretary of Housing and Urban Development, Washington, DC

DEAR MR. SECRETARY: We are writing to request that your agency investigate alleged criminal activities involving HUD in Suffolk County, New York.

It is believed that ten houses originally owned by HUD and purchased in 1984 for low income families through the Town of Brookhaven's Save-a-House program were somehow acquired by realtors and rented at exorbitant rates. After this abuse was initially discovered, HUD's urban homesteading program was repaid a mere $500 per house by Brookhaven. No subsequent action was taken by HUD either to investigate the Save-a-House program or to recover a reasonable market value for the HUD houses. Although the Suffolk County Attorney's office has been investigating this scandal for the past two years, little action has been taken to bring the parties involved to justice.

Reports of local criminal activity involving federal funds are very disturbing to us and to our constituents. In an area where the cost of housing is well above the national average, it is especially tragic that homes intended for low income families could be acquired by developers. Five years after the alleged abuses occurred, the subsidized houses in question are apparently still being rented at high rates. We believe it is high time that the federal government investigated this matter.

In addition, we ask that you conduct a review of existing statutes and HUD regulations to determine what means you may have at your disposal (1) to reclaim HUD housing (or its market value) that has fallen into the hands of ineligible individuals; and (2) to reincorporate such housing (or the profits unlawfully gained from such housing) into low income housing assistance programs. Please report back to us as soon as possible on your findings.

Thank you for your attention to this matter.

Sincerely,

GEORGE HOCHBRUECKNER,
Member of Congress.
ROBERT J. MRAZEK,
Member of Congress.
THOMAS J. DOWNEY,
Member of Congress.

U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,
Washington, DC, July 24, 1989.

Hon. GEORGE HOCHBRUECKNER,
U.S. House of Representatives, Washington, DC.

DEAR MR. HOCHBRUECKNER: This is in reply to the joint letter dated June 28, 1989, from you and Congressmen Mrazek and Downey requesting that this Department conduct an investigation of the alleged criminal activities involving the Save-a-House program in Suffolk County, New York.

Thirteen people were indicted on July 12, 1989, on charges that they defrauded the Town of Brookhaven involving the properties obtained through the Save-a-House program. The properties sold to the Town of Brookhaven were done so under HUD's Urban Homsteading Program. The investigation of the disposal of those properties was conducted by the Suffolk County District Attorney's office.

The Office of Inspector General provided assistance to the Suffolk County District Attorney. Discussions have also taken place between the Office of the Inspector General and the United States Attorney for the Eastern District of New York. The office of the United States Attorney is reviewing all HUD related matters on Long Island, New York, and has been in contact with the Suffolk County District Attorney to ensure that Federal interests are protected.

This matter has also been referred for review to the Associate General Counsel for Program Enforcement for consideration of appropriate civil recovery action. We have also sent similar letters to Congressmen Downey and Mrazek.

I am committed to ensuring that Federal housing programs work for the people they are intended to serve. I will continue to act promptly to correct any abuses of HUD programs wherever they are found.

Very sincerely yours,

JACK KEMP.

Secretary Kemp failed to state in his response what tools he had at his disposal to get HUD homes back from speculators. While I am anxious to see a Federal investigation of the Save-a-House Program proceed, I believe the more important and immediate goal is to recover the 14 houses held by these speculators and grant the ownership to low-income working families as originally intended.

Under the legislation I am introducing today, the Secretary of Housing and Urban Development would be empowered to reclaim HUD urban homesteading properties that fall into the hands of ineligible individuals—speculators and the like. If it were infeasible to reclaim such a house, the Secretary could seek to recoup funds at least equal to the profits unlawfully gained. The houses or equity recovered would then be tranferred back to low-income housing assistance programs. This bill is cosponsored by Congressmen DOWNEY, MRAZEK, and SCHUMER.

Mr. Speaker, the victims of this scandal in my district are the working men and women of Long Island who dream of owning their own home, but are denied this dream by the high cost of housing and the greed of speculators. With each month that passes while these HUD homes are kept from qualified low-income families, about $10,000 in rental money passes into the pockets of these speculators. My constituents have been denied participation in urban homesteading due to fraud. I believe that the Congress must respond by rectifying this injustice and by giving affordable housing a new start on Long Island.

I ask that the test of the HUD Equity Restoration Act be printed in the RECORD at this point.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "HUD Equity Restoration Act of 1989."

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the urban homesteading program of the Department of Housing and Urban Development, which was designed to enable low-income working people in the United States to pursue the dream of homeownership, has in some instances been abused; and

(2) some urban homestead properties that were intended for ownership by low-income working people have been unlawfully transferred to ineligible individuals.

(b) PURPOSE.—The purpose of this Act is to enable the Secretary of Housing and Urban Development to correct and remedy violations under the urban homesteading program—

(1) by authorizing the Secretary to reclaim a house (or its market value) if the Secretary finds that the house was transferred by the Department of Housing and Urban Development under the urban homesteading program and has been acquired by an ineligible individual, so that the house (or an amount equal to the profits unlawfully gained with respect to the house) may be returned to a program for low-income housing assistance; and

(2) by directing the Secretary to give priority, in considering the future ownership of a house referred to in paragraph (1), to any existing tenants of the house who meet the eligibility requirements for participation in the urban homesteading program.

SEC. 3. IMPROPER CONVEYANCES UNDER URBAN HOMESTEAD PROGRAMS.

Section 810 of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e) is amended by adding at the end the following new subsection:

"(m) If the Secretary determines that any property transferred for use under an urban homestead program under this section has been conveyed or used under the program in a manner contrary to the provisions of this section, the Secretary may take action as the Secretary considers appropriate, and shall consider and give priority to imposing any of the following remedial measures:

"(1) The Secretary may impose a civil penalty on the unit of general local government or the State or the qualified community organization or public agency designated by a unit of general local government, or the transferee of such entity, as appropriate, in an amount not less than any profit realized with respect to the conveyance or use of the property contrary to the provisions of this section.

"(3) The Secretary may revoke the conveyance of the property pursuant to subsection (b)((4) and revoke the transfer of the property to the unit of general local government or State or the qualified community organization or public agency designated by a unit of general local government, except that the Secretary may not revoke the conveyance of any property under this paragraph if the Secretary determines that the conveyance was made to an individual or family who has substantially complied with the requirements of this section for participation in an urban homestead program and who has no knowledge of the conveyance or use of the property contrary to the provisions of this section. If any tenants of any property for which a conveyance is revoked under this paragraph could be displaced by such revocation and the Secretary determines that the tenants are not responsible for or involved in the actions for which the revocation has been imposed, the Secretary shall, if practicable, take actions that would allow the tenants to remain on the property and maintain the property under an urban homestead program.".

(b) CONFORMING AMENDMENT.—Section 810(b)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 1706e(b)(4)) is amended by inserting before the semicolon at the end of the following: "or by the Secretary under subsection (m)(2)".

SEC. 4. APPLICABILITY.

The amendments made by this Act shall apply to any property transferred for use in an urban homestead program under section 810 of the Housing and Community Development Act of 1974 (42 U.S.C. 1706e) after January 1, 1981.

NATIONAL GUARD MAKING AN IMPACT ON DRUG WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, outgoing Customs Service Commissioner William von Raab wrote to me recently to outline the fine job the National Guard is doing in drug interdiction efforts along this country's borders.

He points out that from New York City, all the way around to Los Angeles, the Guard has been assisting the Customs Service in examining cargo coming into our coastal areas. One hundred Guardsman were involved in the Southeast region, which inlcudes Florida, South Carolina, Virginia, and Puerto Rico; 50 were deployed in Louisiana and Alabama; 122 in Texas and Arizona; 115 in California; and 20 in the New York/New Jersey area. In all of these operations, the reaction from both Customs officials and Guard personnel has been positive and very effective. The interaction has been excellent and they have done the job.

Attached is the text of Commissioner von Raab's letter and a description of "Operation Guardian."

In the Defense authorization bill for fiscal year 1990, we included funds for the National Guard to continue its drug fighting efforts. The Guard has proved its worth on this issue and I am confident that the men and women involved in this effort will be a positive force in the war on drugs in the months ahead.

The letter and outline follows:

THE COMMISSIONER OF CUSTOMS,
Washington, DC, July 28, 1989.

Hon. G.V. MONTGOMERY,
House of Representatives, Washington, DC.

DEAR MR. MONTGOMERY: During Fiscal Year 1989, 407 members of the National Guard have served their country by assisting the U.S. Customs Service in defense of

our borders against illicit drugs and illegal export of strategic technology. Enclosed are some details of The Guard's participation in Operation Guardian, along with descriptions of the most significant seizures which have resulted from this program.

To date, National Guard units from Missouri, Florida, Texas, South Carolina, California, Arizona, Louisiana, and Alabama have participated. This activity has resulted in seizures of more than 646 pounds of cocaine, $182,800 worth of critical electronic technologies attempted to be illegally exported, and ammunition worth $48,807 which violated International Trafficking in Arms Regulations (ITAR).

With the support of National Guard manpower the U.S. Customs Service has been able to increase inspections of commercial cargo at selected ports from 3 percent to 25 percent, as well as to supplement both radar surveillance and tracking of suspect drug smuggling aircraft. The participation of America's "Citizen Soldiers" in the War on Drugs has proven to be successful. We hope that you will continue to support this cooperative effort.

Yours faithfully,

WILLIAM VON RAAB.

Enclosure:

OPERATION GUARDIAN

OBJECTIVE

Maintain a sustained cargo interdictory operation to disrupt major cocaine smuggling organizations from South/Central America, the Caribbean, and Mexico.

GOAL

To examine the maximum amount of selected high-risk cargo and/or conveyances allowable under present facility constraints.

METHODOLOGY

Based on intelligence, criteria, selectivity, displacement, and historical seizure activity, inspections of containerized cargo along the southern border (L.A. Harbor to Jacksonville), will be increased to 25 percent of the selected high-risk cargo to be examined 100 percent.

PRIMARY STAFFING LOCATIONS

Region	State	Number of Guardsmen
Southeast	Florida	86
Southwest	Texas	92
	Arizona	30
Pacific	California	115
Total Guardsman needed.		323

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEAR 1989

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, on behalf of the Committee on the Budget and as chairman of the Committee on the Budget, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting for printing in the CONGRESSIONAL RECORD the official letter to the Speaker advising him of the current level of spending, credit, and revenues for fiscal year 1989. This is the fifth report of the 101st Congress.

The term "current level" refers to the estimated amount of budget authority, outlays, credit authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

Current level reports are intended to provide Members information to compare enacted spending and revenues with the aggregate ceilings on budget authority, outlays, and revenues established in a budget resolution, and also to compare enacted legislation with the allocations of new discretionary budget authority, entitlement authority, and credit authority made to a committee pursuant to subsection 302(a) of the Budget Act. This report compares the spending, credit, and revenue levels in current level with those assumed in the budget resolution for fiscal year 1989 (House Concurrent Resolution 268), adopted on June 6, 1988.

Current level reports provide information that is necessary for enforcing section 311 of the Budget Act. Section 311(a) prohibits the consideration of a spending or revenue measure if the adoption of that measure would cause the ceiling on total new budget authority or total outlays set in the budget resolution for a fiscal year to be exceeded or would cause revenues to be less than the appropriate level of revenues set forth in the budget resolution.

Section 311(b) provides an exception to the 311(a) point of order for measures that would breach the ceilings on total spending set forth in the budget resolution but would not cause a committee to exceed its "appropriate allocation" of discretionary spending authority made pursuant to section 302(a) of the Budget Act. Such an exception was first provided by the budget resolution for fiscal year 1985 (House Concurrent Resolution 280, 98th Congress). The exception was made permanent by the amendments to the Budget Act included in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, Gramm-Rudman-Hollings). This exception is intended to protect a committee that has stayed within its allocation of discretionary budget authority and new entitlement authority from points of order if the total spending ceilings have been breached for reasons outside of its control. For fiscal year 1989, the 302(a) allocations to House committees made pursuant to the conference report on House Concurrent Resolution 268 were printed in the House Report 100-662, June 1, 1988.

Section 311(c) of the Budget Act provides that, for purposes of enforcing section 311, the levels of new budget authority, entitlement authority, outlays, and revenues shall be determined on the basis of estimates made by the Committee on the Budget. Current level reports represent partial fulfillment of this enforcement responsibility of the Budget Committee by providing both estimates of enacted aggregate spending and revenues, and, for purposes of determining the applicability of the section 311(b) exception, estimates of the relationship between the budgetary effect of enacted legislation within a committee's jurisdiction and the allocation of spending authority made to that committee.

The estimates in this report are based on economic and technical assumptions in place at the time of the adoption of the budget resolution, House Concurrent Resolution 268, on June 6, 1988. This is intended to protect committees which acted on the basis of the assumptions of the budget resolution from changes in economic and technical factors over which they have no control. Unless the Congress adopts a subsequent budget resolution for a fiscal year that alters the assumptions concerning legislative actions, committees should be able to expect that measures that conform with the budget resolution will not be subject to points of order for violation of the Budget Act. To do otherwise and base enforcement on constantly changing economic and technical estimates would seriously disrupt the legislative within a short period after adoption of a budget resolution, and undermine respect for budget enforcement procedures.

In addition to section 311, the Budget Act contains another point of order that requires Budget Committee estimates for enforcement. Section 302(f)(1) of the Budget Act prohibits the consideration of a measure providing new budget authority, new entitlement authority, or new credit authority if the adoption of that measure would cause a committee to exceed its allocation of new spending or credit authority made pursuant to subsection 302(b) of the Budget Act. The 302(b) allocation is a subdivision of the new spending, new entitlement, and new credit authority allocated to a committee pursuant to section 302(a), among either the subcommittees of that committee or among programs over which the committee has jurisdiction. This point of order was added to the Budget Act by the amendments included in the Balanced Budget and Emergency Deficit Control Act of 1985.

Section 302(g) provides that the enforcement of section 302 shall be based on estimates of spending and credit authority made by the Committee on the Budget. The Budget Committee fulfills this responsibility by providing, as necessary, a separate section 302 status report to the Speaker.

For information purposes only, current level reports will continue to include a comparison of the budget and credit authority divided among the Appropriations subcommittees by that committee's 302(b) division with the actual enacted spending and credit legislation within each subcommittee's jurisdiction.

As chairman of the Budget Committee, I intend to keep the House informed regularly on the status of the current level.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, August 2, 1989.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974, as amended, to provide estimates of the current level of revenues and spending.

I am herewith transmitting the status report under H. Con. Res. 268, the Concurrent Resolution on the Budget for Fiscal Year 1989.

In the House of Representatives, the procedural situation with regard to the spending ceilings (total budget authority and total outlays) is affected by Section 311(b) of the Congressional Budget Act of 1974, as amended by P.L. 99-177. Enforcement against possible breaches of the spending ceilings under 311(a) of the Budget Act would not apply when a measure would not cause a committee to exceed its "appropriate allocation" of "new discretionary budget authority" or "new entitlement authority" made pursuant to Section 302(a) of the Budget Act. It should be noted that under this procedure the committee's outlay allocation is not considered.

The intent of Section 311(b) of the Budget Act is to protect a committee that has stayed within its spending authority allocations—discretionary budget authority or new entitlement authority—from points of order if the total spending ceilings have been breached for reasons outside of its control. The 302(a) allocations to House committees made pursuant to the conference report on H. Con. Res. 268 were printed in H. Rept. 100-662 (June 1, 1988).

The enclosed tables compare enacted legislation to each committee's 302(a) allocation of discretionary budget authority, new entitlement authority, new direct loan obligations and new primary loan guarantee commitments. The estimates of spending and revenues for purposes of the application of points of order under the Budget Act are based upon the economic and technical assumptions underlying the fiscal year 1989 budget resolution, H. Con. Res. 268.

The Energy and Commerce Committee and the Ways and Means Committee have exceeded their targets for new entitlement authority because of the enactment of P.L. 100-360, the Medicare Catastrophic Coverage Act and P.L. 100-485, the Family Welfare Reform Act. The Concurrent Resolution on the Budget for Fiscal Year 1989 assumed enactment of both pieces of legislation but made no allocations for them. The House report on the Budget Resolution explained that such legislation, if deficit-neutral, would be appropriate even though it exceeded the Resolution's Section 302 allocations or spending aggregates.

Revenues exceed the revenue floor established by the Concurrent Resolution on the Budget for Fiscal Year 1989 because of enactment of P.L. 100-360, the Medicare Catastrophic Coverage Act and P.L. 100-485, the Family Welfare Reform Act. Passage of this legislation was assumed in the Budget Resolution but not reflected in the revenue floor. The Budget Resolution assumed deficit-neutral catastrophic health and welfare reform legislation, but not a specific dollar amount. As explained in the House report on the Budget Resolution, the revenue increases in P.L. 100-360 and P.L. 100-485 were intended to offset and make deficit neutral the multiyear spending in those bills. Therfore, it would not be consistent with assumptions in the Budget Resolution to enact any additional revenue-losing legislation beyond P.L. 100-418, the Omnibus Trade Act and P.L. 100-449, the Canada-U.S. Free Trade Agreement.

Sincerely,

LEON E. PANETTA,
Chairman.

Enclosures.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1989 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 268

REFLECTING COMPLETED ACTION AS OF AUG. 1, 1989

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	1,231,700	1,099,700	964,400
Current level	1,235,883	1,100,792	964,434
Amount under ceilings			
Amount over ceilings	4,183	1,092	
Amount under floor			
Amount over floor			34

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate of budget authority for fiscal year 1989, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 268 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate of outlays for fiscal 1989, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 268 to be exceeded.

REVENUES

Any measure that would result in a revenue loss which is not included in the current level estimate and that exceeds $34 million in revenues for fiscal year 1989, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 268.

Fiscal year 1989 discretionary action budget authority: Comparison of current level and budget resolution allocation by committee pursuant to section 302

[In millions of dollars] House committee:	*Current level budget authority*
Agriculture	+412
Appropriations [1]	+1,335
Armed Services	
Banking, Finance, and Urban Affairs	
District of Columbia	
Education and Labor	
Energy and Commerce	
Foreign Affairs	
Government Operations	
House Administration	
Interior and Insular Affairs	
Judiciary	
Merchant Marine and Fisheries	
Post Office and Civil Service	
Public Works and Transportation	
Science and Technology	
Small Business	
Veterans' Affairs	−4
Ways and Means	−79

[1] See next table for detail.

NOTE.—Committees are over (+) or under (−) their 302(a) allocation for "discretionary action".

FISCAL YEAR 1989 HOUSE APPROPRIATIONS COMMITTEE DISCRETIONARY ACTION: COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION SUBDIVISIONS OF THE HOUSE APPROPRIATIONS COMMITTEE PURSUANT TO SEC. 302

[In millions of dollars]

House Appropriations subcommittee subdivisions	Current level budget authority	Direct loans	Primary loan guarantees
Commerce, State, Justice	+394	−3	
Defense	−249		
District of Columbia	−5		
Energy and Water	+8	+3	
Foreign Operations	+115	−3,632	
Interior	+336		
Labor, HHS, Education	+168	−33	
Legislative Branch	−41		
Military Construction			
Rural Development and Agriculture	+87	−219	+4
Transportation	+106		
Treasury, Postal Service	+26		
VA/HUD/Independent Agencies	+390		
Total	+1,335	−3,884	+4

Note.—Subcommittees are over (+) or under (−) their 302(b) subdivisions of discretionary action.

FISCAL YEAR 1989 ALLOCATION OF NEW ENTITLEMENT AUTHORITY (NEA) PURSUANT TO SEC. 302

[In millions of dollars]

Committee	Allocation	Reported [1]	Enacted [2]	Enacted over(+)/under(−) allocation
Agriculture		+611	+532	+532
Armed Services		+2,234	+2,234	+2,234
Energy and Commerce		+75	+55	+55
Interior and Insular Affairs		+35	+16	+16
Judiciary		+39	+14	+14
Veterans' Affairs	+408	+395	+389	−19
Ways and Means		+1,624	+1,461	+1,461
Undistributed to committees	+125			

[1] These figures are used for 401(b)(2) of the Budget Act.
[2] These figures are used for 302(f) points of order.

NOTE.—The Energy and Commerce and the Ways and Means Committees have exceeded their targets because of the enactment of P.L. 100-360, the Medicare Catastrophic Act, and the completion of H.R. 1720, the Family Welfare Reform Act. The Fiscal Year 1989 Budget Resolution assumed enactment of such legislation but made no allocations for it. The House report on the Budget Resolution explained that such legislation, if deficit-neutral, would be appropriate even though it exceeded the Resolution's section 302 allocations or spending aggregated

Further, P.L. 100-418, the Omnibus Trade and Competitivenes Act, provided $111 million of NEA that is scored in the "enacted" column against the Ways and Means Committee Allocation. This amount can be counted against the undistributed $125 million in NEA that was assumed by the Budget Conferees to be available for programs in functions 500, 550, and 600.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 2, 1989.

Hon. LEON E. PANETTA,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN. Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this

letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays, estimated revenues, and direct and guaranteed loan levels in comparison with the appropriate levels for those items contained in the most recently agreed to concurent resolution on the 1989 budget (H. Con. Res. 268). This report for fiscal year 1989 is tabulated as of close of business August 1, 1989. A summary of this tabulation is as follows:

[In millions of dollars]

	Current level	Budget resolution H. Con. Res. 268	Current level +/− resolution
Budget authority	1,235,883	1,231,700	4,183
Outlays	1,100,792	1,099,700	1,092
Revenues	964,434	964,400	34
Direct loan obligations	24,394	28,300	−3,906
Guaranteed loan commitments	110,954	110,950	4

Since my last report, Congress has taken no action that affects the current level of spending or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

PARLIAMENTARIAN STATUS REPORT, 101ST CONG., 1ST SESS.: HOUSE SUPPORTING DETAIL, FISCAL YEAR 1989 AS OF CLOSE OF BUSINESS AUG. 1, 1989

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			964,434
Permanent appropriations and trust funds	855,280	708,311	
Other appropriations	594,475	609,315	
Offsetting receipts	−218,335	−218,335	
Total enacted in previous sessions	1,231,420	1,099,291	964,434
II. Enacted this session:			
Adjust the purchase price for nonfat dry dairy products (P.L. 101–7)		−10	
Implementation of the Bipartisan Accord on Central America (P.L. 101–14)	−11		
Dire emergency and urgent supplemental appropriations, (P.L. 101–45)	3,548	764	
Total enacted this session	3,537	754	
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Dairy Indemnity Program	(1)	(1)	
Special milk	4		
Food Stamp Program	29		
Federal Crop Insurance Corporation fund	144		
Compact of Free Association	1	1	
Special benefits	37	37	
Payments to the Farm Credit System	35	35	
Payment to the Civil Service Retirement and Disability Trust Fund	(85)	(85)	
Supplemental security income	201	201	
Special benefits for disabled coal miners	3		
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Medicaid:			
P.L. 100–360	45	45	
P.L. 100–485	10	10	
Family support payments to States:			
Previous law	355	355	
P.L. 100–485	63	63	
Total entitlement authority	926	747	
Total current level as of Aug. 1, 1989	1,235,883	1,100,792	964,434
1989 budget resolution H. Con. Res. 268	1,231,700	1,099,700	964,400
Amount remaining:			
Over budget resolution	4,183	1,092	34
Under budget resolution			

[1] Less than $500,000.

Notes.—Numbers may not add due to rounding. Amounts in parenthesis are interfund transactions that do not add to budget totals.

CONGRESSIONAL REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. EDWARDS] is recognized for 60 minutes.

Mr. EDWARDS of Oklahoma. Mr. Speaker, the most important issue facing the Congress today is the Congress itself. As the Republican leader said so well after the swearing in of the new Speaker, the institution itself has become bankrupt. Simple nonpartisan reform initiatives that urgently need to be considered and adopted are ignored. Basic initiatives, like requiring recorded votes anytime we spend money, raise the public debt ceiling or raise taxes, like requiring committees and subcommittees to conduct official business only when a majority of Members are present. Basic reform initiatives are ignored by the House leadership year after year.

At the same time, Mr. Speaker, the rules that we have in place, rules that are designed to protect the rights of the Members and the people they represent are routinely ignored.

Mr. Speaker, may I inquire? I am told that the microphones are not working and that we are not broadcasting at all.

Is that correct to your knowledge?

The SPEAKER pro tempore. The Chair can only proceed. The in-house mikes are working, and I am told the other microphones are working as well. But we will have that checked out.

Mr. EDWARDS of Oklahoma. Mr. Speaker, we will proceed on that basis and trust that we will be notified if they are not.

We, Mr. Speaker, have a problem that when we pass budgets, we often, as happened in the 100th Congress, ignore the budget over half the time. Forty-three percent of the bills that were considered in the last Congress contained restrictions in offering amendments. Most Members of Congress have virtually no voice in shaping bills in ways that represent the views of their constituents. The American people have to understand that there is a reason why bills like a balanced budget amendment are not brought to the floor.

Mr. Speaker, in 1987 on the 200th anniversary of the signing of the Constitution we presented the Speaker with a petition demanding rules reform. In January of this year we offered a rules reform package that the Democratic leadership opposed. Two months ago, when a new Speaker was elected, we challenged him with the need to reform the House rules.

The time of waiting is over, and the time for reform must begin now.

Mr. Speaker, over the last 200 years the House of Representatives has developed rules designed to provide full debate of every issue and, in our democratic tradition, a voice in the process for every Member of Congress, even if he or she stands alone.

Our rules need to be followed. I have mentioned some of the changes that need to be made—we need recorded votes on appropriations bills, debt ceiling increases, or tax increases. In the last 3 years we have passed major legislation in each of those categories on a voice vote with none of our constituents able to know where we stood. In fact we passed two appropriations bills this month on voice vote.

We should put stricter limits on which bills can be brought up under the suspension of the rules, a process that limits debate and prohibits amendments. Controversial bills should not be brought up under suspension.

Bills should be required to go through the committee process. One bill was brought to the floor this year that had never been sent to a committee and had no hearings held on it—and then no amendments were allowed to be offered on the floor. That is an arrogant misuse of power.

When the house considered the minimum wage bill this year, Republicans were allowed only one amendment to the bill, which was used to offer the President's minimum wage package. It is the first time a minimum wage bill has ever been considered under a rule that restricts amendments.

Mr. Speaker, we say again, the institution has become corrupt.

Furthermore, a review of the first 6 months of this Congress, what we have done and what we have failed to do, points out how badly Congress has operated so far this year. Congress started this year with a full legislative plate of issues to address: The savings and loan crisis, student loan default reform, teacher incentives, campaign reform, ethics reform, affordable housing, catastrophic health care, section 89 repeal, clean water legislation, clean air legislation, child nutrition, ground water research, Children's Television Practices Act, the Fairness Act, and child care to name a few. All still await final action. Other bills that enjoy enormous support like a balanced budget amendment, remain bottled up in committees.

Mr. Speaker, we cannot put off reforming the House any longer.

Mr. Speaker, at this point I am pleased to yield to the distinguished Republican leader, the gentleman from Illinois [Mr. MICHEL] to address the need for congressional reform.

Mr. MICHEL. Mr. Speaker, last year, when we discussed the broken branch of government, I reviewed the declining productivity of our committee system in recent years I mentioned the five fold increase in committee staffing during the 32 years I have been in the House, while at the same time the amount of legislation moving out of committees declined by 70 percent.

Not only that, but the amount of committee hearings has experienced a similar decline, dropping by 41 percent during a recent 10-year period.

And the number of bills being taken up and adopted by the House without having been acted on by committee has risen substantially. In the 99th Congress, over 300 bills were passed by the House that were never acted on by committee.

Those were bills on which the House was forced to make judgment without the benefit of committee research, committee hearings, committee refinement, or committee recommendations.

And then we come to the basic responsibility of the committees to act on legislation reauthorizing existing programs and agencies, a subject on which I intend to devote the remainder of my remarks today.

Authorization bills are the backbone of the legislative process. They provide the legal framework for most major Federal programs and activities. They set out the parameters for those programs and should make clear how the programs are to operate.

Most authorizations are not indefinite but expire after a certain period of time. This is designed to force congressional oversight and review of the programs, and to force Congress to make an active decision on whether a program should be extended, and if so, whether any changes should be made to enable it to operate more effectively.

When the committees fail to move reauthorizing legislation, they abdicate their oversight responsibility an give up the opportunity to make necessary changes in the operating structure of the programs.

A classic example is the HUD scandals which have recently come to light. For 7 years, from 1980 to 1987, we had no housing authorization bill. We did not have the proper congressional oversight or restructuring of the programs that might have headed off the abuses.

Now, after the fact, every committee and its brother wants to jump into the picture and express horrow over what transpired. But that is no substitute for proper oversight during the time these things took place. The managers of HUD certainly must assume responsibility for what happened. But one can also make the case that because Congress took no action on reauthorizing legislation for such a long period of time, the HUD managers developed an attitude that they had carte blanche to do whatever they wanted.

The failure of Congress to act on reauthorizing legislation is graphically illustrated by the dollar level of appropriations that have gone unauthorized. Last year, for the current fiscal year, Congress appropriated some $23 billion in programs that were unauthorized. In fiscal year 1988, the previous year, a total of over $44 billion was appropriated without the necessary authorization. In fiscal 1987, the total was $33 billion.

When the House initially considered appropriations bills in those years, the amount of unauthorized funds was many billions higher. A number of programs are authorized after we vote on the appropriations. It is against House rules to appropriate funds for unauthorized programs, but we waive such violations of the rules because if we do not do so, a good chunk of the Government would end up unfunded.

It is a disgrace to have to waive House rules because the authorizing committees are not doing their job. But this has lately been going on year after year, though, and this year is no exception. By September 30, some 88 laws authorizing nearly $275 billion worth of programs will have expired.

Yet, as of July 20, only 7 of those laws have been reenacted by Congress. The house itself has acted on legislation extending only 24 of the laws, and the authorizing committees have reported out extensions for only an additional 15 of such laws.

The result is that as we have considered the various appropriations bills over the past several weeks, big chunks of the programs therein have been unauthorized.

In the energy and water bill, some $14.2 billion was unauthorized, out of a total in the bill of $18.5 billion.

$2.2 billion in the Interior bill was unauthorized, and the foreign operations bill was almost entirely unauthorized.

The Commerce-Justice bill left out some $11 billion in unauthorized items, nearly two-thirds of the programs covered under the bill.

When funds are left out of an appropriations bill because they are unauthorized, the House as a whole has virtually nothing to say as to the funding levels for those programs. The Senate includes the funds, and then the final levels are determined in conference.

One might justify the slow pact of reauthorizations if the House were overwhelmed by other business. But we have hardly been doing anything over the first 7 months of the year. So there has been plenty of time; it is apparently just an unwillingness to act.

If the authorizing committees are not going to perform their oversight and authorizing responsibilities, then it is certainly hard to justify the five-fold increase in staff they have received over the past 30 years.

What's more, they are not meeting their responsibilities to the American people. The people have a right to expect proper management of their Government by both the executive branch and Congress. The Congress is not today fulfilling that responsibility.

□ 2100

Mr. Speaker, and to my colleague, the gentleman from Oklahoma, may I personally express my thanks and appreciation for what he has done in our Policy Committee to focus attention on the ills of the Congress and what we as a party would do and as a body would do to reform this House to work in the best interests of the people.

We may applaud ourselves tomorrow evening when we enact our final appropriation bill here in the House of Representatives, and I am happy for that, but as I indicated, you know, we are getting the cart before the horse, because there are all these unauthorized measures for which we are appropriating, and that is really not the best way to do business around here. Hopefully, if we focus on this subject, we can change the attitude, yes, and stimulate and stir those legislative and authorizing committees to do the job they are supposed to do by moving appropriately on time, and I thank the distinguished gentleman very much for yielding me this time.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank our leader, the gentleman from Illinois [Mr. MICHEL].

One of the things that has happened during the past year is that the gentleman from Illinois, as the Republican leader in the House, has undertaken a very vigorous campaign to begin to make reforms, not only in campaign laws and the ethics of the House, but in the procedures by which the House operates. We appreciate that leadership very much.

I would like now, Mr. Speaker, to turn to some of the Members of the Congressional Reform Task Force who have spent a considerably amount of time in attempting to make changes in the procedures so that we can have more accountability to the American people and better represent our constituents who sent us here.

Let me call first on the gentleman from New York [Mr. HOUGHTON], who has worked for the last couple years very diligently on this task force.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ENGEL). Before the gentleman from New York begins, let the Chair just say that the Chair has looked into this situation with the transmission of the proceedings and has received assurances that the transmission is working properly.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the Chair, and I yield to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Speaker, I am not sure that is a good idea for me or not.

What I would like to do is to talk a little bit about a perception and a concept called the continuing resolution.

You know, it is awfully easy when you come into this body to think of changing everything. You see obviously things that need to be done, things that do not seem right, do not seem right from your head or your gut, and after all, you are an objective person, you are a newcomer, you bring a fresh outlook, you do not have any tradition of baggage to carry along with you.

Of course, this is a very dangerous approach, as we all know. It is better to keep a list of these things and wait a few months; however, as you wind your way through this institution and through these corridors, you pick up certain nuances and understand really what is happening and why it is happening. There are certain things which become absolutely crystal clear and they develop a basis for sort of a set of rules or fundamentals. One of the fundamentals is that you do what you say you are going to do, and that in this Chamber usually involves money. That usually goes to the heart of a process we call the appropriations process. That means all 13 of those individual bills with which we are wrestling right now.

We know the parameters. We know the timing and we know these bills must be passed in order to keep the Government running.

The problem is in recent years that we have run into a game which we play. This is a game which was not envisioned by the founders of this country. As a matter of fact, it was not practiced for virtually all the years we have been in existence, but it is a game of hold-back. You hold back, and you hold back. What you do then is group all the bills right at the end when paychecks must go out, when postmasters must be paid, when things must be done, and you throw them into a thing called a continuing resolution.

Now, I never heard of this expression when I first came down here, but it is absolutely fascinating.

I do not know if any of you remember President Reagan standing up at that podium many years ago. As a matter of fact, it was a couple years ago, and he held up this stack of paper and he put it down—as a matter of fact, I think he hurt his finger in the process. That was a continuing resolution.

I can remember being in a debate here for 4 hours on that resolution and there were two stacks, one for that side and one for the other side, and 435 people within a 4-hour period were supposed to be able to read what was in this continuing rsolution. It was absolutely ridiculous.

So there is a resolution in front of the House made by four individuals that tries to do away with it. What it says basically is this: There should be no continuing resolution, period, paragraph, end of story, including the funding of more than one of the 13 appropriations bills after a reasonable period of time, and we arbitrarily set November 30.

□ 2110

Short term is all right. Obviously things are changed, and the Government has to run. There must be a separate continuing resolution for each unpassed appropriation after November 30.

Ladies and gentlemen, those who are listening wherever they are, this is so-called a no-brainer. It makes sense from a money standpoint, and it only asks this body to follow its own procedures.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the gentleman for all of his work on the task force.

M. Speaker, I yield to another gentleman from New York who has been working very hard on setting up these special orders and has been a major participant in the reform process, the gentleman from New York [Mr. WALSH].

Mr. WALSH. Mr. Speaker, I thank the gentleman.

Mr. Speaker, although I am a new Member to this body I do feel that in terms of committee membership, jurisdiction, and oversight—we are in need of change. Of the present 435 Members of this body 175 are Republicans, making up 40 percent of the House. However, these proportions are not represented with respect to the membership of the various committees of this House. For example, of the 36 members on the Ways and Means Committee only 13 are from the minority party, or 36 percent with the majority at 64 percent. Of the 13 members of the Rules Committee only 4 are from the minority party, or 31 percent, with the majority at 69 percent. Mr. Speaker you yourself spoke of fairness some time ago, we are here today at this time seeking fairness.

With the present ratios on the various committees of this House, we are forced to do more with less. With fewer Members on each committee, as well as staff, our positions on issues facing this Nation—go unheard.

And on another issue, Mr. Speaker, we have created in this House a virtual hodgepodge of committees, subcommittees, joint committees, select committees, permanent select committees, and commissions—each possessing varying degrees of authority and jurisdiction. I bring to your attention that their are currently 53 committees alone that exercise oversight authority in the House over illegal drug issues. In the case of Mr. Bennett, most of his time is spent testifying before some committee—how then I ask you, can he effectively perform the responsibilities of his job as this Nation's drug czar, if he is constantly running the gauntlet of committee hearings.

And as a result, our responsibilities concerning oversight suffer. The process is slowed, and the meaning of legislation and/or policies are lost.

I am suggesting to the distinguished leadership that we must enter into a dialog, we must begin to look critically at the present system, and correct flaws. This is the challenge facing this House in the 1990's and beyond. I believe that we can become effective and efficient in performing the business of this Nation, as well as allowing the minority party of this House to become a partner in the crafting of legislation and public policy.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I also want to say to the gentleman how much I appreciate the fact that as soon as he entered the Congress he got so active in the issue of reform of the House, having observed it as he was in his younger days when his father served in the House, and he has been a very valuable member of the Reform Task Force. We really appreciate it.

Mr. WALSH. Mr. Speaker, I thank the gentleman for his comments, and if I might just say before I came to this august body I was elected president of the Syracuse City Council. When I took office, the first thing I did was hand out Robert's Rules of Order, and the rules of the council, of the city council, and I said, "Ladies and gentlemen, these are our rules."

My rule was to enforce those rules, and I think it was very helpful to the performance of that body, although a much smaller body, that the rules were enforced evenhandedly. I was a member of the minority party there, too, but I think that is really critical to the operation of any legislative body, and I think it is just certainly, at least, as important if not much more important that we enforce the proper rules and stick to them here in Washington.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the gentleman.

In the 13 years that I have served in this House of Representatives, probably no individual has more consistently led the fight for reform and for having a House of Representatives that is answerable to the people and held accountable than the gentleman from Pennsylvania [Mr. WALKER], who at times has almost singlehandedly carried the issue of reform.

I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman very much for yielding.

Mr. Speaker, the two of us came to Congress together 13 years ago, and I am sad to say that it has been during that period of time that we have seen a downward slide in the kind of meaningful legislative work that goes on in the Congress. We have seen this move more toward a manipulation of legislation through irregular floor procedures, and that has been a steady rise. We have seen more and more of a disregard for self-imposed fiscal restraints.

I have some charts here this evening that I thought I would share with our colleagues to show just how bad the situation has become.

There will often be heard the political scientists saying, and people will hear the comment, that the committees of the Congress are where the work of the Congress gets done. With the exception of years preceding a Presidential election, the total hearings held in the first year of each session has been on a 10-year slide in the Congress.

The chart here demonstrates that we are holding less hearings now than we were 10 years ago, and that it has continuously moved down, which means that evey time a Congressman comes home and tells people, "Well, you know, we are doing more and more work in the Congress," the fact is it is not being done in committee, where most of the work is supposed to be done, because the number of hearings are headed on a downward trend.

While the number of committee hearings is on a downward trend, we also see another thing developing which is very bad, and that is that in the 100th Congress, for example, we passed 343 more bills than were reported out of committee. That means that we had more legislation passed on the floor than had ever been reported from the committee. Already in this Congress through July 27 we have passed 123 more bills than have been reported, so the reason for the downward slide in hearings is because we are doing less legislative work in the committees, reporting less and less bills, and we are getting more and more bills on the floor that have never had hearings, that have never been reported out of any committee and, therefore, where we have little or no knowledge of what it is that we are voting on, plus the fact that for the minority that means that we have less protection from the arbitrary manipulation by the leadership.

I think if we look back, one of the things that should be done in this is to look back just to the 95th Congress, where the exact opposite was true in terms of floor procedure. In the 95th Congress we reported more bills out of committee than were ever considered on the floor. That is exactly the way it should be. We probably are not going to get all the work the committees complete if they are on a regular schedule, if we go back here to the 95th Congress. But that is not what is happening now. We are passing more bills on the floor than we are reporting, and we are doing less hearings.

Maybe the answer to that by some people is that we have greater quality. If we look to another chart here what we find out is that we are doing less substantive work and more commemorative work in the Congress. Back a few years ago we used to pass a very few commemorative resolutions, back in the 95th Congress, only 9.5 percent of what we passed, in the 95th Congress, which was commemorative resolutions. Ninety percent of what we did, more than 90 percent, almost 91, was substantive legislation. As can be seen, since the 95th Congress, we have had a steady downward trend of the amount of substantive work we are doing on the floor and more and more commemoratives to the point that with the 101st Congress through July 27, again 26 percent of the bills we passed in the Congress have been commemoratives.

What are commemoratives? That is designating some day as National Lawn Mower Day or something along this line. That is the work that we are doing. Those are the bills we are passing. More and more of the bills are not substantive.

As a matter of fact, in the 100th Congress, the one that just finished up, only 36 percent of the legislation we did in the entire Congress could really be regarded as substantive.

Going to another chart now, let us imagine for a moment that some substantive bill actually manages to get to the floor.

□ 2120

The chances are if it does manage to get to the floor it is going to be out here under a restrictive rule of some kind, we are not going to have a chance to really debate it. In fact, the chances are better than 50-50 at the present time that the Rules Committee will impose some kind of restrictions on the bill, that is either limit debate or limit the ability of the minority to offer amendments.

Once again, look at the trends here back in the 95th Congress. We had only 12 restrictive rules and 88 open rules came to the floor. By the 100th Congress we had more open rules than restrictive rules, but the ratio was 57 to 43, almost half and half. That is the major problem, because it means that we do not have the kind of debate that has typically characterized the Congress. So we have a very definite bad trend in that regard.

If we move to the next chart, what we find is another trend which is particularly bad, because now we are talking about something called self-enacting rules. We had one of those on the floor this week, where you come out and decide that you are going to add language to a bill without it ever being debated on the House floor. It is just a part of the rules.

Back in the 95th Congress, as a percentage, you had less than 1 percent of all of the rules reported to the floor with self-enacting provisions in them. By the 100th Congress, 16 percent of the rules came to the floor and had self-enacting provisions in them, a very, very bad situation.

If we look to the next chart, we will find that what we have also been doing on a regular basis is waiving the Budget Act. The way in which we try to protect ourselves from overspending is we try to make certain that there are provisions that say that there are caps imposed by the Budget Act.

We have had a steady trend, moving upward from the 96th Congress through the 99th Congress where we were enacting rules with budget waivers. By the 99th Congress, 65 percent of the rules had some kind of important budget waiver in them. That moved down a little bit during the 100th Congress to 51 percent, largely because we protested it so vigorously, we started talking about the fact that we had so many budget waivers and they began to be a little bit embarrassed about it. But still over half the rules had a budget waiver of some kind in them.

Those are all bad trends. It is the kind of thing that indicates the institution is in real need of reform, that we have to get back to the idea of an open, honest legislative process.

The trends of the last 10 years do not augur well.

Mr. EDWARDS of Oklahoma. Mr. Speaker, may I say to the gentleman that the significance of what he has just pointed out is enormous. When we have rules that come to the floor that are restrictive, for example, that means that while our constituents may overwhelmingly support a balanced budget amendment, or any other kind of legislation that is quite popular in the country, we cannot bring it to the floor. And sometimes we will come to the floor and an amendment will be offered, but very little time, 5 minutes on each side perhaps, is given to debate amendments of great significance.

While these may appear to a person who is not in the Congress as rather minor and esoteric points, what we are really talking about are things that make it very difficult for people back home to hold us accountable, and for us to bring their concerns to the floor for consideration.

Mr. WALKER. Plus the people are being told some things that are a little hard to believe when we see the trends.

What many people are being told out in the country is we simply do not have the time to get to some of this legislation they are interested in. If they are interested in a balanced budget amendment to the Constitution, we say, "Well, we simply do not have the time to do it."

The fact is we have more time now than we have ever had before, because we are having less hearings now than we have ever had before. I mean that just does not wash.

They are told out in the countryside that we are really doing hard, vital work on your behalf, and yet we find out that much of what we are spending our time doing on the floor, at least much of what we are passing is commemoratives such as "national lawnmower day" or some such thing. So we really are not doing the kinds of things in reality here as are being explained to the country.

Mr. EDWARDS of Oklahoma. The gentleman is absolutely right. The last chart the gentleman had up there, the Budget Act waivers, I do not know if very many people back home know what the Budget Act waiver is. The Budget Act is the law of the United States. It is the law and we routinely violate the law. We pass the law and we take credit back home for the fact that we passed a law and said this is what our budget is going to be, and everybody reads in the paper what our budget is going to be, and then we simply ignore it.

We cannot be accountable and responsible legislators until we change these procedures.

Mr. WALKER. The gentleman is absolutely right.

Mr. EDWARDS of Oklahoma. I thank the gentleman from Pennsylvania for his contribution.

Mr. Speaker, I yield to another member of the task force who has put considerable amount of work into this, and that is the gentleman from New Hampshire, Mr. CHUCK DOUGLAS.

Mr. DOUGLAS. Mr. Speaker, I would like to thank the rest of the panel and basically what I wanted to do was talk about one of the problems that we get at the committee level, and I wanted to take a step back and say if I were in Poland or Hungary where they are now beginning to explore how to set up a free and open legislature, how would you as a committee chairman or a Speaker of the House want to run the new Poland or the new Hungary. If you were in the old Poland or the old Hungary, you would probably want a system like they have right here.

You can introduce a bill. There is no guarantee it is ever going to be given a hearing. There is no guarantee if it has a hearing that it is ever going to be voted on in the committee. And if it is voted on in the committee, there is no guarantee that it is ever going to come to the floor and be voted on here. That is real tyranny, and I would never want to recommend that kind of a system to anyone who claims they have a fair, I repeat fair and open democracy.

What would be fair? If I had a bunch of school kids here I would ask them, "Don't you think it would be fair if you introduced a bill that it would have a hearing?" They would probably say yes, that is fair. I have an idea. I ought to be able to have my other folks in my committee hear that bill.

And should they vote on it? Sure, they ought to be able to vote on it.

Should it come to this body here, the people's house and be voted on and debated and maybe killed? It is probably a stupid idea, but maybe it is not. They would all agree that that is a fair way to run it.

That is not how this place operates. Some say the problem is that it is the only way we can operate with this many people.

I happen to come from a State that has a House of Representatives of 400 members. That is only 35 seats less than we see right here. Do my colleagues know how we operate it? We have had the same party in control of that House since 1901, and the rules are the same for the Republicans as they are for the Democrats, and we sit on the same sides of the Chamber.

Only here is the deal up there. Every bill gets a hearing, every committee must vote on every bill, and they must come to the floor. And they can come on Suspension Calendar for those things that are not controversial. But you can have it taken off the Suspension Calendar, and you do not need to have a two-thirds vote to do that. Then the whole House can debate it.

We do not even have a thing called rules where you can straitjacket and gag people. The way this place operates if you offer certain amendments, you cannot do it, they gag you, you cannot even get up on the floor and offer them. The House is operated that way.

We operate in New Hampshire with 400 representatives, but we have fairness to the minority Democrats, the people who disagree with whoever the sponsor is, and I think that is the only way a fair reformed set of rules would operate in this House, and that is not the way the people's business is being done here.

I will give one very good example. I sat through 5 days of hearings on the flag amendment and the flag statute. Our Judiciary Committee had 35 different bills and constitutional amendments before it. The subcommittee heard them all. People came and testified in good faith, and assumed that the committee would discuss the amendment versus a statute. Pretty good, important folks testified, Lawrence Tribe, Robert Bork, the Justice Department of the United States, and they took their different positions. But when it came time to consider what to do about the flag statutes and the flag amendments, after the hearings were over a bill is introduced, 4 days after the hearings are over.

□ 2130

And the chairman says this is what we are voting on and that is it; no discussion of constitutional amendments.

I tried to offer a substitute, was ruled out of order.

Mr. SENSENBRENNER, the ranking Republican, tried to offer a substitute amendment; ruled out of order.

We voted on a bill that was never in front of that committee for hearing. You could not have asked questions about it because the bill did not exist. The last hearing was dated July 20.

The bill bears the date of July 24. So it was never ever in front of us. And then that is what is going to come to the floor in September under a procedure whereby you will not even be able to offer any amendments. You will not be able to debate the merits of a constitutional amendment, or just striking out a paragraph in the bill.

To me that is abusive, that is wrong, it is bad, a bad way to do the people's business.

I would hope Poland and Hungary, who are working on a parlimentary democracy, and so is Russia, that they would look more to the New Hampshire model than to the U.S. House model, because if they want fairness, if they want people to debate, really want their Representatives to have the marketplace of ideas, have their 1st amendment rights here on the floor, we have got one heck of a lot of rules around this place.

Rather than rule by committee chairman and rule by the Speaker, we need a calendar and a process that is fair to all concerned.

I do not care, and I am sure the gentleman from Oklahoma agrees, we may not win all the time, we are not asking that. All we want is a fair process. And that is all that we are asking is justice, fairness, in a ruled procedure that we do not have today.

It seems to be getting worse. As Mr. WALKER'S chart showed, it is getting worse day by day, month by month, year by year; the tyranny of the majority and the abuse of the process increases rather than decreases.

Mr. EDWARDS of Oklahoma. I thank the gentleman. I would also add that when we use terms like majority or minority, the definition of minority is oppressed in this House and it does

not mean Republican, it means anybody who disagrees with the Speaker and the Democratic leadership. That often includes members of the Democratic Party as well, who are precluded from offering amendments and having debate on things their constituents care about.

Mr. DOUGLAS. The gentleman makes a very good observation because there are many instances where we will have an even split, almost, on either side of the aisle in terms of the parties, but it is just that it is not fair for one of two people to bottleneck the system and to sit there and say, "I don't like that bill so I am not giving it a hearing." Or, "I gave it a hearing but we are not going to vote on it in the committee and if we do vote on it in the committee," and this is the last abuse I will refer to and then I will rest, and that is the proxy system. I have been to many committee hearings where most, if not all, the Republicans were present and most, if not all, the Democrats were not and the chairman just reads off a whole string of proxies. He walks around with 15 or 20 votes in his pocket. There is no point in showing up to really legitimately debate and discuss a bill in committee when the folks you want to talk to are nothing but empty chairs and a little piece of paper that says "proxy."

That is why most of us voted at the beginning of this year to abolish the proxy system because it too corrupts the system of the ability to have a give-and-take, have debate on issues and bills.

Mr. EDWARDS of Oklahoma. I thank the gentleman.

One of the things we were very fortunate on the Republican side of the aisle this year is that we had in our first-term class two gentlemen of great academic credentials in the legal field, outstanding legal scholars. One was Mr. DOUGLAS from New Hampshire. The other was the gentleman I am about to call on.

I might say I cannot imagine, having had some experience myself with the law, what it is like to come directly from a field in which laws are clear and precise, to an arena in which arbitrariness rules.

I would like to turn now to one of our outstanding first-term Members, the gentleman from California, [Mr. CAMPBELL].

Mr. CAMPBELL of California. I thank my colleague from Oklahoma.

I would like to ask to put my remarks in context tonight.

We are talking about the rules of this House and how they should be improved so the people's business can be more fairly and openly conducted.

I believe this is important to all of us from the point of view that I would like to bring home, from the point of view of everyone who cares about the economy, everybody who cares about the growth, everyone who cares about taxes, who cares about the business of the United States.

I represent Silicon Valley, an area in California that is renowned for its growth, entrepreneurship, dedication to the free enterprise system. In Silicon Valley we care a whole lot about the budget deficit, we care a whole lot about the fact that we are spending far more than we are taking in.

When I look at the rules of this House, I understand in a flash why that happens, because when you are called upon to cast a vote that is good, that appears to be popular, well, then everyone is recorded. But when something has to be done that adds to the deficit or when a tax law is changed in such a way that we would just as soon not have focused on in the light of day, why, then, we do not have to have a voice vote.

So I would like to devote my contribution to this special order to the problem that we have here, focusing upon absence of recorded votes, the fact that you can vote without actually being on record on a particular issue.

Now why does this matter? I mentioned the budget deficit because it matters directly to everyone who has to pay an interest rate on a loan for a child's education, for a mortgage on a home, for entrepreneurship if you have a new idea.

As the Federal Government continues to borrow, that interest rate goes higher and higher and as it goes higher and higher our ability to compete with our foreign competitors is diminished.

I put to you a very simple proposition: If you have a good idea that will return about 7 percent and you take it to an American bank, they will loan you money at 11 percent. If you take that to a Japanese bank, they will loan you money at 4 percent. The difference, thus, comes down to how much we drive up that interest and that is related to how much budget deficit we have.

That brings me to the question of the rules. Let me give you a few examples.

On midnight, October 3, 1984, the House passed a massive $470 billion continuing resolution just before the Congress adjourned for the year.

Mr. Speaker, there was no recorded vote. Individuals did not have to go on the record and have an opponent in a campaign say, "Did you know that this person voted for that?" It was not recorded, it was done by voice vote.

During this very session of Congress the House has passed by voice vote energy and water appropriations and veterans appropriations bills. Mr. Speaker, the amounts are staggering: $18.5 billion for energy and water, $65 billion in the veterans appropriations bills.

As these bills increase the debt owed by the United States and as interest rates rise, the accountability is missing because these were done, as the vote in 1984, by voice vote, not by recorded vote.

I would choose one other example: The tax structure in the United States is an area of great focus and great importance. If we intend to be entrepreneurial and competitive in the world, then we cannot criticize, punish those people who choose to make investments, who choose to make savings, who choose to make our economy grow.

Nevertheless when this House considered in December of 1985 its own version of what became the Tax Act of 1986, $141 billion of corporate taxes were increased, adding to the cost of doing business in America, adding to the disadvantage of American entrepreneurs, putting us comparatively further behind our trading partners, and not by a recorded vote.

The rule is very simple: If the good that we can do for our constituents is recorded so that we take the credit for it, but the cost that we impose upon them is submerged in anomymity, then we shall forever continue to take credit for what good we do and avoid the blame for the harm we do.

□ 2140

This does not have to be. I would like to single out the heroic efforts of our colleagues, the gentleman from California [Mr. LEWIS] and the gentleman from Illinois [Mr. CRANE], who time after time have introduced resolutions to change this system in the House, to make it a simple rule, that if Members are speaking of an appropriations bill or a taxation measure, a conference report, or a continuing resolution, that this be done by recorded vote rather by voice vote. This simple expedient would, I am sure, go a major, major part of the distance toward the crisis that we have in adding to that Federal budget deficit, raising interest rates, and hurting our competitive position.

In conclusion, what we could do, tax the American people, should not be hidden. Whether we tax them directly by increasing income taxes, or whether we tax them by increasing the interest rates that they have to pay, whether it is financing a home or an education, we should take the courage of our convictions and put that on the RECORD. It is not much to ask. It is the minimum. I think, that democracy requires that is within the majority party to grant. I believe it is the minimum that those people who elected Members demand of Members.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I want to thank the gentleman.

As the gentleman knows, I also, in the last two Congresses, introduced legislation that would say Members could not pass an appropriation bill or a tax measure or an increase in the debt ceiling without a recorded vote. The reason is, a point that the gentleman touched on, many people who have looked at the need to reform the campaign laws in this country have expressed concern about the unfair advantage that some incumbents have in reelection. One of the greatest of the unfair advantages is the ability to hide their record, the ability to pass tax increases, to spend money without being accountable to the people back home. There is no greater unfair advantage that an incumbent has than the ability not to go on the public record.

I yield to the gentleman from California.

Mr. CAMPBELL of California. Mr. Speaker, I take the gentleman's point very well. My colleague from Oklahoma and I would just draw that into one very succinct example, going back to that tax bill that passed, the bill in 1985, and became the tax bill in 1986. I wonder how many people could expect to run and be very successful in their elections if they had to go on record and admit to the American people that they were going to put a cap on savings, that they were going to do the sorts of disincentives to entrepreneurship in this country that were represented in that tax bill? I think that the country would be better served by having a much more open system, and a much more accountable one along the lines that the gentleman and I and others have mentioned and recommended.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the gentleman. To conclude this, we have two people who have spent a great part of the last 3 years working on the issue of campaign reform through a great many meetings and a great many hours. One of the most creative and intelligent Members of the U.S. Congress, and one of the leaders in the entire movement for campaign reform, the gentlewoman from Connecticut [Mrs. JOHNSON], who I am pleased to yield to at this time.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank my colleague, the gentleman from Oklahoma [Mr. EDWARDS] for arranging this special order tonight, and for his leadership over the years on this issue of reform.

Those watching do not realize that when we first started talking about it, neither the subject nor the Members who talked about it were very popular. Gradually, over time, Members to some extent in both parties have begun to recognize the enormity of the challenge that faces Members in reforming our own process.

One of the reasons that I could not be here earlier tonight was because I was watching a series of tapes of group meetings in my district where just ordinary folks were talking about Government. Indeed, it is a tragedy that in the freest, greatest democracy of the world, a Nation that has been extraordinarily successful economically, but also politically in governing itself, should have citizens who are so disaffected, who have a sense of mistrust of their own Government. Not of their own individual Members, as when I am out in my town, I do not get that response, but their confidence in Members, in Government as a whole, and in our process is at a very serious low, and it is because of the desperate need for the kinds of reforms that have been discussed here tonight.

For example, I just will take two things that I want to talk about. One is one aspect of our rules, and the other is an aspect of our budget process that I think simply promote the kind of cynicism that is reducing voter participation. I do not care whether we let people register to vote by mail or register with their auto licenses, or all the reforms that are being talked about. People will vote when they get excited about government, and we need to remind them and define ways to make government visible to them and exciting to them to participate in.

Our rules in the House are simply the laws of our land here. There are no other laws except our rules. When people see charts about budget waivers, imagine trying to live out there in the real world where there are red lights that people only stop for when they care to. In other words, our system of traffic control is one of our laws out there. As long as everybody obeys it, everybody can trust one another in certain ways, and everybody does well. In the House here, we have rules. One of the rules is that when we pass the budget resolution, certain other things have to happen. Members cannot bring bills to the floor that spend more than the budget resolution allows. Do we by our rules? Do we stop at the red light? No. We bring bills to the floor all the time that waive the Budget Act, waive this portion, waive that portion, waive our own rules.

The Nation's deficit is as much the consequence of our refusal to abide by our own rules, to stop at our own red lights, as any single factor. In the end, it does not matter what the President proposes for defense. That is not his deficit. It matters what we appropriate for defense. It matters what we appropriate for every other function, and it matters whether our appropriations stay within our budget resolution. When we bring bills to the floor that waive our own rules and budget making, yes, we very subtly come out with budget and appropriations bills that are well over our budget. We have no way to regulate our activities in a body this large, and a process this complex, except the governance of our own rules.

We have been too easy with waiving our rules, and that is one of the root causes of the domestic deficit. When Members remember that anyone who has testified down there of substance on the trade deficit has always said, "You solve the domestic deficit, you solve the trade deficit."

What is the single thing that threatens the job security of the people I represent in my district, in the small towns, in the factories, in the shops? The thing that threatens them the most is our trade deficit and our domestic deficit. So the one thing that could, it seems to me, bring economic catastrophe to America, is something that we quietly abet and foster because we refuse to have our stop lights out there clearly, operated regularly, and abided by routinely.

Another aspect or our rules problems is our willingness to bring bills out with a closed rule. Since the 97th Congress, over the term of the 97th to the 100th Congress, the number of bills that came out with restricted rules doubled. Now, to the ordinary person out there, they say what does it matter, so you came out with a restrictive rule. I do want to say why it matters. What goes on in a legislative body, through the amending process, is the heart of democracy. Through the amending process we build consensus. When an amendment is added to a bill, people get a chance to see then, whether they all agree. Does New Mexico agree with Connecticut, that this is the kind of policy we ought to have? If we had had a better amending process, for example, on welfare reform, we would have more support for that program, because I can tell Members a lot of the people I represent, resent the fact that welfare women are not required to take part in either an education program or a training program, even have time, even with day care provided, until their youngest child is 3. Yet many of the folks I represent do not have the choice as to whether they stay home with their kids or work part-time when their youngest child is 1 or 2. And yet their taxes are supporting a system that they themselves have no access to in the sense that they cannot make the same choices for themselves and their lives.

□ 2150

Mr. Speaker, I wanted to argue that very issue on the floor. I did not want to throw welfare women into work with no care for their children. I did not want to force welfare women to

work full time with no care for their children. But I did want to require that we begin thinking about education, they complete their high school certificate. They think about training, they work half-time with day care supplements, so that they have day care, half-time work, yes, when their youngest child was one. And I wanted the body to make that value judgment so that that legislation would represent the values of the Nation.

So, closed rule threaten our ability in this democracy to develop legislation that has the values consensus behind it that good law requires. Closed rules is not an esoteric issue. It is a real gut issue. It is the reality of whether the legislation is going to be supported by all the people or not supported by all the people.

Lastly, Mr. Speaker, on that same note I want to point out another desperate area, an area of desperate need for reform, and that is our budget process itself.

Mr. EDWARDS of Oklahoma. Mr. Speaker, we have got about 3 minutes left, and I want to give the gentleman from Michigan [Mr. UPTON] a chance also to speak.

Mrs. JOHNSON of Connecticut. Mr. Speaker, at some other time I hope we will be able to talk about the difference between current spending and outlays because no one out there in the real world budgets the way we do, and that is part of the accountability issue that the preceding speaker was addressing.

Mr. Speaker, I thank the gentleman from Oklahoma [Mr. EDWARDS] for yielding me this time.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the gentlewoman from Connecticut [Mrs. JOHNSON], and, as she knows, we are getting ready soon to start a whole series of these special orders to continue to dramatize as well as we can these points. The gentlewoman from Connecticut [Mrs. JOHNSON] will have an opportunity to make that point very well.

Let me, if I may, to close this special order yield to the gentleman from Michigan [Mr. UPTON] who has been a real leader, not only in putting these presentations together, but in the whole issue of congressional reform.

Mr. UPTON. Mr. Speaker, I thank my good colleague, the gentleman from Oklahoma [Mr. EDWARDS], my friend.

Mr. Speaker, it has been a delight and a pleasure to serve under the gentleman from Oklahoma [Mr. EDWARDS] as a member of our task force along with the gentlewoman from Connecticut [Mrs. JOHNSON], my good colleague. I know that we are going to have the opportunity on many a night beginning after Labor Day, and I can assure my colleagues that the gentlewoman from Connecticut [Mrs. JOHNSON] is going to be one of the ones we will ask to come back many times during the next couple of months.

However, Mr. Speaker, as my colleagues know, we have a new Speaker, and the winds of change are blowing a little bit differently than perhaps they did a few months ago. We hope the goal of our congressional task force will be to push those winds of change to actually see some changes in the rules of the House to make the rights of the minority a little more well known, I guess is what could be said, and we are going to take special orders almost every Wednesday night when we return back from after Labor Day to talk about a number of different things. I just want to cover some of the topics we are going to look at.

Mr. Speaker, Congress ought to pass a law is going to be one. As my colleagues know, too many popular bills remain bottled up in committee despite strong support. Examples include the line item veto, constitutional amendment to balance the budget. An overwhelming majority of Congress supports these ideas.

In fact, Mr. Speaker, I can even remember in the recent presidential campaign that even Mike Dukakis came out in favor of the line item veto.

The balanced budget amendment, the constitutional amendment to balance the budget; today it has, I think, about 240 cosponsors, yet I do not think we are going to see a vote on it on the floor of the House because it is bottled up, and we are not going to get it out of the Judiciary Committee. Well, that is wrong.

Earlier we heard little comments about Budget Act waivers. Well, just about every bill we bring up on the House floor today waives either the Budget Act, or points of order, or something of that nature, and I know that when I come to the House floor and I vote on a rule, just about every single time it is always a waiver of one kind or another, including today when we voted on the S&L conference report. Again it waived all points of order. Well, that is wrong, and I cast many votes against rules because they waived the rules of the House, and I think that is wrong.

We talked a little bit earlier about the continuing resolution and the road to the CR. What are we voting on when we compromise all these appropriation bills?

Mr. Speaker, I can remember one of my early votes on a continuing resolution back in 1987. I was standing right about here where I am tonight. It was about one in the morning, as I recall, and they brought out three copies of a 600-page document, $600 billion—$660 billion. One copy was for the Republicans, one for the Democrats, and the Speaker had the other copy. No one had a chance to look at what was in that massive document that evening, and yet we voted on it. We did have a vote.

However, Mr. Speaker, I can guarantee my colleagues that no one still today has read every one of those pages, and, in fact, that morning; I think we got about two in the morning, and I caught an early plane back, and I gave a speech at noon to my own St. Joe Kiwanis Club; I think it was that day, and I brought them back and showed them what we voted on. I happened to thumb through it on the plane, going back, and I remember seeing an article in there: "Army Personnel, $16 million." Thank goodness someone had found a pen, and they literally put off in the margin another three zeroes. That is right. It was supposed to be $16 billion, and it was only $16 million. Thank goodness some wise clerk happened to catch that mistake before we had the actual vote because otherwise the Army would not have been able to be paid that next Friday, and that would have been wrong. Talk about a committee without rules.

We talked a little bit about that a little bit earlier, too. In the 95th Congress of the 241 order of business resolutions or rules reported from the Rules Committee, 88 percent were open, 20 and 12 percent were restricted. Yet today in the 100th Congress it has almost been reversed. Fifty-seven percent were open while 43 percent were restrictive. We say, "Let's play hide the ball."

No, Mr. Speaker, we are not talking about the Chicago Cubs this evening. We are talking about tax appropriations and authorizing legislation which are filled with line item benefits for particular persons, companies, communities or special interests, sweetheart deals worked between committeee members and special interests. No one knows where they came from, whether it is the Committee on Ways and Means or my own committee. Nobody knows. It is hide the ball.

Mr. Speaker, we are going to talk about a number of things in the next couple of months. We are going to talk about commemorative inactivity. Just yesterday I was asked to cosponsor a bill for August. It was a good cause. But I said, "It's already August," and they said, "The Senate already passed it. We have to start working on it. Can you lend me cosponsorship?"

Mr. Speaker, that is wrong. Who is minding the store? With rare exception Congress exercises very little comprehensive and systemic oversight of investigations in the programs that it creates and oversees.

Today was the S&L bill. Where was Congress the past couple of years? Could we have done something? Absolutely. And yet it was a failure of the oversight committee to watch over that bill, and it is going to end up costing the taxpayers hundreds and per-

haps billions of dollars because of our inactivity.

The HUD crisis, the problem we are having, the scandal over the last couple of years; again I think Congress missed out in oversight ability. Certainly in hindsight we can cite that, but we are not doing the job we should, and I know the hour is closing.

Mr. Speaker, let me jut say that this is an activity that the gentleman from Oklahoma [Mr. EDWARDS] is going to continue hopefully in the next couple of weeks when we return after Labor Day. We will be able to discuss each and every issue a little more succinctly and get the public's support.

Mr. EDWARDS of Califonia. Mr. Speaker, I thank the gentleman from Michigan [Mr. UPTON] for his good work, and let me just conclude by saying, as I started, Mr. Speaker. The Congress of the United States has great plans for reform. We are going to reform the Pentagon. We are going to reform the space agency. We are going to reform the banks. We are going to reform everything. Maybe we ought to start with what needs the reform the most, and that is right here in the Congress.

GENERAL LEAVE

Mr. EDWARDS of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DOUGLAS) to revise and extend their remarks and include extraneous material:)

Mr. BEREUTER, for 5 minutes, today.

Mr. SMITH of New Hampshire, for 5 minutes, today.

Mr. DOUGLAS, for 5 minutes, today.

Mr. DORNAN of California, for 5 minutes, today.

Mr. DREIER of California, for 60 minutes, today.

Mr. HORTON, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today.

(The following Members (at the request of Mr. HOAGLAND) and to include extraneous matter:)

Mr. BONIOR, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

Mr. VISCLOSKY, for 5 minutes, today.

Mr. STARK, for 5 minutes, August 3 and 4.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. HOCHBRUECKNER, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, on August 3 and 4.

Mr. PANETTA, for 5 minutes, today.

Mr. HOAGLAND, for 5 minutes, on August 4.

Mr. BUSTAMANTE, for 5 minutes, on August 4.

Mr. LIPINSKI, for 60 minutes, on August 4.

(The following Member (at the request of Mr. EDWARDS of Oklahoma) to revise and extend his remarks and include extraneous material:)

Mr. DREIER of California, for 60 minutes, on August 4.

(The following Members (at the request of Mr. UPTON) to revise and extend their remarks and include extraneous material:)

Mr. PICKLE, for 60 minutes, on August 4.

Mr. FLIPPO, for 5 minutes, August 4.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DOUGLAS) and to include extraneous matter:)

Mr. SCHUETTE.
Mr. TAUKE.
Mr. GILMAN in four instances.
Mr. GREEN.
Mr. SMITH of New Hampshire.
Mrs. MORELLA in two instances.
Mr. BUNNING.
Mr. LIGHTFOOT in two instances.
Mr. DANNEMEYER.
Mr. STANGELAND.
Ms. SNOWE.
Mrs. ROUKEMA.
Mr. BROWN of Colorado.
Mr. SHUSTER.
Mr. BURTON of Indiana.
Mr. LEACH of Iowa.
Mr. DOUGLAS in three instances.
Mr. EMERSON.

(The following Members (at the request of Mr. HOAGLAND) and to include extraneous matter:)

Mrs. LLOYD in five instances.
Mr. HAMILTON in 10 instances.
Mr. DE LA GARZA in 10 instances.
Mr. SIKORSKI.
Mr. BARNARD.
Mr. HOYER.
Mr. MATSUI.
Mrs. SCHROEDER.
Mr. BATES.
Mr. JACOBS.
Mr. SKELTON.
Mr. YATRON in two instances.
Mr. LANTOS in two instances.
Mr. SAWYER.
Mr. JENKINS.
Mr. ROSTENKOWSKI.
Mr. RANGEL.
Mr. DORGAN of North Dakota in two instances.
Mr. KANJORSKI.
Mr. HUBBARD in two instances.
Mr. MCMILLEN of Maryland.
Mr. TRAFICANT in three instances.
Mr. MANTON.
Mr. THOMAS A. LUKEN.
Mr. EVANS.
Mr. STARK in five instances.
Mr. WAXMAN.
Mr. FEIGHAN in two instances.
Mr. FUSTER.
Mr. OLIN.
Mr. SLATTERY.
Mr. SOLARZ.
Ms. OAKAR.
Mr. WOLPE.
Mr. MINETA in two instances.
Mr. CARR.
Mr. ATKINS.
Mr. FAUNTROY.
Mr. CLAY.
Mr. STARK.
Mrs. BYRON.
Mr. MURTHA.
Mr. GUARINI.
Mr. FORD of Michigan.
Mr. SMITH of Florida.
Mr. DINGELL in two instances.
Mr. CARDIN.
Mr. GARCIA.
Mr. KLECKZA.
Mr. DURBIN.
Mr. BONIOR.
Ms. LONG.
Mr. FLORIO.
Mr. LIPINSKI.
Mr. TOWNS.
Mr. ALEXANDER in two instances.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2705. An act relating to the method by which Government contributions to the Federal employees health benefits program shall be computed for 1990 or 1991 if not Governmentwide indemnity benefit plan participation in that year.

ADJOURNMENT

Mr. UPTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock p.m.), under its previous order, the House adjourned until tomorrow, Friday, August 4, 1989, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1540. A letter from the Director of Administration and Management, Office of the

Secretary of Defense, transmitting the Navy's determination and findings indicating the necessity to exclude the clause from a proposed contract with the Directeur des Constructions et Armes Navales [DCAN], Toulon, France, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

1541. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend title V of the Housing Act of 1949 to prohibit equity skimming on rural housing loans made by the Farmers Home Administration; to the Committee on Banking, Finance and Urban Affairs.

1542. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Jonathan Moore, of Massachusetts, as the Alternate Representative-designate of the U.S.A. for Special Political Affairs in the United Nations, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1543. A communication from the President of the United States, transmitting the first biennial revision to the U.S. Arctic Research Plan, pursuant to 15 U.S.C. 4108(a); to the Committee on Science, Space, and Technology.

1544. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Security Act to improve the AFDC Quality Control Program; to the Committee on Ways and Means.

1545. A letter from the Secretary of Agriculture, transmitting the fourth quarterly country and commodity allocation table showing current programming plans for commodity assistance under title I/III of Public Law 480 for fiscal year 1989, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committees on Agriculture and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calender, as follows:

Mr. ANDERSON: Committee on Pubic Works and Transportation. H.R. 1668. A bill to authorize appropriations for certain ocean and coastal programs of the National Oceanic and Atmospheric Administration; with amendments (Rept. 101-119, Pt. 2). Ordered to be printed.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 1668. A bill to authorize appropriations for certain ocean and coastal programs of the National Oceanic and Atmospheric Administration; with amendments (Rept. 101-119, Pt. 3). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 971. A bill to require the Federal Communications Commission to prescribe rules to protect consumers from unfair practices in the provision of operator services, and for other purposes; with an amendment (Rept. 101-213). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHEAT: Committee on Rules. House Resolution 225. Resolution waiving certain points of order against consideration of H.R. 3072, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes (Rept. 101-214). Referred to the House Calendar.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 2427. A bill to authorize appropriations for certain atmospheric and satellite programs and functions of the National Oceanic and Atmospheric Administration, and for other purposes; with an amendment (Rept. 101-216). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 765. A bill to establish a commission to make recommendations to the President and Congress to assure a comprehensive national approach to effective, efficient, and expeditious environmental cleanup of contamination resulting from releases of hazardous substances at Department of Energy facilities; with amendments (Rept. 101-217, Pt. 1). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. BEILENSON: Permanent Select Committee on Intelligence. H.R. 2748. A bill to authorize appropriations for fiscal year 1990 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; with amendments; referred to the Committees on Armed Services, Foreign Affairs, and Post Office and Civil Service for a period ending not later than September 13, 1989, for consideration of such provisions of the bill as fall within the jurisdictions of those committees pursuant to clause 1 (c), (i), and (o), rule X (Rept. 101-215, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GILMAN (for himself, Mr. HORTON, Mr. LELAND, Mrs. MORELLA, and Mr. MYERS of Indiana):

H.R. 3097. A bill to increase the annual salaries of Federal executive personnel, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SANGMEISTER (for himself, Mrs. COLLINS, Mr. LIPINSKI, Mr. COSTELLO, Mr. POSHARD, Mr. ANNUNZIO, Mr. EVANS, Mr. STAGGERS, Mr. WILSON, Mr. SMITH of Texas, Mr. FROST, Mr. JOHNSTON of Florida, Mr. IRELAND, Mr. HUTTO, Mr. DURBIN, Mr. PENNY, Mr. BRYANT, and Mr. RANGEL):

H.R. 3098. A bill to amend title 23, United States Code, to impose a school enrollment requirement on the issuance of motor vehicle licenses and instructional permits, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ATKINS (for himself, Mrs. BOXER, Mr. BROWN of California, Mrs. COLLINS, Mr. DYMALLY, Mr. GARCIA, Mr. HOCHBRUECKNER, Mr. LEWIS of Georgia, Mrs. LOWEY of New York, Mr. MILLER of California, Mr. PANETTA, Mr. STUDDS, and Mr. WOLPE):

H.R. 3099. A bill to provide for the improved management of the Nation's water resources; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Public Works and Transportation.

By Mr. AUCOIN:

H.R. 3100. A bill to amend the Magnuson Fishery Conservation and Management Act to authorize use of proceeds of property seized and forfeited under fishery resources laws for costs of enforcing those laws; to the Committee on Merchant Marine and Fisheries.

By Mr. BROWN of Colorado:

H.R. 3101. A bill to ensure competitiveness in procedures for approving applications for housing assistance and to provide for refinancing of mortgages, loans, and advances of credit under the Lower Income Home Ownership Program of section 235 of the National Housing Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DANNEMEYER (for himself, Mr. BLILEY, Mr. BARTON of Texas, Mr. RITTER, Mr. FIELDS, Mr. CALLAHAN, Mr. NIELSON of Utah, Mr. SHUMWAY, Mr. BURTON of Indiana, Mr. LAGOMARSINO, and Mr. HOLLOWAY):

H.R. 3102. A bill to amend the Public Health Service Act to establish certain eligibility requirements in the program of grants to the States for counseling and testing with respect to acquired immune deficiency syndrome, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DAVIS (by request):

H.R. 3103. A bill to amend the Magnuson Fishery Conservation and Management Act, as amended, to authorize appropriations for fiscal years 1990, 1991, and 1992, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. DOUGLAS (for himself and Mr. SMITH of New Hampshire):

H.R. 3104. A bill to amend the Wild and Scenic Rivers Act to designate a segment of the Pemigewasset River in the State of New Hampshire for study as a National Wild and Scenic River; to the Committee on Interior and Insular Affairs.

By Mr. DOUGLAS (for himself, Mr. BOEHLERT, Mr. HOCHBRUECKNER, Mr. BUECHNER, Mr. CAMPBELL of California, Mr. PALLONE, Mr. SMITH of New Hampshire, Mr. UPTON, and Mr. WALSH):

H.R. 3105. A bill to encourage the development and use of recyclable consumer plastics, develop a national labeling system for plastic consumer products, and encourage other methods to reduce municipal solid waste; jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

By Mr. DURBIN (for himself, Mr. RITTER, Mr. SYNAR, Mr. ANDREWS, Mr. SHUMWAY, Mr. LAFALCE, Mr. MORRISON of Connecticut, Mrs. BOXER, Mr. BATES, Mr. THOMAS A. LUKEN, Mr. EVANS, Mr. MCDERMOTT, and Mrs. COLLINS):

H.R. 3106. A bill to require elementary and secondary schools participating in certain Federal assistance programs to prohibit the sale of tobacco products on school grounds and the use of tobacco products by students on school grounds in order to remain eligible to participate in such programs; to the Committee on Education and Labor.

By Mr. ECKART:

H.R. 3107. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to direct the Secretary of Transportation to establish Federal motor vehicle safety standards to require that a schoolbus be equipped with a stop signal arm and with a system of mirrors which provides the driver with a view of the area under the front of the schoolbus; to the Committee on Energy and Commerce.

H.R. 3108. A bill to control the release of toxic air pollutants, to reduce the threat of catastrophic chemical accidents, and for other purposes; to the Committee on Energy and Commerce.

H.R. 3109. A bill to amend the Highway Safety Act of 1987 to require the Secretary of Transportation to develop, and States receiving certain grants to conduct, schoolbus safety programs for schoolchildren and schoolbus drivers, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. FASCELL (for himself and Mr. NELSON of Florida):

H.R. 3110. A bill to authorize the issuance of drug war bonds and to require that the proceeds of those bonds be used to fund the Anti-Drug Abuse Act of 1988; to the Committee on Ways and Means.

By Mr. FLIPPO:

H.R. 3111. A bill to amend the Tariff Schedule of the United States to reclassify apparel consisting of fabric composed of man-made fiber and cotton blends; to the Committee on Ways and Means.

By Mr. HERGER:

H.R. 3112. A bill to expedite salvage and sanitation harvesting of timber stands located on National Forest System lands; jointly, to the Committees on Merchant Marine and Fisheries and Agriculture.

By Mr. HILER:

H.R. 3113. A bill to amend the Federal Election Campaign Act of 1971 to increase the limitation applicable to contributions by multicandidate political committees to national political party committees and other political committees; to the Committee on House Administration.

H.R. 3114. A bill to amend the Federal Election Campaign Act of 1971 to increase limitations applicable to individual resident contributions in congressional elections and to reduce limitations on contributions by multicandidate political committees to candidates; to the Committee on House Administration.

H.R. 3115. A bill to amend the Federal Election Campaign Act of 1971 to provide for an aggregate limitation on certain political contributions and coordinated expenditures with respect to House of Representatives election campaigns; to the Committee on House Administration.

H.R. 3116. A bill to amend the Federal Election Campaign Act of 1971 to eliminate a provision that permits certain Members of Congress to use excess campaign funds for personal purposes, and for other purposes; to the Committee on House Administration.

H.R. 3117. A bill to amend title 39, United States Code, to require public disclosure of the costs of congressional mass mailings, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. LEACH of Iowa (for himself and Mr. EVANS):

H.R. 3118. A bill to grant the consent of Congress to the Quad Cities Interstate Metropolitan Authority Compact entered into between the States of Illinois and Iowa; to the Committee on the Judiciary.

By Mr. McCOLLUM (for himself, Mr. FISH, Mr. MOORHEAD, Mr. GEKAS, Mr. DEWINE, Mr. SMITH of Mississippi, Mr. COBLE, Mr. SLAUGHTER of Virginia, Mr. DOUGLAS, and Mr. ROBINSON):

H.R. 3119. A bill to improve the criminal justice system and reduce crime; to the Committee on the Judiciary.

By Mr. MANTON (for himself and Mr. LENT):

H.R. 3120. A bill to establish permit requirements for overflows from combined storm water and sanitary sewer systems discharging into the estuarine zone and marine waters and to require the correction of such systems to minimize discharges into those waters, to mitigate the effects of pollution discharges into estuaries and oceans, and for other purposes; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

By Mr. PICKLE (for himself, Mr. ANDREWS, Mr. ARCHER, Mr. BRYANT, Mr. RICHARDSON, Mr. WATKINS, Mr. MCCURDY, Mr. SKEEN, Mr. STENHOLM, and Mr. BARTON of Texas):

H.R. 3121. A bill to amend the Internal Revenue Code of 1986 to provide incentives for the removal of crude oil and natural gas through enhanced oil recovery techniques so as to add as much as 10 billion barrels to the U.S. reserve base, to extend the production of certain stripper oil and gas wells, and for other purposes; to the Committee on Ways and Means.

By Mr. PRICE (for himself, Mr. WALGREN, Mr. ROE, Mr. BOEHLERT, Mr. ROGERS, Mr. SAWYER, Mr. ANDREWS, Mr. VALENTINE, Mr. BROWN of California, Mr. PERKINS, and Mr. COOPER):

H.R. 3122. A bill to establish certain programs at the National Science Foundation for the promotion of science and technological literacy; jointly, to the Committees on Science, Space, and Technology and Education and Labor.

By Mr. SAWYER (for Mr. HAWKINS (for himself, Mr. PAYNE of New Jersey, Mr. PRICE, Mr. PALLONE, Mr. HAYES of Illinois, Mr. GARCIA, Mr. COOPER, Mr. FORD of Michigan, Mr. FUSTER, Mr. MFUME, Mr. STOKES, Mr. HATCHER, Mr. POSHARD, Mr. JONTZ, Mr. CHAPMAN, and Mr. BOUCHER)):

H.R. 3123. A bill to enhance the literacy and basic skills of adults, to ensure that all adults in the United States have the basic skills required to function effectively and achieve the greatest possible opportunity in their work and in their everyday lives, and to strengthen and coordinate adult literacy programs; to the Committee on Education and Labor.

By Mr. SAXTON (for himself, Ms. SCHNEIDER, Mr. HUGHES, Mr. GOSS, Mr. PALLONE, Mrs. JOHNSON of Connecticut, Mr. CARPER, Mr. FOGLIETTA, Mr. COBLE, Mr. HUNTER, Mr. PAXON, Mrs. SAIKI, Mr. WOLPE, Mr. GALLO, Mr. GUNDERSON, Mr. COURTER, Mr. SMITH of New Jersey, Mr. LAGOMARSINO, Mr. DWYER of New Jersey, Mr. FAWELL, Mr. GINGRICH, Mr. GRANT, Mr. LIPINSKI, Mr. BARTON of Texas, Mr. NEAL of North Carolina, Mr. BOEHLERT, and Mr. RINALDO):

H.R. 3124. A bill to require the Secretary of the department in which the Coast Guard is operating to assess the status and effectiveness oil and hazardous materials discharge response planning and equipment, to revise the national contigency plan to establish more effective requirements for response teams and equipment, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

By Mr. SCHUMER:

H.R. 3125. A bill to amend the Fair Labor Standards Act of 1938 to increase the penalties for employers who violate such act, and for other purposes; to the Committee on Education and Labor.

By Ms. SLAUGHTER of New York:

H.R. 3126. A bill to authorize appropriations for grants to States to establish and operate child-care services clearinghouses, and to make grants to community-based nonprofit private child care providers to provide child care services; to the Committee on Education and Labor.

By Ms. SNOWE:

H.R. 3127. A bill to establish national goals for the reduction and recycling of municipal solid waste, to require the Administrator of the Environmental Protection Agency to promulgate regulations to attain those goals, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TORRICELLI:

H.R. 3128. A bill to modify certain L-1 visa requirements for certain Hong Kong employees of qualified United States companies; to the Committee on the Judiciary.

By Mr. TOWNS (for himself, Mrs. MORELLA, Mr. BEREUTER, Mr. BOEHLERT, Mr. BOUCHER, Mr. DE LUGO, Mr. DIXON, Mr. FAUNTROY, Mr. HAMMERSCHMIDT, Mr. HORTON, Mr. JOHNSON of South Dakota, Mr. KOLTER, Mr. LANCASTER, Mr. MONTGOMERY, Mr. MYERS of Indiana, Mr. OWENS of New York, Mr. PENNY, Mr. ROE, Mr. TALLON, Mr. WATKINS, and Mr. WOLF):

H.R. 3129. A bill to amend title 5, United States Code, to allow periods of certain service performed as an employee under certain Federal-State cooperative programs to be creditable for purposes of civil service retirement; to the Committee on Post Office and Civil Service.

By Mr. VALENTINE (for himself and Mr. PRICE):

H.R. 3130. A bill to suspend temporarily the duty on ranitidine hydrochloride; to the Committee on Ways and Means.

By Mr. WALGREN (for himself, Mr. ROE, Mr. MARKEY, Mr. BOEHLERT, Mr. BROWDER, Mr. BROWN of California, Mrs. COLLINS, Mr. MADIGAN, Ms. SCHNEIDER, and Mr. SKAGGS):

H.R. 3131. A bill to provide for a coordinated Federal research program to ensure continued U.S. leadership in high-performance computing; to the Committee on Science, Space, and Technology.

By Mr. WEBER (for himself, Mr. GUNDERSON, Mr. JOHNSON of South Dakota, Mr. ROBERTS, Mr. LAGOMARSINO, Mr. DONALD E. LUKENS, Mr. PENNY, Mr. OBERSTAR, and Mr. STANGELAND):

H.R. 3132. A bill to amend the Food Security Act of 1985 to require the Secretary of Agriculture to use multiyear set asides to establish wildlife habitats and feeding areas; to the Committee on Agriculture.

By Mr. ESPY (for himself, Mr. ACKERMAN, Mr. AKAKA, Mr. AUCOIN, Mr. BATEMAN, Mr. BEVILL, Mr. BILBRAY, Mr. BLILEY, Mrs. BOXER, Mr. BROWDER, Mr. BUSTAMANTE, Mr. CHAPMAN, Mrs. COLLINS, Mr. COSTELLO, Mr. COURTER, Mr. DE LA GARZA, Mr. DICKINSON, Mr. DICKS, Mr. DORNAN of California, Mr. DYSON,

Mr. ENGLISH, Mr. FAUNTROY, Mr. FROST, Mr. FUSTER, Mr. GALLEGLY, Mr. GEJDENSON, Mr. GORDON, Mr. HANCOCK, Mr. HARRIS, Mr. HATCHER, Mr. HAWKINS, Mr. HAYES of Louisiana, Mr. HEFNER, Mr. HOCHBRUECKNER, Mr. HOLLOWAY, Mr. HORTON, Mr. HUTTO, Ms. KAPTUR, Mr. KOLTER, Mr. LANCASTER, Mr. LANTOS, Mr. LELAND, Mr. MCDADE, Mr. MCEWEN, Mr. MANTON, Mr. MARTIN of New York, Mr. MONTGOMERY, Mr. MRAZEK, Mr. PANETTA, Mr. PARKER, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. RAHALL, Mr. RANGEL, Mr. RICHARDSON, Mr. RITTER, Mr. ROE, Mr. ROWLAND of Connecticut, Mr. ROYBAL, Mr. SARPALIUS, Mr. SAWYER, Mr. SCHAEFER, Mr. SHAW, Mr. SMITH of Mississippi, Mr. SPENCE, Mr. TOWNS, Mrs. UNSOELD, Mr. VENTO, Mr. VOLKMER, Mr. WALGREN, Mr. WALSH, Mr. WHEAT, Mr. WHITTEN, Mr. WILSON, and Mr. WOLF):

H.J. Res. 385. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 20, 1989, as "National Military Families Recognition Day"; to the Committee on Post Office and Civil Service.

By Mr. FISH:

H.J. Res. 386. Joint resolution to designate September 29, 1989, as "National Siblings of Disabled Persons Day"; to the Committee on Post Office and Civil Service.

By Mr. MADIGAN:

H.J. Res. 387. Joint resolution to recognize the 150th anniversary of Logan County; to the Committee on Post Office and Civil Service.

By Mr. SMITH of Vermont:

H.J. Res. 388. Joint resolution to designate the period commencing on October 9, 1989, and ending on October 15, 1989, as "National Morgan Horse Week"; to the Committee on Post Office and Civil Service.

By Mr. WELDON (for himsef, Mr. APPLEGATE, Mr. BEVILL, Mrs. BOXER, Mr. BROOKS, Mrs. COLLINS, Mr. COSTELLO, Mr. CLARKE, Mr. DWYER of New Jersey, Mr. ENGLISH, Mr. FAZIO, Mr. FUSTER, Mr. GEJDENSON, Mr. HATCHER, Mr. HENRY, Mr. HORTON, Ms. KAPTUR, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Mr. LEHMAN of California, Mr. THOMAS A. LUKEN, Mr. MCDADE, Mr. MCNULTY, Mr. MCGRATH, Mr. PALLONE, Mr. PAXON, Mr. POSHARD, Mr. QUILLEN, Mr. ROE, Mrs. SAIKI, Mr. SAXTON, Mr. SISISKY, Mr. SMITH of Florida, Mr. SPRATT, Mr. TOWNS, Mr. WALSH, Mr. WHEAT, Mr. WOLF, Mr. BUNNING, and Mr. KOLBE):

H.J. Res. 389. Joint resolution designating October 14, 1989, as "National Firefighters Day"; to the Committee on Post Office and Civil Service.

By Mr. LEWIS of Florida (for himself and Mr. IRELAND):

H. Con. Res. 186. Concurrent resolution expressing the sense of the Congress regarding the use by U.S. trading partners of certain nontariff trade barriers that wrongfully inhibit access of American products to foreign markets; to the Committee on Ways and Means.

By Mr. MICHEL:

H. Res. 224. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

By Mr. HILER:

H. Res. 226. Resolution prohibiting use of the official expenses allowance of Members of the House of Representatives for purchase of mailing lists; to the Committee on House Administration.

H. Res. 227. Resolution amending the Rules of the House of Representatives to reduce mass mailing under the frank; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

226. By the SPEAKER: Memorial of the Legislature of the State of Oregon, relative to the Highway Trust Fund; to the Committee on Public Works and Transportation.

227. Also, memorial of the Legislature of the State of Oregon, relative to their opposition to the Use of Federal fuels taxes to reduce the Federal deficit; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DICKS:

H.R. 3133. A bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *Jamal*; to the Committee on Merchant Marine and Fisheries.

By Mr. FISH:

H.R. 3134. A bill for the relief of Mrs. Joan R. Daronco; to the Committee on the Judiciary.

By Mr. INHOFE:

H.R. 3135. A bill for the relief of Mohammud Jafer Damavandi and Afsanef Naghavi; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 54: Mr. EDWARDS of Oklahoma.

H.R. 82: Mr. KASTENMEIER, Mr. STANGELAND, Mr. FRENZEL, Mr. HAYES of Louisiana, Mr. RAVENEL, Mr. PERKINS, Mr. BEREUTER, Mr. CLARKE, MR. COOPER, Mr. BATES, Mr. BRUCE, Mr. BORSKI, Mr. SHARP, and Mr. FLORI.

H.R. 92: Mr. TRAFICANT, Mr. DYMALLY, Mr. HAYES of Illinois, Mr. HORTON, Mr. FUSTER, and Mr. POSHARD.

H.R. 93: Mr. RAVENEL and Mr. SMITH of Mississippi.

H.R. 94: Mr. RIDGE, Mr. PAYNE of New Jersey, Mr. BROWN of California, Mr. JONTZ, Mrs. LOWEY of New York, and Mr. FUSTER.

H.R. 160: Ms. LONG and Mr. FROST.

H.R. 303: Mr. JONES of Georgia.

H.R. 496: Mr. SOLARZ.

H.R. 500: Mr. CROCKETT.

H.R. 567: Mr. RUSSO and Mr. MCGRATH.

H.R. 665: Mr. SHUMWAY.

H.R. 683: Mr. ACKERMAN, Mr. BILBRAY, Mr. GILMAN, Mr. GLICKMAN, Mr. HOLLOWAY, Mr. HORTON, Mr. MILLER of Washington, Mr. PEASE, and Mr. SMITH of Vermont.

H.R. 711: Mr. MCHUGH, Mr. RANGEL, Mr. HOCHBRUECKNER, and Mr. BOEHLERT.

H.R. 746: Mr. BENNETT, Mr. GREEN, Mr. GRANDY, Mr. SKEEN, Mr. PALLONE, Mr. FIELDS, Mr. COLEMAN of Texas, Mr. CONTE, Mr. SOLOMON, Mr. PURSELL, Mr. REGULA, Mr. COUGHLIN, Mr. DREIER of California, and Mr. GRADISON.

H.R. 830: Mr. FRANK, Mr. MYERS of Indiana, Mr. DICKS, and Mrs. BYRON.

H.R. 904: Mr. INHOFE, Mr. JOHNSTON of Florida, and Mr. CHAPMAN.

H.R. 933: Mr. DYSON, Mr. RIDGE, Mr. SHAW, Mr. ARMEY, Mr. OWENS of Utah, Mr. HUGHES, and Mr. RITTER.

H.R. 1025: Mr. CLEMENT.

H.R. 1187: Mr. MCDERMOTT and Mr. WOLPE.

H.R. 1193: Mr. SLATTERY.

H.R. 1216: Mr. MCDADE, Mr. ACKERMAN, Mr. MFUME, Mr. CLAY, Mr. LANTOS, and Mr. LEHMAN of Florida.

H.R. 1293: Mr. AUCOIN and Mr. DENNY SMITH.

H.R. 1335: Mr. BOSCO.

H.R. 1371: Mr. TANNER, Mr. HAYES of Louisiana, Mr. PARKER, and Mr. SARPALIUS.

H.R. 1400: Mr. APPLEGATE, Mr. LIVINGSTON, Mr. SYNAR, Mr. MCEWEN, Mr. PASHAYAN, Mr. SMITH of New Hampshire, Mr. MACHTLEY, Mr. FISH, Mr. SHUSTER, Mr. SKAGGS, Mr. FOGLIETTA, Mr. SCHIFF, Mr. HOLLOWAY, Mr. ERDREICH, Mr. RICHARDSON, Mr. HOYER, and Mr. GEJDENSON.

H.R. 1491: Mr. LAUGHLIN and Mr. SHAW.

H.R. 1500: Mr. BATES, Mr. LIPINSKI, Ms. SCHNEIDER, Mr. JONTZ, Mr. CLAY, Mr. KILDEE, Mr. MCDERMOTT, Mr. LEHMAN of California, Mr. PALLONE, Mrs. BOXER, Ms. PELOSI, Mr. STUDDS, Mr. LEVINE of California, Mr. BEILENSON, Mr. FALEOMAVAEGA, Mr. CLARKE, Mr. FORD of Michigan, Mr. RANGEL, Mr. FOGLIETTA, Mr. COYNE, and Mr. SKAGGS.

H.R. 1507: Mr. MANTON.

H.R. 1515: Mr. KYL and Mr. CRANE.

H.R. 1553: Mr. WYDEN, Mr. JONES of Georgia, Mr. MILLER of California, Mr. PERKINS, Mr. PANETTA, Mr. FLIPPO, Mr. GRAY, Mr. HEFNER, Mr. ASPIN, Mr. FAZIO, Mr. OBEY, Mr. GAYDOS, Mr. SLATTERY, Mrs. KENNELLY, Mr. GEJDENSON, Mr. NIELSON of Utah, Mrs. SCHROEDER, Mr. RAHALL, Mr. HAYES of Louisiana, Mr. TAUZIN, Mr. MOODY, Mr. CARDIN, Mr. DUNCAN, Mr. POSHARD, Mr. SMITH of Florida, Mr. SMITH of Mississippi, Mr. RAVENEL, Mr. PENNY, Mr. RUSSO, Mr. SCHUMER, Mr. DURBIN, Mr. BENNETT, Ms. PELOSI, Mrs. BOXER, Mr. SPRATT, Mr. HUGHES, Mr. NEAL of Massachusetts, Mr. PAYNE of New Jersey, Mr. ENGEL, Mr. DARDEN, Mr. LEHMAN of California, Mr. SISISKY, Mr. ROSE, Mr. MOLLOHAN, Mr. FASCELL, Mr. ALEXANDER, Mr. MATSUI, Mr. KANJORSKI, Mr. COLEMAN of Texas, Mr. HOCHBRUECKNER, Mr. SYNAR, Mr. SAWYER, Mr. BRENNAN, Mr. LEVIN of Michigan, Mr. DINGELL, Mr. HARRIS, Mr. SABO, Mr. DYMALLY, Mr. HERTEL, Mr. GUARINI, Mrs. MORELLA, Mr. BAKER, Mr. BILIRAKIS, Mr. BUNNING, Mr. DANNEMEYER, Mrs. MEYERS of Kansas, Mr. HANSEN, Mr. BROWN of Colorado, Mr. GINGRICH, Mr. SHAW, Mr. WELDON, Mr. UPTON, Mr. DEWINE, Mr. MCEWEN, Mr. DELAY, Mr. LIVINGSTON, Mr. MYERS of Indiana, Mr. SCHAEFER, Mr. PEASE, Mr. BARTLETT, Mr. HASTERT, Mr. EDWARDS of Oklahoma, Mr. HAMMERSCHMIDT, Mr. HOPKINS, Mr. SPENCE, Mr. LEWIS of California, Mr. ROWLAND of Georgia, Mr. BURTON of Indiana, Mr. THOMAS of Wyoming, Mr. PARRIS, Mr. MARTIN of New York, Mr. BATEMAN, Mr. DOUGLAS, Mr. SMITH of New Hampshire, Mr. YOUNG of Florida, Mr. GOSS, Mr. WILSON, Mr. BERMAN, Mr. BEVILL, Mr. GRANDY, Mr. ARMEY, Mr. HEFLEY, Mr. MOORHEAD, Mrs. MARTIN of Illinois, Mr. DENNY SMITH, Mr. MCGRATH, Mr. MCMILLAN of North Carolina, Mr. ROHRABACHER, Mr. WATKINS, Mr. CRANE, Mr. MCCANDLESS, Mrs. BENTLEY, Mr. GALLO, Mr. HORTON, Mr. LOWERY of California, Mr. PACKARD, Mr. HALL of Texas, Mr. GALLEGLY, Mr. GUNDERSON, Mr. WEBER, Mr. BUECHNER, Mr. ROBINSON, Ms. KAPTUR, Mr.

DE LUGO, Mr. AKAKA, Mr. BUSTAMANTE, Mr. UDALL, Mrs. UNSOELD, Mr. FORD of Tennessee, Mr. TOWNS, Mr. OWENS of New York, Mr. FROST, Mr. ORTIZ, Mr. ROYBAL, Mr. LANCASTER, Mr. ESPY, Mr. LANTOS, and Mr. BILBRAY.

H.R. 1649: Mrs. SAIKI, Mr. PALLONE, and Mr. WATKINS.

H.R. 1675: Mr. BEREUTER, Mr. BROWN of Colorado, Mr. INHOFE, and Mr. DENNY SMITH.

H.R. 1720: Mr. FROST and Mrs. MORELLA.

H.R. 1918: Mr. ROBINSON, Mr. JONES of North Carolina, Mrs. LLOYD, Ms. PELOSI, Mr. CHAPMAN, Mr. SMITH of Florida, Mr. LANTOS, Mr. VANDER JAGT, Mr. EVANS, Mr. EDWARDS of Oklahoma, Mr. HALL of Texas, Mr. DORNAN of California, Mr. CLINGER, and Mr. SWIFT.

H.R. 2051: Mr. WISE.

H.R. 2096: Mrs. LOWEY of New York, Mr. GILMAN, and Mr. BRYANT.

H.R. 2098: Ms. SLAUGHTER of New York, Mr. HAMMERSCHMIDT, Mr. SPRATT, and Mr. SOLARZ.

H.R. 2121: Mr. NIELSON of Utah, Mr. HOCHBRUECKNER, Mr. SANGMEISTER, and Mr. JACOBS.

H.R. 2273: Mr. BEVILL, Mrs. LOWEY of New York, Mr. GIBBONS, Mr. WYDEN, Mr. NEAL of North Carolina, Mr. SHARP, Mr. CAMPBELL of Colorado, Mr. HOAGLAND, Mr. ANDREWS, Mr. ANNUNZIO, Mr. ASPIN, Mr. MURPHY, Mr. GLICKMAN, Mr. PERKINS, Mr. SKELTON, Mr. WEBER, Mrs. JOHNSON of Connecticut, Mr. ROWLAND of Georgia, Mr. PRICE, Mr. GUNDERSON, Mr. STAGGERS, and Mr. PORTER.

H.R. 2319: Mr. HOPKINS, Mr. HUBBARD, Mr. HAMMERSCHMIDT, Mr. LANTOS, Mr. RITTER, Mr. WAXMAN, and Mr. PARRIS.

H.R. 2323: Mr. WILSON, Ms. SLAUGHTER of New York, Mr. AUCOIN, Mr. RINALDO, Mr. UDALL, Mr. DOUGLAS, Mr. SMITH of New Hampshire, Mr. MILLER of Washington, Mr. MOODY, and Mr. GIBBONS.

H.R. 2372: Ms. KAPTUR, Mr. WALSH, Mr. ROBINSON, Mr. FAZIO, Mr. FOGLIETTA, Mr. FROST, and Mr. FAUNTROY.

H.R. 2453: Mr. DURBIN, Mr. CAMPBELL of Colorado, Ms. PELOSI, Mr. ROBINSON, Mr. MANTON, Mr. PICKETT, Mr. FUSTER, Mr. BENNETT, Mr. RINALDO, Mr. WALSH, Mrs. BOXER, Mr. SCHEUER, Mr. HOCHBRUECKNER, Mr. OWENS of New York, Mr. HERGER, Mr. MCEWEN, Mr. HERTEL, Mr. LIPINSKI, Mr. MORRISON of Connecticut, Mr. EDWARDS of Oklahoma, Mr. MILLER of Washington, and Mr. FOGLIETTA.

H.R. 2504: Mr. ASPIN.

H.R. 2529: Mr. CHAPMAN, Mr. ANDREWS, Mr. FAWELL, Mr. LANCASTER, Mr. BLAZ, Mr. BOEHLERT, Mr. FEIGHAN, and Mr. WISE.

H.R. 2561: Mr. HOLLOWAY.

H.R. 2564: Mr. ARCHER.

H.R. 2598: Mrs. BENTLEY, Mr. WOLPE, Mrs. MARTIN of Illinois, Mr. CLINGER, Mr. WALKER, Mr. BURTON of Indiana, Mr. DOUGLAS, and Mr. IRELAND.

H.R. 2609: Mr. ROWLAND of Connecticut, Mr. BONIOR, and Mr. LEWIS of California.

H.R. 2642: Mr. QUILLEN.

H.R. 2649: Mr. BATES, Mr. MCDERMOTT, Mr. DYMALLY, and Ms. KAPTUR.

H.R. 2654: Mr. EDWARDS of Oklahoma.

H.R. 2665: Mr. DINGELL, Mr. POSHARD, Ms. KAPTUR, Mrs. BOXER, Mr. UDALL, Mrs. UNSOELD, Mr. WOLPE, Mr. FRANK, Mr. FUSTER, Mr. AUCOIN, Mr. TRAXLER, Mr. RAHALL, Mr. BONIOR, Mr. PAYNE of New Jersey, and Mr. GEJDENSON.

H.R. 2677: Mr. TOWNS, Mr. CLINGER, Mr. MACHTLEY, and Mr. SWIFT.

H.R. 2695: Mr. FOGLIETTA, Mr. JONTZ, and Mr. SMITH of Florida.

H.R. 2699: Mr. CARPER and Mr. DYSON.

H.R. 2708: Mr. BATES.

H.R. 2715: Mr. MOLLOHAN, Mr. EVANS, Ms. SNOWE, Mr. CHANDLER, Mr. BORSKI, Mr. STAGGERS, Mr. PARKER, Mr. ACKERMAN, Mr. LIPINSKI, Mr. FOGLIETTA, Mr. BEREUTER and Mr. HERTEL.

H.R. 2726: Mr. PALLONE, Mr. OWENS of New York, Mr. BRUCE, Mr. LEVINE of California, Mr. COX, and Mr. THOMAS A. LUKEN.

H.R. 2781: Mr. LAGOMARSINO, Mr. HORTON, and Mr. ECKART.

H.R. 2795: Mr. EVANS.

H.R. 2796: Mr. ENGLISH.

H.R. 2812: Mr. DWYER of New Jersey, Mr. GILMAN, Mr. DONNELLY, and Mr. LANCASTER.

H.R. 2853: Mr. GARCIA.

H.R. 2887: Mr. FIELDS.

H.R. 2902: Mrs. MORELLA, Mr. STUMP, Mr. GALLO, Mrs. MARTIN of Illinois, Mr. FROST, Mr. DWYER of New Jersey, Mr. WALSH, Ms. KAPTUR, Mr. SHUMWAY, Mr. WHITTAKER, Mr. SKELTON, Mr. SMITH of New Jersey, Mr. BATEMAN, Mr. COURTER, Mr. KOLTER, Mr. HUGHES, Mr. LAGOMARSINO, Mr. LANCASTER, and Mr. DORNAN of California.

H.R. 2958: Mr. HOCHBRUECKNER, Mr. BROWN of California, Mr. DEFAZIO, Mr. GARCIA, Mrs. COLLINS, Mr. BOSCO, Mr. GEJDENSON, and Mr. DICKS.

H.R. 2997: Mr. BUSTAMANTE.

H.R. 3004: Mr. DWYER of New Jersey, Mr. PERKINS, Mr. DORNAN of California, and Mr. EDWARDS of California.

H.R. 3017: Mr. PEASE, Mrs. MARTIN of Illinois, Mr. DANNEMEYER, Mr. LEATH of Texas, Mr. WALSH, Mr. SYNAR, Mr. BRUCE, and Mr. CAMPBELL of Colorado.

H.R. 3045: Mr. FRANK, Mr. MOAKLEY, Mr. CHANDLER, and Mr. CLEMENT.

H.R. 3064: Mr. SMITH of New Hampshire and Mr. DELAY.

H.R. 3092: Mr. HALL of Texas and Mr. DELAY.

H.J. Res. 35: Mr. HATCHER.

H.J. Res. 82: Mr. LAFALCE.

H.J. Res. 147: Mr. BROWN of Colorado.

H.J. Res. 164: Mrs. BOGGS, Mr. STUDDS, Mr. LEWIS of Florida, Mr. COLEMAN of Texas, and Mr. ANDREWS.

H.J. Res. 194: Mr. GILLMOR.

H.J. Res. 204: Mr. ANDERSON, Mr. BARNARD, Mr. BATES, Mr. BEILENSON, Mr. BERMAN, Mr. BOSCO, Mrs. BOXER, Mr. CAMPBELL of Colorado, Mr. COOPER, Mr. DELLUMS, Mr. DIXON, Mr. EDWARDS of California, Mr. FLORIO, Mr. HAWKINS, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LEHMAN of California, Mr. LEVINE of California, Mr. LEWIS of California, Mr. MARTINEZ, Mr. MILLER of California, Mr. PAYNE of Virginia, Ms. PELOSI, Mr. RICHARDSON, Mr. ROWLAND of Connecticut, Mr. ROYBAL, Mr. STARK, Mr. TORRES, Mr. TRAXLER, Mr. UDALL, Mr. WAXMAN, Mr. ANTHONY, Mr. CONTE, Mr. DELAY, Mr. GARCIA, Mr. GEJDENSON, Mr. IRELAND, Mr. THOMAS A. LUKEN, Mr. MADIGAN, Mr. MCCRERY, Mr. MCDADE, Mr. MCEWEN, Mr. MILLER of Ohio, Mr. MOLINARI, Mr. PASHAYAN, Mr. PAXON, Mrs. SAIKI, Mr. SHUSTER, Mr. SMITH of Vermont, Mr. SOLARZ, Mr. YOUNG of Florida, Mr. FISH, Mr. COURTER, and Mr. VANDER JAGT.

H.J. Res. 217: Mr. COLEMAN of Texas, Mr. CONTE, Mr. RITTER, Mr. SMITH of New Hampshire, Mr. BROWN of Colorado, Mr. MCMILLEN of Maryland, Mr. TAUKE, Mr. GEJDENSON, Mr. ROE, Mrs. LLOYD, Mrs. JOHNSON of Connecticut, Mr. BROWDER, Mr. SHARP, Mr. GONZALEZ, Mr. NOWAK, Mr. SISISKY, Mr. ROYBAL, Mr. DELLUMS, Mr. SOLARZ, and Mr. WATKINS.

H.J. Res. 241: Mr. HUTTO, Mr. WOLF, Mr. SCHAEFER, Ms. OAKAR, Mr. HAMILTON, Mr. HALL of Texas, Mr. ASPIN, Mr. BARTLETT, Mr. FAWELL, Mr. BILIRAKIS, and Mr. LAFALCE.

H.J. Res. 256: Mr. JONES of North Carolina.

H.J. Res. 257: Mr. HORTON, Mr. DIXON, Mr. DELLUMS, Mr. BROOMFIELD, Mr. NELSON of Florida, Mr. BOEHLERT, Mr. APPLEGATE, Mr. AUCOIN, Mr. CALLAHAN, Mr. KOLBE, Mr. MCCLOSKEY, Mr. DURBIN, Mr. REGULA, Mr. BLAZ, Mr. BRUCE, Mr. OBERSTAR, Mr. WILLIAMS, Mr. NAGLE, Mr. BARNARD, Mr. TOWNS, Mr. HUCKABY, and Mr. KILDEE.

H.J. Res. 267: Mr. MCGRATH, Mr. LEWIS of California, Mr. RINALDO, Mr. NEAL of North Carolina Mr. ACKERMAN, Mr. AUCOIN, Mr. BRENNAN, Mr. PALLONE, Mr. PANETTA, Mrs. PATTERSON, Mr. HALL of Texas, Mr. DORNAN of California, Mr. COYNE, Mr. ERDREICH, Mr. HEFNER, Mr. ROYBAL, Mr. SABO, Mr. SAVAGE, Mr. FLORIO, Mr. ESPY, Mr. STUDDS, Mr. SMITH of Florida, Mr. SKELTON, Mr. HALL of Ohio, Mr. BORSKI, Mr. TAUZIN, Mr. VALENTINE, Mr. WILSON, Mr. ATKINS, Mr. CLARKE, Mr. CLEMENT, Mr. FAUNTROY, Mr. GEPHARDT, and Mr. MFUME.

H.J. Res. 275: Mr. HERGER, Mr. HALL of Ohio, Mr. POSHARD, Mr. ENGEL, Mr. JENKINS, Mr. VOLKMER, Mr. WYLIE, Mr. MCCLOSKEY, Mr. HATCHER, Mr. CHAPMAN, Mr. THOMAS of California, Mr. ENGLISH, Mr. HOCHBRUECKNER, Mr. DORNAN of California, Mr. SUNDQUIST, Mr. RAHALL, Mr. VANDER JAGT, Mr. MURTHA, Ms. RITTER, Mr. FALEOMAVAEGA, Mr. ESPY, Mr. HAMILTON, Mr. BILIRAKIS, Mr. FAWELL, Mr. YOUNG of Alaska, Mr. CLINGER, Mr. GILLMOR, Mr. JONTZ, Mr. CLEMENT, Mr. STALLINGS, Mr. KOSTMAYER, and Mr. FASCELL.

H.J. Res. 282: Mr. BILIRAKIS, Mr. WAXMAN, Mr. WYDEN, Mr. SABO, Mr. CROCKETT, and Mr. FROST.

H.J. Res. 350: Mr. COX and Mr. SHAW.

H. Con. Res. 91: Mr. EMERSON, Mr. WILSON, Mr. LELAND, Mr. HOLLOWAY, Mr. FAUNTROY, Mr. GALLEGLY, Mrs. MARTIN of Illinois, Mr. HAYES of Louisiana, Mr. FALEOMAVAEGA, Mr. HYDE, Mrs. JOHNSON of Connecticut, Mr. MCEWEN, Mr. HUGHES, Mr. PENNY, Mr. SENSENBRENNER, and Mr. DORGAN of North Dakota.

H. Con. Res. 92: Mr. SHAW.

H. Con. Res. 162: Mr. MORRISON of Washington, Mrs. SAIKI, and Mr. BARTON of Texas.

H. Res. 216: Mr. DUNCAN and Mr. MCEWEN.

H. Res. 220: Mr. COLEMAN of Texas, Mr. DANNEMEYER, Mr. FAWELL, Mr. MARLENEE, Mrs. MORELLA, Mr. NEAL of North Carolina, Mr. TORRES, Mr. WISE, Mr. EVANS, Mrs. SAIKI, Mr. ARMEY, Mr. DYMALLY, Mr. SMITH of New Jersey, Mr. RIDGE, Mr. PACKARD, Mr. KENNEDY, and Mr. SKEEN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1078: Mr. SMITH of New Hampshire.
H.R. 3030: Mr. CRAIG.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3072

By Mr. FAZIO:

—Page 70, strike out lines 11 through 18 and insert in lieu thereof the following:

the State of California: *Provided,* That no funds shall be used for such purpose until the Secretary of Defense, the Administrator of General Services, and the purchaser of the Sale Parcel reach an agreement resolving all disputes relating to the withdrawal of Landfill No. 26 and buffer acreage for the original Sale Parcel, except that funds may be expended on any and all pre-construction or related activities and may be expended to the extent required under Federal or State law.

EXTENSIONS OF REMARKS

SALUTE TO DR. DAVID A. SHIRLEY, DIRECTOR OF THE LAWRENCE BERKELEY LABORATORY

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. MINETA. Mr. Speaker, after 9 years as director of the Lawrence Berkeley Laboratory, Dr. David A. Shirley, one of America's great research scientists and administrators, will leave his post on August 30, 1989, so that he may return to the bench and continue his life's work as a research scientist.

Dr. Shirley deserves the everlasting praise of this Chamber for his greatly successful efforts to revitalize LBL to meet the challenges of the 1990's and 21st century. Before assuming the directorship of LBL, Shirley was already well-known among the scientific community.

David Shirley received his B.S. from the University of Maine in 1955 and his Ph.D. in chemistry from University of California at Berkeley in 1958, where he has been a faculty member of the chemistry department for 30 years, serving as chair from 1971 to 1975. After receiving his doctorate, Shirley joined the staff of Lawrence Berkeley Laboratory, where he rose to become an associate director of the laboratory and the founding head of the materials and molecular research division from 1975 to 1980.

Since becoming director of LBL in 1980, Dr. Shirley has significantly strengthened the laboratory's mission to perform outstanding basic research with an eye toward our national scientific and technological goals.

LBL's historic expertise in designing and constructing accelerations made it the natural first home of the central design group for the superconducitng super collider. LBL has now successfully sent the project off to its permanent home in Texas.

Under Dr. Shirley's leadership, LBL has also led the Nation by exploring the use of heavy charged particles produced by accelerators for the treatment of cancerous tumors. The success of this program has lead to the construction of a medical accelerator in a hospital setting.

Two recent projects begun under Dr. Shirley's leadership will have a major impact on LBL and our Nation in the coming years. Currently under construction is the advanced light source, a new $100 million accelerator complex that will put LBL in the forefront of synchrotron radiation research. This unique facility will be used by government, academic, and industrial researchers from fields as diverse as advanced materials development, biological imaging, and semiconductor development. It will be a world-class facility that will help keep LBL at the scientific cutting edge.

The second project is the establishment of a Department of Energy Human Genome Center at LBL. The human genome project may well be one of the most scientifically important projects that this Nation has ever undertaken. Fully decoding the genetic book of man will provide us with the potential of treating, and eventually eliminating, the more than 3,000 genetically related diseases. It is an extremely exciting project and one in which LBL and the DOE have a critically important role.

Mr. Speaker, as a proud alumni of the University of California at Berkeley, I am especially pleased with the revitalization of the Lawrence Berkeley Laboratory during Dr. Shirley's tenure. His efforts have placed LBL in a leadership role in driving the Nation's scientific agenda for the 21st century. I wish him well in his future research as a senior scientist at LBL and chemistry professor at U.C. Berkeley, and I thank him for his outstanding service and contributions to our Nation.

TRIBUTE TO REBECCA IRRER

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. SCHUETTE. Mr. Speaker, I rise today to honor Rebecca Irrer of St. Johns, MI. Ms. Irrer, 21, recently qualified to compete in the World Triathlon in Avignon, France, during August. Rebecca is 1 of 6 women in her age division who will represent the United States, racing against women from 58 other countries. The triathlon will consist of a 1.5 kilometer swim, 40 kilometer bike race and a 10 kilometer run.

Rebecca, who is an exercise physiology major at Michigan State University, has achieved the ranking of "All-American" in the triathlon and hopes to one day turn professional. She has prepared for what she describes as "my biggest race" by training up to 6 hours per day for the past 3 years.

Community support for Rebecca has been tremendous. Several St. Johns area businesses and residents have pledged to help her finance her trip to Europe, and more are expected to contribute before she leaves on August 6.

Mr. Speaker, and my colleagues in the House, please join me in congratulating Rebecca on her outstanding achievement and wishing her the best of luck as she travels overseas to represent our country in this most prestigious athletic event.

HUNGARIAN MINORITY RIGHTS IN CZECHOSLOVAKIA

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. FEIGHAN. Mr. Speaker, many of us in Congress have been deeply concerned about the treatment of Hungarians living in Romania. I'd like to direct the attention of my colleagues toward the conditions under which Hungarians are living in Czechoslovakia today as well.

Dr. Miklos Duray, the spokesperson for the Committee for Hungarian Minority Rights in Czechoslovakia, is now a visiting research professor at Indiana State University of Pennsylvania. Dr. Duray was jailed in 1983 and again in 1985 in Czechoslovakia for his courageous activities, striving to improve human and cultural rights for the Hungarian minority—some 700,000 strong, mostly in southern Slovakia.

Dr. Duray has prepared a scholarly analysis on the new efforts that the Government in Czechoslovakia has undertaken, attempting to eliminate its Hungarian schools—thereby depriving this minority from education in its mother tongue. I commend this piece to your attention:

NEW EFFORT UNDERTAKEN TO ELIMINATE HUNGARIAN SCHOOLS IN CZECHOSLOVAKIA

Hungarian schools are the prime target of Czechoslovakia's anti-Hungarian minority policies.

In 1918, more than one million Hungarians were, against their will and contrary to the principle of national self-determinations, made part of Czechoslovakia, separated by an imposed border from the rest of the Hungarian nation. The Czechoslovak regime has always attempted to deal with this illegal situation by eliminating its causes, that is, by assimulating the Hungarian minority and cutting its ties to the Hungarian nation once and for all. One of the prime means for achieving this end has been through education policy, for if Hungarian-language education is reduced or eliminated, the Hungarian nation outside Hungary can be gradually eliminated as well. Already during the interwar period, many Hungarian schools were closed, and Hungarian-language higher education was totally eliminated.

In September of 1944, when postwar Czechoslovakia had not even been established, the Slovak National Council enacted Law No. 6/1944 aimed at the partial closing of Hungarian schools. Subsequently, in May of 1945, all Hungarian-language schools were closed. Due to pressure from the Soviet Union, some of the grammar schools were reopened in 1949; in 1959, 609 schools were reopened. From that point on, however, the trend was again toward closing schools.

During the past 37 years, 345 Hungarian grammar schools have been closed, that is,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

approximately ten per year. According to the Committee for Hungarian Minority Rights in Czechoslovakia (Document No. 22/1987), the situation in the area of high school education is even worse. In all, there are only 22 high schools and technical high schools whose language of instruction is exclusively Hungarian. While 30 percent of Hungarian six-to-14-year olds cannot study in their native tongue, the proportion for 14-to-18-year olds is more than 60 percent. Thus, about half of Hungarian children under 18 are denied the opportunity to study in Hungarian. One consequence is that only 1.6 percent of Hungarians in Czechoslovakia have college degrees (1980 data), which sinks this segment of the Hungarian nation to the level of underdeveloped nations. Aggravating the inequality, Hungarian schools in Czechoslovakia are more poorly equipped than non-Hungarian ones; and in 1977, Hungarian-language teacher training was eliminated, except for a limited number of linguists (6–7 annually) trained as grammar school teachers.

The situation is similar at the kindergarten level. In Czechoslovakia, parents are required by law to enroll their children in kindergarten six months prior to sending them to first grade. According to published statistics, however (see: the Committee's Document No. 14/1987, which appeared in Hungary in the periodicals Bezéló, Spring, 1988, and Hitel, February 1989) barely more than half of Hungarian communities in Czechoslovakia have Hungarian kindergartens. At least 150 Hungarian communities lack Hungarian kindergartens, so approximately half of all Hungarian children must attend Slovak kindergartens if their parents want to avoid breaking the law. In 1986, a law was passed restricting the Hungarian-language training of kindergarten teachers to only one class; thus, teachers are in short supply as well. Moreover, there is evidence that Hungarian children in Slovak kindergartens are punished for speaking Hungarian. Parents who request Hungarian-language instruction are subjected to official harassment and threat of legal action. Children from Slovak kindergartens are all sent on to Slovak grammar schools, even though this, too, is illegal (Committee Document Nos. 14/1987; No. 9/1982, published in Hungarian Dossiers, Vol. 4, Paris). All of these policies, in fact, violate the citizen's constitutional right to freely choose the language of education.

Against this background, since 1978 the Slovak Ministry of Education has been attempting to speed the Slovakization of education by systematically changing the language of instruction in the still existing Hungarian schools to Slovak. The first plan came into being in the Spring of 1978, the second in the Fall. The same plan was reflected in the 1983-84 General Law on Education, specifically in Section 32a, Paragraphs 4 and 5, adopted by the Slovak National Council on April 2, 1984. Until now, because of massive resistance by the Hungarian minority, and the international response to this resistance, these efforts were never actually realized. In February and March of 1984 some 10,000 Hungarians in Czechoslovakia protested the draft law on education. The Committee for Hungarian Minority Rights in Czechoslovakia was formed to take up this cause, and its spokesman Miklós Duray was twice imprisoned without conviction, in 1982 and again in 1984, for a total of 470 days.

In 1988, the above-mentioned plans were revived in the context of a plan to modernize the country's educational system (Committe Document No. 11/1988). By "modernizing the country's educational system" the State Ministry of Education means the elimination of Hungarian-language instruction. According to information received by the Committee (Document No. 2/1989), the decision will be made at the Party Central Committee meeting in April of 1989. This information appears to be confirmed by the Slovak Minister of Education's statement made on February 28, 1989, in Pozsony (Bratislava), that future plans call for improving the quality of Slovak-language education in Hungarian and Ukrainian schools in Czechoslovakia in order to enhance those students' chances for success. That has been the rationalization used to justify every effort to eliminate Hungarian-language education since 1978.

On April 2, 1984, the then-Minister of Education for Slovakia announced at a meeting of the Slovak National Committee, in connection with the education law, that even though certain paragraphs of Section 32a had been dropped, the means to achieve the goal "must be found in areas other than the confines of the law" (Pravda, April 3, 1984). It appears that the intention is to eliminate Hungarian-language education in Czechoslovakia through the 1989 educational reform.

LANDMARK BILL FOR CHILD CARE

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. HAWKINS. Mr. Speaker, after Labor Day the House is likely to consider comprehensive child-care legislation known as H.R. 3, the Early Childhood Education and Development Act of 1989.

Earlier this month, the Committee on Education and Labor, which I chair, reported H.R. 3. This bill has a broad base of support which includes more than 120 cosponsors in the House and endorsements from the major early childhood development experts and organizations including the National Head Start Association; all the major education groups including the National Education Association and the American Federation of Teachers; women's and civil rights groups; labor organizations; religiously affiliated groups and community-based organizations.

H.R. 3 focuses limited resources on those most in need of services. It builds on existing programs of proven effectiveness and emphasizes educational and developmental care. Title I of the bill provides for an expansion of the Head Start Act; title II provides for early childhood development programs for at risk 3- and 4-year-old children through the public schools as well as before and after school care; title III provides grants to States for child care-services for infants, toddlers, and young children; title IV authorizes grants to States for activities to increase the availability of quality child care; and title V authorizes matching grants to encourage businesses to respond to the child-care needs of American families.

Recently, the Los Angeles Times published an editorial entitled "Landmark Bill for Child Care?" The editorial states, "Parents want and deserve a better choice than the one the President offers. Congress should give it to them by passing a combination of the solid measures now before it." The solid measures referred to in the editorial are a combination of H.R. 3 and tax credits.

For the benefit of my colleagues, I am submitting the entire editorial for the RECORD. I urge my colleagues to consider the merits and wisdom of this comprehensive approach as we move toward passage of a landmark child-care bill in the fall.

LANDMARK BILL FOR CHILD CARE?

Congress is so close to passing landmark child-care legislation that it must keep inching forward despite threats of a presidential veto or efforts by some House members to adopt a minimal program.

The Senate and a key House committee have passed bills that differ in some specific ways but are so alike in basic approach that they can and should be merged into significant legislation. It is time for Congress to act to help fill the growing need for better child care.

In late June, the Senate passed the Act for Better Child Care Services, known as the ABC bill, that provides $1.75 billion for a combination of tax credits to parents and grants to states to increase child-care programs and to help parents pay for care. In so doing, the Senate rejected a presidentially backed substitute that would have relied solely on tax credits. The bill also requires states to set safety standards for child-care programs.

Days later, the House Education and Labor Committee approved HR 3, the Child Development and Education Act of 1989. The bill provides $1.75 billion for a variety of children's programs, including subsidies for child care. It differs from the Senate bill in that it calls for a major expansion of the Head Start preschool program and provides financial incentives for school systems to develop more child-care programs.

In a separate action this past week, the House Ways and Means Committee approved tax credits for child care. That's good, but that committee's bill contains only $400 million a year to expand the supply of day care and improve its quality. That's far less than what the Senate passed or what is contained in HR 3. Thus, the Ways and Means Committee bill alone will not be sufficient to provide real improvement in child care. Groups like the Children's Defense Fund hope to win commitments soon from House members to combine the tax-credit bill and HR 3. That way the House would go to a conference committee with the Senate with the strongest possible package.

Most of the principal players are in familiar roles of leadership. Rep. Augustus F. Hawkins (D-Los Angeles), chairman of the House Education and Labor Committee, is one, and Sen. Christopher Dodd (D-Conn.), a longtime advocate of improved child care, is another. But one key figure is a surprise. He is Sen. Orrin G. Hatch (R-Utah), who has been severely criticized for his role and deserves special commendation. Hatch, a conservative, told an interviewer: "I think I'm doing what's right. I started looking at the statistics and the facts, and when you do, you ask, 'What are we doing to our families?' You've got to be concerned about the parents who just don't know what to do."

Unfortunately, President Bush does not yet share Hatch's insight. Bush says he will veto any ABC-type bill. He prefers to let

parents decide with their dollars what kind of care they want. But the small tax credit he has in mind would leave parents with minimal care and do nothing to help create badly needed new programs. Parents want and deserve a better choice than the one the President offers. Congress should give it to them by passing a combination of the solid measures now before it.

NEW YORK POST WARNS OF STACKING THE DECK ON PUERTO RICO'S FUTURE

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. FUSTER. Mr. Speaker, once again I want to point out to my colleagues significant articles which have appeared in the press concerning the proposed political status plebiscite in Puerto Rico. In this case, it is a perceptive editorial in the New York Post of August 1, and it is appropriately titled "Stacking the Deck on Puerto Rico's Future."

As you know, Mr. Speaker, the Senate Energy and Natural Resources Committee, which is the successor to the former Senate Interior and Insular Affairs Committee, completed its markup and reported out on August 2 a bipartisan bill which would authorize a plebiscite in Puerto Rico in 1991 between the choices of statehood, independence, or an enhancement of the existing commonwealth status.

There are many reasons, Mr. Speaker, why I consider an enhanced commonwealth status to be in the best interests of both Puerto Rico and the United States. I have great respect for the institution of statehood, but it just would not address the special circumstances of Puerto Rico.

Moreover, Mr. Speaker, there is a need for Congress to spell out an unbiased assessment of the three status options so that the voters of Puerto Rico can make reasoned, informed decisions. That is precisely the point of the following editorial in the New York Post, and I commend it to the attention of my colleagues:

[From the New York Post, Aug. 1, 1989]

STACKING THE DECK ON PUERTO RICO'S FUTURE

Plans are under way for a 1991 referendum designed to enable the people of Puerto Rico to determine their future relationship with the U.S.

But before Puerto Rican voters cast their ballots—and decide whether to opt for statehood, independence or an enhancement of the island's current commonwealth status—Washington has a duty to provide a comprehensive and unbiased assessment of the various options and their likely implications.

Unfortunately, there is some doubt as to whether an unbiased assessment will be forthcoming.

Proponents of enhanced commonwealth status charge that the Senate Energy and Natural Resources Committee—which is responsible for drafting the referendum proposals—is presenting the case in a manner that favors statehood.

The committee's critics claim the draft puts undue emphasis on the fact that statehood will result both in an immediate $1.5 billion a year increase in federal spending in Puerto Rico and in a $3 billion transition aid grant.

The prospect of an extra $1 billion or so in spending on federal social programs—such as food stamps, welfare and Medicaid—could well entice a substantial number of poorer Puerto Ricans to opt for statehood, given the unhappy economic conditions that currently obtain there.

But an increase in federal social spending is only half the statehood story.

Statehood would cost Puerto Rico its fiscal autonomy. And in 1994, for the first time, Puerto Ricans would start paying federal taxes, while U.S. companies doing business on the island would lose federal tax incentives. Thus, advocates of commonwealth status estimate that statehood would cost Puerto Rico about $13.5 billion by the year 2000.

They may or may not be right, although we have to admit that we find their arguments compelling.

But there's no doubt Congress has an obligation to spell out the economic risks statehood would entail, not just the benefits. We hope committee members will scrutinize the draft report one more time—with these concerns in mind—before today's vote.

CUTTING COSTS AND PRESERVING OUR ENVIRONMENT BY SAVING WATER

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. ATKINS. Mr. Speaker, the Nation as a whole has been fortunate so far this summer in not having experienced widespread drought conditions. But that doesn't mean our water supply problems have gone away. On the contrary, many regions of the country continue to experience such heigthened demand for water that current supplies simply cannot keep up. It's now estimated, in fact, that over 150 of the Nation's large water supply systems will need additional supplies in the next decade.

It doesn't take a degree in economics to figure out that this increasing demand and shrinking supply will lead to rising water and sewage bills. Those bills are also rising due to decreased Federal funding of municipal sewage treatment and water supply projects, and increasingly stringent Safe Drinking Water Act guidelines that require installation of costly advanced treatment systems. The days of cheap water are over, as is painfully clear to the citizens of Los Angeles, where water and sewer bills went up 24 percent in the last 2 years; Wichita, KS, where they went up 28 percent; New Orleans, where they went up 30 percent; New York City, where they went up 34 percent; and Metropolitan Boston, where rates are scheduled to quadruple to over $1,100 per year by the end of the century.

I believe that perhaps the most effective and least painful way to combat growing water shortages and hold down the cost of water and sewer bills is to start attacking the demand side of the equation by turning to water conservation. By cutting demand for drinking water, communities can postpone or even eliminate the need for expensive new water supply or purification projects, and by cutting the amount of wastewater flowing through their sewer systems, they can do the same in regard to new sewage treatment plants.

Last March, Senator WYCHE FOWLER and I introduced the National Plumbing Products Efficiency Act, legislation that would require use of the most efficient plumbing fixtures and water-using appliances in new homes, offices, and other indoor settings. Today I am introducing the Municipal and Industrial Water Conservation Act of 1989, which complements that bill by establishing an Office of Water Conservation within EPA. I am pleased to team up again with Senator FOWLER, who has introduced identical legislation in the Senate.

The primary function of the Office of Water Conservation would be to develop water conservation programs for municipalities or industries and disseminate information about those programs. A number of States and municipalities have developed impressive water conservative programs, and many experts in the field believe that scores of others would follow suit if they had an opportunity to obtain technical assistance and information on such programs from a central EPA office.

The Office of Water Conservation would enlist the help of private not-for-profit associations, public and private educational groups, and other public authorities to provide guidance on request for municipalities and industries seeking assistance in developing their own water conservation programs. In addition, the Office would run a National Clearinghouse on Water Conservation that would serve as a national repository for water conservation information and as a promoter of water conservation technologies and strategies.

Among the water-saving strategies already being used by municipalities and businesses are leak detection and repair, low-flow retrofit programs, recycling and reuse of wastewater, and widespread use of water use audits. Massachusetts, for example, recently became the first State in the Nation to set water efficiency standards for toilets, and officials there expect savings from that action alone of 34 million gallons per day by the year 2010. Actual savings have already been demonstrated by a pilot program in Frederick, MD, where homes fitted with water-saving devices experienced a 10-percent reduction in water use, which would translate into an estimated $1.7 million annual saving in water, sewer, and energy bills if the entire city was retrofitted with such devices. On an even smaller, but equally significant level, Boston's Lenox Hotel recently reduced its average water demand by 40 percent by installing low-flow toilets, showerheads, and faucet aerators in its 220 guestrooms. The hotel estimates savings of 3.6 million gallons and $15,000 in water and sewer bills for 1989 alone.

In recognition of the role that water conservation can play in reducing the need for new or upgraded wastewater treatment plants, the Municipal and Industrial Water Conservation Act will also allow States and municipalities to use moneys from the new State revolving funds created under the Clean Water Act for water conservation activities. In my home

State of Massachusetts, the agency in charge of the Boston Harbor cleanup has seized upon water conservation as a key component of its plan in order to hold down water and sewage bills. This authorization to use SRF moneys would give other States the same option.

Just as we turned to energy conservation in the face of price increases and shortages in the 1970's, it is imperative that we realize the need for water conservation today. My legislation would further that goal by creating an Advisory Council on Water Conservation. The Advisory Council would consist of representatives from the Federal agencies that deal with national water policy, as well as representatives from State and local governments and representatives from industry and environmental groups. The Council would report to Congress every 2 years with suggestions on promoting wise use of our water resources throughout every sector of our economy.

Finally, the Municipal and Industrial Water Conservation Act would require the consideration of water conservation in all relevant environmental impact studies conducted in accordance with the National Environmental Policy Act. In this manner, we could be sure that Federal approval is never again granted for projects that fail to take into account the true value of water.

Mr. Speaker, it's time to take a fresh look at the way we use water in this country. Programs in States, municipalities, and businesses have already shown that we can generate significant savings by implementing a few simple water-saving strategies. I urge my colleagues to join me in cosponsoring the Municipal and Industrial Water Conservation Act, which will ensure that the entire country has access to those strategies, and that we make efficient use of what must be considered our most precious natural resource.

SALUTE TO DR. VIRGIL A. FRIZZELL, JR., AMERICAN GEOPHYSICAL UNION CONGRESSIONAL SCIENCE FELLOW

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. MINETA. Mr. Speaker, for the last year it has been my privilege to work with Dr. Virgil Allen Frizzell, Jr., the 13th congressional science fellow representing the American Geophysical Union.

Dr. Frizzell came to Congress under the auspices of the American Association for the Advancement of Science, Congressional Science and Engineering Fellowship Program. Dr. Frizzell sought his 1-year fellowship in the House of Representatives because, in his words:

Earth scientists generate data that reflect on many important issues. We need to learn to communicate and interpret scientific findings better if we are to help legislators make better decisions concerning those issues.

Dr. Frizzell received his Ph.D. and master's degrees in geology from Stanford University after earning dual bachelors degrees in geology and business from San Jose State University. He has been interested in public policy issues since he first became a working geologist with the U.S. Geological Survey [USGS] in Menlo Park, CA. In 1969, Dr. Frizzell worked as a physical science technician supporting his fellow geologists working on the San Fransciso Bay region study. He subsequently worked on projects of his own and served as a liaison between his USGS colleagues and industry geologists, urban planners, legislators, developers, environmentalists, and academics who used the materials published during the San Francisco study.

Dr. Frizzell's more recent work has included geologic investigations and mineral and petroleum resource evaluations in Washington and California. His current research project, geologic mapping and structural analysis in the southern Great Basin in Nevada, centers on the Nevada nuclear test site and the nearby proposed nuclear waste repository at Yucca Mountain.

During the past year, Dr. Frizzell has been an exceptional member of my staff, performing the duties of legislative assistant and science policy adviser while working on defense, energy, environmental and telecommunications legislation. In his future professional accomplishments, I am confident that Dr. Frizzell will make significant contributions in such areas as hazards reduction, mineral and energy resources and land management, environmental and Earth science research policy.

Mr. Speaker, during his tenure in my office, Dr. Frizzell became an invaluable member of my staff. Not only did he provide competent and knowledgeable work, but his periodic contribution of donuts added zing to our morning routines, and he would go on to set a high standard for summertime backyard BBQ's. Based upon my experience with Dr. Frizzell, I highly recommend AAAS congressional fellows to my colleagues who would like a highly trained professional to join their staff.

TRIBUTE TO RICHARD A. McINERNEY

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. SCHUETTE. Mr. Speaker, it is my honor to rise today to pay tribute to Richard A. McInerney, the recent recipient of Dow Corning Co.'s "Amory Houghton Jr. Award for Public Service." This award, which is the highest recognition for community service that Dow Corning presents, was established in honor of Amory Houghton, a past chairman and current member of the board of directors of one of Dow Corning's parent companies. He also presently serves in this body as the Representative from New York's 34th District.

Richard, born and raised in Saginaw, MI, is the president of the United Steelworkers Local 12934, as well as the chairman of its bargaining committee. He has spent his entire 23 year professional career with Dow Corning in their Midland plant.

His community involvement is quite extensive. Most notably, Richard was instrumental in founding the Substance Abuse Halfway Home of Midland. Better known as the "1016 Home", it helps individuals with drug or alcohol abuse problems become productive members of society. In addition to being one of the founders of the home, he has served as its president and vice president, and currently participates on its executive committee.

Richard has also shown his concern for the needy and less fortunate by helping establish the Midland Emergency Food Pantry Network. He was an original steering committee member of the Pantry, which now serves hundreds of families annually.

Richard has been highly involved in the United Way. He currently serves as treasurer and executive committee member of the Midland County United Way Board of Directors, as well as on its budget committee. At the state level, he is a board member of the United Way of Michigan, and also participates on its personnel and practice, and labor committees.

Richard has served on various committees for the Midland Big Brothers and the Midland County Anti-Drug Coalition. He has also served as vice president of the Association of Labor-Management Administrators and Consultants on Alcoholism.

As the Houghton Award recipient, Richard will receive the "American Eagle," a Steuben piece medal that represents pride, keen observation and courage. Dow Corning will also donate $1,000 in Richard's name to a charitable organization of his choice.

Mr. Speaker and fellow colleagues, it is again my honor to pay tribute to Richard McInerney, a man very worthy of this high award.

MILESTONE FOR TRIBAL COLLEGE

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. DORGAN of North Dakota. Mr. Speaker, Indian tribal colleges have another milestone in their growth with the publication of "Tribal College: Journal of American Indian Higher Education."

The journal signals the determination of the colleges to join in scholarly dialogue with other colleges and universities and to share their insights and experience with the wider public. It's a fitting new venture for tribal colleges after 20 years of development.

Today, 23 tribal colleges enroll more than 60 percent of Indian students in higher education across the Nation. They serve reservations all across Indian country, offering curricula as diverse as vocational-technical training, science, mathematics, social science, humanities, and Indian culture and history.

The colleges play a special role. They look to the future by training Indian students for careers in contemporary society but also form a link with the past by keeping students in touch with their Indian heritage. They provide Indian students with an opportunity to succeed in academic environment attuned to their needs and circumstances. They make a unique con-

tribution to tribal communities by promoting economic development and preserving the tribal heritage.

Nor should it be forgotten that tribal colleges contribute to the overall economy in the States where they are located. Little Hoop Community College, on the Devils Lake Sioux Reservation in North Dakota, for example, is working to create a research and development program for the tribe's manufacturing plant and is forging links with North Dakota State University on common research projects.

I don't suggest that the record of tribal colleges is absent disappointments or setbacks. The colleges are still struggling to improve the quality of higher education for Indian students, However, their success in educating both tribal and non-Indian students and in contributing to their communities deserves recognition.

It also warrants our support here in Congress. Appropriations for tribal colleges have risen from about $5 million in 1980 to $8.5 million this year. However, due to the growth in enrollments, the support has declined from about $3,000 per student to $1,900 per student.

The House added substantial funds to the fiscal year 1990 Interior appropriations bill to provide additional resources for tribal colleges and the Senate has appropriated yet more for this purpose. I encourage my colleagues to support such increases as may be necessary to sustain adequate per student funding for tribal colleges.

I would like to conclude by recommending an article on tribal colleges, which appeared in the first issue of Tribal College and which I include for the RECORD:

COMMITMENT TO COMMUNITY: AN INTRODUCTION TO THIS JOURNAL

(By Lionel Bordeaux)

This is a time to give thanks. More than twenty years ago, visionary leaders in several tribal communities began to establish colleges—small, local, and responsive to the needs of tribes and tribal people. Today, more than sixty percent of Indian students enrolled in post-secondary education are attending tribal colleges.

For the tribal colleges, progress has always been shared progress. Through the American Indian Higher Education Consortium, and through individual contacts from college to college, we have shared ideas, programs, institutional documents, success and failures, supporting each other through difficult times, and celebrating each others' achievements. The publication of *Tribal College* provides us with a new means to continue our sharing, and expand our circle.

We are thankful to be able to share the wisdom and the vision of our founders—strong men and women on several reservations—who saw that mainstream higher education was not successful in serving their people. These leaders recognized a need for a new kind of college, charted by tribal governments, located within tribal communities, governed by boards of tribal members. The Navajo Nation created Navajo Community College, the first tribal college, in 1968, followed in 1970 by the Oglala Sioux Tribe of the Pine Ridge Reservation, and in 1971 by the Sicangu Lakota of the Rosebud.

By 1973, there were six tribal colleges, and our numbers have grown steadily ever since. Most of our colleges began in affiliation with an off-reservation institution, most often a nearby state college or university; the fledgling tribal institutions based their curricula and the degree programs on those of their affiliates.

As we established our own administrations, attracted faculty, and created curricula, we have moved toward complete autonomy. One mark of this autonomy is accreditation; tribal colleges have sought, and obtained, accreditation from regional accrediting associations. Navajo Community College was the first to be accredited at the two-year level; the first at the four-year level was Sinte Gleska College in 1983. Now eight of the colleges are candidates for accreditation, eight are accredited at the two-year level, two at the baccalaureate level (the second is Oglala Lakota College), and Sinte Gleska College has been recommended for accreditation at the master's level.

And now we have come full circle. One new tribal institution, Stone Child College on the Rocky Boy Reservation in Montana, is affiliated with an older, accredited Montana tribal college—Salish Kootenai College on the Flathead Reservation.

We are thankful to be able to share our diversity. Our tribes and our communities differ widely, in culture, in language, in topography and resources. Each college, therefore, has developed its own unique mission, its own curricula, and its own educational approaches and strategies. Turtle Mountain Community College, for example, has a centralized facility and programs, suited to its compact reservation. In contrast, Oglala Lakota College has disbursed its courses into centers in the nine districts of the Pine Ridge Reservation, and has recently opened a center in Rapid City, South Dakota, to serve off-reservation tribal members. Instructional offerings vary as well: Sisseton-Wahpeton Community College trains alcoholism counselors, certified by both the state and the tribe; Salish-Kootenai College offers a program in forestry; Standing Rock College in ranch management; and Northwest Indian College in aquaculture and fisheries management.

While the tribal colleges are diverse in organizational structures and academic programs, we share a common commitment to strengthening and serving our tribal communities. We are thankful to share this commitment to others in American higher education, at a time when many colleges and universities institutions are grapping with their own relations to the cultures, values, and needs of their constituencies. Our commitment begins with a recognition of the unique importance of our tribal cultures and histories. Most of our colleges offer courses in the values and intellectual inheritance of their tribes; more fundamental than this, however, our management styles, personal and professional relationships, and patterns of institutional communications, are necessarily grounded in the values and experiences of our tribes. Our colleges make decisions, and communicate them, in ways which fit with the ongoing lives of our communities.

We conserve and extend the histories and cultures of our tribes. Many colleges conduct research on the language and history of their tribes; gradually, publications by tribal college faculty are beginning to take their places as significant works of scholarship. Several colleges have established archival collections, to preserve tribal and personal documents. Oral history collections are recording vital aspects of tribal and individual experience. And as we gain necessary experience and resources, tribal colleges are moving to address issues critical to the future of our tribes: economic development, the strengthening of tribal governments, conservation of natural resources, the eradication of alcoholism, and the improvement of health and wellness in our communities.

We are thankful, as well, to be able to celebrate the achievements of our students. In the relatively short histories of tribal colleges, our students have achieved remarkable records of personal success, and of service to their tribes. These students and alumni are rooted in their home communities, and bring their skills and knowledge to help resolve local and immediate problems. Many have already earned graduate degrees—masters and doctorates in education, medicine and law. They have not been content simply to find employment for themselves, although, given the economic realities of reservation life, that achievement is, in itself, no small one. Instead, they have pushed forward to make active contributions to the social, economic, and political lives of their tribes. Individually, the tribal colleges have made strong impacts on their reservations. Working together, through the American Indian Higher Education Consortium (AIHEC), the colleges have built an organization which provides steady, consistent, and throughful advocacy for Indian higher education. AIHEC was founded in 1973 with the dual mission of providing a national presence for the colleges, and providing technical assistance to them. The Consortium drafted and supported the federal law, passed in 1978, which authorized funding for the tribal colleges. It was the first piece of education legislation to be written, and lobbied through Congress, by Indian people themselves. As to technical assistance, the colleges have become each others' best sources of support; AIHEC institutions share information, ideas, and even staff members, so that every college can learn from the experiences of the group. Money for a central AIHEC staff has not always been available, so the staffs and faculties of the member colleges have had to learn to do the advocacy and the assistance themselves. This learning has been costly in time, travel, and effort, but through it we have strengthened both our abilities and our unity of purpose.

The tribal colleges have much to share with each other, and with groups and institutions beyond our reservations. Our colleges play a vital role in their home communities, providing forums for the open discussion of important issues. Through Tribal College, we hope to extend that mission, not only from college to college and tribe to tribe, but into the national and international educational communities, where we look forward to enhancing our special and unique contributions.

We are thankful for the opportunity.

CLEVELAND'S A GREAT PLACE

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Ms. OAKAR. Mr. Speaker, Guy Wright is a very fine columnist for the San Francisco Examiner who recently had the good fortune to spend his vacation in Cleveland. As a result,

he discovered, and graciously wrote about, the many joys of living in and visiting my hometown. I am pleased to submit for the RECORD a copy of his charming observations, as reprinted in the Plain Dealer on July 31, 1989. I'm glad Mr. Wright liked Cleveland, and I am proud to represent it:

SAN FRANCISCAN LEFT HIS HEART IN CLEVELAND

(By Guy Wright)

SAN FRANCISCO.—On my vacation I went to Cleveland—and no wisecracks, please. My wife's family had a reunion, and they have a first-love attitude toward their old hometown, even though most of them don't live there anymore.

They gathered from all over the country, descendants of a young German couple who arrived on these shores with nothing.

Time and hard work worked wonders. Two grandchildren of that couple became vice presidents of major corporations. Others are successes in high-tech industry, science, art and education. One played major league baseball till his legs gave out.

America had offered those two young immigrants opportunity. They repaid it with talent. That's a pretty good system.

As for Cleveland itself, jokes about the town are a bum rap. It has its share of big-city problems, but the infrastructure is sound. The place was built right the first time. It works.

You know how San Francisco keeps building new convention centers, only to discover they are too small? Cleveland took an old plant that used to make army tanks and turned it into a mammoth convention center. Lasting solution, instant success.

And talk about a transit system. You get off your plane, claim your luggage, and right there inside the air terminal is rail transit that takes you into the heart of the city, where you can transfer to another line or catch a cab to nearby hotels.

San Francisco is still arguing about whether to extend BART to the airport. If we ever do, the plan is to run it along the wrong side of the freeway, requiring travelers to switch themselves and their luggage to a shuttle bus to get across the road.

The Cleveland library is bigger and better than ours. The Cleveland museum outshines all ours combined. University Circle is a cultural-medical-scientific-scholastic concentration for which we have no match. And Cleveland even landed the Rock and Roll Hall of Fame that San Francisco coveted.

Twenty years ago the Cuyahoga River caught fire, from all the gunk that factories dumped in it. On the day we arrived the town was observing the anniversary of that embarrassment and celebrating the subsequent cleanup. Now yacht harbors dot the river bank. There are sundeck restaurants, boutiques and trendy bars along the shore—all part of a gentrification of the Flats, a rundown section of town.

As a smokestack city, Cleveland ached during the Rust Decade, but it is making a comeback. You can feel the throb. The St. Lawrence Seaway opened it to world shipping, and now it claims to be the busiest port on the Great Lakes.

New on the skyline is a sparkling glass skyscraper. British Petroleum's most visible trophy for swallowing Standard Oil of Ohio.

One industry is hardly seen—salt mining. A vast subterranean salt deposit extends through the Great Lakes region from Michigan to New York State. At Cleveland it lies a third of a mile below ground and runs six miles out under Lake Erie. International Salt Mines it, and despite the expensive operation, compete with Leslie's salt ponds in our South Bay.

Some lakefront towns are still hurting Downtown Ashtabula is dead, with major buildings boarded up. A man on a park bench obligingly ticked off the industries that have moved away, most to the South, he said.

"But they'll be back," he assured me. "They don't have enough water down there, and those people don't work hard. We have the water"—his arm swept Lake Erie—"so they'll be back."

Later, from a waitress, I heard the same prediction—a civic fantasy that keeps despair at bay.

AGENT ORANGE: THE CONTINUING WAR OF OUR VIETNAM VETERANS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. STARK. Mr. Speaker, I would like to call the attention of the Members to an excellent article in the August 1989 issue of the American Legion magazine about the continuing problems created for so many of our veterans by the use of agent orange.

Mike Rego is a former constituent who I know has fought a long and tough—and even courageous—battle against the bureaucracy to help expose the problems created by agent orange.

I hope this article will be part of the process of bringing some truth to what I believe has been a terrible coverup:

WOUNDS OF WAR

In 1982, Mike Rego of Ceres, Calif., was afraid to look into a mirror after a small scarlet splotch appeared on his neck one day and rapidly spread over his entire body. Rego's skin cracked and swelled, and the slightest movement left him racked in pain. Then his hair began to fall out in clumps.

"I couldn't look at a mirror," Rego said, "All I saw was a nightmarish human scab looking back." While VA doctors puzzled about the possible causes of his mysterious and painful problems, the Army veteran was convinced the source of the skin ailment and other maladies could be traced to his 1967-68 tour of duty in Long Binh, South Vietnam. Rego, a supply specialist in the 1st Logistics Command, worked at Area 208 Depot, a sprawling military warehouse. Among the materials stored in the facility, he said, were drums filled with chemicals, many of which were code-striped with orange paint. The herbicide Agent Orange got its name from the orange-painted drums in which it was stored.

"I'm convinced that many of my health problems today are the result of my exposure to Agent Orange," said Rego, who is rated 60 percent disabled by VA because of arthritis and the rare skin condition called pityriafis rubra pilaris. "My skin problems began after I reported for duty at Long Binh," he said. "I had a constant rash and so did the other guys in my company. We just chalked it up to tropical climate."

Rego and thousands of veterans suffering from a variety of inexplicable health complaints live with the haunting question: Are their conditions linked to their exposure to Agent Orange, which was used extensively in Southeast Asia?

Convinced that the government wasn't in any hurry to answer that question, The American Legion began its own investigation into the Agent Orange controversy and other problems faced by Vietnam veterans. The findings of The American Legion and Columbia University Study of Vietnam Veterans were unveiled late last year and published in the scientific journal, Environmental Research.

"The wounds suffered by Vietnam War veterans continue," said Nat'l Cmdr. H.F. "Sparky" Gierke, who, like Rego, also was stationed in Long Binh during the war. "For those who were exposed to Agent Orange, the Legion believes that the health of many of these veterans has been jeopardized."

From 1962 to 1971, U.S. military forces dumped 12 million gallons of the defoliant on Vietnam, Laos and Cambodia to strip away the enemy's jungle cover. Agent Orange was sprayed from C-123 cargo planes, helicopters, trucks, boats and by troops who carried the herbicide in backpacks. The Legion study correlated spray missions with troop deployments to illustrate casual connection.

Of the 6,810 American Legionnaires of the Vietnam era who participated in the study, 2,087 were identified as having been exposed to Agent Orange. Using survey questions to determine exposure levels of the veterans, researchers concluded that 947 (45.4 percent) received low exposure; 538 (27.9 percent), medium; and 557 (26.7 percent) suffered high exposure.

"Overall, men who served in Southeast Asia reported a higher incidence of heart disease, benign fatty tumors, skin rash with blisters, change in skin color and increased sensitivity to light," said Dr. Jeanne Stellman, who directed the study with her husband, Dr. Steven Stellman. Veterans who were categorized as having experienced high levels of combat and increased exposure to Agent Orange also reported having more incidents of fatigue, faintness, generalized aches and nausea, skin problems, colds and sore throats.

The study also found that herbicide handlers—83 were identified as having that specific duty in Vietnam—had significant problems with high blood pressure and ulcers, in addition to the aforementioned ailments.

Researchers did not attempt to link Agent Orange exposure to cancer. "Our study was specifically not designed to determine if a relationship between exposure and cancer existed," Jeanne Stellman said. "The study population was too small."

However, scientists long ago concluded that dioxin is carcinogenic, or a cancer-causing agent. Agent Orange contains dioxin.

The study also examined the reproductive rates among the wives of Vietnam veterans who were exposed to Agent Orange. It was determined that the risk of miscarriages and low birth weights was greater among those spouses than those of veterans who did not serve in Southeast Asia.

"There is a clear dose-related risk of miscarriage among the wives of Agent Orange-exposed veterans," Jeanne Stellman said, adding that another important side effect was noted during the research. "We also observed that maternal smoking also exhibited a powerful effect on miscarriage rates."

The study did not specifically examine the rate of birth defects among the children of Agent Orange veterans; however, that sub-

ject will be investigated by Legion researchers in the future.

Mike Rego's health began its slow trek to hell at 2:30 a.m., Nov. 30, 1967. That's when he and other troops in the 570th Supply Co. were ordered out of their bunks to fight a raging inferno sweeping through the Area 208 warehouse. Rego, who was 18 years old at the time, said many of the chemical drums exploded because of the intense heat. Rego and his fellow GIs fought the fire without any protective clothing or gear.

By 1971, Rego had long since joined the civilian ranks, but he still suffered skin problems and began to experience frequent rectal bleeding. A few years after those symptoms surfaced, Rego was given a chest X-ray and doctors told him both lungs were scarred, probably the result of inhaling chemical fumes.

In 1982, Rego began a new treatment at the San Francisco VA Medical Center with an experimental drug, which he alleges was not administered in accordance with stringent Food and Drug Administration guidelines. The result of the treatment? His neurological system was all but destroyed by the drug, a potent neurotoxin.

Since 1986, VA has been required to provide examinations and treatment to veterans on a presumptive basis that their health complaints are related to Agent Orange exposure. However, VA has been less responsive to claims for compensation. Only five of 34,000 veterans who have filed VA claims were granted compensation. That statistic may improve for veterans because of a recent federal-court decision that requires VA to relax its stringent requirements which force veterans to prove their ailments are directly related to Agent Orange exposure.

Stellman said the Legion study clearly demonstrates that veterans classified as being exposed to Agent Orange have statistically higher levels of health complaints. Researchers said the pattern of complaints paralleled health effects of laboratory animals exposed to Agent Orange.

"If anything, the Agent Orange section of the Legion study demands that answers must be provided to the countless thousands of American GIs who might have been exposed to dangerous herbicides," Gierke said. "Veterans like Mike Rego deserve honest answers from their government and the people who sent them to a faraway land to fight in a long, bitter war."

Rego, a 40-year-old father of a teenaged girl, said his search for the causes of his many physical problems has kept him going over the years. "VA doctors can identify a bullet scar or missing limb as a war wound, but the wounds of Agent Orange veterans often don't surface for years. I'm not pointing any fingers of blame. I just want the truth while there's still time," Rego said.

For now, the only truth Mike Rego gets is when he looks into a mirror.

TELECOMMUNICATIONS AND THE WORLD INFORMATION REVOLUTION: MAKING ENDS MEET

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. TAUKE. Mr. Speaker, Dan Brenner, the director of the communications law program at UCLA, recently gave a very insightful speech on the future of our Nation's telecommunications policy to the Detroit Rotary Club. Given our debate over the role of the regional Bell operating companies in this issue, I believe that his comments will be helpful to my colleagues as we evaluate the necessary changes in telecommunications policy which face Congress:

TELECOMMUNICATIONS AND THE WORLD INFORMATION REVOLUTION: MAKING ENDS MEET

(By Daniel L. Brenner)

It's a pleasure to be in Detroit. When I think of Detroit, I think of your city's great institutions: the Detroit Tigers, the Motown sound, Lee Iacocca's press agent, to name but a few.

I've just come from a meeting of the Corporation for Public Broadcasting in Washington. Public broadcasting has its own problems. Most people think PBS stands for Plenty of British Shows. And there is a lot of British fare on public TV. It's been said that 10 years ago British programming consisted of people talking and animals having sex. Today, British shows consist of animals talking and people having sex.

I'd like to speak about what's at stake for Detroit and for the United States generally, in the information revolution. Detroit earned its place as one of the world's most influential cities in the days when the automobile industry was characterized as a manufacturing institution. We've come to know cars as much for their computers as for their chromium steel. Today's cars still have chassis, engines and exhaust pipes. But increasingly, automobile manufacturing involves computerized technology, both in making cars and driving them.

The computer circuitry dropped into today's Chrysler LeBaron or Cadillac Sedan de Ville is but one instance of the worldwide information movement and management industry.

Not counting heavy manufacturing, this industry is a $600 billion a year market. In the United States alone, 35 percent of all private investment in durable equipment goes for computing and communications.

That industry feeds the world's financial markets, now churning 24 hours a day. A trillion dollars a day is settled electronically between and among the world's banking houses. Airline travel is but one of the common places where consumers interface with that industry, as millions of dollars a day are generated by the worldwide reservation system.

The enormity of these numbers should not come as a total surprise. Consider this: scientific knowledge is currently doubling every 13 to 15 years. About 80 percent of the scientists who have ever lived are alive today.

Dr. Carver Meade of the California Institute of Technology has noted that the entire industrial revolution enhanced productivity by a factor of about 100. But the microelectronic revolution has already enhanced productivity in information-based technology by a factor of more than a million.

To give you a few more numbers, today's long haul fiber optic transmission systems will operate at 3.4 billion bits per second. But in the lab, we have optical systems that can send data more than five times faster than that. And that, in theory, is only one percent of the capability of fiber systems.

Microchips now have two million electronic components. By the year 2000—that's just 11 years from now—expect them to have one billion. That's a 500 times increase in power for the same cost.

This rapidly improving technology does not mean the end of industrial age. But, as the computers in my Ford Mustang (LX convertible, for those of you from Ford) indicate, manufacturing will produce more goods for more people with less labor. It's an update of the story of technology and agriculture of two generations ago—greater abundance with less labor.

And it means that intellectual capital, invested in software, computers, and communications, will grow faster than capital invested in physical plants and equipment. If fish is brain food and steak is brawn food, the present is telling the future: spend more time with tartar sauce.

The communications revolution is obviously not restricted to the U.S. Japan is half way through a 15-year program in which it has committed $120 billion to modernizing its communications system. Europe is moving towards a borderless economy by the end of 1992.

As you've seen in the earlier video demonstration, France has leapfrogged the United States and most of the world when it introduced its Minitel terminals in 1982. The multinational manufacturing corporation, Philips, offers a Minitel service that uses artificial intelligence to furnish real time, step by step instructions for local mechanics on how to repair machinery they have never worked on before. Using this keyboard system, a user can find everything from a telephone directory updated electronically every day, to the rates and availability of hotels in the vicinity of a train station. At 15 cents a minute, Minitel costs only slightly more than a conventional telephone call.

Is America falling behind? Maybe. And the reason may be because communications is not generally subject to the forces of market competition.

Let's go back more than a century, when telephone service was just starting out. The leading communications company of that day, Western Union, didn't think much of the phone. In fact, its view was this: "This 'telephone' has too many shortcomings to be seriously considered as a means of communications. The device is inherently of no value to us."

You win some and you lose some. Anyhow, phone service developed, but as a monopoly service. Then in the 1970s, competition in the long distance and equipment markets began to happen. The view that the United States would forever be a monopoly communications environment was crumbling. As it turned out, so, too, would the AT&T empire.

The battering ram was an antitrust lawsuit brought by the Department of Justice in the early 1970s. The complaint? Because of its control of about 80% of the country's local exchange facilities, AT&T favored its own long distance division to the detriment of competitors like MCI and Sprint. And AT&T favored its own manufacturing arm, Western Electric, over others.

Nearing the eve of trial, AT&T and the government settled. AT&T gave the government exactly what it said it wanted. It severed its long distance and manufacturing arms from the trunk of AT&T—the local exchanges. The local exchanges were divided into seven new companies, today called the Bell Operating Companies or the regionals. These seven are: NYNEX in the Northeast, Ameritech here in the Midwest, Southwestern Bell in Texas and the greater Southwest, Bell South in the Southern

states, and Pacific Telesis in the West, Bell Atlantic in the mid-Atlantic region, and US West in the Rockies and Midwest.

The theory of the AT&T break-up was that the seven companies, severed from the AT&T long distance company, would have no reason to favor AT&T Long Lines or Western Electric. Competing long distance companies as well as manufacturers could expect even-handed treatment from these companies.

The settlement had to be approved by federal district Judge Harold Greene, who was to try the case. Judge Greene insisted that the seven regional companies be barred from competing not only in long distance and manufacturing but in information services. That restriction remains more or less the same today, nearly six years later.

I'd like to focus for the next few minutes on information services. It is an important topic. The Bell companies are forbidden from entering into these services, they would very much like to, and at some point Congress, Judge Greene or even the President is going to have to decide whether they should be forever barred. Second, it's important because the development of information services is at the front lines of the communications revolution.

Let me give you a few instances. A customer calls her stock broker. The PBX picking up the call recognizes the phone number the customer is calling from. It tells the computer to pull her records from the central data base. As the account executive comes on the phone, the computer record appears up on a screen simultaneously.

Or let's take food. A college fraternity house calls a study break. The boys call an 800 number of a national pizza chain. Examining the phone number, the system routes the call to the closest parlor to speed delivery and furthers higher education in the process.

Powerful, practical application of our phone system: a fantasy? No, IBM proposed these two information services just two months ago. But under the information services restriction overseen by Judge Greene, the Bell companies can't provide similar services.

One reason Judge Greene gives for refusing greater information services activity by the phone companies is their size. They are large. Bell companies represent $170 billion in investments. But at last look, IBM was still pretty big.

Other applications of information services? Consider improved fire security systems tied to our phone systems. Dial, say, 711, and the phone number of the house could furnish the address instantly to the closest fire department. Or take home delivery of education and medical services, furnished by the telephone company; or language translation services to help non-English-speaking citizens communicate with government or emergency organizations.

Information services could include voice-to-text and text-to-voice research for students with disabilities;

Voice or video versions of the yellow pages to make it easy to shop at home, browse through an electronic mall, or order products by touching a few keys;

Find out which pharmacies are open on Saturday night or which express mail service has a late pickup;

Or for small business, interactive systems to allow you to offer information, receive or respond to messages, and take orders from customers anywhere in the world any time of day, coordinated through the phone system.

That is what information services in the country could be. Could be, but aren't. Why? Because the most likely providers of these telephone-based information services world, the seven Bell companies, can't enter this field, according to Judge Greene. He has assumed that the Bell companies will use their power in the local exchange marketplace to swamp competitors in the information marketplace.

Judge Greene's insistence that the Bell companies stay out of information services can't be based on any past wrong behavior. These companies weren't present at their own creation. Only AT&T, whose future would be different from the Bell companies, was present.

The Justice Department as well as the FCC have urged the Judge to allow these companies into the information services field. Judge Greene has had a three-word answer for these parties—"No, no, no." It's as if the Bell companies had their hands tied as babies and the rope keeps getting replaced as they grow.

It's also somewhat remarkable that these companies are being kept out of fear that they will trounce the information services that are just beginning to be formed. In fact, information services is probably a concept that sounds to you more vague than specific, even after I've given you some examples of it. And it isn't that developed a business.

But it is a field that big players, and not just the seven Bells alone, are considering. I've mentioned IBM. Companies like AT&T, General Electric, Sears, General Motors, American Express, Westinghouse, and McDonnell Douglas all have the desire to be in these new services.

Why? The answer leads me to the third remarkable aspect of this restriction. The consent decree is at its heart a pro-competitive document. It attempted to unlash long distance from local exchange in order to promote more competition in long distance. It also unleashed AT&T from restrictions on its ability to enter the computer market.

Thus, it is somewhat ironic that a pro-competitive document actually turns out to stifle competition.

Information services are in some degree still pie in the sky. Why? Because, so far, they've been developed by big companies for other big companies. What these suppliers lack is the ubiquity, in communications, of the local telephone companies. It's one thing to have a system that provides information services for the big boys. It's another to make sure those same services are accessible and affordable for small business and the residential market.

If we don't allow major communication players like the Bell companies to enter this business, we have no idea how far we can expand our information economy. We're losing a valuable opportunity. To borrow from the well-known slogan, a Bell operating company is a terrible thing to waste.

Now, merely expanding a host of information services that nobody wants won't accomplish anything. To be useful, as Lee Camp, a vice president of Pacific Bell has noted, "technology must be tamed and transformed into familiar services that are as easy to use as a television or CD player, as everyday as the photocopier, and more widespread than the automated teller machines we have come to expect on every street corner."

I can't entirely blame Judge Greene for putting the future on hold. He is, as Michigan's distinguished Congressman John Dingell has noted, in an "impossible situation." He's supposed to interpret the antitrust laws in the context of the case before him. Only the case before him involves the future of this nation's telecommunications infrastructure.

For one thing, trade looms large in the equation. The U.S. Government recently won a major victory in allowing Motorola access to Japan's huge mobile communications marketplace. But with the Bells silenced in the information services business at home, the question of their involvement abroad is almost academic.

What's not academic—what's real—is the plummeting decline in U.S. trade in telecommunications equipment, once a leading export. Between 1982 and 1987, this sector fell at a rate almost four times the decline in total U.S. exports as a share of gross national product. Between 1985 and 1987, that trade deficit almost doubled.

As information services become more important to the international market of communications, we've got to give the U.S. a fighting chance. Under the current system, it's as if the starting line-up of the Detroit Pistons was sidelined. As a Lakers fan, that's not so bad really. But basketball metaphors aside, America needs to field the best line-up we can in communications.

Help may be on the way. One bill before Congress, H.R. 2140, introduced in April, would authorize the Bell companies to get into the information services business, subject to conditions to be implemented by the FCC. It would also authorize these Bell companies to manufacture and provide telecommunications and customer premises equipment.

The bill is headed in the right direction. It returns to Congress and the FCC, authority to determine communications policy. And it allows factors other than those dictated by the antitrust laws to help chart our policy course in communications.

You in Detroit have the privilege and opportunity to influence the course of events on these questions. Congressman Dingell, as Chairman of the committee overseeing the House Telecommunications Subcommittee, is a key player—perhaps the nation's most influential legislator. Letting him know of your interest as to how information services should develop is critical.

Congressman Dingell has promised to get Congress back into the driver's seat on telecommunications policy by year's end. Your letters will tell him which way to point Congress's legislative engine.

For my part, I think we need to drive forward with a muscle car. That means using all the telecommunications muscle we have at our disposal. The Bell companies can provide the muscle. And if brought carefully onto the roadway with other information service providers, there will be room for all.

We need to marry our leadership in computers with the yet-untapped information services. If we don't do it, other nations will. We may or may not succeed, but we'll more likely fail without putting the best players we can into the game.

The Bell companies deserve a chance to be in our starting line-up. I know what a weak starting line-up is. Remember, I'm from Los Angeles, and it's just 297 days, 4 hours, 16 minutes, and 37 seconds to the start of the next basketball world championships! We'll see you there. Thank you.

COMMEMORATING THE FIRST ANNIVERSARY OF THE CIVIL LIBERTIES ACT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. MINETA. Mr. Speaker, in a few days we will be marking the first anniversary of the enactment into law of an historic act of Congress. On August 10, 1988, President Reagan reaffirmed the U.S. Constitution by agreeing with the House and Senate that terrible wrongs committed by the U.S. Government 46 years earlier needed to be redressed.

I shall remember that August day with great pride for the rest of my life. Yet now I am concerned that the worthy intent of the Civil Liberties Act may not be achieved. The appropriation of necessary funds to implement the law are lagging.

Beginning in 1942 and lasting until 1946, 120,000 loyal Americans—men, women, and children—were imprisoned in austere internment camps scattered throughout remote regions of the United States. For the next two generations, a stain of disloyalty and an unfair stigma of shame was borne by Americans of Japanese ancestry.

Through the enactment of the Civil Liberties Act, the United States offered an official apology and compensation for the forcible removal and internment of these loyal Americans. The struggle to achieve redress for this unjustice was a long and difficult one, and one which unfortunately continues to this day.

When President Reagan signed the Civil Liberties Act into law, he said, "For here we admit a wrong. Here we reaffirm our commitment as a nation to equal justice under the law."

But when President Reagan submitted his 1990 budget request for the program, he included a scant 4 percent of the authorized moneys to compensate surviving former internees for the abrogation of civil rights they had endured in the evacuation and internment. He wanted to compensate only 1,000, or one-sixtieth of those eligible.

President Bush chose not to increase the request, even though the Department of Justice's Office of Redress Administration sought funding in 1990 which would have compensated 25,000 individuals.

The House has now acted to appropriate $50 million in 1990, more than doubling the President's request and enough to compensate 2,500 survivors. But if the United States is to keep faith with the letter and spirit of the Civil Liberties Act, the highest possible level of funding must be appropriated.

More than one-quarter of the estimated 60,000 eligible individuals are 70 years of age or older. The grim reality is that 200 of these loyal Americans are expected to die every month that restitution is delayed. This alone attests to the urgent need to satisfy the mandate of the Act, to redress the injustices endured during the Second World War. But more than this, Congress and the President asked a second faith of those who had been wronged. We must not break this faith.

Those of us who dreamed of seeing the Civil Liberties Act become the law of our great Nation, and who stood tall with pride on August 10, 1988, will continue the struggle for full funding of the redress program. I urge all of my colleagues to join us in this effort.

A TRIBUTE TO THE NEW PARTNERSHIP BETWEEN THE UNIVERSITY OF CALIFORNIA AND THE DISCOVERY CHANNEL

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. BROWN of California. Mr. Speaker, I recently learned of a new educational program that will be produced by the University of California and the Discovery Channel. These two outstanding educational systems have joined in a remarkable new collaborative effort to bring high quality educational, scientific, and technological programming to the public. This is the first such linkage between a preeminent public university and a national television network.

The University of California has more than 7,000 faculty members and 161,500 students. Its faculty is internationally respected for its scholarly and scientific achievements. Through the years, 26 faculty members have won Nobel Prizes and currently the faculty includes 18 Nobel laureates and 239 members of the National Academy of Sciences—more than any other college or university system in the United States. Academic study areas span more than 150 disciplines from agribusiness to zoology. More of the University of California's academic programs are consistently rated among the top 10 nationally than any other public or private university. The University of California has campuses in Berkeley, Davis, Irvine, Los Angeles, Riverside, San Diego, San Francisco, Santa Barbara, and Santa Cruz.

The Discovery Channel broadcasts programs 18 hours a day exclusively about science and technology, nature, history, human adventure, and world exploration. The Discovery programs bring interesting and valuable information to the homes of many Americans. Teachers regularly watch the Discovery Channel and use it in their classrooms. In fact, a recent report given at a meeting of the National Science Teachers Association showed that 91 percent of those science teachers surveyed watch the Discovery Channel, and 63 percent said they would subscribe just to watch the programming it presents.

I am pleased that the University of California and the Discovery Channel have joined forces to produce a series of television programs called An Open Window. Subjects will range from genetic engineering and biotechnology, to advances in medical science, from use of computer technology in cataloging all publications printed in the English language during the 18th century, to observing the depths of the universe with the world's largest optical telescope. Footage is being shot on location in the university's laboratories, and experimental field stations, and they feature University of California scientists, scholars, and students. These shows will be a valuable asset to science teachers throughout the country, providing teachers access to cutting edge science and information currently being developed at the University of California.

"An Open Window" will debut nationally during September, on the first, second, and third Mondays, at 4 p.m. eastern time, and at 1 p.m. Pacific time. Cablecasts will be repeated on the first, second, and third Wednesdays, at noon eastern time, and 9 a.m. Pacific time. Each half hour program will feature five or six subjects.

The Discovery Channel and the University of California will be soliciting feedback from teachers on the value of the series for classroom use, and teachers' suggestions for improvements. Teachers are invited to write to: "An Open Window", Discovery Channel, 8201 Corporate Drive, Landover, MD 20785.

I rise today to recognize the new partnership between the University of California and Discovery Channel. The programs will be a remarkable achievement in science and technology education, and I urge my colleagues to join me in saluting the "An Open Window" series.

THE PUBLIC HEALTH RESPONSE TO AIDS ACT OF 1989

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. DANNEMEYER. Mr. Speaker, today I introduced legislation, the Public Health Response to AIDS Act of 1989, which I believe will help reign in the epidemic of HIV infection in America. As many of my colleagues are no doubt aware, in the past year there has been a profound shift in the conventional wisdom on this issue.

There is a growing recognition within both the medical and public health professions that we should apply to the HIV epidemic the same public health measures which have been used routinely for over 70 years to control the spread of other epidemics—notably, confidential reporting to public health authorities of positive HIV test results and the notification of sexual and needle-sharing partners that they may have been exposed to a fatal virus.

The following letters of endorsement for my legislation are evidence of this important and welcome trend. I encourage my colleagues to read them, and to cosponsor my legislation:

MEDICAL SOCIETY OF THE
STATE OF NEW YORK,

Lake Success, NY, July 27, 1989.

Hon. WILLIAM E. DANNEMEYER,
Washington, DC.

DEAR CONGRESSMAN DANNEMEYER: Thank you for providing the Medical Society of the State of New York with a copy of your bill "The Public Response to AIDS Act of 1989." The legislation provides that in order to qualify for federal funds under the Public Health Service Act, states will be required to take certain steps to contain the AIDS epidemic. Included among these steps, state public health officers will be required to put

in place a program to notify the sexual and needle-sharing partners of HIV-positive individuals who may have been exposed to the AIDS virus. In accordance with this program, the state will be required to recommend that the named partner(s) be tested for the AIDS virus and receive counseling, including counseling with respect to the benefits of testing and early diagnosis of one's HIV status. The state may not place the burden for carrying out the partner notification program on physicians or other health care providers. The legislation also requires states to consider HIV infection to be a communicable or sexually transmissible disease, and apply the same public health measures to contain the HIV epidemic that are used to control the spread of other communicable or sexually transmissible diseases.

The Medical Society of the State of New York believes that the principles embodied in "The Public Response to AIDS Act of 1989" are consistent with the position of the Medical Society that AIDS should be treated as a communicable and/or sexually transmissible disease. The Medical Society recognizes the devastating effect which the AIDS epidemic has had and will have on our state and the country. As the organization representing over half of the practicing physicians in New York State, the Medical Society is committed to taking every possible step to combat and prevent the spread of the disease. The Medical Society recognizes the many controversial issues which arise in an attempt to formulate the appropriate governmental/societal response to AIDS. In our judgment, the only rational approach is one which is both scientific and epidemiologically sound.

Designation of AIDS as a communicable and sexually transmissible disease would cause implementation of epidemiological measures such as testing, contact tracing and reporting, which would measurably advance the process of containing the spread of this dread disease.

For the foregoing reasons, the Medical Society of the State of New York supports "The Public Response to AIDS Act of 1989."

Sincerely,

DAVID M. BENFORD, M.D.,
President.

DONALD F. FOY,
Executive Vice President.

NEW YORK STATE SOCIETY OF SURGEONS, INC.,
New Hartford, NY, July 28, 1989.

Hon. WILLIAM E. DANNEMEYER,
Washington, DC.

DEAR CONGRESSMAN DANNEMEYER: On behalf of the members of the New York State Society of Surgeons, I would like to thank you for all of your efforts in attempting to prevent the spread of AIDS and especially for providing us with a copy of your bill "The Public Health Response to AIDS Act of 1989".

In our judgment, this bill contains many of the measures which the members of our Society feel are vitally necessary if society is to effectively combat the spread of this disease while at the same time recognizing and protecting the confidential interests of those tested.

The bill is laudable in many respects. It requires the federal government and all states to recognize and consider HIV infection to be a communicable and sexually transmitted disease and requires that the same measures which are utilized to limit the spread of other such diseases be employed in like manner.

It recognizes the fact that individuals who know they are infected with the HIV virus have a duty to those who might be exposed as a result of their actions by imposing criminal and civil penalties against such unconscionable behavior.

This legislation requires states to institute programs which will provide notification to all sexual and needle sharing partners of HIV positive individuals and which must recommend that such partners be tested and counseled. This becomes more and more important as new drugs are found to effectively treat this disease.

Most importantly, this bill provides that the requirements imposed upon the states must be satisfied for them to qualify for federal funds under the Public Health Service Act. We in New York State are painfuly aware of the fact that this disease has been treated as a political issue rather than a medical one and that this has been to the detriment of those who have the infection and even more significantly, those who have not as yet been exposed.

For all of the above noted reasons, the New York State Society of Surgeons is pleased to support "The Public Health Response to AIDS Act of 1989".

Sincerely,

EDWARD M. NATHAN, M.D.,
President.

CHARLES M. BROWN, M.D.,
Board of Directors.

NEW YORK STATE SOCIETY OF OBSTETRICIANS AND GYNECOLOGISTS, INC.,
New Hartford, NY, July 28, 1989.

Hon. WILLIAM E. DANNEMEYER,
Washington, DC.

DEAR CONGRESSMAN DANNEMEYER: Personally, and on behalf of the New York State Society of Obstetricians and Gynecologists, I would like to thank you for providing us with a copy of "The Public Health Response to AIDS Act of 1989", but infinitely more importantly, for drafting this legislation in the first place.

Over the course of the past 18 months, our Society, as well as the state societies of surgery and orthopaedic surgery, have been involved in a lawsuit against our state health commissioner seeking to have New York State institute many of the procedures contained in this bill. We are in complete agreement with you that their employment would significantly reduce the transmission of this dread disease.

As I have noted, we have been attempting to force the hand of our state officials in the courts since no other option is available to us. However, by tying in the state's implementation of these procedures with the receipt of federal funds under the Public Health Service Act, you have the incentive which has been utilized successfully in the past to bring recalcitrant states into the fold.

As obstetricians and gynecologists we see the devastating effects of this disease upon women and infants. We know, for example, that many infected men will not tell their intended spouses of their infection or exposure to the AIDS virus and we believe that the woman has the right to be made aware of the possibilities through the routine offer of the test at the time a marriage license is sought. Opponents of these measures say that it is naive to believe that couples do not engage in sexual relations prior to marriage and thus the woman has already been exposed. However, it must be pointed out that a person's risk of contracting the disease increases with continued exposure. Even more importantly, if the woman has been fortunate enough not to become pregnant, such a test will enable her to at least make an informed choice as to whether she wishes to have a child under these circumstances. Only those who have witnessed the heartbreak of delivering a baby who is infected with the HIV virus can relate to the necessity of having procedures established which enable, at least some, women to escape this terrible tragedy.

On behalf of the New York State Society of Obstetricians and Gynecologists, I commend you and your staff for your efforts in this regard and am happy to be able to lend the Society's support for its passage.

Sincerely,

ROBERT L. BIALKIN, M.D.
President.

JEROME J. SCHWARTZ, M.D.,
Immediate Past President, and Member of the Board of Directors.

NEW YORK STATE SOCIETY OF ORTHOPAEDIC SURGEONS, INC.,
New Hartford, NY, July 28, 1989

Hon. WILLIAM E. DANNEMEYER,
Washington, DC.

DEAR CONGRESSMAN DANNEMEYER: Thank you for providing us with a copy of "The Public Health Response to AIDS Act of 1989".

As leaders of the Society which represents the members of the orthopaedic community in New York State, we are extremely concerned with the measures taken to limit the spread of this terrible disease and are heartened by the provisions which are included in this legislation.

At the very outset we must endorse the concept by which the individual states would be required to institute the measures embodied in this bill in order to qualify for federal funds under the Public Health Service Act. In our opinion, this is the only means of leverage available to combat those who refuse to act in the public good for political reasons.

The substantive provisions contained in this bill are also long overdue. In order to be able to conduct long term studies relative to the prevalence and spread of this disease it is essential that states provide all of their epidemiological, statistical and demographic information to the CDC. This information will enable researchers to note unusual patterns throughout the country with respect to such things as transmission rates which might then be studied and the results provided to other areas for possible application when appropriate.

The members of this Society are also pleased to see the provisions dealing with the routine testing of hospital patients between the ages of 15 and 50 who will undergo surgery or have blood drawn. It is naive to believe that universal precautions are the answer. We must remember that to utilize these correctly would extend both the duration of surgical procedures as well as the interval between such procedures. Further, in the case of orthopaedic procedures, the precautions available are, at best, of limited value. Also, when human beings are asked to be cautious at all times, the urgency cannot be sustained. At some point this will become routine and mistakes can occur. On

the other hand, if the surgical team knew for a fact that the patient was infected, there would naturally be a hightened sense of caution. This measure, if enacted, would benefit all concerned. It would benefit those who are infected because the physician might conclude that it would be best not to operate on a person with a compromised immune system. It would benefit those who are not infected by reducing the chances of their contracting the infection and would benefit those hospital employees who are involved in the treatment process by insuring that they are protected from accidental exposure as well.

We are also favorably impressed with this bill's provisions relating to partner notification, the confidential reporting of positive test reports to the state or local public health officer and especially with the unequivocal recognition that this disease is both communicable and sexually transmitted.

Accordingly, the New York State Society of Orthopaedic Surgeons enthusiastically supports "The Public Health Response to AIDS Act of 1989".

Sincerely,

MARK G. LAZANSKY, M.D.
President.

GEORGE LIM, M.D.,
Past President and Director.

NORTH CAROLINA NEUROSURGICAL SOCIETY,
August 3, 1989.

The North Carolina Neurosurgical Society along with major components of the North Carolina Medical Society have recently successfully supported a bill in North Carolina dealing with two main questions involving HIV infected individuals: Discrimination and reporting. This bill was approved by the North Carolina legislature on 28 July 1989 and will become law on 1 October 1989. The proposals in Representative Dannemeyer's proposed house resolution, "Public Health Response to the AIDS Act of 1989", is a perfectly balanced federal response in supplementation to state action dealing with discriminatory and reporting questions. A bold, aggressive, federal response containing confidential collecting of HIV test results to promote health care planning and aggressive partner notification programs is long overdue. This combination of state and federal action will assist those of us in North Carolina to at last deal with this problem on an open and honest basis and will more than likely lead to the results similar to those we have had in the past in reducing the incidence of tuberculosis and syphilis. Only recently, when we have become lazy in our efforts to deal with these diseases, have their incidences actually increased in North Carolina as well as nationwide.

We strongly support a comprehensive, simultaneous approach to this problem having to do with: 1. Public health measures for reporting and partner notification. 2. Anti-discrimination measures dealing with the rights of the public, the employee and the employer. The financing of these and other efforts to care for those persons now infected and those yet to be infected are also issues that need to be discussed now and not later.

JAMES S. FULGHUM III, M.D.,
President.

EDWARD R. ANNIS, M.D.,
Miami Shores, FL, April 11, 1989.

Hon. WILLIAM E. DANNEMEYER,
House of Representatives, Washington, DC.

DEAR MR. DANNEMEYER: I appreciate your kind reference to my article in *Private Practice,* but even more the fact that you are introducing a bill to deal with such a sensitive but serious problem.

Responsible members of the medical profession continually remind physicians that AIDS patients are entitled to competent medical service with compassion and respect for human dignity and to the safeguard of their confidences within the constraints of the law. It is also felt that in the light of present knowledge those who are sero positive have the right to be free from discrimination and protected from the false perceptions and misinformation still too widely held.

On the other hand physicians have a responsibility to prevent the spread of contagious diseases, and this establishes a priority for the importance of identifying and informing all HIV positive individuals of their status. Certainly those who are not infected with the virus are entitled to protection from transmission of this dread and deadly disease. Thus the need for accurate information and public health surveillance becomes a necessity. Basic public health principles require the reporting on an anonymous or confidential basis to public health authorities of all those who are confirmed as testing positive for the antibody to the AIDS virus. Experience has already demonstrated that often rational persuasion fails and direct public health measures must be taken to protect third parties who could be unknowingly exposed.

In my opinion your bill encompasses prudent safeguards both for infected individuals and the public at large. I have sent copies to the Editor of *Private Practice* and to the Executive Director of the New York State Medical Society where their doctors have gone to court to force the state health officer to recognize AIDS as a sexually transmitted and infectious disease. I shall take a copy with me today when I leave for Baltimore and the opportunity to address the Annual Meeting of the Maryland State Medical Society.

I have shared it with responsible leaders here in Florida and assure you of what I anticipate to be widespread and wholehearted support on the part of knowledgable physicians.

With appreciation, I am

Sincerely,

EDWARD R. ANNIS, M.D.,
Past President, American Medical Association.

AMERICANS FOR A SOUND AIDS POLICY,
July 31, 1989.

Hon. WILLIAM E. DANNEMEYER,
Washington, DC.

DEAR CONGRESSMAN DANNEMEYER: After careful review of your proposed 1989 AIDS legislation amending the Public Health Service Act regarding counseling and testing, it is the opinion of Americans for a Sound AIDS Policy that your bill is in the best interest of our country at this time. We are facing a rapidly expanding HIV epidemic, yet we are unaware of its size, direction, or even rate of growth. Traditional public health intervention strategies are needed to curb the epidemic today. This bill offers such hope.

We respect your moderate approach to offering, rather than mandating, serological diagnosis in a multitude of settings. Letting state public health officials decide where geographically it is appropriate we believe is consistent with standard public health policy and should be well received by the public health community across America. We also believe that individuals can be dramatically helped both medically and psychologically by learning their HIV status, and this bill assures more people having knowledge rather than ignorance about the human immunodeficiency virus.

While prevention is only a part of the entire AIDS/HIV issue, it remains a critical component to stopping the spread of this terrible disease. In that respect, your bill offers significant advances toward that end. We look forward to other legislation in the Congress which will address needs in respect to developing enhanced treatments for both the disease and opportunistic infections, as well as services for people unfortunately infected or already symptomatic.

Again, it is a pleasure to be able to publicly support this bill, which we view as an important advancement in a united battle against this devastating epidemic.

Sincerely,

W. SHEPHERD SMITH, Jr.,
President.

ROY INNIS, NATIONAL CHAIRMAN OF THE CONGRESS OF RACIAL EQUALITY—(CORE), SUPPORTS CONGRESSMAN WILLIAM DANNEMEYER'S BILL ON AIDS—

The public health response to the AIDS bill of 1989 introduced by Representative WILLIAM DANNEMEYER is a courageous piece of legislation. It is a response to one of the greatest public health crises to face this country or any country in modern history. It is an attempt to nudge State public health institutions to move rapidly and to deal with the AIDS crisis.

Without intruding unreasonably on the rights of the individual, it seeks to protect the interest of the society at large. It strikes a balance between voluntary and mandated activities or provisions; and most importantly it places AIDS in the category of other communicable and/or sexually transmitted diseases.

We support this legislation as a good initial step in the right direction.

STATEMENT BY BEVERLY LAHAYE, PRESIDENT, CONCERNED WOMEN FOR AMERICA

Concerned Women for America is proud to support Congressman William Dannemeyer's bill, the Public Health Response to Aids Act of 1989, as a vital part of a two-pronged approach to curtail the AIDS epidemic in the United States. For the survival of our communities, indeed, for the survival of American families, the time for this bill is now.

CWA applauds Congessman Dannemeyer's continued efforts to strengthen our nation's AIDS policy by supplementing present funding for AIDS research with a much-needed, strong public health response. With AIDS now spreading beyond high-risk groups to the general populace, it is time for the United States to ensure that grant money goes to states that are treating AIDS like other communicable diseases—through reporting, mandatory partner notification, criminal and civil penalties for knowing risk groups. The Public Health Response to AIDS Act mandates these necessary precautions and has garnered a broad base of support.

While it may not be possible to legislate, it is also vital that any effective response to the AIDS problem include a strong message of abstinence. CWA will continue to urge our churches, homes and schools to reiterate the ageless prescription for life and health: Abstinence outside marriage and fidelity within a heterosexual marriage. Teens must hear that values are not relative and that individuals who follow this prescription are at nearly zero risk of getting AIDS.

CWA believes that a strong legislative initiative and an educational response emphasizing abstinence are both critical to winning the AIDS war and debate.

Concerned Women for America, now in its tenth year, is the nation's largest women's organization with more than 600,000 members and chapters in all 50 states. It was founded to preserve, protect and promote traditional and Judeo-Christian values.

THE SITUATION IN LEBANON

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Ms. OAKAR. Mr. Speaker, I rise today to bring our Nation's attention to the tragic situation in Lebanon. Our attention to the complex problems there, our Nation's commitment in humanitarian assistance and our leaderhip in diplomatic efforts are critical to Lebanon's survival as a democratic nation.

Earlier this year, Members of this body supported my amendment to the foreign aid authorization bill, which earmarked $7.5 million in humanitarian assistance in fiscal year 1990 and $7.5 million in fiscal year 1991 for humanitarian aid for the people in Lebanon. I am very grateful for this humanitarian gesture. I also deeply appreciate their support for including an earmark for Lebanon in the foreign aid appropriation bill.

Mr. Speaker, according to a recent report in the New York Times, since the hostilities escalated in March, over 510 people have been killed in Lebanon. In the same report, the New York Times wrote that approximately 700,000 people, half of the population of Beirut, has left Beirut for safer territory to the South and to the East after the bitter military bombardment in April and in May.

The amount of heavy shelling and suffering in Lebanon are difficult to comprehend. For example, on April 4, during the night over 5,000 shells hit the Christian areas alone, and an additional 3,000 shells hit Muslim districts. This heavy shelling has caused a tragic number of fatalities, most of them innocent civilians. A report earlier this year estimated that over 1,293 people had been wounded. The large number of wounded has placed a great strain on the hospitals who have not been destroyed and who continue to operate in the middle of this violence.

Such basic commodities as water and food are very scarce. There is only 1 to 2 hours of electricity a day because there is little to no fuel and because so many powerplants have been hit by the heavy shelling.

The strife in Lebanon also has had a devastating impact on the economy there. According to the Lebanese Economic Report, a book which was published in 1986, Lebanon is now classified as one of the poorer Third World countries, whereas in the prewar years its economic performance propelled it up to the ranks of developed countries. Industrial exports diminished from 5,444 million in Lebanese pounds in 1981 to 407 million in 1985, a decline in economic performance of more than 92 percent in 4 years.

The continuing violence has the most telling impact on the children of Lebanon. A researcher working with Beirut's children, Dr. Mona Maksoud, conducted a study of traumatic stress among 2,000 children. The study found that: 90 percent of children had been exposed to bombardment; 68 percent have experienced displacement from home and school; 54 percent have known extreme poverty and deprivation; 50 percent have witnessed major acts of violence; and 26 percent have lost a member of their immediate or extended family.

Our country's most immediate goal should be to bring about a cease-fire. To accomplish this, the United States needs to resume its leadership role in diplomatic efforts. In particular, the President should actively work with the Arab League, France, the United Nations, and other parties to mediate this tragic crisis. While I applaud the recent diplomatic efforts by the United States to reduce the flow of arms to the region and the work of people in the State Department on this issue, I believe the United States needs to conduct diplomacy on a higher level with each of the parties involved to demonstrate both our commitment to bringing about a cease-fire and our concern for the Lebanese people.

Mr. Speaker, I know of few other nations who have suffered as much as Lebanon. The civil war has killed over 100,000 people, and the people want peace. They want harmony and a sovereign, unified country free from foreign interference.

I would like to call Members' attention to an editorial which recently appeared in the Washington Post, which presents very thoughtful views on Lebanon. In addition, the remarks of John Chancellor in his NBC Nightly News commentary were also excellent. I call attention to these remarks as well:

[From the Washington Post, Aug. 2, 1989]

WHY FRET OVER LEBANON?

If you needed a reminder as to why the company of nations cannot afford to let Lebanon slip into terminal violence and anarchy, it has been provided by the murder of Lt. Col. William Higgins. His killers have found protection and sanctuary, and perhaps could only do so, in the condition of lawlessness that defines Lebanon today. Otherwise there would be some sort of official apparatus or "address"—as in Libya—that others could hold responsible for acts against the code of nations. The Iranian-supported Hezbollah or Party of God, which boasts of the brutal assassination of Col. Higgins, could not be the menace it is if Lebanon were a halfway decent operating country again.

Unhappily, the Higgins affair takes place as Lebanon is in an unchecked free fall. Long ago the vying Christians and Moslems inside the country made the fatal error of seeking help from outsiders. Now the parties have become pawns of their would-be protectors, which pursue missions of power-flexing utterly unrelated to the welfare of their clients. This is how Syria, working with and through Moslem and Druze militias, comes to be contesting Iraq, which sponsors the Christian-led armed forces commanded by President Michel Aoun and the Christian militia called the Lebanese Forces. The Syrian-Iraqi battle of wills over the past four or five months has been awful even by the standards of Lebanon's 14-year civil war. The weapons become heavier, the targets less restricted. Hundreds of civilians have been killed, hundreds of thousands driven from their homes, the country wasted.

Just this week a thin but vital cord to hope was cut when an Arab mediating team, saying its mission had failed either to engineer a cease-fire or to start up a political process, quit the Lebanese field. It was a cruel blow. The broad Arab world is anguished by events in Lebanon. But as in the Iran-Iraq war, at any given moment the broad Arab (and Moslem) world takes a certain comfort in seeing its most powerful and belicose members distracted by struggle with each other.

The Lebanese have failed to resolve their own affairs. The Arabs have failed to do it for them. That leaves one possibility untried: to widen the circle of those concerned to restore Lebanese sovereignty. Lebanon never gets on those lists of "regional disputes" supposedly primed for Soviet-American addressing. It it getting to be time?

BRING ORDER IN LEBANON

(Remarks by John Chancellor, NBC News)

The President has very few options on this one. A military response might kill innocent civilians and trigger the execution of more hostages. Leaning too heavily on Israel to release the Sheikh it kidnapping might lead to an American-Israeli split—and that is just what the terrorists want. Whether we like it or not, and many don't including the President, Israel and the United States are in this together.

Yet there is something which can be done and that is to solve the problem of Lebanon. As long as it remains a war zone the hostage game will continue.

But the United States has done nothing about Lebanon for almost 6 years; 241 American Marines and Sailors were murdered there in 1983, and after that the Reagan administration just walked away. The Bush administration has said little or nothing about it.

What needs to be done is to put the full weight of the United States—Britain, France, West Germany, and the Soviet Union behind a campaign to bring order to Lebanon. All have had hostages taken there. After 14 years of civil wars the Lebanese people are certainly ready for peace. It wouldn't be easy to pacify Lebanon. The Arab League tried and failed. But it can be done. And when it is done everybody—including Israel—will be safer.

In fact—not doing anything about Lebanon helped bring about the present crisis. If nothing is done now—all we have to do is wait for the next one, which is commentary for this evening.

THE SCIENCE AND TECHNOLOGICAL LITERACY ACT

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. VALENTINE. Mr. Speaker, I rise to give my support to a proposal to improve this Nation's understanding of science and technology.

About 2 years ago, at the request of my colleague DAVID PRICE who is the principal sponsor of this measure, and I, the Science, Research and Technology Subcommittee held a hearing in North Carolina on this matter. We are both grateful to Representative DOUG WALGREN, chairman of the subcommittee, for his personal interest and leadership on this issue.

The purpose of the hearing was to identify essential skills that productive workers would need in the future and to explore educational and training methods that would help American workers stay competitive with overseas manufacturers.

At the hearing, a panel of experts from the private and public sectors in North Carolina emphasized the need for an educated work force.

One executive at the Research Triangle Park told the subcommittee that his company considers it essential to hire "individuals who have basic skills to adapt to change. Things are changing so quickly that almost half of the jobs today won't exist in the same form at the turn of the century. That suggests massive retraining. And massive retraining requires people with a good solid, basic education."

With a national illiteracy rate of 18 percent, a rapidly changing and technologically advanced workplace, and increasing foreign competition, the Federal Government must invest in the education of Americans if we want to remain competitive.

In 1980, traditional manufacturing jobs accounted for 28 percent of the job market. It has been predicted that, by the year 2000, that share will drop to about 11 percent. Entirely new occupations are emerging, and we must address the implication of this trend for our continued economic growth and prosperity.

The reduction of direct employment opportunities in the traditional manufacturing sector and the different skill requirements of future manufacturing jobs will put new demands on postsecondary training and education. Technical and vocational schools will need to base their training for displaced workers and young people entering the labor force on realistic assessments of industry's skill requirements. Universities must implement programs to recruit, retain, and train our engineers and scientists to help keep pace with the changing work environment. Manufacturing is becoming increasingly science-based, and this scientific knowledge is virtually a prerequisite for effective design and implementation of advanced process technologies.

For these reasons, I urge my colleagues to join me in support of the Science and Technological Literacy Act. By providing incentives to schools and organizations to improve training and education programs in science and technology, this measure ensures that we will have a work force that is prepared for the future. It provides for grants from the National Science Foundation for the improvement of math and science curriculum. Grants would also be awarded for the development and dissemination of innovative technologies for use in science and technological literacy instruction. Grants would be awarded to colleagues that offer exemplary advanced technician training and to institutions seeking to upgrade technician programs.

It is important to point out that the vast majority of awards under this bill would be in the form of matching grants. Grants from NSF would only be made when an equal amount of money has been raised from non-Federal sources. This requirement will ensure more effective Federal spending by at least doubling the impact of each taxpayer dollar and providing support for only those proposals that are judged worthy by other donors.

The training and maintenance of a scientific and technically literate work force is vital to the future of our economy. At stake for the United States is our standard of living, jobs, health care, a quality environment, and a vigorous education system.

I fully recognize the need to eliminate unnecessary Federal spending and reduce the budget deficit. I have supported significant spending cuts.

At the same time, we must realize that programs such as those established by this bill are investments in our future, If we do not invest this money now, we will pay a large bill later.

I urge my colleagues to support the Science and Technological Literacy Act of 1989.

DENISE HARRISON—A SUCCESS STORY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. CARDIN. Mr. Speaker, I am pleased to bring to the House's attention a success story. For the past 19 months, Denise Harrison has worked as my receptionist. She came to my office in December 1987, without Capitol Hill experience, in fact with little office experience of any kind. She was recommended to me by the local WIN Program, which assists people seeking to get off the welfare rolls and become self-sufficient.

Denise was 19 years old, the mother of two young sons. She had earned her equivalency degree and had the determination to take control of her own life.

In the time she has worked in my office, Denise has become a valued member of the staff. Her responsibilities have grown as her confidence has grown. At the same time, she has become part of the staff in important personal ways. With a background vastly different from the rest of the staff, Denise was intimidated at first. But her fears have receded as her abilities have been proved, to our mutual benefit.

The next chapter of Denise's success story will have a new setting. Wednesday, August 9, will be Denise's last day in my office. She has been offered a new position, in the private sector. She is taking it for what I concede to be a very sound reason—she's been offered more money.

My staff and I are proud of her and happy for her. Denise will be missed, but we extend our very best wishes, and want her to know how much we have enjoyed working with her.

H.R. 3095, THE SAFE MEDICAL DEVICES ACT OF 1989

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. DINGELL. Mr. Speaker, yesterday my colleague, Congressman HENRY WAXMAN, and I introduced H.R. 3095, the Safe Medical Devices Act of 1989, a bill to amend the regulation of medical devices under the Federal Food, Drug and Cosmetic Act.

The current statute does not protect the public from unsafe medical devices, and the law must be revised and improved. This is a strong bill which will achieve that purpose.

Over the years the Oversight and Investigations Subcommittee of the Energy and Commerce Committee has compiled a story of the sorry inability of the FDA to implement the 1976 medical device law as Congress intended. The result has been that the health of the American public has been jeopardized. Indeed people—young babies, the elderly, and men and women in the prime of life—have died because unsafe medical devices have been allowed on the market without scrutiny.

This bill makes improvements in three important areas:

Assuring that all devices entering the market are safe and effective;

Learning quickly about serious problems with medical devices; and

Getting defective devices off the market.

I am committed to the enactment of this legislation. Nothing can be more important than ensuring the protection of the public health. I urge my colleagues to join with me in support of this bill.

AIR FORCE COL. TOMMY W. LUEDERS RETIRES

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mrs. MORELLA. Mr. Speaker, Col. Tommy W. Lueders retired from the Air Force on August 1, 1989, after serving as a judge advocate for over 28 years. He received his bachelor of business administration and doctor of jurisprudence degrees from the University of Texas in Austin. He served as a base staff judge advocate three times, the first after only 2 years of active duty. He was the deputy staff judge advocate at the Civil Air Patrol national headquarters.

After teaching military justice and directing the practice court program at the Judge Advocate General's School, he became the chief of international law for the United Nations Command and United States Forces, Korea, in Seoul, Korea. He returned to Texas and served as deputy staff judge advocate of the 12th Air Force at Bergstrom Air Force Base. The highlight of his career was spent as legal advisor and legislative assistant to the Chairman, Joint Chiefs of Staff. At the request of the Chairman, he stayed an additional year. Then he became the first and only special counsel to the Air Force general counsel. He returned to headquarters, 12th Air Force as staff judge advocate and concluded his career. We wish Colonel Lueders, his wife, Betty; and children, Amy and Tommy II, all the best in their future endeavors.

THE SENIOR EXECUTIVE SALARY ACT OF 1989 (H.R. 3097)

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. GILMAN. Mr. Speaker, today, along with my good friends and colleagues, Mr. HORTON of New York, Mr. LELAND of Texas, Mrs. MORELLA of Maryland, and Mr. MYERS of Indiana, I am introducing H.R. 3097, the administration's Senior Executive Salary Act of 1989. As ranking minority member of the Post Office and Civil Service Committee I participated in the series of hearings the Committee held concerning the recommendations of the Commission on the Public Service. Chaired by the distinguished Paul Volcker, the Commission presented to the President and Congress a series of recommendations to restore confidence and trust in the public service. In an effort to increase talent and performance throughout government, the Commission asked Congress to build a pay system which is both fair and competitive while setting higher goals for public performance and productivity.

The legislation I am introducing today attempts to meet these goals by providing for higher salaries for a small number of employees in positions requiring specialized and critical skills. H.R. 3097 also provides for salary increases ranging from 8 to 25 percent for senior executive branch officials. In addition, the bill links receipt of the higher salaries to effective job performance. H.R. 3097 is the executive branch counterpart to the administration's judicial salary proposal calling for a 25-percent increase in the pay of Justices and judges.

The pay of senior government officials has eroded significantly in relation to the pay of executives in comparable private sector jobs. For example, over the past 20 years the pay of executive level II (Deputy Cabinet head, such as the Deputy Secretary of Defense) has slipped from 66 percent to 39 percent of the pay of the lower range of private sector executives. From 1969 to 1985, corporate executives enjoyed a 69 percent rise in real compensation, while senior Federal executives saw their pay fall by 30 percent. Key scientific, medical and acquisition jobs remain unfilled due to uncompetitive pay, thus jeopardizing successful fulfillment of priority Government missions. In past years, the Government has been able to attract a number of Nobel laureates to Federal employment. This critical expertise will be lost to the Nation without adequate incentives.

Our failure to provide competitive pay is also impeding recruitment and retention of qualified persons in the senior levels of government. A number of highly qualified candidates for sub-Cabinet posts have declined to accept these appointments because of low pay and family sacrifices. Departments and agencies, such as NASA, have lost highly skilled and experienced senior executives, in part because of inadequate and noncompetitive pay. Many high ranking local government officials in large metropolitan areas now make more than key Federal Government leaders such as the Director of National Institutes of Health, who is responsible for research on cancer, AIDS, and heart disease.

In line with the Volcker Commission's goal of increasing Government performance and productivity, the administration proposal includes a recertification process for senior Government executives. I share the concerns raised by the proposal's critics that this process should not be used as a political litmus test. Higher salary levels must be accompanied by a strengthened relationship between pay and job performance and a higher level of accountability. But a politicized recertification process which in some way would require an oath of political loyalty has no place in such process. I plan to scrutinize such proposals very carefully and I urge all parties involved to work hard to find common ground which protects employee rights while assuring accountability and high standard of performance for the Nation.

Mr. Speaker, it is time we address the serious problems of Federal compensation. H.R. 3097 addresses the problem of executive-level pay, but we cannot ignore the festering problems of pay in the General Schedule. We must build a compensation system which is both fair and competitive. H.R. 3097 is a first step in this direction. Accordingly, I invite all of my colleagues to join me and the original cosponsors of H.R. 3097 in efforts to reinvigorate the public service by cosponsoring this bipartisan legislation. I ask unanimous consent that the full text of this bill and a section-by-section analysis be printed at this point in the RECORD;

H.R. 3097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senior Executives Salary Act of 1989".

SEC. 2. 25 PERCENT PAY INCREASE FOR EXECUTIVE SCHEDULE POSITIONS.

(a) 25 PERCENT INCREASE.—The annual salary rates of positions in the Executive Schedule are hereby increased in the amount of 25 percent of their respective existing rates, rounded to the nearest $100, effective the first day of the first pay period that begins on or after January 1, 1990.

(b) COORDINATION WITH 1990 ADJUSTMENT.—Any adjustment in rates of pay for fiscal year 1990 that takes effect with respect to the Executive Schedule pursuant to section 5318 of title 5, United States Code, shall be applied to the rates of pay in effect after application of the increase provided under this section.

SEC. 3. CRITICAL POSITION PAY AUTHORITY.

(a) ALLOCATION OF AUTHORITY AMONG AGENCIES.—The Director of the Office of Management and Budget, in consultation with the Director of the Office of Personnel Management, may, from time to time, allocate and reallocate among the department and agencies of the executive branch, critical position pay authority for not to exceed a Government-wide total of 200 positions.

(b) LIMITATION ON USE OF AUTHORITY.—The head of an agency who receives an allocation of critical position pay authority may exercise such authority for not to exceed the number of positions for which authority is received from the Director of the Office of Management and Budget as set forth in subsection (a).

(c) DEFINITION.—For purposes of this section, "critical position pay authority" means the authority of the head of an agency, notwithstanding any other law, including section 225(f) of the Federal Salary Act of 1967 (2 U.S.C. 356), and sections 5308, 5382, and 5383(b) of title 5, United States Code, to fix the compensation for any position he determines to be a critical position at the time it is filled at an annual rate that does not exceed the rate for level I of the Executive Schedule. Such authority must be reexercised when a position becomes vacant and is refilled based upon a redetermination by the agency head that the position is a critical position within the meaning of this section. Such authority may be reexercised only if the allocation made by the Director of the Office of Management and Budget required for such exercise pursuant to subsection (b) is reconfirmed by the Director of the Office of Management and Budget at the time of such reexercise.

(d) CONSIDERATIONS.—In determining whether a position is a critical position to which this section shall apply, the head of the agency shall consider—

(1) the extent to which the position requires scientific, technical, expert, or professional qualifications; and

(2) the extent to which additional compensation is necessary to attract exceptionally qualified individuals.

(e) ADJUSTMENT IN MAXIMUM RATE.—Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of title 5, United States Code, the maximum annual rate of pay established by this section shall be adjusted by an amount, rounded to the nearest multiple of $100, equal to the percentage of such annual rate of pay which corresponds to the percentage of the adjustment in the rates of pay for the Executive Schedule under section 5318 of title 5, United States Code, as amended by this Act.

SEC. 4. RECERTIFICATION REQUIREMENTS.

(a) DEFINITION.—For purposes of this section, "employee" means—

(1) a senior executive, as defined by section 3132(a) of title 5, United States Code;

(2) a member of the Senior Foreign Service; and

(3) a career employee whose position is set forth in the Executive Schedule.

(b) RECERTIFICATIONS.—Every 3 years, each employee shall be subject to recertification as set forth in this section. Such recertification shall consist of the following:

(1) An employee shall be required to demonstrate to the employee's supervising authority that the employee's performance in the previous 3-year period has been outstanding or its equivalent, as defined by standards established for the employee's position.

(2) If the employee demonstrates such performance, the employee shall be recertified.

(3) If the employee fails to demonstrate such performance, the supervising authority shall take one of the following actions, depending on the circumstances—

(A) the employee's pay shall be reduced to the minimum rate of basic pay payable for GS-16 of the General Schedule;

(B) the employee's level shall be reduced to such lesser level in the Senior Executive Service, the Senior Foreign Service, or the Executive Schedule as may be appropriate; or

(C) the employee, while retaining career tenure in the Federal service (for employees with such tenure), shall be removed and placed in a position in the General Schedule at GS-15, Step 10.

(c) REGULATIONS.—The Director of the Office of Personnel Management shall promulgate such regulations as may be necessary to carry out this section. Such regulations shall, in the case of career employees, include appropriate rights to notice, hearing, and appeal consistent with existing rights for similar personnel matters. Career employees shall have a right to appeal to the Merit Systems Protection Board from an adverse action under this section taken by the agency for any political or other proscribed purpose.

(d) EFFECTIVE DATE.—This section shall take effect on January 1, 1990.

SECTION-BY-SECTION ANALYSIS OF H.R. 3097 THE SENIOR EXECUTIVE SALARY ACT OF 1989

SEC. 1. SHORT TITLE

This section provides that the Act may be cited as the "Senior Executives Salary Act of 1989."

SEC. 2. PAY RAISE FOR SENIOR EXECUTIVES

This section would provide a 25 percent pay raise for all positions in the Executive Schedule, beginning in January 1990. As a result of this increase, members of the Senior Executive Service will also receive a pay raise beginning in January 1990. This will occur because Senior Executive pay rates are tied to pay rates for Level IV of the Executive Schedule.

SEC. 3. CRITICAL POSITION PAY AUTHORITY

This section would establish a system for providing critical position pay authority. Under this authority, an agency head could determine to compensate an individual in such a position at an annual rate not to exceed the rate for Level I of the Executive Schedule.

Under subsection (a) of this section, the Director of the Office of Management and Budget, in consultation with the Director of the Office of Personnel Management, would be authorized to allocate critical position pay authority for not to exceed 200 positions. The Director would allocate these 200 positions among the agencies of the Executive Branch. The Director could change the allocations from time to time depending upon the circumstances with which he is presented.

Subsection (b) of this section would provide that an agency head may exercise critical position pay authority only for not to exceed the number of positions allocated to the agency by the Director of the Office of Management and Budget.

Subsection (c) of this section sets out the definition of "critical position pay authority." This section also provides that such authority must be reexercised when a position becomes vacant. The authority may be reexercised only if the Director of the Office of Management and Budget reconfirms the allocation of critical position pay authority for the position. This will ensure that the authority is exercised only on a controlled basis as necessary for recruitment for a particular position.

Subsection (d) sets out the factors the head of the agency is to consider in determining whether a position is a critical position to which the section shall apply. These factors are: (1) the extent to which the position requires scientific, technical, expert or professional qualifications, and (2) the extent to which additional compensation is necessary to attract exceptionally qualified individuals.

Subsection (e) of this section would index the annual maximum salary rate so that it would be increased to the same extent as the rates for the Executive Schedule under 5 U.S.S. Section 5318, as amended by the Act.

SEC. 4. RECERTIFICATION OF SENIOR EMPLOYEES

This section sets out a process under which senior employees in the Executive Branch must be recertified every three years. Unless recertified, the employee would (1) lose the pay he or she receives above that provided to positions at GS-16 of the General Schedule, or (2) be reduced in level to a lesser level within the same pay system, or (3) be removed and placed in a position of the General Schedule at GS-15 step 10.

The employees subject to recertification are (1) members of the Senior Executive Service (both career and noncareer), (2) members of the Senior Foreign Service, and (3) career employees whose positions are set forth in the Executive Schedule.

Under subsection (b) of this section, each of these employees would be required to demonstrate to the employee's supervising authority that his or her performance in the previous three-year period had been outstanding or its equivalent as defined by standards established for the position. If the employee failed to make such a demonstration, his supervising authority would reduce his pay or position.

Subsection (c) of this section provides that the Director of OPM shall promulgate regulations to carry out the section. Such regulations must include, for career employees, rights to notice, hearing, and appeal consistent with existing rights for similar matters. Also, career employees are guaranteed the right to appeal to the Merit Systems Protection Board from an adverse action taken by the agency for political or other proscribed purposes.

Subsection (d) of this section provides that the recertification system established by this section shall take effect in January 1990.

HONORING ARKANSAS PHARMACIST OF THE YEAR

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. ALEXANDER. Mr. Speaker, I want to take a moment to honor Mr. Larry Wamble, the 1989 Arkansas Pharmacist of the Year. Mr. Wamble is a valued friend and constituent who has exhibited a sincere commitment to the betterment of Arkansas pharmacy.

The Arkansas Pharmacist Association recently recognized his leadership by awarding him with its highest honor. He was chosen for this award because he has earned the respect of his Arkansas colleagues. He has served as past president of the Arkansas Pharmacy Association, he has chaired several special interest committees and has taken a sincere interest in following legislation affecting the industry. He currently holds positions on the National Association of Retail Druggists membership committee and political action committee.

In 1986, he played a vital part in forming the "Guy Newcomb Legislative Leadership Award". This award honors the memory of Guy Newcomb and his contributions to Arkansas pharmacy. It is given annually to a legislator that has been involved in pharmacy and health issues. Critical issues of concern to the health and welfare of the citizens of Arkansas. Such matters have always been a top priority for me, and I will continue to support them as long as I represent the First Congressional District.

Although Larry has given a great deal of his time to the pharmacists of Arkansas, he has not neglected his civic duties. He is a past-president of the Osceola Kiwanis Club and past-lieutenant governor of Kiwanis International. He was also a member of the city council from 1976 to 1986.

Larry Wamble is truly a deserving recipient of this notable award. The pharmacists of Arkansas are fortunate to have him among their membership.

CONGRATULATIONS TO THE MICHIGAN SENIOR SOFTBALL LEAGUE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to the Michigan Senior Softball League.

In 1987, 70-year-old William Morey approached Dennis Torp, administrator of the South Volunteer Center in the Warren Consolidated School District, for his assistance in establishing a senior softball league. The league was to be for those men 70 and over still wanting to play softball on a regular basis. Many leagues were established for those over 55, but the older men found it hard to compete.

Mr. Morey and Mr. Torp soon acquired a missionary zeal to assist those men who wanted to play softball, not just be bench warmers for the "younger" players. The two men found sponsors to provide uniforms for four complete teams. As the four teams completed their small playing schedule, Mr. Torp felt the talents these 60 men showed should be known to the community.

After approaching the city of Mount Clemens for a sponsor, he was referred to Ms. Carol J. Garber. Ms. Garber is the Classic Club coordinator—a senior citizen club—for First Macomb Bank. Ms. Garber soon acquired the zeal of Mr. Morey and Mr. Torp. She formed a board of directors, including ex-Detroit Tigers Milt Wilcox and Jim Northrup, for the Michigan Senior Softball League. With the support of the First Macomb Bank, the Michigan Senior Softball League's cosponsor, the annual Farm City Tournament was initiated in 1987.

Since the first tournament, the number of participating teams has doubled and two age divisions have been established, one for 55–69 and one for 70 and over. The tournament is held at Memorial Field in Mount Clemens, MI. It will again be held there this August from the 17th to the 20th.

The league itself has grown to six teams and hopes to grow statewide. The Michigan Senior Softball League will be sending a team of all-stars to Greensboro, NC, to compete in the first ever Senior Softball World Series. The world series will have over 80 senior teams in five age classes competing from around the world.

I commend Mr. Morey, Mr. Torp, and Ms. Garber, as well as the many who have helped them, on their efforts in establishing the Michigan Senior Softball League.

I pay tribute to those who have dispelled the myths of aging by participating in this league. At an age when most have hung up their cleats, these men are making new friends, accepting new challenges, and adding years to their lives.

TRIBUTE TO COL. EDWARD A. STARBIRD, DISTRICT ENGINEER, U.S. ARMY CORPS OF ENGINEERS

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. CLEMENT. Mr. Speaker, Col. Edward A. Starbird has commanded the Nashville District of the U.S. Army Corps of Engineers since July 1986. This August 14, Colonel Starbird will move to a new command and, as such, I would like to wish him well and commend him for his outstanding leadership of the Nashville District.

As district engineer, Colonel Starbird's responsibilities are vast and varied. He directs all water resource activities of the corps throughout the Cumberland River Basin, and navigation and regulatory matters in the Tennessee River Basin—an area of more than 59,000 square miles in parts of seven States. The Nashville District's programs totals more than $95 million annually and, while sounding like a lot, Colonel Starbird has stretched this amount effectively to meet the many needs of the Nashville District.

During his tenure as district engineer, the district became a leader in the approach it took to the many programs for which the corps is responsible. Colonel Starbird promoted a concern for public safety and recreation, a concern for the quality of outdoor recreation, and a concern for the protection of the environment.

Under the colonel's command, the district also led the Corps of Engineers approach to water safety. And that approach has saved lives locally. At corps lakes in Tennessee, water-related facilities went from 12 in 1986, to 14 in 1987, to 11 in 1988. The district has extensively used radio and TV publicity spots, has utilized marquees and electronic message boards for water safety messages, and has placed hundreds of posters at stores and boat ramp.

In addition, the corps has had its mascot, Freddie the Fish, make hundreds of visits to schools, encouraging safe water practices, including the wearing of personal flotation devices, among our youngest and occasionally most vulnerable members of our community. The corps has donated ad space in commercial ad flyers, placed water safety stories and photos in local newspapers and, most importantly, has increased enforcement of existing regulations and laws.

Faced with difficult drought conditions, the corps district took the lead in cutting water flows to the minimum needed for water quality and navigation, while preventing brownouts. The corps' planning insured that no water supply problems on the Cumberland were occurred and that the effect on recreation and plant cooling systems was minimal.

A number of important flood control, water supply and recreational projects have been initiated by the district, including a number of much-needed projects in Davidson County, TN. And, as a result, the citizens who reside in the district have been benefited and their lives and property protected.

A major district accomplishment has been the development of the 100,000-acre Big South Fork National River and Recreation Area. The area includes camping areas, 250 miles of hiking and horse trails, canoeing, white water rafting, and scenic overlooks. Thousands of visitors will enjoy these recreational opportunities and Colonel Starbird and his staff are to be congratulated for their work in bringing the Big South Fork Area to fruition.

In addition, computers were installed in the district's recreational campgrounds to smooth the service provided to visitors. Another benefit to local and out-of-State visitors has been the initiation of credit card usage in the campgrounds. This convenience has encouraged visitations and opened district campgrounds to a wider range of visitors.

Mr. Speaker, Colonel Starbird has been a dynamic and dedicated district engineer. It has been my pleasure to work with him on a number of projects important to Fifth District residents. I know he will do an equally outstanding job at his new post, Fort Lewis, WA. And I wish the colonel, his wife, and the other members of his family the very best. I hope they will return to visit Nashville often.

FUSION SYSTEMS CORPORATION

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mrs. BYRON. Mr. Speaker, I rise today to inform my colleagues of a highly successful and rapidly growing advanced technology company which is succeeding in Japan and worldwide. Fusion Systems Corp., which is located in Rockville, MD, has high intensity microwave lamp products and are often preferred over competing Japanese products in the Japanese marketplace.

However, it has come to my attention that Mitsubishi's "patent flooding" tactics in Japan threaten to undermine Fusion's market position in Japan and elsewhere by making it impossible for Fusion to continue making its own products without violating Mitsubishi's web of patents.

The loss of advanced technologies to foreign competitors is of significant concern to me because these losses erode our domestic base of supply and run counter to our compelling goal of restoring the ability to provide for our defense needs through domestic procurement. These losses are particularly disturbing when they are the direct result not of U.S. manufacturing inferiority but of deliberate predatory tactics aimed at our most promising technologies.

In the past year, Congress recognized and began to address trade practices abroad. The Trade Act of 1988 includes provisions specifically identifying piracy of U.S. intellectual property protection as an unfair trade practice and directing the U.S. trade practice and directing the U.S. Trade Representative to prepare a special 301 list of countries that fail to adequately and effectively protect U.S. intellectual property abroad.

Such piracy is of particular concern in Japan because it is typically our advanced technologies that are targeted for misappropriation. Hearings in the United States Senate Commerce Subcommittee on Foreign Commerce and Tourism have documented a number of patenting tactics used by powerful Japanese competitors to extract valued intellectual property rights from United States companies.

The Department of Commerce, the Patent and Trademark Office and the United States Trade Representative have taken an active interest in eliminating these abuses through negotiation with the Japanese Government. So far the Department of Defense has not taken a position on the process. But as patent flooding, coercive cross licensing, and other predatory practices begin to threaten the viability of innovative and reliable domestic manufacturers in the defense chain of supply, the Department of Defense and the Armed Services Committee also have a responsibility to respond.

I would like to put foreign contractors on notice that their practices with respect to U.S.

intellectual property are of significant interest to me and my constituents.

NATIONAL SOLID WASTE MINIMIZATION ACT

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Ms. SNOWE. Mr. Speaker, today I am introducing legislation directed at one of our Nation's greatest emerging problems: How to handle the growing volume of municipal solid waste, including types of packaging and other products.

By establishing clear waste reduction, mandating recycling goals and expanding the regulatory authority of the Environmental Protection Agency [EPA], this National Solid Waste Minimization Act takes a strong approach to the solid waste problem. Absent Federal support, which the public recognizes as clearly necessary, States and local communities are struggling with growing volumes of wastes as hundreds of landfills are closing across the country.

The need for a greater Federal role in solid waste management is abundantly clear: the EPA estimates that one-half of this Nation's 6,000 landfills will be closed within 5 years, due to reaching capacity or insufficient environmental protection standards. Every American produces 1,300 tons of garbage per year, almost 4 pounds per day. By the year 2000, the total annual generation of wastes in the United States will reach 190 million tons, rising from the current level of 160 million tons.

The National Solid Waste Minimization Act offers a comprehensive approach to this problem. Its main provisions are:

National goals for solid waste: The bill establishes a national source reduction goal to keep the total amount of wastes at no higher than the current level. In addition, by 1992, the United States should strive to recycle 25 percent of all municipal solid wastes, reaching a level of 40 percent by 1998.

EPA report to Congress: The EPA is required to submit annual reports to Congress on progress toward reaching the national waste reduction goals, a breakdown on the amount and components of the solid waste stream, current methods used to manage wastes and their effectiveness, as well as recommendations on the regulatory or legislative initiatives needed to meet the goals of this act.

Analyze recycled and recyclable wastes: The EPA is directed in coordination with the Department of Commerce to complete a list within 2 years of commonly used categories of packaging and products and, for each category, to assess the percentage of recovered recycled materials used in their manufacture, as well as the percentage of materials recycled upon their discard.

Enforcement and regulatory action: The EPA will target for regulatory action categories of certain products or packaging due to their low levels of recycling, low use of recovered materials, or high volumes in the waste stream. The EPA may also require the use of recovered materials used in packaging or products, or ban the use of certain materials or combinations.

Voluntary packaging standards: The EPA and the Department of Commerce, in consultation with industries, environmental organizations and other parties, are directed to develop a voluntary system of packaging standards with regard to materials used, and the recyclability of packaging upon their discard. A labeling system would also be established to indicate product compliance as to recyclability and the use of recycled components.

EPA report on landfill closures: The EPA is required to submit an analysis to Congress within 1 year on the costs and problems being encountered by States and local governments with the closing of landfills, and recommendations, including possible funding and technical guidance, to be provided.

Mr. Speaker, I believe the need for fundamental changes by society in the generation and handling of solid wastes is very evident. Our ability to produce and dispose of packaging and other products is expanding markedly, increasing total waste volumes, just as our disposal capacity is running out.

I urge my colleagues to join me in support of this legislation.

TEXAS SCIENCE CENTER LEADS THE FIGHT AGAINST CANCER

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. PICKLE. Mr. Speaker, not far from the capital city of Austin, the University of Texas has established a world-class research facility which is well recognized and highly regarded in the scientific community. The University of Texas Science Center—Research Division is on the frontier of current research into the causes and ultimately the prevention of cancer. Yet outside the research community, in the world at large few people know of the existence of this remarkable facility.

Mr. Speaker, I ask unanimous consent to insert into the RECORD following my remarks an article by Judith Prinz of the Elgin Courier which illuminates the work being done at the UT Science Park. By sharing the center's story, I hope my colleagues and their constituents will learn about this remarkable facility and its pioneering research efforts:

MAJOR CANCER PREVENTION RESEARCH FILLS LABORATORIES AT UT SCIENCE PARK

Instead of looking for better cures, scientists at the University of Texas Cancer Science Park-Research Division are working hard to isolate the root of the problem—the point of which normal cells go haywire and become cancer cells. These researchers realize that although the cure rates for cancers have improved dramatically and are important for those who are afflicted with the disease, prevention is the ultimate answer for defeating it.

The physical plant of the UT Science Park-Research Division is adjacent to Buescher State Park in Bastrop County and has attracted cancer researchers from all over the world. It is a component of the UT System Cancer Center in Houston where the M.D. Anderson Hospital is also located.

It is distinguished from Science Park-Veterinary Division which is located in Camp Swift on Hwy. 95 between Elgin and Bastrop. As the names indicate, each has its own specific purpose.

Dr. R. Lee Clark, former president of UT M.D. Anderson Hospital, first envisioned the Science Park-Research Division. That was in the early 1970's. He was the first to press for a research center where scientists could concentrate all of their efforts on learning how to prevent cancer, not just to cure it. With 717 acres of land donated by the Texas Parks and Wildlife Department and the enthusiastic support of community leaders in Bastrop County, Dr. Clark's dream became a reality.

From the beginning, one of the great strengths of the Research Division, according to Dr. Thomas J. Slaga, director of the facility, has been the open exchange of ideas.

Science Park, a highly productive research facility, is recognized internationally for important discoveries about genetic influences of chemical agents, ultraviolet radiation (a component of sunlight) and viruses in the development of cancer. So it is that the scientists at the Research Division of Science Park are working separately in these areas which seem to harbor the basic causes of cancer and then collaborating to share their findings.

Easy access between labs in the rambling facility encourages intersection among the Research Division's scientists, who represent a variety of backgrounds in science and medicine, including biochemistry, immunology, pathology and molecular biology. There are 49 doctors working in the Research Division, some Ph.D's, some M.D.'s and some D.V.M.'s.

There are no organized departments based on the specialties of the scientists at the Science Park. Instead, the researchers collaborate with each other in a series of teams. That sharing of information and teamwork has been responsible for many of the Research Division's successes and for its widespread reputation for excellence in research, according to Slaga.

"We have a team of premier scientists. This team—working in this open environment with few distractions—has clearly demonstrated its abilities. It has the potential for pushing us over the hump in the age-long uphill battle against cancer. I have every intention to see that they are provided with whatever they need in that effort," he said.

Slaga seems to have held to that conviction. Some of the most sophisticated equipment available is used at the Bastrop County facility, such as the electron microscope which has unbelievable magnification properties and the flow cytometer or cell sorter which can isolate any particular mass of cells or single cells.

Employees like Judy Chesner who operates the electron microscope have only the highest praise for Slaga and as she displays her diamond blade knife she says, "Dr. Slaga takes care of us. This little knife may not look as pretty as your diamond ring, but it cost at least as much."

Jim Phillips is quite evidently as proud of his cell sorter as he describes the various operations he can accomplish with the complicated laser beam apparatus.

The list is long of the employees who are "caught up" in this war that is being waged at the Science Park-Research Division. As

you look around you'll see faces that verify the presence of people from all around the world and as you listen you'll hear dialects foreign to the Texas ear. While you may witness differences of opinion amid discussions that you hear, you will also find a strong bond that pulls all these people toward the same goal. There to orchestrate this majestic work of science is Dr. Slaga. The respect he commands is unquestionable.

Some of the accomplishments of the Research Division team include pinpointing the receptor "buttons" on T-cells that activate the part of the body's immune reaction, opening the possibility of prompting the immune system to destroy cancer cells; finding and describing several early skin cancer cell types, opening the way for possible development of early detection methods; discovering biochemical differences that distinguish between benign and malignant tumors, providing a possible way to diagnose specific cancers with chemical tests and finding consistent chromosome changes in solid tumors, knowledge that promises firm diagnoses of exact cancer types, the key to the selection of the best treatments.

Approaches to gene transfer to mice and cells in culture by the resourceful personnel have provided its scientists the ability to create an efficient means of studying specific genes and viruses leading to the creation of new test models used throughout the world.

The isolation and characterization of DNA repair-deficient mutant cell lines has allowed them to replicate these cells and their components in the laboratory, which will enable them to repair minute pieces of genes which could prevent cancer.

They have found that skin/tissue carcinogenesis is related to tumor promotion stage. In the laboratory, they can reverse skin/tissue tumors by studying what chemicals and lifestyles promote "bad cells" to turn cancerous. Conversely, they have isolated and characterized the carcinogen-initiated cell population in skin carcinogenesis which will be very helpful in early detection of cancer.

Science Park has developed the technology to find similarities between all tumors, which leads to finding out why "good cells" did not turn cancerous—and how to replicate that process.

Through development of very sensitive methods to detect DNA damage, they can determine how sensitive each individual is to cancer-causing agents.

They have also developed some unique approaches to cancer prevention such as use of natural chemicals and vitamins which, given in combination, can actually inhibit cancer.

The future holds a lot more achievement in advances against cancer through technology development and research into genetic engineering, protein engineering and chromosome engineering at Science Park-Research Division in Bastrop County.

Scientists like Drs. Mark Naylor and Rebecca Morris are researching to determine the differences between cells in human and mice skin so that there can be a more absolute assurance that the experiments which involve work with the mice will be effective when applied to humans.

Just imagine! All this is going on every day right next door to us and we generally are unaware. To them it must seem very slow as they unravel the puzzle, piece by piece. To us it is very exciting to know that something is being done—however small.

Things are continuing to expand in this search so that the staff has tripled in the last eight years and the completion of the new lab will provide space for some 30 additional scientists and support staff. Jesting, Dr. Slaga refers to the Science Park in Bastrop County as the south campus of the University. He may not be far from the truth. This summer a new student trainee program begins which will employ 13 college students.

The 150 employees currently at Science Park are working hard to make cancer an unheard of word.

THE DUTY SUSPENSION ON IMPORT OF RANITIDINE HYDROCHLORIDE

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. VALENTINE. Mr. Speaker, I rise to introduce legislation on behalf of myself and Mr. PRICE to suspend temporarily the duty on import of ranitidine hydrochloride.

This legislation is identical to S. 1342, introduced on July 18 by Senator TERRY SANFORD. This legislation would affect the imports of ranitidine hydrochloride, an imported raw material produced exclusively outside the United States and used by a U.S. corporation in the Second District of North Carolina to produce Zantac, a widely used pharmaceutical product for the treatment of ulcers. This company, Glaxo, is the sole producer of Zantac in the United States and has produced Zantac since 1984, employing 500 to 600 American workers in its production.

Increasing demand for Zantac has outgrown the capacity of existing domestic manufacturing facilities. Unless Glaxo expands its manufacturing capability to satisfy these demands, it will be forced to import Zantac tablets and new dosage forms from abroad. A temporary suspension of the duty on ranitidine hydrochloride would assist this company in expanding its production capability to meet the needs of U.S. consumers and would also result in the employment of 80 to 160 additional American workers.

I understand that the current 3.7 percent ad valorem duty on ranitidine hydrochloride has been randomly designated by the Harmonized Tariff Schedule 2932.19.50007 and does not represent a conscious decision on the part of the U.S. Congress. This duty increases the cost of production of Zantac.

Passage of legislation temporarily suspending duty on ranitidine hydrochloride would have a strong beneficial effect on the United States. Suspension of this duty will make expansion opportunities in the United States more attractive and enable Glaxo to keep up with growing consumer demands. This U.S. producer of Zantac is hopeful that it will be able to increase the manufacture of the finished product rather than import it from abroad. This in turn would create more jobs for American workers and enhance the U.S. balance of payments.

Because there are no domestic producers of ranitidine hydrochloride, no domestic interests would be adversely affected by a duty suspension. Furthermore, it would considerably benefit the Nation's interest to have Zantac produced domestically.

I urge my colleagues to support this bill as part of any tariff suspension legislation that comes before the House.

21ST ANNIVERSARY OF SOVIET-LED INVASION OF CZECHOSLOVAKIA

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. CARDIN. Mr. Speaker, the night of August 20 will mark the 21st anniversary of the Soviet-led invasion of Czechoslovakia. In this age of glasnost and perestroika, the Czech Government has done nothing to endorse these policies. Czechoslovakia's human rights record has gotten progressively worse in recent years, as leadership changes have resulted in a throwback to the system put in place by the Soviet-led invasion. This failure to make progress in the area of human rights has given rise to concern that the Czechoslovak regime might use this anniversary to further tighten restrictions on activists.

Despite the conservative trend in the Government, the last year has seen a significant rise in public demonstrations, underground publishing, and religious activism. As the post Soviet-invasion generation comes of age and faces a deteriorating economy and an unresponsive government, the Czech people are demanding to be heard. This activity has met with increased repression on the part of the regime.

In February the Czechoslovak Federal Assembly doubled the potential penalties for the nonviolent expression of one's beliefs. At a meeting in Paris this June, Czechoslovak Ambassador Dolezel informed those assembled, myself included, that the February laws were adopted to counter terrorism and were in response to pressure by voters. This assertion cannot be reconciled with reports that, in the last year, scores of these same voters have been victims of police harassment, detention, interrogation, and confiscation of property.

The Czech regime has recently created the "Czechoslovak Public Committee for Human Rights and Humanitarian Cooperation," and yet in the last 6 months the Government has committed human rights violations ranging from the use of water cannons, dogs, and clubs to break up nonviolent demonstrations, to the revocation of passports from independent activists. The human rights committee, so far, has failed to establish its independence from the Czechoslovak Communist Party. In April, four members of the Czechoslovakian Helsinki Committee were detained to prevent them from attending a meeting of the International Helsinki Federation in Poland. This past month, former Czechoslovak Foreign Minister Jiri Hajek was detained by police to prevent him from giving a lecture on the events of 1968. The list I have given is but a sampling. Clearly the "Czechoslovak Committee for Human Rights" is at best a failure, at worst a purposeful effort to legitimize and divert atten-

tion away from Czechoslovakia's human rights record.

Lipservice to human rights is not adequate. The people of Czechoslovakia look to their eastern bloc neighbors and see democratic reform take place, while they suffer the status quo. As Americans concerned about human rights, we implore the Czech Government not to use events on August 20 and 21 as an excuse to crack down on Czech citizens.

IN HONOR OF CONNELLY SCHOOL OF THE HOLY CHILD

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mrs. MORELLA. Mr. Speaker, I take great pleasure in commending Connelly School of the Holy Child in Potomac, MD, for being named as one of the outstanding secondary schools in the Nation by the U.S. Department of Education in the Secondary Schools Recognition Program.

Holy Child is a member of a network of Holy Child schools sponsored by the Society of the Holy Child Jesus throughout the United States, Europe, and Africa. Cornelia Connelly, foundress of the society, developed an educational system based on trust and reverence for the dignity of each person. She exhorted Holy Child educators to respond to the "wants of the age" in which they lived. Since 1846, Holy Child schools have promoted academic excellence and stressed social responsibility.

Holy Child is unique in its small size, the excellence of its academic program, and the individual attention which it is able to offer its students. It strives to deepen each student's awareness of her relationship with God and encourages a spirit of service to others. The school was recognized also for the involvement of its parent community, the dedication of the faculty, and the leadership of the principal, Sr. Margaret Doyle, SHCJ.

In commending Holy Child on its selection as an outstanding school, Michael J. Guerra, executive director of the secondary schools division of the National Catholic Education Association, commented: "In addition to significant service to the educational ministry of the church in your own community, your school is providing an example of excellence that will contribute to the continuing national discussion about educational purpose and practice * * * Catholic education is proud to have Connelly School of the Holy Child as one of its representatives in the Exemplary Secondary School Recognition Project."

Let me take this opportunity to commend Connelly School of the Holy Child on its well-articulated goals, its administrative leadership, and its community support and involvement. Montgomery County is grateful for the service to the community which Holy Child has provided for the past 28 years, and which it will continue to provide into the next century.

THE PRESIDENT ADDRESSES THE NATIONAL LEAGUE OF FAMILIES OF POW'S AND MIA'S

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. GILMAN. Mr. Speaker, I am pleased to report to our colleagues that the President, in a recent address to the National League of Families of our Prisoners of War and Missing in Action in Southeast Asia, has made it clear that a full accounting of our missing American heroes from the Vietnam conflict will continue to be a top priority of the Bush administration, as it was of the previous administration.

This is heartening news for the many of us who have continually worked to make certain that this issue will not be swept under the rug. The many American remains that have been repatriated and identified over the past 8 years are proof positive that only the hard-nosed stance the administration adopted at the bargaining table can bring about positive results.

The President's remarks to the recent annual meeting of the National League of Families is proof positive that this hard-line stance in our negotiations will not cease, and that the issue of our unaccounted Americans will not be forgotten.

Mr. Speaker, I ask that the President's speech be read into the CONGRESSIONAL RECORD in its entirety at this point, so that all of our colleagues can share his fine words:

REMARKS BY THE PRESIDENT TO THE NATIONAL LEAGUE OF FAMILIES

Earlier, I was reflecting on the magnitude of what you have endured through so many years of uncertainty. Despite your burdens, you have brought about a change in our Nation that will never be reversed. Your organization provides us all with a stirring example of how citizens working together can help craft sound policy.

As you know, Barbara and I returned from Central and Eastern Europe two weeks ago. And in the faces of the brave workers of Gdansk and the hopeful students of Budapest, I saw a truth that cannot be denied—the democratic ideal is winning the hearts of people around the world.

It is this ideal that we honor when we fly the flag. And it is for this ideal that so many Americans were ready when their country called.

Today we see the symbol of this commitment, the League's POW/MIA flag, on permanent display in the Rotunda of our Nation's Capitol. It stands in a position of tremendous honor. And it will not come down until we have the fullest possible accounting of your missing loved ones.

Your flag can be seen across this land—over State Houses, fire stations, schools, military installations and stadiums, even on ships at sea—a stirring reminder that America's sons are still missing.

The ideals for which your loved ones fought may finally be coming to pass—the failure of totalitarian and repressive communist regimes. The evidence is clear through recent events in China, the Soviet Union and even in Cambodia, where Vietnam appears to be withdrawing its troops.

Some of our finest young men and women were lost during the many long years of the Vietnam War. And the divisions that resulted from our involvement there shook our country to its core. But as tragic as the loss of a loved one is, even more difficult to endure is the uncertainty which, for you, has extended over so many years.

Now we are coming to a time when the divisions of the Vietnam War are healing; we have let go of the bitterness of the past. But with this reconciliation comes a temptation to forget those who served. Yet we will not forget. And we will never break ranks.

My friend and predecessor, Ronald Reagan, had a personal commitment to determine the fates of your missing loved ones. Because of his commitment, and your perseverance, the policies of this organization are now the policies of the United States Government.

When I sought the presidency, I renewed President Reagan's pledge that we would write no last chapters, we would close no books, we would put away no final memories until your questions about missing and possible prisoners of war have been answered.

And it is as your President that I repeat this pledge. Let me simply state the policy of this new Administration. The fullest possible accounting remains a matter of highest national priority. We will do everything that a government can do to recover the missing, and if we discover proof of captivity, we will take action to bring our men home.

And so long as you must live without knowing the fate of your loved ones, the United States will insist, in the name of humanity, that the governments of Indochina give the fullest possible accounting.

Frustration on this sensitive issue is very understandable. I hear those who say more must be done. If more can be done, then it will be. Understand this—I do not counsel a timid patience, I counsel a bold persistence.

And our persistence is showing some results; since the government embraced the goals of this organization, many more of you have found answers. Each answer has been another sad truth to learn. But every POW/MIA relative that I meet tells me that truth is preferable to the greater agony—that of not knowing.

The task of learning more is daunting, but we can count on some powerful allies.

First are the national veterans organizations, those who have stood side-by-side with us through the long years. It was these veteran groups, supporting you, which protested government indifference to the POW/MIA issue in earlier years. Their contribution has been indispensable.

Other partners in our quest are the men and women in government who are dedicating their careers to learning the truth about our POWs and MIAs. These public servants are not uninspired bureaucrats just going through the motions. They have a deep and abiding commitment to their task. This is a commitment shared by people in the military services, in the Defense Intelligence Agency, in embassies throughout the world and among those American pilots who bring our fallen soldiers out of Hanoi, to at long last come home.

You also have many friends in both parties in Congress. I especially want to commend Bob Dole, John McCain, Steve Solarz, Bob Lagomarsino and Ben Gilman, for showing the governments of Indochina the strength of bipartisan Congressional commitment to find answers. To keep this issue at the forefront, they have again passed resolutions establishing National POW/MIA

Recognition Day, this year on September 15th.

I must mention how invaluable the guidance of Ann Mills Griffiths has been through the years. Her knowledge and determination are an inspiration, and her participation in the Interagency Group provides critical insights. We will continue to look to her for advice and leadership.

And finally, I pledge to do all I can. I will soon issue a proclamation calling upon all Americans to honor their missing countrymen and those who served as POWs by participating in ceremonies across our Nation. But this is just a beginning.

In Southeast Asia, there are Americans who are unaccounted for. As I said in my Inaugural Address, "Assistance can be shown here and will be long remembered. Goodwill begets goodwill."

We appreciate Vietnam's increased responsiveness to that appeal. An unprecedented level of joint operations has already brought significant progress. But despite our increased activities, many questions remain. Once again, I call on Hanoi to swiftly dispel the shadow of doubt, to shed light on the fate of your loved ones. I call on Hanoi to remove this last vestige of armed conflict between us.

We look forward to normalizing our relations with Vietnam, once a comprehensive settlement has been achieved in Cambodia. That settlement must include genuine power sharing with the non-communist Cambodians led by Prince Sihanouk and in internationally verified troop withdrawal. But Hanoi must clearly understand that, as a practical matter, the pace and scope of this process will be directly affected by the seriousness of their cooperation on POW/MIA and other humanitarian issues.

In Laos, so many questions remain, and so few answers have been received. In light of the difficulties involved, their agreement earlier this year to a year-round program of cooperation is encouraging. You can be certain that we are seeking to expand this agreement in every possible way.

We also welcome the Lao Government's agreement to work bilaterally with us on combating the international scourge of narcotics. Implementing this agreement will be critically important to our improved bilateral relationship, which has expanded steadily since 1982. We look to the future in our relations with Laos, recognizing the importance of steps they are taking toward opening their society and developing their economy for the good of the Lao people.

To the families of those missing in Cambodia, I must tell you that our efforts to gain Phnom Penh's humanitarian cooperation on resolving the fates or your missing loved ones have thus far been unsuccessful. Despite their public claims to be holding remains of some Americans, officials there have been deaf to our appeals. I have asked Secretary Baker to raise this issue during the International Conference in Cambodia beginning this weekend. I call on Phnom Penh to act responsibly, humanely, and return these remains. Failure to do so will surely hinder their efforts to gain international respect and support.

The policies pursued during the past eight years have shown some success. Incomplete? Yes, but progress is being made because our government is giving it high priority.

As we proceed, we will continue to search for ways to improve the process. We will continue to assemble the best resources, technology and, most of all, qualified people to interview refugees, evaluate intelligence information, and negotiate with foreign governments.

It is with that last misison in mind that I reappointed a man of the highest integrity and qualifications, General Jack Vessey, as my special POW/MIA emissary to Hanoi. I know that Jack was with you this morning, and senior officials from the Departments of State and Defense, and the National Security Council will follow me here. I have charged them all to do their utmost. They know, and share, my deep commitment to your missing loved ones and to you.

The principal responsibility for the POW/MIA issue rests with the Department of Defense. And for that reason, we are fortunate to have a very talented public servant as our Secretary of Defense. Dick Cheney's years in Congress and his knowledge of intelligence matters give him a rare understanding of, and a deep appreciation for, your concerns.

In closing, I want you to know that in my frequent travels to cities and towns across America, I see many heartfelt demonstrations of support for our cause. Americans know that across our land, every Thanksgiving, there are families that still set an empty chair at the table. We know that faded photographs and school momentos are still being lovingly kept in scrapbooks. And questions remain, and will remain, until answered.

Now the mothers, fathers, wives, children and friends of another great power share the same kind of grief, share with you lingering doubts about missing loved ones. That this power, the Soviet Union, backed the North Vietnamese; and the United States backed the Afghan freedom-fighters, is an irony. But there is no room in the American heart for a mean-spirited and petty indifference. Far from it.

I am pleased to note that Soviet General Secretary Mikhail Gorbachev recently made a humanitarian appeal for our help in obtaining the fullest possible accounting for Soviet citizens still prisoner and missing in Afghanistan. Let me answer him today—we will do everything we can. And in return, we confidently expect the Soviets will do all they can to encourage more serious and timely cooperation from their allies in Indochina.

Working together, we can resolve the anguish of many families in two lands. And we can do something more—we can build a new spirit of peace.

In Ecclesiastes, it is written that there is a time for war, a time for peace and a time to heal. We will never forget those who served our country. And when we receive final answers about their fate, then this will truly be a time for healing.

HONORING ARKANSAS OUTSTANDING TRIAL JUDGE

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. ALEXANDER. Mr. Speaker, the Arkansas Trial Lawyers recently named Judge Gerald Pearson of Jonesboro, AR as the "Outstanding Trial Judge" in Arkansas. I have known Judge Pearson for many years and could not agree more strongly with their choice in him.

He epitomizes all that is right and good in our judicial system. In presenting the award, Michael Easley, president of the Arkansas Trial Lawyers Association, described Judge Pearson in the following manner. "This is the Judge who makes innovative rulings, both as to trial techniques, and as evidentiary rulings * * *. (He) interprets the law fairly and is not swayed by the identities of the parties or the attorneys. He is sensitive to the rights of the injured victims, while protective of the rights of civil defendants." This summary reinforces the mutual respect held by the trial lawyers of Arkansas and Judge Pearson.

For as long as I have known Judge Pearson, he has worked continuously to better the judicial system in Arkansas. He was admitted to practice law in June 1951 and practiced in Jonesboro until 1974. From 1953 to 1958, he served as city attorney. He later became deputy prosecuting attorney of Craighead County and was elected prosecuting attorney for the Second Judicial District in 1967 where he served until 1974. He went on to become the circuit judge of the second judicial circuit of Arkansas and is presently the senior judge in that district serving six counties.

He is an active member of the Arkansas Judicial Council and is a past chairman of the council's Committee on Continuing Judicial Education. Additionally, he is one of the original incorporators of the Arkansas Judicial Council and served on the board of directors from 1980–83. He is the current chairman of the Arkansas Supreme Court Committee on Criminal Rules, and the Supreme Court's State Trial Practice Committee for the northeast district. Arkansas has been enriched by his statewide involvement in judicial affairs.

I cannot think of a more deserving recipient of this distinguished award. My congratulations go out to Judge Pearson for this worthy accomplishment.

BERLIN TOWNSHIP CELEBRATES 150TH ANNIVERSARY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. BONIOR. Mr. Speaker, I rise to pay tribute to the people of Berlin Township on the occasion of its sesquicentennial anniversary.

Berlin Township was officially organized on March 22, 1839, and has therefore been in existence almost as long as the State of Michigan itself. It was the Northwest Ordinance which established the pattern of settlement in our part of the country and determined that townships would consist of 36 sections of 640 acres each. We were then, the northwest and the frontier of the country. Now, we are the midwest and the heartland.

The census of 1840 disclosed that 21 sections of Berlin Township had been settled by 27 families. Through the years, of course, the population has grown, and the size of property holdings has contracted. One thing that has not changed, though is that farming is still the backbone of Berlin Township—the same family farm that is the mainstay of our State's economy. For over 150 years, Berlin Township has proudly represented these values of the heartland and of the American family.

The observance of this event is not only a commemoration, but a celebration of those qualities of the pioneer spirit—grit, tenacity, independence, and determination—that live on in the people of Berlin Township.

SALUTE TO JUDGE RICHARD JENKINS ON HIS RETIREMENT AFTER 22 YEARS ON THE BENCH

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. CLEMENT. Mr. Speaker, I am pleased to join the citizens of Davidson County in saluting juvenile court Judge Richard Jenkins, who will retire September 15, thus ending a 22-year span of distinguished public service on the bench.

Known for his fairness and compassion, Judge Jenkins has said that he never backed down from a difficult choice, regardless of the criticism. In one case, which Judge Jenkins recites, four university students had gotten in trouble for drinking beer, taking a toy pistol and robbing people.

Instead of sending the case to criminal court, Judge Jenkins ordered the four men to perform public service, a decision he has never regretted.

"It would have been real simple to say 'you rotten kids' and send them downtown," he says. "I bit the bullet and wouldn't bind them over. The newspapers raked me over the coals, but a judge ought not be in a popularity contest. I just had something to work with there, and, as far as I know, they all finished college and have never been in trouble again."

Judge Jenkins began his political career in 1962 when he was elected from a field of 19 candidates as a metro councilman. For 8 months he served as president and presiding officer of that body.

In 1967, Tennessee Gov. Buford Ellington selected Judge Jenkins to serve on the Juvenile Court to fill the vacancy caused by the death of Judge Sam Davis Tatum.

During this tenure, Judge Jenkins initiated programs and changes that became models for other counties and states. One of the first things he did was to open the criminal process for youngsters to the press and public. And, for the first time, people could see more than the judge's annual report and see how many juveniles were in trouble.

People began to realize the problems behind the criminal charges lodged against the city's children and teenagers and they began to understand the frustration of trying to end the cycle of generation after generation of abuse and neglect.

Though the decision was criticized, it was soon clear that Judge Jenkins was ahead of his time. Juvenile judges across the country eventually opened their courts.

The court has grown and changed in many other ways over 22 years.

The number of youngsters sent to the court each year for a variety of reasons has more than doubled. In 1968, 3,000 juvenile petitions were filed, including felonies, misdemeanors, so-called status offenses and traffic cases. That number climbed to 3,995 by 1982, but jumped 64.5 percent by last year to 5,575.

The number of truancy cases has been drastically reduced under Judge Jenkins through a screening program to determine what lies behind the immediate problem. According to Judge Jenkins, "sometimes the problem is that the kid is in the wrong grade at school."

The amount of child support payments collected through juvenile court has increased from $100,000 a year when Judge Jenkins became judge to $3 million in anticipated collections this year.

Judge Jenkins established the use of referees to hear court cases, which allows faster and less costly disposition of some proceedings.

With the help of a Federal grant, Judge Jenkins had employees try to find a relative for a child in a neglect case to stay with until the case was decided. Before, children were taken to a local center for care. That model program has now been adopted by the State, which has taken over responsibility in neglect cases.

More juveniles charged with minor offenses are ordered to perform community service work rather than pay fines. This approach was started in 1978 after Judge Jenkins saw too many parents who could afford it footing the bill for their children's mistakes. Judge Jenkins' program makes punishment equal for youngsters, regardless of their parents' wealth.

Under another program Judge Jenkins began, probation now includes a prison tour for youngsters and their parents. Discussions with inmates about life behind bars often makes a deep impression. And, hopefully, one that discourages juvenile delinquency.

These are only a few examples of the changes which Judge Jenkins has brought to the juvenile justice system. While his presence will be sorely missed, he has made an indelible mark in shaping and improving the judicial process.

Most importantly, Judge Jenkins has touched the lives of hundreds of individuals who have come into contact with the juvenile justice system. Whenever possible, he has redirected individuals away from crime. Where practicable, he has given individual attention to the problems and issues lying behind each case. And in all cases, he has dispensed fair and even-handed justice.

The citizens of Davidson County will miss Judge Richard Jenkins.

MORE ON THE FAIRNESS DOCTRINE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. DINGELL. Mr. Speaker, I am including in today's RECORD an editorial which recently appeared in the Christian Science Monitor encouraging reinstatement of the fairness doctrine.

As the editorial points out, broadcasters are granted exclusive rights to use a very valuable and limited public resource. So long as there is a need for the Government to chose among the many who want to broadcast, it will remain necessary to ensure that the chosen may not exclude the views of those who are less fortunate.

I urge my colleagues to support the language in the budget reconciliation to codify the fairness doctrine:

THE FAIRNESS DOCTRINE

"A foolish consistency," said Emerson, "is the hobgoblin of little minds." Thus it is that one can support both the First Amendment and the "fairness doctrine."

The fairness doctrine long obligated radio and television broadcasters to provide reasonably balanced coverage of public issues. If an interest group or individual believed that a broadcaster had failed to reflect opposing viewpoints in its public-affairs programming, the complainant could ask for time to make its case. Failing to receive a satisfactory opportunity, it could go to the Federal Communications Commission for a ruling.

In 1987, after a federal court ruled that the fairness doctrine—though it had been observed for many years—was a regulatory pronouncement that Congress had never codified, the FCC repealed the doctrine. Commissioners appointed by President Reagan contended that, by impinging on editorial content, the fairness doctrine violated the First Amendment. They said it had a "chilling effect" on broadcasters' willingness to cover controversial topics.

That argument sounds good, but it remains unconvincing.

By and large, government shouldn't tell the press how to do its job. But the broadcast media, utilizing as they do relatively scarce airwaves, operate in an environment different from that of the print media. Anyone with a keyboard and a copier has at least a chance to disseminate a written viewpoint. Not so in broadcasting; even with the proliferation of independent stations and cable outlets, air time is restricted to those with deep pockets or whose names are on a producer's Rolodex.

Bills that would revive the fairness doctrine are wending through both houses of Congress. They don't mandate equal time for all positions on public topics; only that, in its overall programming, a broadcaster present a reasonable mix of views.

That strikes us as being in the public interest, and as a slight enough encroachment on the First Amendment to warrant a wise inconsistency.

NATIONAL HIGH-PERFORMANCE COMPUTER TECHNOLOGY ACT

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. WALGREN. Mr. Speaker, today I am introducing for myself and several colleagues on the Committee on Science, Space, and Technology and on the Committee on Energy and Commerce a bill to provide for a coordinated Federal research program to ensure continued U.S. leadership in high-performance computing.

This bill, a companion to S. 1067 introduced by Senator GORE, mandates the development and implementation of a coordinated plan among the Federal R&D agencies to establish a high-capacity, national research and education computer network linking Government and industrial laboratories and the higher education community; to encourage development of new, more capable advanced computer systems and software for exploiting new computer architectures; and to increase basic research and education in computer science and computational science.

Advance in computer science and technology are vital to the Nation's prosperity, security, and technological advancement. High-performance computing is one high-technology field in which America is still the undisputed world leader. However, because of its importance as a tool in scientific and engineering research and as a productivity enhancer in many commercial applications, high-performance computing has been targeted for vigorous development by our Japanese and European economic competitors. Unless decisive steps are taken to ensure our continued leadership, America may once again be left in the dust in a field of technology which we largely pioneered and which is important to our economic future.

The pace of technological change in high-performance computing is rapid, and the U.S. technology lead has diminished noticeably in recent years. To accelerate progress will require pioneering research in new computer hardware, software, network technology, as well as the expansion of the human resource base in computer and computational sciences. These goals can be met only through coordinated and cooperative research and development among government, industry, and academia.

This bill would require the Office of Science and Technology Policy to develop a 5-year plan for a national high-performance computer technology program, including definition of specific roles for the various Federal R&D agencies and specification of funding levels for each agency needed to meet the program objectives. The plan will include the establishment of a high-capacity national research and education network to link government, industry, and the higher education community. A national science and technology information infrastructure of data bases will also be developed and will be accessible through the network. The network will be created with the active cooperation of the computer and telecommunications industry and with the goal of eventually transitioning the management and operation of the network to the commercial sector.

Other parts of the 5-year plan will result in increased Federal research and development of high-performance scientific computer software, with particular goals of promoting development of interoperable software for use on different computer systems and development of artificial intelligence software. In addition, the plan will encourage Federal purchase of the most advanced supercomputers produced by U.S. manufacturers for our national laboratories, including prototype or early production models. Finally, the plan will expand Federal efforts in support of basic research in computer science, computational science, electrical engineering and materials science. Research in these fields will advance computer technology while training new users of high-performance computing.

This Federal initiative will accelerate the pact at which the power of high-performance computing is unleashed in science and in industrial applications by vastly improving access by scientists and engineers to the most powerful computers, by developing the applications software needed to solve new problems, and by increasing the numbers of people trained to use these computers.

The best way to ensure America's continued leadership in high-performance computing is to create the conditions necessary for the rapid advancement of the technology. The National High-Performance Computer Technology Act will achieve this goal. I urge my colleagues to join me in cosponsoring this bill.

NEW CROATIAN CENTER IN MERRILLVILLE

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. VISCLOSKY. Mr. Speaker, I rise to bring to the attention of my colleagues an organization of which I am very proud, the Croatian Sons Lodge 170 of Merrillville, IN. With over 1,100 members this organization has been serving the community for the past 81 years, and symbolizes the history of fraternal and cultural work. The lodge will be opening a new Croatian center in Merrillville on Sunday, September 3, 1989.

About a century ago the Croatian people began leaving what is now Yugoslavia to come to America. For the most part they were poor peasant farmers looking for a better life. They worked diligently, often living in crowded boarding houses or in cooperative households, saving as much money as possible in order to bring their families to America. Today three quarters of a million Americans claim some Croatian descent.

Croatian-Americans have become integral threads in the patchwork of American society and the United States has been greatly enhanced by their presence. Courageous youth from among their ranks have served as loyal citizens in all of America's armed conflicts this century. Croats have achieved fame in fields ranging from opera and sculpture to electronics and education.

As much as the Croatians have blended into American society they have also held on to their ethnic identity, through organizations such as the fraternal union. It is this sense of pride and identification with one's heritage that gives America the ethnic richness unique to our great country.

As a member of the Croatian Son's Lodge, I have witnessed firsthand the worth of such unions, and have recognized that the success of any union rests greatly upon the initiative and activities of its members. The new Croatian center will undoubtedly provide the members of the Croatian Son's Lodge 170 with the incentive to continue their fruitful work as well as the challenge to perpetuate the legacy established for them by past members in promoting fraternalism. I am sure that my colleagues join with me in saluting the Croatian-American community and in wishing those involved with the Croatian center in Merrillville, IN, many years of continued service to their people and community.

A TRIBUTE TO THE NATIONAL ASSOCIATION OF COMMUNITY ACTION AGENCIES

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. FAUNTROY. Mr. Speaker, I rise to pay tribute to the National Association of Community Action Agencies.

During the week of September 5 to 9, 1989, the National Association of Community Action Agencies [NACAA] is sponsoring a 25th Anniversary Rededication and Reunion Conference at the Washington Hilton Hotel to celebrate the passage of the Economic Opportunity Act of 1964 and 25 years of community action, people helping people. The United Planning Organization [UPO], the Community Action Agency for the District of Columbia, will cohost the conference.

It has been 25 years since this Nation, declared unconditional war on poverty through the enactment of the Economic Opportunity Act, signed into law on August 20, 1964.

The purpose of this legislation was to eliminate the paradox of poverty in the midst of plenty in this Nation.

The cornerstone of America's war on poverty has been the community action agencies, created to offer the Nation's poor "a hand up, not a hand out."

The Community Action Agencies have continued to lead the struggle against poverty for 25 years, helping poor people overcome hunger, inadequate housing, illiteracy, unemployment, discrimination, powerlessness, exploitation and lack of access to such remedial and vital services as health care and education.

The Community Action Agencies have made an invaluable contribution to our Nation, through the development of innovative and cost-effective programs which have helped millions of poor Americans find their way out of poverty.

The paradox of poverty in the midst of plenty continues today when, although 1987 represented the fifth year of economic recovery, the poverty rate that year soared higher than in any year in the 1970's, higher even than during the major recessions of 1974 and 1975.

This Nation must continue to wage a war on poverty in order to uphold its commitment to the least fortunate among us, including America's children, elderly, working poor and other disadvantaged groups.

We know more today than ever before about effective, positive approaches to self-sufficiency.

Mr. Speaker, I, therefore, urge that we rededicate ourselves to the continuing war on

poverty and to the leadership of Community Action Agencies in advancing this struggle and that each of us join with the National Association of Community Action Agencies' rededication ceremony in Washington, DC, September 8, 1989.

CHALLENGE THE SUMMIT

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. HALL of Texas. Mr. Speaker, Chase Palmer, a student at Marshall High School was awarded first place honors at the Optimist North Texas District Oratorical competition in Arlington. The oratorical contest is an annual project of the Optimist Club and involves boys and girls through the age of 16.

Chase successfully advanced through local, zone, and regional competitions to reach the finals. As the district winner, Chase will receive a $1,500 scholarship. Chase is the son of Mr. and Mrs. W.F. Palmer of Marshall and the grandson of Judge and Mrs. Sam Hall.

This year's assigned subject was "Challenge the Summit." The following is his winning speech:

CHALLENGE THE SUMMIT

In order to attain any worthwhile goal in life, we must possess integrity, a word meaning wholeness. It is a comprehensive word that embraces many attributes of good character. A man of integrity isn't divided against himself, he has a built-in code of ethics. Integrity is a key word as we consider our assigned topic.

The word summit, as defined by Webster's Dictionary, means the highest point or apex. To challenge the summit could mean many different things to many different individuals, ranging from athletic achievement to academic excellence. I have a good example for you. There was a young boy, a preacher's son, who lived in Houston, Texas. This young boy wanted very much to accomplish one thing in life—to play the game of football. He was a weak and sickly child whose religion was against such activities in sports. But this did not stop him, however. He set goals each year until he reached his goal and reached his summit. This young boy was Mike Singletary. Because he did not give up and kept on challenging the summit, he is now the best linebacker in professional football today.

Ours is a rich and illustrious heritage. Our forefathers overcame great obstacles to challenge and reach their summits. They gave so much for it, they put so much of themselves into it. They knocked down the hills, filled up the valleys, and smoothed over the rough places. Yes, they tamed the wilderness, curbed the streams and blazed the trails for us.

We were served by those who first dreamed the great American dream of liberty. Those who dared in the face of cruel injustice, and framed our Constitution which gives us our rights and privileges. But a dream and document were not enough!! They had to pursue the dream at Lexington, at Concord, and at Yorktown. Many made the supreme sacrifice for this dream. Nathan Hale was sorry that he had but one life to give!! Other Americans have pursued this dream in the trenches of France, on the beaches of "D-Day," and all over the South Pacific. Untold numbers bave given themselves so that our generation might have its rightful place under the sun. How could I do less than honestly take my place beside them with gratitude and thanksgiving, and offer the best that I have and to myself and my country be true.

Please allow me to make some of the following suggestions that seem worthwhile in charting a course for the future. Promise youself, to strive for excellence in every area of life—to be all that you can be in everything you do. To meet every obstacle with a steadfast confidence in yourself. Plato said "self conquest is the greatest of all victories." As we set goals for our lives, it is the power of positive thinking that steers us in the right direction and finally helps us challenge our summit. Someone said "The world steps aside to let a man pass, if he knows where he is going."

Promise yourself, that the "Golden Rule" will be a permanent part of your life. Always treat others as you would want them to treat you. Be just as happy about the good fortune of others as you are about your own. Find a way each day to make someone's life a little brighter. The greatest gift is to give yourself in service to others.

Finally and most importantly, promise yourself to strive for a proper relationship with the God of Heaven. The Apostle John declares that God is light and that we should walk in that light! He states that a proper fellowship with one another depends on it!

In this short poem Dorthy Jones tells us where to begin, "Your task, to build a better world," God did. I answered "How?" "This world is such a large, vast place, so complicated now!" "And I so small and useless am, there's nothing I can do!!" But God in all his widsom said, "Just build a better you."

Chase Palmer serves as a role model for youth in America and can serve as an inspiration to young and old alike. I ask that my colleagues join me in congratulating Chase Palmer, in sharing the pride of his parents, and it is a pleasure to be a part of honoring our former colleague Sam Hall and his wonderful wife Madeleine, by recognizing Chase. In a day and time when so many young people are disappointing those of us who love them—it's refeshing to see one who makes our hearts swell with pride. As we adjourn today Mr. Speaker—let us do so in honor of Chase—and others like him.

GEORGE AND GLADYS BROOKS: AN INSPIRATION TO OUR NATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. GILMAN. Mr. Speaker, the National League of Families of our Prisoners of War and Missing in Action in Southeast Asia has recently concluded its 20th annual meeting here in Washington, DC. Although many of my colleagues and I were warmly welcomed at their conference, as were the President and the Secretary of Defense, we all hope and pray that this will be the last meeting of its type to which we will be invited. Hopefully, by this time next year, a full accounting of all our missing American heroes will have been obtained and the years of painful uncertainty will be over.

This year's annual meeting was especially bittersweet, for it marked the retirement of George L. Brooks, of New Windsor, NY, as chairman of the league's board.

Although we will all miss George's leadership, we recognize that seldom was any retirement as deserved as this. George and his wife Gladys have personified the inspiration, the energy, and the determination of the POW/MIA families for two decades. They have both earned a well-deserved rest.

George and Gladys' MIA/POW involvement began almost from the day, January 2, 1970, when their son Nicholas G. Brooks, a Navy pilot, was shot down over Laos and was last seen by a trail watcher tied to a tree.

Nick, a graduate of Annapolis, was the type of individual who was beloved and respected by his hometown. Basically, an entire community rose up demanding to know the fate of Lt. Cmdr. Nick Brooks.

George and Gladys, from the very beginning, would not accept not knowing Nick's fate. They attended the organizational meeting to form the National League of Families of Prisoners and Missing in Southeast Asia in May 1970, less than 6 months after Nick's disappearance. Since that time, George Brooks has been elected to the board of directors of the league on an annual basis. When he retired last weekend, he was stepping down after six terms as chairman of the board.

Even before the American involvement in the Southeast Asian conflict ended, George and Gladys were active lobbyists, demanding to know the fates of the more than 2,400 missing. Through five administrations, the White House became fully aware of their presence and their persistence.

The continuous activities of George and Gladys Brooks involved extensive travel at personal expense, including their travel to Southeast Asia. In September 1982, the travel culminated in George's leading a four-member league delegation to Southeast Asia for discussions with Vietnamese officials in Hanoi and Lao officials in Vientiane.

Mr. Speaker, I can personally attest to the determination and dedication of George and Gladys Brooks, for it was they who whetted my interest in this subject, during my first campaign for the House in 1972. I found them both to be so knowlegeable on this subject, and so determined to carry it through, that their arguments were irrefutable. During the years of the Select Committee on POW's and MIA's, from 1975 to 1977, George and Gladys were always willing to drop everything to provide the Select Committee on Missing in Action with the information we needed.

Ironically, while people as dedicated to a cause of the intensity of George and Gladys Brooks are open to criticism, they had to endure the slings and arrows from different Americans with different perspectives. During the 1970's, their persistence earned the criticism from those who wanted the POW/MIA issue forgotten, and who wanted our whole Vietnam experience swept under the rug. In the 1980's, they endured attacks from those who did not appreciate the complexity of the

issue, and didn't have the patience to pursue governmental negotiations. Those Americans felt that any remaining POW's and MIA's could be freed by paramilitary action. George and Gladys never lost their tempers, but calmly and patiently answered their critics with logic, with reason, and with love.

In March 1982, the remains of Nicholas Brooks were returned by the Laotians and positively identified. Perhaps the Communists felt that by confirming the fate of their son, they would silence George and Gladys Brooks. They could not have been more wrong. George and Gladys' dedication continued unabated, for the POW/MIA issue was no longer a personal, family issue to them—it had become an issue that transcended all else. They didn't intend to stop until the waiting ended for the many friends they had made during their years of struggle on this issue.

George doesn't like to talk about himself, so it is not known to many that he is himself a hero of a far different war. During World War II, George's service in our Navy earned him the Good Combat Medal, the Purple Heart, two bronze stars for action in the European theater, and four bronze stars for action in the Pacific theater, including participation in the invasions of Luzon, Iwo Jima, and Okinawa.

George's retirement from the National League of Families follows Gladys' by a couple of years. But we know that as we bid good luck to George and Gladys, we are not saying goodbye. We know that they will always be as close as the nearest telephone whenever they can be of assistance.

Mr. Speaker, the President of the United States and the Secretary of Defense both paid tribute to the Brooks' last weekend as the outstanding examples of dedication to the POW/MIA issue. Let us all salute these outstanding individuals who have been an inspiration to us all.

Mr. Speaker, I invite my colleagues to join me in saluting George and Gladys Brooks: Outstanding Americans, outstanding leaders, and outstanding friends.

ADDICTION CRISIS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. GARCIA. Mr. Speaker, I rise to once again reititerate my strong concern and apprehension of the role of drugs in our society. Currently, the Wall Street Journal is doing a series of articles on drug abuse, its causes, and effects. I am enclosing for the RECORD the paper's August 1, 1989, article concerning drug addiction. I hope my colleagues will learn as much from the article as I did.

Mr. Speaker, the article reminded me of the impartiality of addiction. Scientific evidence, though not wholly complete, suggests that addiction is equally as hereditary as it is acquired. Also, because of the smokable and inexpensive form of cocaine called crack, the age of addiction is becoming increasingly younger. The article refers to the cocaine hotline that estimates 5,000 people are introduced to cocaine daily. Last, we can no longer afford the costs, both financiallly and emotionally, of the addiction crisis in this country. As the article indicates, drugs cost us over $100 billion annually beyond the toll in human suffering. The example of General Motors is, unfortunately, typical of the costs to American corporations due to drug related absenteeism and lost productivity.

Mr. Speaker, we all need to take an active part in fighting the war on drugs. This cancer is penetrating all fabrics of our society. It is our No. 1 public enemy. As one former addict quoted in the article suggests, "the drug epidemic makes the black plague look like the common cold."

The article follows:

[From the Wall Street Journal, Aug. 1, 1989]

AS ADDICTION CRISIS MOUNTS, EXPERTS DELVE INTO THE ROOT CAUSES

(By Joseph Pereira)

The images race across the television screen with such frequency they tend to blur: Another actor or athlete enters a drug-rehabilitation center, another drug-related murder occurs on a city street.

Drug addiction has captured the nation's attention, but consider also these government estimates: More than 1,000 people die daily from complications related to cigarette smoking; there are three problem drinkers in this country for each of its six million drug addicts. From cigarettes and prescription drugs to cocaine and heroin, virtually every American knows personally someone who suffers from addiction.

Epidemics of addiction aren't new, but the size of the problem in this country has even most addiction experts baffled "It's almost as if there's something in the water," says Stephen Holtzman a professor of pharmacology at Emory University in Atlanta. "Whether it's a late-afternoon caffeinated soft drink to fend off fatigue or the nip of nicotine to calm the nerves, we as a people [turn to chemicals] instinctively."

While medical experts have long identified certain states of mind that are more accommodating to addiction—stress, insecurity, fear—scientists remain unsure as to why some people become addicted and others don't, why some extremely unhappy people reject drugs while some otherwise normal thrill seekers develop a debilitating addiction from just one use.

"Finding the addictive personality has been like finding the Holy Grail," says Dr. Ronald Siegel, a University of California, Los Angeles researcher who has written a book on drug addiction.

In fact, medical experts don't even agree on their definition of addiction. Some apply a broad definition that includes such things as gambling and sex, while others insist that there must be a biochemical interaction involved, as in drugs, alcohol, caffeine and nicotine. Nicotine was classified only last year by the surgeon general as having the addictive power of cocaine or heroin.

MUCH TO LEARN

There have been a few medical breakthroughs. Researchers have discovered that one-fourth to one-half of all children born of alcoholics are genetically predisposed to alcoholism.

Scientists also have developed some understanding of how addictive substances interact with the chemicals in the brain, but they have yet to discover why this interaction sometimes produces an addiction or how this chemical process can be arrested.

Yesterday, the National Institute on Drug Abuse released a new survey showing that the number of people using illicit drugs, while still huge, has actually declined in recent years. But the survey said the number of chronic users is rising. Officials blame the rise on crack, the smokable and easily affordable form of cocaine that is also the most addictive substance on the market.

President Bush's drug czar, William Bennett, yesterday credited enhanced public awareness of the dangers of drug use for the overall decline. But he added, "Drug crime is up, drug trafficking is up, drug deaths are up, drug emergencies in our hospitals are up—all since 1985, and much of this can be explained in one word: crack."

Largely because of crack, drug-related emergency-room cases increased at hospitals in 16 of the nation's 19 largest cities, a new congressional study found. Such cases were up 210% in New Orleans, 199% in Philadelphia and 134% in the nation's capital. Treatment centers nationwide also report that their average patient is getting steadily younger and becoming addicted in a shorter period of time.

The nationwide Cocaine Hotline, a toll-free call-in service that advises cocaine abusers where to get help, estimates that 5,000 people are introduced to various forms of cocaine every day.

Crack can unleash a vicious streak of violence in the abuser unlike almost any other substance. In suburban Boston recently, a young mother who was strung out on crack flung her young baby against a wall so hard the child died of a broken neck. Case workers describe the mother as coming from a "respectable middle class family." This illustrates another facet of the U.S. drug addiction problem: Far more than in comparable European countries, drugs have penetrated all strata of American society.

A recent survey of callers to the Cocaine Hotline showed that while 55% of those who identified themselves as addicts said they were unemployed, 34% said they had jobs paying more than $25,000 a year and 30% said they were college graduates.

Consider the case of the Oliva family of Boston: Stephen is a jeweler, his wife was a corporate lawyer. Described by Mr. Oliva as "flower children," the Olivas, like many who grew up in the 1960s, experimented first with marijuana as a form of recreation. As he got older, Mr. Oliva says he found that harder drugs, particularly heroin, blocked out the frustrations and anger of daily life. He and his wife both slid slowly from recreational use to addiction.

Two years ago, while he roamed the streets looking for a heroin fix. Mr. Olvia's wife was found dead on a park bench of a cocaine overdose. Now, after years of sharing heroin needles with other addicts, Mr. Oliva is himself dying of AIDS.

Lately, Mr. Oliva has been spending a lot of his time attending funerals of fellow addicts who have succumbed to the disease. "Speaking from my experience," he remarks. "the drug epidemic makes the Black Plague look like the common cold."

In addition to its tremendous emotional toll, the nation's addiction problem also has broad economic effects. A recent Congressional report estimates that last year drug abuse cost Americans more than $100 billion in drug purchases, lost productivity of addicted employees and the medical cost to treat addiction.

General Motors Corp. estimates that drug abuse alone costs it more than $1 billion annually in worker absenteeism and the ex-

pense of addiction treatment programs that can run as high as $20,000 a year. GM says that in the year before seeking treatment, the average substance abuser works only about 140 days.

All this heightens the urgency for drug researchers seeking some clues that would allow physicians to identify those at high risk in order to head off addiction.

Drug researchers now know that different addictive substances attack different sections of the brain. Marijuana affects the area of the brain that governs memory and learning, while amphetamines work on the brain area that controls voluntary movement.

INSIDE THE BRAIN

Cocaine works directly on the hippocampas, or pleasure center, that responds to such stimuli as sex and food.

Inside the brain, such pleasurable sensations are normally passed from one nerve cell to another by a chemical called dopamine. The transmitting cell releases dopamine, which triggers the nerve endings on the adjacent cell. The transmitting cell then draws the dopamine back inside it to be reused.

Cocaine, however, prevents the transmitting cell from reclaiming its dopamine, and thus the pleasurable sensation continues to be transmitted long after it would have ended. As a result, blood pressure rises, muscles constrict, breathing quickens and the heart beats faster. After taking about 25 milligrams of cocaine, a drug user's heart begins to pump at about the same level it would during strenuous exercise. It takes about 45 minutes for the heartbeat to return to normal.

Repeated cocaine use causes the nerve endings to develop a tolerance to dopamine, and ever increasing doses of the drug are then needed to produce the increasing levels of dopamine needed to produce a pleasurable sensation.

Cocaine addicts often suffer a type of withdrawal caused when cells temporarily run out of dopamine and lose any ability to transmit pleasure signals. Feelings of unhappiness, irritability or apathy often result.

Crack, because it is smoked, gets to the brain in eight seconds, or much faster than regular cocaine or most other drugs. It also reaches the brain in purer form, which explains the drug's potency.

SEARCHING FOR CLUES

Scientists don't yet understand whether the key to addiction lies primarily in personality traits or in some chemical predisposition. Some researchers believe there are those who are destined to become addicts the moment they begin consuming an addictive substance because of the chemical make-up of the brain; others believe the answer lies with the state of mind of the user, and still others believe it is a combination of these forces.

The hunt for an addictive personality has been confounded by the seemingly inexplicable variety of those who become addicts. Emory's Dr. Holtzman says he remains stunned by the case of an exceptional physician colleague who despite being a specialist in cardio-pulmonary medicine "smoked himself to death."

Another curious fact, says John Hughes, an addiction specialist at the University of Vermont School of Medicine, is that "we don't see alcohol and drug abuse in the Amish and Mormon communities, regarding of biochemistry and personality." This leads him to conclude that the role of upbringing and environment should be studied more carefully.

Searching for a chemical or genetic predisposition to addiction has proved equally problematic. For one, scientists have been studying the drug issue seriously only for less than a decade, compared with about 20 years studying alcoholism, where they have made progress.

Researchers have identified single genes as well as combinations of genes that are sometimes passed from alcoholics to their offspring that they believe create a predisposition toward alcoholism, much like blue eyes or nearsightedness.

EVIDENCE ON DRUGS

And a few minor discoveries have been made with regard to drugs and other chemicals. Preliminary studies show that those people born with a shortage of tranquilizing neurochemicals, called endorphins, may have a greater tendency toward addiction than others. Likewise, research on caffeine shows that about 5% of all people are immune to its addictive powers because of their chemical makeup, according to Emory's Dr. Holtzman.

The National Institute for Drug Addiction says its researchers have discoverd that many young addicts—those generally under the age of 21—were led to drugs of alcohol by some form of clinical mental disorder that had gone untreated. "The early recognition and effective treatment of psychiatric disorders should be able to prevent a sizable portion of the drug problem among the young," the federal drug agency said in a recent report.

Physicians have also begun to catalog a host of side effects stemming from long-term drug use. The University of Connecticut's health center reports a spate of heart attack cases among drug users in their teens and early 20s. Hospitals are also reporting that cocaine use can cause brain seizures or even hemorrhages. Heroin and morphine abuse has been known to cause serious memory loss and even blindness.

Most dangerous is the mixing of various drugs or drugs and alcohol. Joan Patterson, a rehabilitation worker at the Mount Vernon Community Mental Health Center in Fairfax, Va., tells of a 24-year old treated at the center who was once a top high school student, but whose brain was damaged by repeated use of combinations of different drugs. Now, he needs help to mow the lawn: when he gets to the end of a row, someone has to turn him and the machine around. Ms. Patterson says he has little chance of recovery.

In interviews, addicts themselves claim to be aware of the risks they are taking. But with their logic clouded by drugs, many aren't willing to attempt rehabilitation.

Eric Robinson, 18, began taking drugs five-years ago while growing up in Wisconsin. His hair is dyed platimum blond, his fingers bear rings with skulls on them and his fingernails are painted black—all he says, manifestations of "my interior state of hell."

Eric's addiction is so bad he often takes LSD, marijuana and alcohol at once. He says he can't do without the escapist visions that the drugs produce in his mind: "In a room, you see things like the stitches on the sofa, dust and shadows that you wouldn't see otherwise," he says.

Four times he has attempted suicide with deliberate overdoses, only to be saved by friends. Once, while using LSD, he carved the words "I hate you" into his arm with an old razor. He occasionally attends free drug counseling sessions at Bridge Over Troubled Waters in Boston, where he now lives in an abandoned building. But he resists the center's recommendation that he seek detoxification help. "I can't quit," he says.

Lawyer Johnson, a fellow street dweller in Boston, says he wouldn't quit even if he could. The 37-year-old who says he lacks any marketable job skills or education, spends his days and occasionally his nights on the street looking for money and drugs. He sometimes checks into a homeless shelter at night.

"Life has lost its appeal for me," he says, while admittedly high on crack. "I ain't got nothing to do, I ain't got a job, I ain't got no money. And I can't sleep. This is life for me. This is life for many people I know. That's why I take drugs."

A TRIBUTE TO JACKIE ANDERSON TRAYLOR

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. HUBBARD. Mr. Speaker, I want to take this opportunity to pay tribute to a lady who was a dear friend and an outstanding constituent of mine in Calvert City, KY, and whose contributions to her community will never be forgotten.

The individual to whom I refer is Jackie Anderson Traylor, who died June 28 at age 63 at her home in Calvert City.

Jackie Traylor, a native of Stanford, Lincoln County, KY, attended Illinois Wesleyan College at Bloomington, IL. She was a member of the Calvert City United Methodist Church. Her great love of music led her to a successful career in teaching piano, voice, and the organ.

Jackie Traylor and her outstanding husband, Dr. Carroll Traylor—a very successful Calvert City physician—were leaders in the early 1970's toward a merger of three high schools in Marshall County, KY, into a new, huge, and beautiful Marshall County High School. Dr. Traylor was a member of the Marshall County Board of Education for 8 years and was considered a key leader in the then controversial merger of South Marshall, North Marshall, and Benton High Schools.

The first class to graduate from Marshall County High School was in May 1975. Nowadays, Marshall County High School is recognized across Kentucky as one of the very best high schools in every way, including academics and athletics.

On a personal note, Jackie Traylor was a pretty and talented lady whom I admired and liked so very much. Jackie Traylor was one of my loyal supporters in Kentucky politics, beginning with my first election bid in 1967.

A large crowd attended a memorial service for Jackie Traylor on July 1 at her church in Calvert City.

Jackie Traylor is survived by her husband, three daughters—Eddrie Ann Traylor of Danville, KY, Leslie Carroll Thebaut of Atlanta, GA, and Kim Traylor of Austin, TX, and two sons—Gary Traylor of Calvert City and Navy Lt. Joel Lee Traylor of the U.S.S. *Coronado*, Third Fleet, Pacific Ocean.

My wife Carol and I extend our sympathy to the members of Jackie Traylor's family.

INTRODUCTION OF THE TOXICS RELEASE PREVENTION ACT OF 1989

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. ECKART. Mr. Speaker, today I introduced the Toxics Release Prevention Act of 1989, the House companion legislation to S. 816, the bipartisan air toxics bill introduced by Senator DAVE DURENBERGER, along with his colleagues FRANK LAUTENBERG, JOHN BREAUX, MAX BAUCUS, JOHN CHAFEE, QUENTIN BURDICK, GEORGE MITCHELL, DANIEL PATRICK MOYNIHAN, JOHN WARNER, BOB GRAHAM, JIM JEFFORDS, and JOE LIEBERMAN. The Toxics Release Prevention Act makes a valuable contribution to the debate on how best to control dangerous air toxics emissions, and I commend it to my colleagues' attention.

Air toxics present a serious threat to the health and environment of this Nation. In a 1987 report examining the Environmental Protection Agency's "unfinished business," for example, senior EPA staff concluded that hazardous air pollutants were among the highest risks to health and the environment not currently being regulated by the Agency. And on April 12, 1989, EPA issued its first toxic release inventory required by the Emergency Planning and Community Right-to-Know Act of 1986—the data revealed that a shocking 2.7 million pounds of hazardous air pollutants were released by major manufacturing facilities in 1987.

This unacceptable situation cannot be allowed to continue.

The Toxics Release Prevention Act of 1989 mandates that EPA promulgate regulations within 10 years of enactment requiring all major sources of air toxics emissions to install the maximum available control technology—with an exemption for any source that voluntarily reduces its emissions by 90 percent from a 1985 baseline by 1992. The bill further requires EPA to take steps to reduce any remaining adverse health or environmental effects—the so-called "residual risk" provision—and establishes programs to deal with emissions from area sources and sudden, catastrohic releases of air toxics.

As the attached article from the Congressional Quarterly reports, the Toxics Release Prevention Act of 1989 has been hailed by Senate Majority Leader GEORGE MITCHELL, a widely respected environmentalist, as a "strong yet feasible approach" to controlling the unacceptably high rate of air toxics emissions in this country today. I urge my colleagues to support the legislation.

The Congressional Quarterly article follows:

CLEAN-AIR PACKAGE, TOXIC AIR POLLUTANTS

(By George Hager)

The Senate Environment and Public Works Committee April 18 introduced the first third of its tripartite Clean Air Act rewrite, and promptly drew fire from environmentalists and industry with its proposal to phase in control of toxic air pollutants—the poisonous emissions of sources ranging from massive chemical plants to neighborhood dry cleaners.

The Senate bill (S 816) would begin with technological fixes to cut emissions of some 200 air toxics, including more than 60 carcinogens. Controversial health-based standards that seek to minimize or eliminate all risk to human health would be deferred to a later phase of the program.

While some technology standards could be set within two years and some health standards within seven years, deadlines for health-standards compliance for some air toxics could be up to 23 years away, under the bill.

Environmentalists attacked the measure as inadequate. "Generally speaking, it doesn't do enough fast enough," said Daniel Becker of the Sierra Club. Industry spokesmen, while noting that the bill is less stringent than the clean-air measure the committee approved in 1987 (S. 1894), nonetheless said the new bill has problems. "We favor air-toxics legislation," said Jeffrey C. Van, chief spokesman for the Chemical Manufacturers Association, "but we're not convinced from what we've seen so far that the Senate bill is that legislation."

OMNIBUS MEASURES

The toxic-air-pollutants measure is one of three parts of a planned Clean Air Act reauthorization that observers agree is likely to be approved this Congress. Legislators in both chambers plan to mark up bills addressing all three areas (air toxics, acid rain and smog) some time this summer or fall, rolling them into a single, omnibus clean-air measure. The Bush administration is expected to weigh in with its own omnibus clean-air proposal by the end of May.

House Energy and Commerce Committee Chairman John D. Dingell, D-Mich., has already introduced an air-toxics measure (HR 4), and Henry A. Waxman, D-Calif., chairman of House Energy's Subcommittee on Health and the Environment, is expected to unveil a competing air-toxics bill the week of April 24.

Air toxics have in recent years been somewhat eclipsed by attention to smog and acid rain, which have had higher legislative and media profiles.

But recent Environmental Protection Agency (EPA) disclosures about the level of air-toxics emissions across the country could change that.

Reporting for the first time under a right-to-know section of the 1986 "superfund" reauthorization (PL 99-499), EPA April 12 put total air-toxics emissions from U.S. manufacturers in 1987 at 2.7 billion pounds, far higher than widely anticipated. Incomplete reporting could mean the actual figure is two to five times higher.

There is a continuing debate over whether pound amounts translate directly into health effects—but the political impact was immediate. "We just didn't have a handle on the problem until this spring," said Rep. Jim Cooper, D-Tenn., a member of the House Energy and Commerce Committee and one of the "Group of Nine" committee members who sought to break the impasse over clean-air legislation last year. Now, he added, "there's an urgency that makes it a front-burner issue."

BACKGROUND

Congress first set about trying to regulate air toxics when it wrote the 1970 Clean Air Act (PL 91-604), but the dimensions of the problem remained largely unknown until Waxman and several other House Energy members released a preliminary version of the EPA data in March.

"The magnitude of this problem exceeds our worst fears," Waxman said at the time, blasting EPA for failing to set emissions standards for hundreds of toxics in the 19 years since Congress ordered it to do so.

Section 112 of the 1970 law ordered EPA to list all hazardous air pollutants likely to cause an increase in death or serious illness; within a year, EPA was to set emissions standards that would provide "an ample margin of safety to protect the public health" from those pollutants.

Since then, however, EPA has listed only eight substances for regulation, and has set emissions standards for only seven. The actual number of substances that belong on a list of hazardous pollutants is subject to debate, but EPA itself has proposed a list of 186, and last year's Senate Environment Committee bill included 224.

For many environmentalists, EPA's failure to regulate more than seven air toxics is proof that the agency is weak and unwilling to make necessary choices about the environment. But some EPA defenders say that, in the case of carcinogens, there is in fact no "safe" standard; EPA would be forced to set a zero-emissions policy, which agency advocates argue would force the shutdown of various segments of U.S. industry.

TECHNOLOGICAL CONTROLS

Congress has responded to EPA's inaction by gradually de-emphasizing stringent health-based standards, substituting instead proposals that would impose technological controls on polluters, at least in the first stage of air-toxics control schemes.

While technological fixes are generally viewed as a good way to start the control process, agreement breaks down on whether to follow up with tough, health-based standards, and how much discretion to grant EPA in setting both technology and health standards. "An unfortuante legacy of the Reagan administration is that Congress is very reluctant to give any discretion to EPA," said a House staffer. "The Reagan administration only used discretion to avoid doing things."

Senate Environment's efforts to control air toxics, smog and acid rain in the last Congress were viewed by some as stringent in general and tough on EPA. Legislative analysts describe S. 1894, which was passed by the committee in 1987 but died at the end of 1988 without floor action, as granting little discretion to EPA and setting strict health standards for air toxics. Industry abhorred the measure. "The Senate bill last year was an abomination," said William D. Fay, administrator of the Clean Air Working Group, a broad-based industry coalition.

But Fay, a former aide to conservative Idaho Republican Sen. Steve Symms, said there appears to be a new willingness this year in both chambers to work with industry to craft clean-air legislation that will pass. He said Senate Environment is "at least sending us signs they're willing to work with us," and gave him an unprecedented look at the draft air-toxics bill before it was finalized.

Fay said he received similar treatment in the House, where Waxman is finalizing his own air-toxics bill. He added, however, that he has "not made very much progress" with Waxman.

The new Senate measure was unveiled at a press conference April 18 by a bipartisan group including Max Baucus, D-Mont., chairman of Senate Environment's Subcom-

mittee on Environmental Protection. Included were Dave Durenberger, R-Minn., John B. Breaux, D-La., and Frank R. Lautenberg, D-N.J., whom Baucus had appointed to draft the measure.

"Most people realized that we weren't able to get together a coalition the old way," said Breaux, who is seen as a pivotal committee member.

Breaux's state is home to a heavy concentration of oil refineries and chemical manufacturers that would be affected by the bill, but it is also hard-hit by air-toxics emissions and the incidence of health effects suspected to be caused by those emissions. "Those of us in Louisiana want not only jobs, we want to be able to breathe the air and breathe it safely," he said. He called the measure a "proper beginning," but cautioned that it will change before it is finally approved.

Senate Majority Leader George J. Mitchell, D-Maine, traditionally among the Senate's environmental leaders, called the bill a "strong yet feasible approach." John W. Warner, R-Va., also backed the measure. "Bottom line: This is going to be one of the great tugs of war in the Senate this session," he said. "We've got to get this bill out this year."

BIPARTISAN SUPPORT

Following are the major provisions of S. 816:

Pollutants list and source categories: The bill would list approximately 200 air toxics. (The final list is not included in the current version of the bill.) Any source emitting more than 10 tons a year of one air toxic, or a combined total of 25 tons, would be classified as a "major source" subject to regulation. EPA would then devise a list of some 90 to 150 source categories, including chemical plants, steel mills, oil refineries, uranium mines, cotton gins, glass manufacturing plants, industrial dry cleaners and automobile manufacturers.

Technology standards: On a category-by-category basis, EPA would establish standards requiring the installation of "maximum achievable control technology" (MACT) to cut emissions. MACT, which is generally the same as "best available control technology" (BACT), can include pollution-control devices or alterations in manufacturing processes that cut emissions. Senate staff said the bill "front-loads" the process to control the most harmful substances first. The first technology regulations would be due from EPA two years after enactment, the last 10 years after. In all cases, sources would have three years to comply.

Optional voluntary reduction: Any source that voluntarily reduces its emissions 90 percent by the end of 1992 could be granted an exemption from MACT standards.

Health-risk review and standards: After sources have had three years to comply with technology standards, EPA has another two years to conduct a health-risk review. In the case of carcinogens, of which there would be an estimated 65 to 68 among the 200-odd listed substances, sources would have to meet a health-risk limit that would cause no more than one cancer in every 10,000 persons most exposed (living at the plant fence for a 70-year lifetime). The one-in-10,000 limit is a minimum; the goal is a one-in-a-million risk limit. If technology were available to reach that higher goal, EPA could require its installation regardless of cost. For sources that could not meet the one-in-10,000 minimum, EPA could grant a one-time, five-year exemption. In the case of substances that cause health effects other than cancer, such as birth defects or gene mutation, EPA could set other health-based standards.

Area sources: These are the small but numerous sources of air toxics—cars, dry cleaners, gas stations, wood stoves—that EPA has estimated cause up to 75 percent of the cancers in some urban areas. EPA could set technology standards for area sources the same way it would for major sources, unless such standards would prove too costly. To compensate, EPA and urban areas would monitor area sources for five years, after which time EPA would propose a national urban air-toxics strategy to cut risks from area sources.

Accidents: The bill sets several requirements designed to prevent or reduce the impact of accidental releases of extremely hazardous chemicals. Included are a mandate that EPA list the 50 most hazardous substances, and authority for EPA to issue accident-prevention regulations and give direct orders to specific facilities. The bill would also set up a five-member chemical-safety board similar to the National Transportation Safety Board to investigate chemical accidents.

A CONGRESSIONAL SALUTE TO DON DAVIS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. ANDERSON. Mr. Speaker, I have the pleasure today to pay tribute to an outstanding individual. George Donald "Don" Davis will be honored by the citizens of Downey, CA, August 18, 1989, as he retires from his position of city manager of Downey. I take this opportunity to thank Don for all he has done for his community over the years, and wish him the very best in the years to come.

Don has been a resident of Downey for the past 25 years, but has lived in the area since 1939. He attended South Gate High School in South Gate, CA, and was soon thereafter drafted into the Navy, where he served for 2 years in Japan during the Korean war. Upon his return, he attended Long Beach State College and the University of Southern California from 1957 through 1962.

Don began an extended and notable career with the Downey Fire Department in 1958. Over the years his exemplary record and his leadership abilities did not go unnoticed, and he progressed through the ranks up to fire chief of Downey, a position he held from 1978 to 1985. In June 1985, he was appointed as city manager pro tempore of Downey, and has served as city manager and chief engineer of the fire department since October 1985.

Don has been further involved in the community as a member of the Downey Rotary Club for over 10 years, having served as its president from 1987 to 1988. He is as well a member of the Hospital Foundation, and treasurer of the Downey Rotary Foundation.

My wife, Lee, joins me in offering our congratulations to Don, a man who not only shared his time and talents, but who risked his life during his many years with the fire department, for the community. We wish him and his wife Mary Ann, and their children, Lisa, Susan, and John, all the best in the years to come.

THE VALVOLINE NATIONAL DRIVING TEST

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. EMERSON. Mr. Speaker, the month of August means vacation time and lots of holiday travel on the Nation's highways. Many people look forward to times spent with family and friends. However, as a member of the Public Works and Transportation Committee, I am too often reminded that accidents on our highways can turn what would be a happy time into a tragic event.

As the House rushes to the end of this week and the beginning of a long recess, I wanted to alert my colleagues to an important upcoming event. On August 29, 1989, during the week preceding the traditionally deadly Labor Day weekend, CBS will air the "Valvoline National Driving Test" at 10 p.m. eastern time.

While many Americans have become increasingly aware of the dangers surrounding drinking and driving, we tend to overlook the hazards that are caused by simple driving errors. Each one of us has been in contact with someone who has paid a heavy price in either lives or property. Statistics show that speeding, improper overtaking, disregarding signal, and other motorist errors—alone or combined with other factors—are the cause of some 67 percent of accidents in this country. Nearly 50,000 deaths occur each year due to driving accidents.

The Valvoline National Driving Test will challenge viewers to test their driving skills and judgment with regard to defensive driving and reactions to the unexpected. It will depict simulated real highway situations and what can happen when a driver makes the wrong decision.

As we leave for the August recess, I urge my colleagues and the drivers of this Nation to mark their calendar for this event and enjoy a happier and safer holiday.

THE 350TH ANNIVERSARY OF PARLIAMENT IN BARBADOS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. DYMALLY. Mr. Speaker, in our relationships with the English-speaking nations of the Caribbean, it is fitting and appropriate to remind ourselves gently of their high level of sophistication, education and historical experience in constitutional government.

The nation of Barbados which has just recently celebrated its 350th anniversary of Parliament is a case in point.

The nation of Barbados is certainly the core to the democratic process. It comprises two Houses—the Senate and the House of Assembly. The former is appointed and the latter is elected. The House of Assembly is comprised of all the elected representatives of the

people, both the opposition and the Government.

It is of historical significance that, next to the British House of Commons and the House of Assembly of the Bermudas, the House of Assembly of Barbados is the most ancient legislative body in the British Commonwealth.

The first meeting of the Barbados House of Assembly was convened on June 26, 1639 and consisted of 33 members, 11 members of council and 22 "chosen burgesses"—citizens.

Moreover, in order to safeguard the freedom and well being of the country, Barbados saw fit to publish a Declaration of Independence in 1651. These rights and privileges were confirmed by Articles of Agreement commonly known as the Charter of Barbados. This document was concluded in January 1652. The preamble of the present Constitution of Barbados contains these references.

It is noteworthy that during the political revolutions of the 1930's and 1940's, political power was assumed by the majority of the people. In 1951, the universal adult franchise was passed into law thereby giving the vote to every Barbadian 21 years or over regardless of property ownership, color or class. That year also witnessed the first woman to be elected to Parliament in the House of Assembly. Legislation was passed in 1962 which lowered the voting age from 21 to 18.

It is additionally significant that the structure of Government in Barbados, as in the Commonwealth Caribbean, is based on the Westminister model which originated in Britain. There are three branches of Goverment—the executive, the legislative and the judiciary, with the Governor General, the Representative of the Crown, as Head of State of Barbados.

The House of Assembly is currently comprised of 27 members, whereas the Senate has 21—12 appointed by the Prime Minister, two by the leader of the opposition, and seven at the discretion of the Governor General, after consultation with economic, religious and social interest groups.

Because of this legislative history, it is not surprising that Barbados and the other English-speaking nations of the Caribbean enjoy a long history of political stability which compares very favorably with other advanced countries of the world.

ENVIRONMENTAL AND ENERGY STUDY CONFERENCE ELECTIONS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. GREEN. Mr. Speaker, I should like to congratulate two of our colleagues, BOB WISE and JAN MEYERS, who this morning were elected chairman and vice chair to the Environmental and Energy Study Conference.

BOB WISE has served as vice chairman of the study conference for the past 4 years. JAN MEYERS has served on the conference's executive committee since coming to Congress.

In the Senate, Senator AL GORE has been reelected as chairman, and Senator JOHN MCCAIN as vice chairman. It is the second term for both.

These officers are seasoned leaders of the conference, and the conference's current high levels of membership and activity reflect their guidance. In fact, this year more than 275 of our House colleagues and a record 90 Senators are members of the conference.

Having just completed 4 years as the conference's House chairman, I fully appreciate the importance of its work. The services the study conference provides to Members of Congress are more valuable than ever. The American people are deeply concerned about environmental and energy issues, and the conference's objective analyzes and frequent forums and briefings keep us well prepared to respond.

The environmental problems we face are more complex than ever and their solutions enormously costly. We struggle to reorient our approach to one of pollution and waste prevention.

We are increasingly aware of the international dimensions of environmental degradation and the need for international cooperation on an unprecedented scale.

We have become acutely aware of the need for a coherent energy policy, to protect the environment, secure our economic independence and improve our international competitiveness.

These are the kinds of issues that the study conference analyzes for Members of Congress every day, ensuring that we have the information we need to make the crucial policy decisions before us. Through its Weekly Bulletin, its special reports and its forums and briefings for Members and staff, the conference makes a vital contribution to House and Senate deliberations. The fact that the conference does not take political positions enables all of us to take advantage of this fine resource.

On behalf of the executive committee of the study conference, I should like to congratulate our colleagues on their election and wish them well.

AMRAAM

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. DENNY SMITH. Mr. Speaker, if a U.S. Air Force or U.S. Navy pilot flies into harms way tomorrow, his best defense will be an air-to-air missile.

The Sparrow radar guided missile and the Sidewinder heat seeking missile are this Nation's best existing, working, and combat proven air-to-air missiles.

The advanced medium range air-to-air missile [AMRAAM] is programmed to replace these earlier missiles. But AMRAAM is not ready yet. The AMRAAM test program continues to have serious problems. The House Armed Services Committee recognized this in their report on the Defense authorization bill we passed last week:

> The [HASC] is concerned about the remaining uncertainties with the [AMRAAM] test program, the reclassification of the F-15 captive carry test as a development effort, the lack of stable production configuration, the availability of a mature software package and continuing fuzing problems.

Surprisingly, despite these known problems, the Defense Department ended Sparrow and Sidewinder purchases in fiscal year 1989.

Last week the House adopted my amendment to the Defense authorization bill regarding air-to-air missiles. My amendment required that the Secretary of Defense ensure that production capability for the AIM-7 Sparrow and the AIM-9 Sidewinder air-to-air missiles is maintained until such time as the advanced medium range air-to-air missile [AMRAAM] is certified.

The House Armed Services Committee had already placed language in the bill restricting AMRAAM. No funds can be used for full-rate production—defined as more than 900 missiles per year—until the Director of Operational Test and Evaluation certifies, first, that all required testing of AMRAAM has been conducted, and second, that the results of that testing demonstrate, first, that the AMRAAM missile has met all established performance requirements, and second, that stable missile production design and configuration—including its software—have been established.

The AMRAAM is a fine candidate for continued research and development, but it is certainly not production ready. As many of my colleagues are aware, I have been a long time critic of the AMRAAM testing program. Captive carry testing is currently not being kept for score. The Air Force Operational Test and Evaluation Command [AFOTEC] withdrew from the captive carry portion of the test program because of the number and severity of the problems with the AMRAAM. For score testing is scheduled to resume in late September 1989 and will not be completed until February 1990.

At the earliest, the Defense Acquisition Board will meet to approve full rate AMRAAM production in March 1990. I sincerely hope that AMRAAM will overcome the many difficulties that have plagued it. At that time, the Director of Operational Test and Evaluation will review AMRAAM and certify it for full rate production if it is ready. In the meantime, I am very glad that the House has agreed with my amendment to preserve our production capability for Sparrow and Sidewinder. We have left our fighter pilots with an alternative if AMRAAM does not live up to our expectations.

AIR INDIA DISASTER

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. BURTON of Indiana. Mr. Speaker, we all remember when India failed to vote in the United Nations to condemn the Soviet Union for shooting down Korean air flight 007. Some 269 innocent people were killed in this ruthless attack by Soviet warplanes. A Member of this body, Congressman Larry McDonald, was also killed in that crash. Yet, the Indian Government saw fit to act as a good client state of the Soviet Union and support their masters in this heinous act.

This tacit support of air terrorism may help to explain a new book by two Canadian journalists who claim the 1985 bombing of an Air India jetliner that killed 329 persons over the Atlantic Ocean was an intelligence operation by the Government of India that went awry. You might remember that the bombing of the Air India plane was conveniently blamed on Sikh extremists. I would like to place some materials in the CONGRESSIONAL RECORD that suggest otherwise:

[From the Washington Times, June 22, 1989]

BLAST THAT KILLED 329 LAID TO INDIA'S SECRET SERVICE

(By Barry Brown)

TORONTO.—A new book by two Canadian journalists claims the 1985 bombing of an Air India jetliner that killed 329 persons over the Atlantic Ocean off Ireland was an intelligence operation by the government of India that went awry.

"Soft Target" by Zuhair Kashmeri, an editor at the Toronto Globe and Mail, and Brian McAndrew, an editor at the Toronto Star, accuses the Indian government of funding and encouraging Sikh terrorist groups as a means of discrediting the movement in North America. The book was released today.

The Indian Embassy in Ottawa denies the charge.

V.P. Singh, India's consul general in Toronto, called the book "baseless" and said India's Hindus, Moslems and Sikhs live together peacefully. He adds that those Sikhs who want to carve the nation of "Khalistan" from the northwest state of Punjab are terrorists.

Confronted yesterday with statements before Parliament last week by Reid Morden, director of the Canadian Security and Intelligence Service (CSIS), that the Indian government may have been running spies in Canada, India's Deputy High Commissioner Shiva Swami hung up the phone.

According to the authors, the June 23, 1985, bombing of Air India Flight 182 from Toronto to Bombay was the work of a Sikh group funded by the Indian government. There are some 300,000 Sikhs in Canada.

The bomb was supposed to blow up after the Boeing 747 had landed in London and the passengers had disembarked, as happened on a Canadian Pacific flight from Vancouver to Tokyo on the same day. But the flight was delayed and the plane fell into the Atlantic Ocean some 150 miles southwest of Ireland with 329 persons aboard.

Within 16 hours, Mr. Kashmeri claims, he was phoned by Surinder Malik, then India's Consul General in Toronto.

He said Mr. Malik told him how the bombing was done and the names of those involved, information that it took police weeks to confirm.

The authors also write that the main backer of Babbar Khalsa, the Sikh group supposedly behind the bombing, got a $2 million loan from the State Bank of India just before the downing.

The authors also accuse the Canadian government of covering up information tying India to the bombing.

Mr. Kashmeri says that in 1986, when CSIS officials told the External Affairs Ministry about an elaborate spy network the Indian government was running in Canada, the ministry "shut down and blocked the investigation."

The reason, he says, was that the Canadian pipeline firm Nova Corp. was bidding on a $2.5 billion gas pipeline construction project in India and the Canadian government did not want to disturb the negotiations.

When Nova lost the deal, the External Affairs Ministry quietly asked three Indian consuls to leave the country, the book says.

External Affairs has not returned several telephone calls on this matter.

Gian Singh Sandhu, president of the World Sikh Organization in Williams Lake, British Columbia, agrees with the book and accuses the Canadian government of "hypocrisy."

Mr. McAndrew, co-author of "Soft Target," says Ottawa sees India as being "on our side, even though they flirt with everyone, including the Soviets. When people talk of human-rights abuse in India or a movement to discredit Canadian citizens, the government doesn't want to believe that a civilized, Commonwealth nation like India can be involved."

[From the Globe and Mail, July 1, 1989]

WHAT LAY BEHIND THE AIR-INDIA DISASTER

(By Zuhair Kashmeri and Brian McAndrew; Review by David Kilgour)

This book will be received with hostility by External Affairs Minister Joe Clark and his departmental advisers on India, the Indian High Commission in Ottawa and segments of the RCMP and CSIS. Canadians who cling to the romantic but fast-fading notion that the present government in New Delhi is a beacon of hope for a non-violent and democratic world will also be skeptical.

Basing their conclusions partly on information leaked by RCMP, CSIS and Metro Toronto Police investigators, journalists Zuhair Kashmeri and Brian McAndrew contend in Soft Target that during most of the eighties senior Canadian Cabinet ministers and their officials—who were obsessed with winning the favor of the two Gandhi governments for trade, Commonwealth and North-South reasons—were easily duped by Indian agents operating within Canada. This manipulation, begun partly because India's Congress I Party needed the Sikhs as scapegoats to win votes on a law-and-order platform, resulted in a large community of hard-working and enterprising Canadians becoming estranged from both Ottawa and a good deal of Canadian society.

A particularly refreshing feature of Soft Target is its treatment of Sikhism, a 500-year-old faith few Canadians know much about. The founder, Guru Nanak, believed in one God, a classless democracy and equality of the sexes. A later guru built the Golden Temple in Punjab, probably more spiritually important to Sikhs worldwide than the Vatican to Catholics or Mecca to Moslems. The last and most influential guru, Gobind Singh, first persuaded many Sikhs to wear the turban and four other faith symbols largely so that they could not deny their religion when persecuted for it. The Sikh homeland, which at its peak stretched from Tibet to Afghanistan, was lost in 1839 when its ruler converted to Christianity and came under the control of England's ubiquitous Queen Victoria.

The first Sikhs who in 1904 managed to settle on Canada's West Coast, despite MacKenzie King's effort, as deputy labor minister, to bar all Indian immigrants until 1947, experienced much hardship. By the eighties, however, 200,000 to 250,000 Sikhs were prospering across Western and Central Canada, when Indira Gandhi ordered the attack on the Golden Temple. She had first detained hundreds of suspected Sikh separatists and, in 1981, unleashed a surveillance operation against expatriate Khalistani supporters in Canada and elsewhere.

Two cases examined here are the shooting of Toronto policeman Chris Fernandes and the Air-India disaster. About the Fernandes killing, the authors conclude that agents provocateurs from the Toronto Indian consulate, seeking to discredit Sikhs generally among Canadians, in effect engineered the violence at the demonstration where Fernandes was shot. The vice-consul had inflamed some of the participants, had predicted in advance that violence might break out and even hired a friend's son to photograph the event. Canadian public opinion predictably sided with the Indian and Canadian governments against the Sikhs.

The worst mass murder in Canadian history occurred near Ireland four years ago, killing 329 Air-India passengers, many of them Canadian citizens, and crew. Many people concluded that Canadian Sikhs had placed a bomb on board, but a nation-wide investigation, costing an estimated $60-million, has left the crime still unsolved.

According to Soft Target, some senior CSIS officials and one RCMP officer eventually concluded that an Indian intelligence service was probably the real culprit. After all, a number of persons associated with the Indian government had cancelled their reservations on the doomed flight. And why did the Indian consul-general in Toronto have a near-perfect account of what happened so soon after the event?

Moreover, a similar bombing had occurred at the Madras airport in southern India about a year earlier, most probably caused by the Third agency, an Indian intelligence group created in the early eighties to win support for Indira Gandhi's government by encouraging Sikh extremists in Punjab. One group at CSIS concluded from the exclusively circumstantial evidence available that most likely the Third agency ordered the bombing, knowing that suspicion would fall on Sikhs generally and Canadian ones in particular. Another CSIS group inferred that the planting of a bomb was not authorized in New Delhi, but originated solely with local security agents.

Some Canadians became convinced that Talwinder Singh Parmar, head of a tiny extremist Sikh group based in Vancouver, the Babbar Khalsa, was the Air-India murderer. The RCMP, says Kashmeri and McAndrew, eventually decided that Parmar was an agent of the government of India. They query why, among numerous contradictions, a major financial backer of Parmar in Vancouver received a $2-million loan from the State Bank of India (Canada). By early 1989, Parmar had disappeared, and Joe Clark finally ordered several Indian diplomats to leave. Until then, as detailed carefully in Soft Target, Clark and his officials had accommodated the Indian government repeatedly in ways that seemed to have the effect of poisoning the minds of Canadians against Sikhs.

This controversial book examines some important issues and is largely convincing. All who want Ottawa to do the correct thing for correct reasons in both domestic and foreign policy should read it.

INDIAN SECRET SERVICE BLAMED FOR TERRORIST JETLINER BOMBING

WASHINGTON, DC, June 23.—India's secret service engineered the terrorist bombing of an Air-India passenger jet in 1985, killing 329 people, in a covert operation that went

haywire, according to a new book by two Canadian investigative reporters.

According to the authors, the purpose of the operation was to discredit the Sikh independence movement by blaming the bombing on Sikh operatives. Most of the passengers on the downed jetliner were people of Indian origin, which means the Indian government was even willing to kill its own citizens, as well as Indian-Canadians, to smear the Sikhs.

The newly released book, Soft Target (James Lorimer & Co., Toronto) by Zuhair Kashmeri and Brian McAndrew, editors at the Toronto Globe and Mail and the Toronto Star respectively, documents the penetration of the Canadian Sikh community by Indian intelligence agents and the funding of Canadian agent-provocateurs. The motive was to create a negative, violent image of Sikhs in North America and to stir up rifts among Sikhs themselves, say the authors of Soft Target.

According to Kashmeri and McAndrew, the Canadian Security and Intelligence Service (CSIS), Canada's version of the CIA, was so convinced of Indian government involvement in the bombing of Air India Flight #182, one CSIS agent seriously suggested, at one task force meeting, the rounding up for questioning of the entire Indian High Commission and consular staff in Toronto and Vancouver.

Remarked the agent: "We know it and they know it, that they are involved."

Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, representing the Sikh independence movement worldwide, said in a statement here that "the Air-Indian bombing is only the tip of the iceberg. Indian intelligence is up to its ears in criminal covert operations that range from involvement in the assassination of Zia ul-Haq [former president of Pakistan] to drug-running in London."

After the bomb was planted on the Air-India jet, it was set to blow up after the Boeing 747 had landed in London and the passengers had left the aircraft. However, the flight was delayed and the bomb exploded over the Atlantic Ocean, about 120 miles southwest of Ireland. It dropped into the sea, killing all 329 abroad.

Authors Kashmeri and McAndrew describe a working theory of CSIS that links the mysterious India intelligence department, "the Third Agency," to the bombing. That agency was created by Indira Gandhi in the early '80s to subvert the Sikhs in the Punjab. CSIS knew the Third Agency group was linked to a very similar bombing of a Sri Lanka airliner in Madras, India, in 1984, probably via Tamil agents.

Kashmeri, who, like Brian McAndrew, has been following the story for several years, told the Washington Times that he was phoned by India's Consul General within 16 hours of the Air-India crash with details on how the bombing was done and who did it. This was information that took Canadian police weeks to decipher.

Kashmeri and McAndrew note that several Indian diplomatic officials, scheduled to fly on the ill-fated Flight #182, suspiciously cancelled their reservations just before the departure date.

Foremost among these was the Indian counsul general in Toronto, Surinder Malik, the Indian government point-man in later spreading the story to the Canadian press and law enforcement authorities that Sikhs were responsible for the bombing. Malik cancelled seats for his wife and daughter on #182.

Another Indian official, Siddartha Singh, New Delhi's head of North American affairs for the external relations department, also cancelled his return flight on 182 at the last minute, having met with Malik one week earlier.

Dr. Aulakh commented that: "Now the cat is out of the bag. Now all the world knows that the Indian government is fully capable of diabolical acts, including the murder of innocent civilians to further its political schemes. I want to stress, as I have many times before, that killing innocent people is not the way of the Sikhs. And Sikhs will never subscribe to murder in their pursuit of freedom and independence."

PRESERVING THE PEMIGEWASSET RIVER

HON. CHUCK DOUGLAS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. DOUGLAS. Mr. Speaker, I am pleased to introduce legislation today that would authorize a study of a portion of the Pemigewasset River under the Federal Wild and Scenic Rivers Act.

The Pemigewasset River is a 70 mile, free-flowing river that enhances the beauty of the north country of New Hampshire. Not only does this river boast an historical significance, it is also highly valued due to its countless amount of wildlife, vegetation, and unique geological features that surround the river.

It was on the banks of this river that many settlers, well-known native Americans and Founding Fathers made their home. Passaconoway, Great Chief of the Pennacooks, and his son Wanolancet can be traced back to this area. Daniel Webster; Matthew Thornton, a signer of the Declaration of Independence; Samuel Livermore, U.S. Senator; George Whipple, Nobel Recipient for Medicine; and Robert Frost, poet; all resided in the environs of the Pemigewasset River. The legislation I am introducing today would allow the future generations of New Hampshire to enjoy the scenic river just as our forefathers and ancestors did so many years ago.

The wildlife habitat found in and around the Pemigewasset River is bountiful. There are many mammals who use the river for most or all of their primary habitat needs, such as the river otter, the mink, the beaver, and the muskrat. Other species that can be found in the periphery are white-tailed deer, moose, racoon, red and gray foxes, fisher, coyote bobcat, the long and short-tailed weasel, to name, a few.

The birds that use the river for nesting or feeding are the kingfisher, great blue heron, green-backed heron, American bittern, wood and black duck, mallard duck, hooded and common mergansers, and various species of swallows. Migratory birds such as the osprey, the bald eagle, and the northern harrier are also known to find habitat near the river.

There is tremendous support for this study among the residents of the surrounding communities and with those citizens of New Hampshire who use the River for recreational purposes. The Pemigewasset River Council and Coordinating Committee have put an extraordinary amount of effort and time into gaining that support, making this legislation the success that it is. I am proud to be a part of that effort.

The New Hampshire congressional delegation has endorsed this legislation, with Senator HUMPHREY and Senator RUDMAN introducing an identical bill in the Senate. BOB SMITH, my collegue from New Hampshire, has joined me as an original cosponsor of this legislation.

Finally, I want to emphasize that the intent of this legislation is to provide for the long-term protection of the Pemigewasset River. We must act now to preserve for the future of the river and must take to heart the words of Theodore Roosevelt:

To waste, to destroy, our Natural resources, to skin and exhaust the land instead of using it so as to increase its usefulness, will result in undermining in the days of our children the very prosperity which we ought by right to hand down to them amplified and developed.

THE EXPERIENCE OF DOBROSLAV PARAGA

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. LIPINSKI. Mr. Speaker, every now and again I am reminded of how lucky we are to live in the democratic nation called Amercia.

We do have problems, too many homeless, too many uninsured, and too much dope and crime.

But our political system, with all its small flaws, remains the best one available. I am reminded of our good fortune by the experience of Dobroslav Paraga.

Between June and November 1980, Mr. Paraga collected 17 signatures for a petition requesting amnesty for political prisoners in his home country of Yugoslavia. One week after collecting the signatures he was arrested and indicted for participation in hostile activity and hostile propaganda. At his trial the court rejected all defense proposals for the introduction of evidence and refused to call witnesses on his behalf.

Not surprisingly, he was found guilty and sentenced to jail. While incarcerated he was frequently tortured. By his own account Mr. Paraga had his leg broken in five places, had a rubber hose shoved down his throat, and was subject to frequent beatings. The sincerity of this man with whom I spoke, and the apparent persecution of thousands of his countrymen, lead me to believe him.

Mr. Paraga expressed his opposition to the governments treatment of political prisoners in the most peaceful means possible, he gathered signatures. For this he was sent to prison. Throughout his years in Yugoslav prisons and mental hospitals, Mr. Paraga witnessed countless abuses of human and religious rights, violence done to fellow political prisoners, as well as a total disregard for internationally established rules for treatment of political prisoners.

What makes the oppression of this man and others like him so dangerous is that it is done

in a country that is beginning to move toward more openness. Many in the international community may become passive in demanding human rights immediately from Yugoslavia because this will interfere with reforms. I say that human rights can not wait. The cruel treatment of Mr. Paraga and those like him must stop now.

What from afar may look like a nurturing embrace can, in reality, be an oppressive bear hug. In the case of Yugoslavia we must encourage reform without shying away from closely examining their attempts. In places like South Africa there is no pretense at justice for all. Thus, it is easy to condemn apartheid. Yugoslavia, however, masks their oppressions behind a cloak of reform. Mr. Paraga is living proof that his country has not yet fully accepted peaceful criticism, political opposition, and international cooperation.

Mr. Paraga is currently in the United States talking about the cruelties he has endured for speaking out. Because he filed a civil suit against the Government of Yugoslavia for the injuries he suffered in prison, he was given a suspended sentence and ordered to not publicly speak out until 1991. Despite this sentence he has come West and been very vocal about the suffering that currently exists in his country. Although he is well aware of what awaits him in Yugoslav prisons, he still plans to return to be with his family and to continue his fight for justice. I am proud to say that my home State of Illinois and home city of Chicago have both passed resolutions condemning the actions of Yugoslavia.

Wherever he has gone, Mr. Paraga has become a magnet of international attention. He has come to this country and seen the political freedoms we enjoy. He is an eloquent spokesman and leader of his cause. Mr. Paraga is a true hero. He has risked his life so that others can enjoy just some of the freedoms we as Americans enjoy every day. And he will risk it again by returning to continue his fight. I personally wish that I could do more on his behalf. I am confident that Mr. Paraga's determination and bravery are more of a threat to the oppressive and totalitarian leaders than any military power could be. For Mr. Paraga is doing no more than focusing a light where the world has not looked before.

In closing Mr. Speaker, I would like to say that I am sure that big brother is keeping an eye on Mr. Paraga, and his words and actions are being recorded. But let me go on record as saying that his big friends are also watching Mr. Paraga and we will not forget his truthful words and brave actions.

PEMIGEWASSET RIVER, NH

HON. ROBERT C. SMITH

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. SMITH of New Hampshire. Mr. Speaker, today I join my New Hampshire colleague, Mr. DOUGLAS, in introducing a bill to designate part of the Pemigewasset River in New Hampshire for study under the National Wild and Scenic Rivers Act.

Along its stretch from the White Mountains into Bristol, NH, the free-flowing, largely whitewater Pemigewasset contains many resources of tremendous environmental significance. Wildlife, including river otter, mink, beaver, and muskrat, rely on this beautiful and unique New England river for most or all of their habitat. White-tailed deer, moose, raccoon, foxes, and coyotes roam its banks. Many species of birds use the river for nesting and feeding, and fish are in abundant supply.

In addition, the river has several points of outstanding historical significance. It served such early colonists as Daniel Webster and Matthew Thornton, as well as some famous native Americans, including Passaconoway, great chief of the Pennacooks. In more current days, its banks have been frequented by the poet Robert Frost and George Whipple, Nobel recipient for medicine.

Our bill addresses the 30-mile segment of the Pemigewasset from Profile Lake in Franconia to the southern boundary of the Franconia Notch State Park and from the northern town line of Thornton to the Route 104 bridge in New Hampton. The legislation directs the U.S. Park Service to complete a study of this portion of the river no later than 3 years after the bill's enactment.

By prohibiting hydrodevelopment of the river, designation as a Wild and Scenic River would provide the strongest protection for the Pemigewasset. Our bill is just the first step in the designation process. Once enacted, the Department of the Interior will begin working with local communities to find the best way of preserving the Pemigewasset's resources. In addition to wild and scenic designation, a range of other options—including private sector involvement, local initiatives, possible State action, or some combination of these alternatives—will also be considered during the study period. Those alternatives providing the most appropriate protection will be incorporated into a river conservation plan.

There is strong support among area residents, landowners, and river users, local, State, and Federal officials, for such a study effort. Many of the nine towns along the river have called for the long-term protection of the Pemigewasset. In fact, six of the nine towns have already adopted stringent river overlay plans to limit activities that could damage the river's water quality. Study legislation also has the support of the Governor, the entire New Hampshire congressional delegation, and many environmental groups.

In short, Mr. Speaker, natural, free-flowing rivers like the Pemigewasset are rapidly becoming an endangered resource in the United States. We as a nation must work to preserve these river resources in their natural state for present and future generations. I am proud to join in that conservation effort by introducing this legislation today and I hope it will have the strong support of my colleagues.

THE 100TH ANNIVERSARY OF FIRST FEDERAL SAVINGS OF LENAWEE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. DINGELL. Mr. Speaker, I rise today to pay tribute to First Federal Savings of Lenawee, located in the 16th District of Michigan. It is indeed worth recognizing this fine institution, which will celebrate its 100th anniversary on August 5, 1989.

On August 5, 1989, what was then known as the Adrian Building and Loan Association, first began its service to the people of southeastern Michigan. Since then, this financial institution has provided exemplary service in the areas of thrift and home ownership. First Federal's many years have been marked by its liberal, yet prudent, philosophy of helping people attain security, by providing reliability in financial matters.

First Federal has been so solid and financially secure over the past 100 years that it failed to close even during the Great Depression, an era in which so many such establishments were disrupted, and so many lives shattered by financial insecurity.

First Federal won the confidence of its customers through the concerned, individualized service of its management personnel. From the board of directors to each member of the staff, the people of First Federal are dedicated to warm, courteous service, with sensitivity to individual needs, and with unsurpassed financial expertise. Among the signfiicant honors bestowed upon First Federal, in February 1989 it was recognized by an independent financial ratings agency as the third strongest savings and loan in the country, among thrifts with assets of $200 million or more. Also in February, the Detroit News rated it as the strongest thrift institution in Michigan.

I would also like to recognize the individuals whose leadership has enabled First Federal to succeed throughout the years, and to excel at times when other institutions folded.

PRESIDENTS OF THE ASSOCIATION

1889-1909—Delos M. Baker.
1909-1921—Robert S. Moreland.
1921-1933—Frank L. Hough.
1933-1950—Roy McPHail.
1950-1966—Harold H. Sherman.
1967-1981—Alan C. Graybiel.
1981-present—William H. Glencorse.

CHAIRMEN OF THE BOARD

From 1889-1950, the president served as the chairman.
1950-1966—Roy McPHail (Chairman Emeritus 1966-1968).
1966-1972—Malcolm J. Linehan.
1972-1974—John L. Tuttle.
1974-1981—Kenneth A. Wassink.
1981-1988—Allan C. Graybiel.
1988-present—William H. Glencorse.

I feel that this institution is deserving of praise, and that it should be recognized as unique in the savings and loan industry. It is a fine example of how a small town bank, through perseverance, organization and personal attention to detail, can become one of the most respected and successful savings

banks in the country. Please join me today in honoring First Federal Savings of Lenawee.

TRIBUTE TO VIOLA WILLIAMS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. FLORIO. Mr. Speaker, I stand before my colleagues today to honor one of southern New Jersey's outstanding citizens, Viola Williams. On May 11, 1989, the Chamber of Commerce of Southern New Jersey named her as "Small Business Person for 1989." This award for outstanding effort was initiated in 1988 by the chamber's Small Business Action Committee. I respectfully request that a few words of Linda Grennor Sweeten, associate director of the Management Institute at Glassboro State College, be inserted into the RECORD in which she outlines the accomplishments of Viola Williams and the purpose of this distinguished recognition:

As most small business owners can tell you, there is no sure-fire formula for success—only dedication and hard work. Viola is no exception to this rule. Fifteen years ago, Viola was working during the day as a housemother and Assistant Residence Director for the City of Philadelphia. She was raising her seven children and doing the bookkeeping and payroll for her husband's small maintenance service at night. Her husband, Samuel, had inherited a Glassboro, New Jersey janitorial company from his father. As the years went by, Viola became more and more active in the business and in 1974 she joined the company as director of public relations. Effective changes were almost immediate. For example, in order to upgrade the company's "mom and pop" image, she changed the name from Williams General Cleaning to A to Z Maintenance Corporation. This was but one of a series of steps that made the company one of the most successful in New Jersey, if not the Nation. The corporation increased its services to include landscaping, water and fire restoration, snow removal, and security control, to name a few. Today, A to Z Maintenance Corporation services industrial plants, public institutions, and office buildings.

In addition to her involvement in her own business, Viola serves on many boards and commissions aimed at helping small businesses. She was an alternate delegate to the White House Conference on Small Business and served on the Commission on Small Business for the State of New Jersey. In addition, she plays a leading role in the promotion of minority businesses and is active in numerous church, civic and community activities.

We are proud to be able to bestow the South Jersey Chamber of Commerce Small Business Person of the Year Award on Viola Williams. She not only serves as one of South Jersey's leading small business owners, but she has given generously of her time and energy to helping others achieve their goals and dreams. She serve as an example and inspiration to us all. Please join me in congratulating Viola Williams.

A 30-YEAR CELEBRATION OF THE KALAMAZOO MALL, AMERICA'S FIRST DOWNTOWN MALL

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. WOLPE. Mr. Speaker, I rise to pay tribute to the city of Kalamazoo on the occasion of the 30th anniversary of the Kalamazoo downtown mall.

The pedestrian shopper's mall, the first in the United States to be created from a vehicular street, was opened with a 4-day festival three decades ago. This year, a similar celebration featuring the Jimmy Dorsey Orchestra—the same band that played at the opening of the mall—will commemorate the downtown mall, its history, and its future.

While many central city areas across the Nation have not been able to survive indoor malls and a spreading suburbia, the downtown mall has helped Kalamazoo to avoid this same fate. Little did the Kalamazoo community leaders know when they began discussing the idea of a pedestrian shoppers' mall as a way of revitalizing the downtown area in the late 1950's how important this project would be to the vitality of the city 30 years later. The mall is living testament to the willingness of the Kalamazoo community to take bold and creative initiatives so as to create a more dynamic and prosperous future. While many individual businesses have come and gone over the past three decades, the uninterrupted dynamism of the mall on any given day is evidence of the enduring success it has enjoyed. The Kalamazoo mall is eloquent testimony to the truth of the adage that, "Working together we can make a difference!"

Mr. Speaker, it is fitting today that as the Kalamazoo downtown mall is being rededicated, new dreams are being dreamed about the next phase of downtown revitalization. Today's activities will inspire us to continue to plan and implement our innovative visions designed to meet the needs of both of today and of future generations. I feel privileged to represent the people of Kalamazoo, and welcome this opportunity to pay tribute to them on the occasion of the 30th anniversary of their downtown mall.

ENERGY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. MURTHA. Mr. Speaker, America faces another energy crisis and it could happen as early as next week. As current reserves diminish, we must make a commitment to implement new and safe energy programs, while at the same time, develop efficient conservation methods. Even in my home State of Pennsylvania for example, the amount of electricity used regularly in the hottest summer months barely equals available supplies.

This ensuing crisis stems largely from the lack of attention and dedication given to this issue here in Washington in the 1980's. The energy research and development budget has declined sharply from $428 million in 1979 to $129 million in 1989, and the budget for conservation has fallen 76 percent over the past 10 years. Administration cut-backs would have been even greater if my amendments hadn't restored money in past years. This year alone in Interior appropriations we added over $500 million to the energy budget for research and conservation.

We, in Congress, need to make energy a priority once again and pursue a comprehensive energy policy which attacks key problems such as industrial competitiveness, energy security and global warming. Particularly disturbing is the United States' reliance on imported oil. Over 40 percent of our oil comes from foreign sources. The 1986 collapse of oil prices drove imports to 7.2 million barrels per day and led to a new dependency on OPEC not seen since the days of the seventies energy crisis. Obviously, energy imports represent a significant part of our large trade deficit.

Improving our energy situation will directly influence our ability to compete in world markets, most notably, the European Community and Japan. Currently, the United States spends 11 percent of the GNP on energy; an amount double that of Japanese expenditures. Yet the Japanese still maintain an edge in developing new and efficient power sources. If we hope to better current energy conditions there are three steps Congress must take:

First, it's been a decade since we passed comprehensive energy legislation. We need another look at America's energy policy. We need another boost to conservation and development of our own energy resources.

Second, we need to clear the way for construction of new power sources utilizing clean coal technology, solar and hyrdoelectric power, and safe, tighly regulated nuclear power. We can't see our economic growth stopped by a lack of energy supplies.

Third, we must remember the energy crisis remains. We need to plan for energy needs. Later this year, Congress will consider clean air legislation. We want a solid bill, but the price can't be sharply higher energy costs, futher cut-backs in power, and a lack of future energy development.

Energy must be made a priority once again; our future depends on it.

HUD REFORM ACT OF 1989

HON. HANK BROWN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. BROWN of Colorado. Mr. Speaker, today I am introducing a bill that is aimed at cleaning up abuse and mismanagement at the Department of Housing and Urban Development.

Designed to more carefully monitor and reform Federal housing assistance programs, the HUD Reform Act restricts influence peddling and attacks embezzlement problems.

First, this legislation requires competitive bidding for assisted housing application processing. Under current law, regulation of

project bidding is under the control of HUD officials not federal statute. Reports have indicated that in the past HUD officials have frequently bypassed these regulations in the award of projects. Federal investigators have pointed to the lax regulation of the bidding process as the source of recent Department problems regarding influence peddling.

The bill will alleviate these problems by mandating competitive procedures for all Federal housing programs. Currently, HUD requires competition by regulation, which at times have been ignored. This provision requires competitive procedures by force of law.

Second, the bill requires public disclosure of HUD actions regarding housing assistance and the rationale for it. It also requires disclosure of the HUD funds allocated to States, areas and communities. One criticism of HUD housing assistance is that it went to States where housing needs were not as great as other States.

Those engaged in HUD housing assistance programs would be required to disclose comprehensive information that details their activities with consultants, including name, address, compensation, and activities.

Further, this measure forbids housing assistance applicants from hiring consultants except for limited, technical purposes and strictly prohibits the use of HUD funds for lobbying Congress or HUD officials for approval of housing assistance.

The HUD Reform Act reduces the Secretary's discretionary housing fund from 15 percent of appropriation to 5 percent. This reduces the potential for abuse of programs at the highest levels of HUD while giving the Secretary some latitude to cover contingencies, such as law suits.

Finally, this measure would require the Secretary to review loans under the section 235 lower income homeownership program for possible refinancing. The HUD inspector general said that in 1987 this procedure alone would have saved $844 million.

Mr. Speaker, this bill is an effective measure to help clean up the problems at HUD. I urge my colleagues to join us in battling abuse at HUD by cosponsoring this comprehensive legislation.

IN RECOGNITION OF THE BICENTENNIAL OF MIFFLIN COUNTY, PA

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. SHUSTER. Mr. Speaker, it is with great pride that I call to the attention of the U.S. Congress the bicentennial of Mifflin County, PA.

Founded on September 19, 1789, Mifflin County rests on the crossroads of wilderness trails that moved early settlers into the county and later transported men, women, and children to a beckoning, untamed West. Early Scotch-Irish pioneers, who were lured by the scenic vistas and the fertile valleys, were soon followed to Mifflin County by hardy German settlers. The Pennsylvania Canal, that once crossed Mifflin County, gave these early residents a greater access to the outside world and helped turn this county into a regional trade center.

Named in honor of one of Pennsylvania's signers to the Constitution, Governor Thomas Mifflin, the county has contributed greatly to the growth and vitality of America. The fertile farms have long helped to feed a hungry nation, and the products of the mills and factories have abetted in the building of the world's premier economic power.

Breathtaking views, bountiful natural resources, and productive farms and factories—these are all found in Mifflin County. But, the most valuable asset of Mifflin County is its people. Today's community has a unique and broad spectrum of peoples: from descendants of the early settlers; to the long-time Amish farmers of the Big Valley; to the new residents who daily move into this county, attracted by the high quality of life.

It is on this anniversary that the citizens of Mifflin County come together to celebrate and commemorate a heritage that is long and rich. I share in the pride of current and past generations who have toiled so tirelessly to forge a flourishing and vibrant community. But, what heartens me the most, is that I look to the future knowing that the most exciting part of Mifflin County's history has yet to be recorded.

A CALL FOR ADMINISTRATION INVOLVEMENT IN THE EASTERN STRIKE

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. KOSTMAYER. Mr. Speaker, I rise today during consideration of the Transportation appropriations bill to express my concern about the Eastern Airlines strike, and to urge the administration to take a more active role in resolving it. An amendment was to be offered as part of today's appropriation bill to establish a three-member commission to investigate the crucial public policy issues related to the Eastern strike, which fall within the jurisdiction of the Department of Transportation. I was prepared to support this amendment, but due to rules of the House, It cannot be offered as part of this bill. Yet the problem of reorganization remains. And I want to take this opportunity to urge the administration to take action as soon as possible.

As one who represents many Eastern pilots, flight attendants, and ground-crew employees, I am painfully aware of the plight of Eastern employees since the work stoppage and the airline's filing for bankruptcy. The last few months have been hell for them. The bankruptcy proceeding drag on and the future of the airline remains in doubt as does the future of so many of its employees.

The time has come to end the fight between Eastern management and its employees and start rebuilding this once proud airline. Eastern belongs in the air, not in the courtroom.

Since filing for bankruptcy in early March, Eastern has shrunk. While under the bankruptcy court's protection, management has sold off computer reservation systems, the Washington-New York-Boston shuttle, and numerous aircraft. Just yesterday, in fact, 210 million dollars' worth of aircraft were sold. The pattern suggests that Eastern management plans to liquidate the airline.

This pattern of slow liquidation has gone on long enough. The time has come for the administration to get involved. I join those in Congress urging the Secretary of Transportation and the Attorney General to try to hold the airline together and to ensure the consideration of alternate plans to purchase Eastern. Important public policy considerations can no longer be ignored.

Philadelphia and the mid-Atlantic region will suffer economically if Eastern Airlines does not survive. Without Eastern's service, airline competition will diminish. Further concentration in the industry will only hurt consumers in the long run.

I am concerned, too, for the hundreds of pilots, flight attendants, and ground crew in southeastern Pennsylvania and thousands more up and down the east coast. The lives of these employees and their families are beng severely compromised. No doubt, many of my colleagues, Mr. Speaker, have seen and met with Eastern pilots the past several weeks. They have come to Congress to fight for their airline. These employees are hard working, experienced professionals whose jobs are at stake. It is urgent that they be heard.

Several delegations have written to President Bush. And scores of Congressmen, Senators, Governors, mayors, and untold thousands of Eastern employees have written the President requesting his administration's active involvement in the reorganization of the airline.

The silence from the administration is disturbing. Before Eastern Airlines is weakened further and more jobs are lost, I urge the President to act. The dispute between Eastern and its employees must be resolved quickly and the process of restoring Eastern Airlines to a full service carrier must begin immediately.

SUPPORTING THE PRESIDENT'S CLEAN AIR BILL WITH RESERVATIONS

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. STANGELAND. Mr. Speaker, on Thursday, July 27, 1989, I cosponsored President Bush's clean air proposal, but with strong reservations.

I commend the President for his stalwart leadership in moving the debate forward on this complex and controversial issue for the first time in a decade.

Among other provisions, I was pleased to see that the administration did not impose a fee on utilities in my State which would be used to clean up acid rain emissions in other States.

Yet, I am deeply concerned that H.R. 3030 does not recognize the many and early efforts of utilities in States like Minnesota which have done a great job of controlling and reducing acid rain emissions. Utilities, like Northern States Power & Cooperative Power in Minnesota, will be penalized for their good environmental stewardship.

When these utilities start to build new generation capacity, they may not receive credit for early emissions' reductions because the bill measures all emission levels on 1985 data. These utilities will be required to purchase offsets elsewhere. The 100-percent offset requirements, therefore, will penalize States like Minnesota. The present provisions in H.R. 3030 could force some utilities to reject new coal plants, meeting new source performance standards, and to consider new generation from nuclear or natural gas. I do not wish to preclude consideration of any fuel when important new generation decisions must be made.

I believe emissions reductions, required in all sections of the legislation, must be made in the most cost effective manner possible. We need to balance our desire for clean air with our ability to compete in the international arena.

In spite of these reservations, I have decided that the President's initiative is the best vehicle before this 101st Congress by which we will be able to move the debate on clean air. I also believe H.R. 3030 offers the greatest potential for the long-term development of alternative fuels to meet our ever burgeoning energy requirements.

Nevertheless, H.R. 3030 needs modification. I welcome the opportunity to work with Chairman DINGELL and Congressman LENT and the Energy and Commerce Committee to achieve a balanced compromise on clean air as this legislation progresses through the legislative process.

A PIECEMEAL APPROACH TO FEDERAL PAY REFORM: THE WRONG WAY TO GO

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. FORD of Michigan. Mr. Speaker, I rise today to call attention to provisions adopted by the Senate this week during its consideration of the Department of Defense authorization bill. According to the proponents, the provisions I cite are intended to address some of the specific problems faced by the Department of Defense and certain elements of the Department of Energy in operating under the present Civil Service Compensation System.

Provisions in the Senate defense authorization would carve out as many as 250,000 Federal workers—100,000 in the Department of Defense—from the General Schedule of Federal pay. Demonstration projects would be authorized to test the concepts of total compensation comparability, full pay comparability, collective bargaining, and pay banding. All such projects would have to be implemented in compliance with a mandate of deficit neutrality.

Other provisions in the Senate defense authorization would waive the application of dual compensation provisions to 1,275 military retirees employed in critical scientific, engineering, and managerial positions within the Departments of Defense and Energy.

The Senate defense authorization bill would permit rates of pay up to $135,000 for some 525 employees in critical positions within the two agencies.

In addition, provisions of the bill would, for one group of employees at the Department of Energy, waive existing conflict of interest provisions which prohibit employees from leaving the Government to go to work for entities operated on a Government-owned, contractor-operated basis.

Mr. Speaker, the goals of these elements are laudable. The provisions are intended to alleviate the burden which the present Federal Compensation System has placed on Federal agencies in their efforts to recruit and retain workers to face this country's challenges. But, I cannot condone this piecemeal response to what is universally recognized as a pervasive Governmentwide problem.

A piecemeal approach will do nothing to address a pay system which has rendered the Federal Government impotent to compete in the employment market.

Setting special pay rates for a privileged few and exempting specific groups of employees from the normal pay provisions of the Civil Service System will serve only to undermine our efforts to respond to the crisis in Federal compensation in a coordinated fashion.

Exempting a class of Federal employees from conflict of interest laws intended to instill integrity in Federal employment will not bolster the Federal Government's efforts to sustain its work force. Rather, it would encourage blatant use of the same revolving door which has garnered such disdain for the Civil Service.

As chairman of the Committee on Post Office and Civil Service, I am compelled to take critical exception to the efforts of the Senate as being counterproductive to moving the Civil Service forward as a whole.

I am committed to working with the administration and my colleagues in the House and Senate toward comprehensive reform of the Federal pay system. I look forward to working with OPM Director Constance Berry Newman and other administration officials in this effort and have every hope of bringing before this House in the near future legislation which gives the Federal Government the tools it needs to attract the human resources necessary for moving the country forward into the next century.

I urge my colleagues to support me in those efforts by opposing the piecemeal approach promoted by the Senate Defense Department authorization.

PERSONAL EXPLANATION

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. SOLARZ. Mr. Speaker, on August 2, I was unavoidably detained and inadvertently missed rollcall votes 205 and 206.

Had I been present, as a strong and consistent supporter of a woman's right to choose, I would have voted "no" on the rollcall vote 205, Mr. DORNAN's amendment, and "yes" on rollcall vote 206, the motion to rise and report.

TOBACCO-FREE SCHOOLS ACT OF 1989

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. DURBIN. Mr. Speaker, each year tobacco companies lose 400,000 customers who die of tobacco-related diseases and 1.5 million customers who quit smoking. To find 1.9 million new customers annually, they recruit our kids.

Each day, more than 3,000 American teenagers start smoking. Some 50 percent of today's smokers took up the habit before the age of 14; 90 percent before the age of 20. The percentage of high school seniors who smoke is as high as the percentage of adults, and young people are more likely than adults to use smokeless tobacco.

In many of our Nation's high schools, the tragic decision of children to start smoking is tolerated by policies that permit students to smoke and use other tobacco products on campus. Even though we know that tobacco use is habit-forming—an addiction as hard to break as heroin or cocaine according to the Surgeon General—still we make it easy for them to cultivate this addiction by allowing them to smoke during school hours. Even though in most States it is illegal for minors to purchase cigarettes and tobacco, still we allow them to use this deadly product on school grounds.

Mr. Speaker, it is time to stop looking the other way while children, encouraged by expensive ad campaigns, take up a habit that kills 390,000 Americans every year. It is time to prohibit smoking by minors on school grounds.

Today, I am introducing legislation along with several of my colleagues, which establishes a national policy of tobacco use by school-age children.

It prohibits the sale of tobacco products on the premises of any elementary or secondary school receiving Federal education block grants.

It bans the use of tobacco products by students on those premises during school hours and during school-sponsored activities.

If a State passes legislation prohibiting student use of tobacco on elementary and secondary school campuses and at school-sponsored events, as half a dozen or more States already have, the school districts in that State will continue to be automatically eligible for education block grants. In other States, any school district which establishes such a policy for its schools will remain eligible for education block grants.

According to the Congressional Research Service, education block grants totaling $463 million were distributed to schools for the current fiscal year with almost no strings at-

tached. They are received by 99 percent of the Nation's school districts, but an estimated 60 percent of the school districts receive less than $10,000 per year.

I don't think school district officials would pass up this money simply so that they can continue to allow students to smoke on campus, but if any school districts made this bad choice the funds they would otherwise receive would be reallocated to other school districts in the State, so there would be no reduction in the Federal commitment of funds for education. We would merely be targeting the funds to school districts that care enough about their student's health to prohibit student use of tobacco.

Smoking will kill our kids just as surely as drugs. We shouldn't condone the habit in our schools. I say to my colleagues, if you support establishing this national policy to stop tobacco use by children on school grounds, please join me as a cosponsor of this bill.

PERSONAL EXPLANATION

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. GUARINI. Mr. Speaker, yesterday, I inadvertently voted "aye" for the Dornan amendment, which would prohibit the use of all funds in the bill to pay for abortion, even where the life of the woman would be endangered.

I would like to state for the record that I intended to vote "nay."

A TRIBUTE TO GOLDSBY CRAIG—A WOMAN OF GOD

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. FAUNTROY. Mr. Speaker, on August 11 and 12, the Craig family will join with the Barnes family in celebrating their annual family reunion.

I rise today to pay tribute to the light and the spirit behind this annual gathering.

Goldsby Craig was born to James and Betty Ann Craig in Marion, AL. She was always an obedient and kind child, who was deeply religious and enjoyed going to Sunday School and church.

She has continued to exemplify those qualities throughout her life. She has been a member of the Pilgrim Baptist Church in Fort Wayne, IN, for the past 45 years, where she serves as a teacher and piano player. She is chairman of the Ministers' Alliance and president of the Craig Singers—a gospel singing group that includes some of her sisters.

After graduating from Central High School, Goldsby became employed by the General Electric Co. in Fort Wayne, IN, and she has been a superior employee there for more than four decades.

Goldsby Craig takes care of her sister, Annie Mae Hasberry, while serving her church and her community. She likes to sew and is particularly skilled at making suits. She is the kind of person who reflects the best of family and friendship.

The life and work of this Woman of God brings to mind the scripture from Proverbs 31:31,

"Give her the fruit of her hands; and let her own works praise her in the gates."

Goldsby Craig deserves our praise, our honor, and our respect. Thank you.

HAPPY RETIREMENT "WOODY" HAMPTON

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. SMITH of Florida. Mr. Speaker, fellow Members of the House, I proudly salute one of the most able and dedicated public servants in the State of Florida: Mr. Woodward "Woody" Hampton. Woody Hampton is retiring this month as city manager of Pembroke Pines, FL, after over 30 years as the manager or assistant manager for six south Florida cities.

Woody has brought integrity, efficiency, and caring to every city that has been lucky enough to have him. At each position, he arrived facing a mountain of problems and left behind a vastly improved administration. Thousands of south Floridians have benefited from Woody's abilities: the citizens of Florida City, Dania, North Miami, and most recently Pembroke Pines. While earning the respect and affection of his fellow south Floridians, Woody has brought honor to himself and to the cities he has served.

Woody has been a boon to every city that employed him, and he has set a fine example for all those who would pursue a public service career. I ask my colleagues in the U.S. House of Representatives to join me in wishing Woody Hampton good luck in his retirement.

JUDGE ROBERT J. MIECH NAMED POLISH-AMERICAN OF THE YEAR BY THE MILWAUKEE SOCIETY OF THE POLISH NATIONAL ALLIANCE

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. KLECZKA. Mr. Speaker, I am honored to make it known to my congressional colleagues that Judge Robert J. Miech has been named 1989 Polish-American of the Year by the Polish National Alliance—Milwaukee Society.

During his 30-year tenure as a Milwaukee Country circuit court judge, Robert Miech has rightfully earned the respect and admiration of Milwaukee's Polish-American community. His diligent efforts both on and off the judicial bench have left a lasting impression on the people of Milwaukee County and the State of Wisconsin.

In addition to maintaining a consistently high level of judicial excellence on the bench, Judge Miech has played a very active role within Milwaukee's legal community. As former chairman of the Wisconsin State Board of County Judges and the Milwaukee County Board of County Judges, and having served on such bodies as the Judicial Coordinating Committee, Judge Miech has done much to help shape and maintain the tradition of fairness which governs Wisconsin's legal system.

Robert Miech's interests and participation have extended far beyond the limits of Milwaukee's legal community however. Through his involvement with the St. Joseph's Home for Children, and as a trustee of the Milwaukee Orphans' Board, Judge Miech transformed his deep concern for the well-being of our area's children into effective action. Through his participation in groups such as the Polish National Alliance—Milwaukee Society, the American Legion, and the Polish Legion of American Veterans, Judge Miech helps preserve the richness of his Polish-American heritage for future generations.

In naming Judge Miech as Polish-American of the Year, the Milwaukee Society pays tribute to a person who sets an admirable example for all of us. It is with great pride that I join with the Milwaukee Society in commending my friend Robert Miech for a job well done: Winszuję Panu dobrze zasłużonej nagrody.

SHAFFER FUND ESTABLISHED

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mrs. MORELLA. Mr. Speaker, I want to bring to the attention of my colleagues the announcement of the H. Gayle Shaffer Endowment Fund established at the Treatment and Learning Centers in Rockville, MD, in my Eighth Congressional District.

This endowment is being established through the generous gift of Bob Roberts, a Rockville businessman, and will be used to ensure the future financial stability of TLC.

TLC has been widely praised for providing rehabilitation and educational services to the disabled in Montgomery County.

The honoree, H. Gayle Shaffer, is a past president of TLC's board and has been a member of that board for the past 10 years.

Mr. Shaffer has also served on a number of ad hoc task forces for the county public schools and county government, including the OCCUPREP Advisory Committee, the task force on drinking and driving, and the task force on drug and alcohol abuse.

He has been active in a number of civic causes in Montgomery County through his relationships with many community-based organizations. Gayle has served as a vice president of the Montgomery County Chamber of Commerce on several occasions and as president of the chamber in 1978–79. He currently serves on its board of directors. He also served on the Montgomery United Way Council and was a member of the executive committee.

Mr. Shaffer is a charter member of the Board of Crime Solvers in Montgomery County and now serves as the board chairman. He has also served in leadership roles in the Upper Montgomery YMCA, the Boy Scouts, the National Conference of Christians and Jews, Heroes, Inc., and a task force for the Maryland State Commission on Secondary Education.

Mr. Shaffer has been with IBM for 40 years. He has held a number of administrative positions, including management, during his career. He has been a senior corporate community relations representative for the past 13 years.

SUPPORT FOR TAP

HON. JIM OLIN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. OLIN. Mr. Speaker, community action agencies, funded by community service block grants, are very important to many communities around the country—including my hometown of Roanoke, VA. Total action against poverty [TAP] is a community action agency that provides vital services including operating a food bank, running the Head Start programs in the Roanoke area, and providing a shelter for the homeless. TAP is responsible for the Summer Youth Employment Program in Roanoke, it helps displaced workers and has a weatherization program for the economically disadvantaged.

Last year TAP got about $650,000 from community service block grants, representing 10 percent of TAP's total budget. It is estimated that TAP provides $7 million in services that would otherwise have to be provided through Federal and State agencies each year. TAP, and other community action agencies leverage the community service block grants to get a broad base of community support. I am sure that many of my colleagues could tell similar stories of how community action agencies help their districts. Community action agencies deserve continued congressional support.

A TRIBUTE TO KATIE DAWLEY

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. CARR. Mr. Speaker, I rise today to bring to your attention the success of a young constituent in my district, in the 1989 "Invent America" competition. I am delighted to be able to congratulate Katie Dawley from Waterford, MI on winning the Michigan State finals. Katie was encouraged to participate in the contest by Enid Kaplowitz, her third grade teacher at Crescent Lake Elementary School. She decided to create a truly effective alarm clock and thus the "Alarm Clock Earrings" were invented.

Invent America is a national educational program and students invention competition designed to stimulate creativity and develop problem solving skills. It addresses a critical need in American education today; preparing students to assume the challenges of our increasingly complex and competitive technological world.

Invent America stimulates and rewards creative thinking and encourages originality and curiosity in young people. The pioneering spirit of these young inventors is certainly the quality which will make us leaders in the 21st century.

I ask my colleagues to join with me in saluting the ingenuity and inventiveness of Katie Dawley and once again congratulate her on her success. The work of Invent America is truly commendable and I hope that more organizations will work to foster creative thinking among our youth.

BAT TAKEOVER BID THREATENS 55,000 AMERICAN JOBS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 3, 1989

Mr. CLAY. Mr. Speaker, on July 11, 1989, Sir James Goldsmith and two colleagues, Jacob Rothschild and Kerry Packer, proposed the hostile takeover of BAT Industries. Mr. Goldsmith's group has offered no cash for the takeover of BAT, but has proposed to finance it through junk bonds and the breakup of the existing conglomerate. Among the American companies that would be placed on the auction block if this takeover bid should be successful are Saks Fifth Avenue, Marshall Field's, Farmers Insurance Group, and Appleton Papers. Yet another large American company, Brown & Williamson Tobacco Co., is also threatened by this takeover bid.

BATUS, Inc., the takeover target, and Anglo Group, the vehicle being used by Mr. Goldsmith for the takeover, are British-owned corporations. Consequently, Mr. Goldsmith and his associate have taken the position that no U.S. law, either Federal of State, is applicable to the proposed transaction. Yet, as many as 55,000 American jobs are affected by this takeover proposal. The fact that the companies by which these 55,000 American citizens are employed may well be saddled with crippling debts is matter of great concern to me, not only for the future of the jobs but for the possible consequences to the employees' pension funds as well. As chairman of the Subcommittee on Labor-Management Relations, I intend to take a hard look at this proposed transaction. Congressional hearings on this takeover, not only by my subcommittee but by other subcommittees as well, may well prove necessary.